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PROCEEDINGS AND DEBATES OF THE 103d CONGRESS, SECOND SESSION

SENATE—*Wednesday, September 28, 1994*

(Legislative day of Monday, September 12, 1994)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado.

The PRESIDING OFFICER. The prayer today will be offered by our guest chaplain, Bishop Cousin, of Philadelphia, PA.

PRAYER

The guest chaplain, the Reverend Philip R. Cousin, presiding bishop, First Episcopal District AME Church, Philadelphia, PA, offered the following prayer:

Let us pray:

Almighty God, Thou who has dominion over Earth, sea, and sky, look with favor upon our Nation and the persons responsible for our Government. We pray for the President of these United States, those in his Cabinet, and all others in positions of authority and trust. We especially ask that guidance and wisdom be given to those public servants who work in these prestigious legislative halls. Take from them all thoughts of personal or political aggrandizement. Enable them to be keenly sensitive to the public trust that is within their keeping.

We ask that You will empower our legislators with love and justice for all the inhabitants of our great Republic. Help us as a nation to be good enough and strong enough for the challenges of our times. Confound and thwart the efforts of those who would sacrifice public good for personal gain. Give to our citizens the courage to continue the pursuit of a world fashioned and structured by Your peace and love. We pray that we will always do justly, love mercy, and walk humbly with You as we strive to usher in Your kingdom. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 28, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CAMPBELL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1995—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. The Senate will now proceed to consideration of the conference report accompanying H.R. 4602, which the clerk will report.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4602) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1995, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 22, 1994.)

The ACTING PRESIDENT pro tempore. Who seeks recognition?

Mr. BYRD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from West Virginia [Mr. BYRD].

Mr. BYRD. Mr. President, the Senate is now considering the conference report on H.R. 4602, the fiscal year 1995 Department of the Interior and related agencies appropriation bill. This conference report and accompanying statement of the managers appeared in the CONGRESSIONAL RECORD on September 22, 1994, on pages 25271 through 25287.

The agreements before the Senate today total $13.573 billion in budget authority, and $13.965 billion in outlays, as scored by the Congressional Budget Office. These amounts include $450 million in emergency appropriations above the normal appropriations for firefighting due to the devastating fire season occurring this year. The recommendations of this conference agreement represent a total decrease below the amounts requested in the budget of $196.9 million in budget authority and $157.9 million in outlays. And in the end, when all of the required scorekeeping adjustments are made, this bill is $210.6 million below the level of funding provided for these programs in fiscal year 1994.

I hope that Senators will take note. Let me repeat. The recommendations of this conference agreement represent a total decrease below the amounts requested in the budget of $196.9 million in budget authority and $157.9 million in outlays. And in the end, when all of the required scorekeeping adjustments are made, this bill is $210.6 million below—let me repeat, below—the level of funding provided for these programs in fiscal year 1994.

In order to comply with the 602(b) allocation, an across-the-board reduction of 0.191 percent has been taken. This reduction will be applied to all programs, projects, and activities, except for mandated settlement payments and certain smaller accounts in the bill.

Mr. President, reaching agreement between the House and Senate is never easy on appropriations bills, and this bill is no exception. Each Senator would probably recommend a different compromise than that before the Senate today. I would remind all Senators,

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

however, that this package attempts to address the many different priorities of all Senators, and House Members. No one is 100 percent satisfied, nor does any Member get everything exactly the way he or she might prefer.

The conference had to resolve nearly 1,000 items of discrete difference between the House and the Senate. The bill had a total of 119 Senate amendments. The formal conference met on 2 different days, which was preceeded by many hours of preliminary negotiations. This bill has been the subject of a great deal of scrutiny. Most Members have a direct interest in projects in the bill that affect their States, as well as the numerous policy issues.

Mr. President, I thank Senator NICKLES for his assistance on the Interior bill throughout our consideration of these matters this year. The Senate bill and the conference agreements were fashioned in a bipartisan manner. Obviously, not every request can be fulfilled. But we have done our best to maintain program continuity while also addressing items of interest to Members.

Mr. President, I would like to highlight some of the items in the conference agreement.

The bill contains a 1-year moratorium on the issuance of mining patents on the public lands. The provision is repealed if mining law reform legislation now in a House-Senate conference is enacted prior to sine die adjournment of the 103d Congress. The amendment provides that the Secretary of the Interior shall continue to process patent applications that were filed prior to the date of enactment of this Act, if the applicant had complied fully with all of the requirements under the general mining laws for such patent.

The subcommittee has attempted to protect the operational base of the agencies funded in the bill, while at the same time these agencies are having to take their share of administrative and personnel reductions.

Total funding in the bill for Federal land acquisition and State outdoor recreation grants is $235.6 million. This amount is $18.7 million below the fiscal year 1994 level and $18.7 million above the President's request for fiscal year 1995.

Total funding for construction in the land management agencies amounts to nearly $454.1 million. This total is about $84.4 million, or 16 percent, below the fiscal year 1994 appropriation for these same construction accounts.

Funding for energy conservation programs grows by $102.8 million, or 15 percent, over the fiscal year 1994 enacted level. Funding for the energy weatherization grants program is recommended at $226.8 million, and funding is included to allow for the transition to a new formula for distribution of such funds.

Mr. President, before I yield the floor, in addition to my thanks to Mr. NICKLES, the very able ranking member on the minority side for the subcommittee, I wish to thank all the members of the subcommittee on both sides of the aisle. I also wish to pay my sincere respects to the chairman of the House conferees, Mr. YATES. Mr. YATES is a very, very able protagonist. He knows this bill from beginning to end, upside down and crossways. He carries with him to conference always the courage of his convictions. I have enjoyed working with Mr. YATES over these many, many years, and I look forward to working with him in the future.

Also, I thank and express my admiration for RALPH REGULA, the ranking minority member on the House side. Mr. REGULA is always considerate, courteous, and ably presents the views of his constituents. I always count it a joy to sit across the conference table from RALPH REGULA. And I compliment the other members of the House conference as well.

I close by thanking the members of our staffs. Sue Masica is preeminently capable and did an excellent, excellent job on this bill. She knows it from beginning to end. I get many compliments on her from other Members of the Senate on both sides of the aisle.

I also compliment Cherie Cooper, who is likewise an extremely able, courteous, and considerate member of the staff. She is top staff assistant to Mr. NICKLES. Others on the Interior Subcommittee majority staff are Rusty Mathews, Kathleen Wheeler, Ellen Donaldson, Dan Salisbury, on assignment from the National Park Service. On the minority side, Ginny James. Others I wish to thank are Jim English, the director of the Appropriations Committee staff in the Senate, Marry Dewald, Barbara Videnieks, Marsha Berry, and Anne Miano. And I thank Keith Kennedy, who is the minority staff director. He is a fine individual, who is always most considerate and is very able. It is a pleasure to work with minority staff members such as these whom I have named.

Mr. President, I shall yield the floor.

Mr. NICKLES addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma [Mr. NICKLES] is recognized.

Mr. NICKLES. Mr. President, I wish to thank Senator BYRD for his comments and most of all for his leadership in managing the Interior appropriations bill, and particularly through conference. As usual, he has handled himself in this subcommittee very professionally and I think he has done an outstanding job.

I might mention, this has not been an easy job, because we have less money to spend than we did last year, as Senator BYRD mentioned, about $200 million less than we had last year in budget authority. That is about a 1.5-percent reduction for 1995 as compared to 1994. So that makes it difficult.

As my colleagues know, we are dealing with agencies that affect a lot of States, a lot of constituencies and, therefore, there are a lot of requests, with individual Members trying to assist their constituents.

So we have worked together. And I appreciate the fact that Senator BYRD is willing to work with all members of the committee, Democrat and Republican.

I also wish to thank all the other members of the committee. This subcommittee probably has a more active membership within the subcommittee than most others because, again, it affects individual States significantly.

Mr. President, Senator BYRD outlined the overall impact of this bill, but let me just touch on a few things so my colleagues will have a little bit better flavor of some of the individual items.

Senator BYRD mentioned that this year we actually have $213 million less budget authority than we did in fiscal year 1994. I will touch on a few things.

The Bureau of Land Management is plus $34 million; the U.S. Fish and Wildlife Service is down $5.7 million. The Park Service—and I regret we were not able to do more in this regard—the Park Service total is about $1.7 million less than 1994; the USGS, the U.S. Geological Survey, $12 million less than last year; the Bureau of Mines, $16.7 million less than last year in budget authority.

Mr. President, the Bureau of Indian Affairs, while we have the operation of Indian programs going up by about $36 million, construction for a variety of programs is down by $36 million. And the total net for BIA is down $27.3 million, compared to last year in budget authority.

The total for the Department of Interior is down by $51 million, compared to last year, that is to $6.5 billion, a reduction overall.

Senator BYRD mentioned that in the Department of Agriculture we do funding for the Forest Service. We have an increase basically under the nomenclature of emergency forest firefighting supplemental because of all the forest fires we have had out in the West. That is an emergency declared off budget, you might say, of $450 million. The total increase of Department of Agriculture including that $450 million is $439 million. So there is actually a reduction in the Forest Service of about $11 million, compared to last year if you did not have the emergency supplemental.

The Department of Energy has a total reduction of $148 million. And that is also including the fact, as Senator BYRD mentioned, energy conservation will go up by $102 million. So other programs are reduced by about $250 million in the Department of Energy.

The total in Indian health services, I might mention to the Presiding Officer, goes up by about $24 million, for a total of little less than $2 billion for Indian health services.

I might mention, too, Smithsonian goes up by $29.6 million, and the National Endowment for the Arts received a 2 percent reduction, for a reduction of about $2.5 million.

Mr. President, that is just a thumbnail sketch. If you added all those changes together and many others in smaller detail, you see that we have a total budget authority for the fiscal year 1995 of $13.5 billion. That is $213 million less than we had in 1994. That made our task very difficult.

So, again, I wish to thank and compliment the chairman of the subcommittee and the chairman of the full committee, Senator BYRD, for his cooperation.

I would also like to echo his comments concerning our staff. I think Cherie Cooper, working on our side, has done an outstanding job; as well as Sue Masica on the majority side. They are both a pleasure to work with. They have handled this bill in a very competent and a very professional manner. I think we have a product that we can be proud of.

I yield the floor.

AMERICAN INDIANS IN THE FIELD OF PSYCHOLOGY

Mr. BURNS. Will the chairman of the Interior Appropriations Subcommittee yield for a question?

Mr. BYRD. I will be pleased to yield for a question from the Senator from Montana.

Mr. BURNS. On July 25, when this appropriations bill was on the Senate floor, Senator BYRD, the chairman of the subcommittee, offered an amendment in my behalf which made $250,000 available for the recruitment and training of American Indians in the field of psychology. In conference with the House, the bill language was dropped and report language was to be written about this program. Does the chairman recall the agreement we made on this item in conference?

Mr. BYRD. Yes.

Mr. BURNS. I was pleased but also somewhat concerned that the statement of the managers language on this item—page 52—indicated that the initiative should be considered for funding in fiscal year 1996. I appreciate this language and I believe that the initiative should be considered for funding in fiscal year 1996. My concern, however, is about what happens to this program in fiscal year 1995.

Does the chairman agree that this initiative, the initiative to recruit and train American Indians in the field of psychology, should be considered for funding in fiscal year 1995?

Mr. BYRD. The committee would have no objection if IHS were to identify funds and propose a reprogramming to initiative this specific program in fiscal year 1995. The statement of the managers notes that in fiscal year 1995 the IHS scholarship program will support 18 continuing students and 6 new scholarship awards in the area of clinical psychology. These programs have compatible objectives as the Indians-into-psychology program.

Mr. NICKLES. I agree with the chairman of the committee. The agreement on this item focused on fiscal year 1995.

Mr. BURNS. I thank the Senators.

Mrs. MURRAY. Mr. President, I rise in strong support of the conference report on H.R. 4602. I would also like to commend the conferees of both Houses, and especially the chairman and ranking members of the House and Senate Interior subcommittees, Senator BYRD, Senator NICKLES, Representative YATES, and Representative REGULA. Finalizing this conference report took a lot of hard work and difficult decisions.

Mr. President, I would like to reiterate a few themes from my statement during the Senate consideration of this bill last July. This may be the first year in a long time that nearly every appropriations bill has included spending reductions. I serve on both the Budget and Appropriations Committees, so I've had a hands-on opportunity to see this shift take place over the past year and a half.

We have already completed work on several appropriations bills this year. They each carry a similar profile. They try to hold a line on important programs; they reduce FTE's; they phase down programs at, or close to, the end of their usefulness.

The Interior appropriations bill is no different. In this bill, the committee has provided funds for only the most important programs, to achieve only the most critical goals. Critical conservation goals. Critical resource management goals. Critical investment goals. As you can imagine, Mr. President, this has required a lot of tough decisions.

Coming from a Western State, I can appreciate the difficulty in making these choices. I know the maintenance backlog at our national parks. I know the demand for tourist services and public education. I know the pressing need to repair culverts and restore habitat in the national forests.

The agencies under the jurisdiction of the bill are a big part of communities all over Washington. When they lost employees, the communities lose neighbors. When they lack funds to implement laws or regulations, they create controversy. Each time the Senate considers even the obscure little provision in a bill like this, we send a ripple effect through States like mine.

Against this backdrop, H.R. 4602 is an attempt to balance competing demands under difficult circumstances. While there are many worthy projects and important issues which the committee could not address, I feel this bill reflects an effort to be fair. Now that the committee has made these choices, now that we have identified our priorities, it is terribly important—to my State and many others—that we move quickly to pass this bill.

Briefly, I would like to highlight some of the reasons H.R. 4602 is important to Washington State. First and foremost, it provides critical funding necessary to implement the Clinton forest plan.

Funds are provided for this purpose to the Forest Service, the Fish and Wildlife Service, the Bureau of Land Management, the National Biological Survey, and the Bureau of Indian Affairs. Although the committee was only able to provide about 75 percent of the needs identified by the agencies, H.R. 4602 contains enough for these agencies to legally implement the plan. These funds are sufficient to allow planning, watershed assessment, and Endangered Species Act consultations to proceed. In other words, to get things moving and keep them moving. The Senate conferees receded to the House position on this latter point to ensure maximum resources are devoted to the consultation process.

In addition, funds are provided for watershed restoration. This work provides much-needed jobs throughout the national forests in my State. It is also a solid investment to make sure the forests of the future remain healthy and productive.

Many people have criticized the President's plan. Believe me, it is easy to criticize, because multiple-use forest management is very complicated. But it's also easy to oversimplify the problem when things aren't going well.

Those of us elected in 1992 inherited a train wreck. This administration was asked to correct for a decade of overcutting, followed by 5 years of mismanagement, inaction, litigation, and division. Who in their right mind would believe this problem could be repaired overnight?

To use President Clinton's words, his plan will bring the 25 million acres of national forest into a scientifically credible, legally responsible, and economically substainable management plan. There is a lot at stake; I think we, in Congress, need to support the effort.

Posed with the choice between jobs and the environment, the President said, "both." The goal is to keep the forest healthy and the harvest rate sustainable. That way, we will know how much timber can be cut while maintaining biological diversity. It will take some time yet to know if the plan will work. If it does, the Pacific Northwest forest plan will be a national model for multispecies ecosystem management. I certainly hope all my colleagues will recognize the significance; this administration is willing to take the heat to demonstrate that the choice between jobs and the environment is false.

There are several other issues addressed in this conference report that are important to Washington State. It contains $3.5 million for the Park Service to conduct an environmental impact statement on the acquisition and removal of two hydroelectric dams on the Elwha River. In May 1994, the Park Service completed a feasibility study on restoring salmon runs to the Elwha River pursuant to Public Law 102–495, the Elwha River Ecosystem and Fisheries Restoration Act. This study concludes it would be feasible to restore the salmon runs by removing the dams. Such course of action would enable the Federal Government, the Lower Elwha S'Klallam Tribe, and certain private interests to avoid lengthy, contentious, and expensive litigation.

I recognize that proceeding with dam removal in future years would force the Federal Government to incur significant costs. However, I believe the costs of such action would be less than exposing the Government to a costly, court-imposed settlement. I have introduced legislation to authorize involvement on the part of the Bureau of Reclamation in the future. For now, I hope the Federal Government will continue to proceed with implementation of Public Law 102–495.

H.R. 4602 also provides funds for several important local Federal Government obligations. For example, it includes $2.5 million under State and private forestry special projects to complete the Federal obligation to Skamania County, WA, related to construction of the Skamania Lodge. This is an extremely important item given the historic relationship of Skamania County to the Federal Government under the Columbia Gorge National Scenic Area Act. Non-Federal funds were raised and expended on this project with the understanding the Forest Service would contribute to community efforts. It is doubly important considering the reduction in timber production on the Gifford Pinchot National Forest, which comprises over 85 percent of the county landbase.

In addition, the conference report includes $3.3 million to continue work at the Johnston Ridge Observatory at Mount St. Helens National Volcanic Monument. This amount should be sufficient for the agency to complete all work on the facility except road viewpoints, trailheads, and backcountry facilities. In the first 7 months, it was open, 800,000 people visited the Coldwater Visitor Center. Overall, 3.3 million visitors saw the monument during 1993. During this time, a shuttle bus service has been operated enabling people to reach Johnston Ridge. However, full road and parking facilities have not been completed. Such facilities will be necessary to accommodate anticipated visitation to Johnston Ridge.

Finally, there are funds in the bill to address several land acquisition projects that will ensure important conservation goals are met. In the Alpine Lakes area, $3.105 million will be used to acquire two sections of land from the Plum Creek Timber Co., L.P., a willing seller. These lands are part of the last undisturbed north-south migration corridor from many species.

The sum of $1.4 million is provided to acquire lands from a willing seller adjacent to the Nisqually National Wildlife Refuge; the Fish and Wildlife Service has concluded a purchase agreement in this regard.

The sum of $1.1 million is included to acquire lands in the Skagit Wild and Scenic River management area from a willing seller. This acquisition will help conserve winter forage habitat for the largest population of bald eagles in the lower 48 States.

The sum of $440,000 is included to acquire lands in the White Salmon Wild and Scenic management area. These funds are to be used to purchase the 37-acre Tillotson property, a critical tract that hosts sensitive late successional species such as the pileated woodpecker, the gray squirrel, and the bald eagle. This parcel is available under a short-term purchase agreement that expires in fiscal year 1995. The funds provided are consistent with the Forest Service-approved appraised value for this property.

Mr. President, funds are also included to acquire lands on Lopez Island, at Fishtrap Lake, the Black River, the Olympic National Forest, and the Columbia Gorge. I am grateful to the chairman for the inclusion of these funds. They are critical to the conservation goals of the people of Washington State.

The Land and Water Conservation Fund [LWCF] has been hit particularly hard by spending reductions. This is truly unfortunate, as it offers the best opportunity for nuts and bolts conservation activities. For example, the I–90 corridor in the Cascade Mountains is comprised of checkerboard ownership in some of the most biologically diverse old growth forests of the region. LWCF funds could be used to consolidate Federal ownership to ensure wildlife conservation and recreational opportunities are maintained.

As I mentioned, the bill includes funding to acquire land in the Silver Creek drainage. However, funds are scarce, and this project only represents the tip of the iceberg. I encourage the Forest Service to work with the principal landowner in the corridor to determine whether a comprehensive land exchange is possible. This would be the best way to protect the corridor and relieve pressure on scarce LWCF resources.

Mr. President, there are many more important provisions in H.R. 4602. Every State with significant public lands, every State with an interest in energy conservation, every State with a national park needs this conference report to pass. It is a good, tough agreement. It reflects our need for tight purse strings, but it also supports so many worthy programs. I urge all of my colleagues to support the conference report on H.R. 4602.

STATEMENT ON THE FISCAL YEAR 1995 INTERIOR APPROPRIATIONS BILL

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 4602, the Interior appropriations bill and has found that the bill is under its 602(b) budget authority allocation by $4 million and under its 602(b) outlay allocation by $138,000.

I compliment the distinguished manager of the bill, Senator BYRD, and the distinguished ranking member of the Interior Subcommittee, Senator NICKLES, on all their hard work.

Mr. President, I have a table prepared by the Budget Committee which shows the official scoring of the Interior appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

BILL HISTORY—H.R. 4602, FISCAL YEAR 1995 INTERIOR APPROPRIATIONS

[In thousands of dollars]

Bill summary	President's request		House-passed		Senate-reported		Senate-passed		Conference	
	Budget authority	Outlays	Budget Authority	Outlays	Budget Authority	Outlays	Budget Authority	Outlays	Budget Authority	Outlays
Discretionary totals:										
New spending in bill	13,339,147	9,010,358	13,139,352	8,875,354	13,016,647	8,803,328	13,019,580	8,797,418	13,142,286	8,852,365
Permanent advances	375,000	0	375,000	0	375,000	0	375,000	0	375,000	0
Outlays from prior years	—	5,057,573	—	5,057,573	—	5,057,573	—	5,057,573	—	5,057,573
Supplemental	0	5,924	0	5,924	0	5,924	0	5,924	0	5,924
Subtotal, discretionary	13,714,147	14,073,855	13,514,352	13,938,851	13,391,647	13,866,825	13,394,580	13,860,915	13,517,286	13,915,862
Mandatory totals:										
Mandatory spending in bill	60,575	53,481	60,575	53,481	60,575	53,481	55,675	48,581	55,675	48,581

BILL HISTORY—H.R. 4602, FISCAL YEAR 1995 INTERIOR APPROPRIATIONS—Continued

[In thousands of dollars]

Bill summary	President's request		House-passed		Senate-reported		Senate-passed		Conference	
	Budget authority	Outlays	Budget Authority	Outlays	Budget Authority	Outlays	Budget Authority	Outlays	Budget Authority	Outlays
Budget resolution adjustment	425	519	425	519	425	519	5,325	5,419	5,325	5,419
Subtotal, mandatory	61,000	54,000	61,000	54,000	61,000	54,000	61,000	54,000	61,000	54,000
Bill totals	13,775,147	14,127,855	13,575,352	13,992,851	13,452,647	13,920,825	13,455,580	13,914,915	13,578,286	13,969,862
602(b) allocation	13,586,000	13,921,000	13,586,000	13,921,000	13,586,000	13,921,000	13,586,000	13,921,000	13,582,000	13,970,000
Difference	189,147	206,855	−10,648	71,851	−133,353	−175	−130,420	−6,085	−3,714	−138
Defense	0	0	0	0	0	0	0	0	0	0
International Affairs	0	0	0	0	0	0	0	0	0	0
Domestic discretionary	13,714,147	14,073,855	13,514,352	13,938,851	13,391,647	13,866,825	13,394,580	13,860,915	13,517,286	13,915,993

THE IMPORTANCE OF COAL RESEARCH AND DEVELOPMENT

Mr. SPECTER. Mr. President, I commend the chairman, ranking member, and the members of the Interior appropriations conference committee for providing $155 million for Energy Department research and development funds for coal, an amount considerably higher than the $128 million sought in the administration's budget request. I have worked with the Interior Appropriations Subcommittee to ensure that H.r. 4602 provides sufficient funding for coal research and development because of its importance to Pennsylvania and the Nation.

The energy and water appropriations bill for fiscal year 1995 contained sizeable increases in Energy Department funding for a diverse group of energy sources, such as solar, geothermal, hydropower, and hydrogen. It is important to study applications of these energy sources, but with coal our Nation's most abundant energy resource, Congress should not underestimate the importance of continuing research on environmentally beneficial uses of coal.

There is no question about the indispensable nature of the coal industry in the United States. Especially when one considers our Nation's dependence on foreign energy sources, including foreign oil cartels, coal remains an absolute necessity.

In considering this conference report, Congress should note that the United States has a 300-year supply of coal. Further, coal is a proven source of energy, as evidenced by the fact that 56 percent of electricity is currently generated from coal.

As any Pennsylvanian knows, coal represents jobs. According to a coal industry study, each mining job is supported by 11 other individuals, meaning that this abundant natural resource helps countless families put food on the table, pay the mortgage, and send their children to school.

Pennsylvania's coal mining jobs have declined from 35,000 in 1979 to only 12,659 in 1992. But coal's future may be brighter as a result of the research and development funding in this legislation. Electric utilities across the Nation are relying on clean coal technology derived from a research program that Congress created in recent years and funds annually through this appropriations act. Under the Clean Air Act Amendments of 1990 and with adequate funding, even more utilities will be using such beneficial technology.

Much of the valuable research on clean and efficient uses for coal is performed at the Pittsburgh Energy Technology Center. Working with private sector partners, the center has made much progress on projects designed to evaluate new uses for coal and to promote environmentally beneficial methods of burning it. I would note that the center suffered a tragic loss this month when several of its key officials and researchers died in the September 8, 1994, plane crash at Pittsburgh as they returned from a Chicago conference on clean coal technologies. I know that their dedication continues to live on at the center and that we shall continue to see quality research and development projects from this valued Pittsburgh institution.

Mr. President, I would reiterate the importance of funding research on all types of energy sources and urge my colleagues to support the Interior Department appropriations conference report, which continues support for our Nation's most abundant energy resource through coal research and development.

Mr. JEFFORDS. Mr. President, I rise today to commend my colleague from West Virginia for his leadership in guiding this bill both through the Senate and the conference committee. I especially would like to applaud his careful consideration of the options for funding the National Endowment for the Arts and for deciding on a less damaging across-the-board reduction of 2 percent rather than the previous 5 percent targeted reductions.

The final appropriations level will still allow the Endowment to continue, substantially, its beneficial work in supporting arts and culture in every corner of every State of the Nation.

The NEA is a modest agency; one whose successes are pervasive but difficult to measure. Throughout its history, it has provided critical seed money to aspiring young artists, newly created dance companies, and local arts centers. Indeed, Federal contribution to the arts have reached into the most destitute inner cities, and the most remote rural areas.

In my mind, this is the most important mission of the NEA. It brings the arts to areas of the country that, without NEA support, would do without. Vermonters have always valued the arts, but I highly doubt many of our Nation's renown artists and arts companies would travel to Vermont if it weren't for the support of the NEA.

Thus, it is a shame that our yearly consideration of funding for the NEA is reduced to assaults upon the agency because of the controversy generated by some questionable performance, past or present. Yet, all the controversy is about a minuscule number of unfortunate incidents—approximately 10 grants out of the over 100,000 issued since the NEA's creation in 1965.

I believe the NEA's work is valuable and worthy of Federal support. If only the arts touched more Americans, maybe our country would be a better place with fewer drugs, less crime, and more self-esteem. As founder and vice-chair of the Congressional Arts Caucus, I have seen first-hand the effects the arts have had on children through our visits with the Dance Theater of Harlem, the New York Public Theater, and our annual art competition. Those children strengthen my belief in the arts, and the work of the NEA.

The ACTING PRESIDENT pro tempore. Is there further debate?

Mr. BYRD. Mr. President, there was no vote on the bill when it passed the Senate. Senators do want to vote on the conference report.

I ask for the yeas and nays on the conference report.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. NICKLES. Will the Senator yield?

Mr. BYRD. Yes.

Mr. NICKLES. I am informed that we have at least one Senator who wishes to come and speak briefly on the bill before we vote.

Mr. BYRD. Very well. I hope he will not be too tardy and we can dispose of this bill quickly.

But, in the face of that fact, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I did not intend to come and speak on this conference report but felt, on reflection, that I wanted to do that.

I would agree with the comments that have been made about the value of the work of the chairman of the Appropriations Committee and the ranking member on this subcommittee. I know they have worked hard on these issues, they care a great deal about these issues, and there is not enough money to go around. That is a fact.

We are dealing with discretionary funding, a category in which there have been real cuts—cuts to levels below last year's spending—time after time after time. So I understand the dilemma. We have unlimited needs and limited resources.

I must say, however, I was disappointed when I saw this conference report come back from the conference and I want to explain why.

I think there is a need out there that is unmet in a very significant way. That deals especially with the question of Indian health, and most especially with the question of the Federal Government's trust responsibility to protect native American children. I want to talk about that for just a couple of minutes.

I do not raise this issue to be critical of the chairman. I understand what happened. We went to conference and the House prevailed on a number of issues, and the result was there was less money for some of the things that represented the priorities in the Senate bill.

I had worked with the chairman, the staff, and others to put just a couple of million dollars in this piece of legislation, as it passed the Senate, to deal with Indian child abuse issues in the Aberdeen region of the Bureau of Indian Affairs. I was very hopeful that we would be able to keep that in conference. Regrettably, we did not.

I am not here to blame anybody for that, but I am here to express profound disappointment that this happened. At least one of the reasons it must have happened is that, when the bill came back from conference, it had $8 million more for the National Endowments for the Arts and the Humanities than we had passed in the Senate version. It has millions of dollars more in a whole range of other areas, for museums and other issues.

But it excludes a number of other things the Senate supported. Especially important to me was a couple of million dollars the Senate put in to address the issue of child abuse and neglect on Indian reservations.

I would like to take just a moment to describe why that was important and why tomorrow, when this conference report has been sent to the President for his signature, those needs still will be important and Indian children still will be at risk.

About 2 or 3 weeks ago, I was on a reservation in North Dakota talking to the young woman in charge of this issue, as director of social services, dealing with child protection issues such as child abuse and neglect, including physical and sexual abuse of Indian children.

Let me tell you what I saw in those offices. And I knew about this situation because this same young woman had testified at a hearing of the Indian Affairs Committee that I chaired about a month before. In fact, during the hearing, she broke down crying, this experienced social worker, because, to paraphrase what she said: You know, just the littlest thing during the day is a struggle. Just getting a ride for somebody who has to go to a clinic, trying to beg a ride because we do not have a car to get some young person to a clinic someplace. Just the smallest thing is a problem for us. We have files sitting on the floor—files covering 2 and 3 years' worth of reports of sexual abuse against children, physical abuse against children, neglect of children—and I don't have any idea whether they are even being investigated because there have been 13 or 14 people in and out of this two-person office for 2 years. There is no system. There is no file system. We know someone reported a child being physically abused, and we do not know whether that child—age 2, age 4, age 6, age 8—is still in that home, being abused, because we do not even know whether the report was investigated. And that is the problem."

Let me tell you how I got involved and interested in this. I met a young girl named Tamara Demaris one day on the Standing Rock Sioux Reservation. She had been living with her grandfather, Reginald Burnthorse.

I read about this tragic young child, age 2, put in a foster home by a social worker. This social worker handled about 150 cases. The standard caseload is about 15 or 20 in most rural States in this country. This social worker had 150 cases to follow. This little girl was taken out of a home that was unsafe and put in a foster home. Except, because the social worker was handling 150 cases, she did not have any capability to investigate the foster home where she was putting this young 2-year-old girl. Was it safe? Was it a good home? Would this child be treated well?

Well, Tamara was put in this new home and it turned out to be a home with alcohol and parties and eventually child abuse. Tamara, age 2, was beaten, her arm was broken, her nose was broken; her hair was pulled out by the roots in a fit of violence by Tamara's foster parents, because the person responsible for this 2-year-old child, the social worker, did not have the time to investigate where she was placing the 2-year-old. We did not have enough money to do that. We did not have enough social workers to be sure that our responsibility to protect the life of a 2-year-old was being met. It just did not fit into the priorities; we did not have enough money.

Well, on the Standing Rock Sioux Indian Reservation, they now have some more resources that I recently helped them get, so there are more people investigating where they place these children.

But I on that reservation and others the needs still are unmet.

Let me tell you just about a young woman that I learned about on the Fort Totten Reservation a couple weeks ago. And this is not altogether unusual.

A 15-year-old girl, who now is missing, stole a car and left. This is a young girl who has been in the social service system on that reservation since she was just a tot able to walk. She is an alcoholic. She had a baby at age 14. Her mother is dead from alcohol. Her father is in prison, an alcoholic who committed crimes in the stupor of alcohol. And all of her brothers and sisters are placed out in other homes. This young girl has been in trouble and addicted to alcohol for years, has a baby, and now is missing—and she is only 15.

Is it unusual? No. I saw file, after file, after file of that kind of a problem.

And the Presiding Officer, (Mr. CAMPBELL) knows well of these problems. The Presiding Officer knows that we have all of these unmet needs and he, more than anybody in this Chamber, has fought to try to meet them.

And by talking about them, I am not suggesting that somehow this problem is unique to native Americans or that the problem of child abuse is unique with respect to other vexing problems. But I must say this: those who live on this Nation's reservations are so shorted, in my judgment, in the provision of basic resources that we are failing to meet the Federal Government's trust responsibilities—including the responsibility to investigate foster homes and do the other things necessary to make sure that these children are safe.

A social worker on the Fort Berthold Reservation told me that in a 2-week period, eight young people attempted suicide. Something is fundamentally wrong. Something is fundamentally wrong when we trade off money to protect America's children, especially

America's children who are most vulnerable, to put another $8 million into the arts.

I have supported the arts. They may not be able to count on that much longer, however. I have been here a number of years and supported the arts because I think much of a society's legacy is represented by the arts. If you go to Europe, ask yourself what is left of the 14th century in Europe? Some old duffer walking around with a long beard? No, they did not live that long. Their art, their culture, that is what is left. I support the arts.

I have always thought that those who say let us slash this, let us spend nothing on the arts were being shortsighted. But I must say this: when those who support the arts and humanities do it so strongly that they do it at the expense of a few million dollars that is needed to address the issue of sexual abuse or physical abuse against young, defenseless, innocent children for whom we have a trust responsibility, then I say I am not sure I am in their corner anymore. That is not trading with the kind of balance we ought to be trading with to meet real human needs in this country.

I could not let this moment pass without saying that this conference report, in my judgment, makes tradeoffs—tradeoffs apparently the House insisted upon—that do not reflect my priorities with respect to where our limited resources ought to go.

Having said all that, let me hasten to add once again that I am not standing here to suggest, somehow, the chairman of the Senate conferees has let us down or the ranking member has let us down. That is not my message. When you go to conference, you compromise. That is the process. I understand all that.

But I am saying, in my judgment, that the compromise on the issue of funding for the arts, as a tradeoff for other things that I think are critically necessary for some very vulnerable young children in this country, is not a compromise that makes sense to me. I hope we will decide, if not this year then next year or the year after, that it is not a question of how much we have but rather how much we must devote to protect the lives of these kids.

When you look at a 2-year-old or 4-year-old living in conditions that are dangerous to their lives, it is not a question of saying we cannot afford it. That is not an answer that is acceptable. We can afford it. We must afford it. We have an obligation to afford the resources to make sure those children are safe and to make sure we do what is necessary to fulfill our responsibility for the lives of those children.

So, let me again say I hope in the next year or the next 2 years we will decide that some of these priorities insisted upon by the House conferees are not priorities we share and not priorities we will accept. And next year, when we go through this process again, I hope I will be able to stand on this floor and say we made a difference, a real difference, in the lives of children. There are not enough resources, in the broader scheme, for the Indian Health Service or to address the kinds of problems I just described.

I have only given a thumbnail sketch. I could give chapter and verse, case after case after case, and it would break your heart to hear it.

We talk about statistics and we talk about philosophy and we talk about a lot of things on the floor in this Congress, but it all relates to real people suffering real problems. Children are the innocent victims of policies that do not do enough to protect them, when they and everyone else in this country should be able to expect that we will meet our obligations in that regard.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, first, I compliment our friend and colleague from North Dakota for expressing some real concerns about some of his Native American constituents. I happen to share some of those concerns.

The Senator talked about some actual cases where people have been abused sexually and had drug problems. We find that all too prevalent on some of the reservations and some of the Indian lands we have in our States across the country. We tried to address that. In the Senate we did have an earmark, a couple of million dollars, trying to address it.

I might make sure my colleague is aware we did put some language in the conference report that says IHS and the Bureau of Indian Affairs "should prepare a coordinated plan for addressing the unmet need for child sexual abuse treatment and prevention programs for American Indians and Alaska Natives, along with cost estimates, and the report should be delivered to the House and Senate legislative and Appropriations Committees within 90 days of enactment * * *." We lost the Senate's earmark, which was targeted toward Indian child sexual abuse.

I want to tell my friend and colleague from North Dakota I share some of those same concerns. I will tell my friend from North Dakota, too, I have a horror story I could tell. As a matter of fact, I have a lot more than one, and they are sickening. I do not know if by appropriating money it is going to go away. I do not know by calling for a study by IHS and BIA, the problem is going to go away. But I know there are problems.

I found outside an Indian school in my State, Riverside, where a teenager under the age of 16 was abused significantly—under the influence of alcohol and so on. And it bothers me. And I have given those officials maybe kind of a hard time trying to clean up their act to where those things would not be repeated.

I also tell my friend and colleague, though, I want to correct him if he thinks there is a tradeoff between the arts and Indian Health Services because that is not the case. That was not the case in any of the negotiations. Let me bring my colleague up to date to where we are on Indian Health Service. The administration, originally their budget proposed cutting Indian health services by $244 million, a reduction from 1994. And I expressed outrage. You can ask other colleagues on our committee, when they testified and brought their budget before the Senate, I said, "How in the world—that is a 12.5-percent reduction when Indian health services have, probably, the most deplorable health care delivery system in this country." When I say "deplorable," I am talking about quality of health care. It is pathetic. It is some of the worst health care in this country. It is a good example, in my opinion, if you want to look at socialized medicine, national health care, whatever you want to call it, that the quality of health care is terrible.

The solution may not be throwing away more money, more money toward the programs. But the administration proposed cutting it by $244 million. We expressed enough outrage that they came back and they reduced the reduction to only $124 million, which still, I think, is about a 5-percent decrease. We ended up with an increase of $23 million, almost $24 million, which is not much, only a little over 1 percent in almost a $2 billion program; but the administration was going to cut it $244 million. That is not just for Indian children. That is for all the Indians in this country.

So we did not do as much as I think we should do. But I assure my colleague it was not because we were trading off money for the National Endowment for the Arts or anything else. I might mention on National Endowment for the Arts, the Senate passed a reduction of 5 percent; the House passed a reduction of 2 percent. That was one of the real sticky points in conference. Ultimately the House prevailed, the 2 percent reduction was agreed upon. Congressman YATES felt very strongly about that, and that was one of the final things in conference, and ultimately it was agreed upon. But it had nothing to do whatsoever with the Indian Health Service.

Mr. DORGAN. Will the Senator yield on that point?

Mr. NICKLES. Just one second. Some of us did fight, so my colleague will know, we did fight energetically to restore the Indian Health Services' funds. We did reduce the cuts that were proposed by the administration and have a modest increase. But if the original proposal would have gone forward with a $244 million cut, which is a 12.5-percent reduction, or even the administration's modified budget which they sent up which still called for $124 million reduction compared to last year—no increase for inflation or anything—I think the Senator's outrage would be even stronger.

Finally, my concluding comment is again I strongly share the outrage and disgust of the Senator from North Dakota at some of the problems we have on our Indian reservations, including substance abuse, alcohol abuse, sexual abuse, and particularly amongst minors. We have to do something about it. I am not sure we are going to solve that problem by appropriating $2 million or $10 million, but I tell my colleague and friend I will be happy to do anything with him to help try to alleviate and solve some of those problems because I recognize there are lives that are being destroyed every day. We need to do a better job. Frankly, under Indian Health Services, under BIA, under some of these schools, they have been pathetic failures and we need significant improvements. I am not sure dollars are the improvements, but maybe some other alternatives for Indian youth across the country would be welcome. And I will be happy to work with my colleague, the Presiding Officer, and the chairman of the committee to try to make some of those changes. I appreciate the Senator's bringing this to our attention.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

Mr. DORGAN. I will make a couple of comments, and then I know the chairman wants to move this piece of legislation and I know there is another Member who wants to speak.

The Senator is correct, the administration, I think, erred in its original budget request for the Indian Health Service. I think in fact the administration admitted that they erred, and they sent a budget modification back to the Congress. But, notwithstanding their modification and notwithstanding what we currently are funding, I am saying we are still woefully short.

The Senator makes the point, "I am not sure money will solve it." Let me respond to that.

I was on a reservation not too long ago. They are trying to do alcoholism treatment in a building that would be deemed uninhabitable anyplace else in the country. They simply do not have the money. They do not have the resources.

When you have the kind of alcoholism and addiction rates you have in some of these areas, if you cannot provide the resources to hire counselors and others to treat people, you are never going to solve these problems. I agree that we ought not throw money at things. But if we do not have the fundamental resources to deal with addiction, hire social workers to deal with child abuse, or put children in safe foster homes, then we do not have a chance of thoughtfully discussing what the long-term solution is.

We often pass legislation, as we did in 1990 with the Indian Child Protection and Family Violence Protection Act, that makes a wonderful authorization bill. I was not in the Senate in 1990, I was in the House. But I guess if I went back and read all the debate on the 1990 act, I would find people talked about what a wonderful thing that legislation is. But the problem is, if you do not fund it, if you do not have the resources to implement the Indian Child Protection Act, children do not get protection.

It is not my intention to tell a horror story on the floor of the Senate about a particular tragedy, or half a dozen tragedies. It is only my intention to say there is a recurring, relentless condition out there that threatens the lives of children, and I do not intend to stand here and allow us not to address that, in one way or another. We address almost everything else. But this is more important than most of the other things we are talking about in this legislation, at least in the lives of those children who may not live much longer unless we address these problems.

So I am hoping that, with the cooperation of the chairman and the ranking member and the Presiding Officer and others who care about this, we actually can begin to make some progress in these areas.

Let me make one final comment. The ranking member is absolutely right, that taking the budget request for Indian health and building that to an increase over last year is some feat. I would compliment the chairman of the committee and the ranking member for doing that. That is not easy because, as I said when I started, this is being squeezed like a lemon, this area of discretionary spending. I fully understand the dilemma of trying to meet unlimited wants with limited resources.

But I just say, when we begin listing the priorities, whether it is arts and humanities, or a hundred other things you can name that are important to someone in this room, I hope somewhere near the top will be a priority that says that when the lives of children are threatened and they are vulnerable and cannot help themselves, then we have a responsibility to intervene. Not with words, not with authorizations, but with the kind of resources that will give Native American children an opportunity to overcome the circumstances and conditions in which they now find themselves.

Again, let me thank the chairman for his indulgence in allowing me to take this time. I do hope that when we go through this process next year and the conference report comes back, I am going to be able to stand up and talk about what the chairman and I and the ranking member and others did that was significantly different from what we have done in the past, that will provide some bright hope in the lives of some young children in this country who desperately need that hope.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. BYRD. Mr. President, let me say I sympathize with the concerns that have been expressed by the able Senator from North Dakota. He has been zealous in his work in this regard. And upon several occasions he called the matter to my attention and reminded me of it. And I can appreciate his sadness with respect to what the conferees did. But he also stated a truism when he pointed out that discretionary funding is being squeezed like a lemon.

When compared to the discretionary spending levels that would have been provided under the 1993 budget reconciliation bill, the amounts available for discretionary spending in fiscal year 1995 were reduced by $500 million in outlays as a result of the Exon-Grassley amendment to the 1995 budget resolution. And this is just a drop in the bucket as compared to the pain that will come next year and other outyears as a result of that amendment.

In fiscal year 1996, discretionary outlays are reduced $5.4 billion. So right now, up front next year, Mr. Chairman, when I have to make allocations to the various subcommittees, I will be faced with that sad fact.

This year $500 million. Next year, 10 times that budget. Over 10 times that budget. Over 10 times as deep a reduction in discretionary funding allocations, $5.4 billion below the amounts recommended in the 1993 budget reconciliation as a result of the Exon-Grassley amendment.

Over the 5 years, 1995, 1996, 1997, 1998, 1999, the total reduction will be $13 billion in outlays.

Now, when the budget resolution came to the Senate, it was $26 billion. The cut in the committee amounted to $26 billion in discretionary funding. And we went to conference. When the budget conferees met from both Houses that $26 billion reduction in discretionary outlays was reduced by half. So it actually amounted to, in the final analysis, $13 billion. Even operating on the basis of a freeze. And that is where we are. A freeze over the next several years. But this is $13 billion below the freeze.

You know how eager Members are to be able to say to their constituents that they have cast economy votes. They have made cuts. And as I said to the Senate, when we had the resolution before the Senate, the budget resolution, I have said it on previous hearings, once you pass this budget resolution and it comes back from conference and is adopted, you have cut right then. You have cut the appropriations. You will not have to wait 1 week, 1 month, 6 months. You have cut, when you cast that vote.

Therefore, that's the situation we are confronted with. It is going to be worse. It is going to be worse next year. I know that many Members are going to be disappointed when the appropriations bill comes along. But what goes around, comes around. And when those massive cuts are administered in the Budget Committee, as they were last year, and they are sustained throughout the course of the votes on the budget bills in both Houses and in the conference, then will come the pain.

It reminds me of a quotation from Shakespeare's "Hamlet":

> A man may fish with the worm that hath eat of a king, and eat of the fish that hath fed of that worm.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. President, for just a few moments I want to reflect on what the chairman of the full committee of the subcommittee has just said, and my colleagues here on the floor that express frustration about this particular Interior appropriations bill.

I think the uniqueness of this dialog this morning is the diversity that has been the appropriations bill, from Indian Health Services to the issue I'm going to talk about, and that is the money to build roads to log public timber.

And in that diversity we have some very real problems. But that is the nature of the Interior appropriations bill that we have to deal with. I know that the chairman of the subcommittee, Senator BYRD, and the ranking member, Senator NICKLES, have done their very best to deal with the limitations that they are put under by discretionary spending in the budget process.

I am one Senator who for a good number of years has expressed my concern that we let entitlement programs go on automatic pilot. And we shift the money from discretionary programs over to the entitlement programs.

We go home to our States and tell certain constituencies that budgets have been cut, and yet they look at the sum of the total Federal budget and they do not understand because it does not appear to have been cut. It has gone up by hundreds of billions of dollars annually. The deficit seems to get larger, and oftentimes does, and the debt certainly does get larger.

And there is a contradiction here that we are sending forth in our communication to our constituents that doesn't make a lot of sense to them. And while we may understand the internal workings of the budget process, I would have to tell you that it does not make a lot of sense to me either that we have good public policy, Indian Health is one of many of those public policies that make sense, and yet we have constantly cut in the name of a different form of funding that we are politically less than courageous in our willingness to deal with. And that is, of course, entitlement programs that somehow have developed a sense of sacredness around here, that nobody wants to walk forward and deal with.

The point I would like to make that's embodied in H.R. 4602, which is the Interior appropriations bill that we are debating now, is the issue of Forest Service roadless area entry and the funding necessary.

Mr. President, I noted that the conference report on this bill has reduced the level of road funding below that needed to accomplish the full timber sales program that is part of the public policy of this country; that is within the forest plans on a forest-by-forest basis across this country.

Accomplishing the timber objective certainly will be a great deal more difficult, and probably impossible. And while I know there are some interest groups that would cheer that, there are a good many communities in my State and your State in which the economy will shut down and people will be without work because they had built their economies on a forest plan that allowed a certain number of board feet of timber to be harvested annually. And now the Congress, in their policy, by their funding is saying, "No, we're not going to let that happen, because we're going to disallow the necessary amount of money to build the roads to enter the areas in which the timber would be logged."

Accomplishing the timber objective clearly is not going to be met here, and the conference report language will not allow it.

Now I've been troubled that roadless area entry continues to not be addressed. And though we have completed the forest plans, and we are going now in my State, and probably in yours Mr. President, into the second cycle of planning, and we have not even met the goals and the objectives of the first cycle of planning, and we are talking 10-year cycles, and the impacts are very real.

On July 26, when the Senate originally considered the passage of this bill, I addressed this concern along with Senator BYRD and Senator NICKLES in a colloquy stating the intent to give the Forest Service as much flexibility as possible to enter roadless areas, as directed by their forest plans.

In a letter dated June 9, Forest Service Chief Jack Ward Thomas described the adverse impact of a prohibition on roadless area entry. He expressed the concern at that time, as the primary person responsible for the carrying out of our forest plan, the Chief of the Forest Service.

He particularly noted the importance of access to released roadless areas for the purposes of remedying forest disease, the fuel buildup that has threatened and caused the massive forest fires that we have had throughout the intermountain west this year, and in the whole issue of forest health.

In other words, if man cannot get into the forest to apply reasonable management practices, we run the risk of what has happened in the Pacific Northwest and primarily the intermountain area this year. Massive unchecked forest fires that have burned unbelievable acreages, at tremendously intense heat. Heat that has actually destroyed the land and the ground itself. That ground will not be productive for years to come, largely because of forest practices and man's ability to do, or not do, certain things that this appropriation bill, I hope, would address and yet has failed to address this year.

We have forest fires burning today in Idaho, as we speak, in an unprecedented way. Very seldom in the history of our State have we had fires burning in the last week of September or the first week of October. We have lost hundred of thousands of acres this year of valuable trees, habitat, watershed, all of it very damaging to the environment. All of it attributable to our inability, or our unwillingness to manage our own public land resource.

The Payette National Forest in my State, are suggesting to us now, that these fires will go unchecked, until we have our first snowstorm this winter. Now that is almost impossible for people to understand here on the floor of the Senate, but that is reality.

Part of the reason is we have not entered those roadless areas, even though our forest plans have suggested we should, and we have not extracted the trees. We have seen a huge buildup of fuel.

What am I talking about? I am suggesting that the normal capacity on an acre-by-acre basis of these forested lands to sustain tree growth was somewhere around 10 or 12 trees per acre. Over the last 50 years, because of our ability to put out fires, we have allowed a tree growth in some instances near 300 or 400 or 500 trees per acre.

Then along comes a decade of drought. The trees are tremendously stressed, subject to disease, and they burn. And they are burning now. And we cannot even put the fires out, and we have spent millions of dollars. We have lost lives. We lost several lives in your State, this year, Mr. President; several of them from my State of Idaho. We have lost more human beings this year fighting forest fires than we have in recent history. Can that be attributable to public policy?

Tragically enough, it may be. History may say that is the cause.

Well, I believe I made my point.

The Chief has indicated that new road construction is critical toward addressing wildfire, disease infestation, forest management problems, and forest health. I recognized that on June 26, as did the ranking member and the Chairman. And yet this bill does not reflect that interest at all. Only 29 percent of the road appropriations is for new roads, construction, and 71 percent is for reconstruction of existing roads. Only a few miles of new roads are planned in roadless areas in the 1995 appropriation. The forest plan is the guiding document providing direction for new roads on how we manage our roadless areas, and yet we are abrogating our responsibility to the forest planning process, and to the new concepts of ecosystem management, and to the new vision that the Chief of the Forest Service, Jack Ward Thomas, is attempting to articulate to our country. We have not taken heed to his call. We are not addressing the problems of our forests. And they will continue to burn, and we will continue to lose millions of acres of valuable public land and public habitat for wildlife because we lack the vision in a very limited budget to direct the appropriations in the way I think many of us would feel necessary and appropriate.

This is an important budget to my State. While I have expressed concern over this frustration, I will support the appropriations bill that I am addressing because it has such powerful impact upon my State that is owned by the amount of 63 percent of the total land mass by the citizens of our country.

So this budget has very real impact, as the ranking member, Senator NICKLES, and as certainly the chairman, Senator BYRD, know. I would hope in the coming years we can do better. If we do not, our forests will burn and someday we will awaken to ask the question: What happened? Why did it happen? Why did somebody not do something about it?

Mr. NICKLES. Mr. President, I appreciate the comments of the Senator from Idaho dealing with the Forest Service, dealing with fires that we have, his urging our support of the urgent supplemental for $450 million to replenish funds and also have a fund that can respond quickly to future fires.

I also would echo his concern and his statements about our past practices of allowing some of the old forests to accumulate, which is nothing but fuel for future fires, instead of allowing those forests to be harvested. I think the Senator from Idaho is exactly correct. We have not done as much as we should in forest roads and harvesting old forests and timber in part because of lawsuits and in part because of endangered species. The Senator from Idaho has made an excellent statement, and I very much appreciate his input as well as his support.

Mr. President, I do not know of anybody else who wishes to speak on this legislation. The yeas and nays have already been asked for, and I hope that we would vote on it in the very near future.

Mr. DOMENICI. Mr. President, I rise in support of the Department of the Interior and related agencies appropriations bill for fiscal year 1995.

The conference report provides $13.2 billion in new budget authority and $8.9 billion in new outlays for the Department of the Interior and related agencies for fiscal year 1995.

When outlays from prior year budget authority and other completed actions are taken into account, the final bill totals $13.6 billion in budget authority and $14.0 billion in outlays for fiscal year 1995.

The Senate subcommittee is $3.7 million in budget authority below its 602(b) allocation and essentially at its outlays allocation.

The conference report is $196.9 million in budget authority below and $157.9 million in outlays below the President's request.

I appreciate the subcommittee's support for a number of ongoing projects and programs important to my home State of New Mexico as it has worked to keep this bill within its budget allocation.

I urge the adoption of the bill.

Mr. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the pending conference report, the Senate then proceed to consideration of the Treasury-Postal Service appropriations bill, H.R. 4539.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered. Is there further debate?

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the vote on the conference report occur at the hour of 11:10 a.m.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS UNTIL 11:10 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 11:10 a.m.

There being no objection, the Senate, at 11:04 a.m., recessed until 11:10 a.m.; whereupon, at 11:10 a.m., the Senate reassembled when called to order by the Presiding Officer (Mr. MATHEWS).

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1995—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. The hour of 11:10 having arrived, the question before the Senate is on agreeing to the conference report for the Department of the Interior and related agencies. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Tennessee [Mr. SASSER] is necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee [Mr. SASSER] would vote "aye."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 92, nays 7, as follows:

[Rollcall Vote No. 311 Leg.]

YEAS—92

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Wallop
Warner
Wellstone
Wofford

NAYS—7

Brown
Faircloth
Gregg
Helms
Murkowski
Roth
Smith

NOT VOTING—1

Sasser

So the conference report was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TREASURY-POSTAL SERVICE APPROPRIATIONS ACT FOR FISCAL YEAR 1995—CONFERENCE REPORT

Mr. DECONCINI. Mr. President, I submit a report of the committee of conference on H.R. 4539 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The bill clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4539) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1995, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 22, 1994.)

The Senate proceeded to the consideration of the conference report.

The PRESIDING OFFICER. The Senator from Arizona.

PRIVILEGE OF THE FLOOR—CONFERENCE REPORT ON H.R. 4539

Mr. DECONCINI. Mr. President, I ask unanimous consent that John Libonati, a fellow in my office be granted floor privileges during consideration of the conference report to H.R. 4539, the Treasury, Postal Service, and general government appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I am pleased to bring before the Senate the conference report accompanying H.R. 4539, the fiscal year 1995 appropriations bill for the Department of the Treasury, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies. The bill as reported by the conference, totals $23.5 billion in new budget authority or approximately $136.8 million less than the Senate-passed bill.

Mr. President, I will have a longer statement which outlines in greater detail the provisions contained in the conference report. I want to take a few minutes to briefly summarize the conference report.

The conference agreement includes $39 million for Treasury law enforcement activities as authorized in the Violent Crime Control and Law Enforcement Act of 1994. These funds will be used in fiscal year 1995 to enhance criminal investigations into the counterfeiting of U.S. currency; to beef up port and border enforcement activities; and to permit ATF to undertake compliance measures to ensure proper implementation of the firearms provisions of the crime bill. The bill also includes $9 million to expand the number of gang resistance education and training projects in communities throughout the country where gangs pose a serious threat. This is a very successful gang prevention program which is modeled after the DARE Program. GREAT projects are currently operating in eight cities nationwide as a direct result of the Federal funds previously appropriated to ATF. The additional $9 million in fiscal year 1995 will be used to expand the number of GREAT projects to approximately 12 high-risk communities.

With reference to pay, the conference agreement authorizes a 2-percent ECI, or Employment Cost Index increase, for Federal employees in fiscal year 1995 and a locality pay adjustment of an estimated 0.6 percent nationwide. This provision was included in the House-passed bill and since the time the Senate acted, the President has announced that he intends to provide a 2-percent ECI raise and a portion of the second-phase implementation of locality pay to Federal employees. The provision in the conference agreement includes a prohibition on these pay raises for Members of Congress and Federal judges. Mr. President, this was a very contentious issue in the conference. While I have always voted against pay increases for Members of Congress, I believe that issue was laid to rest several years ago by only providing Members of Congress to receive nothing more than a cost of living increase. I think that was a reasonable approach. I was prepared to accept that approach, as I know the ranking member was. I am disappointed we got caught up in the hysteria, once again, that Members of Congress are not worth being paid an adequate salary and that they and judges should be singled out, for no cost of living increase.

I do not believe we should continue to browbeat ourselves over the cost-of-living adjustments. That is not a pay raise. The same goes for the judges.

How can we expect a quality justice system if we cannot at least give a cost-of-living pay raise?

However, it was clear that there would be no conference agreement without a provision banning a raise for Members of Congress.

With respect to the construction of Federal courthouses and Federal office buildings, in the past, this has been a controversial issue. The conference agreement includes $601 million for new construction of GSA projects. For those Federal building projects which have not been authorized by the Senate Environment and Public Works Committee or the House Public Works and Transportation Committee, a provision has been included which prohibits the expenditure of funds by the GSA unless and until such authorization is approved.

The conferees took this action to avoid the continuing jurisdictional disputes with the authorizing committees.

As everyone in this body knows, this is my last year in the Senate. I have to say one of the most rewarding experiences of my career has been serving on the Appropriations Committee with the distinguished chairmen that we have had, particularly the current chairman, the Senator from West Virginia [Mr. BYRD].

I have served on this committee for the entire 18 years I have been in the Senate. I have been either the ranking member or chairman of the Treasury Subcommittee for the past 12 years. My service on this subcommittee has given me an opportunity to understand and evaluate many diverse agencies ranging from the Department of the Treasury and Executive Office of the President to the General Services Administration, and the Office of Personnel Management.

I have been fortunate, when I was the ranking member and when I have been chairman, to have a chairman or a ranking member who wanted to cooperate and was willing to be a participant to helping find solutions to difficult budgeting problems. In particular, the current ranking member, Mr. BOND, from Missouri, has been an excellent partner in the process. I thank him and his staff for their cooperation and their efforts to help us find solutions to many problems which are the result of a difficult and shrinking budget.

We have done a lot. Working in a bipartisan fashion, we have been able to formulate and fund initiatives to interdict the flow of illegal drugs coming into the United States; upgrade and modernize border stations along the United States-Mexico border; redesign the antiquated automated tax systems of the Internal Revenue Service; enhance the investigative and compliance capabilities of the Treasury law enforcement bureaus; and ensure proper work space for the operation of all Government agencies. Over the years, it has been a lot of work, but work where the labor has been stimulating and satisfying. We have done a lot of positive things. The Appropriations Committee is one of the finest in this body. The members, from the chairman and ranking minority, to the staff, in my view, are the most professional in Government. They work under less than ideal circumstances and always try to put the needs of the country and the American people before partisan politics. I will miss this committee.

Mr. President, in closing, I want to compliment my very fine and able ranking member, Senator BOND, and his staff, Chuck Parkinson and Julie Dammann. They have been a pleasure to work with and I wish them well in the coming years. They have worked so hard to see this bill is finally going to pass today.

Mr. President, I also want to thank Patty Lynch, Cybele Cobb, and John Lebonate of my majority staff.

To reiterate, the conference report totals $23.5 billion in new budget authority. This amount is $915 million above the fiscal year 1994 enacted level, but $1.1 billion below the President's budget request. Of the increase above the 1994 level, $695 million is for mandatory programs over which the committee has little control. For domestic discretionary programs, the conference report totals $11.8 billion, which is $1.1 billion below the budget request. When you take out the IRS compliance initiative, totaling $405 million, which was provided for in the budget resolution outside of the discretionary caps, the discretionary funding in the bill is actually $1.5 million below the President's requested level.

As a result, this year the conference committee had a difficult task of trying to formulate an agreement which adequately funds the President's priorities, law enforcement, personnel management, taxpayer service, and returns processing, and meet Federal building requirements. I think we have done an excellent job, under the circumstances. The bill reported by the conference committee provides funding of: $10.5 billion for the Department of the Treasury; $92 million for the payment to the Postal Service Fund for free mail for the blind and overseas voters and payment on the debt to the Postal Service for subsidies to certain preferred rate mailers; $148.9 million for funds appropriated to the President for Federal drug control programs; $601 million for the construction of new Federal office buildings and courthouses through the General Services Administration; $11.7 billion in various mandatory Government payments through the Office of Personnel Management for annuitant and employee health, disability, retirement, and life insurance benefits; and $338 million for various independent agencies.

The bill also contains a new title, title VII, which provided funding to Treasury law enforcement agencies for implementation of the provisions of the recently enacted Violent Crime Control and Law Enforcement Act of 1994. As authorized under title 31 of that act, $39 million has been made available for the following Treasury enforcement activities: $2.4 million for the Departmental Offices for the Office of Enforcement to oversee the implementation of the crime bill provisions; $2.7 million for the Financial Crimes Enforcement Network to enhance the investigation of financial crimes; $7 million for the Bureau of Alcohol, Tobacco and Firearms for the enforcement of the firearms provisions of the crime bill, including the assault weapons ban; $9 million for the implementation of additional gang resistance education and training [GREAT] programs nationwide; $4 million for the U.S. Customs Service for expanding border and port enforcement; $7 million for the Criminal Investigation Division of the Internal Revenue Service for combating public corruption and expanding illegal tax enforcement activities; and $6.6 million for the U.S. Secret Service for expanding investigations into the counterfeiting of U.S. currency and enhancing forensics capabilities to aid in the investigation of missing and exploited children.

For the Treasury law enforcement bureaus, the conference report includes an additional $12 million for the restoration of 212 full-time equivalent positions which were proposed for reduction in fiscal year 1995 to comply with the President's Executive order on the reduction of the Federal work force. The only way that so-called war on crime can be effective is through the combined efforts of Federal, State, and local law enforcement. I believe it is a big mistake to cut the strength of our Federal law enforcement agencies at a time when the American public is telling us that crime is the No. 1 problem in the country.

With reference to illegal drugs, the conference report bill includes $98 million for support of Federal, State, and local law agency activities in the six designated high-intensity drug trafficking areas [HIDTA's]. Over the past 5 years, we have witnessed the success of coordinated law enforcement efforts through the HIDTA Program in Miami, New York, Los Angeles, Houston, and on the Southwest border. These funds go to support multiagency law enforcement operations aimed at disrupting major trafficking organizations.

In fiscal year 1995, the Baltimore-Washington Metropolitan Area will receive the funding assistance of this program to reduce drug trafficking and distribution. Also, in fiscal year 1995, the conference report provided an additional $9 million for the Puerto Rico-U.S. Virgin Islands area. These funds can only be expended if the Director of the Office of National Drug Control Policy determines that this area meets the criteria for a HIDTA designation and so designates this area. I have received every indication from the drug czar's office that this in fact will occur.

The conference report also includes $1.5 billion for the U.S. Customs Service. This includes the restoration of roughly one-half of the reduction proposed by the President for Customs air and marine interdiction activities. The President's budget proposed a $52.6 million cut based on the revised interdiction strategy which will focus increased attention on the source countries and reduce interdiction in the transit zones, the theory being that if you build a fence around the area where the flights are originating from, you won't have to worry about interdiction through the area where the drugs would transit. Realistically, however, we are never going to have a solid wall around the source countries. In fact, the current impasse with the Department of Defense's legal interpretation over surveillance flights in Colombia and Peru has left the entire area wide open.

Mr. President, I hope the new strategy works. But, I am really skeptical. For this reason, the conferees restored certain funds to Customs to maintain an adequate level of border and transit zone interdiction capabilities and has provided $15 million to the drug czar for a contingency if in fact the threat increases as a result of the new policy.

With reference to GSA building construction and repairs and alterations, the conference report includes funding for certain projects which have not been authorized. However, the conference report includes a provision which prohibits the obligation of funds for these projects until the Senate Environmental and Public Works Committee and the House Public Works and Transportation Committee authorizes funding for these building projects.

The conference report contains $405 million to implement the President's tax compliance initiative for the IRS. Funding for this initiative was provided for in the budget resolution outside the discretionary caps. This initiative will produce additional revenues of between $9 and $10 billion over the next 5 years and will cost the Government $405 million in fiscal year 1995.

I think this is a good and responsible conference report, Mr. President, and I commend the House subcommittee chairman, Mr. HOYER, for working closely with the Senate to formulate a bill which is not only good legislation but fiscally responsible as well. I also want to thank the ranking member, Mr. BOND, and the other members of the Senate subcommittee, for working with us in a bipartisan fashion to formulate a bill which funds the highest priorities.

I now yield to the ranking member, Mr. BOND, for any opening statement he may wish to make.

Mr. BOND. Mr. President, I rise to support the conference report on Treasury-Postal Service and general Government appropriations that is now before us. I also want to extend my sincere thanks to the chairman for the great work he has done on this bill in the past years. I have some further remarks I will reserve to the end of the consideration of this bill. But I want my colleagues to know that I truly appreciate the professional and able manner in which the chairman has handled this matter.

The chairman has outlined the highlights of this piece of legislation. It was not without some detours and a tortuous path, that we reached the point we are today. I do not wish to take a great deal of the time of the Senate, but there are a few points I think should be made with respect to this measure.

As I said, the bill is not perfect. Very few pieces of legislation are. But this bill does a lot with very limited resources. It is $1.117 billion,

$1,117,000,000, below the President's request. It contains a $405 million initiative for the Internal Revenue Service collection initiative which was not included in the President's budget. If that was not included in this bill, the legislation would be $692 million in outlays below the President's.

There will be those who will say that is great but you still exceed by almost $1 billion the 1994 budget. That is true, but when you take into account the mandatory increases which total $695.4 million, and the IRS collection initiative, this bill would be almost $220 million below the fiscal year 1994 level.

I am very happy that we have been able to restore the law enforcement reductions the President slated for this budget. And again, I commend the chairman for being very strong and resolute in seeing that we did not make unwarranted and unwise cuts in law enforcement. The restorations are not large. But I strongly believe the personnel and assistance we are providing in this bill to Customs, ATF, and to the Secret Service, will have a very positive impact on the battle currently being waged against crime, against drugs, money laundering, counterfeiting and the other matters which the agencies under the jurisdiction of this bill deal with.

As I indicated earlier, we did the best we could with limited resources, but there were a few things we were not able to accomplish. One very important issue, one that we will have to address next year, and I will serve notice on the members of this subcommittee as well as my colleagues, we have to do something about the IRS tax system modernization program. If the IRS is to perform its duties, adequate funding for TSM's, tax system modernization it is called, is essential.

This bill does not include the funding necessary for the IRS to proceed at the pace which is the most effective. The IRS projects that TSM will help process returns more efficiently, and will identify taxes which are not being paid. Some will ask if TSM is so important, why have we not provided the amount requested. The answer is, the manner in which the President's budget was set up. This goes back to OMB, and the problem lies at their doorstep.

Let me discuss for a moment the budget request. The President's request exceeded the budget cap by $3 billion. All of the appropriations subcommittees were impacted in order to accommodate the reductions necessary by this excessive request.

The budget for the Treasury Department also requested over $250 million in user fees to offset appropriations for the Department. Those fees fall within the jurisdiction of other committees. This is an appropriations committee. It is not a tax increase committee. These fees are not fees that we can produce in this bill. If we would have funded TSM at the requested level, we would have had to reduce every discretionary account in this bill by about 15 percent. A reduction some might argue for, but it is practically impossible. I would hope the President's next budget will be more realistic and recognize the realities of the budget process and the need for tax system modernization.

I believe that including the IRS collection initiative will provide that revenue. We had significant argument on the floor over that measure. People were saying, well, we are trying to collect more taxes. My answer to that is, for the 85 percent of the American people who pay their taxes voluntarily and honestly, it is an outrage that some in the remaining 15 percent are not paying taxes that are owed, and the burden that they shirk falls on the backs of those who voluntarily pay. And I think we owe it to the people who comply with the law to see that those who do not are pursued and that taxes are collected.

Mr. President, as I indicated, this bill has taken some interesting turns in the process. Maybe "interesting" is an overly-generous characterization. But we have the bill before us, and it contains the needed appropriations.

I express my sincere thanks to the chairman, to all of the members of the subcommittee for the hard work necessary to get this conference report to the Senate. I express thanks to the majority staff members, Patty Lynch and Cybele Cobb, and to Chuck Parkinson on the appropriations staff, and to Julie Dammann on my staff.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. I urge the adoption of the conference report.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the conference report.

So the conference report was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. I suggest the absence of a quorum.

Mr. BOND. Mr. President, I ask if the gentleman would withhold.

The PRESIDING OFFICER. Will the Senator from Arizona withhold?

Mr. DECONCINI. I will withhold.

Mr. BOND. Mr. President, now that this measure is passed I do want to take just a moment to express in more detail my thanks to the chairman. As has already been mentioned, this is the last regular appropriations bill that Senator DECONCINI will bring to the Senate floor. We will miss working with him next year, but I have the feeling that when we visit some of the installations, the vital Customs installations and other facilities around the country which are funded by this bill, we may not see the good Senator, but we will certainly see the result of his work and his efforts to make sure that these vitally important agencies are well-funded.

He has been a strong member of this subcommittee, serving the last 9 years as chairman. I have only had the pleasure of serving as a ranking member with him for the past 2 years, but it has been a great learning experience.

I think it is easy for me to speak for all of the members of the subcommittee, when I say that Senator DECONCINI has been exceedingly fair in his dealings with members. He has worked hard to ensure the agencies funded in this bill get what they need to operate and, quite frankly, Mr. President, that is not as easy as one would think.

When you look at what we fund in this bill, the operations of vital Government agencies, the Internal Revenue Service, the Postal Service, they are not a lot of things that warm the juices or stimulate the heart throbs of our colleagues, but this bill is vitally important to the effective operation of Government. It is not easy, when there are many other competing demands.

Throughout the year, Senator DECONCINI has worked hard to ensure these funds provided to the agencies, which are so critical in the operation of Government, are there. It would have been easy to make reductions for the sake of reductions, but all of us, as Americans would have suffered if the work of those vital agencies had been short-changed.

Of all of the legacies that Senator DECONCINI leaves, Mr. President, none looms larger than the tremendously positive impact he has had on Federal law enforcement. As I talked to Federal law enforcement officials, I saw many sad faces when they learned of the coming retirement of Senator DECONCINI. He has been a tireless champion of Federal law enforcement, especially Treasury law enforcement.

He was on the front line when the war on drugs began. In the 1980's, that was easy. Drugs were nightly news. But the problem remains the same today and in some ways it is much greater, but the news does not seem to notice it as much. Senator DECONCINI's fervor has not waned. He has been criticized, many times. He has had to take on budget requests from an OMB of his own party, but he has persevered.

That continued effort is reflected in this bill. And with the adoption of this conference report, we are keeping up the fight.

Mr. President, we will all miss the Senator from Arizona, but I hope and trust and pledge that we will continue to carry on his commitment, especially to law enforcement.

Mr. President, I thank the Chair.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. I thank my colleague. He is very gracious and kind. Everyone likes to hear those nice things about themselves.

Law enforcement is important, not just to this Senator, but also to the Senator from Missouri. Sometimes law enforcement gets forgotten because it does not have the constituents as many other efforts do. It is extremely important. And coming from a law-enforcement background as a former prosecutor, I found this subcommittee extremely interesting.

Serving on the Judiciary Committee, having wide jurisdiction over the Justice Department, much can be done to improve the fine law enforcement that we have today in the Federal Government. Much has been done. And much of it, I must say, has come from congressional initiatives. We need dramatic and positive leadership that is not afraid to come up here and lobby on behalf of law enforcement. So I thank my colleague from Missouri, and I appreciate his friendship, more than I can express here today, and the cooperative effort we have had together.

AVAILABILITY PAY

Section 633 of the conference report includes a provision which authorizes availability pay for criminal investigators. Availability pay will replace the administratively uncontrollable overtime [AUO] payments which are currently in effect. Because the conferees were concerned about the costs that would accrue to those agencies who currently do not pay their 1,811 agents AUO but would be required to pay 25-percent availability pay as a result of section 633, the conferees included a provision which permits the offices of inspectors general to forgo availability pay to their criminal investigators until any pay period within the last quarter of fiscal year 1995. The provision in the bill appears unclear and the conferees wish to express their intent that the head of the employing Office of Inspector General, and not the criminal investigators themselves, shall make the decision on when to make the availability compensation payments in fiscal year 1995.

Criminal investigators shall receive no less than the rate previously provided to them, up to date of enactment of this act, under the provision commonly referred to as administratively uncontrollable overtime [AUO] until such time as the maximum rate shall be paid as mandated by provisions of the Availability Act of 1994.

FORT MYERS COURTHOUSE AND FEDERAL BUILDING

Mr. GRAHAM. Mr. President, I ask if the distinguished chairman of the Treasury, Postal Service, and General Government Subcommittee would be willing to turn his attention to the subjects of the Tampa Courthouse and Fort Myers Courthouse and Federal Building.

Mr. DECONCINI. I am familiar with these issues and would be pleased to discuss them.

Mr. GRAHAM. As you may be aware, in August the General Services Administration [GSA] received bids for a courthouse Federal building construction project in Fort Myers, FL. The lowest of these bids was approximately $7 million over the $27 million authorized by the Environment and Public Works Committee pursuant to GSA's cost estimate. I understand the GSA must now amend the building's prospectus and resubmit it to the Environment and Public Works Committee for approval.

Concurrently, GSA has indicated that it will not need $7.5 million of funds appropriated for a Federal courthouse project in Tampa, FL. It seems sensible to me that the $7.5 million once intended for the Tampa courthouse, now idle, be made available for the purpose of covering the $7 million shortfall in the Fort Myers project. Does the chairman agree that these funds should be made available for reprogramming by GSA for the Fort Myers project?

Mr. DECONCINI. Yes. It is my understanding that if GSA does not use the funds for the Tampa project, the agency will reprogram that excess to meet the unanticipated needs of the Fort Myers facility.

Mr. GRAHAM. That is most welcome guidance, and I hope the GSA will be mindful of the interpretation made by the chairman of the subcommittee.

I appreciate the chairman's indulgence and offer my thanks for his attention to the needs of Florida's Federal space needs.

Mr. DOMENICI. Mr. President, I rise in strong support of the conference agreement on H.R. 4539, the Treasury, Postal Service, and general Government appropriations bill for fiscal year 1995.

This bill provides new budget authority of $23.2 billion and new outlays of $20.9 billion to finance operations of the Department of the Treasury; including the Internal Revenue Service, U.S. Customs Service, Bureau of Alcohol, Tobacco and Firearms, and the Financial Management Service; as well as the Executive Office of the President, the Office of Personnel Management, and other agencies that perform central government functions.

I congratulate the chairman and ranking member for producing a bill that is substantially within the subcommittee's 602(b) allocation. When outlays from prior year budget authority and adjustments for IRS compliance and mandatory programs are taken into account, the bill totals $23.6 billion in budget authority and $24.2 billion in outlays. The total bill is under the Senate subcommittee's 602(b) allocation by $0.2 billion in budget authority and $40 million in outlays.

I would like to thank the subcommittee for including funding for a new Federal courthouse in Albuquerque, NM. This project has been in the planning stage for several years and now that it has been reviewed and approved in GSA's Time Out and Review, we are ready to start the long process of actual construction.

I would also like to thank the conferees for retaining my amendment which requires OMB to report to Congress on the manner in which procurement savings are achieved. Procurement reform is an important part of the National Performance Review's recommendations to reinvent Government and we should make sure that these savings are achieved in a proper manner.

I urge the speedy adoption of this bill.

STATEMENT ON TREASURY-POSTAL APPROPRIATIONS

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 4539, the Treasury-Postal appropriations bill and has found that the bill is under its 602(b) general purpose allocation by $166 million in budget authority and by $40 million in outlays. This conference report is below its 602(b) crime allocation by $1 million in budget authority and exactly meets its allocation in outlays.

I compliment the distinguished manager of the bill, Senator DECONCINI, and the distinguished ranking member of the Treasury-Postal Subcommittee, Senator BOND, on all of their hard work.

Mr. President, I have a table prepared by the Budget Committee which shows the official scoring of the Treasury-Postal appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

SENATE BUDGET COMMITTEE SCORING OF H.R. 4539, FISCAL YEAR 1995 TREASURY-POSTAL APPROPRIATIONS—CONFERENCE BILL

[In millions of dollars]

	Budget Authority	Outlays
VIOLENT CRIME TRUST FUND		
Crime total	39	28
Senate 602(b) crime allocation	40	28
Difference	−1	−(*)
GENERAL PURPOSE		
Discretionary totals:		
New spending in bill	11,575	9,268
Outlays from prior years appropriations		2,986
Permanent/advance appropriations	0	0
Supplementals	0	−33
Subtotal, discretionary spending	11,575	12,220
Mandatory totals	11,976	11,973
General Purpose bill total	23,551	24,193
Senate 602(b) allocation	23,717	24,233
Difference	−166	−40
General purpose totals above (+) or below (−):		
President's request	−1,033	13

SENATE BUDGET COMMITTEE SCORING OF H.R. 4539, FISCAL YEAR 1995 TREASURY-POSTAL APPROPRIATIONS—CONFERENCE BILL—Continued

[In millions of dollars]

	Budget Authority	Outlays
House-passed bill	39	−56
Senate-reported bill	−144	−26
Senate-passed bill	−161	−38
Overall totals:		
General purpose, discretionary	11,575	12,220
General purpose, mandatory	11,976	11,973
Crime trust fund	39	28
Overall bill total	23,589	24,221

Mr. BAUCUS. Mr. President, I would like to ask the distinguished chairman of the Treasury, Postal Service and General Government Appropriations Subcommittee to clarify the intent of the conferees with respect to a provision in this conference report.

Since becoming chairman of the Environment and Public Works Committee, the committee with jurisdiction over the General Services Administration's public buildings program, I have worked long and hard to ensure that prospectus-level public buildings projects receiving appropriated funds are first authorized. The Senator from Arizona has been very cooperative in this effort and I appreciate his work.

While I am pleased that the fiscal year 1995 Treasury, Postal Service appropriations conference report does require approval of unauthorized projects prior to expenditure of appropriated funds, I am concerned that there is no reference made as to whom should make such approval.

I want to clarify that all unauthorized, prospectus-level public buildings projects, as defined by the Public Buildings Act of 1959, require authorization and approval of both the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation. Is it the intent of the conferees that all unauthorized, prospectus-level projects in this fiscal year 1995 conference report are to be authorized and approved in a positive manner by both authorizing committees before any appropriated funds may be expended for any construction, repair, alteration, and acquisition for which a prospectus is required?

Mr. DECONCINI. I would be pleased to respond to the Senator's question. It is the intent of the conferees that all unauthorized, prospectus-level projects, as defined by the Public Buildings Act of 1959—with the exception of projects funded through grants—are to be authorized and approved in a positive manner by both the Senate Environment and Public Works Committee and the House Public Works and Transportation Committee before any funds appropriated in this fiscal year 1995 conference report are to be available for any construction, repair, alteration, and acquisition activities.

Mr. BAUCUS. I thank the chairman. Let me also mention that I have enjoyed working with him on this issue and many other issues in the past. I thank him again for his cooperation.

REDUCTION OF REGIONAL IRS OFFICES

Mr. D'AMATO. Would the chairman yield in order that I might clarify an issue regarding the Internal Revenue Service?

Mr. DECONCINI. Certainly.

Mr. D'AMATO. I thank the Senator. Mr. President, the committee is aware that the Internal Revenue Service is contemplating, based on studies conducted by the Service, reducing the number of regional offices from seven to five. The committee has been advised about the potential impacts this plan may have on the regional offices throughout the country, particularly on the large number of women and minority employees.

I believe that the potential costs associated with the Internal Revenue Service's reorganization plan and the impact that such a plan would have on the affected communities should be fully justified in writing by the Service prior to any action to close, move, or transfer functions from the current regional offices.

I wonder if the chairman would agree that, therefore, a thorough and complete analysis on the cost effectiveness of closing the regional offices and the potential impacts on the employees should be undertaken, completed, and reported to the Congress before further action is taken on this matter.

Mr. DECONCINI I would agree with the Senator from New York, and urge the Internal Revenue Service to undertake such analysis before any closings occurred.

Mr. D'AMATO. I thank the chairman, and appreciate his consideration in this matter.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1995—CONFERENCE REPORT

The Senate resumed consideration of the conference report.

Pending: House amendment to Senate amendment No. 148.

Mr. HARKIN. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER (Mr. ROBB). The pending business is the conference report on the Departments of Labor and Health and Human Services.

Mr. HARKIN. Mr. President, I just have one item.

INTERNATIONAL EDUCATION PROGRAM

Mr. HARKIN. Mr. President, I say to the Senator from Rhode Island [Mr. PELL], we are pleased to be able to provide support in the amount of $3 million in fiscal year 1995 for the International Education Program in title VI of the Goals 2000: Educate America Act. Since this sum is $7 million less than the authorization of $10 million for fiscal year 1995, we would appreciate any guidance that the Senator, as chairman of the Education Subcommittee and author of this legislation, might be able to provide on the use of these funds.

Mr. PELL. Mr. President, at the outset, I want to express my deepest appreciation for the strong support the Senator has given this important program. Without his leadership, we would not be on the threshold of beginning an important program to aid the emerging democracies of Central Europe and the New Independent States that were formerly part of the Soviet Union.

I also appreciate the opportunity to clarify the intent of the authorizers of this legislation. As Senators know, the program is intended to provide a coordinated education and exchange program among highly successful civic and economic education programs in the United States and leaders in the same fields from Central Europe and the New Independent States which were part of the former Soviet Union. Although the legislation authorizes the U.S. Department of Education to make up to three grants each in the fields of civic education and economic education, we believe, in light of the limited appropriations, that the Department should award only one grant in each area—one in civic education and one in economic education. Each grant should be awarded on a competitive basis to the most qualified organization or consortium in each field. We believe a single grant is important in order to make sure that the program undertaken is of sufficient size and scope to be effective in accomplishing the objectives of this program.

Mr. HARKIN. Since I also serve as a member of the authorizing subcommittee, I both understand and agree with the clarification the Senator has provided and will be pleased to advise the Department accordingly.

I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, last evening, in discussion with the manager of the Labor-HHS appropriations bill, who I might say has done a magnificent job in bringing this matter to the floor as well as on the floor, I indicated that I was prepared to offer an amendment having to do with the issue of baseball, having to do with removing the antitrust exemption from the law so far as the pending issue was concerned and giving the players the right to go into court. It would be a limited exemption from the antitrust laws. The players had indicated and have indicated that, if that legislation is passed, they would be prepared to go back to work.

I think the American people want to see baseball played. I do not think we can have a World Series anymore this year, but I think there is a real concern about whether the players will go into spring training. And if that not be the case, we might have a total shutdown of professional baseball in this country.

The question last night had to do with an amendment that I was prepared to offer and whether or not it was germane. The Senator from Nebraska had indicated he had objections and would probably move to table it. In the interim, there have been some new developments. I am informed that the House subcommittee on this issue intends to report out a bill pretty much similar to the legislation that Senator HATCH and I have offered in the Senate and that there is every likelihood the House Judiciary Committee, if it comes out of the subcommittee, then would move forward with the passage of that legislation through the House, or at least report it to the floor for passage.

Those being the circumstances and not wishing to delay my colleague, Senator HARKIN's efforts in connection with the passage of this bill and knowing that the D.C. appropriations bill is standing in line to come to the floor, and having been advised by the Parliamentarian that the question of germaneness is probably equally applicable to putting it on this bill or that bill, I do not want to stand in the way of passing the Labor-HHS bill. I think it is a very important piece of legislation. I think those who have managed it, Senator HARKIN and Senator SPECTER, have done a good job. And so I just want to say I will not offer it, but I will offer it, in connection with Senator HATCH as well as other cosponsors, on the D.C. appropriations bill.

I wish the managers of this bill good luck.

Mr. SPECTER. Mr. President, I am delighted to hear the statement by the distinguished Senator from Ohio [Mr. METZENBAUM]. I thank him for that. It is true that if we do not proceed now to finish this bill, there will be a very substantial impact on the important accounts in education, health and human services and labor, taking the lower figure between the 1994 budget and the conference report.

I share the sentiments that the Senator from Ohio has expressed about baseball. He and I have worked on the Judiciary Committee during my 14 years here, and we were very deeply involved in the antitrust issue way back in 1981 when the Oakland Raiders moved to Los Angeles, and we had Judiciary Committee hearings to discuss the issue in great depth and have on many occasions since—back in 1984 when the Eagles were about to move to Phoenix.

My own view is that professional sports has a status of being affected with the public interest, so that the fans have a very unique interest in baseball and in football, and those sports and others enjoy a special status under the antitrust laws—full exemption for baseball, which was founded on an opinion by Justice Holmes in 1922 that baseball was a sport, a situation which has long since changed and admitted by all the participants in baseball itself.

We have had the issue come up as to football and its limited antitrust exemption as to pay-per-view on the Super Bowl and have gotten concessions from the leaders of the league. Former Commissioner Rozelle, now Commissioner Tagliabue, have made a commitment as to the year 2000.

There is no doubt about the indignation of the American people as to what is happening today in professional sports. We have just had the magnificent series on public television about baseball, and I personally made inquiries of the Commissioner of Baseball, the players representatives, Dan Fehr and Richard Ravitch. I have a very substantial interest in baseball as two major league teams are located in Pennsylvania, as does the Senator from Ohio. The Senator from Iowa ought to get a couple of major league teams as well.

The prospect of having no baseball next year and the consequence of no season this year and no World Series is really very, very regrettable. I do not know that the proposed legislation is going to have the desired result. I have searched the laws, the antitrust laws and the labor laws, from nook to cranny, and have been unable, nor has Mr. Fehr, Mr. Selig, or Mr. Ravitch, or the owners in Pennsylvania, to find an answer. But I am glad we are able to move ahead and get this bill completed.

I did not have an opportunity yesterday to thank the distinguished Senator from Maine [Mr. COHEN] for withdrawing his amendment, and other Senators who were going to put amendments on the bill, so we can move ahead with this very important legislation.

I would like to give special note, while I am on my feet—I know the chairman, Senator HARKIN, will as well—to extraordinary staff work. We were able to work this out in a minimum time. We had a conference—how long did it last, I ask the Senator? Eight minutes, which probably set a record because we were able to work together. And the majority staff of Ed Long, Jim Sourwine, Carol Mitchell, Susan McGovern, Bill Cordes, Ellen Murray, Gladys Clearwaters, and Antonio Clinkscales, along with Republican staff Craig Higgins, Bettilou Taylor, and Meg Snyder did extraordinary work. They did outstanding work last year but this was even better.

I again express my profound and heartfelt thanks to my colleague, Senator HARKIN.

Mr. HATFIELD. Mr. President, as the Senate completes action on the conference report accompanying H.R. 4606, the Labor, HHS, and Education and related agencies appropriations bill for fiscal year 1995, I would like to highlight several items in the conference agreement. Before I do, let me congratulate the chairman, Senator HARKIN, and the ranking member, Senator SPECTER, for their work on this bill. The conference agreement carefully balances the competing needs facing the subcommittee. This is no easy task. I am especially grateful for their support on several matters of concern to me and to the people of Oregon.

DISLOCATED WORKERS

As many of my colleagues know, dramatic changes in Federal environmental policy in the Pacific Northwest have led to significant worker dislocations within the timber and fishing industries in that region. Thousands of families, and many communities, have had their livelihoods and economic base uprooted.

Earlier this year, I chaired a special hearing of the Appropriations Committee in Portland, OR, to examine whether existing Federal worker retraining programs are sufficient to meet the needs of workers. What became clear during the hearing was that they are not. The most compelling testimony was received from Kevin Browning, a dislocated worker from Roseburg, OR. Mr. Browning outlined for the committee how the current system of support fails to meet the needs of workers like himself. The central problem identified is the restriction on the use of Job Training Partnership Act funds for income support payments.

We cannot expect a worker to spend 2 years in training if their income support is limited to only 26 weeks of unemployment insurance. Yet the Job Training Partnership Act limits at 25 percent, the amount of dislocated worker funds that States can use for income support payments. State officials from Oregon testified to the need for greater flexibility in the use of Federal dislocated worker funds in order to better respond to the needs of workers, like Kevin Browning, who are involved in long-term retraining programs.

I am pleased to report to the Senate that the conference agreement includes language which will give States this flexibility. By easing restrictions on the use of funding, States have greater discretion to deliver additional income support, or needs-based payments, to dislocated workers. The language also extends the period of time in which workers could qualify to receive needs-based payments. Current eligibility restrictions require workers to be enrolled in training within 13 weeks after being laid off. The review and award of supplemental Federal grant requests often comes well after the 13 week period. The conference agreement would make individuals eligible for needs-based payments, provided that they are enrolled in training within 6 weeks of the date the State received the supplemental retraining funds.

The conference agreement also includes $1.29 billion in funding for the dislocated worker retraining program. This is an increase of $178 million over the level appropriated by the Congress last year.

SCHOOL TO WORK

The conference agreement includes $250 million for the recently authorized School-to-Work Program, an increase of $150 million over last year. The School-to-Work Program will assist non-college-bound students make the transition from high school to the workplace. I am proud that Oregon was one of eight States to be awarded an implementation grant under this program this year and that Coos, Curry, and Douglas Counties in Oregon successfully competed for one of the locality grants. The funds provided in this bill will assist both existing and new grantees to fully carry out their proposed programs.

MEDICAL RESEARCH

Few Federal activities rise to the level of importance of medical research. For over 100 years, the Federal Government has supported research into the cause, treatment, and cure of disease. This research has yielded dramatic results over the years. Today, we are poised at the threshold of the worldwide elimination of polio, we have vaccines which immunize our children from diseases that once produced death and disability for thousands of children each year, and we have significantly reduced the mortality rate of heart disease. It is because of this support over the past century that the United States is the world leader in biomedical research and can boast the best health care services in the world.

These developments in genetics, molecular biology, and biochemistry, have spawned tremendous optimism and opportunity for advancing understanding and new treatments for disorders, such as Huntington's disease, cystic fibrosis, certain rare disorders and some forms of breast and colon cancers. The conference agreement includes $11.3 billion to keep faith with our commitment to medical research. This is $395 million, or 3 percent, above the level appropriated by the Congress last year. While I am pleased by this increase, I am concerned that at 3 percent it will not be sufficient even to cover the growth in costs due to inflation in the research sector.

As a member of the Appropriations Committee for over 20 years, I know that the stability we need in medical research cannot, and will not, be accomplished solely through the regular appropriations process. A dedicated funding source is required to ensure annual appropriations are sufficient to meet the challenges of reduced health costs and improved quality of life for millions of Americans suffering from disease and disability. It is for this reason that I joined with Senator HARKIN earlier this year in introducing legislation that would establish a fund for health research. The fund would be financed through a 1-percent surcharge on private insurance premiums. When fully implemented, Federal funding for medical research supported by the National Institutes of Health would increase by 50 percent, approximately $5 billion annually. While I do not expect final action on this legislation this year, I expect to be back pressing for enactment of a fund for health research next year.

RURAL HEALTH

It isn't enough to solve the problem of affordability of health insurance for the millions of Americans who reside in rural communities. Access to health care facilities and providers by rural residents is an equally alarming problem. The conference agreement builds upon the committee's efforts of the past to help improve the availability of health care services and providers in underserved areas. Over $201.8 million is included for programs to assist rural communities in recruiting and retaining health care providers, and in establishing and operating local clinics, hospitals, and other health care facilities. This is an increase of $4.5 million over last year's level.

Of particular note is the $24.6 million for the support of the Area Health Education Centers [AHEC] Program, $2.4 million over the 1994 level. The AHEC Program provides assistance to schools of medicine to improve the distribution, supply, quality, utilization, and efficiency of health personnel in rural communities through establishing statewide regional centers for community based planning, and educational and clinical resource development. The conference agreement also includes language which permits the increase in funding, above $18.7 million, to be allocated equally between "core" and "model" AHEC programs. Without this provision no additional funding would be available over the 1994 level for States, such as Oregon, which have a core center grant or States competing for new grants.

AIDS PREVENTION AND SERVICES

In addition to the $1.337 billion appropriated to the Office of AIDS Research at the National Institutes of Health for research, the conference agreement includes $1.283 billion for AIDS prevention and service programs. Over $590 million, an increase of $47 million over fiscal year 1994, is provided to expand Federal HIV prevention activities. This increase in funding, coupled with the intense community planning activities which States have undertaken in the last year, should materially improve the effectiveness of federally supported HIV prevention programs. The conference agreement also includes $633 million for AIDS services under the programs of the Ryan White CARE Act, including $356.5 million for emergency assistance grants to cities most heavily impacted by AIDS. Fiscal year 1995 will be the first year Portland, OR, will qualify for these funds. While I had hoped that a cure for this disease could have been found before Portland, or any other city for that matter, became eligible for these funds, I know the funding will be welcome to the individuals, community based appropriations, and city officials who struggle on a daily basis to cope with the services needs of persons with AIDS.

COMMUNITY AND HUMAN SERVICES PROGRAMS

The conference agreement includes funding for a number of programs which provide essential support services to members of our communities who are poor, homeless, hungry, uneducated, and/or victims of domestic violence. Included is $391.5 million for the Community Services Block Grant Program, $32.6 million for family violence prevention activities, and $399 million for assisting States and localities to resettle refugees. The agreement also includes $3.534 billion for the Head Start Program, an increase of $210 million over 1994.

EDUCATION

Our ability as a nation to compete in the global market in the future is largely dependent upon the ability of our education system to prepare the workers of the next century. This requires that the Federal Government maintain its education funding partnership with State, local governments, parents, and students. The bill before the Senate includes $27.4 billion for programs supported by the Department of Education. This is an increase of $868 million over the level appropriated last year.

Within the amount for the Department of Education is over $7.2 billion to assist State and local education agencies in providing the educational services to disadvantaged children and their families, nearly $1.6 billion is provided for elementary and secondary school improvement activities, and $3.2 billion is included to provide appropriate educational services to children who need special education services.

I am particularly pleased that the conference agreement builds upon the progress achieved over the last several years in expanding Federal support for strengthening math and science education and for improving the math and science skills of both teachers and students. The bill appropriates $320.3 million for the Eisenhower Professional Development State Grant Program. The bulk of these funds will be used to provide grants to States for math and science professional development, with the remaining funds devoted to teacher training in the remaining core subjects. In addition, $36.3 million is appropriated to support national math and science development initiatives.

Over $7.7 billion is appropriated to provide financial aid to students involved in postsecondary education at colleges, universities, and trade schools across the country. This will provide Pell grants to over 4 million students and work-study assistance to over 700,000 students in the 1995-96 academic year.

Urban universities across the Nation are a critical component to the systems of higher education in their communities. The bill provides $13 million, an increase of $2.3 million over the fiscal year 1994 appropriated level to help these universities strengthen their community involvement in helping to solve the social and economic problems of the urban area in which they serve.

LIBRARIES

Finally, the conference agreement includes $144 million to help our Nation's public libraries deliver services to the residents of their communities. Libraries play an important role in our education system. Children and adults depend upon libraries as a resource both for expanding knowledge and understanding, and for recreation. The conference agreement does not endorse the reductions proposed in the President's budget, but instead, maintains support for library services, construction, career training, and literacy programs.

Mr. HARKIN. Mr. President, I ask unanimous consent that the Senate concur in the amendment of the House to the amendment of the Senate numbered 148.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HARKIN. Mr. President, that finishes the Labor, Health and Human Services, and Education appropriations bill. Again, I want to express my thanks to the Senator from Ohio for his understanding and his cooperation in not offering his amendment dealing with the antitrust exemptions for baseball to this pending bill. I am not an expert in that area at all.

I just got handed a button by my colleague, Senator SPECTER, which says, "Free Amendment No. 148," which we just passed.

Mr. SPECTER. It came from Craig English, a staffer. This is not quite as important as freeing the 103d Congress, but this frees this important bill, so it is for the chairman, I say to the Senator.

Mr. HARKIN. I thank the Senator. I thank the staff for that. But I just want to again thank the Senator from Ohio for his understanding and cooperation. I know he feels deeply about this. And I think it goes without saying here that when the Senator from Ohio appears in the Chamber to offer an amendment, he is doing the people's work.

Mr. METZENBAUM. I thank the Senator.

Mr. HARKIN. He represents people and he represents working people. As I said, I am not an expert on this issue. I do not serve on the committee. I must plead some lack of knowledge of this whole issue. But I know that when Senator METZENBAUM comes here to fight as tenaciously as he has done all the years he has been in the Senate, he is usually—not usually, he is always—fighting for the little person. He is usually fighting for the person who does not have a lot of economic clout, a lot of money, and a lot of lobbyists and everything else around this town.

So, as I said, I do not understand the issue that well, but I know that if HOWARD METZENBAUM feels strongly about it, more often than not he is on the right side of the issue. So I appreciate that. I reserve judgment how I will eventually vote on it because I have to get briefed on the issue myself. But I appreciate his cooperation very much.

Mr. METZENBAUM. I thank the Senator. Good luck.

Mr. HARKIN. Again, Mr. President, I join with Senator SPECTER in thanking our staffs, both Republican and Democratic staffs. They have a great working relationship. We worked very closely from beginning to end in developing our appropriations bill. That is one of the reasons why we have had such, I think, good work in our conference committees. As Senator SPECTER said, it was a record—8 minutes—this year. Obviously, no one gets everything they want. It has been a tough year. We have had some very tough budget constraints, but we have been able to work them out. And it has over the last couple of years introduced a real strain of discipline on this subcommittee. With Senator SPECTER, I think we have responded to that discipline by trimming and cutting out waste and abuse, fat, whatever else we knew. We have tightened down on programs. We have gotten rid of programs. We have streamlined. And, quite frankly, I think we have come out of it in pretty decent shape.

So, again, Mr. President, I thank the staffs for their diligent and hard work. I thank Senator SPECTER for his close cooperation and close work in getting this bill through all of the stages from early this year until right now.

Again, I look forward to working with him again next year on another bill, and I hope we can set another record next year. I wish to thank Craig and Bettilou for making up that button because I did not know how long we were going to be on amendment No. 148. We could have been here for a long time on it. We just got through, and now we can be assured that when the new fiscal year hits—what, this Saturday—all of those programs that we care so much about in education, in health, biomedical research, Head Start programs, low-income heating energy programs, we can move ahead to respond to real human needs out there in our country.

So, again, I thank Senator SPECTER for being such a good friend and for his close cooperation in working with us to get this bill through.

Mr. President, I yield the floor.

MORNING BUSINESS

Mr. HARKIN. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa is recognized for up to 10 minutes.

Mr. HARKIN. I thank the Chair for that recognition.

HAITI

Mr. HARKIN. Mr. President, I am going to be giving a little longer talk on Haiti a little bit later on this afternoon, but since we are in morning business right now I thought I would take a few minutes just to discuss a couple of items that appeared in the morning press this morning about Haiti, one directly on point and one sort of halfway on point.

I see on the front page of the New York Times this morning that there is a story that Congress is going to do a complete study of the need for the CIA and reformulating the CIA. I will just read the first few paragraphs from the New York Times this morning. It says:

> Having concluded that Central Intelligence Agency cannot ably chart its course in the post-cold war world, Congress is creating an independent commission to rethink the agency's role and review its continued existence in its present form.
>
> The new commission, being formed despite active opposition by the CIA's leaders * * * will have the broadest possible mandate to propose changes in the structure, the power and the budget as well as the very existence of the CIA * * *

"The place just needs a total overhaul," said Senator Arlen Specter, a Pennsylvania Republican who served six years on the Senate Select Committee in the Intelligence Committee and will be the senior Republican in January.

It goes on to quote Senator SPECTER:

> "We are spending a lot of money on the CIA and there have been doubts for years as to whether we are getting our money's worth."

You may ask: What does that have to do with Haiti?

Well, on the inside of the New York Times there is another article that says the CIA is reportedly taking a role in Haiti.

Well, I read the article. Basically, it says that the CIA may be involved in Haiti in terms of gathering intelligence on those that may seek to assassinate or to bring harm to Aristide and his supporters.

Now, again, Mr. President, I understand the need for intelligence, and especially in Haiti. We have 15,000 troops there, and they are at risk. So far, things have gone very well in Haiti. The people of Haiti are looking upon us as liberators. We see it every day in the paper. They are overjoyed that we have come to take over this terrible yoke of repression of their military and their ruthless police force that they have had in Haiti.

There may be instances where in the future those who wish to disrupt this process will provoke violence. It may happen soon. There may be instances where our own troops are put at an even greater risk. So we do need that intelligence and I understand that. And I am fully supportive of actions taken by our Government to get that kind of intelligence to protect our forces, to protect those now in Haiti, the parliamentarians who are bravely meeting to discuss the amnesty law, to protect President Aristide once he returns to Haiti, to make sure that we have knowledge of any actions that may be taken to provoke violence, to assassinate, to disrupt the process to restore democracy to Haiti.

But I am concerned about the CIA doing it. More specifically, I am concerned about who in the CIA will be doing it.

This Senator had an occasion a little over a year ago to have many meetings with the Director of the CIA and the people in the CIA about reports that they had come up with about President Aristide—reports which were given in secret session here with Senators just about a year ago in which it was put out. And this has all been in the popular press, so I am not divulging anything that was said in that room. In fact, I was not in that room during that meeting. I went up later on for a different meeting. But I had countless hours of meetings with the head of the CIA and the people that work under him who had been working on Haiti for some years.

Mr. President, all I can tell you is I was greatly disturbed by the misinformation and, I think, the total distortion of the record of President Aristide that was given out by the CIA. I will not go into it at any great length than that here, but I could point to instances, documented, where the CIA, quite frankly, was taking certain untruths and then passing them on as though they were indeed factual.

So my concern, Mr. President, is that the very CIA operatives and people who were involved before, first of all, in opposing President Aristide when he ran for office and who were actively involved perhaps in supporting another candidate for that office who did not win, and later on the operatives who were involved in picking up and moving erroneous, false information about President Aristide and then putting it out as though it was fact; that these same people will now operate in Haiti. That concerns me greatly.

And so I am hopeful that the legitimate need for the intelligence that we have will be carried out by individuals in the CIA or in Defense Intelligence who do not have some previous ax to grind, who maybe were divorced from this operation in the past. Because I am concerned that if we just go down that same path again with these same individuals who have shown their true colors that they have some certain ideological bent, that they have close connections with other elements in the Haitian military, that we might find ourselves, first, gaining erroneous information and erroneous intelligence information or, second, getting good intelligence information and not acting on it or diverting it in some way that will not be helpful to President Aristide and his supporters in Haiti.

So, I am very concerned about this report the CIA is now taking a role in Haiti.

It is reported here in the New York Times that the officials briefing Congress told lawmakers that one of the goals was to create a political climate that would help put into effect the agreement that former President Jimmy Carter reached with Lt. Gen. Raoul Cedras, Haiti's military leader, on September 18.

I do not know what that means, "to create a political climate." And I do not know that the CIA ought to be involved in creating a political climate. If this is true, then someone better put the reins on the CIA. Their job is not to create political climates. Their role is not to support one candidate over another. Their role is to collect information and intelligence and to pass it on to policymakers—that is us, that is the President—the policymakers who then act upon that intelligence. But I daresay their role is not to create a political climate.

So, Mr. President, the Congress is now reviewing the role of the CIA, with comments from both sides of the aisle as to whether or not the CIA is effective or whether we are getting our money's worth or whether it ought to be revised and restructured. We are, right in the middle of this, in a very tense situation in a country close to our borders in which we have 15,000 troops. We have a lot at stake in ensuring that we continue on this process peacefully, that we continue on the process of returning President Aristide to his rightful place as the elected President of Haiti, in returning the parliamentarians who were elected in 1990, setting up the electoral structure in Haiti so they can again have free and fair and open elections sometime before the end of this year for their Parliament next year. We have a lot at stake. And while doing all this, I daresay it causes me a great deal of concern to think the CIA, now, is "creating a political climate." That is not their role.

I call upon the President of the United States to rein in the CIA, to make sure that those who are gathering intelligence in Haiti not be those who were charged with that before. I think they have basically established themselves as not being credible.

We need new people down there: Defense intelligence, Navy, Army, Air Force intelligence, those who have not been tainted by any of this. I am not saying everyone in the CIA is bad, do not get me wrong. There are good intelligence people in the CIA.

So I call upon the President and Director Woolsey to make sure we have a new team down there, that we have new people gathering this intelligence, and that they are not charged with creating a political climate but only charged with what they should do: That is gathering intelligence information so our policymakers can act upon that.

So, I will have more to say about Haiti later on. I just wanted to take this time during morning business to raise these very serious questions about the role of the CIA in Haiti. After all we have done, after all our military has done in Haiti—and I do not think there is any American who does not just get a great sense of pride from what our military has done in Haiti. We see the Haitian people turning over their arms to the military, treating them like liberators, the liberators they really are, and it gives us a great sense of satisfaction and pride in our military. I do not want that undermined by people in our intelligence agencies, especially in the CIA, who have some other ax to grind.

So I hope—again I just say for emphasis sake—I hope this report is not true. I hope the CIA is not involved in creating a political climate in Haiti.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Wyoming [Mr. SIMPSON].

FILIBUSTER

Mr. SIMPSON. Mr. President, I wish to briefly respond to various Senators' comments in the past days concerning the supposed Republican love affair with the filibuster. At a later date I intend to address the Senate in greater detail, armed with book, page and hymn number, and to provide a more detailed statistical corroboration to my comments.

For those observers of the legislative process here on the floor of the Senate, it may be apparent to all, as I said last week, that we Republicans are portrayed as a bunch of rabid Cro-Magnon individuals, wielding clubs in the mouths of our musty caves while utilizing arcane legislative procedures to disrupt the greatest and loftiest ideas of the enlightened who wish to assure an ever-expanding Federal role in our daily lives.

The implication by Senators who have criticized our use of this procedural check on a Government controlled by one party is that somehow we are acting in bad faith, considering "what the American people truly want us to do." which is the usual pitch.

It is unfortunate that such a view is incredibly narrow and simplistic and does not reflect the several different reasons we have to avail ourselves of this procedural right and, may I also add, "procedural defense."

It is in fact used as "a defense," but you do not read about that in the civics texts. Republicans were duly elected, too. I know that is strange to hear. The voters elected us, too, based on the principles we believe in. We ought to have the same right to have those principles judged by a majority of this Senate. However, that is not often the case. It is not true in every committee, but it is true in more of them than I would prefer, that Republican ideas for legislation are not allowed to see the light of day. Bills we introduce are frequently not given a place on some committee agendas. Amendments that we think are excellent never breathe. And, believe it or not— "Believe it or not," as Ripley said—some of the things that Republicans believe in are very popular with the American people and are darned good policy, too. But in the area where most of the legislative work takes place—committees—we Republicans too often get stiffed. We get stiffed.

Frequently, our only opportunity after being stiffed is to have our legislation judged on the merits on the floor of the Senate. Under our rules, an amendment does not have to specifically relate to the underlying bill, meaning it need not be germane. The majority party calculates and fully realizes that some of our ideas are worthwhile and are supported by most Americans. Yet they may not enjoy the full-throated support of certain liberal activists in the Democratic Party. Therefore, one option available to the majority is to eliminate even the possibility of voting on the Republican initiatives. How is that done? It is done by the filing of a cloture motion. That is what happens here. Because if they win that one, with 60 votes to invoke cloture, then only those amendments which are germane to the underlying bill are allowed. No more playing around with those embarrassing and pesky nongermane amendments, which probably would pass.

And, be clearly aware that some of these cloture petitions which have been so swiftly filed are cited as evidence of the horrid proliferation of the filibuster. We do not even have to wait anymore. You put up a bill and they say, "uh, oh, with their nongermane amendments, get them." These are really nothing more than offensive maneuvers—both meanings of the word—by the majority to prevent a minority from having our amendments offered to legislation and considered on the merits at the only juncture of the process that is left to us, and that is the Senate floor.

An example is product liability. I was on the other side of that one. Democrats filibustered that one, a lot of them. In order to get a vote on that issue, that measure had to be offered as a nongermane amendment. The fact we could defeat cloture is also the way we were able to get a vote on this administration's absolutely absurd policy proposal on admitting HIV-positive persons under our immigration system, and similar popular measures that we could not have raised without a nongermane amendment.

So what is the real underlying problem that leads to this frequent use of the filibuster? It is the lack of consultation. When our party had the White House, or at least one body in the Congress, consultation was critical. It was necessary. During the course of this Congress, consultation has too often been the exception and not the rule. It is very understandable to a politician how this happens. It is, "We have the White House. We have the Senate. We have the House of Representatives. So let us stiff them. We don't need them. We've got the horses."

It has not worked. It has been a very drastic and dramatic failure. And I am not talking about those old, tired, rhetorical statements about how we are going to consult with Republicans. We have all heard those. We hear it on the floor quite often. I mean real, honest-to-God consultation. That is what I am talking about.

Republicans in the Senate have grown accustomed to being partners in the process—yes, sometimes junior partners, sometimes senior partners—but always we have had some higher level of participation.

Let us look at the record of this Congress, and there is quite a sizable positive record of legislation passed. You would never know that because all we hear about is gridlock and filibuster. That is not even part of it. We disagreed on the merits of the so-called stimulus package. What is worse is that we were not consulted about our views. Our compromise efforts—with certain Democrats joining us were stiffed. The signal went up very clearly in this body as to what was going to happen to that bill. So we were stiffed. We were closed off from even offering amendments. Ultimately we defeated that ill-conceived package, and I think the record has shown that we did the right thing.

Let us take another example, western Senators, both Democrats and Republicans. We felt aggrieved by the rangeland reform initiatives which were plopped down in the middle of the night in the Interior appropriations bill without sufficient hearings. This was not about grazing fees. What great revenue source is going to come to America from adding to the grazing fees currently paid by a bunch of Westerners? Let's say two or three bucks an AUM—it could get the Government $30 million? But I have to stand here and watch $5.2 billion in subsidies go to the corn guys, come on.

Much of that was an effort to get cattle off the western range, and to get human beings off the public lands. Certain people have been waiting 12 years, salivating at the chops to get rid of Reagan and Bush so they could get on with an agenda which they have not been able to pursue successfully. That proposal was plopped down in front of us without sufficient hearings, and in a bipartisan fashion that effort was rejected.

Striker replacement was another bipartisan effort to derail what even the Washington Post editorialized was a "bad bill." Of course, that was not obstructionist, that was just "good policy."

So in order to force good-faith modifications and force consultation on legislation we have utilized the filibuster to save billions of dollars in Federal spending this Congress.

Examples are the reduced spending levels we obtained in the so-called "Competitiveness Act." That was the only way we could get those changes.

As to the National Service Act, we were told: "Here it is. It is all yours. You are not players."

We said, Yes, we are. There are 44 of us, and we are players." So, we changed that to a more rational bill, and I think with the honest approval of many of our reasonable and thoughtful colleagues on the other side of the aisle.

We cannot have any major impact on committee votes, and when we go to conference committee, you really can be gunned down in this league. Maybe that is going to change next year, by virtue of some of the already announced retirements. Sometimes in conference committee our efforts ignored even when our amendments pass 100 to 0. Now that is pretty sad. We get tired of it. So we are going to use what tools we can to try to improve a bill on the floor, since we cannot have any major impact on the votes in committee.

Some committees are much better than others. I serve on the Judiciary, and JOE BIDEN is extremely fair with us, even though I do not concur with him with regard to some matters. MAX BAUCUS on Environment and Public Works, tries very desperately to work in a bipartisan way. Other committees, just line them up, tee them up, and knock them down the fairway. There you are. Sorry, we could not consider your amendment. Sorry you feel that way. We have the horse. They flash their proxies and then move on. Then they wonder what happens to their product here on the floor. You know what happens to it here. Here the rules assure that we get heard.

So we were able to force consultation in improving the Hatch Act, which I did think was a turkey, but nevertheless we made some changes in it to make it better.

Motor voter—which we refer to as "auto fraudo" in our party —we improved that bill, too.

The crime bill was not what I wanted, but it was a better bill when it left the Senate. A good, bipartisan crime bill left the Senate. It got 93 votes. When it got over there, they just whooped it up. "We have the horses. Wait until we get to conference and really stiff them." That is the way it works. The American people have to understand that.

So we stick together, when we can. I use the word "we" a little bit loosely, perhaps. Most successful efforts to defeat cloture are bipartisan. We have a few in our party, different ones each time, who choose to not support cloture efforts, for very valid reasons, but we usually get some bipartisan support for our efforts.

So let us look at what happened yesterday. Five Democrats joined 38 Republicans to prevent the so-called campaign finance bill from going to conference. Senators of the other faith who criticized the use of the filibuster in their statements did not utter a peep, or mention the five Democrat colleagues who had defected only the Republicans. "Those wretched, rascal Republicans." This is not the U.S. House of Representatives. I think too many people may have come here thinking this is some continuation of the U.S. House of Representatives, and the way they conduct the Nation's business there. This is not. This is not where a majority party has abused the minority for nearly 50 years.

It is odd, to me, that the Democrat-controlled House of Representatives, at least in all of my dealings with them in conference activity, is there to protect every minority known to the human mind. Every single minority, whether flora, fauna, ethnic, whatever. But there is one minority that is impossible for them to accede to, and they are called "Republicans" and they are an abused minority.

This is not the House. This is the U.S. Senate. And it has a proud history of protecting the rights of a minority, and even a minority within a minority, whether based on party, philosophy, region, or ideology.

If the complaining Senators want to see less frequent use of the filibuster, I respectfully suggest that those in the majority consider the idea of greater consultation with us, the Republicans.

When we work together, the entire institution benefits. Remember NAFTA. That was consultation. Honest-to-God consultation between the White House and the Democrats and the Republicans in both Houses. We helped pass that. And at no time had the popularity of this President been higher. No time. That is what people expected.

So now he sinks in the polls as his party's stick-it-to-'em partisanship rises. It rises in the Senate, it rises in the House, and is hurting the President of their party.

I wanted to share those things.

We are here. You cannot shake us. We are part of this body. You really will not be able to escape us. I know you would like to, perhaps.

So, since we are here, every day, and draw the same pay, and do the same work, all indoors, no real heavy lifting, why not work with us? Then you would see less filibusters. And we are ready to do that. I think that is very important for the American people to understand.

I thank the Chair, and appreciate the courtesies. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The Clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. FEINSTEIN. I ask to be recognized to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. I thank the Chair.

CALIFORNIA DESERT PROTECTION ACT

Mrs. FEINSTEIN. Mr. President, I listened with great interest to the comments in the Chamber a very short time ago by someone I have learned to respect, and that is the minority whip. I happen to have the privilege of serving with him on the Judiciary Committee, and I have a great respect for him. We have tried to work together on matters involving immigration, with which he is a recognized expert. In his comments in the Chamber, he indicated he did not believe that the Republicans were really responsible for the gridlock facing this Senate at this particular point in time and that very often they felt their amendments did not see the light of day; that they felt stiffed, I think the word was, on some occasions.

I tried to apply his tests and his criteria to a piece of legislation that I authored which is being held hostage at this particular point in time and see if it was true. The bill is the California Desert Protection Act, which is a major bill which impacts California.

As I thought about it, as I listened to the distinguished Senator, I thought how can the minority, if this is true, be holding hostage the Desert Protection Act? And I began to look back.

Have I worked in a bipartisan way on the Desert Protection Act? The answer is yes. Sixteen Republicans voted for the bill when it passed the Senate. I worked in a bipartisan way with the House as well. The House has also passed the legislation. The legislation has been here for 7 years. And when I took it over, I talked with various Members of this body on both sides of the aisle. I said, "What do you need to vote for this legislation?"

I made more than 60 amendments in the bill to accommodate what I felt were legitimate needs the Cranston bill did not accommodate. I worked with the committee, attended the committee hearings, heard the comments of the committee, agreed to further amendments, heard amendments by the Republican side, agreed to many of them.

So when the bill left here, it passed by a substantial margin. It passed the House of Representatives a slightly different bill. And now I find the bill is being blocked from going to conference. So I went back and I found out. What does it usually take, when a bill affects one State and has passed both Houses, to stop it?

What I learned is, well, if one of the two Senators do not like the bill, that is usually enough to stop it. Is that true in this case? No, it is not. The bill from the beginning has had the strong and active support of my colleague and friend, Senator BARBARA BOXER. So both Democratic Senators from the State of California support this bill.

If the bill could get to conference, I know the issues could be reconciled in a way that I could keep the bill's integrity and the commitments to the Republican Members who voted for and are concerned with the bill. I know we could produce a good bill for the people of California.

So I have worked in a bipartisan way. We have both Senators of the affected State supporting the bill. And not only that, we have support from the Association of Southern California Governments which includes the affected counties: Los Angeles, Riverside, Orange, Ventura, San Bernardino, and Imperial Counties. We have the support of 16 boards of supervisors representing 16 counties in our State. We have the support of 36 city councils representing 36 cities, including the 8 largest in California; 15 California newspapers have endorsed the bill; 118 conservation groups including the Sierra Club, the Wilderness Society, the National Parks and Conservation Association, the Garden Clubs, the National Audubon Society, Friends of the Earth, the Natural Resources Defense Council, and the Fund for Animals all support the bill. Public support in my State is very strong.

An independent Field Institute Poll showed that 75 percent of the residents of the impacted areas support the bill, and about the same number do statewide. The bill has 47 cosponsors in this body—47. Not 5 or 6 or 12 or 15 or 20 but 47 people have asked to cosponsor this bill. It passed, as I said, overwhelmingly on April 13. On April 13 of this year this bill passed the Senate by a vote of 69 to 29. Two Democratic Senators, who I believe would be in support of the bill, namely, Senators SHELBY and BIDEN, were not present. If they were, that would have brought the total to 71. The House passed a similar version by a vote of 298 to 128; a substantial victory in the House.

This is, as I say, a balanced bill. It protects some very significant resources and yet it recognizes important use of desert lands.

Over 60 amendments have been made to it. They provide reasonable vehicle access to important routes. They protect all private property. No private property is taken in the Senate bill. It permits all active mines to continue; and all livestock grazing to continue. It maintains hunting opportunities on over 10 million acres. And I have indicated that I have agreed to accept the House language on the preserve. It satisfies all military and law-enforcement needs. So accommodations have been made for this bill

Well, I found that Republican holds had been put on the bill. The chairman of the committee made an offer to the Republicans to put some bills that he thought the Republican side wanted on top of this bill to get it moving. Then the hold became revolving and it continues to this day. So it could be one Member holding a bill that has been overwhelmingly voted on by this body and by the other body that has the support of both Senators.

And I must tell you, Mr. President, I do not understand this. I do not understand how one or two or three or four or five people can effectively kill a piece of legislation which has been discussed in this body for 7 years, amended, and with which I did everything that I felt someone should do, which is consult on a bipartisan basis, bring in Republicans.

I placed phone calls before the cloture vote to 16 Republicans. I know I have better than 60 votes on every cloture motion. The first cloture motion on this bill had 73 votes to grant cloture. I know I have at least 60 on any other motion that is made. And yet, the minority will not let the bill pass.

So perhaps, as these speeches are made on the floor, it can be understood that there is frustration on both sides of the aisle. This is a bill that Republicans in the State of California support. It is a bill that Democrats in the State of California support. It is a bill that both Senators from the State of California support. It is a bill that has passed this House overwhelmingly. It is a bill that has passed the other House overwhelmingly. It is a bill we know the President will sign. It is a bill we know that can be conferenced successfully and come back to this House and be passed successfully.

And yet, one, or two, or three, perhaps, hold up an entire piece of legislation which for 7 years we have tried to pass in this body, the largest wilderness protection bill since the passage of the Alaska Lands Act. And it is held hostage, for reasons I do not understand, by a very few people.

If it is to deny me a victory, Mr. President, I would submit to you that that is not the case. I got this bill through the Senate. My predecessors could not get this bill through the Senate. That victory is already there.

What the people who are holding this bill hostage are doing are denying a victory to the people of the State of California, 75 percent of whom want this bill passed by an independent poll—not my poll, but the California Field Poll. I have worked literally with hundreds of groups and individuals to remove their objections. I have tried to see that residents of the desert are protected and will not lose their property. The Senate bill does this. And yet the bill is held hostage. It is a good bill, Mr. President.

And so what I want to say to the distinguished minority whip is there is certainly frustration on both sides of the aisle. And I do not know what the solution is. For those of us who come to this body, bringing Democratic ideals, Republican ideals, I have always thought the challenge was to reconcile our differences, come together, bring our perspectives, try to develop a consensus. And we have done it on this bill. We have done it on the California Desert Protection Act.

There is consensus. True, it is not unanimous, but support is overwhelming. We know we will get cloture. And yet, just a few Members can stop something which is of major impact and importance to a major area of the great State of California.

Perhaps it can be understood why frustration exists on both sides of the aisle.

I thank you, Mr. President.

I yield the floor. I note the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is noted. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1995, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1994—CONFERENCE REPORT

Mr. KOHL. Mr. President, I ask the Chair lay before the Senate a message from the House on H.R. 4649.

The PRESIDING OFFICER. The clerk will report the message.

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 3 to the bill (H.R. 4549) entitled "An act making appropriations for the Government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1995 and for other purposes and concur therein with an amendment.

The Senate resumed consideration of the amendments in disagreement to the conference report.

Pending:

Gramm amendment No. 2585 (to House amendment to Senate amendment number 3), to strengthen the Violent Crime Control and Law Enforcement Act of 1994 by reducing the number of social programs and increasing the penalties for criminal activity.

Mr. KOHL. Mr. President, I would like to remind Senators where we are on this bill. On Wednesday September 21, 1994, the Senate began consideration of the conference report on D.C. appropriations. On that day the Senate voted 71 to 27 to adopt the conference report.

After adopting the conference report we then took up the amendments in disagreement. On the first such amendment the Senator from Texas offered an amendment. Certainly any Senator has that right, however, the amendment offered has nothing to do with the D.C. appropriations bill.

I understand that other amendments may be offered, and that while they may be germane under Senate rules, have nothing to do with the D.C. bill.

Mr. President, the end of the fiscal year is rapidly approaching. I can assure you that the D.C. government will have serious cash flow problems if the Federal payment contained in this bill is not received October 1. The city must balance its budget each year, the amount and timing of cash flow is very important.

Mr. President, I hope that my colleagues will find another way to accomplish their legislative needs and allow us to send this bill to the President without delay.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withhold?

Mr. KOHL. I will.

The PRESIDING OFFICER. The Chair would like to point out the pending question is on the Gramm amendment No. 2585 to the House amendment to Senate amendment No. 3.

That is the current position of the Senate.

The Chair recognizes the Senator from Montana.

Mr. BURNS. Mr. President, we do have to work our way through these amendments. But I just want to remind the Senate that, if we do not have this bill or a continuing resolution, as of the first day of October the District of Columbia is, in essence, broke. So it may be a bill of convenience for a handful of Senators, but imagine the inconvenience to the city if we do not have any public schools, garbage collection, street cleaning, public libraries, youth services, child day care, classes at UDC, and so on.

So I urge my colleagues come to the floor, present their amendments, and let us get this bill passed—either that or a continuing resolution, whichever is the delight of the Senate.

I thank my chairman for his work on this and I yield the floor.

Mr. KOHL. Mr. President, I suggest the absence a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. HARKIN). The Chair, in his capacity as a Senator from Iowa, is forced to object.

Will the clerk please call the roll.

The legislative clerk continued the call of the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

REAUTHORIZATION OF SUPERFUND

Mr. GORTON. Mr. President, as the number of days left in this 103d Congress dwindle, so does the opportunity to pass legislation to fix the Superfund, a law which almost everyone agrees is broken and is in dire need of repair.

The legislation reported by the Senate Committee on Environment and Public Works to reauthorize the Superfund law is obviously not perfect and not totally agreeable to everyone. Even many of its strongest supporters can think of areas in which they would like improvement. I believe we could probably improve upon this bill, but I am firmly convinced that the legislation is both needed and a great improvement over present law and should be passed this year.

After months and months of hard work on the part of this administration and various interested groups, I am truly disappointed that it now seems more likely than not that the Senate will miss this opportunity to take up and to pass legislation to fix what primarily is broken with the Superfund.

Earlier this year, I joined with a bipartisan group of Senators in sending a letter to the chairman and ranking Republican on the Environment and Public Works Committee urging the enactment of legislation to reform Superfund during the 103d Congress. I signed this letter because I was encouraged by the results of the bipartisan efforts of the administration and others to craft a strong coalition of interested parties to reform the current Superfund law.

Mr. President, the administration deserves a great deal of credit for bringing together environmentalists, industry groups, other business groups, insurance companies, cities, and others to work through a myriad of complex and important issues and to produce a good piece of proposed legislation.

I believe the following to be true: When the administration works from the beginning in a bipartisan effort, the end result is often a good one. For example, the North American Free Trade Agreement passed by an impressive margin because it had the support not only of the administration but of large numbers of members of both parties. I supported the administration on the North American Free Trade Agreement and worked hard to see that it was passed.

Another example of the good results the administration finds when it works with both parties is perhaps the proposed reauthorization of the Safe Drinking Water Act. Legislation to reauthorize the Safe Drinking Water Act, which passed the Senate last May, was the result of the hard work of a bipartisan group of Senators, a broad coalition of State, local and national groups and the willingness of the administration to listen to the concerns of the people who have to deal with this law on a daily basis. The end result of these bipartisan efforts was a bill that passed the Senate by a huge margin and had the strong support of this Senator and his constituents.

Whether that is true with the Safe Drinking Water Act amendments which have passed the House of Representatives, I am uncertain at this point. But at least we have the opportunity to do a strong bipartisan job.

I hope the administration will learn from its past bipartisan successes. I encourage the administration to reach out to members of both political parties and to work with affected groups to produce legislation not developed in a vacuum but which, instead, reflects the careful balance of competing ideas and points of view.

The administration's Superfund bill perhaps will not reach the Senate floor before we adjourn in spite of strong support on the part of this Senator and many of his colleagues in both parties. That will be a great disappointment, because the bill does address many of the problems which plague the current statute.

In particular, the bill will allow for faster cleanup of Superfund sites by establishing a national risk protocol. The bill will also transform the current system of looking for the deepest pockets at a given site, to one which seeks to assign cleanup liability in a fair and equitable manner.

RISK ASSESSMENT

S. 1834 would provide a mechanism for the faster cleanup of Superfund sites, which, after all, is the ultimate goal. This would be accomplished by the establishment of a national risk protocol and formula. According to the Senate report accompanying S. 1834,

> [The] methods EPA currently uses for conducting risk assessments under the Superfund program have been criticized for inconsistency and for over-estimating the actual risks associated with such sites.

I have had countless meetings with big and small business owners on the issue of Superfund and they tell me that risk assessment is one of the most frustrating aspects of the current law. How clean is clean? How clean should a site be if it will continue to be used for industrial purposes? How clean should a site be if it will be used for residential purposes? Simple questions, and questions which deserve careful answers given the future use, and the contamination of, a given site. These are the questions which will be answered with a greater degree of certainty and flexibility than is currently provided by the law at the present time.

S. 1834 would require that the Administrator develop and promulgate a national risk protocol to govern the methods and application of all Superfund risk assessments, thereby establishing a more reasonable and standardized process for conducting risk assessments. The risk protocol will put forward both standardized exposure scenarios and a formula for assessing public health and environmental risks.

The legislation does include risk assessment flexibility if the prescribed protective concentration level is too costly or technologically infeasible to achieve.

LIABILITY ALLOCATION

S. 1834 will also provide for the more equitable distribution of remedial costs at sites. S. 1834 will put an end to the nightmares of small business owners and other potentially responsible parties [PRP's] who fear being listed on the national priority list of Superfund sites. The bill would change the way in which liability amongst PRP's is allocated.

According to the committee report,

> An estimated 25–30 percent of all Superfund-related expenses go toward litigation. That litigation is divided between insurer/policyholder litigation, and suits by the government, or suits by PRP's against other PRP's to adjudicate and apportion liability.

S. 1834 seeks to put an end to the finger-pointing and endless legal expenses by using an out-of-court settlement in which a neutral allocator can be used to assign liability shares at a site. Each of the PRP's at a site would come to the table, and a neutral allocator would assign shares responsibility based on available information about each PRP's contribution to that site.

The bill would also address the concerns of hundreds of thousands of small business owners across the United States by allowing for the exemption of parties which contributed small amounts of waste and capping the liability of those determined to have had little to do with contamination at a site or have a limited ability to pay. The bill would also give small businesses and small contributors the opportunity to settle quickly.

Payments of an orphan share from the Superfund will go to those PRP's which are unable to pay for their cleanup costs because it is defunct or qualifies for an exemption under the bill.

And lastly, the bill also establishes the Environmental Insurance Resolution Fund to resolve disputes over Superfund liability between insurance companies and their policyholders.

Mr. President, the current Superfund process is one filled with uncertainty and fear for many small business owners, finger-pointing, and inaction. The current law has resulted in the listing of hundreds of sites, but has resulted in the cleanup of very few sites. This Senator is greatly disappointed that it appears as if the status quo will prevail for yet another year.

I hope that I am wrong. I hope that in the last week of this session we will have the opportunity to pass such a bill.

But, in any event, I look forward to working with the administration and my colleagues to promptly solve a very serious problem for many people and many places in the United States.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, the Senator is recognized as if in morning business.

TRIBUTE TO MARIE DAVIS

Mr. BAUCUS. Mr. President, I wish to pay a tribute to the hard work, dedication, and loyalty of Marie Davis.

Since 1980, Marie has held the title of computer operator in my office. Yet Marie has been much more than a worker who simply enters names into the computer. It would be much more accurate to call Marie a quality assurance expert. While few Montanans know Marie, she has been the final—and the strongest—link in the chain of my office mail operation.

For 14 years, Marie has worked long and hard to see that the people of Montana received a prompt, high-quality response to their calls and letters. If the tone or the content of a letter fell short of Marie's high standards, she was never reluctant to let me and the rest of my staff know.

With her strong work ethic and attention to detail, Marie has rendered an important service to me and to the people of Montana. As one of the few members of my staff older than I, she has also been a source of wisdom, stability, and common sense for all of us.

Over the years she has broken in—and sometimes played the role of mother to—many young staffers who grew and learned under her wing. With 6 children and 13 grandchildren, Marie knows more than a little bit about keeping young people in line.

I would like to say that Marie is from Montana. Yet she was born and raised in the Washington area. But, if Marie were from Montana, I suspect she would come from Butte. And that, in my mind, is about the highest compliment you can pay a person. Like the people of Butte, Marie is fiercely loyal, speaks her mind, works hard, and has a heart of gold. And, like so many of the people of Butte, Marie is Irish—adamantly Irish. So it seems appropriate to close this tribute with a blessing that so many of the Irish in Butte recite by heart:

May the road rise up to meet you
May the wind be always at your back
May the sun shine warm upon your face
May the rain fall soft upon your fields
And until we meet again
May God hold you in the palm of His hand.

Marie's retirement will be a major change for that extended family that is the Baucus office. But I know that she and her husband Dick are looking forward to spending more time with their friends and their family—especially the grandchildren. I wish them well.

SUPERFUND REFORM ACT

Mr. BAUCUS. Mr. President, the Finance Committee has just completed markup of title 9 of the Superfund Reform Act. As a result, we are now in a position to reform Superfund this year.

The Superfund Program was created for all the right reasons, but the program is a mess. We've all seen examples back in our States. Local communities don't have a fair say in decisions. Cleanups are costly and slow. And Superfund generates huge, endless lawsuits that would make the lawyers in Charles Dickens' "Bleakhouse" blush with envy.

The Superfund Reform Act is designed to address these problems. The bill does several important things:

It makes it easier for States to run the Superfund Program, and involves the people who live in the neighborhood where a Superfund site is located.

It makes cleanups faster and cheaper.

It reduces litigation, by reforming the liability system and establishing a settlement process for policyholders and insurance companies.

Overall, the bill will reduce cleanup costs, reduce the time that cleanups take, and reduce transaction costs by 50 percent. That is why the bill is supported by an extraordinary coalition of community groups, business groups, and environmental groups. Everyone from the Chemical Manufacturers Association, to the National Association of Counties, to the NFIB, to the Sierra Club.

Despite the broad support to reform Superfund, there are some who complain that we simply do not have enough time to act. I believe that, despite the nay-sayers, there is enough time to act.

And it is important that we act this year. If we delay, not only would we be squandering the best opportunity to reform Superfund in years—we also would be putting many businesses in jeopardy.

I received a letter from the National Federation of Independent Businesses, as did many of my colleagues. These small businesses—600,000 in all—may have best expressed how important it is to reform Superfund this year:

Small business owners * * * are facing liability today; they may be facing bankruptcy tomorrow.

I urge my colleagues to work together to pass the Superfund Reform Act this year.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. BAUCUS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue the call of the roll.

Mr. BROWN. Mr. President, I ask unanimous consent to proceed and the quorum call be suspended for the purpose of going into morning business.

Mr. BAUCUS. Mr. President, reserving the right to object.

Mr. President, I withdraw my objection.

The PRESIDING OFFICER. Without objection, the order for the quorum call is rescinded.

The Senator is recognized as in morning business.

HAITI

Mr. BROWN. Mr. President, it is my intention at the appropriate time to offer an amendment on the bill that is before the Senate which would involve a sense-of-the-Senate resolution with regard to the withdrawal of our forces from Haiti. Mr. President, I have wanted to offer an amendment dealing with Haiti for some time and at the request of the various members of the Appropriations Committee have held off on offering this to accommodate their concerns that, indeed, the consideration of those issues might delay some of those appropriations measures.

The reason I intend to proceed on this bill is, after discussion with a number of members of the Appropriations Committee, they have advised me that this amendment being offered on this particular bill would not unduly delay the appropriations process.

It had been my hope that the leadership amendment that was offered with regard to Haiti would have dealt with the withdrawal of our troops. It was a feeling of leadership that agreement could be reached only if this issue was held off. So I agreed at that time to hold off. But we should not go out of session without dealing with Haiti and without making our intentions clear as a body. There are some Members who believe that it makes sense to send our troops into Haiti to run that country and to do it without some termination date—but I am not one of them. I think it would be remiss of us to deal with the subject and not note that this Congress had expressed its feelings that before United States troops were sent to Haiti, before we invaded that country, that we at least have a vote of Congress to authorize that action.

Unfortunately, the President did not come to Congress to receive authorization to invade that country. And this Congress has not acted decisively on that issue. But out in front of us, I think, are some very important questions. Reasonable men and women will disagree whether or not it makes sense to invade Haiti. Reasonable men and women will disagree on whether it makes sense to try to occupy that country and run it. I believe it is a great mistake. And I believe it is a mistake that reflects upon mistakes of the past. This country surely learned in our experience in Vietnam that half-hearted commitments of military forces where we do not make our intentions clear can be mistakes. Surely this country learned from our experiences in Lebanon that sending United States troops in without a commitment to win and without a clear purpose can be disastrous.

No one needs to be reminded of the several hundred American marines who lost their lives because, incredibly, the guards at the gate did not have bullets for their guns. This country had subjected those marines to danger because they were afraid of the political ramifications, if the guards had bullets for their guns, if there was an accident.

How can anybody forget the tragedy in Somalia where, having received a request from the commander in the field for armored military vehicles as essential to perform their mission in Somalia, the Secretary of Defense refused to allow the commander in the field to have the equipment he said was needed for his operation. Resulting from that were the deaths of a number of American military personnel when their helicopter went down. They virtually ran out of bullets before they were killed by enemy forces. They would have had that ammunition if reinforcements had been able to get to them. And they held out for as long as they could, but eventually they ran out of ammunition. And the reason the reinforcements could not get to them—the reason reinforcements could not get to them was because we did not have armored personnel vehicles which could withstand the sniper fire. Attempts were made to get to those fighting men but, because the reinforcements went in open cars and were subjected to snipers, they could not get through. So the fact that the Secretary of Defense had refused to provide the vehicles requested by the commander on site, Americans lost their lives.

Using U.S. forces is something I believe should be done with great care. Not so many years ago, former Secretary of Defense Weinberger issued six points that he felt were essential before U.S. forces are committed to combat. I will not deal with all of them. But I think several are worth mentioning and worth focusing on.

Secretary Weinberger, first of all, indicated that before we send U.S. troops into a combat zone or into harm's way we ought to make sure that it is vital to our national interest; that it should not be a casual act. I do not believe the administration has spelled out why occupying Haiti is vital to our national interest.

Let me remind the Members that occupying Haiti is not an adventure that is unknown or unheard of or untried. The Haitians are very proud of the fact that they broke off the yoke of colonialism. The Haitians survived 19 years of United States occupation earlier in this century, from 1915 through 1934. It is quite clear from the reports of that occupation that, far from bringing democracy, a viable long-lived democracy to Haiti, that we failed. I do not believe the Weinberger guidelines have been met with regard to Haiti. To suggest it is vital to our national interest to occupy that island—I do not believe the case has been made for that.

Former Secretary Weinberger also spelled out that any time we use U.S. troops, the mission ought to be clearly defined. Have we clearly defined what the mission is in Haiti? We have put young men and women at risk of their very lives but we have not spelled out clearly what the mission is. I draw the attention of the membership to a couple of facts. Far from having clearly defined what the mission is, it appears that this country is in a state of vacillation. Originally, the President pointed out that the purpose of the mission was to restore democracy and not to engage in nation building—a clear commitment of the President—not to engage in nation building and to restore democracy.

But the reality is that we have taken over Haiti and we have changed the mission. From not providing police support we are now actively involved in providing police, with our military forces in Haiti. From a commitment that said no nation building, we are now actively involved in the distribution of food. We are actively involved in a wide range of governmental functions. We even have equipment that has been sent to Haiti that is capable and designed to build their roads. It appears that the commitments of the President—that is, to restore democracy and not be involved in nation building—have been violated and violated within a few days of when those commitments were made.

Some have called it mission creep, but the simple fact is we have committed our forces in a dangerous area without clearly defining the mission that they are to perform. Secretary Weinberger's guidelines, that were meant to protect us from that, have clearly been violated. Secretary Weinberger also spelled out that we should not commit military forces unless we have a clear commitment to win. It is a mistake we tragically made as a country in Vietnam. We never made our intentions clear and, as a consequence, almost 50,000 American lives were lost in South Vietnam without achieving victory and without ever a clear commitment from the United States—clear objectives, clear missions, clear commitment to win.

How many times do we have to learn the lesson? How many times must American men and women die before the leadership of this country understands the seriousness of committing U.S. troops to combat areas? Do the men and women who put on the uniform of this country not deserve a clear mission before their lives are put in danger? Do the men and women who put on the uniform of this country not at least deserve the political leaders to commit to win the combat that they are engaged in before we risk their lives?

Do not the American people have a right to demand before we put men and women in the field, that it be essential to our national interest? I believe they do.

One thing I do know; the judgment of this body may be that they want to have troops in Haiti. Without a clear mission. Without clear objectives. Without a commitment to win or achieve those objectives. And without seeing that our national interests —our vital national interest is involved. That is their discretion.

But this Member believes that we at least ought to go on record, and we at least ought to make clear when this mission is completed.

Almost every military adviser that has looked at these kind of adventures has advised that we ought to have some clear ending date. We ought to have some clear definition of when the commitment is over. When the battle is won. When we can bring our men and women home. It is why I offered an amendment that sets a date for withdrawal. It will be a sense-of-the-Senate resolution, but it will make clear to the executive and the American people a target date when they will bring them home.

Now the Senate has already acted to spell out to the President that we want them brought home as soon as possible. Yet, we have heard conflictive stories from the executive. Originally they would only be there until we have restored democracy. And then some said it would be a couple of months. Now lately we hear stories that it could be several years.

Before, Mr. President, before we make policy, before we make policy through neglect, we ought to make policy through planning. To send troops into another country and to occupy it, without at least spelling out clear objectives and clear goals and a time certain for the withdrawal, is folly.

Some will say, well, there are too many contingencies. There are too many unknowns. Mr. President, at least we ought to let the young men and women who go in harms way know that we insist that what they are there for be spelled out before we ask them to surrender their lives.

I, for one, think it is a mistake for us to have invaded and occupied that country at all. Others may think it was worthwhile. Perhaps we will never know a final judgment on whether that made sense.

But one thing I do know. To leave Americans there with no clear mission, and to leave Americans there with no departure date, is to invite disaster.

It will be my hope to have a record vote on a measure that sets a departure date.

Ultimately my hope is that this Nation learn from its mistakes in the past, not simply repeat them. That we not only honor those who gave their lives in Somalia, but that we make sure it does not happen again.

Americans understand that when we send troops into harms way that some can be killed. Some injured. And while that is tragic, we understand it may well involve the responsibilities of a greater power in this world. But what I believe is inexcusable, is to risk those lives without clearly spelling out a mission for them. Without clearly spelling out an objective. And without clearly making every effort possible to defend themselves and protect themselves and accomplish that objective.

Surely the U.S. Congress has that responsibility to those who wear the uniform of this Nation.

Mr. President, I yield the floor, and make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. MURRAY). Without objection, it is so ordered.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1995, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1994—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. GRASSLEY. Madam President, I desire to speak on the pending business before the Senate.

The PRESIDING OFFICER. The Senator has that right.

Mr. GRASSLEY. Madam President, I support the Gramm amendment. I am a cosponsor of the legislation that forms the basis for the amendment because I believe that if we are going to actually reduce crime, tough provisions like these are needed.

This amendment will strike the Local Partnership Act. The Local Partnership Act has nothing to do with fighting crime. It never had and it never will. The program was designed to be an economic stimulus. Now, it has been dressed up as an effort to prevent crime, but this is a hoax.

This money is for education, drug prevention, and jobs, all in the name of fighting crime. The vague language of this program provides no guidance on what this money can be spent for. We do not know exactly how the money will be used, but most likely we will pour money into the same old programs that have never worked.

In any other area of human endeavor, if something is tried and paid for, and does not work, and then more money is spent and it does not produce results, we try another approach. This Local Partnership Act rests on a different theory: Federal programs can only fail because the Government has just not spent enough to make them succeed. This makes no sense.

Vice President GORE's Reinventing Government report criticized the Government's redundant jobs programs. It concluded that there needs to be a better focus for these programs, and that they should be consolidated. I agree with the Vice President that Government needs to be reinvented.

And I see no reason why we should create additional jobs programs in a crime bill that would just increase the problems the Vice President discussed.

We need to set the right priorities for our crime bill. Social spending is exactly the wrong priority.

There is no evidence that any of the programs that will be cut by the Gramm amendment will reduce crime. Philosophically, the parties have a strong disagreement: Democrats believe that society is responsible for crime. Republicans believe that individuals lacking a sense of right and wrong commit crimes.

These individuals must be punished to keep us safer, and be held responsible, so as to discourage others from committing crimes.

We should also vote to eliminate the $625 million waste that is the Model Intensive Grant Program. Under this program, 15 cities that are hand-picked by the administration would receive the grants.

The cities have complete discretion on how to spend this money, and it may be spent on anything to reduce crime. Anything but punishment or law enforcement.

That is a lot of money to spend on 15 cities. And I am sure that Iowa will not receive its share of this money.

I do not see any good reason why Iowa, with the lowest unemployment rate in decades, should be punished from receiving its share of this money. The entities that would be aided by this money are already involved in preventing crime.

Of course, if these organizations are unable to prevent crime using the techniques they are using, there is no reason to think that merely increasing the amount of money they spend on these failed programs will cause them to succeed. We should focus on crime control, not poorly thought out boondoggles based on earlier failed efforts.

The Gramm amendment will cut the pork out of the crime bill. There is plenty of pork in the crime bill that we should eliminate, and the Family and Community Endeavor Schools Program is a good place to cut. This money is to be applied toward sports programs, cultural activities, arts and crafts, dance, and health services. The money can be spent on a wide variety of activities. About the only thing that the money cannot be spent on is religious instruction. That is expressly in the language. So, in other words, the money can be spent to give children condoms, but not to teach them the Ten Commandments. Teaching morality and personal responsibility is real crime prevention. The Family and Community Endeavor Schools Program has nothing to do with crime.

Do not just take my word for it. Look at the legislation the President signed. At least the Local Partnership Act had the fig leaf of saying that it was education to prevent crime. But this section does not even mention the word "crime."

It has nothing whatsoever to do with crime by its own admission. This is pork barrel social spending plain and simple. And it has no place being on a crime bill. On the merits, even its sponsors admit that.

The pork in the crime legislation is not limited to the $7 billion in here that is expressly labeled as prevention pork. We were told how tough this law supposedly is. We were told how so much of the bill is really for law enforcement, especially prisons.

We should take a close look at the prison money.

What a close look shows is that the prison money is mostly pork, too. The language governing the prison money will not ensure that any money at all will be spent on prisons. The bill permits the money to be spent entirely on alternatives to prison. The grants can be used for boot camps, halfway houses, or alternative facilities to free up prison space.

I believe that people think that the prison money in this law is designed to incarcerate new prisoners. But it will merely make more existing prison space available.

It is bad enough that the law does not require that money be used for prisons. Worse, the prison language requires that as a condition of receiving money, States enact further social spending. The States must include drug diversion programs, community corrections programs, prisoner rehabilitation, and jobs skills programs. This is social spending, not prison spending.

Additionally, there is no truth in the truth-in-sentencing language. Under truth-in-sentencing, a criminal serves the length of time to which he is sentenced. This has been accomplished in the Federal system, and the Senate bill was designed to provide incentives for States to do the same.

Today, States make their prisoners serve only about 40 percent of the time for which they are sentenced.

The bill the President signed cut back substantially on the truth-in-sentencing portion of the Senate crime bill. The incentives for States to abolish parole now only take effect for imprisonment of second-time violent offenders. And while the bill supposedly makes a 50–50 split in prison grants between general grants and truth-in-sentencing grants, this is not the case. The law contains a reverter clause. Money not used for truth-in-sentencing will be shifted to the general grants. Obviously, if States know they can get the prison money even if they do not enact truth-in-sentencing, then the incentive we created to create truth-in-sentencing will disappear. The Gramm amendment substitutes tough language to override these misguided approaches that the American people know will not make anyone safer.

We also need to be tough by restoring tough Senate crime provisions that were knocked out in conference. We should include mandatory minimum sentences for those who sell illegal drugs to minors or who use minors in drug trafficking activities. A person over 21 who distributed drugs to a minor would face a 10-year mandatory minimum sentence. A second offense would mean life imprisonment.

This amendment would also restore Senate language imposing mandatory minimum sentences for carrying firearms during commission of a crime of violence or drug trafficking crime.

For a first offense, the mandatory minimum is 10 years, 20 years if the firearm is discharged. Second offenses carry mandatory 20-year, 30-year, and life sentences.

These sentences are sorely needed. Drug use is a leading factor in crime. Surveys of inmates show that 50 percent committed their crime while under the influence of illegal drugs or alcohol. Strict penalties are necessary to punish those who distribute these drugs, particularly when the buyer is a juvenile.

Young people are especially vulnerable to drug use. We need to enact tough penalties to prevent drug dealers from hooking young people into a life of addiction, crime, despair, and possibly death.

This mandatory minimum, which this body has already adopted once, will serve to prevent drug dealers from taking advantage of young people, and the threat of life imprisonment for subsequent offenses will make all drug dealers take notice.

Too often, persons have sought to avoid tough drug penalties by employing minors to do the dirty work for them. Mandatory minimum sentences are appropriate for those who seek to avoid punishment by putting children in harm's way.

To me, there is no close question: The interests of our children are far more important than the interests of those who profit from involving them in a life of crime.

The crime legislation that recently became law will not accomplish nearly enough to address the overriding public concern about crime. The Gramm amendment will cut the wasteful social spending contained in that bill, and it will make sure that tough penalties are enacted. I strongly support its adoption.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COHEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WELLSTONE). Without objection, it is so ordered.

Mr. COHEN. Mr. President, I ask unanimous consent that the pending amendment be laid aside.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT IN DISAGREEMENT TO THE SENATE AMENDMENT NUMBERED 6

The PRESIDING OFFICER. The clerk will report the next amendment in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: ": *Provided*, That the District of Columbia shall provide to the Committees on Appropriations of the House of Representatives and the Senate quarterly reports by the 15th day of the month following the end of the quarter showing how monies provided under this fund are expended with a final report providing a full accounting of the fund due October 15, 1995 or not later than 15 days after the last amount remaining in the fund is disbursed."

And

On page 13 line 9 of the House engrossed bill, H.R. 4649, strike the period at the end of the line.

AMENDMENT NO. 2594 TO AMENDMENT IN DISAGREEMENT TO THE SENATE AMENDMENT NUMBERED 6

(Purpose: To provide for enhanced penalties for health care fraud)

Mr. COHEN. Mr. President, I now send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Mr. COHEN] proposes an amendment numbered 2594 to the amendment of the House to the amendment of the Senate numbered 6.

Mr. COHEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. COHEN. Mr. President, yesterday, during the Senate's consideration of the Labor, HHS, and Education appropriations bill, I offered an amendment to crack down on fraud that is rampant throughout our health care system. And while I believe that the amendment that I offered yesterday and have now reoffered today enjoys broad bipartisan support, I agreed with the managers of the bill to withdraw that amendment in order to allow for the expeditious acceptance of the conference report on Labor and HHS yesterday by the House.

I am now back on the floor, Mr. President, with the same amendment, because I believe we cannot afford to delay any longer the risks to our health care system by the fraud that is being perpetrated against it.

I know that there are pundits and politicians who are still arguing about who killed health care reform for this year. But one thing is certain. We should not wait a single minute longer to crack down on health care fraud.

There is strong agreement between Republicans and Democrats on the need to address this issue that is costing taxpayers dearly, is driving up the cost of the entire health care system for all of us.

As I told my colleagues on the floor yesterday, a year-long investigation of health care fraud and abuse that was conducted by my staff on the Senate Special Committee on Aging found that health care fraud and abuse is rampant throughout the Federal, State, and private health care programs. Losses to health care fraud and abuse over the past 5 years are almost four times the total cost to date of the entire savings and loan crisis.

What is perhaps most shocking is how easy, how shockingly easy, it is to defraud both the Federal programs, Medicare and Medicaid, and private insurers; that all of us are leaving wide open the doors to abuse, inviting scam artists to rip off the system.

According to the General Accounting Office—the GAO—and the FBI, as much as 10 percent of the entire health care budget is being lost to fraud and abuse each year. That amounts to roughly $100 billion a year. If we start calculating out the numbers it means we are losing $275 million a day; $11.5 million an hour in health care dollars lost to fraud and abuse. While I must say the overwhelming majority of health care providers are honest individuals, the vulnerabilities to fraud exist throughout the entire health care system, and defrauding the system itself has become a routine way of doing business for many of the unscrupulous providers.

There are major patterns of abuse that plague the system and they are in the form of overbilling or billing for services not rendered; unbundling—for example you take a wheelchair and you unbundle the components by billing separately for the tires, the spokes as such, the seat, the arm rests, the back. And you suddenly build up the entire cost for that one wheelchair—unbundling is a very common practice for many, many devices sold to the Federal Government and private insurers; and upcoding services to receive higher reimbursements. In other words, if you have a product which you furnish, you simply upcode it to get a much higher level of reimbursement from the insurer or the Federal Government; or even providing inferior products to patients. There are other widespread scams involving the payment of kickbacks and inducements for referrals of patients, falsifying claims and medical records or fraudulently certifying an individual for Government benefits, billing for ghost patients, and even paying drug addicts or other patients to have their blood drawn or have unnecessary medical tests performed so the fraudulent doctor or clinic can be reimbursed by Medicaid or private health care insurance.

So, our health care system is filled with abuse and Medicare/Medicaid and private insurers are simply ill-equipped and understaffed to deal adequately with the extent of this health care fraud. The formula for fraud is a very familiar one. There are too few investigators and overseers, a complex and unwieldy and burdensome system that is easily manipulated, there are big dollars at stake, and a very small chance that these unscrupulous providers, the professional patients, and the other scam artists are going to be caught.

To give an example, there are more than 4 billion claims that are processed annually. The two major law enforcement agencies with primary jurisdictions over health care fraud, the FBI and the Health and Human services IG, however, have combined just under 450 full-time positions devoted to investigating health care fraud. That translates to one full-time investigator for every 8 million claims.

Think about that. One full-time investigator to oversee, investigate 8 million claims. The effect is that Federal, State, and private health plans are sorely outnumbered when it comes to detecting and protecting against fraudulent practices. I would like to share just a few examples of fraud against the health care system.

Two durable medical equipment owners stole $1.4 million from the New York Medicaid Program by repeated billing for expensive orthotic back supports that were never prescribed by the physicians. The supplies were rarely delivered. An aggressive telemarketing campaign that offered inducements was a part of this scheme in order to obtain beneficiary Medicaid numbers.

A durable medical equipment company billed Medicaid for expensive incontinence liners when in fact it was providing only simple disposable wash cloths. Another example of upcoding. The company misrepresented the products in order to receive that higher reimbursement. The owner of a rehabilitation service operated a scheme to defraud Medicare by providing false claims for speech therapy provided to patients at nursing homes. The employees of the service were accused of falsifying billing, including certification by doctors that patients needed continuous speech therapy and they also falsified the patients' medical records.

A physician used fake diagnoses to justify billings for treatments never provided to patients. The billing practices included billing for treatment of appendicitis in a patient who previously had his appendix removed; billing for office visits that never took place; and billing for laboratory tests that were never performed.

These are just a very few samples, just the tip of a very large iceberg that is lurking below the surface. It is freezing out millions of Americans from affordable health care coverage.

There are many other examples that I could provide. They are all documented in this report that I filed on July 7, 1994. It is called "Gaming the Health Care System." From pages 12, 13—on through—we have given more examples of the kinds of abuse. I talked about them yesterday. I talked about the pad, the transparent dressing. I have a chart that I can perhaps demonstrate that transparent dressing with, but it is a waterproof transparent dressing. Basically it is a waterproof pad. There was an elderly lady who fell down in a boarding home in Maine. A local supplier found out that she had injured herself. She had received a cut of less than an inch long in her forearm. It did not require the services of a doctor.

That local supplier sent up these pads, waterproof pads. There is an example of it here. They are worth about

$2.50—that is the cost. She received and used 14 of these. The supplier continued to send them, over 50 of them, to her. In addition to the pads he sent up gels and other volumes of these pads.

Do you know what the bill was? Mr. President, at $2.50, I think she used 14—let us say at a maximum $40. The bill came close to $3,800 for this one-inch cut that required no doctor's services.

I mentioned these orthotic body jackets: A piece of plastic that is wrapped around patients who have some spinal surgery. I think they cost somewhere between $30 or $40 to manufacture. You could probably acquire them from a catalog for a little more than that price. Yet they were billed at $550 or $560 apiece.

I also mentioned yesterday the most glaring example of the prosthesis. It looked like it was taken off one of the dummies in a department store window—just a piece of plastic—a piece of plastic. It was supposed to be from the knee down, to cover people who had lost their leg in an accident or through disease. What was fascinating about this one prosthesis is that it had a right calf on a left foot—a right calf and a left foot. The supplier of that particular device billed you and me and all the American taxpayers $8,800. HCFA then said it could not possibly be worth that much money—how about $1,400 as a reasonable price for that?

As I said yesterday, it was not worth 14 cents. It was completely useless to anyone. But this is what is going on day after day after day, to the tune of $11.5 million an hour; $275 million a day; or $100 billion a year.

I mentioned, again yesterday, that I offered an amendment to the crime bill dealing with criminal activity, title 18. It was agreed to without even a vote because I think it enjoys broad support in this Chamber. It was dropped in the House of Representatives because the House said: No, no, we cannot possibly take this up on a crime bill even though we are trying to combat crime in this legislation because it really belongs on a health care bill, health care reform. So let us strip it out of the crime bill and wait until we get health care reform.

Of course, here we stand at the end of September and we have no health care reform bill, not for this year. It will be months before we ever agree—here, then in the other body, then with the President. We are looking at months of debate and negotiation before we finally have health care reform that is a reality for the Nation.

So we are told it does not belong here—right church, wrong pew. It is crime but not on the crime bill, wait until we get on health care reform. So I waited to get to health care reform and we have no health care bill. Now I am told do not put it on anything coming from appropriations, wait until next year. Just wait another year, wait until we lose another—by the way, we have lost about $85 billion since I offered the amendment to the crime bill and we passed the crime bill in the Senate and it was stripped out in the House. So we have lost roughly $85 billion to date. By the end of the year it will also total up to $100 billion. And we are told once again, let us just wait a few more months. We will be back at it again in January.

Of course, we all know we do not come in until the end of January. We go out almost immediately for the Lincoln Day recess. We come back in the latter part of February and we do not begin serious debate on legislation—we have to go through the committees once again with hearings after hearings and joint referrals to other committees, sequential referrals. We finally may get a bill to the floor and then we have to go through the same process in the House, then we have a conference, we come back and maybe by this time next year we will finally have a health care bill and we will say we finally dealt with health care fraud.

I do not think we can wait that long. I do not think it is fair to the American people. I think they are justifiably outraged when they look to us and say: We have a problem; you have identified the problem. Frankly, the President agrees. This legislation was in the President's health care bill. This amendment was in Senator MITCHELL's bill. This amendment was in Senator DOLE's bill. This amendment was in the so-called mainstream coalition group. Everybody agrees; everybody agrees we have a major problem. This will help fix the problem.

But because of procedural requirements we cannot take any action. Because those in the House say, "It does not belong on a crime bill, let us put it on health care." We do not put it on health care, we have no health care bill. We cannot put it on Health and Human Services appropriations because, after all, that will clutter up the legislation. It will have to go back to the House. So let us just wait until next year.

The amendment I am offering today will:

Give prosecutors stronger tools and tougher statutes to combat criminal health care fraud. It would, for example, provide a specific health care offense in title 18 so that prosecutors are not forced to prosecute under the mail and wire fraud statutes;

Allow injunctive relief and forfeiture for criminal health care fraud; allow health care plans and the Government to kick the bad apples out of the system entirely through authority to exclude violators from Medicare and other health care programs; create tougher civil penalties and remedies for fraud and abuse;

Coordinate enforcement programs and beef up investigative resources, which are now woefully inadequate.

The amendment does this by financing additional health care fraud enforcement resources with proceeds derived from forfeiture, fines, and other health care fraud enforcement efforts.

This amendment also gives guidance to health care providers and industries on how to comply with fraud rules, so that they will know what is and what is not prohibited activity.

There is broad agreement on both sides of the aisle on the changes proposed by this amendment in order to stop fraudulent providers from bleeding billions of dollars from our health care system.

The provisions of this amendment, for example, were included in legislation I first introduced last year. They are also included in the so-called mainstream coalition health care reform bill and very similar provisions are included in Senator DOLE's health care reform bill and Senator MITCHELL's reform plan. Many of these provisions are also included in the administration's health care reform package.

Many of the proposals I am offering in this amendment are based on recommendations of a Health Care Fraud Task Force convened by the Bush administration, and have been endorsed by the current administration, numerous law enforcement agencies, and many health care provider groups.

In addition, as the distinguished chairman of the Judiciary Committee, Senator BIDEN, indicated on the floor yesterday, some of the provisions included in this amendment were passed as part of the Senate crime bill. Unfortunately, those amendments were dropped in conference by the House because House conferees argued that we should wait until health care reform to deal with this problem.

They are back here now in this amendment.

Federal and State law enforcement is making some progress in cracking down on health care fraud, but the current enforcement scheme has resulted in a system whereby the mouse has outsmarted the mousetrap. Those defrauding the system are ingenious and motivated, while the Government and private sector responses cannot keep pace with the sophistication and cunning of those they pursue.

I expect this amendment is going to be opposed by those who argue we have to wait until next year once again because this is really outside the scope of the pending bill. I must agree. D.C. appropriations—this is not where this legislation belongs. But I have run out of opportunities. I have nowhere else to bring this up. I tried on crime. I wanted it on health care. I wanted it on Health and Human Services and Education appropriations. Everywhere I turned they say, "Not here." You all agree, the President agrees, Senator MITCHELL agrees, Senator DOLE agrees, everybody on both sides of the aisle—

we all agree, but we cannot attach it here.

So, it is a point of frustration with me. There is anger out there amongst the American people. They say why are you not doing something? I stand up here on the floor and say, "Here is something. Here is something that is noncontroversial." Everybody agrees: Justice agrees, the FBI agrees, Senator BIDEN agrees, everybody agrees, but we cannot pass it.

So we have to watch another $100 billion being lost to these people who are simply bleeding us dry. If you had to call them—I was thinking of even a book entitled "Fast Bucks." Boy, are people out there making fast bucks at our expense. Millions, billions of dollars that they are scamming, and we sit idly by waiting for the right procedural mechanism to come along so that we can do something about it.

Mr. President, if I had my choice, I would not be offering it on the D.C. appropriations bill. I think D.C. appropriations is as important as any of the other appropriations bills. I thought it was more germane to the Health and Human Services appropriation. I thought it was more germane to the crime bill. Obviously it is germane to health care reform. But none of those are available. None are available. So this is a last resort.

We are going out presumably next week or the week thereafter. I have heard rumblings about a lameduck session—which I think would be a mistake—but nonetheless, we do not have any more vehicles. We do not have another chance this session to pass legislation that will, hopefully, stem the tide. It cannot stop it altogether. But we can stem the tide of this kind of blatant, fraudulent activity, that is destroying our health care system in the sense that it is robbing people who need health care coverage, who cannot get it and we cannot afford to provide it.

How many more "60 Minutes," "Prime Time Live," or other types of expose shows are we going to have to watch, where they reveal how easy it is to rip off the health care system and have taxpayers just simply sit by and watch Congress fiddle up here while nothing gets done?

How much longer can some health care providers' groups delay in cracking down on health care fraud by this jurisdictional shell game? Do not put health care fraud in the crime bill, it is a health care issue. Do not address health care fraud until you pass health care reform. Do not fix the enforcement holes in the current system now, just wait until next year. And do not put these fraud measures on the appropriations bills.

Mr. President, I think we have got to stop hiding behind these jurisdictional arguments that justify doing nothing now. The only ones that benefit from this delay on this important issue are the ones that bilk billions of dollars from the system.

The very big losers will be the American taxpayers, the patients, the families who cannot afford health care coverage, because premiums and health care costs are being padded to cover the exorbitant costs of fraud and abuse.

So Mr. President, I hope that my colleagues who have had an opportunity to look at the legislation will agree that it is worthwhile and worthy of their support. I hope in time that we have a chance to vote on it and to vote in favor of it now.

I would now yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CONRAD). Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be permitted to proceed for up to 15 minutes as if in morning business, and that the pending business be set aside and immediately taken back up at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE MOOD OF THE COUNTRY

Mr. BUMPERS. Mr. President, I have made a few speeches in the last 60 days dealing with the mood of the country—which, incidentally, I do not fully understand. And I do not think I am alone. I do not think there are very many people in the U.S. Congress that really quite understand what has precipitated the mood of the country, which is admittedly hostile; a good portion of it directed at the U.S. Congress and certainly toward the President.

It is a unique and unprecedented thing in this country for the electorate to be in such a hostile mood while at the same time the economy is perking along at a clip of about 3.5 to 3.8 percent; inflation as low as it ever gets; interest rates within a reasonable range, low enough not to impede business development; people are working and the jobless rate is down about 1.7 percent from where it was the day President Clinton was inaugurated.

And the best news of all, the deficit is going down more dramatically than ever before in the history of the country. The deficit, as a percentage of our GNP, is approximately half what it was when President Clinton was sworn in.

It has been a short 14 years since Ronald Reagan was elected President almost solely on the promise that he would balance the budget. And, without recounting the details of that promise and the terrible results of that 12-year period, we all know what they were.

Yet yesterday, on the steps of the U.S. Capitol, at what I would call the Snake Oil Convention, the same proposals that President Reagan ran on in 1980 were thrown out again to the American people like a lure on the end of a fishing line, waiting for the American people to bite on it in November's elections—something in the program for every person in America, particularly those who are mad.

Three hundred Republican incumbent House Members and challengers promised to reinstate the dream IRA savings account. IRA's are very popular in this country. An awful lot of people have them. And the Republicans are going to take the cap off of the $50,000 earnings limit for IRA's and say any and everybody can have them. So we know who is going to be able to establish IRA's under that plan yesterday by Mr. GINGRICH and the Republican incumbents and challengers. It will go to the top 20 percent of the wage earners in the country. And the cost 5 years from now will be $8 billion per year.

Then they are going to provide a $500 tax credit for every child. That has some merit at the lower income levels, though it does nothing for people who make under $16,000 a year, no matter how many children they have because they are not in a taxable category. It does nothing for them. And it gives twice the amount of tax cut to a couple making $180,000 as it does a couple making $40,000. And I suspect that one of the ways they are going to try to pay for this is to either cut or do away with the earned income tax credit which actually did give lower middle-income and poor people in this country a substantial tax break.

So while I champion the idea of a middle-class income tax cut—and you can do it with increasing the tax credits for children; that is one way of doing it—it still has to be paid for. I have no idea what the cost of that is.

They want to cut the corporate tax, even though corporate profits are at an all time high.

There is just a goody in there for everybody. And it is estimated that it will cost, I guess, over the next 5 years, $388 billion.

And then you get down to the really interesting part of the proposal, and that is: How are you going to pay for it?

People in the country that are paying attention ought to be euphoric about the conditions of the economy but especially about this dramatic reduction in the deficit.

Let me just digress a moment to say, virtually everybody on this side of the aisle voted for the budget reconciliation bill last year which raised taxes $250 billion and cut spending $250 billion and was calculated to reduce the deficit by $500 billion over a 5-year period—not balance the budget, but cut it $500 billion below what it otherwise would be. And now that figure is up to about $670 billion in deficit reduction. It was a very courageous vote by the 50 people on this side of the aisle who voted for it.

You know, the people send mixed signals to Members of Congress. They say, on the one hand, "Why don't you people stiffen your spine and make the tough votes? Why don't you vote courageously for a change?"

But, Mr. President, do you know what a tough, courageous vote is? It is, by definition, an unpopular vote. And so when you cast that unpopular vote, as we did last summer to raise taxes on the richest 1.2 percent of the people in this country in an effort to do something about the deficit, because they are the ones who can best afford it, when you do that and you go home, there is not a dirt farmer in Arkansas that did not think we had raised his taxes. It took a lot of tall explaining because it was an unpopular vote.

But, Mr. President, you cannot deal with a $4 trillion debt by making everybody happy. The happy talk that we got in 1980 cost us $3 trillion in 12 years. What a siren song we got in 1980—increase defense spending, cut taxes, and balance the budget. And that is the same siren song you heard yesterday afternoon on the steps of the U.S. Capitol, the same snake oil. We tried that $3 trillion ago.

But back to the courageous vote. When you cast that courageous vote, then you go home and your constituents say, "You clowns don't care what I think. You just vote the way you want to." It is an ambivalent signal.

So where is all of this money going to come from to keep the deficit from soaring again?

Well, I will tell you. They say they are going to use the $124 billion, I guess, that we were going to get under President Clinton's health care reform for Medicare $114 billion from Medicaid. That is all well and good. The problem is, we did not get the Clinton health care bill. If you want to cut Medicare by that amount and Medicaid by that amount, that is just fine, but be prepared for an outcry.

And if you want to do welfare reform, which they refer to in quotes, "welfare reform," and pick up $100 billion, tell the States, tell my Governor and your Governor who are on us constantly about mandating programs that they have to pay for. We mandate it. They have to figure out how to pay for it.

You tell them where they are going to find the money to provide health care for the poorest of the poor in their State under Medicaid when we cut $114 billion. You tell them what they are going to do for the poor people when we cut food stamps and Aid for Families with Dependent Children by $50 billion.

We have a bill that we are going to consider before we leave here to provide some relief to the States from the kind of mandates they have been squawking about.

When I was Governor of my State, we were forever and eternally requiring the cities of my State to raise the salaries of firemen. I came from a town so small we did not have a fire department, so that was all a mystery to me. But we were always raising the salaries of firemen, because it was popular with the firemen, but we did not send them any money. And the mayors would converge on my office and say, "Look, you're requiring us to raise the salaries of our people by cutting their work week. We don't have the money."

All I could do was stand there with a blank face.

And that is what Congress is doing to the States and that is what has Governors absolutely livid.

So to those people who stood on the steps yesterday afternoon, I invite you to tell the Governors of this Nation where they are going to find the money to make up for this $388 billion that you are going to cut to pay for all these wonderful tax cuts for the well-to-do.

Well, if you ask for a more specific, definitive method of cutting spending, they have the best answer I have ever heard. "How are we going to cut $388 billion?"

"Why, we are going to amend the Constitution of the United States to say that Congress has to provide for a balanced budget."

"Ain't" that beautiful—just write a little provision into the Constitution saying, "Ye shall have a balanced budget."

I have never voted for a constitutional amendment to balance the budget in my life. But if that is all there were to it, I would be for it. If all I had to do was stand on the floor and say I know that some mysterious thing was going to happen to balance the budget, count me in. Unhappily, you have to be a big snake oil buyer to believe that.

Well, they said we are also going to add the line-item veto which transfers more and more power to the President of the United States and away from the legislative branch.

I do not feel nearly as strongly, and I do not oppose the line-item veto nearly to the extent I do the balanced budget amendment, but neither one of them will balance the budget.

What will balance the budget is a majority—strike that—60 U.S. Senators standing on their hind legs, and saying, "I care about the future of the country. I deplore the lack of hope and the lack of faith that exists across this great land."

I have said this before, and it is not smart for a politician to say it, but I am going to say it anyway. If I had a goal of being carried out of the U.S. Senate in a pine box, I know exactly how to vote. I would do like a lot of people do. I would get out of bed in the morning. I would walk out on my front porch and decide which way the wind was blowing and what the overnight polls showed, and that is the way I would vote.

But sometimes that can be very, very, wrong; not only sometimes, but often is wrong.

I do not believe the people elected a single Member of the U.S. Senate to simply do what is popular at any given moment.

It was irresistible in 1980. The people found it irresistible to believe that you could actually increase defense spending—yea, double it—and cut taxes and balance the budget.

One old farmer in Arkansas said, "What a dynamite idea, I wonder why nobody ever thought about that before." We now know why we have a $4 trillion debt to show for it. Let the same people who stood on the steps yesterday take a poll among their number—see how many of them are willing to vote against the space station. Ask them how many of them are willing to torpedo Milstar, a worthless communications system down at the Defense Department that costs billions and billions of dollars. How many of them would be willing to cut back on D–5 missile purchases, which costs billions. And I guarantee you most of the people who stood on those steps yesterday support another 20 B–2 bombers, more aircraft carriers, more everything. Because they are scared to death if they do not when they go home their opponent is going to say they are soft on defense.

And what is this group out on the Capitol steps going to do about those mandates we are going to be imposing on the States? They take care of that, too. They are going to pay the States for all the mandates. We are going to cut welfare, AFDC, food stamps, all of those programs and dump it back on the States—but tell them we will reimburse them for it. Where is the savings? Of course it is popular with the Governors of the States to say we are going to fund all these mandates. It is popular with the people of this country to say you are going to cut welfare by $50 billion.

If you want to get a big standing ovation at the banquet, just tell them that. There are 100 people here who are pretty savvy. They know what the applause lines are. They know how to play a crowd. Tell them you can have it all. There is no tomorrow.

One of the Congressmen who stood on the steps yesterday afternoon said, "If we do not do what we say the people ought to throw us out."

I would change that and say, "If you do what you say the people will surely throw you out." But the deficit will be up another $2 trillion when they get around to it.

Then they call for a balanced budget by the year 2003. We are not only going to balance the budget in 2003 by cutting Medicare and Medicaid and unspecified welfare reform and other unspecified cuts, we are going to do it through economic growth. Does that sound familiar? That was always the answer in 1980.

How are you going to cut taxes, raise defense spending and balance the budget?

When you cut people's taxes there is going to be so much economic activity and they are going to pay so much in income tax the whole thing will just balance out.

I think maybe we are getting ready to get back on the bill and I do not want to take up more time, but I just want to issue this admonition. It sounds a bit preachy, but so be it. If the American people should, by some stretch of the imagination, buy into what I saw in the paper this morning and what I have seen from the Budget Committee about that proposal, they are saying "We do not really care how big the deficit is."

I can remember when they did. It is a strange anomaly, is it not? That for years the catalyzing political issue in this country was the deficit. And last year the deficit was down about $50 billion. And this year it is going to be down almost $100 billion less than it was projected to be 18 months ago. And back to the people who voted that courageous vote last summer, I have told those who are up for reelection this year—and every one of them is getting hammered by his opponents about it—I would not wait for my opponent to bring it up. I would bring it up first. I would say to my constituents: You want responsible Government? You want fiscal responsibility? You want your children and grandchildren to grow up in a Nation that is fiscally responsible and can educate its children and feed its poor and provide for a strong military? We are doing every bit of it right now and reducing the deficit at the same time.

Why are people not dancing in the streets? I do not know. So I close where I started by saying the mood of the people of the country is unfathomable to me. I know where a lot of it started: Term limits. It is an expression of the people's frustration about gridlock here in the U.S. Senate. It is a frustration about scandals from time to time. It is a frustration about the fact that real personal income is 20 percent less today than it was in 1970. It is because they don't believe their children will have as good a life as they have had.

My parents told me they wanted a better life for me than they had when they were growing up. When I was a child during the Depression, of course, that was easy. It was almost impossible not to have a better life than we had when we were children. But my father told me so many times: "Son, I want all of you children to have every opportunity for a good education because I want you to have a better life than I've had."

He and my mother had worked hard, tilled the soil, taught school, ran a business, scraped up enough money so that together with the GI bill all three of us could get a good education.

Today parents cannot look at their children and honestly say you are going to have a better life than I had. An awful lot of children and young adults have lost faith in the future of this Nation, and there is not a Member of the U.S. Senate who does not know what to do about that. It is a question of whether we have the moral courage, the political stamina, and the intellectual honesty to do what it takes to say: Yes, things are going to be better for your children and here is why.

All over the world people are scratching and clawing, incidentally, to get to this country with all its flaws. We are still the oldest democracy on Earth. It is not working too well right now, but we still have it. We have that magnificent Constitution. We have these great institutions called the Supreme Court, the Department of Justice—which is not always fair but at least you get a shot at a fair trial by a jury of your peers. Those institutions and others are all in place and people all over the world are scratching and clawing to get to the shores of this Nation. And we are trashing the system as never before. What a paradox.

I made a graduation speech about 3 weeks ago and I made these points, that those clowns in Congress that you hear talked about in coffee shops all across America—this is the good part of the speech because it is complimentary of Congress—those clowns in Washington, for all of their foibles and their failures and their lack of courage, have provided this Nation with 205 years of uninterrupted, unfettered freedom. No other nation on Earth can even come close to that claim. So why are people not dancing in the streets?

One of the reasons is Rush Limbaugh does not think that. He does not think people have any reason to dance in the streets. There must be 500 little Rush Limbaughs across the country who believe that everything is wrong every day.

Jefferson said one time, "The price of freedom is eternal vigilance." That means different things to different people. But we have it and I do not want to lose it. I do not want to lose our economic freedoms. I do not want to lose our political freedoms. I want to see our culture mean something. I want us to spend money on educating our children and providing health care for our people. I want more people to appreciate the Constitution of the United States and their right and privilege to vote.

I took my family to the Eastern Shore the weekend after Labor Day. I could not afford to rent any of that property on Labor Day weekend, I had to wait until the weekend after Labor Day, but it was not nearly as crowded and a lot more pleasant. I have three great children—all married to in-laws that we love, believe it or not—and two wonderful grandchildren. We spent 4 days at the beach, and on the way home Betty and I were returning home through two States; I will not mention which ones. I stopped to get gas and this fellow was pumping gas into my car. I said, "How is the Senate race going over here?"

He said, "You asking me?

"Yeah."

"I ain't never voted in my life and ain't never going to."

"Really?"

"No, it don't make no difference. Just like that place right over there."

"What place right over there?"

"That place over there where they are supposed to take in old folks. Half of them over there are 35 and under."

"You don't want to vote to change that if that is true?"

"No, it wouldn't make no difference."

I did not really want to pursue this conversation with this gentlemen any further. But I did tell him, I said, "You know, every time we have an election and you do not vote you are voting against the system that has provided you with all these freedoms."

I am getting off the beaten path. I just want to say the price of freedom really is eternal vigilance. And it also requires a few courageous votes from time to time around here. If you look at civilization, and read Barbara Tuchman's book "The March of Folly," and see what has happened to civilizations that ignore a lot of voices crying in the wilderness it has often been fatal. Do not do that. Even Yamamoto said: "Do not bomb Pearl Harbor. You people do not know anything about the United States. You will not win that war."

The warlords ran over him like a Mack truck. He could not stop them.

Even the Trojan horse, when the Greeks put the Trojan horse outside Troy's bastille, the debate was, "Should we let that horse in here?" One man spoke up and said, "That is a Greek trick. Don't do it." It's a long story, but they let the Trojan horse in, and the rest is history.

In World War I, a couple of German U-boat commanders said "You are depending on us to sink all that Allied shipping and we cannot do it."

You ought to read that book, "March of Folly," by Barbara Tuchman. She just died a couple years ago. She was a magnificent historian. And throughout the book, cool, collected intelligent voices said: "Don't do that. Politically it is wonderful, but in effect it is going to be disastrous."

So, I worry about what happened on the Capitol steps yesterday but I cannot imagine people's memories being so short that they would buy into Voodoo Economics II after we tried it 12 years ago—14 years ago, now—at a terrible, staggering cost to all of us.

I yield the floor, Mr. President, and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1995, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1994

The Senate continued with the consideration of the amendments in disagreement to the conference report.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection.

Mr. BURNS. Mr. President, I want to associate myself with the remarks of my friend from Maine, Senator COHEN, and I want to commend him for his work on the Select Committee on Aging, of which I serve on that committee, and the work that he and his staff has done with regard to the fraud in the Medicare and Medicaid system. We have seen many examples of where fraud has taken place in that program, and, yes, even where our elderly have been taken advantage of by just plain old down-to-earth shysters.

We also heard a lot of testimony to that effect. If you couple with the figures—and there is no reason to believe that the figures that the Senator has shown us here today with regard to fraud in that system, and what it costs us—if you couple that with what we know as to be defensive medicine in our health care system, then we are talking about at least a 25- to 35-percent savings in our Medicare system. And you know right now we have probably taken some moneys out of the Medicare system to provide moneys to other programs. The President's tax plan did call for that.

And what essentially we did, every time we rolled back and put caps on services, fee for services, then we find ourselves in this business of—especially among the elderly—of selecting who is going to receive the services in health care.

We all hate to say it, but rationing does take place whenever we lower the caps down to below the cost of providing the service with our health care system.

So I want to commend my friend, the ranking member on the Select Committee on Aging, and the work that he has done.

And I would hope that the Members of this body, and the other body, would take a look and see what he is trying to do, what we are trying to do when we talk about fraud in a system.

When I was home on this last trip I was talking to the physical therapists of Montana, and they are bringing up some bad things that are happening in their industry or their part of the health care system. Whether it be through licensing and certifying those people who are equipped to do the work.

I congratulate my friend from Maine, and the work he has done, and I would hope that this body and the other body would take very seriously what we are trying to do with this amendment as this bill moves forward.

Mr. SASSER. Mr. President, I rise in support of an amendment offered by my colleague from Maine, Mr. COHEN, that would help the Government detect health care fraud while discouraging fraudulent practices by health providers.

For years I have held hearings and introduced legislation in an effort to reduce the stunning amount of waste and fraud in our health care system. Many of my proposals have been adopted either legislatively or through regulation. I believe Senator COHEN's amendment, of which I am a cosponsor, builds on some of the changes I have worked for and offers some fresh ideas for improvement.

Among its more noteworthy provisions, the amendment would establish a national fraud control group to act as a sort of clearinghouse and facilitator for all public and private fraud control efforts. In other words, efforts by the HHS inspector general, the FBI, Medicaid fraud control units and private companies could be coordinated under one umbrella. Such a centralized fraud control group would dramatically improve our current scatter-shot of good intentions that duplicates efforts while leaving some trouble spots untouched.

The amendment would also increase civil and criminal penalties for those convicted of fraud. And it would establish an account, dedicated to fraud prevention, into which a percentage of those proceeds would be placed.

Finally, the amendment would bar those convicted of fraud felonies from participating in Federal health programs in the future. It would also assist providers by offering them guidance for new regulations and making them familiar with new fraud and abuse laws.

Mr. President, this amendment will be a welcome tool for fraud control agents on the front lines of the battle against wasteful health care spending. I am pleased to be a cosponsor, and I urge its swift adoption.

I thank the President, and I would suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COHEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MOSELEY-BRAUN). Without objection, it is so ordered.

Mr. COHEN. Madam President, while we are awaiting decision as to whether any Member of the Senate wishes to raise a point of order against this amendment, I thought I would take a few more moments to try and demonstrate the magnitude of the problem we face.

I have several charts that were prepared by my staff on the Aging Committee, and you can see from this chart alone the dimensions of the problem.

In 1990, the health care fraud and abuse losses totaled some $66.6 billion. In 1991, it went up to $73.8 billion. In 1992, it climbed to $80.9 billion. In 1993, it is up to $93.9 billion. And the estimate for this year is $103.4 billion.

This other chart shows, I think in very dramatic terms, exactly how much we are losing and have lost through health care fraud and abuse in the past 5 years.

By way of comparison, the losses in the savings and loan scandal was $119 billion. We have lost, over the past 5 years, $418 billion to health care fraud and abuse.

As I have tried to demonstrate, the ways in which the taxpayers are being robbed are shockingly easy.

The Aging Committee minority staff conducted a year-long investigation. I have a rather colorful cover of this report called, Gaming the Health Care System. It more or less looks like a monopoly board.

The types of things that take place are upcoding, prescription drug diversion, billing for professional patients; inflating charges for ambulance and taxi services; paying kickbacks for referrals; phony medical billing services; untrained home care workers; targeting nursing home residents; money laundering; falsifying prescriptions for supplies; fraudulent providers; making false claims; falsifying diagnoses; "phantom" therapy sessions; exorbitant prices for supplies; billing for inferior products; billing for items never provided; ghost patients; billing for excessive or unnecessary services; and unbundling.

Those are just a few examples.

I thought I would read portions of the executive summary of the Aging Committee Investigative Report to give a bit more detail of what we are talking about.

> Physicians-owners of a clinic in New York stole over $1.3 million from the State Medicaid program by fraudulently billing for over 50,000 "phantom" psychotherapy sessions never given to Medicaid recipients.

> A speech therapist submitted false claims to Medicare for services "rendered to patients" several days after they had died;
>
> A home health care company stole more than $4.6 million from Medicaid by billing for home care provided by unqualified home care aides. In addition to cheating Medicaid, elderly and disabled individuals were at risk from untrained and unsupervised aides;
>
> Nursing home operators charged personal items such as swimming pools, jewelry, and the family nanny to Medicaid cost reports;
>
> 1,500 workers lost their prescription drug coverage because a scam drove up the cost of the insurance plan for their employer. The scam involved a pharmacist who stole over $370,000 from Medicaid and private health insurance plans by billing over one thousand times for prescription drugs that he did not actually dispense;
>
> Large quantities of sample and expired drugs were dispensed to nursing home patients and pharmacy customers without their knowledge. When complaints were received from nursing home staff and patient relatives regarding the ineffectiveness of the medications, one of the scam artists stated "those people are old, they'll never know the difference and they'll be dead soon anyway";
>
> Durable medical equipment suppliers stole $1.45 million from the New York State Medicaid program by repeatedly billing for expensive orthotic back supports that were never prescribed by physicians;
>
> A scheme involved the distribution of $6 million worth of reused pacemakers and mislabeled pacemakers intended for "animal use only."

How about that, Madam President. You are a patient who needs a pacemaker and one is installed that is intended for animal use only or one is installed when the time for the batteries has expired.

> The scheme involved kickbacks to cardiologists and surgeons to induce them to use pacemakers that had already expired; and
>
> A clinical psychologist was indicted for having sexual intercourse with some of his patients and then seeking reimbursement from a federal health plan for these encounters as "therapy" sessions.

Madam President, we have been at this a long time. Back in 1981, the Senate Special Committee on Aging sought out an expert in health care fraud—in 1981. Let me repeat that date. Here it is 1994, we are still talking about health care fraud. We are still pointing to charts in which the numbers are going off the chart. And yet, Members say, "We can't act now."

But in 1981, the committee turned to a cardiologist from Philadelphia. Let me tell you, Madam President, his credentials were impeccable. He was a noted physician. He also happened to be a convicted felon who had defrauded both the public and private insurers in three States for more than $500,000 by submitting more than $1.5 million in medical services he had never performed. Here is what he told the committee. He said:

> The problem is nobody is watching. Because of the nature of the system, I was able to do what I did. The system is extremely easy to evade. The forms I sent in were absolutely outrageous. I was astounded when some of the payments were actually made.

This is a physician/convicted felon testifying as an expert witness before the Senate Aging Committee.

Well, we did not learn very much from this doctor's testimony, because now, 13 years later, he allegedly is up to his old tricks. Several months ago, he was arrested by FBI agents in Philadelphia and once again he was charged with defrauding health insurers for millions of dollars by filing claims for procedures that were never performed. Bail was set at $2 million, and apparently he is currently awaiting trial.

I raise this point because, according to the U.S. attorney in Philadelphia, since 1974 this physician has had a total of seven arrests and five convictions for fraud in New York, Connecticut, and Texas. And despite his record, 4 years ago he was able to get his Pennsylvania physician's license reinstated, and he might still be in business today if a former patient who was angry about the false billings had not agreed to go undercover.

But I raise all of this late this afternoon, early evening, to point out that we have been dealing with this issue over and over again. That was in 1981. In 1994, we still do not have the kind of antifraud legislation that is desperately needed. And here we are this evening waiting to see whether someone is going to raise a point of order to say this is either not germane or it violates the Budget Act because it may cost a couple of million to implement, when in fact we are losing $100 billion a year.

Explain that one to the American people. We are losing $100 billion a year and yet we are standing here paralyzed and do not know whether to take action or not.

No one wants to put it on the crime bill. It does not belong on the crime bill. Where does it belong? We have Government people engaging in fraudulent criminal activities, but we cannot put it on the crime bill. They dropped it out of the crime bill.

We cannot put it on Health and Human Services appropriations. That is not appropriate. We cannot put it on the health care reform bill. We do not have a bill.

So here we are looking for some vehicle to say, "Can't we take one large step on behalf of the American taxpayers and at least try to stop the overt, outrageous forms of abuse with measures that the Justice Department would like to see, that the FBI would like to see, that attorney generals would like to see, that President Clinton would like to see, that Senator MITCHELL would like to see, that Senator DOLE would like to see." And we all agree.

I am still waiting here this afternoon for someone to say, "Well, there might be a point of order or some technicality that we don't want to vote on this."

So I hope in the next several minutes, perhaps the next hour, or within the hour, someone will either raise the objection so we can vote or express the sentiment that we ought to pass this unanimously and let it go to the House.

I am told that, even if we pass this measure, it will be stripped out by the House of Representatives. Well, if that is the case, so be it. At least the Senate will go on record as saying we need this legislation. If the House of Representatives once again wants to take it out, as they took it out of the crime bill, let them do it. If they want to strip it out of this bill, let them do it again and be accountable to the American people.

I know a great deal has been raised about the Contract with America, with a group of Republicans who say if we are elected and being allowed to occupy the majority position in the House we will do the following things. And that has been attacked and criticized by a number of editorial observers.

But I must say, aside from their criticism, this is one thing we can all agree on. Republicans and Democrats alike, we can all agree. This is an issue we have not measured up to meeting. This is an issue which there is no disagreement upon. This is an issue which ought to have overwhelming support in both Houses.

But, we are told, "Wait until next year." We were told that last year. I introduced a bill over a year ago. A loss of $100 billion again last year. We have lost $85 billion this year so far and counting.

So, Madam President, just think of those numbers. I keep repeating them over and over again—$100 billion a year. That is $275 million a day, $11.5 million an hour. That is what is going out in fraud and abuse.

So we have an opportunity to pass legislation which will give the tools to our Justice Department and to our enforcement agencies to say we are going to do our level best to stop this. They are certainly overwhelmed with cases, as I mentioned earlier this afternoon—one full-time investigator for every 8 million claims.

But, Madam President, this legislation will give some measure of hope to those who are charged with investigating these claims, some measure of hope that they will have added resources; that the fines and the penalties and forfeitures will go into a working fund and these funds distribution will be decided upon by both the Attorney General and the Secretary of HHS. No bounty hunting here. That is what some are worried about, that we are going to set up a bounty-hunting mechanism. This is just something that the Department of Justice and the Department of Health and Human Services will agree upon, to put the fines and forfeitures into a working account to expand the ability of these agencies to oversee the millions and millions of claims they are required to process.

So I hope that whoever has reservations about this will come to the floor and express them. And if a point of order is to be raised, we will have an opportunity to vote on that point of order. And if there are no points of order to be raised, that we go forward and take up other amendments.

I hope we can do that certainly within the hour.

Mr. BURNS. Madam President, will the Senator yield for a question?

Mr. COHEN. I yield to the Senator from Montana.

Mr. BURNS. I say to the Senator, the last time I was home, we were talking to some people who offered specialty services in the health care system, like physical therapists. It was their idea that, maybe in our certification and licensing of those people, we could do ourselves a big favor by tightening down those rules of certification and licensing, because they feel that it is too easy for some people to get into the field—and I think this is with all specialty fields—that there has to be something, a code of ethics or something, that goes along with this licensing and this certification.

Did the Senator find that in his hearings? Because I know he has held extensive hearings with regard to this.

Mr. COHEN. What we did find was that in a number of cases people who are untrained and unqualified to be delivering services are in fact being hired and their services are being billed out at professional rates.

So, indeed there has to be some tightening up at the State level. We are not seeking to impose Federal standards. This is something the State historically has regulated and should continue to regulate; that is, the licensing of individuals who qualify for these various specialties.

But it seems to me that is one of the classic cases of abuses where those who are engaged in these scams will hire individuals who are not properly trained. They put at risk the very people who are receiving some of these services. And they are being billed out at the highest possible professional rates. So that is another aspect of the type of scamming that is going on.

Mr. BURNS. I thank the Senator.

Mr. COHEN. Madam President, I do not see others who are rushing to go the floor to debate this particular matter.

I yield the floor for the moment.

Mr. DOMENICI. Madam President, before the Senator yields the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Senator, might I first tell you that I appreciate your permitting me to be an original cosponsor of the amendment. Frankly, I compliment you wholeheartedly for what you are doing.

Actually, I think frequently we get so busy with ideas of reforming the system and changing everything that we forget that standing right in front of us stark visible is fraud and gaming of this health care system. I do not think we really have to wait around to do that. I think now is the time.

Everybody knows that with the best of commitments—and I understand there are commitments from both sides of the aisle to start up again next year, hopefully in a more bipartisan way and perhaps without such an ambiguous agenda on reform, that we might get something done.

But, why should we wait? As I understand it, the fraud and abuse and gaming of this system is so incredibly big that the sooner we get started the sooner we are going to save some money.

Frankly, it is not going to work in 1 month or 1 year, or maybe even 2 years. So why do we want to put that off? We are worried about the excessive costs in the health care delivery system. Whatever those excessive costs are pushed by and caused by, we ought to try to fix. If the numbers that the Senator has received in his indepth testimony and hearings are anywhere close to right, one of the big reasons inflation is so high in the health care delivery systems is because of the gaming and fraud and abuse.

As a matter of fact, the Senator knows, as I understand it—he and I have spoken to this on the floor—one of the big reasons we started health care reform—while everybody now thinks it is a health care reform motivated by covering everybody, by so-called "when do we get to universality?" Actually the prime reason 12 years ago, in this most current episode that we started talking about reform, was because of the excessive cost. In fact it was the single pillar prompting and promoting reform for a long time.

Why is it 12 and 14 percent a year when inflation is 4? Why was it 16 when inflation was 6; going right through the roof? That was the predicate for reform. Now we have added some reasons, clearly, for reform. But this is one that contributes to that very first pillar, that you cannot keep delivering health care with current excessive annual increases in costs. Why we would not do this is beyond me, and perhaps the Senator has explained why we would not do it. But maybe he might tell me one more time, what is the trepidation or hangup on adopting something as simple as this?

Mr. COHEN. Madam President, if the Senator will yield, let me give my explanation as to what has taken place. First of all, we were told that this antifraud amendment—which, ironically, everybody is for, from the President to the majority and minority leaders and virtually everybody in this Chamber—should not go on the crime bill. I attached a portion of it to the crime bill. I attached Title 18, Criminal Sanctions, to the crime bill by unanimous consent. Nobody disagreed with it. It went over to the House and they stripped it out saying we have to wait until the health care bill comes out because we will use this to pay for the health care bill. So the savings that would be realized from this, $100 billion, we continue to lose on an annual basis.

Then they are saying that would pay for this expansive health care reform package when it comes to the floor, so take it out of the crime bill and wait until the health care reform comes and we will deal with it there. Then we are at a situation where we do not have a health care reform bill, and we are not going to get a bill until next year. The question is, "Should we wait another year?" And we begin, not in January, perhaps late February or early March. We start the hearings all over again with new bills being introduced. We go through the Finance Committee, we go through all the other committees, we come to the floor, we debate. There will be great debate as to which approach is the better approach. We will go to the House. The House will do the same thing. And finally we will come back here, I suspect, in September of next year, and maybe, just maybe we might have a health care reform bill at that time. But in the meantime we are going to be out another $100 billion.

What is happening, and the reason the costs are going up, as my colleague pointed out so dramatically, at the rate of 14 percent as opposed to 3 or 4 percent, is that hospitals and others that are providing services and equipment are covering their costs. They are covering the costs they are losing by padding the bills to make up for the fraud. I used this example yesterday and again today. A woman from Maine who had a slight cut required really not more than a Band-Aid. She got this 6- by 8-inch transparent dressing. She used 14 of them. The cost should have been $40. The cost ultimately billed for Medicare to pay was $2,800. So it went from a $40 cost to $2,800. It was actually higher than that because there were additional gels and supplies sent to this woman, totaling $3,700, almost $3,800 for a cut less than an inch long. So somebody is picking up these costs and the people who are picking it up are the taxpayers in the form of their Medicare costs or Medicaid costs and also in their private insurance costs.

To give a couple of other examples. Two New York durable medical equipment suppliers stole $1.4 million from the New York State Medicaid program by repeatedly billing for expensive orthotic back supports that were never prescribed by physicians. The DME sales force used an aggressive personal solicitation and telemarketing campaign offering—think about this—"free Angora underwear to Russian immigrants in Brooklyn in exchange for their Medicaid ID numbers." The State was then charged for the costly medical supplies that were never authorized by doctors and only rarely, if ever, delivered to the patients. And as described, these Angora underwear solicitations were again used as an inducement to obtain beneficiaries' Medicare numbers. They are offering Angora benefits to Russian immigrants to get their ID numbers so they can bill Medicaid for services never rendered or goods never supplied. It is an outrage, what is taking place.

The Justice Department, to prosecute these cases successfully, has to use mail fraud and wire fraud statutes. It is complicated. They would like to have a nice, clean piece of legislation saying we can go after these people, and we can penalize heavily those who engage in fraudulent behavior. So I say to myself, why is it taking us so long to do this? As I mentioned before, in 1981 we went looking for expert testimony to describe how easy it is to rip off the system. We called upon a physician who had an impeccable record, so to speak. He not only was a prominent physician, he was also a convicted felon. He came and testified before our Aging committee and said it was so simple. He was astonished it was so simple. He could not believe they actually reimbursed him for things which he never provided."

We sat back in astonishment. Guess what? Madam President, 13 years later he is back out there doing it again. He got reinstated, and he was just recently arrested and charged with fraud and more felonies. He is now being held on $2 million bail.

We can stand here and wait and raise points of order and say it does not belong here, it does not belong on appropriations bills, it does not belong on Health and Human Services appropriations, it does not belong on the crime bill; it belongs on health care reform—but we do not have a health care reform bill. In the meantime, the losers are the American taxpayers.

Madam President, I hope at some point this evening we will have a chance to either vote on this measure up or down. If a point of order is raised, then we will vote on the point of order. But I hope my colleagues would see, not the wisdom, but just the practicality just the plain common sense of doing something to combat fraud. Which is not to say it is a panacea—that if we pass the legislation, we will save $100 billion. We will never catch all the fraud. But if we got 10 percent or 20 percent or a third or even 50 percent, that would be $50 billion we could use to help cover the people who are currently going uninsured.

We have 37 million people who have no insurance. We want to cover them. We could do that if we had mechanisms in place that would cut down on the kinds of outlandish, overt, preposterous schemes that are inflicted upon us day after day. And we sit back here and say we have these technical provisions here. It may violate the jurisdiction of the Finance Committee. It may trespass upon the sensibilities of the House Ways and Means Committee. Judiciary really has a piece of the jurisdictional action here in both Houses. And we bounce this ball back and forth, back and forth. The American people look at us and say, "What are they doing? What in the world are they doing? Fiddling, while Medicaid and Medicare burn up with higher and higher costs. And private health insurance continues to escalate to the point where employers are canceling their policies for their employees, throwing more and more of them into the rolls of the uninsured." But we sit here or have extended quorums, waiting for someone to raise a technical point of order saying: We cannot do it this year. Next year we will be back and we will be out another $100 billion.

Madam President, I see there are others on the floor who perhaps wish to seek recognition and I now yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 2595 TO AMENDMENT NO. 2594

(Purpose: To disqualify Members of Congress from participating in the Federal Employee Health Benefits Program and chapter 89 of title 5, United States Code.)

Mr. WOFFORD. Madam President, I would like to introduce a second-degree amendment and send it to the desk, to be added at the end of Senator COHEN's amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. WOFFORD] proposes an amendment numbered 2595 to amendment No. 2594.

The amendment is as follows:

At the end of the pending amendment, add the following new section:

SEC. . DISQUALIFICATION OF MEMBERS OF CONGRESS FROM PARTICIPATING IN THE FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAM.

(a) FINDINGS.—The Congress finds that—

(1) the Congress has failed to enact legislation that extends health insurance to all Americans and reduces inflation in health care costs;

(2) Members of Congress may obtain health insurance through the Federal Employees Health Benefits Program, which provides Members of Congress with guaranteed and affordable private health insurance, choice of health plans and choice of doctor, and no exclusions for preexisting medical conditions; and

(3) Members of Congress currently receive on average a 72 percent contribution of their health insurance premiums from their employer, the taxpayers.

(b) PURPOSE.—The purpose of this section is to provide that Members of Congress shall not obtain taxpayer-financed health insurance under the favorable conditions established through the Federal Employees Health Benefits Program unless Congress enacts health reform legislation that gives the American people the type of affordable, guaranteed health insurance that Members of Congress have provided for themselves.

(c) LIMITATION ON FEDERAL EMPLOYEE HEALTH BENEFITS PLAN COVERAGE FOR MEMBERS OF CONGRESS.—Effective on January 1, 1995.—

(1) the Office of Personnel Management shall—

(A) terminate the enrollment of any Member of Congress in a health benefits plan under chapter 89 of title 5, United States Code; and

(B) prohibit the original enrollment, re-enrollment, or change of enrollment of any Member of Congress in such a plan; and

(2) The Secretary of the Senate and the Clerk of the House of Representatives shall cease making applicable employee withholdings and Government contributions under section 8906 of title 5, United States Code, for any Member of Congress.

(d) CONTINUED COVERAGE.—A Member of Congress who is enrolled in a health benefits plan under chapter 89 of title 5, United States Code, on December 31, 1994, may receive continued coverage under section 8905a of such title.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania has the floor.

Mr. COHEN. I believe he lost the floor in sending his amendment to the desk.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. I thank the Chair.

Madam President, I think this is an example of what is wrong with this system. Here we have pending an amendment which I was told was going to be either voted upon, in the way of a point of order being lodged against it, or accepted. Now the Senator from Pennsylvania has introduced a health care amendment which, if not so designed, will, in fact, result in killing any vote on something that he and everybody else ought to be in favor of. So I suppose at this particular point we can take the rest of the evening to talk about another health care bill. We have lots of them. We have the mainstream health care proposal that we can introduce this evening. We have Senator DOLE's health care proposal. We have Senator GRAMM's health care proposal. All of those can be debated. But this particular amendment now being attached to the amendment addressing fraud is really going to, for all practical purposes, end the debate for this evening and perhaps into the rest of tomorrow and beyond.

I do not question the motivation of the Senator from Pennsylvania. I know he has felt strongly about treating Members of Congress the same as the public is treated with respect to its health care. But I might respectfully suggest that this is going to result in "no" vote coming on the health care fraud amendment, which is supported by everybody.

So I think it ought to be known to all the people who are watching and all the people who are engaged in their races, that while we had an opportunity to talk about eliminating fraud that is costing the American people $100 billion a year, in all likelihood that is not going to take place now as a result of the Senator's offering his amendment to this particular piece of legislation.

I do not believe that was his intent. That is the result. Once again, this Chamber will be deprived of an opportunity to vote in favor of something that everyone agrees with and we will, instead, take up the rest of the evening and perhaps tomorrow debating health care reform, the proposal of the Senator from Pennsylvania. So I must say I regret he has chosen to attach his amendment to the pending amendment. It is certainly within his right. But the ultimate consequence is while Members at least would have an opportunity to vote on reforming our fraudulent system now, the health care fraud provisions which I believe would have been accepted by an overwhelming if not unanimous vote of the U.S. Senate, we will no longer have a chance to do that.

I regret that he has chosen to proceed with his amendment on this one. He has a perfect right to do that. I certainly will carry this message to whoever will listen, whether in Maine, Pennsylvania, or California, that once again Congress has ducked the opportunity to eliminate fraudulent practices which are robbing us blind and bleeding us dry.

We will not have an opportunity to vote on that for the balance of this session, because there are many people on this side of the aisle who have their own health care proposals. I was one of those who worked with the Senator from Pennsylvania—who became part of the mainstream coalition—who was seeking a way to come up with health care legislation that all of us could support or most of us could support, we were not able to do that. We were not able to do that. We were not able to do that. But I must say there was no disagreement on this amendment and I think it is regrettable that we will not have a chance to do that.

With that, Madam Chairman, I will yield the floor to the Senator from Pennsylvania. He can proceed as he sees fit. But I must say I am disappointed that we will not have a chance to vote on the antifraud provisions that are contained in my amendment.

(Mr. WOFFORD addressed the Chair.)

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. WOFFORD. I thank the Senator from Maine. I look forward to voting in support of his amendment. I trust we will move to his amendment. It will have my full and strong support.

I am introducing this second-degree amendment for the same reason that he took this opportunity to present his amendment; namely, that the opportunities for action are running out and I would like to put forth the case for my amendment. We will look at the procedure as we go forward. I want to put this amendment forth clearly and strongly to my colleagues and to the country, and I look forward in due course to supporting Senator COHEN'S amendment with enthusiasm.

Mr. President, like most Americans, I am angry with Washington's petty partisanship and special interest gridlock. I'm not interested in the debate over who killed health reform this year. This issue was brought to life by people and killed by politics. Special interests spent it to death, and Congress talked it to death.

But I know health care will rise again. Because for families and companies who are paying more and getting less each year, the need for action will not fade away. The need will only grow.

Luckily, there are many Democrats and Republicans of good will, including the Senator for Maine, and the majority leader from Maine, who share the goal of affordable private health insurance for all Americans, and have made their own serious effort to reach it. I hope that we will pick up those efforts right where we left off when Congress returns.

For the past 2 years, I have been reaching out across the aisle, working with colleagues in both parties to craft a commonsense health reform bill that would provide all Americans with the kind of affordable coverage and choice of private health plans that Members of Congress now have. Not Government-run health care, but private health insurance choices, built on what people like best about our current health system.

I have talked about how that first inadequate step that we took back in 1957 on the long march toward full civil rights for black Americans is an analogy for the kind of first step we could take this year toward affordable private health coverage for all Americans. Today, more than ever, I am determined to find the way to move forward. Not only here in Congress, but in States and communities across the country. Because health reform has to go forward, with or without Washington.

On this front, here in Congress, I have repeatedly said, on this floor and around the country, that it is wrong for Members of Congress to block other Americans from having the same kind of affordable coverage and choice of private plans that the taxpayers provide to Members of Congress. So now it is time for Members of Congress to support the plan they live under, or live under the plan they support.

Today I am introducing an amendment that turns that commonsense proposition into a reality. I know it will not be popular in these Chambers. I was not popular when I introduced the bill to end the free care that Members used to get from the attending physician. But we did it, because it was the right thing to do.

Under my proposal, Members of Congress will lose their taxpayer-financed health care benefits effective January 1, 1995.

Private citizens who lose their health insurance when they lose a job can get something called COBRA coverage that allows them to keep their current coverage for up to 18 months by paying for it themselves. Members of Congress will be in the same boat under this proposal. But the American taxpayers will no longer pick up 72 percent of the bill as they do now. Congress Members will have to pay the entire cost of their health insurance, as I have been doing for the last few months myself.

Translated into dollars and cents this amendment means that for Members of Congress who choose the standard Blue Cross family coverage, the taxpayers will no longer pay the monthly $303.75 employer contribution. Instead of only $101.25, Members will have to pay the full $405 premium themselves. After 18 months, if Congress still has not been able to agree on real reform, Members of Congress will be dropped from the Federal employee plan entirely. They will no longer enjoy the choices, the cost savings, and the consumer protections that come from being part of a large group plan. They will have to either purchase their own insurance with no help from their employer or go without.

It may be a hardship. I know. That is exactly what happens to million of other Americans every single day; no more, no less.

If Members of Congress want more time to study, as some claim, let us study what it is like to be a middle-class American, caught up in the health care mess. Let us find out just how difficult it is to pay for health insurance if your employer does not contribute a fair share. Let us experience what it is like to find a decent health plan without the help of our employer. Because that is the worry facing more and more Americans every day.

There are Members of Congress who say that doing nothing on health care will not hurt them a bit; who have celebrated their success at blocking action. I hope this amendment will help in some small way to show them that there is noting to celebrate. Not for the American people, not for us.

Doing nothing about that may not hurt some special interests, but it sure hurts the public interest. Health care delay is health care denied.

When the Senate floor debate began this past summer, I quoted Abraham Lincoln who said "We cannot escape history. We of this Congress and this administration will be remembered in spite of ourselves." But whether we will together rise to the occasion; or fall, divided and defeated, remains very much in doubt. That is what I said then.

I would like to believe that in the days and nights ahead we will be guided as Lincoln put it, "by the better angels of our natures," that those watching us will witness self-government, not civil war. Because this debate is not about politics. It is about people's lives. That is what I said then.

Well now, one thing is for sure. This Congress will be remembered. Not for being angels, though.

Mr. President, I hoped I would never have to introduce this amendment. I did not come to the Senate to take away the health benefits of Members of Congress. I came to help see to it that the American people would finally be guaranteed the same kind of benefits for themselves that we have: a choice of affordable private health insurance plans. But until we act, American families will continue to have a health insurance maze in which the insurance companies make all the rules, while people fall through the loopholes and get caught in the fine print.

Until we act, health care costs will continue to rise out of control, putting an ever greater strain on businesses and devouring an ever-greater share of Federal, State, and local tax dollars, and family budgets.

Until we act, Americans will continue to suffer and die, from diseases that could have been prevented or cured, if only they had been treated sooner.

Until we act, America will keep the distinction of being the only industrialized nation in the world, besides South Africa, that does not guarantee its citizens the right to see a doctor when they are sick.

And until a new Congress does stand up to special interests, and rises above partisan interests to turn that right to see a doctor when you are sick into a reality, we should not be taking from the American people what we cannot guarantee for the American people.

Madam President, I would like to ask unanimous consent to add Senator LAUTENBERG as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WOFFORD. I yield to Senator DOMENICI.

(Mr. DOMENICI addressed the Chair.)

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Could I just discuss with you for a moment what we have been discussing here?

Senator BOREN and I have an amendment that we want to offer which is essentially the sum total of the recommendations of the Joint Committee on Congressional Reform encapsulated in one piece of legislation, and we do not find any other way to offer this amendment before we close the session other than to offer it as an amendment in disagreement on this bill, and to do that, I understand you are not necessarily in any hurry to have your amendment reach the point of disposition, and I understand our friend from Maine has no objection to us proceeding to consider this amendment that I have described, so with that in mind——

Mr. COHEN. Reserving the right to object, but am I correct that the Senator from Pennsylvania would have every opportunity to offer his amendment to any of the amendments in disagreement that come before the Senate on the District of Columbia appropriations bill?

Mr. DOMENICI. We would have to ask the Chair. I understand there are still amendments in disagreement available for further amending?

The PRESIDING OFFICER. That's correct.

Mr. DOMENICI. Parliamentary inquiry. Are there not other amendments in disagreement, aside from the one that Senator COHEN has amended?

The PRESIDING OFFICER. The Senator is correct.

Mr. COHEN. I simply wanted to point out to my friends from Pennsylvania and New Mexico that the Senator from Pennsylvania has now introduced a controversial amendment to a noncontroversial amendment dealing with health care fraud, and as a result of that particular process, thereby jeopardized the vote that I thought we were about to have momentarily on health care fraud.

So now we have something that virtually everybody agreed to and, upon being amended with a controversial amendment, that will take perhaps several hours, if not days, can now be opened up by others who have their own health care proposals.

So I would appeal to my colleague from Pennsylvania that this was not the only opportunity for the Senator to offer an amendment. The Senator is within his rights. But I respectfully suggest to him that he has at least jeopardized the opportunity for the Senate to go on record to try to persuade our House colleagues that we ought to pass health care fraud provisions now as opposed to encumbering that with a very controversial proposal of the Senator's which could in fact be attached to any of the other amendments in disagreement on the D.C. appropriations bill. So I would hope that if we agree to set aside our amendments, the Senator might take that into consideration.

Mr. WOFFORD. Madam President, I am fully agreeable to what Senator DOMENICI has proposed in terms of his moving forward now. I look forward to talking with the Senator from Maine about the procedure. My case is a simple one. It has been made. I have no reason to think there will be a long debate on the amendment, whether it is controversial or not. I look forward very much to supporting the amendment of the Senator from Maine.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Who has the floor?

The PRESIDING OFFICER. The Senator from Pennsylvania had the floor.

Mr. BYRD. Will the Senator yield?

Mr. WOFFORD. I yield the floor to the President pro tempore.

Mr. BYRD. Will the Senator yield without losing his right to the floor while I might make one more parliamentary inquiry and help to propound the request, without losing his right?

Mr. WOFFORD. I do.

Mr. BYRD. Madam President, is there an amendment pending to the first amendment in disagreement, the amendment by Mr. GRAMM?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. Is there an amendment pending to the second amendment in disagreement?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. And is the amendment pending to the second amendment in disagreement the amendment by Mr. WOFFORD?

The PRESIDING OFFICER. The amendment by the Senator from Maine, as amended by the Senator from Pennsylvania, is the amendment to the second amendment in disagreement.

Mr. BYRD. I thank the Chair. Is there any amendment pending to the third amendment in disagreement?

The PRESIDING OFFICER. No, there is no amendment pending to the third amendment in disagreement that is Senate amendment numbered 12.

Mr. BYRD. Are there eight amendments in disagreement between the two Houses?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. I ask unanimous consent that the distinguished Senator from New Mexico may be permitted to offer an amendment at this point to the third amendment in disagreement, and only for the purpose of offering the amendment, but that such action not suspend action on the previous two amendments in disagreement.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. The purpose being only to let the Senator offer his amendment. There are eight amendments in disagreement. At some point he will offer his amendment to one of those amendments. He wants to offer the amendment tonight, not debate it but just have it in line when the other amendments are disposed of.

Mr. DOMENICI. Reserving the right to object, and I greatly appreciate the distinguished chairman of the Appropriations Committee offering the unanimous-consent proposal in my behalf, let me say to Senator BYRD I thought I had already worked out with the Senator from Pennsylvania, by talking to his staff at length, and Senator COHEN, I had already worked out an arrangement where a consent would be granted that I offer the amendment and that theirs be set aside temporarily. So not only would the amendment of the Senator from New Mexico be pending, be in order but it would be pending. I think they would agree to that, and I would like to propound that unanimous consent in lieu of the Senator's.

Mr. BYRD. Very well. That is agreeable with me. I did not realize they were willing.

Mr. COHEN. Reserving the right to object——

Mr. WOFFORD. That is correct.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. I hope that the Senator from West Virginia would withhold his unanimous-consent request, as well as the Senator from New Mexico, for a moment.

Mr. BYRD. Madam President, I withdraw my request.

Mr. DOMENICI. And I withhold mine.

Mr. COHEN. I wish to have an opportunity to suggest the absence of a quorum. I think we may be able to resolve this issue so we will not run into a conflict with the proposal.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Madam President, I ask unanimous consent that the pending amendments be temporarily laid aside for the purpose only of allowing the Senator from New Mexico [Mr. DOMENICI] to call up an amendment and Mr. BOREN to call up an amendment to the Domenici amendment; that both amendments be considered as read, printed, and no debate thereon occur tonight.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT IN DISAGREEMENT TO THE SENATE AMENDMENT NUMBERED 12

The PRESIDING OFFICER. The pending question is Senate amendment 12, which the clerk will report.

The bill clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 12 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: "forecast which shall be supported and accompanied by cash forecasts for the general fund and each of the District government's other funds other than the capital projects fund and trust and agency funds.".

AMENDMENT NO. 2596 TO AMENDMENT IN DISAGREEMENT TO THE SENATE AMENDMENT NUMBERED 12

(Purpose: To improve the operations of the legislative branch of the Federal Government, and for other purposes)

Mr. DOMENICI. Madam President, I send an amendment to the desk and ask for its immediate consideration.

I think a unanimous consent agreement has already been granted that it be considered as read.

The PRESIDING OFFICER. The clerk will report the amendment by number.

The bill clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 2596 to the amendment in disagreement to the Senate amendment numbered 12.

The text of the amendment is printed in today's RECORD under "Amendments Submitted."

AMENDMENT NO. 2597 TO AMENDMENT NO. 2596

(Purpose: To improve the operations of the legislative branch of the Federal Government, and for other purposes)

Mr. BOREN. Madam President, I send an amendment in the nature of a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows.

The Senator from Oklahoma [Mr. BOREN] proposes an amendment numbered 2597 to amendment numbered 2596.

The text of the amendment is printed in today's RECORD under "Amendments Submitted."

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I thank Senator BYRD for his assistance here tonight and I thank Senator WOFFORD and Senator COHEN for their consideration. I apologize for having made their evening a little longer than it should have been.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BYRD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

Mr. KOHL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

GRAMM AMENDMENT TO THE THIRD AMENDMENT IN DISAGREEMENT

Mr. DURENBERGER. Mr. President, I rise to explain why I will oppose the amendment offered by my distinguished colleague from Texas, Senator GRAMM.

Last August, I cast certain procedural votes on the crime bill conference report that were designed to allow the consideration of 10 different Republican amendments. This did not mean that I agreed with the substance of these amendments; it meant only that I believed more bipartisan input should be injected into the process.

Republicans did not get a chance to offer these amendments during consideration of the conference report, so the 10 proposals have returned as 1 consolidated amendment to this appropriations bill. I must go on record opposed to this amendment for three reasons.

First, this amendment would strike a provision—the Family Unity Demonstration Project Act—which is based on a bill I introduced last year. This bill would authorize demonstration projects that would allow nonviolent incarcerated mothers to serve their sentences in supervised community programs with their children.

Children who are separated from incarcerated parents have a high risk of developing social and emotional problems, of dropping out of school, and of becoming criminals themselves. Family unity demonstration projects will minimize the trauma to children and place them in a stable, caring, healthy environment. The parents will participate in parenting classes, substance abuse treatment, and educational and vocational training.

In addition to being more cost-effective than incarceration and saving the costs of foster care placement, these programs produce results. In communities that have tried this approach, the participants have been much less likely to repeat their crimes and more likely to emerge as better parents and productive members of society. Unlike many of the provisions in the crime bill. I believe that this proposal will be an effective tool in the war on crime.

Second, I am opposed to this amendment because of its expansion of mandatory minimum penalties. The consensus in the judicial community is that mandatory minimum sentences are terrible policy. In many cases, they have swelled our prison population with people who aren't a threat to the community and who would probably do better in an alternative to incarceration.

Mandatory minimum sentences have not succeeded in reducing crime, and in many cases have reduced the prospects for rehabilitation. Our increasing use of incarceration for first-time, nonviolent offenders has done little more than create more hardened criminals at the taxpayer's expense.

Few people have more experience dealing with criminals than judges. But mandatory minimums take away the ability of judges to do their job—to make the punishment fit the crime. They do not allow judges to take factors into account like the offender's age, role in the offense, or prospects for rehabilitation.

Finally, I am concerned that this amendment would allow less flexibility for States who apply for prison funding. The crime problem is intensely local; I believe that States are more capable than Washington politicians to craft their own sentencing policy and determine the most effective use of prison dollars.

For all of these reasons, I intend to vote against this amendment.

MORNING BUSINESS

Mr. KOHL. Madam President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the constitutional duty and responsibility of Congress to control Federal spending. Congress has failed miserably in that task for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,670,105,589,039.37 as of the close of business Tuesday, September 27. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is $17,912.96.

VERY SPECIAL ARTS TURNS 20

Mr. DOLE. Mr. President, I rise today in honor of the 20th anniversary of Very Special Arts.

Very Special Arts was founded in 1974 by Jean Kennedy Smith, today our distinguished Ambassador to Ireland, as an affiliate of the John F. Kennedy Center for the Performing Arts. Its mission is unique and important—to promote awareness of the educational, cultural, and personal benefits of the arts for people with disabilities. By sponsoring programs in creative writing, dance, drama, music, and the visual arts, Very Special Arts helps provide people with disabilities the skills they need to be full participants in the arts.

Mr. President, Very Special Arts sends the message that the arts are for all people. Today, it has programs in all 50 States and the District of Columbia, and in more than 55 countries worldwide. It is among the largest and most diverse international organizations serving people with disabilities.

NOTABLE ACCOMPLISHMENTS

Over the last 20 years, Very Special Arts has sponsored many groundbreaking programs at the State, national, and international levels. I would like to highlight just a few of its recent achievements.

In April 1991, in a joint project with the Bureau of Indian Affairs, it hosted the first National Native American Very Special Arts Festival in Santa Fe, NM. This 2-day festival showcased the artistic accomplishments of native American students from many different tribal groups. Since then, the festival has reached more than 3,000 students nationwide.

In 1992, Very Special Arts issued a Call for Art, inviting people of all ages to submit artwork for a U.S. Capitol 200th Anniversary Art Exhibition Project. This project was designed to challenge artists to use their imaginations to explore the history of one of our Nation's most important landmarks. Last fall artists from all 50 States were represented in an exhibit in the Rotunda of the Cannon House Office Building.

Start With the Arts is an instructional program for young children ages 4 to 6 to help educators and parents create meaningful learning experiences in all the arts—visual arts, creative movement, creative drama, and music. This program gives these young children an early opportunity to excel.

In May of this year, Very Special Arts hosted its second international Very Special Arts Festival in Brussels, Belgium. Over 40 States and 75 countries sent delegations to Brussels for performances, workshops, and other cultural exchanges, and more than 1,000 individuals of all ages with and without disabilities took part in this exciting week-long celebration of the arts.

Other programs have included "The Young Playwrights Program," "New Vision Dance Project," "Young Soloists Award," "The Yamagata International Visual Arts Program," and "Arts for Children in Hospitals." The list goes on and on.

The nonprofit Very Special Arts operates two galleries—one in downtown Washington, DC, and a new sister gallery in nearby Georgetown. These galleries play an important role in boosting self-esteem and professional careers. Proceeds from sales support exhibitions and Very Special Arts programs. World-renowned artists such as Hiro Yamagata, Robert Rauschenberg, and Frank Stella help Very Special Arts through unique print and poster editions displayed in the gallery.

SERVICE TO KANSAS

In my own home State of Kansas, Very Special Arts recently lauched a new initiative involving one of the most important groups of people in this country—our veterans. In August, Very Special Arts Kansas began a drama program for the veterans of the day treatment center at the Colmery O'Neil VA Medical Center in Topeka. Led by Chuck Bland, a drama therapist who is also a vietnam veteran, over 50 veterans between 28 and 80 will create and perform a historical play. The play will be later performed at other sites in Kansas with a final performance for the friends and families of the veterans.

A CONTINUING LEADER

Mr. President, no doubt about it, for 20 years Very Special Arts has been a leader. I congratulate them for their service and commend them for their continuing commitment to excellence and their dedication to providing opportunities for people with disabilities to enjoy meaningful experiences through the arts.

DO NOT RAISE INTEREST RATES

Mr. DECONCINI. Mr. President, yesterday the Federal Reserve decided not to raise interest rates. I congratulate them. The last thing the Amerian economy needs is higher interest rates.

I am concerned, however, that Chairman Greenspan has been given unlimited authority to raise interest rates unilaterally between now and November 15. I urge Chairman Greenspan not to utilize that authority and give the economic recovery a little breathing room.

I ask unanimous consent that a copy of my letter of today's date to Chairman Greenspan be included in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, September 28, 1994.

Hon. ALAN GREENSPAN,
Chairman, Federal Reserve Board, Washington, DC.

DEAR CHAIRMAN GREENSPAN: I want to congratulate you on yesterday's decision by the Federal Reserve not to raise interest rates. At the same time, I want to urge you not to use your authority to unilaterally raise rates between now and November 15th.

The recovery of the American economy is delicate at best. It simply cannot tolerate any additional interest rate increases and continue to grow.

Again, I applaud the Federal Reserve's restraint and urge you to continue it.

Sincerely,

DENNIS DECONCINI,
U.S. Senator.

NEW EXHIBITION AT THE NATIONAL GALLERY OF ART—"ROBERT FRANK: MOVING OUT"

Mr. KENNEDY. Mr. President, it is a privilege to take this opportunity to commend the Polaroid Corp. of Cambridge, MA, for its sponsorship, along with the Lannan Foundation, of the exhibition about to open this weekend at the National Gallery of Art, entitled, "Robert Frank: Moving Out."

The exhibition opens on Sunday, October 2, and it celebrates the life and work of Robert Frank, one of America's greatest living photographers. It marks the first time that the gallery has held an exhibition commemorating the work of a living photographer.

Frank's highly stylized and dramatic images portray a wide range of American experience and have had a lasting influence on American photography.

It is fitting that the Polaroid Corp. is participating in the sponsorship of this exhibition. For many years, Polaroid has been a household name symbolizing excellence in photography. Over the years, Polaroid has worked closely with America's great photographers, and those artists have worked closely with Polaroid scientists, helping to generate new advances in the art and technology of photography. As a result, Polaroid is renowned as a leader in such diverse fields as computer imaging, medical diagnostics, and fine arts restoration, in addition to commercial and popular photography.

Because of this exhibition, the powerful photography of Robert Frank will be seen by thousands of individuals who otherwise would not have had the opportunity. The exhibition will be at the National Gallery in Washington until December. It will then travel to Japan, Switzerland, and the Netherlands, and will return in 1996 to the Whitney Museum of American Art in New York City and then to the Lannan Foundation in Los Angeles. I know that the exhibition will be acclaimed in the Nation's Capital and in all the other places where it travels, and I congratulate all those who are a part of it.

JAMIE L. WHITTEN FEDERAL BUILDING

Mr. COCHRAN. Mr. President, I support H.R. 4576 which names the U.S. Department of Agriculture building at the northeast corner of 14th Street and Independence Avenue, in Washington, D.C., as the "Jamie L. Whitten Federal Building." This is a very appropriate honor for Representative WHITTEN.

Representatives WHITTEN is serving his 27th consecutive term in the House of Representatives, representing with distinction the First Congressional District of Mississippi.

As a leader in the shaping of our Nation's agricultural policy, Representative WHITTEN helped develop and fund numerous farm programs that have enriched the lives of many Americans. He has also placed a great deal of emphasis on research programs, which have enabled our farmers to be the most productive and efficient in the world. These programs will enable American agriculture to meet challenges in the next century.

During his tenure in office, Representative WHITTEN has often been referred to as the Permanent Secretary of Agriculture. Therefore, it is very appropriate that the Federal Agricultural Headquarters Building be named in his honor.

CONFERENCE REPORT ON REAUTHORIZING THE ELEMENTARY AND SECONDARY EDUCATION ACT

Mrs. FEINSTEIN. Mr. President, I would like to congratulate the House and Senate education committee conferees for including several important changes to the Elementary and Secondary Education Act [ESEA] in their conference report. As I know from having spoken at the conference last Friday, moving this legislation forward has been a tremendously difficult—but essential—achievement.

After almost 2 weeks of continuous debate, the House and Senate education conferees completed deliberation on H.R. 6 last night. This bill reauthorizes the Elementary and Secondary Education Act, which contains many of the most important Federal education programs for students in grades K-12—including Chapter 1, a $6.7 billion program to help educate poor and disadvantaged children that will affect over 90 percent of school districts in the Nation.

With over 5 million students, California public schools desperately need effective Federal education programs to provide specialized services and address the needs of an extremely diverse student body. While I am not a member of the Senate Education Subcommittee or the conference, I participated in the reauthorization process to ensure that the new legislation would include improvements that are important to California. During the last 2 years, I have spoken with my colleagues about California's educational concerns, debated education issues on the Senate floor, introduced my own related legislation, and suggested several amendments to the reauthorizing legislation.

As a result of my efforts and others', the conference report will include several issues that I believe are essential:

Gun-Free Schools: The gun-free schools provision requires States and school districts who receive Federal funds to establish mandatory 1-year expulsion policies for students who bring guns to school. This measure will strengthen California's current expulsion policy and make schools throughout the country safe from the threat of violence. As I stated when I appeared in front of the conferees, it is time to stop making excuses for children who bring guns to school. I believe that this measure, which I co-authored with Senator DORGAN, is one of the most important steps that we can take to create an environment where children can actually learn.

Improved Chapter 1 Formula: Under the new formula, California's share of Chapter 1 funds will grow significantly. In fiscal year 1995, the reauthorized Chapter 1 formula will yield $729 million for California—$35 million more than the State will receive this year. In fiscal year 1996, the formula will begin to target more funds to areas with large numbers of poor children. In fiscal year 1997, the new formula will begin using updated poverty data. Because of these changes, California's allocation will grow at a higher rate each year.

Despite the delay until 1997, the effect of using regularly updated poverty data in the Chapter 1 formula will have a tremendous benefit to California. Between 1980 and 1990, California's share of poor children increased 38 percent without any change in the State's Chapter 1 allocation. To address this problem, I have pressed this issue with my colleagues and introduced legislation to enable the Census Bureau to produce more timely information. Next year, I will try to win passage of poverty data legislation to prevent the use of outdated information in all Federal funding formulas.

Increased Funding Level for Immigrant Education: In the conference report, the authorization level for the Emergency Immigrant Education Act will be increased from its current $40 million level to $100 million—a 150-percent increase. The Emergency Immigrant Education Act provides supplementary funds to school districts with large influxes of immigrant children, and in fiscal year 1994 California received $15 million—or 40 percent of funds appropriated—to help educate the Nation's largest population of immigrant students. During the last 2 years, I have helped increase the appropriations for this program from $29 million in fiscal year 1993 to $50 million in fiscal year 1995—a 72-percent increase over the last two years. A further increase in the authorization level will enable Congress to continue appropriating more funds for immigrant education in future years.

While the Emergency Immigrant Education program does not address the enormous costs of educating illegal immigrant children, it does provide an important resource to States like California for educating the children of legal immigrants who have recently arrived in this country. I also intend to continue to press for fair compensation to the State for the costs of educating immigrant children, both legal and illegal.

The reauthorization of the Elementary and Secondary Education Act is an important piece of legislation, and the conferees have addressed House-Senate differences with admirable fairness. Once again, I congratulate them on their achievement and look forward to Senate consideration of the report after the House has given its approval.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:26 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3392. An act to amend the Safe Drinking Water Act to assure the safety of public water systems.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 783. An act to amend the Fair Credit Reporting Act, and for other purposes.

At 11:56 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2461. An act to amend the Federal Property and Administrative Services Act of 1949 to authorize the transfer to States of surplus personal property for donation to nonprofit providers of necessaries to impoverished families and individuals.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4556) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1995, and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 4569) to extend and make amendments to the President John F. Kennedy Assassination Records Collection Act of 1992.

The message also announced that the Speaker makes the following modification in the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1569) to amend the Public Health Service Act to establish, reauthorize and revise provisions to improve the health of individuals from disadvantaged backgrounds, and for other purposes; and appoints as additional conferees from the Committee on Ways and Means for consideration of titles VI and VII of the Senate bill, and modifications committed to conference: Mr. GIBBONS, Mr. FORD of Tennessee, and Mr. ARCHER.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

H.R. 4624. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

At 4:42 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 3839. An act to designate the United States Post Office located at 220 South 40th Avenue in Hattiesburg, Mississippi, as the "Roy M. Wheat Post Office."

H.R. 4177. An act to designate the Post Office building located at 1601 Highway 35 in Middletown, New Jersey, as the "Candace White United States Post Office."

H.R. 4191. An act to designate the United States Post Office located at 9630 Estate Thomas in Saint Thomas, Virgin Islands, as the "Aubrey C. Ottley United States Post Office."

H.R. 4554. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1995, and for other purposes.

H.R. 4569. An act to extend and make amendments to the President John F. Kennedy Assassination Records Collection Act of 1992.

S. 716. An act to require that all Federal lithographic printing be performed using ink made from vegetable oil and materials derived from other renewable resources, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate.

H.R. 4476. An act to provide for the development of a plan and a management review of the National Park System and to reform the process by which areas are considered for addition to the National Park System, and for other purposes.

H.R. 4779. An act to amend the Solid Waste Disposal Act to authorize local governments and Governors to restrict receipt of out-of-State municipal solid waste, and for other purposes.

H.R. 4924. An act to assist in the conservation of rhinoceros and tigers by supporting and providing financial resources for the conservation programs of nations whose activities directly or indirectly affect rhinoceros and tiger populations, and of the CITES Secretariat.

ENROLLED BILL SIGNED

At 6:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of the reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4606. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3392. An act to amend the Safe Drinking Water Act to assure the safety of public water systems.

H.R. 4779. An act to amend the Solid Waste Disposal Act to authorize local governments and Governors to restrict receipt out-of-State municipal solid waste, and for other purposes.

The following bill was read the first and second times by unanimous consent, and ordered placed on the calendar:

H.R. 4924. An act to assist in the conservation of rhinoceros and tigers by supporting and providing financial resources for the conservation programs of nations whose activities directly or indirectly affect rhinoceros and tiger populations, and of the CITES Secretariat.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that she had presented to the President of the United States, the following enrolled bills:

On September 26, 1994:

S. 1406. An act to amend the Plant Variety Protection Act to make such Act consistent with the International Convention for the Protection of New Varieties of Plants of March 19, 1991, to which the United States is a signatory, and for other purposes.

S. 1703. An act to expand the boundaries of the Piscataway National Park, and for other purposes.

On September 28, 1994:

S. 2182. An act to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3353. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation to amend the Consolidated Farm and Rural Development Act to modify the program of the Farmers Home Administration to assist beginning farmers and ranchers; to the Committee on Agriculture, Nutrition and Forestry.

EC-3354. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation entitled "The Pathogen Reduction Act of 1994"; to the Committee on Agriculture, Nutrition and Forestry.

EC-3355. A communication from the Comptroller of the Department of Defense, transmitting, pursuant to law, notice relative to the incurrence of obligations in excess of available appropriations; to the Committee on Appropriations.

EC-3356. A communication from the General Counsel of the Navy, transmitting, a draft of proposed legislation to authorize the transfer of nine naval vessels to certain foreign countries; to the Committee on Armed Services.

EC-3357. A communication from the Acting Chairman of the Federal Deposit Insurance Corporation, transmitting, pursuant to law, the annual report for calendar year 1993; to the Committee on Banking, Housing, and Urban Affairs.

EC-3358. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the report of the Section 8 Rental Voucher and Rental Certificate Utilization Study; to the Committee on Banking, Housing, and Urban Affairs.

EC-3359. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report to Congress on direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROCKEFELLER, from the Committee on Veterans Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 2330. A bill to amend title 38, United States Code, to provide that undiagnosed illnesses constitute diseases for purposes of entitlement of veterans to disability compensation for service-connected diseases, and for other purposes (Rept. No. 103-386).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

H.R. 808. A bill for the relief of James B. Stanley.

H.R. 810. A bill for the relief of Elizabeth M. Hill.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 1137. A bill to amend the Geothermal Steam Act of 1970 (30 U.S.C. 1001-1027), and for other purposes.

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 4489. A bill to authorize appropriations to the National Aeronautics and Space Administration for human space flight, science, aeronautics, and technology, mission support, and Inspector General, and for other purposes.

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. Res. 136. A resolution to refer S. 1325 entitled "A bill for the relief of Horace Martin," to the Chief Judge of the United States Claims Court for a report thereon.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. Res. 223. A resolution to refer S. 2188 entitled "A bill for the relief of the Pottawatomi Nation in Canada for the proportionate share of tribal funds and annuities under treaties between the Pottawatomi Nation and the United States, and for other purposes", to the Chief Judge of the United States Court of Federal Claims for a report on the bill.

S. Res. 258. A resolution to refer S. 974 entitled "A bill for the relief of Richard Kanehl of Mobile, Alabama," to the chief judge of the United States Court of Federal Claims for a report thereon.

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 825. A bill to amend title 28 of the United States Code to permit a foreign state to be subject to the jurisdiction of Federal or State courts in any case involving an act of international terrorism.

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 927. A bill for the relief of Wade Bomar.

S. 1422. A bill to confer jurisdiction on the United States Claims Court with respect to land claims of Pueblo of Isleta Indian Tribe.

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1537. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980.

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1991. A bill to provide for the safety of journeyman boxers, and for other purposes.

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 2002. A bill to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes.

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute and an amendment to the title:

S. 2101. A bill to provide for the establishment of mandatory State-operated comprehensive one-call systems to protect all underground facilities from being damaged by any excavations, and for other purposes.

S. 2132. A bill to authorize appropriations to carry out the Federal Railroad Safety Act of 1970, and for other purposes.

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2272. A bill to amend chapter 28 of title 35, United States Code, to provide a defense to patent infringement based on prior use by certain persons, and for other purposes.

S. 2341. A bill to amend chapter 30 of title 35, United States Code, to afford third parties an opportunity for greater participation in reexamination proceedings before the United States Patent and Trademark Office, and for other purposes.

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 2344. A bill to authorize appropriations for the National Science Foundation, and for other purposes.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 2372. A bill to reauthorize for three years the Commission on Civil Rights, and for other purposes.

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2375. A bill to amend title 18, United States Code, to make clear a telecommunications carrier's duty to cooperate in the interception of communications for law enforcement purposes, and for other purposes.

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2414. A bill to authorize the Secretary of Transportation to issue temporary certificates of documentation with appropriate endorsement for employment in the coastwise trade for the vessels *Idun Viking, Liv Viking, and Freja Viking.*

S. 2447. A bill to authorize a certificate of documentation for the vessel *Lady Hawk.*

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 2455. A bill to establish a system of licensing, reporting, and regulation for vessels of the United States fishing on the high seas.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 2457. A bill for the relief of Benchmark Rail Group, Inc.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

David H. Coar, of Illinois, to be United States District Judge for the Northern District of Illinois.

Robert J. Cindrich, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania.

David S. Tatel, of Maryland, to be United States Circuit Judge for the District of Columbia Circuit.

Catherine D. Perry, of Missouri, to be United States District Judge for the Eastern District of Missouri.

Paul E. Riley, of Illinois, to be United States District Judge for the Southern District of Illinois.

David F. Hamilton, of Indiana, to be United States District Judge for the Southern District of Indiana.

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CAMPBELL (for himself and Mr. BROWN):

S. 2470. A bill entitled "Gilpin County, Colorado—B.L.M. Land Transfer Act of 1994"; to the Committee on Energy and Natural Resources.

By Mr. KOHL (for himself and Mr. COHEN):

S. 2471. A bill to authorize the Administrator of the Office of Juvenile Justice and Delinquency Prevention Programs to make grants to States and units of local government to assist in providing secure facilities for violent and chronic juvenile offenders; to the Committee on the Judiciary.

By Mr. LOTT:

S. 2472. A bill to require the Administrator of the Environmental Protection Agency to issue rules governing risk assessments, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MURKOWSKI (for himself, Mr. ROBB, Mr. BROWN, Mr. PELL, Mr. HELMS, and Mr. SIMON):

S. Res. 270. A resolution to express the sense of the Senate concerning U.S. relations with Taiwan; to the Committee on Foreign Relations.

By Mr. HATFIELD:

S. Res. 271. A resolution to express the sense of the Senate that the proposed Oregon Option project has the potential to improve intergovernmental service delivery and that the Federal Government should work cooperatively with the State and local governments of Oregon to fully implement the Oregon Option proposal; to the Committee on Governmental Affairs.

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 272. A resolution authorizing the taking of a photograph in the Chamber of the United States Senate; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CAMPBELL (for himself and Mr. BROWN):

S. 2470. A bill entitled "Gilpin County, Colorado—B.L.M. Land Transfer Act of 1994"; to the Committee on Energy and Natural Resources.

THE CENTRAL CITY AND BLACK HAWK LAND EXCHANGE ACT

• Mr. CAMPBELL. Mr. President, I am introducing legislation to exchange approximately 300 acres of fragmented Bureau of Land Management lands near Black Hawk, CO, for approximately 4,500 acres that will be added to Rocky Mountain National Park and to other Department of the Interior holdings in Colorado, while dedicating any remaining equalization funds to the purchase land and water rights for the Blanca Wetlands Management Area near Alamosa, CO.

This legislation is supported by local governments, environmental groups, and land developers in Colorado.

While I know that it is too late to enact this legislation this Congress, I and my colleague Senator BROWN have agreed to introduce it as a gesture of good faith to all the parties who have labored so long to craft this bill in the hopes that the lands will remain available until Congress can act on it next year. More specifically, the bill:

Enables Rocky Mountain National Park to obtain an adjacent 40-acre parcel known as the Circle C Ranch. The Park Service has long sought to acquire the ranch to avoid its subdivision and development;

Enables the BLM to acquire 517 acres within the Arkansas Headwaters Recreation Area. This land has approximately 3 miles of Arkansas River frontage and will afford fishermen access to a beautiful stretch of the river;

Results in the acquisition of approximately 4,000 acres of land currently owned by Quinlan Ranches, Inc. This land is located at the headwaters of La Jara Canyon and Fox Creek, approximately 10 miles from Antonito, CO. It has excellent elk winter range and other important wildlife habitat;

Creates a fund from cash equalization moneys that may be paid to the United States as a result of the exchange, with the fund to be used to purchase land or water rights from willing sellers to augment fish and wildlife habitat in the BLM's Blanca Wetlands Management Area. The BLM has wanted funds for these purposes for many years.

In exchange for approximately 4,500 acres of land, 130 parcels of highly fragmented BLM land totaling about 300 acres will be made available for private acquisition. Of these 130 parcels, 88 are less than 1 acre in size. The BLM, through its established land management process, has already identified these lands as appropriate for transfer to private ownership. This land will most likely be used to construct homes and small businesses near the city of Black Hawk.

I hope my colleagues will support this effort, and I ask unanimous consent that the text of the bill, along with letters of support from the Colorado Division of Wildlife, Colorado State Parks Department, the Sierra Club, the Lake County Commissioners, the Conejos County Commissioners, the city of Black Hawk, Central City, Michael Quinlin, Colorado Trout Unlimited, and the Collegiate Peaks Anglers be printed in the RECORD along with a recent article from the Denver Post.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2470

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds and declares that—

(1) certain scattered parcels of Federal land located within Gilpin County, Colorado, are currently administered by the Secretary of the Interior as part of the Royal Gorge Resource Area, Canon City District, United States Bureau of Land Management;

(2) these land parcels, comprised of approximately 130 separate tracts of land ranging in size from approximately 38 acres to much less than an acre, have been identified as suitable for disposal by the Bureau of Land Management through its resource management planning process and are appropriate for disposal; and

(3) even though these land parcels are scattered and small in size, they nevertheless appear to have a fair market value which may be used by the Federal Government to exchange for lands which will better lend themselves to Federal management and have higher values for future public access, use and enjoyment, recreation, the protection and enhancement of fish and wildlife and fish and wildlife habitat, and the protection of riparian lands, wetlands, scenic beauty and other public values.

(b) PURPOSE.—It is the purpose of this Act to authorize, direct, facilitate and expedite the land exchange set forth herein in order to further the public interest by disposing of Federal lands with limited public utility and acquire in exchange therefor lands with important values for permanent public management and protection.

SEC. 2. LAND EXCHANGE.

(a) IN GENERAL.—The exchange directed by this Act shall be consummated if within 90 days after enactment of this Act Lake Gulch, Inc., a Colorado corporation (as defined in section 4 of this Act), offers to transfer to the United States pursuant to the provisions of this Act the offered lands or interests in land described herein.

(b) CONVEYANCE BY LAKE GULCH.—Subject to the provisions of section 3 of this Act, Lake Gulch shall convey to the Secretary of the Interior all right, title, and interest in and to the following offered lands—

(1) certain lands comprising approximately 40 acres with improvements thereon located in Larimer County, Colorado, and lying within the boundaries of Rocky Mountain National Park as generally depicted on a map entitled "Circle C Church Camp", dated August 1994, which shall upon their acquisition by the United States and without further action by the Secretary of the Interior be incorporated into Rocky Mountain National Park and thereafter be administered in accordance with the laws, rules and regulations generally applicable to the National Park System and Rocky Mountain National Park;

(2) certain lands located along the Arkansas River in Lake County, Colorado, which comprise approximately 517 acres, as generally depicted on a map entitled "Arkansas River Headwaters Frontage", dated August 1994; and

(3) certain lands located within and adjacent to the United States Bureau of Land Management San Luis Resource Area in Conejos County, Colorado, which comprise approximately 3,993 acres and are generally depicted on a map entitled "Quinlan Ranches Tract", dated August 1994.

(c) SUBSTITUTION OF LANDS.—If one or more of the precise offered land parcels identified above is unable to be conveyed to the United States due to appraisal or other problems, Lake Gulch and the Secretary may mutually agree to substitute therefor alternative offered lands acceptable to the Secretary.

(d) CONVEYANCE BY THE UNITED STATES.—(1) Upon receipt of title to the lands identified in subsection (a) the Secretary shall simultaneously convey to Lake Gulch all right, title, and interest of the United States, subject to valid existing rights, in and to the following selected lands—

(A) certain surveyed lands located in Gilpin County, Colorado, Township 3 South, Range 72 West, Sixth Principal Meridian, Section 18, Lots 118-220, which comprise approximately 195 acres and are intended to include all federally owned lands in section 18, as generally depicted on a map entitled "Lake Gulch Selected Lands", dated July 1994;

(B) certain surveyed lands located in Gilpin County, Colorado, Township 3 South, Range 72 West, Sixth Principal Meridian, Section 17, Lots 37, 38, 39, 40, 52, 53, and 54, which comprise approximately 96 acres, as generally depicted on a map entitled "Lake Gulch Selected Lands", dated July 1994; and

(C) certain unsurveyed lands located in Gilpin County, Colorado, Township 3 South, Range 73 West, Sixth Principal Meridian, Section 13, which comprise approximately 10 acres, and are generally depicted as parcels 307-326 on a map entitled "Lake Gulch Selected Lands", dated July 1994: Provided, however, That a parcel or parcels of land in section 13 shall not be transferred to Lake Gulch if at the time of the proposed transfer the parcel or parcels are under formal application for transfer to a qualified unit of local government. Due to the small and unsurveyed nature of such parcels proposed for transfer to Lake Gulch in section 13, and the high cost of surveying such small parcels, the Secretary is authorized to transfer such section 13 lands to Lake Gulch without survey based on such legal or other description as he determines appropriate to carry out the basic intent of the map cited in this subparagraph.

(2) If the Secretary and Lake Gulch mutually agree, and the Secretary determines it is in the public interest, the Secretary may utilize the authority and direction of this Act to transfer to Lake Gulch lands in sections 17 and 13 that are in addition to those precise selected lands shown on the maps cited in paragraphs (d)(1)(B) and (d)(1)(C), and which are not under formal application for transfer to a qualified unit of local government, upon transfer to the Secretary of additional offered lands acceptable to the Secretary or upon payment to the Secretary by Lake Gulch of cash equalization money amounting to the full appraised fair market value of any such additional lands. If any such additional lands are located in section 13 they may be transferred to Lake Gulch without survey based on such legal or other description as the Secretary determines appropriate as long as the Secretary determines that the boundaries of any adjacent lands not owned by Lake Gulch can be properly identified so as to avoid possible future boundary conflicts or disputes. If the Secretary determines surveys are necessary to convey any such additional lands to Lake Gulch, the costs of such surveys shall be paid by Lake Gulch but shall not be eligible for any adjustment in the value of such additional lands pursuant to section 206(f)(2) of the Federal Land Policy and Management Act of 1976 (as amended by the Federal Land Exchange Facilitation Act of 1988) (43 U.S.C. 1716(f)(2)).

(3) Prior to transferring out of public ownership pursuant to this Act or other authority of law any lands which are contiguous to North Clear Creek southeast of the City of Black Hawk, Colorado, in the County of Gilpin, Colorado, the Secretary shall notify and consult with the governments of the County and the City and afford such units of local government an opportunity to acquire or reserve pursuant to the Federal Land Policy and Management Act of 1976 or other applicable law such easements or rights-of-way parallel to North Clear Creek as may be necessary to serve public utility line or recreation path needs: Provided, however, That any survey or other costs associated with the acquisition or reservation of such easements or rights-of-way shall be paid for by the unit or units of local government concerned.

SEC. 3. TERMS AND CONDITIONS OF EXCHANGE

(a) EQUALIZATION OF VALUES.—The values of the lands to be exchanged pursuant to this Act shall be equal as determined by the Secretary of the Interior utilizing nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Standards for Federal Land Acquisition, the Uniform Standards of Professional Appraisal Practice, the provisions of section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)), and other applicable law. In the event it is determined that cash equalization moneys are owed to the United States in the exchange, any such cash equalization moneys shall be retained by the Secretary of the Interior and may be utilized by the Secretary until fully expended to purchase from willing sellers land or water rights, or a combination thereof, to augment wildlife habitat and protect and restore wetlands in the Bureau of Land Management's Blanca Wetlands, Alamosa County, Colorado. Any water rights acquired by the United States pursuant to this section shall be obtained by the Secretary of the Interior in accordance with all applicable provisions of Colorado law, including the requirement to change the time, place, and type of use of said water rights through the appropriate State legal proceedings and to comply with any terms, conditions, or other provisions contained in an applicable decree of the Colorado Water Court. The use of any water rights acquired pursuant to this section shall be limited to water that can be used or exchanged for water that can be used on the Blanca Wetlands. Any requirement or proposal to utilize facilities of the San Luis Valley Project, Closed Basin Diversion, in order to effectuate the use of any such water rights shall be subject to prior approval of the Rio Grande Water Conservation District.

(b) RESTRICTIONS ON SELECTED LANDS.—(1) Conveyance of the selected lands to Lake Gulch pursuant to this Act shall be contingent upon Lake Gulch executing an agreement with the United States prior to such conveyance, the terms of which are acceptable to the Secretary of the Interior, and which—

(A) grants the United States a covenant that none of the selected lands (all of which currently lie outside the State of Colorado's current legally approved gaming area) shall ever be used for purposes of gaming should the current legal gaming area ever be expanded by the State of Colorado; and

(B) permanently holds the United States harmless for liability and indemnify the United States against all costs arising from any activities, operations (including the storing, handling, and dumping of hazardous materials or substances) or other acts conducted by Lake Gulch or its employees, agents, successors or assigns on the selected lands after their transfer to Lake Gulch: Provided, however, That nothing in this Act shall be construed as either diminishing or increasing any responsibility or liability of the United States based on the condition of the selected lands prior to or on the date of their transfer to Lake Gulch.

(2) Conveyance of the selected lands to Lake Gulch pursuant to this Act shall be subject to the existing easement for Gilpin County Road 6.

(3) The above terms and restrictions of this subsection shall not be considered in determining, or result in any diminution in, the fair market value of the selected land for purposes of the appraisals of the selected land required pursuant to section 3 of this Act.

(c) REVOCATION OF WITHDRAWAL.—The Public Water Reserve established by Executive order dated April 17, 1926 (Public Water Reserve 107), Serial Number Colorado 17321, is hereby revoked insofar as it affects the NW ¼ SW ¼ of Section 17, Township 3 South, Range 72 West, Sixth Principal Meridian, which covers a portion of the selected lands identified in this Act.

(d) MANAGEMENT OF CERTAIN LANDS.—Upon their acquisition by the United States, the lands referred to in section 2(b)(2) of this Act shall be managed by the Secretary of the Interior in accordance with the laws, rules, and regulations generally applicable to the public lands, and, as appropriate, in accordance with cooperative agreements such as the existing Arkansas Headwaters Recreation Area Memorandum of Understanding, with special emphasis on public fishing and recreational access to the Arkansas River, and riparian and wetland habitat protection. The acquisition of such lands by the Secretary shall not be construed to impose any responsibility or liability on the Secretary with respect to hazardous substances which may exist on the lands as of the date of their acquisition by the United States. Without precluding any future determination by the Secretary or appropriate Federal or State authorities that cleanup of any hazardous substances which may be found to exist on the property would be appropriate, nothing in this Act shall be construed to require the Secretary to undertake any hazardous substances cleanup activities or studies.

SEC. 4. MISCELLANEOUS PROVISIONS.

(a) DEFINITIONS.—As used in this Act:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "Lake Gulch" means Lake Gulch, Inc., a Colorado corporation, or its successors, heirs or assigns.

(3) The term "offered land" means lands to be conveyed to the United States pursuant to this Act.

(4) The term "selected land" means to be transferred to Lake Gulch pursuant to this Act.

(5) The term "Blanca Wetlands" means an area of land comprising approximately 9,290 acres, as generally depicted on a map entitled "Blanca Wetlands", dated August 1994, and any nearby land which the Secretary may purchase from willing sellers after the date of enactment of this Act utilizing funds provided by this Act or other funds and manage in conjunction with and for the same general purposes as the land depicted on that map.

(b) TIME REQUIREMENT FOR COMPLETING TRANSFER.—It is the intent of Congress that unless the Secretary and Lake Gulch mutually agree otherwise the exchange of lands authorized and directed by this Act shall be completed not later than 6 months after the date of enactment of this Act.

(c) ADMINISTRATION OF LANDS ACQUIRED BY UNITED STATES.—In accordance with the provisions of section 206(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(c)), all lands acquired by the United States pursuant to this Act shall upon acceptance of title by the United States and without further action by the Secretary concerned become part of and be managed as part of the administrative unit or area within which they are located.

SUMMARY OF PROPOSED LAKE GULCH LAND EXCHANGE LEGISLATION

Lake Gulch Inc. gets:

Approximately 300 acres of fragmented BLM lands located along the southern boundary of the City of Black Hawk, Colorado. The BLM lands comprise 130 separate parcels and range in size from 38 acres to one-one hundredth of an acre. 88 of the 130 parcels are less than one acre in size, and most are surrounded by, or adjacent to, land already owned by Lake Gulch Inc. or its affiliates. BLM has identified all the lands for disposal.

Lake Gulch Inc. has agreed to covenants that limit future use of the land to non-gaming purposes (i.e. no gambling development) and will hold the United States harmless from any liability relating to cleanup of old mining wastes on the land Lake Gulch acquires.

United States gets:

The 40 acre Circle-C Church Camp which lies within Rocky Mountain National Park south of Estes Park, Colorado. Circle-C has been a long time acquisition priority for the Park Service because of potential for development that would be inconsistent with Park plans.

The 517 acre Minnequa Bank property located along the Arkansas River approximately 7 miles south of Leadville, Colorado. This property lies within the Arkansas Headwaters Recreation Area (a joint BLM-Colorado State Parks management area) and has about three miles of river frontage on the east bank of the Arkansas River. It also has fishing on two tributary streams. The property affords excellent views of Mt. Massive and Mr. Elbert and comprises mostly river floodplain. Acquisition by BLM would open significant new public fishing opportunities along the Arkansas river in a County where access is currently very limited due to private ownership.

Approximately 4,000 acres of private land intermingled with BLM and Forest Service holdings in the headwaters of La Jara Canyon and Fox Creek approximately 10 miles northwest of Antonito, Colorado. The land currently belongs to Quinlan Ranches, Inc. It has excellent elk winter range and other wildlife habitat, and borders the scenic La Jara Canyon. It also lies within and adjacent to the BLM's Los Magotes Area of Critical Environmental Concern (ACEC).

Funding to purchase water or land from willing sellers to augment wildlife habitat in the BLM's Blanca Wetlands management area 7 miles northeast of Alamosa, Colorado. The Blanca Wetlands contain existing and historic wetlands that are very productive for ducks and geese and have crucial winter habitat for bald eagles.

Fiscal savings: The Circle-C, Arkansas River and Blanca Wetlands acquisition proposals in this exchange all appear on a nationwide acquisition priority list that has been provided to Congress for Fiscal Year 1995 Land and Water Conservation Fund appropriations. Acquiring these three priority properties through a land exchange would achieve the LWCF goals without the need for spending increasingly scarce LWCF dollars.

LAKE COUNTY,
BOARD OF COUNTY COMMISSIONERS,
Leadville, CO, Aug. 5, 1994.

Hon. BEN NIGHTHORSE CAMPBELL,
Washington, DC.

DEAR SENATOR CAMPBELL: The Lake County Board of Commissioners through this letter seeks your help in opening a unique segment of the Arkansas River to permanent public access. As you can see from the enclosed newspaper article, which appeared in the Denver Post last fall, the upper Arkansas River is indeed bouncing back. The completion of two water treatment plants in the upper California Gulch watershed near Leadville together with the resiliency of the Arkansas River itself have led to producing a truly first class fishery.

On August 4, 1994 the Board held a formal public hearing on a proposal to have the Bureau of Land Management acquire a three mile stretch of the river south of Leadville by means of a land exchange. The County Commissioners toured this stretch of the river several weeks ago and strongly believe it should become public. At the public hearing unanimous support for the proposal was received along with statements of a truly remarkable resurgence in the river's water quality and fishing. According to several representatives from Trout Unlimited, the fishery is now among the best in the entire state.

The biggest obstacle at this time in Lake County is that most of the river frontage is in private ownership. This severely limits access to fishing opportunities along the river. The BLM acquisition of the Minneqeua Bank parcel would provide new public access along a three mile length of the river as well as along two tributary streams where we have observed first hand healthy fish.

In summary, the Board views this land exchange as having a very positive impact for Lake County as we expand our economic base. The Board notes that a land exchange of this nature will not require the expenditure of tax dollars, and appears, therefore, to be a prudent and fiscally sound endeavor in all respects.

Accordingly, based on the findings of the Public Hearing, the Lake County Board of Commissioners requests that you assist in whatever capacity is needed to move this exchange proposal forward.

Thank you in advance for your consideration of this matter. Of course the Board stands ready to offer any further assistance or information as may be helpful in your deliberations.

Sincerely,

JAMES E. MARTIN,
Chairman.
EDWARD J. O'LEARY,
Commissioner.
ROBERT W. CASEY,
Commissioner.

CITY OF BLACK HAWK,
Black Hawk, CO, Aug. 3, 1994.

Senator BEN NIGHTHORSE CAMPBELL,
Washington, DC.

DEAR SENATOR CAMPBELL: We are writing to express our support for the efforts by Lake Gulch Inc. to acquire approximately 400 acres of scattered public lands lying directly south of the boundaries of Black Hawk and Central City. We understand that the acquisition will be by way of a land exchange with the United States and are supportive of that concept.

The public lands which Lake Gulch Inc. is seeking to acquire consist of dozens of small scattered parcels administered by the U.S. Bureau of Land Management, ranging in size from approximately 1/100th of an acre to 33 acres. Most are less than an acre in size. The BLM lands are largely either surrounded by or contiguous to, land which is privately owned or controlled by Lake Gulch Inc. or its affiliates. As such, and because of the very small size of most of the BLM parcels, their utility for future public use and enjoyment is very limited. The land ownership pattern and problems are similar to those which prompted Congress and the President to approve the recently enacted law in neighboring Clear Creek County. With the exception of a small portion of the North Clear Creek floodplain, lands are not needed for any purposes of local government and can be conveyed into private ownership.

It is our belief that the proposed acquisition by Lake Gulch Inc. will benefit our area by consolidating land that can be used for future residential and non-gaming purposes, and that the consolidation represents the most likely scenario to achieve an early cleanup of the numerous mine tailings and other surface disturbances which scar the land and inhibit cleanup of our streams.

As you may also be aware, the rapid commercial development associated with gaming in our area has resulted in a scarcity of affordable land available for residential purposes. As a result, many of those who work in Black Hawk and Central City are commuting in long distance every day from the Denver metro area, which is an undesirable situation from numerous standpoints, including employee health and safety, air pollution, and traffic congestion. Likewise, because of high land values within the gaming area and the rugged, unbuildable terrain which predominates into many surrounding areas, our community currently lacks many basic stores and services which other communities take for granted. We believe that because the intermingled Lake Gulch Inc. and BLM lands lie directly adjacent to the boundaries of Black Hawk and Central City, but outside the legally permissible gaming area, a consolidated private ownership will realistically lend itself to the construction of affordable housing and other non-gaming uses and services for which we have a great need.

Thank you for considering our views on this important matter. We hope you will be able to lend your assistance to the land exchange project as it moves forward.

Sincerely,

KATHRYN ECCKER,
Mayor.

QUINLAN RANCHES, INC.,
Denver, CO, Aug. 5, 1994.

Hon. SCOTT MCINNIS,
U.S. House of Representatives,
Washington, DC.

Senator BEN NIGHTHORSE CAMPBELL,
Russell Senate Office Building,
Washington, DC.

Senator HANK BROWN,
Hart Senate Office Building,
Washington, DC.

GENTLEMEN: Our family corporation is the owner of approximately 4,000 acres of land near Conejos Canyon in Conejos County. This land is interspersed with BLM and National Forest land and is appropriate for acquisition by those agencies to enable them to better manage their lands as an intergrated unit. The land has absolutely superb elk habitat, very important winter range, and is highly scenic. We believe you will shortly be receiving a communication from the Colorado Division of Wildlife further describing the property and the reasons why it should be in public ownership.

For those reasons we are working with representatives of Lake Gulch Inc. to include our land in a land exchange with BLM so that it will come into public ownership. We understand that the proposal will be presented to you for introduction into the Congress next week, and we encourage you to give it your support.

We stand ready to offer you any assistance we can in consummating the exchange. Please let us know what additional information you may require. The family members are getting on in years and would like to see the public acquisition a reality.

Sincerely,

MICHAEL C. QUINLAN.

COLORADO TROUT UNLIMITED,
Englewood, CO, June 30, 1994.

Senator BEN NIGHTHORSE CAMPBELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR CAMPBELL, For several years now our members have been involved in efforts to have BLM acquire a 517 acre tract of land in Lake County approximately 7 miles south of Leadville. This land has roughly 3 miles of river frontage on the Arkansas River, as well a fishing on Big Union Creek and Spring Gulch, which cross the property. For your reference, I am enclosing a copy of an article about the tract which appeared in the Denver Post last fall.

Our members are interested in this acquisition because it would open a prime stretch of the Arkansas River in Lake County to public access and fishing. Most of the river of Lake County is currently closed to fishing because it is private land. BLM acquisition of the land would also dovetail very nicely into the Arkansas Headwaters Recreation Area management scheme, which is an ongoing cooperative effort between BLM and the State of Colorado. Although there may be some hazardous materials deposited in the floodplain of the property as a result of washdowns from California Gulch before EPA's recent cleanup efforts, the river in this segment now appears to be in good condition, and we believe the benefits of public ownership are paramount.

On behalf of our members, therefore, Colorado Trout Unlimited urges you to assist BLM acquisition of this property. We understand that the property may be included in a land exchange proposal to be submitted for your consideration in the near future. Assuming the other aspects of the proposed exchange meet with your approval, we strongly urge you to seek its approval so that the Arkansas River land will be opened to public use.

For the Board of Directors,

J. STEPHEN CRAIG,
Executive Director.

COLLEGIATE PEAKS ANGLERS,
CHAPTER OF TROUT UNLIMITED,
Salida, CO, July 15, 1994.

Senator BEN NIGHTHORSE CAMPBELL,
Senate Office Building,
Washington, DC.

DEAR SENATOR CAMPBELL: This is the second time in 2 years that our Trout Unlimited chapter has written to seek your support for a land exchange proposal involving key river frontage property along the upper section of the Arkansas River just south of Leadville. Our 150 members include several people who live in Leadville. The citizens of the upper Arkansas Valley have little public access to the Arkansas and this exchange would go a long way toward easing that situation.

The proposed exchange includes 3 miles of frontage on the main river as well as access to parts of Big Union Creek and Spring Gulch. The land is contiguous with BLM property just down stream and will make an excellent addition to the Arkansas Headwaters Recreation Area which is jointly managed by the BLM and the Colorado Department of Natural Resources.

In addition, we would ask that there be a condition placed on the acquisition that would limit the number and size of the fish that could be harvested. The exact regulations would be set by the Colorado Division of Wildlife. There is a superb population of large fish in this part of the river because it has not been open to public fishing and it would be a disservice to other anglers to allow a few greedy people to remove these fine fish in the first few day of public access.

On behalf of our members here in the Upper Arkansas Valley we urge you to support this exchange.

For our Board of Directors,

GEORGE KAVOURAS,
President.

COLORADO DIVISION OF WILDLIFE,
Salida, CO, July 20, 1994.

Senator BEN NIGHTHORSE CAMPBELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR CAMPBELL: The Colorado Division of Wildlife supports the proposal for a land exchange by the BLM in order to acquire a portion of land bordering the Arkansas River in Lake County, 7 miles south of Leadville.

This acquisition would open, for fisherman access, a valuable 2.5 miles along the Arkansas River as well as fishing opportunity on Big Union Creek. Presently Lake County has limited public access on the river. This proposal would be of significant value to the area.

Since the EPA Superfund Clean-up Activity, the Arkansas River Headwaters has become a valuable fishery and will continue to improve.

Therefore, I strongly urge that when this land exchange proposal is submitted, you give it favorable consideration, assuming it meets the land exchange criteria.

Regards,

STAN OGILVIE,
Area Wildlife Manager.

STATE OF COLORADO,
COLORADO STATE PARKS,
Denver, CO, July 15, 1994.

Senator BEN NIGHTHORSE CAMPBELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR CAMPBELL: I have recently learned of the opportunity the Bureau of Land Management (BLM) may have to purchase approximately three (3) miles of riverfront property along the Arkansas River in Lake County near Leadville, Colorado. This is exciting news, and I would like to offer my support of this acquisition.

The BLM and Colorado State Parks, together, manage the Arkansas Headwaters Recreation Area (AHRA). This is a unique partnership for management of an outstanding area that extends 148 miles from just below Leadvile to the upper end of Pueblo reservoir.

The AHRA is a newly created area (1989) and, as such, is still in it's development stages. The authors of the area's Management Plan, primarily the region's local citizens and representatives, and the Division of Wildlife, have identified a real need to acquire fishing access in almost exactly the same area available to us now.

There is currently very little public river access in Lake County, especially this close to Leadville. Acquisition of this property would consequently be very beneficial to the citizens of Leadville, Lake County, and the visitors to the Arkansas Headwaters Recreation Area. Once acquired, the area can and will be incorporated into AHRA, as already provided for in the area's Management Plan.

I also understand that the floodplains along the river contain some depositional material from mining activities that fit under the category of hazardous materials. These deposits may be a source of contamination to the river and could be a future liability problem if any cleanup is needed. It is important that any action authorizing acquisition of his property address this issue.

I hope this addition to the Arkansas Headwaters Recreation Area can become a reality. Thank you for any help you can lend.

Sincerely,

LAURIE MATHEWS,
Director.

SIERRA CLUB,
ROCKY MOUNTAIN CHAPTER,
Denver, CO, August 30, 1994.

Senator BEN NIGHTHORSE CAMPBELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR CAMPBELL: I am writing today to express the support of the Rocky Mountain Chapter of the Sierra Club for H.R. 5016, the Gilpin County, Colorado—BLM Land Transfer Act of 1994, introduced by Rep. David Skaggs. The Sierra Club in Colorado has had the opportunity to review the particulars of this bill and we believe it is in the overwhelming best interests of the citizens of Colorado and of the United States that the bill be quickly enacted. We urge you to cosponsor this bill in the United States Senate.

The lands to be disposed by the United States are scattered small tracts on the edge of expanding development and are best suited for transfer to private ownership. In exchange, the United States will receive title to a number of spectacular parcels, including several of the highest priorities for land acquisition by the BLM and the National Park Service in Colorado. The acquisition of these high priorities—Blanca wildlife habitat by BLM and the Circle-C church camp by Rocky Mountain National Park—will result in a fiscal savings of some $1 million by avoiding the need to spend scarce Land and Water Conservation Funds. At the Blanca wildlife habitat area, BLM is attempting to recreate in the San Luis Valley a portion of what was once the most extensive wetlands in Colorado. The Circle-C church camp acquisition will eliminate a serious conflict with management of the Park Service's Long Peak campground.

The bill's remaining acquisitions will also result in significant gains for public fish and wildlife habitat. The Arkansas River parcel will open up 3 miles of river to public fishing along a stretch gaining popularity with anglers, and the large block of lands in La Jara Canyon will safeguard important big game winter range.

Sincerely yours,

MARK PEARSON,
Wilderness Chair.

[From the Denver Post, Sept. 22, 1993]

UPPER ARKANSAS IS BOUNCING BACK

(By Charlie Meyers)

LEADVILLE.—With all the daintiness of a matron sipping high tea, the trout removed the fly from the rippled surface, lowered its head and prepared to resume its repose in the depths of the pool.

The angler, alerted by a recent surge of activity, snapped the rod back sharply in anticipation of yet another of the river's modest-sized trout. What happened next was totally out of character for a stream that, by rights, shouldn't have any fish at all.

At the first pressure, the line scythed sharply downstream and the angler, surprised by the power of the run and fearing for his light tippet, felt the rod dip dangerously before he yielded line. The fish that eventually came splashing into the shallows was, like a dozen or so before it, a brown trout. But this one, quickly photographed and released, measured just more than 18 inches and displayed the beginnings of a hooked jaw, a testament to a longevity that defied its circumstances.

This fish had been caught just 5 miles below a place where, less than a year and a half earlier, an ugly effluvium soil poisoned the river. Now the upper Arkansas River is teeming with trout, some of very respectable size. How they, and their ancestors, survived through all the outpouring of heavy metals from the controversial Yak Tunnel near Leadville is a mystery. Less puzzling, but still not wholly determined, is what the future of the river will be.

The tunnel, a 4-mile-long conveyance through which the leachings of some 200 old mines have been delivered for the better part of a century, more recently has gained notoriety as a Superfund site of the Environmental Protection Agency and, consequently, a political and legal football.

EPA has put the clamps on two mining companies that had the remarkably poor judgment to take over the tunnel operation 40 years ago. Res-Asarco Joint Venture, a foible of the Asarco and Newmont mining companies, was ordered to install a $15 million water treatment plant to clean up the assortment of zinc, cadmium, lead and arsenic that had been flowing down California Gulch in an ugly orange rush into the Arkansas.

Although they had to be dragged, kicking and screaming, much of the way, the mining companies have executed the charge well. The plant has been in operation since April 1992, and Kan Wangerud, EPA's manager for the project, reports it is removing 200 tons of toxins a year from the river.

"It has been estimated that 80 percent of all the metal loading in the Arkansas comes from California Gulch," said Wangerud, who said his agency will continue to pursue cleanup of other pollution sources, even as it moves to resolve its legal entanglements with Res-Asarco.

Meanwhile, the upper river seems to have taken a decided turn for the better, particularly on a 3-mile stretch that is being shuttled through Congress as part of an appropriation package that would put it under control of the Bureau of Land Management and, thence, open to the public. The parcel, which includes 517 acres of river bottom land that largely has been abused by cattle, is presently under foreclosure by the Minnequa Bank of Pueblo. The appropriation amount is $350,000.

I came to this stretch last week with John Singletary, a Pueblo resident who represents the bank in its efforts to sell the property.

"You won't believe how many fish are in the river," Singletary had said. "I caught 30 or 40 one day, some of them really nice."

I've known Singletary for years, have hunted with him, and know him as an honorable man. But I also had fished this same place a dozen years earlier and come away convinced the mine effluent had left it virtually decimated. Could there have been such a rousing recovery so soon?

On a day when golden aspen trees shimmered on the flanks of the surrounding peaks beneath a cloudless sky, the answer came quickly. A 16-inch brown took a deep drifted Prince nymph and, as the day and the water warmed, a dozen and a half were caught and released on an Elk-hair caddis on the surface. Twice that many more moved on the fly in some manner. The catch also included a cutthroat and a brook trout. Singletary added eight fish on spinners, his efforts doubtlessly hampered by the cold water.

So where did all these fish come from? One likely scenario is that, as water quality improves, they have migrated in from both upstream and downstream, as well as from a major tributary, Lake Fork Creek.

Of all this, the element that impressed me most was the river itself. It turns and tumbles through some of the more inviting riffles and runs you'll ever find in a stream that size. There could be even better days ahead, with an agreement in principle for EPA and Res-Asarco to settle all aspects of litigation.

"Then we could use all our resources for pollution control instead," Wangerud said.

Let the cleanup continue.

SIERRA CLUB,
ROCKY MOUNTAIN CHAPTER,
Durango, CO, July 13, 1994.

Senator BEN NIGHTHORSE CAMPBELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR CAMPBELL: I am writing to encourage your support for acquisition of water rights and habitat for the Bureau of Land Management's Blanca Wildlife Habitat area in the San Luis Valley. Specifically, a new opportunity has arisen whereby funds could be provided to BLM for this important acquisition as part of a larger, legislated land exchange.

The Blanca Wildlife Habitat area offers the potential for 3,000 acres of riparian wetlands and associated recreational opportunities such as hunting, fishing, hiking, picnicking, and birdwatching on the floor of the San Luis Valley. Acquisition of land and water rights by BLM will make possible the protection and restoration of historic wetlands that produce 15,000 waterfowl and 1,500 geese each year and also provide critical winter habitat for bald eagles. In addition, the Blanca Wildlife Habitat area is already a congressionally approved mitigation site for the Bureau of Reclamation's Closed Basin Water Salvage Project. Acquisition of the Blanca Wildlife Habitat area therefore not only greatly benefits wildlife and recreation in the San Luis Valley, but also furthers the importance congressional goal of mitigating impacts from a major Bureau of Reclamation project. For these reasons, federal acquisition of land and water rights at the Blanca Wildlife Habitat area merits your support.

Legislation may soon be proposed to implement a wide-ranging land exchange of BLM and private lands throughout Colorado. Part of this exchange envisions freeing up funds for BLM to purchase land and water rights at the Blanca Wildlife Habitat area. I encourage you to support this legislated land exchange to benefit the Blanca Wildlife Habitat area if the other, as yet undefined, components of the exchange meet with your approval.

Sincerely yours,

MARK PEARSON,
Wilderness Chair.

CONEJOS COUNTY GOVERNMENT,
BOARD OF COUNTY COMMISSIONERS,
Conejos, CO, Sept. 1, 1994.

Re Hogote Property Trade-BLM.

Mr. WAYNE QUINLAN,
Quinlan Ranches, Inc., Antonito, CO.

DEAR WAYNE: We understand that the BLM is interested in acquiring your Hogote property through a trade which would result in BLM owning this property. We further understand that Scott McGiness and Ben Nighthorse Campbell on behalf of the BLM are willing to introduce a bill in Congress for the acquisition of this property.

Please be advised that the Conejos County Board of County Commissioners has no objections to such a transaction.

Sincerely yours,

LEROY VELASQUEZ,
Chairman.•

By Mr. KOHL (for himself and Mr. COHEN):

S. 2471. A bill to authorize the Administrator of the Office of Juvenile Justice and Delinquency Prevention Programs to make grants to States and units of local government to assist in providing secure facilities for violent and chronic juvenile offenders; to the Committee on the Judiciary.

THE JUVENILE CORRECTIONS ACT OF 1994

• Mr. KOHL. Mr. President, only weeks have passed since the President signed the crime bill into law. I, and others, have praised the crime bill for being comprehensive and sweeping in nature—for attacking the crime problem on a range of different fronts including policing, punishment, prisons, and prevention.

There is one facet of the crime problem, however, that the Crime Act did not address. Even though juvenile crime is, as we know, at the very heart of the crime problem nationwide, and even though the crimes juveniles commit are increasingly violent in nature, not one penny of the Crime Act is dedicated to the construction, expansion, and operation of juvenile corrections facilities.

Not one penny dedicated to juvenile detention facilities, Mr. President, in an omnibus law that otherwise contains $8 billion in prison funding.

The truth is that the draft version of the crime bill conference report did indeed contain a provision establishing funding for secure juvenile facilities. But this provision was inexplicably eliminated at the eleventh hour by conference negotiators.

Today I resurrect that crucial provision. The Juvenile Corrections Act of 1994, which I am pleased to introduce together with my friend and colleague Senator COHEN, would establish a distinct source of Federal funding for State and local governments to construct, expand, and operate secure juvenile corrections facilities. These facilities will be used to incarcerate violent and chronic juvenile offenders.

Mr. President, this bill would guarantee that juvenile corrections does not become the poor stepchild of Federal anticrime efforts. And it would do so without increasing the deficit, by funding juvenile facilities through a reallocation of 10 percent of the Crime

Act's general prison funding. It is not, in my view, unreasonable to suggest that 10 percent of the money spent by the Federal Government on prisons should be devoted to juvenile facilities and the incarceration of violent juvenile offenders.

Let me close, Mr. President, by pointing out that the need for Federal juvenile corrections assistance is clear and immediate. A study released this past week by the Office of Juvenile Justice and Delinquency Prevention indicates that the majority of juvenile detention facilities nationwide are vastly overcrowded and understaffed—much more so than adult prisons. Juvenile offenders attacked detention facility staff 8,000 times last year. And recidivism rates for juveniles who have been incarcerated are unbelievably high.

In short, we cannot afford to turn a blind eye to the juvenile corrections problem. And so I hope my colleagues will join with me and Senator COHEN next year in enacting the Juvenile Corrections Act as an important supplement to the Crime Act.•

By Mr. LOTT:

S. 2472. A bill to require the Administrator of the Environmental Protection Agency to issue rules governing risk assessments, and for other purposes; to the Committee on Environment and Public Works.

THE SOUND SCIENCE IN RISK ASSESSMENT ACT

• Mr. LOTT. Mr. President, the bill I am introducing today will ensure that the Environmental Protection Agency provides a solid, uniform, credible foundation for our environmental laws and regulations. Clearly, there is a credibility crisis today because of the politicizing of scientific data. It has reached such a level "Nightline's" Ted Koppel devoted an entire show to how shamelessly sound scientific data has been ignored to advance a political agenda. This is wrong.

EPA is jeopardizing all scientifically based rules and regulations by its cavalier and frequently arbitrary manner in establishing risk criteria. To provide a balanced approach, legislative guidelines are needed. My bill will address this problem. It allows both the public and the scientific community through public forums to examine the scientific foundation for each risk criteria. This bill will not prevent EPA from implementing rules. Rather, it will provide greater support for the rules because of this inclusive risk criteria developmental process.

Another equally valid reason for this bill is prioritization. The risk assessment process will apply consistent rules which will enable appropriate comparisons, and the identification of anticipated benefits. This means public officials can select rules which afford the greatest protection to the public. Fiscal constraints makes this essential because governments, at all levels, have limited and finite resources.

EPA already has a number of risk assessment guidelines; however, there is widespread recognition that they are inadequate. Even an internal EPA review revealed that its process is not up to the standards necessary for providing unbiased scientific public policy.

My bill will restore confidence in the process for developing risk assessment. First, it requires full and clear disclosure of all uncertainties. Second, it sets specific timeframes for promulgating rules. Third, it requires all risks go through the public notice and comment procedure. The same process that all regulatory rules are subjected. And fourth, it requires EPA to update risk assessments as scientific understandings change.

In closing, I urge my colleagues to support this legislation. It makes risk assessment fully accountable to both the public and the Congress and not just subject to the discretion of invisible bureaucrats or an agency.•

ADDITIONAL COSPONSORS

S. 549

At the request of Mr. DOMENICI, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 549, a bill to provide for the minting and circulation of one-dollar coins.

S. 1288

At the request of Mr. AKAKA, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from Nebraska [Mr. KERREY], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of S. 1288, a bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture commercialization research program, and for other purposes.

S. 1343

At the request of Mr. AKAKA, the names of the Senator from New Jersey [Mr. BRADLEY] and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 1343, a bill entitled the "Steel Jaw Leghold Trap Prohibition Act."

S. 1408

At the request of Mr. LOTT, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 1408, a bill to repeal the increase in tax on Social Security benefits.

S. 2094

At the request of Mr. DASCHLE, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 2094, a bill to make permanent the authority of the Secretary of Veterans Affairs to approve basic educational assistance for flight training.

S. 2294

At the request of Mr. HATFIELD, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 2294, a bill to amend the Public Health Service Act to provide for the expansion and coordination of research concerning Parkinson's disease and related disorders, and to improve care and assistance for its victims and their family caregivers, and for other purposes.

S. 2300

At the request of Mr. PRESSLER, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 2300, a bill to prohibit all United States military and economic assistance for Turkey until the Turkish Government takes certain actions to resolve the Cyprus problem and complies with its obligations under international law.

S. 2330

At the request of Mr. ROCKEFELLER, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 2330, a bill to amend title 38, United States Code, to provide that undiagnosed illnesses constitute diseases for purposes of entitlement of veterans to disability compensation for service-connected diseases, and for other purposes.

S. 2359

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 2359, a bill to modify the boundaries of Walnut Canyon National Monument in the State of Arizona.

S. 2378

At the request of Mr. DOLE, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 2378, a bill to prohibit U.S. assistance to countries that prohibit or restrict the transport or delivery of U.S. humanitarian assistance.

S. 2441

At the request of Mr. HEFLIN, the names of the Senator from Tennessee [Mr. MATHEWS] and the Senator from Indiana [Mr. COATS] were added as cosponsors of S. 2441, a bill to provide for an independent review of the implementation of the National Implementation Plan for modernization of the National Weather Service at specific sites, and for other purposes.

SENATE JOINT RESOLUTION 182

At the request of Mr. JOHNSTON, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of Senate Joint Resolution 182, a joint resolution to designate the year 1995 as "Jazz Centennial Year."

SENATE JOINT RESOLUTION 219

At the request of Mr. LEAHY, the names of the Senator from Vermont [Mr. JEFFORDS], the Senator from Missouri [Mr. BOND], the Senator from Mississippi [Mr. LOTT], and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of Senate Joint Resolution 219, a joint resolution to commend the U.S. rice industry, and for other purposes.

SENATE RESOLUTION 257

At the request of Mrs. KASSEBAUM, the names of the Senator from Alaska [Mr. MURKOWSKI] and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of Senate Resolution 257, a resolution to express the sense of the Senate regarding the appropriate portrayal of men and women of the Armed Forces in the upcoming National Air and Space Museum's exhibit on the *Enola Gay*.

SENATE RESOLUTION 264

At the request of Mr. MCCAIN, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of Senate Resolution 264, a resolution expressing the sense of the Senate that the President should issue an Executive order to promote and expand Federal assistance for Indian institutions of higher education and foster the advancement of the national education goals for Indians.

SENATE RESOLUTION 270—RELATIVE TO UNITED STATES RELATIONS WITH TAIWAN

Mr. MURKOWSKI (for himself, Mr. ROBB, Mr. BROWN, Mr. PELL, Mr. HELMS, and Mr. SIMON) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 270

Whereas the Republic of China on Taiwan (known as Taiwan) is the United States' fifth largest trading partner and an economic powerhouse buying more than twice as much annually from the United States as do the 1.2 billion Chinese of the People's Republic of China;

Whereas European countries, with numerous ministerial visits to Taipei in support of their trade promotion efforts have been awarded over US$5 billion in contracts for Taiwan's Six Year National Development Plan, while U.S. companies have won only US$1.37 billion in contracts (1991-93);

Whereas Taiwan is a model emerging democracy, with a free press, free elections stable democratic institutions, and human rights protections;

Whereas United States interests are served by supporting democracy and human rights abroad;

Whereas United States interests are best served by policies that treat Taiwan's leaders with respect and dignity;

Whereas the results of the Executive branch review of the policy of the United States toward Taiwan were announced on September 7, 1994;

Whereas the adjustments made in United States policy toward Taiwan do not concretely or adequately upgrade relations.

Therefore it is the sense of the Senate that United States policy toward Taiwan should:

(1) welcome the President of the Republic of China on Taiwan and other high-level government officials to the United States;

(2) allow unrestricted office calls by all representatives of Taiwan in the United States to all United States departments and agencies, including the Departments of Defense and State and offices in the Old Executive Office Building;

(3) send cabinet-level officials, including officials from the Departments of State and Defense, to Taiwan on a regular basis;

(4) support a proposal in the 48th General Assembly of the United Nations for formal observer status for Taiwan as a first step toward full membership in the United Nations and its specialized agencies;

(5) support a proposal at the earliest possible time for full admission for Taiwan into a wide range of international organizations including, but not limited to:

(a) the General Agreement on Tariffs and Trade (GATT) as a developed country, irrespective of the timetable for the admission into GATT of the People's Republic of China;

(b) the International Bank for Reconstruction and Development (IBRD or the World Bank);

(c) the International Monetary Fund;

(d) the Convention on Trade in Endangered Species of Flora and Fauna (CITES);

(e) the Montreal Protocol of the United Nations Environment Programme (UNEP);

(f) International Maritime Organization (IMO);

(g) International Atomic Energy Agency (IAEA); and

(h) United Nations High Commission for Refugees (UNHCR)

(6) change the name of Taiwan's representative office in the United States to the "Taipei Representative Office";

(7) approve defensive arms sales to Taiwan based solely on Taiwan's self-defense needs, without qualitive or quantitative restrictions;

(8) require advice and consent of the United States Senate for the highest level representative of the United States in Taiwan;

(9) upgrade the status of the existing American Institute in Taiwan (AIT);

(10) include a report by the Secretary of State to the Senate Foreign Relations Committee and the House Foreign Affairs Committee on U.S. economic, cultural, political and security relations with Taiwan on an annual basis;

(11) support participation of the President of the Republic of China on Taiwan in the Asia Pacific Economic Cooperation forum; and

(12) raise U.S. concerns about the People's Republic of China threat to forcefully reunify Taiwan and the People's Republic of China.

• Mr. MURKOWSKI. Mr. President, I am submitting this resolution to express the sense of the Senate concerning United States relations with Taiwan on behalf of myself and Senator ROBB, Senator BROWN, Senator PELL, Senator HELMS, and Senator SIMON.

In July 1993, the administration indicated that it was involved in an interagency review of United States policy toward Taiwan. I was told on many occasions that an announcement about the policy review was imminent, but then something would come up to delay its release—and that something was usually the People's Republic of China. First there was the most-favored-nation debate, and then North Korea negotiations, and then Secretary Brown's trip to Beijing. Finally, on September 7, during the congressional recess, the policy was quietly announced.

It is often said that you have to crawl, before you walk, before you run—and the administration really took that adage to heart when it looked at United States policy toward Taiwan. It did not even make real changes to the policy, only adjustments. Let me make clear: I welcome the mere fact that the adjustments were made at all. A review of United States-Taiwan relations was long overdue, and at least the changes that were made are tentative steps toward making our policy more rational. But I think bolder and more substantive steps are necessary.

First, the policy review changed the name of the Coordination Council for North American Affairs to the Taipei Economic and Cultural Representative Office. At least it has a geographical reference, but why not identify Taiwan?

Second, higher-level U.S. Government officials from economic and technical agencies will be allowed to visit Taiwan under the revised policy. Of course, Carla Hills, U.S. Trade Representative during the Bush administration, visited Taiwan, so this adjustment is not breaking new ground. The key here is implementation.

Third, ROC officials meeting with some high-ranking U.S. officials will now be able to meet in official settings rather than hotels and restaurants. But the policy leaves the caveat that this excludes meetings at the State Department, Old Executive Office Building, or the White House, even though AIT officials are now allowed to go to the Foreign Affairs Ministry in Taipei, the equivalent of our State Department. So we can go into theirs, but they cannot visit ours. Does this make sense?

In those areas where adjustments were made, the administration at least acknowledged some inconsistencies. I am most concerned about those areas where the administration chose to keep the status quo intact. What did not change?

The arms sale policy still has the inconsistency of the bucket. The Taiwan Relations Act says we will provide for Taiwan's self-defense needs, but then we told the PRC we would limit the quality and quantity of our sales. In practice, the bucket is an anachronism because we broke it with the F-16's. But by pretending to still adhere to arbitrary limits, our defense exporters lose sales because there are no ground rules for when a system will or will not be approved.

In testimony submitted by the American League for Exporters and Security Assistance before the Senate Foreign Relations Committee hearing yesterday on United States relations with Taiwan it is estimated that past and present defense sales lost to the Taiwan defense sales policy could reach as high as $20 billion in revenue and 456,000 jobs.

In addition, these questions remain to be answered:

United States military planes cannot stay overnight, but must go to Japan. What purpose does this serve except to waste U.S. taxpayer dollars?

Visas are stamped with Hong Kong rather than Taipei. What happens in 1997?

Official visits to the United States by President Lee and other high-level Taiwanese officials are still prohibited.

Government officials are still prohibited from visiting the State Department, the White House, and the Old Executive Office Building.

Taiwan membership in the United Nations is not supported.

I know that the administration will likely defend the lack of change as a signal that the policy has been working in the past—if it's not broke, don't fix it. But Mr. President, I disagree.

This new policy might suit diplomacy 101, but it does not suit fairness 101. This is not a just policy for the 21 million people on Taiwan who lack representation in the multilateral institutions that want Taiwan's money and Taiwan's compliance but not their input. It is not a just policy for the ROC Government officials who act with great dignity and respect, but are not treated to the same.

This is not a just policy for a country like the United States that claims to stand for democracy and human rights. This is not a just policy for President Clinton who made democracy a cornerstone of his foreign policy. This is the President who said: "We need new leadership that will stand with the forces of democratic change . . . a President who will utilize our economic, political and cultural resources to assist the new forces of freedom emerging around the world." Why does this apply to Haiti, but not Taiwan?

Mr. President, I find it ironic and sad that this administration is willing to risk the lives of American soldiers to restore Aristide to power in Haiti under the guise of democracy, but is not willing to ruffle the PRC's feathers by rewarding democracy and human rights in Taiwan. The United States continues to turn a cold shoulder toward Taiwan, even as the world itself is warming up. Our Taiwan policy is a relic of the cold war.

Back in 1978, when the United States broke off diplomatic relations with the ROC and recognized the PRC we lived in a very different world. A wall still divided the two Germanys, the Soviet Union was the "evil empire" and the people of Taiwan lived under martial law. This was the state of the world when the United States passed the Taiwan Relations Act. Although the world has changed dramatically since then, our policy has not.

Taiwan has emerged as a model democracy: martial law was lifted, press curbs were lifted, and opposition parties were made legal. Popular presidential elections are scheduled for 1996.

Taiwan has emerged as an economic powerhouse: the world's 13th largest trading economy with the largest foreign reserves, our 5th largest trading partner, despite power buying trips led by Secretary of Commerce Brown, Taiwan still buys twice as much from the United States as the PRC.

Taiwan and the PRC have allowed economic and social contact. In 1993, the ROC became the second largest investor in the PRC. 1.5 million residents of Taiwan traveled to the mainland last year.

But rather than reward Taiwan for the enormous, positive changes it has undertaken, the United States has chosen to treat it like an international pariah. We are all familiar with the unfortunate incident when President Lee's request for an overnight stay in Hawaii en route to Costa Rica was denied after protests from the PRC Embassy. There are many of us in Congress who feel very strongly that not only should President Lee be permitted to stay overnight on U.S. soil, he should be welcomed as a guest.

After all, this administration has seen the benefit to having Yasser Arafat, head of the PLO and not a recognized government leader, visit the White House. Similarly, Gerry Adams, head of Sinn Fein, the political wing of the Irish Republican Army, visited the United States. In each of these cases, there were certainly objections. In fact, I am told that the United States has recently granted Gerry Adams a 2-week visa to visit several cities, over the objections of the U.K. Similarly, Tibet's exiled leader, the Dalai Lama called on Vice-President GORE at the White House. The PRC strongly objected to this visit. But the administration rightly went ahead with the visit. Why not President Lee?

The administration's new policy explicitly states that it will not support Taiwan's bid to enter the United Nations, presumably because the PRC would object. I disagree with this rationale. With organizations like the GATT, the United States looked for ways where both Taiwan and China could join. Taiwan agreed to call itself a customs territory and the GATT members, under United States leadership, have worked out an arrangement where the two will likely enter the GATT together. Certainly the United States could be a leader for creative diplomacy in the U.N. arena as well. Other countries would follow our lead, but if the United States does not take the moral high ground, other countries will not want to be bold.

We saw a recent example of this when the Japanese, under intense pressure from Beijing, asked President Lee not to attend the Asian Games, even after the invitation was extended. If the United States were to allow President Lee to visit the United States for an event such as accepting an honorary degree from Cornell, however, Japan may find the backbone to allow President Lee to attend international sports events.

However, the United States must be willing to risk a little PRC bellowing. The PRC has grown arrogant because every time they yell, we back down. This appeasement only compels them to seek greater concessions. This must stop. We all look forward to the day that the PRC is important because it is governed freely and that it uses its long tradition and culture, not just its immense size, to garner respect. But the PRC is not there yet. Clearly, the United States has important interests in maintaining relations with the mainland, but that does not mean that our foreign policy can be held hostage by the PRC. The United States stands for democracy and freedom. We must not turn our backs on the people of Taiwan. If the administration will not turn United States-Taiwan relations loose, the United States Congress must.

Therefore, Mr. President, along with Senators ROBB, BROWN, PELL, HELMS, and SIMON, I am introducing this resolution to express the sense of the Senate concerning United States relations with Taiwan. It states that it is the sense of the Senate that United States policy toward Taiwan should include 12 policy changes to improve United States-Taiwan relations, many of which I have just mentioned.

Specifically, the United States should welcome the President of the Republic of China on Taiwan and other high-level government officials to visit the United States. Reciprocally, the United States should send cabinet-level officials, including officials from the Departments of State and Defense, to Taiwan on a regular basis. The United States should support a proposal for observer status at the United Nations for Taiwan, and membership in other international organizations.

If the United States takes these and the other steps listed in this resolution, United States policy toward Taiwan will head in the right direction. I urge my colleagues to fully support this resolution.●

SENATE RESOLUTION 271—RELATIVE TO THE PROPOSED OREGON OPTION PROJECT

Mr. HATFIELD submitted the following resolution; which was referred to the Committee on Governmental Affairs:

S. RES. 271

Whereas Federal, State and local governments are dealing with increasingly complex problems which require the delivery of many kinds of social services at all levels of government;

Whereas historically, Federal programs have addressed the Nation's problems by providing categorical assistance with detailed requirements relating to the use of funds which are often delivered by State and local governments;

Whereas although the current approach is one method of service delivery, a number of problems exist in the current intergovernmental structure that impede effective delivery of vital services by State and local governments;

Whereas it is more important than ever to provide programs that respond flexibly to the needs of the Nation's States and communities, reduce the barriers between programs that impede Federal, State and local governments' ability to effectively deliver services, encourage the Nation's Federal, State and local governments to be innovative in creating programs that meet the unique needs of the people in their communities while continuing to address national goals, and improve the accountability of all levels of government by better measuring government performance and better meeting the needs of service recipients;

Whereas the State and local governments of Oregon have proposed a pilot project, called the Oregon Option, that would utilize strategic planning and performance-based management that may provide the new models for intergovernmental social service delivery;

Whereas the Oregon Option is a prototype of intergovernmental relations, and it has the potential to completely transform the relationships among Federal, State and local governments by creating a system of intergovernmental service delivery and funding that is based on measurable performance, customer satisfaction, prevention, flexibility, and service integration; and

Whereas Oregon is well prepared to begin work on the Oregon Option, and the project has the potential to dramatically improve the quality of Federal, State and local services to Oregonians; Now, therefore, be it

Resolved, That it is the Sense of the Senate that the proposed Oregon Option project has the potential to improve intergovernmental service delivery and that the Federal Government should work cooperatively with the State and local governments of Oregon to fully implement the Oregon Option proposal.

• Mr. HATFIELD. Madam President, a very interesting meeting took place in my State earlier this month. During the week of September 19, over 100 officials from Federal, State and local government met in Portland to begin work on a project called the Oregon Option. I believe this project has the potential to vastly improve intergovernmental service delivery in my State, and today I am submitting a sense of the Senate resolution that urges the Federal Government to continue to be an active partner in this effort.

Oregon proposes a new and revolutionary basis of intergovernmental service delivery. When the Oregon Option is implemented, Federal grants or transfers to State and local government in my State will be based on results rather than procedures. The different governments will agree on a set of outcome-based performance measures, which will be based on the ingenious Oregon Benchmarks model, and on the level of funds that each government would provide to achieve those performance goals. Regulations, at the Federal, State, and local level would be dramatically streamlined. This pilot project would give Oregon's State and local governments more flexibility in responding to the specific problems faced in the communities of the State in exchange for greater accountability, in the form of performance measures.

Madam President, my State has learned that current Federal programs create disincentives for State and local government to work to prevent human service problems. State and local governments receive billions of Federal dollars to subsidize human service programs, but these governments are penalized—because they lose these Federal funds—if they spend money on programs that prevent people from needing human service payments in the first place. Additionally, federally supported programs at the State and local level tend to be too rule-driven. Millions of dollars end up mired in regulatory process instead of being available for services to people.

The Oregon Option proposal elevates the traditional debate about intergovernmental relations to a new level. This proposal is not about finding more Federal funding for State and local programs; it is also not merely a request for more waivers of Federal regulations. Instead, this proposal recognizes that the current relationship among our governments has focused on procedure and compliance rather than on whether we are serving the citizens of our Nation.

Madam President, I believe the Oregon Option builds on the greatest strengths of Federal, State, and local government. The Federal Government plays a very important role in setting national goals and protecting our Nation's most needy people. However, one of the things I have learned over my career is that States and local governments are better at knowing how to create programs to meet these goals in ways that fit the State or community. State and local governments are the innovators. By using the performance-based and measurable benchmarks, the Oregon Option creates a good balance between protecting the intent and goals of Federal policy and allowing States and local governments the freedom to find appropriate solutions to community problems.

Madam President, the work on this project is just beginning, and the 100 officials who meet in Portland are very committed to this project. At the conclusion of this 3-day meeting, the Federal, State and local participants selected five benchmarks as the starting point for exploring this new intergovernmental relationship, and task forces have formed to begin to outline the important goals and barriers in achieving these benchmarks. I look forward to working with them and with my colleagues in the Senate as this project moves forward.•

SENATE RESOLUTION 272—AUTHORIZING THE TAKING OF A PHOTOGRAPH IN THE CHAMBER OF THE UNITED STATES SENATE

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution, which was considered and agreed to:

S. RES. 272

Resolved, That paragraph 1 of Rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting an official photograph to be taken of the United States Senate in actual session on a date and time to be announced by the Majority Leader after consultation with the Republican Leader.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements therefor, which arrangements shall provide for a minimum of disruption of the Senate proceedings.

AMENDMENTS SUBMITTED

DISTRICT OF COLUMBIA APPROPRIATIONS ACT FOR FISCAL YEAR 1995

COHEN (AND OTHERS) AMENDMENT NO. 2594

Mr. COHEN (for himself, Mr. DOLE, Mr. DOMENICI, Mr. BURNS, and Mr. SASSER) proposed an amendment—House amendment to the Senate amendment No. 6—to the bill (H.R. 4649) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said district for the fiscal year ending September 30, 1995, and for other purposes; as follows:

At the appropriate place, insert the following new subtitle:

Subtitle ___—Enhanced Penalties for Health Care Fraud

PART 1—ALL-PAYER FRAUD AND ABUSE CONTROL PROGRAM

SEC. ___01. ALL-PAYER FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—Not later than January 1, 1995, the Secretary of Health and Human Services (in this subtitle referred to as the "Secretary"), acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to the delivery of and payment for health care in the United States,

(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B of the Social Security Act and other statutes applicable to health care fraud and abuse, and

(D) to provide for the modification and establishment of safe harbors and to issue interpretative rulings and special fraud alerts pursuant to section ___03.

(2) COORDINATION WITH HEALTH PLANS.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

(3) REGULATIONS.—

(A) IN GENERAL.—The Secretary and the Attorney General shall by regulation establish standards to carry out the program under paragraph (1).

(B) INFORMATION STANDARDS.—

(i) IN GENERAL.—Such standards shall include standards relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

(ii) CONFIDENTIALITY.—Such standards shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) of the Social Security Act (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section, in the same manner as such section applies to information provided to organizations with a contract under subtitle B of title V of this Act, with respect to the performance of such a contract.

(C) DISCLOSURE OF OWNERSHIP INFORMATION.—

(i) IN GENERAL.—Such standards shall include standards relating to the disclosure of ownership information described in clause (ii) by any entity providing health care services and items.

(ii) OWNERSHIP INFORMATION DESCRIBED.—The ownership information described in this clause includes—

(I) a description of such items and services provided by such entity;

(II) the names and unique physician identification numbers of all physicians with a financial relationship (as defined in section 1877(a)(2) of the Social Security Act) with such entity;

(III) the names of all other individuals with such an ownership or investment interest in such entity; and

(IV) any other ownership and related information required to be disclosed by such entity under section 1124 or section 1124A of the Social Security Act, except that the Secretary shall establish procedures under which the information required to be submitted under this subclause will be reduced with respect to health care provider entities that the Secretary determines will be unduly burdened if such entities are required to comply fully with this subclause.

(4) AUTHORIZATION OF APPROPRIATIONS FOR INVESTIGATORS AND OTHER PERSONNEL.—In addition to any other amounts authorized to be appropriated to the Secretary and the Attorney General for health care anti-fraud and abuse activities for a fiscal year, there are authorized to be appropriated additional amounts as may be necessary to enable the Secretary and the Attorney General to conduct investigations and audits of allegations of health care fraud and abuse and otherwise carry out the program established under paragraph (1) in a fiscal year.

(5) ENSURING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of Health and Human Services is authorized to exercise the authority described in paragraphs (4) and (5) of section 6 of the Inspector General Act of 1978 (relating to subpoenas and administration of oaths) with respect to the activities under the all-payer fraud and abuse control program established under this subsection to the same extent as such Inspector General may exercise such authorities to perform the functions assigned by such Act.

(6) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978.

(7) HEALTH PLAN DEFINED.—For the purposes of this subsection, the term "health plan" shall have the meaning given such term in section 1128(i) of the Social Security Act.

(b) HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There is hereby established an account to be known as the "Health Care Fraud and Abuse Control Account" (in this section referred to as the "Anti-Fraud Account"). The Anti-Fraud Account shall consist of—

(i) such gifts and bequests as may be made as provided in subparagraph (B);

(ii) such amounts as may be deposited in the Anti-Fraud Account as provided in subsection (a)(4), sections ___41(b) and ___42(b), and title XI of the Social Security Act; and

(iii) such amounts as are transferred to the Anti-Fraud Account under subparagraph (C).

(B) AUTHORIZATION TO ACCEPT GIFTS.—The Anti-Fraud Account is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Anti-Fraud Account, for the benefit of the Anti-Fraud Account or any activity financed through the Anti-Fraud Account.

(C) TRANSFER OF AMOUNTS.—

(i) IN GENERAL.—The Secretary of the Treasury shall transfer to the Anti-Fraud Account an amount equal to the sum of the following:

(I) Criminal fines imposed in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

(ii) Administrative penalties and assessments imposed under titles XI, XVIII, and XIX of the Social Security Act (except as otherwise provided by law).

(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

(iv) Penalties and damages imposed under the False Claims Act (31 U.S.C. 3729 et seq.), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator or for restitution).

(2) USE OF FUNDS.—

(A) IN GENERAL.—Amounts in the Anti-Fraud Account shall be available without appropriation and until expended as determined jointly by the Secretary and the Attorney General of the United States in carrying out the health care fraud and abuse control program established under subsection (a) (including the administration of the program), and may be used to cover costs incurred in operating the program, including costs (including equipment, salaries and benefits, and travel and training) of—

(i) prosecuting health care matters (through criminal, civil, and administrative proceedings);

(ii) investigations;

(iii) financial and performance audits of health care programs and operations;

(iv) inspections and other evaluations; and

(v) provider and consumer education regarding compliance with the provisions of this subtitle.

(B) FUNDS USED TO SUPPLEMENT AGENCY APPROPRIATIONS.—It is intended that disbursements made from the Anti-Fraud Account to any Federal agency be used to increase and not supplant the recipient agency's appropriated operating budget.

(3) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed by the Anti-Fraud Account in each fiscal year.

(4) USE OF FUNDS BY INSPECTOR GENERAL.—

(A) REIMBURSEMENTS FOR INVESTIGATIONS.—The Inspector General is authorized to receive and retain for current use reimbursement for the costs of conducting investigations, when such restitution is ordered by a court, voluntarily agreed to by the payer, or otherwise.

(B) CREDITING.—Funds received by the Inspector General as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of their deposit.

SEC. ___02. APPLICATION OF FEDERAL HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO ALL FRAUD AND ABUSE AGAINST ANY HEALTH PLAN.

(a) CRIMES.—

(1) SOCIAL SECURITY ACT.—Section 1128B of the Social Security Act (42 U.S.C. 1320a–7b) is amended as follows:

(A) In the heading, by adding at the end the following: "OR HEALTH PLANS".

(B) In subsection (a)(1)—

(i) by striking "title XVIII or" and inserting "title XVIII,", and

(ii) by adding at the end the following: "or a health plan (as defined in section 1128(i)),".

(C) In subsection (a)(5), by striking "title XVIII or a State health care program" and inserting "title XVIII, a State health care program, or a health plan".

(D) In the second sentence of subsection (a)—

(i) by inserting after "title XIX" the following: "or a health plan", and

(ii) by inserting after "the State" the following: "or the plan".

(E) In subsection (b)(1), by striking "title XVIII or a State health care program" each place it appears and inserting "title XVIII, a State health care program, or a health plan".

(F) In subsection (b)(2), by striking "title XVIII or a State health care program" each place it appears and inserting "title XVIII, a State health care program, or a health plan".

(G) In subsection (b)(3), by striking "title XVIII or a State health care program" each place it appears in subparagraphs (A) and (C) and inserting "title XVIII, a State health care program, or a health plan".

(H) In subsection (d)(2)—

(i) by striking "title XIX," and inserting "title XIX or under a health plan,", and

(ii) by striking "State plan," and inserting "State plan or the health plan,".

(2) IDENTIFICATION OF COMMUNITY SERVICE OPPORTUNITIES.—Section 1128B of such Act

(42 U.S.C. 1320a-7b) is further amended by adding at the end the following new subsection:

"(f) The Secretary may—

"(1) in consultation with State and local health care officials, identify opportunities for the satisfaction of community service obligations that a court may impose upon the conviction of an offense under this section, and

"(2) make information concerning such opportunities available to Federal and State law enforcement officers and State and local health care officials.".

(b) HEALTH PLAN DEFINED.—Section 1128 of the Social Security Act (42 U.S.C. 1320a-7) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) HEALTH PLAN DEFINED.—For purposes of sections 1128A and 1128B, the term 'health plan' means a public or private program for the delivery of or payment for health care items or services.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1995.

SEC. ___03. HEALTH CARE FRAUD AND ABUSE GUIDANCE.

(a) SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.—

(1) IN GENERAL.—

(A) SOLICITATION OF PROPOSALS FOR SAFE HARBORS.—Not later than January 1, 1995, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 U.S.C. 1320a-7b note);

(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) of the Social Security Act the (42 U.S.C. 1320a-7b(b)) and shall not serve as the basis for an exclusion under section 1128(b)(7) of such Act (42 U.S.C. 1320a-7(b)(7));

(iii) interpretive rulings to be issued pursuant to subsection (b); and

(iv) special fraud alerts to be issued pursuant to subsection (c).

(B) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL STATE HARBORS.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

(C) REPORT.—The Inspector General of the Department of Health and Human Services (hereafter in this section referred to as the "Inspector General") shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

(2) CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

(A) An increase or decrease in access to health care services.

(B) An increase or decrease in the quality of health care services.

(C) An increase or decrease in patient freedom of choice among health care providers.

(D) An increase or decrease in competition among health care providers.

(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

(F) An increase or decrease in the cost to Government health care programs.

(G) An increase or decrease in the potential overutilization of health care services.

(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions of—

(i) whether to order a health care item or service; or

(ii) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in Government health care programs.

(b) INTERPRETIVE RULINGS.—

(1) IN GENERAL.—

(A) REQUEST FOR INTERPRETIVE RULING.—Any person may present, at any time, a request to the Inspector General for a statement of the Inspector General's current interpretation of the meaning of a specific aspect of the application of sections 1128A and 1128B of the Social Security Act (hereafter in this section referred to as an "interpretive ruling").

(B) ISSUANCE AND EFFECT OF INTERPRETIVE RULING.—

(i) IN GENERAL.—If appropriate, the Inspector General shall in consultation with the Attorney General, issue an interpretive ruling in response to a request described in subparagraph (A). Interpretive rulings shall not have the force of law and shall be treated as an interpretive rule within the meaning of section 553(b) of title 5, United States Code. All interpretive rulings issued pursuant to this provision shall be published in the Federal Register or otherwise made available for public inspection.

(ii) REASONS FOR DENIAL.—If the Inspector General does not issue an interpretive ruling in response to a request described in subparagraph (A), the Inspector General shall notify the requesting party of such decision and shall identify the reasons for such decision.

(2) CRITERIA FOR INTERPRETIVE RULINGS.—

(A) IN GENERAL.—In determining whether to issue an interpretive ruling under paragraph (1)(B), the Inspector General may consider—

(i) whether and to what extent the request identifies an ambiguity within the language of the statute, the existing safe harbors, or previous interpretive rulings; and

(ii) whether the subject of the requested interpretive ruling can be adequately addressed by interpretation of the language of the statute, the existing safe harbor rules, or previous interpretive rulings, or whether the request would require a substantive ruling not authorized under this subsection.

(B) NO RULINGS ON FACTUAL ISSUES.—The Inspector General shall not give an interpretive ruling on any factual issue, including the intent of the parties or the fair market value of particular leased space or equipment.

(c) SPECIAL FRAUD ALERTS.—

(1) IN GENERAL.—

(A) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under section 1128B(b) of the Social Security Act (42 U.S.C. 1320a-7b(b)) (hereafter in this subsection referred to as a "special fraud alert").

(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Inspector General shall in consultation with the Attorney General, issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

(2) CRITERIA FOR SPECIAL FRAUD ALERTS.—In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

(A) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

(B) the volume and frequency of the conduct that would be identified in the special fraud alert.

SEC. ___04. REPORTING OF FRAUDULENT ACTIONS UNDER MEDICARE.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish a program through which individuals entitled to benefits under the medicare program may report to the Secretary on a confidential basis (at the individual's request) instances of suspected fraudulent actions arising under the program by providers of items and services under the program.

PART 2—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

SEC. ___11. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) INDIVIDUAL CONVICTED OF FELONY RELATING TO FRAUD.—

(1) IN GENERAL.—Section 1128(a) of the Social Security Act (42 U.S.C. 1320a-7(a)) is amended by adding at the end the following new paragraph:

"(3) FELONY CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Health Reform Act, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(1) of such Act (42 U.S.C. 1320a-7(b)(1)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

(b) Individual Convicted of Felony Relating to Controlled Substance.—

(1) In general.—Section 1128(a) of the Social Security Act (42 U.S.C. 1320a–7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) Felony conviction relating to controlled substance.—Any individual or entity that has been convicted after the date of the enactment of the Health Reform Act, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.".

(2) Conforming amendment.—Section 1128(b)(3) of such Act (42 U.S.C. 1320a–7(b)(3)) is amended—

(A) in the heading, by striking "Conviction" and inserting "Misdemeanor conviction"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

SEC. ___12. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) of the Social Security Act (42 U.S.C. 1320a–7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

SEC. ___13. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) of the Social Security Act (42 U.S.C. 1320a–7(b)) is amended by adding at the end the following new paragraph:

"(15) Individuals controlling a sanctioned entity.—Any individual who has a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of, an entity—

"(A) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection;

"(B) against which a civil monetary penalty has been assessed under section 1128A; or

"(C) that has been excluded from participation under a program under title XVIII or under a State health care program.".

SEC. ___14. ACTIONS SUBJECT TO CRIMINAL PENALTIES.

(a) Restriction on Application of Exception for Amounts Paid to Employees.—Section 1128B(b)(3)(B) of the Social Security Act (42 U.S.C. 1320a–7b(b)(3)(B)) is amended by striking "services;" and inserting the following: "services, but only if the amount of remuneration under the arrangement is (i) consistent with fair market value; (ii) not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals of patients directly contacted by the employee to the employer for the furnishing (or arranging for the furnishing) of such items or services; and (iii) provided pursuant to an arrangement that would be commercially reasonable even if no such referrals were made;".

(b) New Exception for Capitated Payments.—Section 1128B(b)(3) of the Social Security Act (42 U.S.C. 1320a–7b(b)(3)) is amended—

(A) by striking "and" at the end of subparagraph (D);

(B) by striking the period at the end of subparagraph (E) and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

"(F) any reduction in cost sharing or increased benefits given to an individual, any amounts paid to a provider for an item or service furnished to an individual, or any discount or reduction in price given by the provider for such an item or service, if the individual is enrolled with and such item or service is covered under any of the following:

"(i) A health plan which is furnishing items or services under a risk-sharing contract under section 1876 or section 1903(m).

"(ii) A health plan receiving payments on a prepaid basis, under a demonstration project under section 402(a) of the Social Security Amendments of 1967 or under section 222(a) of the Social Security Amendments of 1972;

"(G) any amounts paid to a provider for an item or service furnished to an individual or any discount or reduction in price given by the provider for such an item or service, if the individual is enrolled with and such item or service is covered under a health plan under which the provider furnishing the item or service is paid by the health plan for furnishing the item or service only on a capitated basis pursuant to a written arrangement between the plan and the provider in which the provider assumes financial risk for furnishing the item or service;

"(H) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all third party payors to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary; and

"(I) remuneration given to individuals to promote the delivery of preventive care in compliance with regulations promulgated by the Secretary.".

SEC. ___15. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) Minimum Period of Exclusion for Practitioners and Persons Failing To Meet Statutory Obligations.—

(1) In general.—The second sentence of section 1156(b)(1) of the Social Security Act (42 U.S.C. 1320c–5(b)(1)) is amended by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than 1 year)".

(2) Conforming amendment.—Section 1156(b)(2) of such Act (42 U.S.C. 1320c–5(b)(2)) is amended by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain".

(b) Repeal of "Unwilling or Unable" Condition for Imposition of Sanction.—Section 1156(b)(1) of the Social Security Act (42 U.S.C. 1320c–5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations,"; and

(2) by striking the third sentence.

SEC. ___16. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) Application of Intermediate Sanctions for Any Program Violations.—

(1) In general.—Section 1876(i)(1) of the Social Security Act (42 U.S.C. 1395mm(i)(1)) is amended by striking "the Secretary may terminate" and all that follows and inserting the following: "in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section; or

"(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).".

(2) Other intermediate sanctions for miscellaneous program violations.—Section 1876(i)(6) of such Act (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

"(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.".

(3) Procedures for imposing sanctions.—Section 1876(i) of such Act (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary provides the organization with the opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1);

"(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an entity has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to their attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(4) Conforming amendments.—Section 1876(i)(6)(B) of such Act (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) Agreements With Peer Review Organizations.—

(1) Requirement for written agreement.—Section 1876(i)(7)(A) of the Social Security Act (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking "an agreement" and inserting "a written agreement".

(2) Development of model agreement.—Not later than July 1, 1995, the Secretary shall develop a model of the agreement that an eligible organization with a risk-sharing contract under section 1876 of the Social Security Act must enter into with an entity providing peer review services with respect to services provided by the organization under section 1876(i)(7)(A) of such Act.

(3) Report by GAO.—

(A) Study.—The Comptroller General of the United States shall conduct a study of the costs incurred by eligible organizations with risk-sharing contracts under section 1876(b) of such Act of complying with the requirement of entering into a written agreement with an entity providing peer review services with respect to services provided by the organization, together with an analysis of how information generated by such entities is used by the Secretary to assess the quality of services provided by such eligible organizations.

(B) Report to congress.—Not later than July 1, 1997, the Comptroller General shall submit a report to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance and the Special Committee on Aging of the Senate on the study conducted under subparagraph (A).

(c) Effective Date.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1995.

SEC. ___17. EFFECTIVE DATE.

The amendments made by this part shall take effect January 1, 1995.

PART 3—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SEC. ___21. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) General Purpose.—Not later than January 1, 1995, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c).

(b) Reporting of Information.—

(1) In general.—Each government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken against a health care provider, supplier, or practitioner.

(2) Information to be reported.—The information to be reported under paragraph (1) includes:

(A) The name of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.

(C) The nature of the final adverse action.

(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

(3) Confidentiality.—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

(4) Timing and form of reporting.—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

(5) To whom reported.—The information required to be reported under this subsection shall be reported to the Secretary.

(c) Disclosure and Correction of Information.—

(1) Disclosure.—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section respecting a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

(B) procedures in the case of disputed accuracy of the information.

(2) Corrections.—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

(d) Access to Reported Information.—

(1) Availability.—The information in this database shall be available to Federal and State government agencies and health plans pursuant to procedures that the Secretary shall provide by regulation.

(2) Fees for disclosure.—The Secretary may establish or approve reasonable fees for the disclosure of information in this database. The amount of such a fee may not exceed the costs of processing the requests for disclosure and of providing such information. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

(e) Protection From Liability for Reporting.—No person or entity, including the agency designated by the Secretary in subsection (b)(5) shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

(f) Definitions and Special Rules.—For purposes of this section:

(1) The term "final adverse action" includes:

(A) Civil judgments against a health care provider in Federal or State court related to the delivery of a health care item or service.

(B) Federal or State criminal convictions related to the delivery of a health care item or service.

(C) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—

(i) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

(ii) any other loss of license of the provider, supplier, or practitioner, by operation of law, or

(iii) any other negative action or finding by such Federal or State agency that is publicly available information.

(D) Exclusion from participation in Federal or State health care programs.

(E) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

(2) The terms "licensed health care practitioner", "licensed practitioner", and "practitioner" mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

(3) The term "health care provider" means a provider of services as defined in section 1861(u) of the Social Security Act, and any entity, including a health maintenance organization, group medical practice, or any other entity listed by the Secretary in regulation, that provides health care services.

(4) The term "supplier" means a supplier of health care items and services described in section 1819(a) and (b), and section 1861 of the Social Security Act.

(5) The term "Government agency" shall include:

(A) The Department of Justice.

(B) The Department of Health and Human Services.

(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

(D) State law enforcement agencies.

(E) State medicaid fraud and abuse units.

(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

(6) The term "health plan" has the meaning given to such term by section 1128(i) of the Social Security Act.

(7) For purposes of paragraph (2), the existence of a conviction shall be determined under paragraph (4) of section 1128(j) of the Social Security Act.

(g) Conforming Amendment.—Section 1921(d) of the Social Security Act is amended by inserting "and section ___21 of subtitle ___ of the District of Columbia appropriations, 1995" after "section 422 of the Health Care Quality Improvement Act of 1986".

PART 4—CIVIL MONETARY PENALTIES

SEC. ___31. CIVIL MONETARY PENALTIES.

(a) General Civil Monetary Penalties.—Section 1128A of the Social Security Act (42 U.S.C. 1320a–7a) is amended as follows:

(1) In subsection (a)(1), by inserting "or of any health plan (as defined in section 1128(i))," after "subsection (i)(1)),".

(2) In subsection (b)(1)(A), by inserting "or under a health plan" after "title XIX".

(3) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraphs:

"(3) With respect to amounts recovered arising out of a claim under a health plan, the portion of such amounts as is determined to have been paid by the plan shall be repaid to the plan, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by Subtitle ____ of the District of Colmubia appropriations, 1995 (as estimated by the Secretary) shall be deposited into the Health Care Fraud and Abuse Control Account established under section ____01(b) of such Act.".

(4) In subsection (i)—

(A) in paragraph (2), by inserting "or under a health plan" before the period at the end, and

(B) in paragraph (5), by inserting "or under a health plan" after "or XX".

(b) Prohibition Against Offering Inducements to Individuals Enrolled Under Programs or Plans.—

(1) Offer of remuneration.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a–7a(a)) is amended—

(A) by striking "or" at the end of paragraph (1)(D);

(B) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(C) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(D) by inserting after paragraph (3) the following new paragraph:

"(4) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program;".

(2) Remuneration defined.—Section 1128A(i) of such Act (42 U.S.C. 1320a–7a(i)) is amended by adding the following new paragraph:

"(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include—

"(A) the waiver of coinsurance and deductible amounts by a person, if—

"(i) the waiver is not offered as part of any advertisement or solicitation;

"(ii) the person does not routinely waive coinsurance or deductible amounts; and

"(iii) the person—

"(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

"(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

"(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

"(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all third party payors to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary; or

"(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations.".

(c) Excluded Individual Retaining Ownership or Control Interest in Participating Entity.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a–7a(a)), as amended by subsection (b), is further amended—

(1) by striking "or" at the end of paragraph (3);

(2) by striking the semicolon at the end of paragraph (4) and inserting "; or"; and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection, retains a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of, an entity that is participating in a program under title XVIII or a State health care program;".

(d) Modifications of Amounts of Penalties and Assessments.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a–7a(a)), as amended by subsections (b) and (c), is amended in the matter following paragraph (6)—

(1) by striking "$2,000" and inserting "$10,000";

(2) by inserting "; in cases under paragraph (4), $10,000 for each such offer or transfer; in cases under paragraph (5), $10,000 for each day the prohibited relationship occurs; in cases under paragraph (6) or (7), $10,000 per violation" after "false or misleading information was given";

(3) by striking "twice the amount" and inserting "3 times the amount"; and

(4) by inserting "(or, in cases under paragraph (4), 3 times the amount of the illegal remuneration)" after "for each such item or service".

(e) Claim for Item or Service Based on Incorrect Coding or Medically Unnecessary Services.—Section 1128A(a)(1) of the Social Security Act (42 U.S.C. 1320a–7a(a)(1)) is amended—

(1) in subparagraph (A) by striking "claimed," and inserting the following: "claimed, including any person who repeatedly presents or causes to be presented a claim for an item or service that is based on a code that the person knows or should know will result in a greater payment to the person than the code the person knows or should know is applicable to the item or service actually provided,";

(2) in subparagraph (C), by striking "or" at the end;

(3) in subparagraph (D), by striking "; or" and inserting ", or"; and

(4) by inserting after subparagraph (D) the following new subparagraph:

"(E) is for a medical or other item or service that a person repeatedly knows or should know is not medically necessary; or".

(f) Permitting Secretary To Impose Civil Monetary Penalty.—Section 1128A(b) of the Social Security Act (42 U.S.C. 1320a–7a(a)) is amended by adding the following new paragraph:

"(3) Any person (including any organization, agency, or other entity, but excluding a beneficiary as defined in subsection (i)(5)) who the Secretary determines has violated section 1128B(b) of this title shall be subject to a civil monetary penalty of not more than $10,000 for each such violation. In addition, such person shall be subject to an assessment of not more than twice the total amount of the remuneration offered, paid, solicited, or received in violation of section 1128B(b). The total amount of remuneration subject to an assessment shall be calculated without regard to whether some portion thereof also may have been intended to serve a purpose other than one proscribed by section 1128B(b).".

(g) Sanctions Against Practitioners and Persons for Failure to Comply with Statutory Obligations.—Section 1156(b)(3) of the Social Security Act (42 U.S.C. 1320c–5(b)(3)) is amended by striking "the actual or estimated cost" and inserting the following: "up to $10,000 for each instance".

(h) Procedural Provisions.—Section 1876(i)(6) of such Act (42 U.S.C. 1395mm(i)(6)) is further amended by adding at the end the following new subparagraph:

"(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (A) or (B) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).".

(i) Effective Date.—The amendments made by this section shall take effect January 1, 1995.

PART 5—AMENDMENTS TO CRIMINAL LAW

SEC. ____41. HEALTH CARE FRAUD.

(a) In General.—

(1) Fines and imprisonment for health care fraud violations.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1347. Health care fraud

"(a) Whoever knowingly executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services;

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365(g)(3) of this title), such person shall be imprisoned for any term of years.

"(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 1128(i) of the Social Security Act.".

(2) Clerical amendment.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud.".

(b) Criminal Fines Deposited in the Health Care Fraud and Abuse Control Account.—The Secretary of the Treasury shall deposit into the Health Care Fraud and Abuse Control Account established under section ____01(b) an amount equal to the criminal fines imposed under section 1347 of title 18, United States Code (relating to health care fraud).

SEC. ____42. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

(a) In General.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

"(6)(A) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that—

"(i) is used in the commission of the offense if the offense results in a financial loss or gain of $50,000 or more; or

"(ii) constitutes or is derived from proceeds traceable to the commission of the offense.

"(B) For purposes of this paragraph, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

"(i) section 1347 of this title;

"(ii) section 1128B of the Social Security Act;

"(iii) sections 287, 371, 664, 666, 1001, 1027, 1341, 1343, or 1954 of this title if the violation or conspiracy relates to health care fraud; and

"(iv) section 501 or 511 of the Employee Retirement Income Security Act of 1974, if the violation or conspiracy relates to health care fraud.".

(b) PROPERTY FORFEITED DEPOSITED IN HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—The Secretary of the Treasury shall deposit into the Health Care Fraud and Abuse Control Account established under section ___01(b) an amount equal to amounts resulting from forfeiture of property by reason of a Federal health care offense pursuant to section 982(a)(6) of title 18, United States Code.

SEC. ___43. INJUNCTIVE RELIEF RELATING TO FEDERAL HEALTH CARE OFFENSES.

Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by inserting "or" at the end of subparagraph (B); and

(3) by adding at the end the following:

"(C) committing or about to commit a Federal health care offense (as defined in section 982(a)(6)(B) of this title);".

PART 6—PAYMENTS FOR STATE HEALTH CARE FRAUD CONTROL UNITS

SEC. ___51. ESTABLISHMENT OF STATE FRAUD UNITS.

(a) ESTABLISHMENT OF HEALTH CARE FRAUD AND ABUSE CONTROL UNIT.—The Governor of each State shall, consistent with State law, establish and maintain in accordance with subsection (b) a State agency to act as a Health Care Fraud and Abuse Control Unit for purposes of this part.

(b) DEFINITION.—In this section, a "State Fraud Unit" means a Health Care Fraud and Abuse Control Unit designated under subsection (a) that the Secretary certifies meets the requirements of this part.

SEC. ___52. REQUIREMENTS FOR STATE FRAUD UNITS.

(a) IN GENERAL.—The State Fraud Unit must—

(1) be a single identifiable entity of the State government;

(2) be separate and distinct from any State agency with principal responsibility for the administration of any Federally-funded or mandated health care program;

(3) meet the other requirements of this section.

(b) SPECIFIC REQUIREMENTS DESCRIBED.—The State Fraud Unit shall—

(1) be a Unit of the office of the State Attorney General or of another department of State government which possesses statewide authority to prosecute individuals for criminal violations;

(2) if it is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority and has formal procedures, (A) assure its referral of suspected criminal violations to the appropriate authority or authorities in the State for prosecution, and (B) assure its assistance of, and coordination with, such authority or authorities in such prosecutions; or

(3) have a formal working relationship with the office of the State Attorney General or the appropriate authority or authorities for prosecution and have formal procedures (including procedures for its referral of suspected criminal violations to such office) which provide effective coordination of activities between the Fraud Unit and such office with respect to the detection, investigation, and prosecution of suspected criminal violations relating to any Federally-funded or mandated health care programs.

(c) STAFFING REQUIREMENTS.—The State Fraud Unit shall—

(1) employ attorneys, auditors, investigators and other necessary personnel; and

(2) be organized in such a manner and provide sufficient resources as is necessary to promote the effective and efficient conduct of State Fraud Unit activities.

(d) COOPERATIVE AGREEMENTS; MEMORANDA OF UNDERSTANDING.—The State Fraud Unit shall have cooperative agreements with—

(1) Federally-funded or mandated health care programs;

(2) similar Fraud Units in other States, as exemplified through membership and participation in the National Association of Medicaid Fraud Control Units or its successor; and

(3) the Secretary.

(e) REPORTS.—The State Fraud Unit shall submit to the Secretary an application and an annual report containing such information as the Secretary determines to be necessary to determine whether the State Fraud Unit meets the requirements of this section.

(f) FUNDING SOURCE; PARTICIPATION IN ALL-PAYER PROGRAM.—In addition to those sums expended by a State under section ___54(a) for purposes of determining the amount of the Secretary's payments, a State Fraud Unit may receive funding for its activities from other sources, the identity of which shall be reported to the Secretary in its application or annual report. The State Fraud Unit shall participate in the all-payer fraud and abuse control program established under section ___01.

SEC. ___53. SCOPE AND PURPOSE.

The State Fraud Unit shall carry out the following activities:

(1) The State Fraud Unit shall conduct a statewide program for the investigation and prosecution (or referring for prosecution) of violations of all applicable state laws regarding any and all aspects of fraud in connection with any aspect of the administration and provision of health care services and activities of providers of such services under any Federally-funded or mandated health care programs;

(2) The State Fraud Unit shall have procedures for reviewing complaints of the abuse or neglect of patients of facilities (including patients in residential facilities and home health care programs) that receive payments under any Federally-funded or mandated health care programs, and, where appropriate, to investigate and prosecute such complaints under the criminal laws of the State or for referring the complaints to other State agencies for action.

(3) The State Fraud Unit shall provide for the collection, or referral for collection to the appropriate agency, of overpayments that are made under any Federally-funded or mandated health care program and that are discovered by the State Fraud Unit in carrying out its activities.

SEC. ___54. PAYMENTS TO STATES.

(a) MATCHING PAYMENTS TO STATES.—Subject to subsection (c), for each year for which a State has a State Fraud Unit approved under section ___52(b) in operation the Secretary shall provide for a payment to the State for each quarter in a fiscal year in an amount equal to the applicable percentage of the sums expended during the quarter by the State Fraud Unit.

(b) APPLICABLE PERCENTAGE DEFINED.—

(1) IN GENERAL.—In subsection (a), the "applicable percentage" with respect to a State for a fiscal year is—

(A) 90 percent, for quarters occurring during the first 3 years for which the State Fraud Unit is in operation; or

(B) 75 percent, for any other quarters.

(2) TREATMENT OF STATES WITH MEDICAID FRAUD CONTROL UNITS.—In the case of a State with a State medicaid fraud control in operation prior to or as of the date of the enactment of this Act, in determining the number of years for which the State Fraud Unit under this part has been in operation, there shall be included the number of years for which such State medicaid fraud control unit was in operation.

(c) LIMIT ON PAYMENT.—Notwithstanding subsection (a), the total amount of payments made to a State under this section for a fiscal year may not exceed the amounts as authorized pursuant to section 1903(b)(3) of the Social Security Act.

WOFFORD (AND LAUTENBERG) AMENDMENT NO. 2595

Mr. WOFFORD (for himself and Mr. LAUTENBERG) proposed an amendment to amendment No. 2594 proposed by Mr. COHEN to the bill H.R. 4649, supra; as follows:

At the end of the pending amendment, add the following new section:

SEC. . DISQUALIFICATION OF MEMBERS OF CONGRESS FROM PARTICIPATING IN THE FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAM.

(a) FINDINGS.—The Congress finds that—

(1) the Congress has failed to enact legislation that extends health insurance to all Americans and reduces inflation in health care costs;

(2) Members of Congress may obtain health insurance through the Federal Employees Health Benefits Program, which provides Members of Congress with guaranteed and affordable private health insurance, choice of health plans and choice of doctor, and no exclusions for preexisting medical conditions; and

(3) Members of Congress currently receive on average a 72 percent contribution of their health insurance premiums from their employer, the taxpayers.

(b) PURPOSE.—The purpose of this section is to provide that Members of Congress shall not obtain taxpayer-financed health insurance under the favorable conditions established through the Federal Employees Health Benefits Program unless Congress enacts health reform legislation that gives the American people the type of affordable, guaranteed health insurance that Members of Congress have provided for themselves.

(c) LIMITATION ON FEDERAL EMPLOYEE HEALTH BENEFITS PLAN COVERAGE FOR MEMBERS OF CONGRESS.—Effective on January 1, 1995.—

(1) the Office of Personnel Management shall—

(A) terminate the enrollment of any Member of Congress in a health benefits plan under chapter 89 of title 5, United States Code; and

(B) prohibit the original enrollment, re-enrollment, or change of enrollment of any Member of Congress in such a plan; and

(2) the Secretary of the Senate and the Clerk of the House of Representatives shall cease making applicable employee withholdings and Government contributions under section 8906 of title 5, United States Code, for any Member of Congress.

(d) CONTINUED COVERAGE.—A Member of Congress who is enrolled in a health benefits plan under chapter 89 of title 5, United States Code, on December 31, 1994, may receive continued coverage under section 8905a of such title.

DOMENICI AMENDMENT NO. 2596

Mr. DOMENICI proposed an amendment to the House amendment to the Senate amendment No. 12 to the bill H.R. 4649, supra; as follows:

In the pending amendment, strike "and agency funds;" and insert the following:

DIVISION 2—CONGRESSIONAL REFORM

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Legislative Reorganization Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Rulemaking power of Senate and House of Representatives.

TITLE I—REFORM OF THE SENATE

Sec. 101. Senate committee assignments.
Sec. 102. Senate committee structure.
Sec. 103. Senate scheduling.
Sec. 104. Proxy votes.
Sec. 105. Senate committee attendance.
Sec. 106. Senate floor proceedings.
Sec. 107. Dedication of unexpended funds to deficit reduction.

TITLE II—REFORM OF THE HOUSE OF REPRESENTATIVES

TITLE III—REFORM OF THE CONGRESS

Subtitle A—Budget Process

PART I—BIENNIAL BUDGETING

Sec. 301. Revision of timetable.
Sec. 302. Amendments to the Congressional Budget and Impoundment Control Act of 1974.
Sec. 303. Amendments to title 31, United States Code.
Sec. 304. Two-year appropriations; title and style of appropriations Acts.
Sec. 305. Conforming amendments to rules of House of Representatives.
Sec. 306. Multiyear authorizations.

PART II—ADDITIONAL BUDGET PROCESS CHANGES

Sec. 311. CBO reports to budget committees.
Sec. 312. Byrd rule clarifications.
Sec. 313. GAO assistance with authorizations and oversight.

Subtitle B—Staffing; Administration; and Support Agencies

Sec. 331. Legislative branch streamlining and restructuring.
Sec. 332. Authorization of certain congressional instrumentalities.
Sec. 333. Detailees from congressional support agencies and executive agencies.

Subtitle C—Abolishing the Joint Committees

PART I—JOINT ECONOMIC COMMITTEE

Sec. 361. Joint Economic Committee.

PART II—JOINT COMMITTEE ON TAXATION

Sec. 362. Joint Committee on Taxation.

PART III—JOINT COMMITTEE ON THE LIBRARY OF CONGRESS

Sec. 363. Joint Committee on the Library of Congress.

PART IV—JOINT COMMITTEE ON PRINTING

Sec. 371. Joint Committee on Printing.
Sec. 372. Deputy Public Printers.
Sec. 373. Annual report to Congress.
Sec. 374. Superintendent of Documents.
Sec. 375. Requirement of printing by the Government Printing Office.
Sec. 376. Report on costs for printing by Federal agencies other than the Government Printing Office.
Sec. 377. Technical and conforming amendments.

Subtitle D—Legislative and Executive Relations

Sec. 381. Committee oversight goals and reports for Federal program review.
Sec. 382. Sunset agency reporting requirements.

TITLE IV—EFFECTIVE DATE

Sec. 401. Effective date; application.

SEC. 2. RULEMAKING POWER OF SENATE AND HOUSE OF REPRESENTATIVES.

The provisions of this Act (as applicable) are enacted by the Congress—

(1) insofar as applicable to the Senate, as an exercise of the rulemaking power of the Senate and, to the extent so applicable, those sections are deemed a part of the Standing Rules of the Senate, superseding other individual rules of the Senate only to the extent that those sections are inconsistent with those other individual Senate rules, subject to and with full recognition of the power of the Senate to enact or change any rule of the Senate at any time in its exercise of its constitutional right to determine the rules of its proceedings; and

(2) insofar as applicable to the House of Representatives, as an exercise of the rulemaking power of the House of Representatives, subject to and with full recognition of the power of the House of Representatives to enact or change any rule of the House at any time in its exercise of its constitutional right to determine the rules of its proceedings.

TITLE I—REFORM OF THE SENATE

SEC. 101. SENATE COMMITTEE ASSIGNMENTS.

Rule XXIV of the Standing Rules of the Senate is amended to read as follows:

"RULE XXIV

"APPOINTMENT OF COMMITTEES

"Appointments to standing committees and all other committees shall be made by the majority leader and the minority leader for each member of their respective parties. Such appointments shall be subject to any rules adopted by the respective party caucuses.".

SEC. 102. SENATE COMMITTEE STRUCTURE.

(a) COMMITTEE AND SUBCOMMITTEE ASSIGNMENTS.—Paragraphs 2, 3, and 4 of rule XXV of the Standing Rules of the Senate are amended to read as follows:

"2. (a) Except as otherwise provided by paragraph 4 of this rule, each of the following standing committees shall consist of the number of Senators set forth in the following table on the line on which the name of that committee appears:

"Committee:	Members
"Appropriations	
"Armed Services	
"Finance	
"Foreign Relations	

"(b) Except as otherwise provided by paragraph 4 of this rule, each of the following standing committees shall consist of the number of Senators set forth in the following table on the line on which the name of that committee appears:

"Committee:	Members
"Agriculture, Nutrition, and Forestry	
"Banking, Housing, and Urban Affairs	
"Commerce, Science, and Transportation	
"Energy and Natural Resources	
"Environment and Public Works	
"Governmental Affairs	
"Judiciary	
"Labor and Human Resources	

"(c) The committees listed in this paragraph (except for the Committee on Appropriations) shall not have more than 3 subcommittees.

"3. (a) Except as otherwise provided by paragraph 4 of this rule, each of the following standing committees shall consist of the number of Senators set forth in the following table on the line on which the name of that committee appears:

"Committee:	Members
"Aging	
"Budget	
"Indian Affairs	
"Rules and Administration	
"Small Business	
"Veterans' Affairs	

"(b) The following committee shall consist of the number of Senators set forth in the following table:

"Committee:	Members
"Ethics	
"Intelligence	

"(c) The committees listed in this paragraph shall not have more than 2 subcommittees.

"4. (a) Except as otherwise provided by this paragraph—

"(1) each Senator may serve on only one committee listed in paragraph 2(a) and only two committees listed in paragraph 2; and

"(2) each Senator may serve on only one committee listed in paragraph 3(a).

"(b)(1) Each Senator may serve on not more than two subcommittees of each committee (other than the Committee on Appropriations) listed in paragraph 2 of which he is a member.

"(2) Each Senator may serve on not more than one subcommittee of a committee listed in paragraph 3(a) of which he is a member.

"(3) Notwithstanding subparagraphs (1) and (2), a Senator serving as chairman or ranking minority member of a standing, select, or special committee of the Senate may serve ex officio, without vote, as a member of any subcommittee of such committee.

"(4) No committee of the Senate may establish any subunit of that committee other than a subcommittee, unless the Senate by resolution has given permission therefore.

"(c) By agreement entered into by the majority leader and the minority leader, the membership of one or more standing committees may be increased temporarily from time to time by such number or numbers as may be required to accord to the majority party a majority of the membership of all standing committees. When any such temporary increase is necessary to accord to the majority party a majority of the membership of all standing committees, members of the majority party in such number as may be required for that purpose may serve as members of three standing committees listed in paragraph 2. No such temporary increase in the membership of any standing committee under this subparagraph shall be continued in effect after the need therefore has ended. No standing committee may be increased in membership under this subparagraph by more than two members in excess of the number prescribed for that committee by paragraph 2 or 3(a).

"(d)(1) No Senator shall serve at any time as chairman of more than one standing, select, or special committee of the Senate.

"(2)(A) A Senator who is serving as the chairman of a committee listed in paragraph 2 or 3(a) may serve at any time as the chairman of only one subcommittee of all committees listed in paragraphs 2 and 3(a) of which he is a member.

"(B) Any Senator other than a Senator described in division (A) may serve as—

"(i) the chairman of only one subcommittee of each committee listed in paragraph 2 or 3(a), of which he is a member; and

"(ii) the chairman of only two subcommittees of the committees listed in paragraphs 2 and 3(a).

"(e) The provisions of this paragraph may only be waived by the Senate by a resolution designating the Senator or Senators receiving the waiver and adopted by an affirmative yea-and-nay vote of the Senators duly chosen and sworn. The resolution shall be offered by the majority leader with the approval of the minority leader. The resolution shall be privileged and no amendment thereto shall be in order. Debate on the resolution shall be limited to one hour, equally divided.".

(b) Abolition of Reduced Committees.—

(1) Notification.—The majority leader and the minority leader shall notify the chairman of the Committee on Rules and Administration not later than 30 days after the convening of a Congress if the number of majority and minority members of a committee of the Senate for such Congress each fall below 50 percent of the number of such members serving on the committee at the end of the 102d Congress.

(2) Resolution abolishing.—The Committee on Rules and Administration shall report to the Senate a resolution abolishing such committee not later than 30 days after receiving notice under paragraph (1). The Senate shall consider and act upon the resolution not later than 20 session days after the resolution is reported.

(3) Adjusting other committees.—If a committee is abolished by a resolution pursuant to paragraph (2), the majority leader and the minority leader may adjust the membership of other committees to provide for members of the abolished committee.

SEC. 103. SENATE SCHEDULING.

Paragraph 3 of rule XXVI of the Standing Rules of the Senate is amended to read as follows:

"3. (a)(1) The provisions of this subparagraph apply to the committees' meetings (including meetings to conduct hearings) held on Tuesday, Wednesday, or Thursday.

"(2) On Tuesdays, only those committees listed in paragraph 2(a) of rule XXV (except the Committee on Appropriations) shall meet for the transaction of business before the committee.

"(3) On Wednesdays, only those committees listed in paragraph 2(b) of rule XXV shall meet for the transaction of business before the committee.

"(4) On Thursdays, only those committees listed in paragraph 3(a) of rule XXV (except the Committee on the Budget) shall meet for the transaction of business before the committee.

"(5) Subcommittees of a full committee referred to in division (2), (3), or (4) may only meet on the day assigned to the full committee. Subcommittees may not meet when the full committee is meeting.

"(6) No committee of the Senate or any subcommittee thereof may meet, without special leave, on a day not designated for such committee or subcommittee under this subparagraph unless consent therefore has been obtained from the majority leader and the minority leader (or in the event of the absence of either of such leader, from the designee of the leaders). The majority leader or the designee of the majority leader shall announce to the Senate whenever consent has been given under this division and shall state the time and place of such meeting. The right to make such announcement of consent shall have the same priority as the filing of a cloture motion.

"(b) If at least three members of any committee desire that a special meeting of the committee be called by the chairman and subject to the provisions of subparagraph (a), those members may file in the offices of the committee their written request to the chairman for that special meeting. Immediately upon the filing of the request, the clerk of the committee shall notify the chairman of the filing of the request. If, within three calendar days after the filing of the request, the chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, a majority of the members of the committee may file in the offices of the committee their written notice that a special meeting of the committee will be held, specifying the date and hour of that special meeting. The committee shall meet on that date and hour. Immediately upon the filing of the notice, the clerk of the committee shall notify all members of the committee that such special meeting will be held and inform them of its date and hour. If the chairman of any such committee is not present at any regular, additional, or special meeting of the committee, the ranking member of the majority party on the committee who is present shall preside at that meeting.".

SEC. 104. PROXY VOTES.

The paragraph 7 of rule XXVI of the Standing Rules of the Senate is amended by adding at the end thereof the following:

"(d) Notwithstanding any other provision of this paragraph, no vote of any member of any committee may be cast by proxy unless the addition of the vote to the vote totals does not effect the result of the vote totals.".

SEC. 105. SENATE COMMITTEE ATTENDANCE.

Rule XXVI of the Standing Rules of the Senate is amended by adding at the end thereof the following:

"(14) The chairman of each committee of the Senate shall publish, in the Congressional Record, the committee attendance and voting records of each member of the committee on or before July 1 and December 31.".

SEC. 106. SENATE FLOOR PROCEEDINGS.

(a) Requirement of a Three-Fifths Vote To Overturn the Chair Post-Cloture.—The third undesignated paragraph of paragraph 2 of rule XXII of the Standing Rules of the Senate is amended by adding at the end thereof the following: "Appeals from the decision of the Presiding Officer shall require an affirmative vote of three-fifths of the Senators duly chosen and sworn—except on a measure or motion to amend the Senate rules, in which case the necessary affirmative vote shall be two-thirds of the Senators present and voting.".

(b) Nondebatable Motion To Proceed.—Paragraph 2 of rule VIII of the Standing Rules of the Senate is amended by striking the period at the end thereof and inserting the following: "; except those motions to proceed made by the majority leader, or his designee, on which there shall be a time limitation for debate of two hours equally divided between the majority and the minority leaders, or their designees. Any such motion to proceed, by the majority leader, or any other Senator, to any motion, resolution, or proposal to change any of the Standing Rules of the Senate shall be debatable.".

(c) Charging Quorum Calls Against an Individual's Time Under Cloture.—The first sentence of the third undesignated paragraph of paragraph 2 of rule XXII of the Standing Rules of the Senate is amended by striking the period and inserting the following: ", with the time consumed by quorum calls being charged to the Senator who requested the call of the quorum.".

(d) Dispensing With the Reading of Conference Reports.—Paragraph 1 of rule XXVIII of the Standing Rules of the Senate is amended by striking "and shall be determined without debate." and inserting the following: "notwithstanding a request for the reading of the conference report (if such report is printed and available one day prior to the motion to consider), and shall be determined without debate.".

(e) Sense of the Senate Resolutions.—Rule XV of the Standing Rules of the Senate is amended by inserting at the end thereof the following:

"6. On a point of order made by any Senator, no amendment expressing the sense of the Senate or the sense of the Congress, or an amendment to such amendment, shall be received unless the amendment is signed by at least 10 Senators.".

SEC. 107. DEDICATION OF UNEXPENDED FUNDS TO DEFICIT REDUCTION.

(a) Interim Rules.—Not later than January 1, 1995 and each year thereafter through 1998, the Secretary of the Senate shall certify and publish in the Congressional Record a list identifying each member of the Senate who has used less than the amount allocated to the personal office of the member during the preceding fiscal year and the amount of such unused allocation.

(b) Dedication of Unexpended Funds Beginning with Fiscal Year 1999.—Not later than January 1, 1999 and each year thereafter, the Secretary of the Senate shall notify each Member of the Senate of the difference between the total obligations incurred by his personal office and the allocations for administrative expenses, legislative assistants, and clerk hire available to the Member for the preceding fiscal year. Within 30 days after the date of such notification, any Member pursuant to this subsection may direct the Secretary of the Senate to submit a rescission request for such amount from unobligated balances for that fiscal year.

(c) Performance Review Guidance.—In conducting the performance review required by section 331, the Senate committees shall include a plan to reduce the disparity between appropriations and allocations to Members.

TITLE II—REFORM OF THE HOUSE OF REPRESENTATIVES

TITLE III—REFORM OF THE CONGRESS

Subtitle A—Budget Process

PART I—BIENNIAL BUDGETING

SEC. 301. REVISION OF TIMETABLE.

Section 300 of the Congressional Budget Act of 1974 (2 U.S.C. 631) is amended to read as follows:

"TIMETABLE

"SEC. 300. (a) IN GENERAL.—Except as provided by subsection (b), the timetable with respect to the congressional budget process for any Congress (beginning with the One Hundred Fourth Congress) is as follows:

"First Session

"On or before:	Action to be completed:
First Monday in February	President submits budget recommendations.
February 15	Congressional Budget Office submits report to Budget Committees.
Within 6 weeks after budget submission	Committees submit views and estimates to Budget Committees.
April 1	Budget Committees report concurrent resolution on the biennial budget.
April 15	Congress completes action on concurrent resolution on the biennial budget.
May 15	Biennial appropriation bills may be considered in the House.
June 10	House Appropriations Committee reports last biennial appropriation bill.
June 15	Congress completes action on reconciliation legislation.
June 30	Congress completes action on biennial appropriation bills.
October 1	Biennium begins.

"Second Session

"On or before:	Action to be completed:
May 15	Congressional Budget Office submits report to Budget Committees.
The last day of the session	Congress completes action on bills and resolutions authorizing a new budget authority for the succeeding biennium.

"(b) SPECIAL RULE.—In the case of any session of Congress that begins in any year immediately following a leap year and during which the term of a President (except a President who succeeds himself) begins, the following dates shall supersede those set forth in subsection (a):

"(1) First Monday in April, President submits budget recommendations.

"(2) April 20, committees submit views and estimates to Budget Committees.

"(3) May 15, Budget Committees report concurrent resolution on the biennial budget.

"(4) June 1, Congress completes action on concurrent resolution on the biennial budget.

"(5) July 1, biennial appropriation bills may be considered in the House.

"(6) July 20, House Appropriations Committee reports last biennial appropriation bill.".

SEC. 302. AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.

(a) DECLARATION OF PURPOSE.—Section 2(2) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621(2)) is amended by striking "each year" and inserting "biennially".

(b) DEFINITIONS.—

(1) Section 3(4) of such Act (2 U.S.C. 622(4)) is amended by striking "fiscal year" each place it appears and inserting "biennium".

(2) Section 3 of such Act (2 U.S.C. 622) is further amended by adding at the end the following new paragraph:

"(12) The term 'biennium' means the period of 2 consecutive fiscal years beginning on October 1 of any odd-numbered year.".

(c) BIENNIAL CONCURRENT RESOLUTION ON THE BUDGET.—

(1) Section 301(a) of such Act (2 U.S.C. 632(a)) is amended—

(A) by striking "April 15 of each year" and inserting "April 15 of each odd-numbered year";

(B) by striking "the fiscal year beginning on October 1 of such year" the first place it appears and inserting "the biennium beginning on October 1 of such year";

(C) by striking "the fiscal year beginning on October 1 of such year" the second place it appears and inserting "each fiscal year in such period";

(D) by striking "and planning levels for each of the two ensuing fiscal years" and inserting "and the appropriate levels for each of the 3 ensuing fiscal years";

(E) in paragraph (6) by striking "for the fiscal year of the resolution and each of the 4" and inserting "for the biennium of the resolution and each of the 3"; and

(F) in paragraph (7) by striking "for the fiscal year of the resolution and each of the 4" and inserting "for the biennium of the resolution and each of the 3".

(2) Section 301(b) of such Act (2 U.S.C. 632(b)) is amended—

(A) in the matter preceding paragraph (1) by inserting "for a biennium" after "concurrent resolution on the budget"; and

(B) in paragraph (3) by striking "for such fiscal year" and inserting "for either fiscal year in such biennium".

(3) Section 301(d) of such Act (2 U.S.C. 632(d)) is amended by inserting "(or, if applicable, as provided by section 300(b))" after "United States Code".

(4) Section 301(e) of such Act (2 U.S.C. 632(e)) is amended—

(A) in the first sentence by striking "fiscal year" and inserting "biennium";

(B) by inserting between the second and third sentences the following new sentence: "On or before April 1 of each odd-numbered year (or, if applicable, as provided by section 300(b)) the Committee on the Budget of each House shall report to its House the concurrent resolution on the budget referred to in subsection (a) for the biennium beginning on October 1 of that year.";

(C) in paragraph (6) by striking "such fiscal year" and inserting "the first fiscal year of such biennium,"; and

(D) in paragraph (10) by striking "the fiscal year covered" and inserting "the biennium covered".

(5) Section 301(f) of such Act (2 U.S.C. 632(f)) is amended by striking "fiscal year" each place it appears and inserting "biennium".

(6) Section 301(g)(1) of such Act (U.S.C. 632(g)(1)) is amended by striking "for a fiscal year" and inserting "for a biennium".

(7) The section heading of section 301 of such Act is amended by striking "annual" and inserting "biennial".

(8) The table of contents set forth in section 1(b) of such Act is amended by striking "Annual" in the item relating to section 301 and inserting "Biennial".

(d) SECTION 302 COMMITTEE ALLOCATIONS.—Section 302(a)(2) of such Act (2 U.S.C. 633(a)(2)) is amended by striking "fiscal year of the resolution and each of the 4 succeeding fiscal years" and inserting "the biennium of the resolution and each of the 3 succeeding fiscal years".

(e) SECTION 303 POINT OF ORDER.—

(1) Section 303(a) of such Act (2 U.S.C. 634(a)) is amended by striking "fiscal year" each place it appears and inserting "biennium".

(2) Section 303(b) of such Act (2 U.S.C. 634(b)) is amended—

(A) in subparagraphs (A) and (B) of paragraph (1) by striking "the fiscal year" each place it appears and inserting "biennium";

(B) in paragraph (1) by striking "any calendar year" and inserting "any odd-numbered calendar year (or, if applicable, as provided by section 300(b))"; and

(C) by striking paragraph (2), striking "(1)", and redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

(f) PERMISSIBLE REVISIONS OF CONCURRENT RESOLUTIONS ON THE BUDGET.—Section 304(a) of such Act (2 U.S.C. 635) is amended—

(1) by striking "fiscal year" the first two places it appears and inserting "biennium";

(2) by striking "for such fiscal year"; and

(3) by inserting before the period "for such biennium".

(g) PROCEDURES FOR CONSIDERATION OF BUDGET RESOLUTIONS.—Section 305(a)(3) of such Act (2 U.S.C. 636(b)(3)) is amended by striking "fiscal year" and inserting "biennium".

(h) REPORTS AND SUMMARIES OF CONGRESSIONAL BUDGET ACTIONS.—Section 308(a)(1)(A) of such Act (2 U.S.C. 639(a)(1)) is amended by striking "fiscal year (or fiscal years)" and inserting "biennium".

(i) COMPLETION OF ACTION ON REGULAR APPROPRIATION BILLS.—Section 309 of such Act (2 U.S.C. 640) is amended—

(1) by inserting "of any odd-numbered calendar year" after "July";

(2) by striking "annual" and inserting "regular"; and

(3) by striking "fiscal year" and inserting "biennium".

(j) RECONCILIATION PROCESS.—

(1) Section 310(a) of such Act (2 U.S.C. 641(a)) is amended—

(A) by striking "any fiscal year" in the matter preceding paragraph (1) and inserting "any biennium";

(B) in paragraph (1) by striking "such fiscal year" each place it appears and inserting "each fiscal year in such biennium"; and

(C) in paragraph (2) by inserting "for each fiscal year in such biennium" after "revenues".

(2) Section 310(f) of such Act (2 U.S.C. 641(f)) is amended by striking "for such fiscal year" and inserting "for such biennium".

(k) SECTION 311 POINT OF ORDER.—

(1)(A) Section 311(a)(1) of such Act (2 U.S.C. 642(a)) is amended—

(i) by striking "for a fiscal year" and inserting "for a biennium";

(ii) by striking "such fiscal year" the first place it appears and inserting "either fiscal year in such biennium";

(iii) by striking "during such fiscal year" and inserting "during either fiscal year in such biennium";

(iv) by striking "revenues for such fiscal year" and inserting "revenues for a fiscal year"; and

(v) by striking "budget for such fiscal year" and inserting "budget for either fiscal year in such biennium".

(B) Section 311(a)(2)(A) of such Act is amended—

(i) by striking "for the first" and inserting "for either";

(ii) by striking "covering such fiscal year" and inserting "covering such biennium";

(iii) by striking "the first fiscal year covered" and inserting "either fiscal year in such biennium covered";

(iv) by striking "the first fiscal year plus" and inserting "the biennium plus"; and

(v) by striking "4 fiscal years" and inserting "3 fiscal years".

(2) Section 311(b) of such Act (2 U.S.C. 642(b)) is amended by striking "such fiscal year" the second place it appears and inserting "either fiscal year in such biennium".

(l) BILLS PROVIDING NEW SPENDING AUTHORITY.—Section 401(b)(2) of such Act (2 U.S.C. 651(b)(2)) is amended by striking "for such fiscal year" the second place it appears and inserting "for the biennium in which such fiscal year occurs".

(m) DATE OF ADJUSTING ALLOCATIONS.—Section 603(a) of such Act (2 U.S.C. 665b) is amended by inserting after "April 15" the following "(or if section 300(b) applies by June 15th)".

SEC. 303. AMENDMENTS TO TITLE 31, UNITED STATES CODE.

(a) DEFINITION.—Section 1101 of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3) 'biennium' has the meaning given to such term in paragraph (12) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(12)).".

(b) BUDGET CONTENTS AND SUBMISSION TO THE CONGRESS.—

(1) So much of section 1105(a) of title 31, United States Code, as precedes paragraph (1) thereof is amended to read as follows:

"(a) On or before the first Monday in February of each odd-numbered year (or, if applicable, as provided by section 300(b) of the Congressional Budget Act of 1974), beginning with the One Hundred Fourth Congress, the President shall transmit to the Congress, the budget for the biennium beginning on October 1 of such calendar year. The budget transmitted under this subsection shall include a budget message and summary and supporting information. The President shall include in each budget the following:".

(2) Section 1105(a)(5) of title 31, United States Code, is amended by striking "the fiscal year for which the budget is submitted and the 4 fiscal years after that year" and inserting "each fiscal year in the biennium for which the budget is submitted and in the succeeding 3 years".

(3) Section 1105(a)(6) of title 31, United States Code, is amended by striking "the fiscal year for which the budget is submitted and the 4 fiscal years after that year" and inserting "each fiscal year in the biennium for which the budget is submitted and in the succeeding 3 years".

(4) Section 1105(a)(9)(C) of title 31, United States Code, is amended by striking "the fiscal year" and inserting "each fiscal year in the biennium".

(5) Section 1105(a)(12) of title 31, United States Code, is amended—

(A) by striking "the fiscal year" in subparagraph (A) and inserting "each fiscal year in the biennium"; and

(B) by striking "4 fiscal years after that year" in subparagraph (B) and inserting "3 fiscal years immediately following the second fiscal year in such biennium".

(6) Section 1105(a)(13) of title 31, United States Code, is amended by striking "the fiscal year" and inserting "each fiscal year in the biennium".

(7) Section 1105(a)(14) of title 31, United States Code, is amended by striking "that year" and inserting "each fiscal year in the biennium for which the budget is submitted".

(8) Section 1105(a)(16) of title 31, United States Code, is amended by striking "the fiscal year" and inserting "each fiscal year in the biennium".

(9) Section 1105(a)(17) of title 31, United States Code, is amended—

(A) by striking "the fiscal year following the fiscal year" and inserting "each fiscal year in the biennium following the biennium";

(B) by striking "that following fiscal year" and inserting "each such fiscal year"; and

(C) by striking "fiscal year before the fiscal year" and inserting "biennium before the biennium".

(10) Section 1105(a)(18) of title 31, United States Code, is amended—

(A) by striking "the prior fiscal year" and inserting "each of the 2 most recently completed fiscal years";

(B) by striking "for that year" and inserting "with respect to that fiscal year"; and

(C) by striking "in that year" and inserting "in that fiscal year".

(11) Section 1105(a)(19) of title 31, United States Code, is amended—

(A) by striking "the prior fiscal year" and inserting "each of the 2 most recently completed fiscal years";

(B) by striking "for that year" and inserting "with respect to that fiscal year"; and

(C) by striking "in that year" each place it appears and inserting "in that fiscal year".

(c) ESTIMATED EXPENDITURES OF LEGISLATIVE AND JUDICIAL BRANCHES.—Section 1105(b) of title 31, United States Code, is amended by striking "each year" and inserting "each even-numbered year".

(d) RECOMMENDATIONS TO MEET ESTIMATED DEFICIENCIES.—Section 1105(c) of title 31, United States Code, is amended—

(1) by striking "fiscal year for" each place it appears and inserting "biennium for";

(2) by inserting "or current biennium, as the case may be," after "current fiscal year"; and

(3) by striking "that year" and inserting "that period".

(e) STATEMENT WITH RESPECT TO CERTAIN CHANGES.—Section 1105(d) of title 31, United States Code, is amended by striking "fiscal year" and inserting "biennium".

(f) CAPITAL INVESTMENT ANALYSIS.—Section 1105(e) of title 31, United States Code, is amended by striking "ensuing fiscal year" and inserting "biennium to which such budget relates".

(g) SUPPLEMENTAL BUDGET ESTIMATES AND CHANGES.—

(1) Section 1106(a) of title 31, United States Code, is amended—

(A) in the matter preceding paragraph (1) by striking "fiscal year" and inserting "biennium";

(B) in paragraph (1) by striking "that fiscal year" and inserting "each fiscal year in such biennium";

(C) in paragraph (2) by striking "4 fiscal years following the fiscal year" and inserting "3 fiscal years following the biennium"; and

(D) by striking "fiscal year" in paragraph (3) and inserting "biennium".

(2) Section 1106(b) of title 31, United States Code, is amended by striking "the fiscal year" and inserting "each fiscal year in the biennium".

(h) CURRENT PROGRAMS AND ACTIVITIES ESTIMATES.—

(1) Section 1109(a) of title 31, United States Code, is amended—

(A) by striking "On or before the first Monday after January 3 of each year (on or before February 5 in 1994)" and inserting "At the same time the budget required by section 1105 is submitted for a biennium"; and

(B) by striking "the following fiscal year" and inserting "each fiscal year of such period".

(2) Section 1109(b) of title 31, United States Code, is amended by striking "March 1 of each year" and inserting "within 6 weeks of the President's budget submission for each odd-numbered year (or, if applicable, as provided by section 300(b) of the Congressional Budget Act of 1974)".

(i) YEAR-AHEAD REQUESTS FOR AUTHORIZING LEGISLATION.—Section 1110 of title 31, United States Code, is amended—

(1) by striking "fiscal year" and inserting "biennium (beginning on or after October 1, 1995)"; and

(2) by striking "year before the year in which the fiscal year begins" and inserting "second calendar year preceding the calendar year in which the biennium begins".

(j) BUDGET INFORMATION ON CONSULTING SERVICES.—Section 1114 of title 31, United States Code, is amended—

(1) by striking "The" each place it appears and inserting "For each biennium beginning with the biennium beginning on October 1, 1994, the"; and

(2) by striking "each year" each place it appears.

SEC. 304. TWO-YEAR APPROPRIATIONS; TITLE AND STYLE OF APPROPRIATIONS ACTS.

Section 105 of title 1, United States Code, is amended to read as follows:

"§ 105. Title and style of appropriations Acts

"(a) The style and title of all Acts making appropriations for the support of the Government shall be as follows: 'An Act making appropriations (here insert the object) for the biennium ending September 30 (here insert the odd-numbered calendar year).'.

"(b) All Acts making regular appropriations for the support of the Government shall be enacted for a biennium and shall specify the amount of appropriations provided for each fiscal year in such period.

"(c) For purposes of this section, the term 'biennium' has the same meaning as in section 3(11) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(11)).".

SEC. 305. CONFORMING AMENDMENTS TO RULES OF HOUSE OF REPRESENTATIVES.

(a) Clause 4(a)(1)(A) of rule X of the Rules of the House of Representatives is amended by inserting "odd-numbered" after "each".

(b) Clause 4(a)(2) of rule X of the Rules of the House of Representatives is amended by striking "such fiscal year" and inserting "the biennium in which such fiscal year begins".

(c)(1) Clause 4(b)(2) of rule X of the Rules of the House of Representatives is amended by striking "concurrent resolution on the budget for each fiscal year" and inserting "concurrent resolution on the budget required under section 301(a) of the Congressional Budget Act of 1974 for each biennium".

(2) Clause 4(b) of rule X of the Rules of the House of Representatives is amended by striking "and" at the end of subparagraph (4), by striking the period and inserting "; and" at the end of subparagraph (5), and by adding at the end the following new subparagraph:

"(6) to use the second year of each biennium to study issues with long-term budgetary and economic implications, which would include—

"(A) holding hearings to receive testimony from committees of jurisdiction to identify problem areas and to report on the results of oversight; and

"(B) by January 1 of each odd-numbered year, issuing a report to the Speaker which identifies the key issues facing the Congress in the next biennium.".

(d) Clause 4(f) of rule X of the Rules of the House of Representatives is amended by striking "annually" each place it appears and inserting "biennially".

(e) Clause 4(g) of rule X of the Rules of the House of Representatives is amended—

(1) by striking "March 15 of each year" and inserting "March 15 of each odd-numbered year (or, if applicable, as provided by section 300(b) of the Congressional Budget Act of 1974)";

(2) by striking "fiscal year" the first place it appears and inserting "biennium"; and

(3) by striking "that fiscal year" and inserting "each fiscal year in such ensuing biennium".

(f) Clause 4(h) of rule X of the Rules of the House of Representatives is amended by striking "fiscal year" and inserting "biennium".

(g) Subdivision (C) of clause 2(l)(1) of rule XI of the Rules of the House of Representatives is repealed.

(h) Clause 4(a) of rule XI of the Rules of the House of Representatives is amended by striking "fiscal year if reported after September 15 preceding the beginning of such fiscal year" and inserting "biennium if reported after August 1 of the year in which such biennium begins".

(i) Clause 2 of rule XLIX of the Rules of the House of Representatives is amended by striking "fiscal year" and inserting "biennium".

SEC. 306. MULTIYEAR AUTHORIZATIONS.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 314. It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, or conference report that authorizes appropriations for a period of less than 2 fiscal years, unless the program, project, or activity for which the funds are to be spent is of less than 2 years duration.".

(b) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 313 the following new item:

"Sec. 314. Authorizations of appropriations.".

PART II—ADDITIONAL BUDGET PROCESS CHANGES

SEC. 311. CBO REPORTS TO BUDGET COMMITTEES.

Section 308 of the Congressional Budget Act of 1974 is amended by—

(1) redesignating subsection (c) as subsection (d); and

(2) inserting after subsection (b) the following:

"(c) QUARTERLY BUDGET REPORTS.—The Congressional Budget Office shall, as soon as practicable after the completion of each quarter of the fiscal year, prepare an analysis comparing revenues, spending, and the deficit for the current fiscal year to assumptions included in the Congressional budget resolution. In preparing this report, the Congressional Budget Office shall combine actual budget figures to date with projected revenue and spending for the balance of the fiscal year. The Congressional Budget Office shall include any other information in this report that it deems useful for a full understanding of the current fiscal position of the Federal Government. The reports mandated by this subsection shall be transmitted by the Director to the Senate and House Committees on the Budget, and the Congressional Budget Office shall make such reports available to any interested party upon request.".

SEC. 312. BYRD RULE CLARIFICATIONS.

(a) PERMANENT EXTENSION OF BYRD RULE.—The first sentence of section 904(c) and the second sentence of section 904(d) of the Congressional Budget Act of 1974 are amended by inserting "313," after "306,".

(b) BYRD RULE CLARIFICATIONS.—Section 313 of the Congressional Budget Act of 1974 is amended—

(1) in subsection (b)(1)(A), by striking ", including changes in outlays and revenues brought about by changes in the terms and conditions under which outlays are made or revenues are required to be collected";

(2) by redesignating subsections (d) and (e) as subsections (e) and (f);

(3) by redesignating subsection (c), the second time it appears, as subsection (d) and inserting before "When" the following:

"(c) APPLICATION TO CONFERENCE REPORTS.—"; and

(4) in subsection (d) (as redesignated by paragraph (3))—

(A) in paragraph (1), by striking "and"; and

(B) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following:

"(2)(A) a point of order being made against any provision producing an increase in outlays in any fiscal year shall be considered extraneous if the net effect of provisions affecting outlays reported by the conferees would cause a Senate committee to fail to achieve its outlay instruction, and

"(B) a point of order being made against any provision producing a reduction in revenues in any fiscal year shall be considered extraneous if the net effect of provisions affecting revenues reported by the conferees would cause a Senate committee to fail to achieve its revenue instruction, and".

SEC. 313. GAO ASSISTANCE WITH AUTHORIZATIONS AND OVERSIGHT.

Section 717 of title 31, United States Code, is amended by adding at the end thereof the following:

"(e) During the second session of each Congress, the Comptroller General shall give priority to requests from Congress for audits and evaluations of Government programs and activities.".

Subtitle B—Staffing; Administration; and Support Agencies

SEC. 331. LEGISLATIVE BRANCH STREAMLINING AND RESTRUCTURING.

(a) PERFORMANCE REVIEW.—Not later than one year after the date of enactment of this Act, the Committee on Rules and Administration and the Committee on Appropriations of the Senate and the appropriate committees or task force of the House of Representatives shall submit to the leadership of their respective Houses a performance review together with any necessary implementing legislation for achieving efficiencies, economies, and reductions in the total number of full time equivalent positions in the legislative branch comparable to those proposed and implemented for the executive branch in the President's National Performance Review, submitted September 1993.

(b) REDUCTION BASE.—The reductions required by this section shall be made from a base of the total number of full time equivalent positions in the legislative branch on the date of introduction of S. Con. Res. 57 (102d Congress, 1st Session), the concurrent resolution establishing the Joint Committee on the Organization of Congress.

SEC. 332. AUTHORIZATION OF CERTAIN CONGRESSIONAL INSTRUMENTALITIES.

(a) IN GENERAL.—It is the intent of Congress that the General Accounting Office, Congressional Budget Office, Library of Congress, Government Printing Office, and Office of Technology Assessment shall be authorized for 8 fiscal years in accordance with this section.

(b) CYCLES.—

(1) GENERAL ACCOUNTING OFFICE.—The General Accounting Office shall be authorized by the enactment every eighth year beginning with fiscal year 1997 of an Act to authorize appropriations for that office for the next 8 fiscal years.

(2) LIBRARY OF CONGRESS.—The Library of Congress shall be authorized by the enactment every eighth year beginning with fiscal year 1999 of an Act to authorize appropriations for that office for the next 8 fiscal years.

(3) GOVERNMENT PRINTING OFFICE.—The Government Printing Office shall be authorized by the enactment every eighth year beginning with fiscal year 2001 of an Act to authorize appropriations for that office for the next 8 fiscal years.

(4) CONGRESSIONAL BUDGET OFFICE AND OFFICE OF TECHNOLOGY AND ASSESSMENT.—The Congressional Budget Office and Office of Technology Assessment shall be authorized by the enactment every eighth year beginning with fiscal year 2003 of an Act to authorize appropriations for those offices for the next 8 fiscal years.

(c) JURISDICTION.—

(1) IN GENERAL.—The Committee on Rules and Administration of the Senate and the appropriate committee in the House of Representatives shall have jurisdiction over the authorizations required by this section.

(2) OVERSIGHT.—In reauthorizing instrumentalities as required by this section, the committees referred to in paragraph (1) shall seek to—

(A) eliminate duplication between instrumentalities;

(B) consolidate activities; and

(C) increase efficiency within instrumentalities.

(d) COST ACCOUNTING REQUIREMENTS.—Effective on January 1, 1995, each instrumentality of the Congress providing support to the Congress shall prepare by not later than December 31 of each year an annual report detailing the cost to the instrumentality of providing support to each committee of the Senate and Senator. The report shall be submitted to the Secretary of the Senate and included in the Secretary's semiannual report.

(e) VOUCHER ALLOCATION SYSTEM.—The Committee on Rules and Administration of the Senate and the appropriate committee of the House of Representatives shall study and report to their respective Houses as a part of their authorization responsibilities under subsection (c) concerning the feasibility of establishing a voucher allocation system for committees using the services of instrumentalities of Congress.

(f) REPEALERS.—

(1) GENERAL ACCOUNTING OFFICE.—Section 736 of title 31, United States Code, is repealed.

(2) CONGRESSIONAL BUDGET OFFICE.—Section 201(f) of the Congressional Budget Act of 1974 (2 U.S.C. 601(f)) is repealed.

(3) LIBRARY OF CONGRESS.—Any authorization of appropriations for the Library of Congress in effect on the effective date of this paragraph is repealed.

(4) GOVERNMENT PRINTING OFFICE.—Any authorization of appropriations for the Government Printing Office in effect on the effective date of this paragraph is repealed.

(5) OFFICE OF TECHNOLOGY ASSESSMENT.—Section 12 of the Technology Assessment Act of 1972 (2 U.S.C. 481) is repealed.

(6) EFFECTIVE DATE.—Paragraphs (1) and (2) shall take effect with respect to fiscal years beginning with fiscal year 1997. Paragraphs (3), (4), and (5) shall take effect with respect to fiscal years beginning with fiscal year 1999.

SEC. 333. DETAILEES FROM CONGRESSIONAL SUPPORT AGENCIES AND EXECUTIVE AGENCIES.

(a) REIMBURSEMENT.—The cost of the service on detail to a committee of the Senate or House of Representatives or the personal office of a member of the Senate or House of Representatives of a person who is regularly employed by an instrumentality of Congress or an executive agency shall be fully reimbursed to the instrumentality of Congress or executive agency by the committee or personal office that receives the service.

(b) DEFINITION.—In this section, the term "instrumentality of Congress" means—

(1) the General Accounting Office;

(2) the Congressional Budget Office;

(3) the Library of Congress;

(4) the Government Printing Office; and

(5) the Office of Technology Assessment.

Subtitle C—Abolishing the Joint Committees

PART I—JOINT ECONOMIC COMMITTEE

SEC. 361. JOINT ECONOMIC COMMITTEE.

(a) ABOLITION.—Effective beginning with the 104th Congress, the Joint Economic Committee is abolished.

(b) TRANSFER OF RESPONSIBILITY.—The Committee on the Budget and the appropriate committee of the House of Representatives shall be responsible for review of the Economic Report of the President required by section 103 of the Full Employment and Balanced Growth Act of 1978 (15 U.S.C. 1022).

PART II—JOINT COMMITTEE ON TAXATION

SEC. 362. JOINT COMMITTEE ON TAXATION.

(a) ABOLITION.—Effective beginning with the 104th Congress, the Joint Committee on Taxation is abolished.

(b) TRANSFER OF RESPONSIBILITY.—Section 202(b) of the Congressional Budget Act of 1974 is amended by—

(1) designating the text of such subsection as paragraph (1); and

(2) adding at the end thereof the following:

"(2) The Office shall provide technical guidance to the Committee on Finance and the Committee on Ways and Means with respect to taxation and tax legislation. The Office shall perform the responsibilities formerly assigned to the Joint Committee on Taxation upon the abolishment of such committee.".

(c) COMMITTEE TRANSFER OVERSIGHT.—The Committee on Rules and Administration and the appropriate committee of the House of Representatives shall report to the Congress a plan for the transfer of responsibilities and staff as required by this section.

PART III—JOINT COMMITTEE ON THE LIBRARY OF CONGRESS

SEC. 363. JOINT COMMITTEE ON THE LIBRARY OF CONGRESS.

(a) ABOLITION.—Effective beginning with the 104th Congress, the Joint Committee on the Library of Congress is abolished.

(b) TRANSFER OF RESPONSIBILITY.—Effective beginning with the 104th Congress, the responsibilities of the Joint Committee on the Library of Congress shall be performed by the Committee on Rules and Administration of the Senate and the appropriate committee of the House of Representatives.

PART IV—JOINT COMMITTEE ON PRINTING

SEC. 371. JOINT COMMITTEE ON PRINTING.

(a) ABOLITION.—Chapter 1 of title 44, United States Code, is repealed.

(b) TRANSFER OF RESPONSIBILITY.—Subject to subsection (c), all duties, authorities, responsibilities, and functions performed by the Joint Committee on Printing before the effective date of this part shall be performed by the Public Printer on and after such date.

(c) OVERSIGHT FUNCTIONS.—All legislative oversight jurisdiction, duties, authorities, responsibilities, and functions performed by the Joint Committee on Printing before the effective date of this part shall be performed by the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives on and after such date.

(d) REFERENCES.—Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Joint Committee on Printing shall be deemed to refer to the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives, or the Public Printer, as appropriate.

SEC. 372. DEPUTY PUBLIC PRINTERS.

(a) IN GENERAL.—Section 302 of title 44, United States Code, is amended to read as follows:

"§ 302. Deputy Public Printers; appointments; duties

"(a)(1) The President of the United States shall nominate and, by and with the advice and consent of the Senate, appoint the—

"(A) Legislative Deputy Public Printer who shall also serve as the Superintendent of Documents;

"(B) Executive Deputy Public Printer; and

"(C) Judicial Deputy Public Printer.

"(2) Each Deputy Printer shall be a suitable person, who is a practical printer and versed in the art of bookbinding.

"(b) In addition to any other duties required by the Public Printer, the Legislative Deputy Public Printer shall perform all duties of the Government Printing Office relating to the Legislative branch, including all applicable duties performed under—

"(1) chapter 7 relating to Congressional printing and binding;

"(2) chapter 9 relating to the Congressional Record;

"(3) chapter 13 relating to particular reports and documents, including sections 1326 and 1332;

"(4) chapter 17 relating to the distribution and sale of public documents;

"(5) chapter 19 relating to the Depository Library Program;

"(6) chapter 27 relating to Advisory Committee on Records of Congress; and

"(7) section 3511 relating to services performed for the Federal Information Locator System.

"(c) In addition to any other duties required by the Public Printer, the Executive Deputy Public Printer shall perform all duties of the Government Printing Office relating to the Executive branch, including all applicable duties performed under—

"(1) chapter 5 relating to the production and procurement of printing and binding;

"(2) chapter 11 relating to Executive printing and binding;

"(3) chapter 13 relating to particular reports and documents; and

"(4) chapters 15, 21, 22, 23, 25, 29, 31, 33, 35, 37, and 39.

"(d) In addition to any other duties required by the Public Printer, the Judicial Deputy Public Printer shall perform all duties of the Government Printing Office relating to the Judicial branch, including all applicable duties performed under—

"(1) chapter 11 relating to Judiciary printing and binding, including printings under section 1120; and

"(2) chapter 13 relating to particular reports and documents.

"(e) The Public Printer, in consultation with the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives, shall determine the respective duties of the Deputy Public Printers under this section.".

(b) COMPENSATION.—Section 303 of title 44, United States Code, is amended in the second sentence by striking out "the Deputy Public Printer" and inserting in lieu thereof "each of the Deputy Public Printers".

(c) SUCCESSION.—Section 304 of title 44, United States Code, is amended by striking out "the Deputy Public Printer" and inserting in lieu thereof "one of the Deputy Public Printers designated by the President".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—(1) The table of sections for chapter 3 of title 44, United States Code, is amended by striking out the item relating to section 302 and inserting in lieu thereof the following new item:

"302. Deputy Public Printers; appointments; duties.".

(2) Section 313 of title 44, United States Code, is amended—

(A) in the first sentence—

(i) by striking out "Deputy Public Printer" and inserting in lieu thereof "3 Deputy Public Printers"; and

(ii) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Committee on Rules and Administration of the Senate and the Committee on Administration of the House of Representatives";

(B) in the second sentence—

(i) by striking out "Deputy Public Printer" and inserting in lieu thereof "3 Deputy Public Printers"; and

(ii) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Committee on Rules and Administration of the Senate and the Committee on Administration of the House of Representatives"; and

(C) in the third sentence—

(i) by striking out "Deputy Public Printer" and inserting in lieu thereof "3 Deputy Public Printers"; and

(ii) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Committee on Rules and Administration of the Senate and the Committee on Administration of the House of Representatives".

SEC. 373. ANNUAL REPORT TO CONGRESS.

Section 309(c) of title 44, United States Code, is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The annual program submitted under this subsection shall include a report on—

"(A) the printing costs of each branch of the Government;

"(B) with regard to Government publications, a cost comparison of—

"(i) publications published by the Government Printing Office;

"(ii) Federal agency publications that are published by such agency;

"(iii) publications that are published by commercial sources that are not Federal entities under any contract with a Federal agency (other than the Government Printing Office); and

"(iv) publications that are published by commercial sources that are not Federal entities under any contract with the Government Printing Office; and

"(C) the cost of all individual printing orders printed under section 501(a)(1)(C).".

SEC. 374. SUPERINTENDENT OF DOCUMENTS.

Section 1702 of title 44, United States Code, is amended by striking out the first sentence and inserting in lieu thereof "The Legislative Deputy Public Printer appointed under section 302 shall also serve as the Superintendent of Documents for no additional compensation.".

SEC. 375. REQUIREMENT OF PRINTING BY THE GOVERNMENT PRINTING OFFICE.

(a) IN GENERAL.—Section 501 of title 44, United States Code, is amended to read as follows:

"§ 501. Government printing, binding, and blank-book work to be done at Government Printing Office

"(a)(1) All printing, binding, and blank-book work for Congress, the Executive Office, the Judiciary, other than the Supreme Court of the United States, and every executive department, independent office and establishment of the Government, shall be done at the Government Printing Office, except—

"(A) classes of work the Public Printer considers to be urgent or necessary to have done elsewhere;

"(B) printing in field printing plants operated by an executive department, independent office or establishment, and the procurement of printing by an executive department, independent office or establishment from allotments for contract field printing, if approved by the Public Printer;

"(C) individual printing orders may be ordered by an executive department or agency costing not more than $1,500, if—

"(i) the work is printed by any executive department or agency; or

"(ii) the work is printed under a contract by a commercial source that is not a Federal entity;

"(D) printing for the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency; or

"(E) printing from other sources that is specifically authorized by law.

"(2) For purposes of this subsection, the term 'printing' means the process of composition, platemaking, presswork, silk screen processes, binding, microform, and the end items of such processes.

"(b) Any Federal officer who orders or contracts for an individual printing order described under subsection (a)(1)(C) shall include as a term of such order or contract that the executive agency or department, or the commercial source that provides the printing shall deliver a sufficient number of any document printed under such order or contract to the Superintendent of Documents for inclusion in the depository library program under chapter 19. The Public Printer shall promulgate regulations to define the term 'sufficient number' for purposes of this subsection.

"(c) Printing or binding may be done at the Government Printing Office only when authorized by law.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 207 of the Legislative Branch Appropriations Act, 1993 (44 U.S.C. 501 note; Public Law 102–392; 106 Stat. 1719) is repealed.

SEC. 376. REPORT ON COSTS FOR PRINTING BY FEDERAL AGENCIES OTHER THAN THE GOVERNMENT PRINTING OFFICE.

(a) IN GENERAL.—Chapter 11 of title 44, United States Code, is amended by adding at the end thereof the following new section:

"§ 1124. Report on costs for printing by Federal agencies

"No later than November 1 of each year, the head of each Federal department and agency shall submit a report to the Public Printer of the cost of publishing all Government publications that were published by such agency in the preceding fiscal year. Such costs shall not include Government publications published by the Government Printing Office or under contract with a commercial source that is not a Federal entity.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 11 of title 44, United States Code, is amended by adding at the end thereof the following new item:

"1124. Report on costs for printing by Federal agencies.".

SEC. 377. TECHNICAL AND CONFORMING AMENDMENTS.

(1) Section 107 of title 1, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer in consultation with the Secretary of the Senate and the Clerk of the House of Representatives".

(2) Section 208 of title 1, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(3) Section 4 of the joint resolution entitled "A joint resolution to provide for the printing and distribution of the Precedents of the House of Representatives compiled and prepared by Lewis Deschler", approved October 18, 1976 (2 U.S.C. 28e) is amended—

(A) in subsection (a) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives"; and

(B) in subsection (b) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives".

(4) Section 3 of the Joint Resolution of December 24, 1970 (2 U.S.C. 168b) is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives".

(5) Section 145 of title 4, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives".

(6) Section 312 of the Federal Water Power Act (16 U.S.C. 825k) is amended by striking out "Joint Committee on Printing" each place it appears and inserting in each such place "Public Printer".

(7) Section 5(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(c)) is amended by striking out "Joint Committee on Printing of the Congress" and inserting in lieu thereof "Public Printer".

(8) Section 7(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(c)) is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(9) Section 411 of title 28, United States Code, is amended in subsection (a) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(10) Section 602 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 474(18)) is amended—

(A) by striking out paragraph (18); and

(B) by redesignating paragraphs (19) through (21) as paragraphs (18) through (20), respectively.

(11) The table of chapters for title 44, United States Code, is amended by striking out the item relating to chapter 1.

(12) The table of sections for chapter 1 of title 44, United States Code, is repealed.

(13) Section 305 of title 44, United States Code, is amended in subsection (a)—

(A) in the fourth sentence by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer"; and

(B) in the fifth sentence by striking out "either party may appeal to the Joint Committee on Printing, and the decision of the Joint Committee is final." and inserting in lieu thereof "an appeal may be made under subchapter III of chapter 71 of title 5.".

(14) Section 309 of title 44, United States Code, is amended in subsection (a) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(15) Section 312 of title 44, United States Code, is amended by striking out ", with the approval of the Joint Committee on Printing,".

(16) Section 502 of title 44, United States Code, is amended by striking out "with the approval of the Joint Committee on Printing".

(17) Section 504 of title 44, United States Code, is amended by striking out "The Joint Committee on Printing may permit the Public Printer to" and inserting in lieu thereof "The Public Printer may".

(18) Section 505 of title 44, United States Code, is amended by striking out ", under regulations of the Joint Committee on Printing".

(19) Section 508 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives".

(20) Section 509 of title 44, United States Code, is amended—

(A) by striking out "Joint Committee on Printing" and inserting in lieu thereof "the Public Printer"; and

(B) by striking out ", under their direction,".

(21) Section 510 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(22) Section 511 of title 44, United States Code, is amended—

(A) in the first sentence by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer";

(B) in the second sentence by striking out "The committee" and inserting in lieu thereof "The Public Printer"; and

(C) in the third sentence by striking out "The Committee" and inserting in lieu thereof "The Public Printer".

(23) Section 512 of title 44, United States Code, is amended—

(A) in the first sentence by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer"; and

(B) by striking out "the Committee" and inserting in lieu thereof "the Public Printer".

(24) Section 513 of title 44, United States Code, is amended—

(A) in the first sentence by striking out "standard of quality fixed upon by the Joint Committee on Printing," and inserting in lieu thereof "applicable fixed standard of quality"; and

(B) in the second sentence by striking out "the Committee" and inserting in lieu thereof "the Public Printer".

(25) Section 514 of title 44, United States Code, is amended—

(A) by striking out "Joint Committee on Printing shall determine" and inserting in lieu thereof "Public Printer shall apply the provisions of subchapter V of chapter 35 of title 31, United States Code, to resolve"; and

(B) by striking out "; and the decision of the Committee is final as to the United States".

(26) Section 515 of title 44, United States Code, is amended—

(A) in the first sentence by striking out "report the default to the Joint Committee on Printing, and under its direction,"; and

(B) in the second sentence by striking out ", under the direction of the Joint Committee on Printing,".

(27) Section 517 of title 44, United States Code, is amended by striking out "The Joint Committee on Printing may authorize the Public Printer to" and inserting in lieu thereof "The Public Printer may".

(28) Section 702 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(29) Section 703 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Committee on Rules and Administration of the Senate or the Committee on House Administration of the House of Representatives".

(30) Section 707 of title 44, United States Code, is amended by striking out "the Joint Committee on Printing may authorize the printing of a bill or resolution, with index and ancillaries, in the style and form the Joint Committee on Printing considers most suitable in the interest of economy and efficiency, and to so continue until final enactment in both Houses of Congress. The committee" and inserting in lieu thereof "the Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives, may print a bill or resolution, with index and ancillaries, in the style and form the Public Printer considers most suitable in the interest of economy and efficiency, and to so continue until final enactment in both Houses of Congress. The Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives".

(31) Section 709 of title 44, United States Code, is amended in the second sentence by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(32) Section 714 of title 44, United States Code, is amended by striking out "The Joint Committee on Printing shall establish rules to be observed by the Public Printer," and inserting in lieu thereof "The Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives, shall establish rules".

(33) Section 717 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives".

(34) Section 718 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives".

(35) Section 721(a) of title 44, United States Code, is amended—

(A) in the first sentence by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives"; and

(B) in the second sentence by striking out "The Joint Committee" and inserting in lieu thereof "The Public Printer".

(36) Section 722 of title 44, United States Code, is amended by striking out ", under the direction of the Joint Committee on Printing,".

(37) Section 723 of title 44, United States Code, is amended—

(A) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives"; and

(B) by striking out "the Joint Committee" and inserting in lieu thereof "the Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives,".

(38) Section 724 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(39) Section 728 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives,".

(40) Section 738 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives,".

(41) Section 901 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives,".

(42) Section 902 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "the Public Printer, in consultation with the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives,".

(43) Section 903 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives,".

(44) Section 904 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives".

(45) Section 905 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives,".

(46) Section 906 of title 44, United States Code, is amended—

(A) by striking out "to the Committee on Printing not to exceed one hundred copies;" and inserting in lieu thereof "to the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives not to exceed one hundred copies each;";

(B) by striking out "to each Joint Committee and Joint Commission in Congress, as may be designated by the Joint Committee on Printing" and inserting in lieu thereof "to each Joint Committee and Joint Commission in Congress, as may be designated by the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives";

(C) by striking out "to the Joint Committee on Printing, ten semimonthly copies;" and inserting in lieu thereof "to the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives, ten semimonthly copies;";

(D) by striking out "of which eight copies may be bound in the style and manner approved by the Joint Committee on Printing;" and inserting in lieu thereof "of which eight copies may be bound in the style and manner approved by the Public Printer, in consultation with the appropriate official of the House of Representatives"; and

(E) by striking out "Copies of the daily edition, unless otherwise directed by the Joint Committee on Printing, shall be supplied and delivered" and inserting in lieu thereof "Copies of the daily edition, unless otherwise directed by the Public Printer, shall be supplied and delivered".

(47) Section 1108 of title 44, United States Code, is amended by striking out ", subject to regulation by the Joint Committee on Printing,".

(48) Section 1112 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(49) Section 1121 of title 44, United States Code, is amended by striking out ", under direction of the Joint Committee on Printing,".

(50) Section 1301 of title 44, United States Code, is amended by striking out ", in accordance with directions of the Joint Committee on Printing".

(51) Section 1320A of title 44, United States Code, is amended by striking out ", and with the approval of the Joint Committee on Printing".

(52) Section 1333 of title 44, United States Code, is amended in subsection (b) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives,".

(53) Section 1338 of title 44, United States Code, is amended—

(A) in the first sentence—

(i) by striking out ", under limitations and conditions prescribed by the Joint Committee on Printing,"; and

(ii) by striking out "under limitations and conditions prescribed by the Joint Committee on Printing"; and

(B) in the second sentence, by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(54) Section 1705 of title 44, United States Code, is amended by striking out ", subject to regulation by the Joint Committee on Printing and".

(55) Section 1710 of title 44, United States Code, is amended—

(A) in the first sentence by striking out ", upon a plan approved by the Joint Committee on Printing"; and

(B) in the fourth sentence by striking out "as the Joint Committee on Printing directs".

(56) Section 1914 of title 44, United States Code, is amended by striking out ", with the approval of the Joint Committee on Printing, as provided by section 103 of this title,".

(57) Section 5 of the Federal Records Management Amendments of 1976 (44 U.S.C. 2901 note; Public Law 94-575; 90 Stat. 2727) is amended in subsection (b) by striking out "the Joint Committee on Printing or".

Subtitle D—Legislative and Executive Relations

SEC. 381. COMMITTEE OVERSIGHT GOALS AND REPORTS FOR FEDERAL PROGRAM REVIEW.

(a) COMMITTEE OVERSIGHT GOALS AND REPORTS.—It shall be the responsibility of each standing committee of the House of Representatives and the Senate to—

(1) no later than March 1 of each year in which a first session of a Congress occurs, develop, adopt, and submit Committee Review Agendas, which shall list the discretionary programs, entitlement programs, and tax expenditures under the committee's jurisdiction which the committee intends to review during that Congress and the next 3 Congresses;

(2) coordinate, to the maximum extent practicable, in preparing their oversight agenda with other House and Senate committees having jurisdiction over the same or related laws, programs, or agencies;

(3) provide, after preparation of the first oversight agenda required under this statute, a separate section in their oversight agenda that summarizes what actions and recommendations occurred with respect to implementing their agenda for that Congress;

(4) transmit their oversight agenda to the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate, respectively, for consideration during the committee funding process; and

(5) adopt legislative procedures to assure, to the greatest extent practicable, that any recommendation proposed by the committee under paragraph (3) is considered by the full Senate or House of Representatives.

(b) HEARINGS ON INSPECTOR GENERAL, GAO, AND AGENCY AUDIT REPORTS.—Each committee of the House of Representatives and the Senate shall hold hearings during each Congress for the purpose of reviewing appropriate reports relating to the activities of executive agencies over which the committee has oversight responsibility filed during the preceding Congress, including reports of the inspectors general, the General Accounting Office, as well as agency audit reports.

SEC. 382. SUNSET AGENCY REPORTING REQUIREMENTS.

(a) IN GENERAL.—Any law requiring an executive agency to report to Congress shall be effective for not to exceed 5 years after the date of enactment of such law.

(b) LAWS IN EFFECT.—Any law requiring an executive agency to report to Congress in effect on the date of enactment of this Act shall expire 5 years after such date unless the law provides for an earlier expiration date in which case the law shall expire on the earlier date.

TITLE IV—EFFECTIVE DATE

SEC. 401. EFFECTIVE DATE; APPLICATION.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall become effective January 1, 1995, and shall apply to bienniums beginning after September 30, 1995.

(b) FISCAL YEAR 1995.—Notwithstanding subsection (a), the provisions of—

(1) the Congressional Budget Act of 1974, and

(2) title 31, United States Code,

(as such provisions were in effect on the day before the effective date of this title) shall apply to the fiscal year beginning on October 1, 1994.

(c) DEFINITION.—For purposes of this section, the term "biennium" shall have the meaning given to such term in paragraph (12) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(12)), as added by section 302(b)(2) of this Act.

BOREN AMENDMENT NO. 2597

Mr. BOREN proposed an amendment to amendment No. 2596 proposed by Mr. DOMENICI to the bill H.R. 4649, supra; as follows:

In lieu of the matter to be inserted, insert the following: "and agency funds;

DIVISION 2—CONGRESSIONAL REFORM

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Legislative Reorganization Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Rulemaking power of Senate and House of Representatives.

TITLE I—REFORM OF THE SENATE

Sec. 101. Senate committee assignments.
Sec. 102. Senate committee structure.
Sec. 103. Senate scheduling.
Sec. 104. Proxy votes.
Sec. 105. Senate committee attendance.
Sec. 106. Senate floor proceedings.
Sec. 107. Dedication of unexpended funds to deficit reduction.

TITLE II—REFORM OF THE HOUSE OF REPRESENTATIVES

TITLE III—REFORM OF THE CONGRESS

Subtitle A—Budget Process

PART I—BIENNIAL BUDGETING

Sec. 301. Revision of timetable.
Sec. 302. Amendments to the Congressional Budget and Impoundment Control Act of 1974.
Sec. 303. Amendments to title 31, United States Code.
Sec. 304. Two-year appropriations; title and style of appropriations Acts.
Sec. 305. Conforming amendments to rules of House of Representatives.
Sec. 306. Multiyear authorizations.

PART II—ADDITIONAL BUDGET PROCESS CHANGES

Sec. 311. CBO reports to budget committees.
Sec. 312. Byrd rule clarifications.
Sec. 313. GAO assistance with authorizations and oversight.

Subtitle B—Staffing; Administration; and Support Agencies

Sec. 331. Legislative branch streamlining and restructuring.
Sec. 332. Authorization of certain congressional instrumentalities.
Sec. 333. Detailees from congressional support agencies and executive agencies.

Subtitle C—Abolishing the Joint Committees

PART I—JOINT ECONOMIC COMMITTEE

Sec. 361. Joint Economic Committee.

PART II—JOINT COMMITTEE ON TAXATION

Sec. 362. Joint Committee on Taxation.

PART III—JOINT COMMITTEE ON THE LIBRARY OF CONGRESS

Sec. 363. Joint Committee on the Library of Congress.

PART IV—JOINT COMMITTEE ON PRINTING

Sec. 371. Joint Committee on Printing.
Sec. 372. Deputy Public Printers.
Sec. 373. Annual report to Congress.
Sec. 374. Superintendent of Documents.
Sec. 375. Requirement of printing by the Government Printing Office.
Sec. 376. Report on costs for printing by Federal agencies other than the Government Printing Office.
Sec. 377. Technical and conforming amendments.

Subtitle D—Legislative and Executive Relations

Sec. 381. Committee oversight goals and reports for Federal program review.
Sec. 382. Sunset agency reporting requirements.

TITLE IV—EFFECTIVE DATE

Sec. 401. Effective date; application.

SEC. 2. RULEMAKING POWER OF SENATE AND HOUSE OF REPRESENTATIVES.

The provisions of this Act (as applicable) are enacted by the Congress—

(1) insofar as applicable to the Senate, as an exercise of the rulemaking power of the Senate and, to the extent so applicable, those sections are deemed a part of the Standing Rules of the Senate, superseding other individual rules of the Senate only to the extent that those sections are inconsistent with those other individual Senate rules, subject to and with full recognition of the power of the Senate to enact or change any rule of the Senate at any time in its exercise of its constitutional right to determine the rules of its proceedings; and

(2) insofar as applicable to the House of Representatives, as an exercise of the rulemaking power of the House of Representatives, subject to and with full recognition of the power of the House of Representatives to enact or change any rule of the House at any time in its exercise of its constitutional right to determine the rules of its proceedings.

TITLE I—REFORM OF THE SENATE

SEC. 101. SENATE COMMITTEE ASSIGNMENTS.

Rule XXIV of the Standing Rules of the Senate is amended to read as follows:

"RULE XXIV

"APPOINTMENT OF COMMITTEES

"Appointments to standing committees and all other committees shall be made by the majority leader and the minority leader for each member of their respective parties. Such appointments shall be subject to any rules adopted by the respective party caucuses.".

SEC. 102. SENATE COMMITTEE STRUCTURE.

(a) COMMITTEE AND SUBCOMMITTEE ASSIGNMENTS.—Paragraphs 2, 3, and 4 of rule XXV of the Standing Rules of the Senate are amended to read as follows:

"2. (a) Except as otherwise provided by paragraph 4 of this rule, each of the following standing committees shall consist of the number of Senators set forth in the following table on the line on which the name of that committee appears:

"Committee:	Members
"Appropriations	____
"Armed Services	____
"Finance	____
"Foreign Relations	____

"(b) Except as otherwise provided by paragraph 4 of this rule, each of the following standing committees shall consist of the number of Senators set forth in the following table on the line on which the name of that committee appears:

"Committee:	Members
"Agriculture, Nutrition, and Forestry	____
"Banking, Housing, and Urban Affairs	____
"Commerce, Science, and Transportation	____
"Energy and Natural Resources	____
"Environment and Public Works	____
"Governmental Affairs	____
"Judiciary	____
"Labor and Human Resources ..	____

"(c) The committees listed in this paragraph (except for the Committee on Appropriations and the Committee on Foreign Relations) shall not have more than 3 subcommittees.

"3. (a) Except as otherwise provided by paragraph 4 of this rule, each of the following standing committees shall consist of the number of Senators set forth in the following table on the line on which the name of that committee appears:

"Committee:	Members
"Aging	____
"Budget	____
"Indian Affairs	____
"Rules and Administration	____
"Small Business	____
"Veterans' Affairs	____

"(b) The following committee shall consist of the number of Senators set forth in the following table:

"Committee:	Members
"Ethics	____
"Intelligence	____

"(c) The committees listed in this paragraph shall not have more than 2 subcommittees.

"4. (a) Except as otherwise provided by this paragraph—

"(1) each Senator may serve on only one committee listed in paragraph 2(a) and only two committees listed in paragraph 2; and

"(2) each Senator may serve on only one committee listed in paragraph 3(a).

"(b)(1) Each Senator may serve on not more than two subcommittees of each committee (other than the Committee on Appropriations) listed in paragraph 2 of which he is a member.

"(2) Each Senator may serve on not more than one subcommittee of a committee listed in paragraph 3(a) of which he is a member.

"(3) Notwithstanding subparagraphs (1) and (2), a Senator serving as chairman or ranking minority member of a standing, select, or special committee of the Senate may serve ex officio, without vote, as a member of any subcommittee of such committee.

"(4) No committee of the Senate may establish any subunit of that committee other than a subcommittee, unless the Senate by resolution has given permission therefore.

"(c) By agreement entered into by the majority leader and the minority leader, the membership of one or more standing committees may be increased temporarily from time to time by such number or numbers as may be required to accord to the majority party a majority of the membership of all standing committees. When any such temporary increase is necessary to accord to the majority party a majority of the membership of all standing committees, members of the majority party in such number as may be required for that purpose may serve as members of three standing committees listed in paragraph 2. No such temporary increase in the membership of any standing committee under this subparagraph shall be continued in effect after the need therefore has ended. No standing committee may be increased in membership under this subparagraph by more than two members in excess of the number prescribed for that committee by paragraph 2 or 3(a).

"(d)(1) No Senator shall serve at any time as chairman of more than one standing, select, or special committee of the Senate.

"(2)(A) A Senator who is serving as the chairman of a committee listed in paragraph 2 or 3(a) may serve at any time as the chairman of only one subcommittee of all committees listed in paragraphs 2 and 3(a) of which he is a member.

"(B) Any Senator other than a Senator described in division (A) may serve as—

"(i) the chairman of only one subcommittee of each committee listed in paragraph 2 or 3(a), of which he is a member; and

"(ii) the chairman of only two subcommittees of the committees listed in paragraphs 2 and 3(a).

"(e) The provisions of this paragraph may only be waived by the Senate by a resolution designating the Senator or Senators receiving the waiver and adopted by an affirmative yea-and-nay vote of the Senators duly chosen and sworn. The resolution shall be offered by the majority leader with the approval of the minority leader. The resolution shall be privileged and no amendment thereto shall be in order. Debate on the resolution shall be limited to one hour, equally divided.".

(b) ABOLITION OF REDUCED COMMITTEES.—

(1) NOTIFICATION.—The majority leader and the minority leader shall notify the chairman of the Committee on Rules and Administration not later than 30 days after the convening of a Congress if the number of majority and minority members of a committee of the Senate for such Congress each fall below 50 percent of the number of such members serving on the committee at the end of the 102d Congress.

(2) RESOLUTION ABOLISHING.—The Committee on Rules and Administration shall report to the Senate a resolution abolishing such committee not later than 30 days after receiving notice under paragraph (1). The Senate shall consider and act upon the resolution not later than 20 session days after the resolution is reported.

(3) ADJUSTING OTHER COMMITTEES.—If a committee is abolished by a resolution pursuant to paragraph (2), the majority leader and the minority leader may adjust the membership of other committees to provide for members of the abolished committee.

SEC. 103. SENATE SCHEDULING.

Paragraph 3 of rule XXVI of the Standing Rules of the Senate is amended to read as follows:

"3. (a)(1) The provisions of this subparagraph apply to the committees' meetings (including meetings to conduct hearings) held on Tuesday, Wednesday, or Thursday.

"(2) On Tuesdays, only those committees listed in paragraph 2(a) of rule XXV (except the Committee on Appropriations) shall meet for the transaction of business before the committee.

"(3) On Wednesdays, only those committees listed in paragraph 2(b) of rule XXV shall meet for the transaction of business before the committee.

"(4) On Thursdays, only those committees listed in paragraph 3(a) of rule XXV (except the Committee on the Budget) shall meet for the transaction of business before the committee.

"(5) Subcommittees of a full committee referred to in division (2), (3), or (4) may only meet on the day assigned to the full committee. Subcommittees may not meet when the full committee is meeting.

"(6) No committee of the Senate or any subcommittee thereof may meet, without special leave, on a day not designated for such committee or subcommittee under this subparagraph unless consent therefore has been obtained from the majority leader and the minority leader (or in the event of the absence of either of such leader, from the designee of the leaders). The majority leader or the designee of the majority leader shall announce to the Senate whenever consent has been given under this division and shall state the time and place of such meeting. The right to make such announcement of consent shall have the same priority as the filing of a cloture motion.

"(b) If at least three members of any committee desire that a special meeting of the committee be called by the chairman and subject to the provisions of subparagraph (a), those members may file in the offices of the committee their written request to the chairman for that special meeting. Immediately upon the filing of the request, the clerk of the committee shall notify the chairman of the filing of the request. If, within three calendar days after the filing of the request, the chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, a majority of the members of the committee may file in the offices of the committee their written notice that a special meeting of the committee will be held, specifying the date and hour of that special meeting. The committee shall meet on that date and hour. Immediately upon the filing of the notice, the clerk of the committee shall notify all members of the committee that such special meeting will be held and inform them of its date and hour. If the chairman of any such committee is not present at any regular, additional, or special meeting of the committee, the ranking member of the majority party on the committee who is present shall preside at that meeting.".

SEC. 104. PROXY VOTES.

The paragraph 7 of rule XXVI of the Standing Rules of the Senate is amended by adding at the end thereof the following:

"(d) Notwithstanding any other provision of this paragraph, no vote of any member of any committee may be cast by proxy unless the addition of the vote to the vote totals does not effect the result of the vote totals.".

SEC. 105. SENATE COMMITTEE ATTENDANCE.

Rule XXVI of the Standing Rules of the Senate is amended by adding at the end thereof the following:

"(14) The chairman of each committee of the Senate shall publish, in the Congressional Record, the committee attendance and voting records of each member of the committee on or before July 1 and December 31.".

SEC. 106. SENATE FLOOR PROCEEDINGS.

(a) REQUIREMENT OF A THREE-FIFTHS VOTE TO OVERTURN THE CHAIR POST-CLOTURE.—The third undesignated paragraph of paragraph 2 of rule XXII of the Standing Rules of the Senate is amended by adding at the end thereof the following: "Appeals from the decision of the Presiding Officer shall require an affirmative vote of three-fifths of the Senators duly chosen and sworn—except on a measure or motion to amend the Senate rules, in which case the necessary affirmative vote shall be two-thirds of the Senators present and voting.".

(b) NONDEBATABLE MOTION TO PROCEED.—Paragraph 2 of rule VIII of the Standing Rules of the Senate is amended by striking the period at the end thereof and inserting the following: "; except those motions to proceed made by the majority leader, or his designee, on which there shall be a time limitation for debate of two hours equally divided between the majority and the minority leaders, or their designees. Any such motion to proceed, by the majority leader, or any other Senator, to any motion, resolution, or proposal to change any of the Standing Rules of the Senate shall be debatable.".

(c) CHARGING QUORUM CALLS AGAINST AN INDIVIDUAL'S TIME UNDER CLOTURE.—The first sentence of the third undesignated paragraph of paragraph 2 of rule XXII of the Standing Rules of the Senate is amended by striking the period and inserting the following: ", with the time consumed by quorum calls being charged to the Senator who requested the call of the quorum.".

(d) DISPENSING WITH THE READING OF CONFERENCE REPORTS.—Paragraph 1 of rule XXVIII of the Standing Rules of the Senate is amended by striking "and shall be determined without debate." and inserting the following: "notwithstanding a request for the reading of the conference report (if such report is printed and available one day prior to the motion to consider), and shall be determined without debate.".

(e) SENSE OF THE SENATE RESOLUTIONS.—Rule XV of the Standing Rules of the Senate is amended by inserting at the end thereof the following:

"6. On a point of order made by any Senator, no amendment expressing the sense of the Senate or the sense of the Congress, or an amendment to such amendment, shall be received unless the amendment is signed by at least 10 Senators.".

SEC. 107. DEDICATION OF UNEXPENDED FUNDS TO DEFICIT REDUCTION.

(a) INTERIM RULES.—Not later than January 1, 1995 and each year thereafter through 1998, the Secretary of the Senate shall certify and publish in the Congressional Record a list identifying each member of the Senate who has used less than the amount allocated to the personal office of the member during the preceding fiscal year and the amount of such unused allocation.

(b) DEDICATION OF UNEXPENDED FUNDS BEGINNING WITH FISCAL YEAR 1999.—Not later than January 1, 1999 and each year thereafter, the Secretary of the Senate shall notify each Member of the Senate of the difference between the total obligations incurred by his personal office and the allocations for administrative expenses, legislative assistants, and clerk hire available to the Member for the preceding fiscal year. Within 30 days after the date of such notification, any Member pursuant to this subsection may direct the Secretary of the Senate to submit a rescission request for such amount from unobligated balances for that fiscal year.

(c) PERFORMANCE REVIEW GUIDANCE.—In conducting the performance review required by section 331, the Senate committees shall include a plan to reduce the disparity between appropriations and allocations to Members.

TITLE II—REFORM OF THE HOUSE OF REPRESENTATIVES

TITLE III—REFORM OF THE CONGRESS

Subtitle A—Budget Process

PART I—BIENNIAL BUDGETING

SEC. 301. REVISION OF TIMETABLE.

Section 300 of the Congressional Budget Act of 1974 (2 U.S.C. 631) is amended to read as follows:

"TIMETABLE

"SEC. 300. (a) IN GENERAL.—Except as provided by subsection (b), the timetable with respect to the congressional budget process for any Congress (beginning with the One Hundred Fourth Congress) is as follows:

	"First Session
"On or before:	Action to be completed:
First Monday in February.	President submits budget recommendations.
February 15 ..	Congressional Budget Office submits report to Budget Committees.
Within 6 weeks after budget submission.	Committees submit views and estimates to Budget Committees.
April 1	Budget Committees report concurrent resolution on the biennial budget.
April 15	Congress completes action on concurrent resolution on the biennial budget.
May 15	Biennial appropriation bills may be considered in the House.
June 10	House Appropriations Committee reports last biennial appropriation bill.
June 15	Congress completes action on reconciliation legislation.
June 30	Congress completes action on biennial appropriation bills.
October 1	Biennium begins.
	"Second Session
"On or before:	Action to be completed:
May 15	Congressional Budget Office submits report to Budget Committees.
The last day of the session.	Congress completes action on bills and resolutions authorizing a new budget authority for the succeeding biennium.

"(b) SPECIAL RULE.—In the case of any session of Congress that begins in any year immediately following a leap year and during which the term of a President (except a President who succeeds himself) begins, the following dates shall supersede those set forth in subsection (a):

"(1) First Monday in April, President submits budget recommendations.

"(2) April 20, committees submit views and estimates to Budget Committees.

"(3) May 15, Budget Committees report concurrent resolution on the biennial budget.

"(4) June 1, Congress completes action on concurrent resolution on the biennial budget.

"(5) July 1, biennial appropriation bills may be considered in the House.

"(6) July 20, House Appropriations Committee reports last biennial appropriation bill.".

SEC. 302. AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.

(a) DECLARATION OF PURPOSE.—Section 2(2) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621(2)) is amended by striking "each year" and inserting "biennially".

(b) DEFINITIONS.—

(1) Section 3(4) of such Act (2 U.S.C. 622(4)) is amended by striking "fiscal year" each place it appears and inserting "biennium".

(2) Section 3 of such Act (2 U.S.C. 622) is further amended by adding at the end the following new paragraph:

"(12) The term 'biennium' means the period of 2 consecutive fiscal years beginning on October 1 of any odd-numbered year.".

(c) BIENNIAL CONCURRENT RESOLUTION ON THE BUDGET.—

(1) Section 301(a) of such Act (2 U.S.C. 632(a)) is amended—

(A) by striking "April 15 of each year" and inserting "April 15 of each odd-numbered year";

(B) by striking "the fiscal year beginning on October 1 of such year" the first place it appears and inserting "the biennium beginning on October 1 of such year";

(C) by striking "the fiscal year beginning on October 1 of such year" the second place it appears and inserting "each fiscal year in such period";

(D) by striking "and planning levels for each of the two ensuing fiscal years" and inserting "and the appropriate levels for each of the 3 ensuing fiscal years";

(E) in paragraph (6) by striking "for the fiscal year of the resolution and each of the 4" and inserting "for the biennium of the resolution and each of the 3"; and

(F) in paragraph (7) by striking "for the fiscal year of the resolution and each of the 4" and inserting "for the biennium of the resolution and each of the 3".

(2) Section 301(b) of such Act (2 U.S.C. 632(b)) is amended—

(A) in the matter preceding paragraph (1) by inserting "for a biennium" after "concurrent resolution on the budget"; and

(B) in paragraph (3) by striking "for such fiscal year" and inserting "for either fiscal year in such biennium".

(3) Section 301(d) of such Act (2 U.S.C. 632(d)) is amended by inserting "(or, if applicable, as provided by section 300(b))" after "United States Code".

(4) Section 301(e) of such Act (2 U.S.C. 632(e)) is amended—

(A) in the first sentence by striking "fiscal year" and inserting "biennium";

(B) by inserting between the second and third sentences the following new sentence: "On or before April 1 of each odd-numbered year (or, if applicable, as provided by section 300(b)) the Committee on the Budget of each House shall report to its House the concurrent resolution on the budget referred to in subsection (a) for the biennium beginning on October 1 of that year.";

(C) in paragraph (6) by striking "such fiscal year" and inserting "the first fiscal year of such biennium,"; and

(D) in paragraph (10) by striking "the fiscal year covered" and inserting "the biennium covered".

(5) Section 301(f) of such Act (2 U.S.C. 632(f)) is amended by striking "fiscal year" each place it appears and inserting "biennium".

(6) Section 301(g)(1) of such Act (U.S.C. 632(g)(1)) is amended by striking "for a fiscal year" and inserting "for a biennium".

(7) The section heading of section 301 of such Act is amended by striking "**annual**" and inserting "**biennial**".

(8) The table of contents set forth in section 1(b) of such Act is amended by striking "Annual" in the item relating to section 301 and inserting "Biennial".

(d) SECTION 302 COMMITTEE ALLOCATIONS.—Section 302(a)(2) of such Act (2 U.S.C. 633(a)(2)) is amended by striking "fiscal year of the resolution and each of the 4 succeeding fiscal years" and inserting "the biennium of the resolution and each of the 3 succeeding fiscal years".

(e) SECTION 303 POINT OF ORDER.—

(1) Section 303(a) of such Act (2 U.S.C. 634(a)) is amended by striking "fiscal year" each place it appears and inserting "biennium".

(2) Section 303(b) of such Act (2 U.S.C. 634(b)) is amended—

(A) in subparagraphs (A) and (B) of paragraph (1) by striking "the fiscal year" each place it appears and inserting "biennium";

(B) in paragraph (1) by striking "any calendar year" and inserting "any odd-numbered calendar year (or, if applicable, as provided by section 300(b))"; and

(C) by striking paragraph (2), striking "(1)", and redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

(f) PERMISSIBLE REVISIONS OF CONCURRENT RESOLUTIONS ON THE BUDGET.—Section 304(a) of such Act (2 U.S.C. 635) is amended—

(1) by striking "fiscal year" the first two places it appears and inserting "biennium";

(2) by striking "for such fiscal year"; and

(3) by inserting before the period "for such biennium".

(g) PROCEDURES FOR CONSIDERATION OF BUDGET RESOLUTIONS.—Section 305(a)(3) of such Act (2 U.S.C. 636(b)(3)) is amended by striking "fiscal year" and inserting "biennium".

(h) REPORTS AND SUMMARIES OF CONGRESSIONAL BUDGET ACTIONS.—Section 308(a)(1)(A) of such Act (2 U.S.C. 639(a)(1)) is amended by striking "fiscal year (or fiscal years)" and inserting "biennium".

(i) COMPLETION OF ACTION ON REGULAR APPROPRIATION BILLS.—Section 309 of such Act (2 U.S.C. 640) is amended—

(1) by inserting "of any odd-numbered calendar year" after "July";

(2) by striking "annual" and inserting "regular"; and

(3) by striking "fiscal year" and inserting "biennium".

(j) RECONCILIATION PROCESS.—

(1) Section 310(a) of such Act (2 U.S.C. 641(a)) is amended—

(A) by striking "any fiscal year" in the matter preceding paragraph (1) and inserting "any biennium";

(B) in paragraph (1) by striking "such fiscal year" each place it appears and inserting "each fiscal year in such biennium"; and

(C) in paragraph (2) by inserting "for each fiscal year in such biennium" after "revenues".

(2) Section 310(f) of such Act (2 U.S.C. 641(f)) is amended by striking "for such fiscal year" and inserting "for such biennium".

(k) SECTION 311 POINT OF ORDER.—

(1)(A) Section 311(a)(1) of such Act (2 U.S.C. 642(a)) is amended—

(i) by striking "for a fiscal year" and inserting "for a biennium";

(ii) by striking "such fiscal year" the first place it appears and inserting "either fiscal year in such biennium";

(iii) by striking "during such fiscal year" and inserting "during either fiscal year in such biennium";

(iv) by striking "revenues for such fiscal year" and inserting "revenues for a fiscal year"; and

(v) by striking "budget for such fiscal year" and inserting "budget for either fiscal year in such biennium".

(B) Section 311(a)(2)(A) of such Act is amended—

(i) by striking "for the first" and inserting "for either";

(ii) by striking "covering such fiscal year" and inserting "covering such biennium";

(iii) by striking "the first fiscal year covered" and inserting "either fiscal year in such biennium covered";

(iv) by striking "the first fiscal year plus" and inserting "the biennium plus"; and

(v) by striking "4 fiscal years" and inserting "3 fiscal years".

(2) Section 311(b) of such Act (2 U.S.C. 642(b)) is amended by striking "such fiscal year" the second place it appears and inserting "either fiscal year in such biennium".

(l) BILLS PROVIDING NEW SPENDING AUTHORITY.—Section 401(b)(2) of such Act (2 U.S.C. 651(b)(2)) is amended by striking "for such fiscal year" the second place it appears and inserting "for the biennium in which such fiscal year occurs".

(m) DATE OF ADJUSTING ALLOCATIONS.—Section 603(a) of such Act (2 U.S.C. 665b) is amended by inserting after "April 15" the following "(or if section 300(b) applies by June 15th)".

SEC. 303. AMENDMENTS TO TITLE 31, UNITED STATES CODE.

(a) DEFINITION.—Section 1101 of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3) 'biennium' has the meaning given to such term in paragraph (12) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(12)).".

(b) BUDGET CONTENTS AND SUBMISSION TO THE CONGRESS.—

(1) So much of section 1105(a) of title 31, United States Code, as precedes paragraph (1) thereof is amended to read as follows:

"(a) On or before the first Monday in February of each odd-numbered year (or, if applicable, as provided by section 300(b) of the Congressional Budget Act of 1974), beginning with the One Hundred Fourth Congress, the President shall transmit to the Congress, the budget for the biennium beginning on October 1 of such calendar year. The budget transmitted under this subsection shall include a budget message and summary and supporting information. The President shall include in each budget the following:".

(2) Section 1105(a)(5) of title 31, United States Code, is amended by striking "the fiscal year for which the budget is submitted and the 4 fiscal years after that year" and inserting "each fiscal year in the biennium for which the budget is submitted and in the succeeding 3 years".

(3) Section 1105(a)(6) of title 31, United States Code, is amended by striking "the fiscal year for which the budget is submitted and the 4 fiscal years after that year" and inserting "each fiscal year in the biennium for which the budget is submitted and in the succeeding 3 years".

(4) Section 1105(a)(9)(C) of title 31, United States Code, is amended by striking "the fiscal year" and inserting "each fiscal year in the biennium".

(5) Section 1105(a)(12) of title 31, United States Code, is amended—

(A) by striking "the fiscal year" in subparagraph (A) and inserting "each fiscal year in the biennium"; and

(B) by striking "4 fiscal years after that year" in subparagraph (B) and inserting "3 fiscal years immediately following the second fiscal year in such biennium".

(6) Section 1105(a)(13) of title 31, United States Code, is amended by striking "the fiscal year" and inserting "each fiscal year in the biennium".

(7) Section 1105(a)(14) of title 31, United States Code, is amended by striking "that year" and inserting "each fiscal year in the biennium for which the budget is submitted".

(8) Section 1105(a)(16) of title 31, United States Code, is amended by striking "the fiscal year" and inserting "each fiscal year in the biennium".

(9) Section 1105(a)(17) of title 31, United States Code, is amended—

(A) by striking "the fiscal year following the fiscal year" and inserting "each fiscal year in the biennium following the biennium";

(B) by striking "that following fiscal year" and inserting "each such fiscal year"; and

(C) by striking "fiscal year before the fiscal year" and inserting "biennium before the biennium".

(10) Section 1105(a)(18) of title 31, United States Code, is amended—

(A) by striking "the prior fiscal year" and inserting "each of the 2 most recently completed fiscal years";

(B) by striking "for that year" and inserting "with respect to that fiscal year"; and

(C) by striking "in that year" and inserting "in that fiscal year".

(11) Section 1105(a)(19) of title 31, United States Code, is amended—

(A) by striking "the prior fiscal year" and inserting "each of the 2 most recently completed fiscal years";

(B) by striking "for that year" and inserting "with respect to that fiscal year"; and

(C) by striking "in that year" each place it appears and inserting "in that fiscal year".

(c) ESTIMATED EXPENDITURES OF LEGISLATIVE AND JUDICIAL BRANCHES.—Section 1105(b) of title 31, United States Code, is amended by striking "each year" and inserting "each even-numbered year".

(d) RECOMMENDATIONS TO MEET ESTIMATED DEFICIENCIES.—Section 1105(c) of title 31, United States Code, is amended—

(1) by striking "fiscal year for" each place it appears and inserting "biennium for";

(2) by inserting "or current biennium, as the case may be," after "current fiscal year"; and

(3) by striking "that year" and inserting "that period".

(e) STATEMENT WITH RESPECT TO CERTAIN CHANGES.—Section 1105(d) of title 31, United States Code, is amended by striking "fiscal year" and inserting "biennium".

(f) CAPITAL INVESTMENT ANALYSIS.—Section 1105(e) of title 31, United States Code, is amended by striking "ensuing fiscal year" and inserting "biennium to which such budget relates".

(g) SUPPLEMENTAL BUDGET ESTIMATES AND CHANGES.—

(1) Section 1106(a) of title 31, United States Code, is amended—

(A) in the matter preceding paragraph (1) by striking "fiscal year" and inserting "biennium";

(B) in paragraph (1) by striking "that fiscal year" and inserting "each fiscal year in such biennium";

(C) in paragraph (2) by striking "4 fiscal years following the fiscal year" and inserting "3 fiscal years following the biennium"; and

(D) by striking "fiscal year" in paragraph (3) and inserting "biennium".

(2) Section 1106(b) of title 31, United States Code, is amended by striking "the fiscal year" and inserting "each fiscal year in the biennium".

(h) CURRENT PROGRAMS AND ACTIVITIES ESTIMATES.—

(1) Section 1109(a) of title 31, United States Code, is amended—

(A) by striking "On or before the first Monday after January 3 of each year (on or before February 5 in 1994)" and inserting "At the same time the budget required by section 1105 is submitted for a biennium"; and

(B) by striking "the following fiscal year" and inserting "each fiscal year of such period".

(2) Section 1109(b) of title 31, United States Code, is amended by striking "March 1 of each year" and inserting "within 6 weeks of the President's budget submission for each odd-numbered year (or, if applicable, as provided by section 300(b) of the Congressional Budget Act of 1974)".

(i) YEAR-AHEAD REQUESTS FOR AUTHORIZING LEGISLATION.—Section 1110 of title 31, United States Code, is amended—

(1) by striking "fiscal year" and inserting "biennium (beginning on or after October 1, 1995)"; and

(2) by striking "year before the year in which the fiscal year begins" and inserting "second calendar year preceding the calendar year in which the biennium begins".

(j) BUDGET INFORMATION ON CONSULTING SERVICES.—Section 1114 of title 31, United States Code, is amended—

(1) by striking "The" each place it appears and inserting "For each biennium beginning with the biennium beginning on October 1, 1994, the"; and

(2) by striking "each year" each place it appears.

SEC. 304. TWO-YEAR APPROPRIATIONS; TITLE AND STYLE OF APPROPRIATIONS ACTS.

Section 105 of title 1, United States Code, is amended to read as follows:

"§ 105. Title and style of appropriations Acts

"(a) The style and title of all Acts making appropriations for the support of the Government shall be as follows: 'An Act making appropriations (here insert the object) for the biennium ending September 30 (here insert the odd-numbered calendar year).'.

"(b) All Acts making regular appropriations for the support of the Government shall be enacted for a biennium and shall specify the amount of appropriations provided for each fiscal year in such period.

"(c) For purposes of this section, the term 'biennium' has the same meaning as in section 3(11) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(11)).".

SEC. 305. CONFORMING AMENDMENTS TO RULES OF HOUSE OF REPRESENTATIVES.

(a) Clause 4(a)(1)(A) of rule X of the Rules of the House of Representatives is amended by inserting "odd-numbered" after "each".

(b) Clause 4(a)(2) of rule X of the Rules of the House of Representatives is amended by striking "such fiscal year" and inserting "the biennium in which such fiscal year begins".

(c)(1) Clause 4(b)(2) of rule X of the Rules of the House of Representatives is amended by striking "concurrent resolution on the budget for each fiscal year" and inserting "concurrent resolution on the budget required under section 301(a) of the Congressional Budget Act of 1974 for each biennium".

(2) Clause 4(b) of rule X of the Rules of the House of Representatives is amended by striking "and" at the end of subparagraph (4), by striking the period and inserting "; and" at the end of subparagraph (5), and by adding at the end the following new subparagraph:

"(6) to use the second year of each biennium to study issues with long-term budgetary and economic implications, which would include—

"(A) holding hearings to receive testimony from committees of jurisdiction to identify problem areas and to report on the results of oversight; and

"(B) by January 1 of each odd-numbered year, issuing a report to the Speaker which identifies the key issues facing the Congress in the next biennium.".

(d) Clause 4(f) of rule X of the Rules of the House of Representatives is amended by striking "annually" each place it appears and inserting "biennially".

(e) Clause 4(g) of rule X of the Rules of the House of Representatives is amended—

(1) by striking "March 15 of each year" and inserting "March 15 of each odd-numbered year (or, if applicable, as provided by section 300(b) of the Congressional Budget Act of 1974)";

(2) by striking "fiscal year" the first place it appears and inserting "biennium"; and

(3) by striking "that fiscal year" and inserting "each fiscal year in such ensuing biennium".

(f) Clause 4(h) of rule X of the Rules of the House of Representatives is amended by striking "fiscal year" and inserting "biennium".

(g) Subdivision (C) of clause 2(l)(1) of rule XI of the Rules of the House of Representatives is repealed.

(h) Clause 4(a) of rule XI of the Rules of the House of Representatives is amended by striking "fiscal year if reported after September 15 preceding the beginning of such fiscal year" and inserting "biennium if reported after August 1 of the year in which such biennium begins".

(i) Clause 2 of rule XLIX of the Rules of the House of Representatives is amended by striking "fiscal year" and inserting "biennium".

SEC. 306. MULTIYEAR AUTHORIZATIONS.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 314. It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, or conference report that authorizes appropriations for a period of less than 2 fiscal years, unless the program, project, or activity for which the funds are to be spent is of less than 2 years duration.".

(b) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 313 the following new item:

"Sec. 314. Authorizations of appropriations.".

PART II—ADDITIONAL BUDGET PROCESS CHANGES

SEC. 311. CBO REPORTS TO BUDGET COMMITTEES.

Section 308 of the Congressional Budget Act of 1974 is amended by—

(1) redesignating subsection (c) as subsection (d); and

(2) inserting after subsection (b) the following:

"(c) QUARTERLY BUDGET REPORTS.—The Congressional Budget Office shall, as soon as practicable after the completion of each quarter of the fiscal year, prepare an analysis comparing revenues, spending, and the deficit for the current fiscal year to assumptions included in the Congressional budget resolution. In preparing this report, the Congressional Budget Office shall combine actual budget figures to date with projected revenue and spending for the balance of the fiscal year. The Congressional Budget Office shall include any other information in this report that it deems useful for a full understanding of the current fiscal position of the

Federal Government. The reports mandated by this subsection shall be transmitted by the Director to the Senate and House Committees on the Budget, and the Congressional Budget Office shall make such reports available to any interested party upon request.".

SEC. 312. BYRD RULE CLARIFICATIONS.

(a) PERMANENT EXTENSION OF BYRD RULE.—The first sentence of section 904(c) and the second sentence of section 904(d) of the Congressional Budget Act of 1974 are amended by inserting "313," after "306,".

(b) BYRD RULE CLARIFICATIONS.—Section 313 of the Congressional Budget Act of 1974 is amended—

(1) in subsection (b)(1)(A), by striking ", including changes in outlays and revenues brought about by changes in the terms and conditions under which outlays are made or revenues are required to be collected";

(2) by redesignating subsections (d) and (e) as subsections (e) and (f);

(3) by redesignating subsection (c), the second time it appears, as subsection (d) and inserting before "When" the following:

"(c) APPLICATION TO CONFERENCE REPORTS.—"; and

(4) in subsection (d) (as redesignated by paragraph (3))—

(A) in paragraph (1), by striking "and"; and

(B) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following:

"(2)(A) a point of order being made against any provision producing an increase in outlays in any fiscal year shall be considered extraneous if the net effect of provisions affecting outlays reported by the conferees would cause a Senate committee to fail to achieve its outlay instruction, and

"(B) a point of order being made against any provision producing a reduction in revenues in any fiscal year shall be considered extraneous if the net effect of provisions affecting revenues reported by the conferees would cause a Senate committee to fail to achieve its revenue instruction, and".

SEC. 313. GAO ASSISTANCE WITH AUTHORIZATIONS AND OVERSIGHT.

Section 717 of title 31, United States Code, is amended by adding at the end thereof the following:

"(e) During the second session of each Congress, the Comptroller General shall give priority to requests from Congress for audits and evaluations of Government programs and activities.".

Subtitle B—Staffing; Administration; and Support Agencies

SEC. 331. LEGISLATIVE BRANCH STREAMLINING AND RESTRUCTURING.

(a) PERFORMANCE REVIEW.—Not later than one year after the date of enactment of this Act, the Committee on Rules and Administration and the Committee on Appropriations of the Senate and the appropriate committees or task force of the House of Representatives shall submit to the leadership of their respective Houses a performance review together with any necessary implementing legislation for achieving efficiencies, economies, and reductions in the total number of full time equivalent positions in the legislative branch comparable to those proposed and implemented for the executive branch in the President's National Performance Review, submitted September 1993.

(b) REDUCTION BASE.—The reductions required by this section shall be made from a base of the total number of full time equivalent positions in the legislative branch on the date of introduction of S. Con. Res. 57 (102d Congress, 1st Session), the concurrent resolution establishing the Joint Committee on the Organization of Congress.

SEC. 332. AUTHORIZATION OF CERTAIN CONGRESSIONAL INSTRUMENTALITIES.

(a) IN GENERAL.—It is the intent of Congress that the General Accounting Office, Congressional Budget Office, Library of Congress, Government Printing Office, and Office of Technology Assessment shall be authorized for 8 fiscal years in accordance with this section.

(b) CYCLES.—

(1) GENERAL ACCOUNTING OFFICE.—The General Accounting Office shall be authorized by the enactment every eighth year beginning with fiscal year 1997 of an Act to authorize appropriations for that office for the next 8 fiscal years.

(2) LIBRARY OF CONGRESS.—The Library of Congress shall be authorized by the enactment every eighth year beginning with fiscal year 1999 of an Act to authorize appropriations for that office for the next 8 fiscal years.

(3) GOVERNMENT PRINTING OFFICE.—The Government Printing Office shall be authorized by the enactment every eighth year beginning with fiscal year 2001 of an Act to authorize appropriations for that office for the next 8 fiscal years.

(4) CONGRESSIONAL BUDGET OFFICE AND OFFICE OF TECHNOLOGY AND ASSESSMENT.—The Congressional Budget Office and Office of Technology Assessment shall be authorized by the enactment every eighth year beginning with fiscal year 2003 of an Act to authorize appropriations for those offices for the next 8 fiscal years.

(c) JURISDICTION.—

(1) IN GENERAL.—The Committee on Rules and Administration of the Senate and the appropriate committee in the House of Representatives shall have jurisdiction over the authorizations required by this section.

(2) OVERSIGHT.—In reauthorizing instrumentalities as required by this section, the committees referred to in paragraph (1) shall seek to—

(A) eliminate duplication between instrumentalities;

(B) consolidate activities; and

(C) increase efficiency within instrumentalities.

(d) COST ACCOUNTING REQUIREMENTS.—Effective on January 1, 1995, each instrumentality of the Congress providing support to the Congress shall prepare by not later than December 31 of each year an annual report detailing the cost to the instrumentality of providing support to each committee of the Senate and Senator. The report shall be submitted to the Secretary of the Senate and included in the Secretary's semiannual report.

(e) VOUCHER ALLOCATION SYSTEM.—The Committee on Rules and Administration of the Senate and the appropriate committee of the House of Representatives shall study and report to their respective Houses as a part of their authorization responsibilities under subsection (c) concerning the feasibility of establishing a voucher allocation system for committees using the services of instrumentalities of Congress.

(f) REPEALERS.—

(1) GENERAL ACCOUNTING OFFICE.—Section 736 of title 31, United States Code, is repealed.

(2) CONGRESSIONAL BUDGET OFFICE.—Section 201(f) of the Congressional Budget Act of 1974 (2 U.S.C. 601(f)) is repealed.

(3) LIBRARY OF CONGRESS.—Any authorization of appropriations for the Library of Congress in effect on the effective date of this paragraph is repealed.

(4) GOVERNMENT PRINTING OFFICE.—Any authorization of appropriations for the Government Printing Office in effect on the effective date of this paragraph is repealed.

(5) OFFICE OF TECHNOLOGY ASSESSMENT.—Section 12 of the Technology Assessment Act of 1972 (2 U.S.C. 481) is repealed.

(6) EFFECTIVE DATE.—Paragraphs (1) and (2) shall take effect with respect to fiscal years beginning with fiscal year 1997. Paragraphs (3), (4), and (5) shall take effect with respect to fiscal years beginning with fiscal year 1999.

SEC. 333. DETAILEES FROM CONGRESSIONAL SUPPORT AGENCIES AND EXECUTIVE AGENCIES.

(a) REIMBURSEMENT.—The cost of the service on detail to a committee of the Senate or House of Representatives or the personal office of a member of the Senate or House of Representatives of a person who is regularly employed by an instrumentality of Congress or an executive agency shall be fully reimbursed to the instrumentality of Congress or executive agency by the committee or personal office that receives the service.

(b) DEFINITION.—In this section, the term "instrumentality of Congress" means—

(1) the General Accounting Office;

(2) the Congressional Budget Office;

(3) the Library of Congress;

(4) the Government Printing Office; and

(5) the Office of Technology Assessment.

Subtitle C—Abolishing the Joint Committees

PART I—JOINT ECONOMIC COMMITTEE

SEC. 361. JOINT ECONOMIC COMMITTEE.

(a) ABOLITION.—Effective beginning with the 104th Congress, the Joint Economic Committee is abolished.

(b) TRANSFER OF RESPONSIBILITY.—The Committee on the Budget and the appropriate committee of the House of Representatives shall be responsible for review of the Economic Report of the President required by section 103 of the Full Employment and Balanced Growth Act of 1978 (15 U.S.C. 1022).

PART II—JOINT COMMITTEE ON TAXATION

SEC. 362. JOINT COMMITTEE ON TAXATION.

(a) ABOLITION.—Effective beginning with the 104th Congress, the Joint Committee on Taxation is abolished.

(b) TRANSFER OF RESPONSIBILITY.—Section 202(b) of the Congressional Budget Act of 1974 is amended by—

(1) designating the text of such subsection as paragraph (1); and

(2) adding at the end thereof the following:

"(2) The Office shall provide technical guidance to the Committee on Finance and the Committee on Ways and Means with respect to taxation and tax legislation. The Office shall perform the responsibilities formerly assigned to the Joint Committee on Taxation upon the abolishment of such committee.".

(c) COMMITTEE TRANSFER OVERSIGHT.—The Committee on Rules and Administration and the appropriate committee of the House of Representatives shall report to the Congress a plan for the transfer of responsibilities and staff as required by this section.

PART III—JOINT COMMITTEE ON THE LIBRARY OF CONGRESS

SEC. 363. JOINT COMMITTEE ON THE LIBRARY OF CONGRESS.

(a) ABOLITION.—Effective beginning with the 104th Congress, the Joint Committee on the Library of Congress is abolished.

(b) TRANSFER OF RESPONSIBILITY.—Effective beginning with the 104th Congress, the responsibilities of the Joint Committee on the Library of Congress shall be performed by the Committee on Rules and Administration of the Senate and the appropriate committee of the House of Representatives.

PART IV—JOINT COMMITTEE ON PRINTING

SEC. 371. JOINT COMMITTEE ON PRINTING.

(a) ABOLITION.—Chapter 1 of title 44, United States Code, is repealed.

(b) TRANSFER OF RESPONSIBILITY.—Subject to subsection (c), all duties, authorities, responsibilities, and functions performed by the Joint Committee on Printing before the effective date of this part shall be performed by the Public Printer on and after such date.

(c) OVERSIGHT FUNCTIONS.—All legislative oversight jurisdiction, duties, authorities, responsibilities, and functions performed by the Joint Committee on Printing before the effective date of this part shall be performed by the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives on and after such date.

(d) REFERENCES.—Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Joint Committee on Printing shall be deemed to refer to the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives, or the Public Printer, as appropriate.

SEC. 372. DEPUTY PUBLIC PRINTERS.

(a) IN GENERAL.—Section 302 of title 44, United States Code, is amended to read as follows:

"§ 302. Deputy Public Printers; appointments; duties

"(a)(1) The President of the United States shall nominate and, by and with the advice and consent of the Senate, appoint the—

"(A) Legislative Deputy Public Printer who shall also serve as the Superintendent of Documents;

"(B) Executive Deputy Public Printer; and

"(C) Judicial Deputy Public Printer.

"(2) Each Deputy Printer shall be a suitable person, who is a practical printer and versed in the art of bookbinding.

"(b) In addition to any other duties required by the Public Printer, the Legislative Deputy Public Printer shall perform all duties of the Government Printing Office relating to the Legislative branch, including all applicable duties performed under—

"(1) chapter 7 relating to Congressional printing and binding;

"(2) chapter 9 relating to the Congressional Record;

"(3) chapter 13 relating to particular reports and documents, including sections 1326 and 1332;

"(4) chapter 17 relating to the distribution and sale of public documents;

"(5) chapter 19 relating to the Depository Library Program;

"(6) chapter 27 relating to Advisory Committee on Records of Congress; and

"(7) section 3511 relating to services performed for the Federal Information Locator System.

"(c) In addition to any other duties required by the Public Printer, the Executive Deputy Public Printer shall perform all duties of the Government Printing Office relating to the Executive branch, including all applicable duties performed under—

"(1) chapter 5 relating to the production and procurement of printing and binding;

"(2) chapter 11 relating to Executive printing and binding;

"(3) chapter 13 relating to particular reports and documents; and

"(4) chapters 15, 21, 22, 23, 25, 29, 31, 33, 35, 37, and 39.

"(d) In addition to any other duties required by the Public Printer, the Judicial Deputy Public Printer shall perform all duties of the Government Printing Office relating to the Judicial branch, including all applicable duties performed under—

"(1) chapter 11 relating to Judiciary printing and binding, including printings under section 1120; and

"(2) chapter 13 relating to particular reports and documents.

"(e) The Public Printer, in consultation with the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives, shall determine the respective duties of the Deputy Public Printers under this section.".

(b) COMPENSATION.—Section 303 of title 44, United States Code, is amended in the second sentence by striking out "the Deputy Public Printer" and inserting in lieu thereof "each of the Deputy Public Printers".

(c) SUCCESSION.—Section 304 of title 44, United States Code, is amended by striking out "the Deputy Public Printer" and inserting in lieu thereof "one of the Deputy Public Printers designated by the President".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—(1) The table of sections for chapter 3 of title 44, United States Code, is amended by striking out the item relating to section 302 and inserting in lieu thereof the following new item:

"302. Deputy Public Printers; appointments; duties.".

(2) Section 313 of title 44, United States Code, is amended—

(A) in the first sentence—

(i) by striking out "Deputy Public Printer" and inserting in lieu thereof "3 Deputy Public Printers"; and

(ii) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Committee on Rules and Administration of the Senate and the Committee on Administration of the House of Representatives";

(B) in the second sentence—

(i) by striking out "Deputy Public Printer" and inserting in lieu thereof "3 Deputy Public Printers"; and

(ii) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Committee on Rules and Administration of the Senate and the Committee on Administration of the House of Representatives"; and

(C) in the third sentence—

(i) by striking out "Deputy Public Printer" and inserting in lieu thereof "3 Deputy Public Printers"; and

(ii) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Committee on Rules and Administration of the Senate and the Committee on Administration of the House of Representatives".

SEC. 373. ANNUAL REPORT TO CONGRESS.

Section 309(c) of title 44, United States Code, is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The annual program submitted under this subsection shall include a report on—

"(A) the printing costs of each branch of the Government;

"(B) with regard to Government publications, a cost comparison of—

"(i) publications published by the Government Printing Office;

"(ii) Federal agency publications that are published by such agency;

"(iii) publications that are published by commercial sources that are not Federal entities under any contract with a Federal agency (other than the Government Printing Office); and

"(iv) publications that are published by commercial sources that are not Federal entities under any contract with the Government Printing Office; and

"(C) the cost of all individual printing orders printed under section 501(a)(1)(C).".

SEC. 374. SUPERINTENDENT OF DOCUMENTS.

Section 1702 of title 44, United States Code, is amended by striking out the first sentence and inserting in lieu thereof "The Legislative Deputy Public Printer appointed under section 302 shall also serve as the Superintendent of Documents for no additional compensation.".

SEC. 375. REQUIREMENT OF PRINTING BY THE GOVERNMENT PRINTING OFFICE.

(a) IN GENERAL.—Section 501 of title 44, United States Code, is amended to read as follows:

"§ 501. Government printing, binding, and blank-book work to be done at Government Printing Office

"(a)(1) All printing, binding, and blank-book work for Congress, the Executive Office, the Judiciary, other than the Supreme Court of the United States, and every executive department, independent office and establishment of the Government, shall be done at the Government Printing Office, except—

"(A) classes of work the Public Printer considers to be urgent or necessary to have done elsewhere;

"(B) printing in field printing plants operated by an executive department, independent office or establishment, and the procurement of printing by an executive department, independent office or establishment from allotments for contract field printing, if approved by the Public Printer;

"(C) individual printing orders may be ordered by an executive department or agency costing not more than $1,500, if—

"(i) the work is printed by any executive department or agency; or

"(ii) the work is printed under a contract by a commercial source that is not a Federal entity;

"(D) printing for the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency; or

"(E) printing from other sources that is specifically authorized by law.

"(2) For purposes of this subsection, the term 'printing' means the process of composition, platemaking, presswork, silk screen processes, binding, microform, and the end items of such processes.

"(b) Any Federal officer who orders or contracts for an individual printing order described under subsection (a)(1)(C) shall include as a term of such order or contract that the executive agency or department, or the commercial source that provides the printing shall deliver a sufficient number of any document printed under such order or contract to the Superintendent of Documents for inclusion in the depository library program under chapter 19. The Public Printer shall promulgate regulations to define the term 'sufficient number' for purposes of this subsection.

"(c) Printing or binding may be done at the Government Printing Office only when authorized by law.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 207 of the Legislative Branch Appropriations Act, 1993 (44 U.S.C. 501 note; Public Law 102-392; 106 Stat. 1719) is repealed.

SEC. 376. REPORT ON COSTS FOR PRINTING BY FEDERAL AGENCIES OTHER THAN THE GOVERNMENT PRINTING OFFICE.

(a) IN GENERAL.—Chapter 11 of title 44, United States Code, is amended by adding at the end thereof the following new section:

"§ 1124. Report on costs for printing by Federal agencies

"No later than November 1 of each year, the head of each Federal department and agency shall submit a report to the Public Printer of the cost of publishing all Government publications that were published by such agency in the preceding fiscal year. Such costs shall not include Government publications published by the Government Printing Office or under contract with a commercial source that is not a Federal entity.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 11 of title 44, United States Code, is amended by adding at the end thereof the following new item:

"1124. Report on costs for printing by Federal agencies.".

SEC. 377. TECHNICAL AND CONFORMING AMENDMENTS.

(1) Section 107 of title 1, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer in consultation with the Secretary of the Senate and the Clerk of the House of Representatives".

(2) Section 208 of title 1, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(3) Section 4 of the joint resolution entitled "A joint resolution to provide for the printing and distribution of the Precedents of the House of Representatives compiled and prepared by Lewis Deschler", approved October 18, 1976 (2 U.S.C. 28e) is amended—

(A) in subsection (a) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives"; and

(B) in subsection (b) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives".

(4) Section 3 of the Joint Resolution of December 24, 1970 (2 U.S.C. 168b) is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives".

(5) Section 145 of title 4, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives".

(6) Section 312 of the Federal Water Power Act (16 U.S.C. 825k) is amended by striking out "Joint Committee on Printing" each place it appears and inserting in each such place "Public Printer".

(7) Section 5(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(c)) is amended by striking out "Joint Committee on Printing of the Congress" and inserting in lieu thereof "Public Printer".

(8) Section 7(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(c)) is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(9) Section 411 of title 28, United States Code, is amended in subsection (a) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(10) Section 602 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 474(18)) is amended—

(A) by striking out paragraph (18); and

(B) by redesignating paragraphs (19) through (21) as paragraphs (18) through (20), respectively.

(11) The table of chapters for title 44, United States Code, is amended by striking out the item relating to chapter 1.

(12) The table of sections for chapter 1 of title 44, United States Code, is repealed.

(13) Section 305 of title 44, United States Code, is amended in subsection (a)—

(A) in the fourth sentence by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer"; and

(B) in the fifth sentence by striking out "either party may appeal to the Joint Committee on Printing, and the decision of the Joint Committee is final." and inserting in lieu thereof "an appeal may be made under subchapter III of chapter 71 of title 5.".

(14) Section 309 of title 44, United States Code, is amended in subsection (a) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(15) Section 312 of title 44, United States Code, is amended by striking out ", with the approval of the Joint Committee on Printing,".

(16) Section 502 of title 44, United States Code, is amended by striking out "with the approval of the Joint Committee on Printing".

(17) Section 504 of title 44, United States Code, is amended by striking out "The Joint Committee on Printing may permit the Public Printer to" and inserting in lieu thereof "The Public Printer may".

(18) Section 505 of title 44, United States Code, is amended by striking out ", under regulations of the Joint Committee on Printing".

(19) Section 508 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives".

(20) Section 509 of title 44, United States Code, is amended—

(A) by striking out "Joint Committee on Printing" and inserting in lieu thereof "the Public Printer"; and

(B) by striking out ", under their direction,".

(21) Section 510 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(22) Section 511 of title 44, United States Code, is amended—

(A) in the first sentence by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer";

(B) in the second sentence by striking out "The committee" and inserting in lieu thereof "The Public Printer"; and

(C) in the third sentence by striking out "The Committee" and inserting in lieu thereof "The Public Printer".

(23) Section 512 of title 44, United States Code, is amended—

(A) in the first sentence by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer"; and

(B) by striking out "the Committee" and inserting in lieu thereof "the Public Printer".

(24) Section 513 of title 44, United States Code, is amended—

(A) in the first sentence by striking out "standard of quality fixed upon by the Joint Committee on Printing," and inserting in lieu thereof "applicable fixed standard of quality"; and

(B) in the second sentence by striking out "the Committee" and inserting in lieu thereof "the Public Printer".

(25) Section 514 of title 44, United States Code, is amended—

(A) by striking out "Joint Committee on Printing shall determine" and inserting in lieu thereof "Public Printer shall apply the provisions of subchapter V of chapter 35 of title 31, United States Code, to resolve"; and

(B) by striking out "; and the decision of the Committee is final as to the United States".

(26) Section 515 of title 44, United States Code, is amended—

(A) in the first sentence by striking out "report the default to the Joint Committee on Printing, and under its direction,"; and

(B) in the second sentence by striking out ", under the direction of the Joint Committee on Printing,".

(27) Section 517 of title 44, United States Code, is amended by striking out "The Joint Committee on Printing may authorize the Public Printer to" and inserting in lieu thereof "The Public Printer may".

(28) Section 702 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(29) Section 703 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Committee on Rules and Administration of the Senate or the Committee on House Administration of the House of Representatives".

(30) Section 707 of title 44, United States Code, is amended by striking out "the Joint Committee on Printing may authorize the printing of a bill or resolution, with index and ancillaries, in the style and form the Joint Committee on Printing considers most suitable in the interest of economy and efficiency, and to so continue until final enactment in both Houses of Congress. The committee" and inserting in lieu thereof "the Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives, may print a bill or resolution, with index and ancillaries, in the style and form the Public Printer considers most suitable in the interest of economy and efficiency, and to so continue until final enactment in both Houses of Congress. The Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives".

(31) Section 709 of title 44, United States Code, is amended in the second sentence by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(32) Section 714 of title 44, United States Code, is amended by striking out "The Joint Committee on Printing shall establish rules to be observed by the Public Printer," and inserting in lieu thereof "The Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives, shall establish rules".

(33) Section 717 of title 44, United States Code, is amended by striking out "Joint

Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives".

(34) Section 718 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives".

(35) Section 721(a) of title 44, United States Code, is amended—

(A) in the first sentence by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives"; and

(B) in the second sentence by striking out "The Joint Committee" and inserting in lieu thereof "The Public Printer".

(36) Section 722 of title 44, United States Code, is amended by striking out ", under the direction of the Joint Committee on Printing,".

(37) Section 723 of title 44, United States Code, is amended—

(A) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives"; and

(B) by striking out "the Joint Committee" and inserting in lieu thereof "the Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives,".

(38) Section 724 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(39) Section 728 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives,".

(40) Section 738 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives,".

(41) Section 901 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives,".

(42) Section 902 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "the Public Printer, in consultation with the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives,".

(43) Section 903 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives,".

(44) Section 904 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives".

(45) Section 905 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives,".

(46) Section 906 of title 44, United States Code, is amended—

(A) by striking out "to the Committee on Printing not to exceed one hundred copies;" and inserting in lieu thereof "to the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives not to exceed one hundred copies each;";

(B) by striking out "to each Joint Committee and Joint Commission in Congress, as may be designated by the Joint Committee on Printing" and inserting in lieu thereof "to each Joint Committee and Joint Commission in Congress, as may be designated by the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives";

(C) by striking out "to the Joint Committee on Printing, ten semimonthly copies;" and inserting in lieu thereof "to the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives, ten semimonthly copies;";

(D) by striking out "of which eight copies may be bound in the style and manner approved by the Joint Committee on Printing;" and inserting in lieu thereof "of which eight copies may be bound in the style and manner approved by the Public Printer, in consultation with the appropriate official of the House of Representatives"; and

(E) by striking out "Copies of the daily edition, unless otherwise directed by the Joint Committee on Printing, shall be supplied and delivered" and inserting in lieu thereof "Copies of the daily edition, unless otherwise directed by the Public Printer, shall be supplied and delivered".

(47) Section 1108 of title 44, United States Code, is amended by striking out ", subject to regulation by the Joint Committee on Printing,".

(48) Section 1112 of title 44, United States Code, is amended by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(49) Section 1121 of title 44, United States Code, is amended by striking out ", under direction of the Joint Committee on Printing,".

(50) Section 1301 of title 44, United States Code, is amended by striking out ", in accordance with directions of the Joint Committee on Printing".

(51) Section 1320A of title 44, United States Code, is amended by striking out ", and with the approval of the Joint Committee on Printing".

(52) Section 1333 of title 44, United States Code, is amended in subsection (b) by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer, in consultation with the Secretary of the Senate and the appropriate official of the House of Representatives,".

(53) Section 1338 of title 44, United States Code, is amended—

(A) in the first sentence—

(i) by striking out ", under limitations and conditions prescribed by the Joint Committee on Printing,"; and

(ii) by striking out "under limitations and conditions prescribed by the Joint Committee on Printing"; and

(B) in the second sentence, by striking out "Joint Committee on Printing" and inserting in lieu thereof "Public Printer".

(54) Section 1705 of title 44, United States Code, is amended by striking out ", subject to regulation by the Joint Committee on Printing and".

(55) Section 1710 of title 44, United States Code, is amended—

(A) in the first sentence by striking out ", upon a plan approved by the Joint Committee on Printing"; and

(B) in the fourth sentence by striking out "as the Joint Committee on Printing directs".

(56) Section 1914 of title 44, United States Code, is amended by striking out ", with the approval of the Joint Committee on Printing, as provided by section 103 of this title,".

(57) Section 5 of the Federal Records Management Amendments of 1976 (44 U.S.C. 2901 note; Public Law 94-575; 90 Stat. 2727) is amended in subsection (b) by striking out "the Joint Committee on Printing or".

Subtitle D—Legislative and Executive Relations

SEC. 381. COMMITTEE OVERSIGHT GOALS AND REPORTS FOR FEDERAL PROGRAM REVIEW.

(a) Committee Oversight Goals and Reports.—It shall be the responsibility of each standing committee of the House of Representatives and the Senate to—

(1) no later than March 1 of each year in which a first session of a Congress occurs, develop, adopt, and submit Committee Review Agendas, which shall list the discretionary programs, entitlement programs, and tax expenditures under the committee's jurisdiction which the committee intends to review during that Congress and the next 3 Congresses;

(2) coordinate, to the maximum extent practicable, in preparing their oversight agenda with other House and Senate committees having jurisdiction over the same or related laws, programs, or agencies;

(3) provide, after preparation of the first oversight agenda required under this statute, a separate section in their oversight agenda that summarizes what actions and recommendations occurred with respect to implementing their agenda for that Congress;

(4) transmit their oversight agenda to the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate, respectively, for consideration during the committee funding process; and

(5) adopt legislative procedures to assure, to the greatest extent practicable, that any recommendation proposed by the committee under paragraph (3) is considered by the full Senate or House of Representatives.

(b) Hearings on Inspector General, GAO, and Agency Audit Reports.—Each committee of the House of Representatives and the Senate shall hold hearings during each Congress for the purpose of reviewing appropriate reports relating to the activities of executive agencies over which the committee has oversight responsibility filed during the preceding Congress, including reports of the inspectors general, the General Accounting Office, as well as agency audit reports.

SEC. 382. SUNSET AGENCY REPORTING REQUIREMENTS.

(a) In General.—Any law requiring an executive agency to report to Congress shall be effective for not to exceed 5 years after the date of enactment of such law.

(b) Laws in Effect.—Any law requiring an executive agency to report to Congress in effect on the date of enactment of this Act shall expire 5 years after such date unless the law provides for an earlier expiration date in which case the law shall expire on the earlier date.

TITLE IV—EFFECTIVE DATE

SEC. 401. EFFECTIVE DATE; APPLICATION.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall become effective January 1, 1995, and shall apply to bienniums beginning after September 30, 1995.

(b) FISCAL YEAR 1995.—Notwithstanding subsection (a), the provisions of—

(1) the Congressional Budget Act of 1974, and

(2) title 31, United States Code,

(as such provisions were in effect on the day before the effective date of this title) shall apply to the fiscal year beginning on October 1, 1994.

(c) DEFINITION.—For purposes of this section, the term "biennium" shall have the meaning given to such term in paragraph (12) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(12)), as added by section 302(b)(2) of this Act.

GOVERNMENT MANAGEMENT REFORM ACT OF 1994 FEDERAL FINANCIAL MANAGEMENT ACT OF 1994

GLENN (AND ROTH) AMENDMENT NO. 2598

Mr. BOREN (for Mr. GLENN, for himself, and Mr. ROTH) proposed an amendment to the bill (S. 2170) to provide a more effective, efficient, and responsive Government; as follows:

On page 1, line 3, strike out all through line 10 on page 32 and insert in lieu thereof the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Government Management Reform Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
TITLE I—LIMITATION ON PAY
Sec. 101. Limitation on certain annual pay adjustments.
TITLE II—HUMAN RESOURCE MANAGEMENT
Sec. 201. SES annual leave accumulation.
TITLE III—STREAMLINING MANAGEMENT CONTROL
Sec. 301. Authority to increase efficiency in reporting to Congress.
TITLE IV—FINANCIAL MANAGEMENT
Sec. 401. Short title.
Sec. 402. Electronic payments.
Sec. 403. Franchise fund pilot programs.
Sec. 404. Simplification of management reporting process.
Sec. 405. Annual financial reports.

TITLE I—LIMITATION ON PAY

SEC. 101. LIMITATION ON CERTAIN ANNUAL PAY ADJUSTMENTS.

Effective as of December 31, 1994—

(1) section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) is amended—

(A) by striking out "(2) Effective" and inserting in lieu thereof "(2)(A) Subject to subparagraph (B), effective"; and

(B) by adding at the end thereof the following:

"(B) In no event shall the percentage adjustment taking effect under subparagraph (A) in any calendar year (before rounding), in any rate of pay, exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5, United States Code, in the rates of pay under the General Schedule.";

(2) section 104 of title 3, United States Code, is amended—

(A) in the first sentence by inserting "(a)" before "The";

(B) in the second sentence by striking out "Effective" and inserting in lieu thereof "Subject to subsection (b), effective"; and

(C) by adding at the end thereof the following:

"(b) In no event shall the percentage adjustment taking effect under the second and third sentences of subsection (a) in any calendar year (before rounding) exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5 in the rates of pay under the General Schedule.";

(3) section 5318 of title 5, United States Code, is amended—

(A) in the first sentence by striking out "Effective" and inserting in lieu thereof "(a) Subject to subsection (b), effective"; and

(B) by adding at the end thereof the following:

"(b) In no event shall the percentage adjustment taking effect under subsection (a) in any calendar year (before rounding), in any rate of pay, exceed the percentage adjustment taking effect in such calendar year under section 5303 in the rates of pay under the General Schedule."; and

(4) section 461(a) of title 28, United States Code, is amended—

(A) by striking out "(a) Effective" and inserting in lieu thereof "(a)(1) Subject to paragraph (2), effective"; and

(B) by adding at the end thereof the following:

"(2) In no event shall the percentage adjustment taking effect under paragraph (1) in any calendar year (before rounding), in any salary rate, exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5 in the rates of pay under the General Schedule.".

TITLE II—HUMAN RESOURCE MANAGEMENT

SEC. 201. SES ANNUAL LEAVE ACCUMULATION.

(a) IN GENERAL.—Effective on the first day of the first applicable pay period beginning after the date of the enactment of this Act, subsection (f) of section 6304 of title 5, United States Code, is amended to read as follows:

"(f)(1) This subsection applies with respect to annual leave accrued by an individual while serving in a position in—

"(A) the Senior Executive Service;

"(B) the Senior Foreign Service;

"(C) the Defense Intelligence Senior Executive Service;

"(D) the Senior Cryptologic Executive Service; or

"(E) the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.

"(2) For purposes of applying any limitation on accumulation under this section with respect to any annual leave described in paragraph (1)—

"(A) '30 days' in subsection (a) shall be deemed to read '90 days'; and

"(B) '45 days' in subsection (b) shall be deemed to read '90 days'.".

(b) USE OF EXCESS LEAVE.—Notwithstanding the amendment made by subsection (a), in the case of an employee who, on the effective date of subsection (a), is subject to subsection (f) of section 6304 of title 5, United States Code, and who has to such employee's credit annual leave in excess of the maximum accumulation otherwise permitted by subsection (a) or (b) of section 6304 (determined applying the amendment made by subsection (a)), such excess annual leave shall remain to the credit of the employee and be subject to reduction, in the same manner as provided in subsection (c) of section 6304.

TITLE III—STREAMLINING MANAGEMENT CONTROL

SEC. 301. AUTHORITY TO INCREASE EFFICIENCY IN REPORTING TO CONGRESS.

(a) PURPOSE.—The purpose of this title is to improve the efficiency of executive branch performance in implementing statutory requirements for reports to Congress and committees of Congress such as the elimination or consolidation of duplicative or obsolete reporting requirements and adjustments to deadlines that shall provide for more efficient workload distribution or improve the quality of reports.

(b) AUTHORITY OF THE DIRECTOR.—The Director of the Office of Management and Budget may publish annually in the budget submitted by the President to the Congress, recommendations for consolidation, elimination, or adjustments in frequency and due dates of statutorily required periodic reports to the Congress or committees of Congress. For each recommendation, the Director shall provide an individualized statement of the reasons that support the recommendation. In addition, for each report for which a recommendation is made, the Director shall state with specificity the exact consolidation, elimination, or adjustment in frequency or due date that is recommended.

(c) RECOMMENDATIONS.—The Director's recommendations shall be consistent with the purpose stated in subsection (a).

(d) CONSULTATION.—Before the publication of the recommendations under subsection (b), the Director or his designee shall consult with the appropriate congressional committees concerning the recommendations.

TITLE IV—FINANCIAL MANAGEMENT

SEC. 401. SHORT TITLE.

This title may be cited as the "Federal Financial Management Act of 1994".

SEC. 402. ELECTRONIC PAYMENTS.

(a) IN GENERAL.—Section 3332 of title 31, United States Code, is amended to read as follows:

"§ 3332. Required direct deposit

"(a)(1) Notwithstanding any other provision of law, all Federal wage, salary, and retirement payments shall be paid to recipients of such payments by electronic funds transfer, unless another method has been determined by the Secretary of the Treasury to be appropriate.

"(2) Each recipient of Federal wage, salary, or retirement payments shall designate one or more financial institutions or other authorized payment agents and provide the payment certifying or authorizing agency information necessary for the recipient to receive electronic funds transfer payments through each institution so designated.

"(b)(1) The head of each agency shall waive the requirements of subsection (a) of this section for a recipient of Federal wage, salary, or retirement payments authorized or certified by the agency upon written request by such recipient.

"(2) Federal wage, salary, or retirement payments shall be paid to any recipient granted a waiver under paragraph (1) of this subsection by any method determined appropriate by the Secretary of the Treasury.

"(c)(1) The Secretary of the Treasury may waive the requirements of subsection (a) of this section for any group of recipients upon request by the head of an agency under standards prescribed by the Secretary of the Treasury.

"(2) Federal wage, salary, or retirement payments shall be paid to any member of a group granted a waiver under paragraph (1) of this subsection by any method determined appropriate by the Secretary of the Treasury.

"(d) This section shall apply only to recipients of Federal wage or salary payments who begin to receive such payments on or after January 1, 1995, and recipients of Federal retirement payments who begin to receive such payments on or after January 1, 1995.

"(e) The crediting of the amount of a payment to the appropriate account on the books of a financial institution or other authorized payment agent designated by a payment recipient under this section shall constitute a full acquittance to the United States for the amount of the payment.".

(b) Technical and Conforming Amendment.—The table of sections for chapter 33 of title 31, United States Code, is amended by amending the item for section 3332 to read:

"3332. Required direct deposit.".

SEC. 403. FRANCHISE FUND PILOT PROGRAMS.

(a) Establishment.—There is authorized to be established on a pilot program basis in each of six executive agencies a franchise fund. The Director of the Office of Management and Budget, after consultation with the chairman and ranking members of the Committees on Appropriations and Governmental Affairs of the Senate, and the Committees on Appropriations and Government Operations of the House of Representatives, shall designate the agencies.

(b) Uses.—Each such fund may provide, consistent with guidelines established by the Director of the Office of Management and Budget, such common administrative support services to the agency and to other agencies as the head of such agency, with the concurrence of the Director, determines can be provided more efficiently through such a fund than by other means. To provide such services, each such fund is authorized to acquire the capital equipment, automated data processing systems, and financial management and management information systems needed. Services shall be provided by such funds on a competitive basis.

(c) Funding.—(1) There are authorized to be appropriated to the franchise fund of each agency designated under subsection (a) such funds as are necessary to carry out the purposes of the fund, to remain available until expended. To the extent that unexpended balances remain available in other accounts for the purposes to be carried out by the fund, the head of the agency may transfer such balances to the fund.

(2) Fees for services shall be established by the head of the agency at a level to cover the total estimated costs of providing such services. Such fees shall be deposited in the agency's fund to remain available until expended, and may be used to carry out the purposes of the fund.

(3) Existing inventories, including inventories on order, equipment, and other assets or liabilities pertaining to the purposes of the fund may be transferred to the fund.

(d) Report on Pilot Programs.—Within 6 months after the end of fiscal year 1997, the Director of the Office of Management and Budget shall forward a report on the results of the pilot programs to the Committees on Appropriations of the Senate and of the House of Representatives, and to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives. The report shall contain the financial and program performance results of the pilot programs, including recommendations for—

(1) the structure of the fund;

(2) the composition of the funding mechanism;

(3) the capacity of the fund to promote competition; and

(4) the desirability of extending the application and implementation of franchise funds to other Federal agencies.

(e) Procurement.—Nothing in this section shall be construed as relieving any agency of any duty under applicable procurement laws.

(f) Termination.—The provisions of this section shall expire on October 1, 1999.

SEC. 404. SIMPLIFICATION OF MANAGEMENT REPORTING PROCESS.

(a) In General.—To improve the efficiency of executive branch performance in implementing statutory requirements for financial management reporting to the Congress and its committees, the Director of the Office of Management and Budget may adjust the frequency and due dates of or consolidate any statutorily required reports of agencies to the Office of Management and Budget or the President and of agencies or the Office of Management and Budget to the Congress under any laws for which the Office of Management and Budget has financial management responsibility, including—

(1) chapters 5, 9, 11, 33, 35, 37, 39, 75, and 91 of title 31, United States Code;

(2) the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note; Public Law 101–410; 104 Stat. 890).

(b) Application.—The authority provided in subsection (a) shall apply only to reports of agencies to the Office of Management and Budget or the President and of agencies or the Office of Management and Budget to the Congress required by statute to be submitted between January 1, 1995, and September 30, 1997.

(c) Adjustments in Reporting.—The Director may consolidate or adjust the frequency and due dates of any statutorily required reports under subsections (a) and (b) only after—

(1) consultation with the Chairman of the Senate Committee on Governmental Affairs and the Chairman of the House of Representatives Committee on Government Operations; and

(2) written notification to the Congress, no later than February 8 of each fiscal year covered under subsection (b) for those reports required to be submitted during that fiscal year.

SEC. 405. ANNUAL FINANCIAL REPORTS.

(a) Financial Statements.—Section 3515 of title 31, United States Code, is amended to read as follows:

"§ 3515. Financial statements of agencies

"(a) Not later than March 1 of 1997 and each year thereafter, the head of each executive agency identified in section 901(b) of this title shall prepare and submit to the Director of the Office of Management and Budget an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of each office, bureau, and activity of the agency.

"(b) Each audited financial statement of an executive agency under this section shall reflect—

"(1) the overall financial position of the offices, bureaus, and activities covered by the statement, including assets and liabilities thereof; and

"(2) results of operations of those offices, bureaus, and activities.

"(c) The Director of the Office of Management and Budget shall identify components of executive agencies that shall be required to have audited financial statements meeting the requirements of subsection (b).

"(d) The Director of the Office of Management and Budget shall prescribe the form and content of the financial statements of executive agencies under this section, consistent with applicable accounting and financial reporting principles, standards, and requirements.

"(e) The Director of the Office of Management and Budget may waive the application of all or part of subsection (a) for financial statements required for fiscal years 1996 and 1997.

"(f) Not later than March 1 of 1995 and 1996, the head of each executive agency identified in section 901(b) of this title and designated by the Director of the Office of Management and Budget shall prepare and submit to the Director of the Office of Management and Budget an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of each office, bureau, and activity of the agency.

"(g) Not later than March 31 of 1995 and 1996, for executive agencies not designated by the Director of the Office of Management and Budget under subsection (f), the head of each executive agency identified in section 901(b) of this title shall prepare and submit to the Director of the Office of Management and Budget a financial statement for the preceding fiscal year, covering—

"(1) each revolving fund and trust fund of the agency; and

"(2) to the extent practicable, the accounts of each office, bureau, and activity of the agency which performed substantial commercial functions during the preceding fiscal year.

"(h) For purposes of subsection (g), the term 'commercial functions' includes buying and leasing of real estate, providing insurance, making loans and loan guarantees, and other credit programs and any activity involving the provision of a service or thing for which a fee, royalty, rent, or other charge is imposed by an agency for services and things of value it provides.".

(b) Audits by Agencies.—Subsection 3521(f) of title 31, United States Code, is amended to read as follows:

"(f)(1) For each audited financial statement required under subsections (a) and (f) of section 3515 of this title, the person who audits the statement for purpose of subsection (e) of this section shall submit a report on the audit to the head of the agency. A report under this subsection shall be prepared in accordance with generally accepted government auditing standards.

"(2) Not later than June 30 following the fiscal year for which a financial statement is submitted under subsection (g) of section 3515 of this title, the person who audits the statement for purpose of subsection (e) of this section shall submit a report on the audit to the head of the agency. A report under this subsection shall be prepared in accordance with generally accepted government auditing standards.".

(c) Governmentwide Financial Statement.—Section 331 of title 31, United States Code, is amended by adding the following new subsection:

"(e)(1) Not later than March 31 of 1998 and each year thereafter, the Secretary of the Treasury, in coordination with the Director of the Office of Management and Budget, shall annually prepare and submit to the President and the Congress an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of the executive branch of the United States Government. The financial statement shall reflect the overall financial position, including assets and liabilities, and results of operations of the executive branch of the United States Government, and shall be prepared in accordance with the form and content requirements set forth by the Director of the Office of Management and Budget.

"(2) The Comptroller General of the United States shall audit the financial statement required by this section.".

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests.

The hearing will take place on Wednesday, October 5, 1994, beginning at 2 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills:

S. 2280, to provide for an orderly process to ensure compensation for the termination of an easement or the taking of real property used for public utility purposes at the Manassas National Battlefield Park, Virginia, and for other purposes;

S. 2359, to modify the boundaries of Walnut Canyon National Monument in the State of Arizona;

S. 2434 and H.R. 3516, bills to increase the amount authorized to be appropriated for assistance for highway relocation regarding the Chickamauga and Chattanooga National Military Park in Georgia; and

H.R. 3905, to provide for the establishment and management of the Opal Creek Forest Preserve in the State of Oregon.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit a written statement is welcome to do so by sending two copies to the Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, Washington, DC, 20510.

For further information regarding the hearing, please contact Kira Finkler of the subcommittee staff at (202) 224–7933.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, September 28, 1994, at 1 p.m., in open/closed session, to receive a briefing on the situation in Haiti.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, September 28, beginning at 10 a.m. to conduct a hearing on the condition of the U.S. capital markets and globalization of world capital markets.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate. A business meeting will take place immediately after the 9:30, September 28, nomination hearing for the purpose of considering the nomination of Rhea L. Graham, nominee to be Director of the U.S. Bureau of Mines, Department of the Interior.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today, September 28, 1994, at 10 a.m., to consider S. 1834, the Superfund Reform Act of 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 28, at 9:30 a.m. to hold nomination hearings on David G. Newton, to be Ambassador to the Republic of Yemen.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 28, at 10:30 a.m. to hold a hearing on the convention on the Conservation and Management of Pollock Resources in the Central Bering Sea—Treaty Doc. 103–27.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 28, at 2 p.m. to hold nomination hearings on the following Presidential Appointments:

1. Ms. Geraldine A. Ferraro, of New York, for the Rank of Ambassador during her tenure of service as U.S. Representative on the Human Rights Commission of the Economic and Social Council of the United Nations.

2. Mr. Thomas E. McNamara, of the District of Columbia, to be Assistant Secretary of State for Politico-Military Affairs.

3. Mr. Robert B. Fulton, of Pennsylvania, to be Associate Director for Information of the U.S. Information Agency.

4. Ms. Vonya B. McCann, of Maryland, for the rank of Ambassador during her tenure of service as Deputy Assistant Secretary of State for International Communications and Information Policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, September 28, 1994, at 10:30 a.m., in room 216 Senate Hart Office Building to consider the nominations of Sheldon C. Bilchik to be Administrator, Office of Juvenile Justice and Delinquency Programs, Department of Justice and Rose Ochi to be Associate Director, Bureau of State and Local Affairs, Office of National Drug Control Policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, September 28, 1994, at 2 p.m. in room 226 Senate Dirksen Office Building to consider the nominations of Fred I. Parker to be United States Circuit Judge for the second circuit, Helen W. Gillmor to be United States District Judge for the District of Hawaii, David A. Katz to be United States District Judge for the Northern District of Ohio, Sean J. McLaughlin to be United States District Judge for the Western District of Pennsylvania, William T. Moore to be United States District Judge for the Southern District of Georgia, Roslyn Moore-Silver to be United States District Judge for the District of Arizona and Alvin W. Thompson to be United States District Judge for the District of Connecticut.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Wednesday, September 28, 1994.

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BOREN. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Reform and Consolidation of Federal Job Training Programs, during the session of the Senate on September 28, 1994, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BOREN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on September 28, 1994, at 4 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AFRICAN AFFAIRS

Mr. BOREN. Mr. President, I ask unanimous consent that the Subcommittee on African Affairs of the Committee on Foreign Relations, authorized to meet during the session of the Senate on Wednesday, September 28, 1994, at 2 p.m. to hold a hearing on African conflict resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NO COMMUNITY IS ISOLATED

• Mr. HATFIELD. Mr. President, an essay by Jerry Timmons, a former associate editor of the Oregonian, came to my attention recently and I would like to take this opportunity to share it with my colleagues. In his article, Mr. Timmons makes clear that the divisions between rural and urban regions are on occasion artificial demarcations, the creation of which often works to the disadvantage of rural communities. His point that "rural issues affect everyone" is one I agree with fully. I urge my colleagues to consider the arguments presented by Mr. Timmons and to bear these comments in mind as issues affecting both communities come before the Senate.

The essay follows:

[From the Oregonian, July 26, 1994]

POPULATION SHIFT NOT AS IMPORTANT AS CROPS

(By Jerry Tippens)

Whatever did the western half of the country do to deserve the popular interpretation of the 1990 census? From the time the decennial data were assembled, the West has been bombarded by breathless pronouncements that the region is more urban than rural.

Imagine that. Of course, the population of the West has been more urban than rural for decades. Indeed, in a strict delineation between those who live in town and those who live in the country, even Harney County is more urban than rural.

It makes one wonder what the big deal was about the 1990 figures. Do they make rural issues somehow less important to the region and the nation than they would be if more people lived on the land?

Let us all hope not. But there is something disturbing about the way the findings are presented. The implication is that, since more people in the West live in cities than outside of them, it is all right to ignore rural issues and focus exclusively on urban ones. Indeed, it may be the proper course to follow.

That notion ought to sound the alarm for everyone concerned that decisions affecting food supply increasingly will be made by people who know nothing about food production because the population is drifting away from its agricultural ties.

The problem is that rural issues tend to affect everyone. We are all in trouble if that fades from urban view.

Even if rural matters weren't vital to all, however, the fact that more Westerners reside in cities than in the countryside does not mean that the region may simply turn its back on rural problems. Take a look at the map. The West is still mainly rural, even if most of the people are clustered in metropolitan concentrations along the Pacific shelf, plus a few inland enclaves in such places as Denver and Salt Lake City.

Wise use of the West's natural resources to produce food and fiber for the nation and much of the world is the urgent business of everyone in the country. It is incumbent upon all people, even those in the most urban settings of the East, to be knowledgeable about what transpires on the land out there where so few people live.

But that is especially true of those in Western cities where the wide open spaces are part of the neighborhood. Those spaces are neither barren wastelands nor playgrounds for leisure activity, but in fact form the foundation of the region's economy. They also contribute extensively to the nation's standing around the globe through its ability to feed itself and still have food enough for much of the rest of the world.

The urban and rural West ought to be in harmony on sound environmental practices, judicious use of limited water resources cleansed of pollution from the past, the gaining of maximum economic as well as nutritional returns from agricultural abundance, and population distribution to keep small communities healthy while preventing the cities from choking on congestion.

Such issues may reside in the rural West, but they are of equal importance to those who dwell in the urban West. The urban West, however, must realize as much. The cities must do better, for instance, in understanding the region of which they are a part than they did on airline deregulation. With vast distances and limited population, the West had an urgent stake in maintaining a reliable regional air transportation network. But the cities seemed more concerned about reduced fares to New York.

If food supply and international trade are to be ignored by most people because they live in the city, it is not just the rural West that is in trouble. It is the nation. It is the world.

That prospect is what's disturbing about the way the 1990 census figures of the West are presented.•

EPIC AWARD

• Mr. SIMON. Mr. President, I am proud to be able to announce Women Employed as the first recipient of the Exemplary Public Interest Contribution [EPIC] Award presented by the Department of Labor.

It is not surprising that this outstanding community organization is based in Chicago, IL. And although Women Employed is well known for its grassroots efforts, it also has a widely respected national role as the lead advocacy organization on equal employment opportunity issues.

Mr. President, I ask to include into the RECORD following my remarks a statement by Women Employed that highlights why Anne Ladky, Nancy Krieter, and all the other hard working women at Women Employed are deserving of this first EPIC Award.

My sincere congratulations and best wishes.

The statement follows:

1994 EXEMPLARY PUBLIC INTEREST [EPIC] AWARD

INTRODUCTION

In the twenty-one years since its founding, Women Employed has played a critical role in many of the most important advances in women's employment rights and opportunities. WE began in 1973 as an advocacy organization aimed at improving working conditions and combatting discrimination in Chicago's downtown business district. Today, Women Employed is the foremost grassroots advocate for effective federal equal opportunity programs and a vital source of assistance for thousands of women seeking better opportunities. As Chicago's largest working women's organization, WE provides an extensive range of career development and job search services for its 1600 members.

Women Employed has long been recognized as the leading national monitor of the performance of the OFCCP and a key analyst of its policies.

Women Employed's role is unique because we combine our perspective as a representative of working women with extensive technical knowledge of the Executive Order and OFCCP. Since 1976, Women Employed has been responsible for convening regular meetings between the leading national civil rights and women's groups and every Secretary of Labor, Assistant Secretary of Labor (ESA), Solicitor of Labor and OFCCP Director in order to shape effective public policy. WE consults regularly with regional and national OFCCP staff to develop and refine regulatory issues, enforcement initiatives and recommendations for improving compliance review activity. Women Employed brings a critically needed grassroots view to its role in providing comprehensive technical research and analysis on women's EEO issues. We are called upon by Congress to testify about the effectiveness of affirmative action as well as OFCCP's mandate to enforce the Executive Order.

Women Employed was instrumental in negotiating affirmative action policies in major Chicago financial institutions and insurance companies, in response to working women's complaints about inaccessibility to promotions and higher-paying jobs. We worked closely with OFCCP staff to develop the concept of targeting industries for review and applying an affected class analysis to determine remedies for thousands of victims of discrimination. The organization was a key resource for Carter administration officials charged with reorganizing federal equal opportunity agencies; we documented the need for consolidating all federal agency contract compliance activities into the OFCCP, a proposal which was adopted and implemented. WE worked closely with OFCCP, the Secretaries of Labor, and Congress to preserve the Executive Order when serious efforts to abolish it were initiated in the 1980's.

In 1989, Women Employed worked with the Solicitor's Office to reach a $14 million back pay settlement in the Harris Bank case, the largest back pay settlement ever secured under the Executive Order. The Harris Bank case, developed and filed by WE in 1974, involved discriminatory hiring, placement, pay and promotion practices. WE's documentation of the bank's practices, our development of key anecdotal and statistical evidence, and fourteen years of persistent pressure resulted in remedies for 8000 women and minorities. The case established the validity of third party representation on behalf of large numbers of victims whose anonymity was protected; it also upheld the legal principle underpinning the requirement of backpay under the Executive Order. The methodology developed in this case continues to be applied in reviews of all types of federal contractors where class-wide discrimination is uncovered by OFCCP.

Women Employed has successfully brought together constituency groups and federal contractors to explore effective approaches to improve equal opportunity practices and increase employment access for women and minorities.

Women Employed has implemented a model partnership between women's and civil rights groups and corporations who are major federal contractors as well as leaders in EEO and affirmative action. Chicago Area Partnership (CAPS), composed of thirteen corporations with national headquarters or substantial operations in Chicago, local civil rights and women's organizations, and the Region V OFCCP staff holds monthly meetings that have resulted in on-going and frank dialogue about human resource challenges. The beginning phases included lively discussions concerning our perspectives of and biases about each other, development of a list of cutting-edge issues the group was interested in pursuing, and an executive examination of the crucial elements of mobility and diversity. CAPS fulfills two significant purposes. First, it brings together important players to network and communicate different perspectives and practices. Second, it provides opportunities to collaborate on specific EEO/HR projects. CAPS has committed to undertake three specific projects: creating a "best practices" document focusing on glass ceiling issues, improving linkages with community-based organizations to provide entry level employment opportunities, and collaboration on federal EEO regulatory reform. The group intends to become a model for productive collaboration that can be replicated nationally. OFCCP's participation has encouraged CAPS in this direction.

Women Employed is an excellent source of qualified female applicants for federal contractors seeking to meet affirmative action requirements.

The organization is the largest provider of career development and job search services to women in the Chicago metropolitan area. We maintain an on-going job bank available at no charge to our 1,600 members which lists federal contractors' current job openings. Our Career Development Network links members currently employed in major companies in all industries at all employment levels with members who are job-seeking or considering career changes. We offer job search seminars and career awareness programs to our members and the general public.

Keys To Success, a pre-employment training program serving approximately 100 women annually, enables displaced homemakers to make the transition into the paid workforce, and provides highly motivated job candidates to Chicago-area employers. Keys To Success offers employers, including federal contractors, a job placement service that sends employers only pre-screened candidates, provides quick access to a pool of highly motivated candidates, and lowers employee turnover.

We build relationships with Chicago area employers to offer them a pool of qualified female candidates while helping women find economically self-sufficient employment. Our job developer works closely with federal contractors seeking female and minority candidates for a variety of positions.

We especially promote and encourage nontraditional opportunities for women seeking employment, pre-apprenticeship programs, or other training and apprenticeship programs. Women Employed leads a statewide effort to increase the participation of women in training programs leading to employment in non-traditional occupations. We are also designing a pre-technical training program for women to be launched on a pilot basis in the fall of 1994. We anticipate that program graduates will be able to fill the need for qualified applicants for entry-level technical and mechanical jobs.

CONCLUSION

Over the past two decades, Women Employed has played a unique role in promoting equal employment opportunity. Our advocacy at both the national and local levels has helped numerous OFCCP administrations shape effective public policy. We have built strong relationships with federal contractors in an effort to encourage voluntary programs to improve equal opportunity practices and increase employment access for women and minorities. Women Employed has provided thousands of working women with training, counseling and job referral services.●

HONORING JUSTICE ROSALIE WAHL

● Mr. DURENBERGER. Mr. President, I rise today to celebrate the career of a distinguished jurist and a great Minnesotan. On August 31, Justice Rosalie Wahl—the senior member of the Minnesota Supreme Court—retired after 17 distinguished years on the bench.

In 1977, Rosalie Wahl made history when Governor Rudy Perpich appointed her to our State's high court. She was the very first woman to serve in that capacity—and throughout her years on the court, she served with great intelligence and independence of spirit.

A woman of firm feminist convictions, she was notable for putting the law ahead of her personal preferences. In a notorious rape case, she dissented in favor of the defendant because she believed his rights had been violated. She recognizes that impartiality in the execution of justice is the most difficult—and the most necessary—element of the work of a judge.

Rosalie Wahl is a very impressive Justice, and the pride of the Minnesota legal system. She will be missed as a judge—but all those of us who are fortunate enough to know her personally will continue to treasure her friendship.

Mr. President, I ask my colleagues to join me in congratulating this distinguished justice on the occasion of her retirement.

I ask that a profile of Justice Wahl from the August issue of Bench & Bar be included in the RECORD at the conclusion of my remarks.

The profile follows:

JUSTICE IS A WOMAN

(By Gwenyth Jones)

You didn't give the Supreme Court to a woman "in those days," any more than you gave a little girl a toy gun or a boy a doll for Christmas, says former Chief Justice Douglas K. Amdahl. It just didn't occur to the male legal establishment to think of a woman justice. "Those days" were before Rosalie Wahl was appointed to the Minnesota Supreme Court in 1977. And, says Amdahl, as her appointment ended the males-only era, her retirement August 31 will confirm the new era, one in which the appointment of a woman to the Court draws no particular notice.

Justice Wahl is now senior member of the Court and one of a female majority, although the Court has yet to have a female chief justice. During her tenure she helped initiate and chaired task forces which made intensive studies of racial and gender bias in the Minnesota justice system, served on the American Bar Association's accreditation committee, was chair of that committee, and eventually chair of the Section on Legal Education and Admissions to the Bar.

Wahl was appointed by Gov. Rudy Perpich, who had specifically promised to name a woman to the first Supreme Court vacancy in January, 1977.

Minnesota feminists had kept Perpich's promise in mind. When there was a rumor in May that Justice Harry MacLaughlin might be appointed to the federal bench, the Minnesota Woman Lawyers had the names of seven women ready to recommend as his replacement. These they circulated in a letter sent to women activists throughout the state. Ironically, Wahl was never identified as a "favorite" in any of the speculative news coverage that followed. Every one of the other women on the list eventually became a judge and one of them, Esther Tomljanovich, eventually joined Justice Wahl on the Supreme Court.

Perpich had never met Wahl; she was one of three "finalists" named by a nonlawyer committee he asked to find suitable candidates. He said he felt the court was tilted toward justices with corporate law and prosecutorial backgrounds. The governor interviewed all three finalists and, he says, was particularly impressed by Wahl's work directing the criminal practice clinic at William Mitchell College of Law. Recently, with just a touch of disappointment in his voice, he said he had hoped she would be "another Miles Lord." Lord, whom, Perpich greatly admires, is a former attorney general and federal judge known by many for his activist devotion to the underdog, and criticized by others for what they consider undignified, even improper conduct. Perpich insists he wasn't disappointed in Wahl, however.

(She says, "I don't have it in me to be Miles Lord.")

RUNNING WATER AND OTHER PERKS

Justice Wahl describes her attitude when she first came on the bench as one almost of awe: "It's so nice of you to let me come in, I'll obey the rules." She says she "didn't realize the prerogatives of power." When asked what prerogatives she means, she doesn't talk about limousines or private dining rooms (although the Court has the latter) but things like the authority to order certificates of appreciation for volunteer workers on court-appointed task forces, or to express her views when she swore people into office.

One prerogative Justice Wahl didn't have was a private rest room—there wasn't any women's rest room in the Court wing of the Capitol then. She and staff women had to use the public rest room off the rotunda until, several years later, after the chief justice's secretary petitioned the Court, a women's rest room was installed inside the Court precincts.

Wahl was named in June but didn't take her seat on the Court until October, because she couldn't be officially appointed until Justice MacLaughlin resigned, and he was waiting for his nomination to the federal bench to be confirmed. She made use of the time to read the cases that would be coming before the Court that fall so she'd be prepared to hit the ground running. She also called on each justice. They knew her through hearing her argue almost 100 cases, but she didn't know any of them. (Chief Justice Robert Sheran had one advantage over his fellows: He had 18 years' experience working with a woman professionally—Charlotte Farrish was senior partner of their law firm in Mankato.) Justice Wahl asked the justices for advice on proper behavior for justices and what activities she would have to give up. (She stayed on the mailing list of the Minnesota Women's Consortium to "read about all those things that I couldn't do, but were getting done.")

When the justice lined up to enter the courtroom for Justice Wahl's first session, Justice Walter Rogosheske opened the door for her. "Oh, you don't need to open the door for me," she said, but Justice Rogosheske, a warm and courtly man, replied, "As long as we serve together, I'll open the door for you."

"She was very persuasive and had her share of cases where she changed the Court's mind," remembers Amdahl. "She could call me an idiot and make me like it," says Chief Justice A.M. Keith.

The Court had had experience with her outspokenness when she was arguing a criminal case. Dismayed by some of the questions from the justices, she declared, "I can't believe this court agrees with the proposition that only the innocent are entitled to a fair trial."

A TOUGH ELECTION BATTLE

About ten months after she took her seat, Justice Wahl had to defend herself in what was surely the most interesting and perhaps the dirtiest judicial campaign in the state's history. None of the three men—two district judges and a former short-term attorney general—who ran against her in the primary would admit that the fact that she was a woman had anything to do with it. But the conventional wisdom was that a woman incumbent would be easier to beat and before she even took her seat, Wahl had predicted she would be opposed. The men said they were running because she didn't have enough experience, although she had argued cases before the Supreme Court for ten years and had directed the William Mitchell criminal law program for four years. Second District Judge J. Jerome Plunkett, one of her primary opponents, described the program as "showing [the students] where the criminal court was" or "taking high school students and having them sit in on a day in court." Actually, under the Student Practice Rule, the senior students handled misdemeanor cases from beginning to end, preparing them under Wahl's supervision and presenting them in court under the supervision of public defenders.

Plunkett also objected to support given Justice Wahl by the Lawyers Volunteer Committee to Retain Incumbent Justices. The committee (to which Plunkett had contributed previously) had existed for years, and had always supported any incumbent justice who was opposed. In the 1978 election, although only Justice Wahl was opposed in the primary, Justice C. Donald Peterson was opposed in the general election, and they ran a joint campaign. When Plunkett lost out in the primary he refused to endorse Justice Wahl, saying he didn't think it appropriate for a judge to make an endorsement in a "political" race.

Women of all political shades worked on Justice Wahl's campaign. And women lawyers, many of whom had not been politically active, also joined in. Among her public supporters there were also men from both parties, among them a former Republican governor. The campaign included all the kinds of activities of the usual political race except those Justice Wahl thought might not fit the dignity of a judicial election. (No pressing the flesh in shopping malls.)

There was a citizens volunteer committee; there were fund-raising coffee parties and lunches in elegant Lake Minnetonka houses, talks to clubs, an ice cream social, even—a rarity in those days—an appearance on a radio call-in show. Twice, once by car and once by chartered plane, Justice Wahl made a campaign swing around the state with hour-by-hour schedules and interviews lined up with local newspapers and radio stations in half a dozen towns.

After the primary, which eliminated the two trial judge candidates, the Minnesota State Bar Association took its traditional plebiscite on judicial candidates and Wahl got 2,547 votes to 779 for Robert Mattson Sr., the other survivor of the primary. Soon afterwards Mattson began attacks on her which were strongly resented by many of the bar. First he filed a formal complaint with the Ethical Practices Board, charging that her campaign committees were illegally organized. The board, which had previously approved the organization, dismissed the complaint.

Mattson was quoted on several occasions as saying that Justice Wahl had taken positions "contrary to Minnesota law" when she dissented on some criminal cases. The majority opinion was the law, Mattson declared. He also charged her with favoring a convicted rapist, perhaps with an eye to dampening her support among women. She had not hesitated to be the only dissenter from the decision upholding the conviction because she believed the defendant's rights had been violated. Despite her own feminist convictions, she has dissented since in other, similar cases, thereby earning the professional dislike of many prosecutors. (One, hearing that this article was to be written, exclaimed, "I hope it's not going to be a tribute!")

Mattson also charged that Justice Wahl hadn't carried her weight during the year she had been on the Court, and hadn't written as many opinions as the other justices. However, he didn't cite any figures and the rotation system by which justices are assigned cases from the calendar means that all of them write approximately the same number of opinions, plus any dissents they may write. When it was apparent that she would have a tough election campaign, Chief Justice Sheran offered to assign her fewer cases, but she refused, since it would have meant an extra burden for other justices.

In October, Mattson ran a series of advertisements in the Twin Cities newspapers. One attacked Justice Wahl for her vote in the rape case. It said Mattson, in contrast, believed in "judicial support for the police." Another said Justice Wahl had "lost 95 percent of her cases." C. Paul Jones, state public defender at the time, says the ad apparently referred to post-conviction-remedy cases Wahl had argued for his office and says she "won every case that possibly could have been won by any attorney anywhere."

Justice Wahl and her supporters sang hymns around the piano in the University Club while waiting for election returns, which gave her 57 percent of the votes and Mattson 43 percent.

COMPANY ON THE COURT

She was the only woman on the Court for five years, and on the last day before Jeanne Coyne was to be sworn in, Justices Wahl and James Otis, whom Coyne succeeded, were the only members of the Court around at lunchtime. They went down to the cafeteria where reporter Betty Wilson was standing next to them in the line. Said Wilson, "Well Justice Wahl, tomorrow you'll have company on the Court." Justice Otis drew himself up and replied: "I'll have you know she has always had company on the Court."

Justice Coyne was appointed by Gov. Al Quie, who had refused to talk about the possibility of naming a woman or minority, saying he didn't think it right to name anyone because of his or her sex or color of skin. (He appointed two men before Coyne was named.) He says, "She was the best candidate offered to me."

There could hardly have been a greater contrast between two career women than there was, outwardly, between Justices Wahl and Coyne. Justice Wahl was married and had four children before she went to night law school, and gave birth to her fifth child while she was a student. (She was divorced in 1972.) Her legal experience was all in criminal defense of indigents. She is an outgoing person who doesn't hesitate to go around a table in a public restaurant embracing everyone. Justice Coyne, who is unmarried, is a reserved, quiet person who admits that some people consider her "formidable." She was an accountant before she went to the University of Minnesota Law School, and immediately after graduation got a job with Meagher Geer, who, she says, "turned me loose." Her practice covered real estate, tax and estate planning, and related fields. At one time she was up for consideration for the 8th Circuit Court of Appeals and got as far as going to Washington to be "vetted." But she killed any chance she had by saying, after being escorted around, questioned by one person after another, "Nobody has asked me whether I'm interested in this job."

Both women shun labels. Although Justice Coyne admits to being more "conservative" than the rest of the Court, she says she doesn't mind being the only conservative, pointing out that she was the only woman in a firm of about 20 men for years. She says some things happened to her during her practice that might have been considered sexual harassment, but she was too busy to pay attention, adding, "Nobody ever took me lightly twice."

Justice Coyne says she believed the biggest thing she could do for other women who might aspire to come after her was "to be a really good, competent lawyer.' But she helped organize the Minnesota Women Lawyers, and, when the Equal Rights Amendment was under consideration, she was a member of a speakers bureau which went out campaigning for the ERA.

Justice Wahl says she didn't realize until after Justice Coyne came to the Court "that I really had been alone, in a way." All the men were friendly and helpful, she says, but there are some little things one women can share with another that she can't with a man.

Another thing Justice Wahl says she didn't realize at first was "how many male lawyers there seemed to be who had spent their careers positioning themselves to get on the Supreme Court" and resented not being named. Through the grapevine she heard of remarks made at bar social events like "I worked so hard all these years and see what happens."

Since the Court has had a four-to-three female majority, there has never been a down-the-line gender division on any case, according to Chief Justice Keith; but when Justices Wahl and Coyne were still the only women they dissented together in two cases (Abuzzahad and McClelland) denying permanent maintenance to women divorced after several decades of a traditional marriage. "The men on the Court were generally good on gender discrimination," Justice Wahl says, "but they just couldn't understand the situation of a women of 50 or 55 with a permanently diminished earning capacity."

IN HER OPINION(S)

The opinions Justice Wahl wrote which she particularly remembers range from ruling that witnesses can't testify about things they remember under hypnosis to giving confidentiality protection to group therapy sessions. The latter case came when the Court's calendar was so crowded—about 1,500 cases a year—that it frequently issued summary affirmations, or decided cases without oral arguments, and the group therapy case almost fell through the cracks. But Justice Wahl felt the public interest was at stake, not just one defendant's, and persuaded the Court to give the case a full hearing with amicus briefs.

Minnesota lawyers are indebted to Justice Wahl for one of her memorable cases: The Court ruled police could not get a warrant authorizing the search of a lawyer's entire office if they wanted material concerning one client who was under investigation. The Court said police would have to subpoena the specific file, which a judge would then review in camera.

But Justice Wahl's biggest satisfaction has been "just knowing my being here has made a difference. Maybe not as much difference as I think needs to be made, but I did make a difference."

Chief Justice Keith says Justice Wahl "created the sense of fairness on the Court," and thinks that in the long run her greatest contribution will have been her work on the gender and racial bias task forces.

Only two of Justice Wahl's five children are connected with the law: Sarah, whose husband, Michael Davis, was recently appointed a federal judge, is in the Hennepin County Attorney's office and her youngest daughter, Jenny, is in the Management Information Service Department (MIS) of Fredrikson & Byron in Minneapolis. She has six grandchildren, ranging from one and a half months to 24 years old.

Sarah Wahl has always been in the county attorney's civil division, with offices far from the criminal division, but she occasionally hears remarks from prosecuting colleagues like, "Well, I see your mother has done it again" when Justice Wahl has voted for reversal on due process grounds.

Justice Wahl refuses to lay out a schedule for her retirement. First she's going to relax, because she wants "to see if there's any cream to rise to the top." Then, she says, "I'll try to find things that are important for me to do that might not be done if I don't do them."•

SUPPORT MACEDONIA NOW

• Mr. DECONCINI. Mr. President, a major meeting of the Conference on Security and Cooperation in Europe—commonly known as the CSCE or Helsinki process—will convene in Budapest on October 10, only a few weeks away. This meeting will assess the situation in places like the Balkans, Central Asia, the Caucasus, and the emerging democracies of East-Central Europe generally, with a heavy focus on human rights and building democratic instititions.

Unique among European institutions, the CSCE seeks to include all countries of the region, and the smallest participant has the same rights and privileges as the largest and most powerful. Unfortunately, of the entire CSCE region, one, and only one, country is actually being denied full membership. That country is Macedonia. Macedonia, a former Yugoslav Republic, wants to be a member, and deserves to be a member, but has so far been restricted to observer status. Greece has continually denied the consensus needed for full membership. Greece claims its northern neighbor to be a threat, by its flag, its constitution, and its very name.

I have been to Macedonia twice, and communicated with its leaders, representatives of its Albanian community and, of course, with Greek officials here and in Greece regarding this important issue. I would like to suggest a few important points.

There is a complex historical debate over what Macedonia is, and who Macedonians are. It is clear, however, that Macedonia did not seek the breakup of Yugoslavia. It only has sought to cope with the fact that it did breakup, leaving a choice between independence or being an appendage to the repressive and chauvinist Greater Serbia that remained. It certainly did not advocate the use of force to resolve differences or to achieve its objectives. As it embarks on its course of independent statehood, Macedonia has had to cope with the collapse of the Yugoslav economy of which it was an integrated and dependent part. It has had to enforce the international sanctions on Serbia to the north, and it had to contend with its own ethnic diversity, which includes a sizable ethnic Albanian community. From the beginning, it met the European criteria for recognition used for the other former Yugoslav Republics.

Yet, recognition by most of Europe was delayed by over 1 year. It took the United States almost another year to recognize it. We still do not have full and formal diplomatic relations, even though we have over 500 Americans there as part of the U.N. peacekeeping contingent. And Macedonia still is being blocked from full participation in the CSCE. Greek objections have been supplemented this year by an economic blockade on its northern neighbor designed to pressure Macedonia into agreeing to Greek demands. Macedonia, while defending its positions, has demonstrated its willingness to, but cannot submit to economic coercion which violates the spirit of the CSCE.

And, regardless of our own individual readings of Balkan history, the Macedonia people genuinely believe themselves to be ethnic Macedonians, and their country to be Macedonia. This will remain the case, no matter what Greece or anybody else tries to tell them, and to try to convince them otherwise only generates resentment. Holding to their Macedonian national identity in no way means the people of Macedonia have any claims on Greece or any other neighbor. Do not people have the right to their own self-identification?

Not only is blocking Macedonian membership wrong, it is dangerous. Macedonia has avoided major violence so far, but history shows the potential it has to explode with violence. Macedonia has been the focus and victim of wars several times this century. Today, with war neaby in Bosnia and Herzegovina, severe repression next door in Kosovo, and tensions throughout the Balkan region, we cannot afford to risk the further destabilization of Macedonia. The presence of U.N. peacekeeping forces demonstrates international concern over the threat of destabilization.

Blocking Macedonian membership is also counterproductive. There are some nationalists in Macedonia, but no more—and probably less—so than in virtually any other country in the region. The flag, and perhaps some parts of the constitution, indicate their presence. Macedonia, again like others who nevertheless are CSCE members, has difficulties in the transition to democracy. However, by isolating the country, do we do more to encourage extreme Macedonian nationalism than to discourage it? Can we not accomplish more to build democracy in Macedonia by including it in European affairs politically and economically?

Mr. President, I think it not only appropriate but necessary for Macedonia to become a full member of the CSCE in Budapest, and I am urging the State Department to push hard for this. The

U.S. Delegation and a majority of the present CSCE States not only support Macedonian membership, but lament its continued denial. Budapest is not only a major conference, however, it begins the week before Macedonia holds elections, the first multiparty elections since achieving independent statehood. Movement in the CSCE would go far in demonstrating support for democracy in Macedonia at this critical time. And, while we are at it, the United States needs to move beyond merely recognizing Macedonia. The United States should immediately establish full bilateral relations with Macedonia, and Greece needs to be pursuaded that the blockade it has unilaterally imposed on Macedonia must be lifted.•

UNITED STATES-JAPAN TRADE TALKS

• Mr. ROCKEFELLER. Mr. President, I wish to express encouragement and support to our trade negotiators who are once again entering the 11th hour in negotiations with Japan over their unfair trade practices. We have learned from previous administrations, who have backed down in the face of Japanese intransigence, that only firm and consistent pressure will make sustained progress on this most intractable of bilateral trade problems.

Sustaining such pressure may be particularly difficult right now because I sense that many people may have tired of the struggle. We have worked so hard for so many years to penetrate the Japanese market, it is no surprise that people are weary. We have had to expend enormous amounts of government and private sector energy to make even modest inroads. Yet it is precisely at this point, when the long-term economic fundamentals in both Japan and the United States are moving in our favor, that we should continue to apply pressure.

That is why earlier in this Congress I introduced, with House Majority Leader GEPHARDT, the Fair Market Access Act of 1994 (S. 1872). The goal of our bill is to apply consistent pressure by establishing a structure for setting measurable targets for our trade negotiators in order to give the administration and its successors more tools in the seemingly never-ending fight to open Japan's markets. I did not pursue S. 1872 this year in large part because I wanted to see how the framework talks would conclude. I still hold out hope that our outstanding differences will be settled, and I applaud President Clinton and Ambassador Kantor who have rightfully set real results and real market access as their goals.

Those results must include progress in reducing the cartel behavior that blocks many United States goods and services from being imported into Japan. Agreements that tear down these barriers, open Japan's market to United States imports, and are backed by measurable criteria for assessing progress, will provide enormous benefits to the economies of the United States, Japan, and the entire world.

A recent article by Clyde Prestowitz and Alan Tonelson of the Economic Strategy Institute makes this case in plain dollar figures. They estimate that Japan's trade barriers are costing the United States $50 billion in annual exports; $50 billion, and as many as 1 million jobs. Worldwide, Japan's trade barriers are depressing global economic output by $400 billion. That is a staggering amount.

And let's not be fooled by those who say we are merely trying to export America's economic problems to Japan. For years, Japan pleaded with us to cut our budget deficit, and President Clinton finally did it to the tune of $500 billion over 5 years. The biggest budget cut the world has ever seen.

Nor can American lack of competitiveness be blamed here either. American businesses, from heavy industry to high technology, have made a remarkable turnaround in recent years. Yet, as Prestowitz and Tonelson point out, this has had no positive impact on exports to Japan, despite the fact that the yen continues to rise and make our products cheaper. Indeed, that very increase is compelling evidence of the rigidities in their economy that cause them to pile up huge surpluses.

In fact, the whole point of the framework talks was to pinpoint precisely those areas where the Japanese Government plays a role in maintaining trade barriers and where the United States is most competitive around the world. The framework emphasized areas such as Government procurement of high technology telecommunications and medical equipment, major sectors such as automobiles and auto parts, regulatory reform in services like insurance, and areas where we already had agreements, such as in flat glass.

Everywhere else in the world American industries in these sectors not only are competitive, they are doing well. Yet in Japan, our businesses face hurdle after hurdle. Distribution networks closed to our products; customs practices that stall our products at the docks; regulations that are impossible for foreign companies to comply with; practices that are as effective as an embargo; and cartels, keiretsus, that block our companies from entering anywhere in the vertical supply chain. Add to this continual changes at the top of the Government—four prime ministers in 1 year—and a bureaucracy that is accountable to no one and you have a perfect mix for intransigence.

President Clinton and our trade negotiators should not feel the slightest doubt from this Congress about the importance of standing firm on resolutions of these issues. The consequences of Japan's market barriers are not abstractions or minor irritants. They have direct effects on the industries, their workers and families, and communities in our States. West Virginia is full of industries, large and small, that make products for sale all over the world. We know we have to compete, and as part of a country that is an open lane to our trading partners who import their products, services, and goods to buyers in the United States. But West Virginians expect their Government and this Congress to insist on a two-way street with Japan. As Japan takes advantage of the international marketplace to build its economy, it cannot continue protecting its own industries from the rest of us.

The only way we can respond is to be resolute and to make clear that we won't settle for a bad deal. A credible threat of sanctions seems to be the only way to convince the Japanese to come to terms and make an enforceable deal. The cellular agreement that Motorola negotiated earlier this year is a perfect example. We cited Japan for not complying with previous agreements, and with the threat of imminent sanctions hanging over their head, they finally came to the table and negotiated a reasonable deal. To abandon the quest for more successes like this at this critical juncture would send exactly the wrong signals to currency markets and our other trading partners.

With respect to the specifics of the talks, it is important to note that the sectors on the table were not chosen haphazardly. We specifically identified areas where American industry is most competitive, and where we could identify a legitimate market opportunity in Japan.

I want to focus on two of the framework sectors to show just how strong our position is: flat glass and telecommunications procurement.

Flat glass includes items like insulating glass, safety glass, and high performance coated glass. American flat glass makers are globally competitive—with market shares approaching 25 percent in Europe and Latin America—yet the United States has less than 1 percent of Japan's $4.5 billion glass market, and our minimal market share has continued to experience a year-to-year decline in both absolute and percentage terms. In sharp contrast, Japanese glass makers account for 20 percent of United States sales.

The explanation? A cartel of three Japanese companies has divided the market for two decades, maintaining steady market shares in a 5-3-2 ratio. This cartel perpetuates the closed distribution system that represents the most egregious market barrier facing U.S. glass makers. With few exceptions, each of the approximately 400 wholesalers and distributors of flat glass in Japan represent only one Japanese manufacturer. Only a small handful of distributors with nominal market share are even willing to handle imported glass. Japan even acknowledges the cartel, admitting in a Japan Fair Trade Commission report that there is a "state of monopoly by three makers, pricing by consensus, and creation of sales networks of distribution by each maker."

To correct this imbalance, Japan promised in a 1992 "Action Plan" signed by President Bush and Prime Minister Miyazawa to "substantially increase market access for competitive foreign flat glass manufacturers." Two years later, it is clear from the numbers that this commitment has not been kept. Despite active bilateral negotiations, Japan has failed to take meaningful action and is in effective violation of our trade agreement. And that is why 6 months ago the trade representative's office identified in its National Trade Estimates Report access to Japan's flat glass market as a priority foreign trade objective.

The other area I want to comment on today is Government procurement, specifically of telecommunications equipment. Japan is planning to invest nearly half a trillion dollars in telecommunications infrastructure over the next 15 to 20 years. Half a trillion dollars of real money, real jobs, and real market opportunities for American companies and companies from around the world. Overall procurement plans by the Japanese Government over the coming decade are among the most significant market opportunities in the world. Our negotiators must be resolute. It is vital that American industry has a fair opportunity to compete for that business.

America is the world leader in information technologies. Our fiber optics and ATM switching and wireless communications are second to none, just to name a few of the telecommunications technologies that the Japanese telecommunications company, NTT, will deploy in its network. If we have an open and nondiscriminatory opportunity to sell in the NTT market, we will win a major share of it. Unfortunately, NTT has had a history of discrimination against foreign manufacturers. Since the agreement that was signed in the early 1980's to open the NTT market, foreigners have gained only a 6 percent market share. This is far below the market share United States companies have been able to command in the non-NTT telecommunications market in Japan and in other export markets. The evidence here is clear, NTT has discriminated against United States companies, and the Government, through the Ministry of Finance, still has both legal and effective control of NTT. The Government can clearly solve this problem if it wants to.

These are just two of the areas where we are negotiating with Japan. They are particularly important to the glass workers of my State of West Virginia. This part of our economy that makes advanced glass products—things like fiber optics and technologically advanced flat glass—has generated new jobs over the last 10 years, and it is critical that we fight for their access to markets worldwide.

The other areas we are negotiating with the Japanese are mightily important, too. Our autos are competitive the world over; yet you could drive on the streets of Tokyo for hours without seeing an American car. Our auto parts are state of the art, but the Japanese inspection system effectively keeps them out of the market for replacement parts. From medical technologies to service sector regulations, our negotiators must stand tough and make good deals. If the Japanese cannot be brought into agreements that will mean real results, real market access, then we must take appropriate action.

Such action is not my goal. What I want to see, and what these industries want to do, is the selling of United States products in Japan. But if Japan will not come to reasonable agreement in these most reasonable areas, then we must do what is necessary. No more empty promises and vague statements of intent.

I beseech Japan's leaders and negotiators to recognize the reasons that they should give our industries and products the same treatment that they expect and get all over the world including in the United States. I urge President Clinton and Ambassador Kantor to fulfill their obligation both to America's interests and the principle of fair trade that shoud be the basis of the strengthened relationship that we seek with Japan.•

HONORING JACK HORNER

• Mr. DURENBERGER. Mr. President, I rise today to honor one of the preeminent figures in the history of Minnesota broadcasting.

Next week, my friend Jack Horner will receive the 1994 Pioneer Broadcaster Award from the Minnesota Broadcasters Association. This award could not be more appropriate, because in the State of Minnesota, Jack Horner was the pioneer broadcaster.

The history of American broadcasting in this century has exactly two parts—before TV and after. In Minnesota, Jack Horner was the man who first scouted this Continental Divide.

On December 7, 1947, Jack became the first person ever to appear on television, not just in Minnesota but in the entire midwestern United States. His broadcast lasted 25 minutes—during which he introduced film clips of football games and the marriage of England's then-Princess Elizabeth.

If Jack's sole lifetime achievement had been standing in front of the camera that day, his name would still be remembered today. But his historic broadcast in 1947 was just one episode in a breathtaking career that has spanned nearly five decades.

When Jack Horner started out in broadcasting, the New Deal was still new. It was 1935 when a 22-year-old Jack joined KGFK radio in Moorhead, MN—and he was already doing play-by-play coverage of basketball the following year. After a number of broadcasting jobs around the Midwest, Jack came to the Twin Cities in 1944—and prepared to inaugurate the age of television.

Since 1947, Jack has put together a monumental record of Minnesota broadcasting firsts. First baseball game televised in Minnesota (1947). First University of Minnesota football telecast (1948). First ever TV appearance by the internationally renowned Harlem Globetrotters (1949). The list goes on.

For four decades, Jack Horner has been welcomed into hundreds of thousands of living rooms. Countless families welcome his voice—and I speak on their behalf when I say "Thank you, Jack, for giving us your work over the last forty years."

I myself grew up in rural Minnesota, with a dad who was athletic director at St. John's University. My window on sports outside of SJU was "Jack Horner's Corner"—and I thank Jack for the memories.

Mr. President, I ask my colleagues to join me in wishing this historic broadcaster—this good friend—and his wife Cel our warmest congratulations on this richly deserved award.•

JAPAN'S BID FOR A PERMANENT SEAT ON THE U.N. SECURITY COUNCIL

Mr. ROTH. Madam President, since the end of the cold war, the United Nations and its most important decision-making body, the Security Council, have assumed more prominent roles in addressing global problems.

During the past 5 years, the Security Council has authorized more peacekeeping operations and passed almost half as many resolutions as it did during its first 45 years. Despite the increased activity, the Security Council has remained essentially unchanged since it was established at the end of World War II.

To enable the Security Council to better address the expanded range and number of problems it now confronts, the General Assembly last year adopted a resolution requesting that all member nations provide suggestions on restructuring the Security Council. Close to 80 countries responded. More than 40 suggested that Japan take a permanent seat on the Security Council.

After all, with the world's second largest economy, Japan would seem a logical choice for permanent membership in a restructured Security Council. In it statement of support, the United States said that Japan should gain a permanent seat because Tokyo has achieved a level of global influence greater than most of the current permanent members.

Other supporters pointed to Japan's position as the United Nation's second largest financial contributor and the world's largest provider of overseas development assistance.

Yesterday, Japan's Foreign Minister, in a speech before the U.N. General Assembly, made the most direct official statement ever on Japan's desire to gain a permanent seat on the Security Council.

The Foreign Minister, however, began his speech by stating what Japan would not do as a permanent member of the Security Council, rather than listing the activities which it would perform in such a capacity.

Today, the United States Ambassador to Japan, Fritz Mondale, made plain President Clinton's backing for Japan's position.

The Ambassador said that United States "Government support is rock solid," and that the United States sees no requirement "that permanent members of the Security Council participate in U.N. peacekeeping operations."

Fritz is an old friend of mine, and a man I hold in great respect. Yet I believe he overstated his case: Since January of this year the Senate has twice passed resolutions suggesting United States support for Japan's bid for a permanent seat, but only contingent on Tokyo taking steps necessary for the country to fully engage in any form of U.N. peacekeeping or peacemaking operation. Japan currently is incapable of such engagement.

And given the Foreign Minister's speech, Tokyo now clearly has no intention of removing obstacles to its full engagement in such operations. Therefore, the only solid opinion expressed by the Senate—that of opposition to Japan's bid for a permanent seat under these circumstances—has only been hardened.

As I have stated before, and as my colleagues in this body have unanimously agreed, the special status conferred by permanent membership entails special responsibilities. In particular, permanent members must be able to participate in any form of operation they themselves authorize through the Security Council, including any form of peacekeeping or peacemaking operation.

If Japan were to obtain a permanent seat now, the country would be given an opportunity to endorse U.N. missions that endangered the lives of citizens of other countries but in which Japan itself could play no role. Not only would Japan be courting the sort of criticism it received during the gulf war, other countries could well encounter greater domestic opposition to putting their own personnel at risk.

In either case, the effectiveness of the Security Council in handling the United Nations' most important work—that of making decisions on guarding the peace—would be compromised.

The Japanese Foreign Minister's remarks yesterday were premised on currently accepted interpretations of the country's Constitution as forever renouncing the use of force—even under U.N. mandate—as a means of problem solving.

What is crucial to recognize, however, is that Japan's current interpretation of its constitution was shaped as much—if not more—by the country's economic self-interest than by any idealistic desire to serve as a model peaceful state. In the aftermath of World War II, had Japan accepted an interpretation permitting it to participate in collective security arrangements, precious resources would have been diverted from the country's push to regain economic strength and achieve its century-old goal of catching up with the West.

Now that the goal has been realized, it is more important than ever to understand that the American framers of Japan's Constitution never intended to prohibit Japan from participating in collective security arrangements or U.N. peacekeeping activities.

Moreover, the key Japanese official involved in fostering the currently accepted constitutional interpretation, Prime Minister Shigeru Yoshida, foresaw the need for Japan to take on added responsibilities once the country prospered. Yoshida believed that other nations would never tolerate Japan receiving special international status once it caught up economically with the West.

Prime Minister Yoshida's strategy of avoiding collective security arrangements through constitutional interpretation brilliantly laid the groundwork for Japan's remarkable postwar economic success. I believe his views on how Japan's international role, and hence constitutional interpretation, would have to change after that success was achieved were just as farseeing.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

HOUSE OF REPRESENTATIVES CAMPAIGN SPENDING LIMIT AND ELECTION REFORM ACT OF 1993

Mr. BOREN. Madam President, I ask the Chair to lay before the Senate a message from the House of S. 3, the Campaign Finance Reform Act.

The PRESIDING OFFICER. The clerk will state the message.

The legislative clerk read as follows:

Resolved, That the bill from the Senate S. 3, entitled "An act entitled the 'Congressional Spending Limit and Election Reform Act of 1993,'" do pass with amendments.

The PRESIDING OFFICER. The question is on the motion to request a conference on the disagreeing votes of the two Houses.

CLOTURE MOTION

Mr. BOREN. Madam President, I send to the desk a cloture motion on the motion to request a conference and ask unanimous consent that with respect to this cloture vote, the mandatory quorum be waived as required under rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to request a conference with the House on the disagreeing votes of the two Houses with respect to S. 3, the Campaign Finance Reform Act:

David Boren, Wendell Ford, Dennis DeConcini, Patrick Leahy, Harris Wofford, Chris Dodd, Carl Levin, Paul Wellstone, John F. Kerry, Barbara Boxer, Bob Graham, Tom Dashchle, David Pryor, Byron L. Dorgan, Joe Biden, Herb Kohl.

MORNING BUSINESS

Mr. BOREN. Madam President, I now ask unanimous consent that there be a period of morning business with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. BOREN. Madam President, I now ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar order 1192, 1193, 1194, 1195, 1196, 1197, 1199, 1200, 1201, 1202, 1203, 1204, 1205, 1206, 1207, 1208, 1209, 1210, 1212, 1214, 1215, 1216, 1217, 1218, 1219, 1220, 1221, 1222, 1223, 1224, 1277, 1278, 1283, 1284, 1285, 1286, 1287, and all nominations placed on the Secretary's Desk in the Army, Coast Guard, and Navy. I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that upon confirmation the motions to reconsider be laid on the table en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF THE TREASURY

Frank N. Newman, of California, to be Deputy Secretary of the Treasury.

Edward S. Knight, of Texas, to be General Counsel for the Department of the Treasury.

DEPARTMENT OF STATE

Kenneth Spencer Yalowitz, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Belarus.

Alfred H. Moses, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Romania.

Charles E. Redman, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Germany.

Marc Grossman, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Turkey.

Ivan Selin, of the District of Columbia, to be an Alternate Representative of the United States of America to the Thirty-eighth Session of the General Conference of the International Atomic Energy Agency.

Nelson F. Sievering, Jr., of Maryland, to be an Alternate Representative of the United States of America to the Thirty-eighth Session of the General Conference of the International Atomic Energy Agency.

John B. Ritch III, of the District of Columbia, to be an Alternate Representative of the United States of America to the Thirty-eighth Session of the General Conference of the International Atomic Energy Agency.

THE JUDICIARY

William C. Bryson, of Maryland, to be U.S. Circuit Judge for the Federal Circuit.

Sarah S. Vance, of Louisiana, to be U.S. District Judge for the Eastern District of Louisiana.

Salvador E. Casellas, of Puerto Rico, to be U.S. District Judge for the District of Puerto Rico.

Daniel R. Dominguez, of Puerto Rico, to be U.S. District Judge for the District of Puerto Rico.

Stanwood R. Duval, Jr., of Louisiana, to be U.S. District Judge for the Eastern District of Louisiana.

Frederic Block, of New York, to be U.S. District Judge for the Eastern District of New York.

John Gleeson, of New York, to be U.S. District Judge for the Eastern District of New York.

Allyne R. Ross, of New York, to be U.S. District Judge for the Eastern District of New York.

Shira A. Scheindlin, of New York, to be U.S. District Judge for the Southern District of New York.

Robert N. Chatigny, of Connecticut, to be U.S. District Judge for the District of Connecticut.

DEPARTMENT OF JUSTICE

John Michael Bradford, of Texas, to be U.S. Attorney for the Eastern District of Texas for the term of 4 years.

Ronald Joseph Boudreaux, of Louisiana, to be U.S. Marshal for the Middle District of Louisiana for the term of 4 years.

Norris Batiste, Jr., of Texas to be U.S. Marshal for the Eastern District of Texas for the term of 4 years.

John David Crews, Jr., of Mississippi, to be U.S. Marshal for the Northern District of Mississippi for the term of 4 years.

Walter D. Sokolowski, of Pennsylvania, to be U.S. Marshal for the Middle District of Pennsylvania for the term of 4 years.

Edward Joseph Kelly, Jr., of New York, to be U.S. Marshal for the Northern District of New York for the term of 4 years.

Delissa A. Ridgway, of the District of Columbia, to be Chairman of the Foreign Claims Settlement Commission of the United States for a term expiring September 30, 1997. (Reappointment.)

John R. Lacey, of Connecticut, to be a Member of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 1995.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Thomasina V. Rogers, of Maryland, to be Chairman of the Administrative Conference of the United States for the term of 5 years.

DEPARTMENT OF JUSTICE

Michael Johnston Gaines, of Arkansas, to be a Commissioner of the U.S. Parole Commission for the remainder of the term expiring November 1, 1997.

Aileen Catherine Adams, of California, to be Director of the Office for Victims of Crime. (New Position.)

COAST GUARD

The following Regular officers of the U.S. Coast Guard for promotion to the grade of rear admiral:

Gordon G. Piche.
Paul M. Blayney.

The following Regular officers of the U.S. Coast Guard for promotion to the grade of rear admiral (lower half):

Fred L. Ames.
Richard M. Larrabee III.
John T. Tozzi.
Thomas H. Collins.
Ernest R. Riutta.

DEPARTMENT OF VETERANS AFFAIRS

Kenneth W. Kizer, of California, to be Under Secretary for Health of the Department of Veterans Affairs for a term of 4 years.

AIR FORCE

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Richard M. Scofield, [redacted].

The following-named officers for appointment in the United States Air Force to the grade of major general under the provisions of title 10, United States Code, section 624:

REGULAR AIR FORCE

To be major general

Brig. Gen. Jerrold P. Allen, [redacted].
Brig. Gen. Allen D. Bunger, [redacted].
Brig. Gen. Stewart E. Cranston, [redacted].
Brig. Gen. Robert S. Dickman, [redacted].
Brig. Gen. William J. Donahue, [redacted].
Brig. Gen. Robert W. Drewes, [redacted].
Brig. Gen. Patrick K. Gamble, [redacted].
Brig. Gen. Francis C. Gideon, Jr., [redacted].
Brig. Gen. Edward F. Grillo, Jr., [redacted].
Brig. Gen. John W. Handy, [redacted].
Brig. Gen. Charles R. Heflebower, [redacted].
Brig. Gen. Henry M. Hobgood, [redacted].
Brig. Gen. Hal M. Hornburg, [redacted].
Brig. Gen. Normand G. Lezy, [redacted].
Brig. Gen. Donald E. Loranger, Jr., [redacted].
Brig. Gen. John M. McBroom, [redacted].
Brig. Gen. George K. Muellner, [redacted].
Brig. Gen. Robert F. Raggio, [redacted].
Brig. Gen. John B. Sams, Jr., [redacted].
Brig. Gen. Michael C. Short, [redacted].
Brig. Gen. Rondal H. Smith, [redacted].

ARMY

The U.S. Army National Guard officers named herein for appointment in the Reserve of the Army of the United States in the grades indicated below, under the provisions of title 10, United States Code, sections 593(a), 3371, and 3384:

To be major general

Brig. Gen. William E. Murphy, [redacted].

To be brigadier general

Col. Darrel P. Baker, [redacted].

The following-named officers for appointment in the Reserve of the Army of the United States in the grade indicated below, under the provisions of title 10, United States Code, sections 593, 3385, and 3392:

To be brigadier general

Federico Lopez III, [redacted].
Wayne D. Marty, [redacted].

IN THE ARMY, COAST GUARD, AND NAVY

Army nominations beginning George D. Baxter, and ending Michael H. Taylor, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

Army nominations beginning George R. Allen, and ending Thomas E. Wolford, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 8, 1994.

Army nominations beginning Richard W. Attwood, and ending Ruth A. Wilcox, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of July 27, 1994.

Coast Guard nominations beginning Robert W. Vail, and ending Philip M. Sanders, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 9, 1994.

Coast Guard nominations beginning William C. Paradise, and ending Ronald W. Branch, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 12, 1994.

Coast Guard nominations beginning Thomas J. Haas, and ending Robert C. Ayer, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 12, 1994.

Navy nominations beginning Thor Davis Aakre, and ending Allan Kay Zweifel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 19, 1994.

1197, 1199, 1200, 1201, 1202, 1203, 1204, 1205, 1206, 1207, 1208, 1209, 1210, 1212, 1214, 1215, 1216, 1217, 1218, 1219, 1220, 1221, 1222, 1223, 1224, 1277, 1278, 1283, 1284, 1285, 1286, 1287, and all nominations placed on the Secretary's Desk in the Army, Coast Guard, and Navy. I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that upon confirmation the motions to reconsider be laid on the table en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF THE TREASURY

Frank N. Newman, of California, to be Deputy Secretary of the Treasury.

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Ivan Selin, of the District of Columbia, to be an Alternate Representative of the United States of America to the Thirty-eighth Session of the General Conference of the International Atomic Energy Agency.

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Daniel R. Dominguez, of Puerto Rico, to be U.S. District Judge for the District of Puerto Rico.

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Robert N. Chatigny, of Connecticut, to be U.S. District Judge for the District of Connecticut.

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John Michael Bradford, of Texas, to be U.S. Attorney for the Eastern District of Texas for the term of 4 years.

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Norris Batiste, Jr., of Texas to be U.S. Marshal for the Eastern District of Texas for the term of 4 years.

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Paul M. Blayney.

The following Regular officers of the U.S. Coast Guard for promotion to the grade of rear admiral (lower half):

Fred L. Ames.

Richard M. Larrabee III.

John T. Tozzi.

Thomas H. Collins.

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DEPARTMENT OF VETERANS AFFAIRS

Kenneth W. Kizer, of California, to be Under Secretary for Health of the Department of Veterans Affairs for a term of 4 years.

AIR FORCE

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Richard M. Scofield, 026–28–8454.

The following-named officers for appointment in the United States Air Force to the grade of major general under the provisions of title 10, United States Code, section 624:

REGULAR AIR FORCE

To be major general

Brig. Gen. Jerrold P. Allen, 009–30–6342.

Brig. Gen. Allen D. Bunger, 430–80–3653.

Brig. Gen. Stewart E. Cranston, 265–70–8502.

Brig. Gen. Robert S. Dickman, 150–34–8510.

Brig. Gen. William J. Donahue, 401–58–3904.

Brig. Gen. Robert W. Drewes, 060–34–6657.

Brig. Gen. Patrick K. Gamble, 533–44–2878.

Brig. Gen. Francis C. Gideon, Jr., 284–40–8826.

Brig. Gen. Edward F. Grillo, Jr., 265–80–7008.

Brig. Gen. John W. Handy, 241–68–5379.

Brig. Gen. Charles R. Heflebower, 467–68–8234.

Brig. Gen. Henry M. Hobgood, 243–72–9213.

Brig. Gen. Hal M. Hornburg, 455–72–6836.

Brig. Gen. Normand G. Lezy, 035–26–0318.

Brig. Gen. Donald E. Loranger, Jr., 517–46–2623.

Brig. Gen. John M. McBroom, 223–58–8526.

Brig. Gen. George K. Muellner, 340–36–4452.

Brig. Gen. Robert F. Raggio, 564–58–7255.

Brig. Gen. John B. Sams, Jr., 252–70–6470.

Brig. Gen. Michael C. Short, 522–58–9016.

Brig. Gen. Rondal H. Smith, 413–72–4443.

ARMY

The U.S. Army National Guard officers named herein for appointment in the Reserve of the Army of the United States in the grades indicated below, under the provisions of title 10, United States Code, sections 593(a), 3371, and 3384:

To be major general

Brig. Gen. William E. Murphy, 455–48–5860.

To be brigadier general

Col. Darrel P. Baker, 462–64–3645.

The following-named officers for appointment in the Reserve of the Army of the United States in the grade indicated below, under the provisions of title 10, United States Code, sections 593, 3385, and 3392:

To be brigadier general

Federico Lopez III, 458–70–0744.

Wayne D. Marty, 458–66–9856.

IN THE ARMY, COAST GUARD, AND NAVY

Army nominations beginning George D. Baxter, and ending Michael H. Taylor, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 5, 1993.

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Coast Guard nominations beginning Thomas J. Haas, and ending Robert C. Ayer, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 12, 1994.

Navy nominations beginning Thor Davis Aakre, and ending Allan Kay Zweifel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 19, 1994.

STATEMENT ON THE NOMINATION OF KENNETH W. KIZER

Mr. ROCKEFELLER. Madam President, I am pleased to support the nomination of Kenneth W. Kizer, M.D., to be the Under Secretary for Health for the Department of Veterans Affairs. The VA Under Secretary for Health is one of the most important public servants. If confirmed, Dr. Kizer will guide the VA medical system—the Nation's largest health care system—into the next century.

I recently had the chance to meet with Dr. Kizer and to discuss the job he will have of providing health care to the men and women who have served this Nation. I have also had the opportunity to read his answers to prehearing questions and to hear his testimony at a September 13, 1994, committee hearing on his nomination. Dr. Kizer has expressed his belief that services provided to veterans at VA medical facilities across the country should be easily accessible, compassionate, and of superior quality. I wholeheartedly agree and feel that Dr. Kizer has the intelligence, the experience, and the drive to maintain this special obligation to our Nation's veterans.

Dr. Kizer is professor and chairman of the department of community and international health at the University of California, Davis, School of Medicine. Before his position in academe, Dr. Kizer was director of the California Department of Health Services, serving as the chief health official for the Nation's largest State health agency. Prior to his appointment, Dr. Kizer served as chief deputy director and chief of public health for the California Department of Human Services, and before that as director of California's Emergency Medical Services Authority.

Dr. Kizer is a fellow of the American College of Emergency Physicians, the American Academy of Toxicology, the American College of Occupational and Environmental Medicine, the American College of Preventive Medicine, the Royal Society of Health, and the Royal Society of Medicine. Dr. Kizer has medical specialty board certification in emergency medicine, medical toxicology, occupational medicine, and general preventive medicine and public health.

Dr. Kizer received his bachelor of science degree in biological sciences from Stanford University in 1972, and his doctor of medicine and masters of public health degrees from UCLA in 1976. He undertook postgraduate medical training with the U.S. Navy and the University of California, San Francisco.

Dr. Kizer has demonstrated that he understands the huge responsibility that would be his. He has responded openly to questions from Senator MURKOWSKI and myself at the committee hearing, and in addition to the prehearing questions, he has completed the committee's questionnaire. On September 23, the committee voted unanimously to approve Dr. Kizer's nomination. I know of no opposition to his nomination.

Madam President, in my view, Dr. Kizer is well qualified for this important position. He would bring to it a strong mix of private sector and public section health care management experience. Because the Veterans Health Administration has been without leadership for far too long, I urge my colleagues to approve the nomination.

THE NOMINATION OF DR. KENNETH KIZER

Mr. MURKOWSKI. Madam President, it has now been over a year and a half since the incoming administration removed VA's theoretically nonpartisan Under Secretary for Health. I did not object to that action because I know that America's veterans, and the Congress, will hold both Secretary Brown and the administration accountable for the state of veterans' health care on their watch and I can understand why the Secretary and the administration would want their own person as Under Secretary for Health.

As the head of the Veterans Health Administration [VHA], the Under Secretary for Health holds one of the most important, and most challenging, offices in the Federal Government.

As Under Secretary, Dr. Kenneth Kizer will be responsible for a budget of almost $17 billion, a staff of over 200,000, a physical plant of 171 medical centers and hundreds of outpatient clinics, and—most importantly—the health of the 2½ million veterans who will turn to VA for medical care in the year to come.

The critical importance of the Under Secretary's mission, the awesome reach of his or her responsibilities, combined with the demonstrated talent and unquestioned qualifications that Dr. Kenneth Kizer will bring to VA, explain why I urge the Senate to confirm Dr. Kizer to be VA's Under Secretary for Health.

That importance of that mission, and the scope of those responsibilities, also explain why I am frustrated that this vote takes place only during the waning days of the 103d Congress.

Too much time has passed between the forced departure of the last Under Secretary and Dr. Kizer's nomination. The Senate did not receive Dr. Kizer's nomination until July 29, 1994. The Committee on Veterans' Affairs held a hearing on September 13 and voted unanimously to approve the nomination on September 23. The delay in filling this critical leadership position is not the responsibility of the Senate and I regret that the Veterans' Health Administration has gone so long without a confirmed leader because of the administration's failure to send a nomination to the Senate.

I applaud Dr. Kizer for agreeing to serve as head of the Veterans Health Administration. The challenges he will face will be daunting. The constraints under which he will have to operate will be crushing. The responsibilities he will assume will literally include questions of life and death. His reward for faithful service is likely to include a generous measure of second guessing.

He will assume responsibility for the Veterans Health Administration at a time when American health care is remaking itself. The practice of medicine is changing at a pace that can hardly be measured, much less explained. The transition away from hospital care to outpatient care may be only the most visible example.

The organization of medicine is also undergoing profound changes as the Federal Government debates the funding and administration of care while at the same time the individual States enact their own health care reform legislation. VA must adapt to this changing environment if it is to continue to provide quality care to America's veterans.

Dr. Kizer will assume responsibility for laying the foundation for a 21st century health care system while at the same time operating a network of hospitals constructed to fulfill a vision of health care as it was understood at the end of World War II, a half century ago.

His success will depend upon his willingness to make significant changes, to ask unpopular questions, and to propose bold changes in course. None of those actions will be easy. Many, perhaps most, will be controversial.

But I believe that neither the Congress, nor the veterans we serve, are, or can be, satisfied by the status quo. And I do not believe that VA can make significant improvements by continuing to do only what has been done before.

If Dr. Kizer proposes a course toward more ambulatory care, I hope he can count on the support of the Senate, even if that course comes at the expense of medically excessive, but locally popular, inpatient capacity.

If Dr. Kizer proposes to integrate VA health care more closely with other community and Federal providers, I hope he can count on the support of the Senate if his proposals will improve health care for veterans.

If he shifts VA's focus away from the bricks and mortar of its buildings and toward health care services for veterans, I will applaud his actions. If he transfers authority away from bureaucrats in Washington and empowers VA's leadership in the field, I will stand by his side.

Dr. Kenneth Kizer has agreed to accept a very difficult mission and I commend him for his courage and for his commitment to America's veterans. He can not succeed in that mission without the support of the Congress and I urge my colleagues to join me in not only supporting his confirmation as Under Secretary for Health but to also join me in supporting him as he begins the difficult task of reinventing the VA health care system while at the same time continuing to provide quality health care to millions of America's veterans.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

MEASURE PLACED ON THE CALENDAR

Mr. BOREN. Madam President, I ask unanimous consent that H.R. 4924 relating to the conservation of rhinoceroses and tigers just received from the House be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

GOVERNMENT MANAGEMENT REFORM ACT OF 1994

Mr. BOREN. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 458, S. 2170, the Government Management Reform Act of 1994.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows.

A bill (S. 2170) to provide a more effective, efficient and responsive government.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2598

Mr. BOREN. On behalf of Senators GLENN and ROTH, I send an amendment to the desk and I ask for its immediate consideration; that the amendment be agreed to, and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Madam President, Senator ROTH and I urge our colleagues' support for this manager's amendment to S. 2170, the Government Management Reform Act of 1994. This legislation is based in large part on recommendations of the National Performance Review contained in H.R. 3400 and passed by the House of Representatives last year. The bill was reported favorably by the Committee on Governmental Affairs on March 23, 1994. Amendments are made for technical corrections and to reflect the jurisdictions of our committee and our counterpart committee, the House Government Operations Committee.

This bipartisan initiative is designed to improve the economy and efficiency of Government operations, and to strengthen Government's financial accountability. The legislation expands the Chief Financial Officers Act of 1990, which has helped the Government to reduce waste, fraud and abuse, and to support agencies in making more informed spending decisions. S. 2170 would require major agencies to produce audited financial statements for all accounts; the bill also requires a governmentwide audited financial statement. The legislation includes an initiative that will save Government administrative costs by encouraging the use of electronic funds transfer [EFT] for paying Federal employees and retirees. Additionally, the bill establishes a pilot program for franchise funds to help agencies lower costs and share such common administrative services as data processing and payroll.

We believe this bipartisan bill is important to our shared goal of a Government that works better and costs less. Strengthening the stewardship of Federal resources will improve services, save money and make Government more accountable to the taxpayer. We urge your support. I ask unanimous consent that a summary of our amendment and its changes be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

S. 2170 MANAGER'S AMENDMENT—BRIEF SUMMARY

Section 101: Limitation on certain annual pay adjustments. Requires that any annual "automatic" adjustments (COLAs) to the salaries of members of Congress, the Executive Schedule, or the judiciary would not exceed that given to General Schedule Federal employees.

Section 202: SES annual leave accumulation. Amends Title 5 to establish a limitation for members of the Senior Executive Service to accrue up to 90 days of annual leave.

Section 301: Authority to increase efficiency in reporting to Congress. Directs the Office of Management and Budget to work with Congressional Committees to streamline, consolidate and eliminate duplicative or obsolete reports to Congress.

Section 402: Electronic payments. This provision strengthens the ability of Federal agencies to expand conversion to electronic delivery of payments to Federal employees and retirees.

Section 403: Franchise fund pilot programs. Provides for the authorization of six pilot franchise funds to help lower costs and share common administrative services. Funds will adhere to all applicable Federal financial management laws and terminate October 1, 1999.

Section 404: Simplification of management reporting process. Directs the Office of Management and Budget to work with the Senate Governmental Affairs Committee and House Government Operations Committee to streamline and consolidate financial management reports from the agencies to OMB and from OMB to the Congress.

Section 405: Annual financial reports. Starting in 1997, all 24 agencies covered under the Chief Financial Officers Act are required to produce audited financial statements for all activities. Starting in 1998, the government will produce an audited consolidated financial statement of all 24 CFO Act agencies.

SUMMARY OF MANAGER'S AMENDMENT CHANGES TO S. 2170

Section 102: Reduction of Federal full-time equivalent positions and Section 201: Federal workforce training—The sections are struck because the provision is unnecessary; they are similar but inconsistent in their details with the provisions signed into law as part of P.L. 103-226, The Federal Workforce Restructuring Act, shortly after the markup of S. 2170.

Section 302: Transfer of Davis-Bacon Functions—The section is struck because of objections to shifting certain Davis Bacon Act debarment and disbursement functions from the General Accounting Office to the Department of Labor.

Section 402: Electronic Payments—Subsection (f) is struck because it could be interpreted as preventing the government from encouraging recipients of Social Security or Railroad Retirement benefits to receive payments by electronic means.

Section 403: Franchise Fund Pilot Programs—Subsections (3) and (4) are struck because the Congressional Budget Office has determined that the use of agency unobligated balances to establish franchise funds would violate Budget Act rules and constitute a "pay-go" situation. The number of pilots are increased from four to six in order for the Administration to experiment with establishing competition for administrative services to drive down costs and reduce duplication in agencies. A technical provision is added to allow agencies to capitalize certain administrative equipment into the franchise fund pilots. Another change vests authority to select pilots in the Director of OMB, instead of the President.

Section 405: Annual Financial Reports—A technical change clarifies that the Treasury Department will prepare the statement in accordance with the form and content requirements set forth by the Director of OMB.

Section 406–410: Contracts for Collection of Services and Adjusting Civil Monetary Penalties for Inflation—These sections are struck because of issues of Committee jurisdiction in the House of Representatives and because of objections to the civil monetary penalties adjustment provisions.

Mr. ROTH. Madam President, I am pleased to join with Senator GLENN in bringing to the floor the Government Management Reform Act of 1994. The managers' amendment to this bill modifies it, so that it now focuses on several widely supported improvements in Federal management systems, including greater use of electronic payment to Federal employees, simplification of the management reporting process, and several pilot projects in the use of franchise funds within Federal agencies.

Probably the most significant reform mandated by the bill is the requirement for annual agencywide audited financial statements for the 23 major agencies covered by the Chief Financial Officers Act of 1990, along with the requirement for an annual governmentwide audited financial statement.

The pilot projects conducted under the CFO Act have shown the great value in requiring agencies to develop annual financial statements that are then audited. These audits have confirmed what we have long suspected—that Federal agencies have a great deal of work ahead if they are to come into the modern age of effective governmental financial management. It is important that Congress not only mandate these new requirements, but that it be fully supportive of agency efforts to comply.

In the shorter term, the payoff will be much more accurate numbers in reports that track how much agencies have actually spent, what their assets are worth, what outstanding obligations they have accrued, how much they are owed, and similar figures.

In the longer term, however, I would hope for an even greater payoff. Under the recently enacted Government Performance and Results Act, starting in 1997 Federal agencies will have to begin developing 5-year strategic plans, annual performance plans, and annual performance reports. The annual reports will have to show the measurable performance goals for each program, compared to the actual results. The legislation specifically envisions that these reports might be combined with the audited financial statements.

If this merging of the reports happens, and it is done properly, we will begin to see a very powerful set of reports flowing from the agencies—each showing how much was actually spent in each program area, along with what was actually achieved with respect to activity levels and program results. In other words, for the first time we will really see what we are getting for our money, ideally on a cost-per-unit basis.

I urge the support of my colleagues for this important addition to our tools for improving governmental accountability.

So the amendment (No. 2598) was agreed to.

(The amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2170

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Government Management Reform Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
TITLE I—LIMITATION ON PAY
Sec. 101. Limitation on certain annual pay adjustments.
TITLE II—HUMAN RESOURCE MANAGEMENT
Sec. 201. SES annual leave accumulation.
TITLE III—STREAMLINING MANAGEMENT CONTROL
Sec. 301. Authority to increase efficiency in reporting to Congress.
TITLE IV—FINANCIAL MANAGEMENT
Sec. 401. Short title.
Sec. 402. Electronic payments.
Sec. 403. Franchise fund pilot programs.
Sec. 404. Simplification of management reporting process.
Sec. 405. Annual financial reports.

TITLE I—LIMITATION ON PAY

SEC. 101. LIMITATION ON CERTAIN ANNUAL PAY ADJUSTMENTS.

Effective as of December 31, 1994—

(1) section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) is amended—

(A) by striking out "(2) Effective" and inserting in lieu thereof "(2)(A) Subject to subparagraph (B), effective"; and

(B) by adding at the end thereof the following:

"(B) In no event shall the percentage adjustment taking effect under subparagraph (A) in any calendar year (before rounding), in any rate of pay, exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5, United States Code, in the rates of pay under the General Schedule.";

(2) section 104 of title 3, United States Code, is amended—

(A) in the first sentence by inserting "(a)" before "The";

(B) in the second sentence by striking out "Effective" and inserting in lieu thereof "Subject to subsection (b), effective"; and

(C) by adding at the end thereof the following:

"(b) In no event shall the percentage adjustment taking effect under the second and third sentences of subsection (a) in any calendar year (before rounding) exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5 in the rates of pay under the General Schedule.";

(3) section 5318 of title 5, United States Code, is amended—

(A) in the first sentence by striking out "Effective" and inserting in lieu thereof "(a) Subject to subsection (b), effective"; and

(B) by adding at the end thereof the following:

"(b) In no event shall the percentage adjustment taking effect under subsection (a) in any calendar year (before rounding), in any rate of pay, exceed the percentage adjustment taking effect in such calendar year under section 5303 in the rates of pay under the General Schedule."; and

(4) section 461(a) of title 28, United States Code, is amended—

(A) by striking out "(a) Effective" and inserting in lieu thereof "(a)(1) Subject to paragraph (2), effective"; and

(B) by adding at the end thereof the following:

"(2) In no event shall the percentage adjustment taking effect under paragraph (1) in any calendar year (before rounding), in any salary rate, exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5 in the rates of pay under the General Schedule.".

TITLE II—HUMAN RESOURCE MANAGEMENT

SEC. 201. SES ANNUAL LEAVE ACCUMULATION.

(a) IN GENERAL.—Effective on the first day of the first applicable pay period beginning after the date of the enactment of this Act, subsection (f) of section 6304 of title 5, United States Code, is amended to read as follows:

"(f)(1) This subsection applies with respect to annual leave accrued by an individual while serving in a position in—

"(A) the Senior Executive Service;

"(B) the Senior Foreign Service;

"(C) the Defense Intelligence Senior Executive Service;

"(D) the Senior Cryptologic Executive Service; or

"(E) the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.

"(2) For purposes of applying any limitation on accumulation under this section with respect to any annual leave described in paragraph (1)—

"(A) '30 days' in subsection (a) shall be deemed to read '90 days'; and

"(B) '45 days' in subsection (b) shall be deemed to read '90 days'.".

(b) USE OF EXCESS LEAVE.—Notwithstanding the amendment made by subsection (a), in the case of an employee who, on the effective date of subsection (a), is subject to subsection (f) of section 6304 of title 5, United States Code, and who has to such employee's credit annual leave in excess of the maximum accumulation otherwise permitted by subsection (a) or (b) of section 6304 (determined applying the amendment made by subsection (a)), such excess annual leave shall remain to the credit of the employee and be subject to reduction, in the same manner as provided in subsection (c) of section 6304.

TITLE III—STREAMLINING MANAGEMENT CONTROL

SEC. 301. AUTHORITY TO INCREASE EFFICIENCY IN REPORTING TO CONGRESS.

(a) PURPOSE.—The purpose of this title is to improve the efficiency of executive branch performance in implementing statutory requirements for reports to Congress and committees of Congress such as the elimination or consolidation of duplicative or obsolete reporting requirements and adjustments to deadlines that shall provide for more efficient workload distribution or improve the quality of reports.

(b) AUTHORITY OF THE DIRECTOR.—The Director of the Office of Management and Budget may publish annually in the budget submitted by the President to the Congress, recommendations for consolidation, elimination, or adjustments in frequency and due dates of statutorily required periodic reports to the Congress or committees of Congress. For each recommendation, the Director shall provide an individualized statement of the reasons that support the recommendation. In addition, for each report for which a recommendation is made, the Director shall state with specificity the exact consolidation, elimination, or adjustment in frequency or due date that is recommended.

(c) RECOMMENDATIONS.—The Director's recommendations shall be consistent with the purpose stated in subsection (a).

(d) CONSULTATION.—Before the publication of the recommendations under subsection (b), the Director or his designee shall consult with the appropriate congressional committees concerning the recommendations.

TITLE IV—FINANCIAL MANAGEMENT

SEC. 401. SHORT TITLE.

This title may be cited as the "Federal Financial Management Act of 1994".

SEC. 402. ELECTRONIC PAYMENTS.

(a) IN GENERAL.—Section 3332 of title 31, United States Code, is amended to read as follows:

"§ 3332. Required direct deposit

"(a)(1) Notwithstanding any other provision of law, all Federal wage, salary, and retirement payments shall be paid to recipients of such payments by electronic funds transfer, unless another method has been determined by the Secretary of the Treasury to be appropriate.

"(2) Each recipient of Federal wage, salary, or retirement payments shall designate one or more financial institutions or other authorized payment agents and provide the payment certifying or authorizing agency information necessary for the recipient to receive electronic funds transfer payments through each institution so designated.

"(b)(1) The head of each agency shall waive the requirements of subsection (a) of this section for a recipient of Federal wage, salary, or retirement payments authorized or certified by the agency upon written request by such recipient.

"(2) Federal wage, salary, or retirement payments shall be paid to any recipient granted a waiver under paragraph (1) of this subsection by any method determined appropriate by the Secretary of the Treasury.

"(c)(1) The Secretary of the Treasury may waive the requirements of subsection (a) of this section for any group of recipients upon request by the head of an agency under standards prescribed by the Secretary of the Treasury.

"(2) Federal wage, salary, or retirement payments shall be paid to any member of a group granted a waiver under paragraph (1) of this subsection by any method determined appropriate by the Secretary of the Treasury.

"(d) This section shall apply only to recipients of Federal wage or salary payments who begin to receive such payments on or after January 1, 1995, and recipients of Federal retirement payments who begin to receive such payments on or after January 1, 1995.

"(e) The crediting of the amount of a payment to the appropriate account on the books of a financial institution or other authorized payment agent designated by a payment recipient under this section shall constitute a full acquittance to the United States for the amount of the payment.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 33 of title 31, United States Code, is amended by amending the item for section 3332 to read:

"3332. Required direct deposit.".

SEC. 403. FRANCHISE FUND PILOT PROGRAMS.

(a) ESTABLISHMENT.—There is authorized to be established on a pilot program basis in each of six executive agencies a franchise fund. The Director of the Office of Management and Budget, after consultation with the chairman and ranking members of the Committees on Appropriations and Governmental Affairs of the Senate, and the Committees on Appropriations and Government Operations of the House of Representatives, shall designate the agencies.

(b) USES.—Each such fund may provide, consistent with guidelines established by the Director of the Office of Management and Budget, such common administrative support services to the agency and to other agencies as the head of such agency, with the concurrence of the Director, determines can be provided more efficiently through such a fund than by other means. To provide such services, each such fund is authorized to acquire the capital equipment, automated data processing systems, and financial management and management information systems needed. Services shall be provided by such funds on a competitive basis.

(c) FUNDING.—(1) There are authorized to be appropriated to the franchise fund of each agency designated under subsection (a) such funds as are necessary to carry out the purposes of the fund, to remain available until expended. To the extent that unexpended balances remain available in other accounts for the purposes to be carried out by the fund, the head of the agency may transfer such balances to the fund.

(2) Fees for services shall be established by the head of the agency at a level to cover the total estimated costs of providing such services. Such fees shall be deposited in the agency's fund to remain available until expended, and may be used to carry out the purposes of the fund.

(3) Existing inventories, including inventories on order, equipment, and other assets or liabilities pertaining to the purposes of the fund may be transferred to the fund.

(d) REPORT ON PILOT PROGRAMS.—Within 6 months after the end of fiscal year 1997, the Director of the Office of Management and Budget shall forward a report on the results of the pilot programs to the Committees on Appropriations of the Senate and of the House of Representatives, and to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives. The report shall contain the financial and program performance results of the pilot programs, including recommendations for—

(1) the structure of the fund;

(2) the composition of the funding mechanism;

(3) the capacity of the fund to promote competition; and

(4) the desirability of extending the application and implementation of franchise funds to other Federal agencies.

(e) PROCUREMENT.—Nothing in this section shall be construed as relieving any agency of any duty under applicable procurement laws.

(f) TERMINATION.—The provisions of this section shall expire on October 1, 1999.

SEC. 404. SIMPLIFICATION OF MANAGEMENT REPORTING PROCESS.

(a) IN GENERAL.—To improve the efficiency of executive branch performance in implementing statutory requirements for financial management reporting to the Congress and its committees, the Director of the Office of Management and Budget may adjust the frequency and due dates of or consolidate any statutorily required reports of agencies to the Office of Management and Budget or the President and of agencies or the Office of Management and Budget to the Congress under any laws for which the Office of Management and Budget has financial management responsibility, including—

(1) chapters 5, 9, 11, 33, 35, 37, 39, 75, and 91 of title 31, United States Code;

(2) the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note; Public Law 101-410; 104 Stat. 890).

(b) APPLICATION.—The authority provided in subsection (a) shall apply only to reports of agencies to the Office of Management and Budget or the President and of agencies or the Office of Management and Budget to the Congress required by statute to be submitted between January 1, 1995, and September 30, 1997.

(c) ADJUSTMENTS IN REPORTING.—The Director may consolidate or adjust the frequency and due dates of any statutorily required reports under subsections (a) and (b) only after—

(1) consultation with the Chairman of the Senate Committee on Governmental Affairs and the Chairman of the House of Representatives Committee on Government Operations; and

(2) written notification to the Congress, no later than February 8 of each fiscal year covered under subsection (b) for those reports required to be submitted during that fiscal year.

SEC. 405. ANNUAL FINANCIAL REPORTS.

(a) FINANCIAL STATEMENTS.—Section 3515 of title 31, United States Code, is amended to read as follows:

"§ 3515. Financial statements of agencies

"(a) Not later than March 1 of 1997 and each year thereafter, the head of each executive agency identified in section 901(b) of this title shall prepare and submit to the Director of the Office of Management and Budget an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of each office, bureau, and activity of the agency.

"(b) Each audited financial statement of an executive agency under this section shall reflect—

"(1) the overall financial position of the offices, bureaus, and activities covered by the statement, including assets and liabilities thereof; and

"(2) results of operations of those offices, bureaus, and activities.

"(c) The Director of the Office of Management and Budget shall identify components of executive agencies that shall be required to have audited financial statements meeting the requirements of subsection (b).

"(d) The Director of the Office of Management and Budget shall prescribe the form and content of the financial statements of executive agencies under this section, consistent with applicable accounting and financial reporting principles, standards, and requirements.

"(e) The Director of the Office of Management and Budget may waive the application of all or part of subsection (a) for financial statements required for fiscal years 1996 and 1997.

"(f) Not later than March 1 of 1995 and 1996, the head of each executive agency identified in section 901(b) of this title and designated by the Director of the Office of Management and Budget shall prepare and submit to the Director of the Office of Management and Budget an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of each office, bureau, and activity of the agency.

"(g) Not later than March 31 of 1995 and 1996, for executive agencies not designated by the Director of the Office of Management and Budget under subsection (f), the head of each executive agency identified in section 901(b) of this title shall prepare and submit to the Director of the Office of Management and Budget a financial statement for the preceding fiscal year, covering—

"(1) each revolving fund and trust fund of the agency; and

"(2) to the extent practicable, the accounts of each office, bureau, and activity of the agency which performed substantial commercial functions during the preceding fiscal year.

"(h) For purposes of subsection (g), the term 'commercial functions' includes buying and leasing of real estate, providing insurance, making loans and loan guarantees, and other credit programs and any activity involving the provision of a service or thing for which a fee, royalty, rent, or other charge is imposed by an agency for services and things of value it provides.".

(b) AUDITS BY AGENCIES.—Subsection 3521(f) of title 31, United States Code, is amended to read as follows:

"(f)(1) For each audited financial statement required under subsections (a) and (f) of section 3515 of this title, the person who audits the statement for purpose of subsection (e) of this section shall submit a report on the audit to the head of the agency. A report under this subsection shall be prepared in accordance with generally accepted government auditing standards.

"(2) Not later than June 30 following the fiscal year for which a financial statement is submitted under subsection (g) of section 3515 of this title, the person who audits the statement for purpose of subsection (e) of this section shall submit a report on the audit to the head of the agency. A report under this subsection shall be prepared in accordance with generally accepted government auditing standards.".

(c) GOVERNMENTWIDE FINANCIAL STATEMENT.—Section 331 of title 31, United States Code, is amended by adding the following new subsection:

"(e)(1) Not later than March 31 of 1998 and each year thereafter, the Secretary of the Treasury, in coordination with the Director of the Office of Management and Budget, shall annually prepare and submit to the President and the Congress an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of the executive branch of the United States Government. The financial statement shall reflect the overall financial position, including assets and liabilities, and results of operations of the executive branch of the United States Government, and shall be prepared in accordance with the form and content requirements set forth by the Director of the Office of Management and Budget.

"(2) The Comptroller General of the United States shall audit the financial statement required by this section.".

Mr. BOREN. I ask unanimous consent that the motion to reconsider be offered, and that that motion be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1994

Mr. BOREN. Madam President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (H.R. 995) to amend title 38, United States Code, to improve reemployment rights and benefits of veterans and other benefits of employment of certain members of the uniformed services, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 995) entitled "An Act to amend title 38, United States Code, to improve reemployment rights and benefits of veterans and other benefits of employment of certain members of the uniformed services, and for other purposes", with the following amendment:

In lieu of the matter proposed to be inserted by said amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Uniformed Services Employment and Reemployment Rights Act of 1994".

SEC. 2. REVISION OF CHAPTER 43 OF TITLE 38.

(a) RESTATEMENT AND IMPROVEMENT OF EMPLOYMENT AND REEMPLOYMENT RIGHTS.—Chapter 43 of title 38, United States Code, is amended to read as follows:

"CHAPTER 43—EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES

"SUBCHAPTER I—GENERAL

"4301. Purposes; sense of Congress.
"4302. Relation to other law and plans or agreements.
"4303. Definitions.
"4304. Character of service.

"SUBCHAPTER II—EMPLOYMENT AND REEMPLOYMENT RIGHTS AND LIMITATIONS; PROHIBITIONS

"4311. Discrimination against persons who serve in the uniformed services and acts of reprisal prohibited.
"4312. Reemployment rights of persons who serve in the uniformed services.
"4313. Reemployment positions.
"4314. Reemployment by the Federal Government.
"4315. Reemployment by certain Federal agencies.
"4316. Rights, benefits, and obligations of persons absent from employment for service in a uniformed service.
"4317. Health plans.
"4318. Employee pension benefit plans.

"SUBCHAPTER III—PROCEDURES FOR ASSISTANCE, ENFORCEMENT, AND INVESTIGATION

"4321. Assistance in obtaining reemployment or other employment rights or benefits.
"4322. Enforcement of employment or reemployment rights.
"4323. Enforcement of rights with respect to a State or private employer.
"4324. Enforcement of rights with respect to Federal executive agencies.
"4325. Enforcement of rights with respect to certain Federal agencies.
"4326. Conduct of investigation; subpoenas.

"SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

"4331. Regulations.
"4332. Reports.
"4333. Outreach.

"SUBCHAPTER I—GENERAL

"§4301. Purposes; sense of Congress

"(a) The purposes of this chapter are—

"(1) to encourage noncareer service in the uniformed services by eliminating or minimizing the disadvantages to civilian careers and employment which can result from such service;

"(2) to minimize the disruption to the lives of persons performing service in the uniformed services as well as to their employers, their fellow employees, and their communities, by providing for the prompt reemployment of such persons upon their completion of such service under honorable conditions; and

"(3) to prohibit discrimination against persons because of their service in the uniformed services.

"(b) It is the sense of Congress that the Federal Government should be a model employer in carrying out the provisions of this chapter.

"§4302. Relation to other law and plans or agreements

"(a) Nothing in this chapter shall supersede, nullify or diminish any Federal or State law (including any local law or ordinance), contract, agreement, policy, plan, practice, or other matter that establishes a right or benefit that is more beneficial to, or is in addition to, a right or benefit provided for such person in this chapter.

"(b) This chapter supersedes any State law (including any local law or ordinance), contract, agreement, policy, plan, practice, or other matter that reduces, limits, or eliminates in any manner any right or benefit provided by this chapter, including the establishment of additional prerequisites to the exercise of any such right or the receipt of any such benefit.

"§4303. Definitions

"For the purposes of this chapter—

"(1) The term 'Attorney General' means the Attorney General of the United States or any person designated by the Attorney General to carry out a responsibility of the Attorney General under this chapter.

"(2) The term 'benefit', 'benefit of employment', or 'rights and benefits' means any advantage, profit, privilege, gain, status, account, or interest (other than wages or salary for work performed) that accrues by reason of an employment contract or agreement or an employer policy, plan, or practice and includes rights and benefits under a pension plan, a health plan, an employee stock ownership plan, insurance coverage and awards, bonuses, severance pay, supplemental unemployment benefits, vacations, and the opportunity to select work hours or location of employment.

"(3) The term 'employee' means any person employed by an employer.

"(4)(A) Except as provided in subparagraphs (B) and (C), the term 'employer' means any person, institution, organization, or other entity that pays salary or wages for work performed or that has control over employment opportunities, including—

"(i) a person, institution, organization, or other entity to whom the employer has delegated the performance of employment-related responsibilities;

"(ii) the Federal Government;

"(iii) a State;

"(iv) any successor in interest to a person, institution, organization, or other entity referred to in this subparagraph; and

"(v) a person, institution, organization, or other entity that has denied initial employment in violation of section 4311.

"(B) In the case of a National Guard technician employed under section 709 of title 32, the term 'employer' means the adjutant general of the State in which the technician is employed.

"(C) Except as an actual employer of employees, an employee pension benefit plan described in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) shall be deemed to be an employer only with respect to the obligation to provide benefits described in section 4318.

"(5) The term 'Federal executive agency' includes the United States Postal Service, the Postal Rate Commission, any nonappropriated fund instrumentality of the United States, any Executive agency (as that term is defined in section 105 of title 5) other than an agency referred to in section 2302(a)(2)(C)(ii) of title 5, and any military department (as that term is defined in section 102 of title 5) with respect to the civilian employees of that department.

"(6) The term 'Federal Government' includes any Federal executive agency, the legislative branch of the United States, and the judicial branch of the United States.

"(7) The term 'health plan' means an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or other arrangement under which health services for individuals are provided or the expenses of such services are paid.

"(8) The term 'notice' means (with respect to subchapter II) any written or verbal notification of an obligation or intention to perform service in the uniformed services provided to an employer by the employee who will perform such

service or by the uniformed service in which such service is to be performed.

"(9) The term 'qualified', with respect to an employment position, means having the ability to perform the essential tasks of the position.

"(10) The term 'reasonable efforts', in the case of actions required of an employer under this chapter, means actions, including training provided by an employer, that do not place an undue hardship on the employer.

"(11) Notwithstanding section 101, the term 'Secretary' means the Secretary of Labor or any person designated by such Secretary to carry out an activity under this chapter.

"(12) The term 'seniority' means longevity in employment together with any benefits of employment which accrue with, or are determined by, longevity in employment.

"(13) The term 'service in the uniformed services' means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty.

"(14) The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and other territories of the United States (including the agencies and political subdivisions thereof).

"(15) The term 'undue hardship', in the case of actions taken by an employer, means actions requiring significant difficulty or expense, when considered in light of—

"(A) the nature and cost of the action needed under this chapter;

"(B) the overall financial resources of the facility or facilities involved in the provision of the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

"(C) the overall financial resources of the employer; the overall size of the business of an employer with respect to the number of its employees; the number, type, and location of its facilities; and

"(D) the type of operation or operations of the employer, including the composition, structure, and functions of the work force of such employer; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the employer.

"(16) The term 'uniformed services' means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or emergency.

"§ 4304. Character of service

"A person's entitlement to the benefits of this chapter by reason of the service of such person in one of the uniformed services terminates upon the occurrence of any of the following events:

"(1) A separation of such person from such uniformed service with a dishonorable or bad conduct discharge.

"(2) A separation of such person from such uniformed service under other than honorable conditions, as characterized pursuant to regulations prescribed by the Secretary concerned.

"(3) A dismissal of such person permitted under section 1161(a) of title 10.

"(4) A dropping of such person from the rolls pursuant to section 1161(b) of title 10.

"SUBCHAPTER II—EMPLOYMENT AND REEMPLOYMENT RIGHTS AND LIMITATIONS; PROHIBITIONS

"§4311. Discrimination against persons who serve in the uniformed services and acts of reprisal prohibited

"(a) A person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment by an employer on the basis of that membership, application for membership, performance of service, application for service, or obligation.

"(b) An employer shall be considered to have denied a person initial employment, reemployment, retention in employment, promotion, or a benefit of employment in violation of this section if the person's membership, application for membership, service, application for service, or obligation for service in the uniformed services is a motivating factor in the employer's action, unless the employer can prove that the action would have been taken in the absence of such membership, application for membership, performance of service, application for service, or obligation.

"(c)(1) An employer may not discriminate in employment against or take any adverse employment action against any person because such person has taken an action to enforce a protection afforded any person under this chapter, has testified or otherwise made a statement in or in connection with any proceeding under this chapter, has assisted or otherwise participated in an investigation under this chapter, or has exercised a right provided for in this chapter.

"(2) The prohibition in paragraph (1) shall apply with respect to a person regardless of whether that person has performed service in the uniformed services and shall apply to any position of employment, including a position that is described in section 4312(d)(1)(C).

"§4312. Reemployment rights of persons who serve in the uniformed services

"(a) Subject to subsections (b), (c), and (d) and to section 4304, any person who is absent from a position of employment by reason of service in the uniformed services shall be entitled to the reemployment rights and benefits and other employment benefits of this chapter if—

"(1) the person (or an appropriate officer of the uniformed service in which such service is performed) has given advance written or verbal notice of such service to such person's employer;

"(2) the cumulative length of the absence and of all previous absences from a position of employment with that employer by reason of service in the uniformed services does not exceed five years; and

"(3) except as provided in subsection (f), the person reports to, or submits an application for reemployment to, such employer in accordance with the provisions of subsection (e).

"(b) No notice is required under subsection (a)(1) if the giving of such notice is precluded by military necessity or, under all of the relevant circumstances, the giving of such notice is otherwise impossible or unreasonable. A determination of military necessity for the purposes of this subsection shall be made pursuant to regulations prescribed by the Secretary of Defense and shall not be subject to judicial review.

"(c) Subsection (a) shall apply to a person who is absent from a position of employment by reason of service in the uniformed services if such person's cumulative period of service in the uniformed services, with respect to the employer relationship for which a person seeks reemployment, does not exceed five years, except that any such period of service shall not include any service—

"(1) that is required, beyond five years, to complete an initial period of obligated service;

"(2) during which such person was unable to obtain orders releasing such person from a period of service in the uniformed services before the expiration of such five-year period and such inability was through no fault of such person;

"(3) performed as required pursuant to section 270 of title 10, under section 502(a) or 503 of title 32, or to fulfill additional training requirements determined and certified in writing by the Secretary concerned, to be necessary for professional development, or for completion of skill training or retraining; or

"(4) performed by a member of a uniformed service who is—

"(A) ordered to or retained on active duty under section 672(a), 672(g), 673, 673b, 673c, or 688 of title 10 or under section 331, 332, 359, 360, 367, or 712 of title 14;

"(B) ordered to or retained on active duty (other than for training) under any provision of law during a war or during a national emergency declared by the President or the Congress;

"(C) ordered to active duty (other than for training) in support, as determined by the Secretary concerned, of an operational mission for which personnel have been ordered to active duty under section 673b of title 10;

"(D) ordered to active duty in support, as determined by the Secretary concerned, of a critical mission or requirement of the uniformed services; or

"(E) called into Federal service as a member of the National Guard under chapter 15 of title 10 or under section 3500 or 8500 of title 10.

"(d)(1) An employer is not required to reemploy a person under this chapter if—

"(A) the employer's circumstances have so changed as to make such reemployment impossible or unreasonable;

"(B) in the case of a person entitled to reemployment under subsection (a)(3), (a)(4), or (b)(2)(B) of section 4313, such employment would impose an undue hardship on the employer; or

"(C) the employment from which the person leaves to serve in the uniformed services is for a brief, nonrecurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period.

"(2) In any proceeding involving an issue of whether—

"(A) any reemployment referred to in paragraph (1) is impossible or unreasonable because of a change in an employer's circumstances,

"(B) any accommodation, training, or effort referred to in subsection (a)(3), (a)(4), or (b)(2)(B) of section 4313 would impose an undue hardship on the employer, or

"(C) the employment referred to in paragraph (1)(C) is brief or for a nonrecurrent period and without a reasonable expectation that such employment will continue indefinitely or for a significant period,

the employer shall have the burden of proving the impossibility or unreasonableness, undue hardship, or the brief or nonrecurrent nature of the employment without a reasonable expectation of continuing indefinitely or for a significant period.

"(e)(1) Subject to paragraph (2), a person referred to in subsection (a) shall, upon the completion of a period of service in the uniformed services, notify the employer referred to in such subsection of the person's intent to return to a position of employment with such employer as follows:

"(A) In the case of a person whose period of service in the uniformed services was less than 31 days, by reporting to the employer—

"(i) not later than the beginning of the first full regularly scheduled work period on the first

full calendar day following the completion of the period of service and the expiration of eight hours after a period allowing for the safe transportation of the person from the place of that service to the person's residence; or

"(ii) as soon as possible after the expiration of the eight-hour period referred to in clause (i), if reporting within the period referred to in such clause is impossible or unreasonable through no fault of the person.

"(B) In the case of a person who is absent from a position of employment for a period of any length for the purposes of an examination to determine the person's fitness to perform service in the uniformed services, by reporting in the manner and time referred to in subparagraph (A).

"(C) In the case of a person whose period of service in the uniformed services was for more than 30 days but less than 181 days, by submitting an application for reemployment with the employer not later than 14 days after the completion of the period of service or if submitting such application within such period is impossible or unreasonable through no fault of the person, the next first full calendar day when submission of such application becomes possible.

"(D) In the case of a person whose period of service in the uniformed services was for more than 180 days, by submitting an application for reemployment with the employer not later than 90 days after the completion of the period of service.

"(2)(A) A person who is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, the performance of service in the uniformed services shall, at the end of the period that is necessary for the person to recover from such illness or injury, report to the person's employer (in the case of a person described in subparagraph (A) or (B) of paragraph (1)) or submit an application for reemployment with such employer (in the case of a person described in subparagraph (C) or (D) of such paragraph). Except as provided in subparagraph (B), such period of recovery may not exceed two years.

"(B) Such two-year period shall be extended by the minimum time required to accommodate the circumstances beyond such person's control which make reporting within the period specified in subparagraph (A) impossible or unreasonable.

"(3) A person who fails to report or apply for employment or reemployment within the appropriate period specified in this subsection shall not automatically forfeit such person's entitlement to the rights and benefits referred to in subsection (a) but shall be subject to the conduct rules, established policy, and general practices of the employer pertaining to explanations and discipline with respect to absence from scheduled work.

"(f)(1) A person who submits an application for reemployment in accordance with subparagraph (C) or (D) of subsection (e)(1) or subsection (e)(2) shall provide to the person's employer (upon the request of such employer) documentation to establish that—

"(A) the person's application is timely;

"(B) the person has not exceeded the service limitations set forth in subsection (a)(2) (except as permitted under subsection (c)); and

"(C) the person's entitlement to the benefits under this chapter has not been terminated pursuant to section 4304.

"(2) Documentation of any matter referred to in paragraph (1) that satisfies regulations prescribed by the Secretary shall satisfy the documentation requirements in such paragraph.

"(3)(A) Except as provided in subparagraph (B), the failure of a person to provide documentation that satisfies regulations prescribed pursuant to paragraph (2) shall not be a basis for denying reemployment in accordance with the provisions of this chapter if the failure occurs because such documentation does not exist or is not readily available at the time of the request of the employer. If, after such reemployment, documentation becomes available that establishes that such person does not meet one or more of the requirements referred to in subparagraphs (A), (B), and (C) of paragraph (1), the employer of such person may terminate the employment of the person and the provision of any rights or benefits afforded the person under this chapter.

"(B) An employer who reemploys a person absent from a position of employment for more than 90 days may require that the person provide the employer with the documentation referred to in subparagraph (A) before beginning to treat the person as not having incurred a break in service for pension purposes under section 4318(a)(2)(A).

"(4) An employer may not delay or attempt to defeat a reemployment obligation by demanding documentation that does not then exist or is not then readily available.

"(g) The right of a person to reemployment under this section shall not entitle such person to retention, preference, or displacement rights over any person with a superior claim under the provisions of title 5, United States Code, relating to veterans and other preference eligibles.

"(h) In any determination of a person's entitlement to protection under this chapter, the timing, frequency, and duration of the person's training or service, or the nature of such training or service (including voluntary service) in the uniformed services, shall not be a basis for denying protection of this chapter if the service does not exceed the limitations set forth in subsection (c) and the notice requirements established in subsection (a)(1) and the notification requirements established in subsection (e) are met.

"§4313. Reemployment positions

"(a) Subject to subsection (b) (in the case of any employee) and sections 4314 and 4315 (in the case of an employee of the Federal Government), a person entitled to reemployment under section 4312, upon completion of a period of service in the uniformed services, shall be promptly reemployed in a position of employment in accordance with the following order of priority:

"(1) Except as provided in paragraphs (3) and (4), in the case of a person whose period of service in the uniformed services was for less than 91 days—

"(A) in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, the duties of which the person is qualified to perform; or

"(B) in the position of employment in which the person was employed on the date of the commencement of the service in the uniformed services, only if the person is not qualified to perform the duties of the position referred to in subparagraph (A) after reasonable efforts by the employer to qualify the person.

"(2) Except as provided in paragraphs (3) and (4), in the case of a person whose period of service in the uniformed services was for more than 90 days—

"(A) in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, or a position of like seniority, status and pay, the duties of which the person is qualified to perform; or

"(B) in the position of employment in which the person was employed on the date of the commencement of the service in the uniformed services, or a position of like seniority, status and pay, the duties of which the person is qualified to perform, only if the person is not qualified to perform the duties of a position referred to in subparagraph (A) after reasonable efforts by the employer to qualify the person.

"(3) In the case of a person who has a disability incurred in, or aggravated during, such service, and who (after reasonable efforts by the employer to accommodate the disability) is not qualified due to such disability to be employed in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service—

"(A) in any other position which is equivalent in seniority, status, and pay, the duties of which the person is qualified to perform or would become qualified to perform with reasonable efforts by the employer; or

"(B) if not employed under subparagraph (A), in a position which is the nearest approximation to a position referred to in subparagraph (A) in terms of seniority, status, and pay consistent with circumstances of such person's case.

"(4) In the case of a person who (A) is not qualified to be employed in (i) the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, or (ii) in the position of employment in which such person was employed on the date of the commencement of the service in the uniform services for any reason (other than disability incurred in, or aggravated during, service in the uniformed services), and (B) cannot become qualified with reasonable efforts by the employer, in any other position of lesser status and pay which such person is qualified to perform, with full seniority.

"(b)(1) If two or more persons are entitled to reemployment under section 4312 in the same position of employment and more than one of them has reported for such reemployment, the person who left the position first shall have the prior right to reemployment in that position.

"(2) Any person entitled to reemployment under section 4312 who is not reemployed in a position of employment by reason of paragraph (1) shall be entitled to be reemployed as follows:

"(A) Except as provided in subparagraph (B), in any other position of employment referred to in subsection (a)(1) or (a)(2), as the case may be (in the order of priority set out in the applicable subsection), that provides a similar status and pay to a position of employment referred to in paragraph (1) of this subsection, consistent with the circumstances of such person's case, with full seniority.

"(B) In the case of a person who has a disability incurred in, or aggravated during, a period of service in the uniformed services that requires reasonable efforts by the employer for the person to be able to perform the duties of the position of employment, in any other position referred to in subsection (a)(3) (in the order of priority set out in that subsection) that provides a similar status and pay to a position referred to in paragraph (1) of this subsection, consistent with circumstances of such person's case, with full seniority.

"§4314. Reemployment by the Federal Government

"(a) Except as provided in subsections (b), (c), and (d), if a person is entitled to reemployment by the Federal Government under section 4312, such person shall be reemployed in a position of employment as described in section 4313.

"(b)(1) If the Director of the Office of Personnel Management makes a determination described in paragraph (2) with respect to a person who was employed by a Federal executive agency at the time the person entered the service from which the person seeks reemployment under this section, the Director shall—

''(A) identify a position of like seniority, status, and pay at another Federal executive agency that satisfies the requirements of section 4313 and for which the person is qualified; and

''(B) ensure that the person is offered such position.

''(2) The Director shall carry out the duties referred to in subparagraphs (A) and (B) of paragraph (1) if the Director determines that—

''(A) the Federal executive agency that employed the person referred to in such paragraph no longer exists and the functions of such agency have not been transferred to another Federal executive agency; or

''(B) it is impossible or unreasonable for the agency to reemploy the person.

''(c) If the employer of a person described in subsection (a) was, at the time such person entered the service from which such person seeks reemployment under this section, a part of the judicial branch or the legislative branch of the Federal Government, and such employer determines that it is impossible or unreasonable for such employer to reemploy such person, such person shall, upon application to the Director of the Office of Personnel Management, be ensured an offer of employment in an alternative position in a Federal executive agency on the basis described in subsection (b).

''(d) If the adjutant general of a State determines that it is impossible or unreasonable to reemploy a person who was a National Guard technician employed under section 709 of title 32, such person shall, upon application to the Director of the Office of Personnel Management, be ensured an offer of employment in an alternative position in a Federal executive agency on the basis described in subsection (b).

''§ 4315. Reemployment by certain Federal agencies

''(a) The head of each agency referred to in section 2302(a)(2)(C)(ii) of title 5 shall prescribe procedures for ensuring that the rights under this chapter apply to the employees of such agency.

''(b) In prescribing procedures under subsection (a), the head of an agency referred to in that subsection shall ensure, to the maximum extent practicable, that the procedures of the agency for reemploying persons who serve in the uniformed services provide for the reemployment of such persons in the agency in a manner similar to the manner of reemployment described in section 4313.

''(c)(1) The procedures prescribed under subsection (a) shall designate an official at the agency who shall determine whether or not the reemployment of a person referred to in subsection (b) by the agency is impossible or unreasonable.

''(2) Upon making a determination that the reemployment by the agency of a person referred to in subsection (b) is impossible or unreasonable, the official referred to in paragraph (1) shall notify the person and the Director of the Office of Personnel Management of such determination.

''(3) A determination pursuant to this subsection shall not be subject to judicial review.

''(4) The head of each agency referred to in subsection (a) shall submit to the Select Committee on Intelligence and the Committee on Veterans' Affairs of the Senate and the Permanent Select Committee on Intelligence and the Committee on Veterans' Affairs of the House of Representatives on an annual basis a report on the number of persons whose reemployment with the agency was determined under this subsection to be impossible or unreasonable during the year preceding the report, including the reason for each such determination.

''(d)(1) Except as provided in this section, nothing in this section, section 4313, or section 4325 shall be construed to exempt any agency referred to in subsection (a) from compliance with any other substantive provision of this chapter.

''(2) This section may not be construed—

''(A) as prohibiting an employee of an agency referred to in subsection (a) from seeking information from the Secretary regarding assistance in seeking reemployment from the agency under this chapter, alternative employment in the Federal Government under this chapter, or information relating to the rights and obligations of employee and Federal agencies under this chapter; or

''(B) as prohibiting such an agency from voluntarily cooperating with or seeking assistance in or of clarification from the Secretary or the Director of the Office of Personnel Management of any matter arising under this chapter.

''(e) The Director of the Office of Personnel Management shall ensure the offer of employment to a person in a position in a Federal executive agency on the basis described in subsection (b) if—

''(1) the person was an employee of an agency referred to in section 2302(a)(2)(C)(ii) of title 5 at the time the person entered the service from which the person seeks reemployment under this section;

''(2) the appropriate officer of the agency determines under subsection (c) that reemployment of the person by the agency is impossible or unreasonable; and

''(3) the person submits an application to the Director for an offer of employment under this subsection.

''§4316. Rights, benefits, and obligations of persons absent from employment for service in a uniformed service

''(a) A person who is reemployed under this chapter is entitled to the seniority and other rights and benefits determined by seniority that the person had on the date of the commencement of service in the uniformed services plus the additional seniority and rights and benefits that such person would have attained if the person had remained continuously employed.

''(b)(1) Subject to paragraphs (2) through (6), a person who is absent from a position of employment by reason of service in the uniformed services shall be—

''(A) deemed to be on furlough or leave of absence while performing such service; and

''(B) entitled to such other rights and benefits not determined by seniority as are generally provided by the employer of the person to employees having similar seniority, status, and pay who are on furlough or leave of absence under a contract, agreement, policy, practice, or plan in effect at the commencement of such service or established while such person performs such service.

''(2)(A) Subject to subparagraph (B), a person who—

''(i) is absent from a position of employment by reason of service in the uniformed services, and

''(ii) knowingly provides written notice of intent not to return to a position of employment after service in the uniformed service,

is not entitled to rights and benefits under paragraph (1)(B).

''(B) For the purposes of subparagraph (A), the employer shall have the burden of proving that a person knowingly provided clear written notice of intent not to return to a position of employment after service in the uniformed service and, in doing so, was aware of the specific rights and benefits to be lost under subparagraph (A).

''(3) A person deemed to be on furlough or leave of absence under this subsection while serving in the uniformed services shall not be entitled under this subsection to any benefits to which the person would not otherwise be entitled if the person had remained continuously employed.

''(4) Such person may be required to pay the employee cost, if any, of any funded benefit continued pursuant to paragraph (1) to the extent other employees on furlough or leave of absence are so required.

''(5) The entitlement of a person to coverage under a health plan is provided for under section 4317.

''(6) The entitlement of a person to a right or benefit under an employee pension benefit plan is provided for under section 4318.

''(c) A person who is reemployed by an employer under this chapter shall not be discharged from such employment, except for cause—

''(1) within one year after the date of such reemployment, if the person's period of service before the reemployment was more than 180 days; or

''(2) within 180 days after the date of such reemployment, if the person's period of service before the reemployment was more than 30 days but less than 181 days.

''(d) Any person whose employment with an employer is interrupted by a period of service in the uniformed services shall be permitted, upon request of that person, to use during such period of service any vacation, annual, or similar leave with pay accrued by the person before the commencement of such service.

''§4317. Health plans

''(a)(1)(A) Subject to paragraphs (2) and (3), in any case in which a person (or the person's dependents) has coverage under a health plan in connection with the person's position of employment, including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), and such person is absent from such position of employment by reason of service in the uniformed services, the plan shall provide that the person may elect to continue such coverage as provided in this subsection. The maximum period of coverage of a person and the person's dependents under such an election shall be the lesser of—

''(i) the 18-month period beginning on the date on which the person's absence begins; or

''(ii) the day after the date on which the person fails to apply for or return to a position of employment, as determined under section 4312(e).

''(B) A person who elects to continue health-plan coverage under this paragraph may be required to pay not more than 102 percent of the full premium under the plan (determined in the same manner as the applicable premium under section 4980B(f)(4) of the Internal Revenue Code of 1986) associated with such coverage for the employer's other employees, except that in the case of a person who performs service in the uniformed services for less than 31 days, such person may not be required to pay more than the employee share, if any, for such coverage.

''(C) In the case of a health plan that is a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974, any liability under the plan for employer contributions and benefits arising under this paragraph shall be allocated—

''(i) by the plan in such manner as the plan sponsor shall provide; or

''(ii) if the sponsor does not provide—

''(I) to the last employer employing the person before the period served by the person in the uniformed services, or

''(II) if such last employer is no longer functional, to the plan.

''(b)(1) Except as provided in paragraph (2), in the case of a person whose coverage under a health plan was terminated by reason of service in the uniformed services, an exclusion or waiting period may not be imposed in connection with the reinstatement of such coverage upon reemployment under this chapter if an exclusion

or waiting period would not have been imposed under health plan had coverage of such person by such plan not been terminated as a result of such service. This paragraph applies to the person who is reemployed and to any individual who is covered by such plan by reason of the reinstatement of the coverage of such person.

"(2) Paragraph (1) shall not apply to the coverage of any illness or injury determined by the Secretary of Veterans Affairs to have been incurred in, or aggravated during, performance of service in the uniformed services.

"§4318. Employee pension benefit plans

"(a)(1)(A) Except as provided in subparagraph (B), in the case of a right provided pursuant to an employee pension benefit plan (including those described in sections 3(2) and 3(33) of the Employee Retirement Income Security Act of 1974) or a right provided under any Federal or State law governing pension benefits for governmental employees, the right to pension benefits of a person reemployed under this chapter shall be determined under this section.

"(B) In the case of benefits under the Thrift Savings Plan, the rights of a person reemployed under this chapter shall be those rights provided in section 8432b of title 5. The first sentence of this subparagraph shall not be construed to affect any other right or benefit under this chapter.

"(2)(A) A person reemployed under this chapter shall be treated as not having incurred a break in service with the employer or employers maintaining the plan by reason of such person's period or periods of service in the uniformed services.

"(B) Each period served by a person in the uniformed services shall, upon reemployment under this chapter, be deemed to constitute service with the employer or employers maintaining the plan for the purpose of determining the nonforfeitability of the person's accrued benefits and for the purpose of determining the accrual of benefits under the plan.

"(b)(1) An employer reemploying a person under this chapter shall, with respect to a period of service described in subsection (a)(2)(B), be liable to an employee pension benefit plan for funding any obligation of the plan to provide the benefits described in subsection (a)(2) and shall allocate the amount of any employer contribution for the person in the same manner and to the same extent the allocation occurs for other employees during the period of service. For purposes of determining the amount of such liability and any obligation of the plan, earnings and forfeitures shall not be included. For purposes of determining the amount of such liability and for purposes of section 515 of the Employee Retirement Income Security Act of 1974 or any similar Federal or State law governing pension benefits for governmental employees, service in the uniformed services that is deemed under subsection (a) to be service with the employer shall be deemed to be service with the employer under the terms of the plan or any applicable collective bargaining agreement. In the case of a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974, any liability of the plan described in this paragraph shall be allocated—

"(A) by the plan in such manner as the sponsor maintaining the plan shall provide; or

"(B) if the sponsor does not provide—

"(i) to the last employer employing the person before the period served by the person in the uniformed services, or

"(ii) if such last employer is no longer functional, to the plan.

"(2) A person reemployed under this chapter shall be entitled to accrued benefits pursuant to subsection (a) that are contingent on the making of, or derived from, employee contributions or elective deferrals (as defined in section 402(g)(3) of the Internal Revenue Code of 1986) only to the extent the person makes payment to the plan with respect to such contributions or deferrals. No such payment may exceed the amount the person would have been permitted or required to contribute had the person remained continuously employed by the employer throughout the period of service described in subsection (a)(2)(B). Any payment to the plan described in this paragraph shall be made during the period beginning with the date of reemployment and whose duration is three times the period of the person's service in the uniformed services, not to exceed five years.

"(3) For purposes of computing an employer's liability under paragraph (1) or the employee's contributions under paragraph (2), the employee's compensation during the period of service described in subsection (a)(2)(B) shall be computed—

"(A) at the rate the employee would have received but for the period of service described in subsection (a)(2)(B), or

"(B) in the case that the determination of such rate is not reasonably certain, on the basis of the employee's average rate of compensation during the 12-month period immediately preceding such period (or, if shorter, the period of employment immediately preceding such period).

"(c) Any employer who reemploys a person under this chapter and who is an employer contributing to a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974, under which benefits are or may be payable to such person by reason of the obligations set forth in this chapter, shall, within 30 days after the date of such reemployment, provide information, in writing, of such reemployment to the administrator of such plan.

"SUBCHAPTER III—PROCEDURES FOR ASSISTANCE, ENFORCEMENT, AND INVESTIGATION

"§4321. Assistance in obtaining reemployment or other employment rights or benefits

"The Secretary (through the Veterans' Employment and Training Service) shall provide assistance to any person with respect to the employment and reemployment rights and benefits to which such person is entitled under this chapter. In providing such assistance, the Secretary may request the assistance of existing Federal and State agencies engaged in similar or related activities and utilize the assistance of volunteers.

"§4322. Enforcement of employment or reemployment rights

"(a) A person who claims that—

"(1) such person is entitled under this chapter to employment or reemployment rights or benefits with respect to employment by an employer; and

"(2)(A) such employer has failed or refused, or is about to fail or refuse, to comply with the provisions of this chapter; or

"(B) in the case that the employer is a Federal executive agency, such employer or the Office of Personnel Management has failed or refused, or is about to fail or refuse, to comply with the provisions of this chapter,

may file a complaint with the Secretary in accordance with subsection (b), and the Secretary shall investigate such complaint.

"(b) Such complaint shall be in writing, be in such form as the Secretary may prescribe, include the name and address of the employer against whom the complaint is filed, and contain a summary of the allegations that form the basis for the complaint.

"(c) The Secretary shall, upon request, provide technical assistance to a potential claimant with respect to a complaint under this subsection, and when appropriate, to such claimant's employer.

"(d) The Secretary shall investigate each complaint submitted pursuant to subsection (a). If the Secretary determines as a result of the investigation that the action alleged in such complaint occurred, the Secretary shall resolve the complaint by making reasonable efforts to ensure that the person or entity named in the complaint complies with the provisions of this chapter.

"(e) If the efforts of the Secretary with respect to a complaint under subsection (d) are unsuccessful, the Secretary shall notify the person who submitted the complaint of—

"(1) the results of the Secretary's investigation; and

"(2) the complainant's entitlement to proceed under the enforcement of rights provisions provided under section 4323 (in the case of a person submitting a complaint against a State or private employer) or section 4324 (in the case of a person submitting a complaint against a Federal executive agency).

"(f) This subchapter does not apply to any action relating to benefits to be provided under the Thrift Savings Plan under title 5.

"§4323. Enforcement of rights with respect to a State or private employer

"(a)(1) A person who receives from the Secretary a notification pursuant to section 4322(e) of an unsuccessful effort to resolve a complaint relating to a State (as an employer) or a private employer may request that the Secretary refer the complaint to the Attorney General. If the Attorney General is reasonably satisfied that the person on whose behalf the complaint is referred is entitled to the rights or benefits sought, the Attorney General may appear on behalf of, and act as attorney for, the person on whose behalf the complaint is submitted and commence an action for appropriate relief for such person in an appropriate United States district court.

"(2) A person may commence an action for relief with respect to a complaint if that person—

"(A) has chosen not to apply to the Secretary for assistance regarding the complaint under section 4322(c);

"(B) has chosen not to request that the Secretary refer the complaint to the Attorney General under paragraph (1); or

"(C) has been refused representation by the Attorney General with respect to the complaint under such paragraph.

"(b) In the case of an action against a State as an employer, the appropriate district court is the court for any district in which the State exercises any authority or carries out any function. In the case of a private employer the appropriate district court is the district court for any district in which the private employer of the person maintains a place of business.

"(c)(1)(A) The district courts of the United States shall have jurisdiction, upon the filing of a complaint, motion, petition, or other appropriate pleading by or on behalf of the person claiming a right or benefit under this chapter—

"(i) to require the employer to comply with the provisions of this chapter;

"(ii) to require the employer to compensate the person for any loss of wages or benefits suffered by reason of such employer's failure to comply with the provisions of this chapter; and

"(iii) to require the employer to pay the person an amount equal to the amount referred to in clause (ii) as liquidated damages, if the court determines that the employer's failure to comply with the provisions of this chapter was willful.

"(B) Any compensation under clauses (ii) and (iii) of subparagraph (A) shall be in addition to, and shall not diminish, any of the other rights and benefits provided for in this chapter.

"(2)(A) No fees or court costs shall be charged or taxed against any person claiming rights under this chapter.

"(B) In any action or proceeding to enforce a provision of this chapter by a person under subsection (a)(2) who obtained private counsel for

such action or proceeding, the court may award any such person who prevails in such action or proceeding reasonable attorney fees, expert witness fees, and other litigation expenses.

“(3) The court may use its full equity powers, including temporary or permanent injunctions, temporary restraining orders, and contempt orders, to vindicate fully the rights or benefits of persons under this chapter.

“(4) An action under this chapter may be initiated only by a person claiming rights or benefits under this chapter, not by an employer, prospective employer, or other entity with obligations under this chapter.

“(5) In any such action, only an employer or a potential employer, as the case may be, shall be a necessary party respondent.

“(6) No State statute of limitations shall apply to any proceeding under this chapter.

“(7) A State shall be subject to the same remedies, including prejudgment interest, as may be imposed upon any private employer under this section.

“§4324. Enforcement of rights with respect to Federal executive agencies

“(a)(1) A person who receives from the Secretary a notification pursuant to section 4322(e) of an unsuccessful effort to resolve a complaint relating to a Federal executive agency may request that the Secretary refer the complaint for litigation before the Merit Systems Protection Board. The Secretary shall refer the complaint to the Office of Special Counsel established by section 1211 of title 5.

“(2)(A) If the Special Counsel is reasonably satisfied that the person on whose behalf a complaint is referred under paragraph (1) is entitled to the rights or benefits sought, the Special Counsel (upon the request of the person submitting the complaint) may appear on behalf of, and act as attorney for, the person and initiate an action regarding such complaint before the Merit Systems Protection Board.

“(B) If the Special Counsel declines to initiate an action and represent a person before the Merit Systems Protection Board under subparagraph (A), the Special Counsel shall notify such person of that decision.

“(b) A person may submit a complaint against a Federal executive agency under this subchapter directly to the Merit Systems Protection Board if that person—

“(1) has chosen not to apply to the Secretary for assistance regarding a complaint under section 4322(c);

“(2) has received a notification from the Secretary under section 4322(e);

“(3) has chosen not to be represented before the Board by the Special Counsel pursuant to subsection (a)(2)(A); or

“(4) has received a notification of a decision from the Special Counsel under subsection (a)(2)(B).

“(c)(1) The Merit Systems Protection Board shall adjudicate any complaint brought before the Board pursuant to subsection (a)(2)(A) or (b). A person who seeks a hearing or adjudication by submitting such a complaint under this paragraph may be represented at such hearing or adjudication in accordance with the rules of the Board.

“(2) If the Board determines that a Federal executive agency has not complied with the provisions of this chapter relating to the employment or reemployment of a person by the agency, the Board shall enter an order requiring the agency or employee to comply with such provisions and to compensate such person for any loss of wages or benefits suffered by such person by reason of such lack of compliance.

“(3) Any compensation received by a person pursuant to an order under paragraph (2) shall be in addition to any other right or benefit provided for by this chapter and shall not diminish any such right or benefit.

“(4) If the Board determines as a result of a hearing or adjudication conducted pursuant to a complaint submitted by a person directly to the Board pursuant to subsection (b) that such person is entitled to an order referred to in paragraph (2), the Board may, in its discretion, award such person reasonable attorney fees, expert witness fees, and other litigation expenses.

“(d)(1) A person adversely affected or aggrieved by a final order or decision of the Merit Systems Protection Board under subsection (c) may petition the United States Court of Appeals for the Federal Circuit to review the final order or decision. Such petition and review shall be in accordance with the procedures set forth in section 7703 of title 5.

“(2) Such person may be represented in the Federal Circuit proceeding by the Special Counsel unless the person was not represented by the Special Counsel before the Merit Systems Protection Board regarding such order or decision.

“§4325. Enforcement of rights with respect to certain Federal agencies

“(a) This section applies to any person who alleges that—

“(1) the reemployment of such person by an agency referred to in subsection (a) of section 4315 was not in accordance with procedures for the reemployment of such person under subsection (b) of such section; or

“(2) the failure of such agency to reemploy the person under such section was otherwise wrongful.

“(b) Any person referred to in subsection (a) may submit a claim relating to an allegation referred to in that subsection to the inspector general of the agency which is the subject of the allegation. The inspector general shall investigate and resolve the allegation pursuant to procedures prescribed by the head of the agency.

“(c) In prescribing procedures for the investigation and resolution of allegations under subsection (b), the head of an agency shall ensure, to the maximum extent practicable, that the procedures are similar to the procedures for investigating and resolving complaints utilized by the Secretary under section 4322(d).

“(d) This section may not be construed—

“(1) as prohibiting an employee of an agency referred to in subsection (a) from seeking information from the Secretary regarding assistance in seeking reemployment from the agency under this chapter, alternative employment in the Federal Government under this chapter, or information relating to the rights and obligations of employee and Federal agencies under this chapter; or

“(2) as prohibiting such an agency from voluntarily cooperating with or seeking assistance in or of clarification from the Secretary or the Director of the Office of Personnel Management of any matter arising under this chapter.

“§4326. Conduct of investigation; subpoenas

“(a) In carrying out any investigation under this chapter, the Secretary's duly authorized representatives shall, at all reasonable times, have reasonable access to, for purposes of examination, and the right to copy and receive, any documents of any person or employer that the Secretary considers relevant to the investigation.

“(b) In carrying out any investigation under this chapter, the Secretary may require by subpoena the attendance and testimony of witnesses and the production of documents relating to any matter under investigation. In case of disobedience of the subpoena or contumacy and on request of the Secretary, the Attorney General may apply to any district court of the United States in whose jurisdiction such disobedience or contumacy occurs for an order enforcing the subpoena.

“(c) Upon application, the district courts of the United States shall have jurisdiction to issue writs commanding any person or employer to comply with the subpoena of the Secretary or to comply with any order of the Secretary made pursuant to a lawful investigation under this chapter and the district courts shall have jurisdiction to punish failure to obey a subpoena or other lawful order of the Secretary as a contempt of court.

“(d) Subsections (b) and (c) shall not apply to the legislative branch or the judicial branch of the United States.

“SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

“§4331. Regulations

“(a) The Secretary (in consultation with the Secretary of Defense) may prescribe regulations implementing the provisions of this chapter with regard to the application of this chapter to States, local governments, and private employers.

“(b)(1) The Director of the Office of Personnel Management (in consultation with the Secretary and the Secretary of Defense) may prescribe regulations implementing the provisions of this chapter with regard to the application of this chapter to Federal executive agencies (other than the agencies referred to in paragraph (2)) as employers. Such regulations shall be consistent with the regulations pertaining to the States as employers and private employers, except that employees of the Federal Government may be given greater or additional rights.

“(2) The following entities may prescribe regulations to carry out the activities of such entities under this chapter:

“(A) The Merit Systems Protection Board.

“(B) The Office of Special Counsel.

“(C) The agencies referred to in section 2303(a)(2)(C)(ii) of title 5.

“§4332. Reports

“The Secretary shall, after consultation with the Attorney General and the Special Counsel referred to in section 4324(a)(1) and no later than February 1, 1996, and annually thereafter through 2000, transmit to the Congress, a report containing the following matters for the fiscal year ending before such February 1:

“(1) The number of cases reviewed by the Department of Labor under this chapter during the fiscal year for which the report is made.

“(2) The number of cases referred to the Attorney General or the Special Counsel pursuant to section 4323 or 4324, respectively, during such fiscal year.

“(3) The number of complaints filed by the Attorney General pursuant to section 4323 during such fiscal year.

“(4) The nature and status of each case reported on pursuant to paragraph (1), (2), or (3).

“(5) An indication of whether there are any apparent patterns of violation of the provisions of this chapter, together with an explanation thereof.

“(6) Recommendations for administrative or legislative action that the Secretary, the Attorney General, or the Special Counsel considers necessary for the effective implementation of this chapter, including any action that could be taken to encourage mediation, before claims are filed under this chapter, between employers and persons seeking employment or reemployment.

“§ 4333. Outreach

“The Secretary, the Secretary of Defense, and the Secretary of Veterans Affairs shall take such actions as such Secretaries determine are appropriate to inform persons entitled to rights and benefits under this chapter and employers of the rights, benefits, and obligations of such persons and such employers under this chapter.”.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO TITLE 38.—The tables of chapters at the beginning of title 38, United

States Code, and the beginning of part III of such title are each amended by striking out the item relating to chapter 43 and inserting in lieu thereof the following:

"43. Employment and reemployment rights of members of the uniformed services .... 4301".

(2) AMENDMENT TO TITLE 5.—(A) Section 1204(a)(1) of title 5, United States Code, is amended by striking out "section 4323" and inserting in lieu thereof "chapter 43".

(B) Subchapter II of chapter 35 of such title is repealed.

(C) The table of sections for chapter 35 of such title is amended by striking out the heading relating to subchapter II of such chapter and the item relating to section 3551 of such chapter.

(3) AMENDMENT TO TITLE 10.—Section 706(c)(1) of title 10, United States Code, is amended by striking out "section 4321" and inserting in lieu thereof "chapter 43".

(c) AMENDMENTS TO TITLE 28.—Section 631 of title 28, United States Code, is amended—

(1) by striking out subsection (j);

(2) by redesignating subsections (k) and (l) as subsections (j) and (k), respectively; and

(3) in subsection (j), as redesignated by paragraph (2), by striking out "under the terms of" and all that follows through "section," the first place it appears and inserting in lieu thereof "under chapter 43 of title 38,".

SEC. 3. EXEMPTION FROM MINIMUM SERVICE REQUIREMENTS.

Section 5303A(b)(3) of title 38, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (E);

(2) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new subparagraph:

"(G) to benefits under chapter 43 of this title.".

SEC. 4. THRIFT SAVINGS PLAN.

(a) IN GENERAL.—(1) Title 5, United States Code, is amended by inserting after section 8432a the following:

"§8432b. Contributions of persons who perform military service

"(a) This section applies to any employee who—

"(1) separates or enters leave-without-pay status in order to perform military service; and

"(2) is subsequently restored to or reemployed in a position which is subject to this chapter, pursuant to chapter 43 of title 38.

"(b)(1) Each employee to whom this section applies may contribute to the Thrift Savings Fund, in accordance with this subsection, an amount not to exceed the amount described in paragraph (2).

"(2) The maximum amount which an employee may contribute under this subsection is equal to—

"(A) the contributions under section 8432(a) which would have been made, over the period beginning on date of separation or commencement of leave-without-pay status (as applicable) and ending on the day before the date of restoration or reemployment (as applicable); reduced by

"(B) any contributions under section 8432(a) actually made by such employee over the period described in subparagraph (A).

"(3) Contributions under this subsection—

"(A) shall be made at the same time and in the same manner as would any contributions under section 8432(a);

"(B) shall be made over the period of time specified by the employee under paragraph (4)(B); and

"(C) shall be in addition to any contributions then actually being made under section 8432(a).

"(4) The Executive Director shall prescribe the time, form, and manner in which an employee may specify—

"(A) the total amount such employee wishes to contribute under this subsection with respect to any particular period referred to in paragraph (2)(B); and

"(B) the period of time over which the employee wishes to make contributions under this subsection.

The employing agency may place a maximum limit on the period of time referred to in subparagraph (B), which cannot be shorter than two times the period referred to in paragraph (2)(B) and not longer than four times such period.

"(c) If an employee makes contributions under subsection (b), the employing agency shall make contributions to the Thrift Savings Fund on such employee's behalf—

"(1) in the same manner as would be required under section 8432(c)(2) if the employee contributions were being made under section 8432(a); and

"(2) disregarding any contributions then actually being made under section 8432(a) and any agency contributions relating thereto.

"(d) An employee to whom this section applies is entitled to have contributed to the Thrift Savings Fund on such employee's behalf an amount equal to—

"(1) 1 percent of such employee's basic pay (as determined under subsection (e)) for the period referred to in subsection (b)(2)(B); reduced by

"(2) any contributions actually made on such employee's behalf under section 8432(c)(1) with respect to the period referred to in subsection (b)(2)(B).

"(e) For purposes of any computation under this section, an employee shall, with respect to the period referred to in subsection (b)(2)(B), be considered to have been paid at the rate which would have been payable over such period had such employee remained continuously employed in the position which such employee last held before separating or entering leave-without-pay status to perform military service.

"(f)(1) The employing agency may be required to pay lost earnings on contributions made pursuant to subsections (c) and (d). Such earnings, if required, shall be calculated retroactively to the date the contribution would have been made had the employee not separated or entered leave without pay status to perform military service.

"(2) Procedures for calculating and crediting the earnings payable pursuant to paragraph (1) shall be prescribed by the Executive Director.

"(g) Amounts paid under subsection (c), (d), or (f) shall be paid—

"(1) by the agency to which the employee is restored or in which such employee is reemployed;

"(2) from the same source as would be the case under section 8432(e) with respect to sums required under section 8432(c); and

"(3) within the time prescribed by the Executive Director.

"(h)(1) For purposes of section 8432(g), in the case of an employee to whom this section applies—

"(A) a separation from civilian service in order to perform the military service on which the employee's restoration or reemployment rights are based shall be disregarded; and

"(B) such employee shall be credited with a period of civilian service equal to the period referred to in subsection (b)(2)(B).

"(2)(A) An employee to whom this section applies may elect, for purposes of section 8433(d), or paragraph (1) or (2) of section 8433(h), as the case may be, to have such employee's separation (described in subsection (a)(1)) treated as if it had never occurred.

"(B) An election under this paragraph shall be made within such period of time after restoration or reemployment (as the case may be) and otherwise in such manner as the Executive Director prescribes.

"(i) The Executive Director shall prescribe regulations to carry out this section.".

(2) The table of sections for chapter 84 of title 5, United States Code, is amended by inserting after the item relating to section 8432a the following:

"8432b. Contributions of persons who perform military service.".

(b) PRESERVATION OF CERTAIN RIGHTS.—(1) Section 8433(d) of title 5, United States Code, is amended by striking "subsection (e)." and inserting "subsection (e), unless an election under section 8432b(h)(2) is made to treat such separation for purposes of this subsection as if it had never occurred.".

(2) Paragraphs (1) and (2) of section 8433(h) are each amended by striking the period at the end and inserting ", or unless an election under section 8432b(h)(2) is made to treat such separation for purposes of this paragraph as if it had never occurred.".

(c) ELECTION TO RESUME REGULAR CONTRIBUTIONS UPON RESTORATION OR REEMPLOYMENT.—Section 8432 of title 5, United States Code, is amended by adding at the end the following:

"(i)(1) This subsection applies to any employee—

"(A) to whom section 8432b applies; and

"(B) who, during the period of such employee's absence from civilian service (as referred to in section 8432b(b)(2)(B))—

"(i) is eligible to make an election described in subsection (b)(1); or

"(ii) would be so eligible but for having either elected to terminate individual contributions to the Thrift Savings Fund within 2 months before commencing military service or separated in order to perform military service.

"(2) The Executive Director shall prescribe regulations to ensure that any employee to whom this subsection applies shall, within a reasonable time after being restored or reemployed (in the manner described in section 8432b(a)(2)), be afforded the opportunity to make, for purposes of this section, any election which would be allowable during a period described in subsection (b)(1)(A).".

(d) APPLICABILITY TO EMPLOYEES UNDER CSRS.—Section 8351(b) of title 5, United States Code, is amended by adding at the end the following:

"(11) In applying section 8432b to an employee contributing to the Thrift Savings Fund after being restored to or reemployed in a position subject to this subchapter, pursuant to chapter 43 of title 38—

"(A) any reference in such section to contributions under section 8432(a) shall be considered a reference to employee contributions under this section;

"(B) the contribution rate under section 8432b(b)(2)(A) shall be the maximum percentage allowable under subsection (b)(2) of this section; and

"(C) subsections (c) and (d) of section 8432b shall be disregarded.".

(e) EFFECTIVE DATE; APPLICABILITY.—This section and the amendments made by this section—

(1) shall take effect on the date of enactment of this Act; and

(2) shall apply to any employee whose release from military service, discharge from hospitalization, or other similar event making the individual eligible to seek restoration or reemployment under chapter 43 of title 38, United States Code, occurs on or after August 2, 1990.

(f) RULES FOR APPLYING AMENDMENTS TO EMPLOYEES RESTORED OR REEMPLOYED BEFORE EFFECTIVE DATE.—In the case of any employee (described in subsection (e)(2)) who is reemployed or restored (in the circumstances described in section 8432b(a) of title 5, United

States Code, as amended by this section) before the date of enactment of this Act, the amendments made by this section shall apply to such employee, in accordance with their terms, subject to the following:

(1) The employee shall be deemed not to have been reemployed or restored until—

(A) the date of enactment of this Act, or

(B) the first day following such employee's reemployment or restoration on which such employee is or was eligible to make an election relating to contributions to the Thrift Savings Fund,

whichever occurs or occurred first.

(2) If the employee changed agencies during the period between date of actual reemployment or restoration and the date of enactment of this Act, the employing agency as of such date of enactment shall be considered the reemploying or restoring agency.

(3)(A) For purposes of any computation under section 8432b of such title, pay shall be determined in accordance with subsection (e) of such section, except that, with respect to the period described in subparagraph (B), actual pay attributable to such period shall be used.

(B) The period described in this subparagraph is the period beginning on the first day of the first applicable pay period beginning on or after the date of the employee's actual reemployment or restoration and ending on the day before the date determined under paragraph (1).

(4) Deem section 8432b(b)(2)(A) of such title to be amended by striking "ending on the day before the date of restoration or reemployment (as applicable)" and inserting "ending on the date determined under section 4(f)(1) of the Uniformed Services Employment and Reemployment Rights Act of 1994".

SEC. 5. REVISION OF FEDERAL CIVIL SERVICE RETIREMENT BENEFIT PROGRAM FOR RESERVISTS.

(a) Creditable Military Service Under CSRS.—Section 8331(13) of title 5, United States Code, is amended in the flush matter by inserting "or full-time National Guard duty (as such term is defined in section 101(d) of title 10) if such service interrupts creditable civilian service under this subchapter and is followed by reemployment in accordance with chapter 43 of title 38 that occurs on or after August 1, 1990" before the semicolon.

(b) Pay Deductions for Military Service Under CSRS.—Section 8334(j) of such title is amended—

(1) in paragraph (1)—

(A) by striking "Each employee" and inserting "(A) Except as provided in subparagraph (B), each employee"; and

(B) by adding at the end the following:

"(B) In any case where military service interrupts creditable civilian service under this subchapter and reemployment pursuant to chapter 43 of title 38 occurs on or after August 1, 1990, the deposit payable under this paragraph may not exceed the amount that would have been deducted and withheld under subsection (a)(1) from basic pay during civilian service if the employee had not performed the period of military service."; and

(2) in paragraph (2), immediately before the comma at the end of subparagraph (B), by inserting "following the period of military service for which such deposit is due".

(c) Creditable Military Service Under FERS.—Section 8401(31) of such title is amended in the flush matter by inserting "or full-time National Guard duty (as such term is defined in section 101(d) of title 10) if such service interrupts creditable civilian service under this subchapter and is followed by reemployment in accordance with chapter 43 of title 38 that occurs on or after August 1, 1990" before the semicolon.

(d) Pay Deductions for Military Service Under FERS.—Section 8422(e) of such title is amended—

(1) in paragraph (1)—

(A) by striking "Each employee" and inserting "(A) Except as provided in subparagraph (B), each employee"; and

(B) by adding at the end the following:

"(B) In any case where military service interrupts creditable civilian service under this subchapter and reemployment pursuant to chapter 43 of title 38 occurs on or after August 1, 1990, the deposit payable under this paragraph may not exceed the amount that would have been deducted and withheld under subsection (a)(1) from basic pay during civilian service if the employee had not performed the period of military service."; and

(2) in paragraph (2), immediately before the comma at the end of subparagraph (B), by inserting "following the period of military service for which such deposit is due".

(e) Technical Amendments.—Title 5, United States Code, is amended as follows:

(1) In section 8401(11), by striking out "1954" in the flush matter above clause (i) and inserting in lieu thereof "1986".

(2) In section 8422(a)(2)(A)(ii), by striking out "1954" and inserting in lieu thereof "1986".

(3) In section 8432(d), by striking out "1954" in the first sentence and inserting in lieu thereof "1986".

(4) In section 8433(i)(4), by striking out "1954" and inserting in lieu thereof "1986".

(5) In section 8440—

(A) by striking out "1954" in subsection (a) and inserting in lieu thereof "1986"; and

(B) by striking out "1954" in subsection (c) and inserting in lieu thereof "1986".

SEC. 6. TECHNICAL AMENDMENT.

(a) Technical Amendment.—Section 9(d) of Public Law 102–16 (105 Stat. 55) is amended by striking out "Act" the first place it appears and inserting in lieu thereof "section".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if included in Public Law 102–16 to which such amendment relates.

SEC. 7. INCREASE IN AMOUNT OF LOAN GUARANTY FOR LOANS FOR THE PURCHASE OR CONSTRUCTION OF HOMES.

Subparagraphs (A)(i)(IV) and (B) of section 3703(a)(1) of title 38, United States Code, are each amended by striking out "$46,000" and inserting in lieu thereof "$50,750".

SEC. 8. TRANSITION RULES AND EFFECTIVE DATES.

(a) Reemployment.—(1) Except as otherwise provided in this Act, the amendments made by this Act shall be effective with respect to reemployments initiated on or after the first day after the 60-day period beginning on the date of enactment of this Act.

(2) The provisions of chapter 43 of title 38, United States Code, in effect on the day before such date of enactment, shall continue to apply to reemployments initiated before the end of such 60-day period.

(3) In determining the number of years of service that may not be exceeded in an employee-employer relationship with respect to which a person seeks reemployment under chapter 43 of title 38, United States Code, as in effect before or after the date of enactment of this Act, there shall be included all years of service without regard to whether the periods of service occurred before or after such date of enactment unless the period of service is exempted by the chapter 43 that is applicable, as provided in paragraphs (1) and (2), to the reemployment concerned.

(4) A person who initiates reemployment under chapter 43 of title 38, United States Code, during or after the 60-day period beginning on the date of enactment of this Act and whose reemployment is made in connection with a period of service in the uniformed services that was initiated before the end of such period shall be deemed to have satisfied the notification requirement of section 4312(a)(1) of title 38, United States Code, as provided in the amendments made by this Act, if the person complied with any applicable notice requirement under chapter 43, United States Code, as in effect on the day before the date of enactment of this Act.

(b) Discrimination.—The provisions of section 4311 of title 38, United States Code, as provided in the amendments made by this Act, and the provisions of subchapter III of chapter 43 of such title, as provided in the amendments made by this Act, that are necessary for the implementation of such section 4311 shall become effective on the date of enactment of this Act.

(c) Insurance.—(1) The provisions of section 4316 of title 38, United States Code, as provided in the amendments made by this Act, concerning insurance coverage (other than health) shall become effective with respect to furloughs or leaves of absence initiated on or after the date of enactment of this Act.

(2) With respect to the provisions of section 4317 of title 38, United States Code, as provided in the amendments made by this Act, a person on active duty on the date of enactment of this Act, or a family member or personal representative of such person, may, after the date of enactment of this Act, elect to reinstate or continue a health plan as provided in such section 4317. If such an election is made, the health plan shall remain in effect for the remaining portion of the 18-month period that began on the date of such person's separation from civilian employment or the period of the person's service in the uniformed service, whichever is the period of lesser duration.

(d) Disability.—(1) Section 4313(a)(3) of chapter 43 of title 38, United States Code, as provided in the amendments made by this Act, shall apply to reemployments initiated on or after August 1, 1990.

(2) Effective as of August 1, 1990, section 4307 of title 38, United States Code (as in effect on the date of enactment of this Act), is repealed, and the table of sections at the beginning of chapter 43 of such title (as in effect on the date of enactment of this Act) is amended by striking out the item relating to section 4307.

(e) Investigations and Subpoenas.—The provisions of section 4326 of title 38, United States Code, as provided in the amendments made by this Act, shall become effective on the date of the enactment of this Act and apply to any matter pending with the Secretary of Labor under section 4305 of title 38, United States Code, as of that date.

(f) Previous Actions.—Except as otherwise provided, the amendments made by this Act do not affect reemployments that were initiated, rights, benefits, and duties that matured, penalties that were incurred, and proceedings that begin before the end of the 60-day period referred to in subsection (a).

(g) Rights and Benefits Relative to Notice of Intent Not To Return.—Section 4316(b)(2) of title 38, United States Code, as added by the amendments made by this Act, applies only to the rights and benefits provided in section 4316(b)(1)(B) and does not apply to any other right or benefit of a person under chapter 43 of title 38, United States Code. Such section shall apply only to persons who leave a position of employment for service in the uniformed services more than 60 days after the date of enactment of this Act.

(h) Employer Pension Benefit Plans.—(1) Nothing in this Act shall be construed to relieve an employer of an obligation to provide contributions to a pension plan (or provide pension benefits), or to relieve the obligation of a pension plan to provide pension benefits, which is

required by the provisions of chapter 43 of title 38, United States Code, in effect on the day before this Act takes effect.

(2) If any employee pension benefit plan is not in compliance with section 4318 of such title or paragraph (1) of this subsection on the date of enactment of this Act, such plan shall have two years to come into compliance with such section and paragraph.

(i) DEFINITION.—For the purposes of this section, the term "service in the uniformed services" shall have the meaning given such term in section 4303(13) of title 38, United States Code, as provided in the amendments made by this Act.

Mr. ROCKEFELLER. Madam President, as chairman of the Committee on Veterans' Affairs, I am enormously pleased that the Senate is about to take final action on H.R. 995, the proposed Uniformed Services Employment and Reemployment Rights Act of 1994, legislation which would revise and improve the Veterans Reemployment Rights [VRR] law, found in chapter 43 of title 38, United States Code, this is the final legislative action in an effort that dates back to the early days of the last Congress.

The pending measure, H.R. 995, with a House amendment to the Senate amendment to the original House bill, represents a compromise agreement that the Veterans' Affairs Committees of the House of Representatives and Senate have reached on H.R. 995 as originally passed by the House on May 4, 1993, and as passed by the Senate on November 8, 1993. This measure, which I will refer to as the compromise agreement, would, as would the original House and senate versions in somewhat different ways, completely revise chapter 43 of title 38, United States Code, in order to clarify VRR law provisions and to make improvements in various aspects of this over-50-year-old law. The VRR law has as its core principle ensuring that an individual who enters the military for a short period of service can return to the civilian job held before entering service and can do so with no loss of seniority or benefits based on seniority.

Madam President, the House passed this compromise agreement on September 13, 1994, and I urge my colleagues to give this measure their unanimous support and send it to the White House for the President's signature.

BACKGROUND

Madam President, the VRR law, first enacted in 1940, provides job security to employees who leave their civilian jobs in order to enter active military service, voluntarily or involuntarily. Within certain limits, the law generally entitles an individual who serves in the military to return to his or her former civilian job after being discharged or released from active duty under honorable conditions. For purposes of seniority, status, and pay, the employee is entitled to be treated as though he or she never left. The effect of this law is often characterized as enabling the returning veteran to step back on the seniority escalator at the point he or she would have occupied without interruption for military service. The law applies both to active-duty service and to training periods served by reservists and members of the National Guard.

The VRR law is intended to encourage noncareer service in the uniformed services by eliminating or minimizing the disadvantages to civilian careers and employment which occur as a result of such service. The pending measure would help ensure that the VRR law effectively and fairly continues to serve this historical purpose.

The compromise agreement is also aimed at clarifying the VRR law. It is important that both employees and employers be able to understand this law clearly so that active-duty servicemembers and reservists, whether they serve on active duty during an extended conflict, such as in Operation Desert Shield/Desert Storm, or participate in routine training, do not experience unnecessary delays or disputes in returning to their former civilian jobs. Unfortunately, over the last 54 years the VRR law has become a confusing and cumbersome patchwork of statutory amendments and judicial constructions that, at times, hinder the resolution of claims. Thus, the compromise agreement would amend the VRR law to restate past amendments in a clearer manner and incorporate important court decisions interpreting the law. The substantive rights at the heart of the VRR law would remain as valuable protection to those who provide this country with noncareer service in the uniformed services.

Madam President, Congress has long recognized that the support of civilian employers is necessary if the uniformed services are to be able to recruit and retain noncareer personnel. I sincerely appreciate the very cooperative and patriotic manner in which the vast majority of employers have carried out their responsibilities under the VRR law. The compromise agreement is designed to take into account the legitimate interests and needs of employers and to assist them by stating their obligations in a clear fashion.

Both the House and the Senate Committees on Veterans' Affairs and the administration committed much time and energy to the revision and improvement of this law over the past several years. For over 3 years, beginning in the mid-1980's, and executive branch task force on VRR law, including representatives of the Departments of Labor, Defense, and Justice and the Office of Personnel Management, worked to develop a revision of chapter 43. H.R. 1578, the proposed Uniformed Services Employment and Reemployment Rights Act of 1991, as passed by the House on May 14, 1991, was similar to and largely derived from draft legislation submitted by the administration in early 1991. H.R. 1578 was modified and passed again by the House on October 1, 1992.

The Senate Committee on Veterans' Affairs during the 102d Congress worked closely with representatives from each of the Federal agencies responsible for administering the VRR law in developing the Senate bill, S. 1095, the proposed Uniformed Services Employment and Reemployment Rights Act of 1991. Our committee held a hearing on the legislation and subsequently filed a report on S. 1095 on November 7, 1991. Unfortunately, the Senate was unable to proceed to the consideration of S. 1095 until October 1, 1992—only a few days before adjournment of the 102d Congress—and, as a result, no further action was possible.

In this Congress, I introduced VRR legislation on April 29, 1993, as S. 843. the committee held a hearing on this bill on May 13, 1993, and the bill was reported on October 18, 1993. As I noted a moment ago, the Senate passed this legislation on November 8, 1993. I refer my colleagues and all others with an interest in the bill as reported to the committee report, Senate Report No. 103–158.

Because the provisions of the compromise agreement are describe in detail in an explanatory statement—developed jointly with our colleagues on the House Committee on Veterans' Affairs and which my good friend, the chairman of the House Committee, SONNY MONTGOMERY, inserted in the RECORD during House passage of this measure on September 13, 1994—I will at this point just summarize chapter 43 as it would be amended by the compromise agreement.

SUMMARY

Madam President, as it would be modified by the compromise agreement, chapter 43 of title 38 would:

Continue to protect employees or applicants for employment from discrimination or reprisal based on their military obligation, and add a prohibition of employer reprisals against witnesses in reemployment rights cases. I note, as the committee report did (page 45), that the portion of new section 4311 which would codify the burden and standard of proof in discrimination cases is merely a reaffirmation of the original intent of Congress when present section 2021(b)(3) was enacted in 1968. The restatement of the standard and burden of proof in the compromise agreement is, therefore, meant to be applicable to all discrimination cases based on the VRR law regardless of when the claim first arose.

Place a 5-year limit, with certain exceptions, on the cumulative length of time that an individual may be absent from a position of employment and still be eligible for reemployment rights with respect to that position.

Repeal the exclusion of individuals who held temporary positions from reemployment protection.

Generally base time requirements for returning to work or applying for reemployment on the length of the individual's absence for service.

Require an absent individual—or an appropriate officer of the uniformed service—to give the employer advance written or verbal notice of service.

Allow employers who reemploy individuals absent for more than 90 days for active-duty service to require documentation regarding their service before they would become entitled to pension benefits with respect to the period of service.

Codify court holdings that entitlement to reemployment protection does not depend upon the timing, frequency, duration, or nature of an individual's service.

Require employers to make reasonable efforts—actions, including training, that do not create an undue hardship on the employer—to refresh or update the skills of an individual who needs training in order to qualify for reemployment.

Require employers to make reasonable efforts to accommodate the disability of an individual seeking employment who has a service-connected disability.

Ensure an individual whose reemployment in a legislative or judicial branch position, or as a National Guard technician, is impossible or unreasonable, an offer of alternative employment in a Federal executive agency in a position of like seniority, status, and pay.

Maintain the so-called escalator principle under which an individual absent from employment by reason of service in the uniformed services is entitled, upon being reemployed, to the seniority and other rights and benefits determined by seniority the individual had when he or she began service plus the additional seniority and rights and benefits he or she would have attained if the person had remained continuously employed.

Reaffirm that while an individual is performing service in the uniformed services, he or she is deemed to be on furlough or leave of absence and is entitled to those other rights and benefits not determined by seniority which were in effect at the beginning of the service, unless the individual knowingly waives this entitlement by indicating that he or she does not intend to return to the civilian position.

Provide that if an individual's employer-sponsored health plan coverage would otherwise terminate due to an extended absence from employment for purposes of service in the uniformed services, he or she may elect to continue the health plan coverage for up to 18 months after the absence begins or for the period of service, whichever period is the lesser. The individual generally could be required to pay no more than 102 percent of the full premium for the coverage, and an individual serving for less than 31 days could not be required to pay more then the normal employee share of any premium.

Provide that a reemployed individual whose period of service was more than 30 days but less than 181 days could not be removed without cause for 6 months; and an individual whose period of service was more than 180 days could not be removed without cause for 1 year.

Provide that an individual, upon submitting a written request to his or her employer, would be able to use accrued vacation or annual leave while serving in the uniformed services.

Provide that, for pension purposes, an individual must be treated as not having incurred a break in service with the employer; service in the uniformed services would be considered service with the employer for vesting and benefit accrual purposes; the employer who reemploys the individual is liable for funding any resulting obligation; and the reemployed individual would be entitled to any accrued benefits from employee contributions only to the extent that the individual makes payments with respect to the contributions.

Provide that, in a multiemployer defined contribution pension plan, the sponsor maintaining the plan may allocate among the participating employers the liability of the plan for pension benefits accrued by individuals who are absent for service in the uniformed services. If no cost-sharing arrangement is provided, the full liability to make the retroactive contributions to the plan would be allocated to the last employer employing the person before the period of uniformed service or, if that employer is no longer functional, to the overall plan.

Provide that a returning employee's payments into the pension plan may be made, as the employer and employee may agree, during any reasonable continuous period—beginning with the date of reemployment, but in no event will the individual be afforded a payment period shorter than the length of absence for service for which the payments are due.

Provide, for the purposes of determining an employer's liability or an employee's contributions under a pension benefit plan, that the employee's reconstructed compensation during the period of his or her service in the uniformed services would be based on the rate of pay the employee would have received from the employer but for the absence during the period of service, or if the employee's compensation was not based on a fixed rate, on the basis of the employee's average rate of pay during the 12-month period immediately preceding his or her entry into service—or, if shorter than 12 months, the period of employment immediately preceding entry into service.

Require the Secretary of Labor to investigate an individual's complaint that the employer has failed or refused, or is about to fail or refuse, to comply with the reemployment law, and require the Secretary to make reasonable efforts to ensure compliance.

Authorize the Secretary of Labor to require by subpoena the attendance and testimony of witnesses and the production of documents relating to any matter under investigation.

Enable Federal executive agency employees whose cases are not resolved successfully by the Department of Labor to receive representation by the Office of Special Counsel before the Merit Systems Protection Board [MSPB] and the U.S. Court of Appeals.

Provide that an individual would be able to petition a U.S. Court of Appeals to review a decision of the MSPB.

Require the heads of intelligence agencies, which are otherwise exempt from enforcement procedures of the reemployment laws applicable to Federal agencies, to prescribe the conditions under which individuals who are absent from employment by reason of service in the uniformed services will be reemployed and the procedures for ensuring that those who satisfy the conditions are reemployed. In cases where it is impossible, unreasonable, or not practicable to reemploy an individual, the agency head would be required to notify the individual and the Director of the Office of Personnel Management [OPM]. The Director of OPM would be required to place the individual in a comparable position elsewhere in a Federal executive agency.

Authorize the award of attorneys' fees and expenses to employees who choose to be represented by private counsel and who prevail in court.

Provide for liquidated damages in an amount equal to the compensatory damages awarded in a case in which an employee prevails against a State—as an employer—or a private employer in court and the court determines that the employer's failure to comply with the provisions of the employment law was willful.

Provide that, effective August 1, 1990, the amount of Federal civil service retirement payments for a period of military service may not exceed the amount that would have been deducted or withheld for a period of civilian service if the employee had not performed the period of military service.

Provide for the treatment of contributions to the Thrift Savings Fund by Federal employees who perform military service.

CONCLUSION

Madam President, before closing I note one issue that involves a matter related to the compromise agreement which is under the jurisdiction of the Finance Committee, a committee on which I am privileged to serve. This matter relates to provisions in the compromise agreement which address a returning servicemember's rights to participate in the employer's pension plan and more specifically, the relationship between the VRR law and the Internal Revenue Code. Under the VRR law as it will be amended, it is possible that a pension plan, by seeking to comply with the VRR law, could have to make payments on behalf of now returned servicemembers that could cause the plan to go out of compliance with the Internal Revenue Code because of the total amount of payments made by the plan in a given year. Obviously, this is a situation that is not intended and which should be avoided. However, the appropriate remedy—an amendment to the Internal Revenue Code—is in the jurisdiction of the Finance Committee and thus the matter cannot be resolved in the compromise agreement.

Madam President, so as to allow time for such an amendment to be considered, the compromise agreement provides a 2-year period before compliance with the pension provisions in the agreement would be required. It is my intention, which I have communicated to Senator MOYNIHAN in his role as chairman of the Finance Committee, to take the lead in the Finance Committee in proposing the appropriate amendment to the Internal Revenue Code as part of the first appropriate tax bill. In addition, I have indicated to Chairman MOYNIHAN that, should such an amendment not be in law as the 2-year window provided in the compromise agreement nears its end, I will work to amend the VRR law so as to provide for a further delay in the effective date of the pension provisions. I very much appreciate Senator MOYNIHAN's assistance and cooperation on this issue which facilitates Senate action on the compromise agreement.

Madam President, this is a good and needed piece of legislation and I urge my colleagues to give it their full support. I thank my good friends SONNY MONTGOMERY and Representative BOB STUMP, the chairman and ranking minority member of the House Committee on Veterans' Affairs for their cooperation and assistance as we have developed this compromise. I also thank our committee's ranking minority member, my good friend FRANK MURKOWSKI, and all the members of the Senate committee for their support on this measure. I thank the staff who have worked so long and hard on this compromise—Jill Cochran, Joe Womack, Pat Ryan, Mack Fleming, and Kingston Smith on the House committee, and Bill Brew, Jim Gottlieb, Bill Tuerk, and John Moseman with the Senate committee. I also thank Wade Ballou and Charlie Armstrong of the House and Senate Offices of Legislative Counsel for their excellent assistance and support in drafting the compromise agreement. Finally, I would be remiss were I to fail to note the tremendous work done on this legislation by Chuck Lee, a former member of the staff of the Senate committee, prior to his taking another position earlier this year.

Madam President, I ask unanimous consent that the explanatory statement that I mentioned earlier be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXPLANATORY STATEMENT ON H.R. 995

H.R. 995 reflects a compromise agreement that the Senate and House of Representatives Committees on Veterans' Affairs have reached on certain bills considered in the Senate and the House of Representatives during the 103d Congress. These measures are H.R. 995, which the House passed on May 4, 1993, (hereinafter referred to as "House bill"), and the text of S. 843, which the Senate passed on November 8, 1993, as an amendment to H.R. 995 (hereinafter referred to as "Senate amendment").

The Committees on Veterans' Affairs of the Senate and the House of Representatives have prepared the following explanation of H.R. 995 as amended (hereinafter referred to as the "compromise agreement"). Differences between the provisions contained in the compromise agreement and the related provisions in the above-mentioned House bill and Senate amendment are noted in this document, except for clerical corrections, conforming changes made necessary by the compromise agreement, and minor drafting, technical, and clarifying changes.

SCOPE OF COVERAGE

Current law: Section 4301(a) provides that an individual must have left a position (other than temporary) in the employ of an employer in order to perform training or service in the Armed Forces to be eligible for reemployment rights and benefits.

House bill: Proposed new section 4312(a) would provide that an individual must have left a position (other than temporary) in the employ of an employer for voluntary or involuntary service in the uniformed service to be entitled to a leave of absence or, upon completion of service, to reemployment.

Proposed new section 4303(8) would define "other than a temporary position" to mean a position of employment as to which there is a reasonable expectation that it will continue indefinitely.

Senate amendment: Proposed new section 4312(a) is similar to the provision in the House bill, but would not exclude individuals who held temporary positions when they entered the uniformed services from eligibility for reemployment rights and benefits. Also, proposed new section 4303 would not define the term "other than a temporary position."

Compromise agreement: Section 4312(d)(1)(C) would provide that an employer is not required to reemploy an individual if his or her employment prior to military service was for a brief, nonrecurrent period and there was no reasonable expectation that it would continue indefinitely or for a significant period.

The compromise agreement would not, therefore, include a definition of the term "other than a temporary position."

PROHIBITION AGAINST DISCRIMINATION AND ACTS OF REPRISAL

Current law: Section 4301(b)(3) provides that an individual may not be denied hiring, retention in employment, or any promotion or other incident or advantage of employment because of any obligation as a member of a Reserve component of the Armed Forces.

House bill: Proposed new section 4311 would provide that (1) an individual may not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment because of present or past application for or membership in a uniformed service, or obligation for future service; (2) an employer is considered to have committed a prohibited act of discrimination or reprisal against an individual if the individual's service, application, or obligation for service was a motivating factor in the employer's action, unless the employer can prove that the action would have been taken in the absence of the service, application, or obligation for service; (3) an employer may not discriminate against or take any adverse employment action against any individual because that individual has filed a claim under the Act, sought assistance concerning an alleged violation, testified in a proceeding, assisted or otherwise participated in an investigation, or exercised any right under the reemployment law; and (4) the prohibitions regarding discrimination will apply with respect to an individual regardless of whether that individual has performed service in the uniformed services.

Senate amendment: Proposed new section 4311 is substantively identical to the House provision but would extend protection under the reemployment law to employees in a foreign country.

Compromise agreement: Section 4311 does not contain protection for employees in a foreign country.

MAXIMUM PERIOD OF SERVICE FOR COVERAGE

Current law: Under section 4304, an individual is permitted to remain on active duty for a total of four years and still retain reemployment rights. An additional year of eligibility for reemployment rights is granted if an individual remains on active duty beyond the four-year period at the request of, and for the convenience of, the Federal Government. Active duty for training and inactive duty does not count toward the five years.

House bill: Subsections (a) and (c) of proposed new section 4312 would provide for a five-year limit on an individual's cumulative length of absence from a position of employment with the employer by reason of service in the uniformed services for the purposes of reemployment rights and benefits. This would include all types of service except (1) service required beyond five years to complete an initial period of obligated services; (2) service from which the individual, through no fault of his or her own, is unable to obtain a release from service within the five-year limit; (3) service for statutorily mandated training or to fulfill additional training requirements determined by the Secretary of Defense to be necessary for individual professional skill development; (4) service resulting from an order to, or retention on, active duty during a war or national emergency under a law or joint resolution related to a specific crisis situation; (5) service resulting from an order to active duty in support of an operational mission for which personnel have been ordered to active duty in section 673b of title 10, United States Code; (6) service resulting from an order to active duty in support, as determined by the Secretary concerned, of a critical mission or requirement of the uniformed services; or (7) service resulting from an order to active duty by the President of members of the National Guard to suppress an insurrection, repel an invasion by a foreign nation, suppress a rebellion, or execute laws of the United States that the President is unable to execute with the regular army.

Senate amendment: Subsections (a) and (c) of proposed new section 4312 are substantively identical to the House provision, but with additional coverage of Coast Guard personnel ordered to or retained on active duty under circumstances excepted for other uniformed service personnel.

Compromise agreement: Subsections (a) and (c) of section 4312 contain the Senate provision.

APPLICATIONS FOR REEMPLOYMENT

Current law: Section 4301(a) requires that an individual who is inducted into the Armed Forces generally must make application for reemployment within 90 days after separation. Section 4304(a) requires the same application obligation of an individual who enlists in the Armed Forces. Subsections (c) and (g) of section 4304 require that a member of a Reserve component who is ordered to an initial period of active duty for training of not less than 12 consecutive weeks or who is ordered to active duty other than for training under section 673b of title 10, generally must make application for reemployment within 31 days after separation; section 4304(d) provides that all other individuals required to perform active duty for training or inactive duty training must report to work at the beginning of the next regularly scheduled working period after expiration of the last calendar day necessary to travel from the place of training to the place of employment following the employee's release, or within a reasonable time thereafter if delayed return is due to factors beyond the employee's control.

Under current law, if an individual is hospitalized incident to active duty, the application for reemployment generally must be made within the foregoing timeframes determined by the individual's type or category of military training or service. However, the application period begins upon discharge from hospitalization of not more than one year instead of beginning on the date of discharge from service.

House bill: Proposed new section 4312(e)(1) would require that (1) if the service was for less than 31 days or for the purpose of an examination to determine fitness to enter service, an individual entitled to reemployment must report to the employer for reemployment at the beginning of the first full regularly scheduled working period on the first calendar day following the completion of service and the expiration of eight hours after a time for safe transportation back to his or her residence or as soon as possible after the expiration of the eight-hour period if reporting within that period is impossible or unreasonable through no fault of the individual; (2) if the period of service was 31 days or more but less than 181 days, an individual entitled to reemployment must submit an application to the employer no later than 14 days following completion of service or as soon as possible thereafter if submitting an application within the period is impossible or unreasonable through no fault of the individual; (3) if the period of service was 181 days or more, an individual entitled to reemployment must submit an application no later than 90 days following completion of service or as soon as possible thereafter if submitting an application within the period is impossible or unreasonable through no fault of the individual.

Proposed new section 4312(e)(2) would provide for an extension of the time limits specified in subsection (e)(1) by up to two years if an individual is hospitalized for, or convalescing from, an injury or illness incurred or aggravated by military service. The two-year period would be extended by the minimum time required to accommodate the circumstance beyond the individual's control which makes reporting within the time limit impossible or unreasonable.

Senate amendment: Proposed new section 4312(e)(1) is substantively identical to the House provision, but without possible extension for events beyond the individual's control if the period of service was 31 days or more.

Proposed new section 4312(e)(2) is substantively identical to the House provision.

Compromise agreement: Section 4312(e)(1) contains the House provision regarding service of less than 31 days or for the purpose of an examination to determine fitness to enter service; the House provision regarding service of 31 days or more but less than 181 days, modified to make specific the time beyond 14 days within which the returning employee must make application for reemployment; and the Senate provision regarding service of more than 180 days.

Section 4312(e)(2) includes the provision relating to an extension of time in the case of an illness or injury.

Section 4312(e)(3) provides that a failure to report or apply within the time limits does not automatically forfeit the person's reemployment rights, but subjects the person to the employer's rules, policies, or practices pertaining to absence from work.

DOCUMENTATION UPON RETURN

Current law: No provision.

House bill: Proposed new section 4311(g) would provide that: (1) when reporting for reemployment, an individual, upon request, must provide to the employer documentation to establish the timeliness of the application for reemployment, that the individual did not exceed the applicable time-in-service limitation, and that the character of service was satisfactory; (2) notwithstanding a failure to provide documentation, an employer must reemploy an individual if the failure occurs because such documentation does not exist or is not readily available at the time of the request, with the condition that if, after reemployment, documentation becomes available that establishes that one or more of the eligibility requirements was not met, the employer may terminate the individual's employment and the provision of any rights or benefits afforded the individual prospectively; and (3) it is unlawful for an employer to delay or attempt to defeat a reemployment obligation by demanding documentation that does not then exist or is not then readily available.

Senate amendment: Proposed new section 4312(f) contains documentation requirements substantively identical to those in the House bill except that, if an individual is absent from employment for more than 90 days, the employer may require documentation before making retroactive pension contributions.

Compromise agreement: Section 4312(f) contains the Senate provision.

ENTITLEMENT LIMITATIONS

Current law: No provision.

House bill: Proposed new section 4312(i) would provide that entitlement to protection under the reemployment law does not depend on the timing, frequency, duration of an individual's training or service or the nature of that service if the service does not exceed the service limitations and the applicable notice requirements are met.

Senate amendment: Proposed new section 4312(h) is substantively identical to the House provision.

Compromise agreement: Section 4312(h) contains this provision.

POSITION TO WHICH ENTITLED UPON REEMPLOYMENT

Current law: Section 4301(a) provides that a returning servicemember who was absent from an employment position (other than a temporary position) for service in the Armed Forces is generally entitled (1) if still qualified to perform the duties of that position, to be restored to that position or a position of like seniority, status, and pay; or (2) if not qualified to perform the duties of that position by reason of a disability sustained during service, to be offered and employed in a position the duties of which he or she is qualified to perform that will provide like seniority, status, and pay, or the nearest approximation consistent with the circumstances of the individual's case.

Section 4301(b)(2) provides that it is the sense of Congress that an individual must be so restored as to give the individual the status that he or she would have enjoyed but for the absence for service in the Armed Forces.

House bill: Proposed new section 4313(a)(1) would provide that an individual whose period of service was for fewer than 91 days must be reemployed promptly (1) in a position that he or she would have attained by remaining continuously employed, unless the employer can prove that the individual is not qualified or capable of becoming qualified with reasonable efforts by the employer, or (2) if not qualified or capable of becoming qualified for the new position, in the same position that he or she left. Proposed new section 4313(a)(2) would provide for a similar pattern of position offerings for an individual whose period of service was for 91 days or more, with the additional option that the employer may offer a position of like seniority, status, and pay to the new position or, as determined by whether the individual is qualified or capable of becoming qualified, the position that the individual left. Proposed new section 4313(a)(4) would provide that a returning servicemember who is not qualified to be employed in the position that he or she would have attained by remaining continuously employed or in the position that he or she left, for any reason other than disability incurred during the period of service, and who cannot become qualified with reasonable efforts by the employer, must be employed promptly in any other position of lesser status and pay the duties of which he or she is qualified to perform, with full seniority.

Senate amendment: Proposed new sections 4313(a) (1), (2), and (4) are similar to the House provisions but would provide that the employer may offer a position of like status and pay if the period of service was for more than 30 days.

Compromise agreement: Section 4313 generally follows the House bill.

POSITION TO WHICH ENTITLED IF DISABLED

Current law: Section 4307 requires an employer to make reasonable accommodations to the known physical or mental limitations incurred in the military service of an individual to enable him or her to perform the essential functions of a position, unless the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business. The terms "reasonable accommodation" and "undue hardship" have the same meanings as are provided in the Americans with Disabilities

Act of 1990 (ADA) (Public Law 101-336; 42 U.S.C. 12101 et seq.).

House bill: Proposed new section 4313(a)(3) would provide that if an individual is disabled because of a disability incurred during, or as a result of, a period of service in the uniformed services and is not qualified to be employed in the position that he or she would have attained if continuously employed or in the position that he or she left for service (even after reasonable efforts by the employer to accommodate the disability), the individual must be reemployed promptly (1) in any other position of similar seniority, status, and pay for which he or she is qualified or would become qualified with reasonable effort by the employer; or (2) in a position which is the nearest approximation consistent with the circumstances of the individual's case.

Senate amendment: Proposed new section 4313(a)(3) is substantively identical to the House provision.

Compromise agreement: Section 4313(a)(3) contains this provision.

TWO OR MORE PERSONS ENTITLED TO REEMPLOYMENT IN THE SAME POSITION

Current law: Section 4306 provides that in any case in which two or more individuals are entitled to reemployment in the same position, the individual who left first has the prior right to be reemployed in that position, without prejudice to the reemployment rights of the other individual or individuals.

House bill: Proposed new section 4313(b) would provide that in any case in which two or more individuals are entitled to reemployment in the same position and more than one of them has reported for reemployment, (1) the individual who left the position first has the prior right to be reemployed in that position and (2) any individual not reemployed is entitled to be employed promptly in any other position which is equivalent in seniority, status, and pay for which the individual is qualified or would become qualified with reasonable efforts by the employer or in a position which is the nearest approximation consistent with the circumstances of the individual's case

Senate amendment: Proposed new section 4313(b) is substantively identical to the House provision.

Compromise agreement: Section 4313(b) contains this provision.

REEMPLOYMENT BY THE FEDERAL GOVERNMENT

Current law: Section 4303 provides that any individual who is entitled to reemployment and who was employed, immediately before entering the Armed Forces, by any agency in the executive branch of the Federal government or by the District of Columbia, must be reemployed by that agency or the successor to its functions, or by the District of Columbia. In cases in which the Director of the Office of Personnel Management (OPM) finds that (1) the agency is no longer in existence and its functions have not been transferred to any other agency, or (2) for any reason it is not feasible for the individual to be reemployed by the agency or the District of Columbia, the Director must determine whether or not there is another position in any other agency in the executive branch or in the government of the District of Columbia for which the individual is qualified and which is either vacant or held by an individual having a temporary appointment, and, if such a position exists, the individual must be offered the position and, if the individual so requests, be employed in the position.

In cases in which it is not possible for an individual who is entitled to reemployment rights to be restored to a position that he or she left in the legislative branch and who is otherwise eligible to acquire a status for a transfer to a position in the competitive service, the Director of the OPM is required to search for a comparable position in the executive branch for which the individual is qualified and which is either vacant or held by an individual having a temporary appointment, and, if such a position exists, it must be offered to the individual. An individual who was employed in the judicial branch must be restored to the position that the individual held immediately before entering the Armed Forces.

House bill: Proposed new section 4314 is similar to current law but would provide that (1) an individual is entitled to be reemployed according to the priorities set out in new section 4313; (2) the District of Columbia government is not considered part of the executive branch; and (3) in a case in which an employer in the legislative or judicial branch, or the adjutant general of a State in the case of a National Guard technician, determines that it is impossible or unreasonable to reemploy an individual who left to serve in the uniformed services and the individual is otherwise eligible to acquire a status for a transfer to a position in the competitive service, the Director of OPM must identify and offer an alternative position in the executive branch.

Senate amendment: Proposed new section 4314 is similar to the House provision but would require the Director of OPM to ensure that an individual whose reemployment in a Federal Government position—to include the legislative or judicial branch—or as a National Guard technician is impossible or unreasonable is offered an alternative position of employment in the executive branch.

Compromise agreement: Section 4314 contains the Senate provision.

REEMPLOYMENT BY CERTAIN FEDERAL AGENCIES

Current law: Although current Chapter 43 does not exempt federal intelligence community agencies—those listed in section 2302(a)(2)(C)(ii) of title 5, United States Code (the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and any Executive agency or unit the function of which is determined by the President to be the conduct of foreign intelligence or counterintelligence activities), section 403(c) of title 50, United States Code, provides that the Director of Central Intelligence may, in his or her discretion, terminate the employment of any officer or employee of the Agency whenever he or she deems such a termination necessary or advisable in the interests of the United States. Other intelligence community agencies have similar authority to make employment determinations without outside review.

House bill: No provision.

Senate amendment: Proposed new section 4315 would provide that the head of each agency referred to in section 2302(a)(2)(C)(ii) of title 5 must (1) prescribe procedures for ensuring that veterans' reemployment rights apply to the employees of that agency, and ensure, to the maximum extent practicable, that the procedures for reemployment in that agency are similar to those that apply to other executive branch employees; (2) upon making a determination that the reemployment of an individual is impossible or unreasonable, notify the individual and the Director of OPM of the determination; and (3) on an annual basis, submit to the Senate Select Committee on Intelligence and the Permanent Select Committee on Intelligence of the House of Representatives a report of the number of individuals whose reemployment with the agency was determined to be impossible or unreasonable during the year preceding the report and the reason for each determination.

Compromise agreement: Section 4315 contains the Senate provision, modified to require the heads of each agency to submit annual reports to the House and Senate Committees on Veterans' Affairs.

GENERAL RIGHTS AND BENEFITS

Current law: Section 4301(b)(1) provides that an individual reemployed under the veterans' reemployment rights law (1) shall be considered as having been on furlough or leave of absence during the period of service, (2) must be reemployed without loss of seniority, and (3) is entitled to participate in insurance or other benefits offered by the employer according to rules and practices relating to employees on furlough or leave of absence in effect with the employer at the beginning of the period of service. Section 4301(b)(2) provides that it is the sense of Congress that the reemployed individual should be so reemployed as to give the individual the status that he or she would have enjoyed if employed continuously during the period of active service.

House bill: Proposed new section 4315(a) would, as in current law, provide that upon reemployment under the veterans' reemployment rights law, a person would be entitled to the seniority and other rights and benefits determined by seniority that the individual had on the date of the beginning of uniformed service plus the additional seniority and rights and benefits the individual would have attained if the individual had remained continuously employed.

Proposed new section 4315(b) would provide that (1) an individual who performs service in the uniformed services would be considered to be on a furlough or leave of absence while in the uniformed services and would be entitled, while away, to rights and benefits, not determined by seniority, relating to other employees on furlough or leave of absence which were established, but contract, practice, policy, agreement, or plan effective at the beginning of the period of service or implemented while the individual is performing service; and (2) the individual may be required to pay the employee cost, if any, of any funded benefit continued to the extend other employees on furlough or leave of absence are required to pay.

Senate amendment: Subsections (a) and (b) of proposed new section 4316 are substantively identical to the House provision, except that subsection (b) and (1) provide that in the case of a multiemployer pension plan, liability will be allocated by the plan or if the plan does not provide, liability would be allocated to the last employer before the period of uniformed service; (2) clarify that the servicemember deemed to be on furlough or leave of absence because of uniformed service would not be entitled to any benefits which he or she would not otherwise he entitled if the individual were not on furlough or leave of absence; (3) exempt entitlement for health insurance to care and treatment to the extent the individual would be entitled to the same care and treatment from the Federal Government during uniformed service; (4) preserve policy exclusion of disability insurance for persons in service in excess of 31 days; (5) preserve policy war-clause exclusions; and (6) limit the right of continued insurance coverages to the lesser of (a) 18 months from date of absence, or (b) the period of service plus period of notice of intent to return.

Compromise agreement: The compromise agreement addressed the seniority and non-seniority benefits in three sections—proposed new sections 4316 (Rights, benefits, and obligations of persons absent from employment for service in a uniformed service), 4317 (Health Plans), and 4318 (Employee pension benefit plans).

Subsection (a) of section 4316 contains the general provisions relating to seniority benefits as set forth in both the House bill and the Senate amendment.

Subsection (b) of section 4316 contains the general provisions relating to non-seniority benefits with a provision, in new subsection 4316(b)(2)(A), that provides that a person otherwise entitled to rights and benefits accorded to other employees on furlough or leave of absence may waive those rights and benefits if the person knowingly provides written notice of intent not to return to employment after military service. Basic waiver law would be applicable to such a knowing waiver.

Subsection 4316(b) contains the Senate provision relating to multiemployer plans, modified to provide that, in the event the last employer is not functioning, liability would be allocated to the plan. Subsection (b) also contains the Senate provision clarifying that a servicemember deemed to be on a leave of absence because of uniformed service is not entitled to any benefits which a person would not be entitled if he or she was not on a leave of absence.

Although the compromise agreement for subsection 4316(b) does not contain the Senate exemptions relating to duplicative federal coverage, disability insurance, or war-clauses, nothing in this law is intended to overrule contract rights of coverage in the areas of health, disability, and life insurance.

RETENTION RIGHTS

Current law: Section 4301(b)(1)(A) provides that an individual who was inducted into the Armed Forces and who is then reemployed cannot be discharged from his or her position without cause for one year following reemployment. Subsections (c) and (g) of section 4304 provide that reservists who were ordered to an initial period of active duty for training of not less than twelve consecutive weeks or who were ordered voluntarily or involuntarily to active duty under section 673b of title 10 cannot be discharged form their positions without cause for six months after reemployment.

House bill: Proposed new section 4315(d) would provide that an individual reemployed under this chapter may not be discharged from employment, except for cause (1) if the period of service was more than 180 days, within one year; (2) if the period of service was more than 30 days but less than 181 days, within six months; or (3) if the period of service was less than 31 days, within a period of time equal to the period of service concerned.

Senate amendment: Proposed new section 4316(e) is similar to the House provision except that retention rights would not be provided to individuals serving for less than 31 days.

Compromise agreement: Section 4316(c) contains the Senate provision.

ACCRUED LEAVE

Current law: No provision.

House bill: Proposed new section 4315(e) would provide that any individual who is absent from a position (other than a temporary position) for voluntary or involuntary service in the uniformed services may use, during the period of service, accrued or other leave which the individual could have used if employment had not been interrupted for service.

Senate amendment: Proposed new section 4316(f) is similar to the House provision, except (1) temporary positions are not excluded, and (2) application would be limited to accumulated vacation or annual leave with pay.

Compromise agreement: Section 4316(d) contains the Senate provision, modified to add "similar leave" with pay to the types of leave that could be used.

HEALTH PLANS

Current Law: Section 4301(b)(1)(A) provides, among other things, that any reemployed person "shall be entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or leave of absence in effect with the employer at the time such person was inducted into" the Armed Forces.

Section 4301(b)(1)(B) provides that, in the case of employer-offered health insurance, an exclusion or waiting period may not be imposed in connection with coverage of a health or physical condition of a servicemember entitled to participate in that insurance, or a health or physical condition of any other individual who is covered by the insurance by reason of the coverage of the servicemember, if (1) the condition arose before or during the individual's period of training or service in the Armed Forces; (2) an exclusion or waiting period would not have been imposed for the condition during a period of coverage resulting from participation by the individual in the insurance; and (3) the condition of the individual has not been determined by the Secretary of Veterans Affairs to be service-connected.

House bill: Proposed new section 4315(c)(1) would provide that, notwithstanding the general provision that persons in military service are considered to be on furlough or leave of absence and are entitled to non-seniority rights and benefits which other employees on furlough or leave are entitled to, a person would be entitled to continuation of any insurance provided by the employer, including health insurance, for up to 18 months. The person could be required to pay the entire cost of any insurance benefit, except the person would only be responsible for the employee share of any insurance premium when the person was ordered to service of less than 31 days.

Proposed new section 4315(c)(2) is substantively identical to existing section 4301(b)(1)(B) (dealing with reinstatement of health coverage without exclusions or waiting periods).

Senate amendment: Proposed new section 4316(d)(1), dealing with an employee's right to continue health-plan coverage, would apply if the person's health-plan coverage "would otherwise terminate due to an extended absence from employment for purposes of performing service in the uniformed services." A person who elects continuation coverage could be required to pay 102 percent of the full premium associated with such coverage except, in the case of service of less than 31 days, the person could not be required to pay more than the employee share. A person who elected continuation coverage would not be entitled to such coverage (1) to the extent that the person is entitled to care or treatment from the Federal Government, or (2) if the person failed to notify the employer of the person's intent to return to employment within the periods prescribed in section 4312(e) of the Senate bill.

Proposed new section 4316(d) would provide that, if an individual's coverage under an employer-sponsored health plan is terminated by reason of uniformed service, an exclusion or waiting period may not be imposed in connection with coverage of the servicemember or any other individual covered by the health plan upon reemployment by the employer, if an exclusion or waiting period would not have been imposed had coverage not been terminated. An exception would apply to disabilities that the Secretary of Veterans Affairs has determined to be service-connected.

Compromise agreement: Section 4317 requires the health plan to offer continuation coverage for up to 18 months to persons who have coverage in connection with employment and who are absent from such employment due to military service. The health plan may not require the person to pay more than the employee share for that coverage if the period of military service does not exceed 31 days. If the period of service exceeds 31 days, the employee may be required to pay not more than 102 percent of the full premium under the plan.

The compromise also includes provisions pertaining to allocation of liability in the case of a multiemployer plan and limiting the obligation to continue coverage to the day after the date on which the person fails to apply for or return to a position of employment.

With respect to reinstatement of health plan coverage following a period of service, the compromise generally follows the Senate provision, with a clarification that all persons who are covered by the plan by reason of the reinstatement of the coverage of the person who is reemployed would also have coverage reinstated without the imposition of an exclusion or waiting period.

EMPLOYEE PENSION BENEFIT PLANS

Current law: Section 4321(b)(1)(A) provides that upon reemployment after military service, a person shall be restored without loss of seniority. In *Alabama Power Co.* v. *Davis*, 431 U.S. 581 (1977), the Supreme Court held that pension benefits were protected under the Act as "perquisites of seniority" because the real nature of the benefit is a reward for length of service.

House bill: Proposed new section 4316 would clarify the protection provided pension benefits under the Act. Section 4316(a)(1)(A) would define the pension plans entitled to protection under the Act as any plan which falls within the definition of an employee pension benefit plan described in section 3(2) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. s 1002(2), as well as any federal, state or local government plan.

This definition would include profit-sharing plans to the extent that such plans provide retirement benefits to participants.

Sections 4316(a)(2) (A) and (B) would make explicit the rights of reemployed servicemembers in their pension plans, such as no break in employment service would be considered to have occurred, no forfeiture of benefits already accrued would be allowed, and there would be no necessity to requalify for participation in the pension plan by reason of absence for military service.

Section 4316(b)(1)(A) would provide a pension plan with a claim against the employer for amounts that may be required to fund obligations arising under this section. In the case of a multiemployer plan, this provision would enable the plan to pursue its existing remedies under section 515 of the Employee Retirement Income Security Act, 29 U.S.C. 1145, for failure to make the required contributions, in the event that neither the plan nor the collective bargaining agreement pursuant to which the plan is maintained provides for any such funding obligations.

Section 4316(b)(1)(B) would provide that a returning veteran is entitled to have earnings and any employer contribution which is determined without reference to the number of, or compensation of, plan participants credited to such person's pension account to the same extent as they would have been credited had such person remained continuously employed instead of serving in the uniformed service. With regard to forfeitures, this section would permit, but not require, the allocation of forfeitures to such person's pension account.

Section 4316(b)(2) would provide that, if the plan is contributory (i.e., provides for employee contributions as well as employer contributions), the portion of such accrued benefit that is derivable from employee contributions would be required to be calculated only to the extent that the reemployed serviceperson makes the required employee contribution to the plan. No interest or penalty would be charged on the employee contribution, nor would the employee be credited with interest that would have been earned on such contribution. However, if a reemployed serviceperson has withdrawn his or her pension plan monies, in whole or in part, prior to entering military service, such person must be allowed to voluntarily repay the withdrawn amounts (together with the interest that would have been earned had the monies not been withdrawn) and receive the appropriate credit in the pension plan. The period of repayment would be subject to negotiation between the employer and employee.

Section 4316(b)(3) would provide that if there is a need to use imputed earnings of an employee to calculate pension benefits during a period when in fact there were no earnings because of the absence in military service, the employee's preservice rate of pay will be used or if no fixed rate was in effect, the average earnings of the 12 months immediately preceding military service shall be used.

Section 4316(c) would require that, where military service might result in additional pension liability, the administrator of a multiemployer pension plan be notified that a contributing employer has reemployed a veteran under chapter 43. Such a notification would provide the plan the opportunity to take whatever steps may be required to protect its interests. Unlike administrators of single-employer pension plans, administrators of multiemployer plans are generally not in a position to be aware of the fact that a contributing employer has reemployed a person who may have a pension claim arising from a period of military service.

Senate amendment: Proposed new section 4317 is similar to the House provisions with some changes (described below).

Section 4317(b)(1) would provide, in the case of a multiemployer pension plan, if the plan does not have a method of allocating liability for a returning servicemember, the last employer employing the person prior to military service shall be liable.

Section 4317(b)(2) would provide, with reference to the repayment of employee contributions, for the repayment period to be no shorter than the length of absence.

Section 4317(b)(4) would not allow earnings on contributions to a plan until the contributions are made and would not allow the reallocation of already allocated forfeitures to a returning servicemember's account.

Section 4317(d) would provide that no action need be taken which would cause the plan, participants, or the employer to suffer adverse tax or other consequences under the Internal Revenue Code.

Compromise Agreement: Section 4318 generally follows the House bill with several modifications.

The first modification is that, in a multiemployer context, section 4318(b)(1)(A) requires allocation of liability first to the plan in whatever manner the plan provides. If there is no provision made, the last employer of such person before military service would be responsible and, if there is no longer a functional last employer, the liability would revert to the plan.

The next modification is the section 4318(b)(2) now provides that repayment of employee contributions can be made over a period of three times the period of military service, not to exceed five years.

Under section 4318(b)(3), for purposes of computing an employer's liability or an employee's contributions to the extent that they are based on an employee's earning, the same "reasonable certainty" analysis as is applicable to pay rate cases would be applicable here.

It is the Committees' intent that earnings or losses on contributions made after return from military service not be credited until after the contributions are made and only prospectively and there is no requirement to reallocate already allocated forfeitures to a returning servicemember's account.

The Committees also intend that no pension rights accrue for a period of military service if the servicemember elects not to be reemployed, but the person's vested interest prior to entering military service would remain intact.

ASSISTANCE IN ASSERTING CLAIMS

Current law: Under section 4305, the Secretary of Labor, through the Office of Veterans' Reemployment Rights, is required (1) to render aid in the replacement in their former positions or reemployment of individuals who have satisfactorily completed a period of active duty in the Armed Forces or the Public Health Service and (2) to use existing Federal and State agencies engaged in similar or related activities and the assistance of volunteers.

House bill: Proposed new section 4321 is similar to current law, except that the Secretary would be authorized, rather than required, to use existing Federal and State agencies engaged in similar or related activities and the assistance of volunteers.

Proposed new section 4322 would specify (1) procedures for individuals to file reemployment complaints with the Secretary and (2) that the Secretary is authorized to conduct investigations and make efforts to obtain voluntary compliance from employers.

Senate amendment: Proposed new section 4321 is similar to the House provisions and in addition, would require that in cases in which the efforts of the Secretary to obtain voluntary compliance are unsuccessful, the Secretary must notify the individual who submitted the complaint of (1) the results of the investigation, and (2) the complainant's entitlement to request referral of the claim to the Office of the Special Counsel or the United States Attorney, depending on whether the employer is the Federal government or a State or private employer.

Compromise agreement: Section 4321 and 4322 contain the Senate provisions.

ENFORCEMENT

STATE OR PRIVATE EMPLOYER

Current law: Under section 4302, in the case of a private or State employer who fails or refuses to comply with the reemployment laws, (1) the district court of the United States for the district in which the employer maintains a place of business, exercises authority, or carries out its function, has the power, upon the filing or a motion, petition, or other appropriate pleading by the individual entitled to the benefits or the reemployment laws, to require the employer to comply with the reemployment law and to compensate the individual for any loss of wages or benefits suffered by reason of the employer's unlawful action; (2) the United States attorney or comparable official, if reasonably satisfied that an individual who applies for representation is entitled to the reemployment benefits, must appear and act as an attorney for the individual in the amicable adjustment of the claim or in the filing and prosecution of a complaint; (3) no fees or court costs may be taxed against an individual who applies for such benefits; (4) only the employer may be deemed a necessary party respondent; and (5) no State statute of limitations may apply to any proceedings.

House bill: Proposed new section 4322 is similar to current law except that it would provide that (1) if the Secretary of Labor, after investigation, is reasonably satisfied that a violation has occurred and efforts to obtain voluntary compliance are not successful, and if the claimant requests referral for litigation, the Secretary must refer the case to the Attorney General; (2) the Attorney General, if reasonably satisfied that the individual requesting representation is entitled to the rights or benefits sought, may appear and act as attorney for the claimant in the filing and prosecution of a complaint; (3) an individual may be represented before the District Court by a counsel of choice; (4) the court may award an individual who prevails a reasonable attorney's fee, expert witness fee, and other litigation expenses; (5) the court may use its full equity powers to vindicate rights under the Act; (6) a reemployment rights claim may only be initiated by an individual claiming such rights or benefits, not by an employer, prospective employer, or other entity with obligations under the reemployment law; (7) a State will be subject to the same remedies, including prejudgment interest, as may be imposed upon any private employer; and (8) if the District Court determines that the employer's failure to comply with the provisions of chapter 43 were willful, the court may require the State or private employer to pay, in addition to the compensation determined to be paid the person, an amount equal to that compensation as liquidated damages.

Senate amendment: Proposed new section 4322 is substantively identical to the House provision.

Compromise agreement: Section 4323 contains these provisions.

FEDERAL GOVERNMENT AS EMPLOYER

Current law: Section 4303(a) provides that the Director of the Office of Personnel Management is authorized and directed when the Director finds, upon appeal of the individual concerned, that any agency in the executive branch or the government of the District of Columbia has failed or refuses to comply with the provisions of the law relating to reemployment by the executive branch or the government of the District of Columbia, to issue an order requiring compliance and to compensate the individual for any loss of salary or wages suffered by reason of failure to comply, less any amounts received by the individual through other employment, unemployment compensation, or readjustment allowances.

House bill: Proposed new section 4322(e), which applies with respect to the Federal Government as employer, would provide that (1) if the Secretary, after investigation, is reasonably satisfied that a violation has occurred with respect to the Federal Government as employer and efforts to obtain voluntary compliance are not successful, and if the claimant requests that the claim be referred for litigation before the Merit Systems Protection Board (MSPB), the Secretary would be required to refer the case to the Office of the Special Counsel; (2) if the Special Counsel is reasonably satisfied that the individual requesting representation is entitled to the rights or benefits sought, the Special Counsel would be required to appear and act as an attorney for the claimant in filing and pursuing an appeal to the MSPB; (3) if the Special Counsel were to decline to represent an individual after receiving a referral from the Secretary or if an individual were to decide not to apply to the Secretary for assistance or to use the Special Counsel for representation, the individual may be represented before the MSPB by counsel of the individual's choice; (4) if the MSPB concludes that a Federal Government employer has failed or refused to comply with the reemployment laws or that the Director of OPM has not met his or her obligation under the reemployment law, it would require the employing agency or the Director to comply with the law and to compensate the individual for any loss of wages or benefits suffered by reason of the unlawful action; and (5) a claimant would be able to petition the United States Court of Appeals for the Federal Circuit to review a decision of the MSPB in which the claimant is denied the relief sought, but would not be represented by the Secretary or the Special Counsel before the Court of Appeals or the Supreme Court.

Senate bill: Proposed new section 4323 is substantively identical to the House provision but would provide that (1) the individual would be able to be represented before the MSPB by a representative of choice; (2) the MSPB would be able to award the individual reasonable attorney fees, expert witness fees, and other litigation expenses; and (3) an individual would be able to be represented by the Special Counsel in an action for a review of a decision issued by the MSPB, unless the individual was not represented by the Special Counsel before the MSPB regarding this decision.

Compromise agreement: Section 4324 contains the Senate provision.

FEDERAL INTELLIGENCE AGENCY AS EMPLOYER

Current law: No provision.

House bill: No provision.

Senate amendment: Proposed new section 4324 would provide that any individual employed prior to service in the uniformed services by a federal intelligence agency—those listed in section 2302(a)(2)(C)(ii) of Title 5 (the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, or any Executive agency or unit the function of which is determined by the President to be the conduct of foreign intelligence or counterintelligence activities)—would be able to submit a complaint regarding reemployment to the Inspector General of the agency in question, who would be required to investigate and resolve the claim pursuant to procedures prescribed by the head of the agency, which must be, to the maximum extent practicable, similar to the provisions relating to the investigation and resolution of a claim by the Secretary of Labor.

Compromise agreement: Section 4325 contains the Senate provision.

SUBPOENAS

Current law: No provision.

House bill: Subsections (b) and (c) of proposed new section 4323 would provide that the Secretary may (1) require by subpoena the attendance and testimony of witnesses and the production of documents relating to any matter under investigation and (2) in the case disobedience of a subpoena, may request that the Attorney General apply to a district court of jurisdiction for an order enforcing the subpoena. Subpoena authority would not apply in the case where the employer is the Federal Government.

Senate amendment: Subsections (b) and (c) of proposed new section 4325 are substantively identical to the House provisions, but would not apply the subpoena authority to the legislative and judicial branches of the United States.

Compromise agreement: Section 4326 contains the Senate provision.

REGULATIONS

Current law: Under section 4303(a), the Director of the Office of Personnel management (OPM) is authorized and directed to issue regulations relating to the reemployment in the executive branch or in the government of the District of Columbia.

House bill: Proposed new section 4331 would provide that (1) the Secretary of Labor, in consultation with the Secretary of Defense, would be authorized to prescribe regulations with regard to States, local governments, and private employers; (2) the Director of OPM, in consultation with the Secretaries of Labor and Defense, would be authorized to prescribe regulations with regard to the Federal Government as employer, and any such regulations would have to be consistent with regulations pertaining to States and private employers, except that employees of the Federal government may be given greater or additional rights; and (3) regulations may be prescribed by the Merit Systems Protection Board and by the Office of Special Counsel to carry out their responsibilities.

Senate amendment: Proposed new section 4331 is substantively identical to the House provision but (1) would not authorize the Director of OPM to prescribe regulations giving Federal employees greater rights than employees of States and private employers, and (2) would authorize intelligence community agencies to prescribe regulations.

Compromise agreement: Section 4331 contains the House provision, modified to authorize intelligence community agencies to prescribe regulations.

REPORTS

Current law: No provision.

House bill: Proposed new section 4332 would require the Secretary of Labor, after consultation with the Attorney General and Special Counsel, to provide Congress no later than February 1, 1995, and each February 1 annually thereafter, a report concerning actions taken under chapter 43 during the prior fiscal year, including (1) the number of cases reviewed by the Department of Labor; (2) the number of cases referred to the Attorney General or the Special Counsel; (3) the number of complaints filed by the Attorney General; (4) the nature and status of each case; (5) an indication of whether there are any apparent patterns of violation of the provisions of this chapter; and (6) recommendations for administrative or legislative action that the Secretary, Attorney General, or the Special Counsel considers necessary for the effective implementation of this chapter.

Senate amendment: Section 2(c) would require the Secretary of Labor, the Attorney General, and the Special Counsel to submit a report to Congress, not later than one year after the date of enactment, relating to the implementation of chapter 43.

Compromise agreement: Section 4332 contains the House provision, modified to provide that Congress be provided with an annual report on February 1 of each year for five years, beginning with 1996.

OUTREACH

Current law: No provision.

House bill: No provision.

Senate amendment: Proposed new section 4332 would require that the Secretaries of Labor, Defense, and Veterans Affairs to take appropriate actions to inform individuals entitled to reemployment rights and benefits and employers of the reemployment rights, benefits, and obligations.

Compromise agreement: Section 4333 contains the Senate provision.

EXEMPTION FROM MINIMUM SERVICE REQUIREMENTS

Current law: Section 5303A(b)(1) of title 38 generally provides that an individual who is discharged or released from active duty before completing the shorter of 24 months of continuous active duty or the full period for which called or ordered to active duty is not eligible by reason of that period of active duty for any benefit under title 38 or any other law administered by the VA.

House bill: Section 3 would exclude reemployment benefits under chapter 43 of title 38 from the minimum service requirements.

Senate amendment: Section 3 is identical to the House provision.

Compromise agreement: Section 3 contains this provision.

THRIFT SAVINGS PLAN

Current law: Under current law, Federal and Postal employees who return from active military service have certain reemployment and restoration rights, including the rights to obtain retirement credit under the Civil Service Retirement System (CSRS) or under the basic annuity provisions of the Federal Employees' Retirement System (FERS) for the period of military service. However, Federal and Postal employees who separate from service or who enter leave-without-pay status to perform military service cease to be eligible to make contributions to the Thrift Savings Plan (TSP) or to have their employing agencies contribute to their accounts during their period of military service. The TSP is a deferred compensation arrangement similar to private sector 401(k) plans. The structure of the TSP is based on the premise that contributions by employees must be deferred from current civilian pay in order for an employee to enjoy the tax benefits of deferred income, which are an integral part of the TSP.

House bill: Section 4 would amend title 5, United States Code, principally by adding a proposed new section 8432b, so as to allow Federal and Postal employees who separate or enter leave-without-pay status to perform military service to make up contributions to the Thrift Savings Plan (TSP) missed because of military service. The maximum amount an employee would be allowed to contribute would be equal to the amount an employee would have been eligible to contribute, subject to the applicable statutory maximums, reduced by any contributions actually made during the period of military service (since these employees may use military or annual leave to cover periods of military service and since employees on military and annual leave continue to receive civilian basic pay, contributions continue to be made to the Thrift Savings Fund for such periods.)

For purposes of any computation under this section, an employee would be, with respect to the period of military service, considered to have been paid at the rate which the employing agency determines would have been payable over such period had such employee remained continuously employed in the position which such employee last held before separating or entering leave-without-pay status to perform military service.

An employing agency would be required to give an employee up to two times, and may give an employee up to four times, the length of his or her military service to make up TSP contributions, although an employee may choose to make up contributions sooner. Make-up contributions would have to be made at the same time, in the same manner, and in addition to, contributions the employee is otherwise eligible to make.

If an employee is entitled to agency matching contributions based on make-up contributions, the agency would be required to make such contributions in the same manner as regular matching contributions. Agency matching contributions attributable to employee make-up contributions would be in addition to any matching contributions to which the employee is already entitled.

Upon reemployment or restoration, the employing agency would be required to pay lost earnings on contributions made by the employee as well as any agency automatic contributions to which the employee would have been entitled during the make-up period.

The period of military service would be counted towards service required for vesting in TSP agency automatic contributions, and any separation to perform military service would not cause forfeiture of such contributions if the employee is subsequently reemployed or restored pursuant to chapter 43 of title 38. Persons who received involuntary TSP payments as a result of their separation to perform military service would have the right to restore those payments to the plan.

Employees who have been restored or reemployed before the date of enactment of this Act would be entitled to make up contributions for the period beginning with their absence from civilian service and continuing through either the date of enactment or the first TSP open season from which the employee is eligible, whichever occurs first.

An employee would be allowed to elect, for purposes of transferring TSP account balances to eligible retirement plans or establishing nonforfeitability of account balances of less than $3,500, to have the employee's separation treated as if it had never occurred. An election for these purposes would have to be made within such period of time after restoration or reemployment, as the case may be, and otherwise in such manner as the Executive Director of the Federal Retirement Thrift Investment Board prescribes.

Senate amendment: Section 6 is substantively identical to the House provisions but does not include requiring the employing agency to pay lost earnings on retroactive contributions.

Compromise agreement: Section 4 follows the House bill with a modification giving the employing agency the discretion to pay lost earnings on retroactive contributions.

REVISION OF FEDERAL CIVIL SERVICE RETIREMENT BENEFIT PROGRAM FOR RESERVISTS

Current law: Some Federal workers—those enrolled in Federal Employees' Retirement System (FERS)—who interrupt their civilian employment to serve on active duty in the military may be required to pay more to receive Federal civilian retirement credit for that service than they would have had to pay had they not gone on active duty.

In order to receive Federal civilian retirement credit for military service, Federal employees who are enrolled in FERS are required to pay 3 percent of their military pay. However, these employees pay only 0.8 percent of the civilian wages to receive retirement credit for their civilian Federal employment. As a result, when 3 percent of such an individual's military pay exceeds 0.8 percent of that individual's civilian pay, the individual would pay a larger dollar amount to receive retirement credit for military time than the individual would have paid had he or she remained in the civilian job.

House bill: No Provision.

Senate amendment: Section 5 would amend sections 8334(j)(1) and 8422(e)(1) of title 5, United States Code, to provide that in the case of individuals enrolled in FERS (or in the Civil Service Retirement System, which does not have this anomaly) who have their Federal civilian service interrupted by military service and who are reemployed under chapter 43 of title 38 on or after August 1, 1990, the deposit into their retirement benefit program may not exceed the amount that would have been deducted and withheld from basic pay during civilian service if the employee had remained in continuous civilian service.

Section 5 also would amend sections 8331(13) and 8401(31) of title 5, to expend the definition of "military service" for both CSRS and FERS, respecively, by adding to the meaning full-time National Guard duty (as that term is defined in section 101(d) of title 10) if that service interrupts creditable civilian service and is followed by reemployment in accordance with chapter 43 of title 38 that occurs on or after August 1, 1990.

Compromise agreement: Section 5 includes this provision.

INCREASE IN AMOUNT OF LOAN GUARANTY FOR THE PURCHASE OR CONSTRUCTION OF HOMES

Current law: Section 3703(a)(1) of title 38 sets the maximum amount of a VA loan guaranty for loans for the purchase or construction of homes at $46,000, an amount that would support a no-downpayment, VA-guaranteed home loan of $184,000.

House bill: No provision in H.R. 995. Section 1 of H.R. 949, as passed by the House on September 21, 1993, would amend section 3703(a)(1) to increase the maximum loan guaranty to $50,750 and thus increase the maximum loan guaranty to $50,750 and thus increase the no-downpayment VA-guaranteed home loans to $203,000.

Senate amendment: Section 10 is substantively identical to section 1 of H.R. 949.

Compromise agreement: Section 7 includes this provision.

TRANSITION RULES AND EFFECTIVE DATES

Current law: No provision.

House bill: Section 6 of H.R. 995 would provide that (1) except as provided elsewhere, the amendments made by this Act would be effective with respect to reemployment initiated on or after the first day after the 60-day period beginning on the date of enactment, (2) the reemployment provisions contained in chapter 43 in effect on the day before the date of enactment would continue to apply to reemployment initiated before the end of the 60-day period; (3) for the purposes of the five-year service limitation, military service performed prior to the date of enactment would be considered only to the extent that period of military service would have counted toward the service limitations under current law; (4) the anti-discrimination provisions that are added by amendments to this Act would be effective on the date of enactment; (5) the insurance provision would be effective on the date of enactment, except that an individual on active duty on the date of enactment would be able to elect to reinstate or continue insurance coverage for the remaining portion of the 18 months that began on the date of separation from civilian employment; and (6) the disability provisions would be effective with respect to reemployment initiated on or after August 1, 1990.

The provisions of section 4311(a) defining the actions protected from discrimination or reprisal and the standard and burden of proof set forth in section 4311(b) are not additions to the Act but are a codification of existing law.

Senate amendment: Section 9 is substantively identical to the House provision with the additional provision that the provisions of proposed section 4325 regarding investigations and subpoenas would become effective on the date of enactment and apply to any matter pending with the Secretary of Labor.

Compromise agreement: Section 8 contains the Senate provision. It also contains a provision that the notice of intent not to return found in section 4316(b)(2) applies only to furlough or leave of absence rights and benefits under that section and does not apply to or waive any other right or benefit under the Act.

The compromise also provides that nothing in this Act would relieve an employer or an obligation to provide contributions to a pension plan (or provide pension benefits) which is required by the provisions of the existing chapter 43 of title 38, United States Code, in effect on the day before this Act takes effect. Any plan which is not in compliance with the requirements of the law would have two years from the date of enactment to come into compliance with the law.

Mr. BOREN. I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

AUTHORIZATION OF THE TAKING OF A PHOTOGRAPH OF THE SENATE CHAMBER

Mr. BOREN. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 272, a resolution authorizing the taking of a photograph in the Senate Chamber, introduced earlier today by Senators MITCHELL and DOLE; that the resolution be agreed to; that the motion to reconsider be laid on the table, and any statements thereon appear in the RECORD at the appropriate place as though read on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution was agreed to, as follows:

S. RES. 272

Resolved, That paragraph 1 of Rule IV of the Rules for the Regulation of the Senate

Wing of the United States Capitol (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting an official photograph to be taken of the United States Senate in actual session on a date and time to be announced by the Majority Leader after consultation with the Republican Leader.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements therefor, which arrangements shall provide for a minimum of disruption to Senate proceedings.

ORDERS FOR THURSDAY, SEPTEMBER 29, 1994

Mr. BOREN. Madam President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 o'clock a.m., Thursday, September 29; that the following the prayer the Journal of proceedings be deemed approved to date, the time for the two leaders reserved for their use later in the day; that immediately thereafter the senate proceed to the consideration of the conference report accompanying H.R. 4556, the Department of Transportation appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 10 A.M.

Mr. BOREN. Madam President, if there is no further business to come before the Senate today—and I see no other Senator seeking recognition—I now ask unanimous consent that the Senate stand in recess, as previously ordered.

There being no objection, the Senate, at 7:59 p.m., recessed until Thursday, September 29, 1994, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 28, 1994:

DEPARTMENT OF STATE

PHILIP C. WILCOX, JR., OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS COORDINATOR FOR COUNTER TERRORISM.

U.S. SENTENCING COMMISSION

RICHARD P. CONABOY, OF PENNSYLVANIA, TO BE A MEMBER OF THE U.S. SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 1999, VICE WILLIAM W. WILKINS, JR., TERM EXPIRED.

RICHARD P. CONABOY, OF PENNSYLVANIA, TO BE CHAIRMAN OF THE U.S. SENTENCING COMMISSION, VICE WILLIAM W. WILKINS, JR.

DEANELL REECE TACHA, OF KANSAS, TO BE A MEMBER OF THE U.S. SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 1997, VICE GEORGE E. MACKINNON, TERM EXPIRED.

WAYNE ANTHONY BUDD, OF MASSACHUSETTS, TO BE A MEMBER OF THE U.S. SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 1999, VICE ILENE H. NAGEL, RESIGNED.

MICHAEL GOLDSMITH, OF UTAH, TO BE A MEMBER OF THE U.S. SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 1997, VICE HELEN G. CORROTHERS, TERM EXPIRED.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. OTTO J. GUENTHER [redacted]

CONFIRMATIONS

Executive nominations confirmed by the Senate September 28, 1994:

DEPARTMENT OF THE TREASURY

FRANK N. NEWMAN, OF CALIFORNIA, TO BE DEPUTY SECRETARY OF THE TREASURY.

EDWARD S. KNIGHT, OF TEXAS, TO BE GENERAL COUNSEL FOR THE DEPARTMENT OF THE TREASURY.

DEPARTMENT OF STATE

KENNETH SPENCER YALOWITZ, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BE REPUBLIC OF BELARUS.

ALFRED H. MOSES, OF VIRGINIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ROMANIA.

CHARLES E. REDMAN, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERAL REPUBLIC OF GERMANY.

MARC GROSSMAN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TURKEY.

IVAN SELIN, OF THE DISTRICT OF COLUMBIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE THIRTY-EIGHTH SESSION OF THE GENERAL CONFERENCE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY.

NELSON F. SIEVERING, JR., OF MARYLAND, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE THIRTY-EIGHTH SESSION OF THE GENERAL CONFERENCE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY.

JOHN B. RITCH III, OF THE DISTRICT OF COLUMBIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE THIRTY-EIGHTH SESSION OF THE GENERAL CONFERENCE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY.

DEPARTMENT OF VETERANS AFFAIRS

KENNETH W. KIZER, OF CALIFORNIA, TO BE UNDER SECRETARY FOR HEALTH OF THE DEPARTMENT OF VETERANS AFFAIRS FOR A TERM OF 4 YEARS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

WILLIAM C. BRYSON, OF MARYLAND, TO BE U.S. CIRCUIT JUDGE FOR THE FEDERAL CIRCUIT.

SARAH S. VANCE, OF LOUISIANA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA.

SALVADOR E. CASELLAS, OF PUERTO RICO, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF PUERTO RICO.

DANIEL R. DOMINGUEZ, OF PUERTO RICO, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF PUERTO RICO.

STANWOOD R. DUVAL, JR., OF LOUISIANA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA.

FREDERIC BLOCK, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK.

JOHN GLEESON, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK.

ALLYNE R. ROSS, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK.

SHIRA A. SCHEINDLIN, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK.

ROBERT N. CHATIGNY, OF CONNECTICUT, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF CONNECTICUT.

DEPARTMENT OF JUSTICE

JOHN MICHAEL BRADFORD, OF TEXAS, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF TEXAS FOR THE TERM OF 4 YEARS.

RONALD JOSEPH BOUDREAUX, OF LOUISIANA, TO BE U.S. MARSHAL FOR THE MIDDLE DISTRICT OF LOUISIANA FOR THE TERM OF 4 YEARS.

NORRIS BATISTE, JR., OF TEXAS, TO BE U.S. MARSHAL FOR THE EASTERN DISTRICT OF TEXAS FOR THE TERM OF 4 YEARS.

JOHN DAVID CREWS, JR., OF MISSISSIPPI, TO BE U.S. MARSHAL FOR THE NORTHERN DISTRICT OF MISSISSIPPI FOR THE TERM OF 4 YEARS.

WALTER D. SOKOLOWSKI, OF PENNSYLVANIA, TO BE U.S. MARSHAL FOR THE MIDDLE DISTRICT OF PENNSYLVANIA FOR THE TERM OF 4 YEARS.

EDWARD JOSEPH KELLY, JR., OF NEW YORK, TO BE U.S. MARSHAL FOR THE NORTHERN DISTRICT OF NEW YORK FOR THE TERM OF 4 YEARS.

DELISSA A. RIDGWAY, OF THE DISTRICT OF COLUMBIA, TO BE CHAIRMAN OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR A TERM EXPIRING SEPTEMBER 30, 1997.

JOHN R. LACEY, OF CONNECTICUT, TO BE A MEMBER OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR THE TERM EXPIRING SEPTEMBER 30, 1995.

MICHAEL JOHNSTON GAINES, OF ARKANSAS, TO BE A COMMISSIONER OF THE U.S. PAROLE COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING NOVEMBER 1, 1997.

AILEEN CATHERINE ADAMS, OF CALIFORNIA, TO BE DIRECTOR OF THE OFFICE FOR VICTIMS OF CRIME.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

THOMASINA V. ROGERS, OF MARYLAND, TO BE CHAIRMAN OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES FOR THE TERM OF 5 YEARS.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. RICHARD M. SCOFIELD [redacted]

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE U.S. AIR FORCE TO THE GRADE OF MAJOR GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 624:

REGULAR AIR FORCE

To be major general

BRIG. GEN. JERROLD P. ALLEN [redacted]
BRIG. GEN. ALLEN D. BUNGER, [redacted]
BRIG. GEN. STEWART E. CRANSTON [redacted]
BRIG. GEN. ROBERT S. DICKMAN [redacted]
BRIG. GEN. WILLIAM J. DONAHUE [redacted]
BRIG. GEN. ROBERT W. DREWES [redacted]
BRIG. GEN. PATRICK K. GAMBLE [redacted]
BRIG. GEN. FRANCIS C. GIDEON, JR. [redacted]
BRIG. GEN. EDWARD F. GRILLO, JR. [redacted]
BRIG. GEN. JOHN W. HANDY [redacted]
BRIG. GEN. CHARLES R. HEFLEBOWER [redacted]
BRIG. GEN. HENRY M. HOBGOOD, [redacted]
BRIG. GEN. HAL M. HORNBURG, [redacted]
BRIG. GEN. NORMAND G. LEZY [redacted]
BRIG. GEN. DONALD E. LORANGER, JR. [redacted]
BRIG. GEN. JOHN M. MCBROOM, [redacted]
BRIG. GEN. GEORGE K. MUELLNER [redacted]
BRIG. GEN. ROBERT F. RAGGIO [redacted]
BRIG. GEN. JOHN B. SAMS, JR. [redacted]
BRIG. GEN. MICHAEL C. SHORT, [redacted]
BRIG. GEN. RONDAL H. SMITH [redacted]

IN THE ARMY

THE U.S. ARMY NATIONAL GUARD OFFICERS NAMED HEREIN FOR APPOINTMENT IN THE RESERVE OF THE ARMY OF THE UNITED STATES IN THE GRADES INDICATED BELOW, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3371, AND 3384:

To be major general

BRIG. GEN. WILLIAM E. MURPHY [redacted]

To be brigadier general

COL. DARREL P. BAKER [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY OF THE UNITED STATES IN THE GRADE INDICATED BELOW, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593, 3385, AND 3392:

To be brigadier general

FEDERICO LOPEZ, III [redacted]
WAYNE D. MARTY, [redacted]

ARMY NOMINATIONS BEGINNING GEORGE D. BAXTER, AND ENDING MICHAEL H. TAYLOR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 5, 1993.

ARMY NOMINATIONS BEGINNING GEORGE R. ALLEN, AND ENDING THOMAS E. WOLFORD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 8, 1994.

ARMY NOMINATIONS BEGINNING RICHARD W. ATTWOOD, AND ENDING RUTH A. WILCOX, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 27, 1994.

IN THE COAST GUARD

COAST GUARD NOMINATIONS BEGINNING ROBERT W. VAIL, AND ENDING PHILIP M. SANDERS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON AUGUST 9, 1994.

COAST GUARD NOMINATIONS BEGINNING GORDON G. PICHE, AND ENDING ERNEST R. RIUTTA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON AUGUST 22, 1994.

COAST GUARD NOMINATIONS BEGINNING WILLIAM C. PARADISE, AND ENDING RONALD W. BRANCH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 12, 1994.

COAST GUARD NOMINATIONS BEGINNING THOMAS J. HAAS, AND ENDING ROBERT C. AYER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 12, 1994.

IN THE NAVY

NAVY NOMINATIONS BEGINNING THOR DAVIS AAKRE, AND ENDING ALLAN KAY ZWEIFEL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 19, 1994.

HOUSE OF REPRESENTATIVES—*Wednesday, September 28, 1994*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. MONTGOMERY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 28, 1994.

I hereby designate the Honorable G.V. (SONNY) MONTGOMERY to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Our hearts reach out to every person who suffers from the violence in our communities and in our world, to those who are refugees and have no home and to children that are abandoned, to those who have no work and whose lives seem meaningless, to those who are hungry and do not have the necessities of daily life. O gracious God, from whom comes every good gift, bless all those who look for hope in their lives and who seek purpose and security and peace. May Your good spirit, that lifts up every person, and allows us to see this new day with renewed faith and confidence, be with us and remain with us now and all our days. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Michigan [Mr. KNOLLENBERG] come forward and lead the House in the Pledge of Allegiance.

Mr. KNOLLENBERG led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 3839. An act to designate the United States Post Office building located at 220 South 40th Avenue in Hattiesburg, Mississippi, as the "Roy M. Wheat Post Office";

H.R. 4177. An act to designate the United States Post Office building located at 1601 Highway 35 in Middletown, New Jersey, as the "Candace White Post Office";

H.R. 4191. An act to designate the United States Post Office building located at 9630 Estate Thomas in Saint Thomas, Virgin Islands, as the "Aubrey C. Ottley Post Office"; and

H.R. 4230. An act to amend the American Indian Religious Freedom Act to provide for the traditional use of peyote by Indians for religious purposes, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4554) "An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1995, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 11, 15, 25, 26, 32, 33, 34, 37, 41, 42, 57, 70, 75, 76, 84, 89, 91, 94, 98, 100, and 102, to the above-entitled bill.

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 5, 14, 19, 20, 30, 51, 56, 58, 60, 64, 71, 72, 98, 100, 111, 117, and 123, to the bill (H.R. 4624) "An Act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the above-entitled bill.

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 28 and 84, to the above-entitled bill.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 922. An act to provide that a State court may not modify an order of another State court requiring the payment of child support unless the recipient of child support payments resides in the State in which the modification is sought or consents to the seeking of the modification in that court;

S. 2468. An act to permit the Secretary of Agriculture to make available certain amounts for FmHA farm ownership, operating, or emergency loans, and for other purposes; and

S. Con. Res. 74. Concurrent resolution concerning the ban on the use of United States passports in Lebanon.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 716) "An Act to require that all Federal lithographic printing be performed using ink made from vegetable oil and materials derived from other renewable resources, and for other purposes."

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 2060) "An Act to amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BUMPERS, Mr. NUNN, and Mr. PRESSLER to be the conferees on the part of the Senate.

The message also announced that pursuant to Public Law 103–296, the Chair, on behalf of the Republican leader and in consultation with the ranking minority member of the Finance Committee, appoints Carolyn L. Weaver, of Virginia, for a 3-year term to the Social Security Advisory Board.

JOBS BILL

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, today, I, along with the majority leader, the gentleman from Missouri [Mr. GEPHARDT], will introduce the National Infrastructure Development Act of 1994. This legislation will achieve two important goals: It will create more than 250,000 new jobs nationwide, and it will strengthen this country's crumbling infrastructure by providing resources to build new roads, bridges, water treatment facilities, and the like.

Due to Federal, State, and local budget constraints, there is a growing gap between infrastructure needs and the resources to fund them. Increasingly, we have looked to public-private partnerships to fill that gap. The legislation I introduce today will put a permanent mechanism in place to help us

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

maximize our opportunities to create jobs in infrastructure development.

Too many of our workers are being left behind. At a time when the Government is struggling to meet its obligations, we need to look for innovative ways to create jobs. The Infrastructure Development Act taps new markets and resources to spur long-term job growth.

Over the coming weeks and months, my colleagues in the House will have the opportunity to review this legislation. I expect this will be a piece of legislation that will find support on both sides of the aisle. Whether Democrat or a Republican, we all know that job creation is the key to a strong economy.

A CONTRACT IS A PROMISE

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, starting this past Thursday, the Democratic leadership has begun a carefully orchestrated campaign of misinformation on the Republican contract with America.

Why you might ask? Well, they are scared.

What we propose is a simple straightforward, 100-day legislative agenda that offers hard-working American taxpayers a real choice, a real chance, and some real hope.

And rather than get into the legislative specifics of the contract, let me just say that under our guarantee, we promise to limit Federal bureaucracy, make Government accountable, promote economic opportunities and individual responsibility, and maintain security at home and abroad.

A growing number of Americans are discarding the failed ideas of big government, and it is up to Congress to recognize this movement.

We've made our promise. Now isn't it about time that our friends on the other side of the aisle make their own stand? They need to realize that the public does not want rhetoric; they want accountability. Yesterday, we showed we're accountable, and we started delivering.

TRIBUTE TO THE MATHENEY FAMILY

(Mr. DICKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKEY. Mr. Speaker, I come today to share with this body and the Nation a truly remarkable family in the Fourth Congressional District of Arkansas. Roy Eason Matheney, Sr., his wife, Verlene, and their seven children are all striking examples of the spiritual, moral, and hard-working fiber on which our Nation was founded.

Roy Eason Matheney, Sr., has been a spiritual leader for nearly four decades. He has met the needs of thousands of people throughout his life long work as a pastor-evangelist. This Sunday, October 2, he and his wife will be honored for their years of service to the south Arkansas community.

Following in their footsteps are their seven children Roy, Jr., Robert, Ronald, Rickey, Ralph, Rodney, and Roslyn Matheney-Williams—two medical doctors, two educators, one pastor, and two associate pastors who are all college educated. The Matheney children are beacons of hope for today's youth.

Because of his accomplishments, Roy Eason Matheney, Sr., was inaugurated on May 7, 1994, into the Office of Bishop of the Third Ecclesiastical Jurisdiction of Arkansas in the Churches of God in Christ, by that organizations' national bishop, Bishop L.H. Ford. It's a position that oversees over 60 churches in south Arkansas.

It is with great pleasure that I take this time to honor this great American family. Pastor and Mrs. Matheney will celebrate their 33d wedding anniversary at the Davis Memorial Church of God in Christ in Crossett, AR, this Sunday, October 2, 1994. The Matheney name and their deeds will be long remembered by the people of the Fourth Congressional District.

TAKE THE TIME TO READ THE BILL

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, in a rare victory yesterday, those of us seeking to uphold the Standing Rules of the House won an important point. It may sound like a small thing, but by preserving the traditional 3-day layover requirement for bills coming to the floor, we won Members an extra day to read S. 349, the lobby reform bill. This is an important subject, long overdue and responsive to the call of the American people for stronger and clearer disclosure, gift, and travel rules. But this bill is as confusing as it is important, and even the most well-meaning, unsuspecting Members could find themselves in a minefield if they do not understand the nuances. The Ethics Committee will develop guidelines to help Members adhere to the new policies, but I urge Members not to be complacent. Take advantage of that extra time, and read the bill. As is the case for the average American, ignorance of the rules will not be an acceptable excuse, and boy is this lobby bill full of new rules.

HEALTH CARE REFORM

(Mr. LAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAZIO. Mr. Speaker, according to Senator MITCHELL and the House Democrat leadership, the 103d Congress will not pursue even a modest health care reform proposal any further before adjournment.

My constituents tell me that they want health care reform. They, as I, recognize that we have the best health care in the world, but the system is far from perfect and can certainly be fixed. They also tell me that they want reform done right and not to do more harm than good in the name of political expediency.

Reforming our Nation's health care system is arguably the most complicated issue that Congress will ever address. For a wide variety of reasons, moving a comprehensive reform package through the legislative process has proven politically infeasible.

However, a number of reforms have been identified during the debate that many of us on both sides of the aisle do, in fact, agree on. To me, it makes sense that we constructively use the time left before adjournment to focus on that common ground. We must brush aside partisan bickering and work together on the elements of health care reform where we agree. A stalemate simply does not serve the American people well.

□ 1010

ENCOURAGING MEMBERS TO LOOK AT THE LOBBYING DISCLOSURE ACT CAREFULLY

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I just want to caution my colleagues on both sides of the aisle to look very, very carefully at the lobbying bill which is coming up. Our initial analysis indicates that those who lobby on behalf of religious organizations on issues such as abortion or pornography would have to file for grass roots activities. The small businesses which might want to come and talk to a Member of Congress could potentially be required to register officially, that efforts to communicate precisely the way the health bill was defeated would, in fact, become much more difficult and much more dangerous, and that a brand new President, with all of the police powers of the Government, might well be able to coerce freedom of speech, not in dealing with the Congress but in grass roots, lobbying, talking to grass roots voters.

I urge all of my colleagues, look very carefully at what is a hidden effort here to cut off free speech and to cut off citizens being informed and citizens being active and religious groups being active.

This is potentially a very antireligious activist, antismall business, antigrass roots voters bill.

THE LOBBYING DISCLOSURE ACT

(Mr. OLVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OLVER. Mr. Speaker, it just makes sense, in spite of what the previous speaker said.

It bans most gifts from lobbyists.

It makes lobbying activities public.

It is the lobbying reform and gift ban bill.

And it is a small step toward reforming our political system.

The public debate should be won not with a fancy dinner or a golf trip—but with facts.

That is a step forward.

We can go further.

We can still fight expensive campaigns by limiting PAC contributions.

We can still clean up the system so people can have confidence in those they put in office.

But this week, we start with a single, simple step.

Pass lobbying reform and the gift ban.

It is the right thing to do.

WHAT ARE DEMOCRAT CHICKEN LITTLES SO AFRAID OF?

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. speaker, Democrats are running around like a flock of Chicken Littles, all frantically clucking "the sky is falling, the sky is falling."

Why? Because of Republicans' contract with America. So much commotion begs the question: What are the Democrats so afraid of?

Are the Democrats afraid of the fiscal responsibility this contract would require? Are they afraid that we will take back our Nation's streets?

Are they afraid of our proposals to increase personal responsibility or to reinforce America's families? Are they afraid of job creation, of legal reforms, and allowing seniors to work without penalty?

Are the Democrats afraid of these reforms that America wants or are they just afraid that reform—real reform, real change, and right now—will cost them their ability to dictate to this Congress and this country what will be debated?

Republicans' contract with America does not signal that the sky is falling, as the Democrat Chicken Littles claim. Republicans' contract with America signals that the clouds are parting.

REPUBLICAN CONTRACT WITH AMERICA IS NO JOKE

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEPHARDT. Mr. Speaker, yesterday, Republican House candidates signed their contract with the Republican leadership—a list of the bills they would introduce if they gained control of the House.

It would be easy for us to view this contract as a mere partisan ploy—a jumble of time-worn, discredited proposals that simply do not add up. Indeed, today's U.S.A. Today describes it as a "con," "fiscal games," and "the same old fraud."

But before we dismiss this contract as an election year joke, we would be wise to remember that the last time Republicans banded together to present the same agenda, the joke was on us.

Back in 1980, when the Republicans cried for large tax cuts for the wealthy, massive increases in defense spending, and a balanced Federal budget, few of us took it very seriously. In the absence of real dissent, America was treated to a 12-year Reaganomic roller-coaster ride—tax giveaways for the rich, runaway deficits, and rampant economic decline.

That is why we have to take this effort to resuscitate Reaganomics very, very seriously. This contract would blow a hole in the Federal budget of roughly a trillion dollars.

Their commitment to balance the Federal budget would require $743 billion in budget cuts over 5 years. On its own, this would force deep cuts in Medicare or Social Security or both—since these programs represent about 40 percent of all available savings.

Tack on a $70 billion defense increase, and $200 billion in tax cuts for the wealthy, and the result is a trickle-down time warp that could bury us in debt for much of the next century.

The fact that the GOP is touting these failed policies as fresh, new ideas may seem laughable—but if we do not expose their deception, we will laugh this country into fiscal oblivion.

In the words of today's U.S.A. Today, "Like 1980's free lunch, this one promises a huge bellyache later."

103D CONGRESS COULD DO MORE

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, I think the gentleman from Missouri [Mr. GEPHARDT], the majority leader, ought to focus a little less on what the Republicans want to do in the next session of Congress and focus a lot more on what is not being done in this Congress. I do not care whether one is a Democrat or Republican, liberal or conservative, I think one of the great reasons the public is disgusted with this institution is because we cannot even agree on and implement those basic elements of health care reform essential to every American.

There is not a person in this institution who does not agree that we ought to eliminate the preexisting condition barrier to insurance coverage. There is not a person in this institution who does not believe we ought to give 100 percent deductibility to farmers and self-employed and individuals who purchase their own insurance.

Yet, for partisan posturing and other reasons, we see an all-or-nothing mentality. And while we argue, the people are suffering.

I have numerous farm families in my district paying $600 to $800 a month for health insurance and, because of a preexisting condition, they cannot switch policies. And because we do not give them 100 percent deductibility, they had held out hope this year that we would change things so that they could do something different next year.

Now it looks like the Congress is going to disregard these, our constituents, with whom we were elected to serve.

CONFERENCE REPORT ON H.R. 4556, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1995

Mr. GORDON. Mr. Speaker, by direction of the Committee on rules, I call up House Resolution 553 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 553

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 4556) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1995, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, during consideration of this resolution, all time yielded is for the purpose of debate only. At this time I yield the customary 30 minutes for the purpose of debate only to the gentleman from Florida [Mr. GOSS], pending that I yield myself such time as I may consume.

Mr. GORDON. Mr. Speaker, House Resolution 553 provides for the consideration of the conference report on the Department of Transportation and related agencies appropriations bill for fiscal year 1995.

The rule waives all points of order against and conference report and against its consideration.

I would like to commend Chairman BOB CARR and ranking Republican FRANK WOLF for bringing this comprehensive conference report to the floor today.

The long hours, hard work and dedication have produced a good bill which maintains our current transportation infrastructure and provides funding for innovative technologies which will make our Nation's transportation system safer, more efficient and economical.

This year, Chairman CARR and the conferees had to achieve these goals with a much tighter budget. The conference report is $10 million below the 602(b) allocation.

I want to commend Chairman CARR for his many achievements as chairman of the subcommittee. Under his leadership, the Transportation Appropriations Subcommittee developed detailed investment criteria which every member submitting a funding request must complete. I hope the criteria continues to be utilized in the years to come.

I want to thank Chairman CARR for his friendship and advice. I also want to thank FRANK WOLF and the subcommittee staff for all of their hard work and for a job well done.

I urge my colleagues to adopt the resolution.

□ 1020

Mr. GOSS. Mr. Speaker, I reserve the balance of my time.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the 1995 transportation appropriations bill has evolved through a process of give-and-take that saw some rearranging of priorities and, I think, resulted in a better and fairer product for the American people. The conference report that came to the Rules Committee last evening represents the result of months of hard work and negotiating on both sides of the aisle and both sides of the Capitol. The rule before us waives all points of order—a blanket waiver—blank check, if you will—that affords this conference report complete protection from violations of the rules of the House. While I recognize that bills of this magnitude are often so complex that it is difficult to determine if every "I" is dotted and every "T" is crossed—I believe that chairmen who bring these bills forward should know which House rules their bills have violated and which waivers they need. I have been given by staff a partial list of the rules violations in this bill—including germaneness, scope and legislating in an appropriations bill—and for that I am grateful. I think that providing such specific information allays Members' concerns about hidden surprises that might be tucked into these massive bills—and it certainly comes closer to living within the rules we have set for ourselves in this House. I hope that these specific waiver requests, as opposed to blanket waivers, will become more the norm than the exception. In addition, Members should note that the blanket waiver in this rule sets aside the requirement that conference reports be available for 3 days prior to floor consideration—another provision of House rules designed to protect Members against unpleasant surprises. As the Washington Post noted this week in an editorial, such waivers can cause real problems. They said, "Members are sometimes forced to vote on bills they haven't read and into which provisions have been inserted that might not be able to stand the light of day; the crime bill was a recent example."

Now, I am not implying that this bill has such a problem—but generally I think it is best if we make sure we give Members enough time to be sure on their on their own. Still, I do recognize that October first—end of the fiscal year— is fast approaching, and so I will not object to this waiver on this bill.

Mr. Speaker, as a Floridian, I must admit that I am still concerned about the formulas used for allocating Federal highway dollars—formulas that continue to leave high-growth States with the short end of the money. As a strong advocate for the Coast Guard, I note that, while this bill offers an increase for Coast Guard funding from last year's bill, it still falls short of their request. I know my colleagues don't need to be reminded of the important duties the Coast Guard traditionally performs—duties that have been forced to a lower priority in recent months as the Coast Guard has become a major player in the Clinton administrations war like Haitian policy. To conclude Mr. Speaker, I wish offering blanket waivers were not such a reflex action in the Rules Committee, and I hope that during next year's appropriations process we will see fewer such requests.

Mr. Speaker, I reserve the balance of my time.

Mr. GORDON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in conclusion, I would like to say briefly that this is the last appropriations bill that the chairman of the committee, the gentleman from Michigan [Mr. CARR], will be presenting to the U.S. House of Representatives. Not only is he a friend and colleague, but BOB CARR is someone who I think has really brought new accountability to this appropriations process, a system that hopefully will live on and make a more logical, economical approach to these very needed appropriations.

Mr. Speaker, he is a good friend, he is a good Member, he is a good man. We are all going to miss him, and all my best to BOB, his wife Kate, and family.

Mr. GOSS. Mr. Speaker, I have no further requests for time. In the interests of bipartisan comity and of moving this bill in a forward way, I would like to associate myself with the remarks of the gentleman from Tennessee [Mr. GORDON] about the chairman, and I yield back the balance of my time.

Mr. GORDON. Mr. Speaker, I have no further requests for time. I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. CARR of Michigan. Mr. Speaker, pursuant to House Resolution 553, I call up the conference report on the bill (H.R. 4556) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1995, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to House Resolution 553, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Monday, September 26, 1994, at page H9719.)

The SPEAKER pro tempore. The gentleman from Michigan [Mr. CARR] will be recognized for 30 minutes, and the gentleman from Virginia [Mr. WOLF] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CARR].

GENERAL LEAVE

Mr. CARR of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report to accompany H.R. 4556.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CARR of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we present to the House a conference report on the fiscal year 1995 transportation appropriations bill. As Members know, the start of the 1995 fiscal year is just 3 short days away. The conference agreement provides funding to continue the important operations of transportation programs and related activities, including air traffic control, Coast Guard operations, and other critical transportation safety activities.

The transportation appropriations bill always requires a delicate balancing act, and this year was no different. We have had to deal with competing demands for extremely limited funds. This conference agreement is the result of long and arduous negotiations, and represents the very best efforts of the conference committee to achieve a fair and a balanced bill.

□ 1030

Before getting into the specifics of the conference agreement, I want to offer my sincere gratitude and appreciation to the gentleman from Virginia [Mr. WOLF], the ranking minority member of the subcommittee and my partner in this bill. He has worked hard to obtain a good bill. I have appreciated his diligent efforts during the long months of hearings and throughout the House consideration of the bill and right up until the conference and the final filing of the conference report. I also want to acknowledge the work of the other members of the subcommittee: The gentleman from Illinois [Mr. DURBIN], the gentleman from Minnesota [Mr. SABO], the gentleman from North Carolina [Mr. PRICE], the gentleman from Texas [Mr. COLEMAN], the gentleman from Pennsylvania [Mr. FOGLIETTA], the gentleman from Texas [Mr. DELAY], and the gentleman from Ohio [Mr. REGULA] for their contributions, as well as the contributions of the gentleman from Wisconsin [Mr. OBEY], our full committee chair, and the gentleman from Pennsylvania [Mr. MCDADE], the ranking full committee minority member. They have all made invaluable contributions to the legislation that we are about to consider today.

Finally, I want to make sure that everyone understands as we here in the body know so well that the product could not be with us today without the able help of our professional and associate staff members. They have worked very hard and very long. While many of the members are able to take a lot of the credit for the work product, it is truly theirs.

Mr. Speaker, the conference agreement provides $13.7 billion in new discretionary budget authority and assumes $12 billion in new outlays. The conference report is just below our 602(b) allocation in budget authority and virtually identical to our allocation in outlays. The total budget resources provided, including new budget authority, limitations on obligations, and exempt obligations, is $14.3 billion in budget authority and $37.1 billion in outlays.

Mr. Speaker, we have faced several difficult and challenging issues in crafting this compromise agreement. In recent days the issue of how to allocate fairly funding for designated highway projects presented a dilemma. While the total amount allocated for such projects in both the House and Senate bills is roughly similar, each body chose a markedly dissimilar approach to determining the distribution of those funds in individual projects. The conferees ultimately agreed to provide a total of $352 million, evenly divided between the two Houses, with each House allocating its portion.

As anyone who reads the newspapers knows, it has not been easy reaching an accommodation with very divergent and passionately held views of the conferees. I believe it is a testament to the judgment and objectivity of all the conferees that this potentially divisive matter was resolved in an equitable manner.

Another important issue was that of the Penn Station redevelopment project in New York City. Members on both sides of the Capitol have equally strong feelings both for and against this project. It ultimately may require the Federal Government to invest about one-third of the total project cost of $315 million. The compromise embodied in this bill provides $40 million toward the Federal matching share but specifies that none of these funds may be obligated unless authorized. I believe this is a good compromise between the divergent views on this item and I believe it is a compromise that the Members of the House should accept.

The proposed demonstration of two-person high occupancy vehicles on I–66 inside the beltway in Virginia also generated a tremendous amount of controversy. I am pleased to report that the difference of opinion on this matter has also been resolved. The conference agreement allows the demonstration to go forward if approved in advance by certain members of the Transportation Planning Board.

Mr. Speaker, I would now like to turn to some of the specific provisions in the conference agreement:

The agreement provides $3.7 billion for the activities of the coast Guard, a slight increase over the 1994 level. Included within this amount is $2.6 billion for operations and $363 million for acquisitions and construction. We have restored a $25 million appropriation for the Boat Safety Program which the administration had not included in its budget request.

The agreement provides $8.4 billion in new budget authority and obligation limitations for the activities of the Federal Aviation Administration. Within this total we have increased appropriations for critical FAA operations to $4.6 billion or $15 million more than the 1994 level. This appropriation includes $17.6 million to continue the pay demonstration project. The bill limits obligations for FAA's airport improvement program to $1.45 billion—a slightly lower level of effort than in the current fiscal year.

The agreement provides a total of $19.9 billion in new budget authority and obligation limitations for the Federal Highway Administration. Reflecting the severe budget constraints facing the conferees, the bill includes $17.2 billion for the primary Federal-aid Highways Construction Program. Unfortunately this amount is $430 million below the 1994 level, but under these difficult budget circumstances this was the best that we could do.

The agreement provides $2.5 billion for transit formula grants, including $710 million for operating subsidies. With regard to operating subsidies, we reached a compromise funding level approximately midway between the current level and the administration's request.

The agreement allocates $1.7 billion for transit discretionary grants including: $725 million for rail modernization; $353 million for buses and bus facilities; and $647 million for section 3 new fixed guideway systems.

We also faced a perplexing challenge in fairly allocating funds for buses and bus facilities, as well as section 3 new starts. Again, because the House and Senate took such different approaches to allocating these funds, the conferees agreed to approximately a 50:50 split of the funds, with each body then allocating its share according to its priorities. A priority for the conferees was to reserve a portion of bus and bus facility funds for allocation by the Secretary of Transportation. The conference agreement reserves $30 million for this purpose.

To provide financial support to Amtrak, the bill appropriates $772 million for Amtrak operations and capital grants, $200 million for Northeast corridor improvements, and $40 million for Penn Station redevelopment, as I mentioned previously. This is 10 percent more than was provided for Amtrak this fiscal year.

Mr. Speaker, the conference agreement also includes several other important provisions.

The bill appropriates $37 million for pipeline safety programs, nearly doubling current appropriations to address numerous safety issues arising from the March 1994 gas pipeline explosion in New Jersey and last year's oil pipeline spill in Reston, VA.

The bill appropriates $30 million to continue the Interstate Commerce Commission [ICC], a reduction of 33 percent below the 1994 level. Mr. Speaker, this funding level comports with the enactment into law of H.R. 2178, which abolishes motor carrier tariff filing requirements, and thereby eliminates about one-third of the ICC's regulatory responsibilities. These collective actions will result in a streamlined ICC and permanent budget savings, but will avoid disruption of ongoing ICC regulatory responsibilities in the rail area.

The bill also includes significant administrative savings in the operation of the Department of Transportation, including reductions in the Department's working capital fund, procurement obligations, staffing and employee award. Additional details of the bill are addressed in the conference report and joint explanatory statement of the managers.

Mr. Speaker, I merely want to say when the day is done that this conference agreement was difficult to achieve. The agreement is carefully crafted and it protects the significant provisions and major interests in the House-passed bill. It is within our budgetary allocations. We had the cooperation of all the Members. I ask the membership of this body to approve the conference report on transportation appropriations.

Mr. Speaker, I reserve the balance of my time.

Mr. WOLF. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I now support this bill. As the members know, I had serious reservations earlier about the distribution by the conference of certain highway funds, but these concerns about the basic fairness of the bill have been resolved and I support Chairman CARR's efforts. I ask my colleagues to support H.R. 4556 as well.

But I would also like to retrace the chronology of the controversy over this bill and make the point that the inequity of one State dominating the highway demonstration account must never happen again. And, this was not a partisan issue. There was concern on both sides of the aisle.

As the Members know, one project in the State of West Virginia, corridor H, was allotted $140 million in the Senate version of this bill. That was nearly one-half of the $352 million in the entire highway demonstration account. When we completed the House-Senate conference on this bill, corridor H still had $90 million, nearly one-third of the total resources available. This was unfair and worked to the detriment of many States with severe congestion problems, especially large States like California, Florida, and Illinois. And even more disturbing was the fact that this same project already had $75 million in the fiscal year 1995 energy-water bill, and all the State of West Virginia can obligate this coming year is $82 million. I felt that it was extremely unfair for one State to bank large sums of money, while other States aren't even able to meet pressing highway needs.

Without going into detail, these concerns were addressed in my September 26 statement which I will include in the RECORD.

I am pleased, however, that, through the efforts Chairman CARR and full committee Chairman OBEY, this matter of fairness was resolved with the Senate conferees, and in this conference report, corridor H is only allotted $35 million. I believe this has resulted in a more equitable distribution of these funds among the States.

Today, I want to discuss the 1995 transportation appropriations bill that went to conference late last week. The highway demonstration projects account of the bill is particularly troubling.

Before the bill went to conference, Chairmen CARR and LAUTENBERG agreed to share the highway funding between the Chambers at a 52–48 percent split. The House's share of the $352 million was about $170 million which Chairman CARR and the subcommittee handled fairly. The Senate's share, on the other hand, about $183 million, was highway robbery.

Of the $183 million in the Senate, one State, West Virginia, got $95 million, or 53 percent, for two projects—$90 million for the controversial corridor H and another $5 million for route 52 improvements. To put it in terms that everyone can easily understand, West Virginia got more Senate money for highway demonstration projects than the rest of the country combined. A total of 1.8 million people got $95 million while the rest of the country, about 254 million, splits $88 million. And let me just say for the record, the people of West Virginia are good people, but this is unfair, unjust, and inequitable. This is just plain wrong. It is exactly why the American people are fed up with Congress. When the power of a few is stronger than the power of the people, something has got to change.

What makes matters worse is, in addition to the $90 million in this bill, corridor H got $75 million in the energy and water spending bill earlier this year bringing the total for this road project to $165 million. I checked with the Federal Highway Administration and they told me West Virginia can only obligate $82 million for this project in fiscal year 1995. West Virginia has gotten twice as much money as it can spend, while the rest of the country doesn't have enough. This money could be going to needed projects to help congested areas like Los Angeles and Miami, where moms and dads are sitting in traffic while they could be at home spending time with their kids. California and Florida both got $0 in Senate funding.

To put it in perspective, if you add up the Senate funding for the 20 most populated States, they get a total of $39 million, California gets nothing, Florida gets nothing, Illinois gets nothing, New York gets only $1 million and on and on and on. Each of you has been provided with a chart which clearly shows these figures. And West Virginia gets $95 million? How can this be?

In 1988, Senator ROBERT BYRD of West Virginia announced that he was going to trade in his post of Senate majority leader to take the chairmanship of the Senate Appropriations Committee with the intent of bringing to West Virginia $1 billion by 1995. At a 1990 dedication ceremony in Beckley, WV, Senator BYRD commented on his pledge, "I'm trying to get the money as fast as the State can keep up with it." By 1990, 4 years ahead of schedule, Senator BYRD's total of $1 billion for West Virginia had been reached.

Just look at the last five transportation spending bills.

In the fiscal year 1991 transportation appropriations bill, Senator BYRD hijacked $137 million, or 30 percent, of the $459 million for highway projects for West Virginia.

In the fiscal year 1992 transportation appropriations bill, Senator BYRD took $162 million, almost 30 percent, of the $589 million available. Of the $162 million, $148 million was for the corridor G project which received an additional $58 million in the energy and water appropriations bill. The next closest State in highway receipts was Michigan with $46 million. West Virginia got $162 million. Twenty-three States, including California and Texas, got nothing.

In fiscal year 1993 West Virginia got $104 million for two projects, corridor L at $24 million, which was second only to corridor G at $80 million. These two projects in West Virginia amounted to one-third of all highway demonstration project dollars.

In fiscal year 1994 corridor L got another $54 million which amounted to 43 percent of the country's highway dollars.

And in fiscal year 1995, you know the story, West Virginia, for two projects, got 52 percent of the Senate's money or 27 percent of the Nation's highway money for demonstration projects.

Another part of the story is, the figures I have just gone over are basically transportation bills only. They do not take into account the relocations of parts of several governmental agencies like the FBI, the Bureau of Public Debt, the Fish and Wildlife Service, the Coast Guard, and so on.

The message here is, and the Washington Post, Orlando Sentinel, Houston Chronicle, and other haves recognized it, there is a pattern of greed and abuse of power here and until it changes, the attitude toward this body with the American people will not improve.

Again, I want to thank both Chairman CARR and Chairman OBEY for being responsive to my concerns and for their diligent work in persuading the Senate to accept a more reasonable approach to the distribution of these highway funds. Also, since this is the last vote my friend from Michigan, Mr. CARR, will seek on a transportation bill in this body, I want to tell him how much I have valued working with him as the ranking member of the subcommittee. No one has worked harder than BOB CARR to bring accountability and fairness to the allocation of scare transportation resources, and my hat is off to him. I want to wish him well and to let him know that I will miss him.

Mr. Speaker, I reserve the balance of my time.

Mr. CARR of Michigan. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Wisconsin [Mr. OBEY], the chairman of the full Committee on Appropriations.

□ 1040

Mr. OBEY. Mr. Speaker, I want to do a number of things on this bill this morning. The first thing I want to do is to express my regret that the gentleman from Michigan [Mr. CARR] will be leaving this House. He is seeking what I would not call higher office, but he is seeking a different office, located on the other side of the Capitol. I question his judgment, but I nonetheless hope that he succeeds in that endeavor because he has brought a tremendous amount of skill, a tremendous amount of integrity, and energy to the process, and I very much appreciate that. I think he has performed a tremendous service to the public in the years which he has served in this House and we are going to miss him.

I would also like to comment briefly on the conference report itself. As I think most Members know, there were a number of items which appeared to be causing controversy after the conferees had concluded their original meetings. One was a misunderstanding involving the HOV lane situation in Virginia. I am very pleased that that was worked out in a more favorable fashion.

Second, the question of the Corridor H funding in West Virginia was a significant problem, and it was a problem which was brought up to me by a good many Members on both sides of the aisle.

I want to congratulate very much the flexibility shown by Senator BYRD, by the gentleman from Virginia, Mr. WOLF, and by Chairman CARR. I think that without that flexibility on all sides this problem could not have been worked out, and as a result that project which was at $140 million originally in the Senate bill and $90 million in the conference report is now at $35 million, which is I think a substantially more understandable result, and I think Members in this House can feel quite good about it.

The third issue was whether or not the highway projects would be 48 to 52 split in favor of the Senate or if they would split down the middle 50–50. That was adjusted so that the House and Senate shared equitably in the highway projects in this bill.

I would simply say that this bill is a valuable bill for the country. It will provide a good many jobs because of the construction projects that are included in this bill. It will provide for economic modernization, and it will increase economic efficiency. We do have two bridges a day that fall down in this country. It would be kind of nice if we made more progress in fixing them and this bill helps to modernize our transportation infrastructure which is crucial to providing good economic opportunity across the country.

I also want to commend House Members on both sides of the aisle for declining generally to try to load up these bills with extraneous matters. As we know, in the other body there is a good deal of loading up which appears to be going on on several of the appropriations bills. I very much appreciate the fact that on both sides of the aisle Members in this House have not engaged in delay, have not engaged in obstruction, have not engaged in overt partisanship with respect to any of the appropriations bills which have come before the House this year.

There is only one appropriations conference report remaining to be passed through this House after this bill is passed, and we expect to finish our work on that tomorrow and then the House's work will be done on appropriation matters.

So, I very much again appreciate the assistance of the gentleman from Michigan [Mr. CARR], the assistance of the gentleman from Virginia [Mr. WOLF], and I would urge the House to support the bill as it stands before us.

Mr. CARR of Michigan. Mr. Speaker, I yield myself 1 minute. I merely want to applaud the efforts of our full committee chairman, the gentleman from Wisconsin, Mr. DAVID OBEY. Our bill did have a major, I would say almost a catastrophic impasse at the close of the conference. I have been on this committee now for some 12 years, and I have never seen a full committee chairman who was more responsive to a subcommittee chairman in terms of a request for help and intercession and bringing tremendous legislative skill to solving a most difficult problem.

While I am at it, I want to commend the chairman of the Committee on Appropriations in the other body, who exercised heroic restraint and one might say political self-sacrifice to see to it that there was an equitable resolution of the controversy at hand and that is what makes this bill and its contents so supportable by all Members of the House and the Senate.

Mr. WOLF. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Speaker, I really appreciate the gentleman yielding the time to me. I would like to take this moment to pay a special tribute to my colleague, the gentleman from Virginia [Mr. WOLF], who has been very aggressive on this bill in a variety of ways, but one way in particular that took an immense amount of courage from him was his support of my effort, really a bipartisan effort to eliminate the Interstate Commerce Commission.

We ended up passing that bill through this House eliminating that commission. It then went over to the Senate, where the elimination was blocked.

However, contained in this bill today is a 30 percent reduction in the total operating costs of the Interstate Commerce Commission.

The gentleman from Colorado [Mr. HEFLEY], who is on the floor with us today, and I actually went to the Senate and made this argument. The gentleman from Colorado [Mr. HEFLEY] and I together have been working on this issue for a number of years and the gentleman from Colorado deserves an enormous amount of credit for his work in terms of trying to eliminate this bureaucracy.

I would say to the House today that the 30 percent cut is not something that I view as a lasting victory, but only, I guess the only way I would put it is a grudgingly accepted compromise on the part of the gentleman from Colorado [Mr. HEFLEY] and myself. But we will be back next year. We have already begun negotiations with Members of the majority party and we have entered into discussions about the way to orderly transfer these activities into the Department of Transportation.

I have a gentleman's handshake from most of the Members on the Democrat side of the aisle in regard to the orderly transfer of this operation. That is clearly what we must do, an orderly transformation and a twentieth century upgrade in terms of the entire responsibilities of the Interstate Commerce Commission.

But a 30 percent cut at this point is something that we are prepared to accept and give praise to Members on both sides of the aisle with the knowledge that we must move forward and truly reinvent this agency.

But I must just take a special second to thank again the gentleman from Virginia [Mr. WOLF], who under a lot of personal pressure said, "I think what Mr. HEFLEY and Mr. KASICH are proposing in reasonable." Without his support, frankly, I do not think we would have come this far. We have a ways to go, but we have taken a first step with more steps to come.

Mr. CARR of Michigan. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. PRICE], a very valuable member of this committee and a member who has been of tremendous personal assistance to me in carrying out my obligations as chairman during this most difficult year.

Mr. PRICE of North Carolina. Mr. Speaker, I enthusiastically rise in support of H.R. 4556, the bill making appropriations for the Department of Transportation for the fiscal year 1995.

The first thing I want to do is to thank our chairman, the gentleman from Michigan, Mr. BOB CARR. He has done a superb job of chairing this subcommittee during tough budgetary times. He has been fair. He has insisted that the projects in this bill be justified, that they be subjected to close scrutiny and justification in terms of specific economic criteria.

☐ 1050

He has made certain that this bill represents a sound investment in our economic future.

I wish the gentleman from Michigan [Mr. CARR] the best of luck and hope to continue to work with him as he joins the other body.

The gentleman from Virginia [Mr. WOLF] has made a substantial contribution to this bill, raising questions that needed to be raised. He and the gentleman from Michigan [Mr. CARR] have continued the Transportation Subcommittee's impressive bipartisan tradition. I commend them both for that. I also commend our staff for their dedication and professionalism in crafting this conference report.

This conference report is the result of hard work and cooperation and conciliation by many, many people. We have here a sound bill, a balanced bill. It honors our commitment to fiscal responsibility. It also honors our commitment to spending what we do spend wisely, making sound investments. This bill will enable us to move ahead in developing all transportation modes in a balanced way, in promoting safety and protecting the environment, and in undergirding economic growth and job creation.

This is a bill of vital importance to my State of North Carolina and to this entire Nation, and I encourage my colleagues on both sides of the aisle to support it.

Mr. WOLF. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. REGULA], a member of the committee.

Mr. REGULA. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of the conference report to the transportation appropriations bill for fiscal year 1995.

As with all of the appropriation bills this year, it has been difficult to meet the needs as articulated by Members and at the same time work within the confines of the funds available.

The Nation's transportation infrastructure, as was pointed out by the previous speaker, is vital for continued economic development. If we do not have a strong system of highways, rail, and airports, our Nation could never be as competitive in the world marketplace as we should be. We have adopted NAFTA; the GATT agreement is pending for action here, and all of these things point to a very competitive world out there in the years to come as we become more and more a part of the global marketplace.

Transportation serves as the arteries of the Nation and determines our ability to move goods. The ability to be efficient as a producing country depends a great deal on the quality of our transportation infrastructure.

I think this is one of the most important appropriation bills that we have had, because it is basic to everything else. We talk about welfare problems. We talk about crime problems. Many of those flow from the absence of jobs, and jobs oftentimes flow from the absence of transportation facilities in any given marketplace. So it is an important bill.

I want to commend our leader and chairman, the gentleman from Michigan [Mr. CARR]. He did something unique, and that is establish standards that we could measure these projects by. This was a first, and it resulted in the projects being funded that were cost-effective, that demonstrably were supported by the State, were part of the State's program. I think this set a benchmark that ought to be followed in many other things we do, and that is determine or have some measuring stick as we determine where we will put the limited resources available to us. He certainly, as a chairman, was very open to the minority. It was a collegial committee, and our ranking minority member, the gentleman from Virginia [Mr. WOLF], worked closely with the gentleman from Michigan [Mr. CARR], and it is a pleasure to be a member of this subcommittee.

We will miss the gentleman from Michigan [Mr. CARR] as chairman next year, but I think the standards and the criteria that he established will be a legacy that will be very important to our subcommittee as we again have to try to meet the needs with the limited resources available to us. It is because of that, I believe, his contributions will go much beyond his tenure as a chairman in the House.

Mr. CARR of Michigan. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. SABO], chairman of the Committee on the Budget and a member of the subcommittee, a member who has been of invaluable service to the creation of this product.

Mr. SABO. Mr. Speaker, to the chairman and to the ranking member, let me say thank you for bringing a good bill to the House, and to the chairman, let me say just a personal thank you for his great efforts not only on this bill, but it has been a real pleasure to be his colleague these many years in the House. We expect to be across the table with the gentleman from Michigan in the future, not on the same side of the table, and I look forward to continuing to work with him in the years ahead not only on transportation questions but on a whole host of issues where he brings great energy and great wisdom to public policy in this country.

So I simply wanted to thank him for his great service in the House and wish him well and look forward to continuing to work with him.

Let me just simply say about this bill it is a good bill, and let me also say that one of the features of this bill is that there are some highway projects that we fund very specifically, and those come under attacks at times, but there are also times when you do things that are very unique and very important because of that. One that I am particularly familiar with, we are redoing a frontage road on a freeway in advance of freeway reconstruction. What it means is that a small community can do that access road in a fashion that has been planned by the community, that accommodates the residential area, at the same time preserves commercial-industrial area in that suburban community that has very small commercial-industrial tax base.

If they simply waited until reconstruction to reconstruct the existing access road, it would have meant substantial disruption for the neighborhoods, and it probably would have also meant the loss of all the businesses along that stretch of the freeway, because simply doing the access road in an unplanned fashion, reconstructing the existing one would have eliminated all of the access that people had to those businesses.

So the money that is being spent is being spent in a unique fashion and also in a way to preserve a neighborhood and preserve commercial-industrial base in a very important suburban community.

So I thank the gentleman from Michigan for his good work and wish him well.

Mr. WOLF. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Speaker, I thank the gentleman for yielding me this time, and I commend our ranking member, the gentleman from Virginia [Mr. WOLF], for the outstanding leadership he has provided.

Mr. Speaker, I rise today in strong support of H.R. 4556, the fiscal year transportation appropriations bill. I commend the chairman and the ranking member of the subcommittee for their hard work on this legislation and for the fine job they have done with limited Federal resources. In particular I would like to commend them for their inventive thinking on section 314A.

The Federal Government is no longer able to fund transportation projects as it has done in the past. I have had a number of conversations on this subject with Federal Highway Administration officials over the last 2 years. In response to the current fiscal situation, it is my understanding that the Federal Highway Administration has been encouraging States to work with them to develop innovative financing plans for Federal highway projects. As a member of the Public Works and Transportation Committee, I would also note that this action is consistent with the 1991 Intermodal Surface Transportation Efficiency Act [ISTEA].

At this point, I would like to enter into a colloquy with my colleague from Virginia.

Is it the intent of the Appropriations Committee that section 314A is to cover applications for innovative financing proposals on high priority corridors as designated in the ISTEA?

Mr. WOLF. Mr. Speaker, will the gentleman yield?

Mr. HUTCHINSON. I yield to the gentleman from Virginia.

Mr. WOLF. That is correct.

Mr. HUTCHINSON. Is it also your understanding that should the State of Arkansas have an innovative financing loan proposal approved by the Federal Highway Administration for Highway 71, that all the funding under that proposal is to be used on the northern portion of Highway 71 from Alma to Fayetteville?

Mr. WOLF. If the gentleman will yield further, that is correct. That is the understanding, and the gentleman is correct.

Mr. CARR of Michigan. Mr. Speaker, will the gentleman yield?

Mr. HUTCHINSON. I yield to the gentleman from Michigan.

Mr. CARR of Michigan. Mr. Speaker, I would like to concur with the statements of my colleague, the ranking member of the subcommittee. It is the intention of the committee that section 314A be used as a loan program for innovative financing proposals on high priority corridors. And further that funds approved for the State of Arkansas under this section may be used on the Alma to Fayetteville portion of Highway 71.

Mr. HUTCHINSON. Mr. Speaker, I would just want to thank the gentleman from Michigan [Mr. CARR] for the leadership he has provided and for this reassurance that he has given us today. I also thank the gentleman from Virginia [Mr. WOLF].

□ 1100

Mr. WOLF. Mr. Speaker, I yield 2 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. I thank the gentleman for yielding this time to me.

Mr. Speaker. I rise today in support of H.R. 4556, Transportation appropriations for fiscal year 1995. I commend the Appropriations Committee for directing its attention to a transportation nightmare in my congressional district in New Jersey.

The interchange of Route 17/Route 4 in Paramus, NJ, is a major east/west to north/south link in northern New Jersey and its improvement is vital for commuters and commerce. The interchange lies at the heart of Bergen County's commercial hub, and it is a critical crossroad for all of northern New Jersey.

The existing interchange was built in 1932 and designed to accommodate an estimated volume of 12,000 vehicles per day. Clearly, with the present estimated daily volume of 250,000 vehicles, the interchange is no longer suitable, and in dire need of improvement. Not only is the interchange one of the busiest intersections in New Jersey, it is also one of the most dangerous—averaging one motor vehicle accident per day.

This interchange has got to go. We must improve safety and traffic flow.

In addition, a new interchange will help control northern New Jersey's critical air pollution problem and alleviate the heavy traffic flow which has spilled over to residential streets as commuters attempt to avoid the crowded interchange. On any given day, we have gridlock in Bergen County as the direct result of the 4–17 nightmare.

At an estimated total cost of $90 million, completion of the Route 17/Route 4 interchange project is heavily dependent upon Federal funding.

Full funding for the interchange should not be a problem since both Route 17 and Route 4 have been designated by the U.S. Department of Transportation as components of the urbanized area portion of the NHS, at the request of the N.J. Department of Transportation, the North Jersey Transportation Coordination Council, and other local planning organizations, and in accordance with applicable provisions outlined in the Intermodal Surface Transportation Efficiency Act of 1991 [ISTEA]. As a currently authorized project, the Route 17/Route 4 interchange has already demonstrated its clear merit to the U.S. Congress.

Our local officials have worked closely with the New Jersey Department of Transportation to formulate the approved interchange design. New Jersey stands ready to provide the required matching funding necessary to bring the Route 17/Route 4 interchange problem to a successful resolution.

This appropriation bill contains $15 million for this project—far more than the insufficient $3 million that was considered early this year. But the residents of northern New Jersey need more. So I will be back next year fighting for the rest of our fair share.

In the meantime, I urge the House to uphold the Federal Government's commitment to construction and completion of the Route 17/Route 4 interchange by approving this appropriation bill today.

Mr. CARR of Michigan. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. I thank the chairman for yielding this time to me.

Mr. Speaker, I want, as the chairman of the full committee, the gentleman from Wisconsin [Mr. OBEY], did, to acknowledge the efforts of negotiating this bill that certainly the subcommittee chairman made, the ranking member [Mr. WOLF], the gentleman from Wisconsin [Mr. OBEY], and the senior Senator from West Virginia [Mr. BYRD].

What this bill did, I think, was to focus a lot of attention, and perhaps we are going to visit it again, but I think we have to look when there are certain allegations made about the inequity of one State in an account. That account was for $352 million, it was one part of a $36.5 billion bill, of which $13.7 billion alone went to highways.

So the proportion begins to decline greatly. I think that this discussion has also been helpful, though, because it has caused us to recognize the different needs that each of us has. West Virginia lives and breathes on highways. If you turn to other parts of the bill, for instance, we have some airports getting earmarked, which I support, some airports getting earmarks which exceeded what West Virginia gets for airport money. We have no mass transit systems. We can spend a lot of time looking for mass transit systems in West Virginia. But they are called coal shuttle cars. We have no mass transit system in West Virginia. The issue of controversy on Corridor H, coming out of the conference, $90 million is what it costs 1 mile of Metro.

So I just ask that everyone look. I think this does reflect a fair agreement. I am encouraged for this reason. First of all, the $35 million for the most troublesome section of Corridor H can be built; I think that is very important. The second thing is this committee, for which I appreciate the efforts of all involved, recognizes the importance of Corridor H as a truly national highway. I understand it has funding needs and is ready to go, in the words of the committee, I believe will proceed expeditiously on it.

I think for all of us it is a plus. I hope what this debate has done is begin to cause each of us to recognize the needs which each one of us has and that you may not get what you want in one account but you are probably getting help and assistance in another account. In the context of this broad bill, I believe this committee has addressed many, many needs.

Mr. WOLF. Mr. Speaker, before I yield to the gentleman from Texas [Mr. DELAY], I want to yield myself such time as I might consume. I would want to say one thing with regard to corridor H. I do not want to beat a dead dog, and we are not going to do it. I personally have some fundamental problems on the corridor H issue. While there has been talk of bringing corridor H into my congressional district, into Virginia, the people in the western part of my district do not want the road and obviously, as the gentleman from West Virginia follows the wishes, as he should and does, very ably, of his district, that is something that I want to kind of lay out so there is no misunderstanding.

Second, on this whole issue of corridor H, I think it a decision that the good people of West Virginia are going to have to decide on. There is some controversy developing in West Virginia itself; not in the Nation but in West Virginia itself. I think the people of West Virginia are going to have to sort this issue out. I do not really want to talk a lot about it, but if the gentleman wants——

Mr. WISE. Mr. Speaker, will the gentleman yield?

Mr. WOLF. I yield to the gentleman.

Mr. WISE. I thank the gentleman.

Just real quickly, as far as the gentleman's district goes, and I am happy to work with him and others, and he and I have discussed this, I agree with the gentleman. If the people of his district do not want a 4-lane highway, we have discussed this. And they do not have one. That is the way the ARC system works, and it is the way the highway building thing works.

I pledge to him I am not going to try to ram anything through. If he wants to stop at the line, that is fine.

Second, in West Virginia, yes, there is opposition, as there is opposition on every road project everywhere. I invite the gentleman to take a trip with me along the proposed route, and I think we are going to find solid support, particularly as we keep moving westward.

Mr. WOLF. Well, I appreciate that, and I may want to do that sometime. I consider the gentleman a friend. I just think we are going to end the issue with that. I just did not want this to seem as if there were no concerns on corridor H. I did want to make that point clear with regard to the State line and with regard to the local feelings.

Mr. Speaker, I now would like to yield, if I may, 5 minutes to the gentleman from Texas [Mr. DELAY], a distinguished member of the committee who has made a great contribution here.

Mr. DELAY. I thank the gentleman for yielding this time to me.

Mr. Speaker, I want to commend our ranking member, the gentleman from Virginia [Mr. WOLF], for the diligent work that he has done in his second year as ranking member of this subcommittee. He has proved himself an extremely fair, honest and hard-working member of the subcommittee, standing up not just for the interests of the committee but for the interests of the House as a whole. He has put in many long hours crafting this Nation's transportation needs. I commend the gentleman.

I have got to say that Mr. WOLF stood up for the honor of the House when, in my opinion, the other body tried to take advantage of the House. I cannot get into that right now, but suffice it to say—and I put the Members on notice—that the Senate did try to take advantage of the House, and it was because of Mr. WOLF's courage and tenacity that we were able to bring a little fairness back to this bill.

Mr. Speaker, I rise in support of the conference report. This is the bill that literally keeps America on the move. I would like to commend my chairman, the gentleman from Michigan [Mr. CARR], in his last year and last act as chairman, for his diligent efforts on behalf of this Nation's transportation needs. In his short tenure as chairman of the subcommittee, he has instituted many crucial and necessary changes to the committee and applaud his efforts. And, if his future endeavors are successful, he might be able to help make those same necessary and crucial changes in the other body. I would also like to pay tribute to my ranking member, the gentleman from Virginia, [Mr. WOLF]. In now his second year as ranking member he has proved himself as an extremely fair, honest, and hard working member of the subcommittee standing up not just for the interests of the committee but for the interests of the House as a whole, putting in many long hours crafting this Nation's transportation needs. I commend the gentleman and again, am proud to serve on the committee with him.

Mr. Speaker, this committee has gone to great lengths to address transportation programs in a fair and responsible manner. But I would say that this is just a good conference report, not a great one. I do not think anyone walked away from the conference happy, and I believe that this year's conference was a lesson in how the process really works. With regard to that effort, I would like to also talk briefly about Houston Metro.

The committee has shown continued support for Houston's regional bus plan. Although the conference halved nearly all projects, this was a fair and equitable decision since no project received special attention. Almost as important as the funding for Houston Metro was the language in the report regarding the regional computerized traffic signalization system.

The language states that the funding provided for the regional bus plan program is intended to be used for the entirety of the regional computerized traffic signal system [RCTSS] project, as described in Metro's grant application to the Federal Transit Administration for the first annual capital construction program.

This was necessary because there has been a great deal of confusion with regard to Houston's plan and the overall goals and objectives of the program. Put simply, there has been a literal "change-of-heart" regarding what the FTA has already approved for Houston.

Without this state-of-the-art system, the regional bus plan will be just another bus system—which is not at all what will effectively serve Houston and is not what I support. Houston's innovative bus system using the regional computerized traffic control system, as planned, will allow buses to operate like a rail system at a significantly lower cost. For the new FTA to be suddenly reassessing its past endorsement and support of the regional bus plan and the regional traffic control system is simply wrong. This language will clarify the committee's intent for the Federal funding of Houston Metro.

This plan, without question, serves as a model for transit programs throughout the Nation. They also have the lowest cost-per-new-rider index out of all of the projects funded by the Federal Transit Administration. I am very proud of the accomplishments Metro has enjoyed and I want to commend their efforts.

Regarding the Interstate Commerce Commission, the Senate added $30.7 million for the continuation of the ICC, rejecting the House's position that called for its elimination. It was not an issue during the conference. The Senate position assumes a staffing reduction of one-third, a streamlining of the Commission and additional ramifications of reform legislation that has been recently enacted into law. I want to point out that this year, Congress has done more for the deregulation of the trucking industry than any other year since 1980, instituting many of the reforms that I have been advocating since may days in the Texas Legislature.

Mr. Speaker, there were other issues that the conference committee considered such as the 13(c) issue, which is an issue that affects the prompt obligation of funds for transit projects. The House position was strong language designed to avoid unnecessary delays of transit projects by the Department of Labor. The conference decided to accept a compromise amendment that does little to help the problem. Hopefully, the committee will be able to address this problem in a much more responsible manner next year.

Again, I want to thank my colleagues on the committee for their hard work, and the staff's time and effort, and I urge all Members to support this conference report.

□ 1110

Mr. WOLF. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado [Mr. HEFLEY] who has worked so hard on this issue with regard to the ICC.

Mr. HEFLEY. Mr. Speaker, I want to comment on the funding included in the conference report for the Interstate Commerce Commission.

As has already been noted, the conference report before us includes $30 million for the Interstate Commerce Commission, and this is a 30-percent cut below previous funding levels. Contrary to some of the accounts, however, the funding level does not reflect the position the House took last June when it voted to eliminate the ICC, eliminate, do away with, kill off, never see again. We wanted to get rid of the ICC, and it was a relatively overwhelming vote in the House of Representatives, and I understand compromise, and I understand the Senate did not share our sentiments as strongly, but a 70-percent funding does not equal zero funding. What this cut does represent is a desperate effort by some Members, and particularly those in the other body, to save the Interstate Commerce Commission. They think by throwing us a bone in this case, in this case tariff filing requirements for truckers, they can save the commission that has been targeted for elimination by every major taxpayer group in the country. Speaking for myself, I am not satisfied with the offering. While I support eliminating the tariff filing, it is a reform that I have sponsored and worked on for the last 8 years, and the compromise continues to fund a commission whose very existence should really be the focus to our debate.

Let us be perfectly clear. The ICC apologists do not support eliminating rate filing for motor carriers. They did not support it when the House passed the Motor Carrier Act in 1980. They refused to consider it last year when we passed the undercharge legislation. Even after it became clear this mindless regulation had cost Americans over $30 billion in attorneys and back charges, and could do the same in the future, these Members dug in their heels and said, "No." Today they offer to eliminate the tariff filing, not as a good government reform, I think, but as a sacrifice to save the ICC. It may work; it may not work. But I want everyone to understand that next year I will be back on the House floor fighting to eliminate this unnecessary commission.

Those that were terribly concerned that we were too precipitous this year with our efforts to try to eliminate the commission so drastically said it ought to be done in a more reasoned way. Well, this year gives us a reasoned way to do this, so work with us, and let us try to get this thing done in an appropriate way for next year.

Mr. Speaker, there is an unbreakable law in Washington which says, "If you give somebody a job and a title, they'll find something to do." That is the position of the ICC today. Fourteen years ago Congress took away most of their responsibilities. Since then the ICC has been busy filling up time and space, publishing little manuals, scraping together some turf. Today we are going to eliminate the single largest remaining responsibility of the ICC, and I think that is good, but how will the ICC respond? As they have in the past, new responsibilities will be discovered.

In my mind the choice is clear. Either we eliminate the ICC outright or we wait and watch as the commission rebuilds its turf and continues to waste taxpayers money. That is what it has done for 107 years, and that is what we will do again if we give it the opportunity.

Mr. CARR of Michigan. Mr. Speaker, I yield 2 minutes to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Mr. Speaker, I rise in strong support of this legislation and also to pay tribute to the extraordinary effort of the gentleman from Michigan [Mr. CARR] and the ranking member, and gentleman from Virginia [Mr. WOLF], and all the members of the subcommittee who have done a great service to this Nation and, in particular, an extraordinary service to the State of Rhode Island. Because of the contemplated electrification of the Northeast corridor by Amtrak, our freight rail system out of Quonset Point and Davisville literally was in jeopardy of being strangled, and that would have caused the State the inability to develop one of the, we hope, premier ports in the Northeast at Quonset Point and Davisville. I brought my concerns to the gentleman from Michigan [Mr. CARR]. He listened, and not only did he listen, but he also came up to Quonset Point, Davisville, along with the gentleman from Texas [Mr. DELAY] and the gentleman from Texas [Mr. COLEMAN]. Their individual observations confirmed what we were saying, and through their efforts we were able to get for the first time Federal assistance to reconstruct and rebuild our freight rail system out of Quonset Point and Davisville to give Rhode Island a chance to rebuild its economy. This is an extraordinary effort on behalf of Mr. CARR and his colleagues. It would not have happened without him because he took a personal interest in it, and this is an example of the kind of concern he shows not just for his own constitutents, but for the Nation overall, and I know he will be showing that same concern in the other body in the next few months. I want to thank him, thank all the Members, for what they have done and also thank the staff, particularly Rich Efford who unfailingly responded to all our concerns and questions.

So, Mr. Speaker, on behalf of the State of Rhode Island and my constituents I say, "Thank you, Mr. Chairman, and good luck."

Mr. WOLF. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Speaker, I thank the gentleman from Virginia [Mr. WOLF] for yielding this time to me.

Mr. Speaker, I rise in somewhat reluctant opposition because it seems as though everybody who has talked here is very much in favor of this legislation, and I have a lot of respect for our ranking member who has done so much, as has the chairman, I think, in trying to take care of that situation in West Virginia. But what we have here is, No. 1, a waiver of the 3-day rule so that people such as myself and, I think, a lot of Members of this Congress have not had the opportunity to carefully review this conference report and, thus, to be assured that this legislation is as good as a lot of people who have spoken think it is. From what little review my staff has been able to make, what we have is $350 million going for these "surface transportation projects" and roughly $44 million going to West Virginia, $46 million going to Michigan. That is over 25 percent, and then five other States, all of whom were represented, I understand, by conferees who come from those States, divvying up another $85 million.

□ 1120

So 50 percent of all the funds is going to some seven States. By contrast, if the $350 million were to be distributed by the statutory formula so that all States would share—and certainly all States have programs that are very important to those States—then even most of those States that are receiving funds under this conference report would get more than the amount of money they are getting under the circumstances we have here. Certainly, that is not so as far as West Virginia and Michigan are concerned. Those two States walk off with 25 percent of the appropriations. And probably that is not true of the other five States that also pick up a disproportionate 25 percent of the total $350 million appropriation. But the rest of the States are the ones that, at least in this distribution, come out being very much shorted. That is not the way to run the Congress, I believe.

In addition, we have to recognize what we have here. What we are doing here, as I understand it, we are using general funds, $350 million of general funds. That is peanuts, I suppose one might say, in $1.5 trillion annual budget account. But, by gosh, when we do this over and over and over again, we are talking about billions, and that is sort of big money back in Illinois.

I do not think we have to do this. We can follow the statutory formula for the distribution of highway gas tax funds. We can just simply pay this money in accordance with that formula and distribute it by the formula. That is, at least fair if we insist in passing out this added largesse—these special projects, which are over and above the 6-year 1992–97 $122 billion of transportation appropriations.

I do not think, therefore, that I can say this is sound legislation. It's just more profligate spending—money we have to borrow from our children and grandchildren. We're just that much deeper in debt. I am not going to ask for a vote. This bill will pass even with or without a vote. I am not trying to make a Federal case out of it, but I guess it is a Federal case. I just do not think this is the way we ought to be operating. When I see things like this, I know the people are better off when Congress isn't in session.

Mr. WOLF. Mr. Speaker, I yield 3 minutes to my last speaker, the gentleman from Indiana [Mr. MYERS].

Mr. MYERS of Indiana. Mr. Speaker, I thank the gentleman from Virginia for yielding me the time.

Mr. Speaker, I thank Chairman CARR and my friend, the gentleman from Virginia, [Mr. WOLF] as well as the other members of the committee and the staff, for the attention they have given the Indiana projects over the years. I hope that next year they will continue to remember those Indiana projects. They are, as some people might say, out in the far Midwest. But I do thank them for the attention they have given to the Indiana projects.

Mr. Speaker, I rise with somewhat of a question. It has come to my attention through the Indianapolis Center for Air Traffic Controllers that the equipment they are using to take care of and handle the increasing flow of traffic is still antiquated, that the most up-to-date equipment is not available to them, and that the trust account is not being used.

Is that because it is included in the budget restraints? The trust account for the airport and airways fund is still available, is it not? Can anyone tell me why we are unable to fund some of the updating and upgrading of equipment especially?

They do a great job with the equipment they have, but they tell me they could do a better job if they had the more updated, sophisticated equipment.

Mr. CARR of Michigan. Mr. Speaker, will the gentleman yield?

Mr. MYERS of Indiana. I yield to my chairman for an answer.

Mr. CARR of Michigan. Mr. Speaker, I would answer by saying it really is not a problem of budget constraints. There have been serious development problems in the airway systems modernization. There have been problems and delays and cost overruns in the AAS systems and the other associated subsystems to the modernization. But these problems are getting worked out. I believe we will be back on track, although there has been much delay from where we had hoped to be at this time. It is not, I would tell the gentleman, a matter of budget constraints.

Mr. MYERS of Indiana. Mr. Speaker, I thank the gentleman for his response. We all use the airways frequently, and a lot of business people have to travel frequently. We expect the best and we get the best, I think, in air traffic controllers, but if there is better equipment available, it could make safety devices more available to the air traffic controllers and those who use the airways, and I think we should have it.

I appreciate the response here. As you go to the other body and we stay here in this body, we will try to work together, I hope, next year, to improve safety in the airways. Again I thank the gentleman for what the committee has done for us in Indiana.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from Virginia [Mr. WOLF] has 1 minute remaining.

Mr. WOLF. Mr. Speaker, I yield back the balance of my time.

Mr. CARR of Michigan. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from Michigan [Mr. CARR] has 9 minutes remaining.

Mr. CARR of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I merely want to take this time to thank all of my colleagues for their kind words of tribute. It has been a pleasure working not only with the subcommittee but with each and every Member of this House.

We have tried to lead by example, and I would say that if someone really wants to pay tribute to the work I have contributed, I hope that the subcommittee will continue to refine and perfect the initiative that we started two years ago to make sure that decisions are based on economic merit, and that we reduce the politics in decisionmaking when we make investments of the taxpayers' hard-earned dollars. We must respect the hard work that earned those dollars that are given to us by way of taxes and returned by way of investment.

So if anyone is really interested in a tribute, they will continue the process of trying to put merit before politics when the committee makes its decisions.

I also want to say that it has been a tremendous pleasure working with the Members of this body. I hear and read, as every American does, the criticisms of the Congress and the President, and I have to say that in the years that I have been privileged to serve, I feel there are no finer men and women serving our country than those who serve in this body, the other body, and the executive agencies. I think sometimes, even though it is an election year and things get said, it also needs to be said that we ought to tone down the volume a little bit.

The gentleman from Virginia [Mr. WOLF] and I have had a tremendous relationship, a working relationship, a bipartisan relationship, in operating this committee, and it is due to his efforts that we have been successful. We have tried to do the best we could for all Americans. There are no Republican roads or Democratic bridges. There are no liberal ports or conservative airports. We serve America, and it seems to me that we have gotten ourselves a little bit into some petty partisan bickering from time to time, and I would hope that in the years ahead we could tone down that volume because the American people fundamentally, first and foremost, expect us to be listening to them and not be so concerned about listening to one another.

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If we put the American people first, we are going to make sure that their priorities are in front of us, and that we carry out our responsibility to this great country of ours.

I want to thank all my colleagues for the kindnesses that they have contributed to my career. I apologize to anyone who I unintentionally offended in the heat of battle. But this has been one terrific experience.

Mr. BERMAN. Mr. Speaker, I rise today in support of the conference agreement on H.R. 4556, appropriations for the Department of Transportation and related agencies for fiscal year 1995.

I want to draw special attention to the Federal Transit Administration's national planning and research account. The House bill provided approximately $26 million for the various research and development programs and activities funded by this account, including the advanced transportation systems program authorized in section 6071 of ISTEA. The Senate bill transferred $10 million from section 9 activities to the national planning and research account, thus increasing the total appropriation for that account to a level of approximately $36 million. This $10 million increase was sought and secured for the specific purpose of ensuring that certain projects under the advanced transportation systems program are funded at an adequate level. The conferees reduced the transfer to $8 million, but the intent remains the same. I except that the FTA will recognize this and act accordingly.

Mr. Speaker, the advanced transportation Systems program provides vital funding to industry-led consortia, including the California-based CALSTART, engaged in the development of various clean transit technologies. These technologies will help us improve air quality, reduce our dependence on oil imports, increase our global competitiveness and create new high quality jobs. I commend my colleagues for recognizing the importance of this program, and I urge them to join me in supporting passage of this measure.

Ms. FURSE. Mr. Speaker, I rise today in strong support of the conference report on H.R. 4556 which includes important funding for transportation projects across America for the 1995 fiscal year.

I want to take a moment and thank Chairman CARR for all his efforts on behalf of a project which is central to my region's future, Westside Light Rail. This conference report includes $98 million for the Westside Light Rail project in my district that will extend from Downtown Portland to Downtown Hillsboro. Oregon's unique land-use laws ensure that growth is properly managed and the quality of life all Oregonians have come to enjoy is protected. Westside Light Rail is key to this planned future in my region of the country, and this conference report marks the second year in a row that this project has been funded at record levels.

As one of my top priorities in Congress, I have extolled the virtues of Westside Light Rail to almost anyone willing to listen. I want to express my most sincere thanks to my friend Senator HATFIELD for all his efforts on the Senate side to advance the Westside project over the past 2 years, and making the project a reality before I came to Congress. My friends RON WYDEN and PETE DEFAZIO have worked with me on ensuring that Westside stays on track. In fact, the entire delegation has been supportive and I want to extend my personal thanks to all these people.

I wish Chairman CARR luck in his future endeavors, and urge all my colleagues to support this important conference report.

Mr. PORTER. Mr. Speaker, I am pleased that the subcommittee again used the investment criteria written last year to judge and select new projects to be funded in this bill. The use of these standards assures taxpayers the best projects for their dollars.

I am also very pleased that the subcommittee included funding for Metra, the commuter rail division of the Regional Transportation Authority of northeast Illinois, of $2.5 million for the Wisconsin Central. This is a new commuter rail project that Metra is undertaking to serve the northwest suburbs of Chicago. In fact, the Wisconsin Central will be the first new commuter rail line in the Chicago area since 1926. This rail line will serve a significant population, reduce traffic congestion, benefit the environment and will be one of the most cost-effective commuter rail operations in the country.

Over the past 2 years, I have had the opportunity to work with Metra on the Wisconsin Central rail line, which will provide commuter service to downtown Chicago for many of my constituents.

I am pleased to be able to say that the bulk of the funding for this project has already been raised by State and local efforts and, as a result, only a small amount of Federal funding has been requested.

The $2.5 million appropriation included in the bill will allow Metra to begin initial service on the Wisconsin Central in the spring of 1996—and will allow Metra to initiate Phase II improvements—such as additional tracks in critical areas to decrease travel time and additional trains during rush hour to better serve the reverse commute.

One of the truly outstanding members of the Appropriations Committee is the ranking member of the Transportation Subcommittee, my friend and colleague, FRANK WOLF of Virginia. He has always addressed projects with an eye to keeping spending under control and working responsibly to find those which are most cost effective and worthy of support. I appreciate his strong support for the Wisconsin Central project and his efforts to ensure that this bill include equitable funding levels for all project named in both the House and Senate versions of the bill. I know of the difficult budgetary constraints facing the subcommittee, and I thank the subcommittee for their hard work on this bill.

Mr. COLEMAN. Mr. Speaker, I am pleased to rise to express my strong support for the conference report accompanying H.R. 4556, the Transportation appropriations bill for fiscal year 1995, and commend Chairman BOB CARR for his leadership in crafting this agreement. His fairness and diligence has produced an important work product and established an important precedent in the public policy arena. I also want to thank my colleagues on the committee on both sides of the aisle for their contributions to the bill, as well as the professional and associate staff members.

The conference agreement appropriates approximately $14 billion for critical transportation issues in fiscal year 1995, and funds the important work of the Department of Transportation and its agencies which include the Coast Guard, Federal Aviation Administration, Federal Highway Administration, Federal Railroad Administration, Federal Transit Administration, Research and Special Programs Administration, and related agencies.

The agreement reflects the fact that many difficult choices had to be made by both bodies. While Members may have specific concerns about funding priorities, it is important to remember the process which brought us to this point. Both Chambers worked their will through their respective appropriations procedures. The House marks reflect hours of committees hearings and review of economically based investment criteria for consideration of special funding requests by States and local communities. This will provide much needed jobs across the country while making important infrastructure improvements, contributing to environmental cleanup, and helping in the war against drugs.

I appreciate the consideration given by the conference to those projects important to the Southwest border region, the State of Texas, and my district of El Paso. One critical piece of conference report language relates to need for transportation infrastructure funding along our country's northern and southern border regions, especially as the United States, Mexico, and Canada move to implement the North American Free-Trade Agreement. Other provisions will address mass transit projects in Texas, including important bus projects in El Paso. The purchase of alternative fuel buses in my city will help address environmental concerns in my community, and a new transit facility in El Paso's Lower Valley will aid bus commuters and economic development in this historic area.

I urge my colleagues to adopt this conference report.

Mr. BEREUTER. Mr. Speaker, I rise in strong support of the conference report. This Member is pleased that this conference report includes funding for a feasibility and corridor study for a proposed south and east bypass for Lincoln, NE, by examining alternative routes that at this point are exclusively outside the city limits.

This Member thanks the distinguished gentleman from Michigan [Mr. CARR], the chairman of the House Transportation Appropriations Subcommittee, and the distinguished gentleman from Virginia [Mr. WOLF], the ranking member of the subcommittee, and all of the conferees for their help in funding this important project.

While this bypass study is critically needed, the City of Lincoln's Metropolitan Planning Organization receives only about $190,000 per year for planning activities. Clearly, a study of this magnitude would require additional funding in order to be undertaken.

The current transportation network in Lincoln, NE, a city of nearly 200,000 inhabitants, is under financial stress and a new approach must be studied to implement a new transportation system. The approach which seems to make the most sense is the completion of a circumferential roadway system by the development of highway segments south and east of the city. This possible circumferential roadway would help meet current needs and accommodate future growth before such development of these highway corridors becomes prohibitively expensive. A beltway highway for Lincoln has been discussed for more than three decades and the need to implement such a plan becomes more apparent each year.

A recent city task force looking at the possibility of the beltway determined that the development of such a system would be a crucial component of the regional transportation network which would accomplish the goals of moving traffic around congested urban areas and providing for an expanded capacity of the urban system.

In addition, a truck route study was recently prepared for the city of Lincoln. One of the conclusions reached by the study was that a very key element, if not the most important element of the Lincoln truck study implementation plan is construction and completion of the East-South Bypass link. That study found this proposed project would complete the beltway system for the city of Lincoln, thus enabling major amounts of regional traffic to bypass the major urban development areas of Lincoln.

This Member would also like to stress that he has received written assurances from the city of Lincoln and the Nebraska Department of Roads that the current National Highway System designations are surrogate or temporary designations that will be replaced by new route designations when the bypass study identifies the desired route locations. This Member is voting for this legislation with that understanding.

This Member would further stress that the eventual corridor designation must be exclusively outside the city limits of the city of Lincoln. Although the study will determine the optimal corridor zone, this Member would like to reiterate what he stated before the Committee on Public Works' Subcommittee on Surface Transportation on March 8, 1994. This Member believes it would be preferable to locate the eastern segment on or between 96th and 134th Street and the southern segment on or between Yankee Hill Road and Saltillo Road. With respect to the southern route, this Member believes the corridor should be located no farther north than Yankee Hill Road and possibly south of Saltillo Road.

This Member would also like to express his appreciation for the continued support for the proposed bridge between the Newcastle, Nebraska area and Vermillion, SD. For six decades, the prospect of constructing a bridge in the Newcastle-Vermillion area has enjoyed widespread support. An impressive coalition of community organizations, local governments, businesses, and individuals from both Nebraska and South Dakota has joined together in support of this bridge.

Such a bi-State consensus is possible because the benefits resulting from the bridge's construction are so clear to all. These benefits include increased economic development, enhanced recreational opportunities, improved access to health care, and a reduction in transportation costs. Also, the construction of this bridge will improve the general quality of life for the area's residents by creating additional opportunities for higher education and cultural and social activities.

Due to the current lack of a bridge in this region, communities in northeast Nebraska and southeast South Dakota—including Vermillion, SD, the location of the University of South Dakota—have remained isolated from each other despite their proximity. As a result, economic activity in the region has been hampered and labor and commerce options have been limited. Clearly, the completion of this bridge across the Missouri River will be a significant aid in attracting new businesses to the area.

Mr. Chairman, this Member is convinced that this bridge, when completed, will serve as a connector for one of two major north-south routes across Nebraska. In addition, to act as a connector it will first require a new highway connection between Wayne, NE, and the bridge; and second, it will require an upgrading of the highway between Wayne and Norfolk, NE to connect to U.S. 81 which is currently being upgraded. This will mean that from the Kansas border, near Chester, NE, there will be a direct link across Nebraska to Vermillion, SD, and I–29 to points north, northeast, and northwest.

This Member would also like to thank the committee and subcommittee for continuing to recognize the need for a bridge between Niobrara, NE, and Springfield, SD. Initial authorization for such a bridge is contained in a provision of Public Law 100–17, the Surface Transportation and Uniform Relocation Assistance Act of 1987. An authorization of $4.7 million was also including in the Intermodal Surface Transportation Efficiency Act of 1991. However, this amount was less than originally requested and less than necessary to complete the project.

Because of redistricting, the Nebraska portion of this project is now in the district of the distinguished gentleman from Nebraska [Mr. BARRETT]. However, due to this Member's previous efforts and the tremendous need for this bridge, this Member remains very supportive of this project.

The proposed Niobrara-Springfield bridge has enjoyed widespread support from residents on both sides of the river as well as local and State officials. Since 1927, efforts have been made to construct this much needed bridge. The issue became even more critical in the mid-1980's with the abandonment of ferry service. As a result of a previous legislative initiative, the Department of Transportation directed the Nebraska Department of Roads and the South Dakota Department of Transportation to conduct a study to determine the feasibility of reinstituting ferry service. The report, which was completed in December 1987, estimated that the car ferry would cost approximately $5 million to $6 million. Because of the Department of Roads' analysis that a bridge could be built for far less than was previously discussed, the bridge option became more attractive.

Motorists, farmers, and businesspeople would benefit greatly from the reduced travel distance if this bridge is built. Also, because of the beneficial impact this bridge would have on the Indian tribes in the area, the Bureau of Indian Affairs has expressed its support for the project. For example, by reducing the driving time from the Santee Sioux reservation to the Indian Health Service facility in Wagner, SD, the bridge would play an important role in improving medical care for the tribes served by the facility.

This Member would also like to thank his distinguished colleague from South Dakota [Mr. JOHNSON] for his outstanding efforts and cooperation with this Member on behalf of these interstate bridge projects. The completion of these bridges will play an important role in facilitating a mutually positive interdependence between communities in Nebraska and South Dakota. Mr. JOHNSON deserves recognition for the important role he has played in bringing this goal closer to reality. It has been a pleasure to continue the close and good cooperation on this and other bistate projects and issues.

Again, Mr. Speaker, this Member would like to thank the distinguished gentleman from Michigan [Mr. CARR], the chairman of the House Transportation Appropriations Subcommittee, and the distinguished gentleman from Virginia [Mr. WOLF], the ranking member of the subcommittee, and all of the conferees for their cooperation in including these important projects in this conference report.

Mr. BUYER. Mr. Speaker, I rise in support of the transportation appropriations conference report. I am pleased the committee has included $2.475 million in funding for the Hoosier Heartland Corridor.

The Hoosier Heartland Industrial Corridor was authorized by the Intermodal Surface Transportation Efficiency Act as a high priority congressional corridor. This project will link Fort Wayne to Lafayette by a four-lane highway. It is one of the top priorities of the Indiana Department of Transportation and enjoys broad bipartisan support in the communities all along the project route.

The Hoosier Heartland Corridor will become a vital link in the economic development of north central Indiana. The corridor is a major delivery route for manufacturers and producers of goods. Tractor trailers use the road as well as passenger cars and slow-moving farm equipment. In addition, many portions of the existing configuration of the highway are narrow, two-lane, with narrow shoulders and dropoffs. The State of Indiana has indicated that there will be a 50-percent reduction in accidents that will lead to savings both in terms of personal injuries and property damage.

I appreciate the hard work of Congressman WOLF and Congressman CARR in producing this conference report. This funding is an important step in keeping this project on track. Although I recognize that the committee has limited resources available, I am grateful that the members recognize the significance of this project to north central Indiana.

Mr. CARR of Michigan. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

STATE AND LOCAL GOVERNMENT INTERSTATE WASTE CONTROL ACT OF 1994

Mr. BONIOR. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 551 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 551

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4779) to amend the Solid Waste Disposal Act to authorize local governments and Governors to restrict receipt of out-of-State municipal solid waste, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce. After general debate the bill shall be considered for amendment under the five-minute rule for a period not to exceed four hours (excluding time consumed by recorded votes and proceedings incidental thereto). It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill. Each section of the committee amendment in the nature of a substitute shall be considered as read. Any amendment offered by the chairman of the Committee on Energy and Commerce or his designee may amend portions of the bill not yet read for amendment. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereof to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. BONIOR] is recognized for 1 hour.

Mr. BONIOR. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, as we head into the 21st century, one of the biggest challenges our State and local communities face is the question of how we deal with—and how we dispose of—solid waste.

It is one of the biggest health challenges we face.

It is one of the biggest economic challenges we face.

And it is one of the biggest environmental challenges we face.

But one thing it is not: It is not a small problem.

Not when you consider that every single year, America generates about 200 million tons of solid waste—200 million tons.

In case you are wondering, that works out to about 1,600 pounds of solid waste for every man, woman, and child in the United States today, 1,600 pounds every single year.

If you have ever wondered why people talk about the "art of solid waste management," that is the reason why. It is because we have a ceaseless, relentless, large-volume supply of garbage, and a limited amount of space to put it all.

That is why it is in all of our interests to deal with this problem.

And fortunately, over the last 20 or 30 years, many State and local communities have accepted responsibility for dealing with this problem.

Working together with the private sector and local residents, many State and local communities have come up with innovative action plans and strategies to deal with waste management, to educate the public, to encourage reducing, reusing, and recycling, and to reduce the amount of solid waste being dumped in our landfills today.

And it is working. It has had an enormous effect. Anybody who has ever seen their street lined with green or blue recycling bins early in the morning knows that we are making progress.

But today, many of our State and local communities that have accepted responsibility for dealing with this issue face a new problem. They are being forced—many of them against their will—to accept trash from places that have not taken responsibility for dealing with the problem.

They are being forced to accept out-of-State waste—and in some cases out-of-country waste—from places that have not made the same priority of reducing, reusing, and recycling.

Again, this is not a small problem.

Of the 200 million tons of solid waste produced in this country in 1992, 19 million tons—one-tenth of the total amount—crossed State lines.

Some of this waste found its way to communities that were more than happy, for reasons having to do with job creation, tax revenues, or other benefits, to take it in.

But most of this waste found its way, unwanted, uninvited, and often unlimited, into communities that had sacrificed year after year to reduce the flow of garbage into their own landfills, because they say the continuing burgeoning of their local landfill as a health threat and an environmental threat to the local community.

If you are wondering why they cannot just say no, well there is a very simple reason.

Because in 1992, the Supreme Court, in one of their lesser known but more damaging decisions to the quality of life in local communities, ruled that local communities had no control over the waste that was coming into their communities.

The Supreme Court ruled that local communities had no say.

If some local landfill owner wanted to make a profit by shipping in waste from a thousand miles away, the Supreme Court ruled that that was their right under the Commerce Clause—no matter how much the local community protested.

In that 1992 decision, the Court then looked in our direction, and said it was up to us to restore the rights of local communities to have a say in this matter.

In short, Mr. Speaker, that is why we are here today.

The bill before us will restore local control.

It will give local communities and local governments the ability to decide whether or not to accept out-of-State trash into their communities, to control the garbage that is being trucked on their streets and dumped in their landfills.

Let me be clear, Mr. Speaker: This is not a radical bill.

It is a balanced, reasonable approach that has made a priority of considering all sides in this debate.

Let me tell you what it does not do. It does not place an immediate, undue burden on local businesses.

And above all, it does not prohibit communities from taking in waste if they want to.

It simply says that local communities should be able to decide whether or not any new landfills should be allowed to accept waste in their community.

It simply gives local communities a say in an issue that affects the health, the environment, an the quality of life of residents and businesses in their communities.

And it does so in a responsible way, by phasing in this responsibility over a sufficient period of time to give affected States, businesses, and local communities time to adjust.

Mr. Speaker, hundreds of thousands of communities in America today are trying to take responsibility for improving the way they handle solid waste.

States like Michigan and many others have made important strides toward making reducing, reusing, and recycling a priority. We have reduced our need for landfills. And we should not be forced to accept trash from places that have not.

This is a fair bill. This is a bipartisan bill. This is a fair and open rule. And this is a responsible approach. Because it gives all parties time to adjust while restoring the rights of State and local communities to control the problems of solid waste.

Mr. Speaker, House Resolution 551 is a simple, open rule for the consideration of H.R. 4779, the State and Local Government Interstate Waste Control Act of 1994.

The rule provides 1 hour of general debate, equally divided between the chairman and ranking minority member of the Energy and Commerce Committee.

The rule makes in order the Energy and Commerce Committee amendment in the nature of a substitute now printed in the bill as an original bill for the purpose of amendment.

The rule limits to 4 hours the time for consideration of the bill for amendment under the 5-minute rule.

The rule also provides that an amendment to be offered by Representative DINGELL may amend portions of the bill not yet read for amendment.

Finally, the rule provides one motion to recommit the bill.

Mr. speaker, this is a simple, open rule—and I urge my colleagues to support it.

Mr. Speaker, I would mention at this time the outstanding job that has been done on this bill by my colleagues, particularly the gentleman from the State of Washington [Mr. SWIFT], who we will dearly miss in this next Congress, who has labored to put this together along with the gentleman from Michigan [Mr. DINGELL], the chairman of the committee, who has taken an active role in this issue and participated in crafting a bill we can live with.

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The gentleman from Virginia [Mr. BOUCHER], who has been a consistent, strong supporter of this legislation over the years and I had the pleasure to work with and who cares about our health and environment in a very special way; the gentleman from Indiana [Mr. SHARP], from my neighboring State, who has worked tirelessly on this issue, the gentleman from Michigan [Mr. UPTON], from my home State, has also labored, as well as the gentleman from Ohio [Mr. OXLEY] and the gentleman from Pennsylvania [Mr. GREENWOOD], an articulate spokesman on this issue, and the gentleman from Ohio [Mr. GILLMOR], my friend.

All of these gentlemen deserve our gratitude for the work that they have put in, the hours they have put in on a difficult issue. It has taken us years to get here. I am glad we are here, and I praise their work and look forward to working with them to make this a reality and making this law.

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join Mr. BONIOR in supporting this open rule. It is not often that the Energy and Commerce Committee requests an open rule for legislation under their jurisdiction, and I am especially pleased to have an open rule for this particular bill. The State and Local Government Interstate Waste Control Act has been surrounded with controversy, and it is especially important to allow all Members the opportunity to offer amendments as this measure could have a severe impact on individual districts and States. Although the rule does impose a 4-hour time limitation for the consideration of amendments, I find this acceptable in view of the limited amount of time we have left before adjournment.

I would like to commend Chairman DINGELL, CARLOS MOORHEAD, AL SWIFT, MIKE OXLEY, RICK BOUCHER, and everyone else who has worked so diligently over the past year and a half to put together this bill. It offers, in my opinion, an affirmative response to the various court decisions regarding whether States may impose restrictions on the importation of municipal solid waste.

I urge adoption of this rule so we can proceed with the consideration of this important piece of legislation.

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted[1]	Open rules		Restrictive rules	
		Number	Percent[2]	Number	Percent[3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	99	31	31	68	69

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Sept. 27, 1994.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (d–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1(not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173 May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176.. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1; R–1)	N/A	A: Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D–6; R–11)	4 (D–1; R–3)	A: 238–182. (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A: Voice Vote. (Nov. 16, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	N/A	N/A	
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D–8; R–19)	9 (D–1; R–8)	F: 191–227. (Feb. 2, 1994).
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D–9; R–6)	4 (D–1; R–3)	A: 233–192. (Nov. 18, 1993).
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D–7; R–14)	6 (D–3; R–3)	A: 238–179. (Nov. 19, 1993).
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D–1; R–0)	N/A	A: 252–172. (Nov. 20, 1993).
H. Res. 319, Nov. 20, 1993	MC	H.R. 3: Campaign Finance Reform	35 (D–6; R–29)	1 (D–0; R–1)	A: 220–207. (Nov. 21, 1993).
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D–15; R–19)	3 (D–3; R–0)	A: 247–183. (Nov. 22, 1993).
H. Res. 336, Feb. 2, 1994	MC	H.R. 3759: Emergency Supplemental Appropriations	14 (D–8; R–5; I–1)	5 (D–3; R–2)	PQ: 244–168. A: 342–65. (Feb. 3, 1994).
H. Res. 352, Feb. 8, 1994	MC	H.R. 811: Independent Counsel Act	27 (D–8; R–19)	10 (D–4; R–6)	PQ: 249–174. A: 242–174. (Feb. 9, 1994).
H. Res. 357, Feb. 9, 1994	MC	H.R. 3345: Federal Workforce Restructuring	3 (D–2; R–1)	2 (D–2; R–0)	A: VV (Feb. 10, 1994).
H. Res. 366, Feb. 23, 1994	MO	H.R. 6: Improving America's Schools	NA	NA	A: VV (Feb. 24, 1994).
H. Res. 384, Mar. 9, 1994	MC	H. Con. Res. 218: Budget Resolution FY 1995–99	14 (D–5; R–9)	5 (D–3; R–2)	A: 245–171 (Mar. 10, 1994).
H. Res. 401, Apr. 12, 1994	MO	H.R. 4092: Violent Crime Control	180 (D–98; R–82)	68 (D–47; R–21)	A: 244–176 (Apr. 13, 1994).
H. Res. 410, Apr. 21, 1994	MO	H.R. 3221: Iraqi Claims Act	N/A	N/A	A: Voice Vote (Apr. 28, 1994).
H. Res. 414, Apr. 28, 1994	O	H.R. 3254: NSF Auth. Act	N/A	N/A	A: Voice Vote (May 3, 1994).
H. Res. 416, May 4, 1994	C	H.R. 4296: Assault Weapons Ban Act	7 (D–5; R–2)	0 (D–0; R–0)	A: 220–209 (May 5, 1994).
H. Res. 420, May 5, 1994	O	H.R. 2442: EDA Reauthorization	N/A	N/A	A: Voice Vote (May 10, 1994).
H. Res. 422, May 11, 1994	MO	H.R. 518: California Desert Protection	N/A	N/A	PQ: 245–172 A: 248–165 (May 17, 1994).
H. Res. 423, May 11, 1994	O	H.R. 2473: Montana Wilderness Act	N/A	N/A	A: Voice Vote (May 12, 1994).
H. Res. 428, May 17, 1994	MO	H.R. 2108: Black Lung Benefits Act	4 (D–1; R–3)	N/A	A: VV (May 19, 1994).
H. Res. 429, May 17, 1994	MO	H.R. 4301: Defense Auth., FY 1995	173 (D–115; R–58)		A: 369–49 (May 18, 1994).
H. Res. 431, May 20, 1994	MO	H.R. 4301: Defense Auth., FY 1995		100 (D–80; R–20)	A: Voice Vote (May 23, 1994).
H. Res. 440, May 24, 1994	MC	H.R. 4385: Natl Hiway System Designation	16 (D–10; R–6)	5 (D–5; R–0)	A: Voice Vote (May 25, 1994).
H. Res. 443, May 25, 1994	MC	H.R. 4426: For. Ops. Approps, FY 1995	39 (D–11; R–28)	8 (D–3; R–5)	PQ: 233–191 A: 244–181 (May 25, 1994).
H. Res. 444, May 25, 1994	MC	H.R. 4454: Leg Branch Approp, FY 1995	43 (D–10; R–33)	12 (D–8; R–4)	A: 249–177 (May 26, 1994).
H. Res. 447, June 8, 1994	O	H.R. 4539: Treasury/Postal Approps 1995	N/A	N/A	A: 236–177 (June 9, 1994).
H. Res. 467, June 28, 1994	MC	H.R. 4600: Expedited Rescissions Act	N/A	N/A	PQ: 240–185 A:Voice Vote (July 14, 1994).
H. Res. 468, June 28, 1994	MO	H.R. 4299: Intelligence Auth., FY 1995	N/A	N/A	A: Voice Vote (July 19, 1994).
H. Res. 474, July 12, 1994	MO	H.R. 3937: Export Admin. Act of 1994	N/A	N/A	A: Voice Vote (July 14, 1994).
H. Res. 475, July 12, 1994	O	H.R. 1188: Anti. Redlining in Ins	N/A	N/A	A: Voice Vote (July 20, 1994).
H. Res. 482, July 20, 1994	O	H.R. 3838: Housing & Comm. Dev. Act	N/A	N/A	A: Voice Vote (July 21, 1994).
H. Res. 483, July 20, 1994	O	H.R. 3870: Environ. Tech. Act of 1994	N/A	N/A	A: Voice Vote (July 26, 1994).
H. Res. 484, July 20, 1994	MC	H.R. 4604: Budget Control Act of 1994	3 (D–2; R–1)	3 (D–2; R–1)	PQ: 245–180 A: Voice Vote (July 21, 1994).
H. Res. 491, July 27, 1994	O	H.R. 2448: Radon Disclosure Act	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 492, July 27, 1994	O	S. 208: NPS Concession Policy	N/A	N/A	A: Voice Vote (July 28, 1994).

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.—Continued

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 494, July 28, 1994	MC	H.R. 4801: SBA Reauth & Amdmts. Act	10 (D–5; R–5)	6 (D–4; R–2)	PQ: 215–169 A: 221–161 (July 29, 1994).
H. Res. 500, Aug. 1, 1994	MO	H.R. 4003: Maritime Admin. Reauth.	N/A	N/A	A: 336–77 (Aug. 2, 1994).
H. Res. 501, Aug. 1, 1994	O	S. 1357: Little Traverse Bay Bands	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 502, Aug. 1, 1994	O	H.R. 1066: Pokagon Band of Potawatomi	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 507, Aug. 4, 1994	O	H.R. 4217: Federal Crop Insurance	N/A	N/A	A: Voice Vote (Aug. 5, 1994).
H. Res. 509, Aug. 5, 1994	MC	H.J. Res. 373/H.R. 4590: MFN China Policy	N/A	N/A	A: Voice Vote (Aug. 9, 1994).
H. Res. 513, Aug. 9, 1994	MC	H.R. 4906: Emergency Spending Control Act	N/A	N/A	A: Voice Vote (Aug. 17, 1994).
H. Res. 512, Aug. 9, 1994	MC	H.R. 4907: Full Budget Disclosure Act	N/A	N/A	A: 255–178 (Aug. 11, 1994).
H. Res. 514, Aug. 9, 1994	MC	H.R. 4822: Cong. Accountability	33 (D–16; R–17)	16 (D–10; R–6)	PQ: 247–185 A: Voice Vote (Aug. 10, 1994).
H. Res. 515, Aug. 10, 1994	O	H.R. 4908: Hydrogen Etc. Research Act	N/A	N/A	A: Voice Vote (Aug. 19, 1994).
H. Res. 516, Aug. 10, 1994	MC	H.R. 3433: Presidio Management	12 (D–2; R–10)	N/A	A: Voice Vote (Aug. 19, 1994).
H. Res. 532, Sept. 20, 1994	O	H.R. 4448: Lowell Natl. Park	N/A	N/A	
H. Res. 535, Sept. 20, 1994	O	H.R. 4422: Coast Guard Authorization	N/A	N/A	A: Voice Vote (Sept. 22, 1994).
H. Res. 536, Sept. 20, 1994	MC	H.R. 2866: Headwaters Forest Act	16 (D–5; R–11)	9 (D–3; R–6)	PQ: 245–175 A: 246–174 (Sept. 21, 1994).
H. Res. 542, Sept. 23, 1994	O	H.R. 4008: NOAA Auth. Act	N/A	N/A	A: Voice Vote (Sept. 26, 1994).
H. Res. 543, Sept. 23, 1994	O	H.R. 4926: Natl. Treatment in Banking	N/A	N/A	
H. Res. 544, Sept. 23, 1994	O	H.R. 3171: Ag. Dept. Reorganization	N/A	N/A	
H. Res. 551, Sept. 27, 1994	MO	H.R. 4779: Interstate Waste Control	22 (D–15; R–7)	N/A	
H. Res. 552, Sept. 27, 1994	O	H.R. 4683: Flow Control Act	N/A	N/A	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, let me take this opportunity, as the gentleman did, to commend all the Members who have been so actively involved in this effort, particularly the gentleman from Washington [Mr. SWIFT] and the gentleman from Indiana [Mr. SHARP] who will be leaving the Committee on Energy and Commerce. This is indeed a great tribute to their dedication to a very important issue.

There will probably be few things that we will do in the closing moments of this session that will have a more direct impact on the communities that all of us represent. I think the bottom line that Members will be hearing today, as we debate this issue and amend it and move it forward, is that communities across this country are literally sick and tired of dealing with garbage generated by other communities when they are struggling to deal effectively with their own.

The legislation which we will pass today will put those communities for the first time in the driver's seat, by giving them the ability to decide up front how much out-of-State municipal waste they want to receive and requiring those facilities who wish to accept out-of-State waste to negotiate with host community agreements, explicitly authorizing those shipments.

That is a real big step in the right direction. I encourage my colleagues to support the rule. I encourage them to support the legislation. And again, my congratulations to the gentleman from Washington [Mr. SWIFT], the gentleman from Indiana [Mr. SHARP], the gentleman from Ohio [Mr. OXLEY], and others who have done such a magnificent job on this.

Mr. Speaker, today the House acts to reverse several recent court decisions by addressing the ability of State and local governments to restrict the importation of out-of-State municipal solid waste [MSW].

For too long, communities in the Midwest and other so-called importing States have had to bear the solid waste disposal burdens that exporting States have avoided dealing with. Although Oklahoma is not currently a major importer of municipal solid waste, cheaper land, and reasonable disposal costs make communities in my State frequent targets of imported waste proposals.

The legislation before us puts those communities in the driver's seat by giving them the ability to decide up-front whether and how much out-of-State municipal solid waste to receive, and by requiring facilities wishing to accept out-of-State waste to negotiate a host community agreement explicitly authorizing such shipments. The legislation also recognizes the important role that the State plays in overseeing solid waste management needs within its borders, and allows importing States to place a "freeze" on the total amount of out-of-State waste sent to the State for disposal. In particular, I want to commend my colleagues on the Energy and Commerce Committee, Representative SHARP and Representative BOUCHER, and their staffs for the long hard work they have put into negotiating this legislation among waste companies, and State and local governments.

Finally, I would like to note that a considerable amount of negotiating between the importing States of Indiana, Pennsylvania, and Ohio and the exporting States of New York and New Jersey occurred at the committee level. The bill reflects the results of these negotiations, Nevertheless, because compromise could not be reached, the House will be considering a number of amendments from both sides today. The bottom line here is that communities across this land are sick and tired of dealing with the garbage generated by other communities, when they're struggling to deal effectively with their own. As public policy makers, we should demand that those who generate garbage should take care of it as close to home as possible. And if exporting garbage to another State is necessary, it should only be done with the permission of the importing community and State. I urge my colleagues to support this bill to strengthen controls over unwanted exports of interstate waste and pass H.R. 4779.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I rise in support of the rule and commend the Committee on Rules for providing this open rule so that we can debate some of the last remaining issues that have to be decided by the House.

This has been a long and difficult process that we are finally seeing bear some fruit. I want to particularly commend my good friend, the gentleman from Michigan [Mr. BONIOR], for helping in this effort. I know he has a particular issue in his district and our committee, I think, was very sensitive to that. Along with, of course, the gentleman from Michigan [Mr. DINGELL], the chairman, and particularly the gentleman from Washington [Mr. SWIFT], chairman of the subcommittee that I am honored to be ranking member.

He has in many cases threaded the needle on this legislation to get it where it is today, to be able to bring it to the floor in good shape where we have essentially compromised a lot of the potential problems that existed between the exporting States and the importing States.

Essentially what this bill is, Mr. Speaker, is an empowerment bill. It empowers local governments and Governors to get a better handle on that flow of waste into their particular jurisdictions.

I think that is a positive thing for the country.

All of those who are involved on our side as well as the other side do deserve a great deal of commendation. I look forward to the debate and the amendments to get this bill forward and to get it to pass, hopefully before we adjourn sine die.

I thank the gentleman for yielding time to me.

Mr. BONIOR. Mr. Speaker, I thank my friend, the gentleman from Ohio [Mr. OXLEY], for his comments. I thank him for his good work on this issue.

Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. SHARP], who we will miss dearly in this institution, who has been a strong advocate of working families and a clean environment, healthy environment. I thank him again for his work on this matter.

Mr. SHARP. Mr. Speaker, I rise in support of the rule and in support of the bill before us.

It is the result of almost 4 years of negotiations and compromise between representatives from importing States, as my own, Indiana, and the exporting States, and with the gentleman from Washington [Mr. SWIFT], providing extremely skillful leadership through a lot of very difficult problems, we have the legislation before us today.

I particularly want to commend the gentleman from Michigan [Mr. BONIOR] who, while not a member of the Committee on Energy and Commerce, has been a vital player. And as someone who shared his point of view, I am extremely appreciative of his work that gets us here today.

I might just briefly indicate to our colleagues that we hope the proceedings this afternoon will go more easily than perhaps was originally anticipated, because there have been some further negotiation between leaders of importing and exporting States. So that we hope to dramatically reduce the number of amendments that are offered here that our Members will have to choose from.

Mr. BONIOR. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Speaker, I want to commend the gentleman from Washington [Mr. SWIFT]. I think that our colleagues on both sides of the aisle know that if the gentleman from Washington is involved that issues are going to be handled in a professional and responsible fashion and also with good humor on top of it. We thank him for the good work.

If I could, Mr. Speaker, very briefly, my State has had a unique problem with respect to out-of-State waste. Earlier this year the U.S. Supreme Court invalidated a special program that Oregon set up to try to recoup some of the costs associated with dealing with the problems of out-of-State waste.

As a result of the Supreme Court decision, my State and others, in effect, would be a dumping ground for out-of-State waste. Fortunately, this legislation would correct it.

I also want to thank the gentleman from Virginia. He worked tirelessly with us to come up with an alternative that would authorize States to impose surcharges of up to $2 per ton on imported waste. In my view, this is something that will encourage recycling. It will encourage sensible conservation practices. I want to thank the gentleman from Virginia for his help and again commend the gentleman from Washington and also add my thanks to the gentleman from Michigan [Mr. BONIOR] who has also spent years toiling on this issue.

Mr. Speaker, I want to commend both the chairman of the Energy and Commerce Committee, Mr. DINGELL, and the subcommittee chairman, Mr. SWIFT, for moving forward on an issue that is considered highly controversial—the interstate shipment of garbage.

For the typical consumer, garbage is something you put out at the curb and it's carted away. And, once out of sight, it's out of mind.

But for the residents of waste-importing States and communities, garbage is not so easily ignored. Trash trucks and railcars roll into our States and dump refuse in our communities, which affects both property values and the quality of life.

While garbage may be an issue that many would prefer to turn their noses up and away from, the impacts of interstate waste shipments on Oregon and other importing States are serious concerns that merit congressional action, and I am pleased that the Congress is moving forward on interstate waste legislation.

The legislation before us today may not be perfect, but it is clearly better than the existing situation where waste is shipped and dumped throughout the country without any restriction whatsoever.

Due to the efforts of Mr. BOUCHER and other members of the Energy and Commerce Committee, H.R. 4779 goes to considerable lengths to protect the interests of local communities with facilities receiving out-of-State waste. And, because of a number of improvements that I and other members made to the bill in committee, it also provides important roles to States, including the ability to charge compensatory fees to recoup the States' costs of managing imported waste.

Several years ago, Oregon tried to recoup its costs arising from out-of-State waste by imposing a surcharge based on the State's costs of managing this waste. Oregon hired outside consultants who calculated that it cost the State over $2 for each ton of imported waste.

Earlier this year, the U.S. Supreme Court invalidated Oregon's surcharge. As a result of this decision, Oregon and other waste-importing States will not only be the dumping ground for other States' garbage, but they also get stuck with the bill for managing the out-of-State trash.

Working with my colleague from Virginia, Mr. BOUCHER, I added an amendment to correct this unfair situation by authorizing States to impose surcharges of up to $2 per ton on imported waste. This amendment is critical to my State and it is important for other waste-importing States as well.

I want to thank Mr. BOUCHER for working with me on a consensus amendment that recognizes the financial impact of interstate waste shipments on the importing States and provides an opportunity for those States to recover their costs through compensatory surcharges. I also want to thank the chairman of the committee, Mr. DINGELL, for his willingness to work with me on this and especially for your support of the Wyden-Boucher waste import fee amendment.

I urge my colleagues to support this legislation.

□ 1150

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GREENWOOD].

Mr. GREENWOOD. Mr. Speaker, I would like to add my commendations to all the Members who have been mentioned on both sides of the aisle. This is an issue of extreme importance to my State of Pennsylvania. We are the No. 1 trash importer in the country. Yesterday we went to the Committee on Rules, and despite the fact that we thought we had worked out a bill that was pretty well compromised, we stood for an open rule, knowing full well that we would anticipate 22 amendments, and we were prepared to debate all 22 of those amendments under the provisions of this open rule.

Mr. Speaker, I am pleased to report now that as of this morning, it appears that we have worked out agreements and will be able to expedite this process by agreeing to two or three amendments. We may have to debate one amendment. I think we can finally come to conclusion on this bill, and I stand in support of the rule.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BONIOR. Mr. Speaker, I have no further requests for time. I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to House Resolution 551 and rule XXIII, the Chair declares the House in the Committee of the Whole House for the consideration of the bill, H.R. 4779.

□ 1151

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4779) to amend the Solid Waste Disposal Act to authorize local governments and Governors to restrict receipt of out-of-State municipal solid waste, and for other purposes, with Mr. PRICE of North Carolina in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Washington [Mr. SWIFT] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. OXLEY] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 4779, the State and Local Government Interstate Waste Control Act of 1994, which was ordered reported on a voice vote, with bipartisan support, by the Committee on Energy and Commerce on August 18 of this year.

This legislation, which is the product of several years of intense negotiations, attempts to address one of the most controversial issues that has arisen in the debate over solid waste management. It is probably the closest thing to a good compromise on this issue that we could achieve. I commend my colleagues on the committee who have all worked so terribly hard on this legislation.

The committee members have worked with exceptional diligence to bring this bill to the floor. It has not been an easy task. I would especially like to commend the chairman of the committee, Mr. DINGELL, for his hard work in keeping this legislation moving forward when it seemed that it might falter. As usual, he provided the critical leadership necessary to bring the bill to this point.

Over the last 4 years, the committee has heard testimony from a large number of witnesses regarding this issue. Last Congress, our committee reported a RCRA reauthorization bill that contained a provision giving local governments the authority to control their own destinies in regard to the receipt of out-of-State trash. That section of the RCRA bill was the starting point for the legislation before us today. Two years after the RCRA legislation was reported out of the Energy and Commerce Committee, we are back with another bill. Every provision of H.R. 4779 has been intensely negotiated among a wide range of parties. Agreement was not reached on everything, but the list of outstanding issues has narrowed considerably since we started work on this bill early in 1993.

As I mentioned before, this legislation attempts to address one of the most controversial issues in solid waste management, a question that has been raging for the last several years. That question is: Should States and local government have the ability to restrict garbage coming into their jurisdictions for disposal?

There are a number of persons who believe that a waste company should be able to build a facility and dispose of garbage wherever it wishes. There are others who, for a variety of reasons, including the NIMBY syndrome, believe that States should be able to completely halt all incoming waste flows. Let's face it, my colleagues: most people are not rational about garbage. It's dirty, it smells, and we don't want to deal with it. The urge to ship it somewhere else is natural. If we are to have any hope of having a rational solid waste management policy in this country, it is essential that we find the middle ground. This legislation attempts to do just that.

Interstate transportation of waste is a major political issue in many States. A number of States and communities, most of them rural, feel that they are being used as dumping grounds for States and cities, that for a variety of reasons, are unwilling or unable to dispose of their trash at sites within their own borders. Further, States and local governments often view waste from outside their jurisdictions as a burden on their waste management systems, including existing landfill capacity. In other instances, State and local officials who have made unpopular and often painful siting decisions do not want to see their localities become dumping grounds for jurisdictions that fail to make those same difficult decisions. This is where the NIMBY syndrome comes in. These days, it is difficult enough for hard-pressed local officials to make the decision to site a waste management facility. To reward those who make these tough decisions by telling them that they will be unable to keep out-of-State trash out of their hard-won facility is unfair and is bad public policy to boot.

In a series of decisions, the U.S. Supreme Court and other Federal courts have held that, absent an express grant of authority from the Congress, States and local governments are powerless to halt the importation and disposal of out-of-State waste in private owned facilities located in their jurisdictions.

The inability of local communities to control their own destinies in the face of mounting waste imports has spawned a national effort to give local governments a voice in the decision whether to accept out-of-State waste. This legislation will ensure that landfills and incinerators are not importing out-of-State waste over the opposition of the affected community.

The bill gives affected local governments the primary authority to decide whether or not to allow out-of-State waste in to their jurisdictions, while also giving Governors the authority to freeze waste imports at 1993 levels. This freeze authority will help Governors plan for solid waste management on a State-wide basis.

H.R. 4779 as reported by the Committee on Energy and Commerce is not a perfect bill. Like much of the legislation we consider, it does not solve everyone's problems. Nevertheless, I believe that it is a good compromise that makes significant progress toward finding a rational, balanced solution to what we all know are emotionally and politically charged problems.

Mr. Chairman, let me cite two Members who I think are particularly important in this. I introduced, 3 years ago, a proposal to solve this problem, and it had the unique virtue that virtually everybody on all sides of this issue hated it. It was clearly not a vehicle that was going to go anywhere.

Enter the gentleman from Virginia [Mr. BOUCHER], who worked very hard in the last Congress to fashion what was then and is now the fundamental concept around which this bill is crafted. I think that he found something that virtually nobody else, in working this issue in Congress, had heretofore been able to discover. It is on this basis that he crafted this legislation that all of the compromises thereto have been based.

Mr. Chairman, the other person is the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL], who basically did the end game. The gentleman from Virginia [Mr. BOUCHER] played the opening, and the gentleman from Michigan played the end game. The result is that we have a good, workable, solid piece of legislation that we can commend to the Congress. I would urge my colleagues to support the legislation.

Mr. Chairman, I reserve the balance of my time.

□ 1200

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would first like to commend the gentleman from Michigan [Mr. DINGELL], the chairman of the committee, the gentleman from Washington [Mr. SWIFT], the subcommittee chairman, the gentleman from Indiana [Mr. SHARP], who is retiring, the gentleman from Virginia [Mr. BOUCHER], with whom I have worked closely on telecommunications legislation, and this is a long way from telecommunications, but it is extremely important, the gentleman from Michigan [Mr. UPTON], and the gentleman from Pennsylvania [Mr. GREENWOOD], a freshman Member who has taken a strong interest in this legislation.

Mr. Chairman, this is an effort by our committee to find a consensus on where America disposes of its waste.

Mr. Chairman, Americans now produce more than 200 million tons of household trash a year. Needless to say, as we became more and more of a throwaway society, municipal solid waste disposal became a major industry in our country. In fact, we are spending nearly $30 billion each year to dispose of our waste.

While Americans do not agree on whether we should bury it, burn it, or recycle it, we do agree on the fact that we want our waste hauled away to where we don't ever see it again. The reality is that we don't want our own waste, or anyone else's waste, in our own backyard.

Two dramatic examples of that attitude were the garbage barge which left Long Island in 1987 and the garbage train which left New York City in 1992 unsuccessfully searching for a place to unload.

With landfill capacity dropping and disposal costs rising, particularly in the Northeast, large volumes of waste was shipped across State lines. A surge of out-of-State trash in the 1980's led residents of my home State of Ohio to fear that our State was becoming a dumping ground. Local communities urged State lawmakers to prevent their waste disposal capacity from being depleted by out-of-State waste and as a result, new laws were enacted limiting waste shipments or charging differential fees.

However, when court decisions struck down laws banning or restricting waste imports, States were forced to reexamine their options for addressing waste disposal problems.

Ohio continues to be concerned about its dwindling options for dealing with the increasing challenges associated with solid waste disposal. Because disposal costs in Ohio are less than one-third of those in East coast cities, Ohio still imports 1.8 million tons of out-of-State waste, which represents more than 10 percent of the total amount of waste disposed in the State each year. In addition, well over 1 million tons of construction and demolition debris comes into the State.

We receive waste from over 20 States and Canada and we are facing the possibility of nearly doubling the amount of imported waste should a landfill in eastern Ohio take more Canadian waste as planned. This one facility expects to import another 1.5 million tons of trash from Canada, which is the equivalent of nearly 125 rail cars of garbage per day.

Needless to say, my constituents continue to believe that too much out-of-State waste is dumped into landfills that they are counting on to meet their current needs, as well as the needs resulting from future economic growth. Midwestern States have paid the price for the irresponsibility of other States in dealing with their own trash.

The 1976 RCRA amendments contained provisions encouraging States to adopt comprehensive solid waste management plans. However, the Supreme Court decisions which restrict States from limiting waste shipments are making it impossible for States like Ohio to manage its own garbage.

Ohio has the space to manage its solid waste but this space is being filled by other States who have shown little capacity to act responsibly. In addition, out-of-State waste shipments are undermining Ohio's efforts to responsibly limit our own waste. Ohioans legitimately wonder why they should recycle in order to conserve disposal space for other States' waste.

Mr. Chairman, solid waste has long been thought of as an unwanted material and now more than ever, my constituents would like more control over the amount of unwanted waste they receive.

Over the past several years, Congress has considered various legislative remedies and has debated how to address the concerns of States like Ohio, as well as States like New York and New Jersey, which obviously need to become more self-sufficient in managing their own waste.

Mr. Chairman, the bill before us today is a compromise representing a balance between the powers given to the States and those given to the local governments. This bill does not stop the movement of interstate waste, it merely gives States and local communities the opportunity to say "yes" or "no" to out-of-State waste. This authority will protect the ability of State and local governments to adequately plan for solid waste management.

You may think this bill is a Midwest fix but keep in mind that without this bill, out-of-State waste will soon be everyone's problem.

Again, Mr. Chairman, I would like to commend particularly the gentleman from Washington [Mr. SWIFT], the chairman of the subcommittee, who is unfortunately leaving us after this session of the Congress but who has been really the fulcrum and the guiding force in working this compromise.

Mr. Chairman, I urge my colleagues to support this bill which will give State and local governments more control over solid waste capacity.

Mr. Chairman, I reserve the balance of my time.

Mr. SWIFT. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Chairman, first I just want to say a word about our colleague the gentleman from Washington [Mr. SWIFT] who is leaving. He has been an extraordinary Member of the House of Representatives and an extraordinary subcommittee chairman. The country is suffering a loss as are the people that he represents with his retirement from the House of Representatives. As citizens we probably gain from getting back this person among the normal human folk. He has done an outstanding job and this is just one more example of it on a very complex political and substantive issue that really cries out for some resolution.

Mr. Chairman, I rise in strong support of the bill before us, even though from my perspective and the perspective of the importing States, it is half to 60 percent of a loaf but it does improve the situation and the capacity for our local governments and our States that have responsibly planned for how to manage trash to regain some control over their situation.

As has been outlined here by other speakers, there has been a history here where the Congress had reaffirmed with the States that it really was their responsibility to manage municipal waste, only to find out as they struggled to do so that they did not have full control over their local area because private negotiations and contracts could undermine public policy. The courts tended to strike down the public policy, leaving the States and localities without the authority to act, even though there was a need for them to act responsibly, and a number of them had. In particular, our colleague, the gentleman from Pennsylvania [Mr. GREENWOOD], has been an extraordinary participant in this. In his own career previously at the State Senate level, he had helped to lead his State to take responsible actions to plan ahead on how to reduce waste, how to recycle, and how to manage that which is left over in landfills and other ways, only to find out that out-of-State importation of waste could undermine the tough political substantive decisions that that State was willing to take.

We have a similar picture in my home State of Indiana. Our Governor Bayh and State and local officials have worked dramatically to develop a program of waste reduction, waste recycling, and waste management, only to discover that importation of out-of-State waste was filling up our landfills as we sought to reserve space for the future.

Mr. Chairman, I really hope that our colleagues today will pass this legislation as will the U.S. Senate. I do want to indicate that the gentleman from Virginia [Mr. BOUCHER] has been the staunch leader on this issue and as the gentleman from Washington [Mr. SWIFT] indicated, provided the fundamentals of the bill. Many of us had to push and pull and argue to try to get our points of view more strongly held in the bill. That is the natural way of the process, but he charged forth with the right principles and we owe him a great debt in this process. I do want to also indicate one of the toughest adversaries that those of us from the importing States had was the gentleman from New York [Mr. MANTON] who very skillfully and very thoroughly defended the rightful interests of those exporting States that are struggling to manage their waste.

Mr. Chairman, I rise in support of H.R. 4779, the State and Local Government Interstate Waste Control Act of 1994, as reported by the House Energy and Commerce Committee. I believe it is a good bill. I believe it is a fair bill, and I believe it is a balanced bill. Most important, it is a compromise, a fragile compromise, achieved after over 2½ years of work, with all affected parties at the table.

Mr. Chairman, many States and local communities, including my home State of Indiana, are being dumped on, and we are now powerless to stop it. If enacted, H.R. 4779 will give these States and local communities the opportunity to say "no" to out-of-State waste.

We also give States the authority they need to do what Congress told them they had to under the Solid Waste Disposal Act—to responsibly plan for and manage their solid waste.

In Indiana, we have worked hard to responsibly manage our solid waste. We have worked hard at the local level, in our State legislature and at the grassroots to appropriately manage our waste. We have a statewide goal of reducing the amount of waste we landfill by 34 percent by 1996 and 50 percent by the year 2001. In order to achieve this goal we have recycling and source reduction programs, bans on yardwaste and tires going into landfills, yardwaste composting programs, and public education. Our citizens are modifying their behavior to make our waste reduction goals a reality.

All of our 61 districts are making a concerted effort to reduce the portion of our waste going to landfills. Thus we are conserving landfill space. Our efforts and our citizens' commitment to the program is being undermined as our landfill space is being filled up by out-of-State waste. Our citizens are unhappy that all of our planning and efforts are for naught in the face of this onslaught of out-of-State waste. We want to regain control of our destiny.

I tell you this only in part to generate sympathy for our cause. I tell you this also to pique your self-interest. This is our problem today, but without this bill, it will be your problem tomorrow. Without this bill, a responsible State is a sucker.

Take the case of Pennsylvania. Pennsylvania in the 1980's bit the bullet, went through an extensive planning process, and required localities to site enough landfills to meet the State's capacity needs. New York did not do this. And lo and behold, Pennsylvania landfills are filling up with New York waste. This is not fair. This is not right.

Some people argue that we want to stop the movement of interstate waste. That is not true. We merely want to give States and local communities the opportunity to say "yes" or "no" to out-of-State waste, and to preserve the ability of States and localities to plan for and manage the disposal of solid waste.

Those communities who want the economic benefit that may be derived from hosting a landfill can do so. In fact this bill gives them leverage in negotiating with waste companies who are not now required to enter into agreements with host communities.

Some people argue that trash should move around just like any other commodity, without any role for State and local communities. This is an indefensible position. Garbage is not like any other commodity. As economists like to say, it generates externalities, or social costs—it smells, it leaches into groundwater, it makes noise, it creates traffic, it lowers property values. States and local communities must have some say over where and how it is managed.

Last year I introduced a bill, H.R. 2848, the Interstate Transportation of Municipal Waste Act of 1993. That bill, which was supported by the Governors of 22 States, was considerably stronger than H.R. 4779, the bill that has been reported from the Energy and Commerce Committee.

The bill before us is half a loaf, but nonetheless an important improvement for States and communities seeking to manage waste.

In the process of full committee consideration I listened to the views and concerns of exporting communities, and waste companies. Mr. BOUCHER and other concerned Members and I compromised. Mr. MANTON successfully amended the bill at subcommittee and full committee mark-up to allow New York more time to change its waste export practices. None of us got everything we wanted.

I hope you will join me in supporting H.R. 4779.

Mr. OXLEY. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. MOORHEAD], the ranking member of the Committee on Energy and Commerce.

Mr. MOORHEAD. Mr. Chairman, I rise in support of H.R. 4779, the State and Local Government Interstate Waste Control Act of 1994. This legislation is the product of over 4 years of debate in the Committee on Energy and Commerce. During this period, the committee has held extensive hearings and several markups on legislation addressing the interstate movement of municipal waste. In the last Congress, for example, it was part of the RCRA reauthorization legislation. And in this Congress, numerous stand-alone pieces of legislation were introduced and considered.

After much informal discussion among members, the Subcommittee on Transportation and Hazardous Materials reported out H.R. 4779 by voice vote on July 22, 1994. The Energy and Commerce Committee then reported out the bill, again by voice vote, on August 18, 1994. I am pleased to see we are now able to debate this legislation on the floor under an open rule.

Mr. Chairman, while I think the House should have an opportunity to debate this fully as it will under the open rule that has been granted, given the level of strong interest among some delegating, I myself have reservations about the wisdom of Congress taking any action in this area. The Supreme Court has recently held that States may not interfere in the movement of municipal waste or the provision of waste management services. And I tend to think that, in general, the Supreme Court has it right. States should not be allowed to balkanize the national economy due to local fears.

I think a recent editorial in the Journal of Commerce sums up my concerns quite well.

> Trash disposal is a business like any other, subject to the laws of supply and demand. Garbage tends to flow to areas that can handle it cheaply—generally regions with a dry climate and sparse population. The trade benefits both sides: receiving communities get tax revenue and other concessions from landfill operators, and shipping communities get relatively cheap trash disposal.

The editorial concludes:

> The irony here is rich. While the rest of the world moves toward open economies, Congress is busy building barriers to obstruct domestic trade in trash. That violates the spirit, at least, of the constitution's commerce clause, which aims to protect nationwide commerce against balkanization by the states.

Perhaps it is easy for me to see the big picture since California is not really affected by this legislation. And I can sympathize with the Members who feel the need to circle the wagons and close their borders to waste from other States. But do not be surprised if this rush to limit interstate commerce comes back to haunt you when it is your State that is the exporter.

Finally, Mr. Chairman, I would note that there is no real health or safety issue involved in this legislation. With EPA's municipal landfill regulations in place, the Agency does not view the interstate movement of waste as having a pronounced environmental effect—either pro or con. Simply put, this is not really an environmental issue.

It is, however, a powerful political issue, particularly in the areas that import waste. After over 4 years of debate, I believe it is time Congress acted. My hope is that we can solve the very legitimate political concerns of Members, and dispense with this issue without wreaking havoc on the national economy. I believe the bill reported out of Energy and Commerce generally accomplishes this goal, and I will judge any proposed amendments accordingly.

□ 1210

In closing, Mr. Chairman, I want to congratulate our ranking Republican member, the gentleman from Ohio [Mr. OXLEY], for his work on this bill. But I want to also bid a special thanks to the gentleman from Washington [Mr. SWIFT], the chairman of the subcommittee for the remarkable job that he has done on many many bills over the years that he has been in Congress. The gentleman has been our friend, he has been a very great contributor to the work of the Committee on Energy and Commerce, and we will miss him very much as he leaves to do other things.

Mr. SWIFT. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. MANTON], who has worked very hard on behalf of the concerns of his State and region and has been extremely helpful in the process.

Mr. MANTON. Mr. Chairman, I thank the chairman for those kinds words and also my colleague, the gentleman from Indiana [Mr. SHARP], for his kind words. I must point out the gentleman from Indiana has been a very worthy adversary on this legislation, and we have conducted our debate I think in a civilized manner with comity on all sides.

Mr. Chairman, the legislation under consideration seeks to address a complex emotional and political problem, but I hope we do not overlook the significance of our actions here today.

This legislation has the potential to impose untold economic harm on communities that export some of its municipal solid waste and on other communities that import waste as a means of economic development.

Mr. Chairman, I have worked with my colleagues from States that import municipal solid waste in an effort to negotiate a compromise based on reason, comity and sound public policy. Unfortunately, while we have made progress, I believe we need to continue these negotiations as this measure moves forward.

Mr. Chairman, all politics is indeed local, and I fully appreciate the pressures some of my colleagues are faced with on this issue. However, I do not believe Congress should be micro-managing where municipal solid waste goes for disposal. We should work to ensure that our solid waste disposal policy is designed to protect human health and the environment.

Mr. Chairman, municipal solid waste currently crosses State lines for disposal for one reason, and one reason alone: the cost of doing business. This is not an environmental issue, it is an issue of economics. I do not think Congress should take actions which specifically seek to deny private businesses the right to protect their investments and maximize their profits—providing that their actions are in accordance with existing Federal, State and local law.

Mr. Chairman, we should not lose sight of the fact that many communities openly welcome the development of waste disposal facilities in their jurisdictions for the receipt of out-of-State municipal solid waste. I believe the legislation as currently written may indeed limit this opportunity and deny these communities much needed economic benefits.

Mr. Chairman, it is no secret that municipal solid waste is exported from my State of New York, but virtually every other State in the Union also exports municipal solid waste. The amount of municipal solid waste that is exported from New York, while relatively significant in volume, represents only a small fraction—some 19 percent—of the approximate 17 million tons of waste generated, recycled, treated and disposed of in the State each year. I might point out New York is a net importer of hazardous waste.

Mr. Chairman, I will have more comments on the legislation during consideration of amendments.

Mr. OXLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. GREENWOOD], who has been a real leader on this entire issue.

Mr. GREENWOOD. Mr. Chairman, I thank the gentleman for yielding me the time. I also would like to again commend Chairman DINGELL and ranking member MOORHEAD and the chairmen of the subcommittees, the gentleman from Washington [Mr. SWIFT] and the gentleman from Ohio [Mr. OXLEY], for their fine work. But I would be remiss if I did not point out the remarkable working relationship I have had with the gentleman from Indiana [Mr. SHARP], who has been just a perfect gentleman and joy to work with on this issue. And I would also like to thank the staff on both sides of the aisle who are the real work horses who do the hard labor of putting the fine tuning on these negotiations.

Mr. Chairman, the State and Local Government Interstate Waste Control Act is of vital importance to my State of Pennsylvania and to my congressional district.

Until relatively recently, when we set our household trash on our sidewalks or at the end of our driveways, it was trucked to local dumps, and we did not think much about it.

In the late seventies and early eighties, we in Pennsylvania did the right thing for the environment. We began to close down these dumps because they lacked adequate liners or collection systems to prevent leachate from polluting our ground water aquifers.

We closed more than a thousand such antiquated facilities. The good news was that we protected our environment. The bad news was that we ran out of safe places to dispose of our garbage.

By 1986 Pennsylvania was exporting 3 million tons of trash a year. In 1988, as a member of the State Senate, I helped write the Municipal Waste Planning, Recycling and Waste Reduction Act. This new law required counties and local governments to make plans for the disposal of their waste, encouraged the permitting of disposal facilities that met environmental standards, and mandated local recycling so we can reduce our waste flow.

The results have been dramatic. The good news this time was that Pennsylvania quickly developed state-of-the-art facilities to safely dispose of its trash. The bad news was that our neighbors in New Jersey, New York, Maryland, and Delaware started trucking their trash to these facilities in record volumes. We are now the No. 1 trash importing State in the country.

Bucks County, with its two landfills and new incinerator, bears much of the brunt of these imports. In 1993, 900,000 tons of out-of-State trash was trucked into Falls Township and Tullytown Borough. This figure does not count trash from Philadelphia and other Pennsylvania counties.

Why should we be concerned about all this out-of-State waste? We should be concerned because even the best available technology is not pollution-free. Because we accept so much out-of-State waste, our air and water are placed at risk beyond the levels proportionate to our population.

The out-of-State waste hauled into my district puts the equivalent of 40,000 tractor trailers per year onto our local highways. This legislation will enable us to reduce this volume by half.

Mr. Chairman, our ability to pass stringent pollution control and waste reduction legislation in Congress requires a national constituency with a stake in the outcome. As long as entire regions can export their waste rather than properly dispose of it, they will not insist upon tough solid waste laws.

If Pennsylvania's facilities become filled to capacity with out-of-State trash, we will soon be scrambling to find places to dispose of our own waste again.

The new Local Government Interstate Waste Control Act will allow Pennsylvania and four other major trash-importing States to cut in half the volume of out-of-State waste crossing their borders. We do not close our borders, we simply gain some control over the volume of imported wastes. And we allow communities who want to take more trash to do so as a local option.

The key to responsible solid waste management is to give everyone a stake in it. This legislation does that in a way that is fair, balanced, and sensible. I urge the Members to support it.

□ 1220

Mr. SWIFT. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Chairman, I rise to express my serious concern over provisions of the State and Local Government Interstate Waste Control Act.

There is a certain irony that we are taking up this legislation, having just passed the conference report on transportation appropriations which represents our Government's investment in making it easier to move goods and people between the States. Yet here we are about to enact the first legislation to create protectionist barriers between States.

Once this precedent against interstate commerce is set, we might begin to see bills that allow surcharges against the import of Idaho potatoes to New York in order to boost the State's major potato farms on Long Island. I hope my colleagues will see fit to postpone action on this legislation in order to craft a bill that effectively helps States reduce their waste exports without penalizing these localities that are forced by economics and geography to ship some portion of their municipal waste to other jurisdictions.

For example, New York is striving to reduce the amount of exported municipal waste, particularly in New York City, where we have just implemented a citywide recycling program that is among the most ambitious in the Nation. But the fact is that New York exports 19 percent of its municipal waste because it is economically reasonable to do so.

But if we place restrictions on out-of-State municipal waste, no one would be surprised if within a single State some localities take the precedent being set here today and begin to ban waste imports from larger cities within the same State. In addition to the general precedent being set, there are specific provisions of the bill that are very worrisome. One of the most troubling aspects of this legislation is that it grants local governments the authority to break existing contracts between businesses and other States.

The bill also gives local authorities the right to break agreements that they had entered into even after the enactment of the bill.

I am concerned that in an effort to pass legislation that sounds politically popular we will wind up passing legislation that does more harm than good.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. SCHAEFER], a member of the committee.

Mr. SCHAEFER. Mr. Chairman, the Interstate Waste Control Act before us today represents the end product of months of hard work and negotiation on how States will be allowed to restrict the flow of waste through their borders.

I will only touch on one aspect of the bill before us: the needs determination provision. This language incorporates an amendment I offered during markup at the Energy and Commerce Committee.

Originally, this bill would have allowed the Governor of a State to veto local land use decisions through a grant of authority to deny otherwise legal waste permits. This provision had nothing to do with the regulation of interstate waste. However, it had everything to do with the restriction of property use and the limitation of local decisionmaking.

The needs language in the present bill strikes a good balance between the two extremes in this debate. First, it grants to States the ability to consider local and regional needs for waste disposal capacity in the comprehensive solid waste management planning process. This is an entirely appropriate and needed consideration.

Second, it grants to affected local governments the ability to determine their own local or regional need for a new landfill or incinerator or a major modification to such a facility. This should ensure that the final authority and decisionmaking in these matters rests exactly where it belongs—at the local government level.

All the parties involved have worked in good faith to try to strike a healthy balance in this bill. While there are still many areas of disagreement on the issue on interstate waste transport, I believe that the measure before us today largely accomplishes that goal.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to our good friend, the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, this past St. Patrick's Day, 16 of the 21 members of the Pennsylvania delegation introduced a strong bill to allow State and local governments to control waste imports. We hoped that with the luck of the Irish we would be able to get an interstate waste bill passed this Congress. I am very pleased today that an agreement has been worked out between the major parties and the major disputants on this very contentious issue, and urge my colleagues to strongly support the Energy and Commerce bill without any amendments to weaken it.

Unfortunately, Pennsylvania has the dubious distinction of being the No. 1 importer of other peoples' garbage. The amount of waste imported into Pennsylvania continues to increase each year. In 1991, the amount of garbage imported was 3 million tons; in 1992 as shown on this graph, it was 3.8 million tons; and in 1993 it was close to 4 million tons. In my own district, we import over 100,000 tons of garbage a year or 432 pounds per person. We are inundated with other peoples' garbage. At the same time, very little of Pennsylvania's waste is exported because the State requires communities to plan and dispose of their own trash, in a responsible fashion.

Very simply, this is not fair. The landfill space planned for our own garbage is being used up, and the health and safety of our citizens is endangered with a proliferation of trash trucks on our highways. We cannot plan for our own disposal needs because we cannot now control our own destiny.

H.R. 4779 is a compromise bill. As with any compromise no one is entirely satisfied, but it has broad support from key players. It takes into account both the needs of exporting States, importing States, local governments, and the waste industry. Local governments have indicated that local communities should have the right to say "yes" or "no" to out-of-State waste. The bill provides the affected local governments with this authority through host community agreements. At the same time, the bill provides States with the authority to plan for adequate future disposal capacity within their State.

Mr. Chairman, our citizens in Pennsylvania are frustrated. We need to ensure that our Nation's waste is disposed of in a more equitable manner—and we need to give State and local governments the tools to achieve this goal. I commend the Energy and Commerce Committee members, Chairman DINGELL, Congressman MOORHEAD, Congressman SHARP, Congressman SWIFT, Congressman GREENWOOD, and Congressman OXLEY, on negotiating this vitally needed compromise legislation. I ask my colleagues to support it without any weakening amendments.

Mr. BOUCHER. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Mr. Chairman, I rise today to express my support for H.R. 4779. This bill gives State and local governments some control over the amount of out-of-State waste being deposited in their landfills. In short, this legislation is a step toward States taking responsibility for and controlling their own waste and environmental futures.

The area I represent, northwest Indiana, has been a dumping ground for trash coming in from our neighboring State to the west. For example the Gary, Indiana Landfill collected 661,274 tons of out-of-State trash in 1992, ranking first out of 24 landfills in Indiana that accept imported garbage. All of the waste was from Illinois. In Porter County, the Wheeler landfill took in 390,656 tons of imported garbage, ranking it second in the State. That trash also came from Illinois. States such as Indiana cannot continue to let those outside our boundaries bury trash in our backyard. This bill recognizes that our current system is as unacceptable to the people I represent as it is unsustainable for the future.

Indiana continues to properly plan for reducing solid waste within its borders and for the development of adequate in-State capacity for solid waste disposal. The State's planning efforts will be undermined if the State is not allowed to control the amount of waste it accepts from outside Indiana. Since 1990, Indiana has tried numerous actions to protect Indiana citizens from public health and welfare problems related to uncontrolled importation of solid waste. The majority of these initiatives were ruled unconstitutional by Federal courts based on interstate commerce protection.

Court decisions all the way up to the U.S. Supreme Court have presented a need for congressional action in the area of interstate waste regulation. State governments have pleaded with us to give them some measure of control over their own destinies and to make it possible for them to effectively plan for their future waste disposal needs. H.R. 4779 provides them with this control.

I urge my colleagues to vote in favor of this important legislation and give State governments more control over the flow of waste into their States. It is a good first step.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from Ohio [Mr. GILLMOR].

Mr. GILLMOR. Mr. Chairman, Archaeologist William Rathje writes that "man faced his garbage crisis when he became a sedentary animal—when, rather than move himself, he chose to move his garbage."

According to a recent poll, waste disposal is seen among local officials as an extremely serious or very serious local problem more often than any other issue except improving education.

Yet to a large extent, State and local governments—especially in the Midwest—find their hands tied when trying to address the waste problem. This is because, despite all of the planning, management and foresight they can exercise as to their own waste, they are unable to limit out-of-State waste. Failures of the Federal Government under the interstate commerce clause to give States authority forces them to accept it.

The 10th amendment says that powers not delegated to the United States "are reserved to the States." I have always favored an approach that gives control over waste disposal to the States. After all, we are talking today about interstate waste shipments, and out-of-State waste. H.R. 4779 is a political compromise and is a blend of two different bills, one that gives control to the States and another that gives control to the local governments.

The bill allows local governments to create host community agreement with waste companies to site new landfills. Those host community agreements are impervious to State authority granted elsewhere in the bill, including the power of a State to phase down the amount of out-of-State waste. This is a true compromise. There is no outright ban on out-of-State waste, and there is no authority for the States to impose such a ban. The bill encourages each State to be responsible for its own waste.

I will be interested to see if anyone characterizes this bill as a "nimby" bill— a "not in my backyard" bill. This is really a "mimby-yeebee" bill—a "mine in my backyard, yours in your backyard" bill. Again, we want States to be responsible for their own waste.

The bill does not have everything I want in it, but it is a reasonable compromise. I have come prepared to offer amendments, but I think we have struck some agreements regarding amendments and will abide by them this is a pro-environment, and pro-responsibilities bill.

I would like to thank my colleagues, PHIL SHARP, AL SWIFT, RICK BOUCHER, MIKE OXLEY, JIM GREENWOOD, and Chairman JOHN DINGELL for their hard work on this bill. We can be very proud that we are standing here on the floor debating this bill today.

□ 1230

Mr. BOUCHER. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in opposition to this bill. I must say that I fully agree with the stated intention of the legislation—providing local communities with a say on whether or not they want to take out-of-State trash. Local communities should have the right to decide whether or not they want to accept out-of-State trash.

But that's not what this bill is all about. No, this bill is more environmental politics than environmental policy. It allows a few State Governors to make political statements at the expense of a few other States like New York and New Jersey. Unfortunately, the consequences of those political decisions are going to wreak havoc in my State of New York and I cannot support any legislation with so pernicious a result.

Provisions in the bill will allow State Governors to override local decisions to accept out-of-State waste, even when the local communities have determined that it is in their best economic interest to accept it. It allows State governments to say "we'll take your trash, Florida and Michigan—but not your trash, New York and Illinois," It allows States to deem some facilities unfit to take out-of-State trash when the same facility can take the same kind of trash from in-State sources. The bill is just not fair.

This legislation is also an unnecessary infringement on private enterprise. Remember, many local communities across the country are willing to take out-of-State trash for one simple reason: It means jobs. The restructuring of our economy has forced many towns and counties to consider alternatives that yesterday seemed unnecessary but today mean survival, including competing for prison construction sites and waste disposal sites.

Within 3 years, the city of New York is going to have to find a home for its commercial waste because provisions in the bill before us will probably close off most of the current disposal options. For the record. Mr. Chairman, New York City already handles all of its residential waste locally—no small feat for a city of 7 million people with few good disposal options. But it has done that through tough recycling programs and a commitment to reduce local waste.

The program is not that New York has to find a local home for its trash—the problem is the incredibly short amount of time in which it has to do it under this legislation. Three years is what the bill gives us. Creating local waste disposal options will take at least twice that long. Siting landfills, obtaining permits, constructing incinerators—all that takes time.

The result of this bill will mean chaos in the interstate markets for garbage disposal. It will mean New Yorkers pay higher trash bills and it will mean communities that see waste disposal as a viable means of economic survival may have to look elsewhere.

I would also like to warn my colleagues that this bill could come back to haunt you. Any State which in the future may need to export trash—even on a short term basis—may find their options severely limited if this bill becomes law.

We could have had a bill that gave local communities control of their destinies and yet treated States that currently export trash with respect. It is regrettable that we do not.

I urge my colleagues to oppose this bill.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, this Member will vote for H.R. 4779, the Local Government Interstate Waste Control Act, with the desire that it will be improved during conference with the other body.

This Member has long believed that Congress must make the necessary changes so that States are given the control over waste imports that they need and deserve. Although citizens and State and local governments have become increasingly concerned about the impact these waste shipments will have on future landfill capacity, they have learned that they are powerless to do anything about it. Clearly, something must be done to correct this problem and allow local governments to properly plan and control the various aspects of waste management.

Many States are seeking to regulate and control the amount of solid waste which enters their borders. However, their efforts have been frustrated by the courts which have consistently and properly ruled that under existing conditions, States, without congressional action, cannot prohibit or place restrictions on these shipments without violating the U.S. Constitution's interstate commerce clause.

The U.S. Supreme Court, though, has made it clear that State actions which are clearly authorized by Congress can overcome this legal hurdle. The Constitution specifically allows the Congress to pass legislation to regulate interstate commerce. As a result, this Member believes it is important for Congress to take action which would give States the authority to control the importation of waste.

This Member testified before the Committee on Energy and Commerce's Subcommittee on Transportation and Hazardous Materials in 1991 on this issue and earlier this year wrote to the committee to express his views on the subject.

This Member would like to express strong support for granting the Governor of each State new authorities to restrict the importation of waste. Because waste transport companies often target small, rural communities when choosing disposal sites for out-of-State waste, this Member believes it is imperative that States as well as local communities have an adequate role in addressing interstate waste problems. As the result of attractive financial incentives, communities often receive garbage due mainly to economic considerations rather than on the basis of responsible statewide and national solid waste management goals.

This Member would also like to express opposition to the granfathering of current agreements which would allow these existing flows to continue in perpetuity. Such an approach would lock States and communities into the unacceptable situation which has brought this issue to the attention of

Congress. These States and local governments must be given the opportunity to reclaim control over waste entering their States.

This Member is pleased that this issue is finally being addressed on the floor. Although there are positive signs that recycling and other means of waste reduction are gaining wider acceptance across the country, the fact is that the problem of what to do with the waste that is placed in landfills must be addressed. This trash has to go somewhere and increasingly it is ending up in Nebraska and other Midwestern and Western States. Landfill space is rapidly becoming a precious commodity, and by continuing to allow States to export solid waste without any regulations or restrictions, we are following a policy which does nothing to encourage waste reduction or recycling. By allowing this practice to continue, the message is sent that as long as a State, locality, or private business can locate landfill space somewhere else, it can continue to generate enormous amounts of trash. It also penalizes those States which have adequately prepared for future solid waste disposal.

While some States may find it in their best interests to continue mutually beneficial solid waste disposal arrangements with other States, these important decisions should be made by the States when their communities and rural areas are affected. States are in the best position to plan and control the various aspects of waste management.

Mr. Chairman, this Member supports moving this issue forward with the hope that the legislation will be improved during the conference.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Ms. MOLINARI].

Ms. MOLINARI. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise today to voice my strong opposition to this bill. But first, I would like to commend my colleagues, the gentlemen from New York, Mr. MANTON, Mr. PAXON, Mr. RANGEL, Mr. SCHUMER, and Mr. TOWNS, who have dedicated their time and effort to reach a compromise on this difficult issue. In my opinion, this debate centers around public perception and politics and is devoid of good, sensible public policy.

As the representative of the world's largest landfill, let me say that this legislation will be devastating to my district and the entire city and State of New York. Fresh Kills landfill alone handles all of New York City's residential waste and is nearing capacity. Environmental concerns are being cast aside for the sake of a political statement. And this is not the case only in New York. The details of this bill will create chaos in interstate markets for garbage disposal and that will ultimately negatively impact each and every State in the union.

While attempting to address the needs of importing States, this legislation succeeds at tying the hands of those that export. This legislation goes so far as to abrogate contracts by allowing local governments to prevent execution of renewal options even if they are called for in the terms of the contract. Now communities who have negotiated in good faith will be forced to look elsewhere and find alternative disposal arrangements. Ironically, this bill makes this practice extremely difficult.

Under the terms of the authority in this legislation, a Governor could order a facility to begin reducing the amount of imports it takes from one state even when it takes the same amount or increases the amount it takes from other States. In addition, this legislation does not include a system for verifying whether a State's 1993 import level was sufficient for it to qualify for the rachet.

I urge my colleagues to consider the precedent that H.R. 4779 will set. Rest assured, this bill appears to be a direct threat to New York and New Jersey, but your State and district may be next. Any State which in the future may wish to export waste—even on a short-term basis—may be precluded from doing so if this misguided bill becomes law.

□ 1240

Mr. SWIFT. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I just feel that it is necessary to lay out again—in the wake of some of the good people who oppose the legislation, simply point out—this is not a winner-take-all bill. This is not the bill that those who wanted to prevent any importation into their State would in their ideal world have asked for. It is not the bill, in fact, that has been put forward for several years both in this body and in the other body. This is a compromise, and, as we listen to those who raise legitimate concerns from their regional perspective with this bill, I think it is just important to keep in mind that this is not a bill that seeks to stiff any interest, but rather this is a bill that tries to work out a difficult compromise on the public policy issues between the exporting States and importing States.

Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Chairman, I thank the gentleman from Washington [Mr. SWIFT] for yielding this time to me.

Mr. Chairman, my State of Tennessee is a beautiful, largely rural State that happens to be geographically central to two-thirds of the population of our country. We are within a 1-day's truck drive of two-thirds of the population of the United States. That has given our State a tremendous advantage in terms of recruiting industry and recruiting jobs, but it has also made us a tempting target for out-of-State waste haulers. It is well known now that the Supreme Court has taken away our traditional right as a State, as communities, and as the people of Tennessee, to say no to out-of-State garbage. It is high time that we pass this bill, H.R. 4779, to make sure that we restore those traditional rights of our State, of our communities and of our people to say, "Don't dump on Tennessee."

Mr. Chairman, Tennesseans are responsible people. They know we have to take care of our own garbage. But they also know that we have no obligation to take care of everyone else's garbage. This bill is a fair compromise to make sure that we restore the right to say no to our own people.

I thank the gentleman from Washington [Mr. SWIFT] for his hard work in crafting this bill. I look forward to the passage of this bill.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. BUYER].

Mr. BUYER. Mr. Chairman, I rise in strong support of H.R. 4779, the Local Government Interstate Waste Control Act. The State of Indiana is currently forced to accept increasing amounts of municipal waste from different regions of the country. In response to these increased amounts of imported waste, Indiana landfills are expanding. For example, last year in Buffalo, IN, the Liberty landfill increased by approximately 100 acres in response to the growing levels of trash coming across Indiana borders. In 1991 Indiana landfills contained approximately 1.5 million tons of out-of-State waste, while in 1992 this figure rose to approximately 1.8 million tons. The total amount of waste generated outside of Indiana and hauled into landfills during these years accounted for approximately ⅕ of all landfill waste.

Figures provided by the Indiana Department of Environmental Management show that in 1980 Indiana had 150 small landfill sites, by 1993 the total number had dropped markedly to 54. Indiana's landfill capacity is not infinite.

Hoosiers recognize the need to address landfill capacity and solid waste management. The Indiana General Assembly passed legislation to create task forces designed to investigate ways to reduce waste materials flowing into Indiana landfills. This legislation also formed solid waste management districts across the State in an effort to attempt to control solid waste disposal. This responsible approach to waste management includes specific State waste reduction goals and other targeted efforts which continue at the State and local level today.

Mr. Chairman, I do not wish to see the meritorious actions taken by concerned Hoosiers negated as we are forced to sit and watch waste haulers cross Indiana borders and dump tons of trash in our landfills.

I support the approach to waste management agreements as included in this legislation. Governors and local governments should have the right to greater discretion over the amount of solid waste dumped in landfills. Local communities in Indiana's Fifth District are taking a responsible approach to an overall reduction of waste in landfills. White County Recycling Center in Reynolds, IN has seen an increase in their recycling business due to community involvement and education programs. I believe other States should do the same.

H.R. 4779 is a necessary measure to stem the exponential growth of waste being imported into the State of Indiana, while providing the States with greater jurisdiction over landfill deposits. I, therefore, urge my colleagues to grant Governors and local communities greater jurisdiction over municipal waste within State boundaries by supporting H.R. 4779.

Mr. OXLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. UPTON] who has been a real leader in our committee on this very important issue.

Mr. UPTON. Mr. Chairman, as one of the original two co-authors of this bill, I obviously favor its immediate passage.

This is critically important legislation to thousands of American communities, especially small towns and rural areas. This is not a wholesale assault on the Constitution's Commerce Clause and it is not an attempt to make America's cities drown in their own wastes.

It is a prudent, measured proposal to give American States and communities the limited right to set terms and conditions on the inflow of waste from other States.

You will hear some unique phrases on this floor during the debate on H.R. 4779. You will hear about host community agreements, ratchets and caps, and about alternative definitions of municipal solid waste. This is lawmaking and definitions are half the battle in any legislative exercise, but the key thing in this case is the overall intent of the legislation.

When the Supreme Court struck down Michigan's program for regulating out of State waste in 1992, it left people and affected local governments in lightly populated areas, like the district I represent, with the feeling that they had no role in a decisionmaking process with enormous tangible effects on their homes, neighborhoods, and communities. Who wants to watch giant trucks taking waste through his or her town, especially when the waste comes from communities where they have seemingly lacked the political will to solve their own waste problems?

As soon as legislation to modify the Court's decision was discussed, two camps formed. One camp insisted that the Court's decision was consistent with the venerable Commerce Clause and termed efforts to alter it as tinkering with the Constitution. The other camp could have supported the erection of myriad Berlin Walls at State boundaries, blocking the flow of municipal solid waste among the states.

Months and months of negotiations ensued involving all interested parties and this bill, along with the chairman's amendment, is the result. It is a fair, well-crafted, and balanced bill that avoids the extremes at both ends.

Mr. Chairman, we have made great progress in dealing with solid waste in this country. Last year's implementation of the subtitle D landfill regulations means that waste in the future will be disposed of in well-designed, responsibly managed landfills with adequate lining, cover and systems for controlling leachate and methane gas. Source reduction and recycling are restraining the volume of waste.

These are important steps forward, but they will ultimately mean little if some communities simply dump their waste willy-nilly in someone else's backyard. Out of sight, out of mind.

This legislation encourages all American communities to deal responsibly with the waste they generate.

It will not close the door to interstate shipments. Modern landfills can cost $750,000 per acre and few lightly populated areas can afford such facilities without revenues from out-of-state waste. Many will want to attract out-of-state waste.

This legislation merely strengthens the hand of affected local governments in dealing with out-of-state interests. It gives them back a measure of control over their destinies, a measure of control they lost when the Supreme Court handed down its 1992 decision, and I urge its immediate passage.

Mr. Chairman, I would like to extend my deep thanks to the staff on the Committee who gave their talent and time to help write a good bill. They are:

Roger Goodman, Keith Cole, Dick Frandsen, Judy Borger, Jim Matthews, Troy Timmons, and Jennifer Hamann.

Mr. OXLEY. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. SWIFT. Mr. Chairman, I have just one more speaker.

Mr. Chairman, I yield 5 minutes to the gentleman from Virginia [Mr. BOUCHER], the author of the legislation.

□ 1250

Mr. BOUCHER. Mr. Speaker, I thank the gentleman from Washington [Mr. SWIFT] for yielding this time to me, and also commend him for the excellent leadership he has provided in bringing this very thoughtful measure to the floor today.

Each year 15 million tons of municipal solid waste are transported across State borders for disposal. In all too many instances, that garbage is dumped in privately owned landfills sited over the opposition of local residents and over the opposition of the local government of the host community.

Under a series of Supreme Court decisions, neither States nor their localities may erect barriers to the flow of out-of-State waste into private landfills unless Congress specifically authorizes those barriers.

In response to a course of complaints from citizens, from local governments, and from State officials of the importing States, H.R. 4779, before the committee today, proposes a thoughtful set of rules under which some limitations can be imposed on the flow of garbage from out-of-State.

The premise of the bill is that the local government of the host community should have the power under Federal law to approve or disapprove of the importation of waste into privately owned local landfills. The measure assures that in the future out-of-State waste may not be deposited in those landfills unless the local government of the community in which the landfill is located has given its consent to that importation through the execution of a host community agreement.

Existing investment in private landfills will be protected, as will the ability of exporting communities to utilize out-of-State facilities for the duration of contracts which they have entered into governing the flow of waste, the collection of waste, and the removal of it from their communities.

The legislation is the product of more than 3 years of work by a large number of Members and their staffs, the committee staff, and the interested external community, including the National Association of Counties, a number of individual States and local governments, and representatives of industry. The measure carefully balances the often competing needs of these affected parties.

Mr. Chairman, I particularly again want to commend the outstanding chairman of our subcommittee, the gentleman from Washington [Mr. SWIFT], for the superb work he has done on a host of measures, and particularly on this legislation. The gentleman exhibited great patience as we resolved the many initial differences that were inherent in this debate.

I also want to thank for their many contributions, the gentleman from Michigan [Mr. UPTON], my principal cosponsor from whom the committee just heard, and also the gentleman from Michigan [Mr. BONIOR], both of whom have greatly aided our effort to bring the measure to the floor today.

The gentleman from Ohio [Mr. OXLEY], the gentleman from Michigan [Mr. DINGELL], the gentleman from Indiana [Mr. SHARP], the gentleman from Oregon [Mr. WYDEN], the gentleman from Pennsylvania [Mr. GREENWOOD], the gentleman from New York [Mr. MANTON], and a number of others, have made significant contributions to the measure as well.

The bill is a major step towards resolution of a particularly troublesome practice. It will assure that in the future waste that is shipped across State lines only goes where it is wanted. No longer will it be forced on unwilling communities. It is a thoughtful and balanced measure, and I am pleased, Mr. Chairman, to urge that it be approved.

Mr. BONILLA. Mr. Chairman, I rise in support of this legislation which respects and enforces the rights of local government. H.R. 4779, The State and Local Government Interstate Waste Control Act of 1994 gives local communities the authority to regulate the amount of imported out-of-State waste. This bill will require landfill operators to acquire authorization from local authorities to import out-of-State municipal waste. There are too many communities in our country who have absolutely no control over waste from other States. This is not right.

In my own district we have seen the impact of out-of-State waste on small communities. Today, New York City is dumping its sludge on the people of Sierra Blanca, TX. Recent Federal court decisions have left local governments powerless to regulate the importation of out-of-State municipal waste. States should attempt to manage their own waste problems and local communities should at least have some say in interstate waste contracts. This legislation helps bring accountability and responsibility to waste disposal. States like New York must learn to solve their own waste problems and stop exporting trash. This bill gives communities the power to exercise their democratic rights to say "yes" or "no" to out-of-State waste. I urge my colleagues to vote for this legislation.

Ms. LONG. Mr. Chairman, I thank the distinguished gentleman, Mr. SWIFT, for putting together this thoughtful piece of legislation, and Mr. BOUCHER, the sponsor of H.R. 4779. I also wish to acknowledge Mr. OXLEY for his thoughtful contributions to this bill. In addition, I commend Chairman DINGELL, whose leadership proved to be the linchpin in ensuring the consideration of this bill on the floor.

Finally, I express my appreciation for the work of Mr. SHARP, a Member whose diligence, aptitude, and resilience have enabled him to thoughtfully reshape many of our Nation's energy policies during his years of service in the House. He will be missed by those of this Chamber, but especially by fellow Hoosiers.

Mr. Chairman, on balance, I believe H.R. 4779, as reported, to be a fair piece of legislation that will be critical to alleviating the pressures that some States are experiencing with regard to imports of solid waste. Without this legislation, States like my home State of Indiana, which work hard to effectively manage their solid waste, will continue to be undermined. States like Indiana have been hard at work to responsibly manage their solid waste, and to reduce landfilled waste. However, the current legal framework paradoxically leaves Indiana helpless against generators of waste from other States who continue to fill up their landfill resources.

This bill give the States the option of saying "no" to waste sent from out of State for disposal. For instance, if a State or local community finds that a proposed new waste disposal facility, or expansion of an existing facility, does not fit within the affected community's disposal capacity projections, then that community or State can deny the facility proposal.

Mr. Chairman, as you may know, many local communities have established solid waste management districts, which are charged with assessing their locality's future solid waste capacity needs. These assessments are then forwarded to State authorities for inclusion in a comprehensive solid waste management plan. Indiana has such a plan. However, due to a number of court decisions over the years, these management plans have been useless when States attempt to use them to effectively manage their solid waste, or reduce landfilled waste.

This legislation will empower States and localities to use these solid waste management plans as a means of refusing out-of-State waste if this waste proves to be inconsistent with the local needs assessment.

Indiana recently enacted a law which has provisions similar to those contained in H.R. 4779. This law is designed to provide consistency between the needs of local communities and the needs of the State in general, and to be integrated with States' solid waste management district's plans for future disposal capacity. I believe H.R. 4779 will provide the same coherence, and I urge my colleagues to support its passage.

Mr. MCDADE. Mr. Speaker, I rise in strong support of the Interstate Waste Control Act, a bill which will give Pennsylvania and other States the authority to take back control of their borders and regulate the flow of interstate waste. The enactment of this bill will bring some measure of rationality and balance to the waste management business. I believe it effectively balances the rights of communities, along with their health and welfare concerns, with the needs of commerce.

For the last 8 years, I have been working on the passage of interstate waste legislation, an issue which is of great concern to me and my constituents. As an original sponsor of the Pennsylvania delegation's Interstate Waste Control Act, it gives me great pleasure to stand in support of this bill which contains many provisions drafted into my original bill. As a member of the working group which crafted this critical legislation, I am pleased to report that this bill is the fruit of a bipartisan agreement which has been diligently designed and represents over 2 years of hard but fair negotiations.

I want to commend the Pennsylvania delegation and the Governor of our great Commonwealth for working together on this critical issue. Passage of this vital legislation will empower the Governors to freeze all out-of-State imports at 1993 levels and ratchet down import levels by 50 percent over 5 years. Currently, Pennsylvania receives over 4 million tons of imported waste a year making it the No. 1 importing State in the Nation. The dumping of this waste brings health hazards and heavy truck traffic to the host communities accompanied with a burdensome reduction in the quality of life. Hopefully, full congressional approval of this measure will help to reverse this trend by helping neighboring States to become responsible for the disposal of their own waste within their borders.

As out-of-State imports increase over time, our local capacity to handle in-State waste is being consumed. Clearly, it is every State's prerogative to save this disposal capacity for its own citizens. In spite of many Governors' actions to restrain the importation of waste, the courts have overruled their actions as a unilateral violation of the Constitution's interstate commerce clause. The courts have ruled that only through congressional action can the Governors' limits on imported waste be validated. Consequently, it is appropriate that we exercise our constitutionally granted authority to help bring some measure of rationality to the waste management business. I am pleased to inform my colleagues that no State limitation in this bill is deemed to violate the interstate commerce clause.

Mr. Speaker, I therefore urge my colleagues to support passage of the Interstate Waste Control Act, a bipartisan and equitable solution to the Nation's interstate waste crisis.

Mr. TOWNS. Mr. Chairman, I rise in opposition to the bill H.R. 4779. Essentially, it is aimed directly at my State, New York, because we are the major waste exporting State. Yet almost every State exports some waste, and—like New York—also import wastes from other States. That is the nature of waste flow today, and the geographic and economic forces that govern it. Almost every major metropolitan area will be hurt by this bill.

The irony of this bill is that it affords no additional environmental protection to the communities who do not want waste. They get consideration only if a facility wants to bring in out-of-State waste, from in-State wastes they get no protection. Indeed, the bill makes clear that permit violations, which represent some environmental danger, jeopardize the out-of-State flow, but not the in-State flow. Garbage is garbage, and our Federal laws should be about protecting health and the environment, not imposing burdens to ignite political battles.

I am happy to see the principle of local control and local consent in this bill. It makes a fine start for when Congress takes up reauthorization of our solid waste disposal statute. I am concerned to see it here subordinated to the whims of State enforcement, where protection may be vary from community to community, and the opening this leaves for discrimination.

Geography has made New York one of the key players in the development of interstate commerce. We were involved in one of the early landmark Supreme Court cases. Today, the city hosts many jobs which are held by residents of neighboring States. The geography of the city has always meant that the city and State boundaries do not represent its logical limits. New York may be the largest city facing this problem, but geography will also make this bill detrimental to Chicago, Philadelphia, Seattle, and many other cities.

I do not want out wastes to travel where they are not wanted by local communities, nor to facilities that are not environmentally safe. But what I observe here is an effort to make some garbage seem more threatening than others, without enhancing the safety of anyone's environment.

I urge my colleagues to oppose this bill.

Mr. SWIFT. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the bill shall be considered under the 5-minute rule by sections and each section shall be considered as read.

The bill shall be considered for amendment under the 5-minute rule for a period not to exceed 4 hours, excluding time consumed by recorded votes and proceedings incidental thereto.

Any amendment offered by the chairman of the Committee on Energy and Commerce or his designee may amend portions of the bill not yet read for amendment.

The Clerk will designate section 1.

The text of section 1 is as follows:

H.R. 4779

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "State and Local Government Interstate Waste Control Act of 1994".

Mr. MANTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I had intended to offer an amendment in the nature of a substitute on behalf of myself and the gentlewoman from New York [Ms. MOLINARI].

I have decided, after discussions with the proponents of the bill, not to offer our amendment. I will, however, at the appropriate time offer a minor en bloc amendment, which I believe has been agreed to by all parties.

However, I want to take this opportunity to outline for my colleagues some of the problems with H.R. 4779 as reported and discuss how my substitute would have addressed these shortcomings.

First, and foremost, I support the concept that local communities should have the final say in whether or not they accept out-of-State municipal solid waste for disposal. But, I believe the bill will preempt local decision making in certain regards and grants too much, authority to the States.

I believe the bill also addresses the problems associated with the interstate transportation of waste in a manner which will create chaos in the markets for the disposal of municipal solid waste and will ultimately work to the detriment of every State in the Nation.

This is particularly true for the relatively short "grandfather" of spot market waste. The 3 years envisioned by the bill simply does not provide enough time for exporting communities to identify and develop alternative disposal options. While it is true that some States may extend this period out to 6 years through the exercise of a "ratchet," the percentage reductions in the amount of waste allowed to be exported are too great and established too quickly.

I continue to have substantial concerns over the so-called needs provision of the bill. It is my interpretation of the legislation that a local government could change its mind after it had executed a valid, host community agreement, by asking their Governor to deny a permit for a facility expansion. Similarly, we believe a Governor would be able to deny a facility expansion, not based on environmental concerns, but on the premise that the additional space was not needed under the State's solid waste management plan.

In both cases, we could see the invalidation of host community agreements or legally binding contracts.

Another concern, which I understand will not be dealt with today, is the issue of construction and demolition debris. This material is currently included in the definition of municipal solid waste under the bill. This provision will make it very difficult for the construction industry to identify disposal capacity, and likely interfering with the economic recovery this is now experiencing.

Mr. Chairman, the Manton-Molinari substitute amendment would have addressed these and other concerns we have with the bill. Basically, the substitute proposed to:

Ensure that contracts would be absolutely protected under the terms of the bill.

Provide a longer grace period or grandfather for spot market waste and modify the proposed percentage reductions or ratchets.

Establish the U.S. Environmental Protection Agency as the repository and verifier of the information establishing beleaguered State status as defined in the legislation.

Modify the provisions for denying a permit to a facility which sought to accept out-of-State municipal solid waste.

Delete construction and demolition debris from the definition of municipal solid waste.

Eliminate the double standard inherent in the bill that would allow a noncomplying facility to ban the receipt of out-of-State waste while it remains open to the receipt of in-State waste.

Limit the application of surcharge fees on the receipt of out-of-State municipal solid waste.

Mr. Chairman, in the spirit of comity and the belief that all parties are acting in good faith, I have decided not to offer my substitute. I believe these very real concerns will continue to be discussed.

The CHAIRMAN. Are there amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. INTERSTATE TRANSPORTATION AND DISPOSAL OF MUNICIPAL SOLID WASTE.

(a) IN GENERAL.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding after section 4010 the following new section:

"SEC. 4011. INTERSTATE TRANSPORTATION AND DISPOSAL OF MUNICIPAL SOLID WASTE.

"(a) RESTRICTION ON RECEIPT OF OUT-OF-STATE WASTE.—

"(1) IN GENERAL.—

"(A) AUTHORIZATION.—A landfill or incinerator in a State may not receive for disposal or incineration any out-of-State municipal solid waste unless the owner or operator of such landfill or incinerator obtains explicit authorization (as part of a host community agreement) from the affected local government to receive the waste.

"(B) REQUIREMENTS FOR AUTHORIZATION.—An authorization granted pursuant to subparagraph (A) shall—

"(i) be granted by formal action at a meeting;

"(ii) be recorded in writing in the official record of the meeting; and

"(iii) remain in effect according to its terms.

"(C) DISCRETIONARY TERMS AND CONDITIONS.—An authorization granted pursuant to subparagraph (A) may specify terms and conditions, including an amount of out-of-State waste that an owner or operator may receive and the duration of the authorization.

"(D) NOTIFICATION.—Promptly, but not later than 90 days after an authorization is granted, the affected local government shall notify the Governor, contiguous local governments, and any contiguous Indian tribes of an authorization granted under this subsection.

"(2) INFORMATION.—Prior to seeking an authorization to receive out-of-State municipal solid waste pursuant to this subsection, the owner or operator of the facility seeking such authorization shall provide (and make readily available to the Governor, each contiguous local government and Indian tribe, and any other interested person for inspection and copying) the following information:

"(A) A brief description of the facility, including, with respect to both the facility and any planned expansion of the facility, the size, ultimate waste capacity, and the anticipated monthly and yearly quantities of (expressed in terms of volume) waste to be handled.

"(B) A map of the facility site indicating location in relation to the local road system and topography and hydrogeological features. The

map shall indicate any buffer zones to be acquired by the owner or operator as well as all facility units.

"(C) A description of the then current environmental characteristics of the site, a description of ground water use in the area (including identification of private wells and public drinking water sources), and a discussion of alterations that may be necessitated by, or occur as a result of, the facility.

"(D) A description of environmental controls typically required to be used on the site (pursuant to permit requirements), including run on or run off management (or both), air pollution control devices, source separation procedures (if any), methane monitoring and control, landfill covers, liners or leachate collection systems, and monitoring programs. In addition, the description shall include a description of any waste residuals generated by the facility, including leachate or ash, and the planned management of the residuals.

"(E) A description of site access controls to be employed, and roadway improvements to be made, by the owner or operator, and an estimate of the timing and extent of increased local truck traffic.

"(F) A list of all required Federal, State, and local permits.

"(G) Estimates of the personnel requirements of the facility, including information regarding the probable skill and education levels required for jobs at the facility. To the extent practicable, the information shall distinguish between employment statistics for preoperational and postoperational levels.

"(H) Any information that is required by State or Federal law to be provided with respect to any violations of environmental laws (including regulations) by the owner, the operator, and any subsidiary of the owner or operator, the disposition of enforcement proceedings taken with respect to the violations, and corrective action and rehabilitation measures taken as a result of the proceedings.

"(I) Any information that is required by State or Federal law to be provided with respect to gifts and contributions made by the owner or operator.

"(J) Any information that is required by State or Federal law to be provided with respect to compliance by the owner or operator with the State solid waste management plan.

"(3) NOTIFICATION.—Prior to taking formal action with respect to granting authorization to receive out-of-State municipal solid waste pursuant to this subsection, an affected local government shall—

"(A) notify the Governor, contiguous local governments, and any contiguous Indian tribes;

"(B) publish notice of the action in a newspaper of general circulation at least 30 days before holding a hearing and again at least 15 days before holding the hearing, except where State law provides for an alternate form of public notification; and

"(C) provide an opportunity for public comment in accordance with State law, including at least 1 public hearing.

"(b) AUTHORIZATION NOT REQUIRED FOR CERTAIN FACILITIES.—

"(1) IN GENERAL.—A landfill or incinerator may receive for disposal or incineration out-of-State municipal solid waste in the absence of an authorization under subsection (a) if each of the following requirements are met:

"(A) The owner or operator shall provide either of the following to the Governor of the State in which the landfill or incinerator is located and to the affected local government:

"(i) Information establishing that, before the date of the enactment of this section, the owner or operator of the landfill or incinerator has entered into a host community agreement or received a State permit, specifically authorizing the owner or operator to accept, at the landfill or incinerator, out-of-State municipal solid waste. This clause shall be effective only if the owner or operator complies with all of the terms and conditions of the host community agreement or permit and, in the case of a permit, notifies the affected local government of the permit, as soon as practicable but not later than 90 days after the date of enactment of this section.

"(ii) Information establishing that during 1993, the landfill or incinerator received shipments of out-of-State municipal solid waste. Such information shall be in such documented form as will result in criminal penalties under State law in case of false or misleading information. Such information shall include information about the date of shipment, place of origin of the waste, and the type of waste.

"(B) In the case of a landfill or incinerator in operation on the date of the enactment of this section, the landfill or incinerator must be in compliance as of such date with applicable Federal and State environmental laws (including regulations), including, in the case of landfills, applicable laws and regulations relating to design and location standards, leachate collection, ground water monitoring, and financial assurance for closure and post-closure care and corrective action.

"(2) AMOUNT RECEIVED UNDER PARAGRAPH (1)(A)(ii).—

"(A) STATES NOT EXERCISING RATCHET AUTHORITY UNDER (c)(5).—

"(i) FACILITIES COVERED.—This subparagraph shall cover only landfills and incinerators in States which do not establish a limit on out-of-State municipal solid waste under subsection (c)(5).

"(ii) WASTE UNDER CONTRACT.—For any landfill or incinerator covered by this subparagraph and authorized to receive out-of-State municipal solid waste pursuant to paragraph (1)(A)(ii), if out-of-State municipal solid waste was received at such landfill or incinerator during 1993 under a contract, paragraph (1)(A)(ii) shall apply to the amount of out-of-State municipal solid waste specified in the contract for the longer of the following periods:

"(I) The life of the contract.

"(II) The period ending 3 years after the enactment of this section.

For purposes of subclause (I), the term 'life of the contract' shall not include any renewal, novation, or other extension thereof (as determined under State law).

"(iii) SPOT WASTE.—For a landfill or incinerator covered by this subparagraph and authorized to receive out-of-State municipal solid waste pursuant to paragraph (1)(A)(ii), if out-of-State municipal solid waste was received at such landfill or incinerator during 1993 in the absence of a contract, paragraph (1)(A)(ii) shall apply to the receipt of out-of-State municipal solid waste for a period ending 3 years after the enactment of this section.

"(iv) CONTRACT AND SPOT WASTE.—For any landfill or incinerator covered by this subparagraph and authorized to receive out-of-State municipal solid waste pursuant to paragraph (1)(A)(ii), if out-of-State municipal solid waste was received at such landfill or incinerator during 1993 both under a contract and otherwise, clause (ii) shall apply with respect to the waste received under the contract and clause (iii) shall apply to the other municipal solid waste received at the landfill or incinerator.

"(B) STATES EXERCISING RATCHET AUTHORITY UNDER (c)(5).—

"(i) FACILITIES COVERED.—This subparagraph shall cover only landfills and incinerators in States which establish a limit on out-of-State municipal solid waste under subsection (c)(5).

"(ii) WASTE UNDER CONTRACT.—For any landfill or incinerator covered by this subparagraph and authorized to receive out-of-State municipal solid waste pursuant to paragraph (1)(A)(ii), if out-of-State municipal solid waste was received at such landfill or incinerator during 1993 under a contract, paragraph (1)(A)(ii) shall apply to the amount of out-of-State municipal solid waste specified in the contract for the longer of the following periods:

"(I) The life of the contract.

"(II) The period ending January 1, 2000.

For purposes of subclause (I), the term 'life of the contract' shall not include any renewal, novation, or other extension thereof (as determined under State law).

"(iii) SPOT WASTE.—For a landfill or incinerator covered by this subparagraph and authorized to receive out-of-State municipal solid waste pursuant to paragraph (1)(A)(ii), if out-of-State municipal solid waste was received at such landfill or incinerator during 1993 in the absence of a contract, paragraph (1)(A)(ii) shall apply to the receipt of out-of-State municipal solid waste for a period ending January 1, 2000.

"(iv) CONTRACT AND SPOT WASTE.—For any landfill or incinerator covered by this subparagraph and authorized to receive out-of-State municipal solid waste pursuant to paragraph (1)(A)(ii), if out-of-State municipal solid waste was received at such landfill or incinerator during 1993 both under a contract and otherwise, clause (ii) shall apply with respect to the waste received under the contract and clause (iii) shall apply to the other municipal solid waste received at the landfill or incinerator.

"(3) AVAILABILITY OF DOCUMENTATION.—The owner or operator of a landfill or incinerator which is exempt under paragraph (1) of this subsection from the requirements of subsection (a) shall provide to the State and affected local government, and make available for inspection by the public in the affected local community, a copy of the host community agreement or other documentation required under paragraph (1). The owner or operator may omit any proprietary information contained in the contracts, but shall ensure that at least the following information is apparent: the volume of out-of-State municipal solid waste to be received, the source of the waste, and the duration of the contract.

"(4) DENIED OR REVOKED PERMITS.—A landfill or incinerator may not receive for disposal or incineration out-of-State municipal solid waste in the absence of a host community agreement if the operating permit or license for the landfill or incinerator (or renewal thereof) was denied or revoked by the appropriate State agency before the date of enactment of this section unless such permit or license (or renewal) has been reinstated as of such date of enactment.

"(5) WASTE WITHIN BI-STATE METROPOLITAN STATISTICAL AREAS.—The owner or operator of a landfill or incinerator in a State may receive out-of-State municipal solid waste without obtaining authorization under subsection (a) from the affected local government if the out-of-State waste is generated within, and the landfill or incinerator is located within, the same bi-State level A metropolitan statistical area (as defined by the Office of Management and Budget and as listed by the Office of Management and Budget as of the date of enactment of this section) which contains two contiguous major cities each of which is in a different State.

"(c) AUTHORITY OF STATE TO RESTRICT OUT-OF-STATE MUNICIPAL SOLID WASTE.—

"(1) LIMITATIONS ON AMOUNT OF WASTE RECEIVED.—

"(A) LIMIT FOR ALL FACILITIES IN THE STATE.—A State may limit the amount of out-of-State municipal solid waste received annually for disposal at each landfill or incinerator in the State to the limitation amount described in paragraph (2), except as provided in this subsection. No such limit may conflict—

"(i) with provisions of a permit specifically authorizing the owner or operator to accept, at the facility, out-of-State municipal solid waste, or

"(ii) with a host community agreement entered into between the owner or operator of any such landfill or incinerator and the affected local government.

"(B) Conflict.—A limit referred to in subparagraph (A) shall be treated as conflicting with a permit or host community agreement if—

"(i) the permit or host community agreement establishes a higher limit, or

"(ii) the permit or host community agreement does not establish any limit,

on the amount of out-of-State municipal solid waste which may be received annually at the facility.

"(C) Limit for particular facilities.—At the request of an affected local government that has not executed a host community agreement, the State may limit the amount of out-of-State municipal solid waste received annually for disposal at the landfill or incinerator concerned to the limitation amount described in paragraph (2). No such limit may conflict with provisions of a permit specifically authorizing the owner or operator to accept, at the facility, out-of-State municipal solid waste.

"(D) Effect on other laws.—Nothing in this subsection shall be interpreted or construed to have any effect on any State law relating to contracts.

"(2) Limitation amount.—For any landfill or incinerator that commenced receiving documented out-of-State municipal solid waste before the date of enactment of this section, the limitation amount referred to in paragraph (1) for any year shall be equal to the amount of out-of-State municipal solid waste received for disposal at the landfill or incinerator concerned during calendar year 1993. The documentation referred to in this subparagraph shall be such as would result in criminal penalties in case of false or misleading information. Such documentation shall include the amount of waste received, place of origin, including the identity of the generator, date of shipment, and type of waste.

"(3) Other limitation amount.—(A) Except as provided in subparagraph (B), the limitation amount referred to in paragraph (1) shall be zero for a landfill or incinerator authorized to receive out-of-State municipal solid waste solely by reason of receipt in calendar year 1993 of municipal solid waste that was not received under contract or otherwise authorized under this section.

"(B) The limitation amount of zero referred to in subparagraph (A) shall not be applicable to receipt of any out-of-State municipal solid waste by the landfill or incinerator if the owner or operator, on the date of enactment of this section, owned the land on which the facility that received such waste is located.

"(4) No discrimination.—Except as provided in paragraph (5), in establishing a limitation under this subsection, a State shall act in a consistent manner that does not discriminate against any shipments of out-of-State municipal solid waste on the basis of State of origin.

"(5) Additional limit for municipal waste.—(A) Any State (hereinafter in this paragraph referred to as an 'importing State') that imported more than 750,000 tons of out-of-State municipal solid waste in 1993 may establish a limit under this paragraph on the amount of out-of-State municipal solid waste received pursuant to the authority of subsection (b)(1)(A)(ii) for disposal at landfills and incinerators in the importing State. A limit under this paragraph shall be in addition to, or in lieu of, any other limit imposed under this subsection. A limit under this paragraph may be imposed only if each of the following requirements are met:

"(i) The limit shall not conflict (within the meaning of paragraph (1)(B)) with any permit or host community agreement authorizing the receipt of out-of-State municipal solid waste.

"(ii) The importing State shall notify the Governor of the exporting State or States of the proposed limit at least 12 months before imposition of the limit.

"(iii) The importing State shall notify the Governor of the exporting State or States of the proposed limit at least 90 days before enforcement of the limit.

"(iv) The percentage reduction in the amount of out-of-State municipal solid waste which is received at each facility in the importing State at which a limit may be established under this paragraph shall be uniform for all such facilities.

"(B) The limit established under this paragraph shall be a percentage of the amount of out-of-State municipal solid waste generated in the exporting State during calendar year 1993 and received at facilities in the importing State in which a limit is established under this paragraph. For any calendar year after 1994, the percentage shall be as specified in the following table:

"Calendar year:	***Applicable Percentage:***
1996	*85*
1997	*75*
1998	*65*
1999	*55*
after 1999	*50.*

"(d) Needs Determination.—Any comprehensive solid waste management plan approved under Federal or State law and any implementation of such plan through the State permitting process may take into account local and regional needs for solid waste disposal capacity. An affected local government may make a determination that there is no local or regional need for a new landfill or incinerator or major modification to an existing facility in the area under the jurisdiction of the affected local government. Such determination shall be based on a finding that the proposed facility does not have a host community agreement or is inconsistent with the capacity needs established in the comprehensive solid waste management plan adopted by the affected local government pursuant to State law. No comprehensive solid waste management plan may expressly prohibit the importation of municipal solid waste from out of State.

"(e) Implementation and Enforcement.—Any State may adopt such laws and regulations, not inconsistent with this section, as are necessary to implement and enforce this section, including provisions for penalties.

"(f) Effect on Interstate Commerce.—No State limitation established as provided in subsection (c), no State planning and permitting process referred to in subsection (d), and no State law or regulation referred to in subsection (e) shall be considered to impose an undue burden on interstate commerce or to otherwise impair, restrain, or discriminate against interstate commerce.

"(g) Annual State Report.—Each year the owner or operator of each landfill or incinerator receiving out-of-State municipal solid waste shall submit to the Governor of the State in which the landfill or incinerator is located information specifying the amount of out-of-State municipal solid waste received for disposal during the preceding year. Each year each such State shall publish and make available to the public, a report containing information on the amount of out-of-State municipal solid waste received for disposal in the State during the preceding year.

"(h) Definitions.—For purposes of this section:

"(1) Affected local government.—(A) For any landfill or incinerator, the term 'affected local government' shall mean—

"(i) the public body authorized by State law to plan for the management of municipal solid waste, a majority of the members of which are elected officials, for the area in which the landfill or incinerator is located or proposed to be located, or

"(ii) if there is no such body created by State law, the elected officials of the city, town, township, borough, county, or parish exercising primary responsibility for the use of land on which the facility is located or proposed to be located, except that for purposes of host community agreements entered into before the date of enactment of this section, the term shall mean either the public body described in subparagraph (A) or the elected officials of the city, town, township, borough, county, or parish exercising primary responsibility for the use of land on which the facility is located or proposed to be located.

"(B) Two or more Governors of adjoining States may use the authority provided in section 1005(b) to enter into an agreement under which contiguous units of local government located in each of the adjoining States may act jointly as the affected local government for purposes of providing authorization under subsection (a) for municipal solid waste generated in one of such counties and received for disposal or incineration in another.

"(2) Host community agreement.—The term 'host community agreement' means a written, legally binding agreement, lawfully entered into between an owner or operator of a landfill or incinerator and an affected local government that specifically authorizes the landfill or incinerator to receive out-of-State municipal solid waste.

"(3) Municipal solid waste.—The term 'municipal solid waste' means all waste materials discarded for disposal by households, including single and multifamily residences, and hotels and motels. The term also includes waste materials generated by commercial, institutional, and industrial sources, to the extent such wastes are essentially the same as waste normally generated by households or were collected and disposed of with other municipal solid waste as part of normal municipal solid waste collection services, and regardless of when generated, would be considered conditionally exempt small quantity generator waste under section 3001(d). Examples of municipal solid waste include food and yard waste, paper, clothing, appliances, consumer product packaging, disposable diapers, office supplies, cosmetics, glass and metal food containers, elementary or secondary school science laboratory waste, and household hazardous waste. Such term shall include debris resulting from construction, remodeling, repair, or demolition of structures other than debris that is not otherwise commingled with other municipal solid waste and has been determined by the generator, to be contaminated. For purposes of determining whether any such debris is contaminated, the generator shall conduct representative sampling and analysis of such debris, the results of which shall be submitted to the affected local government for record keeping purposes only, unless not required by the affected local government. Any such debris that has been determined to be contaminated shall be disposed of in a landfill that meets, at a minimum, the requirements of this subtitle. The term does not include any of the following:

"(A) Any solid waste identified or listed as a hazardous waste under section 3001.

"(B) Any solid waste, including contaminated soil and debris, resulting from—

"(i) a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9604 or 9606),

"(ii) a response action taken under a State law with authorities comparable to the authorities of section 104 or 106, or

"(iii) a corrective action taken under this Act.

"(C) Recyclable materials that have been separated, at the source of the waste, from waste otherwise destined for disposal or that have been managed separately from waste destined for disposal.

"(D) Materials and products returned from a dispenser or distributor to the manufacturer or an agent of the manufacturer for credit, evaluation, and possible reuse.

"(E) Any solid waste that is—

"(i) generated by an industrial facility; and

"(ii) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or is located on property owned by the generator of a company with which the generator is affiliated.

"(F) Any medical waste that is segregated from or not mixed with solid waste.

"(G) Sewage sludge and residuals from any sewage treatment plant, including any sewage treatment plant required to be constructed in the State of Massachusetts pursuant to any court order issued against the Massachusetts Water Resources Authority.

"(H) Combustion ash generated by resource recovery facilities or municipal incinerators, or waste from manufacturing or processing (including pollution control) operations not essentially the same as waste normally generated by households.

"(4) OUT-OF-STATE MUNICIPAL SOLID WASTE.—The term 'out-of-State municipal solid waste', means, with respect to any State, municipal solid waste generated outside of the State. The term includes municipal solid waste generated outside of the United States.

"(5) SPECIFIC AUTHORIZATION.—For purposes of this section, the term 'specifically authorizes' refers to an explicit authorization, contained in a host community agreement or permit, to import waste from outside the State. Such authorization may include a reference to a fixed radius surrounding the landfill or incinerator which includes an area outside the State or a reference to 'any place of origin', reference to specific places outside the State, or use of such phrases as 'regardless of origin' or 'outside the State'. The language for such authorization may vary as long as it clearly and affirmatively states the approval or consent of the affected local government or State for receipt of municipal solid waste from sources or locations outside the State from which the owner or operator of a landfill or incinerator proposes to import it. The authorization shall not include general references to the receipt of waste outside the jurisdiction of the affected local government.

"(i) COST RECOVERY SURCHARGE.—

"(1) AUTHORITY.—A State may impose and collect a cost recovery surcharge on the combustion or disposal in a landfill or incinerator of out-of-State municipal solid waste in such State.

"(2) LIMITATION.—During the period beginning on the date of the enactment of this section and ending on December 31, 1996, a State may not impose or collect a cost recovery surcharge from a facility on any out-of-State municipal solid waste that meets both of the following conditions:

"(A) The waste is being received at the facility under one or more contracts entered into before the date of the enactment of this section.

"(B) The amount of waste being received in a calendar year under the contract or contracts does not exceed the amount of waste received at the facility during calendar year 1993.

"(3) AMOUNT OF SURCHARGE.—The amount of the cost recovery surcharge may be no greater than the amount necessary to recover those costs determined in conformance with paragraph (5) and in no event may exceed $2 per ton of waste.

"(4) USE OF SURCHARGE COLLECTED.—All cost recovery surcharges collected by a State shall be used to fund those solid waste management programs administered by the State or its political subdivisions that incur costs for which the surcharge is collected.

"(5) CONDITIONS.—(A) Subject to subparagraphs (B) and (C), a State may impose and collect a cost recovery surcharge on the combustion or disposal within the State of out-of-State municipal solid waste if—

"(i) the State demonstrates a cost to the State arising from the combustion or disposal within the State of a volume of municipal solid waste from a source outside the State;

"(ii) the surcharge is based on those costs to the State demonstrated under subparagraph (A) that, if not paid for through the surcharge, would otherwise have to be paid or subsidized by the State; and

"(iii) the surcharge is compensatory and is not discriminatory.

"(B) In no event shall a cost recovery surcharge be imposed by a State to the extent that the cost for which recovery is sought is otherwise recovered by any other fee or tax assessed against the generation, transportation, treatment, combustion, or disposal of solid waste.

"(C) The grant of a subsidy by a State with respect to entities disposing of waste generated within the State does not constitute discrimination for purposes of subparagraph (A)(iii).

"(6) BURDEN OF PROOF.—In any proceeding in which a State invokes this subsection to justify a cost recovery surcharge on the combustion or disposal within the State of out-of-State municipal solid waste, the State shall bear the burden of establishing that the cost recovery surcharge satisfies the conditions set forth in paragraph (5).".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding after the item relating to section 4010 the following new item:

"Sec. 4011. Interstate transportation and disposal of municipal solid waste.".

The CHAIRMAN. Are there amendments to Section 2?

AMENDMENT OFFERED BY MR. MANTON

Mr. MANTON. Mr. Chairman, I offer an amendment on behalf of myself, the gentleman from New York [Mr. PAXON], the gentleman from New York [Mr. SCHUMER], the gentleman from New York [Mr. TOWNS], and the gentlewoman from New York [Ms. MOLINARI].

The Clerk read as follows:

Amendment offered by Mr. MANTON: Page 21, insert the following after the period on line 20: "No host community agreement that is entered into by the elected officials described in clause (ii) may be overturned by an act of a public body described in clause (i) if such body is created by State law after the execution of such host community agreement.".

On page 17, beginning on line 10, strike "Except as provided in paragraph (5), in" and insert "In".

Mr. MANTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MANTON. Mr. Chairman, quite simply, this amendment seeks to ensure States will not be discriminated against under the bill. The second provision of the amendment will clarify the definition of affected local government. I believe this amendment significantly improves the bill, and I believe it is acceptable to all parties.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. MANTON].

The amendment was agreed to.

□ 1300

The CHAIRMAN. Are there other amendments to section 2?

AMENDMENT OFFERED BY MR. ZIMMER

Mr. ZIMMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ZIMMER: Page 9, line 24, strike "3 years" and insert "6 years".

Page 10, line 2, strike "not include any renewal, novation, or other extension thereof (as determined under State law)." and insert "be determined under State law.".

Page 11, line 25, strike "not include any renewal novation, or other extension thereof (as determined under State law)." and insert "be determined under State law.".

Page 23, line 5, strike "Such term shall include debris resulting from construction" and all that follows down through "the requirements of this subtitle." in lines 18 and 19.

Mr. ZIMMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. ZIMMER. Mr. Chairman, I have offered this amendment on behalf of myself and the gentleman from New Jersey [Mr. PALLONE], because we believe that the bill as passed by the Committee on Energy and Commerce would create a solid waste crisis for New Jersey.

New Jersey is the most densely populated State in the Nation and is in a unique situation because it has been an importer of garbage though much of its history.

Until the 1970's, the State of New Jersey was a major net importer of waste, primarily from New York and from Philadelphia. And, in the case of New Jersey versus Philadelphia. The U.S. Supreme Court determined that New Jersey's efforts to ban out-of-State waste violated the commerce clause of the Constitution.

Landfill space that our State had relied on for long-term disposal capacity was filled by other States' waste. New Jersey began developing a solid waste plan in the 1970's, and we were the first State in the Nation to begin to do so. That plan calls for self-sufficiency in the year 2000, and we are on track.

New Jersey has reduced its solid waste exports by 50 percent since 1987, and we have spent hundreds of millions of dollars doing so. But we need more time. We need til the end of the decade to accomplish this.

It is important to understand this background because New Jersey is not in disagreement with the ultimate goals of the legislation. New Jersey has done more extensive planning then any other State to accomplish the goals of the bill, and it should not be punished by this legislation.

We have a number of problems with this bill. It would ban the interstate transport of waste unless the host community agrees to accept the waste shipments. This idea, called a presumptive ban, is a bad idea because it would make it extremely difficult for Governors of two or more States to work together to resolve mutual problems relating to solid waste disposal.

The bill contains a provision that protects contracted waste for 3 years or the life of the contract, whichever is longer, but the language is unduly burdensome and really punishes the State of New Jersey, because in order to minimize progress in achieving self-sufficiency, New Jersey has allowed counties to enter into only short-term contracts.

New Jersey would be penalized under this bill for doing the right thing, because it would not get the benefit of the full term of the extension.

Also the bill includes construction and demolition debris in the definition of municipal solid waste. This category is exceedingly difficult to define and track and includes everything from the remains of a demolished building or road to leftover wood, pipe, or even tree stumps. This category of debris is often mixed with other categories of waste, and it is often handled by private agreements that do not involve the local government, unlike municipal solid waste which is much more often considered to be a local government responsibility.

New Jersey has had remarkable success in recycling construction and demolition debris, reducing the need for disposal by a categorywide average of more than 50 percent.

I recognize that two States are receiving large amounts of this kind of waste from Canada. However, I do not believe that the language included in the legislation has been though out well enough, and it would place an unnecessary burden on New Jersey to accommodate an additional waste burden before needed facilities can be developed in our State.

My amendment would correct New Jersey's problems with the contract provisions in the bill and eliminate the provision relating to construction and demolition debris. However, I do not intend to ask for a vote on this amendment. I will withdraw it, because it is my understanding that an agreement has been reached on the contract portion of the legislation. That agreement will be reflected in an amendment to be submitted by the gentleman from New Jersey [Mr. PALLONE] and myself shortly.

I believe that all of New Jersey's major problems must be addressed before I can support this legislation. However, I will withdraw this amendment in favor of the amendment just described that will deal exclusively with the contracts issue.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. Are there further amendments to section 2?

AMENDMENT OFFERED BY MR. PALLONE

Mr. PALLONE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PALLONE: Page 9, line 24, strike "3 years" and insert "6 years".

Mr. PALLONE. Mr. Chairman, I rise to offer this amendment with my colleague, the gentleman from New Jersey [Mr. ZIMMER]. The amendment would allow facilities receiving out-of-State waste under existing contracts to continue to do so for the life of the current contract or for six years after enactment.

New Jersey's current contracts to export waste should be protected until the end of the decade, pursuant to this amendment. New Jersey now has several contracts due to expire and an inability to renew under the House approach in this bill would impair New Jersey's ability to obtain self-sufficiency.

A great deal of the solid waste which New Jersey exports for disposal is being done under disposal contracts which were entered into in good faith according to the laws and regulations in effect at the time they were entered into. Since New Jersey has been trying to encourage counties to develop the means to dispose of waste within the State, as my colleague, the gentleman from New Jersey [Mr. ZIMMER], mentioned, most of our contracts are due to expire in the next 2 years. These contracts must be protected at least through the year 2000, if we are going to achieve self-sufficiency within our State.

To change the ground rules at this point in time and declare these contracts void would, in my opinion, be extremely unfair and would go against all the planning which we have done in New Jersey, which, as Members know, has tried and is really moving in the direction of self-sufficiency.

Proponents of the bill have said that they do not want communities to receive in perpetuity waste that they never agreed to accept in the first place. This amendment keeps to that concept, in my opinion, Mr. Chairman, but merely allows 3 additional years for exporters to eliminate flows.

Mr. OXLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the gentleman's amendment and wish to associate myself with his remarks. I believe this amendment will improve the bill and I urge my colleagues to support the gentleman's amendment. This amendment would extend the protections for shipments under contract from the current 3 years to 6 years. I urge my colleagues to support the amendment.

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. OXLEY. I yield to the gentleman from Washington.

Mr. SWIFT. Mr. Chairman, I, too, would like to say that we support the amendment on this side. We urge its adoption.

Mrs. ROUKEMA. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in support of the Zimmer-Pallone amendment to the solid waste legislation before us today. This amendment will ensure that facilities currently receiving out-of-State waste under existing contracts can continue doing so for up to 6 years after this bill's date of enactment.

Disposal Capacity in New Jersey has been overtaken by out-of-State waste. We have reduced our own solid waste disposal.

We have been consistent in our own planning with goals of this bill.

Mr. ZIMMER has correctly outlined the provisions in the bill that would penalize New Jersey for having "done the right thing."

The bipartisan amendment deserves our strong support for current contracts.

This change is vital for States like New Jersey, because the original bills' language would have protected these contracts for only 3 years, which the Commissioner of our State's Department of Environmental Protection [DEP] believes could "precipitate a solid waste crisis" if this measure were enacted as currently drafted.

Consequently, the Zimmer-Pallone amendment allows New Jersey to continue implementing its long-term plan to become self-sufficient with respect to solid waste by the year 2000.

In addition, adopting this amendment will avoid the dangerous scenario of many local governments in New Jersey not having the means to dispose of their solid waste after their existing, short-term contracts expire, while they wait for new in-State solid waste disposal facilities to come on line and statewide recycling and source reduction efforts to fully phase-in in the near term.

It's ironic that H.R. 4779, as reported by the Energy and Commerce Committee, seeks to penalize States that export solid waste. In the early 1970's, New Jersey was one of the first States that sought to ban the importation of solid waste only to have the Supreme Court rule that Congress must give State and local governments this authority—the Court held that States cannot ban out-of-State imported waste on their own.

Once the courts denied the State the ability to ban the importation of solid waste, New Jersey embarked on a long-term solid waste self-sufficiency plan. Environmentally unsound landfills were closed, which reduced our own State's capacity.

With less instate capacity, New Jersey began exporting surplus solid waste to States in the Midwest, while it also began the long process of bringing online new, environmentally safe instate capacity, reducing solid waste sources, and instituting an aggressive recycling campaign.

Well, here we are 20 years later, and absent some significant changes, this bill will penalize New Jersey, and wreak havoc on the State's good faith effort to become self-sufficient regarding solid waste in the next 6 years.

Most of the solid waste that New Jersey currently exports to other States is being handled under contracts that local governments in our State and in other States have entered into in good faith and in accordance with all relevant rules and regulations. The bill's original language that fails to protect these agreements for more than 3 years must be changed, and that's exactly why the Zimmer-Pallone amendment must be adopted.

While the adoption of this amendment would represent an important improvement for States like New Jersey, I remain very seriously concerned about the damage that this overall package, as currently crafted, would do to the State of New Jersey.

DEP Commissioner Robert Shinn has written a letter to the entire New Jersey delegation detailing the State's objections to H.R. 4779. At the same time, the State has expressed its view that the Senate version of this bill, S. 2345, is far more preferable.

I hope that when the conference committee meets to write the final version of this important legislation that the interests of States that export solid waste, like New Jersey, can be accommodated instead of being ignored. As such, I hope that as much of the Senate bill as possible can be incorporated into the final conference committee report.

Simply put, this issue is too important to become a victim of petty politics between importing and exporting States. New Jersey is well on its way to becoming self-sufficient very shortly.

I hope that any solid waste disposal legislation that we enact this year allows our State to continue its efforts to achieve this noteworthy goal without undue roadblocks or interference.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. PALLONE].

The amendment was agreed to.

☐ 1310

AMENDMENT OFFERED BY MR. SMITH OF NEW JERSEY

Mr. SMITH of New Jersey. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of New Jersey: Page 10, line 2, strike "not include any renewal, novation, or other extension thereof (as determined under State law)." and insert "be determined under State law.".

Page 11, line 25, strike "not include any renewal, novation, or other extension thereof (as determined under State law)." and insert "be determined under State law.".

Mr. SMITH of New Jersey (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. SMITH of New Jersey. Mr. Chairman, I appreciate the opportunity to speak today on the State and Local Government Interstate Waste Control Act of 1994 (H.R. 4779). The amendment I am offering to protect existing interstate contracts is absolutely crucial to my home State of New Jersey, as well as neighboring New York and other States which export some amount of their municipal solid waste for disposal.

During the 1970's and the early 1980's, several States—particularly New Jersey, New York, and others in the Northeast—suffered from a solid waste management crisis. Costs for disposal skyrocketed and taxpayers paid through the nose for basic trash removal and disposal. Environmental protection standards—where they even existed—were neglected. Taxpayers are still paying for this in the form of the numerous Superfund sites and other sites of environmental degradation which spot the Nation.

At that time, Mr. Chairman, New Jersey was the No. 1 importer of municipal solid waste from other States. New Jersey is now the No. 2 exporter of municipal solid waste, second only to New York.

Over the past two decades, New Jersey has undertaken an ambitious and comprehensive strategy to meet the basic waste disposal needs of its residents and protect the delicate environment of the Garden State. As a part of this plan, the State has recognized the need to become self-sufficient in its solid waste management and to end its dependence on other States—such as Pennsylvania and some Midwestern States—for disposal.

New Jersey has made a concerted good faith effort to reduce its exports of municipal solid waste. In fact, since 1989, the State has exported a decreasing volume of waste each year. The New Jersey Department of Environmental Protection [DEP] estimates that the State can achieve self-sufficiency by the year 2000—but only if we are permitted to continue to pursue the point-by-point strategy the State painstakingly plotted and has methodically carried out. As written, the presumptive ban of H.R. 4779 denies us the time and flexibility needed to achieve this.

Under existing State law, each of the 21 New Jersey counties and the Hackensack Meadowlands Commission are designated as solid waste management districts and charged with developing an integrated solid waste management plan for waste within their boundaries. The integrated plans include not only collection and disposal of waste, but also required baseline standards for recycling and educational programs to promote personal responsibility for litter and trash creation. Each district's plan must be approved by the State.

The Department of Environmental Protection carefully links the 22 individual plans to meet the guidelines for an integrated State solid waste management plan. For example, the State encourages counties to share transfer stations, waste-to-energy facilities, landfills, composting facilities, and recycling facilities.

Mr. Chairman, the State has taken an increasingly hard line approach to approving contracts which involve the export of waste to other States. Traditionally, New Jersey counties had entered into long-term contracts for out-of-State waste disposal. In recent years, however, the DEP, has conditioned approval on reduced terms of the contract to keep in line with the December 31, 1999, goal of self-sufficiency.

For example, last year, a New Jersey county submitted to the State a 10-year contract for out-of-State disposal, which would have ended in 2003. The DEP approved the contract for an initial time period of 2 years and required the county to adhere to a series of milestones leading to full in-State disposal in the long term. As the required milestones are met by the county, the DEP would authorize a 3-year renewal on the initial 2-year contract. This example is consistent with the course of action the State has taken with several of its major exporting counties.

My amendment is necessary to allow the DEP to continue this type of manipulation of solid waste management by the counties toward full in-State disposal. The simple change in wording of my amendment ensures that the additional 3 years referenced in the above example could not be considered outside of the life of the contract by an importing State's legislature and therefore unprotected.

For many of the major importing States, advocacy of a ban on interstate waste transport has become a politically charged issue. It is easy to say that "Pennsylvania should not accept any New Jersey waste;" but it is not so easy to plot a responsible strategy for where that waste should then go. New Jersey has both recognized the need to stop exporting waste and created a strategy to reach self-sufficiency by the year 2000.

Unamended, H.R. 4779 ties the hands of those States already caught between a rock and a hard place—like New Jersey—and could easily precipitate a second solid waste crisis in the Northeast and elsewhere. We all recognize the realities of this issue—everyone creates trash, no one wants it in his hometown, and unquestionably no one wants to be responsible for putting it in someone else's hometown; but it has to go somewhere. New Jersey is working to deal with this matter in a way reduces the potential for environmental disaster in the future and avoids increasing the already heavy burden on taxpayers. Passing H.R. 4779 ignores this good faith effort and the successes which it has already achieved. With this kind of carrot, who needs a stick?

Finally, Mr. Chairman, let me say that I intend to withdraw this amendment as part of a good faith agreement reached by New Jersey and the leading importing States. It is only through the withdrawal of my amendment and the other amendments offered by several of my New Jersey colleagues that the Pallone-Zimmer amendment to protect existing contracts for up to 6 years after enactment of this legislation was able to have just been approved by a voice vote. Both New Jersey and New York have been steadfast in negotiating with the leading importing States over this legislation and generally over this issue, and it is through this sort of 11th hour negotiating that these States have come to this agreement.

Mr. Chairman, I ask unanimous consent that my amendment be withdrawn as part of that agreement.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN pro tempore. The amendment is withdrawn.

Mr. SHARP. Mr. Chairman, I move to strike the last word.

Mr. Chairman, myself, the gentleman from Pennsylvania [Mr. GREENWOOD], and several of us from the importing States have announced a number of amendments we would like to have offered. Because we have been able to negotiate with our colleagues from the exporting States and they have withheld on some of their amendments, we are simply wanting to indicate to our colleagues that we are going to withhold on our amendments, recognizing that we think that our interests and their interests are better served through negotiation, rather than a fight over some of the details here among our entire colleagues.

Mr. GREENWOOD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would simply like to echo the words of the gentleman from Indiana [Mr. SHARP], who indicates we had been prepared to offer a series of amendments to strengthen this bill. There were a total of more than 20 amendments that we would have dealt with today. By virtue of the every good faith agreements that were made this morning, we have decided to withdraw our strengthening amendments in exchange for those, for the withdrawal of those amendments which would have weakened this legislation.

We think it is now in good shape for final passage.

Mr. SWIFT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would simply like to note that what has just gone on here is legislation as it should be conducted; people of legitimately differing views, with legitimacy to either side's particular point of view, working things out civilly so that we can come up with a compromise that pleases no one ultimately, but which everybody can live with. It happens more frequently than the body ever gets credit for, but I think it is important to note that the very lack of fire and flamboyant rhetoric and what have you should not obscure the fact that what has transpired here today is the amicable resolving of intensely important issues to portions of this country, and it is at times like this that I am most proud to be a Member of this body.

Mr. PAXON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the legislation we are considering today, H.R. 4779, the State and Local Government Interstate Waste Control Act, attempts to deal with the problem of the interstate shipment of solid waste by authorizing State and local governments to restrict or prohibit municipal solid waste from entering their State.

This has been a contentious issue for a number of years and past attempts to solve it have failed. Unfortunately, I believe that this bill before us is on the same road to failure.

As currently written, H.R. 4779 places a very great burden on New York State. The time tables and ratchet provision in subsection (c) are unreasonable and will not allow New York the 3 to 7 years needed to fully develop in-State disposal capacity.

In addition, the bill language does not sufficiently protect waste disposal contracts and may still allow the abrogation of some contracts.

To help improve H.R. 4779, Mr. SCHUMER and I offered two amendments in Rules Committee. However, only one of the amendments, to prohibit discriminatory use of the ratchet, will be offered today.

This amendment would make it clear that a beleaguered State may not impose an import ratchet in a discriminatory manner. Either all imported waste would be subjected to the ratchet or no waste would be so affected. It is only fair that a State may not pick and choose which waste to restrict based solely on its State of origin.

I understand this amendment will be offered en bloc with an amendment by Mr. MANTON clarifying the definition of affected local government and I would urge all of my colleagues to support this very, very modest en bloc amendment.

In conclusion, however, H.R. 4779 remains a politically motivated bill designed to obstruct interstate commerce and punish those States who need to export solid waste until sufficient in-State waste disposal capacity is created.

I intend to oppose this legislation today and I would urge all Members who support free and open commerce and who support the environmentally sound management of solid waste to vote "no" on final passage.

Mr. HUGHES. Mr. Chairman, I had intended to offer an amendment on behalf of myself and my colleague from New Jersey, Mr. FRANKS.

Mr. Chairman, as a result of an understanding that has been agreed to by the State of New Jersey and the managers of the bill, I will not offer this amendment. But first I would like to speak about the management of our Nation's solid waste—an issue that is critically important to the State of New Jersey.

New Jersey is currently a net exporter of solid waste. In part, this is because our State is geographically small, but at the same time heavily populated and urbanized. However, in large measure, we are an exporter because we have long been forced to accept waste from other States which has filled our disposal sites. In 1972, in Philadelphia versus New Jersey my State lost a case in which it tried to establish its right to control the importation of waste that was quickly filling our disposal space. So, we understand and are committed to the principle that communities should not be forced to take unwanted waste from other communities in perpetuity.

New Jersey has been a leader in efforts to achieve self-sufficiency with respect to solid waste. In fact, our State is committed to achieving self-sufficiency by the year 2000. Since 1989, there has been a steady reduction in solid waste exports from New Jersey.

Unfortunately, H.R. 4779 contains a number of provisions that could seriously damage New Jersey's attempts to attain self-sufficiency. Among other things the bill sets a new definition for municipal solid waste which includes construction and demolition debris or C&D. This, to my knowledge, is the first time that C&D has been included in the definition of municipal solid waste. In fact, EPA treats C&D as a category separate and distinct from municipal solid waste. Local governments have traditionally assumed responsibility for managing municipal solid waste, while C&D has often been handled privately—hauled away from specific, temporary sites by private companies hired to handle waste from those sites.

The amendment that Mr. FRANKS and I had intended to offer would have remedied at least this part of the bill by striking construction and demolition debris from the definition of municipal solid waste.

By including C&D in the definition of municipal solid waste, H.R. 4779 will severely impact New Jersey's current waste management efforts. The State has gone to great lengths to reduce its waste exports and has had some of its best recycling successes in the area of C&D waste. For example, we are currently recycling some 91 percent of waste concrete, asphalt, and masonry, and about 99 percent of heavy iron wastes.

While the State is developing plans to reduce its C&D exports even further, our plans could be severely disrupted if we are suddenly forced to absorb this new waste category. It could prevent us from achieving the self-sufficiency we desire by the year 2000.

While I am pleased that my colleagues have reached some agreement with the managers on one outstanding issue pertaining to contracts, I am not at all satisfied with the content of this legislation. I certainly hope that we can correct many of this bill's problems in conference with the Senate. However, the severe impact that this legislation—in its current form—could have on my State and its efforts to reduce and recycle waste cannot be underestimated. Therefore, I intend to vote against this bill. I hope that my colleagues will be mindful of New Jersey's plight and join with our delegation to defeat this bill.

The CHAIRMAN pro tempore. If there are no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose, and the Speaker pro tempore [Mr. DEFAZIO] having assumed the chair, Mr. SAWYER, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4779) to amend the Solid Waste Disposal Act to authorize local governments and Governors to restrict receipt of out-of-State municipal solid waste, and for other purposes, pursuant to House Resolution 551, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BOUCHER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 368, nays 55, not voting 11, as follows:

[Roll No. 443]

YEAS—368

Abercrombie
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Bacchus (FL)
Bachus (AL)
Baesler
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
English
Eshoo
Evans
Everett
Farr
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Foglietta
Ford (MI)
Ford (TN)
Fowler
Franks (CT)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hoagland
Hobson
Hoekstra
Hoke
Holden
Horn
Hoyer
Huffington
Hunter
Hutchinson
Hutto
Inglis
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Long
Lucas
Machtley
Mann
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McInnis
McKeon
McKinney
Meehan
Meek
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Oxley
Packard
Parker
Pastor
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Rahall
Ramstad
Ravenel
Reed
Regula
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Schaefer
Schenk
Schiff
Schroeder
Scott
Sensenbrenner
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (IA)
Smith (MI)
Smith (OR)
Smith (TX)
Snowe
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Traficant
Tucker
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walker
Waters
Watt
Waxman
Weldon
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)

NAYS—55

Ackerman
Armey
Baker (CA)
Boehlert
Coleman
Crane
Engel
Ewing
Fawell
Fish
Flake
Frank (MA)
Franks (NJ)
Gilman
Hastert
Hinchey
Hochbrueckner
Houghton
Hughes
Hyde
King
Klein
LaFalce
Lazio
Levy
Lowey
Maloney
Manton
Manzullo
McHugh
Menendez
Molinari
Nadler
Owens
Pallone
Paxon
Payne (NJ)
Quinn
Rangel
Reynolds
Rostenkowski
Roukema
Royce
Saxton
Schumer
Serrano
Slaughter
Smith (NJ)
Solomon
Torricelli
Towns
Velazquez
Walsh
Zeliff
Zimmer

NOT VOTING—11

Gallo
Inhofe
Lewis (FL)
Lloyd
McMillan
McNulty
Pelosi
Slattery
Sundquist
Washington
Wheat

☐ 1338

Messrs. EWING, OWENS, HYDE, SERRANO, and ROYCE changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. LEWIS of Florida. Mr. Speaker, I was unavoidably detained and unable to vote on H.R. 4779, the State and Local Government Interstate Waste Control Amendments of 1994—rollcall vote No. 443. Had I been present, I would have voted "aye." In attempting to cope with our country's waste products, I support providing State governments the authority to control the flow of solid waste crossing their borders.

PERSONAL EXPLANATION

Mrs. COLLINS of Illinois. Mr. Speaker, on the final vote for passage of H.R. 4779, the State and Local Government Waste Control Act, I was misrecorded as having voted "aye" for the bill. I wish to be recorded as voting against the bill.

□ 1340

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4779, the bill just passed.

The SPEAKER pro tempore (Mr. DEFAZIO). Is there objection to the request of the gentleman from Washington?

There was no objection.

NATIONAL PARK SYSTEM REFORM ACT OF 1994

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 4476, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill H.R. 4476, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 421, nays 0, not voting 13, as follows:

[Roll No. 444]

YEAS—421

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inslee
Istook
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
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Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—13

Gallo
Hayes
Houghton
Inhofe
Johnson (CT)
Lloyd
Markey
McMillan
McNulty
Slattery
Sundquist
Washington
Wheat

□ 1356

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 140

Mr. SHAYS. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 140.

The SPEAKER pro tempore (Mr. PENNY). Is there objection to the request of the gentleman from Connecticut?

There is no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3222

Mr. BARCIA of Michigan. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 3222.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There is no objection.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 4650, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1995

Mr. DERRICK, from the Committee on Rules, submitted a privileged report

(Rept. No. 103–759) on the resolution (H. Res. 554) waiving points of order against the conference report to accompany the bill (H.R. 4650) making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes, which was referred to the House Calendar and ordered to be printed.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4539) "An Act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1995, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4602) "An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1995, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4606) "An Act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 18, 26, 33, 35, 38, 51, 53, 54, 56, 63, 69, 70, 71, 73, 74, 81, 83, 86, 87, 88, 90, 93, 95, 96, 97, 98, 99, 100, 102, 103, 104, 107, 130, 135, 138, 139, 144, 153, 154, 155, 156, and 157, to the above-entitled bill.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate numbered 148, to the above-entitled bill.

DEPARTMENT OF AGRICULTURE REORGANIZATION ACT OF 1994

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 554 and ask for its immediate consideration.

The clerk read the resolution, as follows:

H. RES. 544

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3171) to authorize the Secretary of Agriculture to reorganize the Department of Agriculture, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and the amendments made in order by this resolution and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1400

The SPEAKER pro tempore (Mr. PENNY). The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 544 is an open rule providing 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Agriculture Committee.

All points of order are waived against consideration of the bill. The rule makes in order the Agriculture Committee amendment in the nature of a substitute now printed in the bill as an original bill for the purpose of amendment.

The substitute shall be considered as read. All points of order are waived against the substitute. Finally, the rule provides one motion to recommit with or without instructions.

H.R. 3171 responds to the administration's reinventing Government proposal introduced last September. Among its provisions, the plan recommends reorganizing the streamlining the operations of the Department of Agriculture. This legislation clearly answers the demands for a Government that works better and costs less.

The Department of Agriculture Reorganization Act requires the administration to meet the goals for job reduction and cost savings set forth in the reinventing Government initiative.

H.R. 3171 requires the elimination of 7,500 full-time positions by the end of fiscal year 1999.

The measure mandates that the Agriculture Department merge, consolidate, or close a number of its farm program field offices.

The consolidation plan will create a new system of about 2,500 farm service centers. These service centers will provide one-stop shopping for farmers for such now-separated farm services as crop support payments, rural housing loans, and crop insurance.

The bill projects savings of $2.5 billion over the 5 years following its enactment.

Mr. Speaker, I don't need to remind my colleagues that there is a general perception that we know how to create agencies and programs, but we don't know how to eliminate them, even when they are obsolete.

Industry replaced farming as America's principal business over 100 years ago. However, the Agriculture Department still operates more than 12,000 field service offices.

That is an average of nearly four offices for every county in the Nation—that is rural, urban, and suburban communities.

H.R. 3171 will help us focus the debate on performance—how the Agriculture Department works and how it does its business.

We have the opportunity to make the Agriculture Department more cost effective and efficient. That will make Government work better for all of us.

Mr. Speaker, House Resolution 544 will allow this body to fully debate the Department of Agriculture Reorganization Act. I urge my colleagues to support the rule and H.R. 3171.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from South Carolina [Mr. DERRICK] for being so gracious with his time. And, Mr. Speaker, I might just also take a moment to point out, as I speak about the gracious gentleman from Edgefield, SC, who has been a Member of this body for 20 years: He has made a decision not to seek reelection. He is going to retire, and, as my colleagues know, he and I have had some pretty heated arguments over the last couple of decades, but I say, when you think about the phrase "southern gentleman," Mr. BUTLER DERRICK does epitomize those words "southern gentleman." So, in spite of all the perhaps misunderstandings and arguments, Mr. Speaker, he is truly a southern gentleman, and we are going to miss him.

Mr. Speaker, at this point I insert in the RECORD the following information:

ROLLCALL VOTES IN THE RULES COMMITTEE ON H.R. 3171, DEPARTMENT OF AGRICULTURE REORGANIZATION ACT

1. Derrick Motion to Report Rule.—One-hour, open rule, waiving all points of order against bill and substitute. Adopted: 5-2. Yeas: Moakley, Derrick, Frost, Slaughter, and Solomon. Nays: Dreier and Goss. Not Voting: Beilenson, Bonior, Hall, Wheat, Gordon, and Quillen.

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted[1]	Open rules		Restrictive rules	
		Number	Percent[2]	Number	Percent[3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	99	31	31	68	69

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Sept. 27, 1994.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (d–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1(not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173 May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176.. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1; R–1)	N/A	A: Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D–6; R–11)	4 (D–1; R–3)	A: 238–182. (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A: Voice Vote. (Nov. 16, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	N/A	N/A	
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D–8; R–19)	9 (D–1; R–8)	F: 191–227. (Feb. 2, 1994).
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D–9; R–6)	4 (D–1; R–3)	A: 233–192. (Nov. 18, 1993).
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D–7; R–14)	6 (D–3; R–3)	A: 238–179. (Nov. 19, 1993).
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D–1; R–0)	N/A	A: 252–172. (Nov. 20, 1993).
H. Res. 319, Nov. 20, 1993	MC	H.R. 3: Campaign Finance Reform	35 (D–6; R–29)	1 (D–0; R–1)	A: 220–207. (Nov. 21, 1993).
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D–15; R–19)	3 (D–3; R–0)	A: 247–183. (Nov. 22, 1993).
H. Res. 336, Feb. 2, 1994	MC	H.R. 3759: Emergency Supplemental Appropriations	14 (D–8; R–5; I–1)	5 (D–3; R–2)	PQ: 244–168. A: 342–65. (Feb. 3, 1994).
H. Res. 352, Feb. 8, 1994	MC	H.R. 811: Independent Counsel Act	27 (D–8; R–19)	10 (D–4; R–6)	PQ: 249–174. A: 242–174. (Feb. 9, 1994).
H. Res. 357, Feb. 9, 1994	MC	H.R. 3345: Federal Workforce Restructuring	3 (D–2; R–1)	2 (D–2; R–0)	A: VV (Feb. 10, 1994).
H. Res. 366, Feb. 23, 1994	MO	H.R. 6: Improving America's Schools	NA	NA	A: VV (Feb. 24, 1994).
H. Res. 384, Mar. 9, 1994	MC	H. Con. Res. 218: Budget Resolution FY 1995–99	14 (D–5; R–9)	5 (D–3; R–2)	A: 245–171 (Mar. 10, 1994).
H. Res. 401, Apr. 12, 1994	MO	H.R. 4092: Violent Crime Control	180 (D–98; R–82)	68 (D–47; R–21)	A: 244–176 (Apr. 13, 1994).
H. Res. 410, Apr. 21, 1994	MO	H.R. 3221: Iraqi Claims Act	N/A	N/A	A: Voice Vote (Apr. 28, 1994).
H. Res. 414, Apr. 28, 1994	O	H.R. 3254: NSF Auth. Act	N/A	N/A	A: Voice Vote (May 3, 1994).
H. Res. 416, May 4, 1994	C	H.R. 4296: Assault Weapons Ban Act	7 (D–5; R–2)	0 (D–0; R–0)	A: 220–209 (May 5, 1994).
H. Res. 420, May 5, 1994	O	H.R. 2442: EDA Reauthorization	N/A	N/A	A: Voice Vote (May 10, 1994).
H. Res. 422, May 11, 1994	MO	H.R. 518: California Desert Protection	N/A	N/A	PQ: 245–172 A: 248–165 (May 17, 1994).
H. Res. 423, May 11, 1994	O	H.R. 2473: Montana Wilderness Act	N/A	N/A	A: Voice Vote (May 12, 1994).
H. Res. 428, May 17, 1994	MO	H.R. 2108: Black Lung Benefits Act	4 (D–1; R–3)	N/A	A: VV (May 19, 1994).
H. Res. 429, May 17, 1994	MO	H.R. 4301: Defense Auth., FY 1995	173 (D–115; R–58)		A: 369–49 (May 18, 1994).
H. Res. 431, May 20, 1994	MO	H.R. 4301: Defense Auth., FY 1995		100 (D–80; R–20)	A: Voice Vote (May 23, 1994).
H. Res. 440, May 24, 1994	MC	H.R. 4385: Natl Hiway System Designation	16 (D–10; R–6)	5 (D–5; R–0)	A: Voice Vote (May 25, 1994).
H. Res. 443, May 25, 1994	MC	H.R. 4426: For. Ops. Approps, FY 1995	39 (D–11; R–28)	8 (D–3; R–5)	PQ: 233–191 A: 244–181 (May 25, 1994).
H. Res. 444, May 25, 1994	MC	H.R. 4454: Leg Branch Approp, FY 1995	43 (D–10; R–33)	12 (D–8; R–4)	A: 249–177 (May 26, 1994).
H. Res. 447, June 8, 1994	O	H.R. 4539: Treasury/Postal Approps 1995	N/A	N/A	A: 236–177 (June 9, 1994).
H. Res. 467, June 28, 1994	MC	H.R. 4600: Expedited Rescissions Act	N/A	N/A	PQ: 240–185 A:Voice Vote (July 14, 1994).
H. Res. 468, June 28, 1994	MO	H.R. 4299: Intelligence Auth., FY 1995	N/A	N/A	A: Voice Vote (July 19, 1994).
H. Res. 474, July 12, 1994	MO	H.R. 3937: Export Admin. Act of 1994	N/A	N/A	A: Voice Vote (July 14, 1994).
H. Res. 475, July 12, 1994	O	H.R. 1188: Anti. Redlining in Ins	N/A	N/A	A: Voice Vote (July 20, 1994).
H. Res. 482, July 20, 1994	O	H.R. 3838: Housing & Comm. Dev. Act	N/A	N/A	A: Voice Vote (July 21, 1994).
H. Res. 483, July 20, 1994	O	H.R. 3870: Environ. Tech. Act of 1994	N/A	N/A	A: Voice Vote (July 26, 1994).
H. Res. 484, July 20, 1994	MC	H.R. 4604: Budget Control Act of 1994	3 (D–2; R–1)	3 (D–2; R–1)	PQ: 245–180 A: Voice Vote (July 21, 1994).
H. Res. 491, July 27, 1994	O	H.R. 2448: Radon Disclosure Act	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 492, July 27, 1994	O	S. 208: NPS Concession Policy	N/A	N/A	A: Voice Vote (July 28, 1994).

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.—Continued

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 494, July 28, 1994	MC	H.R. 4801: SBA Reauth & Amdmts. Act	10 (D–5; R–5)	6 (D–4; R–2)	PQ: 215–169 A: 221–161 (July 29, 1994).
H. Res. 500, Aug. 1, 1994	MO	H.R. 4003: Maritime Admin. Reauth.	N/A	N/A	A: 336–77 (Aug. 2, 1994).
H. Res. 501, Aug. 1, 1994	O	S. 1357: Little Traverse Bay Bands	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 502, Aug. 1, 1994	O	H.R. 1066: Pokagon Band of Potawatomi	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 507, Aug. 4, 1994	O	H.R. 4217: Federal Crop Insurance	N/A	N/A	A: Voice Vote (Aug. 5, 1994).
H. Res. 509, Aug. 5, 1994	MC	H.J. Res. 373/H.R. 4590: MFN China Policy	N/A	N/A	A: Voice Vote (Aug. 9, 1994).
H. Res. 513, Aug. 9, 1994	MC	H.R. 4906: Emergency Spending Control Act	N/A	N/A	A: Voice Vote (Aug. 17, 1994).
H. Res. 512, Aug. 9, 1994	MC	H.R. 4907: Full Budget Disclosure Act	N/A	N/A	A: 255–178 (Aug. 11, 1994).
H. Res. 514, Aug. 9, 1994	MC	H.R. 4822: Cong. Accountability	33 (D–16; R–17)	16 (D–10; R–6)	PQ: 247–185 A: Voice Vote (Aug. 10, 1994).
H. Res. 515, Aug. 10, 1994	O	H.R. 4908: Hydrogen Etc. Research Act	N/A	N/A	A: Voice Vote (Aug. 19, 1994).
H. Res. 516, Aug. 10, 1994	MC	H.R. 3433: Presidio Management	12 (D–2; R–10)	N/A	A: Voice Vote (Aug. 19, 1994).
H. Res. 532, Sept. 20, 1994	O	H.R. 4448: Lowell Natl. Park	N/A	N/A	
H. Res. 535, Sept. 20, 1994	O	H.R. 4422: Coast Guard Authorization	N/A	N/A	A: Voice Vote (Sept. 22, 1994).
H. Res. 536, Sept. 20, 1994	MC	H.R. 2866: Headwaters Forest Act	16 (D–5; R–11)	9 (D–3; R–6)	PQ: 245–175 A: 246–174 (Sept. 21, 1994).
H. Res. 542, Sept. 23, 1994	O	H.R. 4008: NOAA Auth. Act	N/A	N/A	A: Voice Vote (Sept. 26, 1994).
H. Res. 543, Sept. 23, 1994	O	H.R. 4926: Natl. Treatment in Banking	N/A	N/A	
H. Res. 544, Sept. 23, 1994	O	H.R. 3171: Ag. Dept. Reorganization	N/A	N/A	
H. Res. 551, Sept. 27, 1994	MO	H.R. 4779: Interstate Waste Control	22 (D–15; R–7)	N/A	
H. Res. 552, Sept. 27, 1994	O	H.R. 4683: Flow Control Act	N/A	N/A	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

Mr. SOLOMON. Mr. Speaker, I have opposed the majority on the Committee on Rules as aggressively as any Member of this body when the Committee has tried to restrict the amendment process on this floor. However, Mr. Speaker, today the Committee on Rules is finally reporting one of those all-too-rare open rules, and it should be commended for that step in the right direction. I say to the gentleman, "I commend, you, sir."

Mr. Speaker, this rule also waives all points of order against consideration of the bill and the substitute. However in this case that waiver of all points of order actually covers three specific violations of House rules:

First, there are two sections in the Agriculture Committee amendment in the nature of a substitute which are not germane, because they fall in the jurisdiction of other committees.

Second, the bill provides for interagency transfers of unexpended balances of appropriations, and technically this is an appropriation on legislation.

Third, while the bill overall cuts positions, it does raise salary levels for certain departmental positions, and because it is theoretically possible that this spending could still take effect this fiscal year, the Parliamentarians view this as a technical violation of the Budget Act.

Before the Committee on Rules' meeting, I discussed this rule with the ranking Republican on the House Committee on Agriculture, the gentleman from Kansas [Mr. ROBERTS]. He supported an open rule to move this bill to the floor of the House, so that the House would have the opportunity to make some needed improvements in this legislation, and, Mr. Speaker, this legislation has the potential to cause some major problems in a large rural district like the one I represent. The district I represent covers most of the territory as one heads north out of New York City all the way to the border with Canada. That is about 250 miles long and covers about 10,000 square miles. If there is not an Agriculture Department office in at least every one of those huge counties along that 250-mile stretch, Mr. Speaker, it becomes a major problem just for farmers to get into the office to transact their business.

I understand the need to combine offices for one-stop service, and the need to save as much money as possible, but it has to be done in the right way or we can do more harm than good and actually cost the Federal Treasury more money.

So, Mr. Speaker, while I do not support this bill in its present form, hopefully I will after the amending process. If it is going to be considered in this House, it should be considered under an open rule so the House will have the opportunity to improve some of the problems in the bill. Since the rule before us now is an open rule, the subjects of the rule waivers can be stricken entirely or amended. I will vote for this open rule and hope we get more of them, Mr. Speaker.

Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, before I yield time to our next speaker I want to thank the gentleman from New York [Mr. SOLOMON] very much for his kind words, and I assure him that the feeling is mutual.

Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I was not going to speak on the rule. I am for the rule; I am for the bill. I commend the chairman of the Committee on Agriculture, the gentleman from Texas [Mr. DE LA GARZA], for the work he has done as well as the ranking member.

However, Mr. Speaker, I thought I would just take a minute to talk about the fine gentleman from South Carolina [Mr. DERRICK] who is leaving, who at times has put me through some trips. I think we are going to lose a great Member.

Mr. Speaker, my position on trade is that I feel our country is giving away the farm, and the gentleman from South Carolina is a member of the leadership that I thought could have made a difference.

□ 1410

I am saddened the gentleman is leaving. I think there are a lot of American workers that are saddened by the fact that the gentleman from South Carolina is leaving us. So I am not going to take a whole lot of time, because then the gentleman from California [Mr. FAZIO] will ask for a favor. But I mean that, Mr. Chairman. A lot of people, working people, agree with you very much, and know that we had a leader that took some of our concerns to heart.

Mr. Speaker, I yield back the balance of my time, and wish the gentleman the best.

Mr. DERRICK. Mr. Speaker, I say to the gentleman, "Thank you very much, Mr. TRAFICANT, for your kind words. I assure you the feelings are mutual."

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. SMITH]. Mr. Speaker, we all remember the movie, "Mr. Smith Goes To Washington." My colleagues know we had a SMITH that came to Washington 2 years ago, and he comes from Addison, MI, population 425.

Mr. SMITH of Michigan. Mr. Speaker, I appreciate and concur with the comments of the gentleman from Ohio [Mr. TRAFICANT]. I was hoping he would also include some comments on the importance of buying American food and fiber as we discuss this agriculture bill. The American farmer is in a predicament right now in several areas of production.

I would like to compliment the members of the Rules Committee for making this rule open, so that we can have a thorough debate. If you will, this legislation is a prelude to the important 5-year farm bill that we are going to develop next year.

The agricultural industry in this country is our largest industry. It contributes the greatest support to our balance of trade worldwide. And this total body, not only the Members from the agricultural community, but every Member of Congress, needs to consider the importance of strengthening this very important industry. On the specific amendments that we will be talking about during general debate, I will also be offering amendments and contribute to that discussion.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 544 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3171.

□ 1412

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3171) to authorize the Secretary of Agriculture to reorganize the Department of Agriculture, and for other purposes, with Mrs. KENNELLY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 30 minutes, and the gentleman from Kansas [Mr. ROBERTS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, let me begin by saying to Mr. SOLOMON, I appreciate his enthusiasm, and I am glad we were able to accommodate his great desire to have open rules. My only question is, Why start with us?

Otherwise, let me mention very briefly, because I know Members would like to conclude at an early hour today, that this bill has nothing to do with the programs at USDA. This bill is solely to consolidate, reorganize, and streamline. If anyone has any interest or concern in the programs, that will be dealt with next year on the farm bill.

This is also not about money, although this bill saves some money, about $2.5 billion. But what we do in Agriculture is serve all of the people. Since it was started by President Lincoln, the guidance and the direction is to serve farmers and ranchers, to promote economic and community development in rural areas, to provide good assistance and educate the general population about proper nutrition. That is across the spectrum in the United States. To promote soil and water conservation, clean air, clean water, to meet other environmental goals in rural areas, to ensure the quality and safety of our food, and to carry out agriculture research, economic analysis, and educate the American public: This is the Extension Service, the research, the land grant institutions, all of those areas are covered under the mandate of the Department of Agriculture.

But this consolidation and streamlining under H.R. 3171 is done to accommodate the changing times. Let me say that in the beginning, that now, from the people's Department of President Lincoln, it is still the people's Department. But almost 60 percent of the Department of Agriculture budget is devoted to domestic nutrition programs. Only 20 percent of the budget is devoted to the farm commodity program. So the reorganizing we are dealing with here and the streamlining of USDA—60 percent entails the domestic programs. It deals with the nutrition, food stamps, feeding the elderly, nutrition information—60 percent.

Also we have the Forest Service and Soil Conservation. That is only like about 9 percent. Rural Development is about 8 percent. And, as I mentioned, the commodity program.

But everything that USDA does entails supporting programs that bring income. The balance of trade, where we deal with the world, everything on agriculture, manufactured items, there is one here, one there, that is selling. But collectively, we have a deficit of about $125 billion, a deficit. The only thing that brings money in collectively is agriculture, about $18 to $20 billion. And I have a chart here, the green part, that is agriculture collectively. The red part, that is everybody else. So that is what we are dealing with.

Also, let me state—the top 10 entitlements, the bottom one of the entitlements is the price support programs that we have for agriculture. But of the top 10 entitlements, it is the only one projecting a decrease in cost, 1.4 percent in the years between 1991 and 1997. We are dealing with food safety; we are dealing with all of the agencies of the Department of Agriculture, all of the offices out there in the countryside. And this bill gives the Secretary authority that he does not have to reorganize and to meet the challenges that the people of this country have presented to us. The bill also requires the Secretary to reduce personnel and staff over the next 5 years. We have local elected farmer committees closer to field offices. That might save some money.

So, Madam Chairman, the bulk of this legislation is basically technical—to consolidate, to streamline, and to make, in 1994, the Department of Agriculture what President Lincoln wanted it to be in 1862.

Madam Chairman, I reserve the balance of my time.

□ 1420

Mr. ROBERTS. Madam Chairman, I yield myself such time as I may consume.

My colleagues, about 2 years ago, the Clinton administration and, more especially, Secretary Espy announced they were going to reorganize the Department of Agriculture and that reform effort, although that always worries me, what lurks under the banner of reform in terms of unintended effects, but that reform effort followed a similar effort in the Bush administration by Secretary Madigan to consolidate and to reorganize and to achieve cost savings within the Department of Agriculture and also in regards to the field offices that serve as the infrastructure, the delivery system of the farm program to our producers.

The effort by Secretary Madigan was to achieve cost savings and, hopefully, to make the farm program or the delivery of the farm program more farmer-friendly. And I know that is Secretary Espy's goal as well.

At the time we examined the Secretary's authority. And when I say "at the time," I am talking about both Secretary Madigan and Secretary Espy, and when I say "we," I am talking about members of the House Committee on Agriculture which have been very much involved with this effort for several years. And we examined the secretary's authority to restructure the agencies of the Department and found that the Secretary of Agriculture has 85 to 90 percent of the authority that he needs to complete the job. In other words, the secretary can act on his own behalf without passing legislation in the Congress to achieve these cost savings that the chairman of the committee has mentioned and, hopefully, again, make the delivery service of our farm program more farmer-friendly.

And, that is certainly an issue out in farm country with, all the paperwork and regulations and time spent in regards to the farm program.

Well, hindsight and personal observation, and I understand that hindsight is always 20/20 around here, but that tells me that instead of really beginning that task on an administrative basis immediately, the administration simply sent up a bill and waited for its passage. And I would tell my colleagues that when we have legislation of this magnitude and that will attract this much interest, it does engender significant controversy and has consumed a great deal of time, almost 2 years.

So after a lengthy committee process, we are now bringing a bill to the floor today that may not be what the Secretary wants or what this Member wants or what the chairman wants or what other Members want or certainly what the farmer and rancher wants, and this bill has created significant controversy.

But having said that, let me say that too much time has already been wasted. There is a need to get on with reorganizing the Department of Agriculture, so while I still have serious, very serious reservations about the course this legislation has taken, I support the effort to move the process along.

I will also be supporting the amendment to be offered today by the gentleman from Colorado [Mr. ALLARD], a member of the committee, to provide a better farmer support agency structure for the Department. This is needed to ensure that we avoid any unnecessary disruption of service to our farmers while streamlining the work of the Department of Agriculture.

My colleagues, the one really innovative section of this bill, in my personal opinion, was offered in committee by my colleague, the gentleman from California [Mr. CONDIT], to require a careful assessment of risk and evaluation of the benefits of risk management for actions of the department, and I am talking about health and safety or environmental regulations. This is an integral part of the ongoing effort to produce more careful and reasonable risk management regulation in all departments, all departments of government. The Condit amendment has attracted a considerable difference of opinion between other committees, other Members, I understand that. But the Condit amendment also is boilerplate legislation.

And let us tell it like it is. Something like the Condit amendment should be applied to all Federal agencies in order to make our Government be a partnership with people, not an adversary, and hopefully to make government much more cost effective and to protect the individual rights of the people who are affected by the regulations that tend to stream out of Washington.

I may be offering an amendment to strengthen the Condit provision. The amendment that I am going to be offering, in behalf of the gentleman from Florida [Mr. CANADY] and myself, would ensure that the rulemakers in fact carry out a proper risk assessment.

A strengthened Condit provision would take a major step toward, I think, bringing balance and reason back to the whole business of environmental regulation.

The issues in this bill and the amendments I have mentioned are directed to the structure and the functioning of the Department of Agriculture as a whole. While they are important, while they have attracted considerable difference of opinion, let me echo the statement of my distinguished chairman.

I hope that my colleagues who have other individual issues they want to address will keep this in mind, that this is more of a technical bill and defer their amendments until we take up programs in the farm bill or some other appropriate vehicle and we will do that.

Our purpose here today is to restructure the Department, to achieve the cost savings, to make it more farmer-friendly. And we should keep that in mind as we consider any other amendments.

Madam Chairman, I reserve the balance of my time.

Mr. DE LA GARZA. Madam Chairman, I yield myself such time as I may consume.

Let me thank my distinguished colleague from Kansas for his presentation and his always very wise statements. We have no disagreement. This is not the best or times. This may not be the bill that each one of us wants. But now is the time for us to act, and that is why we find ourselves here.

I would like to add further, though, that this process began back with the Bush administration and Secretary Madigan. They had a Commission to go out throughout the countryside and, my humble colleague did not mention the fact that our colleagues, the gentleman from Texas [Mr. STENHOLM] and the gentleman from Kansas [Mr. ROBERTS], were part of that Commission. So a lot of the information and a lot of the thrust that has been incorporated came from that Commission, and these two gentlemen played a major part in the endeavor.

Madam Chairman, H.R. 3171, the Department of Agriculture Reorganization Act of 1994, provides for a major restructuring and streamlining of the Department of Agriculture.

The committee believes this legislation is needed—not because USDA is a burden on the budget, for it is not—but because we believe the Department's structure must change to meet our Nation's changing needs.

The bill the Committee on Agriculture brings to the floor today has three principal objectives.

First, the bill mandates revisions in USDA's organizational structure to better reflect its modern-day activities. It endorses the six broad mission areas carried out by the Department and creates Under Secretary positions to head up each area. Those missions are:

To serve farmers and ranchers.

To promote economic and community development in rural areas.

To provide food assistance and educate the general population about proper nutrition.

To promote soil and water conservation and to meet other environmental goals in rural areas.

To ensure the quality and safety of our food.

To carry out agricultural research, economic analyses and educate the American public.

Madam Chairman, each of these missions is vitally important to our Nation. In particular, I would point out that this bill establishes a separate Under Secretary for Food Safety at USDA, whose sole responsibility will be to administer USDA's vital food safety and meat and poultry inspection programs.

Second, the bill allows the Secretary to improve services to all who use USDA programs through a more efficient management of USDA personnel and the use of modern technology.

The bill requires USDA to combine farm-related agencies and field offices to provide "one-stop shopping." It establishes an independent appeals process. It encourages the development of computer and other information systems that will allow the exchange of information between programs and agencies.

Third, the bill requires USDA to undergo organizational and management changes that are designed to save the taxpayers' money in the years to come.

The bill requires the Secretary to reduce total USDA personnel* by 7,500 staff years over the next 5 years—a process USDA has already begun. Improved computer capabilities are also designed to save money in the years ahead. And of course, the bill allows the Secretary to go forward with his announced intentions to close and consolidate USDA farm agency field offices.

WHAT THE REORGANIZATION BILL DOES NOT DO

Madam Chairman, I also think it important that the Members understand what this bill does not do.

Field office closures: This bill does not limit in any way the Agriculture Secretary's current authority to consolidate or close USDA field offices around the country. The Secretary has pledged to begin downsizing the field office network once Congress completes action on the reorganization bill. This bill supports that end by reaffirming the Secretary's authority to downsize the field office network.

Locally elected farmer committees: The committee bill also maintains the successful system of using locally elected committees of farmers to help implement USDA farm programs at the county level. These committees are a democratic institution that helps ensure that USDA programs are implemented with common sense at the local level.

The committee-reported bill recognizes the need to increase the involvement of minority farmers in the county committee system. The bill continues the Secretary's authority to appoint nonvoting minority advisors to local committees. In addition, the committee-reported bill adds a new directive for outreach to encourage greater diversity among the farmer nominees who stand for election to these local committees.

Separate conservation agency: Finally, this bill continues the separate administration of research conservation programs from our farm commodity programs.

The majority of the committee believe—and I share this view—that our Nation's farmers are best served by a separate and strong agency at USDA to oversee our resource conservation programs. This enhances the credibility of USDA's conservation and environmental efforts. And it also recognizes the fact that a significant portion of USDA activities in this area is actually serving State and local governmental entities.

Let me make clear that this provision does not in any way limit the Secretary's authority to colocate these conservation agency offices with the farm program agency in the same town and the same building.

ADDITIONAL PROVISIONS TO BE OFFERED IN EN BLOC AMENDMENT

Madam Chairman, I intend to offer in the Committee of the Whole several amendments packaged en bloc. These amendments—which has been agreed to on both sides of the aisle—seek to address the concerns raised by various Members since the committee reported the bill. Let me briefly explain what these en bloc amendments do.

National Appeals Division: The en bloc amendment includes additional legislative guidance on the structure and procedures to be used by the new independent National Appeals Division.

Local farmer committees: The en bloc amendment reaffirms the authorities of the local-elected farmer committee in two very important ways. First, the en bloc includes an amendment that clarifies that the county or area elected committee will continue to have the authority to appoint the executive director for the local Agricultural Service Agency offices. Second, the en bloc amendment includes a provision that prohibits the Secretary from merging farmer-elected county committees unless the farmers vote for the merger.

Socially disadvantaged farmers: The en bloc amendment strengthens the Secretary's authority to ensure the fair and equitable treatment of all socially disadvantaged farmers who participate in USDA farm programs. The en bloc includes an amendment that requires the Secretary to take certain actions with respect to farm program operations to rectify any past USDA decisions not made in accordance with laws against discrimination. It also requires a GAO study to determine whether socially disadvantaged farmers are underrepresented on the farmer-elected county and area committees, and whether such underrepresentation has led to bias in committee decisions.

Computer purchases: The en bloc includes an amendment that clarifies the budgetary aspects of the bill's requirement that new computer equipment purchases by USDA facilitate interagency communications. Simply put, the en bloc requires that when the Secretary procures computer systems authorized in advance through appropriations acts, the Secretary is to do so in a manner that enhances efficiency, productivity, and client services.

SIGNIFICANCE OF THE REORGANIZATION EFFORT

Madam Chairman, the Department of Agriculture is one of our Nation's most important domestic agencies, and its work and activities touch the lives of all Americans. The Department is not a static, unchanging bureaucracy. While farm programs are still an important function at USDA, they actually involve only about one-quarter of its total outlays.

The Department of Agriculture has, in fact, evolved to meet the changing needs and priorities of our society. More than half of its funding goes to our vital domestic food assistance programs. USDA is a major force in recreation and the environment through its management of our national forests and its soil and water conservation assistance for private lands.

The Department also oversees the Federal-State research partnership at our Nation's land-grant universities that have provided so many scientific advancements for our society. USDA helps provide housing and water services for low-income people living in rural areas. And its Extension Service helps people in urban and rural areas improve their lives.

Today's Department of Agriculture truly serves all Americans. The Department's success in developing our Nation's agricultural system and improving the lives of the American people is in no small part due to the dedicated service and work of its employees.

What this reorganization bill represents is another step forward in the Department's continuing evolution. This bill will provide for a renewal and, we hope, a reinvigoration of the Department's activities.

Madam Chairman, the changes proposed in this bill reflect USDA's modern-day responsibilities as we see them today. We recognize USDA's responsibilities will continue to change, and that the Department's structure will continue to evolve.

Making USDA a more cost-effective and efficient department of Government that works for the benefit of taxpayers, farmers, consumers, and all who use USDA programs requires an on-going commitment by both Congress and the executive branch. H.R. 3171 fulfills that commitment to improve USDA's organization 'and management structure as we see it today. I urge my colleagues to support H.R. 3171.

Brief Summary of H.R. 3171, Department of Agriculture Reorganization Act of 1994 as Amended and Reported by the Committee on Agriculture

Streamlines national office structure: Realigns functions and establishes 6 top appointed Under Secretary positions, subject to Senate confirmation, based on USDA's 6 basic mission areas as outlined by the Administration proposal.

Downsizes USDA employment and field offices: Requires reduction in Federal employment by at least 7,500 staff years by Fiscal Year 1999. Requires greater staff cuts in Washington headquarters than in field offices. Clears the way for the Secretary of Agriculture to proceed with announced plans for the closure or consolidation of 1,100 USDA field offices.

Improves services to farmers: Consolidates direct farm program functions (Agricultural Stabilization and Conservation Service, Federal Crop Insurance Corporation and farmlending by Farmers Home Administration) into a single Agricultural Service Agency. Requires collocation of USDA field offices to provide "one-stop" service and budget savings.

Strengthens rural development activities: Consolidates rural economic development functions under an Under Secretary for Rural and Community Development.

Elevates food safety responsibilities: Designates for the first time an Under Secretary for Food Safety to administer USDA's food safety activities, and separates this function from USDA's farm marketing activities.

Enhances sensible environmental efforts: Elevates conservation activities within USDA by creating an Under Secretary for Natural Resources and Environment. Permits the Secretary to create a Natural Resources Conservation Service. Ensures farmer-elected committee input into initial producer appeals of conservation decisions by the USDA conservation agency. Establishes an office at USDA to analyze the risk/benefit of proposed regulations.

Establishes independent appeals process: Establishes an independent National Appeals Division to handle administrative appeals of agency decisions.

Madam Chairman, I yield 3 minutes to the gentleman from Texas [Mr. STENHOLM], chairman of the subcommittee, who did yeoman work on this endeavor.

Mr. STENHOLM. Madam Chairman, passage of H.R. 3171 will clear the way for the long-needed restructuring of the Department of Agriculture. The bill has three very important objectives: First, to create a USDA structure that can better respond to the future challenges facing the food and fiber industry, consumers, rural Americans, and taxpayers; second, to improve services to USDA's many diverse clients; third, to streamline the Department to achieve management efficiencies and cost savings for taxpayers.

This legislation culminates a painstaking and bipartisan process that began during the 102d Congress. Work was started during the previous administration under Secretary Madigan. At that time, I, along with the ranking minority member of the committee, the gentleman from Kansas, were asked to travel across the country with the Department to hear from USDA employees, farmers, ranchers, and other clients about how to improve structures and services.

Last fall, the administration brought our committee a bill to achieve modernization. Since last year, the committee and the Subcommittee on Department Operations and Nutrition held four hearings in Washington, DC, and nine hearings in the field—in Iowa, Georgia, Arkansas, Nebraska, North Dakota, Indiana, Texas, California, and Pennsylvania—to receive testimony on how the Department should be reorganized. We gathered extensive testimony from Department officials, including the Secretary and Deputy Secretary, and from approximately 250 public witnesses.

Utilizing that input, my subcommittee, in February, marked up a comprehensive bill that was amended and approved by the full Agriculture Committee on June 16. The bill we have brought to the floor: first of all, reflects the six missions of the Department that the Secretary originally spelled out—elevating and putting on an equal level with production agriculture other increasingly important functions including nutrition, food safety, the environment, and rural development; our bill provides the Department with broad flexibility to reorganize. Too many times, we in Congress tie the hands of the Secretary by trying to micro-manage his or her work, often creating more problems than we solve; it requires an independent national appeals division; it locks into law the staff cuts, the consolidation of field office administrative functions, and the computer improvements that the administration says it wants.

Some may argue that this bill will not accomplish much more than the Department can already do. We disagree. The issue at hand is whether we will provide the appropriate guidance to achieve our goals in the most thoughtful, prudent manner possible—and not undermine those USDA programs and services that producers, consumers, food program recipients, and other clients rely on.

This bill does not change those programs and policies—that is our job for next year—when we will be writing the 1995 farm bill. This bill today will give us a USDA that will become more efficient, client-friendly, and prepared for the challenges of tomorrow.

□ 1430

Mr. ROBERTS. Madam Chairman, I yield such time as he may consume to the gentleman from Nebraska [Mr. BARRETT] who represents the Third District, the area from which many fine football players come.

Mr. BARRETT of Nebraska. Madam Chairman, I thank my ranking member for yielding time to me, and for the generous introduction.

Madam Chairman, I want to thank the Agriculture Committee chairman, and his staff, for including my provision relating to county committees in his en bloc amendment.

This is an important provision to the many farmers who participate in USDA commodity programs involving the election of county committees. The measure prevents the termination and consolidation of existing county committees, with another county committee, or area committee, unless the farmers vote to do so.

I had previously offered a similar version at the subcommittee and full committee level, and am indeed grateful to the chairman for understanding the importance of having farmer-elected county committees. These committees will be allowed to continue to help administer farm programs at the local level.

Farm programs and rules for compliance are becoming more and more complicated. It is vital to agricultural producers to have trust and confidence in those who will administer these programs. It is imperative we keep those with local knowledge, and who understand the different conditions which may exist in their county, when considering farmers compliance.

The administration's proposal for the Agriculture Department reorganization will close or consolidate approximately 1,200 USDA field offices. The original bill would have terminated county committees and established a new procedure of selection by appointment. Area-wide field offices would be served by one committee.

Eliminating hundreds of county committees would have removed important elements of local control. There is no way a committee member can be as knowledgeable about a large area of up to five or more counties, as committee members who serve a single county.

In fact, some States now have consolidated field offices which serve one or more counties. In those instances, they have kept in place the individual county committees to keep local control over questions relating to farmer compliance and appeals.

It is clear, the present traditional system within USDA which allows for local administration of farm programs works. The Barrett provision will ensure that it continues with this new reorganization.

Mr. DE LA GARZA. Madam Chairman, I yield 3 minutes to our distinguished colleague, the gentleman from South Dakota [Mr. JOHNSON].

Mr. JOHNSON of South Dakota. Madam Chairman, I rise in support of H.R. 3171, which contains provisions which would establish an independent National Appeals Division within the Department of Agriculture. I want to thank Chairman DE LA GARZA and Chairman STENHOLM for working with me to include this title in the reorganization legislation.

Among the changes we could see with reorganization, the establishment of a National Appeals Division is among the most important in terms of its direct impact on farmers and ranchers. We have amended the various appeals statutes a number of times over the last several years, but we still have an appeals process that farmers do not trust and many do not participate in because they feel they are not going to receive an impartial hearing.

That is why I introduced H.R. 2950 with a number of my colleagues. A National Appeals Division clear of any undue influence from the agencies which are making the determinations, should help to bolster producers' confidence in their ability to receive a fair and impartial hearing. We have designed the process so that producers will know what to expect and when to expect it.

The NAD title does nothing to change the current county and State committee informal appeal process through the ASCS and also encourages the use of mediation where it is available to avoid having to go to the NAD. However, to make the process farmer-friendly, the hearing officers of the NAD will be located out in the field as is the case with the Farmers Home NAD. I would tell my colleagues that most of the language in the NAD title is taken from current law. All we are doing is bringing the appeal provisions to each of the agencies under one entity.

Again, I want to thank Chairmen DE LA GARZA and STENHOLM for working with me to include this important provision in the USDA reorganization legislation.

Mr. ROBERTS. Madam Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. Madam Chairman, I thank the gentleman for yielding time to me.

Madam Chairman, having served 4 years, from 1969 to 1974, as a deputy administrator in ASCS, I am firmly convinced that it is very important to give the Secretary of Agriculture flexibility to design, organize, and implement the administrative operation and organization of the U.S. Department of Agriculture.

I am frustrated that the consolidation of USDA field offices to increase the efficiency, throughout the farm communities of the United States has to be accomplished through passage of another law rather than action by the administration. It was not accomplished under Secretary Madigan and it has not been accomplished under Secretary Espy. Those individuals, Secretaries of Agriculture have had the authority to consolidate but have not acted because of potential political pressure of Congressmen arguing that their county offices should not be closed, consolidated, or reorganized.

However, these are administrative decisions that ultimately must rest with the administration and with the respective secretaries of the different departments of the Federal Government. I urge this administration and every administration to be responsible and not to seek cover through congressional mandates.

Make no mistake, this bill is a cover from criticism from the Secretary of Agriculture to close and make efficient changes in the organizations of those USDA field offices by having it mandated under law. I would strongly urge this administration and every other administration to make the changes necessary, rather than putting off those decisions and asking for a congressional mandate by law.

Mr. DE LA GARZA. Madam Chairman, I yield 2 minutes to our distinguished colleague, the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Madam Chairman, I am appreciative of the gentleman from Texas [Mr. DE LA GARZA] for his diligent work, and also for the efforts of the ranking member, Mr. ROBERTS, and the subcommittee chairman, the gentleman from Texas [Mr. STENHOLM], in putting this critical USDA reorganization legislation together. As an original cosponsor of H.R. 3171, I rise in strong support of this legislation. Consistent with the Vice President's Reinventing Government, this legislation will allow the Secretary of Agriculture to make the necessary changes in the Department to prepare us for the needs of the next century.

H.R. 3171 will refashion not only the USDA national headquarters through streamlining and making current operations more efficient, it modifies the way we think about local services by providing one-stop shopping and co-location of services for the benefit of our nation's farmers and ranchers in ways which are sensible and workable.

Madam Chairman, I also applaud the gentleman for his work in addressing the issue of diversity for our local Agricultural Service Agency county committees. As the gentleman knows, this is an issue of major significance for those who have been traditionally left out of the equation—that is, women, minorities, and limited-resource farmers. Through opening up the nomination process, allowing the Secretary discretion to adjust yields for the purposes of administering various farm programs, and requiring a GAO report on this historical problem, I believe we are taking a significant step forward. Although I would have chosen a more direct remedy to resolve this representation issue, I look forward to working with the gentleman and my other colleagues in the future to address this matter of concern.

As a new Member from an extremely rural region in eastern North Carolina, I believe that this legislation is good for rural America. The bottom line for the Department is that it serve the needs of Americans who depend on it for its services. The USDA plays a profound role in insuring that American agriculture and nutrition remain at the highest levels of quality and accessibility. I urge my colleagues to support American farmers and those who depend on USDA services by supporting this legislation.

□ 1440

Mr. ROBERTS. Madam Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Madam Chairman, I yield 2 minutes to the distinguished gentleman from California [Mr. FARR].

Mr. FARR of California. Madam Chairman, as an original cosponsor of this bill, I would like to first of all commend our embattled Secretary of Agriculture Mike Espy. Whatever challenges he may currently face, let us give credit where credit is due. This administration is committed to reinventing Government and Mr. Espy has fulfilled that promise by getting to us a plan focused on improving efficiency and service while at the same time, cutting costs.

I would also like to express my admiration and support of Chairman DE LA GARZA and Mr. STENHOLM's diligence and dedication to this reorganization bill.

Madam Chairman, in its current form this bill contains a provision that would create an Office of Environmental Risk within the Department of Agriculture which would effectively mandate risk and cost-benefit analysis for public health and safety, and environmental regulations.

The risk assessment provision was adopted in full committee at the last minute, with no prior warning, and was passed with little debate, by voice vote, and with few members present.

This is a very controversial provision that is being presented to my colleagues and to the public as a good government provision. It would require the Office of Environmental Risk to certify that benefits to public health and safety justify the costs.

If this is a good government provision then I am sure that those supporting it will be willing to come forward and reassure me that it applies to all major USDA regulations including commodity programs.

If they are not able to do this, then it will be clear that it is targeted at certain types of regulations including nutrition programs and environmental programs.

I look forward to developments on this issue on the floor today. If there are no positive developments, I may be forced to withdraw my support for this bill.

Mr. DE LA GARZA. Madam Chairman, I yield 2 minutes to the distinguished gentleman from Washington [Mr. KREIDLER].

Mr. KREIDLER. Madam Chairman, I rise in support of the provisions in this bill that will help USDA do a better job protecting the public health and the safety of meat and poultry.

Nearly 2 years ago in Washington State, three children lost their lives, dozens more were hospitalized, and hundreds of people were affected by an outbreak of deadly food poisoning, traced to a microbe in undercooked hamburger. That tragedy was a wake-up call for USDA, for public health authorities, and for all of us.

Since then, there have been at least 45 outbreaks of E. coli infection, and at least 15 deaths, in all parts of this country—Washington, Oregon, Minnesota, California, Nebraska, North Carolina, Vermont, North Dakota, Ohio, Massachusetts, New York, Connecticut, Hawaii, New Jersey, Florida, Pennsylvania, Montana, Wisconsin, Alabama, Illinois, and Indiana.

A system that spends half a billion dollars a year to inspect meat and poultry, and allows products to go on the market with a label saying they are safe or wholesome, is a system that can no longer ignore the microscopic pathogens that present the greatest danger.

It is not enough to blame the victims who didn't cook the meat. It is not enough to require warning labels on raw meat and poultry. It is not enough to blame the inspectors who have to use 19th century methods on the threshold of the 21st century.

It is time to bring modern science to meat and poultry inspection, and Mike Espy has done more in the past year and a half than any of his predecessors in this century to improve food safety.

Title VII of this bill will help him do more. It separates inspection from marketing. It requires that the person in charge of food safety actually know something about public health. It gives food safety the priority it should have, by making the Under Secretary for Food Safety a Presidential appointee.

A lot of people—a lot of my constituents—believe that USDA cannot be trusted to protect the safety of meat and poultry. They think some other agency would do better. Maybe they are right. But I care more about getting the job done than about who does it.

Mike Espy is committed to safer meat and poultry. He has appointed people who are committed and knowledgeable. He has proposed a Pathogen Reduction Act, to test for pathogens and trace back contaminated meat to the source—a bill which I hope the Committee on Agriculture will make its first order of business in the next Congress.

Let us give him the tools to do the job, starting with title VII of this bill. I urge my colleagues to support it.

Mr. DE LA GARZA. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I thank the gentleman for his contribution. I can assure him and all of our colleagues that we on the committee certainly will continue working on this issue. We are satisfied that the Department has worked diligently on this issue and I commend Secretary Espy for his leadership in this area. We are appreciative of everything that he has done. This is to assure our colleagues that in this and several other areas of concern that do not rightly belong in this legislation, our commitment is to continue to work with our colleagues as we move into 1995 and draft the farm bill legislation.

Madam Chairman, I yield 2 minutes to the distinguished gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Madam Chairman, I thank the gentleman for yielding me the time.

Madam Chairman, I wanted to take this opportunity during general debate to express my strong support for the legislation before us today. I applaud the leadership of the gentleman from Texas [Mr. DE LA GARZA], the chairman of the committee, in moving this legislation through committee and onto the House floor. I appreciate the interest expressed by those on the other side of the aisle. I understand they may have some amendments for us to consider today, but I believe we all share a desire to reorganize the Department of Agriculture and to position ourselves for leadership on rural and agricultural issues on into the next century. The reorganization plan has been in the works for literally years but that effort was accelerated under the leadership of our new Secretary of Agriculture Mike Espy who in my opinion has done outstanding work on behalf of American agriculture.

The effort to consolidate and co-locate offices makes eminent sense in the 1990's, a time when fax machines and 800 numbers and other conveniences allow us to achieve these sorts of cost-saving initiatives while still providing farmers with the sort of service they have come to expect from the Department of Agriculture.

I am also supportive of the efforts of my colleague, the gentleman from California [Mr. FARR], to include in this legislation risk assessment provisions which will help our farmers to be protected against unnecessary instrusions from bureaucrats who do not necessarily understand what it means to farm and make a living on the land and hope that his language can be contained in this bill as we move it on to the Senate.

This is part of the President's reorganization of Government initiative. I think it is one of the most exciting aspects of his agenda for the Nation. We on the Committee on Agriculture should be proud that we are the first to step forward with a major restructuring plan. I trust that we will see other departments and agencies restructured accordingly. It will save taxpayers money and improve the services of government. Again I commend the chairman for his leadership in bringing this issue to the House.

Mr. DE LA GARZA. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I thank the gentleman for his contribution. Let me add that the gentleman of his own volition and accord has decided not to remain a member of this body. Let me at this point in time pay tribute to his great contribution, his dedication in everything worthwhile for agriculture. Now and then we may not have agreed on an item, but his seriousness and his work and the efforts which he thought were correct and proper needs to be applauded. I do that at this point in time. I wish him well.

Mr. ROBERTS. Madam Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Kansas.

☐ 1450

Mr. ROBERTS. I would like to echo the comments of my distinguished chairman, more especially relative to the outstanding service of the gentleman from Minnesota [Mr. PENNY]. In behalf of my Kansas producers and all of us in agriculture and all of us on the minority side of the House Agriculture Committee I want to commend him for a very dedicated and conscientious career in public service, not only in regards to legislative matters, but the personal example that he certainly emulates in regards to comity and fairness and personal treatment of other Members. Simply said, Mr. PENNY, you will be sorely missed.

I thank the chairman for yielding.

Mr. DE LA GARZA. I thank the gentleman from Kansas and echo his sentiments. We wish well to the gentleman from Minnesota [Mr. PENNY] in his further endeavors.

Mr. BISHOP. Madam Chairman, I rise today in vigorous support of H.R. 3171, as reported by the Agriculture Committee, of which I am a member, and I want to thank my chairman, Mr. DE LA GARZA, for the courage and diligence he has shown in the enormous and complex task of crafting and refining legislation that reorganizes the U.S. Department of Agriculture.

The issue of reorganizing the Department of Agriculture is one of agriculture's most important policy challenges in decades, and one of my first official actions as a Member this body was to make a formal request that field hearings be held on this matter, and that Georgia be the site of one of those hearings, and I also want to thank Chairman STENHOLM of Texas for bringing the Subcommittee on Department Operations to Georgia for this purpose. The result of this legislation will have a profound impact on how all of our farm programs are implemented at the local level and here in Washington. For example, it will provide a new emphasis on nutrition, and save billions of dollars for the Treasury by streamlining the delivery of services to citizens throughout the Nation.

The Department of Agriculture is an extremely complex organization which has developed into a bureaucratic monster, burdening our farmers with over regulation, compromising the nutrition of our children's school lunches, and providing fodder for negative connotations associated with agriculture in the mind of the public. We must take steps to correct this perception or all of our farm programs will remain in jeopardy.

I believe that we must streamline the Department and its services, and on that I hope we can all agree. However, we must move in a logical and careful manner. Most importantly, we must not compromise our rural communities for the sake of bureaucratic convenience, and never forget that our No. 1 priority in this reorganization process is to improve the services provided to the customers of USDA—whether it be farmers who participate in conservation programs, farmers who use ASCS farm programs, or the children who are fed in our school lunch programs.

The Agriculture Department Reorganization Act reduces costs, cuts waste, streamlines operations, and improves services to farmers and other customers of USDA. H.R. 3171 consolidates farm price support, crop insurance, and agricultural loan programs into a single farm service agency, which allows farmers a one-stop shop for farmer programs. The bill places all agricultural conservation programs within a natural resources conservation service and reorganizes various rural development and rural electrification programs into a rural community development service.

H.R. 3171 streamlines USDA by requiring a reduction in the number of its employees by 7,500 staff-years by the end of 1999. It is important to note that the bill requires larger staff cuts in the Department's headquarters offices than in its field offices, and the measure specifies that the overall reduction in headquarters personnel must be twice as great, on a percentage basis, as the reduction in field office personnel. I mention these reductions to point out the wisdom in this bill that we are not abandoning our farmers and rural communities in this reorganization, but we hope to achieve a more effective and cost-savings delivery of services to the people who feed and clothe all the citizens of the United States and increasingly the world.

Secretary Espy should be commended for bringing this issue to the forefront, and for his commitment to start the reorganization process here in USDA Washington offices, before suggesting that field offices be closed. Therefore, I strongly support the passage of this substitute offered by Mr. DE LA GARZA.

Ms. LONG. Madam. Chairman, I rise to commend Chairman DE LA GARZA, Subcommittee Chairman STENHOLM, and the other members of the House Agriculture Committee who have worked so hard on this legislation. Contrary to some of the concerns that have been raised, this legislation is, on balance, a major undertaking that will reinvent and reorganize the U.S. Department of Agriculture. Madam Chairman, the USDA is the second largest department in the Federal Government—second in size and personnel only to the Department of Defense. Reorganizing USDA has not been easy. Secretary Espy has been an advocate of reorganizing the Department, not just by consolidating and coordinating the various agricultural offices located in the States, but by reorganizing the bureaucracy right here in Washington, DC. Despite some of the concerns raised today—and let me say that I also have several concerns which I hope can be addressed in the conference—but despite some concerns, this is needed and comprehensive legislation that should be approved by the Congress. Reorganization of USDA is the first major department to undertake this reinventing and reorganizing effort. It is my hope that others will take the lead of the House and Senate Agriculture Committees and get on with the business of reinventing and reorganizing some of the other Federal departments.

Mr. GLICKMAN. Madam Chairman, as we vote on this bill today, we must consider what we are hearing from people across the country, Americans are alienated from and angry with a distant, ineffective, and seemingly unresponsive Federal Government. Business as usual is over, it is time to reorganize the way government works. Those of us in agriculture must step up to the same challenge. The logical place to being is with the overwhelming size and complexity of the Department of Agriculture. The job will not be finished until, from top to bottom and headquarters to country office, we have transformed a 19th century leviathan into a structure able to meet the challenges of the 21st century.

I have introduced two bills in the last 2 years, that laid the foundation and ground work for the bill we are debating today. This legislation will streamline both the farmer service agencies and the Washington bureaucracy of USDA. I strongly support H.R. 3171.

The legislation introduced today calls for a transformation. It will map out a comprehensive reorganization plan for USDA, to streamline and make more efficient its county offices and cut its redtape. It will lead, I hope, to a more efficient, more responsive bureaucracy.

This legislation includes consolidating farmer programs and services into one agency. Then for example, a farmer would be able to go to just one office for basic farm programs, for loans and crop insurance, instead visiting each office separately.

The bill also requires the Secretary to establish an independent entity within USDA to hear farmer's appeals of program decisions. As it is now, essentially the same people in charge of carrying out the programs are also in charge of hearing appeals of rulings affecting those programs. This is obviously a basic conflict of interest which must be remedied.

Furthermore, H.R. 3171 elevates the importance of food safety in the Department. In order to separate food safety programs from other agriculture interests, the bill establishes a new position, an Under Secretary for Food Safety.

I am convinced that reorganizing USDA is a long overdue task. The time for study has passed. We have heard testimony from farmers, producer groups, USDA and county employees, and received numerous reports from the General Accounting Office. For example, in 1991 the General Accounting Office released a report of a 3-year review of USDA's management and structure, which stated in part:

> USDA's organizational structure—essentially unchanged since the 1930's—is not responsive to the new challenges facing the Department. Consolidating and integrating organizational functions would allow USDA to provide the same services and more efficiently to agribusiness customers and give it flexibility to meet needs more effectively.

The restructuring and evolution of the Department of Agriculture should have happened years ago. We must pass this legislation now. Farmers and taxpayers will ultimately be better served by a more efficient and streamlined bureaucracy. It will save money and will give farmers more time to be farmers. I urge my colleagues to support H.R. 3171.

Ms. MCKINNEY. Mr. Chairman, I come before this body today to thank Chairman DE LA GARZA for including language that will address the issue of diversity on the U.S. Department of Agriculture [USDA] farmer committees. I'd like to commend the chairman for taking a stand on an issue that's so important to the farmers in all of America's farming districts.

For too long, Mr. Chairman, farmer committees have operated without proper representation for women, African-Americans, Hispanics, and other groups. A more diversified membership on USDA's powerful county committees will certainly reduce if not eliminate the possibility of discrimination in USDA programs.

I have no doubt, Mr. Chairman, that when the Comptroller General prepares a report to determine whether "socially disadvantaged producers" are underrepresented on State, county, and local committees, it will show decades of severe under-representation of female and minority farmers and most notably African-Americans. It will show that we have to take steps now to ensure greater diversity of racial, ethnic, and gender representation on State, county and local committees.

Mr. SMITH of Michigan. Mr. Chairman, I want to thank Chairman DE LA GARZA for including my amendment in his en bloc amendment. My amendment allows the Secretary to have some discretion in holding off on consolidations if it is not in the best interest of farmers and it won't increase efficiency. It is extremely important that we don't sacrifice the quality of service to farmers in our efforts to combine field office agencies. I'm glad the Chair and I were able to work together to ensure that USDA reorganization improves the efficiency and effectiveness of field office service.

Mr. CONDIT. Mr. Chairman, I am submitting the following comments concerning the language that has been negotiated in conference concerning my risk assessment provision in the USDA reorganization bill, H.R. 3171. This language represents both important gains and the need to revisit this issue next year.

As I am sure you are already aware, the risk assessment-cost benefit analysis issue is a major impediment to the passage of several important pieces of environmental and organizational legislation. The fact that we have been able to craft a compromise that accomplishes many of our original goals is significant.

Specifically, I would point to the establishment of an Office of Risk Assessment and Cost-Benefit Analysis as a major development in the field of regulatory reform. I am also pleased that this legislation will assure that USDA regulations dealing with health, the environment, or public safety will contain the information that the public needs to comprehend the risk; the costs of addressing it, and the benefits it will receive from these expenditures.

There are, however, several shortcomings in the compromise that I would like to address. First, there is a fundamental weakness in the comparative risk language contained in the compromise. The language states that "where appropriate and meaningful" the Secretary shall include risk comparisons. I firmly believe that "appropriate and meaningful" is entirely too subjective of a standard. It is my belief that comparative risk should be an absolute requirement in this provision and it should only be waived if an apt comparison is an absolute impossibility, in which case a detailed explanation should be contained in the Federal Register along with the regulation.

Another objection I have to the compromise document is that it allows the Secretary to skip the risk-assessment, cost-benefit analysis requirement altogether if compelling circumstances arise. This standard fails to establish any definition whatsoever for the word compelling.

Compounding my frustration on this issue is the fact that I had prepared language based upon the President's Executive order on regulatory review in an effort to solve this impasse. My language would have restricted the exemption to emergencies, court orders and other provisions of law. Had I been extended the simple courtesy of being invited to the table to negotiate on my amendment I am confident that this issue could have been resolved to everyone's satisfaction.

The only other major objection I have to the compromise deals with the evaluation component. My original language called for a full secretarial certification on the contents of the risk assessment/cost benefit analysis. I understand the view of those who objected to this provision, yet I cannot believe that this compromise has resulted in a clearer statute. On the other hand, I am greatful that the language I requested to reveal the cost imposed by regulation upon local, State, and other public and private entities was retained.

During the next Congress I have every intention of aggressively performing oversight of the creation of the office. The statute states clearly that 6 months from enactment cost benefit and risk analyses will be published for all major regulations dealing with health, the environment, or public safety. I do not intend to allow this to be taken lightly.

The farm bill will be reauthorized next year and I therefore intend to attempt to correct some of the shortcomings I have outlined by amending the appropriate regulatory titles in the bill.

In closing, let me stress that risk assessment and cost benefit analysis has proven to be the great bill killer of the 103d Congress. The USDA reorganization bill is very likely going to be the only major legislation that will pass in this Congress that contains any strong risk assessment/cost benefit provisions. I am proud that I am the author of this language and greatful to those who assisted in its becoming law.

We have finally established the starting line from which the 104th Congress can create a consistent, comprehensive, and coherent regulatory policy that incorporates risk assessment and cost benefit analysis.

Mr. BROWN of California. Mr. Speaker, we are all pleased to have contributed to the effort initiated by the administration to reorganize the Department of Agriculture. I participated in the effort to slow the consideration of this bill by the House, not because I objected to reorganizing USDA, but because I objected to language that I believe was designed to cripple USDA's regulatory authority and to set a precedent for this in other Government agencies. This bill is likely to be the only one which will emerge from this Congress which contains provisions on risk assessment and cost-benefit analysis of major regulations promulgated by the Agency.

The language contained in the conference bill is the product of long negotiation, and represents a good-faith effort by all who are concerned about this issue. I believe that we have provided a viable starting point for a debate that is sure to continue into the next Congress. This language is the basis for an experiment which will provide us with some tangible evidence of the utility of risk assessment and cost-benefit analyses in regulatory decision making.

I would like to offer my views on the proper role of risk assessment and cost-benefit analysis in the regulatory decisionmaking process. The most strident proponents of these provisions in this Congress claim that their goal is to ensure that state-of-the-are scientific information is used to direct Agency rulemaking. They claim that they are not interested in weakening health and safety standards or environmental protection, but are simply trying to ensure that regulations are cost effective and that our scare resources are utilized efficiently. This is about good government and fiscal responsibility.

The compromise language that appears in this conference report represents a good-faith effort to foster these goals: the original language offered in the House Agriculture Committee was not. I believe that if it were, there would not have been such concerted efforts made to reassure all of the supporters of commodity and price-support programs that these provisions would not apply to them. This puzzles me, and has contributed to my continuing skepticism of the merits of these proposals mandating the use of these analyses. If the goal is good government, fiscal responsibility, and cost-effective decision making why did my colleagues rush to restrict these risk assessments and cost-benefit analyses to a subset of regulations promulgated by USDA? Why were these provisions only offered in the context of regulation in the areas of public health and environmental protection? Good government and sound decision making should apply throughout the Government in all contexts.

Risk assessments and cost-benefit analyses are two valuable tools that can and should be used to assist decision makers in developing cost-effective regulatory policy. However, I believe that it is a grave mistake to require analyses that will overburden the Agency, and produce results that are designed to confuse the public and ridicule regulatory actions that are taken to protect public health and safety and the environment.

By contrast, the provision for comparisons of risks included in the bill we passed ensures that sensible, relevant comparisons will be utilized to provide useful information to the public and to USDA regulators. I believe that this compromise provision on regulatory analysis is now in a form that will guide the regulatory process not destroy it. Our scientific knowledge base is impressive, but it is not complete enough to allow anyone to predict with certainty the nature of the risks which we impose upon ourselves through the many actions taken by individuals and industries in our society.

The promulgation of regulations is necessary to protect public health, safety, and the environment and to prevent us from having to spend increasingly scarce Federal dollars to clean up or mitigate the unintended effects of our economic activities. Pollution prevention is one of the most cost-effective strategies that we can pursue. If we had regulated the disposal of toxic substances earlier, we would not be facing the tremendous cleanup and litigation costs of Superfund today. We cannot afford to foreclose options to regulate potentially hazardous activities. It is too expensive in human terms and in financial ones.

Whether they recognize it or not, many of the risk assessment proposals that have been offered in this Congress start from the assumption that pollution is not a risk to human health and the environment. They make the argument that if we cannot prove that some action results in a measurable risk, agencies should assume the action to be risk-free and issue no regulation. This type of strategy will lead to agencies issuing regulations only after some problem is evident, and, unfortunately, for victims and taxpayers, the regulation will come too late to prevent damage to health and the environment and the outlay of Federal dollars to mitigate the identified problem. I believe that we should recognize the limits of our knowledge, learn from our past mistakes, and permit agencies charged with the task of protecting public health, safety, and the environment to provide an adequate margin of safety for all of our citizens.

I hope that we can cast aside some of the unproductive efforts of this Congress and begin to discuss intelligent approaches to fostering the use of valuable analytical tools in a way that will assist Federal regulatory agencies in developing cost-effective policies to protect human health, safety, and the environment.

Mr. DE LA GARZA. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the bill is considered as an original bill for the purpose of amendment and is considered as having been read.

The text of the committee amendment in the nature of a substitute is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Department of Agriculture Reorganization Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Definitions.

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SEC. 2. DEFINITIONS.

Except where the context requires otherwise, for purposes of this Act:

(1) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(2) NATIONAL APPEALS DIVISION.—The term "National Appeals Division" means the National Appeals Division of the Department established under section 102.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

TITLE I—GENERAL REORGANIZATION AUTHORITIES

SEC. 101. TRANSFER OF DEPARTMENT FUNCTIONS TO SECRETARY OF AGRICULTURE.

(a) TRANSFER OF FUNCTIONS.—Except as provided in subsection (b), there are hereby transferred to the Secretary of Agriculture all functions of all agencies, offices, officers, and employees of the Department that are not already vested in the Secretary as of the date of the enactment of this Act.

(b) EXCEPTIONS.—Subsection (a) shall not apply to the following functions:

(1) Functions vested by subchapter II of chapter 5 of title 5, United States Code, in administrative law judges employed by the Department.

(2) Functions vested by the Inspector General Act of 1978 (5 U.S.C. App.) in the Inspector General of the Department.

(3) Functions vested by chapter 9 of title 31, United States Code, in the Chief Financial Officer of the Department.

(4) Functions vested in the corporations of the Department or the boards of directors and officers of such corporations.

(5) Functions vested in the Alternative Agricultural Research and Commercialization Board by the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5901 et seq.).

(6) Functions vested in the advisory board of the Commodity Credit Corporation established by section 9(b) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714g(b)).

(c) DELEGATION OF AUTHORITY.—

(1) DELEGATION AUTHORIZED.—Subject to paragraph (2), the Secretary may delegate to any agency, office, officer, or employee of the Department the authority to perform any function transferred to the Secretary under subsection (a) or any other function vested in the Secretary as of the date of the enactment of this Act.

(2) EXCEPTION.—The delegation authority provided by paragraph (1) shall be subject to—

(A) sections 105(b)(1), 106(b)(1), 201(b)(1), 202(b)(1), 301(b)(1), 401(b)(1), 501(b)(1), 601(b)(1), 601(c)(2), 701(b)(1), 803, and 904 of this Act;

(B) sections 502 and 503 of the Agricultural Trade Act of 1978 (7 U.S.C. 5692 and 5693); and

(C) section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)), as amended by section 203(a) of this Act.

(d) COST-BENEFIT ANALYSIS REQUIRED FOR NAME CHANGE.—

(1) ANALYSIS REQUIRED.—Except as provided in paragraph (2), the Secretary shall conduct a cost-benefit analysis before changing the name of any agency, office, division, or other unit of the Department to ensure that the benefits to be derived from changing the name of the agency, office, division, or other unit outweigh the expense of executing the name change.

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to any name change specifically provided for in this Act.

(e) PUBLIC COMMENT ON PROPOSED REORGANIZATION.—To the extent that the implementation of the authority provided to the Secretary by this Act to reorganize the Department involves the creation of new agencies or offices within the Department or the delegation of major functions or major groups of functions to any agency or office of the Department (or the officers thereof), the Secretary shall, to the extent considered practicable by the Secretary—

(1) give appropriate advance public notice of the proposed reorganization action or delegation; and

(2) afford appropriate opportunity for interested parties to comment on the proposed reorganization action or delegation.

(f) INTERAGENCY TRANSFER OF RECORDS, PROPERTY, PERSONNEL, AND FUNDS.—

(1) RELATED TRANSFERS.—Subject to paragraph (2), as part of the transfer or delegation of a function of the Department made or authorized by this Act, the Secretary may transfer within the Department—

(A) any of the records, property, or personnel affected by the transfer or delegation of the function; and

(B) unexpended balances (available or to be made available for use in connection with the transferred or delegated function) of appropriations, allocations, or other funds of the Department.

(2) APPLICABLE LAW RELATING TO FUNDS TRANSFER.—Section 1531 of title 31, United States Code, shall apply to any transfer of funds under paragraph (1).

SEC. 102. NATIONAL APPEALS DIVISION.

(a) ESTABLISHMENT.—Notwithstanding section 426 of the Agricultural Act of 1949 (7 U.S.C. 1433e) or section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C.1983b), the Secretary shall establish a National Appeals Division in the Department.

(b) JURISDICTION.—The Secretary may assign to the National Appeals Division established under subsection (a) all administrative appeals arising under the laws referred to in subsection (a) or under any other law that confers authority upon the Secretary or the Department.

(c) DIRECTOR.—The National Appeals Division shall be headed by a Director appointed by the Secretary from among individuals with substantial experience in administrative law.

(d) PROCEDURES.—The Secretary shall establish procedures applicable to administrative appeals under the jurisdiction of the National Appeals Division.

(e) EFFECT ON RIGHTS OF PROGRAM PARTICIPANTS.—Notwithstanding the other provisions of this section, the rights afforded program participants under the laws referred to in subsection (a) shall not be limited or abridged by this section.

(f) FINAL DECISIONS IN APPEALS.—The Secretary may make final decisions in appeals under the jurisdiction of the National Appeals Division, including appeals filed under the laws referred to in subsection (a), or delegate authority to make such final decisions to the Director of the Division.

SEC. 103. REDUCTIONS IN NUMBER OF DEPARTMENT PERSONNEL.

(a) NUMBER OF REDUCTIONS REQUIRED.—The Secretary shall achieve Federal employee reductions of at least 7,500 staff years within the Department by the end of fiscal year 1999.

(b) TOP-DOWN REDUCTIONS REQUIRED.—In achieving the employee reductions required in subsection (a), the Secretary shall ensure that the percentage by which total employee staff years in headquarters offices is reduced is at least twice as great as the percentage by which total employee staff years in field offices is reduced.

SEC. 104. COMBINATION OF FIELD OFFICES.

(a) COMBINATION OF OFFICES REQUIRED.—The Secretary shall combine field offices of agencies within the Department to improve service to clients and reduce personnel and duplicative overhead expenses.

(b) JOINT USE OF RESOURCES AND OFFICES REQUIRED.—When two or more agencies share a common field office, the Secretary shall require the agencies to jointly use office space, equipment, office supplies, administrative personnel, and clerical personnel associated with that field office.

SEC. 105. IMPROVEMENT OF INFORMATION SHARING.

Subject to the provision of funds in advance in appropriations Acts for this purpose, the Secretary shall procure and use computer systems that enhance efficiency, productivity, and client services and are consistent with the goal of promoting computer information sharing among agencies of the Department.

SEC. 106. DIRECTOR OF EXTERNAL AFFAIRS.

(a) ESTABLISHMENT.—There is established in the Department the position of Director of External Affairs of the Department of Agriculture. The Director of External Affairs shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS OF DIRECTOR.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Director of External Affairs those functions and duties that were under the jurisdiction of the Assistant Secretary of Agriculture for Congressional Relations and the Director of Public Affairs of the Department as of the date of the enactment of this Act.

(2) ADDITIONAL FUNCTIONS.—The Director of External Affairs shall perform such other duties as may be required by law or prescribed by the Secretary.

(c) SUCCESSION.—Any official who is serving as Assistant Secretary of Agriculture for Congressional Relations on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate—

(1) shall be considered to be serving in the successor position established by subsection (a); and

(2) shall not be required to be reappointed to that position by reason of the enactment of this Act.

(d) CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Director of External Affairs of the Department of Agriculture.".

SEC. 107. DIRECTOR FOR ADMINISTRATION.

(a) ESTABLISHMENT.—There is established in the Department the position of Director for Administration of the Department of Agriculture. The Director for Administration shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS OF DIRECTOR.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Director for Administration

those functions and duties that were under the jurisdiction of the Assistant Secretary for Administration of the Department as of the date of the enactment of this Act.

(2) ADDITIONAL FUNCTIONS.—The Director for Administration shall perform such other duties as may be required by law or prescribed by the Secretary.

(c) SUCCESSION.—Any official who is serving as Assistant Secretary of Agriculture for Administration on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate—

(1) shall be considered to be serving in the successor position established by subsection (a); and

(2) shall not be required to be reappointed to that position by reason of the enactment of this Act.

(d) CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Director for Administration of the Department of Agriculture.".

TITLE II—FARM AND FOREIGN AGRICULTURAL SERVICES

SEC. 201. UNDER SECRETARY OF AGRICULTURE FOR FARM AND FOREIGN AGRICULTURAL SERVICES.

(a) ESTABLISHMENT.—There is established in the Department the position of Under Secretary of Agriculture for Farm and Foreign Agricultural Services. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Under Secretary of Agriculture for Farm and Foreign Agricultural Services those functions and duties under the jurisdiction of the Department that are related to farm and foreign agricultural services.

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Farm and Foreign Agricultural Services shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(c) SUCCESSION.—Any official who is serving as Under Secretary of Agriculture for International Affairs and Commodity Programs on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate—

(1) shall be considered to be serving in the successor position established by subsection (a); and

(2) shall not be required to be reappointed to that position by reason of the enactment of this Act.

(d) CONFORMING AMENDMENTS.—

(1) EXISTING POSITION.—Section 501 of the Agricultural Trade Act of 1978 (7 U.S.C. 5691), relating to the Under Secretary of Agriculture for International Affairs and Commodity Programs, is repealed.

(2) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by striking "Under Secretary of Agriculture for International Affairs and Commodity Programs." and inserting "Under Secretary of Agriculture for Farm and Foreign Agricultural Services.".

SEC. 202. AGRICULTURAL SERVICE AGENCY.

(a) ESTABLISHMENT.—The Secretary shall establish and maintain an Agricultural Service Agency within the Department.

(b) FUNCTIONS OF AGRICULTURAL SERVICE AGENCY.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall carry out through the Agricultural Service Agency the following activities that are under the jurisdiction of the Department:

(A) Agricultural price and income support programs and related programs.

(B) General supervision of the Federal Crop Insurance Corporation.

(C) Notwithstanding any other provision of law, agricultural credit programs formerly assigned by law to the Farmers Home Administration (including farm ownership and operating, emergency, and disaster loan programs) and other lending programs for farmers and others engaged in the production of agricultural commodities.

(D) Agricultural conservation cost-share and demonstration programs carried out by the Agricultural Stabilization and Conservation Service or the Farmers Home Administration as of the date of the enactment of this Act.

(2) ADDITIONAL FUNCTIONS.—The Secretary may assign to the Agricultural Service Agency such additional functions as the Secretary considers appropriate in connection with the administration and implementation of authorities assigned to the Secretary by law.

(c) JURISDICTION OVER CONSERVATION PROGRAM APPEALS.—

(1) IN GENERAL.—Until such time as an adverse decision described in this paragraph is referred to the National Appeals Division for consideration, the Agricultural Service Agency shall have initial jurisdiction over any administrative appeal resulting from an adverse decision made under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), including an adverse decision involving technical determinations made by the Soil Conservation Service.

(2) TREATMENT OF TECHNICAL DETERMINATION.—With respect to administrative appeals involving a technical determination made by the Soil Conservation Service, the Agricultural Service Agency, by rule with the concurrence of the Soil Conservation Service, shall establish procedures for obtaining review by the Soil Conservation Service of the technical determinations involved. Such rules shall ensure that technical criteria established by the Soil Conservation Service shall be used by the Agricultural Service Agency as the basis for any decisions regarding technical determinations.

(3) REINSTATEMENT OF PROGRAM BENEFITS.—Rules issued to carry out this subsection shall provide for the prompt reinstatement of benefits to a producer who is determined in an administrative appeal to meet the requirements of title XII of the Food Security Act of 1985 applicable to the producer.

(4) DEFINITION.—For purposes of this subsection, the term "Soil Conservation Service" includes any successor agency to the Soil Conservation Service.

(d) USE OF FEDERAL AND NON-FEDERAL EMPLOYEES.—

(1) USE AUTHORIZED.—In the implementation of programs and activities assigned to the Agricultural Service Agency, the Secretary may use interchangeably in local offices of the agency both Federal employees of the Department and non-Federal employees of county and area committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)).

(2) EXCEPTION.—Notwithstanding paragraph (1), no personnel action (as defined in section 2302(a)(2)(A) of title 5, United States Code) may be taken with respect to a Federal employee unless such action is taken by another Federal employee.

(e) CONFORMING AMENDMENTS.—

(1) CROP INSURANCE.—The Federal Crop Insurance Act (7 U.S.C.1501 et seq.) is amended—

(A) in section 505(a) (7 U.S.C. 1505(a)), by striking "the Under Secretary or Assistant Secretary of Agriculture responsible for the farm credit programs of the Department of Agriculture," and inserting "one additional Under Secretary of Agriculture as designated by the Secretary,"; and

(B) in section 507(d) (7 U.S.C. 1507(d)), by striking ", except" and all that follows through "agency".

(2) FARM AND RURAL DEVELOPMENT.—Section 331(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981(a)) is amended by striking "assets to the Farmers Home Administration" and all that follows through the period and inserting "assets to such officers or agencies of the Department of Agriculture as the Secretary considers appropriate.".

SEC. 203. STATE, COUNTY, AND AREA COMMITTEES.

(a) AMENDMENT TO THE SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT.—Section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) is amended—

(1) by inserting "(1)" after "(b)";

(2) by designating the second through eighth undesignated paragraphs as paragraphs (2) through (8), respectively; and

(3) by striking paragraph (5) (as so designated) and inserting the following new paragraph:

"(5) STATE, COUNTY, AND AREA COMMITTEES.—

"(A) APPOINTMENT OF STATE COMMITTEES.—The Secretary shall appoint in each State a State committee composed of not fewer than 3 nor more than 5 members who are fairly representative of the farmers in the State. The members of a State committee shall serve at the pleasure of the Secretary for such term as the Secretary may establish.

"(B) ESTABLISHMENT OF COUNTY OR AREA COMMITTEES.—(i) In each county or area in which activities are carried out under this section, the Secretary shall establish a county or area committee.

"(ii) Any such committee shall consist of not fewer than 3 nor more than 5 members who are fairly representative of the farmers in the county or area and who shall be elected by the farmers in such county or area under such procedures as the Secretary may prescribe.

"(iii) Only farmers within a local administrative area who are producers who participate or cooperate in programs administered within their area shall be eligible for nomination and election to the local committee for that area.

"(iv) The Secretary shall solicit and accept nominations from organizations representing the interests of socially disadvantaged groups (as defined in section 355(e)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)(1)).

"(v) Members of each county or area committee shall serve for terms not to exceed 3 years.

"(C) USE OF COMMITTEES.—The Secretary shall use the services of such committees in carrying out programs under this section and the agricultural credit programs under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) and in considering administrative appeals under the jurisdiction of the Agricultural Service Agency, as provided by section 202(c) of the Department of Agriculture Reorganization Act of 1994. In addition, to the extent the Secretary determines appropriate, the Secretary may use the services of such committees in carrying out programs under other authorities administered by the Secretary .

"(D) REGULATIONS.—The Secretary shall issue such regulations as the Secretary considers necessary relating to the selection and exercise of the functions of the respective committees, and to the administration through such committees of the programs described in subparagraph (C). Regulations governing payments or grants under this subsection shall be as simple and direct as possible, and, whenever practicable, they shall be classified on the following two bases:

"(i) Soil-depleting practices.

"(ii) Soil-building practices.

"(E) MANDATORY DUTIES OF SECRETARY.—In carrying out this section, the Secretary shall—

"(i) insofar as practicable, protect the interests of tenants and sharecroppers;

"(ii) accord such encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in Federal laws and as will tend to promote efficient methods of marketing and distribution;

"(iii) in every practicable manner, protect the interests of small producers; and

"(iv) in every practical way, encourage and provide for soil-conserving and soil-rebuilding practices.

"(F) DISCRETIONARY AUTHORITIES OF SECRETARY.—In carrying out this section, the Secretary may use other approved agencies.

"(G) LIMITATIONS.—In carrying out this section, the Secretary shall not have the authority to acquire any land or any right or interest in land.".

(b) CONFORMING AMENDMENTS.—The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended—

(1) by striking section 332 (7 U.S.C. 1982); and

(2) in section 333 (7 U.S.C. 1983)—

(A) by striking paragraph (2); and

(B) redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

TITLE III—RURAL ECONOMIC AND COMMUNITY DEVELOPMENT

SEC. 301. UNDER SECRETARY OF AGRICULTURE FOR RURAL ECONOMIC AND COMMUNITY DEVELOPMENT.

(a) ESTABLISHMENT.—There is established in the Department the position of Under Secretary of Agriculture for Rural Economic and Community Development. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Under Secretary of Agriculture for Rural Economic and Community Development those functions and duties under the jurisdiction of the Department that are related to rural economic and community development.

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Rural Economic and Community Development shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(c) SUCCESSION.—Any official who is serving as Under Secretary of Agriculture for Small Community and Rural Development on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate—

(1) shall be considered to be serving in the successor position established by subsection (a); and

(2) shall not be required to be reappointed to that position by reason of the enactment of this Act.

(d) LOAN APPROVAL AUTHORITY.—Approval authority for loans and loan guarantees in the electric and telephone loan and loan guarantee programs authorized by the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) shall not be transferred to, or conditioned upon review of, a State director or other employee whose primary duty is not the review and approval of such loans or the provision of assistance to such borrowers.

(e) CONFORMING AMENDMENTS.—

(1) EXISTING POSITION.—Section 3 of the Rural Development Policy Act of 1980 (7 U.S.C. 2211b) is amended by striking subsection (a).

(2) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by striking "Under Secretary of Agriculture for Small Community and Rural Development." and inserting "Under Secretary of Agriculture for Rural Economic and Community Development.".

(f) AMENDMENTS TO THE RURAL ELECTRIFICATION ACT OF 1936.—The Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) is amended—

(1) in section 1 (7 U.S.C. 901), by striking the first sentence;

(2) in section 2(a) (7 U.S.C. 902(a)), by striking "Administrator" and inserting "Secretary of Agriculture";

(3) in section 3(a) (7 U.S.C. 903(a))—

(A) by striking "Administrator, upon the request and approval of the Secretary of Agriculture," and inserting "Secretary"; and

(B) by striking "Administrator appointed pursuant to the provisions of this Act or from the Administrator of the Rural Electrification Administration established by Executive Order Numbered 7037" and inserting "Secretary";

(4) in section 8 (7 U.S.C. 908)—

(A) by striking "Administrator authorized to be appointed by this Act" and inserting "Secretary"; and

(B) by striking "Rural Electrification Administration created by this Act" and inserting "Secretary";

(5) by striking section 11A (7 U.S.C. 911a);

(6) in section 13 (7 U.S.C. 913), by inserting before the period the following: "; the term 'Secretary' shall be deemed to mean the Secretary of Agriculture";

(7) in sections 206(b)(2), 306A(b), 311, and 405(b)(1)(A) (7 U.S.C. 927(b)(2), 936a(b), 940a, and 945(b)(1)(A)), by striking "Rural Electrification Administration" each place it appears and inserting "Secretary";

(8) in sections 305(c)(2)(C)(ii)(II) and 306E(d) (7 U.S.C. 935(c)(2)(C)(ii)(II) and 936e(d)), by striking "ADMINISTRATOR" both places it appears and inserting "SECRETARY";

(9) in section 403(b) (7 U.S.C. 943(b)), by striking "Rural Electrification Administration or of any other agency of the Department of Agriculture," and inserting "Secretary,";

(10) in section 404 (7 U.S.C. 944), by striking "the Administrator of the Rural Electrification Administration" and inserting "The Secretary shall designate an official of the Department of Agriculture who";

(11) in sections 406(c) and 410 (7 U.S.C. 946(c) and 950), by striking "Administrator of the Rural Electrification Administration" each place it appears and inserting "Secretary";

(12) in the heading of section 501 (7 U.S.C. 950aa), by striking "**OF REA ADMINISTRATOR**"; and

(13) except as otherwise provided in this subsection, by striking "Administrator" each place it appears in such Act and inserting "Secretary".

(g) MISCELLANEOUS AMENDMENTS RELATED TO RURAL ELECTRIFICATION ADMINISTRATION.—(1) Section 236(a) of the Disaster Relief Act of 1970 (7 U.S.C. 912a) is amended by striking "Rural Electrification Administration" and inserting "Secretary under the Rural Electrification Act of 1936".

(2) Section 505 of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 915) is amended—

(A) by striking "Rural Electrification Administration" and inserting "Secretary of Agriculture"; and

(B) by striking "its" and inserting "the Secretary's".

(3) Section 401 of the Rural Electrification Act of 1938 (7 U.S.C. 903 note, 52 Stat. 818) is amended in the second paragraph by striking "Administrator of the Rural Electrification Administration" and inserting "Secretary of Agriculture".

(4) Chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa et seq.), relating to Distance Learning and Medical Link Programs, is amended—

(A) in section 2333—

(i) by striking paragraph (1); and

(ii) by redesignating paragraphs (2) through (11) as paragraphs (1) through (10), respectively;

(B) in section 2334(h)(2), by striking "section 2333(3)(F)" and inserting "section 2333(2)(F)"; and

(C) by striking "Administrator" each place it appears and inserting "Secretary".

TITLE IV—FOOD, NUTRITION, AND CONSUMER SERVICES

SEC. 401. UNDER SECRETARY OF AGRICULTURE FOR FOOD, NUTRITION, AND CONSUMER SERVICES.

(a) ESTABLISHMENT.—There is established in the Department the position of Under Secretary of Agriculture for Food, Nutrition, and Consumer Services. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Under Secretary of Agriculture for Food, Nutrition, and Consumer Services those functions and duties under the jurisdiction of the Department that are related to food, nutrition, and consumer services (except as provided in section 701(b)(1)).

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Food, Nutrition, and Consumer Services shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(c) SUCCESSION.—Any official who is serving as Assistant Secretary of Agriculture for Food and Consumer Services on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate—

(1) shall be considered to be serving in the successor position established by subsection (a); and

(2) shall not be required to be reappointed to that position by reason of the enactment of this Act.

(d) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Under Secretary of Agriculture for Farm and Foreign Agricultural Services (as added by section 201(d)(2)) the following:

"Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.".

TITLE V—NATURAL RESOURCES AND ENVIRONMENT

SEC. 501. UNDER SECRETARY OF AGRICULTURE FOR NATURAL RESOURCES AND ENVIRONMENT.

(a) ESTABLISHMENT.—There is established in the Department the position of Under Secretary of Agriculture for Natural Resources and Environment. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Under Secretary of Agriculture for Natural Resources and Environment those functions and duties under the jurisdiction of the Department that are related to natural resources and the environment (except to the extent those functions and duties are delegated to the Agricultural Service Agency under section 202).

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Natural Resources and Environment shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(c) SUCCESSION.—Any official who is serving as Assistant Secretary of Agriculture for Natural Resources and Environment on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate—

(1) shall be considered to be serving in the successor position established by subsection (a); and

(2) shall not be required to be reappointed to that position by reason of the enactment of this Act.

(d) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Under Secretary of Agriculture for Food, Nutrition, and Consumer Services (as added by section 401(d)) the following:

"Under Secretary of Agriculture for Natural Resources and Environment.".

(e) CONFORMING AMENDMENTS.—

(1) SOIL CONSERVATION SERVICE.—Section 5 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590e) is repealed.

(2) SOIL AND WATER RESOURCES CONSERVATION.—The Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2001) is amended—

(A) in section 2(2) (16 U.S.C. 2001(2))—

(i) by striking "created the Soil Conservation Service"; and

(ii) by striking "Department of Agriculture which" and inserting ", has ensured that the Department of Agriculture";

(B) in section 3(2) (16 U.S.C. 2002(2)), by striking "through the Soil Conservation Service"; and

(C) in section 6(a) (16 U.S.C. 2005(a)), by striking "Soil Conservation Service" and inserting "Secretary".

TITLE VI—RESEARCH, EDUCATION, AND ECONOMICS

SEC. 601. UNDER SECRETARY OF AGRICULTURE FOR RESEARCH, EDUCATION, AND ECONOMICS.

(a) ESTABLISHMENT.—There is established in the Department the position of Under Secretary of Agriculture for Research, Education, and Economics. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Under Secretary of Agriculture for Research, Education, and Economics those functions and duties under the jurisdiction of the Department that are related to research, education, and economics.

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Research, Education, and Economics shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(c) COOPERATIVE STATE RESEARCH AND EDUCATION SERVICE.—

(1) ESTABLISHMENT.—The Secretary shall establish and maintain within the Department a Cooperative State Research and Education Service.

(2) DUTIES.—The Secretary shall delegate to the Cooperative State Research and Education Service functions related to cooperative State research programs and cooperative extension and education programs that are under the jurisdiction of the Department.

(3) OFFICER-IN-CHARGE.—The officer in charge of the Cooperative State Research and Education Service shall report directly to the Under Secretary of Agriculture for Research, Education, and Economics.

(d) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Under Secretary of Agriculture for Natural Resources and Environment (as added by section 501(d)) the following:

"Under Secretary of Agriculture for Research, Education, and Economics.".

TITLE VII—FOOD SAFETY

SEC. 701. UNDER SECRETARY OF AGRICULTURE FOR FOOD SAFETY.

(a) ESTABLISHMENT.—There is established in the Department of Agriculture the position of Under Secretary of Agriculture for Food Safety. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals with specialized training or significant experience in food safety or public health programs.

(b) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Under Secretary of Agriculture for Food Safety those functions and duties under the jurisdiction of the Department that are related to food safety.

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Food Safety shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(c) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Under Secretary of Agriculture for Research, Education, and Economics (as added by section 601(d)) the following:

"Under Secretary of Agriculture for Food Safety.".

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 801. EXPANSION OF ISSUES COVERED BY STATE MEDIATION PROGRAMS.

(a) EXPANSION OF MEDIATION PROGRAMS.—Section 501 of the Agricultural Credit Act of 1987 (7 U.S.C. 5101) is amended—

(1) in subsection (a), by striking "an agricultural loan mediation program" and inserting "a mediation program";

(2) in subsection (b), by striking "agricultural loan"; and

(3) by striking subsection (c) and inserting the following new subsection:

"(c) REQUIREMENTS OF STATE MEDIATION PROGRAMS.—

"(1) ISSUES COVERED.—To be certified as a qualifying State, the mediation program of the State must provide mediation services for the persons described in paragraph (2) who are involved in agricultural loans or agricultural loans and one or more of the following issues under the jurisdiction of the Department of Agriculture:

"(A) Wetlands determinations.

"(B) Compliance with farm programs, including conservation programs.

"(C) Agricultural credit.

"(D) Rural water loan programs.

"(E) Grazing on National Forest System lands.

"(F) Pesticides.

"(G) Such other issues as the Secretary considers appropriate.

"(2) PERSONS ELIGIBLE FOR MEDIATION.—The persons referred to in paragraph (1) are producers, their creditors (if applicable), and other persons directly affected by actions of the Department of Agriculture.

"(3) CERTIFICATION CONDITIONS.—The Secretary shall certify a State as a qualifying State with respect to the issues proposed to be covered by the mediation program of the State if the mediation program—

"(A) provides for mediation services that, if decisions are reached, result in mediated, mutually agreeable decisions between the parties to the mediation;

"(B) is authorized or administered by an agency of the State government or by the Governor of the State;

"(C) provides for the training of mediators;

"(D) provides that the mediation sessions shall be confidential;

"(E) ensures, in the case of agricultural loans, that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program; and

"(F) ensures, in the case of other issues covered by the mediation program, that persons directly affected by actions of the Department of Agriculture receive adequate notification of the mediation program.".

(b) PARTICIPATION OF DEPARTMENT.—Section 503 of such Act (7 U.S.C. 5103) is amended—

(1) by striking "agricultural loan" each place it appears;

(2) in the matter preceding subparagraph (A) of subsection (a)(1)—

(A) by inserting "or agency" after "program"; and

(B) by striking "that makes, guarantees, or insures agricultural loans";

(3) in subsection (a)(1)(A)—

(A) by inserting "or agency" after "such program"; and

(B) by inserting "certified under section 501" after "mediation program";

(4) in subsection (a)(1)(B)—

(A) by striking ", effective beginning on the date of the enactment of this Act,"; and

(B) by inserting "certified under section 501" after "mediation programs"; and

(5) in subsection (a)(1)(C)—

(A) in clause (i), by striking "described in" and inserting "certified under"; and

(B) in clause (ii), by inserting "if applicable," before "present".

(c) REGULATIONS.—Section 504 of such Act (7 U.S.C. 5104) is amended—

(1) by striking "Within 150 days after the date of the enactment of this Act, the" and inserting "The"; and

(2) by adding at the end the following new sentence: "The regulations prescribed by the Secretary shall require qualifying States to adequately train mediators to address all of the issues covered by the mediation program of the State.".

(d) REPORT.—Section 505 of such Act (7 U.S.C. 5105) is amended by striking "1990" and inserting "1998".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 506 of such Act (7 U.S.C. 5106) is amended by striking "1995" and inserting "2000".

(f) CONFORMING AMENDMENTS.—

(1) REFERENCES TO AGRICULTURAL LOANS.—Subtitle A of title V of such Act is amended—

(A) in sections 502 and 505(1) (7 U.S.C. 5102, 5105(1)), by striking "agricultural loan" each place it appears; and

(B) in section 505(3) (7 U.S.C. 5105(3)), by striking "an agricultural loan mediation" and inserting "a mediation".

(2) WAIVER OF FARM CREDIT SYSTEM MEDIATION RIGHTS BY BORROWERS.—Section 4.14E of the Farm Credit Act of 1971 (12 U.S.C. 2202e) is amended by striking "agricultural loan".

(3) WAIVER OF FMHA MEDIATION RIGHTS BY BORROWERS.—Section 358 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006) is amended by striking "agricultural loan".

SEC. 802. SUCCESSORSHIP PROVISIONS RELATING TO BARGAINING UNITS AND EXCLUSIVE REPRESENTATIVES.

(a) VOLUNTARY AGREEMENT.—

(1) IN GENERAL.—If the exercise of the Secretary's authority under this Act results in changes to an existing bargaining unit that has been certified under chapter 71 of title 5, United States Code, the affected parties shall attempt to reach a voluntary agreement on a new bargaining unit and an exclusive representative for such unit.

(2) CRITERIA.—In carrying out the requirements of this subsection, the affected parties shall use criteria set forth in—

(A) sections 7103(a)(4), 7111(e), 7111(f)(1), and 7120 of title 5, United States Code, relating to determining an exclusive representative; and

(B) section 7112 of title 5, United States Code (disregarding subsections (b)(5) and (d) thereof), relating to determining appropriate units.

(b) EFFECT OF AN AGREEMENT.—

(1) IN GENERAL.—If the affected parties reach agreement on the appropriate unit and the exclusive representative for such unit under subsection (a), the Federal Labor Relations Authority shall certify the terms of such agreement,

subject to paragraph (2)(A). Nothing in this subsection shall be considered to require the holding of any hearing or election as a condition for certification.

(2) RESTRICTIONS.—

(A) CONDITIONS REQUIRING NONCERTIFICATION.—The Federal Labor Relations Authority may not certify the terms of an agreement under paragraph (1) if—

(i) it determines that any of the criteria referred to in subsection (a)(2) (disregarding section 7112(a) of title 5, United States Code) have not been met; or

(ii) after the Secretary's exercise of authority and before certification under this section, a valid election under section 7111(b) of title 5, United States Code, is held covering any employees who would be included in the unit proposed for certification.

(B) TEMPORARY WAIVER OF PROVISION THAT WOULD BAR AN ELECTION AFTER A COLLECTIVE BARGAINING AGREEMENT IS REACHED.—Nothing in section 7111(f)(3) of title 5, United States Code, shall prevent the holding of an election under section 7111(b) of such title that covers employees within a unit certified under paragraph (1), or giving effect to the results of such an election (including a decision not to be represented by any labor organization), if the election is held before the end of the 12-month period beginning on the date such unit is so certified.

(C) CLARIFICATION.—The certification of a unit under paragraph (1) shall not, for purposes of the last sentence of section 7111(b) of title 5, United States Code, or section 7111(f)(4) of such title, be treated as if it had occurred pursuant to an election.

(3) DELEGATION.—

(A) IN GENERAL.—The Federal Labor Relations Authority may delegate to any regional director (as referred to in section 7105(e) of title 5, United States Code) its authority under the preceding provisions of this subsection.

(B) REVIEW.—Any action taken by a regional director under subparagraph (A) shall be subject to review under the provisions of section 7105(f) of title 5, United States Code, in the same manner as if such action had been taken under section 7105(e) of such title, except that in the case of a decision not to certify, such review shall be required if application therefor is filed by an affected party within the time specified in such provisions.

(c) DEFINITION.—For purposes of this section, the term "affected party" means—

(1) with respect to an exercise of authority by the Secretary under this Act, any labor organization affected thereby; and

(2) the Department of Agriculture.

SEC. 803. CONDITIONS ON IMPLEMENTATION OF ALTERATION IN LEVEL OF SELENIUM ALLOWED IN ANIMAL DIETS.

(a) CONDITIONS.—The Food and Drug Administration shall not implement or enforce the final rule described in subsection (b) to alter the level of selenium allowed to be used as a supplement in animal diets unless the Commissioner of the Food and Drug Administration makes a determination that—

(1) selenium additives are not essential, at levels authorized in the absence of such final rule, to maintain animal nutrition and protect animal health;

(2) selenium at such levels is not safe to the animals consuming the additive;

(3) selenium at such levels is not safe to individuals consuming edible portions of animals that receive the additive;

(4) selenium at such levels does not achieve its intended effect of promoting normal growth and reproduction of livestock and poultry; and

(5) the manufacture and use of selenium at such levels cannot reasonably be controlled by adherence to current good manufacturing practice requirements.

(b) FINAL RULE DESCRIBED.—The final rule referred to in subsection (a) is the final rule issued by the Food and Drug Administration and published in the Federal Register on September 13, 1993 (58 Fed. Reg. 47962), in which the Administration stayed 1987 amendments to the selenium food additive regulations, and any modification of such rule issued after the date of the enactment of this Act.

SEC. 804. OFFICE OF ENVIRONMENTAL RISK ASSESSMENT.

(a) OFFICE OF ENVIRONMENTAL RISK ASSESSMENT.—The Secretary shall establish in the Department an Office of Environmental Risk Assessment (in this section referred to as the "Office"), which shall be independent of other offices and agencies of the Department, but shall have the authority to advise such offices and agencies regarding the environmental risks addressed by Department regulations and the implementation and compliance costs associated with such regulations. The Office shall be under the direction of a Director appointed by the Secretary.

(b) STRATEGY TO ANALYZE RISKS AND BENEFITS.—The Director of the Office shall develop a strategy for performing, to the greatest extent practicable and consistent with the provisions of this section and other provisions of the law applicable to the Department, risk/benefit analyses in connection with the regulations described in subsection (c) that are performed consistently and employ state-of-the-art scientific techniques that are practicable with the resources available. The implementation of the strategy shall be subject to the approval of the Secretary.

(c) REVIEW AND CERTIFICATION OF DEPARTMENT REGULATIONS.—In connection with each proposed major regulation relating to public health, public safety, or the environment that is issued by the Department after the date on which the Secretary approves of the risk/benefit analysis strategy under subsection (b), the Director of the Office shall publish in the Federal Register—

(1) an estimate, with as much specificity as practicable, of—

(A) the risk to the health and safety of individuals that is addressed by the regulation, including the effect of the risk on human health or the environment;

(B) the costs associated with the implementation of, and compliance with, the regulation; and

(C) a comparative analysis of that risk relative to other risks to which the public is exposed; and

(2) subject to subsection (d), a certification by the Director that—

(A) the estimate under paragraph (1)(B) and the analysis under paragraph (1)(C) are based on a scientific evaluation of the risk referred to in paragraph (1)(A) and are supported by the best available scientific data;

(B) the regulation will substantially advance the purpose of protecting the public health and safety or the environment against the risk referred to in paragraph (1)(A); and

(C) the regulation will produce benefits to public health and safety or the environment that will justify the costs incurred by local, State, and Federal Government and other public and private entities as a result of the implementation of, and compliance with, the regulation, as estimated in paragraph (1)(B).

(d) REPORT TO CONGRESS OF LACK OF CERTIFICATION.—If the Director of the Office cannot make the certification required under subsection (c)(2) for a regulation, the Director shall submit to Congress a report containing a statement of the reasons why the certification cannot be made. The statement shall be included in the final regulation.

(e) EFFECT ON OTHER LAWS; JUDICIAL REVIEW.—This section, and any certification made under subsection (c), shall not be construed to amend, modify, or alter any law and shall not be subject to judicial review. This section shall not be construed to grant a cause of action to any person.

SEC. 805. REPEAL OF SUPERSEDED PROVISIONS.

(a) IN GENERAL.—The following provisions of law are repealed:

(1) Section 2 of Reorganization Plan No. 2 of 1953 (5 U.S.C. App; 7 U.S.C. 2201 note).

(2) Section 2 of the Act entitled "An Act to enlarge the powers and duties of the Department of Agriculture and to create an Executive Department to be known as the Department of Agriculture.", approved February 9, 1889 (7 U.S.C. 2212).

(3) The first paragraph designated "OFFICE OF THE SECRETARY:" under the heading "DEPARTMENT OF AGRICULTURE" of the Act entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and seven.", approved June 30, 1906 (34 Stat. 670; 7 U.S.C. 2212).

(4) Section 604(a) of the Rural Development Act of 1972 (7 U.S.C. 2212a).

(5) Section 2 of Public Law 94-561 (7 U.S.C. 2212b).

(6) Section 8(a) of Public Law 97-325 (7 U.S.C. 2212c).

(7) Section 1413(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3128(d)).

(8) Section 306(a)(15)(C) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(15)(C)).

(9) Section 2322(d)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1926-1(d)(2)).

(10) Section 364 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006f).

(b) TERMINATION OF AUTHORITY FOR ASSISTANT SECRETARIES.—Section 5315 of title 5, United States Code, is amended by striking "Assistant Secretaries of Agriculture (7).".

(c) TERMINATION OF OTHER EXECUTIVE SCHEDULE POSITIONS.—Section 5316 of title 5, United States Code, is amended—

(1) by striking "Administrator, Agricultural Marketing Service, Department of Agriculture.";

(2) by striking "Administrator, Agricultural Research Service, Department of Agriculture.";

(3) by striking "Administrator, Agricultural Stabilization and Conservation Service, Department of Agriculture.";

(4) by striking "Administrator, Farmers Home Administration.";

(5) by striking "Administrator, Foreign Agricultural Service, Department of Agriculture.";

(6) by striking "Administrator, Rural Electrification Administration, Department of Agriculture.";

(7) by striking "Administrator, Soil Conservation Service, Department of Agriculture.";

(8) by striking "Chief Forester of the Forest Service, Department of Agriculture.";

(9) by striking "Director of Science and Education, Department of Agriculture.";

(10) by striking "Administrator, Animal and Plant Health Inspection Service, Department of Agriculture."; and

(11) by striking "Administrator, Federal Grain Inspection Service, Department of Agriculture.".

SEC. 806. CONFORMING AMENDMENTS.

(a) UNITED STATES GRAIN STANDARDS ACT.—The United States Grain Standards Act (7 U.S.C. 71 et seq.) is amended—

(1) in section 3 (7 U.S.C. 75)—

(A) by inserting "and" at the end of subsection (y);

(B) by striking subsections (z) and (aa); and

(C) by redesignating subsection (bb) as subsection (z);

(2) by striking section 3A (7 U.S.C. 75a);

(3) in section 5(b) (7 U.S.C. 77(b)), by striking "Service employees" and inserting "employees of the Secretary";

(4) in sections 7(j)(2) and 7A(l)(2) (7 U.S.C. 79(j)(2) and 79a(l)(2)), by striking "supervision by Service personnel of its field office personnel" both places it appears and inserting "supervision by the Secretary of the Secretary's field office personnel";

(5) in section 12(c) (7 U.S.C. 87a(c)), by striking "or Administrator";

(6) in section 12(d) (7 U.S.C. 87a(d)), by striking "or the Administrator";

(7) except as otherwise provided in this subsection, by striking "Administrator" each place it appears and inserting "Secretary"; and

(8) except as otherwise provided in this subsection, by striking "Service" each place it appears and inserting "Secretary".

(b) PACKERS AND STOCKYARDS ACT, 1921.—Section 407 of the Packers and Stockyards Act, 1921 (7 U.S.C. 228), is amended—

(1) by striking subsection (b);

(2) by redesignating subsections (c), (d), (e), and (f), as subsections (b), (c), (d), and (e), respectively; and

(3) in subsection (e) (as so redesignated), by striking "subsection (e)" and inserting "subsection (d)".

SEC. 807. PROPOSED CONFORMING AMENDMENTS.

Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress recommended legislation containing additional technical and conforming amendments to Federal laws that are required as a result of the enactment of this Act.

The CHAIRMAN. Are there any amendments to the bill?

AMENDMENTS OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DE LA GARZA: Strike section 801 of the bill (page 35, line 3, through page 39, line 22) relating to State mediation.

Strike section 803 of the bill (page 43, line 12, through page 44, line 17) relating to selenium levels in animal diets.

Mr. DE LA GARZA (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DE LA GARZA. Madam Chairman, this amendment is basically technical in nature. That is the purpose of this amendment.

Mr. ROBERTS. Madam Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to my distinguished colleague, the gentleman from Kansas.

Mr. ROBERTS. Madam Chairman, I thank my chairman for yielding. The minority is in full accord with the chairman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. DE LA GARZA].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ALLARD

Mr. ALLARD. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ALLARD: Strike section 202 of the bill (page 14, line 9 through line 10, page 18) and insert the following new section:

SEC. 202. COLLOCATION OF AGENCY OFFICES.

(a) COLLOCATION OF OFFICES.—

(1) COLLOCATION.—As provided in section 104 regarding Department field offices, the Secretary shall collocate, as soon as practicable and to the maximum extent consistent with efficiency and effectiveness, the offices of the Department located at county, regional, and State levels, which carry out the functions, duties, and programs of the following existing agencies:

(A) the Agriculture Stabilization and Conservation Service;

(B) the Soil Conservation Service;

(C) the Farmers Home Administration and the Rural Development Administration;

(D) the Federal Crop Insurance Corporation; and

(E) such other agencies as the Secretary determines appropriate upon subsequent notice to the Congress of such actions.

(2) ECONOMY OF OPERATION.—The Secretary shall implement and maintain the collocation of the agencies and entities as effected by this subsection by reducing to the maximum extent administrative and overhead costs, by reducing the cost of agency personnel, equipment, computer, and telecommunications services through the sharing of their use and utilization, and by otherwise reducing duplication and utilizing other management and personnel improvement practices that will provide the efficiency and effectiveness of the individual and collective agencies that are collocated.

(3) PROHIBITION.—The Secretary shall not establish any agency, nor shall any agency be given authority, that would have single supervisory authority over the individual entities or their successors to be collocated as provided for in this subsection.

(b) JURISDICTION OVER CONSERVATION PROGRAM APPEALS.—

(1) IN GENERAL.—Until such time as an adverse decision described in this paragraph is referred to the National Appeals Division for consideration, the Agriculture Stabilization and Conservation Service shall have initial jurisdiction over any administrative appeal resulting from an adverse decision made under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), including an adverse decision involving technical determinations made by the Soil Conservation Service. The Agriculture Stabilization and Conservation Service may reverse an adverse decision of the Soil Conservation Service if the Agriculture Stabilization and Conservation Service finds that such decision was arbitrary and capricious.

(2) TREATMENT OF TECHNICAL DETERMINATION.—With respect to administrative appeals involving a technical determination made by the Soil Conservation Service, the Agriculture Stabilization and Conservation Service, by rule with the concurrence of the Soil Conservation Service, shall establish procedures for obtaining review by the Soil Conservation Service of the technical determinations involved. Such rules shall ensure that technical criteria established by the Soil Conservation Service shall be used by the Agriculture Stabilization Conservation Service as the basis for any decisions regarding technical determinations.

(3) REINSTATEMENT OF PROGRAM BENEFITS.—Rules issued to carry out this subsection shall provide for the prompt reinstatement of benefits to a producer who is determined in an administrative appeal to meet the requirements of title XII of the Food Security Act of 1985 applicable to the producer.

(4) DEFINITION.—For purposes of this subsection, the term "Soil Conservation Service" includes any successor agency to the Soil Conservation Service.

(a) CROP INSURANCE.—The Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) is amended in section 505(a) (7 U.S.C. 1505(a)), by striking "the Under Secretary or Assistant Secretary of Agriculture responsible for the farm credit programs of the Department of Agriculture," and inserting "one additional Under Secretary of Agriculture as designated by the Secretary,".

Page 20, beginning line 7, strike "and in considering administrative appeals under the jurisdiction of the Agricultural Service Agency, as provided by section 202(c) of the Department of Agriculture Reorganization Act of 1994" and insert "and in considering administrative appeals under the jurisdiction of an agency of the Department of Agriculture described in section 202(a)(1) of the Department of Agriculture Reorganization Act of 1994".

Page 30, beginning line 4, strike "(except to the extent those functions and duties are delegated to the Agricultural Service Agency under section 202)" and insert "(except to the extent jurisdiction over conservation program appeals are assigned to the Agriculture Stabilization and Conservation Service under section 202(b))".

Mr. ALLARD (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. ALLARD. Madam Chairman, despite the yeomanlike job of Congressman STENHOLM, the chairman of the subcommittee that initiated the reorganization of the Department of Agriculture, and the leadership of Mr. DE LA GARZA, chairman of the full committee, H.R. 3171 remains flawed. The stated purpose behind USDA reorganization has not been met, that is to save taxpayers money and to provide better services to USDA's clients. No portion of H.R. 3171 better illustrates its deficiencies than the creation of the Agricultural Service Agency [ASA], which combines the Farmers Home Administration, the Agriculture Stabilization and Conservation Service, and the Federal Crop Insurance Corporation, into one new super bureaucracy. While the ASA is supposed to reorganize and streamline operations at USDA headquarters in Washington, and in field offices across the Nation, it creates more problems than it solves.

Among the many problems this new super bureaucracy presents is that it merges Federal and non-Federal employees under one agency. In the States ASCS employees administer the Farm Commodity Programs. They serve a county committee that has been elected by farmers, they are not Federal employees. By merging them into one agency with Federal employees we are setting the stage for big problems in the future, such as, how will future reductions in force at USDA work when certain employees will have retention rights, based on serving in the Federal service, and others will not? And when new employees are hired will they be hired through the local system or through the Federal hiring process? Also, since it is illegal for non-Federal employees to supervise Federal employees, what check does the administration have in mind to avoid this problem? I think the answer to these questions is that the administration is going to Federalize local ASCS employees, a solution that will not serve agriculture producers and would actually add to the Federal work force. Furthermore, this new bureaucracy will not reduce the number of people required to run these programs, the agencies they are merging have different responsibilities, one is responsible for credit programs, one for an insurance program, another for commodity programs. It is not possible for one person to have working knowledge of all these programs.

The amendment I am offering will eliminate this new bureaucracy, maintaining the current structure, while mandating the Secretary of Agriculture close and collocate USDA field offices so that our farmers can go to one office for the services they need, making the field office structure more efficient and saving the taxpayer over $700 million.

The final portion of this amendment follows closely on an action taken by Mr. STENHOLM in committee. In committee Mr. STENHOLM allowed the farmer elected county committee more oversight on enviromental decisions that have an impact on farmers. This amendment would give the county committee further authority over environmental decisions that they determine are arbitrary or capricious.

I urge a "yes" vote on the Allard amendment. It will save taxpayers money and serve the clients of USDA better than what has been proposed in this legislation.

Mr. STENHOLM. Madam Chairman, I move to strike the last word.

Madam Chairman, I rise in again somewhat reluctant but very strong opposition to the gentleman's amendment. This is a discussion that we carried on in subcommittee and in full committee, and the results of four hearings in Washington and eight hearings in our various States that prompted us to make the recommendation that we truly do move to one-stop shopping. This amendment would gut that.

Basically what the gentleman from Colorado is saying is the status quo is OK, we should not make any changes to the current structure, that somehow, some way we can achieve all of the goals. I readily agree on what he says about the savings, the majority of which occur from the consolidation of offices, but there is also a savings that will be reached in the long term, I believe very strongly, in the long term by forcing a change in the manner in which we administer and supervise and man various farm programs at the local level.

To do that we are going to have to make some changes in the status quo. That is the only reason basically that we are here today.

I know there are some who would suggest we really do not have to change anything, that we can just fine tune this and fine tune that. But how quickly we forget the problems we saw in the agricultural appropriation bill last week. If we do not believe that was a serious problem, wait until next year and the year after that as we have to make tough decisions in prioritization, and where we are going to spend our scarce dollars in the agricultural function.

I know the gentleman is well meaning. He can make a good argument. It resonates good with a lot of people. But in my opinion, if his amendment should pass today, as we stated in the full committee, it will really gut the intent of this reorganization effort, and it will gut the intent of a large number of our employees and others out there who have given their best shot in seeing that we in this case, when we do reorganize, that we give the department the tools to get on with doing the job.

So I would strongly encourage all of our colleagues to oppose this amendment, stay with the committee bill in its current form. Many of the desired results can only be achieved by us biting some tough bullets today.

Mr. SMITH of Oregon. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, this has been a difficult discussion we have had on this whole issue of reorganization of the USDA. As our chairman, the gentleman from Texas [Mr. STENHOLM], has indicated, we do have a difference of opinion, not about reorganization of the department because we all agree to that, but how to do that so that it is farmer friendly.

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I think those of us from agricultural areas around this country have that one prerequisite in mind, and that is how do we do this so it is farmer friendly, it can be efficient, and it can save money, and the amendment offered by the gentleman from Colorado [Mr. ALLARD] certainly gets to that issue, as far as I am concerned. It does so in several ways.

First of all, the committee bill establishes a broad new bureaucracy called the Agricultural Service Agency, and while doing that, it leaves out a very important function, and that is the Soil Conservation Service. It seems to me, and to a lot of us, if, indeed, we are going to reorganize the Agriculture Department into a broad new agency which is going to cost a lot of money, by the way, we ought to have all of the agricultural services within it. So in that manner, the amendment offered by the gentleman from Colorado [Mr. ALLARD] says simply this, let us save the money we all agree by collocating offices that will be saved, and let us allow our farmer-elected committees to continue to serve in their manner advising the USDA and officials about the best way to take care of these farm programs on the ground.

Now, beyond that, there is this question about how we satisfy the environmentalists. Supposedly the environmentalists want us to create this new service agency but leaving the Soil Conservation Service out on its own to be probably directed by some official in Washington, DC; as to their attempts, we call it the new EPA for agriculture, their attempts to determine what may occur on the ground for agriculture through the Soil Conservation Service. That would be a horrible thing to occur in farm country, and I do not think farmers want it, and certainly I do not want it either.

So rather than the status quo, the Allard amendment is not so. We want reorganization. We want collocation of offices. We do not want to be subservient to some environmental organization in Washington, DC, that directs the Soil Conservation Service to implement their programs in farm country. We do not want that.

Therefore, the Allard amendment is certainly the best alternative. Without that, this bill is not farmer friendly and ought not to be supported.

Mr. EWING. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in support of the Allard amendment.

We have, indeed, spent a lot of time talking about reorganization, and in most of those conversations, we get down to the bottom line that it is needed so that we can save funds that have been projected to be saved through reorganization for other uses.

The Allard amendment will save most of the funds that are projected to be saved by the reorganization of USDA, and it will avoid a number of other problems, for instance, the problems of commingling Federal employees with non-Federal employees.

The way it operates, ladies and gentlemen, out in the country now for the ASCS office, if you have employees that are not needed, they can be let off; they can be put on part time. If we make them all Federal employees, you lose that flexibility. Then we are going to hire people, they are going to be there whether there is work or not, and in the ASCS offices out in the country, there are busy times and there are down times.

If we want to save money, we would not be doing this. Actually the operation of these different offices is working well now.

To reorganize it into a new superagency, I think, will lead to more bureaucracy and less direct service to the farmers.

I am also very concerned about the creation of the Natural Resource Conservation Service out of the Soil and Water Conservation Service. I do not want an EPA out there. I want a Soil and Water Conservation Service that is friendly to American agriculture, and we are making great headway.

For those reasons, I support the Allard amendment and would ask my colleagues to do the same.

Mr. DE LA GARZA. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, let me state that the collocation, there is a lot of confusion, but collocation as it is being used now by USDA means that all of the different offices of USDA would be put in one location, in one building, and that is already being done in my home county. The USDA offices are collocated, and farmers come to one specific spot, and all of the agencies are there. The bill does that.

The argument here is that we should not have a consolidation of some of the programs, and basically this amendment will undo the thrust of the bill basically, but there is a reason for separation of a highly technical area.

And my colleagues who just spoke, all that we do on the Soil Conservation is change the name. It does not do any basic change, but the important thing is that we are moving to collocation. That is where the savings are going to be. That is where the savings are, and the service to farmers, and not necessarily to the farmers, because the Soil Conservation Service works in the countryside with different owners of different lands, and as I mentioned in the beginning, and I repeat it now, what a farmer needs besides being a good farmer is he needs good soil, he needs good water, and he needs clean air.

This is the area where historically the Soil Conservation has worked, and they have technical expertise that cannot be merged with book and/or desk-type operations like the ASCS office, although the ASCS office goes and measures farms and acreage, some with Soil Conservation figures, and in cooperation with, and if you have them side by side, collocated, then you would have fulfilled the desire to streamline. You would have a more efficient operation to have the farmers come to one location.

I would urge my colleagues to vote no on this amendment, because otherwise, the thrust of this legislation would fall by the wayside.

Mr. SMITH of Michigan. Madam Chairman, I move to strike the last word.

Madam Chairman, I still consider myself a farmer, so I want you to take my ideas with a grain of salt and use them to suit your taste.

This amendment, the Allard amendment, improves the bill for a couple of reasons. First, the 10,000-plus ASCS employees are not technically Federal employees. The reason that we have made this provision in law distinguishing a difference between Federal Government employees and ASCS employees is so that the county committee system and that county executive director have greater latitude to hire, change job discriptions, and discharge these individuals as opposed to the more complicated process through Civil Service. Once we comingle these individuals with other Federal employees as provided in the original legislation, it moves us in the direction of designating ASCS employees as Federal employees. If you look on page 9, section 104 says that you are going to use common administrative personnel, you are going to use common receptionists, you are going to use employees of ASCS, FCIC, and FmHA interchangeably to gain the efficiency the sponsors of the bill envision. So the danger is to lose the flexibility that has traditionally been a benefit within our State and county ASCS system.

Let me just conclude by saying I see a danger in Congress trying to direct the administration to be more efficient. Our goal is to increase efficiency, but, ladies and gentlemen, there are counties out there, and there are multicounty units for ASCS and SCS and the Federal Crop Insurance and FmHA that are going to be disrupted and are going to lose efficiency by a mandate of either collocation or consolidation.

The reason I am going to vote against this legislation is because of those inefficiencies that are going to result from Congress' attempt to mandate administrative efficiency rather than give the Secretary the authority that he or she needs to make these kinds of changes. The Secretary should not be saddled with a one-size-fits-all mandate. It's not going to work out.

With the Allard amendment that mandates that field offices be collocated or with the original language of the bill, where we mandate that they be combined into a single agency, we are going to disrupt some of the efficient operations in some parts of this country. In some of those agricultural communities we are going to end up with less efficient operations and poorer service to farmers. We will be coming back to Congress to make changes in this bill to gain what we ultimately are trying to achieve.

Mr. STENHOLM. Madam Chairman, will the gentleman yield?

Mr. SMITH of Michigan. I am happy to yield to the gentleman from Texas.

Mr. STENHOLM. Madam Chairman, I thank the gentleman for yielding to me, and I say that I am one Member who truly appreciates the experience that you bring to this floor.

□ 1510

The gentleman knows a lot of what he is speaking about in this instance. The concerns that he brings up we have tried to address in the bill itself regarding the supervision by non-Federal employees of Federal employees and we believe that there is a general concurrence that may occur except in instances where hiring and firing and other instances in which you are protected under Civil Service law.

I do not believe for a moment that this bill today, if we pass it, will create a major hindrance for the county elected committee system. Were I as convinced of that as apparently the gentleman is, I would be arguing with him. The important thing, though, that I think we have to establish here when we talk about there are no savings to be accrued—it seems to me in all of these deliberations that if we can more efficiently utilize personnel by having an FSA concept whereby we have one manager of an office who can direct how the various employees shall spend their time, whether they be in Farmers Home, whether they be FCIC, whatever that end up being in FSA, whether it be AFCS, wherever it, but there has to be one boss. Why I said respectfully to the gentleman from Colorado [Mr. ALLARD] in opposing his amendment, it is absolutely critical that we are able to gain efficiencies other than closing offices. We may have one office open somewhere under the gentleman's amendment in which the personnel will be utilized 50 percent. We may have another office open somewhere under his amendment in which the personnel will be utilized 120 percent. That seems to be intolerable in consideration of the goals we are trying to pursue.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. SMITH] has expired.

(By unanimous consent, Mr. SMITH of Michigan was allowed to proceed for 1 additional minute.)

Mr. SMITH of Michigan. Madam Chairman, I have tremendous respect for the gentleman from Texas. I appreciate his comments. He is well respected in my congressional district in the agricultural community. However, we do have some counties in Michigan that use, for example, one agency very little but have a very high use of some of the other agencies. So where we demand consolidation come hell or high water, we may in some areas in some counties cause greater inefficiency rather than the efficiencies we desire.

Mr. ROBERTS. Madam Chairman, I move to strike the requisite number of words, and I rise in support of the amendment introduced by the gentleman from Colorado [Mr. ALLARD].

Madam Chairman, this is not fine-tuning with what we are about; this is a major colocation effort, saving $2.5 billion in an effort, that whatever we do in regards to reorganization, it should be primarily farmer-friendly. If it is farmer-friendly, we achieve the other goals of the legislation.

In other words, the Allard amendment gives the taxpayers what they want and farmers what they want. That is, less expensive government services. In regards to the farmer, they want user-friendly services. The Allard amendment retains the logical—let me emphasize the word logical—field-based agencies while mandating they be located in order to achieve the budgetary savings that we all want. It also provides the farmer one-stop shopping. And obviously that is what we want. And it accomplishes this without really creating what can be, and I predict will be, a personnel nightmare caused by this bill.

Without the Allard amendment, we have what is called now a new superagency or what some of us are worried about, a superbureaucracy, it is called the ASA, Agriculture Service Agency. In doing that, we merge the field structure of Farmers Home and Federal Crop Insurance program, ASCS, the Agricultural Conservation and Stabilization Service, but we leave a fourth field agency in a separate pasture, that is, the environmental pasture. The Soil Conservation Service is renamed and it now stands alone.

This is unnecessary to achieve the budget savings in field office restructuring. I do not know how many times we have to say that. The Secretary can do that, 80 to 90 percent of his effort, all by himself. All of the savings associated with this legislation derive from the closure and consolidation of the USDA field offices. And as I have said before, the Secretary of Agriculture enjoys that authority.

What the Allard amendment does is it maintains the existing technical expertise of the four field-based USDA agencies. They are all separate, they all have different expertise. Since each of the agencies perform entirely different functions, it would be one thing if you have one boss under four separate agencies with very similar functions. They are not. They have different sets of policies and procedures and also regulations. It just makes sense to hold on to their separate identities.

Finally, the Allard amendment will avoid the personnel, again I say, possible disaster that will be created by this bill when you blend the non-Federal, get this now, blend the non-Federal ASCS employees with Farmers Home Federal employees in joint retention rights, creating management nightmares. Who gets promoted? How does the boss settle on that one?

Language in this bill to mitigate the adverse impact, while well-intentioned, I think is very inadequate and perhaps could even confuse the matters worse. The Allard amendment can eliminate this conflict altogether. I understand what the proponents of this bill want. They want greater environmental emphasis. I want greater environmental emphasis but emphasis that works with producers and not a stand-alone agency which could present some real problems down the road. We have an honest difference of opinion about this. Goodness knows, I understand an administration that wants their name in lights in regard to the ASA. Throughout this whole business for the last 5 or 10 years we have had people in both the House and the Senate purging the USDA like it is some water buffalo out of some past history book that is no longer useful. That is not correct. Much of the criticism in regard to the USDA is not factual. We have people down there doing an excellent job under very difficult circumstances.

I understand any administration that wants to come in brand new and reform and change, but change for the sake of change does not work out a lot of the time. I do not see any need to change the stationery and the name on the door and go through all of this when we have separate agencies doing an outstanding job on behalf of the consumer, the taxpayer and the farmer. The Allard amendment allows us to continue to save money; it continues the march in regard to the USDA doing a good job and makes it better. I urge my colleagues to vote "yes."

Mr. DE LA GARZA. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I do so in order to say that this amendment was introduced by Mr. ROBERTS, or almost the text of this amendment, in the committee, and it was defeated in the committee.

Yes, there is some philosophical disagreement, I guess, amongst us, but the fact is nonetheless that this bill as we are considering now does save money. It does provide for streamlining. We are already in the process of collocating to save money, and there are areas where you need to consolidate and streamline. This bill does that.

All of the work that we have done through the months and maybe years now would be undone by this amendment. This amendment will just keep the status quo. The status quo is not acceptable any more.

Yesterday there was a group outside here, in front of the Capitol, with 10 items that they want to change because they do not want the status quo. Some of those areas I might even agree with.

So, the fact now is, and the issue now is, do we want streamlining, do we want to enhance USDA operations to where Mr. Lincoln wanted it 100-some years ago? Or, if you vote for this amendment, then you will undo, you keep the status quo as it is. This is a bill for change. This is a time for change. Everyone around this Hill is clamoring for change.

□ 1520

So, Madam Chairman, a "no" vote on this amendment is a vote for change, for better change, and streamlining the Department of Agriculture.

Mr. ROBERTS. Madam Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Kansas.

Mr. ROBERTS. Is the gentleman suggesting this is point 11 in the contract with America? Is the gentleman suggesting that the Espy plan for reorganization is point 11 in the Republican contract with America?

Mr. DE LA GARZA. I do not know that it is. I have not been able to find out who the Mr. Gillespie is that is putting out the press releases.

Mr. ROBERTS. Is the gentleman talking about Mr. Gillespie or Mr. Espy?

Mr. DE LA GARZA. Gillespie.

Mr. ROBERTS. Gillespie.

Mr. DE LA GARZA. That is what I read about this contract thing, but this may not be the time or the place to discuss this issue.

Mr. ROBERTS. I say to the gentleman, I think that's probably a very wise comment, Mr. Chairman.

Mr. DE LA GARZA. I am still looking for Mr. Gillespie.

Mr. ALLARD. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I would just like to make a few comments in summary. In my view this does eliminate a new bureaucracy that was created by the legislation that has just come to the floor. What it does also is that it allows for, provides, the collocation of offices, and that is where the real savings are; that is, collocation. That is $700 million of realized savings actually that is in this effort to bring everything together in "one-stop shopping," and it is something that has been recognized by both sides, how important it is that we have central office there where it serves the farmer, where it is convenient for the farmer. This amendment maintains that. What it does, Madam Chairman, it takes away this new bureaucratic level that is created through the legislation.

I am asking for a "yes" vote on the Allard amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado [Mr. ALLARD].

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ALLARD. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 177, noes 247, not voting 15, as follows:

[Roll No. 445]

AYES—177

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Carr
Castle
Clinger
Coble
Collins (GA)
Combest
Cooper
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gilchrest
Gillmor

Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
LaFalce
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Machtley
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)

Molinari
Moorhead
Myers
Nussle
Orton
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shepherd
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Talent
Tanner
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—247

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant

Byrne
Cantwell
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch

Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Faleomavaega (AS)
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren

Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui

Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Romero-Barcelo (PR)
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush

Sabo
Sanders
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Snowe
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—15

Applegate
Brooks
Ford (MI)
Gallo
Grandy

Inhofe
Johnston
Lloyd
McNulty
Sangmeister

Slattery
Sundquist
Underwood (GU)
Washington
Wheat

☐ 1543

Mr. OWENS and Mr. NEAL of Massachusetts changed their vote from "aye" to "no."

Mrs. ROUKEMA changed her vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. WYDEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to commend the gentleman from Texas for this work in this area and raise with him an additional problem that my staff and I have uncovered. My staff and I have uncovered a variety of problems relating to whistleblower protection at the Department of Agriculture.

For example, we have come across instances where Forest Service employees who expose timber theft by contractors were the subject of retaliation by their supervisors. Specifically, we have been concerned about the prospect that they would be subjected to various forms of harassment.

We have also been concerned, in addition to the protections for employees who uncover timber theft, about the matter of non-Federal employees who blow the whistle, for example, with respect to violations of sanitary practices in restaurants and meat packing.

I had intended to offer an amendment to this bill to address this need and further protect whistleblowers, but I have understood, after some discussions with the distinguished chairman from Texas, that he would prefer that this matter be dealt with in the farm bill.

I am anxious to work with the gentleman and would ask him whether he would be willing to address the need for stronger whistleblower protection in the farm bill that he will be tackling next year.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. WYDEN. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I appreciate the concerns of the gentleman on the issue of protecting so-called whistleblowers. We appreciate his interest, appreciate his going into this area, and we will be happy to work with the gentleman.

Unfortunately, this is not the time or the area where we can address fully this issue, but the gentleman has a commitment from me and from the committee that we will work with him, that we will address this issue fully and hopefully to his satisfaction.

Mr. WYDEN. Mr. Chairman, I thank the gentleman. My concern is, in these tight budgetary times, to take the steps that we need to protect the public, particularly in the area of health and safety practices, we need these whistleblower protections. I look forward to working with the chairman as we tackle the farm bill.

The Wyden amendment would have strengthened the protections contained in the Whistleblower Protection Act for Federal Government employees who expose wrongdoing involving the U.S. Department of Agriculture. The amendment also protects employees of private sector businesses and other persons who help to expose improper activities involving the Department of Agriculture against discharge and other forms of retaliation. Specifically, the amendment prohibits discharge, discipline, harassment and discrimination against employees and other persons because that person commences or participates in a proceeding arising out of Department of Agriculture functions or responsibilities. The language of the amendment is as follows:

AMENDMENT TO H.R. 3171, AS REPORTED, OFFERED BY MR. WYDEN OF OREGON

Page 47, after line 15, add the following new section (and redesignate subsequent sections accordingly):

SEC. 805. WHISTLEBLOWER PROTECTION.

(a) PROHIBITIONS.—A person may not discharge, discipline, harass, or discriminate against an employee or other person because the employee or other person—

(1) commences, causes to be commenced, or is about to commence a proceeding arising out of any function or responsibility of an agency, office, or unit of the Department of Agriculture;

(2) testifies or is about to testify at such a proceeding; or

(3) assists, participates in, or is about to assist or participate in any manner in such a proceeding or in any other action to carry out any function or responsibility of an agency office, or unit of the Department of Agriculture.

(b) IDENTIFICATION AND TREATMENT OF VIOLATIONS.—Subject to subsection (c) of this section, subsections (b), (c), and (d) of section 31105 of title 49, United States Code, shall apply with respect to the filing of a complaint alleging a violation of subsection (a) and the handling of such a complaint.

(c) BURDEN OF PROOF.—If the complainant establishes by a preponderance of the evidence that an activity protected by subsection (a) was a contributing factor in the alleged prohibited discharge, discipline, harassment, or discrimination, the burden of proof in the hearing shall be on the adverse party to prove by clear and convincing evidence that the alleged discharge, discipline, harassment, or discrimination would have occurred for legitimate, independent reasons even if the complainant had not engaged in an activity protected by subsection (a).

□ 1550

Mrs. BENTLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, today I planned to offer an amendment that would have prohibited foreign-owned grain traders from participating in USDA's export programs. I also planned to offer an amendment requiring foreign-flag ships carrying U.S. Government cargoes to comply with American labor standards. After consulting with the Parliamentarian about the germaneness of these amendments, and after discussing them with my good friends on the Agriculture Committee, I have decided to withdraw both amendments.

While I have long supported USDA's export promotion efforts, the time has come for us to end the abuses in the export programs in order to preserve their intended mission. This mission is to help America's family farmers. Perhaps the most outrageous abuse is the siphoning off of hundreds of millions of dollars per year in export subsidies by foreign-owned grain traders.

The New York Times discovered last year that while USDA's regulations require that grain traders incorporate in the United States and maintain a presence here, some are little more than mail drops. For example, CAM U.S.A., a subsidiary of a Paris-based company, brokered $500 million in USDA-subsidized farm products out of a Greenwich, CT, office that was so small that it did not even have a published telephone number. CAM has also received $250 million in so-called bonuses under USDA's EEP program.

Other foreign-owned grain traders have benefited from huge EEP bonuses. These include Louis Dreyfuss Corp. of France, which has received $915 million since the inception of the program, Garnac Grain of Switzerland, which has received $175 million, and two subsidiaries owned by the Ferruzzi family of Italy, which have received almost $400 million.

Some say that grain traders are mere middlemen and that the programs are working so long as U.S. agricultural products are exported. They are wrong. In this post-cold-war era, every dollar spent by the Government on the promotion of exports should be received by an American citizen. There is no shortage of American-owned grain traders. Our American traders and American farmers should receive the benefit of brokering the sale of American agricultural commodities. Foreign grain traders should not be permitted to siphon off any portion of U.S. agricultural export subsidies.

I understand that others in the agricultural community share my concerns. At a time of enormous trade deficits, we need to ask if EEP is benefiting American farmers or foreign corporations. I believe that when American farmers see that Mitsubishi International and other foreign companies have received billions in Government bonuses, while grain prices are still low, American farmers will be justified in being angry at the administration of this program.

As all of you know, I have been a strong supporter of the American merchant marine. All too often the debate over our programs has been shaped as agriculture versus maritime. This is wrong. What we need is for American farmers and the American merchant marine to end the battle and do what's best for all Americans.

We will not solve this problem today. The problems of foreign participation in USDA agriculture programs will be debated during the 1995 farm bill. I also hope that Congress will consider why USDA allows substandard, foreign-flag-of-convenience ships to carry Government food aid abroad. These ships do not meet any of our labor, safety, environmental, and tax regulations.

It behooves those of us who support American agriculture and American maritime to work together to preserve the programs that promote both industries. If we do not, neither industry will prosper.

On this note, I will conclude my statement and withdraw the amendments.

Mr. Chairman, I include for the RECORD an explanation of the amendment referred to.

EXPLANATION OF AMENDMENT

The amendment would require that participants in USDA's export promotion programs be U.S. citizens. Participants include exporters, exporters of record, assignees, and sellers.

The U.S. citizen requirement, however, would not apply to foreign purchasers and users.

Three principal USDA programs would be affected—

(1) *Export Enhancement Program (EEP)*—under this program authorized by section 301 of the Agricultural Trade Act of 1978, as amended (7 U.S.C. §5651), USDA pays bonuses to grain traders so that the grain traders can export wheat and other U.S. agricultural commodities at prices that are competitive with heavily subsidized foreign, particularly European Union, prices. Since the inception of EEP in 1985, USDA has paid over $6.8 billion in cash and commodity bonuses.

(2) *Direct Credit Sales (e.g., GSM-5)*—under this program authorized by section 201 of the Agricultural Trade Act of 1978, as amended (7 U.S.C. §5621), USDA provides below-market-rate loans to foreign grain purchasers that would have difficulty finding financing from commercial banks. The USDA has not used this program since 1985.

(3) *Credit Guarantees (GSM-102 and GSM-103)*—under these programs authorized by section 202 of the Agricultural Trade Act of 1978, as amended (7 U.S.C. §5622), USDA guarantees the financing of close-to-market-rate loans to foreign purchasers that would be unable to obtain commercial financing without the guarantees. The GSM-102 program provides loan guarantees for terms of up to three years, and the GSM-103 program provides loan guarantees for terms of three to ten years. The GSM-102 program was used to provide $5.75 billion in loan guarantees to the Soviet Union and Russia. Russia defaulted on its GSM loans in 1992 and 1993, forcing USDA to pay more than $1 billion to the lender banks.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3171

By Mrs. BENTLEY:

At the appropriate point in the bill after Section 803 add a new Section 804 as follows and renumber subsequent sections;

SEC. 804. TRADE AMERICAN GRAIN ACT OF 1994

Section 401 of the Agricultural Trade Act of 1978 (7 U.S.C. 5661) is amended by adding a new subsection at the end thereof:

"(d) CITIZENSHIP REQUIREMENTS.—Exporters, exporters of record, assignees, sellers, processors and other participants in the program, except for purchasers and users, must be a United States citizen.

"(1) DEFINITION OF UNITED STATES CITIZEN.—For purposes of this section, "United States citizen" shall mean either a natural person who is a citizen of the United States or a corporation, partnership, or association, whose controlling interest therein is owned by citizens of the United States, and in the case of a corporation, meets also the following requirements:

"(A) president or other chief executive officer is a United States citizen;

"(B) the chairman of its board of directors is a United States citizen;

"(C) a majority of the members of the board of directors are United States citizens; and

"(D) the corporation is organized under the laws of the United States or of a State, Territory, District, or possession thereof.

"(2) DEFINITION OF CONTROLLING INTEREST.—For purposes of this section, "controlling interest" shall not be deemed to be owned by citizens of the United States (A) if the title to a majority of the stock thereof is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States; or (B) if the majority of the voting power in such corporation is not vested in citizens of the United States; or (C) if through any contract or understanding it is so arranged that the majority of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; of (D) if by any other means whatsoever control of the corporation is conferred upon or permitted to be exercised by any person who is not a citizen of the United States.".

At the end of the bill add the new section:

SEC. . COVERAGE OF FOREIGN VESSELS UNDER FEDERAL LABOR LAWS.

(a) NATIONAL LABOR RELATIONS.—Section 2(2) of the National Labor Relations Act (29 U.S.C. 152(2)) is amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) by adding at the end thereof the following new subparagraph:

"(B)(i) The term 'employer' also includes a foreign documented vessel engaged in transporting government-financed cargoes of agricultural commodities.

"(ii) For purposes of this section, such term shall not include any foreign documented vessel that can demonstrate—

"(I) that at least 50 percent of its crew is composed of citizens of the country of registry; and

"(II) that legal title to such vessel is held by citizens of the country of registry, and beneficial ownership and control, direct or indirect, are held by citizens of the country of registry.

"(iii) As used in this subparagraph, the term 'citizen' shall include—

"(I) natural persons who are citizens of the country of registry;

"(II) a corporation, if its entity is at least 51 percent owned and controlled by citizens of the country of registry;

"(III) a partnership, if all the general partners are citizens of the country of registry and at least 51 percent of the partnership is owned and controlled by citizens of the country of registry.".

(b) FAIR LABOR STANDARDS ACT OF 1938.—

(1) DEFINITION.—Section 3(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(d)) is amended—

(A) by inserting "(1)" after the subsection designation; and

(B) by adding at the end thereof the following new paragraph:

"(2)(A) The term 'employer' also includes a foreign documented vessel engaged in transporting government-financed cargoes of agricultural commodities.

"(B) For purposes of this section, such term shall not include foreign documented vessel that can demonstrate—

"(i) that at least 50 percent of its crew is composed of citizens of the country of registry; and

"(ii) that legal title to such vessel is held by citizens of the country of registry, and beneficial ownership and control, direct or indirect, are held by citizens of the country of registry.

"(C) As used in this paragraph, the term 'citizen' shall include—

"(ii) natural persons who are citizens of the country of registry;

"(ii) a corporation, if its entity is at least 51 percent owned and controlled by citizens of the country of registry;

"(iii) a partnership, if all the general partners are citizens of the country of registry and at least 51 percent of the partnership is owned and controlled by citizens of the country of registry.".

(2) MINIMUM WAGE.—Section 6(a)(4) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(4)) is amended by inserting "or a foreign documented vessel described in section 3(d)(2)(A)" after "an American Vessel".

"(3) EXEMPTION.—Section 13(a)(12) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(12)) is amended by inserting "or a foreign documented vessel described in section 3(d)(2)(A)" after "an American Vessel".

Mr. Chairman, for the RECORD I include the following article from the New York Times on October 10, 1993:

ABUSES PLAGUE PROGRAMS TO HELP EXPORTS OF AGRICULTURAL PRODUCTS

(By Dean Baquet with Diana B. Henriques)

The Agriculture Department's $40 billion campaign to bolster crop exports, begun a decade ago to help beleaguered farmers, has instead enriched a small group of multinational corporations while doing little to expand the American share of the world's agricultural markets.

From 1986 through 1989, for example, one large Agriculture Department program to help the United States compete against the Europeans awarded $1.38 billion—more than half its payouts—to four multinational corporations, two of them based in Europe: Louis Dreyfus of France and Artfer Inc., which is owned by the Ferruzzi Group of Italy. The others were Cargill Inc. of Minneapolis and Continental Grain of Chicago.

A review of Government documents, many of them classified, also provides strong evidence that the department's export programs have been plagued by abuses. Many of these allegations, involving some of the country's biggest companies, remain under investigation.

FOREIGN CROPS IN DISGUISE

Some companies, including leading tobacco processors, used Federal subsidy programs to buy cheap foreign commodities and ship them from the United States, thinly disguised as American exports. One Government audit showed that of $208 million of tobacco shipped under an export program in the late 1980's, at least $135 million of it, or 65 percent, was grown in foreign countries.

At the same time, the Government has accused other companies, including Mitsui Inc., a Japanese trading house, and Comet Rice, the largest American rice exporter, of using the program to finance improper payments to officials and executives in Iraq, Mexico and other countries.

An examination by The New York Times of the subsidy programs highlights the symbiotic relationship between one of the biggest and least scrutinized Federal departments and some of the politically influential companies it regulates. It also sheds light on the revolving doors through which some of their top officials pass, and shows that the programs have done little to open new markets overseas.

COURTSHIP OF IRAQ

The study also illuminates an unexamined aspect of the United States' doomed courtship of Iraq before the Persian Gulf war: the questionable activities of some American companies vying to share in some $4 billion of agricultural support to Baghdad.

Through the 1980's, as Washington sought to moderate Saddam Hussein's behavior, it gave Iraq loan guarantees so the country could borrow money to buy American crops.

In interviews with Government agents, Christopher P. Drogoul, a former manager of the Atlanta branch of Banca Nazionale del Lavoro, a state-controlled Italian bank, has described a culture of bribes and kickbacks among American agricultural companies competing for Iraqi business.

One American cotton exporter kept a "bribe fund" to help it win Baghdad's business, said Mr. Drogoul, who has pleaded guilty to making unauthorized loans to Iraq. Other American executives traveled the world with suitcases filled with cash to pay brokers with ties to the Iraqi Government, he said.

To generate cash for kickbacks, Government documents assert, some American exporters overcharged the Iraqis for goods they shipped, with the complicity of Baghdad. While business-related gifts and favors are common in many parts of the world, they may run afoul of American laws, and investigators are trying to determine if any company officials violated the law.

In a recent interview, Federal District Judge Marvin Shoob of Atlanta, who presided over the Drogoul case, said he was concerned that Government investigators and the public might overlook the activities of big American companies that benefited from the Banca Lavoro loans.

"I feel some investigation is in order in view of the number of times some of these companies have come up in documents the court has reviewed," Judge Shoob said.

REGULATORY TIES: A REVOLVING DOOR FOR AGRIBUSINESS

On Capitol Hill, two leading members of the Senate Agriculture Committee—Tom Harkin, an Iowa Democrat, and Patrick J. Leahy, a Democrat who is the committee chairman—attributed the chronic abuses to the Agriculture Department's close ties to large agricultural businesses. Mr. Leahy said the department had a "good-old-boy attitude" toward the companies, which created "a cozy relationship all around."

Fostering this closeness is the interdependence of business and regulators. In 1988, for example, Christopher Hicks, the Agriculture Department's general counsel, argued against a plan that would have expelled many companies caught abusing department programs, arguing that it involved too many rules and too much red tape. Today, Mr. Hicks is out of the government, representing some big exporters.

David Kunkle was a top official in the Agriculture Department's main export program in 1990, when the Inspector General issued a scathing report accusing Comet Rice, a subsidiary of Early Industries of Los Angeles, of abusing the program.

Comet Rice, the Inspector General said, used Government-backed loans to finance payments and gifts to Middle East executives when the company was seeking business in Iraq. Export officials declined to disqualify Comet, which strongly denied using the loans to make the payments. Upon leaving the Government, Mr. Kunkle was hired for a year as a consultant at one of Comet's sister subsidiaries.

Clayton K. Yeutter, who served as Agriculture Secretary from 1988 to 1991, vastly expanded export subsidies to agricultural businesses that sold wheat and rice to Iraq. A month after he left office Mr. Yeutter became a consultant for the National Bank for Cooperatives, a Colorado bank that was a prominent participant in the export program to Iraq. Bank officials said they paid Mr. Yeutter $50,000 for four meetings and some telephone consultations.

There is no evidence that the three officials violated Government rules, which generally forbade them to lobby the Agriculture Department for a year after leaving office.

Mr. Yeutter was traveling and unavailable for comment, his spokeswoman said. But a department official said he had received clearances before working for the bank.

Mr. Hicks did not respond to several messages left at his Washington office. And Mr. Kunkle, who now works for a consulting firm, is traveling in a remote region of the former Soviet Union and cannot be reached for comment, his office said.

The agriculture industry is one of the most politically powerful in America. Its lobbying forces can invoke the image of the American farm family struggling to hold onto its land, while using campaign contributions from some of the country's richest businesses.

"Agriculture is probably the most grass-roots political department in Washington," said Joseph Wright, the director of the Office of Management and Budget in the Reagan Administration, who tried unsuccessfully to convince the department to be tougher on big agricultural businesses.

"It has offices around the country and tremendous political support" in Congress, he said. "Its bureaucracy is beyond the Secretary. It's beyond the President."

POWERFUL DEFENDERS: WEB OF PROGRAMS; FEW BENEFICIARIES

In interviews, Government officials acknowledged the abuses, and said Mr. Drogoul's allegations were under investigation. But they said the improprieties were relatively minor for a $5 billion-a-year Government program. Moreover, they contended, the programs had been a big success, opening new markets for American farmers.

"They helped introduce some countries to American products, and it helped our country offset European competition," said Senator John B. Breaux, a Louisiana Democrat who is a champion of farm export programs.

Last month, President Clinton announced a plan to lift controls on technology exports, intensify efforts to promote manufactured goods, and offer up to $600 million a year in subsidized loans for foreign buyers of American factory products. But so far he has sidestepped the politically volatile question of whether 80 percent of the country's export-financing dollars should continue to be spent on farm products, which account for only a tenth of American exports.

If the Administration decides to change that ratio, it must unravel a web of programs supported by corporate constituents. These companies' stake has grown as the focus of Federal export assistance has shifted from farmers to big corporations.

The export assistance effort began in the early 1980's, when it set out to promote international sales of American wheat, rice, and other products through a generous mix of loan guarantees and cash subsidies. The idea was to bootstrap struggling American farmers into a world marketplace increasingly dominated by foreign producers.

Yet for all their subsidies. American rice farmers, for example, have seen their share of the world market slip. They now hold about 19 percent, a share that has not budged since the subsidies began a decade ago and has actually dropped since the 1970's. The pattern is similar for other crops.

But if there is little proof that farmers benefited from the buildup in export assistance, there is evidence that big companies profited. Four corporations received nearly $1.4 billion, or more than 60 percent, of the $2.3 billion in subsidies dispensed through the Export Enhancement program, the most generous program, in its first four years.

An analysis of the other main program, the General Sales Manager program of the Commodity Credit Corporation, showed that federally guaranteed loans aimed at raising exports of more than two dozen crops, from barley to wheat flour, were dominated by six companies: Cargill Inc., of Minneapolis; continental Grain of Chicago; Louis Dreyfus; Archer-Daniels-Midland of Decatur, Ill.; CAM U.S.A., of Greenwich, Conn., and Pillsbury of Minneapolis, which is owned by a British company, Grand Metropolitan P.L.C. And some big participants are not American companies at all.

The programs require that beneficiaries be incorporated in the United States and maintain a presence in this country. But Government records show that some are little more than mail drops.

CAM U.S.A., the subsidiary of a company based in Paris, operates out of a small office in Greenwich, Conn., a wealthy suburb of New York City. It has a unlisted telephone number. Yet from this unlikely outpost, the company has brokered $500 million in farm products with federally backed loans.

CAM was not the only company to take advantage of the program with a minimal presence in the United States. A report in 1990 by the Agriculture Department's Inspector General concluded that some leading participants in subsidized tobacco exports were foreign companies with post office boxes or one-person offices in the United States.

Agriculture Department officials said none of these comapnies was violating the rules, as long as they sold American farm products.

LITTLE SUPERVISION: FOREIGN TOBACCO IS SOLD IN DISGUISE

The first hints that blatant abuses marred the loan guarantee program came one summer morning in 1989, when a Customs Service agent and two Congressional investigators turned up at a busy pier in Norfolk, Va. Acting on a tip, they pried open 40-foot shipping containers supposedly loaded with boxes of high-grade North Carolina tobacco.

But inside were bundles of foreign-grown leaf clearly marked "Product of Zimbabwe," "Product of France" and "Product of Brazil." The shipment was bound for Iraq, which bought the goods with loans guaranteed under the General Sales Manager program.

The investigators realized the Government was being duped into financing shipments of cheap foreign tobacco. Indeed, the exporters had made little effort to hide it.

Frank Weeks, an Agriculture Department investigator, recalled that the exporters said they were surprised they had not been caught sooner, because the tobacco being shipped was priced too low to be American-grown. And, he added, "When one company started doing it, and got it past the U.S.D.A., the others had to do it to stay competitive—or so they said."

In September 1990, eight tobacco dealers pleaded guilty to defrauding the Federal Government by substituting cheap foreign tobacco for higher-quality American. They were fined a total of $300,000, and six of them agreed to make restitution to the Government totaling $1.1 million.

The six also admitted to using Government-backed loans to make $1.5 million in improper payments to unidentified officials and agents in Iraq and Egypt.

Tobacco was ultimately excluded from the program. But over the strong objection of the department's Inspector General, some of the companies that admitted guilt are still paid by the Government to store tobacco bought for distribution in other programs.

Department officials portray the tobacco cases as an isolated problem. But Government records show that the agency made only one thorough examination of any major part of the export program. Its scrutiny of the $4 billion trade with Iraq was prompted by the Persian Gulf war. And when investigators looked closely, they found widespread abuses that went beyond tobacco companies.

QUESTIONABLE PAYMENTS: DID BRIBES RESULT FROM GUARANTEES?

The reports assert that at least two other leading participants in the loan-guarantee program—Comet Rice and Mitsui Grain—overcharged the Iraqis on subsidized sales to generate enough cash to make payments to Iraqi officials.

In a little-noticed case, Mitsui has pleaded guilty in Federal District Court in Atlanta to using federally backed loans to make $250,000 in illegal payments to Iraqis. The company has been fined and temporarily barred from the program.

As for Comet Rice, Government documents contend that Comet gave $95,000 in cash and equipment to Middle Eastern businessmen and officials. At least $50,000 of that went to a Jordanian lawyer with close ties to Jordan's royal family. The payments were funneled through a Cayman Islands bank account that was inaccessible to investigators, leading the Government to question whether other questionable payments were made through the account.

Gerald Murphy, the chairman of Erly Industries, Comet's parent, said the payments were not covered by the loan guarantees, but came from Comet's own accounts. He described them as normal service to big customers and said the Iraqis used the money to buy equipment that helped the rice trade. The company has not been charged with a crime, but the investigation is continuing.

Federal officials, speaking on the condition that they not be identified, said it would be hard to make criminal cases against most American companies. The Agriculture Department's export program rules are so lax that until recently, it was not clearly illegal to use money generated by loan guarantees to provide gifts or cash to importers. Even if the rules were more precise, officials said, it would be hard to tell whether payments came from Government-backed loans.

While examining the Iraqi trade, investigators also found signs of trouble elsewhere. Former executives of Progresso Grain Inc., a large grain dealer in Progresso, Tex., confirmed that the company made $100,000 in cash payments to Mexican importers to obtain their business. William Haney, who became the president of Progresso in 1990, said the payments were authorized by a top executive who preceded him. Mr. Haney, in an interview, said he saw checks written to the Mexican executives.

Progresso has since gone out of business.

STUDIES FIND BENEFITS OF SUBSIDIES ARE MEAGER

(By Diana Henriques)

Supporters of the Agriculture Department's export subsidies say the programs opened new markets for American farm products and helped preserve old markets in the face of large European subsidies.

But trade statistics and Government reports, including the Agriculture Department's own studies, provide little evidence that the programs have helped American exports substantially.

"Generally, all the people who have studied these things reach a similar conclusion:

It just doesn't work," said Cletus C. Coughlin, senior economist at the Federal Reserve Bank of St. Louis, who has studied subsidized wheat sales.

Since 1986, more than 80 percent of the money in one program has been spent to subsidize wheat sales. But while wheat exports increased in 1987 and 1988, the department's researchers credited the subsidies with only 20 percent of that growth; the rest was attributed to other factors. After 1988, wheat exports declined, falling below the levels that prevailed before the program started, trade records show.

The same trend is evident in market share. America sold 30 percent of all world wheat exports in the 1986 crop year. That grew to 41 percent by May 1988, then slumped to 30 percent last month.

The European Community's share of world wheat exports now stands just shy of 20 percent—about four percentage points higher than in 1980. Similar patterns can be seen in feed grains, corn, rice and soybean products.

Export subsidies have been part of Federal farm aid since the Depression, but most Depression-era programs were scrapped in the early 1970's, when American farmers benefited from a turbulent boom in global trade, fed by escalating oil prices. By the late 70's, high interest rates and a strong dollar were undermining those gains, and farm groups began to demand Federal help.

In response, the Agriculture Department created an elaborate system of loan guarantees, cash payments and tax-financed promotional campaigns for farm exports.

There are two principal programs. In one, the General Sales Manager program, the Government guarantees the repayment of $40 billion in commercial bank loans for countries that could not otherwise get credit to buy American farm products. Most of those guarantees cover loans to Iraq, Mexico and the former Soviet Union. About $4.6 billion of those loans are in default, with American taxpayers picking up the payments.

The second program reimburses exporters—with cash or surplus crops stockpiled by the Government—to offset price reductions they must offer to compete in foreign markets. Under this program, known as the Export Enhancement Program, the Government has spent about $5.4 billion to subsidize about $18 billion worth of exports. A third, smaller effort provides up to $1.25 billion in direct grants to finance promotional campaigns.

By and large, these programs are an inefficient way to help American farmers, said Robert Paarlberg, a political science professor at Wellesley College and an associate of the Harvard Center for International Affairs. "In the case of wheat, for example, the Government could provide a greater benefit to wheat farmers at lower cost to the taxpayers if it simply purchased the surplus wheat and burned it," he said.

And the General Sales Manager program "is a way of trying to buy, or at least rent, foreign customers at considerable risk to taxpayers," he said. "Sure, it doesn't cost you a penny until there's a default—but then it costs you billions."

A RICE EXPORTER'S COZY LINK TO U.S. AGENCY REAPS PROFIT

(By Diana B. Henriques with Dean Baquet)

On Nov. 7, 1988, a cable stamped confidential landed on the desks of officials of the Iraqi Grain Board, one of the largest buyers of imported rice. It was from Peter Vegas, an executive of Comet Rice, a unit of the chronically unprofitable Erly Industries in Los Angeles.

Although the grain board had requested bids, this was not a bid, but an audacious promise—"We are offering to beat the lowest offer that you receive."

The cable explained that Comet Rice had a new plant in the port of Aqaba, Jordan, where rice could be unloaded in bulk, polished, bagged and loaded on trucks bound for Iraq—for at least $30 a ton less than other bidders. By August 1990, when the Persian Gulf war halted trade with Iraq, the new plant had achieved its purpose: Erly Industries had a near-monopoly in one of the most coveted rice markets.

LOW-COST U.S.-BACKED LOAN

What the cable did not explain was that the Aqaba plant had been built with a low-cost $4 million federally backed loan from the United States Agency for International Development, which has also given Erly more than $134 million in consulting work.

In a broad examination of the cozy relationship between Corporate Agriculture and the Federal Government, the case of Erly Industries discloses how easily a politically connected agricultural corporation can reap rewards by skillfully exploiting loosely managed Federal programs.

Erly's dealings with A.I.D., the chief conduit for American assistance to needy nations, enabled the corporation to build a plant that lifted its Iraqi rice sales by almost $100 million, more than a fourfold increase.

ACCUSED OF NO CRIME

Comet has not been accused of a crime, but officials of the aid agency now say they believe the company may have acted unethically by not fully explaining just how much it would benefit from the Government-financed plant.

Dozens of interviews, court and corporate documents and hundreds of Federal documents obtained through the Freedom of Information Act provide the following details about how Erly used an obscure Government program to corner a valuable market:

The company did not disclose to A.I.D. the true aim of the Aqaba project, which was to use a little-known Government loan program to give Comet Rice an advantage over other American rice companies.

It did not disclose its leadership role in the project, letting the agency conclude that a Jordanian company was in charge and that all United States rice exporters would benefit.

It helped its Jordanian partner sidestep the agency's competitive bidding rules in the buying of plant equipment, thereby ensuring that its Comet subsidiary would receive a portion of the loan funds as payment for the equipment.

It reaped additional profits by investing the low-cost loan proceeds in the United States at higher interest rates.

It used international government connections, developed at taxpayer expense through a subsidiary's consulting work for A.I.D., to foster its own commercial interests.

Richard L. McCall, who took over this year as chief of staff at the agency, said he had referred the Aqaba loan to the general counsel for review. "It is an ethical question," Mr. McCall said. "For us to be used in any shape, form or fashion for anything but to help develop needy nations is wrong." But he conceded that "we have got to more effectively manage this place" so that all project applications are examined more carefully.

Gerald D. Murphy, Erly's affable and strong-willed chief executive and the company's largest shareholder, sees the Aqaba story as an example of "solving my customer's problems" through a grasp of "how the political game is played."

"I don't have any problems with that," said Mr. Murphy, a conservative Republican who claims friendship with former President Ronald Reagan and other Republican stalwarts. "Those are the rules. I've never understood people who sit back and play a game and don't understand the rules. How the hell are you going to win if you do that?"

GETTING THE LOAN: SELLING THE DEAL TO THE AGENCY

Mr. Murphy, a 65-year-old Harvard Business School graduate who has personally directed his company's investment and business strategy over two decades, says the Aqaba plant was his idea. He planned it. Comet Rice built it and a Comet subsidiary managed it—all for Comet's exclusive use.

But Louis Reade, the agency official who approved the project in 1988, said he was shocked to learn that Erly developed the project for the exclusive use of Comet. "There was no intent to set this up for an individual American corporation," Mr. Reade said.

Instead, he said, A.I.D. believed the loan applicant was a Jordanian company that would create jobs and serve all American rice exporters.

But, according to Mr. Murphy, Jordanians were involved in the Aqaba project only because Jordanian law required it—and because his partner, Wafai Dajani, brother of a former Jordanian Cabinet minister, had "useful" connections.

OTHER EXPORTERS BARRED

In return for serving as Comet's agent in Jordan, Mr. Dajani and his relatives got consulting fees and a share of the profits. He also invested in the project.

Comet barred other American rice exporters from the Aqaba plant. "I saw no reason to be the front-end guy taking the risk and pass it off to somebody who hadn't taken the risk," he said.

The risk seemed worthwhile: in 1983, when the United States resumed relations with Iraq after a 16-year freeze, Baghdad, with the help of Agriculture Department loan guarantees, became one of the world's biggest buyers of long-grain rice. The department backs commercial loans for countries too strapped to get bank credit on their own.

Seeking more Iraqi business, Mr. Murphy flew to Baghdad in 1987 and, he said, met with Zuhair Daoud, head of the Iraqi Grain Board. Mr. Murphy asked the Iraqi official to list his biggest rice problems. The answer: shipments from Turkey were vulnerable to bandits, shipments into Aqaba were slow and all shipments came in big unwieldy bags.

Mr. Murphy had the perfect solution: an automated rice processing plant in Aqaba. "But we needed some financing," Mr. Murphy said, "and we said, 'Hey, this sounds like an A.I.D. project.'"

AGENCY'S CONSULTANT: KNOWING THE ROPES, HIDING TIES

It is understandable that A.I.D. came to mind. Chemonics International, one of the few profitable subsidiaries of Erly Industries, relies on agency contracts for more than 98 percent of its revenues. On the Aqaba project, Mr. Murphy said, Chemonics knew the right person to see.

When Mr. Murphy's brainchild was submitted to the agency the actual application was made by Amman Resources, Mr. Dajani's company.

The application reflected a thorough knowledge of the agency's policy manual—

and it conspicuously avoided disclosing the true relationship between Comet Rice and Amman Resources.

For example, the executive who signed numerous letters from Amman Resources to A.I.D. and the Bank of Jordan is also listed in Erly Industries records and correspondence as an employee of Comet Rice. Nowhere in the agency correspondence is Comet identified as anything but the supplier of equipment for the plant.

NO COMPETITIVE BIDS

The agency's rules normally would have required Amman Resources to get bids from other suppliers of rice-processing equipment. Amman Resources avoided this by telling the aid agency that it had a "sole distributorship" contract with Comet, signed on Oct. 21, 1987.

This contract, the agency was told, prevented Amman Resources from buying the equipment from other companies. Without checking, the agency exempted the project from competitive bidding rules.

On Feb. 2, 1988, a $4 million loan to Amman Resources was approved by the agency, based on the conclusion that it would help Jordan.

PROFITING ON LOAN: AN INVESTMENT BRINGS WINDFALL

With A.I.D.'s green light, Mr. Murphy's partnership negotiated the loan terms with the Bank of Jordan—and arranged to profit by investing the proceeds in a safer currency and at higher interest rates than the original loan.

In early 1988, the partners made a 10 percent down payment on the $4 million project and borrowed $3.6 million, in Jordanian dinars, for five years at 6.25 percent interest. That is at least seven percentage points less than Erly would have paid for credit in the United States, given the company's shaky finances. Indeed, the agency-backed rate was less than the Federal Government, considered the soundest borrower around, was being charged on five-year Treasury bonds. A seven-point cut in the interest rate on a $3.6 million loan saves the borrower $252,000 a year.

Mr. Murphy is proud of the arbitrage windfall. First, his partnership shifted the loan from dinars into dollars ahead of a 40 percent deterioration in the dinar, which meant it took fewer dollars to repay the borrowed dinars. "We had good information," Mr. Murphy said with a smile, when asked if Mr. Dajani's connections had guided the currency switch.

DEPOSITED IN NEW YORK

Then, the borrowed dollars were left on deposit at the New York bank "because it earned more interest than it was costing me on the A.I.D. loan on the other side," Mr. Murphy explained. He did not say how much more, but many five-year corporate bonds were paying at least 8.25 percent interest in 1988.

What is less clear is how the partnership paid for the rice-processing plant. Comet's independent audits show the Aqaba partnership had also taken out an interest-free loan from Comet during this period, but Mr. Murphy said he could not recall if that covered the cost of equipment shipped to Jordan or equipment for a subsequent expansion.

Nor is it clear whether A.I.D. regulations address such arbitrage activity. "But," said Mr. McCall, the chief of staff, "I feel the taxpayers' dollars should not be used to manipulate a set of circumstances and reap a profit at the public's expense."

CONNECTIONS: FINDING BUSINESS: A POLITICAL PROCESS

The A.I.D. loan is but one example Mr. Murphy cites of how his company has benefited from official connections that Erly's Chemonics subsidiary has developed through its aid agency work.

Mr. Murphy said he started Chemonics in 1976 because "I've always wanted a way to do two things: one, have my own C.I.A., and two, be helpful to people."

His recipe for cooking up business, he said, was to send the new unit's president to Washington to call on members of Congress, announcing he was a consultant looking for business.

Chemonics, whose staff includes former A.I.D. and Agriculture Department officials, has more than quadrupled its revenues in the last decade. It has been hired by the aid agency to work on issues close to Erly's heart, ranging from trade policy in Jamaica, where Comet was trying to increase its rice imports, to alternative crops in Honduras, where Erly was considering a citrus project.

AN OPEN DOOR

Thanks to Chemonics contacts with top-level ministers of foreign governments, Mr. Murphy said, Erly executives "have an open door to walk in and sit down and talk about whatever seems sensible." And Chemonics "has given me an appreciation for the political process in Washington in a different way," he added.

"It's obviously a political process," he continued, "A.I.D. contracts just don't happen."

Thurston Teele, the president of Chemonics, said he helped on the Aqaba A.I.D. project. But he disputed Mr. Murphy's account of the unit's role in other Erly ventures, saying Chemonics had "scrupulous policies" in place "to avoid conflicts of interest."

Nevertheless, more than a dozen Chemonics proposals to the agency boast of linkages among various Erly subsidiaries. In one, Chemonics noted that Erly "has strong and influential links with U.S. Government agencies, from which our projects can benefit." On another, Mr. Murphy himself was picked to serve on a project advisory council. And in each instance, Chemonics reassuringly depicts its parent corporation as successful and financially robust.

STORM WARNINGS: COMPANY RECORD A BUMPY ROAD

In fact, without the profits Erly earned by dominating the Iraq trade and advising the aid agency, the publicly traded corporation almost certainly would have sunk under the weight of its own financial mismanagement.

What Chemonics left out of the corporate track record was a messy series of unwise loans, mushrooming debt, unsuccessful acquisitions, aborted spinoffs, lax accounting and money-losing foreign ventures.

In 1988, as the Aqaba project was being built, Erly told investors that if faced "a short-term cash liquidity problem." A little more than a year later, Erly missed an interest payment to bondholders and its independent auditors were warning that there was "substantial doubt about the entity's ability to continue as a going concern."

In March 1990, Erly proposed a complicated merger between its Comet Rice unit and another struggling company, American Rice Inc. of Houston, which it controlled—but it could not find lenders.

Clearly, despite the glowing descriptions by Chemonics, Erly would have had trouble competing in Iraq against strong America rivals like the Continental Grain Company or Cargill Inc., without its edge in Aqaba.

As it was, Erly's sales to Iraq grew from less than $19 million in March 1987 to $114.5 million in March 1990. By then, Comet's share of Iraq's rice trade through the Federal export credit guarantee program exceeded 80 percent. And sales to Iraq by Comet represented a remarkable 30 percent of Erly's overall revenues.

WAR SCARS: GULF CLASH A BLOW TO ERLY'S TRADE

But by August 1989, the warning flags were flying. That was when Federal agents raided the Atlanta branch office of Banca Nazionale del Lavoro, the big state-controlled Italian bank, investigating whether the bank had made $4 billion worth of unauthorized loans to Iraq.

Banca Lavoro had helped finance Iraq's purchases of agricultural products, including rice from Comet. With the raid, Iraq's eligibility for the export credit program was threatened. Then, in August 1990, Iraq invaded Kuwait and trade with Baghdad was embargoed.

The impact on Erly was severe. By March 1991, only $21.5 million worth of rice had been sold to Iraq, all of that before the invasion. In March 1992, Erly reported a $12.5 million loss, as the vanishing Iraq business halved Comet's profits. That—and the Federal investigation of Comet's own dealings with Iraq through Banca Lavoro—made bankers leery of financing the merger with American Rice, Mr. Murphy said.

Erly finally mustered enough credit to complete the merger last May, but as part of the deal, Comet sold the Aqaba plant and a Cayman Island management unit to Mr. Dajani, its Jordanian partner, a deal that finally allowed other companies to use the plant.

Indeed, since the sales contract gives Comet a royalty on non-Comet rice handled by the plant, Mr. Murphy is encouraging his rivals' business. "Hey," he said. "I'm a generous guy."

A COMPANY UNDER INVESTIGATION, BUT ITS SHAREHOLDERS AREN'T TOLD

For nearly three years. Erly Industries of Los Angeles has endured a Federal investigation of its rice sales to Iraq, which were financed by the Atlanta branch of Banca Nazionale del Lavoro, the state-controlled Italian bank that is the focus of a continuing Federal inquiry. But Erly has not formally told its shareholders of the investigation.

Gerald D. Murphy, Erly's children, said the investigation delayed a crucial merger between the Comet Rice unit of Erly and American Rice Inc. of Houston, which Erly also controls. That brought American Rice's principal rice-processing plant in Freeport, Tex., to the brink of foreclosure by its banks, and pushed Erly's slender net worth so low that last November it lost its license as an approved warehouse for Federal crop programs.

But neither Erly nor American Rice—both publicly traded companies—has mentioned the Federal inquiry and its side effects to investors and regulators in filings with the Securities and Exchange Commission.

"My God," Mr. Murphy said, "What am I supposed to disclose? That the press is pestering us, and because it's pestering us, it's going to cost us a lot of money? That's a silly kind of statement."

American Rice's shareholders narrowly voted approval of the merger in March 1991, based on a merger plan dated Jan. 22, 1991. Despite all the subsequent developments, shareholders were not given an updated proposal or a chance to reconsider there vote before the merger was concluded last May.

Texas law did not require a new vote, said John Howland, chairman of the merged company's board and former chief executive of

American Rice. Instead, the board relied on recent advice from Houlihan, Lokey Howard & Zukin, a Los Angeles investment bank, that the deal was still fair.

John G. Mavredakis, a managing director of Houlihan, LoKey, said the firm stood behind its fairness opinion, but he would not discuss its contents

Long before the final merger was concluded, two of the three independent directors of American Rice resigned, leaving a board dominated by large Erly shareholders: Mr. Murphy; Douglas Murphy, his son, and William Burgess, also an Erly director. "We didn't feel it would be productive to appoint additional directors." Mr. Howland said. "But nothing has been done that disadvantaged the public shareholders."

AGRICULTURE COMPANIES STILL GET FEDERAL BUSINESS DESPITE ABUSES

(By Dean Baquet with Diana B. Henriques)

Defying a Presidential order and requests by its own investigators, the Agriculture Department continues to give billions of dollars of business to politically powerful agricultural companies that have been caught rigging bids, fixing prices and defrauding Government programs.

Repeatedly in the last decade, the Agriculture Department's Inspector General, the internal watchdog official responsible for investigating corruption and abuse within the department, has urged top department officials to bar these businesses from participating in Government programs or, at the very least, to impose stiff fines on them, according to interviews and thousands of pages of internal documents obtained under the Freedom of Information Act.

The companies accused of abusing Government programs include huge dairies like Borden and Pet, and one of the nation's biggest rice exporters, Comet Rice, a subsidiary of Erly Industries.

But in virtually every instance, records show, top department officials—including the Secretary of Agriculture in the Bush Administration and his most senior aides—have refused to comply or have prolonged the process for years, with arguments that the department lacks the legal expertise to bar companies, and that kicking major businesses out would cause some programs to collapse.

Mike Espy, the Secretary of Agriculture, referred questions about the department's current policy to James Gilliland, the new general counsel. Mr. Gilliland said the department had declined to take sterner measures because it was satisfied with its own regulations regarding expulsion and suspension of companies. Harsher moves would be far too cumbersome and involve unnecessary paperwork, said Mr. Gilliland, a Clinton Administration appointee and a friend of Vice President Al Gore.

But documents and interviews show that every other Government agency went along with a directive issued by former President Ronald Reagan requiring that any company found abusing a Government program be barred from all other Government programs. And the Agriculture Department's own Inspector General and other nondepartment officials had repeatedly criticized the department's own rules as far too lenient—a view that Mr. Gilliland said he did not share.

Most other Federal agencies have refused to accept arguments that the Presidential order was unworkable, documents show. In October 1988, for example, officials in the Office of Management and Budget wrote an unusually harsh memo accusing top Agriculture Department officials of "entrusting Government funds to those who have been found irresponsible and with whom every other Government agency will not do business."

Given the department's reluctance to punish big companies, some of the largest Federal food programs—ranging from subsidized grain exports supervised by its Foreign Agricultural Service to school lunches subsidized by the Food and Nutrition Service—continue to be dominated by the same companies that have abused the programs in the past.

The programs involved entail up to $50 billion in annual assistance payments—including loans, grants, loan guarantees, direct subsidies and cash reimbursements—and make up the bulk of the Agriculture department's spending.

Besides the Food and Nutrition Service's reimbursements to hundreds of school districts that buy milk and bread for school lunch programs, the assistance payments cover a broad array of projects like the Foreign Agricultural Service's programs that help foreign governments buy billions of dollars of American farm commodities from conglomerates like Cargill, Continental Grain and Comet Rice.

In examining how the Agriculture Department polices its huge subsidy and grant programs, the New York Times obtained more than two dozen internal Government audits and nearly 1,600 pages of departmental correspondence and reports. They highlight how sprawling bureaucracies like the Agriculture Department, one of the Federal Government's biggest departments, can become so powerful that they can defy Federal policies and even ignore the direct orders of Presidents.

These were among the findings from the documents and from interviews:

From the late 1980's until last summer, 52 American dairies were convicted of price-fixing and bid-rigging Federal contracts to sell milk to school lunch programs and military bases. Despite requests from other Federal officials, the Agriculture Department has expelled only two relatively small regional dairies, and those actions have come only in the last two months. Based on the same instances of misbehavior, the Defense Department already has suspended or expelled nearly three dozen dairies, including several industry giants.

Three years after internal Agriculture Department investigators issued a series of highly critical reports accusing some major export companies of abusing the nation's biggest farm export program, most of those companies continue to do business with the department.

Many of the Agriculture Department's major agencies, including the Foreign Agriculture Service, award grants and loans to companies without checking them against a list of companies and individuals banned from Government programs. One result: the department gave $60 million in export subsidies to Richco Grain, partly owned by Marc Rich, a fugitive American financier regarded by Federal prosecutors as one of the biggest tax cheats in history. Had the Agriculture Department checked, it would have found that Mr. Rich had been barred by other Government agencies for years.

The Agriculture Department is the only Government agency that has refused for seven years to comply with President Reagan's 1986 Executive Order No. 12549, an obscure but sweeping anti-corruption measure aimed at insuring that the Government did not continue to do business with companies that had violated Federal regulations.

POWERFUL CONSTITUENTS: U.S. RESOLVE IS QUESTIONED

The failure of the department to take strong action against companies that abuse its programs highlights its deep and longstanding relationships with its powerful corporate constituents. It also raises questions about the Government's ability and resolve to root out and eliminate the corruption that adds to the costs and erodes the effectiveness of its biggest and most visible programs.

In August, Senator Patrick Leahy, a Democrat from Vermont, said he would push legislation forcing the department to expel dairies that rig bids. The Senator, who is chairman of the Senate Agriculture Committee, said his bill, if passed, "will end a history of Government inaction—to the point of tolerance—for corporations that steal from taxpayers and schoolchildren."

Ellen Haas, the new Under Secretary in charge of the department's Food and Nutrition Service, said in a recent interview that she planned to step up efforts to expel from her program some of the big dairy companies convicted of wrongdoing.

In addition to the expulsion of two regional dairies—Coble Dairy Products Cooperative Inc. of North Carolina and the Dairy Fresh Corporation of Alabama—she said her agency was examining a dozen other dairies convicted of various crimes, and would likely take additional action. Unlike Mr. Gilliland, the general counsel, she criticized the previous Administration for its leniency.

"I think it was an irony for a previous Administration that talked about fraud and abuse to be as permissive as they were," she said.

Even if the Clinton Administration were to get more aggressive, present and former senior Government officials said it would take a change in attitudes throughout the massive agency for it to adopt a tougher stance against companies that run afoul of its rules. They pointed out that some members of the Reagan and Bush Administrations had made similar efforts in the past, without success.

And one document obtained by The Times raises questions about the new Administration's appetite for confronting this issue. It shows that as recently as last summer, the department decided not to push to expel a shipping company whose top management had been convicted in a criminal dumping case, because to do so would resurrect the earlier debate over whether the department was too lax.

The case involved William P. Reilly and John Patrick Dowd, the two top executives of Coastal Carriers, a Maryland shipping company. Their freighter, the Khian Sea, left Philadelphia in August 1986, bound for the Bahamas, loaded with 15,000 tons of incinerator ash. For more than two years, the potentially dangerous shipment was turned away at ports in the Dominican Republic, Haiti, Honduras, Costa Rica, the Cape Verde Islands, Turkey and Chile. Finally, the ship dumped the ash into the Indian Ocean. In July of this year, the two senior executives were convicted of perjury for lying to a grand jury when they denied illegal dumping.

ALARMED LETTER: A COMPANY IS NOT EXPELLED

Still, neither the executives nor the company were expelled from any of the Agriculture Department's programs that subsidize the costs of shipping American farm products abroad. This led to an alarmed letter on July 23 from a top official of the Foreign Agricultural Service, Christopher E.

Goldthwait, to Thomas V. Conway, the department's associate general counsel.

"We believe we should move to suspend Mr. Dowd, Mr. Reilly, and Coastal Carriers based on making false statements and a lack of business integrity," Mr. Goldthwait wrote. "We understand that both Mr. Dowd and Mr. Reilly are probably still involved with firms which supply ocean transportation under our food aid programs."

Mr. Goldthwait went on to complain that Mr. Conway's office had so far resisted his plea that Coastal Carriers, Mr. Reilly and Mr. Dowd be suspended because department lawyers did not want to start proceedings that might "draw attention to this contentious issue" of the Agriculture Department's failure to comply with the Government-wide debarment rules in the past.

"Given the nature of the offense," Mr. Goldthwait wrote, "I think it is important for us to move ahead with our suspension action. We do not want carriers to take lightly the certifications they must make in connection with shipments under our food aid programs."

Last week, Mr. Reilly was sentenced to 37 months in prison and fined $7,500. Mr. Dowd was fined $20,000 and sentenced to five months in prison.

Mr. Goldthwait said in an interview two weeks ago that the department had just begun the process of expelling the two men from Government programs. The process could take several months, because the subject usually gets the opportunity to respond to the department's proposed expulsion.

When President Reagan first signed his executive order to ban misbehaving companies from Federal programs, the Agriculture Department immediately balked. And it made no bones about the reason: the mission of the assistance programs was to help big agriculture businesses, department officials argued, there was no need to antagonize those businesses.

"Assistance relationships are very close, and usually cooperative, as opposed to 'arm's-length' procurement-type relationships," wrote Laweance Wilson, then acting director of the department's Office of Financial Management, in a letter to the Office of Management and Budget on April 22, 1986. He added that looking into the background of each participant in the huge export programs—which can include farmers, exporters, shippers and banks—would create a paperwork nightmare.

But over the next two years, every other Federal agency followed the Presidential order and devised rules for suspension and debarment. The list of companies that had abused Federal programs grew massive, eventually becoming a bound book that runs to 250 pages. The list was distributed to all Government purchasing officers so they could check a new program applicant to see if it had abused some other agency's programs in the past.

But as other departments complied, the Agriculture Department resisted the Presidential order, repeating in one memorandum after another the phrase that Clayton K. Yeutter, then the Secretary of Agriculture, used in a letter to Richard G. Darman, director of the Office of Management and Budget, on Feb. 16, 1989: "We would prefer to maintain the status quo."

Under pressure from O.M.B. which was charged with carrying out President Reagan's order, the Agriculture Department did agree in the spring of 1988 to carry out some aspects of the anti-corruption program. But it insisted on exempting some of its largest, most expensive agencies.

Officials at O.M.B. were livid, they said in interviews. On May 25, 1988, James B. MacRae Jr., O.M.B.'s chief compliance official, wrote that the agriculture department's proposal to exempt most of its operations from the executive order was "inconsistent with O.M.B.'s guidelines which are part of the Administration's initiative to prevent fraud, waste and abuse."

Over the next four years, the internal battle grew even more heated, according to interviews with present and former officials. Inspector General Leon Snead, charged with policing abuses in department programs, strongly urged Mr. Yeutter and other top officials to cooperate with the anti-corruption initiative, the officials said.

Nonetheless, the Agriculture Department insisted on exempting five of its key agencies. Soon, thereafter, for reasons not explained in the internal documents, the Office of Management and Budget apparently gave up the fight.

Current officials at O.M.B. declined to be interviewed for this article.

As the Agriculture Department was resisting the anti-corruption measures, Federal and state prosecutors were finding that one of the department's most visible domestic projects, the school lunch subsidy program, was awash in corruption. In state after state, investigators found that dairy and bakery company executives had conspired to subvert competitive bidding procedures and divide up the marketplace by deciding in advance who would submit the winning bid in each territory.

The practice drove up the prices school districts paid by eliminating competition. The Agriculture Department, and American taxpayers, were the ultimate victims because the department reimbursed the local school districts for the cost of milk and bread.

BIG AGRICULTURE PROVIDES A STUDY IN RAW POWER

(By Diana B. Henriques)

Why are giant agricultural corporations treated so gently by their Federal regulators?

Some critics blame the close ties between senior Federal officials and the corporations they regulate, and the "evolving door" by which former Government appointees take up lucrative corporate positions.

But in dozens of interviews, current and former Government officials also cited another reason: the raw political power wielded by big agricultural interests. And, many officials said, there was no better example of the bruising effects of that power than the "rice wars," a bitter trade dispute that the American rice industry waged with South Korea in the early 1980's.

The battle began when the South Korean rice harvest failed in 1980. After agreeing to buy all available California rice, the variety Koreans prefer, Seoul looked to Japan for more.

A DILEMMA FOR AGRICULTURE

But under a bilateral agreement Tokyo had just signed with the Agriculture Department, in which Japan promised not to dump its heavily subsidized rice on world markets, the Japanese-South Korean deal required Federal approval.

This posed a dilemma for the department. Approval would give Seoul leverage in negotiations with American suppliers and infuriate the American rice lobby. But rejection could destabilize South Korea, an important ally and trade partner.

So the Agriculture Department offered a compromise: in exchange for Federal approval, South Korea had to agree to buy additional American rice.

The compromise placated neither the powerful Rice Growers Association nor the Farmers Rice Cooperative, the two co-ops that controlled more than half the California rice crop. Their exclusive trading agent was Grover Connell, a generous contributor to Congressional campaigns. The lawyer for the co-ops was Joseph L. Alioto, the colorful Democratic politician and former San Francisco mayor. The prior year, Mr. Connell had figured in the "Koreagate" Congressional influence-pedding scandal that swirled around Tongsun Park, who was Mr. Connell's agent in trade deals with Seoul.

The co-ops argued vehemently against the Japanese sale and then appealed to Congressional allies, who accused the South Koreans of stalling on the additional rice purchases.

Finally, Mr. Alioto took aim at the State Department—specifically, at Robert Richmond, the Korea desk chief, and his superior Anthony Albrecht, the Deputy Assistant Secretary for East Asian affairs. He accused both men of improperly urging Seoul to delay its rice purchases. Both officials, who were later cleared by a State Department investigation, now say they believe the incident damaged their careers. Mr. Alioto did not return calls seeking comment.

In December 1981, then-Representative John Breaux of Louisiana—now a Senator-and more than a hundred other Congressmen sent a letter to the South Korean President hinting that Seoul's rice purchasers were corrupt. The co-ops filed lawsuits, accusing rival suppliers of bribing the Koreans. Defying diplomatic immunity, Mr. Alioto subpoenaed the South Korean ambassador, touching off a political crisis in Seoul.

It is not clear whether South Korean officials were unwilling to buy the rice as the emergency eased—or whether they were just unwilling to deal with Mr. Connell, who was openly insulting them. It hardly mattered. Every deal Seoul struck with a rival suppliers set off a Congressional uproar.

Enter the strong-willed Gerald D. Murphy the chairman of Erly Industries. In December 1981, over lunch at La Caravelle restaurant in New York, Mr. Murphy—who boasted of strong Republican connections—told Mr. Connell he intended to compete for the Korean business. In May 1982, Mr. Murphy beat out Mr. Connell in a bid to supply Seoul with 370,000 metric tons of rice.

"PLAYING CHICKEN"

But he only had about 130,000 tons; he planned to buy the rest from the California co-ops. They refused his initial offers because, Mr. Connell later explained they believed Mr. Murphy could be forced to pay more to avoid defaulting on his contract. In fact, Mr. Murphy's contract called for a very modest default penalty. While he stood pat and the White House took a hands-off approach, the co-ops faced skyrocketing bills for storing the unsold rice.

This ruinous stalemate was broken in July 1983 by Ralph Newman, the new chief executive for the Farmers Rice Cooperative. "The costs of playing chicken with the Koreans were just astronomical," Mr. Newman said Breaking ranks with Mr. Alioto and Mr. Connell, he offered his rice to the Koreans—through any intermediary they wished.

It was South Korea's last major rice purchase, from the United States or anyone else. At the height of the conflict, leaders in Seoul became so disgusted that they renewed the nation's drive for self-sufficiency in rice.

All major agricultural corporations share the power of the rice belt, according to Representative Charles E. Schumer, the Brooklyn Democrat, because legislators band together to protect one another's pet crops. "The exporters are very powerful politically," he said.

SIDESTEPPING AN EXECUTIVE ORDER

The Agriculture Department is the only United States department that has failed to comply with the Reagan Administration's 1986 order to deny contracts to companies that have been suspended or removed from other Government assistance programs. A chronology of Agriculture's efforts to avoid compliance follows.

Feb. 18, 1986.—President Reagan signs Executive Order 12549 mandating that any company suspended or removed from one Government assistance program is barred from participating in all other Federal programs.

April 22, 1986.—The Agriculture Department balks. Lawrence Wilson, then acting director of Agriculture's Office of Financial Management, tells the Office of Management and Budget, that the department's relationships on assistance contracts "are, by their nature, very close, and usually cooperative, as opposed to 'arm's-length' procurement-type relationships."

Feb. 24, 1988.—As other Government departments begin to comply with the order, Mr. Wilson, in a letter to O.M.B., says that, given a choice of creating a rule barring certain companies from participating in any Federal program or delaying it, "U.S.D.A. would prefer to maintain the status quo at this time." He argues that it would take time to teach the staff how to implement the policy and that no one could forecast the impact of barring companies. He reiterates his views a month later.

May 25, 1988.—The day before the deadline for compliance with the executive order, James B. MacRae Jr., acting administrator for O.M.B.'s office of information and regulatory affairs, notifies Christopher Hicks, general counsel at the Agriculture Department that its proposals for compliance are "inconsistent with O.M.B. guidelines, which are part of the Administration's initiative to prevent fraud, waste and abuse." The problem is that the department wants to exclude "large numbers of U.S.D.A. programs from the order."

June 29, 1988.—Joseph R. Wright Jr., deputy director of O.M.B., has a note hand-delivered to John J. Franke Jr., assistant Agriculture Secretary saying, "U.S.D.A. still is the only agency who has not joined the common rule on suspension and debarment." Noting that Agriculture had not even submitted a revised proposal, Mr. Wright says "It would be very helpful for you to get your agency moving in this direction. Thanks."

Feb. 16, 1989.—Clayton Yeutter, Agriculture Secretary, writes Richard G. Darman, the O.M.B. director, and reiterates the opposition.

May 1990.—Mr. MacRae of O.M.B. writes to Alan Raul, the Agriculture Department's general counsel, rejecting a proposed rule for the Foreign Agricultural Service because it does not automatically bar corporate participants that have been barred by other Government departments.

There is no record of further O.M.B. efforts to secure compliance by the department.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do so only to thank our colleague, the gentlewoman from Maryland [Mrs. BENTLEY] for bringing us this information, working with us, and we look forward to her continued input and working with us as we address this issue in the next year.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Kansas.

Mr. ROBERTS. Mr. Chairman, I wish to associate myself with the remarks of the gentleman from Texas [Mr. DE LA GARZA], and make the observation that there has been no stronger supporter of the U.S. merchant marine than the gentlewoman from Maryland [Mrs. BENTLEY].

Many times in the past, Mr. Chairman, we have disagreed with regard to policy issues, but her support for the U.S. merchant marine has never wavered; not that she has been unfriendly to the American farmer. I want to thank her for her service, for her dedicated leadership, and there has never been quite a fighter like the gentlewoman from Maryland on behalf of her constituency.

Mr. CARDIN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Maryland.

Mr. CARDIN. Mr. Chairman, I also want to join in the strong commendation of my colleague, the gentlewoman from Maryland [Mrs. BENTLEY], and her work for the merchant marine and for this Nation. She has done a great job in supporting the merchant marine. She is going to be sorely missed in this Chamber next year for her strong advocacy for U.S. interests. I really wanted to take the time to thank her for her long service on behalf of the people of her district.

Mr. STUDDS. Mr. Chairman, I rise in support of the statement of the gentlelady from Maryland.

Last October, the New York Times ran a series that was highly critical of the Agriculture Department's export policies. The allegations in the Times exposé raise a number of questions on the beneficiaries of American agriculture export assistance programs.

It turns out a surprising number of USDA recipients are actually foreign-owned companies. There is something fundamentally wrong with Government policy when we can't support U.S. maritime companies that transport our troops and supplies to war and U.S. goods during peacetime, but can allow billions of dollars to subsidize foreign agricultural conglomerates.

While we are not debating USDA export policy today, we should take a long and hard look at this issue when we consider next year's farm bill. I look forward to working with the distinguished chairman of the Agriculture Committee on that bill.

AMENDMENT OFFERED BY MR. KREIDLER

Mr. KREIDLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KREIDLER: Page 34, line 8 after "safety" insert

", including responsibilities under the Federal Meat Inspection Act and the Poultry Products Inspection Act. Until such time as the Under Secretary establishes, based on the best available scientific and technologic data, levels of pathogens that constitute a threat to human health in meat and poultry, and prohibits or restricts the sale of meat and meat products and poultry and poultry products that exceed these levels, no official inspection seal shall be applied to such products that states that the product has been inspected for wholesomeness or inspected and approved, nor shall the Department of Agriculture print or distribute any educational material that suggests that meat and poultry has been inspected in a manner designed to protect human health by limiting bacterial contamination".

Mr. KREIDLER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. KREIDLER. Mr. Chairman, last year three children died in Washington State because a batch of Government-approved hamburger was contaminated with a deadly microscopic organism known as E. coli 0157:H7.

That was only one of 20 E. coli outbreaks reported in 1993, with 11 more deaths. Another 25 outbreaks, and at least 4 deaths, have been reported so far this year, in Oregon, Minnesota, California, Nebraska, North Carolina, Vermont, North Dakota, Ohio, Massachusetts, New York, Connecticut, Hawaii, New Jersey, Florida, Pennsylvania, Montana, Wisconsin, and Alabama.

E. coli may be the most dangerous pathogen in meat and poultry, but it is also rare. Much more common are pathogens like salmonella, listeria, and others we have all heard too much about. They are the greatest threat to the safety of meat and poultry.

These microbes can be kept to a minimum with proper processing techniques, backed up by an inspection system based on science. Today's system can deal only with what inspectors can see and feel. For half a billion dollars a year, the American consumer deserves more.

This amendment specifies that the Under Secretary for Food Safety is responsible for meat and poultry inspection, and it prohibits the use of the USDA inspection seal, which implies that inspected meat and poultry is wholesome and safe, until the Department has brought the inspection system into the modern era.

That means setting limits on pathogen levels, based on the best available scientific information.

The Pathogen Reduction Act, which the gentleman from Texas [Mr. STENHOLM] has introduced at the request of the administration, requires USDA to set and enforce pathogen limits. This amendment does not incorporate that complex proposal, but this amendment prohibits the use of the USDA seal of approval until we have an inspection system that deals with this growing threat. I think that is the least we can do.

I understand the need to consider the Pathogen Reduction Act fully, and I believe the chairman is committed to do so early in the next Congress. Meanwhile, I urge the adoption of this amendment so that consumers are no longer misled by the USDA seal when they buy meat and poultry.

□ 1600

Mr. STENHOLM. Mr. Chairman, I rise in opposition to the amendment of the gentleman today.

Mr. Chairman, again it is not that I do not agree with the basic thrust of the amendment because the gentleman has correctly pointed out that we have introduced legislation last week that encompasses a good portion, in fact perhaps would be construed as being much stronger than the gentleman's amendment today.

The difficulty we have with the gentleman's amendment today is as I mentioned, we got the bill from the administration last week. We are currently trying to see if we can reach some agreement and accommodation that can get something done this year in legislation.

This piece of legislation today is not the time and the place for us to consider this amendment. What we need to do, and the gentleman was correct in his earlier statement. In fact, we not only have introduced legislation in our committee but we are actively working to see what can be done to move forward the pathogen problem and come up with a constructive solution that we can in turn interject into our meat and poultry system so that in fact we do begin testing for pathogens in our meat and poultry supply.

The difficulty and why I say I must reluctantly rise in opposition, and I would ask the gentleman to consider perhaps withdrawing his amendment today, with the full assurances that not only are we sympathetic, we have introduced legislation last week and we will actively begin working for purposes of seeing how we might do it. This is not the time and the place. But I would hope that with this assurance, the gentleman may consider withdrawing his amendment today. If so, I would certainly look forward to working with him in solving a very real problem.

Mr. KREIDLER. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Washington.

Mr. KREIDLER. Mr. Chairman, I thank the gentleman for yielding. I thank him and very much appreciate the comments of the chairman of the subcommittee relative to his commitment to address this issue. This is an issue of deep and abiding concern particularly to my State that has grievously suffered at the expense of undercooked hamburger that has been contaminated by E. coli. We are very interested in my State as indeed I believe the whole country is that we make sure our poultry and meat supply is as safe as possible. It is not my desire as a member of this body to slow down the process or complicate the work of this committee or from the standpoint of making sure that the USDA moves forward as aggressively and forcefully as possible.

With that understanding, I will take the request or the suggestion that has been offered to me by the gentleman from Texas.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN pro tempore (Mr. MURPHY). Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN pro tempore. The amendment is withdrawn.

Mr. STENHOLM. Briefly, Mr. Chairman, reclaiming my time, I thank the gentleman for withdrawing the amendment and look forward to working with him in a constructive solution to the very real problem that he has highlighted today in this discussion.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Texas, the chairman of the committee.

Mr. DE LA GARZA. Mr. Chairman, I also rise to thank the gentleman and commend him for his energetic and vigorous pursuing of this issue. We will work with him diligently and we will appreciate his input into the process as we work in this area and commend him for all the work that he has done. The people of his area and his district should be proud of the vigorous manner in which he has pursued this issue.

The CHAIRMAN pro tempore. Are there further amendments to the bill?

Mr. DE LA GARZA. Mr. Chairman, I move to strike the last word, and I yield to my colleague, the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Chairman, I sought recognition to enter into a colloquy with the gentleman from Texas [Mr. STENHOLM], the chairman of the subcommittee, if I might.

Mr. Chairman, last January I introduced into the House the Katie O'Connell Safe Food Act, comprehensive legislation designed to revamp and modernize our meat and poultry inspection system. A key provision of the bill is to move the meat and poultry inspection from the Department of Agriculture to an independent agency.

The USDA as he knows is charged with the dual goals of promoting and policing agricultural products. I strongly believe that this is an inherent conflict of interest. Meat and poultry inspections should be viewed as a public health concern, not as a business concern. I have strong doubts that the USDA's top priority is public health if it is also promoting sales.

Apparently Vice President GORE and his commission shared this view and recommended moving meat and poultry inspection to the Food and Drug Administration in his Reinventing Government report.

Today I came to the floor with the intention of offering an amendment to move this function from the USDA to the FDA. However, I am persuaded that a move of this nature needs more extensive study. Because I have particular confidence in the gentleman from Texas [Mr. STENHOLM] and the relevant committees involved, I am seeking his assurance the subcommittee will further study the ramifications of this move and hold hearings on the subject in the next Congress so we might consider my recommendations and legislation with some confidence.

Mr. STENHOLM. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Texas.

Mr. STENHOLM. Mr. Chairman, I appreciate very much all of the gentleman's efforts on this issue and share many of his concerns. Recognizing the need to separate meat and poultry inspection and other food safety obligations from marketing and promotion type responsibilities within USDA, this bill today creates a new Undersecretary for Food Safety, elevating and keeping completely separate all food safety activities within the Department. This approach represents a fundamental shift in the way USDA does business, one which the Committee on Agriculture believes is the most immediate, appropriate and effective way to address this concern. In our effort to improve the current system, the Committee on Agriculture has had numerous hearings concerning USDA's meat and poultry inspection system and will continue to have an interest in ensuring the safety of our Nation's food supply with future hearings. I look forward to working with the gentleman.

Mr. TORRICELLI. Mr. Chairman, I want to thank the gentleman from Texas [Mr. STENHOLM] for his cooperation in this matter. I also want to thank the families of all the E. coli victims who have worked to write the Katie O'Connell Act and I look forward in the next Congress to working with him in finding a comprehensive solution. I would also like to express my keen interest in the Pathogen Reduction Act which the gentleman introduced recently. I would appreciate it if he could briefly summarize the legislation that he has offered.

Mr. STENHOLM. In general terms, the bill would provide broad authority for the Secretary to issue regulations requiring testing for the presence of pathogens, establish acceptable levels for pathogens, provide mandatory recall and trace-back authority, and impose civil penalties. I fully intend to review this legislation in my subcommittee—in fact, we have already begun the process—and work with the gentleman and all interested parties in moving a bill next Congress that most appropriately addresses our mutual concerns.

Mr. TORRICELLI. Mr. Chairman, I want to thank the gentleman for his explanations and his commitment. I look forward to working with him in the next Congress, and I have complete confidence that under his leadership, we will be able to move forward the issue of food safety. I also want to thank the gentleman from Texas [Mr. DE LA GARZA], the chairman of the committee, for yielding me this time and for his support and cooperation.

AMENDMENTS OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Chairman, I offer amendments, and I ask unanimous consent for them to be considered en bloc.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN pro tempore. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. DE LA GARZA:

Page 2, after line 7, in the table of contents of the bill, strike "External affairs" in the item relating to section 106" and insert "External Affairs".

Page 9, line 2, insert after the period the following new sentence: "Reductions in the number of full-time equivalent positions within the Department achieved under section 5 of the Federal Workforce Restructuring Act of 1994 (Public Law 103-226; 108 Stat. 115; 5 U.S.C. 3101 note) shall be counted toward the employee reductions required under this section.".

Strike section 105 of the bill (page 9, line 20, through page 10, line 2) relating to improvement of information sharing and insert the following new section:

SEC. 105. IMPROVEMENT OF INFORMATION SHARING.

Whenever the Secretary procures or uses computer systems, as may be provided for in advance in appropriations Acts, the Secretary shall do so in a manner that enhances efficiency, productivity, and client services and is consistent with the goal of promoting computer information sharing among agencies of the Department.

Page 19, line 8, add at the end the following new sentence: "In the case of a county committee in existence on the date of the enactment of the Department of Agriculture Reorganization Act of 1994, the Secretary may not terminate the county committee, alter the boundaries of the area covered by the committee, or consolidate the committee with other county committees, without the consent of a majority of the producers in the area covered by the committee, as determined in a referendum conducted by the Secretary.".

Page 20, line 21, insert after the period the following new sentences: "Pursuant to such regulations, each county and area committee shall select an executive director for the area or county. Such selection shall be made in the same manner as provided for the selection of the county executive director under section 7.21(b)(2) of title 7, Code of Federal Regulations, as in effect on January 1, 1994.".

Page 47, after line 15, add the following new section (and redesignate subsequent sections accordingly):

SEC. 805. FAIR AND EQUITABLE TREATMENT OF SOCIALLY DISADVANTAGED PRODUCERS.

(a) FAIR CROP ACREAGE BASES AND FARM PROGRAM PAYMENT YIELDS.—If the Secretary of Agriculture determines that crop acreage bases or farm program payment yields established for farms owned or operated by socially disadvantaged producers are not established in accordance with title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.), the Secretary shall adjust the bases and yields to conform to the requirements of such title and make available any appropriate commodity program benefits.

(b) FAIR APPLICATION OF CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—If the Secretary of Agriculture determines that application of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) with respect to socially disadvantaged producers is not consistent with the requirements of such Act, the Secretary shall make such changes in the administration of such Act as the Secretary considers necessary to provide for the fair and equitable treatment of socially disadvantaged producers under such Act.

(c) REPORT ON TREATMENT OF SOCIALLY DISADVANTAGED PRODUCERS.—

(1) REPORT REQUIRED.—The Comptroller General of the United States shall prepare a report to determine—

(A) whether socially disadvantaged producers are underrepresented on State, county, or local committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) or local review committees established under section 363 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1363) because of racial, ethnic, or gender prejudice; and

(B) if such underrepresentation exists, whether it inhibits or interferes with the participation of socially disadvantaged producers in programs of the Department of Agriculture.

(2) SUBMISSION OF REPORT.—Not later than February 1, 1995, the Comptroller General shall submit the report required by this subsection to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(d) DEFINITION.—For purposes of this section, the term "socially disadvantaged producer" means a producer who is a member of a group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities.

Page 3, line 9, strike "section 102" and insert "section 802".

Strike section 102 of the bill (page 7, line 16, through page 8, line 20) relating to the National Appeals Division (and redesignate subsequent sections accordingly).

Page 34, after line 19, add the following new title (and redesignate the subsequent title accordingly):

TITLE VIII—NATIONAL APPEALS DIVISION

SEC. 801. DEFINITIONS.

For purposes of this title:

(1) ADVERSE DECISION.—The term "adverse decision" means an administrative decision made by an officer, employee, or committee of an agency that is adverse to a participant. The term includes a denial of equitable relief by an agency or the failure of an agency to issue a decision or otherwise act on the request or right of the participant. The term does not include a decision over which the Board of Contract Appeals has jurisdiction.

(2) AGENCY.—The term "agency" means any agency of the Department designated by the Secretary or a successor agency of the Department, except that the term shall include the following (and any successor to the following):

(A) The Agricultural Service Agency.

(B) The Commodity Credit Corporation, with respect to domestic programs.

(C) The Farmers Home Administration.

(D) The Federal Crop Insurance Corporation.

(E) The Rural Development Administration.

(F) The Soil Conservation Service.

(G) A State, county, or area committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)).

(3) APPELLANT.—The term "appellant" means a participant who appeals an adverse decision in accordance with this title.

(4) CASE RECORD.—The term "case record" means all the materials maintained by the Secretary related to an adverse decision.

(5) DIRECTOR.—The term "Director" means the Director of the Division.

(6) DIVISION.—The term "Division" means the National Appeals Division established by this title.

(7) HEARING OFFICER.—The term "hearing officer" means an individual employed by the Division who hears and determines appeals of adverse decisions by any agency.

(8) PARTICIPANT.—The term "participant" means any individual, partnership, corporation, association, cooperative, or other entity whose application for, or right to participate in or receive, payments or loans in accordance with any of the programs administered by an agency is affected by an adverse decision of an agency.

SEC. 802. NATIONAL APPEALS DIVISION AND DIRECTOR.

(a) ESTABLISHMENT OF DIVISION.—The Secretary shall establish and maintain an independent National Appeals Division within the Department to carry out this title.

(b) DIRECTOR.—

(1) APPOINTMENT.—The Division shall be headed by a Director, appointed by the Secretary from among persons who have substantial experience in practicing administrative law. In considering applicants for the position of Director, the Secretary shall consider persons currently employed outside Government as well as Government employees.

(2) TERM AND REMOVAL.—The Director shall serve for a 6-year term of office, and shall be eligible for reappointment. The Director shall not be subject to removal during the term of office, except for cause established in accordance with law.

(3) POSITION CLASSIFICATION.—The position of the Director may not be a position in the excepted service or filled by a noncareer appointee.

(c) DIRECTION, CONTROL, AND SUPPORT.—The Director shall be free from the direction and control of any person other than the Secretary. The Division shall not receive administrative support (except on a reimbursable basis) from any agency other than the

Office of the Secretary. The Secretary may not delegate to any other officer or employee of the Department, other than the Director, the authority of the Secretary with respect to the Division.

(d) DETERMINATION OF APPEALABILITY OF AGENCY DECISIONS.—If an officer, employee, or committee of an agency determines that a decision is not appealable and a participant appeals the decision to the Director, the Director shall determine whether the decision is adverse to the individual participant and thus appealable or is a matter of general applicability and thus not subject to appeal. The determination of the Director as to whether a decision is appealable shall be administratively final.

(e) DIVISION PERSONNEL.—The Director shall appoint such hearing officers and other employees as are necessary for the administration of the Division. A hearing officer or other employee of the Division shall have no duties other than those that are necessary to carry out this title.

SEC. 803. TRANSFER OF FUNCTIONS.

There are transferred to the Division all functions exercised and all administrative appeals pending before the effective date of this title (including all related functions of any officer or employee) of or relating to—

(1) the National Appeals Division established by section 426(c) of the Agricultural Act of 1949 (7 U.S.C. 1433e(c)) (as in effect on the day before the date of the enactment of this Act);

(2) the National Appeals Division established by subsections (d) through (g) of section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b) (as in effect on the day before the date of the enactment of this Act);

(3) appeals of decisions made by the Federal Crop Insurance Corporation; and

(4) appeals of decisions made by the Soil Conservation Service.

SEC. 804. NOTICE AND OPPORTUNITY FOR HEARING.

Not later than 10 working days after an adverse decision is made that affects the participant, the Secretary shall provide the participant with the written notice of such adverse decision and the rights available to the participant under this title or other law for the review of such adverse decision.

SEC. 805. INFORMAL HEARINGS.

If an officer, employee, or committee of an agency makes an adverse decision, the agency shall hold, at the request of the participant, an informal hearing on the decision. With respect to programs carried out through the Agricultural Service Agency, the Secretary shall maintain the informal appeals process applicable to such programs, as in effect on the date of the enactment of the title. If a mediation program is available under title V of the Agricultural Credit Act of 1987 (7 U.S.C. 5101 et seq.) as a part of the informal hearing process, the participant shall be offered the right to choose such mediation.

SEC. 806. RIGHT OF PARTICIPANTS TO DIVISION HEARING.

(a) APPEAL TO DIVISION FOR HEARING.—Subject to subsection (b), a participant shall have the right to appeal an adverse decision to the Division for an evidentiary hearing by a hearing officer consistent with section 807.

(b) TIME FOR APPEAL.—To be entitled to a hearing under section 807, a participant shall request the hearing not later than 30 days after the date on which the participant first received notice of the adverse decision.

SEC. 807. DIVISION HEARINGS.

(a) GENERAL POWERS OF DIRECTOR AND HEARING OFFICERS.—

(1) ACCESS TO CASE RECORD.—The Director and hearing officer shall have access to the case record of any adverse decision appealed to the Division for a hearing.

(2) ADMINISTRATIVE PROCEDURES.—The Director and hearing officer shall have the authority to require the attendance of witnesses, and the production of evidence, by subpoena and to administer oaths and affirmations. Except to the extent required for the disposition of ex parte matters as authorized by law—

(A) an interested person outside the Division shall not make or knowingly cause to be made to the Director or a hearing officer who is or may reasonably be expected to be involved in the evidentiary hearing or review of an adverse decision, an ex parte communication (as defined in section 551(14) of title 5, United States Code) relevant to the merits of the proceeding;

(B) the Director and such hearing officer shall not make or knowingly cause to be made to any interested person outside the Division an ex parte communication relevant to the merits of the proceeding.

(b) TIME FOR HEARING.—Upon a timely request for a hearing under section 806(b), an appellant shall have the right to have a hearing by the Division on the adverse decision within 45 days after the date of the receipt of the request for the hearing.

(c) LOCATION AND ELEMENTS OF HEARING.—

(1) LOCATION.—A hearing on an adverse decision shall be held in the State of residence of the appellant or at a location that is otherwise convenient to the appellant and the Division.

(2) EVIDENTIARY HEARING.—The evidentiary hearing before a hearing officer shall be in person, unless the appellant agrees to a hearing by telephone or by a review of the case record. The hearing officer shall not be bound by previous findings of fact by the agency in making a determination.

(3) INFORMATION AT HEARING.—The hearing officer shall consider information presented at the hearing without regard to whether the evidence was known to the agency officer, employee, or committee making the adverse decision at the time the adverse decision was made. The hearing officer shall leave the record open after the hearing for a reasonable period of time to allow the submission of information by the appellant or the agency after the hearing to the extent necessary to respond to new facts, information, arguments, or evidence presented or raised by the agency or appellant.

(4) BURDEN OF PROOF.—The appellant shall bear the burden of proving that the adverse decision of the agency was erroneous.

(d) DETERMINATION NOTICE.—The hearing officer shall issue a notice of the determination on the appeal not later than 30 days after a hearing or after receipt of the request of the appellant to waive a hearing, except that the Director may establish an earlier or later deadline. If the determination is not appealed to the Director for review under section 808, the notice provided by the hearing officer shall be considered to be a notice of final determination.

(e) EFFECTIVE DATE.—The final determination shall be effective as of the date of filing of an application, the date of the transaction or event in question, or the date of the original adverse decision, whichever is applicable.

SEC. 808. DIRECTOR REVIEW OF DETERMINATIONS OF HEARING OFFICERS.

(a) REQUESTS FOR DIRECTOR REVIEW.—

(1) TIME FOR REQUEST BY APPELLANT.—Not later than 30 days after the date on which an appellant receives the determination of a hearing officer under section 807, the appellant shall submit a written request to the Director for review of the determination in order to be entitled to a review by the Director of the determination.

(2) TIME FOR REQUEST BY AGENCY HEAD.—Not later 15 business days after the date on which an agency receives the determination of a hearing officer under section 807, the head of the agency may make a written request that the Director review the determination.

(b) DETERMINATION OF DIRECTOR.—The Director shall conduct a review of the determination of the hearing officer using the case record, the record from the evidentiary hearing under section 807, the request for review, and such other arguments or information as may be accepted by the Director. Based on such review, the Director shall issue a final determination notice that upholds, reverses, or modifies the determination of the hearing officer. However, if the Director determines that the hearing record is inadequate, the Director may remand all or a portion of the determination for further proceedings to complete the hearing record or, at the option of the Director, to hold a new hearing. The Director shall complete the review and either issue a final determination or remand the determination not later than—

(1) 10 business days after receipt of the request for review, in the case of a request by the head of an agency for review; or

(2) 30 business days after receipt of the request for review, in the case of a request by an appellant for review.

(c) EQUITABLE RELIEF.—Subject to regulations issued by the Secretary, the Director shall have the authority to grant equitable relief under this section in the same manner and to the same extent as such authority is provided to the Secretary under section 326 of the Food and Agriculture Act of 1962 (7 U.S.C. 1339a) and other laws. Notwithstanding the administrative finality of a final determination of an appeal by the Division, the Secretary shall have the authority to grant equitable or other types of relief to the appellant after a final determination is issued by the Division.

(d) EFFECTIVE DATE.—A final determination issued by the Director shall be effective as of the date of filing of an application, the date of the transaction or event in question, or the date of the original adverse decision, whichever is applicable.

SEC. 809. JUDICIAL REVIEW.

A final determination of the Division shall be reviewable and enforceable by any United States district court of competent jurisdiction in accordance with chapter 7 of title 5, United States Code.

SEC. 810. IMPLEMENTATION OF FINAL DETERMINATIONS OF DIVISION.

On the return of a case to an agency pursuant to the final determination of the Division, the head of the agency shall implement the final determination not later than 30 days after the effective date of the notice of the final determination.

SEC. 811. CONFORMING AMENDMENTS RELATING TO NATIONAL APPEALS DIVISION.

(a) DECISIONS OF STATE, COUNTY, AND AREA COMMITTEES.—

(1) APPLICATION OF SUBSECTION.—This subsection shall apply only with respect to functions of the Agricultural Service Agency or the Commodity Credit Corporation that are under the jurisdiction of a State, county, or area committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) or an employee of such a committee.

(2) FINALITY.—Each decision of a State, county, or area committee (or an employee of such a committee) covered by paragraph (1) that is made in good faith in the absence of misrepresentation, false statement, fraud, or willful misconduct shall be final not later than 90 days after the date of filing of the application for benefits, unless the decision is—

(A) appealed under this title; or

(B) modified by the Administrator of the Agricultural Service Agency or the Executive Vice President of the Commodity Credit Corporation.

(3) RECOVERY OF AMOUNTS.—If the decision of the State, county, or area committee has become final under paragraph (2), no action may be taken by the Agricultural Service Agency, the Commodity Credit Corporation, or a State, county, or area committee to recover amounts found to have been disbursed as a result of a decision in error unless the participant had reason to believe that the decision was erroneous.

(b) AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE.—Section 426 of the Agricultural Act of 1949 (7 U.S.C. 1433e) is repealed.

(c) FARMERS HOME ADMINISTRATION.—Section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b) is repealed.

(d) FEDERAL CROP INSURANCE CORPORATION.—The last sentence of section 508(f) of the Federal Crop Insurance Act (7 U.S.C. 1508(f)) is amended by inserting before the period at the end the following: "or within 1 year after the claimant receives a final determination notice from an administrative appeal made in accordance with title VIII of the Department of Agriculture Reorganization Act of 1994, whichever is later".

SEC. 812. EXPANSION OF ISSUES COVERED BY STATE MEDIATION PROGRAMS.

(a) EXPANSION OF MEDIATION PROGRAMS.—Section 501 of the Agricultural Credit Act of 1987 (7 U.S.C. 5101) is amended—

(1) in subsection (a), by striking "an agricultural loan mediation program" and inserting "a mediation program";

(2) in subsection (b), by striking "agricultural loan"; and

(3) by striking subsection (c) and inserting the following new subsection:

"(c) REQUIREMENTS OF STATE MEDIATION PROGRAMS.—

"(1) ISSUES COVERED.—To be certified as a qualifying State, the mediation program of the State must provide mediation services for the persons described in paragraph (2) who are involved in agricultural loans or agricultural loans and one or more of the following issues under the jurisdiction of the Department of Agriculture:

"(A) Wetlands determinations.

"(B) Compliance with farm programs, including conservation programs.

"(C) Agricultural credit.

"(D) Rural water loan programs.

"(E) Grazing on National Forest System lands.

"(F) Pesticides.

"(G) Such other issues as the Secretary considers appropriate.

"(2) PERSONS ELIGIBLE FOR MEDIATION.—The persons referred to in paragraph (1) are producers, their creditors (if applicable), and other persons directly affected by actions of the Department of Agriculture.

"(3) CERTIFICATION CONDITIONS.—The Secretary shall certify a State as a qualifying State with respect to the issues proposed to be covered by the mediation program of the State if the mediation program—

"(A) provides for mediation services that, if decisions are reached, result in mediated, mutually agreeable decisions between the parties to the mediation;

"(B) is authorized or administered by an agency of the State government or by the Governor of the State;

"(C) provides for the training of mediators;

"(D) provides that the mediation sessions shall be confidential;

"(E) ensures, in the case of agricultural loans, that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program; and

"(F) ensures, in the case of other issues covered by the mediation program, that persons directly affected by actions of the Department of Agriculture receive adequate notification of the mediation program.".

(b) PARTICIPATION OF DEPARTMENT.—Section 503 of such Act (7 U.S.C. 5103) is amended—

(1) by striking "agricultural loan" each place it appears;

(2) in the matter preceding subparagraph (A) of subsection (a)(1)—

(A) by inserting "or agency" after "program"; and

(B) by striking "that makes, guarantees, or insures agricultural loans";

(3) in subsection (a)(1)(A)—

(A) by inserting "or agency" after "such program"; and

(B) by inserting "certified under section 501" after "mediation program";

(4) in subsection (a)(1)(B)—

(A) by striking ", effective beginning on the date of the enactment of this Act,"; and

(B) by inserting "certified under section 501" after "mediation programs"; and

(5) in subsection (a)(1)(C)—

(A) in clause (i), by striking "described in" and inserting "certified under"; and

(B) in clause (ii), by inserting "if applicable," before "present".

(c) REGULATIONS.—Section 504 of such Act (7 U.S.C. 5104) is amended—

(1) by striking "Within 150 days after the date of the enactment of this Act, the" and inserting "The"; and

(2) by adding at the end the following new sentence: "The regulations prescribed by the Secretary shall require qualifying States to adequately train mediators to address all of the issues covered by the mediation program of the State.".

(d) REPORT.—Section 505 of such Act (7 U.S.C. 5105) is amended by striking "1990" and inserting "1998".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 506 of such Act (7 U.S.C. 5106) is amended by striking "1995" and inserting "2000".

(f) CONFORMING AMENDMENTS.—

(1) REFERENCES TO AGRICULTURAL LOANS.—Subtitle A of title V of such Act is amended—

(A) in sections 502 and 505(1) (7 U.S.C. 5102, 5105(1)), by striking "agricultural loan" each place it appears; and

(B) in section 505(3) (7 U.S.C. 5105(3)), by striking "an agricultural loan mediation" and inserting "a mediation".

(2) WAIVER OF FARM CREDIT SYSTEM MEDIATION RIGHTS BY BORROWERS.—Section 4.14E of the Farm Credit Act of 1971 (12 U.S.C. 2202e) is amended by striking "agricultural loan".

(3) WAIVER OF FMHA MEDIATION RIGHTS BY BORROWERS.—Section 358 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006) is amended by striking "agricultural loan".

Add at the end of title VIII, after line 3 on page 52, the following new section:

SEC. PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased using funds made available pursuant to this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available pursuant to this Act, the Secretary, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

Page 9, line 12 after "Department" strike "to" and insert ", where practicable and to the extent consistent with efficiency, effectiveness, and service to farmers, to".

Insert after line 3 on page 52:

SEC. CONDITIONS ON IMPLEMENTATION OF ALTERNATION IN LEVEL OF SELENIUM ALLOWED IN ANIMAL DIETS.

(a) Conditions.—The Food and Drug Administration shall not implement or enforce the final rule described in subsection (b) to alter the level of selenium allowed to be used as a supplement in animal diets unless the Commissioner of the Food and Drug Administration makes a determination that—

(1) selenium additives are not essential, at levels authorized in the absence of such final rule, to maintain animal nutrition and protect animal health;

(2) selenium a such levels is not safe to the animals consuming the additive;

(3) selenium at such levels is not safe to individuals consuming edible portions of animals that receive the additive;

(4) selenium at such levels does not achieve its intended effect of promoting normal growth and reproduction of livestock and poultry; and

(5) the manufacture and use of selenium at such levels cannot reasonably be controlled by adherence to current good manufacturing practice requirements.

(b) FINAL RULE DESCRIBED.—The final rule referred to in subsection (a) is the final rule issued by the Food and Drug Administration and published in the Federal Register on September 13, 1993 (58 Fed. Reg. 47962), in which the Administration stayed 1987 amendments to the selenium food additive regulations, and any modification of such rule issued after the date of the enactment of this Act.

Mr. DE LA GARZA (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DE LA GARZA. Mr. Chairman, I yield to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, we do have back in my community, in my district, quite a presence of farmers. They have continuously expressed support for the bills of the gentleman from Texas, the chairman of the committee. I appreciate the fact that he has included my amendment and is looking at the plight of farmers in the trade issues facing our Nation. I thank the chairman for including my amendment in the en bloc amendments.

Mr. DE LA GARZA. Mr. Chairman, the en bloc amendments include clarifying the process for computer purchases at USDA, the local farmer committees keep the authority to hire an executive director, that committees could not merge unless farmers vote, socially disadvantaged farmers, the National Appeals Division which modernizes it, technical conforming amendments, and the amendment mentioned by the gentleman from Ohio [Mr. TRAFICANT] to buy American equipment.

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Mr. ROBERTS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the chairman's en bloc amendment and wish Members to understand that I know of no other amendments to be offered. So with the completion of the chairman's en bloc amendment I also wish to inform Members that it is not the intention of the minority to call for a recorded vote on final passage. I will yield to the chairman so that he may indicate if that would be his desire as well. Is that what the chairman feels would be the wisest course of action in here?

Mr. DE LA GARZA. If the gentleman will yield, that is always the wisest course to take.

Mr. ROBERTS. I thank the gentleman for his contribution.

I want to say one other thing, Mr. Chairman, I want to thank the chairman for his help, and I want to thank the gentleman from Texas [Mr. STENHOLM] and all of the Members of the majority side and the minority and the House Committee on Agriculture. We have some strong differences of opinion on this bill, and I hope all of the things the chairman and the gentleman from Texas [Mr. STENHOLM] have said will certainly turn out to be accurate, and all of the concerns that we have raised perhaps we can work on.

I do have one other final concern. About 2 months ago when we were considering the reorganization bill, an unfortunate situation happened at the Department of Agriculture, and I am going to make a brief mention of this because I do not want it to happen again. We have many research grants at the Department of Agriculture with the Cooperative State Research Service, the CSRS. These are our land grant schools. These are very valuable research grants that go to graduate students and fund a great deal of agricultural research.

To influence votes on the reorganization bill there was a political hold placed on these research grants, some 350 of them, and an additional warning that 800, 800 of these grants would be under a political hold. It was to influence votes, or at least to try to stir action or to be a catalyst for action on the USDA reorganization bill.

It influenced this Member all right. I really think that this action was unprecedented. It dealt with last year's appropriations, not this year's, and it was not necessary. Quite frankly, it was bush league.

I could go on into considerably more detail, but after consideration by myself, the Department of Agriculture and the gentleman from Oregon [Mr. SMITH], the political hold was lifted. I would hope that in any future debate, whether it be crop insurance reform, or USDA reorganization, or a farm bill, or GATT, or anything, that this kind of action would not be necessary. The P.S. that I put on the letter to Secretary Espy was at any time he could come by my office and discuss any kind of a bill, regardless of our differences, and this kind of action simply was not needed, and it put a lot of people in a very difficult position, and again, it was not necessary.

I think we see today with only one recorded vote on the USDA reorganization that even though we have strong differences of opinion, the Committee on Agriculture will work together, we will always work together.

Again, I appreciate the chairman's leadership in this regard and I support his en bloc amendment.

The CHAIRMAN pro tempore (Mr. MURPHY). The question is on the amendments offered by the gentleman from Texas [Mr. DE LA GARZA].

The amendments were agreed to.

The CHAIRMAN pro tempore. Are there further amendments to the bill?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MCDERMOTT) having assumed the chair, Mr. MURPHY, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3171) to authorize the Secretary of Agriculture to reorganize the Department of Agriculture, and for other purposes, pursuant to House Resolution 544, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole?

If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1970) to authorize the Secretary of Agriculture to reorganize the Department of Agriculture, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The text of the Senate bill is as follows:

S. 1970

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Department of Agriculture Reorganization Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Purpose.
Sec. 3. Definitions.

TITLE I—GENERAL AUTHORITIES OF THE SECRETARY

Sec. 101. Delegation of functions to the Secretary.
Sec. 102. Reorganization.
Sec. 103. Personnel reductions.
Sec. 104. Consolidation of headquarters offices.
Sec. 105. Reports by the Secretary.

TITLE II—NATIONAL APPEALS DIVISION

Sec. 201. Definitions.
Sec. 202. National Appeals Division and Director.
Sec. 203. Transfer of functions.
Sec. 204. Personnel of the Division.
Sec. 205. Notice and opportunity for hearing.
Sec. 206. Informal hearings.
Sec. 207. Rights of participants.
Sec. 208. Division hearings and Director review.
Sec. 209. Judicial review.
Sec. 210. Implementation of final determinations of Division.
Sec. 211. Decisions of State and county committees.
Sec. 212. Prohibition on adverse action while appeal is pending.
Sec. 213. Relationship to other laws.
Sec. 214. Evaluation of agency decisionmakers and other employees.
Sec. 215. Conforming amendments.

TITLE III—FARM AND INTERNATIONAL TRADE SERVICES

Sec. 301. Under Secretary for Farm and International Trade Services.
Sec. 302. Farm Service Agency.
Sec. 303. State and county committees.
Sec. 304. International Trade Service.

TITLE IV—RURAL ECONOMIC AND COMMUNITY DEVELOPMENT

Sec. 401. Under Secretary for Rural Economic and Community Development.
Sec. 402. Rural Utilities Service.
Sec. 403. Rural Housing and Community Development Service.
Sec. 404. Rural Business and Cooperative Development Service.

TITLE V—FOOD, NUTRITION, AND CONSUMER SERVICES
Sec. 501. Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.
Sec. 502. Food and Consumer Service.
Sec. 503. Nutrition Research and Education Service.
TITLE VI—NATURAL RESOURCES AND ENVIRONMENT
Sec. 601. Natural Resources Conservation Service.
Sec. 602. Reorganization of Forest Service.
TITLE VII—MARKETING AND INSPECTION SERVICES
Sec. 701. Grain Inspection, Packers and Stockyards Administration.
TITLE VIII—RESEARCH, ECONOMICS, AND EDUCATION
Sec. 801. Federal Research and Information Service.
Sec. 802. Cooperative State Research and Education Service.
Sec. 803. Agricultural Economics and Statistics Service.
Sec. 804. Program Policy and Coordination Staff.
TITLE IX—FOOD SAFETY
Sec. 901. Food Safety Service.
TITLE X—MISCELLANEOUS
Sec. 1001. Assistant Secretaries of Agriculture.
Sec. 1002. Removal of obsolete provisions.
Sec. 1003. Additional conforming amendments.
Sec. 1004. Termination of authority.
Sec. 1005. Elimination of duplicative inspection requirements.

SEC. 2. PURPOSE.

The purpose of this Act is to provide the Secretary of Agriculture with the necessary authority to streamline and reorganize the Department of Agriculture to achieve greater efficiency, effectiveness, and economies in the organization and management of the programs and activities carried out at the Department.

SEC. 3. DEFINITIONS.

As used in this Act (unless the context clearly requires otherwise):

(1) ADMINISTRATIVE UNIT.—The term "administrative unit" includes—

(A) any office, administration, agency, institute, unit, or organizational entity, or component thereof, except that the term does not include a corporation; and

(B) any county, State, or area committee, as established by the Secretary.

(2) DEPARTMENT.—The term "Department" means the United States Department of Agriculture.

(3) FUNCTION.—The term "function" means an administrative, financial, or regulatory duty of an administrative unit or employee of the Department, including a transfer of funds made available to carry out a function of an administrative unit.

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

TITLE I—GENERAL AUTHORITIES OF THE SECRETARY

SEC. 101. DELEGATION OF FUNCTIONS TO THE SECRETARY.

(a) DELEGATION OF FUNCTIONS.—Except as otherwise provided in this Act and notwithstanding any other provision of law, all functions and all activities, officers, employees, and administrative units of the Department, not vested in the Secretary on the date of enactment of this Act, are delegated to the Secretary.

(b) EXCEPTIONS TO THE DELEGATION.—This section shall not apply to the following functions and administrative units of the Department:

(1) The functions vested in administrative law judges by subchapter II of chapter 5 of title 5, United States Code.

(2) The functions vested in the Inspector General by the Inspector General Act of 1978 (5 U.S.C. App. 3).

(3) The functions vested in the Chief Financial Officer by chapter 9 of subtitle I of title 31, United States Code.

(4) Corporations and the boards of directors and officers of the corporations.

(5) The functions vested in the Alternative Agricultural Research and Commercialization Board by the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5901 et seq.).

SEC. 102. REORGANIZATION.

(a) GENERAL AUTHORITY OF THE SECRETARY.—The Secretary may transfer any function or administrative unit of the Department, including any function or administrative unit delegated to the Secretary by this Act, and any officer or employee of the Department, as the Secretary considers appropriate. The authority established in the preceding sentence includes the authority to establish, consolidate, alter, or discontinue any administrative unit of the Department.

(b) AUTHORITY TO TRANSFER RECORDS, PROPERTY, AND FUNDS.—

(1) IN GENERAL.—Subject to section 1531 of title 31, United States Code, the Secretary may transfer any of the records, property, and unexpended balances (available or to be made available for use in connection with any affected function or administrative unit) of appropriations, allocations, and other funds of the Department, as the Secretary considers necessary to carry out this Act, except as otherwise provided in this section.

(2) USE.—Absent prior approval by law, any unexpended balances transferred pursuant to paragraph (1) shall be used only for the purposes for which the funds were originally made available.

(3) ADDITIONAL AUTHORITY.—The Secretary may make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the functions or administrative units, as the Secretary considers necessary to carry out this Act.

(c) PURPOSE OF THE AUTHORITY.—The Secretary shall carry out subsections (a) and (b) with the goals of simplifying and maximizing the efficiency of the national, State, regional, and local levels of the Department, and of improving the accessibility of farm and other programs at all levels. To the extent practicable, the Secretary shall adapt the administration of the programs to State, regional, and local conditions.

(d) EXHAUSTION OF ADMINISTRATIVE APPEALS.—Notwithstanding any other provision of law, a person shall exhaust all administrative appeal procedures established by the Secretary before the person may bring an action in a court of competent jurisdiction against—

(1) the Secretary;

(2) the Department;

(3) an administrative unit of the Department; or

(4) an employee or agent of an administrative unit of the Department.

(e) CONFORMING AMENDMENTS.—Section 9 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714g) is amended—

(1) in subsection (a), by striking "(a)"; and

(2) by striking subsection (b).

SEC. 103. PERSONNEL REDUCTIONS.

(a) DEFINITIONS.—As used in this section:

(1) FIELD STRUCTURE.—The term "field structure" means the offices, functions, and employee positions of all administrative units of the Department, other than the headquarters offices. The term includes the physical and geographic locations of the units. The term shall not include State, county, or area committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)).

(2) HEADQUARTERS OFFICES.—The term "headquarters offices" means the offices, functions, and employee positions of all administrative units of the Department located or performed in Washington, District of Columbia, or elsewhere, as determined by the Secretary.

(b) EMPLOYEE REDUCTIONS.—Subject to subsection (c), the Secretary shall achieve employee reductions of at least 7,500 staff years within the Department by September 30, 1999.

(c) DISTRIBUTION.—The percentage of employee reductions in the headquarters offices under subsection (b) shall be substantially higher than the percentage of employee reductions in the field structure, as determined by the Secretary.

(d) SCHEDULE.—The personnel reductions under subsections (b) and (c) should be accomplished concurrently in a manner determined by the Secretary.

SEC. 104. CONSOLIDATION OF HEADQUARTERS OFFICES.

The Secretary shall develop and carry out a plan to consolidate offices of administrative units of the Department located in Washington, District of Columbia, subject to the availability of appropriations.

SEC. 105. REPORTS BY THE SECRETARY.

(a) IN GENERAL.—Subject to subsection (b), notwithstanding any other provision of law, the Secretary may, but shall not be required to, prepare and submit any report to Congress or any committee of Congress.

(b) LIMITATION.—For each fiscal year, the Secretary may not prepare and submit more than 30 reports referred to in subsection (a).

(c) SELECTION OF REPORTS.—In consultation with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Secretary shall determine which reports shall be prepared and submitted in accordance with subsection (b).

TITLE II—NATIONAL APPEALS DIVISION

SEC. 201. DEFINITIONS.

As used in this title:

(1) ADVERSE DECISION.—The term "adverse decision" means an administrative decision made by a decisionmaker that is adverse to a participant, including a denial of equitable relief, except that the term shall not include a decision over which the Board of Contract Appeals has jurisdiction. The term shall include the failure of a decisionmaker to issue a decision or otherwise act on the request or right of the participant to participate in, or receive payments, loans, or other benefits under, any of the programs administered by an agency. Notwithstanding section 701(a)(2) of title 5, United States Code, a discretionary decision of the Secretary or the Division shall be reviewable under section 706(2)(A) of such title unless the decision is

generally applicable to all program participants and, as a matter of general applicability, is committed to agency discretion by law within the meaning of section 701(a)(2) of such title.

(2) AGENCY.—The term "agency" means any agency of the Department designated by the Secretary or a successor agency of the Department, except that the term shall include—

(A) ASCS;

(B) CCC, with respect to domestic programs;

(C) FmHA (including rural housing programs);

(D) FCIC;

(E) RDA (including rural housing programs);

(F) SCS; or

(G) a State or county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) or the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

(3) APPELLANT.—The term "appellant" means a participant who appeals an adverse decision in accordance with this title.

(4) ASCS.—The term "ASCS" means the Agricultural Stabilization and Conservation Service or a successor agency.

(5) CASE RECORD.—The term "case record" means all the materials maintained by the Secretary that concern the participant, including any materials related to the adverse decision.

(6) CCC.—The term "CCC" means the Commodity Credit Corporation or a successor agency.

(7) DECISIONMAKER.—The term "decisionmaker" means an officer, employee, or committee of an agency who makes an adverse decision that is appealed by an appellant.

(8) DIRECTOR.—The term "Director" means the Director of the Division.

(9) DIVISION.—The term "Division" means the National Appeals Division established by this title.

(10) EMPLOYEE.—The term "employee" means an individual employed by an agency, including an individual who enters into a contract with an agency to perform services for the agency.

(11) FINAL DETERMINATION.—The term "final determination" means a determination of an appeal by the Division that is administratively final, conclusive, and binding.

(12) FCIC.—The term "FCIC" means the Federal Crop Insurance Corporation or a successor agency.

(13) FMHA.—The term "FmHA" means the Farmers Home Administration or a successor agency.

(14) HEARING OFFICER.—The term "hearing officer" means an individual employed by the Division who hears and determines appeals of adverse decisions by any agency.

(15) HEARING RECORD.—The term "hearing record" means the transcript of a hearing, any audio tape or similar recording of a hearing, any information from the case record that a hearing officer considers relevant or that is raised by the appellant or agency, and all documents and other evidence presented to a hearing officer.

(16) IMPLEMENT; IMPLEMENTATION.—The terms "implement" and "implementation" refer to those actions necessary to effectuate fully and promptly a determination of the Division not later than 30 calendar days after the effective date of the determination.

(17) PARTICIPANT.—The term "participant" means any individual, group of individuals, partnership, corporation, association, cooperative, or other entity whose application for, or right to participate in or receive, payments, loans, or other benefits in accordance with any of the programs administered by an agency, is affected by an adverse decision made by a decisionmaker.

(18) RDA.—The term "RDA" means the Rural Development Administration or a successor agency.

(19) SCS.—The term "SCS" means the Soil Conservation Service or a successor agency.

(20) STATE DIRECTOR.—The term "State director" means the individual who is primarily responsible for carrying out the program of an agency within a State.

SEC. 202. NATIONAL APPEALS DIVISION AND DIRECTOR.

(a) ESTABLISHMENT OF DIVISION.—

(1) ESTABLISHMENT.—The Secretary shall establish and maintain a National Appeals Division within the Office of the Secretary to carry out this title.

(2) APA APPLICATION.—The provisions of title 5, United States Code, shall apply to all appeals of the Division, including chapters 5 and 7 of such title.

(3) PROCEDURAL REGULATIONS AND POLICIES.—The Secretary shall promulgate procedural regulations and policies to govern the conduct of the business of the Division. The Secretary shall ensure and enhance the independence, integrity, and efficiency of the Division, the Director, hearing officers, and other employees of the Division.

(b) DIRECTOR.—

(1) APPOINTMENT.—The Division shall be headed by a Director.

(2) POSITION CLASSIFICATION.—The position of the Director shall be a Senior Executive Service position that shall be filled by a career appointee (as defined in section 3132(a)(4) of title 5, United States Code), who shall not be subject to removal except for cause in accordance with law.

(3) QUALIFICATIONS.—The Director shall be a person who has substantial experience in practicing administrative law. In considering applicants for the position of Director, the Secretary shall consider persons employed outside the Government as well as Government employees.

(4) CONFORMING AMENDMENT.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

"Director, National Appeals Division, Department of Agriculture.".

(c) DIRECTION, CONTROL, AND SUPPORT.—The Director shall be free from the direction and control of any person other than the Secretary. The Division shall not receive administrative support (except on a reimbursable basis) from any agency other than the Office of the Secretary. The Secretary may not delegate to any other officer or employee of the Department, other than the Director, the authority of the Secretary with respect to the Division.

(d) COMMUNICATION WITH SECRETARY AND AGENCIES.—The Director shall inform the Secretary and the appropriate agency of problems regarding the functions of the agency that are identified as a result of the activities of the Division under this title. The information provided by the Director may include proposals to resolve the problems identified or otherwise to improve the programs of the agency.

(e) APPEALABLE DECISIONS.—Subject to section 204(b)(2), if a decisionmaker determines that a decision is not appealable and a participant appeals the decision to the Director, the Director shall determine whether the decision is adverse or of general applicability, and thus appealable. Except for a legal interpretation that may be reversed or modified by the Secretary, the determination of the Director as to whether a decision is appealable shall be administratively final, conclusive, and binding.

(f) OTHER POWERS OF THE DIRECTOR.—The Director may enter into contracts and make other arrangements for reporting and other services and make such payments as may be necessary to carry out this title.

SEC. 203. TRANSFER OF FUNCTIONS.

There are transferred to the Division all functions exercised and all administrative appeals pending before the date of enactment of this Act (including all related functions of any officer or employee) of or relating to—

(1) the National Appeals Division established by section 426(c) of the Agricultural Act of 1949 (7 U.S.C. 1433e(c)) (as in effect before the amendment made by section 215(a)(2));

(2) the National Appeals Division established by subsections (d) through (g) of section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b) (as in effect before the amendment made by section 215(b));

(3) appeals of decisions made by FCIC; and

(4) appeals of decisions made by SCS.

SEC. 204. PERSONNEL OF THE DIVISION.

(a) APPOINTMENT, DIRECTION, AND CONTROL.—The Director shall appoint such hearing officers and other employees as are necessary for the administration of the Division. A hearing officer or other employee of the Division shall have no duties other than those that are necessary to carry out this title. Hearing officers shall be supervised by the Director. All other employees of the Division shall report to the Director.

(b) LEGAL COUNSEL.—

(1) IN GENERAL.—The Director shall employ legal counsel to advise the Director with respect to legal questions affecting the Division. The legal counsel shall not serve as a counsel to any other agency of the Department. This subsection is not intended to affect the role of the Office of General Counsel in representing the Department in civil or criminal actions or as a liaison between the Department and any other Federal agency.

(2) REVIEW BY THE SECRETARY.—If a hearing officer or the Director disagrees with the General Counsel on a matter of legal interpretation with respect to a program or authority of the Department, the Secretary shall have the authority to make a final determination on the interpretation at the request of the General Counsel. The authority of the Secretary under this paragraph may not be delegated.

(c) PERFORMANCE EVALUATIONS.—The Director shall establish policies to provide for the evaluation of the Director, hearing officers, and other employees of the Division who are involved in the appeal process under section 208 or the supervision of other employees. The evaluation process shall be designed to ensure and enhance the independence, integrity, and efficiency of the Director and employees of the Division. The actual evaluations shall include evaluations by individuals outside of the Department and may include peer review.

SEC. 205. NOTICE AND OPPORTUNITY FOR HEARING.

(a) NOTICE REQUIRED.—Not later than 10 working days after an adverse decision is made that is adverse to the participant, the Secretary shall provide the participant with the written notice described in subsection (b).

(b) CONTENT OF NOTICE.—The notice required under subsection (a) shall contain a description of the following:

(1) The decision, including all of the reasons, facts, and conclusions underlying the decision.

(2) The appeal and implementation process available to the participant, including the rights and responsibilities of the participant provided by this title.

(3) An opportunity to request a determination by the Director pursuant to section 202(e) concerning whether a decision is appealable, if the decisionmaker determines that the decision is not appealable.

(c) MAINTENANCE OF RECORDS.—The Secretary and the Director shall maintain the entire case record and hearing record, respectively, and any additional information from any further appeal proceeding, of the participant at least until the expiration of the period during which the participant may seek administrative or judicial review of the determination.

(d) JOINDER.—

(1) GUARANTEED LOANS.—With regard to a guaranteed loan under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), a borrower or applicant who is directly and adversely affected by a decision of the Secretary may appeal the decision pursuant to this title without the lender joining in the appeal.

(2) RENTAL HOUSING.—A tenant in rental housing of an agency who is individually, directly, and adversely affected by a decision of the Secretary may appeal the decision pursuant to this title without the landlord joining in the appeal.

(3) THIRD PARTIES.—If the Director determines that the receipt of a payment, loan, or other direct benefit by a participant may be directly, substantially, and adversely affected by a determination of the Division, a hearing officer may invite the participant to participate in a hearing if the final determination resulting from the hearing would, as a practical matter, foreclose the participant from receiving the payment, loan, or other direct benefit of the participant. If the participant elects to participate in the hearing, the participant shall have the same procedural rights as the appellant with regard to the hearing and other procedures described in this title.

(e) EFFECT OF REVERSAL OR MODIFICATION OF ADVERSE DECISION.—If an adverse decision is reversed or modified by the Division, a decisionmaker may not base any subsequent adverse decision with regard to that appellant on the information that was available to the previous decisionmaker (or could have been available with reasonable diligence on the part of the previous decisionmaker).

SEC. 206. INFORMAL HEARINGS.

If a decisionmaker of an agency makes an adverse decision, the decisionmaker shall hold, at the request of the participant, an informal hearing on the decision.

SEC. 207. RIGHTS OF PARTICIPANTS.

Among other rights, a participant shall have the right, in accordance with this title, to—

(1) appeal any adverse decision;

(2) representation by an attorney or nonattorney throughout the informal hearing and appeals process under this title;

(3) access to, and a reasonable opportunity to inspect and reproduce, the case record at an office of the agency located in the area of the participant; and

(4) an evidentiary hearing.

SEC. 208. DIVISION HEARINGS AND DIRECTOR REVIEW.

(a) POWERS OF DIRECTOR AND HEARING OFFICERS.—To carry out their responsibilities under this section, the Director and hearing officers—

(1) shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available that relate to programs and operations with respect to which an appeal has been taken;

(2) shall have the authorities that are provided under section 202(a)(2);

(3) may request such information or assistance as may be necessary for carrying out the duties and responsibilities established under this title from any Federal, State, or local governmental agency or unit of the agency;

(4) may, or shall at the request of an appellant with good cause shown, require the attendance of witnesses and the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary to the proper resolution of appeals;

(5) may require the attendance of witnesses, and the production of evidence, by subpoena; and

(6) may administer oaths or affirmations.

(b) TIME FOR HEARING.—

(1) IN GENERAL.—Except as provided in paragraph (2), an appellant shall have the right to—

(A) request a hearing, not later than 30 days after the date an adverse decision is made; and

(B) have a hearing by the Division on the adverse decision, not later than 45 days after receipt of the request for the hearing.

(2) REDUCTION OR EXTENSION.—The Director may establish an earlier deadline for a hearing (or request for a hearing) on an appeal relating to a time sensitive decision, or delay a hearing (or request for a hearing), at the request of an appellant for good cause shown.

(c) LOCATION AND ELEMENTS OF HEARING.—

(1) LOCATION.—A hearing on an adverse decision shall be held in the State of residence of the appellant or at a location that is otherwise convenient to the appellant and the Division.

(2) EVIDENTIARY HEARING.—The evidentiary hearing before a hearing officer shall be in person, unless the appellant agrees to a hearing by telephone or by a review of the case record and hearing record. The hearing officer shall conduct and resolve the hearing (regardless of the hearing format) in a fair and impartial manner and free of undue influence. The hearing officer shall not be bound by previous findings of fact by the agency in making a determination.

(3) INFORMATION AT HEARING.—The hearing officer shall consider information, including new information, presented at the hearing without regard to whether the evidence was known to the decisionmaker at the time the adverse decision was made. The hearing officer shall leave the record open after the hearing for a reasonable period of time to allow the submission of information by the appellant or the decisionmaker after the hearing to the extent necessary to prevent the appellant or the decisionmaker from being prejudiced by new facts, information, arguments, or evidence presented or raised by the decisionmaker or appellant. At the hearing, the agency may not rely on or assert new grounds for the adverse decision, if the grounds were not described in the agency decision notice.

(4) BURDEN OF PROOF.—The appellant shall bear the burden of proving that the adverse decision of the agency was erroneous.

(5) PRODUCTION OF RECORD.—An official verbatim record shall be provided by the Division for each hearing before a hearing officer. The appellant or agency representative may record an unofficial record of the hearing.

(6) STANDARD OF REVIEW.—In any case pending before a hearing officer, the hearing officer may determine that the adverse decision was in error only if substantial evidence demonstrates that the adverse decision was not correct. For purposes of this paragraph, the evidentiary threshold for substantial evidence is lower than the evidentiary threshold for preponderance of the evidence.

(7) DETERMINATION NOTICE.—The hearing officer shall issue a notice of the determination on the appeal not later than 30 days after a hearing or after receipt of the request of the appellant to waive a hearing, except that the Director may establish an earlier or later deadline pursuant to subsection (b)(2). The hearing officer may include recommendations in the determination notice. If the determination is not appealed to the Director under subsection (d), the notice provided by the hearing officer shall be considered to be a notice of final determination.

(d) REVIEW BY DIRECTOR.—

(1) REFERRAL.—At the request of the appellant or the head of the agency affected by a determination of a hearing officer, the determination of the hearing officer shall be referred to the Director for review.

(2) APPEAL BY HEAD OF AGENCY TO DIRECTOR.—

(A) REVIEW OF DETERMINATION OF HEARING OFFICER AT THE REQUEST OF AN AGENCY HEAD.—In exceptional circumstances, if the head of an agency believes that the determination of a hearing officer is contrary to a statute or regulation, or a finding of fact of a hearing officer is clearly erroneous, only the head of the agency may make a written request, not later than 10 business days after receipt of the determination, that the Director review the determination.

(B) REQUESTS FOR REVIEW.—A request for review shall—

(i) include a full description of—

(I) the exceptional circumstances justifying the request for review; and

(II) the reasons that the head of the relevant agency believes that the determination is contrary to statute or regulation, or the finding of fact of the hearing officer is clearly erroneous; and

(ii) be provided to the appellant and the hearing officer at the same time the request is provided to the Director.

(C) DETERMINATION OF DIRECTOR.—Not later than 10 business days after receipt of the request for review, the Director shall—

(i) conduct a review of the determination based on the case record and hearing record, the request for review under subsection (b), and any additional arguments or information submitted by the appellant or the hearing officer; and

(ii)(I) issue a final determination notice that upholds, reverses, or modifies the determination of the hearing officer; or

(II) if the Director determines that the hearing record is inadequate, remand the determination for further proceedings to complete the hearing record, or, at the option of the Director, to hold a new hearing, and notify the appellant, agency, and hearing officer of the remand.

(D) NEW HEARING.—If the Director remands a determination for a new hearing on the adverse decision under subparagraph (C), the hearing officer shall make a new determination with respect to the adverse decision based on the case record and the hearing record.

(E) FINALITY.—The head of the relevant agency may not request a second review as to the determination of the hearing officer or the Director on the same issue.

(3) APPEAL BY HEAD OF AGENCY OR APPELLANT TO DIRECTOR.—

(A) USE OF RECORD.—If the determination of a hearing officer is appealed under paragraph (1), the hearing officer shall certify the hearing record and provide the record to the Director.

(B) NEW INFORMATION.—The Director may consider, under extraordinary circumstances, new information in reviewing a determination under this section. The appellant, decisionmaker, and hearing officer shall receive and have the opportunity to comment on the new information.

(C) ACTIONS.—Not later than 30 days after the referral to the Director, the Director shall—

(i) review the hearing record and the determination;

(ii) uphold the determination, issue a new determination, require that a new hearing be held on 1 or more of the issues considered at the original hearing, or take any combination of the actions described in this clause; and

(iii) issue a notice of—

(I) a new evidentiary hearing;

(II) a final determination; or

(III) a remand on certain issues and a final determination on remaining issues.

(D) RECOMMENDATIONS.—The Director may include recommendations in a final determination notice.

(E) RELIEF.—The Director shall have the same authority as the Secretary to grant equitable relief. Notwithstanding the administrative finality of a final determination, the Secretary shall have the authority to grant equitable or other types of relief to the appellant after a final determination is issued by the Division.

(e) BASIS FOR DETERMINATION.—The determination of the hearing officer and the Director shall be based on information from the hearing record, laws applicable to the matter at issue, and applicable regulations published in the Federal Register and in effect on the date of the adverse decision or the date on which the acts that gave rise to the adverse decision occurred, whichever date is appropriate. The Director shall not reverse the determination of a hearing officer with regard to a finding of fact that is based on oral testimony or inspection of evidence unless the finding of fact is clearly erroneous or the Director is considering new information under subsection (d)(3) with respect to the finding of fact.

(f) EFFECTIVE DATE.—The final determination shall be effective as of the date of filing of an application, the date of the transaction or event in question, or the date of the original adverse decision, whichever is applicable.

SEC. 209. JUDICIAL REVIEW.

A final determination of the Division under section 208 shall be reviewable and enforceable by any United States district court of competent jurisdiction in accordance with chapter 7 of title 5, United States Code. Notwithstanding section 701(a)(2) of such title, a discretionary decision of the Secretary or the Division shall be reviewable under section 706(2)(A) of such title unless the decision is generally applicable to all program participants and, as a matter of general applicability, is committed to agency discretion by law within the meaning of section 701(a)(2) of such title.

SEC. 210. IMPLEMENTATION OF FINAL DETERMINATIONS OF DIVISION.

(a) IN GENERAL.—On the return of a case to an agency pursuant to the final determination of a hearing officer or the Director under section 208, the agency shall implement the final determination of the Division not later than 30 days after the effective date of the notice of the final determination.

(b) ADDITIONAL AND UPDATED INFORMATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), after notice of a final determination is received by the agency—

(A) the agency may not require that additional and updated information be provided by the appellant or considered by the decisionmaker in implementing the final determination of the hearing officer or the Director; and

(B) additional and updated information from any other source may not be used in implementing the final determination.

(2) EXCEPTIONS.—

(A) INTRODUCTION BY APPELLANT.—If additional information is introduced by the appellant during the appeal process and accepted by the hearing officer or the Director, the agency shall consider the additional information in implementing the final determination.

(B) DETERMINATION LETTER.—If the final determination notice specifically states that additional and updated information will be considered in implementing the final determination, the agency shall consider any additional and updated information in implementing the final determination.

(C) SUBSEQUENT ADVERSE DECISION.—Additional and updated information considered under this paragraph may not be used as a ground for a subsequent adverse decision.

(c) IMPLEMENTATION RESPONSIBILITIES.—

(1) STATE DIRECTOR.—Each State director shall be—

(A) required to implement final determinations of a hearing officer or the Director that affect appellants in the State; and

(B) responsible for monitoring and ensuring the implementation of final determinations that reverse and modify adverse decisions.

(2) AGENCY HEADS.—Relevant agency heads shall be responsible for—

(A) the performance of State directors under paragraph (1); and

(B) the implementation of all final determinations of the Division that reverse or modify adverse decisions of the agency.

(d) PROTECTION OF APPELLANTS' RIGHTS.—

(1) IN GENERAL.—No officer or employee of the Federal Government shall make or engage in threats or intimidation, or solicit action, to prevent any potential appellant from exercising a right of the appellant under this title or make, solicit, or engage in retaliation or retribution for the exercise of a right of an appellant under this title.

(2) CORRECTIVE ACTION.—If an officer or employee of the Federal Government violates paragraph (1), the Secretary shall take corrective action (including the imposition of sanctions, when necessary) in conformance with civil service laws.

(e) IMPLEMENTATION PROBLEMS.—

(1) ACTIONS BY RELEVANT AGENCY HEAD.—The relevant agency head shall promptly correct any problems that may arise in the implementation of a final determination.

(2) OVERSIGHT.—The Secretary shall assign employees within the Office of the Inspector General whom appellants may contact concerning problems with the implementation of final determinations of the Division. The employees shall investigate and, to the extent practicable, resolve the implementation problems.

(3) IDENTITY AND ACTIVITIES OF OVERSIGHT AGENCY.—The Secretary shall notify the Director of the business address and telephone number of employees assigned under paragraph (2). The Director shall include this information in the final determination notice of the Division to an appellant.

SEC. 211. DECISIONS OF STATE AND COUNTY COMMITTEES.

(a) FINALITY.—Each decision of a State or county committee (or an employee of the committee) that administers functions of CCC, or functions assigned to ASCS on the date of enactment of this Act, made in good faith in the absence of misrepresentation, false statement, fraud, or willful misconduct shall be final not later than 90 days after the date of filing of the application for benefits, unless the decision is—

(1) appealed under this title; or

(2) modified by the Administrator of ASCS or the Executive Vice President of CCC.

(b) RECOVERY OF AMOUNTS.—No action shall be taken by the CCC, ASCS, or a State or county committee to recover amounts found to have been disbursed as a result of a decision in error if the decision of the State or county committee has become final under subsection (a), unless the participant had reason to believe that the decision was erroneous.

SEC. 212. PROHIBITION ON ADVERSE ACTION WHILE APPEAL IS PENDING.

(a) IN GENERAL.—The Secretary may not take any adverse action against an appellant relating to an appeal while any proceeding authorized or required under this title is pending, including any action that would prevent the implementation of a decision that is favorable to the appellant.

(b) WITHHOLDING.—This section shall not preclude the Secretary from withholding a payment if the eligibility for, or amount of, the payment is an issue on appeal, except that ongoing assistance to then current borrowers and grantees shall not be discontinued pending the outcome of an appeal.

SEC. 213. RELATIONSHIP TO OTHER LAWS.

(a) OTHER RIGHTS.—This title is not intended to supersede or deprive a recipient of assistance from an agency of any rights that the recipient may have under any other law, including section 510(g) of the Housing Act of 1949 (42 U.S.C. 1480(g)).

(b) EQUITABLE RELIEF.—This title is not intended to affect the authority of an agency head to grant equitable relief.

(c) EMPLOYEE RIGHTS.—This title shall neither supersede nor interfere with rights granted to employees or their exclusive representatives by applicable civil service laws.

SEC. 214. EVALUATION OF AGENCY DECISIONMAKERS AND OTHER EMPLOYEES.

(a) EVALUATION IN ANNUAL REVIEW.—The Secretary shall promulgate regulations to require the evaluation described in subsection (b) as part of the annual review of the performance of decisionmakers, State directors, and agency heads.

(b) PERFORMANCE.—In the review, a decisionmaker, a State director, or an agency head shall be considered to have performed poorly if the decisionmaker, State director, or agency head—

(1) takes action that leads to numerous appeals that result in adverse decisions that are reversed or modified;

(2) fails to properly implement final determinations of the Division;

(3) fails to satisfactorily perform the reviewing and monitoring responsibilities required under subsection (c) or (e)(1) of section 210, whichever applies; or

(4) threatens or intimidates, or engages in retaliation or retribution against, an appellant in violation of section 210(d).

(c) SANCTIONS.—If a decisionmaker, State director, or relevant agency head has performed poorly (as determined under subsection (b)), the Secretary shall issue sanctions against the decisionmaker, State director, or relevant agency head, as the case may be, which may include a formal reprimand or dismissal consistent with civil service laws.

SEC. 215. CONFORMING AMENDMENTS.

(a) ASCS.—

(1) FINALITY OF FARMERS PAYMENTS AND LOANS.—Section 385 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1385) is amended—

(A) by striking the first sentence and inserting the following new sentence: "As used in this section, the term 'payment' means any payment under the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a et seq.), any payment under the wheat, feed grain, upland cotton, extra long staple cotton, and rice programs authorized by the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) and this Act, or any loan or price support operation, or the amount of the payment, loan, or price support."; and

(B) in the second sentence, by striking "any such payment" and inserting "a payment".

(2) DETERMINATIONS BY SECRETARY; APPEALS.—Sections 412 and 426 of the Agricultural Act of 1949 (7 U.S.C. 1429 and 1433e) are repealed.

(b) FMHA.—Section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b) is repealed.

(c) FCIC.—The last sentence of section 508(f) of the Federal Crop Insurance Act (7 U.S.C. 1508(f)) is amended by inserting before the period at the end the following: "or within 1 year after the claimant receives a final determination notice from an administrative appeal made in accordance with title II of the Department of Agriculture Reorganization Act of 1994, whichever is later".

TITLE III—FARM AND INTERNATIONAL TRADE SERVICES

SEC. 301. UNDER SECRETARY FOR FARM AND INTERNATIONAL TRADE SERVICES.

(a) ESTABLISHMENT.—There is established in the Department the position of Under Secretary of Agriculture for Farm and International Trade Services (referred to in this section as the "Under Secretary"), to be appointed by the President, by and with the advice and consent of the Senate.

(b) DUTIES.—The Under Secretary shall exercise such functions and perform such duties related to farm and international trade services, and shall perform such other duties, as may be required by law or prescribed by the Secretary.

(c) CONTINUITY OF THE POSITION.—Any official serving as Under Secretary for International Affairs and Commodity Programs on the date of enactment of this Act, who has been appointed by the President and confirmed by the Senate, shall be considered on and after the date of enactment of this Act to be serving in the successor position established by subsection (a), and shall not be required to be reconfirmed by reason of the enactment of this Act.

(d) CONFORMING AMENDMENTS.—

(1) Section 5314 of title 5, United States Code, is amended by striking "Under Secretary of Agriculture for International Affairs and Commodity Programs." and inserting "Under Secretary of Agriculture for Farm and International Trade Services.".

(2) Section 501 of the Agricultural Trade Act of 1978 (7 U.S.C. 5691) is repealed.

SEC. 302. FARM SERVICE AGENCY.

(a) ESTABLISHMENT.—The Secretary is authorized to establish and maintain a Farm Service Agency (referred to in this section as the "Agency") and assign to the Agency such functions as the Secretary may consider appropriate.

(b) HEAD.—

(1) AGENCY.—If the Secretary establishes the Agency, the Agency or any successor administrative unit shall be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) FCIC.—The Secretary may appoint the Administrator of the Agency, or any other person, to serve as head of the Federal Crop Insurance Corporation.

(c) FUNCTIONS.—Except as provided in subsection (d), the Secretary is authorized to carry out through the Agency—

(1) price and income support, production adjustment, and other related functions;

(2) functions of the Federal Crop Insurance Corporation;

(3) notwithstanding section 331 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981), agricultural credit functions assigned prior to the date of enactment of this Act to the Farmers Home Administration, including farm ownership, operating, emergency, and disaster loan functions, and other lending programs for producers of agricultural commodities; and

(4) any other function or administrative unit that the Secretary considers appropriate.

(d) FUNCTIONS NOT ASSIGNABLE TO THE AGENCY.—Except as otherwise determined by the Secretary, functions relating to conservation programs authorized to be assigned to the Natural Resources Conservation Service established under section 601 may not be assigned to the Agency.

(e) USE OF EMPLOYEES.—Notwithstanding any other provision of law, in carrying out in any county or area any functions assigned to the Agency or any successor administrative area, the Secretary is authorized to—

(1) use interchangeably, in the implementation of functions, Federal employees, and employees of county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)); and

(2) provide interchangeably for supervision by the employees of the performance of functions assigned to the Agency.

(f) COLLOCATION.—The Secretary, to the maximum extent practicable, shall collocate county offices of the Agency with county offices of the Natural Resources Conservation Service in order to—

(1) maximize savings from shared equipment, office space, and administrative support;

(2) simplify paperwork and regulatory requirements;

(3) provide improved services to producers and landowners affected by programs administered by the Agency and the Service; and

(4) achieve computer compatibility between the Agency and the Service to maximize efficiency and savings.

(g) CONTINUITY OF THE POSITION.—Any official serving on the date of enactment of this Act, who has been appointed by the President and confirmed by the Senate, shall not be required to be reconfirmed by reason of the enactment of this Act.

(h) CONFORMING AMENDMENTS.—

(1) The second sentence of section 505(a) of the Federal Crop Insurance Act (7 U.S.C. 1505(a)) is amended by striking "the Under Secretary or Assistant Secretary of Agriculture responsible for the farm credit programs of the Department of Agriculture," and inserting "one additional Under or Assistant Secretary of Agriculture, as designated by the Secretary,".

(2) Section 507(d) of the Federal Crop Insurance Act (7 U.S.C. 1507(d)) is amended by striking "section 516 of this Act," and all that follows through the period at the end of the subsection and inserting "section 516.".

(3) Section 331(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981(a)) is amended by striking "assets to the Farmers Home Administration" and all that follows through the period at the end of the subsection and inserting "assets to such officers or administrative units of the Department of Agriculture as the Secretary may consider appropriate.".

SEC. 303. STATE AND COUNTY COMMITTEES.

Section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) is amended—

(1) by designating the first through eighth undesignated paragraphs as paragraphs (1) through (8), respectively; and

(2) in paragraph (5) (as so designated) by adding at the end the following new sentence: "The Secretary is authorized, after consultation with the State committee of the State in which the affected counties are located, to terminate, combine, and consolidate two or more county committees established under this subsection.".

SEC. 304. INTERNATIONAL TRADE SERVICE.

(a) ESTABLISHMENT.—The Secretary is authorized to establish and maintain an International Trade Service (referred to in this section as the "Service") and to assign to the Service such functions or administrative units as the Secretary may consider appropriate and consistent with this Act.

(b) HEAD.—If the Secretary establishes the Service, the Service or any successor administrative unit shall be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) FUNCTIONS.—The Secretary is authorized to carry out, through the Service or through such other officers or administrative units as the Secretary may consider appropriate, programs and activities involving—

(1) the acquisition of information pertaining to agricultural trade;

(2) market promotion and development;

(3) promotion of exports of United States agricultural commodities;

(4) administration of international food assistance; and

(5) international development, technical assistance, and training.

(d) CONTINUITY OF THE POSITION.—Any official serving on the date of enactment of this Act, who has been appointed by the President and confirmed by the Senate, shall not be required to be reconfirmed by reason of the enactment of this Act.

(e) CONFORMING AMENDMENTS.—Sections 502 and 503 of the Agricultural Trade Act of 1978 (7 U.S.C. 5692 and 5693) are repealed.

TITLE IV—RURAL ECONOMIC AND COMMUNITY DEVELOPMENT

SEC. 401. UNDER SECRETARY FOR RURAL ECONOMIC AND COMMUNITY DEVELOPMENT.

(a) ESTABLISHMENT.—Subsection (a) of section 3 of the Rural Development Policy Act of 1980 (7 U.S.C. 2211b) is amended to read as follows:

"(a)(1) There is established in the Department of Agriculture the position of Under Secretary of Agriculture for Rural Economic and Community Development to be appointed by the President, by and with the advice and consent of the Senate.

"(2) The Under Secretary of Agriculture for Rural Economic and Community Development shall exercise such functions and perform such duties related to rural economic and community development, and shall perform such other duties, as may be required by law or prescribed by the Secretary of Agriculture.".

(b) Continuity of Position.—Any official serving as Under Secretary of Agriculture for Small Community and Rural Development on the date of enactment of this Act, after appointment by the President, by and with the advice and consent of the Senate, shall be considered after the date of enactment of this Act to be serving in the successor position established by the amendment made by subsection (a), and shall not be required to be reconfirmed by reason of the enactment of this Act.

(c) Conforming Amendment.—Section 5314 of title 5, United States Code, is amended by striking "Under Secretary of Agriculture for Small Community and Rural Development." and inserting "Under Secretary of Agriculture for Rural Economic and Community Development.".

SEC. 402. RURAL UTILITIES SERVICE.

(a) Establishment.—Notwithstanding section 364 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006f) and any other provision of law, the Secretary is authorized to establish and maintain within the Department the Rural Utilities Service (referred to in this section as the "Service") and to assign to the Service such functions and administrative units as the Secretary may consider appropriate.

(b) Head.—If the Secretary establishes the Service, the Service or any successor administrative unit shall be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) Functions.—The Secretary may carry out through the Service, or through any other officer or administrative unit as the Secretary may consider appropriate—

(1) electric and telephone loan programs and water and waste facility activities authorized by law, including—

(A) the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.); and

(B) section 2322 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1926–1); and

(2) water and waste facility programs and activities authorized by law, including—

(A) sections 306, 306A, 306B, and 306C, the provisions of sections 309 and 309A relating to assets, terms, and conditions of water and sewer programs, section 310B(b)(2), and the amendment made by section 342 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926, 1926a, 1926b, 1926c, 1929, 1929a, 1932(b)(2), and 1013a); and

(B) section 2324 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1926 note).

(d) Continuity of the Position.—Any official serving on the date of enactment of this Act, who has been appointed by the President and confirmed by the Senate, shall not be required to be reconfirmed by reason of the enactment of this Act.

(e) Conforming Amendments to the Rural Electrification Act.—

(1) The first section of the Rural Electrification Act of 1936 (7 U.S.C. 901) is amended by striking "there is" and all that follows through "This Act" and inserting "this Act".

(2) Section 2 of such Act (7 U.S.C. 902) is amended by striking "Administrator" and inserting "Secretary of Agriculture".

(3) Section 3(a) of such Act (7 U.S.C 903(a)) is amended—

(A) by striking "Administrator, upon the request and approval of the Secretary of Agriculture," and inserting "Secretary,"; and

(B) by striking "Administrator appointed pursuant to the provisions of this Act or from the Administrator of the Rural Electrification Administration established by Executive Order Numbered 7037" and inserting "Secretary".

(4) Section 8 of such Act (7 U.S.C. 908) is amended—

(A) in the first sentence, by striking "Administrator authorized to be appointed by this Act" and inserting "Secretary"; and

(B) in the second sentence, by striking "Rural Electrification Administration created by this Act" and inserting "Secretary".

(5) Section 11A of such Act (7 U.S.C. 911a) is repealed.

(6) Section 13 of such Act (7 U.S.C. 913) is amended by inserting before the period the following: "; and the term 'Secretary' means the Secretary of Agriculture".

(7) Sections 206(b)(2), 306A(b), 311, and 405(b)(1)(A) of such Act (7 U.S.C. 927(b)(2), 936a(b), 940a, and 945(b)(1)(A)) are amended by striking "Rural Electrification Administration" each place it appears and inserting "Secretary".

(8) Section 403(b) of such Act (7 U.S.C. 943(b)) is amended by striking "Rural Electrification Administration or of any other agency of the Department of Agriculture," and inserting "Secretary".

(9) Section 404 of such Act (7 U.S.C. 944) is amended by striking "the Administrator of the Rural Electrification Administration" and inserting "the Secretary of Agriculture shall designate an official of the Department of Agriculture who".

(10) Sections 406(c) and 410(a)(1) of such Act (7 U.S.C. 946(c) and 950) are amended by striking "Administrator of the Rural Electrification Administration" each place it appears and inserting "Secretary".

(11) Such Act (7 U.S.C. 901 et seq.) is amended by striking "Administrator" each place it appears and inserting "Secretary".

(f) Miscellaneous Conforming Amendments.—

(1) Section 236(a) of the Disaster Relief Act of 1970 (7 U.S.C. 912a) is amended by striking "Rural Electrification Administration" and inserting "Secretary pursuant to the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.)".

(2) The second undesignated paragraph of section 401 of the Rural Electrification Act of 1938 (52 Stat. 818; 7 U.S.C. 903 note) is amended by striking "Administrator of the Rural Electrification Administration" and inserting "Secretary of Agriculture".

(3) Section 15 of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 915) is amended by striking "Rural Electrification Administration" and inserting "Secretary".

(4)(A) Section 2333 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa–2) is amended—

(i) by striking paragraph (1); and

(ii) by redesignating paragraphs (2) through (11) as paragraphs (1) through (10), respectively.

(B) Chapter 1 of subtitle D of title XXIII of such Act (7 U.S.C. 950aaa et seq.) is amended by striking "Administrator" each place it appears and inserting "Secretary".

SEC. 403. RURAL HOUSING AND COMMUNITY DEVELOPMENT SERVICE.

(a) Establishment.—Notwithstanding section 364 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006f) and any other provision of law, the Secretary is authorized to establish and maintain within the Department the Rural Housing and Community Development Service (referred to in this section as the "Service") and to assign to the Service such functions as the Secretary may consider appropriate.

(b) Functions.—The Secretary is authorized to carry out through the Service, or through any other officer or administrative unit as the Secretary may consider appropriate—

(1) programs and activities under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.);

(2) programs and activities authorized under section 310B(i) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(i)) and related provisions of law; and

(3) programs and activities that relate to rural community lending programs, including programs authorized by sections 365 through 369 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008 through 2008d).

SEC. 404. RURAL BUSINESS AND COOPERATIVE DEVELOPMENT SERVICE.

(a) Establishment.—Notwithstanding section 364 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006f) and any other provision of law, the Secretary is authorized to establish and maintain within the Department the Rural Business and Cooperative Development Service (referred to in this section as the "Service"), and to assign to the Service such functions as the Secretary may consider appropriate.

(b) Functions.—The Secretary is authorized to carry out through the Service, or through any other officer or administrative unit as the Secretary may consider appropriate, programs and activities, including—

(1) section 313 and title V of the Rural Electrification Act of 1936 (7 U.S.C. 940c and 950aa et seq.);

(2) subtitle G of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5901 et seq.);

(3) sections 306(a)(1) and 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1) and 1932);

(4) section 1323 of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1932 note); and

(5) the Act of July 2, 1926 (44 Stat. 802, chapter 725; 7 U.S.C. 451 et seq.).

TITLE V—FOOD, NUTRITION, AND CONSUMER SERVICES

SEC. 501. UNDER SECRETARY OF AGRICULTURE FOR FOOD, NUTRITION, AND CONSUMER SERVICES.

(a) Establishment.—There is established in the Department the position of Under Secretary of Agriculture for Food, Nutrition, and Consumer Services to be appointed by the President, by and with the advice and consent of the Senate.

(b) Duties.—The Under Secretary of Agriculture for Food, Nutrition, and Consumer Services shall exercise such functions and perform such duties related to food, nutrition, and consumer services, and shall perform such other duties, as may be required by law or prescribed by the Secretary.

(c) Continuity of the Position.—Any official serving as Assistant Secretary of Agriculture for Food and Consumer Services on the date of enactment of this Act, after appointment by the President, by and with the advice and consent of the Senate, shall be considered to be serving in the successor position established by subsection (a), and shall not be required to be reconfirmed by reason of the enactment of this Act.

(d) CONFORMING AMENDMENT.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.".

SEC. 502. FOOD AND CONSUMER SERVICE.

(a) ESTABLISHMENT.—The Secretary is authorized to establish and maintain within the Department the Food and Consumer Service (referred to in this section as the "Service") and to assign to the Service such functions as the Secretary may consider appropriate.

(b) FUNCTIONS.—The Secretary is authorized to carry out through the Service, or through any other officer or administrative unit as the Secretary may consider appropriate, programs and activities, including—

(1) the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

(2) the National School Lunch Act (42 U.S.C. 1751 et seq.); and

(3) the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq).

SEC. 503. NUTRITION RESEARCH AND EDUCATION SERVICE.

(a) ESTABLISHMENT.—The Secretary is authorized to establish and maintain within the Department the Nutrition Research and Education Service (referred to in this section as the "Service") and to assign to the Service such functions as the Secretary may consider appropriate.

(b) FUNCTIONS.—The Secretary is authorized to carry out through the Service, or through any other officer or administrative unit as the Secretary may consider appropriate, programs and activities relating to human nutrition research and education.

TITLE VI—NATURAL RESOURCES AND ENVIRONMENT

SEC. 601. NATURAL RESOURCES CONSERVATION SERVICE.

(a) ESTABLISHMENT.—The Secretary is authorized to establish and maintain within the Department the Natural Resources Conservation Service (referred to in this section as the "Service") and to assign to the Service such functions as the Secretary may consider appropriate.

(b) FUNCTIONS.—The Secretary is authorized to carry out through the Service, or through any other officer or administrative unit of the Department as the Secretary may consider appropriate, programs and activities, including—

(1) title X of the Agricultural Act of 1970 (16 U.S.C. 1501 et seq.);

(2) the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a et seq.);

(3) the Water Bank Act (16 U.S.C. 1301 et seq.);

(4) section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103);

(5) title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.);

(6) title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 et seq.);

(7) section 202(c) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592(c)); and

(8) the Farms for the Future Act of 1990 (7 U.S.C. 4201 note).

(c) USE OF EMPLOYEES.—Notwithstanding any other provision of law, in carrying out in any county or area any functions assigned to the Service or any successor administrative unit, the Secretary is authorized to—

(1) use interchangeably, in the implementation of functions, Federal employees, and employees of county and area committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)); and

(2) provide interchangeably for supervision by the employees of the performance of functions assigned to the Service.

(d) AGRICULTURAL CONSERVATION PROGRAM.—In carrying out the Agricultural Conservation Program, the Secretary shall—

(1) acting on the recommendations of the Service, with the concurrence of the Farm Service Agency, issue regulations to carry out the program; and

(2) use a county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to make the final decision on which applicants are eligible to receive cost share assistance under the program based on priorities and guidelines established at the national and State levels by the Service.

(e) CONFORMING AMENDMENTS.—

(1) Section 5 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590e) is repealed.

(2)(A) Section 2(2) of the Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2001(2)) is amended by striking "the Soil Conservation Service of".

(B) Section 3(2) of such Act (16 U.S.C. 2002(2)) is amended by striking "through the Soil Conservation Service".

(C) The first sentence of section 6(a) of such Act (16 U.S.C. 2005(a)) is amended by striking "Soil Conservation Service" and inserting "Secretary".

SEC. 602. REORGANIZATION OF FOREST SERVICE.

(a) IN GENERAL.—Reorganization proposals that are developed by the Secretary to carry out the designation by the President of the Forest Service as a Reinvention Lab pursuant to the National Performance Review (September 1993) shall include proposals for—

(1) reorganizing the Service in a manner that is consistent with the principles of interdisciplinary planning;

(2) redefining and consolidating the mission and roles of, and research conducted by, employees of the Service in connection with the National Forest System and State and private forestry to facilitate interdisciplinary planning and to eliminate functionalism;

(3) reforming the budget structure of the Service to support interdisciplinary planning, including reducing the number of budget line items;

(4) defining new measures of accountability so that Congress may meet the constitutional obligation of Congress to oversee the Service;

(5) achieving structural and organizational consolidations;

(6) to the extent practicable, sharing office space, equipment, vehicles, and electronic systems with other administrative units of the Department and other Federal field offices, including proposals for using an on-line system by all administrative units of the Department to maximize administrative efficiency; and

(7) reorganizing the Service in a manner that will result in a larger percentage of employees of the Service being retained at organizational levels below regional offices, research stations, and the area office of the Service.

(b) REPORT.—Not later than March 31, 1995, the Secretary shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that describes actions taken to carry out subsection (a) and identifies any disparities in regional funding patterns and the rationale behind the disparities.

TITLE VII—MARKETING AND INSPECTION SERVICES

SEC. 701. GRAIN INSPECTION, PACKERS AND STOCKYARDS ADMINISTRATION.

(a) ESTABLISHMENT.—The Secretary is authorized to establish and maintain within the Department the Grain Inspection, Packers and Stockyards Administration (referred to in this section as the "Administration") and to assign to the Administration such functions as the Secretary may consider appropriate.

(b) FUNCTIONS.—The Secretary is authorized to carry out through the Administration, or through any other officer or administrative unit as the Secretary may consider appropriate, programs and activities authorized under—

(1) the United States Grain Standards Act (7 U.S.C. 71 et seq.); and

(2) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.).

(c) CONFORMING AMENDMENTS.—

(1)(A) Section 3 of the United States Grain Standards Act (7 U.S.C. 75) is amended—

(i) by striking subsections (z) and (aa); and

(ii) by redesignating subsection (bb) as subsection (z).

(B) Section 3A of such Act (7 U.S.C. 75a) is repealed.

(C) Section 5(b) of such Act (7 U.S.C. 77(b)) is amended by striking "Service employees" and inserting "employees of the Secretary".

(D) The first sentences of each of sections 7(j)(2) and 7A(l)(2) of such Act (7 U.S.C. 79(j)(2) and 79a(*l*)(2), respectively) are amended by striking "supervision by Service personnel of its field office personnel" and inserting "supervision by the Secretary of the field office personnel of the Secretary".

(E) Section 12 of such Act (7 U.S.C. 87a) is amended—

(i) in the first sentence of subsection (c), by striking "or Administrator"; and

(ii) in subsection (d), by striking "or the Administrator".

(F) Such Act (7 U.S.C. 71 et seq.) is amended by striking "Administrator" and "Service" each place either term appears and inserting "Secretary".

(2) Section 407 of the Packers and Stockyards Act, 1921 (7 U.S.C. 228) is amended—

(A) by striking subsection (b);

(B) by redesignating subsections (c) through (f) as subsections (b) through (e), respectively; and

(C) in subsection (e) (as so designated), by striking "subsection (e)" and inserting "subsection (d)".

TITLE VIII—RESEARCH, ECONOMICS, AND EDUCATION

SEC. 801. FEDERAL RESEARCH AND INFORMATION SERVICE.

(a) ESTABLISHMENT.—The Secretary is authorized to establish and maintain within the Department the Federal Research and Information Service (referred to in this section as the "Service") and to assign to the Service such functions as the Secretary may consider appropriate.

(b) FUNCTIONS.—The Secretary is authorized to carry out through the Service, or through any other officer or administrative unit as the Secretary may consider appropriate, programs and activities, including—

(1) agricultural research; and

(2) agricultural information and library services.

SEC. 802. COOPERATIVE STATE RESEARCH AND EDUCATION SERVICE.

(a) ESTABLISHMENT.—The Secretary is authorized to establish and maintain within the Department the Cooperative State Research and Education Service (referred to in this section as the "Service") and to assign to the Service such functions as the Secretary may consider appropriate.

(b) FUNCTIONS.—The Secretary is authorized to carry out through the Service programs and activities, including—

(1) cooperative research programs; and

(2) agricultural extension and education programs.

SEC. 803. AGRICULTURAL ECONOMICS AND STATISTICS SERVICE.

(a) ESTABLISHMENT.—The Secretary may establish and maintain within the Department the Agricultural Economics and Statistics Service (referred to in this section as the "Service") and to assign to the Service such functions as the Secretary may consider appropriate.

(b) FUNCTIONS.—The Secretary may carry out through the Service, or through any other officer or administrative unit as the Secretary may consider appropriate, programs and activities, including—

(1) economic analysis and research;

(2) energy-related programs;

(3) crop and livestock estimates; and

(4) agricultural statistics.

(c) STATE AND LOCAL STATISTICAL OFFICES AND PERSONNEL.—The authority provided by subsections (a) and (b) shall not authorize a substantial change in the functions or structures of State and local statistical offices and employees of the offices.

SEC. 804. PROGRAM POLICY AND COORDINATION STAFF.

(a) ESTABLISHMENT.—The Secretary is authorized to establish and maintain within the Department the Program Policy and Coordination Staff (referred to in this section as the "Staff") and to assign to the Staff such functions as the Secretary may consider appropriate.

(b) FUNCTIONS.—If the Staff is established and maintained, the Staff shall provide common program policy development for the Federal Research and Information Service, the Cooperative State Research and Education Service, and the Agricultural Economics and Statistics Service.

(c) COMPOSITION.—Not less than 50 percent of the employees of the Staff shall be former employees of the Cooperative State Research Service and the Extension Service, as in existence on the date of enactment of this Act.

(d) RELATIONSHIP TO FUNCTIONS CURRENTLY PERFORMED BY NASS.—The Staff may not—

(1) interfere with statistic collection and reporting; or

(2) compromise the independence or integrity of statistic collection and reporting functions of the National Agricultural Statistics Service as in effect on the date of enactment of this Act.

TITLE IX—FOOD SAFETY

SEC. 901. FOOD SAFETY SERVICE.

(a) MEAT INSPECTION.—The Federal Meat Inspection Act (21 U.S.C. 601 et seq.) is amended by adding at the end the following new title:

"TITLE V—FOOD SAFETY SERVICE

"SEC. 501. FOOD SAFETY SERVICE.

"(a) IN GENERAL.—The Secretary shall establish and maintain within the United States Department of Agriculture the Food Safety Service (referred to in this section as the 'Service') and to assign to the Service such functions as the Secretary may consider appropriate.

"(b) ASSISTANT SECRETARY FOR FOOD SAFETY.—

"(1) APPOINTMENT.—There shall be in the Service the position of Assistant Secretary for Food Safety (referred to in this section as the 'Assistant Secretary'), who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) CONTINUITY OF THE POSITION.—Any official serving on the date of enactment of this section, who has been appointed by the President and confirmed by the Senate, shall not be required to be reconfirmed by reason of the enactment of this Act.

"(3) RELATIONSHIP TO THE SECRETARY.—The Assistant Secretary shall report directly to the Secretary.

"(4) GENERAL POWERS.—The Secretary is authorized to carry out, through the Service or through such other officers or administrative units as the Secretary may consider appropriate, programs and activities involving food safety under this Act and the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), including—

"(A) providing overall direction to the Service and establishing and implementing general policies concerning the management and operation of programs and inspection activities of the Service;

"(B) coordinating and overseeing the operation of all administrative entities within the Service;

"(C) research and inspection relating to meat, meat food products, poultry, and poultry products in carrying out this Act and the Poultry Products Inspection Act;

"(D) conducting educational and public information programs relating to the responsibilities of the Service; and

"(E) performing such other functions related to food safety as the Secretary may prescribe, except that only programs and activities related to food safety, as determined by the Secretary, shall be administered through the Service.

"(c) TECHNICAL AND SCIENTIFIC REVIEW GROUPS.—The Secretary, acting through the Assistant Secretary, may, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates—

"(1) establish such technical and scientific review groups as are needed to carry out the functions of the Service, including functions under this Act and under the Poultry Products Inspection Act (21 U.S.C. 451 et seq.); and

"(2) appoint and pay the members of the groups, except that officers and employees of the United States shall not receive additional compensation for service as a member of a group.".

(b) POULTRY PRODUCTS INSPECTION.—The Poultry Products Inspection Act (21 U.S.C. 451 et seq.) is amended—

(1) by redesignating section 29 as section 30; and

(2) by inserting after section 28 the following new section:

"SEC. 29. ADMINISTRATION.

"The Secretary shall administer this Act through the Assistant Secretary for Food Safety of the Food Safety Service established under section 501 of the Federal Meat Inspection Act.".

TITLE X—MISCELLANEOUS

SEC. 1001. ASSISTANT SECRETARIES OF AGRICULTURE.

(a) ESTABLISHMENT.—There are established in the Department six positions of Assistant Secretary of Agriculture, each to be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS.—Each Assistant Secretary of Agriculture shall exercise such functions and perform such duties as may be required by law or prescribed by the Secretary, and shall receive compensation at the rate prescribed by law for an Assistant Secretary of Agriculture. The compensation of any person serving as an Administrator shall not be raised by this Act.

(c) CONFORMING AMENDMENTS.—

(1) Section 2 of the Act of February 9, 1889 (25 Stat. 659, chapter 122; 7 U.S.C. 2212), is repealed.

(2) Section 604 of the Rural Development Act of 1972 (7 U.S.C. 2212a) is amended by striking subsection (a).

(3) Section 2 of Public Law No. 94-561 (7 U.S.C. 2212b) is repealed.

(4) Section 1413 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3128) is amended by striking subsection (d).

(5) Section 8 of the International Carriage of Perishable Foodstuffs Act (7 U.S.C 2212c) is amended by striking subsection (a).

(d) CONTINUITY OF POSITIONS.—Notwithstanding subsections (a) and (b) and the amendments made by subsection (c), any official serving in any of the positions referred to in this section on the date of enactment of this Act, after appointment by the President, by and with the advice and consent of the Senate, shall be considered after the date of enactment of this Act to be serving in the successor positions established by subsection (a) and shall not be required to be reappointed by reason of the enactment of this Act.

(e) ADDITIONAL CONFORMING AMENDMENTS.—Section 5315 of title 5, United States Code, is amended—

(1) by striking "Assistant Secretaries of Agriculture (7)" and inserting "Assistant Secretaries of Agriculture (six)"; and

(2) by adding at the end the following:

"Administrator, Farm Service Agency, Department of Agriculture.

"Administrator, International Trade Service, Department of Agriculture.

"Administrator, Rural Utilities Service, Department of Agriculture.".

SEC. 1002. REMOVAL OF OBSOLETE PROVISIONS.

Section 5316 of title 5, United States Code, is amended—

(1) by striking "Administrator, Agricultural Marketing Service, Department of Agriculture.";

(2) by striking "Administrator, Agricultural Research Service, Department of Agriculture.";

(3) by striking "Administrator, Agricultural Stabilization and Conservation Service, Department of Agriculture.";

(4) by striking "Administrator, Farmers Home Administration.";

(5) by striking "Administrator, Foreign Agricultural Service, Department of Agriculture.";

(6) by striking "Administrator, Rural Electrification Administration, Department of Agriculture.";

(7) by striking "Administrator, Soil Conservation Service, Department of Agriculture.";

(8) by striking "Chief Forester of the Forest Service, Department of Agriculture.";

(9) by striking "Director of Science and Education, Department of Agriculture.";

(10) by striking "Administrator, Animal and Plant Health Inspection Service, Department of Agriculture."; and

(11) by striking "Administrator, Federal Grain Inspection Service, Department of Agriculture.".

SEC. 1003. ADDITIONAL CONFORMING AMENDMENTS.

Not later than 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to Congress recommended legislation containing additional technical and conforming amendments to Federal law that are necessary as a result of the enactment of this Act.

SEC. 1004. TERMINATION OF AUTHORITY.

(a) IN GENERAL.—Subject to subsection (b), the authority delegated to the Secretary by this Act to reorganize the Department shall terminate on the date that is 2 years after the date of enactment of this Act.

(b) FUNCTIONS.—Subsection (a) shall not affect—

(1) the authority of the Secretary to continue to carry out a function that the Secretary performs on the date that is 2 years after the date of enactment of this Act; or

(2) the authority delegated to the Secretary under Reorganization Plan No. 2 of 1953 (5 U.S.C. App. 1).

SEC. 1005. ELIMINATION OF DUPLICATIVE INSPECTION REQUIREMENTS.

(a) IN GENERAL.—The Secretary of Agriculture shall—

(1) eliminate inspections of pilots and aircraft by the Department of Agriculture;

(2) develop with the Administrator of the Federal Aviation Administration inspection specifications and procedures by which aircraft and pilots contracted by the United States Department of Agriculture will be inspected. The Administrator will ensure that the inspection specifications and procedures are met; and

(3) permit the utilization by the Department of Agriculture of inspections and certifications of pilots and aircraft conducted by the Federal Aviation Administration.

(b) APPLICABILITY.—An inspection requirement shall be eliminated pursuant to subsection (a)(1) only if the pilots and aircraft are inspected by the Federal Aviation Administration for compliance with the safety regulations of the Federal Aviation Regulations.

MOTION OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DE LA GARZA moves to strike out all after the enacting clause of S. 1970 and insert in lieu thereof the provisions of H.R. 3171 as passed by the House, as follows:

Resolved, That the bill from the Senate (S. 1970) entitled "An Act to authorize the Secretary of Agriculture to reorganize the Department of Agriculture, and for other purposes", do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Department of Agriculture Reorganization Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Definitions.

TITLE I—GENERAL REORGANIZATION AUTHORITIES

Sec. 101. Transfer of Department functions to Secretary of Agriculture.
Sec. 102. Reductions in number of Department personnel.
Sec. 103. Combination of field offices.
Sec. 104. Improvement of information sharing.
Sec. 105. Director of External Affairs.
Sec. 106. Director for Administration.

TITLE II—FARM AND FOREIGN AGRICULTURAL SERVICES

Sec. 201. Under Secretary of Agriculture for Farm and Foreign Agricultural Services.
Sec. 202. Agricultural Service Agency.
Sec. 203. State, county, and area committees.

TITLE III—RURAL ECONOMIC AND COMMUNITY DEVELOPMENT

Sec. 301. Under Secretary of Agriculture for Rural Economic and Community Development.

TITLE IV—FOOD, NUTRITION, AND CONSUMER SERVICES

Sec. 401. Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.

TITLE V—NATURAL RESOURCES AND ENVIRONMENT

Sec. 501. Under Secretary of Agriculture for Natural Resources and Environment.

TITLE VI—RESEARCH, EDUCATION, AND ECONOMICS

Sec. 601. Under Secretary of Agriculture for Research, Education, and Economics.

TITLE VII—FOOD SAFETY

Sec. 701. Under Secretary of Agriculture for Food Safety.

TITLE VIII—NATIONAL APPEALS DIVISION

Sec. 801. Definitions.
Sec. 802. National Appeals Division and Director.
Sec. 803. Transfer of functions.
Sec. 804. Notice and opportunity for hearing.
Sec. 805. Informal hearings.
Sec. 806. Right of participants to division hearing.
Sec. 807. Division hearings.
Sec. 808. Director review of determinations of hearing officers.
Sec. 809. Judicial review.
Sec. 810. Implementation of final determinations of division.
Sec. 811. Conforming amendments relating to National Appeals Division.
Sec. 812. Expansion of issues covered by State mediation programs.

TITLE IX—MISCELLANEOUS PROVISIONS

Sec. 901. Successorship provisions relating to bargaining units and exclusive representatives.
Sec. 902. Office of environmental risk assessment.
Sec. 903. Fair and equitable treatment of socially disadvantaged producers.
Sec. 904. Repeal of superseded provisions.
Sec. 905. Conforming amendments.
Sec. 906. Proposed conforming amendments.
Sec. 907. Purchase of American-made equipment and products.
Sec. 908. Conditions on implementation of alteration in level of selenium allowed in animal diets.

SEC. 2. DEFINITIONS.

Except where the context requires otherwise, for purposes of this Act:

(1) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(2) NATIONAL APPEALS DIVISION.—The term "National Appeals Division" means the National Appeals Division of the Department established under section 802.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

TITLE I—GENERAL REORGANIZATION AUTHORITIES

SEC. 101. TRANSFER OF DEPARTMENT FUNCTIONS TO SECRETARY OF AGRICULTURE.

(a) TRANSFER OF FUNCTIONS.—Except as provided in subsection (b), there are hereby transferred to the Secretary of Agriculture all functions of all agencies, offices, officers, and employees of the Department that are not already vested in the Secretary as of the date of the enactment of this Act.

(b) EXCEPTIONS.—Subsection (a) shall not apply to the following functions:

(1) Functions vested by subchapter II of chapter 5 of title 5, United States Code, in administrative law judges employed by the Department.

(2) Functions vested by the Inspector General Act of 1978 (5 U.S.C. App.) in the Inspector General of the Department.

(3) Functions vested by chapter 9 of title 31, United States Code, in the Chief Financial Officer of the Department.

(4) Functions vested in the corporations of the Department or the boards of directors and officers of such corporations.

(5) Functions vested in the Alternative Agricultural Research and Commercialization Board by the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5901 et seq.).

(6) Functions vested in the advisory board of the Commodity Credit Corporation established by section 9(b) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714g(b)).

(c) DELEGATION OF AUTHORITY.—

(1) DELEGATION AUTHORIZED.—Subject to paragraph (2), the Secretary may delegate to any agency, office, officer, or employee of the Department the authority to perform any function transferred to the Secretary under subsection (a) or any other function vested in the Secretary as of the date of the enactment of this Act.

(2) EXCEPTION.—The delegation authority provided by paragraph (1) shall be subject to—

(A) sections 105(b)(1), 106(b)(1), 201(b)(1), 202(b)(1), 301(b)(1), 401(b)(1), 501(b)(1), 601(b)(1), 601(c)(2), 701(b)(1), 803, and 904 of this Act;

(B) sections 502 and 503 of the Agricultural Trade Act of 1978 (7 U.S.C. 5692 and 5693); and

(C) section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)), as amended by section 203(a) of this Act.

(d) COST-BENEFIT ANALYSIS REQUIRED FOR NAME CHANGE.—

(1) ANALYSIS REQUIRED.—Except as provided in paragraph (2), the Secretary shall conduct a cost-benefit analysis before changing the name of any agency, office, division, or other unit of the Department to ensure that the benefits to be derived from changing the name of the agency, office, division, or other unit outweigh the expense of executing the name change.

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to any name change specifically provided for in this Act.

(e) PUBLIC COMMENT ON PROPOSED REORGANIZATION.—To the extent that the implementation of the authority provided to the Secretary by this Act to reorganize the Department involves the creation of new agencies or offices within the Department or the delegation of major functions or major groups of functions to any agency or office of the Department (or the officers thereof), the Secretary shall, to the extent considered practicable by the Secretary—

(1) give appropriate advance public notice of the proposed reorganization action or delegation; and

(2) afford appropriate opportunity for interested parties to comment on the proposed reorganization action or delegation.

(f) INTERAGENCY TRANSFER OF RECORDS, PROPERTY, PERSONNEL, AND FUNDS.—

(1) RELATED TRANSFERS.—Subject to paragraph (2), as part of the transfer or delegation of a function of the Department made or authorized by this Act, the Secretary may transfer within the Department—

(A) any of the records, property, or personnel affected by the transfer or delegation of the function; and

(B) unexpended balances (available or to be made available for use in connection with the transferred or delegated function) of appropriations, allocations, or other funds of the Department.

(2) APPLICABLE LAW RELATING TO FUNDS TRANSFER.—Section 1531 of title 31, United States Code, shall apply to any transfer of funds under paragraph (1).

SEC. 102. REDUCTIONS IN NUMBER OF DEPARTMENT PERSONNEL.

(a) NUMBER OF REDUCTIONS REQUIRED.—The Secretary shall achieve Federal employee reductions of at least 7,500 staff years within the Department by the end of fiscal year 1999. Reductions in the number of full-time equivalent positions within the Department achieved under section 5 of the Federal Workforce Restructuring Act of 1994 (Public Law 103-226; 108 Stat. 115; 5 U.S.C. 3101 note) shall be counted toward the employee reductions required under this section.

(b) TOP-DOWN REDUCTIONS REQUIRED.—In achieving the employee reductions required in subsection (a), the Secretary shall ensure that the percentage by which total employee staff years in headquarters offices is reduced is at least twice as great as the percentage by which total employee staff years in field offices is reduced.

SEC. 103. COMBINATION OF FIELD OFFICES.

(a) COMBINATION OF OFFICES REQUIRED.—The Secretary shall combine field offices of agencies within the Department, where practicable and to the extent consistent with efficiency, effectiveness, and service to farmers, improve service to clients and reduce personnel and duplicative overhead expenses.

(b) JOINT USE OF RESOURCES AND OFFICES REQUIRED.—When two or more agencies share a common field office, the Secretary shall require the agencies to jointly use office space, equipment, office supplies, administrative personnel, and clerical personnel associated with that field office.

SEC. 104. IMPROVEMENT OF INFORMATION SHARING.

Whenever the Secretary procures or uses computer systems, as may be provided for in advance in appropriations Acts, the Secretary shall do so in a manner that enhances efficiency, productivity, and client services and is consistent with the goal of promoting computer information sharing among agencies of the Department.

SEC. 105. DIRECTOR OF EXTERNAL AFFAIRS.

(a) ESTABLISHMENT.—There is established in the Department the position of Director of External Affairs of the Department of Agriculture. The Director of External Affairs shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS OF DIRECTOR.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Director of External Affairs those functions and duties that were under the jurisdiction of the Assistant Secretary of Agriculture for Congressional Relations and the Director of Public Affairs of the Department as of the date of the enactment of this Act.

(2) ADDITIONAL FUNCTIONS.—The Director of External Affairs shall perform such other duties as may be required by law or prescribed by the Secretary.

(c) SUCCESSION.—Any official who is serving as Assistant Secretary of Agriculture for Congressional Relations on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate—

(1) shall be considered to be serving in the successor position established by subsection (a); and

(2) shall not be required to be reappointed to that position by reason of the enactment of this Act.

(d) CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Director of External Affairs of the Department of Agriculture.".

SEC. 106. DIRECTOR FOR ADMINISTRATION.

(a) ESTABLISHMENT.—There is established in the Department the position of Director for Administration of the Department of Agriculture. The Director for Administration shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS OF DIRECTOR.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Director for Administration those functions and duties that were under the jurisdiction of the Assistant Secretary for Administration of the Department as of the date of the enactment of this Act.

(2) ADDITIONAL FUNCTIONS.—The Director for Administration shall perform such other duties as may be required by law or prescribed by the Secretary.

(c) SUCCESSION.—Any official who is serving as Assistant Secretary of Agriculture for Administration on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate—

(1) shall be considered to be serving in the successor position established by subsection (a); and

(2) shall not be required to be reappointed to that position by reason of the enactment of this Act.

(d) CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Director for Administration of the Department of Agriculture.".

TITLE II—FARM AND FOREIGN AGRICULTURAL SERVICES

SEC. 201. UNDER SECRETARY OF AGRICULTURE FOR FARM AND FOREIGN AGRICULTURAL SERVICES.

(a) ESTABLISHMENT.—There is established in the Department the position of Under Secretary of Agriculture for Farm and Foreign Agricultural Services. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Under Secretary of Agriculture for Farm and Foreign Agricultural Services those functions and duties under the jurisdiction of the Department that are related to farm and foreign agricultural services.

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Farm and Foreign Agricultural Services shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(c) SUCCESSION.—Any official who is serving as Under Secretary of Agriculture for International Affairs and Commodity Programs on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate—

(1) shall be considered to be serving in the successor position established by subsection (a); and

(2) shall not be required to be reappointed to that position by reason of the enactment of this Act.

(d) CONFORMING AMENDMENTS.—

(1) EXISTING POSITION.—Section 501 of the Agricultural Trade Act of 1978 (7 U.S.C. 5691), relating to the Under Secretary of Agriculture for International Affairs and Commodity Programs, is repealed.

(2) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by striking "Under Secretary of Agriculture for International Affairs and Commodity Programs." and inserting "Under Secretary of Agriculture for Farm and Foreign Agricultural Services.".

SEC. 202. AGRICULTURAL SERVICE AGENCY.

(a) ESTABLISHMENT.—The Secretary shall establish and maintain an Agricultural Service Agency within the Department.

(b) FUNCTIONS OF AGRICULTURAL SERVICE AGENCY.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall carry out through the Agricultural Service Agency the following activities that are under the jurisdiction of the Department:

(A) Agricultural price and income support programs and related programs.

(B) General supervision of the Federal Crop Insurance Corporation.

(C) Notwithstanding any other provision of law, agricultural credit programs formerly assigned by law to the Farmers Home Administration (including farm ownership and operating, emergency, and disaster loan programs) and other lending programs for farmers and others engaged in the production of agricultural commodities.

(D) Agricultural conservation cost-share and demonstration programs carried out by the Agricultural Stabilization and Conservation Service or the Farmers Home Administration as of the date of the enactment of this Act.

(2) ADDITIONAL FUNCTIONS.—The Secretary may assign to the Agricultural Service Agency such additional functions as the Secretary considers appropriate in connection with the administration and implementation of authorities assigned to the Secretary by law.

(c) JURISDICTION OVER CONSERVATION PROGRAM APPEALS.—

(1) IN GENERAL.—Until such time as an adverse decision described in this paragraph is referred to the National Appeals Division for consideration, the Agricultural Service Agency shall have initial jurisdiction over any administrative appeal resulting from an adverse decision made under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), including an adverse decision involving technical determinations made by the Soil Conservation Service.

(2) TREATMENT OF TECHNICAL DETERMINATION.—With respect to administrative appeals involving a technical determination made by the Soil Conservation Service, the Agricultural Service Agency, by rule with the concurrence of the Soil Conservation Service, shall establish procedures for obtaining review by the Soil Conservation Service of the technical determinations involved. Such rules shall ensure that technical criteria established by the Soil Conservation Service shall be used by the Agricultural Service Agency as the basis for any decisions regarding technical determinations.

(3) REINSTATEMENT OF PROGRAM BENEFITS.—Rules issued to carry out this subsection shall provide for the prompt reinstatement of benefits to a producer who is determined in an administrative appeal to meet the requirements of title XII of the Food Security Act of 1985 applicable to the producer.

(4) DEFINITION.—For purposes of this subsection, the term "Soil Conservation Service" includes any successor agency to the Soil Conservation Service.

(d) USE OF FEDERAL AND NON-FEDERAL EMPLOYEES.—

(1) USE AUTHORIZED.—In the implementation of programs and activities assigned to the Agricultural Service Agency, the Secretary may use

interchangeably in local offices of the agency both Federal employees of the Department and non-Federal employees of county and area committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)).

(2) EXCEPTION.—Notwithstanding paragraph (1), no personnel action (as defined in section 2302(a)(2)(A) of title 5, United States Code) may be taken with respect to a Federal employee unless such action is taken by another Federal employee.

(e) CONFORMING AMENDMENTS.—

(1) CROP INSURANCE.—The Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) is amended—

(A) in section 505(a) (7 U.S.C. 1505(a)), by striking "the Under Secretary or Assistant Secretary of Agriculture responsible for the farm credit programs of the Department of Agriculture," and inserting "one additional Under Secretary of Agriculture as designated by the Secretary,"; and

(B) in section 507(d) (7 U.S.C. 1507(d)), by striking ", except" and all that follows through "agency".

(2) FARM AND RURAL DEVELOPMENT.—Section 331(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981(a)) is amended by striking "assets to the Farmers Home Administration" and all that follows through the period and inserting "assets to such officers or agencies of the Department of Agriculture as the Secretary considers appropriate.".

SEC. 203. STATE, COUNTY, AND AREA COMMITTEES.

(a) AMENDMENT TO THE SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT.—Section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) is amended—

(1) by inserting "(1)" after "(b)";

(2) by designating the second through eighth undesignated paragraphs as paragraphs (2) through (8), respectively; and

(3) by striking paragraph (5) (as so designated) and inserting the following new paragraph:

"(5) STATE, COUNTY, AND AREA COMMITTEES.—

"(A) APPOINTMENT OF STATE COMMITTEES.—The Secretary shall appoint in each State a State committee composed of not fewer than 3 nor more than 5 members who are fairly representative of the farmers in the State. The members of a State committee shall serve at the pleasure of the Secretary for such term as the Secretary may establish.

"(B) ESTABLISHMENT OF COUNTY OR AREA COMMITTEES.—(i) In each county or area in which activities are carried out under this section, the Secretary shall establish a county or area committee. In the case of a county committee in existence on the date of the enactment of the Department of Agriculture Reorganization Act of 1994, the Secretary may not terminate the country committee, alter the boundaries of the area covered by the committee, or consolidate the committee with other county committees, without the consent of a majority of the producers in the area covered by the committee, as determined in a referendum conducted by the Secretary.

"(ii) Any such committee shall consist of not fewer than 3 nor more than 5 members who are fairly representative of the farmers in the county or area and who shall be elected by the farmers in such county or area under such procedures as the Secretary may prescribe.

"(iii) Only farmers within a local administrative area who are producers who participate or cooperate in programs administered within their area shall be eligible for nomination and election to the local committee for that area.

"(iv) The Secretary shall solicit and accept nominations from organizations representing the interests of socially disadvantaged groups (as defined in section 355(e)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)(1)).

"(v) Members of each county or area committee shall serve for terms not to exceed 3 years.

"(C) USE OF COMMITTEES.—The Secretary shall use the services of such committees in carrying out programs under this section and the agricultural credit programs under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) and in considering administrative appeals under the jurisdiction of the Agricultural Service Agency, as provided by section 202(c) of the Department of Agriculture Reorganization Act of 1994. In addition, to the extent the Secretary determines appropriate, the Secretary may use the services of such committees in carrying out programs under other authorities administered by the Secretary .

"(D) REGULATIONS.—The Secretary shall issue such regulations as the Secretary considers necessary relating to the selection and exercise of the functions of the respective committees, and to the administration through such committees of the programs described in subparagraph (C). Pursuant to such regulations, each county and area committee shall select an executive director for the area or county. Such selection shall be made in the same manner as provided for the selection of the county executive director under section 7.21(b)(2) of title 7, Code of Federal Regulations, as in effect on January 1, 1994. Regulations governing payments or grants under this subsection shall be as simple and direct as possible, and, whenever practicable, they shall be classified on the following two bases:

"(i) Soil-depleting practices.

"(ii) Soil-building practices.

"(E) MANDATORY DUTIES OF SECRETARY.—In carrying out this section, the Secretary shall—

"(i) insofar as practicable, protect the interests of tenants and sharecroppers;

"(ii) accord such encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in Federal laws and as will tend to promote efficient methods of marketing and distribution;

"(iii) in every practicable manner, protect the interests of small producers; and

"(iv) in every practical way, encourage and provide for soil-conserving and soil-rebuilding practices.

"(F) DISCRETIONARY AUTHORITIES OF SECRETARY.—In carrying out this section, the Secretary may use other approved agencies.

"(G) LIMITATIONS.—In carrying out this section, the Secretary shall not have the authority to acquire any land or any right or interest in land.".

(b) CONFORMING AMENDMENTS.—The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended—

(1) by striking section 332 (7 U.S.C. 1982); and

(2) in section 333 (7 U.S.C. 1983)—

(A) by striking paragraph (2); and

(B) redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

TITLE III—RURAL ECONOMIC AND COMMUNITY DEVELOPMENT

SEC. 301. UNDER SECRETARY OF AGRICULTURE FOR RURAL ECONOMIC AND COMMUNITY DEVELOPMENT.

(a) ESTABLISHMENT.—There is established in the Department the position of Under Secretary of Agriculture for Rural Economic and Community Development. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Under Secretary of Agriculture for Rural Economic and Community Development those functions and duties under the jurisdiction of the Department that are related to rural economic and community development.

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Rural Economic and Community Development shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(c) SUCCESSION.—Any official who is serving as Under Secretary of Agriculture for Small Community and Rural Development on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate—

(1) shall be considered to be serving in the successor position established by subsection (a); and

(2) shall not be required to be reappointed to that position by reason of the enactment of this Act.

(d) LOAN APPROVAL AUTHORITY.—Approval authority for loans and loan guarantees in the electric and telephone loan and loan guarantee programs authorized by the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) shall not be transferred to, or conditioned upon review of, a State director or other employee whose primary duty is not the review and approval of such loans or the provision of assistance to such borrowers.

(e) CONFORMING AMENDMENTS.—

(1) EXISTING POSITION.—Section 3 of the Rural Development Policy Act of 1980 (7 U.S.C. 2211b) is amended by striking subsection (a).

(2) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by striking "Under Secretary of Agriculture for Small Community and Rural Development." and inserting "Under Secretary of Agriculture for Rural Economic and Community Development.".

(f) AMENDMENTS TO THE RURAL ELECTRIFICATION ACT OF 1936.—The Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) is amended—

(1) in section 1 (7 U.S.C. 901), by striking the first sentence;

(2) in section 2(a) (7 U.S.C. 902(a)), by striking "Administrator" and inserting "Secretary of Agriculture";

(3) in section 3(a) (7 U.S.C. 903(a))—

(A) by striking "Administrator, upon the request and approval of the Secretary of Agriculture," and inserting "Secretary"; and

(B) by striking "Administrator appointed pursuant to the provisions of this Act or from the Administrator of the Rural Electrification Administration established by Executive Order Numbered 7037" and inserting "Secretary";

(4) in section 8 (7 U.S.C. 908)—

(A) by striking "Administrator authorized to be appointed by this Act" and inserting "Secretary"; and

(B) by striking "Rural Electrification Administration created by this Act" and inserting "Secretary";

(5) by striking section 11A (7 U.S.C. 911a);

(6) in section 13 (7 U.S.C. 913), by inserting before the period the following: "; the term 'Secretary' shall be deemed to mean the Secretary of Agriculture";

(7) in sections 206(b)(2), 306A(b), 311, and 405(b)(1)(A) (7 U.S.C. 927(b)(2), 936a(b), 940a, and 945(b)(1)(A)), by striking "Rural Electrification Administration" each place it appears and inserting "Secretary";

(8) in sections 305(c)(2)(C)(ii)(II) and 306E(d) (7 U.S.C. 935(c)(2)(C)(ii)(II) and 936e(d)), by striking "ADMINISTRATOR" both places it appears and inserting "SECRETARY";

(9) in section 403(b) (7 U.S.C. 943(b)), by striking "Rural Electrification Administration or of any other agency of the Department of Agriculture," and inserting "Secretary,";

(10) in section 404 (7 U.S.C. 944), by striking "the Administrator of the Rural Electrification Administration" and inserting "the Secretary

shall designate an official of the Department of Agriculture who";

(11) in sections 406(c) and 410 (7 U.S.C. 946(c) and 950), by striking "Administrator of the Rural Electrification Administration" each place it appears and inserting "Secretary";

(12) in the heading of section 501 (7 U.S.C. 950aa), by striking "of rea administrator"; and

(13) except as otherwise provided in this subsection, by striking "Administrator" each place it appears in such Act and inserting "Secretary".

(g) MISCELLANEOUS AMENDMENTS RELATED TO RURAL ELECTRIFICATION ADMINISTRATION.—(1) Section 236(a) of the Disaster Relief Act of 1970 (7 U.S.C. 912a) is amended by striking "Rural Electrification Administration" and inserting "Secretary under the Rural Electrification Act of 1936".

(2) Section 505 of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 915) is amended—

(A) by striking "Rural Electrification Administration" and inserting "Secretary of Agriculture"; and

(B) by striking "its" and inserting "the Secretary's".

(3) Section 401 of the Rural Electrification Act of 1938 (7 U.S.C. 903 note, 52 Stat. 818) is amended in the second paragraph by striking "Administrator of the Rural Electrification Administration" and inserting "Secretary of Agriculture".

(4) Chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa et seq.), relating to Distance Learning and Medical Link Programs, is amended—

(A) in section 2333—

(i) by striking paragraph (1); and

(ii) by redesignating paragraphs (2) through (11) as paragraphs (1) through (10), respectively;

(B) in section 2334(h)(2), by striking "section 2333(3)(F)" and inserting "section 2333(2)(F)"; and

(C) by striking "Administrator" each place it appears and inserting "Secretary".

TITLE IV—FOOD, NUTRITION, AND CONSUMER SERVICES

SEC. 401. UNDER SECRETARY OF AGRICULTURE FOR FOOD, NUTRITION, AND CONSUMER SERVICES.

(a) ESTABLISHMENT.—There is established in the Department the position of Under Secretary of Agriculture for Food, Nutrition, and Consumer Services. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Under Secretary of Agriculture for Food, Nutrition, and Consumer Services those functions and duties under the jurisdiction of the Department that are related to food, nutrition, and consumer services (except as provided in section 701(b)(1)).

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Food, Nutrition, and Consumer Services shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(c) SUCCESSION.—Any official who is serving as Assistant Secretary of Agriculture for Food and Consumer Services on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate—

(1) shall be considered to be serving in the successor position established by subsection (a); and

(2) shall not be required to be reappointed to that position by reason of the enactment of this Act.

(d) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Under Secretary of Agriculture for Farm and Foreign Agricultural Services (as added by section 201(d)(2)) the following:

"Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.".

TITLE V—NATURAL RESOURCES AND ENVIRONMENT

SEC. 501. UNDER SECRETARY OF AGRICULTURE FOR NATURAL RESOURCES AND ENVIRONMENT.

(a) ESTABLISHMENT.—There is established in the Department the position of Under Secretary of Agriculture for Natural Resources and Environment. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Under Secretary of Agriculture for Natural Resources and Environment those functions and duties under the jurisdiction of the Department that are related to natural resources and the environment (except to the extent those functions and duties are delegated to the Agricultural Service Agency under section 202).

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Natural Resources and Environment shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(c) SUCCESSION.—Any official who is serving as Assistant Secretary of Agriculture for Natural Resources and Environment on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate—

(1) shall be considered to be serving in the successor position established by subsection (a); and

(2) shall not be required to be reappointed to that position by reason of the enactment of this Act.

(d) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Under Secretary of Agriculture for Food, Nutrition, and Consumer Services (as added by section 401(d)) the following:

"Under Secretary of Agriculture for Natural Resources and Environment.".

(e) CONFORMING AMENDMENTS.—

(1) SOIL CONSERVATION SERVICE.—Section 5 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590e) is repealed.

(2) SOIL AND WATER RESOURCES CONSERVATION.—The Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2001) is amended—

(A) in section 2(2) (16 U.S.C. 2001(2))—

(i) by striking "created the Soil Conservation Service"; and

(ii) by striking "Department of Agriculture which" and inserting ", has ensured that the Department of Agriculture";

(B) in section 3(2) (16 U.S.C. 2002(2)), by striking "through the Soil Conservation Service"; and

(C) in section 6(a) (16 U.S.C. 2005(a)), by striking "Soil Conservation Service" and inserting "Secretary".

TITLE VI—RESEARCH, EDUCATION, AND ECONOMICS

SEC. 601. UNDER SECRETARY OF AGRICULTURE FOR RESEARCH, EDUCATION, AND ECONOMICS.

(a) ESTABLISHMENT.—There is established in the Department the position of Under Secretary of Agriculture for Research, Education, and Economics. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Under Secretary of Agriculture for Research, Education, and Economics those functions and duties under the jurisdiction of the Department that are related to research, education, and economics.

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Research, Education, and Economics shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(c) COOPERATIVE STATE RESEARCH AND EDUCATION SERVICE.—

(1) ESTABLISHMENT.—The Secretary shall establish and maintain within the Department a Cooperative State Research and Education Service.

(2) DUTIES.—The Secretary shall delegate to the Cooperative State Research and Education Service functions related to cooperative State research programs and cooperative extension and education programs that are under the jurisdiction of the Department.

(3) OFFICER-IN-CHARGE.—The officer in charge of the Cooperative State Research and Education Service shall report directly to the Under Secretary of Agriculture for Research, Education, and Economics.

(d) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Under Secretary of Agriculture for Natural Resources and Environment (as added by section 501(d)) the following:

"Under Secretary of Agriculture for Research, Education, and Economics.".

TITLE VII—FOOD SAFETY

SEC. 701. UNDER SECRETARY OF AGRICULTURE FOR FOOD SAFETY.

(a) ESTABLISHMENT.—There is established in the Department of Agriculture the position of Under Secretary of Agriculture for Food Safety. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals with specialized training or significant experience in food safety or public health programs.

(b) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Under Secretary of Agriculture for Food Safety those functions and duties under the jurisdiction of the Department that are related to food safety.

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Food Safety shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(c) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Under Secretary of Agriculture for Research, Education, and Economics (as added by section 601(d)) the following:

"Under Secretary of Agriculture for Food Safety.".

TITLE VIII—NATIONAL APPEALS DIVISION

SEC. 801. DEFINITIONS.

For purposes of this title:

(1) ADVERSE DECISION.—The term "adverse decision" means an administrative decision made by an officer, employee, or committee of an agency that is adverse to a participant. The term includes a denial of equitable relief by an agency or the failure of an agency to issue a decision or otherwise act on the request or right of the participant. The term does not include a decision over which the Board of Contract Appeals has jurisdiction.

(2) AGENCY.—The term "agency" means any agency of the Department designated by the Secretary or a successor agency of the Department, except that the term shall include the following (and any successor to the following):

(A) The Agricultural Service Agency.

(B) The Commodity Credit Corporation, with respect to domestic programs.

(C) The Farmers Home Administration.

(D) The Federal Crop Insurance Corporation.

(E) The Rural Development Administration.

(F) The Soil Conservation Service.

(G) A State, county, or area committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)).

(3) APPELLANT.—The term "appellant" means a participant who appeals an adverse decision in accordance with this title.

(4) CASE RECORD.—The term "case record" means all the materials maintained by the Secretary related to an adverse decision.

(5) DIRECTOR.—The term "Director" means the Director of the Division.

(6) DIVISION.—The term "Division" means the National Appeals Division established by this title.

(7) HEARING OFFICER.—The term "hearing officer" means an individual employed by the Division who hears and determines appeals of adverse decisions by any agency.

(8) PARTICIPANT.—The term "participant" means any individual, partnership, corporation, association, cooperative, or other entity whose application for, or right to participate in or receive, payments or loans in accordance with any of the programs administered by an agency is affected by an adverse decision of an agency.

SEC. 802. NATIONAL APPEALS DIVISION AND DIRECTOR.

(a) ESTABLISHMENT OF DIVISION.—The Secretary shall establish and maintain an independent National Appeals Division within the Department to carry out this title.

(b) DIRECTOR.—

(1) APPOINTMENT.—The Division shall be headed by a Director, appointed by the Secretary from among persons who have substantial experience in practicing administrative law. In considering applicants for the position of Director, the Secretary shall consider persons currently employed outside Government as well as Government employees.

(2) TERM AND REMOVAL.—The Director shall serve for a 6-year term of office, and shall be eligible for reappointment. The Director shall not be subject to removal during the term of office, except for cause established in accordance with law.

(3) POSITION CLASSIFICATION.—The position of the Director may not be a position in the excepted service or filled by a noncareer appointee.

(c) DIRECTION, CONTROL, AND SUPPORT.—The Director shall be free from the direction and control of any person other than the Secretary. The Division shall not receive administrative support (except on a reimbursable basis) from any agency other than the Office of the Secretary. The Secretary may not delegate to any other officer or employee of the Department, other than the Director, the authority of the Secretary with respect to the Division.

(d) DETERMINATION OF APPEALABILITY OF AGENCY DECISIONS.—If an officer, employee, or committee of an agency determines that a decision is not appealable and a participant appeals the decision to the Director, the Director shall determine whether the decision is adverse to the individual participant and thus appealable or is a matter of general applicability and thus not subject to appeal. The determination of the Director as to whether a decision is appealable shall be administratively final.

(e) DIVISION PERSONNEL.—The Director shall appoint such hearing officers and other employees as are necessary for the administration of the Division. A hearing officer or other employee of the Division shall have no duties other than those that are necessary to carry out this title.

SEC. 803. TRANSFER OF FUNCTIONS.

There are transferred to the Division all functions exercised and all administrative appeals pending before the effective date of this title (including all related functions of any officer or employee) of or relating to—

(1) the National Appeals Division established by section 426(c) of the Agricultural Act of 1949 (7 U.S.C. 1433e(c)) (as in effect on the day before the date of the enactment of this Act);

(2) the National Appeals Division established by subsections (d) through (g) of section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b) (as in effect on the day before the date of the enactment of this Act);

(3) appeals of decisions made by the Federal Crop Insurance Corporation; and

(4) appeals of decisions made by the Soil Conservation Service.

SEC. 804. NOTICE AND OPPORTUNITY FOR HEARING.

Not later than 10 working days after an adverse decision is made that affects the participant, the Secretary shall provide the participant with the written notice of such adverse decision and the rights available to the participant under this title or other law for the review of such adverse decision.

SEC. 805. INFORMAL HEARINGS.

If an officer, employee, or committee of an agency makes an adverse decision, the agency shall hold, at the request of the participant, an informal hearing on the decision. With respect to programs carried out through the Agricultural Service Agency, the Secretary shall maintain the informal appeals process applicable to such programs, as in effect on the date of the enactment of the title. If a mediation program is available under title V of the Agricultural Credit Act of 1987 (7 U.S.C. 5101 et seq.) as a part of the informal hearing process, the participant shall be offered the right to choose such mediation.

SEC. 806. RIGHT OF PARTICIPANTS TO DIVISION HEARING.

(a) APPEAL TO DIVISION FOR HEARING.—Subject to subsection (b), a participant shall have the right to appeal an adverse decision to the Division for an evidentiary hearing by a hearing officer consistent with section 807.

(b) TIME FOR APPEAL.—To be entitled to a hearing under section 807, a participant shall request the hearing not later than 30 days after the date on which the participant first received notice of the adverse decision.

SEC. 807. DIVISION HEARINGS.

(a) GENERAL POWERS OF DIRECTOR AND HEARING OFFICERS.—

(1) ACCESS TO CASE RECORD.—The Director and hearing officer shall have access to the case record of any adverse decision appealed to the Division for a hearing.

(2) ADMINISTRATIVE PROCEDURES.—The Director and hearing officer shall have the authority to require the attendance of witnesses, and the production of evidence, by subpoena and to administer oaths and affirmations. Except to the extent required for the disposition of ex parte matters as authorized by law—

(A) an interested person outside the Division shall not make or knowingly cause to be made to the Director or a hearing officer who is or may reasonably be expected to be involved in the evidentiary hearing or review of an adverse decision, an ex parte communication (as defined in section 551(14) of title 5, United States Code) relevant to the merits of the proceeding;

(B) the Director and such hearing officer shall not make or knowingly cause to be made to any interested person outside the Division an ex parte communication relevant to the merits of the proceeding.

(b) TIME FOR HEARING.—Upon a timely request for a hearing under section 806(b), an appellant shall have the right to have a hearing by the Division on the adverse decision within 45 days after the date of the receipt of the request for the hearing.

(c) LOCATION AND ELEMENTS OF HEARING.—

(1) LOCATION.—A hearing on an adverse decision shall be held in the State of residence of the appellant or at a location that is otherwise convenient to the appellant and the Division.

(2) EVIDENTIARY HEARING.—The evidentiary hearing before a hearing officer shall be in person, unless the appellant agrees to a hearing by telephone or by a review of the case record. The hearing officer shall not be bound by previous findings of fact by the agency in making a determination.

(3) INFORMATION AT HEARING.—The hearing officer shall consider information presented at the hearing without regard to whether the evidence was known to the agency officer, employee, or committee making the adverse decision at the time the adverse decision was made. The hearing officer shall leave the record open after the hearing for a reasonable period of time to allow the submission of information by the appellant or the agency after the hearing to the extent necessary to respond to new facts, information, arguments, or evidence presented or raised by the agency or appellant.

(4) BURDEN OF PROOF.—The appellant shall bear the burden of proving that the adverse decision of the agency was erroneous.

(d) DETERMINATION NOTICE.—The hearing officer shall issue a notice of the determination on the appeal not later than 30 days after a hearing or after receipt of the request of the appellant to waive a hearing, except that the Director may establish an earlier or later deadline. If the determination is not appealed to the Director for review under section 808, the notice provided by the hearing officer shall be considered to be a notice of final determination.

(e) EFFECTIVE DATE.—The final determination shall be effective as of the date of filing of an application, the date of the transaction or event in question, or the date of the original adverse decision, whichever is applicable.

SEC. 808. DIRECTOR REVIEW OF DETERMINATIONS OF HEARING OFFICERS.

(a) REQUESTS FOR DIRECTOR REVIEW.—

(1) TIME FOR REQUEST BY APPELLANT.—Not later than 30 days after the date on which an appellant receives the determination of a hearing officer under section 807, the appellant shall submit a written request to the Director for review of the determination in order to be entitled to a review by the Director of the determination.

(2) TIME FOR REQUEST BY AGENCY HEAD.—Not later than 15 business days after the date on which an agency receives the determination of a hearing officer under section 807, the head of the agency may make a written request that the Director review the determination.

(b) DETERMINATION OF DIRECTOR.—The Director shall conduct a review of the determination of the hearing officer using the case record, the record from the evidentiary hearing under section 807, the request for review, and such other arguments or information as may be accepted by the Director. Based on such review, the Director shall issue a final determination notice that upholds, reverses, or modifies the determination of the hearing officer. However, if the Director determines that the hearing record is inadequate, the Director may remand all or a portion of the determination for further proceedings to complete the hearing record or, at the option of the Director, to hold a new hearing. The Director shall complete the review and either issue a final determination or remand the determination not later than—

(1) 10 business days after receipt of the request for review, in the case of a request by the head of an agency for review; or

(2) 30 business days after receipt of the request for review, in the case of a request by an appellant for review.

(c) EQUITABLE RELIEF.—Subject to regulations issued by the Secretary, the Director shall have *the authority to grant equitable relief under this section in the same manner and to the same extent as such authority is provided to the Secretary under section 326 of the Food and Agriculture Act of 1962 (7 U.S.C. 1339a) and other laws. Notwithstanding the administrative finality of a final determination of an appeal by the Division, the Secretary shall have the authority to grant equitable or other types of relief to the appellant after a final determination is issued by the Division.*

(d) EFFECTIVE DATE.—A final determination issued by the Director shall be effective as of the date of filing of an application, the date of the transaction or event in question, or the date of the original adverse decision, whichever is applicable.

SEC. 809. JUDICIAL REVIEW.

A final determination of the Division shall be reviewable and enforceable by any United States district court of competent jurisdiction in accordance with chapter 7 of title 5, United States Code.

SEC. 810. IMPLEMENTATION OF FINAL DETERMINATIONS OF DIVISION.

On the return of a case to an agency pursuant to the final determination of the Division, the head of the agency shall implement the final determination not later than 30 days after the effective date of the notice of the final determination.

SEC. 811. CONFORMING AMENDMENTS RELATING TO NATIONAL APPEALS DIVISION.

(a) DECISIONS OF STATE, COUNTY, AND AREA COMMITTEES.—

(1) APPLICATION OF SUBSECTION.—This subsection shall apply only with respect to functions of the Agricultural Service Agency or the Commodity Credit Corporation that are under the jurisdiction of a State, county, or area committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) or an employee of such a committee.

(2) FINALITY.—Each decision of a State, county, or area committee (or an employee of such a committee) covered by paragraph (1) that is made in good faith in the absence of misrepresentation, false statement, fraud, or willful misconduct shall be final not later than 90 days after the date of filing of the application for benefits, unless the decision is—

(A) appealed under this title; or

(B) modified by the Administrator of the Agricultural Service Agency or the Executive Vice President of the Commodity Credit Corporation.

(3) RECOVERY OF AMOUNTS.—If the decision of the State, county, or area committee has become final under paragraph (2), no action may be taken by the Agricultural Service Agency, the Commodity Credit Corporation, or a State, county, or area committee to recover amounts found to have been disbursed as a result of a decision in error unless the participant had reason to believe that the decision was erroneous.

(b) AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE.—Section 426 of the Agricultural Act of 1949 (7 U.S.C. 1433e) is repealed.

(c) FARMERS HOME ADMINISTRATION.—Section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b) is repealed.

(d) FEDERAL CROP INSURANCE CORPORATION.—The last sentence of section 508(f) of the Federal Crop Insurance Act (7 U.S.C. 1508(f)) is amended by inserting before the period at the end the following: "or within 1 year after the claimant receives a final determination notice from an administrative appeal made in accordance with title VIII of the Department of Agriculture Reorganization Act of 1994, whichever is later".

SEC. 812. EXPANSION OF ISSUES COVERED BY STATE MEDIATION PROGRAMS.

(a) EXPANSION OF MEDIATION PROGRAMS.—Section 501 of the Agricultural Credit Act of 1987 (7 U.S.C. 5101) is amended—

(1) in subsection (a), by striking "an agricultural loan mediation program" and inserting "a mediation program";

(2) in subsection (b), by striking "agricultural loan"; and

(3) by striking subsection (c) and inserting the following new subsection:

"(c) REQUIREMENTS OF STATE MEDIATION PROGRAMS.—

"(1) ISSUES COVERED.—To be certified as a qualifying State, the mediation program of the State must provide mediation services for the persons described in paragraph (2) who are involved in agricultural loans or agricultural loans and one or more of the following issues under the jurisdiction of the Department of Agriculture:

"(A) Wetlands determinations.

"(B) Compliance with farm programs, including conservation programs.

"(C) Agricultural credit.

"(D) Rural water loan programs.

"(E) Grazing on National Forest System lands.

"(F) Pesticides.

"(G) Such other issues as the Secretary considers appropriate.

"(2) PERSONS ELIGIBLE FOR MEDIATION.—The persons referred to in paragraph (1) are producers, their creditors (if applicable), and other persons directly affected by actions of the Department of Agriculture.

"(3) CERTIFICATION CONDITIONS.—The Secretary shall certify a State as a qualifying State with respect to the issues proposed to be covered by the mediation program of the State if the mediation program—

"(A) provides for mediation services that, if decisions are reached, result in mediated, mutually agreeable decisions between the parties to the mediation;

"(B) is authorized or administered by an agency of the State government or by the Governor of the State;

"(C) provides for the training of mediators;

"(D) provides that the mediation sessions shall be confidential;

"(E) ensures, in the case of agricultural loans, that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program; and

"(F) ensures, in the case of other issues covered by the mediation program, that persons directly affected by actions of the Department of Agriculture receive adequate notification of the mediation program.".

(b) PARTICIPATION OF DEPARTMENT.—Section 503 of such Act (7 U.S.C. 5103) is amended—

(1) by striking "agricultural loan" each place it appears;

(2) in the matter preceding subparagraph (A) of subsection (a)(1)—

(A) by inserting "or agency" after "program"; and

(B) by striking "that makes, guarantees, or insures agricultural loans";

(3) in subsection (a)(1)(A)—

(A) by inserting "or agency" after "such program"; and

(B) by inserting "certified under section 501" after "mediation program";

(4) in subsection (a)(1)(B)—

(A) by striking ", effective beginning on the date of the enactment of this Act,"; and

(B) by inserting "certified under section 501" after "mediation programs"; and

(5) in subsection (a)(1)(C)—

(A) in clause (i), by striking "described in" and inserting "certified under"; and

(B) in clause (ii), by inserting "if applicable," before "present".

(c) REGULATIONS.—Section 504 of such Act (7 U.S.C. 5104) is amended—

(1) by striking "Within 150 days after the date of the enactment of this Act, the" and inserting "The"; and

(2) by adding at the end the following new sentence: "The regulations prescribed by the Secretary shall require qualifying States to adequately train mediators to address all of the issues covered by the mediation program of the State.".

(d) REPORT.—Section 505 of such Act (7 U.S.C. 5105) is amended by striking "1990" and inserting "1998".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 506 of such Act (7 U.S.C. 5106) is amended by striking "1995" and inserting "2000".

(f) CONFORMING AMENDMENTS.—

(1) REFERENCES TO AGRICULTURAL LOANS.—Subtitle A of title V of such Act is amended—

(A) in sections 502 and 505(1) (7 U.S.C. 5102, 5105(1)), by striking "agricultural loan" each place it appears; and

(B) in section 505(3) (7 U.S.C. 5105(3)), by striking "an agricultural loan mediation" and inserting "a mediation".

(2) WAIVER OF FARM CREDIT SYSTEM MEDIATION RIGHTS BY BORROWERS.—Section 4.14E of the Farm Credit Act of 1971 (12 U.S.C. 2202e) is amended by striking "agricultural loan".

(3) WAIVER OF FMHA MEDIATION RIGHTS BY BORROWERS.—Section 358 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006) is amended by striking "agricultural loan".

TITLE IX—MISCELLANEOUS PROVISIONS

SEC. 901. SUCCESSORSHIP PROVISIONS RELATING TO BARGAINING UNITS AND EXCLUSIVE REPRESENTATIVES.

(a) VOLUNTARY AGREEMENT.—

(1) IN GENERAL.—If the exercise of the Secretary's authority under this Act results in changes to an existing bargaining unit that has been certified under chapter 71 of title 5, United States Code, the affected parties shall attempt to reach a voluntary agreement on a new bargaining unit and an exclusive representative for such unit.

(2) CRITERIA.—In carrying out the requirements of this subsection, the affected parties shall use criteria set forth in—

(A) sections 7103(a)(4), 7111(e), 7111(f)(1), and 7120 of title 5, United States Code, relating to determining an exclusive representative; and

(B) section 7112 of title 5, United States Code (disregarding subsections (b)(5) and (d) thereof), relating to determining appropriate units.

(b) EFFECT OF AN AGREEMENT.—

(1) IN GENERAL.—If the affected parties reach agreement on the appropriate unit and the exclusive representative for such unit under subsection (a), the Federal Labor Relations Authority shall certify the terms of such agreement, subject to paragraph (2)(A). Nothing in this subsection shall be considered to require the holding of any hearing or election as a condition for certification.

(2) RESTRICTIONS.—

(A) CONDITIONS REQUIRING NONCERTIFICATION.—The Federal Labor Relations Authority may not certify the terms of an agreement under paragraph (1) if—

(i) it determines that any of the criteria referred to in subsection (a)(2) (disregarding section 7112(a) of title 5, United States Code) have not been met; or

(ii) after the Secretary's exercise of authority and before certification under this section, a valid election under section 7111(b) of title 5, United States Code, is held covering any employees who would be included in the unit proposed for certification.

(B) TEMPORARY WAIVER OF PROVISION THAT WOULD BAR AN ELECTION AFTER A COLLECTIVE

BARGAINING AGREEMENT IS REACHED.—Nothing in section 7111(f)(3) of title 5, United States Code, shall prevent the holding of an election under section 7111(b) of such title that covers employees within a unit certified under paragraph (1), or giving effect to the results of such an election (including a decision not to be represented by any labor organization), if the election is held before the end of the 12-month period beginning on the date such unit is so certified.

(C) CLARIFICATION.—The certification of a unit under paragraph (1) shall not, for purposes of the last sentence of section 7111(b) of title 5, United States Code, or section 7111(f)(4) of such title, be treated as if it had occurred pursuant to an election.

(3) DELEGATION.—

(A) IN GENERAL.—The Federal Labor Relations Authority may delegate to any regional director (as referred to in section 7105(e) of title 5, United States Code) its authority under the preceding provisions of this subsection.

(B) REVIEW.—Any action taken by a regional director under subparagraph (A) shall be subject to review under the provisions of section 7105(f) of title 5, United States Code, in the same manner as if such action had been taken under section 7105(e) of such title, except that in the case of a decision not to certify, such review shall be required if application therefor is filed by an affected party within the time specified in such provisions.

(c) DEFINITION.—For purposes of this section, the term "affected party" means—

(1) with respect to an exercise of authority by the Secretary under this Act, any labor organization affected thereby; and

(2) the Department of Agriculture.

SEC. 902. OFFICE OF ENVIRONMENTAL RISK ASSESSMENT.

(a) OFFICE OF ENVIRONMENTAL RISK ASSESSMENT.—The Secretary shall establish in the Department an Office of Environmental Risk Assessment (in this section referred to as the "Office"), which shall be independent of other offices and agencies of the Department, but shall have the authority to advise such offices and agencies regarding the environmental risks addressed by Department regulations and the implementation and compliance costs associated with such regulations. The Office shall be under the direction of a Director appointed by the Secretary.

(b) STRATEGY TO ANALYZE RISKS AND BENEFITS.—The Director of the Office shall develop a strategy for performing, to the greatest extent practicable and consistent with the provisions of this section and other provisions of the law applicable to the Department, risk/benefit analyses in connection with the regulations described in subsection (c) that are performed consistently and employ state-of-the-art scientific techniques that are practicable with the resources available. The implementation of the strategy shall be subject to the approval of the Secretary.

(c) REVIEW AND CERTIFICATION OF DEPARTMENT REGULATIONS.—In connection with each proposed major regulation relating to public health, public safety, or the environment that is issued by the Department after the date on which the Secretary approves of the risk/benefit analysis strategy under subsection (b), the Director of the Office shall publish in the Federal Register—

(1) an estimate, with as much specificity as practicable, of—

(A) the risk to the health and safety of individuals that is addressed by the regulation, including the effect of the risk on human health or the environment;

(B) the costs associated with the implementation of, and compliance with, the regulation; and

(C) a comparative analysis of that risk relative to other risks to which the public is exposed; and

(2) subject to subsection (d), a certification by the Director that—

(A) the estimate under paragraph (1)(B) and the analysis under paragraph (1)(C) are based on a scientific evaluation of the risk referred to in paragraph (1)(A) and are supported by the best available scientific data;

(B) the regulation will substantially advance the purpose of protecting the public health and safety or the environment against the risk referred to in paragraph (1)(A); and

(C) the regulation will produce benefits to public health and safety or the environment that will justify the costs incurred by local, State, and Federal Government and other public and private entities as a result of the implementation of, and compliance with, the regulation, as estimated in paragraph (1)(B).

(d) REPORT TO CONGRESS OF LACK OF CERTIFICATION.—If the Director of the Office cannot make the certification required under subsection (c)(2) for a regulation, the Director shall submit to Congress a report containing a statement of the reasons why the certification cannot be made. The statement shall be included in the final regulation.

(e) EFFECT ON OTHER LAWS; JUDICIAL REVIEW.—This section, and any certification made under subsection (c), shall not be construed to amend, modify, or alter any law and shall not be subject to judicial review. This section shall not be construed to grant a cause of action to any person.

SEC. 903. FAIR AND EQUITABLE TREATMENT OF SOCIALLY DISADVANTAGED PRODUCERS.

(a) FAIR CROP ACREAGE BASES AND FARM PROGRAM PAYMENT YIELDS.—If the Secretary of Agriculture determines that crop acreage bases or farm program payment yields established for farms owned or operated by socially disadvantaged producers are not established in accordance with title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.), the Secretary shall adjust the bases and yields to conform to the requirements of such title and make available any appropriate commodity program benefits.

(b) FAIR APPLICATION OF CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—If the Secretary of Agriculture determines that application of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) with respect to socially disadvantaged producers is not consistent with the requirements of such Act, the Secretary shall make such changes in the administration of such Act as the Secretary considers necessary to provide for the fair and equitable treatment of socially disadvantaged producers under such Act.

(c) REPORT ON TREATMENT OF SOCIALLY DISADVANTAGED PRODUCERS.—

(1) REPORT REQUIRED.—The Comptroller General of the United States shall prepare a report to determine—

(A) whether socially disadvantaged producers are underrepresented on State, county, or local committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) or local review committees established under section 363 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1363) because of racial, ethnic, or gender prejudice; and

(B) if such underrepresentation exists, whether it inhibits or interferes with the participation of socially disadvantaged producers in programs of the Department of Agriculture.

(2) SUBMISSION OF REPORT.—Not later than February 1, 1995, the Comptroller General shall submit the report required by this subsection to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(d) DEFINITION.—For purposes of this section, the term "socially disadvantaged producer" means a producer who is a member of a group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities.

SEC. 904. REPEAL OF SUPERSEDED PROVISIONS.

(a) IN GENERAL.—The following provisions of law are repealed:

(1) Section 2 of Reorganization Plan No. 2 of 1953 (5 U.S.C. App; 7 U.S.C. 2201 note).

(2) Section 2 of the Act entitled "An Act to enlarge the powers and duties of the Department of Agriculture and to create an Executive Department to be known as the Department of Agriculture.", approved February 9, 1889 (7 U.S.C. 2212).

(3) The first paragraph designated "OFFICE OF THE SECRETARY:" under the heading "DEPARTMENT OF AGRICULTURE" of the Act entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and seven.", approved June 30, 1906 (34 Stat. 670; 7 U.S.C. 2212).

(4) Section 604(a) of the Rural Development Act of 1972 (7 U.S.C. 2212a).

(5) Section 2 of Public Law 94–561 (7 U.S.C. 2212b).

(6) Section 8(a) of Public Law 97–325 (7 U.S.C. 2212c).

(7) Section 1413(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3128(d)).

(8) Section 306(a)(15)(C) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(15)(C)).

(9) Section 2322(d)(2) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1926–1(d)(2)).

(10) Section 364 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006f).

(b) TERMINATION OF AUTHORITY FOR ASSISTANT SECRETARIES.—Section 5315 of title 5, United States Code, is amended by striking "Assistant Secretaries of Agriculture (7).".

(c) TERMINATION OF OTHER EXECUTIVE SCHEDULE POSITIONS.—Section 5316 of title 5, United States Code, is amended—

(1) by striking "Administrator, Agricultural Marketing Service, Department of Agriculture.";

(2) by striking "Administrator, Agricultural Research Service, Department of Agriculture.";

(3) by striking "Administrator, Agricultural Stabilization and Conservation Service, Department of Agriculture.";

(4) by striking "Administrator, Farmers Home Administration.";

(5) by striking "Administrator, Foreign Agricultural Service, Department of Agriculture.";

(6) by striking "Administrator, Rural Electrification Administration, Department of Agriculture.";

(7) by striking "Administrator, Soil Conservation Service, Department of Agriculture.";

(8) by striking "Chief Forester of the Forest Service, Department of Agriculture.";

(9) by striking "Director of Science and Education, Department of Agriculture.";

(10) by striking "Administrator, Animal and Plant Health Inspection Service, Department of Agriculture."; and

(11) by striking "Administrator, Federal Grain Inspection Service, Department of Agriculture.".

SEC. 905. CONFORMING AMENDMENTS.

(a) UNITED STATES GRAIN STANDARDS ACT.—The United States Grain Standards Act (7 U.S.C. 71 et seq.) is amended—

(1) in section 3 (7 U.S.C. 75)—

(A) by inserting "and" at the end of subsection (y);

(B) by striking subsections (z) and (aa); and

(C) by redesignating subsection (bb) as subsection (z);

(2) by striking section 3A (7 U.S.C. 75a);

(3) in section 5(b) (7 U.S.C. 77(b)), by striking "Service employees" and inserting "employees of the Secretary";

(4) in sections 7(j)(2) and 7A(l)(2) (7 U.S.C. 79(j)(2) and 79a(l)(2)), by striking "supervision by Service personnel of its field office personnel" both places it appears and inserting "supervision by the Secretary of the Secretary's field office personnel";

(5) in section 12(c) (7 U.S.C. 87a(c)), by striking "or Administrator";

(6) in section 12(d) (7 U.S.C. 87a(d)), by striking "or the Administrator";

(7) except as otherwise provided in this subsection, by striking "Administrator" each place it appears and inserting "Secretary"; and

(8) except as otherwise provided in this subsection, by striking "Service" each place it appears and inserting "Secretary".

(b) PACKERS AND STOCKYARDS ACT, 1921.—Section 407 of the Packers and Stockyards Act, 1921 (7 U.S.C. 228), is amended—

(1) by striking subsection (b);

(2) by redesignating subsections (c), (d), (e), and (f), as subsections (b), (c), (d), and (e), respectively; and

(3) in subsection (e) (as so redesignated), by striking "subsection (e)" and inserting "subsection (d)".

SEC. 906. PROPOSED CONFORMING AMENDMENTS.

Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress recommended legislation containing additional technical and conforming amendments to Federal laws that are required as a result of the enactment of this Act.

SEC. 907. PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased using funds made available pursuant to this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available pursuant to this Act, the Secretary, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 908. CONDITIONS ON IMPLEMENTATION OF ALTERATION IN LEVEL OF SELENIUM ALLOWED IN ANIMAL DIETS.

(a) CONDITIONS.—The Food and Drug Administration shall not implement or enforce the final rule described in subsection (b) to alter the level of selenium allowed to be used as a supplement in animal diets unless the Commissioner of the Food and Drug Administration makes a determination that—

(1) selenium additives are not essential, at levels authorized in the absence of such final rule, to maintain animal nutrition and protect animal health;

(2) selenium at such levels is not safe to the animals consuming the additive;

(3) selenium at such levels is not safe to individuals consuming edible portions of animals that receive the additive;

(4) selenium at such levels does not achieve its intended effect of promoting normal growth and reproduction of livestock and poultry; and

(5) the manufacture and use of selenium at such levels cannot reasonably be controlled by adherence to current good manufacturing practice requirements.

(b) FINAL RULE DESCRIBED.—The final rule referred to in subsection (a) is the final rule issued by the Food and Drug Administration and published in the Federal Register on September 13, 1993 (58 Fed. Reg. 47962), in which the Administration stayed 1987 amendments to the selenium food additive regulations, and any modification of such rule issued after the date of the enactment of this Act.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 3171) was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1620

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4821

Mr. LUCAS. Mr. Speaker, I ask unanimous consent to have my name removed as a sponsor from H.R. 4821.

The SPEAKER pro tempore (Mr. McDERMOTT). Is there objection to the request of the gentleman from Oklahoma.

There was no objection.

LEGISLATIVE PROGRAM

(Mr. GINGRICH asked and was given permission to address the House for 1 minute.)

Mr. GINGRICH. Mr. Speaker, I ask for this time to allow my colleague, the gentleman from California, and the distinguished majority leader to discuss the prospect of taking up a debate on Haiti and the way in which we will proceed. If I might, I will yield first to the gentleman from California to express his concerns.

Mr. COX. I thank the gentleman for yielding, and I thank the majority leader for joining us on the floor for this colloquy.

Mr. Speaker, as both the Republican whip and the Democratic majority leader know, I filed a privileged resolution even before the Haiti occupation for the purpose of forcing what ought to have been scheduled freely, an open debate on the floor of the Congress and decisionmaking by way of vote on the subject of whether an occupation is a good or bad idea, the wisdom of that policy; second, on the scope of the operation and the objectives; and, third, on the cost and what sources we might be willing to make available to pay for such an operation.

I have rolled that resolution so that in the interim the United States has actually occupied Haiti. I have rolled it again because there have been good-faith efforts to see to it that we get such a debate, and I am willing to do so once again, because I know that the majority leader is working on this.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am happy to yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding.

As the gentleman probably knows, the Committee on Foreign Affairs today did vote out a resolution that deals with a variety of questions with regard to Haiti, and I believe under that resolution which we will bring to the floor next week we can, in cooperation with Members on both sides of the aisle, structure a debate on all of the three questions the gentleman raised. We also would obviously intend to have alternatives available to the resolution from the Committee on Foreign Affairs, undoubtedly one for the minority, and there may be other Members on both sides of the aisle who would like an additional alternative, and there may be a vote allowed on that as well.

My own feeling is that the questions that you raise and have been asking to raise through the offering of a privileged resolution can be structured into this debate, and it is appropriate that it happen in this debate, and we will try to structure a sufficiently long debate so that the Members of the House on both sides of the aisle can be heard.

Mr. COX. I appreciate very much what the majority leader has described, and I have questions about it.

If I may proceed, do you know what you have in mind by means of complete time for debate? How much time would be devoted to this? I allude to the Persian Gulf debate, for example, when we expended in excess of a day because of the urgency of this matter, because our troops could become involved in hostilities without notice as a defensive matter, because October 15 is nearly upon us. If the agreement is not upheld, we might be required to mount offensive operations. Time really is of the essence. This will be our only opportunity to have a full and free debate. How much time would the majority leader have in mind?

Mr. GEPHARDT. If the gentleman will yield further, we will obviously consult with Members including yourself on both sides of the aisle about how the debate should be structured. I cannot make a commitment now as to the exact length of the debate, but I do believe, and I think the chairman of the committee and others believe, that this should be a sufficiently long debate so that people can get the ability to express themselves and to have a give and take so that the issues that are involved here can be well presented both to the Congress and to the American people.

I agree with the gentleman that the debate on the Persian Gulf was a constructive moment, and I believe a high moment for this institution, and we want to use that kind of an effort to tease out all of the issues involved in the Haiti questions.

Mr. COX. Is the majority leader proposing this debate take place on Monday?

Mr. GEPHARDT. That decision has not been made. I would doubt that Monday would be the day for this. It probably would be Tuesday or Wednesday.

Mr. COX. Tuesday or Wednesday. And would the procedure on the floor permit consideration of the major points that I have described, the wisdom or not of an occupation, first, the possibility of legislating objective criteria for that mission, if it were decided that occupation were a wise idea; second, and; third, the sources of funding for any such efforts?

Mr. GEPHARDT. I believe the resolution that has come from the Committee on Foreign Affairs largely deals with those issues. But obviously if the minority is afforded an alternative, and I believe it will be, if it is your feeling or the feeling of a group on your side that these issues have not been sufficiently addressed in the resolution, they will have the opportunity to present an alternative.

Mr. COX. My only concern is that because the division on all of these questions is not a partisan one, because most of the positions that are possible on every one of the items that I mentioned are represented on both the Democratic and the Republican sides, that if we structure debate on the floor around a single measure that would, for example, limit our participation in Haiti to 60 days or a Republican alternative that had a different number in it, we would be having a full debate on only a footnote of the entire issue that Congress really ought to engage in. This issue has been a significant one in American foreign policy for many months now.

The United Nations voted to authorize, and the Congress did not. And while I would have preferred that the President actively seek our participation by way of debate and a vote, it is nonetheless incumbent upon this institution to take that up itself, not only under article I, section 8, and the war powers that we share with the President, but also our broader powers under article I to raise and support armies and appropriate funds and so on.

I think all of those questions are properly debated here on the floor. I would hate to see us so constricted that we had a resolution with a time period on one side and a different time period on the other and that was it.

□ 1630

Mr. GEPHARDT. If the gentleman will yield, I would think we would want to have enough general debate time so that the debate on the larger questions could be well structured.

Mr. COX. With that understanding, would it be fair to say that no later than Wednesday this would occur? We are running out of time, of course, in the whole Congress, so we are running up against the wall next week in any case.

Mr. GEPHARDT. If the gentleman will yield, and I am not trying to indicate we are not going to do this issue, we are going to do this issue, I cannot commit to a specific time because we have an active schedule. We are trying to leave by October 7, and there is every intention here to do that. We will have this debate next week. It will be on probably Tuesday or Wednesday, it could be Thursday, I am not sure. I cannot make a commitment at this point because we have so many other matters we have to get done. We are not going to put that in a time period when Members cannot participate, we are not going to avoid it, it will happen.

Mr. COX. I am advised that the length of the debate on the Persian Gulf was about 26 hours. I do not know that 26 hours is necessarily the right time for the debate on the Haitian occupation, but it would seem to me that somewhere in the neighborhood of a day of debate rather than just a few hours of debate would be appropriate.

Mr. GINGRICH. If I might make an observation for a second, it does seem to me—and I hope the majority leader can agree with this—what we might do is indicate to Members on both sides of the aisle that the debate is upcoming and that if we have some expression of interest, say by Monday, that we would have a notion of whether, for example, we might want to start the debate—and I am not sticking to Wednesday—but if we are going to have the votes on Wednesday, we might well to start the debate on Tuesday at the end of the legislative session. Literally, if there are that many Members who want to engage in a serious debate, to allow it to begin in a fairly open manner leading up to a more structured environment on the day of the actual votes.

I remember I stayed here, I had the assignment, until 5 o'clock in the morning or something, on the first when we literally ran out of time on the Desert Storm debate. I do not know if that, for my friend from California, would be a good starting point, but if we could say to all of our colleagues this debate is coming up, it is very serious, it is potentially a matter of life and death and certainly a matter of American foreign policy, if you think you are going to have an interest in substantial time on this, let us know so that we can on a bipartisan basis insure that every Member have the time by creating that kind of a scheduling opportunity.

Would that be a starting point to what the gentleman is describing?

Mr. COX. Yes. I would point out that the privileged resolution which I filed both before the occupation and subsequently has a very short resolution, and that is that the Speaker should immediately schedule a debate and vote upon the scope of an authorization for the United States military occupation of Haiti. If that commitment were made here on the floor, not necessarily to have the debate immediately, we might not be having it until Tuesday or Wednesday or even Thursday of next week, but to schedule it immediately so that would provide Members with the advance notice they would need. And it would set up a procedure so that we could all be confident in knowing that it is going to take place.

Mr. GEPHARDT. If the gentleman will yield, we will be releasing a schedule for tomorrow for next week, and undoubtedly this will be scheduled on that schedule so that Members will have notice, and we will make a special effort to let Members have notice and we will make a special effort to let Members know this is coming. We may even try to figure out how many Members would like to talk so that we can schedule adequate time.

Mr. COX. Finally, I would raise once again something that the leader and I discussed in private conversation on the floor, and that is the possibility that rule sufficiently open to encompass the things we have discussed might be structured so that the majority leader and the minority leader would control what amendments to whatever basic vehicle made it to the floor would be in order. I think certainly every Member of this Congress would trust the judgment of the majority leader and BOB MICHEL, tthe Republican leader, in matters of war and peace that would permit us the widest scope but also insure that nothing brought up with parochial interests or some other purpose would interfere with the discussion on this floor of the wisdom of our Haiti policy. Would that suggestion——

Mr. GEPHARDT. I appreciate that suggestion. We would obviously consult with the minority in putting this procedure together.

Mr. COX. Well, with the understanding that the debate will take place next week, whether it amounts to the 26 hours we had on the Persian Gulf or not, we would be talking about perhaps a full day of debate, with the understanding that the scope of that debate would not be constricted to a resolution calling for a pullout by a date certain or allowing merely a time period, but also would extend to the financing of the venture and the wisdom of the occupation and objective criteria for success or failure, I have no reason to press my privileged resolution.

Are those things a fair statement of what we have discussed in this colloquy?

Mr. GEPHARDT. I thank the gentleman.

Mr. COX. With that understanding, I yield back.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. SCOTT). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, and under a previous order of the House, the following Members are recognized for 5 minutes each.

HAITI: THE CURRENT SITUATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, we have just had a very instructive colloquy between the distinguished gentleman from California, Mr. COX and our distinguished majority leader, and the distinguished whip, Mr. GINGRICH on where we are going on the subject of the debate of Haiti. Is it not extraordinary that we could be standing here on the 9th day of the occupation of a friendly neighboring country finally saying that we are going to schedule a debate sometime next week that involves a country that has something like 15,000-plus of our Armed Forces at least partially in harm's way, certainly involved in a dangerous and volatile situation down there? A day late and a dollar short, does not quite say it when we talk about, in my view, the negligent way that the leadership of the Democrat Party has handled the debate and discussion of this subject in the House of Representatives.

Certainly, the people of this country are very, very upset that Congress has not chimed in. The polls show that because most of the people across our country do not believe that we should have our troops in harm's way in Haiti. There is no national security reason for them to be there. There are very few national interests that can be resolved by putting our troops there. And there are certainly extra dangers and extra hazards involved for our troops who are there.

So it would seem that we have been asking the wrong question for quite a while here about should we draw a date certain to get our troops out? I think that is the wrong question. I think the question to ask is when should we start pulling our troops out? And the answer is now, today, immediately. I do not know how long it will take to get 15,000-plus troops out of Haiti, but it will surely take a while to do it in an orderly and safe way. I believe that process should start now.

So, the question we should ask is when do we begin removing our troops from Haiti? I hope that the answer to that question, and I urge that the answer to that question, be now immediately. It turns out, as we read the newspaper accounts from down there, we are being asked to police virtually everything. It is not just the parliament building we are protecting today. It is the aid warehouses, we are going to have to protect President Aristide when he returns. Presumably, we are going to have to protect some of the members of the military who are going to be subject to an amnesty accord and protection when they are there because there are plenty of people who are mad at them and they are no longer in the army, no longer have the protection of their own army. Who is going to protect them? I presume that is part of President Carter's agreement with General Cedras and others in his junta.

□ 1640

That sort of leaves us in the position, America, where the taxpayer is paying for not only the bodyguards, but the palace guard of President Aristide who many will go back and read some of his comments and find that he has not been particularly a great fan of the United States of America or certainly of the form of government and democracy that we have here. That will probably agitate some Americans to learn that if they do not know it already.

But then there is the other side of it. Are we also going to be providing bodyguards for General Cedras who has been described as one of the most brutal thugs in the Western Hemisphere? Are we going to give them each a Mercedes Benz that is armor plated so they can go about their business in downtown Port-au-Prince? It seems to me like we are really carving another giant taxpayers expense which would be laughable were it not so expensive and so dangerous.

I do not think the administration has thought this thing out very well.

Talking about dollars, we had the privilege today in the Committee on Rules of talking about the supplemental we will be dealing with under defense appropriations tomorrow. It will be $300 billion. That does not take care of the costs after the intervention slash invasion that came about a week ago Sunday. That is the costs up to that point. The estimate for the costs after that point, to follow the Pentagon plan and the administration plan that we have heard enunciated, gets up into the $2 billion-plus area. That is a lot of money for Haiti, and I would suggest, if we took all of these costs, and put them together, and divided it by the number of people in Haiti, and sent them a check or handed them dollars in their proportional share amount, we would have done a whole lot more for that democracy than the way it has been handled by the Clinton administration so far.

The bottom line is we are going to become ever further sucked into this quagmire down there. We are told that we cannot distribute our aid supplies from the warehouses that are there right now. They are being trashed by the crowds who do not want to get the supplies out in an orderly way. Presumably some of them want to get them out for humanitarian purposes and for their own family and friends. Others inevitably probably exercise a little private enterprise, want to take some of those supplies and sell them on the black market. So, we have got to protect everything that is going on down there.

It has almost gotten to the point, Mr. Speaker, that our military is going to have to protect not only their lives and the lives of each other, their buddies, their colleagues, but the equipment that we have there will start to mysteriously disappear into the night, the guns, the things we are trying to buy back. That program has not had great success so far. I understand we bought something like 18 guns back, but these are the kinds of things that have not been foreseen that a thoughtful foreign policy would have understood, and provided for, and, frankly, avoided.

I see that my time has expired on me, but the subject is not expired, and I know others will take it up.

THE NATIONAL INFRASTRUCTURE DEVELOPMENT ACT

The SPEAKER pro tempore (Mr. SCOTT). Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, I rise this evening to address the state of our economy and to outline innovative new legislation to build our infrastructure and create jobs. Over the past 2 years we have witnessed an upturn in our national economy. Under the strong leadership of the Clinton administration, 3½ million new private sector jobs were created in the past 18 months.

Despite this upturn in our national economic fortune, there are regions of the Nation where continued efforts to create new jobs remain imperative. In my home State of Connecticut, despite a declining unemployment rate in the past year, the threat of future layoffs looms large as defense downsizing continues. People remain concerned about job security and the ripple effect it can have on a community. The need to train workers and create new jobs is as great today as it has ever been.

At the same time, the infrastructure American business needs to maintain a competitive edge in the world economy is aging. Our Nation's roads, bridges, sewers, and airports demand almost $70 billion for repair or replacement each year. And according to recent estimates from the Department of Transportation, the combination of State and Federal funds available for infrastructure leave an almost $30 billion shortfall each year. This shortfall will become a growing burden on American industry, as it finds its means of transporting goods limited and its domestic and international trade increasingly costly.

For years it has been known that investments in our infrastructure have the added benefit of creating good jobs. Combining a strategy to address both of these pressing priorities is not novel. But today I have introduced legislation that seeks to remedy both problems through a limited public investment.

I am joined in this effort by our majority leader, the gentleman from Missouri [Mr. GEPHARDT], who has worked tirelessly in this body to create jobs for working Americans.

This legislation, the National Infrastructure Development Act, would create as many as 250,000 new jobs each year by leveraging a limited public investment in infrastructure to attract significant additional private capital funds.

The bill is designed to be particularly attractive to the pension community and other institutional investors. These investors represent $4.5 trillion in investment potential. For infrastructure, this is a vast investment opportunity. Evidence of the attractiveness of investment in infrastructure is easy to find. Earlier this year an 80-member delegation of pension managers traveled to China to investigate infrastructure investment opportunities there. And they liked what they saw. We must make it attractive for these funds to invest in America.

The bill creates a Government-sponsored corporation, the National Infrastructure Corporation—or NIC—which would be funded by an initial $1 billion Government investment for 3 years. Its mission would be to invest in and insure infrastructure and environmental projects that will generate revenues. Construction or repair of toll roads, airports, bridges, sewage treatment facilities, and clean water projects are potential investments.

By lending or insuring funds to municipalities or States with projects like these, the NIC would allow pension funds to strengthen their investments while helping us strengthen our economy. And over time, the NIC itself would become an attractive investment for the pension community. Private investors could eventually buy the Corporation from the Federal Government, repaying the taxpayers' original investment.

In addition, the bill would create something called the public benefit bond. The bill would allow cities and States to offer bonds to pension funds for use in infrastructure construction. Under the public benefit bond, these investments would be attractive to pension funds because it allows them to pass on tax benefits to their pensioners.

What this bill does not do is end traditional means of funding our road construction. It does not replace the need for Federal or State assistance to highway and mass transit programs. Instead, it offers a new method of filling the $30 billion annual shortfall that has been projected for these projects. The NIC will supplement, not supplant, traditional methods of financing our infrastructure development. Investment from NIC will allow States and municipal governments to use existing formula and grant funds for other projects of importance.

Who benefits from this approach? We all do. First and foremost, American workers will benefit from this new twist in an old concept of job creation. Under traditional Government transportation investment programs, every $1 billion the Federal Government invests creates 30,000 to 50,000 new jobs. Under the National Infrastructure Development Act, every $1 in Federal investment will result in $10 of actual construction. So each $1 billion in Federal investment will create 250,000 to 450,000 jobs.

American business benefits. The reliable airports, roads, and other means of transportation vital to the movement in goods in an international economy become more secure, assuring continued growth. The taxpayer benefits from better modes of transportation for fewer tax dollars. Pension investors benefit because they can look to American opportunities to invest their pension dollar instead of China.

Mr. Speaker, I introduced the National Infrastructure Development Act because as a member of the Appropriations Committee I understand all too well that the Federal dollars are increasingly limited. I understand that in order for Government to accomplish its goals we will need to find new methods of getting the job done. I believe by making it more attractive for private investors to engage in the rebuilding of America we will be forging a vital partnership—one that will help us create new jobs and good investments, and rebuild our aging infrastructure.

I believe that this bill represents ideas that will be attractive to my colleagues on both sides of the aisle and it is my hope to work with Democrats and Republicans to see this legislation actively considered in the next session of Congress.

Mr. GEPHARDT. Mr. Speaker, I am pleased to join Congresswoman DELAURO in cosponsoring the National Infrastructure Development Act of 1994.

The purpose of the National Infrastructure Development Act is to increase the public works investment so critical to sustaining our long-term economic growth. Good roads, airports, transportation networks, sewer systems, and other public works have been recognized as necessary for strong productivity growth.

Over the past 2 years, the Clinton administration and the Congress have made tough choices to reduce the Federal budget deficit. While we have made historic progress in rekindling sustainable economic growth, our rate of investment in public works remains well below the level believed necessary for optimal economic growth.

During the 1980's, real Federal investment in infrastructure fell 16 percent. As the Federal Government reduced its investment, greater burdens fell on the States and municipalities. And many of them—not just inner cities or small towns but suburbs as well—have been unable to meet their needs.

As investment has lagged and our public works have aged, their contribution to our economy has diminished. Traffic congestion, for example, now costs drivers in our largest cities over $40 billion per year in lost time and wasted gasoline.

It is not just the economic effects that the American people see so plainly. In Missouri, failing septic systems have left raw sewage standing in our streets and gutters: local sewer districts are unable to afford even basic improvements. Long-promised road improvements have gone unfulfilled—leaving our county roads with accident and fatality rates substantially higher than the national average.

While we have made some improvements in recent years, numerous studies document the need for additional public investment. Bringing our bridges and highways up to current safety standards would require a doubling of the current highway program. The backlog of sewage projects totals over $200 billion. Last year, the Bipartisan Commission to Promote Investment in America's Infrastructure reported that America's investment shortfall in its infrastructure totals between $40 and $80 billion per year.

The Federal Government must lead the way with new resources. Our strategy should recognize also that many States are more capable and sophisticated than they were in the past. New methods of financing may be both necessary and possible.

The Natural Infrastructure Development Act establishes an innovative, investment-oriented Federal infrastructure strategy to help States and municipal governments finance needed infrastructure. Specifically, it establishes a National Infrastructure Corporation to provide a broad array of financing to projects capable of providing an economic return. These would include projects like toll roads and bridges, wastewater and drinking water treatment plants, and airports.

By leveraging private and other public sector monies, the Corporation would substantially increase the amount of infrastructure created by each federal public works dollar. Experts estimate that the Corporation could leverage $10 or more in private investment for every $1 it receives from the Federal Government. Under this legislation, the corporation's capitalization would be $3 billion. It is anticipated that this could support up to $30 billion in new project work, generating between 675,000 and 900,000 new jobs.

Congresswoman DELAURO has proposed an innovative mechanism to address a difficult problem. It is my hope that we can move forward in promoting additional public works investment in the next Congress. This legislation makes a valuable contribution to understanding the issues and attaining this goal.

□ 1650

TRIBUTE TO FORMER REPRESENTATIVE EDWARD PATTEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. HUGHES] is recognized for 5 minutes.

Mr. HUGHES. Mr. Speaker, New Jersey and our Nation suffered a tragic loss last week with the passing of our former colleague and friend, Congressman Ed Patten. Rutgers University, our State University, also lost a great and loyal friend.

I would like to take a few moments to reflect upon his life, and to pay tribute to this man who was surely one of New Jersey's finest sons. He was a big man, with a gentle smile and pleasing and outgoing personality.

Eddie Patten was also one of the most colorful, congenial and compassionate individuals to ever grace the Halls of Congress. To remember him any other way would be unfair to a man who built his reputation on the basis of his warmth, great sense of humor and genuine love of Congress and the people he served.

When I first came to the Congress in 1975, Eddie Patten was one of the senior Members of our delegation, one who I looked to for guidance and good counsel. I must confess, I at first never knew when to take him seriously.

He was always telling stories, cracking jokes, and hatching the kind of schemes which made him a legend around the Capitol, such as the time he clipped off another Member's tie with a pair of scissors so he could replace it with one manufactured in his hometown of Perth Amboy.

No matter how tense the situation might be, or how difficult the issue was that we were facing, you could always count on Eddie to come up with a well-placed joke or one-liner that would ease the pressure and help everyone get through the crisis at hand. He was quite a character.

But Eddie was also one of the most able and effective Members of our delegation. As a Member of the House Appropriations Committee, he helped lead the fight for education and job training programs. He worked tirelessly in support of programs to create jobs and put people to work.

Just as importantly, Eddie never lost sight of the people he served. Indeed, it was difficult to go anywhere in his district that people didn't know him by name and enjoy being around him. To Eddie, the people always came first.

I am very proud to have had the opportunity to serve with Eddie Patten, and to get to know him as a legislator and a friend. I wish to extend my condolences to his daughter Catherine and to the citizens of New Jersey on the loss of this wonderfully kind and productive public servant. We will miss him.

Mr. MENENDEZ. Mr. Speaker, Congressman Edward James Patten, who served in this body from 1963 until his retirement in 1980; passed away on September 17, 1994, at the age of 89.

Mr. Patten spent his entire life in public service. He graduated from Rutgers Law School; and, at age 27 became the youngest mayor in the history of Perth Amboy. He then served as the Middlesex County clerk and secretary of state for the State of New Jersey under Gov. Dick Hughes.

Following the 1960 census, New Jersey's 15th Congressional District was created. Ed Patten was selected by the county Democratic organization to run for Congress in the newly established district.

He went on to win that election in 1962 and each subsequent election through 1978. During that time, he had only one serious primary challenge and that was during the Vietnam war.

Ed Patten loved the House of Representatives. He was a Democrat who believed that we had a responsibility to meet the needs of the Republic's people. He felt privileged to serve with former Speakers of the House John McCormick and Tip O'Neill.

He sat on the House Appropriations Committee for many years, during which time he was an impassioned fighter for education. During his tenure on the Labor—Health and Human Services—Education Subcommittee, he championed the growth of higher education and our State university, Rutgers, held a special place in his heart.

He was also an advocate of the work done at Princeton and worked hard for the Princeton Plasma Physics Center, which as we all know has done recordbreaking research in the field of fusion.

But, Mr. Speaker, people remember Ed Patten for his love of his family, his fellow human beings, and for his love of Perth Amboy, NJ. He was Perth Amboy's favorite son. He lived in the same house on Market Street for his entire married life. He was enormously proud of his daughter, Sister Catherine Patten, to whom I want to extend my deepest sympathy. He was a man who could relate to the people because he was one of them. His favorite hours were spent in Perth Amboy at the Elk's Club. His office was open every Saturday, where he and his late wife, Anna, would see constituents all day. He was a good man with a generous and caring heart, and the problems his constituents had became his problems.

Mr. Speaker, it seems that here, in the House of Representatives, everyone who knew him has an Eddie Patten Story. Mine concerns one of his congressional elections, where his opponent publicly stated that, "running against Ed Patten is like running against Santa Claus."

I never had the privilege of meeting Ed Patten, but I wish I had.

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on my special order just given.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

TRIBUTE TO THE LATE HON. ROBERT L.F. SIKES

(Mr. HUTTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTTO. Mr. Speaker, it is my sad responsibility to announce to the House that my predecessor, former Congressman Bob Sikes, passed away this morning. Congressman Sikes spent 38 years in this House of Representatives. He was a member of the Committee on Appropriations and was the chairman of the Subcommittee on Military Construction on Appropriations. He will certainly be missed by many, particularly those he served in northwest Florida. He was somewhat of an institution in our area.

Congressman Sikes is survived by his wife, Inez T. Sikes; a son, Robert K. Sikes of Orlando; a daughter, Bobbye Sikes Wicke of Indiana, and a number of grandchildren, great-grandchildren, and one great-great-grandchild.

Congressman Robert L.F. Sikes was 88 years old, and passed away this morning.

WHY CONGRESS SHOULD NOT PASS THE GATT AGREEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. BROWN] is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, yesterday the administration sent to Congress the Uruguay Round of GATT, the General Agreement on Tariffs and Trade. It deserves to be defeated. The lawyers who wrote this 3,000-page agreement included not one single provision for child labor laws, for worker rights, for labor standards, or even any prohibition against slave labor. Even NAFTA, as bad as it was, had a side agreement on labor.

I believe strongly that our Government should begin to negotiate trade agreements that benefit the people in the plant floors, not just high-powered international financiers. GATT ignores labor issues. The administration tried but failed to get labor provisions included in this agreement. We are left with another international trade agreement that does nothing to promote fair trade. This agreement does nothing to address the cruelest and most prevalent unfair trade practice of all, the suppression of worker rights by governments seeking low wage, low standard competitive advantage on the world market.

Why should American workers, the backbone of our country, the backbone of our economy, why should American workers have to compete with workers who make $2 a day if they are lucky? Until worker and labor standards are included in a trade agreement, we will never have fair trade, and American workers will continue to pay the price.

GATT is especially bad, because it would create a powerful new bureaucracy, an international bureaucracy known as the World Trade Organization. The WTO is a threat to the sovereignty of the United States and more trouble down the road for our country, for consumers, for people that work. Under the WTO, each nation in the world has one vote. Japan has one vote, Cuba has one vote, Haiti has one vote, even Saint Lucia has one vote. Saint Lucia would have the same voting power in the WTO as does the United States.

Of the 120 countries in the WTO, 80 of them as members of the United Nations voted against the United States more than 50 percent of the time. So if Cuba and Haiti and Saint Lucia decided the United States food safety laws violated the GATT agreements, our clean food, clean food safety laws, they could haul the United States before the World Trade Organization, which could impose sanctions on the United States. That would hurt our products when we try to sell them on the world market.

If you like Japan writing trade rules, then you will love GATT. If you want to put the United States on the same level with countries the size of a postage stamp, then the World Trade Organization is for you, then GATT is for you.

Meanwhile, the international trade deficit is killing America's competitive position in the world. The U.S. trade deficit in July alone, in 1 month, reached $10.99 billion, the second highest level in our country's history. We have done a good job the last 2 years getting the budget deficit down. Unfortunately, the trade deficit is getting larger and larger. The deficit with Japan alone in July was $5.67 billion. The deficit with China, which uses slave labor and has all the human rights violations that people on this floor have talked about, the deficit just last month with China was $2.67 billion.

For too many years, we have allowed other countries to write our trade laws. That trade deficit of over $100 billion this year kills American jobs. Balancing our international trade account would save approximately 160,000 jobs every month. That is why fair trade is so important to building a strong economic future for northeast Ohio and building a strong economic future across this country. That is why I will be voting against GATT next week.

THE CLASSROOM TECHNOLOGY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. LEWIS] is recognized for 5 minutes.

Mr. LEWIS of California. Mr. Speaker, I rise this evening to discuss a piece of legislation being introduced by my colleague, the gentleman from California [Mr. LEHMAN] and myself, dealing with the Classroom Technology Act, and I would like to yield to my colleague [Mr. LEHMAN].

Mr. LEHMAN. Mr. Speaker, there is much talk about the information superhighway and how the information revolution will affect our Nation's economic competitiveness. We usually discuss the information revolution in terms of maximizing worker productivity and improving the bottomline for business in the global economy, but there is one major sector in our Nation that is being left to scavenge back on the home front during the information revolution—education.

Students cannot be adequately prepared for the use of technology in the workplace if they are not educated with computers and other technologies in the classroom. Being able to program the VCR or play video games is not good enough. We—as community leaders, as policymakers, as concerned Americans—must take the lead in helping our schools take advantage of computer, telecommunications, and other technologies to ensure that our children are eager to take on the world and its educational resources.

We have seen remarkable changes in learning technology over the past quarter century. And yet, technology has not transformed schools to the degree it has other aspects of our society. In fact, a teacher from the little red schoolhouse of last century could walk into a classroom today and feel comfortable because so little has changed.

While many schools have and use computers in instruction, few schools have the capacity for any degree of two-way voice, data and video networking with data bases and with other schools. Only 12 percent of U.S. classrooms have a telephone. Only 4 percent of teachers have a modem, and only 4 percent have access to internet—NEA survey.

The classroom remains isolated and simplistic at a time when the world is becoming more interactive and complex. We are letting our budgetary and other constraints limit the possibilities for our students, our future work force. Instead of yielding to these constraints, we must push ahead with innovative ways of meeting our students' technological needs.

Earlier, this year, Mr. Speaker, we made the initial plans to meet these needs when we passed the Goals 2000 legislation, which incorporated the use of technology and telecommunications in achieving the national education goals. This legislation, as well as the Elementary and Secondary Education Act reauthorization—which includes a title for technology for education for the first time—set the standards which schools must aim for.

Unfortunately, the schools have not been provided with the tools to meet these standards. A report by the National Institutes of Standards and Technology underscored this fact when it determined that the computer base in elementary and secondary schools is completely inadequate to meet the telecommunications applications of today. The report notes that of 80 percent of the computer base, over 50 percent are Apple Two's. This puts the students-to-computers ratio of 14 to 1 in the United States in proper perspective—quality education data study.

If there are 14 students sharing one computer, and that computer is 10 years—and at least 4 generations—old, it is obvious that very little innovation is taking place. While these computers are adequate for routine tasks such as games and drills, educational software is no longer developed for them and the students are definitely not learning to use equipment that they will encounter in the workplace. This is like teaching students to drive on the highway in a Model T.

That is assuming that the teachers are able to teach the students how to drive. Less than half of school districts in the United States have an introductory computer course for their teachers—IEA computers in education study. Because of this lack of formal training, teachers must learn as they go along and often only when the school computer is available. As a result, it takes teachers an average of 5 to 6 years to develop expertise in computer use which can be relayed to their students—NEA survey.

An additional gap in the quality of educational technology is the lack of connections between business and schools. For example, my State of California ranks last nationally in the computer-per-student ration—quality education data. In a State that boasts of cutting edge technology companies, this is an appalling statistic.

I believe that business and schools should link up to provide our children with effective technologies that will prepare them for the modern workplace. That is why I am introducing legislation with my colleague from California, Mr. LEWIS, which would provide incentives to businesses to share outdated equipment with schools and establishing a fund to improve schools' telecommunications capabilities.

The Classroom Technology Act encourages elementary and secondary schools, colleges, libraries, and other information sources to join together to share the resources they have through telecommunications. Once the urban and rural regions of the country are linked, connections to national networks of information and programming will be easier to make.

I strongly believe that the convergence of information and telecommunications will allow students to overcome income, geography, and other barriers to learning. Mr. Speaker, this can only benefit us as a society and as a nation because these students will grow up more aggressive and more well-rounded when it comes to information technology. We must begin the fight for our economic future today—I call on my colleagues to join me in laying the groundwork for our Nation's survival.

□ 1700

Mr. LEWIS of California. Mr. Speaker, I very much appreciate my colleague's contribution.

The least that we had hoped from the initial stages of this legislation is to create models, perhaps in more than one urban center, models in a rural sector of California and other States that essentially would provide a design as to how computers and computer technology can be used to better enhance and prepare our students for the technology so necessary for tomorrow, not just in the workplace but for their own personal use as well.

This is a critical moment in the history of American education. The use of technology has exploded, affecting all aspects of life from the workplace to the living room. Our children must have access to new technologies and information tools like computers, networks, CD-ROMs, modems, and the emerging information superhighway. To produce tomorrow's leaders, we must provide our children and their teachers with this kind of technology.

To better serve the needs of students and teachers, Congressman LEHMAN and I have introduced H.R. 5013, the Classroom Technology Act of 1994. This legislation will promote the use of technology and telecommunications in classrooms throughout the country. The bill focuses on school technology, grant programs, and incentives for public/private partnerships. It will give students the technology necessary to communicate with libraries, other students, and experts in every field across the country and around the world. This will be especially useful to rural districts like my own, where students often have trouble accessing essential information.

The Classroom Technology Act directs the Department of Education to coordinate educational technology activities among the related Federal and State agencies, industry leaders, and interested educational and parental organizations. There are many individual schools in the United States that have incredibly advanced programs for their students. I am fortunate enough to have one such school in my district, the Science and Technology Center in Apple Valley. I feel that it is vital that schools with good programs, like the Science and Technology Center, share their knowledge and experience with other schools around the Nation. Our bill establishes an Office of Educational Technology that would oversee educational technology activities nationwide and help less progressive schools implement the programs proven valuable and successful.

Furthermore, our bill encourages public and private sector cooperation in providing schools with hardware and software. It establishes a clearinghouse with an 800 number at the Department of Commerce for businesses to donate their old computers. As you know, corporations are forever updating their equipment. While no longer state of the art, most of such equipment can still be extremely valuable, especially to schools which often lack the funds necessary to purchase any equipment at all. Under H.R. 5013, the businesses can get rid of older machinery and receive a tax break for the donation. Our schools will certainly benefit from the free technology.

H.R. 5013 would also direct the National Telecommunications Infrastructure Administration [NTIA] to set aside a percentage, 33 to 40 percent of its funds from the matching grant program for educational purposes. It would set up a joint Department of Education and NTIA fund for matching grants, the quickest way to maximize a modest amount of Federal money. The funds would come from the universal user fees and penalties that are collected by the Federal Communications Commission from telephone companies. The money would be used for school site infrastructure, from wiring to computers to satellite dishes.

While California is a high-technology giant in the eyes of the world, its classrooms are woefully unprepared to teach students the computer skills they need. With the rapid advancements in computer technology, we cannot afford to let a generation of students fall behind other leading industrialized countries. The Classroom Technology Act creates a public-private partnership involving students, parents, education, business, and Government. It will ensure that today's students are equipped for tomorrow's jobs.

CLASSROOM TECHNOLOGY ACT WOULD INTEGRATE COMPUTER LEARNING THROUGHOUT NATION

WASHINGTON, DC.—Citing the need to improve computer learning in America's classrooms to prepare students for the job markets of the future, Congressman Jerry Lewis has introduced the Classroom Technology Act of 1994, legislation that encourages the use of emerging computer and telecommunications technologies in a classroom setting largely through building partnerships between the business and education community.

"Today's students and tomorrow's leaders should and must be computer literate and technologically equipped to acquire the skills they need for the jobs of tomorrow," Lewis said. "The information superhighway has become more than just a futuristic pipedream. It is our present—and our future. We must begin to prepare our classrooms for this necessary change in education."

According to Lewis, the measure directs the Department of Education to formulate a plan to coordinate educational technology activities among federal and state agencies, while also involving high-tech industry leaders and interested educational and parental organizations. The legislation would direct the National Telecommunications Infrastructure Administration to set aside a percentage (33–40%) of its funding for educational purposes.

The bill also encourages public/private cooperation in providing schools with computer hardware and software through establishing a computer clearinghouse with a toll-free number at the Department of Commerce. Under the legislation, businesses would receive a tax-break for the donation of outdated equipment, while students would receive free working computers.

"While California is a high-tech giant in the eyes of the world, its classrooms are woefully unprepared to teach students the computer skills they need," Lewis said.

"With the rapid advancements in computer technology, we cannot afford to let a generation of students fall behind other leading industrialized countries. The Classroom Technology Act creates a public-private partnership of students, parents, education, business and government to ensure that today's students are equipped for tomorrow's jobs."

SOO LINE RAILROAD

The SPEAKER pro tempore (Mr. SCOTT). Under a previous order of the House, the gentleman from Michigan [Mr. DINGELL] is recognized for 5 minutes.

Mr. DINGELL. Mr. Speaker, in accordance with a motion adopted by unanimous voice vote of the Committee on Energy and Commerce today, I am introducing legislation to extend and preserve the status quo through February 28, 1995, relative to the pending dispute between the Soo Line Railroad Co. and certain of its employees represented by the United Transportation Union. Mr. MOORHEAD, ranking Republican of the Committee on Energy and Commerce, Mr. SWIFT, chairman of the Subcommittee on Transportation and Hazardous Materials, and Mr. OXLEY, ranking Republican of the Subcommittee on Transportation and Hazardous Materials, are original cosponsors of this legislation.

The Soo Line Railroad is the ninth largest of 15 class I railroads in the United States. It operates over 5,000 miles of line in 11 States, including Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, North Dakota, South Dakota, and Wisconsin. The United Transportation Union [UTU] represents more than 1,000 employees of the Soo Line Railroad, including conductors and trainmen.

Since 1988, the Soo Line and UTU have been in contract negotiations pursuant to the provisions of the Railway Labor Act [RLA]. To date, all efforts to reach a voluntary agreement have failed, including efforts of the National Mediation Board [NMB] to mediate the dispute. In June 1994, the parties rejected the NMB's proffer of arbitration, thus triggering a 30-day cooling-off period that expired on July

14, 1994. Under the terms of the RLA, after the expiration of this 30-day period, either party was free to resort to so-called self-help, for example, the railroad could impose new contractual terms unilaterally or the union could engage in a strike.

On July 14, the Soo Line Railroad imposed new contract terms and the union commenced a strike. This situation persisted for 47 days until the President, by Executive Order 12925, effective August 29, 1994, created Presidential Emergency Board [PEB] No. 225. The President's order was based on the judgment of the NMB that the dispute "threatens substantially to interrupt interstate commerce to a degree that would deprive a section of the country of essential transportation service."

By the terms of the President's Executive Order, PEB, 225 was directed to investigate the dispute and report to the President within 30 days of its creation. As in other similar situations, the parties subsequently have stipulated to an extension of time for submission of the PEB's report until October 14, 1994, by letter dated September 21, 1994 from the chairman of PEB 225. Under the RLA, a final 30-day cooling off period follows the submission of the PEB's report. If no voluntary settlement is reached within such period, the parties are free to resort to self-help. Thus, assuming no further extensions, the date when the parties could engage lawfully in self-help activities is November 14, 1994.

Due to the potential ramifications that self-help could produce in this situation—at a time when Congress will have adjourned—the members of the Committee on Energy and Commerce believe it is essential that legislation be enacted that extends the final cooling off period until after the 104th Congress has been convened and organized. Such action is consistent with prior precedents, such as the 1988 Chicago NorthWestern strike, where the final cooling off period was extended past the date of the August recess.

Under the terms of the motion approved by the Committee on Energy and Commerce today, I have been directed to take action to have the resolution considered in the House under suspension of the rules at the earliest possible date. I, with the cooperation and support of our Republican Members, will follow through fully with the committee's instructions and hereby notify Members of the House of our intent to consider this legislation on the suspension calendar at the earliest possible date.

Clearly, it is the strong and unequivocal desire of every Member of Congress that the parties reach a voluntary agreement. The action authorized by the Committee on Energy and Commerce today encourages voluntary agreement of the parties by giving them sufficient additional time to consider the report of PEB 225 and to negotiate a final resolution of all outstanding issues. It is our sincere hope and desire that the parties redouble their efforts to bring an end to this dispute prior to February 28, 1995.

HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON. Mr. Speaker, I rise today, again, as a member of the Committee on Armed Services to express my grave concern with what is happening in Haiti as well as my outrage at some additional facts that I learned today in a briefing that was provided to myself and other members of the Committee on Armed Services.

President Clinton has been telling the American people that this effort is a multinational effort and if you ask most Americans and, I think, most Members of Congress who is in Haiti right now, they would tell you, it a multinational force.

At today's briefing we had the Deputy Secretary of Defense, John Deutch, and Lt. Gen. John Sheehan, who is the Director of Operations for the Joint Chiefs.

I asked that specific question. Right now, today, 10 days after President Clinton committed our troops and has told the American people it is a multinational force, how many Americans are involved in that effort? The answer is that there are 19,000 young Americans who are involved in Haiti today.

Then I said, "Would you tell me how many other troops are involved in that effort today right now, 10 days after the President committed us, after he has told the American people it is a multinational force?"

Secretary Deutch hemmed and hawed and talked about what is committed and what may be. I said, "No, what is there right now, how many troops that are not American?"

He said, "Well, about two dozen."

I said, "You mean like 24?"

Three times I repeated the question and three times Secretary Deutch confirmed that there are 24 non-United States troops involved in Haiti right now; 19,000 Americans and 24 troops, not 24 countries, 24 troops. I said, "Where are they?" And he said, "They are all in the command headquarters."

So we have 19,000 Americans in Haiti in harm's way and we have 24 troops from other countries who are all in the headquarters building.

Mr. Speaker, this is not what the Members of Congress and the American people have been led to believe. This is not what this President has told us in terms of the commitment and the involvement.

Last week he said that within 2 to 3 days the multinational forces would be in Haiti. Here we are 10 days later.

Some other things came out of the briefing. We learned today that the United States in fact will pay all of the costs, if and when other troops come in. So for the taxpayers of this country, we can now advise them that with our serious budget shortfall, if, in fact, we get other troops to come in, which is still doubtful, the taxpayers of this country will pay the full bill. We will pay their salaries. We will pay the cost of transporting them. We will pay all of their expenses.

And in fact, today we had an announcement that the Russians will send troops. We will pay the Russians, not the United Nations, the United States.

Mr. Speaker, this is outrageous. Not only are we going to pay the cost for the troops, but we even heard about big gun buy back program in Haiti. America is buying those guns. We, in fact, are the ones who are paying that bill. What is the cost going to be? Secretary Deutch could not give us an exact figure. Estimates range from $800 million to $1.5 billion.

The Secretary tried to focus on the fact that we should not legislatively impose a date certain to bring the troops out. Well, that is outrageous. Because most of us in this body do not think they should have been inserted there in the first place.

The Secretary and the President would tell us, they are going to be out within a few months, perhaps in the early part of 1995. If you read the Boston Globe today or yesterday, there is an article that says the U.S. military role may last until and through 1996.

Mr. Speaker, we are not getting good information. The American people are not being told the truth about what is happening in Haiti, and we have our men and women in harm's way. Now we hear, if you read the news accounts today, that what we thought was a suicide of one of our troops in Haiti is now thought to not be a suicide and, in fact, there was one AP report today that said it is likely not to be a suicide. We do not know the facts of that young military personnel's death, but we will find that out.

Mr. Speaker, what is happening in Haiti is outrageous because we are not given the facts and the chance to even ask the questions about what we are doing there.

Mr. Speaker, I wanted Strobe Talbott to be at the briefing today. Strobe Talbott was scheduled to be one of the witnesses, representing Warren Christopher, our Secretary of State. Strobe Talbott did not show up. But if I would have had him there, I would have asked him to respond to the internal memo of the United Nations from the United States special envoy to Haiti, Dante Caputo. On May 23 of this year, this is what he wrote to Boutros-Ghali:

> To the minister's question about the existence of another alternative, other than force, Dante Caputo replies that the United States acted as a brake to a diplomatic solution, creating a situation where military intervention became nearly inevitable.

Mr. Speaker, as we all know, Dante Caputo resigned from the United Nations last week because of his objections to what we have done in Haiti. I have inserted twice in the record of this institution the full text of Dante Caputo's memos where he outlines everything that is happening now back in May of this year.

Mr. Speaker, this outrage has got to stop. We have got to have a full vote on this. We have to debate and we have got to bring our troops home, not next month, not 90 days but this week.

Mr. Speaker, I include for the RECORD the article to which I referred.

U.S. MILITARY ROLE MAY LAST UNTIL 1996

UNITED NATIONS.—U.S. officials have told the United Nations that they plan to maintain a significant military presence in Haiti until after a new president is inaugurated in 1996.

"The US presence" in the UN follow-up operation "will be fairly substantial," according to a senior UN official who said US forces could make up as much as 50 percent of a 6,000-member UN military and police presence. That force will take over the job of maintaining peace after the bulk of the 20,000 US combat forces withdraw. "They want to be involved until the UN withdraws from Haiti altogether."

In order to win public support for what is proving to be a distinctly unpopular use of military force, President Clinton last week played down the operation's potential for long-term commitment, promising that the United Nations will be capable of taking over the operation in as few as a "couple of months."

"Politically, the administration has to present this as a short-term intervention," said Matthew Vaccaro, an analyst at Defense Forecasts Inc., who participated in Pentagon policy discussions on Haiti until early this summer. "Public support is so tenuous, there's no way the administration could sell a long drawnout and costly intervention."

At the same time, administration officials and military planners recognize that the United States would have to keep the coalition of peacekeepers from unraveling.

US planners also are betting that they can gradually earn the public's support to sustain a more long-term commitment if the initial military operation proves successful.

"The Clinton administration has deemphasized the key role that the US will play in the UN operation," Vaccaro said. "But they realize that in order for the follow-up UN mission to function there must be a large US presence."

Although UN officials are concerned a large US military presence in the UN follow-up mission may undermine its international complexion, they nevertheless would welcome a more robust US commitment. UN Secretary General Boutros Boutros-Ghali, frustrated by the Clinton administration's reluctance to stay the course in peace enforcement operations in Somalia and Bosnia, is reportedly hopeful that greater US involvement will improve the likelihood for success, restoring credibility to both the United States and the United Nations.

With "peace-keeping fatigue syndrome" spreading throughout the United Nations in the wake of Bosnia and Somalia, diplomats said Boutros-Ghali believes that the only cure is a dose of US arm-twisting. But senior UN officials overseeing the Haiti operation said they fear that Clinton may hand the ball off to them too soon.

Before placing the Haiti mission under the UN flag, Clinton has vowed that US forces will remove Haiti's military dictators, install a team of international police monitors, retrain a Haitian police force, restore Haiti's elected President Jean-Bertrand Aristide to office and create a secure and stable environment for the nation to begin preparations for elections.

UN officials said Washington has pretty much left them in the dark as to how it intends to accomplish these tasks, complicating UN efforts to recruit other countries to serve in the international effort. And they doubt that US troops will be able to create a secure environment for lightly armed UN replacements for at least several months.

These officials are also concerned that if public support for the US operation erodes after the invasion, the Clinton administration may choose prematurely to slough the operation off on the United Nations as it did a year ago in Somalia.

The Pentagon, they pointed out, long wary of the Haiti operation, is said to be eager to get troops out of Haiti as soon as possible, leaving the policing and nation-building tasks to international agencies.

"The military is interested in turning over the responsibilities for nation building and civil administration to the UN as soon as they can," said Dr. Richard Downes, a former staff military planner with the Joint Chiefs of Staff and currently director of communications at the University of Miami's North-South Center.

"They don't look at the postconflict period of Haiti with relish."

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT ON H.R. 820, NATIONAL COMPETITIVENESS ACT

Mr. ROHRABACHER. Mr. Speaker, pursuant to clause 1(c) of rule 28, I announce to the House that tomorrow I intend to offer a motion to instruct conferees on H.R. 820. I had previously expected to offer this motion today. The form of the motion is as follows:

Mr. ROHRABACHER moves that the managers on the part of the House at the conference on the disagreeing votes of the 2 Houses on the Senate amendment to the bill, H.R. 820, be instructed to insist on the provisions contained in section 506 of the House bill, entitled "Prohibitions", the text of which is as follows: "None of the funds made available in this Act may be used to provide any direct Federal financial benefit to any person who is not (1) a citizen or national of the United States; (2) an alien lawfully admitted for permanent residence; or (3) an alien granted legal status as a parolee, asylee, or refugee.".

☐ 1710

THE BRYANT BILL, A GRASSROOTS GAG RULE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 5 minutes.

Mr. GINGRICH. Mr. Speaker, I am going to speak today on the Bryant bill, a grassroots gag rule. I want to alert my colleagues that they should have in their office right now a letter to Members of Congress from the Christian Coalition entitled "Stop the gag rule on free speech, vote no on the lobbying disclosure conference report." I urge every Member to read that, because I do not think that Members realize that buried in this so-called lobbying bill is a deliberate grassroots gag rule designed to kill precisely the pressure from back home that has been so effective in this Congress.

Let us be honest, Mr. Speaker, liberals hate grassroots voter pressure. It was voter pressure in support of home schooling that forced the liberals to pull out a provision that would have killed home schooling. It is the grassroots pressure of the right-to-life movement that has sustained a fight that liberals would have crushed years ago. It is the grassroots pressure of people who believe in the second amendment which has stopped the efforts by liberals to strip Americans of the right to bear arms. It has been the opposition to the Clinton tax increase by the grassroots which reduced it to a one-vote margin when the entire power structure of Washington was going to raise taxes on the American people.

Again and again, Mr. Speaker, whether it is school prayer, opposition to prohomosexual education in first grade, or a range of issues which are not politically correct here in Washington, it has been the grassroots who have risen up. The crowning blow to liberals was the grassroots opposition to the Clinton health plan which stopped in its tracks an effort to create a big government, big bureaucracy, big tax health plan.

Now what do we have? We have in the Bryant conference report an effort to strangle grassroots efforts. I urge every Member, get a copy of this report and look at the specifics I am going to give you today, so you understand, this is not some scare story. This is a danger of the Clinton administration getting even. This is the Clinton revenge bill, to get even with the grassroots activists.

This is what they say. This is in the bill, page 5:

> Grass Roots Lobbying Communications—the term "inside grass roots lobbying communications" means—
>
> (A) any communication that attempts to influence a matter described in * * *

In these various clauses "through an attempt to affect the opinions of the general public. * * *" This is not lobbying the Congress, but informing the general public.

> (B) any communication between an organization and any bona fide member of such organization to directly encourage such member to make a communication to a covered executive branch official or a covered legislative branch official with regard to * * *.

Any matter described here; again, not lobbying the Congress, but if you belong to a group and you try to talk to your own group, this is now going to be described by the Bryant gag rule as something inappropriate.

> (C) any communication between an organization and any bona fide member of such organization to directly encourage such member to urge persons other than members to communicate * * *.

In other words, if you are anywhere in America and you decide you want to lobby Congress up to 10 percent of the time you are paid for, and you spend over $2,500, which is one round trip from Los Angeles and hotel spending, one trip. From that point on under these rules you are going to be subject to the registration act, and you are going to have to report to the Director of Registration.

Who is the Director of Registration going to be? For 5 years, longer than a Presidential term, it is going to be somebody appointed by Bill Clinton. Let us say Roberta Achtenberg, for example, is appointed, a vehemently, in the case of Elders, anti-Catholic person.

Now we have a question: Is a papal message on school prayer political or is it religious? Is a papal message on homosexuality political or is it religious? Is a papal message on right-to-life political or is it religious?

Mr. Speaker, I happen to be Baptist, but I would say that those people who are worried about Joycelyn Elders' anti-Catholicism ought to ask, what would that kind of person do in the Director's office? By the way, the Director can assess a fine of up to $200,000.

Now, you are a local grassroots organization out here. Let us say you are an antitax organization. Yes, you do the horrible thing of actually seeing your Member of Congress, lobbying. You actually pay one member to do this part time, and they spend 10 percent of their time seeing the Illinois delegation. They are now subject to filing every report as directed by Bill Clinton's appointee. If they do not, they can be fined, I believe, $10,000 per occasion. This is madness.

Mr. Speaker, I ask my colleagues, read pages 5, 6, and 7 of this particular proposed bill, the Bryant gag rule. Let me just close and say that I hope this does not come up tomorrow. I hope we have several days to look at this. I am convinced it will die in the Senate. I think it ought to die in the U.S. House.

TRIBUTE TO FORMER MEMBER OF CONGRESS ED PATTEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, today, 14 years after Ed Patten's retirement from Congress, his name is still a household word in my district.

I did not have the good fortune to serve with Ed, but I now represent eight towns in Middlesex County that were in his district. My constituents, mayors and councilmen, educators, workers and businessmen continue to refer to him with the warmth, love, and respect that he engendered during the 18 years he served in the House of Representatives.

As a member of the Appropriations Committee, Ed fought tirelessly for New Jersey and his district. His was responsible for seeing that vocational and adult education received the national attention and funding it deserved. Without Ed Patten, Rutgers University would not be the leading institution it is today and Princeton might never have obtained the special physics lab that has pioneered research in atomic fusion. Ed Patten was responsible for the creation of Middlesex County College.

He also initiated the restoration of Ellis Island and began the cleanup of the Raritan River. To students, senior citizens, factory workers, and consumers in general, Ed Patten was a hero.

There was the memorable personal side of Ed Patten. He was once referred to as Perth Amboy's answer to Will Rogers. This is because he had a unique wit and wisdom and never lost touch with his constituents.

He probably knew more of his constituents on a first-name basis than any Congressman in history. With his pockets full of pennies for the kids, he would attend weddings and funderals during his weekends home. He spoke the langauge of his constituents and reflected their views naturally.

Many remember Ed Patten as one of the most colorful individuals ever to serve in Congress. He was also a consensus builder. At a time when we perhaps take ourselves too seriously, it is worthwhile to reflect on Ed Patten and the perspective he brought to these Chambers. He knew it was important to stand up for what you believe in—and he did that on many occasions—but he also knew that whether you won or lost, it was as important to be a good loser as a good winner. In that way, both sides could move on to the next important issue and get things done, which is, after all, why we are here.

Upon Ed Patten's retirement 14 years ago, a letter was read in this Chamber from a Metuchen, NJ, woman whose sons had interned in his office. She wrote:

> Both my sons were imbued with a sense of respect for the office you honor. In a time of doubt and cynicism, I am thankful that they had the opportunity to have developed such positive feelings about the workings of our government.

Ed Patten's passing gives us the opportunity to think about some of the things he stood for and perhaps make this institution function—for the good of everyone—in a more effective and less contentious manner.

□ 1720

CALLING FOR THE RESIGNATION OF SURGEON GENERAL JOYCELYN ELDERS

The SPEAKER pro tempore (Mr. SCOTT). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Illinois [Mr. CRANE] is recognized for 30 minutes as the designee of the minority leader.

Mr. CRANE. Mr. Speaker, I rise tonight to inform colleagues about the introduction of a bill that I submitted last Friday, H. Res. 545. H. Res. 545 was the result of a frustrating experience that a number of us had in communicating with the White House on our conviction that our Surgeon General should be removed from office. The fact of the matter is we wrote 2 separate letters to the President urging him to call for her resignation and he did not agree. So we have introduced this legislation with 25 cosponsors already that calls upon the President to please seek to remove her from the bully pulpit where she sets so horrifying an example to the Nation.

There is a group called the Family Research Council. The Family Research Council has a member, Kay James, that responds to a number of the Elders' quotes that I would like to read.

Joycelyn Elders says:

"We have drivers' ed for our kids. We've taught them what to do in the front seat of the car but not what to do in the back seat."

Kay James responds:

"Why assume they are going to be in the back seat? Assuming that kids are going to be sexually active is comparable to giving them a license. But choosing to be sexually active is more critical than the decision to drive a car. Why don't we teach them what not to do in the back seat? Elders is known for saying "you can't be what you can't see." I agree with that, and unfortunately, she is not modeling anything that would give kids encouragement for abstinence."

Next quote from our Surgeon General:

"You've been preaching abstinence for a hundred years. I've still got a problem. I've still got thousands of teenagers having babies every year."

Kay James' response:

"The truth is that we have not been teaching abstinence to kids. Public schools have never implemented a comprehensive abstinence education curriculum in their family life programs. Title X funding is $170 million compared with Title XX, abstinence education funding, at approximately $1 million. No reputable study shows that contraceptive based programs have worked and many have shown otherwise. A Lou Harris poll shows that teens who have had a sex education course that discusses contraceptives have a 50-percent higher sexual activity rate than those who have not. Abstinence based programs are the only ones with a consistent track record of success, often dramatic success."

Again our Surgeon General:

"Look who's fighting the pro-life movement. A celibate, male-dominated church, a male-dominated legislature, and a male-dominated medical profession."

Kay James' response:

"Wrong. Actually the 2 most prominent pro-life groups in the United States, National Right to Life, and the American Life League, are headed by women. Many minorities are pro-life. A 1989 Wirthlin Group National Survey shows that women are far more pro-life than men. In fact, the Black Americans for Life is one of the fastest growing pro-life groups in the United States. Her ad hominem arguments don't really address the issues."

Again our Surgeon General. Elders calls her critics "non-Christians with slave-master mentalities."

James responds:

"The slave imagery doesn't work on this one. Elders is trying to appeal to the days of slavery, equating the abortion struggle with a civil rights issue. Elders shouldn't denigrate the civil rights movement with her reference to what she calls "reproductive freedom." There are many of us who are growing weary of social engineers hijacking the freedom train to accomplish their own agenda."

Again, Joycelyn Elders:

"I would hope that we would provide prostitutes Norplant so that they could use sex if they must to buy their drugs."

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. CRANE. Yes.

Mr. BURTON of Indiana. That is almost too much for me to digest. Would the gentleman read that again? This is our Surgeon General saying this.

Mr. CRANE. Our Surgeon General, a direct quote. It was Talk Line on CNBC that they did on June 19, 1993. I will read it again:

"I would hope that we would provide prostitutes Norplant so that they could use sex if they must to buy their drugs."

Mr. BURTON of Indiana. If the gentleman would yield, I wish everybody in America could hear your special order tonight, because the moral foundation of any administration is extremely important to the moral health of the country. It appears to me and to many of my colleagues, yourself included, that there really is not much of a moral foundation in this administration. They have brought in every kind of deviate they can possibly think of into every agency of Government, and now they are advocating these kinds of policies for the people of this country? It makes no sense.

I would just submit when people start wondering why when the economy is not really bad that a President's popularity is going right straight down the tubes, it is because the people of this country understand that there is a moral problem that is being created, not solved, by the administration. This administration and the people that he is putting in these key positions is killing the moral fiber of America instead of helping make it better. I think it is a sad state of affairs when the chief executive of this country would even put somebody like this in a position of leadership.

Mr. CRANE. I appreciate the gentleman's remarks.

The fact of the matter is on some of the remarks that have been made by our Surgeon General, the administration has attempted to position itself in opposition, in theory, yet has taken no action. Yet Dr. Elders herself remarked in an interview, "I saw the President recently and he congratulated me on what I've been doing."

Mr. BURTON of Indiana. Mr. Speaker, if the gentleman would yield further, that is the old ham-and-egg game that is played many times in politics to make people think that the guy on the white horse in the White House is really a good guy when he has got somebody else doing the dirty work that he supports.

If the President really thought that Joycelyn Elders was on the wrong track, it would be a matter of a snap of his fingers, he would replace her. The fact of the matter is, she is doing his bidding by pushing his social and moral agenda on this country. If he did not want her making these kinds obnoxious statements, if he did not want her talking about the youth of America like she does, he could get rid of her in a heartbeat. The fact of the matter is, he is in league with her and he does not want to do anything about it.

Mr. CRANE. I thank the gentleman for his comments.

I would be happen to yield to my colleague, the gentleman from California.

Mr. DOOLITTLE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I think the comments that have been made are very appropriate and I think it should not and they do not just focus on Joycelyn Elders because, after all, she was put in place by the President of the United States who has given her, it seems, based on the quotes that were just read, an unqualified endorsement and ratification of the extreme position she has taken.

Imagine, the very idea of teaching sex education to kindergartners in the public schools, to passing out condoms, to basically making comments that encourage promiscuous sexual activity, which apparently in her mind is OK, as long as you have a condom. We are witnessing a severe moral crisis in this country.

It is on my mind because of what recently happened to a good friend of mine in Rocklin who was literally run down by a 19-year-old who was mad about something. He was looking around for 3 days driving around, according to newspapers. So this woman is walking, Rocklin is a great place where people walk and ride their bikes. She is out walking in the morning, 6:30 a.m., and he plows into the back of her going about 40 miles an hour. We have had numerous surgeries, it has only been about 4 weeks, I guess now, going on 5, so there are great injuries to be repaired. Thankfully it did not kill her.

But I am struck by a comment that William Raspberry made recently in the Washington Post, it was 3 or 4 weeks ago now, but I saved it. The article referred to the consciencelessness of our young people, not all our young people, but some of our young people, who apparently in the most minor dispute would settle it with a gun or a knife. It is getting to the point where the morals of this country have gone precipitiously downhill, and I think it starts with moral leadership like we are getting from the top, President and Mrs. Clinton on down through Dr. Joycelyn Elders, the Surgeon General of the United States.

These comments about legalizing drugs. Every time you legalize something like that, you increase the use. The most widely used legal drug in the country, I guess, is alcohol, and we have a persistent problem with alcoholism, not only amongst our young people but amongst adults. If you want to see what would happen with drugs, look what goes on with alcohol and just magnify it and multiply it because that is exactly what you would have if you legalized marijuana or cocaine or heroin. It would be a disaster.

□ 1730

Then to have these statements about religion, which are just outrageous that have been made. You know George Washington, our country's first President said this Republic was founded upon and could only be maintained upon two fundamental pillars or foundations. One was religion and the other morality.

And when you have a republic that loses its religious base or that loses its morality you are going to lose your freedom. That was basically a paraphrase of the philosophy of the Founders.

I would just submit, Mr. Speaker, that we are in the process of losing that freedom. We all lose our freedom when we are fearful to go out on the streets, or to go out in our car because we think somebody might harm us. And we are losing our freedom when we subject ourselves to being preyed upon by people without conscience.

We had this debate I think on the crime bill, and to me I do not care how many police you hire or how many prisons you build, these are only interim solutions. They will never stem the flood unless we teach children values in the home, and that means children have to be raised with a mother and a father, ideally. And we as a country should seek to be cutting our taxes, and cutting our regulations so that more mothers and fathers can stay together and teach those values in the home.

Instead of that you have a President Clinton come in who appoints somebody like Joycelyn Elders who preaches this gospel of free sex, and antireligion, and you have high taxes levied upon the people, while out of the other side of their mouths they are talking about reducing the deficit and getting in touch with the people. In reality they are deliberately hurting the people by putting a bigger burden of government on their shoulders, which leads to more family breakups which leads to more children being raised without that mother and father in the home, which leads ultimately to the present problems that we have. All of this 1960's generation, we have sown these seeds, and we are reaping the whirlwind right now with higher rates of crime, higher rates of illegitimacy, with the poor performance in the schools, the record amounts of abuse and spousal abuse. This is the bountiest harvest that the liberals have sown for us, and we ought to recognize what the problem is.

It is not because of the Reagan revolution where we tried to cut back on the excesses of government. It is because the liberals forgot that values mattered and that if you do not have values in the home and morals being taught, you do not have anything. And Joycelyn Elders' comments are just a perfect representation of this relativist, this moral relativism that has gotten us in such trouble.

Mr. CRANE. I could not agree with the gentleman more, and I agree with his comments.

Mr. BURTON of Indiana. If the gentleman will yield further, we had down here one evening a list of all of the Presidential appointments, like Joycelyn Elders, and the backgrounds on a number of them was unbelievable as far as their views on immoral activities and things that would lead this country in the wrong direction. I do not know whether the gentleman brought that with him tonight. Does the gentleman happen to have that?

Mr. CRANE. No; I do not have.

Mr. BURTON of Indiana. I hope that we will do another special order before we adjourn sine die, and I will try to get that list so that we can go through the backgrounds and the views of not just this but a number of Clinton appointees so that the people of this country can see that this is not an accident that this sort of thing is going on. I mean, there is a design they have put together and in position throughout all of this administration that is leading this country down what I consider, and I think most Americans consider to be an immoral road.

Mr. CRANE. I agree with the gentleman's assessment. The fact of the matter is the Surgeon General commands a bully pulpit for accomplishing real, positive things, and yet the example we have in Dr. Elders is the exact contrary.

Let me quickly read Kay James' response to that quote earlier, and I will repeat it one more time:

> I would hope that we would provide prostitutes Norplant so they could use sex if they must to buy their drugs.

And Kay James' response:

> This is perhaps the most irresponsible statement that any public health official has ever made. It shows a complete lack of understanding of the drug crisis, the AIDS epidemic and the growing menace of other sexually transmitted diseases. Elders is identifying pregnancy as the ultimate evil. What about the immoral and unhealthy behavior of prostitution? What about the abuse of drugs? It seems that Elders' only goal is to stop pregnancy, or more accurately, births.

Rather than give all of the responses from Kay James, I would heartily recommend to everyone again, because as I say, the Family Research Council here in Washington, DC, can provide all of the responses of Kay James, but let me give some more examples of Dr. Elders' quotes.

> We pay for pregnancy but we won't pay for contraception. That doesn't make sense.

That was in the Raleigh news and Observer back in March of last year.

> If Medicaid does not pay for abortions, does not pay for family planning, but pays for prenatal care and delivery, that's saying "I'll pay for you to have another good, healthy slave, but I won't pay for you to use your brain and make choices for yourself." It's a way to keep people poor, ignorant, and enslaved. If you're poor and ignorant you are a slave.

American Medical News in January of last year.

Mr. Speaker, I yield to my colleague from California [Mr. DORNAN].

Mr. DORNAN. I thank the gentleman for yielding. In racing over here from my Rayburn office, when I saw your wonderful countenance appear on the tube, I did not hear some of the opening remarks, so let me just, because they are all worth repeating, let me just hit and miss some things.

Did the gentleman get into the RECORD that sad story of Kevin Elders, the Surgeon General's son, that he has been sentenced for 10 years on cocaine?

Mr. CRANE. No, no, I did not touch about that.

Mr. DORNAN. What is interesting about this is the Surgeon General knew that he had been arrested and was procuring, as any good mother would, good, solid legal defense, working this through, during that period when the world did not know about the arrest, but Kevin knew, and the mother, the Surgeon General knew, she came out with her first suggestion about legalizing drugs, hardly a statement devoid of a vested interest. And that went on until the court case began that ended up with guilty for Kevin Elders.

This morning on my friend—not—Phil Donahue's show, there was America's prime radical lawyer, a man of great candor, William Kunsler. He said that this was a political case, that the judicial system was punishing Joycelyn Elders for her candor and openness and sending her son to jail for 10 years. That type of Oliver Stonehead extreme conspiracy fantasizing tears up America youth just as badly as it does for the chief health officer of the United States to say:

> You young people should have legalized drugs. You young people should get condoms down to 9 years of age.

And then quoting her, she says:

> And let me tell you about an 8-year-old in Arkansas that was pregnant with twins.

By the way, I have never doubted her word or her frankness except that story. I want to see an 8-year-old pregnant with twins. And I would like to know what happened to that pregnancy, and if these 9-years-olds should get condoms, and in the very adjacent sentence start discussing an 8-year-old, then we are fair in saying she wants 8-years-olds to have condoms. Among my nine grandchildren I have two 8-year-olds, and when I look at them, look at their faces, they both happen to be girls, I say, "Is this woman bereft of her senses?"

Here is another thing I want to discuss. Did any of my three colleagues discuss that the press went up to her after one of her more outrageous statements, and I am going to put them all in the RECORD either during your special order or I have another one that follows the gentleman from Indiana [Mr. BURTON], so we have time here to get this on the record, that Clinton was about to leave for Normandy for all of those photo ops, pushing veterans aside to see if he could get his poll numbers up, which did not happen, they went down, and while he was out of the country they went up to Joycelyn Elders and they said to her:

> What about these last statements here, does the President know you're saying these things? Is he approving of all of this?

I have no reason to believe that Joycelyn Elders was not telling the truth when she said the following, remember, talking about legalizing drugs was not, not telling the truth, that was a hidden agenda because her son was arrested for cocaine, not only usage but selling.

□ 1740

And so that was deceitful and against openness, but nothing to do with, you know, not creating a story out of fiction. She said to the press, "The President, came up to me the other day and said, 'Joycelyn,'" and they are friends all the way back to Arkansas where she was chief health officer, and I do not know whether they have a military title assigned to it, "he said, 'Joycelyn, I love it.'" I have seen this in print.

Both of my sons saw it visually. She said, "Clinton said to me, 'I love what you are doing, Joycelyn, Keep it up. I am behind you.'"

Within days he had fired the drug czarina, the director of national drug policy, Kristine Gebbie, excuse me, the director of the AIDS program, he had fired Kristine Gebbie because the homosexual activists wanted Kristine Gebbie fired for shooting off her mouth and making dumb statements and mainly for all the wrong reasons, and they got her fired.

Less than 1 percent of this country is homosexual in or out of privacy, what the pejoratively call the closet, privacy is what it really is, and she gets fired by the activists of less than 1 percent of the country.

But the entire Nation of observant Jews, observant Catholics, observant Protestants, people of faith and belief are saying this woman is hurting our children, and he says, "I love what you are doing. Keep it up. I am behind you." She said "You think I am not telling you the truth? Ask him when he comes back from Normandy."

Well, did the press ask him? No, or if they did, they did not report it. It appears that the real problem here is not the Surgeon General but the man and the co-President and the administration that appointed her and tolerates these outrageous statements hurtful to the youth of America.

Mr. BURTON of Indiana. Can I involve my self in this colloquy?

Mr. DORNAN. I want you involved.

Mr. CRANE. I yield to the gentleman.

Mr. BURTON of Indiana. This is what I was talking about just a few minutes ago.

If you look through the appointments made by the President and this administration, it is amazing the number of people that have the same kind of liberal social agenda and immoral agenda, I call it, as Joycelyn Elders, and it permeates the entire administration.

The problem is the American people are not aware of all of these appointments. Joycelyn Elders stands out like a sore thumb because she makes such outrageous statements on a regular basis.

She is not the only one. There must be 20 or 30 of these people in very key positions who are advocating, at Personnel Management, OPM, and they have got a person over there right now, and I cannot think of the gentleman's name, that is advocating sensitivity training in all Government agencies for people to deal with homosexuals.

Mr. DORNAN. Sensitivity training means homosexuality must be raised to the level of family, of normal family, and Joycelyn Elders says, which is a dangerous lie, not a lie, a dangerous, stupid misstatement to the American people, that homosexual conduct is not only normal, it is healthy, she says, healthy.

Mr. BURTON of Indiana. In Indianapolis in some of the government agencies over there, they are now mandating, and they have put up big bulletin boards for the homosexual community so they can set up meetings with one another. This is sanctioned by this Office of Personnel Management, and it makes no sense. I mean, they are actually advocating that with Government tax dollars, because that agency is in favor of it. Now, that is the problem. It is permeating this entire administration.

Mr. DORNAN. Absolutely. This must be like 1776; another patriot has arrived on the floor from the great State of Missouri.

Mr. CRANE. I yield to the gentleman from Missouri [Mr. HANCOCK].

Mr. HANCOCK. You know, you mentioned Joycelyn Elders holds gay sex healthy; it is broader than that. She says it is wonderful.

Mr. DORNAN. That is right, I forgot.

Mr. HANCOCK. She says it is wonderful and healthy. She says that it is wonderful and a normal and healthy part of our being. You know, she called the Boy Scout ban on homosexual scouts and Scout leaders unfair. She said school-based health clinics should address the needs of homosexuals as well as heterosexual students. Well, nobody is going to argue with that except the advocacy of it is where we draw the line.

I mean, certainly the people or schools, the students should be educated on sex hygiene and this type of thing, but not advocating it as she is advocating it, and there is a lot more to it than just saying that it is, and when they say healthy, I agree with the gentleman from California, this is one of the most dangerous activities that we can engage in, the homosexuals.

Mr. DORNAN. In some urban areas, it surpasses gunshot deaths for young males, AIDS infection.

Mr. HANCOCK. And they are not teaching the results of this type of activity. All they are teaching is how to perform it, how to get involved in it, and how to protect yourself, and there is only one protection, and that is absolute, and that is abstinence. I mean, it is just that simple.

So I fully support the fact that this individual should not be the Surgeon General of the United States, and I just wonder what other countries are looking at, how they think about all of this.

Mr. DORNAN. I do not know if other countries wear a Public Health Service uniform, but Dr. Koop, and I agreed with him on most things, I mean, he all by himself has saved hundreds of thousands of lives in America because he reduced the smoking rate from the high 30's down to the low 20's, and that is going to have a health effect. I disagree with him on some of the things. I fought against my good colleague, the gentleman from California [Mr. WAXMAN], to get his appointment through under Ronald Reagan in 1981, and he turned 180 degrees on some issues and ran up a white flag of surrender, but Koop was on a weekend show a week ago Saturday, on "American Interests," no, on Adam Smith's economics show, and he was explaining the cost of unhealthy sex, although he caved in to the condom-distribution solution, and he went through the killer aspect of this.

So I called the Centers for Disease Control down in Atlanta and said, "Give me the new statistics on AIDS deaths in this country," and if my staff, which they are supposed to do, is watching me on the House floor, they are going, "Uh oh," because I asked them 4 days ago to get the June 30 cutoff. I do not have it. I am reaching for it, and it is not in my mind. So I will go with September 30, first, 217,000 dead Americans. Remember Legionnaires' disease, it broke out here again with one to two dead people; I think the total there never passed the 20 mark. Two hundred seventeen thousand dead.

Dr. Koop told me that figure in 1983, 1984, 1985, 1986, and 1987 was low by 10, probably 20 percent, he said. Let us take 10. Ten percent of 217,000 means over 257,000 deaths, and 200,000 of those deaths are attributed to homosexual conduct and/or drug-using homosexuals. They do not know which way they got it.

You know, we are approaching World War II death totals of 312,000, depending on your encyclopedia. In 4 or 5 years, more young males, not in combat, except sexual combat, will have lost their lives than above the sea, under the sea, in the jungles, the sand, and the forests of Europe, all over the world, 312,000 Americans, and this is called healthy by the Surgeon General to protect our health.

Then, as I started to say, I do not know what other countries do, but Koop bragged about how he brought the uniform back, because it gave him a uniqueness, particularly with that Lincolnesque beard, and I do not know what ribbons he wore, but Joycelyn Elders has about three rows of ribbons. There was a rumor out she was wearing a Purple Heart. That was a little wild, and turned out that was not true. But most of those ribbons, if not all of them, are ribbons awarded to the Public Health Service. Servicemen listening know what a unit commendation is. You wear it when you are in the unit, but when you leave the unit, you do not take it with you. That is because you are in that unit that got a Presidential commendation.

She wears all of these combat ribbons, and she is killing people, the wrong way, with the wrong advice, so I just think that we have got to look to who hired her and who protects her, not that she should resign in disgrace.

And do we all know what the word is on the street, the conventional wisdom? It is that she has something on the man who appointed her, because she was head of the health departments in Arkansas when several cases came up against her relatives, and I do not want to speak poorly of the dead who have gone to heaven, particularly when they are part Irish, but there were some cases that came up. One of them he was in this 2-year short term as attorney general in his early thirties, 30 to 32, and then he become Governor, 32 years of age, another case came up, and there are rumors in Arkansas that Joycelyn Elders played a key role, which means she is not fireable. She is protected by her gender, by hear ethnic heritage, and by these rumors.

So I guess we are going to have to live with her 2 more years, so that is why I want to focus in on the person who appointed her.

PRESIDENT CLINTON AND GOVERNOR JIM GUY TUCKER OF ARKANSAS

The SPEAKER pro tempore (Mr. SCOTT). Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 30 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I will be happy to dedicate another 10 minutes to this discussion, if you would like. I am going to need about 20 minutes.

Mr. CRANE. If the gentleman will just yield to me for a parting statement that I would like to make, and I concur with the remarks of my colleagues tonight, the ultimate responsibility and the buck stops at the President's doorstep. The President made the decision to put her in. It was not like she was a total stranger, that he knew nothing of her background, put her in that position. He has been written to, as I indicated at the outset, on two different occasions with multiple colleagues calling for him to seek her resignation.

□ 1750

So my resolution, House Resolution 545, as I indicated, has 25 cosponsors right now. I would urge my other colleagues to get on board and hopefully we can get the President's attention and replace Dr. Jocelyn Elders with someone qualified for that job.

I thank the gentleman for yielding.

Mr. BURTON of Indiana. I thank the gentleman for taking the initiative on that resolution. I would be more than happy to be a cosponsor if I am not already.

Mr. DORNAN. May I ask a question?

Mr. BURTON of Indiana. Certainly.

Mr. DORNAN. What was the subject of the gentleman's special order?

Mr. BURTON of Indiana. The subject of my special order is President Clinton and Gov. Jim Guy Tucker of Arkansas and their possible nefarious activities in Whitewater and some other development corporations down in Arkansas.

Mr. DORNAN. I will listen attentively. I thought that it might be Haiti because the gentleman from Indiana is a renaissance man like Mr. HANCOCK and Mr. CRANE, and we are all concerned about this—it is not a briar patch anymore, it is a tar pit. We are like a big wooly mammoth stuck in a tar pit down there, only it is not going to be Chelsea who is going to be sniped at, it is going to be some women in uniform down there. All of our men are targets down there now. It should not be called Mission Restore Democracy, it should be called Mission Creep. But I have a perfect dovetail subject where our health services in the military are worried about our young men in Haiti.

Mr. BURTON of Indiana. Because of the AIDS virus.

Mr. DORNAN. You got it. The gentleman and I started this discussion in 1985. it is not just AIDS, not just AIDS which has permeated the whole prostitute class down in Haiti, but, get this: A bigger sampling than anybody would have dreamed for to get a percentage rating on the whole nation of Haiti was available at Guantanamo from this cross-sample of people with the strength to get out of the country on a raft and out into the hurricane season of the Windward Passage. Seven percent of the people of Haiti are infected with the HIV/AIDS, always fatal, virus.

Mr. BURTON of Indiana. You are talking about 1 out of 12 people.

Mr. DORNAN. 1 out of 12 people.

Now, AIDS is bad enough, but hepatitis B, that is the one that changes your life—I had hepatitis A in the Air Force once, and they should not have even called both of them hepatitis. Hepatitis A is nothing. I just could not give blood anymore because I have it forever. But B is the killer, the one that has permeated the whole homosexual activist groupings in the United States. Hepatitis B is medium to high level worldwide standards. Now, get this next line that I am reading in all these reports out of Haiti: Penicillin-resistant syphilis penicillin-resistant gonorrhea, real virulent strains, and penicillin-resistant two or three other sexually transmitted diseases, are by worldwide standards medium to high in Haiti. The truth is everybody should watch everybody else down there. Nobody should get a 3-day pass. When it settles down, if ever, nobody should go on leave and nobody should go near any prostitute back in the bushes. This is going to cause Americans to be curled up in a prenatal position on a bed, holding their mother's and dad's hand, brothers and sisters around them. Not homosexuals, GI's. And 5, 10 years, even as late at 15 years from now, dying in the prime of life because of one moment of weakness, dying in the prime of life when they are supposed to be restoring democracy.

Now, Mission Creep, a daily evolving, dangerous mission with no direction, is going to cause a major health problem. Now, we released all the Haitians in the early waves that came to Guantanamo into the United States where by a court order of one Florida judge who had more regard for this country, some flakey liberal judge, how many Americans are going to come back form Haiti?

I am going to tell you this, DAN: Does the gentleman know that I affected the CBS news one night by calling Dan Rather? I had had an acquaintance with him, sponsored a dinner for him in the Speaker's dining room once, with Bill Dannemeyer, a pal of mine who has retired. I said would he take my call? So he took my call. This is like 1985 or early 1986.

I said, "Dan, Bob Dornan." And he said, "Yes, Congressman, what can I do?"

I said, "Dan, you just said something on the air tonight that is not true. You said the major categories for AIDS," this is in the 1985–1986, 8 years ago, maybe 8½ years, "still are homosexuals, hemophiliacs, and Haitians. And that is a nice alliteration, but Haitians had nothing to do with hemophelia or activism in homosexuality. There is no genetic coding in Haitians that make them susceptible to AIDS or makes them have AIDS more than any other nation in the world. You are not only slandering a country, it is historically inaccurate, and you are causing a terrible social problem for every decent Haitian, whether they are naturalized American citizens or not."

And he said, "Well, Congressman, what is the answer?"

I said, "Are you broadcasting from New York this week?"

He said, "Yes." I said, "Check it out, check it in the homosexual community in New York. New York homosexual activists have discovered Haiti as a vacation port of call. They took AIDS to Haiti. And when health people interviewed Haitians"—and I know of what I speak, Dan, because I am a loyal Catholic. People of French Catholic culture, when asked if they took money for homosexual services, they deny it. So every Haitian, whether he is into voodoo or practicing Catholic or some Protestant faith, will say, "I have had no homosexual contact."

So you think it is something genetic. I said, "Dan, it is New York homosexuals taking it to Haiti, and it spread in that country because they are impoverished and when tourists come down there with a lot of money, it breaks down people's moral ethos."

And he said, "Congressman, I am going to check it out, get into that."

He never again said Haitians as a category. NBC and ABC were not into that. And nobody was heard in this Nation about Haitians.

Now, where did I get all of that brilliant dialog? Down at the Centers for Disease Control, up at the National Institutes for Health, out at my friend Tony Fauci. So here I am defending the honor of Haiti by explaining how they got this disease. Now it is up to 7 percent.

Now, I do not want to take any more of the gentleman's time, but what I would like to do, because I have my 30 minutes, is to tell people that I have been trying to get a special order here for 2 or 3 weeks to document carefully with every statement. I put it in the RECORD before, and there were some misprints. I want to go through this on Jocelyn Elders, following the gentleman's special order. I will truly, as I do every time the gentleman is talking about all of these scandals bottled up in the press——

Mr. BURTON of Indiana. So there will be some consistency, we can let the gentleman go and I will just follow up with mine afterward because I think we ought to have some consistency for the record. I would be happy to take an interruption here.

Mr. Speaker, we understand that the gentleman from Michigan has a special order between the two of us. Is that correct?

The SPEAKER pro tempore (Mr. SCOTT). The gentleman from Michigan [Mr. BONIOR] has a 1-hour special order, and the order after that would be the gentleman from California and then the gentleman from New York after that.

Mr. BURTON of Indiana. How much time do I have left on my special order, Mr. Speaker?

The SPEAKER pro tempore. Twenty minutes.

Mr. DORNAN. I will tell you what I will do——

Mr. BURTON of Indiana. I would be happy to yield to the gentleman.

Mr. DORNAN. If you let me do my prolog, I will then put in all of our statements in the RECORD. I agree continuity is important.

Now, here is good news for Mr. BONIOR: I will then sit and listen to the gentleman's special order and then waive my 30 minutes and then he goes. So usually I try to be extemporaneous because I think through the C-SPAN television cameras you grab people more, grab the feeling that it is from your heart—tell it as you see it from your heart. I want this just right.

WHY JOCELYN ELDERS SHOULD BE FIRED

Now, that is my title. Now the prolog: the overall mission of the office of the U.S. Surgeon General is the protection, improvement, and advancement of the health of all American people.

The primary responsibility of our Surgeon General is to advise the Nation on public health matters. As the Nation's top spokesperson on issues of public health, the American people look to the person who serves as the Surgeon General for guidance and leadership on such matters.

Now, my statement: Clearly, our current Surgeon General, Jocelyn Elders, has failed in the mission of her office. She has demonstrated hostility toward mainstream American values and mocked American citizens who want public policy to reflect the Judaeo-Christian ethical standards of our culture.

□ 1800

Elders has also abused the public trust and compromised her ability to unify the American people under the common goal of sound public health policies. Moreover, her policies and pronouncements are dangerous to the health and well-being of families in America.

Now what I will do is just give paragraph titles, and then they can find it in the RECORD.

Joycelyn Elders on Teenage Sexuality: three extremely offensive and harmful statements.

I just got a message from my staff. AIDS figures will not be updated until October. We used to get them every month. Now we have to sit with December 21 figures. Since this is the middle of September I said 217 were dead. It was really more like 250. We are already up to 275,000 given the death rate.

So, I put in those on teenage sexuality:

Joycelyn Elders continues to taunt and ridicule Americans who advocate principles of sexual restraint and responsibility as a means of preventing unwanted pregnancies and/or sexually-transmitted diseases.

Elders disregards and disdains that abstinence is the only proven method of preventing unplanned pregnancies and sexually-transmitted diseases and should be part of any education program. In fact, Elders' prescription for dealing with the problem of teenage pregnancy includes free condoms in grade and high schools; explicit and graphic sex education beginning as early as kindergarten and; unrestricted, tax-funded abortion.

Elders even went so far as to say, "We have driver's ed for our kids. We've taught them what to do in the front seat of the car, but not what to do in the back seat." (Evening Times, 3/4/92). Yet during her previous tenure as Arkansas health director, the incidence of teenage pregnancy and sexually transmitted diseases actually rose steadily—even after posting steady declines in the years before her appointment (Alan Guttmacher Institute and Arkansas Department of Health).

Next on homosexual activity, one, two, three extremely offensive statements:

ON HOMOSEXUAL ACTIVITY

Joycelyn Elders continues to advocate a re-definition of the traditional family structure by supporting the adoption of children by homosexuals (USA Weekend Interview, 6/2–5/94).

Elders has said, "Yes [Boy Scouts should admit homosexuals]. I also think girls who are lesbians should be allowed to join the Girl Scouts." (USA Weekend Interview, 6/3–5/94).

Regardless of documented evidence that shows homosexual behavior is associated with communicable venereal diseases such as hepatitis and the always fatal AIDS, Elders has endorsed homosexual sex as "healthy," "wonderful," and "normal" (The Advocate, 3/94). This has given a false sense of security to all those who engage in high-risk sexual behavior.

On abortion, one, two, three, four amazingly offensive, bigoted and anti-Catholic specific statements:

ON ABORTION

Joycelyn Elders is a relentless advocate for abortion on demand for any or no reason. She has even said that, "Abortion has reduced the number of children with severe birth defects * * * The number of Down's syndrome infants in Washington State in 1976 was 64 percent lower than it would have been without legal abortion * * * Abortion was the single most important factor in the significant decrease in neonatal mortality between 1964 and 1977." (Testimony before Senate Labor Committee on FOCA, 5/23/90).

Elders continues to insult and demean Americans who believe pre-born children are human beings worthy of constitutional protections as well, telling pro-life advocates to "get over their love affairs with the fetus." (Arkansas Democrat-Gazette 1/19/92).

Elders has also characterized people who oppose abortion as "non-Christians with slave-master mentalities" who want "to keep people poor, ignorant, and enslaved." (American Medical News, 1/11/93).

Regarding those who are morally opposed to taxpayer financed abortion, Elders claimed, "If Medicaid does not pay for abortions, does not pay for family planning, but pays for prenatal care and delivery, that's saying: I'll pay for you to have another good, healthy slave." (Arkansas Democrat-Gazette 1/19/92).

On religious bigotry, this is a category she has publicly demonized and marginalized Americans whose values are rooted in religious tenents and who advocate public policies that reflect those values. One, two, three, four statements on that:

RELIGIOUS BIGOTRY

Joycelyn Elders has publicly demonized and marginalized Americans whose values are rooted in religious tenets and who advocate public policies that reflect their values.

Elders has characterized those who hold moral and religious values as harmful to our Nation's children and has said, "We've got to be strong to take on those people who are selling our children out in the name of religion." (June 22, 1994, Lesbian and Gay Health Conference).

Elders has also criticized how religious leaders view human sexuality and has called those who oppose sex education the "un-Christian religious right" (June 22, 1994 Lesbian and Gay Health Conference).

When asked why there was such a sharp rise in teen pregnancy in Arkansas during her tenure as Arkansas Health Director, Elders claimed it was, "poverty and ignorance and the Bible-Belt mentality." (National Review, "Life and Death in Arkansas," 4/26/93).

Furthermore, Elders continues to wage a non-stop, public attack on Roman Catholics by saying, prior to her appointment, "Look who's fighting the pro-choice movement: a celibate, male-dominated Church." (Address to Arkansas Coalition for Choice, 1/18/92).

Reckless judgment calls, what a category, one, two, three, four, five, and I think those will cause people to die in this country because the statement from the bully pulpit, in uniform, combat, decorations to the Public Health Service emblazoned across her uniform.:

RECKLESS JUDGMENT CALLS

Joycelyn Elders has demonstrated reckless judgment on serious societal problems with statements such as, "I would hope that we would provide them [drug-abusing prostitutes] Norplant, so they could still use sex if they must to buy their drugs." (CNBC "Talk Live", 6/19/93); and

In addition, despite strong evidence that illegal drug use is on the rise, Elders has said that "We would markedly reduce our crime rate if drugs were legalized" (National Press Club Luncheon) and recommended that "we have doctors or clinics set up were addicts can get their drugs free or pay $1." (USA Weekend, 6/3–5/94).

When Elders was asked about her son Kevin's recent conviction for selling cocaine, she replied, "I don't feel that was a crime." (Houston Chronicle, 9/3/94)

Elders has even justified higher Federal spending on AIDS research rather than on cancer and heart disease because, "most of the people that die with heart disease and cancer are our elderly population, you know, and we all will probably die with something sooner or later" and that "we are losing the people that's going to be paying my Social Security, and that bothers me." (Senate committee hearing, 5/11/94).

And while claiming to care about the health of our children, Elders recklessly refused to notify the public about defective condoms dispensed by the State of Arkansas to school-based clinics.

In conclusion, and then I am finished:

Surgeon General Joycelyn Elders continues to exploit her privileged position and compromise her ability to unite the American people under the common goal of improving the health of the general public.

More importantly, Elders is failing to carry out the overall mission of the Office of the United States Surgeon General and is therefore failing to protect, improve, and advance the health of all Americans.

Joycelyn Elders' unrelenting, insulting statements demean our Nation's top public health post and common decency demands that the President ask for her resignation.

If we were earlier in the session, I would draw up articles of impeachment, and I found out through our top Parliamentarians that I would have been able to get a little earlier in the year a vote whether or not to table that as a privileged motion, and that vote, to smart people all across the country, would have been an up or down vote on Joycelyn Elders. We will just have to wait and see what the election results are. I am sure my friend, the gentleman from Michigan [Mr. BONIOR], will be back. I will try and recruit him, and, if that does not work, another solution:

Fire Mr. Clinton and the co-President.

Mr. BURTON of Indiana. Mr. Speaker, I thank my colleague, the gentleman from California [Mr. DORNAN], for his remarks, and I am glad we got that information into the RECORD.

I would like to, in the remaining time I have, talk about the continuing saga of Arkansas. Arkansas is a great State, but, boy, they have got a history of all kinds of allegations against government officials down there that just boggles the mind. Right now there is an investigation going on by the independent counsel that is probably going to take 6 months or longer because of Whitewater, and Morgan Guarantee Savings & Loan, and all of these alleged nefarious activities that took place under the Clinton administration in Arkansas.

Now tonight I want to talk about a related subject that parallels what happened under Bill Clinton's administration in Arkansas with the Whitewater Development Corp. Jim Guy Tucker, who is now the Governor of Arkansas, was the Lt. Gov. of Arkansas under Bill Clinton. He became Governor when Clinton was elected President. They are very close political allies. He is running for reelection this year against Republican Sheffield Nelson.

Governor Tucker, as I said, is a close political ally of President Clinton. Like President Clinton, Mr. Speaker, he has been involved in several questionable business deals with James McDougall that contributed to the bankruptcy of Madison Guarantee Savings and Loan at a cost to the taxpayers of $47 million.

According to press reports, Mr. Speaker, the Resolution Trust Corporation, the RTC, has subpoenaed documents from Governor Tucker's businesses going back over a decade, and the RTC is pursuing fraud claims against him. These same kinds of allegations have been made against President Clinton and Whitewater, and these are being investigated as well. The RTC has named Governor Tucker in a criminal referral to the Justice Department. Governor Tucker is a possible target for indictment in the independent counsel's investigation into the failure of Madison Guarantee Savings and Loan.

Now Jim Guy Tucker borrowed over $1¼ million from Madison Guarantee Savings & Loan. When Madison was taken over by Federal regulators in 1986, Governor Tucker's $1 million loan for a sewer system was one of the largest delinquent loans on the books. According to the Wall Street Journal, Governor Tucker never filled out, never filled out, loan applications or put up a down payment. He told the Little Rock Democrat Gazette, "I called up Jim McDougall if I wanted to borrow money." He did not even fill out applications for $1 million. It would be kind of nice for Americans to be able to go and do that anytime they needed money.

So, Mr. Speaker, this raises serious questions. How can a thrift savings institution whose deposits are insured by the Federal Government, by the taxpayers, loan hundreds and thousands of dollars without getting so much as a written loan application? How could a federally insured savings and loan give out hundreds and thousands of dollars in loans without getting even a small down payment? Could it be because of the political influence of President Clinton, or then-Governor Clinton, and now Governor Jim Guy Tucker? To what extent did Jim Guy Tucker's bad loans at Madison contribute to Madison's $47 million tax-funded failure?

Governor Tucker also borrowed over three-quarters of a million, and this is a different one, over three-quarters of a million dollars from David Hale's Capital Management Services Co. Jim Guy Tucker was a millionaire primarily because of his investments in cable television. However Capital Management Services was licensed by the Small Business Administration to loan to people only, quote, "who are socially or economically disadvantaged small business people." Now, if he was a multimillionaire as a result of his cable television industry, how could he borrow money from the SBA when they were supposed to only loan money to people who are socially or economically disadvantaged? This is because, obviously, of the political influence.

One of Tucker's companies defaulted on $100,000 of those loans, and Capital Management Services also went bankrupt. David Hale has pled guilty to fraud and is now cooperating with Federal investigators. David Hale has accused both Bill Clinton and Jim Guy Tucker of applying political pressure to get him to make inappropriate loans.

So, this raises more serious questions. No. 1, why would a millionaire like Jim Guy Tucker go to David Hale's company to borrow money when he could borrow from any bank in Arkansas? No. 2, Jim Guy Tucker represented both David Hale and Capital Services as an attorney, Capital Services Management in legal matters, and borrowed from Capital Services Management repeatedly. He was a legal counsel, and he borrowed from them all the time. How could he be unaware that they were supposed to make loans only to disadvantaged people and still go ahead and get a loan himself? No. 3, to what extent did Jim Guy Tucker's bad loans contribute to the failure of Capital Management Services? No. 4, did Jim Guy Tucker and Bill Clinton pressure David Hale to make loans that the law prohibited him from making, as David Hale claims?

Mr. Speaker, that, we believe and hope, is being investigated by the independent counsel. But it also ought to be investigated by the Congress of the United States, and, if we get a majority next year, you can rest assured that we will have these investigations that are now being stonewalled by the Democrat majority in this House.

Now two examples of Jim Guy Tucker's tangled financial transactions: One was the Castle Sewer and Water Co. In 1986 Jim Guy Tucker formed the Castle Sewer and Water Co. to purchase the water utility associated with a new development called Castle Grande. He purchased the utility from Madison Financial Co., a subsidiary of Madison Guarantee Savings and Loan, both owned by Jim McDougall, Bill Clinton's partner in Whitewater. Tucker's company borrowed $1.2 million from Madison Guarantee Savings and Loan to purchase the water company. He put up a down payment with $150,000 that he borrowed from David Hale's Capital Management Co.

Now think about that. He borrowed $1.2 million, and how did he make the down payment? He borrowed $150,000 with no collateral, evidently no collateral, from Capital Management Services, David Hale's company. An appraiser with close financial ties to Madison Guarantee put the utility's value at $1.3 million.

□ 1810

When the RTC, the Resolution Trust Corporation, took over the loan a year later, an independent appraiser placed the true value of that property at only $640,000, about half of what they said it was worth a year earlier. This is one of several known instances of appraisers with ties, with ties, to Madison Guaranty Savings & Loan, inflating the value of the properties. And when you get into this, you find that these people who are making these appraisals have financial dealings with these institutions as well. And one questions whether or not they were being twisted or blackmailed into raising the appraised values of these properties. It sure raises one's hair a little bit to think that sort of thing was going on.

Tucker's company made payments on the note for only 5 months. He only made payments for 5 months. When the RTC ousted Jim McDougall from Madison Guaranty in July, the Castle Sewer note was one of the largest delinquent notes in the Madison Guaranty portfolio, which cost the taxpayers $47 million.

In 1989, the Resolution Trust Corporation negotiated a settlement with Jim Guy Tucker's lawyers and reduced the amount of the loan from $1.2 million to $525,000. That is a pretty good deal. They lowered it by more than half. However, a year later they were still missing payments even on the $525,000. The $150,000 loan that he used to get the $1.2 million loan from Capital Management Services was never repaid. That $150,000 just went out the window. Instead, Capital Management Services had to settle for a one-third stake in the worthless sewer company. So, for the $150,000, they got one-third ownership in a sewer company that was defunct, and that contributed to the failure of David Hale's company.

In 1989, Jim Guy Tucker sold his stake in the company, $1.2 million, he sold his stake in the company for $10, and he walked away from the whole mess.

Questions: How could Jim Guy Tucker, a millionaire with extensive holdings in several companies, just walk away from a legitimate business debt and saddle the taxpayers of America with it?

Two: How could Jim McDougall get away with a conflict of interest like approving a million dollar loan when the transaction involved his own company?

Three: How could Jim McDougal get away with basing a million dollar loan on an appraisal performed by an appraiser with a serious conflict of interest?

Four: How could Jim Guy Tucker get away with borrowing over $1 million without putting up a cent of his own money?

Five: Why, after the RTC cut the loan amounts by $600,000, was Tucker's company still unable to make regular payments?

Six: Why was the $150,000 loan from Capital Management Services never repaid?

Now, let us talk about the Castle Grande Development. Also in 1986, Jim Guy Tucker borrowed $260,000 from Madison Guaranty Savings & Loan to invest in 34 acres of the Castle Grande land development deal being put together by Jim McDougal. This is very similar to Whitewater, what Bill Clinton was doing. They parallel each other. If you put them on the chart and go down, they did almost the same thing, like almost they learned from one another. As everyone knows, Jim McDougal was Bill Clinton's partner in the Whitewater Land Development deal.

Half of the $260,000 was to be used to purchase the land, and the other half was to pay for improvements on the land. According to the Associated Press, Federal investigators are investigating whether Jim Guy Tucker committed bank fraud by misrepresenting what he would use the loan for. The funds were never spent on the land, they were never spend on land improvements. They were spent to pay off a loan Tucker guaranteed for a friend.

So the money he borrowed, the $260,000 was for land purchases and improvements. He took the money for the land improvements, and instead of using it for that purpose, he committed what many believe is bank fraud by paying off a loan for a friend.

A second appraiser with financial ties to Madison Guaranty valued the land at $350,000. Here again we have somebody who was tied to Madison Guaranty, had financial ties, who appraised this land at $350,000. Yet when the RTC took over the land, they appraised it for one-third of that value, $120,000. Once again, the taxpayer gets the shaft.

Jim Guy Tucker quickly turned around and sold the land to Southloop Construction Co. which he coowned, for $350,000, which was a $200,000 profit for him. Southloop Construction Co. funded this purchase partly with a $100,000 loan from Capital Management Service. Again, David Hale's company was never repaid.

Southloop Construction never paid off the loan from Madison. After becoming seriously delinquent, it was paid off in 1993 by another one of Tucker's companies.

Question: Once again, how could an inflated appraisal be accepted from an appraiser who was indebted to Madison Guaranty? The appraiser evidently owed over $200,000 to them. He made the appraisal and obviously was going to do what they said, because he was owing them $200,000 at the time.

Again, why was Jim McDougal allowed to approve a loan in which he had a personal financial stake? This is a serious conflict of interest and a violation of the law.

Third, after Jim Guy Tucker made a $200,000 profit by selling the land to his own corporation based on an inflated appraisal, why was he allowed to walk away from the $100,000 he still owed to Capital Management?

To reiterate some previous questions to what extent did Jim Guy Tucker's bad loans at Madison Guaranty contribute to that S&L's downfall, which cost the taxpayers $47 million, you and me and all of the country. To what extent did Jim Guy Tucker's bad loans at Capital Management Services contribute to its downfall? And did Jim Guy Tucker and Bill Clinton both exert political pressure on David Hale to make loans not allowed under its license with the Small Business Administration?

We need answers to all of these questions, and we need a complete investigation. Not like that which the Committee on Banking, Finance and Urban Affairs had in this House, or they had in the other body. Those investigations were a whitewash of Whitewater.

What they ended up doing was saying when we started to question people about things like what happened with Whitewater and Vince Foster's death, they gave the Republican Members and all Members 5 minutes to question 10 people and get answers. You cannot question one person and get answers in 5 minutes. They had them questioning 10 people at one time, and they had 5 minutes to get both the questions and the answers in. Even everybody watching across the country came to the conclusion, anyone paying attention, that this certainly was inefficient and not a complete investigation.

We have millions and millions and millions of dollars of taxpayers' money that has been stolen, literally, by people involved in these corporations. Bill Clinton, it is alleged, used his political influence, and many people believe that documents we need to prove that have been shredded. We can go into that, and that would take more time than I have tonight.

Now, we find that Lieutenant Governor Jim Guy Tucker, his Lieutenant Governor and colleague in politics down there, is accused of doing the same thing, and there is documentation that proves there is merit to these arguments. That is why the independent counsel is investigating this.

But even through we have an independent counsel looking into these allegations and looking into these cases very thoroughly, the defraud of this country of millions and millions of dollars from the taxpayers, we still need a complete and thorough investigation by the Congress of the United States.

We have not been able to get the majority party to go along with that. We have had a whitewash of Whitewater. We are probably now going to have a whitewash of this Castle Grande Development Corp. And the people of this country should not tolerate it.

All of these things I have been talking about on the floor for the past month or month and a half should be investigated thoroughly, not only by the independent counsel, but by a selected committee, of both Democrats and Republicans in this House. We are talking about honesty and integrity in government, and taxpayers' money, and the Congress of the United States is charged with responsibility of spending taxpayers' money in the right way.

Since taxpayers have been defrauded in these cases, we need to have congressional investigations. So as we come close to adjourning sine die in this session of Congress, I just would like to say to my colleagues, when we come back in January, one of the first orders of business should be complete and thorough hearings into Whitewater and all related matters, even if it involves the President of the United States and Hillary Clinton.

□ 1820

REGRETTABLY, NAFTA ISN'T WORKING

The SPEAKER pro tempore (Mr. SCOTT). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Michigan [Mr. BONIOR] is recognized for 60 minutes as the designee of the majority leader.

Mr. BONIOR. Mr. Speaker, there's an old story my grandfather used to love to tell about the time he immigrated from Ukraine to Hamtramck, which is a small enclave within the city of Detroit.

The town was filled with Polish and Ukrainian immigrants. And one time one of the people from the old country robbed a bank. He was caught right away, but he didn't have the money on him. And he didn't speak a word of English.

The police chief got an interpreter, sat them both down in the jail, and told the interpreter, "Ask this man where the money is."

The interpreter asked, but got no answer.

The chief took out his gun, placed it on the table, and said: "You tell this guy he better answer or he's in big trouble."

The interpreter asked again, but again, he got no answer.

Finally, the chief picked up the gun, pointed it at the bank robber's forehead and said, "You tell this guy he better talk or he'll be sorry."

The interpreter delivered the message, and this time the robber said in Polish: "I confess. I stole $100,000 and dropped the money in a dry well behind the bank. The money's there."

The interpreter thought for a moment, turned to the chief and said: "The robber says he's not afraid to die."

Mr. Speaker, I think of that story a lot whenever I think about the North American Free-Trade Agreement—whenever I hear the way it's being interpreted.

Mr. Speaker, last fall at this time, many of us in this House opposed NAFTA because we thought it was a bad deal for American workers and American jobs.

We felt that the American people deserved a better deal, one that would increase the standard of living in this country while raising Mexico's standard to our level.

One that would stick up for the rights of working families while doing more to improve the human rights situation in Mexico.

We thought we could do better. But as we all know, Mr. Speaker, NAFTA passed. It's now the law of the land.

And now that it is the law, we all hope that it works. We all hope that it will help American families and not hurt them.

And indeed, now that we've passed the 6-month mark of this treaty—if you listen to interpretations of NAFTA by the Commerce Department and others who supported this agreement—it's clear some believe it is working.

But I am concerned, Mr. Speaker.

I am concerned that many of the interpretations I have seen by the Commerce Department and others recently take the same tact they did last year during the NAFTA debate: they only looked at half of the story.

While we all hope that NAFTA works—until we're honest with ourselves and look at both sides of the story—we have to recognize that it never will work.

We are here tonight, Mr. Speaker, to talk about the other side of the story. The side of the story we must pay attention to if this treaty really is going to be a boon to America.

Let me talk about why I find the recent claims of the Commerce Department extremely misleading.

They point out that United States exports to Mexico are up 17 percent. What they don't say is that imports from Mexico are up 21 percent, and that's cost us jobs.

They point out that the United States has exported 22,000 vehicles to Mexico from January to July. What they don't say is that we have imported 221,000 vehicles from Mexico—10 times more than we sent them—and that's cost us jobs.

They claim that NAFTA could create 100,000 jobs this year, with no supporting documentation. What they don't say is that 35,000 workers from 224 firms in 37 States have already applied for benefits due to jobs lost from NAFTA and that's just through August.

Using the logic of the Commerce Department report, you would conclude that the 1962 New York Mets were a good baseball team because they won 40 games. Their NAFTA math lets you overlook the fact that the 1962 Mets lost 120 games, and that's why they're known as one of the worst teams in baseball history.

When you look at both sides of the story, it's easy to understand why our trade surplus with Mexico has dropped by over 30 percent in the past year alone. It's gone from $1.6 billion to $1 billion—and headed in the wrong direction fast.

In fact, I believe we really need to take a look at our entire trade policy.

In trade figures that just came out last week—at the same time they're trying to sell us good news about NAFTA—our overall trade deficit recently rose to the second-highest level in history. It surged to over $10 billion in July.

Our deficit with Japan alone soared to $5.67 billion for the month of July—adding to the $60 billion annual deficit they held over us last year. Our deficit with China reached $2.67 billion in the same period.

We can't keep closing our eyes to both sides of the story. We can't keep listening to the happy talk while closing our eyes to the other side of the story. It's time we get real.

Clearly, the deficit is a disturbing trend. But an equally disturbing trend is emerging among our top auto competitors that should concern us all.

Again, this wasn't discussed at all in the Commerce Department report, but it's something we have to watch closely.

Last year, there were many of us who warned that once NAFTA passed, our top auto competitors would use Mexico as an export platform into the United States.

Since NAFTA eliminates tariffs between the United States and Mexico, we feared that countries such as Japan, Korea, and Germany would set up shop in Mexico in order to export cars into the United States duty-free, in effect, skirting the existing tariffs we charge those countries to import cars into our country which would further erode our balance of trade.

That was our concern and regrettably, it appears to be exactly what's happening.

In the short time since NAFTA passed, several major Japanese and European automakers have announced plans to build or expand production in Mexico.

Since NAFTA passed, Honda has announced plans to construct a $50 million plant in Guadalajara that will begin assembling Honda Accords in November of next year.

BMW has revealed plans to invest $180 million to begin operations in a plant just west of Mexico.

Nissan recently opened a new plant in Mexico as part of a 6-year, $1 billion plan to double its production capacity in North America.

Volkswagen only sold 50,000 cars in the U.S. last year.

Now, after NAFTA, they plan to boost production in Mexico and vow, and I quote, "to sell more than 100,000 cars" in the United States this year.

Even Toyota President Tatsuro Toyoda, who has never even exported cars to Mexico before, was recently reported in Automotive News to be quote, "interested in Mexico as a possible production base, following the implementation of NAFTA."

And it's not just foreign *auto* companies that are moving to Mexico. Samsung of Korea just announced this month that it would start building a $150 million electronics plant in Tijuana.

And listen to the reason why. When a Korean Government economist was asked "why Mexico," he didn't say, "because we want to sell more products to Mexican consumers." He responded that quote, "Latin America is very important (because) it provides easier access to North America markets."

Meanwhile, our automotive trade in the first 9 months of NAFTA has followed the same unhealthy pattern that was set before NAFTA.

We sell them parts, they turn those parts into finished vehicles and then they ship them back to us.

When you look at the Commerce Department's own figures, you find that ranked in dollar value, our No. 1 manufactured export to Mexico is auto parts, while our No. 1 manufactured import from Mexico is finished vehicles.

What's the benefit of our exports to Mexico if they come right back across the border to us and never reach the Mexican consumer?

And why can't workers in the United States assemble those cars just like we have for over 100 years?

The more we ignore the reality of these numbers, the more we put the jobs of our own workers in jeopardy.

Finally, Mr. Speaker, let me describe to you a case which I believe calls into question the depth of our commitment to the side agreements that were signed to get NAFTA passed.

If you recall, Mr. Speaker, last year the administration negotiated two separate side agreements—one on the environment and one on labor rights—that everyone agreed were vital to getting the treaty passed.

As part of the labor side agreement, our Government committed itself to helping enforce workers rights in Mexico.

We committed ourselves to challenging Mexico to live up to the letter of their own law and promised to take immediate action if any violations were reported.

Well, earlier this year, there was a case that tested that commitment.

Shortly after NAFTA went into effect, 11 workers at a General Electric Plant in Juarez and 20 workers at a Honeywell plant in Chihuahua were fired.

The reason? Because they were trying to organize a union. Working conditions in one of the plants were so dangerous that workers consistently came down with headaches and nausea and so, they spoke out about it.

They met in their own homes and tried to organize a union just like workers in the other plant.

And for that, they were fired.

The treatment of these workers were in clear violation not only of Mexico's own domestic laws, but of the labor side agreement of NAFTA.

Because these workers had been in contact with organizers from several American unions, those unions submitted a formal complaint to the Labor Department.

Under NAFTA, the Labor Department is responsible for investigating their claims and the Labor Department agreed to hold a hearing.

Since this was the first hearing of its sort, it was to set an important precedent.

But if the precedent it set is any indication of how stringently we're going to enforce NAFTA, we all have reason to be concerned.

First, the hearing was scheduled to be held not in El Paso—which was the U.S. site nearest to the complaints—but in Washington, which most of the witnesses could not afford to travel to.

Then, the hearing was scheduled for August 31. But anyone wishing to testify had to submit written testimony by August 19th—which happened to be 2 days before the biggest election in Mexican history, which most of the witnesses were participating in. So there was no time to prepare.

After numerous letters from members of Congress to protest the date, it was finally moved to September 12.

But the hearing limited testimony to 10 minutes per person, including translation time—which actually cut the testimony down to 5 minutes per person. This for people who had traveled thousands of miles to make their case.

Four panels spoke. But there were no questions asked of the first or fourth panels, and only limited questions of the third panel.

What's more, cameras, tape recorders, and videotaped testimony was not permitted, which completely limited public access.

And while the Labor Department said transcripts would be made available within 3 days, they now say they are making none available. If you want one, you have to call the recording company.

It took my office over 2 weeks to get a copy.

Mr. Speaker, I think you would agree, this is not a good precedent to set. And if this is any gauge about our commitment to the side agreements, we all need to be concerned.

Mr. Speaker, last year, we fought for a better NAFTA agreement.

Now, that's its law, we all hope that it works.

But until we're honest with ourselves, until we look at both sides of the story, and work to honor the commitments that we made, it never will work.

□ 1830

Mr. Speaker, I call upon everyone to join in making sure that it does work.

Mrs. BENTLEY. Mr. Speaker, the demand in this nation for humane law, and the expectation of fair and equal treatment for all Americans, has made many of us naive in dealing with nations rooted in other traditions, other value systems, other legal structures.

The lack of fair treatment of Mexican labor whether by their employers or by their representatives to the NAFTA or by our NAFTA representative's inability to move the Government of Mexico toward a more humane attitude toward its own citizens should not come as a surprise.

Under what special power can the long, dark history of civil rights violations in Mexico be changed? By the mere shipping of a tripartite trade agreement such as NAFTA?

I think not.

In one of the poorest nations of the world, which counts among its elite 30 billionaires—more than are counted in any one of the industrialized nations—most of them created since Mexico privatized many of its national industries during the 1980's—the notion of expecting that individual human rights would be upheld above all considerations of making money is rather farfetched.

A commentary upon the difficulty of dealing with the laws of the various nations through the dispute panel mechanism central to every one of these major trade agreements, including the proposed GATT, was made most brilliantly by retired U.S. Circuit Judge Malcolm Wilkey regarding the decision by the Extraordinary Challenge Commission of the Canadian Free Trade Agreement on exports of soft wood lumber products into the United States.

Representing the United States on the ECC appeal against Canadian subsidies of soft wood lumber, Judge Wilkey, outvoted 2 to 1, clearly stated the dangers inherent in the dispute panel process:

> It is clear that a new body of United States law, fathered by Binational Panels and ECCs under the CFTA (soon NAFTA), will be created, while long-established U.S. law will continue to be applied to imports from all other countries. All of this has occurred in the operation of this innovative scheme of appellate review between Canada and the United States, two common law countries with similar traditions and antecedents. Now we have Mexico as a third member of NAFTA, and in the near future perhaps Chile and other Ibero-American countries. Mexico has no legal system or traditions in common with the United States whatsoever; it is proudly a Civil Law country. . . . If Canadians on the Panels and ECCs have failed—as in my judgement here they have—to comprehend the United States standards of judicial review of administrative agency action, what can we expect from lawyers and judges schooled in the Civil Law?

Mr. Speaker, what can we expect also from the more than 120 nations in the GATT who will have power over our domestic laws equal to that which we have given Canada and Mexico? Nations as unaccustomed to freedom and civil rights as China and Sri Lanka, Russia and Malaysia.

Will our higher standards in every phase of our every day life appear to them to be nothing more or less than structural impediments to the free flow of their goods into our markets?

Of course they will. Just as Venezuela is going to charge before the GATT that our standards for clean gasoline were designed just to keep their lower standard of gasoline out. And, never forget, that this administration was prepared to give Venezuela a waiver under the threat of a challenge to the old toothless GATT, until the Senate stopped that nonsense. Imagine how far Mr. Kantor will roll under a GATT with enforcement powers if the Venezuelan challenge is upheld.

And we are being told we have nothing to fear if the new GATT passes.

Ask the workers in the GE plant and the Honeywell plant how much better life is for them now that the NAFTA is going into effect. Obviously not much.

These agreements are not good deals for America. They seem to not be helping the workers in these other nations and they will be devastating to the jobs of American workers. They will ultimately strip the Congress of all of its powers guaranteed in the Constitution over the whole body of U.S. interstate and foreign commerce law.

We should have voted no on NAFTA. We must vote no on GATT.

GENERAL LEAVE

Mr. BONIOR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore (Mr. SCOTT). Is there objection to the request of the gentleman from Michigan?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 6 o'clock and 40 minutes p.m.) the House stood in recess subject to the call of the Chair.

□ 1927

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SCOTT) at 7 o'clock and 27 minutes p.m.

CONFERENCE REPORT ON H.R. 6, IMPROVING AMERICA'S SCHOOLS ACT OF 1994

Mr. KILDEE submitted the following conference report and statement on the bill (H.R. 6) to extend for 5 years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965, and for certain other purposes:

CONFERENCE REPORT (H. REPT. 103-761)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6), to extend for five years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965, and for certain other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Improving America's Schools Act of 1994".

SEC. 2. ORGANIZATION OF THE ACT.

This Act is organized into the following titles:

TITLE I—AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

TITLE II—AMENDMENTS TO THE GENERAL EDUCATION PROVISIONS ACT

TITLE III—AMENDMENTS TO OTHER ACTS

TITLE IV—NATIONAL EDUCATION STATISTICS

TITLE V—MISCELLANEOUS

SEC. 3. EFFECTIVE DATES; TRANSITION.

(a) EFFECTIVE DATES.—

(1) TITLE I.—

(A) Title I and the amendment made by title I of this Act shall take effect July 1, 1995, except that those provisions of title I that apply to programs under title VIII (Impact Aid) of the Elementary and Secondary Education Act of 1965, as amended by this Act, and to programs under such Act that are conducted on a competitive basis, shall be effective with respect to appropriations for use under such programs for fiscal year 1995 and for subsequent fiscal years.

(B) Title VIII of the Elementary and Secondary Education Act of 1965, as amended by title I of this Act, shall take effect on the date of the enactment of this Act.

(2) TITLE II.—Title II of this Act and the amendments made by title II of this Act shall take effect on the date of enactment of this Act, except that section 236 (equity for students, teachers, and other program beneficiaries) of such title shall be effective—

(A) July 1, 1995 for noncompetitive programs in which funds are allocated on the basis of a formula; and

(B) for programs that are conducted on a competitive basis, with respect to appropriations for use under such programs in fiscal year 1995 and in subsequent fiscal years.

(3) TITLE III.—(A) Parts A and B of title III of this Act and the amendments made by such parts shall take effect on July 1, 1995.

(B) Part C of title III of this Act and the amendments made by such part shall take effect on October 1, 1994.

(b) TRANSITION.—Notwithstanding any other provision of law, a recipient of funds under the Elementary and Secondary Education Act of 1965, as such Act was in effect on the day preceding the date of enactment of this Act, may use funds available to such recipient under such predecessor authority to carry out necessary

and reasonable planning and transition activities in order to ensure a smooth implementation of programs authorized by this Act.

TITLE I—AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 101. AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended to read as follows:

"SECTION 1. TABLE OF CONTENTS.

"This Act may be cited as the 'Elementary and Secondary Education Act of 1965'.

"TITLE I—HELPING DISADVANTAGED CHILDREN MEET HIGH STANDARDS

"SEC. 1001. DECLARATION OF POLICY AND STATEMENT OF PURPOSE.

"(a) Statement of Policy.—

"(1) In general.—The Congress declares it to be the policy of the United States that a high-quality education for all individuals and a fair and equal opportunity to obtain that education are a societal good, are a moral imperative, and improve the life of every individual, because the quality of our individual lives ultimately depends on the quality of the lives of others.

"(2) Additional policy.—The Congress further declares it to be the policy of the United States to expand the program authorized by this title over the fiscal years 1996 through 1999 by increasing funding for this title by at least $750,000,000 over baseline each fiscal year and thereby increasing the percentage of eligible children served in each fiscal year with the intent of serving all eligible children by fiscal year 2004.

"(b) Recognition of Need.—The Congress recognizes that—

"(1) although the achievement gap between disadvantaged children and other children has been reduced by half over the past two decades, a sizable gap remains, and many segments of our society lack the opportunity to become well educated;

"(2) the most urgent need for educational improvement is in schools with high concentrations of children from low-income families and achieving the National Education Goals will not be possible without substantial improvement in such schools;

"(3) educational needs are particularly great for low-achieving children in our Nation's highest-poverty schools, children with limited English proficiency, children of migrant workers, children with disabilities, Indian children, children who are neglected or delinquent, and young children and their parents who are in need of family-literacy services;

"(4) while title I and other programs funded under this Act contribute to narrowing the achievement gap between children in high-poverty and low-poverty schools, such programs need to become even more effective in improving schools in order to enable all children to achieve high standards; and

"(5) in order for all students to master challenging standards in core academic subjects as described in the third National Education Goal described in section 102(3) of the Goals 2000: Educate America Act, students and schools will need to maximize the time spent on teaching and learning the core academic subjects.

"(c) What Has Been Learned Since 1988.—To enable schools to provide all children a high-quality education, this title builds upon the following learned information:

"(1) All children can master challenging content and complex problem-solving skills. Research clearly shows that children, including low-achieving children, can succeed when expectations are high and all children are given the opportunity to learn challenging material.

"(2) Conditions outside the classroom such as hunger, unsafe living conditions, homelessness, unemployment, violence, inadequate health care, child abuse, and drug and alcohol abuse can adversely affect children's academic achievement and must be addressed through the coordination of services, such as health and social services, in order for the Nation to meet the National Education Goals.

"(3) Use of low-level tests that are not aligned with schools' curricula fails to provide adequate information about what children know and can do and encourages curricula and instruction that focus on the low-level skills measured by such tests.

"(4) Resources are more effective when resources are used to ensure that children have full access to effective high-quality regular school programs and receive supplemental help through extended-time activities.

"(5) Intensive and sustained professional development for teachers and other school staff, focused on teaching and learning and on helping children attain high standards, is too often not provided.

"(6) Insufficient attention and resources are directed toward the effective use of technology in schools and the role technology can play in professional development and improved teaching and learning.

"(7) All parents can contribute to their children's success by helping at home and becoming partners with teachers so that children can achieve high standards.

"(8) Decentralized decisionmaking is a key ingredient of systemic reform. Schools need the resources, flexibility, and authority to design and implement effective strategies for bringing their children to high levels of performance.

"(9) Opportunities for students to achieve high standards can be enhanced through a variety of approaches such as public school choice and public charter schools.

"(10) Attention to academics alone cannot ensure that all children will reach high standards. The health and other needs of children that affect learning are frequently unmet, particularly in high-poverty schools, thereby necessitating coordination of services to better meet children's needs.

"(11) Resources provided under this title can be better targeted on the highest-poverty local educational agencies and schools that have children most in need.

"(12) Equitable and sufficient resources, particularly as such resources relate to the quality of the teaching force, have an integral relationship to high student achievement.

"(d) Statement of Purpose.—The purpose of this title is to enable schools to provide opportunities for children served to acquire the knowledge and skills contained in the challenging State content standards and to meet the challenging State performance standards developed for all children. This purpose shall be accomplished by—

"(1) ensuring high standards for all children and aligning the efforts of States, local educational agencies, and schools to help children served under this title to reach such standards;

"(2) providing children an enriched and accelerated educational program, including, when appropriate, the use of the arts, through schoolwide programs or through additional services that increase the amount and quality of instructional time so that children served under this title receive at least the classroom instruction that other children receive;

"(3) promoting schoolwide reform and ensuring access of children (from the earliest grades) to effective instructional strategies and challenging academic content that includes intensive complex thinking and problem-solving experiences;

"(4) significantly upgrading the quality of instruction by providing staff in participating schools with substantial opportunities for professional development;

"(5) coordinating services under all parts of this title with each other, with other educational services, and, to the extent feasible, with health and social service programs funded from other sources;

"(6) affording parents meaningful opportunities to participate in the education of their children at home and at school;

"(7) distributing resources, in amounts sufficient to make a difference, to areas and schools where needs are greatest;

"(8) improving accountability, as well as teaching and learning, by using State assessment systems designed to measure how well children served under this title are achieving challenging State student performance standards expected of all children; and

"(9) providing greater decisionmaking authority and flexibility to schools and teachers in exchange for greater responsibility for student performance.

"SEC. 1002. AUTHORIZATION OF APPROPRIATIONS.

"(a) Local Educational Agency Grants.—For the purpose of carrying out part A, other than section 1120(e), there are authorized to be appropriated $7,400,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(b) Even Start.—For the purpose of carrying out part B, there are authorized to be appropriated $118,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(c) Education of Migratory Children.—For the purpose of carrying out part C, there are authorized to be appropriated $310,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(d) Prevention and Intervention Programs for Youth Who Are Neglected, Delinquent, or at Risk of Dropping Out.—For the purpose of carrying out part D, there are authorized to be appropriated $40,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(e) Capital Expenses.—For the purpose of carrying out section 1120(e), there are authorized to be appropriated $41,434,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(f) Additional Assistance for School Improvement.—For the purpose of providing additional needed assistance to carry out sections 1116 and 1117, there are authorized to be appropriated such sums as may be necessary for fiscal year 1996 and each of the three succeeding fiscal years.

"(g) Federal Activities.—

"(1) Section 1501.—For the purpose of carrying out section 1501, there are authorized to be appropriated $9,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(2) Sections 1502 and 1503.—For the purpose of carrying out sections 1502 and 1503, there are authorized to be appropriated $50,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"SEC. 1003. RESERVATION AND ALLOCATION FOR SCHOOL IMPROVEMENT.

"(a) Payment for School Improvement.—

"(1) In general.—Except as provided in paragraph (3), each State may reserve for the proper and efficient performance of its duties under subsections (c)(5) and (d) of section 1116, and section 1117, one-half of 1 percent of the funds allocated to the State under subsections (a), (c),

and (d), of section 1002 for fiscal year 1995 and each succeeding fiscal year.

"(2) MINIMUM.—The total amount that may be reserved by each State, other than the outlying areas, under this subsection for any fiscal year, when added to amounts appropriated for such fiscal year under section 1002(f) that are allocated to the State under subsection (b), if any, may not be less than $200,000. The total amount that may be reserved by each outlying area under this subsection for any fiscal year, when added to amounts appropriated for such fiscal year under section 1002(f) that are allocated under subsection (b) to the outlying area, if any, may not be less than $25,000.

"(3) SPECIAL RULE.—If the amount reserved under paragraph (1) when added to the amount made available under section 1002(f) for a State is less than $200,000 for any fiscal year, then such State may reserve such additional funds under subsections (a), (c), and (d) of section 1002 as are necessary to make $200,000 available to such State.

"(b) ADDITIONAL STATE ALLOCATIONS FOR SCHOOL IMPROVEMENT.—From the amount appropriated under section 1002(f) for any fiscal year, each State shall be eligible to receive an amount that bears the same ratio to the amount appropriated as the amount allocated to the State under this part (other than section 1120(e)) bears to the total amount allocated to all States under this part (other than section 1120(e)).

"PART A—IMPROVING BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

"Subpart 1—Basic Program Requirements

"SEC. 1111. STATE PLANS.

"(a) PLANS REQUIRED.—

"(1) IN GENERAL.—Any State desiring to receive a grant under this part shall submit to the Secretary a plan, developed in consultation with local educational agencies, teachers, pupil services personnel, administrators, other staff, and parents, that satisfies the requirements of this section and that is coordinated with other programs under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, consistent with section 14306.

"(2) CONSOLIDATION PLAN.—A State plan submitted under paragraph (1) may be submitted as part of a consolidation plan under section 14302.

"(b) STANDARDS AND ASSESSMENTS.—

"(1) CHALLENGING STANDARDS.—(A) Each State plan shall demonstrate that the State has developed or adopted challenging content standards and challenging student performance standards that will be used by the State, its local educational agencies, and its schools to carry out this part, except that a State shall not be required to submit such standards to the Secretary.

"(B) If a State has State content standards or State student performance standards developed under title III of the Goals 2000: Educate America Act and an aligned set of assessments for all students developed under such title, or, if not developed under such title, adopted under another process, the State shall use such standards and assessments, modified, if necessary, to conform with the requirements of subparagraphs (A) and (D) of this paragraph, and paragraphs (2) and (3).

"(C) If a State has not adopted State content standards and State student performance standards for all students, the State plan shall include a strategy and schedule for developing State content standards and State student performance standards for elementary and secondary school children served under this part in subjects as determined by the State, but including at least mathematics and reading or language arts by the end of the one-year period described in paragraph (6), which standards shall include the same knowledge, skills, and levels of performance expected of all children.

"(D) Standards under this paragraph shall include—

"(i) challenging content standards in academic subjects that—

"(I) specify what children are expected to know and be able to do;

"(II) contain coherent and rigorous content; and

"(III) encourage the teaching of advanced skills;

"(ii) challenging student performance standards that—

"(I) are aligned with the State's content standards;

"(II) describe two levels of high performance, proficient and advanced, that determine how well children are mastering the material in the State content standards; and

"(III) describe a third level of performance, partially proficient, to provide complete information about the progress of the lower performing children toward achieving to the proficient and advanced levels of performance.

"(E) For the subjects in which students will be served under this part, but for which a State is not required by subparagraphs (A), (B) and (C) to develop, and has not otherwise developed such standards, the State plan shall describe a strategy for ensuring that such students are taught the same knowledge and skills and held to the same expectations as are all children.

"(2) YEARLY PROGRESS.—

"(A) Each State plan shall demonstrate, based on assessments described under paragraph (3), what constitutes adequate yearly progress of—

"(i) any school served under this part toward enabling children to meet the State's student performance standards; and

"(ii) any local educational agency that received funds under this part toward enabling children in schools receiving assistance under this part to meet the State's student performance standards.

"(B) Adequate yearly progress shall be defined in a manner—

"(i) that is consistent with guidelines established by the Secretary that result in continuous and substantial yearly improvement of each local educational agency and school sufficient to achieve the goal of all children served under this part meeting the State's proficient and advanced levels of performance, particularly economically disadvantaged and limited English proficient children; and

"(ii) that links progress primarily to performance on the assessments carried out under this section while permitting progress to be established in part through the use of other measures.

"(3) ASSESSMENTS.—Each State plan shall demonstrate that the State has developed or adopted a set of high-quality, yearly student assessments, including assessments in at least mathematics and reading or language arts, that will be used as the primary means of determining the yearly performance of each local educational agency and school served under this part in enabling all children served under this part to meet the State's student performance standards. Such assessments shall—

"(A) be the same assessments used to measure the performance of all children, if the State measures the performance of all children;

"(B) be aligned with the State's challenging content and student performance standards and provide coherent information about student attainment of such standards;

"(C) be used for purposes for which such assessments are valid and reliable, and be consistent with relevant, nationally recognized professional and technical standards for such assessments;

"(D) measure the proficiency of students in the academic subjects in which a State has adopted challenging content and student performance standards and be administered at some time during—

"(i) grades 3 through 5;

"(ii) grades 6 through 9; and

"(iii) grades 10 through 12;

"(E) involve multiple up-to-date measures of student performance, including measures that assess higher order thinking skills and understanding;

"(F) provide for—

"(i) the participation in such assessments of all students;

"(ii) the reasonable adaptations and accommodations for students with diverse learning needs, necessary to measure the achievement of such students relative to State content standards; and

"(iii) the inclusion of limited English proficient students who shall be assessed, to the extent practicable, in the language and form most likely to yield accurate and reliable information on what such students know and can do, to determine such students' mastery of skills in subjects other than English;

"(G) include students who have attended schools in a local educational agency for a full academic year but have not attended a single school for a full academic year, however the performance of students who have attended more than one school in the local educational agency in any academic year shall be used only in determining the progress of the local educational agency;

"(H) provide individual student interpretive and descriptive reports, which shall include scores, or other information on the attainment of student performance standards; and

"(I) enable results to be disaggregated within each State, local educational agency, and school by gender, by each major racial and ethnic group, by English proficiency status, by migrant status, by students with disabilities as compared to nondisabled students, and by economically disadvantaged students as compared to students who are not economically disadvantaged.

"(4) SPECIAL RULE.—Assessment measures that do not meet the requirements of paragraph (3)(C) may be included as one of the multiple measures, if a State includes in the State plan information regarding the State's efforts to validate such measures.

"(5) LANGUAGE ASSESSMENTS.—Each State plan shall identify the languages other than English that are present in the participating student population and indicate the languages for which yearly student assessments are not available and are needed. The State shall make every effort to develop such assessments and may request assistance from the Secretary if linguistically accessible assessment measures are needed. Upon request, the Secretary shall assist with the identification of appropriate assessment measures in the needed languages through the Office of Bilingual Education and Minority Languages Affairs.

"(6) STANDARD AND ASSESSMENT DEVELOPMENT.—(A) A State that does not have challenging State content standards and challenging State student performance standards, in at least mathematics and reading or language arts, shall develop such standards within one year of receiving funds under this part after the first fiscal year for which such State receives such funds after the date of enactment of the Improving America's Schools Act of 1994.

"(B) A State that does not have assessments that meet the requirements of paragraph (3) in at least mathematics and reading or language arts shall develop and test such assessments within four years (one year of which shall be

used for field testing such assessment), of receiving funds under this part after the first fiscal year for which such State receives such funds after the date of enactment of the Improving America's Schools Act of 1994 and shall develop benchmarks of progress toward the development of such assessments that meet the requirements of paragraph (3), including periodic updates.

"(C) The Secretary may extend for one additional year the time for testing new assessments under subparagraph (B) upon the request of the State and the submission of a strategy to correct problems identified in the field testing of such new assessments.

"(D) If, after the one-year period described in subparagraph (A), a State does not have challenging State content and challenging student performance standards in at least mathematics and reading or language arts, a State shall adopt a set of standards in these subjects such as the standards and assessments contained in other State plans the Secretary has approved.

"(E) If, after the four-year period described in subparagraph (B), a State does not have assessments, in at least mathematics and reading or language arts, that meet the requirement of paragraph (3), and is denied an extension under subparagraph (C), a State shall adopt an assessment that meets the requirement of paragraph (3) such as one contained in other State plans the Secretary has approved.

"(7) Transitional Assessments.—(A) If a State does not have assessments that meet the requirements of paragraph (3) and proposes to develop such assessments under paragraph (6)(B), the State may propose to use a transitional set of yearly statewide assessments that will assess the performance of complex skills and challenging subject matter.

"(B) For any year in which a State uses transitional assessments, the State shall devise a procedure for identifying local educational agencies under paragraphs (3) and (7) of section 1116(d), and schools under paragraphs (1) and (7) of section 1116(c), that rely on accurate information about the academic progress of each such local educational agency and school.

"(8) Requirement.—Each State plan shall describe—

"(A) how the State educational agency will help each local educational agency and school affected by the State plan develop the capacity to comply with each of the requirements of sections 1112(c)(1)(D), 1114(b), and 1115(c) that is applicable to such agency or school; and

"(B) such other factors the State deems appropriate (which may include opportunity-to-learn standards or strategies developed under the Goals 2000: Educate America Act) to provide students an opportunity to achieve the knowledge and skills described in the challenging content standards adopted by the State.

"(c) Other Provisions To Support Teaching and Learning.—Each State plan shall contain assurances that—

"(1)(A) the State educational agency will implement a system of school support teams under section 1117(c), including provision of necessary professional development for those teams;

"(B) the State educational agency will work with other agencies, including educational service agencies or other local consortia, and institutions to provide technical assistance to local educational agencies and schools to carry out the State educational agency's responsibilities under this part, including technical assistance in providing professional development under section 1119 and technical assistance under section 1117; and

"(C)(i) where educational service agencies exist, the State educational agency will consider providing professional development and technical assistance through such agencies; and

"(ii) where educational service agencies do not exist, the State educational agency will consider providing professional development and technical assistance through other cooperative agreements such as through a consortium of local educational agencies;

"(2) the State educational agency will notify local educational agencies and the public of the standards and assessments developed under this section, and of the authority to operate schoolwide programs, and will fulfill the State educational agency's responsibilities regarding local educational agency improvement and school improvement under section 1116, including such corrective actions as are necessary;

"(3) the State educational agency will provide the least restrictive and burdensome regulations for local educational agencies and individual schools participating in a program assisted under this part;

"(4) the State educational agency will encourage the use of funds from other Federal, State, and local sources for schoolwide reform in schoolwide programs under section 1114;

"(5) the Committee of Practitioners established under section 1603(b) will be substantially involved in the development of the plan and will continue to be involved in monitoring the plan's implementation by the State; and

"(6) the State will coordinate activities funded under this part with school-to-work, vocational education, cooperative education and mentoring programs, and apprenticeship programs involving business, labor, and industry, as appropriate.

"(d) Peer Review and Secretarial Approval.—

"(1) In general.—The Secretary shall—

"(A) establish a peer review process to assist in the review and recommendations for revision of State plans;

"(B) appoint individuals to the peer review process who are representative of State educational agencies, local educational agencies, teachers, and parents;

"(C) following an initial peer review, approve a State plan the Secretary determines meets the requirements of subsections (a), (b), and (c); and

"(D) if the Secretary determines that the State plan does not meet the requirements of subsection (a), (b), or (c), immediately notify the State of such determination and the reasons for such determination;

"(E) not decline to approve a State's plan before—

"(i) offering the State an opportunity to revise its plan;

"(ii) providing technical assistance in order to assist the State to meet the requirements under subsections (a), (b), and (c); and

"(iii) providing a hearing; and

"(F) have the authority to disapprove a State plan for not meeting the requirements of this part, but shall not have the authority to require a State, as a condition of approval of the State plan, to include in, or delete from, such plan one or more specific elements of the State's content standards or to use specific assessment instruments or items.

"(2) Withholding.—The Secretary may withhold funds for State administration and activities under section 1117 until the Secretary determines that the State plan meets the requirements of this section.

"(e) Duration of the Plan.—

"(1) In general.—Each State plan shall—

"(A) remain in effect for the duration of the State's participation under this part; and

"(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

"(2) Additional information.—If the State makes significant changes in its plan, such as the adoption of new State content standards and State student performance standards, new assessments, or a new definition of adequate progress, the State shall submit such information to the Secretary.

"(f) Limitation on Conditions.—Nothing in this part shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content or student performance standards and assessments, opportunity-to-learn standards or strategies, curriculum, or program of instruction, as a condition of eligibility to receive funds under this part.

"(g) Prohibition.—Nothing in this Act shall be construed to require any State educational agency, local educational agency, or school, to implement opportunity-to-learn standards or strategies developed by such State under the Goals 2000: Educate America Act.

"(h) Special Rule.—If the aggregate State expenditure by a State educational agency for the operation of elementary and secondary education programs in the State is less than such agency's aggregate Federal expenditure for the State operation of all Federal elementary and secondary education programs, then the State plan shall include assurances and specific provisions that such State will provide State expenditures for the operation of elementary and secondary education programs equal to or exceeding the level of Federal expenditures for such operation by October 1, 1998.

"SEC. 1112. LOCAL EDUCATIONAL AGENCY PLANS.

"(a) Plans Required.—

"(1) Subgrants.—A local educational agency may receive a subgrant under this part for any fiscal year only if such agency has on file with the State educational agency a plan, approved by the State educational agency, that is coordinated with other programs under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, as specified in section 14306.

"(2) Consolidated application.—The plan may be submitted as part of a consolidated application under section 14304.

"(b) Plan Provisions.—Each local educational agency plan shall include—

"(1) a description of additional high-quality student assessments, if any, other than the assessments described in the State plan under section 1111, that the local educational agency and schools served under this part will use to—

"(A) determine the success of children served under this part in meeting the State's student performance standards and provide information to teachers, parents, and students on the progress being made toward meeting the State student performance standards described in section 1111(b)(1)(D)(ii);

"(B) assist in diagnosis, teaching, and learning in the classroom in ways that best enable children served under this part to meet State standards and do well in the local curriculum; and

"(C) determine what revisions are needed to projects under this part so that such children will meet the State's student performance standards;

"(2) at the local educational agency's discretion, a description of any other indicators that will be used in addition to the assessments described in paragraph (1) for the uses described in such paragraph;

"(3) a description of the strategy the local educational agency will use to provide professional development for teachers, and, where appropriate, pupil services personnel, administrators, parents and other staff, including local educational agency level staff in accordance with section 1119;

"(4) a description of how the local educational agency will coordinate and integrate services provided under this part with other educational services at the local educational agency or individual school level, such as—

"(A) Even Start, Head Start, and other preschool programs, including plans for the transition of participants in such programs to local elementary school programs, vocational education programs, and school-to-work transition programs; and

"(B) services for children with limited English proficiency or with disabilities, migratory children served under part C or who were formerly eligible for services under part C in the two-year period preceding the date of the enactment of the Improving America's School Act of 1994, neglected or delinquent youth and youth at risk of dropping out served under part D, homeless children, and immigrant children in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the instructional program;

"(5) a description of the poverty criteria that will be used to select school attendance areas under section 1113;

"(6) a description of how teachers, in consultation with parents, administrators, and pupil services personnel, in targeted assistance schools under section 1115, will identify the eligible children most in need of services under this part;

"(7) a general description of the nature of the programs to be conducted by such agency's schools under sections 1114 and 1115 and, where appropriate, educational services outside such schools for children living in local institutions for neglected or delinquent children, for neglected and delinquent children in community day school programs, and for eligible homeless children;

"(8) a description of how the local educational agency will ensure that migratory children and formerly migratory children who are eligible to receive services under this part are selected to receive such services on the same basis as other children who are selected to receive services under this part;

"(9) where appropriate, a description of how the local educational agency will use funds under this part to support preschool programs for children, particularly children participating in a Head Start or Even Start program, which services may be provided directly by the local educational agency or through a subcontract with the local Head Start agency designated by the Secretary of Health and Human Services under section 641 of the Head Start Act, agencies operating Even Start programs, or another comparable public early childhood development program.

"(c) ASSURANCES.—

"(1) IN GENERAL.—Each local educational agency plan shall provide assurances that the local educational agency will—

"(A) inform eligible schools and parents of schoolwide project authority;

"(B) provide technical assistance and support to schoolwide programs;

"(C) work in consultation with schools as the schools develop the schools' plans pursuant to section 1114 and assist schools as the schools implement such plans or undertake activities pursuant to section 1115 so that each school can make adequate yearly progress toward meeting the State content standards and State student performance standards;

"(D) fulfill such agency's school improvement responsibilities under section 1116, including taking corrective actions under section 1116(c)(4);

"(E) coordinate and collaborate, to the extent feasible and necessary as determined by the local educational agency, with other agencies providing services to children, youth, and families, including health and social services;

"(F) provide services to eligible children attending private elementary and secondary schools in accordance with section 1120, and timely and meaningful consultation with private school officials regarding such services;

"(G) take into account the experience of model programs for the educationally disadvantaged, and the findings of relevant research indicating that services may be most effective if focused on students in the earliest grades at schools that receive funds under this part; and

"(H) beginning in fiscal year 1997 and in the case that a local educational agency chooses to use funds under this part to provide early childhood development services to low-income children below the age of compulsory school attendance, ensure that such services comply with the performance standards established under section 641A(a) of the Head Start Act or under section 651 of such Act, as such section 651 was in effect on the day preceding the date of enactment of the Human Services Amendments of 1994.

"(2) SPECIAL RULE.—In carrying out subparagraph (H) of paragraph (1) the Secretary—

"(A) in fiscal year 1995, shall consult with the Secretary of Health and Human Services on the implementation of such subparagraph and shall establish procedures (taking into consideration existing State and local laws, and local teacher contracts) to assist local educational agencies to comply with such subparagraph; and

"(B) in fiscal year 1996, shall disseminate to local educational agencies the Head Start Performance Standards revised pursuant to section 641A(a) of the Head Start Act, and such agencies effected by such subparagraph shall plan for the implementation of such subparagraph (taking into consideration existing State and local laws, and local teacher contracts), including pursuing the availability of other Federal, State, and local funding sources to assist in compliance with such subparagraph.

"(3) INAPPLICABILITY.—The provisions of this subsection shall not apply to preschool programs using the Even Start model or to Even Start programs which are expanded through the use of funds under this part.

"(d) PLAN DEVELOPMENT AND DURATION.—Each local educational agency plan shall—

"(1) be developed in consultation with teachers, including vocational teachers, and pupil services personnel, where appropriate, and parents of children in schools served under this part; and

"(2)(A) remain in effect for the duration of the local educational agency's participation under this part; and

"(B) periodically be reviewed and revised, as necessary, to reflect changes in the local educational agency's strategies and programs.

"(e) STATE APPROVAL.—

"(1) IN GENERAL.—Each local educational agency plan shall be filed according to a schedule established by the State educational agency, except that a local educational agency shall have not more than one year after the date of enactment of the Improving America's Schools Act of 1994 to have such plan provisionally approved by the State educational agency and not more than two years after the date of enactment of such Act to have such plan finally approved by the State educational agency.

"(2) APPROVAL.—The State educational agency shall approve a local educational agency's plan only if the State educational agency determines that the local educational agency's plan will enable schools served under this part to substantially help all children served under this part meet the standards expected of all children described in section 1111(b)(1).

"(3) REVIEW.—The State educational agency shall review the local educational agency's plan to determine if such agency's professional development activities are in accordance with section 1119.

"(f) PROGRAM RESPONSIBILITY.—The local educational agency plan shall reflect the shared responsibility of schools, teachers, and the local educational agency in making decisions regarding activities under sections 1114 and 1115.

"SEC. 1113. ELIGIBLE SCHOOL ATTENDANCE AREAS.

"(a) DETERMINATION.—

"(1) IN GENERAL.—A local educational agency shall use funds received under this part only in eligible school attendance areas.

"(2) ELIGIBLE SCHOOL ATTENDANCE AREAS.—For the purposes of this part—

"(A) the term 'school attendance area' means, in relation to a particular school, the geographical area in which the children who are normally served by that school reside; and

"(B) the term 'eligible school attendance area' means a school attendance area in which the percentage of children from low-income families is at least as high as the percentage of children from low-income families in the local educational agency as a whole.

"(3) RANKING ORDER.—If funds allocated in accordance with subsection (c) are insufficient to serve all eligible school attendance areas, a local educational agency shall—

"(A) annually rank, without regard to grade spans, such agency's eligible school attendance areas in which the concentration of children from low-income families exceeds 75 percent from highest to lowest according to the percentage of children from low-income families; and

"(B) serve such eligible school attendance areas in rank order.

"(4) REMAINING FUNDS.—If funds remain after serving all eligible school attendance areas under paragraph (3), a local educational agency shall—

"(A) annually rank such agency's remaining eligible school attendance areas from highest to lowest either by grade span or for the entire local educational agency according to the percentage of children from low-income families; and

"(B) serve such eligible school attendance areas in rank order either within each grade-span grouping or within the local educational agency as a whole.

"(5) MEASURES.—The local educational agency shall use the same measure of poverty, which measure shall be the number of children ages 5 through 17 in poverty counted in the most recent census data approved by the Secretary, the number of children eligible for free and reduced priced lunches under the National School Lunch Act, the number of children in families receiving assistance under the Aid to Families with Dependent Children program, or the number of children eligible to receive medical assistance under the Medicaid program, or a composite of such indicators, with respect to all school attendance areas in the local educational agency—

"(A) to identify eligible school attendance areas;

"(B) to determine the ranking of each area; and

"(C) to determine allocations under subsection (c).

"(6) EXCEPTION.—This subsection shall not apply to a local educational agency with a total enrollment of less than 1,000 children.

(7) WAIVER FOR DESEGREGATION PLANS.—The Secretary may approve a local educational agency's written request for a waiver of the requirements of subsections (a) and (c), and permit such agency to treat as eligible, and serve, any school that children attend with a State-ordered or a court-ordered school desegregation plan or a plan that continues to be implemented in accordance with State-ordered or court-ordered desegregation plan, if (A) the number of economically disadvantaged children enrolled in the school is at least 25 percent of the school's total enrollment; and (B) the Secretary determines on the basis of a written request from

such agency and in accordance with such criteria as the Secretary establishes, that approval of that request would further the purposes of this pact.

"(b) LOCAL EDUCATIONAL AGENCY DISCRETION.—

"(1) IN GENERAL.—Notwithstanding subsection (a)(2), a local educational agency may—

"(A) designate as eligible any school attendance area or school in which at least 35 percent of the children are from low-income families;

"(B) use funds received under this part in a school that is not in an eligible school attendance area, if the percentage of children from low-income families enrolled in the school is equal to or greater than the percentage of such children in a participating school attendance area of such agency;

"(C)(i) elect not to serve an eligible school attendance area or eligible school that has a higher percentage of children from low-income families if—

"(I) the school meets the comparability requirements of section 1120A(c);

"(II) the school is receiving supplemental funds from other State or local sources that are spent according to the requirements of section 1114 or 1115; and

"(III) the funds expended from such other sources equal or exceed the amount that would be provided under this part.

"(2) SPECIAL RULE.—Notwithstanding paragraph (1)(C), the number of children attending private elementary and secondary schools who are to receive services, and the assistance such children are to receive under this part, shall be determined without regard to whether the public school attendance area in which such children reside is assisted under paragraph (1).

"(c) ALLOCATIONS.—

"(1) IN GENERAL.—A local educational agency shall allocate funds received under this part to eligible school attendance areas or eligible schools, identified under subsection (a) or (b), in rank order, on the basis of the total number of children from low-income families in each area or school.

"(2) SPECIAL RULE.—(A) Except as provided in subparagraph (B), the per pupil amount of funds allocated to each school attendance area or school under paragraph (1) shall be at least 125 percent of the per pupil amount of funds a local educational agency received for that year under the poverty criteria described by the local educational agency in the plan submitted under section 1112, except that this paragraph shall not apply to a local educational agency that only serves schools in which the percentage of such children is 35 percent or greater.

"(B) A local educational agency may reduce the amount of funds allocated under subparagraph (A) for a school attendance area or school by the amount of any supplemental State and local funds expended in that school attendance area or school for programs that meet the requirements of section 1114 or 1115.

"(3) RESERVATION.—A local educational agency shall reserve such funds as are necessary under this part to provide services comparable to those provided to children in schools funded under this part to serve—

"(A) where appropriate, eligible homeless children who do not attend participating schools, including providing educationally related support services to children in shelters;

"(B) children in local institutions for neglected or delinquent children; and

"(C) where appropriate, neglected and delinquent children in community day school programs.

"SEC. 1114. SCHOOLWIDE PROGRAMS.

"(a) USE OF FUNDS FOR SCHOOLWIDE PROGRAMS.—

"(1) IN GENERAL.—A local educational agency may use funds under this part, in combination with other Federal, State, and local funds, in order to upgrade the entire educational program in a school described in subparagraph (A) or (B) if, for the initial year of the schoolwide program, the school meets either of the following criteria:

"(A) For the school year 1995–1996—

"(i) the school serves an eligible school attendance area in which not less than 60 percent of the children are from low-income families; or

"(ii) not less than 60 percent of the children enrolled in the school are from such families.

"(B) For the school year 1996–1997 and subsequent years—

"(i) the school serves an eligible school attendance area in which not less than 50 percent of the children are from low-income families; or

"(ii) not less than 50 percent of the children enrolled in the school are from such families.

"(2) STATE ASSURANCES.—(A) A local educational agency may start new schoolwide programs under this section only after the State educational agency provides written information to each local educational agency in the State that demonstrates that such State agency has established the statewide system of support and improvement required by subsections (c)(1) and (e) of section 1117.

"(B) A school that desires to initiate a schoolwide program under this section prior to the establishment of the statewide system of support and improvement required in subsections (c)(1) and (e) of section 1117 shall demonstrate to the local educational agency that such school has received high quality technical assistance and support from other providers of assistance such as comprehensive technical assistance centers, regional laboratories, institutions of higher education, educational service agencies, or other local consortia.

"(3) IDENTIFICATION.—(A) No school participating in a schoolwide program shall be required to identify particular children under this part as eligible to participate in a schoolwide program or to provide supplemental services to such children.

"(B) A school participating in a schoolwide program shall use funds available to carry out this section only to supplement the amount of funds that would, in the absence of funds under this part, be made available from non-Federal sources for the school, including funds needed to provide services that are required by law for children with disabilities and children with limited English proficiency.

"(4) SPECIAL RULE.—(A) Except as provided in subsection (b), the Secretary may, through publication of a notice in the Federal Register, exempt schoolwide programs under this section from statutory or regulatory provisions of any other noncompetitive, formula grant program administered by the Secretary, or any discretionary grant program administered by the Secretary (other than formula or discretionary grant programs under the Individuals with Disabilities Education Act), to support schoolwide programs, if the intent and purposes of such other programs are met.

"(B) A school that chooses to use funds from such other programs shall not be relieved of the requirements relating to health, safety, civil rights, gender equity, student and parental participation and involvement, services to private school children, maintenance of effort, comparability of services, uses of Federal funds to supplement, not supplant non-Federal funds, or the distribution of funds to State or local educational agencies that apply to the receipt of funds from such programs.

"(5) PROFESSIONAL DEVELOPMENT.—Each school receiving funds under this part for any fiscal year shall devote sufficient resources to effectively carry out the activities described in subsection (b)(1)(D) in accordance with section 1119 for such fiscal year, except that a school may enter into a consortium with another school to carry out such activities.

"(b) COMPONENTS OF A SCHOOLWIDE PROGRAM.—

"(1) IN GENERAL.—A schoolwide program shall include the following components:

"(A) A comprehensive needs assessment of the entire school that is based on information on the performance of children in relation to the State content standards and the State student performance standards described in section 1111(b)(1).

"(B) Schoolwide reform strategies that—

"(i) provide opportunities for all children to meet the State's proficient and advanced levels of student performance described in section 1111(b)(1)(D);

"(ii) are based on effective means of improving the achievement of children;

"(iii) use effective instructional strategies, which may include the integration of vocational and academic learning (including applied learning and team teaching strategies), that—

"(I) increase the amount and quality of learning time, such as providing an extended school year and before- and after-school and summer programs and opportunities, and help provide an enriched and accelerated curriculum; and

"(II) include strategies for meeting the educational needs of historically underserved populations, including girls and women;

"(iv)(I) address the needs of all children in the school, but particularly the needs of children who are members of the target population of any program that is included in the schoolwide program, which may include—

"(aa) counseling, pupil services, and mentoring services;

"(bb) college and career awareness and preparation, such as college and career guidance, comprehensive career development, occupational information, enhancement of employability skills and occupational skills, personal finance education, job placement services, and innovative teaching methods which may include applied learning and team teaching strategies;

"(cc) services to prepare students for the transition from school to work, including the formation of partnerships between elementary, middle, and secondary schools and local businesses, and the integration of school-based and work-based learning; and

"(dd) incorporation of gender-equitable methods and practices; and

"(II) address how the school will determine if such needs have been met; and

"(vii) are consistent with, and are designed to implement, the State and local improvement plans, if any, approved under title III of the Goals 2000: Educate America Act.

"(C) Instruction by highly qualified professional staff.

"(D) In accordance with section 1119 and subsection (a)(5), professional development for teachers and aides, and, where appropriate, pupil services personnel, parents, principals, and other staff to enable all children in the school to meet the State's student performance standards.

"(E) Strategies to increase parental involvement, such as family literary services.

"(F) Plans for assisting preschool children in the transition from early childhood programs, such as Head Start, Even Start, or a State-run preschool program, to local elementary school programs.

"(G) Measures to include teachers in the decisions regarding the use of assessments described in section 1112(b)(1) in order to provide information on, and to improve, the performance of individual students and the overall instructional program.

"(H) Activities to ensure that students who experience difficulty mastering any of the

standards required by section 1111(b) during the course of the school year shall be provided with effective, timely additional assistance, which shall include—

"(i) measures to ensure that students' difficulties are identified on a timely basis and to provide sufficient information on which to base effective assistance;

"(ii) to the extent the school determines feasible using funds under this part, periodic training for teachers in how to identify such difficulties and to provide assistance to individual students; and

"(iii) for any student who has not met such standards, teacher-parent conferences, at which time the teacher and parents shall discuss—

"(I) what the school will do to help the student meet such standards;

"(II) what the parents can do to help the student improve the student's performance; and

"(III) additional assistance which may be available to the student at the school or elsewhere in the community.

"(2) PLAN.—(A) Any eligible school that desires to operate a schoolwide program shall first develop (or amend a plan for such a program that was in existence before the date of enactment of the Improving America's Schools Act of 1994), in consultation with the local educational agency and its school support team or other technical assistance provider under subsections (c)(1) and (e) of section 1117, a comprehensive plan for reforming the total instructional program in the school that—

"(i) incorporates the components described in paragraph (1);

"(ii) describes how the school will use resources under this part and from other sources to implement those components;

"(iii) includes a list of State and local educational agency programs and other Federal programs under subsection (a)(4) that will be included in the schoolwide program;

"(iv) describes how the school will provide individual student assessment results, including an interpretation of those results, to the parents of a child who participates in the assessment required by section 1111(b)(3);

"(v) provides for the collection of data on the achievement and assessment results of students disaggregated by gender, major ethnic or racial groups, limited English proficiency status, migrant students, and by children with disabilities as compared to other students, and by economically disadvantaged students as compared to students who are not economically disadvantaged;

"(vi) seeks to produce statistically sound results for each category for which assessment results are disaggregated through the use of oversampling or other means; and

"(vii) provides for the public reporting of disaggregated data only when such reporting is statistically sound.

"(B) Plans developed before a State has adopted standards and a set of assessments that meet the criteria in paragraphs (1) and (3) of section 1111(b) shall be based on an analysis of available data on the achievement of students in the school and effective instructional and school improvement practices.

"(C) The comprehensive plan shall be—

"(i) developed during a one-year period, unless—

"(I) the local educational agency, after considering the recommendation of the technical assistance providers under subsections (c) and (e) of section 1117, determines that less time is needed to develop and implement the schoolwide program; or

"(II) the school is operating a schoolwide program on the day preceding the date of enactment of the Improving America's Schools Act of 1994, in which case such school may continue to operate such program, but shall develop a new plan during the first year of assistance under such Act to reflect the provisions of this section;

"(ii) developed with the involvement of the community to be served and individuals who will carry out such plan, including teachers, principals, other staff, and, where appropriate, pupil services personnel, and parents, and, if the plan relates to a secondary school, students from such school;

"(iii) in effect for the duration of the school's participation under this part and reviewed and revised, as necessary, by the school;

"(iv) available to the local educational agency, parents, and the public, and the information contained in such plan shall be translated, to the extent feasible, into any language that a significant percentage of the parents of participating children in the school speak as their primary language; and

"(v) where appropriate, developed in coordination with programs under the School-to-Work Opportunities Act of 1994, the Carl D. Perkins Vocational and Applied Technology Education Act, and the National and Community Service Act of 1990.

"(c) ACCOUNTABILITY.—A schoolwide program under this section shall be subject to the school improvement provisions of section 1116.

"SEC. 1115. TARGETED ASSISTANCE SCHOOLS.

"(a) IN GENERAL.—In all schools selected to receive funds under section 1113(c) that are ineligible for a schoolwide program under section 1114, or that choose not to operate such a schoolwide program, a local educational agency may use funds received under this part only for programs that provide services to eligible children under subsection (b) identified as having the greatest need for special assistance.

"(b) ELIGIBLE CHILDREN.—

"(1) ELIGIBLE POPULATION.—(A) The eligible population for services under this part is—

"(i) children not older than age 21 who are entitled to a free public education through grade 12; and

"(ii) children who are not yet at a grade level where the local educational agency provides a free public education, yet are of an age at which such children can benefit from an organized instructional program provided in a school or other educational setting.

"(B) From the population described in subparagraph (A), eligible children are children identified by the school as failing, or most at risk of failing, to meet the State's challenging student performance standards on the basis of multiple, educationally related, objective criteria established by the local educational agency and supplemented by the school, except that children from preschool through grade two shall be selected solely on the basis of such criteria as teacher judgment, interviews with parents, and developmentally appropriate measures.

"(2) CHILDREN INCLUDED.—(A)(i) Children who are economically disadvantaged, children with disabilities, migrant children or limited English proficient children, are eligible for services under this part on the same basis as other children selected to receive services under this part.

"(ii) Funds received under this part may not be used to provide services that are otherwise required by law to be made available to such children but may be used to coordinate or supplement such services.

"(B) A child who, at any time in the two years preceding the year for which the determination is made, participated in a Head Start or Even Start program, is eligible for services under this part.

"(C)(i) A child who, at any time in the two years preceding the year for which the determination is made, received services under the program for youth who are neglected, delinquent, or at risk of dropping out under part D (or its predecessor authority) may be eligible for services under this part.

"(ii) A child in a local institution for neglected or delinquent children or attending a community day program for such children may be eligible for services under this part.

"(D) A child who is homeless and attending any school in the local educational agency may be eligible for services under this part.

"(c) COMPONENTS OF A TARGETED ASSISTANCE SCHOOL PROGRAM.—

"(1) IN GENERAL.—To assist targeted assistance schools and local educational agencies to meet their responsibility to provide for all their students served under this part the opportunity to meet the State's student performance standards in subjects as determined by the State, each targeted assistance program under this section shall—

"(A) use such program's resources under this part to help participating children meet such State student performance standards expected for all children;

"(B) be based on effective means for improving achievement of children;

"(C) ensure that planning for students served under this part is incorporated into existing school planning;

"(D) use effective instructional strategies that—

"(i) give primary consideration to providing extended learning time such as an extended school year, before- and after-school, and summer, programs and opportunities;

"(ii) help provide an accelerated, high-quality curriculum, including applied learning; and

"(iii) minimize removing children from the regular classroom during regular school hours for instruction provided under this part;

"(E) coordinate with and support the regular education program, which may include—

"(i) counseling, mentoring, and other pupil services;

"(ii) college and career awareness and preparation, such as college and career guidance, comprehensive career development, occupational information, enhancement of employability skills and occupational skills, personal finance education, job placement services, and innovative teaching methods which may include applied learning and team teaching strategies;

"(iii) services to prepare students for the transition from school to work, including the formation of partnerships between elementary, middle, and secondary schools and local businesses, and the integration of school-based and work-based learning; and

"(iv) services to assist preschool children in the transition from early childhood programs to elementary school programs;

"(F) provide instruction by highly qualified staff;

"(G) in accordance with subsection (e)(3) and section 1119, provide opportunities for professional development with resources provided under this part, and from other sources to the extent feasible, for administrators and for teachers and other school staff who work with participating children in programs under this section or in the regular education program; and

"(H) provide strategies to increase parental involvement, such as family literary services.

"(2) REQUIREMENTS.—Each school conducting a program under this section shall assist participating children selected in accordance with subsection (b) to meet the State's proficient and advanced levels of performance by—

"(A) the coordination of resources provided under this part with other resources to enable the children served to meet the State content standards and State student performance standards; and

"(B) reviewing, on an ongoing basis, the progress of participating children and revising

the targeted assistance program, if necessary, to provide additional assistance to enable such children to meet the State's challenging student performance standards, such as an extended school year, before- and after-school, and summer, programs and opportunities, training for teachers regarding how to identify students that require additional assistance, and training for teachers regarding how to implement student performance standards in the classroom.

"(d) ASSIGNMENT OF PERSONNEL.—To promote the integration of staff supported with funds under this part and children served under this part into the regular school program and overall school planning and improvement efforts, public school personnel who are paid with funds received under this part may—

"(1) assume limited duties that are assigned to similar personnel who are not so paid, including duties beyond classroom instruction or that do not benefit participating children, so long as the amount of time spent on such duties is the same proportion of total work time as prevails with respect to similar personnel at the same school;

"(2) participate in general professional development and school planning activities; and

"(3) collaboratively teach with regular classroom teachers, if such collaborative teaching directly benefits participating children.

"(e) SPECIAL RULES.—

"(1) SIMULTANEOUS SERVICE.—Nothing in this section shall be construed to prohibit a school from serving students served under this section simultaneously with students with similar educational needs, in the same educational settings where appropriate.

"(2) COMPREHENSIVE SERVICES.—If health, nutrition, and other social services are not otherwise available to eligible children in a targeted assistance school and such school, if appropriate, has engaged in a comprehensive needs assessment and established a collaborative partnership with local service providers, and if funds are not reasonably available from other public or private sources to provide services under this part, then a portion of the funds provided under this part may be used as a last resort to provide such services, including—

"(A) the provision of basic medical equipment, such as eyeglasses and hearing aids;

"(B) compensation of a coordinator; and

"(C) professional development necessary to assist teachers, pupil services personnel, other staff, and parents in identifying and meeting the comprehensive needs of eligible children.

"(3) PROFESSIONAL DEVELOPMENT.—Each school receiving funds under this part for any fiscal year shall devote sufficient resources to effectively carry out the professional development activities described in subparagraph (G) of subsection (c)(1) in accordance with section 1119, for such fiscal year, except that a school may enter into a consortium with another school to carry out such activities.

"SEC. 1115A. SCHOOL CHOICE.

"(a) CHOICE PROGRAMS.—A local educational agency may use funds under this part, in combination with State, local, and private funds, to develop and implement choice programs, for children eligible for assistance under this part, which permit parents to select the public school that their children will attend.

"(b) CHOICE PLAN.—A local educational agency that chooses to implement a school choice plan shall first develop a comprehensive plan that includes assurances that—

"(1) all eligible students across grade levels will have equal access to the program;

"(2) the program does not include schools which follow a racially discriminatory policy;

"(3) describe how the school will use resources under this part and from other sources to implement the plan;

"(4) describe how the school will provide individual student assessment results, including an interpretation of such results, to the parents of a child who participates in the assessment required by section 1111(b)(3);

"(5) the plan will be developed with the involvement of the community to be served and individuals who will carry out the plan, including teachers, principals, and other staff, parents, and, if the plan relates to a secondary school, students from the school;

"(6) the plan will be made available to parents and the public;

"(7) the program will not include schools that do not receive funds under this part;

"(8) the program will not use funds under this part to pay for transportation costs;

"(9) both the sending and receiving schools agree to the student transfer; and

"(10) such local educational agency will comply with the other requirements of this part.

"SEC. 1116. ASSESSMENT AND LOCAL EDUCATIONAL AGENCY AND SCHOOL IMPROVEMENT.

"(a) LOCAL REVIEW.—Each local educational agency receiving funds under this part shall—

"(1) use the State assessments described in the State plan;

"(2) use any additional measures or indicators described in the local educational agency's plan to review annually the progress of each school served under this part to determine whether the school is meeting, or making adequate progress as defined in section 1111(b)(2)(A)(i) toward enabling its students to meet the State's student performance standards described in the State plan;

"(3) publicize and disseminate to teachers and other staff, parents, students, and the community, the results of the annual review under paragraph (2) of all schools served under this part in individual school performance profiles that include statistically sound disaggregated results as required by section 1111(b)(3)(I); and

"(4) provide the results of the local annual review to schools so that the schools can continually refine the program of instruction to help all children served under this part in those schools meet the State's student performance standards.

"(b) DESIGNATION OF DISTINGUISHED SCHOOLS.—Each State educational agency and local educational agency receiving funds under this part shall designate distinguished schools in accordance with section 1117.

"(c) SCHOOL IMPROVEMENT.—

"(1) IN GENERAL.—A local educational agency shall identify for school improvement any school served under this part that—

"(A) has been in program improvement under section 1020 of the Elementary and Secondary Education Act of 1965 (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994), for at least two consecutive school years prior to such day;

"(B) has not made adequate progress as defined in the State's plan under section 1111(b)(2)(A)(i) for two consecutive school years, except that—

"(i) this subparagraph shall not apply to a school if almost every student in such school is meeting the State's advanced level of performance; or

"(ii) in the case of a targeted assistance school, such school may be reviewed on the progress of only those students that have been or are served under this part; or

"(C) has failed to meet the criteria established by the State through the State's transitional procedure under section 1111(b)(7)(B) for two consecutive years.

"(2) REQUIREMENT.—(A) Each school identified under paragraph (1) shall—

"(i) in consultation with parents, the local educational agency, and the school support team, develop or revise a school plan in ways that have the greatest likelihood of improving the performance of participating children in meeting the State's student performance standards, which may include reviewing the schools' plan in the context of the opportunity-to-learn standards or strategies developed by such State under the Goals 2000: Educate America Act; and

"(ii) submit the plan or revised plan to the local educational agency for approval.

"(B) Before identifying a school for school improvement under paragraph (1), the local educational agency shall provide the school with an opportunity to review the school-level data, including assessment data, on which such identification is based. If the school believes that such identification for school improvement is in error for statistical or other substantive reasons, such school may provide evidence to the local educational agency to support such belief.

"(C) During the first year immediately following such identification, the school shall implement such school's plan or revised plan.

"(3) PROFESSIONAL DEVELOPMENT.—(A) Each school identified under paragraph (1) shall, as part of the school plan under paragraph (2), improve the skills of its staff by providing effective professional development activities. A school shall demonstrate such school's compliance with this paragraph by—

"(i) devoting to such activities, over two consecutive years, an amount equivalent to at least 10 percent of the funds received by the school under this part during one fiscal year; or

"(ii) otherwise demonstrating that such school is effectively carrying out professional development activities.

"(B) A school may use funds from any source to meet the requirements of this subsection.

"(C) Decisions about how to use the funds made available under this part which the school makes available for professional development shall be made by teachers, principals, and other school staff in that school.

"(4) TECHNICAL ASSISTANCE.—(A) For each school identified under paragraph (1), the local educational agency shall provide technical or other assistance as the school develops and implements such school's plan or revised plan, such as a joint plan between the local educational agency and school that addresses specific elements of student performance problems and that specifies school and local educational agency responsibilities under the plan, and waivers or modifications of requirements of local educational agency policy or regulation that impede the ability of the school to educate students.

"(B) Such technical assistance may be provided directly by the local educational agency, through mechanisms authorized under section 1117, or with the local educational agency's approval, by an institution of higher education, a private nonprofit organization, an educational service agency, a comprehensive regional assistance center under part A of title XIII, or other entities with experience in helping schools improve achievement.

"(5) CORRECTIVE ACTION.—(A) Except as provided in subparagraph (C), after providing technical assistance pursuant to paragraph (4) and taking other remediation measures, the local educational agency may take corrective action at any time against a school that has been identified under paragraph (1), but, during the third year following identification under paragraph (1), shall take such action against any school that still fails to make adequate progress.

"(B)(i) Corrective actions are those, consistent with State and local law, determined and made public and disseminated by the local educational agency, which may include—

"(I) withholding funds;

"(II) interagency collaborative agreements between the school and other public agencies to *provide health, counseling, and other social services needed to remove barriers to learning;*

"(III) revoking authority for a school to operate a schoolwide program;

"(IV) decreasing decisionmaking authority at the school level;

"(V) making alternative governance arrangements such as the creation of a public charter school;

"(VI) reconstituting the school staff;

"(VII) authorizing students to transfer, including transportation costs, to other public schools served by the local educational agency; and

"(VIII) implementing opportunity-to-learn standards or strategies developed by such State under the Goals 2000: Educate America Act.

"(ii) Notwithstanding clause (i), corrective actions taken pursuant to this part shall not include the actions described in subclauses (I), (III), (IV), (VI), or (VII) of clause (i) until the State has developed assessments that meet the requirements of subparagraph (C) of section 1111(b)(3).

"(C) Prior to implementing any corrective action, the local educational agency may refrain from such corrective action for one additional year to the extent that the failure to make progress can be attributed to extenuating circumstances as determined by the local educational agency.

"(D) A school that is no longer operating its schoolwide program due to a corrective action may not resume operation of such a program until the local educational agency determines that the school has adequately reformed its schoolwide program plan to enable the school to make adequate progress toward meeting the State's challenging student performance standards.

"(6) STATE EDUCATIONAL AGENCY RESPONSIBILITIES.—The State educational agency shall—

"(A) make technical assistance under section 1117 available to the schools farthest from meeting the State's challenging student performance standards, if requested by the school or local educational agency; and

"(B) if such agency determines that a local educational agency failed to carry out the local educational agency's responsibilities under paragraphs (4) and (5), take such corrective actions as the State educational agency deems appropriate and which are in compliance with State law.

"(7) SPECIAL RULE.—Schools that, for at least two of the three years following identification under paragraph (1), make adequate progress toward meeting the State's proficient and advanced levels of performance shall no longer need to be identified for school improvement.

"(d) STATE REVIEW AND LOCAL EDUCATIONAL AGENCY IMPROVEMENT.—

"(1) IN GENERAL.—A State educational agency shall—

"(A) annually review the progress of each local educational agency receiving funds under this part to determine whether schools receiving assistance under this part are making adequate progress as defined in section 1111(b)(2)(A)(ii) toward meeting the State's student performance standards; and

"(B) publicize and disseminate to local educational agencies, teachers and other staff, parents, students, and the community the results of the State review, including statistically sound disaggregated results, as required by section 1111(b)(3)(I).

"(2) REWARDS.—In the case of a local educational agency that for three consecutive years has met or exceeded the State's definition of adequate progress as defined in section 1111(b)(2)(A)(ii), the State may make institutional and individual rewards of the kinds described for individual schools in paragraph (2) of section 1117(c).

"(3) IDENTIFICATION.—(A) A State educational agency shall identify for improvement any local educational agency that—

"(i) for two consecutive years, is not making adequate progress as defined in section 1111(b)(2)(A)(ii) in schools served under this part toward meeting the State's student performance standards, except that schools served by the local educational agency that are operating targeted assistance programs may be reviewed on the basis of the progress of only those students served under this part; or

"(ii) has failed to meet the criteria established by the State through such State's transitional procedure under section 1111(b)(7)(B) for two consecutive years.

"(B) Before identifying a local educational agency for improvement under paragraph (1), the State educational agency shall provide the local educational agency with an opportunity to review the school-level data, including assessment data, on which such identification is based. If the local educational agency believes that such identification for improvement is in error due to statistical or other substantive reasons, such local educational agency may provide evidence to the State educational agency to support such belief.

"(4) LOCAL EDUCATIONAL AGENCY REVISIONS.—(A) Each local educational agency identified under paragraph (3) shall, in consultation with schools, parents, and educational experts, revise its local educational agency plan under section 1112 in ways that have the greatest likelihood of improving the performance of schools served by the local educational agency under this part in meeting the State's student performance standards.

"(B) Such revision shall include determining why the local educational agency's plan failed to bring about increased achievement, and may include reviewing the local educational agency's plan in the context of the opportunity-to-learn standards or strategies developed by such State under the Goals 2000: Educate America Act.

"(5) STATE EDUCATIONAL AGENCY RESPONSIBILITY.—(A) For each local educational agency identified under paragraph (3), the State educational agency shall—

"(i) provide technical or other assistance, if requested, as authorized under section 1117, to better enable the local educational agency to—

"(I) develop and implement the local educational agency's revised plan; and

"(II) work with schools needing improvement; and

"(ii) make available to the local educational agencies farthest from meeting the State's standards, if requested, assistance under section 1117.

"(B) Technical or other assistance may be provided by the State educational agency directly, or by an institution of higher education, a private nonprofit organization, an educational service agency or other local consortium, a technical assistance center, or other entities with experience in assisting local educational agencies improve achievement, and may include—

"(i) interagency collaborative agreements between the local educational agency and other public agencies to provide health, pupil services, and other social services needed to remove barriers to learning; and

"(ii) waivers or modification of requirements of State law or regulation (in States in which such waivers are permitted) that impede the ability of a local educational agency to educate students.

"(6) CORRECTIVE ACTION.—(A) Except as provided in subparagraph (C), after providing technical assistance pursuant to paragraph (5) and taking other remediation measures, the State educational agency may take corrective action at any time against a local educational agency that has been identified under paragraph (3), but, during the fourth year following identification under paragraph (3), shall take such action against any local educational agency that still fails to make adequate progress.

"(B)(i) Corrective actions are those actions, consistent with State law, determined and made public and disseminated by the State educational agency, which may include—

"(I) the withholding of funds;

"(II) reconstitution of school district personnel;

"(III) removal of particular schools from the jurisdiction of the local educational agency and establishment of alternative arrangements for public governance and supervision of such schools;

"(IV) implementation of the opportunity-to-learn standards or strategies developed by such State under the Goals 2000: Educate America Act;

"(V) appointment by the State educational agency of a receiver or trustee to administer the affairs of the local educational agency in place of the superintendent and school board;

"(VI) the abolition or restructuring of the local educational agency;

"(VII) the authorizing of students to transfer from a school operated by one local educational agency to a school operated by another local educational agency; and

"(VIII) a joint plan between the State and the local educational agency that addresses specific elements of student performance problems and that specifies State and local responsibilities under the plan.

"(ii) Notwithstanding clause (i), corrective actions taken pursuant to this part shall not include the actions described in subclauses (I), (II), and (III) of clause (i) until the State has developed assessments that meet the requirements of paragraph (3)(C) of section 1111(b).

"(C) Prior to implementing any corrective action, the State educational agency shall provide due process and a hearing (if State law provides for such due process and a hearing) to any local educational agency identified under paragraph (3) and may refrain from such corrective action for one year after the four-year period described in subparagraph (A) to the extent that the failure to make progress can be attributed to such extenuating circumstances as determined by the State educational agency.

"(7) SPECIAL RULE.—Local educational agencies that for at least two of the three years following identification under paragraph (3) make adequate progress toward meeting the State's standards no longer need to be identified for local educational agency improvement.

"(e) CONSTRUCTION.—Nothing in this section shall be construed to alter or otherwise affect the rights, remedies, and procedures afforded school or school district employees under Federal, State, or local laws (including applicable regulations or court orders) or under the terms of collective bargaining agreements, memoranda of understanding, or other agreements between such employees and their employers.

"SEC. 1117. STATE ASSISTANCE FOR SCHOOL SUPPORT AND IMPROVEMENT.

"(a) SYSTEM FOR SUPPORT.—

"(1) STATE SUPPORT.—Each State educational agency shall establish a statewide system of intensive and sustained support and improvement for schools receiving funds under this part, including schoolwide programs and schools in need of program improvement, in order to increase the opportunity for all students in such schools to meet the State's content standards and student performance standards.

"(2) MEETING REQUIREMENTS.—Funds reserved under section 1003(a) or appropriated under section 1002(f) shall be used to meet the requirements of this section. In addition to such funds

a State educational agency may use State administrative funds reserved under section 1603(c) to meet such requirements.

“(b) REGIONAL CENTERS.—Such a statewide system shall work with and receive support and assistance from the comprehensive regional technical assistance centers under part A of title XIII and the educational regional laboratories under section 941(h) of the Educational Research, Development, Dissemination, and Improvement Act of 1994.

“(c) PROVISIONS.—The system shall include at a minimum, the following:

“(1) SCHOOL SUPPORT TEAMS.—

“(A) Each State educational agency, in consultation with local educational agencies and schools, shall establish a system of school support teams to provide information and assistance to schoolwide programs and to assist such programs in providing an opportunity to all students to meet the State's student performance standards.

“(B) If funds are sufficient, school support teams shall provide information and assistance to—

“(i) schools—

“(I) in which the number of students in poverty is equal to or greater than 75 percent of the total number of students enrolled in such school; and

“(II) identified as in need of improvement under section 1116(c)(1); and

“(ii) other schools in need of improvement.

“(C) Each such team shall be composed of persons, including teachers, pupil services personnel, representatives of organizations knowledgeable about successful schoolwide projects or comprehensive school reform (especially distinguished educators described in paragraph (3)), and other persons who are knowledgeable about research and practice on teaching and learning, particularly about strategies for improving the educational opportunities for low achieving students (including alternative and applied learning), such as representatives of institutions of higher education, regional educational laboratories or research centers, and outside consultant groups.

“(D) A school support team shall work cooperatively with each school and make recommendations as the school develops the school's schoolwide program plan or school improvement plan, review each plan, and make recommendations to the school and the local educational agency.

“(E) During the operation of the schoolwide program or during school improvement activities, a school support team shall—

“(i) periodically review the progress of the school in enabling children in the school to meet the State's student performance standards under this part;

“(ii) identify problems in the design and operation of the instructional program; and

“(iii) make recommendations for improvement to the school and the local educational agency.

“(2) DISTINGUISHED SCHOOLS.—

“(A) Each State shall designate as a distinguished school any school served under this part which, for three consecutive years, has exceeded the State's definition of adequate progress as defined in section 1111(b)(2)(A)(i), and, any school in which—

“(i) virtually all students have met the State's advanced level of student performance; and

“(ii) equity in participation and achievement of students by sex has been achieved or significantly improved.

“(B) Schools designated under this paragraph may serve as models and provide support to other schools, especially schoolwide programs and schools in school improvement, to assist such schools in meeting the State's student performance standards.

“(C) States shall use funds reserved under section 1003(a) and funds made available under section 1002(f) to allow schools identified under this paragraph to carry out the activities described in subparagraph (B) and may use such funds to provide awards to such schools to further such school's education programs under this part, provide additional incentives for continued success, and reward individuals or groups in the school for exemplary performance.

“(D) A local educational agency may also recognize the success of a distinguished school by providing additional institutional and individual rewards, such as greater decisionmaking authority at the school building level, increased access to resources or supplemental services such as summer programs that may be used to sustain or increase success, additional professional development opportunities, opportunities to participate in special projects, and individual financial bonuses.

“(3) DISTINGUISHED EDUCATORS.—

“(A) In order to provide assistance to schools and local educational agencies identified as needing improvement and schools participating in schoolwide programs, each State, in consultation with local educational agencies and using funds reserved under section 1003(a) and made available under section 1002(f), shall establish a corps of distinguished educators.

“(B) When possible, distinguished educators shall be chosen from schools served under this part that have been especially successful in enabling children to meet or make outstanding progress toward meeting the State's student performance standards, such as the schools described in paragraph (2).

“(C) Distinguished educators shall provide, as part of the statewide system, intensive and sustained assistance to the schools and local educational agencies farthest from meeting the State's student performance standards and to schoolwide programs as such programs develop and implement their plans, including participation in the support teams described in paragraph (1).

“(d) IMPLEMENTATION.—In order to implement this section funds reserved under section 1003(a) and funds made available under section 1002(f) may be used by a State for release time for teachers and administrators, travel, training, and other related costs.

“(e) ALTERNATIVES.—The State may devise additional approaches to providing the assistance described in paragraphs (1) and (3) of subsection (c), such as providing assistance through institutions of higher education and educational service agencies or other local consortia, and the State may seek approval from the Secretary to use funds reserved under section 1003 and funds made available under section 1002(f) for such approaches as part of the State plan.

“SEC. 1118. PARENTAL INVOLVEMENT.

“(a) LOCAL EDUCATIONAL AGENCY POLICY.—

“(1) IN GENERAL.—A local educational agency may receive funds under this part only if such agency implements programs, activities, and procedures for the involvement of parents in programs assisted under this part consistent with the provisions of this section. Such activities shall be planned and implemented with meaningful consultation with parents of participating children.

“(2) WRITTEN POLICY.—Each local educational agency that receives funds under this part shall develop jointly with, agree upon with, and distribute to, parents of participating children a written parent involvement policy that is incorporated into the local educational agency's plan developed under section 1112, establishes the expectations for parent involvement, and describes how the local educational agency will—

“(A) involve parents in the joint development of the plan under section 1112, and the process of school review and improvement under section 1116;

“(B) provide the coordination, technical assistance, and other support necessary to assist participating schools in planning and implementing effective parent involvement;

“(C) build the schools' and parents' capacity for strong parent involvement as described in subsection (e);

“(D) coordinate and integrate parental involvement strategies under this part with parental involvement strategies under other programs, such as Head Start, Even Start, the Parents as Teachers Program, the Home Instruction Program for Preschool Youngsters, and State-run preschool programs;

“(E) conduct, with the involvement of parents, an annual evaluation of the content and effectiveness of the parental involvement policy developed under this section—

“(i) to determine the effectiveness of the policy in increasing the participation of parents; and

“(ii) to identify barriers to greater participation by parents in activities authorized by this section, giving particular attention to parents who are economically disadvantaged, are disabled, have limited English proficiency, have limited literacy, or are of any racial or ethnic minority background; and

“(F) use the findings of the evaluations described in subparagraph (E) in designing strategies for school improvement and revising, if necessary, the parental involvement policies described in this subsection and subsection (b)(1).

“(3) RESERVATION.—(A) Each local educational agency shall reserve not less than 1 percent of such agency's allocation under this part to carry out this section, including family literacy and parenting skills, except that this paragraph shall not apply if 1 percent of such agency's allocation under this part (other than funds allocated under section 1002(e)) for the fiscal year for which the determination is made is $5,000 or less.

“(B) Parents of children receiving services under this part shall be involved in the decisions regarding how funds reserved under subparagraph (A) are allotted for parental involvement activities.

“(b) SCHOOL PARENTAL INVOLVEMENT POLICY.—

“(1) IN GENERAL.—Each school served under this part shall jointly develop with, and distribute to, parents of participating children a written parental involvement policy, agreed upon by such parents, that shall describe the means for carrying out the requirements of subsections (c) through (f). Such policy shall be updated periodically to meet the changing needs of parents and the school.

“(2) SPECIAL RULE.—If the school has a parental involvement policy that applies to all parents, such school may amend that policy, if necessary, to meet the requirements of this subsection.

“(3) AMENDMENT.—If the local educational agency has a school district-level parental involvement policy that applies to all parents, such agency may amend that policy, if necessary, to meet the requirements of this subsection.

“(4) PARENTAL COMMENTS.—If the plan under section 1112 is not satisfactory to the parents of participating children, the local educational agency shall submit any parent comments with such plan when such local educational agency submits the plan to the State.

“(c) POLICY INVOLVEMENT.—Each school served under this part shall—

“(1) convene an annual meeting, at a convenient time, to which all parents of participating children shall be invited and encouraged to attend, to inform parents of their school's participation under this part and to explain this part, its requirements, and their right to be involved;

"(2) offer a flexible number of meetings, such as meetings in the morning or evening, and may provide, with funds provided under this part, transportation, child care, or home visits, as such services relate to parental involvement;

"(3) involve parents, in an organized, ongoing, and timely way, in the planning, review, and improvement of programs under this part, including the school parental involvement policy and the joint development of the schoolwide program plan under section 1114(b), except that if a school has in place a process for involving parents in the joint planning and design of its programs, the school may use that process, if such process includes an adequate representation of parents of participating children;

"(4) provide parents of participating children—

"(A) timely information about programs under this part;

"(B) school performance profiles required under section 1116(a)(3) and their child's individual student assessment results, including an interpretation of such results, as required under section 1111(b)(3)(H);

"(C) a description and explanation of the curriculum in use at the school, the forms of assessment used to measure student progress, and the proficiency levels students are expected to meet;

"(D) opportunities for regular meetings to formulate suggestions, share experiences with other parents, and participate as appropriate in decisions relating to the education of their children if such parents so desire; and

"(E) timely responses to parents' suggestions under subparagraph (D); and

"(5) if the schoolwide program plan under section 1114(b)(2) is not satisfactory to the parents of participating children, submit any parent comments on the plan when the school makes the plan available to the local educational agency.

"(d) SHARED RESPONSIBILITIES FOR HIGH STUDENT PERFORMANCE.—As a component of the school-level parental involvement policy developed under subsection (b), each school served under this part shall jointly develop with parents for all children served under this part a school-parent compact that outlines how parents, the entire school staff, and students will share the responsibility for improved student achievement and the means by which the school and parents will build and develop a partnership to help children achieve the State's high standards. Such compact shall—

"(1) describe the school's responsibility to provide high-quality curriculum and instruction in a supportive and effective learning environment that enables the children served under this part to meet the State's student performance standards, and the ways in which each parent will be responsible for supporting their children's learning, such as monitoring attendance, homework completion, and television watching; volunteering in their child's classroom; and participating, as appropriate, in decisions relating to the education of their children and positive use of extracurricular time; and

"(2) address the importance of communication between teachers and parents on an ongoing basis through, at a minimum—

"(A) parent-teacher conferences in elementary schools, at least annually, during which the compact shall be discussed as the compact relates to the individual child's achievement;

"(B) frequent reports to parents on their children's progress; and

"(C) reasonable access to staff, opportunities to volunteer and participate in their child's class, and observation of classroom activities.

"(e) BUILDING CAPACITY FOR INVOLVEMENT.—To ensure effective involvement of parents and to support a partnership among the school, parents, and the community to improve student achievement, each school and local educational agency—

"(1) shall provide assistance to participating parents in such areas as understanding the National Education Goals, the State's content standards and State student performance standards, the provisions of section 1111(b)(8), State and local assessments, the requirements of this part, and how to monitor a child's progress and work with educators to improve the performance of their children as well as information on how parents can participate in decisions relating to the education of their children;

"(2) shall provide materials and training, such as—

"(A) coordinating necessary literacy training from other sources to help parents work with their children to improve their children's achievement; and

"(B) training to help parents to work with their children to improve their children's achievement;

"(3) shall educate teachers, pupil services personnel, principals and other staff, with the assistance of parents, in the value and utility of contributions of parents, and in how to reach out to, communicate with, and work with parents as equal partners, implement and coordinate parent programs, and build ties between home and school;

"(4) shall coordinate and integrate parent involvement programs and activities with Head Start, Even Start, the Home Instruction Programs for Preschool Youngsters, the Parents as Teachers Program, and public preschool programs and other programs, to the extent feasible and appropriate;

"(5) shall develop appropriate roles for community-based organizations and businesses in parent involvement activities, including providing information about opportunities for organizations and businesses to work with parents and schools, and encouraging the formation of partnerships between elementary, middle, and secondary schools and local businesses that include a role for parents;

"(6) shall conduct other activities, as appropriate and feasible, such as parent resource centers and providing opportunities for parents to learn about child development and child rearing issues beginning at the birth of a child, that are designed to help parents become full partners in the education of their children;

"(7) shall ensure, to the extent possible, that information related to school and parent programs, meetings, and other activities is sent to the homes of participating children in the language used in such homes;

"(8) may involve parents in the development of training for teachers, principals, and other educators to improve the effectiveness of such training in improving instruction and services to the children of such parents;

"(9) may provide necessary literacy training from funds received under this part if the local educational agency has exhausted all other reasonably available sources of funding for such activities;

"(10) may pay reasonable and necessary expenses associated with local parental involvement activities, including transportation and child care costs, to enable parents to participate in school-related meetings and training sessions;

"(11) may train and support parents to enhance the involvement of other parents;

"(12) may arrange meetings at a variety of times, such as in the mornings and evenings, in order to maximize the opportunities for parents to participate in school related activities;

"(13) may arrange for teachers or other educators, who work directly with participating children, to conduct in-home conferences with parents who are unable to attend such conferences at school;

"(14) may adopt and implement model approaches to improving parental involvement, such as Even Start; and

"(15) shall provide such other reasonable support for parental involvement activities under this section as parents may request.

"(f) ACCESSIBILITY.—In carrying out the parental involvement requirements of this part, local educational agencies and schools, to the extent practicable, shall provide full opportunities for the participation of parents with limited English proficiency or with disabilities, including providing information and school profiles in a language and form such parents understand.

"(g) PARENTAL INFORMATION AND RESOURCE CENTERS.—In States where parental information and resource centers have been established pursuant to section 401 of the Goals 2000: Educate America Act of 1994 (to provide training, information, and support to parents and individuals who work with parents), local educational agencies and schools receiving assistance under this part shall assist parents and parent organizations by informing such parents and organizations of the existence and purpose of such centers, providing such parents and organizations with a description of the services and programs provided by such centers, advising parents on how to use such centers, and helping parents to contact such centers.

"SEC. 1119. PROFESSIONAL DEVELOPMENT.

"(a) PROGRAM REQUIREMENTS.—

"(1) IN GENERAL.—Each local educational agency receiving assistance under this part shall provide high-quality professional development that will improve the teaching of the academic subjects, consistent with the State content standards, in order to enable all children to meet the State's student performance standards.

"(2) PROGRAM DESIGN.—Such professional development activities shall be designed by principals, teachers, and other school staff in schools receiving assistance under this part.

"(b) PROFESSIONAL DEVELOPMENT ACTIVITIES.—

"(1) REQUIRED ACTIVITIES.—Such professional development activities shall—

"(A) support instructional practices that are geared to challenging State content standards and create a school environment conducive to high achievement in the academic subjects;

"(B) support local educational agency plans under section 1112 and school plans under section 1114;

"(C) draw on resources available under this part, title III of the Goals 2000: Educate America Act, title II of this Act, and from other sources;

"(D) where appropriate, as determined by the local educational agency, include strategies for developing curricula and teaching methods that integrate academic and vocational instruction (including applied learning and team teaching strategies); and

"(E) include strategies for identifying and eliminating gender and racial bias in instructional materials, methods, and practices.

"(2) OPTIONAL ACTIVITIES.—Such professional development activities may include—

"(A) instruction in the use of assessments;

"(B) instruction in ways that teachers, principals, pupil services personnel, and school administrators may work more effectively with parents;

"(C) the forming of partnerships with institutions of higher education to establish school-based teacher training programs that provide prospective teachers and novice teachers with an opportunity to work under the guidance of experienced teachers and college faculty;

"(D) instruction in the use of technology;

"(E) the creation of career ladder programs for paraprofessionals (assisting teachers under this part) to obtain the education necessary for such paraprofessionals to become licensed and certified teachers;

"(F) instruction in ways to teach special needs children;

"(G) instruction in gender-equitable education methods, techniques, and practices;

"(H) joint professional development activities involving programs under this part, Head Start, Even Start, or State-run preschool program personnel; and

"(I) instruction in experiential-based teaching methods such as service learning.

"(c) PROGRAM PARTICIPATION.—Each local educational agency receiving assistance under this part is encouraged to design professional development programs so that—

"(1) all school staff in schools participating in a schoolwide program under section 1114 can participate in professional development activities; and

"(2) all school staff in targeted assistance schools may participate in professional development activities if such participation will result in better addressing the needs of students served under this part.

"(d) PARENTAL PARTICIPATION.—Parents may participate in professional development activities under this part if the school determines that parental participation is appropriate.

"(e) CONSORTIA.—In carrying out such professional development programs, local educational agencies may provide services through consortia arrangements with other local educational agencies, educational service agencies or other local consortia, institutions of higher education, or other public or private institutions or organizations.

"(f) EFFECTIVE TEACHING STRATEGIES.—Knowledge of effective teaching strategies that is gained through professional development activities under this section may be shared with teachers who are not participating in targeted assistance programs under this part.

"(g) COMBINATIONS OF FUNDS.—Funds provided under this part that are used for professional development purposes may be combined with funds provided under title II of this Act, title III of the Goals 2000: Educate America Act, and other sources.

"(h) STATE REVIEW.—

"(1) IN GENERAL.—The State educational agency shall review the local educational agency's plan under section 1112(b) to determine if such agency's professional development activities—

"(A) are tied to challenging State student content and student performance standards;

"(B) reflect research on teaching and learning where possible;

"(C) are designed to have a positive impact on the teacher's performance in the classroom;

"(D) contribute to continuous improvement in the classroom or throughout the school;

"(E) include methods to teach children with special needs;

"(F) are developed with the extensive participation of teachers; and

"(G) include gender-equitable education methods, techniques, and practices.

"(2) TECHNICAL ASSISTANCE.—If a local educational agency's plan for professional development does not include the activities described in paragraph (1), the State educational agency shall provide technical assistance to such local educational agencies to enable such agencies to make progress toward inclusion of such activities in the local educational agency's professional development activities.

"(3) SPECIAL RULE.—No State educational agency shall require a school or a local educational agency to expend a specific amount of funds for professional development activities under this part, except that this paragraph shall not apply with respect to requirements under section 1116(d)(6).

"(i) INSTRUCTIONAL AIDES.—

"(1) IN GENERAL.—If a local educational agency uses funds received under this part to employ instructional aides, the local educational agency shall ensure that such aides—

"(A) possess the knowledge and skills sufficient to assist participating children in meeting the educational goals of this part;

"(B)(i) have a secondary school diploma, or its recognized equivalent, or earn either within two years of employment, except that a local educational agency may employ an instructional aide that does not meet the requirement of this subparagraph if such aide possesses proficiency in a language other than English that is needed to enhance the participation of children in programs under this part; and

"(C) are under the direct supervision of a teacher who has primary responsibility for providing instructional services to eligible children.

"(2) INCLUSION IN ACTIVITIES.—Each local educational agency receiving funds under this part, when feasible, shall include instructional aides in professional development activities.

"SEC. 1120. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

"(a) GENERAL REQUIREMENT.—

"(1) IN GENERAL.—To the extent consistent with the number of eligible children identified under section 1115(b) in a local educational agency who are enrolled in private elementary and secondary schools, a local educational agency shall, after timely and meaningful consultation with appropriate private school officials, provide such children, on an equitable basis, special educational services or other benefits under this part (such as dual enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment).

"(2) SECULAR, NEUTRAL, NONIDEOLOGICAL.—Such educational services or other benefits, including materials and equipment, shall be secular, neutral, and nonideological.

"(3) EQUITY.—Educational services and other benefits for such private school children shall be equitable in comparison to services and other benefits for public school children participating under this part.

"(4) EXPENDITURES.—Expenditures for educational services and other benefits to eligible private school children shall be equal to the proportion of funds allocated to participating school attendance areas based on the number of children from low-income families who attend private schools.

"(5) PROVISION OF SERVICES.—The local educational agency may provide such services directly or through contracts with public and private agencies, organizations, and institutions.

"(b) CONSULTATION.—

"(1) IN GENERAL.—To ensure timely and meaningful consultation, a local educational agency shall consult with appropriate private school officials during the design and development of such agency's programs under this part, on issues such as—

"(A) how the children's needs will be identified;

"(B) what services will be offered;

"(C) how and where the services will be provided;

"(D) how the services will be assessed; and

"(E) the size and scope of the equitable services to be provided to the eligible private school children, and what is the proportion of funds allocated under subsection (a)(4) for such services.

"(2) TIMING.—Such consultation shall occur before the local educational agency makes any decision that affects the opportunities of eligible private school children to participate in programs under this part.

"(3) DISCUSSION.—Such consultation shall include a discussion of service delivery mechanisms a local educational agency can use to provide equitable services to eligible private school children.

"(c) PUBLIC CONTROL OF FUNDS.—

"(1) IN GENERAL.—The control of funds provided under this part, and title to materials, equipment, and property purchased with such funds, shall be in a public agency, and a public agency shall administer such funds and property.

"(2) PROVISION OF SERVICES.—(A) The provision of services under this section shall be provided—

"(i) by employees of a public agency; or

"(ii) through contract by such public agency with an individual, association, agency, or organization.

"(B) In the provision of such services, such employee, person, association, agency, or organization shall be independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency.

"(d) STANDARDS FOR A BYPASS.—If a local educational agency is prohibited by law from providing for the participation on an equitable basis of eligible children enrolled in private elementary and secondary schools or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for such participation, as required by this section, the Secretary shall—

"(1) waive the requirements of this section for such local educational agency; and

"(2) arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section and sections 14505 and 14506.

"(e) CAPITAL EXPENSES.—

"(1) IN GENERAL.—(A) From the amount appropriated for this subsection under section 1002(e) for any fiscal year, each State is eligible to receive an amount that bears the same ratio to the amount so appropriated as the number of private school children who received services under this part in the State in the most recent year for which data satisfactory to the Secretary are available bears to the number of such children in all States in that same year.

"(B) The Secretary shall reallocate any amounts allocated under subparagraph (A) that are not used by a State for the purpose of this subsection to other States on the basis of their respective needs, as determined by the Secretary.

"(2) CAPITAL EXPENSES.—(A) A local educational agency may apply to the State educational agency for payments for capital expenses consistent with this subsection.

"(B) State educational agencies shall distribute such funds under this subsection to local educational agencies based on the degree of need set forth in their respective applications for assistance under this subsection.

"(3) USES OF FUNDS.—Any funds appropriated to carry out this subsection shall be used only for capital expenses incurred to provide equitable services for private school children under this section.

"(4) DEFINITION.—For the purpose of this subsection, the term 'capital expenses' means—

"(A) expenditures for noninstructional goods and services, such as the purchase, lease, or renovation of real and personal property, including mobile educational units and leasing of neutral sites or spaces;

"(B) insurance and maintenance costs;

"(C) transportation; and

"(D) other comparable goods and services.

"SEC. 1120A. FISCAL REQUIREMENTS.

"(a) MAINTENANCE OF EFFORT.—A local educational agency may receive funds under this part for any fiscal year only if the State educational agency finds that the local educational

agency has maintained its fiscal effort in accordance with section 14501 of this Act.

"(b) FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT, NON-FEDERAL FUNDS.—

"(1) IN GENERAL.—(A) Except as provided in subparagraph (B), a State or local educational agency shall use funds received under this part only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs assisted under this part, and not to supplant such funds.

"(B) For the purpose of complying with subparagraph (A), a State or local educational agency may exclude supplemental State and local funds expended in any eligible school attendance area or school for programs that meet the requirements of section 1114 or 1115.

"(2) SPECIAL RULE.—No local educational agency shall be required to provide services under this part through a particular instructional method or in a particular instructional setting in order to demonstrate such agency's compliance with paragraph (1).

"(c) COMPARABILITY OF SERVICES.—

"(1) IN GENERAL.—(A) Except as provided in paragraphs (4) and (5), a local educational agency may receive funds under this part only if State and local funds will be used in schools served under this part to provide services that, taken as a whole, are at least comparable to services in schools that are not receiving funds under this part.

"(B) If the local educational agency is serving all of such agency's schools under this part, such agency may receive funds under this part only if such agency will use State and local funds to provide services that, taken as a whole, are substantially comparable in each school.

"(C) A local educational agency may meet the requirements of subparagraphs (A) and (B) on a grade-span by grade-span basis or a school-by-school basis.

"(2) WRITTEN ASSURANCE.—(A) A local educational agency shall be considered to have met the requirements of paragraph (1) if such agency has filed with the State educational agency a written assurance that such agency has established and implemented—

"(i) a local educational agency-wide salary schedule;

"(ii) a policy to ensure equivalence among schools in teachers, administrators, and other staff; and

"(iii) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

"(B) For the purpose of subparagraph (A), in the determination of expenditures per pupil from State and local funds, or instructional salaries per pupil from State and local funds, staff salary differentials for years of employment shall not be included in such determinations.

"(C) A local educational agency need not include unpredictable changes in student enrollment or personnel assignments that occur after the beginning of a school year in determining comparability of services under this subsection.

"(3) PROCEDURES AND RECORDS.—Each local educational agency assisted under this part shall—

"(A) develop procedures for compliance with this subsection; and

"(B) maintain records that are updated biennially documenting such agency's compliance with this subsection.

"(4) INAPPLICABILITY.—This subsection shall not apply to a local educational agency that does not have more than one building for each grade span.

"(5) COMPLIANCE.—For the purpose of determining compliance with paragraph (1), a local educational agency may exclude State and local funds expended for—

"(A) bilingual education for children of limited English proficiency; and

"(B) excess costs of providing services to children with disabilities as determined by the local educational agency.

"SEC. 1120B. COORDINATION REQUIREMENTS.

"(a) IN GENERAL.—Each local educational agency receiving assistance under this part shall carry out the activities described in subsection (b) to the extent feasible and appropriate to the circumstances, including the extent to which such local educational agency is able to secure the cooperation of parents and local Head Start agencies and, if feasible, other early childhood development programs.

"(b) ACTIVITIES.—The activities referred to in subsection (a) are activities that increase coordination between the local educational agency and a Head Start agency, and, if feasible, other early childhood development programs, serving children who will attend the schools of such agency, including—

"(1) developing and implementing a systematic procedure for receiving records regarding such children transferred with parental consent from a Head Start program or, where applicable, other early childhood development programs;

"(2) establishing channels of communication between school staff and their counterparts in such Head Start agencies (including teachers, social workers, and health staff) or other early childhood development programs, as appropriate, to facilitate coordination of programs;

"(3) conducting meetings involving parents, kindergarten or elementary school teachers, and Head Start teachers or, if appropriate, teachers from other early childhood development programs, to discuss the developmental and other needs of individual children; and

"(4) organizing and participating in joint transition related training of school staff, Head Start staff, and, where appropriate, other early childhood staff.

"(c) COORDINATION OF REGULATIONS.—The Secretary shall work with the Secretary of Health and Human Services to coordinate regulations promulgated under this part with regulations promulgated under the Head Start Act Amendments of 1994.

"Subpart 2—Allocations

"SEC. 1121. GRANTS FOR THE OUTLYING AREAS AND THE SECRETARY OF THE INTERIOR.

"(a) RESERVATION OF FUNDS.—From the amount appropriated for payments to States for any fiscal year under section 1002(a), the Secretary shall reserve a total of 1 percent to provide assistance to—

"(1) the outlying areas on the basis of their respective need for such assistance according to such criteria as the Secretary determines will best carry out the purpose of this part; and

"(2) the Secretary of the Interior in the amount necessary to make payments pursuant to subsection (c).

"(b) ASSISTANCE TO THE OUTLYING AREAS.—

"(1) IN GENERAL.—From amounts made available under subsection (a) in each fiscal year the Secretary shall make grants to local educational agencies in the outlying areas (other than the outlying areas assisted under paragraph (3)).

"(2) COMPETITIVE GRANTS.—(A) The Secretary shall reserve $5,000,000 from the amounts made available under subsection (a) in each fiscal year to award grants on a competitive basis, to local educational agencies in the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau. The Secretary shall award such grants according to the recommendations of the Pacific Region Educational Laboratory which shall conduct a competition for such grants.

"(B) Except as provided in subparagraph (D), grant funds awarded under this part only may be used for programs described in this Act, including teacher training, curriculum development, instructional materials, or general school improvement and reform.

"(C) Grant funds awarded under this paragraph only may be used to provide direct educational services.

"(D) The Secretary may provide 5 percent of the amount made available for grants under this paragraph to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this paragraph.

"(c) ALLOTMENT TO THE SECRETARY OF THE INTERIOR.—

"(1) IN GENERAL.—The amount allotted for payments to the Secretary of the Interior under subsection (a)(2) for any fiscal year shall be, as determined pursuant to criteria established by the Secretary, the amount necessary to meet the special educational needs of—

"(A) Indian children on reservations served by elementary and secondary schools for Indian children operated or supported by the Department of the Interior; and

"(B) out-of-State Indian children in elementary and secondary schools in local educational agencies under special contracts with the Department of the Interior.

"(2) PAYMENTS.—From the amount allotted for payments to the Secretary of the Interior under subsection (a)(2), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Secretary determines will best carry out the purposes of this part, with respect to out-of-State Indian children described in paragraph (1). The amount of such payment may not exceed, for each such child, the greater of—

"(A) 40 percent of the average per pupil expenditure in the State in which the agency is located; or

"(B) 48 percent of such expenditure in the United States.

"SEC. 1122. ALLOCATIONS TO STATES.

"(a) IN GENERAL.—

"(1) FISCAL YEAR 1995.—For fiscal year 1995, appropriations for this part shall be allocated according to the provisions of sections 1005, except subsection (a)(3), and 1006, part A of chapter 1 of title I, Elementary and Secondary Education Act of 1965, as in effect on September 30, 1994, except that the State minimum for section 1005 shall be the lesser of 0.25 percent of total appropriations or the average of 0.25 percent of total appropriations and 150 percent of the national average grant per child counted for grants under section 1005 multiplied by the State's number of children counted for such grants, and for grants under section 1006, the State minimum shall be the lesser of—

"(A) 0.25 percent of total appropriations; and

"(B) the average of—

"(i) 0.25 percent of total appropriations; and

"(ii) the greater of 150 percent of the national average grant per child counted for grants under such section 1006 multiplied by the State total number of such children, or $340,000.

"(2) SUCCEEDING FISCAL YEARS.—For fiscal years 1996 through 1999, an amount of the appropriations for this part equal to the appropriation for fiscal year 1995 for section 1005, shall be allocated in accordance with section 1124, and an amount equal to the appropriation for fiscal year 1995 for section 1006 shall be allocated in accordance with section 1124A. Any additional appropriations under section 1002(a) for any fiscal year, after application of the preceding sentence, shall be allocated in accordance with section 1125.

"(b) ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS.—

"(1) IN GENERAL.—If the sums available under this part for any fiscal year are insufficient to pay the full amounts that all local educational

agencies in States are eligible to receive under sections 1124, 1124A, and 1125 for such year, the Secretary shall ratably reduce the allocations to such local educational agencies, subject to subsections (c) and (d) of this section.

"(2) ADDITIONAL FUNDS.—If additional funds become available for making payments under sections 1124, 1124A, and 1125 for such fiscal year, allocations that were reduced under paragraph (1) shall be increased on the same basis as they were reduced.

"(c) HOLD-HARMLESS AMOUNTS.—

"(1) IN GENERAL.—For fiscal year 1995, notwithstanding subsection (b) and without regard to amounts available for delinquent children under subpart 2 of part D, the amount made available to each local educational agency under such section 1005 shall be at least 85 percent of the amount such local educational agency received for the preceding year under such section 1005.

"(2) FISCAL YEAR 1996.—Notwithstanding subsection (b) and without regard to amounts available for delinquent children under subpart 2 of part D, for fiscal year 1996 the total amount made available to each local educational agency under each of sections 1124 and 1124A for any fiscal year shall be at least 100 percent of the total amount such local educational agency was allocated under such sections (or their predecessor authorities) for the preceding fiscal year.

"(3) FISCAL YEAR 1997–1999.—For fiscal years 1997 through 1999, notwithstanding subsection (b) and without regard to amounts available for delinquent children under subpart 2 of part D, the amount made available to each local educational agency under each of sections 1124 and 1125 shall be at least 95 percent of the previous year's amount if the number of children counted for grants under section 1124 is at least 30 percent of the total number of children aged 5 to 17 years, inclusive, in the local educational agency, 90 percent of the previous year amount if this percentage is between 15 percent and 30 percent, and 85 percent if this percentage is below 15 percent. For fiscal years 1997 and 1998, in calculating grants on the basis of population data for counties, the Secretary shall apply the hold-homeless percentages in the preceding sentence to counties. For fiscal years 1996 through 1998, if the Secretary's allocation for a county is not sufficient to meet the hold-harmless requirements of this paragraph for every local educational agency within that county, then the State educational agency shall reallocate funds proportionately from all other local educational agencies in the State that are receiving funds in excess of the hold-harmless amounts specified in this paragraph.

"(d) RATABLE REDUCTIONS.—

"(1) IN GENERAL.—If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under subsection (a) for such year, the Secretary shall ratably reduce such amounts for such year.

"(2) ADDITIONAL FUNDS.—If additional funds become available for making payments under subsection (a) for such fiscal year, amounts that were reduced under paragraph (1) shall be increased on the same basis as such amounts reduced.

"(e) DEFINITION.—For the purpose of this section and sections 1124 and 1125, the term State means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 1124. BASIC GRANTS TO LOCAL EDUCATIONAL AGENCIES.

"(a) AMOUNT OF GRANTS.—

"(1) GRANTS FOR LOCAL EDUCATIONAL AGENCIES AND PUERTO RICO.—The grant which a local educational agency in a State is eligible to receive under this subpart for a fiscal year shall (except as provided in section 1126), be determined by multiplying the number of children counted under subsection (c) by 40 percent of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State except that—

"(A) if the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, such amount shall be 80 percent of the average per pupil expenditure in the United States; or

"(B) if the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, such amount shall be 120 percent of the average per pupil expenditure in the United States.

"(2) BASIS FOR CALCULATING GRANTS.—For fiscal years 1995 through 1998, grants shall be calculated by the Secretary on the basis of the number of children counted under subsection (c) for counties, and State educational agencies shall suballocate county amounts to local educational agencies, in accordance with regulations published by the Secretary. In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency may apply to the Secretary for authority during any particular fiscal year to make the allocations under this part (other than section 1124A) directly to local educational agencies without regard to the counties. If the Secretary approves an application of a State educational agency for a particular year under this subparagraph, the State educational agency shall provide assurances that—

"(A) such allocations will be made using precisely the same factors for determining a grant as are used under this part;

"(B) such allocations will be made using alternative data approved by the Secretary that the State determines best reflects the distribution of children in poor families and is adjusted to be equivalent in proportion to the number of children determined in accordance with subsection (c); or

"(C) such allocations will be made using data that the State educational agency submits to the Secretary for approval that more accurately targets poverty.

In addition, the State educational agency shall provide assurances that a procedure will be established through which local educational agencies dissatisfied with the determinations made by the State educational agency may appeal directly to the Secretary for a final determination. Beginning in fiscal year 1999, grants shall be calculated by the Secretary on the basis of population data compiled for local educational agencies, unless the Secretary and the Secretary of Commerce determine that use of the updated population data would be inappropriate or unreliable taking into consideration the recommendations of the study to be conducted by the National Academy of Sciences. If the Secretary and the Secretary of Commerce determine that some or all of the data referred to in this paragraph are inappropriate or unreliable, the Secretaries shall jointly issue a report setting forth their reasons in detail. In years when grants are calculated by the Secretary on the basis of local educational agency data, for each local educational agency serving an area with a total population of at least 20,000 persons, the grant under this section shall be the amount determined by the Secretary. For local educational agencies serving areas with total populations of fewer than 20,000 persons, the State educational agency may either—

"(i) distribute to such local educational agencies grants under this section equal to the amounts determined by the Secretary; and

"(ii) use an alternative method, approved by the Secretary, to distribute the share of the State's total grants under this section that is based on local educational agencies with total populations of fewer than 20,000 persons. Such an alternative method of distributing grants under this section among a State's local educational agencies serving areas with total populations of fewer than 20,000 persons shall be based upon population data that the State educational agency determines best reflect the current distribution of children in poor families among the State's local educational agencies serving areas with total populations of fewer than 20,000 persons. If a local educational agency serving an area with total population of less than 20,000 persons is dissatisfied with the determination of its grant by the State education agency, then such local educational agency may appeal this determination to the Secretary. The Secretary must respond to this appeal within 45 days of receipt.

"(3) PUERTO RICO.—For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per pupil expenditure of any of the 50 States. The grant which the Commonwealth of Puerto Rico shall be eligible to receive under this section for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) for the Commonwealth of Puerto Rico by the product of—

"(A) the percentage determined under the preceding sentence; and

"(B) 32 percent of the average per pupil expenditure in the United States.

"(4) DEFINITION.—For purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and Palau.

"(b) MINIMUM NUMBER OF CHILDREN TO QUALIFY.—Subject to the succeeding sentence, a local educational agency shall be eligible for a basic grant for a fiscal year under this subpart only if the number of children counted under subsection (c) in the school district of such local educational agency is at least 10. Beginning in fiscal year 1996, no local educational agency shall be eligible for a grant under this section if the number of children counted for grants under this section is equal to 2 percent or less of the total school age population in the local educational agency. For fiscal years 1996 through 1998, grants not made as a result of applying the preceding sentence shall be reallocated by the State educational agency to other eligible local educational agencies in the State in proportion to the distribution of other funds under this section.

"(c) CHILDREN TO BE COUNTED.—

"(1) CATEGORIES OF CHILDREN.—The number of children to be counted for purposes of this section is the aggregate of—

"(A) the number of children aged 5 to 17, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2);

"(B) the number of children aged 5 to 17, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (5); and

"(C) the number of children aged 5 to 17, inclusive, in the school district of such agency in institutions for neglected and delinquent children (other than such institutions operated by the United States), but not counted pursuant to subpart 1 of part D for the purposes of a grant to a State agency, or being supported in foster homes with public funds.

"(2) DETERMINATION OF NUMBER OF CHILDREN.—For the purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families below the poverty level on the basis of the most recent satisfactory data, described in paragraph (3), available from the Department of Commerce. For

fiscal year 1999 and beyond, the District of Columbia and the Commonwealth of Puerto Rico shall be treated as individual local educational agencies. If a local educational agency contains two or more counties in their entirety, then each county will be treated as if such county were a separate local educational agency for purposes of calculating grants under this part. The total of grants for such counties shall be allocated to such a local educational agency, which local educational agency shall distribute to schools in each county within such agency a share of the local educational agency's total grant that is no less than the county's share of the population counts used to calculate the local educational agency's grant.

“(3) POPULATION UPDATES.—In fiscal year 1997 and every 2 years thereafter, the Secretary shall use updated data on the number of children, aged 5 to 17, inclusive, from families below the poverty level for counties or local educational agencies, published by the Department of Commerce, unless the Secretary and the Secretary of Commerce determine that use of the updated population data would be inappropriate or unreliable, taking into consideration the recommendations of the study to be conducted by the National Academy of Sciences. If the Secretary and the Secretary of Commerce determine that some or all of the data referred to in this paragraph are inappropriate or unreliable, they shall jointly issue a report setting forth their reasons in detail. In determining the families which are below the poverty level, the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census, in such form as those criteria have been updated by increases in the Consumer Price Index for all urban consumers, published by the Bureau of Labor Statistics.

“(4) STUDY.—(A) The Secretary of Education shall, within 30 days after the date of enactment of the Improving America's School's Act of 1994, contract with the National Academy of Sciences (hereafter in this section referred to as the 'Academy') to study the program to produce intercensal poverty data for small geographic areas and certain age cohorts being developed by the Bureau of the Census.

“(B) In conducting its study, the Academy shall consider such matters as—

“(i) the methodology used to produce and publish intercensal poverty data, and possible alternative methods to improve the usefulness of the data for Federal program purposes;

“(ii) the availability of alternative indicators of poverty for small geographic areas, against which the poverty data produced and published by the Bureau of the Census could be compared;

“(iii) the reliability of the poverty data produced and published by the Bureau of the Census, particularly for less populous geographic areas;

“(iv) the reliability of intercensal poverty data produced and published by the Bureau of the Census, as compared over time to similar data produced by the Bureau of the Census during the most recent decennial census; and

“(v) the usefulness of poverty data produced and published by the Bureau of the Census for Federal programs that allocate funds to State and sub-State areas based, in whole or in part, on such data.

“(C) The Academy shall submit to the Secretary and the Secretary of Commerce, as well as to the Committee on Education and Labor and the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Governmental Affairs of the Senate—

“(i) not later than 18 months after the date on which a contract is entered into under subsection (a), and not later than every 18 months thereafter, such interim reports on the Academy's activities under this Act that the Academy deems appropriate, including a detailed statement of the Academy's findings and conclusions with respect to any poverty data which the Bureau of the Census publishes and produces, within 90 days of such publication; and

“(ii) not later than December 31, 1998, a final report which shall include a more detailed statement of the Academy's findings and conclusions with respect to the use of any intercensal poverty data produced and published by the Bureau of the Census as the basis for allocating Federal funds under this Act.

“(D) Of the funds appropriated under section 1002(f) of this Act, the Secretary shall use such sums as are necessary in each of fiscal years 1995, 1996, 1997, 1998, and 1999 to carry out the provisions of this paragraph.

“(5) OTHER CHILDREN TO BE COUNTED.—For purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census for a family of 4 in such form as those criteria have been updated by increases in the Consumer Price Index for all urban consumers, published by the Bureau of Labor Statistics. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to the Secretary before January of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to the Secretary at the time of such determination. The Secretary of Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year.

“(6) ESTIMATE.—When requested by the Secretary, the Secretary of Commerce shall make a special updated estimate of the number of children of such ages who are from families below the poverty level (as determined under subparagraph (A) of this paragraph) in each school district, and the Secretary is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

“(d) STATE MINIMUM.—Notwithstanding subsections (b)(1) or (d) of section 1122, the aggregate amount allotted for all local educational agencies within a State may not be less than the lesser of—

“(1) 0.25 percent of total grants under this section; or

“(2) the average of—

“(A) one-quarter of 1 percent of the total amount available for such fiscal year under this section; and

“(B) the number of children in such State counted under subsection (c) in the fiscal year multiplied by 150 percent of the national average per pupil payment made with funds available under this section for that year.

“SEC. 1124A. CONCENTRATION GRANTS TO LOCAL EDUCATIONAL AGENCIES.

“(a) ELIGIBILITY FOR AND AMOUNT OF GRANTS.—

“(1) IN GENERAL.—(A) Except as otherwise provided in this paragraph, each local educational agency, in a State other than Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau, which is eligible for a grant under this part for any fiscal year shall be eligible for an additional grant under this section for that fiscal year if—

“(i) the number of children counted under section 1124(c) in the county (for fiscal years 1996 through 1998), or local educational agency (for fiscal years beginning with 1999) for the fiscal year exceeds 6,500; or

“(ii) the number of children counted under section 1124(c) exceeds 15 percent of the total number of children aged 5 to 17, inclusive, in the county (for fiscal years 1996 through 1998), or local educational agency (for fiscal years beginning with 1999) in that fiscal year.

“(B) Notwithstanding such subsections (b)(1) and (d) of section 1122, no State described in subparagraph (A) shall receive less than the lesser of—

“(i) 0.25 percent of total grants; or

“(ii) the average of—

“(I) one-quarter of 1 percent of the sums available to carry out this section for such fiscal year; and

“(II) the greater of—

“(aa) $340,000; or

“(bb) the number of children in such State counted for purposes of this section in that fiscal year multiplied by 150 percent of the national average per pupil payment made with funds available under this section for that year.

“(2) SPECIAL RULE.—For each county or local educational agency eligible to receive an additional grant under this section for any fiscal year the Secretary shall determine the product of—

“(A) the number of children counted under section 1124(c) for that fiscal year; and

“(B) the quotient resulting from the division of the amount determined for those agencies under section 1124(a)(1) for the fiscal year for which the determination is being made divided by the total number of children counted under section 1124(c) for that agency for fiscal year.

“(3) AMOUNT.—The amount of the additional grant for which an eligible local educational agency or county is eligible under this section for any fiscal year shall be an amount which bears the same ratio to the amount available to carry out this section for that fiscal year as the product determined under paragraph (2) for such local educational agency for that fiscal year bears to the sum of such products for all local educational agencies in the United States for that fiscal year.

“(4) SUBALLOCATION.—For fiscal years 1996 through 1998, county amounts shall be suballocated to local educational agencies meeting the criteria of paragraph (1)(A) by State educational agencies, in accordance with regulations published by the Secretary. For fiscal years 1995 through 1998, grants shall be calculated by the Secretary on the basis of the number of children counted under section 1124(c) for counties, and State educational agencies shall suballocate county amounts to local educational agencies, in accordance with regulations published by the Secretary. In any State in which a large number of local educational agencies overlap county boundaries,

the State educational agency may apply to the Secretary for authority during any particular fiscal year to make the allocations under this part (other than this section) directly to local educational agencies without regard to the counties. If the Secretary approves an application of a State educational agency for a particular year under this paragraph, the State educational agency shall provide assurances that—

"(A) such allocations will be made using precisely the same factors for determining a grant as are used under this part;

"(B) such allocations will be made using alternative data approved by the Secretary that the State determines best reflects the distribution of children in poor families and is adjusted to be equivalent in proportion to the number of children determined in accordance with section 1124(c); or

"(C) such allocations will be made using data that the State educational agency submits to the Secretary for approval that more accurately targets poverty.

In addition, the State educational agency shall provide assurances that a procedure will be established through which local educational agencies dissatisfied with the determinations made by the State educational agency may appeal directly to the Secretary for a final determination. A State may reserve not more than 2 percent of its allocations in fiscal years 1996 through 1998 under this section for the purpose of making grants to local educational agencies that meet the criteria of clause (i) or (ii) of paragraph (1)(A), but are in ineligible counties. For fiscal years beginning with 1999, for each local educational agency serving an area with a total population of at least 20,000 persons, the grant under this section shall be the amount determined by the Secretary. For local educational agencies serving areas with total populations of fewer than 20,000 persons, the State educational agency may either (i) distribute to such local educational agencies grants under this section equal to the amounts determined by the Secretary; or (ii) use an alternative method, approved by the Secretary, to distribute the share of the State's total grants under this section that is based on local educational agencies with total populations of fewer than 20,000 persons. Such an alternative method of distributing grants under this section among a State's local educational agencies serving areas with total populations of fewer than 20,000 persons shall be based upon population data that the State educational agency determines best reflects the current distribution of children in poor families among the State's local educational agencies serving areas with total populations of fewer than 20,000 persons and meeting the eligibility criteria of paragraph (1)(A). If a local educational agency serving an area with total population of less than 20,000 persons is dissatisfied with the determination of its grant by the State educational agency, then such local educational agency may appeal this determination to the Secretary. The Secretary shall respond to this appeal within 45 days of receipt. The Secretary shall consult with the Secretary of Commerce regarding whether available data on population for local educational agencies serving areas with total populations of fewer than 20,000 persons are sufficiently reliable to be used to determine final grants to such areas meeting the eligibility criteria of paragraph (1)(A).

"(b) Reservation of Funds.—Of the total amount of funds available for this section and sections 1124 and 1125, an amount equal to the appropriation for fiscal year 1995 for section 1006 of this Act (as such section was in effect on the day preceding the date of enactment of this Act) shall be available to carry out this section.

"(c) Ratable Reduction Rule.—If the sums available under subsection (b) for any fiscal year for making payments under this section are not sufficient to pay in full the total amounts which all States are eligible to receive under subsection (a) for such fiscal year, the maximum amounts which all States are eligible to receive under subsection (a) for such fiscal year shall be ratably reduced. In the case that additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

"(d) States Receiving Minimum Grants.—In States that receive the minimum grant under subsection (a)(1)(B), the State educational agency shall allocate such funds among the local educational agencies in each State either—

"(1) in accordance with paragraphs (2) and (4) of subsection (a); or

"(2) based on their respective concentrations and numbers of children counted under section 1124(c), except that only those local educational agencies with concentrations or numbers of children counted under section 1124(c) that exceed the statewide average percentage of such children or the statewide average number of such children shall receive any funds on the basis of this paragraph.

"SEC. 1125. TARGETED GRANTS TO LOCAL EDUCATIONAL AGENCIES.

"(a) Eligibility of Local Educational Agencies.—A local educational agency in a State is eligible to receive a targeted grant under this section for any fiscal year if the number of children in the local educational agency counted under subsection 1124(c), before application of the weighting factor described in subsection (c), is at least 10, and if the number of children counted for grants under section 1124 is at least 5 percent of the total population aged 5 to 17 years, inclusive, in the local educational agency. Funds made available as a result of applying this subsection shall be reallocated by the State educational agency to other eligible local educational agencies in the State in proportion to the distribution of other funds under this section.

"(b) Grants for Local Educational Agencies, the District of Columbia, and Puerto Rico.—

"(1) In general.—The amount of the grant that a local educational agency in a State or that the District of Columbia is eligible to receive under this section for any fiscal year shall be the product of—

"(A) the weighted child count determined under subsection (c); and

"(B) the amount in the second sentence of subparagraph 1124(a)(1)(A).

"(2) Puerto rico.—For each fiscal year, the amount of the grant for which the Commonwealth of Puerto Rico is eligible under this section shall be equal to the number of children counted under subsection (c) for Puerto Rico, multiplied by the amount determined in subparagraph 1124(a)(3).

"(c) Weighted Child Count.—

"(1) Fiscal years 1966–1998.—

"(A) In general.—The weighted child count used to determine a county's allocation under this section is the larger of the two amounts determined under clauses (i) or (ii), as follows:

"(i) By percentage of children.—This amount is determined by adding—

"(I) the number of children determined under section 1124(c) for that county constituting up to 12.20 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

"(II) the number of such children constituting more than 12.20 percent, but not more than 17.70 percent, of such population, multiplied by 1.75;

"(III) the number of such children constituting more than 17.70 percent, but not more than 22.80 percent, of such population, multiplied by 2.5;

"(IV) the number of such children constituting more than 22.80 percent, but not more than 29.70 percent, of such population, multiplied by 3.25; and

"(V) the number of such children constituting more than 29.70 percent of such population, multiplied by 4.0.

"(ii) By number of children.—This amount is determined by adding—

"(I) the number of children determined under section 1124(c) constituting up to 1,917, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

"(II) the number of such children between 1,918 and 5,938, inclusive, in such population, multiplied by 1.5;

"(III) the number of such children between 5,939 and 20,199, inclusive, in such population, multiplied by 2.0;

"(IV) the number of such children between 20,200 and 77,999, inclusive, in such population, multiplied by 2.5; and

"(V) the number of such children in excess of 77,999 in such population, multiplied by 3.0.

"(B) Puerto rico.—Notwithstanding subparagraph (A), the weighting factor for Puerto Rico under this paragraph shall not be greater than the total number of children counted under subsection 1124(c) multiplied by 1.72.

"(2) Fiscal years after 1999.—

"(A) In general.—For each fiscal year beginning with fiscal year 1999 for which the Secretary uses local educational agency data, the weighted child count used to determine a local educational agency's grant under this section is the larger of the two amounts determined under clauses (i) and (ii), as follows:

"(i) By percentage of children.—This amount is determined by adding—

"(I) the number of children determined under section 1124(c) for that local educational agency constituting up to 14.265 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

"(II) the number of such children constituting more than 14.265 percent, but not more than 21,553 percent, of such population, multiplied by 1.75;

"(III) the number of such children constituting more than 21.553 percent, but not more than 29,223 percent, of such population, multiplied by 2.5;

"(IV) the number of such children constituting more than 29,223 percent, but not more than 36.538 percent, of such population, multiplied by 3.25; and

"(V) the number of such children constituting more than 36.538 percent of such population, multiplied by 4.0.

"(ii) By number of children.—This amount is determined by adding—

"(I) the number of children determined under section 1124(c) constituting up to 575, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

"(II) the number of such children between 576 and 1,870, inclusive, in such population, multiplied by 1.5;

"(III) the number of such children between 1,871 and 6,910, inclusive, in such population, multiplied by 2.0;

"(IV) the number of such children between 6,911 and 42,000, inclusive, in such population, multiplied by 2.5; and

"(V) the number of such children in excess of 42,000 in such population, multiplied by 3.0.

"(B) Puerto rico.—Notwithstanding subparagraph (A), the weighting factor for Puerto Rico under this paragraph shall not be greater than the total number of children counted under section 1124(c) multiplied by 1.72.

"(d) Local Educational Agency Allocations.—For fiscal years 1995 through 1998,

grants shall be calculated by the Secretary on the basis of the number of children counted under section 1124 for counties, and State educational agencies shall suballocate county amounts to local educational agencies, in accordance with regulations published by the Secretary. In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency may apply to the Secretary for authority during any particular fiscal year to make the allocations under this part (other than section 1124A) directly to local educational agencies without regard to the counties. If the Secretary approves an application of a State educational agency for a particular year under this subparagraph, the State educational agency shall provide assurances that—

"(1) such allocations will be made using precisely the same factors for determining a grant as are used under this part;

"(2) such allocations will be made using alternative data approved by the Secretary that the State determines best reflects the distribution of children in poor families and is adjusted to be equivalent in proportion to the number of children determined in accordance with section 1124(c); or

"(3) such allocations will be made using data that the State educational agency submits to the Secretary for approval that more accurately targets poverty.

In addition, the State educational agency shall provide assurances that a procedure will be established through which local educational agencies dissatisfied with the determinations made by the State educational agency may appeal directly to the Secretary for a final determination. For fiscal years beginning in 1999, for each local educational agency serving an area with a total population of at least 20,000 persons, the grant under this section shall be the amount determined by the Secretary. For local educational agencies serving areas with total populations of fewer than 20,000 persons, the State education agency may either (1) distribute to such local educational agencies grants under this section equal to the amounts determined by the Secretary; or (2) use an alternative method, approved by the Secretary, to distribute the share of the State's total grants under this section that is based on local educational agencies with total populations of fewer than 20,000 persons. Such an alternative method of distributing grants under this section among a State's local educational agencies serving areas with total populations of fewer than 20,000 persons shall be based upon population data that the State education agency determines best reflects the current distribution of children in poor families among the State's local educational agencies serving areas with total populations of fewer than 20,000 persons. If a local educational agency serving an area with total populations of less than 20,000 persons is dissatisfied with the determination of its grant by the State education agency, then the local educational agency may appeal this determination to the Secretary. The Secretary shall respond to this appeal within 45 days of receipt.

"(e) STATE MINIMUM.—Notwithstanding any other provision of this section or subsection (b)(1) or (d) of section 1122, from the total amount available for any fiscal year to carry out this section, each State shall be allotted at least the lesser of—

"(1) 0.25 percent of total appropriations; or

"(2) the average of—

"(A) one quarter of 1 percent of the total amount available to carry out this section; and

"(B) 150 percent of the national average grant under this section per child described in section 1124(c), without application of a weighting factor, multiplied by the State's total number of children described in section 1124(c), without application of a weighting factor.

"SEC. 1125A. EDUCATION FINANCE INCENTIVE PROGRAM.

"(a) GRANTS.—The Secretary is authorized to make grants to States from the sums appropriated pursuant to subsection (e) to carry out the purposes of this part.

"(b) DISTRIBUTION BASED UPON FISCAL EFFORT AND EQUITY.—

"(1) IN GENERAL.—Funds appropriated pursuant to subsection (e) shall be allotted to each State based upon the number of children aged 5 to 17, inclusive, of such State multiplied by the product of—

"(A) such State's effort factor described in paragraph (2); multiplied by

"(B) 1.30 minus such State's equity factor described in paragraph (3),

except that for each fiscal year no State shall receive less than one-quarter of 1 percent of the total amount appropriated pursuant to subsection (e) for such fiscal year.

"(2) EFFORT FACTOR.—(A) Except as provided in subparagraph (B), the effort factor for a State shall be determined in accordance with the succeeding sentence, except that such factor shall not be less than .95 nor greater than 1.05. The effort factor determined under this sentence shall be a fraction the numerator of which is the product of the three-year average per-pupil expenditure in the State multiplied by the three-year average per capita income in the United States and the denominator of which is the product of the three-year average per capita income in such State multiplied by the three-year average per-pupil expenditure in the United States.

"(B) The effort factor for the Commonwealth of Puerto Rico shall be equal to the lowest effort factor calculated under subparagraph (A) for any State.

"(3) EQUITY FACTOR.—(A)(i) Except as provided in subparagraph (B), the Secretary shall determine the equity factor under this section for each State in accordance with clause (ii).

"(ii)(I) For each State, the Secretary shall compute a weighted coefficient of variation for the per-pupil expenditures of local educational agencies in accordance with subclauses (II), (III), (IV), and (V).

"(II) In computing coefficients of variation, the Secretary shall weight the variation between per-pupil expenditures in each local educational agency and the average per-pupil expenditures in the State according to the number of pupils in the local educational agency.

"(III) In determining the number of pupils under this paragraph in each local educational agency and each State, the Secretary shall multiply the number of children from low-income families by 1.4 under this paragraph.

"(IV) In computing coefficients of variation, the Secretary shall include only those local educational agencies with an enrollment of more than 200 students.

"(V) The Secretary shall compute separate coefficients of variation for elementary, secondary, and unified local educational agencies and shall combine such coefficients into a single weighted average coefficient for the State by multiplying each coefficient by the total enrollments of the local educational agencies in each group, adding such products, and dividing such sum by the total enrollments of the local educational agencies in the State.

"(B) The equity factor for a State that meets the disparity standard described in section 222.63 of title 34, Code of Federal Regulations (as such section was in effect on the day preceding the date of enactment of this Act) or a State with only one local educational agency shall be not greater than .10.

"(C) The Secretary may revise each State's equity factor as necessary based on the advice of independent education finance scholars to reflect other need-based costs of local educational agencies in addition to low-income student enrollment, such as differing geographic costs, costs associated with students with disabilities, children with limited-English proficiency or other meaningful educational needs, which deserve additional support. In addition and also with the advice of independent education finance scholars, the Secretary may revise each State's equity factor to incorporate other valid and accepted methods to achieve adequacy of educational opportunity that may not be reflected in a coefficient of variation method.

"(c) USE OF FUNDS.—All funds awarded to each State under this section shall be allocated to local educational agencies and schools on a basis consistent with the distribution of other funds to such agencies and schools under sections 1124, 1124A, and 1125 to carry out activities under this part.

"(d) MAINTENANCE OF EFFORT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a State is entitled to receive its full allotment of funds under this part for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the fiscal year preceding the fiscal year for which the determination is made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

"(2) REDUCTION OF FUNDS.—The Secretary shall reduce the amount of the of funds awarded to any State under this section in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

"(3) WAIVERS.—The Secretary may waive, for one fiscal year only, the requirements of this subsection if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under this section, there are authorized to be appropriated $200,000,000 for fiscal year 1996 and such sums as may be necessary for each of the three succeeding fiscal years.

"SEC. 1126. SPECIAL ALLOCATION PROCEDURES.

"(a) ALLOCATIONS FOR NEGLECTED CHILDREN.—

"(1) IN GENERAL.—If a State educational agency determines that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children who are living in institutions for neglected children as described in subparagraph 1124(c)(1)(C), the State educational agency shall, if such agency assumes responsibility for the special educational needs of such children, receive the portion of such local educational agency's allocation under sections 1124, 1124A, and 1125 that is attributable to such children.

"(2) SPECIAL RULE.—If the State educational agency does not assume such responsibility, any other State or local public agency that does assume such responsibility shall receive that portion of the local educational agency's allocation.

"(b) ALLOCATIONS AMONG LOCAL EDUCATIONAL AGENCIES.—The State educational agency may allocate the amounts of grants under sections 1124, 1124A, and 1125 among the affected local educational agencies—

"(1) if two or more local educational agencies serve, in whole or in part, the same geographical area;

"(2) if a local educational agency provides free public education for children who reside in the school district of another local educational agency; or

"(3) to reflect the merger, creation, or change of boundaries of one or more local educational agencies.

"(c) REALLOCATION.—If a State educational agency determines that the amount of a grant a local educational agency would receive under sections 1124, 1124A, and 1125 is more than such local agency will use, the State educational agency shall make the excess amount available to other local educational agencies in the State that need additional funds in accordance with criteria established by the State educational agency.

"SEC. 1127. CARRYOVER AND WAIVER.

"(a) LIMITATION ON CARRYOVER.—Notwithstanding section 421 of the General Education Provisions Act or any other provision of law, not more than 15 percent of the funds allocated to a local educational agency for any fiscal year under this subpart (but not including funds received through any reallocation under this subpart) may remain available for obligation by such agency for one additional fiscal year.

"(b) WAIVER.—A State educational agency may, once every three years, waive the percentage limitation in subsection (a) if—

"(1) the agency determines that the request of a local educational agency is reasonable and necessary; or

"(2) supplemental appropriations for this subpart become available.

"(c) EXCLUSION.—The percentage limitation under subsection (a) shall not apply to any local educational agency that receives less than $50,000 under this subpart for any fiscal year.

"PART B—EVEN START FAMILY LITERACY PROGRAMS

"SEC. 1201. STATEMENT OF PURPOSE.

"It is the purpose of this part to help break the cycle of poverty and illiteracy by improving the educational opportunities of the Nation's low-income families by integrating early childhood education, adult literacy or adult basic education, and parenting education into a unified family literacy program, to be referred to as 'Even Start'. The program shall—

"(1) be implemented through cooperative projects that build on existing community resources to create a new range of services;

"(2) promote achievement of the National Education Goals; and

"(3) assist children and adults from low-income families to achieve to challenging State content standards and challenging State student performance standards.

"SEC. 1202. PROGRAM AUTHORIZED.

"(a) RESERVATION FOR MIGRANT PROGRAMS, OUTLYING AREAS, AND INDIAN TRIBES.—

"(1) IN GENERAL.—For each fiscal year, the Secretary shall reserve 5 percent of the amount appropriated under section 1002(b) for programs, under such terms and conditions as the Secretary shall establish, that are consistent with the purpose of this part, and according to their relative needs, for—

"(A) children of migratory workers;

"(B) the outlying areas; and

"(C) Indian tribes and tribal organizations.

"(2) SPECIAL RULE.—If the amount of funds made available under this subsection exceeds $4,600,000, the Secretary shall award a grant, on a competitive basis, of sufficient size and for a period of sufficient duration to demonstrate the effectiveness of a family literacy program in a prison that houses women and their preschool age children and that has the capability of developing a program of high quality.

"(b) RESERVATION FOR FEDERAL ACTIVITIES.—From amounts appropriated under section 1002(b), the Secretary may reserve not more than three percent of such amounts or the amount reserved to carry out the activities described in paragraphs (1) and (2) of subsection (a) for the fiscal year 1994, whichever is greater, for purposes of—

"(1) carrying out the evaluation required by section 1209; and

"(2) providing, through grants or contracts with eligible organizations, technical assistance, program improvement, and replication activities.

"(c) RESERVATION FOR GRANTS.—

"(1) GRANTS AUTHORIZED.—In any fiscal year in which the amount appropriated to carry out this part exceeds the amount appropriated to carry out this part for the preceding fiscal year, the Secretary may reserve such funds in excess of the amount appropriated for such preceding fiscal years as do not exceed $1,000,000 to award grants, on a competitive basis, to States to enable such States to plan and implement, statewide family literacy initiatives to coordinate and integrate existing Federal, State, and local literacy resources consistent with the purposes of this part. Such coordination and integration shall include funds available under the Adult Education Act, Head Start, Even Start, and the Family Support Act of 1988.

"(2) MATCHING REQUIREMENT.—The Secretary shall not make a grant to a State under paragraph (1) unless the State agrees that, with respect to the costs to be incurred by the eligible consortium in carrying out the activities for which the grant was awarded, the State will make available non-Federal contributions in an amount equal to not less than the Federal funds provided under the grant.

"(d) STATE ALLOCATION.—

"(1) IN GENERAL.—From amounts appropriated under section 1002(b) and not reserved under subsections (a), (b), and (c), the Secretary shall make grants to States from allocations under paragraph (2).

"(2) ALLOCATIONS.—Except as provided in paragraph (3), from the total amount available for allocation to States in any fiscal year, each State shall be eligible to receive a grant under paragraph (1) in an amount that bears the same ratio to such total amount as the amount allocated under part A to that State bears to the total amount allocated under that section to all the States.

"(3) MINIMUM.—No State shall receive a grant under paragraph (1) in any fiscal year in an amount which is less than $250,000, or one-half of 1 percent of the amount appropriated under section 1002(b) and not reserved under subsections (a), (b), and (c) for such year, whichever is greater.

"(e) DEFINITIONS.—For the purpose of this part—

"(1) the term 'eligible entity' means a partnership composed of both—

"(A) a local educational agency; and

"(B) a nonprofit community-based organization, a public agency other than a local educational agency, an institution of higher education, or a public or private nonprofit organization other than a local educational agency, of demonstrated quality;

"(2) the term 'eligible organization' means any public or private nonprofit organization with a record of providing effective services to family literacy providers, such as the National Center for Family Literacy, Parents as Teachers, Inc., the Home Instruction Program for Preschool Youngsters, and the Home and School Institute, Inc.;

"(3) the terms 'Indian tribe' and 'tribal organization' have the meanings given such terms in section 4 of the Indian Self-Determination and Education Assistance Act; and

"(4) the term 'State' includes each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 1203. STATE PROGRAMS.

"(a) STATE LEVEL ACTIVITIES.—Each State that receives a grant under section 1202(d)(1) may use not more than 5 percent of the grant funds for the costs of—

"(1) administration; and

"(2) providing, through one or more subgrants or contracts, technical assistance for program improvement and replication, to eligible entities that receive subgrants under subsection (b).

"(b) SUBGRANTS FOR LOCAL PROGRAMS.—

"(1) IN GENERAL.—Each State shall use the grant funds received under section 1202(d)(1) and not reserved under subsection (a) to award subgrants to eligible entities to carry out Even Start programs.

"(2) MINIMUM.—No State shall award a subgrant under paragraph (1) in an amount less than $75,000, except that a State may award one subgrant in each fiscal year of sufficient size, scope, and quality to be effective in an amount less than $75,000 if, after awarding subgrants under paragraph (1) for such fiscal year in amounts of $75,000 or greater, less than $75,000 is available to the State to award such subgrants.

"SEC. 1204. USES OF FUNDS.

"(a) IN GENERAL.—In carrying out an Even Start program under this part, a recipient of funds under this part shall use such funds to pay the Federal share of the cost of providing family-centered education programs that involve parents and children, from birth through age seven, in a cooperative effort to help parents become full partners in the education of their children and to assist children in reaching their full potential as learners.

"(b) FEDERAL SHARE LIMITATION.—

"(1) IN GENERAL.—(A) Except as provided in paragraph (2), the Federal share under this part may not exceed—

"(i) 90 percent of the total cost of the program in the first year that such program receives assistance under this part or its predecessor authority;

"(ii) 80 percent in the second such year;

"(iii) 70 percent in the third such year;

"(iv) 60 percent in the fourth such year; and

"(v) 50 percent in any subsequent such year.

"(B) The remaining cost of a program assisted under this part may be provided in cash or in kind, fairly evaluated and may be obtained from any source, including other Federal funds under this Act.

"(2) WAIVER.—The State educational agency may waive, in whole or in part, the cost-sharing requirement described in paragraph (1) for an eligible entity if such entity—

"(A) demonstrates that such entity otherwise would not be able to participate in the program assisted under this part; and

"(B) negotiates an agreement with the State educational agency with respect to the amount of the remaining cost to which the waiver will be applicable.

"(3) PROHIBITION.—Federal funds provided under this part may not be used for the indirect costs of a program assisted under this part, except that the Secretary may waive this paragraph if an eligible recipient of funds reserved under section 1202(a)(1)(C) demonstrates to the Secretary's satisfaction that such recipient otherwise would not be able to participate in the program assisted under this part.

"SEC. 1205. PROGRAM ELEMENTS.

"Each program assisted under this part shall—

"(1) include the identification and recruitment of families most in need of services provided under this part, as indicated by a low level of income, a low level of adult literacy or

English language proficiency of the eligible parent or parents, and other need-related indicators;

"(2) include screening and preparation of parents, including teenage parents and children to enable such parents to participate fully in the activities and services provided under this part, including testing, referral to necessary counselling, other developmental and support services, and related services;

"(3) be designed to accommodate the participants' work schedule and other responsibilities, including the provision of support services, when such services are unavailable from other sources, necessary for participation in the activities assisted under this part, such as—

"(A) scheduling and locating of services to allow joint participation by parents and children;

"(B) child care for the period that parents are involved in the program provided under this part; and

"(C) transportation for the purpose of enabling parents and their children to participate in programs authorized by this part;

"(4) include high-quality instructional programs that promote adult literacy and empower parents to support the educational growth of their children, developmentally appropriate early childhood educational services, and preparation of children for success in regular school programs;

"(5) include special training of staff, including child care staff, to develop the skills necessary to work with parents and young children in the full range of instructional services offered through this part;

"(6) provide and monitor integrated instructional services to participating parents and children through home-based programs;

"(7) operate on a year-round basis, including the provision of some program services, instructional or enrichment, during the summer months;

"(8) be coordinated with—

"(A) programs assisted under other parts of this title and this Act;

"(B) any relevant programs under the Adult Education Act, the Individuals with Disabilities Education Act, and the Job Training Partnership Act; and

"(C) the Head Start program, volunteer literacy programs, and other relevant programs;

"(9) ensure that the programs will serve those families most in need of the activities and services provided by this part; and

"(10) provide for an independent evaluation of the program.

"SEC. 1206. ELIGIBLE PARTICIPANTS.

"(a) IN GENERAL.—Except as provided in subsection (b), eligible participants in an Even Start program are—

"(1) a parent or parents—

"(A) who are eligible for participation in an adult basic education program under the Adult Education Act; or

"(B) who are within the State's compulsory school attendance age range, so long as a local educational agency provides (or ensures the availability of) the basic education component required under this part; and

"(2) the child or children, from birth through age seven, of any individual described in paragraph (1).

"(b) ELIGIBILITY FOR CERTAIN OTHER PARTICIPANTS.—

"(1) IN GENERAL.—Family members of eligible participants described in subsection (a) may participate in activities and services provided under this part, when appropriate to serve the purpose of this part.

"(2) SPECIAL RULE.—Any family participating in a program assisted under this part that becomes ineligible for such participation as a result of one or more members of the family becoming ineligible for such participation may continue to participate in the program until all members of the family become ineligible for such participation, which—

"(A) in the case of a family in which ineligibility was due to the child or children of such family attaining the age of eight, shall be in two years or when the parent or parents become ineligible due to educational advancement, whichever occurs first; and

"(B) in the case of a family in which ineligibility was due to the educational advancement of the parent or parents of such family, shall be when all children in the family attain the age of eight.

"SEC. 1207. APPLICATIONS.

"(a) SUBMISSION.—To be eligible to receive a subgrant under this part, an eligible entity shall submit an application to the State educational agency in such form and containing or accompanied by such information as the State educational agency shall require.

"(b) REQUIRED DOCUMENTATION.—Each application shall include documentation, satisfactory to the State educational agency, that the eligible entity has the qualified personnel needed—

"(1) to develop, administer, and implement an Even Start program under this part; and

"(2) to provide access to the special training necessary to prepare staff for the program, which may be offered by an eligible organization.

"(c) PLAN.—

"(1) IN GENERAL.—Such application shall also include a plan of operation for the program which shall include—

"(A) a description of the program goals;

"(B) a description of the activities and services that will be provided under the program, including a description of how the program will incorporate the program elements required by section 1205;

"(C) a description of the population to be served and an estimate of the number of participants to be served;

"(D) as appropriate, a description of the applicant's collaborative efforts with institutions of higher education, community-based organizations, the State educational agency, private elementary schools, or other eligible organizations in carrying out the program for which assistance is sought;

"(E) a statement of the methods that will be used—

"(i) to ensure that the programs will serve families most in need of the activities and services provided by this part;

"(ii) to provide services under this part to individuals with special needs, such as individuals with limited English proficiency and individuals with disabilities; and

"(iii) to encourage participants to remain in the program for a time sufficient to meet the program's purpose; and

"(F) a description of how the plan is integrated with other programs under this Act, the Goals 2000: Educate America Act, or other Acts, as appropriate, consistent with section 14306.

"(2) DURATION OF THE PLAN.—Each plan submitted under paragraph (1)(A) shall—

"(A) remain in effect for the duration of the eligible entity's participation under this part; and

"(B) be periodically reviewed and revised by the eligible entity as necessary.

"(d) CONSOLIDATED APPLICATION.—The plan described in subsection (c)(1)(F) may be submitted as part of a consolidated application under section 14302.

"SEC. 1208. AWARD OF SUBGRANTS.

"(a) SELECTION PROCESS.—

"(1) IN GENERAL.—The State educational agency shall establish a review panel in accordance with paragraph (3) that will approve applications that—

"(A) are most likely to be successful in—

"(i) meeting the purpose of this part; and

"(ii) effectively implementing the program elements required under section 1205;

"(B) demonstrate that the area to be served by such program has a high percentage or a large number of children and families who are in need of such services as indicated by high levels of poverty, illiteracy, unemployment, limited-English proficiency, or other need-related indicators, including a high percentage of children to be served by the program who reside in a school attendance area eligible for participation in programs under part A;

"(C) provide services for at least a three-year age range, which may begin at birth;

"(D) demonstrate the greatest possible cooperation and coordination between a variety of relevant service providers in all phases of the program;

"(E) include cost-effective budgets, given the scope of the application;

"(F) demonstrate the applicant's ability to provide the Federal share required by section 1204(b);

"(G) are representative of urban and rural regions of the State; and

"(H) show the greatest promise for providing models that may be adopted by other local educational agencies.

"(2) PRIORITY FOR SUBGRANTS.—The State educational agency shall give priority for subgrants under this subsection to applications that—

"(A) target services primarily to families described in paragraph (1)(B); or

"(B) are located in areas designated as empowerment zones or enterprise communities.

"(3) REVIEW PANEL.—A review panel shall consist of at least three members, including one early childhood professional, one adult education professional, and one or more of the following individuals:

"(A) A representative of a parent-child education organization.

"(B) A representative of a community-based literacy organization.

"(C) A member of a local board of education.

"(D) A representative of business and industry with a commitment to education.

"(E) An individual who has been involved in the implementation of programs under this title in the State.

"(b) DURATION.—

"(1) IN GENERAL.—Subgrants under this part may be awarded for a period not to exceed four years.

"(2) STARTUP PERIOD.—The State educational agency may provide subgrant funds to an eligible recipient, at such recipient's request, for a three- to six-month startup period during the first year of the four-year grant period, which may include staff recruitment and training, and the coordination of services, before requiring full implementation of the program.

"(3) CONTINUING ELIGIBILITY.—In awarding subgrant funds to continue a program under this part for the second, third, or fourth year, the State educational agency shall review the progress being made toward meeting the objectives of the program after the conclusion of the startup period, if any.

"(4) INSUFFICIENT PROGRESS.—The State educational agency may refuse to award subgrant funds if such agency finds that sufficient progress has not been made toward meeting such objectives, but only after affording the applicant notice and an opportunity for a hearing.

"(5) GRANT RENEWAL.—(A) An eligible entity that has previously received a subgrant under this part may reapply under this part for additional subgrants. An eligible recipient may receive funds under this part for a period not to exceed eight years.

"(B) The Federal share of any subgrant renewed under subparagraph (A) shall not exceed 50 percent in any fiscal year.

"SEC. 1209. EVALUATION.

"From funds reserved under section 1202(b)(1), the Secretary shall provide for an independent evaluation of programs assisted under this part—

"(1) to determine the performance and effectiveness of programs assisted under this part; and

"(2) to identify effective Even Start programs assisted under this part that can be duplicated and used in providing technical assistance to Federal, State, and local programs.

"SEC. 1210. CONSTRUCTION.

"Nothing in this part shall be construed to prohibit a recipient of funds under this part from serving students participating in Even Start simultaneously with students with similar educational needs, in the same educational settings where appropriate.

"PART C—EDUCATION OF MIGRATORY CHILDREN

"SEC. 1301. PROGRAM PURPOSE.

"It is the purpose of this part to assist States to—

"(1) support high-quality and comprehensive educational programs for migratory children to help reduce the educational disruptions and other problems that result from repeated moves;

"(2) ensure that migratory children are provided with appropriate educational services (including supportive services) that address their special needs in a coordinated and efficient manner;

"(3) ensure that migratory children have the opportunity to meet the same challenging State content standards and challenging State student performance standards that all children are expected to meet;

"(4) design programs to help migratory children overcome educational disruption, cultural and language barriers, social isolation, various health-related problems, and other factors that inhibit the ability of such children to do well in school, and to prepare such children to make a successful transition to postsecondary education or employment; and

"(5) ensure that migratory children benefit from State and local systemic reforms.

"SEC. 1302. PROGRAM AUTHORIZED.

"In order to carry out the purpose of this part, the Secretary shall make grants to State educational agencies, or combinations of such agencies, to establish or improve, directly or through local operating agencies, programs of education for migratory children in accordance with this part.

"SEC. 1303. STATE ALLOCATIONS.

"(a) State Allocations.—Each State (other than the Commonwealth of Puerto Rico) is entitled to receive under this part, for each fiscal year, an amount equal to—

"(1) the sum of the estimated number of migratory children aged three through 21 who reside in the State full time and the full-time equivalent of the estimated number of migratory children aged three through 21 who reside in the State part time, as determined in accordance with subsection (e); multiplied by

"(2) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this paragraph shall not be less than 32 percent, nor more than 48 percent, of the average expenditure per pupil in the United States.

"(b) Allocation to Puerto Rico.—For each fiscal year, the amount for which the Commonwealth of Puerto Rico is eligible under this section shall be equal to—

"(1) the number of migratory children in Puerto Rico, determined under subsection (a)(1); multiplied by

"(2) the product of—

"(A) the percentage that the average per-pupil expenditure in Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States; and

"(B) 32 percent of the average per-pupil expenditure in the United States.

"(c) Ratable Reductions; Reallocations.—

"(1) In General.—(A) If, after the Secretary reserves funds under section 1308(c), the amount appropriated to carry out this part for any fiscal year is insufficient to pay in full the amounts for which all States are eligible, the Secretary shall ratably reduce each such amount.

"(B) If additional funds become available for making such payments for any fiscal year, the Secretary shall allocate such funds to States in amounts that the Secretary determines will best carry out the purpose of this part.

"(2) Special Rule.—(A) The Secretary shall further reduce the amount of any grant to a State under this part for any fiscal year if the Secretary determines, based on available information on the numbers and needs of migratory children in the State and the program proposed by the State to address such needs, that such amount exceeds the amount required under section 1304.

"(B) The Secretary shall reallocate such excess funds to other States whose grants under this part would otherwise be insufficient to provide an appropriate level of services to migratory children, in such amounts as the Secretary determines are appropriate.

"(d) Consortium Arrangements.—

"(1) In General.—In the case of a State that receives a grant of $1,000,000 or less under this section, the Secretary shall consult with the State educational agency to determine whether consortium arrangements with another State or other appropriate entity would result in delivery of services in a more effective and efficient manner.

"(2) Proposals.—Any State, regardless of the amount of such State's allocation, may submit a consortium arrangement to the Secretary for approval.

"(3) Approval.—The Secretary shall approve a consortium arrangement under paragraph (1) or (2) if the proposal demonstrates that the arrangement will—

"(A) reduce administrative costs or program function costs for State programs; and

"(B) make more funds available for direct services to add substantially to the welfare or educational attainment of children to be served under this part.

"(e) Determining Numbers of Eligible Children.—In order to determine the estimated number of migratory children residing in each State for purposes of this section, the Secretary shall—

"(1) use such information as the Secretary finds most accurately reflects the actual number of migratory children;

"(2) develop and implement a procedure for more accurately reflecting cost factors for different types of summer and intersession program designs;

"(3) adjust the full-time equivalent number of migratory children who reside in each State to take into account—

"(A) the special needs of those children participating in special programs provided under this part that operate during the summer and intersession periods; and

"(B) the additional costs of operating such programs; and

"(4) conduct an analysis of the options for adjusting the formula so as to better direct services to the child whose education has been interrupted.

"SEC. 1304. STATE APPLICATIONS; SERVICES.

"(a) Application Required.—Any State desiring to receive a grant under this part for any fiscal year shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

"(b) Program Information.—Each such application shall include—

"(1) a description of how, in planning, implementing, and evaluating programs and projects assisted under this part, the State and its local operating agencies will ensure that the special educational needs of migratory children, including preschool migratory children, are identified and addressed through a comprehensive plan for needs assessment and service delivery that meets the requirements of section 1306;

"(2) a description of the steps the State is taking to provide all migratory students with the opportunity to meet the same challenging State content standards and challenging State student performance standards that all children are expected to meet;

"(3) a description of how the State will use funds received under this part to promote interstate and intrastate coordination of services for migratory children, including how, consistent with procedures the Secretary may require, the State will provide for educational continuity through the timely transfer of pertinent school records, including information on health, when children move from one school to another, whether or not such move occurs during the regular school year;

"(4) a description of the State's priorities for the use of funds received under this part, and how such priorities relate to the State's assessment of needs for services in the State;

"(5) a description of how the State will determine the amount of any subgrants the State will award to local operating agencies, taking into account the requirements of paragraph (1); and

"(6) such budgetary and other information as the Secretary may require.

"(c) Assurances.—Each such application shall also include assurances, satisfactory to the Secretary, that—

"(1) funds received under this part will be used only—

"(A) for programs and projects, including the acquisition of equipment, in accordance with section 1306(b)(1); and

"(B) to coordinate such programs and projects with similar programs and projects within the State and in other States, as well as with other Federal programs that can benefit migratory children and their families;

"(2) such programs and projects will be carried out in a manner consistent with the objectives of section 1114, subsections (b) and (d) of section 1115, section 1120, and subsections (b) and (c) of section 1120A, and part F;

"(3) in the planning and operation of programs and projects at both the State and local operating agency level, there is appropriate consultation with parent advisory councils for programs of one school year in duration, and that all such programs and projects are carried out, to the extent feasible, in a manner consistent with section 1118;

"(4) in planning and carrying out such programs and projects, there has been, and will be, adequate provision for addressing the unmet education needs of preschool migratory children;

"(5) the effectiveness of such programs and projects will be determined, where feasible, using the same approaches and standards that will be used to assess the performance of students, schools, and local educational agencies under part A;

"(6) to the extent feasible, such programs and projects will provide for—

"(A) advocacy and outreach activities for migratory children and their families, including informing such children and families of, or helping such children and families gain access to,

other education, health, nutrition, and social services;

''(B) professional development programs, including mentoring, for teachers and other program personnel;

''(C) family literacy programs, including such programs that use models developed under Even Start;

''(D) the integration of information technology into educational and related programs; and

''(E) programs to facilitate the transition of secondary school students to postsecondary education or employment; and

''(7) the State will assist the Secretary in determining the number of migratory children under section 1303(e), through such procedures as the Secretary may require.

''(d) Priority for Services.—In providing services with funds received under this part, each recipient of such funds shall give priority to migratory children who are failing, or most at risk of failing, to meet the State's challenging State content standards and challenging State student performance standards, and whose education has been interrupted during the regular school year.

''(e) Continuation of Services.—Notwithstanding any other provision of this part—

''(1) a child who ceases to be a migratory child during a school term shall be eligible for services until the end of such term;

''(2) a child who is no longer a migratory child may continue to receive services for one additional school year, but only if comparable services are not available through other programs; and

''(3) secondary school students who were eligible for services in secondary school may continue to be served through credit accrual programs until graduation.

"SEC. 1305. SECRETARIAL APPROVAL; PEER REVIEW.

''(a) Secretarial Approval.—The Secretary shall approve each State application that meets the requirements of this part.

''(b) Peer Review.—The Secretary may review any such application with the assistance and advice of State officials and other individuals with relevant expertise.

"SEC. 1306. COMPREHENSIVE NEEDS ASSESSMENT AND SERVICE-DELIVERY PLAN; AUTHORIZED ACTIVITIES.

''(a) Comprehensive Plan.—

''(1) In general.—Each State that receives assistance under this part shall ensure that the State and its local operating agencies identify and address the special educational needs of migratory children in accordance with a comprehensive State plan that—

''(A) is integrated with other programs under this Act, the Goals 2000: Educate America Act, or other Acts, as appropriate, consistent with section 14306;

''(B) may be submitted as a part of consolidated application under section 14302;

''(C) provides that migratory children will have an opportunity to meet the same challenging State content standards and challenging State student performance standards, set out in such plans, that all children are expected to meet;

''(D) specifies measurable program goals and outcomes;

''(E) encompasses the full range of services that are available for migratory children from appropriate local, State and Federal educational programs;

''(F) is the product of joint planning among such local, State, and Federal programs, including programs under part A, early childhood programs, and bilingual education programs under part A of title VII; and

''(G) provides for the integration of services available under this part with services provided by such other programs.

''(2) Duration of the plan.—Each such comprehensive State plan shall—

''(A) remain in effect for the duration of the State's participation under this part; and

''(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

''(b) Authorized Activities.—

''(1) In general.—In implementing the comprehensive plan described in subsection (a), each local operating agency shall have the flexibility to determine the activities to be provided with funds made available under this part, except that—

''(A) before funds under this part are used to provide services described in subparagraph (B), such funds shall be used to meet the identified needs of migratory children that—

''(i) result from the effects of their migratory lifestyle, or are needed to permit migratory children to participate effectively in school; and

''(ii) are not addressed by services provided under other programs, including programs under part A; and

''(B) all migratory children who are eligible to receive services under part A shall receive such services with funds provided under this part or under part A.

''(2) Construction.—Nothing in this part shall be construed to prohibit a local operating agency from serving migrant students simultaneously with students with similar educational needs, in the same educational settings where appropriate.

''(3) Special rule.—Notwithstanding section 1114, a school that receives funds under this part shall continue to address the identified needs described in paragraph (1)(A).

"SEC. 1307. BYPASS.

''The Secretary may use all or part of any State's allocation under this part to make arrangements with any public or private nonprofit agency to carry out the purpose of this part in such State if the Secretary determines that—

''(1) the State is unable or unwilling to conduct educational programs for migratory children;

''(2) such arrangements would result in more efficient and economic administration of such programs; or

''(3) such arrangements would add substantially to the welfare or educational attainment of such children.

"SEC. 1308. COORDINATION OF MIGRANT EDUCATION ACTIVITIES.

''(a) Improvement of Coordination.—

''(1) In general.—The Secretary, in consultation with the States, may make grants to, or enter into contracts with, State educational agencies, local educational agencies, institutions of higher education, and other public and private nonprofit entities to improve the interstate and intrastate coordination among such agencies' educational programs, including the establishment or improvement of programs for credit accrual and exchange, available to migratory students.

''(2) Duration.—Grants under this subpart may be awarded for not more than five years.

''(b) Assistance and Reporting.—

''(1) Student records.—(A) The Secretary shall solicit information on how student records are transferred from one school to another and shall solicit recommendations on whether new procedures and technologies for record transfer should be employed to better meet the needs of the migrant population.

''(B) The Secretary shall also seek recommendations on the most effective means for determining the number of students or full-time equivalent students in each State for the purpose of allocating funds under this part.

''(2) Report to congress.—(A) Not later than April 30, 1995, the Secretary shall report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives the Secretary's findings and recommendations, and shall include in this report, recommendations for interim measures that may be taken to ensure continuity of services in this program.

''(B) The Secretary shall assist States in developing effective methods for the transfer of student records and in determining the number of students or full-time equivalent students in each State if such interim measures are required.

''(c) Availability of Funds.—For the purpose of carrying out this section in any fiscal year, the Secretary shall reserve not more than $6,000,000 of the amount appropriated to carry out this part for such year.

''(d) Incentive Grants.—

''(1) In general.—From the amounts made available to carry out this section, the Secretary shall reserve not more than $1,500,000 to award, on a competitive basis, grants in the amount of not more than $250,000 to State educational agencies with consortium agreements under section 1303(d).

''(2) Limitation.—Not less than 10 of such grants shall be awarded to States which receive allocations of less than $1,000,000 if such States have approved agreements.

"SEC. 1309. DEFINITIONS.

''As used in this part:

''(1) Local operating agency.—The term 'local operating agency' means—

''(A) a local educational agency to which a State educational agency makes a subgrant under this part;

''(B) a public or nonprofit private agency with which a State educational agency or the Secretary makes an arrangement to carry out a project under this part; or

''(C) a State educational agency, if the State educational agency operates the State's migrant education program or projects directly.

''(2) Migratory child.—The term 'migratory child' means a child who is, or whose parent, spouse, or guardian is, a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany such parent, spouse, or guardian in order to obtain, temporary or seasonal employment in agricultural or fishing work—

''(A) has moved from one school district to another;

''(B) in a State that is comprised of a single school district, has moved from one administrative area to another within such district; or

''(C) resides in a school district of more than 15,000 square miles, and migrates a distance of 20 miles or more to a temporary residence to engage in a fishing activity.

"PART D—PREVENTION AND INTERVENTION PROGRAMS FOR CHILDREN AND YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT-RISK OF DROPPING OUT

"SEC. 1401. FINDINGS; PURPOSE; PROGRAM AUTHORIZED.

''(a) Findings.—Congress finds the following:

''(1) A large percentage of youth in the juvenile justice system have poor academic achievement, are a year or more behind grade level, and have dropped out of school.

''(2) There is a strong correlation between academic failure and involvement in delinquent activities.

''(3) Preventing students from dropping out of local schools and addressing the educational needs of delinquent youth can help reduce the dropout rate and involvement in delinquent activities at the same time.

''(4) Many schools and correctional facilities fail to communicate regarding a youth's academic needs and students often return to their

home school ill-prepared to meet current curriculum requirements.

"(5) Schools are often reluctant to deal with youth returning from facilities and receive no funds to deal with the unique educational and other needs of such youth.

"(6) A continuing need exists for activities and programs to reduce the incidence of youth dropping out of school.

"(7) Federal dropout prevention programs have demonstrated effectiveness in keeping children and youth in school.

"(8) Pregnant and parenting teens are a high at-risk group for dropping out of school and should be targeted by dropout prevention programs.

"(9) Such youth need a strong dropout prevention program which provides such youth with high level skills and which provides supports to youth returning from correctional facilities in order to keep such youth in school.

"(b) PURPOSE.—It is the purpose of this part—

"(1) to improve educational services to children in local and State institutions for neglected or delinquent children and youth so that such children and youth have the opportunity to meet the same challenging State content standards and challenging State student performance standards that all children in the State will be expected to meet;

"(2) to provide such children and youth the services needed to make a successful transition from institutionalization to further schooling or employment; and

"(3) to prevent at-risk youth from dropping out of school and to provide dropouts and youth returning from institutions with a support system to ensure their continued education.

"(c) PROGRAM AUTHORIZED.—In order to carry out the purpose of this part the Secretary shall make grants to State educational agencies to enable such agencies to award subgrants to State agencies and local educational agencies to establish or improve programs of education for neglected or delinquent children and youth at risk of dropping out of school before graduation.

"SEC. 1402. PAYMENTS FOR PROGRAMS UNDER THIS PART.

"(a) AGENCY SUBGRANTS.—Based on the allocation amount computed under section 1412, the Secretary shall allocate to each State educational agency amounts necessary to make subgrants to State agencies.

"(b) LOCAL SUBGRANTS.—Each State shall retain, for purposes of subpart 2, funds generated throughout the State under part A based on youth residing in local correctional facilities, or attending community day programs for delinquent children and youth.

"(c) USE OF REMAINING FUNDS.—Each State shall use any funds remaining after allocations are made under subsection (a).

"Subpart 1—State Agency Programs

"SEC. 1411. ELIGIBILITY.

"A State agency is eligible for assistance under this subpart if such State agency is responsible for providing free public education for children—

"(1) in institutions for neglected or delinquent children;

"(2) attending community day programs for neglected or delinquent children; or

"(3) in adult correctional institutions.

"SEC. 1412. ALLOCATION OF FUNDS.

"(a) SUBGRANTS TO STATE AGENCIES.—

"(1) IN GENERAL.—Each State agency described in section 1411 (other than an agency in the Commonwealth of Puerto Rico) is eligible to receive a subgrant under this part, for each fiscal year, an amount equal to the product of—

"(A) the number of neglected or delinquent children and youth described in section 1411 who—

"(i) are enrolled for at least 15 hours per week in education programs in adult correctional institutions; and

"(ii) are enrolled for at least 20 hours per week—

"(I) in education programs in institutions for neglected or delinquent children; or

"(II) in community day programs for neglected or delinquent children; and

"(B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this paragraph shall not be less than 32 percent, or more than 48 percent, of the average per-pupil expenditure in the United States.

"(2) SPECIAL RULE.—The number of neglected or delinquent children and youth determined under paragraph (1) shall—

"(A) be determined by the State agency by a deadline set by the Secretary, except that no State agency shall be required to determine the number of such children on a specific date set by the Secretary; and

"(B) be adjusted, as the Secretary determines is appropriate, to reflect the relative length of such agency's annual programs.

"(b) SUBGRANTS TO STATE AGENCIES IN PUERTO RICO.—For each fiscal year, the amount of the subgrant for which a State agency in the Commonwealth of Puerto Rico is eligible under this part shall be equal to—

"(1) the number of children and youth counted under subsection (a)(1) for the Commonwealth of Puerto Rico; multiplied by

"(2) the product of—

"(A) the percentage that the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States; and

"(B) 32 percent of the average per-pupil expenditure in the United States.

"(c) RATABLE REDUCTIONS IN CASE OF INSUFFICIENT APPROPRIATIONS.—If the amount appropriated for any fiscal year for subgrants under subsections (a) and (b) is insufficient to pay the full amount for which all agencies are eligible under such subsections, the Secretary shall ratably reduce each such amount.

"SEC. 1413. STATE REALLOCATION OF FUNDS.

"If a State educational agency determines that a State agency does not need the full amount of the subgrant for which such State agency is eligible under this part for any fiscal year, the State educational agency may reallocate the amount that will not be needed to other eligible State agencies that need additional funds to carry out the purpose of this part, in such amounts as the State educational agency shall determine.

"SEC. 1414. STATE PLAN AND STATE AGENCY APPLICATIONS.

"(a) STATE PLAN.—

"(1) IN GENERAL.—Each State educational agency that desires to receive a grant under this part shall submit, for approval by the Secretary, a plan for meeting the needs of neglected and delinquent youth and, where applicable, youth at risk of dropping out of school which is integrated with other programs under this Act, the Goals 2000: Educate America Act, or other Acts, as appropriate, consistent with section 14306.

"(2) CONTENTS.—Each such State plan shall—

"(A) describe the program goals, objectives, and performance measures established by the State that will be used to assess the effectiveness of the program in improving academic and vocational skills of children in the program;

"(B) provide that, to the extent feasible, such children will have the same opportunities to learn as such children would have if such children were in the schools of local educational agencies in the State; and

"(C) contain assurances that the State educational agency will—

"(i) ensure that programs assisted under this part will be carried out in accordance with the State plan described in this subsection;

"(ii) carry out the evaluation requirements of section 1416;

"(iii) ensure that the State agencies receiving subgrants under this subpart comply with all applicable statutory and regulatory requirements; and

"(iv) provide such other information as the Secretary may reasonably require.

"(3) DURATION OF THE PLAN.—Each such State plan shall—

"(A) remain in effect for the duration of the State's participation under this part; and

"(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

"(b) SECRETARIAL APPROVAL; PEER REVIEW.—

"(1) IN GENERAL.—The Secretary shall approve each State plan that meets the requirements of this part.

"(2) PEER REVIEW.—The Secretary may review any State plan with the assistance and advice of individuals with relevant expertise.

"(c) STATE AGENCY APPLICATIONS.—Any State agency that desires to receive funds to carry out a program under this part shall submit an application to the State educational agency that—

"(1) describes the procedures to be used, consistent with the State plan under section 1111, to assess the educational needs of the children to be served;

"(2) provides assurances that in making services available to youth in adult correctional facilities, priority will be given to such youth who are likely to complete incarceration within a 2-year period;

"(3) describes the program, including a budget for the first year of the program, with annual updates to be provided to the State educational agency;

"(4) describes how the program will meet the goals and objectives of the State plan under this subpart;

"(5) describes how the State agency will consult with experts and provide the necessary training for appropriate staff, to ensure that the planning and operation of institution-wide projects under section 1416 are of high quality;

"(6) describes how the agency will carry out the evaluation requirements of section 14701 and how the results of the most recent evaluation are used to plan and improve the program;

"(7) includes data showing that the agency has maintained fiscal effort required of a local educational agency, in accordance with section 14501 of this title;

"(8) describes how the programs will be coordinated with other appropriate State and Federal programs, such as programs under the Job Training Partnership Act, vocational education programs, State and local dropout prevention programs, and special education programs;

"(9) describes how appropriate professional development will be provided to teachers and other staff;

"(10) designates an individual in each affected institution to be responsible for issues relating to the transition of children and youth from the institution to locally operated programs;

"(11) describes how the agency will, endeavor to coordinate with businesses for training and mentoring for participating youth;

"(12) provides assurances that the agency will assist in locating alternative programs through which students can continue their education if students are not returning to school after leaving the correctional facility;

"(13) provides assurances that the agency will work with parents to secure parents' assistance in improving the educational achievement of their children and preventing their children's further involvement in delinquent activities;

"(14) provides assurances that the agency works with special education youth in order to meet an existing individualized education program and an assurance that the agency will notify the youth's local school if such youth—

"(A) is identified as in need of special education services while the youth is in the facility; and

"(B) intends to return to the local school;

"(15) provides assurances that the agency will work with youth who dropped out of school before entering the facility to encourage the youth to reenter school once the term of the youth has been completed or provide the youth with the skills necessary to gain employment, continue the education of the youth, or achieve a secondary school diploma or the recognized equivalent if the youth does not intend to return to school;

"(16) provides assurances that teachers and other qualified staff are also trained to work with children with disabilities and other students with special needs taking into consideration the unique needs of such students;

"(17) describes any additional services provided to youth, such as career counseling, and assistance in securing student loans and grants; and

"(18) provides assurances that the program under this subpart will be coordinated with any programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 or other comparable programs, if applicable.

"SEC. 1415. USE OF FUNDS.

"(a) IN GENERAL.—

"(1) USES.—A State agency shall use funds received under this subpart only for programs and projects that—

"(A) are consistent with the State plan under section 1414(a); and

"(B) concentrate on providing participants with the knowledge and skills needed to make a successful transition to secondary school completion, further education, or employment.

"(2) PROGRAMS AND PROJECTS.—Such programs and projects—

"(A) may include the acquisition of equipment;

"(B) shall be designed to support educational services that—

"(i) except for institution-wide projects under section 1416, are provided to children identified by the State agency as failing, or most at risk of failing, to meet the State's challenging State content standards and challenging State student performance standards;

"(ii) supplement and improve the quality of the educational services provided to such children by the State agency; and

"(iii) afford such children an opportunity to learn to such challenging State standards;

"(C) shall be carried out in a manner consistent with section 1120A and part F of this title; and

"(D) may include the costs of meeting the evaluation requirements of section 14701.

"(b) SUPPLEMENT, NOT SUPPLANT.—A program under this subpart that supplements the number of hours of instruction students receive from State and local sources shall be considered to comply with the supplement, not supplant requirement of section 1120A without regard to the subject areas in which instruction is given during those hours.

"SEC. 1416. INSTITUTION-WIDE PROJECTS.

"A State agency that provides free public education for children and youth in an institution for neglected or delinquent children (other than an adult correctional institution) or attending a community-day program for such children may use funds received under this part to serve all children in, and upgrade the entire educational effort of, that institution or program if the State agency has developed, and the State educational agency has approved, a comprehensive plan for that institution or program that—

"(1) provides for a comprehensive assessment of the educational needs of all youth in the institution or program serving juveniles;

"(2) provides for a comprehensive assessment of the educational needs of youth aged 20 and younger in adult facilities who are expected to complete incarceration within a two-year period;

"(3) describes the steps the State agency has taken, or will take, to provide all children under age 21 with the opportunity to meet challenging State content standards and challenging State student performance standards in order to improve the likelihood that the students will complete secondary school, attain secondary diploma or its recognized equivalent, or find employment after leaving the institution;

"(4) describes the instructional program, pupil services, and procedures that will be used to meet the needs described in paragraph (1), including, to the extent feasible, the provision of mentors for students;

"(5) specifically describes how such funds will be used;

"(6) describes the measures and procedures that will be used to assess student progress;

"(7) describes how the agency has planned, and will implement and evaluate, the institution-wide or program-wide project in consultation with personnel providing direct instructional services and support services in institutions or community-day programs for neglected or delinquent children and personnel from the State educational agency; and

"(8) includes an assurance that the State agency has provided for appropriate training for teachers and other instructional and administrative personnel to enable such teachers and personnel to carry out the project effectively.

"SEC. 1417. THREE-YEAR PROGRAMS OR PROJECTS.

"If a State agency operates a program or project under this subpart in which individual children are likely to participate for more than one year, the State educational agency may approve the State agency's application for a subgrant under this part for a period of not more than three years.

"SEC. 1418. TRANSITION SERVICES.

"(a) TRANSITION SERVICES.—Each State agency shall reserve not more than 10 percent of the amount such agency receives under this subpart for any fiscal year to support projects that facilitate the transition of children from State-operated institutions to local educational agencies.

"(b) CONDUCT OF PROJECTS.—A project supported under this section may be conducted directly by the State agency, or through a contract or other arrangement with one or more local educational agencies, other public agencies, or private nonprofit organizations.

"(c) LIMITATION.—Any funds reserved under subsection (a) shall be used only to provide transitional educational services, which may include pupil services and mentoring, to neglected and delinquent children in schools other than State-operated institutions.

"(d) CONSTRUCTION.—Nothing in this section shall be construed to prohibit a school that receives funds under subsection (a) from serving neglected and delinquent children simultaneously with students with similar educational needs, in the same educational settings where appropriate.

"Subpart 2—Local Agency Programs

"SEC. 1421. PURPOSE.

"The purpose of this subpart is to support the operation of local educational agency programs which involve collaboration with locally operated correctional facilities to—

"(1) carry out high quality education programs to prepare youth for secondary school completion, training, and employment, or further education;

"(2) provide activities to facilitate the transition of such youth from the correctional program to further education or employment; and

"(3) operate dropout prevention programs in local schools for youth at risk of dropping out of school and youth returning from correctional facilities.

"SEC. 1422. PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES.

"(a) LOCAL SUBGRANTS.—With funds retained made available under section 1402(b), the State educational agency shall award subgrants to local educational agencies with high numbers or percentages of youth residing in locally operated (including county operated) correctional facilities for youth (including facilities involved in day programs).

"(b) SPECIAL RULE.—A local educational agency which includes a correctional facility that operates a school is not required to operate a dropout prevention program if more than 30 percent of the youth attending such facility will reside outside the boundaries of the local educational agency upon leaving such facility.

"(c) NOTIFICATION.—A State educational agency shall notify local educational agencies within the State of the eligibility of such agencies to receive a subgrant under this subpart.

"SEC. 1423. LOCAL EDUCATIONAL AGENCY APPLICATIONS.

"Eligible local educational agencies desiring assistance under this section shall submit an application to the State educational agency, containing such information as the State educational agency may require. Each such application shall include—

"(1) a description of the program to be assisted;

"(2) a description of formal agreements between—

"(A) the local educational agency; and

"(B) correctional facilities and alternative school programs serving youth involved with the juvenile justice system to operate programs for delinquent youth;

"(3) as appropriate, a description of how participating schools will coordinate with facilities working with delinquent youth to ensure that such youth are participating in an education program comparable to one operating in the local school such youth would attend;

"(4) as appropriate, a description of the dropout prevention program operated by participating schools and the types of services such schools will provide to at risk youth in participating schools and youth returning from correctional facilities;

"(5) as appropriate, a description of the youth expected to be served by the dropout prevention program and how the school will be coordinating existing educational programs to meet unique education needs;

"(6) as appropriate, a description of how schools will coordinate with existing social and health services to meet the needs of students at risk of dropping out of school and other participating students, including prenatal health care and nutrition services related to the health of the parent and child, parenting and child development classes, child care, targeted re-entry and outreach programs, referrals to community resources, and scheduling flexibility;

"(7) as appropriate, a description of any partnerships with local businesses to develop training and mentoring services for participating students;

"(8) as appropriate, a description of how the program will involve parents in efforts to improve the educational achievement of their children, assist in dropout prevention activities, and prevent the involvement of their children in delinquent activities;

"(9) a description of how the program under this subpart will be coordinated with other Federal, State, and local programs, such as programs under the Job Training and Partnership

Act and vocational education programs serving this at-risk population of youth;

"(10) a description of how the program will be coordinated with programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 and other comparable programs, if applicable;

"(11) as appropriate, a description of how schools will work with probation officers to assist in meeting the needs of youth returning from correctional facilities;

"(12) a description of efforts participating schools will make to ensure correctional facilities working with youth are aware of a child's existing individualized education program; and

"(13) as appropriate, a description of the steps participating schools will take to find alternative placements for youth interested in continuing their education but unable to participate in a regular public school program.

"SEC. 1424. USES OF FUNDS.

"Funds provided to local educational agencies under this subpart may be used, where appropriate, for—

"(1) dropout prevention programs which serve youth at educational risk, including pregnant and parenting teens, youth who have come in contact with the juvenile justice system, youth at least one year behind their expected grade level, migrant youth, immigrant youth, students with limited-English proficiency and gang members;

"(2) the coordination of health and social services for such individuals if there is a likelihood that the provision of such services, including day care and drug and alcohol counseling, will improve the likelihood such individuals will complete their education; and

"(3) programs to meet the unique education needs of youth at risk of dropping out of school, which may include vocational education, special education, career counseling, and assistance in securing student loans or grants.

"SEC. 1425. PROGRAM REQUIREMENTS FOR CORRECTIONAL FACILITIES RECEIVING FUNDS UNDER THIS SECTION.

"Each correctional facility entering into an agreement with a local educational agency under section 1422(a) to provide services to youth under this section shall—

"(1) where feasible, ensure educational programs in juvenile facilities are coordinated with the student's home school, particularly with respect to special education students with an individualized education program;

"(2) notify the local school of a youth if the youth is identified as in need of special education services while in the facility;

"(3) where feasible, provide transition assistance to help the youth stay in school, including coordination of services for the family, counseling, assistance in accessing drug and alcohol abuse prevention programs, tutoring, and family counseling;

"(4) provide support programs which encourage youth who have dropped out to reenter school once their term has been completed or provide such youth with the skills necessary for such youth to gain employment or seek a secondary school diploma or its recognized equivalent;

"(5) work to ensure such facilities are staffed with teachers and other qualified staff who are trained to work with children with disabilities and other students with special needs taking into consideration the unique needs of such children and students;

"(6) ensure educational programs in correctional facilities are related to assisting students meet high educational standards;

"(7) use, to the extent possible, technology to assist in coordinating educational programs between the juvenile facility and the community school;

"(8) where feasible, involve parents in efforts to improve the educational achievement of their children and prevent the further involvement of such children in delinquent activities;

"(9) coordinate funds received under this program with other local, State, and Federal funds available to provide services to participating youth, such as funds under the Job Training Partnership Act, and vocational education funds;

"(10) coordinate programs operated under this subpart with activities funded under the Juvenile Justice and Delinquency Prevention Act of 1974 and other comparable programs, if applicable; and

"(11) if appropriate, work with local businesses to develop training and mentoring programs for participating youth.

"SEC. 1426. ACCOUNTABILITY.

"The State educational agency may—

"(1) reduce or terminate funding for projects under this section if a local educational agency does not show progress in reducing dropout rates for male students and for female students over a 3-year period; and

"(2) require juvenile facilities to demonstrate, after receiving assistance under this subpart for 3 years, that there has been an increase in the number of youth returning to school, obtaining a secondary school diploma or its recognized equivalent, or obtaining employment after such youth are released.

"Subpart 3—General Provisions

"SEC. 1431. PROGRAM EVALUATIONS.

"(a) Scope of Evaluation.—Each State agency or local educational agency that conducts a program under subpart 1 or 2 shall evaluate the program, disaggregating data on participation by sex, and if feasible, by race, ethnicity, and age, not less than once every three years to determine the program's impact on the ability of participants to—

"(1) maintain and improve educational achievement;

"(2) accrue school credits that meet State requirements for grade promotion and secondary school graduation;

"(3) make the transition to a regular program or other education program operated by a local educational agency; and

"(4) complete secondary school (or secondary school equivalency requirements) and obtain employment after leaving the institution.

"(b) Evaluation Measures.—In conducting each evaluation under subsection (a), a State agency or local educational agency shall use multiple and appropriate measures of student progress.

"(c) Evaluation Results.—Each State agency and local educational agency shall—

"(1) submit evaluation results to the State educational agency; and

"(2) use the results of evaluations under this section to plan and improve subsequent programs for participating children and youth.

"SEC. 1432. DEFINITIONS.

"For the purpose of this part:

"(1) The term 'adult correctional institution' means a facility in which persons are confined as a result of a conviction for a criminal offense, including persons under 21 years of age.

"(2) The term 'at-risk youth' means school aged youth who are at risk of academic failure, have drug or alcohol problems, are pregnant or are parents, have come into contact with the juvenile justice system in the past, are at least one year behind the expected grade level for the age of the youth, have limited-English proficiency, are gang members, have dropped out of school in the past, or have high absenteeism rates at school.

"(3) The term 'community day program' means a regular program of instruction provided by a State agency at a community day school operated specifically for neglected or delinquent children.

"(4) The term 'institution for delinquent children and youth' means a public or private residential facility for the care of children who have been adjudicated to be delinquent or in need of supervision.

"(5) The term 'institution for neglected children' means a public or private residential facility, other than a foster home, that is operated for the care of children who have been committed to the institution or voluntarily placed in the institution under applicable State law, due to abandonment, neglect, or death of their parents or guardians.

"PART E—FEDERAL EVALUATIONS, DEMONSTRATIONS, AND TRANSITION PROJECTS

"SEC. 1501. EVALUATIONS.

"(a) National Assessment.—

"(1) In general.—The Secretary shall conduct a national assessment of programs assisted under this title, in coordination with the ongoing National Evaluation under subsection (b) that shall be planned, reviewed, and conducted in consultation with an independent panel of researchers, State practitioners, local practitioners, and other appropriate individuals.

"(2) Examination.—The assessment shall examine how well schools, local educational agencies, and States are—

"(A) progressing toward the goal of all children served under this title reaching the State's challenging State content standards and challenging State student performance standards; and

"(B) accomplishing the purpose set forth in section 1001(d) to achieve the goal described in paragraph (1), including—

"(i) ensuring challenging State content standards and challenging State student performance standards for all children served under this title and aligning the efforts of States, local educational agencies, and schools to help such children reach such standards;

"(ii) providing children served under this title an enriched and accelerated educational program through schoolwide programs or through additional services that increase the amount and quality of instructional time that such children receive;

"(iii) promoting schoolwide reform and access for all children served under this title to effective instructional strategies and challenging academic content;

"(iv) significantly upgrading the quality of the curriculum and instruction by providing staff in participating schools with substantial opportunities for professional development;

"(v) using and evaluating the usefulness of opportunity-to-learn standards or strategies in improving learning in schools receiving assistance under this part;

"(vi) coordinating services provided under all parts of this title with each other, with other educational and pupil services, including preschool services, and, to the extent feasible, with health and social service programs funded from other sources;

"(vii) affording parents of children served under this title meaningful opportunities to participate in the education of their children at home and at school, such as the provision of family literacy services;

"(viii) distributing resources to areas where needs are greatest;

"(ix) improving accountability, as well as teaching and learning, by making assessments under this title congruent with State assessment systems; and

"(x) providing greater decisionmaking authority and flexibility to schools in exchange for greater responsibility for student performance.

"(3) NAEP INFORMATION.—Where feasible, the Secretary shall use information gathered from a variety of sources, including the National Assessment of Educational Progress, State evaluations, and available research studies, in carrying out this subsection.

"(4) INTERIM AND FINAL REPORTS.—The Secretary shall submit to the President and the appropriate committees of the Congress an interim report by January 1, 1996, summarizing the preliminary findings of the assessment and a final report of the findings of the assessment by January 1, 1998.

"(b) STUDIES AND DATA COLLECTION.—

"(1) IN GENERAL.—The Secretary may collect such data, as necessary, at the State, local, and school levels and conduct studies and evaluations, including national studies and evaluations, to assess on an ongoing basis the effectiveness of programs under this title and to report on such effectiveness on a periodic basis. The Secretary shall report not later than December 31, 1997 to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate on how schoolwide programs are meeting the needs of children from migratory families.

"(2) MINIMUM INFORMATION.—At a minimum, the Secretary shall collect trend information on the effect of programs under this title. Such data shall complement the data collected and reported under subsections (a) and (c).

"(c) NATIONAL EVALUATION OF PART A OF TITLE I.—

"(1) IN GENERAL.—The Secretary shall carry out an ongoing evaluation of the program assisted under part A of title I in order to provide the public, the Congress, and educators involved in such program, an accurate description of the short- and long-term effectiveness of such program and to provide information that can be used to improve such program's effectiveness in enabling students to meet challenging State content standards and challenging State student performance standards, graduate from secondary school, and make successful transitions to postsecondary education and work. Such evaluation shall—

"(A) have a longitudinal design that tracks cohorts of students within schools of differing poverty concentrations for at least three years which, when the cohorts are taken as a whole, provides a picture of such program's effectiveness over the elementary and secondary grades;

"(B) be separate and independent from State and local assessments and evaluations as required under this title;

"(C) utilize the highest available content standards that are generally accepted as national in scope;

"(D) provide information on all students, students served under part A, and, if funds are sufficient, information on students from low-income families, limited-English-proficient students, and students with disabilities; and

"(E) when feasible, collect, cross-tabulate, and report data by sex within race or ethnicity and socioeconomic status.

"(2) USE.—The Secretary shall use the results of the evaluation described in paragraph (1) as part of the national assessment required by subsection (a) and shall report the data from such evaluation to the Congress and the public at least as frequently as reports are made under subsection (a)(4).

"(d) DEVELOPMENTALLY APPROPRIATE MEASURES.—In conducting the national assessment under subsection (a) and the national ongoing evaluation under subsection (c), the Secretary shall use developmentally appropriate measures to assess student performance and progress.

"(e) PARENTAL INVOLVEMENT, STUDY, REPORT AND DISSEMINATION.—

"(1) IN GENERAL.—The Secretary, through the Office of Education Research and Improvement, shall conduct a study to identify and describe—

"(A) common barriers to effective parental involvement in the education of participating children; and

"(B) successful local policies and programs which improve parental involvement and the performance of participating children.

"(2) DUTIES OF SECRETARY.—The Secretary shall—

"(A) complete such study by December 31, 1996;

"(B) report the findings of such study to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate; and

"(C) disseminate the findings, relating to the successful local policies and programs which improve parental involvement and the performance of participating children, to local educational agencies.

"SEC. 1502. DEMONSTRATIONS OF INNOVATIVE PRACTICES.

"(a) DEMONSTRATION PROGRAMS TO IMPROVE ACHIEVEMENT.—

"(1) IN GENERAL.—From the funds appropriated for any fiscal year under section 1002(g)(2), the Secretary may make grants to State educational agencies, local educational agencies, other public agencies, nonprofit organizations, public or private partnerships involving business and industry organizations, and consortia of such entities to carry out demonstration projects that show the most promise of enabling children served under this title to meet challenging State content standards and challenging State student performance standards. Such projects shall include promising strategies such as—

"(A) accelerated curricula, the application of new technologies to improve teaching and learning, extended learning time, and a safe and enriched full-day environment for children to provide children the opportunity to reach such standards;

"(B) integration of education services with each other and with health, family, and other social services such as mentoring programs, particularly in empowerment zones and enterprise communities;

"(C) effective approaches to whole school reform;

"(D) programs that have been especially effective with limited-English-proficient children, migratory children and other highly mobile students, children leaving institutions for neglected or delinquent children and returning to school, and homeless children and youth;

"(E) programs which are especially effective in recruiting, inducting and retaining highly qualified teachers for service in schools with low student achievement; and

"(F) programs that are built upon partnerships developed between elementary and middle schools, employers, and the community, which emphasize the integration of high quality academic and vocational learning, stress excellence and high expectations for success in academic subjects, instill responsibility, decisionmaking, problem solving, interpersonal skills, and other compentencies in students, and make school relevant to the workplace and the community, through applied and interactive teaching methodologies, team teaching strategies, learning opportunities connecting school, the workplace, and the community, and career exploration, awareness, and career guidance opportunities.

"(2) EVALUATION.—The Secretary shall evaluate the demonstration projects supported under this title, using rigorous methodological designs and techniques, including control groups and random assignment, to the extent feasible, to produce reliable evidence of effectiveness.

"(b) PARTNERSHIPS.—From funds appropriated under section 1002(g)(2) for any fiscal year, the Secretary may, directly or through grants or contracts, work in partnership with State educational agencies, local educational agencies, other public agencies, and nonprofit organizations to disseminate and use the highest quality research and knowledge about effective practices to improve the quality of teaching and learning in schools assisted under this title.

"SEC. 1503. INNOVATIVE ELEMENTARY SCHOOL TRANSITION PROJECTS.

"(a) IN GENERAL.—From the amount appropriated under section 1002(g)(2), the Secretary shall provide not less than $10,000,000, but not more than $40,000,000 to support innovative transition projects in elementary schools authorized under this section.

"(b) GRANTS.—

"(1) LOCAL PROGRAMS.—The Secretary shall award grants to local educational agencies (including such agencies that operate Follow Through programs, Even Start, and other comparable programs) that have formed consortia with early childhood programs (including Head Start, where available) for the purpose of supporting projects, for children from low-income families who previously attended a Head Start program, Even Start program, or similar preschool program, which provide education and other services in early elementary grades.

"(2) PURPOSES OF PROJECTS.—The purposes of projects assisted under this section are to—

"(A) assist eligible children and their families in making a successful transition from preschool through the early elementary grades;

"(B) enable eligible children to achieve challenging academic standards through a model, developmentally appropriate, instructional program; and

"(C) support the active involvement of parents in the education of their children.

"(3) COMPONENTS.—A program assisted under this subsection—

"(A) shall provide transition to elementary school activities, such as—

"(i) development of a transition plan for each child which provides for instruction, support, and assistance through the third grade;

"(ii) transfer of each child's preschool records to the elementary school (with parental consent);

"(iii) formal meetings between a child's parent, preschool teacher, and kindergarten or first grade teacher; and

"(iv) kindergarten visits and other orientation activities for preschool children prior to enrollment in elementary school;

"(B) shall use an instructional approach which—

"(i) has been shown to be effective in providing transition services; or

"(ii) shows promise of providing effective transition services;

"(C) shall provide for the direct participation of the parents of such children in the development, operation, and evaluation of such program;

"(D) shall provide directly or through referral comprehensive educational, health, nutritional, social, and other services that aid in the continued development of eligible children to their full potential;

"(E) shall ensure that each supportive services team developed pursuant to subsection (c)(8) includes a sufficient number of family service coordinators to adequately meet the needs of eligible children and their families; and

"(F) may provide for the use of mentors who are secondary school students to assist elementary and secondary students who were formerly enrolled in Head Start or Even Start programs.

"(c) APPLICATIONS.—An application for a grant under subsection (b) shall—

"(1) describe the goals which the applicant plans to achieve;

"(2) describe the instructional approach the applicant will use, and the manner in which the applicant will implement such approach;

"(3) describe the transition to elementary school activities for which assistance is sought;

"(4) describe the members of the consortium required by subsection (b)(1);

"(5) shall include evidence that the consortium members each have performed assessments of their programs to ensure that such members have the capacity to address the health, immunization, mental health, nutrition, parenting education, literacy, social service (including substance abuse, education, and prevention), and educational needs of low-income students and their families whom the consortium members plan to serve;

"(6) describe how the project will be coordinated with title I, title VII, and other programs under this Act;

"(7) provide evidence that the proposed transition activities, instruction, and other services to be provided by the applicant have been specifically designed to build upon, and coordinate with, the services provided to eligible children and their parents by local Heat Start, Even Start, and other similar preschool programs;

"(8) include—

"(A) a plan for the development of a support services team, including a family service coordinator, to—

"(i) assist families, administrators, and teachers to respond to health, immunization, mental health, nutrition, social service, and educational needs of eligible students;

"(ii) conduct home visits and help students and their families to obtain health, immunization, mental health, nutrition, parenting education, literacy, education (including tutoring and remedial services), and social services (including substance abuse treatment, education, and prevention), for which students and their families are eligible;

"(iii) coordinate a family outreach and support program, including a plan for involving parents in the management of the program under subsection (b), in cooperation with parental involvement efforts undertaken pursuant to this part, the Head Start Act, and the Individuals with Disabilities Education Act, including school-parent compacts, parent volunteer activities, parent education services and training such as the services and training provided through the Even Start program, and regular meetings; and

"(iv) assist families, administrators, and teachers in enhancing developmental continuity between the programs assisted under the Head Start Act, other early childhood development programs, and elementary school classes; or

"(B) a description of the comprehensive, coordinated services currently provided to children eligible for services under this section;

"(9) designate a member of the support services team described in paragraph (8) who will serve as the supervisor of such support services team;

"(10) contain assurances that State agencies, local agencies, and community-based organizations that provide support services to low-income students served by the local educational agency consortium have been consulted in the preparation of the plan described in paragraph (8);

"(11) contain assurances that State agencies, local agencies, and community-based organizations that provide support services to low-income students served by the local educational agency consortium will designate an individual who will act as a liaison to the support services team described in paragraph (8);

"(12) describe the target population to be served by the support services team described in paragraph (8), including families previously served under part C of the Head Start Act, or other comparable early childhood development program;

"(13) describe the support services to be provided, directly or through referral;

"(14) describe the Federal and non-Federal resources that will be used to carry out the program;

"(15) contain assurances that the support services described in paragraph (8) will be equipped to assist children and families with limited-English proficiency or with disabilities;

"(16) include a plan describing how the program assisted under this section will be sustained, with funding received under part A or other Federal and non-Federal funding sources, after the grant has expired; and

"(17) contain such other information as the Secretary may reasonably require.

"(d) NATIONAL ACTIVITIES.—

"(1) IN GENERAL.—Of the amount provided under subsection (a) to carry out this section, the Secretary shall use not less than $3,000,000 but not more $5,000,000 to carry out national activities to evaluate and improve the use of innovative transition programs.

"(2) TECHNICAL ASSISTANCE AND TRAINING.—Of the amount reserved under paragraph (1), the Secretary shall use not less than $3,000,000 to award grants to public and private nonprofit agencies, institutions, and organizations to provide to consortia which receive grants under subsection (b)(1) and, to the extent feasible, to schools that are designated schoolwide programs under section 1114—

"(A) technical assistance in the implementation and expanded use of model transition and instructional approaches, including the use of appropriate pedagogy, efforts to increase parental involvement and providing access to coordinated services; and

"(B) training in conjunction with the implementation and operation of such model approaches.

"(3) COORDINATION AND DISSEMINATION.—The Secretary, in cooperation with the Secretary of Health and Human Services, may promote coordination of activities assisted under this section with the projects funded under the Head Start Transition Projects Act, including a process to—

"(A) collect information on program activities and results; and

"(B) disseminate information on successful transition programs.

"(4) EVALUATION.—(A) The Secretary, in cooperation with the Secretary of Health and Human Services, is authorized to award grants, or enter into contracts or cooperative agreements, to provide for the evaluation of the programs assisted under this section.

"(B) To the extent practicable, such evaluations shall be conducted jointly with evaluations of Head Start Transition Projects.

"(5) OTHER ACTIVITIES.—The Secretary may undertake other activities to promote the replication of successful transition programs.

"(e) COORDINATION OF REGULATIONS.—The Secretary shall work with the Secretary of Health and Human Services to coordinate regulations promulgated under this section with regulations promulgated under the Head Start Act Amendments of 1994.

"(f) GENERAL PROVISIONS.—

"(1) PRIORITY.—In awarding grants under subsection (b)(1), the Secretary shall give priority to applicants that—

"(A) will operate a project under this section at a school designated as a schoolwide program under section 1114;

"(B) serve local educational agencies that have the highest numbers or percentages of poor children; and

"(C) demonstrate a significant commitment by the community to the proposed program, as evidenced by the level of resources, both cash and in-kind, from other public and private sources available to the consortium.

"(2) SUPPLEMENT.—An application for assistance under this section may not be approved unless the Secretary is satisfied that the services to be provided by the applicant will supplement, and not supplant, services that previously provided other Federal assistance.

"(3) SUFFICIENT SIZE.—A grant under subsection (b)(1) shall be of sufficient size and scope to enable the grantee to operate a project which meets the requirements of this section.

"(4) URBAN AND RURAL GRANTS.—To the extent practicable, the Secretary shall award grants under subsection (b)(1) to consortia in both urban and rural areas.

"(5) RENEWAL GRANT.—To be eligible to renew a grant under the section, an applicant that received assistance under subsection (b)(1) shall demonstrate that the project achieved the purposes described in subsection (b)(2).

"(g) DEFINITIONS.—As used in this section:

"(1) FAMILY SERVICES COORDINATOR.—The term 'family services coordinator' means an individual who has the skills necessary to assist families in obtaining support services and may be an existing employee of a local educational agency or Head Start agency.

"(2) HEAD START AGENCY.—The term 'Head Start agency' means any agency designated as a Head Start agency under the Head Start Act (42 U.S.C. 9831 et seq.).

"(3) SUPPORT SERVICES.—The term 'support services' means services that enhance the physical, social, emotional, and intellectual development of low-income children, including the provision of necessary support to the parents and other family members of such children.

"PART F—GENERAL PROVISIONS

"SEC. 1601. FEDERAL REGULATIONS.

"(a) IN GENERAL.—The Secretary is authorized to issue such regulations as are necessary to reasonably ensure that there is compliance with this title.

"(b) NEGOTIATED RULEMAKING PROCESS.—

"(1) IN GENERAL.—Prior to publishing in the Federal Register proposed regulations to carry out this title, the Secretary shall obtain the advice and recommendations of representatives of Federal, State, and local administrators, parents, teachers, and members of local boards of education involved with the implementation and operation of programs under this title.

"(2) MEETINGS AND ELECTRONIC EXCHANGE.—Such advice and recommendation may be obtained through such mechanisms as regional meetings and electronic exchanges of information.

"(3) PROPOSED REGULATIONS.—After obtaining such advice and recommendations, and prior to publishing proposed regulations, the Secretary shall—

"(A) establish a negotiated rulemaking process on a minimum of two key issues, including—

"(i) schoolwide programs; and

"(ii) standards and assessment;

"(B) select individuals to participate in such process from among individuals or groups which provided advice and recommendations, including representation from all geographic regions of the United States; and

"(C) prepare a draft of proposed policy options that shall be provided to the individuals selected by the Secretary under subparagraph (A) not less than 15 days prior to the first meeting under such process.

"(4) PROCESS.—Such process—

"(A) shall be conducted in a timely manner to ensure that final regulations are issued by the Secretary not later than July 1, 1995; and

"(B) shall not be subject to the Federal Advisory Committee Act but shall otherwise follow *the provisions of the Negotiated Rulemaking Act of 1990 (5 U.S.C. 561 et seq.).*

"(5) EMERGENCY SITUATION.—In an emergency situation in which regulations to carry out this title must be issued with a very limited time to assist State and local educational agencies with the operation of a program under this title, the Secretary may issue proposed regulations without following such process but shall, immediately thereafter and prior to issuing final regulations, conduct regional meetings to review such proposed regulations.

"(c) LIMITATION.—Regulations to carry out this part may not require local programs to follow a particular instructional model, such as the provision of services outside the regular classroom or school program.

"SEC. 1602. COORDINATION OF FEDERAL, STATE, AND LOCAL ADMINISTRATION.

"(a) PROGRAM ASSISTANCE MANUAL.—The Secretary shall, not later than six months after the publication of final regulations under this title, prepare and distribute to State educational agencies, State agencies operating programs under parts C and D, and local educational agencies, and shall make available to parents and other interested individuals, organizations, and agencies, a manual for this title to—

"(1) assist such agencies in—

"(A) enhancing the quality, increasing the depth, or broadening the scope of activities for programs under this title;

"(B) applying for program funds under this title; and

"(C) meeting the program objectives under this title;

"(2) assist State educational agencies in achieving proper and efficient administration of programs funded under this title;

"(3) assist parents to become involved in the planning for, and implementation and evaluation of, programs and projects under this title; and

"(4) ensure that officers and employees of the Department, including officers and employees of the Secretary and officers and employees of the Department charged with auditing programs carried on under this title, uniformly interpret, apply, and enforce requirements under this title throughout the United States.

"(b) CONTENTS OF POLICY MANUAL.—The policy manual shall, with respect to programs carried out under this title, contain descriptions, statements, procedural and substantive rules, opinions, policy statements and interpretations and indices to and amendments of the foregoing, and in particular, whether or not such descriptions, statements, procedural and substantive rules, opinions, policy statements and interpretations and indices are required under section 552 of title 5, United States Code, to be published or made available. The manual shall include—

"(1) a statement of the requirements applicable to the programs carried out under this title, including such requirements contained in this title, the General Education Provisions Act, other applicable statutes, and regulations issued under the authority of such statutes;

"(2) an explanation of the purpose of each requirement and its interrelationship with other applicable requirements; and

"(3) model forms and instructions developed by the Secretary for use by State and local educational agencies, at the discretion of such agencies, including, application forms, application review checklists, and instruments for monitoring programs under this title.

"(c) RESPONSE TO INQUIRIES.—The Secretary shall respond with written guidance not later than 90 days after any written request (return receipt requested) from a State or local educational agency regarding a policy, question, or interpretation under this title is received. In the case of a request from a local educational agency, such agency is required to address its request to the State educational agency first.

"SEC. 1603. STATE ADMINISTRATION.

"(a) RULEMAKING.—

"(1) IN GENERAL.—Each State that receives funds under this title shall—

"(A) ensure that any State rules, regulations, and policies relating to this title conform to the purposes of this title and provide any such proposed rules, regulations, and policies to the committee of practitioners under subsection (b) for their review and comment;

"(B) minimize such rules, regulations, and policies to which their local educational agencies and schools are subject; and

"(C) identify any such rule, regulation, or policy as a State-imposed requirement.

"(2) SUPPORT AND FACILITATION.—State rules, regulations, and policies under this title shall support and facilitate local educational agency and school-level systemic reform designed to enable all children to meet the challenging State content standards and challenging State student performance standards.

"(b) COMMITTEE OF PRACTITIONERS.—

"(1) IN GENERAL.—Each State educational agency shall create a State committee of practitioners to advise the State in carrying out its responsibilities under this title.

"(2) MEMBERSHIP.—Each such committee shall include—

"(A) as a majority of its members, representatives from local educational agencies;

"(B) administrators;

"(C) teachers, including vocational educators;

"(D) parents;

"(E) members of local boards of education;

"(F) representatives of private school children; and

"(G) pupil services personnel.

"(3) DUTIES.—The duties of such committee shall include a review, prior to publication, of any proposed or final State rule or regulation pursuant to this title. In an emergency situation where such rule or regulation must be issued within a very limited time to assist local educational agencies with the operation of the program under this title, the State educational agency may issue a regulation without prior consultation, but shall immediately thereafter convene the State committee of practitioners to review the emergency regulation prior to issuance in final form.

"(c) PAYMENT FOR STATE ADMINISTRATION.—Each State may reserve for the proper and efficient performance of its duties under this title the greater of—

"(1) 1.00 percent of the funds received under subsections (a), (c), and (d) of section 1002; or

"(2) $400,000, or $50,000 in the case of the outlying areas.

"SEC. 1604. CONSTRUCTION.

"(a) PROHIBITION OF FEDERAL MANDATES, DIRECTION OR CONTROL.—Nothing in this title shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content or pupil performance standards and assessments, curriculum, or program of instruction as a condition of eligibility to receive funds under this title.

"(b) EQUALIZED SPENDING.—Nothing in this title shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.

"(c) BUILDING STANDARDS.—Nothing in this title shall be construed to mandate national school building standards for a State, local educational agency, or school.

"TITLE II—DWIGHT D. EISENHOWER PROFESSIONAL DEVELOPMENT PROGRAM

"SEC. 2001. FINDINGS.

"The Congress finds as follows:

"(1) Reaching the National Education Goals, particularly the third, fourth, and fifth National Education Goals, requires a comprehensive educational reform strategy that involves parents, schools, government, communities, and other public and private organizations at all levels.

"(2) A crucial component of the strategy for achieving such goals is ensuring, through sustained and intensive high-quality professional development, that all teachers will provide challenging learning experiences in the core academic subjects for their students.

"(3) Decisionmaking as to what activities a State or local educational agency should undertake to improve teaching and learning are best made by individuals in the schools closest to the classroom and most knowledgeable about the needs of schools and students.

"(4) The potential positive impact of high-quality professional development is underscored by recent research findings that—

"(A) professional development must be focused on teaching and learning in order to improve the opportunities of all students to achieve higher standards;

"(B) effective professional development focuses on discipline-based knowledge and effective subject-specific pedagogical skills, involves teams of teachers, and, where appropriate, administrators and pupil services personnel, in a school and, through professional networks of teachers, and, where appropriate, teacher educators, administrators, pupil services personnel, and parents, is interactive and collaborative, motivates by its intrinsic content and relationship to practice, builds on experience and learning-by-doing, and becomes incorporated into the everyday life of the school;

"(C) professional development can dramatically improve classroom instruction and learning when teachers, and, where appropriate, administrators, pupil services personnel, and parents, are partners in the development and implementation of such professional development; and

"(D) new and innovative strategies for teaching to high standards will require time for teachers, outside of the time spent teaching, for instruction, practice, and collegial collaboration.

"(5) Special attention must be given in professional development activities to ensure that education professionals are knowledgeable of, and make use of, strategies for serving populations that historically have lacked access to equal opportunities for advanced learning and career advancement.

"(6) Professional development is often a victim of budget reductions in fiscally difficult times.

"(7) The Federal Government has a vital role in helping States and local educational agencies to make sustained and intensive high-quality professional development in the core academic subjects become an integral part of the elementary and secondary education system.

"(8) Professional development activities must prepare teachers, pupil services personnel, paraprofessionals and other staff in the collaborative skills needed to appropriately teach children with disabilities, in the core academic subjects.

"(9) Parental involvement is an important aspect of school reform and improvement. There is a need for special attention to ensure the effective involvement of parents in the education of their children. Professional development should include methods and strategies to better prepare teachers and, where appropriate, administrators, to enable parents to participate fully and effectively in their children's education.

"SEC. 2002. PURPOSES.

"The purposes of this title are to provide assistance to State and local educational agencies and to institutions of higher education with

teacher education programs so that such agencies and institutions can determine how best to improve the teaching and learning of all students by—

"(1) helping to ensure that teachers, and, where appropriate, other staff and administrators, have access to sustained and intensive high-quality professional development that is aligned to challenging State content standards and challenging State student performance standards, and to support the development and implementation of sustained and intensive high-quality professional development activities in the core academic subjects; and

"(2) helping to ensure that teachers, and, where appropriate, administrators, other staff, pupil services personnel, and parents, have access to professional development that—

"(A) is tied to challenging State content standards and challenging State student performance standards;

"(B) reflects recent research on teaching and learning;

"(C) includes strong academic content and pedagogical components;

"(D) incorporates effective strategies, techniques, methods, and practices for meeting the educational needs of diverse student populations, including females, minorities, individuals with disabilities, limited English proficient individuals, and economically disadvantaged individuals, in order to ensure that all students have the opportunity to achieve challenging State student performance standards;

"(E) is of sufficient intensity and duration to have a positive and lasting impact on the teacher's performance in the classroom; and

"(F) is part of the everyday life of the school and creates an orientation toward continuous improvement throughout the school.

"SEC. 2003. AUTHORIZATION OF APPROPRIATIONS; ALLOCATION BETWEEN PARTS.

"(a) Authorization of Appropriations.—For the purpose of carrying out this title, there are authorized to be appropriated $800,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(b) Allocation Between Parts.—Of the amounts appropriated to carry out this title for any fiscal year, the Secretary shall make available—

"(1) 5 percent of such amounts to carry out subpart 1, of which 5 percent of such 5 percent shall be available to carry out section 2103;

"(2) 94 percent of such amounts to carry out part B; and

"(3) 1 percent of such amounts to carry out part C except that such 1 percent shall not exceed $3,200,000 in any fiscal year.

"PART A—FEDERAL ACTIVITIES

"SEC. 2101. PROGRAM AUTHORIZED.

"(a) In General.—The Secretary is authorized to make grants to, and enter into contracts and cooperative agreements with, local educational agencies, educational service agencies, State educational agencies, State agencies for higher education, institutions of higher education, and other public and private agencies, organizations, and institutions to—

"(1) support activities of national significance that the Secretary determines will contribute to the development and implementation of high-quality professional development activities in the core academic subjects; and

"(2) evaluate activities carried out under this part and parts B and C, in accordance with section 14701.

"(b) Requirements.—In carrying out the activities described in subsection (a), the Secretary shall coordinate professional development programs within the Department, particularly with those programs within the Office of Educational Research and Improvement and the Office of Special Education and Rehabilitative Services, and shall consult and coordinate with the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, the Institute of Museum Services, and other appropriate Federal agencies and entities.

"SEC. 2102. AUTHORIZED ACTIVITIES.

"(a) Activities.—The Secretary shall use funds available to carry out this part for—

"(1) providing seed money to the entities described in section 2101(a) to develop the capacity of such entities to offer sustained and intensive high-quality professional development;

"(2) awarding a grant or contract, in consultation with the Director of the National Science Foundation, to establish an Eisenhower National Clearinghouse for Mathematics and Science Education (hereafter in this section referred to as the 'Clearinghouse'); and

"(3) evaluating programs assisted under this part and parts B and C, in accordance with section 14701.

"(b) Clearinghouse.—

"(1) Application and Award Basis.—Each entity desiring to establish and operate the Clearinghouse authorized by subsection (a)(2) shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. The grant or contract awarded pursuant to subsection (a)(2) shall be made on a competitive, merit basis.

"(2) Duration.—The grant or contract awarded under subsection (a)(2) shall be awarded for a period of five years and shall be reviewed by the Secretary not later than 30 months from the date the grant or contract is awarded.

"(3) Use of Funds.—The grant or contract awarded under subsection (a)(2) shall be used to—

"(A) maintain a permanent repository of mathematics and science education instructional materials and programs for elementary and secondary schools, including middle schools (including, to the extent practicable, all materials and programs developed with Federal and non-Federal funds, such as instructional materials developed by the Department, materials developed by State and national mathematics and science programs assisted under this part, and other instructional materials) for use by the regional consortia established under part C of title XIII and by the general public;

"(B) compile information on all mathematics and science education programs administered by each Federal agency or department;

"(C) disseminate information, programs, and instructional materials to the public, dissemination networks, and the regional consortia established under part C of title XIII;

"(D) coordinate with identifiable and existing data bases containing mathematics and science curriculum and instructional materials, including Federal, non-Federal, and, where feasible, international, data bases;

"(E) participate in collaborative meetings of representatives of the Clearinghouse and the regional consortia established under part C of title XIII to discuss issues of common interest and concern, to foster effective collaboration and cooperation in acquiring and distributing curriculum materials and programs, and to coordinate computer network access to the Clearinghouse and the resources of the regional consortia, except that not more than 3 percent of the funds awarded under subsection (a)(2) shall be used to carry out this subparagraph; and

"(F) gather qualitative and evaluative data on submissions to the Clearinghouse.

"(4) Submission to Clearinghouse.—Each Federal agency or department which develops mathematics or science education instructional material or programs, including the National Science Foundation and the Department, shall submit to the Clearinghouse copies of such material or programs.

"(5) Peer Review.—The Secretary shall establish a peer review process to select the recipient of the award under subsection (a)(2).

"(6) Steering Committee.—The Secretary may appoint a steering committee to recommend policies and activities for the Clearinghouse.

"(7) Application of Copyright Laws.—Nothing in this subsection shall be construed to allow the use or copying, in any media, of any material collected by the Clearinghouse that is protected under the copyright laws of the United States unless the permission of the owner of the copyright is obtained. The Clearinghouse, in carrying out the provisions of this subsection, shall ensure compliance with title 17, United States Code.

"(8) Dissemination of Information.—The Secretary shall disseminate information concerning the grant or contract awarded under this section to State and local educational agencies and institutions of higher education. Such dissemination of information shall include examples of exemplary national programs in mathematics and science instruction and necessary technical assistance for the establishment of similar programs.

"(c) Uses of Funds.—The Secretary may use funds available to carry out this part for—

"(1) the development and maintenance of national clearinghouses for core academic subjects as the Secretary determines are needed and which shall be administered as adjunct clearinghouses of the Educational Resources Information Center Clearinghouses system of clearinghouses supported by the Office of Educational Research and Improvement;

"(2) professional development institutes that provide teachers or teams of teachers, and, where appropriate, administrators, pupil services personnel and other staff, from individual schools, with professional development that contains strong and integrated disciplinary and pedagogical components;

"(3) encouraging the development of local and national professional networks, such as the Teacher Research Dissemination Demonstration Program under section 941(j) of the Educational Research, Development, Dissemination, and Improvement Act of 1994, that provide a forum for interaction among teachers of the core academic subjects and that allow the exchange of information on advances in content and pedagogy;

"(4) efforts to train teachers in the innovative uses and applications of technology to enhance student learning;

"(5) the development and dissemination of model teaching standards in the core academic subjects;

"(6) disseminating standards in the core academic subjects, including information on voluntary national content standards and voluntary national student performance standards and related models of high-quality professional development;

"(7) the dissemination of information about voluntary national content standards, State content standards, voluntary national student performance standards and State student performance standards, and related models of high-quality professional development;

"(8) efforts to train teachers in innovative instructional methodologies designed to meet the diverse learning needs of individual students, including methodologies which integrate academic and vocational learning and applied learning, interactive, interdisciplinary team teaching, and other alternative teaching strategies, such as service learning, experiential learning, career-related education, and environmental education, that integrate real world applications into the core academic subjects;

"(9) disseminating models of high-quality professional development activities that train educators in strategies, techniques, methods, and practices for meeting the educational needs of historically underserved populations, including females, minorities, individuals with disabilities, limited English proficient individuals, and economically disadvantaged individuals, in order to ensure that all students have the opportunity to achieve challenging State student performance standards;

"(10) promoting the transferability of licensure and certification of teachers and administrators among State and local jurisdictions;

"(11) supporting the National Board for Professional Teaching Standards;

"(12) developing activities to prepare teachers, and, where appropriate, paraprofessionals, pupil services personnel, and other staff in the collaborative skills needed to appropriately teach children with disabilities in the core academic subjects;

"(13) encouraging the development of innovative models for recruitment, induction, retention, and assessment of new, highly qualified teachers, especially such teachers from historically underrepresented groups; and

"(14) joint activities with other Federal agencies and entities engaged in or supporting similar professional development efforts.

"SEC. 2103. NATIONAL TEACHER TRAINING PROJECT.

"(a) SHORT TITLE; FINDINGS; DEFINITIONS.—

"(1) SHORT TITLE.—This section may be cited as the 'National Teacher Training Project Act of 1994'.

"(2) FINDINGS.—The Congress finds that—

"(A) teachers must be major players in educational reform in the United States;

"(B) teachers are isolated from their peers and have virtually no time during the school day to consult with other teachers;

"(C) there is a shortage of sustained, year-round professional development programs for teachers;

"(D) successful teaching methods are not adequately shared among teachers;

"(E) teachers are the best teachers of other teachers because practicing classroom teachers have experience that no outside consultant can match;

"(F) it is important for universities and schools to collaborate on teacher development programs if teaching and learning are to be improved;

"(G) pertinent research is not shared among teachers in a professional setting;

"(H) exemplary teachers should be recognized for their abilities and contributions and encouraged to refine their teaching methods;

"(I) each State should support a nationally based teacher training program, that is modeled after the National Writing Project, for teachers of early childhood education, and for teachers of core academic subjects including teachers of mathematics, science, English, civics and government, foreign languages, and arts;

"(J) the National Writing Project is a nationally recognized and honored nonprofit organization that recognizes there are teachers in every region of the United States who have developed successful methods for teaching writing and that such teachers can be trained and encouraged to train other teachers;

"(K) the National Writing Project is a collaborative university-school program which offers summer and school year inservice teacher training programs and a dissemination network to inform and teach teachers regarding developments in the field of writing;

"(L) each year, over 125,000 teachers voluntarily seek training in National Writing Project intensive summer institutes and workshops and school year inservice programs through one of the 155 sites located within the United States, and in 18 sites located outside of the United States;

"(M) in the 20 years of its existence, over 1,100,000 teachers, administrators, and parents have participated in National Writing Project programs;

"(N) less than $16 per teacher was the average cost in Federal dollars for all teacher training at writing projects in academic year 1991–1992;

"(O) for every dollar in Federal support, the National Writing Project provides over $5 in matching funds from States, local universities and schools, and the private sector;

"(P) private foundation resources, although generous in the past concerning National Writing Project programs, are inadequate to fund all of the National Teacher Training Project sites needed, and the future of the program is in jeopardy without secure financial support;

"(Q) the National Writing Project has become a model for programs in other fields, such as science, mathematics, history, literature, foreign languages, and the performing arts, and the development of programs in other fields should continue with the support of Federal funds; and

"(R) each of the 50 States should participate in the National Teacher Training Project by establishing regional teacher training sites in early childhood development, mathematics, science, English, civics and government, foreign languages, and arts to serve all teachers within the State.

"(3) DEFINITIONS.—For the purpose of this section—

"(A) the term 'contractor' means—

"(i) a local educational agency;

"(ii) an educational service agency; or

"(iii) an institution of higher education that awards a bachelor's degree; and

"(B) the term 'eligible recipient' means a nonprofit educational organization which has as its primary purpose the improvement of student learning in one of the core academic subjects described in subsection (b)(2).

"(b) GRANTS AUTHORIZED.—

"(1) GRANTS TO ELIGIBLE RECIPIENTS.—The Secretary is authorized to award a grant to an eligible recipient to enable such recipient—

"(A) to support and promote the establishment of teacher training programs in early childhood development and one of the nine core subject areas described in paragraph (2), including the dissemination of effective practices and research findings regarding teacher training, and administrative activities;

"(B) to support classroom research on effective teaching practices in such area; and

"(C) to pay the Federal share of the cost of such programs and research.

"(2) CORE SUBJECT AREAS.—To the extent feasible, the Secretary shall award a grant under paragraph (1) for the establishment of a National Teacher Training Project in early childhood development and each of the following core subject areas:

"(A) Mathematics.

"(B) Science.

"(C) English.

"(D) Civics and government.

"(E) Foreign languages.

"(F) Arts.

"(G) Geography.

"(H) History.

"(I) Economics.

"(3) NUMBER OF GRANTS AND ELIGIBLE RECIPIENTS.—The Secretary shall award not more than ten grants under paragraph (1) to ten different eligible recipients.

"(4) EQUITABLE DISTRIBUTION.—The Secretary shall award grants under paragraph (1) to eligible recipients from different geographic areas of the United States.

"(5) SPECIAL RULE.—Each grant under paragraph (1) shall be of sufficient size, scope, and quality to be effective.

"(6) ADMINISTRATIVE COSTS AND TECHNICAL ASSISTANCE.—Each eligible recipient receiving a grant under paragraph (1) may use not more than a total of 5 percent of the grant funds for administrative costs and the costs of providing technical assistance to a contractor.

"(c) GRANT REQUIREMENTS.—Each eligible recipient receiving a grant under subsection (b) shall—

"(1) enter into a contract with a contractor under which such contractor agrees—

"(A) to establish, operate, and provide the non-Federal share of the cost of teacher training programs in effective approaches and processes for the teaching of the core academic subjects for which such eligible recipient was awarded a grant, including approaches and processes to obtain parental involvement in a child's education; and

"(B) to use funds received from the eligible recipient to pay the Federal share of the cost of establishing and operating teacher training programs described in subparagraph (A);

"(2) to submit annual reports to the Secretary and be responsible for oversight of the funds expended at each teacher training program described in subparagraph (A); and

"(3) meet such other conditions and standards as the Secretary determines to be necessary to ensure compliance with this section and provide such technical assistance as may be necessary to carry out this section.

"(d) TEACHER TRAINING PROGRAMS.—The teacher training programs described in subsection (b) shall—

"(1) be conducted during the school year and during the summer months;

"(2) train teachers who teach grades kindergarten through college;

"(3) select teachers to become members of a National Teacher Training Project, which members shall conduct inservice workshops for other teachers in the area subject matter served by the National Teacher Training Project site;

"(4) use teacher training principles and receive technical assistance from the National Writing Project; and

"(5) encourage teachers from all disciplines to participate in such teacher training programs.

"(e) FEDERAL SHARE.—The term 'Federal share' means, with respect to the costs of teacher training programs described in subsection (b), 50 percent of such costs to the contractor.

"(f) APPLICATION.—Each eligible recipient desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(g) PARTICIPANTS AND SELECTION PROCESS.—The selection process for participation in a teacher training program described in subsection (b) shall—

"(1) reward exemplary teachers with varying levels of teaching experience who are nominated by other teachers and administrators;

"(2) involve an application process to select participants for a summer program;

"(3) ensure the selection of a geographically and ethnically diverse group of teachers by soliciting applications from teachers of both public and private institutions in rural, urban, and suburban settings in each State; and

"(4) automatically offer a place in a summer program to the 'Teacher of the Year' chosen pursuant to a Federal or State teacher recognition program.

"(h) LIMITATION.—A contractor entering into a contract under subsection (c)(1) shall not spend more than 5 percent of funds received under the contract for administrative costs.

"PART B—STATE AND LOCAL ACTIVITIES

"SEC. 2201. PROGRAM AUTHORIZED.

"The Secretary is authorized to make grants to State educational agencies for the improvement of teaching and learning through sustained and intensive high-quality professional

development activities in the core academic subjects at the State and local levels.

"SEC. 2202. ALLOCATION OF FUNDS.

"(a) Reservation of Funds.—From the amount available to carry out this part for any fiscal year, the Secretary shall reserve—

"(1) ½ of 1 percent for the outlying areas, to be distributed among the outlying areas on the basis of their relative need, as determined by the Secretary in accordance with the purposes of this part; and

"(2) ½ of 1 percent for the Secretary of the Interior for programs under this part for professional development activities for teachers, other staff, and administrators in schools operated or funded by the Bureau of Indian Affairs.

"(b) State Allocations.—The Secretary shall allocate the amount available to carry out this part and not reserved under subsection (a) to each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico as follows, except that no State shall receive less than ½ of 1 percent of such amount:

"(1) Fifty percent shall be allocated among such jurisdictions on the basis of their relative populations of individuals aged five through 17, as determined by the Secretary on the basis of the most recent satisfactory data.

"(2) Fifty percent shall be allocated among such jurisdictions in accordance with the relative amounts such jurisdictions received under part A of title I for the preceding fiscal year, or for fiscal year 1995 only, such part's predecessor authority.

"(c) Reallocation.—If any jurisdiction does not apply for an allotment under subsection (b) for any fiscal year, the Secretary shall reallocate such amount to the remaining jurisdictions in accordance with such subsection.

"SEC. 2203. WITHIN-STATE ALLOCATIONS.

"Of the amounts received by a State under this part for any fiscal year—

"(1) 84 percent shall be available for local allowable activities under section 2210(b), of which—

"(A) not more than 5 percent may be used for the administrative costs of the State educational agency and for State-level activities described in section 2207; and

"(B) of the remaining amount—

"(i) 50 percent shall be distributed to local educational agencies—

"(I) for use in accordance with section 2210; and

"(II) in accordance with the relative enrollments in public and private nonprofit elementary and secondary schools within the boundaries of such agencies; and

"(ii) 50 percent of such amount shall be distributed to local educational agencies—

"(I) for use in accordance with section 2210; and

"(II) in accordance with the relative amount such agencies received under part A of title I or for fiscal year 1995 for the preceding fiscal year, such part's predecessor authority; and

"(2) 16 percent shall be available to the State agency for higher education for activities under section 2211, of which not more than 5 percent may be used for the administrative costs of the State agency for higher education.

"SEC. 2204. CONSORTIUM REQUIREMENT.

"(a) In General.—A local educational agency receiving a grant under this part of less than $10,000 shall form a consortium with another local educational agency or an educational service agency serving another local educational agency to be eligible to participate in programs assisted under this part.

"(b) Waiver.—The State educational agency may waive the application of paragraph (1) in the case of any local educational agency that demonstrates that the amount of its allocation under this part is sufficient to provide a program of sufficient size, scope, and quality to be effective. In granting waivers under the preceding sentence, the State educational agency shall—

"(1) give special consideration to local educational agencies serving rural areas if distances or traveling time between schools make formation of the consortium more costly or less effective; and

"(2) consider cash or in-kind contributions provided from State or local sources that may be combined with the local educational agency's allocation for the purpose of providing services under this part.

"(c) Special Rule.—Each consortium shall rely, as much as possible, on technology or other arrangements to provide staff development programs tailored to the needs of each school or school district participating in a consortium described in subsection (a).

"SEC. 2205. STATE APPLICATIONS.

"(a) Applications Required.—Each State educational agency that wishes to receive an allotment under this part for any fiscal year shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

"(b) State Plan To Improve Teaching and Learning.—

"(1) In general.—Each application under this section shall include a State plan that is coordinated with the State's plan under other programs assisted under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, consistent with the provisions of section 14306.

"(2) Contents.—Each such State plan shall—

"(A) be developed in conjunction with the State agency for higher education, community-based and other nonprofit organizations of demonstrated effectiveness, institutions of higher education or schools of education, and with the extensive participation of local teachers, administrators and pupil services personnel and show the role of each such entity in implementation of the plan;

"(B) be designed to give teachers, and, where appropriate, administrators and pupil services personnel in the State, the knowledge and skills necessary to provide all students the opportunity to meet challenging State content standards and challenging State student performance standards;

"(C) include an assessment of State and local needs for professional development specifically related to subparagraph (B);

"(D) include a description of how the plan has assessed the needs of local educational agencies serving rural and urban areas, and what actions are planned to meet such needs;

"(E) include a description of how the activities assisted under this part will address the needs of teachers in schools receiving assistance under part A of title I;

"(F) a description of how programs in all core academic subjects, but especially in mathematics and science, will take into account the need for greater access to, and participation in, such disciplines by students from historically underrepresented groups, including females, minorities, individuals with limited English proficiency, the economically disadvantaged, and individuals with disabilities, by incorporating pedagogical strategies and techniques which meet such individuals' educational needs;

"(G) be consistent with the State's needs assessment under subparagraph (C), and describe how the State will work with teachers, including teachers in schools receiving assistance under part A of title I, administrators, parents, local educational agencies, schools, educational service agencies, institutions of higher education, and nonprofit organizations of demonstrated effectiveness, to ensure that such individuals develop the capacity to support sustained and intensive, high-quality professional development programs in the core academic subjects;

"(H) describe how the State requirements for licensure of teachers and administrators, including certification and recertification, support challenging State content standards and challenging State student performance standards and whether such requirements are aligned with such standards;

"(I) address the need for improving teaching and learning through teacher development beginning with recruitment, preservice, and induction, and continuing throughout the professional teaching career, taking into account the need, as determined by the State, for greater access to and participation in the teaching profession by individuals from historically underrepresented groups;

"(J) describe how the State will prepare all teachers to teach children with diverse learning needs, including children with disabilities;

"(K) describe how the State will prepare teachers, and, where appropriate, paraprofessionals, pupil services personnel, and other staff in the collaborative skills needed to appropriately teach children with disabilities, in the core academic subjects;

"(L) describe how the State will use technology, including the emerging national information infrastructure, to enhance the professional development of teachers, and, where appropriate, administrators and pupil services personnel;

"(M) describe how the State will provide incentives to teachers and administrators to focus their professional development on preparing such teachers and administrators to provide instruction consistent with challenging State content standards and challenging State student performance standards;

"(N) set specific performance indicators for professional development; and

"(O) describe how parents can be involved in professional development programs to enhance the participation of parents in the education of their children.

"(3) Duration of the plan.—Each such State plan shall—

"(A) remain in effect for the duration of the State's participation under this part; and

"(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

"(c) Additional Material.—Each State application shall include—

"(1) a description of how the activities assisted under this part will be coordinated, as appropriate, with—

"(A) other activities conducted with Federal funds, especially activities supported under part A of title I of this Act and the Individuals with Disabilities Education Act;

"(B) programs supported by State and local funds;

"(C) resources from business and industry, museums, libraries, educational television stations, and public and private nonprofit organizations of demonstrated experience; and

"(D) funds received from other Federal agencies, such as the National Science Foundation, the Departments of Commerce, Energy, and Health and Human Services, the National Endowment for the Arts, the Institute of Museum Services, and the National Endowment for the Humanities; and

"(2) a description of the activities to be sponsored under the State-level activities under section 2207 and the higher education activities under section 2211.

"(d) Peer Review and Secretarial Approval.—

"(1) In general.—The Secretary shall approve an application of a State educational

agency under this section if such application meets the requirements of this section and holds reasonable promise of achieving the purposes of this part.

"(2) REVIEW.—In reviewing applications under this section, the Secretary shall obtain the advice of non-Federal experts on education in the core academic subjects and on teacher education, including teachers and administrators.

"SEC. 2206. PRIORITY FOR PROFESSIONAL DEVELOPMENT IN MATHEMATICS AND SCIENCE.

"(a) APPROPRIATION OF LESS THAN $250,000,000.—In any fiscal year for which the amount appropriated for this title is less than $250,000,000, each State shall ensure that all funds distributed in accordance with section 2203(1)(C) are used for professional development in mathematics and science.

"(b) APPROPRIATION EQUAL TO OR ABOVE $250,000,000.—In any fiscal year for which the amount appropriated for this title is equal to or exceeds $250,000,000, each State and local educational agency shall use for professional development activities in mathematics and science the amount of funds that would have been made available to each such agency in accordance with sections 2202 and 2203 if the amount appropriated was $250,000,000, consistent with subsection (a), and are permitted and encouraged to use the amount of funds in excess of $250,000,000 that is made available in accordance with sections 2202 and 2203 for professional development activities in mathematics and science.

"SEC. 2207. STATE LEVEL ACTIVITIES.

"Each State may use funds made available under section 2203(1)(A) to carry out activities described in the plan under section 2205(b), such as—

"(1) reviewing and reforming State requirements for teacher and administrator licensure, including certification and recertification, to align such requirements with the State's challenging State content standards and ensure that teachers and administrators have the knowledge and skills necessary to help students meet challenging State student performance standards;

"(2) developing performance assessments and peer review procedures, as well as other methods, for licensing teachers and administrators;

"(3) providing technical assistance to schools and local educational agencies, especially schools and local educational agencies that receive assistance under part A of title I, to help such schools and agencies provide effective professional development in the core academic subjects;

"(4) developing or supporting professional development networks, either within a State or in a regional consortium of States, that provide a forum for interaction among teachers and that allow exchange of information on advances in content and pedagogy;

"(5) supporting partnerships between schools, consortia of schools, or local educational agencies and institutions of higher education, including schools of education, which encourage—

"(A) teachers to participate in intensive, ongoing professional development programs, both academic and pedagogical, at institutions of higher education; and

"(B) students at institutions of higher education studying to become teachers to have direct, practical experience at the schools;

"(6) providing professional development in the effective use of educational technology as an instructional tool for increasing student understanding of the core academic subjects, including efforts to train teachers in methods of achieving gender equity both in students' access to computers and other educational technology and in teaching practices used in the application of educational technology;

"(7) providing incentives for teachers to be involved in assessment, curriculum development, and technical assistance processes for teachers and students;

"(8) providing professional development to enable teachers, and, where appropriate, pupil services personnel, and other school staff, to ensure that girls and young women, minorities, limited English proficient students, individuals with disabilities, and economically disadvantaged students have the full opportunity to achieve to challenging State content standards and challenging State student performance standards in the core academic subjects by, for example, encouraging girls and young women and minorities to pursue advanced courses in mathematics and science;

"(9) professional development and recruitment activities designed to increase the numbers of minorities, individuals with disabilities, and women teaching in the core academic subjects in which such individuals are underrepresented;

"(10) providing financial or other incentives for teachers to become certified by nationally recognized professional teacher enhancement organizations;

"(11) providing professional development activities which prepare teachers, and where appropriate, pupil services personnel, paraprofessionals, and other staff in the collaborative skills needed to appropriately teach children with disabilities, in the core academic subjects;

"(12) identifying, developing, or supporting professional development strategies to better equip parents to assist their children in raising their children's achievement in the core academic subjects;

"(13) professional development activities designed to increase the number of women and other underrepresented groups in the administration of schools;

"SEC. 2208. LOCAL PLAN AND APPLICATION FOR IMPROVING TEACHING AND LEARNING.

"(a) LOCAL APPLICATION.—

"(1) IN GENERAL.—Each local educational agency that wishes to receive a subgrant under this part shall submit an application (singly or as a consortium as described in section 2204) to the State educational agency at such time as the State educational agency shall require, but not less frequently than every three years, that is coordinated with other programs under this Act, the Goals 2000: Educate America Act, or other Acts, as appropriate, consistent with the provisions of section 14306.

"(2) INDICATORS.—A local educational agency shall set specific performance indicators for improving teaching and learning through professional development.

"(b) NEEDS ASSESSMENT.—

"(1) IN GENERAL.—A local educational agency that wishes to receive a subgrant under this part shall include in its application an assessment of local needs for professional development as identified by the local educational agency and school staff.

"(2) REQUIREMENTS.—Such needs assessment shall be carried out with the involvement of teachers, including teachers in schools receiving assistance under part A of title I, and shall take into account what activities need to be conducted in order to give teachers and, where appropriate, administrators, the means, including the knowledge and skills, to provide students with the opportunity to meet challenging State or local student performance standards.

"(c) APPLICATION CONTENTS.—Each application under this section shall include the local educational agency's plan for professional development that—

"(1) focuses on teaching and learning in the core academic subjects; and

"(2) has been developed with the extensive participation of administrators, staff, and pupil services personnel, which teachers shall also be representative of the grade spans within schools to be served and of schools which receive assistance under part A of title I.

"(d) PLAN CONTENTS.—

"(1) IN GENERAL.—Based on the needs assessment required under subsection (b), the local educational agency's plan shall—

"(A) include a description of how the plan contributes to the local educational agency's overall efforts for school reform and educational improvement;

"(B) include a description of how the activities funded under this section will address the needs of teachers in schools receiving assistance under part A of title I;

"(C) be aligned with the State's challenging State content standards and challenging State student performance standards;

"(D) describe a strategy, tied to challenging State content standards and challenging State student performance standards, consistent with the needs assessment under subsection (b);

"(E) be of sufficient intensity and duration to have a positive and lasting impact on the student's performance in the classroom;

"(F) describe how programs in all core academic subjects, but especially in mathematics and science, will take into account the need for greater access to, and participation in, such disciplines by students from historically underrepresented groups, including girls and women, minorities, individuals with limited English proficiency, the economically disadvantaged, and individuals with disabilities, by incorporating pedagogical strategies and techniques which meet such individuals' educational need;

"(G) contain an assurance that the activities conducted with funds received under this part will be assessed at least every three years using the performance indicators;

"(H) describe how the program funded under this part will be coordinated, as appropriate, with—

"(i) activities conducted under section 2131 and other services of institutions of higher education;

"(ii) similar State and local activities;

"(iii) resources provided under part A of title I and other provisions of this Act;

"(iv) resources from business, industry, public and private nonprofit organizations (including museums, libraries, educational television stations, community-based organizations, professional organizations and associations specializing in, or with a demonstrated expertise in the core academic subjects);

"(v) funds or programming from other Federal agencies, such as the National Science Foundation, the Department of Energy, the Department of Health and Human Services, the Institute of Museum Services, the National Endowment for the Humanities, and the National Endowment for the Arts;

"(vi) services of educational service agencies; and

"(vii) resources provided under the Individuals with Disabilities Education Act;

"(I) identify the sources of funding that will provide the local educational agency's contribution under section 2209; and

"(J) describe the professional development strategies to be employed to more fully and effectively involve parents in the education of their children.

"(2) DURATION OF THE PLAN.—Each local plan described in subsection (b)(1) shall—

"(A) remain in effect for the duration of the local educational agency's participation under this part; and

"(B) be periodically reviewed and revised by the local educational agency, as necessary, to

reflect changes in the local educational agency's strategies and programs under this part.

“SEC. 2209. LOCAL COST-SHARING.

“(a) IN GENERAL.—Each local educational agency shall provide not less than 33 percent of the cost of the activities assisted under this part, excluding the cost of services provided to private school teachers.

“(b) AVAILABLE RESOURCES FOR COST-SHARING.—

“(1) IN GENERAL.—A local educational agency may meet the requirement of subsection (a) through one or more of the following:

“(A) Cash expenditures from non-Federal sources, including private contributions, directed toward professional development activities.

“(B) Release time for teachers participating in professional development assisted under this part.

“(C) Funds received under one or more of the following programs, so long as such funds are used for professional development activities consistent with this part and the statutes under which such funds were received, and are used to benefit students and teachers in schools that otherwise would have been served with such funds:

“(i) helping disadvantaged children meet high standards under part A of title I.

“(ii) The Safe and Drug-Free Schools and Communities program under title IV.

“(iii) Bilingual Education Programs under part A of title VII.

“(iv) Programs under the Women's Educational Equity Act of 1994.

“(v) Programs under title III of the Goals 2000: Educate America Act.

“(vi) Programs that are related to the purposes of this Act that are administered by other Federal agencies, including the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, the Institute of Museum Services, and the Department of Energy.

“(vii) Programs under the Individuals with Disabilities Education Act.

“(2) SPECIAL RULE.—A local educational agency may meet the requirement of subsection (a) through contributions described in paragraph (1) that are provided in cash or in kind, fairly evaluated.

“(c) WAIVER.—The State educational agency may approve an application which has not fully met the requirements of subsection (a) and waive the requirements of subsection (a) if a local educational agency can demonstrate that such agency is unable to meet the requirements of subsection (a) due to economic hardship and that compliance with such requirements would preclude such agency's participation in the program.

“SEC. 2210. LOCAL ALLOCATION OF FUNDS AND ALLOWABLE ACTIVITIES.

“(a) LOCAL ALLOCATION OF FUNDS.—Each local educational agency that receives funds under this part for any fiscal year—

“(1) shall use not less than 80 percent of such funds for professional development of teachers, and, where appropriate, administrators, and, where appropriate, pupil services personnel, parents, and other staff of individual schools in a manner that—

“(A) is determined by such teachers and staff;

“(B) to the extent practicable, takes place at the individual school site; and

“(C) is consistent with the local educational agency's application under section 2208, any school plan under part A of title I, and any other plan for professional development carried out with Federal, State, or local funds that emphasizes sustained, ongoing activities; and

“(2) may use not more than 20 percent of such funds for school district-level professional development activities, including, where appropriate, the participation of administrators, policymakers, and parents, if such activities directly support instructional personnel.

“(b) AUTHORIZED ACTIVITIES.—

“(1) IN GENERAL.—Each local educational agency and school that receives funds under this part shall use such funds for activities that give teachers and administrators the knowledge and skills to provide students with the opportunity to meet challenging State or local content standards and student performance standards.

“(2) PROFESSIONAL DEVELOPMENT ACTIVITIES.—Professional development activities funded under this part shall—

“(A) be tied to challenging State content standards or challenging local content standards, and challenging State student performance standards or challenging local student performance standards;

“(B) take into account recent research on teaching and learning;

“(C) provide professional development which incorporates effective strategies, techniques, methods, and practices for meeting the educational needs of diverse groups of students, including girls and women, minorities, individuals with disabilities, limited English proficient individuals, and economically disadvantaged individuals;

“(D) include strong academic content and pedagogical components; and

“(E) be of sufficient intensity and duration to have a positive and lasting impact on the teacher's performance in the classroom.

“(3) ACTIVITIES.—Funds under this part may be used for professional development activities such as—

“(A) professional development for teams of teachers, and, where appropriate, administrators, pupil services personnel, or other staff from individual schools, to support teaching consistent with challenging State content standards and challenging State student performance standards;

“(B) support and time, which in the case of teachers may include release time with pay, for teachers, and, where appropriate, pupil services personnel and other school staff to enable such teachers, personnel, and staff to participate in professional development in the core academic subjects that are offered through professional associations, universities, community-based organizations, and other providers, such as educational partnership organizations, science centers, and museums;

“(C) activities that provide followup for teachers who have participated in professional development activities that are designed to ensure that the knowledge and skills learned by the teacher are implemented in the classroom;

“(D) support for partnerships between schools, consortia of schools, or local educational agencies, and institutions of higher education, including schools of education, which partnerships shall encourage—

“(i) teachers to participate in intensive, ongoing professional development programs, both academic and pedagogical, at institutions of higher education; and

“(ii) students at institutions of higher education studying to become teachers to have direct, practical experience at schools;

“(E) the establishment and maintenance of local professional networks that provide a forum for interaction among teachers and that allow exchange of information on advances in content and pedagogy;

“(F) preparing teachers in the effective use of educational technology and assistive technology as instructional tools for increasing student understanding of the core academic subjects;

“(G) professional development to enable teachers, and, where appropriate, pupil services personnel and other school staff, to ensure that girls and young women, minorities, limited English proficient students, individuals with disabilities, and the economically disadvantaged have full opportunity to achieve the challenging State content standards and challenging State student performance standards in the core academic subjects;

“(H) professional development and recruitment activities designed—

“(i) to increase the number of minorities, individuals with disabilities, and females teaching in the core academic subjects in which such individuals are underrepresented; and

“(ii) to increase the numbers of women and members of other underrepresented groups who are science and mathematics teachers, through such programs as career ladder programs that assist educational paraprofessionals to obtain teaching credentials in the core academic subjects;

“(I) providing financial or other incentives for teachers to become certified by nationally recognized professional teacher enhancement programs;

“(J) support and time for teachers, and, where appropriate, pupil services personnel, and other school staff to learn and implement effective collaboration for the instruction of children with disabilities in the core academic subject areas;

“(K) preparing teachers, and, where appropriate, pupil services personnel to work with parents and families on fostering student achievement in the core academic subjects;

“(L) professional development activities and other support for new teachers as such teachers move into the classroom to provide such teachers with practical support and to increase the retention of such teachers;

“(M) professional development for teachers, parents, early childhood educators, administrators, and other staff to support activities and services related to preschool transition programs to raise student performance in the core academic subjects;

“(N) professional development activities to train teachers in innovative instructional methodologies designed to meet the diverse learning needs of individual students, including methodologies which integrate academic and vocational learning and applied learning, interactive and interdisciplinary team teaching, and other alternative teaching strategies such as service learning, experiential learning, career-related education, and environmental education, that integrate real world applications into the core academic subjects;

“(O) developing professional development strategies and programs to more effectively involve parents in helping their children achieve in the core academic subjects;

“(P) professional development activities designed to increase the number of women and other underrepresented groups in the administration of schools; and

“(Q) release time with pay for teachers.

“SEC. 2211. HIGHER EDUCATION ACTIVITIES.

“(a) ACTIVITIES.—

“(1) IN GENERAL.—From amounts made available under section 2203(2), the State agency for higher education, working in conjunction with the State educational agency (if such agencies are separate), shall make grants to, or enter into contracts or cooperative agreements with, institutions of higher education and nonprofit organizations of demonstrated effectiveness, including museums and educational partnership organizations, which must work in conjunction with a local educational agency, consortium of local educational agencies, or schools, for—

“(A) professional development activities in the core academic subjects that contribute to the State plan for professional development;

“(B) developing and providing assistance to local educational agencies, and the teachers and

staff of each such agency, for sustained, high-quality professional development activities; and

"(C) improving teacher education programs in order to promote further innovation in teacher education programs within an institution of higher education and to better meet the needs of the local educational agencies for well-prepared teachers.

"(2) COMPETITIVE BASIS.—Each grant, contract, or cooperative agreement described in paragraph (1) shall be awarded on a competitive basis.

"(3) SPECIAL RULE.—No institution of higher education may receive assistance under (a)(1) of this subsection unless the institution enters into an agreement with a local educational agency, or consortium of such agencies, to provide sustained, high-quality professional development for the elementary and secondary school teachers in the schools of each such agency.

"(4) JOINT EFFORTS.—Each activity assisted under this section, where applicable, shall involve the joint effort of the institution of higher education's school or department of education, if any, and the schools or departments in the specific disciplines in which such professional development will be provided.

"(b) ALLOWABLE ACTIVITIES.—A recipient of funds under this section shall use such funds for—

"(1) sustained and intensive high-quality professional development for teams of teachers, or teachers, and, where appropriate, pupil services personnel and administrators from individual schools or school districts;

"(2) other sustained and intensive professional development activities related to achievement of the State plan for professional development; and

"(3) preservice training activities.

"(c) PARTNERSHIPS.—Each institution of higher education receiving a grant under this section may also enter into a partnership with a private industry, museum, library, educational television station, or public or private nonprofit organization of demonstrated experience to carry out professional development activities assisted under this section.

"PART C—PROFESSIONAL DEVELOPMENT DEMONSTRATION PROJECT

"SEC. 2301. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds that—

"(1) underlying the standards-driven framework of the Goals 2000: Educate America Act and the high academic standards for eligible students under title I is a widespread need to prepare teachers to teach to higher standards;

"(2) prospective and current teachers need knowledge and skills beyond what such teachers currently possess;

"(3) while both the Goals 2000: Educate America Act and titles I and II of this Act have extensive references to professional development of teachers, there are no provisions to incorporate 'on-the-ground' planning and implementation to serve as models for local educational agencies across the Nation; and

"(4) better prepared teachers can lead to improved student achievement, especially for students who are furthest from reaching high standards.

"(b) PURPOSE.—It is the purpose of this part—

"(1) to address the need for professional development with a primary focus on teachers;

"(2) to provide both prospective teachers and current teachers opportunities to learn both the content and the pedagogy needed to teach to high standards; and

"(3) to build models, in a few cities and States, that demonstrate new organizational arrangements and deep investments in teachers necessary to better prepare teachers for new standards and assessments.

"SEC. 2302. DEMONSTRATION PROGRAM AUTHORIZED.

"(a) GENERAL AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall carry out a demonstration project under which the Secretary awards grants in accordance with this part to eligible partnerships to enable such partnerships to plan and implement professional development programs.

"(2) PROGRAM REQUIREMENTS.—The programs described in paragraph (1)—

"(A) shall focus on increasing teachers' knowledge and understanding of content by providing teachers opportunities to improve their knowledge and to improve their classroom practice in order to help students meet high academic standards;

"(B) shall include teachers at all career stages, from student teachers or interns through senior team leaders or department chairs; and

"(C) may incorporate professional development for principals, pupil services personnel, aides, other school-based staff, and parents.

"(b) ELIGIBLE PARTNERSHIPS.—For the purpose of this part, the term 'eligible partnership' means a partnership consisting of—

"(1) a local educational agency, a subunit of such agency, or a consortium of such agencies, in which not less than 50 percent of the schools served by such agency, subunit, or consortium are eligible to participate in schoolwide programs under section 1114; or

"(2) other partners that—

"(A) shall include, at a minimum, a teachers' union (if appropriate), one or more institutions of higher education which may include faculty from schools of education and faculty from schools of arts and sciences, and a local parent or community council; and

"(B) may include a business partner or a nonprofit organization with a demonstrated record in staff development.

"SEC. 2303. GRANTS.

"(a) AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall award grants for planning, and grants for the implementation of, professional development programs under this part.

"(2) DISTRIBUTION.—The Secretary shall award not less than 75 percent of the funds available for grants under this part to eligible partnerships serving the schools with the greatest number of poor students. To the extent possible, such grants shall be awarded to eligible partnerships serving both rural and urban school districts and in a manner that reflects geographic and racial diversity.

"(3) NUMBER OF GRANTS.—In the first year that the Secretary awards grants under this part, the Secretary shall award at least twice as many planning grants as implementation grants in order to receive well-developed plans for long-term funding under this part.

"(b) GRANT REQUIREMENTS.—

"(1) DURATION.—The Secretary shall award—

"(A) planning grants under this part for a period of not less than six months and not more than nine months; and

"(B) implementation grants under this part for a period of four fiscal years.

"(2) AMOUNT.—The Secretary shall award grants under this part in an amount determined on the basis of the size of the program and the level of investment the eligible partnership is making in teacher development in the area served by the eligible partnership, including local, State, and Federal funds and existing higher education resources, except that no grant under this part shall exceed $500,000 in any one fiscal year.

"SEC. 2304. PLAN.

"Each eligible partnership desiring assistance under this part shall develop a plan for the program to be assisted under this part. Such plan shall—

"(1) identify clearly how such plan will support an overall systemic reform strategy giving special attention to the role of teacher preparation for new standards and assessment;

"(2) describe the eligible partnership's instructional objectives and how the professional development activities will support such objectives;

"(3) specify the organizational arrangements and delivery strategies to be used, such as teacher centers, professional development schools, teacher networks, and academic alliances, as well as the curriculum for teachers;

"(4) specify the commitments the local educational agencies, teacher's union, institutions of higher education, or any other entity participating in such partnership are prepared to make, not only to support program activities such as release time, contractual flexibility, support for interns or student teachers if applicable, but also to sustain the central aspects of the plan after the expiration of the grant; and

"(5) describe how the activities described under this part will lead to districtwide policy and budget changes.

"SEC. 2305. TECHNICAL ASSISTANCE.

"The Secretary is authorized to enter into an arrangement with an intermediary organization to enable such organization to provide technical assistance to eligible partnerships receiving assistance under this part.

"SEC. 2306. MATCHING FUNDS.

"The Secretary shall give special priority to awarding grants under this part to eligible partnerships that demonstrate such partnership's ability to raise matching funds from private sources.

"PART D—GENERAL PROVISIONS

"SEC. 2401. REPORTING AND ACCOUNTABILITY.

"(a) STATES.—Each State that receives funds under this part shall submit a report to the Secretary every three years, beginning with fiscal year 1997, on the State's progress toward the performance indicators identified in such State's plan, as well as on the effectiveness of State and local activities assisted under this part.

"(b) LOCAL EDUCATIONAL AGENCIES.—Each local educational agency that receives funds under this part shall submit a report to the State every three years, beginning with fiscal year 1997, regarding the progress of such agency toward performance indicators identified in such agency's local plan, as well as on the effectiveness of such agency's activities under this part.

"(c) FEDERAL EVALUATION.—The Secretary shall report to the President and the Congress on the effectiveness of programs and activities assisted under this part in accordance with section 14701.

"(d) PROHIBITION ON FUNDS BEING USED FOR CONSTRUCTION OR RENOVATION.—Funds received under this part shall not be used for construction or renovation of buildings, rooms, or any other facilities.

"SEC. 2402. DEFINITIONS.

"As used in this part—

"(1) the term 'core academic subjects' means those subjects listed in the State plan under title III of the Goals 2000: Educate America Act or under the third National Education Goal as set forth in section 102(3) of such Act;

"(2) the term 'performance indicators' means measures of specific outcomes that the State or local educational agency identifies as assessing progress toward the goal of ensuring that all teachers have the knowledge and skills necessary to assist their students to meet challenging State content standards and challenging State student performance standards in the core academic subjects, such as—

"(A) the degree to which licensure requirements are tied to challenging State content standards and challenging State student performance standards;

"(B) specific increases in the number of elementary and secondary teachers with strong

content backgrounds in the core academic subjects;

"(C) incorporating effective strategies, techniques, methods, and practices for meeting the educational needs of diverse students, including females, minorities, individuals with disabilities, limited English proficient individuals, and economically disadvantaged individuals, in order to ensure that all students have the opportunity to achieve challenging student performance standards;

"(D) specific increases in the number of teachers who are certified by the National Board for Professional Teaching Standards or other nationally recognized professional teacher enhancement organizations; and

"(E) specific increases in the number of teachers licensed in each core academic subject;

"(3) the term 'sustained and intensive high-quality professional development' means professional development activities that—

"(A) are tied to challenging State content standards, challenging State student performance standards, voluntary national content standards or voluntary national student performance standards;

"(B) reflect up-to-date research in teaching and learning and include integrated content and pedagogical components appropriate for students with diverse learning needs;

"(C) incorporate effective strategies, techniques, methods, and practices for meeting the educational needs of diverse students, including females, minorities, individuals with disabilities, limited English proficient individuals, and economically disadvantaged individuals, in order to ensure that all students have the opportunity to achieve challenging student performance standards;

"(D) are of sufficient intensity and duration to have a positive and lasting impact on the teacher's performance in the classroom or the administrator's performance on the job; and

"(E) recognize teachers as an important source of knowledge that should inform and help shape professional development; and

"(4) the term 'local', when used with respect to standards, means challenging content and student performance standards in the core academic subjects (in addition to challenging State content and student performance standards approved by the State for title I).

"TITLE III—TECHNOLOGY FOR EDUCATION

"SEC. 3101. SHORT TITLE.

"This title may be cited as the 'Technology for Education Act of 1994'.

"PART A—TECHNOLOGY FOR EDUCATION OF ALL STUDENTS

"SEC. 3111. FINDINGS.

"The Congress finds that—

"(1) technology can produce far greater opportunities for all students to learn to high standards, promote efficiency and effectiveness in education, and help propel our Nation's school systems into very immediate and dramatic reform, without which our Nation will not meet the National Education Goals by the target year 2000;

"(2) the use of technology as a tool in the teaching and learning process is essential to the development and maintenance of a technologically literate citizenry and an internationally competitive workforce;

"(3) the acquisition and use of technology in education throughout the United States has been inhibited by—

"(A) the absence of Federal leadership;

"(B) the inability of many State and local educational agencies to invest in and support needed technologies;

"(C) the limited exposure of students and teachers to the power of technology as a cost-effective tool to improve student learning and achievement;

"(D) the lack of appropriate electrical and telephone connections in the classroom; and

"(E) the limited availability of appropriate technology-enhanced curriculum, instruction, professional development, and administrative support resources and services in the educational marketplace;

"(4) policies at the Federal, State, and local levels concerning technology in education must address disparities in the availability of technology to different groups of students, give priority to serving students in greatest need, and recognize that educational telecommunications and technology can address educational equalization concerns and school restructuring needs by providing universal access to high-quality teaching and programs, particularly in urban and rural areas;

"(5) the increasing use of new technologies and telecommunications systems in business has increased the gap between schooling and work force preparation, and underscores the need for technology policies at the Federal, State, tribal, and local levels that address preparation for school-to-work transitions;

"(6) technology can enhance the ongoing professional development of teachers and administrators by providing constant access to updated research in teaching and learning by means of telecommunications, and, through exposure to technology advancements, keep teachers and administrators excited and knowledgeable about unfolding opportunities for the classroom;

"(7) planned and creative uses of technology, combined with teachers adequately trained in the use of technology, can reshape our Nation's traditional method of providing education and empower teachers to create an environment in which students are challenged through rigorous, rich classroom instruction provided at a pace suited to each student's learning style, and in which students have increased opportunities to develop higher order thinking and technical skills;

"(8) schools need new ways of financing the acquisition and maintenance of educational technology;

"(9) the needs for educational technology differ from State to State;

"(10) technology can provide students, parents, teachers, other education professionals, communities, and industry with increased opportunities for partnerships and with increased access to information, instruction, and educational services in schools and other settings, including homes, libraries, preschool and childcare facilities, adult and family education programs, and postsecondary institutions;

"(11) the Department, consistent with the overall national technology policy established by the President, must assume a vital leadership and coordinating role in developing the national vision and strategy to infuse advanced technology throughout all educational programs;

"(12) Federal support can ease the burden at the State and local levels by enabling the acquisition of advanced technology and initiating the development of teacher training and support as well as new educational products;

"(13) leadership at the Federal level should consider guidelines to ensure that educational technology is accessible to all users with maximum interoperability nationwide;

"(14) the rapidly changing nature of technology requires coordination and flexibility in Federal leadership; and

"(15) technology has the potential to assist and support the improvement of teaching and learning in schools and other settings.

"SEC. 3112. STATEMENT OF PURPOSE.

"The purpose of this part is to support a comprehensive system for the acquisition and use by elementary and secondary schools in the United States of technology and technology-enhanced curricula, instruction, and administrative support resources and services to improve the delivery of educational services. Such system shall include—

"(1) national leadership with respect to the need for, and the provision of, appropriate technology-enhanced curriculum, instruction, and administrative programs to improve learning in the United States, and to promote equal access for all students to educational opportunities in order to achieve the National Education Goals by the year 2000;

"(2) funding mechanisms which will support the development, interconnection, implementation, improvement, and maintenance of an effective educational technology infrastructure, including activities undertaken by State and local educational agencies to promote and provide equipment, training for teachers and school library and media personnel, and technical support;

"(3) support for technical assistance, professional development, information and resource dissemination, in order to help States, local educational agencies, teachers, school library and media personnel, and administrators successfully integrate technology into kindergarten through 12th grade classrooms and library media centers;

"(4) support for the development of educational and instructional programming in core subject areas, which shall address the National Education Goals;

"(5) strengthening and building upon, but not duplicating, existing telecommunications infrastructures dedicated to educational purposes;

"(6) development and evaluation of new and emerging educational technologies, telecommunications networks, and state-of-the-art educational technology products that promote the use of advanced technologies in the classroom and school library media center;

"(7) assessment data regarding state-of-the-art uses of technologies in United States education upon which commercial and noncommercial telecommunications entities, and governments can rely for decisionmaking about the need for, and provision of, appropriate technologies for education in the United States;

"(8) ensuring that uses of educational technology are consistent with the overall national technology policy established by the President, and ensuring that Federal technology-related policies and programs will facilitate the use of technology in education;

"(9) ensuring that activities supported under this part will form the basis for sound State and local decisions about investing in, sustaining, and expanding uses of technology in education;

"(10) establishing working guidelines to ensure maximum interoperability nationwide and ease of access for the emerging technologies so that no school system will be excluded from the technological revolution;

"(11) ensuring that, as technological advances are made, the educational uses of these advances are considered and their applications are developed; and

"(12) encouragement of collaborative relationships among the State agency for higher education, the State library administrative agency, the State telecommunications agency, and the State educational agency, in the area of technology support to strengthen the system of education.

"SEC. 3113. DEFINITIONS.

"For purposes of this title—

"(1) the term 'adult education' has the same meaning given such term by section 312 of the Adult Education Act;

"(2) the term 'all students' means students from a broad range of backgrounds and circumstances, including disadvantaged students,

students with diverse racial, ethnic, and cultural backgrounds, students with disabilities, students with limited English proficiency, students who have dropped out of school, and academically talented students;

“(3) the term ‘information infrastructure’ means a network of communication systems designed to exchange information among all citizens and residents of the United States;

“(4) the term ‘instructional programming’ means the full range of audio and video data, text, graphics, or additional state-of-the-art communications, including multimedia based resources distributed through interactive, command and control, or passive methods for the purpose of education and instruction;

“(5) the terms ‘interoperable’ and ‘interoperability’ mean the ability to exchange easily data with, and connect to, other hardware and software in order to provide the greatest accessibility for all students and other users;

“(6) the term ‘Office’ means the Office of Educational Technology;

“(7) the term ‘public telecommunications entity’ has the same meaning given to such term by section 397(12) of the Communications Act of 1934;

“(8) the term ‘regional educational laboratory’ means a regional educational laboratory supported under section 941(h) of the Educational, Research, Development, Dissemination, and Improvement Act of 1994;

“(9) the term ‘State educational agency’ includes the Bureau of Indian Affairs for purposes of serving schools funded by the Bureau of Indian Affairs in accordance with this part;

“(10) the term ‘State library administrative agency’ has the same meaning given to such term in section 3 of the Library Services and Construction Act; and

“(11) the term ‘technology’ means state-of-the-art technology products and services, such as closed circuit television systems, educational television and radio programs and services, cable television, satellite, copper and fiber optic transmission, computer hardware and software, video and audio laser and CD-ROM discs, and video and audio tapes.

“SEC. 3114. AUTHORIZATION OF APPROPRIATIONS; FUNDING RULE.

“(a) AUTHORIZATION OF APPROPRIATIONS.—

“(1) SUBPARTS 1, 2, AND 3.—There are authorized to be appropriated $200,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years to carry out subparts 1, 2, and 3, of which—

“(A)(i) $3,000,000 shall be available to carry out subpart 1 (National Programs for Technology in Education) for any such year for which the amount appropriated under this subsection is less than $75,000,000; and

“(ii) $5,000,000 shall be available to carry out subpart 1 for any such year for which the amount appropriated under this subsection is equal to or greater than $75,000,000;

“(B) $10,000,000 shall be available to carry out subpart 3 (Regional Technical Support and Professional Development) for each such year; and

“(C) the remainder shall be available to carry out subpart 2 (State and Local Programs for School Technology Resources) for each such year.

“(2) SUBPART 4.—For the purpose of carrying out subpart 4, there are authorized to be appropriated $50,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

“(b) FUNDING RULE.—

“(1) APPROPRIATIONS OF LESS THAN $75,000,000.—For any fiscal year for which the amount appropriated under subsection (a)(1) is less than $75,000,000, from the remainder of funds made available under subsection (a)(1)(C) the Secretary shall award grants for the National Challenge Grants in accordance with section 3136.

“(2) APPROPRIATIONS EQUAL TO OR GREATER THAN $75,000,000.—For any fiscal year for which the amount appropriated under subsection (a)(1) is equal to or greater than $75,000,000, from the remainder of funds made available under subsection (a)(1)(C) the Secretary shall award grants to State educational agencies from allotments under section 3131, except that the Secretary may reserve, from such remainder, such funds as the Secretary determines necessary to meet outstanding obligations for such fiscal year to continue the National Challenge Grants for Technology awarded under section 3136.

“SEC. 3115. LIMITATION ON COSTS.

“Not more than 5 percent of the funds under this part that are made available to a recipient of funds under this part for any fiscal year may be used by such recipient for administrative costs or technical assistance.

“Subpart 1—National Programs for Technology in Education

“SEC. 3121. NATIONAL LONG-RANGE TECHNOLOGY PLAN.

“(a) IN GENERAL.—The Secretary shall develop and publish not later than 12 months after the date of the enactment of the Improving America's Schools Act of 1994, and update when the Secretary determines appropriate, a national long-range plan that supports the overall national technology policy and carries out the purposes of this part.

“(b) PLAN REQUIREMENTS.—The Secretary shall—

“(1) develop the national long-range plan in consultation with other Federal departments or agencies, State and local education practitioners and policymakers, experts in technology and the applications of technology to education, representatives of distance learning consortia, representatives of telecommunications partnerships receiving assistance under the Star Schools Act, and providers of technology services and products;

“(2) transmit such plan to the President and to the appropriate committees of the Congress; and

“(3) publish such plan in a form that is readily accessible to the public.

“(c) CONTENTS OF THE PLAN.—The national long-range plan shall describe the Secretary's activities to promote the purposes of this title, including—

“(1) how the Secretary will encourage the effective use of technology to provide all students the opportunity to achieve State content standards and State student performance standards, especially through programs administered by the Department;

“(2) joint activities in support of the overall national technology policy with other Federal departments or agencies, such as the Office of Science and Technology Policy, the National Endowment for the Humanities, the National Endowment for the Arts, the National Institute for Literacy, the National Aeronautics and Space Administration, the National Science Foundation, the Bureau of Indian Affairs, and the Departments of Commerce, Energy, Health and Human Services, and Labor—

“(A) to promote the use of technology in education, training, and lifelong learning, including plans for the educational uses of a national information infrastructure; and

“(B) to ensure that the policies and programs of such departments or agencies facilitate the use of technology for educational purposes, to the extent feasible;

“(3) how the Secretary will work with educators, State and local educational agencies, and appropriate representatives of the private sector to facilitate the effective use of technology in education;

“(4) how the Secretary will promote—

“(A) higher achievement of all students through the integration of technology into the curriculum;

“(B) increased access to the benefits of technology for teaching and learning for schools with a high number or percentage of children from low-income families;

“(C) the use of technology to assist in the implementation of State systemic reform strategies;

“(D) the application of technological advances to use in education;

“(E) increased access to high quality adult and family education services through the use of technology for instruction and professional development; and

“(F) increased opportunities for the professional development of teachers in the use of new technologies;

“(5) how the Secretary will determine, in consultation with appropriate individuals, organizations, industries, and agencies, the feasibility and desirability of establishing guidelines to facilitate an easy exchange of data and effective use of technology in education;

“(6) how the Secretary will promote the exchange of information among States, local educational agencies, schools, consortia, and other entities concerning the effective use of technology in education;

“(7) how the Secretary will utilize the outcomes of the evaluation undertaken pursuant to section 3123 to promote the purposes of this part; and

“(8) the Secretary's long-range measurable goals and objectives relating to the purposes of this part.

“SEC. 3122. FEDERAL LEADERSHIP.

“(a) PROGRAM AUTHORIZED.—In order to provide Federal leadership in promoting the use of technology in education, the Secretary, in consultation with the National Science Foundation, the Department of Commerce, the United States National Commission on Libraries and Information Sciences, and other appropriate Federal agencies, may carry out activities designed to achieve the purposes of this part directly or by awarding grants or contracts competitively and pursuant to a peer review process to, or entering into contracts with, State educational agencies, local educational agencies, institutions of higher education, or other public and private nonprofit or for-profit agencies and organizations.

“(b) ASSISTANCE.—

“(1) IN GENERAL.—The Secretary shall provide assistance to the States to enable such States to plan effectively for the use of technology in all schools throughout the State in accordance with the purpose and requirements of section 317 of the Goals 2000: Educate America Act.

“(2) OTHER FEDERAL AGENCIES.—For the purpose of carrying out coordinated or joint activities consistent with the purposes of this part, the Secretary may accept funds from, and transfer funds to, other Federal agencies.

“(c) USES OF FUNDS.—The Secretary shall use funds made available to carry out this section for activities designed to carry out the purpose of this part, such as—

“(1) providing assistance to technical assistance providers to enable such providers to improve substantially the services such providers offer to educators regarding the uses of technology for education, including professional development;

“(2) providing development grants to technical assistance providers, to enable such providers to improve substantially the services such providers offer to educators on the educational uses of technology, including professional development;

“(3) consulting with representatives of industry, elementary and secondary education, higher education, adult and family education, and appropriate experts in technology and educational applications of technology in carrying out activities under this subpart;

"(4) research on, and the development of, guidelines to facilitate maximum interoperability, efficiency and easy exchange of data for effective use of technology in education;

"(5) research on, and the development of, applications for education of the most advanced and newly emerging technologies which research shall be coordinated, when appropriate, with the Office of Educational Research and Improvement, and other Federal agencies;

"(6) the development, demonstration, and evaluation of the educational aspects of high performance computing and communications technologies and of the national information infrastructure, in providing professional development for teachers, school librarians, and other educators; enriching academic curricula for elementary and secondary schools; facilitating communications among schools, local educational agencies, libraries, parents, and local communities and in other such areas as the Secretary deems appropriate;

"(7) the development, demonstration, and evaluation of applications of existing technology in preschool education, elementary and secondary education, training and lifelong learning, and professional development of educational personnel;

"(8) the development and evaluation of software and other products, including multimedia television programming, that incorporate advances in technology and help achieve the National Education Goals, State content standards and State student performance standards;

"(9) the development, demonstration, and evaluation of model strategies for preparing teachers and other personnel to use technology effectively to improve teaching and learning;

"(10) the development of model programs that demonstrate the educational effectiveness of technology in urban and rural areas and economically distressed communities;

"(11) research on, and the evaluation of, the effectiveness and benefits of technology in education;

"(12) a biennial assessment of, and report to the public regarding, the uses of technology in elementary and secondary education throughout the United States upon which private businesses and Federal, State, tribal, and local governments may rely for decisionmaking about the need for, and provision of, appropriate technologies in schools, which assessment and report shall use, to the extent possible, existing information and resources;

"(13) conferences on, and dissemination of information regarding, the uses of technology in education;

"(14) the development of model strategies to promote gender equity concerning access to, and the use of, technology in the classroom;

"(15) encouraging collaboration between the Department and other Federal agencies in the development, implementation, evaluation and funding of applications of technology for education, as appropriate; and

"(16) such other activities as the Secretary determines will meet the purposes of this subpart.

"(d) NON-FEDERAL SHARE.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary may require any recipient of a grant or contract under this section to share in the cost of the activities assisted under such grant or contract, which non-Federal share shall be announced through a notice in the Federal Register and may be in the form of cash or in-kind contributions, fairly valued.

"(2) INCREASE.—The Secretary may increase the non-Federal share that is required of a recipient of a grant or contract under this section after the first year such recipient receives funds under such grant or contract.

"(3) MAXIMUM.—The non-Federal share required under this section shall not exceed 50 percent of the cost of the activities assisted pursuant to a grant or contract under this section.

"SEC. 3123. STUDY, EVALUATION AND REPORT OF FUNDING ALTERNATIVES.

"The Secretary, through the Office of Educational Technology, shall conduct a study to evaluate, and report to the Congress on, the feasibility of several alternative models for providing sustained and adequate funding for schools throughout the United States so that such schools are able to acquire and maintain technology-enhanced curriculum, instruction, and administrative support resources and services. Such report shall be submitted to the Congress not later than one year after the date of enactment of the Improving America's Schools Act of 1994.

"Subpart 2—State and Local Programs for School Technology Resources

"SEC. 3131. ALLOTMENT AND REALLOTMENT.

"(a) ALLOTMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), each State educational agency shall be eligible to receive a grant under this subpart for a fiscal year in an amount which bears the same relationship to the amount made available under section 3114(a)(1)(C) for such year as the amount such State received under part A of title I for such year bears to the amount received for such year under such part by all States.

"(2) MINIMUM.—No State educational agency shall be eligible to receive a grant under paragraph (1) in any fiscal year in an amount which is less than one-half of one percent of the amount made available under section 3115(a)(1)(C) for such year.

"(b) REALLOTMENT OF UNUSED FUNDS.—

"(1) IN GENERAL.—The amount of any State educational agency's allotment under subsection (a) for any fiscal year which the Secretary determines will not be required for such fiscal year to carry out this subpart shall be available for reallotment from time to time, on such dates during such year as the Secretary may determine, to other State educational agencies in proportion to the original allotments to such State educational agencies under subsection (a) for such year, but with such proportionate amount for any of such other State educational agencies being reduced to the extent such amount exceeds the sum the Secretary estimates such State needs and will be able to use for such year.

"(2) OTHER REALLOTMENTS.—The total of reductions under paragraph (1) shall be similarly reallotted among the State educational agencies whose proportionate amounts were not so reduced. Any amounts reallotted to a State educational agency under this subsection during a year shall be deemed a subpart of such agencies allotment under subsection (a) for such year.

"SEC. 3132. SCHOOL TECHNOLOGY RESOURCE GRANTS.

"(a) GRANTS TO STATES.—

"(1) IN GENERAL.—From amounts made available under section 3131, the Secretary, through the Office of Educational Technology, shall award grants to State educational agencies having applications approved under section 3133.

"(2) USE OF GRANTS.—(A) Each State educational agency receiving a grant under paragraph (1) shall use such grant funds to award grants, on a competitive basis, to local educational agencies to enable such local educational agencies to carry out the activities described in section 3134.

"(B) In awarding grants under subparagraph (A), each State educational agency shall ensure that each such grant is of sufficient duration, and of sufficient size, scope, and quality, to carry out the purposes of this part effectively.

"(b) TECHNICAL ASSISTANCE.—Each State educational agency receiving a grant under paragraph (1) shall—

"(1) identify the local educational agencies served by the State educational agency that—

"(A) have the highest number or percentage of children in poverty; and

"(B) demonstrate to such State educational agency the greatest need for technical assistance in developing the application under section 3133; and

"(2) offer such technical assistance to such local educational agencies.

"SEC. 3133. STATE APPLICATION.

"To receive funds under this subpart, each State educational agency shall submit a statewide educational technology plan which may include plans submitted under the Goals 2000: Educate America Act or other statewide technology plans which meet the requirements of this section. Such application shall be submitted to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. Each such application shall contain a systemic statewide plan that—

"(1) outlines long-term strategies for financing technology education in the State and describes how business, industry, and other public and private agencies, including libraries, library literacy programs, and institutions of higher education, can participate in the implementation, ongoing planning, and support of the plan; and

"(2) meets such other criteria as the Secretary may establish in order to enable such agency to provide assistance to local educational agencies that have the highest numbers or percentages of children in poverty and demonstrate the greatest need for technology, in order to enable such local educational agencies, for the benefit of school sites served by such local educational agencies, to carry out activities such as—

"(A) purchasing quality technology resources;

"(B) installing various linkages necessary to acquire connectivity;

"(C) integrating technology into the curriculum in order to improve student learning and achievement;

"(D) providing teachers and library media personnel with training or access to training;

"(E) providing administrative and technical support and services that improve student learning through enriched technology-enhanced resources, including library media resources;

"(F) promoting in individual schools the sharing, distribution, and application of educational technologies with demonstrated effectiveness;

"(G) assisting schools in promoting parent involvement;

"(H) assisting the community in providing literacy-related services;

"(I) establishing partnerships with private or public educational providers or other entities to serve the needs of children in poverty; and

"(J) providing assurances that financial assistance provided under this part shall supplement, not supplant, State and local funds.

"SEC. 3134. LOCAL USES OF FUNDS.

"Each local educational agency, to the extent possible, shall use the funds made available under section 3132(a)(2) for—

"(1) developing, adapting, or expanding existing and new applications of technology to support the school reform effort;

"(2) funding projects of sufficient size and scope to improve student learning and, as appropriate, support professional development, and provide administrative support;

"(3) acquiring connectivity linkages, resources, and services, including the acquisition of hardware and software, for use by teachers, students and school library media personnel in the classroom or in school library media centers, in order to improve student learning by supporting the instructional program offered by such agency to ensure that students in schools will have meaningful access on a regular basis to such linkages, resources and services;

"(4) providing ongoing professional development in the integration of quality educational

technologies into school curriculum and long-term planning for implementing educational technologies;

"(5) acquiring connectivity with wide area networks for purposes of accessing information and educational programming sources, particularly with institutions of higher education and public libraries; and

"(6) providing educational services for adults and families.

"SEC. 3135. LOCAL APPLICATIONS.

"Each local educational agency desiring assistance from a State educational agency under section 3132(a)(2) shall submit an application, consistent with the objectives of the systemic statewide plan, to the State educational agency at such time, in such manner and accompanied by such information as the State educational agency may reasonably require. Such application, at a minimum, shall—

"(1) include a strategic, long-range (three- to five-year), plan that includes—

"(A) a description of the type of technologies to be acquired, including specific provisions for interoperability among components of such technologies and, to the extent practicable, with existing technologies;

"(B) an explanation of how the acquired technologies will be integrated into the curriculum to help the local educational agency enhance teaching, training, and student achievement;

"(C) an explanation of how programs will be developed in collaboration with existing adult literacy services providers to maximize the use of such technologies;

"(D)(i) a description of how the local educational agency will ensure ongoing, sustained professional development for teachers, administrators, and school library media personnel served by the local educational agency to further the use of technology in the classroom or library media center; and

"(ii) a list of the source or sources of ongoing training and technical assistance available to schools, teachers and administrators served by the local educational agency, such as State technology offices, intermediate educational support units, regional educational laboratories or institutions of higher education;

"(E) a description of the supporting resources, such as services, software and print resources, which will be acquired to ensure successful and effective use of technologies acquired under this section;

"(F) the projected timetable for implementing such plan in schools;

"(G) the projected cost of technologies to be acquired and related expenses needed to implement such plan; and

"(H) a description of how the local educational agency will coordinate the technology provided pursuant to this subpart with other grant funds available for technology from State and local sources;

"(2) describe how the local educational agency will involve parents, public libraries, business leaders and community leaders in the development of such plan;

"(3) describe how the acquired instructionally based technologies will help the local educational agency—

"(A) promote equity in education in order to support State content standards and State student performance standards that may be developed; and

"(B) provide access for teachers, parents and students to the best teaching practices and curriculum resources through technology; and

"(4) describe a process for the ongoing evaluation of how technologies acquired under this section—

"(A) will be integrated into the school curriculum; and

"(B) will affect student achievement and progress toward meeting the National Education Goals and any challenging State content standards and State student performance standards that may be developed.

"(d) FORMATION OF CONSORTIA.—A local educational agency for any fiscal year may apply for financial assistance as part of a consortium with other local educational agencies, institutions of higher education, intermediate educational units, libraries, or other educational entities appropriate to provide local programs. The State educational agency may assist in the formation of consortia among local educational agencies, providers of educational services for adults and families, institutions of higher education, intermediate educational units, libraries, or other appropriate educational entities to provide services for the teachers and students in a local educational agency at the request of such local educational agency.

"(e) COORDINATION OF APPLICATION REQUIREMENTS.—If a local educational agency submitting an application for assistance under this section has developed a comprehensive education improvement plan, in conjunction with requirements under this Act or the Goals 2000: Educate America Act, the State educational agency may approve such plan, or a component of such plan, notwithstanding the requirements of subsection (e) if the State educational agency determines that such approval would further the purposes of this subpart.

"SEC. 3136. NATIONAL CHALLENGE GRANTS FOR TECHNOLOGY IN EDUCATION.

"(a) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—From amounts made available under section 3115(b)(1) for any fiscal year the Secretary is authorized to award grants, on a competitive basis, to consortia having applications approved under subsection (d), which consortia shall include at least one local educational agency with a high percentage or number of children living below the poverty line and may include other local educational agencies, State educational agencies, institutions of higher education, businesses, academic content experts, software designers, museums, libraries, or other appropriate entities.

"(2) DURATION.—Grants under this section shall be awarded for a period of 5 years.

"(b) USE OF GRANTS.—Grants awarded under subsection (a) shall be used for activities similar to the activities described in section 3134.

"(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to consortia which demonstrate in the application submitted under subsection (d) that—

"(1) the project for which assistance is sought is designed to serve areas with a high number or percentage of disadvantaged students or the greatest need for educational technology;

"(2) the project will directly benefit students by, for example, integrating the acquired technologies into curriculum to help the local educational agency enhance teaching, training, and student achievement;

"(3) the project will ensure ongoing, sustained professional development for teachers, administrators, and school library media personnel served by the local educational agency to further the use of technology in the classroom or library media center;

"(4) the project will ensure successful, effective, and sustainable use of technologies acquired under this subsection; and

"(5) members of the consortia or other appropriate entities will contribute substantial financial and other resources to achieve the goals of the project.

"(d) APPLICATION.—Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"SEC. 3137. FEDERAL ADMINISTRATION.

"(a) EVALUATION PROCEDURES.—The Secretary shall develop procedures for State and local evaluations of the programs under this subpart.

"(b) EVALUATION SUMMARY.—The Secretary shall submit to the Congress four years after the enactment of the Improving America's Schools Act of 1994 a summary of the State evaluations of programs under this subpart in accordance with the provisions of section 14701.

"Subpart 3—Regional Technical Support and Professional Development

"SEC. 3141. REGIONAL TECHNICAL SUPPORT AND PROFESSIONAL DEVELOPMENT.

"(a) GRANTS AUTHORIZED.—

"(1) AUTHORITY.—The Secretary, through the Office of Educational Technology, shall make grants in accordance with the provisions of this section, to regional entities such as the Eisenhower Mathematics and Science Regional Consortia under part C of title XIII, the regional education laboratories, the comprehensive regional assistance centers, or such other regional entities as may be designated or established by the Secretary. In awarding grants under this section, the Secretary shall give priority to such consortia and shall ensure that each geographic region of the United States shall be served by such a consortium.

"(2) REQUIREMENTS.—Each consortium receiving a grant under this section shall—

"(A) be composed of State educational agencies, institutions of higher education, nonprofit organizations, or a combination thereof;

"(B) in cooperation with State and local educational agencies, develop a regional program that addresses professional development, technical assistance, and information resource dissemination, with special emphasis on meeting the documented needs of educators and learners in the region; and

"(C) foster regional cooperation and resource and coursework sharing.

"(b) FUNCTIONS.—

"(1) TECHNICAL ASSISTANCE.—Each consortium receiving a grant under this section shall, to the extent practicable—

"(A) collaborate with State educational agencies and local educational agencies requesting collaboration, particularly in the development of strategies for assisting those schools with the highest numbers or percentages of disadvantaged students with little or no access to technology in the classroom;

"(B) provide information, in coordination with information available from the Secretary, to State educational agencies, local educational agencies, schools and adult education programs, on the types and features of various educational technology equipment and software available, evaluate and make recommendations on equipment and software that support the National Education Goals and are suited for a school's particular needs, and compile and share information regarding creative and effective applications of technology in the classroom and school library media centers in order to support the purposes of this part;

"(C) collaborate with such State educational agencies, local educational agencies, or schools requesting to participate in the tailoring of software programs and other supporting materials to meet challenging State content standards or challenging State student performance standards that may be developed; and

"(D) provide technical assistance to facilitate use of the electronic dissemination networks by State and local educational agencies and schools throughout the region.

"(2) PROFESSIONAL DEVELOPMENT.—Each consortium receiving a grant under this section shall, to the extent practicable—

"(A) develop and implement, in collaboration with State educational agencies and institutions

of higher education, technology-specific, ongoing professional development, such as—

"(i) intensive school year and summer workshops that use teachers, school librarians, and school library personnel to train other teachers, school librarians, and other school library media personnel; and

"(ii) distance professional development, including—

"(I) interactive training tele-courses using researchers, educators, and telecommunications personnel who have experience in developing, implementing, or operating educational and instructional technology as a learning tool;

"(II) onsite courses teaching teachers to use educational and instructional technology and to develop their own instructional materials for effectively incorporating technology and programming in their own classrooms;

"(III) methods for successful integration of instructional technology into the curriculum in order to improve student learning and achievement;

"(IV) video conferences and seminars which offer professional development through peer interaction with experts as well as other teachers using technologies in their classrooms; and

"(V) mobile education technology and training resources;

"(B) develop training resources that—

"(i) are relevant to the needs of the region and schools within the region;

"(ii) are relevant to the needs of adult literacy staff and volunteers, including onsite courses on how to—

"(I) use instructional technology; and

"(II) develop instructional materials for adult learning; and

"(iii) are aligned with the needs of teachers and administrators in the region;

"(C) establish a repository of professional development and technical assistance resources;

"(D) identify and link technical assistance providers to State and local educational agencies, as needed;

"(E) ensure that training, professional development, and technical assistance meet the needs of educators, parents, and students served by the region;

"(F) assist colleges and universities within the region to develop and implement preservice training programs for students enrolled in teacher education programs; and

"(G) assist local educational agencies and schools in working with community members and parents to develop support from communities and parents for educational technology programs and projects.

"(3) INFORMATION AND RESOURCE DISSEMINATION.—Each consortium receiving a grant under this section shall, to the extent practicable—

"(A) assist State and local educational agencies in the identification and procurement of financial, technological and human resources needed to implement technology plans;

"(B) provide outreach and, at the request of a State or local educational agency, work with such agency to assist in the development and validation of instructionally based technology education resources; and

"(C) coordinate activities and establish partnerships with organizations and institutions of higher education that represent the interests of the region as such interests pertain to the application of technology in teaching, learning, instructional management, dissemination, collection and distribution of educational statistics, and the transfer of student information.

"(4) COORDINATION.—Each consortium receiving a grant under this section shall work collaboratively, and coordinate the services the consortium provides, with appropriate regional and other entities assisted in whole or in part by the Department.

"Subpart 4—Product Development

"SEC. 3151. EDUCATIONAL TECHNOLOGY PRODUCT DEVELOPMENT.

"(a) PURPOSE.—It is the purpose of this subpart to—

"(1) support development of curriculum-based learning resources using state-of-the-art technologies and techniques designed to improve student learning; and

"(2) support development of long-term comprehensive instructional programming and associated support resources that ensure maximum access by all educational institutions.

"(b) FEDERAL ASSISTANCE AUTHORIZED.—

"(1) IN GENERAL.—The Secretary shall provide assistance, on a competitive basis, to eligible consortia to enable such entities to develop, produce, and distribute state-of-the-art technology-enhanced instructional resources and programming for use in the classroom or to support professional development for teachers.

"(2) GRANTS AND LOANS AUTHORIZED.—In carrying out the purposes of this section, the Secretary is authorized to pay the Federal share of the cost of the development, production, and distribution of state-of-the-art technology enhanced instructional resources and programming—

"(A) by awarding grants to, or entering into contracts or cooperative agreements with, eligible consortia; or

"(B) by awarding loans to eligible consortia which—

"(i) shall be secured in such manner and be repaid within such period, not exceeding 20 years, as may be determined by the Secretary;

"(ii) shall bear interest at a rate determined by the Secretary which shall be not more than the total of one-quarter of 1 percent per annum added to the rate of interest paid by the Secretary on funds obtained from the Secretary of the Treasury; and

"(iii) may be forgiven by the Secretary, in an amount not to exceed 25 percent of the total loan, under such terms and conditions as the Secretary may consider appropriate.

"(3) MATCHING REQUIREMENT.—The Secretary may require any recipient of a grant or contract under this subpart to share in the cost of the activities assisted under such grant or contract, which non-Federal share shall be announced through a notice in the Federal Register and may be in the form of cash or in-kind contributions, fairly valued.

"(4) ELIGIBLE CONSORTIUM.—For the purpose of this subsection, the term 'eligible consortium' means a consortium—

"(A) that shall include—

"(i) a State or local educational agency; and

"(ii) a business, industry, or telecommunications entity; and

"(B) that may include—

"(i) a public or private nonprofit organization; or

"(ii) a postsecondary institution.

"(5) PRIORITIES.—In awarding assistance under this section, the Secretary shall give priority to applications describing programs or systems that—

"(A) promote the acquisition of higher-order thinking skills and promise to raise the achievement levels of all students, particularly disadvantaged students who are not realizing their potential;

"(B) are aligned with challenging State content standards and State and local curriculum frameworks;

"(C) may be adapted and applied nationally at a reasonable cost over a broad technology platform;

"(D) convert technology resources developed with support from the Department of Defense and other Federal agencies for effective use in the classroom;

"(E) show promise of reducing the costs of providing high-quality instruction;

"(F) show promise of expanding access to high-quality instruction in content areas which would otherwise not be available to students in rural and urban communities or who are served by other educational agencies with limited financial resources;

"(G) are developed in consultation with classroom teachers;

"(H) are developed through consultation and collaboration with appropriate education entities in designing the product to ensure relevance to the voluntary national content standards, the voluntary national student performance standards and State curriculum frameworks; and

"(I) are developed so that the product can be adapted for use by adults in need of literacy services, including English as a second language and preparation for a secondary school diploma or its recognized equivalent.

"(6) REQUIREMENTS FOR FEDERAL ASSISTANCE.—Each eligible consortium desiring Federal assistance under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe. Each application shall include—

"(A) a description of how the product will improve the achievement levels of students;

"(B) a description of how the activities assisted under this section will promote professional development of teachers and administrators in the uses and applications of the product, including the development of training materials;

"(C) a description of design, development, field testing, evaluation, and distribution of products, where appropriate;

"(D) an assurance that the product shall effectively serve a significant number or percentage of economically disadvantaged students;

"(E) plans for dissemination of products to a wide audience of learners;

"(F) a description of how the product can be adapted for use by students with disabilities including provisions for closed captioning or descriptive video, where appropriate;

"(G) a description of how ownership and rights to the use and marketing of any product developed by the consortium, including intellectual property rights, will be allocated among consortium participants; and

"(H) a description of the contributions, including services and funds, to be made by each member of the consortium, and how any revenues derived from the sale of any product developed by the consortium shall be distributed.

"(c) CONSUMER REPORT.—The Secretary shall provide for the independent evaluation of products developed under this section and shall disseminate information about products developed pursuant to provisions of this section to State and local educational agencies, and other organizations or individuals that the Secretary determines to be appropriate, through print and electronic media that are accessible to the education community at large.

"(d) PROCEEDS.—The Secretary shall not prohibit an eligible consortium or any of the members of such consortium from receiving financial benefits from the distribution of any products resulting from the assistance received under this section. Notwithstanding any other provision of law, any profits or royalties received by a State educational agency, local educational agency, or other nonprofit member of an eligible consortium receiving assistance under this section shall be used to support further development of curriculum-based learning resources, services, and programming or to provide access to such products for a wider audience.

"PART B—STAR SCHOOLS PROGRAM

"SEC. 3201. SHORT TITLE.

"This part may be cited as the 'Star Schools Act'.

"SEC. 3202. FINDINGS.

"The Congress finds that—

"(1) the Star Schools program has helped to encourage the use of distance learning strategies to serve multi-State regions primarily by means of satellite and broadcast television;

"(2) in general, distance learning programs have been used effectively to provide students in small, rural, and isolated schools with courses and instruction, such as science and foreign language instruction, that the local educational agency is not otherwise able to provide; and

"(3) distance learning programs may also be used to—

"(A) provide students of all ages in all types of schools and educational settings with greater access to high-quality instruction in the full range of core academic subjects that will enable such students to meet challenging, internationally competitive, educational standards;

"(B) expand professional development opportunities for teachers;

"(C) contribute to achievement of the National Education Goals; and

"(D) expand learning opportunities for everyone.

"SEC. 3203. PURPOSE.

"It is the purpose of this part to encourage improved instruction in mathematics, science, and foreign languages as well as other subjects, such as literacy skills and vocational education, and to serve underserved populations, including the disadvantaged, illiterate, limited-English proficient, and individuals with disabilities, through a star schools program under which grants are made to eligible telecommunication partnerships to enable such partnerships to—

"(1) develop, construct, acquire, maintain and operate telecommunications audio and visual facilities and equipment;

"(2) develop and acquire educational and instructional programming; and

"(3) obtain technical assistance for the use of such facilities and instructional programming.

"SEC. 3204. GRANTS AUTHORIZED.

"(a) AUTHORITY.—The Secretary, through the Office of Educational Technology, is authorized to make grants, in accordance with the provisions of this part, to eligible entities to pay the Federal share of the cost of—

"(1) the development, construction, acquisition, maintenance and operation of telecommunications facilities and equipment;

"(2) the development and acquisition of live, interactive instructional programming;

"(3) the development and acquisition of preservice and inservice teacher training programs based on established research regarding teacher-to-teacher mentoring, effective skill transfer, and ongoing, in-class instruction;

"(4) the establishment of teleconferencing facilities and resources for making interactive training available to teachers;

"(5) obtaining technical assistance; and

"(6) the coordination of the design and connectivity of telecommunications networks to reach the greatest number of schools.

"(b) DURATION.—

"(1) IN GENERAL.—The Secretary shall award grants pursuant to subsection (a) for a period of 5 years.

"(2) RENEWAL.—Grants awarded pursuant to subsection (a) may be renewed for one additional three-year period.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated $35,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this part.

"(2) AVAILABILITY.—Funds appropriated pursuant to the authority of subsection (a) shall remain available until expended.

"(d) LIMITATIONS.—

"(1) IN GENERAL.—A grant under this section shall not exceed—

"(A) five years in duration; and

"(B) $10,000,000 in any one fiscal year.

"(2) INSTRUCTIONAL PROGRAMMING.—Not less than 25 percent of the funds available to the Secretary in any fiscal year under this part shall be used for the cost of instructional programming.

"(3) SPECIAL RULE.—Not less than 50 percent of the funds available in any fiscal year under this part shall be used for the cost of facilities, equipment, teacher training or retraining, technical assistance, or programming, for local educational agencies which are eligible to receive assistance under part A of title I.

"(e) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of the cost of projects funded under this section shall not exceed—

"(A) 75 percent for the first and second years for which an eligible telecommunications partnership receives a grant under this part;

"(B) 60 percent for the third and fourth such years; and

"(C) 50 percent for the fifth such year.

"(2) REDUCTION OR WAIVER.—The Secretary may reduce or waive the requirement of the non-Federal share under paragraph (1) upon a showing of financial hardship.

"(f) AUTHORITY TO ACCEPT FUNDS FROM OTHER AGENCIES.—The Secretary is authorized to accept funds from other Federal departments or agencies to carry out the purposes of this section, including funds for the purchase of equipment.

"(g) COORDINATION.—The Department, the National Science Foundation, the Department of Agriculture, the Department of Commerce, and any other Federal department or agency operating a telecommunications network for educational purposes, shall coordinate the activities assisted under this part with the activities of such department or agency relating to a telecommunications network for educational purposes.

"(h) CLOSED CAPTIONING AND DESCRIPTIVE VIDEO.—Each entity receiving funds under this part is encouraged to provide—

"(1) closed captioning of the verbal content of such program, where appropriate, to be broadcast by way of line 21 of the vertical blanking interval, or by way of comparable successor technologies; and

"(2) descriptive video of the visual content of such program, as appropriate.

"SEC. 3205. ELIGIBLE ENTITIES.

"(a) ELIGIBLE ENTITIES.—

"(1) REQUIRED PARTICIPATION.—The Secretary may make a grant under section 3204 to any eligible entity, if at least one local educational agency is participating in the proposed project.

"(2) ELIGIBLE ENTITY.—For the purpose of this part, the term 'eligible entity' may include—

"(A) a public agency or corporation established for the purpose of developing and operating telecommunications networks to enhance educational opportunities provided by educational institutions, teacher training centers, and other entities, except that any such agency or corporation shall represent the interests of elementary and secondary schools that are eligible to participate in the program under part A of title I; or

"(B) a partnership that will provide telecommunications services and which includes 3 or more of the following entities, at least 1 of which shall be an agency described in clause (i) or (ii):

"(i) a local educational agency that serves a significant number of elementary and secondary schools that are eligible for assistance under part A of title I, or elementary and secondary schools operated or funded for Indian children by the Department of the Interior eligible under section 1121(b)(2);

"(ii) a State educational agency;

"(iii) adult and family education programs;

"(iv) an institution of higher education or a State higher education agency;

"(v) a teacher training center or academy that—

"(I) provides teacher pre-service and in-service training; and

"(II) receives Federal financial assistance or has been approved by a State agency;

"(vi)(I) a public or private entity with experience and expertise in the planning and operation of a telecommunications network, including entities involved in telecommunications through satellite, cable, telephone, or computer; or

"(II) a public broadcasting entity with such experience; or

"(vii) a public or private elementary or secondary school.

"(b) SPECIAL RULE.—An eligible entity receiving assistance under this part shall be organized on a statewide or multistate basis.

"SEC. 3206. APPLICATIONS.

"(a) APPLICATIONS REQUIRED.—Each eligible entity which desires to receive a grant under section 3204 shall submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) STAR SCHOOL AWARD APPLICATIONS.—Each application submitted pursuant to subsection (a) shall—

"(1) describe how the proposed project will assist in achieving the National Education Goals, how such project will assist all students to have an opportunity to learn to challenging State standards, how such project will assist State and local educational reform efforts, and how such project will contribute to creating a high quality system of lifelong learning;

"(2) describe the telecommunications facilities and equipment and technical assistance for which assistance is sought, which may include—

"(A) the design, development, construction, acquisition, maintenance and operation of State or multistate educational telecommunications networks and technology resource centers;

"(B) microwave, fiber optics, cable, and satellite transmission equipment or any combination thereof;

"(C) reception facilities;

"(D) satellite time;

"(E) production facilities;

"(F) other telecommunications equipment capable of serving a wide geographic area;

"(G) the provision of training services to instructors who will be using the facilities and equipment for which assistance is sought, including training in using such facilities and equipment and training in integrating programs into the classroom curriculum; and

"(H) the development of educational and related programming for use on a telecommunications network;

"(3) in the case of an application for assistance for instructional programming, describe the types of programming which will be developed to enhance instruction and training and provide assurances that such programming will be designed in consultation with professionals (including classroom teachers) who are experts in the applicable subject matter and grade level;

"(4) describe how the eligible entity has engaged in sufficient survey and analysis of the area to be served to ensure that the services offered by the eligible entity will increase the availability of courses of instruction in English, mathematics, science, foreign languages, arts, history, geography, or other disciplines;

"(5) describe the professional development policies for teachers and other school personnel

to be implemented to ensure the effective use of the telecommunications facilities and equipment for which assistance is sought;

"(6) describe the manner in which historically underserved students (such as students from low-income families, limited English proficient students, students with disabilities, or students who have low literacy skills) and their families, will participate in the benefits of the telecommunications facilities, equipment, technical assistance, and programming assisted under this part;

"(7) describe how existing telecommunications equipment, facilities, and services, where available, will be used;

"(8) provide assurances that the financial interest of the United States in the telecommunications facilities and equipment will be protected for the useful life of such facilities and equipment;

"(9) provide assurances that a significant portion of any facilities and equipment, technical assistance, and programming for which assistance is sought for elementary and secondary schools will be made available to schools or local educational agencies that have a high number or percentage of children eligible to be counted under part A of title I;

"(10) provide assurances that the applicant will use the funds provided under this part to supplement and not supplant funds otherwise available for the purposes of this part;

"(11) if any member of the consortia receives assistance under subpart 3 of part A, describe how funds received under this part will be coordinated with funds received for educational technology in the classroom under such section;

"(12) describe the activities or services for which assistance is sought, such as—

"(A) providing facilities, equipment, training services, and technical assistance;

"(B) making programs accessible to students with disabilities through mechanisms such as closed captioning and descriptive video services;

"(C) linking networks around issues of national importance (such as elections) or to provide information about employment opportunities, job training, or student and other social service programs;

"(D) sharing curriculum resources between networks and development of program guides which demonstrate cooperative, cross-network listing of programs for specific curriculum areas;

"(E) providing teacher and student support services including classroom and training support materials which permit student and teacher involvement in the live interactive distance learning telecasts;

"(F) incorporating community resources such as libraries and museums into instructional programs;

"(G) providing professional development for teachers, including, as appropriate, training to early childhood development and Head Start teachers and staff and vocational education teachers and staff, and adult and family educators;

"(H) providing programs for adults to maximize the use of telecommunications facilities and equipment;

"(I) providing teacher training on proposed or established voluntary national content standards in mathematics and science and other disciplines as such standards are developed; and

"(J) providing parent education programs during and after the regular school day which reinforce a student's course of study and actively involve parents in the learning process;

"(13) describe how the proposed project as a whole will be financed and how arrangements for future financing will be developed before the project expires;

"(14) provide an assurance that a significant portion of any facilities, equipment, technical assistance, and programming for which assistance is sought for elementary and secondary schools will be made available to schools in local educational agencies that have a high percentage of children counted for the purpose of part A of title I;

"(15) provide an assurance that the applicant will provide such information and cooperate in any evaluation that the Secretary may conduct under this part; and

"(16) include such additional assurances as the Secretary may reasonably require.

"(c) PRIORITIES.—The Secretary, in approving applications for grants authorized under section 3204, shall give priority to applications describing projects that—

"(1) propose high-quality plans to assist in achieving one or more of the National Education Goals, will provide instruction consistent with State content standards, or will otherwise provide significant and specific assistance to States and local educational agencies undertaking systemic education reform;

"(2) will provide services to programs serving adults, especially parents, with low levels of literacy;

"(3) will serve schools with significant numbers of children counted for the purposes of part A of title I;

"(4) ensure that the eligible entity will—

"(A) serve the broadest range of institutions, programs providing instruction outside of the school setting, programs serving adults, especially parents, with low levels of literacy, institutions of higher education, teacher training centers, research institutes, and private industry;

"(B) have substantial academic and teaching capabilities, including the capability of training, retraining, and inservice upgrading of teaching skills and the capability to provide professional development;

"(C) provide a comprehensive range of courses for educators to teach instructional strategies for students with different skill levels;

"(D) provide training to participating educators in ways to integrate telecommunications courses into existing school curriculum; and

"(E) provide instruction for students, teachers, and parents;

"(F) serve a multistate area; and

"(G) give priority to the provision of equipment and linkages to isolated areas; and

"(5) involve a telecommunications entity (such as a satellite, cable, telephone, computer, or public or private television stations) participating in the eligible entity and donating equipment or in kind services for telecommunications linkages.

"(d) GEOGRAPHIC DISTRIBUTION.—In approving applications for grants authorized under section 3204, the Secretary shall, to the extent feasible, ensure an equitable geographic distribution of services provided under this part.

"SEC. 3207. LEADERSHIP AND EVALUATION ACTIVITIES.

"(a) RESERVATION.—From the amount appropriated pursuant to the authority of section 3204(c)(1) in each fiscal year, the Secretary may reserve not more than 5 percent of such amount for national leadership, evaluation, and peer review activities.

"(b) METHOD OF FUNDING.—The Secretary may fund the activities described in subsection (a) directly or through grants, contracts, and cooperative agreements.

"(c) USES OF FUNDS.—

"(1) LEADERSHIP.—Funds reserved for leadership activities under subsection (a) may be used for—

"(A) disseminating information, including lists and descriptions of services available from grant recipients under this part; and

"(B) other activities designed to enhance the quality of distance learning activities nationwide.

"(2) EVALUATION.—Funds reserved for evaluation activities under subsection (a) may be used to conduct independent evaluations of the activities assisted under this part and of distance learning in general, including—

"(A) analyses of distance learning efforts, including such efforts that are assisted under this part and such efforts that are not assisted under this part; and

"(B) comparisons of the effects, including student outcomes, of different technologies in distance learning efforts.

"(3) PEER REVIEW.—Funds reserved for peer review activities under subsection (a) may be used for peer review of—

"(A) applications for grants under this part; and

"(B) activities assisted under this part.

"SEC. 3208. DEFINITIONS.

"As used in this part—

"(1) the term 'educational institution' means an institution of higher education, a local educational agency, or a State educational agency;

"(2) the term 'instructional programming' means courses of instruction and training courses for elementary and secondary students, teachers, and others, and materials for use in such instruction and training that have been prepared in audio and visual form on tape, disc, film, or live, and presented by means of telecommunications devices; and

"(3) the term 'public broadcasting entity' has the same meaning given such term in section 397 of the Communications Act of 1934.

"SEC. 3209. ADMINISTRATIVE PROVISIONS.

"(a) CONTINUING ELIGIBILITY.—

"(1) IN GENERAL.—In order to be eligible to receive a grant under section 3204 for a second 3-year grant period an eligible entity shall demonstrate in the application submitted pursuant to section 3206 that such partnership shall—

"(A) continue to provide services in the subject areas and geographic areas assisted with funds received under this part for the previous 5-year grant period; and

"(B) use all grant funds received under this part for the second 3-year grant period to provide expanded services by—

"(i) increasing the number of students, schools or school districts served by the courses of instruction assisted under this part in the previous fiscal year;

"(ii) providing new courses of instruction; and

"(iii) serving new populations of underserved individuals, such as children or adults who are disadvantaged, have limited-English proficiency, are individuals with disabilities, are illiterate, or lack secondary school diplomas or their recognized equivalent.

"(2) SPECIAL RULE.—Grant funds received pursuant to paragraph (1) shall be used to supplement and not supplant services provided by the grant recipient under this part in the previous fiscal year.

"(b) FEDERAL ACTIVITIES.—The Secretary may assist grant recipients under section 3204 in acquiring satellite time, where appropriate, as economically as possible.

"SEC. 3210. OTHER ASSISTANCE.

"(a) SPECIAL STATEWIDE NETWORK.—

"(1) IN GENERAL.—The Secretary, through the Office of Educational Technology, may provide assistance to a statewide telecommunications network under this subsection if such network—

"(A) provides 2-way full motion interactive video and audio communications;

"(B) links together public colleges and universities and secondary schools throughout the State; and

"(C) meets any other requirements determined appropriate by the Secretary.

"(2) STATE CONTRIBUTION.—A statewide telecommunications network assisted under paragraph (1) shall contribute, either directly or

through private contributions, non-Federal funds equal to not less than 50 percent of the cost of such network.

"(b) SPECIAL LOCAL NETWORK.—

"(1) IN GENERAL.—The Secretary may provide assistance, on a competitive basis, to a local educational agency or consortium thereof to enable such agency or consortium to establish a high technology demonstration program.

"(2) PROGRAM REQUIREMENTS.—A high technology demonstration program assisted under paragraph (1) shall—

"(A) include 2-way full motion interactive video, audio and text communications;

"(B) link together elementary and secondary schools, colleges, and universities;

"(C) provide parent participation and family programs;

"(D) include a staff development program; and

"(E) have a significant contribution and participation from business and industry.

"(3) SPECIAL RULE.—Each high technology demonstration program assisted under paragraph (1) shall be of sufficient size and scope to have an effect on meeting the National Education Goals.

"(4) MATCHING REQUIREMENT.—A local educational agency or consortium receiving a grant under paragraph (1) shall provide, either directly or through private contributions, non-Federal matching funds equal to not less than 50 percent of the amount of the grant.

"(c) TELECOMMUNICATIONS PROGRAMS FOR CONTINUING EDUCATION.—

"(1) AUTHORITY.—The Secretary is authorized to award grants, on a competitive basis, to eligible entities to enable such partnerships to develop and operate one or more programs which provide on-line access to educational resources in support of continuing education and curriculum requirements relevant to achieving a secondary school diploma or its recognized equivalent. The program authorized by this section shall be designed to advance adult literacy, secondary school completion and the acquisition of specified competency by the end of the 12th grade, as envisioned by the Goals 2000: Educate America Act.

"(2) APPLICATION.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary. Each such application shall—

"(A) demonstrate that the applicant will use publicly funded or free public telecommunications infrastructure to deliver video, voice and data in an integrated service to support and assist in the acquisition of a secondary school diploma or its recognized equivalent;

"(B) assure that the content of the materials to be delivered is consistent with the accreditation requirements of the State for which such materials are used;

"(C) incorporate, to the extent feasible, materials developed in the Federal departments and agencies and under appropriate federally funded projects and programs;

"(D) assure that the applicant has the technological and substantive experience to carry out the program; and

"(E) contain such additional assurances as the Secretary may reasonably require.

"PART C—READY-TO-LEARN TELEVISION

"SEC. 3301. READY-TO-LEARN.

"(a) IN GENERAL.—The Secretary is authorized to award grants to or enter into contracts or cooperative agreements with eligible entities described in section 3302(b) to develop, produce, and distribute educational and instructional video programming for preschool and elementary school children and their parents in order to facilitate the achievement of the National Education Goals.

"(b) AVAILABILITY.—In making such grants, contracts, or cooperative agreements, the Secretary shall ensure that recipients make programming widely available with support materials as appropriate to young children, their parents, child care workers, and Head Start providers to increase the effective use of such programming.

"SEC. 3302. EDUCATIONAL PROGRAMMING.

"(a) AWARDS.—The Secretary shall award grants, contracts, or cooperative agreements to eligible entities to—

"(1) facilitate the development directly or through contracts with producers of children and family educational television programming, educational programming for preschool and elementary school children, and accompanying support materials and services that promote the effective use of such programming; and

"(2) enable such entities to contract with entities (such as public telecommunications entities and those funded under the Star Schools Act) so that programs developed under this section are disseminated and distributed to the widest possible audience appropriate to be served by the programming by the most appropriate distribution technologies.

"(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant, contract, or cooperative agreement under subsection (a), an entity shall be—

"(1) a nonprofit entity (including a public telecommunications entity) able to demonstrate a capacity for the development and distribution of educational and instructional television programming of high quality for preschool and elementary school children; and

"(2) able to demonstrate a capacity to contract with the producers of children's television programming for the purpose of developing educational television programming of high quality for preschool and elementary school children.

"(c) CULTURAL EXPERIENCES.—Programming developed under this section shall reflect the recognition of diverse cultural experiences and the needs and experiences of both boys and girls in engaging and preparing young children for schooling.

"SEC. 3303. DUTIES OF SECRETARY.

"The Secretary is authorized—

"(1) to establish and administer a Special Projects of National Significance program to award grants, contracts, or cooperative agreements to public and nonprofit private entities, or local public television stations or such public television stations that are part of a consortium with one or more State educational agencies, local educational agencies, local schools, institutions of higher education, or community-based organizations of demonstrated effectiveness, for the purpose of—

"(A) addressing the learning needs of young children in limited English proficient households, and developing appropriate educational and instructional television programming to foster the school readiness of such children;

"(B) developing programming and support materials to increase family literacy skills among parents to assist parents in teaching their children and utilizing educational television programming to promote school readiness; and

"(C) identifying, supporting, and enhancing the effective use and outreach of innovative programs that promote school readiness;

"(2) to establish within the Department a clearinghouse to compile and provide information, referrals and model program materials and programming obtained or developed under this part to parents, child care providers, and other appropriate individuals or entities to assist such individuals and entities in accessing programs and projects under this part; and

"(3) to develop and disseminate training materials, including—

"(A) interactive programs and programs adaptable to distance learning technologies that are designed to enhance knowledge of children's social and cognitive skill development and positive adult-child interactions; and

"(B) support materials to promote the effective use of materials developed under paragraph (2); among parents, Head Start providers, in-home and center based day care providers, early childhood development personnel, and elementary school teachers, public libraries, and after school program personnel caring for preschool and elementary school children;

"(4) coordinate activities with the Secretary of Health and Human Services in order to—

"(A) maximize the utilization of quality educational programming by preschool and elementary school children, and make such programming widely available to federally funded programs serving such populations; and

"(B) provide information to recipients of funds under Federal programs that have major training components for early childhood development, including Head Start, Even Start, and State training activities funded under the Child Care Development Block Grant Act of 1990 regarding the availability and utilization of materials developed under paragraph (3) to enhance parent and child care provider skills in early childhood development and education.

"SEC. 3304. APPLICATIONS.

"Each eligible entity desiring a grant, contract, or cooperative agreement under section 3301 or 3303 shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"SEC. 3305. REPORTS AND EVALUATION.

"(a) ANNUAL REPORT TO SECRETARY.—An entity receiving funds under section 3301 shall prepare and submit to the Secretary an annual report which contains such information as the Secretary may require. At a minimum, the report shall describe the program activities undertaken with funds received under this section, including—

"(1) the programming that has been developed directly or indirectly by the entity, and the target population of the programs developed;

"(2) the support materials that have been developed to accompany the programming, and the method by which such materials are distributed to consumers and users of the programming;

"(3) the means by which programming developed under this section has been distributed, including the distance learning technologies that have been utilized to make programming available and the geographic distribution achieved through such technologies; and

"(4) the initiatives undertaken by the entity to develop public-private partnerships to secure non-Federal support for the development and distribution and broadcast of educational and instructional programming.

"(b) REPORT TO CONGRESS.—The Secretary shall prepare and submit to the relevant committees of Congress a biannual report which includes—

"(1) a summary of the information made available under section 3302(a); and

"(2) a description of the training materials made available under section 3303(3), the manner in which outreach has been conducted to inform parents and child care providers of the availability of such materials, and the manner in which such materials have been distributed in accordance with such section.

"SEC. 3306. ADMINISTRATIVE COSTS.

"With respect to the implementation of section 3302, entities receiving a grant, contract, or cooperative agreement from the Secretary may use not more than 5 percent of the amounts received under such section for the normal and customary expenses of administering the grant, contract, or cooperative agreement.

"SEC. 3307. DEFINITION.

"For the purposes of this part, the term 'distance learning' means the transmission of educational or instructional programming to geographically dispersed individuals and groups via telecommunications.

"SEC. 3308. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this part, $30,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years. Not less than 60 percent of the amounts appropriated under this subsection for each fiscal year shall be used to carry out section 3302.

"(b) SPECIAL PROJECTS.—Of the amount appropriated under subsection (b) for each fiscal year, at least 10 percent of such amount shall be used for each such fiscal year for activities under section 3303(1)(C).

"PART D—TELECOMMUNICATIONS DEMONSTRATION PROJECT FOR MATHEMATICS

"SEC. 3401. PROJECT AUTHORIZED.

"The Secretary is authorized to make grants to a nonprofit telecommunications entity, or partnership of such entities, for the purpose of carrying out a national telecommunications-based demonstration project to improve the teaching of mathematics. The demonstration project authorized by this part shall be designed to assist elementary and secondary school teachers in preparing all students for achieving State content standards.

"SEC. 3402. APPLICATION REQUIRED.

"(a) IN GENERAL.—Each nonprofit telecommunications entity, or partnership of such entities, desiring a grant under this part shall submit an application to the Secretary. Each such application shall—

"(1) demonstrate that the applicant will use the existing publicly funded telecommunications infrastructure to deliver video, voice and data in an integrated service to train teachers in the use of new standards-based curricula materials and learning technologies;

"(2) assure that the project for which assistance is sought will be conducted in cooperation with appropriate State educational agencies, local educational agencies, State or local nonprofit public telecommunications entities, and a national mathematics education professional association that has developed content standards;

"(3) assure that a significant portion of the benefits available for elementary and secondary schools from the project for which assistance is sought will be available to schools of local educational agencies which have a high percentage of children counted for the purpose of part A of title I; and

"(4) contain such additional assurances as the Secretary may reasonably require.

"(b) APPROVAL OF APPLICATIONS; NUMBER OF DEMONSTRATION SITES.—In approving applications under this section, the Secretary shall assure that the demonstration project authorized by this part is conducted at elementary and secondary school sites in at least 15 States.

"SEC. 3403. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part, $5,000,000 for the fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years.

"PART E—ELEMENTARY MATHEMATICS AND SCIENCE EQUIPMENT PROGRAM

"SEC. 3501. SHORT TITLE.

"This part may be cited as the 'Elementary Mathematics and Science Equipment Act'.

"SEC. 3502. STATEMENT OF PURPOSE.

"It is the purpose of this part to raise the quality of instruction in mathematics and science in the Nation's elementary schools by providing equipment and materials necessary for hands-on instruction through assistance to State and local educational agencies.

"SEC. 3503. PROGRAM AUTHORIZED.

"The Secretary is authorized to make allotments to State educational agencies under section 3504 to enable such agencies to award grants to local educational agencies for the purpose of providing equipment and materials to elementary schools to improve mathematics and science education in such schools.

"SEC. 3504. ALLOTMENTS OF FUNDS.

"(a) IN GENERAL.—From the amount appropriated under section 3509 for any fiscal year, the Secretary shall reserve—

"(1) not more than one-half of 1 percent for allotment among Guam, American Samoa, the Virgin Islands, and the Northern Mariana Islands according to their respective needs for assistance under this part; and

"(2) one-half of 1 percent for programs for Indian students served by schools funded by the Secretary of the Interior which are consistent with the purposes of this part.

"(b) ALLOTMENT.—

"(1) IN GENERAL.—The remainder of the amount so appropriated (after meeting requirements in subsection (a)) shall be allotted among State educational agencies so that—

"(A) one-half of such remainder shall be distributed by allotting to each State educational agency an amount which bears the same ratio to such one-half of such remainder as the number of children aged 5 to 17, inclusive, in the State bears to the number of such children in all States; and

"(B) one-half of such remainder shall be distributed according to each State's share of allocations under part A of title I.

"(2) MINIMUM.—Except as provided in paragraph (3), no State educational agency shall receive an allotment under this subsection for any fiscal year in an amount that is—

"(A) less than one-half of 1 percent of the amount made available under this subsection for such fiscal year; or

"(B) less than the amount allotted to such State for fiscal year 1988 under title II of the Education for Economic Security Act.

"(3) RATABLE REDUCTIONS.—(A) If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all State educational agencies are eligible to receive under paragraph (2)(B) for such year, the Secretary shall ratably reduce the allotment to such agencies for such year.

"(B) If additional funds become available for making payments under paragraph (2)(B) for such fiscal year, allotments that were reduced under subparagraph (A) shall be increased on the same basis as such allotments were reduced.

"(c) REALLOTMENT OF UNUSED FUNDS.—The amount of any State educational agency's allotment under subsection (b) for any fiscal year to carry out this part which the Secretary determines will not be required for that fiscal year to carry out this part shall be available for reallotment from time to time, on such dates during that year as the Secretary may determine, to other State educational agencies in proportion to the original allotments to those State educational agencies under subsection (b) for that year but with such proportionate amount for any of those other State educational agencies being reduced to the extent it exceeds the sum the Secretary estimates that the State educational agency needs and will be able to use for that year, and the total of those reductions shall be similarly reallotted among the State educational agencies whose proportionate amounts were not so reduced. Any amounts reallotted to a State educational agency under this subsection during a year shall be deemed a part of the State educational agency's allotment under subsection (b) for that year.

"(d) DEFINITION.—For the purposes of this part the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(e) DATA.—The number of children aged 5 to 17, inclusive, in the State and in all States shall be determined by the Secretary on the basis of the most recent satisfactory data available to the Secretary.

"SEC. 3505. STATE APPLICATION.

"(a) APPLICATION.—Each State educational agency desiring to receive an allotment under this part shall file an application with the Secretary which covers a period of 5 fiscal years. Such application shall be filed at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each application described in subsection (a) shall—

"(1) provide assurances that—

"(A) the State educational agency shall use the allotment provided under this part to award grants to local educational agencies within the State to enable such local educational agencies to provide assistance to schools served by such agency to carry out the purpose of this part;

"(B) the State educational agency will provide such fiscal control and funds accounting as the Secretary may require;

"(C) every public elementary school in the State is eligible to receive assistance under this part once over the 5-year duration of the program assisted under this part;

"(D) funds provided under this part will supplement, not supplant, State and local funds made available for activities authorized under this part;

"(E) during the 5-year period described in the application, the State educational agency will evaluate its standards and programs for teacher preparation and inservice professional development for elementary mathematics and science;

"(F) the State educational agency will take into account the needs for greater access to and participation in mathematics and science by students and teachers from historically underrepresented groups, including females, minorities, individuals with limited English proficiency, the economically disadvantaged, and individuals with disabilities; and

"(G) that the needs of teachers and students in areas with high concentrations of low-income students and sparsely populated areas will be given priority in awarding assistance under this part;

"(2) provide, if appropriate, a description of how funds paid under this part will be coordinated with State and local funds and other Federal resources, particularly with respect to programs for the professional development and inservice training of elementary school teachers in science and mathematics; and

"(3) describe procedures—

"(A) for submitting applications for programs described in section 3506 for distribution of assistance under this part within the State; and

"(B) for approval of applications by the State educational agency, including appropriate procedures to assure that such agency will not disapprove an application without notice and opportunity for a hearing.

"(c) STATE ADMINISTRATION.—Not more than 5 percent of the funds allotted to each State educational agency under this part shall be used for the administrative costs of such agency associated with carrying out the program assisted under this part.

"SEC. 3506. LOCAL APPLICATION.

"(a) APPLICATION.—A local educational agency that desires to receive a grant under this part shall submit an application to the State educational agency. Each such application shall

contain assurances that each school served by the local educational agency shall be eligible for assistance under this part only once.

"(b) CONTENTS OF APPLICATION.—Each application described in subsection (a) shall—

"(1) describe how the local educational agency plans to set priorities on the use and distribution among schools of grant funds received under this part to meet the purpose of this part;

"(2) include assurances that the local educational agency has made every effort to match on a dollar-for-dollar basis from private or public sources the funds received under this part, except that no such application shall be penalized or denied assistance under this part based on failure to provide such matching funds;

"(3) describe, if applicable, how funds under this part will be coordinated with State, local, and other Federal resources, especially with respect to programs for the professional development and inservice training of elementary school teachers in science and mathematics; and

"(4) describe the process which will be used to determine different levels of assistance to be awarded to schools with different needs.

"(c) PRIORITY.—In awarding grants under this part, the State educational agency shall give priority to applications that—

"(1) assign highest priority to providing assistance to schools which—

"(A) are most seriously underequipped; or

"(B) serve large numbers or percentages of economically disadvantaged students;

"(2) are attentive to the needs of underrepresented groups in science and mathematics;

"(3) demonstrate how science and mathematics equipment will be part of a comprehensive plan of curriculum planning or implementation and teacher training supporting hands-on laboratory activities; and

"(4) assign priority to providing equipment and materials for students in grades 1 through 6.

"SEC. 3507. PROGRAM REQUIREMENTS.

"(a) COORDINATION.—Each State educational agency receiving an allotment under this part shall—

"(1) disseminate information to school districts and schools, including private nonprofit elementary schools, regarding the program assisted under this part;

"(2) evaluate applications of local educational agencies;

"(3) award grants to local educational agencies based on the priorities described in section 3506(c); and

"(4) evaluate local educational agencies' end-of-year summaries and submit such evaluation to the Secretary.

"(b) LIMITATIONS ON USE OF FUNDS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), grant funds and matching funds under this part only shall be used to purchase science equipment, science materials, or mathematical manipulative materials and shall not be used for computers, computer peripherals, software, textbooks, or staff development costs.

"(2) CAPITAL IMPROVEMENTS.—Grant funds under this part may not be used for capital improvements. Not more than 50 percent of any matching funds provided by the local educational agency may be used for capital improvements of classroom science facilities to support the hands-on instruction that this part is intended to support, such as the installation of electrical outlets, plumbing, lab tables or counters, or ventilation mechanisms.

"SEC. 3508. FEDERAL ADMINISTRATION.

"(a) TECHNICAL ASSISTANCE AND EVALUATION PROCEDURES.—The Secretary shall provide technical assistance and, in consultation with State and local representatives of the program assisted under this part, shall develop procedures for State and local evaluations of the programs assisted under this part.

"(b) REPORT.—The Secretary shall report to the Congress each year on the program assisted under this part in accordance with section 10701.

"SEC. 3509. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $30,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this part.

"PART F—ELEMENTARY AND SECONDARY SCHOOL LIBRARY MEDIA RESOURCES PROGRAM

"SEC. 3601. PROGRAM AUTHORIZED.

"The Secretary shall award grants or make allocations in accordance with section 3602 for the acquisition of school library media resources for the use of students, library media specialists, and teachers in elementary and secondary schools in accordance with this part.

"SEC. 3602. ALLOCATION TO STATES.

"(a) From the amount appropriated pursuant to section 3605 in each fiscal year, the Secretary shall award funds to each State having an approved plan under section 3603 as follows:

"(1) AMOUNTS BELOW $50,000,000.—If the amount made available under subsection (a) for a fiscal year is less than $50,000,000, then the Secretary shall award grants to States, on a competitive basis, taking into account such factors as age and condition of existing school library media collections and the relative economic need of the students to be served.

"(2) AMOUNTS EQUAL TO OR EXCEEDING $50,000,000.—If the amount made available under subsection (a) for a fiscal year equals or exceeds $50,000,000, then the Secretary shall allocate to each State an amount which bears the same relationship to such amount as the amount such State received under title II for such year bears to the amount all States received under such title for such year.

"SEC. 3603. STATE PLANS.

"(a) IN GENERAL.—In order for a State to receive a grant or an allocation of funds under this part for any fiscal year, such State shall have in effect for such fiscal year a State plan. Such plan shall—

"(1) designate the State educational agency as the State agency responsible for the administration of the program assisted under this part;

"(2) set forth a program under which funds paid to the State in accordance with section 3602 will be expended solely for—

"(A) acquisition of school library media resources, including books and foreign language resources, for the use of students, school library media specialists, and teachers in elementary and secondary schools in the United States; and

"(B) administration of the State plan, including development and revision of standards, relating to school library media resources, except that the amount used for administration of the State plan in any fiscal year shall not exceed three percent of the amount available to such State under section 3602 for such fiscal year; and

"(3) set forth criteria to be used in allotting funds for school library media resources among the local educational agencies of the State, which allotment shall take into consideration the relative need of the students, school media specialists, and teachers to be served.

"(b) PLAN SUBMISSION.—The State plan may be submitted as part of a consolidated application under section 14302.

"SEC. 3604. DISTRIBUTION OF ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.

"From the funds allocated to a State under section 3602(2) in each fiscal year, such State shall distribute not less than 97 percent of such funds in such year to local educational agencies within such State according to the relative enrollment of students in elementary and secondary schools within the school districts of such State, adjusted to provide higher per pupil allotments to local educational agencies that have the greatest number or percentages of students whose education imposes a higher than average cost per child, such as those students—

"(1) living in areas with high concentrations of low-income families;

"(2) from low-income families; and

"(3) living in sparsely populated areas.

"SEC. 3605. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part $200,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"TITLE IV—SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES

"SEC. 4001. SHORT TITLE.

"This title may be cited as the 'Safe and Drug-Free Schools and Communities Act of 1994'.

"SEC. 4002. FINDINGS.

"The Congress finds as follows:

"(1) The seventh National Education Goal provides that by the year 2000, all schools in America will be free of drugs and violence and the unauthorized presence of firearms and alcohol, and offer a disciplined environment that is conducive to learning.

"(2) The widespread illegal use of alcohol and other drugs among the Nation's secondary school students, and increasingly by students in elementary schools as well, constitutes a grave threat to such students' physical and mental well-being, and significantly impedes the learning process. For example, data show that students who drink tend to receive lower grades and are more likely to miss school because of illness than students who do not drink.

"(3) Our Nation's schools and communities are increasingly plagued by violence and crime. Approximately 3,000,000 thefts and violent crimes occur in or near our Nation's schools every year, the equivalent of more than 16,000 incidents per school day.

"(4) Violence that is linked to prejudice and intolerance victimizes entire communities leading to more violence and discrimination.

"(5) The tragic consequences of violence and the illegal use of alcohol and drugs by students are felt not only by students and such students' families, but by such students' communities and the Nation, which can ill afford to lose such students' skills, talents, and vitality.

"(6) While use of illegal drugs is a serious problem among a minority of teenagers, alcohol use is far more widespread. The proportion of high school students using alcohol, though lower than a decade ago, remains unacceptably high. By the 8th grade, 70 percent of youth report having tried alcohol and by the 12th grade, about 88 percent have used alcohol. Alcohol use by young people can and does have adverse consequences for users, their families, communities, schools, and colleges.

"(7) Alcohol and tobacco are widely used by young people. Such use can, and does, have adverse consequences for young people, their families, communities, schools, and colleges. Drug prevention programs for youth that address only controlled drugs send an erroneous message that alcohol and tobacco do not present significant problems, or that society is willing to overlook their use. To be credible, messages opposing illegal drug use by youth should address alcohol and tobacco as well.

"(8) Every day approximately 3,000 children start smoking. Thirty percent of all secondary school seniors are smokers. Half of all new smokers begin smoking before the age of 14, 90 percent of such smokers begin before the age of

21, and the average age of the first use of smokeless tobacco is under the age of 10. Use of tobacco products has been linked to serious health problems. Drug education and prevention programs that include tobacco have been effective in reducing teenage use of tobacco.

“(9) Drug and violence prevention programs are essential components of a comprehensive strategy to promote school safety and to reduce the demand for and use of drugs throughout the Nation. Schools and local organizations in communities throughout the Nation have a special responsibility to work together to combat the growing epidemic of violence and illegal drug use and should measure the success of their programs against clearly defined goals and objectives.

“(10) Students must take greater responsibility for their own well-being, health, and safety if schools and communities are to achieve the goals of providing a safe, disciplined, and drug-free learning environment.

“SEC. 4003. PURPOSE.

“The purpose of this title is to support programs to meet the seventh National Education Goal by preventing violence in and around schools and by strengthening programs that prevent the illegal use of alcohol, tobacco, and drugs, involve parents, and are coordinated with related Federal, State, and community efforts and resources, through the provision of Federal assistance to—

“(1) States for grants to local educational agencies and educational service agencies and consortia of such agencies to establish, operate, and improve local programs of school drug and violence prevention, early intervention, rehabilitation referral, and education in elementary and secondary schools (including intermediate and junior high schools);

“(2) States for grants to, and contracts with, community-based organizations and other public and private nonprofit agencies and organizations for programs of drug and violence prevention, early intervention, rehabilitation referral, and education;

“(3) States for development, training, technical assistance, and coordination activities;

“(4) public and private nonprofit organizations to conduct training, demonstrations, and evaluation, and to provide supplementary services for the prevention of drug use and violence among students and youth; and

“(5) institutions of higher education to establish, operate, expand, and improve programs of school drug and violence prevention, education, and rehabilitation referral for students enrolled in colleges and universities.

“SEC. 4004. FUNDING.

“There are authorized to be appropriated—

“(1) $630,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, for State grants under subpart 1; and

“(2) $25,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, for national programs under subpart 2.

“PART A—STATE GRANTS FOR DRUG AND VIOLENCE PREVENTION PROGRAMS

“Subpart 1—State Grants for Drug and Violence Prevention Programs

“SEC. 4011. RESERVATIONS AND ALLOTMENTS.

“(a) RESERVATIONS.—From the amount made available under section 4004(a) to carry out this subpart for each fiscal year, the Secretary—

“(1) shall reserve 1 percent of such amount for grants under this subpart to Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with the Secretary's determination of their respective needs;

“(2) shall reserve 1 percent of such amount for the Secretary of the Interior to carry out programs under this part for Indian youth;

“(3) may reserve not more than $1,000,000 for the national impact evaluation required by section 4117(a); and

“(4) shall reserve 0.2 percent of such amount for programs for Native Hawaiians under section 4118.

“(b) STATE ALLOTMENTS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall, for each fiscal year, allocate among the States—

“(A) one-half of the remainder not reserved under subsection (a) according to the ratio between the school-aged population of each State and the school-aged population of all the States; and

“(B) one-half of such remainder according to the ratio between the amount each State received under part A of title I for the preceding year (or, for fiscal year 1995 only, sections 1005 and 1006 of this Act as such sections were in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994) and the sum of such amounts received by all the States.

“(2) MINIMUM.—For any fiscal year, no State shall be allotted under this subsection an amount that is less than one-half of 1 percent of the total amount allotted to all the States under this subsection.

“(3) REALLOTMENT.—The Secretary may reallot any amount of any allotment to a State if the Secretary determines that the State will be unable to use such amount within two years of such allotment. Such reallotments shall be made on the same basis as allotments are made under paragraph (1).

“(4) DEFINITIONS.—For the purpose of this subsection—

“(A) the term ‘State’ means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

“(B) the term ‘local educational agency’ includes educational service agencies and consortia of such agencies.

“SEC. 4112. STATE APPLICATIONS.

“(a) IN GENERAL.—In order to receive an allotment under section 4111 for any fiscal year, a State shall submit to the Secretary, at such time as the Secretary may require, an application that—

“(1) describes how funds under this subpart will be coordinated with programs under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, in accordance with the provisions of section 14306;

“(2) contains the results of the State's needs assessment for drug and violence prevention programs, which shall be based on the results of on-going State evaluation activities, including data on the prevalence of drug use and violence by youth in schools and communities;

“(3) contains assurances that the sections of the application concerning the funds provided to the chief executive officer and the State educational agency were developed separately by such officer or agency, respectively, but in consultation and coordination with appropriate State officials and others, including the chief State school officer, the chief executive officer, the head of the State alcohol and drug abuse agency, the heads of the State health and mental health agencies, the head of the State criminal justice planning agency, the head of the State child welfare agency, the head of the State board of education, or their designees, and representatives of parents, students, and community-based organizations;

“(4) contains an assurance that the State will cooperate with, and assist, the Secretary in conducting a national impact evaluation of programs required by section 4117(a); and

“(5) includes any other information the Secretary may require.

“(b) STATE EDUCATIONAL AGENCY FUNDS.—A State's application under this section shall also contain a comprehensive plan for the use of funds under section 4113(a) by the State educational agency that includes—

“(1) a statement of the State educational agency's measurable goals and objectives for drug and violence prevention and a description of the procedures such agency will use for assessing and publicly reporting progress toward meeting those goals and objectives;

“(2) a plan for monitoring the implementation of, and providing technical assistance regarding, the drug and violence prevention programs conducted by local educational agencies in accordance with section 4116;

“(3) a description of how the State educational agency will use funds under section 4113(b);

“(4) a description of how the State educational agency will coordinate such agency's activities under this subpart with the chief executive officer's drug and violence prevention programs under this subpart and with the prevention efforts of other State agencies;

“(5) an explanation of the criteria the State educational agency will use to identify which local educational agencies receive supplemental funds under section 4113(d)(2)(A)(ii) and how the supplemental funds will be allocated among such local educational agencies; and

“(6) a description of the procedures the State educational agency will use to review applications from local educational agencies under section 4115.

“(c) GOVERNOR'S FUNDS.—A State's application under this section shall also contain a comprehensive plan for the use of funds under section 4114(a) by the chief executive officer that includes—

“(1) a statement of the chief executive officer's measurable goals and objectives for drug and violence prevention and a description of the procedures to be used for assessing and publicly reporting progress toward meeting such goals and objectives;

“(2) a description of how the chief executive officer will coordinate such officer's activities under this part with the State educational agency and other State agencies and organizations involved with drug and violence prevention efforts;

“(3) a description of how funds reserved under section 4114(a) will be used so as not to duplicate the efforts of the State educational agency and local educational agencies with regard to the provision of school-based prevention efforts and services and how those funds will be used to serve populations not normally served by the State educational agency, such as school dropouts and youth in detention centers;

“(4) a description of how the chief executive officer will award funds under section 4114(a) and a plan for monitoring the performance of, and providing technical assistance to, recipients of such funds;

“(5) a description of the special outreach activities that will be carried out to maximize the participation of community-based organizations of demonstrated effectiveness which provide services in low-income communities; and

“(6) a description of how funds will be used to support community-wide comprehensive drug and violence prevention planning.

“(d) PEER REVIEW.—The Secretary shall use a peer review process in reviewing State applications under this section.

“(e) INTERIM APPLICATION.—Notwithstanding any other provisions of this section, a State may submit for fiscal year 1995 a one-year interim application and plan for the use of funds under this subpart that are consistent with the requirements of this section and contain such information as the Secretary may specify in regulations. The purpose of such interim application and plan shall be to afford the State the opportunity to fully develop and review such State's

application and comprehensive plan otherwise required by this section. A State may not receive a grant under this subpart for a fiscal year subsequent to fiscal year 1995 unless the Secretary has approved such State's application and comprehensive plan in accordance with this subpart.

"SEC. 4113. STATE AND LOCAL EDUCATIONAL AGENCY PROGRAMS.

"(a) USE OF FUNDS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an amount equal to 80 percent of the total amount allocated to a State under section 4111 for each fiscal year shall be used by the State educational agency and its local educational agencies for drug and violence prevention activities in accordance with this section.

"(2) EXCEPTION.—(A) If a State has, on or before January 1, 1994, established an independent State agency for the purpose of administering all of the funds described in section 5121 of this Act (as such section was in effect on the day preceding the date of the enactment of the Improving America's Schools Act of 1994), then—

"(i) an amount equal to 80 percent of the total amount allocated to such State under section 4111 for each fiscal year shall be used by the State educational agency and its local educational agencies for drug and violence prevention activities in accordance with this section; and

"(ii) an amount equal to 20 percent of such total amount shall be used by such independent State agency for drug and violence prevention activities in accordance with this section.

"(B) Not more than 5 percent of the amount reserved under subparagraph (A)(ii) may be used for administrative costs of the independent State agency incurred in carrying out the activities described in such subparagraph.

"(C) For purposes of this paragraph, the term 'independent State agency' means an independent agency with a board of directors or a cabinet level agency whose chief executive officer is appointed by the chief executive officer of the State and confirmed with the advice and consent of the senate of such State.

"(b) STATE LEVEL PROGRAMS.—

"(1) IN GENERAL.—A State educational agency shall use not more than 5 percent of the amount available under subsection (a) for activities such as—

"(A) training and technical assistance concerning drug and violence prevention for local educational agencies and educational service agencies, including teachers, administrators, coaches and athletic directors, other staff, parents, students, community leaders, health service providers, local law enforcement officials, and judicial officials;

"(B) the development, identification, dissemination, and evaluation of the most readily available, accurate, and up-to-date curriculum materials (including videotapes, software, and other technology-based learning resources), for consideration by local educational agencies;

"(C) making available to local educational agencies cost effective programs for youth violence and drug abuse prevention;

"(D) demonstration projects in drug and violence prevention;

"(E) training, technical assistance, and demonstration projects to address violence associated with prejudice and intolerance;

"(F) financial assistance to enhance resources available for drug and violence prevention in areas serving large numbers of economically disadvantaged children or sparsely populated areas, or to meet other special needs consistent with the purposes of this subpart; and

"(G) the evaluation of activities carried out within the State under this part.

"(2) SPECIAL RULE.—A State educational agency may carry out activities under this subsection directly, or through grants or contracts.

"(c) STATE ADMINISTRATION.—A State educational agency may use not more than 4 percent of the amount reserved under subsection (a) for the administrative costs of carrying out its responsibilities under this part.

"(d) LOCAL EDUCATIONAL AGENCY PROGRAMS.—

"(1) IN GENERAL.—A State educational agency shall distribute not less than 91 percent of the amount made available under subsection (a) for each fiscal year to local educational agencies in accordance with this subsection.

"(2) DISTRIBUTION.—(A) Of the amount distributed under paragraph (1), a State educational agency shall distribute—

"(i) 70 percent of such amount to local educational agencies, based on the relative enrollments in public and private nonprofit elementary and secondary schools within the boundaries of such agencies; and

"(ii) 30 percent of such amount to local educational agencies that the State educational agency determines have the greatest need for additional funds to carry out drug and violence prevention programs authorized by this subpart.

"(B) Where appropriate and to the extent consistent with the needs assessment conducted by the State, not less than 25 percent of the amount distributed under subparagraph (A)(ii) for a fiscal year shall be distributed to local educational agencies located in rural and urban areas.

"(C)(i) A State educational agency shall distribute funds under subparagraph (A)(ii) to not more than 10 percent of the local educational agencies in the State, or five such agencies, whichever is greater.

"(ii) In determining which local educational agencies have the greatest need for additional funds, the State educational agency shall consider objective data such as—

"(I) high rates of alcohol or drug use among youth;

"(II) high rates of victimization of youth by violence and crime;

"(III) high rates of arrests and convictions of youth for violent or drug- or alcohol-related crime;

"(IV) the extent of illegal gang activity;

"(V) high incidence of violence associated with prejudice and intolerance;

"(VI) high rates of referrals of youths to drug and alcohol abuse treatment and rehabilitation programs;

"(VII) high rates of referrals of youths to juvenile court;

"(VIII) high rates of expulsions and suspensions of students from schools; and

"(IX) high rates of reported cases of child abuse and domestic violence.

"(e) REALLOCATION OF FUNDS.—If a local educational agency chooses not to apply to receive the amount allocated to such agency under subsection (d), or if such agency's application under section 4115 is disapproved by the State educational agency, the State educational agency shall reallocate such amount to one or more of the local educational agencies determined by the State educational agency under subsection (d)(2)(C)(ii) to have the greatest need for additional funds.

"(f) RETURN OF FUNDS TO STATE EDUCATIONAL AGENCY; REALLOCATION.—

"(1) RETURN.—Except as provided in paragraph (2), upon the expiration of the 1-year period beginning on the date that a local educational agency or educational service agency under this title receives its allocation under this title—

"(A) such agency shall return to the State educational agency any funds from such allocation that remain unobligated; and

"(B) the State educational agency shall reallocate any such amount to local educational agencies or educational service agencies that have plans for using such amount for programs or activities on a timely basis.

"(2) REALLOCATION.—In any fiscal year, a local educational agency, may retain for obligation in the succeeding fiscal year—

"(A) an amount equal to not more than 25 percent of the allocation it receives under this title for such fiscal year; or

"(B) upon a demonstration of good cause by such agency or consortium, a greater amount approved by the State educational agency.

"SEC. 4114. GOVERNOR'S PROGRAMS.

"(a) USE OF FUNDS.—

"(1) IN GENERAL.—An amount equal to 20 percent of the total amount allocated to a State under section 4111(1) for each fiscal year shall be used by the chief executive officer of such State for drug and violence prevention programs and activities in accordance with this section.

"(2) LAW ENFORCEMENT EDUCATION PARTNERSHIPS.—A chief executive officer shall use not less than 10 percent of the 20 percent of the total amount described in paragraph (1) for each fiscal year for law enforcement education partnerships in accordance with subsection (d).

"(3) ADMINISTRATIVE COSTS.—A chief executive officer may use not more than 5 percent of the 20 percent of the total amount described in paragraph (1) for the administrative costs incurred in carrying out the duties of such officer under this section.

"(b) PROGRAMS AUTHORIZED.—

"(1) IN GENERAL.—A chief executive officer shall use funds made available under subsection (a)(1) for grants to or contracts with parent groups, community action and job training agencies, community-based organizations, and other public entities and private nonprofit organizations and consortia thereof. In making such grants and contracts, a chief executive officer shall give priority to programs and activities described in subsection (c) for—

"(A) children and youth who are not normally served by State or local educational agencies; or

"(B) populations that need special services or additional resources (such as preschoolers, youth in juvenile detention facilities, runaway or homeless children and youth, pregnant and parenting teenagers, and school dropouts).

"(2) PEER REVIEW.—Grants or contracts awarded under this subsection shall be subject to a peer review process.

"(c) AUTHORIZED ACTIVITIES.—Grants and contracts under subsection (b) shall be used for programs and activities such as—

"(1) disseminating information about drug and violence prevention;

"(2) training parents, law enforcement officials, judicial officials, social service providers, health service providers and community leaders about drug and violence prevention, comprehensive health education, early intervention, pupil services, or rehabilitation referral;

"(3) developing and implementing comprehensive, community-based drug and violence prevention programs that link community resources with schools and integrate services involving education, vocational and job skills training and placement, law enforcement, health, mental health, community service, mentoring, and other appropriate services;

"(4) planning and implementing drug and violence prevention activities that coordinate the efforts of State agencies with efforts of the State educational agency and its local educational agencies;

"(5) activities to protect students traveling to and from school;

"(6) before-and-after school recreational, instructional, cultural, and artistic programs that encourage drug- and violence-free lifestyles;

"(7) activities that promote the awareness of and sensitivity to alternatives to violence

through courses of study that include related issues of intolerance and hatred in history;

"(8) developing and implementing activities to prevent and reduce violence associated with prejudice and intolerance;

"(9) developing and implementing strategies to prevent illegal gang activity;

"(10) coordinating and conducting community-wide violence and safety assessments and surveys;

"(11) service-learning projects that encourage drug- and violence-free lifestyles; and

"(12) evaluating programs and activities assisted under this section.

"(d) LAW ENFORCEMENT EDUCATION PARTNERSHIPS.—A chief executive officer shall use funds under subsection (a)(2) to award grants to State, county or local law enforcement agencies (including district attorneys) in consortium with local educational agencies or community-based agencies for the purposes of carrying out drug abuse and violence prevention activities, such as—

"(1) Project Drug Abuse Resistance Education and other programs which provide classroom instruction by uniformed law enforcement officials that is designed to teach students to recognize and resist pressures to experiment that influence such children to use controlled substances or alcohol;

"(2) Project Legal Lives and other programs in which district attorneys provide classroom instruction in the law and legal system which emphasizes interactive learning techniques, such as mock trial competitions;

"(3) partnerships between law enforcement and child guidance professionals; and

"(4) before- and after-school activities.

"SEC. 4115. LOCAL APPLICATIONS.

"(a) APPLICATION REQUIRED.—

"(1) IN GENERAL.—In order to be eligible to receive a distribution under section 4113(d) for any fiscal year, a local educational agency shall submit, at such time as the State educational agency requires, an application to the State educational agency for approval. Such an application shall be amended, as necessary, to reflect changes in the local educational agency's program.

"(2) DEVELOPMENT.—(A) A local educational agency shall develop its application under subsection (a)(1) in consultation with a local or substate regional advisory council that includes, to the extent possible, representatives of local government, business, parents, students, teachers, pupil services personnel, appropriate State agencies, private schools, the medical profession, law enforcement, community-based organizations, and other groups with interest and expertise in drug and violence prevention.

"(B) In addition to assisting the local educational agency to develop an application under this section, the advisory council established or designated under subparagraph (A) shall, on an ongoing basis—

"(i) disseminate information about drug and violence prevention programs, projects, and activities conducted within the boundaries of the local educational agency;

"(ii) advise the local educational agency regarding—

"(I) how best to coordinate such agency's activities under this subpart with other related programs, projects, and activities; and

"(II) the agencies that administer such programs, projects, and activities; and

"(iii) review program evaluations and other relevant material and make recommendations to the local educational agency on how to improve such agency's drug and violence prevention programs.

"(b) CONTENTS OF APPLICATIONS.—An application under this section shall contain—

"(1) an objective analysis of the current use (and consequences of such use) of alcohol, tobacco, and controlled, illegal, addictive or harmful substances as well as the violence, safety, and discipline problems among students who attend the schools of the applicant (including private school students who participate in the applicant's drug and violence prevention program) that is based on ongoing local assessment or evaluation activities;

"(2) a detailed explanation of the local educational agency's comprehensive plan for drug and violence prevention, which shall include a description of—

"(A) how the plan will be coordinated with programs under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, in accordance with the provisions of section 14306;

"(B) the local educational agency's measurable goals for drug and violence prevention, and a description of how such agency will assess and publicly report progress toward attaining these goals;

"(C) how the local educational agency will use its distribution under this subpart;

"(D) how the local educational agency will coordinate such agency's programs and projects with community-wide efforts to achieve such agency's goals for drug and violence prevention; and

"(E) how the local educational agency will coordinate such agency's programs and projects with other Federal, State, and local programs for drug-abuse prevention, including health programs; and

"(3) such other information and assurances as the State educational agency may reasonably require.

"(c) REVIEW OF APPLICATION.—

"(1) IN GENERAL.—In reviewing local applications under this section, a State educational agency shall use a peer review process or other methods of assuring the quality of such applications.

"(2) CONSIDERATIONS.—(A) In determining whether to approve the application of a local educational agency under this section, a State educational agency shall consider the quality of the local educational agency's comprehensive plan under subsection (b)(2) and the extent to which such plan is coordinated with programs under this Act, the Goals 2000: Educate America Act, in accordance with the provisions of section 14306.

"(B) A State educational agency may disapprove a local educational agency application under this section in whole or in part and may withhold, limit, or place restrictions on the use of funds allotted to such a local educational agency in a manner the State educational agency determines will best promote the purposes of this part, except that a local educational agency shall be afforded an opportunity to appeal any such disapproval.

"SEC. 4116. LOCAL DRUG AND VIOLENCE PREVENTION PROGRAMS.

"(a) PROGRAM REQUIREMENTS.—A local educational agency shall use funds received under this subpart to adopt and carry out a comprehensive drug and violence prevention program which shall—

"(1) be designed, for all students and employees, to—

"(A) prevent the use, possession, and distribution of tobacco, alcohol, and illegal drugs by students and to prevent the illegal use, possession, and distribution of such substances by employees;

"(B) prevent violence and promote school safety; and

"(C) create a disciplined environment conducive to learning; and

"(2) include activities to promote the involvement of parents and coordination with community groups and agencies, including the distribution of information about the local educational agency's needs, goals, and programs under this subpart.

"(b) AUTHORIZED ACTIVITIES.—A comprehensive drug and violence prevention program carried out under this subpart may include—

"(1) age-appropriate, developmentally based drug prevention and education programs for all students, from the preschool level through grade 12, that address the legal, social, personal and health consequences of the use of illegal drugs, promote a sense of individual responsibility, and provide information about effective techniques for resisting peer pressure to use illegal drugs;

"(2) programs of drug prevention, comprehensive health education, early intervention, pupil services, mentoring, or rehabilitation referral, which emphasize students' sense of individual responsibility and which may include—

"(A) the dissemination of information about drug prevention;

"(B) the professional development of school personnel, parents, students, law enforcement officials, judicial officials, health service providers and community leaders in prevention, education, early intervention, pupil services or rehabilitation referral; and

"(C) the implementation of strategies, including strategies to integrate the delivery of services from a variety of providers, to combat illegal alcohol, tobacco and drug use, such as—

"(i) family counseling;

"(ii) early intervention activities that prevent family dysfunction, enhance school performance, and boost attachment to school and family; and

"(iii) activities, such as community service and service-learning projects, that are designed to increase students' sense of community;

"(3) age-appropriate, developmentally based violence prevention and education programs for all students, from the preschool level through grade 12, that address the legal, health, personal, and social consequences of violent and disruptive behavior, including sexual harassment and abuse, and victimization associated with prejudice and intolerance, and that include activities designed to help students develop a sense of individual responsibility and respect for the rights of others, and to resolve conflicts without violence;

"(4) violence prevention programs for school-aged youth, which emphasize students' sense of individual responsibility and may include—

"(A) the dissemination of information about school safety and discipline;

"(B) the professional development of school personnel, parents, students, law enforcement officials, judicial officials, and community leaders in designing and implementing strategies to prevent school violence;

"(C) the implementation of strategies, such as conflict resolution and peer mediation, student outreach efforts against violence, anti-crime youth councils (which work with school and community-based organizations to discuss and develop crime prevention strategies), and the use of mentoring programs, to combat school violence and other forms of disruptive behavior, such as sexual harassment and abuse; and

"(D) the development and implementation of character education programs, as a component of a comprehensive drug or violence prevention program, that are tailored by communities, parents and schools; and

"(E) comprehensive, community-wide strategies to prevent or reduce illegal gang activities;

"(5) supporting 'safe zones of passage' for students between home and school through such measures as Drug- and Weapon-Free School Zones, enhanced law enforcement, and neighborhood patrols;

"(6) acquiring and installing metal detectors and hiring security personnel;

"(7) professional development for teachers and other staff and curricula that promote the awareness of and sensitivity to alternatives to violence through courses of study that include related issues of intolerance and hatred in history;

"(8) the promotion of before-and-after school recreational, instructional, cultural, and artistic programs in supervised community settings;

"(9) drug abuse resistance education programs, designed to teach students to recognize and resist pressures to use alcohol or other drugs, which may include activities such as classroom instruction by uniformed law enforcement officers, resistance techniques, resistance to peer pressure and gang pressure, and provision for parental involvement; and

"(10) the evaluation of any of the activities authorized under this subsection.

"(c) LIMITATIONS.—

"(1) IN GENERAL.—Not more than 20 percent of the funds made available to a local educational agency under this subpart may be used to carry out the activities described in paragraphs (5) and (6) of subsection (b).

"(2) SPECIAL RULE.—A local educational agency shall only be able to use funds received under this subpart for activities described in paragraphs (5) and (6) of subsection (b) if funding for such activities is not received from other Federal agencies.

"(d) ADMINISTRATIVE PROVISIONS.—Notwithstanding any other provisions of law, any funds expended prior to July 1, 1995, under part B of the Drug-Free Schools and Communities Act of 1986 (as in effect prior to enactment of the Improving America's Schools Act) for the support of a comprehensive school health program shall be deemed to have been authorized by part B of such Act.

"SEC. 4117. EVALUATION AND REPORTING.

"(a) NATIONAL IMPACT EVALUATION.—

"(1) BIENNIAL EVALUATION.—The Secretary, in consultation with the Secretary of Health and Human Services, the Director of the Office of National Drug Control Policy, and the Attorney General, shall conduct an independent biennial evaluation of the national impact of programs assisted under this subpart and of other recent and new initiatives to combat violence in schools and submit a report of the findings of such evaluation to the President and the Congress.

"(2) DATA COLLECTION.—(A) The National Center for Education Statistics shall collect data to determine the frequency, seriousness, and incidence of violence in elementary and secondary schools in the States. The Secretary shall collect the data using, wherever appropriate, data submitted by the States pursuant to subsection (b)(2)(B).

"(B) Not later than January 1, 1998, the Secretary shall submit to the Congress a report on the data collected under this subsection, together with such recommendations as the Secretary determines appropriate, including estimated costs for implementing any recommendation.

"(b) STATE REPORT.—

"(1) IN GENERAL.—By October 1, 1997, and every third year thereafter, the chief executive officer of the State, in cooperation with the State educational agency, shall submit to the Secretary a report—

"(A) on the implementation and outcomes of State programs under section 4114 and section 4113(b) and local educational agency programs under section 4113(d), as well as an assessment of their effectiveness; and

"(B) on the State's progress toward attaining its goals for drug and violence prevention under subsections (b)(1) and (c)(1) of section 4112.

"(2) SPECIAL RULE.—The report required by this subsection shall be—

"(A) in the form specified by the Secretary;

"(B) based on the State's ongoing evaluation activities, and shall include data on the prevalence of drug use and violence by youth in schools and communities; and

"(C) made readily available to the public.

"(c) LOCAL EDUCATIONAL AGENCY REPORT.—Each local educational agency receiving funds under this subpart shall submit to the State educational agency such information, and at such intervals, that the State requires to complete the State report required by subsection (b), including information on the prevalence of drug use and violence by youth in the schools and the community. Such information shall be made readily available to the public.

"SEC. 4118. PROGRAMS FOR NATIVE HAWAIIANS.

"(a) GENERAL AUTHORITY.—From the funds made available pursuant to section 4111(a)(4) to carry out this section, the Secretary shall make grants to or enter into cooperative agreements or contracts with organizations primarily serving and representing Native Hawaiians which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this title for the benefit of Native Hawaiians.

"(b) DEFINITION OF NATIVE HAWAIIAN.—For the purposes of this section, the term 'Native Hawaiian' means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

"Subpart 2—National Programs

"SEC. 4121. FEDERAL ACTIVITIES.

"(a) PROGRAM AUTHORIZED.—From funds made available to carry out this subpart under section 4004(2), the Secretary, in consultation with the Secretary of Health and Human Services, the Director of the Office of National Drug Control Policy, the Chair of the Ounce of Prevention Council, and the Attorney General, shall carry out programs to prevent the illegal use of drugs and violence among, and promote safety and discipline for, students at all educational levels from preschool through the postsecondary level. The Secretary shall carry out such programs directly, or through grants, contracts, or cooperative agreements with public and private nonprofit organizations and individuals, or through agreements with other Federal agencies, and shall coordinate such programs with other appropriate Federal activities. Such programs may include—

"(1) the development and demonstration of innovative strategies for training school personnel, parents, and members of the community, including the demonstration of model preservice training programs for prospective school personnel;

"(2) demonstrations and rigorous evaluations of innovative approaches to drug and violence prevention;

"(3) the provision of information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by the clearinghouse for alcohol and drug abuse information established under section 501(d)(16) of the Public Health Service Act;

"(4) the development of curricula related to child abuse prevention and education and the training of personnel to teach child abuse education and prevention to elementary and secondary school children;

"(5) program evaluations in accordance with section 14701 that address issues not addressed under section 4117(a);

"(6) direct services to schools and school systems afflicted with especially severe drug and violence problems;

"(7) activities in communities designated as empowerment zones or enterprise communities that will connect schools to community-wide efforts to reduce drug and violence problems;

"(8) developing and disseminating drug and violence prevention materials, including video-based projects and model curricula;

"(9) developing and implementing a comprehensive violence prevention strategy for schools and communities, that may include conflict resolution, peer mediation, the teaching of law and legal concepts, and other activities designed to stop violence;

"(10) the implementation of innovative activities, such as community service projects, designed to rebuild safe and healthy neighborhoods and increase students' sense of individual responsibility;

"(11) grants to noncommercial telecommunications entities for the production and distribution of national video-based projects that provide young people with models for conflict resolution and responsible decisionmaking;

"(12) the development of education and training programs, curricula, instructional materials, and professional training and development for preventing and reducing the incidence of crimes and conflicts motivated by hate in localities most directly affected by hate crimes; and

"(13) other activities that meet unmet national needs related to the purposes of this title.

"(b) PEER REVIEW.—The Secretary shall use a peer review process in reviewing applications for funds under this section.

"SEC. 4122. GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.

"(a) IN GENERAL.—From funds made available to carry out this subpart under section 4004(2), the Secretary is authorized to make grants to, or enter into contracts with, institutions of higher education, or consortia of such institutions, for drug and violence prevention programs under this section. Awards under this section shall support the development, implementation, validation, and dissemination of—

"(1) model programs and strategies to promote the safety of students attending institutions of higher education by preventing violent behavior and the illegal use of alcohol and other drugs by such students; and

"(2) such model programs and strategies shall be coordinated with the report required under section 204(a)(4)(B) of the Student Right-to-Know and Campus Security Act on policies, procedures and practices which have proven effective in the reduction of campus crime.

"(b) APPLICATIONS.—An institution of higher education, or consortium of such institutions, that desires to receive an award under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. The Secretary shall use a peer review process for reviewing applications for funds under this section.

"(c) EQUITABLE PARTICIPATION.—The Secretary shall make every reasonable effort to ensure the equitable participation in the activities assisted under this section of private and public institutions of higher education (including community and junior colleges), institutions of limited enrollment, and institutions in different geographic regions.

"SEC. 4123. HATE CRIME PREVENTION.

"(a) GRANT AUTHORIZATION.—From funds made available to carry out this subpart under section 4004(1) the Secretary may make grants to local educational agencies and community-based organizations for the purpose of providing assistance to localities most directly affected by hate crimes.

"(b) USE OF FUNDS.—

"(1) PROGRAM DEVELOPMENT.—Grants under this section may be used to improve elementary and secondary educational efforts, including—

"(A) development of education and training programs designed to prevent and to reduce the incidence of crimes and conflicts motivated by hate;

"(B) development of curricula for the purpose of improving conflict or dispute resolution skills of students, teachers, and administrators;

"(C) development and acquisition of equipment and instructional materials to meet the needs of, or otherwise be part of, hate crime or conflict programs; and

"(D) professional training and development for teachers and administrators on the causes, effects, and resolutions of hate crimes or hate-based conflicts.

"(2) IN GENERAL.—In order to be eligible to receive a grant under this section for any fiscal year, a local educational agency, or a local educational agency in conjunction with a community-based organization, shall submit an application to the Secretary in such form and containing such information as the office may reasonably require.

"(3) REQUIREMENTS.—Each application under paragraph (2) shall include—

"(A) a request for funds for the purposes described in this section;

"(B) a description of the schools and communities to be served by the grants; and

"(C) assurances that Federal funds received under this section shall be used to supplement, not supplant, non-Federal funds.

"(4) COMPREHENSIVE PLAN.—Each application shall include a comprehensive plan that contains—

"(A) a description of the hate crime or conflict problems within the schools or the community targeted for assistance;

"(B) a description of the program to be developed or augmented by such Federal and matching funds;

"(C) assurances that such program or activity shall be administered by or under the supervision of the applicant;

"(D) proper and efficient administration of such program; and

"(E) fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this section.

"(c) AWARD OF GRANTS.—

"(1) SELECTION OF RECIPIENTS.—The Secretary shall consider the incidence of crimes and conflicts motivated by bias in the targeted schools and communities in awarding grants under this section.

"(2) GEOGRAPHIC DISTRIBUTION.—The Secretary shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

"(3) DISSEMINATION OF INFORMATION.—The Secretary shall attempt, to the extent practicable, to make available information regarding successful hate crime prevention programs, including programs established or expanded with grants under this section.

"(d) REPORTS.—The Secretary shall submit to the Congress a report every two years which shall contain a detailed statement regarding grants and awards, activities of grant recipients, and an evaluation of programs established under this section.

"Subpart 3—General Provisions

"SEC. 4131. DEFINITIONS.

"For the purposes of this part:

"(1) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a private nonprofit organization which is representative of a community or significant segments of a community and which provides educational or related services to individuals in the community.

"(2) DRUG AND VIOLENCE PREVENTION.—The term 'drug and violence prevention' means—

"(A) with respect to drugs, prevention, early intervention, rehabilitation referral, or education related to the illegal use of alcohol and the use of controlled, illegal, addictive, or harmful substances, including inhalants and anabolic steroids;

"(B) prevention, early intervention, smoking cessation activities, or education, related to the use of tobacco by children and youth eligible for services under this title; and

"(C) with respect to violence, the promotion of school safety, such that students and school personnel are free from violent and disruptive acts, including sexual harassment and abuse, and victimization associated with prejudice and intolerance, on school premises, going to and from school, and at school-sponsored activities, through the creation and maintenance of a school environment that is free of weapons and fosters individual responsibility and respect for the rights of others.

"(3) HATE CRIME.—The term 'hate crime' means a crime as described in section 1(b) of the Hate Crime Statistics Act of 1990.

"(4) NONPROFIT.—The term 'nonprofit', as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(5) SCHOOL-AGED POPULATION.—The term 'school-aged population' means the population aged five through 17, as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

"(6) SCHOOL PERSONNEL.—The term 'school personnel' includes teachers, administrators, guidance counselors, social workers, psychologists, nurses, librarians, and other support staff who are employed by a school or who perform services for the school on a contractual basis.

"SEC. 4132. MATERIALS.

"(a) 'WRONG AND HARMFUL' MESSAGE.—Drug prevention programs supported under this part shall convey a clear and consistent message that the illegal use of alcohol and other drugs is wrong and harmful.

"(b) CURRICULUM.—The Secretary shall not prescribe the use of specific curricula for programs supported under this part, but may evaluate the effectiveness of such curricula and other strategies in drug and violence prevention.

"SEC. 4133. PROHIBITED USES OF FUNDS.

"No funds under this part may be used for—

"(1) construction (except for minor remodeling needed to accomplish the purposes of this part); and

"(2) medical services, drug treatment or rehabilitation, except for pupil services or referral to treatment for students who are victims of or witnesses to crime or who use alcohol, tobacco, or drugs.".

"TITLE V—PROMOTING EQUITY

"PART A—MAGNET SCHOOLS ASSISTANCE

"SEC. 5101. FINDINGS.

"The Congress finds that—

"(1) magnet schools are a significant part of our Nation's effort to achieve voluntary desegregation in our Nation's schools;

"(2) the use of magnet schools has increased dramatically since the date of enactment of the Magnet Schools Assistance program, with approximately 1,400,000 students nationwide now attending such schools, of which more than 60 percent of the students are nonwhite;

"(3) magnet schools offer a wide range of distinctive programs that have served as models for school improvement efforts;

"(4) in administering the Magnet Schools Assistance program, the Federal Government has learned that—

"(A) where magnet programs are implemented for only a portion of a school's student body, special efforts must be made to discourage the isolation of—

"(i) magnet school students from other students in the school; and

"(ii) students by racial characteristics;

"(B) local educational agencies can maximize their effectiveness in achieving the purposes of the Magnet Schools Assistance program if such agencies have more flexibility in the administration of such program in order to serve students attending a school who are not enrolled in the magnet school program;

"(C) local educational agencies must be creative in designing magnet schools for students at all academic levels, so that school districts do not skim off only the highest achieving students to attend the magnet schools;

"(D) consistent with desegregation guidelines, local educational agencies must seek to enable participation in magnet school programs by students who reside in the neighborhoods where the programs operate; and

"(E) in order to ensure that magnet schools are sustained after Federal funding ends, the Federal Government must assist school districts to improve their capacity to continue to operate magnet schools at a high level of performance; and

"(5) it is in the best interest of the Federal Government to—

"(A) continue the Federal Government's support of school districts implementing court-ordered desegregation plans and school districts seeking to foster meaningful interaction among students of different racial and ethnic backgrounds, beginning at the earliest stage of such students' education;

"(B) ensure that all students have equitable access to quality education that will prepare such students to function well in a culturally diverse, technologically oriented, and highly competitive, global community; and

"(C) maximize the ability of local educational agencies to plan, develop, implement and continue effective and innovative magnet schools that contribute to State and local systemic reform.

"SEC. 5102. STATEMENT OF PURPOSE.

"The purpose of this part is to assist in the desegregation of schools served by local educational agencies by providing financial assistance to eligible local educational agencies for—

"(1) the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority students;

"(2) the development and implementation of magnet school projects that will assist local educational agencies in achieving systemic reforms and providing all students the opportunity to meet challenging State content standards and challenging State student performance standards;

"(3) the development and design of innovative educational methods and practices; and

"(4) courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational skills of students attending such schools.

"SEC. 5103. PROGRAM AUTHORIZED.

"The Secretary, in accordance with this part, is authorized to make grants to eligible local educational agencies, and consortia of such agencies where appropriate, to carry out the purpose of this part for magnet schools that are—

"(1) part of an approved desegregation plan; and

"(2) designed to bring students from different social, economic, ethnic, and racial backgrounds together.

"SEC. 5104. DEFINITION.

"For the purpose of this part, the term 'magnet school' means a public elementary or secondary school or public elementary or secondary

education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

"SEC. 5105. ELIGIBILITY.

"A local educational agency, or consortium of such agencies where appropriate, is eligible to receive assistance under this part to carry out the purposes of this part if such agency or consortium—

"(1) is implementing a plan undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, that requires the desegregation of minority-group-segregated children or faculty in the elementary and secondary schools of such agency; or

"(2) without having been required to do so, has adopted and is implementing, or will, if assistance is made available to such local educational agency or consortium of such agencies under this part, adopt and implement a plan that has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority-group-segregated children or faculty in such schools.

"SEC. 5106. APPLICATIONS AND REQUIREMENTS.

"(a) APPLICATIONS.—An eligible local educational agency or consortium of such agencies desiring to receive assistance under this part shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may reasonably require.

"(b) INFORMATION AND ASSURANCES.—Each such application shall include—

"(1) a description of—

"(A) how assistance made available under this part will be used to promote desegregation, including how the proposed magnet school project will increase interaction among students of different social, economic, ethnic, and racial backgrounds;

"(B) the manner and extent to which the magnet school project will increase student achievement in the instructional area or areas offered by the school;

"(C) how an applicant will continue the magnet school project after assistance under this part is no longer be available, including, if applicable, an explanation of why magnet schools established or supported by the applicant with funds under this part cannot be continued without the use of funds under this part;

"(D) how funds under this part will be used to implement services and activities that are consistent with other programs under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, in accordance with the provisions of section 14306; and

"(E) the criteria to be used in selecting students to attend the proposed magnet school projects; and

"(2) assurances that the applicant will—

"(A) use funds under this part for the purposes specified in section 5102;

"(B) employ State certified or licensed teachers in the courses of instruction assisted under this part to teach or supervise others who are teaching the subject matter of the courses of instruction;

"(C) not engage in discrimination based on race, religion, color, national origin, sex, or disability in—

"(i) the hiring, promotion, or assignment of employees of the agency or other personnel for whom the agency has any administrative responsibility;

"(ii) the assignment of students to schools, or to courses of instruction within the school, of such agency, except to carry out the approved plan; and

"(iii) designing or operating extracurricular activities for students;

"(D) carry out a high-quality education program that will encourage greater parental decisionmaking and involvement; and

"(E) give students residing in the local attendance area of the proposed magnet school projects equitable consideration for placement in those projects.

"(c) SPECIAL RULE.—No application may be approved under this section unless the Assistant Secretary of Education for Civil Rights determines that the assurances described in subsection (b)(2)(C) will be met.

"SEC. 5107. PRIORITY.

"In approving applications under this part, the Secretary shall give priority to applicants that—

"(1) demonstrate the greatest need for assistance, based on the expense or difficulty of effectively carrying out an approved desegregation plan and the projects for which assistance is sought;

"(2) propose to carry out new magnet school projects, or significantly revise existing magnet school projects;

"(3) propose to select students to attend magnet school projects by methods such as lottery, rather than through academic examination;

"(4) propose to implement innovative educational approaches that are consistent with the State's and local educational agency's approved systemic reform plans, if any, under title III of the Goals 2000: Educate America Act; and

"(5) propose to draw on comprehensive community involvement plans.

"SEC. 5108. USE OF FUNDS.

"(a) IN GENERAL.—Grant funds made available under this part may be used by an eligible local educational agency or consortium of such agencies—

"(1) for planning and promotional activities directly related to the development, expansion, continuation, or enhancement of academic programs and services offered at magnet schools;

"(2) for the acquisition of books, materials, and equipment, including computers and the maintenance and operation thereof, necessary for the conduct of programs in magnet schools;

"(3) for the payment, or subsidization of the compensation, of elementary and secondary school teachers who are certified or licensed by the State, and instructional staff where applicable, who are necessary for the conduct of programs in magnet schools; and

"(4) with respect to a magnet school program offered to less than the entire student population of a school, for instructional activities that—

"(A) are designed to make available the special curriculum that is offered by the magnet school project to students who are enrolled in the school but who are not enrolled in the magnet school program; and

"(B) further the purposes of this part.

"(b) SPECIAL RULE.—Grant funds under this part may be used in accordance with paragraphs (2) and (3) of subsection (a) only if the activities described in such paragraphs are directly related to improving the students' reading skills or knowledge of mathematics, science, history, geography, English, foreign languages, art, or music, or to improving vocational skills.

"SEC. 5109. PROHIBITIONS.

"(a) TRANSPORTATION.—Grants under this part may not be used for transportation or any activity that does not augment academic improvement.

"(b) PLANNING.—A local educational agency shall not expend funds under this part after the third year that such agency receives funds under this part for such project.

"SEC. 5110. LIMITATIONS.

"(a) DURATION OF AWARDS.—A grant under this part shall be awarded for a period that shall not exceed three fiscal years.

"(b) LIMITATION ON PLANNING FUNDS.—A local educational agency may expend for planning not more than 50 percent of the funds received under this part for the first year of the project, 15 percent of such funds for the second such year, and 10 percent of such funds for the third such year.

"(c) AMOUNT.—No local educational agency or consortium awarded a grant under this part shall receive more than $4,000,000 under this part in any one fiscal year.

"(d) TIMING.—To the extent practicable, the Secretary shall award grants for any fiscal year under this part not later than June 1 of the applicable fiscal year.

"SEC. 5111. INNOVATIVE PROGRAMS.

"(a) IN GENERAL.—From amounts reserved under subsection (d) for each fiscal year, the Secretary shall award grants to local educational agencies or consortia of such agencies described in section 5105 to enable such agencies or consortia to conduct innovative programs that—

"(1) carry out the purpose of this part; and

"(2) involve strategies other than magnet schools, such as neighborhood or community model schools—

"(A) organized around a special emphasis, theme or concept; and

"(B) involving extensive parent and community involvement.

"(b) APPLICABILITY.—Sections 5103, 5106, 5107, and 5108, shall not apply to grants awarded under subsection (a).

"(c) APPLICATIONS.—Each local educational agency or consortia of such agencies desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may reasonably require.

"(d) INNOVATIVE PROGRAMS.—The Secretary shall reserve not more than 5 percent of the funds appropriated under section 5113(a) for each fiscal year to award grants under this section.

"SEC. 5112. EVALUATIONS.

"(a) RESERVATION.—The Secretary may reserve not more than two percent of the funds appropriated under section 5113(a) for any fiscal year to carry out evaluations of projects assisted under this part.

"(b) CONTENTS.—Each evaluation described in subsection (a), at a minimum, shall address—

"(1) how and the extent to which magnet school programs lead to educational quality and improvement;

"(2) the extent to which magnet school programs enhance student access to quality education;

"(3) the extent to which magnet school programs lead to the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority students; and

"(4) the extent to which magnet school programs differ from other school programs in terms of the organizational characteristics and resource allocations of such magnet school programs.

"SEC. 5113. AUTHORIZATION OF APPROPRIATIONS; RESERVATION.

"(a) AUTHORIZATION.—For the purpose of carrying out this part, there are authorized to be appropriated $120,000,000 for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(b) AVAILABILITY OF FUNDS FOR GRANTS TO AGENCIES NOT PREVIOUSLY ASSISTED.—In any fiscal year for which the amount appropriated pursuant to subsection (a) exceeds $75,000,000, the Secretary shall give priority to using such amounts in excess of $75,000,000 to award grants to local educational agencies or consortia of

such agencies that did not receive a grant under this part in the preceding fiscal year.

"PART B—WOMEN'S EDUCATIONAL EQUITY

"SEC. 5201. SHORT TITLE; FINDINGS.

"(a) SHORT TITLE.—This part may be cited as the 'Women's Educational Equity Act of 1994'.

"(b) FINDINGS.—The Congress finds that—

"(1) since the enactment of title IX of the Education Amendments of 1972, women and girls have made strides in educational achievement and in their ability to avail themselves of educational opportunities;

"(2) because of funding provided under the Women's Educational Equity Act, more curricula, training, and other educational materials concerning educational equity for women and girls are available for national dissemination;

"(3) teaching and learning practices in the United States are frequently inequitable as such practices relate to women and girls, for example—

"(A) sexual harassment, particularly that experienced by girls, undermines the ability of schools to provide a safe and equitable learning or workplace environment;

"(B) classroom textbooks and other educational materials do not sufficiently reflect the experiences, achievements, or concerns of women and, in most cases, are not written by women or persons of color;

"(C) girls do not take as many mathematics and science courses as boys, girls lose confidence in their mathematics and science ability as girls move through adolescence, and there are few women role models in the sciences; and

"(D) pregnant and parenting teenagers are at high risk for dropping out of school and existing dropout prevention programs do not adequately address the needs of such teenagers;

"(4) efforts to improve the quality of public education also must include efforts to ensure equal access to quality education programs for all women and girls;

"(5) Federal support should address not only research and development of innovative model curricula and teaching and learning strategies to promote gender equity, but should also assist schools and local communities implement gender equitable practices;

"(6) Federal assistance for gender equity must be tied to systemic reform, involve collaborative efforts to implement effective gender practices at the local level, and encourage parental participation; and

"(7) excellence in education, high educational achievements and standards, and the full participation of women and girls in American society, cannot be achieved without educational equity for women and girls.

"SEC. 5202. STATEMENT OF PURPOSES.

"It is the purpose of this part—

"(1) to promote gender equity in education in the United States;

"(2) to provide financial assistance to enable educational agencies and institutions to meet the requirements of title IX of the Educational Amendments of 1972; and

"(3) to promote equity in education for women and girls who suffer from multiple forms of discrimination based on sex, race, ethnic origin, limited-English proficiency, disability, or age.

"SEC. 5203. PROGRAMS AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized—

"(1) to promote, coordinate, and evaluate gender equity policies, programs, activities and initiatives in all Federal education programs and offices;

"(2) to develop, maintain, and disseminate materials, resources, analyses, and research relating to education equity for women and girls;

"(3) to provide information and technical assistance to assure the effective implementation of gender equity programs;

"(4) to coordinate gender equity programs and activities with other Federal agencies with jurisdiction over education and related programs;

"(5) to assist the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities related to education equity for women and girls; and

"(6) to perform any other activities consistent with achieving the purposes of this part.

"(b) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized to make grants to, and enter into contracts and cooperative agreements with, public agencies, private nonprofit agencies, organizations, institutions, student groups, community groups, and individuals, for a period not to exceed four years, to—

"(A) provide grants to develop model equity programs; and

"(B) provide funds for the implementation of equity programs in schools throughout the Nation.

"(2) SUPPORT AND TECHNICAL ASSISTANCE.—To achieve the purposes of this part, the Secretary is authorized to provide support and technical assistance—

"(A) to implement effective gender-equity policies and programs at all educational levels, including—

"(i) assisting educational agencies and institutions to implement policies and practices to comply with title IX of the Education Amendments of 1972;

"(ii) training for teachers, counselors, administrators, and other school personnel, especially preschool and elementary school personnel, in gender equitable teaching and learning practices;

"(iii) leadership training for women and girls to develop professional and marketable skills to compete in the global marketplace, improve self-esteem, and benefit from exposure to positive role models;

"(iv) school-to-work transition programs, guidance and counseling activities, and other programs to increase opportunities for women and girls to enter a technologically demanding workplace and, in particular, to enter highly skilled, high paying careers in which women and girls have been underrepresented;

"(v) enhancing educational and career opportunities for those women and girls who suffer multiple forms of discrimination, based on sex and on race, ethnic origin, limited-English proficiency, disability, socioeconomic status, or age;

"(vi) assisting pregnant students and students rearing children to remain in or to return to secondary school, graduate, and prepare their preschool children to start school;

"(vii) evaluating exemplary model programs to assess the ability of such programs to advance educational equity for women and girls;

"(viii) introduction into the classroom of textbooks, curricula, and other materials designed to achieve equity for women and girls;

"(ix) programs and policies to address sexual harassment and violence against women and girls and to ensure that educational institutions are free from threats to the safety of students and personnel;

"(x) nondiscriminatory tests of aptitude and achievement and of alternative assessments that eliminate biased assessment instruments from use;

"(xi) programs to increase educational opportunities, including higher education, vocational training, and other educational programs for low-income women, including underemployed and unemployed women, and women receiving Aid to Families with Dependent Children benefits;

"(xii) programs to improve representation of women in educational administration at all levels; and

"(xiii) planning, development and initial implementation of—

"(I) comprehensive institution- or districtwide evaluation to assess the presence or absence of gender equity in educational settings;

"(II) comprehensive plans for implementation of equity programs in State and local educational agencies and institutions of higher education; including community colleges; and

"(III) innovative approaches to school-community partnerships for educational equity.

"(B) for research and development, which shall be coordinated with each of the research institutes of the Office of Educational Research and Improvement to avoid duplication of research efforts, designed to advance gender equity nationwide and to help make policies and practices in educational agencies and institutions, and local communities, gender equitable, including—

"(i) research and development of innovative strategies and model training programs for teachers and other education personnel;

"(ii) the development of high quality and challenging assessment instruments that are nondiscriminatory;

"(iii) the development and evaluation of model curricula, textbooks, software, and other educational materials to ensure the absence of gender stereotyping and bias;

"(iv) the development of instruments and procedures that employ new and innovative strategies to assess whether diverse educational settings are gender equitable;

"(v) the development of instruments and strategies for evaluation, dissemination, and replication of promising or exemplary programs designed to assist local educational agencies in integrating gender equity in their educational policies and practices;

"(vi) updating high quality educational materials previously developed through awards made under this part;

"(vii) the development of policies and programs to address and prevent sexual harassment and violence to ensure that educational institutions are free from threats to safety of students and personnel;

"(viii) the development and improvement of programs and activities to increase opportunity for women, including continuing educational activities, vocational education, and programs for low-income women, including underemployed and unemployed women, and women receiving Aid to Families with Dependent Children; and

"(ix) the development of guidance and counseling activities, including career education programs, designed to ensure gender equity.

"SEC. 5204. APPLICATIONS.

"An application under this part shall—

"(1) set forth policies and procedures that will ensure a comprehensive evaluation of the activities assisted under this part, including an evaluation of the practices, policies, and materials used by the applicant and an evaluation or estimate of the continued significance of the work of the project following completion of the award period;

"(2) where appropriate, demonstrate how funds received under this part will be used to promote the attainment of one or more of the National Education Goals;

"(3) demonstrate how the applicant will address perceptions of gender roles based on cultural differences or stereotypes;

"(4) where appropriate, describe how funds under this part will be used in a manner that is consistent with programs under the School-to-Work Opportunities Act of 1994;

"(5) for applications for assistance under section 5203(b)(1), demonstrate how the applicant will foster partnerships and, where applicable, share resources with State educational agencies,

local educational agencies, institutions of higher education, community-based organizations (including organizations serving women), parent, teacher, and student groups, businesses or other recipients of Federal educational funding which may include State literacy resource centers;

"(6) for applications for assistance under section 5203(b)(1), demonstrate how parental involvement in the project will be encouraged; and

"(7) for applications for assistance under section 5203(b)(1), describe plans for continuation of the activities assisted under this part with local support following completion of the grant period and termination of Federal support under this part.

"SEC. 5205. CRITERIA AND PRIORITIES.

"(a) CRITERIA AND PRIORITIES.—

"(1) IN GENERAL.—The Secretary shall establish separate criteria and priorities for awards under paragraphs (1) and (2) of section 5203(b) to ensure that funds under this part are used for programs that most effectively will achieve the purposes of this part.

"(2) CRITERIA.—The criteria described in subsection (a) may include the extent to which the activities assisted under this part—

"(A) address the needs of women and girls of color and women and girls with disabilities;

"(B) meet locally defined and documented educational equity needs and priorities, including compliance with title IX of the Education Amendments of 1972;

"(C) are a significant component of a comprehensive plan for educational equity and compliance with title IX of the Education Amendments of 1972 in the particular school district, institution of higher education, vocational-technical institution, or other educational agency or institution; and

"(D) implement an institutional change strategy with long-term impact that will continue as a central activity of the applicant after the grant under this part has terminated.

"(b) PRIORITIES.—In approving applications under this part, the Secretary may give special consideration to applications—

"(1) submitted by applicants that have not received assistance under this part or under part C of title IX of this Act (as such part was in effect on October 1, 1988);

"(2) for projects that will contribute significantly to directly improving teaching and learning practices in the local community; and

"(3) for projects that will—

"(A) provide for a comprehensive approach to enhancing gender equity in educational institutions and agencies;

"(B) draw on a variety of resources, including the resources of local educational agencies, community-based organizations, institutions of higher education, and private organizations;

"(C) implement a strategy with long-term impact that will continue as a central activity of the applicant after the grant under this part has terminated;

"(D) address issues of national significance that can be duplicated; and

"(E) address the educational needs of women and girls who suffer multiple or compound discrimination based on sex and on race, ethnic origin, disability, or age.

"(c) SPECIAL RULE.—To the extent feasible, the Secretary shall ensure that grants awarded under this part for each fiscal year address—

"(1) all levels of education, including preschool, elementary and secondary education, higher education, vocational education, and adult education;

"(2) all regions of the United States; and

"(3) urban, rural, and suburban educational institutions.

"(d) COORDINATION.—Research activities supported under this part—

"(1) shall be carried out in consultation with the Office of Educational Research and Improvement to ensure that such activities are coordinated with and enhance the research and development activities supported by the Office; and

"(2) may include collaborative research activities which are jointly funded and carried out with the Office of Educational Research and Improvement.

"(e) LIMITATION.—Nothing in this part shall be construed as prohibiting men and boys from participating in any programs or activities assisted with funds under this part.

"SEC. 5206. REPORT.

"The Secretary, not later than January 1, 1999, shall submit to the President and the Congress a report on the status of educational equity for girls and women in the Nation.

"SEC. 5207. ADMINISTRATION.

"(a) EVALUATION AND DISSEMINATION.—The Secretary shall evaluate in accordance with section 14701, and disseminate, materials and programs developed under this part and shall report to the Congress regarding such evaluation materials and programs not later than January 1, 1998.

"(b) PROGRAM OPERATIONS.—The Secretary shall ensure that the activities assisted under this part are administered within the Department by a person who has recognized professional qualifications and experience in the field of gender equity education.

"SEC. 5208. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $5,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years, of which not less than two-thirds of the amount appropriated under this section for each fiscal year shall be available to carry out the activities described in section 5203(b)(1).

"PART C—ASSISTANCE TO ADDRESS SCHOOL DROPOUT PROBLEMS

"SEC. 5301. SHORT TITLE.

"This part may be cited as the 'School Dropout Assistance Act'.

"SEC. 5302. PURPOSE.

"The purpose of this part is to reduce the number of children who do not complete their elementary and secondary education by providing grants to local educational agencies to establish—

"(1) effective programs to identify potential student dropouts, including pregnant and parenting teenagers, and prevent such students from dropping out of school;

"(2) effective programs to identify and encourage children who have already dropped out to reenter school and complete their elementary and secondary education;

"(3) effective early intervention programs designed to identify at-risk students in elementary and secondary schools; and

"(4) model systems for collecting and reporting information to local school officials on the number, ages, sex, race or ethnicity, and grade levels of the children not completing their elementary and secondary education and the reasons why such children have dropped out of school.

"SEC. 5303. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

"(a) ALLOTMENT TO CATEGORIES OF LOCAL EDUCATIONAL AGENCIES.—From the amount appropriated under section 5308 for any fiscal year, the Secretary shall first reserve not more than $2,000,000 for the purposes of evaluating programs carried out with assistance under this part in accordance with section 14701. From the remaining amount, the Secretary shall allot the following percentages to each of the following categories of local educational agencies:

"(1) Local educational agencies administering schools with a total enrollment of 100,000 or more elementary and secondary school students shall be allotted 25 percent of such remaining amount.

"(2) Local educational agencies administering schools with a total enrollment of at least 20,000 but less than 100,000 elementary and secondary school students shall be allotted 40 percent of such remaining amount.

"(3) Local educational agencies administering schools with a total enrollment of less than 20,000 elementary and secondary school students shall be allotted 30 percent of such remaining amount. Grants may be made under this paragraph to educational service agencies and consortia of not more than 5 local educational agencies in any case in which the total enrollment of the largest such local educational agency is less than 20,000 elementary and secondary students. Such agencies and consortia may also apply for assistance under this part in conjunction with the State educational agency. Not less than 20 percent of funds available under this paragraph shall be awarded to local educational agencies administering schools with a total enrollment of less than 2,000 elementary and secondary school students.

"(4) Community-based organizations shall be allotted 5 percent of such remaining amount. Grants under this paragraph shall be made after consultation between the community-based organization and the local educational agency that is to benefit from such a grant.

"(b) SPECIAL CONSIDERATION.—

"(1) IN GENERAL.—The Secretary shall give special consideration to awarding funds available for each category described in paragraphs (1), (2), and (3) of subsection (a) to local educational agencies participating in an educational partnership.

"(2) EDUCATIONAL PARTNERSHIPS.—For the purpose of this part the term 'educational partnerships' means a partnership between—

"(A) a local educational agency; and

"(B) a business concern or business organization, community-based organization, nonprofit private organization, institution of higher education, State educational agency, State or local public agency, private industry council (established under the Job Training Partnership Act), museum, library, or educational television or broadcasting station.

"(c) AWARD OF GRANT.—

"(1) IN GENERAL.—From the amount allotted for any fiscal year to a category of local educational agencies under subsection (a), the Secretary shall award as many grants as practicable within each such category to local educational agencies and educational partnerships whose applications have been approved by the Secretary for such fiscal year under section 5304 and whose applications propose a program of sufficient size, scope, and quality to be effective.

"(2) ADDITIONAL FUNDS.—Any local educational agency or educational partnership that has received a grant under this part shall be eligible for additional funds as provided under subsection (d).

"(3) TERMS AND CONDITIONS.—Grants under this part shall be made under such terms and conditions as the Secretary shall prescribe.

"(d) USE OF FUNDS WHEN NOT FULLY ALLOTTED TO CATEGORIES UNDER SUBSECTION (a).—

"(1) IN GENERAL.—Whenever the Secretary determines that the full amount of the sums allotted under any category set forth under subsection (a) will not be required for applications of the local educational agencies in the case of categories described in paragraphs (1), (2), or (3) of subsection (a), the Secretary shall make the amount not so required available to another category under subsection (a). In carrying out the provisions of this subsection, the Secretary shall

assure that the transfer of amounts from one category to another is made to a category in which there is the greatest need for funds.

"(2) PEER REVIEW.—In order to transfer funds under this subsection, the Secretary shall use a peer review process to determine that such excess funds are not needed to fund projects in particular categories and shall prepare a list of the categories in which funds were not fully expended and the reasons therefor, and make such list available to local educational agencies and educational partnerships upon request. The Secretary may use the peer review process to determine grant recipients of funds transferred in accordance with this subsection.

"(e) FEDERAL SHARE.—

"(1) FEDERAL SHARE.—The Federal share of a grant under this part may not exceed—

"(A) 90 percent of the total cost of a project for the first year for which the project receives assistance under this part; and

"(B) 75 percent of such cost in each such succeeding fiscal year.

"(2) REMAINING COSTS.—The remaining cost of a project that receives assistance under this part may be paid from any source other than funds made available under this part, except that not more than 10 percent of the remaining cost in any fiscal year may be provided from Federal sources other than this part.

"(3) NON-FEDERAL SHARE.—The share of payments from sources other than funds made available under this part may be in cash or in kind fairly evaluated, including plant, equipment or services.

"SEC. 5404. APPLICATION.

"(a) APPLICATION REQUIRED.—

"(1) IN GENERAL.—A grant under this part may be made only to a local educational agency or an educational partnership which submits an application to the Secretary containing such information as may be required by the Secretary by regulation.

"(2) DURATION.—Each such application shall be for a three-year period.

"(b) CONTENTS.—Each such application shall—

"(1) provide documentation of—

"(A) the number of children who were enrolled in the schools to be served by the applicant for the five academic years prior to the date application is made who have not completed their elementary or secondary education and who are classified as school dropouts; and

"(B) the percentage that such number of children is of the total school-age population in the applicant's schools;

"(2) include a plan for the development and implementation of a school dropout information collection and reporting system for documenting the extent and nature of the dropout problem, which system shall collect and cross tabulate data, where feasible, by sex according to race or ethnicity and socioeconomic status;

"(3) include a plan for coordinated activities involving not less than 1 secondary school and its feeder junior high or middle schools and elementary schools for local educational agencies that have feeder systems;

"(4) when applicable, describe how programs assisted under this part will be coordinated with, and not duplicate, programs assisted under title I;

"(5) include a description of how the program assisted under this part is consistent with the second National Education Goal, relating to school completion, and other Federal programs as appropriate; and

"(6) contain such other information as the Secretary considers necessary to determine the nature of the local needs, the quality of the proposed project, and the capability of the applicant to carry out the project.

"(c) PRIORITY.—The Secretary shall, in approving applications under this section, give priority to applications which—

"(1) demonstrate the replication of successful programs conducted in other local educational agencies or the expansion of successful programs within a local educational agency; and

"(2) reflect very high numbers or very high percentages of school dropouts in the schools of the applicant in each category described in section 5303(a).

"(d) SPECIAL CONSIDERATION.—The Secretary shall give additional special consideration to applications that include—

"(1) provisions which emphasize early intervention services designed to identify at-risk students in elementary or early secondary schools; and

"(2) provisions for significant parental involvement.

"(e) GRANTS FOR NEW GRANTEES.—In awarding grants under this part the Secretary shall use only the priorities and special considerations described in subsections (c) and (d).

"(f) CONTINUATION OF ASSISTANCE.—For the two fiscal years beginning after the date of enactment of the Improving America's Schools Act of 1994, the Secretary shall approve an application under this section for a local educational agency which received funding in fiscal year 1994 under the School Dropout Demonstration Assistance Act of 1988 (20 U.S.C. 3241 et seq.) and which—

"(1) satisfies the requirements of this section;

"(2) qualifies for special consideration or priority under—

"(A) section 5303(b); and

"(B) subsections (c) and (d) of this section; and

"(3) provides evidence that the program for which such agency is seeking assistance is effective in—

"(A) providing early intervention services to at-risk students in elementary and secondary schools;

"(B) identifying potential student dropouts; and

"(C) preventing students from dropping out of school.

"SEC. 5305. AUTHORIZED ACTIVITIES.

"Grants under this part shall be used to carry out activities and services described in applications approved under section 5304. In addition, grants may be used for educational, occupational, and basic skills testing services and activities, including—

"(1) the establishment of systemwide or school-level policies, procedures, and plans for dropout prevention and school reentry;

"(2) the development and implementation of activities, including extended day or summer programs, designed to address poor achievement, basic skills deficiencies, language deficiencies, or course failures, in order to assist students at risk of dropping out of school and students reentering school, including youth returning to school from a correctional or other facility operated for delinquent youth;

"(3) the establishment or expansion of work-study, apprentice, or internship programs;

"(4) the use of resources of the community, including contracting with public or private entities or community-based organizations of demonstrated performance, to provide services to the grant recipient or the target population;

"(5) the evaluation and revision of program placement of students at risk;

"(6) the evaluation of program effectiveness of dropout programs;

"(7) the development and implementation of programs for traditionally underserved groups of students;

"(8) the implementation of activities which will improve student motivation and the school learning environment;

"(9) the provision of training for school personnel on strategies and techniques designed to—

"(A) identify children at risk of dropping out of school;

"(B) intervene in the instructional program for such children with support and remedial services;

"(C) develop realistic expectations for student performance; and

"(D) improve student-staff interactions;

"(10) the study of the relationship between drugs and school dropouts and between youth gangs and school dropouts, and the coordination of dropout prevention and reentry programs with appropriate drug prevention and community organizations for the prevention of youth gangs;

"(11) the study of the relationship between disabling conditions and student dropouts;

"(12) the study of the relationship between the dropout rate for gifted and talented students compared to the dropout rate for the general student enrollment;

"(13) the use of educational telecommunications and broadcasting technologies and educational materials designed to extend, motivate, and reinforce school, community, and home dropout prevention and reentry activities;

"(14) the development and implementation of efforts to identify and address factors in a student's decision to drop out of school that are related to gender and family roles, including activities and services designed to meet the needs of pregnant and parenting teenagers;

"(15) the provision of other educational, occupational and testing services and activities which directly relate to the purpose of this part;

"(16) activities which offer jobs and college admissions for successful completion of the program for which assistance is sought;

"(17) summer employment programs;

"(18) occupational training programs;

"(19) career opportunity and skills counseling;

"(20) job placement services;

"(21) the development of skill employment competency testing programs;

"(22) special school staff training projects; and

"(23) mentoring programs.

"SEC. 5306. DISTRIBUTION OF ASSISTANCE; LIMITATION ON COSTS.

"(a) DISTRIBUTION OF ASSISTANCE.—The Secretary shall ensure that, to the extent practicable, in approving grant applications under this part—

"(1) grants are equitably distributed on a geographic basis within each category set forth in section 5303(a);

"(2) the amount of a grant to a local educational agency or an educational partnership for a fiscal year is proportionate to the extent and severity of the local school dropout problem;

"(3) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to school dropout prevention; and

"(4) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to persuading school dropouts to return to school and assisting former school dropouts with specialized services once school dropouts return to school.

"(b) ADMINISTRATIVE COSTS.—Not more than five percent of any grant made under this part may be used for administrative costs.

"SEC. 5307. REPORTS.

"(a) ANNUAL REPORTS.—The Secretary shall submit to the Congress a report by January 1 of each year, beginning on January 1, 1995, which sets forth the progress of the Commissioner of Education Statistics, established under section 403(b) of the National Education Statistics Act of 1994, to implement a definition and data collection process for school dropouts in elementary

and secondary schools, including statistical information for the number and percentage of elementary and secondary school students by gender, race, and ethnic origin who drop out of school each year, including dropouts—

"(1) throughout the Nation by rural and urban location as defined by the Secretary; and

"(2) in each of the individual States and the District of Columbia.

"(b) RECOMMENDATIONS.—The report under subsection (a) shall also contain recommendations on ways in which the Federal Government, States and localities can further support the implementation of an effective methodology to accurately measure school dropout and retention rates on the national, State, and local levels.

"SEC. 5308. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $50,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this part.

"TITLE VI—INNOVATIVE EDUCATION PROGRAM STRATEGIES

"SEC. 6001. FINDINGS AND STATEMENT OF PURPOSE.

"(a) FINDINGS.—The Congress finds that chapter 2 of title I of this Act (as such chapter was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) has been successful in achieving the goals of increasing local flexibility, reducing administrative burden, providing services for private school students, encouraging innovation, and contributing to the improvement of elementary and secondary educational programs.

"(b) STATEMENT OF PURPOSE.—It is the purpose of programs under this title:

"(1) to support local education reform efforts which are consistent with and support statewide reform efforts under Goals 2000: Educate America Act;

"(2) to support State and local efforts to accomplish the National Education Goals;

"(3) to provide funding to enable State and local educational agencies to implement promising educational reform programs;

"(4) to provide a continuing source of innovation, and educational improvement, including support for library services and instructional and media materials; and

"(5) to meet the special educational needs of at risk and high cost students.

"(c) STATE AND LOCAL RESPONSIBILITY.—The basic responsibility for the administration of funds made available under this title is within the State educational agencies, but it is the intent of Congress that the responsibility be carried out with a minimum of paperwork and that the responsibility for the design and implementation of programs assisted under this title will be mainly that of local educational agencies, school superintendents and principals, and classroom teachers and supporting personnel, because such agencies and individuals have the most direct contact with students and are most likely to be able to design programs to meet the educational needs of students in their own school districts.

"SEC. 6002. AUTHORIZATION OF APPROPRIATIONS; DURATION OF ASSISTANCE.

"(a) AUTHORIZATION.—To carry out the purposes of this title, there are authorized to be appropriated $370,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(b) DURATION OF ASSISTANCE.—During the period beginning October 1, 1994, and ending September 30, 1999, the Secretary shall, in accordance with the provisions of this title, make payments to State educational agencies for the purpose of this title.

"SEC. 6003. DEFINITION.

"For the purposes of this title the term 'effective schools programs' means school-based programs that may encompass preschool through secondary school levels and that have the objectives of (1) promoting school-level planning, instructional improvement, and staff development, (2) increasing the academic achievement levels of all children and particularly educationally disadvantaged children, and (3) achieving as ongoing conditions in the school the following factors identified through effective schools research as distinguishing effective from ineffective schools:

"(A) Strong and effective administrative and instructional leadership that creates consensus on instructional goals and organizational capacity for instructional problem solving.

"(B) Emphasis on the acquisition of basic and higher order skills.

"(C) A safe and orderly school environment that allows teachers and pupils to focus their energies on academic achievement.

"(D) A climate of expectation that virtually all children can learn under appropriate conditions.

"(E) Continuous assessment of students and programs to evaluate the effects of instruction.

"PART A—STATE AND LOCAL PROGRAMS

"SEC. 6101. ALLOTMENT TO STATES.

"(a) RESERVATIONS.—From the sums appropriated to carry out this title in any fiscal year, the Secretary shall reserve not to exceed one percent for payments to outlying areas to be allotted in accordance with their respective needs.

"(b) ALLOTMENT.—From the remainder of such sums, the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall receive less than an amount equal to one-half of one percent of such remainder.

"(c) DEFINITIONS.—For purposes of this part—

"(1) The term 'school-age population' means the population aged 5 through 17.

"(2) The term 'States' includes the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 6102. ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.

"(a) DISTRIBUTION RULE.—From the sums made available each year to carry out this title, the State educational agency shall distribute not less than 85 percent to local educational agencies within such State according to the relative enrollments in public and private, nonprofit schools within the school districts of such agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per pupil allocations to local educational agencies which have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as—

"(1) children living in areas with high concentrations of low-income families;

"(2) children from low-income families; and

"(3) children living in sparsely populated areas.

"(b) CALCULATION OF ENROLLMENTS.—

"(1) IN GENERAL.—The calculation of relative enrollments under subsection (a) shall be on the basis of the total of—

"(A) the number of children enrolled in public schools; and

"(B) the number of children enrolled in private nonprofit schools that desire that their children participate in programs or projects assisted under this title, for the fiscal year preceding the fiscal year for which the determination is made.

"(2) CONSTRUCTION.—Nothing in this subsection shall diminish the responsibility of local educational agencies to contact, on an annual basis, appropriate officials from private nonprofit schools within the areas served by such agencies in order to determine whether such schools desire that their children participate in programs assisted under this part.

"(3) ADJUSTMENTS.—(A) Relative enrollments under subsection (a) shall be adjusted, in accordance with criteria approved by the Secretary under subparagraph (B), to provide higher per pupil allocations only to local educational agencies which serve the greatest numbers or percentages of—

"(i) children living in areas with high concentrations of low-income families;

"(ii) children from low-income families; or

"(iii) children living in sparsely populated areas.

"(B) The Secretary shall review criteria submitted by a State educational agency for adjusting allocations under paragraph (1) and shall approve such criteria only if the Secretary determines that such criteria are reasonably calculated to produce an adjusted allocation that reflects the relative needs within the State's local educational agencies based on the factors set forth in subparagraph (A).

"(c) PAYMENT OF ALLOCATIONS.—

"(1) DISTRIBUTION.—From the funds paid to a State educational agency pursuant to section 6002 for a fiscal year, a State educational agency shall distribute to each eligible local educational agency which has submitted an application as required in section 6202 the amount of such local educational agency allocation as determined under subsection (a).

"(2) ADDITIONAL FUNDS.—(A) Additional funds resulting from higher per pupil allocations provided to a local educational agency on the basis of adjusted enrollments of children described in subsection (a), may, at the discretion of the local educational agency, be allocated for expenditures to provide services for children enrolled in public and private nonprofit schools in direct proportion to the number of children described in subsection (a) and enrolled in such schools within the local educational agency.

"(B) In any fiscal year, any local educational agency that elects to allocate such additional funds in the manner described in subparagraph (A) shall allocate all additional funds to schools within the local educational agency in such manner.

"(C) The provisions of subparagraphs (A) and (B) may not be construed to require any school to limit the use of such additional funds to the provision of services to specific students or categories of students.

"PART B—STATE PROGRAMS

"SEC. 6201. STATE USES OF FUNDS.

"(a) AUTHORIZED ACTIVITIES.—A State educational agency may use funds made available for State use under this title only for—

"(1) State administration of programs under this title including—

"(A) supervision of the allocation of funds to local educational agencies;

"(B) planning, supervision, and processing of State funds; and

"(C) monitoring and evaluation of programs and activities under this title; and

"(2) technical assistance and direct grants to local educational agencies and statewide education reform activities including effective schools programs which assist local educational agencies to provide targeted assistance.

"(b) LIMITATIONS AND REQUIREMENTS.—Not more than 25 percent of funds available for State programs under this title in any fiscal year may be used for State administration under subsection (a)(1).

"SEC. 6202. STATE APPLICATIONS.

"(a) APPLICATION REQUIREMENTS.—Any State which desires to receive assistance under this part shall submit to the Secretary an application which—

"(1) designates the State educational agency as the State agency responsible for administration and supervision of programs assisted under this title;

"(2)(A) provides for a biennial submission of data on the use of funds, the types of services furnished, and the students served under this title; and

"(B) in fiscal year 1998 provides for an evaluation of the effectiveness of programs assisted under this title;

"(3) sets forth the allocation of such funds required to implement section 6402;

"(4) provides that the State educational agency will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this section);

"(5) provides assurance that, apart from technical and advisory assistance and monitoring compliance with this title, the State educational agency has not exercised and will not exercise any influence in the decision making processes of local educational agencies as to the expenditure made pursuant to an application under section 6303;

"(6) contains assurances that there is compliance with the specific requirements of this title; and

"(7) provides for timely public notice and public dissemination of the information provided pursuant to paragraph (2).

"(b) PERIOD OF APPLICATION.—An application filed by the State under subsection (a) shall be for a period not to exceed three years, and may be amended annually as may be necessary to reflect changes without filing a new application.

"(c) AUDIT RULE.—Local educational agencies receiving less than an average of $5,000 each under this title shall not be audited more frequently than once every five years.

"PART C—LOCAL INNOVATIVE EDUCATION PROGRAMS

"SEC. 6301. TARGETED USE OF FUNDS.

"(a) GENERAL RULE.—Funds made available to local educational agencies under section 6102 shall be used for innovative assistance described in subsection (b).

"(b) INNOVATIVE ASSISTANCE.—The innovative assistance programs referred to in subsection (a) include—

"(1) technology related to the implementation of school-based reform programs, including professional development to assist teachers and other school officials regarding how to use effectively such equipment and software;

"(2) programs for the acquisition and use of instructional and educational materials, including library services and materials (including media materials), assessments, reference materials, computer software and hardware for instructional use, and other curricular materials which are tied to high academic standards and which will be used to improve student achievement and which are part of an overall education reform program;

"(3) promising education reform projects, including effective schools and magnet schools;

"(4) programs to improve the higher order thinking skills of disadvantaged elementary and secondary school students and to prevent students from dropping out of school;

"(5) programs to combat illiteracy in the student and adult population, including parent illiteracy;

"(6) programs to provide for the educational needs of gifted and talented children;

"(7) school reform activities that are consistent with the Goals 2000: Educate America Act; and

"(8) school improvement programs or activities under sections 1116 and 1117.

"SEC. 6302. ADMINISTRATIVE AUTHORITY.

"In order to conduct the activities authorized by this title, each State or local educational agency may use funds reserved for this title to make grants to and to enter into contracts with local educational agencies, institutions of higher education, libraries, museums, and other public and private nonprofit agencies, organizations, and institutions.

"SEC. 6303. LOCAL APPLICATIONS.

"(a) CONTENTS OF APPLICATION.—A local educational agency or consortium of such agencies may receive an allocation of funds under this title for any year for which an application is submitted to the State educational agency and such application is certified to meet the requirements of this section. The State educational agency shall certify any such application if such application—

"(1)(A) sets forth the planned allocation of funds among innovative assistance programs described in section 6301 and describes the programs, projects, and activities designed to carry out such innovative assistance which the local educational agency intends to support, together with the reasons for the selection of such programs, projects, and activities; and

"(B) sets forth the allocation of such funds required to implement section 6402;

"(2) describes how assistance under this title will contribute to meeting the National Education Goals and improving student achievement or improving the quality of education for students;

"(3) provide assurances of compliance with the provisions of this title, including the participation of children enrolled in private, nonprofit schools in accordance with section 6402;

"(4) agrees to keep such records, and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this title; and

"(5) provides in the allocation of funds for the assistance authorized by this title, and in the design, planning and implementation of such programs, for systematic consultation with parents of children attending elementary and secondary schools in the area served by the local educational agency, with teachers and administrative personnel in such schools, and with other groups involved in the implementation of this title (such as librarians, school counselors, and other pupil services personnel) as may be considered appropriate by the local educational agency.

"(b) PERIOD OF APPLICATION.—An application filed by a local educational agency under subsection (a) shall be for a period not to exceed three fiscal years, may provide for the allocation of funds to programs for a period of three years, and may be amended annually as may be necessary to reflect changes without filing a new application.

"(c) LOCAL EDUCATIONAL AGENCY DISCRETION.—Subject to the limitations and requirements of this title, a local educational agency shall have complete discretion in determining how funds under this part shall be divided among the areas of targeted assistance. In exercising such discretion, a local educational agency shall ensure that expenditures under this part carry out the purposes of this title and are used to meet the educational needs within the schools of such local educational agency.

"PART D—GENERAL ADMINISTRATIVE PROVISIONS

"SEC. 6401. MAINTENANCE OF EFFORT; FEDERAL FUNDS SUPPLEMENTARY.

"(a) MAINTENANCE OF EFFORT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a State is entitled to receive its full allocation of funds under this part for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the fiscal year preceding the fiscal year for which the determination is made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

"(2) REDUCTION OF FUNDS.—The Secretary shall reduce the amount of the allocation of funds under this part in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

"(3) WAIVERS.—The Secretary may waive, for one fiscal year only, the requirements of this section if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

"(b) FEDERAL FUNDS SUPPLEMENTARY.—A State or local educational agency may use and allocate funds received under this part only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds made available under this part, be made available from non-Federal sources, and in no case may such funds be used so as to supplant funds from non-Federal sources.

"SEC. 6402. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

"(a) PARTICIPATION ON EQUITABLE BASIS.—

"(1) IN GENERAL.—To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this title or which serves the area in which a program or project assisted under this title is located who are enrolled in private nonprofit elementary and secondary schools, or with respect to instructional or personnel training programs funded by the State educational agency from funds made available for State use, such agency, after consultation with appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment, including the participation of the teachers of such children (and other educational personnel serving such children) in training programs, and the repair, minor remodeling, or construction of public facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such services, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this title.

"(2) OTHER PROVISIONS FOR SERVICES.—If no program or project is carried out under paragraph (1) in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in such district are provided with services and materials to the extent that would have occurred if the local educational agency had received funds under this title.

"(3) APPLICATION OF REQUIREMENTS.—The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs and projects carried out under this title by a State or local educational agency, whether directly or through grants to or contracts with other public or private agencies, institutions, or organizations.

"(b) EQUAL EXPENDITURES.—Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this title for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors which relate to such expenditures, and when funds available to a local educational agency under this title are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

"(c) FUNDS.—

"(1) ADMINISTRATION OF FUNDS AND PROPERTY.—The control of funds provided under this title, and title to materials, equipment, and property repaired, remodeled, or constructed with such funds, shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer such funds and property.

"(2) PROVISION OF SERVICES.—The provision of services pursuant to this title shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which, in the provision of such services, is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this title shall not be commingled with State or local funds.

"(d) STATE PROHIBITION WAIVER.—If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Secretary shall waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

"(e) WAIVER AND PROVISION OF SERVICES.—

"(1) FAILURE TO COMPLY.—If the Secretary determines that a State or a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, the Secretary may waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

"(2) WITHHOLDING OF ALLOCATION.—Pending final resolution of any investigation or complaint that could result in a determination under this subsection or subsection (d), the Secretary may withhold from the allocation of the affected State or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

"(f) DETERMINATION.—Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State or local educational agency to meet the requirements of subsections (a) and (b).

"(g) PAYMENT FROM STATE ALLOTMENT.—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this title.

"(h) REVIEW.—

"(1) WRITTEN OBJECTIONS.—The Secretary shall not take any final action under this section until the State educational agency and the local educational agency affected by such action have had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or the Secretary's designee to show cause why that action should not be taken.

"(2) COURT ACTION.—If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under paragraph (1), such agency may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based this action, as provided in section 2112 of title 28, United States Code.

"(3) REMAND TO SECRETARY.—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(4) COURT REVIEW.—Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set such action aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(i) PRIOR DETERMINATION.—Any bypass determination by the Secretary under chapter 2 of title I of this Act (as such chapter was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) shall, to the extent consistent with the purposes of this title, apply to programs under this title.

"SEC. 6403. FEDERAL ADMINISTRATION.

"(a) TECHNICAL ASSISTANCE.—The Secretary, upon request, shall provide technical assistance to State and local educational agencies under this title.

"(b) RULEMAKING.—The Secretary shall issue regulations under this title only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this title.

"(c) AVAILABILITY OF APPROPRIATIONS.—Notwithstanding any other provision of law, unless expressly in limitation of this subsection, funds appropriated in any fiscal year to carry out activities under this title shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the subsequent fiscal year.

"TITLE VII—BILINGUAL EDUCATION, LANGUAGE ENHANCEMENT, AND LANGUAGE ACQUISITION PROGRAMS

"PART A—BILINGUAL EDUCATION

"SEC. 7101. SHORT TITLE.

"This part may be cited as the 'Bilingual Education Act'.

"SEC. 7102. FINDINGS, POLICY, AND PURPOSE.

"(a) FINDINGS.—The Congress finds that—

"(1) language-minority Americans speak virtually all world languages plus many that are indigenous to the United States;

"(2) there are large and growing numbers of children and youth of limited-English proficiency, many of whom have a cultural heritage that differs from that of their English-proficient peers;

"(3) the presence of language-minority Americans is related in part to Federal immigration policies;

"(4) many language-minority Americans are limited in their English proficiency, and many have limited education and income;

"(5) limited English proficient children and youth face a number of challenges in receiving an education that will enable such children and youth to participate fully in American society, including—

"(A) segregated education programs;

"(B) disproportionate and improper placement in special education and other special programs due to the use of inappropriate evaluation procedures;

"(C) the limited-English proficiency of their own parents, which hinders the parents' ability to fully participate in the education of their children; and

"(D) a shortage of teachers and other staff who are professionally trained and qualified to serve such children and youth;

"(6) Native Americans and Native American languages (as such terms are defined in section 103 of the Native American Languages Act), including native residents of the outlying areas, have a unique status under Federal law that requires special policies within the broad purposes of this Act to serve the education needs of language minority students in the United States;

"(7) institutions of higher education can assist in preparing teachers, administrators and other school personnel to understand and build upon the educational strengths and needs of language-minority and culturally diverse student enrollments;

"(8) it is the purpose of this title to help ensure that limited English proficient students master English and develop high levels of academic attainment in content areas;

"(9) quality bilingual education programs enable children and youth to learn English and meet high academic standards including proficiency in more than one language;

"(10) as the world becomes increasingly interdependent and as international communication becomes a daily occurrence in government, business, commerce, and family life, multilingual skills constitute an important national resource which deserves protection and development;

"(11) educational technology has the potential for improving the education of language-minority and limited English proficient students and their families, and the Federal Government should foster this development;

"(12) parent and community participation in bilingual education programs contributes to program effectiveness;

"(13) research, evaluation, and data-collection capabilities in the field of bilingual education need to be strengthened so that educators and other staff can better identify and promote those programs, program implementation strategies, and instructional practices that result in effective education of limited English proficient children;

"(14) the use of a child or youth's native language and culture in classroom instruction can—

"(A) promote self-esteem and contribute to academic achievement and learning English by limited English proficient children and youth;

"(B) benefit English-proficient children and youth who also participate in such programs; and

"(C) develop our Nation's national language resources, thus promoting our Nation's competitiveness in the global economy;

"(15) the Federal Government, as exemplified by title VI of the Civil Rights Act of 1964 and section 204(f) of the Equal Education Opportunities Act of 1974, has a special and continuing

obligation to ensure that States and local school districts take appropriate action to provide equal educational opportunities to children and youth of limited English proficiency; and

"(16) the Federal Government also, as exemplified by the Federal Government's efforts under this title, has a special and continuing obligation to assist States and local school districts in developing the capacity to provide programs of instruction that offer limited English proficient children and youth an equal educational opportunity.

"(b) POLICY.—The Congress declares it to be the policy of the United States, in order to ensure equal educational opportunity for all children and youth and to promote educational excellence, to assist State and local educational agencies, institutions of higher education and community-based organizations to build their capacity to establish, implement, and sustain programs of instruction for children and youth of limited English proficiency.

"(c) PURPOSE.—The purpose of this part is to educate limited English proficient children and youth to meet the same rigorous standards for academic performance expected of all children and youth, including meeting challenging State content standards and challenging State student performance standards in academic areas by—

"(1) developing systemic improvement and reform of educational programs serving limited English proficient students through the development and implementation of exemplary bilingual education programs and special alternative instruction programs;

"(2) developing bilingual skills and multicultural understanding;

"(3) developing the English of such children and youth and, to the extent possible, the native language skills of such children and youth;

"(4) providing similar assistance to Native Americans with certain modifications relative to the unique status of Native American languages under Federal law;

"(5) developing data collection and dissemination, research, materials development, and technical assistance which is focused on school improvement for limited English proficient students; and

"(6) developing programs which strengthen and improve the professional training of educational personnel who work with limited English proficient students.

"SEC. 7103. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For the purpose of carrying out this part, there are authorized to be appropriated $215,000,000 for the fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(b) DISTRIBUTION.—From the sums appropriated under subsection (a) for any fiscal year, the Secretary shall reserve not less than 25 percent of such funds for such year to carry out subpart 3.

"SEC. 7104. NATIVE AMERICAN AND ALASKA NATIVE CHILDREN IN SCHOOL.

"(a) ELIGIBLE ENTITIES.—For the purpose of carrying out programs under this part for individuals served by elementary, secondary, and postsecondary schools operated predominately for Native American or Alaska Native children and youth, an Indian tribe, a tribally sanctioned educational authority, a Native Hawaiian or Native American Pacific Islander native language education organization, or an elementary or secondary school that is operated or funded by the Bureau of Indian Affairs shall be considered to be a local educational agency as such term is used in this part, subject to the following qualifications:

"(1) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized for the special programs and services provided by the United States to Indians because of their status as Indians.

"(2) TRIBALLY SANCTIONED EDUCATIONAL AUTHORITY.—The term 'tribally sanctioned educational authority' means—

"(A) any department or division of education operating within the administrative structure of the duly constituted governing body of an Indian tribe; and

"(B) any nonprofit institution or organization that is—

"(i) chartered by the governing body of an Indian tribe to operate any such school or otherwise to oversee the delivery of educational services to members of that tribe; and

"(ii) approved by the Secretary for the purpose of this section.

"(b) ELIGIBLE ENTITY APPLICATION.—Notwithstanding any other provision of this part, each eligible entity described in subsection (a) shall submit any application for assistance under this part directly to the Secretary along with timely comments on the need for the proposed program.

"SEC. 7105. RESIDENTS OF THE TERRITORIES AND FREELY ASSOCIATED NATIONS.

"For the purpose of carrying out programs under this part in the outlying areas, the term 'local educational agency' shall include public institutions or agencies whose mission is the preservation and maintenance of native languages.

"Subpart 1—Bilingual Education Capacity and Demonstration Grants

"SEC. 7111. FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION.

"The purpose of this subpart is to assist local educational agencies, institutions of higher education, and community-based organizations, through the grants authorized under sections 7112, 7113, 7114, and 7115 to—

"(1) develop and enhance their capacity to provide high-quality instruction through bilingual education or special alternative instruction programs to children and youth of limited English proficiency; and

"(2) to help such children and youth—

"(A) develop proficiency in English, and to the extent possible, their native language; and

"(B) meet the same challenging State content standards and challenging State student performance standards expected for all children and youth as required by section 1111(b).

"SEC. 7112. PROGRAM DEVELOPMENT AND IMPLEMENTATION GRANTS.

"(a) PURPOSE.—The purpose of this section is to develop and implement new comprehensive, coherent, and successful bilingual education or special alternative instructional programs for limited English proficient students, including programs of early childhood education, kindergarten through twelfth grade education, gifted and talented education, and vocational and applied technology education.

"(b) PROGRAM AUTHORIZED.—

"(1) AUTHORITY.—(A) The Secretary is authorized to award grants to eligible entities having applications approved under section 7116 to enable such entities to carry out activities described in paragraph (2).

"(B) Each grant under this section shall be awarded for a period of three years.

"(2) AUTHORIZED ACTIVITIES.—(A) Grants awarded under this section shall be used to improve the education of limited English proficient students and their families by—

"(i) developing and implementing comprehensive preschool, elementary, or secondary bilingual education or special alternative instructional programs that are coordinated with other relevant programs and services to meet the full range of educational needs of limited English proficient students; and

"(ii) providing inservice training to classroom teachers, administrators, and other school or community-based organizational personnel to improve the instruction and assessment of language-minority and limited English proficient students.

"(B) Grants under this section may be used to improve the education of limited English proficient students and their families by—

"(i) implementing family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

"(ii) improving the instructional program for limited English proficient students by identifying, acquiring, and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

"(iii) compensating personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to children and youth of limited English proficiency;

"(iv) providing tutorials and academic or career counseling for children and youth of limited-English proficiency; and

"(v) providing such other activities, related to the purposes of this part, as the Secretary may approve.

"(c) ELIGIBLE ENTITY.—For the purpose of this section the term 'eligible entity' means—

"(1) one or more local educational agencies;

"(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organization or local or State educational agency; or

"(3) a community-based organization or an institution of higher education which has an application approved by the local educational agency to develop and implement early childhood education or family education programs or to conduct an instructional program which supplements the educational services provided by a local educational agency.

"(d) DUE CONSIDERATION.—In awarding grants under this section, the Secretary shall give due consideration to the need for early childhood education, elementary education, and secondary education programs.

"SEC. 7113. PROGRAM ENHANCEMENT PROJECTS.

"(a) PURPOSE.—The purpose of this section is to carry out highly focused, innovative, locally designed projects to expand or enhance existing bilingual education or special alternative instructional programs for limited English proficient students.

"(b) PROGRAM AUTHORIZED.—

"(1) AUTHORITY.—(A) The Secretary is authorized to award grants to eligible entities having applications approved under section 7116 to enable such entities to carry out activities described in paragraph (2).

"(B) Each grant under this section shall be awarded for a period of two years.

"(2) AUTHORIZED ACTIVITIES.—(A) Grants under this section shall be used for providing inservice training to classroom teachers, administrators, and other school or community-based organization personnel to improve the instruction and assessment of language-minority and limited English proficient students.

"(B) Grants under this section may be used for—

"(i) implementing family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

"(ii) improving the instructional program for limited English proficient students by identifying, acquiring, and upgrading curriculum, instructional materials, educational software and

assessment procedures and, if appropriate, applying educational technology;

"(iii) compensating personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to children and youth of limited-English proficiency;

"(iv) providing tutorials and academic or career counseling for children and youth of limited-English proficiency;

"(v) providing intensified instruction; and

"(vi) providing such other activities, related to the purposes of this part, as the Secretary may approve.

"(c) ELIGIBLE ENTITY.—For the purpose of this section the term 'eligible entity' means—

"(1) one or more local educational agencies;

"(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organization or local or State educational agency; or

"(3) a community-based organization or an institution of higher education which has an application approved by the local educational agency to enhance early childhood education or family education programs or to conduct an instructional program which supplements the educational services provided by a local educational agency.

"SEC. 7114. COMPREHENSIVE SCHOOL GRANTS.

"(a) PURPOSE.—The purpose of this section is to provide financial assistance to eligible entities to implement schoolwide bilingual education programs or special alternative instruction programs for reforming, restructuring, and upgrading all relevant programs and operations, within an individual school, that serve all (or virtually all) children and youth of limited-English proficiency in schools with significant concentrations of such children and youth.

"(b) PROGRAM AUTHORIZED.—

"(1) AUTHORITY.—(A) The Secretary is authorized to award grants to eligible entities having applications approved under section 7116 to enable such entities to carry out activities described in paragraph (3).

"(B) Each grant under this section shall be awarded for five years.

"(2) TERMINATION.—The Secretary shall terminate grants to eligible entities under this section if the Secretary determines that—

"(A) the program evaluation required by section 7123 indicates that students in the schoolwide program are not being taught to and are not making adequate progress toward achieving challenging State content standards and challenging State student performance standards; or

"(B) in the case of a program to promote dual language facility, such program is not promoting such facility.

"(3) AUTHORIZED ACTIVITIES.—Grants under this section may be used to improve the education of limited English proficient students and their families by—

"(A) implementing family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

"(B) improving the instructional program for limited English proficient students by identifying, acquiring and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

"(C) compensating personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to children and youth of limited English proficiency;

"(D) providing tutorials and academic or career counseling for children and youth of limited-English proficiency;

"(E) providing intensified instruction; and

"(F) providing such other activities, related to the purposes of this part, as the Secretary may approve.

"(4) SPECIAL RULE.—A grant recipient, before carrying out a program assisted under this section, shall plan, train personnel, develop curriculum, and acquire or develop materials.

"(c) ELIGIBLE ENTITIES.—For the purpose of this section the term 'eligible entity' means—

"(1) one or more local educational agencies; or

"(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organizations or a local or State educational agency.

"SEC. 7115. SYSTEMWIDE IMPROVEMENT GRANTS.

"(a) PURPOSE.—The purpose of this section is to implement districtwide bilingual education programs or special alternative instruction programs to improve, reform, and upgrade relevant programs and operations, within an entire local educational agency, that serve a significant number of children and youth of limited English proficiency in local educational agencies with significant concentrations of such children and youth.

"(b) PROGRAM AUTHORIZED.—

"(1) AUTHORITY.—(A) The Secretary is authorized to award grants to eligible entities having applications approved under section 7116 to enable such entities to carry out activities described in paragraphs (3) and (4).

"(B) Each grant under this section shall be awarded for 5 years.

"(2) TERMINATION.—The Secretary shall terminate grants to eligible entities under this section if the Secretary determines that—

"(A) the program evaluation required by section 7123 indicates that students in the program are not being taught to and are not making adequate progress toward achieving challenging State content standards and challenging State student performance standards; or

"(B) in the case of a program to promote dual language facility, such program is not promoting such facility.

"(3) PREPARATION.—Grants under this section may be used during the first 12 months exclusively for activities preparatory to the delivery of services.

"(4) USES.—Grants under this section may be used to improve the education of limited English proficient students and their families by reviewing, restructuring, and upgrading—

"(A) educational goals, curriculum guidelines and content, standards and assessments;

"(B) personnel policies and practices including recruitment, certification, staff development, and assignment;

"(C) student grade-promotion and graduation requirements;

"(D) student assignment policies and practices;

"(E) family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

"(F) the instructional program for limited English proficient students by identifying, acquiring and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

"(G) tutorials and academic or career counseling for children and youth of limited-English proficiency; and

"(H) such other activities, related to the purposes of this part, as the Secretary may approve.

"(c) ELIGIBLE ENTITIES.—For the purpose of this section the term 'eligible entity' means—

"(1) one or more local educational agencies; or

"(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organizations or a local or State educational agency.

"SEC. 7116. APPLICATIONS.

"(a) IN GENERAL.—

"(1) SECRETARY.—To receive a grant under this subpart, an eligible entity shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

"(2) STATE EDUCATIONAL AGENCY.—An eligible entity, with the exception of schools funded by the Bureau of Indian Affairs, shall submit a copy of its application under this section to the State educational agency.

"(b) STATE REVIEW AND COMMENTS.—

"(1) DEADLINE.—The State educational agency, not later than 45 days after receipt of an application under this section, shall review the application and transmit such application to the Secretary.

"(2) COMMENTS.—(A) Regarding any application submitted under this title, the State educational agency shall—

"(i) submit to the Secretary written comments regarding all such applications; and

"(ii) submit to each eligible entity the comments that pertain to such entity.

"(B) For purposes of this subpart, such comments shall address how the eligible entity—

"(i) will further the academic achievement of limited English proficient students served pursuant to a grant received under this subpart; and

"(ii) how the grant application is consistent with the State plan submitted under section 1111.

"(c) ELIGIBLE ENTITY COMMENTS.—An eligible entity may submit to the Secretary comments that address the comments submitted by the State educational agency.

"(d) COMMENT CONSIDERATION.—In making grants under this subpart the Secretary shall take into consideration comments made by a State educational agency.

"(e) WAIVER.—Notwithstanding subsection (b), the Secretary is authorized to waive the review requirement of subsection (b) if a State educational agency can demonstrate that such review requirement may impede such agency's ability to fulfill the requirements of participation in the State grant program, particularly such agency's data collection efforts and such agency's ability to provide technical assistance to local educational agencies not receiving funds under this Act.

"(f) REQUIRED DOCUMENTATION.—Such application shall include documentation that the applicant has the qualified personnel required to develop, administer, and implement the proposed program.

"(g) CONTENTS.—

"(1) IN GENERAL.—An application for a grant under this subpart shall contain the following:

"(A) A description of the need for the proposed program, including data on the number of children and youth of limited-English proficiency in the school or school district to be served and the characteristics of such children and youth, such as language spoken, dropout rates, proficiency in English and the native language, academic standing in relation to the English-proficient peers of such children and youth, and, where applicable, the recency of immigration.

"(B) A description of the program to be implemented and how such program's design—

"(i) relates to the linguistic and academic needs of the children and youth of limited-English proficiency to be served;

"(ii) is coordinated with other programs under this Act, the Goals 2000: Educate America Act and other Acts, as appropriate, in accordance with section 14306;

"(iii) involves the parents of the children and youth of limited-English proficiency to be served;

"(iv) ensures accountability in achieving high academic standards; and

"(v) promotes coordination of services for the children and youth of limited-English proficiency to be served and their families.

"(C) A description, if appropriate, of the applicant's collaborative activities with institutions of higher education, community-based organizations, local or State educational agencies, private schools, nonprofit organizations, or businesses in carrying out the proposed program.

"(D) An assurance that the applicant will not reduce the level of State and local funds that the applicant expends for bilingual education or special alternative instruction programs if the applicant receives an award under this subpart.

"(E) An assurance that the applicant will employ teachers in the proposed program that, individually or in combination, are proficient in English, including written, as well as oral, communication skills.

"(F) A budget for grant funds.

"(2) ADDITIONAL INFORMATION.—Each application for a grant under section 7114 or 7115 shall—

"(A) describe—

"(i) current services the applicant provides to children and youth of limited-English proficiency;

"(ii) what services children and youth of limited-English proficiency will receive under the grant that such children or youth will not otherwise receive;

"(iii) how funds received under this subpart will be integrated with all other Federal, State, local, and private resources that may be used to serve children and youth of limited-English proficiency;

"(iv) specific achievement and school retention goals for the children and youth to be served by the proposed program and how progress toward achieving such goals will be measured; and

"(v) current family education programs if applicable; and

"(B) provide assurances that—

"(i) the program funded will be integrated with the overall educational program; and

"(ii) the application has been developed in consultation with an advisory council, the majority of whose members are parents and other representatives of the children and youth to be served in such programs.

"(h) APPROVAL OF APPLICATIONS.—An application for a grant under this subpart may be approved only if the Secretary determines that—

"(1) the program will use qualified personnel, including personnel who are proficient in the language or languages used for instruction;

"(2) in designing the program for which application is made, the needs of children in nonprofit private elementary and secondary schools have been taken into account through consultation with appropriate private school officials and, consistent with the number of such children enrolled in such schools in the area to be served whose educational needs are of the type and whose language and grade levels are of a similar type to those which the program is intended to address, after consultation with appropriate private school officials, provision has been made for the participation of such children on a basis comparable to that provided for public school children;

"(3) student evaluation and assessment procedures in the program are valid, reliable, and fair for limited English proficient students, and that limited English proficient students who are disabled are identified and served in accordance with the requirements of the Individuals with Disabilities Education Act;

"(4) Federal funds made available for the project or activity will be used so as to supplement the level of State and local funds that, in the absence of such Federal funds, would have been expended for special programs for children of limited English proficient individuals and in no case to supplant such State and local funds, except that nothing in this paragraph shall be construed to preclude a local educational agency from using funds under this title for activities carried out under an order of a court of the United States or of any State respecting services to be provided such children, or to carry out a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 with respect to services to be provided such children;

"(5) the assistance provided under the application will contribute toward building the capacity of the applicant to provide a program on a regular basis, similar to that proposed for assistance, which will be of sufficient size, scope, and quality to promise significant improvement in the education of students of limited-English proficiency, and that the applicant will have the resources and commitment to continue the program when assistance under this subpart is reduced or no longer available; and

"(6) the applicant provides for utilization of the State and national dissemination sources for program design and in dissemination of results and products.

"(i) PRIORITIES AND SPECIAL RULES.—

"(1) PRIORITY.—The Secretary shall give priority to applications which provide for the development of bilingual proficiency both in English and another language for all participating students.

"(2) SPECIAL ALTERNATIVE INSTRUCTIONAL PROGRAM.—Grants for special alternative instructional programs under this subpart shall not exceed 25 percent of the funds provided for any type of grant under any section, or of the total funds provided, under this subpart for any fiscal year.

"(3) SPECIAL RULE.—Notwithstanding paragraph (2), the Secretary may award grants under this subpart for special alternative instructional programs if an applicant has demonstrated that the applicant cannot develop and implement a bilingual education program for the following reasons:

"(A) Where the diversity of the limited English proficient students' native languages and the small number of students speaking each respective language makes bilingual education impractical.

"(B) Where, despite documented efforts, the applicant has not been able to hire qualified instructional personnel who are able to communicate in the students' native language.

"(4) CONSIDERATION.—In approving applications under this subpart, the Secretary shall give consideration to the degree to which the program for which assistance is sought involves the collaborative efforts of institutions of higher education, community-based organizations, the appropriate local and State educational agency, or businesses.

"(5) DUE CONSIDERATION.—The Secretary shall give due consideration to applications providing training for personnel participating in or preparing to participate in the program which will assist such personnel in meeting State and local certification requirements and that, to the extent possible, describe how college or university credit will be awarded for such training.

"SEC. 7117. INTENSIFIED INSTRUCTION.

"In carrying out this subpart, each grant recipient may intensify instruction for limited English proficient students by—

"(1) expanding the educational calendar of the school in which such student is enrolled to include programs before and after school and during the summer months;

"(2) expanding the use of professional and volunteer aids;

"(3) applying technology to the course of instruction; and

"(4) providing intensified instruction through supplementary instruction or activities, including educationally enriching extracurricular activities, during times when school is not routinely in session.

"SEC. 7118. CAPACITY BUILDING.

"Each recipient of a grant under this subpart shall use the grant in ways that will build such recipient's capacity to continue to offer high-quality bilingual and special alternative education programs and services to children and youth of limited-English proficiency once Federal assistance is reduced or eliminated.

"SEC. 7119. SUBGRANTS.

"A local educational agency that receives a grant under this subpart may, with the approval of the Secretary, make a subgrant to, or enter into a contract with, an institution of higher education, a nonprofit organization, or a consortium of such entities to carry out an approved program, including a program to serve out-of-school youth.

"SEC. 7120. PRIORITY ON FUNDING.

"The Secretary shall give priority to applications under this subpart that describe a program that—

"(1) enrolls a large percentage or large number of limited English proficient students;

"(2) takes into account significant increases in limited English proficient children and youth, including such children and youth in areas with low concentrations of such children and youth; and

"(3) ensures that activities assisted under this subpart address the needs of school systems of all sizes and geographic areas, including rural and urban schools.

"SEC. 7121. COORDINATION WITH OTHER PROGRAMS.

"In order to secure the most flexible and efficient use of Federal funds, any State receiving funds under this subpart shall coordinate its program with other programs under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, in accordance with section 14306.

"SEC. 7122. PROGRAMS FOR NATIVE AMERICANS AND PUERTO RICO.

"Programs authorized under this part that serve Native American children, Native Pacific Island children, and children in the Commonwealth of Puerto Rico, notwithstanding any other provision of this part, may include programs of instruction, teacher training, curriculum development, evaluation, and testing designed for Native American children and youth learning and studying Native American languages and children and youth of limited-Spanish proficiency, except that one outcome of such programs serving Native American children shall be increased English proficiency among such children.

"SEC. 7123. EVALUATIONS.

"(a) EVALUATION.—Each recipient of funds under this subpart shall provide the Secretary with an evaluation, in the form prescribed by the Secretary, of such recipient's program every two years.

"(b) USE OF EVALUATION.—Such evaluation shall be used by a grant recipient—

"(1) for program improvement;

"(2) to further define the program's goals and objectives; and

"(3) to determine program effectiveness.

"(c) EVALUATION COMPONENTS.—Evaluations shall include—

"(1) how students are achieving the State student performance standards, if any, including data comparing children and youth of limited-English proficiency with nonlimited English proficient children and youth with regard to school retention, academic achievement, and gains in English (and, where applicable, native language) proficiency;

"(2) program implementation indicators that provide information for informing and improving program management and effectiveness, including data on appropriateness of curriculum in relationship to grade and course requirements, appropriateness of program management, appropriateness of the program's staff professional development, and appropriateness of the language of instruction;

"(3) program context indicators that describe the relationship of the activities funded under the grant to the overall school program and other Federal, State, or local programs serving children and youth of limited English proficiency; and

"(4) such other information as the Secretary may require.

"SEC. 7124. CONSTRUCTION.

"Nothing in this part shall be construed to prohibit a local educational agency from serving limited English proficient children and youth simultaneously with students with similar educational needs, in the same educational settings where appropriate.

"Subpart 2—Research, Evaluation, and Dissemination

"SEC. 7131. AUTHORITY.

"(a) IN GENERAL.—The Secretary is authorized to conduct data collection, dissemination, research, and ongoing program evaluation activities in accordance with the provisions of this subpart for the purpose of improving bilingual education and special alternative instruction programs for children and youth of limited English proficiency.

"(b) COMPETITIVE AWARDS.—Research and program evaluation activities carried out under this subpart shall be supported through competitive grants, contracts and cooperative agreements awarded institutions of higher education, nonprofit organizations, and State and local educational agencies.

"(c) ADMINISTRATION.—The Secretary shall conduct data collection, dissemination, and ongoing program evaluation activities authorized by this subpart through the Office of Bilingual Education and Minority Language Affairs.

"SEC. 7132. RESEARCH.

"(a) ADMINISTRATION.—The Secretary shall conduct research activities authorized by this subpart through the Office of Educational Research and Improvement in coordination and collaboration with the Office of Bilingual Education and Minority Language Affairs.

"(b) REQUIREMENTS.—Such research activities—

"(1) shall have a practical application to teachers, counselors, paraprofessionals, school administrators, parents, and others involved in improving the education of limited English proficient students and their families;

"(2) may include research on effective instructional practices for multilingual classes, and on effective instruction strategies to be used by teachers and other staff who do not know the native language of a limited English proficient child or youth in their classrooms;

"(3) may include establishing (through the National Center for Education Statistics in consultation with experts in bilingual education, second language acquisition, and English-as-a-second-language) a common definition of 'limited English proficient student' for purposes of national data collection; and

"(4) shall be administered by individuals with expertise in bilingual education and the needs of limited English proficient students and their families.

"(c) FIELD-INITIATED RESEARCH.—

"(1) IN GENERAL.—The Secretary shall reserve not less than 5 percent of the funds made available to carry out this section for field-initiated research conducted by current or recent recipients of grants under subpart 1 or 2 who have received such grants within the previous five years. Such research may provide for longitudinal studies of students or teachers in bilingual education, monitoring the education of such students from entry in bilingual education through secondary school completion.

"(2) APPLICATIONS.—Applicants for assistance under this subsection may submit an application for such assistance to the Secretary at the same time as applications are submitted under subpart 1 or 2. The Secretary shall complete a review of such applications on a timely basis to allow research and program grants to be coordinated when recipients are awarded two or more such grants.

"(d) CONSULTATION.—The Secretary shall consult with agencies and organizations that are engaged in bilingual education research and practice, or related research, and bilingual education researchers and practitioners to identify areas of study and activities to be funded under this section.

"(e) DATA COLLECTION.—The Secretary shall provide for the continuation of data collection on limited English proficient students as part of the data systems operated by the Department.

"SEC. 7133. ACADEMIC EXCELLENCE AWARDS.

"(a) AWARDS.—The Secretary may make grants to, and enter into contracts and cooperative agreements with, State and local educational agencies, nonprofit organizations, and institutions of higher education to promote the adoption and implementation of bilingual education, special alternative instruction programs, and professional development programs that demonstrate promise of assisting children and youth of limited English proficiency to meet challenging State standards.

"(b) APPLICATIONS.—

"(1) IN GENERAL.—Each entity desiring an award under this section shall submit an application to the Secretary in such form, at such time, and containing such information and assurances as the Secretary may reasonably require.

"(2) PEER REVIEW.—The Secretary shall use a peer review process, using effectiveness criteria that the Secretary shall establish, to review applications under this section.

"(c) USE OF FUNDS.—Funds under this section shall be used to enhance the capacity of States and local education agencies to provide high quality academic programs for children and youth of limited English proficiency, which may include—

"(1) completing the development of such programs;

"(2) professional development of staff participating in bilingual education programs;

"(3) sharing strategies and materials; and

"(4) supporting professional networks.

"(d) COORDINATION.—Recipients of funds under this section shall coordinate the activities assisted under this section with activities carried out by comprehensive regional assistance centers assisted under part A of title XIII.

"SEC. 7134. STATE GRANT PROGRAM.

"(a) STATE GRANT PROGRAM.—The Secretary is authorized to make an award to a State educational agency that demonstrates, to the satisfaction of the Secretary, that such agency, through such agency's own programs and other Federal education programs, effectively provides for the education of children and youth of limited English proficiency within the State.

"(b) PAYMENTS.—The amount paid to a State educational agency under subsection (a) shall not exceed 5 percent of the total amount awarded to local educational agencies within the State under subpart 1 for the previous fiscal year, except that in no case shall the amount paid by the Secretary to any State educational agency under this subsection for any fiscal year be less than $100,000.

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—A State educational agency shall use funds awarded under this section for programs authorized by this section to—

"(A) assist local educational agencies in the State with program design, capacity building, assessment of student performance, and program evaluation; and

"(B) collect data on the State's limited English proficient populations and the educational programs and services available to such populations.

"(2) EXCEPTION.—States which do not, as of the date of enactment of the Improving America's Schools Act of 1994, have in place a system for collecting the data described in subparagraph (B) of paragraph (1) for all students in such State, are not required to meet the requirement of such subparagraph. In the event such State develops a system for collecting data on the educational programs and services available to all students in the State, then such State shall comply with the requirement of paragraph (1)(B).

"(3) TRAINING.—The State educational agency may also use funds provided under this section for the training of State educational agency personnel in educational issues affecting limited English proficient children and youth.

"(4) SPECIAL RULE.—Recipients of funds under this section shall not restrict the provision of services under this section to federally funded programs.

"(d) STATE CONSULTATION.—A State educational agency receiving funds under this section shall consult with recipients of grants under this title and other individuals or organizations involved in the development or operation of programs serving limited English proficient children or youth to ensure that such funds are used in a manner consistent with the requirements of this title.

"(e) APPLICATIONS.—A State educational agency desiring to receive funds under this section shall submit an application to the Secretary in such form, at such time, and containing such information and assurances as the Secretary may require.

"(f) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section for any fiscal year shall be used by the State educational agency to supplement and, to the extent practical, to increase to the level of funds that would, in the absence of such funds, be made available by the State for the purposes described in this section, and in no case to supplant such funds.

"(g) REPORT TO THE SECRETARY.—State educational agencies receiving awards under this section shall provide for the annual submission of a summary report to the Secretary describing such State's use of such funds.

"SEC. 7135. NATIONAL CLEARINGHOUSE FOR BILINGUAL EDUCATION.

"(a) ESTABLISHMENT.—The Secretary shall establish and support the operation of a National Clearinghouse for Bilingual Education, which shall collect, analyze, synthesize, and disseminate information about bilingual education and related programs.

"(b) FUNCTIONS.—The National Clearinghouse for Bilingual Education shall—

"(1) be administered as an adjunct clearinghouse of the Educational Resources Information Center Clearinghouses system of clearinghouses supported by the Office of Educational Research and Improvement;

"(2) coordinate its activities with Federal data and information clearinghouses and dissemination networks and systems;

"(3) develop a data base management and monitoring system for improving the operation and effectiveness of federally funded bilingual education programs; and

"(4) develop, maintain, and disseminate, through comprehensive regional assistance centers described in part A of title XIII if appropriate, a listing by geographical area of education professionals, parents, teachers, administrators, community members and others who are native speakers of languages other than English for use as a resource by local educational agencies and schools in the development and implementation of bilingual education programs.

"SEC. 7136. INSTRUCTIONAL MATERIALS DEVELOPMENT.

"The Secretary may provide grants for the development, publication, and dissemination of high-quality instructional materials in Native American and Native Hawaiian languages and the language of Native Pacific Islanders and natives of the outlying areas for which instructional materials are not readily available. The Secretary shall give priority to the development of instructional materials in languages indigenous to the United States or the outlying areas. The Secretary shall also accord priority to applications for assistance under this section which provide for developing and evaluating materials in collaboration with activities assisted under subparts 1 and 2 and which are consistent with voluntary national content standards and challenging State content standards.

"Subpart 3—Professional Development

"SEC. 7141. PURPOSE.

"The purpose of this subpart is to assist in preparing educators to improve the educational services for limited English proficient children and youth by supporting professional development programs and the dissemination of information on appropriate instructional practices for such children and youth.

"SEC. 7142. TRAINING FOR ALL TEACHERS PROGRAM.

"(a) PURPOSE.—The purpose of this section is to provide for the incorporation of courses and curricula on appropriate and effective instructional and assessment methodologies, strategies and resources specific to limited English proficient students into preservice and inservice professional development programs for teachers, pupil services personnel, administrators and other education personnel in order to prepare such individuals to provide effective services to limited English proficient students.

"(b) AUTHORIZATION.—

"(1) AUTHORITY.—The Secretary is authorized to award grants to institutions of higher education, local educational agencies, and State educational agencies or to nonprofit organizations which have entered into consortia arrangements with one of such institutions or agencies.

"(2) DURATION.—Each grant under this section shall be awarded for a period of not more than five years.

"(c) PERMISSIBLE ACTIVITIES.—Activities conducted under this section may include the development of training programs in collaboration with other programs such as programs authorized under titles I and II of this Act, and under the Head Start Act.

"SEC. 7143. BILINGUAL EDUCATION TEACHERS AND PERSONNEL GRANTS.

"(a) PURPOSE.—The purpose of this section is to provide for—

"(1) preservice and inservice professional development for bilingual education teachers, administrators, pupil services personnel, and other educational personnel who are either involved in, or preparing to be involved in, the provision of educational services for children and youth of limited-English proficiency; and

"(2) national professional development institutes that assist schools or departments of education in institutions of higher education to improve the quality of professional development programs for personnel serving, preparing to serve, or who may serve, children and youth of limited-English proficiency.

"(b) PRIORITY.—The Secretary shall give priority in awarding grants under this section to institutions of higher education, in consortia with local or State educational agencies, that offer degree programs which prepare new bilingual education teachers in order to increase the availability of educators to provide high-quality education to limited English proficient students.

"(c) AUTHORIZATION.—

"(1) The Secretary is authorized to award grants for not more than five years to institutions of higher education which have entered into consortia arrangements with local or State educational agencies to achieve the purposes of this section.

"(2) The Secretary is authorized to make grants for not more than five years to State and local educational agencies for inservice professional development programs.

"SEC. 7144. BILINGUAL EDUCATION CAREER LADDER PROGRAM.

"(a) PURPOSE.—The purpose of this section is—

"(1) to upgrade the qualifications and skills of noncertified educational personnel, especially educational paraprofessionals, to meet high professional standards, including certification and licensure as bilingual education teachers and other educational personnel who serve limited English proficient students, through collaborative training programs operated by institutions of higher education and local and State educational agencies; and

"(2) to help recruit and train secondary school students as bilingual education teachers and other educational personnel to serve limited English proficient students.

"(b) AUTHORIZATION.—

"(1) IN GENERAL.—The Secretary is authorized to award grants for bilingual education career ladder programs to institutions of higher education applying in consortia with local or State educational agencies, which consortia may include community-based organizations or professional education organizations.

"(2) DURATION.—Each grant under this section shall be awarded for a period of not more than five years.

"(c) PERMISSIVE ACTIVITIES.—Grants awarded under this section may be used—

"(1) for the development of bilingual education career ladder program curricula appropriate to the needs of the consortium participants;

"(2) to provide assistance for stipends and costs related to tuition, fees and books for enrolling in courses required to complete the degree and certification requirements to become bilingual education teachers; and

"(3) for programs to introduce secondary school students to careers in bilingual education teaching that are coordinated with other activities assisted under this section.

"(d) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to applications under this section which provide for—

"(1) participant completion of baccalaureate and master's degree teacher education programs, and certification requirements and may include effective employment placement activities;

"(2) development of teacher proficiency in English and a second language, including demonstrating proficiency in the instructional use of English and, as appropriate, a second language in classroom contexts;

"(3) coordination with the Federal TRIO programs under chapter 1 of part A of title IV of the Higher Education Act of 1965, the National Mini Corps under subpart 1 of part F of title V of such Act, the Teacher Corps program under subpart 3 of part C of title V of such Act, and the National Community and Service Trust Act of 1993 programs, and other programs for the recruitment and retention of bilingual students in secondary and postsecondary programs to train to become bilingual educators; and

"(4) the applicant's contribution of additional student financial aid to participating students.

"SEC. 7145. GRADUATE FELLOWSHIPS IN BILINGUAL EDUCATION PROGRAM.

"(a) AUTHORIZATION.—

"(1) IN GENERAL.—The Secretary may award fellowships for masters, doctoral, and post-doctoral study related to instruction of children and youth of limited-English proficiency in such areas as teacher training, program administration, research and evaluation, and curriculum development, and for the support of dissertation research related to such study.

"(2) NUMBER.—For fiscal year 1994 not less than 500 fellowships leading to a master's or doctorate degree shall be awarded under this section.

"(3) INFORMATION.—The Secretary shall include information on the operation and the number of fellowships awarded under the fellowship program in the evaluation required under section 7149.

"(b) FELLOWSHIP REQUIREMENTS.—

"(1) IN GENERAL.—Any person receiving a fellowship under this section shall agree to—

"(A) work in an activity related to the program or in an activity such as an activity authorized under this part, including work as a bilingual education teacher, for a period of time equivalent to the period of time during which such person receives assistance under this section; or

"(B) repay such assistance.

"(2) REGULATIONS.—The Secretary shall establish in regulations such terms and conditions for such agreement as the Secretary deems reasonable and necessary and may waive the requirement of paragraph (1) in extraordinary circumstances.

"(c) PRIORITY.—In awarding fellowships under this section the Secretary may give priority to institutions of higher education that demonstrate experience in assisting fellowship recipients find employment in the field of bilingual education.

"SEC. 7146. APPLICATION.

"(a) IN GENERAL.—

"(1) SECRETARY.—To receive an award under this subpart, an eligible entity shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

"(2) CONSULTATION AND ASSESSMENT.—Each such application shall contain a description of how the applicant has consulted with, and assessed the needs of, public and private schools serving children and youth of limited-English proficiency to determine such school's need for, and the design of, the program for which funds are sought.

"(3) SPECIAL RULE.—(A) An application for a grant under subsection (a) from an applicant who proposes to conduct a master's- or doctoral-level program with funds received under this section shall provide an assurance that such program will include, as a part of the program, a training practicum in a local school program serving children and youth of limited-English proficiency.

"(B) A recipient of a grant under subsection (a) may waive the requirement of a training practicum for a degree candidate with significant experience in a local school program serving children and youth of limited-English proficiency.

"(4) STATE EDUCATIONAL AGENCY.—An eligible entity, with the exception of schools funded by *the Bureau of Indian Affairs, shall submit a copy of the application under this subsection to the State educational agency.*

"(b) STATE REVIEW AND COMMENTS.—

"(1) DEADLINE.—The State educational agency, not later than 45 days after receipt of such application copy, shall review the application and transmit such application to the Secretary.

"(2) COMMENTS.—(A) Regarding any application submitted under this subpart, the State educational agency shall—

"(i) submit to the Secretary written comments regarding all such applications; and

"(ii) submit to each eligible entity the comments that pertain to such entity.

"(B) For purposes of this subpart, comments shall address how the eligible entity—

"(i) will further the academic achievement of limited English proficient students served pursuant to a grant received under this subpart; and

"(ii) how the grant application is consistent with the State plan submitted under section 1111.

"(3) WAIVER.—Notwithstanding paragraphs (1) and (2), the Secretary is authorized to waive the review requirement if a State educational agency can demonstrate that such review requirement may impede such agency's ability to fulfill the requirements of participation in the State grant program, particularly such agency's data collection efforts and such agency's ability to provide technical assistance to local educational agencies not receiving funds under this Act.

"(c) ELIGIBLE ENTITY COMMENTS.—An eligible entity may submit to the Secretary comments that address the comments submitted by the State educational agency.

"(d) COMMENT CONSIDERATION.—In making awards under this subpart the Secretary shall take into consideration comments made by a State educational agency.

"(e) SPECIAL RULE.—

"(1) OUTREACH AND TECHNICAL ASSISTANCE.—The Secretary shall provide for outreach and technical assistance to institutions of higher education eligible for assistance under title III of the Higher Education Act of 1965 and institutions of higher education that are operated or funded by the Bureau of Indian Affairs to facilitate the participation of such institutions in activities under this part.

"(2) DISTRIBUTION RULE.—In making awards under this subpart, the Secretary, consistent with subsection (d), shall ensure adequate representation of Hispanic-serving institutions that demonstrate competence and experience in the programs and activities authorized under this subpart and are otherwise qualified.

"SEC. 7147. PROGRAM REQUIREMENTS.

"Activities conducted under this subpart shall assist educational personnel in meeting State and local certification requirements for bilingual education and, wherever possible, shall lead toward the awarding of college or university credit.

"SEC. 7148. STIPENDS.

"The Secretary shall provide for the payment of such stipends (including allowances for subsistence and other expenses for such persons and their dependents), as the Secretary determines to be appropriate, to persons participating in training programs under this subpart.

"SEC. 7149. PROGRAM EVALUATIONS.

"Each recipient of funds under this subpart shall provide the Secretary with an evaluation of the program assisted under this subpart every two years. Such evaluation shall include data on—

"(1) post-program placement of persons trained in a program assisted under this subpart;

"(2) how the training relates to the employment of persons served by the program;

"(3) program completion; and

"(4) such other information as the Secretary may require.

"SEC. 7150. USE OF FUNDS FOR SECOND LANGUAGE COMPETENCE.

"Awards under this subpart may be used to develop a program participant's competence in a second language for use in instructional programs.

"Subpart 4—Transition

"SEC. 7161. SPECIAL RULE.

"Notwithstanding any other provision of law, no recipient of a grant under title VII of this Act (as such title was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) shall be eligible for fourth- and fifth-year renewals authorized by section 7021(d)(1)(C) of such title (as such section was in effect on the day preceding the date of enactment of such Act).

"PART B—FOREIGN LANGUAGE ASSISTANCE PROGRAM

"SEC. 7201. SHORT TITLE.

"This part may be cited as the 'Foreign Language Assistance Act of 1994'.

"SEC. 7202. FINDINGS.

"The Congress finds as follows:

"(1) Foreign language proficiency is crucial to our Nation's economic competitiveness and national security. Significant improvement in the quantity and quality of foreign language instruction offered in our Nation's elementary and secondary schools is necessary.

"(2) All Americans need a global perspective. To understand the world around us, we must acquaint ourselves with the languages, cultures, and history of other nations.

"(3) Proficiency in two or more languages should be promoted for all American students. Multilingualism enhances cognitive and social growth, competitiveness in the global marketplace, national security, and understanding of diverse people and cultures.

"(4) The United States lags behind other developed countries in offering foreign language study to elementary and secondary school students.

"(5) Four out of five new jobs in the United States are created from foreign trade.

"(6) The optimum time to begin learning a second language is in elementary school, when children have the ability to learn and excel in several foreign language acquisition skills, including pronunciation, and when children are most open to appreciating and valuing a culture other than their own.

"(7) Foreign language study can increase childrens' capacity for critical and creative thinking skills and children who study a second language show greater cognitive development in areas such as mental flexibility, creativity, tolerance, and higher order thinking skills.

"(8) Children who have studied a foreign language in elementary school achieve expected gains and score higher on standardized tests of reading, language arts, and mathematics than children who have not studied a foreign language.

"SEC. 7203. PROGRAM AUTHORIZED.

"(a) PROGRAM AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall make grants, on a competitive basis, to State educational agencies or local educational agencies to pay the Federal share of the cost of innovative model programs providing for the establishment, improvement or expansion of foreign language study for elementary and secondary school students.

"(2) DURATION.—Each grant under paragraph (1) shall be awarded for a period of three years.

"(b) REQUIREMENTS.—

"(1) GRANTS TO STATE EDUCATIONAL AGENCIES.—In awarding a grant under subsection (a) to a State educational agency, the Secretary shall support programs that promote systemic approaches to improving foreign language learning in the State.

"(2) GRANTS TO LOCAL EDUCATIONAL AGENCIES.—In awarding a grant under subsection (a) to a local educational agency, the Secretary shall support programs that—

"(A) show the promise of being continued beyond the grant period;

"(B) demonstrate approaches that can be disseminated and duplicated in other local educational agencies; and

"(C) may include a professional development component.

"(c) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share for each fiscal year shall be 50 percent.

"(2) WAIVER.—The Secretary may waive the requirement of paragraph (1) for any local educational agency which the Secretary determines does not have adequate resources to pay the non-Federal share of the cost of the activities assisted under this part.

"(3) SPECIAL RULE.—Not less than three-fourths of the funds appropriated under section 7206 shall be used for the expansion of foreign language learning in the elementary grades.

"(4) RESERVATION.—The Secretary may reserve not more than 5 percent of funds appropriated under section 7206 to evaluate the efficacy of programs under this part.

"SEC. 7204. APPLICATIONS.

"(a) IN GENERAL.—Any State educational agency or local educational agency desiring a grant under this part shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require.

"(b) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to applications describing programs that—

"(1) include intensive summer foreign language programs for professional development;

"(2) link non-native English speakers in the community with the schools in order to promote two-way language learning; or

"(3) promote the sequential study of a foreign language for students, beginning in elementary schools.

"SEC. 7205. ELEMENTARY SCHOOL FOREIGN LANGUAGE INCENTIVE PROGRAM.

"(a) INCENTIVE PAYMENTS.—From amounts appropriated under section 7206 the Secretary shall make an incentive payment for each fiscal year to each public elementary school that provides to students attending such school a program designed to lead to communicative competency in a foreign language.

"(b) AMOUNT.—The Secretary shall determine the amount of the incentive payment under subsection (a) for each public elementary school for each fiscal year on the basis of the number of students participating in a program described in such subsection at such school for such year compared to the total number of such students at all such schools in the United States for such year.

"(c) REQUIREMENT.—The Secretary shall consider a program to be designed to lead to communicative competency in a foreign language if such program is comparable to a program that provides not less than 45 minutes of instruction in a foreign language not less than four days per week throughout an academic year.

"SEC. 7206. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $35,000,000 for the fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this part, of which not more than $20,000,000 may be used in each fiscal year to carry out section 7205.

"PART C—EMERGENCY IMMIGRANT EDUCATION PROGRAM

"SEC. 7301. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds that—

"(1) the education of our Nation's children and youth is one of the most sacred government responsibilities;

"(2) local educational agencies have struggled to fund adequately education services;

"(3) in the case of Plyler v. Doe, the Supreme Court held that States have a responsibility under the Equal Protection Clause of the Constitution to educate all children, regardless of immigration status; and

"(4) immigration policy is solely a responsibility of the Federal Government.

"(b) PURPOSE.—The purpose of this part is to assist eligible local educational agencies that experience unexpectedly large increases in their student population due to immigration to—

"(1) provide high-quality instruction to immigrant children and youth; and

"(2) help such children and youth—

"(A) with their transition into American society; and

"(B) meet the same challenging State performance standards expected of all children and youth.

"SEC. 7302. STATE ADMINISTRATIVE COSTS.

"For any fiscal year, a State educational agency may reserve not more than 1.5 percent of the amount allocated to such agency under section 7304 to pay the costs of performing such agency's administrative functions under this part.

"SEC. 7303. WITHHOLDING.

"Whenever the Secretary, after providing reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirement of any provision of this part, the Secretary shall notify that agency that further payments will not be made to the agency under this part, or in the discretion of the Secretary, that the State educational agency shall not make further payments under this part to specified local educational agencies whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under this part, or payments by the State educational agency under this part shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

"SEC. 7304. STATE ALLOCATIONS.

"(a) PAYMENTS.—The Secretary shall, in accordance with the provisions of this section, make payments to State educational agencies for each of the fiscal years 1995 through 1999 for the purpose set forth in section 7301(b).

"(b) ALLOCATIONS.—

"(1) IN GENERAL.—Except as provided in subsections (c) and (d), of the amount appropriated for each fiscal year for this part, each State participating in the program assisted under this part shall receive an allocation equal to the proportion of such State's number of immigrant children and youth who are enrolled in public elementary or secondary schools under the jurisdiction of each local educational agency described in paragraph (2) within such State, and in nonpublic elementary or secondary schools within the district served by each such local educational agency, relative to the total number of immigrant children and youth so enrolled in all the States participating in the program assisted under this part.

"(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—The local educational agencies referred to in paragraph (1) are those local educational agencies in which the sum of the number of immigrant children and youth who are enrolled in public elementary or secondary schools under the jurisdiction of such agencies, and in nonpublic elementary or secondary schools within the districts served by such agencies, during the fiscal year for which the payments are to be made under this part, is equal to—

"(A) at least 500; or

"(B) at least 3 percent of the total number of students enrolled in such public or nonpublic schools during such fiscal year,

whichever number is less.

"(c) DETERMINATIONS OF NUMBER OF CHILDREN AND YOUTH.—

"(1) IN GENERAL.—Determinations by the Secretary under this section for any period with respect to the number of immigrant children and youth shall be made on the basis of data or estimates provided to the Secretary by each State educational agency in accordance with criteria established by the Secretary, unless the Secretary determines, after notice and opportunity for a hearing to the affected State educational agency, that such data or estimates are clearly erroneous.

"(2) SPECIAL RULE.—No such determination with respect to the number of immigrant children and youth shall operate because of an underestimate or overestimate to deprive any State educational agency of the allocation under this section that such State would otherwise have received had such determination been made on the basis of accurate data.

"(d) REALLOCATION.—Whenever the Secretary determines that any amount of a payment made to a State under this part for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to one or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from any appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this part, be regarded as part of such State's payment (as determined under subsection (b)) for such year, but shall remain available until the end of the succeeding fiscal year.

"(e) RESERVATION OF FUNDS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this part, if the amount appropriated to carry out this part exceeds $50,000,000 for a fiscal year, a State educational agency may reserve not more than 20 percent of such agency's payment under this part for such year to award grants, on a competitive basis, to local educational agencies within the State as follows:

"(A) At least one-half of such grants shall be made available to eligible local educational agencies (as described in subsection (b)(2)) within the State with the highest numbers and percentages of immigrant children and youth.

"(B) Funds reserved under this paragraph and not made available under subparagraph (A) may be distributed to local educational agencies within the State experiencing a sudden influx of immigrant children and youth which are otherwise not eligible for assistance under this part.

"(2) USE OF GRANT FUNDS.—Each local educational agency receiving a grant under paragraph (1) shall use such grant funds to carry out the activities described in section 7307.

"(3) INFORMATION.—Local educational agencies with the highest number of immigrant children and youth receiving funds under paragraph (1) may make information available on serving immigrant children and youth to local educational agencies in the State with sparse numbers of such children.

"SEC. 7305. STATE APPLICATIONS.

"(a) SUBMISSION.—No State educational agency shall receive any payment under this part for any fiscal year unless such agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

"(1) provide that the educational programs, services, and activities for which payments under this part are made will be administered by or under the supervision of the agency;

"(2) provide assurances that payments under this part will be used for purposes set forth in sections 7301 and 7307, including a description of how local educational agencies receiving funds under this part will use such funds to meet such purposes and will coordinate with other programs assisted under this Act, the Goals 2000: Educate America Act, and other Acts as appropriate;

"(3) provide an assurance that local educational agencies receiving funds under this part will coordinate the use of such funds with programs assisted under part A or title I;

"(4) provide assurances that such payments, with the exception of payments reserved under section 7304(e), will be distributed among local educational agencies within that State on the basis of the number of immigrant children and youth counted with respect to each such local educational agency under section 7304(b)(1);

"(5) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this part without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

"(6) provide for making such reports as the Secretary may reasonably require to perform the Secretary's functions under this part;

"(7) provide assurances—

"(A) that to the extent consistent with the number of immigrant children and youth enrolled in the nonpublic elementary or secondary schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of such children and youth secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children and youth;

"(B) that the control of funds provided under this part to any materials, equipment, and property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purposes provided in this part, and a public agency shall administer such funds and property; and

"(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such nonpublic elementary or secondary school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds;

"(8) provide that funds reserved under subsection (e) of section 7304 be awarded on a competitive basis based on merit and need in accordance with such subsection; and

"(9) provide an assurance that State and local educational agencies receiving funds under this part will comply with the requirements of section 1120(b).

"(b) APPLICATION REVIEW.—

"(1) IN GENERAL.—The Secretary shall review all applications submitted pursuant to this section by State educational agencies.

"(2) APPROVAL.—The Secretary shall approve any application submitted by a State educational agency that meets the requirements of this section.

"(3) DISAPPROVAL.—The Secretary shall disapprove any application submitted by a State educational agency which does not meet the requirements of this section, but shall not finally disapprove an application except after providing reasonable notice, technical assistance, and an opportunity for a hearing to the State.

"SEC. 7306. ADMINISTRATIVE PROVISIONS.

"(a) NOTIFICATION OF AMOUNT.—The Secretary, not later than June 1 of each year, shall notify each State educational agency that has an application approved under section 7305 of the amount of such agency's allocation under section 7304 for the succeeding year.

"(b) SERVICES TO CHILDREN ENROLLED IN NONPUBLIC SCHOOLS.—If by reason of any provision of law a local educational agency is prohibited from providing educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 7305(a)(7), or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services, subject to the requirements of this part, to such children. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with the provisions of title I.

"SEC. 7307. USES OF FUNDS.

"(a) USE OF FUNDS.—Funds awarded under this part shall be used to pay for enhanced instructional opportunities for immigrant children and youth, which may include—

"(1) family literacy, parent outreach, and training activities designed to assist parents to become active participants in the education of their children;

"(2) salaries of personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to immigrant children and youth;

"(3) tutorials, mentoring, and academic or career counseling for immigrant children and youth;

"(4) identification and acquisition of curricular materials, educational software, and technologies to be used in the program;

"(5) basic instructional services which are directly attributable to the presence in the school district of immigrant children, including the costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services; and

"(6) such other activities, related to the purposes of this part, as the Secretary may authorize.

"(b) CONSORTIA.—A local educational agency that receives a grant under this part may collaborate or form a consortium with one or more local educational agencies, institutions of higher education, and nonprofit organizations to carry out the program described in an application approved under this part.

"(c) SUBGRANTS.—A local educational agency that receives a grant under this part may, with the approval of the Secretary, make a subgrant to, or enter into a contract with, an institution of higher education, a nonprofit organization, or a consortium of such entities to carry out a program described in an application approved under this part, including a program to serve out-of-school youth.

"(d) CONSTRUCTION.—Nothing in this part shall be construed to prohibit a local educational agency from serving immigrant children simultaneously with students with similar educational needs, in the same educational settings where appropriate.

"SEC. 7308. REPORTS.

"(a) BIENNIAL REPORT.—Each State educational agency receiving funds under this part shall submit, once every two years, a report to the Secretary concerning the expenditure of funds by local educational agencies under this part. Each local educational agency receiving funds under this part shall submit to the State educational agency such information as may be necessary for such report.

"(b) REPORT TO CONGRESS.—The Secretary shall submit, once every two years, a report to the appropriate committees of the Congress concerning programs assisted under this part in accordance with section 14701.

"SEC. 7309. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $100,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"PART D—ADMINISTRATION

"SEC. 7401. RELEASE TIME.

"The Secretary shall allow professional development programs funded under part A to use funds provided under part A for professional release time to enable individuals to participate in programs assisted under part A.

"SEC. 7402. EDUCATION TECHNOLOGY.

"Funds made available under part A may be used to provide for the acquisition or development of education technology or instructional materials, including authentic materials in languages other than English, access to and participation in electronic networks for materials, training and communications, and incorporation of such resources in curricula and programs such as those funded under this title.

"SEC. 7403. NOTIFICATION.

"The State educational agency, and when applicable, the State board for postsecondary education, shall be notified within three working days of the date an award under part A is made to an eligible entity within the State.

"SEC. 7404. CONTINUED ELIGIBILITY.

"Entities receiving grants under this title shall remain eligible for grants for subsequent activities which extend or expand and do not duplicate those activities supported by a previous grant under this title. In considering applications for grants under this title, the Secretary shall take into consideration the applicant's record of accomplishments under previous grants under this title.

"SEC. 7405. COORDINATIONS AND REPORTING REQUIREMENTS.

"(a) COORDINATION WITH RELATED PROGRAMS.—In order to maximize Federal efforts aimed at serving the educational needs of children and youth of limited-English proficiency, the Secretary shall coordinate and ensure close cooperation with other programs serving language-minority and limited English proficient students that are administered by the Department and other agencies. The Secretary shall consult with the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Agriculture, the Attorney General and the heads of other relevant agencies to identify and eliminate barriers to appropriate coordination of programs that affect language-minority and limited English proficient students and their families. The Secretary shall provide for continuing consultation and collaboration, between the Office and relevant programs operated by the Department, including programs under title I and other programs under this Act, in planning, contracts, providing joint technical assistance, providing joint field monitoring activities and in other relevant activities to ensure effective program coordination to provide high quality education opportunities to all language-minority and limited English proficient students.

"(b) DATA.—The Secretary shall, to the extent feasible, ensure that all data collected by the Department shall include the collection and reporting of data on limited English proficient students.

"(c) PUBLICATION OF PROPOSALS.—The Secretary shall publish and disseminate all requests for proposals for programs funded under part A.

"(d) REPORT.—The Director shall prepare and, not later than February 1 of every other year, shall submit to the Secretary and to the Committee on Labor and Human Resources of the Senate and to the Committee on Education and Labor of the House of Representatives a report on—

"(1) the activities carried out under this title and the effectiveness of such activities in improving the education provided to limited English proficient children and youth;

"(2) a critical synthesis of data reported by the States pursuant to section 7134;

"(3) an estimate of the number of certified bilingual education personnel in the field and an estimate of the number of bilingual education teachers which will be needed for the succeeding five fiscal years;

"(4) the major findings of research carried out under this title; and

"(5) recommendations for further developing the capacity of our Nation's schools to educate effectively limited English proficient students.

"PART E—GENERAL PROVISIONS

"SEC. 7501. DEFINITIONS; REGULATIONS.

"Except as otherwise provided, for purposes of this title—

"(1) BILINGUAL EDUCATION PROGRAM.—The term 'bilingual education program' means an educational program for limited English proficient students that—

"(A) makes instructional use of both English and a student's native language;

"(B) enables limited English proficient students to achieve English proficiency and academic mastery of subject matter content and higher order skills, including critical thinking, so as to meet age-appropriate grade-promotion and graduation standards in concert with the National Education Goals;

"(C) may also develop the native language skills of limited English proficient students, or ancestral languages of American Indians, Alaska Natives, Native Hawaiians and native residents of the outlying areas; and

"(D) may include the participation of English-proficient students if such program is designed to enable all enrolled students to become proficient in English and a second language.

"(2) CHILDREN AND YOUTH.—The term 'children and youth' means individuals aged 3 through 21.

"(3) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a private nonprofit organization of demonstrated effectiveness or Indian tribe or tribally sanctioned educational authority which is representative of a community or significant segments of a community and which provides educational or related services to individuals in the community. Such term includes Native Hawaiian organizations including Native Hawaiian Educational Organizations as such term is defined in section 4009 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (20 U.S.C. 4901 et seq.), as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994.

"(4) COMMUNITY COLLEGE.—The term 'community college' means an institution of higher education as defined in section 1201(a) of the Higher Education Act of 1965 which provides not less than a two-year program which is acceptable

for full credit toward a bachelor's degree, including institutions receiving assistance under the Tribally Controlled Community College Assistance Act of 1978.

"(5) DIRECTOR.—The term 'Director' means the Director of the Office of Bilingual Education and Minority Languages Affairs established under section 210 of the Department of Education Organization Act.

"(6) FAMILY EDUCATION PROGRAM.—(A) The term 'family education program' means a bilingual education or special alternative instructional program that—

"(i) is designed—

"(I) to help limited English proficient adults and out-of-school youths achieve proficiency in the English language; and

"(II) to provide instruction on how parents and family members can facilitate the educational achievement of their children;

"(ii) when feasible, uses instructional programs such as the models developed under the Even Start Family Literacy Programs, which promote adult literacy and train parents to support the educational growth of their children and the Parents as Teachers Program and the Home Instruction Program for Preschool Youngsters; and

"(iii) gives preference to participation by parents and immediate family members of children attending school.

"(B) Such term may include programs that provide instruction to facilitate higher education and employment outcomes.

"(7) IMMIGRANT CHILDREN AND YOUTH.—The term 'immigrant children and youth' means individuals who—

"(A) are aged 3 through 21;

"(B) were not born in any State; and

"(C) have not been attending one or more schools in any one or more States for more than three full academic years.

"(8) LIMITED ENGLISH PROFICIENCY AND LIMITED ENGLISH PROFICIENT.—The terms 'limited English proficiency' and 'limited English proficient', when used with reference to an individual, mean an individual—

"(A) who—

"(i) was not born in the United States or whose native language is a language other than English and comes from an environment where a language other than English is dominant; or

"(ii) is a Native American or Alaska Native or who is a native resident of the outlying areas and comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency; or

"(iii) is migratory and whose native language is other than English and comes from an environment where a language other than English is dominant; and

"(B) who has sufficient difficulty speaking, reading, writing, or understanding the English language and whose difficulties may deny such individual the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in our society.

"(9) NATIVE AMERICAN AND NATIVE AMERICAN LANGUAGE.—The terms 'Native American' and 'Native American language' shall have the same meaning given such terms in section 103 of the Native American Languages Act of 1990.

"(10) NATIVE HAWAIIAN OR NATIVE AMERICAN PACIFIC ISLANDER NATIVE LANGUAGE EDUCATIONAL ORGANIZATION.—The term 'Native Hawaiian or Native American Pacific Islander native language educational organization' means a nonprofit organization with a majority of its governing board and employees consisting of fluent speakers of the traditional Native American languages used in their educational programs and with not less than five years successful experience in providing educational services in traditional Native American languages.

"(11) NATIVE LANGUAGE.—The term 'native language', when used with reference to an individual of limited-English proficiency, means the language normally used by such individual, or in the case of a child or youth, the language normally used by the parents of the child or youth.

"(12) OFFICE.—The term 'Office' means the Office of Bilingual Education and Minority Languages Affairs.

"(13) OTHER PROGRAMS FOR PERSONS OF LIMITED-ENGLISH PROFICIENCY.—The term 'other programs for persons of limited-English proficiency' means any programs administered by the Secretary that serve persons of limited-English proficiency.

"(14) PARAPROFESSIONAL.—The term 'paraprofessional' means an individual who is employed in preschool, elementary or secondary school under the supervision of a certified or licensed teacher, including individuals employed in bilingual education, special education and migrant education.

"(15) SPECIAL ALTERNATIVE INSTRUCTIONAL PROGRAM.—The term 'special alternative instructional program' means an educational program for limited English proficient students that—

"(A) utilizes specially designed English language curricula and services but does not use the student's native language for instructional purposes;

"(B) enables limited English proficient students to achieve English proficiency and academic mastery of subject matter content and higher order skills, including critical thinking so as to meet age-appropriate grade-promotion and graduation standards in concert with the National Education Goals; and

"(C) is particularly appropriate for schools where the diversity of the limited English proficient students' native languages and the small number of students speaking each respective language makes bilingual education impractical and where there is a critical shortage of bilingual education teachers.

"SEC. 7502. REGULATIONS AND NOTIFICATION.

"(a) REGULATION RULE.—In developing regulations under this title, the Secretary shall consult with State and local educational agencies, organizations representing limited English proficient individuals, and organizations representing teachers and other personnel involved in bilingual education.

"(b) PARENTAL NOTIFICATION.—

"(1) IN GENERAL.—Parents of children and youth participating in programs assisted under part A shall be informed of—

"(A) a student's level of English proficiency, how such level was assessed, the status of a student's academic achievement and the implications of a student's educational strengths and needs for age and grade appropriate academic attainment, promotion, and graduation;

"(B) what programs are available to meet the student's educational strengths and needs and how the programs differ in content and instructional goals, and in the case of a student with a disability, how the program meets the objectives of a student's individualized education program; and

"(C) the instructional goals of the bilingual education or special alternative instructional program, and how the program will specifically help the limited English proficient student acquire English and meet age-appropriate standards for grade-promotion and graduation, including—

"(i) the benefits, nature, and past academic results of the bilingual educational program and of the instructional alternatives; and

"(ii) the reasons for the selection of their child as being in need of bilingual education.

"(2) OPTION TO DECLINE.—(A) Such parents shall also be informed that such parents have the option of declining enrollment of their children and youth in such programs and shall be given an opportunity to so decline if such parents so choose.

"(B) A local educational agency shall not be relieved of any of its obligations under title VI of the Civil Rights Act of 1964 because parents choose not to enroll their children in bilingual education programs.

"(3) RECEIPT OF INFORMATION.—Such parents shall receive, in a manner and form understandable to such parents, including, if necessary and to the extent feasible, in the native language of such parents, the information required by this subsection. At a minimum, such parents shall receive—

"(A) timely information about projects funded under part A; and

"(B) if the parents of participating children so desire, notice of opportunities for regular meetings for the purpose of formulating and responding to recommendations from such parents.

"(4) SPECIAL RULE.—Students shall not be admitted to or excluded from any federally assisted education program merely on the basis of a surname or language-minority status.

"TITLE VIII—IMPACT AID

"SEC. 8001. PURPOSE.

"In order to fulfill the Federal responsibility to assist with the provision of educational services to federally connected children, because certain activities of the Federal Government place a financial burden on the local educational agencies serving areas where such activities are carried out, and to help such children meet challenging State standards, it is the purpose of this title to provide financial assistance to local educational agencies that—

"(1) experience a substantial and continuing financial burden due to the acquisition of real property by the United States;

"(2) educate children who reside on Federal property and whose parents are employed on Federal property;

"(3) educate children of parents who are in the military services and children who live in low-rent housing;

"(4) educate heavy concentrations of children whose parents are civilian employees of the Federal Government and do not reside on Federal property;

"(5) experience sudden and substantial increases or decreases in enrollments because of military realignments; or

"(6) need special assistance with capital expenditures for construction activities because of the enrollments of substantial numbers of children who reside on Federal lands.

"SEC. 8002. PAYMENTS RELATING TO FEDERAL ACQUISITION OF REAL PROPERTY.

"(a) IN GENERAL.—Where the Secretary, after consultation with any local educational agency and with the appropriate State educational agency, determines for a fiscal year ending prior to October 1, 1999—

"(1) that the United States owns Federal property in the local educational agency, and that such property—

"(A) has been acquired by the United States since 1938;

"(B) was not acquired by exchange for other Federal property in the local educational agency which the United States owned before 1939; and

"(C) had an assessed value (determined as of the time or times when so acquired) aggregating 10 percent or more of the assessed value of—

"(i) all real property in the local educational agency (similarly determined as of the time or times when such Federal property was so acquired); or

"(ii) all real property in the local educational agency as assessed in the first year preceding or

succeeding acquisition, whichever is greater, only if—

"(I) the assessment of all real property in the local educational agency is not made at the same time or times that such Federal property was so acquired and assessed; and

"(II) State law requires an assessment be made of property so acquired; and

"(2) that such agency is not being substantially compensated for the loss in revenue resulting from such ownership by increases in revenue accruing to the agency from the conduct of Federal activities with respect to such Federal property,

then such agency shall be eligible to receive the amount described in subsection (b).

"(b) Amount.—

"(1) In general.—(A)(i) The amount that a local educational agency shall be paid under subsection (a) for a fiscal year shall be calculated in accordance with paragraph (2), except that such amount shall be reduced by the Secretary by an amount equal to the amount of revenue, if any, that such agency received during the previous fiscal year from activities conducted on such Federal property.

"(ii) For purposes of clause (i), the amount of revenue that a local educational agency receives during the previous fiscal year from activities conducted on Federal property shall not include payments received by the agency from the Secretary of Defense to support—

"(I) the operation of a domestic dependent elementary or secondary school; or

"(II) the provision of a free public education to dependents of members of the Armed Forces residing on or near a military installation.

"(B) If funds appropriated under section 8014(a) are insufficient to pay the amount determined under subparagraph (A), the Secretary shall ratably reduce the payment to each eligible local educational agency.

"(C) Notwithstanding any other provision of this subsection, a local educational agency may not be paid an amount under this section that, when added to the amount such agency receives under section 8003(b), exceeds the maximum amount that such agency is eligible to receive for such fiscal year under section 8003(b)(1)(C).

"(2) Application of current levied real property tax rate.—In calculating the amount that a local educational agency is eligible to receive for a fiscal year, the Secretary shall apply the current levied real property tax rate for current expenditures levied by fiscally independent local educational agencies, or imputed for fiscally dependent local educational agencies, to the current annually determined aggregate assessed value of such acquired Federal property.

"(3) Determination of aggregate assessed value.—Such aggregate assessed value of such acquired Federal property shall be determined on the basis of the highest and best use of property adjacent to such acquired Federal property as of the time such value is determined, and provided to the Secretary, by the local official responsible for assessing the value of real property located in the jurisdiction of such local educational agency for the purpose of levying a property tax.

"(c) Applicability to Tennessee Valley Authority Act.—For the purpose of this section, any real property with respect to which payments are being made under section 13 of the Tennessee Valley Authority Act of 1933 shall not be regarded as Federal property.

"(d) Ownership by United States.—The United States shall be deemed to own Federal property for the purposes of this Act, where—

"(1) prior to the transfer of Federal property, the United States owned Federal property meeting the requirements of subparagraphs (A), (B), and (C) of subsection (a)(1); and

"(2) the United States transfers a portion of the property referred to in paragraph (1) to another nontaxable entity, and the United States—

"(A) restricts some or any construction on such property;

"(B) requires that the property be used in perpetuity for the public purposes for which the property was conveyed;

"(C) requires the grantee of the property to report to the Federal Government (or its agent) regarding information on the use of the property;

"(D) except with the approval of the Federal Government (or its agent), prohibits the sale, lease, assignment, or other disposal of the property unless such sale, lease, assignment, or other disposal is to another eligible government agency; and

"(E) reserves to the Federal Government a right of reversion at any time the Federal Government (or its agent) deems it necessary for the national defense.

"(e) Local Educational Agency Containing Forest Service Land and Serving Certain Counties.—Beginning with fiscal year 1995, a local educational agency shall be deemed to meet the requirements of subsection (a)(1)(C) if such local educational agency meets the following requirements:

"(1) Acreage and acquisition by the forest service.—The local educational agency serves a school district that contains between 20,000 and 60,000 acres of land that has been acquired by the Forest Service of the Department of Agriculture between 1915 and 1990, as demonstrated by written evidence from the Forest Service satisfactory to the Secretary.

"(2) County charter.—The local educational agency serves a county chartered under State law in 1875 or 1890.

"(f) Special Rule.—Beginning with fiscal year 1994, and notwithstanding any other provision of law limiting the period during which fiscal year 1994 funds may be obligated, the Secretary shall treat the local educational agency serving the Wheatland R-II School District, Wheatland, Missouri, as meeting the eligibility requirements of section 2(a)(1)(C) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) (20 U.S.C. 237(a)(1)(C)) or subsection (a)(1)(C).

"SEC. 8003. PAYMENTS FOR ELIGIBLE FEDERALLY CONNECTED CHILDREN.

"(a) Computation of Payment.—

"(1) In general.—For the purpose of computing the amount that a local educational agency is eligible to receive under subsection (b), (d), or (f) for any fiscal year, the Secretary shall determine the number of children who were in average daily attendance in the schools of such agency, and for whom such agency provided free public education, during the preceding school year and who, while in attendance at such schools—

"(A)(i) resided on Federal property with a parent employed on Federal property situated in whole or in part within the boundaries of the school district of such agency; or

"(ii) resided on Federal property with a parent who is an official of, and accredited by, a foreign government and is a foreign military officer;

"(B) resided on Federal property and had a parent on active duty in the uniformed services (as defined in section 101 of title 37, United States Code);

"(C) resided on Indian lands;

"(D)(i) had a parent on active duty in the uniformed services (as defined by section 101 of title 37, United States Code) but did not reside on Federal property; or

"(ii) had a parent who is an official of, and has been accredited by, a foreign government and is a foreign military officer but did not reside on Federal property;

"(E) resided in low-rent housing;

"(F) resided on Federal property and is not described in subparagraph (A) or (B); or

"(G) resided with a parent employed on Federal property situated—

"(i) in whole or in part in the county in which such agency is located, or in whole or in part in such agency if such agency is located in more than one county; or

"(ii) if not in such county, in whole or in part in the same State as such agency.

"(2) Determination of weighted student units.—For the purpose of computing the basic support payment under subsection (b), the Secretary shall calculate the total number of weighted student units for a local educational agency by adding together the results obtained by the following computations:

"(A) Multiply the number of children described in subparagraphs (A) and (B) of paragraph (1) by a factor of 1.0.

"(B) Multiply the number of children described in paragraph (1)(C) by a factor of 1.25.

"(C) Multiply the number of children described in subparagraphs (A) and (B) of paragraph (1) by a factor of .35 if the local educational agency has—

"(i) a number of such children described in such subparagraphs which exceeds 6,500; and

"(ii) an average daily attendance for all children which exceeds 100,000.

"(D) Multiply the number of children described in subparagraphs (D) and (E) of paragraph (1) by a factor of .10.

"(E) Multiply the number of children described in subparagraphs (F) and (G) of paragraph (1) by a factor of .05.

"(3) Special rule.—The Secretary shall only compute a payment for a local educational agency for children described in subparagraph (F) or (G) of paragraph (1) if the number of such children equals or exceeds 2,000 and such number equals or exceeds 15 percent of the total number of students in average daily attendance in the schools of such agency.

"(b) Basic Support Payments and Payments With Respect to Fiscal Years in Which Insufficient Funds Are Appropriated.—

"(1) Basic support payments.—

"(A) In general.—From the amount appropriated under section 8014(b) for a fiscal year, the Secretary is authorized to make basic support payments to eligible local educational agencies with children described in subsection (a).

"(B) Eligibility.—A local educational agency is eligible to receive a basic support payment under subparagraph (A) for a fiscal year with respect to a number of children determined under subsection (a)(1) only if the number of children so determined with respect to such agency amounts to the lesser of—

"(i) at least 400 such children; or

"(ii) a number of such children which equals at least 3 percent of the total number of children who were in average daily attendance, during such year, at the schools of such agency and for whom such agency provided free public education.

"(C) Maximum amount.—The maximum amount that a local educational agency is eligible to receive under this subsection for any fiscal year is the sum of the total weighted student units, as computed under subsection (a)(2), multiplied by the greater of—

"(i) one-half of the average per-pupil expenditure of the State in which the local educational agency is located for the third fiscal year preceding the fiscal year for which the determination is made;

"(ii) one-half of the average per-pupil expenditure of all of the States for the third fiscal year preceding the fiscal year for which the determination is made;

"(iii) the comparable local contribution rate certified by the State, as determined under regulations prescribed to carry out the Act of September 30, 1950 (Public Law 874, 81st Congress), as such regulations were in effect on January 1, 1994; or

"(iv) the average per-pupil expenditure of the State in which the local educational agency is located, multiplied by the local contribution percentage.

"(2) PAYMENTS WITH RESPECT TO FISCAL YEARS IN WHICH INSUFFICIENT FUNDS ARE APPROPRIATED.—

"(A) IN GENERAL.—For any fiscal year in which the sums appropriated under section 8014(b) are insufficient to pay to each local educational agency the full amount computed under paragraph (1), the Secretary shall make payments in accordance with this paragraph.

"(B) LEARNING OPPORTUNITY THRESHOLD PAYMENTS.—(i) For fiscal years described in subparagraph (A), the Secretary shall compute a learning opportunity threshold payment (hereafter in this title referred to as the 'threshold payment') by multiplying the amount obtained under paragraph (1)(C) by the total percentage obtained by adding—

"(I) the percentage of federally connected children for each local educational agency determined by calculating the fraction, the numerator of which is the total number of children described under subsection (a)(1) and the denominator of which is the total number of children in average daily attendance at the schools served by such agency; and

"(II) the percentage that funds under paragraph (1)(C) represent of the total budget of the local educational agency, determined by calculating the fraction, the numerator of which is the total amount of funds calculated for each local educational agency under this paragraph (not including amounts received under subsection (f)), and the denominator of which is the total current expenditures for such agency in the second preceding fiscal year for which the determination is made.

"(ii) Such total percentage used to calculate threshold payments under paragraph (1) shall not exceed 100.

"(iii) For the purpose of determining the percentages described in subclauses (I) and (II) of clause (i) that are applicable to the local educational agency providing free public education to students in grades 9 through 12 residing on Hanscom Air Force Base, Massachusetts, the Secretary shall consider only that portion of such agency's total enrollment of students in grades 9 through 12 when calculating the percentage under such subclause (I) and only that portion of the total current expenditures attributed to the operation of grades 9 through 12 in such agency when calculating the percentage under subclause (II).

"(C) RATABLE DISTRIBUTION.—For fiscal years described in subparagraph (A), the Secretary shall make payments as a ratable distribution based upon the computation made under subparagraph (B).

"(c) PRIOR YEAR DATA.—

"(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (f), all calculations under this section shall be based on data for each local educational agency from not later than the fiscal year preceding the fiscal year for which the agency is making application for payment.

"(2) EXCEPTION.—Calculations for a local educational agency that is newly established by a State shall, for the first year of operation of such agency, be based on data from the fiscal year for which the agency is making application for payment.

"(d) CHILDREN WITH DISABILITIES.—

"(1) IN GENERAL.—From the amount appropriated under section 8014(c) for a fiscal year, the Secretary shall pay to each eligible local educational agency, on a pro rata basis, the amounts determined by—

"(A) multiplying the number of children described in subparagraphs (A)(ii), (B) and (C) of subsection (a)(1) who are eligible to receive services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) by a factor of 1.0; and

"(B) multiplying the number of children described in subparagraph (D) of subsection (a)(1) who are eligible to receive services under such Act by a factor of 0.5.

"(2) USE OF FUNDS.—A local educational agency that receives funds under paragraph (1) shall use such funds to provide a free appropriate public education to children described in paragraph (1) in accordance with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

"(e) HOLD-HARMLESS AMOUNTS.—

"(1) IN GENERAL.—(A) Except as provided in paragraph (4)(A), the total amount that the Secretary shall pay a local educational agency under subsection (b) shall not be less than 85 percent of the amount such agency received for the preceding fiscal year—

"(i) in the case of fiscal year 1995 only, under subsections (a) and (b) of section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994); or

"(ii) in the case of fiscal years 1996, 1997, 1998, or 1999, under such subsection (b).

"(B) For fiscal year 1995 only, the Secretary shall pay, to each local educational agency that is not eligible for a payment under subsection (b) but that received a payment under section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) for fiscal year 1994, an amount which is not less than 85 percent of the payment such agency received under such section 3 for fiscal year 1994.

"(2) TWO-YEAR APPLICABILITY.—Paragraph (1)(A) shall apply to any one local educational agency for a maximum of two consecutive fiscal years.

"(3) PHASE-OUT PAYMENT.—A local educational agency which received a payment under section 3(e) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) for fiscal year 1994 is eligible to receive a payment, under subsection (b) for fiscal year 1995, in an amount which is not less than 85 percent of the amount received by such agency in fiscal year 1994 under such section 3(e).

"(4) RATABLE REDUCTIONS.—(A)(i) If necessary in order to make payments to local educational agencies in accordance with paragraphs (1) and (2), the Secretary first shall ratably reduce payments under subsection (b) to local educational agencies that do not receive a payment under this subsection.

"(ii) If additional funds become available for making payments under subsection (b) for such fiscal year, payments that were reduced under clause (i) shall be increased on the same basis as such payments were reduced.

"(B)(i) If the sums made available under this title for any fiscal year are insufficient to pay the full amounts that all local educational agencies in all States are eligible to receive under paragraphs (1) and (2) after the application of subparagraph (A) for such year, the Secretary shall ratably reduce payments to all such agencies for such year.

"(ii) If additional funds become available for making payments under paragraphs (1) and (2) for such fiscal year, payments that were reduced under clause (i) shall be increased on the same basis as such payments were reduced.

"(f) ADDITIONAL ASSISTANCE FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.—

"(1) RESERVATION.—From amounts appropriated under section 8014(b) for a fiscal year, the Secretary shall provide additional assistance to meet special circumstances relating to the provision of education in local educational agencies eligible to receive assistance under this section.

"(2) ELIGIBILITY.—(A) A local educational agency is eligible to receive additional assistance under this subsection only if such agency—

"(i)(I) has an enrollment of federally connected children described in subsection (a)(1) which constitutes a percentage of the total student enrollment of such agency which is not less than 50 percent if such agency receives a payment on behalf of children described in subparagraphs (F) and (G) of such subsection, or not less than 40 percent if such agency does not receive a payment on behalf of such children; and

"(II) has a tax rate for general fund purposes which is at least 95 percent of the average tax rate for general fund purposes of comparable local educational agencies in the State;

"(ii)(I) has an enrollment of federally connected children described in subsection (a)(1) which constitutes at least 35 percent of the total student enrollment of such agency; and

"(II) has a tax rate for general fund purposes which is at least 125 percent of the average tax rate for general fund purposes of comparable local educational agencies in the State; or

"(iii) is a local educational agency whose boundaries are the same as a Federal military installation.

"(B) If the current expenditures in those local educational agencies which the Secretary has determined to be generally comparable to the local educational agency for which a computation is made under subsection (b)(1)(C) are not reasonably comparable because of unusual geographical factors which affect the current expenditures necessary to maintain, in such agency, a level of education equivalent to that maintained in such other agencies, then the Secretary shall increase the local contribution rate for such agency by such an amount which the Secretary determines will compensate such agency for the increase in current expenditures necessitated by such unusual geographical factors. The amount of any such supplementary payment may not exceed the per-pupil share (computed with regard to all children in average daily attendance), as determined by the Secretary, of the increased current expenditures necessitated by such unusual geographic factors.

"(C) Any local educational agency determined eligible under clause (iii) of subparagraph (A) shall be deemed to have met the tax effort requirements for eligibility under clause (i)(II) or (ii)(II) of such subparagraph.

"(3) MAXIMUM PAYMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall determine the maximum amount that a local educational agency may receive under this subsection in accordance with the following computations:

"(i) The Secretary shall first determine the greater of—

"(I) the average per-pupil expenditure of the State in which the local educational agency is located or the average per-pupil expenditure of all the States;

"(II) the average per-pupil expenditure of generally comparable local educational agencies located in the State of the local educational agency, as defined in regulations issued by the Secretary; or

"(III) the average per-pupil expenditure of three generally comparable local educational

agencies located in the State of the local educational agency, as defined in regulations issued by the Secretary.

“(ii) The Secretary shall next subtract from the amount determined under clause (i) the average amount of State aid per pupil received by the local educational agency.

“(iii) The Secretary shall next multiply the amount determined under clause (ii) by the total number of students in average daily attendance at the schools of the local educational agency as determined by the Secretary under subsection (a)(1).

“(iv) If the tax rate used by the local educational agency is greater than 95 percent, but less than 100 percent, of the tax rate of comparable local educational agencies, the Secretary shall next multiply the amount determined under clause (iii) by the percentage that the tax rate of the local educational agency is of—

“(I) the average tax rate of its generally comparable local educational agencies; or

“(II) the average tax rate of all the local educational agencies in the State in which the local educational agency is located.

“(v) The Secretary shall next subtract the total amount of payments received by a local educational agency under subsections (b) and (d) for a fiscal year from the amount determined under clause (iii) or clause (iv), as the case may be.

“(B) SPECIAL RULE.—With respect to payments under this subsection for a local educational agency described in clause (ii) or (iii) of paragraph (2)(A), the maximum amount of such payments shall be computed by taking the product of the average per-pupil expenditure in all States multiplied by 0.7, except that such amount may not exceed 125 percent of the average per-pupil expenditure in all local educational agencies in the State.

“(4) CURRENT YEAR DATA.—The Secretary shall, for purposes of providing assistance under this subsection, use—

“(A) student and revenue data from the fiscal year for which the local educational agency is applying for assistance under this subsection; and

“(B) the most recent data available which is adjusted to such fiscal year.

“(5) REDUCTION IN PAYMENTS.—If funds appropriated to carry out this subsection are insufficient to pay in full the amounts determined under paragraph (3), the Secretary shall ratably reduce the payment to each eligible local educational agency.

“(g) ADDITIONAL PAYMENTS FOR LOCAL EDUCATIONAL AGENCIES WITH HIGH CONCENTRATIONS OF CHILDREN WITH SEVERE DISABILITIES.—

“(1) IN GENERAL.—If any local educational agency receives Federal funds from sources other than this title to carry out the purposes of this title for any fiscal year due to the enrollment of children described under subsection (a), then the Secretary shall consider such funds as a payment to such agency under this part for such fiscal year.

“(2) SPECIAL RULE.—Notwithstanding any other provision of law, if funds appropriated pursuant to section 8014(b) for payments under subsection (b) to such agency for a fiscal year which, when added to the funds described in paragraph (1) received by such agency for such fiscal year, exceed the maximum amount described under subsection (b)(1)(C), then the Secretary shall make available from the funds appropriated under section 8014(b) for such fiscal year such excess amounts to any local educational agency serving two or more children described under subparagraph (B) or (D) of subsection (a)(1) who have a severe disability and a parent serving in the uniformed services (as defined by section 101 of title 37, United States Code) who is assigned to a particular permanent duty station for compassionate reasons (compassionate post assignment) for the total costs associated with such children who are provided an educational program provided outside the schools of such agency.

“(3) REMAINING FUNDS.—If funds remain after payments are made under paragraph (2) for any fiscal year, then such remaining funds shall be made available for expenditures under subsection (d) in such fiscal year on a pro rata basis consistent with the requirements of such subsection.

“(4) RATABLE REDUCTIONS.—If amounts available to carry out paragraph (2) for any fiscal year are insufficient to pay in full the total payment that all eligible local educational agencies are eligible to receive under such paragraph for such year, then the Secretary shall ratably reduce such payments to such agencies for such year.

“(h) OTHER FUNDS.—Notwithstanding any other provision of law, a local educational agency receiving funds under this section may also receive funds under section 6 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) or such section's successor authority.

“(i) MAINTENANCE OF EFFORT.—A local educational agency may receive funds under sections 8002 and 8003(b) for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

“SEC. 8004. POLICIES AND PROCEDURES RELATING TO CHILDREN RESIDING ON INDIAN LANDS.

“(a) IN GENERAL.—A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 8003 shall establish policies and procedures to ensure that—

“(1) such children participate in programs and activities supported by such funds on an equal basis with all other children;

“(2) parents of such children and Indian tribes are afforded an opportunity to present their views on such programs and activities, including an opportunity to make recommendations on the needs of those children and how the local educational agency may help such children realize the benefits of such programs and activities;

“(3) parents and Indian tribes are consulted and involved in planning and developing such programs and activities;

“(4) relevant applications, evaluations, and program plans are disseminated to the parents and Indian tribes; and

“(5) parents and Indian tribes are afforded an opportunity to present their views to such agency regarding such agency's general educational program.

“(b) RECORDS.—A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 8003 shall maintain records demonstrating such agency's compliance with the requirements contained in subsection (a).

“(c) WAIVER.—A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 8003 shall not be required to comply with the requirements of subsections (a) and (b) for any fiscal year with respect to any Indian tribe from which such agency has received a written statement that the agency need not comply with those subsections because the tribe is satisfied with the provision of educational services by such agency to such children.

“(d) TECHNICAL ASSISTANCE AND ENFORCEMENT.—The Secretary shall—

“(1) provide technical assistance to local educational agencies, parents, and Indian tribes to enable such agencies, parents, and tribes to carry out this section; and

“(2) enforce this section through such actions, which may include the withholding of funds, as the Secretary determines to be appropriate, after affording the affected local educational agency, parents, and Indian tribe an opportunity to present their views.

“(e) COMPLAINTS.—

“(1) IN GENERAL.—(A) Any tribe, or its designee, which has students in attendance at a local educational agency may, in its discretion and without regard to the requirements of any other provision of law, file a written complaint with the Secretary regarding any action of a local educational agency taken pursuant to, or relevant to, the requirements of this section.

“(B) Within ten working days from receipt of a complaint, the Secretary shall—

“(i) designate a time and place for a hearing into the matters relating to the complaint at a location in close proximity to the local educational agency involved, or if the Secretary determines there is good cause, at some other location convenient to both the tribe, or its designee, and the local educational agency;

“(ii) designate a hearing examiner to conduct the hearing; and

“(iii) notify the affected tribe or tribes and the local educational agency involved of the time, place, and nature of the hearing and send copies of the complaint to the local educational agency and the affected tribe or tribes.

“(2) HEARING.—The hearing shall be held within 30 days of the designation of a hearing examiner and shall be open to the public. A record of the proceedings shall be established and maintained.

“(3) EVIDENCE; RECOMMENDATIONS; COST.—The complaining tribe, or its designee, and the local educational agency shall be entitled to present evidence on matters relevant to the complaint and to make recommendations concerning the appropriate remedial actions. Each party to the hearing shall bear only its own costs in the proceedings.

“(4) FINDINGS AND RECOMMENDATIONS.—Within 30 days of the completion of the hearing, the hearing examiner shall, on the basis of the record, make written findings of fact and recommendations concerning appropriate remedial action, if any, which should be taken. The hearing examiner's findings and recommendations, along with the hearing record, shall be forwarded to the Secretary.

“(5) WRITTEN DETERMINATION.—Within 30 days of the Secretary's receipt of the findings, recommendations, and record, the Secretary shall, on the basis of the record, make a written determination of the appropriate remedial action, if any, to be taken by the local educational agency, the schedule for completion of the remedial action, and the reasons for the Secretary's decision.

“(6) COPIES PROVIDED.—Upon completion of the Secretary's final determination, the Secretary shall provide the complaining tribe, or its designee, and the local educational agency with copies of the hearing record, the hearing examiner's findings and recommendations, and the Secretary's final determination. The final determination of the Secretary shall be subject to judicial review.

“(7) CONSOLIDATION.—In all actions under this subsection, the Secretary shall have discretion to consolidate complaints involving the same tribe or local educational agency.

"(8) WITHHOLDING.—If the local educational agency rejects the determination of the Secretary, or if the remedy required is not undertaken within the time established and the Secretary determines that an extension of the time established will not effectively encourage the remedy required, the Secretary shall withhold payment of all moneys to which such local agency is eligible under section 8003 until such time as the remedy required is undertaken, except where the complaining tribe or its designee formally requests that such funds be released to the local educational agency, except that the Secretary may not withhold such moneys during the course of the school year if the Secretary determines that such withholding would substantially disrupt the educational programs of the local educational agency.

"(9) REJECTION OF DETERMINATION.—If the local educational agency rejects the determination of the Secretary and a tribe exercises the option under section 1101(d) of the Education Amendments of 1978, to have education services provided either directly by the Bureau of Indian Affairs or by contract with the Bureau of Indian Affairs, any Indian students affiliated with that tribe who wish to remain in attendance at the local educational agency against whom the complaint which led to the tribal action under such subsection (d) was lodged may be counted with respect to that local educational agency for the purpose of receiving funds under section 8003. In such event, funds under such section shall not be withheld pursuant to paragraph (8) and no further complaints with respect to such students may be filed under paragraph (1).

"(f) CONSTRUCTION.—This section is based upon the special relationship between the Indian nations and the United States and nothing in this section shall be construed to relieve any State of any duty with respect to any citizens of that State.

"SEC. 8005. APPLICATION FOR PAYMENTS UNDER SECTIONS 8002 AND 8003.

"(a) IN GENERAL.—A local educational agency desiring to receive a payment under section 8002 or 8003 shall—

"(1) submit an application for such payment to the Secretary; and

"(2) provide a copy of such application to the State educational agency.

"(b) CONTENTS.—Each such application shall be submitted in such form and manner, and shall contain such information, as the Secretary may require, including—

"(1) information to determine the eligibility of the local educational agency for a payment and the amount of such payment; and

"(2) where applicable, an assurance that such agency is in compliance with section 8004 (relating to children residing on Indian lands).

"(c) DEADLINE FOR SUBMISSION.—The Secretary shall establish deadlines for the submission of applications under this section.

"(d) APPROVAL.—

"(1) IN GENERAL.—The Secretary shall approve an application submitted under this section that—

"(A) except as provided in paragraph (2), is filed by the deadline established under subsection (c); and

"(B) otherwise meets the requirements of this title.

"(2) REDUCTION IN PAYMENT.—The Secretary shall approve an application filed not more than 60 days after a deadline established under subsection (c) that otherwise meets the requirements of this title, except that, notwithstanding section 8003(e), the Secretary shall reduce the payment based on such late application by 10 percent of the amount that would otherwise be paid.

"(3) LATE APPLICATIONS.—The Secretary shall not accept or approve any application that is filed more than 60 days after a deadline established under subsection (c).

"(4) STATE APPLICATION AUTHORITY.—Notwithstanding any other provision of law, a State educational agency that had been accepted as an applicant for funds under section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) in fiscal year 1994 shall be permitted to continue as an applicant under the same conditions by which such agency made application during such fiscal year only if such State educational agency distributes all funds received for the students for which application is being made by such State educational agency to the local educational agencies providing educational services to such students.

"SEC. 8006. PAYMENTS FOR SUDDEN AND SUBSTANTIAL INCREASES IN ATTENDANCE OF MILITARY DEPENDENTS.

"(a) ELIGIBILITY.—A local educational agency is eligible for a payment under this section if—

"(1) the number of children in average daily attendance during the school year for which the determination is made is at least 10 percent or 100 more than the number of children in average daily attendance in the school year preceding the school year for which the determination is made; and

"(2) the number of children in average daily attendance with a parent on active duty (as defined in section 101(18) of title 37, United States Code) in the Armed Forces who are in attendance at such agency because of the assignment of their parent to a new duty station between May 15 and September 30, inclusive, of the fiscal year for which the determination is made, as certified by an appropriate local official of the Department of Defense, is at least 10 percent or 100 more than the number of children in average daily attendance in the preceding school year.

"(b) APPLICATION.—A local educational agency that wishes to receive a payment under this section shall file an application with the Secretary by October 15 of the school year for which payment is requested, in such manner and containing such information as the Secretary may prescribe, including information demonstrating that such agency is eligible for such a payment.

"(c) CHILDREN TO BE COUNTED.—For each eligible local educational agency that applies for a payment under this section, the Secretary shall determine the lesser of—

"(1) the increase in the number of children in average daily attendance from the school year preceding the fiscal year for which the determination is made; and

"(2) the number of children described in subsection (a)(2).

"(d) PAYMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), from the amount appropriated for a fiscal year under section 8014(d), the Secretary shall pay each local educational agency with an approved application an amount equal to one-half of the national average per-pupil expenditure multiplied by the number of such children determined under subsection (c) for that local educational agency.

"(2) RATABLE REDUCTION.—(A) If the amount appropriated to carry out this section for any fiscal year is insufficient to pay the full payment that all eligible local educational agencies are eligible to receive under this section for such year, then the Secretary shall ratably reduce the payments to such agencies for such year.

"(B) If additional funds become available for making payments under paragraph (1) for such fiscal year, payments that were reduced under subparagraph (A) shall be increased on the same basis as such payments were reduced.

"(e) NOTIFICATION PROCESS.—

"(1) ESTABLISHMENT.—The Secretary shall establish, with the Secretary of Defense, a notification process relating to the closure of Department of Defense facilities, or the adjustment of personnel levels assigned to such facilities, which may substantially affect the student enrollment levels of local educational agencies which receive or may receive payments under this title.

"(2) INFORMATION.—Such process shall provide timely information regarding such closures and such adjustments—

"(A) by the Secretary of Defense to the Secretary; and

"(B) by the Secretary to the affected local educational agencies.

"SEC. 8007. CONSTRUCTION.

"(a) PAYMENTS AUTHORIZED.—From the amount appropriated for each fiscal year under section 8014(e), the Secretary shall make payments to each local educational agency—

"(1) that receives a basic payment under section 8003(b); and

"(2)(A) in which the number of children determined under section 8003(a)(1)(C) constituted at least 50 percent of the number of children who were in average daily attendance in the schools of such agency during the preceding school year;

"(B) in which the number of children determined under subparagraphs (B) and (D)(i) of section 8003(a)(1) constituted at least 50 percent of the number of children who were in average daily attendance in the schools of such agency during the school year preceding the school year for which the determination is made and in which the agency at any 2 times during the four fiscal years preceding the date of enactment of the Improving America's Schools Act of 1994 was denied by a vote of the agency's eligible voters a bond referendum for the purposes of school construction or renovation;

"(C) that receives assistance under section 8003(f); or

"(D) that receives assistance under section 8006.

"(b) AMOUNT OF PAYMENTS.—The amount of a payment to each such agency for a fiscal year shall be equal to—

"(1) the amount appropriated under section 8014(e) for such year; divided by

"(2) the number of children determined under section 8003(a)(2) for all local educational agencies described in subsection (a), but not including any children attending a school assisted or provided by the Secretary under section 8008 or section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994); multiplied by

"(3) the number of such children determined for such agency.

"(c) USE OF FUNDS.—Any local educational agency that receives funds under this section shall use such funds for construction, as defined in section 8013(3).

"SEC. 8008. FACILITIES.

"(a) CURRENT FACILITIES.—From the amount appropriated for any fiscal year under section 8014(f), the Secretary may continue to provide assistance for school facilities that were supported by the Secretary under section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on the day preceding the date of the enactment of the Improving America's Schools Act of 1994).

"(b) TRANSFER OF FACILITIES.—

"(1) IN GENERAL.—The Secretary shall, as soon as practicable, transfer to the appropriate local educational agency or another appropriate entity all the right, title, and interest of the United States in and to each facility provided

under section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress), or under section 204 or 310 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Acts were in effect on January 1, 1958).

"(2) OTHER REQUIREMENTS.—Any such transfer shall be without charge to such agency or entity, and prior to such transfer, the transfer shall be consented to by the local educational agency or other appropriate entity, and may be made on such terms and conditions as the Secretary deems appropriate to carry out the purposes of this title.

"SEC. 8009. STATE CONSIDERATION OF PAYMENTS IN PROVIDING STATE AID.

"(a) GENERAL PROHIBITION.—Except as provided in subsection (b), a State may not—

"(1) consider payments under this title or under the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) in determining for any fiscal year—

"(A) the eligibility of a local educational agency for State aid for free public education; or

"(B) the amount of such aid; or

"(2) make such aid available to local educational agencies in a manner that results in less State aid to any local educational agency that is eligible for such payment than such agency would receive if such agency were not so eligible.

"(b) STATE EQUALIZATION PLANS.—

"(1) IN GENERAL.—A State may reduce State aid to a local educational agency that receives a payment under section 8002 or 8003(b) (except the amount calculated in excess of 1.0 under subparagraph (B) of section 8003(a)(2)) or under the Act of September 30, 1950 (Public Law 874, 81st Congress) as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994 (other than an increase in payments described in paragraphs (2)(B), (2)(C), (2)(D), or (3)(B)(ii) of section 3(d) of such Act of September 30, 1950) for any fiscal year if the Secretary determines, and certifies under subsection (c)(3)(A), that such State has in effect a program of State aid that equalizes expenditures for free public education among local educational agencies in such State.

"(2) COMPUTATION.—

"(A) IN GENERAL.—For purposes of paragraph (1), a program of State aid equalizes expenditures among local educational agencies if, in the second fiscal year preceding the fiscal year for which the determination is made, the amount of per-pupil expenditures made by, or per-pupil revenues available to, the local educational agency in the State with the highest such per-pupil expenditures or revenues did not exceed the amount of such per-pupil expenditures made by, or per-pupil revenues available to, the local educational agency in the State with the lowest such expenditures or revenues by more than—

"(i) 25 percent for fiscal year 1995, 1996, or 1997; and

"(ii) 20 percent for fiscal year 1998 or 1999.

"(B) OTHER FACTORS.—In making a determination under this subsection, the Secretary shall—

"(i) disregard local educational agencies with per-pupil expenditures or revenues above the 95th percentile or below the 5th percentile of such expenditures or revenues in the State; and

"(ii) take into account the extent to which a program of State aid reflects the additional cost of providing free public education in particular types of local educational agencies, such as those that are geographically isolated, or to particular types of students, such as children with disabilities.

"(3) EXCEPTION.—Notwithstanding paragraph (2), if the Secretary determines that the State has substantially revised its program of State aid, the Secretary may certify such program for any fiscal year only if—

"(A) the Secretary determines, on the basis of projected data, that the State's program will meet the disparity standard described in paragraph (2) for the fiscal year for which the determination is made; and

"(B) the State provides an assurance to the Secretary that, if final data do not demonstrate that the State's program met such standard for the fiscal year for which the determination is made, the State will pay to each affected local educational agency the amount by which the State reduced State aid to the local educational agency.

"(c) PROCEDURES FOR REVIEW OF STATE EQUALIZATION PLANS.—

"(1) WRITTEN NOTICE.—

"(A) IN GENERAL.—Any State that wishes to consider payments described in subsection (b)(1) in providing State aid to local educational agencies shall submit to the Secretary, not later than 120 days before the beginning of the State's fiscal year, a written notice of such State's intention to do so.

"(B) CONTENTS.—Such notice shall be in the form and contain the information the Secretary requires, including evidence that the State has notified each local educational agency in the State of such State's intention to consider such payments in providing State aid.

"(2) OPPORTUNITY TO PRESENT VIEWS.—Before making a determination under subsection (b), the Secretary shall afford the State, and local educational agencies in the State, an opportunity to present their views.

"(3) QUALIFICATION PROCEDURES.—If the Secretary determines that a program of State aid qualifies under subsection (b), the Secretary shall—

"(A) certify the program and so notify the State; and

"(B) afford an opportunity for a hearing, in accordance with section 8011(a), to any local educational agency adversely affected by such certification.

"(4) NON-QUALIFICATION PROCEDURES.—If the Secretary determines that a program of State aid does not qualify under subsection (b), the Secretary shall—

"(A) so notify the State; and

"(B) afford an opportunity for a hearing, in accordance with section 8011(a), to the State, and to any local educational agency adversely affected by such determination.

"(d) TREATMENT OF STATE AID.—

"(1) IN GENERAL.—If a State has in effect a program of State aid for free public education for any fiscal year, which is designed to equalize expenditures for free public education among the local educational agencies of that State, payments under this title or under the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) for any fiscal year may be taken into consideration by such State in determining the relative—

"(A) financial resources available to local educational agencies in that State; and

"(B) financial need of such agencies for the provision of free public education for children served by such agency, except that a State may consider as local resources funds received under this title or under the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) only in proportion to the share that local tax revenues covered under a State equalization program are of total local tax revenues.

"(2) PROHIBITION.—A State may not take into consideration payments under this title or under the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) before such State's program of State aid has been certified by the Secretary under subsection (c)(3).

"(e) REMEDIES FOR STATE VIOLATIONS.—

"(1) IN GENERAL.—The Secretary or any aggrieved local educational agency may, not earlier than 150 days after an adverse determination by the Secretary against a State for violation of subsections (a) or (d)(2) or for failure to carry out an assurance under subsection (b)(3)(B), and if an administrative proceeding has not been concluded within such time, bring an action in a United States district court against such State for such violations or failure.

"(2) IMMUNITY.—A State shall not be immune under the 11th amendment to the Constitution of the United States from an action described in paragraph (1).

"(3) RELIEF.—The court shall grant such relief as the court determines is appropriate.

"SEC. 8010. FEDERAL ADMINISTRATION.

"(a) PAYMENTS IN WHOLE DOLLAR AMOUNTS.—The Secretary shall round any payments under this title to the nearest whole dollar amount.

"(b) OTHER AGENCIES.—Each Federal agency administering Federal property on which children reside, and each agency principally responsible for an activity that may occasion assistance under this title, shall, to the maximum extent practicable, comply with requests of the Secretary for information the Secretary may require to carry out this title.

"(c) SPECIAL RULES.—

"(1) CERTAIN CHILDREN ELIGIBLE UNDER SUBSECTION (a) OR (b) OF SECTION 3 OF PUBLIC LAW 81–874.—Notwithstanding any other provision of law, for any fiscal year before fiscal year 1995, the Secretary shall treat as eligible under subsection (a) or (b) of section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such subsection was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994), and shall forgive the obligation of a local educational agency to repay any amounts that such agency received under such section for such fiscal year based on, any child who would be eligible under such subsections except that such child does not meet the requirements of subsection (a)(1)(B) or (b)(2)(B), respectively, of such section 3, if such child meets the requirements of paragraph (3) of this subsection.

"(2) CERTAIN CHILDREN ELIGIBLE UNDER SUBPARAGRAPHS (A) AND (G)(ii) OF SECTION 8003(a)(1).—(A) The Secretary shall treat as eligible under subparagraph (A) of section 8003(a)(1) any child who would be eligible under such subparagraph except that the Federal property on which the child resides or on which the child's parent is employed is not in the same State in which the child attends school, if such child meets the requirements of paragraph (3) of this subsection.

"(B) The Secretary shall treat as eligible under subparagraph (G) of section 8003(a)(1) any child who would be eligible under such subparagraph except that such child does not meet the requirements of clause (ii) of such subparagraph, if such child meets the requirements of paragraph (3) of this subsection.

"(3) REQUIREMENTS.—A child meets the requirements of this paragraph if—

"(A) such child resides—

"(i) in a State adjacent to the State in which the local educational agency serving the school such child attends is located; or

"(ii) with a parent employed on Federal property in a State adjacent to the State in which such agency is located;

"(B) the schools of such agency are within a more reasonable commuting distance of such

child's home than the schools of the local educational agency that serves the school attendance area where such child resides;

"(C) attending the schools of the local educational agency that serves the school attendance area where such child resides will impose a substantial hardship on such child;

"(D) the State in which such child attends school provides funds for the education of such child on the same basis as all other public school children in the State, unless otherwise permitted under section 5(d)(2) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) or section 8009(b) of this title; and

"(E) such agency received a payment for fiscal year 1994 under section 8003(b) (or such section's predecessor authority) on behalf of children described in paragraph (2).

"SEC. 8011. ADMINISTRATIVE HEARINGS AND JUDICIAL REVIEW.

"(a) ADMINISTRATIVE HEARINGS.—A local educational agency and a State that is adversely affected by any action of the Secretary under this title or under the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) shall be entitled to a hearing on such action in the same manner as if such agency were a person under chapter 5 of title 5, United States Code.

"(b) JUDICIAL REVIEW OF SECRETARIAL ACTION.—

"(1) IN GENERAL.—A local educational agency or a State aggrieved by the Secretary's final decision following an agency proceeding under subsection (a) may, within 60 days after receiving notice of such decision, file with the United States court of appeals for the circuit in which such agency or State is located a petition for review of that action. The clerk of the court shall promptly transmit a copy of the petition to the Secretary. The Secretary shall then file in the court the record of the proceedings on which the Secretary's action was based, as provided in section 2112 of title 28, United States Code.

"(2) FINDINGS OF FACT.—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence. The Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) REVIEW.—The court shall have exclusive jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"SEC. 8012. FORGIVENESS OF OVERPAYMENTS.

"Notwithstanding any other provision of law, the Secretary may forgive the obligation of a local educational agency to repay, in whole or in part, the amount of any overpayment received under this title, or under the Act of September 30, 1950 (Public Law 874, 81st Congress) or the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Acts were in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994), if the Secretary determines that the overpayment was made as a result of an error made by—

"(1) the Secretary; or

"(2) the local educational agency and repayment of the full amount of the overpayment will result in an undue financial hardship on the agency and seriously harm the agency's educational program.

"SEC. 8013. DEFINITIONS.

"For purposes of this title:

"(1) ARMED FORCES.—The term 'Armed Forces' means the Army, Navy, Air Force, and Marine Corps.

"(2) AVERAGE PER-PUPIL EXPENDITURE.—The term 'average per-pupil expenditure' means—

"(A) the aggregate current expenditures of all local educational agencies in the State; divided by

"(B) the total number of children in average daily attendance for whom such agencies provided free public education.

"(3) CONSTRUCTION.—The term 'construction' means—

"(A) the preparation of drawings and specifications for school facilities;

"(B) erecting, building, acquiring, altering, remodeling, repairing, or extending school facilities;

"(C) inspecting and supervising the construction of school facilities; and

"(D) debt service for such activities.

"(4) CURRENT EXPENDITURES.—The term 'current expenditures' means expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but does not include expenditures for community services, capital outlay, and debt service, or any expenditures made from funds awarded under part A of title I and title VI. The determination of whether an expenditure for the replacement of equipment is considered a current expenditure or a capital outlay shall be determined in accordance with generally accepted accounting principles as determined by the State.

"(5) FEDERAL PROPERTY.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) through (F), the term 'Federal property' means real property that is not subject to taxation by any State or any political subdivision of a State due to Federal agreement, law, or policy, and that is—

"(i) owned by the United States or leased by the United States from another entity;

"(ii)(I) held in trust by the United States for individual Indians or Indian tribes;

"(II) held by individual Indians or Indian tribes subject to restrictions on alienation imposed by the United States;

"(III) conveyed at any time under the Alaska Native Claims Settlement Act to a Native individual, Native group, or village or regional corporation;

"(IV) public land owned by the United States that is designated for the sole use and benefit of individual Indians or Indian tribes; or

"(V) used for low-rent housing, as described in paragraph (10), that is located on land described in subclause (I), (II), (III), or (IV) of this clause or on land that met one of those descriptions immediately before such property's use for such housing;

"(iii)(I) part of a low-rent housing project assisted under the United States Housing Act of 1937; or

"(II) used to provide housing for homeless children at closed military installations pursuant to section 501 of the Stewart B. McKinney Homeless Assistance Act; or

"(iv) owned by a foreign government or by an international organization.

"(B) SCHOOLS PROVIDING FLIGHT TRAINING TO MEMBERS OF AIR FORCE.—The term 'Federal property' includes, so long as not subject to taxation by any State or any political subdivision of a State, and whether or not that tax exemption is due to Federal agreement, law, or policy, any school providing flight training to members of the Air Force under contract with the Air Force at an airport owned by a State or political subdivision of a State.

"(C) NON-FEDERAL EASEMENTS, LEASES, LICENSES, PERMITS, IMPROVEMENTS, AND CERTAIN OTHER REAL PROPERTY.—The term 'Federal property' includes, whether or not subject to taxation by a State or a political subdivision of a State—

"(i) any non-Federal easement, lease, license, permit, or other such interest in Federal property as otherwise described in this paragraph, but not including any non-Federal fee-simple interest;

"(ii) any improvement on Federal property as otherwise described in this paragraph; and

"(iii) real property that, immediately before its sale or transfer to a non-Federal party, was owned by the United States and otherwise qualified as Federal property described in this paragraph, but only for one year beyond the end of the fiscal year of such sale or transfer.

"(D) CERTAIN POSTAL SERVICE PROPERTY AND PIPELINES AND UTILITY LINES.—Notwithstanding any other provision of this paragraph, the term 'Federal property' does not include—

"(i) any real property under the jurisdiction of the United States Postal Service that is used primarily for the provision of postal services; or

"(ii) pipelines and utility lines.

"(E) PROPERTY WITH RESPECT TO WHICH STATE OR LOCAL TAX REVENUES MAY NOT BE EXPENDED, ALLOCATED, OR AVAILABLE FOR FREE PUBLIC EDUCATION.—Notwithstanding any other provision of this paragraph, 'Federal property' does not include any property on which children reside that is otherwise described in this paragraph if—

"(i) no tax revenues of the State or of any political subdivision of the State may be expended for the free public education of children who reside on that Federal property; or

"(ii) no tax revenues of the State are allocated or available for the free public education of such children.

"(F) PROPERTY LOCATED IN THE STATE OF OKLAHOMA OWNED BY INDIAN HOUSING AUTHORITY FOR LOW-INCOME HOUSING.—The term 'Federal property' includes any real property located in the State of Oklahoma that—

"(i) is owned by an Indian housing authority and used for low-income housing (including housing assisted under the mutual help ownership opportunity program under section 202 of the United States Housing Act of 1937); and

"(ii) at any time—

"(I) was designated by treaty as tribal land; or

"(II) satisfied the definition of Federal property under section 403(1)(A) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994).

"(6) FREE PUBLIC EDUCATION.—The term 'free public education' means education that is provided—

"(A) at public expense, under public supervision and direction, and without tuition charge; and

"(B) as elementary or secondary education, as determined under State law, except that, notwithstanding State law, such term—

"(i) includes preschool education; and

"(ii) does not include any education provided beyond grade 12.

"(7) INDIAN LANDS.—The term 'Indian lands' means any Federal property described in paragraph (5)(A)(ii) or (5)(F).

"(8) LOCAL CONTRIBUTION PERCENTAGE.—

"(A) IN GENERAL.—The term 'local contribution percentage' means the percentage of current expenditures in the State derived from local

and intermediate sources, as reported to and verified by the National Center for Education Statistics.

"(B) HAWAII AND DISTRICT OF COLUMBIA.—Notwithstanding subparagraph (A), the local contribution percentage for Hawaii and for the District of Columbia shall be the average local contribution percentage for all States.

"(9) LOCAL EDUCATIONAL AGENCY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'local educational agency'—

"(i) means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent school district, or other school district; and

"(ii) includes any State agency that directly operates and maintains facilities for providing free public education.

"(B) EXCEPTION.—The term 'local educational agency' does not include any agency or school authority that the Secretary determines on a case-by-case basis—

"(i) was constituted or reconstituted primarily for the purpose of receiving assistance under this title or the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) or increasing the amount of such assistance; or

"(ii) is not constituted or reconstituted for legitimate educational purposes.

"(10) LOW-RENT HOUSING.—The term 'low-rent housing' means housing located on property that is described in paragraph (5)(A)(iii).

"(11) REVENUE DERIVED FROM LOCAL SOURCES.—The term 'revenue derived from local sources' means—

"(A) revenue produced within the boundaries of a local educational agency and available to such agency for such agency's use; or

"(B) funds collected by another governmental unit, but distributed back to a local educational agency in the same proportion as such funds were collected as a local revenue source.

"(12) SCHOOL FACILITIES.—The term 'school facilities' includes—

"(A) classrooms and related facilities; and

"(B) equipment, machinery, and utilities necessary or appropriate for school purposes.

"SEC. 8014. AUTHORIZATION OF APPROPRIATIONS.

"(a) PAYMENTS FOR FEDERAL ACQUISITION OF REAL PROPERTY.—For the purpose of making payments under section 8002, there are authorized to be appropriated $16,750,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(b) BASIC PAYMENTS; PAYMENTS FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES.—For the purpose of making payments under subsections (b) and (f) of section 8003, there are authorized to be appropriated $775,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years, of which 6 percent shall be available, until expended, for each such fiscal year to carry out section 8003(f).

"(c) PAYMENTS FOR CHILDREN WITH DISABILITIES.—For the purpose of making payments under section 8003(d), there are authorized to be appropriated $45,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(d) PAYMENTS FOR INCREASES IN MILITARY CHILDREN.—For the purpose of making payments under section 8006, there are authorized to be appropriated $2,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(e) CONSTRUCTION.—For the purpose of carrying out section 8007, there are authorized to be appropriated $25,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(f) FACILITIES MAINTENANCE.—For the purpose of carrying out section 8008, there are authorized to be appropriated $2,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"TITLE IX—INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION

"PART A—INDIAN EDUCATION

"SEC. 9101. FINDINGS.

"The Congress finds that—

"(1) the Federal Government has a special responsibility to ensure that educational programs for all American Indian and Alaska Native children and adults—

"(A) are based on high-quality, internationally competitive content standards and student performance standards and build on Indian culture and the Indian community;

"(B) assist local educational agencies, Indian tribes, and other entities and individuals in providing Indian students the opportunity to achieve such standards; and

"(C) meet the special educational and culturally related academic needs of American Indian and Alaska Native students;

"(2) since the date of enactment of the initial Indian Education Act in 1972, the level of involvement of Indian parents in the planning, development, and implementation of educational programs that affect such parents and their children has increased significantly, and schools should continue to foster such involvement;

"(3) although the number of Indian teachers, administrators, and university professors has increased since 1972, teacher training programs are not recruiting, training, or retraining a sufficient number of Indian individuals as educators to meet the needs of a growing Indian student population in elementary, secondary, vocational, adult, and higher education;

"(4) the dropout rate for Indian students is unacceptably high, for example, 9 percent of Indian students who were eighth graders in 1988 had already dropped out of school by 1990;

"(5) during the period from 1980 to 1990, the percentage of Indian individuals living at or below the poverty level increased from 24 percent to 31 percent, and the readiness of Indian children to learn is hampered by the high incidence of poverty, unemployment, and health problems among Indian children and their families; and

"(6) research related specifically to the education of Indian children and adults is very limited, and much of the research is of poor quality or is focused on limited local or regional issues.

"SEC. 9102. PURPOSE.

"(a) PURPOSE.—It is the purpose of this part to support the efforts of local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities to meet the special educational and culturally related academic needs of American Indians and Alaska Natives, so that such students can achieve to the same challenging State performance standards expected of all students.

"(b) PROGRAMS.—This part carries out the purpose described in subsection (a) by authorizing programs of direct assistance for—

"(1) meeting the special educational and culturally related academic needs of American Indians and Alaska Natives;

"(2) the education of Indian children and adults;

"(3) the training of Indian persons as educators and counselors, and in other professions serving Indian people; and

"(4) research, evaluation, data collection, and technical assistance.

"Subpart 1—Formula Grants to Local Educational Agencies

"SEC. 9111. PURPOSE.

"It is the purpose of this subpart to support local educational agencies in their efforts to reform elementary and secondary school programs that serve Indian students in order to ensure that such programs—

"(1) are based on challenging State content standards and State student performance standards that are used for all students; and

"(2) are designed to assist Indian students meet those standards and assist the Nation in reaching the National Education Goals.

"SEC. 9112. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

"(a) IN GENERAL.—

"(1) ENROLLMENT REQUIREMENTS.—A local educational agency shall be eligible for a grant under this subpart for any fiscal year if the number of Indian children eligible under section 9116 and who were enrolled in the schools of the agency, and to whom the agency provided free public education, during the preceding fiscal year—

"(A) was at least 10; and

"(B) constituted not less than 25 percent of the total number of individuals enrolled in the schools of such agency.

"(2) EXCLUSION.—The requirement of paragraph (1) shall not apply in Alaska, California, or Oklahoma, or with respect to any local educational agency located on, or in proximity to, a reservation.

"(b) INDIAN TRIBES.—

"(1) IN GENERAL.—If a local educational agency that is eligible for a grant under this subpart does not establish a parent committee under section 9114(c)(4) for such grant, an Indian tribe that represents no less than one-half of the eligible Indian children who are served by such local educational agency may apply for such grant.

"(2) SPECIAL RULE.—The Secretary shall treat each Indian tribe applying for a grant pursuant to paragraph (1) as if such Indian tribe were a local educational agency for purposes of this subpart.

"SEC. 9113. AMOUNT OF GRANTS.

"(a) AMOUNT OF GRANT AWARDS.—

"(1) IN GENERAL.—Except as provided in subsection (b) and paragraph (2), the Secretary shall allocate to each local educational agency which has an approved application under this subpart an amount equal to the product of—

"(A) the number of Indian children who are eligible under section 9116 and served by such agency; and

"(B) the greater of—

"(i) the average per-pupil expenditure of the State in which such agency is located; or

"(ii) 80 percent of the average per-pupil expenditure in the United States.

"(2) REDUCTION.—The Secretary shall reduce the amount of each allocation determined under paragraph (1) in accordance with subsection (e).

"(b) MINIMUM GRANT.—

"(1) IN GENERAL.—Notwithstanding subsection (e) of this section, a local educational agency or an Indian tribe (as authorized under section 9112(b)) that is eligible for a grant under section 9112, and a school that is operated or supported by the Bureau of Indian Affairs that is eligible for a grant under subsection (d), that submits an application that is approved by the Secretary, shall, subject to appropriations, receive a grant under this subpart in an amount that is not less than $3,000.

"(2) CONSORTIA.—Local educational agencies may form a consortium for the purpose of obtaining grants under this Act.

"(3) INCREASE.—The Secretary may increase the minimum grant under paragraph (1) to not more than $4,000 for all grantees if the Secretary

determines such increase is necessary to ensure quality programs.

"(c) DEFINITION.—For the purpose of this section, the term 'average per-pupil expenditure of a State' means an amount equal to—

"(1) the sum of the aggregate current expenditures of all the local educational agencies in the State, plus any direct current expenditures by the State for the operation of such agencies, without regard to the sources of funds from which such local or State expenditures were made, during the second fiscal year preceding the fiscal year for which the computation is made; divided by

"(2) the aggregate number of children who were included in average daily attendance for whom such agencies provided free public education during such preceding fiscal year.

"(d) SCHOOLS OPERATED OR SUPPORTED BY THE BUREAU OF INDIAN AFFAIRS.—In addition to the grants awarded under subsection (a), and subject to paragraph (2), the Secretary shall allocate to the Secretary of the Interior an amount equal to the product of—

"(1) the total number of Indian children enrolled in schools that are operated by—

"(A) the Bureau of Indian Affairs; or

"(B) an Indian tribe, or an organization controlled or sanctioned by an Indian tribal government, for the children of such tribe under a contract with, or grant from, the Department of the Interior under the Indian Self-Determination Act or the Tribally Controlled Schools Act of 1988 (part B of title V of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988); and

"(2) the greater of—

"(A) the average per-pupil expenditure of the State in which the school is located; or

"(B) 80 percent of the average per-pupil expenditure in the United States.

"(e) RATABLE REDUCTIONS.—If the sums appropriated for any fiscal year under section 9162(a) are insufficient to pay in full the amounts determined for local educational agencies under subsection (a)(1) and for the Secretary of the Interior under subsection (d), each of those amounts shall be ratably reduced.

"SEC. 9114. APPLICATIONS.

"(a) APPLICATION REQUIRED.—Each local educational agency that desires to receive a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(b) COMPREHENSIVE PROGRAM REQUIRED.—Each application submitted under subsection (a) shall include a comprehensive program for meeting the needs of Indian children served by the local educational agency, including the language and cultural needs of the children, that—

"(1) provides programs and activities to meet the culturally related academic needs of American Indian and Alaska Native students;

"(2)(A) is consistent with, and promotes the goals in, the State and local improvement plans, either approved or being developed, under title III of the Goals 2000: Educate America Act or, if such plans are not approved or being developed, with the State and local plans under sections 1111 and 1112 of this Act; and

"(B) includes academic content and student performance goals for such children, and benchmarks for attaining such goals, that are based on the challenging State standards adopted under title I for all children;

"(3) explains how Federal, State, and local programs, especially under title I, will meet the needs of such students;

"(4) demonstrates how funds made available under this subpart will be used for activities described in section 9115;

"(5) describes the professional development opportunities that will be provided, as needed, to ensure that—

"(A) teachers and other school professionals who are new to the Indian community are prepared to work with Indian children; and

"(B) all teachers who will be involved in programs assisted under this subpart have been properly trained to carry out such programs; and

"(6) describes how the local educational agency—

"(A) will periodically assess the progress of all Indian children enrolled in the schools of the local educational agency, including Indian children who do not participate in programs assisted under this subpart, in meeting the goals described in paragraph (2);

"(B) will provide the results of each assessment referred to in subparagraph (A) to—

"(i) the committee of parents described in subsection (c)(4); and

"(ii) the community served by the local educational agency; and

"(C) is responding to findings of any previous assessments that are similar to the assessments described in subparagraph (A).

"(c) ASSURANCES.—Each application submitted under subsection (a) shall include assurances that—

"(1) the local educational agency will use funds received under this subpart only to supplement the level of funds that, in the absence of the Federal funds made available under this subpart, such agency would make available for the education of Indian children, and not to supplant such funds;

"(2) the local educational agency will submit such reports to the Secretary, in such form and containing such information, as the Secretary may require to—

"(A) carry out the functions of the Secretary under this subpart; and

"(B) determine the extent to which funds provided to the local educational agency under this subpart are effective in improving the educational achievement of Indian students served by such agency;

"(3) the program for which assistance is sought—

"(A) is based on a local assessment and prioritization of the special educational and culturally related academic needs of the American Indian and Alaska Native students for whom the local educational agency is providing an education;

"(B) will use the best available talents and resources, including individuals from the Indian community; and

"(C) was developed by such agency in open consultation with parents of Indian children and teachers, and, if appropriate, Indian students from secondary schools, including public hearings held by such agency to provide the individuals described in this subparagraph a full opportunity to understand the program and to offer recommendations regarding the program; and

"(4) the local educational agency developed the program with the participation and written approval of a committee—

"(A) that is composed of, and selected by—

"(i) parents of Indian children in the local educational agency's schools and teachers; and

"(ii) if appropriate, Indian students attending secondary schools;

"(B) the membership of which is at least more than one-half parents of Indian children;

"(C) that sets forth such policies and procedures, including policies and procedures relating to the hiring of personnel, as will ensure that the program for which assistance is sought will be operated and evaluated in consultation with, and with the involvement of, parents of the children, and representatives of the area, to be served;

"(D) with respect to an application describing a schoolwide program in accordance with section 9115(c), has—

"(i) reviewed in a timely fashion the program; and

"(ii) determined that the program will not diminish the availability of culturally related activities for American Indians and Alaskan Native students; and

"(E) has adopted reasonable bylaws for the conduct of the activities of the committee and abides by such bylaws.

"SEC. 9115. AUTHORIZED SERVICES AND ACTIVITIES.

"(a) GENERAL REQUIREMENTS.—Each local educational agency that receives a grant under this subpart shall use the grant funds, in a manner consistent with the purpose specified in section 9111, for services and activities that—

"(1) are designed to carry out the comprehensive plan of the local educational agency for Indian students, and described in the application of the local educational agency submitted to the Secretary under section 9114(b);

"(2) are designed with special regard for the language and cultural needs of the Indian students; and

"(3) supplement and enrich the regular school program of such agency.

"(b) PARTICULAR ACTIVITIES.—The services and activities referred to in subsection (a) may include—

"(1) culturally related activities that support the program described in the application submitted by the local educational agency;

"(2) early childhood and family programs that emphasize school readiness;

"(3) enrichment programs that focus on problem-solving and cognitive skills development and directly support the attainment of challenging State content standards and State student performance standards;

"(4) integrated educational services in combination with other programs that meet the needs of Indian children and their families;

"(5) school-to-work transition activities to enable Indian students to participate in programs such as the programs supported by the School-to-Work Opportunities Act of 1994 and the Carl D. Perkins Vocational and Applied Technology Education Act, including programs for tech-prep, mentoring, and apprenticeship;

"(6) activities to educate individuals concerning substance abuse and to prevent substance abuse; and

"(7) the acquisition of equipment, but only if the acquisition of the equipment is essential to meet the purpose described in section 9111.

"(c) SCHOOLWIDE PROGRAMS.—Notwithstanding any other provision of law, a local educational agency may use funds made available to such agency under this subpart to support a schoolwide program under section 1114 if—

"(1) the committee composed of parents established pursuant to section 9114(c)(4) approves the use of the funds for the schoolwide program; and

"(2) the schoolwide program is consistent with the purpose described in section 9111.

"SEC. 9116. STUDENT ELIGIBILITY FORMS.

"(a) IN GENERAL.—The Secretary shall require that, as part of an application for a grant under this subpart, each applicant shall maintain a file, with respect to each Indian child for whom the local educational agency provides a free public education, that contains a form that sets forth information establishing the status of the child as an Indian child eligible for assistance under this subpart and that otherwise meets the requirements of subsection (b).

"(b) FORMS.—

"(1) IN GENERAL.—The form described in subsection (a) shall include—

"(A) either—

"(i)(I) the name of the tribe or band of Indians (as defined in section 9161(4)) with respect to which the child claims membership;

"(II) the enrollment number establishing the membership of the child (if readily available); and

"(III) the name and address of the organization that maintains updated and accurate membership data for such tribe or band of Indians; or

"(ii) if the child is not a member of a tribe or band of Indians, the name, the enrollment number (if readily available), and the organization (and address thereof) responsible for maintaining updated and accurate membership rolls of any parent or grandparent of the child from whom the child claims eligibility;

"(B) a statement of whether the tribe or band of Indians with respect to which the child, parent or grandparent of the child claims membership is federally recognized;

"(C) the name and address of the parent or legal guardian of the child;

"(D) a signature of the parent or legal guardian of the child that verifies the accuracy of the information supplied; and

"(E) any other information that the Secretary considers necessary to provide an accurate program profile.

"(2) MINIMUM INFORMATION.—In order for a child to be eligible to be counted for the purpose of computing the amount of a grant award made under section 9113, an eligibility form prepared pursuant to this section for a child shall include—

"(A) the name of the child;

"(B) the name of the tribe or band of Indians (as defined in section 9161(4)) with respect to which the child claims eligibility; and

"(C) the dated signature of the parent or guardian of the child.

"(3) FAILURE.—The failure of an applicant to furnish any information described in this subsection other than the information described in paragraph (2) with respect to any child shall have no bearing on the determination of whether the child is an eligible Indian child for the purposes of determining the amount of a grant award made under section 9113.

"(c) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect a definition contained in section 9161.

"(d) FORMS AND STANDARDS OF PROOF.—The forms and the standards of proof (including the standard of good faith compliance) that were in use during the 1985–1986 academic year to establish the eligibility of a child for entitlement under the Indian Elementary and Secondary School Assistance Act shall be the forms and standards of proof used—

"(1) to establish such eligibility; and

"(2) to meet the requirements of subsection (a).

"(e) DOCUMENTATION.—For purposes of determining whether a child is eligible to be counted for the purpose of computing the amount of a grant under section 9113, the membership of the child, or any parent or grandparent of the child, in a tribe or band of Indians may be established by proof other than an enrollment number, notwithstanding the availability of an enrollment number for a member of such tribe or band. Nothing in subsection (b) shall be construed to require the furnishing of an enrollment number.

"(f) MONITORING AND EVALUATION REVIEW.—

"(1) IN GENERAL.—(A) For each fiscal year, in order to provide such information as is necessary to carry out the responsibility of the Secretary to provide technical assistance under this subpart, the Secretary shall conduct a monitoring and evaluation review of a sampling of the recipients of grants under this subpart. The sampling conducted under this subparagraph shall take into account size of the local educational agency and the geographic location of such agency.

"(B) A local educational agency may not be held liable to the United States or be subject to any penalty, by reason of the findings of an audit that relates to the date of completion, or the date of submission, of any forms used to establish, before April 28, 1988, the eligibility of a child for entitlement under the Indian Elementary and Secondary School Assistance Act.

"(2) FALSE INFORMATION.—Any local educational agency that provides false information in an application for a grant under this subpart shall—

"(A) be ineligible to apply for any other grant under this subpart; and

"(B) be liable to the United States for any funds that have not been expended.

"(3) EXCLUDED CHILDREN.—A student who provides false information for the form required under subsection (d) shall not be counted for the purpose of computing the amount of a grant under section 9113.

"(g) DISTRIBUTION.—For the purposes of the distribution of funds under this subpart to schools that receive funding from the Bureau of Indian Affairs pursuant to—

"(1) section 1130 of the Education Amendments of 1978; and

"(2) the Act of April 16, 1934 (48 Stat. 596, chapter 147),

the Secretary shall, in lieu of meeting the requirements of this section for counting Indian children, use a count of the number of students in such schools certified by the Bureau of Indian Affairs.

"SEC. 9117. PAYMENTS.

"(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary shall pay to each local educational agency that submits an application that is approved by the Secretary under this subpart the amount determined under section 9113. The Secretary shall notify the local educational agency of the amount of the payment not later than June 1 of the year for which the Secretary makes the payment.

"(b) PAYMENTS TAKEN INTO ACCOUNT BY THE STATE.—The Secretary may not make a grant under this subpart to a local educational agency for a fiscal year if, for such fiscal year, the State in which the local educational agency is located takes into consideration payments made under this subpart (or under subpart 1 of the Indian Education Act of 1988) in determining the eligibility of the local educational agency for State aid, or the amount of the State aid, with respect to the free public education of children during such fiscal year or the preceding fiscal year.

"(c) REDUCTION OF PAYMENT FOR FAILURE TO MAINTAIN FISCAL EFFORT.—

"(1) IN GENERAL.—The Secretary may not pay a local educational agency the full amount of a grant award determined under section 9113 for any fiscal year unless the State educational agency notifies the Secretary, and the Secretary determines, that with respect to the provision of free public education by the local educational agency for the preceding fiscal year, that the combined fiscal effort of the local educational agency and the State, computed on either a per student or aggregate expenditure basis was not less than 90 percent of the amount of the combined fiscal effort, computed on the same basis, for the second preceding fiscal year.

"(2) FAILURE.—If, for any fiscal year, the Secretary determines that a local educational agency failed to maintain the fiscal effort of such agency at the level specified in paragraph (1), the Secretary shall—

"(A) reduce the amount of the grant that would otherwise be made to such agency under this subpart in the exact proportion of such agency's failure to maintain its fiscal effort at such level; and

"(B) not use the reduced amount of the agency's expenditures for the preceding year to determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1).

"(3) WAIVER.—(A) The Secretary may waive the requirement of paragraph (1), for not more than one year at a time, if the Secretary determines that the failure to comply with such requirement is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the agency's financial resources.

"(B) The Secretary shall not use the reduced amount of such agency's expenditures for the fiscal year preceding the fiscal year for which a waiver is granted to determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1) in the absence of the waiver.

"(d) REALLOCATIONS.—The Secretary may reallocate, in a manner that the Secretary determines will best carry out the purpose of this subpart, any amounts that—

"(1) based on estimates made by local educational agencies or other information, the Secretary determines will not be needed by such agencies to carry out approved programs under this subpart; or

"(2) otherwise become available for reallocation under this subpart.

"SEC. 9118. STATE EDUCATIONAL AGENCY REVIEW.

"(a) APPLICATION.—Each entity desiring assistance under this subpart shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require except that this subsection shall not apply to Bureau-funded schools.

"(b) SPECIAL RULE.—Before submitting an application under subsection (a) to the Secretary, the entity shall submit its application to the State educational agency. The State educational agency may comment on such application, however if such agency comments on such application such agency shall comment on all applications submitted by entities within the State and shall provide such comments to the appropriate local educational agency, which local educational agency shall be given an opportunity to respond to such comments.

"Subpart 2—Special Programs and Projects To Improve Educational Opportunities for Indian Children

"SEC. 9121. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN.

"(a) PURPOSE.—

"(1) IN GENERAL.—It is the purpose of this section to support projects to develop, test, and demonstrate the effectiveness of services and programs to improve educational opportunities and achievement of Indian children.

"(2) COORDINATION.—The Secretary shall take such actions as are necessary to achieve the coordination of activities assisted under this subpart with—

"(A) other programs funded under this Act; and

"(B) other Federal programs operated for the benefit of American Indian and Alaska Native children.

"(b) ELIGIBLE ENTITIES.—For the purpose of this section, the term 'eligible entity' means a State educational agency, local educational agency, Indian tribe, Indian organization, federally supported elementary and secondary school for Indian students, Indian institution, including an Indian institutions of higher education, or a consortium of such institutions.

"(c) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Secretary shall award grants to eligible entities to enable such entities

to carry out activities that meet the purpose specified in subsection (a)(1), including—

"(A) innovative programs related to the educational needs of educationally deprived children;

"(B) educational services that are not available to such children in sufficient quantity or quality, including remedial instruction, to raise the achievement of Indian children in one or more of the core academic subjects of English, mathematics, science, foreign languages, art, history, and geography;

"(C) bilingual and bicultural programs and projects;

"(D) special health and nutrition services, and other related activities, that address the special health, social, and psychological problems of Indian children;

"(E) special compensatory and other programs and projects designed to assist and encourage Indian children to enter, remain in, or reenter school, and to increase the rate of secondary school graduation;

"(F) comprehensive guidance, counseling, and testing services;

"(G) early childhood and kindergarten programs, including family-based preschool programs that emphasize school readiness and parental skills, and the provision of services to Indian children with disabilities;

"(H) partnership projects between local educational agencies and institutions of higher education that allow secondary school students to enroll in courses at the postsecondary level to aid such students in the transition from secondary school to postsecondary education;

"(I) partnership projects between schools and local businesses for school-to-work transition programs designed to provide Indian youth with the knowledge and skills the youth need to make an effective transition from school to a first job in a high-skill, high-wage career;

"(J) programs designed to encourage and assist Indian students to work toward, and gain entrance into, an institution of higher education; or

"(K) other services that meet the purpose described in subsection (a)(1).

"(2) PRESERVICE OR INSERVICE TRAINING.—Preservice or inservice training of professional and paraprofessional personnel may be a part of any program assisted under this section.

"(d) GRANT REQUIREMENTS AND APPLICATIONS.—

"(1) GRANT REQUIREMENTS.—(A) The Secretary may make multiyear grants under this section for the planning, development, pilot operation, or demonstration of any activity described in subsection (c) for a period not to exceed 5 years.

"(B) In making multiyear grants under this section, the Secretary shall give priority to applications that present a plan for combining two or more of the activities described in subsection (c) over a period of more than 1 year.

"(C) The Secretary shall make a grant payment to an eligible entity after the initial year of the multiyear grant only if the Secretary determines that the eligible entity has made substantial progress in carrying out the activities assisted under the grant in accordance with the application submitted under paragraph (2) and any subsequent modifications to such application.

"(D)(i) In addition to awarding the multiyear grants described in subparagraph (A), the Secretary may award grants to eligible entities for the dissemination of exemplary materials or programs assisted under this section.

"(ii) The Secretary may award a dissemination grant under this subparagraph if, prior to awarding the grant, the Secretary determines that the material or program to be disseminated has been adequately reviewed and has a demonstrated—

"(I) educational merit; and

"(II) the ability to be replicated.

"(2) APPLICATION.—(A) Any eligible entity that desires to receive a grant under this subsection shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

"(B) Each application submitted to the Secretary under subparagraph (A) shall contain—

"(i) a description of how parents of Indian children and representatives of Indian tribes have been, and will be, involved in developing and implementing the activities for which assistance is sought;

"(ii) assurances that the applicant will participate, at the request of the Secretary, in any national evaluation of activities assisted under this section; and

"(iii) such other assurances and information as the Secretary may reasonably require.

"SEC. 9122. PROFESSIONAL DEVELOPMENT.

"(a) PURPOSES.—The purposes of this section are—

"(1) to increase the number of qualified Indian individuals in professions that serve Indian people;

"(2) to provide training to qualified Indian individuals to enable such individuals to become teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and

"(3) to improve the skills of qualified Indian individuals who serve in the capacities described in paragraph (2).

"(b) ELIGIBLE ENTITIES.—For the purpose of this section, the term 'eligible entity' means—

"(1) an institution of higher education, including an Indian institution of higher education;

"(2) a State or local educational agency, in consortium with an institutions of higher education; and

"(3) an Indian tribe or organization, in consortium with an institution of higher education.

"(c) PROGRAM AUTHORIZED.—The Secretary is authorized to award grants to eligible entities having applications approved under this section to enable such entities to carry out the activities described in subsection (d).

"(d) AUTHORIZED ACTIVITIES.—

"(1) IN GENERAL.—Grant funds under this section shall be used to provide support and training for Indian individuals in a manner consistent with the purposes of this section. Such activities may include but are not limited to, continuing programs, symposia, workshops, conferences, and direct financial support.

"(2) SPECIAL RULES.—(A) For education personnel, the training received pursuant to a grant under this section may be inservice or preservice training.

"(B) For individuals who are being trained to enter any field other than education, the training received pursuant to a grant under this section shall be in a program that results in a graduate degree.

"(e) APPLICATION.—

"(1) IN GENERAL.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information, as the Secretary may reasonably require.

"(2) PREFERENCE.—In awarding grants under this section, the Secretary shall give preference to applications describing programs that train Indian individuals.

"(f) SPECIAL RULE.—In making grants under this section, the Secretary—

"(1) shall consider the prior performance of the eligible entity; and

"(2) may not limit eligibility to receive a grant under this section on the basis of—

"(A) the number of previous grants the Secretary has awarded such entity; or

"(B) the length of any period during which such entity received such grants.

"(g) GRANT PERIOD.—Each grant under this section shall be awarded for a program of not more than 5 years.

"(h) SERVICE OBLIGATION.—

"(1) IN GENERAL.—The Secretary shall require, by regulation, that an individual who receives training pursuant to a grant made under this section—

"(A) perform work—

"(i) related to the training received under this section; and

"(ii) that benefits Indian people; or

"(B) repay all or a prorated part of the assistance received.

"(2) REPORTING.—The Secretary shall establish, by regulation, a reporting procedure under which a grant recipient under this section shall, not later than 12 months after the date of completion of the training, and periodically thereafter, provide information concerning the compliance of such recipient with the work requirement under paragraph (1).

"SEC. 9123. FELLOWSHIPS FOR INDIAN STUDENTS.

"(a) FELLOWSHIPS.—

"(1) AUTHORITY.—The Secretary is authorized to award fellowships to Indian students to enable such students to study in graduate and professional programs at institutions of higher education.

"(2) REQUIREMENTS.—The fellowships described in paragraph (1) shall be awarded to Indian students to enable such students to pursue a course of study—

"(A) of not more than 4 academic years; and

"(B) that leads—

"(i) toward a postbaccalaureate degree in medicine, clinical psychology, psychology, law, education, and related fields; or

"(ii) to an undergraduate or graduate degree in engineering, business administration, natural resources, and related fields.

"(b) STIPENDS.—The Secretary shall pay to Indian students awarded fellowships under subsection (a) such stipends (including allowances for subsistence of such students and dependents of such students) as the Secretary determines to be consistent with prevailing practices under comparable federally supported programs.

"(c) PAYMENTS TO INSTITUTIONS IN LIEU OF TUITION.—The Secretary shall pay to the institution of higher education at which a fellowship recipient is pursuing a course of study, in lieu of tuition charged such recipient, such amounts as the Secretary may determine to be necessary to cover the cost of education provided such recipient.

"(d) SPECIAL RULES.—

"(1) IN GENERAL.—If a fellowship awarded under subsection (a) is vacated prior to the end of the period for which the fellowship is awarded, the Secretary may award an additional fellowship for the unexpired portion of the period of the fellowship.

"(2) WRITTEN NOTICE.—Not later than 45 days before the commencement of an academic term, the Secretary shall provide to each individual who is awarded a fellowship under subsection (a) for such academic term written notice of—

"(A) the amount of the fellowship; and

"(B) any stipends or other payments that will be made under this section to, or for the benefit of, the individual for the academic term.

"(3) PRIORITY.—Not more than 10 percent of the fellowships awarded under subsection (a) shall be awarded, on a priority basis, to persons receiving training in guidance counseling with a speciality in the area of alcohol and substance abuse counseling and education.

"(e) SERVICE OBLIGATION.—

"(1) IN GENERAL.—The Secretary shall require, by regulation, that an individual who receives financial assistance under this section—

"(A) perform work—

"(i) related to the training for which the individual receives assistance under this section; and

"(ii) that benefits Indian people; or

"(B) repay all or a prorated portion of such assistance.

"(2) REPORTING PROCEDURE.—The Secretary shall establish, by regulation, a reporting procedure under which the recipient of training assistance under this section, not later than 12 months after the date of completion of the training and periodically thereafter, shall provide information concerning the compliance of such recipient with the work requirement under paragraph (1).

"(f) ADMINISTRATION OF FELLOWSHIPS.—The Secretary may administer the fellowships authorized under this section through a grant to, or contract or cooperative agreement with, an Indian organization with demonstrated qualifications to administer all facets of the program assisted under this section.

"SEC. 9124. GIFTED AND TALENTED.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to—

"(1) establish two centers for gifted and talented Indian students at tribally controlled community colleges in accordance with this section; and

"(2) support demonstration projects described in subsection (c).

"(b) ELIGIBLE ENTITIES.—The Secretary shall make grants to, or enter into contracts, for the activities described in subsection (a), with—

"(1) two tribally controlled community colleges that—

"(A) are eligible for funding under the Tribally Controlled Community College Assistance Act of 1978; and

"(B) are fully accredited; or

"(2) if the Secretary does not receive applications that the Secretary determines to be approvable from two colleges that meet the requirements of paragraph (1), the American Indian Higher Education Consortium.

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—The grants made, or contracts entered into, by the Secretary under subsection (a) shall be used for—

"(A) the establishment of centers described in subsection (a); and

"(B) carrying out demonstration projects designed to—

"(i) address the special needs of Indian students in elementary and secondary schools who are gifted and talented; and

"(ii) provide such support services to the families of the students described in clause (i) as are needed to enable such students to benefit from the projects.

"(2) SUBCONTRACTS.—Each recipient of a grant or contract under subsection (a) may enter into a contract with any other entity, including the Children's Television Workshop, to carry out the demonstration project under this subsection.

"(3) DEMONSTRATION PROJECTS.—Demonstration projects assisted under subsection (a) may include—

"(A) the identification of the special needs of gifted and talented Indian students, particularly at the elementary school level, giving attention to—

"(i) the emotional and psychosocial needs of such students; and

"(ii) providing such support services to the families of such students as are needed to enable such students to benefit from the project;

"(B) the conduct of educational, psychosocial, and developmental activities that the Secretary determines holds a reasonable promise of resulting in substantial progress toward meeting the educational needs of such gifted and talented children, including but not limited to—

"(i) demonstrating and exploring the use of Indian languages and exposure to Indian cultural traditions; and

"(ii) mentoring and apprenticeship programs;

"(C) the provision of technical assistance and the coordination of activities at schools that receive grants under subsection (d) with respect to the activities assisted under such grants, the evaluation of programs assisted under such grants, or the dissemination of such evaluations;

"(D) the use of public television in meeting the special educational needs of such gifted and talented children;

"(E) leadership programs designed to replicate programs for such children throughout the United States, including disseminating information derived from the demonstration projects conducted under subsection (a); and

"(F) appropriate research, evaluation, and related activities pertaining to the needs of such children and to the provision of such support services to the families of such children that are needed to enable such children to benefit from the project.

"(4) APPLICATION.—Each entity desiring a grant under subsection (a) shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe.

"(d) ADDITIONAL GRANTS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall award 5 grants to schools funded by the Bureau of Indian Affairs (hereafter in this section referred to as 'Bureau schools') for program research and development and the development and dissemination of curriculum and teacher training material, regarding—

"(A) gifted and talented students;

"(B) college preparatory studies (including programs for Indian students with an interest in pursuing teaching careers);

"(C) students with special culturally related academic needs, including students with social, lingual, and cultural needs; or

"(D) mathematics and science education.

"(2) APPLICATIONS.—Each Bureau school desiring a grant to conduct one or more of the activities described in paragraph (1) shall submit an application to the Secretary in such form and at such time as the Secretary may prescribe.

"(3) SPECIAL RULE.—Each application described in paragraph (2) shall be developed, and each grant under this subsection shall be administered, jointly by the supervisor of the Bureau school and the local educational agency serving such school.

"(4) REQUIREMENTS.—In awarding grants under paragraph (1), the Secretary shall achieve a mixture of the programs described in paragraph (1) that ensures that Indian students at all grade levels and in all geographic areas of the United States are able to participate in a program assisted under this subsection.

"(5) GRANT PERIOD.—Subject to the availability of appropriations, grants under paragraph (1) shall be awarded for a 3-year period and may be renewed by the Secretary for additional 3-year periods if the Secretary determines that the performance of the grant recipient has been satisfactory.

"(6) DISSEMINATION.—(A) The dissemination of any materials developed from activities assisted under paragraph (1) shall be carried out in cooperation with entities that receive funds pursuant to subsection (b).

"(B) The Secretary shall report to the Secretary of the Interior and to the Congress any results from activities described in paragraph (3)(B).

"(7) EVALUATION COSTS.—(A) The costs of evaluating any activities assisted under paragraph (1) shall be divided between the Bureau schools conducting such activities and the recipients of grants or contracts under subsection (b) who conduct demonstration projects under such subsection.

"(B) If no funds are provided under subsection (b) for—

"(i) the evaluation of activities assisted under paragraph (1);

"(ii) technical assistance and coordination with respect to such activities; or

"(iii) the dissemination of the evaluations referred to in clause (i),

then the Secretary shall make such grants, or enter into such contracts, as are necessary to provide for the evaluations, technical assistance, and coordination of such activities, and the dissemination of the evaluations.

"(e) INFORMATION NETWORK.—The Secretary shall encourage each recipient of a grant or contract under this section to work cooperatively as part of a national network to ensure that the information developed by the grant or contract recipient is readily available to the entire educational community.

"SEC. 9125. GRANTS TO TRIBES FOR EDUCATION ADMINISTRATIVE PLANNING AND DEVELOPMENT.

"(a) IN GENERAL.—The Secretary may make grants to Indian tribes, and tribal organizations approved by Indian tribes, to plan and develop a centralized tribal administrative entity to—

"(1) coordinate all education programs operated by the tribe or within the territorial jurisdiction of the tribe;

"(2) develop education codes for schools within the territorial jurisdiction of the tribe;

"(3) provide support services and technical assistance to schools serving children of the tribe; and

"(4) perform child-find screening services for the preschool-aged children of the tribe to—

"(A) ensure placement in appropriate educational facilities; and

"(B) coordinate the provision of any needed special services for conditions such as disabilities and English language skill deficiencies.

"(b) PERIOD OF GRANT.—Each grant under this section may be awarded for a period of not more than 3 years, except that such grant may be renewed upon the termination of the initial period of the grant if the grant recipient demonstrates to the satisfaction of the Secretary that renewing the grant for an additional 3-year period is necessary to carry out the objectives of the grant described in subsection (c)(2)(A).

"(c) APPLICATION FOR GRANT.—

"(1) IN GENERAL.—Each Indian tribe and tribal organization desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, containing such information, and consistent with such criteria, as the Secretary may prescribe in regulations.

"(2) CONTENTS.—Each application described in paragraph (1) shall contain—

"(A) a statement describing the activities to be conducted, and the objectives to be achieved, under the grant; and

"(B) a description of the method to be used for evaluating the effectiveness of the activities for which assistance is sought and determining whether such objectives are achieved.

"(3) APPROVAL.—The Secretary may approve an application submitted by a tribe or tribal organization pursuant to this section only if the Secretary is satisfied that such application, including any documentation submitted with the application—

"(A) demonstrates that the applicant has consulted with other education entities, if any, within the territorial jurisdiction of the applicant who will be affected by the activities to be conducted under the grant;

"(B) provides for consultation with such other education entities in the operation and evaluation of the activities conducted under the grant; and

"(C) demonstrates that there will be adequate resources provided under this section or from other sources to complete the activities for which assistance is sought, except that the availability of such other resources shall not be a basis for disapproval of such application.

"(d) RESTRICTION.—A tribe may not receive funds under this section if such tribe receives funds under section 1144 of the Indian Education Amendments of 1978.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Education $3,000,000 for each of the fiscal years 1995 through 1999 to carry out this section.

"Subpart 3—Special Programs Relating to Adult Education for Indians

"SEC. 9131. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT INDIANS.

"(a) IN GENERAL.—The Secretary shall award grants to State and local educational agencies, and to Indian tribes, institutions, and organizations—

"(1) to support planning, pilot, and demonstration projects that are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Indians;

"(2) to assist in the establishment and operation of programs that are designed to stimulate—

"(A) basic literacy opportunities for all nonliterate Indian adults; and

"(B) the provision of opportunities to all Indian adults to qualify for a secondary school diploma, or its recognized equivalent, in the shortest period of time feasible;

"(3) to support a major research and development program to develop more innovative and effective techniques for achieving literacy and secondary school equivalency for Indians;

"(4) to provide for basic surveys and evaluations to define accurately the extent of the problems of illiteracy and lack of secondary school completion among Indians; and

"(5) to encourage the dissemination of information and materials relating to, and the evaluation of, the effectiveness of education programs that may offer educational opportunities to Indian adults.

"(b) EDUCATIONAL SERVICES.—The Secretary may make grants to Indian tribes, institutions, and organizations to develop and establish educational services and programs specifically designed to improve educational opportunities for Indian adults.

"(c) INFORMATION AND EVALUATION.—The Secretary may make grants to, and enter into contracts with, public agencies and institutions and Indian tribes, institutions, and organizations, for—

"(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations of the programs, services, and resources; and

"(2) the evaluation of federally assisted programs in which Indian adults may participate to determine the effectiveness of the programs in achieving the purposes of the programs with respect to Indian adults.

"(d) APPLICATIONS.—

"(1) IN GENERAL.—Each entity desiring a grant under this section shall submit to the Secretary an application at such time, in such manner, containing such information, and consistent with such criteria, as the Secretary may prescribe in regulations.

"(2) CONTENTS.—Each application described in paragraph (1) shall contain—

"(A) a statement describing the activities to be conducted, and the objectives to be achieved, under the grant; and

"(B) a description of the method to be used for evaluating the effectiveness of the activities for which assistance is sought and determining whether the objectives of the grant are achieved.

"(3) APPROVAL.—The Secretary shall not approve an application described in paragraph (1) unless the Secretary determines that such application, including any documentation submitted with the application, indicates—

"(A) there has been adequate participation, by the individuals to be served and appropriate tribal communities, in the planning and development of the activities to be assisted; and

"(B) the individuals and tribal communities referred to in subparagraph (A) will participate in the operation and evaluation of the activities to be assisted.

"(4) PRIORITY.—In approving applications under paragraph (1), the Secretary shall give priority to applications from Indian educational agencies, organizations, and institutions.

"Subpart 4—National Research Activities

"SEC. 9141. NATIONAL ACTIVITIES.

"(a) AUTHORIZED ACTIVITIES.—The Secretary may use funds made available under section 9162(b) for each fiscal year to—

"(1) conduct research related to effective approaches for the education of Indian children and adults;

"(2) evaluate federally assisted education programs from which Indian children and adults may benefit;

"(3) collect and analyze data on the educational status and needs of Indians; and

"(4) carry out other activities that are consistent with the purpose of this part.

"(b) ELIGIBILITY.—The Secretary may carry out any of the activities described in subsection (a) directly or through grants to, or contracts or cooperative agreements with Indian tribes, Indian organizations, State educational agencies, local educational agencies, institutions of higher education, including Indian institutions of higher education, and other public and private agencies and institutions.

"(c) COORDINATION.—Research activities supported under this section—

"(1) shall be carried out in consultation with the Office of Educational Research and Improvement to assure that such activities are coordinated with and enhance the research and development activities supported by the Office; and

"(2) may include collaborative research activities which are jointly funded and carried out by the Office of Indian Education and the Office of Educational Research and Improvement.

"Subpart 5—Federal Administration

"SEC. 9151. NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION.

"(a) MEMBERSHIP.—There is established a National Advisory Council on Indian Education (hereafter in this section referred to as the 'Council'), which shall—

"(1) consist of 15 Indian members, who shall be appointed by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations; and

"(2) represent different geographic areas of the United States.

"(b) DUTIES.—The Council shall—

"(1) advise the Secretary concerning the funding and administration (including the development of regulations and administrative policies and practices) of any program, including any program established under this part—

"(A) with respect to which the Secretary has jurisdiction; and

"(B)(i) that includes Indian children or adults as participants; or

"(ii) that may benefit Indian children or adults;

"(2) make recommendations to the Secretary for filling the position of Director of Indian Education whenever a vacancy occurs; and

"(3) submit to the Congress, not later than June 30 of each year, a report on the activities of the Council, including—

"(A) any recommendations that the Council considers appropriate for the improvement of Federal education programs that include Indian children or adults as participants, or that may benefit Indian children or adults; and

"(B) recommendations concerning the funding of any program described in subparagraph (A).

"SEC. 9152. PEER REVIEW.

"The Secretary may use a peer review process to review applications submitted to the Secretary under subpart 2, 3, or 4.

"SEC. 9153. PREFERENCE FOR INDIAN APPLICANTS.

"In making grants under subpart 2, 3, or 4, the Secretary shall give a preference to Indian tribes, organizations, and institutions of higher education under any program with respect to which Indian tribes, organizations, and institutions are eligible to apply for grants.

"SEC. 9154. MINIMUM GRANT CRITERIA.

"The Secretary may not approve an application for a grant under subpart 2 or 3 unless the application is for a grant that is—

"(1) of sufficient size, scope, and quality to achieve the purpose or objectives of such grant; and

"(2) based on relevant research findings.

"Subpart 6—Definitions; Authorizations of Appropriations

"SEC. 9161. DEFINITIONS.

"As used in this part:

"(1) ADULT.—The term 'adult' means an individual who—

"(A) has attained the age of 16 years; or

"(B) has attained an age that is greater than the age of compulsory school attendance under an applicable State law.

"(2) ADULT EDUCATION.—The term 'adult education' has the meaning given such term in section 312(2) of the Adult Education Act.

"(3) FREE PUBLIC EDUCATION.—The term 'free public education' means education that is—

"(A) provided at public expense, under public supervision and direction, and without tuition charge; and

"(B) provided as elementary or secondary education in the applicable State or to preschool children.

"(4) INDIAN.—The term 'Indian' means an individual who is—

"(A) a member of an Indian tribe or band, as membership is defined by the tribe or band, including—

"(i) any tribe or band terminated since 1940; and

"(ii) any tribe or band recognized by the State in which the tribe or band resides;

"(B) a descendant, in the first or second degree, of an individual described in subparagraph (A);

"(C) considered by the Secretary of the Interior to be an Indian for any purpose;

"(D) an Eskimo, Aleut, or other Alaska Native; or

"(E) a member of an organized Indian group that received a grant under the Indian Education Act of 1988 as it was in effect the day preceding the date of enactment of the Act entitled the 'Improving America's Schools Act of 1994'.

"SEC. 9162. AUTHORIZATIONS OF APPROPRIATIONS.

"(a) SUBPART 1.—For the purpose of carrying out subpart 1 of this part, there are authorized to be appropriated to the Department of Education $61,300,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(b) SUBPARTS 2 THROUGH 4.—For the purpose of carrying out subparts 2, 3, and 4 of this part,

there are authorized to be appropriated to the Department of Education $26,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

“(c) SUBPART 5.—For the purpose of carrying out subpart 5 of this part, there are authorized to be appropriated to the Department of Education $3,775,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

“PART B—NATIVE HAWAIIANS

“SEC. 9201. SHORT TITLE.

“This part may be cited as the ‘Native Hawaiian Education Act’.

“SEC. 9202. FINDINGS.

“The Congress finds and declares as follows:

“(1) Native Hawaiians are a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago, whose society was organized as a nation and internationally recognized as such by the United States, Britain, France and Japan, as evidenced by treaties governing friendship, commerce, and navigation.

“(2) At the time of the arrival of the first nonindigenous people in Hawai‘i in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient subsistence social system based on a communal land tenure system with a sophisticated language, culture, and religion.

“(3) A unified monarchial government of the Hawaiian Islands was established in 1810 under Kamehameha I, the first King of Hawai‘i.

“(4) From 1826 until 1893, the United States recognized the sovereignty and independence of the Kingdom of Hawai‘i, which was established in 1810 under Kamehameha I, extended full and complete diplomatic recognition to the Kingdom of Hawai‘i, and entered into treaties and conventions with the Kingdom of Hawai‘i to govern friendship, commerce and navigation in 1826, 1842, 1849, 1875, and 1887.

“(5) In 1893, the sovereign, independent, internationally recognized, and indigenous government of Hawai‘i, the Kingdom of Hawai‘i, was overthrown by a small group of non-Hawaiians, including United States citizens, who were assisted in their efforts by the United States Minister, a United States naval representative, and armed naval forces of the United States. Because of the participation of United States agents and citizens in the overthrow of the Kingdom of Hawai‘i, the Congress, on behalf of the people of the United States, apologized to Native Hawaiians for the overthrow and the deprivation of the rights of Native Hawaiians to self-determination through Public Law 103–150 (107 Stat. 1510).

“(6) In 1898, the joint resolution entitled ‘A Joint Resolution to provide for annexing the Hawaiian Islands to the United States’, approved July 7, 1898 (30 Stat. 750), ceded absolute title of all lands held by the Republic of Hawai‘i, including the government and crown lands of the former Kingdom of Hawai‘i, to the United States, but mandated that revenue generated from these lands be used ‘solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes’.

“(7) By 1919, the Native Hawaiian population had declined from an estimated 1,000,000 in 1778 to an alarming 22,600, and in recognition of this severe decline, the Congress in 1921 enacted the Hawaiian Homes Commission Act, 1920, which designated approximately 200,000 acres of ceded public lands for homesteading by Native Hawaiians.

“(8) Through the enactment of the Hawaiian Homes Commission Act, 1920, the Congress affirmed the special relationship between the United States and the Native Hawaiians, as expressed by then Secretary of the Interior Franklin K. Lane, who was quoted in the committee report for the Hawaiian Homes Commission Act, 1920, as saying: ‘One thing that impressed me . . . was the fact that the natives of the island who are our wards, I should say, and for whom in a sense we are trustees, are falling off rapidly in numbers and many of them are in poverty.’.

“(9) In 1938, the United States Congress again acknowledged the unique status of the Hawaiian people by including in the Act of June 20, 1938 (52 Stat. 781 et seq.), a provision to lease lands within the National Parks extension to Native Hawaiians and to permit fishing in the area ‘only by native Hawaiian residents of said area or of adjacent villages and by visitors under their guidance.’.

“(10) Under the Act entitled ‘An Act to provide for the admission of the State of Hawai‘i into the Union’ Approved March 18, 1959 (73 Stat. 4), the United States transferred responsibility for the administration of the Hawaiian Home Lands to the State of Hawai‘i but reaffirmed the trust relationship which existed between the United States and the Hawaiian people by retaining the exclusive power to enforce the trust, including the power to approve land exchanges and legislative amendments affecting the rights of beneficiaries under such Act.

“(11) In 1959, under the Act entitled ‘An Act to provide for the admission of the State of Hawai‘i into the Union’, approved March 18, 1959 (73 Stat. 4), the United States ceded to the State of Hawai‘i title to the public lands formerly held by the United States, but mandated that such lands be held by the State ‘in public trust’ and reaffirmed the special relationship which existed between the United States and the Hawaiian people by retaining the legal responsibility to enforce the public trust responsibility of the State of Hawai‘i for the betterment of the conditions of Native Hawaiians, as defined in section 201(a) of the Hawaiian Homes Commission Act, 1920.

“(12) The United States assumed special responsibilities for Native Hawaiian lands and resources at the time of the annexation of the Territory in 1898, upon adoption of the Hawaiian Homes Commission Act, 1920, and upon admission of the State of Hawai‘i into the Union in 1959, and has retained certain of those responsibilities.

“(13) In recognition of the special relationship which exists between the United States and the Native Hawaiian people, the Congress has extended to Native Hawaiians the same rights and privileges accorded to American Indian, Alaska Native, Eskimo, and Aleut communities under the Native American Programs Act of 1974, the American Indian Religious Freedom Act, the National Museum of the American Indian Act, the Native American Graves Protection and Repatriation Act, the National Historic Preservation Act, and the Native American Languages Act.

“(14) In recognition of the special relationship which exists between the United States and the Native Hawaiian people, the Congress has enacted numerous special provisions of law for the benefit of Native Hawaiians in the areas of health, education, labor, and housing.

“(15) In 1981, the Senate instructed the Office of Education to submit to the Congress a comprehensive report on Native Hawaiian education. The report, entitled the ‘Native Hawaiian Educational Assessment Project’, was released in 1983 and documented that Native Hawaiians scored below parity with national norms on standardized achievement tests, were disproportionately represented in many negative social and physical statistics, indicative of special educational needs, and had educational needs which were related to their unique cultural situation, such as different learning styles and low self-image.

“(16) In recognition of the educational needs of Native Hawaiians, in 1988, the Congress enacted title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 to authorize and develop supplemental educational programs to benefit Native Hawaiians.

“(17) In 1993, the Kamehameha Schools Bishop Estate released a ten-year update of the Native Hawaiian Educational Assessment Project, which found that despite the successes of the programs established under title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, many of the same educational needs still exist for Native Hawaiians. For example—

“(A) educational risk factors continue to start even before birth for many Native Hawaiian children, including—

“(i) late or no prenatal care;

“(ii) half of Native Hawaiian women who give birth are unmarried; and

“(iii) high rates of births to teenage parents;

“(B) Native Hawaiian students continue to begin their school experience lagging behind other students in terms of readiness factors such as vocabulary test scores;

“(C) Native Hawaiian students continue to score below national norms on standardized education achievement tests at all grade levels;

“(D) both public and private schools continue to show a pattern of lower percentages of Native Hawaiian students in the uppermost achievement levels and in gifted and talented programs;

“(E) Native Hawaiian students continue to be overrepresented among students qualifying for special education programs provided to students with learning disabilities, mild mental retardation, emotional impairment, and other such disabilities;

“(F) Native Hawaiians continue to be underrepresented in institutions of higher education and among adults who have completed four or more years of college;

“(G) Native Hawaiians continue to be disproportionately represented in many negative social and physical statistics, indicative of special educational needs, for example—

“(i) Native Hawaiian students are more likely to be retained in grade level and to be excessively absent in secondary school;

“(ii) Native Hawaiian students are the highest users of drugs and alcohol in the State of Hawai‘i; and

“(iii) Native Hawaiian children continue to be disproportionately victimized by child abuse and neglect; and

“(H) Native Hawaiians now comprise over 23 percent of the students served by the State of Hawai‘i Department of Education and there are and will continue to be geographically rural, isolated areas with a high Native Hawaiian population density.

“(18) The findings described in paragraphs (1) through (17) are contrary to the high rate of literacy and integration of traditional culture and Western education achieved by Native Hawaiians through a Hawaiian language-based public school system established in 1840 by Kamehameha III.

“(19) After the overthrow of the Kingdom of Hawai‘i in 1893, Hawaiian medium schools were banned. After annexation, throughout the territorial and statehood period, and until 1986, use of Hawaiian as a medium of education in public schools was declared unlawful, thereby causing incalculable harm to a culture that placed a very high value on the power of language, as exemplified in the traditional saying: ‘I ka ‘ōlelo no ke ola; I ka ‘ōlelo no ka make. In the language rests life; In the language rests death.’.

“(20) Despite the consequences of over 100 years of nonindigenous influence, the Native Hawaiian people are determined to preserve, develop, and transmit to future generations their

ancestral territory, and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions.

"(21) The State of Hawai'i, in the constitution and statutes of the State of Hawai'i—

"(A) reaffirms and protects the unique right of the Native Hawaiian people to practice and perpetuate their culture and religious customs, beliefs, practices, and language; and

"(B) recognizes the traditional language of the Native Hawaiian people as an official language of the State of Hawai'i, which may be used as the language of instruction for all subjects and grades in the public school system.

"SEC. 9203. PURPOSE.

"It is the purpose of this part to—

"(1) authorize and develop supplemental educational programs to assist Native Hawaiians in reaching the National Education Goals;

"(2) provide direction and guidance to appropriate Federal, State, and local agencies to focus resources, including resources made available under this part, on Native Hawaiian education, through the establishment of a Native Hawaiian Education Council, and five island councils;

"(3) supplement and expand existing programs and authorities in the area of education to further the purposes of the title; and

"(4) encourage the maximum participation of Native Hawaiians in planning and management of Native Hawaiian Education Programs.

"SEC. 9204. NATIVE HAWAIIAN EDUCATION COUNCIL AND ISLAND COUNCILS.

"(a) ESTABLISHMENT OF NATIVE HAWAIIAN EDUCATION COUNCIL.—In order to better effectuate the purposes of this part through the coordination of educational and related services and programs available to Native Hawaiians, including those programs receiving funding under this part, the Secretary is authorized to establish a Native Hawaiian Education Council (hereafter in this part referred to as the 'Education Council').

"(b) COMPOSITION OF EDUCATION COUNCIL.—The Education Council shall consist of not more than 25 members, including a representative of—

"(1) each recipient of funds from the Secretary under this part;

"(2) the State of Hawai'i Department of Education;

"(3) the State of Hawai'i Office of Hawaiian Affairs;

"(4) Native Hawaiian educational organizations, such as Alu Like, Inc., Kamehameha Schools Bishop Estate, Hawaiian Language Immersion Advisory Council, Aha Punana Leo, and the Queen Lili'uokalani Trust and Children's Center; and

"(5) each Native Hawaiian education island council established under subsection (f).

"(c) CONDITIONS AND TERMS.—At least three-fourths of the members of the Education Council shall be Native Hawaiians. Members of the Education Council shall be appointed for three-year terms.

"(d) ADMINISTRATIVE GRANT FOR THE EDUCATION COUNCIL.—The Secretary shall make a direct grant to the Education Council in order to enable the Education Council to—

"(1) coordinate the educational and related services and programs available to Native Hawaiians, including the programs assisted under this part, and assess the extent to which such services and programs meet the needs of Native Hawaiians; and

"(2) provide direction and guidance, through the issuance of reports and recommendations, to appropriate Federal, State, and local agencies in order to focus and improve the use of resources, including resources made available under this part, on Native Hawaiian education.

"(e) ADDITIONAL DUTIES OF THE EDUCATION COUNCIL.—

"(1) IN GENERAL.—The Education Council shall provide copies of any reports and recommendations issued by the Education Council to the Secretary, the Committee on Indian Affairs of the Senate, and the Committee on Education and Labor of the House of Representatives, including any information that the Education Council provides to the Secretary pursuant to subsection (i).

"(2) ANNUAL REPORT.—The Education Council shall present to the Secretary an annual report on the Education Council's activities.

"(3) ISLAND COUNCIL SUPPORT AND ASSISTANCE.—The Education Council shall provide such administrative support and financial assistance to the island councils established pursuant to subsection (f) as the Secretary deems appropriate.

"(f) ESTABLISHMENT OF ISLAND COUNCILS.—

"(1) IN GENERAL.—In order to better effectuate the purposes of this part and to ensure the adequate representation of island and community interests within the Education Council, the Office of Hawaiian Affairs of the State of Hawai'i is authorized to facilitate the establishment of Native Hawaiian education island councils (hereafter in this part referred to as 'island councils') for the following islands:

"(A) Hawai'i.

"(B) Maui and Lana'i.

"(C) Moloka'i.

"(D) Kaua'i and Ni'ihau.

"(E) O'ahu.

"(2) COMPOSITION OF ISLAND COUNCILS.—Each island council shall consist of parents, students, and other community members who have an interest in the education of Native Hawaiians, and shall be representative of the educational needs of all age groups, from preschool through adulthood. At least three-fourths of the members of each island council shall be Native Hawaiians

"(g) ADMINISTRATIVE PROVISIONS RELATING TO EDUCATION COUNCIL AND ISLAND COUNCILS.—The Education Council and each island council shall meet at the call of the chairperson of the respective council, or upon the request of the majority of the members of the respective council, but in any event not less than four times during each calendar year. The provisions of the Federal Advisory Committee Act shall not apply to the Education Council and each island council.

"(h) COMPENSATION.—Members of the Education Council and each island council shall not receive any compensation for services on the Education Council and each island council, respectively.

"(i) REPORT.—Not later than four years after the date of the enactment of the Improving America's Schools Act of 1994, the Secretary shall prepare and submit to the Committee on Indian Affairs of the Senate, and the Committee on Education and Labor of the House of Representatives, a report which summarizes the annual reports of the Education Council, describes the allocation and utilization of funds under this part, and contains recommendations for changes in Federal, State, and local policy to advance the purposes of this part.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

"SEC. 9205. NATIVE HAWAIIAN FAMILY-BASED EDUCATION CENTERS.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make direct grants, to Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, to expand the operation of Family-Based Education Centers throughout the Hawaiian Islands. The programs of such centers may be conducted in the Hawaiian language, the English language, or a combination thereof, and shall include—

"(1) parent-infant programs for prenatal through three-year-olds;

"(2) preschool programs for four- and five-year-olds;

"(3) continued research and development; and

"(4) a long-term followup and assessment program, which may include educational support services for Native Hawaiian language immersion programs or transition to English speaking programs.

"(b) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized to be appropriated for the centers described in subsection (a), there are authorized to be appropriated $6,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

"SEC. 9206. NATIVE HAWAIIAN HIGHER EDUCATION PROGRAM.

"(a) GENERAL AUTHORITY.—

"(1) IN GENERAL.—The Secretary is authorized to make direct grants, to Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, to enable such organizations or entities to provide a program of baccalaureate and post-baccalaureate fellowship assistance to Native Hawaiian students.

"(2) ACTIVITIES.—Such program may include—

"(A) full or partial fellowship support for Native Hawaiian students enrolled at two- or four-year degree granting institutions of higher education with awards to be based on academic potential and financial need; and

"(B) full or partial fellowship support for Native Hawaiian students enrolled at post-baccalaureate degree granting institutions of higher education with priority given to providing fellowship support for professions in which Native Hawaiians are underrepresented and with fellowship awards to be based on academic potential and financial need;

"(C) counseling and support services for students receiving fellowship assistance under paragraph (1);

"(D) college preparation and guidance counseling at the secondary school level for students who may be eligible for fellowship support pursuant to subsection (a)(2)(A);

"(E) appropriate research and evaluation of the activities authorized by this section; and

"(F) implementation of faculty development programs for the improvement and matriculation of Native Hawaiian students.

"(b) SPECIAL CONDITIONS REQUIRED.—For the purpose of fellowships awarded under subsection (a), fellowship conditions shall be established whereby fellowship recipients obtain an enforceable contract obligation to provide their professional services, either during the fellowship period or upon completion of a baccalaureate or post-baccalaureate degree program, to the Native Hawaiian community.

"(c) SPECIAL RULE.—No policy shall be made in implementing this section to prevent a Native Hawaiian student enrolled at an accredited two- or four- year degree granting institution of *higher education outside of the State of Hawai'i from receiving a fellowship pursuant to subsections (a) and (b) of this section.*

"(d) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

"SEC. 9207. NATIVE HAWAIIAN GIFTED AND TALENTED PROGRAM.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make a grant, to a Native Hawaiian educational organization or an educational entity with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, for a gifted and talented program designed to—

"(1) address the special needs of Native Hawaiian elementary and secondary school students who are gifted and talented students; and

"(2) provide those support services to the families of such students that are needed to enable such students to benefit from the program.

"(b) USES OF FUNDS.—The program funded under this section may include—

"(1) the identification of the special needs of Native Hawaiian gifted and talented students, particularly with respect to—

"(A) the emotional and psychosocial needs of such students; and

"(B) the provision of those support services to the families of such students that are needed to enable such students to benefit from the program;

"(2) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such students, including demonstrating and exploring the use of the Native Hawaiian language and exposure to Native Hawaiian cultural traditions;

"(3) leadership programs designed to—

"(A) replicate programs throughout the State of Hawai'i for gifted and talented students who are not served under this section; and

"(B) coordinate with other Native American gifted and talented leadership programs, including the dissemination of information derived from the program conducted under this section; and

"(4) appropriate research, evaluation, and related activities pertaining to—

"(A) the needs of such students; and

"(B) the provision of those support services to the families of such students that are needed to enable such students to benefit from the program.

"(c) INFORMATION PROVISION.—The Secretary is authorized to facilitate the establishment of a national network of Native Hawaiian and American Indian Gifted and Talented Centers, and ensure that the information developed by these centers shall be readily available to the educational community at large.

"(d) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized to be appropriated for the program described in this section, there are authorized to be appropriated $1,500,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

"SEC. 9208. NATIVE HAWAIIAN SPECIAL EDUCATION PROGRAM.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants to, or enter into contracts with, Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, to operate a program to address the special education needs of Native Hawaiian students. Such program may include—

"(1) the identification of Native Hawaiian students with disabilities or who are otherwise in need of special educational services;

"(2) the identification of the special education needs of such students, particularly with respect to—

"(A) the emotional and psychosocial needs of such students; and

"(B) the provision of those support services to the families of such students that are needed to enable such students to benefit from the program;

"(3) the conduct of educational activities consistent with part B of the Education of Individuals with Disabilities Education Act which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such students;

"(4) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such students, including demonstrating and exploring the use of the Native Hawaiian language and exposure to Native Hawaiian cultural traditions; and

"(5) appropriate research, evaluation, and related activities pertaining to—

"(A) the needs of such students;

"(B) the provision of those support services to the families of such students that are needed to enable such student to benefit from the program; and

"(C) the outcomes and benefits of activities assisted under this section upon such students.

"(b) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized to be appropriated for the program described in this section, there are authorized to be appropriated $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

"SEC. 9209. NATIVE HAWAIIAN CURRICULUM DEVELOPMENT, TEACHER TRAINING AND RECRUITMENT PROGRAM.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make direct grants, to Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language, for the following purposes:

"(1) CURRICULA.—The development of curricula to address the needs of Native Hawaiian students, particularly elementary and secondary school students, which may include programs of instruction conducted in the Native Hawaiian language, and mathematics and science curricula incorporating the relevant application of Native Hawaiian culture and traditions.

"(2) PRETEACHER TRAINING.—The development and implementation of preteacher training programs in order to ensure that student teachers within the State of Hawai'i, particularly student teachers who are likely to be employed in schools with a high concentration of Native Hawaiian students, are prepared to better address the unique needs of Native Hawaiian students, within the context of Native Hawaiian culture, language and traditions.

"(3) INSERVICE TEACHER TRAINING.—The development and implementation of inservice teacher training programs, in order to ensure that teachers, particularly teachers employed in schools with a high concentration of Native Hawaiian students, are prepared to better address the unique needs of Native Hawaiian students, within the context of Native Hawaiian culture, language and traditions.

"(4) TEACHER RECRUITMENT.—The development and implementation of teacher recruitment programs to meet the objectives of—

"(A) enhancing teacher recruitment within communities with a high concentration of Native Hawaiian students; and

"(B) increasing the numbers of teachers who are of Native Hawaiian ancestry.

"(b) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to awarding grants for activities described in subsection (a) that—

"(1) focus on the needs of at-risk youth; or

"(2) employ a program of instruction conducted in the Native Hawaiian language, except that entities receiving grants awarded pursuant to subsection (a)(2) shall coordinate in the development of new curricula.

"(c) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

"SEC. 9210. NATIVE HAWAIIAN COMMUNITY-BASED EDUCATION LEARNING CENTERS.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make direct grants, to collaborative efforts between community-based Native Hawaiian organizations and community colleges, to develop, establish, and operate a minimum of three community-based education learning centers.

"(b) PURPOSE.—The learning centers described in subsection (a) shall meet the needs of families and communities through interdepartmental and interagency coordination of new and existing public and private programs and services, which may include—

"(1) preschool programs;

"(2) after-school programs; and

"(3) vocational and adult education programs.

"(c) ADMINISTRATIVE COSTS.—Not more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

"SEC. 9211. ADMINISTRATIVE PROVISIONS.

"(a) APPLICATION REQUIRED.—No grant may be made under this part, nor any contract be entered into under this part, unless an application is submitted to the Secretary in such form, in such manner, and containing such information as the Secretary may determine necessary to carry out the provisions of this title.

"(b) SPECIAL RULE.—Each application submitted under this title shall be accompanied by the comments of each local educational agency serving students who will participate in the project for which assistance is sought.

"SEC. 9212. DEFINITIONS.

"For the purposes of this part—

"(1) The term 'Native Hawaiian' means any individual who is—

"(A) a citizen of the United States; and

"(B) a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawai'i, as evidenced by—

"(i) genealogical records;

"(ii) Kūpuna (elders) or Kama'āina (long-term community residents) verification; or

"(iii) certified birth records.

"(2) The term 'Native Hawaiian educational organization' means a private nonprofit organization that—

"(A) serves the interests of Native Hawaiians;

"(B) has Native Hawaiians in substantive and policymaking positions within the organization;

"(C) has a demonstrated expertise in the education of Native Hawaiian youth; and

"(D) has demonstrated expertise in research and program development.

"(3) The term 'Native Hawaiian Organization' means a private nonprofit organization that—

"(A) serves the interests of Native Hawaiians;

"(B) has Native Hawaiians in substantive and policymaking positions within the organizations; and

"(C) is recognized by the Governor of Hawai'i for the purpose of planning, conducting, or administering programs (or portions of programs) for the benefit of Native Hawaiians.

"(4) The term 'Native Hawaiian language' means the single Native American language indigenous to the original inhabitants of the State of Hawai'i.

"(5) The term 'Office of Hawaiian Affairs' means the Office of Hawaiian Affairs established by the Constitution of the State of Hawai'i.

"(6) The term 'Native Hawaiian community-based organization' means any organization which is composed primarily of Native Hawaiians from a specific community and which assists in the social, cultural and educational development of Native Hawaiians in that community.

"PART C—ALASKA NATIVE EDUCATION

"SEC. 9301. SHORT TITLE.

"This part may be cited as the 'Alaska Native Educational Equity, Support and Assistance Act'.

"SEC. 9302. FINDINGS.

"The Congress finds and declares:

"(1) The attainment of educational success is critical to the betterment of the conditions, long term well being and preservation of the culture of Alaska Natives.

"(2) It is the policy of the Federal Government to encourage the maximum participation by Alaska Natives in the planning and the management of Alaska Native education programs.

"(3) Alaska Native children enter and exit school with serious educational handicaps.

"(4) The educational achievement of Alaska Native children is far below national norms. In addition to low Native performance on standardized tests, Native student drop out rates are high, and Natives are significantly underrepresented among holders of baccalaureate degrees in the State of Alaska. As a result Native students are being denied their opportunity to become full participants in society by grade school and high school educations that are condemning an entire generation to an underclass status and a life of limited choices.

"(5) The programs authorized herein, combined with expanded Head Start, infant learning and early childhood education programs, and parent education programs are essential if educational handicaps are to be overcome.

"(6) The sheer magnitude of the geographic barriers to be overcome in delivering educational services in rural and village Alaska should be addressed through the development and implementation of innovative, model programs in a variety of areas.

"(7) Congress finds that Native children should be afforded the opportunity to begin their formal education on a par with their non-Native peers. The Federal Government should lend support to efforts developed by and undertaken within the Alaska Native community to improve educational opportunity for all students.

"SEC. 9303. PURPOSE.

"It is the purpose of this part to—

"(1) recognize the unique educational needs of Alaska Natives;

"(2) authorize the development of supplemental educational programs to benefit Alaska Natives;

"(3) supplement existing programs and authorities in the area of education to further the purposes of this part; and

"(4) provide direction and guidance to appropriate Federal, State and local agencies to focus resources, including resources made available under this part, on meeting the educational needs of Alaska Natives.

"SEC. 9304. ALASKA NATIVE EDUCATIONAL PLANNING, CURRICULUM DEVELOPMENT, TEACHER TRAINING AND RECRUITMENT PROGRAM.

"(a) GENERAL AUTHORITY.—The Secretary shall make direct grants to Alaska Native organizations or educational entities with experience in developing or operating Alaska Native programs or programs of instruction conducted in Alaska Native languages, or to partnerships involving Alaska Native organizations, for the following purposes:

"(1) EDUCATIONAL PLANNING.—The consolidation of existing educational plans, recommendations and research into implementation methods and strategies to improve schooling for Alaska Natives.

"(2) IMPLEMENTATION OF EDUCATIONAL PLANS.—The adoption and implementation of specific educational plans developed under subsection (1) above.

"(3) CURRICULA.—The development of curricula to address the needs of Alaska Native students, particularly elementary and secondary school students, which may include innovative programs and pilot and demonstration programs to develop and introduce curriculum materials that reflect cultural diversities or the contributions of Alaska Native people, programs of instruction conducted in Native languages, and the development of networks to introduce successful techniques, programs and curriculum materials to rural and urban schools, including:

"(A) multimedia social studies curricula which fully and accurately portray the role of Native Americans historically and contemporarily; and

"(B) curricula and teaching materials for instructions in Native languages.

"(4) PRETEACHER TRAINING.—The development and implementation of preteacher training program in order to ensure that student teachers within the State of Alaska, particularly student teachers who are likely to be employed in schools with a high concentration of Alaska Native students, are prepared to better address the cultural diversity and unique needs of Alaska Native students;

"(5) TEACHER RECRUITMENT.—The development and implementation of teacher recruitment programs to meet the objectives of—

"(A) increasing the numbers of teachers who are Alaska Natives;

"(B) enhancing teacher recruitment within communities with a high concentration of Alaska Native students; and

"(C) improving the teacher selection processes in order to recruit teachers who are more positively responsive to rural conditions and who are suited for effective cross-cultural instruction.

"(6) INSERVICE TEACHER TRAINING.—The development and implementation of inservice teacher training programs in order to ensure that teachers are prepared to better address the unique needs of Alaska Native students.

"(b) ADMINISTRATIVE COSTS.—Not more than 10 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

"SEC. 9305. ALASKA NATIVE HOME BASED EDUCATION FOR PRESCHOOL CHILDREN.

"(a) GENERAL AUTHORITY.—The Secretary shall make direct grants to Alaska Native organizations or educational entities with experience in developing or operating Alaska Native programs, or to partnerships involving Alaska Native organizations, to implement home instruction programs for Alaska Native preschool youngsters. The objective of such programs shall be to develop parents as educators for their children and to assure the active involvement of parents in the education of their children from the earliest ages.

"(b) PROGRAM ELEMENTS.—Home based education programs for Alaska Native children shall include—

"(1) parent-infant programs for prenatal through three-year olds;

"(2) preschool programs for four- and five-year olds;

"(3) training, education and support programs to teach parents skills in observation, reading readiness, story telling and critical thinking;

"(4) continued research and development; and

"(5) a long term followup and assessment program.

"(c) ELIGIBILITY OF HIPPY PROGRAMS.—Programs based on the HIPPY (Home Instruction Program for Preschool Youngsters) model shall be eligible for funding under this section.

"(d) ADMINISTRATIVE COSTS.—Not more than 10 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $2,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

"SEC. 9306. ALASKA NATIVE STUDENT ENRICHMENT PROGRAMS.

"(a) GENERAL AUTHORITY.—The Secretary shall make a grant or grants to Alaska Native educational organizations or educational entities with experience in developing or operating Alaska Native programs, or to partnerships including Alaska Native organizations, for enrichment programs for Alaska Native students in the areas of science and mathematics education. The programs shall be designed to—

"(1) prepare qualified students from rural areas who are preparing to enter village high schools to excel in science and mathematics; and

"(2) provide those support services to the families of such students that are needed to enable such students to benefit from the program.

"(b) USES OF FUNDS.—The program funded under this section may include—

"(1) the identification of the students eligible to participate in the program;

"(2) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial enrichment of the educational performance of the participating students;

"(3) leadership programs designed to provide for the replication of the program in other subject matter areas and the dissemination of information derived from the program; and

"(4) appropriate research, evaluation and related activities pertaining to the benefits of such enrichment programs.

"(c) Administrative Costs.—Not more than 10 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(d) Authorization of Appropriations.—There are authorized to be appropriated $1,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this section. Funds appropriated under the authority of this subsection shall remain available until expended.

"SEC. 9307. ADMINISTRATIVE PROVISIONS.

"(a) Application Required.—No grant may be made under this part, nor any contract be entered into under this part, unless an application is submitted to the Secretary in such form, in such manner, and containing such information as the Secretary may determine necessary to carry out the provisions of this part.

"(b) Applications by Local School Districts or State Educational Entities.—Local school districts or State educational entities shall apply for funding under this Part in partnership with Alaska Native organizations.

"(c) Consultation Required.—Each applicant for funding shall provide for ongoing advice from and consultation with representatives of the Alaska Native community.

"(d) Local Educational Agency Coordination.—Each local educational agency serving students who will participate in the program for which assistance is sought shall be informed regarding each application submitted under this part, except that approval by or concurrence from such local educational agency shall not be required.

"(e) Implementation of Authorities.—The Secretary shall expeditiously obligate funds appropriated as provided in this part.

"SEC. 9308. DEFINITIONS.

"For purposes of this part—

"(1) the term 'Alaska Native' has the same meaning as the term 'Native' has in section 3(b) of the Alaska Native Claims Settlement Act.

"(2) the term 'Alaska Native organization' means a federally recognized tribe, consortium of tribes, regional nonprofit Native association, and other Alaska Native organizations that:

"(A) has or commits to acquire expertise in the education of Alaska Natives; and

"(B) has Alaska Natives in substantive and policy-making positions within the organization.

"TITLE X—PROGRAMS OF NATIONAL SIGNIFICANCE

"PART A—FUND FOR THE IMPROVEMENT OF EDUCATION

"SEC. 10101. FUND FOR THE IMPROVEMENT OF EDUCATION.

"(a) Fund Authorized.—From funds appropriated under subsection (d), the Secretary is authorized to support nationally significant programs and projects to improve the quality of education, assist all students to meet challenging State content standards and challenging State student performance standards, and contribute to achievement of the National Education Goals. The Secretary is authorized to carry out such programs and projects directly or through grants to, or contracts with, State and local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions.

"(b) Uses of Funds.—

"(1) In general.—Funds under this section may be used for—

"(A) activities that will promote systemic education reform at the State and local levels, such as—

"(i) research and development related to challenging State content and challenging State student performance standards and opportunity-to-learn standards or strategies for student learning;

"(ii) the development and evaluation of model strategies for—

"(I) assessment of student learning;

"(II) professional development for teachers and administrators;

"(III) parent and community involvement; and

"(IV) other aspects of systemic reform;

"(iii) developing and evaluating strategies for eliminating ability-grouping practices, and developing policies and programs that place all students on a college-preparatory path of study, particularly in academic fields such as mathematics, science, English, and social studies, including comprehensive inservice programs for teachers and pupil services personnel and academic enrichment programs that supplement regular courses for students;

"(iv) developing and evaluating programs that directly involve parents and family members in the academic progress of their children;

"(v) developing and evaluating strategies for integrating instruction and assessment such that teachers and administrators can focus on what students should know and be able to do at particular grade levels, which instruction shall promote the synthesis of knowledge, encourage the development of problem-solving skills drawing on a vast range of disciplines, and promote the development of higher order thinking by all students; and

"(vi) developing and evaluating strategies for supporting professional development for teachers across all disciplines and for pupil services personnel, guidance counselors, and administrators, including inservice training that improves the skills of pupil services personnel, counselors and administrators for working with students from diverse populations;

"(B) demonstrations at the State and local levels that are designed to yield nationally significant results, including approaches to public school choice and school-based decisionmaking;

"(C) joint activities with other agencies to assist the effort to achieve the National Education Goals, including activities related to improving the transition from preschool to school and from school to work, as well as activities related to the integration of education and health and social services;

"(D) activities to promote and evaluate counseling and mentoring for students, including intergenerational mentoring;

"(E) activities to promote and evaluate coordinated pupil services programs;

"(F) activities to promote comprehensive health education;

"(G) activities to promote environmental education;

"(H) activities to promote consumer, economic, and personal finance education, such as saving, investing, and entrepreneurial education;

"(I) activities to promote programs to assist students to demonstrate competence in foreign languages;

"(J) studies and evaluation of various education reform strategies and innovations being pursued by the Federal Government, States, and local educational agencies;

"(K) activities to promote metric education;

"(L) the identification and recognition of exemplary schools and programs, such as Blue Ribbon Schools;

"(M) programs designed to promote gender equity in education by evaluating and eliminating gender bias in instruction and educational materials, identifying, and analyzing gender inequities in educational practices, and implementing and evaluating educational policies and practices designed to achieve gender equity;

"(N) programs designed to reduce excessive student mobility, retain students who move within a school district at the same school, educate parents about the effect of mobility on a child's education and encourage parents to participate in school activities;

"(O) experiential-based learning, such as service-learning;

"(P) the development and expansion of public-private partnership programs which extend the learning experience, via computers, beyond the classroom environment into student homes through such programs as the Buddy System Computer Project;

"(Q) other programs and projects that meet the purposes of this section;

"(R) activities to promote child abuse education and prevention programs;

"(S) activities to raise standards and expectations for academic achievement among all students, especially disadvantaged students traditionally underserved in schools;

"(T) activities to provide the academic support, enrichment and motivation to enable all students to reach such standards;

"(U) demonstrations relating to the planning and evaluations of the effectiveness of projects under which local educational agencies or schools contract with private management organizations to reform a school or schools;

"(V) demonstrations that are designed to test whether prenatal and counseling provided to pregnant students may have a positive effect on pregnancy outcomes, with such education and counseling emphasizing the importance of prenatal care, the value of sound diet and nutrition habits, and the harmful effects of smoking, alcohol, and substance abuse on fetal development;

"(W) programs under section 10102;

"(X) programs under section 10103;

"(Y) programs under section 10104; and

"(Z) programs under section 10105;

"(2) Additional uses.—The Secretary may also use funds under this section to complete the project periods for direct grants or contracts awarded under the provisions of this Act, the Fund for the Improvement and Reform of Schools and Teaching Act, or title III of the Education for Economic Security Act, as such Acts were in effect on the day preceding the date of the enactment of the Improving America's Schools Act of 1994.

"(3) Special rule.—The Secretary shall not make available more than $1,000,000 to carry out paragraph (1)(R), nor more than $1,000,000 to carry out paragraph (1)(V) during the period beginning on October 1, 1994, through September 30, 1999.

"(c) Awards.—

"(1) In general.—The Secretary may—

"(A) make awards under this section on the basis of competitions announced by the Secretary; and

"(B) support meritorious unsolicited proposals.

"(2) Special rule.—The Secretary shall ensure that programs, projects, and activities supported under this section are designed so that the effectiveness of such programs, projects, and activities is readily ascertainable.

"(3) Peer review.—The Secretary shall use a peer review process in reviewing applications for assistance under this section and may use funds appropriated under subsection (d) for the cost of such peer review.

"(d) Authorization.—For the purpose of carrying out this section, there are authorized to be

appropriated $50,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"SEC. 10102. ELEMENTARY SCHOOL COUNSELING DEMONSTRATION.

"(a) COUNSELING DEMONSTRATION.—

"(1) In General.—The Secretary may award grants under this section to establish or expand elementary school counseling programs.

"(2) PRIORITY.—In awarding grants under this section, the Secretary shall give special consideration to applications describing programs that—

"(A) demonstrate the greatest need for new or additional counseling services among the children in the elementary schools served by the applicant;

"(B) propose the most promising and innovative approaches for initiating or expanding elementary school counseling; and

"(C) show the greatest potential for replication and dissemination.

"(3) EQUITABLE DISTRIBUTION.—In awarding grants under this section, the Secretary shall ensure an equitable geographic distribution among the regions of the United States and among urban, suburban, and rural areas.

"(4) DURATION.—A grant under this section shall be awarded for a period not to exceed three years.

"(5) MAXIMUM GRANT.—A grant under this section shall not exceed $400,000 for any fiscal year.

"(b) APPLICATIONS.—

"(1) IN GENERAL.—Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(2) CONTENTS.—Each application for a grant under this section shall—

"(A) describe the elementary school population to be targeted by the program, the particular personal, social, emotional, educational, and career development needs of such population, and the current school counseling resources available for meeting such needs;

"(B) describe the activities, services, and training to be provided by the program and the specific approaches to be used to meet the needs described in subparagraph (A);

"(C) describe the methods to be used to evaluate the outcomes and effectiveness of the program;

"(D) describe the collaborative efforts to be undertaken with institutions of higher education, businesses, labor organizations, community groups, social service agencies, and other public or private entities to enhance the program and promote school-linked services integration;

"(E) describe collaborative efforts with institutions of higher education which specifically seek to enhance or improve graduate programs specializing in the preparation of elementary school counselors, school psychologists, and school social workers;

"(F) document that the applicant has the personnel qualified to develop, implement, and administer the program;

"(G) describe how any diverse cultural populations, if applicable, would be served through the program;

"(H) assure that the funds made available under this part for any fiscal year will be used to supplement and, to the extent practicable, increase the level of funds that would otherwise be available from non-Federal sources for the program described in the application, and in no case supplant such funds from non-Federal sources; and

"(I) assure that the applicant will appoint an advisory board composed of parents, school counselors, school psychologists, school social workers, other pupil services personnel, teachers, school administrators, and community leaders to advise the local educational agency on the design and implementation of the program.

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—Grant funds under this section shall be used to initiate or expand elementary school counseling programs that comply with the requirements in paragraph (2).

"(2) PROGRAM REQUIREMENTS.—Each program assisted under this section shall—

"(A) be comprehensive in addressing the personal, social, emotional, and educational needs of all students;

"(B) use a developmental, preventive approach to counseling;

"(C) increase the range, availability, quantity, and quality of counseling services in the elementary schools of the local educational agency;

"(D) expand counseling services only through qualified school counselors, school psychologists, and school social workers;

"(E) use innovative approaches to increase children's understanding of peer and family relationships, work and self, decisionmaking, academic and career planning, or to improve social functioning;

"(F) provide counseling services that are well-balanced among classroom group and small group counseling, individual counseling, and consultation with parents, teachers, administrators, and other pupil services personnel;

"(G) include inservice training for school counselors, school social workers, school psychologists, other pupil services personnel, teachers, and instructional staff;

"(H) involve parents of participating students in the design, implementation, and evaluation of a counseling program;

"(I) involve collaborative efforts with institutions of higher education, businesses, labor organizations, community groups, social service agencies, or other public or private entities to enhance the program and promote school-linked services integration; and

"(J) evaluate annually the effectiveness and outcomes of the counseling services and activities assisted under this section.

"(3) REPORT.—The Secretary shall issue a report evaluating the programs assisted pursuant to each grant under this subsection at the end of each grant period in accordance with section 14701, but in no case later than January 30, 1998.

"(4) DISSEMINATION.—The Secretary shall make the programs assisted under this section available for dissemination, either through the National Diffusion Network or other appropriate means.

"(5) LIMIT ON ADMINISTRATION.—Not more than five percent of the amounts made available under this section in any fiscal year shall be used for administrative costs to carry out this section.

"(d) DEFINITIONS.—For purposes of this section—

"(1) the term 'school counselor' means an individual who has documented competence in counseling children and adolescents in a school setting and who—

"(A) possesses State licensure or certification granted by an independent professional regulatory authority;

"(B) in the absence of such State licensure or certification, possesses national certification in school counseling or a specialty of counseling granted by an independent professional organization; or

"(C) holds a minimum of a master's degree in school counseling from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs or the equivalent;

"(2) the term 'school psychologist' means an individual who—

"(A) possesses a minimum of 60 graduate semester hours in school psychology from an institution of higher education and has completed 1,200 clock hours in a supervised school psychology internship, of which 600 hours shall be in the school setting;

"(B) possess State licensure or certification in the State in which the individual works; or

"(C) in the absence of such State licensure or certification, possess national certification by the National School Psychology Certification Board;

"(3) the term 'school social worker' means an individual who holds a master's degree in social work and is licensed or certified by the State in which services are provided or holds a school social work specialist credential; and

"(4) the term 'supervisor' means an individual who has the equivalent number of years of professional experience in such individual's respective discipline as is required of teaching experience for the supervisor or administrative credential in the State of such individual.

"SEC. 10103. PARTNERSHIPS IN CHARACTER EDUCATION PILOT PROJECT.

"(a) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized to make up to a total of ten grants annually to partnerships of State educational agencies and local educational agencies for the design and implementation of character education programs that incorporate the elements of character listed in subsection (d), as well as other character elements identified by applicants.

"(2) MAXIMUM AMOUNT OF GRANT.—No State educational agency shall receive more than a total of $1,000,000 in grants under this part.

"(3) DURATION.—Each grant under this section shall be awarded for a period not to exceed five years, of which the State educational agency shall not use more than one year for planning and program design.

"(b) STATE EDUCATIONAL AGENCY APPLICATIONS.—

"(1) REQUIREMENT.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

"(2) PARTNERSHIPS.—Each State educational agency desiring a grant under this section shall form a partnership with at least one local educational agency to be eligible for funding. The partnership shall pursue State and local initiatives to meet the objectives of this section.

"(3) APPLICATION.—Each application under this section shall include—

"(A) a list of the local educational agencies entering into the partnership with the State educational agency;

"(B) a description of the goals of the partnership;

"(C) a description of activities that will be pursued by the participating local educational agencies, including—

"(i) how parents, students, and other members of the community, including members of private and nonprofit organizations, will be involved in the design and implementation of the program;

"(ii) curriculum and instructional practices;

"(iii) methods of teacher training and parent education that will be used or developed; and

"(iv) examples of activities that will be carried out under this part;

"(D) a description of how the State educational agency will provide technical and professional assistance to its local educational agency partners in the development and implementation of character education programs;

"(E) a description of how the State educational agency will evaluate the success of local programs and how local educational agencies will evaluate the progress of their own programs;

"(F) a description of how the State educational agency will assist other interested local educational agencies that are not members of the original partnership in designing and establishing programs;

"(G) a description of how the State educational agency will establish a clearinghouse for information on model programs, materials, and other information the State and local educational agencies determine to be appropriate;

"(H) an assurance that the State educational agency will annually provide to the Secretary such information as may be required to determine the effectiveness of the program; and

"(I) any other information that the Secretary may require.

"(4) NON-PARTNER LOCAL EDUCATIONAL AGENCIES.—Any local educational agency that was not a partner with the State when the application was submitted may become a partner by submitting an application for partnership to the State educational agency, containing such information that the State educational agency may require.

"(c) EVALUATION AND PROGRAM DEVELOPMENT.—

"(1) REQUIREMENT.—Each State educational agency receiving a grant under this section shall submit to the Secretary a comprehensive evaluation of the program assisted under this part, including the impact on students, teachers, administrators, parents, and others—

"(A) by the mid-term of the program; and

"(B) not later than one year after completion of such program.

"(2) CONTRACTS FOR EVALUATION.—Each State educational agency receiving a grant under this section may contract with outside sources, including institutions of higher education, and private and nonprofit organizations, for purposes of evaluating their program and measuring the success of the program toward fostering in students the elements of character listed in subsection (b).

"(3) FACTORS.—Factors which may be considered in evaluating the success of the program may include—

"(A) discipline problems;

"(B) students' grades;

"(C) participation in extracurricular activities;

"(D) parental and community involvement;

"(E) faculty and administration involvement; and

"(F) student and staff morale.

"(4) MATERIALS AND PROGRAM DEVELOPMENT.—Local educational agencies, after consulting with the State educational agency, may contract with outside sources, including institutions of higher education, and private and nonprofit organizations, for assistance in developing curriculum, materials, teacher training, and other activities related to character education.

"(d) ELEMENTS OF CHARACTER.—

"(1) IN GENERAL.—Applicants desiring funding under this part shall develop character education programs that incorporate the following elements of character:

"(A) Caring.

"(B) Civic virtue and citizenship.

"(C) Justice and fairness.

"(D) Respect.

"(E) Responsibility.

"(F) Trustworthiness.

"(G) Any other elements deemed appropriate by the members of the partnership.

"(2) ADDITIONAL ELEMENTS OF CHARACTER.—A local educational agency participating under this section may, after consultation with schools and communities of such agency, define additional elements of character that the agency determines to be important to the schools and communities of such agency.

"(e) USE OF FUNDS.—Of the total funds received by a State educational agency in any fiscal year under this section—

"(1) not more than 30 percent of such funds may be retained by the State educational agency, of which—

"(A) not more than 10 percent of such funds may be used for administrative purposes; and

"(B) the remainder of such funds may be used for—

"(i) collaborative initiatives with local educational agencies;

"(ii) the establishment of the clearinghouse, preparation of materials, teacher training; and

"(iii) other appropriate activities; and

"(2) the remaining of such funds shall be used to award subgrants to local educational agencies, of which—

"(A) not more than 10 percent of such funds may be retained for administrative purposes; and

"(B) the remainder of such funds may be used to—

"(i) award subgrants to schools within the local educational agency; and

"(ii) pursue collaborative efforts with the State educational agency.

"(f) SELECTION OF GRANTEES.—

"(1) CRITERIA.—The Secretary shall select, through peer review, partnerships to receive grants under this section on the basis of the quality of the applications submitted under subsection (b), taking into consideration such factors as—

"(A) the quality of the activities proposed by local educational agencies;

"(B) the extent to which the program fosters in students the elements of character;

"(C) the extent of parental, student, and community involvement;

"(D) the number of local educational agencies involved in the effort;

"(E) the quality of the plan for measuring and assessing success; and

"(F) the likelihood that the goals of the program will be realistically achieved.

"(2) DIVERSITY OF PROJECTS.—The Secretary shall approve applications under this section in a manner that ensures, to the extent practicable, that programs assisted under this section—

"(A) serve different areas of the Nation, including urban, suburban, and rural areas; and

"(B) serve schools that serve minorities, Native Americans, students of limited-English proficiency, and disadvantaged students.

"SEC. 10104. PROMOTING SCHOLAR-ATHLETE COMPETITIONS.

"(a) IN GENERAL.—The Secretary is authorized to award a grant to a nonprofit organization to reimburse such organizations for the costs of conducting scholar-athlete games to be held in 1995.

"(b) PRIORITY.—In awarding the grant under subsection (a), the Secretary shall give priority to a nonprofit organization that—

"(1) is described in section 501(c)(3) of, and exempt from taxation under section 501(a) of, the Internal Revenue Code of 1986, and is affiliated with a university capable of hosting a large educational, cultural, and athletic event that will serve as a national model;

"(2) has the capability and experience in administering federally funded scholar-athlete games;

"(3) has the ability to provide matching funds, on a dollar-for-dollar basis, from foundations and the private sector for the purpose of conducting a scholar-athlete program;

"(4) has the organizational structure and capability to administer a model scholar-athlete program in the summer of 1995;

"(5) has the organizational structure and expertise to replicate the scholar-athlete program in various venues throughout the United States in 1996 and thereafter, as well as replicate such program internationally; and

"(6) has plans for conducting scholar-athlete games after 1995 without Federal assistance.

"SEC. 10105. SMALLER LEARNING COMMUNITIES.

"(a) IN GENERAL.—Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall describe—

"(1) strategies and methods the applicant will use to create the smaller learning community or communities;

"(2) curriculum and instructional practices, including any particular themes or emphases, to be used in the learning environment;

"(3) the extent of involvement of teachers and other school personnel in investigating, designing, implementing and sustaining the smaller learning community or communities;

"(4) the process to be used for involving students, parents and other stakeholders in the development and implementation of the smaller learning community or communities;

"(5) any cooperation or collaboration among community agencies, organizations, businesses, and others to develop or implement a plan to create the smaller learning community or communities;

"(6) the training and professional development activities that will be offered to teachers and others involved in the activities assisted under this part;

"(7) the goals and objectives of the activities assisted under this part, including a description of how such activities will better enable all students to reach challenging State content standards and State student performance standards;

"(8) the methods by which the applicant will assess progress in meeting such goals and objectives;

"(9) if the smaller learning community or communities exist as a school-within-a-school, the relationship, including governance and administration, of the smaller learning community to the rest of the school;

"(10) a description of the administrative and managerial relationship between the local educational agency and the smaller learning community or communities, including how such agency will demonstrate a commitment to the continuity of the smaller learning community or communities, including the continuity of student and teacher assignment to a particular learning community;

"(11) how the applicant will coordinate or use funds provided under this part with other funds provided under this Act or other Federal laws;

"(12) grade levels or ages of students who will participate in the smaller learning community or communities; and

"(13) the method of placing students in the smaller learning community or communities, such that students are not placed according to ability, performance or any other measure, so that students are placed at random or by their own choice, not pursuant to testing or other judgments.

"(b) AUTHORIZED ACTIVITIES.—Funds under this section may be used—

"(1) to study the feasibility of creating the smaller learning community or communities as well as effective and innovative organizational and instructional strategies that will be used in the smaller learning community or communities;

"(2) to research, develop and implement strategies for creating the smaller learning community or communities, as well as effective and innovative changes in curriculum and instruction, geared to high State content standards and State student performance standards;

"(3) to provide professional development for school staff in innovative teaching methods that challenge and engage students to be used in the smaller learning community or communities; and

"(4) to develop and implement strategies to include parents, business representatives, local institutions of higher education, community-based organizations, and other community members in the smaller learning communities, as facilitators of activities that enable teachers to participate in professional development activities, as well as to provide links between students and their community.

"SEC. 10106. NATIONAL STUDENT AND PARENT MOCK ELECTION.

"(a) IN GENERAL.—The Secretary is authorized to award grants to national nonprofit, nonpartisan organizations that work to promote voter participation in American elections to enable such organizations to carry out voter education activities for students and their parents. Such activities shall—

"(1) be limited to simulated national elections that permit participation by students and parents from all 50 States in the United States; and

"(2) consist of—

"(A) school forums and local cable call-in shows on the national issues to be voted upon in an 'issue forum';

"(B) speeches and debates before students and parents by local candidates or stand-ins for such candidates;

"(C) quiz team competitions, mock press conferences and speechwriting competitions;

"(D) weekly meetings to follow the course of the campaign; or

"(E) school and neighborhood campaigns to increase voter turnout, including newsletters, posters, telephone chains, and transportation.

"(b) REQUIREMENT.—Each organization receiving a grant under this section shall present awards to outstanding student and parent mock election projects.

"SEC. 10107. MODEL PROJECTS.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to award grants to cultural institutions to enable such institutions to develop and expand model projects of outreach activities for at-risk children in the communities served by such institutions, including activities which integrate such institution's cultural programming with other disciplines, including environmental, mathematics, and science programs.

"(b) PRIORITY.—In awarding grants under this section the Secretary shall give priority to activities that are part of an overall State, local, and private commitment, seek to improve learning for at-risk youth, and are substantially funded by State, local, or private funds.

"PART B—GIFTED AND TALENTED CHILDREN

"SEC. 10201. SHORT TITLE.

"This part may be cited as the 'Jacob K. Javits Gifted and Talented Students Education Act of 1994'.

"SEC. 10202. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds and declares that—

"(1) all students can learn to high standards and must develop their talents and realize their potential if the United States is to prosper;

"(2) gifted and talented students are a national resource vital to the future of the Nation and its security and well-being;

"(3) too often schools fail to challenge students to do their best work, and students who are not challenged will not learn to challenging State content standards and challenging State student performance standards, fully develop their talents, and realize their potential;

"(4) unless the special abilities of gifted and talented students are recognized and developed during such students' elementary and secondary school years, much of such students' special potential for contributing to the national interest is likely to be lost;

"(5) gifted and talented students from economically disadvantaged families and areas, and students of limited-English proficiency are at greatest risk of being unrecognized and of not being provided adequate or appropriate educational services;

"(6) State and local educational agencies and private nonprofit schools often lack the necessary specialized resources to plan and implement effective programs for the early identification of gifted and talented students and for the provision of educational services and programs appropriate to their special needs;

"(7) the Federal Government can best carry out the limited but essential role of stimulating research and development and personnel training and providing a national focal point of information and technical assistance that is necessary to ensure that the Nation's schools are able to meet the special educational needs of gifted and talented students, and thereby serve a profound national interest; and

"(8) the experience and knowledge gained in developing and implementing programs for gifted and talented students can and should be used as a basis to—

"(A) develop a rich and challenging curriculum for all students; and

"(B) provide all students with important and challenging subject matter to study and encourage the habits of hard work.

"(b) STATEMENT OF PURPOSE.—It is the purpose of this part—

"(1) to provide financial assistance to State and local educational agencies, institutions of higher education, and other public and private agencies and organizations, to initiate a coordinated program of research, demonstration projects, personnel training, and similar activities designed to build a nationwide capability in elementary and secondary schools to meet the special educational needs of gifted and talented students;

"(2) to encourage the development of rich and challenging curricula for all students through the appropriate application and adaptation of materials and instructional methods developed under this part; and

"(3) to supplement and make more effective the expenditure of State and local funds, for the education of gifted and talented students.

"SEC. 10203. CONSTRUCTION.

"Nothing in this part shall be construed to prohibit a recipient of funds under this part from serving gifted and talented students simultaneously with students with similar educational needs, in the same educational settings where appropriate.

"SEC. 10204. AUTHORIZED PROGRAMS.

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—From the sums appropriated under section 10207 in any fiscal year the Secretary (after consultation with experts in the field of the education of gifted and talented students) shall make grants to or enter into contracts with State educational agencies, local educational agencies, institutions of higher education, or other public agencies and private agencies and organizations (including Indian tribes and Indian organizations (as such terms are defined by the Indian Self-Determination and Education Assistance Act) and Native Hawaiian organizations) to assist such agencies, institutions, and organizations which submit applications in carrying out programs or projects authorized by this part that are designed to meet the educational needs of gifted and talented students, including the training of personnel in the education of gifted and talented students and in the use, where appropriate, of gifted and talented services, materials, and methods for all students.

"(2) APPLICATION.—Each entity desiring assistance under this part shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall describe how—

"(A) the proposed gifted and talented services, materials, and methods can be adapted, if appropriate, for use by all students; and

"(B) the proposed programs can be evaluated.

"(b) USES OF FUNDS.—Programs and projects assisted under this section may include—

"(1) professional development (including fellowships) for personnel (including leadership personnel) involved in the education of gifted and talented students;

"(2) establishment and operation of model projects and exemplary programs for serving gifted and talented students, including innovative methods for identifying and educating students who may not be served by traditional gifted and talented programs, summer programs, mentoring programs, service learning programs, and cooperative programs involving business, industry, and education;

"(3) training of personnel and parents involved in gifted and talented programs with respect to the impact of gender role socialization on the educational needs of gifted and talented children and in gender equitable education methods, techniques and practices;

"(4) implementing innovative strategies, such as cooperative learning, peer tutoring and service learning;

"(5) strengthening the capability of State educational agencies and institutions of higher education to provide leadership and assistance to local educational agencies and nonprofit private schools in the planning, operation, and improvement of programs for the identification and education of gifted and talented students and the appropriate use of gifted and talented programs and methods to serve all students;

"(6) programs of technical assistance and information dissemination, including how gifted and talented programs and methods, where appropriate, may be adapted for use by all students; and

"(7) carrying out—

"(A) research on methods and techniques for identifying and teaching gifted and talented students, and for using gifted and talented programs and methods to serve all students; and

"(B) program evaluations, surveys, and the collection, analysis, and development of information needed to accomplish the purposes of this part.

"(c) ESTABLISHMENT OF NATIONAL CENTER.—

"(1) IN GENERAL.—The Secretary (after consultation with experts in the field of the education of gifted and talented students) shall establish a National Center for Research and Development in the Education of Gifted and Talented Children and Youth through grants to or contracts with one or more institution of higher education or State educational agency, or a combination or consortium of such institutions and agencies, for the purpose of carrying out activities described in paragraph (7) of subsection (b).

"(2) DIRECTOR.—Such National Center shall have a Director. The Secretary may authorize the Director to carry out such functions of the National Center as may be agreed upon through arrangements with other institutions of higher education, State or local educational agencies, or other public or private agencies and organizations.

"(d) LIMITATION.—Not more than 30 percent of the funds available in any fiscal year to carry out the programs and projects authorized by this section may be used to conduct activities pursuant to subsections (b)(7) or (c).

"(e) COORDINATION.—Research activities supported under this section—

"(1) shall be carried out in consultation with the Office of Educational Research and Improvement to ensure that such activities are coordinated with and enhance the research and

development activities supported by such Office; and

"(2) may include collaborative research activities which are jointly funded and carried out with such Office.

"SEC. 10205. PROGRAM PRIORITIES.

"(a) GENERAL PRIORITY.—In the administration of this part the Secretary shall give highest priority—

"(1) to the identification of and the provision of services to gifted and talented students who may not be identified and served through traditional assessment methods (including economically disadvantaged individuals, individuals of limited-English proficiency, and individuals with disabilities); and

"(2) to programs and projects designed to develop or improve the capability of schools in an entire State or region of the Nation through cooperative efforts and participation of State and local educational agencies, institutions of higher education, and other public and private agencies and organizations (including business, industry, and labor), to plan, conduct, and improve programs for the identification of and service to gifted and talented students, such as mentoring and apprenticeship programs.

"(b) SERVICE PRIORITY.—In approving applications for assistance under section 10204(a)(2), the Secretary shall assure that in each fiscal year at least one-half of the applications approved under such section address the priority described in subsection (a)(1).

"SEC. 10206. GENERAL PROVISIONS.

"(a) PARTICIPATION OF PRIVATE SCHOOL CHILDREN AND TEACHERS.—In making grants and entering into contracts under this part, the Secretary shall ensure, where appropriate, that provision is made for the equitable participation of students and teachers in private nonprofit elementary and secondary schools, including the participation of teachers and other personnel in professional development programs serving such children.

"(b) REVIEW, DISSEMINATION, AND EVALUATION.—The Secretary shall—

"(1) use a peer review process in reviewing applications under this part;

"(2) ensure that information on the activities and results of programs and projects funded under this part is disseminated to appropriate State and local agencies and other appropriate organizations, including nonprofit private organizations; and

"(3) evaluate the effectiveness of programs under this part in accordance with section 14701, both in terms of the impact on students traditionally served in separate gifted and talented programs and on other students, and submit the results of such evaluation to Congress not later than January 1, 1998.

"(c) PROGRAM OPERATIONS.—The Secretary shall ensure that the programs under this part are administered within the Department by a person who has recognized professional qualifications and experience in the field of the education of gifted and talented students and who shall—

"(1) administer the programs authorized by this part;

"(2) coordinate all programs for gifted and talented students administered by the Department;

"(3) serve as a focal point of national leadership and information on the educational needs of gifted and talented students and the availability of educational services and programs designed to meet such needs; and

"(4) assist the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities which reflect the needs of gifted and talented students.

"SEC. 10207. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $10,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years to carry out the provisions of this part.

"PART C—PUBLIC CHARTER SCHOOLS

"SEC. 10301. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds that—

"(1) enhancement of parent and student choices among public schools can assist in promoting comprehensive educational reform and give more students the opportunity to learn to challenging State content standards and challenging State student performance standards, if sufficiently diverse and high-quality choices, and genuine opportunities to take advantage of such choices, are available to all students;

"(2) useful examples of such choices can come from States and communities that experiment with methods of offering teachers and other educators, parents, and other members of the public the opportunity to design and implement new public schools and to transform existing public schools;

"(3) charter schools are a mechanism for testing a variety of educational approaches and should, therefore, be exempted from restrictive rules and regulations if the leadership of such schools commits to attaining specific and ambitious educational results for educationally disadvantaged students consistent with challenging State content standards and challenging State student performance standards for all students;

"(4) charter schools, as such schools have been implemented in a few States, can embody the necessary mixture of enhanced choice, exemption from restrictive regulations, and a focus on learning gains;

"(5) charter schools, including charter schools that are schools-within-schools, can help reduce school size, which reduction can have a significant effect on student achievement;

"(6) the Federal Government should test, evaluate, and disseminate information on a variety of charter school models in order to help demonstrate the benefits of this promising educational reform; and

"(7) there is a strong documented need for cash flow assistance to charter schools that are starting up, because State and local operating revenue streams are not immediately available.

"(b) PURPOSE.—It is the purpose of this part to increase national understanding of the charter schools model by—

"(1) providing financial assistance for the design and initial implementation of charter schools; and

"(2) evaluating the effects of such schools, including the effects on students, student achievement, staff, and parents.

"SEC. 10302. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary may award grants to State educational agencies having applications approved pursuant to section 10303 to enable such agencies to conduct a charter school grant program in accordance with this part.

"(b) SPECIAL RULE.—If a State educational agency elects not to participate in the program authorized by this part or does not have an application approved under section 10303, the Secretary may award a grant to an eligible applicant that serves such State and has an application approved pursuant to section 10303(c).

"(c) PROGRAM PERIODS.—

"(1) GRANTS TO STATES.—Grants awarded to State educational agencies under this part shall be awarded for a period of not more than 3 years.

"(2) GRANTS TO ELIGIBLE APPLICANTS.—Grants awarded by the Secretary to eligible applicants or subgrants awarded by State educational agencies to eligible applicants under this part shall be awarded for a period of not more than 3 years, of which the eligible applicant may use—

"(A) not more than 18 months for planning and program design; and

"(B) not more than 2 years for the initial implementation of a charter school.

"(d) LIMITATION.—The Secretary shall not award more than one grant and State educational agencies shall not award more than one subgrant under this part to support a particular charter school.

"SEC. 10303. APPLICATIONS.

"(a) APPLICATIONS FROM STATE AGENCIES.—Each State educational agency desiring a grant from the Secretary under this part shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

"(b) CONTENTS OF A STATE EDUCATIONAL AGENCY APPLICATION.—Each application submitted pursuant to subsection (a) shall—

"(1) describe the objectives of the State educational agency's charter school grant program and a description of how such objectives will be fulfilled, including steps taken by the State educational agency to inform teachers, parents, and communities of the State educational agency's charter school grant program;

"(2) contain assurances that the State educational agency will require each eligible applicant desiring to receive a subgrant to submit an application to the State educational agency containing—

"(A) a description of the educational program to be implemented by the proposed charter school, including—

"(i) how the program will enable all students to meet challenging State student performance standards;

"(ii) the grade levels or ages of children to be served; and

"(iii) the curriculum and instructional practices to be used;

"(B) a description of how the charter school will be managed;

"(C) a description of—

"(i) the objectives of the charter school; and

"(ii) the methods by which the charter school will determine its progress toward achieving those objectives;

"(D) a description of the administrative relationship between the charter school and the authorized public chartering agency;

"(E) a description of how parents and other members of the community will be involved in the design and implementation of the charter school;

"(F) a description of how the authorized public chartering agency will provide for continued operation of the school once the Federal grant has expired, if such agency determines that the school has met the objectives described in subparagraph (C)(i);

"(G) a request and justification for waivers of any Federal statutory or regulatory provisions that the applicant believes are necessary for the successful operation of the charter school, and a description of any State or local rules, generally applicable to public schools, that will be waived for, or otherwise not apply to, the school;

"(H) a description of how the subgrant funds or grant funds, as appropriate, will be used, including a description of how such funds will be used in conjunction with other Federal programs administered by the Secretary;

"(I) a description of how students in the community will be—

"(i) informed about the charter school; and

"(ii) given an equal opportunity to attend the charter school;

"(J) an assurance that the eligible applicant will annually provide the Secretary and the State educational agency such information as may be required to determine if the charter school is making satisfactory progress toward

achieving the objectives described in subparagraph (C)(i);

"(K) an assurance that the applicant will cooperate with the Secretary and the State educational agency in evaluating the program assisted under this part; and

"(L) such other information and assurances as the Secretary and the State educational agency may require.

"(c) CONTENTS OF ELIGIBLE APPLICANT APPLICATION.—Each eligible applicant desiring a grant pursuant to section 10302(e)(1) or 10302(b) shall submit an application to the State educational agency or Secretary, respectively, at such time, in such manner, and accompanied by such information as the State educational agency or Secretary, respectively, may reasonably require.

"(d) CONTENTS OF APPLICATION.—Each application submitted pursuant to subsection (c) shall contain—

"(1) the information and assurances described in subparagraphs (A) through (L) of subsection (b)(3), except that for purposes of this subsection subparagraphs (I), (J), and (K) of such subsection shall be applied by striking "and the State educational agency" each place such term appears; and

"(2) contain assurances that the State educational agency—

"(A) will grant, or will obtain, waivers of State statutory or regulatory requirements; and

"(B) will assist each subgrantee in the State in receiving a waiver under section 10304(e);

"SEC. 10304. ADMINISTRATION.

"(a) SELECTION CRITERIA FOR STATE EDUCATIONAL AGENCIES.—The Secretary shall award grants to State educational agencies under this part on the basis of the quality of the applications submitted under section 10303(b), after taking into consideration such factors as—

"(1) the contribution that the charter schools grant program will make to assisting educationally disadvantaged and other students to achieving State content standards and State student performance standards and, in general, a State's education improvement plan;

"(2) the degree of flexibility afforded by the State educational agency to charter schools under the State's charter schools law;

"(3) the ambitiousness of the objectives for the State charter school grant program;

"(4) the quality of the strategy for assessing achievement of those objectives; and

"(5) the likelihood that the charter school grant program will meet those objectives and improve educational results for students.

"(b) SELECTION CRITERIA FOR ELIGIBLE APPLICANTS.—The Secretary shall award grants to eligible applicants under this part on the basis of the quality of the applications submitted under section 10303(c), after taking into consideration such factors as—

"(1) the quality of the proposed curriculum and instructional practices;

"(2) the degree of flexibility afforded by the State educational agency and, if applicable, the local educational agency to the charter school;

"(3) the extent of community support for the application;

"(4) the ambitiousness of the objectives for the charter school;

"(5) the quality of the strategy for assessing achievement of those objectives; and

"(6) the likelihood that the charter school will meet those objectives and improve educational results for students.

"(c) PEER REVIEW.—The Secretary, and each State educational agency receiving a grant under this part, shall use a peer review process to review applications for assistance under this part.

"(d) DIVERSITY OF PROJECTS.—The Secretary and each State educational agency receiving a grant under this part, shall award subgrants under this part in a manner that, to the extent possible, ensures that such grants and subgrants—

"(1) are distributed throughout different areas of the Nation and each State, including urban and rural areas; and

"(2) will assist charter schools representing a variety of educational approaches, such as approaches designed to reduce school size.

"(e) WAIVERS.—The Secretary may waive any statutory or regulatory requirement over which the Secretary exercises administrative authority except any such requirement relating to the elements of a charter school described in section 10306(1), if—

"(1) the waiver is requested in an approved application under this part; and

"(2) the Secretary determines that granting such a waiver will promote the purpose of this part.

"(f) USE OF FUNDS.—

"(1) STATE EDUCATIONAL AGENCIES.—Each State educational agency receiving a grant under this part shall use such grant funds to award subgrants to one or more eligible applicants in the State to enable such applicant to plan and implement a charter school in accordance with this part.

"(2) ELIGIBLE APPLICANTS.—Each eligible applicant receiving funds from the Secretary or a State educational agency shall use such funds to plan and implement a charter school in accordance with this part.

"(3) ALLOWABLE ACTIVITIES.—An eligible applicant receiving a grant or subgrant under this part may use the grant or subgrant funds only for—

"(A) post-award planning and design of the educational program, which may include—

"(i) refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and

"(ii) professional development of teachers and other staff who will work in the charter school; and

"(B) initial implementation of the charter school, which may include—

"(i) informing the community about the school;

"(ii) acquiring necessary equipment and educational materials and supplies;

"(iii) acquiring or developing curriculum materials; and

"(iv) other initial operational costs that cannot be met from State or local sources.

"(4) ADMINISTRATIVE EXPENSES.—Each State educational agency receiving a grant pursuant to this part may reserve not more than 5 percent of such grant funds for administrative expenses associated with the charter school grant program assisted under this part.

"(5) REVOLVING LOAN FUNDS.—Each State educational agency receiving a grant pursuant to this part may reserve not more than 20 percent of the grant amount for the establishment of a revolving loan fund. Such fund may be used to make loans to eligible applicants that have received a subgrant under this part, under such terms as may be determined by the State educational agency, for the initial operation of the charter school grant program of such recipient until such time as the recipient begins receiving ongoing operational support from State or local financing sources.

"SEC. 10305. NATIONAL ACTIVITIES.

"The Secretary may reserve not more than ten percent of the funds available to carry out this part for any fiscal year for—

"(1) peer review of applications under section 10304(c);

"(2) an evaluation of the impact of charter schools on student achievement, including those assisted under this part; and

"(3) other activities designed to enhance the success of the activities assisted under this part, such as—

"(A) development and dissemination of model State charter school laws and model contracts or other means of authorizing and monitoring the performance of charter schools; and

"(B) collection and dissemination of information on successful charter schools.

"SEC. 10306. DEFINITIONS.

"As used in this part:

"(1) The term 'charter school' means a public school that—

"(A) in accordance with an enabling State statute, is exempted from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph;

"(B) is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

"(C) operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;

"(D) provides a program of elementary or secondary education, or both;

"(E) is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

"(F) does not charge tuition;

"(G) complies with the Age Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, and part B of the Individuals with Disabilities Education Act;

"(H) admits students on the basis of a lottery, if more students apply for admission than can be accommodated;

"(I) agrees to comply with the same Federal and State audit requirements as do other elementary and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;

"(J) meets all applicable Federal, State, and local health and safety requirements; and

"(K) operates in accordance with State law.

"(2) The term 'developer' means an individual or group of individuals (including a public or private nonprofit organization), which may include teachers, administrators and other school staff, parents, or other members of the local community in which a charter school project will be carried out.

"(3) The term 'eligible applicant' means an authorized public chartering agency participating in a partnership with a developer to establish a charter school in accordance with this part.

"(4) The term 'authorized public chartering agency' means a State educational agency, local educational agency, or other public entity that has the authority pursuant to State law and approved by the Secretary to authorize or approve a charter school.

"SEC. 10307. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $15,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"PART D—ARTS IN EDUCATION

"Subpart 1—Arts Education

"SEC. 10401. SUPPORT FOR ARTS EDUCATION.

"(a) FINDINGS.—The Congress finds that—

"(1) the arts are forms of understanding and ways of knowing that are fundamentally important to education;

"(2) the arts are important to excellent education and to effective school reform;

"(3) the most significant contribution of the arts to education reform is the transformation of teaching and learning;

"(4) such transformation is best realized in the context of comprehensive, systemic education reform;

"(5) demonstrated competency in the arts for American students is among the National Education Goals;

"(6) participation in performing arts activities has proven to be an effective strategy for promoting the inclusion of persons with disabilities in mainstream settings;

"(7) opportunities in the arts have enabled persons of all ages with disabilities to participate more fully in school and community activities;

"(8) the arts can motivate at-risk students to stay in school and become active participants in the educational process; and

"(9) arts education should be an integral part of the elementary and secondary school curriculum.

"(b) PURPOSES.—The purposes of this subpart are to—

"(1) support systemic education reform by strengthening arts education as an integral part of the elementary and secondary school curriculum;

"(2) help ensure that all students have the opportunity to learn to challenging State content standards and challenging State student performance standards in the arts; and

"(3) support the national effort to enable all students to demonstrate competence in the arts in accordance with the National Education Goals.

"(c) ELIGIBLE RECIPIENTS.—In order to carry out the purposes of this subpart, the Secretary is authorized to award grants to, or enter into contracts or cooperative agreements with—

"(1) State educational agencies;

"(2) local educational agencies;

"(3) institutions of higher education;

"(4) museums and other cultural institutions; and

"(5) other public and private agencies, institutions, and organizations.

"(d) AUTHORIZED ACTIVITIES.—Funds under this subpart may be used for—

"(1) research on arts education;

"(2) the development of, and dissemination of information about, model arts education programs;

"(3) the development of model arts education assessments based on high standards;

"(4) the development and implementation of curriculum frameworks for arts education;

"(5) the development of model preservice and inservice professional development programs for arts educators and other instructional staff;

"(6) supporting collaborative activities with other Federal agencies or institutions involved in arts education, such as the National Endowment for the Arts, the Institute of Museum Services, the John F. Kennedy Center for the Performing Arts, Very Special Arts, and the National Gallery of Art;

"(7) supporting model projects and programs in the performing arts for children and youth through arrangements made with the John F. Kennedy Center for the Performing Arts;

"(8) supporting model projects and programs by Very Special Arts which assure the participation in mainstream settings in arts and education programs of individuals with disabilities;

"(9) supporting model projects and programs to integrate arts education into the regular elementary and secondary school curriculum; and

"(10) other activities that further the purposes of this subpart.

"(e) COORDINATION.—

"(1) IN GENERAL.—A recipient of funds under this subpart shall, to the extent possible, coordinate projects assisted under this subpart with appropriate activities of public and private cultural agencies, institutions, and organizations, including museums, arts education associations, libraries, and theaters.

"(2) SPECIAL RULE.—In carrying out this subpart, the Secretary shall coordinate with the National Endowment for the Arts, the Institute of Museum Services, the John F. Kennedy Center for the Performing Arts, Very Special Arts, and the National Gallery of Art.

"(f) AUTHORIZATION.—

"(1) IN GENERAL.—For the purpose of carrying out this subpart, there are authorized to be appropriated $11,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(2) SPECIAL RULE.—If the amount appropriated under paragraph (1) for any fiscal year is $9,000,000 or less, then such amount shall only be available to carry out the activities described in paragraphs (7) and (8) of subsection (d).

"Subpart 2—Cultural Partnerships for At-Risk Children and Youth

"SEC. 10411. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds:

"(1) With local school budget cuts there are inadequate arts and cultural programs available for children and youth in schools, especially at the elementary school level.

"(2) The arts promote progress in academic subjects as shown by research conducted by the National Endowment for the Arts.

"(3) Children and youth who receive instruction in the arts and humanities, or who are involved in cultural activities, remain in school longer and are more successful than children who do not receive such instruction.

"(4) Learning in the arts and humanities promotes progress in other academic subjects, and generates positive self-esteem and a greater sense of accomplishment in young people.

"(5) School-university and school-cultural institution partnerships that upgrade teacher training in the arts and humanities have significantly contributed to improved instruction and achievement levels of school-aged children.

"(6) Museum outreach, cultural activities and informal education for at-risk children and youth have contributed significantly to the educational achievement and enhanced interest in learning of at-risk children and youth.

"(7) The Goals 2000: Educate America Act, other legislation and local, State and national resources support the integration of the arts and humanities into the regular curriculum and school day for all children.

"(8) While all children benefit from instruction in the arts and the humanities, at-risk children and youth have a special, additional need for arts and cultural programs both in school and after school.

"(b) PURPOSE.—The purpose of this subpart is to make demonstration grants to eligible entities to improve the educational performance and future potential of at-risk children and youth by providing comprehensive and coordinated educational and cultural services.

"SEC. 10412. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized to award grants to eligible entities to pay the Federal share of the costs of the activities described in section 10413.

"(b) SPECIAL REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary shall award grants under this subpart only to programs designed to—

"(A) promote and enhance educational and cultural activities;

"(B) provide multi-year services to at-risk children and youth and to integrate community cultural resources into in-school and after-school educational programs;

"(C) provide integration of community cultural resources into the regular curriculum and school day;

"(D) focus school and cultural resources in the community on coordinated cultural services to address the needs of at-risk children and youth;

"(E) provide effective cultural programs to facilitate the transition from preschool programs to elementary school programs, including programs under the Head Start Act and part H of the Individuals with Disabilities Education Act;

"(F) facilitate school-to-work transition from secondary schools and alternative schools to job training, higher education and employment through educational programs and activities that utilize school resources;

"(G) increase parental and community involvement in the educational, social, and cultural development of at-risk children and youth; or

"(H)(i) develop programs and strategies that provide high-quality coordinated educational and cultural services; and

"(ii) provide a model to replicate such services in other schools and communities.

"(2) PARTNERSHIP.—An interagency partnership comprised of the Secretary of Education, the Chairman of the National Endowment for the Humanities, the Chairman of the National Endowment for the Arts, and the Director of the Institute of Museum Services, or their designees, shall establish criteria and procedures for awarding grants, including the establishment of panels to review the applications, and shall administer the grants program authorized by this section. The Secretary shall publish such criteria and procedures in the Federal Register.

"(3) COORDINATION.—Grants may only be awarded under this subpart to eligible entities that agree to coordinate activities carried out under other Federal, State, and local grants, received by the members of the partnership for purposes and target populations described in this subpart, into an integrated service delivery system located at a school, cultural, or other community-based site accessible to and utilized by at-risk youth.

"(4) ELIGIBLE ENTITIES.—For purposes of this subpart, the term 'eligible entity' means a partnership between—

"(A) a local educational agency or an individual school that is eligible to participate in a schoolwide program under section 1114; and

"(B) at least one institution of higher education, museum, local arts agency, or cultural entity that is accessible to individuals within the school district of such local educational agency or school, and that has a history of providing quality services to the community, which may include—

"(i) nonprofit institutions of higher education, museums, libraries, performing, presenting and exhibiting arts organizations, literary arts organizations, State and local arts organizations, cultural institutions, and zoological and botanical organizations; or

"(ii) private for-profit entities with a history of training children and youth in the arts.

"(5) GEOGRAPHIC DISTRIBUTION.—In awarding grants under this subpart the Secretary, to the extent feasible, shall ensure an equitable geographic distribution of such grants.

"(6) DURATION.—Grants made under this subpart may be renewable for a maximum of five years if the Secretary determines that the eligible recipient has made satisfactory progress toward the achievement of the program objectives described in the application.

"(7) MODELS.—The Secretary, in consultation with the Chairman of the National Endowment for the Humanities, the Chairman of the National Endowment for the Arts and the Director of the Institute of Museum Services, or their

designees, shall submit successful models under this title to the National Diffusion Network for review.

"(c) TARGET POPULATION.—To be eligible for a grant under this subpart, an eligible entity shall serve—

"(1) students enrolled in schools participating in a schoolwide program under section 1114 and the families of such students to the extent practicable;

"(2) out-of-school children and youth at risk of disadvantages resulting from teenage parenting, substance abuse, recent migration, disability, limited-English proficiency, illiteracy, being the child of a teenage parent, living in a single parent household, or dropping out of school; or

"(3) any combination of in-school and out-of-school at-risk children and youth.

"SEC. 10413. AUTHORIZED ACTIVITIES.

"(a) IN GENERAL.—Grants awarded under this subpart may be used—

"(1) to plan, develop, acquire, expand, and improve school-based or community-based coordinated educational and cultural programs to strengthen the educational performance and future potential of in-school or out-of-school at-risk children and youth through grants, cooperative agreements, contracts for services, or administrative coordination;

"(2) to provide at-risk students with integrated cultural activities designed to develop a love of learning that fosters the smooth transition of preschool children to elementary school;

"(3) to design collaborative cultural activities for students in secondary or alternative schools that ensure the smooth transition to job training, higher education, or full employment;

"(4) to provide child care for children of at-risk students who would not otherwise be able to participate in the program;

"(5) to provide transportation necessary for participation in the program;

"(6) to work with existing school personnel to develop curriculum materials and programs in the arts;

"(7) to work with existing school personnel on staff development activities that encourage the integration of the arts into the curriculum;

"(8) for stipends that allow local artists to work with at-risk children and youth in schools;

"(9) for training individuals who are not trained to work with children and youth;

"(10) for cultural programs that encourage the active participation of parents in the education of their children;

"(11) for programs that use the arts and culture to reform current school practices, including lengthening the school day or academic year;

"(12) for equipment or supplies that the Secretary determines appropriate; and

"(13) for evaluation, administration, and supervision.

"(b) PLANNING GRANTS.—

"(1) APPLICATION.—An eligible entity may submit an application to the Secretary for a planning grant for an amount not to exceed $50,000. Such grants shall be for periods of not more than one year.

"(2) LIMIT ON PLANNING GRANTS.—Not more than 10 percent of the amounts appropriated in each fiscal year under this subpart shall be used for grants under this subsection, and an eligible entity may receive not more than one such planning grant.

"(c) GENERAL PROVISIONS.—

"(1) IN GENERAL.—Each eligible entity desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

"(A) describe the cultural entity or entities that will participate in the partnership;

"(B) describe the target population to be served;

"(C) describe the services to be provided;

"(D) describe a plan for evaluating the success of the program;

"(E) in the case of each local educational agency or school participating in the eligible recipient partnership, describe how the activities assisted under this subpart will be perpetuated beyond the duration of the grant;

"(F) describe the manner in which the eligible entity will improve the educational achievement or future potential of at-risk youth through more effective coordination of cultural services in the community;

"(G) describe the overall and operational goals of the program;

"(H) describe the nature and location of all planned sites where services will be delivered and a description of services which will be provided at each site; and

"(I) describe training that will be provided to individuals who are not trained to work with children and youth, and how teachers will be involved.

"SEC. 10414. PAYMENTS; AMOUNTS OF AWARD; COST SHARE; LIMITATIONS.

"(a) PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall pay to each eligible recipient having an application approved under section 10413(c) the Federal share of the cost of the activities described in the application.

"(2) SPECIAL RULE.—(A) Grants awarded under this subpart shall be of sufficient size, scope, and quality to be effective.

"(B) The Secretary shall award grants under this subpart so as to ensure nonduplication of services provided by grant recipients and services provided by—

"(i) the National Endowment for the Humanities;

"(ii) the National Endowment for the Arts; and

"(iii) the Institute of Museum Services.

"(b) COST SHARE.—

"(1) FEDERAL SHARE.—The Federal share of a grant under this subpart shall be 80 percent of the cost of carrying out the activities described in the application.

"(2) NON-FEDERAL SHARE.—The non-Federal share of a grant under this subpart shall be 20 percent of the cost of carrying out the activities described in the application and may be in cash or in kind, fairly evaluated, including the provision of equipment, services, or facilities.

"(c) LIMITATIONS.—

"(1) NONINSTRUCTIONAL SERVICES.—Not more than 25 percent of the grant funds provided in any fiscal year under this subpart may be used for noninstructional activities such as the activities described in paragraphs (4), (5), and (12) of section 10413(a).

"(2) SUPPLEMENT AND NOT SUPPLANT.—Grant funds awarded under this part shall be used to supplement not supplant the amount of funds made available from non-Federal sources, for the activities assisted under this subpart, in amounts that exceed the amounts expended for such activities in the year preceding the year for which the grant is awarded.

"(3) ADMINISTRATIVE COSTS.—(A) The Secretary may reserve not more than five percent of the grant funds received under this subpart in each fiscal year for the costs of administration.

"(B) Each eligible recipient may reserve not more than 5 percent of any grant funds received under this subpart in each fiscal year for the costs of administration.

"SEC. 10415. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart, $45,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years.

"PART E—INEXPENSIVE BOOK DISTRIBUTION PROGRAM

"SEC. 10501. INEXPENSIVE BOOK DISTRIBUTION PROGRAM FOR READING MOTIVATION.

"(a) AUTHORIZATION.—The Secretary is authorized to enter into a contract with Reading is Fundamental (RIF) (hereafter in this section referred to as 'the contractor') to support and promote programs, which include the distribution of inexpensive books to students, that motivate children to read.

"(b) REQUIREMENTS OF CONTRACT.—Any contract entered into under subsection (a) shall—

"(1) provide that the contractor will enter into subcontracts with local private nonprofit groups or organizations, or with public agencies, under which each subcontractor will agree to establish, operate, and provide the non-Federal share of the cost of reading motivation programs that include the distribution of books, by gift, to the extent feasible, or loan, to children from birth through secondary school age, including those in family literacy programs;

"(2) provide that funds made available to subcontractors will be used only to pay the Federal share of the cost of such programs;

"(3) provide that in selecting subcontractors for initial funding, the contractor will give priority to programs that will serve a substantial number or percentage of children with special needs, such as—

"(A) low-income children, particularly in high-poverty areas;

"(B) children at risk of school failure;

"(C) children with disabilities;

"(D) foster children;

"(E) homeless children;

"(F) migrant children;

"(G) children without access to libraries;

"(H) institutionalized or incarcerated children; and

"(I) children whose parents are institutionalized or incarcerated;

"(4) provide that the contractor will provide such technical assistance to subcontractors as may be necessary to carry out the purpose of this section;

"(5) provide that the contractor will annually report to the Secretary the number of, and describe, programs funded under paragraph (3); and

"(6) include such other terms and conditions as the Secretary determines to be appropriate to ensure the effectiveness of such programs.

"(c) RESTRICTION ON PAYMENTS.—The Secretary shall make no payment of the Federal share of the cost of acquiring and distributing books under any contract under this section unless the Secretary determines that the contractor or subcontractor, as the case may be, has made arrangements with book publishers or distributors to obtain books at discounts at least as favorable as discounts that are customarily given by such publisher or distributor for book purchases made under similar circumstances in the absence of Federal assistance.

"(d) DEFINITION OF 'FEDERAL SHARE'.—For the purpose of this section, the term 'Federal share' means, with respect to the cost to a subcontractor of purchasing books to be paid under this section, 75 percent of such costs to the subcontractor, except that the Federal share for programs serving children of migrant or seasonal farmworkers shall be 100 percent of such costs to the subcontractor.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $10,300,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"PART F—CIVIC EDUCATION

"SEC. 10601. INSTRUCTION ON THE HISTORY AND PRINCIPLES OF DEMOCRACY IN THE UNITED STATES.

"(a) General Authority.—

"(1) Program established.—(A) The Secretary is authorized to carry out a program to enhance the attainment of the third and sixth National Education Goals by educating students about the history and principles of the Constitution of the United States, including the Bill of Rights, and to foster civic competence and responsibility.

"(B) Such program shall be known as 'We the People . . . The Citizen and the Constitution'.

"(2) Educational activities.—The program required by paragraph (1) shall—

"(A) continue and expand the educational activities of the 'We the People . . . The Citizen and the Constitution' program administered by the Center for Civic Education; and

"(B) enhance student attainment of challenging content standards in civics and government.

"(3) Contract or grant authorized.—The Secretary is authorized to award a grant or enter into a contract with the Center for Civic Education to carry out the program described in paragraph (1).

"(b) Program Content.—The education program authorized by this section shall provide—

"(1) a course of instruction on the basic principles of our Nation's constitutional democracy and the history of the Constitution and the Bill of Rights;

"(2) at the request of a participating school, school and community simulated congressional hearings following the course of study; and

"(3) an annual national competition of simulated congressional hearings for secondary students who wish to participate in such program.

"(c) Availability of Program.—The education program authorized by this section shall be made available to public and private elementary and secondary schools in the 435 congressional districts, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

"(d) Special Rule.—After the provisions of subsection (b) have been implemented, funds provided under this section may be used for—

"(1) advanced training of teachers about the United States Constitution and the political system the United States created; or

"(2) a course of instruction at the middle school level on the roles of State and local governments in the Federal system established by the Constitution, which course shall provide for—

"(A) optional school and community simulated State legislative hearings;

"(B) an annual competition of simulated legislative hearings at the State legislative district, State, and national levels for middle school students who wish to participate in the program; and

"(C) participation by public and private middle schools in the 50 States, the District of Columbia, Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands.

"SEC. 10602. INSTRUCTION IN CIVICS, GOVERNMENT, AND THE LAW.

"(a) Program Established.—The Secretary is authorized to carry out a program of awarding grants and contracts to assist State and local educational agencies and other public and private nonprofit agencies, organizations, and institutions to enhance—

"(1) attainment by students of challenging State content standards and challenging State student performance standards in civics, government, and the law; and

"(2) attainment by the Nation of the third and the sixth National Education Goals.

"(b) Authorized Activities.—Assistance under this section may support new and ongoing programs in elementary and secondary schools that provide for—

"(1) the development and implementation of curricular programs that enhance student understanding of—

"(A) the values and principles which underlie, and the institutions and processes which comprise, our Nation's system of government;

"(B) the role of law in our constitutional democracy, including activities to promote—

"(i) legal literacy;

"(ii) a dedication by students to the use of nonviolent means of conflict resolution such as arbitration, mediation, negotiation, trials, and appellate hearings; and

"(iii) respect for cultural diversity and acceptance of cultural differences; and

"(C) the rights and responsibilities of citizenship;

"(2) professional development for teachers, including preservice and inservice training;

"(3) outside-the-classroom learning experiences for students, including community service activities;

"(4) the active participation of community leaders, from the public and private sectors, in the schools; and

"(5) the provision of technical assistance to State and local educational agencies and other institutions and organizations working to further the progress of the Nation in attaining the third and sixth National Education Goals regarding civics and government.

"(c) Applications, Peer Review and Priority.—

"(1) Submission of applications.—A State or local educational agency, other public or private nonprofit agency, organization, or institution that desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(2) Peer review.—(A) The Secretary shall convene a panel of individuals for purpose of reviewing and rating applications submitted under paragraph (1).

"(B) Such individuals shall have experience with education programs in civics, government, and the law.

"(3) Priority.—In awarding grants or awarding contracts under this section, the Secretary shall give priority consideration to applications which propose the operation of statewide programs.

"(d) Duration of Grants and Exception.—

"(1) Duration.—Except as provided in paragraph (2), the Secretary shall award grants and contracts under this section for periods of two or three years.

"(2) Exception.—The Secretary may award a grant or a contract under this section for a period of less than 2 years if the Secretary determines that special circumstances exist which warrant a 1-year grant or contract award.

"SEC. 10603. REPORT; AUTHORIZATION OF APPROPRIATIONS.

"(a) Report.—The Secretary shall report, on a biennial basis to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate regarding the distribution and use of funds authorized under this part.

"(b) Authorization of Appropriations.—

"(1) General.—There are authorized to be appropriated to carry out this part $15,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(2) Allocation.—Except as provided in paragraph (3), from the amount appropriated under subsection (a), the Secretary shall allocate—

"(A) 40 percent of such amount to carry out section 10601; and

"(B) 60 percent of such amount to carry out section 10602.

"(3) Special rule.—From funds appropriated under paragraph (1), the Secretary shall make available for fiscal year 1995 and each succeeding fiscal year thereafter for the programs under section 16101 and 16102 not less than the amount made available for fiscal year 1994 to carry out such programs under section 4609 and 1562, respectively, of this Act (as such sections were in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994).

"PART G—ALLEN J. ELLENDER FELLOWSHIP PROGRAM

"SEC. 10701. FINDINGS.

"The Congress finds as follows:

"(1) It is a worthwhile goal to ensure that all students in America are prepared for responsible citizenship and that all students should have the opportunity to be involved in activities that promote and demonstrate good citizenship.

"(2) It is a worthwhile goal to ensure that America's educators have access to programs for the continued improvement of their professional skills.

"(3) Allen J. Ellender, a Senator from Louisiana and President pro tempore of the United States Senate, had a distinguished career in public service characterized by extraordinary energy and real concern for young people. Senator Ellender provided valuable support and encouragement to the Close Up Foundation, a nonpartisan, nonprofit foundation promoting knowledge and understanding of the Federal Government among young people and educators. Therefore, it is a fitting and appropriate tribute to Senator Ellender to provide fellowships in his name to students of limited economic means, the teachers who work with such students, and older Americans, so that such students, teachers, and older Americans may participate in the programs supported by the Close Up Foundation.

"Subpart 1—Program for Middle and Secondary School Students

"SEC. 10711. ESTABLISHMENT.

"(a) General Authority.—The Secretary is authorized to make grants in accordance with the provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of increasing understanding of the Federal Government among middle and secondary school students.

"(b) Use of Funds.—Grants under this subpart shall be used only to provide financial assistance to economically disadvantaged students who participate in the program described in subsection (a). Financial assistance received pursuant to this subpart by such students shall be known as Allen J. Ellender fellowships.

"SEC. 10712. APPLICATIONS.

"(a) Application Required.—No grant under this subpart may be made except upon an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(b) Contents of Application.—Each such application shall contain provisions to assure—

"(1) that fellowship grants are made to economically disadvantaged middle and secondary school students;

"(2) that every effort will be made to ensure the participation of students from rural and small town areas, as well as from urban areas, and that in awarding fellowships to economically disadvantaged students, special consideration will be given to the participation of students with special educational needs, including

student with disabilities, ethnic minority students, and gifted and talented students; and

"(3) the proper disbursement of the funds received under this subpart.

"Subpart 2—Program for Middle and Secondary School Teachers

"SEC. 10721. ESTABLISHMENT.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants in accordance with the provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of teaching skills enhancement for middle and secondary school teachers.

"(b) USE OF FUNDS.—Grants under this subpart shall be used only for financial assistance to teachers who participate in the program described in subsection (a). Financial assistance received pursuant to this subpart by such individuals shall be known as Allen J. Ellender fellowships.

"SEC. 10722. APPLICATIONS.

"(a) APPLICATION REQUIRED.—No grant under this subpart may be made except upon an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each such application shall contain provisions to assure—

"(1) that fellowship grants are made only to teachers who have worked with at least one student from such teacher's school who participates in the programs described in section 10711(a);

"(2) that not more than one teacher in each school participating in the programs provided for in section 10711(a) may receive a fellowship in any fiscal year; and

"(3) the proper disbursement of the funds received under this subpart.

"Subpart 3—Programs for Recent Immigrants, Students of Migrant Parents and Older Americans

"SEC. 10731. ESTABLISHMENT.

"(a) GENERAL AUTHORITY.—

"(1) IN GENERAL.—The Secretary is authorized to make grants in accordance with the provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of increasing understanding of the Federal Government among economically disadvantaged older Americans, recent immigrants and students of migrant parents.

"(2) DEFINITION.—For the purpose of this subpart, the term 'older American' means an individual who has attained 55 years of age.

"(b) USE OF FUNDS.—Grants under this subpart shall be used for financial assistance to economically disadvantaged older Americans, recent immigrants and students of migrant parents who participate in the program described in subsection (a). Financial assistance received pursuant to this subpart by such individuals shall be known as Allen J. Ellender fellowships.

"SEC. 10732. APPLICATIONS.

"(a) APPLICATION REQUIRED.—No grant under this subpart may be made except upon application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Except such application shall contain provisions to assure—

"(1) that fellowship grants are made to economically disadvantaged older Americans, recent immigrants and students of migrant parents.

"(2) that every effort will be made to ensure the participation of older Americans, recent immigrants and students of migrant parents from rural and small town areas, as well as from urban areas, and that in awarding fellowships, special consideration will be given to the participation of older Americans, recent immigrants and students of migrant parents with special needs, including individuals with disabilities, ethnic minorities, and gifted and talented students;

"(3) that activities permitted by subsection (a) are fully described; and

"(4) the proper disbursement of the funds received under this subpart.

"Subpart 4—General Provisions

"SEC. 10741. ADMINISTRATIVE PROVISIONS.

"(a) GENERAL RULE.—Payments under this part may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment.

"(b) AUDIT RULE.—The Comptroller General of the United States or any of the Comptroller General's duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to any grant under this part.

"SEC. 10742. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out the provisions of subparts 1, 2, and 3 of this part $4,400,000 for fiscal year 1995 and such sums as may be necessary of each of the four succeeding fiscal year.

"(b) SPECIAL RULE.—Of the funds appropriated pursuant to subsection (a), not more than 30 percent may be used for teachers associated with students participating in the programs described in section 10711(a).

"PART H—DE LUGO TERRITORIAL EDUCATION IMPROVEMENT PROGRAM

"SEC. 10801. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds that—

"(1) the attainment of a high quality education is important to a society and to each individual;

"(2) it is the policy of the United States that all citizens have a fair opportunity to receive a high quality education;

"(3) such opportunity should extend to United States citizens and nationals residing in the outlying areas;

"(4) reports show that the outlying areas have repeatedly placed last in national education tests which measure knowledge in core subject areas;

"(5) all students must realize their potential if the United States is to prosper; and

"(6) students in the outlying areas require additional assistance if such students are to obtain the high standards established for all students in the United States.

"(b) PURPOSES.—The purpose of this part is to authorize an education improvement program for the outlying areas which will assist in developing programs which will enhance student learning, increase the standard of education, and improve the performance levels of all students.

"SEC. 10802. GRANT AUTHORIZATION.

"The Secretary is authorized to make grants to the outlying areas to fund innovative education improvement programs which will increase student learning.

"SEC. 10803. CONSTRUCTION.

"No funds from a grant under section 10802 may be used for construction.

"SEC. 10804. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart $3,000,000 for each of the fiscal years 1994 through 1999.

"PART I—21ST CENTURY COMMUNITY LEARNING CENTERS

"SEC. 10901. SHORT TITLE.

"This part may be cited as the '21st Century Community Learning Centers Act'.

"SEC. 10902. FINDINGS.

"The Congress finds that—

"(1) a local public school often serves as a center for the delivery of education and human resources for all members of a community;

"(2) public schools, primarily in rural and inner city communities, should collaborate with other public and nonprofit agencies and organizations, local businesses, educational entities (such as vocational and adult education programs, school-to-work programs, community colleges, and universities), recreational, cultural, and other community and human service entities, for the purpose of meeting the needs of, and expanding the opportunities available to, the residents of the communities served by such schools;

"(3) by using school facilities, equipment, and resources, communities can promote a more efficient use of public education facilities, especially in rural and inner city areas where limited financial resources have enhanced the necessity for local public schools to become social service centers;

"(4) the high technology, global economy of the 21st century will require lifelong learning to keep America's workforce competitive and successful, and local public schools should provide centers for lifelong learning and educational opportunities for individuals of all ages; and

"(5) 21st Century Community Learning Centers enable the entire community to develop an education strategy that addresses the educational needs of all members of local communities.

"SEC. 10903. PROGRAM AUTHORIZATION.

"(a) GRANTS BY THE SECRETARY.—The Secretary is authorized, in accordance with the provisions of this part, to award grants to rural and inner-city public elementary or secondary schools, or consortia of such schools, to enable such schools or consortia to plan, implement, or to expand projects that benefit the educational, health, social service, cultural, and recreational needs of a rural or inner-city community.

"(b) EQUITABLE DISTRIBUTION.—In awarding grants under this part, the Secretary shall assure an equitable distribution of assistance among the States, among urban and rural areas of the United States, and among urban and rural areas of a State.

"(c) GRANT PERIOD.—The Secretary shall award grants under this part for a period not to exceed 3 years.

"(d) AMOUNT.—The Secretary shall not award a grant under this part in any fiscal year in an amount less than $35,000.

"SEC. 10904. APPLICATION REQUIRED.

"(a) APPLICATION.—To be eligible to receive a grant under this part, an elementary or secondary school or consortium shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably prescribe. Each such application shall include—

"(1) a comprehensive local plan that enables the school or consortium to serve as a center for the delivery of education and human resources for members of a community;

"(2) an evaluation of the needs, available resources, and goals and objectives for the proposed project in order to determine which activities will be undertaken to address such needs; and

"(3) a description of the proposed project, including—

"(A) a description of the mechanism that will be used to disseminate information in a manner

that is understandable and accessible to the community;

"(B) identification of Federal, State, and local programs to be merged or coordinated so that public resources may be maximized;

"(C) a description of the collaborative efforts to be undertaken by community-based organizations, related public agencies, businesses, or other appropriate organizations;

"(D) a description of how the school or consortium will serve as a delivery center for existing and new services, especially for interactive telecommunication used for education and professional training; and

"(E) an assurance that the school or consortium will establish a facility utilization policy that specifically states—

"(i) the rules and regulations applicable to building and equipment use; and

"(ii) supervision guidelines.

"(b) PRIORITY.—The Secretary shall give priority to applications describing projects that offer a broad selection of services which address the needs of the community.

"SEC. 10905. USES OF FUNDS.

"Grants awarded under this part may be used to plan, implement, or expand community learning centers which include not less than four of the following activities:

"(1) Literacy education programs.

"(2) Senior citizen programs.

"(3) Children's day care services.

"(4) Integrated education, health, social service, recreational, or cultural programs.

"(5) Summer and weekend school programs in conjunction with recreation programs.

"(6) Nutrition and health programs.

"(7) Expanded library service hours to serve community needs.

"(8) Telecommunications and technology education programs for individuals of all ages.

"(9) Parenting skills education programs.

"(10) Support and training for child day care providers.

"(11) Employment counseling, training, and placement.

"(12) Services for individuals who leave school before graduating from secondary school, regardless of the age of such individual.

"(13) Services for individuals with disabilities.

"SEC. 10906. DEFINITION.

"For the purpose of this part, the term 'community learning center' means an entity within a public elementary or secondary school building that—

"(1) provides educational, recreational, health, and social service programs for residents of all ages within a local community; and

"(2) is operated by a local educational agency in conjunction with local governmental agencies, businesses, vocational education programs, institutions of higher education, community colleges, and cultural, recreational, and other community and human service entities.

"SEC. 10907. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $20,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out this part.

"PART J—URBAN AND RURAL EDUCATION ASSISTANCE

"SEC. 10951. AUTHORIZATION OF APPROPRIATIONS.

"(a) DEMONSTRATION GRANTS.—

"(1) IN GENERAL.—There are authorized to be appropriated $125,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out subparts 1 and 2 (other than section 10975).

"(2) RESERVATION FOR SUBPART 1.—The Secretary shall reserve 50 percent of the amount appropriated under paragraph (1) to carry out subpart 1.

"(3) RESERVATION FOR SUBPART 2.—The Secretary shall reserve 50 percent of the amount appropriated under paragraph (1) to carry out subpart 2 (other than section 10975).

"(b) HIGHER EDUCATION GRANTS.—There are authorized to be appropriated $25,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years to carry out section 10975.

"(c) FEDERAL FUNDS TO SUPPLEMENT NOT SUPPLANT NON-FEDERAL FUNDS.—An eligible local educational agency may use funds received under this part only to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of students participating in activities assisted under this part, and in no such case may such funds be used to supplant funds from non-Federal sources.

"SEC. 10952. DEFINITIONS.

"Except as otherwise provided, for the purposes of this part:

"(1) CENTRAL CITY.—The term 'central city' has the same meaning used by the Bureau of the Census.

"(2) METROPOLITAN STATISTICAL AREA.—The term 'metropolitan statistical area' has the same meaning used by the Bureau of the Census.

"(3) POVERTY LEVEL.—The term 'poverty level' means the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census.

"(4) RURAL ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term 'rural eligible local educational agency' means a local educational agency—

"(A)(i) in which at least 15 percent of the children enrolled in the schools served by such agency are eligible to be counted under part A of title I; and

"(ii) which is not in a metropolitan statistical area; or

"(B) in which the total enrollment in the schools served by such agency is less than 2,500 students and that does not serve schools located in a metropolitan statistical area.

"(5) URBAN ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term 'urban eligible local educational agency' means a local educational agency that—

"(A) serves the largest central city in a State;

"(B) enrolls more than 30,000 students and serves a central city with a population of at least 200,000 in a metropolitan statistical area; or

"(C) enrolls between 25,000 and 30,000 students and serves a central city with a population of at least 140,000 in a metropolitan statistical area.

"Subpart 1—Urban Education Demonstration Grants

"SEC. 10961. FINDINGS.

"The Congress finds that—

"(1) the ability of the Nation's major urban public school systems to meet the Nation's educational goals will determine the country's economic competitiveness and academic standing in the world community;

"(2) the quality of public education in the Nation's major urban areas has a direct effect on the economic development of the Nation's inner-cities;

"(3) the success of urban public schools in boosting the achievement of its minority youth attending such schools will determine the ability of the Nation to close the gap between the 'haves and the have-nots' in society;

"(4) the cost to America's businesses to provide remedial education to high school graduates is approximately $21,000,000,000 per year;

"(5) approximately one-third of the Nation's workforce will be members of minority groups by the year 2000;

"(6) urban schools enroll a disproportionately large share of the Nation's poor and 'at-risk' youth;

"(7) urban schools enroll approximately one-third of Nation's poor, 40 percent of the Nation's African American children, and 30 percent of the Nation's Hispanic youth;

"(8) nearly 20 percent of the Nation's limited-English proficient children and 15 percent of the Nation's disabled youth are enrolled in urban public schools;

"(9) the academic performance of students in the average inner-city public school system is below that of students in most other kinds of school systems;

"(10) urban public school systems have higher dropout rates, more problems with health care, and less parental participation than other kinds of school systems;

"(11) urban preschoolers have one-half the access to early childhood development programs as do other children;

"(12) shortages of teachers in urban public school systems are 2.5 times greater than such shortages in other kinds of school systems;

"(13) declining numbers of urban minority high school graduates are pursuing postsecondary educational opportunities;

"(14) urban public school systems have greater problems with teenage pregnancy, discipline, drug abuse, and gangs than do other kinds of school systems;

"(15) 75 percent of urban public school buildings are over 25 years old, 33 percent of such buildings are over 50 years old, and such buildings are often in serious disrepair and create poor and demoralizing working and learning conditions;

"(16) solving the challenges facing our Nation's urban schools will require the concerted and collaborative efforts of all levels of government and all sectors of the community;

"(17) Federal and State funding of urban public schools has not adequately reflected need; and

"(18) Federal funding that is well-targeted, flexible, and accountable would contribute significantly to addressing the comprehensive needs of inner-city public schools.

"SEC. 10962. PURPOSE.

"It is the purpose of this subpart to provide financial assistance to—

"(1) assist urban public schools in meeting the National Education Goals;

"(2) improve the educational and social well-being of urban public school children;

"(3) close the achievement gap between urban and nonurban public school children, while improving the achievement level of all children nationally;

"(4) conduct coordinated research on urban public education problems, solutions, and promising practices;

"(5) improve the Nation's global economic and educational competitiveness by improving the Nation's urban schools; and

"(6) encourage community, parental, and business collaboration in the improvement of urban schools.

"SEC. 10963. URBAN SCHOOL GRANTS.

"(a) AUTHORITY.—The Secretary is authorized to make grants to eligible local educational agencies serving an urban area or State educational agencies in the case where the State educational agency is the local educational agency for activities designed to assist in local school improvement efforts and school reform, and to assist the schools of such agencies in meeting the National Education Goals.

"(b) AUTHORIZED ACTIVITIES.—Funds under this section may be used to—

"(1) increase the academic achievement of urban public school children to at least the national average, such as—

"(A) effective public schools programs;

"(B) tutoring, mentoring, and other activities to improve academic achievement directly;

"(C) activities designed to increase the participation of minority and female students in entry level and advanced courses in mathematics and science;

"(D) supplementary academic instruction;

"(E) efforts to improve problem-solving and higher-order thinking skills;

"(F) programs to increase student motivation for learning; and

"(G) efforts to lengthen the school day or school year, or to reduce class sizes;

"(2) ensure the readiness of all urban public school children for school, such as—

"(A) full workday, full calendar-year comprehensive early childhood development programs;

"(B) parenting classes and parent involvement activities;

"(C) activities designed to coordinate prekindergarten and child care programs;

"(D) efforts to integrate developmentally appropriate prekindergarten services into the overall public school program;

"(E) upgrading the qualifications of early childhood education staff and standards for programs;

"(F) collaborative efforts with health and social service agencies to provide comprehensive services and to facilitate the transition from home to school;

"(G) establishment of comprehensive child care centers in public secondary schools for students who are parents and their children; and

"(H) augmenting early childhood development programs to meet the special educational and cultural needs of limited-English-proficient preschool children;

"(3) increase the graduation rates of urban public school students to at least the national average, such as—

"(A) dropout prevention activities and support services for public school students at-risk of dropping out of school;

"(B) reentry, outreach, and support activities to recruit students who have dropped out of school to return to school;

"(C) development of systemwide policies and practices that encourage students to stay in school;

"(D) efforts to provide individualized student support, such as mentoring programs;

"(E) collaborative activities between schools, parents, community groups, agencies, and institutions of higher education aimed at preventing individuals from dropping out of school;

"(F) programs to increase student attendance; and

"(G) alternative programs for students, especially bilingual and special education students, who have dropped out of school or are at risk of dropping out of school;

"(4) prepare urban public school students to enter higher education, pursue careers, and exercise their responsibilities as citizens, such as—

"(A) activities designed to increase the number and percentages of students, particularly minority students, enrolling in postsecondary educational institutions after graduation from public secondary schools;

"(B) in-school youth employment, vocational education, and career education programs that improve the transition from school to work;

"(C) activities designed in collaboration with colleges and universities to assist urban public school graduates in completing higher education;

"(D) efforts to increase voter registration among eligible public secondary school students;

"(E) activities designed to promote community service and volunteerism among students, parents, teachers, and the community; and

"(F) civic education and other programs designed to enhance responsible citizenship and understanding of the political process;

"(5) recruit and retain qualified teachers, such as—

"(A) school-based management projects and activities;

"(B) programs designed to test efforts to increase the professionalization of teachers or to bring teachers up to national voluntary standards;

"(C) alternative routes to certification for qualified individuals from business, the military, and other fields;

"(D) efforts to recruit and retain teachers, particularly minority teachers, specializing in critical shortage areas, including early childhood teachers, mathematics and science teachers, and special education and bilingual teachers;

"(E) upgrading the skills of teacher aides and paraprofessionals to permit such individuals to become certified teachers;

"(F) activities specifically designed to increase the number of minority teachers in urban schools;

"(G) incentives for teachers to work in inner-city public schools; and

"(H) collaborative activities with urban universities to revise and upgrade teacher training programs;

"(6) provide for ongoing staff development to increase the professional capacities of the teaching staff and the skills of teacher aides and paraprofessionals;

"(7) decrease the use of drugs and alcohol among urban public school students and enhance the physical and emotional health of such students, such as—

"(A) activities designed to improve the self-esteem and self-worth of urban public school students;

"(B) the provision of health care services and other social services and the coordination of such services with other health care providers;

"(C) programs designed to improve safety and discipline and reduce in-school violence, vandalism, and gang activity;

"(D) activities that begin in the early grades and are designed to prevent drug and alcohol abuse and smoking among students and teachers;

"(E) collaborative activities with other agencies, businesses, and community groups to discourage the advertisement and glorification of drugs and alcohol;

"(F) efforts to enhance health education and nutrition education; and

"(G) alternative public schools, and schools-within-schools programs, including bilingual and special education programs for public school students with special needs; or

"(8) plan, develop, operate, or expand programs and activities that are designed to assist urban public schools in meeting the National Education Goals, including—

"(A) training of teachers and other educational personnel in subject areas, or in instructional technology and methods that will improve the delivery of services in urban settings and assist in the achievement of the National Education Goals, including staff development efforts that emphasize multicultural and gender and disability bias-free curricula;

"(B) coordination and collaboration with other municipal agencies, child care organizations, universities, or the private sector;

"(C) parental involvement and outreach efforts and other activities designed to enhance parental encouragement of student learning;

"(D) pupil services and other support services that contribute to progress in achieving National Education Goals;

"(E) efforts to acquire and improve access to educational technology;

"(F) assist the schools most in need of services by replicating successful efforts of other urban local educational agencies and expanding successful programs within the eligible agency; or

"(G) efforts to improve and strengthen the curriculum and coordinate services across grade levels.

"(c) APPLICATIONS.—

"(1) IN GENERAL.—An eligible local educational agency desiring to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonable require, consistent with this section.

"(2) DURATION.—An application submitted pursuant to paragraph (1) may be for a period of not more than five years.

"(d) PAYMENTS.—The Secretary shall make an award only to urban eligible local educational agencies that—

"(1) comply with the provisions of section 10966; and

"(2) demonstrate to the satisfaction of the Secretary that the data submitted pursuant to section 10961 shows progress toward meeting National Education Goals.

"(e) ADMINISTRATIVE COSTS.—Not more than five percent of any award made under this subpart may be used for administrative costs.

"SEC. 10964. SPECIAL RULES.

"(a) SPECIAL CONSIDERATION.—In making awards under this subpart, the Secretary shall give special consideration to urban eligible local educational agencies in which there is—

"(1) low achievement;

"(2) high poverty; and

"(3) racial isolation.

"(b) FLEXIBILITY.—Each urban eligible local educational agency shall have the flexibility to serve homeless children, children in schools undergoing desegregation, immigrants, migrants, or other highly mobile populations within the program assisted under this subpart.

"Subpart 2—Rural Education Demonstration Grants

"SEC. 10971. FINDINGS.

"The Congress finds that—

"(1) the ability of America's rural public school systems to meet the National Education Goals will contribute to the economic competitiveness and academic standing of the Nation in the world community;

"(2) approximately 60 percent of the Nation's public school districts are rural with a population of less than 2,500;

"(3) about 1 out of every 4 of America's rural school children are living below the poverty line;

"(4) the quality of public education in the rural areas of the Nation has a direct effect on the economic development of the rural communities of the Nation;

"(5) the success of rural public schools in boosting the achievement of minority youth attending such schools will determine the ability of the Nation to close the gap between the haves and the have-nots in society;

"(6) the academic performance of students in the average rural school system is below that of students in most other suburban school systems;

"(7) the average age of rural public school buildings is more than 45 years old and such buildings are often in serious disrepair, creating poor and demoralizing working and learning conditions;

"(8) shortages of teachers for rural public school systems is greater than in other kinds of school systems;

"(9) solving the challenges facing the Nation's rural public schools will require the concerted and collaborative efforts of all levels of government and all sectors of the community;

"(10) additional Federal funding would contribute significantly to addressing the comprehensive needs of rural schools;

"(11) rural public schools enroll a disproportionately large share of the Nation's poor and at-risk youth;

"(12) a declining number of rural public secondary school graduates are pursuing postsecondary education opportunities;

"(13) rural preschoolers have less access to early childhood development programs than other children; and

"(14) Federal and State funding of rural public schools has not adequately reflected need.

"SEC. 10972. PURPOSE.

"It is the purpose of this subpart to provide financial assistance to rural public schools most in need, to encourage the comprehensive restructuring of America's rural schools, the appropriate use of telecommunications technologies for learning, and to support innovative programs which improve performance through programs and projects designed to—

"(1) assist rural public schools in meeting National Education Goals;

"(2) encourage rural public schools to engage in school reform;

"(3) develop pilot projects that experiment with innovative ways to teach rural public school children more effectively;

"(4) improve the educational and social well-being of rural public school children;

"(5) close the achievement gap between children attending rural public schools and other children, while improving the achievement level of all children nationally;

"(6) conduct coordinated research on rural education problems, solutions, promising practices, and distance learning technologies;

"(7) improve the Nation's global economic and educational competitiveness by improving the Nation's rural public schools;

"(8) encourage community, parental, and business collaboration in the improvement of rural public schools;

"(9) encourage rural school consortia for the purpose of increasing efficiency and course offerings;

"(10) encourage a positive role for rural public schools in local rural entrepreneurship and the identification of rural community economic development opportunities;

"(11) encourage community-as-school concepts, which include the role public schools can play to assist with rural community economic revitalization; and

"(12) provide for the recruitment and meaningful inservice opportunities for rural public school teachers.

"SEC. 10973. RURAL SCHOOL GRANTS.

"(a) AUTHORITY.—The Secretary is authorized to make grants to rural eligible local educational agencies, or State educational agencies in the case where the State educational agency is the local educational agency, for activities designed to assist in local school improvement efforts.

"(b) AWARD RULES.—

"(1) LESS THAN $50,000,000.—If the amount made available to carry out this subpart for any fiscal year is less than $50,000,000, the Secretary shall award grants under this section on a competitive basis.

"(2) EQUAL TO OR GREATER THAN $50,000,000.—If the amount made available to carry out this subpart for any fiscal year is equal to or greater than $50,000,000, the Secretary shall award grants under this section so that a rural eligible local educational agency in each State receives such a grant.

"(c) ADMINISTRATIVE COSTS.—Not more than five percent of a grant awarded under section 10573 shall be used for administrative costs.

"(d) DURATION.—Each grant under this section shall be awarded for a period of not more than five years.

"SEC. 10974. USES OF FUNDS.

"(a) IN GENERAL.—Grant funds made available under section 10973 may be used by rural eligible local educational agencies to meet the National Education Goals through programs designed to—

"(1) increase the academic achievement of rural public school children to at least the national average of such achievement, including education reform initiatives, such as—

"(A) effective public schools programs;

"(B) tutoring, mentoring, and other activities to improve academic achievement directly;

"(C) supplementary academic instruction;

"(D) efforts to improve problem-solving and higher-order critical thinking skills; and

"(E) efforts to lengthen the school day, school year, or reduce class sizes;

"(2) develop pilot projects that experiment with innovative ways to teach rural public school children more effectively;

"(3) encourage the formation of rural school consortia for the purpose of increasing efficiency and course offerings;

"(4) provide meaningful inservice training opportunities for rural public school teachers;

"(5) assist rural schools in acquiring and improving access to educational technology, including distance learning technologies;

"(6) ensure the readiness of all rural children for school, such as—

"(A) full workday, full calendar-year comprehensive early childhood development programs;

"(B) parenting classes, including parenting classes for teenage parents, and parent involvement activities;

"(C) activities designed to coordinate prekindergarten and child care programs;

"(D) efforts to integrate developmentally appropriate prekindergarten services into the overall public school program;

"(E) improving the skills of early childhood education staff and standards for programs;

"(F) collaborative efforts with health and social service agencies to provide comprehensive services and to facilitate the transition from home to school;

"(G) establishment of comprehensive child care centers in public secondary schools for student parents and their children; and

"(H) augmenting early childhood development programs to meet the special educational and cultural needs of limited-English proficient children, children with disabilities, and migrant preschool children;

"(7) increase the graduation rates of rural public school students to at least the national average of such rate, when funds are used to serve secondary schools, such as—

"(A) dropout prevention activities and support services for students at-risk of dropping out of school;

"(B) reentry, outreach and support activities to recruit students who have dropped out of school to return to school;

"(C) development of systemwide policies and practices that encourage students to stay in school;

"(D) efforts to provide individualized student support;

"(E) collaborative activities between schools, parents, community groups, agencies, and institutions of higher education aimed at preventing individuals from dropping out of school;

"(F) programs to increase student attendance; and

"(G) alternative programs for students, especially bilingual, special education, and migrant students, who have dropped out of school or are at risk of dropping out of school;

"(8) prepare rural public school students to enter higher education, pursue careers, and exercise their responsibilities as citizens, such as—

"(A) activities designed to increase the number and percentages of students, enrolling in postsecondary educational institutions after graduation from secondary schools;

"(B) in-school youth employment, vocational education, and career education programs that improve the transition from school to work;

"(C) activities designed in collaboration with colleges and universities to assist rural public school graduates in completing higher education;

"(D) activities designed in conjunction with community colleges to provide a kindergarten through grade 14 experience for rural public school secondary school students;

"(E) efforts to increase voter registration among eligible public secondary school students attending schools served by rural eligible local educational agencies;

"(F) activities designed to promote community service and volunteerism among students, parents, teachers, and the community;

"(G) civic education, law-related education, and other programs designed to enhance responsible citizenship and understanding of the political process; and

"(H) encouraging a positive role for rural public schools in local rural entrepreneurship and the identification of rural community economic development opportunities;

"(9) recruit and retain qualified teachers, such as—

"(A) school-based management projects and activities;

"(B) programs designed to increase the status of the teaching profession;

"(C) alternative routes to certification for qualified individuals from business, the military, and other fields;

"(D) efforts to recruit and retain teachers in critical shortage areas, including early childhood teachers, mathematics and science teachers, foreign language teachers, and special education and bilingual teachers;

"(E) upgrading the skills of existing classroom teachers through the use of year-round, systematic, comprehensive inservice training programs;

"(F) upgrading the skills of teacher aides and paraprofessionals to assist such individuals in becoming certified teachers;

"(G) efforts specifically designed to increase the number of minority teachers in rural public schools;

"(H) programs designed to encourage parents and students to enter the teaching profession;

"(I) incentives for teachers to work in rural public schools;

"(J) collaborative activities with colleges and universities to revise and upgrade teacher training programs to meet the needs of rural public school students; and

"(K) training activities for the purpose of incorporating distance learning technologies; or

"(10) decrease the use of drugs and alcohol among rural public school students, and to enhance the physical and emotional health of such students, such as—

"(A) activities designed to improve the self-esteem and self-worth of rural students;

"(B) the provision of health care services and other social services and the coordination of such services with other health care providers;

"(C) programs designed to improve safety and discipline and reduce in-school violence and vandalism;

"(D) activities that begin in the early grades and are designed to prevent drug and alcohol abuse and smoking among students;

"(E) collaborative activities with other agencies, businesses, and community groups;

"(F) efforts to enhance health education and nutrition education; and

"(G) alternative public schools, and schools-within-schools programs, including bilingual, migrant, and special education programs for students with special needs.

"(b) APPLICATIONS.—Each eligible entity desiring a grant under section 10973 shall submit *an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. Each grant awarded under section 10973 shall be of sufficient size and scope to achieve significant rural school improvement.*

"SEC. 10975. HIGHER EDUCATION GRANTS.

"(a) GRANTS.—The Secretary is authorized to make grants to institutions of higher education, consortia of such institutions, or partnerships between institutions of higher education and local educational agencies to assist rural schools and rural eligible local educational agencies in undertaking local school improvement activities.

"(b) AUTHORIZED ACTIVITIES.—Grant funds under this section may be used to—

"(1) assist rural schools in meeting National Education Goals;

"(2) assist in the recruitment and training of teachers in rural schools;

"(3) assist rural schools in the development of appropriate innovative school improvement initiatives;

"(4) provide inservice training opportunities for teachers in rural schools; and

"(5) provide technical assistance in the use and installation of innovative telecommunications technology.

"(c) APPLICATIONS.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"Subpart 3—White House Conferences

"SEC. 10981. WHITE HOUSE CONFERENCE ON URBAN EDUCATION.

"(a) AUTHORIZATION TO CALL CONFERENCE.—

"(1) IN GENERAL.—The President is authorized to call and conduct a White House Conference on Urban Education (referred to in this section as the 'Conference') which shall be held not earlier than November 1, 1995, and not later than October 30, 1996.

"(2) PURPOSE.—The purpose of the Conference shall be to—

"(A) develop recommendations and strategies for the improvement of urban education;

"(B) marshal the forces of the private sector, governmental agencies at all levels, parents, teachers, communities, and education officials to assist urban public schools in achieving National Education Goals; and

"(C) conduct the initial planning for a permanent national advisory commission on urban education.

"(b) COMPOSITION OF CONFERENCE.—

"(1) IN GENERAL.—The Conference shall be comprised of 12 individuals, including—

"(A) representatives of urban public school systems, including members of the governing body of local educational agencies, and school superintendents;

"(B) representatives of the Congress, the Department of Education, and other Federal agencies;

"(C) State elected officials and representatives from State educational agencies; and

"(D) individuals with special knowledge of and expertise in urban education.

"(2) SELECTION.—The President shall select one-third of the participants of the Conference, the majority leader of the Senate, in consultation with the minority leader of the Senate, shall select one-third of such participants, and the Speaker of the House of Representatives, in consultation with the minority leader of the House, shall select the remaining one-third of such participants.

"(3) REPRESENTATION.—In selecting the participants of the Conference, the President, the Majority Leader of the Senate, and the Speaker of the House of the House of Representatives shall ensure that the participants are as representative of the ethnic, racial, and linguistic diversity of cities as is practicable.

"(c) REPORT.—

"(1) IN GENERAL.—Not later than 120 days following the termination of the Conference, a final report of the Conference, containing such findings and recommendations as may be made by the Conference, shall be submitted to the President. The final report shall be made public and, not later than 90 days after receipt by the President, transmitted to the Congress together with a statement of the President containing recommendations for implementing the report.

"(2) PUBLICATION AND DISTRIBUTION.—The Conference is authorized to publish and distribute the report described in this section. Copies of the report shall be provided to the Federal depository libraries and made available to local urban public school leaders.

"SEC. 10982. WHITE HOUSE CONFERENCE ON RURAL EDUCATION.

"(a) AUTHORIZATION TO CALL CONFERENCE.—

"(1) IN GENERAL.—The President is authorized to call and conduct a White House Conference on Rural Education (hereafter in this section referred to as the 'Conference').

"(2) DATE.—The Conference shall be held not earlier than November 1, 1995, and not later than October 30, 1996.

"(3) PURPOSE.—The purposes of the Conference shall be to—

"(A) develop recommendations and strategies for the improvement of rural public education;

"(B) marshal the forces of the private sector, governmental agencies at all levels, parents, teachers, communities, and education officials to assist rural public schools in achieving National Education Goals, and make recommendations on the roles rural public schools can play to assist with local rural community economic revitalization; and

"(C) conduct the initial planning for a permanent national commission on rural public education.

"(b) COMPOSITION OF CONFERENCE.—

"(1) IN GENERAL.—The Conference shall be comprised of—

"(A) representatives of eligible public school systems, including members of the governing body of local educational agencies, school superintendents, and classroom teachers;

"(B) representatives of the Congress, the Department, and other Federal agencies;

"(C) State elected officials and representatives from State educational agencies;

"(D) individuals with special knowledge of, and expertise in, rural education, including individuals involved with rural postsecondary education; and

"(E) individuals with special knowledge of, and expertise in, rural business.

"(2) SELECTION.—The President shall select one-third of the participants of the Conference, the Majority Leader of the Senate, in consultation with the Minority Leader of the Senate, shall select one-third of such participants, and the Speaker of the House of Representatives, in consultation with the Minority Leader of the House, shall select the remaining one-third of such participants.

"(3) REPRESENTATION.—In selecting the participants of the Conference, the President, the Majority Leader of the Senate, and the Speaker of the House of Representatives shall ensure that the participants are as representative of the ethnic, racial, and language diversity of rural areas as is practicable.

"(c) REPORT.—

"(1) IN GENERAL.—Not later than 120 days following the termination of the Conference, a final report of the Conference, containing such findings and recommendations as may be made by the Conference, shall be submitted to the President. The final report shall be made public and, not later than 90 days after receipt by the President, transmitted to the Congress together with a statement of the President containing recommendations for implementing the report.

"(2) PUBLICATION AND DISTRIBUTION.—The Conference is authorized to publish and distribute the report described in this section. Copies of the report shall be provided to the Federal depository libraries and made available to local rural school leaders and teachers.

"PART K—NATIONAL WRITING PROJECT

"SEC. 10991. FINDINGS.

"The Congress finds that—

"(1) the United States faces a crisis in writing in schools and in the workplace;

"(2) the writing problem has been magnified by the rapidly changing student populations and the growing number of at-risk students due to limited English proficiency;

"(3) over the past two decades, universities and colleges across the country have reported increasing numbers of entering freshmen who are unable to write at a level equal to the demands of college work;

"(4) American businesses and corporations are concerned about the limited writing skills of entry-level workers, and a growing number of executives are reporting that advancement was denied to them due to inadequate writing abilities;

"(5) the writing problem has been magnified by the rapidly changing student populations in the Nation's schools and the growing number of students who are at risk because of limited English proficiency;

"(6) writing and reading are both fundamental to learning, yet writing has been historically neglected in the schools and colleges, and most teachers in the United States elementary schools, secondary schools, and colleges have not been trained to teach writing;

"(7) since 1973, the only national program to address the writing problem in the Nation's schools has been the National Writing Project, a network of collaborative university-school programs whose goal is to improve the quality of student writing and the teaching of writing at all grade levels and to extend the uses of writing as a learning process through all disciplines;

"(8) the National Writing Project offers summer and school year inservice teacher training programs and a dissemination network to inform and teach teachers of developments in the field of writing;

"(9) the National Writing Project is a nationally recognized and honored nonprofit organization that recognizes that there are teachers in every region of the country who have developed successful methods for teaching writing and that such teachers can be trained and encouraged to train other teachers;

"(10) the National Writing Project has become a model for programs to improve teaching in such other fields as mathematics, science, history, literature, performing arts, and foreign languages;

"(11) the National Writing Project teacher-teaching-teachers program identifies and promotes what is working in the classrooms of the Nation's best teachers;

"(12) the National Writing Project teacher-teaching-teachers project is a positive program that celebrates good teaching practices and good teachers and through its work with schools increases the Nation's corps of successful classroom teachers;

"(13) evaluations of the National Writing Project document the positive impact the project has had on improving the teaching of writing, student performance, and student thinking and learning ability;

"(14) the National Writing Project programs offer career-long education to teachers, and teachers participating in the National Writing Project receive graduate academic credit;

"(15) each year over 100,000 teachers voluntarily seek training in National Writing Project

intensive summer institutes and workshops and school year in-service programs through one of the 154 regional sites located in 45 States, the Commonwealth of Puerto Rico, and in 4 sites that serve United States teachers in United States dependent and independent schools;

“(16) 250 National Writing Project sites are needed to establish regional sites to serve all teachers;

“(17) private foundation resources, although generous in the past, are inadequate to fund all of the National Writing Project sites needed and the future of the program is in jeopardy without secure financial support;

“(18) independent evaluation studies have found the National Writing Project to be highly cost effective compared to other professional development programs for teachers; and

“(19) during 1991, the first year of Federal support for the National Writing Project, the National Writing Project matched the $1,951,975 in Federal support with $9,485,504 in matching funds from State, local, and other sources.

“SEC. 10992. NATIONAL WRITING PROJECT.

“(a) AUTHORIZATION.—The Secretary is authorized to make a grant to the National Writing Project (hereafter in this section referred to as the ‘grantee’), a nonprofit educational organization which has as its primary purpose the improvement of the quality of student writing and learning, and the teaching of writing as a learning process in the Nation's classrooms—

“(1) to support and promote the establishment of teacher training programs, including the dissemination of effective practices and research findings regarding the teaching of writing and administrative activities;

“(2) to support classroom research on effective teaching practice and to document student performance;

“(3) to coordinate activities assisted under this section with activities assisted under title II; and

“(4) to pay the Federal share of the cost of such programs.

“(b) REQUIREMENTS OF GRANT.—The grant shall provide that—

“(1) the grantee will enter into contracts with institutions of higher education or other nonprofit educational providers (hereafter in this section referred to as ‘contractors’) under which the contractors will agree to establish, operate, and provide the non-Federal share of the cost of teacher training programs in effective approaches and processes for the teaching of writing;

“(2) funds made available by the Secretary to the grantee pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating teacher training programs as provided in paragraph (1); and

“(3) the grantee will meet such other conditions and standards as the Secretary determines to be necessary to assure compliance with the provisions of this section and will provide such technical assistance as may be necessary to carry out the provisions of this section.

“(c) TEACHER TRAINING PROGRAMS.—The teacher training programs authorized in subsection (a) shall—

“(1) be conducted during the school year and during the summer months;

“(2) train teachers who teach grades kindergarten through college;

“(3) select teachers to become members of a National Writing Project teacher network whose members will conduct writing workshops for other teachers in the area served by each National Writing Project site; and

“(4) encourage teachers from all disciplines to participate in such teacher training programs.

“(d) FEDERAL SHARE.—

“(1) IN GENERAL.—Except as provided in paragraph (2) or (3) and for purposes of subsection (a), the term ‘Federal share’ means, with respect to the costs of teacher training programs authorized in subsection (a), 50 percent of such costs to the contractor.

“(2) WAIVER.—The Secretary may waive the provisions of paragraph (1) on a case-by-case basis if the National Advisory Board described in subsection (f) determines, on the basis of financial need, that such waiver is necessary.

“(3) MAXIMUM.—The Federal share of the costs of teacher training programs conducted pursuant to subsection (a) may not exceed $40,000 for any one contractor, or $200,000 for a statewide program administered by any one contractor in at least five sites throughout the State.

“(e) CLASSROOM TEACHER GRANTS.—

“(1) IN GENERAL.—The National Writing Project may reserve an amount not to exceed 5 percent of the amount appropriated pursuant to the authority of this section to make grants, on a competitive basis, to elementary and secondary school teachers to pay the Federal share of the cost of enabling such teachers to—

“(A) conduct classroom research;

“(B) publish models of student writing;

“(C) conduct research regarding effective practices to improve the teaching of writing; and

“(D) conduct other activities to improve the teaching and uses of writing.

“(2) SUPPLEMENT AND NOT SUPPLANT.—Grants awarded pursuant to paragraph (1) shall be used to supplement and not supplant State and local funds available for the purposes set forth in paragraph (1).

“(3) MAXIMUM GRANT AMOUNT.—Each grant awarded pursuant to this subsection shall not exceed $2,000.

“(4) FEDERAL SHARE.—For the purpose of this subsection the term ‘Federal share’ means, with respect to the costs of activities assisted under this subsection, 50 percent of such costs to the elementary or secondary school teacher.

“(f) NATIONAL ADVISORY BOARD.—

“(1) ESTABLISHMENT.—The National Writing Project shall establish and operate a National Advisory Board.

“(2) COMPOSITION.—The National Advisory Board established pursuant to paragraph (1) shall consist of—

“(A) national educational leaders;

“(B) leaders in the field of writing; and

“(C) such other individuals as the National Writing Project deems necessary.

“(3) DUTIES.—The National Advisory Board established pursuant to paragraph (1) shall—

“(A) advise the National Writing Project on national issues related to student writing and the teaching of writing;

“(B) review the activities and programs of the National Writing Project; and

“(C) support the continued development of the National Writing Project.

“(g) EVALUATION.—

“(1) IN GENERAL.—The Secretary shall conduct an independent evaluation by grant or contract of the teacher training programs administered pursuant to this Act in accordance with section 14701. Such evaluation shall specify the amount of funds expended by the National Writing Project and each contractor receiving assistance under this section for administrative costs. The results of such evaluation shall be made available to the appropriate committees of the Congress.

“(2) FUNDING LIMITATION.—The Secretary shall reserve not more than $150,000 from the total amount appropriated pursuant to the authority of subsection (i) for fiscal year 1994 and the four succeeding fiscal years to conduct the evaluation described in paragraph (1).

“(h) APPLICATION REVIEW.—

“(1) REVIEW BOARD.—The National Writing Project shall establish and operate a National Review Board that shall consist of—

“(A) leaders in the field of research in writing; and

“(B) such other individuals as the National Writing Project deems necessary.

“(2) DUTIES.—The National Review Board shall—

“(A) review all applications for assistance under this subsection; and

“(B) recommend applications for assistance under this subsection for funding by the national Writing Project.

“(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the grant to the National Writing Project, $4,000,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years, to carry out the provisions of this section.

“PART L—THE EXTENDED TIME FOR LEARNING AND LONGER SCHOOL YEAR

“SEC. 10993. THE EXTENDED TIME FOR LEARNING AND LONGER SCHOOL YEAR.

“(a) FINDINGS.—The Congress finds that—

“(1) the Commission on Time and Learning has found that—

“(A) realizing the third National Education Goal, that states all students will leave grades four, eight and twelve having demonstrated competency in challenging subject matter, including English, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography, will require considerably more common core learning time than most students now receive;

“(B) ensuring that all students learn to high standards will require flexibility and innovation in the use of common core learning time, as well as the rest of the time students spend both during and beyond the school day;

“(C) teachers need regular, sustained time for lesson development, collegial collaboration and other professional development;

“(D) schools, businesses, community-based organizations, tribal leaders, and other community agencies and members should work together to foster effective learning and enrichment programs and activities for students, including programs that operate outside of the regular school day or year;

“(E) for most students in the United States, the school year is 180 days long. In Japan students go to school 243 days per year, in Germany students go to school 240 days per year, in Austria students go to school 216 days per year, in Denmark students go to school 200 days per year, and in Switzerland students go to school 195 days per year; and

“(F) in the final four years of schooling, students in schools in the United States are required to spend a total of 1,460 hours on core academic subjects, less than half of the 3,528 hours so required in Germany, the 3,280 hours so required in France, and the 3,170 hours so required in Japan;

“(2) increasing the amount and duration of intensive, engaging and challenging learning activities geared to high standards can increase student motivation and achievement;

“(3) the benefits of extending learning time, including common core instructional time, can be maximized by concurrent changes in curriculum and instruction, such as accelerated learning, and engaging, interactive instruction based on challenging content;

“(4) maximizing the benefit of increased common core and other learning time will require the collaboration and cooperation of teachers and administrators, students, parents, community members and organizations, businesses and others to develop strategies to meet the needs of students during and beyond the school day and year;

“(5) a competitive world economy requires that students in the United States receive education and training that is at least as rigorous

and high-quality as the education and training received by students in competitor countries;

"(6) despite our Nation's transformation from a farm-based economy to one based on manufacturing and services, the school year is still based on the summer needs of an agrarian economy;

"(7) American students' lack of formal schooling is not counterbalanced with more homework. The opposite is true, as half of all European students report spending at least two hours on homework per day, compared to only 29 percent of American students. Twenty-two percent of American students watch five or more hours of television per day, while less than eight percent of European students watch that much television;

"(8) more than half of teachers surveyed in the United States cite 'children who are left on their own after school' as a major problem;

"(9) over the summer months, disadvantaged students not only fail to advance academically, but many forget much of what such students had learned during the previous school year;

"(10) funding constraints as well as the strong pull of tradition have made extending the school year difficult for most States and school districts; and

"(11) experiments with extended and multitrack school years have been associated with both increased learning and more efficient use of school facilities.

"(b) PURPOSES.—It is the purpose of this part to—

"(1) provide seed money to schools and local educational agencies to enable such agencies to devise and implement strategies and methods for upgrading the quality of, and extending, challenging, engaging learning time geared to high standards for all students; and

"(2) allow the Secretary to provide financial incentives and assistance to States or local educational agencies to enable such States or agencies to substantially increase the amount of time that students spend participating in quality academic programs, and to promote flexibility in school scheduling.

"(c) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized to award grants to local educational agencies having applications approved under subsection (d) to enable such agencies to carry out the authorized activities described in subsection (e) in public elementary and secondary schools.

"(2) AMOUNT.—The Secretary shall, to the extent practicable, provide an equitable distribution of grants under this section.

"(3) DURATION.—Each grant under subsection (a) shall be awarded for a period of not more than three years.

"(4) PRIORITY.—The Secretary shall give priority to awarding grants under this part to local educational agencies that serve schools with high percentages of students in poverty.

"(d) APPLICATION.—Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall describe—

"(1) the activities for which assistance is sought;

"(2) any study or other information-gathering project for which funds will be used;

"(3) strategies and methods the applicant will use to enrich and extend learning time for all students and to maximize the percentage of common core learning time in the school day, such as block scheduling, team teaching, longer school days or years, and extending learning time through new distance-learning technologies;

"(4) the strategies and methods the applicant will use, including changes in curriculum and instruction, to challenge and engage students and to maximize the productiveness of common core learning time, as well as the total time students spend in school and in school-related enrichment activities;

"(5) the strategies and methods the applicant intends to employ to provide continuing financial support for the implementation of any extended school day or school year;

"(6) with respect to any application seeking assistance for activities described under subsection (e)(4), a description of any feasibility or other studies demonstrating the sustainability of a longer school year;

"(7) the extent of involvement of teachers and other school personnel in investigating, designing, implementing and sustaining the activities assisted under this part;

"(8) the process to be used for involving parents and other stakeholders in the development and implementation of the activities assisted under this part;

"(9) any cooperation or collaboration among public housing authorities, libraries, businesses, museums, community-based organizations, and other community groups and organizations to extend engaging, high-quality, standards-based learning time outside of the school day or year, at the school or at some other site;

"(10) the training and professional development activities that will be offered to teachers and others involved in the activities assisted under this part;

"(11) the goals and objectives of the activities assisted under this part, including a description of how such activities will assist all students to reach State standards;

"(12) the methods by which the applicant will assess progress in meeting such goals and objectives; and

"(13) how the applicant will use funds provided under this part in coordination with other funds provided under this Act or other Federal laws.

"(e) AUTHORIZED ACTIVITIES.—Funds under this section may be used—

"(1) to study the feasibility of, and effective methods for, extending learning time within or beyond the school day or year, including consultation with other schools or local educational agencies that have designed or implemented extended learning time programs;

"(2) to conduct outreach to and consult with community members, including parents, students, and other stakeholders, such as tribal leaders, to develop a plan to extend learning time within or beyond the school day or year;

"(3) to develop and implement an outreach strategy that will encourage collaboration with public housing authorities, libraries, businesses, museums, community-based organizations, and other community groups and organizations to coordinate challenging, high-quality educational activities outside of the school day or year;

"(4) to support public school improvement efforts that include expansion of time devoted to core academic subjects and the extension of the school year to 210 days;

"(5) to research, develop and implement strategies, including changes in curriculum and instruction, for maximizing the quality and percentage of common core learning time in the school day and extending learning time during or beyond the school day or year;

"(6) to provide professional development for school staff in innovative teaching methods that challenge and engage students, and also increase the productivity of extended learning time; and

"(7) to develop strategies to include parents, business representatives, and other community members in the extended time activities, especially as facilitators of activities that enable teachers to have more time for planning, individual student assistance, and professional development activities.

"(f) DEFINITIONS.—For the purpose of this section the term 'common core learning time' means high-quality, engaging instruction in challenging content in each of the following core academic subjects described in the third National Education Goal:

"(1) English.

"(2) Mathematics.

"(3) Science.

"(4) Foreign languages.

"(5) Civics and government.

"(6) Economics.

"(7) Arts.

"(8) History.

"(9) Geography.

"(g) ADMINISTRATION.—

"(1) PEER REVIEW.—The Secretary shall award grants under this section pursuant to a peer review process.

"(2) DIVERSITY.—In awarding grants under this section the Secretary shall ensure that such grants are awarded to a diversity of local educational agencies, including such agencies that serve rural and urban areas.

"(h) APPROPRIATIONS AUTHORIZATION.—

"(1) IN GENERAL.—For the purpose of carrying out this section there are authorized to be appropriated $90,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(2) LIMITATION.—Not less than 80 percent of any amount appropriated under paragraph (1) shall be made available to applicants seeking to extend their school year to not fewer than 210 days.

"PART M—TERRITORIAL ASSISTANCE

"SEC. 10995. GENERAL ASSISTANCE FOR THE VIRGIN ISLANDS.

"There are authorized to be appropriated $5,000,000 for fiscal year 1995 and for each of the 4 succeeding fiscal years, for the purpose of providing general assistance to improve public education in the Virgin Islands.

"TITLE XI—COORDINATED SERVICES

"SEC. 11001. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds the following:

"(1) Growing numbers of children are negatively affected by influences outside of the classroom which increase such children's risk of academic failure.

"(2) Factors such as poor nutrition, unsafe living conditions, physical and sexual abuse, family and gang violence, inadequate health care, unemployment, lack of child care, and substance abuse, adversely affect family relationships and the ability of a child to learn.

"(3) Parents and other caregivers in today's high pressure society often face demands which place restraints on such parents' and caregivers' time and affect such parents' and caregivers' ability to adequately provide for the needs of the families of such parents and caregivers.

"(4) Access to health and social service programs can address the basic physical and emotional needs of children so that children can fully participate in the learning experiences offered children in school.

"(5) Services for at-risk students need to be more convenient, and less fragmented, regulated and duplicative, in order to meet the needs of children and their families.

"(6) School personnel, parents, and support service providers often lack knowledge of, and access to, available services for at-risk students and their families in the community, and have few resources to coordinate services and make services accessible.

"(7) Service providers, such as teachers, social workers, health care and child care providers, juvenile justice workers and others, are often

trained in separate disciplines that provide little support for the coordination of services.

"(8) Coordination of services is more cost effective because such coordination substitutes prevention for expensive crisis intervention.

"(9) Coordinating health and social services with education can help the Nation meet the National Education Goals by ensuring better outcomes for children.

"(b) PURPOSE OF COORDINATING SERVICES.—The purpose of this title is to provide elementary and secondary school students and their families better access to the social, health and education services necessary for students to succeed in school and for their families to take an active role in ensuring that such students receive the best possible education.

"SEC. 11002. DEFINITIONS.

"For the purpose of this title—

"(1) the term 'coordinated services project' means a comprehensive approach to meeting the educational, health, social service, and other needs of children and their families, including foster children and their foster families, through a communitywide partnership that links public and private agencies providing such services or access to such services through a coordination site at or near a school; and

"(2) the term 'eligible entity' means a local educational agency, school, or a consortium of schools.

"SEC. 11003. AUTHORITY.

"In order to use funds made available under section 14206(b) for the development, or the implementation or expansion, of a coordinated service project an eligible entity shall have an application approved under subsection (b) or (c), respectively, of section 11004.

"SEC. 11004. PROJECT DEVELOPMENT AND IMPLEMENTATION.

"(a) APPLICATIONS.—Each eligible entity desiring to use funds made available under section 14206(b) shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(b) PROJECT DEVELOPMENT PLAN.—The application for the development of the coordinated services project under this title shall cover a period of not more than 1 year and shall include a plan that—

"(1) demonstrates that an assessment will be performed of the economic, social, and health barriers to educational achievement experienced by children and families, including foster children and their foster families, in the community, and the local, State, Federal, and privately funded services available to meet such needs;

"(2) identifies the measures that will be taken to establish a communitywide partnership that links public and private agencies providing services to children and families; and

"(3) identifies any other measures that will be taken to develop a comprehensive plan for the implementation or expansion of a coordinated services project.

"(c) PROJECT IMPLEMENTATION OR EXPANSION PLAN.—The application for the implementation or expansion of a coordinated services project under this title shall contain a plan that includes—

"(1) the results of a children and families needs assessment, which shall include an assessment of the needs of foster children;

"(2) a description of the entities operating the coordinated services project;

"(3) a description of the proposed coordinated services project, the objectives of such project, where such project will be located, and the staff that will be used to carry out such project;

"(4) a description of how the success of the coordinated services project will be evaluated;

"(5) a description of the training to be provided to teachers and appropriate personnel;

"(6) information regarding whether a sliding scale fee for services will be employed, and if not, an explanation of why such scale is not feasible; and

"(7) when applicable, strategies to ensure that the health and welfare needs of migratory families are addressed.

"SEC. 11005. USES OF FUNDS.

"(a) USES.—

"(1) IN GENERAL.—Funds made available under section 14206(b) may be used for planning for, or the implementation or expansion of, activities which include—

"(A) hiring a services coordinator;

"(B) making minor renovations to existing buildings;

"(C) purchasing basic operating equipment;

"(D) improving communications and information-sharing among entities participating in the coordinated services project;

"(E) providing training to teachers and appropriate personnel concerning such teacher's and personnel's role in a coordinated services project; or

"(F) conducting the needs assessment required in section 11004(b)(1).

"(2) PROHIBITION.—Funds made available under section 14206(b) shall not be used for the direct provision of any health or health-related services.

"(b) FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT, NON-FEDERAL FUNDS.—An eligible entity shall use funds received under this title only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for coordinated services, and not to supplant such funds.

"SEC. 11006. CONTINUING AUTHORITY.

"The Secretary shall prohibit an eligible entity from using funds made available under section 14206(b) if the Secretary determines that the coordinated services project assisted under this title is not achieving effective coordination after two years of implementation of such project.

"SEC. 11007. FEDERAL AGENCY COORDINATION.

"(a) AGENCY COORDINATION.—The Secretaries of Education, Health and Human Services, Labor, Housing and Urban Development, Treasury, and Agriculture, and the Attorney General shall review the programs administered by their agencies to identify barriers to service coordination.

"(b) REPORT TO CONGRESS.—Such Secretaries and the Attorney General shall submit jointly a report to the Congress not later than two years after the date of the enactment of the Improving America's Schools Act of 1994, based on the review required under subsection (a) recommending legislative and regulatory action to address such barriers, and during the time preceding the submission of such report, shall use waiver authorities authorized under this and other Acts to address such barriers.

"TITLE XII—SCHOOL FACILITIES INFRASTRUCTURE IMPROVEMENT ACT

"SEC. 12001. SHORT TITLE.

"This title may be cited as the 'Education Infrastructure Act of 1994'.

"SEC. 12002. FINDINGS.

"The Congress finds the following:

"(1) According to a 1991 survey conducted by the American Association of School Administrators, 74 percent of all public school buildings in the United States need to be replaced.

"(2) Almost one-third of such buildings were built prior to World War II.

"(3) It is estimated that one of every four public school buildings in the United States is in inadequate condition, and of such buildings, 61 percent need maintenance or major repairs, 43 percent are obsolete, 42 percent contain environmental hazards, 25 percent are overcrowded, and 13 percent are structurally unsound.

"(4) Large numbers of local educational agencies have difficulties securing financing for school facility improvement, including school libraries, media centers, and facilities.

"(5) Improving the quality of public elementary and secondary schools will help our Nation meet the National Education Goals.

"(6) The challenges facing our Nation's public elementary and secondary schools require the concerted and collaborative efforts of all levels of government and all sectors of the community.

"SEC. 12003. PURPOSE.

"The purpose of this title is to help the Nation meet the National Education Goals through the provision of Federal funds to enable local educational agencies to meet the costs associated with the improvement of schools within their jurisdiction.

"SEC. 12004. IMPROVEMENT OF PUBLIC ELEMENTARY AND SECONDARY EDUCATION FACILITIES PROGRAM AUTHORIZED.

"(a) PROGRAM AUTHORITY.—

"(1) IN GENERAL.—From amounts appropriated under section 12013 for any fiscal year, the Secretary shall award grants to eligible local educational agencies with applications approved under section 12005 to carry out the authorized activities described in section 12007.

"(2) SPECIAL RULE.—The Secretary may reserve not more than 1 percent of the amount appropriated under section 12013 to provide assistance to Indian schools in accordance with this title.

"(b) AWARD CATEGORIES.—

"(1) IN GENERAL.—From the funds appropriated to carry out this title for each fiscal year, the Secretary shall award grants to eligible local educational agencies in each of the following categories:

"(A) Eligible local educational agencies in which the number of students enrolled is less than 2,500.

"(B) Such agencies in which such number is 2,500 or greater but less than 5,000.

"(C) Such agencies in which such number is 5,000 or greater but less than 10,000.

"(D) Such agencies in which such number is 10,000 or greater but less than 25,000.

"(E) Such agencies in which such number is 25,000 or greater but less than 50,000.

"(F) Such agencies in which such number is 50,000 or greater.

"(c) MAXIMUM AWARD AMOUNTS.—The Secretary shall annually set the maximum award amounts for each category described in subsection (b)(1).

"SEC. 12005. AWARD OF GRANTS.

"(a) CRITERIA.—The Secretary shall award grants under this title on the basis of—

"(1) high numbers or percentages of the total number of children aged 5 to 17, inclusive, residing in the geographic area served by an eligible local educational agency who are counted under subpart 2 of part A of title I;

"(2) the extent to which the eligible local educational agency lacks the fiscal capacity, including the ability to raise funds through the full use of such agency's bonding capacity and otherwise, to undertake the project without Federal assistance;

"(3) the threat the condition of the physical plant poses to the safety and well-being of students;

"(4) the demonstrated need for the construction, reconstruction, or renovation based on the condition of the facility;

"(5) the age of the facility to be renovated or replaced; and

"(6) such other criteria as the Secretary may prescribe by regulation.

"(b) ALLOCATION AMONG CATEGORIES.—The Secretary shall allocate funds under this title among each of the categories described in paragraph (1) on such basis as the Secretary determines is appropriate, including—

"(1) the relative numbers or percentages of students counted under subpart 2 of part A of title I; and

"(2) the relative costs of carrying out activities under this title in eligible local educational agencies in each such category.

"(c) FREQUENCY OF AWARDS.—No local educational agency may receive more than one grant under this title in any five-year period.

"(d) SPECIAL RULE.—The Secretary shall only award grants under this title if the Secretary determines that sufficient funds will be provided under this title or from other sources, such as the issuance of bonds, or savings generated from performance contracting, to carry out the activities for which assistance is sought.

"SEC. 12006. APPLICATIONS.

"(a) APPLICATIONS REQUIRED.—Each eligible local educational agency desiring to receive a grant under this title shall submit an application to the Secretary.

"(b) APPLICATION CONTENTS.—Each application described in subsection (a) shall contain—

"(1) an assurance that the application was developed in consultation with parents and classroom teachers;

"(2) a description of each architectural, civil, structural, mechanical, or electrical deficiency to be corrected with funds provided under this title, including the priority for the repair of the deficiency;

"(3) a description of the criteria used by the applicant to determine the type of corrective action necessary to meet the purpose of this title;

"(4) a description of the improvement to be supported with funds provided under this title;

"(5) a cost estimate of the proposed improvement;

"(6) an identification of other resources, such as unused bonding capacity, that are available to carry out the activities for which funds are requested under this title;

"(7) a description of how activities supported with funds provided under this title will promote energy conservation; and

"(8) such other information and assurances as the Secretary may reasonably require.

"SEC. 12007. AUTHORIZED ACTIVITIES.

"(a) IN GENERAL.—Each eligible local educational agency receiving a grant under this title shall use the grant funds only to ensure the health and safety of students through the repair, renovation, alteration, and construction of a public elementary or secondary school library, media center, or facility, used for academic or vocational instruction.

"(b) PARTICULAR ACTIVITIES.—Subject to subsection (a), each eligible local educational agency receiving a grant under this title may use the grant funds to meet the requirements of section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990.

"SEC. 12008. GENERAL PROVISIONS.

"(a) BUDGET AND ACCOUNTING.—In the performance of, and with respect to, the functions, powers, and duties under this title, the Secretary, notwithstanding the provisions of any other law, shall—

"(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31, United States Code; and

"(2) maintain a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of chapter 35 of title 31, United States Code, but such financial transactions of the Secretary, as the making of loans and vouchers approved by the Secretary, in connection with such financial transactions shall be final and conclusive upon all officers of the Government.

"(b) USE OF FUNDS.—Funds made available to the Secretary pursuant to the provisions of this title shall be deposited in a checking account or accounts with the Treasurer of the United States. Receipts and assets obtained or held by the Secretary in connection with the performance of functions under this title, and all funds available for carrying out the functions of the Secretary under this title (including appropriations therefor, which are hereby authorized), shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary in connection with the performance of such functions.

"(c) LEGAL POWERS.—In the performance of, and with respect to, the functions, powers, and duties under this title, the Secretary, notwithstanding the provisions of any other law, may—

"(1) prescribe such rules and regulations as may be necessary to carry out the purposes of this title;

"(2) sue and be sued;

"(3) foreclose on any property or commence any action to protect or enforce any right conferred upon the Secretary by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any property in connection with which the Secretary has made a loan pursuant to this part;

"(4) in the event of any such acquisition, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property, but any such acquisition of real property shall not deprive any State or political subdivision of such State civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

"(5) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as the Secretary may fix;

"(6) obtain insurance against loss in connection with property and other assets held; and

"(7) include in any contract or instrument made pursuant to this title such other covenants, conditions, or provisions as may be necessary to assure that the purposes of this title will be achieved.

"(d) CONTRACTS FOR SUPPLIES OR SERVICES.—Section 3709 of the Revised Statutes shall not apply to any contract for services or supplies on account of any property acquired pursuant to this subtitle if the amount of such contract does not exceed $1,000.

"(e) APPLICABILITY OF GOVERNMENT CORPORATION CONTROL ACT.—The provisions of section 9107(a) of title 31, United States Code, which are applicable to corporations or agencies subject to chapter 91 of such title, shall also be applicable to the activities of the Secretary under this title.

"SEC. 12009. FAIR WAGES.

"All laborers and mechanics employed by contractors or subcontractors in the performance of any contract and subcontract for the repair, renovation, alteration, or construction, including painting and decorating, of any building or work that is financed in whole or in part by a grant under this title, shall be paid wages not less than those determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act); as amended (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have the authority and functions set forth in reorganization plan of No. 14 of 1950 (15 FR 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934 (commonly known as the Copeland Anti-Kickback Act) as amended (40 U.S.C. 276c, 48 Stat. 948).

"SEC. 12010. REQUIREMENTS.

"(a) SPECIAL RULES.—

"(1) MAINTENANCE OF EFFORT.—An eligible local educational agency may receive a grant under this title for any fiscal year only if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by such local educational agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the fiscal year for which the determination is made.

"(2) SUPPLEMENT NOT SUPPLANT.—An eligible local educational agency shall use funds received under this title only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the repair, renovation, alteration, and construction of school facilities used for educational purposes, and not to supplant such funds.

"(b) GENERAL LIMITATIONS.—

"(1) REAL PROPERTY.—No part of any grant funds under this title shall be used for the acquisition of any interest in real property.

"(2) MAINTENANCE.—Nothing in this title shall be construed to authorize the payment of maintenance costs in connection with any projects constructed in whole or in part with Federal funds provided under this title.

"(3) ENVIRONMENTAL SAFEGUARDS.—All projects carried out with Federal funds provided under this title shall comply with all relevant Federal, State, and local environmental laws and regulations.

"(4) ATHLETIC AND SIMILAR FACILITIES.—No funds received under this title shall be used for stadiums or other facilities that are primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public.

"SEC. 12011. FEDERAL ASSESSMENT.

"The Secretary shall reserve not more than 1 percent of funds appropriated for each fiscal year under section 15013—

"(1) to collect such data as the Secretary determines necessary at the school, local, and State levels; and

"(2) to conduct studies and evaluations, including national studies and evaluations, in order to—

"(A) monitor the progress of projects supported with funds provided under this title; and

"(B) evaluate the state of United States public elementary and secondary school libraries, media centers, and facilities; and

"(3) to report to the Congress by July 1, 1997, regarding the findings of the studies and evaluations described in paragraph (2).

"SEC. 12012. DEFINITIONS.

"For the purpose of this title—

"(1) the term 'construction' means the alteration or renovation of a building, structure, or facility, including—

"(A) the concurrent installation of equipment; and

"(B) the complete or partial replacement of an existing facility, but only if such replacement is less expensive and more cost-effective than alteration, renovation, or repair of the facility;

"(2) the term 'school' means a public structure suitable for use as a classroom, laboratory, library, media center, or related facility, the primary purpose of which is the instruction of public elementary and secondary school students.

"(3) the term 'eligible local education agency' means a local educational agency in which—

"(A) not less than 15 percent of the children that reside in the geographic area served by such agency are eligible to be counted under subpart 2 of part A of title I of this Act; or

"(B) the United States owns Federal property described in section 8015(5), that has an assessed value (determined as of the time or times when acquired) aggregating 90 percent or more of the assessed value of all real property in such agency (determined as of the time or times when so acquired); and

"(C) demonstrates in the application submitted under section 12006 that such agency has urgent repair, renovation, alteration and construction needs for its public elementary or secondary schools used for academic or vocational instruction.

"SEC. 12013. AUTHORIZATION.

"There are authorized to be appropriated to carry out this title $200,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"TITLE XIII—SUPPORT AND ASSISTANCE PROGRAMS TO IMPROVE EDUCATION

"SEC. 13001. FINDINGS.

"The Congress finds that—

"(1) high-quality technical assistance can enhance the improvements in teaching and learning achieved through the implementation of programs under this Act;

"(2) comprehensive technical assistance and effective program dissemination are essential ingredients of the overall strategy of the Improving America's Schools Act of 1994 to improve programs and provide all children opportunities to meet challenging State content standards and challenging State student performance standards;

"(3) States, local educational agencies, tribes, and schools serving students with special needs, such as students with limited-English proficiency and students with disabilities, have great need for comprehensive technical assistance in order to use funds under this Act to provide such students with opportunities to learn to challenging State content standards and challenging State student performance standards;

"(4) current technical assistance and dissemination efforts are fragmented and categorical in nature, and thus fail to address adequately the needs of States, local educational agencies and tribes for help in integrating into a coherent strategy for improving teaching and learning the various programs under this Act with State and local programs and other education reform efforts;

"(5) too little creative use is made of technology as a means of providing information and assistance in a cost-effective way;

"(6) comprehensive technical assistance can help schools and school systems focus on improving opportunities for all children to meet challenging State content standards and challenging State student performance standards, as such schools and systems implement programs under this Act;

"(7) comprehensive technical assistance will provide coordinated assistance to help States, local educational agencies, tribes, participating colleges and universities, and schools integrate Federal, State, and local education programs in ways that contribute to improving schools and entire school systems;

"(8) technical assistance in support of programs under this Act should be coordinated with the Department's regional offices, the regional educational laboratories, State Literacy Resource Centers, vocational resource centers, and other technical assistance efforts supported by the Department; and

"(9) technical assistance providers should prioritize assistance for local educational agencies and schools.

"SEC. 13002. PURPOSE.

"The purpose of this title is to create a national technical assistance and dissemination system to make available to States, local educational agencies, tribes, schools, and other recipients of funds under this Act technical assistance in—

"(1) administering and implementing programs under this Act;

"(2) implementing school reform programs in a manner that improves teaching and learning for all students;

"(3) coordinating such programs with other Federal, State, and local education plans and activities, so that all students, particularly students at risk of educational failure, are provided opportunities to meet challenging State content standards and challenging State student performance standards; and

"(4) adopting, adapting, and implementing promising and proven practices for improving teaching and learning.

"PART A—COMPREHENSIVE REGIONAL ASSISTANCE CENTERS

"SEC. 13101. PROGRAM AUTHORIZED.

"(a) COMPREHENSIVE REGIONAL ASSISTANCE CENTERS.—

"(1) IN GENERAL.—The Secretary is authorized to award grants to, or enter into contracts or cooperative agreements with, public or private nonprofit entities or consortia of such entities in order to establish a networked system of 15 comprehensive regional assistance centers to provide comprehensive training and technical assistance, related to administration and implementation of programs under this Act, to States, local educational agencies, schools, tribes, community-based organizations, and other recipients of funds under this Act.

"(2) CONSIDERATION.—In establishing comprehensive regional assistance centers and allocating resources among the centers, the Secretary shall consider—

"(A) the geographic distribution of students assisted under title I;

"(B) the geographic and linguistic distribution of students of limited-English proficiency;

"(C) the geographic distribution of Indian students;

"(D) the special needs of students living in urban and rural areas; and

"(E) the special needs of States and outlying areas in geographic isolation.

"(3) SPECIAL RULE.—The Secretary shall establish 1 comprehensive regional assistance center under this section in Hawaii.

"(b) SERVICE TO INDIANS AND ALASKA NATIVES.—The Secretary shall ensure that each comprehensive regional assistance center that serves a region with a significant population of Indian or Alaska Native students shall—

"(1) be awarded to a consortium which includes a tribally controlled community college or other Indian organization; and

"(2) assist in the development and implementation of instructional strategies, methods and materials which address the specific cultural and other needs of Indian or Alaska Native students.

"(c) ACCOUNTABILITY.—To ensure the quality and effectiveness of the networked system of comprehensive regional assistance centers supported under this part, the Secretary shall—

"(1) develop, in consultation with the Assistant Secretary for Elementary and Secondary Education, the Director of Bilingual Education and Minority Languages Affairs, and the Assistant Secretary for Educational Research and Improvement, a set of performance indicators that assesses whether the work of the centers assists in improving teaching and learning under this Act for all children, particularly children at risk of educational failure;

"(2) conduct surveys every two years of populations to be served under this Act to determine if such populations are satisfied with the access to and quality of such services;

"(3) collect, as part of the Department's reviews of programs under this Act, information about the availability and quality of services provided by the centers, and share that information with the centers; and

"(4) take whatever steps are reasonable and necessary to ensure that each center performs its responsibilities in a satisfactory manner, which may include—

"(A) termination of an award under this part (if the Secretary concludes that performance has been unsatisfactory) and the selection of a new center; and

"(B) whatever interim arrangements the Secretary determines are necessary to ensure the satisfactory delivery of services under this part to an affected region.

"(d) DURATION.—Grants, contracts or cooperative agreements under this section shall be awarded for a period of 5 years.

"SEC. 13102. REQUIREMENTS OF COMPREHENSIVE REGIONAL ASSISTANCE CENTERS.

"(a) IN GENERAL.—Each comprehensive regional assistance center established under section 13101(a) shall—

"(1) maintain appropriate staff expertise and provide support, training, and assistance to State educational agencies, tribal divisions of education, local educational agencies, schools, and other grant recipients under this Act, in—

"(A) improving the quality of instruction, curricula, assessments, and other aspects of school reform, supported with funds under title I;

"(B) implementing effective schoolwide programs under section 1114;

"(C) meeting the needs of children served under this Act, including children in high-poverty areas, migratory children, immigrant children, children with limited-English proficiency, neglected or delinquent children, homeless children and youth, Indian children, children with disabilities, and, where applicable, Alaska Native children and Native Hawaiian children;

"(D) implementing high-quality professional development activities for teachers, and where appropriate, administrators, pupil services personnel and other staff;

"(E) improving the quality of bilingual education, including programs that emphasize English and native language proficiency and promote multicultural understanding;

"(F) creating safe and drug-free environments, especially in areas experiencing high levels of drug use and violence in the community and school;

"(G) implementing educational applications of technology;

"(H) coordinating services and programs to meet the needs of students so that students can fully participate in the educational program of the school;

"(I) expanding the involvement and participation of parents in the education of their children;

"(J) reforming schools, school systems, and the governance and management of schools;

"(K) evaluating programs; and

"(L) meeting the special needs of students living in urban and rural areas and the special needs of local educational agencies serving urban and rural areas;

"(2) ensure that technical assistance staff have sufficient training, knowledge, and expertise in how to integrate and coordinate programs under this Act with each other, as well as with other Federal, State, and local programs and reforms;

"(3) provide technical assistance using the highest quality and most cost-effective strategies possible;

"(4) coordinate services, work cooperatively, and regularly share information with, the regional educational laboratories, the Eisenhower regional consortia under part C, research and development centers, State literacy centers authorized under the National Literacy Act of 1991, and other entities engaged in research, development, dissemination, and technical assistance activities which are supported by the Department as part of a Federal technical assistance system, to provide a broad range of support services to schools in the region while minimizing the duplication of such services;

“(5) work collaboratively with the Department's regional offices;

“(6) consult with representatives of State educational agencies, local educational agencies, and populations served under this Act;

“(7) provide services to States, local educational agencies, tribes, and schools, in coordination with the National Diffusion Network State Facilitators activities under section 13201, in order to better implement the purposes of this part and provide the support and assistance diffusion agents need to carry out such agents' mission effectively; and

“(8) provide professional development services to State educational agencies, local educational agencies, and the National Diffusion Network State Facilitators to increase the capacity of such entities to provide high-quality technical assistance in support of programs under this Act.

“(b) PRIORITY.—Each comprehensive regional assistance center assisted under this part shall give priority to servicing—

“(1) schoolwide programs under section 1114; and

“(2) local educational agencies and Bureau-funded schools with the highest percentages or numbers of children in poverty.

“SEC. 13103. MAINTENANCE OF SERVICE AND APPLICATION REQUIREMENTS.

“(a) MAINTENANCE OF SERVICE.—The Secretary shall ensure that the comprehensive regional assistance centers funded under this part provide technical assistance services that address the needs of educationally disadvantaged students, including students in urban and rural areas, and bilingual, migrant, immigrant, and Indian students, that are at least comparable to the level of such technical assistance services provided under programs administered by the Secretary on the day preceding the date of enactment of the Improving America's Schools Act of 1994.

“(b) APPLICATION REQUIREMENTS.—Each entity or consortium desiring assistance under this part shall submit an application to the Secretary at such time, in such manner and accompanied by such information, as the Secretary may require. Each such application shall—

“(1) demonstrate how the comprehensive regional assistance center will provide expertise and services in the areas described in section 13102;

“(2) demonstrate how such centers will work with the National Diffusion Network under section 13201 to conduct outreach to local educational agencies receiving priority under section 13401;

“(3) demonstrate support from States, local educational agencies and tribes in the area to be served;

“(4) demonstrate how such centers will ensure a fair distribution of services to urban and rural areas; and

“(5) provide such other information as the Secretary may require.

“SEC. 13104. TRANSITION.

“(a) IN GENERAL.—The Secretary shall use funds appropriated to carry out this part for fiscal years 1995 and 1996 in order to ensure an orderly transition and phase in of the comprehensive regional assistance centers assisted under this part.

“(b) EXTENSION OF PREVIOUS CENTERS.—

“(1) IN GENERAL.—The Secretary shall, notwithstanding any other provision of law, use funds appropriated under section 13105 to extend or continue contracts and grants for existing categorical technical assistance centers assisted under this Act (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) through fiscal year 1996, and take other necessary steps to ensure a smooth transition of services provided under this part and that such services will not be interrupted, curtailed, or substantially diminished.

“(2) STAFF EXPERTISE.—In planning for the competition for the new comprehensive regional assistance centers under this part, the Secretary may draw on the expertise of staff from existing categorical assistance centers assisted under this Act prior to date of enactment of the Improving America's Schools Act of 1994.

“SEC. 13105. AUTHORIZATION OF APPROPRIATIONS.

“For the purpose of carrying out this part, there are authorized to be appropriated $70,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

“PART B—NATIONAL DIFFUSION NETWORK

“SEC. 13201. PROGRAM AUTHORIZED.

“(a) AUTHORITY.—

“(1) IN GENERAL.—In order to implement the purposes of this title, the Secretary is authorized to establish the National Diffusion Network (hereafter referred to in this Act as 'NDN') to carry out a State-based outreach, consultation, training, and dissemination program.

“(2) PROGRAM REQUIREMENTS.—In carrying out the program under this part, the Secretary shall award grants and contracts to National Diffusion Network State Facilitators in each State and outlying area, and to the Bureau of Indian Affairs, in order to assist State and local educational agencies, schools, and other appropriate educational entities—

“(A) to identify and secure appropriate, high-quality technical assistance from the comprehensive regional assistance centers under part A and other sources; and

“(B) to identify and implement exemplary or promising educational programs and practices.

“(b) ELIGIBLE ENTITIES.—The Secretary shall award grants and contracts under this section to public or private nonprofit organizations or institutions with demonstrated expertise in the areas of applied education research and program dissemination.

“(c) ADMINISTRATION.—The program under this part shall be administered through the Office of Reform Assistance and Dissemination established under section 941(b) of the Educational Research, Development, Dissemination, and Improvement Act of 1994.

“(d) COORDINATION.—The National Diffusion Network State Facilitators shall work in close cooperation, and coordinate their activities, with the comprehensive regional assistance centers established under part A.

“(e) STATE FACILITATOR ACTIVITIES.—The National Diffusion Network State Facilitators shall provide professional development and technical assistance services to assist State educational agencies, local educational agencies, tribal divisions of education, schools, family and adult literacy programs, and other entities assisted under this Act, in—

“(1) defining such entities' technical assistance needs and aligning such needs with school reform under title I, professional development, and technology plans;

“(2) securing the technical assistance and professional development services that can best fulfill such needs by utilizing the services of the comprehensive regional assistance centers, the regional education laboratories, the Eisenhower regional consortia, State Literacy Resource Centers authorized under the National Literacy Act of 1991 and other technical assistance providers, including local providers of professional development services;

“(3) identifying educational technology needs and securing the necessary technical assistance to address such needs in coordination with the Eisenhower regional consortia under part C and the regional technical assistance and professional development consortia under subpart 3 of title III; and

“(4) utilizing technology, including regional and national electronic networks, to increase such entities' access to technical assistance, professional development services, and dissemination of effective programs and promising practices.

“(f) ADDITIONAL DUTIES.—In addition, National Diffusion Network State Facilitators shall—

“(1) disseminate information about school reform and effective and promising practices, and help local educational agencies and schools adapt such reform and practices to such agencies' needs;

“(2) identify educational programs and practices for possible dissemination throughout the State and Nation;

“(3) promote and facilitate teacher networks throughout the State;

“(4) develop and implement an aggressive outreach plan for reaching the local educational agencies and schools receiving priority under section 13401; and

“(5) provide such other outreach, coordination, and dissemination services as may be necessary to achieve the purposes of this title.

“(g) NATIONAL DIFFUSION NETWORK EFFECTIVE PROGRAMS AND PROMISING PRACTICES SYSTEM.—

“(1) IN GENERAL.—The Secretary shall develop a system of validating effective programs and promising practices for dissemination through the National Diffusion Network. Such system may include exemplary programs funded through any office of the Department, the National Science Foundation, or other Federal agencies and shall be coordinated, aligned with, and administered by, the Office of Reform Assistance and Dissemination established under section 941(b) of the Educational Research, Development, Dissemination, and Improvement Act of 1994.

“(2) PRIORITY.—The Secretary shall give priority to identifying, validating, and disseminating effective schoolwide projects, programs addressing the needs of high poverty schools, and programs with the capacity to offer high-quality, sustained technical assistance. The Office of Educational Research and Improvement Office of Reform Assistance and Dissemination shall also administer a grant program for the purpose of dissemination and the provision of technical assistance regarding such system.

“(3) PRIORITY OF SERVICES.—The National Diffusion Network State Facilitators shall give priority in providing the services described in this section to—

“(A) schoolwide program under section 1114; and

“(B) local educational agencies and Bureau-funded schools with the highest percentages or numbers of children in poverty.

“SEC. 13202. AUTHORIZATION OF APPROPRIATIONS.

“For the purpose of carrying out this part, there are authorized to be appropriated $25,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

“PART C—EISENHOWER REGIONAL MATHEMATICS AND SCIENCE EDUCATION CONSORTIA

“SEC. 13301. PROGRAM ESTABLISHED.

“(a) IN GENERAL.—

“(1) GRANTS AUTHORIZED.—The Secretary, in consultation with the Director of the National Science Foundation, is authorized to award grants or contracts to eligible entities to enable such entities to establish and operate regional mathematics and science education consortia for the purpose of—

"(A) disseminating exemplary mathematics and science education instructional materials; and

"(B) providing technical assistance for the implementation of teaching methods and assessment tools for use by elementary and secondary school students, teachers and administrators.

"(2) NUMBER.—The Secretary, in accordance with the provisions of this section, shall award at least one grant or contract to an eligible entity in each region.

"(3) SPECIAL RULE.—In any fiscal year, if the amount made available pursuant to section 13308 is less than $4,500,000, then the Secretary may waive the provisions of paragraph (2) and award grants or contracts of sufficient size, scope, and quality to carry out this section.

"(4) DESIGNATION.—Each regional consortium assisted under this section shall be known as an 'Eisenhower regional consortium'.

"(b) GRANT TERM AND REVIEW.—Grants or contracts under this part shall be awarded for a period of not more than five years and shall be reviewed before the end of the 30-month period beginning on the date the grant or contract is awarded. Grants or contracts under this part shall be awarded before the end of the 12-month period beginning on the date of the enactment of an Act making appropriations to carry out this part.

"(c) AMOUNT.—In awarding grants or contracts under this part, the Secretary shall ensure that there is a relatively equal distribution of the funds made available among the regions, except that the Secretary may award additional funds to a regional consortium on the basis of population and geographical conditions of the region being served.

"SEC. 13302. USE OF FUNDS.

"Funds provided under this part may be used by a regional consortium, under the direction of a regional board established under section 13304, to—

"(1) work cooperatively with the other regional consortia, the Eisenhower National Clearinghouse for Science and Mathematics Education established under section 2102(b) and federally-funded technical assistance providers to more effectively accomplish the activities described in this section;

"(2) assist, train and provide technical assistance to classroom teachers, administrators, and other educators to identify, implement, assess or adapt the instructional materials, teaching methods and assessment tools described in section 13301(a)(1);

"(3) provide for the training of classroom teachers to enable such teachers to instruct other teachers, administrators, and educators in the use of the instructional materials, teaching methods and assessment tools described in section 13301(a)(1) in the classroom;

"(4) when necessary, provide financial assistance to enable teachers and other educators to attend and participate in the activities of the regional consortium;

"(5) implement programs and activities designed to meet the needs of groups that are underrepresented in, and underserved by, mathematics and science education;

"(6) assist State and local educational agencies in identifying science equipment needs and help such agencies or consortia thereof assess the need for and desirability of regional mathematics and science academies;

"(7) develop and disseminate early childhood education mathematics and science instructional materials;

"(8) disseminate information regarding informal mathematics and science education activities and programs offered by Federal agencies and private or public agencies and institutions within the region;

"(9) collect data on activities assisted under this part in order to evaluate the effectiveness of the activities of the regional consortia;

"(10) identify exemplary teaching practices and materials from within the region and communicate such practices and materials to the Eisenhower National Clearinghouse for Mathematics and Science Education;

"(11) communicate, on a regular basis, with entities within the region who are delivering services to students and teachers of mathematics and science;

"(12) assist in the development and evaluation of State and regional plans and activities that hold promise of bringing about systemic reform in student performance in mathematics and science; and

"(13) increase the use of informal education entities (such as science technology centers, museums, libraries, Saturday academies, and 4H programs) for educational purposes to expand student knowledge and understanding.

"SEC. 13303. APPLICATION AND REVIEW.

"(a) IN GENERAL.—Each eligible entity desiring a grant or contract under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Each such application shall—

"(1) demonstrate that the eligible entity has demonstrated expertise in the fields of mathematics and science education;

"(2) demonstrate that the eligible entity shall implement and disseminate mathematics and science education instructional materials, teaching methods, and assessment tools through a consortium of the region's mathematics and science education organizations and agencies;

"(3) demonstrate that the eligible entity shall carry out the functions of the regional consortium;

"(4) demonstrate that emphasis will be given to programs and activities designed to meet the needs of groups that are underrepresented in, and underserved by, mathematics and science education;

"(5) demonstrate that the business community in the region served by the regional consortium will play an integral role in designing and supporting the regional consortium's work;

"(6) demonstrate that the eligible entity will consider the resources of telecommunications partnerships assisted under the Star Schools Program Assistance Act (as such Act was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) in carrying out the provisions of this part, where appropriate; and

"(7) assure that the entity will conduct its activities and supervise its personnel in a manner that effectively ensures compliance with the copyright laws of the United States under title 17, United States Code.

"(b) APPROVAL OF APPLICATION.—

"(1) IN GENERAL.—The Secretary shall approve or disapprove applications submitted pursuant to subsection (a) in accordance with the criteria and procedures established under paragraph (2).

"(2) PROCEDURES AND CRITERIA.—The Secretary shall develop procedures and criteria designed to ensure that grants or contracts are competitively awarded on the basis of merit determined under a peer review process.

"(3) NATIONAL PANEL.—(A) The Secretary, in consultation with the Director, shall establish a national panel, or to the extent necessary, panels, to submit to the Secretary recommendations for awards of grants or contracts under this part. The Secretary shall appoint the members of such panel or panels.

"(B) Each panel appointed under subparagraph (A) shall include participation, to the extent feasible, from each region.

"SEC. 13304. REGIONAL BOARDS.

"(a) IN GENERAL.—Each eligible entity receiving a grant or contract under this part shall establish a regional board to oversee the administration and establishment of program priorities for the regional consortium established by such eligible entity. Such regional board shall be broadly representative of the agencies and organizations participating in the regional consortium.

"(b) PROHIBITION ON USE OF FEDERAL FUNDS.—No Federal funds may be used for the establishment or operation of a regional board required by subsection (a), except that at the discretion of a regional board, Federal funds may be used to provide assistance such as travel and accommodations for board members who could not otherwise afford to participate as members of the board.

"SEC. 13305. PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.

"(a) PAYMENTS.—The Secretary shall pay to each eligible entity having an application approved under section 13303 the Federal share of the cost of the activities described in the application.

"(b) FEDERAL SHARE.—For the purpose of subsection (a), the Federal share shall be 80 percent.

"(c) NON-FEDERAL SHARE.—The non-Federal share of the cost of activities described in the application submitted under section 13303 may be in cash or in kind, fairly evaluated. At least 10 percent of such non-Federal share shall be from sources other than the Federal Government, or State or local government.

"SEC. 13306. EVALUATION.

"(a) EVALUATION REQUIRED.—The Secretary, through the Office of Educational Research and Improvement and in accordance with section 14701, shall collect sufficient data on, and evaluate the effectiveness of, the activities of each regional consortium.

"(b) ASSESSMENT.—The evaluations described in paragraph (1) shall include an assessment of the effectiveness of the regional consortium in meeting the needs of the schools, teachers, administrators and students in the region.

"(c) REPORT.—At the end of each grant or contract period, the Secretary shall submit to the Congress a report on the effectiveness of the programs conducted at each regional consortium.

"SEC. 13307. DEFINITIONS.

"For purposes of this part:

"(1) The term 'eligible entity' means—

"(A) a private nonprofit organization of demonstrated effectiveness;

"(B) an institution of higher education;

"(C) an elementary or secondary school;

"(D) a State or local educational agency;

"(E) a regional educational laboratory in consortium with the research and development center established under section 931(c)(1)(B)(i) of the Educational Research, Development, Dissemination, and Improvement Act of 1994; or

"(F) any combination of the entities described in subparagraphs (A) through (E),

with demonstrated expertise in mathematics and science education.

"(2) The terms 'mathematics' and 'science' include the technology education associated with mathematics and science, respectively.

"(3) The term 'region' means a region of the United States served by a regional education laboratory that is supported by the Secretary pursuant to section 405(d)(4)(A)(i) of the General Education Provisions Act (as such section was in existence on the day preceding the date of enactment of the Goals 2000: Educate America Act).

"(4) The term 'regional consortium' means each regional mathematics and science education consortium established pursuant to section 13301.

"(5) The term 'State agency for higher education' means the State board of higher education or other agency or officer primarily responsible for the State supervision of higher

education, or, if there is no such officer or agency, an officer or agency designated for the purpose of carrying out this part by the Governor or by State law.

"SEC. 13308. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $23,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years, to carry out this part.

"PART D—TECHNOLOGY-BASED TECHNICAL ASSISTANCE

"SEC. 13401. TECHNOLOGY-BASED TECHNICAL ASSISTANCE.

"The Secretary is authorized to provide a technology-based technical assistance service that will—

"(1) support the administration and implementation of programs under this Act by providing information, including legal and regulatory information, and technical guidance and information, about best practices; and

"(2) be accessible to all States, local educational agencies, schools, community-based organizations and others who are recipients of funds under this Act.

"TITLE XIV—GENERAL PROVISIONS

"PART A—DEFINITIONS

"SEC. 14101. DEFINITIONS.

"Except as otherwise provided, for the purposes of this Act, the following terms have the following meanings:

"(1) AVERAGE DAILY ATTENDANCE.—(A) Except as provided otherwise by State law or this paragraph, the term 'average daily attendance' means—

"(i) the aggregate number of days of attendance of all students during a school year; divided by

"(ii) the number of days school is in session during such school year.

"(B) The Secretary shall permit the conversion of average daily membership (or other similar data) to average daily attendance for local educational agencies in States that provide State aid to local educational agencies on the basis of average daily membership or such other data.

"(C) If the local educational agency in which a child resides makes a tuition or other payment for the free public education of the child in a school located in another school district, the Secretary shall, for purposes of this Act—

"(i) consider the child to be in attendance at a school of the agency making such payment; and

"(ii) not consider the child to be in attendance at a school of the agency receiving such payment.

"(D) If a local educational agency makes a tuition payment to a private school or to a public school of another local educational agency for a child with disabilities, as defined in section 602(a)(1) of the Individuals with Disabilities Education Act, the Secretary shall, for the purposes of this Act, consider such child to be in attendance at a school of the agency making such payment.

"(2) AVERAGE PER-PUPIL EXPENDITURE.—The term 'average per-pupil expenditure' means, in the case of a State or of the United States—

"(A) without regard to the source of funds—

"(i) the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the State or, in the case of the United States for all States (which, for the purpose of this paragraph, means the 50 States and the District of Columbia); plus

"(ii) any direct current expenditures by the State for the operation of such agencies; divided by

"(B) the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

"(3) CHILD.—The term 'child' means any person within the age limits for which the State provides free public education.

"(4) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a public or private nonprofit organization of demonstrated effectiveness that—

"(A) is representative of a community or significant segments of a community; and

"(B) provides educational or related services to individuals in the community.

"(5) CONSOLIDATED LOCAL APPLICATION.—The term 'consolidated local application' means an application submitted by a local educational agency pursuant to section 14302.

"(6) CONSOLIDATED LOCAL PLAN.—The term 'consolidated local plan' means a plan submitted by a local educational agency pursuant to section 14302.

"(7) CONSOLIDATED STATE APPLICATION.—The term 'consolidated State application' means an application submitted by a State educational agency pursuant to section 14302.

"(8) CONSOLIDATED STATE PLAN.—The term 'consolidated State plan' means a plan submitted by a State educational agency pursuant to section 14302.

"(9) COUNTY.—The term 'county' means one of the divisions of a State used by the Secretary of Commerce in compiling and reporting data regarding counties.

"(10) COVERED PROGRAM.—The term 'covered program' means each of the programs authorized by—

"(A) part A of title I;

"(B) part C of title I;

"(C) title II (other than section 2103 and part C);

"(D) subpart 2 of part A of title III;

"(E) part A of title IV (other than section 4114); and

"(F) title VI.

"(11) The term 'current expenditures' means expenditures for free public education—

"(A) including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities; but

"(B) not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds received under title I and title VI.

"(12) DEPARTMENT.—The term 'Department' means the Department of Education.

"(13) EDUCATIONAL SERVICE AGENCY.—The term 'educational service agency' means a regional public multiservice agency authorized by State statute to develop, manage, and provide services or programs to local educational agencies.

"(14) ELEMENTARY SCHOOL.—The term 'elementary school' means a nonprofit institutional day or residential school that provides elementary education, as determined under State law.

"(15) FREE PUBLIC EDUCATION.—The term 'free public education' means education that is provided—

"(A) at public expense, under public supervision and direction, and without tuition charge; and

"(B) as elementary or secondary school education as determined under applicable State law, except that such term does not include any education provided beyond grade 12.

"(16) GIFTED AND TALENTED.—The term 'gifted and talented', when used with respect to students, children or youth, means students, children or youth who give evidence of high performance capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields, and who require services or activities not ordinarily provided by the school in order to fully develop such capabilities.

"(17) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given that term in section 1201(a) of the Higher Education Act of 1965.

"(18) LOCAL EDUCATIONAL AGENCY.—(A) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools.

"(B) The term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

"(C) The term includes an elementary or secondary school funded by the Bureau of Indian Affairs but only to the extent that such inclusion makes such school eligible for programs for which specific eligibility is not provided to such school in another provision of law and such school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this Act with the smallest student population, except that such school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

"(19) MENTORING.—The term 'mentoring' means a program in which an adult works with a child or youth on a 1-to-1 basis, establishing a supportive relationship, providing academic assistance, and introducing the child or youth to new experiences that enhance the child or youth's ability to excel in school and become a responsible citizen.

"(20) OTHER STAFF.—The term 'other staff' means pupil services personnel, librarians, career guidance and counseling personnel, education aides, and other instructional and administrative personnel.

"(21) OUTLYING AREA.—The term 'outlying area' means the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and for the purpose of section 1121 and any other discretionary grant program under this Act, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

"(22) PARENT.—The term 'parent' includes a legal guardian or other person standing in loco parentis.

"(23) PUBLIC TELECOMMUNICATION ENTITY.—The term 'public telecommunication entity' has the same meaning given to such term in section 397(12) of the Communications Act of 1934.

"(24) PUPIL SERVICES PERSONNEL; PUPIL SERVICES.—(A) The term 'pupil services personnel' means school counselors, school social workers, school psychologists, and other qualified professional personnel involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services (including related services as such term is defined in section 602(a)(17) of the Individuals with Disabilities Education Act) as part of a comprehensive program to meet student needs.

"(B) The term 'pupil services' means the services provided by pupil services personnel.

"(25) SECONDARY SCHOOL.—The term 'secondary school' means a nonprofit institutional day or residential school that provides secondary education, as determined under State law, except that such term does not include any education beyond grade 12.

"(26) SECRETARY.—The term 'Secretary' means the Secretary of Education.

"(27) STATE.—The term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

"(28) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' means the agency primarily responsible for the State supervision of public elementary and secondary schools.

"(29) TECHNOLOGY.—The term 'technology' means the latest state-of-the-art technology products and services, such as closed circuit television systems, educational television or radio programs and services, cable television, satellite, copper fiber optic transmission, computer hardware and software, video and audio laser and CD-ROM disks, video and audio tapes, including interactive forms of such products and services, or other technologies.

"SEC. 14102. APPLICABILITY OF THIS TITLE.

"Parts B, C, D, E, and F of this title do not apply to title VIII of this Act.

"SEC. 14103. APPLICABILITY TO BUREAU OF INDIAN AFFAIRS OPERATED SCHOOLS.

"For purposes of any competitive program under this Act, a consortia of schools operated by the Bureau of Indian Affairs, a school operated under a contract or grant with the Bureau of Indian Affairs in consortia with another contract or grant school or tribal or community organization, or a Bureau of Indian Affairs school in consortia with an institution of higher education, a contract or grant school and tribal or community organization shall be given the same consideration as a local educational agency.

"PART B—FLEXIBILITY IN THE USE OF ADMINISTRATIVE AND OTHER FUNDS

"SEC. 14201. CONSOLIDATION OF STATE ADMINISTRATIVE FUNDS FOR ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.

"(a) CONSOLIDATION OF ADMINISTRATIVE FUNDS.—

"(1) IN GENERAL.—A State educational agency may consolidate the amounts specifically made available to such agency for State administration under one or more of the programs specified under paragraph (2) if such State educational agency can demonstrate that the majority of such agency's resources come from non-Federal sources.

"(2) APPLICABILITY.—This section applies to programs under title I, those covered programs described in subparagraphs (C), (D), (E), and (F) of section 14101(10), and administrative funds under section 308(c) of the Goals 2000: Educate America Act.

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—A State educational agency shall use the amount available under this section for the administration of the programs included in the consolidation under subsection (a).

"(2) ADDITIONAL USES.—A State educational agency may also use funds available under this section for administrative activities designed to enhance the effective and coordinated use of funds under the programs included in the consolidation under subsection (a), such as—

"(A) the coordination of such programs with other Federal and non-Federal programs;

"(B) the establishment and operation of peer-review mechanisms under this Act;

"(C) the administration of this title;

"(D) the dissemination of information regarding model programs and practices; and

"(E) technical assistance under programs specified in subsection (a)(2).

"(c) RECORDS.—A State educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual program, to account for costs relating to the administration of programs included in the consolidation under subsection (a).

"(d) REVIEW.—To determine the effectiveness of State administration under this section, the Secretary may periodically review the performance of State educational agencies in using consolidated administrative funds under this section and take such steps as the Secretary finds appropriate to ensure the effectiveness of such administration.

"(e) UNUSED ADMINISTRATIVE FUNDS.—If a State educational agency does not use all of the funds available to such agency under this section for administration, such agency may use such funds during the applicable period of availability as funds available under one or more programs included in the consolidation under subsection (a).

"(f) CONSOLIDATION OF FUNDS FOR STANDARDS AND ASSESSMENT DEVELOPMENT.—In order to develop challenging State standards and assessments, a State educational agency may consolidate the amounts made available to such agency for such purposes under title I of this Act and title III of the Goals 2000: Educate America Act.

"SEC. 14202. SINGLE LOCAL EDUCATIONAL AGENCY STATES.

"A State educational agency that also serves as a local educational agency, in such agency's applications or plans under this Act, shall describe how such agency will eliminate duplication in the conduct of administrative functions.

"SEC. 14203. CONSOLIDATION OF FUNDS FOR LOCAL ADMINISTRATION.

"(a) GENERAL AUTHORITY.—In accordance with regulations of the Secretary, a local educational agency, with the approval of its State educational agency, may consolidate and use for the administration of one or more covered programs for any fiscal year not more than the percentage, established in each covered program, of the total amount available to the local educational agency under such covered programs.

"(b) STATE PROCEDURES.—Within one year from the date of enactment of the Improving America's Schools Act of 1994, a State educational agency shall, in collaboration with local educational agencies in the State, establish procedures for responding to requests from local educational agencies to consolidate administrative funds under subsection (a) and for establishing limitations on the amount of funds under covered programs that may be used for administration on a consolidated basis.

"(c) CONDITIONS.—A local educational agency that consolidates administrative funds under this section for any fiscal year shall not use any other funds under the programs included in the consolidation for administration for that fiscal year.

"(d) USES OF ADMINISTRATIVE FUNDS.—A local educational agency that consolidates administrative funds under this section may use such consolidated funds for the administration of covered programs and for the uses described in section 14201(b)(2).

"(e) RECORDS.—A local educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual covered program, to account for costs relating to the administration of covered programs included in the consolidation.

"SEC. 14204. ADMINISTRATIVE FUNDS STUDIES.

"(a) FEDERAL FUNDS STUDY.—

"(1) IN GENERAL.—The Secretary shall conduct a study of the use of funds under this Act for the administration, by State and local educational agencies, of all covered programs, including the percentage of grant funds used for such purpose in all covered programs.

"(2) STATE DATA.—Beginning in fiscal year 1995 and each succeeding fiscal year thereafter, each State educational agency which receives funds under title I shall submit to the Secretary a report on the use of title I funds for the State administration of activities assisted under title I. Such report shall include the proportion of State administrative funds provided under section 1603 that are expended for—

"(A) basic program operation and compliance monitoring;

"(B) statewide program services such as development of standards and assessments, curriculum development, and program evaluation; and

"(C) technical assistance and other direct support to local educational agencies and schools.

"(3) FEDERAL FUNDS REPORT.—The Secretary shall complete the study conducted under this section not later than July 1, 1997, and shall submit to the President and the appropriate committees of the Congress a report regarding such study within 30 days of the completion of such study.

"(4) RESULTS.—Based on the results of the study described in subsection (a)(1), which may include collection and analysis of the data under paragraph (2) and section 410(b) of the Improving America's Schools Act of 1994, the Secretary shall—

"(A) develop a definition of what types of activities constitute the administration of programs under this Act by State and local educational agencies; and

"(B) within one year of the completion of such study, promulgate final regulations or guidelines regarding the use of funds for administration under all programs, including the use of such funds on a consolidated basis and limitations on the amount of such funds that may be used for administration where such limitation is not otherwise specified in law.

"(b) GENERAL ADMINISTRATIVE FUNDS STUDY AND REPORT.—Upon the date of completion of the pilot model data system described in section 410(b) of the Improving America's Schools Act of 1994, the Secretary shall study the information obtained through the use of such data system and other relevant information, as well as any other data systems which are in use on such date that account for administrative expenses at the school, local educational agency, and State educational agency level, and shall report to the Congress not later than July 1, 1997, regarding—

"(1) the potential for the reduction of administrative expenses at the school, local educational agency, and State educational agency levels;

"(2) the potential usefulness of such data system to reduce such administrative expenses;

"(3) any other methods which may be employed by schools, local educational agencies or State educational agencies to reduce administrative expenses and maximize the use of funds for functions directly affecting student learning; and

"(4) if appropriate, steps which may be taken to assist schools, local educational agencies and State educational agencies to account for and reduce administrative expenses.

"SEC. 14205. CONSOLIDATED SET-ASIDE FOR DEPARTMENT OF THE INTERIOR FUNDS.

"(a) GENERAL AUTHORITY.—

"(1) TRANSFER.—The Secretary shall transfer to the Department of the Interior, as a consolidated amount for covered programs, the Indian education programs under part A of title IX of this Act, and the education for homeless children and youth program under subtitle B of title VII of the Stewart B. McKinney Homeless Assistance Act, the amounts allotted to the Department of the Interior under those programs.

"(2) AGREEMENT.—(A) The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of

the programs specified in paragraph (1), for the distribution and use of those program funds under terms that the Secretary determines best meet the purposes of those programs.

"(B) The agreement shall—

"(i) set forth the plans of the Secretary of the Interior for the use of the amount transferred, the steps to be taken to achieve the National Education Goals, and performance measures to assess program effectiveness, including measurable goals and objectives; and

"(ii) be developed in consultation with Indian tribes.

"(b) ADMINISTRATION.—The Department of the Interior may use not more than 1.5 percent of the funds consolidated under this section for such department's costs related to the administration of the funds transferred under this section.

"SEC. 14206. AVAILABILITY OF UNNEEDED PROGRAM FUNDS.

"(a) UNNEEDED PROGRAM FUNDS.—With the approval of its State educational agency, a local educational agency that determines for any fiscal year that funds under a covered program (other than part A of title I) are not needed for the purpose of that covered program, may use such funds, not to exceed five percent of the total amount of such local educational agency's funds under that covered program, for the purpose of another covered program.

"(b) COORDINATION OF SERVICES.—A local educational agency, individual school, or consortium of schools may use a total of not more than five percent of the funds such agency, school, or consortium, respectively, receives under this Act for the establishment and implementation of a coordinated services project in accordance with the requirements of title XI of this Act.

"PART C—COORDINATION OF PROGRAMS; CONSOLIDATED STATE AND LOCAL PLANS AND APPLICATIONS

"SEC. 14301. PURPOSE.

"It is the purpose of this part to improve teaching and learning by encouraging greater cross-program coordination, planning, and service delivery under this Act and enhanced integration of programs under this Act with educational activities carried out with State and local funds.

"SEC. 14302. OPTIONAL CONSOLIDATED STATE PLANS OR APPLICATIONS.

"(a) GENERAL AUTHORITY.—

"(1) SIMPLIFICATION.—In order to simplify application requirements and reduce the burden for State educational agencies under this Act, the Secretary, in accordance with subsection (b), shall establish procedures and criteria under which a State educational agency may submit a consolidated State plan or a consolidated State application meeting the requirements of this section for—

"(A) each of the covered programs in which the State participates; and

"(B) the additional programs described in paragraph (2).

"(2) ADDITIONAL PROGRAMS.—A State educational agency may also include in its consolidated State plan or consolidated State application—

"(A) the Even Start program under part B of title I;

"(B) the Prevention and Intervention Programs for Youth Who Are Neglected, Delinquent, or At-Risk of Dropping Out under part D of title I;

"(C) programs under part A of title II of the Carl D. Perkins Vocational and Applied Technology Education Act;

"(D) programs under the Goals 2000: Educate America Act;

"(E) programs under the School-to-Work Opportunities Act of 1994; and

"(F) such other programs as the Secretary may designate.

"(3) CONSOLIDATED APPLICATIONS AND PLANS.—A State educational agency that submits a consolidated State plan or a consolidated State application under this section shall not be required to submit separate State plans or applications under any of the programs to which the consolidated State plan or consolidated State application under this section applies.

"(b) COLLABORATION.—

"(1) IN GENERAL.—In establishing criteria and procedures under this section, the Secretary shall collaborate with State educational agencies and, as appropriate, with other State agencies, local educational agencies, public and private nonprofit agencies, organizations, and institutions, private schools, and representatives of parents, students, and teachers.

"(2) CONTENTS.—Through the collaborative process described in subsection (b)(1), the Secretary shall establish, for each program under the Act to which this section applies, the descriptions, information, assurances, and other material required to be included in a consolidated State plan or consolidated State application.

"(3) NECESSARY MATERIALS.—The Secretary shall require only descriptions, information, assurances, and other materials that are absolutely necessary for the consideration of the consolidated State plan or consolidated State application.

"SEC. 14303. GENERAL APPLICABILITY OF STATE EDUCATIONAL AGENCY ASSURANCES.

"(a) ASSURANCES.—A State educational agency that submits a consolidated State plan or consolidated State application under this Act, whether separately or under section 14302, shall have on file with the Secretary a single set of assurances, applicable to each program for which such plan or application is submitted, that provides that—

"(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

"(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency, in a nonprofit private agency, institution, or organization, or in an Indian tribe if the law authorizing the program provides for assistance to such entities; and

"(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer such funds and property to the extent required by the authorizing law;

"(3) the State will adopt and use proper methods of administering each such program, including—

"(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program;

"(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation; and

"(C) the adoption of written procedures for the receipt and resolution of complaints alleging violations of law in the administration of such programs;

"(4) the State will cooperate in carrying out any evaluation of each such program conducted by or for the Secretary or other Federal officials;

"(5) the State will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the State under each such program;

"(6) the State will—

"(A) make reports to the Secretary as may be necessary to enable the Secretary to perform the Secretary's duties under each such program; and

"(B) maintain such records, provide such information to the Secretary, and afford access to the records as the Secretary may find necessary to carry out the Secretary's duties; and

"(7) before the plan or application was submitted to the Secretary, the State has afforded a reasonable opportunity for public comment on the plan or application and has considered such comment.

"(b) GEPA PROVISION.—Section 441 of the General Education Provisions Act shall not apply to programs under this Act.

"SEC. 14304. ADDITIONAL COORDINATION.

"(a) ADDITIONAL COORDINATION.—In order to explore ways for State educational agencies to reduce administrative burdens and promote the coordination of the education services of this Act with other health and social service programs administered by such agencies, the Secretary is directed to seek agreements with other Federal agencies (including the Departments of Health and Human Services, Justice, Labor and Agriculture) for the purpose of establishing procedures and criteria under which a State educational agency would submit a consolidated State plan or consolidated State application that meets the requirements of the covered programs.

"(b) REPORT.—The Secretary shall report to the relevant committees 6 months after the date of enactment of the Improving America's Schools Act of 1994.

"SEC. 14305. CONSOLIDATED LOCAL PLANS OR APPLICATIONS.

"(a) GENERAL AUTHORITY.—A local educational agency receiving funds under more than one covered program may submit plans or applications to the State educational agency under such programs on a consolidated basis.

"(b) REQUIRED CONSOLIDATED PLANS OR APPLICATIONS.—A State educational agency that has submitted and had approved a consolidated State plan or application under section 14302 may require local educational agencies in the State receiving funds under more than one program included in the consolidated State plan or consolidated State application to submit consolidated local plans or applications under such programs.

"(c) COLLABORATION.—A State educational agency shall collaborate with local educational agencies in the State in establishing procedures for the submission of the consolidated State plans or consolidated State applications under this section.

"(d) NECESSARY MATERIALS.—The State educational agency shall require only descriptions, information, assurances, and other material that are absolutely necessary for the consideration of the local educational agency plan or application.

"SEC. 14306. OTHER GENERAL ASSURANCES.

"(a) ASSURANCES.—Any applicant other than a State educational agency that submits a plan or application under this Act, whether separately or pursuant to section 14304, shall have on file with the State educational agency a single set of assurances, applicable to each program for which a plan or application is submitted, that provides that—

"(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

"(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency or in a nonprofit private agency, institution, organization, or Indian tribe, if the law authorizing the program provides for assistance to such entities; and

"(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer such funds and property to the extent required by the authorizing statutes;

"(3) the applicant will adopt and use proper methods of administering each such program, including—

"(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program; and

"(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation;

"(4) the applicant will cooperate in carrying out any evaluation of each such program conducted by or for the State educational agency, the Secretary or other Federal officials;

"(5) the applicant will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to such applicant under each such program;

"(6) the applicant will—

"(A) make reports to the State educational agency and the Secretary as may be necessary to enable such agency and the Secretary to perform their duties under each such program; and

"(B) maintain such records, provide such information, and afford access to the records as the State educational agency or the Secretary may find necessary to carry out the State educational agency's or the Secretary's duties; and

"(7) before the application was submitted, the applicant afforded a reasonable opportunity for public comment on the application and has considered such comment.

"(b) GEPA PROVISION.—Section 442 of the General Education Provisions Act does not apply to programs under this Act.

"SEC. 14307. RELATIONSHIP OF STATE AND LOCAL PLANS TO PLANS UNDER THE GOALS 2000: EDUCATE AMERICA ACT.

"(a) STATE PLANS.—

"(1) IN GENERAL.—Each State plan submitted under the following programs shall be integrated with each other and the State's improvement plan, if any, either approved or being developed, under title III of the Goals 2000: Educate America Act, the School-to-Work Opportunities Act of 1994, and the Carl D. Perkins Vocational and Applied Technology Education Act:

"(A) Part A of title I (helping disadvantaged children meet high standards).

"(B) Part C of title I (education of migratory children).

"(C) Part D of title I (education of neglected, delinquent, and at-risk youth).

"(D) Title II (professional development).

"(E) Title IV (safe and drug-free schools).

"(F) Title VI (innovative education program strategies).

"(G) Subpart 4 of part A of title IX (Indian education).

"(2) SPECIAL RULE.—Notwithstanding any other provision of this Act, if a requirement relating to a State plan referred to in paragraph (1) is already satisfied by the approved State improvement plan for such State under title III of the Goals 2000: Educate America Act, the State plan referred to in paragraph (1) need not separately address that requirement.

"(3) AMENDMENT.—Any State plan referred to in paragraph (1) may, if necessary, be submitted as an amendment to the State improvement plan for such State under title III of the Goals 2000: Educate America Act.

"(b) LOCAL PLANS.—

"(1) IN GENERAL.—Each local educational agency plan submitted under the following programs shall be integrated with each other and its local improvement plan, if any, either approved or being developed, under title III of the Goals 2000: Educate America Act:

"(A) Part A of title I (helping disadvantaged children meet high standards).

"(B) Title II (professional development).

"(C) Title IV (safe and drug-free schools).

"(D) Subpart 4 of part A of title IX (Indian education).

"(E) Subpart 1 of part A of title VII (bilingual education).

"(F) Title VI (innovative education program strategies).

"(G) Part C of title VII (emergency immigrant education).

"(2) PLAN OF OPERATION.—Each plan of operation included in an application submitted by an eligible entity under part B of title I (Even Start) shall be consistent with, and promote the goals of, the State and local improvement plans, either approved or being developed, under title III of the Goals 2000: Educate America Act or, if those plans are not approved or being developed, with the State and local plans under sections 1111 and 1112.

"(3) SPECIAL RULE.—Notwithstanding any other provision of this Act, if a requirement relating to a local plan referred to in paragraph (1) is already satisfied by the local educational agency's approved local improvement plan under title III of the Goals 2000: Educate America Act, the local plan referred to in paragraph (1) need not separately address that requirement.

"(4) SUBMISSION.—Any local plan referred to in paragraph (1) may, if necessary, be submitted as an amendment to the local educational agency's improvement plan under title III of the Goals 2000: Educate America Act.

"PART D—WAIVERS

"SEC. 14401. WAIVERS OF STATUTORY AND REGULATORY REQUIREMENTS.

"(a) IN GENERAL.—Except as provided in subsection (c), the Secretary may waive any statutory or regulatory requirement of this Act for a State educational agency, local educational agency, Indian tribe, or school through a local educational agency, that—

"(1) receives funds under a program authorized by this Act; and

"(2) requests a waiver under subsection (b).

"(b) REQUEST FOR WAIVER.—

"(1) IN GENERAL.—A State educational agency, local educational agency, or Indian tribe which desires a waiver shall submit a waiver request to the Secretary that—

"(A) identifies the Federal programs affected by such requested waiver;

"(B) describes which Federal requirements are to be waived and how the waiving of such requirements will—

"(i) increase the quality of instruction for students; or

"(ii) improve the academic performance of students;

"(C) if applicable, describes which similar State and local requirements will be waived and how the waiving of such requirements will assist the local educational agencies, Indian tribes or schools, as appropriate, to achieve the objectives described in clauses (i) and (ii) of subparagraph (B);

"(D) describes specific, measurable educational improvement goals and expected outcomes for all affected students;

"(E) describes the methods to be used to measure progress in meeting such goals and outcomes; and

"(F) describes how schools will continue to provide assistance to the same populations served by programs for which waivers are requested.

"(2) ADDITIONAL INFORMATION.—Such requests—

"(A) may provide for waivers of requirements applicable to State educational agencies, local educational agencies, Indian tribes, and schools; and

"(B) shall be developed and submitted—

"(i)(I) by local educational agencies (on behalf of such agencies and schools) to State educational agencies; and

"(II) by State educational agencies (on behalf of, and based upon the requests of, local educational agencies) to the Secretary; or

"(ii) by Indian tribes (on behalf of schools operated by such tribes) to the Secretary.

"(3) GENERAL REQUIREMENTS.—(A) In the case of a waiver request submitted by a State educational agency acting in its own behalf, the State educational agency shall—

"(i) provide all interested local educational agencies in the State with notice and an reasonable opportunity to comment on the request;

"(ii) submit the comments to the Secretary; and

"(iii) provide notice and information to the public regarding the waiver request in the manner that the applying agency customarily provides similar notices and information to the public.

"(B) In the case of a waiver request submitted by a local educational agency that receives funds under this Act—

"(i) such request shall be reviewed by the State educational agency and be accompanied by the comments, if any, of such State educational agency; and

"(ii) notice and information regarding the waiver request shall be provided to the public by the agency requesting the waiver in the manner that such agency customarily provides similar notices and information to the public.

"(c) RESTRICTIONS.—The Secretary shall not waive under this section any statutory or regulatory requirements relating to—

"(1) the allocation or distribution of funds to States, local educational agencies, or other recipients of funds under this Act;

"(2) maintenance of effort;

"(3) comparability of services;

"(4) use of Federal funds to supplement, not supplant, non-Federal funds;

"(5) equitable participation of private school students and teachers;

"(6) parental participation and involvement;

"(7) applicable civil rights requirements;

"(8) the requirement for a charter school under part C of title X; or

"(9) the prohibitions regarding—

"(A) State aid in section 14502; or

"(B) use of funds for religious worship or instruction in section 14507.

"(d) DURATION AND EXTENSION OF WAIVER.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the duration of a waiver approved by the Secretary under this section may be for a period not to exceed three years.

"(2) EXTENSION.—The Secretary may extend the period described in paragraph (1) if the Secretary determines that—

"(A) the waiver has been effective in enabling the State or affected recipients to carry out the activities for which the waiver was requested and the waiver has contributed to improved student performance; and

"(B) such extension is in the public interest.

"(e) REPORTS.—

"(1) LOCAL WAIVER.—A local educational agency that receives a waiver under this section shall at the end of the second year for which a waiver is received under this section, and each subsequent year, submit a report to the State educational agency that—

"(A) describes the uses of such waiver by such agency or by schools;

"(B) describes how schools continued to provide assistance to the same populations served by the programs for which waivers are requested; and

"(C) evaluates the progress of such agency and of schools in improving the quality of instruction or the academic performance of students.

"(2) STATE WAIVER.—A State educational agency that receives reports required under

paragraph (1) shall annually submit a report to the Secretary that is based on such reports and contains such information as the Secretary may require.

"(3) INDIAN TRIBE WAIVER.—An Indian tribe that receives a waiver under this section shall annually submit a report to the Secretary that—

"(A) describes the uses of such waiver by schools operated by such tribe; and

"(B) evaluates the progress of such schools in improving the quality of instruction or the academic performance of students.

"(4) REPORT TO CONGRESS.—Beginning in fiscal year 1997 and each subsequent year, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report—

"(A) summarizing the uses of waivers by State educational agencies, local educational agencies, Indian tribes, and schools; and

"(B) describing whether such waivers—

"(i) increased the quality of instruction to students; or

"(ii) improved the academic performance of students.

"(f) TERMINATION OF WAIVERS.—The Secretary shall terminate a waiver under this section if the Secretary determines that the performance of the State or other recipient affected by the waiver has been inadequate to justify a continuation of the waiver or if the waiver is no longer necessary to achieve its original purposes.

"(g) PUBLICATION.—A notice of the Secretary's decision to grant each waiver under subsection (a) shall be published in the Federal Register and the Secretary shall provide for the dissemination of such notice to State educational agencies, interested parties, including educators, parents, students, advocacy and civil rights organizations, and the public.

"PART E—UNIFORM PROVISIONS

"SEC. 14501. MAINTENANCE OF EFFORT.

"(a) IN GENERAL.—A local educational agency may receive funds under a covered program for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of such agency and the State with respect to the provision of free public education by such agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

"(b) REDUCTION IN CASE OF FAILURE TO MEET.—

"(1) IN GENERAL.—The State educational agency shall reduce the amount of the allocation of funds under a covered program in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of subsection (a) by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency).

"(2) SPECIAL RULE.—No such lesser amount shall be used for computing the effort required under subsection (a) for subsequent years.

"(c) WAIVER.—The Secretary may waive the requirements of this section if the Secretary determines that such a waiver would be equitable due to—

"(1) exceptional or uncontrollable circumstances such as a natural disaster; or

"(2) a precipitous decline in the financial resources of the local educational agency.

"SEC. 14502. PROHIBITION REGARDING STATE AID.

"A State shall not take into consideration payments under this Act (other than under title VIII) in determining the eligibility of any local educational agency in such State for State aid, or the amount of State aid, with respect to free public education of children.

"SEC. 14503. PARTICIPATION BY PRIVATE SCHOOL CHILDREN AND TEACHERS.

"(a) PRIVATE SCHOOL PARTICIPATION.—

"(1) IN GENERAL.—Except as otherwise provided in this Act, to the extent consistent with the number of eligible children in a State educational agency, local educational agency, or educational service agency or consortium of such agencies receiving financial assistance under a program specified in subsection (b), who are enrolled in private elementary and secondary schools in such agency or consortium, such agency or consortium shall, after timely and meaningful consultation with appropriate private school officials, provide such children and their teachers or other educational personnel, on an equitable basis, special educational services or other benefits under such program.

"(2) SECULAR, NEUTRAL, AND NONIDEOLOGICAL SERVICES OR BENEFITS.—Educational services or other benefits, including materials and equipment, provided under this section, shall be secular, neutral, and nonideological.

"(3) SPECIAL RULE.—Educational services and other benefits provided under this section for such private school children, teachers, and other educational personnel shall be equitable in comparison to services and other benefits for public school children, teachers, and other educational personnel participating in such program.

"(4) EXPENDITURES.—Expenditures for educational services and other benefits provided under this section to eligible private school children, their teachers, and other educational personnel serving such children shall be equal, taking into account the number and educational needs of the children to be served, to the expenditures for participating public school children.

"(5) PROVISION OF SERVICES.—Such agency or consortium described in subsection (a)(1) may provide such services directly or through contracts with public and private agencies, organizations, and institutions.

"(b) APPLICABILITY.—

"(1) IN GENERAL.—This section applies to programs under—

"(A) part C of title I (migrant education);

"(B) title II (other than section 2103 and part C of such title?);

"(C) title VII;

"(D) title III (other than part B of such title) (Star Schools); and

"(E) part A of title IV (other than section 4114).

"(2) DEFINITION.—For the purposes of this section, the term 'eligible children' means children eligible for services under a program described in paragraph (1).

"(c) CONSULTATION.—

"(1) IN GENERAL.—To ensure timely and meaningful consultation, a State educational agency, local educational agency, educational service agency or consortium of such agencies shall consult with appropriate private school officials during the design and development of the programs under this Act, on issues such as—

"(A) how the children's needs will be identified;

"(B) what services will be offered;

"(C) how and where the services will be provided; and

"(D) how the services will be assessed.

"(2) TIMING.—Such consultation shall occur before the agency or consortium makes any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs under this Act.

"(3) DISCUSSION REQUIRED.—Such consultation shall include a discussion of service delivery mechanisms that the agency or consortium could use to provide equitable services to eligible private school children, teachers, administrators, and other staff.

"(d) PUBLIC CONTROL OF FUNDS.—

"(1) IN GENERAL.—The control of funds used to provide services under this section, and title to materials, equipment, and property purchased with such funds, shall be in a public agency for the uses and purposes provided in this Act, and a public agency shall administer such funds and property.

"(2) PROVISION OF SERVICES.—(A) The provision of services under this section shall be provided—

"(i) by employees of a public agency; or

"(ii) through contract by such public agency with an individual, association, agency, or organization.

"(B) In the provision of such services, such employee, person, association, agency, or organization shall be independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency.

"(C) Funds used to provide services under this section shall not be commingled with non-Federal funds.

"SEC. 14504. STANDARDS FOR BY-PASS.

"If, by reason of any provision of law, a State educational agency, local educational agency, educational service agency or consortium of such agencies is prohibited from providing for the participation in programs of children enrolled in, or teachers or other educational personnel from, private elementary and secondary schools, on an equitable basis, or if the Secretary determines that such agency or consortium has substantially failed or is unwilling to provide for such participation, as required by section 14503, the Secretary shall—

"(1) waive the requirements of that section for such agency or consortium; and

"(2) arrange for the provision of equitable services to such children, teachers, or other educational personnel through arrangements that shall be subject to the requirements of this section and of sections 14503, 14505, and 14506.

"SEC. 14505. COMPLAINT PROCESS FOR PARTICIPATION OF PRIVATE SCHOOL CHILDREN.

"(a) PROCEDURES FOR COMPLAINTS.—The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other individuals and organizations concerning violations of section 14503 by a State educational agency, local educational agency, educational service agency, or consortium of such agencies. Such individual or organization shall submit such complaint to the State educational agency for a written resolution by the State educational agency within a reasonable period of time.

"(b) APPEALS TO THE SECRETARY.—Such resolution may be appealed by an interested party to the Secretary not later than 30 days after the State educational agency resolves the complaint or fails to resolve the complaint within a reasonable period of time. Such appeal shall be accompanied by a copy of the State educational agency's resolution, and a complete statement of the reasons supporting the appeal. The Secretary shall investigate and resolve each such appeal not later than 120 days after receipt of the appeal.

"SEC. 14506. BY-PASS DETERMINATION PROCESS.

"(a) REVIEW.—

"(1) IN GENERAL.—(A) The Secretary shall not take any final action under section 14504 until the State educational agency, local educational agency, educational service agency, or consortium of such agencies affected by such action has had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary to show cause why that action should not be taken.

"(B) Pending final resolution of any investigation or complaint that could result in a determination under this section, the Secretary

may withhold from the allocation of the affected State or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

''(2) P*ETITION FOR REVIEW.—(A) If such affected agency or consortium is dissatisfied with the Secretary's final action after a proceeding under paragraph (1), such agency or consortium may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action.*

''*(B) A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary.*

''*(C) The Secretary upon receipt of the copy of the petition shall file in the court the record of the proceedings on which the Secretary based this action, as provided in section 2112 of title 28, United States Code.*

''(3) F*INDINGS OF FACT.—(A) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may then make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings.*

''*(B) Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.*

''(4) J*URISDICTION.—(A) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set such action aside, in whole or in part.*

''*(B) The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.*

''*(b) DETERMINATION.—Any determination by the Secretary under this section shall continue in effect until the Secretary determines, in consultation with such agency or consortium and representatives of the affected private school children, teachers, or other educational personnel that there will no longer be any failure or inability on the part of such agency or consortium to meet the applicable requirements of section 14503 or any other provision of this Act.*

''*(c) PAYMENT FROM STATE ALLOTMENT.—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allocation or allocations under this Act.*

''*(d) PRIOR DETERMINATION.—Any by-pass determination by the Secretary under this Act as in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994 shall remain in effect to the extent the Secretary determines that such determination is consistent with the purpose of this section.*

''SEC. 14507. PROHIBITION AGAINST FUNDS FOR RELIGIOUS WORSHIP OR INSTRUCTION.

''*Nothing contained in this Act shall be construed to authorize the making of any payment under this Act for religious worship or instruction.*

''SEC. 14508. APPLICABILITY TO HOME SCHOOLS.

''*Nothing in this Act shall be construed to affect home schools.*

''SEC. 14509. GENERAL PROVISION REGARDING NONRECIPIENT NONPUBLIC SCHOOLS.

''*Nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to bar private, religious, or home schools from participation in programs or services under this Act.*

''SEC. 14510. SCHOOL PRAYER.

''*Any State or local educational agency that is adjudged by a Federal court of competent jurisdiction to have willfully violated a Federal court order mandating that such local educational agency remedy a violation of the constitutional right of any student with respect to prayer in public schools, in addition to any other judicial remedies, shall be ineligible to receive Federal funds under this Act until such time as the local educational agency complies with such order. Funds that are withheld under this section shall not be reimbursed for the period during which the local educational agency was in willful noncompliance.*

''SEC. 14511. GENERAL PROHIBITIONS.

''*(a) PROHIBITION.—None of the funds authorized under this Act shall be used—*

''*(1) to develop or distribute materials, or operate programs or courses of instruction directed at youth that are designed to promote or encourage, sexual activity, whether homosexual or heterosexual;*

''*(2) to distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds;*

''*(3) to provide sex education or HIV prevention education in schools unless such instruction is age appropriate and includes the health benefits of abstinence; or*

''*(4) to operate a program of condom distribution in schools.*

''*(b) LOCAL CONTROL.—Nothing in this section shall be construed to—*

''*(1) authorize an officer or employee of the Federal Government to mandate, direct, review, or control a State, local educational agency, or schools' instructional content, curriculum, and related activities;*

''*(2) limit the application of the General Education Provisions Act;*

''*(3) require the distribution of scientifically or medically false or inaccurate materials or to prohibit the distribution of scientifically or medically true or accurate materials; or*

''*(4) create any legally enforceable right.*

''SEC. 14512. PROHIBITION ON FEDERAL MANDATES, DIRECTION, AND CONTROL.

''*Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act.*

''SEC. 14513. REPORT.

''*The Secretary shall report to the Congress not later than 180 days of the date of enactment of the Improving America's Schools Act of 1994 regarding how the Secretary shall ensure that audits conducted by Department employees of activities assisted under this Act comply with changes to this Act made by the Improving America's Schools Act of 1994, particularly with respect to permitting children with similar educational needs to be served in the same educational settings, where appropriate.*

''SEC. 14514. REQUIRED PARTICIPATION PROHIBITED.

''*Notwithstanding any other provision of law, no State shall be required to participate in any program under the Goals 2000: Educate America Act, or to have content standards or student performance standards approved or certified under such Act, in order to receive assistance under this Act.*

''PART F—GUN POSSESSION

''SEC. 14601. GUN-FREE REQUIREMENTS.

''*(a) SHORT TITLE.—This section may be cited as the 'Gun-Free Schools Act of 1994'.*

''*(b) REQUIREMENTS.—*

''*(1) IN GENERAL.—Except as provided in paragraph (3), each State receiving Federal funds under this Act shall have in effect a State law requiring local educational agencies to expel from school for a period of not less than one year a student who is determined to have brought a weapon to a school under the jurisdiction of local educational agencies in that State, except that such State law shall allow the chief administering officer of such local educational agency to modify such expulsion requirement for a student on a case-by-case basis.*

''*(2) CONSTRUCTION.—Nothing in this title shall be construed to prevent a State from allowing a local educational agency that has expelled a student from such a student's regular school setting from providing educational services to such student in an alternative setting.*

''*(3) SPECIAL RULE.—(A) Any State that has a law in effect prior to the date of enactment of the Improving America's Schools Act of 1994 which is in conflict with the not less than one year expulsion requirement described in paragraph (1) shall have the period of time described in subparagraph (B) to comply with such requirement.*

''*(B) The period of time shall be the period beginning on the date of enactment of the Improving America's Schools Act and ending one year after such date.*

''*(4) DEFINITION.—For the purpose of this section, the term 'weapon' means a firearm as such term is defined in section 921 of title 18, United States Code.*

''*(c) SPECIAL RULE.—The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act.*

''*(d) REPORT TO STATE.—Each local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under this Act shall provide to the State, in the application requesting such assistance—*

''*(1) an assurance that such local educational agency is in compliance with the State law required by subsection (b); and*

''*(2) a description of the circumstances surrounding any expulsions imposed under the State law required by subsection (b), including—*

''*(A) the name of the school concerned;*

''*(B) the number of students expelled from such school; and*

''*(C) the type of weapons concerned.*

''*(e) REPORTING.—Each State shall report the information described in subsection (c) to the Secretary on an annual basis.*

''*(f) REPORT TO CONGRESS.—Two years after the date of enactment of the Improving America's Schools Act of 1994, the Secretary shall report to Congress if any State is not in compliance with the requirements of this title.*

''SEC. 14602. POLICY REGARDING CRIMINAL JUSTICE SYSTEM REFERRAL.

''*(a) IN GENERAL.—No funds shall be made available under this Act to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by such agency.*

''*(b) DEFINITIONS.—For the purpose of this section, the terms 'firearm' and 'school' have the same meaning given to such terms by section 921(a) of title 18, United States Code.*

''SEC. 14603. DATA AND POLICY DISSEMINATION UNDER IDEA.

''*The Secretary shall—*

''*(1) widely disseminate the policy of the Department in effect on the date of enactment of the Improving America's Schools Act of 1994 with respect to disciplining children with disabilities;*

"(2) collect data on the incidence of children with disabilities (as such term is defined in section 602(a)(1) of the Individuals With Disabilities Education Act) engaging in life threatening behavior or bringing weapons to schools; and

"(3) submit a report to Congress not later than January 31, 1995, analyzing the strengths and problems with the current approaches regarding disciplining children with disabilities.

"PART G—EVALUATIONS

"SEC. 14701. EVALUATIONS.

"(a) EVALUATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary is authorized to reserve not more than 0.50 percent of the amount appropriated to carry out each program authorized under this Act—

"(A) to carry out comprehensive evaluations of categorical programs and demonstration projects, and studies of program effectiveness, under this Act, and the administrative impact of such programs on schools and local educational agencies in accordance with subsection (b);

"(B) to evaluate the aggregate short- and long-term effects and cost efficiencies across Federal programs under this Act and related Federal preschool, elementary and secondary programs under other Federal law; and

"(C) to strengthen the usefulness of grant recipient evaluations for continuous program progress through improving the quality, timeliness, efficiency, and utilization of program information on program performance.

"(2) SPECIAL RULE.—(A) Paragraph (1) shall not apply to any program under title I.

"(B) If funds are made available under any program assisted under this Act (other than a program under title I) for evaluation activities, then the Secretary shall reserve no additional funds pursuant to the authority in subsection (a)(1) to evaluate such program, but shall coordinate the evaluation of such program with the national evaluation described in subsection (b).

"(b) NATIONAL EVALUATIONS.—

"(1) IN GENERAL.—The Secretary shall use the funds made available under subsection (a) to carry out—

"(A) independent studies of categorical and demonstration programs under this Act and the administrative impact of such programs on schools and local educational agencies, that are coordinated with research supported through the Office of Educational Research and Improvement, using rigorous methodological designs and techniques, including longitudinal designs, control groups, and random assignment, as appropriate, to determine—

"(i) the success of such programs in meeting the measurable goals and objectives, through appropriate targeting, quality services, and efficient administration, and in contributing to achieving the National Education Goals, with a priority on assessing program impact on student performance;

"(ii) the short- and long-term effects of program participation on program participants, as appropriate;

"(iii) the cost and efficiency of such programs;

"(iv) to the extent feasible, the cost of serving all students eligible to be served under such programs;

"(v) specific intervention strategies and implementation of such strategies that, based on theory, research and evaluation, offer the promise of improved achievement of program objectives;

"(vi) promising means of identifying and disseminating effective management and educational practices;

"(vii) the effect of such programs on school and local educational agencies' administrative responsibilities and structure, including the use of local and State resources, with particular attention to schools and agencies serving a high concentration of disadvantaged students; and

"(viii) the effect of Federal categorical programs at the elementary and secondary levels on the proliferation of State categorical education aid programs and regulations, including an evaluation of the State regulations that are developed in response to Federal education laws;

"(B) in collaboration with the national assessment conducted pursuant to section 1601, a comprehensive evaluation of how the Federal Government has assisted the States to reform their educational systems through the various education laws enacted during the 103d Congress, which evaluation shall—

"(i) encompass the changes made in Federal programs pursuant to the Improving America's Schools Act of 1994 as well as in any other law enacted during the 103d Congress that amended a Federal program assisting preschool, elementary, or secondary education;

"(ii) encompass new initiatives such as initiatives under the Goals 2000: Educate America Act, and the School-to-Work Opportunities Act of 1994, and be coordinated with evaluations of such Acts;

"(iii) include a comprehensive review of the programs developed under the Acts described in clauses (i) and (ii) to determine such programs' overall effect on—

"(I) the readiness of children for schooling;

"(II) the improvement in educational attainment of students in elementary and secondary education; and

"(III) the improvement in skills needed by students to obtain employment or pursue further education upon completion of secondary school or further education;

"(iv) include a comprehensive review of the programs under the Acts described in clauses (i) and (ii) to determine such programs' overall effect—

"(I) on school reform efforts undertaken by States;

"(II) on efforts by States to adopt educational standards to improve schooling for all children, to align their curricula, teacher training, and assessments with such standards, and to bring flexibility to the rules governing how education is to be provided; and

"(III) on student populations that have been the traditional beneficiaries of Federal assistance in order to determine whether such population's educational attainment has been improved as a result of such programs;

"(v) evaluate how the National Assessment Governing Board, the Advisory Council on Education Statistics, the National Education Goals Panel, and the National Education Statistics and Improvement Council (and any other Federal board established to analyze, address, or approve education standards and assessments) coordinate, interact, or duplicate efforts to assist the States in reforming the educational systems of States; and

"(vi) include a review of the programs under the Acts described in clauses (i) and (ii) in such detail as the Secretary deems appropriate, and may involve cooperation with other Federal departments and agencies in order to incorporate evaluations and recommendations of such departments and agencies; and

"(C) a study of the waivers granted under section 14401, which study shall include—

"(i) data on the total number of waiver requests that were granted and the total number of such requests that were denied, disaggregated by the statutory or regulatory requirement for which the waivers were requested; and

"(ii) an analysis of the effect of waivers on categorical program requirements and other flexibility provisions in this Act, the School-to-Work Opportunities Act of 1994, and the Goals 2000: Educate America Act, on improvement in educational achievement of participating students and on school and local educational agency administrative responsibilities, structure, and resources based on an appropriate sample of State educational agencies, local educational agencies, schools, and tribes receiving waivers.

"(D) a study of the waivers provided under section 1114 to support schoolwide programs which shall include—

"(i) the extent to which schoolwide programs are meeting the intent and purposes of any program for which provisions were waived; and

"(ii) the extent to which the needs of all students are being served by such programs particularly students who would be eligible for assistance under any provisions waived.

"(2) INDEPENDENT PANEL.—The Secretary shall appoint an independent panel to review the plan for the evaluation described in paragraph (1), to advise the Secretary on such evaluation's progress, and to comment, if the panel so wishes, on the final report described in paragraph (3).

"(3) REPORT.—The Secretary shall submit a final report on the evaluation described in this subsection by January 1, 1998, to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate.

"(c) RECIPIENT EVALUATION AND QUALITY ASSURANCE IMPROVEMENT.—The Secretary is authorized to provide guidance, technical assistance, and model programs to recipients of assistance under this Act to strengthen information for quality assurance and performance information feedback at State and local levels. Such guidance and assistance shall promote the development, measurement and reporting of valid, reliable, timely and consistent performance indicators within a program in order to promote continuous program improvement. Nothing in this subsection shall be construed to establish a national data system.

"PART H—SENSE OF THE CONGRESS

"SEC. 14801. SENSE OF CONGRESS TO INCREASE THE TOTAL SHARE OF FEDERAL SPENDING ON EDUCATION.

"(a) FINDINGS.—The Congress finds that—

"(1) in order to increase our Nation's standard of living and to increase the number of good jobs, the United States must increase its productivity and ability to compete in the international marketplace by improving the educational level of our workforce;

"(2) although efforts are being made to establish higher educational standards and goals, there is a substantial shortage of resources to meet such standards and goals;

"(3) States and local communities are finding it increasingly difficult to meet ever higher educational standards and goals, and States will not be able to fund needed changes without Federal help to reach such standards and goals;

"(4) the Federal Government has established many educational programs but failed to provide adequate funding for such programs, for example one such program provides education to our Nation's disabled students and was established with a promise of 40 percent Federal funding but currently receives only eight percent Federal funding;

"(5) the annual shortfall in Federal education programs is approximately half of the promised funding;

"(6) many needed educational improvements will not need Federal funds, however, other suggested changes such as lengthened school years, better pay, after-school activities, mentoring for students at risk, programs for gifted students, and replacing substandard buildings, will require substantial Federal assistance; and

"(7) the Federal contribution to education is less than two percent of the total Federal budget, and in order to make education a national priority, the total percentage of Federal educational funding should be increased by one

percent each year over the next eight years to reach 10 percent of the total Federal budget.

"(b) Sense of the Congress.—It is the sense of the Congress that the total share of the Federal spending on education should increase by at least one percent each year until such share reaches 10 percent of the total Federal budget.

"SEC. 14802. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

"(a) Purchase of American-Made Equipment and Products.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

"(b) Notice to Recipients of Assistance.—In providing financial assistance under this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.".

TITLE II—AMENDMENTS TO THE GENERAL EDUCATION PROVISIONS ACT

PART A—APPLICABILITY OF THE GENERAL EDUCATION PROVISIONS ACT

SEC. 211. TITLE; APPLICABILITY; DEFINITIONS.

Section 400 of the General Education Provisions Act (20 U.S.C. 1221 et seq.) (hereafter in this title (other than part F) referred to as the "Act") is amended to read as follows:

"SHORT TITLE; APPLICABILITY; DEFINITIONS

"Sec. 400. (a) This title may be cited as the 'General Education Provisions Act'.

"(b)(1) Except as otherwise provided, this title applies to each applicable program of the Department of Education.

"(2) Except as otherwise provided, this title does not apply to any contract made by the Department of Education.

"(c) As used in this title, the following terms have the following meanings:

"(1) The term 'applicable program' means any program for which the Secretary or the Department has administrative responsibility as provided by law or by delegation of authority pursuant to law. The term includes each program for which the Secretary or the Department has administrative responsibility under the Department of Education Organization Act or under Federal law effective after the effective date of that Act.

"(2) The term 'applicable statute' means—

"(A) the Act or the title, part, section, or any other subdivision of an Act, as the case may be, that authorizes the appropriation for an applicable program;

"(B) this title; and

"(C) any other statute that by its terms expressly controls the administration of an applicable program.

"(3) The term 'Department' means the Department of Education.

"(4) The term 'Secretary' means the Secretary of Education.

"(d) Nothing in this title shall be construed to affect the applicability of title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, title V of the Rehabilitation Act of 1973, the Age Discrimination Act, or other statutes prohibiting discrimination, to any applicable program.".

SEC. 212. REPEAL AND REDESIGNATION.

(a) Repeals.—

(1) Sections.—Sections 400A, 401, 402, 403, 406, 406A, 406B, 406C, 407, 413, 416, 419, 421, 423, 424, 426A, and 429 of the Act are repealed.

(2) Part.—Part D of the Act is repealed.

(b) Redesignations.—

(1) Sections.—Sections 408, 409, 411, 412, 414, 415, 417, 420, 421A, 422, 425, 426, 427, 428, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, and 440 of the Act are redesignated as sections 410, 411, 420, 421, 422, 423, 425, 426, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, and 446 of the Act, respectively.

(2) Part.—Part E of the Act is redesignated as part D of the Act.

(3) Cross references.—(A) Paragraph (6) of section 441(b) (as redesignated by paragraph (1)) (20 U.S.C. 1232d(b)(6)) is amended by striking "437" and inserting "443".

(B) Paragraph (4) of section 442(b) of the Act (as redesignated by paragraph (1)) (20 U.S.C. 1232e(b)(4)) is amended by striking "437" and inserting "443".

(C) Subsection (a) of section 446 of the Act (as redesignated by paragraph (1)) (20 U.S.C. 1232i(a)) is amended by striking "438(b)(1)(D)" and inserting "444(b)(1)(D)".

(D) Subsection (a) of section 458 of the Act (20 U.S.C. 1234g(a)) is amended by striking "435(a)" and inserting "441(a)".

PART B—THE DEPARTMENT OF EDUCATION

SEC. 221. NEW HEADING FOR PART A.

The heading for part A of the Act is amended to read as follows:

"Part A—Functions of the Department of Education".

SEC. 222. GENERAL AUTHORITY OF THE SECRETARY.

Section 410 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1221e–3) is amended to read as follows:

"GENERAL AUTHORITY OF THE SECRETARY

"Sec. 410. The Secretary, in order to carry out functions otherwise vested in the Secretary by law or by delegation of authority pursuant to law, and subject to limitations as may be otherwise imposed by law, is authorized to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operation of, and governing the applicable programs administered by, the Department.".

PART C—APPROPRIATIONS AND EVALUATIONS

SEC. 231. FORWARD FUNDING.

Section 420 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1223) is amended to read as follows:

"FORWARD FUNDING

"Sec. 420. (a) To the end of affording the responsible Federal, State, and local officers adequate notice of available Federal financial assistance for carrying out ongoing education activities and projects, appropriations for grants, contracts, or other payments under any applicable program are authorized to be included in the appropriations Act for the fiscal year preceding the fiscal year during which such activities and projects shall be carried out.

"(b) In order to effect a transition to the timing of appropriation action authorized by subsection (a), the application of this section may result in the enactment, in a fiscal year, of separate appropriations for an applicable program (whether in the same appropriations Act or otherwise) for two consecutive fiscal years.".

SEC. 232. AVAILABILITY OF APPROPRIATIONS.

(a) Amendment to Heading.—The heading for section 421 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1225) is amended to read as follows:

"AVAILABILITY OF APPROPRIATIONS ON ACADEMIC OR SCHOOL-YEAR BASIS; ADDITIONAL PERIOD FOR OBLIGATION OF FUNDS".

(b) Amendment to Text.—Section 421 of the Act (20 U.S.C. 1225) is further amended—

(1) in subsection (a)—

(A) by striking "to educational agencies or institutions";

(B) by striking "expenditure" and inserting "obligation"; and

(C) by striking "agency or institution concerned" and inserting "recipient";

(2) in subsection (b), by striking "(b) Notwithstanding" and inserting "(b)(1) Notwithstanding"; and

(3) in subsection (c), by striking "section 3679(d)(2) of the Revised Statutes" and inserting "section 1341(a) of title 31, United States Code".

SEC. 233. CONTINGENT EXTENSION OF PROGRAMS.

Section 422 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1226a) is amended to read as follows:

"CONTINGENT EXTENSION OF PROGRAMS

"Sec. 422. (a) The authorization of appropriations for, or duration of, an applicable program shall be automatically extended for one additional fiscal year unless Congress, in the regular session that ends prior to the beginning of the terminal fiscal year of such authorization or duration, has passed legislation that becomes law and extends or repeals the authorization or duration of such program.

"(b) The amount authorized to be appropriated for the period of automatic extension under subsection (a) of an applicable program shall be the amount authorized to be appropriated for such program for the terminal fiscal year of the applicable program.

"(c) If the Secretary is required, in the terminal fiscal year of an applicable program, to carry out certain acts or make certain determinations that are necessary for the continuation of such program, such acts or determinations shall be required to be carried out or made during the period of automatic extension under subsection (a).

"(d) This section shall not apply to the authorization of appropriations for a commission, council, or committee which is required by an applicable statute to terminate on a date certain.".

SEC. 234. STATE REPORTS.

Subpart 2 of part B of the Act (20 U.S.C. 1226b et seq.) is amended by inserting before section 425 (as redesignated by section 212(b)(1)) the following new section:

"RESPONSIBILITY OF STATES TO FURNISH INFORMATION

"Sec. 424. (a) Each State educational agency shall submit to the Secretary a report on or before March 15 of every second year. Each such report shall include—

"(1) information with respect to the uses of Federal funds in such State in the two preceding fiscal years under any applicable program under the jurisdiction of the State educational agency; and

"(2) information with respect to the uses of Federal funds in such State in the two preceding fiscal years under any Federal program administered by the State that provided grants or contracts to a local educational agency in the State.

"(b) Each report submitted under subsection (a) shall—

"(1) list, with respect to each program for which information is provided, all grants made to and contracts entered into with local educational agencies and other public and private agencies and institutions within the State during each fiscal year concerned;

"(2) analyze the information included in the report by local educational agency and by program;

"(3) include the total amount of funds available to the State under each such program for each fiscal year concerned; and

"(4) be made readily available by the State to local educational agencies and institutions within the State and to the public.

"(c) If the Secretary does not receive a report by the date required under subsection (a), or receives an incomplete report, the Secretary, not *later than 30 days after such report is required to be submitted, shall take all reasonable measures to obtain the delinquent or incomplete information from the State educational agency.*

"(d) When the Secretary receives a report required under subsection (a), the Secretary shall provide such information to the National Center for Education Statistics, and shall make such information available, at a reasonable cost, to any individual who requests such information.

"(e) The Secretary shall consult with the Speaker and Minority Leader of the House of Representatives and the Majority and Minority Leaders of the Senate regarding the costs and feasibility of making the information described in subsection (a) available as part of a telecommunications network that is readily accessible to every member of Congress and other interested parties.

"(f) On or before August 15 of each year in which reports are submitted under subsection (a), the Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate. Such report shall include—

"(1) an analysis of the content and data quality of such reports;

"(2) a compilation of statistical data derived from such reports; and

"(3) information obtained by the Secretary with respect to—

"(A) direct grants made to local educational agencies by the Federal Government; and

"(B) contracts entered into between such agencies and the Federal Government.".

SEC. 235. BIENNIAL EVALUATION REPORT.

Section 425 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1226c) is amended to read as follows:

"BIENNIAL EVALUATION REPORT

"SEC. 425. Not later than March 31, 1995, and every two years after such date, the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate an evaluation report on the effectiveness of applicable programs in achieving such programs' legislated intent and purposes during the two preceding fiscal years. Such report shall—

"(1) contain program profiles that include legislative citations, multiyear funding histories, and legislated purposes;

"(2) contain recent information on the progress being made toward the achievement of program objectives, including listings of program performance indicators, data from performance measurement based on the indicators, and information on the costs and benefits of the applicable programs being evaluated;

"(3) address significant program activities, such as initiatives for program improvement, regulations, and program monitoring and evaluation;

"(4) list the principal analyses and studies supporting the major conclusions in such report;

"(5) be prepared in concise summary form with necessary detailed data and appendixes, including available data to indicate the effectiveness of the programs and projects by the race, sex, disability and age of beneficiaries of such programs and projects; and

"(6) include the results of the program evaluations conducted in accordance with section 14701 of the Elementary and Secondary Education Act of 1965.".

SEC. 236. EQUITY FOR STUDENTS, TEACHERS, AND OTHER PROGRAM BENEFICIARIES.

Subpart 2 of part B of the Act (20 U.S.C. 1226b et seq.) is further amended by inserting after section 426 (as redesignated by section 212(b)(1)) the following new section:

"EQUITY FOR STUDENTS, TEACHERS, AND OTHER PROGRAM BENEFICIARIES

"SEC. 427. (a) The purpose of this section is to assist the Department in implementing the Department's mission to ensure equal access to education and to promote educational excellence throughout the Nation, by—

"(1) ensuring equal opportunities to participate for all eligible students, teachers, and other program beneficiaries in any project or activity carried out under an applicable program; and

"(2) promoting the ability of such students, teachers, and beneficiaries to meet high standards.

"(b) The Secretary shall require each applicant for assistance under an applicable program (other than an individual) to develop and describe in such applicant's application the steps such applicant proposes to take to ensure equitable access to, and equitable participation in, the project or activity to be conducted with such assistance, by addressing the special needs of students, teachers, and other program beneficiaries in order to overcome barriers to equitable participation, including barriers based on gender, race, color, national origin, disability, and age.

"(c) The Secretary may establish criteria and provide technical assistance for meeting the requirements of this section.

"(d) Nothing in this section shall be construed to alter in any way the rights or responsibilities established under the laws cited in section 400(d) of this Act.".

SEC. 237. COORDINATION.

Subpart 2 of part B of the Act (20 U.S.C. 1226b et seq.) is further amended by adding at the end the following new section:

"COORDINATION

"SEC. 428. The National Assessment Governing Board, the Advisory Council on Education Statistics, the National Education Goals Panel, the National Education Standards and Improvement Council, and any other board established to analyze, address, or approve education content or student performance standards and assessments shall coordinate and interact with one another in order to ensure that each such entity does not duplicate activities to assist the States in reforming their educational systems.".

SEC. 238. DISCLOSURE REQUIREMENTS.

Subpart 2 of part B of the Act (20 U.S.C. 1226b) is further amended by inserting after section 428 (as added by section 237) the following new section:

"DISCLOSURE REQUIREMENTS

"SEC. 429. (a) IN GENERAL.—Each educational organization, prior to enrolling a minor and prior to accepting funds for the cost of a minor's participation in an educational program operated by such organization, shall disclose the following information in written form to the minor or the minor's parent.

"(1) METHOD OF SOLICITATION AND SELECTION.—The method of solicitation and selection of participants in the educational program, including—

"(A) the origin of any mailing list used for such solicitation and selection;

"(B) any recruitment through a local school official, teacher, or school personnel, including any compensation or other benefit offered to such official, teacher, or personnel for the recommendation of a minor for participation in the educational program;

"(C) any open enrollment activity, including the method of outreach; and

"(D) any cooperation with, or sponsorship by, a membership organization, including a description of the cooperation or sponsorship and the name of each such organization.

"(2) COST AND FEES.—Information regarding the cost of the educational program and information regarding the distribution of any enrollment fee, including—

"(A) the amount paid for, and the percentage of the total educational program cost of, each feature of the educational program, including—

"(i) food;

"(ii) lodging;

"(iii) transportation;

"(iv) program staffing;

"(v) textbooks, syllabi, or other scholastic educational program materials;

"(vi) speaker fees; and

"(vii) administrative expenses, including expenses related to—

"(I) the preparation of nonscholastic educational program materials;

"(II) the provision of financial assistance;

"(III) mailing list rental or other recruitment activity; and

"(IV) administrative salaries and consulting fees;

"(B) the identity of the organization or business providing each of the features described in clauses (i) through (vii) of subparagraph (A); and

"(C) the nature of any relationship of any board member, officer, or employee of the educational organization to any organization or business described in subparagraph (B), including the salary or other compensation paid by such organization or business to such board member, officer, or employee.

"(b) NONDISCRIMINATORY ENROLLMENT AND SERVICE POLICY.—

"(1) IN GENERAL.—Each educational organization shall include a verifiable statement in all enrollment or recruitment material that the educational organization does not—

"(A) fail or refuse to hire, or discharge, any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment; or

"(B) exclude any student from participation in an educational program, discriminate against any student in providing the benefits associated with such program (including any scholarship or financial assistance, and use of any facility), or subject the student to discrimination under such program, on the basis of race, disability, or residence in a low-income area.

"(2) CONSTRUCTION.—Nothing in this subsection shall be construed to entitle a student to—

"(A) participation in an educational program or any benefit associated with such program; or

"(B) a waiver of any fee charged for such participation or benefit.

"(c) ENFORCEMENT.—The Secretary shall—

"(1)(A) widely disseminate information about the requirements of this section to State and local school officials and parents; and

"(B) require educational organizations to submit appropriate information or assurances regarding such organizations' compliance with this section; and

"(2) take whatever other steps the Secretary determines are appropriate to enforce this section, including—

"(A) promulgating regulations;

"(B) establishing a complaint process;

"(C) referring complaints to the relevant Federal, State, or local authorities for appropriate action;

"(D) alerting educational agencies, schools, and parents to the practices of educational organizations that violate the provisions of this section; and

"(E) imposing civil fines (not to exceed $1,000 per violation) on educational organizations that knowingly violate this section.

"(d) DEFINITIONS.—As used in this section:

"(1) DISABILITY.—The term 'disability' has the same meaning given to such term by section 3(2) of the Americans with Disabilities Act of 1990.

"(2) EDUCATIONAL ORGANIZATION.—(A) Except as provided in subparagraphs (B) and (C), the term 'educational organization' means any organization or entity that—

"(i) provides an educational program for a fee; and

"(ii) recruits students through means such as commercial media, direct mailings, school recruitment programs, school administrators, teachers or staff, or current or former participants in an educational program offered by such organization or entity.

"(B) The definition in subparagraph (A) shall not include—

"(i) a local educational agency, State educational agency, a State department of education, or an elementary or secondary school as defined by the Elementary and Secondary Education Act of 1965;

"(ii) an institution of higher education as defined by section 1201(a) of the Higher Education Act of 1965; or

"(iii) a local organization sponsored by an elementary or secondary school, a recreational organization, an entertainment organization, a local sports activity group, or a social club.

"(C) For the purpose of subsection (a) only, such term does not include an organization or entity that provides an educational program if such organization or entity—

"(i) recruits, for participation in such program, solely through a local school official; and

"(ii) does not offer a local school official, teacher, or other school personnel compensation (other than compensation for actual expenses incurred in performing chaperon activities or for participating in separate, professionally-staffed teacher training and technical assistance seminars and workshops related to such program) or any other benefit for such recruitment.

"(3) EDUCATIONAL PROGRAM.—(A) Except as provided in subparagraph (B), the term 'educational program' means a special honors program, seminar, citizenship experience, government study program, educational vacation, student exchange program, or other educational experience or honor—

"(i) that is generally directed toward minors or secondary school students;

"(ii) for which a tuition or enrollment fee is charged;

"(iii) that is offered away from a student's regular place of school attendance;

"(iv) that includes not less than one supervised night away from home; and

"(v) that is intended to enhance a student's regular course of study.

"(B) Such term does not include a recreational program, or a social or religious activity.

"(4) LOCAL SCHOOL OFFICIAL.—The term 'local school official' means the highest administrative official serving a school district, or such individual's designee.

"(5) MINOR.—The term 'minor' means an individual who has not attained the age of 18 years.

"(6) MEMBERSHIP ORGANIZATION.—The term 'membership organization' includes any organization that maintains a membership list or collects dues or membership fees from its members.

"(7) RECREATIONAL ORGANIZATION.—The term 'recreational organization' includes any organization or entity that has as its primary function pleasure, amusement, or sports activities.

"(8) RECREATIONAL PROGRAM.—The term 'recreational program' includes any activity or service that is intended as an entertainment pastime.".

PART D—ADMINISTRATION OF EDUCATION PROGRAMS

SEC. 241. JOINT FUNDING OF PROGRAMS.

Section 430 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1231) is amended to read as follows:

"JOINT FUNDING OF PROGRAMS

"SEC. 430. (a)(1) The Secretary is authorized to enter into arrangements with other Federal agencies to jointly carry out projects of common interest, to transfer to such agencies funds appropriated under any applicable program, and to receive and use funds from such agencies, for projects of common interest.

"(2) Funds transferred or received pursuant to paragraph (1) shall be used only in accordance with the statutes authorizing the appropriation of such funds, and shall be made available by contract or grant only to recipients eligible to receive such funds under such statutes.

"(3) If the Secretary enters into an agreement under this subsection for the administration of a project, the agency administering the project shall use such agency's procedures to award contracts or grants and to administer such awards, unless the parties to the agreement specify the use of procedures of another agency that is a party to the agreement.

"(4) If the Secretary has entered into an agreement authorized under this subsection and the Secretary and the heads of the other agencies participating in the agreement determine that joint funding is necessary to address a special need consistent with the purposes and authorized activities of each program that provides funding under the joint project, the Secretary and the heads of the other participating agencies may develop a single set of criteria for the jointly funded project and require each applicant for such project to submit a single application for review by the participating agencies.

"(b) The Secretary may develop the criteria for, and require the submission of, joint applications under two or more applicable programs under which funds are awarded on a competitive basis, and may jointly review and approve such applications separately from other applications under such programs, when the Secretary determines that such joint awards are necessary to address a special need consistent with the purposes and authorized activities of each such program. Any applicant for such a joint award shall meet the eligibility requirements of each such program.

"(c) The Secretary may not construe the provisions of this section to take precedence over a limitation on joint funding contained in an applicable statute.

"(d)(1) The Secretary shall provide notice to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate of each joint funding agreement made with other Federal agencies not later than 60 days after the making of such agreements.

"(2) Such notice shall include—

"(A) a description of the purpose and objectives of the joint funding arrangement;

"(B) the amounts and sources, by program, of the funds dedicated to such arrangement; and

"(C) the criteria developed to govern the award of contracts and grants.".

SEC. 242. COLLECTION AND DISSEMINATION OF INFORMATION.

Section 431 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1231a) is amended to read as follows:

"COLLECTION AND DISSEMINATION OF INFORMATION

"SEC. 422. The Secretary shall—

"(1) prepare and disseminate to State and local educational agencies and institutions information concerning applicable programs, and cooperate with other Federal officials who administer programs affecting education in disseminating information concerning such programs;

"(2) inform the public regarding federally supported education programs; and

"(3) collect data and information on applicable programs for the purpose of obtaining objective measurements of the effectiveness of such programs in achieving the intended purposes of such programs.".

SEC. 243. REVIEW OF APPLICATIONS.

Section 432 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1231b–2) is amended—

(1) in subsection (a)—

(A) by striking "Commissioner" and inserting "Secretary";

(B) by striking "and in the case of the program provided for in title I of the Elementary and Secondary Education Act of 1965,";

(C) in the third sentence by inserting a comma after "the hearing"; and

(D) in the fourth sentence—

(i) by striking the comma after "guidelines"; and

(ii) by inserting a comma after "program";

(2) in subsection (b), by striking "Commissioner" each place such term appears and inserting "Secretary"; and

(3) in subsection (d)—

(A) by striking "Commissioner" each place such term appears and inserting "Secretary"; and

(B) by inserting before the period "or issue such other orders as the Secretary may deem appropriate to achieve such compliance".

SEC. 244. PARENTAL INVOLVEMENT AND DISSEMINATION.

The matter preceding paragraph (1) of section 434 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1231d) is amended—

(1) in the first sentence—

(A) by striking "Commissioner" and inserting "Secretary"; and

(B) by striking "he" and inserting "the Secretary"; and

(2) in the second sentence by inserting "is made" after "such determination".

SEC. 245. USE OF FUNDS WITHHELD.

Section 435 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1231e) is amended to read as follows:

"USE OF FUNDS WITHHELD

"SEC. 435. (a) At any time that the Secretary makes an allotment or reallotment to any State under any applicable program, the Secretary shall reduce such allotment or reallotment by such amount as the Secretary determines such allotment or reallotment would have been reduced, had the data on which such allotment or reallotment is based excluded all data relating to local educational agencies of the State that, on the date of the Secretary's action, are ineligible to receive the Federal financial assistance involved because of failure to comply with title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, or the Age Discrimination Act of 1975.

"(b) The Secretary may use any funds withheld under subsection (a)—

"(1) to increase the allotments or reallotments of local educational agencies within the State that are not described in subsection (a), or the allotments or reallotment of all States, in accordance with the Federal law governing the program; or

"(2) for grants to local educational agencies of that State in accordance with section 405 of the Civil Rights Act of 1964, or for any other program administered by the Department that is designed to enhance equity in education or redress discrimination on the basis of race, color, national origin, sex, age, or disability.".

SEC. 246. APPLICATIONS.

Section 436 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1231g) is amended—

(1) in subsection (a), by striking "for three fiscal years" and inserting "for more than one fiscal year"; and

(2) by striking "Commissioner" each place such term appears and inserting "Secretary".

SEC. 247. REGULATIONS.

Section 437 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1232) is amended to read as follows:

"REGULATIONS

"SEC. 437. (a) For the purpose of this section, the term 'regulation' means any generally applicable rule, regulation, guideline, interpretation, or other requirement that—

"(1) is prescribed by the Secretary or the Department; and

"(2) has legally binding effect in connection with, or affecting, the provision of financial assistance under any applicable program.

"(b) Regulations shall contain, immediately following each substantive provision of such regulations, citations to the particular section or sections of statutory law or other legal authority on which such provision is based.

"(c) All regulations shall be uniformly applied and enforced throughout the 50 States.

"(d) The exemption for public property, loans, grants and benefits in section 553(a)(2) of title 5, United States Code, shall apply only to regulations—

"(1) that govern the first grant competition under a new or substantially revised program authority as determined by the Secretary; or

"(2) where the Secretary determines that the requirements of this subsection will cause extreme hardship to the intended beneficiaries of the program affected by such regulations.

"(e) Not later than 60 days after the date of enactment of any Act, or any portion of any Act, affecting the administration of any applicable program, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a schedule in accordance with which the Secretary plans to promulgate final regulations that the Secretary determines are necessary to implement such Act or portion of such Act. Such schedule shall provide that all such final regulations shall be promulgated within 360 days after the date of enactment of such Act or portion of such Act.

"(f) Concurrently with the publication of any final regulations, the Secretary shall transmit a copy of such final regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate.".

SEC. 248. RECORDS; REDUCTION IN RETENTION REQUIREMENTS.

Section 443 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1232f) is amended—

(1) in subsection (a)—

(A) by striking "grant, subgrant, contract, subcontract, loan, or other arrangement (other than procurement contracts awarded by an administrative head of an educational agency)" and inserting "grant, subgrant, cooperative agreement, loan, or other arrangement";

(B) by inserting "financial or programmatic" before "audit."; and

(C) in the last sentence, by striking "five" and inserting "three"; and

(2) in subsection (b), by striking "to any records of a recipient which may be related, or pertinent to, the grants, subgrants, contracts, subcontracts, loans, or other arrangements" and inserting "to any records maintained by a recipient that may be related, or pertinent to, grants, subgrants, cooperative agreements, loans, or other arrangements".

SEC. 249. PRIVACY RIGHTS.

Section 444 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1232g) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

(ii) by inserting after subparagraph (A) the following new subparagraph:

"(B) No funds under any applicable program shall be made available to any State educational agency (whether or not that agency is an educational agency or institution under this section) that has a policy of denying, or effectively prevents, the parents of students the right to inspect and review the education records maintained by the State educational agency on their children who are or have been in attendance at any school of an educational agency or institution that is subject to the provisions of this section.";

(iii) in clause (iii) of subparagraph (C) (as redesignated by clause (i)), by striking "(C)" and inserting "(D)"; and

(iv) in subparagraph (D) (as redesignated by clause (i)), by striking "(B)" and inserting "(C)"; and

(B) in paragraph (2), by striking "or other rights" and inserting "rights";

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting ", including the educational interests of the child for whom consent would otherwise be required" before the semicolon;

(ii) by amending subparagraph (E) to read as follows:

"(E) State and local officials or authorities to whom such information is specifically allowed to be reported or disclosed pursuant to State statute adopted—

"(i) before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and such system's ability to effectively serve the student whose records are released, or

"(ii) after November 19, 1974, if—

"(I) the allowed reporting or disclosure concerns the juvenile justice system and such system's ability to effectively serve, prior to adjudication, the student whose records are released; and

"(II) the officials and authorities to whom such information is disclosed certify in writing to the educational agency or institution that the information will not be disclosed to any other party except as provided under State law without the prior written consent of the parent of the student.";

(iii) in subparagraph (H), by striking "and" after the semicolon;

(iv) in subparagraph (I), by striking the period and inserting "; and"; and

(v) by adding at the end the following new subparagraph:

"(J)(i) the entity or persons designated in a Federal grand jury subpoena, in which case the court shall order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished to the grand jury in response to the subpoena; and

"(ii) the entity or persons designated in any other subpoena issued for a law enforcement purpose, in which case the court or other issuing agency may order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished in response to the subpoena.";

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking the period and inserting ", unless—"; and

(ii) in subparagraph (B), by inserting "except as provided in paragraph (1)(J)," before "such information"; and

(C) in subparagraph (B) of paragraph (4), by adding at the end the following new sentence: "If a third party outside the educational agency or institution permits access to information in violation of paragraph (2)(A), or fails to destroy information in violation of paragraph (1)(F), the educational agency or institution shall be prohibited from permitting access to information from education records to that third party for a period of not less than five years.";

(3) in subsection (c), by striking "The Secretary shall adopt appropriate regulations to" and inserting "Not later than 240 days after the date of enactment of the Improving America's Schools Act of 1994, the Secretary shall adopt appropriate regulations or procedures, or identify existing regulations or procedures, which";

(4) in subsection (e), by inserting "effectively" before "informs"; and

(5) by adding at the end the following new subsection:

"(h) Nothing in this section shall prohibit an educational agency or institution from—

"(1) including appropriate information in the education record of any student concerning disciplinary action taken against such student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community; or

"(2) disclosing such information to teachers and school officials, including teachers and school officials in other schools, who have legitimate educational interests in the behavior of the student.".

SEC. 250. ENFORCEMENT.

(a) Recovery of Funds.—Section 452 of the Act (20 U.S.C. 1234a) is amended—

(1) in the first sentence of paragraph (2) of subsection (a), by striking "stating" and all that follows through the end of such sentence and inserting "establishing a prima facie case for the recovery of funds, including an analysis reflecting the value of the program services actually obtained in a determination of harm to the Federal interest.";

(2) in the first sentence of paragraph (1) of subsection (b), by striking "30" and inserting "60"; and

(3) in subsection (d), by—

(A) striking "(d) Upon" and inserting "(d)(1) Upon"; and

(B) adding at the end the following new paragraph:

"(2) During the conduct of such review, there shall not be any ex parte contact between the Secretary and individuals representing the Department or the recipient.".

(b) Use of Recovered Funds.—Section 459 of the Act (20 U.S.C. 1234h) is amended—

(1) in paragraph (1) of subsection (a), by inserting ", provided that the recipient was notified of any noncompliance with such requirements and given a reasonable period of time to remedy such noncompliance" before the semicolon; and

(2) by amending subsection (c) to read as follows:

"(c) Notwithstanding any other provisions of law, the funds made available under this section shall remain available for expenditure for a period of time deemed reasonable by the Secretary, but in no case to exceed more than three fiscal years following the later of—

"(1) the fiscal year in which final agency action under section 452(e) is taken; or

"(2) if such recipient files a petition for judicial review, the fiscal year in which final judicial action under section 458 is taken.".

PART E—TECHNICAL AND CONFORMING AMENDMENTS

SEC. 261. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Payments.—Section 423 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C.

1226a-1) is amended by striking "Commissioner" and inserting "Secretary".

(b) PROGRAM PLANNING AND EVALUATION.—Section 426 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1228) is amended—

(1) by striking "title I of" and all that follows through "Congress)" and inserting "title VIII of the Elementary and Secondary Education Act of 1965"; and

(2) by striking "subparagraph (C) of section 3(d)(2) or section 403(1)(C) of that Act" and inserting "subsections (d) and (g) of section 8003 of such Act or residing on property described in section 8013(10) of such Act".

(c) HEADING FOR PART C.—The heading for part C of the Act (20 U.S.C. 1230 et seq.) is amended by striking "COMMISSIONER OF EDUCATION" and inserting "SECRETARY".

(d) SECTION 439.—Section 439 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1232b) is amended by striking "Except for emergency relief under section 7 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), all laborers" and inserting "All laborers".

(e) SECTION 440.—

(1) AMENDMENT TO HEADING.—The heading for section 440 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1232c) is amended by striking "EDUCATIONAL".

(2) AMENDMENT TO TEXT.—Section 440 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1232c) is amended—

(A) by striking "Commissioner" each place such term appears and inserting "Secretary";

(B) by redesignating the matter following paragraph (3) of subsection (b) as subsection (c); and

(C) in subsection (c) (as redesignated by subparagraph (B)), by striking "paragraph (3)" and inserting "subsection (b)(3)".

(f) SECTION 441.—Section 441 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1232d) is amended—

(1) by striking "Commissioner" each place such term appears and inserting "Secretary"; and

(2) in the first sentence of subsection (a)—

(A) by striking the comma after "submits a plan";

(B) by striking ", in the case of programs under chapter 1 and chapter 2 of title I of the Elementary and Secondary Education Act of 1965,"; and

(C) by striking "title V of such Act" and inserting "part C of title V of the Elementary and Secondary Education Act of 1965".

(g) SECTION 442.—Section 442 of the Act (as redesignated by section 212(b)(1)) (20 U.S.C. 1232e) is amended—

(1) in subsection (a), by striking "that local education agency" and inserting "that local educational agency"; and

(2) in subsection (b)—

(A) in paragraph (2), by inserting a comma after "program";

(B) in paragraph (4), by striking "Commissioner" each place such term appears and inserting "Secretary"; and

(C) in subparagraph (B) of paragraph (7), by striking "handicapped individuals" and inserting "individuals with disabilities".

(h) SECTION 444.—Section 444 of the Act (as redesignated by section 212(b)(1) and amended by section 249) (20 U.S.C. 1232g) is further amended—

(1) in clause (ii) of subsection (a)(4)(B), by striking the period and inserting a semicolon;

(2) in subsection (b)—

(A) in subparagraph (C) of paragraph (1), by striking "(iii) an administrative head of an education agency (as defined in section 408(c)), or (iv)" and inserting "or (iii)";

(B) in subparagraph (H) of paragraph (1), by striking "1954" and inserting "1986"; and

(C) in paragraph (3)—

(i) by striking "(C) an administrative head of an education agency or (D)" and inserting "or (C)"; and

(ii) by striking "education program" and inserting "education programs";

(3) in subsection (d), by inserting a comma after "education";

(4) in subsection (f)—

(A) by striking ", or an administrative head of an education agency,";

(B) by striking "enforce provisions of this section" and inserting "enforce this section";

(C) by striking "according to the provisions of" and inserting "in accordance with"; and

(D) by striking "comply with the provisions of this section" and inserting "comply with this section"; and

(5) in subsection (g)—

(A) by striking "of Health, Education, and Welfare"; and

(B) by striking "the provisions of".

(i) CONFORMING AMENDMENT AND CROSS REFERENCES.—

(1) CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.—Subsection (b) of section 504 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2466a(b)) is amended—

(A) by striking "240-day" and inserting "360-day"; and

(B) by striking "431(g)" and inserting "437(e)".

(2) HIGHER EDUCATION ACT OF 1965.—Subsection (c) of section 556 of the Higher Education Act of 1965 (20 U.S.C. 1108d(c)) is amended by striking "435 and 436" and inserting "441 and 442".

(3) EDUCATION AND TRAINING FOR A COMPETITIVE AMERICA ACT OF 1988.—Paragraph (1) of section 6144 of the Education and Training for a Competitive America Act of 1988 (20 U.S.C. 5124(1)) is amended by striking "405(d)(4)(A)(i) of the General Education Provisions Act (20 U.S.C. 1221e(d)(4)(A)(i))" and inserting "section 941(h) of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6041(h))".

PART F—RELATED AMENDMENTS TO OTHER ACTS

SEC. 271. DEPARTMENT OF EDUCATION ORGANIZATION ACT.

(a) REPEALS AND REDESIGNATIONS.—

(1) REPEALS.—Section 427 of the Department of Education Organization Act (20 U.S.C. 3487) (hereafter in this part referred to as the "Act") is repealed.

(2) REDESIGNATION.—Sections 209, 210, 211, 212, 214, 303, 304, 305, 306, 307, and 428 of the Act are redesignated as sections 208, 209, 210, 211, 212, 302, 303, 304, 305, 306, and 427 of the Act, respectively.

(3) CROSS REFERENCES.—(A) Paragraph (2) of section 401(b) of the Act (20 U.S.C. 3461(b)(2)) is amended by striking "209" and inserting "208".

(B) Paragraph (9) of section 912(l) of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6011(l)(9)) is amended by striking "209" and inserting "208".

(b) GENDER EQUITY.—Subsection (b) of section 202 of the Act (20 U.S.C. 3412) is amended by inserting after paragraph (2) the following new paragraph:

"(3) There shall be in the Department, a Special Assistant for Gender Equity who shall be appointed by the Secretary. The Special Assistant shall promote, coordinate, and evaluate gender equity programs, including the dissemination of information, technical assistance, and coordination of research activities. The Special Assistant shall advise the Secretary and Deputy Secretary on all matters relating to gender equity.".

(c) OFFICE OF NON-PUBLIC EDUCATION.—Title II of the Act (20 U.S.C. 3411 et seq.) is amended by adding immediately before section 215 the following new section:

"OFFICE OF NON-PUBLIC EDUCATION

"SEC. 214. There shall be in the Department an Office of Non-Public Education to ensure the maximum potential participation of non-public school students in all Federal educational programs for which such students are eligible.".

(d) RULES; ACQUISITION AND MAINTENANCE OF PROPERTY.—Part B of title IV of the Act (20 U.S.C. 3471 et seq.) is amended—

(1) in section 414 (20 U.S.C. 1226a)—

(A) by striking "(a)"; and

(B) by striking subsection (b); and

(2) in section 421 (20 U.S.C. 1230), by inserting "and to accept donations of services," after "personal,".

(e) TABLE OF CONTENTS.—The table of contents contained in section 1 of the Act (20 U.S.C. 3401 note) is amended to read as follows:

"TABLE OF CONTENTS

"Sec. 1. Short title; table of contents.

"TITLE I—GENERAL PROVISIONS

"Sec. 101. Findings.
"Sec. 102. Purposes.
"Sec. 103. Federal-State Relationships.
"Sec. 104. Definitions.

"TITLE II—ESTABLISHMENT OF THE DEPARTMENT

"Sec. 201. Establishment.
"Sec. 202. Principal officers.
"Sec. 203. Office for Civil Rights.
"Sec. 204. Office of Elementary and Secondary Education.
"Sec. 205. Office of Postsecondary Education.
"Sec. 206. Office of Vocational and Adult Education.
"Sec. 207. Office of Special Education and Rehabilitative Services.
"Sec. 208. Office of Educational Research and Improvement.
"Sec. 209. Office of Bilingual Education and Minority Languages Affairs.
"Sec. 210. Office of General Counsel.
"Sec. 211. Office of Inspector General.
"Sec. 212. Office of Non-Public Education.
"Sec. 213. Office of Indian Education.
"Sec. 214. Office of Non-Public Education.
"Sec. 215. Office of Indian Education.
"Sec. 216. Office of Bilingual Education and Minority Languages Affairs.
"Sec. 217. Federal Interagency Committee on Education.

"TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

"Sec. 301. Transfers from the Department of Health, Education, and Welfare.
"Sec. 302. Transfers from the Department of Labor.
"Sec. 303. Transfers of programs from the National Science Foundation.
"Sec. 304. Transfers from the Department of Justice.
"Sec. 305. Transfers from the Department of Housing and Urban Development.
"Sec. 306. Effect of transfers.

"TITLE IV—ADMINISTRATIVE PROVISIONS

"PART A—PERSONNEL PROVISIONS

"Sec. 401. Officers and employees.
"Sec. 402. Experts and consultants.
"Sec. 403. Personnel reduction and annual limitations.

"PART B—GENERAL ADMINISTRATIVE PROVISIONS

"Sec. 411. General authority.
"Sec. 412. Delegation.
"Sec. 413. Reorganization.
"Sec. 414. Rules.
"Sec. 415. Contracts.

"Sec. 416. Regional and field offices.
"Sec. 417. Acquisition and maintenance of property.
"Sec. 418. Facilities at remote locations.
"Sec. 419. Use of facilities.
"Sec. 420. Copyrights and patents.
"Sec. 421. Gifts and bequests.
"Sec. 422. Technical advice.
"Sec. 423. Working capital fund.
"Sec. 424. Funds transfer.
"Sec. 425. Seal of department.
"Sec. 426. Annual report.
"Sec. 427. Authorization of appropriations.

"TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

"Sec. 501. Transfer and allocation of appropriations and personnel.
"Sec. 502. Effect on personnel.
"Sec. 503. Agency terminations.
"Sec. 504. Incidental transfers.
"Sec. 505. Savings provisions.
"Sec. 506. Separability.
"Sec. 507. Reference.
"Sec. 508. Amendments.
"Sec. 509. Redesignation.
"Sec. 510. Coordination of programs affecting handicapped individuals.
"Sec. 511. Transition.

"TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

"Sec. 601. Effective date.
"Sec. 602. Interim appointments.".

SEC. 272. THE REHABILITATION ACT OF 1973.

Section 9 of the Rehabilitation Act of 1973 (29 U.S.C. 706) is repealed.

TITLE III—AMENDMENTS TO OTHER ACTS

PART A—AMENDMENTS TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

SEC. 311. ALLOCATIONS UNDER SECTION 611.

(a) MAXIMUM AMOUNT.—Subsection (a) of section 611 of the Individuals with Disabilities Education Act (hereafter in this part referred to as the "Act") (20 U.S.C. 1411(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Except as provided in paragraph (5), the maximum amount of the grant for which a State is entitled under this section for any fiscal year is—

"(A) the sum of—

"(i) the number of children with disabilities in the State, aged 6 through 21, who are receiving special education and related services, as determined under paragraph (3); and

"(ii) if the State is eligible for a grant under section 619, the number of such children in the State, aged 3 through 5; multiplied by

"(B) 40 percent of the average per-pupil expenditure in public elementary and secondary schools in the United States.";

(2) by amending paragraph (2) to read as follows:

"(2) For the purpose of this section, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico."; and

(3) in subparagraph (A) of paragraph (5)—

(A) in clause (i)—

(i) by striking "and the State" and inserting ", or the combined percentage of such children counted by the Secretary for the purpose of making fiscal year 1994 allocations under this section and under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994), whichever is greater, if the State"; and

(ii) by inserting "and" after the comma at the end;

(B) in clause (ii)—

(i) by striking "and the State" and inserting ", or the combined percentage of such children counted by the Secretary for the purpose of making fiscal year 1994 allocations under this section and under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994), whichever is greater, if the State"; and

(ii) by striking "; and" and inserting a period; and

(C) by striking clause (iii).

(b) STATE USES.—Subsection (b) of section 611 of the Act (20 U.S.C. 1411(b)) is amended to read as follows:

"(b)(1) Notwithstanding subsections (a) and (g), no State shall receive an amount under this section for any of the fiscal years 1995 through 1999 that is less than the sum of the amount such State received for fiscal year 1994 under—

"(A) this section; and

"(B) subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) for children with disabilities aged 3 through 21.

"(2) If, for fiscal year 1998 or 1999, the number of children determined under subsection (a)(3) for any State is less than the total number of children with disabilities, aged 3 through 21, counted for that State's fiscal year 1994 grants under this section and under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994), then the amount determined under paragraph (1) for that State shall be reduced by the same percentage by which the number of those children so declined.

"(3)(A) If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under paragraphs (1) and (2) for such year, the Secretary shall ratably reduce the allocations to such States for such year.

"(B) If additional funds become available for making payments under paragraphs (1) and (2) for such fiscal year, allocations that were reduced under subparagraph (A) shall be increased on the same basis as such allocations were reduced.".

(c) DISTRIBUTION.—Subsection (c) of section 611 of the Act (20 U.S.C. 1411(c)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Of the funds received under subsection (a) by any State for any fiscal year—

"(A) a State may use not more than 25 percent of such funds in accordance with paragraph (2); and

"(B) except as provided in paragraph (4), the State shall distribute at least 75 percent of such funds to local educational agencies and intermediate educational units, in accordance with subsection (d), for use in accordance with priorities established under section 612(3)."; and

(2) in paragraph (2), by amending subparagraph (A) to read as follows:

"(A) From the funds that any State may use under paragraph (1)(A) for any fiscal year, the State—

"(i) may use 5 percent of the funds received under this section or $450,000, whichever is greater, for administrative costs related to carrying out sections 612 and 613; and

"(ii) shall use the remainder—

"(I) to provide support services and direct services, subject to subparagraph (B), in accordance with priorities established under section 612(3); and

"(II) for the administrative costs of monitoring and complaint investigation, but only to the extent that such costs exceed the costs of administration incurred during fiscal year 1985.".

(d) FORMULA.—Subsection (d) of section 611 of the Act (20 U.S.C. 1411(d)) is amended to read as follows:

"(d)(1) From the total amount of funds available for any fiscal year under subsection (c)(1)(B), the State shall provide to each local educational agency or intermediate educational unit an amount that bears the same ratio to such total amount as the number of children, aged 3 through 21, determined under subsection (a)(3) for such agency or unit bears to the total number of such children determined for all such agencies and units that apply for such funds.

"(2)(A) To the extent necessary, the State—

"(i) shall use funds available under subsection (c)(2)(A)(ii) to ensure that each State agency that received funds for fiscal year 1994 under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) receives, from the sum of such funds and funds provided under paragraph (1), an amount equal to—

"(I) the number of children, aged 6 through 21, determined under subsection (a)(3) for such agency; multiplied by

"(II) the per-child amount provided under such subpart for fiscal year 1994; and

"(ii) may use such funds to ensure that each local educational agency that received for fiscal year 1994 under such subpart for children who had transferred from a State-owned, State-operated, or State-supported school or program assisted under such subpart receives, from the sum of such funds and funds provided under paragraph (1), an amount for each such child, aged 3 through 21, determined under subsection (a)(3) for such agency, equal to the per-child amount the agency received under such subpart for fiscal year 1994.

"(B) For the purpose of subparagraph (A), the number of children determined under subsection (a)(3) for any State agency or local educational agency shall not exceed the number of children aged 3 through 21 for whom such agency received funds under such subpart for such fiscal year.".

(e) JURISDICTIONS.—Paragraph (1) of section 611(e) of the Act (20 U.S.C. 1411(e)(1)) is amended to read as follows:

"(1) The jurisdictions to which this subsection applies are Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau (until the Compact of Free Association with the Government of Palau takes effect).".

(f) INSUFFICIENT APPROPRIATIONS.—Subsection (g) of section 611 of the Act (20 U.S.C. 1411(g)) is amended to read as follows:

"(g)(1)(A) If the sums appropriated under subsection (h) for any fiscal year are not sufficient to pay in full the total of the amounts that all States are eligible to receive under subsection (a), each such amount shall be ratably reduced.

"(B) If additional funds become available for making such payments for any fiscal year, such reduced amounts shall be increased on the same basis as such payments were reduced.

"(C) Any State that receives any such additional funds shall distribute such funds in accordance with this section, except that any State that has used funds available under subsection (c)(2)(A)(ii) for the purposes described in subsection (d)(2) may—

"(i) deduct, from the amount that the State would otherwise be required to make available to local educational agencies and intermediate educational units, the same amount of such additional funds as the State so used; and

"(ii) use such funds in accordance with subsection (c)(2)(A)(ii).

"(2)(A) In any fiscal year for which payments have been reduced and additional funds have not been made available under paragraph (1) to pay in full the amounts for which all States are eligible under this section, each State educational agency shall fix dates by which each local educational agency or intermediate educational unit shall report to the State agency the amount of funds available to such agency under this section that such agency estimates such agency will expend.

"(B) The State educational agency shall, in accordance with this section, reallocate any funds that the State educational agency determines will not be used during the period of availability by local educational agencies and intermediate educational units, and by any such agency or unit to which such funds would be available if such agency or unit applied for such funds under this part, to those local educational agencies and intermediate educational units that the State educational agency determines will need, and be able to use, additional funds to carry out approved programs.".

SEC. 312. TREATMENT OF CHAPTER 1 STATE AGENCIES.

Part B of the Act (20 U.S.C. 1411 et seq.) is further amended by inserting after section 614 the following new section:

"TREATMENT OF CHAPTER 1 STATE AGENCIES

"SEC. 614A. (a) For the purpose of making payments under sections 611 and 619 of this Act, any State agency that received funds for fiscal year 1994 under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994) shall be treated as if the State agency were a local educational agency.

"(b) Any State agency which desires to receive payments under section 611(d) and section 619(c)(3) for any fiscal year shall submit an application to the State educational agency. Such application shall—

"(1) include an assurance that all children with disabilities who are participating in programs and projects funded under this part receive a free appropriate public education, and that such children and their parents are provided all the rights and procedural safeguards described in this part; and

"(2) meet those requirements of section 614 that the Secretary finds appropriate.

"(c) Section 611(c)(4) shall not apply with respect to a State agency that is eligible for a payment under this part by application of this section.".

SEC. 313. INFANTS AND TODDLERS WITH DISABILITIES.

(a) AMENDMENT.—Subsection (c) of section 684 of the Act (20 U.S.C. 1484) is amended—

(1) by redesignating paragraph (2) as paragraph (6);

(2) by amending paragraph (1) to read as follows:

"(1) Except as provided in paragraphs (3), (4), and (5) from the funds remaining for each fiscal year after the reservation and payments under subsections (a) and (b), the Secretary shall first allot to each State an amount that bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States."; and

(3) by inserting after paragraph (1) the following new paragraphs:

"(2) For fiscal year 1995 only, the Secretary shall allot $34,000,000 of the remaining funds described in paragraph (1) among the States in proportion to their relative numbers of infants and toddlers with disabilities who—

"(A) are counted on December 1, 1994; and

"(B) would have been eligible to be counted under section 1221(c)(1) of the Elementary and Secondary Education Act of 1965 (as such section was in effect on the day preceding the date of the enactment of the Improving America's Schools Act of 1994).

"(3) Except as provided in paragraphs (4) and (5), no State shall receive an amount under this section for any fiscal year that is less than the greater of—

"(A) one-half of one percent of the remaining amount described in paragraph (1), excluding any amounts allotted under paragraph (2); or

"(B) $500,000.

"(4)(A) Except as provided in paragraph (5), no State shall receive an amount under this section for any of the fiscal years 1995 through 1999 that is less than the sum of the amount such State received for fiscal year 1994 under—

"(i) this part; and

"(ii) subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994) for children with disabilities from birth through age 2.

"(B) If, for fiscal year 1998 or 1999, the number of infants and toddlers in any State, as determined under paragraph (1), is less than the number of infants and toddlers so determined for fiscal year 1994, the amount determined under subparagraph (A) for that State shall be reduced by the same percentage by which the number of those infants and toddlers so declined.

"(5)(A) If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under this subsection for such year, the Secretary shall ratably reduce the allocations to such States for such year.

"(B) If additional funds become available for making payments under this subsection for such fiscal year, allocations that were reduced under subparagraph (A) shall be increased on the same basis as such allocations were reduced.".

(b) EFFECTIVE DATE.—Subsection (a) and the amendments made by subsection (a) shall take effect on October 1, 1994.

SEC. 314. LOCAL CONTROL OVER VIOLENCE.

(a) AMENDMENTS.—

(1) IN GENERAL.—Paragraph (3) of section 615(e) of the Act (20 U.S.C. 1415(e)(3)) is amended—

(A) by striking "During" and inserting "(A) Except as provided in subparagraph (B), during"; and

(B) by adding at the end the following new subparagraph:

"(B)(i) Except as provided in clause (iii), if the proceedings conducted pursuant to this section involve a child with a disability who is determined to have brought a weapon to school under the jurisdiction of such agency, then the child may be placed in an interim alternative educational setting, in accordance with State law, for not more than 45 days.

"(ii) The interim alternative educational setting described in clause (i) shall be decided by the individuals described in section 602(a)(20).

"(iii) If a parent or guardian of a child described in clause (i) requests a due process hearing pursuant to paragraph (2) of subsection (b), then the child shall remain in the alternative educational setting described in such clause during the pendency of any proceedings conducted pursuant to this section, unless the parents and the local educational agency agree otherwise.

"(iv) For the purpose of this section, the term 'weapon' means a firearm as such term is defined in section 921 of title 18, United States Code.".

(2) EFFECTIVE DATE.—Paragraph (1) and the amendments made by paragraph (1) shall be effective during the period beginning on the date of enactment of this Act and ending on the date of enactment of an Act (enacted after the date of the enactment of this Act) that reauthorizes the Individuals with Disabilities Education Act.

(b) LIMITATION.—Nothing in the Individuals with Disabilities Education Act shall supersede the provisions of section 14601 of the Elementary and Secondary Education Act if a child's behavior is unrelated to such child's disability, except that this section shall be interpreted in a manner that is consistent with the Department's final guidance concerning State and local responsibilities under the Gun-Free Schools Act of 1994.

SEC. 315. FAMILY SUPPORT FOR FAMILIES OF CHILDREN WITH DISABILITIES.

The Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) is amended by adding at the end the following new part:

"PART I—FAMILY SUPPORT

"SEC. 701. SHORT TITLE.

"This part may be cited as the 'Families of Children With Disabilities Support Act of 1994'.

"SEC. 702. FINDINGS, PURPOSES, AND POLICY.

"(a) FINDINGS.—The Congress makes the following findings:

"(1) It is in the best interest of our Nation to preserve, strengthen, and maintain the family.

"(2) Families are the greatest natural resource available to their children and are the major providers of support, care, and training of their children.

"(3) Families of children with disabilities enrich the lives of all citizens through the contributions of such families to the economic, health, and social fabric of their community, State, and Nation.

"(4) A growing number of families are searching for ways to empower themselves to raise their children with disabilities at home and in their communities. Supporting such families to enable them to care for their children with disabilities at home is efficient and can be cost-effective.

"(5) Children, including children with disabilities, benefit from enduring family relationships in a nurturing home environment.

"(6) Many families experience exceptionally high financial outlays and significant physical and emotional challenges in meeting the special needs of their children with disabilities.

"(7) There are financial disincentives for families to care for their children with disabilities at home.

"(8) Most families of children with disabilities do not have access to family-centered and family-directed services to support such families in their efforts to care for their children with disabilities at home.

"(9) There is a need in each State for a comprehensive, coordinated, interagency system of family support for families of children with disabilities that is family-centered and family-directed, is easily accessible, avoids duplication, uses existing resources more efficiently, and prevents gaps in services to families in all areas of the State.

"(10) The goals of the Nation properly include the goal of providing families of children with disabilities the family support necessary to accomplish the following:

"(A) To support the family.

"(B) To enable families of children with disabilities to nurture and enjoy their children at home.

"(C) To enable families of children with disabilities to make informed choices and decisions regarding the nature of services, supports, and resources made available to such families.

"(b) PURPOSES.—The purposes of this part are as follows:

"(1) To provide financial assistance to the States to support systems change activities designed to assist each State to develop and implement, or expand and enhance, a family-centered

and family-directed, culturally competent, community-centered, comprehensive, statewide system of family support for families of children with disabilities that is designed to—

"(A) ensure the full participation, choice and control of families of children with disabilities in decisions related to the provision of such family support for their family;

"(B) ensure the active involvement of families of children with disabilities in the planning, development, implementation, and evaluation of such a statewide system;

"(C) increase the availability of, funding for, access to, and provision of family support for families of children with disabilities;

"(D) promote training activities that are family-centered and family-directed and that enhance the ability of family members of children with disabilities to increase participation, choice, and control in the provision of family support for families of children with disabilities;

"(E) increase and promote interagency coordination among State agencies, and between State agencies and private entities that are involved in carrying out activities under section 708; and

"(F) increase the awareness of laws, regulations, policies, practices, procedures, and organizational structures, which facilitate or impede the availability or provision of family support for families of children with disabilities.

"(2) To enhance the ability of the Federal Government to—

"(A) identify Federal policies that facilitate or impede family support for families of children with disabilities, and that are consistent with the principles in subsection (c);

"(B) provide States with technical assistance and information relating to the provision of family support for families of children with disabilities;

"(C) conduct an evaluation of the program of grants to States; and

"(D) provide funding for model demonstration and innovation projects.

"(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this part shall be family-centered and family-directed and shall be carried out in a manner consistent with the following principles:

"(1) Family support for families of children with disabilities must focus on the needs of the entire family.

"(2) Families of children with disabilities should be supported in determining their needs and in making decisions concerning necessary, desirable, and appropriate services.

"(3) Families should play decisionmaking roles in policies and programs that affect the lives of such families.

"(4) Family needs change over time and family support for families of children with disabilities must offer options that are flexible and responsive to the unique needs and strengths and cultural values of individual families.

"(5) Family support for families of children with disabilities is proactive and not solely in response to a crisis.

"(6) Families must be supported in their efforts to promote the integration and inclusion of their children with disabilities into all aspects of community life.

"(7) Family support for families of children with disabilities should promote the use of existing social networks, strengthen natural sources of support, and help build connections to existing community resources and services.

"(8) Youth with disabilities should be involved in decisionmaking about their own lives, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of each such youth.

"(9) Services and supports must be provided in a manner that demonstrates respect for individual dignity, personal responsibility, self-determination, personal preferences, and cultural differences of families.

"(d) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to prevent families from choosing an out-of-home placement for their children with disabilities, including institutional placement for such children.

"SEC. 703. DEFINITIONS.

"For the purposes of this part, only the following definitions shall apply:

"(1) CHILD WITH A DISABILITY.—The term 'child with a disability' means an individual who from birth through 21 years of age meets the definition of disability under paragraph (4).

"(2) COUNCIL.—The term 'Council' means an existing Council, or a new Council, which is considered as a State Policy Council for Families of Children with Disabilities under section 707.

"(3) CULTURALLY COMPETENT.—The term 'culturally competent' means services, supports, or other assistance that is conducted or provided in a manner that—

"(A) is responsive to the beliefs, interpersonal styles, attitudes, language, and behaviors of those individuals receiving services; and

"(B) has the greatest likelihood of ensuring maximum participation of such individuals.

"(4) DISABILITY.—The term 'disability' means—

"(A) in the case of an individual 6 years of age or older, a significant physical or mental impairment as defined pursuant to State policy to the extent that such policy is established without regard to type of disability; and

"(B) in the case of infants and young children, birth to age 5, inclusive, a substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in a disability if services are not provided.

"(5) EXISTING COUNCIL.—The term 'existing Council' means an entity or a committee of an entity that—

"(A) is established by a State prior to the date on which the State submits an application for funding under this part;

"(B) has authority to advise the State with respect to family support for families of children with disabilities; and

"(C) may have the authority to carry out other responsibilities and duties.

"(6) FAMILY.—The term 'family' means a group of interdependent persons residing in the same household that consists of a child with a disability and one or more of the following:

"(A) A mother, father, brother, sister or any combination.

"(B) Extended blood relatives, such as a grandparent, aunt, or uncle.

"(C) An adoptive parent.

"(D) One or more persons to whom legal custody of a child with a disability has been given by a court.

"(E) A person providing short-term foster care that includes a family reunification plan with the biological family.

"(F) A person providing long-term foster care for a child with a disability.

The term does not include employees who, acting in their paid employment capacity, provide services to children with disabilities in out-of-home settings such as hospitals, nursing homes, personal care homes, board and care homes, group homes, or other facilities.

"(7) FAMILY-CENTERED AND FAMILY-DIRECTED.—The term 'family-centered and family-directed' means, with respect to a service or program, that the service or program—

"(A) facilitates the full participation, choice, and control by families of children with disabilities in—

"(i) decisions relating to the supports that will meet the priorities of the family; and

"(ii) the planning, development, implementation, and evaluation of the statewide system of family support for families of children with disabilities;

"(B) responds to the needs of the entire family of a child with a disability in a timely and appropriate manner; and

"(C) is easily accessible to and usable by families of children with disabilities.

"(8) FAMILY SATISFACTION.—The term 'family satisfaction' means the extent to which a service or support meets a need, solves a problem, or adds value for a family, as determined by the individual family.

"(9) FAMILY SUPPORT FOR FAMILIES OF CHILDREN WITH DISABILITIES.—The term 'family support for families of children with disabilities'—

"(A) means supports, resources, services, and other assistance provided to families of children with disabilities that are designed to—

"(i) support families in the efforts of such families to raise their children with disabilities in the family home;

"(ii) strengthen the role of the family as primary caregiver;

"(iii) prevent inappropriate and unwanted out-of-the-home placement and maintain family unity; and

"(iv) reunite families with children with disabilities who have been placed out of the home, whenever possible; and

"(B) includes—

"(i) service coordination that includes individualized planning and brokering for services with families in control of decisionmaking;

"(ii) goods and services, which may include specialized diagnosis and evaluation, adaptive equipment, respite care (in and out of the home), personal assistance services, homemaker or chore services, behavioral supports, assistive technology services and devices, permanency or future planning, home and vehicle modifications and repairs, equipment and consumable supplies, transportation, specialized nutrition and clothing, counseling services and mental health services for family members, family education or training services, communication services, crisis intervention, day care and child care for a child with a disability, supports and services for integrated and inclusive community activities, parent or family member support groups, peer support, sitter service or companion service, and education aids; and

"(iii) financial assistance, which may include discretionary cash subsidies, allowances, voucher or reimbursement systems, low-interest loans, or lines of credit.

"(10) INTEGRATION AND INCLUSION.—The term 'integration and inclusion' with respect to children with disabilities and their families means—

"(A) the use of the same community resources that are used by and available to other individuals and families;

"(B) the full and active participation in the same community activities and utilization of the same community resources as individuals without disabilities, living, learning, working, and enjoying life in regular contact with individuals without disabilities; and

"(C) having friendships and relationships with individuals and families of their own choosing.

"(11) LEAD ENTITY.—The term 'lead entity' means an office or entity described in section 706.

"(12) NEW COUNCIL.—The term 'new Council' means a council that is established by a State, and considered as the State Policy Council for Families of Children with Disabilities, under section 707(a).

"(13) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(14) SERVICE COORDINATION.—The term 'service coordination'—

"(A) means those family-centered and family-directed activities that assist and enable families to receive rights and procedural safeguards and to gain access to social, medical, legal, educational, and other supports and services; and

"(B) includes—

"(i) follow-along services that assure, through a continuing relationship between a family of a child with a disability and an individual or entity, that the changing needs of the child and family are recognized and appropriately met;

"(ii) the coordination and monitoring of services provided to children with disabilities and their families;

"(iii) the provision of information to children with disabilities and their families about the availability of services and assistance to such children and their families in obtaining appropriate services; and

"(iv) the facilitation and organization of existing social networks, and natural sources of support, and community resources and services.

"(15) STATEWIDE SYSTEM OF FAMILY SUPPORT.—The term 'statewide system of family support for families of children with disabilities' means a family-centered and family-directed, culturally competent, community-centered, comprehensive, statewide system of family support for families of children with disabilities developed and implemented by a State under this part that—

"(A) addresses the needs of all families of children with disabilities, including unserved and underserved populations; and

"(B) addresses such needs without regard to the age, type of disability, race, ethnicity, or gender of such children or the particular major life activity for which such children need the assistance.

"(16) SYSTEMS CHANGE ACTIVITIES.—The term 'systems change activities' means efforts that result in laws, regulations, policies, practices, or organizational structures—

"(A) that are family-centered and family-directed;

"(B) that facilitate and increase access to, provision of, and funding for, family support services for families of children with disabilities; and

"(C) that otherwise accomplish the purposes of this part.

"(17) UNSERVED AND UNDERSERVED POPULATIONS.—The term 'unserved and underserved populations' includes populations such as individuals from racial and ethnic minority backgrounds, economically disadvantaged individuals, individuals with limited-English proficiency, individuals from underserved geographic areas (rural or urban), and specific groups of individuals within the population of individuals with disabilities, including individuals with disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments.

"SEC. 704. GRANTS TO STATES.

"(a) IN GENERAL.—The Secretary shall make grants to States on a competitive basis, in accordance with the provisions of this part, to support systems change activities designed to assist States to develop and implement, or expand and enhance, a statewide system of family support for families of children with disabilities that accomplishes the purposes described in section 702.

"(b) AWARD PERIOD AND GRANT LIMITATION.—No grant shall be awarded for a period greater than 3 years. A State shall be eligible for not more than one grant.

"(c) AMOUNT OF GRANTS.—

"(1) GRANTS TO STATES.—

"(A) FEDERAL MATCHING SHARE.—From amounts appropriated under section 716(a), the Secretary shall pay to each State that has an application approved under section 705, for each year of the grant period, an amount that is—

"(i) equal to 75 percent of the cost of the systems change activities to be carry out by the State; and

"(ii) not less than $200,000 and not more than $500,000.

"(B) NON-FEDERAL SHARE.—The non-Federal share of payments under this paragraph may be in cash or in kind fairly evaluated, including planned equipment or services.

"(2) GRANTS TO TERRITORIES.—From amounts appropriated under section 716(a) for any fiscal year, the Secretary shall pay to each territory that has an application approved under section 705 not more than $100,000.

"(3) CALCULATION OF AMOUNTS.—The Secretary shall calculate a grant amount described in paragraph (1) or (2) on the basis of the following:

"(A) The amounts available for making grants under this section.

"(B) The child population of the State or territory concerned.

"(4) DEFINITIONS.—As used in this subsection:

"(A) STATE.—The term 'State' means each of the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(B) TERRITORY.—The term 'territory' means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Republic of Palau (upon the entry into force and effect of the Compact of Free Association between the United States and the Republic of Palau).

"(d) PRIORITY FOR PREVIOUSLY PARTICIPATING STATES.—Amounts appropriated for purposes of carrying out the provisions of this section in each of the 2 fiscal years succeeding the fiscal year in which amounts are first appropriated for such purposes shall first be made available to a State that—

"(1) received a grant under this section during the fiscal year preceding the fiscal year concerned; and

"(2) is making significant progress in accordance with section 710.

"(e) PRIORITIES FOR DISTRIBUTION.—To the extent practicable, the Secretary shall award grants to States under this section in a manner that—

"(1) is geographically equitable; and

"(2) distributes the grants among States that have differing levels of development of statewide systems of family support for families of children with disabilities.

"SEC. 705. APPLICATION.

"A State that desires to receive a grant under this part shall submit an application to the Secretary that contains the following information and assurances:

"(1) FAMILY-CENTERED AND FAMILY-DIRECTED APPROACH.—An assurance that the State will use funds made available under this part to accomplish the purposes described in section 702 and the goals, objectives, and family-centered outcomes described in section 709(b) by carrying out systems change activities in partnership with families and in a manner that is family-centered and family-directed.

"(2) DESIGNATION OF THE LEAD ENTITY.—Information identifying the lead entity, and evidence documenting the abilities of such entity.

"(3) STATE POLICY COUNCIL FOR FAMILIES OF CHILDREN WITH DISABILITIES.—An assurance of the following:

"(A) The State has designated or established Council that meets the criteria set forth in section 707.

"(B) The lead entity will seek and consider on a regular and ongoing basis advice from the Council regarding the development and implementation of the strategic plan under section 709, and other policies and procedures of general applicability pertaining to the provision of family support for families of children with disabilities in the State.

"(C) The lead entity will include, in its annual progress reports, a summary of advice provided by the Council, including recommendations from the annual report of the Council and the response of the lead entity to such advice and recommendations.

"(D) The lead entity will transmit to the Council any other plans, reports, and other information required under this part.

"(4) FAMILY INVOLVEMENT.—A description of the following:

"(A) The nature and extent of the involvement of families of children with disabilities and individuals with disabilities in the development of the application.

"(B) Strategies for actively involving families of children with disabilities and individuals with disabilities in the development, implementation, and evaluation of the statewide system of family support for families of children with disabilities.

"(C) Strategies and special outreach activities that will be undertaken to ensure the active involvement of families of children with disabilities who are members of unserved and underserved populations.

"(D) Strategies for actively involving families of children with disabilities who use family support services in decisions relating to such services.

"(5) AGENCY INVOLVEMENT.—A description of the nature and extent of involvement of various State agencies or units within State agencies in the preparation of the application and the continuing role of each agency in the statewide system of family support for families of children with disabilities.

"(6) STATE RESOURCES.—A description of the State resources and other resources that are available to commit to the statewide system of family support for families of children with disabilities.

"(7) UNMET NEEDS.—A description of unmet needs for family support for families of children with disabilities within the State.

"(8) PRELIMINARY PLAN.—A preliminary plan that contains information on the program to be carried out under the grant with respect to the goals and objectives of the State for the program and the activities that the State plans to carry out under the program (including the process for appointing individuals to the Council) and that is consistent with the purposes of this part.

"(9) ACTIVITIES.—An assurance that, except for the first year of the grant, the State shall expend not less than 65 percent of the funds made available to a State under this part for grants and contracts to conduct the activities described in section 708.

"(10) LIMIT ON ADMINISTRATIVE COSTS.—An assurance that the lead entity that receives funding under this part in any fiscal year shall use not more than 5 percent of such funds in such year for administrative expenses. Such administrative expenses shall not include expenses related to the activities of the Council.

"(11) STRATEGIC PLAN.—A description of the measures that will be taken by the State to develop a strategic plan in accordance with section 709.

"(12) EVALUATION.—An assurance that the State will conduct an annual evaluation of the statewide system of family support for families of children with disabilities in accordance with section 710.

"(13) COORDINATION WITH STATE AND LOCAL COUNCILS.—An assurance that the lead entity will coordinate the activities funded through a grant made under this part with the activities carried out by other relevant councils within the State.

"(14) SUPPLEMENT OTHER FUNDS.—An assurance, with respect to amounts received under a grant, of the following:

"(A) Such grant will be used to supplement and not supplant amounts available from other sources that are expended for programs of family support for families of children with disabilities, including the provision of family support.

"(B) Such grant will not be used to pay a financial obligation for family support for families of children with disabilities that would have been paid with amounts available from other sources if amounts under such grant had not been available.

"(15) OTHER INFORMATION AND ASSURANCES.—Such other information and assurances as the Secretary may reasonably require.

"SEC. 706. DESIGNATION OF THE LEAD ENTITY.

"(a) DESIGNATION.—The Chief Executive Officer of a State that desires to receive a grant under section 704, shall designate the office or entity (referred to in this part as the "lead entity") responsible for—

"(1) submitting the application under section 705 on behalf of the State;

"(2) administering and supervising the use of the amounts made available under the grant;

"(3) coordinating efforts related to and supervising the preparation of the application;

"(4) coordinating the planning, development, implementation (or expansion and enhancement), and evaluation of a statewide system of family support services for families of children with disabilities among public agencies and between public agencies and private agencies, including coordinating efforts related to entering into interagency agreements; and

"(5) coordinating efforts related to the meaningful participation by families in activities carried out under a grant awarded under this part.

"(b) QUALIFICATIONS.—In designating the lead entity, the Chief Executive Officer may designate—

"(1) an office of the Chief Executive Officer;

"(2) a commission appointed by the Chief Executive Officer;

"(3) a public agency;

"(4) a council established under Federal or State law; or

"(5) another appropriate office, agency, or entity.

"(c) CAPABILITIES OF THE LEAD ENTITY.—The State shall provide, in accordance with the requirements of section 705, evidence that the lead entity has the capacity—

"(1) to promote a statewide system of family support for families of children with disabilities throughout the State;

"(2) to promote and implement systems change activities;

"(3) to maximize access to public and private funds for family support services for families of children with disabilities;

"(4) to implement effective strategies for capacity building, family and professional training, and access to and funding for family support services for families of children with disabilities across agencies;

"(5) to promote and facilitate the implementation of family support services for families of children with disabilities that are family-centered and family-directed, and flexible, and that provide families with the greatest possible decisionmaking authority and control regarding the nature and use of services and supports;

"(6) to promote leadership by families in planning, policy development, implementation, and evaluation of family support services for families of children with disabilities, and parent-professional partnerships; and

"(7) to promote and develop interagency coordination and collaboration.

"SEC. 707. STATE POLICY COUNCIL FOR FAMILY SUPPORT FOR FAMILIES OF CHILDREN WITH DISABILITIES.

"(a) DESIGNATION OR ESTABLISHMENT.—A State that desires to receive financial assistance under this part shall, prior to the receipt of funds under this part, designate an existing Council, or establish a new Council, to be considered as a State Policy Council for Families of Children with Disabilities.

"(b) USE OF EXISTING COUNCIL.—

"(1) IN GENERAL.—To the extent that a State has an existing Council, the existing Council shall be considered in compliance with this section if the existing Council meets the requirements under paragraph (2).

"(2) REQUIREMENTS.—An existing Council shall—

"(A) include a majority of members who are family members of children with disabilities and who are children with disabilities (from age 18 to 21);

"(B) in the case in which the existing Council does not represent the full range of families and individuals described in subsection (d)(1), adopt strategies that will ensure the full participation of such families and individuals in all activities carried out by the Council; and

"(C) carry out functions and authorities that are comparable to the functions and authorities described in subsections (e) through (h).

"(3) DOCUMENTATION OF COMPLIANCE.—Any State that has an existing Council shall include in a grant application submitted under section 705 and in subsequent annual progress reports submitted to the Secretary under section 710, a description of the measures that are being taken or that are planned, to ensure that the existing Council of the State complies with this section.

"(c) APPOINTMENTS TO NEW COUNCIL.—

"(1) MEMBERS.—To the extent that a State establishes a new Council, members of the new Council shall be appointed by the Chief Executive Officer of the State or the appropriate official within the State responsible for making appointments in accordance with subsection (d). The appointing authority shall select members after soliciting recommendations from the State Developmental Disabilities Council, parent or family organizations, and other organizations representing the full range of disabilities covered under this part. The appointing authority shall ensure that the membership of the new Council reasonably represents the population of the State and shall establish guidelines for the terms of the members of the new Council.

"(2) CHAIRPERSON.—The new Council shall elect a member of the new Council to serve as the Chairperson of the new Council. The Chairperson shall be a family member, as described in subsection (d)(1).

"(d) COMPOSITION.—The new Council shall be composed of—

"(1) a majority of members who are—

"(A) individuals who are family members of children with disabilities, are eligible for family support, and represent the diversity of families within the State, including those families from unserved and underserved populations; and

"(B) children with disabilities, from age 18 to 21, and are representative of the demographics of the State;

"(2) members—

"(A) who are from State agencies with significant responsibility for the provision of, or payment for, family support services to families of children with disabilities, and who have sufficient authority to engage in policy planning and implementation on behalf of such agencies; and

"(B) who are from the office of the Chief Executive Officer of the State with responsibility with respect to budget and finance; and

"(3) such additional members as the appointing authority considers appropriate.

"(e) FUNCTIONS.—The new Council shall—

"(1) establish formal policies regarding the operation of the new Council;

"(2) advise and assist the lead entity in the performance of responsibilities described in section 706(a), particularly the promotion of interagency agreements and the promotion of meaningful participation by families in all aspects of the statewide system of family support for families of children with disabilities;

"(3) advise and assist State agencies in the development of policies and procedures relating to the provision of family support for families of children with disabilities in the State;

"(4) advise and assist the lead entity in the development of all aspects of a strategic plan under section 709, including—

"(A) the mission, purpose, and principles of the statewide system of family support for families of children with disabilities;

"(B) the statement of family-centered outcomes;

"(C) the goals, objectives, and activities;

"(D) the quality improvement or quality enhancement system;

"(E) the appeals process;

"(F) the eligibility criteria to be used for all programs, projects, and activities carried out under this part;

"(G) the analysis of the extent to which family support for families of children with disabilities is defined as a benefit and not as income; and

"(H) the approach to the evaluation of the statewide system of family support for families of children with disabilities;

"(5) advise and assist the lead entity in the implementation of systems change activities;

"(6) advise and assist the lead entity in assessing family satisfaction with the statewide system of family support for families of children with disabilities;

"(7) review, analyze, and comment on the strategic plan and updates to the plan, progress reports, and annual budgets;

"(8) advise and assist the lead entity in the identification of Federal and State barriers that impede the development of a statewide system of family support for families of children with disabilities; and

"(9) prepare and submit to the Chief Executive Officer of the State, the State legislature, and to the Secretary an annual report on the status of family support services for families of children with disabilities, and make such report available to the public.

"(f) HEARINGS AND FORUMS.—The new Council is authorized to hold such hearings and forums as the new Council may determine to be necessary to carry out the duties of the new Council.

"(g) CONFLICT OF INTEREST.—No member of the new Council shall cast a vote on any matter that would provide direct financial benefit to such member or otherwise give the appearance of a conflict of interest under applicable State law.

"(g) COMPENSATION AND EXPENSES.—The new Council may, consistent with State law, use such resources to reimburse members of the new Council for reasonable and necessary expenses of attending the new Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the new Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.

"SEC. 708. AUTHORIZED ACTIVITIES.

"(a) IN GENERAL.—A State that receives a grant under section 704 may use the funds made available through the grant to carry out systems change activities, which accomplish the purposes described in section 702, such as the following activities:

"(1) TRAINING AND TECHNICAL ASSISTANCE.—The State may support training and technical assistance activities for family members, service providers, community members, professionals,

members of the Council, students and others that will do the following:

"(A) Increase family participation, choice, and control in the provision of family support for families of children with disabilities.

"(B) Promote partnerships with families of children with disabilities at all levels of the service system.

"(C) Develop or strengthen family-centered and family-directed approaches to services, including service coordination services, service planning services, and respite care services.

"(D) Assist families of children with disabilities in accessing natural and community supports and in obtaining benefits and services.

"(2) INTERAGENCY COORDINATION.—The State may support activities that conduct the following:

"(A) Identification and coordination of Federal and State policies, resources, and services, relating to the provision of family support services for families of children with disabilities, including entering into interagency agreements.

"(B) Interagency work groups to enhance public funding options and coordinate access to funding for family support services for families of children with disabilities, with special attention to the issues of family involvement in the identification, planning, use, delivery, and evaluation of such services.

"(C) Documentation and dissemination of information about interagency activities that promote coordination with respect to family support services for families of children with disabilities, including evidence of increased participation of State and local health, maternal and child health, social service, mental health, mental retardation and developmental disabilities, child protection, education, early intervention, developmental disabilities councils, agencies, and departments.

"(3) LOCAL OR REGIONAL COUNCILS.—The State may support the development or enhancement of local or regional councils to review the status of family support for families of children with disabilities in the local or regional area, to advise and assist with the planning, development, implementation, and evaluation of family support for families of children with disabilities in such local or regional area, and to provide recommendations to the State regarding improvements and plans.

"(4) OUTREACH.—The State may conduct outreach activities to locate families who are eligible for family support for families of children with disabilities and to identify groups who are unserved or underserved. Such activities may involve the creation or maintenance of, support of, or provision of, assistance to statewide and community parent organizations, and organizations that provide family support to families of children with disabilities.

"(5) POLICY STUDIES.—The State may support policy studies that relate to the development and implementation, or expansion and enhancement, of a statewide system of family support for families of children with disabilities. Such studies may address issues regarding eligibility and access to services.

"(6) HEARINGS AND FORUMS.—The State may conduct hearings and forums to solicit input from families of children with disabilities regarding family support programs, policies, and plans for such families. Such hearings and forums may be conducted in collaboration with other statewide councils.

"(7) PUBLIC AWARENESS AND EDUCATION.—The State may develop and disseminate information relating to family support for families of children with disabilities designed to provide information to such families, parent groups and organizations, public and private agencies that are in contact with children with disabilities and families of such children, students, policymakers, and the public. Such information may relate to the nature, cost, and availability of, and accessibility to, family support for families of children with disabilities, the impact of family support for families of children with disabilities on other benefits, and the efficacy of family support for families of children with disabilities with respect to enhancing the quality of family life.

"(8) NEEDS ASSESSMENT.—The State may conduct a needs assessment, which may, in part, be based on existing State data.

"(9) PROGRAM DATA.—The State may support the compilation and evaluation of appropriate data related to the statewide system of family support for families of children with disabilities.

"(10) PILOT DEMONSTRATION PROJECTS.—The State may support pilot demonstration projects to demonstrate new approaches to the provision of family support for families of children with disabilities. Such projects may include the demonstration of family-centered and family-directed service coordination, approaches to improve access to services, including independent service coordination, peer support networks, and voucher programs.

"(11) OTHER ACTIVITIES.—The State may support other systems change activities that accomplish the purposes described in section 702.

"(b) SPECIAL RULE.—In carrying out activities authorized under this part, a State shall ensure that such programs and activities address the needs of families who are economically disadvantaged.

"SEC. 709. STRATEGIC PLAN.

"(a) IN GENERAL.—Not later than 6 months after the date on which assistance is received by a State under this part, the lead entity of the State, in conjunction with the Council, shall prepare and submit to the Secretary a strategic plan designed to achieve the purposes and policy of this part.

"(b) CONTENTS.—The strategic plan shall include—

"(1) a statement of the mission, purpose, and principles of the statewide system of family support for families of children with disabilities in the State;

"(2) a statement of family-centered outcomes to be achieved by the statewide system of family support for families of children with disabilities;

"(3) specific goals and objectives for developing and implementing, or expanding and improving, the system for providing family support services for families of children with disabilities, and for achieving the family-centered outcomes;

"(4) systemic approaches for accomplishing the objectives and achieving the family-centered outcomes, including interagency coordination and cooperation, that builds upon state-of-the-art practices and research findings;

"(5) a description of the specific programs, projects, and activities funded under this part and the manner in which the programs, projects, and activities accomplish the objectives and achieve the family-centered outcomes;

"(6) a description of an ongoing quality improvement or quality enhancement system, which utilizes information from ongoing measurements of the extent to which family-centered outcomes are achieved, to improve the system;

"(7) a description of an appeals process that will be used in resolving any disputes families of children with disabilities may have regarding the determination of eligibility or the provision of family support services to the family or to the child with a disability;

"(8) a description of the eligibility criteria to be used to carry out programs, projects, and activities under this part that includes all eligible families;

"(9) an analysis of the extent to which family support for a family of a child with a disability is defined as a benefit and not as income; and

"(10) a description of the plan to conduct an annual evaluation of the statewide system of family support for families of children with disabilities, in conjunction with the Council, to improve such statewide system and to document progress as required by section 710.

"(c) PERIOD AND UPDATES.—The strategic plan shall cover the period of the grant and shall be reviewed and updated on an annual basis to reflect actual experience and family satisfaction information over the preceding year and input from the Council, families of children with disabilities, and other interested parties.

"(d) RECOMMENDATIONS.—Prior to developing the strategic plan, the State shall solicit input and recommendations from interested members of the public, either by holding public hearings or through an alternative method or methods determined by the lead entity in consultation with the Council. The lead entity shall also obtain the comments and recommendations of the Council. The lead entity, in conjunction with the Council, shall consider the recommendations and attempt to reach a consensus with respect to such recommendations. If the lead entity and the Council are unable to reach a consensus, the lead entity shall include a written explanation of the reason a consensus was not reached in the strategic plan.

"(e) COMMENT.—The State shall develop a procedure for ensuring ongoing comment from the Council.

"(f) DISSEMINATION.—The State shall widely disseminate the strategic plan to families of children with disabilities, parent organizations, and other interested persons.

"(g) CONSTRUCTION.—Nothing in this section shall be construed to prevent a State from using an existing statewide strategic plan or parts thereof to meet the requirements of this section as long as such plan or the applicable parts thereof are comparable to the specifications of this section.

"SEC. 710. PROGRESS CRITERIA AND REPORTS.

"(a) GUIDELINES.—The Secretary shall develop guidelines to be used in assessing the extent to which a State that received a grant under section 704 is making significant progress in developing and implementing, or expanding and enhancing, a statewide system of family support for families of children with disabilities consistent with the purposes of this part.

"(b) PROGRESS REPORTS.—A State that receives a grant under section 704 shall submit annually to the Secretary a report that documents progress in developing and implementing, or expanding and enhancing, a statewide system of family support for families of children with disabilities consistent with this part. Such report shall include—

"(1) the results of the annual evaluation of the statewide system of family support for families of children with disabilities;

"(2) a description of the unanticipated problems with the achievement of the goals, objectives, and family-centered outcomes described in the application or strategic plan and the measures the State has taken to rectify such problems;

"(3) for the annual progress report concerning the first year of the grant period, the strategic plan developed by the State during the first year; and

"(4) for the annual progress report concerning subsequent years of the grant period, the updated strategic plan.

"SEC. 711. ADMINISTRATIVE PROVISIONS.

"(a) EVALUATION OF GRANT APPLICATIONS.—

"(1) PANELS.—The Secretary shall convene panels of experts who are competent, by virtue of their training or experience, to evaluate grant applications under this part.

"(2) COMPOSITION OF PANELS.—Panels shall be composed of a majority of family members of

children with disabilities and individuals with disabilities, and may include service providers, State administrative personnel, and professionals. Panels shall include a majority of individuals who are not Federal employees.

"(3) Expenses and Fees of the Panel.—A member of the Panel who is not a Federal employee shall receive travel, per diem and consultant fees not to exceed the rate provided to other consultants used by the Secretary. The Secretary may use funds available under section 716 to pay expenses and fees of a member of a Panel who is not a Federal employee.

"(b) Provision of Information.—To assist the Secretary in carrying out the responsibilities of the Secretary under this section, the Secretary may require States to provide relevant information, including recommendations and relevant reports of the Council.

"(c) Appeals.—The Secretary shall establish appeals procedures for States that are found in noncompliance with the provisions of this part as the result of failure to supply information required under section 705 or 710. The Secretary shall take into consideration the comments of the Council.

"(d) Effect on Other Assistance.—This part may not be construed as authorizing a Federal or State agency to reduce medical or other assistance available, or to alter eligibility, under any Federal law.

"(e) Unobligated Funds.—Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such amount was paid.

"SEC. 712. TECHNICAL ASSISTANCE.

"(a) In General.—The Secretary shall make grants, or enter into contracts or cooperative agreements, with appropriate public or private agencies and organizations, including institutions of higher education, with documented experience, expertise, and capacity, for the purpose of providing technical assistance and information with respect to the development and implementation, or expansion and enhancement, of a statewide system of family support for families of children with disabilities.

"(b) Purpose.—With respect to States receiving assistance under this part, the technical assistance and information described under subsection (a) shall be provided to the State agency designated as the lead entity, the Council, family members of children with disabilities, organizations, service providers, and policymakers involved with children with disabilities and their families. Such technical assistance shall also be available to States that do not receive assistance under this part. Such technical assistance and information shall—

"(1) facilitate effective systems change activities;

"(2) promote effective approaches to the development and implementation, or expansion and enhancement of, the statewide systems of family support for families of children with disabilities that increase access to, funding for, and awareness of family support for families of children with disabilities;

"(3) promote partnerships with families at all levels of the service system;

"(4) foster awareness and understanding of Federal, State, and local laws, regulations, policies, practices, procedures, and organizational structures, that facilitate, and overcome barriers to, funding for, and access to family support for families of children with disabilities;

"(5) foster the development and replication of effective approaches to strategic plan development, interagency coordination, training, outreach to underserved groups, and public awareness activities;

"(6) facilitate service delivery capacity, training, and the improvement of data collection and evaluation systems;

"(7) promote effective approaches to the development of family-centered and family-directed services, including approaches to the development and measurement of family-centered outcomes described in section 709(b)(2), and the assessment of family satisfaction; and

"(8) coordinate and facilitate an annual meeting of the chairpersons of the Councils.

"(c) Request for Technical Assistance.—A request for technical assistance by a lead entity in a State receiving assistance under this part shall be made in conjunction with the Council.

"(d) Reports to the Secretary.—An entity providing the technical assistance under this section shall submit periodic reports to the Secretary regarding Federal policies and procedures identified within the States that facilitate or impede the delivery of family support to families of children with disabilities. The report shall include recommendations to the Secretary regarding the delivery of services, coordination with other programs, and integration of the policies and principles described in section 702 in other Federal legislation.

"SEC. 713. EVALUATION.

"(a) In General.—The Secretary shall make grants, or enter into contracts or cooperative agreements, with appropriate public or private agencies and organizations, including institutions of higher education, with documented experience, expertise, and capacity for the purpose of conducting a national evaluation of the program of grants to States authorized by this part.

"(b) Purpose.—The purpose of an evaluation under subsection (a) shall be to assess the status and effects of State efforts to develop and implement, or expand and enhance, statewide systems of family support for families of children with disabilities in a manner consistent with the provisions of this part, particularly in terms of the impact of such efforts on families of children with disabilities, and to recommend amendments to this part that are necessary to assist States to fully accomplish the purposes of this part. The Secretary or recipient of assistance under this section shall work with the States to consider and develop an information system designed to report and compile, from information provided by the States, including the Council, a qualitative and quantitative description of the impact of the program of grants to States authorized by this part on—

"(1) families of children with disabilities, including families from ethnic and racial minority backgrounds;

"(2) access to and funding for family support for families of children with disabilities; and

"(3) the involvement of families at all levels of the service system.

"(c) Report to Congress.—Not later than 2½ years after the date of enactment of this part, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the results of the evaluation conducted under this section.

"(d) Conflict of Interest.—The Secretary shall assure that a recipient of a grant, contract, or cooperative agreement under this section is independent from, and free from, any financial or personal relationships with the recipient of a grant, contract, or cooperative agreement selected to provide technical assistance under section 712.

"SEC. 714. PROJECTS OF NATIONAL SIGNIFICANCE.

"(a) Study by the Secretary.—The Secretary shall review Federal programs to determine the extent to which such programs facilitate or impede access to, provision of, and funding for family support for families of children with disabilities, consistent with the policies described in section 702.

"(b) Demonstration and Innovation Projects.—The Secretary shall make grants or enter into contracts for projects of national significance to support the development of national and State policies and practices related to the development and implementation, or expansion and enhancement, of family-centered and family-directed systems of family support for families of children with disabilities.

"SEC. 715. CONSTRUCTION.

"Notwithstanding any other provision of this title, nothing in parts A through H of this title shall be construed to apply to this part.

"SEC. 716. AUTHORIZATION OF APPROPRIATIONS.

"(a) In General.—There are authorized to be appropriated to carry out this part, $10,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 and 1997.

"(b) Reservation.—

"(1) In general.—Except as provided in paragraph (2), the Secretary shall reserve for each fiscal year 10 percent, or $600,000 (whichever is greater), of the amount appropriated pursuant to the authority of subsection (a) to carry out—

"(A) section 712, with respect to the provision of technical assistance and information to States;

"(B) section 713, with respect to the conduct of the evaluations;

"(C) section 711(a), with respect to the evaluation of grant applications; and

"(D) section 714, with respect to the conduct of projects of national significance.

"(2) Special rule.—The Secretary shall only use funds reserved under paragraph (1) for a fiscal year to carry out section 714 for such year if the amount of funds reserved under such paragraph for such fiscal year is $700,000 or greater.".

PART B—EDUCATION FOR HOMELESS CHILDREN AND YOUTH

SEC. 321. AMENDMENTS TO TABLE OF CONTENTS.

The table of contents in section 101(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 note) is amended by striking subtitles A and B of title VII and inserting the following:

"Subtitle A—Adult Education for the Homeless

"Sec. 701. State literacy initiatives.

"Subtitle B—Education for Homeless Children and Youth

"Sec. 721. Statement of policy.
"Sec. 722. Grants for State and local activities for the education of homeless children and youth.
"Sec. 723. Local educational agency grants for the education of homeless children and youth.
"Sec. 724. Secretarial responsibilities.
"Sec. 725. Definitions.
"Sec. 726. Authorization of appropriations.".

SEC. 322. ADULT EDUCATION FOR THE HOMELESS.

Subtitle A of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421 et seq.) is amended to read as follows:

"Subtitle A—Adult Education for the Homeless

"SEC. 701. STATE LITERACY INITIATIVES.

"(a) General Authority.—

"(1) Grants.—The Secretary of Education is authorized to make grants to State educational agencies to enable each such agency to implement, either directly or through contracts and grants, a program of literacy training and academic remediation for adult homeless individuals within the State, which program shall—

"(A) include outreach activities; and

"(B) be coordinated with other agencies or organizations, such as community-based organizations, nonprofit literacy-action organizations, and recipients of funds under the Adult Education Act, title II of the Job Training Partnership Act, the Youth Fair Chance program under

part H of title IV of the Job Training Partnership Act, the Volunteers in Service to America program under part A of title I of the Domestic Volunteer Service Act of 1973, part C of this title, or the Job Opportunity and Basic Skills program under part F of title IV of the Social Security Act.

"(2) ESTIMATES AND AMOUNTS.—The Secretary of Education, in awarding grants under this section, shall give special consideration to the estimates submitted in the application submitted under subsection (b) and make such awards in whatever amounts such Secretary determines will best serve the purposes of this section.

"(b) APPLICATION.—Each State educational agency desiring to receive a grant under this section shall submit to the Secretary of Education an application at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall include an estimate of the number of homeless individuals in the State and the number of such individuals expected to be served.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out the adult literacy training and academic remediation programs authorized by this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1995 through 1999.

"(d) DEFINITION.—As used in this section, the term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Palau (until the effective date of the Compact of Free Association with the Government of Palau).".

SEC. 323. EDUCATION FOR HOMELESS CHILDREN AND YOUTH.

Subtitle B of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11431 et seq.) is amended to read as follows:

"Subtitle B—Education for Homeless Children and Youth

"SEC. 721. STATEMENT OF POLICY.

"It is the policy of the Congress that—

"(1) each State educational agency shall ensure that each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education, including a public preschool education, as provided to other children and youth;

"(2) in any State that has a compulsory residency requirement as a component of the State's compulsory school attendance laws or other laws, regulations, practices, or policies that may act as a barrier to the enrollment, attendance, or success in school of homeless children and youth, the State will review and undertake steps to revise such laws, regulations, practices, or policies to ensure that homeless children and youth are afforded the same free, appropriate public education as provided to other children and youth;

"(3) homelessness alone should not be sufficient reason to separate students from the mainstream school environment; and

"(4) homeless children and youth should have access to the education and other services that such children and youth need to ensure that such children and youth have an opportunity to meet the same challenging State student performance standards to which all students are held.

"SEC. 722. GRANTS FOR STATE AND LOCAL ACTIVITIES FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants to States in accordance with the provisions of this section to enable such States to carry out the activities described in subsections (d), (e), (f), and (g).

"(b) APPLICATION.—No State may receive a grant under this section unless the State educational agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(c) ALLOCATION AND RESERVATIONS.—

"(1) IN GENERAL.—Subject to paragraph (2) and section 724(c), from the amounts appropriated for each fiscal year under section 726, the Secretary is authorized to allot to each State an amount that bears the same ratio to the amount appropriated for such year under section 726 as the amount allocated under section 1122 of the Elementary and Secondary Education Act of 1965 to the State for that year bears to the total amount allocated under section 1122 to all States for that year, except that no State shall receive less than $100,000.

"(2) RESERVATION.—(A) The Secretary is authorized to reserve 0.1 percent of the amount appropriated for each fiscal year under section 726 to be allocated by the Secretary among the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Palau (until the effective date of the Compact of Free Association with the Government of Palau), according to their respective need for assistance under this subtitle, as determined by the Secretary.

"(B)(i) The Secretary is authorized to transfer one percent of the amount appropriated for each fiscal year under section 726 to the Department of the Interior for programs for Indian students served by schools funded by the Secretary of the Interior, as determined under the Indian Self-Determination and Education Assistance Act, that are consistent with the purposes of this Act.

"(ii) The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of this part, for the distribution and use of the funds described in clause (i) under terms that the Secretary determines best meet the purposes of the programs described in such clause. Such agreement shall set forth the plans of the Secretary of the Interior for the use of the amounts transferred, including appropriate goals, objectives, and milestones.

"(3) DEFINITION.—As used in this subsection, the term 'State' shall not include the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or Palau.

"(d) ACTIVITIES.—Grants under this section shall be used—

"(1) to carry out the policies set forth in section 721 in the State;

"(2) to provide activities for, and services to, homeless children, including preschool-aged children, and homeless youth that enable such children and youth to enroll in, attend, and succeed in school, or, if appropriate, in preschool programs;

"(3) to establish or designate an Office of Coordinator of Education of Homeless Children and Youth in the State educational agency in accordance with subsection (f);

"(4) to prepare and carry out the State plan described in subsection (g); and

"(5) to develop and implement professional development programs for school personnel to heighten their awareness of, and capacity to respond to, specific problems in the education of homeless children and youth.

"(e) STATE AND LOCAL GRANTS.—

"(1) IN GENERAL.—(A) Subject to subparagraph (B), if the amount allotted to the State educational agency for any fiscal year under this subtitle exceeds the amount such agency received for fiscal year 1990 under this subtitle, such agency shall provide grants to local educational agencies for purposes of section 723.

"(B) The State educational agency may reserve not more than the greater of 5 percent of the amount such agency receives under this subtitle for any fiscal year, or the amount such agency received under this subtitle for fiscal year 1990, to conduct activities under subsection (f) directly or through grants or contracts.

"(2) SPECIAL RULE.—If the amount allotted to a State educational agency for any fiscal year under this subtitle is less than the amount such agency received for fiscal year 1990 under this subtitle, such agency, at such agency's discretion, may provide grants to local educational agencies in accordance with section 723 or may conduct activities under subsection (f) directly or through grants or contracts.

"(f) FUNCTIONS OF THE OFFICE OF COORDINATOR.—The Coordinator of Education of Homeless Children and Youth established in each State shall—

"(1) estimate the number of homeless children and youth in the State and the number of such children and youth served with assistance provided under the grants or contracts under this subtitle;

"(2) gather, to the extent possible, reliable, valid, and comprehensive information on the nature and extent of the problems homeless children and youth have in gaining access to public preschool programs and to public elementary and secondary schools, the difficulties in identifying the special needs of such children and youth, any progress made by the State educational agency and local educational agencies in the State in addressing such problems and difficulties, and the success of the program under this subtitle in allowing homeless children and youth to enroll in, attend, and succeed in, school;

"(3) develop and carry out the State plan described in subsection (g);

"(4) prepare and submit to the Secretary not later than October 1, 1997, and on October 1 of every third year thereafter, a report on the information gathered pursuant to paragraphs (1) and (2) and such additional information as the Secretary may require to carry out the Secretary's responsibilities under this subtitle;

"(5) facilitate coordination between the State educational agency, the State social services agency, and other agencies providing services to homeless children and youth, including homeless children and youth who are preschool age, and families of such children and youth; and

"(6) develop relationships and coordinate with other relevant education, child development, or preschool programs and providers of services to homeless children, homeless families, and runaway and homeless youth (including domestic violence agencies, shelter operators, transitional housing facilities, runaway and homeless youth centers, and transitional living programs for homeless youth), to improve the provision of comprehensive services to homeless children and youth and their families.

"(g) STATE PLAN.—

"(1) IN GENERAL.—Each State shall submit to the Secretary a plan to provide for the education of homeless children and youth within the State, which plan shall describe how such children and youth are or will be given the opportunity to meet the same challenging State student performance standards all students are expected to meet, shall describe the procedures the State educational agency will use to identify such children and youth in the State and to assess their special needs, and shall—

"(A) describe procedures for the prompt resolution of disputes regarding the educational placement of homeless children and youth;

"(B) describe programs for school personnel (including principals, attendance officers, teachers and enrollment personnel), to heighten the awareness of such personnel of the specific needs of runaway and homeless youth;

"(C) describe procedures that ensure that homeless children and youth who meet the relevant eligibility criteria are able to participate in Federal, State, or local food programs;

"(D) describe procedures that ensure that—

"(i) homeless children have equal access to the same public preschool programs, administered by the State agency, as provided to other children; and

"(ii) homeless children and youth who meet the relevant eligibility criteria are able to participate in Federal, State, or local before- and after-school care programs;

"(E) address problems set forth in the report provided to the Secretary under subsection (f)(4);

"(F) address other problems with respect to the education of homeless children and youth, including problems caused by—

"(i) transportation issues; and

"(ii) enrollment delays that are caused by—

"(I) immunization requirements;

"(II) residency requirements;

"(III) lack of birth certificates, school records, or other documentation; or

"(IV) guardianship issues;

"(G) demonstrate that the State educational agency and local educational agencies in the State have developed, and will review and revise, policies to remove barriers to the enrollment and retention of homeless children and youth in schools in the State; and

"(H) contain an assurance that the State educational agency and local educational agencies in the State will adopt policies and practices to ensure that homeless children and youth are not isolated or stigmatized.

"(2) COMPLIANCE.—Each plan adopted under this subsection shall also show how the State will ensure that local educational agencies in the State will comply with the requirements of paragraphs (3) through (9).

"(3) LOCAL EDUCATIONAL AGENCY REQUIREMENTS.—(A) The local educational agency of each homeless child and youth to be assisted under this subtitle shall, according to the child's or youth's best interest, either—

"(i) continue the child's or youth's education in the school of origin—

"(I) for the remainder of the academic year; or

"(II) in any case in which a family becomes homeless between academic years, for the following academic year; or

"(ii) enroll the child or youth in any school that nonhomeless students who live in the attendance area in which the child or youth is actually living are eligible to attend.

"(B) In determining the best interests of the child or youth under subparagraph (A), the local educational agency shall comply, to the extent feasible, with the request made by a parent or guardian regarding school selection.

"(C) For purposes of this paragraph, the term 'school of origin' means the school that the child or youth attended when permanently housed, or the school in which the child or youth was last enrolled.

"(D) The choice regarding placement shall be made regardless of whether the child or youth lives with the homeless parents or has been temporarily placed elsewhere by the parents.

"(4) COMPARABLE SERVICES.—Each homeless child or youth to be assisted under this subtitle shall be provided services comparable to services offered to other students in the school selected according to the provisions of paragraph (3), including—

"(A) transportation services;

"(B) educational services for which the child or youth meets the eligibility criteria, such as services provided under title I of the Elementary and Secondary Education Act of 1965 or similar State or local programs, educational programs for children with disabilities, and educational programs for students with limited-English proficiency;

"(C) programs in vocational education;

"(D) programs for gifted and talented students; and

"(E) school meals programs.

"(5) RECORDS.—Any record ordinarily kept by the school, including immunization records, academic records, birth certificates, guardianship records, and evaluations for special services or programs, of each homeless child or youth shall be maintained—

"(A) so that the records are available, in a timely fashion, when a child or youth enters a new school district; and

"(B) in a manner consistent with section 444 of the General Education Provisions Act.

"(6) COORDINATION.—Each local educational agency serving homeless children and youth that receives assistance under this subtitle shall coordinate with local social services agencies and other agencies or programs providing services to such children or youth and their families, including services and programs funded under the Runaway and Homeless Youth Act.

"(7) LIAISON.—(A) Each local educational agency that receives assistance under this subtitle shall designate a homelessness liaison to ensure that—

"(i) homeless children and youth enroll and succeed in the schools of that agency; and

"(ii) homeless families, children, and youth receive educational services for which such families, children, and youth are eligible, including Head Start and Even Start programs and preschool programs administered by the local educational agency, and referrals to health care services, dental services, mental health services, and other appropriate services.

"(B) State coordinators and local educational agencies shall inform school personnel, service providers, and advocates working with homeless families of the duties of the liaisons.

"(8) REVIEW AND REVISIONS.—Each State educational agency and local educational agency that receives assistance under this subtitle shall review and revise any policies that may act as barriers to the enrollment of homeless children and youth in schools selected in accordance with paragraph (3). In reviewing and revising such policies, consideration shall be given to issues concerning transportation, immunization, residency, birth certificates, school records, and other documentation, and guardianship. Special attention shall be given to ensuring the enrollment and attendance of homeless children and youth who are not currently attending school.

"(9) COORDINATION.—Where applicable, each State and local educational agency that receives assistance under this subtitle shall coordinate with State and local housing agencies responsible for developing the comprehensive housing affordability strategy described in section 105 of the Cranston-Gonzalez National Affordable Housing Act to minimize educational disruption for children who become homeless.

"SEC. 723. LOCAL EDUCATIONAL AGENCY GRANTS FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.

"(a) GENERAL AUTHORITY.—

"(1) IN GENERAL.—The State educational agency shall, in accordance with section 722(e) and from amounts made available to such agency under section 726, make grants to local educational agencies for the purpose of facilitating the enrollment, attendance, and success in school of homeless children and youth.

"(2) SERVICES.—Unless otherwise specified, services under paragraph (1) may be provided through programs on school grounds or at other facilities. Where such services are provided through programs to homeless students on school grounds, schools may provide services to other children and youth who are determined by the local educational agency to be at risk of failing in, or dropping out of, schools, in the same setting or classroom. To the maximum extent practicable, such services shall be provided through existing programs and mechanisms that integrate homeless individuals with nonhomeless individuals.

"(3) REQUIREMENT.—Services provided under this section shall not replace the regular academic program and shall be designed to expand upon or improve services provided as part of the school's regular academic program.

"(b) APPLICATION.—A local educational agency that desires to receive a grant under this section shall submit an application to the State educational agency at such time, in such manner, and containing or accompanied by such information as the State educational agency may reasonably require according to guidelines issued by the Secretary. Each such application shall include—

"(1) a description of the services and programs for which assistance is sought and the problems to be addressed through the provision of such services and programs;

"(2) an assurance that the local educational agency's combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by such agency for the fiscal year preceding the fiscal year for which the determination is made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made;

"(3) an assurance that the applicant complies with, or will use requested funds to come into compliance with, paragraphs (3) through (9) of section 722(g); and

"(4) a description of policies and procedures that the agency will implement to ensure that activities carried out by the agency will not isolate or stigmatize homeless children and youth.

"(c) AWARDS.—

"(1) IN GENERAL.—The State educational agency shall, in accordance with section 722(g) and from amounts made available to such agency under section 726, award grants under this section to local educational agencies submitting an application under subsection (b) on the basis of the need of such agencies.

"(2) NEED.—In determining need under paragraph (1), the State educational agency may consider the number of homeless children and youth enrolled in preschool, elementary, and secondary schools within the area served by the agency, and shall consider the needs of such children and youth and the ability of the agency to meet such needs. Such agency may also consider—

"(A) the extent to which the proposed use of funds would facilitate the enrollment, retention, and educational success of homeless children and youth;

"(B) the extent to which the application reflects coordination with other local and State agencies that serve homeless children and youth, as well as the State plan required by section 722(g);

"(C) the extent to which the applicant exhibits in the application and in current practice a commitment to education for all homeless children and youth; and

"(D) such other criteria as the agency determines appropriate.

"(3) DURATION OF GRANTS.—Grants awarded under this section shall be for terms not to exceed three years.

"(d) AUTHORIZED ACTIVITIES.—A local educational agency may use funds awarded under this section for activities to carry out the purpose of this subtitle, including—

"(1) the provision of tutoring, supplemental instruction, and enriched educational services that are linked to the achievement of the same challenging State content standards and challenging State student performance standards the State establishes for other children or youth;

"(2) the provision of expedited evaluations of the strengths and needs of homeless children and youth, including needs and eligibility for programs and services (such as educational programs for gifted and talented students, children with disabilities, and students with limited-English proficiency, services provided under title I of the Elementary and Secondary Education Act of 1965 or similar State or local programs, programs in vocational education, and school meals programs);

"(3) professional development and other activities for educators and pupil services personnel that are designed to heighten the understanding and sensitivity of such personnel to the needs of homeless children and youth, the rights of such children and youth under this Act, and the specific educational needs of runaway and homeless youth;

"(4) the provision of referral services to homeless children and youth for medical, dental, mental, and other health services;

"(5) the provision of assistance to defray the excess cost of transportation for students pursuant to section 722(g)(4), not otherwise provided through Federal, State, or local funding, where necessary to enable students to attend the school selected under section 722(g)(3);

"(6) the provision of developmentally appropriate early childhood education programs, not otherwise provided through Federal, State, or local funding, for preschool-aged children;

"(7) the provision of before- and after-school, mentoring, and summer programs for homeless children and youth in which a teacher or other qualified individual provides tutoring, homework assistance, and supervision of educational activities;

"(8) where necessary, the payment of fees and other costs associated with tracking, obtaining, and transferring records necessary to enroll homeless children and youth in school, including birth certificates, immunization records, academic records, guardianship records, and evaluations for special programs or services;

"(9) the provision of education and training to the parents of homeless children and youth about the rights of, and resources available to, such children and youth;

"(10) the development of coordination between schools and agencies providing services to homeless children and youth, including programs funded under the Runaway and Homeless Youth Act;

"(11) the provision of pupil services (including violence prevention counseling) and referrals for such services;

"(12) activities to address the particular needs of homeless children and youth that may arise from domestic violence;

"(13) the adaptation of space and purchase of supplies for nonschool facilities made available under subsection (a)(2) to provide services under this subsection;

"(14) the provision of school supplies, including those supplies to be distributed at shelters or temporary housing facilities, or other appropriate locations; and

"(15) the provision of other extraordinary or emergency assistance needed to enable homeless children and youth to attend school.

"SEC. 724. SECRETARIAL RESPONSIBILITIES.

"(a) REVIEW OF PLANS.—In reviewing the State plans submitted by the State educational agencies under section 722(g), the Secretary shall use a peer review process and shall evaluate whether State laws, policies, and practices described in such plans adequately address the problems of homeless children and youth relating to access to education and placement as described in such plans.

"(b) TECHNICAL ASSISTANCE.—The Secretary shall provide support and technical assistance to the State educational agencies to assist such agencies to carry out their responsibilities under this subtitle.

"(c) EVALUATION AND DISSEMINATION.—The Secretary shall conduct evaluation and dissemination activities of programs designed to meet the educational needs of homeless elementary and secondary school students, and may use funds appropriated under section 726 to conduct such activities.

"(d) SUBMISSION AND DISTRIBUTION.—The Secretary shall require applications for grants under this subtitle to be submitted to the Secretary not later than the expiration of the 60-day period beginning on the date that funds are available for purposes of making such grants and shall make such grants not later than the expiration of the 120-day period beginning on such date.

"(e) DETERMINATION BY SECRETARY.—The Secretary, based on the information received from the States and information gathered by the Secretary under subsection (d), shall determine the extent to which State educational agencies are ensuring that each homeless child and homeless youth has access to a free appropriate public education as described in section 721(1).

"(f) REPORTS.—The Secretary shall prepare and submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate on the programs and activities authorized by this subtitle by December 31, 1997, and every third year thereafter.

"SEC. 725. DEFINITIONS.

"For the purpose of this subtitle, unless otherwise stated—

"(1) the term 'Secretary' means the Secretary of Education; and

"(2) the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 726. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this subtitle, there are authorized to be appropriated $30,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.".

PART C—REPEAL OF IMPACT AID STATUTES

SEC. 331. REPEAL OF IMPACT AID STATUTES.

(a) PUBLIC LAW 81–815.—The Act entitled "An Act relating to the construction of school facilities in areas affected by Federal activities, and for other purposes", approved September 23, 1950 (64 Stat. 967; 20 U.S.C. 631 et seq.) is repealed.

(b) PUBLIC LAW 81–874.—The Act entitled "An Act to provide assistance for local educational agencies in areas affected by Federal activities, and for other purposes", approved September 30, 1950 (64 Stat. 1100; 20 U.S.C. 236 et seq.) is repealed.

PART D—AMENDMENTS TO THE ADULT EDUCATION ACT

SEC. 335. AMENDMENTS TO ADULT EDUCATION ACT.

(a) STATE PLAN.—Paragraph (11) of section 342(c) of the Adult Education Act (20 U.S.C. 1206a(c)(11)) is amended by inserting "Even Start," after "1963,".

(b) AUTHORIZATION OF APPROPRIATIONS.—Subsection (n) of section 384 of the Adult Education Act (20 U.S.C. 1213c(n)) is amended by striking "and 1995" and inserting "1995, and 1996".

PART E—HIGHER EDUCATION

SEC. 351. HIGHER EDUCATION AMENDMENTS TO THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.

(a) AMENDMENT.—The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) is amended—

(1) in paragraph (2) of section 232(d)—

(A) by inserting ", notwithstanding section 427(b)(2) of the Higher Education Amendments of 1992," before "has"; and

(B) by inserting "as such section was in effect on July 22, 1992" before the semicolon; and

(2) in subparagraph (B) of section 404(a)(4)(B)—

(A) by inserting ", notwithstanding section 427(b)(2) of the Higher Education Amendments of 1992," before "has"; and

(B) by inserting "as such section was in effect on July 22, 1992" before the period.

(b) EFFECTIVE DATE.—Subsection (a) and the amendments made by subsection (a) shall take effect on the date of enactment of this Act, except that a State that, prior to such date, distributed funds under section 232 of the Carl D. Perkins Vocational and Applied Technology Education Act from funds appropriated for fiscal year 1994 for such program to proprietary institutions of higher education, as such term is defined in section 481(b) of the Higher Education Act of 1965, may continue to distribute such funds to such institutions until July 1, 1995.

SEC. 352. TECHNICAL AMENDMENT TO THE SECOND MORRILL ACT.

Section 5 of the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 326a) (commonly known as the "Second Morrill Act") is amended by striking "and the Trust Territory of the Pacific Islands or its successor governments" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau".

SEC. 353. DEFINITIONS FOR PART A OF TITLE III.

Paragraph (1) of section 312(b) of the Higher Education Act of 1965 (20 U.S.C. 1058(b)(1)) is amended—

(1) by amending subparagraph (C) to read as follows:

"(C) which is—

"(i) legally authorized to provide, and provides within the State, an educational program for which such institution awards a bachelor's degree;

"(ii) a junior or community college; or

"(iii) the College of the Marshall Islands, the College of Micronesia/Federated States of Micronesia, and Palau Community College;".

(2) in subparagraph (D), by striking "and" after the semicolon; and

(3) by adding after subparagraph (E) the following new subparagraph:

"(F) located in a State; and".

SEC. 353A. PART D HEADING.

The heading for part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.) is amended to read as follows:

"PART D—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM".

SEC. 354. AUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL EARLY INTERVENTION SCHOLARSHIP AND PARTNERSHIP PROGRAM.

Section 404G of the Higher Education Act of 1965 (20 U.S.C. 1070a–27) is amended by striking the second sentence thereof.

SEC. 355. LENDER-OF-LAST-RESORT PROGRAMS.

(a) AMENDMENT.—Paragraph (1) of section 428(c) of the Higher Education Act of 1965 (20 U.S.C. 1078(c)(1)) is amended by adding at the end the following new subparagraph:

"(G) Notwithstanding any other provision of this section, the Secretary shall exclude a loan

made pursuant to a lender-of-last-resort program when making reimbursement payment calculations under subparagraphs (B) and (C).".

(b) EFFECTIVE DATE.—Subsection (a) and the amendment made by subsection (a) shall take effect on August 10, 1993.

SEC. 356. FEDERAL CONSOLIDATION LOANS.

Paragraph (4) of section 428C(a) of the Higher Education Act of 1965 (20 U.S.C. 1078–3(a)(4)) is amended—

(1) in subparagraph (B), by striking "or" after the semicolon;

(2) in subparagraph (C), by striking the period and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) made under subpart II of part B of title VIII of the Public Health Service Act.".

SEC. 357. DEFINITION OF ECONOMIC HARDSHIP.

Paragraph (1) of section 435(o) of the Higher Education Act of 1965 (20 U.S.C. 1085(o)(1)) is amended—

(1) in clause (ii) of subparagraph (A), by striking "or" after the semicolon;

(2) by redesignating subparagraph (B) as subparagraph (C);

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) such borrower is working full-time and has a Federal educational debt burden that equals or exceeds 20 percent of such borrower's adjusted gross income, and the difference between such borrower's adjusted gross income minus such burden is less than 220 percent of the greater of—

"(i) the annual earnings of an individual earning the minimum wage under section 6 of the Fair Labor Standards Act of 1938; or

"(ii) the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act) applicable to a family of two; or"; and

(4) in paragraph (2), by striking "(1)(B)" and inserting "(1)(C)".

SEC. 358. FACILITIES AUTHORITY OF THE STUDENT LOAN MARKETING ASSOCIATION.

Section 439 of the Higher Education Act of 1965 (20 U.S.C. 1087–2) is amended—

(1) in subparagraph (C) of subsection (d)(1)—

(A) in the matter preceding clause (i), by inserting "(including related equipment, instrumentation, and furnishings)" after "materials";

(B) in clause (ii), by striking the semicolon and inserting ", dining halls, student unions, and facilities specifically designed to promote fitness and health for students, faculty, and staff or for physical education courses; and";

(C) in clause (iii), by striking "and" after the semicolon;

(D) in the matter following clause (iv)—

(i) by striking "15 percent" and inserting "30 percent"; and

(ii) by striking "type" and inserting "types"; and

(E) by striking clause (iv); and

(2) in subsection (n), by striking "a report of its operations and activities during each year" and inserting "a report of the Association's operations and activities, including a report with respect to all facilities transactions, during each year".

SEC. 358A. PROGRAM AUTHORITY.

Section 451 of the Higher Education Act of 1965 (20 U.S.C. 2087a) is amended—

(1) by inserting "(a) IN GENERAL.—" before "There"; and

(2) by adding at the end the following new subsection:

"(b) DESIGNATION.—

"(1) PROGRAM.—The program established under this part shall be referred to as the 'William D. Ford Federal Direct Loan Program'.

"(2) DIRECT LOANS.—Notwithstanding any other provision of this part, loans made to borrowers under this part that, except as otherwise specified in this part, have the same terms, conditions, and benefits as loans made to borrowers under section 428, shall be known as 'Federal Direct Stafford/Ford Loans'.".

SEC. 359. DEFERMENT ELIGIBILITY.

Subsection (f) of section 455 of the Higher Education Act of 1965 (20 U.S.C. 1087e(f)) is amended by adding at the end the following new paragraphs:

"(3) DEFINITION OF BORROWER.—For the purpose of this subsection, the term "borrower" means an individual who is a new borrower on the date such individual applies for a loan under this part for which the first disbursement is made on or after July 1, 1993.

"(4) DEFERMENTS FOR PREVIOUS PART B LOAN BORROWERS.—A borrower of a loan made under this part, who at the time such individual applies for such loan, has an outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under part B of title IV prior to July 1, 1993, shall be eligible for a deferment under section 427(a)(2)(C) or section 428(b)(1)(M) as such sections were in effect on July 22, 1992.".

SEC. 360. CLOCK AND CREDIT HOUR TREATMENT OF DIPLOMA NURSING SCHOOLS.

(a) AMENDMENT.—Part G of title IV of the Higher Education Act of 1965 (20 U.S.C. 1088 et seq.) is amended by inserting after section 481 the following new section:

"SEC. 481A. CLOCK AND CREDIT HOUR TREATMENT OF DIPLOMA NURSING SCHOOLS.

"Notwithstanding any other provision of this Act, any regulations promulgated by the Secretary concerning the relationship between clock hours and semester, trimester, or quarter hours in calculating student grant, loan, or work assistance under this title, shall not apply to a public or private nonprofit hospital-based school of nursing that awards a diploma at the completion of the school's program of education.".

(b) EFFECTIVE DATE.—Subsection (a) and the amendment made by subsection (a) shall take effect on July 1, 1994.

SEC. 360A. ELIGIBILITY FOR STUDENTS FROM PALAU.

Subsection (j) of section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091(j)) is amended to read as follows:

"(j) ASSISTANCE UNDER SUBPARTS 1, 3, AND 6, AND CHAPTER 1 OF SUBPART 2, OF PART A, AND PART C.—Notwithstanding any other provision of law, a student shall be eligible, if otherwise qualified, for assistance under subparts 1, 3, and 6, and chapter 1 of subpart 2, of part A, and part C, of this title, if the student is otherwise qualified and—

"(1) is a citizen of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, and attends an institution of higher education in a State or a public or nonprofit private institution of higher education in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau; or

"(2) meets the requirements of subsection (a)(5) and attends a public or nonprofit private institution of higher education in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau.".

SEC. 360B. DISCLOSURE OF ATHLETIC PROGRAM PARTICIPATION RATES AND FINANCIAL SUPPORT DATA.

(a) SHORT TITLE.—This section may be cited as the "Equity in Athletics Disclosure Act".

(b) FINDINGS.—The Congress finds that—

(1) participation in athletic pursuits plays an important role in teaching young Americans how to work on teams, handle challenges and overcome obstacles;

(2) participation in athletic pursuits plays an important role in keeping the minds and bodies of young Americans healthy and physically fit;

(3) there is increasing concern among citizens, educators, and public officials regarding the athletic opportunities for young men and women at institutions of higher education;

(4) a recent study by the National Collegiate Athletic Association found that in Division I–A institutions, only 20 percent of the average athletic department operations budget of $1,310,000 is spent on women's athletics; 15 percent of the average recruiting budget of $318,402 is spent on recruiting female athletes; the average scholarship expenses for men is $1,300,000 and $505,246 for women; and an average of 143 grants are awarded to male athletes and 59 to women athletes;

(5) female college athletes receive less than 18 percent of the athletics recruiting dollar and less than 24 percent of the athletics operating dollar;

(6) male college athletes receive approximately $179,000,000 more per year in athletic scholarship grants than female college athletes;

(7) prospective students and prospective student athletes should be aware of the commitments of an institution to providing equitable athletic opportunities for its men and women students; and

(8) knowledge of an institution's expenditures for women's and men's athletic programs would help prospective students and prospective student athletes make informed judgments about the commitments of a given institution of higher education to providing equitable athletic benefits to its men and women students.

(c) DISCLOSURE OF ATHLETIC PROGRAM.—Section 485 of the Higher Education Act of 1965 (20 U.S.C. 1092) is amended by adding at the end the following new subsection:

"(g) DATA REQUIRED.—

"(1) IN GENERAL.—Each coeducational institution of higher education that participates in any program under this title, and has an intercollegiate athletic program, shall annually, for the immediately preceding academic year, prepare a report that contains the following information regarding intercollegiate athletics:

"(A) The number of male and female full-time undergraduates that attended the institution.

"(B) A listing of the varsity teams that competed in intercollegiate athletic competition and for each such team the following data:

"(i) The total number of participants, by team, as of the day of the first scheduled contest for the team.

"(ii) Total operating expenses attributable to such teams, except that an institution may also report such expenses on a per capita basis for each team and expenditures attributable to closely related teams such as track and field or swimming and diving, may be reported together, although such combinations shall be reported separately for men's and women's teams.

"(iii) Whether the head coach is male or female and whether the head coach is assigned to that team on a full-time or part-time basis. Graduate assistants and volunteers who serve as head coaches shall be considered to be head coaches for the purposes of this clause.

"(iv) The number of assistant coaches who are male and the number of assistant coaches who are female for each team and whether a particular coach is assigned to that team on a full-time or part-time basis. Graduate assistants and volunteers who serve as assistant coaches shall be considered to be assistant coaches for the purposes of this clause.

"(C) The total amount of money spent on athletically related student aid, including the value of waivers of educational expenses, separately for men's and women's teams overall.

"(D) The ratio of athletically related student aid awarded male athletes to athletically related student aid awarded female athletes.

"(E) The total amount of expenditures on recruiting, separately for men's and women's teams overall.

"(F) The total annual revenues generated across all men's teams and across all women's teams, except that an institution may also report such revenues by individual team.

"(G) The average annual institutional salary of the head coaches of men's teams, across all offered sports, and the average annual institutional salary of the head coaches of women's teams, across all offered sports.

"(H) The average annual institutional salary of the assistant coaches of men's teams, across all offered sports, and the average annual institutional salary of the assistant coaches of women's teams, across all offered sports.

"(2) SPECIAL RULE.—For the purposes of subparagraph (G), if a coach has responsibilities for more than one team and the institution does not allocate such coach's salary by team, the institution should divide the salary by the number of teams for which the coach has responsibility and allocate the salary among the teams on a basis consistent with the coach's responsibilities for the different teams.

"(3) DISCLOSURE OF INFORMATION TO STUDENTS AND PUBLIC.—An institution of higher education described in paragraph (1) shall make available to students and potential students, upon request, and to the public, the information contained in the report described in paragraph (1), except that all students shall be informed of their right to request such information.

"(4) DEFINITION.—For the purposes of this subsection, the term 'operating expenses' means expenditures on lodging and meals, transportation, officials, uniforms and equipment.

"(5) REGULATIONS AND EFFECTIVE DATE.—The Secretary shall issue final regulations to implement the requirements of this subsection not later than 180 days following the enactment of this subsection. Each institution described in paragraph (1) shall make available its first report pursuant to this section not later than October 1, 1996.".

SEC. 360C. FEDERAL INSURANCE FOR BONDS.

Subsection (b) of section 723 of the Higher Education Act of 1965 (20 U.S.C. 1132c–2(b)) is amended—

(1) in paragraph (8)—

(A) in subparagraph (A), by inserting ", with each eligible institution required to maintain in the escrow account an amount equal to 10 percent of the outstanding principal of all loans made to such institution under this part" before the semicolon; and

(B) by amending clause (ii) of subparagraph (B) to read as follows:

"(ii) shall be used to return to an eligible institution an amount equal to any remaining portion of such institution's 10 percent deposit of loan proceeds following scheduled repayment of such institution's loan;"; and

(2) in paragraph (11), by striking "regulations" and inserting "conditions".

SEC. 360D. GRANTS TO STATES FOR WORKPLACE AND COMMUNITY TRANSITION TRAINING FOR INCARCERATED YOUTH OFFENDERS.

Title X of the Higher Education Act of 1965 (20 U.S.C. 1135 et seq.) is amended by adding at the end the following new part:

"PART E—GRANTS TO STATES FOR WORKPLACE AND COMMUNITY TRANSITION TRAINING FOR INCARCERATED YOUTH OFFENDERS

"SEC. 1091. GRANTS TO STATES FOR WORKPLACE AND COMMUNITY TRANSITION TRAINING FOR INCARCERATED YOUTH OFFENDERS.

"(a) FINDINGS.—The Congress finds the following:

"(1) Over 150,000 youth offenders age 21 and younger are incarcerated in the Nation's jails, juvenile facilities, and prisons.

"(2) Most youth offenders who are incarcerated have been sentenced as first-time adult felons.

"(3) Approximately 75 percent of youth offenders are high school dropouts who lack basic literacy and life skills, have little or no job experience, and lack marketable skills.

"(4) The average incarcerated youth has attended school only through grade 10.

"(5) Most of these youths can be diverted from a life of crime into productive citizenship with available educational, vocational, work skills, and related service programs.

"(6) If not involved with educational programs while incarcerated, almost all of these youths will return to a life of crime upon release.

"(7) The average length of sentence for a youth offender is about 3 years. Time spent in prison provides a unique opportunity for education and training.

"(8) Even with quality education and training provided during incarceration, a period of intense supervision, support, and counseling is needed upon release to ensure effective reintegration of youth offenders into society.

"(9) Research consistently shows that the vast majority of incarcerated youths will not return to the public schools to complete their education.

"(10) There is a need for alternative educational opportunities during incarceration and after release.

"(b) DEFINITION.—For purposes of this part, the term 'youth offender' means a male or female offender under the age of 25, who is incarcerated in a State prison, including a prerelease facility.

"(c) GRANT PROGRAM.—The Secretary shall establish a program in accordance with this section to provide grants to the State correctional education agencies to assist and encourage incarcerated youths to acquire functional literacy, life, and job skills, through the pursuit of a postsecondary education certificate, or an associate of arts or bachelor's degree while in prison, and employment counseling and other related services which start during incarceration and continue through prerelease and while on parole.

"(d) APPLICATION.—To be eligible for a grant under this section, a State correctional education agency shall submit to the Secretary a proposal for a youth offender program that—

"(1) identifies the scope of the problem, including the number of incarcerated youths in need of postsecondary education and vocational training;

"(2) lists the accredited public or private educational institution or institutions that will provide postsecondary educational services;

"(3) lists the cooperating agencies, public and private, or businesses that will provide related services, such as counseling in the areas of career development, substance abuse, health, and parenting skills;

"(4) describes the evaluation methods and performance measures that the State correctional education agency will employ, provided that such methods and measures are appropriate to meet the goals and objectives of the proposal, and that such methods and measures include measures of—

"(A) program completion;

"(B) student academic and vocational skill attainment;

"(C) success in job placement and retention; and

"(D) recidivism;

"(5) describes how the proposed programs are to be integrated with existing State correctional education programs (such as adult education, graduate education degree programs, and vocational training) and State industry programs;

"(6) addresses the educational needs of youth offenders who are in alternative programs (such as boot camps); and

"(7) describes how students will be selected so that only youth offenders eligible under subsection (f) will be enrolled in postsecondary programs.

"(e) PROGRAM REQUIREMENTS.—Each State correctional education agency receiving a grant under this section shall—

"(1) integrate activities carried out under the grant with the objectives and activities of the school-to-work programs of such State, including—

"(A) work experience or apprenticeship programs;

"(B) transitional worksite job training for vocational education students that is related to the occupational goals of such students and closely linked to classroom and laboratory instruction;

"(C) placement services in occupations that the students are preparing to enter;

"(D) employment-based learning programs; and

"(E) programs that address State and local labor shortages;

"(2) annually report to the Secretary and the Attorney General on the results of the evaluations conducted using the methods and performance measures contained in the proposal; and

"(3) provide to each State for each student eligible under subsection (f) not more than $1,500 annually for tuition, books, and essential materials, and not more than $300 annually for related services such as career development, substance abuse counseling, parenting skills training, and health education, for each eligible incarcerated youth.

"(f) STUDENT ELIGIBILITY.—A youth offender shall be eligible for participation in a program receiving a grant under this section if the youth offender—

"(1) is eligible to be released within five years (including a youth offender who is eligible for parole within such time); and

"(2) is 25 years of age or younger.

"(g) LENGTH OF PARTICIPATION.—A State correctional education agency receiving a grant under this section shall provide educational and related services to each participating youth offender for a period not to exceed 5 years, 1 year of which may be devoted to study in a graduate education degree program or to remedial education services for students who have obtained a secondary school diploma. Educational and related services shall start during the period of incarceration in prison or prerelease and may continue during the period of parole.

"(h) EDUCATION DELIVERY SYSTEMS.—State correctional education agencies and cooperating institutions shall, to the extent practicable, use high-tech applications in developing programs to meet the requirements and goals of this section.

"(i) ALLOCATION OF FUNDS.—From the amounts appropriated pursuant to subsection (j), the Secretary shall allot to each State an amount that bears the same relationship to such funds as the total number of students eligible under subsection (f) in such State bears to the total number of such students in all States.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1995 and such sums as may be necessary for fiscal year 1996 and each of the four succeeding fiscal years.".

PART F—OTHER ACTS

SEC. 361. GOALS 2000: EDUCATE AMERICA ACT.

(a) REPEALS.—Sections 231, 232, 234, and 235 of the Goals 2000: Educate America Act (20 U.S.C. 5861, 5862, 5863, and 5864) are repealed.

(b) GIFT AUTHORITY.—

(1) NATIONAL EDUCATION GOALS PANEL.—Section 204 of the Goals 2000: Educate America Act (20 U.S.C. 5824) is amended by adding at the end the following new subsection:

"(f) GIFTS.—The Goals Panel may accept, administer, and utilize gifts or donations of services, money, or property, whether real or personal, tangible or intangible.".

(2) NATIONAL EDUCATION STANDARDS AND IMPROVEMENT COUNCIL.—Section 215 of the Goals 2000: Educate America Act (20 U.S.C. 5845) is amended by adding at the end the following new subsection:

"(f) GIFTS.—The Council may accept, administer, and utilize gifts or donations of services, money, or property, whether real or personal, tangible or intangible.".

(c) LOCAL AGENCY PLAN APPROVAL.—Paragraph 4 of section 309(a) of the Goals 2000: Educate America Act (20 U.S.C. 5889) is amended by inserting "made by the local educational agency" after "modifications".

(d) STATE PLANNING FOR IMPROVING STUDENT ACHIEVEMENT THROUGH INTEGRATION OF TECHNOLOGY INTO THE CURRICULUM.—Subsection (b) of section 317 of the Goals 2000: Educate America Act (20 U.S.C. 5897(b)) is amended by adding at the end the following new paragraph:

"(3) OUTLYING AREAS.—(A) From the amount appropriated pursuant to the authority of subsection (f) for fiscal year 1995, the Secretary shall reserve a total of 1 percent to provide assistance under this section—

"(i) to the outlying areas; and

"(ii) for the Secretary of the Interior to conduct directly or through a contract, systemic technology planning for Bureau-funded schools.

"(B) The funds reserved under subparagraph (A) shall be distributed among the outlying areas and the Secretary of the Interior by the Secretary according to the relative need of such areas and schools for assistance under this section.".

SEC. 362. EDUCATION COUNCIL ACT OF 1991.

Title II of the Education Council Act of 1991 (20 U.S.C. 1221–1 note) is repealed.

SEC. 363. AUGUSTUS F. HAWKINS-ROBERT T. STAFFORD ELEMENTARY AND SECONDARY SCHOOL IMPROVEMENT AMENDMENTS OF 1988.

Title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (20 U.S.C. 4901 et seq.) is repealed.

SEC. 364. STAR SCHOOLS PROGRAM ASSISTANCE ACT.

The Star Schools Program Assistance Act (20 U.S.C. 4081 et seq.) is repealed.

SEC. 365. FUND FOR THE IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING ACT.

The Fund for the Improvement and Reform of Schools and Teaching Act (20 U.S.C. 4801) is repealed.

SEC. 366. TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT OF 1988.

(a) IN GENERAL.—Part E of title II of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2231 et seq.) is repealed.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the Technology-Related Assistance for Individuals With Disabilities Act Amendments of 1994.

SEC. 367. INDIAN EDUCATION ACT OF 1988.

The Indian Education Act of 1988 (25 U.S.C. 2601 note) is repealed.

SEC. 368. REHABILITATION ACT.

(a) IN GENERAL.—Notwithstanding any provision of the Rehabilitation Act of 1973, the amount otherwise payable to a State under section 111 of such Act shall be reduced for fiscal years 1987, 1988, and 1989, by the amount by which expenditures from non-Federal sources under the State plan under title I of such Act for such year are less than the total of such expenditures for fiscal year 1972.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the Rehabilitation Act Amendments of 1992.

SEC. 369. AMENDMENT TO THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT REGARDING THE TERRITORIES.

Section 101A of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2311a) is amended to read as follows:

"SEC. 101A. THE TERRITORIES.

"(a) THE TERRITORIES.—From funds reserved pursuant to section 101(a)(1)(C), the Secretary shall—

"(1) make a grant in the amount of $500,000 to Guam; and

"(2) make a grant in the amount of $190,000 to each of American Samoa and the Commonwealth of the Northern Mariana Islands.

"(b) REMAINDER.—Subject to the provisions of subsection (a), the Secretary shall make a grant of the remainder of funds reserved pursuant to section 101(a)(1)(C) to the Pacific Region Educational Laboratory in Honolulu, Hawaii, to make grants for vocational education and training in Guam, American Samoa, the Republic of Palau, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, and the Republic of the Marshall Islands, for the purpose of providing direct educational services, including—

"(1) teacher and counselor training and retraining;

"(2) curriculum development; and

"(3) improving vocational education and training programs in secondary schools and institutions of higher education, or improving cooperative education programs involving both secondary schools and institutions of higher education.

"(c) LIMITATION.—The Pacific Region Educational Laboratory may use not more than 5 percent of the funds received pursuant to subsection (b) for administrative costs.".

SEC. 370. FAMILY SUPPORT CENTER PROGRAM.

(a) ADMINISTRATIVE PROVISIONS.—Subsection (f) of section 772 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11482(f)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) ADMINISTRATIVE COSTS.—Two percent of the amounts appropriated under this title may be used by the Secretary to administer the programs established under this title and three percent of the amounts appropriated under this title may be used by the Secretary to evaluate such programs and to provide technical assistance to entities for the development and submission of applications for grants under this section.";

(2) in paragraph (3), by striking "2 years" and inserting "3 years"; and

(3) by adding at the end thereof the following new paragraph:

"(4) MINIMUM AMOUNT.—No grant made under subsection (a) may be awarded in an amount that is less than $200,000 per year.".

(b) REPORT.—The matter preceding paragraph (1) of section 777 of such Act (42 U.S.C. 11487) is amended by striking "1992" and inserting "1995".

(c) AUTHORIZATION FOR APPROPRIATIONS.—Section 779 of such Act (42 U.S.C. 11489) is amended by striking "for fiscal year 1993" and inserting "for each of the fiscal years 1993 through 1998".

(d) TECHNICAL AMENDMENT.—Subsection (a) of section 774 of such Act (42 U.S.C. 11484(a)) is amended by striking "subsection (e)" and inserting "subsection (d)".

SEC. 371. THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES ACT OF 1965.

Subsection (c) of section 11 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(c)) is amended—

(1) in the second sentence of paragraph (1)—

(A) by striking "any fiscal year" and inserting "fiscal year 1995"; and

(B) by striking "$50,000" and inserting "$100,000"; and

(2) in the second sentence of paragraph (2)—

(A) by striking "any fiscal year" and inserting "fiscal year 1995"; and

(B) by striking "$50,000" and inserting "$100,000".

SEC. 372. OFFICE OF INDIAN EDUCATION; OFFICE OF BILINGUAL EDUCATION.

Title II of the Department of Education Organization Act (20 U.S.C. 3411 et seq.) is further amended—

(1) by redesignating section 215 as section 217; and

(2) by adding after section 214 (as added by section 271(c)) the following new section:

"SEC. 215. OFFICE OF INDIAN EDUCATION.

"(a) OFFICE OF INDIAN EDUCATION.—There shall be an Office of Indian Education (referred to in this section as 'the Office') in the Department of Education.

"(b) DIRECTOR.—

"(1) APPOINTMENT AND REPORTING.—The Office shall be under the direction of the Director, who shall be appointed by the Secretary and who shall report directly to the Assistant Secretary for Elementary and Secondary Education.

"(2) DUTIES.—The Director shall—

"(A) be responsible for administering this title;

"(B) be involved in, and be primarily responsible for, the development of all policies affecting Indian children and adults under programs administered by the Office of Elementary and Secondary Education;

"(C) coordinate the development of policy and practice for all programs in the Department relating to Indian persons; and

"(D) assist the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities related to the education of Indian persons.

"(c) INDIAN PREFERENCE IN EMPLOYMENT.—

"(1) IN GENERAL.—The Secretary shall give a preference to Indian persons in all personnel actions in the Office.

"(2) IMPLEMENTATION.—Such preference shall be implemented in the same fashion as the preference given to any veteran under section 45 of title 25, United States Code.

"SEC. 216. OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS.

"(a) ESTABLISHMENT.—There shall be, in the Department, an Office of Bilingual Education and Minority Languages Affairs through which the Secretary shall carry out functions relating to bilingual education.

"(b) DIRECTOR.—

"(1) IN GENERAL.—The Office shall be headed by a Director of Bilingual Education and Minority Languages Affairs, appointed by the Secretary, to whom the Secretary shall delegate all delegable functions relating to bilingual education. The Director shall also be assigned responsibility for recommending improvements and providing technical assistance to other Federal programs serving language-minority and limited-English-proficient students and their families and for assisting the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities which reflect the needs of language-minority

and limited-English language proficient students.

"(2) ORGANIZATION.—The Office shall be organized as the Director determines to be appropriate in order to carry out such functions and responsibilities effectively.

"(3) INCLUSION.—The Secretary shall ensure that limited-English-proficient and language-minority students are included in ways that are valid, reliable, and fair under all standards and assessment development conducted or funded by the Department.".

PART G—LIBRARY SERVICES AND CONSTRUCTION REAUTHORIZATION

SEC. 375. LIBRARY SERVICES AND CONSTRUCTION ACT AUTHORIZATIONS.

(a) IN GENERAL.—Subsection (a) of section 4 of the Library Services and Construction Act (20 U.S.C. 351b(a)) is amended—

(1) by striking "for fiscal year 1990 and such sums as may be necessary for each of the 4 succeeding fiscal years" each place the phrase appears and inserting "for fiscal year 1995"; and

(2) in the matter following paragraph (7), by striking "each of the fiscal years 1990, 1991, 1992, 1993, and 1994" and inserting "fiscal year 1995".

(b) FAMILY LEARNING CENTERS.—Section 806 (20 U.S.C. 385e) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 806. There are authorized to be appropriated such sums as may be necessary for fiscal year 1995 to carry out this part.".

(c) LIBRARY LITERACY CENTERS.—Section 818 (20 U.S.C. 386g) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 818. There are authorized to be appropriated such sums as may be necessary for fiscal year 1995 to carry out this part.".

PART H—AMENDMENTS TO STATUTES PERTAINING TO INDIAN EDUCATION

SEC. 381. BUREAU OF INDIAN AFFAIRS.

Part B of title XI of the Education Amendments of 1978 (25 U.S.C. 2001 et seq.) is amended to read as follows:

"PART B—BUREAU OF INDIAN AFFAIRS PROGRAMS

"SEC. 1121. STANDARDS FOR THE BASIC EDUCATION OF INDIAN CHILDREN IN BUREAU OF INDIAN AFFAIRS SCHOOLS.

"(a)(1) The purpose of the standards developed under this section shall be to afford Indian students being served by a Bureau funded school with the same opportunities as all other students to achieve the National Education Goals embodied in the Goals 2000: Educate America Act. Consistent with the provisions of this section and section 1131, the Secretary shall take such actions as are necessary to coordinate standards developed and implemented under this section with those in the State improvement plans developed and implemented pursuant to the Goals 2000: Educate America Act for the States in which each Bureau funded school operates. In developing and reviewing such standards and coordination, the Secretary shall utilize the findings and recommendations of the panel established in section 315(b)(4) of such Act.

"(2) The Secretary shall take immediate steps to encourage school boards of Bureau funded schools to engage their communities in adopting declarations of purposes of education in their communities, analyzing the implications of such purposes for their schools, and determining how such purposes may be made to motivate students and faculties and otherwise animate their schools by May 1, 1995. Such declarations shall represent the aspirations of a community for the kinds of persons such community wants its children to increasingly become, and shall include such purposes as assuring that all learners are becoming accomplished in ways important to themselves and respected by their parents and communities, shaping worthwhile and satisfying lives for themselves, exemplifying the best values of the community and humankind, and becoming increasingly effective in shaping the character and quality of the world all learners share.

"(b) Within 18 months of the publication of the voluntary national content standards described in section 213(a) of the Goals 2000: Educate America Act, the Secretary, in consultation with the Secretary of Education and Indian organizations and tribes, shall carry out or cause to be carried out by contract with an Indian organization such studies and surveys, making the fullest use possible of other existing studies, surveys, and plans, as are necessary to establish and revise standards for the basic education of Indian children attending Bureau funded schools. Such studies and surveys shall take into account factors such as academic needs, local cultural differences, type and level of language skills, geographic isolation, and appropriate teacher-student ratios for such children, and shall be directed toward the attainment of equal educational opportunity for such children.

"(c)(1) The Secretary shall revise the minimum academic standards published in the Federal Register of September 9, 1985 (50 Fed. Reg. 174) for the basic education of Indian children in accordance with the purpose described in subsection (a) and the findings of the studies and surveys described in subsection (b), and shall publish such revised standards in the Federal Register for the purpose of receiving comments from the tribes and other interested parties. Within 21 months of the date of enactment of the Improving America's Schools Act of 1994, the Secretary shall establish final standards, distribute such standards to all the tribes and publish such final standards in the Federal Register. The Secretary shall revise such final standards periodically as necessary. Prior to any revision of such final standards, the Secretary shall distribute such proposed revision to all the tribes, and publish such proposed revision in the Federal Register, for the purpose of receiving comments from the tribes and other interested parties.

"(2) The standards described in paragraph (1) shall apply to Bureau schools, and subject to subsection (f), to contract or grant schools, and may also serve as a model for educational programs for Indian children in public schools. In establishing and revising such standards, the Secretary shall take into account the special needs of Indian students and the support and reinforcement of the specific cultural heritage of each tribe.

"(d) The Secretary shall provide alternative or modified standards in lieu of the standards established under subsection (c), where necessary, so that the programs of each school shall be in compliance with the minimum standards required for accreditation of schools in the State where the school is located.

"(e) A tribal governing body, or the local school board so designated by the tribal governing body, shall have the local authority to waive, in part or in whole, the standards established under subsection (c) and (d), where such standards are deemed by such body to be inappropriate. The tribal governing body or designated school board shall, within 60 days thereafter, submit to the Secretary a proposal for alternative standards that take into account the specific needs of the tribe's children. Such revised standards shall be established by the Secretary unless specifically rejected by the Secretary for good cause and in writing to the affected tribes or local school board, which rejection shall be final and unreviewable.

"(f)(1) The Secretary, through contracting and grant-making procedures, shall assist school boards of contract or grant schools in the implementation of the standards established under subsections (c) and (d), if the school boards request that such standards, in part or in whole, be implemented. At the request of a contract or grant school board, the Secretary shall provide alternative or modified standards for the standards established under subsections (c) and (d) to take into account the needs of the Indian children and the contract or grant school.

"(2) Within 1 year of the date of the enactment of the Indian Education Technical Amendments Act of 1985, the Bureau shall, either directly or through contract with an Indian organization, establish a consistent system of reporting standards for fiscal control and fund accounting for all contract or grant schools. Such standards shall yield data results comparable to those used by Bureau schools.

"(g) Subject to subsections (e) and (f), the Secretary shall begin to implement the standards established under this section immediately upon the date of their establishment. Not later than January 1, 1995, and at each time thereafter that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring all Bureau schools and contract or grant schools up to the level required by the applicable standards established under this section. Such plan shall include detailed information on the status of each school's educational program in relation to the applicable standards established under this section, specific cost estimates for meeting such standards at each school, and specific time lines for bringing each school up to the level required by such standards.

"(h)(1) Except as specifically required by statute, no school or peripheral dormitory operated by the Bureau on or after January 1, 1992, may be closed or consolidated or have its program substantially curtailed unless done according to the requirements of this subsection, except that, in those cases where the tribal governing body, or the local school board concerned (if so designated by the tribal governing body), requests closure or consolidation, the requirements of this subsection shall not apply. The requirements of this subsection shall not apply when a temporary closure, consolidation, or substantial curtailment is required by plant conditions which constitute an immediate hazard to health and safety.

"(2) The Secretary shall, by regulation, promulgate standards and procedures for the closing, consolidation, or substantial curtailment of Bureau schools in accordance with the requirements of this subsection.

"(3) Whenever closure, transfer to any other authority, consolidation, or substantial curtailment of a school is under active consideration or review by any division of the Bureau or the Department of the Interior, the affected tribe, tribal governing body, and designated local school board, will be notified as soon as such consideration or review begins, kept fully and currently informed, and afforded an opportunity to comment with respect to such consideration or review. When a formal decision is made to close, transfer to any other authority, consolidate, or substantially curtail a school, the affected tribe, tribal governing body, and designated local school board shall be notified at least 6 months prior to the end of the school year preceding the proposed closure date. Copies of any such notices and information shall be transmitted promptly to the Congress and published in the Federal Register.

"(4) The Secretary shall make a report to Congress, the affected tribe, and the designated *local school board describing the process of the active consideration or review referred to in paragraph (3). At a minimum, the report shall include a study of the impact of such action on the student population, with every effort to identify those students with particular educational and social needs, and to ensure that alternative services are available to such students. Such report shall include the description of the consultation conducted between the potential service provider, current service provider, parents, tribal representative and the tribe or tribes involved, and the Director of the Office of Indian Education Programs within the Bureau regarding such students. No irreversible action may be taken in furtherance of any such proposed school closure, transfer to any other authority, consolidation, or substantial curtailment (including any action which would prejudice the personnel or programs of such school) until the end of the first full academic year after such report is made.*

"(5) The Secretary may terminate, contract, transfer to any other authority, or consolidate or substantially curtail the operation or facilities of—

"(A) any Bureau funded school that is operated on or after April 1, 1987,

"(B) any program of such a school that is operated on or after April 1, 1987, or

"(C) any school board of a school operated under a grant under the Tribally Controlled Schools Act of 1988,

only if the tribal governing body approves such action.

"(i) There are authorized to be appropriated such sums as may be necessary, for academic program costs, in order to bring all Bureau schools and contract or grant schools up to the level required by the applicable standards established under this section.

"(j)(1) All Bureau funded schools shall include within their curriculum a program of instruction relating to alcohol and substance abuse prevention and treatment. The Assistant Secretary shall provide the technical assistance necessary to develop and implement such a program for students in kindergarten and grades 1 through 12, at the request of—

"(A) any Bureau school (subject to the approval of the school board of such school);

"(B) any school board of a school operating under a contract entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.); or

"(C) any school board of a school operating under a grant under the Tribally Controlled Schools Act of 1988.

"(2) In schools operated directly by the Bureau, the Secretary shall provide for—

"(A) accurate reporting of all incidents relating to alcohol and substance abuse; and

"(B) individual student crisis intervention.

"(3) The programs requested under paragraph (1) shall be developed in consultation with the Indian tribe that is to be served by such program and health personnel in the local community of such tribe.

"(4) Schools requesting program assistance under this subsection are encouraged to involve family units and, where appropriate, tribal elders and Native healers in such instructions.

"(k) For purposes of this section, the term 'tribal governing body' means, with respect to any school, the tribal governing body, or tribal governing bodies, that represent at least 90 percent of the students served by such school.

"(l)(1)(A)(i) The Secretary shall only consider the factors described in subparagraphs (B) and (C) in reviewing—

"(I) applications from any tribe for the awarding of a contract or grant for a school that is not a Bureau funded school; and

"(II) applications from any tribe or school board of any Bureau funded school for—

"(aa) a school which is not a Bureau funded school; or

"(bb) the expansion of a Bureau funded school which would increase the amount of funds received by the Indian tribe or school board under section 1127.

"(ii) The Secretary shall give consideration to all of the factors under clause (i), but none of the applications under clause (i) may be denied based primarily upon the geographic proximity of public education.

"(B) The Secretary shall consider the following factors relating to the program that is the subject of an application described in subparagraph (A):

"(i) The adequacy of facilities or the potential to obtain or provide adequate facilities.

"(ii) Geographic and demographic factors in the affected areas.

"(iii) Adequacy of the applicant's program plans or, in the case of a Bureau funded school, of projected needs analysis done either by a tribe or by Bureau personnel.

"(iv) Geographic proximity of comparable public education.

"(v) The stated needs of all affected parties, including students, families, tribal governments at both the central and local levels, and school organizations.

"(C) The Secretary shall consider with respect to applications described in subparagraph (A) the following factors relating to all the educational services available at the time the application is considered:

"(i) Geographic and demographic factors in the affected areas.

"(ii) Adequacy and comparability of programs already available.

"(iii) Consistency of available programs with tribal educational codes or tribal legislation on education.

"(iv) The history and success of these services for the proposed population to be served, as determined from all factors and not just standardized examination performance.

"(2)(A) The Secretary shall make a determination of whether to approve any application described in paragraph (1)(A) by not later than the date that is 180 days after the day on which such application is submitted to the Secretary.

"(B) If the Secretary fails to make the determination described in subparagraph (A) with respect to an application by the date described in subparagraph (A), the application shall be treated as having been approved by the Secretary.

"(3)(A) Any application described in paragraph (1)(A) may be submitted to the Secretary only if—

"(i) the application has been approved by the tribal governing body of the students served by (or to be served by) the school or program that is the subject of the application, and

"(ii) written evidence of such approval is submitted with the application.

"(B) Each application described in paragraph (1)(A)—

"(i) shall provide information concerning each of the factors described in paragraph (1)(B), and

"(ii) may provide information concerning the factors described in paragraph (1)(C).

"(4) Whenever the Secretary makes a determination to deny approval of any application described in paragraph (1)(A), the Secretary shall—

"(A) state the objections in writing to the applicant by not later than the date that is 180 days after the day on which the application is submitted to the Secretary,

"(B) provide assistance to the applicant to overcome stated objections, and

"(C) provide the applicant a hearing, under the same rules and regulations pertaining to the Indian Self-Determination and Education Assistance Act, and an opportunity to appeal the objections raised by the Secretary.

"(5)(A) Except as otherwise provided in this paragraph, the action which is the subject of any application described in paragraph (1)(A) that is approved by the Secretary shall become effective with the commencement of the academic year succeeding the fiscal year in which the application is approved, or at an earlier date determined by the Secretary.

"(B) If an application is treated as having been approved by the Secretary by reason of paragraph (2)(B), the action that is the subject of the application shall become effective on the date that is 18 months after the date on which the application is submitted to the Secretary, or at an earlier date determined by the Secretary.

"SEC. 1122. NATIONAL CRITERIA FOR DORMITORY SITUATIONS.

"(a) The Secretary, in consultation with the Secretary of the Department of Education, and in consultation with Indian organizations and tribes, shall conduct or cause to be conducted by contract with an Indian organization, a study of the costs applicable to boarding arrangements for Indian students provided in Bureau schools, and contract or grant schools, for the purpose of establishing national criteria for such dormitory situations. Such criteria shall include adult-child ratios, needs for counselors (including special needs related to off-reservation boarding arrangements), space, and privacy.

"(b) Not later than January 1, 1996, the Secretary shall propose such criteria, and shall distribute such proposed criteria to the tribes and publish such proposed criteria in the Federal Register for the purpose of receiving comments from the tribes and other interested parties. Within 18 months of the date of the enactment of the Improving America's Schools Act of 1994, the Secretary shall establish final criteria, distribute such final criteria to all the tribes, and publish such final criteria in the Federal Register. The Secretary shall revise such final criteria periodically as necessary. Any revisions to the criteria established under this section shall be developed subject to requirements established under section 1131.

"(c) The Secretary shall begin to implement the criteria established under this section immediately upon the date of the establishment of such criteria. Not later than January 1, 1997, and at each time thereafter that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring all Bureau contract boarding schools up to the criteria established under this section. Such plan shall include predictions for the relative need for each boarding school in the future, detailed information on the status of each school in relation to the criteria established under this section, specific cost estimates for meeting such criteria at each school, and specific time lines for bringing each school up to the level required by such criteria.

"(d)(1) The criteria established under this section may be waived in the same manner as the standards provided under section 1121(c) may be waived under section 1121(e).

"(2) No school in operation on or before January 1, 1987 (regardless of compliance or noncompliance with the criteria established under this section) may be closed, transferred to another authority, consolidated or have its program substantially curtailed for failure to meet the criteria.

"(3) By not later than May 1, 1996, the Secretary shall submit to the Congress a report detailing the costs associated with, and the actions necessary for, complete compliance with the criteria established under this section.

"(e) There are authorized to be appropriated such sums as may be necessary in order to bring

each school up to the level required by the criteria established under this section.

"SEC. 1123. REGULATIONS.

"(a) The provisions of part 32 of title 25 of the Code of Federal Regulations, as in effect on January 1, 1987, are incorporated into this Act and shall be treated as though such provisions are set forth in this subsection. Accordingly, such provisions may be altered only by means of an amendment to this subsection that is contained in an Act or joint resolution which is enacted into law. To the extent that such provisions of part 32 do not conform with this Act or any statutory provision of law enacted before the date of enactment of this Act, the provisions of this Act and the provisions of such other statutory law shall govern.

"(b) The provisions of parts 31, 33, 36, 39, 42, and 43 of title 25 of the Code of Federal Regulations, as in effect on January 1, 1987, shall be applied by the Federal Government and shall not, before July 1, 1989, be amended, revoked, or altered in any manner. No officer or employee of the executive branch shall have the authority to issue any other regulations, prior to July 1, 1989, that supersede, supplement, or otherwise affect the provisions of such parts. To the extent that the provisions of such parts do not conform with this Act or any statutory provision of law enacted before the date of enactment of this Act, the provisions of this Act and the provisions of such other statutory law shall govern.

"(c) After June 30, 1989, no regulation prescribed for the application of any program provided under this title shall become effective unless—

"(1) the regulation has been published as a proposed regulation in the Federal Register,

"(2) an opportunity of not less than 90 days has been afforded the public to comment on the published proposed regulation, and

"(3) the regulation has, after such period for public comment, been published in the Federal Register as a final regulation.

"(d) For purposes of this section, the term 'regulation' means any rules, regulations, guidelines, interpretations, orders, or requirements of general applicability prescribed by any officer or employee of the executive branch.

"SEC. 1124. SCHOOL BOUNDARIES.

"(a) The Secretary shall, in accordance with this section, establish separate geographical attendance areas for each Bureau school.

"(b)(1) Except as provided in paragraph (2), on or after July 1, 1985, no attendance area shall be changed or established with respect to any Bureau funded school unless the tribal governing body or the local school board concerned (if so designated by the tribal governing body) has been (i) afforded at least six months notice of the intention of the Bureau to change or establish such attendance area, and (ii) given the opportunity to propose alternative boundaries. Any tribe may petition the Secretary for revision of existing attendance area boundaries. The Secretary shall accept such proposed alternative or revised boundaries unless the Secretary finds, after consultation with the affected tribe or tribes, that such revised boundaries do not reflect the needs of the Indian students to be served or do not provide adequate stability to all of the affected programs.

"(2) In any case where there is more than 1 Bureau funded school located on an Indian reservation, at the direction of the tribal governing body, the relevant school boards of the Bureau funded schools on the reservation may, by mutual consent, establish the relevant attendance areas for such schools, subject to the approval of the tribal governing body. Any such boundaries so established shall be accepted by the Secretary.

"(c) In any case where there is only 1 Bureau operated program located on an Indian reservation, the attendance area for the program shall be the boundaries of the reservation served, and those students residing near the reservation shall also receive services from such program.

"(d) The Bureau shall include in the regulations the requirement that each appropriate education line officer coordinate and consult with the affected tribes and relevant school boards in the establishment of such geographic boundaries.

"SEC. 1125. FACILITIES CONSTRUCTION.

"(a) The Secretary shall immediately begin to bring all schools, dormitories, and other facilities operated by the Bureau or under contract or grant with the Bureau in connection with the education of Indian children into compliance with all applicable Federal, tribal, or State health and safety standards, whichever provide greater protection (except that the tribal standards to be applied shall be no greater than any otherwise applicable Federal or State standards), with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and with the Americans with Disabilities Act of 1990, except that nothing in this section shall require termination of the operations of any facility which does not comply with such provisions and which is in use on the date of enactment of the Improving America's Schools Act of 1994.

"(b) By January 1, 1996, and at each time thereafter that the annual budget request for Bureau educational services is presented, the Secretary shall submit to the appropriate committees of Congress a detailed plan to bring such facilities into compliance with such standards. Such plan shall include detailed information on the status of each facility's compliance with such standards, specific cost estimates for meeting such standards at each school, and specific time lines for bringing each school into compliance with such standards.

"(c) Within six months of the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress, and publish in the Federal Register, the system used to establish priorities for school construction projects. At the time any budget request for school construction is presented, the Secretary shall publish in the Federal Register and submit with the budget request the current list of all school construction priorities.

"(d)(1) A Bureau school may be closed or consolidated, and the programs of a Bureau school may be substantially curtailed, by reason of plant conditions that constitute an immediate hazard to health and safety only if a health and safety officer of the Bureau determines that such conditions exist at the Bureau school.

"(2)(A) In making determinations described in paragraph (1) before July 1, 1989, health and safety officers of the Bureau shall use the health and safety guidelines of the Bureau that were in effect on January 1, 1988.

"(B)(i) If—

"(I) the Secretary fails to publish in the Federal Register in final form before July 1, 1989, and

"(II) action described in paragraph (1) is taken after June 30, 1989, and before the date on which such regulations are published in final form in the Federal Register by reason of the condition of any plant,

an inspection of the condition of such plant shall be conducted by an appropriate tribal, county, municipal, or State health and safety officer to determine whether conditions at such plant constitute an immediate hazard to health and safety. Such inspection shall be completed by not later than the date that is 30 days after the date on which the action described in paragraph (1) is taken.

"(ii) The inspection required under clause (i) shall be conducted by a health and safety officer designated jointly by the Secretary and the tribes affected by the action described in paragraph (1). If the Secretary and such tribes are unable to agree on the designation of the health and safety officer, the Secretary shall designate the health and safety officer and shall provide notice of such designation to each of such tribes before the inspection is conducted by such officer.

"(iii) If the health and safety officer conducting an inspection of a plant required under clause (i) determines that conditions at the plant do not constitute an immediate hazard to health and safety, any consolidation or curtailment that was made by reason of conditions at the plant shall immediately cease and any school closed by reason of conditions at the plant shall be reopened immediately.

"(3) If—

"(A) a Bureau school is temporarily closed or consolidated, or the programs of a Bureau school are substantially curtailed, by reason of plant conditions that constitute an immediate hazard to health and safety, and

"(B) the Secretary estimates that the closure, consolidation, or curtailment will be more than 1 year in duration,

the Secretary shall submit to the Congress, by not later than the date that is 6 months after the date on which the closure, consolidation, or curtailment is initiated, a report which sets forth the reasons for such temporary actions and the actions the Secretary is taking to eliminate the conditions that constitute the hazard.

"(e) There are authorized to be appropriated such sums as may be necessary to carry out subsection (a).

"SEC. 1126. BUREAU OF INDIAN AFFAIRS EDUCATION FUNCTIONS.

"(a) The Secretary shall vest in the Assistant Secretary for Indian Affairs all functions with respect to formulation and establishment of policy and procedure, and supervision of programs and expenditures of Federal funds for the purpose of Indian education administered by the Bureau. The Assistant Secretary shall carry out such functions through the Director of the Office of Indian Education.

"(b) The Director of the Office shall direct and supervise the operations of all personnel directly and substantially involved with provision of education services by the Bureau, including school or institution custodial or maintenance personnel. The Assistant Secretary for Indian Affairs shall provide for the adequate coordination between the affected Bureau Offices and the Office to facilitate the consideration of all contract functions relating to education. Except as required by section 1129, nothing in this Act shall be construed to require the provision of separate support services for Indian education.

"(c) Education personnel who are under the direction and supervision of the Director of the Office in accordance with the first sentence of subsection (b) shall—

"(1) monitor and evaluate Bureau education programs,

"(2) provide all services and support functions for education programs with respect to personnel matters involving staffing actions and functions, and

"(3) provide technical and coordinating assistance in areas such as procurement, contracting, budgeting, personnel, and curriculum.

"(d)(1) The Assistant Secretary shall submit in the annual Budget a plan—

"(A) for school facilities to be constructed under the system required by section 1125(c);

"(B) for establishing priorities among projects and for the improvement and repair of education facilities, which together shall form the basis for the distribution of appropriated funds; and

"(C) including a 5-year plan for capital improvements.

"(2)(A) The Assistant Secretary shall establish a program, including the distribution of appropriated funds, for the operation and maintenance of education facilities. Such program shall include—

"(i) a method of computing the amount necessary for each education facility;

"(ii) similar treatment of all Bureau funded schools;

"(iii) a notice of an allocation of appropriated funds from the Director of the Office directly to the appropriate education line officers; and

"(iv) a system for the conduct of routine preventive maintenance.

"(B) The appropriate education line officers shall make arrangements for the maintenance of education facilities with the local supervisors of the Bureau maintenance personnel who are under the authority of the agency superintendent or area directors, respectively. The local supervisors of Bureau maintenance personnel shall take appropriate action to implement the decisions made by the appropriate education line officers, except that no funds under this part may be authorized for expenditure unless such appropriate education line officer is assured that the necessary maintenance has been, or will be, provided in a reasonable manner. Subject to the requirements of subsection (b) of this section, nothing in this Act shall be construed to require the provision of separate operations and maintenance personnel for the Office.

"(3) The requirements of this subsection shall be implemented not later than July 1, 1995.

"(e) Notwithstanding any other provision of law, the Director shall promulgate guidelines for the establishment of mechanisms for the acceptance of gifts and bequests for the use of, and benefit of, particular schools or designated Bureau operated education programs, including, where appropriate, the establishment and administration of trust funds. When a Bureau operated program is the beneficiary of such a gift or bequest, the Director shall make provisions for monitoring its use, and shall report to the appropriate committees of Congress the amount and terms of such gift or bequest, the use to which such gift or bequest is put, and any positive results achieved by such action.

"(f) For the purpose of this section the term 'functions' includes powers and duties.

"SEC. 1127. ALLOTMENT FORMULA.

"(a)(1) The Secretary shall establish, by regulation adopted in accordance with section 1139, a formula for determining the minimum annual amount of funds necessary to sustain each Bureau funded school. In establishing such formula, the Secretary shall consider—

"(A) the number of eligible Indian students served and size of the school;

"(B) special cost factors, such as—

"(i) the isolation of the school;

"(ii) the need for special staffing, transportation, or educational programs;

"(iii) food and housing costs;

"(iv) maintenance and repair costs associated with the physical condition of the educational facilities;

"(v) special transportation and other costs of isolated and small schools;

"(vi) the costs of boarding arrangements, where determined necessary by a tribal governing body or designated local school board;

"(vii) costs associated with greater lengths of service by educational personnel; and

"(viii) special programs for gifted and talented students;

"(C) the cost of providing academic services which are at least equivalent to those provided by public schools in the State in which the school is located; and

"(D) such other relevant factors as the Secretary determines are appropriate.

"(2) Upon the establishment of the standards required by sections 1121 and 1122, the Secretary shall revise the formula established under this subsection to reflect the cost and funding standards so established. Prior to January 1, 1996, the Secretary shall review the formula established under this section and shall take such steps as may be necessary to increase the availability of counseling services for students in off-reservation boarding schools and other Bureau operated residential facilities. Concurrent with such action, the Secretary shall review the standards established under section 1121 to be certain that adequate provision is made for parental notification regarding, and consent for, such counseling services.

"(b) Notwithstanding any other provisions of law, Federal funds appropriated for the general local operation of Bureau funded schools shall be allotted pro rata in accordance with the formula established under subsection (a).

"(c)(1) For fiscal year 1990, and for each subsequent fiscal year, the Secretary shall adjust the formula established under subsection (a) to—

"(A) use a weighted unit of 1.2 for each eligible Indian student enrolled in the seventh and eighth grades of the school in considering the number of eligible Indian students served by the school;

"(B) consider a school with an enrollment of less than 50 eligible Indian students as having an average daily attendance of 50 eligible Indian students for purposes of implementing the adjustment factor for small schools; and

"(C) take into account the provision of residential services on a less than 9-month basis at a school when the school board and supervisor of the school determine that a less than 9-month basis will be implemented for the school year involved.

"(2)(A) The Secretary shall reserve for national school board training 0.2 percent of the funds appropriated for each fiscal year for distribution under this section. Such training shall be conducted through the same organizations through which, and in the same manner in which, the training was conducted in fiscal year 1992, except that the contracts for distribution of such funds shall require that such funds be distributed by the recipient organizations in a manner that assures the same pro rata share is made available for training for each school board in the system. If the contract for such training is not awarded before May 1 of each fiscal year, the contract under which such training was provided for the fiscal year preceding such fiscal year shall be renewed by the Secretary for such fiscal year. The agenda for the training sessions shall be established by the school boards through their regional or national organizations.

"(B) For each year in which the Secretary uses a weighted unit formula established under subsection (a) to fund Bureau schools, a Bureau school which generates less than 168 weighted units shall receive an additional 2 weighted units to defray school board activities.

"(C) From the funds allotted in accordance with the formula established under subsection (a) for each Bureau school, the local school board of such school may reserve an amount which does not exceed the greater of—

"(i) $5,000, or

"(ii) the lesser of—

"(I) $15,000, or

"(II) 1 percent of such allotted funds,

for school board activities for such school, including and notwithstanding any other provision of law, meeting expenses and the cost of membership in, and support of, organizations engaged in activities on behalf of Indian education.

"(3) The Secretary shall adjust the formula established under subsection (a) to use a weighted unit of 2.0 for each eligible Indian student that—

"(A) is gifted and talented, and

"(B) is enrolled in the school on a full-time basis,

in considering the number of eligible Indian students served by the school.

"(4)(A) The Secretary shall adjust the formula established under subsection (a) to use a weighted unit of 0.25 for each eligible Indian student who is enrolled in a year-long credit course in an Indian or Native language as part of the regular curriculum of a school, in considering the number of eligible Indian students served by such school.

"(B) The adjustment required under subparagraph (A) shall be used for such school after—

"(i) the certification of the Indian or Native language curriculum by the school board of such school to the Secretary, together with an estimate of the number of full-time students expected to be enrolled in the curriculum in the second school year following the school year for which the certification is made; and

"(ii) the funds appropriated for allotment under this section are designated by the appropriations Act appropriating such funds as the amount necessary to implement such adjustment at such school without reducing allotments made under this section to any school by virtue of such adjustment.

"(d) The Secretary shall reserve from the funds available for distribution for each fiscal year under this section an amount which, in the aggregate, shall equal 1 percent of the funds available for such purpose for that fiscal year. Such funds shall be used, at the discretion of the Director of the Office, to meet emergencies and unforeseen contingencies affecting the education programs funded under this section. Funds reserved under this subsection may only be expended for education services or programs at a schoolsite (as defined in section 5204(c)(2) of the Tribally Controlled Schools Act of 1988). Funds reserved under this subsection shall remain available without fiscal year limitation until expended. However, the aggregate amount available from all fiscal years may not exceed 1 percent of the current year funds. Whenever the Secretary makes funds available under this subsection, the Secretary shall report such action to the appropriate committees of Congress within the annual budget submission.

"(e) Supplemental appropriations enacted to meet increased pay costs attributable to school level personnel shall be distributed under this section.

"(f) For the purpose of this section, the term 'eligible Indian student' means a student who—

"(1) is a member of or is at least a ¼ degree Indian blood descendant of a member of an Indian tribe which is eligible for the special programs and services provided by the United States through the Bureau to Indians because of their status as Indians, and

"(2) resides on or near an Indian reservation or meets the criteria for attendance at a Bureau off-reservation boarding school.

"(g)(1) An eligible Indian student may not be charged tuition for attendance at a Bureau school or contract or grant school. A student attending a Bureau school under paragraph (2)(C) may not be charged tuition.

"(2) The Secretary may permit the attendance at a Bureau school of a student who is not an eligible Indian student if—

"(A) the Secretary determines that the student's attendance will not adversely affect the school's program for eligible Indian students because of cost, overcrowding, or violation of standards,

"(B) the school board consents,

"(C) the student is a dependent of a Bureau, Indian Health Service, or tribal government, employee who lives on or near the school site, or

"(D) a tuition is paid for the student that is not more than that charged by the nearest public school district for out-of-district students, is in addition to the school's allocation under this section.

"(3) The school board of a contract or grant school may permit students who are not eligible Indian students under this subsection to attend its contract school or grant school and any tuition collected for those students is in addition to funding under this section.

"(h) Notwithstanding any other provision of law, at the election of the school board of a Bureau school made at any time during the fiscal year, a portion equal to not more than 15 percent of the funds allocated with respect to a school under this section for any fiscal year shall remain available to the school for expenditure without fiscal year limitation. The Assistant Secretary shall take steps as may be necessary to implement this provision immediately.

"(i) Beginning with academic year 1994–1995, tuition for the out-of-State students boarding at the Richfield Dormitory in Richfield, Utah, who attend Sevier County high schools in Richfield, Utah, shall be paid from the Indian school equalization program funds authorized in this section and section 1130 at a rate not to exceed the amount per weighted student unit for that year for the instruction of such students. No additional administrative cost funds shall be added to the grant.

"SEC. 1128. ADMINISTRATIVE COST GRANTS.

"(a)(1) The Secretary shall, subject to the availability of appropriated funds, provide grants to each tribe or tribal organization operating a contract school or grant school in the amount determined under this section with respect to the tribe or tribal organization for the purpose of paying the administrative and indirect costs incurred in operating contract or grant schools in order to—

"(A) enable tribes and tribal organizations operating such schools, without reducing direct program services to the beneficiaries of the program, to provide all related administrative overhead services and operations necessary to meet the requirements of law and prudent management practice, and

"(B) carry out other necessary support functions which would otherwise be provided by the Secretary or other Federal officers or employees, from resources other than direct program funds, in support of comparable Bureau operated programs.

"(2) Amounts appropriated to fund the grants provided under this section shall be in addition to, and shall not reduce, the amounts appropriated for the program being administered by the contract or grant school.

"(b)(1) The amount of the grant provided to each tribe or tribal organization under this section for each fiscal year shall be determined by applying the administrative cost percentage rate of the tribe or tribal organization to the aggregate of the Bureau elementary and secondary functions operated by the tribe or tribal organization for which funds are received from or through the Bureau. The administrative cost percentage rate determined under subsection (c) does not apply to other programs operated by the tribe or tribal organization.

"(2) The Secretary shall—

"(A) reduce the amount of the grant determined under paragraph (1) to the extent that payments for administrative costs are actually received by an Indian tribe or tribal organization under any Federal education program included in the direct cost base of the tribe or tribal organization, and

"(B) take such actions as may be necessary to be reimbursed by any other department or agency of the Federal Government for the portion of grants made under this section for the costs of administering any program for Indians that is funded by appropriations made to such other department or agency.

"(c)(1) For purposes of this section, the administrative cost percentage rate for a contract or grant school for a fiscal year is equal to the percentage determined by dividing—

"(A) the sum of—

"(i) the amount equal to—

"(I) the direct cost base of the tribe or tribal organization for the fiscal year, multiplied by

"(II) the minimum base rate, plus

"(ii) the amount equal to—

"(I) the standard direct cost base, multiplied by

"(II) the maximum base rate, by

"(B) the sum of—

"(i) the direct cost base of the tribe or tribal organization for the fiscal year, plus

"(ii) the standard direct cost base.

"(2) The administrative cost percentage rate shall be determined to the 1/100 of a decimal point.

"(d)(1)(A) Funds received by a tribe or contract or grant school as grants under this section for tribal elementary or secondary educational programs may be combined by the tribe or contract or grant school into a single administrative cost account without the necessity of maintaining separate funding source accounting.

"(B) Indirect cost funds for programs at the school which share common administrative services with tribal elementary or secondary educational programs may be included in the administrative cost account described in subparagraph (A).

"(2) Funds received as grants under this section with respect to tribal elementary or secondary education programs shall remain available to the contract or grant school without fiscal year limitation and without diminishing the amount of any grants otherwise payable to the school under this section for any fiscal year beginning after the fiscal year for which the grant is provided.

"(3) Funds received as grants under this section for Bureau funded programs operated by a tribe or tribal organization under a contract or agreement shall not be taken into consideration for purposes of indirect cost underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived.

"(4) In applying this section and section 105 of the Indian Self-Determination and Education Assistance Act with respect to an Indian tribe or tribal organization that—

"(A) receives funds under this section for administrative costs incurred in operating a contract or grant school or a school operated under the Tribally Controlled Schools Act of 1988, and

"(B) operates 1 or more other programs under a contract or grant provided under the Indian Self-Determination and Education Assistance Act,

the Secretary shall ensure that the Indian tribe or tribal organization is provided with the full amount of the administrative costs, and of the indirect costs, that are associated with operating the contract or grant school, a school operated under the Tribally Controlled Schools Act of 1988, and all of such other programs, except that funds appropriated for implementation of this section shall be used only to supply the amount of the grant required to be provided by this section.

"(e) For purposes of this section:

"(1)(A) The term 'administrative cost' means the costs of necessary administrative functions which—

"(i) the tribe or tribal organization incurs as a result of operating a tribal elementary or secondary educational program,

"(ii) are not customarily paid by comparable Bureau operated programs out of direct program funds, and

"(iii) are either—

"(I) normally provided for comparable Bureau programs by Federal officials using resources other than Bureau direct program funds, or

"(II) are otherwise required of tribal self-determination program operators by law or prudent management practice.

"(B) The term 'administrative cost' may include—

"(i) contract or grant (or other agreement) administration;

"(ii) executive, policy, and corporate leadership and decisionmaking;

"(iii) program planning, development, and management;

"(iv) fiscal, personnel, property, and procurement management;

"(v) related office services and record keeping; and

"(vi) costs of necessary insurance, auditing, legal, safety and security services.

"(2) The term 'Bureau elementary and secondary functions' means—

"(A) all functions funded at Bureau schools by the Office;

"(B) all programs—

"(i) funds for which are appropriated to other agencies of the Federal Government, and

"(ii) which are administered for the benefit of Indians through Bureau schools; and

"(C) all operation, maintenance, and repair funds for facilities and government quarters used in the operation or support of elementary and secondary education functions for the benefit of Indians, from whatever source derived.

"(3)(A) Except as otherwise provided in this subparagraph (B), the direct cost base of a tribe or tribal organization for the fiscal year is the aggregate direct cost program funding for all tribal elementary or secondary educational programs operated by the tribe or tribal organization during—

"(i) the second fiscal year preceding such fiscal year, or

"(ii) if such programs have not been operated by the tribe or tribal organization during the 2 preceding fiscal years, the first fiscal year preceding such fiscal year.

"(B) In the case of Bureau elementary or secondary education functions which have not previously been operated by a tribe or tribal organization under contract, grant, or agreement with the Bureau, the direct cost base for the initial year shall be the projected aggregate direct cost program funding for all Bureau elementary and secondary functions to be operated by the tribe or tribal organization during that fiscal year.

"(4) The term 'maximum base rate' means 50 percent.

"(5) The term 'minimum base rate' means 11 percent.

"(6) The term 'standard direct cost base' means $600,000.

"(7) The term 'tribal elementary or secondary educational programs' means all Bureau elementary and secondary functions, together with any other Bureau programs or portions of programs (excluding funds for social services that are appropriated to agencies other than the Bureau and are expended through the Bureau, funds for major subcontracts, construction, and other major capital expenditures, and unexpended funds carried over from prior years) which share common administrative cost functions, that are operated directly by a tribe or tribal organization under a contract, grant, or agreement with the Bureau.

"(f)(1) Upon the date of enactment of the Indian Education Amendments of 1988, the Secretary shall—

"(A) conduct such studies as may be needed to establish an empirical basis for determining relevant factors substantially affecting the required administrative costs of tribal elementary *and secondary educational programs, using the formula set forth in subsection (c), and*

"(B) conduct a study to determine—

"(i) a maximum base rate which ensures that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of the smallest tribal elementary or secondary educational programs,

"(ii) a minimum base rate which ensures that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of the largest tribal elementary or secondary educational programs, and

"(iii) a standard direct cost base which is the aggregate direct cost funding level for which the percentage determined under subsection (c) will—

"(I) be equal to the median between the maximum base rate and the minimum base rate, and

"(II) ensure that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of tribal elementary or secondary educational programs closest to the size of the program.

"(2) The studies required under paragraph (1) shall—

"(A) be conducted in full consultation (in accordance with section 1131) with—

"(i) the tribes and tribal organizations that are affected by the application of the formula set forth in subsection (c), and

"(ii) all national and regional Indian organizations of which such tribes and tribal organizations are typically members;

"(B) be conducted onsite with a representative statistical sample of the tribal elementary or secondary educational programs under a contract entered into with a nationally reputable public accounting and business consulting firm;

"(C) take into account the availability of skilled labor, commodities, business and automatic data processing services, related Indian preference and Indian control of education requirements, and any other market factors found substantially to affect the administrative costs and efficiency of each such tribal elementary or secondary educational program studied in order to assure that all required administrative activities can reasonably be delivered in a cost effective manner for each such program, given an administrative cost allowance generated by the values, percentages, or other factors found in the studies to be relevant in such formula;

"(D) identify, and quantify in terms of percentages of direct program costs, any general factors arising from geographic isolation, or numbers of programs administered, independent of program size factors used to compute a base administrative cost percentage in such formula; and

"(E) identify any other incremental cost factors substantially affecting the costs of required administrative cost functions at any of the tribal elementary or secondary educational programs studied and determine whether the factors are of general applicability to other such programs, and (if so) how the factors may effectively be incorporated into such formula.

"(3) In carrying out the studies required under this subsection, the Secretary shall obtain the input of, and afford an opportunity to participate to, the Inspector General of the Department of the Interior.

"(4) Determinations described in paragraph (2)(C) shall be based on what is pragmatically possible to do at each location studied, given prudent management practice, irrespective of whether required administrative services were actually or fully delivered at these sites, or other services were delivered instead, during the period of the study.

"(5) Upon completion of the studies conducted under paragraph (1), but in no case later than October 1, 1989, the Secretary shall submit to the Congress a report on the findings of the studies, together with determinations based upon such findings that would affect the definitions of terms used in the formula that is set forth in subsection (c).

"(6) The Secretary shall include in the Bureau's justification for each appropriations request for each fiscal year beginning after fiscal year 1989, a projection of the overall costs associated with the formula set forth in subsection (c) for all tribal elementary or secondary educational programs which the Secretary expects to be funded in the fiscal year for which the appropriations are sought.

"(7) For purposes of this subsection, the size of tribal elementary or secondary educational programs is determined by the aggregate direct cost program funding level for all Bureau funded programs which share common administrative cost functions.

"(g)(1) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this section.

"(2) If the total amount of funds necessary to provide grants to tribes and tribal organizations in the amounts determined under subsection (b) for a fiscal year exceeds the amount of funds appropriated to carry out this section for such fiscal year, the Secretary shall reduce the amount of each grant determined under subsection (b) for such fiscal year by an amount that bears the same relationship to such excess as the amount of such grant determined under subsection (b) bears to the total of all grants determined under subsection (b) for all tribes and tribal organizations for such fiscal year.

"(h)(1) Notwithstanding any other provision of this section, the amount of the grants provided under this section for fiscal year 1989 shall—

"(A) in lieu of being determined under subsection (b), be determined for each tribal elementary or secondary educational program on the same basis that indirect costs were determined for such programs for fiscal year 1988, and

"(B) be subject to the provisions of subsection (d).

"(2) Notwithstanding any other provision of this section, the amount of the grant provided under this section for fiscal year 1990 with respect to each tribal elementary and secondary educational program that was operated by a tribe or tribal organization in fiscal year 1989 shall be equal to—

"(A) if the amount of the grant determined under subsection (b) for fiscal year 1990 with respect to such program exceeds the amount received by the tribe or tribal organization with respect to such program for administrative costs for fiscal year 1988 (or fiscal year 1989 if such program was not operated by the tribe or tribal organization during fiscal year 1988), the sum of—

"(i) such amount received, plus

"(ii) ⅓ of the excess of—

"(I) such amount determined under subsection (b), over

"(II) such amount received, or

"(B) if such amount received exceeds such amount determined under subsection (b), the excess of—

"(i) such amount received, over

"(ii) an amount equal to ⅓ of the excess of—

"(I) such amount received, over

"(II) such amount determined under subsection (b).

"(3) Notwithstanding any other provision of this section, the amount of the grants provided under this section for fiscal year 1991 with respect to each tribal elementary and secondary educational program that was operated by a tribe or tribal organization in fiscal year 1989 shall be equal to—

"(A) if the amount of the grant determined under subsection (b) for fiscal year 1991 with respect to such program exceeds the amount received by the tribe or tribal organization with respect to such program for administrative costs for fiscal year 1990, the sum of—

"(i) such amount received, plus

"(ii) ½ of the excess of—

"(I) such amount determined under subsection (b), over

"(II) such amount received, or

"(B) if such amount received exceeds such amount determined under subsection (b), the excess of—

"(i) such amount received, over

"(ii) an amount equal to ½ of the excess of—

"(I) such amount received over,

"(II) such amount determined under subsection (b).

"(i) The provisions of this section shall also apply to those schools operating under the Tribally Controlled Schools Act of 1988.

"SEC. 1129. DIVISION OF BUDGET ANALYSIS.

"(a) Within 24 months of the date of enactment of the Improving America's Schools Act of 1994, the Secretary shall establish within the Office a Division of Budget Analysis (hereinafter referred to as the 'Division'). Such Division shall be under the direct supervision and control of the Director of the Office.

"(b) The Division shall have the capacity to conduct such studies, surveys, or other activities as are necessary to gather demographic information on Bureau-funded schools (current and future) and project the amount necessary to provide Indian students in such schools the educational program set forth in this part.

"(c) The Division shall prepare projections on such amounts, along with such other information as the Director of the Office shall require, for each fiscal year beginning after October 1, 1996. The Director of the Office and the Assistant Secretary for Indian Affairs shall use such reports when preparing their annual budget submissions.

"SEC. 1130. UNIFORM DIRECT FUNDING AND SUPPORT.

"(a)(1) Within six months after the date of enactment of the Improving America's Schools Act of 1994, the Secretary shall establish, by regulation adopted in accordance with section 1139, a system for the direct funding and support of all Bureau funded schools. Such system shall allot funds, in accordance with section 1127. All amounts appropriated for distribution under this section may be made available under paragraph (2).

"(2)(A) For the purpose of affording adequate notice of funding available pursuant to the allotments made by section 1127, amounts appropriated in an appropriation Act for any fiscal year shall become available for obligation by the affected schools on July 1 of the fiscal year in which such amounts are appropriated without further action by the Secretary, and shall remain available for obligation through the succeeding fiscal year.

"(B) The Secretary shall, on the basis of the amount appropriated in accordance with this paragraph—

"(i) publish, on July 1 of the fiscal year for which the funds are appropriated, allotments to each affected school made under section 1127 of 85 percent of such appropriation; and

"(ii) publish, not later than September 30 of such fiscal year, the allotments to be made under section 1127 of the remaining 15 percent of such appropriation, adjusted to reflect actual student attendance.

"(3)(A) Notwithstanding any law or regulation, the supervisor of a Bureau school may expend an aggregate of not more than $35,000 of

the amount allotted the school under section 1127 to acquire supplies and equipment for the school without competitive bidding if—

"(i) the cost for any single item purchased does not exceed $10,000;

"(ii) the school board approves the procurement;

"(iii) the supervisor certifies that the cost is fair and reasonable;

"(iv) the documents relating to the procurement executed by the supervisor or other school staff cite this paragraph as authority for the procurement; and

"(v) the transaction is documented in a journal maintained at the school clearly identifying when the transaction occurred, what was acquired and from whom, the prices paid, the quantities acquired, and any other information the supervisor or school board considers relevant.

"(B) The Director shall be responsible for determining the application of this paragraph, including the authorization of specific individuals to carry out this paragraph, and shall be responsible for the provision of guidelines on the use of this paragraph and adequate training on such guidelines.

"(4) If a sequestration order issued under the Balanced Budget and Emergency Deficit Control Act of 1985 reduces the amount of funds available for allotment under section 1127 for any fiscal year by more than 7 percent of the amount of funds available for allotment under such section during the preceding fiscal year—

"(A) the Secretary, notwithstanding any other law, may use—

"(i) funds appropriated for the operation of any Bureau school that is closed or consolidated, and

"(ii) funds appropriated for any program that has been curtailed at any Bureau school,

to fund allotments made under section 1127, and

"(B) the Secretary may waive the application of the provisions of section 1121(h) with respect to the closure or consolidation of a school, or the curtailment of a program at a school, during such fiscal year if the funds described in clauses (i) and (ii) of subparagraph (A) with respect to such school are used to fund allotments made under section 1127 for such fiscal year.

"(b) In the case of all Bureau schools, allotted funds shall be expended on the basis of local financial plans which shall be prepared by the local school supervisor in active consultation with the local school board for each school, and the local school board for each school shall have the authority to ratify, reject, or amend such financial plan, and expenditures thereunder, and, on its own determination or in response to the supervisor of the school, to revise such financial plan to meet needs not foreseen at the time of preparation of the financial plan. The supervisor shall provide the appropriate union representative of the education employees with copies of proposed draft financial plans and all amendments or modifications thereto, at the same time such copies are submitted to the local school board. The supervisor of the school may appeal any such action of the local school board to the appropriate education line officer of the Bureau agency by filing a written statement describing the action and the reasons the supervisor believes such action should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the appropriate education line officer may, for good cause, overturn the action of the local school board. The appropriate line education officer shall transmit the determination of such appeal in the form of a written opinion to such board and to such supervisor identifying the reasons for overturning such action.

"(c) Funds for self-determination grants under section 103(a)(2) of the Indian Self-Determination and Education Assistance Act shall not be used for providing technical assistance and training in the field of education by the Bureau unless such services are provided in accordance with a plan, agreed to by the tribe or tribes affected and the Bureau, under which control of education programs is intended to be transferred to such tribe or tribes within a specific period of time negotiated under such agreement. The Secretary may approve applications for funding tribal divisions of education and the development of tribal codes of education from funds appropriated pursuant to section 104(a) of such Act.

"(d) In the exercise of its authority under this section, a local school board may request technical assistance and training from the Secretary, and the Secretary shall, to the greatest extent possible, provide such services, and make appropriate provisions in the budget of the Office for such services.

"(e)(1) A financial plan under subsection (b) for a school may include, at the discretion of the local administrator and the school board of such school, a provision for a summer program of academic and support services for students of the school. Any such program may include activities related to the prevention of alcohol and substance abuse. The Assistant Secretary of Indian Affairs shall provide for the utilization of any such school facility during any summer in which such utilization is requested.

"(2) Notwithstanding any other provision of law, funds authorized under the Act of April 16, 1934 (25 U.S.C. 452 et seq.) and this Act may be used to augment the services provided in each summer program at the option, and under the control, of the tribe or Indian controlled school receiving such funds.

"(3) The Assistant Secretary of Indian Affairs, acting through the Director of the Office, shall provide technical assistance and coordination for any program described in paragraph (1) and shall, to the extent possible, encourage the coordination of such programs with any other summer programs that might benefit Indian youth, regardless of the funding source or administrative entity of any such program.

"(f)(1) From funds allotted to a Bureau school under section 1127, the Secretary shall, if specifically requested by the tribal governing body (within the meaning of section 1121(k)), implement any cooperative agreement entered into between the tribe, the Bureau school board, and the local public school district which meets the requirements of paragraph (2) and involves the school. The tribe, the Bureau school board, and the local public school district shall determine the terms of the agreement. Such agreement may encompass coordination of all or any part of the following:

"(A) Academic program and curriculum, unless the Bureau school is currently accredited by a State or regional accrediting entity and would not continue to be so accredited.

"(B) Support services, including procurement and facilities maintenance.

"(C) Transportation.

"(2) Each agreement entered into pursuant to the authority provided in paragraph (1) shall confer a benefit upon the Bureau school commensurate with the burden assumed, though this requirement shall not be construed so as to require equal expenditures or an exchange of similar services.

"(g) Notwithstanding any other provision of law, where there is agreement on action between the superintendent and the school board of a Bureau funded school, the product or result of a project conducted in whole or in major part by a student may be given to that student upon the completion of such project.

"(h) Notwithstanding any other provision of law, funds received by a Bureau funded school under this title shall not be considered Federal funds for purposes of meeting a matching funds requirement in any Federal program.

"SEC. 1131. POLICY FOR INDIAN CONTROL OF INDIAN EDUCATION.

"(a) It shall be the policy of the Secretary and the Bureau, in carrying out the functions of the Bureau, to facilitate Indian control of Indian affairs in all matters relating to education.

"(b)(1) All actions under this Act shall be done with active consultation with tribes.

"(2) The consultation required under paragraph (1) means a process involving the open discussion and joint deliberation of all options with respect to potential issues or changes between the Bureau and all interested parties. During such discussions and joint deliberations, interested parties (including tribes and school officials) shall be given an opportunity to present issues including proposals regarding changes in current practices or programs which will be considered for future action by the Bureau. All interested parties shall be given an opportunity to participate and discuss the options presented or to present other alternatives, with the views and concerns of the interested parties given effect unless the Secretary determines, from information educed or presented by the interested parties during 1 or more of the discussions and deliberations, that there is a substantial reason for another course of action. The Secretary shall submit to any Member of Congress, within 18 days of the receipt of a written request by such Member, a written explanation of any decision made by the Secretary which is not consistent with the views of the interested parties.

"SEC. 1132. EDUCATION PERSONNEL.

"(a)(1) Chapter 51, subchapter III of chapter 53, and chapter 63 of title 5, United States Code, relating to classification, pay, and leave, respectively, and the sections of such title relating to the appointment, promotion, and removal of civil service employees, shall not apply to educators or to education positions (as defined in subsection (n)).

"(2) Paragraph (1) shall take effect 1 year after the date of enactment of this Act.

"(b) Not later than the effective date of subsection (a)(2), the Secretary shall prescribe regulations to carry out this section. Such regulations shall govern—

"(1) the establishment of education positions,

"(2) the establishment of qualifications for educators,

"(3) the fixing of basic compensation for educators and education positions,

"(4) the appointment of educators,

"(5) the discharge of educators,

"(6) the entitlement of educators to compensation,

"(7) the payment of compensation to educators,

"(8) the conditions of employment of educators,

"(9) the length of the school year applicable to education positions described in subsection (n)(1)(A),

"(10) the leave system for educators, and

"(11) such other matters as may be appropriate.

"(c)(1) In prescribing regulations to govern the qualifications of educators, the Secretary shall require—

"(A)(i) that lists of qualified and interviewed applicants for education positions be maintained in each agency and area office of the Bureau from among individuals who have applied at the agency or area level for an education position or who have applied at the national level and have indicated in such application an interest in working in certain areas or agencies; and

"(ii) that a list of qualified and interviewed applicants for education positions be maintained in the Office from among individuals who have applied at the national level for an education position and who have expressed interest in working in an education position anywhere in the United States;

"(B) that a local school board shall have the authority to waive on a case-by-case basis, any formal education or degree qualifications established by regulation pursuant to subsection (b)(2), in order for a tribal member to be hired in an education position to teach courses on tribal culture and language and that subject to subsection (d)(2)(A), a determination by a school board that such a person be hired shall be followed by the supervisor; and

"(C) that it shall not be a prerequisite to the employment of an individual in an education position at the local level that such individual's name appear on the national list maintained pursuant to paragraph (1)(A)(ii) or that such individual has applied at the national level for an education position.

"(2) The Secretary may authorize the temporary employment in an education position of an individual who has not met the certification standards established pursuant to regulations, if the Secretary determines that failure to do so would result in that position remaining vacant.

"(d)(1) In prescribing regulations to govern the appointment of educators, the Secretary shall require—

"(A)(i) that educators employed in a school (other than the supervisor of the school) shall be hired by the supervisor of the school unless there are no qualified applicants available, in which case the vacant position shall be filed at the national level from the list maintained pursuant to subsection (c)(1)(A)(ii);

"(ii) each school supervisor shall be hired by the education line officer of the agency office of the Bureau in which the school is located, and

"(iii) educators employed in an agency office of the Bureau shall be hired by the superintendent for education of the agency office;

"(B) that before an individual is employed in an education position in a school by the supervisor of a school (or, with respect to the position of supervisor, by the appropriate agency education line officer), the local school board for the school shall be consulted, and that subject to paragraph (2), a determination by the school board that such individual should or should not be so employed shall be followed by the supervisor (or with respect to the position of supervisor, by the agency superintendent for education); and

"(C) that before an individual may be employed in an education position at the agency level, the appropriate agency school board shall be consulted, and that, subject to paragraph (3), a determination by such school board that such individual should or should not be employed shall be followed by the agency superintendent for education.

"(2)(A) The supervisor of a school may appeal to the appropriate agency education line officer any determination by the local school board for the school that an individual be employed, or not be employed, in an education position in the school (other than that of supervisor) by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the education line officer may, for good cause, overturn the determination of the local school board. The education line officer shall transmit the determination of such appeal in the form of a written opinion to such board and to such supervisor identifying the reasons for overturning such determination.

"(B) The education line officer of an agency office of the Bureau may appeal to the Director of the Office any determination by the local school board for the school that an individual be employed, or not be employed, as the supervisor of a school by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the Director may, for good cause, overturn the determination of the local school board. The Director shall transmit the determination of such appeal in the form of a written opinion to such board and to such education line officer identifying the reasons for overturning such determination.

"(3) The education line officer of an agency office of the Bureau may appeal to the Director of the Office any determination by the agency school board that an individual be employed, or not be employed, in an education position in such agency office by filing a written statement describing the determination and the reasons the supervisor believes such determination should be overturned. A copy of such statement shall be submitted to the agency school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the Director may, for good cause, overturn the determination of the agency school board. The Director shall transmit the determination of such appeal in the form of a written opinion to such board and to such education line officer identifying the reasons for overturning such determination.

"(4) Any individual who applies at the local level for an education position shall state on such individual's application whether or not such individual has applied at the national level for an education position in the Bureau. If such individual is employed at the local level, such individual's name shall immediately be forwarded to the Secretary, who shall, as soon as possible but in no event in more than 30 days, ascertain the accuracy of the statement made by such individual pursuant to the first sentence of this paragraph. If the individual's statement is found to have been false, such individual, at the Secretary's discretion, may be disciplined or discharged. If the individual had applied at the national level for an education position in the Bureau, the appointment of such individual at the local level shall be conditional for a period of 90 days, during which period the Secretary may appoint a more qualified individual (as determined by the Secretary) from the list maintained at the national level pursuant to subsection (c)(1)(A)(ii) to the position to which such individual was appointed.

"(5) Except as expressly provided, nothing in this section shall be construed as conferring upon local school boards, authority over, or control of, educators.

"(e)(1) In prescribing regulations to govern the discharge and conditions of employment of educators, the Secretary shall require—

"(A) that procedures be established for the rapid and equitable resolution of grievances of educators;

"(B) that no educator may be discharged without notice of the reasons therefore and opportunity for a hearing under procedures that comport with the requirements of due process; and

"(C) educators employed in Bureau schools shall be notified 60 days prior to the end of the school year whether their employment contract will be renewed for the following year.

"(2) The supervisor of a Bureau school may discharge (subject to procedures established under paragraph (1)(B) for cause (as determined under regulations prescribed by the Secretary) any educator employed in such school. Upon giving notice of proposed discharge to an educator, the supervisor involved shall immediately notify the local school board for the school of such action. A determination by the local school board that such educator shall not be discharged shall be followed by the supervisor. The supervisor shall have the right to appeal such action to the education line officer of the appropriate agency office of the Bureau. Upon such an appeal, the agency education line officer may, for good cause and in writing to the local school board, overturn the determination of the local school board with respect to the employment of such individual.

"(3) Each local school board for a Bureau school shall have the right—

"(A) to recommend to the supervisor of such school that an educator employed in the school be discharged; and

"(B) to recommend to the education line officer of the appropriate agency office of the Bureau and to the Director of the Office, that the supervisor of the school be discharged.

"(f)(1) Notwithstanding any provision of the Indian preference laws, such laws shall not apply in the case of any personnel action within the purview of this section respecting an applicant or employee not entitled to Indian preference if each tribal organization concerned grants, in writing, a waiver of the application of such laws with respect to such personnel action, if such a waiver is in writing deemed to be a necessity by the tribal organization, except that this paragraph shall in no way relieve the Bureau of the Bureau's responsibility to issue timely and adequate announcements and advertisements concerning any such personnel action if such action is intended to fill a vacancy (no matter how such vacancy is created).

"(2) For purposes of this subsection, the term 'tribal organization' means—

"(A) the recognized governing body of any Indian tribe, band, nation, pueblo, or other organized community, including a Native village (as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c); 85 Stat. 688)); or

"(B) in connection with any personnel action referred to in this subsection, any local school board as defined in section 1146, and which has been delegated by such governing body the authority to grant a waiver under such subsection with respect to such personnel action.

"(3) The term 'Indian preference laws' means section 12 of the Act of June 18, 1934 (25 U.S.C. 472; 48 Stat. 986) or any other provision of law granting a preference to Indians in promotions and other personnel actions, except that such term shall not be considered to include section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)).

"(g) Subject to the authority of the Office of Personnel Management to determine finally the applicability of chapter 51 of title 5, United States Code, to specific positions and employees in the executive branch, the Secretary shall determine in accordance with subsection (a)(1) the applicability or inapplicability of such chapter to positions and employees in the Bureau.

"(h)(1)(A) Except as otherwise provided in this section, the Secretary shall fix the basic compensation or annual salary rate for educators and education positions at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 of title 5, United States Code, is applicable or on the basis of the Federal Wage System schedule in effect for the locality.

"(B) By not later than October 28, 1988, the Secretary shall establish, for contracts for the 1991–1992 academic year, and thereafter, the rates of basic compensation, or annual salary rates, for the positions of teachers and counselors (including dormitory counselors and home-living counselors) at the rates of basic compensation applicable (on the date of enactment of such Amendments and thereafter) to comparable positions in overseas schools under the Defense Department Overseas Teachers Pay and Personnel Practices Act, unless the Secretary establishes such rates within such 6-month period through collective bargaining with the appropriate union representative of the education employees that is recognized by the Bureau.

"(C) By not later than October 28, 1988, the Secretary shall establish the rates of basic compensation or annual salary rates for the positions of teachers and counselors (including dormitory and home-living counselors)—

"(i) for contracts for the 1989–1990 academic year, at rates which reflect ⅓ of the changes in the rates applicable to such positions on April 28, 1988, that must be made to conform the rates to the rates established under subparagraph (B) for such positions for contracts for the 1991–1992 academic year, and

"(ii) for contracts for the 1990–1991 academic year, at rates which reflect ⅔ of such changes.

"(D) The establishment of rates of basic compensation and annual salary rates by the Secretary under subparagraphs (B) and (C) shall not preclude the use of regulations and procedures used by the Bureau before the enactment of the Indian Education Amendments of 1988 in making determinations regarding promotions and advancements through levels of pay that are based on the merit, education, experience, or tenure of the educator.

"(E)(i) Except as provided in clause (ii), the establishment of rates of basic compensation and annual salary rates by the Secretary under subparagraphs (B) and (C) shall not affect the continued employment or compensation of an educator who was employed in an education position on October 31, 1979, and who did not make the election under paragraph (2) of subsection (o).

"(ii) Any individual described in clause (i) may, during the 5-year period beginning on the date on which the Secretary establishes rates of basic compensation and annual salary rates under subparagraph (B), make an irrevocable election to have the basic compensation rate or annual salary rate of such individual determined in accordance with this paragraph.

"(iii) If an individual makes the election described in clause (ii), such election shall not affect the application to the individual of the same retirement system and leave system that applies to the individual during the fiscal year preceding the fiscal year in which such election is made, except that the individual must use leave accrued during a contract period by the end of that contract period.

"(F) The President shall include with the budget submitted under section 1105 of title 31, United States Code, for each of the fiscal years 1990, 1991, and 1992 a written statement by the Secretary which specifies—

"(i) the amount of funds the Secretary needs to pay basic compensation and the annual salaries of educators for such fiscal year, and

"(ii) the amount of funds the Secretary estimates would be needed to pay basic compensation and the annual salaries of educators for such fiscal year if the amendments made to this paragraph by the Indian Education Amendments of 1988 had not been enacted.

"(2) Each educator employed in an education position in Alaska shall be paid a cost-of-living allowance equal to 25 percent of the rate of basic compensation to which such educator is entitled.

"(3)(A) The Secretary may pay a postdifferential not to exceed 25 percent of the rate of basic compensation, on the basis of conditions of environment or work which warrant additional pay as a recruitment and retention incentive.

"(B)(i) Upon the request of the supervisor and the local school board of a Bureau school, the Secretary shall grant the supervisor of the school authorization to provide 1 or more post differentials under subparagraph (A) unless the Secretary determines for clear and convincing reasons (and advises the board in writing of those reasons) that certain of the requested post differentials should be disapproved or decreased because there is no disparity of compensation for the involved employees or positions in the Bureau school, as compared with the nearest public school, that is either—

"(I) at least 5 percent, or

"(II) less than 5 percent and affects the recruitment or retention of employees at the school.

"(ii) The request under clause (i) shall be deemed granted as requested at the end of the 60th day after the request is received in the Central Office of the Bureau unless before that time the request is approved, approved with modification, or disapproved by the Secretary.

"(iii) The Secretary or the supervisor of a Bureau school may discontinue or decrease a post differential authorized by reason of this subparagraph at the beginning of a school year after either—

"(I) the local school board requests that such differential be discontinued or decreased, or

"(II) the Secretary or the supervisor determines for clear and convincing reasons (and advises the board in writing of those reasons) that there is no disparity of compensation that would affect the recruitment or retention of employees at the school after the differential is discontinued or decreased.

"(iv) On or before February 1 of each year, the Secretary shall submit to Congress a report describing the requests and grants of authority under this subparagraph during the previous fiscal year and listing the positions contracted under those grants of authority.

"(i) Any individual—

"(1) who on the date of enactment of this Act is holding a position which is determined under subsection (f) to be an education position and who elects under subsection (o)(2) to be covered under the provisions of this section, or

"(2) who is an employee of the Federal Government or the municipal government of the District of Columbia and is transferred, promoted, or reappointed, without break in service, from a position under a different leave system to an education position,

shall be credited for the purpose of the leave system provided under regulations prescribed pursuant to subsection (b)(10), with the annual and sick leave to such individual's credit immediately before the effective date of such election, transfer, promotion, or reappointment.

"(j) Upon termination of employment with the Bureau, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance with sections 5551(a) and 6306 of title 5, United States Code, except that leave earned or accrued under regulations prescribed pursuant to subsection (b)(10) shall not be so liquidated.

"(k) In the case of any educator who is transferred, promoted, or reappointed, without break in service, to a position in the Federal Government under a different leave system, any remaining leave to the credit of such person earned or credited under the regulations prescribed pursuant to subsection (b)(10) shall be transferred to such person's credit in the employing agency on an adjusted basis in accordance with regulations which shall be prescribed by the Office of Personnel Management.

"(l) An educator who voluntarily terminates employment with the Bureau before the expiration of the existing employment contract between such educator and the Bureau shall not be eligible to be employed in another education position in the Bureau during the remainder of the term of such contract.

"(m) In the case of any educator employed in an education position described in subsection (n)(1)(A) who—

"(1) is employed at the close of a school year,

"(2) agrees in writing to serve in such a position for the next school year, and

"(3) is employed in another position during the recess period immediately preceding such next school year, or during such recess period receives additional compensation referred to in section 5533 of title 5, United States Code, relating to dual compensation, shall not apply to such educator by reason of any such employment during a recess period for any such receipt of additional compensation.

"(n) For the purpose of this section—

"(1) The term 'education position' means a position in the Bureau the duties and responsibilities of which—

"(A) are performed on a school-year basis principally in a Bureau school and involve—

"(i) classroom or other instruction or the supervision or direction of classroom or other instruction;

"(ii) any activity (other than teaching) which requires academic credits in educational theory and practice equal to the academic credits in educational theory and practice required for a bachelor's degree in education from an accredited institution of higher education;

"(iii) any activity in or related to the field of education notwithstanding that academic credits in educational theory and practice are not a formal requirement for the conduct of such activity; or

"(iv) support services at, or associated with, the site of the school; or

"(B) are performed at the agency level of the Bureau and involve the implementation of education-related programs other than the position for agency superintendent for education.

"(2) The term 'educator' means an individual whose services are required, or who is employed, in an education position.

"(o)(1) Subsections (a) through (n) of this section apply to an educator hired after November 1, 1979 (and to an educator who elected application under paragraph (2)) and to the position in which such individual is employed. Subject to paragraph (2), the enactment of this Act shall not affect the continued employment of an individual employed on October 31, 1979 in an education position, or such individual's right to receive the compensation attached to such position.

"(2) Any individual employed in an education position on October 31, 1979, may, not later than November 1, 1983, make an irrevocable election to be covered under the provisions of subsection (a) through (n) of this section.

"(p)(1) An educator who was employed in an education position on October 31, 1979, who was eligible to make an election under paragraph (2) of subsection (o) at that time, and who did not make the election under paragraph (2) of subsection (o), may not be placed on furlough (within the meaning of section 7511(a)(5) of title 5, United States Code) without the consent of such educator for an aggregate of more than 4 weeks within the same calendar year, unless—

"(A) the supervisor, with the approval of the local school board (or of the education line officer upon appeal under paragraph (2)), of the

Bureau school at which such educator provides services determines that a longer period of furlough is necessary due to an insufficient amount of funds available for personnel compensation at such school, as determined under the financial plan process as determined under section 1130(b) of this Act, and

"(B) all educators (other than principals and clerical employees) providing services at such Bureau school are placed on furloughs of equal length, except that the supervisor, with the approval of the local school board (or of the agency education line officer upon appeal under paragraph (2)), may continue 1 or more educators in pay status if—

"(i) such educators are needed to operate summer programs, attend summer training sessions, or participate in special activities including curriculum development committees; and

"(ii) such educators are selected based upon such educator's qualifications, after public notice of the minimum qualifications reasonably necessary and without discrimination as to supervisory, nonsupervisory, or other status of the educators who apply.

"(2) The supervisor of a Bureau school may appeal to the appropriate agency education line officer any refusal by the local school board to approve any determination of the supervisor that is described in paragraph (1)(A) by filing a written statement describing the determination and the reasons the supervisor believes such determination should be approved. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the education line officer may, for good cause, approve the determination of the supervisor. The educational line officer shall transmit the determination of such appeal in the form of a written opinion to such local school board and to the supervisor identifying the reasons for approving such determination.

"SEC. 1133. MANAGEMENT INFORMATION SYSTEM.

"The Secretary shall establish within the Office, within 1 year after the date of the enactment of the Indian Education Amendments of 1984, a computerized management information system, which shall provide information to the Office. Such information shall include—

"(1) student enrollment;

"(2) curriculum;

"(3) staff;

"(4) facilities;

"(5) community demographics;

"(6) student assessment information; and

"(7) information on the administrative and program costs attributable to each Bureau program, divided into discreet elements.

"SEC. 1134. BUREAU EDUCATION POLICIES.

"Within 180 days of the date of enactment of this Act, the Secretary shall develop, publish in the Federal Register, and submit to all agency and area offices of the Bureau, all tribal governments, and the appropriate committees of the Congress, a draft set of education policies, procedures, and practices for education-related action of the Bureau. The Secretary shall, within 1 year of the date of enactment of this Act, provide that such uniform policies, procedures, and practices shall be finalized and promulgated. Thereafter, such policies, procedures, and practices and their periodic revisions, shall serve as the foundation for future Bureau actions in education.

"SEC. 1135. UNIFORM EDUCATION PROCEDURES AND PRACTICES.

"The Secretary shall cause the various divisions of the Bureau to formulate uniform procedures and practices with respect to such concerns of those divisions as relate to education, and shall report such practices and procedures to the Congress.

"SEC. 1136. RECRUITMENT OF INDIAN EDUCATORS.

"The Secretary shall institute a policy for the recruitment of qualified Indian educators and a detailed plan to promote employees from within the Bureau. Such plan shall include opportunities for acquiring work experience prior to actual work assignment.

"SEC. 1137. ANNUAL REPORT.

"(a) The Secretary shall submit to each appropriate committee of the Congress a detailed annual report on the state of education within the Bureau and any problems encountered in the field of education during the year. Such report shall contain suggestions for improving the Bureau educational system and increasing local Indian control of such system. Such report shall also include the current status of tribally controlled community colleges. The annual budget submission for the Bureau's education programs shall, among other things, include—

"(1) information on the funds provided previously private schools under section 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458d) and recommendations with respect to the future use of such funds;

"(2) the needs and costs of operation and maintenance of tribally controlled community colleges eligible for assistance under the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.) and recommendations with respect to meeting such needs and costs; and

"(3) the plans required by section 1121(g) and 1122(c), and 1125(b), of this Act.

"(b) The Inspector General of the Department of the Interior shall establish a system to ensure that financial and compliance audits are conducted of each Bureau school at least once in every three years. Audits of Bureau schools shall be based upon the extent to which such school has complied with its local financial plan under section 1129.

"SEC. 1138. RIGHTS OF INDIAN STUDENTS.

"Within six months of the date of enactment of this Act, the Secretary shall prescribe such rules and regulations as are necessary to ensure the constitutional and civil rights of Indian students attending Bureau schools, including such students' right to privacy under the laws of the United States, such students' right to freedom of religion and expression and such students' right to due process in connection with disciplinary actions, suspensions, and expulsions.

"SEC. 1139. REGULATIONS.

"Regulations required to be adopted under sections 1126 through 1138 and any revisions of the standards developed under section 1121 or 1122 shall be deemed rules of general applicability prescribed for the administration of an applicable program for the purposes of section 437 of the General Education Provisions Act and shall be promulgated, submitted for congressional review, and take effect in accordance with the provisions of such section. Such regulations shall contain, immediately following each substantive provision of such regulations, citations to the particular section or sections of statutory law or other legal authority upon which such provision is based.

"SEC. 1140. VOLUNTARY SERVICES.

"Notwithstanding section 1342 of title 31, United States Code, the Secretary may, subject to the approval of the local school board concerned, accept voluntary services on behalf of Bureau schools. Nothing in this title shall be construed to require Federal employees to work without compensation or to allow the use of volunteer services to displace or replace Federal employees. An individual providing volunteer services under this section is a Federal employee only for purposes of chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

"SEC. 1141. PRORATION OF PAY.

"(a) Notwithstanding any other provision of law, including laws relating to dual compensation, the Secretary, at the election of the employee, shall prorate the salary of an employee employed in an education position for the academic school year over the entire 12-month period. Each educator employed for the academic school year shall annually elect to be paid on a 12-month basis or for those months while school is in session. No educator shall suffer a loss of pay or benefits, including benefits under unemployment or other Federal or federally assisted programs, because of such election.

"(b) During the course of such year the employee may change election once.

"(c) That portion of the employee's pay which would be paid between academic school years may be paid in lump sum at the election of the employee.

"(d) For the purposes of this section the terms 'educator' and 'education position' have the meaning contained in paragraphs (1) and (2) of section 1132(n). This section applies to those individuals employed under the provisions of section 1132 of this title or title 5, United States Code.

"SEC. 1142. EXTRACURRICULAR ACTIVITIES.

"(a) Notwithstanding any other provision of law, the Secretary may provide, for each Bureau area, a stipend in lieu of overtime premium pay or compensatory time off. Any employee of the Bureau who performs additional activities to provide services to students or otherwise support the school's academic and social programs may elect to be compensated for all such work on the basis of the stipend. Such stipend shall be paid as a supplement to the employee's base pay.

"(b) If an employee elects not to be compensated through the stipend established by this section, the appropriate provisions of title 5, United States Code, shall apply.

"(c) This section applies to all Bureau employees, whether employed under section 1132 of this title or title 5, United States Code.

"SEC. 1143. EARLY CHILDHOOD DEVELOPMENT PROGRAM.

"(a) The Secretary shall provide grants to tribes, tribal organizations, and consortia of tribes and tribal organizations to fund early childhood development programs that are operated by such tribes, organizations, or consortia.

"(b)(1) The total amount of the grants provided under subsection (a) with respect to each tribe, tribal organization, or consortium of tribes or tribal organizations for each fiscal year shall be equal to the amount which bears the same relationship to the total amount appropriated under the authority of subsection (f) for such fiscal year (less amounts provided under subsection (e)) as—

"(A) the total number of children under 6 years of age who are members of—

"(i) such tribe,

"(ii) the tribe that authorized such tribal organization, or

"(iii) any tribe that—

"(I) is a member of such consortium, or

"(II) authorizes any tribal organization that is a member of such consortium, bears to

"(B) the total number of all children under 6 years of age who are members of any tribe that—

"(i) is eligible to receive funds under subsection (a),

"(ii) is a member of a consortium that is eligible to receive such funds, or

"(iii) authorizes a tribal organization that is eligible to receive such funds.

"(2) No grant may be provided under subsection (a)—

"(A) to any tribe that has less than 500 members,

"(B) to any tribal organization which is authorized—

"(i) by only 1 tribe that has less than 500 members, or

"(ii) by 1 or more tribes that have a combined total membership of less than 500 members, or

"(C) to any consortium composed of tribes, or tribal organizations authorized by tribes, that have a combined total tribal membership of less than 500 members.

"(c)(1) A grant may be provided under subsection (a) to a tribe, tribal organization, or consortia of tribes and tribal organizations only if the tribe, organization or consortia submits to the Secretary an application for the grant at such time and in such form as the Secretary shall prescribe.

"(2) Applications submitted under paragraph (1) shall set forth the early childhood development program that the applicant desires to operate.

"(d) The early childhood development programs that are funded by grants provided under subsection (a)—

"(1) shall coordinate existing programs and may provide services that meet identified needs of parents and children under 6 years of age which are not being met by existing programs, including—

"(A) prenatal care,

"(B) nutrition education,

"(C) health education and screening,

"(D) educational testing, and

"(E) other educational services,

"(2) may include instruction in the language, art, and culture of the tribe, and

"(3) shall provide for periodic assessment of the program.

"(e) The Secretary shall, out of funds appropriated under the authority of subsection (f), include in the grants provided under subsection (a) amounts for administrative costs incurred by the tribe or tribal organization in establishing and maintaining the early childhood development program.

"(f) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $10,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

"SEC. 1144. TRIBAL DEPARTMENTS OF EDUCATION.

"(a) Subject to the availability of appropriations, the Secretary shall provide grants and technical assistance to tribes for the development and operation of tribal departments of education for the purpose of planning and coordinating all educational programs of the tribe.

"(b) Grants provided under this section shall—

"(1) be based on applications from the governing body of the tribe,

"(2) reflect factors such as geographic and population diversity,

"(3) facilitate tribal control in all matters relating to the education of Indian children on Indian reservations and on former Indian reservations in Oklahoma,

"(4) provide for the development of coordinated educational programs on Indian reservations (including all preschool, elementary, secondary, and higher or vocational educational programs funded by tribal, Federal, or other sources) by encouraging tribal administrative support of all Bureau funded educational programs as well as encouraging tribal cooperation and coordination with all educational programs receiving financial support from State agencies, other Federal agencies, or private entities,

"(5) provide for the development and enforcement of tribal educational codes, including tribal educational policies and tribal standards applicable to curriculum, personnel, students, facilities, and support programs, and

"(6) otherwise comply with regulations for grants under section 103(a) of the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450h) that are in effect on the date application for such grants are made.

"(c)(1) In approving and funding applications for grants under this section, the Secretary shall give priority to any application that—

"(A) includes assurances from the majority of Bureau funded schools located within the boundaries of the reservation of the applicant that the tribal department of education to be funded under this section will provide coordinating services and technical assistance to all of such schools, including the submission to each applicable agency of a unified application for funding for all of such schools which provides that—

"(i) no administrative costs other than those attributable to the individual programs of such schools will be associated with the unified application, and

"(ii) the distribution of all funds received under the unified application will be equal to the amount of funds provided by the applicable agency to which each of such schools is entitled under law,

"(B) includes assurances from the tribal governing body that the tribal department of education funded under this section will administer all contracts or grants (except those covered by the other provisions of this title and the Tribally Controlled Community College Assistance Act of 1978) for education programs administered by the tribe and will coordinate all of the programs to the greatest extent possible,

"(C) includes assurances for the monitoring and auditing by or through the tribal department of education of all education programs for which funds are provided by contract or grant to ensure that the programs meet the requirements of law, and

"(D) provides a plan and schedule for—

"(i) the assumption over the term of the grant by the tribal department of education of all assets and functions of the Bureau agency office associated with the tribe, insofar as those responsibilities relate to education, and

"(ii) the termination by the Bureau of such operations and office at the time of such assumption,

except that when mutually agreeable between the tribal governing body and the Assistant Secretary, the period in which such assumption is to occur may be modified, reduced, or extended after the initial year of the grant.

"(2) Subject to the availability of appropriated funds, grants provided under this section shall be provided for a period of 3 years and the grant may, if performance by the grantee is satisfactory to the Secretary, be renewed for additional 3-year terms.

"(d) The Secretary shall not impose any terms, conditions, or requirements on the provision of grants under this section that are not specified in this section.

"(e) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated $2,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

"SEC. 1145. PAYMENTS.

"(a)(1) Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this part in 2 payments—

"(A) one payment to be made not later than July 15 of each year in an amount equal to one-half of the amount which the grantee was entitled to receive during the preceding academic year, and

"(B) the second payment, consisting of the remainder to which the grantee is entitled for the academic year, shall be made not later than December 1 of each year.

"(2) For any school for which no payment was made from Bureau funds in the preceding academic year, full payment of the amount computed for the first academic year of eligibility under this part shall be made not later than December 1 of the academic year.

"(3) With regard to funds for grantees that become available for obligation on October 1 of the fiscal year for which such funds are appropriated, the Secretary shall make payments to grantees not later than December 1 of the fiscal year.

"(4) The provisions of chapter 39 of title 31, United States Code, shall apply to the payments required to be made by paragraphs (1), (2), and (3) of this subsection.

"SEC. 1146. DEFINITIONS.

"For the purpose of this part, unless otherwise specified—

"(1) the term 'agency school board' means a body, the members of which are appointed by the school boards of the schools located within such agency, and the number of such members shall be determined by the Secretary in consultation with the affected tribes, except that, in agencies serving a single school, the school board of such school shall fulfill these duties;

"(2) the term 'Bureau' means the Bureau of Indian Affairs of the Department of the Interior;

"(3) the term 'Bureau funded school' means—

"(A) a Bureau school;

"(B) a contract school; or

"(C) a school for which assistance is provided under the Tribally Controlled Schools Act of 1988;

"(4) the term 'Bureau school' means a Bureau operated elementary or secondary day or boarding school or a Bureau operated dormitory for students attending a school other than a Bureau school;

"(5) the term 'contract or grant school' means an elementary or secondary school or a dormitory which receives financial assistance for its operation under a contract, grant, or agreement with the Bureau under section 102, 103(a), or 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f, 450h(a), and 458d) or under the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2504);

"(6) the term 'education line officer' means education personnel under the supervision of the Director, whether located in central, area, or agency offices;

"(7) the term 'financial plan' means a plan of services to be provided by each Bureau school;

"(8) the term 'Indian organization' means any group, association, partnership, corporation, or other legal entity owned or controlled by a federally recognized Indian tribe or tribes, or a majority of whose members are members of federally recognized Indian tribes;

"(9) the term 'local educational agency' means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent, or other school district located within a State, and includes any State agency which directly operates and maintains facilities for providing free public education;

"(10) the term 'local school board', when used with respect to a Bureau school, means a body chosen in accordance with the laws of the tribe to be served or, in the absence of such laws, elected by the parents of the Indian children attending the school, except that in schools serving a substantial number of students from different tribes, the members shall be appointed by the governing bodies of the tribes affected, and the number of such members shall be determined by the Secretary in consultation with the affected tribes;

"(11) the term 'Office' means the Office of Indian Education Programs within the Bureau;

"(12) the term 'Secretary' means the Secretary of the Interior;

''(13) the term 'supervisor' means the individual in the position of ultimate authority at a Bureau school; and

''(14) the term 'tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1801 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.''.

SEC. 382. TRIBALLY CONTROLLED SCHOOLS ACT OF 1988.

(a) New Construction.—The second sentence of paragraph (4) of section 5205(b) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2504(b)(4)) is amended by striking ''were received.'' and inserting ''were received, except that a school receiving a grant under this part for facilities improvement and repair may use such grant funds for new construction if the tribal government or other organization provides funding for the new construction equal to at least one-fourth of the total cost of such new construction.''.

(b) Composition of Grants.—Subsection (b) of section 5205 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2504(b)) is further amended by adding at the end the following new paragraph:

''(5) If the Secretary fails to make a determination within 180 days of a request filed by an Indian tribe or tribal organization to include in such tribe or organization's grant the funds described in subsection (a)(2), the Secretary shall be deemed to have approved such request and the Secretary shall immediately amend the grant accordingly. Such tribe or organization may enforce its rights under subsection (a)(2) and this paragraph, including any denial of or failure to act on such tribe or organization's request, pursuant to the disputes authority described in section 5209(e).''.

(c) Payments.—Subsection (a) of section 5208 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2507(a)) is amended to read as follows:

''(a) Payments.—

''(1) Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this part in 2 payments, of which—

''(A) the first payment shall be made not later than July 15 of each year in an amount equal to one-half of the amount which the grantee was entitled to receive during the preceding academic year; and

''(B) the second payment, consisting of the remainder to which the grantee is entitled for the academic year, shall be made not later than December 1 of each year.

''(2) For any school for which no payment under this part was made from Bureau funds in the preceding academic year, full payment of the amount computed for the first academic year of eligibility under this part shall be made not later than December 1 of the academic year.

''(3) With regard to funds for grantees that become available for obligation on October 1 of the fiscal year for which such funds are appropriated, the Secretary shall make payments to grantees not later than December 1 of the fiscal year.

''(4) The provisions of chapter 39 of title 31, United States Code, shall apply to the payments required to be made by paragraphs (1), (2), and (3).

''(5) Paragraphs (1), (2), and (3) shall be subject to any restriction on amounts of payments under this part that are imposed by a continuing resolution or other Act appropriating the funds involved.''.

(d) Applicability.—Subsection (a) of section 5209 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2508(a)) is amended to read as follows:

''(a) Certain Provisions To Apply to Grants.—All provisions of section 5, 6, 7, 104, 105(f), 106(f), 109, and 111 of the Indian Self-Determination and Education Assistance Act, except those provisions relating to indirect costs and length of contract, shall apply to grants provided under this part.

(e) Exceptions, Problems, and Disputes.—Subsection (e) of section 5209 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2508(e)) is amended—

(1) by striking ''the amount of a grant under section 5205 (and the amount of any funds referred to in that section), and payments to be made under section 5208 of this Act,'' and inserting ''a grant authorized to be made pursuant to this part or any amendment to such grant,'';

(2) by striking ''the amount of, or payment of, the administrative grant'' and inserting ''an administrative cost grant''; and

(3) by adding at the end the following new sentence: ''The Equal Access to Justice Act shall apply to administrative appeals filed after September 8, 1988, by grantees regarding a grant under this part, including an administrative cost grant.''.

SEC. 383. ENDOWMENT FUNDS.

Section 302 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1832) is amended—

(1) in subsection (a), by striking ''section 333'' and inserting in lieu thereof ''section 331''; and

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

''(1) provides for the investment and maintenance of a trust fund, the corpus and earnings of which shall be invested in the same manner as funds are invested under paragraph (2) of section 331(c) of the Higher Education Act of 1965, except that for purposes of this paragraph, the term 'trust fund' means a fund established by an institution of higher education or by a foundation that is exempt from taxation and is maintained for the purpose of generating income for the support of the institution, and may include real estate;''; and

(B) in paragraph (3) by striking ''same'' the first time such term appears.

SEC. 384. GOALS 2000: EDUCATE AMERICA ACT.

(a) Section 315 of the Goals 2000: Educate America Act (20 U.S.C. 5895) is amended—

(1) by amending subsection (c) to read as follows:

''(c) Bureau of Indian Affairs Cost Analysis and Studies.—

''(1) In general.—The Secretary of the Interior shall reserve from the funds received pursuant to section 304(a)(1)(B) in the first and second fiscal year for which the Secretary of the Interior receives such funds an amount not to exceed $500,000 for each such year to provide, through a contract executed, after open solicitation, with an organization or institution having extensive experience in school finance, for an analysis of—

''(A) the costs associated with meeting the academic, home-living, and residential standards of the Bureau for each Bureau funded school and annual projections of such costs; and

''(B) the feasibility and desirability of changing the method of financing for Bureau funded schools from the weighted student unit formula method in effect on the date of enactment of this Act to a school-based budget system or other alternative system of financial support.

''(2) Cost analysis purpose.—The purpose of the cost analysis provided for in paragraph (1)(A) shall be to provide the Bureau and the panel described in subsection (b)(4) with baseline data regarding the current state of operations funded by the Bureau and to provide a framework for the implementation of opportunity-to-learn standards or strategies. Such analysis shall evaluate the costs of providing a program in each school operated or supported by the Bureau for the next succeeding academic year and shall be based on—

''(A) the standards either published in the Federal Register and effective for schools funded by the Bureau on the date of enactment of the Improving America's Schools Act of 1994, or the State or regional standards in effect on such date for a Bureau funded school;

''(B) the best projections of student counts and demographics as provided by the Bureau and as independently reviewed by the organization or institution selected by the Secretary to perform the analysis described in this section; and

''(C) the pay and benefit schedules and other personnel requirements for each school operated by the Bureau, as such pay and benefit schedules and requirements existed on the date of enactment of the Improving America's Schools Act of 1994.

''(3) Feasibility study purpose.—(A) The purpose of the feasibility analysis provided for in paragraph (1)(B) shall be to determine whether it is feasible and desirable for the Bureau to replace or modify the weighted student unit formula system in effect on the date of enactment of this Act.

''(B) For the purposes of the feasibility analysis described in paragraph (1)(B), the term 'school-based budget system' means a system based upon an initial determination, at each school site, of the number of students who shall be served at the site, the needs of those students, the standards which will best meet those needs (including any standards or conditions reflecting local community input and such community's program), the personnel profile necessary to establish such program and the cost (determined on an actual basis) of funding such a program. Such a system shall include procedures to aggregate the determinations for each school site to determine the amount needed to fund all Bureau funded schools, to prepare a budget submission based upon such aggregate, and to provide for a mechanism for distributing such sums as may be appropriated based upon the determination at each school site.

''(4) Results report.—The contractor selected shall be required to report the results of analyses provided for in this section, in aggregate and school-specific form to the chairpersons and ranking minority members of the Committee on Education and Labor and the Committee on Appropriations of the House of Representatives and the Committee on the Indian Affairs and the Committee on Appropriations of the Senate, and to the Secretary of the Interior, not later than six months after the date of enactment of the Improving America's Schools Act of 1994. The contractor shall also be required to provide an estimate of the costs of meeting the academic and residential standards of the Bureau for each Bureau funded school for each of the three succeeding forward-funded fiscal years following the date of submission of such report. The contractor shall provide an estimate of such costs to such persons and members not later than January 1 of each succeeding fiscal year.''; and

(2) by adding at the end the following new subsections:

''(e) Grants.—The Secretary of the Interior may use not more than one percent of the funds received pursuant to section 304(a)(1)(B) in the first and second fiscal year for which the Secretary of the Interior receives such funds for the purpose of providing grants, if requested by Bureau funded school boards, to enable such

school boards to carry out activities of reform planning as such activities are described for States in section 308(b)(2)(J), including the feasibility of becoming a contract school pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), or a grant school pursuant to section 5204 of the Tribally Controlled Schools Act of 1988.

"(f) STUDY.—In cooperation with the panel established in subsection (b)(4), the Secretary of the Interior shall conduct a study to evaluate the feasibility of contracting with a private management firm for the operation of one or more Bureau operated schools to facilitate the achievement of the National Education Goals and the efficient use of funds in the education of Indian children, and to report to the persons identified in subsection (c)(4) and to the panel described in subsection (b)(4) not later than 12 months after the date of enactment of the Improving America's Schools Act of 1994.".

SEC. 386. AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT.

(a) STAFF OF THE INSTITUTE.—Subsection (f) of section 1509 of the Higher Education Amendments of 1986 (20 U.S.C. 4416(f)) is amended to read as follows:

"(f) APPLICABILITY.—

"(1) This section shall apply to any individual appointed after October 17, 1986, for employment in the Institute. Except as provided in subsection (d) and (g), the enactment of this title shall not affect—

"(A) the continued employment of any individual employed before October 17, 1986; or

"(B) such individual's right to receive the compensation attached to such position.

"(2) This section shall not apply to an individual whose services are procured by the Institute pursuant to a written procurement contract.

"(3) This section shall not apply to employees of an entity performing services pursuant to a written contract with the Institute.".

(b) ENDOWMENT PROGRAM.—Section 1518 of the Higher Education Amendments of 1986 (20 U.S.C. 4425) is amended—

(1) in subsection (b), by adding at the end the following new paragraph:

"(6) For the purpose of complying with the contribution requirement in this subsection, the Institute may use funds or in-kind contributions of real or personal property. For the purposes of this paragraph, all contributions, in-kind and real estate, which are held by the Institute beginning on November 29, 1990, and which were received after June 2, 1988, but which have not been included in their entirety in computations under this section shall be eligible for matching Federal funds appropriated in any year."; and

(2) in subsection (c), by amending paragraph (1) to read as follows:

"(1) Funds in the trust funds described in subsections (a) and (b) shall be invested under the same conditions and limitations as funds are invested under section 331(c)(2) of the Higher Education Act of 1965 and the regulations implementing such section (as such regulations were in effect at the time the funds are invested).".

PART I—CROSS REFERENCES AND CONFORMING AMENDMENTS

SEC. 391. CROSS REFERENCES.

(a) REFUGEE EDUCATION ASSISTANCE ACT OF 1980.—(1) Paragraph (1) of section 101 of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) is amended by striking "section 198(a)" and inserting "section 14101".

(2) Paragraph (2) of section 201(b) of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) is amended by striking "(other than section 303 of the Elementary and Secondary Education Act of 1965)".

(3) Paragraph (3) of section 301(b) of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) is amended by striking ", except that no reduction under this paragraph shall be made for any funds made available to the State under section 303 of the Elementary and Secondary Education Act of 1965".

(4) Paragraph (2) of section 401(b) of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) is amended by striking "(other than section 303 of the Elementary and Secondary Education Act of 1965)".

(b) TITLE 10.—(1) Subparagraph (A) of section 1151(b)(2) of title 10, United States Code, is amended by striking "chapter 1 of".

(2) Subparagraph (A) of section 1151(b)(3) of title 10, United States Code, is amended by striking "chapter 1 of".

(3) Subparagraph (A) of section 1598(a)(2) of title 10, United States Code, is amended by striking "chapter 1 of".

(4) Section 2194 of title 10, United States Code, is amended—

(A) in subsection (a), by striking "education agencies" and inserting "educational agency"; and

(B) in subsection (e)—

(i) by striking "education agency" and inserting "educational agency";

(ii) by striking "section 1471(12)" and inserting "section 14101"; and

(iii) by striking "(20 U.S.C. 1058(b)".

(5) Subparagraph (A) of section 2410j(a)(2) of title 10, United States Code, is amended by striking "chapter 1 of".

(c) TOXIC SUBSTANCES CONTROL ACT.—(1) Subparagraph (A) of section 202(7) of the Toxic Substances Control Act (15 U.S.C. 2642(7)(A)) is amended—

(A) by striking "section 198" and inserting "section 14101"; and

(B) by striking "(20 U.S.C. 3381)".

(2) Paragraph (9) of section 202 of the Toxic Substances Control Act (15 U.S.C. 2642(9)) is amended—

(A) by striking "section 198" and inserting "section 14101"; and

(B) by striking "(20 U.S.C. 2854)".

(3) Paragraph (12) of section 202 of the Toxic Substances Control Act (15 U.S.C. 2642(12)) is amended—

(A) by striking "section 198" and inserting "section 14101"; and

(B) by striking "(20 U.S.C. 2854)".

(4) Section 302(1) of the Toxic Substances Control Act (15 U.S.C. 2662(1)(A)) is amended—

(A) in subparagraph (A)—

(i) by striking "section 198" and inserting "section 14101"; and

(ii) by striking "(20 U.S.C. 3381)"; and

(B) in subparagraph (C), by inserting "or successor authority" after "1107)".

(d) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993.—Paragraph (1) of section 386(h) of the National Defense Authorization Act for Fiscal Year 1993 (20 U.S.C. 238 note) is amended—

(1) by striking "section 1471(12)" and inserting "section 14101"; and

(2) by striking "(20 U.S.C. 2891(12))".

(e) HIGHER EDUCATION ACT OF 1965.—(1) Clause (ii) of section 418A(b)(1)(B) of the Higher Education Act of 1965 (20 U.S.C. 1070d–2(b)(1)(B)(ii)) is amended by striking "subpart 1 of part D of chapter 1" and inserting "part C".

(2) Subparagraph (A) of section 418A(c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1070d–2(c)(1)(A)) is amended—

(A) by striking "subpart 1 of part D of chapter 1" and inserting "part C"; and

(B) by inserting "(or such part's predecessor authority)" after "1965".

(3) Subparagraph (A) of section 465(a)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087ee(a)(2)(A)) is amended by striking "chapter 1 of the Education Consolidation and Improvement Act of 1981" and inserting "title I of the Elementary and Secondary Education Act of 1965".

(4) Subsection (a) of section 469 of the Higher Education Act of 1965 (20 U.S.C. 1087ii(a)) is amended by striking "chapter 1 of".

(5) Subsection (b) of section 572 of the Higher Education Act of 1965 (20 U.S.C. 1111a(b)) is amended by striking "of chapter 1".

(6) Paragraph (1) of section 581(b) of the Higher Education Act of 1965 (20 U.S.C. 1113(b)(1)) is amended by striking "part A or subpart 1 of part D of chapter 1" and inserting "part A orC".

(7) Paragraph (3) of section 581(c) of the Higher Education Act of 1965 (20 U.S.C. 1113(c)(3)) is amended by striking "chapter 1 of".

(8) Subparagraph (C) of section 586(d)(1) of the Higher Education Act of 1965 (20 U.S.C. 1114(d)(1)(C)) is amended by striking "chapter 1 of".

(9) Subparagraph (D) of section 586(d)(1) of the Higher Education Act of 1965 (20 U.S.C. 1114(d)(1)(D)) is amended by striking "chapter 1 of".

(10) Subclause (I) of section 1144(b)(1)(B)(iv) of the Higher Education Act of 1965 (20 U.S.C. 1138c(b)(1)(B)(iv)(I)) is amended by striking "chapter 1 of".

(f) INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—(1) Clause (ii) of section 602(a)(21)(A) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(a)(21)(A)(ii)) is amended by striking "chapter 1 of".

(2) Paragraph (2) of section 613(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(a)(2)) is amended by striking ", including subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965,".

(3) Subparagraph (B) of section 622(c)(2) of the Individuals with Disabilities Education Act (20 U.S.C. 1422(c)(2)) is amended by striking "and subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965".

(g) EDUCATION AMENDMENTS OF 1972.—Subparagraph (B) of section 908(2) of the Education Amendments of 1972 (20 U.S.C. 1687(2)(B)) is amended by striking "section 198(a)(10)" and inserting "section 14101".

(h) DEPARTMENT OF EDUCATION ORGANIZATION ACT.—Section 204 of the Department of Education Organization Act (20 U.S.C. 3414) is amended by striking "subpart 1 of part B" and inserting "part C".

(i) EDUCATION AND TRAINING FOR A COMPETITIVE AMERICA ACT OF 1988.—The Education and Training for a Competitive America Act of 1988 (20 U.S.C. 5001 et seq.) is repealed.

(j) EDUCATIONAL PARTNERSHIPS ACT OF 1988.—The Educational Partnerships Act of 1988 (20 U.S.C. 5031 et seq.) is repealed.

(k) SECONDARY SCHOOLS BASIC SKILLS DEMONSTRATION ASSISTANCE ACT OF 1988.—The Secondary Schools Basic Skills Demonstration Assistance Act of 1988 (20 U.S.C. 5061 et seq.) is repealed.

(l) EXCELLENCE IN MATHEMATICS, SCIENCE AND ENGINEERING EDUCATION ACT OF 1990.—The Excellence in Mathematics, Science and Engineering Education Act of 1990 (20 U.S.C. 5311 et seq.) is repealed.

(m) NATIONAL ENVIRONMENTAL EDUCATION ACT.—Paragraph (5) of section 3 of the National Environmental Education Act (20 U.S.C. 5502(5)) is amended—

(1) by striking "local education" and inserting "local educational"; and

(2) by striking "section 198" and inserting "section 14101".

(n) JOB TRAINING PARTNERSHIP ACT.—(1) Paragraph (23) of section 4 of the Job Training Partnership Act (29 U.S.C. 1503(23)) is amended by striking "section 1471(23)" and inserting "section 14101".

(2) Subparagraph (B) of section 263(a)(2) of the Job Training Partnership Act (29 U.S.C. 1643(a)(2)(B)) is amended by striking "chapter 1 of".

(3) Subparagraph (B) of section 263(g)(1) of the Job Training Partnership Act (29 U.S.C. 1643(g)(1)(B)) is amended by striking "chapter 1 of".

(4) Paragraph (2) of section 265(b) of the Job Training Partnership Act (29 U.S.C. 1645(b)(2)) is amended by striking "parts A through D of chapter 1" and inserting "parts A through C".

(o) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993.—Paragraph (3) of section 1091(l) of the National Defense Authorization Act for Fiscal Year 1993 (32 U.S.C. 501 note) is amended by inserting "(as such section was in effect on the day preceding the date of enactment of this Act)" after "1965".

(p) SAFE DRINKING WATER ACT.—Section 1461 of the Safe Drinking Water Act (42 U.S.C. 300j–21(6)) is amended—

(1) in subparagraph (A) of paragraph (3)—

(A) by striking "section 198" and inserting "section 14101"; and

(B) by striking "(20 U.S.C. 3381)"; and

(2) in paragraph (6)—

(A) by striking "section 198" and inserting "section 14101"; and

(B) by striking "(20 U.S.C. 2854)".

(q) CIVIL RIGHTS ACT OF 1964.—Subparagraph (B) of section 606(2) of the Civil Rights Act of 1964 (42 U.S.C. 2000d–4a(2)(B)) is amended by striking "section 198(a)(10)" and inserting "section 14101".

(r) OLDER AMERICANS ACT OF 1965.—(1) Section 338A of the Older Americans Act of 1965 (42 U.S.C. 3030g–12(a)(1)) is amended—

(A) in paragraph (1) of subsection (a)—

(i) by striking "section 1471" and inserting "section 14101"; and

(ii) by striking "(20 U.S.C. 2891)"; and

(B) in paragraph (3) of subsection (b)—

(i) by striking "projects under section 1015" and inserting "programs under section 1114"; and

(ii) by striking (20 U.S.C. 2025)".

(2) Subparagraph (B) of section 363(5) of the Older Americans Act of 1965 (42 U.S.C. 3030o(5)(B)) is amended—

(A) by striking "section 1471" and inserting "section 14101"; and

(B) by striking "(20 U.S.C. 2891)".

(s) CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT.—(1) Subsection (d) of section 111 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2321(d)) is amended by striking "chapter 1 of".

(2) Paragraph (14) of section 113(b) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2323(b)(14)) is amended by striking "chapter 1 of".

(3) Subsection (a) of section 115 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2325(a)) is amended—

(A) by striking "chapter 1 of"; and

(B) by inserting "of 1965" after "Secondary Education Act".

(4) Paragraph (1) of section 231(a) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2341(a)(1)) is amended by striking "section 1005" and inserting "section 1124 or such section's predecessor authority".

(5) Clause (iv) of section 231(d)(3)(A) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2341(d)(3)(A)(iv)) is amended by striking "chapter 1 of".

(6) Paragraph (3) of section 420(a) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2420(a)(3)) is amended by striking "section 1562" and inserting "part B of title XIII".

(7) Paragraph (20) of section 521 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(20) is amended by striking "section 1471(5)" and inserting "section 14101".

(8) Paragraph (21) of section 521 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(21)) is amended by striking "section 703(a)(1)" and inserting "section 7004(a)".

(t) JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974.—Paragraph (2) of section 288E(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667e–5(a)(2)) is amended by striking "chapter 1 of".

(u) AGE DISCRIMINATION ACT OF 1975.—Clause (ii) of section 309(4)(B) of the Age Discrimination Act of 1975 (42 U.S.C. 6107(4)(B)(ii)) is amended by striking "section 198(a)(10)," and inserting "section 14101".

(v) HEAD START TRANSITIONAL PROJECT ACT.—(1) Paragraph (4) of section 132 of the Head Start Transition Project Act (42 U.S.C. 9855(4)) is amended by striking "section 1471(12)" and inserting "section 14101".

(2) Subsection (a) of section 134 of the Head Start Transition Project Act (42 U.S.C. 9855b(a)) is amended by striking "of chapter 1".

(3) Subsection (b) of section 134 of the Head Start Transition Project Act (42 U.S.C. 9855b(b)) is amended by striking "of chapter 1".

(4) Subsection (d) of section 135 of the Head Start Transition Project Act (42 U.S.C. 9855c(d)) is amended by striking "schoolwide project under section 1015(a)" and inserting "schoolwide program under section 1114".

(5) Subparagraph (C) of section 136(a)(4) of the Head Start Transition Project Act (42 U.S.C. 9855d(a)(4)(C)) is amended—

(A) by striking "the Follow Through Act, chapter 1 of"; and

(B) by striking ", part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (Even Start)".

(6) Paragraph (8) of section 136(a) of the Head Start Transition Project Act (42 U.S.C. 9855d(a)(8)) is amended by striking "part B of chapter 1" and inserting "part B".

(7) Paragraph (10) of section 136(a) of the Head Start Transition Project Act (42 U.S.C. 9855d(a)(10)) is amended by striking "part B of chapter 1" and inserting "part B".

(w) FOLLOW THROUGH ACT.—The Follow Through Act (42 U.S.C. 9861 et seq.) is repealed.

(x) COMPREHENSIVE CHILD DEVELOPMENT ACT.—Paragraph (5) of section 670S of the Comprehensive Child Development Act (42 U.S.C. 9886(5)) is amended by striking "section 1471(12)" and inserting "section 14101".

(y) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—Subparagraph (B) of section 112(b)(2) of the National and Community Service Act of 1990 (42 U.S.C. 12524(b)(2)(B)) is amended by striking "chapter 1 of".

(z) TRAINING TECHNOLOGY TRANSFER ACT OF 1988.—Paragraph (1) of section 6144 of the Training Technology Transfer Act of 1988 (20 U.S.C. 5124(1)) is amended by striking "section 405(d)(4)(A)(i) of the General Education Provisions Act (20 U.S.C. 1221e(d)(4)(A)(i))" and inserting "section 941(h) of the Educational Research, Development, Dissemination, and Improvement Act of 1994".

SEC. 392. ADDITIONAL REPEALS AND TECHNICAL AND CONFORMING AMENDMENTS REGARDING IMPACT AID.

(a) ADDITIONAL REPEALS.—

(1) OMNIBUS BUDGET RECONCILIATION ACT OF 1981.—Subsection (c) of section 505 of the Omnibus Budget Reconciliation Act of 1981 is repealed.

(2) EDUCATION AMENDMENTS OF 1984.—Section 302 of the Education Amendments of 1984 is repealed.

(3) DEPARTMENT OF EDUCATION APPROPRIATIONS ACT, 1991.—Section 306 of the Department of Education Appropriations Act, 1991, is repealed.

(4) NATIONAL ASSESSMENT OF CHAPTER 1 ACT.—Paragraph (2) of section 3(a) of the 1992 National Assessment of Chapter 1 Act is repealed.

(5) PUBLIC LAW 92–277.—Section 2 of Public Law 92–277 (86 Stat. 124) is repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1966.—Section 182 of the Elementary and Secondary Education Amendments of 1966 is amended by striking "by the Act of September 23, 1950 (Public Law 815, 81st Congress),".

(2) TOXIC SUBSTANCES CONTROL ACT.—Subparagraph (C) of section 302(1) of the Toxic Substances Control Act (15 U.S.C. 2662(1)(C)) is amended by inserting "as in effect before enactment of the Improving America's Schools Act of 1994" after "section 6 of the Act of September 30, 1950 (64 Stat. 1107),".

SEC. 393. INDIAN EDUCATION.

(a) ADULT EDUCATION ACT.—Paragraph (4) of section 322(a) of the Adult Education Act (20 U.S.C. 1203a(a)) is amended by striking "the Indian Education Act" and inserting "title IX of the Elementary and Secondary Education Act of 1965".

(b) EDUCATION AMENDMENTS OF 1978.—Paragraph (3) of section 1128(c) of the Education Amendments of 1978 (25 U.S.C. 2008(c)(3)) is amended—

(1) in clause (i) of subparagraph (A), by striking "(as determined pursuant to section 5324 of the Indian Education Act of 1988)"; and

(2) in subparagraph (B)—

(A) by striking "the later of the following" and all that follows through "(ii)"; and

(B) by inserting ", and for each fiscal year thereafter" before the period at the end thereof.

(c) INDIAN EDUCATION ASSISTANCE ACT.—Section 209 of the Indian Education Assistance Act (25 U.S.C. 458e) is amended by striking "title IV of the Act of June 23, 1972 (86 Stat. 235)" and inserting "title IX of the Elementary and Secondary Education Act of 1965".

(d) JOHNSON-O'MALLEY ACT.—Subsection (a) of section 5 of the Act of April 16, 1934, commonly known as the "Johnson-O'Malley Act" (25 U.S.C. 456(a)) is amended by striking "section 305(b)(2)(B)(ii) of the Act of June 23, 1972 (86 Stat. 235)" and inserting "section 9104(c)(4) of the Elementary and Secondary Education Act of 1965".

SEC. 394. OTHER TECHNICAL AND CONFORMING AMENDMENTS.

(a) ADULT EDUCATION ACT.—Paragraph (7) of section 342(c) of the Adult Education Act (20 U.S.C. 1206a(c)) is amended by striking "section 7004(a) of title VII" and inserting "section 7004(a)".

(b) ANTI-DRUG ABUSE ACT OF 1988.—Subparagraph (A) of section 3521(d)(8) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11841(d)(8)(A)) is amended by striking "the Drug-Free Schools and Communities Act of 1986" and inserting "title IV of the Elementary and Secondary Education Act of 1965".

(c) ASBESTOS SCHOOL HAZARD ABATEMENT ACT.—Section 511 of the Asbestos School Hazard Abatement Act of 1984 (20 U.S.C. 4020) is amended—

(1) in subparagraph (A) of paragraph (4), by striking "section 198(a)(10)" and inserting "section 14101"; and

(2) in subparagraph (A) of paragraph (5), by striking "section 198(a)(7)" and inserting "section 14101".

(d) CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—Paragraph (10) of section 457 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12899f(10)) is amended by striking "section 7003 of the Bilingual Education Act" and inserting "section 7004(a) of the Elementary and Secondary Education Act of 1965".

(e) FAMILY AND MEDICAL LEAVE ACT OF 1993.—Subparagraph (A) of section 108(a)(1) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2618(a)(1)(A)) is amended by striking "section 1471(12)" and inserting "section 14101".

(f) GOALS 2000: EDUCATION AMERICA ACT.—The Goals 2000: Educate America Act is amended—

(1) in section 3—

(A) in subsection (a)—

(i) in paragraph (6), by striking "section 1471" and inserting "section 14101"; and

(ii) in paragraph (10), by striking "section 602" and inserting "section 602(a)(17)"; and

(B) in paragraph (1) of subsection (b), by striking "section 1471" and inserting "section 14101";

(2) in paragraph (7) of section 231, by striking "chapter 1 of";

(3) in subsection (b) of section 232—

(A) in subparagraph (A) of paragraph (2), by striking "Star Schools Program Assistance Act" and inserting "Star Schools program authorized by part B of title III of the Elementary and Secondary Education Act of 1965"; and

(B) in subparagraph (F) of paragraph (3), by striking "the evaluation undertaken pursuant to section 908 of the Star Schools Program Assistance Act" and inserting "any evaluation of the Star School program undertaken by the Secretary";

(4) in subsection (b) of section 310, by striking "section 1017" and inserting "sections 1020 and 14503"; and

(5) in subsection (b) of section 311, by amending paragraphs (1) through (6) to read as follows:

"(1) Title I of the Elementary and Secondary Education Act of 1965.

"(2) Part A of title II of the Elementary and Secondary Education Act of 1965.

"(3) Part A of title V of the Elementary and Secondary Education Act of 1965.

"(4) Title VIII of the Elementary and Secondary Education Act of 1965.

"(5) Part B of title IX of the Elementary and Secondary Education Act of 1965.

"(6) The Carl D. Perkins Vocational and Applied Technology Education Act.".

(g) IMMIGRATION AND NATIONALITY ACT.—Subparagraph (D) of section 245A(h)(4) of the Immigration and Nationality Act (8 U.S.C. 1255a(h)(4)(D)) is amended to read as follows:

"(D) Title I of the Elementary and Secondary Education Act of 1965.".

(h) NATIONAL AND COMMUNITY SERVICE ACT OF 1990.—The National and Community Service Act of 1990 is amended—

(1) in section 101—

(A) in paragraph (8), by striking "section 1471(8) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(8))" and inserting "section 14101 of the Elementary and Secondary Education Act of 1965";

(B) in paragraph (14), by striking "section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12))" and inserting "section 14101 of the Elementary and Secondary Education Act of 1965;

(C) in paragraph (22), by striking "section 1471(21) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(21))" and inserting "section 14101 of the Elementary and Secondary Education Act of 1965"; and

(D) in paragraph (28), by striking "section 1471(23) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(23))" and inserting "section 14101 of the Elementary and Secondary Education Act of 1965";

(2) in subparagraph (B) of section 112(b)(2), by inserting "or its successor authority" after "(20 U.S.C. 2711 et seq.)"; and

(3) in subsection (b) of section 115A, by inserting ", as in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994" after "(20 U.S.C. 2727(b))".

(i) REHABILITATION ACT OF 1973.—The Rehabilitation Act of 1973 is amended—

(1) in section 202(b)(4)(A)(i), by striking "paragraphs (8) and (21), respectively, of section 1471 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891 (8) and (21))" and inserting "section 14101 of the Elementary and Secondary Education Act of 1965"; and

(2) in subparagraph (B) of section 504(b)(2), by striking "section 1471(12)" and inserting "section 14101".

(j) SCHOOL-TO-WORK OPPORTUNITIES ACT OF 1994.—The School-to-Work Opportunities Act of 1994 is amended—

(1) in paragraph (15) of section 4, by striking "section 602(17)" and inserting "section 602(a)(17)"; and

(2) in subsection (b) of section 502, by amending paragraphs (1) through (6) to read as follows:

"(1) title I of the Elementary and Secondary Education Act of 1965;

"(2) part A of title II of the Elementary and Secondary Education Act of 1965;

"(3) part A of title V of the Elementary and Secondary Education Act of 1965;

"(4) part B of title IX of the Elementary and Secondary Education Act of 1965;

"(5) title XIII of the Elementary and Secondary Education Act of 1965; and

"(6) the Carl D. Perkins Vocational and Applied Technology Education Act.".

(k) SOCIAL SECURITY ACT.—Paragraph (7) of section 402(g) of the Social Security Act (42 U.S.C. 602(g)(7)) is amended by striking "chapter 1 of the Education Consolidation and Improvement Act of 1981" and inserting "title I of the Elementary and Secondary Education Act of 1965".

(l) STATE DEPENDENT CARE DEVELOPMENT GRANTS ACT.—Section 670G of the State Dependent Care Development Grants Act (42 U.S.C. 9877) is amended—

(1) in paragraph (6), by striking "section 198(a)(10)" and inserting "section 14101 of the Elementary and Secondary Education Act of 1965"; and

(2) in paragraph (11), by striking "section 198(a)(17)" and inserting "section 14101".

(m) TRIBALLY CONTROLLED SCHOOLS ACT OF 1988.—The Tribally Controlled Schools Act of 1988 is amended—

(1) in subparagraph (C) of section 5204(a)(3), by striking "chapter 1 of"; and

(2) in section 5205—

(A) in subparagraph (A) of subsection (a)(3), by striking "chapter 1 of"; and

(B) in subsection (b)—

(i) in subparagraph (A) of paragraph (2), by striking "chapter 1 of"; and

(ii) in clause (i) of paragraph (3)(A), by striking "chapter 1 of".

TITLE IV—NATIONAL EDUCATION STATISTICS

SEC. 401. SHORT TITLE.

This title may be cited as the "National Education Statistics Act of 1994".

SEC. 402. FINDINGS; PURPOSE; DEFINITIONS.

(a) FINDINGS.—The Congress finds that—

(1) a Department of Education was established in 1867 "for the purpose of collecting such statistics and facts as shall show the condition and progress of education in the several States and territories, and of diffusing such information respecting the organization and management of schools and school systems and methods of teaching as shall aid the people of the United States in the establishment and maintenance of efficient school systems, and otherwise promote the cause of education throughout the United States";

(2) today, while the role of the current Department of Education is much broader, the National Center for Education Statistics within the Office of Educational Research and Improvement continues to perform those crucial original purposes; and

(3) looking to the 21st century, the National Center for Education Statistics must be able to design and undertake, effectively and efficiently, statistical activities that will aid in the reform of the Nation's educational systems.

(b) PURPOSE.—It is the purpose of this title to ensure the continuation of an effective mechanism for collecting and reporting statistics and information showing the condition and progress of education in the United States and other nations in order to promote and accelerate the improvement of American education.

(c) DEFINITIONS.—For the purpose of this title and unless otherwise specified—

(1) the term "Assistant Secretary" means the Assistant Secretary for Educational Research and Improvement established under section 202(b)(1)(E) of the Department of Education Organization Act;

(2) the term "Department" means the Department of Education;

(3) the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965;

(4) the term "local educational agency" has the same meaning given such term in section 14101 of the Elementary and Secondary Education Act of 1965;

(5) the term "Secretary" means the Secretary of Education;

(6) the term "State educational agency" has the same meaning given such term in section 14101 of the Elementary and Secondary Education Act of 1965; and

(7) the terms "State" and "United States"—

(A) other than for the purpose of section 411, mean each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(B) for the purpose of section 411, have the same meaning given such terms in subparagraph (A), except that such terms include Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau.

SEC. 403. NATIONAL CENTER FOR EDUCATION STATISTICS.

(a) ESTABLISHMENT.—There is established, within the Office of Educational Research and Improvement established under section 208 of the Department of Education Organization Act, a National Center for Education Statistics (hereafter in this title referred to as the "Center").

(b) COMMISSIONER AND ASSOCIATE COMMISSIONERS.—

(1) COMMISSIONER.—The Center shall be headed by a Commissioner of Education Statistics (hereafter in this title referred to as the "Commissioner") who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall—

(A) have substantial knowledge of programs assisted by the Center;

(B) be paid in accordance with section 5315 of title 5, United States Code; and

(C) serve for a term of four years, with the terms to expire every fourth June 21, beginning in 1995.

(2) Associate Commissioners.—The Commissioner may appoint such Associate Commissioners as the Commissioner determines are necessary and appropriate.

SEC. 404. DUTIES OF THE CENTER.

(a) Duties.—The duties of the Center are to collect, analyze, and disseminate statistics and other information related to education in the United States and in other nations, including—

(1) collecting, acquiring, compiling (where appropriate, on a State by State basis), and disseminating full and complete statistics on the condition and progress of education, at the preschool, elementary, secondary, and postsecondary levels in the United States, including data on—

(A) State and local education reform activities;

(B) student achievement at all levels of education;

(C) secondary school completions, dropouts, and adult literacy;

(D) educational access to and opportunity for postsecondary education, including data on financial aid to postsecondary students;

(E) teaching, including data on course-taking, instruction, the conditions of the education workplace, and the supply of, and demand for, teachers, which may include data on the proportions of women and men, cross-tabulated by race or ethnicity, teaching in subjects in which such individuals have been historically underrepresented;

(F) the learning and teaching environment, including data on libraries;

(G) the incidence, frequency, seriousness, and nature of violence affecting students, school personnel, and other individuals participating in school activities, as well as other indices of school safety;

(H) the financing and management of education, including data on revenues and expenditures; and

(I) the social and economic status of children;

(2) conducting and publishing reports and analyses of the meaning and significance of such statistics;

(3) conducting longitudinal studies, as well as regular and special surveys and data collections, necessary to report on the condition and progress of education;

(4) collecting, analyzing, cross-tabulating, and reporting, to the extent feasible, so as to provide information by gender, race, socioeconomic status, limited-English proficiency, and other population characteristics when such disaggregated information would facilitate educational and policy decisionmaking;

(5) assisting public and private educational agencies, organizations, and institutions in improving and automating statistical and data collection activities; and

(6) acquiring and disseminating data on educational activities and student achievement in the United States compared with foreign nations.

(b) Training Program.—The Commissioner may establish a program to train employees of public and private educational agencies, organizations, and institutions in the use of the Center's standard statistical procedures and concepts and may establish a fellows program to appoint such employees as temporary fellows at the Center in order to assist the Center in carrying out its duties.

SEC. 405. PERFORMANCE OF DUTIES.

(a) Grants, Contracts, and Cooperative Agreements.—

(1) In general.—In carrying out the Commissioner's duties under this title, the Commissioner may award grants, and enter into contracts and cooperative agreements.

(2) Duration.—Notwithstanding any other provision of law, the grants, contracts, and cooperative agreements under this section may be awarded, on a competitive basis, for a period of not more than five years, and may be renewed at the discretion of the Commissioner for an additional period of not more than five years.

(b) Gathering Information.—

(1) Sampling.—The Commissioner may use the statistical method known as sampling to carry out the purpose of this title.

(2) Source of information.—The Commissioner may, as the Commissioner considers appropriate, use information collected—

(A) from States, local educational agencies, public and private schools, preschools, institutions of higher education, libraries, administrators, teachers, students, the general public, and such other individuals, organizations, agencies, and institutions as the Commissioner may consider appropriate; and

(B) by other offices within the Department and by other Federal departments, agencies, and instrumentalities.

(3) Collection.—The Commissioner may—

(A) enter into interagency agreements for the collection of statistics;

(B) arrange with any agency, organization, or institution for the collection of statistics; and

(C) assign employees of the Center to any such agency, organization, or institution to assist in such collection.

(4) Technical assistance and coordination.—In order to maximize the effectiveness of Federal efforts to serve the educational needs of children and youth, the Commissioner shall—

(A) provide technical assistance to Department offices that gather data for statistical purposes; and

(B) coordinate closely with other Department offices in the collection of data.

SEC. 406. REPORTS.

(a) Report on the Condition and Progress of Education.—The Commissioner shall, not later than June 1, 1995, and each succeeding June 1 thereafter, submit to the President and the Congress a statistical report on the condition and progress of education in the United States.

(b) Statistical Reports.—The Commissioner shall issue regular statistical reports to the President and Congress on such education topics as the Commissioner determines to be appropriate.

(c) Special Reports.—The Commissioner may, whenever the Commissioner considers it appropriate, issue special reports on particular education topics.

SEC. 407. ADVISORY COUNCIL ON EDUCATION STATISTICS.

(a) Establishment.—There is established, within the Center, the Advisory Council on Education Statistics (hereafter in this title referred to as the "Council").

(b) Membership.—

(1) Composition.—The Council shall be composed of—

(A) 18 voting members who are users of education data and who are appointed by the Secretary on the basis of their experience and eminence within the field of education, of whom at least—

(i) three shall be practicing educators;

(ii) three shall be education policymakers;

(iii) three shall be professional statisticians;

(iv) three shall be education researchers; and

(v) three shall be experts in educational measurement;

(B) three individuals representing the general public, appointed by the Secretary;

(C) the Director of the Census and the Commissioner of Labor Statistics, as voting, ex officio members; and

(D) the Assistant Secretary and the Commissioner, as nonvoting, ex officio members.

(2) Presiding officer.—The Commissioner shall appoint the presiding officer of the Council from among the voting members of the Council.

(3) Terms.—Members of the Council appointed under paragraph (1)(A) shall be appointed for three-year terms except that, in the case of initial appointments, the Secretary shall make appointments for shorter terms to the extent necessary to avoid the expiration of the terms of more than six members in the same calendar year.

(4) Meetings.—(A) The Council shall meet in public session at the call of the presiding officer, except that the Council shall meet—

(i) at least two times during each calendar year; and

(ii) in addition, whenever ten voting members request in writing that the presiding officer call a meeting.

(B) Eleven voting members of the Council shall constitute a quorum.

(5) Special rule.—The Council shall—

(A) review general policies for the operation of the Center and shall advise the Commissioner on standards to ensure that statistics and other information disseminated by the Center are of high quality and are not subject to partisan political influence; and

(B) advise the Commissioner and the National Assessment Governing Board on technical and statistical matters related to the National Assessment of Educational Progress.

(6) Staff.—The Council shall appoint a staff of not more than six individuals with technical expertise to enable the Council to carry out its duties.

SEC. 408. CONFIDENTIALITY.

(a) Confidentiality Standards.—

(1) In general.—(A) The Center shall develop and enforce standards designed to protect the confidentiality of persons in the collection, reporting, and publication of data under this title.

(B) This section shall not be construed to protect the confidentiality of information about institutions, organizations, and agencies that receive grants from, or have contracts or cooperative agreements with, the Federal Government.

(2) Prohibition.—No person may—

(A) use any individually identifiable information furnished under this title for any purpose other than a statistical purpose;

(B) make any publication whereby the data furnished by any particular person under this title can be identified; or

(C) permit anyone other than the individuals authorized by the Commissioner to examine the individual reports.

(b) Administration.—

(1) In general.—No department, bureau, agency, officer, or employee of the Federal Government, except the Commissioner in carrying out the purposes of this title, shall require, for any reason, copies of reports that have been filed under this title with the Center or retained by any individual respondent. Copies of such reports that have been so filed or retained with the Center or any of the Center's employees, contractors, or agents shall be immune from legal process, and shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding. This paragraph shall apply only to individually identifiable information (as defined in paragraph (5)(A)).

(2) Employee or staff violations.—Whoever, being or having been an employee or staff member of the Department, having taken or subscribed the oath of office, or having sworn to observe the limitations imposed by subsection (a)(2), knowingly publishes or communicates any individually identifiable information (as defined in paragraph (5)(A)), the disclosure of which is prohibited by subsection (a)(2), and that comes into such employee or staff's possession by reason of employment (or otherwise providing services) under this title, shall be found

guilty of a class E felony and imprisoned for not more than five years, or fined as specified in section 3571 of title 18, United States Code, or both.

(3) TEMPORARY STAFF.—The Commissioner may utilize temporary staff, including employees of Federal, State, or local agencies or instrumentalities (including local educational agencies), and employees of private organizations to assist the Center in performing the Center's responsibilities, but only if such temporary staff are sworn to observe the limitations imposed by this section.

(4) INFORMATION REQUIREMENTS.—No collection of information or data acquisition activity undertaken by the Center shall be subject to any review, coordination, or approval procedure except as required by the Director of the Office of Management and Budget under the rules and regulations established pursuant to chapter 35 of title 44, United States Code, except such collection of information or data acquisition activity may be subject to review or coordination if the Commissioner determines that such review or coordination is beneficial.

(5) DEFINITIONS.—For the purposes of this section—

(A) the term "individually identifiable information" means any record, response form, completed survey, or aggregation thereof from which information about particular individuals may be revealed; and

(B) the term "report" means a response provided by or about an individual to an inquiry from the Center and does not include a statistical aggregation from which individually identifiable information cannot be revealed.

(6) VIOLATIONS.—Any person who uses any data provided by the Center, in conjunction with any other information or technique, to identify any individual student, teacher, administrator, or other individual and who knowingly discloses, publishes, or uses such data for a purpose other than a statistical purpose, or who otherwise violates subparagraph (A) or (B) of subsection (a)(2), shall be found guilty of a class E felony and imprisoned for not more than five years, or fined as specified in section 3571 of title 18, United States Code, or both.

(7) ACCESS TO REPORTS OR RECORDS.—Nothing in this section shall restrict the right of the Secretary, the Comptroller General of the United States, the Director of the Congressional Budget Office, and the Librarian of Congress, to gain access to any reports or other records, including information identifying individuals, in the Center's possession, except that the same restrictions on disclosure that apply under paragraphs (1) and (6) shall apply to such individuals.

SEC. 409. DISSEMINATION.

(a) GENERAL REQUESTS.—

(1) IN GENERAL.—The Center may furnish transcripts or copies of tables and other statistical records and make special statistical compilations and surveys for State and local officials, public and private organizations, and individuals.

(2) COMPILATIONS.—The Center shall provide State and local educational agencies opportunities to suggest the development of particular compilations of statistics, surveys, and analyses that would assist those educational agencies.

(b) CONGRESSIONAL REQUESTS.—The Center shall furnish such special statistical compilations and surveys as the Congress may request.

(c) JOINT STATISTICAL PROJECTS.—The Secretary may engage in joint statistical projects related to the purposes of this title, or other statistical purposes authorized by law, with nonprofit organizations or agencies, and the cost of such projects shall be shared equitably as determined by the Secretary.

(d) FEES.—

(1) IN GENERAL.—Statistical compilations and surveys under this section, other than those carried out pursuant to subsections (b) and (c), may be made subject to the payment of the actual or estimated cost of such work.

(2) FUNDS RECEIVED.—All funds received in payment for work or services described in this subsection may be used to pay directly the costs of such work or services, to repay appropriations that initially bore all or part of such costs, or to refund excess sums when necessary.

(e) ACCESS.—

(1) OTHER AGENCIES.—The Center shall, consistent with section 408, cooperate with other Federal agencies having a need for educational data in providing access to educational data received by the Center.

(2) INTERESTED PARTIES.—The Center shall, in accordance with such terms and conditions as the Secretary may prescribe, provide all interested parties, including public and private agencies and individuals, direct access to data collected by the Center for the purposes of research and acquiring statistical information.

SEC. 410. COOPERATIVE EDUCATION STATISTICS SYSTEMS.

(a) IN GENERAL.—The Commissioner may establish one or more national cooperative education statistics systems for the purpose of producing and maintaining, with the cooperation of the States, comparable and uniform information and data on elementary and secondary education, postsecondary education, and libraries, that are useful for policymaking at the Federal, State, and local levels. In carrying out this section, the Commissioner may provide technical assistance, and make grants and enter into contracts and cooperative agreements.

(b) MODEL DATA SYSTEM.—The Commissioner, working through the cooperative education statistics system, shall study, design, and pilot a model data system that will yield information about spending for administration at the school and local education agency levels.

SEC. 411. NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS.

(a) ESTABLISHMENT.—The Commissioner shall, with the advice of the National Assessment Governing Board established under section 412, and with the technical assistance of the Advisory Council established under section 407, carry out, through grants, contracts, or cooperative agreements with one or more qualified organizations, or consortia thereof, a National Assessment of Educational Progress (hereafter in this title referred to as the "National Assessment").

(b) PURPOSE; STATE ASSESSMENTS.—

(1) PURPOSE.—The purpose of the National Assessment is to provide a fair and accurate presentation of educational achievement in reading, writing, and the other subjects included in the third National Education Goal, regarding student achievement and citizenship. The Commissioner, in carrying out the National Assessment, shall use sampling techniques that produce data that are representative on a national and regional basis, and on a State basis pursuant to paragraph (2). In addition, the Commissioner shall—

(A) collect and report data on a periodic basis, but at least once every two years, on students at ages 9, 13, and 17 and in grades 4, 8, and 12 in public and private schools;

(B) report achievement data on a basis that ensures valid and reliable trend reporting;

(C) include information on special groups, including, whenever feasible, information collected, cross-tabulated, analyzed, and reported by sex, race or ethnicity and socioeconomic status; and

(D) ensure that achievement data are made available on a timely basis following official reporting, in a manner that facilitates further analysis.

(2) STATE ASSESSMENTS.—(A)(i) The Commissioner, in carrying out the National Assessment, may conduct State assessments of student achievement in grades 4, 8, and 12.

(ii) Each such State assessment, in each subject area and at each grade level, shall be conducted on a developmental basis until the Commissioner determines, as the result of an evaluation required by subsection (f), that such assessment produces high quality data that are valid and reliable.

(B)(i) States wishing to participate in State assessments shall enter into an agreement with the Secretary pursuant to subsection (d)(2).

(ii) Such agreement shall contain information sufficient to give States full information about the process for consensus decisionmaking on objectives to be tested, and the standards for sampling, test administration, test security, data collection, validation, and reporting.

(C) A participating State shall review and give permission for the release of results from any test of its students administered as a part of a State assessment prior to the release of such data. Refusal by a State to release its data shall not restrict the release of data from other States that have approved the release of such data.

(3) PROHIBITED DATA.—In carrying out the National Assessment, the Commissioner shall not collect any data that are not directly related to the appraisal of educational performance, achievement, and traditional demographic reporting variables, or to the fair and accurate presentation of such information.

(4) TECHNICAL ASSISTANCE.—In carrying out the National Assessment, the Commissioner may provide technical assistance to States, localities, and other parties.

(c) ACCESS.—

(1) PUBLIC ACCESS.—Except as provided in paragraph (2), the public shall have access to all data, questions, and test instruments of the National Assessment.

(2) PERSONALLY IDENTIFIABLE INFORMATION.—(A) The Commissioner shall ensure that all personally identifiable information about students, their educational performance, and their families, and that information with respect to individual schools, remains confidential, in accordance with section 552a of title 5, United States Code.

(B) Notwithstanding any other provision of law, the Commissioner may decline to make available to the public for a period, not to exceed ten years after initial use, cognitive questions that the Commissioner intends to reuse in the future.

(d) PARTICIPATION.—

(1) NATIONAL AND REGIONAL.—Participation in the national and regional assessments by State and local educational agencies shall be voluntary.

(2) STATE.—Participation in assessments made on a State basis shall be voluntary. The Commissioner shall enter into an agreement with any State that desires to carry out an assessment for the State under this subsection. Each such agreement shall contain provisions designed to ensure that the State will—

(A) participate in the assessment; and

(B) pay from non-Federal sources the non-Federal share of such participation.

(3) NON-FEDERAL SHARE.—(A) For each fiscal year, the non-Federal share for the purpose of paragraph (2)(B) shall be—

(i) the cost of conducting the assessment at the school level for all public schools in the State sample;

(ii) the cost of coordination within the State; and

(iii) other reasonable costs specified by the Secretary in the agreement described in paragraph (2), such as the cost of analyzing and reporting the data.

(B) The non-Federal share of payments under this paragraph may be in cash or in kind, fairly valued.

(C) The agreement described in paragraph (2) shall describe the manner in which the costs of administering the assessment to private nonprofit schools included in the State sample will be met.

(e) STUDENT PERFORMANCE LEVELS.—

(1) PERFORMANCE LEVELS.—The National Assessment Governing Board, established under section 412, shall develop appropriate student performance levels for each age and grade in each subject area to be tested under the National Assessment.

(2) DEVELOPMENT OF LEVELS.—(A) Such levels shall be—

(i) devised through a national consensus approach, providing for active participation of teachers, curriculum specialists, local school administrators, parents, and concerned members of the general public;

(ii) used on a developmental basis until the Commissioner determines, as the result of an evaluation under subsection (f), that such levels are reasonable, valid, and informative to the public; and

(iii) updated as appropriate.

(B) In using such levels on a developmental basis, the Commissioner and the Board shall ensure that reports that use such levels do so in a manner that makes clear the developmental status of such levels.

(3) REPORTING.—After determining that such levels are reasonable, valid, and informative to the public, as the result of an evaluation under subsection (f), the Commissioner shall use such levels or other methods or indicators for reporting results of the National Assessment and State assessments.

(f) REVIEW OF NATIONAL AND STATE ASSESSMENTS.—

(1) IN GENERAL.—(A) The Secretary shall provide for continuing review of the National Assessment, State assessments, and student performance levels, by one or more nationally recognized evaluation organizations, such as the National Academy of Education and the National Academy of Sciences.

(B) Such continuing review shall address—

(i) whether each developmental State assessment is properly administered, produces high quality data that are valid and reliable, and produces data on student achievement that are not otherwise available to the State (other than data comparing participating States to each other and the Nation); and

(ii) whether developmental student performance levels are reasonable, valid, and informative to the public.

(2) REPORT.—The Secretary shall report to the Congress, the President, and the Nation on the findings and recommendations of such reviews.

(3) USE OF FINDINGS AND RECOMMENDATIONS.—The Commissioner shall consider the findings and recommendations of such reviews in designing the competition to select the organization, or organizations, through which the Commissioner carries out the National Assessment.

(g) COVERAGE AGREEMENTS.—

(1) DEPARTMENT OF DEFENSE SCHOOLS.—The Secretary and the Secretary of Defense may enter into an agreement, including such terms as are mutually satisfactory, to include in the National Assessment elementary and secondary schools operated by the Department of Defense.

(2) BUREAU OF INDIAN AFFAIRS SCHOOLS.—The Secretary and the Secretary of the Interior may enter into an agreement, including such terms as are mutually satisfactory, to include in the National Assessment schools for Indian children operated or supported by the Bureau of Indian Affairs.

SEC. 412. NATIONAL ASSESSMENT GOVERNING BOARD.

(a) ESTABLISHMENT.—There is established the National Assessment Governing Board (hereafter in this title referred to as the "Board"), which shall formulate policy guidelines for the National Assessment.

(b) MEMBERSHIP.—

(1) APPOINTMENT AND COMPOSITION.—The Board shall be appointed by the Secretary and be composed of—

(A) two Governors, or former Governors, who shall not be members of the same political party;

(B) two State legislators, who shall not be members of the same political party;

(C) two chief State school officers;

(D) one superintendent of a local educational agency;

(E) one member of a State board of education;

(F) one member of a local board of education;

(G) three classroom teachers representing the grade levels at which the National Assessment is conducted;

(H) one representative of business or industry;

(I) two curriculum specialists;

(J) three testing and measurement experts, who shall have training and experience in the field of testing and measurement;

(K) one nonpublic school administrator or policymaker;

(L) two school principals, of whom one shall be an elementary school principal and one shall be a secondary school principal; and

(M) four additional members who are representatives of the general public, including parents.

(2) ASSISTANT SECRETARY FOR EDUCATIONAL RESEARCH.—The Assistant Secretary for Educational Research and Improvement shall serve as an ex officio, nonvoting member of the Board.

(3) SPECIAL RULE.—The Secretary and the Board shall ensure at all times that the membership of the Board reflects regional, racial, gender, and cultural balance and diversity and that the Board exercises its independent judgment, free from inappropriate influences and special interests.

(c) TERMS.—

(1) IN GENERAL.—Terms of service of members of the Board shall be staggered and may not exceed a period of 3 years, as determined by the Secretary.

(2) SERVICE LIMITATION.—Members of the Board may serve not more than two terms.

(3) CHANGE OF STATUS.—A member of the Board who changes status under subsection (b) during the term of the appointment of the member may continue to serve as a member until the expiration of such term.

(d) VACANCIES.—

(1) IN GENERAL.—(A) The Secretary shall appoint new members to fill vacancies on the Board from among individuals who are nominated by organizations representing the type of individuals described in subsection (b)(1) with respect to which the vacancy exists.

(B) Each organization submitting nominations to the Secretary with respect to a particular vacancy shall nominate for such vacancy six individuals who are qualified by experience or training to fill the particular Board vacancy.

(C) The Secretary's appointments shall maintain the composition, diversity, and balance of the Board required under subsection (b).

(2) ADDITIONAL NOMINATIONS.—The Secretary may request that each organization described in paragraph (1)(A) submit additional nominations if the Secretary determines that none of the individuals nominated by such organization have appropriate knowledge or expertise.

(e) DUTIES.—

(1) IN GENERAL.—In carrying out its functions under this section the Board shall—

(A) select subject areas to be assessed (consistent with section 411(b)(1));

(B) develop appropriate student performance levels as provided in section 411(e);

(C) develop assessment objectives and test specifications through a national consensus approach which includes the active participation of teachers, curriculum specialists, local school administrators, parents, and concerned members of the public;

(D) design the methodology of the assessment, in consultation with appropriate technical experts, including the Advisory Council established under section 407;

(E) develop guidelines for reporting and disseminating results;

(F) develop standards and procedures for interstate, regional, and national comparisons; and

(G) take appropriate actions needed to improve the form and use of the National Assessment.

(2) DELEGATION.—The Board may delegate any of the Board's procedural and administrative functions to its staff.

(3) COGNITIVE ITEMS.—The Board shall have final authority on the appropriateness of cognitive items.

(4) PROHIBITION AGAINST BIAS.—The Board shall take steps to ensure that all items selected for use in the National Assessment are free from racial, cultural, gender, or regional bias.

(5) TECHNICAL.—In carrying out the duties required by paragraph (1), the Board may seek technical advice, as appropriate, from the Commissioner and the Advisory Council on Education Statistics and other experts.

(6) REPORT.—Not later than 90 days after an evaluation of the student performance levels under section 411(e), the Board shall make a report to the Secretary, the Committee on Education and Labor of the House of Representatives, and the Committee on Labor and Human Resources of the Senate describing the steps the Board is taking to respond to each of the recommendations contained in such evaluation.

(f) PERSONNEL.—

(1) IN GENERAL.—In the exercise of its responsibilities, the Board shall be independent of the Secretary and the other offices and officers of the Department.

(2) STAFF.—(A) The Secretary may appoint, at the request of the Board, such staff as will enable the Board to carry out its responsibilities.

(B) Such appointments may include, for terms not to exceed three years and without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, not more than six technical employees who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(g) COORDINATION.—The Commissioner and the Board shall meet periodically—

(1) to ensure coordination of their duties and activities relating to the National Assessment; and

(2) for the Commissioner to report to the Board on the Department's actions to implement the decisions of the Board.

(h) ADMINISTRATION.—Only sections 10, 11, and 12 of the Federal Advisory Committee Act shall apply with respect to the Board.

SEC. 413. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated $65,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years to carry out this title (other than sections 411 and 412).

(b) NATIONAL ASSESSMENT.—There are authorized to be appropriated $35,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996 and 1997 to carry out section 411.

(c) GOVERNING BOARD.—There are authorized to be appropriated $3,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996 and 1997 to carry out section 412 .

TITLE V—MISCELLANEOUS PROVISIONS

PART A—ALBERT EINSTEIN DISTINGUISHED EDUCATOR FELLOWSHIP ACT

SEC. 511. SHORT TITLE.

This part may be cited as the "Albert Einstein Distinguished Educator Fellowship Act of 1994".

SEC. 512. FINDINGS.

The Congress finds that—

(1) the Department of Energy has unique and extensive mathematics and science capabilities that contribute to mathematics and science education programs throughout the Nation;

(2) a need exists to increase understanding, communication, and cooperation between the Congress, the Department of Energy, other Federal agencies, and the mathematics and science education community;

(3) elementary and secondary school mathematics and science teachers can provide practical insight to the legislative and executive branches in establishing and operating education programs; and

(4) a pilot program that placed elementary and secondary school mathematics and science teachers in professional staff positions in the Senate and the House of Representatives has proven successful and demonstrated the value of expanding the program.

SEC. 513. PURPOSE; DESIGNATION.

(a) PURPOSE.—The purpose of this part is to establish within the Department of Energy a national fellowship program for elementary and secondary school mathematics and science teachers.

(b) DESIGNATION.—A recipient of a fellowship under this part shall be known as an "Albert Einstein Fellow".

SEC. 514. DEFINITIONS.

As used in this part—

(1) the term "elementary school" has the meaning provided by section 14101 of the Elementary and Secondary Education Act of 1965;

(2) the term "local educational agency" has the meaning provided by section 14101 of the Elementary and Secondary Education Act of 1965;

(3) the term "secondary school" has the meaning provided by section 14101 of the Elementary and Secondary Education Act of 1965; and

(4) the term "Secretary" means the Secretary of Energy.

SEC. 515. FELLOWSHIP PROGRAM.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—The Secretary shall establish the Albert Einstein Distinguished Educator Fellowship Program (hereafter in this part referred to as the "Program") to provide 12 elementary or secondary school mathematics or science teachers with fellowships in each fiscal year in accordance with this part.

(2) ORDER OF PRIORITY.—The Secretary may reduce the number of fellowships awarded under this part for any fiscal year in which the amount appropriated for the Program is insufficient to support 12 fellowships. If the number of fellowships awarded under this part is reduced for any fiscal year, then the Secretary shall award fellowships based on the following order of priority:

(A) Three fellowships in the Department of Energy.

(B) Two fellowships in the Senate.

(C) Two fellowships in the House of Representatives.

(D) One fellowship in each of the following entities:

(i) The Department of Education.

(ii) The National Institutes of Health.

(iii) The National Science Foundation.

(iv) The National Aeronautics and Space Administration.

(v) The Office of Science and Technology Policy.

(3) TERMS OF FELLOWSHIPS.—Each fellowship awarded under this part shall be awarded for a period of ten months that, to the extent practicable, coincide with the academic year.

(4) ELIGIBILITY.—To be eligible for a fellowship under this part, an elementary or secondary school mathematics or science teacher must demonstrate—

(A) that such teacher would bring unique and valuable contributions to the Program;

(B) that such teacher is recognized for excellence in mathematics or science education; and

(C)(i) a sabbatical leave from teaching will be granted in order to participate in the Program; or

(ii) the teacher will return to a teaching position comparable to the position held prior to participating in the Program.

(b) ADMINISTRATION.—The Secretary shall—

(1) provide for the development and administration of an application and selection process for fellowships under the Program, including a process whereby final selections of fellowship recipients are made in accordance with subsection (c);

(2) provide for the publication of information on the Program in appropriate professional publications, including an invitation for applications from teachers listed in the directories of national and State recognition programs;

(3) select from the pool of applicants 12 elementary and secondary school mathematics teachers and 12 elementary and secondary school science teachers;

(4) develop a program of orientation for fellowship recipients under this part; and

(5) not later than August 31 of each year in which fellowships are awarded, prepare and submit an annual report and evaluation of the Program to the appropriate Committees of the Senate and the House of Representatives.

(c) SELECTION.—

(1) IN GENERAL.—The Secretary shall arrange for the 24 semifinalists to travel to Washington, D.C., to participate in interviews in accordance with the selection process described in paragraph (2).

(2) FINAL SELECTION.—(A) Not later than May 1 of each year preceding each year in which fellowships are to be awarded, the Secretary shall select and announce the names of the fellowship recipients.

(B) The Secretary shall provide for the development and administration of a process to select fellowship recipients from the pool of semifinalists as follows:

(i) The Secretary shall select three fellowship recipients who shall be assigned to the Department of Energy.

(ii) The Majority Leader of the Senate and the Minority Leader of the Senate, or their designees, shall each select a fellowship recipient who shall be assigned to the Senate.

(iii) The Speaker of the House of Representatives and the Minority Leader of the House of Representatives, or their designees, shall each select a fellowship recipient who shall be assigned to the House of Representatives.

(iv) Each of the following individuals, or their designees, shall select one fellowship recipient who shall be assigned within the department, office, agency, or institute such individual administers:

(I) The Secretary of Education.

(II) The Director of the National Institutes of Health.

(III) The Director of the National Science Foundation.

(IV) The Administrator of the National Aeronautics and Space Administration.

(V) The Director of the Office of Science and Technology Policy.

SEC. 516. FELLOWSHIP AWARDS.

(a) FELLOWSHIP RECIPIENT COMPENSATION.—Each recipient of a fellowship under this part shall be paid during the fellowship period at a rate of pay that shall not exceed the minimum annual rate payable for a position under GS–13 of the General Schedule.

(b) LOCAL EDUCATIONAL AGENCY.—The Secretary shall seek to ensure that no local educational agency penalizes a teacher who elects to participate in the Program.

SEC. 517. WASTE MANAGEMENT EDUCATION RESEARCH CONSORTIUM (WERC).

(a) IN GENERAL.—The Secretary is authorized to establish a partnership of Department of Energy laboratories, academic institutions, and private sector industries to conduct environmentally-related education programs, including programs involving environmentally conscious manufacturing and waste management activities that have undergraduate and graduate educational training as a component.

SEC. 518. AUTHORIZATION OF APPROPRIATIONS.

(a) There are authorized to be appropriated for the Program $700,000 for fiscal year 1995, and such sums as may be necessary for each of the four succeeding fiscal years.

(b) WERC PROGRAM.—There are authorized to be appropriated for the WERC program under section 517 such sums as may be necessary for fiscal year 1995 and each of the four succeeding fiscal years.

PART B—COMMUNITY SCHOOL PARTNERSHIPS

SEC. 521. SHORT TITLE.

This part may be cited as the "Community School Partnership Act".

SEC. 522. FINDINGS.

The Congress finds that—

(1) the local community, when properly organized and challenged, is one of the best sources of academic support, motivation toward achievement, and financial resources for aspiring postsecondary students;

(2) local communities, working to complement or augment services currently being offered by area schools and colleges, can raise the educational expectations and increase the rate of postsecondary attendance of their youth by forming locally based organizations that provide both academic support (including guidance, counseling, mentoring, tutoring, encouragement, and recognition) and tangible, locally raised, effectively targeted, publicly recognized financial assistance;

(3) proven methods of stimulating these community efforts can be promoted through Federal support for the establishment of area program centers to organize and challenge community efforts to develop educational incentives and support for local students; and

(4) using Federal funds to leverage private contributions to help students from low-income families attain educational and career goals is an efficient and effective investment of scarce taxpayer-provided resources.

SEC. 523. DEFINITIONS.

As used in this part:

(1) AREA PROGRAM CENTER.—The term "area program center" means an organization that—

(A) is part of, responsible to, and overseen by, the national organization; and

(B) is staffed by professionals trained to create, develop, and sustain local affiliated chapters in towns, cities, and neighborhoods.

(2) LOCAL AFFILIATED CHAPTER.—The term "local affiliated chapter" means an organization that—

(A) is a nonprofit organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from taxation under section 501(a) of such Code (or shall meet this criteria through affiliation with the national organization described in paragraph (3));

(B) is formed for the purpose of providing educational scholarships and academic support for

residents of the local community served by such organization;

(C) solicits broad-based community support in its academic support and fund-raising activities;

(D) is broadly representative of the local community in the structures of its volunteer-operated organization and has a board of directors that includes leaders from local neighborhood organizations and neighborhood residents, such as school or college personnel, parents, students, community agency representatives, and representatives of the business community;

(E) awards scholarships without regard to age, sex, marital status, race, creed, color, religion, national origin or disability; and

(F) gives priority in awarding scholarships to students from low-income families in the local community.

(3) NATIONAL ORGANIZATION.—The term "national organization" means an organization that—

(A) has the capacity to create, develop and sustain local affiliated chapters;

(B) has the capacity to sustain newly created local affiliated chapters in towns, cities, and neighborhoods through ongoing training and support programs;

(C) is described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from taxation under section 501(a) of such Code;

(D) is a publicly supported organization within the meaning of section 170(b)(1)(A)(vi) of such Code;

(E) ensures that each of its local affiliated chapters meet the criteria described in subparagraphs (C) and (D); and

(F) has a program for or experience in cooperating with secondary and postsecondary institutions in carrying out its scholarship and academic support activities.

(4) HIGH-POVERTY AREA.—The term "high-poverty area" means a community with a higher percentage of children in poverty than the national average of such percentage.

(5) STUDENTS FROM LOW-INCOME FAMILIES.—The term "students from low-income families" means students determined, pursuant to part F of title IV of the Higher Education Act of 1965, to be eligible for a Federal Pell Grant under subpart 1 of part A of title IV of such Act.

SEC. 524. PURPOSE; ENDOWMENT GRANT AUTHORITY.

(a) PURPOSE.—It is the purpose of this part to establish and support area program centers to enable such centers to foster the development of local affiliated chapters in high-poverty areas that promote higher education goals for students from low-income families by—

(1) providing academic support, including guidance, counseling, mentoring, tutoring, and recognition; and

(2) providing scholarship assistance for the pursuit of postsecondary education.

(b) ENDOWMENT GRANT AUTHORITY.—From the funds appropriated pursuant to the authority of section 527, the Secretary shall award an endowment grant, on a competitive basis, to a national organization to enable such organization to support the establishment or ongoing work of area program centers that foster the development of local affiliated chapters in high-poverty areas to improve high school graduation rates and postsecondary attendance through the provision of academic support services and scholarship assistance for the pursuit of postsecondary education.

SEC. 525. GRANT AGREEMENT AND REQUIREMENTS.

(a) IN GENERAL.—The Secretary shall award the endowment grant described in section 524(b) pursuant to an agreement between the Secretary and the national organization. Such agreement shall—

(1) require the national organization to establish an endowment fund in the amount of the grant, the corpus of which shall remain intact and the interest income from which shall be used to support the activities described in paragraphs (2) and (3);

(2) require the national organization to use 25 percent of the interest income from the endowment fund in any fiscal year to provide scholarships for students from low-income families, which scholarships shall be matched on a dollar-for-dollar basis from funds raised by local affiliated chapters;

(3) require the national organization to use 75 percent of the interest income from the endowment fund in any fiscal year to support the establishment or ongoing work of area program centers to enable such centers to work with local communities to establish local affiliated chapters in high-poverty areas and provide ongoing technical assistance, training workshops, and other activities to help ensure the ongoing success of the local affiliated chapters;

(4) require the area program centers supported by the national organization to give priority to establishing local affiliated chapters that serve high-poverty areas;

(5) require the national organization to submit, in each fiscal year in which such organization uses the interest from the endowment fund, a report to the Secretary that contains—

(A) a description of the programs and activities supported by the interest on the endowment fund;

(B) the audited financial statement of the national organization for the preceding fiscal year;

(C) a plan for the programs and activities to be supported from the interest on the endowment fund during the five succeeding fiscal years;

(D) an evaluation of the programs and activities supported by the interest on the endowment fund as the Secretary may require; and

(E) data indicating the number of students from low-income families who received scholarships from local affiliated chapters, and the amounts of such scholarships;

(6) contain such assurances as the Secretary may require with respect to the management and operation of the endowment fund;

(7) require that, in order to continue using the interest from the endowment fund, the national organization will meet the continuing eligibility requirements described in section 526; and

(8) contain an assurance that if the Secretary determines that such organization is not in substantial compliance with the provisions of this part, then the national organization shall pay to the Secretary an amount equal to the corpus of the endowment fund plus any accrued interest on such fund that is available to the national organization on the date of such determination.

(b) RETURNED FUNDS.—All funds returned to the Secretary pursuant to subsection (a)(8) shall be available to the Secretary to carry out any scholarship or grant program assisted under title IV of the Higher Education Act of 1965.

SEC. 526. CONTINUING ELIGIBILITY.

The national organization shall be eligible to continue to use the interest from the endowment fund in accordance with the provisions of this part in the third and each such succeeding fiscal year in which such organization uses such interest only if the local affiliated chapters associated with all area program centers supported under this part distribute to students from low-income families 80 percent of the total amount of funds raised by all such chapters in such year.

SEC. 527. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $10,000,000 for fiscal year 1996 to carry out this part.

PART C—1994 INSTITUTIONS

SEC. 531. SHORT TITLE.

This part may be cited as the "Equity in Educational Land-Grant Status Act of 1994".

SEC. 532. DEFINITION.

As used in this part, the term "1994 Institutions" means any one of the following colleges:

(1) Bay Mills Community College.

(2) Blackfeet Community College.

(3) Cheyenne River Community College.

(4) D–Q University.

(5) Dullknife Memorial College.

(6) Fond Du Lac Community College.

(7) Fort Belknap Community College.

(8) Fort Berthold Community College.

(9) Fort Peck Community College.

(10) LacCourte Orielles Ojibwa Community College.

(11) Little Big Horn Community College.

(12) Little Hoop Community College.

(13) Nebraska Indian Community College.

(14) Northwest Indian College.

(15) Oglala Lakota College.

(16) Salish Kootenai College.

(17) Sinte Gleska University.

(18) Sisseton Wahpeton Community College.

(19) Standing Rock College.

(20) Stonechild Community College.

(21) Turtle Mountain Community College.

(22) Navajo Community College.

(23) United Tribes Technical College.

(24) Southwest Indian Polytechnic Institute.

(25) Institute of American Indian and Alaska Native Culture and Arts Development.

(26) Crownpoint Institute of Technology.

(27) Haskell Indian Junior College.

(28) Leech Lake Tribal College.

(29) College of the Menominee Nation.

SEC. 533. LAND-GRANT STATUS FOR 1994 INSTITUTIONS.

(a) IN GENERAL.—

(1) STATUS OF 1994 INSTITUTIONS.—Except as provided in paragraph (2), 1994 Institutions shall be considered land-grant colleges established for the benefit of agriculture and the mechanic arts in accordance with the provisions of the Act of July 2, 1862 (12 Stat. 503; 7 U.S.C. 301 et seq.) (commonly known as the First Morrill Act).

(2) 1994 INSTITUTIONS.—(A) 1994 Institutions shall not be considered as land-grant colleges that are eligible to receive funding under—

(i) the Act of March 2, 1887 (24 Stat. 440, chapter 314; 7 U.S.C. 361a et seq.);

(ii) the Act of May 8, 1914 (38 Stat. 373, chapter 79; 7 U.S.C. 343), except as provided under section 3(b)(3) of such Act (as added by section 534(b)(1) of this part); or

(iii) the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 321 et seq.) (commonly known as the Second Morrill Act.)

(B) In lieu of receiving donations under the provisions of the Act of July 2, 1862 (12 Stat. 503; 7 U.S.C. 301 et seq.) (commonly known as the First Morrill Act), relating to the donations of public land or scrip for the endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts, 1994 Institutions shall receive funding pursuant to the authorization under subsection (b).

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $4,600,000 for each of fiscal years 1996 through 2000. Amounts appropriated pursuant to this section shall be held and considered to have been granted to 1994 Institutions to establish an endowment pursuant to subsection (c).

(c) ENDOWMENT.—

(1) IN GENERAL.—In accordance with this subsection, the Secretary of the Treasury shall establish a 1994 Institutions Endowment Fund (hereafter in this subsection referred to as the "endowment fund"). The Secretary may enter into such agreements as are necessary to carry out this subsection.

(2) DEPOSIT TO THE ENDOWMENT FUND.—The Secretary shall deposit in the endowment fund any—

(A) amounts made available by appropriations pursuant to subsection (b) (hereafter in this subsection referred to as the "endowment fund corpus"); and

(B) interest earned on the endowment fund corpus.

(3) INVESTMENTS.—The Secretary shall invest the endowment fund corpus and income in interest-bearing obligations of the United States.

(4) WITHDRAWALS AND EXPENDITURES.—The Secretary may not make a withdrawal or expenditure from the endowment fund corpus. On the termination of each fiscal year, the Secretary shall withdraw the amount of the income from the endowment fund for the fiscal year, and after making adjustments for the cost of administering the endowment fund, distribute the adjusted income as follows:

(A) 60 percent of the adjusted income shall be distributed among the 1994 Institutions on a pro rata basis. The proportionate share of the adjusted income received by a 1994 Institution under this subparagraph shall be based on the Indian student count (as defined in section 390(3) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2397h(3)) for each 1994 Institution for the fiscal year.

(B) 40 percent of the adjusted income shall be distributed in equal shares to the 1994 Institutions.

SEC. 534. APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—For fiscal year 1996, and for each fiscal year thereafter, there are authorized to be appropriated to the Department of the Treasury an amount equal to—

(A) $50,000; multiplied by

(B) the number of 1994 Institutions.

(2) PAYMENTS.—For each fiscal year, the Secretary of the Treasury shall pay to the treasurer of each 1994 Institution an amount equal to—

(A) the total amount made available by appropriations pursuant to paragraph (1); divided by

(B) the number of 1994 Institutions.

(3) USE OF FUNDS; REQUIREMENTS.—The amounts authorized to be appropriated under this subsection shall be used in the same manner as is prescribed for colleges under the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 321 et seq.) (commonly known as the Second Morrill Act), and, except as otherwise provided in this subsection, the requirements of such Act shall apply to 1994 Institutions.

(b) FUNDING.—Section 3 of the Act of May 8, 1914 (38 Stat. 373, chapter 79; 7 U.S.C. 343) is amended—

(1) in subsection (b), by adding at the end the following new paragraph:

"(3) There are authorized to be appropriated for the fiscal year ending June 30, 1996, and for each fiscal year thereafter, for payment on behalf of the 1994 Institutions (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994), $5,000,000 for the purposes set forth in section 2. Such sums shall be in addition to the sums appropriated for the several States and Puerto Rico, the Virgin Islands, and Guam under the provisions of this section. Such sums shall be distributed on the basis of a competitive application process to be developed and implemented by the Secretary and paid by the Secretary to State institutions established in accordance with the provisions of the Act of July 2, 1862 (12 Stat. 503, chapter 130; 7 U.S.C. 301 et seq.) (commonly known as the First Morrill Act) (other than 1994 Institutions) and administered by such institutions through cooperative agreements with 1994 Institutions in the States of the 1994 Institutions in accordance with regulations that the Secretary shall adopt.";

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following new subsection:

"(f) There shall be no matching requirement for funds made available pursuant to subsection (b)(3).".

SEC. 535. INSTITUTIONAL CAPACITY BUILDING GRANTS.

(a) DEFINITIONS.—As used in this section:

(1) FEDERAL SHARE.—The term "Federal share" means, with respect to a grant awarded under subsection (b), the share of the grant that is provided from Federal funds.

(2) NON-FEDERAL SHARE.—The term "non-Federal share" means, with respect to a grant awarded under subsection (b), the matching funds paid with funds other than funds referred to in paragraph (1), as determined by the Secretary.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(b) IN GENERAL.—

(1) INSTITUTIONAL CAPACITY BUILDING GRANTS.—For each of fiscal years 1996 through 2000, the Secretary shall make two or more institutional capacity building grants to assist 1994 Institutions with constructing, acquiring, and remodeling buildings, laboratories, and other capital facilities (including fixtures and equipment) necessary to conduct instructional activities more effectively in agriculture and sciences.

(2) REQUIREMENTS FOR GRANTS.—The Secretary shall make grants under this section—

(A) on the basis of a competitive application process under which appropriate officials of 1994 Institutions may submit applications to the Secretary in such form and manner as the Secretary may prescribe; and

(B) in such manner as to ensure geographic diversity with respect to the 1994 Institutions that are the subject of the grants.

(3) DEMONSTRATION OF NEED.—The Secretary shall require, as part of an application for a grant under this subsection, a demonstration of need. The Secretary may only award a grant under this subsection to an applicant that demonstrates a failure to obtain funding for a project after making a reasonable effort to otherwise obtain the funding.

(4) PAYMENT OF NON-FEDERAL SHARE.—A grant awarded under this subsection shall be made only if the recipient of the grant pays a non-Federal share in an amount specified by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Agriculture to carry out this section, $1,700,000 for each of fiscal years 1996 through 2000.

PART D—WORKERS TECHNOLOGY SKILL DEVELOPMENT

SEC. 541. SHORT TITLE.

This part may be cited as the "Workers Technology Skill Development Act".

SEC. 542. FINDINGS.

The Congress finds and declares the following:

(1) In an increasingly competitive world economy, the companies and nations that lead in the rapid development, commercialization, and application of new and advanced technologies, and in the high-quality, competitively priced production of goods and services, will lead in economic growth, employment, and high living standards.

(2) While the United States remains the world leader in science and invention, it has not done well in rapidly making the transition from achievement in its research laboratories to high-quality, competitively priced production of goods and services. This lag and the unprecedented competitive challenge that the United States has faced from abroad have contributed to a drop in real wages and living standards.

(3) Companies that are successfully competitive in the rapid development, commercialization, application, and implementation of advanced technologies, and in the successful delivery of goods and services, recognize that worker participation and labor-management cooperation in the deployment, application, and implementation of advanced workplace technologies make an important contribution to high-quality, competitively priced production of goods and services and in maintaining and improving real wages for workers.

(4) The Federal Government has an important role in encouraging and augmenting private sector efforts relating to the development, application, manufacture, and deployment of new and advanced technologies. The role should be to—

(A) work with private companies, States, worker organizations, nonprofit organizations, and institutions of higher education to ensure the development, application, production, and implementation of new and advanced technologies to promote the improvement of workers' skills, wages, job security, and working conditions, and a healthy environment;

(B) encourage worker and worker organization participation in the development, commercialization, evaluation, selection, application, and implementation of new and advanced technologies in the workplace; and

(C) promote the use and integration of new and advanced technologies in the workplace that enhance workers' skills.

(5) In working with the private sector to promote the technological leadership and economic growth of the United States, the Federal Government has a responsibility to ensure that Federal technology programs help the United States to remain competitive and to maintain and improve living standards and to create and retain secure jobs in economically stable communities.

SEC. 543. PURPOSES.

The purposes of this part are to—

(1) improve the ability of workers and worker organizations to recognize, develop, assess, and improve strategies for successfully integrating workers and worker organizations into the process of evaluating, selecting, and implementing advanced workplace technologies, and advanced workplace practices in a manner that creates and maintains stable well-paying jobs for workers; and

(2) assist workers and worker organizations in developing the expertise necessary for effective participation with employers in the development of strategies and programs for the successful evaluation, selection, and implementation of advanced workplace technologies and advanced workplace practices through the provision of a range of education, training, and related services.

SEC. 544. DEFINITIONS.

As used in this part:

(1) ADVANCED WORKPLACE PRACTICES.—The term "advanced workplace practices" means innovations in work organization and performance, including high-performance workplace systems, flexible production techniques, quality programs, continuous improvement, concurrent engineering, close relationships between suppliers and customers, widely diffused decisionmaking and work teams, and effective integration of production technology, worker skills and training, and workplace organization, and such other characteristics as determined appropriate by the Secretary of Labor, in consultation with the Secretary of Commerce.

(2) ADVANCED WORKPLACE TECHNOLOGIES.—The term "advanced workplace technologies" includes—

(A) numerically controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and other technology

for improving the manufacturing and industrial production of goods and commercial services, which advance the state-of-the-art; or

(B) novel industrial and commercial techniques and processes not previously generally available that improve quality, productivity, and practices, including engineering design, quality assurance, concurrent engineering, continuous process production technology, inventory management, upgraded worker skills, communications with customers and suppliers, and promotion of sustainable economic growth.

(3) DEPARTMENT.—The term "Department" means the Department of Labor.

(4) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means a tax-exempt organization, as described in paragraph (3), (4), or (5) of section 501(c) of the Internal Revenue Code of 1986.

(5) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(6) WORKER ORGANIZATION.—The term "worker organization" means a labor organization within the meaning of section 501(c)(5) of the Internal Revenue Code of 1986.

SEC. 545. GRANTS.

(a) IN GENERAL.—The Secretary of Labor, after consultation with the Secretary of Commerce, shall, to the extent appropriations are available, award grants to eligible entities to carry out the purposes described in section 543.

(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

(1) be a nonprofit organization, or a partnership consortium of such organizations;

(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the activities that the entity will carry out using amounts received under the grant; and

(3) agree to make available (directly or through donations from public or private entities) non-Federal contributions toward the costs of the activities to be conducted with grant funds, in an amount equal to the amount required under subsection (d).

(c) USE OF AMOUNTS.—An entity shall use amounts received under a grant awarded under this section to carry out the purposes described in section 543 through activities such as—

(1) the provision of technical assistance to workers, worker organizations, employers, State economic development agencies, State industrial extension programs, Advanced Technology Centers, and National Manufacturing Technology Centers to identify advanced workplace practices and strategies that enhance the effective evaluation, selection, and implementation of advanced workplace technologies;

(2) the researching and identification of new and advanced workplace technologies, and advanced workplace practices that promote the improvement of workers' skills, wages, working conditions, and job security, that research the link between advanced workplace practices and long-term corporate performance, and which are consistent with the needs of local communities and the need for a healthy environment; and

(3) the development and dissemination of training programs and materials to be used for and by workers, worker organizations, employers, State economic development agencies, State industrial extension programs, Advanced Technology Centers, and National Manufacturing Technology Centers relating to the activities and services provided pursuant to paragraphs (1) and (2), and regarding successful practices including practices which address labor-management cooperation and the involvement of workers in the design, development, and implementation of workplace practices and technologies.

(d) TERMS OF GRANTS AND NON-FEDERAL SHARES.—

(1) TERMS.—Grants awarded under this section shall be for a term not to exceed six years.

(2) NON-FEDERAL SHARE.—Amounts required to be contributed by an entity under subsection (b)(3) shall equal—

(A) an amount equal to 15 percent of the amount provided under the grant in the first year for which the grant is awarded;

(B) an amount equal to 20 percent of the amount provided under the grant in the second year for which the grant is awarded;

(C) an amount equal to 33 percent of the amount provided under the grant in the third year for which the grant is awarded;

(D) an amount equal to 40 percent of the amount provided under the grant in the fourth year for which the grant is awarded; and

(E) an amount equal to 50 percent of the amount provided under the grant in the fifth and sixth years for which the grant is awarded.

(e) EVALUATION.—The Department shall develop mechanisms for evaluating the effectiveness of the use of a grant awarded under this section in carrying out the purposes under section 543 and, not later than two years after the date of enactment of this Act, and every two years thereafter, prepare and submit a report to Congress concerning such evaluation.

SEC. 546. IDENTIFICATION AND DISSEMINATION OF BEST PRACTICES.

(a) IN GENERAL.—

(1) INFORMATION.—The Secretary, in cooperation and after consultation with the Secretary of Commerce, shall assist workers, worker organizations, and employers in successfully adopting advanced workplace technologies, and advanced workplace practices by identifying, collecting, and disseminating information on best workplace practices and workplace assessment tools, including—

(A) methods, techniques, and successful models of labor-management cooperation and of worker and worker organization participation in the development, evaluation, selection, and implementation of new and advanced workplace technologies, and advanced workplace practices;

(B) methods, techniques, and successful models for the design and implementation of new and advanced workplace practices;

(C) methods, techniques, and successful models for the design and implementation of advanced forms of work organization; and

(D) methods, techniques, and successful models for the assessment of worker skills and training needs relating to the effective development, evaluation, selection, and implementation of advanced workplace technologies, and advanced workplace practices.

(2) CONTENTS.—Such information on best workplace practices shall include—

(A) summaries and analyses of best practice cases;

(B) criteria for assessment of current workplace practices; and

(C) information on the best available education and training materials and services relating to the development, implementation, and operation of systems utilizing new and advanced workplace technologies, and advanced workplace practices.

(b) DISTRIBUTION.—The information and materials developed under this section shall be distributed through an appropriate entity designated by the Secretary of Commerce to the Regional Centers for the Transfer of Manufacturing Technology, to the Manufacturing Outreach Center, to other technology training entities, and directly to others as determined appropriate by the Secretary of Labor and the Secretary of Commerce.

SEC. 547. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1995 through 1997.

(b) AVAILABILITY.—Amounts appropriated under subsection (a) shall remain available until expended.

PART E—MULTIETHNIC PLACEMENT

Subpart 1—Multiethnic Placement

SEC. 551. SHORT TITLE.

This subpart may be cited as the "Howard M. Metzenbaum Multiethnic Placement Act of 1994".

SEC. 552. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) nearly 500,000 children are in foster care in the United States;

(2) tens of thousands of children in foster care are waiting for adoption;

(3) 2 years and 8 months is the median length of time that children wait to be adopted;

(4) child welfare agencies should work to eliminate racial, ethnic, and national origin discrimination and bias in adoption and foster care recruitment, selection, and placement procedures; and

(5) active, creative, and diligent efforts are needed to recruit foster and adoptive parents of every race, ethnicity, and culture in order to facilitate the placement of children in foster and adoptive homes which will best meet each child's needs.

(b) PURPOSE.—It is the purpose of this subpart to promote the best interests of children by—

(1) decreasing the length of time that children wait to be adopted;

(2) preventing discrimination in the placement of children on the basis of race, color, or national origin; and

(3) facilitating the identification and recruitment of foster and adoptive families that can meet children's needs.

SEC. 553. MULTIETHNIC PLACEMENTS.

(a) ACTIVITIES.—

(1) PROHIBITION.—An agency, or entity, that receives Federal assistance and is involved in adoption or foster care placements may not—

(A) categorically deny to any person the opportunity to become an adoptive or a foster parent, solely on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved; or

(B) delay or deny the placement of a child for adoption or into foster care, or otherwise discriminate in making a placement decision, solely on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved.

(2) PERMISSIBLE CONSIDERATION.—An agency or entity to which paragraph (1) applies may consider the cultural, ethnic, or racial background of the child and the capacity of the prospective foster or adoptive parents to meet the needs of a child of this background as one of a number of factors used to determine the best interests of a child.

(3) DEFINITION.—As used in this subsection, the term "placement decision" means the decision to place, or to delay or deny the placement of, a child in a foster care or an adoptive home, and includes the decision of the agency or entity involved to seek the termination of birth parent rights or otherwise make a child legally available for adoptive placement.

(b) EQUITABLE RELIEF.—Any individual who is aggrieved by an action in violation of subsection (a), taken by an agency or entity described in subsection (a), shall have the right to bring an action seeking relief in a United States district court of appropriate jurisdiction.

(c) FEDERAL GUIDANCE.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall publish guidance to concerned public and private agencies and entities with respect to compliance with this subpart.

(d) DEADLINE FOR COMPLIANCE.—

(1) In General.—Except as provided in paragraph (2), an agency or entity that receives Federal assistance and is involved with adoption or foster care placements shall comply with this subpart not later than six months after publication of the guidance referred to in subsection (c), or one year after the date of enactment of this Act, whichever occurs first.

(2) Authority to Extend Deadline.—If a State demonstrates to the satisfaction of the Secretary that it is necessary to amend State statutory law in order to change a particular practice that is inconsistent with this subpart, the Secretary may extend the compliance date for the State a reasonable number of days after the close of the first State legislative session beginning after the date the guidance referred to in subsection (c) is published.

(e) Noncompliance Deemed a Civil Rights Violation.—Noncompliance with this subpart is deemed a violation of title VI of the Civil Rights Act of 1964.

(f) No Effect on Indian Child Welfare Act of 1978.—Nothing in this section shall be construed to affect the application of the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.).

SEC. 554. REQUIRED RECRUITMENT EFFORTS FOR CHILD WELFARE SERVICES PROGRAMS.

Section 422(b) of the Social Security Act (42 U.S.C. 622(b)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; and"; and

(3) by adding at the end the following:

"(9) provide for the diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the State for whom foster and adoptive homes are needed.".

Subpart 2—Other Provision

SEC. 555. EFFECT OF FAILURE TO CARRY OUT STATE PLAN.

(a) In General.—Part A of title XI of the Social Security Act (42 U.S.C. 1301–1320b–13) is amended by inserting after section 1122 the following:

"SEC. 1123. EFFECT OF FAILURE TO CARRY OUT STATE PLAN.

"In an action brought to enforce a provision of the Social Security Act, such provision is not to be deemed unenforceable because of its inclusion in a section of the Act requiring a State plan or specifying the required contents of a State plan. This section is not intended to limit or expand the grounds for determining the availability of private actions to enforce State plan requirements other than by overturning any such grounds applied in Suter v. Artist M., 112 S. Ct. 1360 (1992), but not applied in prior Supreme Court decisions respecting such enforceability; provided, however, that this section is not intended to alter the holding in Suter v. Artist M. that section 471(a)(15) of the Act is not enforceable in a private right of action.

(b) Applicability.—The amendment made by subsection (a) shall apply to actions pending on the date of the enactment of this Act and to actions brought on or after such date of enactment.

PART F—MISCELLANEOUS

SEC. 561. BUDGET COMPLIANCE.

Any authority or requirement to make funds available under this Act shall be effective only to the extent provided in appropriations Acts.

SEC. 562. DOCUMENTS TRANSMITTED TO CONGRESS.

In documents transmitted to Congress explaining the President's budget request for the Special Education account, the Department of Education shall display amounts included in the request to reflect the incorporation of the program for children with disabilities under part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such part was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994).

SEC. 563. VOCATIONAL EDUCATION REGULATIONS.

(a) In General.—Notwithstanding any other provision of law, beginning on the date of enactment of this Act, and ending on the date of enactment of an Act reauthorizing the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) the Department of Education's interpretation of the Carl D. Perkins Vocational and Applied Technology Act relating to—

(1) the access or participation of members of special populations in vocational education, including the provision of supplementary services and the cost of such services; and

(2) the conduct of local evaluations, that are contained in the final regulations published in the Federal Register on August 14, 1992, shall remain in effect.

(b) Special Rule.—The Secretary of Education may not issue additional regulations concerning the final regulations described in subsection (a)(2).

SEC. 564. RATE OF PAY FOR THE DEPUTY DIRECTOR OF THE NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH.

Notwithstanding section 202(c)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 761a(c)(2)), the Secretary of Education is authorized to compensate any individual appointed during calendar year 1994 to be the Deputy Director of the National Institute on Disability and Rehabilitation Research at the rate of basic pay for a position at ES-5 of the Senior Executive Service Schedule.

SEC. 565. STUDY.

The Secretary of the Interior shall conduct a study, in consultation with the board of regents of the Haskell Indian Junior College to evaluate the possible need for alternative institutional and administrative systems at Haskell Indian Junior College to support the transition of such college to a four year university. If the study's conclusions require legislation to be implemented, the study shall be accompanied by appropriate draft legislation. Such study shall be transmitted to the Committee on Indian Affairs of the Senate and the Committee on Education and Labor of the House of Representatives by June 1, 1995.

SEC. 566. THERAPEUTIC MODEL DEMONSTRATION SCHOOLS.

(a) Authorization.—

(1) In General.—The Secretary of the Interior, acting through the Bureau of Indian Affairs, is authorized to establish demonstration schools, based on the therapeutic model described in this section, to provide services necessary to achieve positive changes in the attitudes, behavior, and academic performance of Indian youth attending off-reservation boarding schools.

(2) Purpose.—The purpose of the therapeutic model demonstration schools is—

(A) to provide a program, based on an annual written plan, linking clinicians, counselors, and mental health professionals with academic program personnel in a culturally sensitive residential program tailored to the particular needs of Indian students;

(B) to provide for a continued evaluation of the planning and implementation of the therapeutic model in the designated schools; and

(C) to determine what steps the Bureau of Indian Affairs must take and what resources are required to transform existing off-reservation boarding schools to meet the needs of chemically dependent, emotionally disturbed, socially troubled, or other at-risk Indian youth who attend such schools.

(b) Location.—The Secretary shall initiate the therapeutic model at two schools during school years 1994 through 1996, and shall give priority to—

(1) one school that is the recipient of a grant under section 5204 of the August F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 during the 1994–1995 school year; and

(2) one school operated by the Bureau of Indian Affairs during the 1995–1996 school year.

(c) Services.—The demonstration schools shall provide an integrated residential environment that may include—

(1) mental health services;

(2) education;

(3) recreation therapy;

(4) social service programs;

(5) substance abuse education and prevention; and

(6) other support services for aftercare.

(d) Staffing.—The demonstration schools shall be staffed with health and social service professionals, and educators, and may include—

(1) clinical psychologists;

(2) child psychologists;

(3) substance abuse counselors;

(4) social workers; and

(5) health educators.

(e) Enrollment.—Notwithstanding any other provision of law, the Secretary of the Interior may limit the enrollment at the demonstration schools.

(f) Assistance.—The Secretary is authorized to enter into agreements with other organizations and agencies, including the Indian Health Service, to carry out this section.

(g) Report.—Not later than July 31 of each year, the Secretary of the Interior shall submit a report to the Committee on Indian Affairs of the Senate and the Committee on Education and Labor of the House of Representatives on the progress of the Department of the Interior in the development of the demonstration schools.

SEC. 567. IMPACT AID WAIVER.

In carrying out section 14(c) of the Act of September 23, 1950 (Public Law 815, 81st Congress) (20 U.S.C. 644(c)) the Secretary shall waive any amount of local effort in excess of $200,000 that would otherwise be required under paragraphs (3) and (4) of such section and any regulations issued thereunder, in awarding funds to the Winona R-III School District, Missouri, with respect to its application #MO-86-C-3601A36.

SEC. 568. APPLICATION OF THE ANTITRUST LAWS TO AWARD OF NEED-BASED EDUCATIONAL AID.

(a) Temporary Exemption.—It shall not be unlawful under the antitrust laws for 2 or more institutions of higher education at which all students admitted are admitted on a need-blind basis, to agree or attempt to agree—

(1) to award such students financial aid only on the basis of demonstrated financial need for such aid;

(2) to use common principles of analysis for determining the need of such students for financial aid if the agreement to use such principles does not restrict financial aid officers at such institutions in their exercising independent professional judgment with respect to individual applicants for such financial aid;

(3) to use a common aid application form for need-based financial aid for such students if the agreement to use such form does not restrict such institutions in their requesting from such students, or in their using, data in addition to the data requested on such form; or

(4) to exchange through an independent third party, before awarding need-based financial aid

to any of such students who is commonly admitted to the institutions of higher education involved, data with respect to the student so admitted and the student's family relating to assets, income, expenses, the number of family members, and the number of the student's siblings in college, if each of such institutions is permitted to retrieve such data only once with respect to the student.

(b) LIMITATIONS.—Subsection (a) shall not apply with respect to—

(1) any financial aid or assistance authorized by the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.); or

(2) any contract, combination, or conspiracy with respect to the amount or terms of any prospective financial aid award to a specific individual.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "alien" has the meaning given such term in section 101(3) of the Immigration and Nationality Act (8 U.S.C. 1101(3));

(2) the term "antitrust laws" has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section applies to unfair methods of competition;

(3) the term "institution of higher education" has the meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(4) the term "lawfully admitted for permanent residence" has the meaning given such term in section 101(20) of the Immigration and Nationality Act (8 U.S.C. 1101(20));

(5) the term "national of the United States" has the meaning given such term in section 101(22) of the Immigration and Nationality Act (8 U.S.C. 1101(22));

(6) the term "on a need-blind basis" means without regard to the financial circumstances of the student involved or the student's family; and

(7) the term "student" means, with respect to an institution of higher education, a national of the United States or an alien admitted for permanent residence who is admitted to attend an undergraduate program at such institution on a full-time basis.

(d) EXPIRATION.—Subsection (a) shall expire on September 30, 1997.

(e) RELATED AMENDMENTS.—The Higher Education Amendments of 1992 (Public Law 102-325) is amended—

(1) in the table of contents by striking the matter relating to section 1544, and part F of title XV, of such Act; and

(2) by striking part F of title XV of such Act.

SEC. 569. DETERMINATION FOR FISCAL YEAR 1994.

Notwithstanding the proviso referring to section 3(d)(2)(B) of Public Law 81-874 under the following heading "IMPACT AID" under title III of the Departments of Labor, Health and Human services and Education, and Related Agencies Appropriations Act of 1994, or any provision of paragraph (2) of section 3(d) of such Public Law which is consistent with this proviso, determinations regarding the eligibility for an amount of payments under section 3(d)(2)(B) of such Public Law for fiscal year 1994 shall be made on the basis of 1994 data, and related Department regulations in effect during fiscal year 1992 shall be used in the tabulation of payments.

And the Senate agree to the same.

For consideration of the House bill and Senate amendment (except for sections 601-603 and 801-805):

William D. Ford,
George Miller,
Dale E. Kildee,
Pat Williams,
Major R. Owens,
Tom Sawyer,
Donald M. Payne,
Jolene Unsoeld,
Patsy T. Mink,
Jack Reed,
Tim Roemer,
Eliot L. Engel,
Xavier Becerra,
Gene Green,
Lynn C. Woolsey,
Carlos Romero-Barceló,
Karan English,
Ted Strickland,
Robert A. Underwood,

From the Committee on Education and Labor for consideration of sections 601-603 of the Senate amendment:

William D. Ford,
Major R. Owens,
Donald M. Payne,

From the Committee on Ways and Means for consideration of sections 601-603 of the Senate amendment:

Sam Gibbons,
Harold Ford,

From the Committee on Education and Labor for consideration of sections 801-805 of the Senate amendment:

William D. Ford,
Pat Williams,
Tom Sawyer,

From the Committee on Agriculture for consideration of sections 801-805 of the Senate amendment:

Kika de la Garza,
Charlie Stenholm,
Pat Roberts,
Managers on the Part of the House.

Edward M. Kennedy,
Claiborne Pell,
Howard M. Metzenbaum,
Christopher J. Dodd,
Paul Simon,
Tom Harkin,
Barbara A. Mikulski,
Jeff Bingaman,
Paul Wellstone,
Harris Wofford,
Nancy Landon Kassebaum,
James M. Jeffords,
Orrin Hatch,
Dave Durenberger,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6) to extend for five years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965, and for certain other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

STATEMENT OF MANAGERS

The Managers on the part of the House and the Senate wish to recognize the extraordinary contributions of John (Jack) Jennings to the Congress and to the Federal programs in support of education. Jack Jennings is retiring at the end of this Congress having served for over a quarter century as counsel to the Education and Labor Committee and its Subcommittee on Elementary, Secondary, and Vocational Education. During his service, Jack Jennings has been a model of staff professionalism, striving always to produce high quality education laws that faithfully reflect the policy decisions of the Members of Congress. The Members of Congress who have worked with Jack Jennings have benefited from his thoughtful counsel and diligence as have millions of students in America's schools.

TITLE I, PART A

Short Title; Table of Contents

1. The House bill contains a table of contents for the Improving America's Schools Act, which includes the Elementary and Secondary Education Act; the Senate amendment outlines the organization of the Improving America's Schools Act and includes a table of contents for the Elementary and Secondary Education Act.

The Senate recedes.

Effective Dates; Transition

2. The House bill refers to "Except as provided in subparagraph (B), the provisions of title I"; the Senate amendment entitles the paragraph "Title I" and refers to "The amendment made by title I".

Legislative counsel.

3. Both the House bill and the Senate amendment have an exception for the Impact Aid provisions, but the cites are different.

Legislative counsel.

4. The House bill refers to "programs that are conducted"; the Senate amendment refers to "programs under such Act that are conducted".

Legislative counsel.

5. The House bill refers to "in fiscal year 1995 and in subsequent"; the Senate amendment refers to "for fiscal year 1995 and for subsequent".

The Senate recedes.

6. The House bill, but not the Senate bill, requires that the Impact Aid provisions become effective on October 1, 1994.

The Senate recedes with an amendment changing the Title VIII effective date from October 1, 1994 to date of enactment of this Act.

7. The House bill refers to "The provisions of title II of this Act"; the Senate amendment entitles the paragraph "Title II" and refers to "Title I of this Act and the amendments made by title II of this Act".

Legislative counsel.

8. The House bill refers to "shall be effective upon enactment"; the Senate bill refers to "shall take effect on the date of enactment of this Act".

Legislative counsel.

9. Both the House bill and the Senate amendment refer to the equity provisions, but the cites are different.

Legislative counsel.

10. The House bill refers to "of this Act shall take effect"; the Senate amendment entitles the paragraph "Title III" and refers to "of this Act and the amendments made by such parts shall take effect on".

Legislative counsel.

11. The House bill refers to "of this Act"; the Senate amendment refers to "of this Act and the amendments made by such part".

Legislative counsel.

12. The House bill refers to "as in effect prior to amendment by this Act"; the Senate amendment refers to "as such Act was in effect on the day preceding the date of enactment of this Act".

Legislative counsel.

13. The House bill refers to "available to it"; the Senate amendment refers to "available to such recipient".

Legislative counsel.

TITLE I—AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

14. The Senate amendment, but not the House bill, includes a U.S. code cite for the

Elementary and Secondary Education Act of 1965.

Legislative counsel.

TITLE I—IMPROVED EDUCATION FOR DISADVANTAGED CHILDREN

15. The House bill entitles Title I as "Improved Education for Disadvantaged Children"; the Senate amendment entitles Title I as "Helping Children in Need Meet High Standards".

The House recedes with an amendment changing the heading to read "HELPING DISADVANTAGED CHILDREN MEET HIGH STANDARDS".

Declaration of Policy Statement and Purpose

16. The Senate amendment, but not the House bill, includes a heading for the paragraph entitled "In General".

Legislative counsel.

17. The House bill refers to "for all persons"; the Senate amendment refers to "for all individuals".

Legislative counsel.

18. The House bill refers to "such education"; the Senate amendment refers to "that education".

Legislative counsel.

19. The House bill gives a detailed description of what constitutes "a societal good"; the Senate amendment refers to "a societal good".

The House recedes.

20. The House bill, but not the Senate amendment, states that a high quality education for all persons and a fair and equal opportunity to obtain such education are a private good.

The House recedes.

21. The House bill gives a detailed description of what constitutes "a moral imperative"; the Senate amendment refers to "a moral imperative".

The House recedes.

22. The House bill refers to "the life of every person"; the Senate bill refers to "the life of every individual".

Legislative counsel.

23. The Senate amendment, but not the House bill, contains an additional policy which states that the Congress declares it to be the policy of the United States to expand the Title I program by increasing the funding for it by at least $750,000,000 over baseline in each fiscal year, thereby increasing the percentage of eligible children who receive services with the intent of serving all eligible children by fiscal year 2004.

The House recedes with an amendment changing 1995 to 1996.

24. The Senate amendment, but not the House bill, refers to "our Nation's" highest poverty schools.

Legislative counsel.

25. The Senate amendment, but not the House bill, includes children with disabilities among those for whom the educational needs are particularly great.

The House recedes.

26. The House bill, but not the Senate amendment, states that while title I and other ESEA programs have contributed to narrowing the achievement gap between children in high poverty schools and in low poverty schools, these programs need to become more effective in improving schools in order to enable all children to achieve high standards.

The Senate recedes.

27. The Senate amendment, but not the House bill, states that in order for all students to master challenging standards in core academic subjects as described in the National Education Goal 3, students and schools will need to maximize the time spent on teaching and learning the core academic subjects, and students who receive pullout instruction at the expense of core academic subjects learning time can fall farther behind in learning the core academic subjects.

The House recedes with an amendment inserting a period after core academic subjects.

28. The House bill entitles the subsection as "What Has Been Learned"; the Senate amendment entitles the subsection as "What Has Been Learned Since 1988".

The House recedes.

29. The House bill refers to "builds upon what has been learned"; the Senate amendment refers to "builds upon the following learned information".

Legislative counsel.

Style Note: The House bill has the finding as one sentence; the Senate amendment has the finding as two sentences.

Legislative counsel.

30. The House bill refers to "and they are given"; the Senate amendment refers to "and all children are given".

Legislative counsel.

31. The House bill, but not the Senate amendment, states that conditions outside the classroom can adversely affect children's academic achievement and must be addressed through the coordination of services in order for the Nation to meet the National Education Goals, and then goes on to list those conditions.

The Senate recedes.

32. The House bill, but not the Senate amendment, states that a better understanding of the principles of good health can help children and adolescents succeed in school, become active, productive members of society, and successfully compete in the economy. The House bill further states that schools that provide quality physical and health education contribute to enhanced knowledge, behavior, and fitness of children and adolescents.

The House recedes.

33. The House bill refers to "the low level skills measured by such tests"; the Senate amendment refers to "low level skills measured by those tests".

Legislative counsel.

34. The House bill refers to "are more effective when they ensure that children"; the Senate amendment refers to "are effective when children".

Legislative counsel.

35. The House bill refers to "effective regular school programs"; the Senate amendment refers to "quality regular school programs".

The Senate recedes with an amendment inserting "high-quality" before "regular school".

36. The House bill, but not the Senate amendment, states that the disproven theory that children must first learn basic skills before engaging in more complex tasks continues to dominate strategies for classroom instruction, resulting in emphasis on repetitive drill and practice at the expense of content-rich instruction, accelerated curricula, and effective teaching to high standards.

The House recedes.

37. The House bill, but not the Senate amendment, states that insufficient attention and resources are directed toward the effective use of technology in schools and the role it can play in professional development and improved teaching and learning.

The Senate recedes.

38. The House bill refers to giving schools the "responsibility"; the Senate amendment refers to giving schools the "authority".

The House recedes.

39. The House bill refers to "bringing children to high levels of performance and schools accept the responsibility to do so"; the Senate amendment refers to "bringing their children to high levels of performance".

The House recedes.

40. The House bill refers to "public charter schools"; the Senate amendment refers to "charter schools".

The Senate recedes.

41. The House bill refers to "can be better targeted"; the Senate amendment refers to "have not been adequately targeted".

The Senate recedes.

42. The House bill refers to "local educational agencies"; the Senate amendment refers to "school districts".

The Senate recedes.

43. The Senate amendment, but not the House bill, states that piecemeal reform, particularly when not tied to an overall vision of teaching to, and helping all children reach, high standards, does not work.

The Senate recedes.

44. The Senate amendment, but not the House bill, states that equitable and sufficient resources, particularly as such resources relate to the quality of the teaching force, have an integral relationship to high student achievement.

The House recedes.

45. The House bill states that it is the purpose of this title to enable schools to provide opportunities for children to "acquire the knowledge and skills contained in the rigorous State content standards and to meet the challenging State performance standards developed for all children under the Goals 2000: Educate America Act or, in their absence, under this title"; the Senate amendment states that it is the purpose of this title to enable schools to provide opportunities for children to "acquire the same basic and advanced skills and knowledge as children not served under this title".

The Senate recedes with an amendment deleting "under the Goals 2000: Educate America Act or, in their absence, under this title."

46. The House bill refers to "high standards for all children"; the Senate amendment refers to "high standards".

The Senate recedes.

47. The Senate amendment, but not the House bill, states that an enriched and accelerated educational program can include, when appropriate, the use of the arts and humanities.

The House recedes with an amendment striking "and humanities".

48. The House bill, but not the Senate amendment, states that instruction through schoolwise programs or additional services should be provided so that children served under title I receive at least the classroom instruction that other children receive.

The Senate recedes.

49. The House bill refers to "ensuring access of children"; the Senate amendment refers to "access of children".

The Senate recedes.

50. The House bill refers to "content that includes intensive"; the Senate amendment refers to "content that support intensive".

The Senate recedes.

51. The House bill refers to "curricula and instruction"; the Senate amendment refers to "instruction".

The House recedes.

52. The House bill refers to "intensive and sustained professional development"; the Senate amendment refers to "ongoing professional development".

The Senate recedes.

53. The House bill refers to "schools where needs are greatest"; the Senate amendment refers to "areas where needs are greatest".

The Senate recedes with an amendment to add "areas and" before "schools".

54. The House bill refers to "how well children are achieving"; the Senate amendment refers to "how well children served under this title are achieving".

The House recedes.

55. The House bill refers to "high State standards of performance"; the Senate amendment refers to "high State student performance standards".

The House recedes.

56. The House bill refers to "schools and teachers"; the Senate amendment refers to "schools".

The Senate recedes.

57. The Senate amendment, but not the House bill, states that the purpose of the title shall be accomplished by encouraging the development of innovative models for recruitment, induction, retention, and assessment of new, highly qualified teachers, especially teachers from historically underrepresented groups.

The Senate recedes.

Authorization of Appropriations

58. The House bill, but not the Senate amendment, includes the phrase "Appropriations are authorized for the following programs and activities under this title:".

Legislative counsel.

59. The House bill authorizes $7,400,000,000 to be appropriated for FY 1995 to carry out Part A of this title except for School Improvement and Capital Expenses; the Senate amendment authorizes $7,500,000,000 to be appropriated for FY 1995 to carry out Part A of this title except for Capital Expenses.

The Senate recedes.

Technical Note: Throughout the Authorization of Appropriations section, the House bill refers "part of this title" and to "of the fiscal years 1996, 1997, 1998, and 1999"; the Senate amendment refers to "part " and to "of the 4 succeeding fiscal years".

60. The House bill authorizes $118,000,000 to be appropriated for FY 1995 for the Even Start program; the Senate amendment authorizes $120,000,000 to be appropriated for FY 1995 for the Even Start program.

The Senate recedes.

61. The House bill entitles the paragraph as "Prevention and Intervention Services for Delinquent Youth and Youth At Risk of Dropping Out"; the Senate amendment entitles the paragraph as "Education for Neglected or Delinquent Youth".

The Senate recedes with an amendment changing the title to "Prevention and Intervention Programs for Youth Who Are Neglected, Delinquent, Or At Risk of Dropping Out".

62. The House bill authorizes $41,434,000 to be appropriated for FY 1995 for Capital Expenses; the Senate amendment authorizes $45,000,000 to be appropriated for FY 1995 for Capital Expenses.

The Senate recedes.

63. The House bill, but not the Senate amendment, authorizes $30,000,000 to be appropriated for FY 1995 for School Improvement activities, and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999.

The Senate recedes with an amendment to insert "providing additional needed assistance to" after the words "of carrying", striking from "$30,000" to the end of the sentence and replacing it with "such sums for FY 1996–1999." It is the conferees' intent that states have the authority to reserve .5% of their state's Title I appropriation as provided for in the state administration section of this bill at the end of Title I. However, the conferees want to ensure that there are sufficient funds to carry out the program improvement requirements in this Act and are unsure whether .5% of a state's Title I funds will be adequate during the entire reauthorization period. Thus, if states determine that such reserve is insufficient, states may request additional funds from Congress through the appropriation process.

64. The Senate amendment, but not the House bill, entitles the paragraph as "Section 1601".

Legislative counsel.

65. The House bill authorizes $9,000 000 to be appropriated for FY 1995 for Federal Evaluation activities; the Senate amendment authorizes $10,000,000 to be appropriated for FY 1995 for Federal Evaluation activities.

The Senate recedes.

66. The Senate amendment, but not the House bill, entitles the paragraph as "Section 1602".

Legislative counsel.

67. The House bill authorizes $20,000,000 to be appropriated for FY 1995 for Federal Demonstrations of Innovative Practices and for Innovative Elementary School Transition Projects; the Senate amendment authorizes $20,000,000 to be appropriated for FY 1995 for Federal Demonstrations of Innovative Practices.

The Senate recedes with an amendment changing the amount authorized to be appropriated in fiscal year 1995 from $20,000,000 to $50,000,000.

State Plans

68. The House bill titles Part A "Basic Programs Operated by Local Educational Agencies"; the Senate amendment entitles Part A "Making High Poverty Schools Work."

The Senate recedes with an amendment inserting "Improving" before "Basic."

69. The Senate amendment, but not the House bill, has a paragraph heading "In General."

Legislative counsel.

70. The Senate amendment, but not the House bill, specifies that "pupil services personnel" and "other staff" be included on the list of groups to be consulted with in the development of the state plan.

The House recedes.

71. The Senate amendment, but not the House bill, requires the State plan to satisfy the requirements of this section.

The House recedes.

72. The House bill, but not the Senate amendment, provides that the state plan be integrated with, and satisfy requirements of this section not already addressed in, the State's Goals 2000 plan, and with other state plans, if any, under the School-to-Work Opportunities Act and the Perkins Act to the extent these plans have not already been incorproated into the state's Goals 2000 plan.

The Senate recedes with an amendment inserting before the period at the end of paragraph (1) "and that is coordinated with other programs under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, as specified in section 14306."

73. The House bill, but not the Senate amendment, provides that, if a state does not have or is not developing, a Goals 2000 plan, the state plan be integrated with other state plans under this Act, and other plans including the School-to-Work Opportunities Act and the Perkins Act, where such plans exist, and satisfies the requirements of the section.

The House recedes.

74. Both the House bill and Senate amendment provide that the state plan may be submitted as part of a consolidated application with different cross references. The Senate amendment has a paragraph heading.

Legislative counsel.

75. The House bill, but not the Senate amendment, provides that a state may satisfy the requirements of this section by referencing applicable sections of its approved plan under Goals 2000.

The House recedes.

76. The Senate amendment, but not the House bill, has a paragraph heading.

Legisaltive counsel.

77. The House bill provides that the state plan shall "demonstrate" that the state has developed or adopted "high-quality standards" for "children served under this title" that will be used to carry out this Act; the Senate amendment provides that the state plan shall "describe" the high-quality "academic" standards for "all" children "in subjects determined by the state" that will be used to carry out this "part."

The Senate recedes with an amendment inserting "academic" after "high quality" to clarify that if states have content standards or student performance standards developed under Title III of the Goals 2000: Educate America Act, or some other process, those are the standards to be used in Title I program; and to clarify that "states shall not be required to submit such standards to the Secretary."

78. The House bill says that the standards be as challenging and of the same high quality as they are for all children; the Senate amendment says that for those subjects for which the state does not have standards and students are served under this part, describe a process for ensuring that such students are taught the same knowledge and skills and held to the same expectations as all children.

The Senate recedes with an amendment clarifying that states that have not adopted standards under Goals 2000, or another process must develop student content and student performance standards including at least mathematics and reading and language arts for children served in Title I programs which shall include the same knowledge, skills, and levels of performance expected of all children.

79. The House bill, but not the Senate amendment, provides that the standards in the state plan include challenging content standards in the core academic subjects and lists three characteristics of the content standards.

The Senate recedes with an amendment striking "in the core academic subjects" and inserting "academic" before "content standards" and striking "emphasizes" and inserting "encourages."

80. The House bill, but not the Senate amendment, says that the State plan include challenging performance standards aligned with the State's content standards.

The Senate recedes with an amendment to add "student" before "performance standards".

81. The House bill says that the performance standards describe two levels of high performance for determining how well children "served under this title" are mastering the material in the content standards; the amendment says state plans shall describe two levels of high performance that will determine how well children are mastering the material in the "State" content standards.

The Senate recedes with an amendment striking "served under this title" and inserting "State" before "content standards".

82. The House bill says that performance standards in the state plan include a "third benchmark below proficient, if necessary," to provide complete information about the progress of children toward achieving the "high" proficient and advanced performance standards; the Senate amendment says that the state plan describe a "third level, partially proficient" to provide complete information about the progress of children toward achieving the "proficient and advanced level of performance".

The House recedes.

83. The House bill provides for the development of model opportunity-to-learn standards for schools receiving assistance under this title and specifies three factors that the standards are to address; the Senate amendment provides that the state plan describe the steps the State will take to help each LEA and school affected by the State plan develop the capacity to comply with the requirements of sections 1112(c), 1114(b), 1115(c) that are applicable to such agency or school.

The House recedes with the following amendment:

* * * * *

84. The Senate amendment, but not the House bill, says that if a state has content or performance standards developed under Title III of Goals 2000 or an aligned set of assessments for all students developed under such title or adopted under another process, the state shall use those standards or assessments, modified if necessary, to conform with the requirements of paragraphs (1)(A)(i), (2), and (3). House has the identical provision see note 108.

The House recedes.

85. The House bill provides for the State plan to include a schedule for the development of standards for core academic subjects where the state does not have such standards which includes the completion of standards in mathematics and reading/language arts by the end of the interim period described in paragraph (6); the Senate amendment provides that if a state does not have state content and state student performance standards for all students, the plan shall include a strategy for developing such standards for elementary and secondary students served under this part in subjects determined by the State, including at least mathematics, and reading or language arts which shall include the same knowledge, skills and levels of performance expected of all children.

The House and Senate recede with amendment to clarify that states are to have 1 year to develop standards in mathematics and reading and language arts, if they do not already have such standards.

86. The Senate amendment, but not the House bill, requires the plan to include, for those subjects in which a state will not develop standards for students served under this part, a strategy for developing a process for ensuring that such students are taught the same knowledge and skills and held to the same expectations as all children.

The House and Senate recede with amendment clarifying that for those academic subjects for which states are not required to develop standards, the plan shall include a strategy for ensuring that Title I students are held to the same expectations as all students.

87. The House bill provides that the state plan shall "demonstrate" what constitutes adequate yearly progress of any school served under this part toward enabling children to meet the State's "proficient and advanced" performance standards; the Senate amendment has a paragraph heading and provides that the state plan contain a "description of" what constitutes adequate yearly progress of any school served under this part towards enabling "all" children to meet the State's "student performance standards."

The Senate recedes with an amendment inserting "student" before "performance standards".

88. The House bill says that the state plan shall demonstrate what constitutes adequate yearly progress of any local educational agency that receives funds under this part toward enabling "children in schools receiving assistance under this part" to meet the State's "'proficient' and 'advanced' performance standards"; the Senate amendment requires a description of what constitutes adequate yearly progress for any local educational agency that receives funds under this part towards enabling "all children within its jurisdiction" to meet the State's "student performance standards."

The Senate recedes.

89. The House bill, but not the Senate amendment, provides that adequate yearly progress be defined in a manner that is consistent with criteria of general applicability established by the Secretary.

The Senate recedes with an amendment replacing "criteria of general applicability" with "guidelines."

90. The House bill provides that adequate yearly progress results in continuous improvement for economically disadvantaged, limited-English proficient, and all students under this title in each school and local educational agency toward the goal of all children under this title meeting the State's challenging "advanced" performance standards; the Senate amendment provides that adequate yearly progress result in continuous improvement of each local educational agency and school sufficient to achieve the goal of all children served under this part meeting the state's proficient and advanced level of performance, particularly eligible children described in section 1115(b).

The House recedes with an amendment striking "eligible children described in section 1115(b)" and inserting "economically disadvantaged and limited-English proficient children."

91. The House bill, but not the Senate amendment, provides that adequate yearly progress link progress primarily to performance on assessments but permits progress to include the use of other outcome-based measures such as reductions in drop-out rates.

The Senate recedes with an amendment to strike "outcome-based" and putting a period after "measures". It is the intent of the Managers that the term "other measures" may include indicators such as rates of attendance, graduation, school-to-work or school-to-college transition, and dropout rates.

92. The House bill provides that the state plan demonstrate that the State has developed or adopted a set of high-quality, yearly student assessments; the Senate amendment provides that the state plan include a description of such assessments including at least mathematics, and reading or language arts and has a paragraph heading.

The Senate recedes with an amendment inserting "including at least mathematics, and reading or language arts."

93. The House bill provides that the assessments shall be the primary means of determining the yearly performance of each local educational agency and school "receiving assistance" under this part in enabling children served under this title to meet the state's performance standards; the Senate amendment provides that the assessments be used in each local educational agency and school "served" under this part; enable "all" children served under this part to meet the State's "student" performance standards".

The House recedes.

94. The House bill provides that assessments be challenging and of the same high quality as they are for all children; the Senate amendment provides that the assessments be the same assessments used to measure the performance of all children, if the state measures the performance of all children.

The House recedes.

95. The House bill provides that assessments be aligned with the State's challenging content and performance standards and provide coherent information about student attainment of standards; the Senate amendment provides that assessments be aligned with State content standards where such standards have been developed and be capable of providing coherent information about student attainment relative to the State content standards (See Senate subparagraph (F) on next page.

The Senate recedes.

96. The House bill says that assessments be used for purposes for which they are valid and reliable and be consistent with nationally recognized standards; the Senate amendment has a similar provision but also says that assessment measures that are not valid and reliable or that do not meet nationally recognized standards for assessments may be used as one of the multiple measures WPC * * *.

* * * * *

97. Identical provisions, except the Senate amendment modifies "challenging standards" with the words, "State content" and "State student performance."

Program Authorized

98. Identical provisions, but the Senate amendment uses the heading, "in general."

State Allocations

99. Identical provisions, but the House bill uses the term, "entitled", when the Senate uses the term, "eligible."

100. Identical provisions, but the Senate amendment uses the heading, "in general."

101. Identical provisions, except the House bill allows the Secretary to reduce funds to a state if they "exceed the amount required", whereas the Senate allows it if "such amount is not needed."

102. Identical provisions, except the House bill applies the consortium requirement to States with grants of $1m or less, whereas the Senate amendment applies it to States with grants of $500,000 or less.

103. Similar provisions, with technical differences in the wording.

104. The House bill requires the Secretary to develop a more accurate method for determining the summer (which may include intersession) child count and reimbursement level; the Senate amendment requires the Secretary to adjust the overall child count by factoring in summer programs, intersession programs and programs that operate through stop-over centers.

105. The House bill, but not the Senate amendment requires the Secretary to consider alternatives for adjusting the formula for a child whose education has been interrupted.

State Applications

106. Identical provisions, except only the House bill extends the paragraph to require

that migratory status be recorded on State student collection data.

107. The Senate amendment, but not the House bill, includes "all" before migratory students.

108. The Senate amendment, but not the House bill, applies the terms "State content" and "State student" to "standards."

109. Identical provisions, except the Senate amendment adds the phrase, "and the amount of funds that such agencies will provide to individual schools."

110. The House bill, but not the Senate amendment, requires budgetary and other information.

111. Identical provisions, but the Senate amendment places it within "authorized activities", section 1406(b)(1)(C). (See page —)

112. Technical conforming differences. (The section numbers cited in both bills refer to the following provisions: schoolwides, targeted assistance, assignment of personnel, private school children, supplement not supplant, comparability of services, and General Provisions)

113. Identical, except the House bill uses the phrase, "lasting a school year", when the Senate amendment uses, the phrase "of one school year in duration."

114. The House bill, but not the Senate amendment, requires that the needs of preschool migratory children be met.

115. The Senate amendment requires that, "to the extent feasible", programs provide advocacy and outreach, professional development, family literacy, integration of technology, transition activities to postsecondary education or employment. (For comparable House bill provision, see note #26)

116. Technical conforming difference.

117. Identical provisions, except the Senate amendment adds the phrases, "State content standards" and "student performance standards."

118. The House bill, but not the Senate amendment, extends the "continuation of services" to a third category—secondary schools students to be served in credit accrual programs.

Comprehensive Needs Assessment

119. The House bill, but not the Senate amendment, requires that the plan be integrated with any plan submitted under Title III of Goals 2000 and with other plans under the School-to-Work Act and the Perkins Act.

120. The House bill, but not the Senate amendment, requires that the plan be integrated with other State plans, where such plans exist, if no plan is being developed under the Goals 2000.

121. Identical provisions, except the Senate amendment applies the phrases, "State content" and "challenging State student" to "standards."

122. Identical provisions, except the Senate amendment makes the requirement applicable to only "part A" of Title VII.

123. Similar provisions, except the provisions in the Senate amendment appear under the section describing use of funds (see note # 18) and paragraphs (C) and (D) of each bill are slightly modified.

124. The Senate amendment, but not the House bill, requires that the comprehensive plan, with modifications, remain in effect for the duration of the State's participation.

125. The House bill, but not the Senate amendment, allows the State to satisfy the requirements of the section through a reference to the applicable sections under a plan approved under Goals 2000.

126. Technical conforming difference.

127. The Senate amendment, but not the House bill, notes that nothing in this part shall be construed to prohibit an LEA from serving migrant students with other students.

128. The House bill requires that the "authorized activities" (described in subsection 1306(b)) shall no longer apply if funds are used for a schoolwide program under section 1114; the Senate amendment requires that recipients continue to address the needs of children which result from the effects of a migratory lifestyle and which are not otherwise provided, notwithstanding the requirements of section 1114, ("schoolwide" programs).

Coordination of Activities

129. The House bill uses the phrase, "State and local educational agencies of their educational programs", while the Senate amendment uses the term "such agencies."

130. The House bill permits awards under this subsection only to nonprofit entities. The Senate amendment permits awards to for-profit, as well as nonprofit, entities.

131. The House bill, but not the Senate amendment authorizes grants for up to 5 years.

132. The House bill requires the Secretary to convene a panel to assess alternative methods by which student records may be transferred and students may be counted, to report to the Congress on the panel's findings and provides the Secretary the authority to contract for services. The Senate amendment provides the Secretary authority to extend MSRTS to January 1, 1996 and requires the Secretary to report to Congress on how student records are transferred.

133. Similar provisions, but the House bill requires the Secretary to reserve "up to $6m", when the Senate bill requires that the Secretary reserve, "not more than $6m."

134. The House bill requires, the Senate amendment allows, the Secretary to reserve $1.5m for consortium grants.

135. The House bill, but not the Senate amendment, requires that a minimum of 10 grants be awarded to States with allocations of less than $1m.

136. The House bill, but not the Senate amendment, authorizes the Secretary to award a grant of up to $3m for a distance learning program.

Definitions

137. Technical differences. The House bill places the definitions in a separate section. The Senate amendment places the definitions in subsection (a) of section 1402, "Program authorized."

138. The House bill uses the term, "parent or spouse", when the Senate amendment uses, "parent or guardian"; and the House makes eligibility based on up to "24" months after a move, when the Senate amendment makes it based on "48" months.

139. The Senate amendment, but not the House bill, extends the definition of "migrant" to one who resides in a school district of a specified size and migrates a distance of at least 20 miles.

140. The House bill, but not the Senate amendment, makes "36", rather than "24" preceding months applicable in fiscal year 1995.

141. The Senate amendment, but not the House bill, defines the term, "stop-over center" which would be used in the determination of eligible children in a state.

142. The Senate amendment, but not the House bill, defines the term, "fishing activity." . . . education, mentoring, and apprenticeship programs involving business and industry" after "programs" in number (8)

143. The House bill provides that the Secretary establish a peer review process to assist in the review of state plans; the Senate amendment has a paragraph heading and provides that the peer review process assist in the "review and recommendations for revision" of state plans.

The House recedes.

144. The House bill, but not the Senate amendment, provides that the peer review process include representatives of state educational agencies, local educational agencies, teachers, and parents.

The Senate recedes.

145. The House bill requires the Secretary to approve plans that meet the requirements of subsection (a) (b) and (c). The Senate amendment requires the Secretary to approve plans that meet the requirements of subsections (b) and (c).

The Senate recedes.

146. The House bill requires the Secretary to notify states whose plans do not meet the requirements of subsections (a), (b), or (c) of the determination and the reasons for it; the Senate amendment contains a similar provision but references only subsections (b) and (c).

The Senate recedes.

147. The House bill provides that the Secretary shall not decline to approve a plan before offering the state an opportunity to revise the plan or application, provide technical assistance to meet the requirements of subsections (a), (b), and (c), and a hearing; the Senate amendment provides that the Secretary shall not "finally disapprove" a plan before offering the State an opportunity for revision and technical assistance to meet the requirements of subsections (b) and (c).

The Senate recedes.

148. The Senate amendment, but not the House bill, provides that the Secretary may not require a state, as a condition of Secretarial approval, to include or delete from its plan one or more element of the state's content standards or to use specific assessment instruments or items.

The House recedes with an amendment inserting "Have the authority to disapprove a state plan for not meeting the requirements of this part, but shall" at the beginning of (E).

149. The House bill provides that the Secretary may withhold funds until determining that a plan meets the requirements of this section, but may not withhold funds on the basis of the State's opportunity-to-learn standards. The Senate amendment has a paragraph heading and provides that the Secretary may withhold state administrative and other funds until determining that the state plan meets the requirements of this section.

The House recedes.

150. The House bill says significant changes in the state plan such as the adoption of new "content and performance standards" be submitted to the Secretary for approval; the Senate amendment is similar but has paragraph headings and refers to "state content standards and state student performance standards".

The House recedes.

151. The House bill, but not the Senate amendment, says nothing in this Act shall be construed to authorize any federal official to mandate, or control a state, local educational agency, or school's specific instruction content, pupil performance standards and assessments, curriculum or program of instruction in order to be eligible to receive funds.

The Senate recedes with an amendment to strike "how", move to the list of assurances, and to insert "opportunity to learn standards or strategies" after "assessments".

152. The House bill, but not the Senate amendment, says notwithstanding any other provision of this Act the implementation of model opportunity-to-learn standards shall be voluntary.

The Senate recedes with the following amendment:

"Nothing in this Act shall be construed to require any State or local educational agency or school to implement opportunity to learn standards or strategies developed by such State under Public Law 103–227."

153. The House bill, but not the Senate amendment, says nothing in this title shall be construed to authorize any federal official to mandate or control a state, local educational agency, or school's opportunity-to-learn standards as a condition of eligibility to receive funds under this title.

The House recedes.

154. The House bill, but not the Senate amendment, says nothing in this section shall be construed to create a legally enforceable right based on opportunity-to-learn standards.

The House recedes.

155. The House bill, but not the Senate amendment, says nothing in this section shall be construed to mandate equalized spending.

The House recedes.

156. The House bill, but not the Senate amendment, requires that nothing in this section shall be construed to mandate national school building standards.

The House recedes.

157. Both the House bill and Senate amendment say that if they do not already do so, aggregate state expenditures for the operation of elementary and secondary programs must equal or exceed the level of federal expenditures for the operation of such programs by a time certain with technical differences in the Senate amendment including entitling the subsection "Special Rule", referring to "elementary and secondary education programs in the State" and "October 1, 1998".

Legislative counsel.

Local Educational Agency Plans.

158. Both the House bill and Senate amendment provides that local educational agencies must have a plan on file with, and approved by, the State educational agency which may be submitted as part of a consolidated application with a minor technical difference.

Legislative counsel.

159. The House bill, but not the Senate amendment, says that the plan be integrated with the local educational agency's Goals 2000 plan.

The Senate recedes with an amendment striking (A) and (B) and inserting "is coordinated with other programs under this Act, the Goals 2000: Educate America Act, and other Acts, as appropriate, as specified in section 14306.

160. The House bill, but not the Senate amendment, says that the plan be integrated with local plans, if any, under the School-to-Work Opportunities Act and the Perkins Act, to the extent they are not already incorporated into the state's Goals 2000 plan.

The House recedes.

161. The House bill, but not the Senate amendment, says if the local educational agency does not have a Goals 2000 plan, the plan be integrated with other plans under this Act, School-to-Work and Perkins where such plans exist, and satisfies the requirements of this section.

The House recedes.

162. Both the House bill and Senate amendment allow the plan to be submitted as part of a consolidated application with minor technical differences and different reference cites.

Legislative counsel.

163. The House bill, but not the Senate amendment, provides that a local educational agency may satisfy the requirements of this section by referencing applicable parts of their Goals 2000 plan.

The House recedes.

164. The House bill entities subsection (b) "Standards and Assessment Provisions; the Senate amendment entitles this subsection "Plan Provisions" and has a paragraph heading.

Legislative counsel.

165. The House bill, but not the Senate amendment, provides that the plan include a description of any content and performance standards in the core subjects, in addition to those adopted by the State under section 1111, that the local educational agency expects children served under this title to meet.

The House recedes.

166. The House bill, but not the Senate amendment, provides that the plan include a description of what constitutes adequate yearly progress if a local educational agency elects to establish more stringent measures than those in the State plan.

The House recedes.

167. The House bill says that the plan include a description of additional high quality student assessments, if any, other than those in the state plan, that the local educational agency will use to determine the success of children served under this title in meeting state performance standards; the Senate amendment contains a similar provision stating that the assessments be used to "provide information to teachers, parents, and students on the progress being made toward meeting state performance standards.

The Senate recedes with an amendment inserting before the semicolon at the end of (A) "and provide information to teachers, parents, and students on the progress being made toward meeting the State student performance standards described in section 1111 (b)(2)(A)".

168. The House bill provides that additional assessments assist in diagnosis, teaching and learning in the classroom in ways that best enable children served under this title to meet state standards and do well in the local curriculum and be used to determine what revisions are needed to projects under this part so that such children will meet the state's performance standards; the Senate amendment provides that such assessments "aid in instruction, in improving the performance of individual students, and in revising the local educational agencies or school's instructional program to enable all children served under this part to meet state performance standards."

The Senate recedes.

169. The Senate amendment, but not the House bill, provides that additional assessments be selected and administered by teachers.

The Senate recedes.

170. The Senate amendment, but not the House bill, provides that assessments be aligned with curriculum, and constitute an integral part of the instructional program.

The Senate recedes.

171. The Senate amendment, but not the House bill, provides that the plan include, at that local educational agency's discretion, other indicators that will be used in addition to assessments for the uses described in clause (i) and lists examples of such indicators.

The House recedes with an amendment deleting the illustrative examples of "other indicators". It is the intent of the Managers that the term "other measures" may include indicators such as rates of attendance, graduation, school-to-work or school-to-college transition, and dropout rates.

172. The House bill has a subsection heading and provides that, to ensure high-quality instruction to enable participating children to meet the state's performance standards a coherent strategy for intensive and sustained professional development for teachers, administrators, and other staff including staff of such agency, in accordance with section 1119; the Senate amendment requires a description of the strategy the local educational agency will use to provide ongoing professional development for the same groups plus pupil services personnel, and parents.

The House recedes with amendments inserting "where appropriate" before "pupil services personnel", and a cross-reference to section 1119.

173. The Senate amendment provides that the professional development take into account needs and activities across and within schools, and draws on resources from multiple resources. The House bill has a similar provision under its Professional Development section.

The Senate recedes.

174. The House bill provides that the plan describe how local educational agencies will notify schools of the authority to operate schoolwide programs; the Senate amendment has a subsection heading and requires an assurance that the local educational agency will inform eligible schools and parents of schoolwide project authority and provide technical assistance to schoolwide programs.

The House recedes.

175. The House bill provides that the plan describe how local educational agencies will work with schools as they develop their plans, and assist schools in implementing their schoolwide and targeted assistance plans so that each school can make adequate yearly progress toward meeting State standards, and fulfill its school improvement responsibilities including the corrective actions it will take under section 1116. The Senate amendment requires an assurance that the local educational agency will work with schools in the development and implementation of their schoolwide and program improvement plans so that each school can make progress toward meeting "state content standards and state student performance standards;" and fulfill its school improvement responsibilities with a different section reference.

The Senate recedes with an amendment inserting "State content standards and State student performance standards" and moving (c) to the assurance list.

176. The House bill provides that the plan describe how the local educational agency will coordinate and integrate services provided under this part with other educational services including Even Start, Head Start, other preschool programs including plans for the transition of participants in such programs to other programs, vocational education and school-to-work transition programs; the Senate amendment contains similar language requiring assurances for the coordination and integration of services under this part with a similar list of programs but does not include transition or vocational education programs.

The Senate recedes with an amendment to strike "including plans" and inserting "such as plan".

177. The House bill provides that the plan describe how the local educational will coordinate services with services for children with limited English proficiency or disabilities, migratory children including those previously eligible for services under Part C, in the 2 year period prior to the enactment of this title, delinquent youth and youth at risk of dropping out, homeless children, and immigrant children, to increase program effectiveness, eliminate duplication, and reduce fragmentation of children's instructional programs; the Senate amendment requires an assurance for coordination with such programs but does not include services for children formerly eligible for migrant education and refers to "neglected or delinquent children."

The Senate recedes with an amendment adding "neglected and" before "children".

178. The House bill provides that the plan describe how the local educational agency will coordinate and collaborate with other agencies providing services to children, youth and families, including health and social services; the Senate amendment says that the local educational agency provide assurances that it will coordinate and collaborate to the extent feasible with such agencies and with school-based pupil services personnel where appropriate.

The House recedes with an amendment deleting "school-based pupil services personnel, where appropriate".

179. Both the House bill and Senate amendment say the plan shall include a description of the poverty criteria that will be used to select school attendance areas with technical differences.

Legislative counsel.

180. The House bill refers to the multiple criteria that will be used by targeted assistance schools to identify children eligible for services under this part; the Senate amendment refers to how teachers, in consultation with others, in targeted assistance schools, will identify those children most in need of services under this part.

The House recedes.

181. The House bill refers to the nature of programs to be conducted by schools under section 1114 and 1115 and services for children living in institutions for neglected and delinquent children; the Senate amendment refers to a "general description of" the nature of these programs "and where appropriate educational" services for children in institutions for neglected and delinquent children, and "for neglected and delinquent children in community day school programs".

The House recedes.

182. The House bill, but not the Senate amendment, provides that the plan describe how the local educational agency will ensure that migratory and formerly migratory children are selected to receive such services on the same basis as other children who are selected to receive services under this part.

The Senate recedes.

183. The House bill refers to how a school that plans to serve children through Head Start or Even Start will use funds to expand such programs or increase the level of service to children presently being served; the Senate amendment provides that the plan include a description of how the local educational agency, where appropriate, will use funds to support preschool programs for children, particularly children participating in Head Start or Even Start, and that such services may be provided directly by such agency or through a subcontract with the local Head Start agency designated by the Secretary of Health and Human Services, or another comparable public early childhood development program.

The House recedes with an amendment adding "agencies operating an Even Start program" after "Head Start Act".

184. The House bill says the plan shall include a description of how the local educational agency will provide services to eligible children attending private elementary and secondary schools; the Senate amendment says that the local education agency provide an assurance that it will serve such children and has a different cross reference and other technical differences.

The House recedes.

185. The House bill, but not the Senate amendment, provides that the local educational agency describe the number of schoolwide programs that will be operating in such agency.

The House recedes.

186. The Senate amendment, but not the House bill, says that the plan provide assurances that the local educational agency will give priority to serving students in the earlier grades of schools that receive funds under this part.

The House recedes with an amendment revising the provision to read "take into account the experience of model programs for the disadvantaged, the findings of relevant research, that services may be most effective if focused on pupils in the earliest grades of school that receive funds under this part".

187. The Senate amendment, but not the House bill, provides that local educational agency provides assurances that, where appropriate and feasible, it will establish a procedure to ensure that all children in participating elementary schools receive two health screenings during their elementary school years.

The Senate recedes.

188. The Senate amendment, but not the House bill, says that the plan provide assurances that in the case that a state uses funds to provide early childhood services to low-income children below the age of compulsory school attendance, ensure that those services comply with the Head Start performance standards.

The Senate recedes.

189. The Senate amendment, but not the House bill, provides that the local educational agency describe how, where appropriate and feasible, it will use funds to reduce class size to 15 students.

The Senate recedes.

190. The Senate amendment, but not the House bill, provides that local educational agency plans be filed according to a schedule established by the State educational agency and that such plan shall be approved within 2 years of the date of enactment of the IASA.

The House recedes with amendments inserting "not more than 1 year from the date of enactment of the Improving America's Schools Act to have such plan provisionally approved by the State educational agency and" before "not" and "finally" before "approved".

191. The House bill provides that local educational agency plans be developed in consultation with teachers, including vocational teachers where appropriate; the Senate amendment provides that the plan be developed in consultation with teachers, pupil services personnel and has other minor technical differences.

The Senate recedes with an amendment inserting "pupil services personnel" after "teachers,".

192. The House bill provides that the state educational agency shall approve a local plan if the plan will enable schools served under this part to help children served under this title to meet the State's challenging performance standards expected of all children; the Senate amendment contains a similar provision except it refers to helping "all" children served "under this part" to meet the standards "described in section 1111(b)(1)" and has other technical differences.

The House recedes with an amendment inserting "expected of all children" before "described".

193. The House bill, but not the Senate amendment, provides that the state educational agency shall review the local plan to determine if the professional development activities are in accordance with section 1119.

The Senate recedes.

194. The House bill refers to the shared responsibility of schools, teachers, and the local educational agency in making decisions under section 1114 and 1115; the Senate amendment refers to the shared responsibilities of the local educational agency and schools.

The Senate recedes.

Eligible School Attendance Areas

195. The Senate amendment, but not the House bill, includes a paragraph heading entitled "In General".

Legislative counsel.

196. The House bill requires that LEAs use funds received under this part "only in school attendance areas with high concentrations of children from low-income families, hereafter in this section referred to as eligible school attendance areas"; the Senate amendment requires that LEAs use funds under this part "only in eligible school attendance areas".

The Senate recedes.

197. The Senate amendment, but not the House bill, includes a paragraph heading entitled "Eligible School Attendance Areas".

Legislative counsel.

198. The House bill refers to " 'school attendance area' "; the Senate amendment refers to "the term 'school attendance area' ".

Legislative counsel.

199. The House bill refers to "served by such school reside"; the Senate amendment refers to "served by that school reside".

Legislative counsel.

200. The House bill refers to "'eligible school attendance area'"; the Senate amendment refers to "the term 'eligible school attendance area'".

Legislative counsel.

201. The House bill defines eligible school attendance area to mean a school attendance area in which the percentage of children from low income families is at least as high as the percentage of children from low income families in the LEA as a whole; the Senate amendment, in defining eligible school attendance area, encompasses the House bill's definition and further defines the term to mean a school attendance area in which the percentage of children from low income families is equal to or greater than the percentage of children served by the LEA as a whole or who are eligible to participate in a schoolwide program.

The Senate recedes.

202. The Senate amendment, but not the House bill, includes a paragraph heading entitled "Serving Schools in Rank Order".

Legislative counsel.

203. The House bill requires, that if funds allocated in accordance with the allocations subsection are insufficient to serve all eligible school attendance areas, then a LEA

must annually rank, from highest to lowest according to the percentage of children from low-income families, and without regard to grade spans, its eligible school attendance areas in which the concentration of children from low-income families exceeds 75%, and then the LEA must serve such eligible school attendance areas in rank order; the Senate amendment requires that each LEA receiving part A assistance first serve in rank order schools in which the concentrations of children from low-income families is 75% or greater.

The Senate recedes.

204. The House bill requires that, if funds remain after serving all eligible school attendance areas within which the concentration of children from low-income families exceed 75%, then the LEA must annually rank its remaining eligible school attendance areas from highest to lowest either by grade span or for the entire LEA according to the percentage of children from low-income families, and then serve such eligible school attendance areas in rank order either by gradespan or within the LEA as a whole; the Senate amendment requires that, after the LEA first serves, in rank order, the eligible school attendance areas in which the concentrations of children from low-income families is 75% or greater, the LEA then serve, in rank order, schools in which the concentration of children from low-income families is at least 50% and less than 75%, with rank order determined, at the discretion of the LEA, according to grade span or school, and finally serve in rank order schools in which the concentration of children from low-income families is below 50%, with rank order determined according to grade span or by school.

Open.

205. The House bill requires that the LEA shall use as the measure of poverty, with respect to all school attendance areas in the LEA, either (1) the number of children ages 5 to 17 in the poverty count of the most recent census data approved by the Secretary, (2) the number of children eligible for free and reduced price lunches under the National School Lunch Act, (3) the number of children in families receiving assistance under AFDC, or (4) the number of children eligible to receive medical assistance under the Medicaid program, or (5) a composite of the above poverty indicators; the Senate amendment requires that the LEA shall use the same measure of low-income, with respect to all school attendance areas in the LEA, which the LEA shall choose on the basis of the best available verifiable data and which may be a composite of several indicators.

The Senate recedes with an amendment inserting "the same measure of low income, which measures shall be" before "the number".

206. The House bill refers to "each area"; the Senate amendment refers to "each such area".

Legislative counsel.

207. The House bill does not apply the ranking and poverty indicator provisions to LEAs with a total enrollment of less than 1,000 students; the Senate amendment does not apply the ranking and poverty indicator provisions nor the allocation requirements to LEAs with a total enrollment of less than 1,000 students but requires that such LEAs serve school attendance areas or schools in rank order according to grade span or school on the basis of the total number of children from low-income families in the grade levels served.

The Senate recedes but the conferees note that the House exemption affects 45% of all school districts. The conferees are concerned that this exemption could result in some rural states, made up almost entirely of school districts with enrollments of less than 1,000 children, not achieving the level of targeting that the conferees intend. However, the conferees also recognize that the Senate language might be difficult to administer or be too inflexible for some small districts to serve the neediest students. Thus, it is the conferees' intent that the Secretary should work with and encourage such districts that receive Title I, Part A funds to target their funds to the neediest schools and students in ways appropriate for smaller districts.

208. The Senate amendment, but not the House bill, does not apply the ranking and poverty indicator provisions nor the allocation requirements to a school participating in a desegregation program where the number of economically disadvantaged children served by the school is equal to or greater than 100 or equal to or greater than 25% of the school's total enrollment.

The House recedes with an amendment giving the Secretary of Education the authority to grant a waiver.

While the House recedes with an amendment giving the Secretary the authority to grant a waiver from the requirement to serve schools in rank order for local educational agencies undergoing desegregation plans, the conferees take particular note of the unique situation of the Omaha, Nebraska School District and the particular need for a waiver under the authority given the Secretary in this legislation. While the waiver authority is permissive, the conferees, in light of the unique circumstances brought to their attention, intend that the Secretary of Education shall grant such a waiver to the Omaha School District.

209. The Senate amendment, but not the House bill, includes a special rule which states that the per pupil amount of funds allocated to each school or school attendance area which falls under the Senate exceptions, above, shall be at least 65% of the per pupil amount of funds the LEA received for that year under the poverty criterion described in the LEA plan, except that this shall not apply to a LEA that only serves schools in which at least 50% of children enrolled are from low income families, but allows a LEA to reduce the amount of any supplemental State and local funds expended in the attendance area or school for programs that meet the schoolwide program or targeted assistance school requirements of this part.

The Senate recedes.

210. The House bill, but not the Senate amendment, allows LEAs to designate as eligible any school attendance area or school in which at least 50% of the children are from low-income families.

The Senate recedes.

211. The House bill, but not the Senate amendment, allows LEAs to elect not to serve an eligible attendance area or school that has a higher percentage of children from low-income families if (1) the school meets the comparability requirements of this title, (2) the school is receiving supplemental funds from other State or local sources that are spent according to the schoolwide program or targeted assistance program requirements, (3) the funds expended from State or local sources equal or exceed the amount that would be provided under this part, but, notwithstanding the above, the number of children attending private schools who are to receive services and the assistance they receive under this part shall be determined without regard to whether the public school attendance area in which the private school children reside is passed over under Title I services.

The Senate recedes.

212. The House bill, but not the Senate amendment, allows LEAs to use funds received to serve eligible children who reside in school attendance areas served under part A and who attend schools in other attendance areas in accordance with a court-ordered desegregation plan or a plan which continues to be implemented in accordance with a district-wide, court-ordered desegregation plan.

The House recedes.

213. The Senate amendment, but not the House bill, includes a subsection heading entitled "Optional Assignment".

The Senate recedes.

214. The House bill refers to "in local educational agencies that have over 900,000 students, to the extent feasible, use"; the Senate amendment refers to "A local educational agency with a total enrollment of greater than 900,000 children may, to the extent feasible".

Both the House and Senate recede.

215. The House bill refers to "serve educationally deprived children"; the Senate amendment refers to "serve children from low income families".

Both the House and Senate recede.

216. The Senate amendment, but not the House bill, includes a subsection heading entitled "In General".

Legislative counsel.

217. The House bill requires that LEAs allocate part A funds to eligible school attendance areas or to eligible schools which are identified under the Allocations and LEA Discretion provisions, in rank order, on the basis of the total number of children from low-income families in each area or school; the Senate amendment requires that LEAs allocate part A funds to eligible school attendance areas or to eligible schools which are (1) identified as having a concentration of children from low-income families of 75% or greater, in rank order, on the basis of the total number of children from low-income families in each area or school, (2) identified as having a concentration of children from low-income families of less than 75%, in rank order, on the basis of the total number of children from low-income families served in grade levels served in each eligible attendance area or eligible school.

The Senate recedes.

218. The Senate amendment, but not the House bill, includes a paragraph heading entitled "Special Rule".

Legislative counsel.

219. The House bill requires that the per-pupil amount of funds allocated to each school attendance area or school shall be not less than 80% of the per-pupil amount of funds the LEA received under basic grants, concentration grants, and targeted grants to LEAs; the Senate amendment requires that the per-pupil amount of funds allocated to each school attendance area or school shall be at least 65% of the per-pupil amount of funds an LEA received for that year under the poverty criterion that the LEA described in its plan, except this requirement shall not apply to an LEA which only serves schools in which the percentage of low-income children is 50% or greater.

See note 504.

220. The House bill refers to "such school attendance area or school"; the Senate amendment refers to "that school attendance area or school".

Legislative counsel.

221. The Senate amendment, but not the House bill, includes a paragraph heading entitled "Reservation".

Legislative counsel.

222. The House bill refers to "provide the services"; the Senate amendment refers to "those provided".

Legislative counsel.

223. The House bill requires LEAs to reserve funds in order to serve homeless children consistent with section 1115(b)(2)(d) which are provisions regarding homeless children; the Senate amendment requires LEAs to reserve funds to serve eligible homeless children who do not attend participating schools, including, where appropriate, providing educationally related support services to children in shelters.

The House recedes with an amendment moving "where appropriate" to the beginning of (A).

224. The House bill refers to "children in local institutions for delinquent children"; the Senate amendment refers to "children living in local institutions for neglected and delinquent children".

The House recedes.

225. The Senate amendment, but not the House bill, requires LEAs to reserve funds to serve, where appropriate, neglected and delinquent children in community day school programs.

The House recedes.

Schoolwide Programs

226. The Senate amendment, but not the House bill, includes a paragraph heading entitled "In General".

Legislative counsel.

227. The House bill refers to "to upgrade"; the senate amendment refers to "in order to upgrade".

Legislative counsel.

228. The House bill refers to "in an eligible school"; the Senate amendment refers to "a school described in subparagraph (A) or (B)".

Legislative counsel.

229. The House bill refers to "meet the following criteria"; the Senate amendment refers to "meets either of the following criteria".

Legislative counsel.

230. The House bill allows schools to operate schoolwide programs if, for school year 1995–96 the school serves an eligible school attendance area where at least 65% of the children are from low income families or where at least 65% of the children enrolled in the school are from low income families, and, for school year 1996–97 and thereafter, the qualifying percentage shall be 60%; the Senate amendment allows schools to operate schoolwide programs if the school serves an eligible school attendance area where at least 30% of the children are from low income families and are eligible for a free or reduced price lunch or show evidence of poverty by other criteria, and where at least 30% of the children enrolled are from families meeting the above criteria.

The Senate recedes with an amendment making schoolwide eligibility 60 percent for the school year 1995–96 and 50 percent for school year 1996–97 and thereafter.

231. The House bill, but not the Senate amendment, requires that an LEA can only start new schoolwide programs after the SEA provides written information to the LEA that demonstrates that the State has established the statewide system of support and improvement that is required by this title and if the State describes how it has the capability to provide on-site assistance (if necessary) to each eligible school.

The Senate recedes with an amendment redrafting (B) to read "a school that wants to initiate a schoolwide program prior to the establishment of the statewide system of support and improvement required in section 1117(c)(1) and (e), shall demonstrate to the local educational agency that it has received high quality technical assistance and support from other providers of assistance such as comprehensive technical assistance centers, regional laboratories, institutions of higher education, educational service agencies or other local consortia". Also delete "(2) the provisions of paragraph (1) notwithstanding."

232. The Senate amendment, but not the House bill, states that no schoolwide program school shall be required to identify particular children as eligible to participate in a schoolwide program or to provide supplemental services to such children.

The House recedes with an amendment inserting "under this part" after "such children."

233. The House bill refers to "A schoolwide program school shall use such funds"; the Senate amendment refers to "A school participating in a schoolwide program shall use funds available to carry out this section".

Legislative counsel.

234. The Senate amendment, but not the House bill, includes a paragraph heading entitled "Special Rule".

Legislative counsel.

235. The House bill allows schoolwide program schools to use funds received from any USED formula grant program (except IDEA) and from any discretionary program (which is contained on a list issued by the Secretary) to support a schoolwide program; the Senate amendment allows, except as provided in the Components of Schoolwide provisions, the Secretary to publish a Federal Register notice which exempts schoolwide programs from statutory or regulatory provisions of any USED formula or discretionary grant program (except IDEA formula or discretionary programs) to support schoolwide programs.

The House recedes.

236. The Senate amendment, but not the House bill, states that the Federal Register notice shall not be subject to the requirements in section 431 of GEPA or section 553 of title 5 of the U.S. Code.

The Senate recedes.

237. The Senate amendment, but not the House bill, states that a school which chooses to use other program funds in the schoolwide program shall not be relieved of the requirements relating to health, safety, civil rights, gender equity, student and parental participation and involvement, services to private school children, maintenance of effort, comparability of services, uses of Federal funds to supplement, not supplant non-Federal funds, or the distribution of funds to States or local educational agencies that apply to the receipt of funds from such programs.

The House recedes.

238. The Senate amendment requires that schoolwide program schools use not less than 10% of their Title I funds to carry out professional development activities except that a school may enter into consortia, and the 10% set-aside requirement shall not apply to a school if 10% of the funds the school receives is equal to less than $5,000; the House bill requires that schoolwide program provide intensive and sustained professional development for teachers, principal, and other staff, including aides, in accordance with the provisions in section 1119 (Professional Development) of the House bill (see notes 235 and 443).

The House recedes with an amendment rewriting the language to read as follows:

"Each school receiving funds under this part for any fiscal year shall devote sufficient resources to effectively carry out the professional development activities described in subsection (b)(1)(D), and consistent with section 1119, for such fiscal year, except that a school may enter into a consortium with another school to carry out such activities."

Amend the program improvement provisions in section 116 to include the following:

* * * * *

Include in section 1119 the following:

"No State Educational Agency shall require a school to expend for professional development activities a specific amount of funds except that this part shall not apply with respect to section 1116(d)(6)."

239. The Senate amendment, but not the House bill, includes a paragraph heading entitled "In General".

Legislative counsel.

240. The House bill refers to "State's standards"; the Senate amendment refers to "State content standards and the State student performance standards described in section 1111(b)(1)".

The House recedes.

241. The House bill refers to "performance standards"; the Senate amendment refers to "levels of performance described in section 1111(b)(1)(A)".

The House recedes with an amendment inserting "student" before "performance".

242. The House bill refers to "based on research on effective means"; the Senate amendment refers to "based on effective means".

The House recedes.

243. The House bill, but not the Senate amendment, requires that schoolwide program uses effective instructional strategies which may include the integration of vocational and academic learning (including applied learning and team teaching strategies).

The Senate recedes.

244. The House bill gives, as an illustrative example of increasing time and learning, providing an extended school year and before-and-after school programs and opportunities; the Senate amendment allows, in addressing the needs of all children, schoolwide programs to offer after school and summer programs, and places these provisions in another part of the section.

The Senate recedes with an amendment inserting "and summer" before "programs".

245. Both the House bill and the Senate amendment require that schoolwide programs help provide an enriched and accelerated curriculum, but the House bill also requires that the curriculum should incorporate gender-equitable methods and practices, but the House bill states that such curriculum should be provided instead of remedial drill and practice, and the Senate amendment places the gender equity language in another part of the section.

The Senate recedes with an amendment adding "and that include strategies in meeting the educational needs of historically underserved populations, including girls and women".

246. The Senate amendment, but not the House bill, refers to "economically disadvantaged children" and "children with disabilities".

The House recedes with an amendment striking categories of children.

247. Both the House bill and the Senate amendment require that schoolwide programs address how the school will determine

if the needs of special populations have been met, but the bills place the requirement in different parts of the section (see page).

Legislative counsel.

248. The House bill, but not the Senate amendment, requires that schoolwide programs describe the current program being offered to LEP students.

The House recedes.

249. The House bill, but not the Senate amendment, requires that schoolwide programs address how the school will build upon, expand, or coordinate the schoolwide program with the current program.

The House recedes.

250. The Senate amendment states that, in addressing the needs of all children, schoolwide programs may include counseling, pupil services and mentoring services, college and career counseling awareness and preparation, services to prepare students for the transition from school-to-work; the House bill includes similar activities, but specifies that such activities must be carried out in schools serving children beyond grade six.

The House recedes with amendments adding references to comprehensive career development, occupational information, and occupational skills, personal finance education and other matters from the House bill.

251. The Senate amendment states that, in addressing the needs of all children, schoolwide programs may include services to assist preschool children in transition from early childhood programs to elementary school programs; the House bill requires that schoolwide programs carry out similar activities.

The Senate recedes.

252. The House bill refers to "State and local reform plans"; the Senate amendment refers to "State and local improvement plans".

The House recedes.

253. The House bill requires that schoolwide programs provide intensive and sustained professional development for teachers, principals, and other staff, including aides; the Senate amendment requires that schoolwide programs provide ongoing professional development for teachers, pupil services personnel, parents, principals, and other staff.

The House recedes with an amendment adding a reference to section 1119 and inserting "and aides, where appropriate" and striking "ongoing".

254. The House bill requires that professional development be provided in accordance with the provisions in section 1119 (Professional Development) of the House bill; and Senate amendment requires that professional development be provided in accordance with the 10% set-aside provision.

The Senate recedes.

255. The House bill refers to "State's performance standards"; the Senate amendment refers to "State's student performance standards."

The House recedes.

256. The Senate amendment requires that professional development activities be jointly developed by the principal, teachers, and other staff of each school; the House bill has similar requirements in section 1119.

The Senate recedes.

257. The House bill refers to "strategies to increase parental involvement, including family literacy services"; the Senate amendment refers to "parental involvement in accordance with section 1116".

The Senate recedes with an amendment changing "including" to "such as".

258. The House bill requires that schoolwide programs include plans for assisting preschool children in the transition from early childhood programs, such as Head Start, Even Start, or a State-run preschool program, to elementary school; the Senate amendment includes a similar provision, but it is an allowable activity, and it does not reference specific programs.

The Senate recedes.

259. The House bill requires schoolwide programs serving children beyond grade six to provide counseling and mentoring services, college and career awareness, exploration, and preparation programs, and services to prepare students for the transition from school to work; the Senate amendment has similar provisions, but they are allowable activities and are not limited to schools serving children beyond grade six.

The House recedes with an amendment moving certain provisions to schoolwide project components.

260. The Senate amendment, but not the House bill, requires schoolwide programs to include the development and use of teacher selected assessments as described in the LEA plan.

The House recedes with amendment striking "development and use of teacher selected" and inserting "measures to include teachers in decisions regarding the use of" before "assessments."

261. The Senate amendment, but not the House bill, requires that schoolwide programs include measures to ensure that students who experience difficulty mastering any of the State standards during the course of the school year will be provided with additional assistance which shall include (1) measures to ensure that the student's difficulties are identified on a timely basis and to provide information on which to base the assistance, (2) periodic training for teachers in how to identify such difficulties and provide assistance (to the extent feasible), and (3) for any student who has not met the standards, teacher-parent conferences.

The House recedes with an amendment changing "Measures" to "Activities".

262. The Senate amendment, but not the House bill, includes a paragraph heading entitled "Plan".

Legislative counsel.

263. The Senate amendment, but not the House bill, allows schoolwide program schools to amend a plan that was in existence before the enactment of the Improving America's Schools Act.

The House recedes.

264. The House bill, but not the Senate amendment, requires that the schoolwide program plan to be developed in consultation with the school's support team or other technical assistance provider.

The Senate recedes.

265. The House bill refers to "such components"; the Senate amendment refers to "those components".

Legislative counsel.

266. The House bill requires schoolwide program plans to describe how the school will provide "individual student assessment results"; the Senate amendment requires schoolwide program plans to describe how the school will provide "valid and reliable individual student assessment results".

The Senate recedes.

267. The Senate amendment requires schoolwide program plans to provide for statistically reliable data on the achievement and assessment results of economically disadvantaged children disaggregated by gender, major ethnic or racial groups, children with disabilities, and, where appropriate, LEP children; the House bill has a similar provision in its standards and assessment requirements.

The House recedes with an amendment requiring statistically sound results.

268. The House bill refers to "a review of the schools instructional practices in the context of available research on effective instructional and school improvement practices"; the Senate amendment refers to "effective instructional and school improvement practices".

The House recedes.

269. The House bill requires that the comprehensive plan be developed "during a one-year period"; the Senate amendment requires that the comprehensive plan be developed "over a one-year period";

The Senate recedes.

270. The House bill, but not the Senate amendment, requires that the technical assistance providers provide recommendations to the LEA on whether or not a school's schoolwide plan can be developed in less time than a one-year period.

The Senate recedes with an amendment striking "based on" and inserting "after considering".

271. The House bill refers to "it"; the Senate amendment refers to "such school".

Legislative counsel

272. The House bill refers to "at the time this section takes effect"; the Senate amendment refers to "on the day preceding the date of enactment of the Improving America's Schools Act of 1994".

Legislative counsel.

273. The House bill refers to "such program"; the Senate amendment refers to "that program".

Legislative counsel.

274. The House bill refers to "during the first year"; the Senate amendment refers to "during the first year of assistance under such Act".

Legislative counsel

275. The House bill requires that the schoolwide plan be developed with the involvement of the community to be served and individuals who will carry it out (including teachers, principals, other staff, parents, and students if the plan is carried out in secondary schools); the Senate amendment requires that the plan be developed by a schoolsite council composed of those individuals who will implement the plan (including teachers, pupil services personnel, parents, principals, and other staff).

The Senate recedes with an amendment inserting "and where appropriate, pupil services personnel, and".

276. The Senate amendment, but not the House bill, requires that the plan be in effect for the duration of the school's participation under this part.

The House recedes.

277. The House bill refers to "made available"; the Senate amendment refers to "available".

Legislative counsel.

278. The Senate amendment, but not the House bill, requires that the school wide plan be made available to the LEA.

The House recedes.

279. The House bill refers to "with the information"; the Senate amendment refers to "and the information".

Legislative counsel.

280. The House bill refers to "translated"; the Senate amendment refers to "shall be translated".

Legislative counsel.

281. The House bill, but not the Senate amendment, requires that the schoolwide

plan be developed, where appropriate, in coordination with programs under the School-to-Work Opportunities Act, the Perkins Vocational and Applied Technology Act, and the National and Community Service Trust Act.

The Senate recedes.

282. The House bill, but not the Senate amendment, includes a subsection on accountability which requires (1) that schoolwide programs shall be subject to school improvement for failure to make adequate progress for two consecutive years, (2) that schoolwide programs in program improvement which have not made adequate progress by the third year following program improvement identification shall be subject to corrective action and where appropriate termination of its status as a schoolwide program, and (3) that a school that has forfeited its schoolwide status may not regain such status until the LEA determines that the school has adequately reformed its schoolwide program plan to enable it to make adequate progress toward meeting the State's challenging performance standards.

The Senate recedes with amendments deleting (2) and moving (3) to another place in the bill, and rewriting (1) to read "A school with a school-wide project shall be subject to the school improvement provisions of Section 1116."

Targeted Assistance Schools

283. The House bill refers to "schools selected to participate under section 1113"; the Senate amendment refers to "schools selected to receive funds under section 1113(c)".

Legislative counsel.

282. The House bill refers to "a schoolwide program" in two places; the Senate amendment refers to "a schoolwide program under section 1114" and "such a schoolwide program".

Legislative counsel.

285. The House bill requires targeted assistance schools to provide services only to eligible children who are identified as having the greatest need for special assistance; the Senate amendment requires targeted assistance schools to provide services only to economically disadvantaged children identified by teachers, in consultation with parents, administrators, and pupil services personnel, as having the greatest academic need for special assistance.

The Senate recedes.

286. The Senate amendment, but not the House bill, includes a paragraph heading entitled "Eligible Population".

Legislative counsel.

287. The House bill defines the eligible population to be (1) children up to age 21 who are entitled to a free public education through grade 12 and (2) children who are not yet at a grade level where the LEA provides a free public education yet are of an age where they can benefit from an instructional program; the Senate amendment encompasses the House definition of eligible population, but specifies that the child must be economically disadvantaged as well as meet the House criteria, and includes in the eligible population ecinomically disadvantaged children who are also disabled, limited-English proficient, or a migrant.

The Senate recedes.

288. The House bill defines eligible children as children who are in the eligible population who are identified by the school as failing, or most at risk of failing to meet the State's performance standards on the basis of objective criteria established by the LEA, except that children from preschool through grade 2 shall be selected solely on the basis of criteria such as teacher judgment, interviews with parents, and developmentally appropriate methods; the Senate amendment covers the "definition" of eligible children in its definition of eligible population.

The Senate recedes.

289. The House bill allows children receiving services to overcome a disability or limited English proficiency to be eligible for services in targeted assistance schools on the same basis as other children who are selected for services under this part; the Senate amendment makes children who are disabled and LEP children eligible for services if they are also economically disadvantaged.

The Senate recedes with amendment changing "receiving services to overcome a disability" to "with"; inserting "children" before "are eligible" and adding "migrant and economically disadvantaged children."

290. The Senate amendment, but not the House bill, includes a paragraph heading entitled "Special Rule".

Legislative counsel.

291. The House bill states that funds received under this part may not be used to provide services that are otherwise required by law to make available to disabled children and LEP children; the Senate amendment states that funds received under this part may not be used to provide services that are otherwise required by law to be made available to children who received services under Neglected and Delinquent during the 2 preceding years, homeless children attending school in the LEA, and children who participated in Head Start or Even Start during the 2 preceding years, but allows that funds received under this part may be used to coordinate or supplement such services.

The Senate recedes with an amendment adding at the end "but may be used to coordinate or supplement such services".

292. Both the House bill and the Senate amendment allow children who, in the 2 preceding years, participated in Head Start or Even Start to be automatically eligible for services under this part, but the House bill also allows children who, in the 2 preceding years, participated in a State-run preschool program.

The House recedes.

293. The House bill allows children who during the 2 preceding years received services under part D (N&D) to be eligible for services under this part; the Senate amendment requires that such a child be automatically eligible to receive services under this part.

The Senate recedes.

294. The House bill, but not the Senate amendment, requires that any child in a local institution for neglected and delinquent children or attending a community day program for such children is eligible for services under this part.

The Senate recedes with an amendment changing "is" to "may be".

295. The House bill requires that services under this part be provided to eligible homeless children who attend a school in an LEA which receives title I funds, and to the extent feasible, requires an LEA to use part A funds to serve eligible homeless children who attend schools in noneligible attendance areas, including providing educationally related support services to children in shelters (where appropriate); the Senate amendment requires that homeless children attending any school in the LEA is eligible for services.

The House recedes.

296. The Senate amendment, but not the House bill, includes a paragraph heading entitled "In General".

Legislative counsel.

297. The House bill refers to "to provide all students"; the Senate amendment served under this part".

The House recedes.

298. The House bill refers to "the State's challenging performance standards"; the Senate amendment refers to "the State's student performance standards in subject areas as determined by the State".

The House recedes.

299. The House bill refers to "its resources"; the Senate amendment refers to "such program's resources".

Legislative counsel.

300. The House bill refers to "the challenging performance standards"; the Senate amendment refers to "such State student performance standards".

The House recedes.

301. The House bill refers to "be based on research on effective means"; the Senate amendment refers to "be based on effective means".

The House recedes.

302. The Senate amendment, but not the House bill, requires that a component of a targeted assistance program shall ensure that planning for students served under this part is incorporated into existing school planning.

The House recedes.

303. The House bill requires that schools use effective instructional strategies, that give primary consideration to providing extended learning time such as an extended school year and before-and-after school programs and opportunities; the Senate amendment requires that schools use effective instructional strategies that increase the amount and quality of learning time.

The Senate recedes with an amendment inserting "and summer".

304. The House bill requires that schools use effective instructional strategies that involve an accelerated, high-quality curriculum, including applied learning, rather than remedial drill and practice; the Senate amendment requires that schools use effective instructional strategies that help provide an accelerated, high quality curriculum.

The House recedes with an amendment inserting "including applied learning" after "curriculum".

305. The House bill requires that schools use effective instructional strategies that minimize removing children from the regular classroom for instruction provided under this part; the Senate amendment requires that schools use effective instructional strategies isolating eligible children from other children in the school during regular school hours.

The Senate recedes with an amendment inserting "during regular school hours" after "classroom".

306. Both the House bill and the Senate amendment require that targeted assistance programs be coordinated with and support the regular education program, but the House bill states that targeted assistance program should support the regular program in providing an enriched and accelerated curriculum for eligible children.

The House recedes.

307. The Senate amendment allows targeted assistance programs, in supporting the regular education program, to include (1) counseling, mentoring and other pupil services, (2) college and career awareness and preparation services, and (3) services to prepare students for the transition from school to work; the House bill has similar provisions, but requires that such services be provided in participating schools serving children beyond grade six.

The House recedes with amendments adding references to comprehensive career development, occupational information, and occupational skills, personal finance, and other matter from the House bill.

308. The Senate amendment allows targeted assistance programs, in supporting the regular education program, to include services to assist preschool children in the transition from early childhood programs to elementary school programs; the House bill requires that similar services be included as a component of a targeted assistance program.

The House recedes.

309. The House bill refers to “highly qualified professional staff”; the Senate amendment refers to “highly qualified staff”.

The House recedes.

310. The House bill requires targeted assistance schools to provide opportunities for intensive and sustained professional development; the Senate amendment requires such schools to provide opportunities for ongoing professional development to the extent the school determines feasible.

The House recedes with an amendment adding a cross reference to section 1119, and striking “ongoing”.

311. The House bill requires targeted assistance programs to provide strategies to increase parental involvement including family literacy services; the Senate amendment requires targeted assistance programs to provide opportunities for parental involvement in accordance with section 1116.

The Senate recedes with an amendment changing “including” to “such as”.

312. The House bill requires targeted assistance programs to provide plans for assisting preschool children in the transition from early childhood programs, such as Head Start, Even Start, or a State-run preschool program, to local elementary school programs; the Senate amendment allows targeted assistance programs, in supporting the regular education program, to include services to assist preschool children in the transition from early childhood programs to elementary school programs.

313. The House bill requires targeted assistance programs serving children beyond grade 6, in coordination with funds available from other programs and (as appropriate) drawing on private and public organizations to include (1) counseling and mentoring, (2) college and career awareness and preparation services; and (3) services to prepare students for the transition from school to work; the Senate amendment allows targeted assistance programs, in supporting the regular education program, to provide such services, but does not limit services to schools serving children beyond grade six (see note).

The House recedes with an amendment adding items from the House list in “Components of a Targeted Assistance School Programs”.

314. The Senate amendment, but not the House bill, includes a paragraph heading entitled “Requirements”.

Legislative counsel.

315. The House bill requires targeted assistance schools to develop a plan (in consultation with the LEA) to assist participating children to meet the State's “proficient” and “advanced” performance standards, and then outlines the plan requirements; the Senate amendment requires targeted assistance schools to assist participating children to meet the State's proficient and advanced levels of performance, and then lists what schools must do.

The House recedes.

316. The House bill, but not the Senate amendment, requires the school plan to describe the selection of children to participate in the program.

The House recedes.

317. The House bill requires the school plan to describe the program to be conducted that incorporates the targeted assistance program components that are outlined in the House bill and how resources will be coordinated with other resources to enable the children served to meet the State's standards; the Senate amendment requires targeted assistance programs to coordinate Title I resources with other resources to enable children served to meet the State content standards and the State student performance standards.

The House recedes.

318. The House bill, but not the Senate amendment, requires the school plan to describe how the school will review, on an ongoing basis, the progress of participating children and revise the program, if necessary, to provide additional assistance to enable children to meet the State's standards, and then gives a list of examples of this.

The Senate recedes with an amendment changing “review” to “reviewing” and “revise” to “revising” and moving to the assurances list, and an amendment not requiring a plan.

319. The House bill, but not the Senate amendment, requires the school plan to describe why, if a school is eligible to operate a schoolwide program, if choose not to do so.

The House recedes.

320. The Senate amendment requires targeted assistance schools to provide individual student assessment results, including an explanation of those results, to the parent of any child who participates in the assessment; the House bill has a similar requirement in its standards and assessment provisions.

The Senate recedes.

321. The House bill, but not the Senate amendment, requires that school plans, developed before a State has adopted standards and a set of assessments that meet the criteria in section 1111, shall be based on an analysis of available data on the achievement of participating children and a review of the school's instructional practices in the context of available research on effective instructional practices.

The House recedes.

322. The House bill, but not the Senate amendment, requires that (1) school plans be developed with the involvement of the community to be served and the individuals who will carry it out, (2) each plan be approved by LEA and made available to parents (translated, to the extent feasible, into the parent's native language), and (3) each plan be reviewed and revised, as necessary, by the school.

The House recedes.

323. The House bill refers to “staff paid with funds”; the Senate amendment refers to “staff supported with funds”.

Legislative counsel.

324. The Senate amendment, but not the House bill, requires that nothing in this section shall be construed to prohibit a school from serving students served under this similar educational needs, in the same educational settings, where appropriate.

The House recedes.

325. The Senate amendment allows targeted assistance schools, (1) if health, nutrition, and other social services are not otherwise available to children in those schools, (2) if the school has engaged in a comprehensive needs assessment and established a collaborative partnership with local service providers, and (3) if funds are not reasonably available from other public or private sources, to use Part A funds as a last resort in providing health, nutrition, and other social services; the House bill creates a separate authority under Title X of ESEA which allows LEAs to use up to 5% of other ESEA program funds for coordinated services activities (see the House Title X side-by-side).

The House recedes with amendments inserting “a portion of the” before “funds” in (1) and “necessary to assist” before for teachers in (1)(C).

326. The Senate amendment requires targeted assistance schools to use not less than 10% of their Title I funds to carry out professional development activities except that a school may enter into consortia, and the 10% set-aside requirement shall not apply to a school if 10% of the funds the school receives is equal to less than $5,000; the House bill requires targeted assistance programs to provide, with Title I resources and with other sources, opportunities for intensive and sustained professional development (in accordance with section 1119) for administrators and for teachers and other school staff who work with participating children in Title I programs or in the regular education program.

The House recedes with an amendment.

School Choice

327. The House bill, but not the Senate amendment, allows LEAs receiving Part A funds, after developing a plan, to develop and implement school choice programs for children eligible for Title I assistance which allow parents to select the public school receiving Title I funding that their children will attend.

The Senate recedes with amendments striking “other Federal”; adding a provision that both the sending school and receiving school need to be in agreement on allowing the child to transfer schools; adding a provision that funds may not be used under this part to provide transportation; and adding a provision that the choice program must comply with all provisions of this part.

Assessment and School and Local Educational Agency Improvement

328. The House bill provides that local educational agencies use State assessments to review annually whether schools served under this part are making adequate progress, as defined in section 1111(b)(2)(A)(i) or section 1112(b)(2) toward enabling students to meet the State's performance standards; the Senate amendment contains a similar provision with adequate progress defined in section 1111(b)(2)(A)(i) for meeting the “State's student performance standards described in the State plan” and other technical differences.

The House recedes.

329. The House bill refers to “measures”; the Senate amendment refers to “measures or indicators”.

The House recedes.

330. The House bill provides that local educational agencies disseminate to teachers and others the results of the annual review under paragraphs (1) and (2) in individual student profiles; the Senate amendment contains a similar provision adding “other staff” to the list of those the information is to be provided and a different cross reference.

The House recedes with an amendment clarifying that the data provided should be statistically sound and disaggregated.

331. The House bill provides that the results of the annual review be given to

schools so they can refine their program of instruction to help all children in such schools to meet the State's high performance standards; the Senate amendment provides that the review be given to schools so that "local educational agencies" can refine the program to help all children "served under this part" meet the State's "student performance standards" and other drafting differences.

The House recedes with an amendment striking "the local educational agency" and inserting "schools".

332. The House bill, but not the Senate amendment, provides that State educational agencies and local educational agencies receiving funds shall designate distinguished schools in accordance with section 1117.

The Senate recedes.

333. The Senate amendment, but not the House bill, includes a paragraph heading "In General".

Legislative counsel.

334. Both the House bill and Senate amendment shall identify for program improvement any school that has been in school improvement for at least two consecutive years with drafting difference and two different cross references to current law of which only one can be correct.

Legislative counsel.

335. The House bill refers to schools that have not made adequate progress as defined in sections 111(b)(2)(A)(i) or 1112(b) Technical difference only (2), as appropriate for two years; the Senate amendment refers to adequate progress as defined in section 1111(b)(2)(A)(i).

The House recedes.

336. Both the House bill and the Senate amendment provide that a school not be identified for school improvement if virtually all students meet the State's advanced performance standards with technical differences.

The House recedes.

337. The Senate amendment, but not the House bill, refers to in the case of a targeted assistance program, such school may be reviewed only on the progress of those students that have been, are, or will be served under this part.

The House recedes with an amendment clarifying a reference to targeted assistance schools.

338. Both the House bill and the Senate amendment refer to a school that has failed to meet the criteria established through its interim procedure for two consecutive years with minor technical differences.

Legislative counsel, including a reference to transitional assessment.

339. The Senate amendment, but not the House bill, includes a paragraph heading entitled "Requirements".

Legislative counsel.

340. The House bill provides that each school revise "its school plan under section 1114 or 1115" in consultation with certain groups including for schoolwide programs school support teams, to improve performance in meeting the state's performance standards; the Senate amendment provides that the school "develop or" revise "a school plan" to meet the "state's student performance standards".

The House recedes.

341. The House bill, but not the Senate amendment, says that the school plan be reviewed in the context of the State's model opportunity-to-learn standards.

The Senate recedes with an amendment striking "including" and inserting in lieu thereof "which may include".

342. The House bill provides that the revised plan be submitted to the local educational agency for approval; the Senate amendment provides that "the plan" be submitted to the local educational agency for approval.

The House recedes with an amendment inserting "or revised plan" after "plan".

343. Both the House bill and Senate amendment provide that schools have the opportunity to provide evidence to the local educational agency before being identified for program improvement with technical differences.

Legislative counsel.

344. The House bill refers to "its identification"; the Senate amendment refers to "such identification."

Legislative counsel.

345. The House bill refers to "would be in error"; the Senate amendment refers to "is in error."

House recedes with amendment to add "due to statistical or other reasons" after "is in error".

346. The House bill refers to "it may"; the Senate bill refers to "such school may."

Legislative counsel.

347. The House bill says the school shall implement its revised plan; the Senate amendment says the school shall implement such school's plan.

The House recedes with an amendment inserting "or revised plan" at the end of (B).

348. The House bill says the local educational agency shall make technical assistance available as identified schools determine why their plan failed to bring about increased achievement and develop and implement revised plans; the Senate amendment says that technical assistance be provided to identified schools as the school develops and implement's such school's plan and has a subparagraph heading.

The House recedes with an amendment adding "or revised plan"

349. The House bill, but not the Senate amendment, says that technical assistance may be provided directly by local educational agencies, through mechanisms authorized under section 1117, or by an institution of higher education, a private nonprofit, an educational service agency, federal technical assistance centers, or by other entities with experience in helping school improve achievement.

The Senate recedes incorporating this provision into paragraph (3) of the Senate provision and other provisions from the House bill concerning illustrating types of technical assistance, but adds "with LEA approval" before "by an institution."

350. The Senate amendment, but not the House bill, includes a paragraph heading entitled "Corrective Action."

Legislative counsel.

351. The House bill, but not the Senate amendment, says that technical assistance and other remedial measures be provided before corrective action is taken.

The Senate recedes.

352. The House bill provides that corrective actions are those listed in the local educational agency plan and adopted in compliance with state law; the Senate amendment provides that corrective actions are those, consistent with State and local law, determined and made public and disseminated by the local educational agency.

The House recedes.

353. The House bill, but not the Senate amendment, says corrective action may include implementing the State's model opportunity-to-learn standards.

The Senate recedes with an amendment: "opportunity to learn standards or strategies developed by such State under Public Law 103–227".

354. The House bill refers to alternative governance arrangements such as the creation of a "charter school"; the Senate amendment includes the creation of a "public charter school" (subclause VII).

The House recedes.

355. The House bill refers to authorizing student transfers to other schools in the local educational agency including "paying for transportation"; the Senate amendment refers to "including transportation costs", and to "other public schools served by the local educational agency" (subclause IX).

The House recedes.

356. The Senate amendment, but not the House bill, provides that corrective action may include withholding funds.

The House recedes.

357. The Senate amendment, but not the House bill, provides that corrective action may include "an aggressive joint plan between the LEA and the school."

The House recedes with an amendment moving the provision to the technical assistance part of this section and deleting "aggressive".

358. The Senate amendment, but not the House bill provides that a corrective action can include interagency collaborative agreements.

The House recedes.

359. The Senate amendment, but not the House bill, provides that a corrective action can include waivers or modifications of LEA policy or regulations.

The House recedes with an amendment moving the provision to the technical assistance part of this section, but it is not the conferees' intent that local education agencies be precluded from waiving or modifying requirements of local education agency policy or regulation as a corrective action if it impedes the ability of a school to educate students.

360. Both the House bill and the Senate amendment refer to terminating schoolwide status but with minor technical differences.

Legislative counsel.

361. The Senate amendment, but not the House bill, provides that certain corrective actions shall not be taken until the state has developed assessments that meet the requirements of section 1111(b).

The House recedes.

362. The Senate amendment, but not the House bill, provides that the local educational agency may refrain from corrective action in certain circumstances.

The House recedes with an amendment inserting "for one additional year" before "to the extent' and striking text, beginning with "such as" through the end of the sentence, and inserting "as determined by the LEA."

363. The Senate amendment, but not the House bill, includes a paragraph heading entitled "State Educational Agency Responsibilities."

Legislative counsel.

364. The House bill refers to technical assistance under section 1117 and the State's standards; the Senate amendment refers to assistance from school support teams and distinguished educators under section 1119 and the State's student performance standards with other technical differences.

The Senate recedes with an amendment changing "furthest" to "farthest" and inserting "student performance" before "standards".

365. The House bill refers to take corrective action which may include actions in

compliance with state law to withhold or transfer funds and authority from schools that are failing to make adequate progress; the Senate amendment refers to "take such corrective action as the State educational agency deems appropriate" with other technical drafting differences.

The House recedes with an amendment adding at the end "and which are in compliance with State law".

366. The Senate amendment, but not the House bill, has a paragraph heading.

Legislative counsel.

367. The House bill refers to "performance standards"; the Senate amendment refers to "levels of performance."

The House recedes.

368. The House provides that the state educational agency annually review the progress of each local educational agency receiving funds to determine whether all students in schools receiving assistance are making adequate progress as defined in sections 1111(b)(2)(A)(ii) or 1112(b)(2) toward meeting state performance standards; the Senate amendment has a paragraph heading and provides that the state educational agency determine whether the local educational agency is making adequate progress as defined in sec. 1111(b)(2)(A)(ii) toward meeting the State's student performance standards.

The Senate recedes with an amendment striking "all students in"; and reference to section 1112(b)(2).

369. The House bill requires the SEA to disseminate the results of the State review to teachers, parents, students, and the community; the Senate amendment requires dissemination to LEAs, teachers, and other staff, parents, students, and the community.

The House recedes.

370. The House bill refers to local educational agencies with a school or schools receiving assistance under this part which have exceeded the State's definition of adequate progress as defined by the State or local educational agency, as appropriate; the Senate amendment has a paragraph heading and refers to a local educational agency that has met or exceeded the State's definition of adequate progress.

The House recedes. It is not the intent of the managers to reward local educational agencies that are, in the aggregate doing well, but that have a number of individual schools that are not.

371. The House bill provides that the State agency shall identify for program improvement any local educational agency that for two consecutive years has a school or schools receiving assistance under this part that are not making adequate progress towards meeting the Senate performance standards; the Senate amendment has a subparagraph heading and provides that the State educational agency shall identify local educational agencies not making adequate progress in schools served under this part toward meeting the State's student performance standards.

The House recedes.

372. The Senate amendment, but not the House bill, provides that schools served by the local educational agency that are operating targeted assistance programs may be reviewed on the basis of the progress only of those students reserved.

The House recedes with amendment changing the wording from "not operating schoolwide programs" to "operating targeted assistance programs".

373. The House bill refers to "its interim procedure;" the Senate amendment refers to "its transitional procedure" with different cross references.

The House recedes.

374. The Senate amendment, but not the House bill, says that the local educational agency be provided the opportunity to provide evidence that identification for program improvement is in error.

The House recedes with amendment including "due to statistical or other substantive reasons".

375. The House bill provides that an identified local educational agency revise its plan to improve the performance of its schools in meeting the State's performance standards; the Senate amendment has a paragraph heading and provides that the revision improve the performance of "schools served by the local educational agency" in meeting the state's "student" performance standards.

The House recedes with an amendment inserting at the end of paragraph (4) "including determining why the local educational agency's plan failed to bring about increased achievement".

376. The House bill, but not the Senate amendment, provides that the plan be reviewed in the context of the State's model opportunity-to-learn standards and that the plan be submitted to the state educational agency for approval.

The Senate recedes with an amendment striking "including" and inserting in lieu thereof "which may include".

377. The House bill, but not the Senate amendment, provides that the State educational agency determine why the local educational agency plan failed to bring about increased achievement.

The House recedes.

378. The House bill refers to technical assistance, if requested, as authorized under section 1117 to better enable the LEA to develop and implement its revised plan; the Senate amendment has a paragraph heading and refers to technical assistance be provided to better enable the LEA to develop and implement the local educational agency's revised plan.

The Senate recedes.

379. The House bill provides that technical assistance under section 1117 (which provides for school support teams and distinguished schools and educators) be provided to local educational agencies furthest from meeting the state's standards; the Senate amendment provides that assistance be provided from school support teams and distinguished educators under section 1119.

The Senate recedes with an amendment changing "furthest" to "farthest" and inserting related matter from another part of the bill.

380. The House bill, but not the Senate amendment, states that technical assistance may be provided directly by the state educational agency directly, and institution of higher education, a private nonprofit, a technical assistance center, an educational service agency, or other entity with experience in assisting local educational agencies improve achievement.

The Senate recedes.

381. The Senate amendment, but not the House bill, has a paragraph heading.

Legislative counsel.

382. The House bill, but not the Senate amendment, requires that technical assistance and other remediation measures be provided before a state educational agency takes corrective action against a local educational agency.

The Senate recedes.

383. The House bill refers to corrective actions listed in the State educational agency plan adopted in compliance with State law; the Senate amendment refers to those, consistent with State law, determined and made public and disseminated by the State educational agency.

The House recedes. The conferees intend the type of corrective action to be a state decision and do not intend this list to be exhaustive. It is also the conferees' intent that the Secretary may not take any adverse action against an SEA based on the specific type of corrective action it elects to undertake, unless it is inconsistent with state law.

384. The House bill, but not the Senate amendment, includes implementing the State's model opportunity-to-learn standards in its list of examples of corrective actions.

The Senate recedes with an amendment: "opportunity to learn standards or strategies developed by such State under Public Law 103-227".

385. The House bill refers to "reconstitution of district personnel." The Senate amendment refers to "reconstitution of school district personnel (subclause V).

Legislative counsel.

386. The House bill refers to appointment by the State educational agency of a receiver or trustee to administer the affairs of the local educational agency in place of the superintendent or school board; the Senate bill refers to appointment by the State educational agency of a representative to implement, in conjunction with the local educational agency, a program improvement plan (VI).

The Senate recedes.

387. The House bill, but not the Senate amendment, refers to the abolition or restructuring of the local educational agency.

The Senate recedes.

388. The Senate amendment, but not the House bill, refers to withholding of funds and an aggressive joint plan between the state and local educational agency that addresses student performance levels.

The House recedes with an amendment deleting "aggressive".

389. The Senate amendment, but not the House bill, refers to interagency collaborative agreements between the local educational agency and other public agencies to provide, health, pupil services, and other social services.

The House recedes with an amendment to move the language to the technical assistance section but it is not the conferees' intent that state education agencies be precluded from establishing interagency or collaborative agreements or from undertaking this activity in the course of taking corrective actions.

390. The Senate amendment, but not the House bill, refers to waivers or modifications of State law or regulation that impede the ability of a local educational agency to educate students.

The House recedes with amendment to move the language to the technical assistance section but it is not the conferees' intent that state education agencies be precluded from undertaking this activity in the course of taking corrective actions.

391. The House bill refers to removal of particular schools from the jurisdiction of the local educational agency and establishment of alternative arrangements for governing and supervising such schools; the Senate amendment has a similar provision and refers to "public governance and supervision of such schools, including contracts with private management companies".

The Senate recedes with an amendment striking "governing and supervising" and inserting "public governance and supervision".

392. The House bill refers to authorizing of students to transfer from 1 local educational agency to another; the Senate amendment refers to authorizing students to transfer to another public school including the cost of transportation.

The Senate recedes.

393. The Senate amendment, but not the House bill, refers to contracting out the management of troubled schools to private management firms.

The Senate recedes.

394. The Senate amendment, but not the House bill, says corrective action shall not include certain actions until the State has developed assessments that meet the requirements of paragraph (3)(e).

The House recedes.

395. The Senate amendment, but not the House bill, says that prior to implementing any corrective action, the State educational agency shall provide due process, including a hearing to an LEA and may refrain from such corrective action to the extent that failure to make progress can be attributed to extenuating circumstances.

The House recedes with amendment adding "if State law provides," and modifying the last part to read "as determined by the State educational agency."

396. The Senate amendment, but not the House bill, has a paragraph heading.

Legislative counsel.

397. The House bill establishes a process for determining the amount a State shall be eligible to receive, except that each state shall receive at least $180,000 or $30,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Marianas, and Palau (until the Compact of Free Association goes into effect.) The Senate amendment, in section 1702, provides for a set-aside of funds for States, with separate requirements for small States and outlying areas.

The Senate recedes with an amendment striking "under such sections" through the end of the provision and inserting "and outlying areas" in lieu thereof.

398. The Senate amendment, but not the House bill, permits the Secretary to deem an alternative accountability system as meeting the requirements of this section if a State has developed such a system for all children that is as rigorous as the system required by this section.

The Senate recedes.

399. The Senate amendment, but not the House bill, says nothing in this section shall be construed to alter or otherwise affect the rights afforded school or school district employees under federal, state, or local laws or under the terms of collective bargaining agreements and other agreements.

The House recedes.

State Assistance for School Support and Improvement

400. Both the House bill and Senate amendment say that state educational agencies shall establish a statewide system of support and improvement for schools under this title. The House bill refers to "all schoolwide programs and all schools", the Senate amendment refers to schoolwide programs and schools.

The Senate recedes.

401. The House bill, but not the Senate amendment, states that the sustained support should be established in order to increase the opportunity for all students in such schools to meet the State's content and performance standards.

The Senate recedes.

402. The House bill says funds appropriated pursuant to section 1002(6) shall be used for this section and funds under section 1002(1) and other funds may be used to met such requirement; the Senate amendment says state administration funds and at the discretion of the local educational agency, local educational agency funds under this part may support school support teams.

The Senate recedes with an amendment striking "and notwithstanding section 1002(1)" and "or local" and inserting "State administrative" before "funds", and adding at the end "a local educational agency may use funds made available under section 1002(1) and other available funds to meet such requirements."

403. The House bill, but not the Senate amendment, requires that the statewide system be linked to and receive support and assistance from regional technical assistance centers under Part D of Title II and the regional labs.

The Senate recedes with an amendment striking be linked to" and inserting "work with".

404. The House bill entitles the subsection Provisions; the Senate amendment entitles the subsection Components and has other minor drafting differences.

Legislative counsel.

405. The House bill refers to "consultation with local educational agencies", "to each schoolwide program and to assist such program in providing an opportunity to all students to meet the State's performance standards"; the Senate amendment refers to "consultation with local educational agencies and schools", "to schoolwide programs or a school in which the number of poor students is 75 percent or more of the total student population and such school is identified in need of improvement".

The House recedes with amendment inserting a new paragraph providing for assistance to high-poverty targeted assistance programs and other programs if sufficient funds are available.

406. The House bill says the teams be composed of individuals with experience in successfully improving the educational opportunities for low-achieving students, especially individuals identified in paragraph (3): the Senate amendment says each team be composed of persons, including teachers, pupil services personnel, representatives of organizations knowledgeable about successful schoolwide projects or comprehensive school reform.

The House recedes with an amendment combining the House and Senate provisions.

407. the House bill refers to individuals knowledgeable about research and practice on teaching and learning, including alternative and applied learning, especially for low achieving students; the Senate amendment refers to "other persons" who are knowledgeable about research and practice on teaching and learning, "particularly about strategies for improving the educational opportunities for eligible children, such as representatives of institutions of higher education, regional education laboratories or research centers, and outside consultant groups.

The House recedes with an amendment changing "eligible children" to "low-achieving students", and adding at the end "and individuals knowledgeable about alternative and applied learning". Also add "including alternative and applied learning" after "teaching and learning".

408. The House bill says the school support team shall work with each school as it develops its schoolwide program plan; the Senate amendment says the team shall work cooperatively with each school and make recommendations as the school develops its schoolwide program plan or school improvement plan.

The House recedes.

409. The House bill refers to during the operation of the schoolwide programs; the Senate amendment refers to during the operation of the schoolwide program or during school improvement activities.

The House recedes.

410. The House bill refers to the State's performance standards; the Senate amendment refers to the States performance standards under this part.

The House recedes.

411. The House bill refers to make suggestions for improvement; the Senate amendment refers to make recommendations for improvement.

The House recedes.

412. Both the House bill and Senate amendment refer to designating schools as distinguished schools if for three years they have exceeded the State's definition of adequate progress with minor technical differences and different cite references.

Legislative counsel.

413. The House bill refers to any school in which virtually all students have met the State's advanced performance standards; the Senate amendment refers to any school in which almost every student has met the State's advanced level of performance.

The Senate recedes.

414. The House bill, but not the Senate amendment, refers to and in which equity in participation and achievement of students by sex has been achieved or significantly improved.

The Senate recedes.

415. The House bill, in subparagraph (B), refers to schools designated under this paragraph; the Senate amendment refers to schools designated as distinguished schools under subparagraph (A).

The Senate recedes.

416. The House bill refers to provide support for other schools; the Senate amendment refers to provide additional assistance to other schools served under this part.

The Senate recedes.

417. The House bill refers to assist such schools in meeting the State's performance standards; the Senate amendment refers to that are not making adequate progress.

The Senate recedes with an amendment inserting "student" and "school".

418. The House bill refers to "schools in program improvement"; the Senate amendment refers to "schools in school improvement".

The House recedes.

419. The House bill says that states shall use funds under 1002(6) to allow schools to carry out the activities described in subparagraph (B); the Senate amendment says a state shall use funds under section 1701(c) (State funds for school improvement should be section 1702) to recognize distinguished schools including monetary awards.

The Senate recedes.

420. The House bill says the state may use such funds to provide awards to schools; the Senate amendment says funds awarded to a distinguished school may be used by the school and has other technical differences.

The Senate recedes.

421. The House bill refers to schoolwide programs; the Senate amendment refers to schools participating in schoolwide programs and has a different cross reference.

Legislative counsel.

422. The House bill refers to meeting the State's performance standards; the Senate

amendment refers to the State's student performance standards.

The House recedes.

423. The House bill refers to agencies furthest from meeting the State's standards and schoolwide programs as they; the Senate amendment refers to agencies furthest from meeting the State's student performance standards and to schoolwide programs as such programs.

The House recedes with an amendment changing "furthest" to "farthest".

424. The House bill refers to funds under section 1002(6); the Senate amendment refers to funds made available under section 1701(c) and has a subsection heading.

Legislative counsel.

425. The House bill says if a state has devised; the Senate amendment says the State may devise and has a paragraph heading and a different subsection reference.

The House recedes.

426. The House bill says the State may seek approval from the Secretary to use funds authorized in section 1002(6) for such approaches as part of the State plan; the Senate amendment says and may use funds authorized in section 1701(c) for such approaches.

The Senate recedes with amendment changing the beginning of the first sentence to read "The State may devise" and striking "alternative or".

427. The Senate amendment, but not the House bill, says that paragraphs (1) and (3) shall not apply to a state educational agency if it determines that a local educational agency or school is receiving adequate technical assistance from another source.

The Senate recedes.

Parental Involvement Provisions

428. The House bill, but not the Senate amendment, refers to "(a) In General.—A local educational agency may receive funds under this part only if it implements programs, activities, and procedures, for the involvement of parents and that the activities shall be planned and implemented with meaningful consultation with parents of participating children".

The Senate recedes with an amendment adding "consistent with the provisions of this section" after "title".

429. The House bill refers to "(a) In General.——;" the Senate amendment refers to "(a) Local Educational Agency Policy.—(1) In General"

Legislative counsel.

430. The House bill refers to "(b) Local Educational Agency Policy."; the Senate amendment refers to "(a) Local Educational Agency Policy—".

Legislative counsel.

431. The House bill refers to "and make available to"; the Senate amendment refers to "and distribute to" when referring to a written parent involvement policy.

The House recedes.

432. The House bill refers to "involve parents in the development of the plan"; the Senate amendment refers to "involve parents in the joint development and approval of the plan".

The House recedes with amendment striking "joint" and "approval" and inserting a new (a)(3): "If the plan described under section 1112 is not satisfactory to the parents of participating children, the local educational agency shall submit any parent comments on the plan when it submits such plan to the state for approval."

433. The House bill refers to "coordinate and integrate parental involvement strategies with parental involvement in other programs including Head Start, Even Start, Parents as Teachers and State-run preschool programs"; the Senate amendment indicates that the plan must "coordinate and integrate parent involvement strategies with those under other programs."

The Senate recedes with an amendment changing "including" to "such as" and inserting "Home Instruction Program for Preschool Youth".

434. The House bill requires that the plan must show how the local educational agency will conduct an annual evaluation of the content and effectiveness of the parental involvement policy with the involvement of parents in increasing the participation of parents to identify barriers to greater participation by parents. The House bill also requires that the plan must show how the local edcuational agency gives particular attention to parents who are economically disadvantaged, disabled, have limited-English proficiency, limited literacy, or are of any racial or ethnic minority background and use the findings in designing strategies for school improvement.

The Senate amendment ensures that participating schools (i) review the effectiveness of their parent involvement activities on an ongoing basis; (ii) identify and take steps to remove any barriers to greater parental involvement, including barriers resulting in lower rates of participation in the parent involvement activities by parents who are economically disadvantaged, disabled, have limited literacy, have limited-English proficiency, or are from any racial or ethnic minority background; and (iii) use the findings of such review in designing strategies for school improvement and revising the parent involvement policies, if necessary.

The Senate recedes with amendment inserting after "improvement" the phrase "revising, if necessary, the parent involvement policies described in this subsection and subsection (b)(1).

435. The House bill, but not the Senate amendment, requires that each local educational agency shall reserve, not less than 1 percent under this part, for the purposes of carrying out this section, including family literacy and parenting skills.

The Senate recedes with an amendment adding that where the 1% set-aside would be equal to less than $5,000, the requirement does not apply and that parents will be involved in determining how these funds are spent.

436. The House bill refers to a "School Parental Involvement Plan—"; the Senate amendment refer to a "School Parental Involvement Policy—".

Legislative counsel.

437. The House bill uses "make available to" parents of participating children and also uses "parental" in stead of parent in some places. The Senate amendment uses "and distribute to" parents of participating children". The Senate amendment also refers to "Such policy shall be updated periodically to meet the changing needs of parents and the school".

The House recedes.

438. The House bill refers to "If the local educational agency has an agency-wide parental involvement policy that applies to all parents, it may amend such policy, if necessary, to meet the requirements of this subsection"; the Senate amendment includes similar language under a separate heading: "(2) Special Rule.—If the school has a parental involvement policy that applies to all parents, such school may amend that policy, if necessary, to meet the requirements of this subsection".

Legislative counsel.

439. The House bill refers to "If the school has a parental involvement policy that applies to all parents, it may amend such policy, if necessary, to meet the requirements of this subsection"; the Senate amendment includes similar language under a separate heading: "(2) Amendment.—If the local educational agency has a school district-level parental involvement policy that applies to all parents, such agency may amend that policy, if necessary, to meet the requirements of this subsection".

Legislative counsel.

440. The House bill refers to "parent's rights" to be involved; the Senate amendment refers to "their".

Legislative counsel.

441. The House bill refers to "including the development of the school plan under section 1114 or 1115 or if a school has in place a process for involving parents in the planning and design of its programs, the school may use such process, provided that the process includes an adequate representation of parents of participating children"; the Senate amendment refers to "including the school parental involvement policy and the joint development and approval of the schoolwide program plan under section 1114(b), except that if a school has in place a process for involving parents in the joint planning, design, and approval of its programs, the school may use that process, provided that such process includes an adequate representation of parents of participating children".

The House recedes with amendment striking "and the joint development and approval" and inserting "and development." Also, inserting a new (5): "If the schoolwide program plan under section 1114(b) is not satisfactory to the parents of participating children, the school shall submit any parent comments together with such plan to the local educational agency" and adding a new 1116(c)(5): "If the schoolwide program plan under section 1114(b) is not satisfactory to the parents of participating children, the school shall submit any parent comments when it submits such plan to the local educational agency for approval."

442. The House bill refers to "(B) school performance profiles required under section 1116(a)(2) and individual student assessment results, including an interpretation of such results, required under section 1111(b)(3); the Senate amendment refers to "(B) school performance profiles required under section 1118(a)(3)".

The Senate recedes with an amendment inserting "their own child's" before "assessment results".

443. The House bill refers to "(C) opportunities for regular meetings to formulate suggestions, if such parents so desire"; the Senate amendment refers to "(2) offer a flexible number of meetings, such as meetings in the morning or evening, and may provide, with funds provided under this part, transportation, child care, or home visits, as such services relate to parental involvement.

The House recedes.

444. The House bill refers to "(D) timely responses to parents' recommendations"; the Senate amendment refers to "(E) timely responses to the suggestions described in subparagraph (E)".

The Senate recedes.

445. The Senate amendment, but not the House bill, requires a description and explanation of the curriculum in use at the school, the form of assessment used to measure student progress, and the proficiency levels students are expected to meet.

The House recedes.

446. Both the House bill and the Senate amendment includes a section on "Shared Responsibilities for High Student Performance." The House bill refers to "parental involvement plan"; the Senate amendment refers to "parental involvement policy".

Legislative counsel.

447. The Senate amendment, but not the House bill, includes "served under this part" twice.

The House recedes.

448. Both the Senate amendment and the House bill describe specific components of the shared responsibilities. The House bill refers to "State's challenging performance standards" the Senate amendment refers to "State's student performance standards.

The House recedes.

449. The House bill refers to "his or her children's learning"; the Senate amendment refers to "their children's learning".

Legislative counsel.

450. The House bill refers to "including monitoring attendance"; the Senate amendment refers to "such as monitoring attendance":

The House recedes.

451. The Senate amendment, but not the House bill, includes "served under this part".

The House recedes.

452. The House bill refers to "as it relates" when referring to individual child's achievement; the Senate amendment refers to "as the compact relates".

Legislative counsel.

453. The House bill, requires reasonable access to staff and observation of classroom activities"; the Senate amendment refers to "reasonable access to staff, opportunities to volunteer and participate in their child's class, and observation of classroom activities".

The House recedes.

454. The House bill places "shall" in each sentence in the text of "Building Capacity for Involvement"; the Senate amendment places one "shall" which refers to the other items listed, at the end of the beginning paragraph.

The Senate recedes.

455. The House bill refers to "the State's content and performance standards"; the Senate amendment refers to "the State's content standards and State student performance standards".

The House recedes.

456. The House bill, but not the Senate amendment, includes "opportunity-to-learn standards".

The Senate recedes with an amendment striking "opportunity to learn standards" and inserting in lieu thereof "the provisions of section 1111 of the State plan."

457. The House bill refers to "a child's progress"; the Senate amendment refers to "their children's progress".

Legislative counsel.

458. The Senate amendment, but not the House bill, includes "as well as information on how parents can participate in decisions relating to the education of their children".

The House recedes with an amendment adding "shall" before "provide".

459. Both the House bill and Senate amendment includes a list of requirements for each school and local educational agency for building capacity for involvement. A number of the activities are similar in concept, but uses different language. The House bill includes materials and training including coordinating necessary literacy training and training to enable parents to work more effectively with teachers, schools and the school system; and in the case of a school using funds under this part to operate a preschool program, opportunities for parents to learn about child development and child rearing issues beginning at birth.

The Senate recedes.

The House bill further includes activities for building capacity for involvement such as educating teachers, principals and other staff in the value of contributions to parents; developing appropriate roles for community-based organizations and businesses in parent involvement activities; requiring that information be sent to the parents' homes; involving parents in the development of training for educators; may provide necessary literacy training; may pay reasonable and necessary expenses associated with local parental involvement activities; may coordinate and integrate parent involvement programs and activities with other programs; training and supporting parents to involve other parents; arranging meetings at a variety of times in order to maximize the attendance of parents; conducting in-home conferences with parents; and may adopt and implement model approaches to improving parental involvement such as Even Start.

The House recedes with an amendment striking "with" and inserting "such as" before "Head Start."

The Senate amendment also includes a list of activities for building capacity for involvement. The Senate amendment provides for materials and training, such as necessary literacy training that is not otherwise available from other sources to help parents work with their children; with the assistance of parents, educating educators about the value and utility of contributions of parents; coordinating and integrating parental involvement with other Federal programs, to the extent feasible; as appropriate and feasible, other activities, such as parent resource centers; and providing other reasonable support for parental involvement activities as parents may request.

The Senate recedes with an amendment combining the provisions and inserting "Part A before Title II of this Act."

460. The House bill refers to "ensure that parents of limited-English proficient children or disabled children be afforded the same access to parental involvement opportunities as their children are afforded to other programs funded under this part, including the provision of information in a language and form that the parents of such children can understand."; the Senate amendment refers to "shall provide full opportunities for the participation of parents with limited English proficiency or with disabilities, including providing information and school profiles in a language and form such parents understand."

The House recedes.

461. The Senate amendment, but not the House bill, includes a Parental Information and Resource Centers provision which requires specific information for parents from the Centers in States where such Centers have been established.

The House recedes.

Professional Development

462. The House bill requires, in a separate section, LEAs receiving Title I assistance to provide high-quality professional development that will improve the teaching of the core academic subjects to enable all children to meet the State's performance standards, and requires that the professional development activities be designed by teachers and other school staff in title I schools; the Senate amendment requires schools receiving assistance to set aside 10% of their Title I funds for professional development (see notes 219 and 307) and (1) requires, under the schoolwide program section, schoolwide schools to provide ongoing professional development for teachers, pupil services personnel, parents, principals, and other staff to enable all children in the school to meet the State performance standards, and requires that the activities be jointly developed by the principals, teachers, and other school staff of each school, and (2) requires, under the targeted assistance program section, that targeted assistance schools provide opportunities for ongoing professional development to the extent the school determines feasible with Title I resources and other resources for administrators, teachers, and other school staff who work with participating children in targeted assistance programs or in the regular education program. (See notes 235 and 291).

The Senate recedes on having a separate section, and on the 10% set-aside, and with an amendment adding "principals" before "teachers" in paragraph (2), striking "sustained" in paragraph (1).

463. The House bill, but not the Senate amendment, requires that professional development activities support instructional practices that are geared to State content standards.

The Senate recedes.

464. The House bill, but not the Senate amendment, requires that professional development activities create a school environment conducive to high achievement in the core academic subjects, and support LEA plans, schoolwide plans, and targeted assistance plans.

The Senate recedes with an amendment striking reference to section 1114 (targeted assistance). The Senate recedes with an amendment striking "recent"; inserting "where possible" after "learning"; striking "are of sufficient intensity and duration to" and inserting "are designed to"; changing "are part of the everyday activities of the school and creates and orientation toward" to "contribute to"; and changing "assist" to "provide technical assistance".

465. The House bill, but not the Senate amendment, requires that professional development activities draw on resources available under this part, Goals 2000, and Title II.

The Senate recedes.

466. The House bill, but not the Senate amendment, requires that professional development activities, where appropriate, include strategies for developing curricula and teaching methods that integrate academic and vocational instruction.

The Senate recedes with an amendment "where determined appropriated by the local educational agency".

467. The House bill, but not the Senate amendment, requires that professional development activities include strategies for identifying and eliminating gender and racial bias in instructional materials, methods, and practices.

The Senate recedes.

468. The House bill, but not the Senate amendment, allows professional development activities to include instruction in the use of assessments.

The Senate recedes.

469. The House bill, but not the Senate amendment, allows professional development activities to include instruction in the ways that teachers, principals, and school administrators may work more effectively with parents.

The Senate recedes with an amendment adding "pupil services personnel".

470. The House bill, but not the Senate amendment, allows professional development activities to include the forming of partnerships with institutions of higher education to establish school-based teacher training programs for prospective teachers and novices to work with experienced teachers and faculty.

The Senate recedes.

471. The House bill, but not the Senate amendment, allows professional development activities to include instruction in the use of technology

The Senate recedes.

472. The House bill, but not the Senate amendment, allows professional development activities to include the creation of career ladder programs for paraprofessionals.

The Senate recedes.

473. The House bill, but not the Senate amendment, allows professional development activities to include instruction in ways to teach special needs children.

The Senate recedes.

474. The House bill, but not the Senate amendment, allows professional development activities to include instruction in gender-equitable education methods, techniques, and practices.

The Senate recedes.

475. The House bill, but not the Senate amendment, allows professional development activities to include joint professional development activities between Title I and Head Start, Even Start, or State-run preschool program personnel.

The Senate recedes.

476. The House bill, but not the Senate amendment, allows professional development activities to include instruction in experiential-based teaching methods such as service learning.

The Senate recedes.

477. The House bill, but not the Senate amendment, requires programs to be designed so that all school staff in schoolwide program schools can participate in the professional development activities, or so that all staff in targeted assistance schools may participate in professional development activities if their participation will result in better addressing the needs of Title I students.

The Senate recedes with an amendment changing the heading to "PROGRAM PARTICIPATION" and inserting "Local educational agencies are encouraged to design program so that".

478. The House bill, but not the Senate amendment, allows parents to participate in professional development activities if the school determines that such participation would be appropriate.

The Senate recedes.

479. The House bill, but not the Senate amendment, allows LEAs to form consortia to carry out the professional development activities under this part, and lists the entities with whom LEAs can form consortia.

The Senate recedes.

480. The House bill, but not the Senate amendment, allows knowledge of effective teaching strategies gained through Title I professional development activities to be shared with teachers who are not participating in schoolwide or targeted assistance programs.

The Senate recedes with an amendment striking "schoolwide or".

481. The House bill, but not the Senate amendment, allows Title I funds to be combined with Goals 2000 and Eisenhower funds to carry out professional development activities.

The Senate recedes.

482. The House bill, but not the Senate amendment, requires the SEA to review LEA plans to determine if the plans meet certain criteria, and requires the SEA to provide assistance to LEAs whose plans do not meet the criteria to enable them to make progress toward the inclusion of the elements in the LEA professional development plan.

The Senate recedes with an amendment striking "recent" in (B); inserting "where possible" after "learning"; striking "are of sufficient intensity and duration to" and inserting "are designed to"; changing "are part of the everyday activities of the school and creates and orientation toward" to "contribute to"; and changing "assist" to "provide technical assistance".

483. The House bill requires the LEA to meet certain requirements with regard to instructional aides; the Senate amendment requires schoolwide programs to meet requirements with regard to instructional aides.

The Senate recedes.

484. The House bill refers to "high school diploma, a General Education Development certificate"; the Senate amendment refers to "secondary school diploma or its recognized equivalent".

The Senate recedes.

485. The House bill refers to "earn either"; the Senate amendment refers to "earn such diploma or equivalent".

The Senate recedes.

486. The House bill refers to "employment"; the Senate amendment refers to "such employment".

The Senate recedes.

487. The House bill allows a LEA to employ an instructional aide who does not have a high school diploma or GED if the aide possesses proficiency in a language other than English that is needed to enhance the participation of children in Title I programs; the Senate amendment allows schoolwide program schools to employ an instruction aide who does not have a secondary diploma or its equivalent if the aide possesses proficiency in a language other than English that is needed to enhance the participation of children in Title I programs.

The Senate recedes.

488. The House bill requires the LEA to meet certain requirements with regard to instructional aides; the Senate amendment, under the targeted assistance program provisions, requires a program which employs instructional aides to ensure that such aides meet certain requirements.

The Senate recedes.

489. The House bill refers to "high school diploma, a General Education Development certificate"; the Senate amendment refers to "secondary school diploma or its recognized equivalent".

The Senate recedes.

490. The House bill refers to "earn either"; the Senate amendment refers to "earn such diploma or equivalent".

The Senate recedes.

491. The House bill refers to "employment"; the Senate amendment refers to "such employment".

The Senate recedes.

492. The House bill allows an LEA to employ an instructional aide who does not have a high school diploma or GED if the aide possesses proficiency in a language other than English that is needed to enhance the participation of children in Title I programs; the Senate amendment allows targeted assistance programs, to employ an instructional aide who does not have a secondary diploma or its equivalent if the aide possesses proficiency in a language other than English that is needed to enhance the participation of children in Title I programs.

The Senate recedes.

493. The House bill, but not the Senate amendment, requires LEAs receiving Title I assistance to include instructional aides in professional development activities.

The Senate recedes with an amendment inserting "where feasible".

Participation of Children Enrolled in Private Schools

494. Both the House bill and Senate amendment provide for services to eligible children enrolled in private schools with a minor drafting difference and paragraph headings in the Senate amendment.

Legislative counsel.

495. The House bill, but not the Senate amendment, lists examples of special services to eligible children enrolled in private school such as dual enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment.

The Senate recedes.

496. The Senate amendment, but not the House bill, provides that local educational agencies shall consult with private school officials during the design and development of the agency's program, lists examples of topics for consultation, provides for the timing of such consultation and that the consultation shall include a discussion of service delivery mechanisms.

The House recedes.

497. The Senate amendment, but not the House bill, includes paragraph headings in the subsection dealing with public control of funds.

Legislative counsel.

498. The House bill refers to property purchased with "such funds"; the Senate amendment refers to property purchased with "those funds".

Legislative counsel.

499. The Senate amendment, but not the House bill, provides that private school officials provide local educational agencies with the verifiable documentation necessary to determine proportionate allocations.

The Senate recedes with an amendment inserting a new (E) in subsection (b) "what is the size and scope of the equitable services to be provided to the eligible private school children, and what is the proportionate allocation amount under subsection (a)(4) on which such services will be based."

500. Both the House bill and the Senate amendment require the Secretary to arrange for services for private school children of an LEA fails to provide such services but the reference to the requirements to do this are different.

Legislative counsel.

501. The Senate amendment, but not the House bill, includes a paragraph heading.

Legislative counsel.

502. Both the House bill and Senate amendment provide for payments for capital expenses with almost identical language, but the Senate amendment also has paragraph headings, and refers to funds "under this subsection" and applications "for assistance under this subsection" in (2)(B).

Legislative counsel.

503. The House bill refers to "the term capital expenses is limited to"; the Senate amendment refers to "the term capital expenses means" and includes a paragraph heading.

Legislative counsel.

504. The House bill refers to "including but not limited to"; the Senate amendment refers to "including".

Legislative counsel.

Fiscal Requirements

505. While both bills have the same provisions regarding maintenance of fiscal effort in general, the House bill also requires maintenance of such effort specifically with respect to professional development activities.

The House recedes.

506. The Senate amendment, but not the House bill, includes a paragraph heading entitled "In General".

507. The Senate amendment, but not the House bill, includes a paragraph heading entitled "Special Rule".

Legislative counsel.

508. The House bill refers to "its compliance"; the Senate amendment refers to "such agency's compliance".

Legislative counsel.

509. The Senate amendment, but not the House bill, includes a paragraph heading entitled "In General".

Legislative counsel.

510. The House bill refers to "its schools"; the Senate amendment refers to "such agency's schools".

Legislative counsel.

511. The House bill refers to "only if it will use"; the Senate amendment refers to "only if such agency will use".

Legislative counsel.

512. The House bill establishes new tests to determine whether local educational agencies meet the comparability of services requirement. Expenditures per pupil from State and local funds, and "basic" instructional salaries (excluding salary differentials based on years of employment) must be at least as high in schools participating in title I as for nonparticipating schools. The Senate bill contains comparability tests similar to those of current law.

The House recedes.

513. Both bills allow for exclusion of unpredictable changes in enrollment or personnel assignments occurring after the beginning of a school year in applying comparability standards. The Senate bill also states that such changes shall not be included in comparability determinations.

Legislative counsel.

The Senate recedes.

514. The Senate amendment, but not the House bill, includes a paragraph heading entitled "Procedures and Records".

Legislative counsel.

515.

Explanatory Note: Both bills have similar language requiring local educational agencies to establish procedures and maintain records as necessary for comparability determinations, excluding local educational agencies with only 1 school per grade span, and allowing for exclusion of State and local funds for bilingual education and the excess costs of serving children with disabilities.

516. The House bill refers to "its compliance"; the Senate amendment refers to "such agency's compliance".

Legislative counsel.

517. The Senate amendment, but not the House bill, includes a paragraph heading entitled "Inapplicability".

Legislative counsel.

518. The Senate amendment, but not the House bill, include a paragraph heading entitled "Compliance".

Legislative counsel.

519. The House bill refers to "excess costs"; the Senate amendment refers to "excessive costs" and "as determined by the local educational agency".

The House recedes with an amendment striking "excessive" and inserting "excess".

Grants for the Outlying Areas and the Secretary of the Interior

520. Both bills provide for the reservation of 1% of title I, part A funds for grants to outlying areas plus the Department of the Interior (for Native American pupils).

Legislative counsel.

521. The Senate amendment, but not the House bill, includes a paragraph heading entitled "In General".

Legislative counsel.

522. The Senate amendment, but not the House bill, provides that all funds reserved for the outlying areas (including the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and—until adoption of its Compact of Free Association—Palau) be distributed in accordance with a competition conducted by the Pacific Regional Educational Laboratory in Hawaii. Five percent of the total amount reserved for the outlying areas may be used to pay the Laboratory's administrative costs. Currently, the Secretary of Education determines the distribution of funds among the outlying areas, except for a portion of these funds (equal to the share allocated in FY 1989 to the Federated States of Micronesia and the Republic of the Marshall Islands) that is distributed through a competition conducted by the Pacific Regional Educational Laboratory.

The House recedes with an amendment that allows the Freely Associated State to be eligible to compete for competitive grants under Title I, authorizes $5 million as a block grant to PREL for the Freely Associated States to compete for these funds, and allows the Freely Associated States to compete for all discretionary grants under this Act.

Allocations to States

523. The House bill provides that an annual share of title I, part A appropriations equal to the FY 1994 amount be allocated according to the basic and concentration grant formulas (sec. 1124 and 1124A). Any additional appropriations will be allocated under the new, targeted grants formula (sec. 1125).

The Senate recedes with an amendment that provides that in Fiscal Year 1995, Title I funds will be distributed under the same formula as in current law. In Fiscal Year 1996, funds would be distributed under a modified form of the House formula. Appropriations equal to the Fiscal Year 1995 level would be distributed under current law, except that local educational agencies with 2 percent poverty or less would receive no funds. Funds in excess of the Fiscal Year 1995 level would be distributed under a new targeted, weighted formula. Where poor children living in high concentrations of poverty receive more funds, a local educational agency with poverty rates of 5 percent would receive no funds.

A small state minimum that is a compromise between the House and Senate provisions applies to both parts of the formula and to the formula for distributing Fiscal Year 1995 funds. Additionally, the formula provides for the use of updated poverty estimates prepared by the Bureau of the Census. Poverty estimates would be updated in Fiscal Year 1997 (school year 1997–98) for counties, and updated in Fiscal Year 1999 for local educational agencies.

The conference agreement also includes a separate authorization of $200 million to provide additional funds to improve Title I schools that distributes funds to all states based on a measure of their effort and equity.

524. If appropriations are insufficient to pay the full authorized amounts for part A, then grants will be ratably reduced to the level of available appropriations. However, no local educational agency is to receive less than 85% of its previous year grant (if any) under the basic and targeted grant formulas. There is no hold harmless for concentration grants.

The Senate recedes with an amendment on all of the notes concerning the title I formula (notes 504–557).

Basic Grants to Local Educational Agencies

525. Except for Puerto Rico, the maximum basic grant for a local educational agency is equal to the number of poor and other children counted in the formula multiplied by 40% of the State average expenditure per pupil, with bounds of 80% and 120% of the national average applied to the latter.

526. While all basic grants will be calculated by the U.S. Department of Education using data on poor school age children compiled by the Census Bureau, the House bill authorizes State education agencies to use alternative population data (i.e., other than the data on poor school age children compiled by the Census Bureau) to allocate basic grants among the State's smaller local educational agencies only (those serving areas with a total population of 20,000 or fewer persons). Local educational agencies dissatisfied with such determinations by their State education agency may appeal them to the U.S. Secretary of Education.

527. In cases where the Census Bureau has not compiled data on poor school age children for local educational agencies (applies at this point to 8 counties in California), basic grants will be calculated by the U.S. Department of Education by county, with the State education agency responsible for suballocation to local educational agencies in such counties.

528. The basic grant to Puerto Rico is calculated in the same manner as those for local educational agencies in the 50 States plus the District of Columbia, except that the minimum expenditure factor for the States plus D.C. (.4 times 80% of the national average expenditure per pupil) is further multiplied by the ratio of the Puerto Rico average expenditure per pupil divided by the lowest average expenditure per pupil for any of the States plus D.C.

529. In order to be eligible for a basic grant, a local educational agency must have at least 10 poor and other children counted in the formula.

530. The children to be counted for basic grants under the House bill include children aged 5–17 years: (a) in poor families; (b) in families receiving Aid to Families with Dependent Children (AFDC) payments above the poverty level for a family of 4; plus (c) in institutions for the neglected and delinquent, in foster homes, or attending community day programs, and who are not counted for State agency grants for the neglected and delinquent (title I, part D, subpart 3). Except for those in community day programs, these are the same groups of children counted under current law.

531. In making basic grants, the Secretary will use data on the number of school age children in poor families compiled for local educational agencies by the Census Bureau. In cases where such data have not been compiled for local educational agencies, the Secretary will use county aggregate data.

532. In cases where 2 or more counties are completely contained within 1 local education agency (e.g., New York City, Hawaii, and possibly Williamsburg/James City county in Virginia), then each county portion of the local educational agency will be treated

as if it were a separate local educational agency for the calculation of basic grants.

533. If data on the number of poor school age children have been updated by the Census Bureau for local educational agencies, then the updated data must be used by the Secretary of Education to calculate basic grants.

534. Data on children in families receiving Aid to Families with Dependent Children payments above the poverty income level for a family of 4 will be obtained annually for local educational agencies from the Department of Health and Human Services.

535. The Census Bureau shall prepare special updates of the number of children in poor families for local educational agencies when requested by the Secretary of Education.

536. In general, the minimum basic grant for all local educational agencies is the lesser of: (a) 0.25% of total grants; (b) 150% of the State's previous year basic grant; or (c) 150% of the national average basic grant per child counted in the basic grant formula in the previous year, multiplied by the State's total number of such children for that year. In addition, for fiscal years 1995 and 1996 only, no State may be reduced below the level of its FY 1993 basic grant as a result of applying the caps in (b) and (c) of the preceding sentence.

Concentration Grants to Local Educational Agencies

537. Local educational agencies are eligible for concentration grants under the House bill if their number of children counted for basic grants in the previous fiscal year exceeds either: (a) 6,500 such children; or (b) 15% of their total school age population. Concentration grant eligibility is limited to the 50 States plus the District of Columbia.

538. The State minimum concentration grant is the lesser of: (a) 0.25% of total grants; (b) 150% of the State's previous year concentration grant; or (c) 150% of the national average concentration grant per child counted for such grants for the year for which grants are being calculated, multiplied by the State's total number of children counted for concentration grants in that year. There is also an "absolute" minimum State concentration grant of $250,000. (This has been increased to $340,000 under appropriations legislation of recent years.)

539. The number of children counted in allocating concentration grants is the total number counted for basic grants in the preceding fiscal year if a local educational agency meets the 15% criterion of eligibility, but only the number counted for basic grants in excess of 6,500 children if only the 6,500 criterion is met. This number of children is multiplied by an expenditure factor of the local educational agency's maximum basic grant for the same (not previous) year, divided by its number of children counted for basic grants (which is simply equal to the basic grant expenditure factor for the same fiscal year).

540. While all concentration grants will initially be calculated by the U.S. Department of Education using data on poor school age children compiled by the Census Bureau, the House bill authorizes State education agencies to use alternative population data (i.e., other than the data on poor school age children compiled by the Census Bureau) to allocate concentration grants among the State's smaller local educational agencies (those serving areas with a total population of 20,000 or fewer persons). Local educational agencies dissatisfied with such determinations by their State education agency may appeal them to the U.S. Secretary of Education.

541. In cases where the Census Bureau has not compiled data on poor school age children for local educational agencies (applies at this point to 8 counties in California), concentration grants will be calculated by the U.S. Department of Education by county, with the State education agency responsible for suballocation to local educational agencies in such counties.

542. Of the total amount appropriated for basic and concentration grants, 10% is reserved for concentration grants.

543. Grants will be ratably reduced, subject to the State minimum, if total appropriations are less than maximum authorized concentration grants.

Targeted Grants to Local Educational Agencies

544. To be eligible for targeted formula grants under the House bill, the number of children counted for basic grants in a local educational agency must be at least 10.

545. The maximum targeted grant for a local educational agency is its weighted count of children multiplied by its basic grant expenditure factor.

546. The number of children counted for targeted grants is the greater of two modified counts of the children counted for basic grants for a local educational agency. Local educational agency counts of poor and other formula children are weighted according to two scales, one based on the aggregate number of such children, and the other scale based on the percentage that basic grant formula children represent of a local educational agency's total school age population. For each LEA, the *greater* of the two weighted pupil counts—that based on numbers and that based on percentages—is used to calculate grants. The weights applied to different numbers of basic grant formula children for a local educational agency vary from 1 to 3, in 5 steps. The steps and weights are as follows:

PUPIL WEIGHTS ASSIGNED TO LOCAL EDUCATIONAL AGENCIES FOR TARGETED GRANTS UNDER THE HOUSE VERSION OF H.R. 6

School age child poverty rate for the local educational agency	Number of poor and other formula in the local educational agency	Weight assigned to poor and other formula pupils in the local educational agency
0–14.265%	0–575	1.0
14.266–21.553	576–1, 870	1.5
21.554–29.223	1,871–6,910	2.0
29.224–36.538	6,911–42,000	2.5
36.539 or more	more than 42,000	3.0

Each step on each of the two scales contains local educational agencies with approximately one-fifth of all school and age children. The weights are applied stepwise—i.e., each weight is applied only to the share of formula children in a county (local educational agency) falling within the indicated number or percentage range.

547. While all targeted grants will initially be calculated by the U.S. Department of Education using data on poor school age children complied by the Census Bureau, the House bill authorizes State education agencies to use alternative population data (i.e., other than the date on poor school age children complied by the Census Bureau) to allocate targeted grants among each State's smaller local educational agencies (those serving areas with a total population of 20,000 or fewer persons). Local educational agencies dissatisfied with such determinations by their State education agency may appeal them to the U.S. Secretary of Education.

548. In cases where the Census Bureau has not compiled data on poor school age children for local educational agencies (applies at this point to 8 counties in California), targeted grants will be calculated by the U.S. Department of Education by county, with the State education agency responsible for suballocation to local educational agencies in such counties.

549. The State minimum targeted grant is the *lesser* of: (a) 0.25% of all grants; (b) 150% of the national average targeted grant per (unweighted) child counted in the targeted grant formula in they ear for which grants are being calculated, multiplied by the State's total number of such (unweighted) children for that year.

Special Allocation Procedures.

550. If a local educational agency does not provide educational services to neglected or delinquent children who are counted in determining part A grants to that agency, the State education agency may reallocate part A grants based upon such children.

551. State education agencies may reallocate part A grants as appropriate when multiple local educational agencies serve the same area, or an agency provides educational services to children residing in a different local educational agency.

552. State education agencies may reallocate part A grants not used by the local educational agencies to which they were originally allocated.

Carryover and Waiver

553. In general, a local educational agency may carry over no more than 15% of its part A grant for use in the fiscal year after the grant was received (does not apply to local educational agencies receiving less than $50,000 per year). This limitation may be waived by a State education agency, but no more than once every three years for any particular local educational agency.

Allocations to States

554. The Senate bill provides that if appropriations are insufficient to pay maximum authorized part A grants, then allocations will be ratably reduced, subject to a State level hold harmless of 100% of FY 1994 basic plus concentration grants for FY 1995, 90% of previous year grants for FY 1996, and 85% of previous year grants for FY 1997 and beyond. There is also a hold harmless for local educational agencies (see sec. 1124).

Grants to States

555. State total grants will be calculated on the basis of local educational agencies if necessary population data are deemed to be satisfactory by the Secretary of Education. Otherwise, State total grants will be calculated on a county basis. In either case, State total grants will be allocated to local educational agencies through a separate process (in sec. 1124). [Note: All allocation estimates under the Senate bill have thus far used county, not local educational agency, population data to calculate State total grants.]

556. Maximum part A grants under the Senate bill are equal to a weighted count of children (by county or local educational agency) multiplied by the State expenditure factor, further multiplied by the State *effort* factor, and finally multiplied by the State *equalization* factor. The State expenditure factor is 40% of the State average expenditure per pupil, with bounds on the latter of 85% and 115% of the national average expenditure per pupil (rather than 80% and 120% under current law and the House bill).

557. The State effort factor under the Senate bill is based on a comparison of the State

average expenditure per pupil (as used in the title I expenditure factor) divided by the State personal income per capita, compared to the national average expenditure per pupil divided by the national personal income per capita. The resulting amount would be 1.0 for a State with effort at the national average. The State effort factors are adjusted to be no less than 0.95 nor more than 1.05. The effort factor for Puerto Rico is equal to the lowest factor for any of the States plus D.C. (0.95).

558. The equalization factor under the Senate bill is based upon a measure of variation in average expenditures per pupil among each State's local educational agencies called the coefficient of variation. This is a measure of the average disparity in expenditures per pupil among the local educational agencies of a State, and is expressed as a percentage of the State average expenditure per pupil. In the coefficient of variation calculations under the Senate bill, the expenditures per pupil are weighted to account for differences in the enrollment level of different local educational agencies, with an extra weight (1.4 vs. 1.0) applied to estimated counts of children from poor families. The equalization factor is equal to 1 minus the coefficient of variation, so the lower a State's coefficient of variation, the higher its equalization factor. There are no limits on the equalization factor itself, although there are limits on the effects of applying it for the first 3 years (see below).

559. If a State meets the expenditure disparity standard for equalization under the Impact Aid program regulations (currently Alaska, Kansas, and New Mexico), its coefficient of variation used to calculate the equalization factor is adjusted to be no more than .10.

560. Application of the equalization factor may not cause a State's total allocation to change by more than ± 2% for FY 1995, ± 4% for FY 1996, or ± 6% for FY 1997 compared to what the State would receive if there were no equalization factor. For FY 1997 and beyond, there is no limit on the effect of the equalization factor.

561. For Puerto Rico, the expenditure factor is the minimum applied to the 50 States plus D.C. (.4 times 85% of the national average expenditure per pupil) further multiplied by the ratio of the Puerto Rico average expenditure per pupil divided by the lowest average expenditure per pupil for any of the States plus D.C.

562. The minimum number of poor and neglected/delinquent children in a local educational agency or county to be eligible for a grant is 10.

563. The children to be counted for grants under the Senate bill include children aged 5–17 years: (a) in poor families; plus (b) in institutions for the neglected and delinquent, or in foster homes, and who are not counted for State agency grants for the neglected and delinquent (title I, part E, subpart 3). [The House bill also includes children in families receiving Aid to Families with Dependent Children payments above the poverty level for a family of four, plus children in community day programs.]

564. The number of children counted for grants under the Senate bill is the greater of two modified counts of the poor and neglected/delinquent school age children in a county (or, if the Secretary determines that satisfactory data are available, local educational agency). Counts of poor and other formula children are weighted according to two scales, one based on the aggregate number of such children, and the other scale based on the percentage that such children represent of the total school age population. For each LEA, the *greater* of the two weighted pupil counts—that based on numbers and that based on percentages—is used to calculate grants. The weights applied to different numbers of poor and other formula children vary from 1 to 1.4 on the percentage scale, and from 1 to 1.3 on the numbers scale, as follows:

WEIGHTS APPLIED TO FORMULA CHILD COUNTS FOR COUNTIES IN CALCULATING STATE ALLOCATIONS UNDER SENATE VERSION OF H.R. 6

County weight for poor and other formula children	Number range (i.e., number of poor and other formula children)	Percentage range (formula children as a percentage of total school age population)
1,000	0–1,917	0–12.2
1,075	1,918–5,938	
1,100		12.3–17.7
1,150	5,939–20,199	
1,200		17.8–22.8
1,225	20,200–77,999	
1,300	78,000+	22.9–29.7
1,400		29.8+

If grants are tabulated by local educational agency rather than by county, then the number and percentage ranges used for within-state grants under the Senate bill (see below) would be substituted for those above. The weights are applied stepwise—i.e., each weight is applied only to the share of formula children in a county (local educational agency) falling within the indicated number or percentage range. The maximum weighting factor for Puerto Rico is 1.15.

565. The State minimum grant under the Senate bill is the *greater* of: (a) 0.25% of total grants; or (b) 125% of the amount the State would receive if there were no minimum grant provision.

566. In general, no State may receive for FY 1995 (only) a grant that exceeds 115% of the amount the State would receive under the title I, chapter 1, part A formulas of current law, at the FY 1995 appropriations level.

Within State Allocations

567. After State grants are determined under the provisions of sec. 1123 of the Senate bill, the State totals are allocated to local educational agencies through a separate process. There is no direct connection between county or local educational agency calculations used to set State totals and the amount allocated to a county or local educational agency in this second stage of allocations.

A local educational agency is eligible for a grant only if its number of poor and neglected/delinquent children is greater than *both* 10 children *and* 5% of its total school age population.

568. If appropriations are not sufficient to pay maximum authorized grants, allocations to local educational agencies will be ratably reduced, subject to a hold harmless of 85% of the agency's previous year grant. The hold harmless is effective only for FY 1995 for local educational agencies that do not meet the 10 child or 5% thresholds, and only for FY 1995 and 1996 for other local educational agencies.

569. Under the Senate bill, up to 2% of State grants may be reserved by the State education agency for grants to schools in local educational agencies not eligible for grants. Such schools must serve attendance areas with a child poverty rate of at least 25% or the average percentage for the State, and are to be served in rank order, based on their poverty rate. Such funds must be used by a recipient local educational agency only to serve the designated school attendance areas. The amount of these funds, combined with any hold harmless amounts the local educational agency receives, may not exceed the State average grant per poor and neglected/delinquent child counted in the formula or, for FY 1995, the grant received under title I, chapter 1, part A. Local educational agencies may not modify their pupil assignment policies in order to increase a school's percentage of poor children and therefore its eligibility for this assistance.

570. As with the formula for determining State total grants, the children counted in making grants to local educational agencies include school age children in poor families plus neglected, delinquent, and foster children not counted under title I, part E, subpart 3 (State agency program for the neglected and delinquent).

571. In making allocations to local educational agencies, a State may use one of three data sources: (a) data compiled by the Census Bureau; (b) the sum of (all) school age children in families receiving Aid to Families with Dependent Children (AFDC) payments plus one-third of the number of limited English proficient school age children; or (c) data using other poverty criteria, approved by the Secretary, and equivalent in size to the census count of children from poor families plus neglected/delinquent children.

572. In allocating funds among a State's local educational agencies that meet the 5%/10 child threshold, each agency's count of poor and other formula children is to be reduced by an amount equal to 1% of the LEA's *total* school-age population.

573. In addition to the 1% absorption factor, the Senate bill provides for allocation within States among eligible local educational agencies on the basis of weighted counts of poor and other children counted in the intrastate formula. The number and percentage ranges and steps are the same as those used for national allocation of targeted grants under the House bill, except that the maximum weights are 1.6 for percentages and 1.4 for numbers of children in the local educational agency counted under the formula. These weights are also applied stepwise—i.e., each weight is applied only to the share of formula children in a local educational agency falling within the indicated number or percentage range. The greater of the two weighted counts for each local educational agency—that based on percentages and that based on numbers—is used to allocate part A funds within States.

574. State education agencies may reallocate part A grants as appropriate when multiple local educational agencies serve the same area, or an agency provides educational services to children residing in a different local educational agency.

575. If a local educational agency does not provide educational services to neglected or delinquent children who are counted in determining part A grants to that agency, the State education agency may reallocate part A grants based upon such children.

576. The Senate bill provides that a local educational agency may reserve up to 2% of its part A grant to serve children in schools not otherwise eligible, as long as the school attendance areas are within 2 rank orders of the lowest poverty eligible school.

Presidential Awards Program

577. The House bill, but not the Senate amendment, allows the Secretary to develop a Presidential awards program that will recognize the person or corporation producing the best education game of the year.

The Senate recedes with an amendment making the Presidential Awards program an allowable activity under the Fund for Innovation in Education.

TITLE I—PART E (HOUSE)/PART F (SENATE)

578. The part heading in the House bill, but not the Senate amendment, reflects the House bill's inclusion of section 1503, "Innovative elementary school transition projects."

Legislative counsel.

579. Technical difference. (The Senate amendment, but not the House bill, adds the word "assisted" after "programs.")

Legislative counsel.

580. The House bill refers to the "ongoing Chapter 1 Longitudinal Study under subsection (b) of this section." The Senate amendment refers to the "ongoing Chapter 1 Longitudinal Study under subsection (c) of this section."

Legislative counsel.

581. Technical difference. (The Senate amendment, but not the House bill, begins subsection (a)(2) with the heading, "EXAMINATION.")

Legislative counsel.

582. The Senate amendment, but not the House bill, adds the word "challenging" before "State content standards."

The House recedes.

584. The House bill refers to the "specific purposes set out in section 1001(d) of this title to achieve this goal, including—." The Senate amendment refers to the "purpose set forth in section 1001(d) to achieve the goal described in paragraph (1), including—."

Legislative counsel.

585. The House bill refers to "high standards for all children" while the Senate amendment refers to "challenging State content standards and challenging State student performance standards for all children served under this title..."

The House recedes.

586. Regarding the goal that students meet standards, the House states, "...schools to help children reach them" while the Senate amendment states, "...schools to help children reach such standards."

Legislative counsel.

587. The Senate amendment, but not the House bill, adds the words "served under this title" after "providing children."

The House recedes.

588. Technical difference. (The Senate amendment, but not the House bill, adds the word "such" after "instructional time that.")

Legislative counsel.

589. The House bill refers to "access of all children to effective instructional strategies and challenging academic content" while the Senate amendment refers to "access for all children served under this title to effective instructional strategies and challenging academic content."

The House recedes.

590. The House bill, but not the Senate amendment, includes the requirement that the Assessment examine the use of "any of the voluntary model State opportunity-to-learn standards that may have been implemented and whether they are useful in improving learning."

The Senate recedes with the following amendment:

"(v) the utilization and usefulness of opportunity to learn standards or strategies in improving learning in schools receiving assistance under this part;"

591. Technical difference. (The Senate amendment, but not the House bill, adds the word "provided" after "coordinating services.")

Legislative counsel.

592. Technical difference. (The Senate amendment, but not the House bill, adds the words "and pupil" after "other educational")

Legislative counsel.

593. The Senate amendment, but not the House bill, adds the words "of children served under this title" after "parents."

The House recedes.

594. The House bill, but not the Senate amendment, adds the words, "including the provision of family literacy services."

The Senate recedes with an amendment striking "including" and inserting "such as".

595. Technical difference. (The Senate amendment, but not the House bill, begins subsection (a)(3) with the heading, "NAEP INFORMATION.")

Legislative counsel.

596. The Senate amendment directs the Secretary, where feasible, to use NAEP information in carrying out the national assessment. The House bill directs the Secretary to use information from a variety of sources, including NAEP, state evaluations and research studies.

The Senate recedes.

597. The House bill states that "The Secretary shall submit a biennial report summarizing the cumulative findings to date of the assessment to the President and the appropriate committees of Congress. The Senate amendment states, "INTERIM AND FINAL REPORTS.—The Secretary shall submit an interim report summarizing the preliminary findings of the assessment to the President and the appropriate committees of the Congress and a final report of the findings of the assessment by January 1, 1998."

The House recedes.

598. The Senate amendment, but not the House bill, organizes the subsection into two paragraphs, and entitles the first one "IN GENERAL."

Legislative counsel.

599. The House bill, but not the Senate amendment, directs the Secretary to report no later than December 31, 1997 to the House Committee on Education and Labor and to the Senate Committee on Labor and Human Resources on how schoolwide programs are meeting the needs of children from migratory families.

The Senate recedes.

600. The Senate amendment, but not the House bill, directs the Secretary, at a minimum to collect trend information on the effect of Title I programs. This data is to complement the data collected under subsections (a) and (c).

The House recedes.

601. The House bill refers to subsection (c) as "NATIONAL EVALUATION OF TITLE I" while the Senate amendment refers to the subsection as "NATIONAL LONGITUDINAL STUDY."

The Senate recedes.

602. Technical difference. (The Senate amendment, but not the House bill, adds the word "assisted" after "program.")

Legislative counsel.

603. Technical difference. (The Senate amendment, but not the House bill, adds the word "the" before "Congress.")

Legislative counsel.

604. The Senate amendment, but not the House bill, adds the words "short- and long-term" before "effectiveness."

The House recedes.

605. Technical difference. (The Senate amendment, but not the House bill, adds the word "to" before "provide.")

Legislative counsel.

606. The Senate amendment, but not the House bill, includes, ". . . in enabling students to meet high State content standards and State student performance standards, graduate from secondary school, and make successful transitions to postsecondary education and work" following "program's effectiveness."

The House recedes.

607. The House bill states "tracking cohorts of students" while the Senate amendment states "that tracks cohorts of students within schools of differing poverty concentrations . . .")

The House recedes.

608. The Senate amendment, but not the House bill, requires that the evaluation be consistent with measuring the achievement of students relative to high content standards and State student performance standards.

The Senate recedes.

609. The Senate amendment, but not the House bill, requires that, if sufficient funds are available, the evaluation shall provide information on students with disabilities.

The House recedes.

610. The House bill refers to the "information from this evaluation." The Senate amendment refers to the "results of the evaluation described in paragraph (1) . . ."

Legislative counsel.

611. Technical difference. (The House bill states "this" after "data from" while the Senate amendment states "such" after "data from.")

Legislative counsel.

612. The House bill refers to "that assessment," after "frequently as" while the Senate amendment states "reports are made under subsection (a)(4)" following "frequently as."

Legislative counsel.

613. The House bill, but not the Senate amendment, imposes specific requirements regarding the assessment of progress of children in the early grades, for the National Assessment and the National Evaluation. Specifically, the House bill states that (1) students in grades 1, kindergarten and pre-kindergarten shall not be assessed on the basis of outcome measures such as content and performance standards; (2) that assessments of children in grade 2 shall utilize matrix sampling and be performance-based; and (3) that "any data regarding children in grade 2 shall—(A) be collected at multiple points in time; (B) not be used to stigmatize, label or place any child; and (C) be collected in multiple domains."

The House recedes. It is the intent of the Managers that, when the Secretary conducts the National Assessment of Title I and the National Evaluation of Title I, that the progress of students in grade 1, kindergarten, and prekindergarten shall not be assessed on the basis of outcome measures such as content and performance standards. When conducting the Assessment and the Evaluation, it is the Managers intent that any testing of children in grade 2 utilize matrix sampling and be performance based. Also, the Managers intend that any data collected regarding children in grade 2 shall be collected at multiple points in time, not be used to stigmatize, label, or place any child, and be collected in multiple domains.

614. The Senate amendment, but not the House bill, imposes a more general requirement that the Secretary use developmentally appropriate measures to assess student performance and progress.

The House recedes.

615. The House bill, but not the Senate amendment, requires the Secretary, through OERI, to conduct a study to identify and describe common barriers to effective parental

involvement in the education of participating children; and successful local policies and programs which improve parental involvement and the performance of participating children. The House bill requires that the study be completed by December 31, 1995 and be reported to Congressional oversight committees, and that findings relative to successful local policies be disseminated to LEAs.

The Senate recedes with an amendment establishing the completion date of the study as December 31, 1996.

616. The Senate amendment, but not the House bill, requires the Secretary to conduct a study to (1) determine whether a feasible method exists for producing reliable estimates, between decennial census counts, of the number of school-aged children living in poverty by State in each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and (2) use such a method, if one exists, to provide the Congress with estimates.

The Senate recedes.

617. Technical difference. (The Senate amendment, but not the House bill, begins subsection (a)(1) with the heading, "IN GENERAL.—")

Legislative counsel.

618. The House bill refers to "funds appropriated for any fiscal year under section 1002(7)(B)" while the Senate amendment refers to "funds appropriated for any fiscal year under section 1002(g)(2)."

Legislative counsel.

619. The House bill, but not the Senate amendment, includes "public/private partnerships involving business and industry organizations" as eligible bodies.

The Senate recedes.

620. Technical difference. (The House bill uses the word "bodies" after "consortia of such" while the Senate amendment uses the word "entities" after "consortia of such.")

Legislative counsel.

621. The House bill refers to "challenging state standards." The Senate amendment refers to "challenging State content standards" and "challenging State student performance standards." The House bill refers to providing children an opportunity to reach "high" standards. The Senate amendment refers to providing them an opportunity to meet "challenging State content" and "challenging State student performance standards."

The House recedes.

622. Technical difference. (The Senate amendment refers to "children;" and the House bill refers to "them.")

Legislative counsel.

623. The Senate amendment, but not the House bill, adds "coordinated pupil services programs" as a promising strategy.

The Senate recedes.

624. The House bill, but not the Senate amendment, includes "such as mentoring programs" after "other social services."

The Senate recedes.

625. Technical difference. (The Senate amendment, but not the House bill, hyphenates "limited-English.")

Legislative counsel.

626. The Senate amendment, but not the House bill, adds "programs which are especially effective in recruiting, inducting and retaining highly qualified teachers for service in schools with low student achievement" as a promising strategy.

The House recedes.

627. The House bill, but not the Senate amendment, includes "secondary schools" among the entities with which partnerships are developed.

The House recedes.

628. Technical difference. (The Senate amendment, but not the House bill, begins subsection (a)(2) with the heading, "EVALUATION—.")

Legislative counsel.

629. Technical difference. (The House bill refers to "funds appropriated for any fiscal year under section 1002(7)(B)" while the Senate amendment refers to "funds appropriated for any fiscal year under section 1002(g)(2).")

Legislative counsel.

630. Technical difference. (The House bill refers to "schools supported under this title" while the Senate amendment refers to "schools assisted under this title.")

Legislative counsel.

631. The House bill, but not the Senate amendment, includes a third section under this Part, "Innovative elementary school transition projects," to "provide financial assistance to support innovative transition projects in elementary schools."

The Senate recedes with an amendment merging the House and Senate transition provisions.

613. The House bill states that "from 70 percent of the amount reserved to carry out this section (not less than $10,000,000 of the amount appropriated under section 1002(7)(B)), the Secretary shall make grants to local educational agencies for the purpose of supporting projects, for children from low-income families who previously attended Head Start, Even Start, or similar preschool programs, which provide educational and other services in kindergarten and early elementary grades."

614. The House bill states that "From 30 percent of the amount reserved under subsection (a), the Secretary shall make grants to public and private nonprofit agencies, institutions, and organizations" to provide technical assistance and training in the implementation of model transition and instructional approaches.

Federal Regulations

615. The Senate amendment requires the Secretary to convene regional meetings prior to publishing proposed regulations. The House bill requires the Secretary to obtain advice and recommendations, which may be obtained through such mechanisms as regional meetings and electronic exchanges of information.

The Senate recedes with an amendment allowing the Secretary to conduct regional meetings. While the Managers are not requiring the Department to conduct regional meetings, the Managers believe that the information gained through such meetings greatly assists the Department as it drafts regulations. The Managers encourage the Department to obtain such information and feedback through other mechanisms such as working through the various national education organizations to conduct regional meetings.

616. The House bill requires the Secretary to establish a negotiated rulemaking process. The Senate amendment requires a modified negotiated rulemaking process as a demonstration.

The Senate recedes.

617. The House bill, but not the Senate amendment, specifies four issues that must be addressed in negotiated rulemaking.

The Senate recedes with an amendment limiting the mandatory issues to be negotiated to schoolwide programs and standards and assessments. Secretary may add other issues.

618. The Senate amendment requires the Secretary to prepare draft regulations for negotiated rulemaking. The House bill requires the Secretary to prepare a draft of proposed policy options.

The Senate recedes.

619. The House bill, but not the Senate amendment, requires the Secretary to submit draft policy options to representatives participating in negotiated rulemaking not less than 45 days prior to the first meeting.

The Senate recedes with an amendment changing "45 days" to "15 days."

620. The House bill, but not the Senate amendment, specifies that final regulations shall be issued not later than the 240-day period required by section 437 (current section 431) of the General Education Provisions Act. [Note: If House provision is retained, need to conform the citation and the number of days to the final GEPA provision in Title II of the bill.]

The Senate recedes with an amendment requiring that the regulatory negotiations process be conducted in a timely manner to ensure that final regulations are issued by the Secretary no later than July 1, 1995.

621. The House bill requires that the negotiated rulemaking process follow the Negotiated Rulemaking Act of 1990. The Senate amendment requires the process to follow the guidance provided by the Administrative Conference of the United States in Recommendation 82-4. (Both waive application of the Federal Advisory Committee Act.)

The Senate recedes.

622. The House bill, but not the Senate amendment, prohibits the Secretary from expending funds available for Federal evaluations, demonstrations, and elementary school transition projects until final regulations under Part A are published.

The House recedes.

622A. The House bill refers to "under this part" and "a particular"; the Senate amendment refers to "under this title" and "any 1".

The Senate recedes.

Coordination of Federal, State, and Local Administration

623. The House bill, but not the Senate amendment, requires the Secretary to prepare and distribute a program assistance manual.

The Senate recedes.

624. The House bill, but not the Senate amendment, requires the Secretary to respond with written guidance not more than 90 days after receiving any written request from a State or local educational agency regarding a policy, question, or interpretation under Title I.

The Senate recedes.

625. The House bill, but not the Senate amendment, requires each State educational agency to create a committee of practitioners to advise the State in carrying out its responsibilities under Title I, including reviewing, prior to publication, any proposed or final State rule or regulation.

The Senate recedes with an amendment changing "counselors" to "Pupil services personnel".

626. The House bill authorizes a State educational agency to reserve for performance of its duties under Title I the greater of: (1) 1% of its total Title I allocation (excluding Even Start and any funds received for Federal evaluation, demonstration, or transition projects); or (2) $375,000. The Senate amendment authorizes a State educational agency to reserve for FYs 1995 and 1996 the greater of: (1) 1% of its total Title I allocation (excluding Even Start and any funds received for Federal evaluation of demonstration); or (2) $425,000. Beginning in FY 1997, the Secretary may authorize a State educational

agency to reserve: (1) not more than 1.5% nor less than 1% of such funds; of (2) not more than $565,000 nor less than $425,000 (whichever is greater) based on State reports of administrative expenditures under Title I and the Secretary's studies of State educational agency, local educational agency, and school-level administrative expenses under new section 14010(b) of the ESEA.

The Senate recedes with an amendment establishing the small state minimum grant at $400,000 for small states and $25,000 for outlying areas.

627. The Senate amendment authorizes a State to reserve funds to carry out its duties with respect to school improvement. The House bill (Section 1002(6)) contains a specific authorization of appropriations for school improvement.

The House recedes with an amendment establishing a .5 percent set-aside for program improvement and a minimum program improvement grant of $200,000.

628. The Senate amendment, but not the House bill, requires each State educational agency to submit annually a report to the Secretary on its use of funds for State administration of activities under Title I.

HR with an amendment moving this provision to the ESEA General Provisions title.

629. The Senate amendment, but not the House bill, includes a provision specifically requiring that funds received under Part G be used to supplement, not supplant, non-federal funds.

The Senate recedes.

Construction

630. The Senate amendment makes provisions prohibiting Federal mandates concerning specific instructional content of performance standards, equalized spending per pupil, and national school building standards applicable to all of Title I. The House bill (Sec. 111(f), (j), (k)) makes similar provisions apply only to section 1111 concerning State Plans.

The House recedes.

Reservation of Funds for Territories

631. The Senate amendment, but not the House bill, separately authorizes funds to be appropriated under Part D (education of migratory children) and Part E (education of neglected and delinquent youth) for payments to the outlying areas. [Note: Under both the House bill and the Senate amendment, the outlying areas would be directly eligible (as "States") for funds under those two programs. See section 910(22) in the House bill and section 1010(25) in the Senate amendment.]

The Senate recedes.

Educational Opportunity Demonstration Program

632. The Senate amendment, but not the House bill, includes an Educational Opportunity Demonstration Program.

The Senate recedes.

633. The Senate amendment, but not the House bill, includes a findings and purposes section with respect to the Educational Opportunity Demonstration Program.

The Senate recedes.

634. The Senate amendment, but not the House bill, defines the terms "educational opportunity school" and "educational opportunity advisory board".

The Senate recedes.

635. The Senate amendment, but not the House bill, allows the Secretary to grant waivers to 10 LEAs for the design and operation of one or more educational opportunity schools; allows the Secretary to waive the Title IX requirements for participating LEAs for a five year period; and requires each participating LEA to establish an educational opportunity advisory board.

The Senate recedes.

636. The Senate amendment, but not the House bill, requires each LEA desiring a waiver under this program to submit an application, and lists the required contents of the application.

The Senate recedes.

637. The Senate amendment, but not the House bill, requires the Secretary to commission a study to compare the educational and behavioral achievement of those choosing same gender classes and those choosing co-educational classes.

The Senate recedes.

639. The Senate amendment, but not the House bill, contains a provision which states that nothing in this part shall be construed to affect the availability under Title IX of remedies to overcome the effects of past discrimination on the basis of sex.

The Senate recedes.

The conferees intend to allow maximum flexibility for the use of funds under this Act to encourage schools to think of new ways to use technology to expand the learning day in the home, increase parental involvement with their children's education, and provide readily accessible professional development for teachers and staff.

TITLE I

Part B—Even Start Literacy Programs

1. Minor drafting differences.

Legislative counsel.

2. The House bill indicates the program shall assist children and adults to achieve challenging State standards. The Senate amendment refers to challenging State "content" and "student performance" standards.

The House recedes.

3. Minor drafting differences. The House bill, but not the Senate amendment, includes "other purposes" in the reservation section and refers to 5 percent of the amount appropriated under section 1002(b) "of this title."

Legislative counsel.

4. The House bill requires the Secretary to reserve "not less than" 5 percent to serve special populations and the Senate bill refers to "not more than" 5 percent.

The House recedes with an amendment requiring the Secretary to reserve 5 percent.

5. The House bill, but not the Senate amendment, provides for an Even Start demonstration grant for a family literacy program in a prison housing women and their preschool age children if the amount of funds available for special populations exceeds $4.6 million.

The Senate recedes with an amendment to require grants on a competitive basis.

6. Minor drafting differences.

Legislative counsel.

7. Minor drafting differences. The House bill places the reference to eligible organizations after, rather than before the list of provided activities; the Senate amendment refers to grants or contracts "with eligible organizations."

Legislative counsel.

8. The Senate amendment, but not the House bill, includes a provision allowing the Secretary to reserve $1 million or less in years in which the Even Start appropriation exceeds the previous year's appropriation, to award competitive grants to States to enable them to plan and implement statewide family literacy initiatives to coordinate existing Federal, State and local literacy resources consistent with the purposes of the Even Start Program.

The House recedes with an amendment to require the coordination and integration to include, but not be limited to, several federal programs.

9. The Senate amendment, but not the House bill, requires a non-Federal match by the State in order to participate in the new statewide family literacy initiatives grant program.

The House recedes.

10. Technical differences. The Senate amendment, but not the House bill, includes funds for the new statewide family literacy initiative among those that are deducted before Even Start funds are allocated to the States.

The House recedes.

11. Minor drafting differences.

Legislative counsel.

12. The House bill guarantees each State a minimum annual grant of $250,000. The Senate amendment provides a guarantee of that amount or ½ of 1% of the amount available for States, whichever is greater.

The House recedes.

13. Minor drafting differences. The House bill refers to "or other public or private nonprofit organization"; the Senate amendment refers to "or a public or private nonprofit organization." The Senate amendment, but not the House bill, places the definitions in alphabetical order.

The House recedes with an amendment providing that "a public agency" is "not a local educational agency. It is the intent of the conferees that Even Start grantees should not dissolve partnerships (created by LEAs and other entities in order to apply for Even Start projects) during their grant period unless there is good cause."

14. The Senate amendment, but not the House bill, explicitly includes "the Home and School Institute, Inc." in the definition of eligible organizations.

The House recedes.

15. Minor draft differences.

Legislative counsel.

16. Minor drafting differences.

Legislative counsel.

17. The Senate amendment titles this section "Minimum" and allow each State to award one subgrant in an amount less than $75,000 if it is of sufficient size, scope, and quality to be effective and if less than $75,000 is left over after awarding other grants of $75,000 or more.

The House recedes.

18. Minor drafting difference. The House bill refers to carrying out an "Even Start" program; the Senate amendment only refers to "a program."

Legislative counsel.

19. The House bill refers to the cost of programs serving children from "birth through age 7." The Senate amendment does not include the age notation.

The Senate recedes.

20. The House bill indicates the program is to help parents become full partners in the education of their children and to assist children in reaching their full potential as learners. The Senate amendment states "to help parents obtain educational skills"as an additional feature of a family-centered education program.

The Senate recedes.

21. Minor drafting differences. The House bill in (1)(A)(i) refers to "that" program; the Senate amendment in (1)(A)(i) refers to "such" program.

Legislative counsel.

22. The House bill, but not the Senate amendment, requires that matching funds be obtained from any source other than title I funds.

The House recedes with an amendment providing that the matching funds may come from any source including Federal funds under this Act.

23. The Senate amendment, but not the House bill, titles this provision "WAIVER." There are minor wording differences.

Legislative counsel.

24. The Senate amendment, but not the House bill, titles this provision, "PROHIBITION." The two provisions are identical in purpose but worded differently.

Legislative counsel.

25. The House bill, but not the Senate amendment refers to each "Even Start" program. There are minor wording differences.

Legislative counsel.

26. The Senate amendment, but not the House bill, includes the phrase, "including teenage parents."

The House recedes.

27. The house bill includes "referral to necessary counseling" among the services that can be provided. The Senate amendment includes "referral to necessary pupil services." There are other minor wording differences.

The Senate recedes.

28. The House bill, but not the Senate amendment, includes "and related services."

The Senate recedes.

29. The House bill requires that programs be designed to include the provisions of "support services, when unavailable from other sources." The Senate amendment refers to "pupil services (when such pupil services are unavailable from other sources.)"

The Senate recedes.

30. The Senate amendment, but not the House bill, includes the phrase "in the activities assisted under this part."

The House recedes.

31. Minor wording differences.

Legislative counsel.

32. The House bill includes the phrase "empower parents to support the educational growth of their children." The Senate amendment provides "training of parents to support . . ."

The Senate recedes.

33. The Senate amendment, but not the House bill, requires programs to include "qualified personnel to develop, administer, and implement" the Even Start program.

The Senate recedes.

34. The House bill requires "the provision of some program services, either instructional or enrichment, or both during the summer months." The Senate amendment requires "the provision of some instructional or enrichment services during the summer months."

The Senate recedes.

35. Minor wording differences.

Legislative counsel.

36. The Senate amendment, but not the House bill, requires each program to "serve those families most in need of the activities and services provided by" Even Start.

The House recedes.

37. The Senate amendment, but not the House bill, requires each program to "provide services . . . to individuals with special needs, such as individuals with limited-English proficiency and individuals with disabilities."

The Senate recedes.

38. The Senate amendment, but not the House bill, requires each program to "encourage eligible participants to remain in the program for a time sufficient to meet the program's purpose.

The Senate recedes.

39. Drafting differences. The two provisions are identical in substance, but contain minor wording differences.

Legislative counsel.

40. The Senate amendment, but not the House bill, titles this provision "SPECIAL RULE."

Legislative counsel.

41. The House bill, but not the Senate amendment, includes a section on "REQUIRED DOCUMENTATION," which requires applications to include documentation that the eligible entity has the qualified personnel necessary to operate the program and provided necessary training.

The Senate recedes.

42. The Senate amendment, but not the House bill includes a heading, "IN GENERAL."

Legislative counsel.

43. The House bill calls for an application to "include a plan of operation for the program." The Senate amendment states "each such application shall."

The Senate recedes.

44. The Senate amendment, but not the House bill, includes the words, "to be served" in referring to "participants".

Legislative counsel.

45. The House bill refers to "other" eligible organizations. The Senate amendment refers to eligible organizations.

Legislative counsel.

46. The House bill, but not the Senate amendment, requires applicants to describe how their plans are consistent with State and local plans, if any, under Goals 2000, and with State and local plans under sections 1111 and 1112 of ESEA.

The Senate recedes with an amendment providing for a description of how the plan is integrated with other programs under this Act, Goals 2000: Educate America Act, or other Acts.

47. The House bill, but not the Senate amendment, allows the plan to be submitted as part of a consolidated application under section 9302.

The Senate recedes.

48. The Senate amendment, but not the House bill, requires each plan to remain in effect for the duration of the eligible entity's participation in the Even Start program and that it be periodically reviewed and revised as necessary,.

The House recedes.

49. Minor wording and drafting differences except the Senate makes reference to subsection (b), which does not relate to the review panel (the intended reference is probably paragraph (2)).

Legislative counsel.

50. The Senate amendment, but not the House bill, includes, as a factor to be considered in selecting grantees, "other need-related indicators", such as the fact that the program will include a high percentage of children who reside in a school attendance area that is eligible for programs under Part A of title I.

The House recedes.

51. The House bill, but not the Senate amendment, specifically states that the three-year age range for which services must be provided "may begin at birth."

The Senate recedes.

52. The House bill refers to an applicant's ability to provide "additional funding." The Senate amendment refers to "the remaining cost."

Legislative counsel.

53. Minor wording differences. The Senate amendment titles this section "PRIORITY."

Legislative counsel.

54. The House bill provides a priority to programs in areas that have a high percentage or a large number of children and families in need of Even Start services. The Senate amendment gives priority to programs that target services to families whose children reside in attendance areas of schools eligible for schoolwide programs under Part A.

The Senate recedes.

55. Minor drafting and wording differences. The Senate amendment includes the headings "IN GENERAL," "STARTUP PERIOD," AND "CONTINUING ELIGIBILITY" for the paragraphs under the subsection.

Legislative counsel.

56. Minor wording differences. The Senate amendment titles this paragraph, "INSUFFICIENT PROGRESS."

Legislative counsel.

57. Minor wording differences. The Senate amendment titles this paragraph, "GRANT RENEWAL."

Legislative counsel.

58. The House bill permits an eligible entity to receive a second subgrant. The Senate amendment does not limit the number of subgrants an eligible entity may receive but limits the total period of assistance to 8 years.

The House recedes.

59. Minor wording and technical differences.

Legislative counsel.

60. The Senate amendment, but not the House bill, contains a section entitled, "CONSTRUCTION," which provides that nothing in the Even Start statute may be read to prohibit recipients of funds under the Even Start program from serving students participating in Even Start simultaneously with students with similar educational needs in the same settings, where appropriate.

The House recedes.

Part C—Education of Migratory Children

Purpose

61. Identical provisions, except the Senate amendment modifies "challenging standards" with the words, "State content" and "State student performance."

The House recedes.

Program Authorized

62. Identical provisions, but the Senate amendment uses the heading, "in general."

Legislative counsel.

State Allocations

63. Identical provisions, but the House bill uses the term, "entitled", when the Senator uses the term, "eligible."

The Senate recedes.

64. Identical provisions, but the Senate amendment uses the heading, "in general."

Legislative Counsel.

65. Similar provisions, except the House bill allows the Secretary to reduce funds to a state if they "exceed the amount required", whereas the Senate allows it if "such amount is not needed."

The Senate recedes.

66. Identical provisions, except the House bill applies the consortium requirement to States with grants of $1m or less, whereas the Senate amendment applies it to States with grants of $500,000 or less.

The Senate recedes.

67. Similar provisions, with technical differences in the wording.

Legislative Counsel.

68. The House bill requires the Secretary to develop a more accurate methods for determining the summer (which may include intersession) child count and reimbursement level; the Senate amendment requires the Secretary to adjust the overall child count by factoring in summer programs, intersession programs, designs, and programs which operate through stop-over centers.

The House recedes with these amendments: rewrite paragraph (2) as follows, "develop and implement a procedure for more accurately reflecting cost factors for different types of summer programs and for intersession programs;" add a new number (3) as follows, "adjust the full-time equivalent number of migratory children who reside in each State to take into account the special needs of those children participating in special programs provided under this part that operate during the summer and intersession periods;" renumber number (3) accordingly.

69. The House bill, but not the Senate amendment requires the Secretary to consider alternatives for adjusting the formula for a child whose education has been interrupted.

The Senate recedes.

State Applications

70. Identical provisions, except only the House bill extends the paragraph to require that migratory status be recorded on State student collection data.

The House recedes.

71. The Senate amendment, but not the House bill, includes "all" before migratory students.

The House recedes.

72. The Senate amendment, but not the House bill, applies the terms "State content" and "State student" to "standards."

The House recedes.

73. Identical provisions, except the Senate amendment adds the phrase, "and the amount of funds that such agencies will provide to identical schools."

The Senate recedes.

74. The House bill, but not the Senate amendment, requires budgetary and other information.

The Senate recedes.

75. Identical provisions, but the Senate amendment places it within "authorized activities", section 1406(b)(1)(C).

Legislative Counsel.

76. Technical conforming differences. (The section numbers cited in both bills refer to the following provisions: schoolwides, targeted assistance, assignment of personnel, private school children, supplement not supplant, comparability of services, and General Provisions.)

Legislative Counsel.

77. Identical, except the House bill uses the phrase, "lasting a school year", when the Senate amendment uses, the phrase, "of one school year in duration."

Legislative Counsel.

78. The House bill, but not the Senate amendment, requires the preschool needs be met.

The Senate recedes.

79. The Senate amendment requires that, "to the extent feasible", programs provide advocacy and outreach, professional development, family literacy, integration of technology, transition activities to postsecondary education or employment. (For comparable House bill provision, see note #87.)

The House recedes.

80. Technical conforming difference.

Legislative Counsel.

81. Identical provisions, except the Senate amendment adds the phrases, "State content standards" and "student performance standards."

The House recedes.

82. The House bill, but not the Senate amendment, extends the "continuation of services" to a third category—secondary schools students to be served in credit accrual programs.

The Senate recedes.

Comprehensive Needs Assessment

83. The House bill, but not the Senate amendment, requires that the plan be integrated with any plan submitted under Title III of Goals 2000 and with other plans under the School-to-Work Act and the Perkins Act.

The Senate recedes with an amendment striking "(A) and (B)" of paragraph (1) and replacing with "is integrated with other programs under this Act, the Goals 2000 Act, and other acts, as appropriate, consistent with section 14706", which is the standard Goals coordination language.

84. The House bill, but not the Senate amendment; requires that the plan be integrated with other State plans, where such plans exist, if no plan is being developed under the Goals 2000.

The House recedes.

85. Identical provisions, except the Senate amendment applies the phrases, "State content" and "challenging State student" to "standards."

The House recedes.

86. Identical provisions, except the Senate amendment makes the requirement applicable to only "part A" of Title VII.

Legislative Counsel

87. Similar provisions, except the provisions in the Senate amendment appear under the section describing use of funds (see note #79) and paragraphs (C) and (D) of each bill are slightly modified.

The House recedes.

88. The Senate amendment, but not the House bill, requires that the comprehensive plan, with modifications, remain in effect for the duration of the State's participation.

The House recedes.

89. The House bill, but not the Senate amendment, allows the State to satisfy the requirements of the section through a reference to the applicable sections under a plan approved under Goals 2000.

The House recedes.

90. Technical conforming difference.

Legislative Counsel

91. The Senate amendment, but not the House bill notes that nothing in this part shall be construed to prohibit an LEA from serving migrant students with other students.

The House recedes.

92. The House bill requires that the "authorized activities" (described in subsection 1306(b)) shall no longer apply if funds are used under a "schoolwide plan"; the Senate amendment requires that funds shall continue to be used to address the needs of children which result from the effects of a migratory lifestyle and which are not otherwise provided, notwithstanding the requirements of section 1114, ("schoolwide" programs.)

The House recedes.

Coordination of Activities

The House recedes.

93. Identical provision, except the House bill uses the phrase, "State and local educational agencies of their educational programs", when the Senate amendment uses the term "such agencies."

Legislative Counsel.

94. The House bill permits awards under this subsection only to nonprofit entities. The Senate amendment permits awards to for-profit, as well as nonprofit, entities.

The Senate recedes.

95. The House bill, but not the Senate amendment authorizes grants for up to 5 years.

The Senate recedes.

96. The House bill requires the Secretary to convene a panel to assess alternative methods by which student records may be transferred and students may be counted; to report to the Congress on the panel's findings; and provides the Secretary the authority to contract for services. The Senate amendment provides the Secretary authority to extend MSRTS to January 1996 and requires the Secretary to report to Congress on how student records are transferred.

The Senate recedes with an amendment, replacing the language of the House bill (Section 1308b)) as follows:

"The Secretary shall solicit information on how student records are transferred from one school to another and shall solicit recommendations on whether or not new procedures and technologies for record transfer should be employed to better meet the needs of the migrant population. The Secretary shall also seek recommendations on the most effective means for determining the number of students or full-time equivalent students in each State for the purpose of allocating funds under this part.

"Not later than April 30, 1995, the Secretary shall report to the Senate Committee on Labor and Human Resources and to the House Committee on Education and Labor, its findings and recommendations, and shall include in this report, recommendations for interim measures that may be taken to ensure continuity of services in this program. The Secretary shall assist States in developing effective methods for the transfer of student records and in determining students or full-time equivalent students in each state should such interim measures be required."

97. Similar provisions, but the House bill requires the Secretary to reserve "up to $6m", when the Senate bill requires that the Secretary reserve, "not more than $6m."

Legislative Counsel.

98. The House bill uses the term "competitive" when the Senate amendment uses the term, "incentive" in describing the grants. The House recedes. The House bill requires, the Senate amendment allows, the Secretary to reserve $1.5m for consortium grants.

The Senate recedes with an amendment striking "$100,000" and inserting $250,000."

99. The House bill, but not the Senate amendment, requires that a minimum of 10 grants be awarded to States with allocations of less than $1m.

The Senate recedes.

100. The House bill, but not the Senate amendment, authorizes the Secretary to award a grant of up to $3m for a distance learning program.

The House recedes.

Definitions

101. Technical difference in wording. The House bill places the definitions in a separate section. The Senate amendment places the definitions in subsection (a) of section 1402, "Program authorized."

Legislative Counsel.

102. The House bill uses the term, "parent or spouse", when the Senate amendment uses, "parent or guardian". The House recedes with an amendment to add spouse. The House makes eligibility based on up to "24" months after a move, when the Senate amendment makes it based on "48" months.

The House recedes with an amendment to insert "spouse" after "guardian" and establishing the period for eligibility under the migrant Education program at 36 months.

103. The Senate amendment, but not the House bill, extends the definition of "migrant" to one who resides in a school district of a specified size and migrates a distance of at least 20 miles.

The House recedes.

104. The House bill, but not the Senate amendment, makes "36", rather than "24" preceding months applicable in fiscal year 1995.

The House recedes.

105. The Senate amendment, but not the House bill, defines the term, "stop-over center" which would be used in the determination of eligible children in a state.

The Senate recedes.

106. The Senate amendment, but not the House bill, defines the term, "fishing activity."

The Senate recedes.

Section 1310(2)(A) provides that migrant students are eligible to receive services under this part for up to three years from the date of their last migration. The conference agreement reduces from six years to three years the length of time a migrant child is eligible for such services. The reduction in eligibility will concentrate the limited migrant education resources on those children who most recently migrated thereby enhancing the quality and depth of migrant education services per eligible child. It should be clear that this reduction in eligibility is not intended to jeopardize the level of funding provided for migrant education, and that the need for increased funding provided for migrant education, and that the need for increased funding is still great. The Managers recognize that the educational deficiencies caused by migration are significant and that supplemental services, including the facilitation of parental involvement, provided to migrant students under this part are critical.

Part D—Prevention and Intervention Programs for Youth Who Are Neglected, Delinquent, or at Risk of Dropping Out

Findings; Purpose; Program Authorized

107. The House bill entitles this part "Part D—Prevention and Intervention Services for Delinquent Youth and Youth at Risk of Dropping Out." The Senate amendment refers to this part as "Part E—Education for Neglected and Delinquent Youth."

The Senate recedes with an amendment providing a new heading for this part—"PART D—PREVENTION AND INTERVENTION PROGRAMS FOR YOUTH WHO ARE NEGLECTED, DELINQUENT, AND AT RISK OF DROPPING OUT".

108. The House bill, but not the Senate amendment, includes "FINDINGS" in the title and lists nine findings related to academic achievement, dropping out, and delinquency.

The Senate recedes.

109. The House bill, but not the Senate amendment, refers to improving services to children in "local and State" institutions for delinquent children. The Senate amendment, but not the House bill, includes as one of the purposes of this part, the provision of services to neglected children.

The Senate recedes with an amendment adding "neglected or" to the statement of purpose.

110. The Senate amendment, but not the House bill refers to challenging State "content standards."

The House recedes.

111. Minor drafting/technical differences.

Legislative Counsel.

112. The House bill, but not the Senate amendment, includes, as one of the purposes of this part, dropout prevention and programs to support youth returning from institutions.

The Senate recedes.

113. The House bill provides that SEAs are to make subgrants to State agencies and local educational agencies. The Senate amendment permits subgrants only to State agencies.

The Senate recedes.

114. The House bill, but not the Senate amendment, provides that funds are to be used to establish or improve programs for "youth at risk of dropping out of school before graduation." The Senate amendment, but not the House bill, provides that funds are to be used to establish or improve programs for "neglected children."

The Senate recedes with an amendment adding "neglected or" to the program authorization section.

115. The House bill, but not the Senate amendment, includes a Section on "Payments for Programs Under this Part." This section provides for allocations to States under subpart 1 which are to use to make subgrants to State agencies. The section further provides that State shall retain, for purposes of Subpart 2, funds generated throughout the State under Part A which are based on youth residing in local correctional facilities or attending community day programs for delinquent children.

The Senate recedes.

116. The House bill, but not the Senate amendment, provides that any funds left over after making grants to State agencies under Subpart 1 be used for . . . (Something appears to be missing in subsection (c); its intention is to say that left over funds may be used for Subpart 2, Local Agency Programs).

The Senate recedes.

117. The House bill, but not the Senate amendment, refers to subpart 1—State Agency Programs.

The Senate recedes.

118. The House bill titles this section "Sec. 1403—Amount of Allocation to State." The Senate amendment refers to this section as "Sec. 1503—Allocation of Funds." The Senate amendment includes the subtitle "(a) Subgrants to State Agencies" and titles paragraph (1) "In General." The House bill refers to subsection "(a) State Allocation."

Legislative Counsel.

119. The House bill refers to "Each State educational agency." The Senate amendment refers to "Each State agency described in section 1502 (other than an agency in the Commonwealth of Puerto Rico)." The House bill indicates that such agencies are "eligible to receive under this part." The Senate amendment indicates that such agencies are eligible to "receive a subgrant under this part."

120. The House bill bases the allocation of funds on the "number of delinquent children in state correctional facilities serving youth under the age of 21." The Senate amendment bases the allocation on the "number of neglected or delinquent children described in section 1502."

The House recedes.

121. Both the House bill and the Senate amendment require children who are in education programs in institutions for children to be enrolled for 20 hours per week in such programs. The House amendment refers to "education programs operated or supported by facilities serving youth." The Senate bill refers to "education programs in institutions for neglected or delinquent children or in community day programs for neglected and delinquent children."

The House recedes.

122. The House bill counts the number of "delinquent" children who are enrolled for "10 hours a week in adult facilities serving youth." The Senate amendment counts "neglected or delinquent" children and who are enrolled for at least 15 hours per week in education programs in adult correctional institutions."

The House recedes.

123. The Senate amendment, but not the House bill, includes a "SPECIAL RULE" providing that the number of neglected or delinquent children determined under paragraph (1) is to be determined by a date or dates set by the Secretary, except that no state agency is required to determine the number of such children on a specific date set by the Secretary. The Senate amendment also provides that the number of children shall be adjusted to reflect the relative length of such agency's annual programs.

House recedes with an amendment changing "date or dates" to "deadline".

124. The House bill refers to the "amount for the grant"; the Senate amendment refers to the "amount of the subgrant."

Legislative Counsel.

18A. The House bill refers to "32 percent"; the Senate amendment refers to "34 percent".

125. The Senate amendment, but not the House bill, includes a subsection (c), providing for "Ratable Reductions in Case of Insufficient Appropriations," which requires the secretary to ratably reduce the amount paid to all agencies if the amount appropriated is insufficient to pay the full amount for which all agencies are eligible under subsections (a) and (b).

The House recedes.

126. The Senate amendment, but not the House bill, includes a subsection (d), "PAYMENTS TO STATE EDUCATIONAL AGENCIES," which requires the secretary to pay to each SEA the total amount needed to make subgrants to State agencies in the State. This subsection further permits each SEA to retain a portion of such total amount for State administration.

The Senate recedes.

127. The Senate amendment, but not the House bill, contains a section on the "State Reallocation of Funds," which permits the SEA to reallocate any amount that is not needed by a State agency to other State agencies that need additional funds to carryout programs. The SEA is to determine the additional amount to be provided to each State agency.

The House recedes with an amendment changing "State agencies" to "other eligible State agencies".

128. The House bill titles this Section "State Plan." The Senate amendment refers to this section as "State Plan and State Agency Applications." There are technical/drafting differences.

The House recedes.

129. The House bill refers to a plan for "meeting the needs of delinquent youth and children at risk of dropping out." The Senate amendment refers to a plan for "meeting the needs of neglected and delinquent children" and specifies that such plan shall be revised as updated "as needed to satisfy the requirements of this section."

The House recedes with an amendment striking "and children" and adding "and where applicable, youth at risk of dropping out."

130. The House bill, but not the Senate amendment, requires that the State's plan under this part be integrated with the State's plan, either approved or being developed, under Title III of Goals 2000 or is integrated with other State plans under ESEA if the State does not have an approved plan under Goals and is not developing such a plan. The House bill further requires that such plan "satisfy the requirements of this section."

The Senate recedes with an amendment providing that the state plan is integrated with other programs under this Act, the Goals 2000: Educate America Act, or other Acts, as appropriate.

131. The House bill, but not the Senate amendment, permits the State plan submitted under paragraph (a)(1)(A)(i) to be submitted as an amendment to the State's plan under title III of Goals 2000.

The House recedes.

132. The Senate amendment titles this provision "CONTENTS" and indicates "each such State plan shall . . ." The House bill indicates Each such plan shall "also."

Legislative Counsel.

133. The House bill refers to "State-established" program goals. The Senate amendment refers to program goals . . . "established by the State."

Legislative Counsel.

134. Technical wording difference. The House bill refers to "they would have if they." The Senate amendment states "as such children would have if such children."

Legislative Counsel.

135. The House bill, but not the Senate amendment, requires each State plan to describe the manner in which the State agency will make subgrants.

The House recedes.

136. The House refers to Sec. 1408 (this citation should be 1411) while the Senate amendment refers to Sec. 1509, both of which are evaluation provisions.

Legislative Counsel.

137. The House bill, but not the Senate amendment, requires the State plan to contain assurances that its State agencies comply with all applicable statutory and regulatory requirements.

The Senate recedes.

138. The Senate amendment, but not the House bill, contains a paragraph entitled, "DURATION OF THE PLAN," providing that the State's plan stays in effect for the length of the State's participation in the program and is to be "reviewed and revised . . . as necessary . . ."

The House recedes.

139. The House bill, but not the Senate amendment, requires a State plan to "provide such other information as the Secretary may reasonably require."

The Senate recedes.

140. Technical/drafting differences.

Legislative Counsel.

141. The Senate amendment addresses the issue of agency eligibility in a separate section.

Legislative Counsel.

142. The House bill says "if it". The Senate bill refers to "if such agency."

Legislative Counsel.

143. The House bill provides that a State agency is eligible if it provides "free public education for children in institutions for delinquent children." The Senate amendment provides that State agencies are eligible if they provide "free public education for children in institutions for neglected or delinquent children, children attending community day programs for neglected and delinquent children, or children in adult correctional institutions."

The House recedes.

144. The House bill refers to "A State agency" and the Senate amendment refers to "Any State agency."

Legislative Counsel.

145. The House bill refers to the State plan under Part A "of this title." The Senate amendment refers to the State plan under Part A.

Legislative Counsel.

146. The House bill, but not the Senate amendment, requires agency applications to provide assurances that priority will be given, when serving youth in adult correctional facilities, to those youth who are likely to complete incarceration within a two-year period.

The Senate recedes.

147. The Senate amendment, but not the House bill, refers to annual updates to be provided "to the State educational agency."

Legislative Counsel.

148. The House bill refers to Sec. 1408 (should be sec. 1411), the Senate amendment to Sec. 1509, their respective sections on evaluations. The House bill requires agencies to describe how the results of the most recent evaluation "are used" to plan and improve the program. The Senate amendment asks for a description of how the results "were used."

Legislative Counsel.

149. Technical differences. The House refers to data showing that the "agency" while the Senate amendment refers to the "State agency." The House bill requires the agency to show how it has maintained "fiscal effort required of a local educational agency." The Senate amendment requires the agency to include data showing it "has maintained fiscal effort as if such agency were a local educational agency." Different section citations.

Legislative Counsel.

150. The House bill requires an applicant agency to describe how its program will be coordinated with other appropriate State and Federal programs and lists JTPA, vocational education, State and local dropout prevention programs, and special education as examples. The Senate amendment refers to coordination with "State and Federal programs administered by the State agency" but does not mention any particular programs.

The Senate recedes with an amendment making the list of programs illustrative rather than mandatory.

151. The House bill refers to the professional development of "teachers and other instructional and administrative personnel." The Senate amendment refers to "teachers and other staff."

The House recedes.

152. The House bill refers to "an institution." The Senate amendment refers to "the institution."

Legislative Counsel.

153. The House bill, but not the Senate amendment, requires the agency to indicate how it will endeavor to coordinate with business for training and mentoring for participating youth

The Senate recedes.

154. The House bill, but not the Senate amendment, requires agencies to describe how they will assist in locating alternative programs through which students can continue their education if they are to return to school.

The Senate recedes with an amendment changing an item description in the State application to an assurance.

155. The House bill, but not the Senate amendment, requires agencies to describe how they will work with parents to secure their assistance in improving the educational achievement of their children and preventing their further involvement in delinquent activities.

The Senate recedes with an amendment changing an item description in the state application to an assurance.

156. The House bill, but not the Senate amendment, requires agencies to describe how they will work with special education youth in order to meet an existing IEP and to include an assurance that they will notify the youth's local school (if they intend to return to school) if the agency determines, during their time in the facility, that the youth is in need of special education services.

The Senate recedes with an amendment changing an item description in the state application to an assurance.

157. The House bill, but not the Senate amendment, requires agencies to describe how they will work with youth who have dropped out of school before entering the facility to re-enter school once they leave the facility to provide the youth with the skills necessary to gain employment, continue their education, or achieve a high school equivalency certificate if the youth does not intend to return to school.

The Senate recedes with an amendment changing an item description in the state application to an assurance.

158. The House bill, but not the Senate amendment, requires agencies to provide assurances that teachers and other qualified staff are also trained to work with children with disabilities and other students with special needs.

The Senate recedes.

159. The House bill, but not the Senate amendment, requires agencies to describe any additional services they will provide to youth, including career counseling and assistance in securing student loans and grants.

The Senate recedes with an amendment making the listed services illustrative instead of mandatory and adds an "and" between "loans" and "grants".

160. The House bill, but not the Senate amendment, requires agencies to describe how the program will be coordinated with any programs operated under the Juvenile Justice and Delinquency Prevention Act, if applicable.

The Senate recedes with an amendment adding "Prevention" and "or other comparable programs".

161. The Senate amendment, but not the House bill, uses "IN GENERAL" twice.

The Senate recedes.

162. Different section citations. The House bill refers to section 1404(a) and the Senate amendment refers to section 1505(a).

Legislative Counsel.

163. The House bill includes "high school completion" as one of the objectives for which program funds may be used.

The Senate recedes.

164. The Senate amendment entitles this paragraph "USES."

Legislative Counsel.

165. Different section citations. The House bill refers to sec. 1406. The Senate amendment refers to sec. 1507. The House bill refers to "challenging performance standards." The Senate amendment refers to "challenging State content standards and challenging State student performance standards."

Legislative Counsel on the section reference.

The House recedes.

166. The House bill refers to "an opportunity to learn to such challenging State standards." The Senate amendment refers to "an opportunity to learn such standards."

The Senate recedes.

167. Minor technical, specifically different section citations. (However, the House citation appears to be incorrect and should probably be sec. 1121(b)).

Legislative Counsel.

168. Different section citations. (same as above note concerning House citation). The House refers to "of this title."

Legislative Counsel.

169. The Senate amendment, but not the House bill, titles this subsection "PROJECTS AUTHORIZED."

Legislative Counsel.

170. The House bill refers to a State agency that provides a free public education for children "in an institution for delinquent children." The Senate amendment refers to "children in an institution for neglected or delinquent children (other than an adult correctional institution) or attending a community-day program for such children."

The House recedes.

171. The House bill refers to "such" institution. The Senate amendment refers to "that" institution.

Legislative Counsel.

172. The House bill refers to a plan that provides for a comprehensive assessment of the education needs of all youth in the institution or program serving juveniles and for youth aged 20 and younger in adult facilities who are expected to complete incarceration within a 2-year period." The Senate amendment refers to "all individuals under the age of 21 in the institution or program."

The Senate recedes.

173. The House bill requires a plan to describe the steps the agency will take to provide all children under 21 with the opportunity to meet "challenging academic and vocational standards." The Senate amendment refers to "challenging State content standards and challenging State student performance standards.

The House recedes.

174. The House bill states such standards are to "improve the likelihood that the students will complete "high school, attain high school equivalency, or find employment after leaving the institution." The Senate amendment states that such standards are to "improve the likelihood that such children will complete secondary school and find employment after leaving the institution."

The Senate recedes.

175. The House bill refers to the provision of "mentors for secondary school students." The Senate amendment refers to "mentors for students."

The House recedes.

176. The House bill refers to "services in institutions for delinquent children." The Senate amendment refers to "services in institutions or community-day programs for neglected or delinquent children."

The House recedes.

177. The Senate amendment refers to "such teachers and personnel." The House bill refers to "them."

Legislative Counsel.

178. The Senate amendment, but not the House bill requires State agencies, beginning with the 1996-1997 school year, to use funds received under this part only for institution—wide projects, except as provided in section 1510, relating to transition services.

The Senate recedes.

179. The House bill indicates a State agency's application may be approved for a period "not to exceed 3 years." The Senate amendment provides "not more than three years."

Legislative Counsel.

180. The House requires each State agency to reserve not more than 10 percent of the amount it receives to support projects that facilitate the transition of children from State-operated institutions to local educational agencies. The Senate amendment allows State agencies to reserve up to 10 percent to facilitate the transition of children from State-operated institutions "for neglected and delinquent children into locally operated programs.".

The Senate recedes.

181. The House bill requires that funds reserved for transition services be used only to provide "transitional educational services." The Senate amendment refers to "special educational services."

The Senate recedes.

182. The House bill includes "counseling and mentoring." The Senate amendment includes "pupil services and mentoring." The House bill refers to "delinquent children." The Senate amendment refers to "neglected and delinquent children."

The House recedes.

183. The Senate amendment includes a subsection entitled, "CONSTRUCTION", which provides that nothing in this section is to be construed to prohibit a school that receives funds subsection (a) from serving neglected and delinquent children simultaneously with students with similar educational needs, in the same educational settings, where appropriate.

The House recedes.

184. The House bill, but not the Senate amendment contains "Subpart 2—Local Agency Programs." From funds retained at the State level based on counts of delinquent youth within the State, the SEA is required to make subgrants to local school districts with the largest number or percentage of delinquents and dropouts in order to operate prevention and intervention programs. Local educational agencies receiving such funds would be required to form partnerships with local facilities housing students from their school district in order to ensure that the education received by youth in such facilities is comparable to that of their peers in their local schools. In addition, local schools would operate dropout prevention programs in order to raise academic achievement among youth at risk of dropping out and of involvement in delinquent activities. Local facilities would be required to provide educational assistance to those students returning to local schools. In addition, for those youth not returning to local schools, facilities would be required to assist in funding alternative education programs for such youth or to provide job training and other employment-related services. Eligible school districts meeting the criteria outlined in this section would participate in this program on a voluntary basis.

The Senate recedes with an amendment substituting new language for subsections (a) through (c) of section 1410 (Programs Operated by Local Educational Agencies), changing most of the local application requirements to assurances, making references to other Acts illustrative in relation to coordination requirements, clarifying that the listed uses of funds are "where appropriate," and the program requirements for local correctional facilities are "where feasible".

185. The House bill requires "Each State agency or local educational agency that conducts a program under subpart 1 or 2 to evaluate the program." The Senate amendment requires "Each State agency that conducts a program or project" to evaluate the program. Both bills require the evaluation to occur at least once every three years and to disaggregate data on participation by sex, and, if feasible, by race, ethnicity, or age. However, there are technical/drafting differences.

The Senate recedes.

186. The House bill refers to "high school graduation." The Senate amendment refers to "secondary school graduation."

Legislative Counsel.

187. The House bill requires the program to evaluate, "for delinquent youth" the ability of participants to make the transition to a regular program. . . ." The Senate amendment does not limit this requirement to delinquent youth.

The House recedes

188. The House bill requests the evaluation to determine the impact of the program on the ability of participants to complete "high school (or high school equivalency requirements)." The Senate amendment refers to "the completion of secondary school."

The Senate recedes.

189. The House bill refers to "a State agency or local educational agency." The Senate amendment refers only to "a State agency."

The Senate recedes.

190. The House bill refers to "each State agency or local educational agency." The Senate amendment refers only to "each State agency."

The Senate recedes.

191. The House bill requires State agencies to "submit evaluation results to the State educational agency. The Senate amendment requires submission of "results of each evaluation under this section" to the SEA.

The Senate recedes.

192. Technical/drafting differences.

Legislative Counsel.

193. The House bill, but not the Senate amendment, includes a definition for "at risk youth."

The Senate recedes.

194. The House bill defines community-day programs for "delinquent youth." The Senate amendment defines community-day programs for "neglected or delinquent youth."

The House recedes

195. The Senate amendment, but not the House bill, defines "institution for neglected children."

The House recedes

Assistance to Address School Dropout Problems

1. The Senate amendment, but not the House bill, authorizes grants to educational service organizations and consortia thereof for a wide range of programs to prevent dropouts, identification of potential dropouts, and school completion programs. The Senate amendment authorizes appropriations in the amount of $50 million for fiscal year 1995 and such sums as may be necessary for each of the 4 succeeding fiscal years.

The House recedes with an amendment (i) placing this authorization in part C of title V of ESEA, (ii) adding a provision relating to continuation assistance, (iii) clarifying that "students reentering school" includes youth returning to school from a correctional or other facility operated for delinquent youth, (iv) providing that addressing factors in a student's decision to drop out of schools includes "activities and services to designed to meet the needs of pregnant and parenting teenagers", and (v) adding "gender" to the data categories of the annual report to Congress.

TITLE II—IMPROVING TEACHING AND LEARNING

Part A—Dwight D. Eisenhower Professional Development Program

Findings

The House bill refers to "reaching the National Education Goals"; the Senate amendment refers specifically to goals three and five and restates each of these goals. The Senate recedes with an amendment adding "particularly Goals 3, 4 and 5" after "National Education Goals."

The House bill refers to "achieving these goals"; the Senate amendment refers to "achieving these two goals." The Senate recedes.

The House bill, but not the Senate amendment, states the development and adoption of high quality curriculum is a means of helping teachers provide challenging learning experiences for students. The House recedes.

The House bill, but not the Senate amendment, includes a finding which states that decisions about State or local activities to improve teaching and learning are best made by individuals closest to the classroom. The Senate recedes.

The House bill refers to "subject-specific pedagogical skills"; the Senate amendment refers to "effective subject-specific pedagogical skills." The House recedes.

The Senate amendment, but not the House bill, includes "pupil services personnel" in the team. The House recedes with an amendment clarifying that, where appropriate, professional development services may be provided to pupil services personnel and to administrators.

The Senate amendment, but not the House bill, includes teacher educators, pupil services personnel, and parents in the professional network. The House recedes with an amendment clarifying that, where appropriate, the professional network may include teacher educators, pupil services personnel, administrators, and parents.

The Senate amendment, but not the House bill, includes a sub-finding regarding how professional development can dramatically improve classroom instruction and learning when teachers, administrators, pupil services personnel, and parents are partners in the development and implementation of professional development. The House recedes with an amendment clarifying that, where appropriate, pupil services personnel, administrators, and parents can, in partnership with teachers, develop and implement professional development activities.

The Senate amendment, but not the House bill, includes a sub-finding regarding how new and innovative strategies for teaching will require time outside of teaching for teachers for instruction, practice, and collegial collaboration. The House recedes.

The House bill, but not the Senate amendment, includes a finding which states that engaging teachers in the development of high quality curricula is a powerful professional development activity that improves teaching and learning. The House recedes.

The House bill, but not the Senate amendment, includes a finding which states SEAs and LEAs need to engage teachers in the development of high quality curricula that are aligned with State or local content and performance standards in order to improve teaching and learning. The House recedes.

The House bill, but not the Senate amendment, states that curricula development is almost nonexistent in many State and local school systems. The House recedes.

The House bill states that the Federal Government has a vital role in helping States and local educational agencies in providing professional development; the Senate amendment states that the Federal Government has a vital role in helping provide professional development. The Senate recedes.

The House bill, but not the Senate amendment, states that the Federal Government has a vital role in providing assistance to State and local educational agencies in the development of high quality curricula that are aligned with State or local content and performance standards. The House recedes.

The Senate amendment, but not the House bill, includes a finding which states that professional development activities must prepare teachers, pupil services personnel, paraprofessionals, and other staff in effective prevention and intervention strategies to alleviate the need, and assure appropriate referral for special education services and to prepare staff to work collaboratively with mainstreamed special education students consistent with each student's IEP. The House recedes with an amendment striking "effective prevention and intervention strategies to -" and replaces it with "the collaborative skills needed to appropriately teach children with disabilities in the core academic subjects."; striking "consistent with the individualized education program."

This amendment clarifies that professional development activities must prepare teachers, pupil services personnel, paraprofessionals, and other staff in the collaborative skills needed to appropriately teach children with disabilities in the core academic subjects.

The Senate amendment, but not the House bill, includes a finding which states that professional development activities which are designed in cooperation with parents and that focus on the complex social, emotional, and mental health needs of children that may impede learning can help teachers, administrators, and pupil services personnel assist children in overcoming barriers to academic success. The Senate recedes.

The Senate amendment, but not the House bill, includes a finding which states that there are few incentives or sanctions operating to encourage teachers and administrators to work to prepare themselves to be more effective or to participate in professional development activities. The Senate recedes.

The Senate amendment, but not the House bill, includes a finding which outlines the importance of parental involvement and the need to provide parental training and development. The House recedes with an amendment clarifying that professional development should include methods and strategies to better prepare teachers and, where appropriate, administrators, to enable parents to participate fully and effectively in their children's education.

Purposes

The House bill, but not the Senate amendment, states that the purposes of this part are to provide assistance to SEAs, LEAs, and institutions of higher education with teacher education programs so that such agencies can determine how best to improve the teaching and learning of all students. The Senate recedes.

The House bill refers to "sustained and intensive high-quality professional development"; the Senate amendment refers to "high-quality professional development." The Senate recedes with an amendment to ensure that access to professional development is provided to other staff and administrators, where appropriate.

The House bill refers to "challenging State content and performance standards in the core academic subjects"; the Senate amendment refers to "challenging State content standards and challenging State student performance standards." The House recedes.

The Senate amendment, but not the House bill, states that a purpose of this part is to support the development and implementation of sustained and intensive high-quality professional development activities in the core academic subjects. The House recedes.

The House bill lists descriptive factors regarding what constitutes professional development under one purpose statement; the Senate amendment includes a separate purpose statement stating that is the purpose of this part to help ensure that teachers, administrators, other staff, pupil services personnel, and parents have access to professional development, and then lists the descriptive factors. The House recedes with an amendment clarifying that access to professional development should be provided, where appropriate, to administrators, other staff, pupil services personnel, and parents.

The House bill refers to "challenging State and local curriculum content and student performance standards"; the Senate amendment refers to "challenging State content standards and challenging State student performance standards." The House recedes.

The House bill refers to "diverse students"; the Senate amendment refers to "diverse student populations." The House recedes.

The House bill refers to "challenging performance standards"; the Senate amendment refers to "challenging State student performance standards". The House recedes.

The House bill, but not the Senate amendment, includes an additional purpose of this part of assisting State and local educational agencies to engage teachers in the development of high quality curriculum that is aligned with State or local content and performance standards. The House recedes.

Authorization of Appropriations; Allocation Between Subparts

The House bill directs the Secretary to reserve 5 percent of the funds appropriated to carry out the Federal Activities; the Senate amendment directs the Secretary to reserve 5 percent of the amount appropriated to carry out the Federal Activities, but requires that 10 percent of the 5 percent be available to carry out the National Teacher Training Project. The House recedes with an amendment setting-aside 5 percent of the Secretary's reservation to be used to carry out the National Teacher Training Project.

The House bill directs the Secretary to reserve 95 percent of the funds appropriated to carry out State and Local Activities; the Senate amendment directs the Secretary to reserve 93.75 percent to carry out State and Local Activities. The House recedes with an amendment directing the Secretary to reserve 94 percent of the funds appropriated to carry out State and Local Activities.

The Senate amendment, but not the House bill, directs the Secretary to reserve 1.25 percent of the funds appropriated to carry out the Professional Development Demonstration Project. The House recedes with an amendment directing the Secretary to reserve 1 percent to carry out the Professional Development Demonstration Project, except that for each of the fiscal years 1996 through 1999, the total dollar amount for the demonstration project shall not exceed the amount received in FY 1995.

Subpart 1—Federal Activities

Program Authorized

The House bill refers to "other organizations"; the Senate amendments refers to "organizations." The House recedes.

The House bill refers to "activities of national significance that will contribute"; the Senate amendment refers to "activities of national significance that the Secretary determines will contribute." The House recedes.

The House bill refers to "core academic subject areas"; the Senate amendments refers to "core academic subjects." The House recedes.

The House bill, but not the Senate amendment, includes as an authorized activity supporting the development of challenging curriculum that is aligned with State or local content and performance standards. The House recedes.

The House bill authorizes the Secretary to evaluate activities under the subpart and subpart 2; the Senate amendment authorizes the Secretary to evaluate activities under this subpart and subpart 2 in accordance with section 10701 (the evaluation requirements under the ESEA general provisions). The House recedes.

The Senate amendment, but not the House bill, requires the Secretary to coordinate professional development programs within the Department, particularly within OERI. The House recedes with an amendment requiring the Secretary to also coordinate professional development programs with OSERS

The Senate amendment, but not the House bill, requires the Secretary to consult and coordinate with the Institute of Museum Services. The House recedes.

Authorized Activities

Explanatory Note: The House bill list four activities (seed money to eligible entities; development and maintenance of a national clearinghouse for science, math, and technology; support consortia in disseminating information; and the evaluation of this subpart) which the Secretary must carry out and several optional activities; the Senate amendment only lists optional activities.

The House bill requires the Secretary to provide seed money to eligible entities; the Senate amendment allows the Secretary to provide seed money to eligible entities. The Senate recedes.

Eisenhower National Clearinghouse for Mathematics and Science Education

The House bill includes the requirements for the Mathematics and Science Education Clearinghouse as part of a section; the Senate amendment places the authorization for the Clearinghouse in a separate section. The Senate recedes.

The House bill, requires the Secretary to use funds to develop and maintain a national clearinghouse for science, mathematics, and technology education materials and requires that it be administered as an adjunct clearinghouse of the ERIC system supported by OERI; the Senate amendment allows the Secretary to establish an Eisenhower national clearinghouse for mathematics and science education; delineates the duration of the grant, the use of funds, and other requirements with regard to the clearinghouse. The House recedes with an amendment requiring the Secretary to award a grant or contract to establish the National Clearinghouse.

The House bill requires the Secretary to use funds to support consortia of educational agencies and organizations in disseminating information and providing assistance regarding curricula, teaching methods, and assessment tools that support national or State content standards in mathematics and science; the Senate amendment has a similar provision in its technical assistance program, but it is only concerned with mathematics and science. The House recedes.

The House bill requires the Secretary to use funds to evaluate programs under this subpart (Federal Activities) and Subpart 2 (State and Local Activities); the Senate amendment allows the Secretary to use funds to evaluate programs under this subpart and subpart 2 in accordance with section 10701 (the ESEA general provisions requirements regarding evaluation). The Senate recedes with an amendment clarifying that the valuations be conducted in accordance with the ESEA provisions regarding evaluations.

The House bill requires that any national clearinghouses for core academic subjects that are established be administered as adjunct clearinghouses for the ERIC system of clearinghouses supported by the Office of Educational Research and Improvement; the Senate amendment allows the Secretary to develop and maintain a national clearinghouse for each core academic subject as the Secretary determines necessary. The Senate recedes.

The House bill, but not the Senate amendment, allows the Secretary to provide grants to entities to develop high quality curricula that are aligned with voluntary national or State content standards. The House recedes.

Both the House bill and the Senate amendment allow the Secretary to use funds for professional development institutes, but the House bill allows the Secretary to "sponsor" such institutes and refers to teachers and administrators as the participants; the Senate amendment refers to teams of teachers or teachers, administrators, pupil services personnel, and other staff from individual schools as the participants. The House recedes with an amendment clarifying that the institutes may serve, where appropriate, administrators, pupil services personnel, and other staff.

The House bill, but not the Senate amendment, allows the Secretary to use funds to train teachers in the innovative uses and applications of technology to enhance student learning. The Senate recedes.

Both the House bill and the Senate amendment allow the Secretary to use funds to encourage the development of local and national professional networks, but the House bill states that such networks should be "of educators"; the Senate amendment gives an illustrative example of the networks, and states that the network should "provide a forum for interaction among teachers of the core academic subjects and that allow the exchange of information on advances in content and pedagogy. The House recedes with an amendment further clarifying that the list of examples is illustrative.

Both the House bill and the Senate amendment have similar allowable activities with regard to dissemination of standards (with some minor phrasing and drafting differences), but the House bill refers to "disseminate standards" while the Senate amendment refers to "development and dissemination of teaching standards." The House recedes with an amendment clarifying that the teaching standards be model standards including the dissemination of voluntary national content and performance standards and related models of high quality professional development.

The House bill refers to "voluntary national content and performance standards"; the Senate amendment refers to "voluntary national content standards and voluntary national performance standards." The House recedes with an amendment adding State content standards and State performance standards.

The House bill, but not the Senate amendment, allows the Secretary to use funds for efforts to train teachers in innovative uses of applied learning strategies such as service learning. The Senate recedes with an amendment rewriting the House provision to include efforts to train teachers in innovative instructional methodologies designed to meet the diverse learning needs of individual students, including methodologies which integrate of academic and vocational learning and applied learning; and interactive, interdisciplinary team teaching, and other alternative strategies such as service learning, experiential learning, career-related education, and environmental education, that integrate real world applications into the core academic subjects.

The House bill refers to "achieve challenging performance standards"; the Senate amendment refers to "challenging State student performance standards." The House recedes.

The Senate amendment, but not the House bill, allows the Secretary to use funds for the development of exemplary methods of assessing teachers, other staff, and administrators for licensure and certification. The Senate recedes.

The Senate amendment, but not the House bill, allows the Secretary to use funds for the development and testing of incentive strategies for motivating teachers, administrators, and pupil services personnel to increase their effectiveness through professional development. The Senate recedes.

The Senate amendment, but not the House bill, allows the Secretary to use funds for the development of innovative intervention and prevention strategies with regard to special education services. The House recedes with an amendment striking "(A) alleviate the need, or assure appropriate referral, for special education services; and (B) prepare general education and special education teachers, paraprofessionals and pupil services personnel in effective integration of students with disabilities into general education settings, consistent with such student's individualized education program." and replacing it with the following after "strategies to" ": develop activities to prepare teachers, and where appropriate, pupil services personnel and other staff, in the collaborative skills needed to appropriately teach children with disabilities in the core academic subjects."

The amendment effectively allows the Secretary to develop activities to prepare teachers, and where appropriate, pupil services personnel and other staff, in the collaborative skills needed to appropriately teach children with disabilities in the core academic subjects.

The Senate amendment, but not the House bill, allows the Secretary to use funds for encouraging the development of innovative models for recruitment, induction, retention and assessment of new, highly qualified teachers, especially teachers from historically under-represented groups. The House recedes.

The Senate amendment, but not the House bill, allows the Secretary to use funds for joint activities with other Federal agencies and entities engaged in or supporting similar professional development efforts. The House recedes.

The Senate amendment, but not the House bill, allows the Secretary to use funds for the development of programs which prepare teachers to incorporate environmental education in the core academic subjects. The Senate recedes.

The House bill, but not the Senate amendment, requires the Secretary, when carrying out the mandatory activities in subjection (a), to ensure that each program, project, and activity listed in subsection (a) receive an allocation that is no less than the amount that each received in fiscal year 1994. The House recedes.

National Teacher Training Project

The Senate amendment, but not the House bill, creates a new program entitled the "National Teacher Training Project Act" which authorizes the Secretary to award not more than 10 grants to eligible recipients to support and promote the establishment of teacher training programs (based on the National Writing Project model) in early childhood development and, to the extent feasible, in each of the 9 core academic subjects; to support classroom research on effective teaching; and to pay the Federal share of the costs of the program. The House recedes with an amendment requiring that 5 percent of the Secretary's set-aside for national activities be used to carry out this program.

Subpart 2—State and Local Activities

Program Authorized

The House bill, but not the Senate amendment, authorizes the Secretary to make grants to SEA's for the development by teachers and others of high-quality curricula that are aligned with State or local content and performance standards. The House recedes.

Allocation of Funds

Within-State Allocations

The House bill authorizes States to reserve not more than 5% of the funds a State receives for the administrative costs of programs carried out by the SEA and by the State agency for higher education; the Senate amendment authorizes the State to reserve not more than 5% of 75% of the amount of funds a State receives for SEA administrative costs (the Senate amendment does provide for administrative costs for the State agency for higher education). The House recedes with an amendment authorizing the State to reserve 84 percent of the funds received for local activities.

The House bill authorizes States to reserve not more than 5% of the funds a State receives to carry-out State level activities consistent with section 2125 of the House bill; the Senate amendment authorizes States to reserve not more than 5% of 75% of the amount of funds a State receives for State-level activities, consistent with section 2126 of the Senate amendment. The House recedes with an amendment which allows States to reserve 5 percent of 84 percent of the funds received for State administrative costs and for State-level activities.

The House bill, after allowing States to reserve a total of not more than 10% of the amount of funds a State receives for SEA and higher education agency administration and state activities, requires that 87% of the remaining funds be distributed to LEAs on the basis of a formula; the Senate amendment requires that 75% of the amount of funds a State receives be available for State and local activities, and then allows States to reserve not more than a total of 10% of that 75% for SEA administration and activities. The House recedes.

The House bill, after allowing States to reserve a total of not more than 10% of the amount of funds a State receives for SEA and higher education agency administration and state activities, requires that 13% of the remaining funds be used for competitive grants to institutions of higher education; the State amendment requires that 25% of the funds a State receives shall be available to the State agency for higher education. The House recedes with an amendment which requires that 16 percent of the funds the State receives shall be available for higher education activities except that no State agency for higher education shall receive less than was received in fiscal year 1994.

The House bill allows not more than 5% of a State's allocation to be used for administrative costs by the SEA and the State agency for higher education; the Senate amendment allows that not more than 5% of the amount reserved for the State agency for higher education be used for administrative costs for that agency. The House recedes.

Consortium Requirement

The House bill requires an LEA which receives an allocation of less than $10,000 under subsection (a) to form a consortium with at least 1 other LEA or institution of higher education which receives assistance under this section; the Senate amendment requires an LEA, which receives an allocation of less than $10,000 under this part, to form a consortium with another LEA or with an educational service agency serving another LEA in order to be eligible to participate in programs assisted under this part. The House recedes.

The House bill requires the SEA to waive the consortium requirement if an LEA can demonstrate that the amount received allows the LEA to provide a program of sufficient size, scope, and quality to be effective and, when granting the waiver, the SEA must give special consideration to LEA's serving rural areas and consider State or local cash or in-kind contributions that may be combined with an LEA's allocation to provide services under this part; the Senate amendment allows the chief State school officer to waive the consortium requirement if distances or traveling time between schools make formation of the consortium, more costly or less effective. The Senate recedes with an amendment allowing SEAs to waive the consortia requirement and requiring SEAs to give special consideration to rural LEAs if distances or traveling time between schools make formation of the consortium more costly or less effective.

The Senate amendment, but not the House bill, requires that each consortium rely, as much as possible, on technology or other arrangements to deliver staff development tailored to the needs of each school or school district participating in a consortium required under this section. The House recedes.

State Applications

The House bill requires applications to include a State plan that is integrated with the State's plan that is either being developed or approved under Goals 2000, or, if the State does not have an approved Goals 2000 State plan and is not developing such a plan, with other State plans under this Act; the Senate amendment requires applications to include a State plan for professional development. The Senate recedes with an amendment requiring State applications to include a plan that is coordinated with other plans under this Act, the Goals 2000: Educate America Act, and other Acts, consistent with the general provisions requirements in ESEA.

The House bill, but not the Senate amendment, includes members of the public who are interested in improving education in the State among the list of entities which must be involved in developing the State's plan. The House recedes.

The Senate amendment, but not the House bill, includes nonprofit organizations of demonstrated effectiveness and pupil services personnel among the list of entities which must be involved in developing the State's plan. The House recedes with amendment adding community-based non-profit organizations of demonstrated effectiveness as one of the organizations that must participate in the development of the State plan.

The Senate amendment, but not the House bill, includes pupil services personnel. The House recedes with an amendment requiring the State plan to be designed to give, where appropriate, administrators and pupil services personnel the knowledge and skills necessary to provide all students the opportunity to achieve standards.

The House bill refers to "challenging State performance standards"; the Senate amendment refers to "challenging State content standards and challenging State student performance standards." The House recedes.

The House bill refers to "professional development"; the Senate amendment refers to "professional development specifically related to subparagraph (B)." The House recedes.

The House bill, but not the Senate amendment, requires that the State plan include an assessment of State and local needs for the development of curricula that are aligned with State or local content and performance standards. The House recedes.

The House bill, but not the Senate amendment, requires that the State plan include a description of how the plan has assessed the needs of LEAs serving rural areas, and what actions are planned to meet those needs. The Senate recedes with an amendment adding, "and urban" after "rural."

The Senate amendment, but not the House bill, creates a new section entitled "Priority for Professional Development in Mathematics and Science." The House recedes.

The House bill requires that the State plan include a description of how the plan has maintained funding for professional development activities in mathematics and science; the Senate amendment requires that all funds distributed to LEAs be used for math and science professional development when the appropriation is less than $250,000,000; when the appropriation is at $250,000,000 or above, LEAs must use all the funds up to $250,000,000 for math and science professional development and 10% of any funding increase above the $250,000,000 must be used for math and science. The House recedes with an amendment striking the Senate language with regard to appropriations equal to or above $250 million and instead including that States are permitted and encouraged to direct amounts above the $250 million to professional development in mathematics and science.

The House bill, but not the Senate amendment, requires that the State plan include a description of how the State, local, and higher education activities will address the needs of teachers in Title I schools. The Senate recedes.

The House bill requires that the State plan includes a description of how programs in all core academic subjects, but especially in math and science, will take into account the need for greater access to, and participation in, such disciplines by students from historically under-represented groups (the House bill includes illustrative examples of under-represented groups) by incorporating pedagogical strategies and techniques which meet their needs; the Senate amendment requires the State plan to describe how the State will ensure a strong focus on professional development in mathematics and science taking into account the need for greater access to, and participation in, such disciplines by students from historically under-represented groups. The Senate recedes with an amendment changing "the disabled" to "individuals with disabilities."

The House bill allows States to use funds depending on the outcome of the State's needs assessments; the Senate amendment allows States to use funds only for professional development. The Senate recedes with an amendment clarifying that funds must be used consistent with the State's needs assessment, and striking "demonstrates a need for professional development."

The House bill refers to "teachers, including teachers in schools receiving assistance under part A of Title I of this Act"; the Senate amendment refers to "teachers." The Senate recedes.

The Senate amendment, but not the House bill, includes parents. The House recedes.

The Senate amendment, but not the House bill, includes educational service agencies. The House recedes.

The House bill refers to "institutions of higher education; the Senate amendment refers to "institutions of higher education or nonprofit organizations of demonstrated effectiveness." The House recedes.

The House bill refers to "professional development in all the core academic subject areas, but especially in mathematics and science"; the Senate amendment refers to "professional development in the core academic subjects." The House recedes.

The House bill requires the State plan to describe how the State will take specific steps to review, and if necessary, reform State requirements for licensure of teachers and administrators in order to align those requirements with State content and performance standards; the Senate amendment requires the State, in the State plan, to describe how the State requirements for licensure of teachers and administrators support challenging State content standards and challenging State student performance standards. The House recedes with an amendment clarifying that the State plan describe whether State requirements for teacher and administrator licensure are aligned with State content standards and performance standards.

The House bill refers to "address the need for improving teaching and learning through teacher development"; the Senate amendment refers to "describe the need for teacher development." The Senate recedes.

The Senate amendment, but not the House bill, requires the State, when describing the need for teacher development in the State plan, to take into account the need, as determined by the State, for greater access to and participation in the teaching profession by individuals from historically under-represented groups. The House recedes.

The Senate amendment, but not the House bill, requires the State, in the State plan, to describe how the State will prepare all teachers to teach children with diverse learning needs, including children with disabilities. The House recedes.

The Senate amendment, but not the House bill, requires the State, in the State plan, to describe how the State will prepare teachers, paraprofessionals and pupil services personnel in effective prevention and intervention strategies to alleviate the need, and assure appropriate referral for, special education services, and to prepare general and special education staff to work collaborative to educate with students with disabilities who are in the regular classroom, consistent with the student's IEP. The House recedes with an amendment striking "effective prevention and intervention strategies to" and inserting after "personnel" the following: "and other staff in the collaborative skills needed to appropriately teach children with disabilities in the core academic subjects." and striking the text of (i) and (ii).

This amendment effectively requires the State to describe how it will prepare teachers, and where appropriate, pupil services personnel and other staff, in the collaborative skills needed to appropriately teach children with disabilities in the core academic subjects.

The Senate amendment, but not the House bill, requires the State, in the State plan, to describe how the State will use technology, including the emerging national information infrastructure, to enhance the professional development of teachers, administrators, and pupil services personnel. The House recedes with an amendment requiring that where appropriate, administrators and pupil services personnel be included in such professional development activities.

The Senate amendment, but not the House bill, requires the State, in the State plan, to describe how the State will provide incentives to teachers and administrators to focus their professional development on preparing themselves to provide instruction consistent with challenging State content standards and challenging State student performance standards. The House recedes.

The Senate amendment, but not the House bill, requires the State, in the State plan, to set specific outcome performance indicators for professional development. The House recedes with an amendment striking "outcome performance indicators" and instead referring to "performance indicators".

The Senate amendment, but not the House bill, requires the State, in the State plan, to describe how parents can be involved in professional development programs to enhance their participation in the education of their children. The House recedes.

The House bill, but not the Senate amendment, requires the State, if the State's needs assessment demonstrates a need for curricula development, to describe in the State plan a strategy for engaging teachers in the development of curricula that are aligned with State or local content and performance standards and how the State will work with administrators, parents, school board members, and other members of the community in developing high quality curricula that are aligned with State or local content and performance standards. The House recedes.

The Senate amendment, but not the House bill, requires that each State plan remain in effect for the duration of the State's participation in the program authorized under this subpart, and that the plan be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this subpart. The House recedes.

The Senate amendment, but not the House bill, requires that the State plan describe how activities under this subpart will be coordinated with activities conducted under parts B and D of the Individuals with Disabilities Education Act. The House recedes with an amendment striking "part B and D of the Individuals with Disabilities Education Act" and instead referring to the Individuals with Disabilities Education Act.

The Senate amendment, but not the House bill, requires that the State plan describe how activities under this subpart will be coordinated with resources from museums, libraries, educational television stations, and public and private nonprofit organizations of demonstrated experience. The House recedes.

The Senate amendment, but not the House bill, includes Federal funds from the Institute of Museum Services among the list of funding with which activities under this subpart must be coordinated.The House recedes.

State-Level Activities

The House bill refers to "State's content standards"; the Senate amendment refers to "State's challenging State content standards." The House recedes.

The House bill refers to "challenging State performance standards"; the Senate amendment refers to "challenging State student performance standards." The House recedes.

The House bill, but not the Senate amendment, directs States to pay special attention to LEAs and schools receiving Title I assistance when providing technical assistance. The Senate recedes.

The House bill, but not the Senate amendment, allow States to provide technical assistance to schools and LEAs in order to help such entities develop high quality curricula. The House recedes.

The House bill, not the Senate amendment, allows States to use funds to develop partnerships between schools, consortia of schools, of LEAs and institutions of higher education to provide professional development services and to encourage students studying to become teachers to have direct, practical experience in schools. The Senate recedes.

The House bill allows States to use funds to enhance the effective use of technology as an instructional tool for increasing student understanding of the core academic subjects; the Senate amendments allow States to use funds for professional development in the effective use of technology as an instructional tool for increasing student understanding of the core academic subjects. The House recedes.

The House bill, not the Senate amendment, in allowing States to use funds for effective use of technology, gives, as an example of this "use", efforts to train teachers in the innovative uses and application of instructional technology. The House recedes.

The House bill, not the Senate amendment, in allowing States to use funds for effective use of technology, gives as an example of this "use", utilizing and strengthening existing telecommunications infrastructure dedicated to educational purposes. The House recedes.

The House bill refers to "access to and teaching practices"; the Senate amendment refers to "students' access to computers and other educational technology and in teaching practices." The House recedes.

The House bill refers to "curriculum development and technical assistance processes"; the Senate amendment refers to "assessment, curriculum development, and technical assistance processes." The House recedes.

The House bill refers to "teachers and other school staff"; the Senate amendment refers to "teachers, pupil services personnel, and other school staff." The House recedes with an amendment clarifying that professional development services be provided to pupil services personnel and other school staff where appropriate.

The House bill refers to "challenging State performance standards"; the Senate amendment refers to "challenging State content standards and challenging State student performance standards." The House recedes.

The House bill refers to "designing professional development activities that increase"; the Senate amendment refers to "professional development and recruitment activities designed to increase." The House recedes.

The House bill refers to "numbers of members of minority and other under-represented groups"; the Senate amendment refers to "numbers of minorities, individuals with disability and females." The House recedes.

The House bill refers to "in the teaching force in the core subjects"; the Senate amendment refers to "teaching in the core academic subjects in which such individuals are under-represented." The House recedes.

The House bill, but not the Senate amendment, allows States to use funds to develop high quality curriculum that is aligned with State or local content and performance standards. The House recedes.

The House bill allows States to use funds to provide financial or other incentives for teachers to become certified by the National Board for Professional Teaching Standards; the Senate amendment allows States to use funds to provide financial or other incentives for teachers to become certified by nationally recognized professional teacher enhancement organizations. The House recedes.

The Senate amendment, but not the House bill, allows States to use funds for designing systems that enable teachers to meet pay ladder professional development requirements that are tied to the content standards. The Senate recedes.

The Senate amendment, but not the House bill, allows States to use funds for professional development that is designed to provide the collaborative skills that are needed to appropriately serve children with disabilities in the general education setting consistent with the IEP, and to develop the skills needed for effective prevention and intervention teaching strategies to alleviate the need, or assure appropriate referral, for special education services. The House recedes with an amendment striking the text of (a) and (b) and replacing it with the following: "prepare teachers, and where appropriate, pupil services personnel, paraprofessionals and other staff, in the collaborative skills needed to appropriately teach children with disabilities in the core academic subjects."

This amendment allows local educational agencies to provide professional development activities which prepare teachers, and where appropriate, pupil services personnel, paraprofessionals, and other staff, in the collaborative skills needed to appropriately teach children with disabilities in the core academic subjects.

The Senate amendment, but not the House bill, allows States to use funds for identifying, developing, or supporting parental involvement programs to better equip parents to participate in the education of their children. The House recedes with an amendment to clarify that funds may be used for identifying, developing or supporting professional development strategies and programs to better equip parents in assisting their children to raise their achievement in the core academic subjects.

The Senate amendment, but not the House bill, allows States to use funds for professional development activities designed to increase the number of women and other under-represented groups in the administration of schools. The House recedes.

The Senate amendment, but not the House bill, allows States to use funds to provide training for LEA employees in the area of early childhood development to ensure that early childhood education services provided to low income students below the age of compulsory school attendance comply with the Head Start performance standards. The House recedes.

The Senate amendment, but not the House bill, allows States to use funds to provide technical assistance to teachers, administrators, parents, and related services personnel in the area of early childhood development in order to ensure that early childhood education services provided to low income students below the age of compulsory school attendance comply with the Head Start performance standards. The House recedes.

Local Plan and Application for Improving Teaching and Learning

The House bill, but not the Senate amendment, clarifies that LEAs may submit applications singly or as consortia. The Senate recedes.

The House bill, but not the Senate amendment, requires an LEA, if it has an application approved by the State under Goals 2000, to have its application under this program as a component of or an addendum to its Goals 2000 application. The Senate recedes with an amendment requiring each LEA to make its Eisenhower application a component of its plan, as appropriate, under other ESEA programs, Goals 2000, or other Acts.

The House bill requires an LEA to set specific performance indicators for improving teaching and learning through professional development and curriculum development; the Senate amendment has a similar provision under the application contents. The Senate recedes with an amendment striking the reference to curriculum development.

The House bill requires an LEA to submit, as part of its application, the results of the needs assessment and the LEA plan; the Senate amendment has a similar requirement. The House recedes.

The House bill requires an LEA to include in its application an assessment of its need for professional development and an assessment of its need for the development of high quality curricula that are aligned with State or local content and performance standards; the Senate amendment requires an LEA to include in its application an assessment of local needs for professional development as identified by the LEA and school staff. The House recedes.

The House bill requires that the needs assessment be carried out with the involvement of teachers, including teachers in Title I schools, and that the assessment take into account what activities need to be conducted in order to give teachers and administrators the means to provide students with the opportunity to meet the State or local performance standards; the Senate amendment requires that the need for professional development be identified by the LEA and school staff. The Senate recedes with an amendment clarifying that professional development services include administrators, where appropriate.

The House bill requires that the LEA plan be developed jointly by the LEA and by teachers from the core academic disciplines, and that the teachers be representative of both the grade spans within the schools to be served and Title I schools; the Senate amendment requires that the LEA plan be developed with the extensive participation of teachers, administrators, staff, and pupil services personnel. The House recedes with an amendment requiring that each LEA's plan for professional development be focused on teaching and learning in the core academic subjects, clarifying that, where appropriate, administrators participate in the development of the plan, and requiring that the teachers served by the professional development be representative of the grade spans within schools to be served and of schools which receive Title I assistance.

The House bill, but not the Senate amendment, requires LEA plans to describe a number of items based on the LEA's need assessment. The Senate recedes.

The House bill, but not the Senate amendment, requires the LEA plan to include a description of the LEA's strategy to improve teaching and learning in every school. The House recedes.

The House bill, but not the Senate amendment, requires the LEA plan to include a description of how the plan contributes to the LEA's overall efforts for school reform and educational improvement. The Senate recedes.

The House bill, but not the Senate amendment, requires the LEA plan to include a description of the activities the LEA intends to undertake under this subpart consistent with the LEA's needs assessment. The House recedes.

The House bill, but not the Senate amendment, requires the LEA plan to include a description of how the plan has maintained funding for professional development activities in math and science education. The House recedes.

The House bill, but not the Senate amendment, requires the LEA plan to include a description of how the activities funded under this section will address the needs of teachers in Title I schools. The Senate recedes.

The Senate amendment, but not the House bill, requires that the LEA professional development plan be aligned with the State's challenging State content standards and challenging State student performance standards. The House recedes.

The Senate amendment, but not the House bill, requires that the LEA professional development plan describe a strategy, tied to challenging State content standards and challenging State student performance standards, for addressing the needs identified in the needs assessment. The House recedes with an amendment clarifying that the strategy be consistent with the needs assessment carried out by the LEA.

The Senate amendment, but not the House bill, requires the LEA professional development plan include strong academic content and pedagogical components. The Senate recedes.

The Senate amendment, but not the House bill, requires the LEA professional development plan be of sufficient intensity and duration to have a positive and lasting impact on the student's performance in the classroom. The House recedes.

The Senate amendment requires the LEA professional development plan to set specific outcome performance indicators; the House bill has a similar provision. the Senate recedes.

The House bill and the Senate amendment have similar provisions which require the LEA plan to take into account the need for greater access to, and participation in, the core academic subjects, especially math and science, by students from historically under-represented groups, but the House bill gives illustrative examples of the under-represented groups and suggests that the plan incorporate pedagogical strategies and techniques which meet the under-represented groups' educational needs. The Senate recedes with an amendment striking "the disabled" and replacing it with "individuals with disabilities."

The House bill refers to "using the performance indicators"; the Senate amendment refers to "using the outcome performance indicators to determine the effectiveness of such activities." The Senate recedes.

The House bill requires the local plan to describe how the program funded by this subpart will be coordinated with the activities conducted by institutions of higher education under this program and other services of such institutions; the Senate amendment requires that the local plan describe how the program will be coordinated with the services of institutions of higher education. The Senate recedes.

The House bill requires that the local plan describe how the program funded by this subpart will be coordinated with similar State and local activities; the Senate amendment requires that the local plan describe how programs funded under this subpart will be coordinated with State and local funds. The Senate recedes.

The House bill requires the local plan to describe how the program will be coordinated with resources from other ESEA programs, particularly the technology program under title II, part B; the Senate amendment requires the local plan to describe how the program will be coordinated with resources provided under other ESEA programs. The House recedes.

The House bill requires the local plan to describe how the program will be coordinated with resources from private non-profit organizations (including museums, libraries, educational television stations, community-based organizations, professional organizations, and associations specializing in, or with a demonstrated expertise in the core academic disciplines); the Senate amendment requires the local plan to describe how the program will be coordinated with resources from museums, libraries, educational television stations, and public and private nonprofit organizations of demonstrated experience. The Senate recedes with an amendment adding public non-profit organizations to the list of entities.

The House bill refers to "funds or programming from other Federal agencies"; the Senate amendment refers to "funds received from other Federal agencies." The Senate recedes.

The Senate amendment, but not the House bill, requires the local plan to describe how the program will be coordinated with funds received from the Institute of Museum Services. The House recedes.

The Senate amendment, but not the House bill, requires the local plan to describe how the program will be coordinated with the services of educational service agencies. The House recedes.

The Senate amendment, but not the House bill, requires the local plan to describe how the program will be coordinated with the resources provided under parts B, D, and H of IDEA. The House recedes with an amendment striking the reference to part B, D, and H of the Individuals with Disabilities Education Act and instead referring to the Individuals with Disabilities Education Act.

The Senate amendment, but not the House bill, requires the local plan to describe the strategies that will be employed to more fully and effectively involve parents in the education of their children. The House recedes with an amendment clarifying that the strategies be professional development strategies.

The Senate amendment, but not the House bill, requires that each local plan remain in effect for the duration of the LEA's participation under this subpart, and the plan be periodically reviewed and revised by the LEA, as necessary, to reflect changes in the LEA's strategies and programs under this subpart. The House recedes.

Local-Cost Sharing

The House bill, but not the Senate amendment, clarifies that non-Federal sources of cash expenditures may include private contributions. The Senate recedes.

The House bill, but not the Senate amendment, allows cash expenditures from non-Federal sources directed toward curriculum development activities to be used to meet the local cost sharing requirement. The House recedes.

The House bill, but not the Senate amendment, allows release time for teachers participating in curriculum development to be used to meet the local cost sharing requirement. The House recedes.

The House bill refers to "if used for professional development or curricula development activities"; the Senate amendment refers to "so long as funds are used for professional development activities." The House recedes.

The Senate amendment, but not the House bill, allows programs that are related to the purpose of this Act and administered by the Institute of Museum Services to be used to meet the local cost sharing requirement. The House recedes.

Local Allocation of Funds and Allowable Activities

The Senate amendment, but not the House bill, allows parts B and D of IDEA to be used to meet the local cost sharing requirement. The House recedes with an amendment striking the reference to parts B and D of the Individuals with Disabilities Education Act and instead referring to the Individuals with Disabilities Education Act.

The Senate amendment, but not the House bill, includes a special rule which allows an LEA to meet the local cost sharing requirement through contributions that are provided in cash or in kind, fairly evaluated. The House recedes.

The House bill, but not the Senate amendment, allows the SEA to waive the local cost sharing requirement if an LEA can demonstrate that it is unable to meet the requirement due to economic hardship and that compliance with the requirement would preclude its participation in this program. The Senate recedes.

The House bill requires that not less than 80% of the funds received by an LEA be utilized for providing professional development of teachers, principals, and other instructional staff who work directly with children and for engaging teachers and other staff in the development of high quality curricula that is aligned with State and local content standards; the Senate amendment requires that at least 80% of the funds received by an LEA be utilized for providing professional development of teachers, administrators, pupil services personnel, parents, and other staff of individuals schools. The House recedes with an amendment clarifying that where appropriate, professional development should be provided to administrators, pupil services personnel, parents, and other staff.

Technical Note: It was the intention of the House that the language beginning "in a manner that is determined.." through the end of subparagraph (B) was to apply to both subparagraph (A) and (B).

The Senate amendment, but not the House bill, requires that professional development, to the extent practicable, take place at the individual school site. The House recedes.

The House bill, but not the Senate amendment, requires that curricula development activities be consistent with other plans for curricula development carried out with Federal, State, or local funds. The House recedes.

The Senate amendment, but not the House bill, requires professional development activities to be consistent with other Federal, State or local plans for professional development only if such plans emphasize sustained, ongoing activities. The House recedes.

The House bill, but not the Senate amendment, allows LEAs to use not more than 20% of their funds for district level curricula development activities. The House recedes.

The House bill makes it optional for administrators and policy-makers to be involved in district-level professional development or curricula development activities if those activities directly support instructional personnel; the Senate amendment requires that district level professional development activities include administrators, policy-makers, and parents. The House recedes with an amendment clarifying that where appropriate, administrators, policy-makers, and parents be included in the district-level professional development activities.

The House bill requires schools and LEAs receiving funds to use such funds for activities that give teachers and administrators the knowledge and skills to provide students with the opportunity to meet challenging State or local content and performance standards; the Senate amendment requires schools and LEAs receiving funds to use such funds for activities that contribute to the implementation of the LEA's profession. The Senate recedes.

The House bill, but not the Senate amendment, states explicitly that funds received by LEAs and schools can only be used for those activities that are specifically outlined in the legislation. The House recedes.

The House bill, but not the Senate amendment, requires that not less than 80% of the funds received shall be used for professional development activities, and not more than 20% of the funds received shall be used for curricula development activities. The House recedes.

The House bill, but not the Senate amendment, requires that if an LEA's needs assessment determines that funds received should be used to provide professional development in the core academic subjects for teachers and other school staff, then the LEA shall use its funds for professional development that will support teaching which is consistent with State or local content standards, and which, to the extent practicable, is coordinated with professional development activities of institutions of higher education and activities carrier out by institutions of higher education with funds received under this program. The House recedes.

Explanatory Note: The House bill, but not the Senate amendment, has a listing of six criteria with which professional development activities conducted by LEAs and schools with funds under this program must be consistent.

The House bill, but not the Senate amendment, requires that LEA and school professional development activities be tied to challenging State or local content and student performance standards. The Senate recedes with an amendment striking "State or local content and student performance standards" and replacing the phrase with "State content standards of challenging local content standards and challenging State student performance standards or challenging local student performance stands."

The House bill, but not the Senate amendment, requires that LEA and school professional development activities reflect recent research on teaching and learning. The Senate recedes with an amendment requiring professional development activities to take into account research on teaching and learning.

The House bill requires that LEA and school professional development activities incorporate effective strategies, techniques, methods, and practices for meeting the educational needs of diverse student in order to ensure that all students have the opportunity to achieve challenging performance standards; the Senate amendment allows

LEAs and schools to conduct professional development activities which incorporate effective strategies, techniques, methods, and practices for meeting the educational needs of diverse students. The House recedes.

The House bill, but not the Senate amendment, requires that LEA and school professional development activities include strong academic content and pedagogical components. The Senate recedes.

The House bill, but not the Senate amendment, requires that LEA and school professional development activities be of sufficient intensity and duration to have a positive and lasting impact on the teacher's performance in the classroom. The Senate recedes.

The House bill, but not the Senate amendment, requires that LEA and school professional development activities be part of the everyday life of the school and create an orientation toward continuous improvement throughout the school. The House recedes.

The Senate amendment, but not the House bill, includes pupil services personnel among those individuals for whom professional development can be provided. The House recedes with an amendment allowing professional development to be provided, where appropriate, to administrators, pupil services personnel, or other staff.

The House bill refers to "State or local content standards"; the Senate amendment refers to "challenging State content standards and challenging State student performance standards." The House recedes.

The Senate amendment, but not the House bill, allows LEAs and schools to provide professional development to create a school environment conducive to high achievement in the core academic subjects. The Senate recedes.

The Senate amendment, but not the House bill, clarifies that "support and time", in the case of teachers, may include release time with pay. The House recedes.

The Senate amendment, but not the House bill, allows schools and LEAs to provide pupil services personnel with support and time to enable them to participate in professional development activities. The House recedes with an amendment clarifying that support and time be provided to pupil services personnel and other staff where appropriate.

The House bill, but not the Senate amendment, includes educational partnership organizations among the list of providers of professional development. The Senate recedes.

The Senate amendment, but not the House bill, includes science centers among the list of providers of professional development. The House recedes.

The Senate amendment, but not the House bill, allows LEAs and schools to use funds to establish and maintain local professional networks of pupil services personnel. The Senate recedes.

The Senate amendment, but not the House bill, allow LEAs and schools to use funds to prepare teachers in the effective use of assistive technology. The House recedes.

The House bill refers to "activities to enable teachers"; the Senate amendment refers to "professional development to enable teachers, pupil services personnel, and other school staff." the House recedes with an amendment clarifying that professional development activities may be provided, where appropriate, to pupil services personnel and other school staff.

The House bill refers to "challenging State performance standards"; the Senate amendment refers to "challenging State content standards and challenging State student performance standards." The House recedes.

The House bill allows schools and LEAs to use funds for professional development and recruitment activities to increase the number minorities, individuals with disabilities, and females teaching in the core academic subjects in which they are under-represented; the Senate amendment allows schools and LEAs to use funds for professional development activities to increase the numbers of minorities, individuals with disabilities, and other under-represented groups in the teaching force. The Senate recedes.

The Senate amendment, but not the House bill, allows schools and LEAs to use funds for professional development activities to increase the numbers of women and members of other under-represented groups who are science and mathematics teachers, for example, through career ladder programs that assist educational paraprofessionals to obtain teaching credentials. The House recedes with an amendment clarifying that the teaching credentials obtained be in the core academic subjects.

The House bill allows funds to be used by schools and LEAs for the development of incentive strategies for rewarding schools where a substantial portion of teachers achieve certification by the National Board for Professional Teaching Standards; the Senate amendment allows funds to be used by schools and LEAs for providing financial or other incentives for teachers to become certified by nationally recognized professional teacher enhancement programs. The House recedes.

The House bill, but not the Senate amendment, allows schools and LEAs to use funds for other sustained and intensive high quality professional development activities in the core academic subjects. The House recedes.

The Senate amendment, but not the House bill, allows schools and LEAs to use funds for support and time (which in the case of teachers may include release time with pay) for teachers, pupil services personnel, and other school staff to participate in professional development that goes beyond training and encourages a variety of forms of learning that are related to an educator's regular work. The Senate recedes.

The Senate amendment, but not the House bill, allows schools and LEAs to use funds for support and time for teachers, pupil services personnel and other school staff to learn and implement effective collaboration for the instruction of children with disabilities placed into general education settings, consistent with the child's IEP, and in prevention and intervention strategies to alleviate the need for, or assure appropriate referrals of children for special education services. The House recedes with an amendment striking after "disabilities" the following: "placed into general education settings, consistent with such child's individualized education program, and" and insert in its place "in the core academic subjects" after "disabilities"; and striking (ii).

This amendment clarifies that LEAs may use funds for support and time for teachers, and where appropriate, pupil services personnel and other school staff, to learn and implement effective collaboration for the instruction of children with disabilities in the core academic subjects.

The Senate amendment, but not the House bill, allows schools and LEAs to use funds for peer training and mentoring programs in the core academic subjects and in the development of social, emotional, and mental health needs of children. The Senate recedes.

The Senate amendment, but not the House bill, allows schools and LEAs to use funds to prepare teachers and pupil services personnel to work with parents and families on fostering student achievement in the core academic subjects. The House recedes with an amendment clarifying that where appropriate pupil services personnel may participate in professional development activities.

The Senate amendment, but not the House bill, allows schools and LEAs to use funds to establish policies to permit teachers to meet pay ladder requirements by demonstrating content and pedagogical competence rather than by only meeting course requirements. The Senate recedes.

The Senate amendment, but not the House bill, allows schools and LEAs to use funds for professional development activities and other support for new teachers as such teachers transition into the classroom to provide such teachers with practical support and to increase retention. The House recedes.

The Senate amendment, but not the House bill, allows schools and LEAs to use funds for professional development for teachers, parents, early childhood educators, administrators, and other staff to support activities and services related to the Transition to Success program under part B of title I. The House recedes with an amendment which allows schools and LEAs to use funds for professional development for teachers, parents, early childhood educators, administrators, and other staff to support activities and services related to preschool programs in order to raise student performance in the core academic subjects.

The Senate amendment, but not the House bill, allows schools and LEAs to use funds to develop incentive strategies for rewarding teachers, administrators, and pupil services personnel collectively in schools that sustain high performance or consistent growth in the number of their students who meet the challenging State content standards and challenging State student performance standards. The Senate recedes.

The Senate amendment, but not the House bill, allows schools and LEAs to use funds for developing strategies and programs to more effectively involve parents in the education of their children. The House recedes with an amendment clarifying that funds may be used for developing professional development strategies and programs to more effectively involve parents in helping their children achieve in the core academic subjects.

The Senate amendment, but not the House bill, allows schools and LEAs to use funds for professional development activities designed to increase the number of women and other under-represented groups in the administration of schools. The House recedes.

The Senate amendment, but not the House bill, allows schools and LEAs to use funds for release time with pay for teachers. The House recedes.

The Senate amendment, but not the House bill, allows schools and LEAs to use funds for professional development in experiential based teaching methods such as service learning. The House recedes with an amendment rewriting the Senate provision to include professional development activities to train teachers in innovative instructional methodologies designed to meet the diverse learning needs of individual students, including the integration of academic and vocational learning and applied learning; and interactive, interdisciplinary team teaching, and other alternative strategies such as service learning, experietial learning, career-related education, and environmental education, that integrate real world applications into the core academic subjects.

The House bill, but not the Senate amendment, requires an LEA, if that LEA's needs assessment determines that funds under this program should be used for curriculum development, to use the funds provided to develop high quality curricula that is aligned with State or local content and performance standards. The House recedes.

The House bill, but not the Senate amendment, allows schools and LEAs to use funds to purchase curriculum materials to the extent that such materials are essential components of the LEA's plan to improve teaching and learning in the core academic subjects. The House recedes.

Higher Education Activities

The Senate amendment, but not the House bill, clarifies that it is from amounts made available under section 2123(2) of the bill that the State agency for higher education is to award grants or enter into contracts for professional development activities. The House recedes.

The House bill allows grants to be made to or contracts to be entered into or cooperative agreements with institutions of higher education and nonprofit organizations (including museums and educational partnership organizations) which demonstrate consultation and cooperation with an LEA, consortium of LEAs, or schools; the Senate amendment allows grants to be made to or contracts to be entered into or cooperative agreements with institutions of higher education or private nonprofit organizations working in conjunction with LEAs. The Senate recedes with an amendment to clarify that nonprofit organizations be of demonstrated effectiveness and that eligible entities must work in conjunction with an LEA, a consortium of LEAs or schools.

The House bill refers to "core academic subject areas"; the Senate amendment refers to "core academic subjects." The Senate recedes.

The House bill, but not the Senate amendment, allows the State agency for higher education to use funds to support activities which engage teachers in the development of high-quality curricula that are aligned with state or local content and performance standards. The House recedes.

The House bill, but not the Senate amendment, allows the State agency for higher education to use funds to develop and provide assistance to LEAs, and the teachers and staff of the LEA, for sustained, high quality professional development activities. The Senate recedes.

The House bill, but not the Senate amendment, allows the State agency for higher education to use funds to support improving teacher education programs in order to promote further innovation in teacher education programs within an institution of higher education and to better meet the needs of LEAs for well-prepared teachers. The Senate recedes.

The House bill, but not the Senate amendment, prohibits institutions of higher education from receiving funds under subsection (a)(1) unless the institution enters into an agreement with an LEA or a consortium of LEAs to provide sustained, high quality professional development for elementary and secondary teachers in the schools of the LEA. The Senate recedes.

The Senate amendment, but not the House bill, allows the State agency for higher education to fund activities which provide professional development for pupil services personnel. The House recedes with an amendment clarifying that, where appropriate, pupil services personnel and administrators may participate in professional development activities.

Explanatory Note: The House bill, but not the Senate amendment, gives illustrative examples of sustained and intensive professional development activities.

The House bill, but not the Senate amendment, gives as an example of a sustained and intensive professional development activity the establishment and maintenance of professional networks of teachers that provide a forum for interaction among teachers and that allow exchange of information on advances in content and pedagogy. The House recedes.

The House bill, but not the Senate amendment, gives as an example of a sustained and intensive professional development activity programs that prepare teachers to be effective users of information technology, able to integrate technology into their pedagogy and their instructional practices, and able to enhance their curricular offerings by appropriate applications of technology. The House recedes.

The House bill, but not the Senate amendment, gives as an example of a sustained and intensive professional development activity programs that utilize information technology to deliver intensive and high quality professional development activities for teachers. The House recedes.

The House bill, but not the Senate amendment, gives as an example of a sustained and intensive professional development activity activities to enable teachers to ensure that girls, young women, minorities, limited English proficient students, individuals with disabilities, and economically disadvantaged individuals have the opportunity to achieve the challenging State performance standards in the core academic subjects. The House recedes.

The House bill, but not the Senate amendment, gives as an example of a sustained and intensive professional development activity professional development and recruitment activities designed to increase the number of minorities, individuals with disabilities, and other under-represented groups teaching in the core academic subjects, particularly in math and science. The House recedes.

The House bill, but not the Senate amendment, gives as an example of a sustained and intensive professional development activity the establishment of professional development academies. The House recedes.

The House bill, but not the Senate amendment, gives as an example of a sustained and intensive professional development activity technical assistance to LEAs in providing sustained and intensive professional development activities for teachers. The House recedes.

The Senate amendment, but not the House bill, allows the State agency for higher education to use funds to support preservice training activities. The House recedes.

The Senate amendment, but not the House bill, allows each institution of higher education which receives a grant to enter into a partnership with a private industry, museum, library, educational television station, or public or private nonprofit organization of demonstrated experience to carry out professional development. The House recedes.

Subpart 3—General Provisions

Reporting and Accountability

The Senate amendment, but not the House bill, clarifies that States should submit their reports beginning with fiscal year 1997. The House recedes.

The House bill refers to "performance indicator"; the Senate amendment refers to "outcome performance indicators." The Senate recedes.

The Senate amendment, but not the House bill, clarifies that LEAs should submit their reports beginning with fiscal year 1997. The House recedes.

The House bill refers to "the outcome performance indicators in its plan"; the Senate amendment refers to "outcome performance indicators identified in such agency's local plan." The House recedes with an amendment striking the term "outcome performance indicators" and referring to "performance indicators."

The Senate amendment, but not the House bill, requires LEAs to report on the effectiveness of the LEA's activities under this program. The House recedes.

The Senate amendment, but not the House bill, requires the Secretary to report to the President and the Congress on the effectiveness of programs and activities assisted under this program. The House recedes.

The House bill, but not the Senate amendment, prohibits funds from being used for construction or renovation of buildings, rooms, or any other facilities. The Senate recedes.

Definitions

The House bill defines the term "core academic subjects" as those subjects listed in the State plan under title III of Goals 2000 or as set in National Education Goal III of Goals 2000; the Senate amendment defines that term as subjects such as English, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography. The Senate recedes.

The House bill uses and defines the term "performance indicator"; the Senate amendment uses and defines the term "outcome performance indicators." The Senate recedes.

The House bill refers to "challenging State standards in the core academic subject area"; the Senate amendment refers to "challenging State content standards and challenging State student performance standards." The House recedes.

The House bill uses the term "State standards"; the State amendment uses the term "challenging State content standards and challenging State student performance standards." The House recedes.

The House bill, but not the Senate amendment, gives as an example of an indicator incorporating effective strategies, techniques, methods, and practices for meeting the educational needs of diverse students in order to ensure that all students have the opportunity to achieve challenging performance standards and lists the types of diverse students. The Senate recedes.

The House bill refers to "increases in the number of Board certified teachers licensed in each core subject"; the Senate amendment refers to "increases in the number of teachers who are certified by the National Board for Professional Teaching Standards or other nationally recognized professional teacher enhancement organizations." The House recedes.

The Senate amendment, but not the House bill, gives us an example of an indicator the pass rates on teacher examinations for initial and continuing certification or licensure. The Senate recedes.

The Senate amendment, but not the House bill, gives as an example of an indicator the specific increases in the number of teachers licensed in each core academic subject. The House recedes.

The House bill refers to "challenging State or voluntary national content and performance standards"; the Senate amendment refers to "challenging State content standards, challenging State student performance standards, voluntary national content standards or voluntary national student performance standards." The House recedes.

The House bill refers to "content and pedagogical components"; the Senate amendment refers to "content and pedagogical components appropriate for students with diverse learning needs." The House recedes.

The House bill, but not the Senate amendment, includes as a criterion of sustained and intensive high quality professional development activities which incorporate effective strategies, techniques, methods, and practices for meeting the educational needs of diverse students in order to assure that all students have the opportunity to achieve challenging performance standards and lists the types of diverse students. The Senate recedes.

The House bill, but not the Senate amendment, includes a definition of the term "local standard." The Senate recedes with an amendment clarifying the terms "student performance standard", "core academic subjects", "challenging State content standards", and "challenging State student performance standards."

The Senate amendment, but not the House bill, includes a definition of the term "prevention." The Senate recedes.

Professional Development Demonstration Project

The Senate amendment, but not the House bill, includes a Professional Development Demonstration Project which authorizes the Secretary to award grants to eligible partnerships to plan and implement professional development programs. Findings, purpose, program requirement, eligible partnerships, and grant requirements are also described. This program is funded from a 1.25% set-aside of funds. The House recedes with an amendment funding the program from a 1 percent set-aside, but requires that, in each of the fiscal years 1996 through 1999, the amount of funding the demonstration project receives shall not exceed the amount the project received in FY 1995.

TITLE III—TECHNOLOGY FOR EDUCATION

(Title II, Part B in H.R. 6/Title III in S. 1513)

Part A—Technology for Education

1. The House bill names Title II, Part B, "Technology Education Assistance"; the Senate amendment names Title III, "Technology for Education."

The House recedes.

2. Both bills give similar short titles, but the House bill adds the word, "assistance" to the title.

Legislative counsel.

3. Technical.

Legislative counsel.

Findings

4. Similar points concerning the role of technology in education. The House bill emphasizes the lack of federal leadership in this area, the Senate amendment notes the need for such leadership. The House bill emphasizes the growing disparities between rich and poor students in the absence of educational technology policies; the Senate amendment emphasizes that public policy should give priority to students in greatest need. The House bill emphasizes education equalization, particularly for students in urban and rural areas; the Senate amendment emphasizes individualized instruction. The Senate bill emphasizes how the acquisition and use of technology has been inhibited.

The House recedes with an amendment merging findings that appear in two places in the House bill (note 246, p. 95; note 389, page 135) and one place in the Senate amendment (note 346, p. 95):

Combine (1) from House bill with (1) from Senate amendment:

"(1) technology can produce far greater opportunities for all students to learn to high standards, promote efficiency and effectiveness in education, and help propel our Nation's school systems into very immediate and dramatic reform, without which our Nation will not meet the National Education Goals by the target year 2000;"

Include (2) from House bill and delete (5) from Senate amendment.

Combine (3) from House bill with (3) from Senate amendment:

"(3) the acquisition and use of technology in education throughout the United States has been inhibited by—

(A) the absence of Federal leadership;

(B) the inability of many State and local educational agencies to invest in and support needed technologies;

(C) the limited exposure of students and teachers to the power of technology as a cost-effective tool to improve student learning and achievement'

(D) the lack of appropriate electrical and telephone connections in the classroom; and

(E) the limited availability of appropriate technology-enhanced curriculum, instruction, professional development and administrative support resources and services in the educational marketplace;"

Combine (9) from Senate amendment with (4) from House bill, deleting (5) from House bill:

"(4) policies at the Federal, State, and local levels concerning technology in education must address disparities in the availability of technology to different groups of students, give priority to serve students in greatest need, and recognize that educational telecommunications and technology can address educational equalization concerns and school restructuring needs by providing universal access to high-quality teaching and programs, particularly in urban and rural areas;"

Include (11) from Senate amendment, add "and industry" after "business" in (11), and delete (6) from House bill.

Combine (7) from House bill with (10) from Senate amendment:

(6) Technology can enhance the ongoing professional development of teachers and administrators by providing constant access to updated research in teaching and learning by means of telecommunications, and, through exposure to technology advancements, keep teachers and administrators excited and knowledgeable about unfolding opportunities for the classroom;"

Purpose

5. The House bill, but not the Senate amendment, prefaces this section by stating it is intended to support a comprehensive system for the acquisition of technology.

The Senate recedes with amendments to: end introductory material with "Such system shall include—"

"(1) National leadership with respect to the need for, and the provision of, appropriate technology-enhanced curriculum, instruction and administrative programs to improve learning in the United States, and to promote equal access for all students to educational opportunities in order to achieve the National Education Goals by the year 2000;

(2) Funding mechanisms which will support the development, interconnection, implementation, improvement and maintenance of an effective educational technology infrastructure, including activities undertaken by the State and local school districts to promote and provide equipment, training for teachers and library media personnel, and technical support;

(3) Support for technical assistance, professional development, information and resources dissemination, in order to help States, local school districts, teachers, library media personnel, and administrators successfully integrate technology into kindergarten through 12th grade classrooms and library media centers;

(4) Support for the development of educational and instructional programming in core subject areas, which programming shall address the National Education Goals;

(5) Strengthening and building upon, but not duplicating, existing telecommunications infrastructures dedicated to educational purposes;

(6) Development and evaluation of new and emerging educational technologies, telecommunications networks, and state-of-the-art educational technology products that promote the use of advanced technologies in the classroom and school library media center;

(7) Assessment data regarding state-of-the-art uses of technologies in United States education upon which commercial and noncommercial telecommunications entities, and governments can rely on for decision-making about the need for, and provisions of, appropriate technologies for education in the United States;

(8) Ensuring that uses of educational technology are consistent with the overall national technology policy established by the President, and ensuring that Federal technology-related policies and programs will facilitate the use of technology in education;

(9) Ensuring that activities supported under this part will form the basis for sound State and local decisions about investing in, sustaining, and expanding uses of technology in education;

(10) Establishing working guidelines to ensure maximum interoperability nationwide and ease of access for the emerging technologies so that no school system will be excluded from the technological revolution; and

(11) Ensuring that, as technological advances are made, the educational uses of these advances are developed."

6. The House bill emphasizes support for national leadership in technology for curricula, instruction and administrative support; the Senate amendment emphasizes support for technology to promote equal educational access to achieve the National Goals.

The Senate recedes with amendments. See note 5.

7. The House bill emphasizes support for funding mechanisms to build the technology infrastructures; the Senate amendment emphasizes funds for equipment, training and support.

The Senate recedes with amendments. See note 5.

8. The House bill emphasizes support to build dissemination networks for educators; the Senate amendment emphasizes support for technical assistance, professional development, and dissemination on integrating technology into classrooms.

The House recedes with amendments. See note 5.

9. The House bill emphasizes support for training for educators and administrators; the Senate amendment emphasizes support to develop programs in the core subjects.

The House recedes with amendments. See note 5.

10. Similar provisions to support strengthening existing infrastructures, but the Senate amendment also emphasizes that incompatible systems must be discouraged.

The Senate recedes with amendments. See note 5.

11. The House bill emphasizes support to develop and evaluate new technologies; the Senate amendment emphasizes support for creative partnerships which develop state-of-the-art products.

The Senate recedes with amendments. See note 5.

12. The House bill emphasizes support for assessments of new technologies; the Senate amendment emphasizes that the uses of funds be consistent with national technology policy.

The Senate recedes with amendments. See note 5.

13. The House bill, but not the Senate amendment, notes the purpose is to authorize grants for four types of activities.

The Senate recedes with an amendment to strike 8 (A), (B), and (C) and move (D) to purposes.

Definitions

14. The House bill, but not the Senate amendment, defines "library" and "State library administrative agency".

The Senate recedes.

15. The House bill, but not the Senate amendment, defines "regional educational laboratory."

The Senate recedes.

16. The House bill defines the term "technology" similar to that of the Senate amendment, but the House includes "public telecommunication entities", when the Senate amendment includes "educational television and radio programs and services"; and only the Senate amendment applies the term to "state-of-the-art" technology products.

The House recedes.

17. The House bill, but not the Senate amendment, defines "credit enhancement."

The House recedes.

18. The House bill defines "interoperability" as the ability to communicate with global systems and multiple media; the Senate amendment defines it in terms of the ease of connecting to and exchanging data with hardware and software.

The House recedes.

19. The Senate amendment, but not the House bill, defines "all students."

The House recedes.

20. The Senate amendment, but not the House bill, defines "information infrastructure."

The House recedes.

21. The Senate amendment, but not the House bill, defines instructional programming."

The House recedes.

22. The Senate amendment, but not the House bill, defines "local educational agency."

The Senate recedes.

23. The Senate amendment, but not the House bill, defines "office."

The Senate recedes.

24. The Senate amendment, but not the House bill, defines "public telecommunications entity."

The House recedes.

25. The Senate amendment, but not the House bill, defines "State educational agency." The Senate amendment, but not the House bill defines "adult education."

The House recedes.

In-State Apportionment

26. The House bill, but not the Senate amendment, requires that of the amount provided through formula to the states, 70% be used by the State for elementary and secondary education programs, 20% be used for higher education programs, and 10% be used for library and literacy programs.

The House recedes.

27. The House bill limits administrative and technical assistance costs in each of the three in-state funding streams as follows: a maximum of 10% of the 70% amount reserved for school programs may be used at the state level with a maximum of 5% of the total at the local level; a maximum of 10% of the 20% reserved for higher education programs; and a maximum of 10% of the 10% for library programs. The Senate amendment limits State administrative and technical assistance costs to 5% of the total funds received.

The House recedes.

Elementary and Secondary Education Programs

28. The House bill titles the sections, "elementary and secondary education program"; the Senate amendment titles the section "state and local programs for school technology resources, technical support, and professional development."

The House recedes.

29. The House bill requires in general that funds made available for elementary and secondary education (70% of the total state grant) be used to strengthen programs in accordance with the section; the Senate amendment provides a "statement of purpose" that funds be used to support acquisition, support and maintenance of equipment and regional consortia.

The Senate recedes. The section number should be changed by legislative counsel.

30. The Senate bill authorizes the Secretary to award grants to states having a systemic statewide plan for the purpose of assisting local education agencies in such things as purchasing technology, providing for training and providing for administrative and technical support. The comparable provision of the House bill, section 2209, requires each state educational agency to file an educational technology plan which meets a variety of requirements such as, showing how the plan is integrated with the State's Goals 2000 plan or Title I plan and how it addresses each of the elements specified under "contents", such as a description of how financial assistance will be provided. (See note #37 for comparable House bill provisions.)

The House recedes with several amendments:

Insert the following after "a systematic statewide plan that"—

"Outlines long-term strategies for financing technology education in the State and describes how business, industry, and other public and private agencies, including libraries, library literacy programs, and institutions of higher education, can participate in the implementation, ongoing planning, and support of the plan and"

Insert "other" before "criteria"

Insert "carry out activities such as" on page 109 at the end of the introductory paragraph.

On page 110, at the end of (H), insert "and (I) establish partnerships with private or public educational providers or other entities to serve the needs of children in poverty."

31. The House bill requires each LEA to use funds for using technology to support school reform and requires that all projects be of a sufficient scope to make improvements; the Senate amendment allows the LEA to use funds to acquire connectivity linkages and for professional development.

The Senate recedes with an amendment to add (1), (2), and (3) to the House language as (C), (D), and (E); add ", particularly with institutions of higher education and public libraries." at the end of (E); and insert "(I) establish partnerships with private or public educational providers or other entities to serve the needs of children in poverty."

32. Both bills require that each LEA applicant submit a plan to the SEA which, in the House bill, must be a part of any LEA plan submitted under Goals 2000, and which in the Senate amendment must be consistent with the objectives of the statewide plan. The further requirements of the House bill include describing the coordination efforts with all available resources, the support of state and local content and performance standards, the support of the disabled population, the support of professional activities and the involvement of parents. The further requirements of the Senate amendment include the development of a strategic, long range plan which describes technologies to be acquired and how they will be integrated, collaborative and coordinating activities, professional development activities, and the involvement of the community in the development of the plan.'

The House recedes.

33. The House bill, but not the Senate amendment, provides for the formation of consortia.

The Senate recedes.

34. The Senate amendment, but not the House bill, provides that the LEA plan described in the previous subsection, shall not preclude the SEA from approving other comprehensive education improvement plans which further the purposes of this section.

The House recedes.

Higher Education Programs

35. The House bill, but not the Senate amendment, authorizes competitive grants to institutions of higher education, (funded through the 20% reserve from the total available through the State grant) which have entered into an agreement with a local educational agency to provide professional development.

The House recedes.

Library and Literacy Programs

36. The House bill, but not the Senate amendment authorizes competitive grants to local public libraries, (funded through the 10% reserve from the total available through the State grant) which are involved with a local educational agency.

The House recedes.

Educational Technology Plans

37. The House bill requires that each State wishing to receive funds under this section submit to the Secretary a 5-year State educational technology plan, which, if rejected, must be provided technical assistance. (See note #372 for comparable Senate provision.)

The House recedes.

The Senate recedes on the "supplement, not supplant" language on (5), page 124.

38. The House bill requires that each LEA wishing to receive funds under this section submit to the SEA a 3-year plan which describes evaluations activities, supports local and State curriculum frameworks, provides for technical support and parent involvement. (See note #374 for comparable Senate and additional House provisions.)

The House recedes.

Federal Administration

39. The House bill, but not the Senate amendment, requires the Secretary to develop and use evaluation procedures for programs under this Title.

The Senate recedes with an amendment to the evaluation paragraph stating that the evaluation should be consistent with section 10701.

40. The Senate amendment, but not the House bill, requires each SEA to identify LEAs which have the highest poverty and the greatest need for technology in order to offer them assistance.

The House recedes.

41. The Senate amendment, but not the House bill, requires SEAs to award grants to LEAs competitively and of sufficient size, scope and duration.

The House recedes.

Allocation of funds

42. The House bill requires that up to 1% be reserved for Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust territories and programs for Indian students, with the remainder of the funds distributed to states based on a formula that takes into account the relative number of children aged 5 to 17 in a state combined with the relative number of poor children aged 5 to 17 in a state; the Senate amendment allocates funds to States based on the proportionate amount each state received under part A of Title I, and with no state receiving less than .5% of the total appropriated.

The House recedes.

43. The house bill, but not the Senate amendment, provides for the reallotment of unused funds.

The Senate recedes.

44. The Senate amendment, but not the House bill, provides that if in any year the appropriation for this section is $50m or less, the Secretary is required to award grants to LEAs competitively.

The House recedes with the following amendments: change the threshold to $75 million; strike everything after "to" to line 5 of Senate bill and add "consortia which shall include at least one LEA with a high percentage or number of children counted for purposes of Part A, Title I of this Act, and may include other LEAs, SEAs, IHEs, businesses, academic content experts, software designers, museums, libraries, or other appropriate entities. In awarding such grants, the Secretary will give priority to consortia which demonstrate that—

(1) The project is designed to serve areas with a high number or percentage of disadvantaged students or the greatest need for educational technology;

(2) The project will directly benefit students by, for example, integrating the acquired technologies into curriculum to help the local educational agency enhance teaching, training, and student achievement;

(3) The project will ensure ongoing, sustained professional development for teachers, administrators, and school library media personnel served by the LEA to further the use of technology in the classroom or library media center;

(4) The project will ensure successful, effective and sustainable use of technologies acquired under this section;

(5) Members of the consortia or other appropriate entities will contribute substantial financial and other revenues to achieve the totals of the project.

Authorization of Appropriations

45. The House bill authorizes $300m in fiscal year 1995, with such sums for fiscal years 1996 through 1999; the Senate amendment authorizes $200m in fiscal year 1995, with such sums for the remaining 4 years.

The House recedes.

Research—National Programs

46. The House bill names the subpart, "Research, Development and Demonstration of Educational Technology"; the Senate amendment names it "National Programs in Technology for Education."

The House recedes.

47. The House bill, but not the Senate amendment, provides a section on findings.

The House recedes.

Purposes

48. Both bills state the overall purpose is to facilitate achievement of the national education goals, but the House bill also adds "increase the opportunity for all students to achieve."

The House recedes and the Senate recedes with an amendment to add this to general purposes.

49. The House bill emphasizes its purposes as promoting awareness, supporting state and local efforts, demonstrating uses, applying research in technology to policy decisions, promoting professional development, and incorporating technological advances into education; the Senate amendment emphasizes creating a national vision, promoting awareness, support state and local efforts, demonstrating uses, applying research to policy decisions, promoting professional development, supporting development of technology-enhanced instruction, and promoting the use of technology in federal programs.

The House recedes and the Senate recedes with an amendment to add this to general purposes.

Office

50. The House bill, but not the Senate amendment, creates an Office of Educational Technology within the Department of Education.

The House recedes.

National Long-Range Plan

51. The House bill requires that the Secretary publish a plan by September 30, 1995; the Senate amendment requires it by within 12 months of date of enactment.

The House recedes.

52. Identical provisions with respect to development of the plan, except that the House bill uses the term, "educational applications of technology", when the Senate amendment uses, "applications of technology to education", and only the Senate amendment requires the inclusion of distance learning consortia and Star School recipients.

The House recedes.

53. Identical provisions, except that the House bill applies the word, "challenging" to "standards", whereas the Senate amendment applies the word, "content" and "performance" to "standards".

The House recedes.

54. Similar provisions concerning joint activities, except that only the Senate amendment includes the Office of Science and Technology Policy and the Bureau of Indian Affairs.

The House recedes.

55. Identical provisions regarding the contents of the plan, except that the Senate amendment also requires the Secretary to show how he will promote: higher achievement through the integration of technology, the exchange of information, and the use of evaluations to improve the purposes of this subsection. In addition, the House bill uses the term, "schools with high concentrations of children from low-income families" when the Senate amendment uses, "schools with a high number or percentage of children from low-income families."

The House recedes.

Federal Leadership

56. The House bill authorizes the Secretary, in consultation with the National Science Foundation, the Department of Commerce and "other federal agencies" to provide grants and contracts to a variety of entities; the Senate amendment does the same, but notes the goal of promoting "higher student achievement" and names many more federal agencies.

The Senate recedes with amendments to insert "the United States National Commission on Libraries and Information Sciences" after "Department of Commerce", to insert "competitively and" after "grants" and to strike the paratheses.

57. The Senate amendment, but not the House bill, requires the Secretary to provide assistance to States in developing State technology plans, in accordance with the Goals 2000 Act.

The House recedes.

58. Identical provisions, except the House bill uses the phrase, "consistent with", where the Senate bill uses "to achieve".

Legislative counsel.

59. Identical provisions, except the House bill "allows" the Secretary, and the Senate "requires" the Secretary to use funds for such activities.

The House recedes with an amendment changing "including" to "such as".

60. The House bill, but not the Senate amendment, includes under uses of funds, planning grants to States.

The House recedes.

61. Identical provisions with technical conforming differences.

Legislative counsel.

62. Identical provisions, except only the House bill includes "family education" among those listed.

The Senate recedes.

63. Identical provisions, except the House bill uses the term "protocols", when the Senate amendment describes the same with "maximum interoperability, efficiency and easy exchange of data."

The House recedes.

64. Identical provisions, except only the Senate bill includes the term "multimedia."

The House recedes.

65. Identical provisions, except only the Senate amendment adds that a priority be given to such research in elementary and secondary schools.

The Senate recedes.

66. The Senate amendment, but not the House bill, lists as one of the uses of funds, a biennial assessment on the uses of technology.

The House recedes.

67. Identical provisions, except only the House includes the concept of "access to and use of" in promoting gender equity.

The Senate recedes.

68. The House bill, but not the Senate amendment, lists as one of the uses, development of the Buddy System. (Senate amendment authorizes a separate program for the Buddy System Computer Education—Title III, Part F.)

The Senate recedes with an amendment to add a reference to "Buddy System Computer Education" to FIE.

69. The Senate amendment, but not the House bill, lists as one of the uses, federal agency collaboration.

The House recedes.

70. The Senate amendment, but not the House bill, requires that the activities be carried out by grant contract, competitively and through peer review.

The Senate recedes.

71. Identical provisions with technical differences.

Legislative counsel.

72. Identical provisions, except the House bill uses the phrase "recipient's project" when the Senate amendment uses "grant or contract."

Legislative counsel.

Authorization of Appropriations

73. The House bill authorizes "such sums" from fiscal year 1995 through fiscal year 1999; the Senate amendment authorizes $5m in fiscal year 1995 and "such sums" for the remaining four years.

The House recedes and the Senate recedes.

Regional Technical Support and Professional Development

74. the Senate amendment, but not the House bill, authorizes an appropriation of $50m for grants or contracts to be awarded to regional educational technology assistance consortia made up of some combination of SEAs, institutions of higher education and non-profit organizations.

The House recedes with an amendment to replace the "Authority" paragraph with the following:

The Secretary, through the Office of Educational Technology, shall make grants in accordance with the provisions of this section, to regional entities such as the Eisenhower Math/Science Regional Consortia, the Regional Education Laboratories, the Comprehensive Regional Assistance Centers, or such other regional consortia as may be designated or established by the Secretary. In awarding grants under this section, the Secretary shall give priority to the Eisenhower Math/Science Regional Consortia and shall ensure that each geographic region of the United States shall be served by such a consortium.

The Senate recedes on the Special Rule on page 159.

The conferees also agree to the following amendments:

Insert ", to the extent practicable" at the end of the Technical Assistance paragraph after "shall" in Sec. 3121(b)(1).

Insert "and school library media centers" after "classroom" Sec. 3121(b)(1)(B).

Insert "to the extent practicable" at the end of the Professional Development paragraph after "shall" in Sec. 3121(b)(2).

Insert "school librarians and school library personnel" after the first "teachers" and "and other school library media personnel" after the second "teachers" in Sec. 3121(b)(2)(A)(i).

Strike "provide followup to" in Sec. 3121(b)(2)(E).

Insert "to the extend practicable" at the end of the Information and Resource Dissemination paragraph in Sec. 3121(b)(3).

Insert "regional and other" after "appropriate" in Sec. 3121 (b)(4).

Strike Sec. 3121(b)(5).

Research on Educational Applications of Advanced Technologies

75. The Senate amendment, but not the House bill, authorizes an appropriation of $50m for grants or contracts for research projects which develop educational applications of advanced technologies.

The House recedes with an amendment to add the following as a new (D) in Federal Leadership Activities on page 148: "research on, and the development of, applications for education of the most advanced and newly emerging technologies (which research shall be coordinated with the Office of Educational Research and Improvement and, where appropriate, with other Federal agencies)."

High Performance Computing and Telecommunications Networks for Education

76. The Senate amendment, but not the House bill, authorizes an appropriation of $7.5m for three types of grants which help develop an electronic network program for the dissemination of educational information.

The House recedes with an amendment to add the following as a new (E) in Federal Leadership Activities on page 148 and to reletter accordingly: "(E) the development, demonstration and evaluation of the educational aspects of high performance computing and communications technologies and of the national information infrastructure, in providing professional development for teachers, school librarians and other educators; enriching academic curricula for elementary and secondary schools; facilitating communications among schools, local educational agencies, libraries, parents and local communities and in other such areas as the Secretary deems appropriate."

Study, Evaluation and Report on Funding Alternatives

77. The Senate amendment, but not the House bill, requires the Secretary to report to the Congress, within one year of enactment, on alternative models for sustained funding for schools.

The House recedes.

Special Rule Applicable to Appropriations

The House recedes with an amendment to change the Subpart title and the section title to "Authorization of Appropriations".

78. The Senate amendment, but not the House bill, requires that if, in any year, the amount appropriated under sections 3122(f), 3123(b)(5), 3124(e), 3125(e), 3126(e), and 3132(c), add up to less than $50 million, the Secretary shall combine those amounts and apply half of the funding to "National Programs in Technology for Education," and half to the State and local programs; the amendment requires further that when the aggregate appropriation equals or exceeds $50m, $25m plus 35% of the aggregate amount in excess of $50m shall carry out programs under the "National Programs in Technology for Education" and $25m plus 65% of the total in excess of $50m shall be used for the State and local programs.

The House recedes with several amendments:

In the "Appropriation of Less Than . . ." section, change $50,000,000 to $75,000,000; strike "Notwithstanding any other provision of law"; strike the section references and "aggregate such amounts" and replace with "this part".

Strike the designation of how the funds should be divided and add the following:

$3,000,000 for National Leadership Activities.

$10,000,000 for Regional Educational Technology Support and Professional Development.

with remaining funds to be awarded through the National Challenge Grant Program for Technology in Education.

In the "Appropriation Equal To or Greater Than . . ." section, change $50,000,000 to $75,000,000; strike "Notwithstanding any other provision of law"; strike the section references and "aggregate such amounts" and replace with "this part".

Strike the designation of how the funds should be divided and add the following:

$3,000,000 for National Leadership Activities.

$10,000,000 for Regional Educational Technology Support and Professional Development.

with remaining funds to be awarded through the National Challenge Grant Program for Technology in Education; except that the Secretary may reserve such funds as may be necessary to meet outstanding obligations for such fiscal year for grants previously awarded through the National Challenge Grant Program for Technology in Education.

To maximize the impact of the funds granted under this act, the conferees intend to allow schools the flexibility to structure transactions for the acquisition of technology and equipment in the manner that most adequately meets their needs, including using grant funds to pay interest on the lease or financed purchase of technology or equipment where a school determines that such a transaction is desirable. This will allow schools the opportunity to take advantage of the lowest interest rates available to them by virtue of the exemption from Federal income tax of interest payments from States and municipalities, extend the impact of the grant monies they receive, and allow them to avoid their frequent need to delay purchases because of current year budget constraints.

Part B—Star Schools Program

Subpart 3 in H.R. 6/Part B in S. 1513

79. The Senate amendment, but not the House bill, has a short title.

Legislative counsel.

80. The House bill, but not the Senate amendment, has a section of findings.

The Senate recedes.

Statement of Purpose

81. The House bill states its purpose is to expand distance learning programs to: improve teaching, achieve the education goals, help all students achieve and help educational reform; the Senate amendment states its purpose is to improve subjects and reach underserved populations through grants to telecommunication partnerships which: develop telecommunications facilities, develop programming, and obtain technical assistance.

The House recedes with an amendment changing disabled to individuals with disabilities.

Grants

82. The House bill provision, titled, "program authorized", authorizes the Secretary to make grants to develop facilities, to develop instructional programs and to provide technical assistance; the Senate amendment provision, titled, "grants authorized", authorizes the Secretary to provide grants for similar activities, but expands the list of activities to include teleconferencing for teacher training, obtaining technical assistance and coordinating connectivity in order to reach more students.

The House recedes.

83. The Senate amendment requires the grant be for a period of 5 years, with a possible renewable 5-year period. The House bill requires that the grant not exceed 5-years. (Comparable provision in the House bill is on the following page, subsection 2221(c).

The House recedes with an amendment making the renewal period three years.

Authorization of Appropriations

84. The House bill authorizes "such sums" for fiscal years 1995 through 1999; the Senate amendment authorizes $35m in fiscal year 1995, with "such sums" in the following 4 years.

The House recedes.

85. The Senate amendment, but not the House bill, requires funds remain available until expended.

The House recedes.

86. The House bill limits the size of a grant to $10m per year; the Senate amendment limits it to $5m.

The Senate recedes.

87. Identical provisions with technical differences.

Legislative counsel.

88. The Senate amendment, but not the House bill, requires that at least 25 percent be used for facilities and equipment.

The Senate recedes.

89. Identical provisions with technical differences.

Legislative counsel.

90. The House bill limits the federal share of the cost of any project to 75 percent in the first year and lesser amounts in subsequent years; the Senate amendment limits the federal share to 75 percent in all years.

The Senate recedes.

91. Similar provisions regarding waivers, except the House bill ties the waiver to "financial hardship", and the Senate amendment ties it to "good cause."

The Senate recedes.

92. The House bill, but not the Senate amendment, authorizes the Secretary to accept funds from other agencies.

The Senate recedes.

93. The Senate amendment, but not the House bill, provides for coordination with other agencies.

The House recedes.

94. The Senate amendment, but not the House bill, encourages that funds be used for closed captioning and descriptive video.

The House recedes.

Eligible Entities

95. The House titles the section, "eligible entities"; the Senate amendment titles it, "eligible telecommunication partnerships."

The House recedes.

96. The House bill requires that the recipient include the participation of at least one local educational agency and provides a list of entities that may be included; the Senate amendment requires a partnership which must consist of one or more of the entities listed.

The Senate recedes.

97. The House bill describes as an eligible entity a telecommunications network made up of two or more entities that are listed; the Senate amendment describes the same for a "partnership", but requires that it be made up of 3 or more of the listed entities, which are identical to those listed in the House bill, except the House bill also adds "adult and family education programs" and "public or private elementary or secondary schools."

The House recedes on the number and the Senate recedes on the list.

98. The Senate amendment, but not the House bill, requires state partnerships.

The House recedes.

Applications

99. Identical provisions with technical differences.

Legislative counsel.

100. Similar provisions regarding applications, but the headings differ.

Legislative counsel.

101. The House bill, but not the Senate amendment requires a description of how the project will help achieve the national education goals.

The Senate recedes with an amendment to strike the Goals 2000 reference.

102. Identical provisions with technical difference.

Legislative counsel.

103. Identical provisions, but only the House bill adds, "district, multidistrict" and only the Senate amendment adds "maintenance and operation."

The House recedes.

104. Identical provisions, with technical difference concerning structure.

Legislative counsel.

105. Identical provisions, except only the Senate amendment includes "training."

The House recedes.

106. Identical provisions, except only the House bill includes "and related" programming.

The Senate recedes.

107. Identical provisions, except the Senate amendment requires this provision only in the case of applications for assistance for instructional programming and includes "classroom teachers".

The House recedes.

108. Similar provisions, but the House bill lists six disciplines and the Senate amendment lists three.

The Senate recedes.

109. Identical provision, but the House bill uses the term "professional development" for the Senate amendment's term "training."

The Senate recedes.

110. Identical provisions, but the House bill uses the terms "historically underserved", "low-income families" and "low literacy skills", for the Senate amendment's terms, "traditionally underserved", "disadvantaged" and illiterate."

The Senate recedes.

111. The House bill, but not the Senate amendment, includes how existing facilities will be used.

The Senate recedes.

112. The Senate amendment, but not the House bill, requires assurances that purchased equipment will be protected.

The House recedes.

113. Identical provisions with technical differences. (See Section 2223(b)(2), note #125, for comparable House provision.)

Legislative counsel.

114. The Senate amendment, but not the House bill, requires assurances that funds will supplement, not supplant other funds.

The House recedes.

115. The Senate amendment, but not the House bill, requires consortia to describe coordination.

The House recedes.

116. Identical provisions, except the Senate amendment includes "including activities and services."

Legislative counsel.

117. Identical provisions, except the Senate amendment includes "training."

Legislative counsel.

118. Similar provisions, except the House builds on the Senate language, extending it to include job training and other social service programs.

The Senate recedes.

119. Similar provisions, except the Senate amendment builds on the House language, extending it to include training materials for students and teachers for interactive distance learning participation.

The House recedes.

120. Similar provisions, but the House bill extends training to early childhood personnel, vocational education personnel and adult and family educators, whereas the Senate amendment limits training to early childhood development and Head Start personnel.

The Senate recedes.

Identical provisions, except that the Senate amendment does not include the phrase, "at times other than the regular school day."

The House recedes.

121. The Senate amendment, but not the House bill, includes as a separate item vocational education personnel. (See preceding note.)

The Senate recedes.

122. The Senate amendment, but not the House bill, includes training on content standards.

The House recedes.

123. The Senate amendment, but not the House bill, includes parent education.

The House recedes.

124. The House bill, but not the Senate amendment, includes a description of future financing.

The Senate recedes.

125. Identical provisions with technical differences. (See section 3205(b)(7), note #113, for comparable Senate provisions.)

Legislative counsel.

126. The House bill requires applicants to provide information as required by the Secretary; the Senate amendment requires "additional assurances" as the Secretary may require.

Legislative counsel.

127. Both have identical phrases, but the House bill establishes "priorities" as its heading; the Senate amendment establishes "approval of applications; priorities" as its heading and includes the word "demonstrate" in the lead-in phrase.

Legislative counsel.

128. The House bill, but not the Senate amendment, has as a priority that plans should assist in achieving the national education goals.

The Senate recedes with an amendment striking the Goals 2000 reference.

129. The House bill, but not the Senate amendment, has as a priority for services to adults.

The House recedes with an amendment striking the clause beginning with "including" and ending with "title 1" and adding "programs serving adults, especially parents with low levels of literacy" before "institutions of higher education".

130. Similar provisions regarding a priority for schools with a high number of poor children, but the Senate amendment also emphasizes serving the broadest range of institutions.

The Senate recedes.

131. The Senate amendment, but not the House bill, provides a priority to applications emphasizing math, science and foreign language.

The Senate recedes.

132. The Senate amendment, but not the House bill, provides a priority to applications with involvement of educational institution, state and local government, and industry.

The Senate recedes.

133. The Senate amendment, but not the House bill, provides a priority to applicants in partnership with a significant number of educational institutions.

The Senate recedes.

134. The Senate amendment, but not the House bill, provides a priority to applications which include staff with substantial academic and teaching capabilities.

The House recedes with an amendment placing a period after "development" and deleting the rest of the sentence.

135. The Senate amendment, but not the House bill, provides a priority for partnerships which provide a listed range of resources.

The House recedes.

136. The Senate amendment, but not the House bill, provides a priority for partnerships which serve a multistate area.

The House recedes.

137. The Senate amendment, but not the House bill, provides a priority for partnerships which provide equipment.

The House recedes.

138. The Senate amendment, but not the House bill, provides a priority for donation of equipment or in kind services.

The House recedes.

139. The Senate amendment, but not the House bill, provides a priority to entities which assist individuals who are traditionally underrepresented in the fields of math and science.

The Senate recedes.

140. Similar provisions regarding geographic distribution, except the Senate bill uses the term, "distribution of grants" when the House bill uses the term, "distribution of services" and the House bill adds the phrase "to the extent feasible."

The Senate recedes on "to the extent feasible" and the rest is to be resolved by legislative counsel.

Leadership and Evaluation Activities

141. The House bill uses the heading, "setside"; the Senate amendment uses "reservation."

Legislative counsel.

142. The House bill allows the Secretary to reserve up to 10 percent; the Senate amendment allows not more than 5 percent.

The House recedes.

143. Technical difference.

Legislative counsel.

144. Identical provisions, but the Senate amendment uses a heading and references a subsection and the House bill references Star Schools.

Legislative counsel.

145. Identical provisions, but the House bill references Star Schools when the Senate amendment references "efforts assisted under this part."

Legislative counsel.

146. Similar provisions, except the Senate provision breaks into two phrases the peer review activities.

Legislative counsel.

Definitions

147. Technical difference in wording.

Legislative counsel.

148. Identical provisions, except only the House bill includes the phrase "for elementary and secondary students, teachers and others" and only the Senate amendment includes the phrase, "resources used in such instruction and training."

The Senate recedes.

149. The Senate amendment, but not the House bill, includes a definition for the term "State."

Legislative counsel unless this is somewhere else in the bill, then it should be deleted.

Administrative Provisions

150. The Senate amendment, but not the House bill, provides "administrative provisions" applicable to the grant recipients.

The House recedes with an amendment changing five years to three years.

Other Assistance

151. The Senate amendment, but not the House bill, authorizes the Secretary to provide assistance to other telecommunications networks, which are statewide or local, and which meet certain conditions. Among the activities authorized, are telecommunications programs for continuing education.

The House recedes.

DEVELOPMENT OF EDUCATIONAL TECHNOLOGY PRODUCTS

(Title II, Subpart 4 in H.R. 6/Title III, Part A, Sec. 3124 in S. 1513)

152. The House bill, but not the Senate amendment makes this a subpart with a separate heading.

The Senate recedes.

153. The Senate amendment, but not the House bill, includes a second purpose to develop long-term programming.

The House recedes.

154. Similar provisions, but the House bill does not specify the type financial assistance to be provided when the Senate amendment specifies "grants" and the House bill notes the resources are to be used in the classroom or for professional development and the Senate amendment notes the resources should be "curriculum based" and includes "educational radio and television."

The Senate recedes.

155. The House bill, but not the Senate amendment authorizes both grants and loans for this section with certain requirements for each category of assistance.

The Senate recedes.

156. The House bill requires cost sharing, with the amount determined by the Secretary; the Senate amendment allows the Secretary to require cost sharing which must be announced in the federal register.

The House recedes.

157. The House bill requires that a consortium be made up of at least one entity in each of the categories described under (A), (B), (C) or (D); the Senate amendment requires that a consortium be made up of at least one entity in each of two categories described under (A) and may include entities in two other categories described under (B).

The House recedes.

158. The House bill, but not the Senate amendment, requires the Secretary to establish a private sector advisory board.

The House recedes.

159. The House bill gives priority to "programs or systems that"—promote educational excellence, are aligned with standards, can be adapted nationally, converts Defense resources, reduces costs of providing instruction and expands access; the Senate amendment gives priority to "products that are developed"—to be adapted nationally, raise achievement levels, in consultation with teachers and with those designing standards, adapted for adults needing literacy services.

The House recedes with an amendment merging the House and Senate provisions on priorities.

160. Identical provisions, but the House bill includes students "of all ages."

The House recedes.

161. Similar provisions, but the House bill emphasizes training of teachers to integrate technology in the classroom and the Senate amendment emphasizes promoting professional development of teachers and administrators.

The House recedes.

162. Identical provisions, but the House bill includes "piloting" and there are conforming differences.

The House recedes.

163. Identical provisions with conforming differences, and "large" in the House bill, is "significant" in the Senate amendment.

The House recedes.

164. Identical provision, except only the Senate amendment includes, "of products."

The House recedes.

165. The Senate amendment, but not the House bill, requires a description of how rights will be allocated among consortium participants.

The House recedes.

166. The Senate amendment, but not the House bill, requires a description of contributions and how any revenues from the sale of products will be distributed.

The House recedes.

167. The House bill requires the Secretary to provide for an independent evaluation of programs and for dissemination of useful information; the Senate amendment requires the Secretary to disseminate useful information through a variety of media.

The House recedes with an amendment to merge the House and Senate provisions.

168. The House bill authorizes the Secretary to require royalty payments; the Senate amendment prohibits the Secretary from disallowing financial gain from products and requires profits or royalties received by the SEAs, LEAs, or other non-profits be used to support further development.

The House recedes.

Authorization of Appropriations

169. Identical provisions with different wording.

Legislative counsel.

READY-TO-LEARN TELEVISION

170. The Senate amendment, but not the House bill, authorizes an appropriation of $30m to fund non-profit entities to produce educational and instructional video programming for preschool and elementary school children and their families.

The House recedes. The committees are aware of the Department of Commerce's National Endowment for Children's Educational Television grant program, established by P.L. 101-437. The committees intend for the Departments of Education and Commerce to share information regarding program activities to achieve better coordination among federally-supported programs for children's educational television programming. The Department of Education is requested to provide expertise on the implementation of National Education Goals 2000 Report as it applies to children's educational television programming.

ELEMENTARY MATHEMATICS AND SCIENCE EQUIPMENT PROGRAM

(Title III, Part D)

171. The Senate amendment, but not the House bill, authorizes an appropriation of $30m to provide State educational agencies, through a formula driven program, funds to be distributed to LEAs for purchasing equipment and materials for math and science programs in schools.

The House recedes.

TELECOMMUNICATIONS DEMONSTRATION PROJECT FOR MATHEMATICS

The Senate amendment, but not the House bill, includes a program which provides grants to telecommunications entities.

The House recedes.

Part ?? Library Media Program

172. The House bill part is entitled "Library Media Program" while the Senate amendment part is entitled "Elementary and Secondary School Library Media Resources Program."

The House recedes.

Establishment of Program

173. The House bill section is entitled "Establishment of Program" while the Senate amendment section is entitled "Program Authorized."

Legislative counsel.

174. The House bill authorizes the Secretary to "award grants from allocations

under section 2232 to States" whereas the Senate amendment authorizes the Secretary to "award grants or make allocations" in accordance with this part.

Legislative counsel.

Allocation to States

175. The House bill section is entitled "Allocation to States" while the Senate amendment section is entitled "Funding Requirements."

Legislative counsel.

176. The House bill authorizes funds for the library program in section 2205, (this is an incorrect citation in the bill—it should be 2235) at $200 million for the first year while the Senate amendment allocates funds for this part from the funds authorized under its technology part, which totals $200 million in the first year. The Senate amendment specifies that this library program should receive 10 to 20 percent of such funds.

The Senate recedes.

177. Regarding appropriations under $50 million, the House bill stipulates that grants will be made at the discretion of the Secretary, while the Senate specifies that the Secretary shall award grants to States on a competitive basis.

The House recedes.

178. In the same provisions, the Senate, but not the House provides that grant awards should take into account "the relative economic need of the students to be served."

The House recedes.

179. Regarding appropriations over $50 million, the House bill provides funds to States to reflect the ratio of what a State receives under section 1122 of title I (this is an incorrect citation) relative to what all States receive under that section. The Senate has a similar provision, however, it is based instead on the title II Eisenhower professional development allocations.

The House recedes.

State Plans

180. The House bill states that a State must have a plan including specified provisions in order to receive an "allocation of funds." The Senate amendment provides States with such state plans with "a grant or an allocation of funds."

Legislative counsel.

181. In the state plans, both House and the Senate specify that funds under this part shall be used for acquisition of school library resources. The House bill states that these include "foreign language resources"; the Senate amendment states that these include "books and foreign language resources."

The House recedes.

182. The House bill separates this sentence with a semi-colon after "resources" while the Senate amendment uses a comma.

Legislative counsel.

183. The House bill allows 5% of the funds paid to States for any fiscal year to be used for administration of the State plan while the Senate amendment allows 3% for administration. (The House 5% provision is not consistent with the provision that State must distribute 99% of their funds to LEAs. See note #527.)

The House recedes.

184. The House bill states that a State plan may be submitted as part of a consolidated application. The Senate amendment has no such provision.

The Senate recedes.

Distribution of Allocation to Local Educational Agencies

185. The House provides that no less than 99% of the funds made available to States under section 2202 (this is an incorrect citation and should be 2232) shall be distributed to LEAs. (This is not consistent with the provisions that the State may keep up to 5% of funds allocated to it for administration. See note #525.)

The Senate provides that no less than 97% of the funds allocated to States under this part shall be distributed to LEAs on the same basis as are the funds under section 2122 (the allocation of funds under the Senate amendment Technology part).

The House recedes.

186. The House bill, but not the Senate amendment, distributes funds passed on relative enrollments of elementary and secondary school students, providing a higher allotment per pupil to LEAs with a high number or percentage of students who impose a higher than average cost per child.

The Senate recedes.

Authorization of Appropriations

187. The House bill authorizes $200,000,000 for this part for FY95 and such sums thereafter. The Senate amendment has not such provision but rather authorizes funds as a percentage of their Technology part authorization.

The Senate recedes.

TITLE IV—SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES

1. The House bill uses the terms "part" and "it or its" (when referring to a local educational agency for the second time within a paragraph or subsection. The Senate amendment use the terms "subpart" and "such agency or agencies" (when referring to a local educational agency in similar situations). Also, the Senate amendment uses subsection headings throughout; the House uses them inconsistently. Finally, the House spells out numbers "e.g. three million", the Senate uses Arabic numerals "e.g., 3,000,000".

Legislative counsel.

Short title

2. The House bill, but not the Senate amendment, includes a short title.

Legislative counsel.

Findings

3. The House bill refers to "Goal Six"; the Senate amendment refers to "the seventh National . . . Goals".

The House recedes.

4. The Senate amendment, but not the House bill, includes the term "and the unauthorized presence of firearms and alcohol".

The House recedes.

5. The House bill, but not the Senate amendment, uses the term "the widespread illegal use of alcohol and other drugs".

The Senate recedes with an amendment striking "other".

6. The House bill, but not the Senate amendment, adds the sentence "Approximately one out of every five high school students now carries a firearms, knife, or club on a regular basis.".

The House recedes.

7. The Senate amendment, but not the House bill, adds findings related to violence linked to prejudice and intolerance and the fact that violence and drug abuse have numerous personal and societal roots and, therefore, character education is important.

The House recedes on the findings with respect to prejudice and intolerance. The Senate recedes on the finding concerning character education.

8. The House bill use the terms "drugs" and "by their communities . . ."; The Senate amendment uses the terms "other drugs" and "by such student communities . . .".

The Senate recedes.

9. The House bill, but not the Senate amendment, includes a finding citing the statistics on the widespread use of alcohol among teenagers and its effect.

The Senate recedes.

10. The Senate amendment, but not the House bill, includes a finding relative to alcohol and tobacco being the most widely abused drugs among young people and the consequences of failure to include them in anti-drug abuse education.

The House recedes.

11. The House bill, but not the Senate amendment, uses the term "for the first time".

The House recedes.

12. The House bill uses the term "high school seniors"; the Senate amendment uses the term "secondary school seniors".

The House recedes.

13. The House bill, but not the Senate amendment, includes a finding that the failure to include tobacco in an anti-drug program sends the wrong message as to its acceptability (See Note 10). Also the House bill, but not the Senate amendment, includes a finding on nicotine as an addictive substance.

The House recedes.

14. The House bill use the term "their goals"; the Senate amendment uses the term "the goals".

The House recedes.

Purpose

15. The House bill refers to "Goal Six"; the Senate amendment refers to the "seventh National . . . Goal".

The House recedes.

16. The House bill refers to the "illegal use of alcohol and drugs"; the Senate amendment refers to the "illegal use of alcohol, tobacco, and other drugs".

The House recedes with an amendment striking "other".

17. The House bill, but not the Senate amendment, includes local and intermediate educational agencies and consortia as entities eligible for State grants.

The House recedes.

18. The House bill uses the term "education"; the Senate amendment uses the term "education for school dropouts and other high-risk youth".

The Senate recedes.

19. The Senate amendment, but not the House bill, includes "research".

The Senate recedes.

20. The House bill refers to programs in institutions of higher education "for the development and implementation of model programs" to promote the safety of students; the Senate amendment refers to programs in such institutions "to establish, operate, expand, and improve drug and violence prevention, education and rehabilitation referral programs."

The House recedes.

Authorization of Appropriations

21. The House bill authorizes $630,000,000 for State programs for FY 1995 and such sums as may be necessary for each of FYs 1996 through 1999, and $25,000,000 for the National Programs for FY 1995 and such sums as may be necessary for each of FYs 1996 through 1999, with the money to be available on an advance funded basis and available for expenditure for 18 months; the Senate authorizes $660,000,000 for FY 1995 and such sums as may be necessary for each of the four succeeding Fiscal Years, with no more than 10% to be reserved for National Programs.

The Senate recedes with an amendment striking the provision concerning the availability of funds.

22. The House bill uses the term "From the amount appropriated . . ."; the Senate amendment uses the term "From the amount available. . .".

Legislative counsel.

23. The House bill uses the term "Palau (until the effective date of the Compact of Free Association with the Government of Palau)"; the Senate amendment uses the term "The Republic of the Marshall Islands, the Federated State of Micronesia, and Palau".

The House recedes.

24. The House bill refers to sections 1124 and 1124A of this act; the Senate amendment refers to section 1122. No substantive difference.

Legislative counsel.

25. The House bill uses the term "as in effect on the day before enactment of the Safe and Drug-Free Schools and Communities Act Amendments of 1994"; the Senate amendment uses the term "as such sections were in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994".

The House recedes.

26. The House bill states that if the Secretary makes a reallotment, the Secretary "shall" use a specific formula"; the Senate amendment says the Secretary "may" use the given formula.

The Senate recedes.

27. In paragraph (4), the Senate amendment, but not the House bill, places the definition of "State" in a new subparagraph (A) and, in a new subparagraph (B), provides that the term "local educational agency" includes intermediate school districts and consortia.

The House recedes with a conforming amendment substituting the term "education service agencies" for the term "intermediate school districts".

28. The House bill, but not the Senate amendment, requires that the State application for this program be coordinated with its Goals 2000 application, if it has one, or any other State plan applicable to similar programs or efforts.

The House recedes.

29. The House bill requires that the application be developed "in consultation with the chief executive officer" and numerous other officials; the Senate amendment requires that the application "contains assurances that the application was developed in consultation and coordination with appropriate State officials . . . including the chief State school officer" and other officials similar to the House provisions.

The House recedes with an amendment adding "chief executive officer" to the list of officials who must be consulted in the development of the application. The conferees expect that both the chief executive officer and the chief state school officer will consult with each other, as well as with other appropriate officials, in the development of their respective plans for the use of funds under this title. Neither official, however, is authorized to approve the contents of the plan developed by the other. Further, the conferees wish to emphasize that the needs assessment required by Section 5112(a)(1) may be a single needs assessment performed jointly by the chief executive officer and the chief state school officer or it may include separate assessments performed by each official.

30. The House bill, but not the Senate amendment, requires assurance that the State will cooperate in the national evaluation and that the application will include any other information the Secretary may require.

The Senate recedes.

31. The House bill uses the term "it" when referring to the S.E.A.; the Senate amendment uses the term "such agency".

Legislative counsel.

32. See preceding note.

Legislative counsel.

33. The House bill requires an assurance that the application will contain "a description of how the State educational agency will coordinate its activities under this part with drug and violence prevention efforts of other State agencies"; the Senate amendment requires an assurance the application will contain "a description of how the State educational agency will coordinate such agency's activities under this subpart with the chief executive officer's drug and violence prevention programs under this subpart and with the prevention efforts of other State agencies.".

The House recedes.

34. The House bill uses the term "his or her" when referring to the chief executive officer; the Senate amendment uses the term "such officer's".

Legislative counsel.

35. The House bill uses the term "its" when referring to the State; the Senate amendment uses the term "State's".

Legislative counsel.

36. The Senate amendment, but not the House bill, includes the term ". . . in accordance with this subpart." when referring to application approval.

Legislative counsel.

State and local educational agency programs

37. The House bill, but not the Senate amendment, contains a caveat on the distribution of State education program funding—see following note.

The House recedes.

38. The House bill, but not the Senate amendment, contains a provision relating to States which have current programs operated by an 'independent State agency (defined)' which commingle Governor's and S.E.A. funds. The provision requires a specific division of the funds with respect to the programs supported and the grants made.

The Senate recedes with amendments which designate independent state agencies in the affected states as the recipients of funds, but requires that such agencies participate on the same basis and with the same allotment of funds as the chief executive officer in other states.

39. The House bill includes ". . . administrators, counselors, coaches and athletic directors, other educational personnel, parents . . ." among those to receive training and technical assistance; the Senate amendment includes ". . . administrators, coaches and athletic directors, other staff, parents . . ." among the same group.

The House recedes.

40. The House bill, but not the Senate amendment, includes the term "(including videotapes, software, and other technology-based learning resources) when describing curriculum materials."

The Senate recedes.

41. The Senate amendment, but not the House bill, includes "making available to [l.e.a.s] cost effective programs for youth violence and drug abuse prevention" as an eligible activity.

The House recedes.

42. The Senate amendment, but not the House bill, includes "training, technical assistance, and demonstration projects to address violence associated with prejudice and intolerance" as an eligible activity.

The House recedes.

43. The House bill uses the term "the evaluation of activities carried out within the State under this part"; the Senate amendment uses the term "evaluation activities required by this subpart."

The Senate recedes.

44. The House bill allows the State educational agency to use 4% for administrative costs; the Senate amendment allows 5% for the same.

The Senate recedes.

45. The House bill uses the term "its" when referring to the S.E.A.; the Senate amendment uses the term "such agency's".

Legislative counsel.

46. The House bill requires a S.E.A. to distribute no less than 92% of funds to l.e.a.s; the Senate amendment requires an S.E.A. to distribute not less than 90% to l.e.a.s.

The Senate recedes with an amendment setting the percentage at 91 per cent.

47. The House bill uses the term "within their boundaries"; the Senate amendment uses the term "within the boundaries of such agencies.".

Legislative counsel.

48. The House bill, but not the Senate amendment, requires that to the extent practicable, no less than 25% of the funds available be distributed to rural areas.

The Senate recedes with amendments stipulating that the allocation of funds should be based upon an objective assessment of need and adding local educational agencies in urban areas as entities eligible for the 25 per cent set-aside.

49. The Senate amendment, but not the House bill, includes the term ". . . in the State . . ." when referring to L.E.A.S.

Legislative counsel.

50. The House bill uses the term "such factors as"; the Senate amendment uses the term "factors such as".

The House recedes with an amendment to strike "factors" and insert "objective data".

51. The Senate amendment, but not the House bill, adds "high incidence of violence associated with prejudice and intolerance" to the factors to be considered in the distribution of supplemental funding.

The House recedes.

52. The House bill, but not the Senate amendment, includes a provision on the return of unused or unneeded funds to State educational agencies and the reallotment of such funds.

The Senate recedes with an amendment striking "intermediate educational agency"

53. The House bill, but not the Senate amendment, reserves 10% of the Governor's fund for the DARE program required under the House bill. The Senate recedes with amendment to add a new provision entitled Law Enforcement Education Partnerships which keeps the reservation and allows it to be used for law enforcement agencies win consortia with LEAs or community-based agencies to carry out drug abuse and violence prevention activities.

54. The House bill uses the term "no more than five percent of the 20 percent of the total amount described in paragraph (1) for the administrative costs"; the Senate amendment uses the term "not more than 5% of the amount reserved under subsection (a)(1) for the administrative costs".

Legislative counsel.

55. The House bill, but not the Senate amendment, requires the establishment of a State advisory panel to assist the chief executive officer and the S.E.A. in administering funds and programs under this authority. The provision stipulates makeup, duties and

the requirement that the panel devise a statewide plan for programs to be carried out by both the Governor and the S.E.A. Meetings, political affiliation and compensation are also prescribed.

The House recedes.

56. The House bill requires that in making certain grants, the chief executive officer provide services to certain groups; the Senate amendment requires that in making similar grants, priority be given to serving a similar group (see next note).

The House recedes with an amendment requiring the chief executive officer to undertake special outreach efforts to seek the involvement of community-based agencies in low-income communities.

57. The Senate amendment, but not the House bill, adds "pregnant and parenting teenagers" to the group to be served by grants from the chief executive officer.

The House recedes.

58. The House bill references subsection (c); the Senate amendment references subsection (b).

The House recedes.

59. The House bill uses the term "education, early intervention, counseling, or rehabilitation referral" when discussing training; the Senate amendment uses the term "comprehensive health education, early intervention, pupil services, or rehabilitation referral" when referring to the same activity.

The House recedes.

60. The House bill refers to "vocational and jobs skills training, law enforcement, health, mental health, and other appropriate services, when referring to coordination of services; the Senate amendment refers to "vocational and job skills training and placement, law enforcement, health, mental health, community service, mentoring and other appropriate services" when referring to the same activity.

The House recedes.

61. The Senate amendment, but not the House bill, includes before and after school activities, professional development workshops, activities to prevent and reduce violence associated with prejudice and intolerance, as eligible activities.

The House recedes with an amendment striking "professional development workshops for teachers and curricula" and inserting in lieu thereof "activities".

62. The Senate amendment, but not the House bill, includes age appropriate programs to prevent child abuse and community service and service learning as eligible activities

The House recedes with an amendment to strike child abuse prevention activities and clarify that service-learning activities should encourage drug- and violence-free lifestyles.

63. The House bill, but not the Senate amendment, requires a specific DARE program required under the House bill. The requirement includes specific programmatic and administrative provisions.

The Senate recedes with an amendment reserving 10% of the Governor's funds for law enforcement partnership activities, which may include Project DARE.

64. The House bill uses the term "an allocation"; the Senate amendment uses the term "a distribution".

Legislative counsel.

65. The Senate amendment, but not the House bill, includes "pupil services personnel" among the groups to be consulted in the development of a local application.

The House recedes.

66. The House bill uses the term "including community service and service learning projects, and the agencies that administer them" when referring to how best to coordinate programs; the Senate uses the term "and the agencies that administer such programs, projects, and activities".

Legislative counsel.

67. The House bill uses the term "an assessment of the current use (and consequences of such use) of alcohol, tobacco, and controlled, illegal, addictive or harmful substances" when describing application requirements; the Senate amendment uses the term "a description of the current alcohol, tobbaco and other drug problems" when setting forth the same requirement.

The Senate recedes with an amendment striking assessment and inserting in lieu thereof "objective analysis".

68. The House bill, but not the Senate amendment, requires the l.e.a. to show how this application is coordinated with the State or local GOALS 2000 plan, if such exists.

The House recedes with an amendment to include the following: (A) how that plan is integrated with other plans under this Act, the Goals 2000: Educate America Act or other Acts, as appropriate consistent with the General Provisions governing this Act.

69. The House bill, but not the Senate amendment, requires the l.e.a. to know how this program is tied to a comprehensive plan for programs carried out under this authority.

The House recedes.

70. The House bill refers to the specific provisions allotting funds to an l.e.a.; the Senate makes a generic reference to the "distribution under this subpart".

Legislative counsel.

71. The House bill allows a process other than peer review in the review of application by the S.E.A.; the Senate amendment requires the use of a peer review process.

The Senate recedes.

72. The House bill, but not the Senate amendment, requires an S.E.A. to consider the extent a l.e.a. application supports the GOALS 2000 plan of a State when it reviews a l.e.a. application.

The House recedes with an amendment to include the following: "and the extent to which it is integrated with other plans under this Act, the Goals 2000: Educate America Act or other Acts, as appropriate consistent with the General Provisions governing this Act."

73. The House bill uses the term "use of funds allotted"; the Senate amendment uses the term "use of funds distributed."

Legislative counsel.

74. The House bill, but not the Senate amendment, in discussing S.E.A. disapproval of an l.e.a. application, says that it may be done to further the GOALS 2000 plan of the State, except that an l.e.a. must be afforded an opportunity to appeal such disapproval.

The Senate recedes with an amendment striking the reference to Goals 2000.

75. The House uses the term "needs assessments"; the Senate uses the term "needs".

The House recedes.

76. In paragraph (1), the House bill refers to "drug prevention and education programs." The Senate amendment refers to "drug prevention and *comprehensive health* education programs".

The Senate recedes.

72. The House includes "counseling" under programs authorized; the Senate includes "pupil services" instead.

The House recedes.

73. The Senate amendment, but not the House bill, includes "tobacco" in the description of comprehensive strategies.

The House recedes.

74. The House bill uses the term "sexual harassment"; the Senate amendment uses the term "sexual harassment and abuse, and victimization associated with prejudice and intolerance".

The House recedes.

75. The House bill, but not the Senate amendment, includes "student pledges to renounce the use of violence, student non-violence awareness days, student outreach efforts against violence, anti-crime youth councils (which work with school and community-based organizations to discuss and develop crime prevention strategies)" under violence prevention activities.

The Senate recedes with an amendment to strike the references to student pledges and to student nonviolence awareness days and to add "and abuse" after "sexual harrassment".

81. The Senate amendment, but not the House bill, includes character education programs.

The House recedes with an amendment stipulating the character education may be one component of a comprehensive drug and violence prevention program.

76. The Senate amendment, but not the House bill, includes 'safe zones of passage' programs.

The House recedes.

77. The House bill, but not the Senate amendment, allows for the payment of up to ½ of the cost of minor remodeling to promote security and reduce the risk of violence.

The House recedes.

78. The Senate amendment, but not the House bill, includes reimbursement of law enforcement authorities and professional development workshops on alternatives to violence as allowable activities.

The House recedes with amendments striking the provision with respect to the reimbursement of law enforcement authorities and the term "workshops".

79. The House bill limits expenditures on remodeling and safety devices to no more than 33% of the funds received under the program; the Senate amendment limits the expenditures for safe passage zones, safety devices, and reimbursement of law enforcement authorities to not more than 10% of the funds received under the program.

The House recedes with an amendment setting the limitation at 20 per cent.

80. The House bill, but not the Senate amendment, stipulates that past expenditures for comprehensive health activities funded by this program will be deemed to have been allowable.

The Senate recedes.

The Conferees wish to make plain that this provision should be widely interpreted, that it covers all questions dealing with percentage of costs covered with funds received under this Act and that it pertains to all fiscal years since the inception of the Act.

81. The Senate amendment, but not the House bill, stipulates that funds under this program may be used for safe passage programs, safety devices and reimbursement of law enforcement authorities only if funds for such purposes are not received from other Federal agencies.

The House recedes.

Evaluation and Reporting

82. In subsection (a), the Senate amendment, but not the House bill, places the National Impact Evaluation provision in a

paragraph (1) headed "BIENNIAL EVALUATION" and provides that the evaluation also cover "other recent and new initiatives to combat violence in schools".

The House recedes.

83. The Senate amendment requires the collection by the Secretary of National information and data. Further, the House bill requires a submission of a report every three years by the State educational agency; the Senate amendment requires a report on the same timeline from the Chief executive officer, in cooperation with the State educational agency.

The House recedes with an amendment requiring that such data be collected by the National Center for Education Statistics.

84. The Senate amendment, but not the House bill, requires that the report include activities funded under the Governor's program.

The House recedes.

85. The Senate amendment, but not the House bill, requires the report to include information on progress in meeting the goals under the Governor's program.

The House recedes.

Programs for Hawaiian Natives

86. The Senate amendment, but not the House bill, included the term "to carry out this section".

The House recedes with an amendment making the term "native Hawaiians" instead of "Hawaiian natives".

87. The House bill uses the term "this"; the Senate amendment uses the term "this title"—probably a mistake in the House bill.

Legislative counsel.

National Programs
Federal Activities

88. The Senate amendment, but not the House bill, includes the Chair of the Ounce of Prevention Council among the individuals with whom the Secretary consults relative to Federal Activities.

The House recedes.

89. The House bill uses the term "preschool through postsecondary"; the Senate amendment uses the term "prekindergarten through postsecondary".

The Senate recedes.

90. The House bill, but not the Senate amendment, requires that demonstration and evaluations of innovative approaches be of programs carried out in cooperation with other Federal agenies.

The House recedes.

91. The Senate amendment, but not the House bill, authorizes coordinated research programs.

The Senate recedes.

92. The House bill, but not the Senate amendment, authorizes the provision of information for distribution through the clearinghouse on alcohol and drug abuse information, the development, dissemination and implementation of programs to promote the safety of students in institutions of higher education, and the development of curriculum regarding child abuse training and prevention.

The Senate recedes with an amendment striking the provisions concerning students attending institutions of higher education.

93. The Senate amendment, but not the House bill, stipulates that the evaluations be in accordance with section 10701.

The House recedes.

94. The House bill uses the phrase "developing and disseminating drug and violence prevention materials, including video-based projects and model curricula"; the Senate amendment uses the phrase "the development of education and training programs, curricula, instructional materials and professional training and development for preventing and reducing the incidence of crimes and conflicts motivated by hate in localities most directly affected by hate crimes.".

The Senate recedes with an amendment adding the development of education and training programs designed to prevent hate crimes as an eligible activity.

95. The Senate amendment, but not the House bill, authorizes developing and disseminating materials and curricula—see preceding NOTE.

The Senate recedes.

Grants to Institutions of Higher Education

96. The Senate amendment, but not the House bill, authorizes grants to institutions of higher education for drug and violence prevention programs for students enrolled in such institutions.

The House recedes with an amendment to add "other drugs by such students" on line 2 of section 5122.

Such report on model programs shall be coordinated with the report required under sec. 204(a)(4)(B) of Public Law 101-542, the Student Right to Know and Campus Security Act of policies, procedures, and practices which have proven effective in the reduction of campus crime.

Hate Crime Prevention

97. The House bill, but not the Senate amendment, authorizes grants to local educational agencies and community based organizations to support a wide range of activities to prevent and reduce crime associated with hate and prejudice in those localities most directly affected by such crimes.

SR with amendments (1) if funded will come out of secretaries discretionary money and (2) delete duplicative definitions (all).

The Conferees wish to clarify that grants under this authority shall be supported with funds made available to the Secretary for national activities.

General Provisions

98. The House bill, but not the Senate amendment, cites the use of tobacco.

The House recedes.

99. The Senate amendment, but not the House bill, has a provision relating to "prevention, early intervention, smoking cessation activities, or education related to the use of tobacco".

The House recedes with an amendment adding at the end "by children and youth eligible for services under this title."

The Conferees have agreed to set out provisions related to the prevention of the use of tobacco in a separate subparagraph only for the purposes of enhancing the clarity of the definition of "drug and violence prevention". By agreeing to this construction, the Conferees do not intend for the prevention of illegal tobacco use to be construed to be an optional component of the comprehensive drug and violence prevention activities carried out by recipients of funds under this title. To be credible, messages opposing illegal drug use by youth should address alcohol and tobacco as well.

100. The House bill uses the term "sexual harassment"; the Senate amendment uses the term "sexual harassment and abuse, and victimization associated with prejudice and intolerance".

The House recedes.

101. The Senate amendment, but not the House bill, includes a definition of "hate crime"—see the program in the House bill related to this topic.

The House recedes.

102. The House bill, but not the Senate amendment, includes the term "inclusive" in describing the age group included in definition.

Legislative counsel.

Prohibited Use of Funds

103. The House bill prohibits the use of funds to provide "psychiatric, psychological, or other medical treatment or rehabilitation, other than school-based counseling for students or school personnel who are victims or witnesses of school-related crime"; The Senate amendment prohibits the use of funds to provide "medical services, except for pupil services or referral to treatment for students who are victims of or witnesses to crime or who use alcohol, tobacco or other drugs."

The House recedes with an amendment adding "and rehabilitation" after "treatment" and striking the word "other".

Certification of Drug and Alcohol Abuse Prevention Programs
Drug-Free

104. The House bill, but not the Senate amendment, sets out the minimum requirements for programs to prevent the use of illegal drugs and alcohol by students and employees that an l.e.a. must certify to an S.E.A. as having been adopted and implemented.

The House recedes.

105. The Senate amendment, but not the House bill, authorizes grants to educational service organizations and consort a thereof for a wide range of programs to prevent dropouts, identification of potential dropouts and school completion programs. $50 million is authorized for this activity.

The House recedes with an amendment placing the dropout prevention program in part C of Title V.

TITLE V, PART A—MAGNET SCHOOLS ASSISTANCE

4. The Senate amendment, but not the House bill, includes making special efforts in discouraging isolation of "Students by racial characteristics"

The House recedes.

5. The House bill refers to "local educational agencies"; the Senate amendment refers to "school district". The House bill refers to "if they have more flexibility"; the Senate amendment refers to "if such districts have more flexibility in the administration of such program in order to. . . ".

The Senate recedes on "local educational agencies" and legislative counsel will address the flexibility clause.

6. The Senate amendment, but not the House bill, includes "consistent with desegregation guidelines" in enabling participation by students who reside in the neighborhoods where the program operates.

The House recedes.

7. The Senate amendment, but not the House bill, includes "after Federal funding ends, the Federal Government must assist school districts to improve their capacity" to continue to operate at a high level of performance.

The House recedes.

8. The House bill refers to "its"; the Senate amendment refers to "the Federal Government" in continuing its support of local educational agencies in implementing court-ordered desegregation plans, plus LEA issue.

Legislative counsel.

9. The House bill refers to "their"; the Senate amendment refers to "such students" in expressing the Federal Government's support in magnet schools programs, and other differences.

Legislative counsel.

10. The House bill refers to "new and innovative programs in magnet schools that contribute to State and local systemic reform"; the Senate amendment refers to "effective and innovative magnet schools that contribute to State and local systemic reform."

The House recedes.

11. The House bill refers to "part"; the Senate amendment refers to "title" in the Statement of Purpose. In addition, the House bill refers to local educational agencies while the Senate amendment refers to school districts.

Legislative counsel.

12. The House bill refers to "State performance standards"; the Senate amendment refers to "State content standards and challenging State student performance standards" in providing all students opportunities in achieving standards.

The House recedes.

13. The Senate amendment, but not the House bill, includes "and consortia of such agencies where appropriate, to carry out the purpose of this title for magnet schools that are" as eligible to receive grant awards. The Senate amendment also itemizes eligibility criteria.

The House recedes with an amendment inserting "eligible" before LEA.

14. The House bill refers to "a school or education center"; the Senate amendment refers to "a public school or public education center" in the definition of a Magnet School.

The House recedes.

15. The House bill refers to eligible grantees as "a local educational agency"; the Senate amendment refers to a "A local educational agency, or consortium of such agencies where appropriate, is eligible to receive assistance under this title to carry out the purposes of this title if such agency or consortium" meet specific criteria.

The House recedes on consortia and the Senate recedes on this program being a part rather than a title.

15A. The House bill refers to "it under this part"; the Senate amendment refers to "such local educational agency or consortium of such agencies under this part."

The House recedes.

16. The House bill refers to "An eligible local educational agency"; the Senate amendment refers to "An eligible local educational agency or consortium of such agencies," desiring to receive assistance under this program.

The House recedes and the Senate recedes on this program being a part rather than a title.

16A. The House bill refers to "An application under this part shall include—"; the Senate amendment refers to "Each such application shall include—".

Legislative counsel.

16B. The House bill refers to "this part" while the Senate amendment refers to "this title".

The Senate recedes.

17. The House bill refers to "will increase"; the Senate amendment refers to "seeks to increase" when referring to student achievement in the instructional area.

The Senate recedes.

18. The House bill refers to "the manner in which an applicant will continue"; the Senate amendment refers to "how an applicant will continue" the project without the assistance of Federal funds. Also, the House bill refers to the continuation of the magnet schools projects by the applicant "with funds under this part have been continued without the use of funds"; the Senate amendment refers to "with funds under this title cannot be continued without the use of funds under this part".

The House recedes except that the Senate recedes on part vs. title.

19. The House bill refers to "the State's and local educational agency's systemic reform plan, if any, under title III of the Goals 2000: Educate America Act"; the Senate amendment itemizes and refers to "(i) the State plan described in section 1111; and (ii) the local educational agency's plan described in section 1112."

The House recedes with an amendment to reference reform plans.

20. The House bill refers to "employ teachers in the courses of instruction assisted under this part who are certified or licensed by the State to teach the subject matter of the courses of instruction; the Senate amendment refers to "employ State certified or licensed teachers in the courses of instruction assisted under this title to teach or supervise others who are teaching the subject matter of the courses of instruction".

The House recedes. The Managers of the bill intend for this provision to allow experts in various fields, such as the arts or health care, to participate in classroom instruction and supervision in order to enhance the educational experience of students in the school.

21. The House bill refers to "have the greatest need for assistance"; the Senate amendment refers to "demonstrate the greatest need for assistance" in approving applications.

Legislative counsel except that the Senate recedes on part vs. title.

22. The Senate amendment, but not the House bill includes as a part of number 2 under *Priority*: "which include revisions to enable a magnet school to implement effective educational approaches that are consistent with the State's and the local educational agency's State or local improvement plans, if any;"

The Senate recedes.

23. The House bill refers to "propose to select students to attend magnet school projects by methods such as lottery, rather than through academic examination"; the Senate amendment refers to "propose to select students to attend magnet school projects on the basis of multiple criteria which may include a lottery, rather than solely academic examination."

The Senate recedes.

24. The House bill, but not the Senate amendment, contains a number 4 which reads "propose to implement innovative educational approaches that are consistent with the State's and local educational agency's approved systemic reform plans, if any, under title III of the Goals 2000: Educate America Act".

The Senate recedes with an amendment on coordination of reform plans.

25. The House bill refers to "Grants made under this part may be used by eligible local educational agencies"; the Senate amendment refers to "Grant funds made available under this title may be used by an eligible local educational agency or consortium of such agencies."

The House recedes on consortia and the rest is left to legislative counsel.

26. The Senate amendment, but not the House bill makes eligible "and instructional staff", where applicable for compensation in the program.

The House recedes on the substance and several other provisions are left to legislative counsel.

27. The Senate amendment, but not the House bill contains a Special Rule which prohibits a local educational agency from expending funds for planning after the third year of a project.

The House recedes.

28. The Senate amendment, but not the House bill, includes a matching requirement specifying a Federal share as follows: 100% for the first and second year; 90% for the third year; and 70% for the fourth or any subsequent year including grant renewals.

The Senate recedes.

29. The Senate amendment, but not the House bill, specifies that the non-Federal share may be in cash or in kind, including planned equipment or services, fairly valued, and may include other Federal education funds.

The Senate recedes.

30. The House bill refers to "Awards made under this part shall not exceed 3 years"; the Senate amendment refers to "A grant under this title shall be awarded for a period that shall not exceed four fiscal years."

The Senate recedes with amendment inserting "fiscal" years.

31. The House bill refers to "A local educational agency may expend for planning: up to 50% for the first year; 15% for the second year; up to 10% for the third year."

The Senate amendment specifies "A local educational agency may expend for planning: not more than 50% of the funds for the first year; 25% for the second year; 10% for the third year."

The Senate recedes on the substance of the provisions and the other differences are to be resolved by legislative counsel.

32. The House bill refers to "A local educational agency shall not receive more than $4,000,000 under this part in any one grant cycle"; the Senate amendment specifies "no local educational agency or consortium receiving a grant under this section shall receive more than $4,000,000 under this part in any one fiscal year."

The House recedes.

32A. The House requires that grants be awarded to LEAs by June 1 while the Senate amendment requires that they be awarded to LEAs or consortia by June 30.

The House recedes on consortia and the Senate recedes on the date.

32B. The House bill refers to this part while the Senate amendment refers to this title. In addition there are other drafting differences.

The Senate recedes on part and the rest is to be resolved by legislative counsel.

33. The House bill refers to "the Secretary shall, with respect to such excess amount, give priority to grants to local educational agencies that did not receive a grant under this part in the last fiscal year of the funding cycle prior to the fiscal year for which the determination is made"; the Senate amendment refers to "the Secretary shall give priority to using such amounts in excess of $75,000,000 to award grants to local educational agencies or consortia that did not receive a grant under this part in the preceding fiscal year."

The House recedes on the substance and other drafting differences are to be resolved by legislative counsel.

34. The Senate amendment, but not the House bill, delineates specific areas which the evaluation must address.

The House recedes.

35. The Senate amendment, but not the House bill, includes innovative programs involving strategies, other than magnet schools, such as community model schools.

The House recedes.

The Managers recognize that there exist numerous creative and innovative educational strategies worthy of the Secretary's support. Among them is the development of youth leadership training projects in urban areas that will recruit teen leaders, work with community-based organizations, institutions of higher education, local businesses, and local education agencies to develop integrated strategies which will allow youth from multicultural backgrounds to receive advanced skill and leadership training. The Managers also encourage the Department to support efforts that have achieved demonstrable success.

TITLE V—PART B-WOMEN'S EDUCATIONAL EQUITY ACT

1. The House bill includes the "Women's Educational Equity Act" under Part B. The Senate Amendment includes "Women's Educational Equity" under Part G.

Legislative counsel.

2. The Senate amendment, but not the House bill, refers to a Short Title: "Women's Educational Equity Act of 1994."

The House recedes.

3. The House bill refers to "Findings and Statement of Purpose"; the Senate amendment refers to "Short Title; Findings."

Legislative counsel.

4. The House bill refers to "(a) Findings—The Congress finds and declares that—"; the Senate amendment refers to "(b) Findings—The Congress finds that—".

The House recedes.

5. The House bill lists statements of declaration regarding gender equity pertaining to the frequency of inequitable programs, inequities limiting participation of individuals, and the assurance that women and girls have equal access to public education; the Senate amendment lists findings including progress women and girls have made in educational achievement, the increased availability of more curricula and training.

The House recedes with an amendment to move the third finding to the Senate list of findings.

6. The Senate amendment, but not the House bill, lists significant gender inequities which still exist in teaching and learning practices (e.g. sexual harassment, girls receiving less attention from classroom teachers than boys, girls of color having less interaction with teachers than other girls, classroom textbooks insufficiently reflecting experiences of people of color and often are not written by women or persons of color, girls not taking as many mathematics and science courses as boys, fewer women role models in the sciences, women continuing to be concentrated in low-paying jobs that do not require mathematics and science skill's etc.)

The House recedes with amendments to replace the introduction to the Senate's third finding with "however, teaching and learning practices in the United States are frequently inequitable, as such practices relate to women and girls, for example."; to strike subparagraph (B); and to strike "and women continue to be concentrated in low-paying, traditionally female jobs that do not require mathematics and science skills." from subparagraph (D).

7. The Senate amendment, but not the House bill, in its Findings refers to "Federal support should address not only research and development of innovative model curricula and teaching and learning strategies to promote gender equity, but should, to the extent feasible, also help schools and local communities implement and institutionalize gender equitable practices."

The House recedes with an amendment to add House finding (3) and keep Senate (4) but strike "to the extent feasible" and "and institutionalize".

8. The Senate amendment, but not the House bill, in its Findings refers to "Federal assistance for gender equity must be tied to systemic reform, involve collaborative efforts to implement effective gender practices at the local level, and encourage parental participation."

The House recedes.

9. The Senate amendment, but not the House bill, in its Findings refers to "excellence in education, high educational achievements and standards, and the full participation of women and girls in American society cannot be achieved without educational equity for women and girls."

The House recedes.

10. The House bill refers to "(b) Purpose.—" and states the purpose in one sentence; the Senate amendment refers to "Statement of Purposes. It is the purpose of this part—" and lists identical purposes but in an itemized format.

The House recedes.

11. The House bill, but not the Senate amendment, under programs authorized, provides the Secretary with authority to carry out a list of activities including promoting, coordinating, and evaluating gender equity policies, programs, activities, and initiatives in all federal education program and offices, providing grants to develop model equity programs, providing funds for the implementation of equity programs in schools throughout the nation, and assisting the Assistant Secretary of OERI in identifying research priorities related to education equity for women and girls.

The Senate recedes.

12. The House bill refers to "Local Implementation Grants." The Senate amendment refers to "Programs Authorized".

The House recedes with an amendment changing "program" to "grants".

13. The House bill authorizes two types of grants: (a) Local Implementation Grants, (Section 5203); and (b) Research and Development Grants (Section 5204). the Senate amendment authorizes one set of grants with two broad purposes: (a) Implementation of Effective Policies and Practices (Section 8453(1); and (b) Research and Development (Section 8453(2). Please see item #29 for the latter.

The House recedes with an amendment changing "practices" to "programs".

14. The House bill refers to authorizing the Secretary to make grants to, and enter into contracts with, public agencies, private nonprofit agencies, organizations, and institutions including community groups; the Senate amendment adds cooperative agreements.

The House recedes.

15. The House bill, but not the Senate amendment, includes grants to student groups.

The Senate recedes with an amendment to include "individuals".

16. The House bill, but not the Senate amendment, refers to in the awarding of grant "for activities designed to achieve the purposes of this part at all levels of education including preschool, elementary and secondary education, higher education, adult education and vocational/technical education".

The House recedes.

17. The House bill, but not the Senate amendment, includes the establishment and operation of the grant for a period not to exceed four years.

The Senate recedes.

18. The House bill, but not the Senate amendment, specifies local programs to ensure educational equity for women and girls, equal opportunities for both sexes, and to conduct activities in compliance with title IX of the Education Amendments of 1972.

The House recedes.

19. The House bill and the Senate amendment both include some similar implementation activities—Title IX assistance, teacher training, evaluating model programs, and introduction of materials in classrooms.

The House bill, but not the Senate amendment, includes program activities to address sexual harassment and violence; guidance, counseling, and career education; nondiscriminatory tests and alternative assessments; and improved access of women to educational administration programs.

The Senate amendment, but not the House bill, includes school-to-work programs, assistance to pregnant students and students rearing children and leadership training.

The House recedes with an amendment to keep all of the Senate language and add the House's (4), (6), (7), (8), and (9); add a new (A) which read "comprehensive institution or district-wide evaluation to assess the presence of absence of gender equity in education settings;"; and to strike the House (C).

20. The Senate amendment, but not the House bill, refers to "Application; participation.—" The Senate amendment refers to "Applications".

Legislative counsel.

21. The House bill, but not the Senate amendment, has a separate application process for each type of grant: (a) Local Implementation Grant, and (b) Research and Development. The Senate has only one application process.

The House recedes.

22. The Senate amendment, but not the House bill, refers to "or cooperative agreement may be entered into".

The House recedes.

23. The House bill refers to "Each such application shall"; the Senate amendment refers to "such as".

The Senate recedes.

24. The House bill includes several areas that must be included in the application: program or activity must be administered by or under the supervision of the applicant and in cooperation with appropriate education and community leaders, community-based organizations serving women, teachers, student organizations, business leaders, other significant groups and individuals, etc.; description of program for carrying out purpose in the grant program; description of plans for continuation and institutionalization of the program with local support following completion of the grant and termination of Federal support; and policies which ensure documentation and evaluation of the activities.

The Senate amendment lists examples of information which may be included in the application: setting forth policies that will ensure a comprehensive evaluation of the project as well as an evaluation of the continued significance of the work of the project following completion of the award period; a demonstration of how funds will promote the attainment of the national goals; addressing perception of gender roles based on cultural differences; describing how linked with the School to Work Opportunities Act, demonstrating how applicant will foster partnerships and share resources with a wide array of groups; and applications for projects under programs authorized demonstrating how parental involvement will be encouraged.

The House recedes with amendments to add "where appropriate" and "where applicable" in several places; to add "(including those serving women), parent, teacher and student groups, businesses," to the Senate list in (5); add "and strike institutionalization" in House (3) and add the House (3) to apply to implementation grants.

25. The House bill refers to "Criteria; Priorities; Categories of Competition; the Senate amendment refers to "Criteria and Priorities."

The House recedes.

26. The House bill refers to "The Secretary shall establish criteria, priorities, and categories of competition for awards under this part to ensure that available funds are used for those purposes that most effectively will achieve the purposes of the Act"; the Senate amendment refers to "The Secretary shall establish separate criteria and priorities for awards under paragraphs (1) and (2) of section 8453 (program authorized) to ensure that available funds are used for programs that most effectively will achieve the purposes of this part".

The House recedes.

27. The House bill, but not the Senate amendment, lists criteria which must be addressed; the Secretary shall establish priorities, title IX must be a priority for compliance, and not more than 60% of funds in each fiscal year shall be allocated to program under the priority; and to the extent feasible, the Secretary shall establish three categories of competition: grants to local educational agencies, institutions of higher education, and to non-profit organizations.

The Senate recedes with an amendment to replace "shall address" with "may include" and strike the House's (2) and (3).

28. The House bill in its Special Rule section indicates that to the extent feasible, the Secretary shall ensure that the grants address all levels of education, all regions of the United States; and urban, rural, and suburban educational institutions; the Senate amendment indicates that the Secretary shall give special consideration to applicants that have not received assistance under this part or under Part C of title IX; for projects that will contribute significantly to directly improving teaching and learning practices in the local community; projects that will provide for a comprehensive approach, draw on a variety of resources, implement a strategy with a long-term impact and address issues of national significance that can be duplicated.

The Senate recedes with an amendment to take the House's (1), (2), and (3) and add them as criteria for grants; and to strike "including at least one grant in each of the ten Federal regions" in (2) and add the Senate's (1) and (3) as criteria for grants.

29. The House bill includes its Research and Development Grants program in a separate section. The Senate amendment includes its research and development grants in its Program Authorized section.

The House recedes with an amendment to strike "National Institute on the Education of At-Risk Students" and insert "with each of the research institutes in OERI".

30. The House bill and the Senate amendment include similar activities although written differently.

The House recedes with an amendment to add "of innovative strategies and model training program for teachers and other education personnel" and strike "designed to advance gender equity, including the development of innovative strategies to improve teaching and learning practices"; strike the Senate (E), and (G); add the House's (3), (5) (6), and (7); and change (7) to read: the development of instruments and strategies for evaluation dissemination, and replication of promising or exemplary programs designed to assist LEAs to integrate gender equity into their educational policies and practices.

31. The House bill, but not the Senate amendment, specifies a separate application process for research and development grants. The House bill requires certain kinds of administration. The Senate amendment provides examples of information the application may contain (see item #30.).

The House recedes.

32. The bill, but not the Senate amendment, requires a separate Criteria and Priorities section for research and development purposes (See Senate's Criteria in item #26).

The House recedes.

33. The House bill, but not the Senate amendment, requires that the criteria and priorities be promulgated in accordance with section 431 of the General Education Provisions Act.

The House recedes.

34. The House bill, but not the Senate amendment, requires that in establishing priorities, one shall be programs which address the educational needs of women and girls who suffer multiple or compound discrimination.

The Senate recedes with an amendment to place a revised House (3) in the criteria and priorities section.

35. The House bill, but not the Senate amendment, includes a separate Special Rule for the research and development program. This Special Rule differs from the Special Rule in the Implementation Grants section. Please see note #28.

The House recedes.

36. The House bill, but not the Senate Amendment, includes a Coordination provision which indicates that research activities must be carried out in consultation with OERI and may include collaborative research activities which are jointly funded and carried out by the Office of Women's Equity and the Office of Educational Research and Improvement.

The Senate recedes with an amendment striking "by the Office of Women's Equity and the" and add "with the" before OERI.

37. The House bill includes two different authorizations for appropriations: (a) for Section 5203, $3,000,000 is authorized for fiscal year 1995 and such sums as necessary for each of the fiscal years through 1999, and (b) for Section 5204, $2,000,000 is authorized for fiscal year 1995 and such sums as may be necessary for each of the fiscal years through 1999. The Senate amendment authorizes to be appropriated $5,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years through 1999 of which not less than two-thirds of the amount appropriated must be available to carry out section 8453(1).

The House recedes.

38. The Senate amendment, but not the House bill, requires a report to be submitted to the President and the Congress on the status of educational equity for girls and women by January 1, 1999.

The House recedes.

39. The Senate amendment, but not the House bill, requires an evaluation by the Secretary in accordance with section 10701; a dissemination of materials and programs developed; and requires a report to Congress regarding such evaluation materials and program by January 1, 1998.

The House recedes.

40. The Senate amendment, but not the House bill, authorizes the Secretary to use funds appropriated under section 8458 to gather and disseminate information on gender equity and to convene meetings for this purpose, if necessary.

The Senate recedes.

41. The Senate amendment, but not the House bill, requires The Secretary to ensure that gender equity programs are administered within the Department by one who has recognized professional qualifications and experience in the field of gender equity and who will serve as a focal point of national leadership and information.

The House recedes with an amendment placing a period after "gender equity education" and striking the rest of the sentence.

TITLE VI—INNOVATIVE EDUCATION PROGRAM STRATEGIES

The House bill uses the title "Innovative Education Program Strategies" for this part while the Senate amendment uses the title "Targeted Assistance Program" for this title. The Senate recedes.

Findings and Statement of Purpose

The House bill, but not the Senate amendment, includes findings regarding the success of Chapter 2, the statement of purpose, and outlines state and local responsibility in administering the program. The Senate recedes with an amendment to strike "that can be supported by State and local sources of funding after such programs are demonstrated to be effective" and to replace "and support for library services" with "including support for library services" adding "media" before "materials" and striking "including media materials and".

Authorization of Appropriations

The House bill authorizes $435 million to be appropriated in fiscal year 1995 and such sums as may be necessary through 1999. The Senate amendment authorizes $325 million to be appropriated in fiscal year 1995 and such sums as may be necessary through 1999.

The House bill, but not the Senate amendment, stipulates that during fiscal years 1995 through 1999 the Secretary shall make payments to the State educational agencies for the purpose of this section. The Senate recedes.

Definition

The House bill, but not the Senate amendment, defines "effective schools programs." The Senate recedes with an amendment changing "deprived" to "disadvantaged."

The Senate amendment, but not the House bill, includes the Republic of the Marshall Islands and the Federated States of Micronesia in the set-aside for the outlying areas. The Senate recedes with an amendment replacing the list of outlying areas with the term "outlying areas."

The Senate amendment, but not the House bill, includes "for assistance under this title" at the end of subsection (a). The Senate recedes.

Allocation to Local Educational Agencies

The House bill requires that the State educational agency shall direct no less than 85% of funds to local educational agencies to carry out the purposes of this part, while the Senate amendment requires 80% for the same purpose. The Senate recedes.

State Uses of Funds

The House bill allows funds to be used for "statewide education reform activities including effective schools programs," while the Senate amendment refers only to "statewide activities." The Senate recedes.

State Applications

The House bill requires State applications to provide for an annual submission of data on the use of funds, types of services furnished and students served under this section while the Senate amendment requires a biennial submission of such data. The House recedes.

The House bill requires State applications to provide for a program evaluation in fiscal year 1998, while the Senate amendment does not specify when the evaluation must occur. The Senate recedes.

The House bill requires the State applications to set forth the allocation of funds required to implement section 2452, the Senate amendment requires the State applications to set forth the allocation of such funds required to implement section 13203, and to describe the programs, projects, and activities that will carry out targeted assistance and the reason for their selection. The Senate recedes.

The Senate amendment, but not the House bill, provides for "timely public notice and public dissemination of information provided pursuant to paragraph (2)." The House recedes.

The Senate amendment, but not the House bill, requires that an application to the secretary for grants detail: "how the State will adjust its formula to comply with section 13102, how children under section 13102 are defined, the basis on which a determination of the local educational agencies under section 13102 is made, and the percentage of the State grant which is proposed to be allotted on an adjusted basis under section 13102." The Senate recedes.

Targeted Use of Funds

The Senate recedes with an amendment to the subpart title to read "Local Innovative Education Programs."

The House bill contains a list of what kinds of targeted assistance programs referred to in this subsection "include." The Senate amendment contains a list of what the targeted assistance programs "are." The Senate recedes.

The House bill, but not the Senate amendment, includes as a use of funds technology to further reform, as well as training to help teachers and school officials learn how to use new equipment and software effectively. The Senate recedes.

The House bill specifies that funds may be used for "instructional and educational materials" while the Senate amendment allows "programs for the acquisition and use of instructional and educational materials." The Senate recedes.

The House bill allows funds to be used for "assessments," the Senate amendment does not. The Senate recedes.

The House bill allows funds to be used for "library services and materials (including media materials) tied to high academic standards and which are part of an overall education reform program." The Senate amendment states that educational materials include "library books, reference materials, computer software and hardware for instructional use, and other curricular materials that will be used to improve student achievement." The House recedes with an amendment to add at the end of the sentence "and which are part of an overall education program."

The House bill, but not the Senate amendment, allows funds to be used for promising education reform projects, including effective schools and 21st Century Learning Center projects. The Senate recedes with an amendment to add magnet schools and strike 21st Century Learning Centers, moving that program to Title X.

The House bill specifies that computer hardware and software purchased under this section should only be used for instructional purposes, the Senate amendment includes the same limitation in 13301(b)(1). The House recedes.

The Senate amendment, but not the House bill, allows funds to be used for programs to improve higher order thinking skills of economically disadvantaged students and to prevent students from dropping out. The House recedes with an amendment striking "economically" before "disadvantaged."

The Senate amendment, but not the House bill, allows funds to be used to combat student/parent/adult illiteracy. The House recedes.

The Senate amendment, but not the House bill, allows funds to be used to provide for the educational needs of gifted and talented children. The House recedes.

The Senate amendment, but not the House bill, allows funds to be used for school facility repair, renovation, improvement and construction. The Senate recedes.

The Senate amendment, but not the House bill, allows funds to be used for school reform consistent with the Goals 2000: Educate America Act for LEAs not receiving money under that Act. The House recedes with an amendment striking "for local educational agencies that do not receive assistance under that Act."

The Senate amendment, but not the House bill, allows funds to be used for school improvement programs under sections 1118 and 1119. The House recedes.

Administrative Authority/Authorized Activities

The Senate amendment, but not the House bill, states that activities authorized under this part may include the planning, development, or operation and expansion of programs which may include: training of educational personnel in any of the targeted assistance programs detailed in 13301; guidance and pupil services; and any other education or related activities which the SEA or LEA determines will contribute to improving the programs described in section 13301. The Senate recedes.

Local Applications

The House bill states that State educational agencies may approve a local educational agency application if it carries out targeted assistance "it intends to support" and the Senate amendment refers to targeted assistance the State educational agency "intends to support." The House recedes with an amendment changing "State" to "local."

The House bill, but not the Senate amendment, requires a certified State educational agency application to "set forth the allocation of such funds required to implement section 2452." The Senate recedes with an amendment changing the section reference to "2442."

The House bill, but not the Senate amendment, requires a state educational agency application to show how such assistance will contribute to the "National Education Goals." The Senate recedes.

The House bill, but not the Senate amendment, provides assurances of compliance with this part, including participation of children enrolled in private, nonprofit schools in accordance with section 2452. The Senate recedes.

The House bill and the Senate amendment have identical provisions except the House bill uses the word "concession" and the Senate amendment uses "consistent." The House recedes.

The House bill and Senate amendment allow LEA applications to be filed for 3-year periods, but the House bill states that the application may provide for the allocation of funds "to programs" and the Senate amendment states "among programs and purposes authorized by this title." The Senate recedes.

Maintenance of Effort; Federal Funds Supplementary

The House bill, but not the Senate amendment, requires a maintenance of effort and requires federal funds to be supplementary. The Senate recedes with an amendment to replace this section with language that states that a State shall comply with maintenance of effort and federal supplementary provisions in title XIV (General Provisions).

Participation of Children Enrolled in Private Schools

The House bill, but not the Senate amendment, includes provisions on the participation of children in private schools. The Senate recedes.

Evaluations and Reporting

The House bill, but not the Senate amendment, outlines how LEAs must report to SEAs, how SEAs shall evaluate the effectiveness of State and local programs under this part in accordance with section 2423, and how the evaluation will be reviewed by a State advisory committee and will be made available to the public. In addition, the Secretary shall develop a system which SEAs may use for data collection and reporting under this part. The Senate recedes.

Federal Administration

The House bill, but not the Senate amendment, states that the Secretary shall provide technical assistance to State and local agencies, shall issue regulations only to the extent needed, and that funds appropriated for this part shall be available for obligation on July 1 of such fiscal year.

Open.

Application of General Education Provisions Act

The House bill, but not the Senate amendment, states that, except as specified in the subsection, GEPA shall apply to the programs authorized by this part. The House recedes.

21st Century Community Learning Centers (To be placed in Title X)

The Senate amendment, but not the House bill, provides that the short title is "21st Century Community Learning Centers Act." The House recedes.

In finding (1) the House bill refers to "resources;" the Senate amendment refers to "services." The Senate recedes.

In finding (2), the Senate amendment, but not the House bill, refers to meeting the needs "of" and expanding the opportunities available "to" residents of communities being served by such schools. The House recedes.

The Senate amendment, but not the House bill, contains a finding relating to lifelong learning. The House recedes.

The Senate amendment, but not the House bill, contains a finding concerning education strategies that address the educational needs of all members of local communities. The Senate recedes.

Program Authorization and Distribution

The Senate amendment, but not the House bill, includes "and distribution" in the section heading. The House recedes.

The House bill refers to grants to schools; the Senate amendment refers to grants to "public elementary or secondary schools" . . "to enable such schools or consortia." The House recedes.

The House bill provides for a minimum grant of $50,000; the Senate amendment provides a minimum grant of $20,000. The House recedes with an amendment to change the minimum grant amount to $35,000.

The House bill provides that "to be eligible to receive funds under this section" that schools or consortia "thereof" shall submit an application to the Secretary of Education; the Senate amendment provides that to be eligible to receive a "grant, an elementary or secondary school or consortium" shall submit an application. The House recedes.

The House bill provides that the plan include a plan that enables such school to serve as the center for the delivery of education and human resources; the Senate amendment provides that the plan enable such school "or consortia" to serve as a center for the delivery of human "services." The Senate recedes.

The House bill, but not the Senate amendment, emphasizes interactive telecommunication among the services the school will deliver. The Senate recedes.

The Senate amendment, but not the House bill, includes consortia along with schools as service providers. The House recedes.

The House bill lists "the establishment" of certain facility utilization policies as a need to be addressed by programs in the application while the Senate requires an "assurance" of the establishment of such a policy in the application. The House recedes.

The House bill, but not the Senate amendment, discusses schools as "centers for lifelong learning." The House recedes.

The House bill, but not the Senate amendment, discusses the center's relationship to the community. The Senate recedes with an amendment to move this paragraph to the end of findings.

The House bill, but not the Senate amendment, states that priority will go to applications that address the need of the community. The Senate recedes.

The House bill, states "in conjunction with recreation programs" while the Senate amendment states "that are coordinated with summer recreation programs." The Senate recedes.

The House bill includes among the allowable activities "nutrition, health, and/or physical therapy" while the Senate amendment includes "nutrition programs" among the allowable activities. The House recedes with an amendment to include "and health."

The House bill refers to "students" while the Senate amendment refers to "individuals." The House recedes with an amendment to strike "who are either physically or mentally challenged" and add "with disabilities."

The House bill states "In approving grants under this section," while the Senate amendment states "in awarding grants under this part." The House recedes.

The House bill, but not the Senate amendment, defines "Secretary." The House recedes with an amendment adding "institutions of higher education."

The House bill authorizes $25 million, while the Senate amendment authorizes $20 million, for this program for FY 95 and such sums as may be necessary for the succeeding four years. The House recedes.

TITLE X—SMALL BUT SIGNIFICANT PROGRAMS

The House bill cites this title as "Title III-Expanding Opportunities For Learning". The Senate amendment cites this title as "Title VIII-Programs of National Significance." The House recedes.

FUND FOR THE IMPROVEMENT OF EDUCATION

Authorization

In paragraph (a), the House bill refers to "challenging standards." The Senate amendment refers to "challenging State content standards and challenging State student performance standards." The House recedes.

Uses of Funds

The House bill, but not the Senate amendment, permits research and development on content and performance standards and opportunity-to-learn standards. The Senate recedes with an amendment, inserting "or strategies" after "standards."

In paragraph (A)(i), the Senate amendment provides for the elimination of grouping practices and the development of programs that place all students on a college preparatory path of study. The House does not. The House recedes with an amendment, striking all language beginning with "and" after "practices" in paragraph (i).

In paragraph (A)(ii), the Senate amendment provides for the development and evaluation of programs with strong parental involvement. The House does not. The House recedes.

In paragraph (A)(iii), the Senate amendment provides for the development and evaluation of strategies for integrating instruction and assessment. The House does not. The House recedes.

In paragraph (A)(iv), the Senate amendment provides for the development and evaluation of strategies for supporting professional development for teachers, counselors, and administrators. The House recedes with an amendment, inserting "pupil services personnel, including" before "guidance counselors."

The House bill refers to "public school choice in accordance with the requirements of part C." The Senate amendment refers to "public school choice." The Senate recedes.

The Senate amendment refers to "Federal agencies, such as the National Science Foundation,the Department of Health and Human Services, and the Department of Labor, and with institutions of higher learning to assist the effort to achieve the National Education Goals". The House bill refers to "agencies to assist the effort to achieve the National Education Goals." The Senate recedes.

The Senate amendment refers to "activities to promote and evaluate coordinated pupil service programs". The House bill has no such provision. The House recedes.

The House bill refers to "(G) activities to promote consumer, economic, and personal finance education". The Senate amendment refers to "(K) activities to promote consumer education, such as saving, investing, and entrepreneurial education." The Senate recedes with an amendment, adding "such as saving, investing, and entrepreneurial education;" after "education;".

The Senate amendment refers to "activities to promote metric education". The House bill has no such provision. The House recedes.

The House bill refers to "the identification and recognition of exemplary schools and programs, such as Blue Ribbon Schools". The Senate amendment has no such provision. The Senate recedes.

The House bill refers to programs to reduce student mobility. The Senate amendment has no such provision. The Senate recedes.

The House bill refers to public-private partnerships which would permit students to bring computers home. The Senate amendment has no such provision. The Senate recedes.

The House bill has no parallel provisions to Senate amendment items: "(M)", "(N)", "(O)", "(P)", "(R)", "(T)." The House recedes with an amendment striking paragraphs "(N)" and "(T)" and modifying "(R)" to read as follows: "demonstrations relating to the planning and evaluation of the effectiveness of projects under which LEAs or schools contract with private management organizations to reform a school or schools."

In paragraph (2) (A), (B) and (C), the House bill provides for the establishment, content, and mission of the National Center for Second Language Development.

The Senate amendment has no such provisions. The House recedes.

Awards

Authorization

1. The House bill refers to "fiscal year 1996, 1997, 1998, and 1999." The Senate amendment refers to "4 succeeding fiscal years." The House recedes with an amendment authorizing FIE at $50,000,000.

GIFTED AND TALENTED STUDENTS

Findings

The House bill refers to the standards as "high"; the Senate amendment describes standards as "challenging State content standards and challenging State student performance standards." The House recedes.

The Senate amendment, but not the House bill, notes the experience gained should be used as a basis to "provide all students with important and challenging subject matter to study and encourage the habits of hard work." The House recedes

Definitions

The House bill, but not the Senate amendment, defines gifted and talented students as youth exhibiting a high performance capability and require services or activities not ordinarily provided by the school in order to fully develop their capabilities. The House recedes.

Construction

The Senate amendment, but not the House bill, clarifies that a "recipient of funds under this part" will not be precluded from "serving gifted students simultaneously with students with similar educational needs, in the same educational settings." The House recedes.

Establishment of Program

Uses of Funds

The Senate amendment, but not the House bill, refers to parents involved in gifted and talented programs. The House recedes.

The Senate amendment, but not the House bill, includes the implementation of innovative strategies, such as cooperative learning, peer tutoring and service learning as programs using funding. The House recedes.

Establishment of National Center

Limitation

The House bill states a limitation of not more than 30 percent of available funds in a fiscal year for a program authorized by this section to carry out activities pursuant to subsections (b)(5) or (c). The Senate amendment limits programs authorized by this section and its activities pursuant to subsection (b)(7) or (c) to not more than $1,750,000. The Senate recedes.

General Priority

The House bill, but not the Senate amendment includes "such as mentoring and apprenticeship program." The Senate recedes.

Review, Dissemination, and Evaluation

The House bill refers to "results of projects". The Senate amendment refers to "results of programs and projects." The House recedes.

The Senate amendment states that the programs shall be evaluated under this part in accordance with section 10701. The House bill states the programs will be evaluated under this part. The House recedes.

Administration

The House bill states specific duties of the administrative unit. The Senate amendment simply states that this administrative unit shall serve as a "focal point of national leadership and information on mechanisms to carry out the purpose of this part." The Senate recedes with an amendment, moving the Senate language regarding a person in the Department to administer these programs, "The Secretary . . . who shall", replacing the House language "The Secretary shall . . .", keeping the House's list of duties.

Authorization of Appropriations

The House bill authorizes appropriations of $10,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999. The Senate amendment authorizes appropriations of $20,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years. The Senate recedes.

The Senate amendment includes a trigger for appropriations, the House bill does not. The Senate recedes.

PUBLIC CHARTER SCHOOLS

The conferees intend that public entities authorized under state law have some relation to education and be capable of carrying out oversight, fiduciary and other administrative requirements related carry out such a grant.

Purpose

The House bill refers to "SEC. 3401. PURPOSE." The Senate amendment refers to "SEC. 8201. FINDINGS AND PURPOSE." The House recedes.

The House bill refers to "those schools on improving student achievement". The Senate amendment refers to "such schools." The House recedes with an amendment inserting "student achievement," after "students."

Findings

The Senate amendment, but not the House bill, presents findings on charter schools. The House recedes with amendments striking "new schools developed through such process should be free to test" at the beginning of paragraph (3) and in inserting "Charter Schools are a mechanism for testing"; and inserting "educationally disadvantaged" before "students" the first time it appears.

Program Authorized

The Senate amendment, but not the House bill, specifies that applications be approved pursuant to section 8203 and in accordance with this part. The House recedes.

The Senate amendment refers to "(b) SPECIAL RULE.—". The House has no such provision. The House recedes.

Project Periods

The Senate amendment, but not the House bill, creates two subparts: "GRANTS TO STATES" and "GRANTS TO ELIGIBLE APPLICANTS." The House recedes.

Limitation

The Senate amendment, but not the House bill, refers to "and State educational agencies shall not award more than one subgrant under this part." The House recedes.

Applications

The House bill heading reads in part "APPLICATIONS REQUIRED". The Senate amendment reads in part "APPLICATIONS FROM STATE AGENCIES." The House recedes.

The House bill and Senate amendment use different language to convey the same provision. However, the Senate amendment, but not the House bill, refers to "and containing or accompanied by such information as the Secretary may require." The House recedes.

The House bill, but not the Senate amendment, refers to "(b) SCOPE OF APPLICATION". The House recedes.

The House bill refers to "(c) APPLICATION CONTENTS.—Each such application shall include, for each charter school for which assistance is sought—". The Senate amendment refers to "(b) CONTENTS OF A STATE EDUCATIONAL AGENCY.—Each application submitted pursuant to subsection (a) shall—". The House recedes.

In paragraph (b)(1), the Senate amendment, but not the House bill, provides that applicants describe which objectives are to be fulfilled and how they will be accomplished. The House recedes.

In paragraph (3), the Senate amendment, but not the House bill, establishes that agencies desiring to be awarded a subgrant submit an application. The House recedes.

The House bill refers to "the local educational agency that will authorize or approve the school's charter and act as the grantee under this act". The Senate amendment refers to "the authorized public chartering agency." The House recedes.

The House refers to "local educational agency" and "the school is successful". The Senate amendment refers to "authorized public chartering agency" and "the school has met the objectives described in subparagraph (C)(i)." The House recedes.

The House bill, but not the Senate amendment, refers to "a description of any State or local rules, generally applicable to public schools, that will be waived for, or otherwise not apply to, the school." The Senate recedes.

The Senate amendment, but not the House bill, refers to "subgrant funds or grant funds, as appropriate, will be used, including a description of how such funds will be used in conjunction with other Federal programs administered by the Secretary." The House recedes.

The Senate amendment, but not the House bill, refers to "and the State educational agency." The House recedes.

The Senate amendment refers to "and the State educational agency in evaluating the program assisted under this part". The House bill refers to "in evaluating the program authorized by this part." The House recedes.

The Senate amendment, but not the House bill, refers to "and the State educational agency." The House recedes with an amendment inserting "Consistent with Section 8202(b)" before "Each".

The House bill heading in part reads "STATE EDUCATIONAL AGENCY APPROVAL REQUIRED.—" The Senate amendment reads "APPLICATIONS FROM ELIGIBLE APPLICANTS." The House recedes with an amendment striking "Eligible Agency."

The Senate Amendment, but not the House bill, details content to be included in applications and the process by which an application shall be submitted. The House recedes with an amendment striking "sentence" and inserting "subsection."

Administration

The Senate amendment, but not the House bill, provides for the administration of the selection of applicants.

The House recedes with an amendment inserting "assisting educationally disadvantaged and other students" after "make to."

Selection of Grantees; Waivers

The House bill refers to "(a) CRITERIA.—The Secretary shall select" The Senate amendment refers to "(b) SELECTION CRITERIA FOR ELIGIBLE APPLICANTS.—The Secretary shall award" and includes "submitted under section 8203, after." The House recedes.

The Senate amendment refers to "State educational agency" and "charter school". The House bill refers to "State" and "school." The House recedes.

The House bill refers to "the plan". The Senate amendment refers to "the process." The House recedes with an amendment changing "process" to "strategy."

The House bill refers to "school". The Senate amendment refers to "charter school." The House recedes.

Peer Review

The Senate heading reads in part "(c)." The House reads "(b)." The House recedes.

The Senate amendment refers to "assistance under this part". The House bill refers to "grants under this section." The House recedes.

Diversity of Projects

The Senate amendment, but not the House bill, refers to "such as approaches designed to reduce school size." The House recedes.

Waivers

The Senate heading reads in part "(e)." The House reads "(d)." The House recedes.

Uses of Funds

The House bill and Senate amendment headings differ throughout this section. The House recedes.

Allowable Activities

The House bill refers to "(B) acquiring necessary equipment". The Senate amendment refers to "(ii) acquiring necessary equipment and educational materials and supplies." The House recedes.

The Senate amendment, but not the House bill, permits minor remodeling. The House recedes.

The Senate, but not the House, includes "ADMINISTRATIVE EXPENSES" and "REVOLVING LOAN FUNDS." The Senate recedes.

National Activities

The House bill refers to "up to 10 percent of the funds appropriated for this part". The Senate amendment refers to "not more than 10 percent of the funds available to carry out this part." The House recedes.

The Senate amendment, but not the House bill, lists other activities assisted under this part. The Senate recedes.

Definitions

The House bill, but not the Senate amendment, refers to "the following terms have the following means." The House recedes with amendment striking "(C)."

In paragraph (B), the Senate amendment includes "and is operated under public supervision and direction." The House recedes.

In paragraph (C), the House bill refers to "local educational agency applying for a grant on behalf of the school". The Senate amendment refers to "the authorized public chartering agency." The House recedes.

In paragraph (I), the House refers to "public schools". The Senate refers to "schools." The House recedes.

The House, but not the Senate, refers to "(K)." The Senate recedes.

The House bill and Senate amendment use different language to convey the same provision in "(3)." The Senate recedes.

The Senate, but not the House, defines "authorized public chartering agency." The House recedes.

Authorization of Appropriations

2. The House bill refers to "the fiscal years 1996, 1997, 1998, and 1999." The Senate amendment refers to "the 4 succeeding fiscal years." The House recedes with an amendment inserting "and approved by the Secretary" after "state law."

ARTS IN EDUCATION

Findings

The Senate amendment but not the House bill finds that participation in performing arts activities has proven to be an effective strategy for promoting the inclusion of persons with disabilities in mainstream settings. The House recedes.

The Senate amendment but not the House bill finds that opportunities in the arts have enables persons of all ages with disabilities to participate more fully in school and community activities. The House recedes.

4. The House bill, but not the Senate amendment, finds that the arts can motivate at-risk students to stay in school and become active participants in the educational process.

The Senate recedes.

Purpose

The House bill states that a purpose of the bill is to help ensure that all students have the opportunity to learn challenging standards in the arts. The Senate bill refers to State content standards and State student performance standards. The House recedes.

Eligible Recipients

The Senate amendment, but not the House bill, includes museums and other cultural institutions as eligible recipients. The House recedes.

Authorized Activities

The Senate amendment, but not the House bill, includes as an authorized activity supporting collaborative activities with Very Special Arts. The House recedes.

The House bill states that authorized activities include supporting model projects and programs in the arts for individuals with disabilities through arrangements with the organization, Very Special Arts. The Senate amendment states that authorized activities include supported model projects and programs developed by Very Special Arts which assure the participation in mainstream settings in arts and education programs of persons of all ages with disabilities. The House recedes with an amendment, striking "developed" and "of all ages" in paragraph (8).

Coordination

The Senate amendment, but not the House bill, include. Very Special Arts. Technical difference. The House recedes.

The Senate amendment, but not the House bill, states that if the amount appropriated for any fiscal year is $9 million or less, such amount shall only be available to support model projects and programs developed by Very Special Arts which assure the participation in mainstream settings in arts and education programs of persons of all ages with disabilities and such projects and programs in the performing arts for children and youth through arrangements made with the John F. Kennedy Center for the Performing Arts. The House recedes.

INEXPENSIVE BOOK DISTRIBUTION PROGRAM

Authorization

The Senate amendment, but not the House bill, refers to (RIF). The House recedes.

Requirements of Contract

The House bill refers to "children up through high school age, including those in family literacy programs." The Senate amendment refers to "children from birth through secondary school age." The House recedes with an amendment, adding "including those in family literacy programs" after "secondary school age."

The House bill, but not the Senate amendment, refers to children with disabilities "including those with serious emotional disturbance." The House recedes.

Definition of Federal Share

The Senate amendment, but not the House bill, refers to 100 percent "of such costs to the subcontractor." The House recedes.

The House bill states that the federal share "shall not exceed 75 percent." The Senate amendment states that the federal share shall be 75 percent. The House recedes.

The House bill authorizes $10.3 million for Fiscal Year 1995 and such sums for 1996, 1997, 1998 and 1999. The Senate amendment authorizes $11 million for Fiscal 1995 and such sums for each of the four succeeding fiscal years. The Senate recedes.

CIVIC EDUCATION

General Authority

The House bill says the Secretary "shall." The Senate amendment says the Secretary "is authorized." The House recedes.

Contract or Grant Authorized

The House bill refers to "the program required by paragraph (1). The Senate amendment refers to "the program described in paragraph (1). The House recedes.

Special Rule

The House bill refers to "advanced training of teachers in civics and government." The Senate amendment refers to "advanced training of teachers about the United States Constitution and the political system the United States created." The House recedes.

The Senate amendment, but not the House bill, refers to a course of instruction in the middle school level. The House recedes.

Program Established

The House bill says the Secretary "shall.". The Senate amendment says the Secretary "is authorized." The House recedes.

The House bill refers to "challenging content standards." The Senate amendment refers to "challenging State content standards and challenging State student performance standards." The House recedes.

Authorized Activities

The House bill refers to "our system of government." The Senate amendment refers to "our Nation's system of government." The House recedes.

The Senate amendment, but not the House bill, refers to "respect for cultural diversity and acceptance of cultural differences." The House recedes.

Report

The Senate amendment, but not the House bill, refers to section 10701. The Senate recedes.

Authorization of Appropriations

The House bill authorizes $15 million for Fiscal 1995 and such sums for 1996, 1997, 1998, and 1999. The Senate amendment authorizes $20 million for Fiscal 1997 and such sums for each of the succeeding four fiscal years. The Senate recedes.

The House bill allocates 40% for section 3701 and 60% for section 3702. The Senate amendment allocates 50% for section 8251 and 50% for section 8552. The Senate recedes.

Native Hawaiian Education

Findings

The Senate amendment, but not the House bill, notes the decline in the Native Hawaiian population from 1778 to 1921. The House recedes.

The House bill, but not the Senate amendment, refers to the Act of June 20, 1938, where the U.S. Congress acknowledged the unique status of the Hawaiian people. The Senate recedes.

The House bill, but not the Senate amendment, refers to the U.S. establishing educational programs to benefit Native Hawaiians. The Senate recedes.

The House bill refers to "the Native American Programs Act of 1992, as amended" and the "National Historic Act Amendments of 1992". The Senate amendment refers to "the National Museum of the American Indian Act", "National Historic Preservation Act", and the "Native American Languages Act." The House recedes with an amendment to combine the House and Senate provisions.

The House bill lists the special provisions the U.S. Congress has passed recognizing the trust relationship between the U.S. and the Native Hawaiian people. The Senate amendment simply states "numerous special provisions of law for the benefit of Native Hawaiians in the areas of health, education, labor, and housing. The House recedes.

The House bill, but not the Senate amendment, recognizes that a lower educational attainment among Native Hawaiians has been related to lower socioeconomic outcomes. The House recedes.

The House bill, but not the Senate amendment, indicates that native Hawaiian students are disproportionately under-represented in Institutions of Higher Education. The House recedes.

The House bill, but not the Senate amendment, states that Native Hawaiians are under-represented in traditional white collar and health care professions, while being over-represented in service occupations. The House recedes.

The Senate amendment, but not the House bill, refers to the 1988 enactment of title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988. The House recedes.

The House bill and the Senate amendment, in similar, yet not identical, language refer to native Hawaiian children's educational risk factors. The House recedes.

The House bill, but not the Senate amendment, states "special efforts in education recognizing the unique cultural and historical circumstances of Native Hawaiians are required." The House recedes.

The Senate amendment, but not the House bill, refers to the under-presentation of Native Hawaiians in institutions of higher education and among adults who have completed four or more years of college. The House recedes.

The Senate amendment, but not the House bill, refers to high retainment and absenteeism rates among Native Hawaiian students. The House recedes.

The Senate amendment, but not the House bill, states that Native Hawaiian students are the highest drug and alcohol users. The House recedes with amendment, adding "in the State of Hawaii" after "alcohol" in paragraph (ii).

The Senate amendment, but not the House bill, states that Native Hawaiian children continue to be disproportionately victimized by child abuse and neglect. The House recedes.

The Senate amendment, but not the House bill, refers to the 23% of the students served by the State of Hawaii's Department of Education and their residence in rural, isolated areas. The House recedes.

The Senate amendment, but not the House bill, refers to contradictions between findings listed in paragraphs (1) through (15) and the high rate of literacy and integration of traditional culture and Western education achieved by Native Hawaiians through a Hawaiian language-based public school system. The House recedes.

The Senate amendment but not the House bill, refers to the "Native Hawaiian Educational Assessment Project" released in 1983 by the Office of Education to Congress and its findings. The House recedes.

The Senate amendment but not the House bill, notes that the Kamehameha Schools Bishop Estate released a ten-year update of the Native Hawaiian Educational Assessment Project. The House recedes.

The Senate amendment but not the House bill, mentions the banning of Hawaiian medium schools. The House recedes.

The Senate amendment but not the House bill, refers to the Native Hawaiians' determination to "preserve, develop, and transmit to future generations their ancestral territory." The House recedes.

The Senate amendment but not the House bill, refers to the distinct land rights of the Native Hawaiian people. The Senate recedes.

The Senate amendment but not the House bill, mentions the distinct land rights of Native Hawaiians and their unique religious customs and beliefs. The House recedes.

The Senate amendment but not the House bill, recognizes the traditional language of the Native Hawaiian people as an official language of the State of Hawaii. The House recedes.

Purpose

The House bill states educational programs are to "assist" Native Hawaiians in "reaching the National Educational Goals". The Senate amendment simply states educational programs are to "benefit" Native Hawaiians. The Senate recedes.

The Senate amendment but not the House bill, refers to the establishment of a Native Hawaiian Education Council and five island councils. The House recedes.

The House bill states the purpose of this part includes the "encouragement of maximum participation of Native Hawaiians in planning and management of Native Hawaiian Education Programs." The Senate amendment refers to this concept in the findings. The Senate recedes.

Establishment

Both the House bill and the Senate amendment provide for a Native Hawaiian Education Council. The Senate amendment, but not the House bill, includes the provision for island councils. The House recedes.

Composition

The Senate amendment but not the House bill, states the Educational Council shall consist of not more than 25 members. The House recedes.

The House bill, but not the Senate amendment, states the composition of the council shall consist of, "but not be limited to", "representatives of each of the programs which receive Federal funding under this part"; "a representative from the Office of the Governor"; "a representative from the Office of Hawaiian Affairs"; "representatives of other Native Hawaiian Educational organizations and Native Hawaiian organizations which receive Federal or state education funds"; and "parent, student, educator and community organizations." The House recedes.

The Senate amendment but not the House bill, includes in its member list, "each recipient of funds from the Secretary under this part"; a representative from the Office of Hawaiian Affairs, Department of Education in Hawaii, and specifically mentioned educational organizations. The House recedes.

The Senate amendment but not the House bill, states a representative will serve on the council from "each Native Hawaiian education island council established under subsection (f)." The House recedes.

Conditions and Terms

The House bill indicates that at least half of the members shall be Native Hawaiians. The Senate amendment states that at least three-fourths of the members shall be Native Hawaiians. The House recedes.

The House bill states that members of the Education Council will serve for five-year terms. The Senate amendment states members will be appointed for three-year terms. The House recedes.

Duties and Responsibilities

The House bill and the Senate amendment state the Education Council will provide information to Congress. The Senate amendment, but not the House bill, specifically states particular entities to which the reports will be delivered. The House recedes.

The House bill, but not the Senate amendment, states that the Secretary shall, whenever practicable, consult with the Council before taking any significant action related to the education of Native Hawaiians. The House recedes.

Administrative Provisions

The House bill, but not the Senate amendment, makes a statement that the Council will meet at the call of the Chair, or upon the request of the majority of the Council. The Senate recedes.

The Senate amendment, but not the House bill, outlines the purpose of the administrative grant for the Education Council. The House recedes.

Compensation

The House bill, but not the Senate amendment, requires that compensation for service will not be given to any member of the Native Hawaiian Council. The Senate recedes.

Report to Congress

The House bill, but not the Senate amendment mandates a report to Congress not later than 4 years after the date of enactment of the Improving America's Schools Act. The Senate recedes.

Establishment of Island Councils

The Senate amendment, but not the House bill, introduces island councils and their composition. Specific administrative provisions, compensation, report requirements, and authorization of appropriations are described. The House recedes.

Application Required

The Senate amendment, but not the House bill, articulates the application required for a grant that is to be made to the Secretary in order to carry out the provisions of this part. The House recedes.

Native Hawaiian Language Immersion Authority

The House bill, but not the Senate amendment details a state-wide effort to revitalize the Native Hawaiian language. Administrative costs are set at no more than 7 percent of the funds appropriated. Authorized appropriations are to be $1,500,000 for fiscal year 1995 and such sums as may be necessary for fiscal years 1996 through 1999. The House recedes.

Native Hawaiian Family-Based Education Centers

The Senate amendment, but not the House bill, states educational entities with "experience" in developing or operating Native Hawaiian programs. The House bill does not use "experience." The House recedes.

The House bill states that a minimum of eleven Family-Based Education Centers throughout the Hawaiian Islands be developed. The Senate amendment refers to no such minimum. The House recedes.

The Senate amendment, but not the House bill, articulates that the programs of such centers "may be conducted in either the Hawaiian language, the English language, or a combination thereof." The House recedes.

Native Hawaiian Higher Education Demonstration Program

The House bill, but not the Senate amendment, states that the Secretary shall make grants to the Kamehameha Schools/Bernice Pauahi Bishop Estate. The Senate amendment generalizes, stating grants will be given to Native Hawaiian educational organizations. The House recedes.

Mandatory activities

The Senate amendment, but not the House bill states mandatory activities include full or partial fellowship support for Native Hawaiian students enrolled in higher institutions of education. The House bill simply says "may include." The Senate recedes.

The Senate amendment, but not the House bill, includes "fellowship" in its conditions of recipients. The Senate recedes.

The Senate amendment, but not the House bill, includes a section titled "Permitted Activities" listing those which the House bill mentions under no such subsection. The Senate recedes.

The House bill, but not the Senate amendment, has a section titled "Grants Authorized." The House recedes.

The Senate amendment, but not the House bill, refers to the completion of a baccalaureate program. The House recedes.

The House bill, but not the Senate amendment, includes "within the State of Hawaii" after "Native Hawaiian community." The House recedes.

Special Rule

The House bill, but not the Senate amendment, includes a special rule that no policy be implemented to prevent a Native Hawaiian student enrolled at a higher education institution outside of the State of Hawaii from receiving a fellowship. The Senate recedes.

Authorization of Appropriations

The House bill, but not the Senate amendment, authorizes $1,500,000 for fiscal year 1995 and such sums may be necessary for fiscal years 1996 through 1999 for funding fellowship assistance demonstration project provided under subsection (b). The House recedes.

Native Hawaiian Gifted and Talented Program

The House bill, but not the Senate amendment, states there will be an establishment of a Native Hawaiian Gifted and Talented Center at the University of Hawaii at Hilo. The Senate amendment does not specify a program at the University. The House recedes.

The House bill, but not the Senate amendment, specifies demonstration projects will be designed to address gifted and talented students. The Senate amendment makes no reference to demonstration projects. The House recedes.

The House bill, but not the Senate amendment, details the terms of the grant or contract. The House recedes.

The House bill, but not the Senate amendment, states that "such grant or contract shall be subject to the availability of appropriated funds and, contingent on satisfactory performance by the grantee." The House recedes.

Uses of Funds

The Senate amendment, but not the House bill, specifies "Native Hawaiian" gifted and talented students. The House recedes.

The House bill, but not the Senate amendment, incorporates public television in meeting educational needs of gifted and talented children. The House recedes.

The Senate amendment, but not the House bill, refers to coordination with "other Native American gifted and talented programs." The House recedes.

Information Provision

The House bill, but not the Senate amendment, states the Secretary will establish a national network of Native Hawaiian and American Indian Gifted and Talented Centers and impart any information to the educational community. The Senate recedes with an amendment striking "shall" and inserting "is authorized to".

The House bill provides $2,000,000 for fiscal year 1995 and such necessary sums for fiscal years 1996 through 1999. The Senate amendment provides $1,500,000 for fiscal year 1995, and necessary sums for each of the succeeding 4 fiscal years. The House recedes.

Special Education Authority

The House bill, but not the Senate amendment, refers to Pihana Na Mamo, while the Senate amendment mentions general educational organizations. The House recedes.

The House bill uses "children"; the Senate amendment uses "students." The House recedes.

The Senate amendment, but not the House bill, refers to emotional impairments. The House recedes with amendment, striking "learning" and "mental or physical disabilities, emotional impairments."

The House bill, but not the Senate amendment, refers to children at the elementary school level. The House recedes.

The Senate amendment, but not the House bill, refers to part B of the Educational of Individuals with Disabilities Education Act. The House recedes.

The Senate amendment, but not the House bill, refers to "the conduct of educational, psychosocial, and developmental activities" of Native Hawaiian students. The House recedes.

The Senate amendment, but not the House bill, refers to "appropriate research, evaluation, and related activities." The House recedes.

The House bill, but not the Senate amendment, refers to the Secretary who may not make a grant or provide funds pursuant to a contract under this subsection. The House recedes.

The House bill, but not the Senate amendment, discusses non-Federal contributions. The House recedes.

Application Required

The House bill, but not the Senate amendment, refers to an "application required" to be submitted to the Secretary. The Senate recedes.

Definitions

The House bill and the Senate amendment have similar, but not identical, language defining the term "Native Hawaiian". The House bill states specifically "a citizen of the United States", and a "resident of the State of Hawaii." The Senate recedes.

The House bill states "birth records of the State of Hawaii", where the Senate amendment merely states "certified birth records." The House recedes. The conferees intend that genealogical records should be defined to include birth, marriage and death records.

The House bill, but not the Senate amendment, mentions the term "Secretary" as meaning the Secretary of Education. The House recedes.

The House bill, but not the Senate amendment, refers to "demonstrated expertise in research and program development." The Senate recedes.

The House bill, but not the Senate amendment, includes the definition of a "Native Hawaiian Organization." The Senate recedes.

The House bill, but not the Senate amendment, includes the term "elementary school" as meaning the same as indicated section 9101 of the same act. The House recedes.

The Senate amendment, but not the House bill, refers to the definition of "Native Hawaiian language" and the term "Office of Hawaiian Affairs." The House recedes.

The Senate amendment, but not the House bill, refers to the definition of "Native Hawaiian community-based organization." The House recedes.

The House bill, but not the Senate amendment, includes the term "local educational agency." The House recedes.

The House bill, but not the Senate amendment, includes the term "secondary school." The House recedes.

The Senate amendment, but not the House bill, includes Native Hawaiian Curriculum Development, Teacher Training and Recruitment Program. Specifics mentioned are curricular development, preteacher training, inservice teacher training, and teacher recruitment. Administrative costs are to be not more than 7 percent of the funds appropriated for fiscal year 1995 and such necessary sums for each of the 4 succeeding fiscal years. The House recedes, with an amendment: in paragraph (b) PRIORITY: insert after "(a) that" a "(1)" and insert after "youth or" a "(2)" and add after the end of the sentence "provided that entities receiving grants awarded pursuant to (b)(2) of this subsection coordinate in the development of new curricula".

The Senate amendment, but not the House bill, refers to Native Hawaiian Community-Based Education Learning Centers. Authorization appropriations are to be $1 million for FY 95, and such sums as may be necessary for each of the 4 succeeding fiscal years. The House recedes.

Allen J. Ellender Fellowship Program

The House bill refers to "physically challenged students, visually- and hearing-impaired students." The Senate amendment refers to "students with disabilities." The House recedes.

Contents of Application

The House bill refers to "physically challenged students, visually- and hearing-impaired individuals." The Senate amendment refers to "individuals with disabilities." The House recedes.

Authorization of Appropriations

18. The House bill authorizes $4.4 million and such sums for each of the fiscal years 1996, 1997, 1998, and 1999. The Senate amendment authorizes $4.5 million for Fiscal Year 1995 and such sums as may be necessary for each of the four succeeding fiscal years. The Senate recedes.

Territorial Education Improvement Program

The House bill entitles the program the "Territorial Education Improvement Program. The Senate amendment entitles the program the "Territorial Teacher Training Program." The Senate recedes with an amendment inserting "deLugo" in the program title.

The House bill, but not the Senate amendment, has provisions for Findings and Purposes. The Senate recedes.

Authorization

The House bill authorizes $5 million for each of the fiscal years 1994 through 1999. The Senate amendment authorizes $2 million for Fiscal Year 1995 and such sums for each of the succeeding four fiscal years. The Senate recedes with an amendment changing the authorization from $5 million to $3 million.

Grant Authorization

The House bill authorizes "an education improvement program." The Senate amendment refers to "assisting teacher training programs." The Senate recedes.

The House bill authorizes "an education improvement program". The Senate amendment refers to "assisting teacher training programs." The Senate recedes.

The House bill refers to "Palau until the effective date of the Compact of Free Association with the Government of Palau." The Senate amendment refers to "Palau." The Senate recedes.

The House bill refers to the "Northern Mariana Islands." The Senate amendment refers to "the Commonwealth of the Northern Mariana Islands." The House recedes.

The Senate amendment also includes the Republic of the Marshall Islands and the Federated States of Micronesia. The House recedes.

The House refers to making "grants to fund innovative education improvement programs which will increase student learning." The Senate amendment refers to "grants or contracts with any organization considered qualified to providing training for teachers in such schools and shall allot such sums among such territories on the basis of the need for such training." The Senate recedes.

The House bill contains a section on restrictions. The Senate recedes.

Blue Ribbon Schools Program

The Senate amendment, but not the House bill, contains a provision authorizing a $1 million Blue Ribbon Schools program. The Senate recedes with an amendment to move this to the Fund for the Improvement of Education.

National Student and Parent Mock Election

The Senate amendment, but not the House bill, contains a provision authorizing a $125,000 National Student and Parent Mock Election Program. The House recedes with an amendment to place program in FIE and with an amendment in paragraph (a) to strike "in" after "grants" and to strike "election" after "every" and to strike the authorization of appropriations in subsection (c).

Elementary School Counseling Demonstration

The Senate amendment, but not the House bill, contains a provision authorizing $1 million for an Elementary School Counseling Demonstration Act. The House recedes with an amendment, moving this program to FIE.

Model Projects

The Senate amendment, but not the House bill, contains a provision authorizing $5 million for a Model Projects program for grants to cultural institutions for outreach activities for at-risk children.

The House recedes with an amendment moving this program to FIE and striking the authorization of appropriations in subsection (c).

Extended Time for Learning

The Senate amendment, but not the House bill, contains a provision authorizing $20 million for an Extended Time for Learning program.

Longer School Year

The Senate amendment, but not the House bill, contains a provision authorizing $100 million for a Longer School Year incentive program.

Creating Smaller Learning Communities

8. The Senate amendment, but not the House bill, contains a provision authorizing $20 million for a Creating Smaller Learning Communities program. The House recedes with an amendment moving this program to FIE.

Partnerships in Character Education Pilot Project

The Senate amendment, but not the House bill, contains a provision authorizing $6 million for a Partnerships in Character Education Pilot Project. The House recedes with an amendment moving the program to FIE. See attached language at back.

Alaska Native Education

The Senate amendment, but not the House bill, contains a provision authorizing $5 million for an Alaska Native Education program, $2 million for an Alaska Native Home Based Education for Preschool Children program, and $1,000,000 for an Alaska Native Student Enrichment Program. The House recedes, moving the provision to a new Title IX.

Promoting Scholar-Athlete Competitions

The Senate amendment, but not the House bill, contains a provision authorizing $1 million for a program to promote Scholar-Athlete Competitions. The House recedes with an amendment to move it to FIE with language to appear as follows: "The Secretary is authorized to award a grant to a non-profit organization to reimburse such organization for the costs of conducting scholar-athlete games to be held in 1995. In awarding the grant the Secretary shall give priority to a non-profit organization that (A) is described in section 501(c)(3) of, and exempt from taxation under section 501(a) of, the Internal Revenue Code of 1986, and is affiliated with a university capable of hosting a large educational, cultural, and athletic event that will serve as a national model; (B) has the capability and experience in administering federally funded scholar athlete games; (C) has the ability to provide matching funds, on a dollar-for-dollar basis, from foundations and the private sector for the purpose of conducting a scholar-athlete program; and has the organizational structure and capability to administer a model scholar-athlete program the summer of 1995; (E) has the organizational structure and expertise to replicate the scholar-athlete program in various venues throughout the United States in 1996 and thereafter, as well as replicate such program internationally; and (F) has plans for conducting scholar-athlete games after 1995 without federal assistance."

Cultural Partnerships for At-Risk Children and Youth Act of 1994

The House bill part is entitled "Community Arts Partnership Act of 1994" while the Senate amendment part is entitled "Cultural Partnerships for At-Risk Children and Youth Act of 1994." The House recedes.

The House bill refers only to the inadequacy of arts programs available for children in schools; the Senate amendment refers to "arts and cultural programs available for children and youth." The House recedes.

The House bill, but not the Senate amendment, finds that the arts promote progress in academic subjects as shown by research conducted by the National Endowment for the Arts. The Senate recedes.

The House bill, but not the Senate amendment, finds that the arts access multiple human intelligences and develop higher-order thinking skills. The House recedes.

The House bill, but not the Senate amendment, finds that the "arts generate self-esteem and positive emotional responses to learning." The Senate recedes with an amendment deleting 3502(a)(4) and inserting in lieu thereof: "Learning in the arts and humanities promotes progress in other academic subjects, and generates positive self-esteem and a greater sense of accomplishment in young people."

The House bill states only that "children who receive instruction in the arts remain in school longer and are more successful than children who do not receive such instruction"; the Senate amendment refers to children and youth who receive instruction in the arts and humanities, or who are involved in cultural activities. The House recedes.

The Senate amendment, but not the House bill, finds that "school-university partnerships that upgrade teacher training in the arts and humanities have significantly contributed to improved instruction and achievement levels of school-aged children." The House recedes with an amendment inserting "and school-cultural institution" after "school-university" and inserting a new paragraph after Senate section 11102(4) stating: "The Goals 2000: Educate America Act, other legislation and local, state and national resources support the integration of the arts and humanities into the regular curriculum and school day or all children. While all children benefit from this instruction in the arts and the humanities, at-risk children and youth have a special, additional need for arts and cultural programs both in school and after school."

The Senate amendment, but not the House bill, finds that museum outreach, cultural activities and informal education for at-risk children and youth have contributed significantly to their educational achievement. The House recedes.

The House bill includes a statement of purpose, the Senate amendment does not. The Senate amendment part is entitled "Subgrants" and involves grants from a Committee. The Senate recedes.

The House bill part is titled "Grants Authorized," the Senate amendment is titled "Award of Subgrants." The Senate recedes.

The House bill states that the "Secretary is authorized to award grants to eligible entities to pay the Federal share of the costs of activities" authorized under this title. The Senate amendment states that the Committee shall award subgrants to eligible entities. The Senate recedes.

The House bill part is entitled "Special Requirements" and states that the Secretary shall award grants under this Act to programs; the Senate amendment contains no such statement. The Senate recedes.

The House bill permits the Secretary to award grants to "programs designed to promote educational and cultural services"; the Senate speaks of "promoting and enhancing educational and cultural activities." The House recedes.

The House bill permits the Secretary to award grants to programs designed to provide multi-year services to at-risk children and youth; the Senate amendment contains no such part. The Senate recedes with an amendment inserting "and to integrate community resources into in-school and after-school educational programs;" after "children and youth."

The Senate amendment, but not the House bill refers to a Committee which shall award subgrants to improve educational performance. The Senate recedes with an amendment striking all of Senate section 11103(a)(2).

The House bill, but not the Senate amendment, permits the Secretary generally to award grants to programs designed to serve the needs of at-risk children and youth. The House recedes.

The House bill permits the Secretary to award grants for programs designed to provide integration of community cultural resources in the regular curriculum; the Senate and the school day. The House recedes.

The House bill permits the Secretary to award grants to programs designed to "provide effective cultural linkages from preschool programs," including preschool grants under the Individuals with Disabilities Education Act, to elementary schools. The Senate amendment refers to the provision of cultural programs to "facilitate the transition from preschool programs to elementary school programs, including programs under the Head Start Act and part H of the Individuals with Disabilities Education Act." The House recedes.

The Senate amendment, but not the House bill, states that facilitation of school to work shall be done through educational programs and activities that utilize school resources. The House recedes.

The House bill permits the Secretary to award grants to programs designed to increase parental and community involvement in the development of at-risk youth. The Senate amendment states that such development shall be of at-risk children and youth. The House recedes.

The House bill permits the Secretary to award grants to programs designed to "replicate programs and strategies that provide high quality coordinated educational and cultural services and that are designed to integrate such coordination into the regular curriculum." The Senate amendment refers to the development of such programs and strategies that are designed also to replicate the services in other schools. The House recedes with an amendment striking Senate section 11103 (c)(1(G)(ii) and inserting in lieu thereof: "provide a model to replicate these services in other schools and communities."

The Senate amendment, but not the House bill, refers to a Demonstration Program and states that the Secretary shall award all funds appropriated under this title to the Committee. The House recedes with an amendment striking Senate section 1103 (a)(1) and inserting in lieu thereof a paragraph entitled "Partnership" and stating: "An interagency partnership comprised of the Secretary of Education, the Chairman of the National Endowment for the Humanities, the Chairman of the National Endowment for the Arts, and the Director of the Institute of Museum Services, or their designees, shall establish criteria and procedures for awarding grants, including the establishment of panels to review the applications, and shall administer the grants program authorized by this Section. The Secretary shall publish such criteria and procedures in the Federal Register."

The Senate amendment states that the Committee may reserve up to 5% of grant funds for administration and that grant recipients may also reserve 5% of grants for administration. The House bill has no such provisions. The House recedes with an amendment striking the word "Committee" and inserting in lieu thereof the word "Secretary."

The House bill part is entitled "Requirement of Coordination" and refers to grants received by the members of the partnership for purposes and target populations described into an integrated service delivery system located at a school, cultural or other community-based site accessible to and utilized by at-risk youth. The Senate amendment is entitled "Coordination" and does not refer to such an integrated service delivery system. The Senate recedes with an amendment eliminating "Requirement of" in the title of the subsection.

The House bill part is entitled "Duration" and states that grants made under this part may be renewable upon the Secretary's determination of satisfactory progress for a maximum of 5 years. The Senate amendment part is entitled "Renewal" and states that the Committee is to make the determination of satisfactory progress. The Senate recedes.

The House bill states that the "Secretary shall ensure an equitable geographic distribution" and an "equitable distribution to both urban and rural areas with a high proportion of at-risk youth." The Senate bill states that the "Committee, to the extent feasible, shall ensure an equitable geographic distribution of subgrants." The House recedes with an amendment striking the word "Committee" and replacing it in lieu thereof with the word "Secretary."

The House bill part is entitled "Eligibility" and the subpart entitled "Services for In-School Youth; the Senate amendment is entitled "Eligible Entities." The House recedes with an amendment adding "and after school" after "in-school" in Senate section 11103(a)(3)(A).

The House bill defines an "eligible entity" as a partnership between a Title I eligible LEA and an institution of higher education or cultural entity located within or accessible to the boundaries of the LEA. The Senate amendment defines an "eligible entity" to include an individual school eligible to participate in a schoolwide program, explicitly makes museums and local arts agencies eligible for such partnerships and requires that the entity partnering with a school or LEA be accessible to individuals within the locals school district. The House recedes.

The House bill, but not the Senate amendment, explicitly permits "libraries, performing, presenting and exhibiting arts organizations; literary arts organizations" and local arts organizations to enter into partnerships. The Senate amendment, but not the House bill explicitly includes cultural institutions and local arts agencies. The Senate recedes with an amendment adding "state and" prior to the phrase "local arts organizations," and an amendment adding "cultural institutions;" before the word zoological.

The House bill requires that "private for-profit entities" have a history of training children and youth in the arts. The Senate amendment specifies an "effective history of training" such individuals in the arts or humanities. The House recedes with an amendment striking the word "effective."

The House bill makes Title 1 eligible LEAs eligible for partnerships for out of school youth. The Senate amendment permits any LEA or schoolwide program eligible school to be so qualified. The House recedes with an amendment striking Senate section 11103(a)(3)(b).

The Senate amendment, but not the House bill, states that the families of students shall be served "to the extent practical." The House recedes.

The House bill, but not the Senate amendment includes in its target population out-of-school youth at risk of having limited future options as a result of teenage pregnancy, family migration or being a high school dropout. The Senate amendment refers to out-of-school children and youth at risk of disadvantages resulting from dropping out of school. The House recedes.

The House bill refers to at-risk youth; the Senate amendment refers to at-risk children and youth. The House recedes.

The House bill refers to ensuring the smooth transition of preschool children to elementary school, the Senate amendment refers to fostering such a transition. The House recedes.

The House bill includes as authorized activities, work with existing school personnel to develop curriculum materials and programs in the arts. The Senate amendment refers only to curriculum materials, not programs, in the arts. The Senate recedes.

The House bill includes as authorized activities, work with existing school personnel on staff development activities that encourage the integration of the arts into the curriculum. The Senate amendment does not refer to work with such school personnel. The Senate recedes.

The Senate amendment and the House bill refer to stipends for arts and humanities professionals to work with at-risk children and youth in schools. The House recedes with an amendment to Senate Section 11104(a)(8) striking the word "arts" and inserting in lieu thereof the word "artists."

The Senate amendment, but not the House bill, refers to training individuals who are not trained to work with children and youth. The House recedes.

The House bill refers to stipends for local artists work with at-risk children and youth; the Senate amendment refers to arts and humanities professionals working with such at-risk individuals. The House recedes.

The House bill states that the arts should be used to reform school practices; the Senate amendment refers to the arts and culture. The House recedes.

The House bill refers to appropriate equipment and necessary supplies. The Senate amendment refers to appropriate equipment or supplies. The House recedes.

The House bill requires the Secretary to give priority to eligible entities providing services beyond traditional school hours and refers to year round programs that provide services in the evenings and on weekends. The Senate version gives discretion to the Committee as to whether to give priority to programs extending beyond traditional school hours and does not refer to year round programs. The Senate recedes with an amendment striking Senate section 11103(c)(5).

The Senate amendment establishes a Committee comprised of 8 members of whom 2 shall be appointed by the Secretary of Education, 2 by the National Endowment for the Arts, 2 by the National Endowment for the Humanities and 2 by the Institute of Museum Services. The House bill contains no such provision. The Senate recedes.

The House bill part is entitled "Planning Grants," the Senate amendment is entitled "Planning Subgrants." The Senate recedes.

The House bill refers to applications made to the Secretary, the Senate amendment refers to awards by the Committee. The Senate recedes.

The House bill refers to applications made to the Secretary. The Senate amendment refers to applications made to the Committee. The Senate recedes.

The Senate amendment, but not the House bill, refers to applications submitted to the Committee. The Senate recedes.

The Senate amendment, but not the House bill, permits an individual school to apply for grants under this title. The House recedes.

The House bill, but not the Senate amendment, requires that applications describe the nature and location of sites where services will be delivered and a description of those services. The Senate recedes.

The Senate amendment, but not the House bill, requires that applications describe the training that will be provided to individuals who are not trained to work with children and youth and how teachers will be involved. The House recedes.

The House bill states that the amount of a grant may not be less than $100,000 nor more than $500,000 in the first year. The Senate amendment states that subgrants awarded under this title shall be of sufficient size, scope and quality to be effective. The House recedes.

The Senate amendment, but not the House bill, permits that the 20% of the non-federal share of programs required may include the provision of equipment. The House recedes.

The House bill, but not the Senate amendment restrict the scope of this section to amounts that exceed the amounts expended for such activities in the year preceding the year for which the grant is awarded. The Senate recedes.

The Senate amendment, but not the House bill, requires that the Secretary disseminates information concerning successful models under this title in consultation with the Committee. The House recedes with an amendment striking the language of Senate Section 11107 and inserting in lieu thereof: "The Secretary, in consultation with the Chairman of the National Endowment for the Humanities, the Chairman of the National Endowment for the Arts and the Director of the Institute of Museum Services, or their designees, shall submit successful models under this Title to the National Diffusion Network for its review."

The House bill authorizes $75 million for FY 1995 and such sums as may be necessary for the each of fiscal years 1996, 1997, 1998, 1999. The Senate bill authorizes $25 million for FY 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years. The House recedes with an amendment striking the term "$20,000,000" and placing in lieu thereof "$45,000,000."

The Senate amendment but not the House bill requires that before any appropriations are made for this title, $177 million shall be appropriated for the National Endowment for the Humanities, $170 million shall be appropriated for the National Endowment for the Arts and $28 million shall be appropriated for the Institute of Museum Services. The Senate recedes.

The Senate amendment, but not the House bill, states that the Committee shall award subgrants under this title so as to ensure nonduplication of services provided by subgrant recipients and services provided by the National Endowment for the Humanities, the National Endowment for the Arts, and the Institute for Museum Services. The

House recedes with an amendment deleting the words "subgrant" and "subgrants" where they appear and inserting in lieu thereof "grant" or "grants" respectively and deleting the word "Committee" and inserting in lieu thereof the word "Secretary."

The Senate amendment, but not the House bill, states that the Committee is to establish and transmit to the Secretary criteria and procedures for awarding subgrants under this Title. The Secretary is to publish such criteria and procedures in the Federal Register. The Senate recedes.

The Senate amendment but not the House bill requires the involvement of a certified teacher or trained instructor in carryout the activities of subgrant. The Senate recedes.

TITLE VII BILINGUAL EDUCATION, LANGUAGE ENHANCEMENT AND LANGUAGE ACQUISITION PROGRAMS

1. The House bill names Title VII, "bilingual education programs". The Senate amendment names Title VII, "language enhancement and acquisition programs" and makes Part A, "bilingual education programs."

The Senate recedes with an amendment to title this part "Bilingual Education, Language Enhancement and Acquisition."

Findings

2. The House bill is entitled "Findings, Policy, and Purpose"; the Senate amendment is entitled "Findings. The House bill finds that language minority Americans speak virtually all world languages; the Senate amendment finds that many LEP students are different from their English proficient peers.

The Senate recedes on the House finding. The House recedes on the Senate finding.

3. The House bill, but not the Senate amendment, makes a statement in its findings with regard to the impact of federal immigration policies on limited-English proficient Americans.

The Senate recedes.

4. The House bill, but not the Senate amendment, states in its findings that language-minority Americans have limited education and low incomes.

The House recedes.

5. The House bill and Senate amendment have similar, but not identical, findings concerning a need to provide limited-English-proficient children full access to educational programs. The Senate amendment, but not the House bill, relates the findings to ways in which these children are not fully integrated into American society.

The House recedes.

6. The House bill describes in its findings the federal government's responsibilities to American Indians, Native Alaskans and Native Hawaiians. The Senate amendment describes in its findings the unique status of Native Americans and Native American languages.

The House recedes with an amendment to insert "including native residents of the territories and freely associated nations" after parentheses.

7. The House bill, but not the Senate amendment, describes the role of institutions of higher education in assisting language-minority students.

The Senate recedes with amendment striking "language-minority" and replacing it with "limited-English proficient."

8. The House bill states in its findings that this title is intended to help students master English and develop high levels of academic attainment. The Senate amendment states in its findings that a primary purpose of the title is to develop the English language.

The Senate recedes.

9. The House bill states in its findings that limited-English-proficient children can be helped through bilingual education and includes proficiency in more than one language. The Senate amendment states in its findings that the needs of limited-English-proficient children are met through specially designed programs.

The Senate recedes.

10. The House bill states in its findings that multilingual skills are necessary in today's interdependent world. The Senate amendment states in its findings that parent and community participation contribute to program effectiveness.

The House recedes and the Senate recedes so that the provisions may be combined by legislative counsel.

11. The House bill, but not the Senate amendment, states in its findings that educational technology should be utilized.

The Senate recedes.

12. The House and Senate amendments state, in similar, but not identical ways, the value of educational research.

The House recedes with an amendment after the last "education" in Senate language to add "of limited-English proficient children".

13. The House bill and Senate amendment describe, with minor differences, the value of using one's native language.

The House recedes.

14. The Senate amendment, but not the House bill, notes the federal government's responsibility in ensuring that states provide limited-English-proficient children equal educational opportunities.

The House recedes.

15. The Senate amendment, but not the House bill, notes the federal government's obligation to assist states in meeting their requirements to provide equal educational opportunities.

The House recedes.

16. The House bill and Senate amendment provide identical descriptions for "policy", with the following exceptions: the Senate amendment, but not the House bill, makes reference to "consortia of local educational agencies"; the House bill, but not the Senate amendment, references "language minority" children.

The House recedes with an amendment deleting "and consortia of local educational agencies."

17. The House bill and Senate amendment have technical differences with respect to how "purpose"/"policy' are set forth. The Senate amendment describes the following under the section, "policy": to educate eligible children to high academic standards; to develop their English; to develop bilingual skills; and to apply these goals to Native American groups. The House bill describes the following under the section "purpose": to educate eligible children to high academic standards through improved bilingual education programs, through improved data, through research and dissemination, and through improved training of educators.

The House and Senate recede to combine the provisions as follows: delete "language minority and"; to insert "content standards and challenging state student" before standards; to insert (2) develop bilingual skills and multicultural understanding; (3) develop the English of such children and youth and, to the extent possible, the native language skills of such children and youth; (4) provide similar assistance to Native Americans with certain modifications relative to the unique status of Native American languages under Federal law.; and redesignate the remaining paragraphs.

Authorization of Appropriations

18. The House bill section is entitled "authorization of appropriations; the Senate amendment is entitled "policy; authorization of appropriations." The House bill, but not the Senate amendment, reserves at least 25 percent for Part C.

The Senate recedes.

Definitions

19. The House bill, but not the Senate amendment, includes in the subheading of, "definitions", "regulations".

The Senate recedes.

20. The House bill and Senate amendment define, "Native language" in identical fashion, except the House bill applies the term to "individual", whereas the Senate amendment applies the term to "individual of limited-English-proficiency".

The House recedes.

21. The House bill defines (and generally uses throughout the title in conjunction with "limited-English-proficient") "language-minority" to describe individuals whose native language is not English, whose home environment is other than English or an individual who is Native American. No comparable Senate provision.

The House recedes.

22. The House bill defines "limited-English-proficient" as a language-minority person with limited ability to communicate in English." The Senate amendment defines its equivalent term, "limited-English proficiency and limited-English-proficient", as one who is not born in the States, or whose native language is other than English (including migratory persons), or is a Native American, and who therefore has difficulty communicating in English.

The House recedes with an amendment adding "or is a native resident of the territories and freely associated nations" after "Alaska Native."

23. The House bill defines "bilingual education" as a teaching method which makes instructional use of English and the native language. The Senate amendment defines "bilingual education program" as a teaching method conducted in English, the native language or both, which helps students achieve proficiency in English and "to the extent practicable" their native language in order to achieve high standards.

The Senate recedes.

24. The House bill defines "special alternative instructional program" as distinct from "bilingual education". No comparable provision in the Senate amendment.

The Senate recedes.

25. The House bill defines "family education program" as a program designed for adults and out-of-school youth. No such provision in the Senate amendment.

The Senate recedes with amendment to include Parents as Teachers and HIPPY after Even Start Literacy Program in paragraph (6) and to add "s" to "model" in the same sentence.

26. The House bill defines "institution of higher education". No comparable provision in the Senate amendment.

The Senate recedes on the provision and its placement is left to legislative counsel.

27. The House bill defines "office." No comparable provision in the Senate amendment.

The Senate recedes.

28. The House bill defines "community college". No comparable provision in the Senate amendment.

The Senate recedes on the provision and its placement is left to legislative counsel.

29. The House bill defines "paraprofessional". No comparable provision in the Senate amendment.

The Senate recedes.

30. The House bill and Senate amendment define "other programs for persons of limited-English-proficiency" similarly, except the Senate amendment adds that it must directly involve bilingual education activities.

The Senate recedes.

31. The House bill defines "community-based organization". No comparable provision in the Senate amendment.

The Senate recedes with an amendment including "of demonstrated effectiveness" in paragraph (12) after "community-based organization." The placement of this paragraph is to be determined by Legislative Counsel.

32. The House bill and Senate amendment are similar in the definition of "immigrant children and youth", but the Senate amendment applies the term to children who have been attending a school or schools in the States for not more than "three" years, when the House applies this to children who have attended school in the U.S. for not more than "two" years.

The House recedes.

33. The Senate amendment defines "director". No comparable provision in the House bill.

The House recedes.

34. The Senate amendment defines "jurisdiction where a Native American language has official status". No comparable provision in the House bill.

The Senate recedes.

35. The Senate amendment defines "Native American and native American language". No comparable provision in the House bill.

The House recedes.

36. The Senate amendment defines "Native Hawaiian or Native American Pacific islander native language educational organization". No comparable provision in the House bill.

The House recedes.

37. The House bill, but not the Senate amendment, requires the Secretary to consult with State representatives and others in developing regulations under this Title.

The Senate recedes.

38. Both bills have similar detailed provisions regarding parental notification. The House bill, but not the Senate amendment, makes the following additional requirements: information on assessments of a child; information on programs; information on the instructional goals of the language programs for language minority children; and that a student's surname may not be the sole basis for program participation.

The Senate recedes with two amendments: in paragraph (2), change "disabled student" to "student with a disability" and in subparagraph (A), change the first line to "the benefits, nature, and past academic results".

39. The House bill and Senate amendment are identical in their descriptions of "eligible entities", except for technical differences to conform to the different terms of each bill.

The House recedes with an amendment to include "post-secondary schools" after "secondary schools" in paragraph (a).

40. The House bill authorizes payments to be made to schools operated or funded by the Bureau of Indian Affairs and exempts Indian and Alaskan native controlled schools from the requirement to submit applications to SEA (see section 7106(a)(2)). The Senate amendment authorizes any of the named entities referred to as an "eligible entity" (such as "Indian tribe") on the preceding page and authorizes such entity to apply directly to the Secretary (i.e. without a requirement to submit the application first to the SEA).

The House recedes.

41. The House bill, but not the Senate amendment, requires the Assistant Secretary of the Interior, in collaboration with the Secretary of Education, to provide a yearly report to the Congress on how well Indian children are served under the purposes of this Title.

The House recedes.

42. The House bill, but not the Senate amendment, defines "local educational agency" as one which includes the preservation of native language when applied to Guam.

The Senate recedes.

43. The House titles Part A, "bilingual education capacity and demonstration grants"; the Senate titles the subpart, "financial assistance for bilingual education."

The Senate recedes.

Purpose of Grants

44. The House bill titles the section, "purpose of grants"; the Senate amendment titles it "financial assistance for bilingual education." The House bill states that the purpose of bilingual education grants is to develop capacity of local educational agencies, institutions of higher education and community-based organizations in delivering programs to assist language minority children. The Senate amendment states that the purpose of bilingual education grants is to assist local educational agencies in helping their limited-English proficient children acquire English, attain high education standards, and develop proficiency in their Native language, where possible.

The House recedes with two amendments: insert "institutions of higher education, and community-based organizations" after "local educational agencies" in the first sentence of subsection (a) and insert "through bilingual education or special alternative instruction" after "high-quality instruction" in paragraph (1).

Program Development Grants

45. The House bill authorizes "program development and implementation" grants with awards of up to $100,000 annually for up to 4 years. The Senate amendment authorizes "development and enhancement" grants under a single authority, with no dollar amount specified, for up to 3 years.

Senate recedes with an amendment to delete "with 1 additional year upon the Secretary's approval" and to delete "up to $100,000 annually".

46. The House bill requires that the following activities be provided under these grants: developing and implementing bilingual and special alternative programs which are coordinated with the relevant programs and services; in-service training. No comparable language in Senate amendment.

The Senate recedes.

47. The House bill allows the following activities under these grants: family education programs; upgrading the instructional program. Comparable language in the Senate amendment appears under "use of funds", page 34(b). The Senate recedes with an amendment to delete (b)(3)(A) and (b)(3)(B) and replace them with:

(A) Implementing parent outreach and training activities and family education programs and activities designed to assist parents to become active participants in the education of their children;

(B) Improving the instructional program for limited-English-proficient students by identifying, acquiring and upgrading curriculum, instruction materials, educational software and assessment procedures and, if appropriate, applying educational technology;

(C) Compensating personnel, including teacher aides who have been specifically trained, or are being trained to provide services to children and youth of limited-English proficiency;

(D) Providing tutorials and academic or career counseling for children and youth of limited-English proficiency; and

(E) Providing such other activities, related to the purposes of this part, as the Secretary may approve.

48. The House bill makes eligible, local educational agencies, or community-based organizations whose applications have been approved by LEAs. Comparable language in the Senate amendment (see the first paragraph of this subpart, page 16(b)) makes eligible local educational agencies or community-based organizations in consortia with an LEA and an institution of higher education.

The Senate recedes with an amendment inserting "or an institution of higher education " after the second time that "community-based organization" appears in subsection (c).

49. The House bill, but not the Senate amendment, requires that grants be equally distributed, to the extent practicable, among the three education levels specified.

The Senate recedes with an amendment changing subsection (d) to: "In awarding grants, the Secretary shall, to the extent practicable, give due consideration to early childhood education, elementary education and secondary education programs."

Program Enhancement Grants

50. The House bill authorizes "program enhancement grants" with awards up to $100,000 annually for 2 years. The Senate amendment includes "enhancement grants" with "development grants" as a single authority.

The Senate recedes with an amendment deleting "of up to $100,000" in subparagraph (1).

51. The House bill requires that funds be used to provide in-service training. No comparable provision in the Senate amendment.

The Senate recedes.

52. The House bill allows grants to be used for improving instructional programs, for implementing family education programs and for providing intensified instruction. Comparable language in the Senate amendment appears under "use of funds", page 34(b).

The Senate recedes with an amendment to delete (b)(3)(A) and (b)(3)(B), redesignate (b)(3)(C) as (b)(3)(F) and insert:

(A) Implementing parent outreach and training activities and family education programs and activities designed to assist parents to become active participants in the education of their children;

(B) Improving the instructional program for limited-English-proficient students by identifying, acquiring and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

(C) Compensating personnel, including teacher aides who have been specifically trained, or are being trained to provide services to children and youth of limited-English proficiency;

(D) Providing tutorials and academic or career counseling for children and youth of limited-English proficiency; and

(E) Providing such other activities, related to the purposes of this part, as the Secretary may approve.

53. The House bill makes eligible, local educational agencies, or community-based organization whose applications have been approved by the LEA. Comparable language in the Senate amendment (see the first paragraph of this subpart, page 16(b)) makes eligible, local educational agencies or community-based organizations in consortia with an LEA and an institution of higher education.

The Senate recedes with an amendment inserting "or institutions of higher education" after "community-based organizations" in the second sentence of subsection (c).

Whole School Programs

54. The House bill authorizes "whole-school program" grants for restructuring all relevant programs in a school. The Senate amendment authorizes "comprehensive school grants" for implementing schoolwide bilingual education.

The Senate recedes with an amendment changing the section title to "Comprehensive School Grants"; inserting "implement schoolwide bilingual programs or special alternative instruction programs for reforming, restructuring, and upgrading" after "eligible applicants to"; deleting "to fulfill" to the end of the sentence and inserting "that serve all (or virtually all) children and youth in limited-English proficiency in schools with significant concentrations of such children and youth."

55. The House bill authorizes 5-year grants of up to $100,000 in the first year and up to $250,000 in subsequent years. The Senate amendment authorizes the grants for "not more than" 5 years, without an amount specified.

The Senate recedes with an amendment deleting the monetary amounts and the reference to the "subsequent 4 years".

56. The Senate amendment, but not the House bill, provides for terminating a grant if the school fails to help students achieve academic standards or, in the case of dual language facility, fails to promote such facility.

The House recedes with an amendment adding "not making adequate progress toward" achieving challenging standards after "taught to and".

57. The House bill requires in-service training activities. The Senate amendment allows, but does not require such activities (see page 34(b)).

The Senate recedes.

58. The House bill allows activities in the area of instructional improvement, family education and intensified instruction. Comparable language in the Senate amendment appears under "use of funds", page 34(b).

The Senate recedes with an amendment deleting subparagraphs (A) and (B) and changing (C) to (F) and inserting the following:

(A) Implementing parent outreach and training activities and family education programs and activities designed to assist parents to become active participants in the education of their children;

(B) Improving the instructional program for limited-English-proficient students by identifying, acquiring and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

(C) Compensating personnel, including teacher aides who have been specifically trained, or are being trained to provide services to children and youth of limited-English proficiency;

(D) Providing tutorials and academic or career counseling for children and youth of limited-English proficiency; and

(E) Providing such other activities, related to the purposes of this part, as the Secretary may approve.

59. The House bill requires that in the first year of a grant, priority be given to preparatory activities. The Senate amendment allows, but does not give priority to such activities (see page 34(c)).

The Senate recedes with an amendment replacing paragraph (4) with the following:

(4) An applicant, before carrying out a program shall plan, train personnel, develop curriculum and acquire or develop materials.

60. Both the House bill and the Senate amendment make eligible local educational agencies.

Leave to Legislative Counsel to determine the placement of this provision.

System-wide Improvement Grants

61. The House bill authorizes "system-wide improvement grants" for reforming relevant programs in a local educational agency. The Senate amendment authorizes "comprehensive district grants" for implementing district-wide bilingual education programs.

The Senate recedes on the section title. The Senate recedes with an amendment on the rest of the provision. Replace (a) with:

"(a) PURPOSE.—The purpose of this section is to implement district-wide bilingual education programs or special alternative instruction programs to improve, reform, and upgrade relevant programs and operations within an entire local educational agency that serve a significant number of children and youth of limited-English proficiency in local educational agencies with significant concentrations of such children and youth."

62. The House bill authorizes grants for 5 years, with up to $1m in the first year and up to $5m in subsequent years. The Senate amendment authorizes grants for "not more than 5 years", with no amount specified.

The Senate recedes with an amendment deleting the dollar amounts and references to "the first year" and "each of the subsequent 4 years."

63. The Senate amendment provides for conditions under which the grant shall be terminated. No comparable provision in the House bill.

The House recedes with an amendment adding "not making adequate progress toward" after "taught to and".

64. The House bill lists a variety of activities that may be funded under the grant and clarifies that the first year of funding may be used exclusively for preparatory activities. Comparable language in the Senate amendment appears under "use of funds", pages 34(b) and (c).

The Senate recedes with an amendment to strike (E), (F), and (G) in the paragraph on how grants may be used insert the following after (D):

(E) parent outreach and training activities and family education programs and activities designed to assist parents to become active participants in the education of their children;

(F) the instructional program for limited-English-proficient students by identifying, acquiring and upgrading curriculum, instructional materials, educational software and assessment procedures and, if appropriate, applying educational technology;

(G) tutorials and academic or career counseling for children and youth of limited-English proficiency; and

(H) such other activities, related to the purposes of this part, as the Secretary may approve.

65. The House bill specifies that local educational agencies, applying alone or in consortia with other entities, are eligible for grants. The Senate amendment makes eligible local educational agencies

The Senate recedes.

66. The House bill gives priority to applicants serving high concentrations of limited-English proficient students or consortia serving students in rural settings.

The House recedes.

Applications

67. The House bill requires applicants to submit applications, developed in consultation with an advisory council, to the Secretary. A copy of the application is required to be sent to the State educational agency, which may submit written comments to the Secretary. If SEA submits comments on any application, it must submit on all in that category.

The Senate amendment requires an applicant to submit applications, developed in consultation with an advisory council (see page 27(b)) to the Secretary through the State educational agency. The SEA must comment on the need for the program and on how the application is consistent with the State plan under Title I.

The House recedes with an amendment on the application provision.

The House bill exempts Indian-controlled schools from submitting a copy of the application to the SEA.

The Senate recedes.

68. The House bill and Senate amendment have identical requirements under "contents" applicable to all applicants. The House bill, but not the Senate amendment, also makes reference to the Goals 2000 bill; requires involvement of parents; requires student outcomes; requires promotion of coordination of services for students and their families; requires description of collaborative efforts; requires a budget.

The Senate recedes except on question of reference to Goals 2000, with an amendment on (iv) to delete "in the expected student outcomes", replacing it with "in high academic standards." The House recedes on the reference to Goals 2000 with the following amendment: "(ii) is coordinated with other programs under this Act, the Goals 2000 Act, and other acts, as appropriate, as specified in section . . . , Title . . . "; strike "local educational agency" after "any state."

69. The House bill and Senate amendment requires additional activities as follows:

Under "program development and implementation" grants and "whole school programs" grants, the House bill requires applicant to describe instructional programs, in-service training and family education programs. Under "enhancement grants", the House bill requires a description of the existing program and how it will be enhanced.

Under "comprehensive school" and "comprehensive district" grants, the Senate amendment requires applicants to describe current services and how the proposed services will be supplemental; integration of funds; achievement goals; assurances that the program is integrated and that the program has been developed with an advisory council.

The House recedes with an amendment changing "subsection (c) or (d)" to "section 7104 or 7105" and adding "(v) current family education programs if applicable."

70. The House bill, but not the Senate amendment, establishes conditions which must be met before the Secretary may approve a proposal, such as meeting the needs of children in non-profit private schools.

The Senate recedes.

The House bill requires that the Secretary approve a grant only if he determines the program will use staff proficient in the language or languages used for instruction; the Senate amendment requires that the applicant assure that teachers employed in such programs be proficient in English (both written and oral).

The Senate recedes on the House provision. The House recedes on the Senate provision.

71. The House bill, but not the Senate amendment, specifies that students may participate in the program for the duration of the program.

The House recedes.

72. The House bill, but not the Senate amendment, establishes a priority for programs which develop bilingual proficiency.

The Senate recedes with an amendment adding "in English and another language" after "bilingual proficiency".

73. The House bill limits to 25% the amount that may be given to any grant category which does not utilize the native language for instruction. The Senate amendment limits to 25% the amount that may be given to grants awarded under "development and enhancement" grants and "comprehensive school" grants which do not utilize the native language for instruction.

The Senate recedes.

74. The House bill states "notwithstanding paragraph (3) (special alternative programs)," while the Senate amendment states "notwithstanding paragraphs (1) and (2) (development and enhancement grants and comprehensive school grants)."

The Senate recedes.

74a. The Senate amendment, but not the House bill, applies the term, "qualified", to personnel.

The House recedes.

75. The House bill requires the Secretary to consider collaborative activities, when approving a grant. The Senate amendment authorizes collaborative activities and consortia.

The House recedes.

76. The House bill requires that the Secretary ensure that the needs of school systems of all sizes, in all parts of the country be addressed. (For comparable Senate amendment provision, see note #81.)

The House recedes.

77. The House bill, but not the Senate amendment, requires the Secretary to give priority to programs which assist in certifying personnel.

The Senate recedes with an amendment striking "priority" and inserting "due consideration".

Intensified Instruction

78. The House bill, but not the Senate amendment, authorizes and describes "intensified instruction" activities such as capacity building.

The Senate recedes.

79. The Senate amendment, requires that, to the extent possible, the Secretary increase funds for grants awarded under "comprehensive school" and "comprehensive district" grants in subsequent years.

The Senate recedes.

Subgrants

Geographic Distribution of Funds

80. The House bill and Senate amendment both provide for geographic distribution of grants. The Senate amendment, but not the House bill, adds to the requirement that consideration be given to areas with significant increases in limited-English-proficient children. The Senate amendment also gives consideration to the needs of all sizes of schools systems and geographic settings.

The House recedes with an amendment replacing (f) with "Priority on Funding.—The Secretary shall give priority to applications under this section from; replacing paragraph (1) with "applicants which enroll a large percentage or large number of limited-English proficient students; and"; inserting "including those" after "youth" in paragraph (2); and striking "full" in paragraph (3) and inserting "and urban" after "rural".

Programs in Puerto Rico

81. The House bill and Senate amendment both provide that programs serving children in Puerto Rico may be designed for children of limited Spanish proficiency. The Senate amendment, but not the House bill, also includes under this provision that programs may be designed for children studying Native American languages, provided one of the outcomes is increased English proficiency.

The House recedes with an amendment to include Native Pacific Islanders.

Evaluations

82. The House bill requires grant recipients to provide the Secretary an evaluation of its program and how it shall be used for purposes such as program improvement. Components to be used in such evaluation include: student outcome indicators, program implementation indicators, the relationship of the program to all other activities within the school.

The Senate recedes with an amendment replacing (1) with "how students are achieving the State performance standards, if any, including date comparing children and youth . . . proficiency;"

83. The Senate amendment lists the activities that may be funded for all three grant categories as follows: acquisition of curricular materials, parent outreach, salaries, tutorials and career counseling, other activities related to the purposes of this part. The Senate amendment lists the following additional activities that may be funded under comprehensive school and comprehensive district grants: pre-service and in-service staff development; preparatory activities for the first full year of funding.

The Senate recedes.

84. The Senate amendment, but not the House bill, makes clear that a local educational agency serving children under this part are not prohibited from serving other children with similar needs in the same setting.

The House recedes.

Part B (Subpart 2)—Research and Dissemination

85. The House bill titles the part, "research and dissemination"; the Senate titles it "research and evaluation"; The House bill titles the section "use of funds"; the Senate titles it "authority. Both bills provide for data collection, dissemination research and evaluation, with the House bill requiring that the activity be done through the Office of Bilingual Education and Minority Languages Affairs.

The House recedes on the title with an amendment to entitle this part (or subpart) "Research, Evaluation, and Dissemination" and with the amendment such that the provision reads:

"Part B—Research, Evaluation, and Dissemination

"*Section 7201. Authority*

"(a) IN GENERAL.—The Secretary is authorized to conduct data collection, dissemination, and research, and shall conduct ongoing data evaluation activities in accordance with the provisions of this part for the purposes of improving bilingual education and special alternative instructional programs for children and youth of limited-English proficiency.

"(b) COMPETITIVE AWARDS.—Research and evaluation activities carried out under this part shall be supported through competitive grants, contracts, and cooperative agreements to institutions of higher education, non-profit organizations, and State and local education agencies.

"*Section 7122. Research Activities*

"(a) ADMINISTRATION.—The Secretary shall conduct data collection, dissemination, and ongoing program evaluation activities authorized by this part through the Office of Bilingual Education and Minority Language Affairs."

Research

86. The House bill requires, the Senate amendment allows, research to be supported through competitive grants, contracts, and cooperative arrangements.

The Senate recedes with an amendment to read:

"Section 7202.—Research

"(a) ADMINISTRATION.—The Secretary shall conduct research activities authorized by this part through the Office of Educational Research and Improvement in coordination and collaboration with the Office of Bilingual Education and Minority Language Affairs."

87. The House bill describes ten areas in which the Secretary is authorized to conduct research. The Senate amendment requires, as appropriate, that the Secretary conduct through OERI, research on techniques for teaching multilingual classes and for teachers who do not know the native language of students and for the dissemination of such research.

The House recedes with an amendment on the research provision.

88. The House bill, but not the Senate amendment, requires that at least 5% of research funds be made available for research initiated by recipients of grants under Part A or C of this Title.

The Senate recedes.

89. The House bill requires that research activities be coordinated with OERI.

The House recedes.

90. The House bill, but not the Senate amendment, provides for collaborative research activities between OERI and OBEMLA.

The House recedes.

91. The House and Senate have identical provisions with respect to academic excellence awards, except that the House bill extends the promotional activities to "special alternative instruction programs" and "professional development programs".

The Senate recedes.

State Grant Program

92. Both bills establish similar state grant programs, except the House bill, but not the Senate amendment, requires that the plan comport with either the plan under Goals 2000 or under Title I of this Act.

The House recedes with an amendment inserting ", through its own programs and other federal education programs," after "that such agency".

93. The House bill requires funds be used for certain activities with the Senate amendment allows funds to be used for these activities.

The Senate recedes.

94. Similar provisions to allow data collecting on LEP youth by SEA, except the House bill also allows data collection on services to LEP youth.

The Senate recedes with an amendment striking "language minority and".

95. The Senate amendment, but not the House bill, allows funds to used for operating an advisory council, as required by subsection (d).

The Senate recedes.

96. The House bill, but not the Senate amendment, exempts States from data collection if such a system does not exist and requires the State to comply if it implements such a system for all students.

The Senate recedes.

97. The House bill, but not the Senate amendment, allows funds to be used for training State educational agency personnel.

The Senate recedes.

98. The House bill requires that the State educational agency consult with a variety of individuals about the use of funds. The Senate amendment requires that the SEA appoint an advisory panel.

The Senate recedes.

99. The House bill, but not the Senate amendment, requires that federal funds not be used to supplant State funds.

The Senate recedes.

100. The House bill, but not the Senate amendment, requires the SEA to make annual reports to the Secretary, pursuant to regulations, on the uses of Title VII funds.

The Senate recedes with an amendment deleting everything after "report to the Secretary" and an amendment "describing their uses of such funds."

National Clearinghouse for Bilingual Education

101. The House bill, but not the Senate amendment, requires that the Clearinghouse be administered as an adjunct to ERIC.

The Senate recedes.

The Senate amendment, but not the House bill, includes among the Clearinghouse functions, a requirement to maintain in the comprehensive regional centers, listings by geographic area of speakers of languages other than English who might be used as resources for schools.

The House recedes.

Instructional Materials

102. The House bill, but not the Senate amendment, authorizes grants for instructional materials development in Native American, Native Hawaiian and other languages.

The Senate recedes with amendment adding "and the languages of the territories and freely associated nations".

Evaluation Assistance Centers

103. The House bill, but not the Senate amendment, provides for an extension of Evaluation Assistance Centers through 1996 and requires that the comprehensive assistance centers, under Title II, provide services comparable to those offered under EACs. The House bill authorizes the Centers to receive gifts.

The House recedes.

Evaluations

104. The Senate amendment and the House bill have identical requirements that recipients of grants under subpart I (bilingual grants) provide the Secretary biennial evaluations of their programs, except the House bill, but not the Senate amendment, refers to the Goals bill.

The Senate recedes.

Part C (Subpart 3)—Bilingual Education Teacher Training

105. The House bill names the part, "bilingual education teacher training." The Senate amendment names the part "professional development."

The House recedes.

Purpose

106. The House bill describes the purpose of this part as helping all educational personnel to more effectively serve language minority and limited-English-proficient students. The Senate amendment similarly describes its purpose as helping all educational personnel by improving the quality of instruction for such children. The Senate amendment also includes as its purpose dissemination of effective practices to other school personnel.

The Senate recedes with an amendment replacing this paragraph with: "The purpose of this part is to assist in preparing educators to improve the educational services to limited-English-proficient children and youth by supporting professional development programs and the dissemination of information on appropriate instructional practices for such children and youth."

Training for all Teachers Program

107. The House bill authorizes "training for all teachers programs", to help institutions of higher education, local educational agencies and state educational agencies improve their teacher preparation courses. It makes eligible those entities specified above, along with non-profit organizations in consortia with one of the above. Grants are for 5-years. Permissible activities are described and a priority for awards is established.

The Senate recedes with an amendment striking language minority; adding "preservice and inservice professional development" before "programs for teachers"; adding "in order to prepare such personnel to provide effective services to limited-English-proficient students" at the end of the sentence; replacing "the Secretary shall" with "the Secretary is authorized to"; striking "or organizations" in the authorization paragraph; and striking the "Priority" paragraph.

Bilingual Education Teachers and Personnel Grants

108. The House bill authorizes "bilingual education teachers and personnel grants" to provide degree programs for all levels of educational personnel. Higher Education Institutions in consortia with local or State educational agencies are eligible for 5-year grants.

The Senate recedes with the amendment on the bilingual education teacher and personnel grants.

109. The House bill authorizes a "bilingual education career ladder program" for noncertified educational personnel. Institutions of higher education, applying in consortia with local or State educational agencies, are eligible for the 5-year grants. Authorized activities are described and special consideration is to be given to applications emphasizing the completion of degrees or certificates, the development of two languages, the coordination with other named programs and the provision of student aid to participants.

The Senate recedes with an amendment to (b) striking "shall" and adding "is authorized to".

Professional Development Grants

110. The Senate amendment authorizes "professional development grants" to two types of entities: (1) to institutions of higher education to help them improve teacher preparation activities and to help them offer preservice and in-service professional development; (2) to state and local educational agencies for inservice programs for professional development. The grants may be used for the development of competence in a second language.

The House recedes with an amendment striking the Senate language for (a) and (b), adding to (c) "for the use in instructional programs" and moving (c) to section 7310.

111. The House bill, but not the Senate amendment, specifies a minimum number of fellowships that must be awarded in each year.

The Senate recedes.

112. The House bill, but not the Senate amendment, makes clear that working as a bilingual education teacher qualifies as a related activity.

The Senate recedes.

113. The House bill, but not the Senate amendment, allows the Secretary to give added weight to applicants which help participants find employment in bilingual education.

The Senate recedes.

Applications

114. The House bill requires that the application be sent to the Secretary and to the State educational agency or Board for higher education. The Senate amendment makes eligible institutions of higher education and local educational agencies, and requires that the application be sent through the State educational agency to the Secretary.

The House recedes with the amendment on the application provision.

115. The Senate amendment, but not the House bill, requires that the applicant describe its consultation and assessment activities.

The House recedes.

116. The Senate amendment, but not the House bill, requires that the applicants to provide a training practicum.

The House recedes.

117. The House bill provides for, but does not require, the State agency to comment on how the application furthers State reform efforts. The Senate amendment requires the State agency to comment on how the proposal is consistent with the State plan submitted under Title I.

The House recedes with an amendment on the application.

118. The House bill makes eligible institutions of higher education, alone or in consortia. The Senate amendment makes eligible institutions of higher education or local educational agencies.

The Senate recedes with an amendment to (b) striking "Eligible Entities" and adding "Special Consideration" in the heading; striking paragraph (1) and replacing it with paragraph (2). Paragraph (3) is renumbered Paragraph (2).

119. The House bill, but not the Senate amendment, requires outreach activities to certain institutions.

The Senate recedes.

120. The House bill, but not the Senate amendment, requires consideration of Hispanic serving institutions.

The Senate recedes.

121. The House bill, but not the Senate amendment, requires that applicants show integration with the State plan, if one exists.

The House recedes.

122. The House bill, but not the Senate amendment, requires preference be given to applicants showing institutional commitments in bilingual education and for programs which ensure participants (other than fellowship programs) become proficient in English and a second language.

The House recedes.

Program Requirements

123. The House bill, but not the Senate amendment, states funds under this Part shall be used to further state and local certification requirements and wherever possible awarding college credit.

The Senate recedes.

Program Evaluations

124. The Senate amendment and the House bill (see note #107) have identical requirements that recipients of grants provide the Secretary biennial evaluations of their programs. Technical difference regarding placement.

The Senate recedes.

Part D (Part C)—Administration

125. The House bill, but not the Senate amendment, establishes an Office of Bilingual Education and Minority Affairs within the Department of Education and describes functions to be carried out by that office.

The Senate recedes with placement to be determined by legislative counsel.

126. The House bill requires the Director to submit every two years a report to Congress, the President, the Governors and the clearinghouse which includes information on activities carried out under this Title, a synthesis of data reported by the State, the number of certified bilingual education personnel, and recommendations for improvements.

The Senate recedes with an amendment striking Congress, the President, and the Governors and adding the House Education and Labor Committee and the Senate Labor and Human Resources Committee and the Secretary.

The Senate amendment requires the Secretary to submit every three years a report to the Congress with information on grants made, the number of individuals benefiting from programs, evaluation of activities and the number of bilingual teachers needed, a syntheses of research.

The Senate recedes.

127. The House bill, but not the Senate amendment, requires a report on the education of students who reside in border states.

The House recedes.

128. The House bill, but not the Senate amendment, requires the Secretary of Education to collaborate with other agencies on how to better serve limited-English-proficient children.

The Senate recedes with an amendment deleting last sentence.

129. The House bill, but not the Senate amendment, requires data on limited-English-proficient children be a part of the Department's record-keeping.

The Senate recedes.

130. The House bill, but not the Senate amendment, requires sufficient staffing within OBEMLA.

The Senate recedes.

131. The House bill requires the Secretary to use qualified persons who are not employees of the Federal government for reviewing applications and that they serve for 3 years. The Senate amendment allows the Secretary to use peer review panels for making grants under Part A and limits the amount of funds to be used for this activity.

The House and Senate both recede and agree to place language in the Statement of Managers on application readers.

132. The Senate amendment, but not the House bill, requires the Secretary to take into account State educational agency recommendations for Part A grants.

The House recedes with an amendment attached on the following two pages.

133. The House bill, but not the Senate amendment requires that requests for proposals be published.

The Senate recedes.

Release Time

134. The House bill, but not the Senate amendment, requires Secretary to permit release time in all professional development programs.

The Senate recedes with an amendment replacing the sentence with "The Secretary shall allow professional development programs funded under this part to use such funds for professional release time to enable participation in programs assisted under this part.

Educational Technology

135. The House bill, but not the Senate amendment, allows funds to be used for the purchase of educational technology.

The Senate recedes.

Notification

136. The House bill, but not the Senate amendment, requires notification of grants.

The Senate recedes with an amendment to strike the reference to the technical assistance centers.

Continued Eligibility

137. The House bill, but not the Senate amendment, allows grant recipients to be eligible for additional grants.

The Senate recedes.

Limitation of Authority

138. The House bill, but not the Senate amendment, prevents the Secretary from imposing restrictions on availability of funds.

The House recedes.

139. The House bill, but not the Senate amendment, requires that recipients of grants awarded prior to enactment of this bill, be subject to the original conditions set forth.

The Senate recedes with an amendment placing a period after the second award and deleting the rest of the sentence.

Foreign Language Assistance Program

140. The Senate amendment, but not the House bill, authorizes $35m for grants to State education agencies and local educational agencies to develop model programs for foreign language of which $20 million is for elementary and secondary education.

The House recedes.

Special Rule

141. The Senate amendment, but not the House bill, prohibits grants made under title VII, prior to enactment of this Act, from being renewed for a fourth or fifth year.

The Senate recedes.

Emergency Immigrant Education Program

. The House bill places this program in title VII; the Senate amendment places it in title IX.

The Senate recedes.

The Senate amendment, but not the House bill, establishes "findings."

The House recedes with an amendment adding "and" after (3) and changing (5) to (4).

Purpose

142. Identical provision, except the Senate amendment adds "definition" to the section heading.

The Senate recedes.

State Allocations

143. Identical provisions, except the Senate amendment includes the words, "in general", and includes subsection (e), "reservation of funds", in the amount excluded from state allocations.

The Senate recedes on (e). The title is left to legislative counsel.

144. The Senate amendment, but not the House bill, describes the manner in which the Secretary will award grants from the amount reserved in excess of a $50m appropriation.

The Senate recedes.

State Applications

145. Identical provisions, except the House bill, but not the Senate amendment, requires that the SEA plan describe how it is consistent with any plan developed under the Goals 2000 or Title I.

The House recedes with an amendment striking "and how program designs are consistent with other education improvement plans" and adding "and will coordinate with other programs under this Act, Goals 2000: Educate America Act, and other acts as appropriate."

146. Identical provisions, except the House bill, but not the Senate amendment, specifies that payments "with the exception of payments reserved under section 7604(e)" will be distributed among the LEAs.

The Senate recedes.

147. The House bill, but not the Senate amendment, requires that any amount reserved by the SEA be awarded on the basis of merit.

The Senate recedes with an amendment adding "on a competitive basis" before "based on merit and need."

Administrative Provisions

148. The House bill stipulates the Secretary shall make payments to SEAs by no later than June 1st of each year; the Senate amendment stipulates SEAs shall by June 1st be informed of whether their application has been approved and if so, for how much.

The House recedes.

Uses of Funds

149. The Senate amendment, but not the House bill, includes under "uses of funds", basic instructional services.

The House recedes.

150. The Senate amendment, but not the House bill, states that nothing in this part shall restrict the children served, from being served in the same setting with other students with similar needs who are not immigrants.

The House recedes.

151. The Senate amendment, but not the House bill, states that "the State educational agency determines what information must be included in the biennial report."

The Senate recedes.

152. Identical provisions, but the House bill requires reports concerning programs under this "part", and the Senate amendment relates the requirement to Section 10701 (Part G) which provides the Secretary the authority to conduct evaluations of all programs.

The House recedes.

Authorization of Appropriations

153. The House bill authorizes an appropriation of $75m in FY 1995, with such sums in the following four years; the Senate amendment authorizes $150m in FY 1995, with such sums in the following four years.

The House recedes with an amendment to make the amount $100 million.

170. The Senate amendment, but not the House bill, requires that no federal, state or local government entity receiving federal funds, shall be prohibited from communicating with the INS about the immigration status of any alien.

The Senate recedes.

TITLE VIII—IMPACT AID

Title Heading

1. The House places Impact Aid in title VIII of ESEA. The Senate amendment authorizes the program in part A of title IX of ESEA.

The Senate recedes.

Findings

2. The House bill, but not the Senate amendment, contains findings.

The House recedes.

Purpose

3. The Senate amendment, but not the House bill, contains the phrase "because certain activities of the Federal Government place a financial burden on the local educational agencies serving areas where such activities are carried out".

The House recedes.

4. In paragraph (4), the Senate amendment, but not the House bill, refers to "or decreases".

The House recedes.

5. The House bill reads "Indian lands or who are defined in sections 2 and 3 of the Act of September 23, 1950 (Public Law 815, 81st Congress; 20 U.S.C. 631 et seq)". The Senate amendment reads "Federal lands".

The House recedes.

Payments Relating to Federal Acquisition of Real Property

6. In paragraph (1)(C), the Senate amendment, but not the House bill provides that the assessed value aggregating 10 percent or more of the value of all property in the LEA may be determined for the year preceding or the year succeeding acquisition of the property by the Federal Government.

The House recedes.

7. The House bill provides that, if the Secretary determines that an LEA is eligible for a payment, then that agency shall be "paid the amount described in subsection (b).". The Senate amendment provides that the LEA shall be "eligible to receive for such fiscal year such amount as, in the judgment of the Secretary, is equal to the continuing Federal responsibility for the additional burden with respect to current expenditures placed on such agency by such acquisition of property.".

Senate recedes with amendment changing "paid" to "eligible to receive".

8. The House bill requires the Secretary to reduce an LEA's payment by the amount which the LEA received "from activities conducted on such property during the previous fiscal year.". The Senate amendment provides that the amount of the reduction shall be the amount received "during the previous fiscal year from activities conducted on such property.".

House recedes.

9. The Senate amendment, but not the House bill, provides that, for the purposes of clause (i), the amount of revenue from activities on the Federal property, by which the Secretary reduces an LEA's payment under subsection (a), shall not include payments from the Secretary of Defense to support the operation of domestic dependent elementary or secondary schools, or the provision of a free public education to dependents of members of the Armed Forces residing on or near a military installation.

House recedes.

10. The House bill reads "In calculating the amount that a local educational agency shall be paid for a fiscal year,". The Senate amendment reads "In making a determination of the amount that would have been derived in such year under paragraph (1)(A),".

The Senate recedes with amendment changing "paid" to "eligible to receive".

11. In paragraph (1), the House bill provides that "The school district contains between 50,000 and 55,000 acres of land". The Senate amendment provides that "The school district contains between 20,000 and 60,000 acres of land".

The House recedes.

12. In paragraph (2), the House bill reads "a county chartered by State law in 1875". The Senate amendment reads "a country certified by state law in 1875 and 1890".

The Senate recedes.

13. The Senate amendment, but not the House bill, in subsection (f) includes a special rule making the Wheatland R-II School District eligible for a section 2 payment under current law and a section 9003 payment under the bill (i.e., 9002 under the Senate amendment or 9003 under the House bill).

The House recedes.

Payments for Eligible Federally Connected Children

14. In subparagraph (A), the Senate amendment, but not the House bill, includes students who resided on Federal property with a parent who is an accredited foreign official and military officer among the types of students that may be counted by LEAs for the purpose of determining the amount of payments.

The House recedes.

15. In subparagraph (D), the Senate amendment, but not the House bill, includes students who resided off Federal property with a parent who is an accredited foreign official and military officer among the types of students that may be counted by LEAs for the purpose of determining the amount of payments.

The House recedes.

16. In subparagraph (F), the Senate amendment, but not the House bill, includes students who resided on Federal property and are not described in subparagraph (A) or (B).

The House recedes with an amendment providing that (i) an LEA can receive a payment if these federally connected children (described in subparagraphs (F) and (G) equal or exceed 2,000 in number and that number of federally connected children comprises not less than 15% of the average daily attendance of the LEA.

17. In subparagraph (G), the Senate amendment, but not the House bill, includes students who, resided with parents employed on Federal property situated—(i) in whole or in part in the county in which the school district is located, or in whole or in part of the school district if the district is located in more than one county; or (ii) if not in such county or district, in whole or in part of the same State as the school district. (Note: "school district" and "district" should be "local educational agency" and "agency".)

The House recedes (see note above regarding subparagraph (F)).

18. The House bill, but not the Senate amendment, provides (in subparagraph (C)) that the Secretary calculate an LEA's basic support payment by multiplying the number of children described in subparagraphs (A) and (B) of paragraph (1) by a factor of .35 if the number of such children exceeds 6,500 and the average daily attendance of the LEA exceeds 100,000.

The Senate recedes.

19. The House bill provides that the Secretary multiply the number of children described in subparagraphs (D) and (E) of paragraph (1) by a factor of .20. The Senate amendment has a factor of .10.

The House recedes.

20. The Senate amendment, but not the House bill, provides that the Secretary multiply the number of children described in subparagraphs (F) and (G) of paragraph (1) by a factor of .05.

The House recedes.

21. The House bill uses the term "entitled". The Senate amendment uses the term "eligible".

The House recedes.

22. In subclause (II), the Senate amendment, but not the House bill refers to total current expenditures "in the second preceding fiscal year for which the determination is made".

The House recedes.

23. The Senate amendment, but not the House bill, directs the Secretary to compute the Learning Opportunity Threshold for the LEA serving students residing on Hascom Air Force Base (MA) by considering only the grade 9–12 portion of the LEA's total enrollment.

The House recedes.

24. The bill contain similar provisions relating to prior year data. The House bill reads "from the fiscal year preceding". The Senate amendment reads "from not later than the first fiscal year preceding".

The House recedes with an amendment providing that a new local educational agency, in its first year of operation, will use current year data and, in succeeding years, will use prior year data.

25. With regard to computing the amount of payments to LEAs for children with disabilities, the Senate amendment, but not the House bill, in subsection (d)(1)(A) provides that the computation include the children described in subparagraph (A)(ii) of subsection (a)(1).

The House recedes.

26. The House bill provides that the hold-harmless provisions of subsection (e) apply to the total amount that an LEA receives under subsections (b) and (f). The Senate amendment applies the hold-harmless to the amount received by a LEA under subsection (b) only.

The House recedes.

27. The House bill provides for the following hold-harmless percentages which are all tied to LEAs' section 3(a) payment in FY 1994: 80% in FY 1995; 60% in FY 1996; 40% in FY 1997. The Senate amendment provides for a 5 year rolling hold-harmless, for FY 1995, at 95% of the LEA's 1994 payments under all parts of section 3 of P.L. 81–874 and, for FYs 1996–1999, 95% of the LEA's prior year Basic Support Payment.

The House recedes with an amendment changing the hold harmless from 95 to 85 percent and providing that in fiscal year 1995 that the hold harmless applies only to "a" and "b" payments under section 3 of P.L. 81–874.

28. The Senate amendment, but not the House bill provides that the hold-harmless provisions in paragraph (1) shall apply to any one LEA for a maximum of two consecutive fiscal years, except that in the second such year, the LEA may not receive less than 85% of the amount that it received in the preceding fiscal year.

The House recedes with an amendment adding one year hold harmless provisions for (i) LEAs which, under current law, received a section 3(e) payment in fiscal year 1994 and (ii) LEAs that received section 3 funding in fiscal year 1994 but will not be eligible for a payment under section 8003 because they cannot meet the 2,000/15 percent threshold for payment on behalf of children of nonmilitary parents who either live or work on Federal property (but not both).

29. The House bill provides that the "Secretary shall reduce payments to other LEAs determined under subsection (b)." the Senate amendment provides that the "If necessary . . . the Secretary first shall ratably reduce payments under subsection (b) to LEAs that do not receive a payment under this subsection."

The House recedes.

30. The Senate amendment, but not the House bill, provides that if additional funds become available for making payments under paragraph (1), payments that were reduced under clause (i) shall be increased on the same basis that they were reduced.

The House recedes.

31. In subparagraph (B), the Senate amendment, but not the House bill, provides: in clause (i) for further ratable reductions if the sums available for payments are insufficient after the application of subparagraph (A); and in clause (ii) that payments that were reduced under clause (i) shall be increased in the same manner should additional funds become available.

The House recedes.

32. Paragraph (2)(A)(i) of the House bill refers to "40 percent". Paragraph (2)(A)(i)(I) of the Senate amendment refers to "50 percent".

The Senate recedes with an amendment providing that the eligibility threshold shall be 40 percent if an LEA receives no funding on behalf of children described in section 8003(a)(1) (F) and (G), or 50 percent if an LEA receives funding on behalf of those federally connected children.

33. Subparagraph (C) of the House bill includes the phrase "or included Federal property under exclusive Federal jurisdiction." Subparagraph (A)(iii) of the Senate amendment does not.

The House recedes.

34. Subparagraph (B) of the Senate amendment, but not the House bill, contains provisions relating to LEAs which are found by the Secretary not to be comparable due to unusual geographical factors.

The House recedes.

35. Subparagraph (C) of the Senate amendment, but not the House bill, provides that a coterminous LEA shall be deemed to have met the tax effort requirements of eligibility under clause (i)(II) or (ii)(II) of subparagraph (A).

The House recedes.

36. Subclause (I) of the House bill requires the Secretary to use the average per pupil expenditure (APPE) of the State in which the LEA is located or of all the States. The Senate amendment requires the Secretary to use just the APPE of the State in which the LEA is located.

The Senate recedes.

37. In clause (ii), the House bill reads "the average amount of State aid per pupil received by the local educational agency". The Senate amendment reads "the total amount of general fund revenues received by the local educational agency from any general fund source per pupil, other than revenues provided under this subsection".

The Senate recedes. The managers urge the Secretary, when determining a local educational agency's payment calculation under subsection (f), to adjust the LEA's general fund revenue to account for such agency's capital outlay expenditures when there is no provision to provide for a dedicated revenue source for capital outlay and the agency's capital outlay expenditures are funded from general fund sources.

38. In clause (iii), the House bill reads "the sum of the total weighted units of the local educational agency, as computed under subsection (a)(2)". The Senate amendment reads "the total number of students in average daily attendance of the local educational agency".

The House recedes with an amendment adding "as determined by the Secretary under subsection (a)(1) of section 8003".

39. In clause (iv), the House bill refers to "94 percent". The Senate amendment refers to "95 percent".

The House recedes.

40. The Senate amendment, but not the House bill, provides: in clause (i) that the product of the clause (i) computation is multiplied times the number of students served by the LEA and described in subparagraph (A) or (B) of subsection (a)(1); and in clause (ii) that the payment that an LEA described in clauses (ii) and (III) of paragraph (2)(A) receives in a fiscal year is the amount described in clause (i) minus the amounts of its basic payment and its payment for children with disabilities.

The Senate recedes.

41. In paragraph (4)(A), the House bill reads "data from the fiscal year in which". The Senate amendment reads "student and revenue data from the fiscal year for which".

The House recedes.

42. In subparagraph (B), the House bill (in so many words) provides that the Secretary shall use the most recent data available which is adjusted to the current fiscal year. The Senate amendment contains a similar but more specific provision describing how such data is adjusted.

The Senate recedes.

43. Paragraph (5) of the Senate amendment, but not the House bill, provides that FY 1994 section 3(d)(2)(B) payments shall be made on the basis of 1994 (i.e., current year) data.

House recedes with an amendment moving this provision to Title V (Miscellaneous Provisions) of the bill.

44. The Senate amendment, but not the House bill in subsection (g) provides for additional payments for LEAs with high concentrations of children with high concentrations of children with disabilities.

The House recedes.

45. The Senate amendment, but not the House bill, in subsection (h) provides that an LEA that receives funds under this section may also receive funds under section 6 of current law or its successor authority.

The House recedes.

46. The Senate amendment, but not the House bill, in subsection (i) sets out a local maintenance of effort requirement of 90 percent.

The House recedes.

Policies and Procedures Relating to Children Residing on Indian Lands

47. The Senate amendment, but not the House bill, in subsection (e) provides for a process under which an Indian tribe may file a complaint with the Secretary regarding any action of an LEA related to the requirements of this section.

The House recedes.

Application for Payments under Sections 8003 and 8004

48. The Senate amendment, but not the House bill, in paragraph (4), provides that an SEA that had been accepted as an applicant for funds under section 3 of current law in fiscal year 1994 shall be permitted to continue as an applicant under the same conditions only if the SEA distributes all funds to the LEAs providing educational services.

House recedes.

Payments for Sudden and Substantial Increases in Attendance of Military Dependents

49. In paragraph (2), the House bill reads "between July 1 and September 30, inclusive, of the current school year". The Senate amendment reads "between May 15 and September 30, inclusive, of the fiscal year for which the determination is made".

The House recedes.

50. In subsection (d), the House bill directs the Secretary to pay each LEA with an approved application the same amount per child (not to exceed $200) multiplied by the number of children determined for each such LEA. The Senate amendment directs the Secretary to pay each LEA with an approved application an amount equal to one-half the national average per-pupil expenditure multiplied by the number of children determined for each such LEA.

The House recedes.

51. The Senate amendment provides—(1) for prorated payments if the appropriation is insufficient to support full payments; and (2) that if additional funds become available, payments shall be increased in the same manner that they were prorated.

The House recedes.

52. I subsection (e)(1), the House bill requires the Secretary to "endeavor" to establish a notification process, whereas the Senate amendment requires the Secretary to simply establish a notification process (i.e., no "endeavor").

The House recedes.

Construction

53. The Senate amendment, but not the House, bill authorizes the Secretary to make grants for school construction to LEAs that receive a basic support payment under section 9003 and either (1) have a number of children residing on Indian lands that constituents at least 50% of the LEAs student enrollment, (2) are heavily impacted LEAs, or (3) experience a sudden and substantial increase in military dependent children. The Senate amendment also provides for the amount of payments and use of funds.

The House recedes with an amendment adding an additional category of LEAs eligible for construction assistance.

54. The Senate amendment, but not the House bill, includes a special rule for the Winona R–III School District in Missouri which waives the P.L. 81–815 effort requirement.

The House recedes with an amendment moving this provision to Title V (Miscellaneous) of the bill.

State Consideration of Payments in Providing State Aid

55. The House bill prohibits States from considering Impact Aid payments in determining the eligibility of LEAs for State aid or in determining the amount of such aid (except for those States with approved equalization plans). The Senate amendment provides that no payments may be made under this title (should be "part") to any LEA in any State that takes Impact Aid into consideration in determining the eligibility of LEAs for State aid or in determining the amount of such aid to any LEA during that fiscal year or the preceding fiscal year.

The Senate recedes with an amendment substituting its provision, regarding State consideration of Impact Aid payments in providing State aid, for the House provision regarding reductions of State aid.

56. In subsection (b)(1), the House bill permits a State to reduce State aid to an LEA that receives a payment under section 8003 and 8004(b) (except the amount calculated in excess of the 1.0 student weighting) if the

State has in effect a program of State aid that equalizes expenditures among LEAs in the State. Paragraph (2) of the House bill provides that, in considering whether a State aid program is equalized, the Secretary shall disregard LEAs with per-pupil expenditures or revenues above the 95th percentile and below the 5th percentile. A program of State aid equalizes expenditures among LEAs if, in the second preceding fiscal year, the amount of disparity between the per-pupil expenditures or revenues of the remaining LEAs does not exceed 10 percent. Computations to determine the amount of disparity in a State aid program shall utilize any weighting mechanism that a State uses to take into account special cost differentials in allocating State aid. The Senate amendment takes a different approach by providing that a State, which has in effect a program of State aid designed to equalize expenditures among its LEAs, may take into account payments under this title, except for amounts calculated in excess of the 1.0 student weighting on behalf of children with disabilities, children on Indian lands, and heavily impacted LEAs. Additionally, the Senate amendment provides that "State aid" and "equalize expenditures" will be defined by the Secretary except that they shall not be construed in any manner adverse to a State aid program which takes into account the additional cost of providing education for particular groups or additional cost of providing education for particular groups or categories of pupils in meeting the special educational needs of such children.

The Senate recedes with a amendment—(i) clarifying that computations of per-pupil revenue or current expenditures may be based upon units of need as defined by the State; and (ii) providing that, for fiscal years 1995, 1996, and 1997, the disparity standard is 25 percent and, or fiscal years 1998 and 1999, the disparity standard is 20 percent.

57. Both the House bill and the Senate amendment have provisions relating to review of State aid programs. The House provisions are in subsection (c); the Senate provisions are in subsection (b)(4). The House bill requires 120-day written notice to the Secretary which includes the information the Secretary requires, including evidence that the State has notified each LEA of its intention to consider Impact aid payments in providing State aid. The Senate amendment has similar requirements except that the State must provide a 60-day notice to the Secretary (does not specify written notice).

The Senate recedes.

58. The House bill proves that: (i) before making a determination, the Secretary shall afford the State and local educational agencies in the State an opportunity to present their views; (ii) if the Secretary determines that a State aid program qualifies, shall certify program, notify the State, and afford an opportunity for a hearing to any adversely affected LEA; and (iii) if the Secretary determines that a State aid program does not qualify, the Secretary will notify the State and afford a hearing to the State and any adversely affected LEA. The Senate amendment provides: (i) in paragraph (4)(B) that prior to certifying any determination, the Secretary shall give the LEAs in the State an opportunity for a hearing at which such agencies may present their views; and (ii) in paragraph (4)(C) that the Secretary shall not finally deny certification to a State without first giving that State an opportunity for a hearing.

The Senate recedes.

59. The Senate amendment, but not the House bill, in subsection (b)(5) requires retroactive approval of a State aid program during the period 1989-92 if the State's program was approved in 1988 and in at least 1 year during the period 1989-92. This paragraph also provides that, beginning with FY 1993, such State shall not take payments under this title into consideration unless the Secretary has previously certified such State's program.

The Senate recedes.

60. The Senate amendment, but not the House bill, in subsection (b)(6), grandfathers in States with State aid programs approved by the Secretary on July 1, 1994 and which continue to meet the requirements of section 5(d)(2) of the current law.

The Senate recedes.

61. The House bill, in subsection (d), provides how, and in what amount, the State may take Impact Aid payments into consideration in reducing State aid. Additionally, the House bill provides that a State may not reduce State aid before its program of State aid has been certified by the Secretary. The Senate amendment, in subsection (b)(2) provides for similar exclusion of certain types and portions of Impact Aid payments.

The Senate recedes.

62. The House bill, but not the Senate amendment, in subsection (e), provides: (i) that an LEA, without exhausting administrative remedies, may bring an action in Federal district court for State violations; (ii) that a State shall not be immune under the 11th amendment from an action brought by an LEA; and (iii) that the court shall grant such relief as it deems appropriate, which may include attorney's fees to a prevailing LEA.

The Senate recedes with an amendment—(i) providing that neither the Secretary nor an aggrieved LEA may bring an action before 150 days following an adverse determination against a State for a violation of subsections (a) or (d)(2), or for failure to carry out an assurance under subsection (b)(3)(B); and (ii) striking attorney's fees.

Federal Administration

63. The Senate amendment, but not the House bill, provides: (i) in paragraph (1), that, for any fiscal year prior to FY 1995, Secretary shall treat as eligible under section 3 of current law any child that meets the requirements of paragraph (3) and shall forgive the obligation of any LEA to repay any amounts that LEA received on behalf of any such child who does not meet the requirements of section 3 (but does satisfy paragraph (3) of this subsection); (ii) in paragraph (2)(A), that the Secretary shall treat as eligible under subparagraph (A) of section 9003(a)(1) any child would be eligible except that the Federal property on which the child resides is not in the same State and who satisfies paragraph (3) of this subsection; (iii) in paragraph (2)(B), that the Secretary shall treat as eligible under paragraph (G) of section 9003(a)(1) any child would be eligible under such provision except that such child does not meet the requirements of clause (ii) of such subparagraph if such child satisfies paragraph (3) of this subsection; and (iv) in paragraph (3), that a child meets the requirements of this paragraph on the day preceding the date of enactment [of the Improving America's Schools Act of 1994?] if such child resides in an adjacent State or with a parent employed on Federal property in an adjacent State, the schools of the LEA the child attends are within a more reasonable commuting distance of the child's home that the schools of the LEA where the child resides, attending the schools of the LEA where the child resides will cause the child substantial hardship, and the adjacent State where the child attends school provides funds for the education of such child on the same basis as all other public school children in the State.

The House recedes with an amendment providing that, in order to qualify under this provision, an LEA must have received a payment for fiscal year 1994 on behalf of such children.

Forgiveness of Overpayments

64. The Senate amendment, but not the House bill, authorizes the Secretary to forgive the obligation of an LEA to repay the amount of any overpayment under this title [part?] or under current law if the Secretary determines that the overpayment was the result of an error by (1) the Secretary, or (2) the LEA and repayment of the full amount will result in an undue hardship and serious harm to the LEA's educational program.

The House recedes.

Definitions

65. The Senate amendment, but not the House bill, includes a definition of "current expenditures".

The House recedes.

66. At the end of subparagraph (B), the House bill, but not the Senate amendment, includes the phrase "under contract with the Air Force at an airport owned by a State or political subdivision of a State".

The Senate recedes.

Authorization of Appropriations

67. The House bill authorizes appropriations for Basic Payments in subsection (b) ($775.5 million in FY 1995) and for Payments for Heavily Impacted LEAs in subsection (d) ($42 million in FY 1995). The Senate amendment authorizes appropriation for both of these payments in subsection (b)—$775 million for FY 1995 of which 6 percent is set aside for Payments for Heavily Impacted LEAs.

The House recedes.

68. The Senate amendment, but not the House bill, authorizes $25 million for FY 1995 and such sums for each of the succeeding 4 fiscal years to carry out section 9007 (construction).

The House recedes.

TITLE III—AMENDMENTS TO OTHER ACTS

Amendments to Public Law 815

69. The House bill extends and amends the Impact Aid construction program (P.L. 81-815) for an additional five fiscal years. The Senate amendment repeals P.L. 81-815.

The House recedes.

TITLE IX—INDIAN EDUCATION, NATIVE HAWAIIAN EDUCATION, AND ALASKA NATIVE EDUCATION

Part A—Indian Education

1. DRAFTING DIFFERENCES.—The House bill is drafted in prose; the Senate amendment is drafted as a series of cut and bites. Where there is a difference but it is not substantive, I have indicated with Technical Difference/Drafting. Also, the Senate uses headings throughout—this should be resolved consistently.

The Senate recedes to the House bill as the basic document, with an amendment retaining headings throughout.

Findings

2. The House bill uses the term "and others"; the Senate amendment uses the term "other entities and individuals". Also, the House bill uses the term "those standards"; the Senate bill uses the term "such standards".

Legislative Counsel.

3. The House bill uses the term "since enactment of the original Indian Education

Act in 1972"; the Senate amendment uses the term "since the date of enactment of the initial Indian Education Act in 1972". Also, the House bill uses the term ". . . Indian parents have become significantly more involved in . . ."; the Senate amendment uses the term "the level of involvement of Indian parents . . . has increased significantly . . ."

Legislative Counsel.

4. The House bill uses the term "numbers . . . have"; the Senate amendment uses the term "number . . . has". Also, the House uses the term "Indian persons"; the Senate uses the term "Indian individuals".

Legislative Counsel.

5. The House bill uses the term "sufficient numbers"; the Senate amendment uses the term "a sufficient number".

Legislative Counsel.

6. The House bill uses a semi-colon; the Senate amendment uses a comma.

Legislative Counsel.

7. The House bill uses the phrase "from 1980 to 1990, the percentage of Indian persons living in poverty increased from . . ."; the Senate amendment uses the phrase "during the period from 1980 to 1990, the percentage of Indian individuals living at or below the poverty level increased from . . ."

Legislative Counsel.

8. The Senate amendment, but not the House bill, uses the term "their".

Legislative Counsel.

9. The House bill uses the term "of it"; the Senate uses the term "of the research". Other Minor technical differences.

Legislative Counsel.

Purpose

10. The House bill uses the term "so that they"; the Senate amendment uses the term "so that such students".

Legislative Counsel.

Part A—Formula Grants to Local Educational Agencies

Purpose

11. The House bill uses the term "State content and student performance standards"; the Senate amendment uses the term State content standards and State student performance standards".

The House recedes.

Grants to Local Educational Agencies

12. The House bill uses the term "is eligible"; the Senate uses the term "shall be eligible". Also, the Senate amendment, but not the House bill, adds the requirement that the children be "eligible under section 6106".

The House recedes.

13. The House bill requires at least 20 students; the Senate amendment requires at least 10 students.

The House recedes with an amendment that this requirement not apply in Alaska, California, or Oklahoma or for local educational agencies located on, or in proximity to, a reservation.

14. The House bill uses the term "of the agency's total enrollment"; the Senate amendment uses the term "of the total number of individuals enrolled in the schools of such agency".

The Legislative Counsel.

15. The Senate amendment, but not the House bill, provides a tribal by-pass mechanism where school districts do not apply for the funds.

The House recedes with an amendment which (1) changes the term "does not apply" to "does not establish a parent committee as required by this Act; and (2) deletes "has" in the term "has children" and substitutes in lieu thereof the term "represents at least ½ the eligible".

Amount of Grants

16. The Senate amendment, but not the House bill, adds the phrase, "Except as provided in subsection (b) and paragraph (2)," Also, the House bill uses the term "The Secretary is authorized to allocate . . ."; the Senate amendment uses the term "The Secretary shall allocate".

The House recedes.

17. The House bill uses the term "which has an approved application under this part"; the Senate amendment uses the term "with respect to which the Secretary has approved an application under this part".

Legislative Counsel.

18. The House bill uses the term "described in section 6106"; the Senate amendment uses the term "who are eligible under section 6106 and served by such agency".

Legislative Counsel.

19. The House bill stipulates that no grant shall be made if the amount for which a l.e.a. is eligible is less than $4,000, unless to a consortium of eligible local educational agencies whose aggregate payment exceeds $4,000 and where the Secretary determines the grant would carry out the purpose of this part; the Senate amendment sets a minimum grant level of $4,000 for all eligible local educational agencies or Indian tribes (includes schools funded by the Bureau of Indian Affairs) (see Note 15).

The House recedes with an amendment which sets the floor at #3000, provided that the Secretary is authorized to increase the floor to $4,000 if he/she determines it is necessary to run quality programs, and with an amendment maintaining the right to form consortia.

20. Technical Difference/Drafting—states method of arriving at product differently.

Legislative Counsel.

21. The House uses the term "were in"; the Senate amendment uses the term "were included in".

Legislative Counsel.

22. The House bill uses the term "grants determined"; the Senate amendment uses the term "grants awarded". Also, the Senate amendment, but not the House bill, includes the caveat "and subject to paragraph (2)".

Legislative Counsel.

23. The House bill uses the term "that tribe"; the Senate amendment uses the term "such tribe." Also, the House bill uses the citation "25 U.S.C. 2501 et seq."; the Senate amendment uses the term "part B of title V of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988".

Legislative Counsel.

24. The House uses the term "reduced as may be necessary"; the Senate amendment uses the term "subject to any reduction as may be necessary".

Legislative Counsel.

25. The House bill cites "section 9205 of this Act"; the Senate amendment cites section 10205.".

Legislative Counsel.

Applications

26. The House uses the title "GENERAL"; the Senate uses the title "APPLICATION REQUIRED". Also, the House bill uses the term "Any"; the Senate amendment uses the term "Each".

The House recedes.

27. The House bill reads "Each such application . . . . Indian children in the local educational agency, including their language and cultural needs . . ."; the Senate amendment reads "Each application submitted under subsection (a) . . . Indian children served by the local educational agency, including the language and cultural needs of the children . . .".

Legislative Counsel.

28. The House bill, but not the Senate amendment, requires that the application be consistent with State GOALS 2000 plans or other plans developed under title I of this Act.

The House recedes with an amendment.

29. The House bill, but not the Senate amendment, requires applications to include academic content and student performance goals for such children as benchmarks, basing same on GOALS 2000 or under title I of this Act.

The Senate recedes with an amendment.

30. The House bill reads "demonstrates how funds under this part will be used for activities authorized by section 6105"; the Senate amendment reads "demonstrates how funds made available under this part will be used for activities described in section 6105."

Legislative Counsel.

31. The House bill uses the term "describes the professional development to be provided . . ."; the Senate amendment uses the term "describes the professional development opportunities that will be provided".

The House recedes.

32. The House bill uses the term "involved in the project . . . it out"; the Senate amendment uses the term "involved in the program assisted under this part . . . such program".

Legislative Counsel.

33. Technical difference/Drafting.

Legislative Counsel.

34. The House bill uses the term "in its schools"; the Senate amendment uses the term "enrolled in the schools of the local educational agency".

Legislative Counsel.

35. Technical Difference/Drafting.

Legislative Counsel.

36. The Senate amendment, but not the House bill, adds the term "that are similar to the assessments described in subparagraph (A)".

The House recedes.

37. The House bill uses the term "Each such application shall also include"; the Senate amendment uses the term "Each application submitted under subparagraph (a) shall include assurances that".

Legislative Counsel [NOTE—the term "subparagraph" should probably be "subsection"].

38. The Senate amendment, but not the House bill, includes the term "made available under this part".

The House recedes.

39. Technical Difference/Drafting.

Legislative Counsel.

40. The House bill uses the phrase "determine the extent to which funds provided under this part have been effective in improving the educational achievement of Indian students in the local educational agency"; the Senate amendment uses the phrase "determine the extent to which funds provided to the local educational agency under this part are effective in improving the educational achievement of Indian students served by such agency".

Legislative Counsel.

41. The House bill uses the term "has been based upon"; the Senate amendment uses the term "is based upon". Also, the House bill uses the term "for which"; the Senate amendment uses the term "for whom".

Legislative Counsel.

42. Technical Difference/Drafting.

Legislative Counsel.

43. The House bill uses the term "the local educational agency has developed the program"; the Senate amendment uses the term

"was developed by such agency". Also, the House bill uses the term "secondary school Indian students"; the Senate amendment uses the term "Indian students from secondary schools". Also, the House bill uses the term "where appropriate"; the Senate amendment uses the term "if appropriate". Also, the House bill uses the term "at which such persons have had a full . . ."; the Senate amendment uses the term "held by such agency to provide the individuals described in this subparagraph a full . . .".

Legislative Counsel.

44. Technical Difference/Drafting.

Legislative Counsel.

45. The House bill uses the term "parents"; the Senate bill uses the term "Indian parents". Also, the House bill uses the term "local educational agency's schools"; the Senate amendment uses the term "schools of the local educational agency".

The Senate recedes.

46. The House bill uses the term "where appropriate"; the Senate amendment uses the term "if appropriate". Also, the House bill uses the term "secondary school Indian students"; the Senate amendment uses the term "Indian students attending secondary school".

Legislative Counsel.

47. The House bill requires that at least ½ of the members of the Parents Committee be Indian [current law]; the Senate amendment increases this percentage to at least ¾ths.

The Senate recedes with an amendment changing "at least half" to "more than one-half".

48. Technical Difference/Drafting.

Legislative Counsel.

49. The Senate amendment, but not the House bill, requires that the Parent Committee review the schoolwide program.

The House recedes with an amendment that the review be in a timely fashion.

50. The House bill uses the term "finds that such project will not diminish . . ."; the Senate amendment uses the term "determined that the program will not diminish . . .".

The House recedes.

51. Technical Difference/Drafting.

Legislative Counsel.

52. The House bill, but not the Senate amendment requires the State Educational Agency to review all local applications and requires the local educational agency to forward to the Secretary any comments received.

The House recedes.

Authorized Services and Activities

53. The House bill uses the term "use the grant funds for services and activities, consistent with the purpose of this part"; the Senate amendment uses the term "use the grant funds, in a manner consistent with the purpose specified in section 6101, for services and activities".

Legislative Counsel.

54. Technical Difference/Drafting.

Legislative Counsel.

55. The Senate amendment, but not the House bill, adds the term "of such agency".

Legislative Counsel.

56. Technical Difference/Drafting.

Legislative Counsel.

57. The House bill uses the term "which support"; the Senate amendment uses the term "that support". Also, the House bill uses the term "set out in the application, as required in section 6104"; the Senate amendment uses the term "described in the application submitted by the local educational agency".

Legislative Counsel.

58. The House bill uses the term "State content and student performance standards"; the Senate amendment uses the term "State content standards and State student performance standards".

The House recedes.

59. The House bill uses the term "meeting similar needs"; the Senate amendment uses the term "that meet the needs of Indian children and their families".

The House recedes.

60. The House bill uses the term "as those supported"; the Senate amendment uses the term "as the programs supported". Also, the House bill uses the term "tech-prep"; the Senate uses the term "technical preparation".

The Senate recedes.

61. The House bill uses the term "prevention of, and education about, substance abuse"; the Senate amendment uses the term "activities to educate individuals concerning substance abuse and to prevent substance abuse".

Legislative Counsel.

62. The House bill uses the term "such acquisition". The Senate amendment uses the term "the acquisition of the equipment". Also, the House bill uses the term "of this part"; the Senate amendment uses the term "the purpose described in section 6101.".

Legislative Counsel.

63. The House bill uses the term "Notwithstanding any other provision of this part . . ."; the Senate amendment uses the term "Notwithstanding any other provision of law . . .". Also, the House bill uses the term "funds it receives"; the Senate amendment uses the term "funds made available".

The House recedes.

64. The Senate amendment, but not the House bill, allows schoolwide projects only in schools with more than ½ Indian students. Also, the House bill requires that in any schoolwide project, the Secretary determine the school has made adequate provision for the participation of Indian Students and parents; the Senate amendment requires the approval of the Indian parent committee.

The Senate recedes to the House by dropping the ½ Indian student requirement, and the House recedes to the Senate in requiring the approval of the Indian parent committee.

65. The House bill title is STUDENT ELIGIBILITY FORMS; the Senate amendment title is STUDENT ELIGIBILITY AND FORMS.

The Senate recedes.

66. Technical Difference/Drafting.

Legislative Counsel.

67. The House bill uses the term "is providing"; the Senate amendment uses the term "provides."

Legislative Counsel.

68. The House bill uses the phrase "as an eligible Indian child"; the Senate amendment uses the phrase "as an Indian child eligible for assistance under this part and that otherwise meets the requirements of subsection (b)."

Legislative Counsel.

69. The House bill uses the term "The Secretary shall request on the form required under subsection (a) at least the following information . . ."; the Senate amendment uses the term "The form described in subsection (a) shall include . . . ".

Legislative Counsel.

70. The House bill, but not the Senate amendment, uses the term "other organized group". Also, Technical Difference/Drafting.

The House recedes.

While the selection of the term "or other organized groups" is consistent with the rewrite of the definition used in this title (see section 6601(4)), the Conferees wish to make clear that the deletion of the term, both here and in the definition, does not signal a change in policy. The Conferees have been assured that all students currently eligible for the program who have been included as a member of "an other organized group" may, with administrative clarification, continue to be served under the term "band". The change has been made at the request of the Administration, but only to clear up an administrative problem. The change should not result in any currently eligible student (or student who would be currently eligible if in school) from continuing to receive services.

71. See preceding note.

The House recedes.

72. See preceding note.

The House recedes.

73. The House bill uses the term "of any of the child's parents or grandparents"; the Senate amendment uses the term "of any parent or grandparent of the child".

Legislative Counsel.

74. See Note 70.

The House recedes.

75. The House bill uses the term "which the Secretary deems necessary"; the Senate amendment uses the term "that the Secretary considers necessary".

Legislative Counsel.

76. The House bill, but not the Senate amendment, contains a statement that nothing in these requirements shall affect the definition (see Note 80 for similar Senate provision).

The House recedes.

77. Technical Difference/Drafting.

Legislative Counsel.

78. See Note 70. Also, the House bill uses the term "Child's name"; the Senate amendment uses the term "name of the child". Also, the Senate amendment, but not the House bill, uses the term "with respect to which the child claims eligibility".

The House recedes to the question of "other organized group". The rest is for Legislative Counsel.

79. Technical Difference/Drafting.

Legislative Counsel.

80. The Senate amendment, but not the House bill, states that nothing in this subsection shall affect the definition (see Note 76 for similar House provision).

The House recedes.

81. Technical Difference/Drafting.

Legislative Counsel.

82. Technical Difference/Drafting.

Legislative Counsel.

83. See Note 70.

The House recedes.

84. The House bill uses the term "even if enrollment numbers of such tribe, band or groups are available."; the Senate amendment uses the term "notwithstanding the availability of an enrollment number for a member of such tribe, band or group.".

The House recedes.

85. Technical Difference/Drafting.

Legislative Counsel.

86. The Senate amendment, but not the House bill, uses the term "Notwithstanding any other provision of law,".

The Senate recedes.

87. The House bill uses the term "or be otherwise penalized"; the Senate amendment uses the term "be subject to any penalty". Also, the House bill uses the term "that relate"; the Senate amendment uses the term "that relates".

Legislative Counsel.

88. Technical Difference/Drafting.

Legislative Counsel.

89. Technical Difference/Drafting.

Legislative Counsel.

90. The House bill, but not the Senate amendment, uses the term "provided under this part". The Senate amendment, but not the House bill, uses the term "to the local educational agency."

The House recedes/the Senate recedes.

91. Technical Difference/Drafting.

Legislative Counsel.

92. The Senate amendment, but not the House bill, includes for the use of other forms in lieu of those required under the Act, schools which receive funding under the Johnson-O'Malley program of the B.I.A.

The House recedes.

The Conferees have agreed to this provision as a paperwork reduction measure. Acceptance does not signal a desire or willingness to accept the incorporation of this program into the Johnson-O'Malley program or administration of this program in public schools by the Bureau of Indian Affairs.

93. Technical Difference/Drafting.

Legislative Counsel.

94. Technical Difference/Drafting.

Legislative Counsel.

95. The House bill uses the term "in which the grant will be paid"; the Senate amendment uses the term "for which the Secretary makes the payment".

Legislative Counsel.

96. Technical Difference/Drafting.

Legislative Counsel.

97. The House bill uses the term "shall not pay any local . . ."; the Senate amendment uses the term "may not pay a local . . . amount of a grant award".

Legislative Counsel.

98. Technical Difference/Drafting.

Legislative counsel.

99. The House bill, but not the Senate amendment, includes State expenditures in outlining the combined effort to be taken into account.

The Senate recedes.

100. Technical Difference/Drafting.

Legislative counsel.

Part B—Special Programs and Projects to Improve Educational Opportunities for Indian Children

Improvement of Educational Opportunities for Indian Children

101. The House bill, but not the Senate amendment, uses the term "that are to". Also, the House bill contains an error—"text" should be "test".

The House recedes.

102. Technical Difference/Drafting.

Legislative counsel.

103. The Senate amendment, but not the House bill, uses the term "For the purpose of this section, the term 'eligible entity' means a . . ." and states the entities in the singular.

Legislative counsel.

104. Technical Difference/Drafting.

Legislative counsel.

105. Technical Difference/Drafting.

Legislative counsel.

106. The House bill lists the core curriculum subjects; the Senate amendment references the core academic subjects in Goal three of the GOALS 2000 legislation.

Senate recedes with an amendment.

107. The House bill uses the term "which meet"; the Senate amendment uses the term "that address".

Legislative counsel.

108. The House bill uses the term "high school"; the Senate amendment uses the term "secondary".

The House recedes.

109. The House bill uses the term "services to"; the Senate amendment uses the term "the provision of services to".

Legislative counsel.

110. The House bill uses the term "high school"; the Senate amendment uses the term "secondary".

The House recedes.

111. The House bill uses the term "them"; the Senate amendment uses the term "such students. Also, see preceding note.

The House recedes.

112. Technical Difference/Drafting.

Legislative counsel.

113. Technical Difference/Drafting.

Legislative counsel.

114. The House bill uses the term "other services which meet the needs of this section"; the Senate amendment uses the term "other services that meet the purpose described in subsection (a)(1)".

Legislative counsel.

115. Technical Difference/Drafting.

Legislative counsel.

116. Technical Difference/Drafting.

Legislative counsel.

117. Technical Difference/Drafting.

Legislative counsel.

118. Technical Difference/Drafting.

Legislative counsel.

119. The Senate amendment, but not the House bill, requires that the material disseminated be "exemplary".

The House recedes.

120. The House bill requires that the Secretary make a finding; the Senate amendment requires the Secretary to make a determination. Also, the House bill requires that the material disseminated has shown certain properties; the Senate amendment requires that the material disseminated have demonstrated the same properties.

The House recedes.

121. The House bill uses the term "section"; the Senate amendment uses the term "subsection". Also, the House uses the term "Each application shall contain . . ."; the Senate amendment uses the term "Each application submitted to the Secretary under subparagraph (A) shall contain . . .".

Legislative Counsel.

122. Technical Difference/Drafting.

Legislative Counsel.

123. Technical Difference/Drafting.

124. The Senate amendment, but not the House bill, adds the term "to qualified Indian individuals to enable such individuals to become . . .".

The House recedes.

125. The House bill uses the term "of those presently serving in these capacities"; the Senate amendment uses the term "of qualified Indian individuals who serve in the capacities described in paragraph (2).".

Legislative Counsel.

126. Technical Difference/Drafting.

Legislative Counsel.

127. Technical Difference/Drafting.

Legislative Counsel.

128. The Senate amendment, but not the House bill, authorizes the Secretary to make grants under this provision to eligible entities.

The House recedes.

129. Technical Difference/Drafting.

Legislative Counsel.

130. The House bill uses the term "may include, but are not limited to,"; the Senate amendment uses the term "may include".

The Senate recedes.

131. Technical Difference/Drafting.

Legislative Counsel.

132. Technical Difference/Drafting.

Legislative Counsel.

133. The Senate amendment, but not the House bill, includes a requirement that entities desiring a grant under this provision provide an application.

The House recedes.

134. Technical Difference/Drafting.

Legislative Counsel.

135. Technical Difference/Drafting.

Legislative Counsel.

136. Technical Difference/Drafting.

Legislative Counsel.

137. Technical Difference/Drafting.

Legislative Counsel.

138. The House bill uses the term "mechanism"; the Senate amendment uses the term "a reporting procedure". Also, the House bill requires reporting to begin within 12 months; the Senate bill requires reporting periodically. Also, some Technical Differences/Drafting.

The House recedes.

Fellowships for Indian Students

139. The House bill, but not the Senate amendment, stipulates that "During each fiscal year ending prior to October 1, 1999", the Secretary is authorized to make fellowships.

The House recedes.

140. Technical Difference/Drafting.

Legislative Counsel.

141. Technical Difference/Drafting.

Legislative Counsel.

142. The House bill uses the term "to persons"; the Senate amendment uses the term "to Indian students".

The House recedes.

143. The House bill uses the term "their dependents"; the Senate amendment uses the term "dependents of such students". Also, Technical Difference/Drafting.

The House recedes.

144. The House bill, but not the Senate amendment, stipulates that payments to an institution are in lieu of tuition charged to the student. Also, Technical Difference/Drafting.

The Senate recedes.

145. Technical Difference/Drafting.

Legislative Counsel.

146. The House bill uses the term "By no later than the date that is 45 days before . . ."; the Senate amendment uses the term "Not later than 45 days before . . .". Also, Technical Difference/Drafting.

Legislative Counsel.

147. The House bill stipulates that not more than 10% of the fellowships can be awarded on a priority basis for persons receiving training; the Senate amendment stipulates that not more than 10% of the fellowships are provided to Indian students on a priority basis for the same training.

The Senate recedes.

148. The House bill uses the term "related work"; the Senate amendment stipulates that the work performed must be "related to the training" received. Also, Technical Differences/Drafting.

The House recedes.

149. See Note 138.

The House recedes.

150. The Senate amendment, but not the House bill, stipulates that the Secretary may administer this program through contract or grant or cooperative agreement with an outside, Indian entity with demonstrated capacity.

The House recedes.

Gifted and Talented

151. Technical Difference/Drafting.

Legislative Counsel.

152. The Senate amendment, but not the House bill, stipulates that the two grants are also for demonstration activities.

The House recedes.

153. Technical Difference/Drafting.

Legislative Counsel.

154. The House bill uses the term "are fully accredited"; the Senate amendment uses the term "are accredited by a State or regional accrediting agency or organization".

The Senate recedes.

155. Technical Difference/Drafting.

Legislative Counsel.

156. Technical Difference/Drafting.

Legislative Counsel.

157. Technical Difference/Drafting.

Legislative Counsel.

158. Technical Difference/Drafting.

Legislative Counsel.

159. The House bill uses the term "which hold reasonable promise"; the Senate amendment uses the term "that the Secretary determines holds a reasonable promise . . .".

Legislative Counsel.

160. The House bill uses the term "including, but not limited to"; the Senate amendment uses the term "including".

The Senate recedes.

161. The House bill cites subsection (c); the Senate amendment cites subsection (d).

Legislative Counsel.

162. Technical Difference/Drafting.

Legislative Counsel.

163. Technical Difference/Drafting.

Legislative Counsel.

164. The House bill uses the term "their families"; the Senate amendment uses the term "families of such children.

The House recedes.

165. The Senate amendment, but not the House bill, requires that each entity desiring a grant under this provision submit an application.

The House recedes.

166. The House uses the term "shall provide"; the Senate amendment uses the term "shall award".

Legislative Counsel.

167. Technical Difference/Drafting.

Legislative Counsel.

168. The House bill, but not the Senate amendment, has the word "regarding" after development.

The House recedes.

169. Technical Difference/Drafting.

Legislative Counsel.

170. Technical Difference/Drafting.

Legislative Counsel.

171. Technical Difference/Drafting.

Legislative Counsel.

172. Technical Difference/Drafting.

Legislative Counsel.

173. The House bill, but not the Senate amendment, stipulates that grants may be for one or more of the enumerated activities.

The Senate recedes.

174. Technical Difference/Drafting.

Legislative Counsel.

175. The House bill, but not the Senate amendment, requires that the definition of gifted and talented to be used in this and another provision be expeditiously developed.

The House recedes.

176. The House uses the term "Subject to the availability of appropriated funds . . ."; the Senate amendment uses the term "Subject to the availability of appropriations".

Legislative Counsel.

177. Technical Difference/Drafting.

Legislative Counsel.

178. Technical Difference/Drafting.

Legislative Counsel.

179. Technical Difference/Drafting.

Legislative Counsel.

180. The House bill, but not the Senate amendment, requires the Secretary of Education to report to the Secretary of the Interior and Congress on activities under this provision.

The Senate recedes.

181. Technical Difference/Drafting.

Legislative Counsel.

182. Technical Difference/Drafting.

Legislative Counsel.

183. Technical Difference/Drafting.

Legislative Counsel.

184. The House bill uses the term "persons to whom a grant is made, or with whom a contract is entered into,"; the Senate amendment uses the term "each recipient of a grant or contract under this section".

Legislative Counsel.

185. Technical Difference/Drafting.

Legislative Counsel.

186. The Senate amendment, but not the House bill, uses the term "of the United States".

The Senate recedes.

Grants for Evaluation and Technical Assistance

187. The Senate amendment, but not the House bill, authorizes regional technical assistance centers. $8,000,000 are authorized for each fiscal year 1995 through 1999 for these centers.

Grants to Tribes for Education Administrative Planning and Development

188. The Senate amendment, but not the House bill, includes an authority for grants for tribes for education administrative planning and development. $3,000,000 is authorized in each fiscal year 1995 through 1999 for these grants.

The House recedes with an amendment that the same tribe may not also receive a grant under the Department of Interior authority for Tribal Departments of Education.

The Conferees wish to point out the provision in this section which precludes a tribe currently receiving funds under the Bureau of Indian Affairs program for Tribal Divisions of Education from receiving funds under this section.

Part C—Special Education Programs Relating to Adult Education for Indians

Improvement of Educational Opportunities for Adult Indians

189. Technical Difference/Drafting.

Legislative Counsel.

190. The House bill uses the term "the provision of basic literacy opportunities"; the Senate amendment uses the term basic literacy opportunities".

Legislative Counsel.

191. The House bill uses the term "high school equivalency certificate"; the Senate amendment uses the term "secondary school diploma, or its recognized equivalent,".

The House recedes.

192. See preceding Note.

The House recedes.

193. See preceding Note.

The House recedes.

194. Technical Difference/Drafting.

Legislative Counsel.

195. Technical Difference/Drafting.

Legislative Counsel.

196. The House uses the term "evaluations thereof"; the Senate amendment uses the term "evaluations of the programs, services and resources . . .".

The House recedes.

197. Technical Difference/Drafting.

Legislative Counsel.

198. The Senate amendment, but not the House bill, adds the term "and the objectives to be achieved".

The House recedes.

199. Technical Difference/Drafting.

Legislative Counsel.

200. Technical Difference/Drafting.

Legislative Counsel.

201. The Senate amendment, but not the House bill, uses the term "appropriate tribal communities".

The House recedes.

202. The House bill uses the term "of the project"; the Senate amendment uses the term "of the activities to be assisted".

Legislative Counsel.

203. Technical Difference/Drafting.

Legislative Counsel.

204. The House BILL title is PART D—NATIONAL ACTIVITIES AND GRANTS TO STATES; the Senate amendment title is PART D—NATIONAL RESEARCH ACTIVITIES.

The House recedes.

National Activities

205. Technical Difference/Drafting.

Legislative Counsel.

206. The House bill uses the term "Act"; the Senate amendment uses the term "title".

Legislative Counsel.

207. The House bill uses the term "Office of Educational Research . . ."; the Senate amendment uses the term "the Assistant Secretary for Educational Research . . .".

The Senate recedes.

208. Technical Difference/Drafting.

Legislative Counsel.

209. The House bill, but not the Senate amendment, requires each local educational agency to submit their application under this title to the appropriate State Educational Agency for comment, allows the SEA to send such comments to the Secretary, with the Secretary taking such comments as are transmitted into account in reviewing the application.

The Senate recedes with an amendment which; (1) stipulates this requirement applies to all entities except B.I.A. funded schools; (2) stipulates that if it wishes to comment on any applications, the S.E.A. must comment on all applications and do so within 45 days of their receipt; (3) stipulates the S.E.A. will provide each entity with a copy of its comments and that each entity shall have an opportunity to respond; and (4) stipulates that the Secretary may waive this provision if he/she determines it impedes the application process.

Part E—Federal Administration

210. The House bill, but not the Senate amendment, sets forth the Office of Indian Education, and sets requirements for such Office and its Director.

The Senate recedes with an amendment deleting (b)(3).

National Advisory Council on Indian Education

211. The House uses the term "There shall be a . . ."; the Senate amendment uses the term "There is established . . .".

Legislative Counsel.

212. The House bill uses the term "areas of the country"; the Senate amendment uses the term "areas of the United States"/

The House recedes.

213. Technical Differences/Drafting.

Legislative Counsel.

214. The House uses the term "for which the Secretary is responsible"; the Senate amendment uses the term "with respect to which the Secretary has jurisdiction".

The House recedes.

215. Technical Difference/Drafting.

Legislative Counsel.

216. Technical Difference/Drafting.

Legislative Counsel.

217. Technical Difference/Drafting.

Legislative Counsel.

Peer Review

218. Technical Difference/Drafting.

Legislative Counsel.

Preference for Indian Applicants

219. The House uses the term "parts B and C of this title"; the Senate amendment uses the term "part B, C, or D,".

The House recedes.

220. Technical Difference/Drafting.

Legislative Counsel.

Minimum Grant Criteria

221. Technical Difference/Drafting.

Legislative Counsel.

222. Technical Difference/Drafting.

Legislative Counsel.

Part F—Definitions; Authorizations of Appropriations

Definitions

223. Technical Difference/Drafting.

Legislative Counsel.

224. Technical Difference/Drafting.

Legislative Counsel.

225. Technical Difference/Drafting.

Legislative Counsel.

226. The Senate amendment, but not the House bill, includes in the definition any member of an organized Indian group that received a grant under this title prior to the enactment of this Act.

The House recedes. The Managers wish to make it clear that by deleting the term "other organized group" from the definition above and by including this provision, they do not intend to make a substantive change to the pool of student eligible to benefit from this program. The Managers are simply agreeing to an Administration recommendation that such a change would simplify administering the program, without cutting any students or groups out of participation. Groups which have been covered under the umbris of "other organized group" in the past would still qualify as a "band".

Authorization of Appropriations

227. Technical Differences/Drafting.

Legislative Counsel.

228. The House bill authorizes $20,925,000 for FY 1995 for parts B, C, and D. The Senate amendment authorizes $31,925,000 for FY 1995 for the same provisions.

The House recedes with an amendment cutting the Fiscal Year 1995 amount to $26 Million.

229. Technical Difference/Drafting.

Legislative Counsel.

230. Technical Difference/Drafting.

Legislative Counsel.

Native Hawaiian Education

Findings

1. The House bill and Senate amendment have similar, but not identical, findings concerning the history of Hawaii and its move towards sovereignty.

Legislative Counsel.

2. Language in the House bill and Senate amendment is similar, but not identical, concerning the special relationship which exists between the United States and the Native Hawaiian people.

Legislative Counsel.

3. The Senate amendment, but not the House bill, notes the decline in the Native Hawaiian population from 1778 to 1921.

The House recedes.

4. Technical difference.

Legislative Counsel.

5. The House bill, but not the Senate amendment, refers to the Act of June 20, 1938, where the U.S. Congress acknowledged the unique status of the Hawaiian people.

The Senate recedes.

5(a) The House bill, but not the Senate amendment, refers to the U.S. establishing educational programs to benefit Native Hawaiians.

The Senate recedes.

6. The House bill refers to "the Native American Programs Act of 1992, as amended" and the "National Historic Act Amendments of 1992". The Senate amendment refers to "the National Museum of the American Indian Act", "National Historic Preservation Act", and the "Native American Languages Act".

The House recedes with an amendment to combine the House and Senate provisions.

7. The House bill lists the special provisions the U.S. Congress has passed recognizing the trust relationship between the U.S. and the Native Hawaiian people. The Senate amendment simply states "numerous special provisions of law for the benefit of Native Hawaiians in the areas of health, education, labor, and housing.

The House recedes.

8. The House bill, but not the Senate amendment, recognizes that a lower educational attainment among Native Hawaiians has been related to lower socioeconomic outcomes.

The House recedes.

9. The House bill, but not the Senate amendment, indicates that Native Hawaiian students are disproportionately underrepresented in Institutions of Higher Education.

The House recedes.

10. The House bill, but not the Senate amendment, states that Native Hawaiians are underrepresented in traditional white collar and health care professions, while being overrepresented in service occupations.

The House recedes.

11. The Senate amendment, but not the House bill, refers to the 1988 enactment of title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988.

The House recedes.

12. Technical difference.

Legislative Counsel.

13. The House bill and the Senate amendment, in similar, yet not identical, language refer to Native Hawaiian children's educational risk factors.

The House recedes.

14. The House bill, but not the Senate amendment, states "special efforts in education recognizing the unique cultural and historical circumstances of Native Hawaiians are required."

The House recedes.

15. The Senate amendment, but not the House bill, refers to the underrepresentation of Native Hawaiians in institutions of higher education and among adults who have completed four or more years of college.

The House recedes.

16. The Senate amendment, but not the House bill, refers to high retainment and absenteeism rates among Native Hawaiian students.

The House recedes.

17. The Senate amendment, but not the House bill, states that Native Hawaiian students are the highest drug and alcohol users.

The House recedes with amendment, adding "in the State of Hawaii" after "alcohol" in paragraph (ii).

18. The Senate amendment, but not the House bill, states that Native Hawaiian children continue to be disproportionately victimized by child abuse and neglect.

The House recedes.

19. The Senate amendment, but not the House bill, refers to the 23% of the students served by the State of Hawaii's Department of Education and their residence in rural, isolated areas.

The House recedes.

20. The Senate amendment, but not the House bill, refers to contradictions between findings listed in paragraphs (1) through (15) and the high rate of literacy and integration of traditional culture and Western education achieved by Native Hawaiians through a Hawaiian language-based public school system.

The House recedes.

21. The Senate amendment, but not the House bill, refers to the "Native Hawaiian Educational Assessment Project" released in 1983 by the Office of Education to Congress and its findings.

The House recedes.

21.(a) The Senate amendment, but not the House bill, notes that the Kamehameha Schools Bishop Estate released a ten-year update of the Native Hawaiian Educational Assessment Project.

The House recedes.

22. The Senate amendment, but not the House bill, mentions the banning of Hawaiian medium schools.

The House recedes.

23. The Senate amendment, but not the House bill, refers to the Native Hawaiians' determination to "preserve, develop, and transmit to future generations their ancestral territory".

The House recedes.

24. The Senate amendment, but not the House bill, to the distinct land rights of the Native Hawaiian people.

The Senate recedes.

25. The Senate amendment, but not the House bill, mentions the distinct land rights of Native Hawaiians and their unique religious customs and beliefs.

The House recedes.

26. The Senate amendment, but not the House bill, recognizes the traditional language of the Native Hawaiian people as an official language of the State of Hawaii.

The House recedes.

Purpose

27. The House bill states educational programs are to "assist" Native Hawaiians in "reaching the National Educational Goals". The Senate amendment simply states educational programs are to "benefit" Native Hawaiians.

The Senate recedes.

28. The Senate amendment, but not the House bill, refers to the establishment of a Native Hawaiian Education Council and five island councils.

The House recedes.

29. The House bill states the purpose of this part includes the "encouragement of maximum participation of Native Hawaiians in planning and management of Native Hawaiian Education Programs." The Senate amendment refers to this concept in the findings.

The Senate recedes.

Establishment

30. Both the House bill and the Senate amendment provide for a Native Hawaiian Education Council. The Senate amendment, but not the House bill, includes the provision for island councils.

The House recedes.

Composition

31. The Senate amendment, but not the House bill, states the Education Council shall consist of not more than 25 members.

The House recedes.

32. The House bill, but not the Senate amendment, states the composition of the council shall consist of, "but not be limited to", "representatives of each of the programs which receive Federal funding under this part"; "a representative from the Office of the Governor"; "a representative from the Office of Hawaiian Affairs"; "representatives of other Native Hawaiian Educational organizations and Native Hawaiian organizations

which receive Federal or state education funds"; and "parent, student, educator, and community organizations".

The House recedes.

33. The Senate amendment, but not the House bill, includes in its member list, "each recipient of funds from the Secretary under this part"; a representative from the Office of Hawaiian Affairs, Department of Education in Hawaii, and specifically mentioned educational organizations.

The House recedes.

34. The Senate amendment, but not the House bill, states a representative will serve on the council from "each Native Hawaiian education island council established under subsection (f)".

The House recedes.

Conditions and Terms

35. The House bill indicates that at least half of the members shall be Native Hawaiians. The Senate amendment states that at least three-fourths of the members shall be Native Hawaiians.

The House recedes.

36. The House bill states that members of the Education Council will serve for five year terms. The Senate amendment states members will be appointed for three-year terms.

The House recedes.

Duties and Responsibilities

37. The House bill and the Senate amendment state the Education Council will provide information to Congress. The Senate amendment, not the House bill, specifically states particular entities to which the reports will be delivered.

The House recedes.

37(a). The House bill, but not the Senate amendment, states that the Secretary shall, whenever practicable, consult with the Council before taking any significant action related to the education of Native Hawaiians.

The House recedes.

38. The Senate amendment, but not the House bill, refers to island councils and the support the Education Council will provide these councils.

The House recedes.

Administrative Provisions

39. The House bill, but not the Senate amendment, makes a statement that the Council will meet at the call of the Chair, or upon the request of the majority of the Council.

The Senate recedes.

40. The Senate amendment, but not the House bill, outlines the purpose of the administrative grant for the Education Council.

The House recedes.

Compensation

41. The House bill, but not the Senate amendment, requires that compensation for service will not be given to any member of the Native Hawaiian Council.

The Senate recedes.

Report to Congress

42. The House bill, but not the Senate amendment mandates a report to Congress not later than 4 years after the date of enactment of the Improving America's Schools Act.

The Senate recedes.

Establishment of Island Councils

43. The Senate amendment, but not the House bill, introduces island councils and their composition. Specific administrative provisions, compensation, report requirements, and authorization of appropriations are described.

The House recedes.

Application Required

44. The Senate amendment, but not the House bill, articulates the application required for a grant that is to be made to the Secretary in order to carry out the provisions of this part.

The House recedes.

Native Hawaiian Language Immersion Authority

45. The House bill, but not the Senate amendment details a state-wide effort to revitalize the Native Hawaiian language. Administrative costs are set at no more than 7 percent of the funds appropriated. Authorized appropriations are to be $1,500,000 for fiscal year 1995 and such sums as may be necessary for fiscal years 1996 through 1999.

The House recedes.

Native Hawaiian Family-Based Education Centers

46. The Senate amendment, but not the House bill, states educational entities with "experience" in developing or operating Native Hawaiian programs. The House bill does not use "experience".

The House recedes.

47. The House bill states that a minimum of eleven Family-Based Education Centers throughout the Hawaiian Islands be developed. The Senate amendment refers to no such minimum.

The House recedes.

48. The Senate amendment, but not the House bill, articulates that the programs of such centers "may be conducted in either the Hawaiian language, the English language, or a combination thereof".

The House recedes.

49. Technical difference.

Legislative Counsel.

Native Hawaiian Higher Education Demonstration Program

50. The House bill, but not the Senate amendment, states that the Secretary shall make grants to the Kamehameha Schools/Bernice Pauahi Bishop Estate. The Senate amendment generalizes, stating grants will be given to Native Hawaiian educational organizations.

The House recedes.

Mandatory Activities

51. The Senate amendment, but not the House bill states mandatory activities include full or partial fellowship support for Native Hawaiian students enrolled in higher institutions of education. The House bill simply says "may include".

The Senate recedes.

52. The Senate amendment, but not the House bill, includes "fellowship" in its conditions of recipients.

The Senate recedes.

53. The Senate amendment, but not the House bill, includes a section titled "Permitted Activities" listing those which the House bill mentions under no such subsection.

The Senate recedes.

54. Technical differences.

Legislative Counsel.

55. The House bill, but not the Senate amendment, has a section titled "Grants Authorized".

The House recedes.

56. The Senate amendment, but not the House bill, specifies "fellowship" recipients.

Legislative Counsel.

57. The Senate amendment, but not the House bill, refers to the completion of a baccalaureate program.

The House recedes.

58. The House bill, but not the Senate amendment, includes "within the State of Hawaii" after "Native Hawaiian community".

The House recedes.

Special Rule

59. The House bill, but not the Senate amendment, includes a special rule that no policy be implemented to prevent a Native Hawaiian student enrolled at a higher education institution outside of the State of Hawaii from receiving a fellowship.

The Senate recedes.

Authorization of Appropriations

60. The House bill, but not the Senate amendment, authorizes $1,500,000 for fiscal year 1995 and such sums may be necessary for fiscal year 1996 through 1999 for funding fellowship assistance demonstration project provided under subsection (b).

The House recedes.

Native Hawaiian Gifted and Talented Program

61. The House bill, but not the Senate amendment, states there will be an establishment of a Native Hawaiian Gifted and Talented Center at the University of Hawaii at Hilo. The Senate amendment does not specify a program at the University.

The House recedes. (on title as well)

62. The House bill, but not the Senate amendment, specifies demonstration projects will be designed to address gifted and talented students. The Senate amendment makes no reference to demonstration projects.

The House recedes.

63. The House bill, but not the Senate amendment, details the terms of the grant or contract.

The House recedes.

64. The House bill, but not the Senate amendment, states that "such grant or contract shall be subject to the availability of appropriated funds and, contingent on satisfactory performance by the grantee".

The House recedes.

Uses of Funds

65. The Senate amendment, but not the House bill, specifies "Native Hawaiian" gifted and talented students.

The House recedes.

66. The House bill, but not the Senate amendment, incorporates public television in meeting educational needs of gifted and talented children.

The House recedes.

67. The Senate amendment, but not the House bill, refers to coordination with "other Native American gifted and talented programs."

The House recedes.

Information Provision

68. The House bill, but not the Senate amendment, states the Secretary will establish a national network of Native Hawaiian and American Indian Gifted and Talented Centers and impart any information to the educational community.

The Senate recedes with an amendment striking "shall" and inserting "is authorized to".

69. The House bill provides $2,000,000 for fiscal year 1995 and such necessary sums for fiscal years 1996 through 1999. The Senate amendment provides $1,500,000 for fiscal year 1995, and necessary sums for each of the succeeding 4 fiscal years.

The House recedes.

Special Education Authority

70. The House bill, but not the Senate amendment, refers to Pihana Na Mamo,

while the Senate amendment mentions general educational organizations.

The House recedes.

71. The House bill uses "children"; the Senate amendment uses "students".

The House recedes.

72. The Senate amendment, but not the House bill, refers to emotional impairments.

The House recedes with amendment, striking "learning" and "mental or physical disabilities, emotional impairments".

73. The House bill, but not the Senate amendment, refers to children at the elementary school level.

The House recedes.

73.(a) The Senate amendment, but not the House bill, refers to part B of the Education of Individuals with Disabilities Education Act.

The House recedes.

74. The Senate amendment, but not the House bill, refers to "the conduct of educational, psychosocial, and developmental activities" of Native Hawaiian students.

The House recedes.

75. The Senate amendment, but not the House bill, refers to "appropriate research, evaluation, and related activities".

The House recedes.

76. The House bill, but not the Senate amendment, refers to the Secretary who may not make a grant or provide funds pursuant to a contract under this subsection.

The House recedes.

77. The House bill, but not the Senate amendment, discusses non-Federal contributions.

The House recedes.

Application Required

78. The House bill, but not the Senate amendment, refers to an "application required" to be submitted to the Secretary.

The Senate recedes.

Definitions

79. The House bill and the Senate amendment have similar, but not identical, language defining the term "Native Hawaiian". The House bill states specifically "a citizen of the United States", and a "resident of the State of Hawaii".

The Senate recedes.

80. The House bill states "birth records of the State of Hawaii", where the Senate amendment merely states "certified birth records".

The House recedes.

The conferees intend that genealogical records should be defined to include birth, marriage and death records.

81. The House bill, but not the Senate amendment, mentions the term "Secretary" as meaning the Secretary of Education.

The House recedes.

82. The House bill, but not the Senate amendment, refers to "demonstrated expertise in research and program development".

The Senate recedes.

83. The House bill, but not the Senate amendment, includes the definition of a "Native Hawaiian Organization".

The Senate recedes.

84. The House bill, but not the Senate amendment, includes the term "elementary school" as meaning the same as indicated section 9101 of the same act.

The House recedes.

85. The Senate amendment, but not the House bill, refers to the definition of "Native Hawaiian language" and the term "Office of Hawaiian Affairs".

The House recedes.

86. The Senate amendment, but not the House bill, refers to the definition of "Native Hawaiian community-based organization".

The House recedes.

87. The House bill, but not the Senate amendment, includes the term "local educational agency".

The House recedes.

88. The House bill, but not the Senate amendment, includes the term "secondary school".

The House recedes.

89. The Senate amendment, but not the House bill, includes Native Hawaiian Curriculum Development, Teacher Training and Recruitment Program. Specifics mentioned are curricular development, preteacher training, inservice teacher training, and teacher recruitment. Administrative costs are to be not more than 7 percent of the funds appropriated for fiscal year 1995 and such necessary sums for each of the 4 succeeding fiscal years.

The House recedes, with an amendment: in paragraph (b) PRIORITY: insert after "(a) that" a "(1)" and insert after "youth or" a "(2)" and add after the end of the sentence "provided that entities receiving grants award pursuant to (b)(2) of this subsection coordinate in the development of new curricula".

90. The Senate amendment, but not the House bill, refers to Native Hawaiian Community-Based Education Learning Centers. Authorization appropriations are to be $1 million for FY 95, and such sums as may be necessary for each of the 4 succeeding fiscal year.

The House recedes.

Alaska Native Education

10. The Senate amendment, but not the House bill, contains a provision authorizing $5 million for an Alaska Native Education program, $2 million for an Alaska Native Home Based Education for Preschool Children program, and $1,000,000 for an Alaska Native Student Enrichment program.

The House recedes, moving the provision to a new Title IX.

TITLE X—SMALL BUT SIGNIFICANT PROGRAMS

The House bill cites this title as "Title II-Expanding Opportunities For Learning". The Senate amendment cites this title as "Title VIII-Programs of National Significance." The House recedes.

Fund for the Improvement of Education

Authorization

In paragraph (a), the House bill refers to "challenging standards." The Senate amendment refers to challenging State content standards and challenging State student performance standards." The House recedes.

Use of Funds

The House bill, but not the Senate amendment, permits research and development on content and performance standards and opportunity-to-learn standards. The Senate recedes with a amendment, inserting "or strategies" after "standards."

In paragraph (A)(i), the Senate amendment provides for the elimination of grouping practices and the development of programs that place all students on a college preparatory path of study. The House does not. The House recedes with an amendment, striking all language beginning with "and" after "practices" paragraph (i).

In paragraph (A)(ii,) the Senate amendment provides for the development and evaluation of programs with strong parental involvement. The House does not. The House recedes.

In paragraph (A)(iii), the Senate amendment provides for the development and evaluation of strategies for integrating instruction and assessment. The House does not. The House recedes.

In paragraph (A)(iv), the Senate amendment provides for the development and evaluation of strategies for supporting professional development for teachers, counselors, and administrators. The House recedes with an amendment, inserting "pupil services personnel, including" before "guidance counselors."

The House bill refers to "public school choice in accordance with the requirements of part C." The Senate amendment refers to "public school choice."

The Senate recedes.

The Senate amendment refers to "Federal agencies, such as the National Science Foundation, the Department of Health and Human Services, and the Department of Labor, and with institutions of higher learning to assist the effort to achieve the National Education Goals". The House bill refers to "agencies to assist the effort to achieve the National Education Goals."

The Senate recedes.

The Senate amendment refers to "activities to promote and evaluate coordinated pupil service programs". The House bill has no such provision.

The House recedes.

The House bill refers to "(G) activities to promote consumer, economic, and personal finance education". The Senate amendment refers to "(K) activities to promote consumer education, such as saving, investing, and entrepreneurial education." The Senate recedes with an amendment, adding "such as saving, investing, and entrepreneurial education;" after "education;".

The Senate amendment refers to " activities to promote metric education". The House bill has no such provision.

The House recedes.

The House bill refers to "the identification and recognition of exemplary schools and programs, such as Blue Ribbon Schools". The Senate amendment has no such provision.

The Senate recedes.

The House bill refers to programs to reduce student mobility. The Senate amendment has no such provision.

The Senate recedes.

The House bill refers to public-private partnerships which would permit students to bring computers home. The Senate amendment has no such provision.

The Senate recedes.

The House bill has no parallel provisions to Senate amendment items: "(M)", "(N)", "(O)", "(P)", "(R)", "(T)." The House recedes with an amendment striking paragraphs "(N)" and "(T)" and modifying "(R)" to read as follows: "demonstrations relating to the planning and evaluation of the effectiveness of projects under which LEAs or schools contract with private management organizations to reform a school or schools."

In paragraph (2)(A), (B) and (C), the House bill provides for the establishment, content, and mission of the National Center for Second Language Development. The Senate amendment has no such provisions.

The House recedes.

Awards

Authorization

1. The House bill refers to "fiscal years 1196, 1997, 1998, and 1999." The Senate amendment refers to "4 succeeding fiscal years." The House recedes with an amendment authorizing FIE at $50,000,000.

Gifted and Talented Students

Findings

The House bill refers to the standards "high"; the Senate amendment describes standards as "challenging State content standards and challenging State student performance standards."

The House recedes.

The Senate amendment, but not the House bill, notes the experience gained should be used as a basis to "provide all students with important and challenging subject matter to study and encourage the habits of hard work."

The House recedes.

Definitions

The House bill, but not the Senate amendment, defines gifted and talented students as youth exhibiting a high performance capability and require services or activities not ordinarily provided by the school in order to fully develop their capabilities.

The House recedes.

Construction

The Senate amendment, but not the House bill, clarifies that a "recipient of funds under this part" will not be precluded from "serving gifted students simultaneously with students with similar educational needs, in the same educational setting."

The House recedes.

Establishment of Program

Uses of Funds

The Senate amendment, but not the House bill, refers to parents involved in gifted and talented programs.

The House recedes.

The Senate amendment, but not the House bill, includes the implementation of innovative strategies, such as cooperative learning, peer tutoring and service learning as programs using funding. The House recedes.

Establishment of National Center

Limitation

The House bill states a limitation of not more than 30 percent of available funds in a fiscal year for a program authorized by this section to carry out activities pursuant to subsections (b)(5) or (c). The Senate amendment limits programs authorized by this section and its activities pursuant to subsection (b)(7) or (c) to not more than $1,750,000. The Senate recedes.

General Priority

The House bill, but not the Senate amendment includes "such as mentoring and apprenticeship program." The Senate recedes.

Review, Dissemination, and Evaluation

The House bill refers to "results of projects". The Senate amendment refers to "results of programs and projects." The House recedes.

The Senate amendment states that the programs shall be evaluated under this part in accordance with section 10701. The House bill states the programs will be evaluated under this part. The House recedes.

Administration

The House bill states specific duties of the administrative unit. The Senate amendment simply states that this administrative unit shall serve as a "focal point of national leadership and information on mechanisms to carry out the purpose of this part." The Senate recedes with an amendment, moving the Senate language regarding a person in the Department to administer these programs, "The Secretary . . . who shall", replacing the House language "The Secretary shall . . .", keeping the House's list of duties.

Authorization of Appropriations

The House bill authorizes appropriations of $10,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996, 1997, 1998, and 1999. The Senate amendment authorizes appropriations of $20,000,000 for fiscal year 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years. The Senate recedes.

The Senate amendment includes a trigger for appropriations, the House bill does not. The senate recedes.

Public Charter Schools

The conferees intend that public entities authorized under state law have some relation to education and be capable of carrying out oversight, fiduciary and other administrative requirements related carry out such a grant.

Purpose

The House bill refers to "SEC. 3401. PURPOSE." The Senate amendment refers to "SEC. 8201. FINDINGS AND PURPOSE." The House recedes.

The House bill refers to "those schools on improving student achievement". The Senate amendment refers to "such schools." The House recedes with an amendment inserting "student achievement," after "students."

Findings

The Senate amendment, but not the House bill, presents findings on charter schools. The House recedes with amendments striking "new schools developed through such process should be free to test" at the beginning of paragraph (3) and in inserting "Charter Schools are a mechanism for testing"; and inserting "educationally disadvantaged" before students the first time it appears.

Program Authorized

The Senate amendment, but not the House bill, specifies that applications be approved pursuant to section 8203 and in accordance with this part. The House recedes.

The Senate amendment refers to "(b) SPECIAL RULE.—". The House has no such provision. The House recedes.

Project Periods

The Senate amendment, but not the House bill, creates two subparts: "GRANTS TO STATES" and "GRANTS TO ELIGIBLE APPLICANTS." The House recedes.

Limitation

The Senate amendment, but not the House bill, refers to "and State educational agencies shall not award more than one subgrant under this part." The House recedes.

Applications

The House bill heading reads in part "APPLICATIONS REQUIRED". The Senate amendment reads in part "APPLICATIONS FROM STATE AGENCIES." The House recedes.

The House bill and Senate amendment use different language to convey the same provision. However, the Senate amendment, but not the House bill, refers to "and containing or accompanied by such information as the Secretary may require." The House recedes.

The House bill, but not the Senate amendment, refers to "(b) SCOPE OF APPLICATION". The House recedes.

The House bill refers to "(c) APPLICATION CONTENTS.—Each such application shall include, for each charter school for which assistance is sought—". The Senate amendment refers to "(b) CONTENTS OF A STATE EDUCATIONAL AGENCY.—Each application submitted pursuant to subsection (a) shall—". The House recedes.

In paragraph (b)(1), the Senate amendment, but not the House bill, provides that applicants describe which objectives are to be fulfilled and how they will be accomplished. The House recedes.

In paragraph (3), the Senate amendment, but not the House bill, establishes that agencies desiring to be awarded a subgrant submit an application. The House recedes.

The House bill refers to "the local educational agency that will authorize or approve the school's charter and act as the grantee under this act". The Senate amendment refers to "the authorized public chartering agency." The House recedes.

The House refers to "local educational agency" and "the school is successful". The Senate amendment refers to "authorized public chartering agency" and "the school has met the objectives described in subparagraph (C)(i)." The House recedes.

The House bill, but not the Senate amendment, refers to "a description of any State or local rules, generally applicable to public schools, that will be waived for, or otherwise not apply to, the school." The Senate recedes.

The Senate amendment, but not the House bill, refers to "subgrant funds or grant funds, as appropriate, will be used, including a description of how such funds will be used in conjunction with other Federal programs administered by the Secretary." The House recedes.

The Senate amendment, but not the House bill, refers to "and the State educational agency." The House recedes.

The Senate amendment refers to "and the State educational agency in evaluating the program assisted under this part". The House bill refers to "in evaluating the program authorized by this part." The House recedes.

The Senate amendment, but not the House bill, refers to "and the State educational agency." The House recedes with an amendment inserting "Consistent with Section 8202(b)" before "Each".

The House bill heading in part reads "STATE EDUCATIONAL AGENCY APPROVAL REQUIRED.—" The Senate amendment reads "APPLICATIONS FROM ELIGIBLE APPLICANTS." The House recedes with an amendment striking "Eligible Agency."

The Senate amendment, but not the House bill, details content to be included in applications and the process by which an application shall be submitted. The House recedes with an amendment striking "sentence" and inserting "subsection."

Administration

The Senate amendment, but not the House bill, provides for the administration of the selection of applicants.

The House recedes with an amendment inserting "assisting educationally disadvantaged and other students" after "make to."

Selection of Grantees; Waivers

The House bill refers to "(a) CRITERIA.—The Secretary shall select". The Senate amendment refers to "(b) SELECTION CRITERIA FOR ELIGIBLE APPLICANTS.—The Secretary shall award" and includes "submitted under section 8203, after." The House recedes.

The Senate amendment refers to "State educational agency" and "charter school". The House bill refers to "State" and "school". The House recedes.

The House bill refers to "the plan". The Senate amendment refers to "the process." The House recedes with an amendment changing "process" to "strategy."

The House bill refers to "school". The Senate amendment refers to "charter school." The House recedes.

Peer Review

The Senate heading reads in part "(c)." The House reads "(b)." The House recedes.

The Senate amendment refers to "assistance under this part". The House bill refers to "grants under this section." The House recedes.

Diversity of Projects

The Senate amendment, but not the House bill, refers to "such as approaches designed to reduce school size." The House recedes.

Waivers

The Senate heading reads in part "(e)." The House reads "(d)." The House recedes.

Uses of Funds

The House bill and Senate amendment headings differ throughout this section. The House recedes.

Allowable Activities

The House bill refers to "(B) acquiring necessary equipment". The Senate amendment refers to "(ii) acquiring necessary equipment and educational materials and supplies." The House recedes.

The Senate amendment, but not the House bill, permits minor remodeling. The House recedes.

The Senate, but not the House, includes "ADMINISTRATIVE EXPENSES" and "REVOLVING LOAN FUNDS." The Senate recedes.

National activities

The House bill refers to "up to 10 percent of the funds appropriated for this part". The Senate amendment refers to "not more than 10 percent of the funds available to carry out this part." The House recedes.

The Senate amendment, but not the House bill, lists other activities assisted under this part. The Senate recedes.

Definitions

The House bill, but not the Senate amendment, refers to "the following terms have the following means." The House recedes with amendment striking "(C)."

In paragraph (B), the Senate amendment includes "and is operated under public supervision and direction." The House recedes.

In paragraph (C), The House bill refers to "the local educational agency applying for a grant on behalf of the school". The Senate amendment refers to "the authorized public chartering agency." The House recedes.

In paragraph (I), the House refers to "public schools". The Senate refers to "schools." The House recedes.

The House, but not the Senate, refers to "(K)." The Senate recedes.

The House bill and Senate amendment use different language to convey the same provision in "(3)." The Senate recedes.

The Senate, but not the House, defines "authorized public chartering agency." The House recedes.

Authorization of Appropriations

2. The House bill refers to "the fiscal years 1996, 1997, 1998, and 1999." The Senate amendment refers to "the 4 succeeding fiscal years." The House recedes with an amendment inserting "and approved by the Secretary" after "state law."

Arts in Education

Findings

The Senate amendment but not the House bill finds that participation in performing arts activities has proven to be an effective strategy for promoting the inclusion of persons with disabilities in mainstream settings. The House recedes.

The Senate amendment but not the House bill finds that opportunities in the arts have enabled persons of all ages with disabilities to participate more fully in school and community activities. The House recedes.

The House bill, but not the Senate amendment, finds that the arts can motivate at-risk students to stay in school and become active participants in the educational process.

The Senate recedes.

Purpose

The House bill states that a purpose of the bill is to help ensure that all students have the opportunity to learn challenging standards in the arts. The Senate bill refers to State content standards and State student performance standards. The House recedes.

Eligible Recipients

The Senate amendment, but not the House bill, includes museums and other cultural institutions as eligible recipients. The House recedes.

Authorized Activities

The Senate amendment, but not the House bill, includes as an authorized activity supporting collaborative activities with Very Special Arts. The House recedes.

The House bill states that authorized activities include supporting model projects and programs in the arts for individuals with disabilities through arrangements with the organization, Very Special Arts. The Senate amendment states that authorized activities include supported model projects and programs developed by Very Special Arts which assure the participation in mainstream settings in arts and education programs of persons of all ages with disabilities. The House recedes with an amendment, striking "developed" and "of all ages" in paragraph (8).

Coordination

The Senate amendment, but not the House bill, includes Very Special Arts. Technical difference. The House recedes.

The Senate amendment, not the House bill, states that if the amount appropriated for any fiscal year is $9 million or less, such amount shall only be available to support model projects and programs developed by Very Special Arts which assure the participation in mainstream settings in arts and education programs of persons of all ages with disabilities and such projects and programs in the performing arts for children and youth through arrangements made with the John F. Kennedy Center for the Performing Arts. The House recedes.

Inexpensive Book Distribution Program

Authorization

The Senate amendment, but not the House bill, refers to (RIF). The House recedes.

Requirements of Contract

The House bill refers to "children up through high school age, including those in family literacy programs." The Senate amendment refers to "children from birth through secondary school age." The House recedes with an amendment, adding "including those in family literacy programs" after "secondary school age."

The House bill, but not the Senate amendment, refers to children with disabilities "including those with serious emotional disturbance." The House recedes.

Definition of Federal Share

The Senate amendment, but not the House bill, refers to 100 percent "of such costs to the subcontractor." The House recedes.

The House bill states that the federal share "shall not exceed 75 percent." The Senate amendment states that the federal share shall be 75 percent. The House recedes.

The House bill authorizes $10.3 million for Fiscal Year 1995 and such sums for 1996, 1997, 1998 and 1999. The Senate amendment authorizes $11 million for Fiscal 1995 and such sums for each of the four succeeding fiscal years. The Senate recedes.

Civic Education

General Authority

The House bill says the Secretary "shall." The Senate amendment say the Secretary "is authorized." The House recedes.

Contract or Grant Authorized

The House bill refers to "the program required by paragraph (1). The Senate amendment refers to "the program described in paragraph (1). The House recedes.

Special Rule

The House bill refers to "advanced training of teachers in civics and government." The Senate amendment refers to "advanced training of teachers about the United States Constitution and the political system the United States created." The House recedes.

The Senate amendment, but not the House bill, refers to a course of instruction in the middle school level. The House recedes.

Program Established

The House bill says the Secretary "shall." The Senate amendment says the Secretary "is authorized." The House recedes.

The House bill refers to "challenging content standards." The Senate amendment refers to "challenging State content standards and challenging State student performance standards." The House recedes.

Authorized Activities

The House bill refers to "our system of government." The Senate amendment refers to "our Nation's system of government." The House recedes.

The Senate amendment, but not the House bill, refers to "respect for cultural diversity and acceptance of cultural differences." The House recedes.

Report

The Senate amendment, but not the House bill, refers to section 10701. The Senate recedes.

Authorization of Appropriations

The House bill authorizes $15 million for Fiscal 1995 and such sums for 1996, 1997, 1998, and 1999. The Senate amendment authorizes $20 million for Fiscal 1997 and such sums for each of the succeeding four fiscal years. The Senate recedes.

The House bill allocates 40% for section 3701 and 60% for section 3702. The Senate amendment allocates 50% for section 8251 and 50% for section 8252. The Senate recedes.

Native Hawaiian Education

Findings

The Senate amendment, but not the House bill, notes the decline in the Native Hawaiian population from 1778 to 1921. The House recedes.

The House bill, but not the Senate amendment, refers to the Act of June 20, 1938, where the U.S. Congress acknowledged the unique status of the Hawaiian people. The Senate recedes.

The House bill, but not the Senate amendment, refers to the U.S. establishing educational programs to benefit Native Hawaiians. The Senate recedes.

The House bill refers to "the Native American Programs Act of 1992, as amended" and the "National Historic Act Amendments of 1992". The Senate amendment refers to "the National Museum of the American Indian Act", "National Historic Preservation Act", and the "Native American Languages Act." The House recedes with an amendment to combine the House and Senate provisions.

The House bill lists the special provisions the U.S. Congress has passed recognizing the trust relationship between the U.S. and the Native Hawaiian people. The Senate amendment simply states "numerous special provisions of law for the benefit of Native Hawaiians in the areas of health, education, labor, and housing". The House recedes.

The House bill, but not the Senate amendment, recognizes that a lower educational attainment among Native Hawaiians has been related to lower socioeconomic outcomes. The House recedes.

The House bill, but not the Senate amendment, indicates that native Hawaiian students are disproportionately under-represented in Institutions of Higher Education. The House recedes.

The House bill, but not the Senate amendment, states that Native Hawaiians are under-represented in traditional white collar and health care professions, while being over-represented in service occupations. The House recedes.

The Senate amendment, but not the House bill, refers to the 1988 enactment of title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988. The House recedes.

The House bill and the Senate amendment, in similar, yet not identical, language refer to native Hawaiian children's educational risk factors. The House recedes.

The House bill, but not the Senate amendment, states "special efforts in education recognizing the unique cultural and historical circumstances of Native Hawaiians are required." The House recedes.

The Senate amendment, but not the House bill, refers to the under-representation of Native Hawaiians in institutions of higher education and among adults who have completed four or more years of college. The House recedes.

The Senate amendment, but not the House bill, refers to high retainment and absenteeism rates among Native Hawaiian students. The House recedes.

The Senate amendment, but not the House bill, states that Native Hawaiian students are the highest drug and alcohol users. The House recedes with amendment, adding "in the State of Hawaii" after "alcohol" in paragraph (ii).

The Senate amendment, but not the House bill, states that Native Hawaiian children continue to be disproportionately victimized by child abuse and neglect. The House recedes.

The Senate amendment, but not the House bill, refers to the 23% of the students served by the State of Hawaii's Department of Education and their residence in rural, isolated areas. The House recedes.

The Senate amendment, but not the House bill, refers to contradictions between findings listed in paragraphs (1) through (15) and the high rate of literacy and integration of traditional culture and Western education achieved by Native Hawaiians through a Hawaiian language-based public school system. The House recedes.

The Senate amendment, but not the House bill, refers to the "Native Hawaiian Educational Assessment Project" released in 1983 by the Office of Education to Congress and its findings. The House recedes.

The Senate amendment, but not the House bill, notes that the Kamehameha Schools Bishop Estate released a ten-year update of the Native Hawaiian Educational Assessment Project. The House recedes.

The Senate amendment, but not the House bill, mentions the banning of Hawaiian medium schools. The House recedes.

The Senate amendment, but not the House bill, refers to the Native Hawaiians' determination to "preserve, develop, and transmit to future generations their ancestral territory." The House recedes.

The Senate amendment, but not the House bill, refers to the distinct land rights of the Native Hawaiian people. The Senate recedes.

The Senate amendment, but not the House bill, mentions the distinct land rights of Native Hawaiians and their unique religious customs and beliefs. The House recedes.

The Senate amendment, but not the House bill, recognizes the traditional language of the Native Hawaiian people as an official language of the State of Hawaii. The House recedes.

Purpose

The House bill states educational programs are to "assist" Native Hawaiians in "reaching the National Educational Goals". The Senate amendment simply states educational programs are to "benefit" Native Hawaiians. The Senate recedes.

The Senate amendment, but not the House bill, refers to the establishment of a Native Hawaiian Education Council and five island councils. The House recedes.

The House bill states the purpose of this part includes the "encouragement of maximum participation of Native Hawaiians in planning and management of Native Hawaiian Education Programs." The Senate amendment refers to this concept in the findings. The Senate recedes.

Establishment

Both the House bill and the Senate amendment provide for a Native Hawaiian Education Council. The Senate amendment, but not the House bill, includes the provision for island councils. The House recedes.

Composition

The Senate amendment, but not the House bill, states the Education Council shall consist of not more than 25 members. The House recedes.

The House bill, but not the Senate amendment, states the composition of the council shall consist of, "but not be limited to", "representatives of each of the programs which receive Federal funding under this part"; "a representative from the Office of the Governor"; "a representative from the Office of Hawaiian Affairs"; "representatives of other Native Hawaiian Educational organizations and Native Hawaiian organizations which receive Federal or state education funds"; and "parent, student, educator and community organizations." The House recedes.

The Senate amendment, but not the House bill, includes in its member list, "each recipient of funds from the Secretary under this part"; a representative from the Office of Hawaiian Affairs, Department of Education in Hawaii, and specifically mentioned educational organizations. The House recedes.

The Senate amendment, but not the House bill, states a representative will serve on the council from "each Native Hawaiian education island council established under subsection (f)." The House recedes.

Conditions and Terms

The House bill indicates that at least half of the members shall be Native Hawaiians. The Senate amendment states that at least three-fourths of the members shall be Native Hawaiians. The House recedes.

The House bill states that members of the Education Council will serve for five year terms. The Senate amendment states members will be appointed for three-year terms. The House recedes.

Duties and Responsibilities

The House bill and the Senate amendment state the Education Council will provide information to Congress. The Senate amendment, not the House bill, specifically states particular entities to which the reports will be delivered. The House recedes.

The House bill, but not the Senate amendment, states that the Secretary shall, whenever practicable, consult with the Council before taking any significant action related to the education of Native Hawaiians. The House recedes.

The Senate amendment, but not the House bill, refers to island councils and the support the Education Council will provide these councils. The House recedes.

Administrative Provisions

The House bill, but not the Senate amendment, makes a statement that the Council will meet at the call of the Chair, or upon the request of the majority of the Council. The Senate recedes.

The Senate amendment, but not the House bill, outlines the purpose of the administrative grant for the Education Council. The House recedes.

Compensation

The House bill, but not the Senate amendment, requires that compensation for service will not be given to any member of the Native Hawaiian Council. The Senate recedes.

Report to Congress

The House bill, but not the Senate amendment mandates a report to Congress not later than 4 years after the date of enactment of the Improving America's Schools Act. The Senate recedes.

Establishment of Island Councils

The Senate amendment, but not the House bill, introduces island councils and their composition. Specific administrative provisions, compensation, report requirements, and authorization of appropriations are described. The House recedes.

Application Required

The Senate amendment, but not the House bill, articulates the application required for a grant that is to be made to the Secretary in order to carry out the provisions of this part. The House recedes.

Native Hawaiian Language Immersion Authority

The House bill, but not the Senate amendment details a state-wide effort to revitalize the Native Hawaiian language. Administrative costs are set at no more than 7 percent of the funds appropriated. Authorized appropriations are to be $1,500,000 for fiscal year 1995 and such sums as may be necessary for fiscal years 1996 through 1999. The House recedes.

Native Hawaiian Family-Based Education Centers

The Senate amendment, but not the House bill, states educational entities with "experience" in developing or operating Native Hawaiian programs. The House bill does not use "experience." The House recedes.

The House bill states that a minimum of eleven Family-Based Education Centers throughout the Hawaiian Islands be developed. The Senate amendment refers to no such minimum. The House recedes.

The Senate amendment, but not the House bill, articulates that the programs of such centers "may be conducted in either the Hawaiian language, the English language, or a combination thereof." The House recedes.

Native Hawaiian Higher Education Demonstration Program

The House bill, but not the Senate amendment, states that the Secretary shall make grants to the Kamehameha Schools/Bernice Pauahi Bishop Estate. The Senate amendment generalizes, stating grants will be given to Native Hawaiian educational organizations. The House recedes.

Mandatory Activities

The Senate amendment, but not the House bill states mandatory activities include full or partial fellowship support for Native Hawaiian students enrolled in higher institutions of education. The House bill simply says "may include." The Senate recedes.

The Senate amendment, but not the House bill, includes "fellowship" in its conditions of recipients. The Senate recedes.

The Senate amendment, but not the House bill, includes a section titled "Permitted Activities" listing those which the House bill mentions under no such subsection. The Senate recedes.

The House bill, but not the Senate amendment, has a section titled "Grants Authorized." The House recedes.

The Senate amendment, but not the House bill, refers to the completion of a baccalaureate program. The House recedes.

The House bill, but not the Senate amendment, includes "within the State of Hawaii" after "Native Hawaiian community." The House recedes.

Special Rule

The House bill, but not the Senate amendment, includes a special rule that no policy be implemented to prevent a Native Hawaiian student enrolled at a higher education institution outside of the State of Hawaii from receiving a fellowship. The Senate recedes.

Authorization of Appropriations

The House bill, but not the Senate amendment, authorizes $1,500,000 for fiscal year 1995 and such sums may be necessary for fiscal years 1996 through 1999 for funding fellowship assistance demonstration project provided under subsection (b). The House recedes.

Native Hawaiian Gifted and Talented Program

The House bill, but not the Senate amendment, states there will be an establishment of a Native Hawaiian Gifted and Talented Center at the University of Hawaii at Hilo. The Senate amendment does not specify a program at the University. The House recedes.

The House bill, but not the Senate amendment, specifies demonstration projects will be designed to address gifted and talented students. The Senate amendment makes no reference to demonstration projects. The House recedes.

The House bill, but not the Senate amendment, details the terms of the grant or contract. The House recedes.

The House bill, but not the Senate amendment, states that "such grant or contract shall be subject to the availability of appropriated funds and, contingent on satisfactory performance by the grantee." The House recedes.

Uses of Funds

The Senate amendment, but not the House bill, specifies "Native Hawaiian" gifted and talented students. The House recedes.

The House bill, but not the Senate amendment, incorporates public television in meeting educational needs of gifted and talented children. The House recedes.

The Senate amendment, but not the House bill, refers to coordination with "other Native American gifted and talented programs." The House recedes.

Information Provision

The House bill, but not the Senate amendment, states the Secretary will establish a national network of Native Hawaiian and American Indian Gifted and Talented Centers and impart any information to the educational community. The Senate recedes with an amendment striking "shall" and inserting "is authorized to".

The House bill provides $2,000,000 for fiscal year 1995 and such necessary sums for fiscal years 1996 through 1999. The Senate amendment provides $1,500,000 for fiscal year 1995, and necessary sums for each of the succeeding 4 fiscal years. The House recedes.

Special Education Authority

The House bill, but not the Senate amendment, refers to Pihana Na Mamo, while the Senate amendment mentions general educational organizations. The House recedes.

The House bill uses "children"; the Senate amendment uses "students." The House recedes.

The Senate amendment, but not the House bill, refers to emotional impairments. The House recedes with amendment, striking "learning" and "mental or physical disabilities, emotional impairments."

The House bill, but not the Senate amendment, refers to children at the elementary school level. The House recedes.

The Senate amendment, but not the House bill, refers to part B of the Education of Individuals with Disabilities Education Act. The House recedes.

The Senate amendment, but not the House bill, refers to "the conduct of educational, psychosocial, and developmental activities" of Native Hawaiian students. The House recedes.

The Senate amendment, but not the House bill, refers to "appropriate research, evaluation, and related activities." The House recedes.

The House bill, but not the Senate amendment, refers to the Secretary who may not make a grant or provide funds pursuant to a contract under this subsection. The House recedes.

The House bill, but not the Senate amendment, discusses non-Federal contributions. The House recedes.

Application Required

The House bill, but not the Senate amendment, refers to an "application required" to be submitted to the Secretary. The Senate recedes.

Definitions

The House bill and the Senate amendment have similar, but not identical, language defining the term "Native Hawaiian". The House bill states specifically "a citizen of the United States", and a "resident of the State of Hawaii." The Senate recedes.

The House bill states "birth records of the State of Hawaii", where the Senate amendment merely states "certified birth records." The House recedes. The conferees intend that genealogical records should be defined to include birth, marriage and death records.

The House bill, but not the Senate amendment, mentions the term "Secretary" as meaning the Secretary of Education. The House recedes.

The House bill, but not the Senate amendment, refers to "demonstrated expertise in research and program development." The Senate recedes.

The House bill, but not the Senate amendment, includes the definition of a "Native Hawaiian Organization." The Senate recedes.

The House bill, but not the Senate amendment, includes the term "elementary school" as meaning the same as indicated in section 9101 of the same act. The House recedes.

The Senate amendment, but not the House bill, refers to the definition of "Native Hawaiian language" and the term "Office of Hawaiian Affairs." The House recedes.

The Senate amendment, but not the House bill, refers to the definition of "Native Hawaiian community-based organization." The House recedes.

The House bill, but not the Senate amendment, includes the term "local educational agency." The House recedes.

The House bill, but not the Senate amendment, includes the term "secondary school." The House recedes.

The Senate amendment, but not the House bill, includes Native Hawaiian Curriculum Development, Teacher Training and Recruitment Program. Specifics mentioned are curricular development, preteacher training, inservice teacher training, and teacher recruitment. Administrative costs are to be not more than 7 percent of the funds appropriated for fiscal year 1995 and such necessary sums for each of the 4 succeeding fiscal years. The House recedes, with an amendment: in paragraph (b) PRIORITY: insert after "(a) that" a "(1)" and insert after "youth or" a "(2)" and add after the end of the sentence "provided that entities receiving grants awarded pursuant to (b)(2) of this subsection coordinate in the development of new curricula".

The Senate amendment, but not the House bill, refers to Native Hawaiian Community-Based Education Learning Centers. Authorization appropriations are to be $1 million for FY 95, and such sums as may be necessary for each of the 4 succeeding fiscal years. The House recedes.

Allen J. Ellender Fellowship Program

The House bill refers to "physically challenged students, visually- and hearing-impaired students." The Senate amendment refers to "students with disabilities." The House recedes.

Contents of Application

The House bill refers to "physically challenged students, visually- and hearing-impaired individuals." The Senate amendment refers to "individuals with disabilities." The House recedes.

Authorization of Appropriations

18. The House bill authorizes $4.4 million and such sums for each of the fiscal years 1996, 1997, 1998, and 1999. The Senate amendment authorizes $4.5 million for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years. The Senate recedes.

Territorial Education Improvement Program

The House bill entitles the program the "Territorial Education Improvement Program." The Senate amendment entitles the program the "Territorial Teacher Training Program." The Senate recedes with an amendment inserting "deLugo" in the program title.

The House bill, but not the Senate amendment, has provisions for Findings and Purposes. The Senate recedes.

Authorization

The House bill authorizes $5 million for each of the fiscal years 1994 through 1999. The Senate amendment authorizes $2 million for fiscal year 1995 and such sums for each of the succeeding four fiscal years. The Senate recedes with an amendment changing the authorization from $5 million to $3 million.

Grant Authorization

The House bill authorizes "an education improvement program." The Senate amendment refers to "assisting teacher training programs." The Senate recedes.

The House bill authorizes "an education improvement program". The Senate amendment refers to "assisting teacher training programs." The Senate recedes.

The House bill refers to "Palau until the effective date of the Compact of Free Association with the Government of Palau." The Senate amendment refers to "Palau." The Senate recedes.

The House bill refers to the "Northern Mariana Islands." The Senate amendment refers to "the Commonwealth of the Northern Mariana Islands." The House recedes.

The Senate amendment also includes the Republic of the Marshall Islands and the Federated States of Micronesia. The House recedes.

The House bill refers to making "grants to fund innovative education improvement programs which will increase student learning." The Senate amendment refers to "grants or contracts with any organization considered qualified to provide training for teachers in such schools and shall allot such sums among such territories on the basis of the need for such training." The Senate recedes.

The House bill contains a section on restrictions. The Senate recedes.

Blue Ribbon Schools Program

The Senate amendment, but not the House bill, contains a provision authorizing a $1 million Blue Ribbon Schools program. The Senate recedes with an amendment to move this to the Fund for the Improvement of Education.

National Student and Parent Mock Election

The Senate amendment, but not the House bill, contains a provision authorizing a $125,000 National Student and Parent Mock Election Program. The House recedes with an amendment to place the program in FIE and with an amendment in paragraph (a) to strike "in" after "grants" and to strike "election" after "every" and to strike the authorization of appropriations in subsection (c).

Elementary School Counseling Demonstration

The Senate amendment, but not the House bill, contains a provision authorizing $1 million for an Elementary School Counseling Demonstration Act. The House recedes with an amendment, moving this program to FIE.

Model Projects

The Senate amendment, but not the House bill, contains a provision authorizing $5 million for a Model Projects program for grants to cultural institutions for outreach activities for at-risk children.

The House recedes with an amendment moving this program to FIE and striking the authorization of appropriations in subsection (c).

Extended Time for Learning

The Senate amendment, but not the House bill, contains a provision authorizing $20 million for an Extended Time for Learning program.

Longer School Year

The Senate amendment, but not the House bill, contains a provision authorizing $100 million for a Longer School Year incentive program.

Creating Smaller Learning Communities

8. The Senate amendment, but not the House bill, contains a provision authorizing $20 million for a Creating Smaller Learning Communities program. The House recedes with an amendment moving this program to FIE.

Partnerships in Character Education Pilot Project

The Senate amendment, but not the House bill, contains a provision authorizing $6 million for a Partnerships in Character Education Pilot Project. The House recedes with an amendment moving the program to FIE. See attached language at back.

Alaska Native Education

The Senate amendment, but not the House bill, contains a provision authorizing $5 million for an Alaska Native Education program, $2 million for an Alaska Native Home Based Education for Preschool Children program, and $1,000,000 for an Alaska Native Student Enrichment Program. The House recedes, moving the provision to a new Title IX.

Promoting Scholar-Athlete Competitions

The Senate amendment, but not the House bill, contains a provision authorizing $1 million for a program to promote Scholar-Athlete Competitions. The House recedes with an amendment to move it to FIE with language to appear as follows: "The Secretary is authorized to award a grant to a non-profit organization to reimburse such organization for the costs of conducting scholar-athlete games to be held in 1995. In awarding the grant the Secretary shall give priority to a non-profit organization that (A) is described in section 501(c)(3) of, and exempt from taxation under section 501(a) of, the Internal Revenue Code of 1986, and is affiliated with a university capable of hosting a large educational, cultural, and athletic event that will serve as a national model; (B) has the capability and experience in administering federally funded scholar athlete games; (C) has the ability to provide matching funds, on a dollar-for-dollar basis, from foundations and the private sector for the purpose of conducting a scholar-athlete program; which has the organizational structure and capability to administer a model scholar-athlete program in the summer of 1995; (E) has the organizational structure and expertise to replicate the scholar-athlete program in various venues throughout the United States in 1996 and thereafter, as replicate such program internationally; and (F) has plans for conducting scholar-athlete games after 1995 without federal assistance."

Cultural Partnershps for At-Risk Children and Youth Act of 1994

The House bill part is entitled "Community Arts Partnership Act of 1994" while the Senate amendment part is entitled "Cultural Partnerships for At-Risk Children and Youth Act of 1994." The House recedes.

The House bill refers only to the inadequacy of arts programs available for children in schools; the Senate amendment refers to "arts and cultural programs available for children and youth." The House recedes.

The House bill, but not the Senate amendment, finds that the art promote progress in academic subjects as shown by research conducted by the National Endowment for the Arts. The Senate recedes.

The House bill, but not the Senate amendment, finds that the arts access multiple human intelligences and develop higher-order thinking skills. The House recedes.

The House bill, but not the Senate amendment, finds that the "arts generate self-esteem and positive emotional responses to learning." The Senate recedes with an amendment deleting 3502(a)(4) and inserting in lieu thereof: "Learning in the arts and humanities promotes progress in other academic subjects, and generates positive self-esteem and a greater sense of accomplishment in young people."

The House bill states only that "children who receive instruction in the arts remain in school longer and are more successful than children who do not receive such instruction"; the Senate amendment refers to children and youth who receive instruction in the arts and humanities, or who are involved in cultural activities. The House recedes.

The Senate amendment, but not the House bill, finds that "school-university partnerships that upgrade teacher training in the arts and humanities have significantly contributed to improved instruction and achievement levels of school-aged children." The House recedes with an amendment inserting "and school-cultural institution" after "school-university" and inserting a new paragraph after Senate section 11102(4) stating: "The Goals 2000: Educate America Act, other legislation and local, state and national resources support the integration of the arts and humanities into the regular curriculum and school day of all children. While all children benefit from this instruction in the arts and the humanities, at-risk children and youth have a special, additional need for arts and cultural programs both in school and after school."

The Senate amendment, but not the House bill, finds that museum outreach, cultural activities and informal education for at-risk children and youth have contributed significantly to their educational achievement. The House recedes.

The House bill includes a statement of purpose, the Senate amendment does not. The Senate amendment part is entitled "Subgrants" and involves grants from a Committee. The Senate recedes.

The House bill part is titled "Grants Authorized," the Senate amendment is titled "Award of Subgrants." The Senate recedes.

The House bill states that the "Secretary is authorized to award grants to eligible entities to pay the Federal share of the costs of activities" authorized under this title. The Senate amendment states that the Committee shall award subgrants to eligible entities. The Senate recedes.

The House bill part is entitled "Special Requirements" and states that the Secretary shall award grants under this Act to programs; the Senate amendment contains no such statement. The Senate recedes.

The House bill permits the Secretary to award grants to "programs designed to promote educational and cultural services"; the Senate speaks of "promoting and enhancing educational and cultural activities." The House recedes.

The House bill permits the Secretary to award grants to programs designed to provide multi-year services to at-risk children and youth; the Senate amendment contains no such part. The Senate recedes with an amendment inserting "and to integrate community cultural resources into in-school and after-school educational programs;" after "children and youth."

The Senate amendment, but not the House bill refers to a Committee which shall award subgrants to improve educational performance. The Senate recedes with an amendment striking all of Senate section 11103(a)(2).

The House bill, but not the Senate amendment, permits the Secretary generally to award grants to programs designed to serve the needs of at-risk children and youth. The House recedes.

The House bill permits the Secretary to award grants for programs designed to provide integration of community cultural resources in the regular curriculum; the Senate amendment speaks of integration into the regular curriculum and the school day. The House recedes.

The House bill permits the Secretary to award grants to programs designed to "provide effective cultural linkages from preschool programs," including preschool grants under the Individuals with Disabilities Education Act, to elementary schools. The Senate amendment refers to the provision of cultural programs to "facilitate the transition from preschool programs to elementary school programs, including programs under the Head Start Act and part H of the Individuals with Disabilities Education Act." The House recedes.

The Senate amendment, but not the House bill, states that facilitation of school to work shall be done through educational programs and activities that utilize school resources. The House recedes.

The House bill permits the Secretary to award grants to programs designed to increase parental and community involvement in the development of at-risk youth. The Senate amendment states that such development shall be of at-risk children and youth. The House recedes.

The House bill permits the Secretary to award grants to programs designed to "replicate programs and strategies that provide high quality coordinated educational and cultural services and that are designed to integrate such coordination into the regular curriculum." The Senate amendment refers to the development of such programs and strategies that are designed also to replicate the services in other schools. The House recedes with an amendment striking Senate section 11103(c)(1)(G)(ii) and inserting in lieu thereof: "provide a model to replicate these services in other schools and communities."

The Senate amendment, but not the House bill, refers to a Demonstration Program and states that the Secretary shall award all funds appropriated under this title to the Committee. The House recedes with an amendment striking Senate section 1103(a)(1) and inserting in lieu thereof a paragraph entitled "Partnership" and stating: "An interagency partnership comprised of the Secretary of Education, the Chairman of the National Endowment for the Humanities, the Chairman of the National Endowment for the Arts, and the Director of the Institute of Museum Services, or their designees, shall establish criteria and procedures for awarding grants, including the establishment of panels to review the applications, and shall administer the grants program authorized by this Section. The Secretary shall publish such criteria and procedures in the Federal Register."

The Senate amendment states that the Committee may reserve up to 5% of grant funds for administration and that grant recipients may also reserve 5% of grants for administration. The House bill has no such provisions. The House recedes with an amendment striking the word "Committee" and inserting in lieu thereof the word "Secretary."

The House bill part is entitled "Requirement of Coordination" and refers to grants received by the members of the partnership for purposes and target populations described into an integrated service delivery system located at a school, cultural, or other community-based site accessible to and utilized by at-risk youth. The Senate amendment is entitled "Coordination" and does not refer to such an integrated service delivery system. The Senate recedes with an amendment eliminating "Requirement of" in the title of the subsection.

The House bill part is entitled "Duration" and states that grants made under this part may be renewable upon the Secretary's determination of satisfactory progress for a maximum of 5 years. The Senate amendment part is entitled "Renewal" and states that the Committee is to make the determination of satisfactory progress. The Senate recedes.

The House bill states that the "Secretary shall ensure an equitable geographic distribution" and an "edquitable distribution to both urban and rural areas with a high proportion of at-risk youth." The Senate bill states that the "Committee, to the extent feasible, shall ensure an equitable geographic distribution of subgrants." The House recedes with an amendment striking the word "Committee" and replacing it in lieu thereof with the word "Secretary."

The House bill part is entitled "Eligibility" and the subpart entitled "Services for In-School Youth; the Senate amendment is entitled "Eligible Entities." The House recedes with an amendment adding "and after school" after "in-school" in Senate section 11103(a)(3)(A).

The House bill defines an "eligible entity" as a partnership between a Title I eligible LEA and an institution of higher education or cultural entity located within or accessible to the boundaries of the LEA. The Senate amendment defines an "eligible entity" to include an individual school eligible to participate in a schoolwide program, explicitly makes museums and local arts agencies eligible for such partnerships and requires that the entity partnering with a school or LEA be accessible to individuals within the local school district. The House recedes.

The House bill, but not the Senate amendment, explicitly permits "libraries, performing, presenting and exhibiting arts organizations; literary arts organizations" and local arts organizations to enter into partnerships. The Senate amendment, but not the House bill explicitly includes cultural institutions and local arts agencies. The Senate recedes with an amendment adding "state and" prior to the phrase "local arts organizations," and an amendment adding "cultural institutions;" before the word zoological.

The House bill requires that "private for-profit entities" have a history of training children and youth in the arts. The Senate amendment specifies an "effective history of training" such individuals in the arts or humanities. The House recedes with an amendment striking the word "effective."

The House bill makes Title 1 eligible for partnerships for out of school youth. The senate amendment permits any LEA or schoolwide program eligible school to be so qualified. The House recedes with an amendment striking Senate section 11103(a)(3)(b).

The Senate amendment, but not the House bill, states that the families of students shall only be served "to the extent practical." The House recedes.

The House bill, but not the Senate amendment includes in its target population out-of-school youth at risk of having limited future options as a result of teenage pregnancy, family migration or being a high school dropout. The Senate amendment refers to out-of-school children and youth at risk of disadvantages resulting from dropping out of school. The House recedes.

The House bill refers to at-risk youth; the Senate amendment refers to at-risk children and youth. The House recedes.

The House bill refers to ensuring the smooth transition of preschool children to elementary school, the Senate amendment refers to fostering such a transition. The House recedes.

The House bill includes as authorized activities, work with existing school personnel to develop curriculum materials and programs in the arts. The Senate amendment refers only to curriculum materials, not programs, in the arts. The Senate recedes.

The House bill includes as authorized activities, work with existing school personnel on staff development activities that encourage the integration of the arts into the curriculum. The Senate amendment does not refer to work with such school personnel. The Senate recedes.

The Senate amendment and the House bill refer to stipends for arts and humanities professionals to work with at-risk children and youth in schools. The House recedes with an amendment to Senate Section 11104(a)(8) striking the word "arts" and inserting in lieu thereof the word "artists."

The Senate amendment, but not the House bill, refers to training individuals who are not trained to work with children and youth. The House recedes.

The House bill refers to stipends for local artists work with at-risk children and youth; the Senate amendment refers to arts and humanities professionals working with such at-risk individuals. The House recedes.

The House bill states that the arts should be used to reform school practices; the Senate amendment refers to the arts and culture. The House recedes.

The House bill refers to appropriate equipment and necessary supplies. The Senate amendment refers to appropriate equipment or supplies. The House recedes.

The House bill requires the Secretary to give priority to eligible entities providing services beyond traditional school hours and refers to year round programs that provide services in the evenings and on weekends. The Senate version gives discretion to the Committee as to whether to give priority to programs extending beyond traditional school hours and does not refer to year round programs. The Senate recedes with an amendment striking Senate section 11103(c)(5).

The Senate amendment establishes a Committee comprised of 8 members of whom 2 shall be appointed by the Secretary of Education, 2 by the National Endowment for the Arts, 2 by the National Endowment for the Humanities and 2 by the Institute of Museum Services. The House bill contains no such provision. The Senate recedes.

The House bill part is entitled "Planning Grants," the Senate amendment is entitled "Planning Subgrants." The Senate recedes.

The House bill refers to applications made to the Secretary, the Senate amendment refers to awards by the Committee. The Senate recedes.

The House bill refers to applications made to the Secretary. The Senate amendment refers to applications made to the Committee. The Senate recedes.

The Senate amendment, but not the House bill, refers to applications submitted to the Committee. The Senate recedes.

The Senate amendment, but not the House bill, permits an individual school to apply for grants under this title. The House recedes.

The House bill, but not the Senate amendment, requires that applications describe the nature and location of sites where services will be delivered and a description of those services. The Senate recedes.

The Senate amendment, but not the House bill, requires that applications describe the training that will be provided to individuals who are not trained to work with children and youth and how teachers will be involved. The House recedes.

The House bill states that the amount of a grant may not be less than $100,000 nor more than $500,000 in the first year. The Senate amendment states that subgrants awarded under this title shall be of sufficient size, scope and quality to be effective. The House recedes.

The Senate amendment, but not the House bill, permits that the 20% of the non-federal share of programs required may include the provision of equipment. The House recedes.

The House bill, but not the Senate amendment restrict the scope of this section to amounts that exceed the amounts expended for such activities in the year preceding the year for which the grant is awarded. The Senate recedes.

The Senate amendment, but not the House bill, requires that the Secretary disseminates information concerning successful models under this title in consultation with the Committee. The House recedes with an amendment striking the language of Senate Section 11107 and inserting in lieu thereof: "The Secretary, in consultation with the Chairman of the National Endowment for the Humanities, the Chairman of the National Endowment for the Arts and the Director of the Institute of Museum Services, or their designees, shall submit successful models under this Title to the National Diffusion Network for its review."

The House bill authorizes $75 million for FY 1995 and such sums as may be necessary for the each of fiscal years 1996, 1997, 1998, 1999. The Senate bill authorizes $25 million for FY 1995, and such sums as may be necessary for each of the 4 succeeding fiscal years. The House recedes with an amendment striking the term $20,000,000" and placing in lieu thereof "$45,000,000."

The Senate amendment but not the House bill requires that before any appropriations are made for this title, $177 million shall be appropriated for the National Endowment for the Humanities, $170 million shall be appropriated for the National Endowment for the Arts and $28 million shall be appropriated for the Institute of Museum Services. The Senate recedes.

The Senate amendment, but not the House bill, states that the Committee shall award subgrants under this title so as to ensure nonduplication of services provided by subgrant recipients and services provided by the National Endowment for the Humanities, the National Endowment for the Arts, and the Institute for Museum Services. The House recedes with an amendment deleting the words "subgrant" and "subgrants" where they appear and inserting in lieu thereof "grant" or "grants" respectively and deleting the word "Committee" and inserting in lieu thereof the word "Secretary."

The Senate amendment, but not the House bill, states that the Committee is to establish and transmit to the Secretary criteria and procedures for awarding subgrants under this Title. The Secretary is to publish such criteria and procedures in the Federal Register. The Senate recedes.

The Senate amendment but not the House bill requires the involvement of a certified teacher or trained instructor in carrying out the activities of a subgrant. The Senate recedes.

STATEMENT OF MANAGERS

NATIONAL WRITING PROJECT

1. The House bill, but not the Senate amendment, amends Section 201 of the National Writing Project provisions.

The House recedes.

2. The House bill eliminates a finding in current law which states that only 25 percent of 11th grade students have adequate analytical writing skills, and replaces that provision with (2), which states that the writing problem has been magnified by the rapidly changing student populations and the growing number of at-risk students due to limited English proficiency.

The Senate recedes.

3. The House bill amends current law finding to read as follows:

"(6) Writing and reading are both fundamental to learning, yet writing has been historically neglected in the schools and colleges, and most teachers in the United States elementary schools, secondary schools, and colleges have not been trained to teach writing."

The Senate recedes.

4. The House bill amends finding (10) in current law by giving examples of fields in which the National Writing Project has become a model from programs to improve teaching.

The Senate recedes.

5. The House bill amends current law finding (15) by changing the number of teachers seeking NWP training from 85,000 to 100,000. The House bill also strikes the statement that these teachers seek training through word of mouth endorsements from other NWP teachers, and instead, states that they seek the training through one of the 154 regional sites located in 45 States, the Commonwealth of Puerto Rico, and in 4 sites that serve U.S. teachers teaching in U.S. dependent and independent schools. The Senate recedes.

6. The House bill eliminates a finding (17) in current law which states that 13 National Writing Project sites in 8 different states have been discontinued in 1988 due to lack of funding.

The Senate recedes.

7. The House bill adds two new findings to current law findings stating that independent evaluation studies have found the NWP to be highly cost effective and that during 1991, the first year of Federal support for the NWP, the National Writing Project matched the $1,951,975 in Federal support with $9,485,504 in matching funds from State, local, and other sources.

The Senate recedes.

8. The Senate amendment adds a new provision to Section 202(a) which authorizes grants to coordinate activities assisted under this section with activities assisted under Part A—Eisenhower Professional Development Program. The House bill has no comparable provision.

The House recedes.

9. Both the House bill and the Senate amendment make identical changes to 202(d)—Federal Share such that the subsection reads as it is laid out here on the Senate version.

The House recedes.

10. Technical changes in House bill changing "to enable" as written in Senate amendment to "to pay the Federal share of the cost of enabling".

The Senate recedes.

11. The House bill, but not the Senate amendment, adds a new paragraph (4) which provides that for the purpose of this subsection, the term "Federal share" means, with respect to the costs of activities assisted under this subsection, 50 percent of such costs to the elementary or secondary school teacher."

The Senate recedes.

12. The House bill, but not the Senate amendment both make changes to current law section (g)—Evaluation. The Senate amendment provides that the Secretary shall conduct an independent evaluation by grant or contract of the teacher training programs administered pursuant to this Act in accordance with section 10701. The House bill does not specify "by grant or contract", and refers to programs assisted under this section.

The House recedes.

13. The House bill does not the Senate amendment adds a subsection (2) entitled Funding Limitation, which provides that the Secretary shall reserve not more than $150,000 from the total amount appropriated pursuant to the authority of subsection (i) for fiscal year 1994 and the 4 succeeding fiscal years to conduct the evaluation described in paragraph (1).

The Senate recedes.

14. The House bill makes technical changes to current law, section (h) entitled Research and Development Activities, and provides that the National Writing Project shall make grants to individuals and institutions of higher education that either have participated in a National Writing Project institute or are institutions designated as NWP sites, to enable such individuals and institutions to conduct research activities involving the teaching of writing. [Under current law, this provision provides that the Secretary, through OERI, shall make grants to individuals and institutions of higher education to conduct research activities involving the teaching of writing.] The Senate amendment eliminates this entire section.

The House recedes.

15. The House bill adds a new provision, (2) entitled Application Review, which provides that the National Writing Project shall establish a National Review Board.

The Senate recedes.

16. The House bill, but not the Senate amendment, updates subsection (i) by authorizing for the National Writing Project $10,000,000 for FY 1994 and such sums as may be necessary for each of the four succeeding fiscal years. The House bill also amends paragraph (2) of subsection (i) to provide that in each fiscal year in which the appropriation equals or exceeds $10,000,000, there are authorized to be appropriated $500,000 to carry out subsection (h). The Senate amendment authorizes to be appropriated for the National Writing Project $4,000,000 for FY 1995, and such sums. The Senate amendment does not have a corresponding provision for R&D appropriations because it eliminated that provision.

The House recedes.

17. The House bill maintains current law by requiring the Secretary to give priority to junior researchers and to award at least 25 percent of the funds received to junior researchers. The House bill also eliminates a provision requiring the Secretary to make available to the National Writing Project and other information dissemination networks the findings of the research conducted through OERI. The Senate amendment eliminates these provisions.

The House recedes.

TITLE XI—COORDINATED SERVICES PROJECTS

The House bill includes a separate title in ESEA which allows local educational agencies to use up to 5 percent of the funds they receive under ESEA programs (see the ESEA general provisions side-by-side) for the coordination of social, health and education services necessary for students to succeed in school and for their families to take an active role in ensuring that children receive the best possible education; the Senate amendment allows targeted assistance schools to use Title I funds for similar purposes (see the Title I side-by-side).

The Senate recedes.

TITLE XII—SCHOOL FACILITIES INFRASTRUCTURE

Findings

1. Both the House bill and the Senate amendment have a Title relating to school facilities: The House has a loan program called "School Facilities Improvement Act," while the Senate has a grant program called "Education Infrastructure."

The Senate recedes with amendment inserting "infrastructure" after "Facilities."

2. The Senate amendment, but not the House bill, has a short title.

Legislative Counsel.

3. The House bill finds that according to a 1991 survey conducted by the American Association of School Administrators, 74 percent of all public school buildings in the United States need to be replaced.

The Senate recedes.

4. The House bill finds that almost one-third of such buildings were built prior to World War II.

The Senate recedes.

5. The House bill finds that it is estimated that 1 out of every 4 public school buildings in the U.S. is in inadequate condition, and of such buildings, 61 percent need maintenance or major repairs, 43 percent are obsolete, 42 percent contain environmental hazards, 25 percent are overcrowded, and 13 percent are structurally unsound.

The Senate recedes.

6. The House bill finds that large numbers of local educational agencies have difficulties securing financing for school facility improvement.

The Senate recedes with amendment adding "school libraries and media centers."

7. The Senate amendment finds that improving the quality of public elementary and secondary school libraries, media centers, and facilities will help our Nation meet the National Education Goals.

The House recedes with amendment striking "libraries, media centers and facilities" and adding an "s" on the end of "school."

8. The Senate amendment finds that Federal, State and local funding for the repair, renovation, alteration, and construction of public elementary and secondary school libraries, media centers, and facilities has not adequately reflected need.

The House recedes with amendment striking libraries, media centers and facilities and adding an "s" on the end of "school."

9. The Senate amendment finds that the challenge facing our Nation's public elementary and secondary schools require the concerted and collaborative efforts of all levels of government and all sectors of the community.

The House recedes.

Purpose

10. The purpose in the House bill is to leverage limited federal funds to enable LEAs to finance the costs of improving school facilities. The purpose in the Senate amendment is to help our nation meet the National Education Goals through the repair, renovation, alteration, and construction of public school libraries, media centers, and facilities used for academic or vocational instruction.

The House recedes with an amendment striking "through the repair . . ." through the end of the paragraph, ending with the word "instruction", and replacing it with language from the House provision, such that the paragraph now reads:

"It is the purpose of this title to help our Nation meet the National Education Goals through the provision of federal funds to enable local educational agencies to meet the costs associated with the improvement of schools within their jurisdiction."

11. The House authorizes a loan program for construction, reconstruction, or renovation of schools; the Senate authorizes a grant program for the activities described in section 15008 of the Senate amendment.

The House recedes.

Reservation of Funds for Indian Schools

12. The Senate amendment, but not the House bill, allows the Secretary to reserve not more than 1% of the appropriations for Indian schools.

The House recedes.

Eligible LEAs and Criteria

13. Under the House bill, an LEA is eligible if it is eligible for a Concentration Grant under section 1124A of the House bill. Under the Senate amendment, an LEA is eligible if at least 15 percent of its children are poor if at least 90 percent of its property is owned by the Federal Government (as defined under the Impact Aid provisions of the Senate amendment). To be eligible under the Senate amendment, an LEA must also demonstrate urgent need.

The House recedes.

14. The House bill, but not the Senate amendment, has a provision stating that the Secretary may provide assistance for construction only if it will be undertaken in an economical manner.

The House recedes.

15. The Senate amendment further defines an eligible LEA as one which demonstrates in the application submitted under section 15006 that such agency has urgent repair, renovation, alteration and construction needs for its public elementary or secondary school libraries, media centers, and facilities used for academic or vocational instruction.

The House recedes with amendment striking libraries, media centers, and facilities and adding an "s" after "school."

16. The Senate amendment, but not the House bill, classifies eligible LEAs into 6 award categories based on district enrollment.

The House recedes.

Priorities/Criteria

Note 17. The House bill lists priorities for approving loans. The Senate amendment lists criteria for awarding grants.

The House recedes with an amendment changing "including" to "such as" and moving (2), (3) and (4) to the Senate list under "(a) Criteria", so that the criteria list includes the following:

1. High numbers or percentages of poor children;
2. school district's lack of fiscal capacity;
3. the threat that the condition of facilities poses to safety of students;
4. demonstrated needed construction;
5. the age of the facility to be renovated or replaced; and
6. other criteria the Secretary determines to be necessary.

Note 18. The Senate amendment lists a criteria for allocating funds among the six categories of LEAs: 1) relative numbers or percentages of poor children, and 2) relative costs of carrying out activities under this title.

The House recedes with amendment adding after "among" the words "each of" and striking the word "category" and changing it to "categories"; striking the words "after considering such factors as" and inserting "including" after the word "appropriate," so that the section reads:

"(2) ALLOCATION AMONG CATEGORIES—The Secretary shall allocate funds under this title among each of the categories described in paragraph (1) on such basis as the Secretary determines is appropriate, including:

(A) The relative numbers or percentages of students counted under section 1123(c)(1); and

(B) the relative costs of carrying out activities under this title in eligible local educational agencies in each such category."

Loans/Grants—On Hold

19. The House bill allows the Secretary to determine the maximum loan amount for each recipient based on the total development cost of the facility. The Senate amendment requires that the Secretary determine a maximum grant amount for each category of LEAs.

The House recedes.

20. Under the House bill, the Secretary may, within certain guidelines, determine repayment periods and terms for each loan.

The House recedes.

21. The House bill, but not the Senate amendment, has a section called "General Provisions" regarding the Secretary's budget and accounting procedures, use of funds, and legal powers for the loan program.

The House recedes.

22. Budget and Accounting: The Secretary must prepare a budget and maintain accounts which shall be audited by the Comptroller General.

The House recedes.

23. Use of Funds: Funds shall be deposited in a checking account with the Treasurer of the United States. Congress may authorize funds for the Secretary's administrative expenses.

The House recedes.

24. Legal Powers: The Secretary may prescribe rules and regulations, sue and be sued, foreclose property or take action to enforce rights, dispose of acquired property, sell or exchange property and securities, obtain insurance, and include necessary conditions in contracts made under this part.

The House recedes.

25. The House bill, but not the Senate amendment, says that section 3709 of the Revised Statutes shall not apply to contracts for under $1,000 for services or supplies under this part.

The House recedes.

26. The House bill, but not the Senate amendment, provides that the Government Corporation Control Act shall apply to the Secretary's activities under this part.

The House recedes.

27. Both bills require that laborers and mechanics be paid in accordance with the Davis-Bacon Act, but the provisions are drafted differently.

Legislative Council.

28. The House bill, but not the Senate amendment, also has a provision requiring overtime pay.

The House recedes.

29. The House bill, but not the Senate amendment, allows the Secretary waive the Davis-Bacon and overtime provisions if laborers or mechanics voluntarily donate their services and the resulting savings are credited to the educational institution undertaking construction.

The House recedes.

30. The House bill prohibits an LEA from receiving more than one loan in a five-year period unless the second loan is used for a facility damaged by a natural disaster. The Senate amendment prohibits an LEA from receiving more than one grant in a five-year period.

The House recedes.

31. The House bill prohibits more than 12.5% of the total loan funds from going to any one state in any given year.

The House recedes.

Definitions

32. Both bills have definition sections, but the House bill defines the term "school," while the Senate amendment defines the following terms: alteration, construction, renovation, and repair.

33. The Senate recedes with amendment adding "public" before "structures" and before "elementary and secondary school students," and adding "media centers" after the word "libraries.".

34. The Senate amendment includes a definition of the term "alteration.".

The Senate recedes.

35. The Senate amendment includes a definition of the term "construction."

The House recedes with an amendment such that the definition reads:

"The term construction means the alteration or renovation of a building, structure, or facility, including the concurrent installation of equipment, including the complete or partial replacement of an existing facility, but only if such replacement is less expensive and more cost-effective than alteration, renovation, or repair of the facility."

36. The Senate defines the term "renovation."

The Senate recedes.

37. The Senate defines the term "repair."

The Senate recedes.

Applications

38. The Senate amendment, but not the House bill, requires an application from LEAs that desire to receive a grant. The application must contain:

(a) an assurance that the application was developed in consultation with parents and teachers.

The House recedes.

(b) a description of repairs to be made, with a priority for each.

The House recedes.

(c) the criteria used by the LEA to determine the type of corrective action necessary to meet the purpose of this title.

The House recedes.

(d) a description of this corrective action.

The House recedes with amendment changing "corrective action" to "improvement."

(e) a cost estimate of this corrective action.

The House recedes with amendment changing the term "corrective action" to "improvement."

(f) an indentification of other resources, including bonding capacity, that are available to carry out activities funded under this title.

The House recedes with amendment changing "including" to "such as."

(g) a description of how activities funded under this title will support energy conservation.

The House recedes.

(h) other information the Secretary requires.

The House recedes.

39. The Senate amendment, but not the House bill, has a provision saying that the Secretary shall only award grants if sufficient funds will be provided (from this title or other sources) to carry out the activities for which assistance is sought.

The House recedes with amendment replacing "including" with "such as" and adding after "issuance of bonds" the phrase "or savings generated from performance contracting".

Authorized Activities

40. The Senate amendment, but not the House bill, has a separate section listing authorized activities, both general and particular.

The House recedes.

41. The House bill (in section 11003) listed the authorized activities as "construction, reconstruction, or renovation" (these terms are not defined). The Senate amendment lists the authorized activities as ensuring the health and safety of students through repair, renovation, alteration, and construction (these terms are defined in section 15004 of the Senate amendment) and accommodating new instructional technology.

The House recedes with amendment striking "(2) upgrade or alter such library, center or facility in order to accommodate new instructional technology." This amendment reflects the conferees' intent that funds awarded under this title are not to be authorized for the accommodation of new instructional technology.

Definition of Facilities

42. The House bill allows authorized activities to take place in schools and defines schools (in section 11005; *see note* 23) as "structures suitable for use as classrooms, laboratories, libraries, and related facilities, the primary purpose of which is the instruction of elementary and secondary school students." The Senate amendment allows authorized activities to take place in "a public elementary or secondary school library, media center, or facility, used for academic or vocational instruction."

The House recedes.

Permissive Activities

43. The Senate amendment, but not the House bill, list several examples of permissive activities under this title, including: meeting requirements of the Rehabilitation Act and the Americans with Disabilities Act; the removal or containment of hazardous materials; meeting federal, state, or local codes; replacing an old facility if replacement is more cost-effective than renovation.

The House recedes with an amendment striking (2) concerning the removal or containment of hazardous materials; striking (3) concerning the meeting federal, states, or local codes and (4) relating to the replacement of an old facility if it is more cost-effective. Although these provisions are deleted from the text of the bill, the conferees intend that each eligible local educational agency receiving a grant under this title may use the grant funds for the removal or containment of severely hazardous material such as asbestos, lead, and radon using a cost effective method. The conferees also intend that such funds may be used to meet Federal, State or local codes related to fire, air, light, noise, waste disposal, building height, or other codes passed since the initial construction of such school library, media center or facility, and to replace an old such school library, media center or facility that is more cost-effective to tear down than to renovate.

General

44. The Senate amendment, but not the House bill, includes a maintenance of effort provision.

The House recedes with cross-referencing language to maintenance of effort in Title X—General Provisions.

45. The Senate amendment, but not the House bill, provides that an eligible LEA shall use funds received under this title only to supplement, not supplant funds from non-Federal sources.

The House recedes with cross-referencing language to Title X—General Provisions.

46. The Senate amendment, but not the House bill, includes limitations regarding acquisition of real property, maintenance costs, environmental safeguards, and athletic facilities.

The House recedes.

47. The Senate amendment, but not the House bill, requires that the Secretary reserve not more than 1% of the appropriations to collect data, conduct studies and evaluations, and report of Congress on activities supported under this title.

The Senate recedes.

48. The House bill authorized $200 million for FY 1995 and such sums for each of the 4 succeeding fiscal years; the Senate amendment authorizes $400 million for FY 1995 and such sums for each of the 4 succeeding fiscal years.

The Senate recedes.

TITLE XIII

Support and Assistance for ESEA Programs

1. The Senate amendment, but not the House bill, organizes the part into three subparts and entitles the first one "Subpart 1 Comprehensive Regional Centers" before the findings section.

The House recedes with an amendment to begin subpart 1 after the findings and purpose.

Findings

2. Technical difference. (The Senate amendment, but not the House bill, adds the word "assisted" after "programs.")

The House recedes.

3. The House bill, but not the Senate amendment, includes "effective program dissemination" as an essential ingredient to the implementation of this Act.

The Senate recedes.

4. Technical difference. (The House bill refers to the "strategy of the reauthorization of this Act" while the Senate amendment refers to "the strategy of the Improving America's Schools Act of 1994.")

Legislative counsel.

5. The House bill refers to "challenging State performance standards and challenging State student performance standards."

The House recedes.

6. The House bill, but not the Senate amendment, lists "tribes" among agencies delivering educational services.

The Senate recedes.

7. In listing types of students with special needs, the Senate amendment but not the House bill, lists "Students with disabilities".

The House recedes.

8. The House bill refers to "challenging State standards" while the Senate amendment uses the term "challenging State content standards and challenging State student performance standards."

The House recedes.

9. The House bill finding describes "technical assistance and dissemination efforts" as fragmented while the Senate amendments includes only "technical assistance efforts."

The Senate recedes.

10. The House bill, but not the Senate amendment, includes "tribes."

The Senate recedes.

11. The House bill uses the term "to reach challenging State student standards" while

the Senate amendment uses "to meet challenging State content standards and challenging State student performance standards."

The House recedes.

12. The House bill refers to "as they implement" while the Senate amendment refers to "as such schools and systems implement."

Legislative counsel.

13. The House bill states that comprehensive technical assistance "would provide coordinated assistance" while the Senate amendment states that it "will provide one-stop shopping."

The Senate recedes.

14. The House bill, but not the Senate amendment, includes tribes as a recipient of technical assistance.

The Senate recedes.

15. The House bill but not the Senate amendment, includes tribes as a recipient of technical recedes.

The Senate recedes.

16. The Senate amendment, but not the House bill, includes "pupil services" as an entity to receive technical assistance.

The Senate recedes.

17. The House bill, but not the Senate amendment, includes State Literacy Resource Centers and vocational resource centers among the explicitly named entities with which the assistance providers supported under this part should coordinate.

The Senate recedes.

18. The House bill, but not the Senate amendment, includes a finding on prioritizing assistance to LEAs and schools.

The Senate recedes.

19. The House bill, but not the Senate amendment, includes a finding on the need to both encourage program integration and maintain services for special needs students, such as limited English proficiency students.

The House recedes.

Purpose

20. The House bill, but not the Senate amendment, states that a purpose of this part is to "create a national technical assistance and dissemination system."

The Senate recedes.

21. The House bill, but not the Senate amendment, includes "tribes" among the list of explicitly named recipients of technical assistance.

The Senate recedes.

22. The Senate amendment, but not the House bill, includes "administering" programs as part of the purpose.

The House recedes.

23. In the House bill, the purpose of this part includes implementing programs "in a manner that improves teaching and learning for all students" while the Senate amendment includes a separate purpose of providing technical assistance in "implementing school reform programs."

The House recedes with an amendment to merge the House and Senate provisions.

24. The House bill states "those programs" while the Senate amendment states "such programs."

The House recedes.

25. The House bill, but not the Senate amendment, includes "plans" along with activities as part of what must be coordinated with other entities.

The Senate recedes.

26. The House bill uses the term "challenging State performance standards" while the Senate amendment uses "challenging State content standards and challenging State student performance standards."

The House recedes.

27. The House bill, but not the Senate amendment, lists specifically "students at risk of educational failure" as those who need assistance in meeting high standards.

The Senate recedes.

28. The House bill, but not the Senate amendment, includes a separate purpose of adopting, adapting, and implementing promising and proven practices for improving teaching and learning.

The Senate recedes.

Programs Authorized

29. The House bill, but not the Senate amendment, authorizes more than one program in this section.

The House recedes.

30. The House bill refers to "Comprehensive Assistance Centers" whereas the Senate amendment refers to "Comprehensive Regional Centers."

The House recedes with an amendment to make the name "Comprehensive Regional Assistance Centers".

31. The Senate amendment, but not the House bill, includes the provision "Notwithstanding section 6205" which maintains separate, categorical Indian technical assistance centers.

The Senate recedes with an amendment to add:

"(b) SERVICE TO INDIANS AND ALASKA NATIVES—The Secretary shall ensure that each regional center that serves a region with a significant population of Indian or Alaska Native students shall—

(1) be awarded to a consortium which includes a tribally-controlled community college or other Indian organization; and

(2) assist in the development and implementation of instructional strategies, methods and materials which address the specific cultural and other needs of Indian or Alaska Native students;"

32. The House bill authorizes the Secretary to "award grants or enter into contracts" with technical assistance entities. The Senate amendment authorizes the Secretary to carry out this part directly or though grants, contracts or cooperative agreements.

The House recedes.

33. In the House bill, eligible entities for such grants or contracts are "public or private nonprofit entities or consortia." In the Senate amendment, they are "public or private agencies or organizations or consortia of such agencies and organizations."

The Senate recedes.

34. The House bill establishes "a networked system of 15 centers" to be placed by the Secretary while the Senate amendment establishes 11 centers, one center in each of the Departments 10 regions and one at the Pacific Regional Education Laboratory in Honolulu, HI.

The Senate recedes with an amendment adding "including one center in Hawaii. Such centers"

35. The Senate amendment, but not the House bill, authorizes the Secretary to authorize field offices for each of the centers.

The Senate recedes.

36. Technical difference. (The Senate amendment, but not the House bill, uses the phrase "in order to provide.")

Legislative counsel.

37. The House bill, but not the Senate amendment, includes "research-based training" as an activity to be provided.

The House recedes.

38. The House bill, but not the Senate amendment, includes "tribes" and "community-based organizations" as entities to receive technical assistance.

The Senate recedes.

39. Technical difference. (The House bill refers to "their administration while the Senate amendment refers to "the administration.")

Legislative counsel.

40. The House bill states "in establishing centers and allocating resources" while the Senate amendment states "in allocating resources."

The Senate recedes.

41. Both the House bill and Senate bill require the Secretary to consider the geographic distribution of special needs students when allocating resources to centers however the House lists explicitly several types of special needs students as well as the needs of areas in geographic isolation.

The Senate recedes with an amendment adding "and urban" after "rural."

42. The House bill authorizes the National Diffusion Network and state-based technical assistance as a subsection of this section while the Senate authorizes it as a separate sub-part. (See note #609)

The House recedes with an amendment to merge the House and Senate language authorizing the National Diffusion Network as follows: "In order to implement the purposes of this part, the Secretary shall carry out a State-based outreach, consultation, training and dissemination program through the National Diffusion Network and its State Facilitators. To carry out such program, the Secretary shall make awards in each State and territory and in the Bureau of Indian Affairs in order to assist state and local educational agencies, schools, and other appropriate educational entities to identify and secure appropriate, high-quality technical assistance from the comprehensive assistance centers and other sources and to identify and implement exemplary or promising educational programs and practices. The Secretary shall carry out this subpart through grants to or contracts with public or private nonprofit organizations or institutions with demonstrated expertise in the areas of applied education research and program dissemination."

43. Regarding the National Diffusion Network (NDN) state-based programs, the House bill authorizes the Secretary to award grants or enter into contracts in each State, territory, and the Bureau of Indian Affairs whereas the Senate amendment requires the Secretary to make "one or more awards in each State" to establish state-based technical assistance entities.

The Senate recedes.

44. The Senate amendment, but not the House bill, establishes NDN in order to increase the effectiveness of the comprehensive centers.

The Senate recedes.

45. In the House bill, the eligible entities for the NDN awards are public and private nonprofit entities. In the Senate amendment, eligible entities for NDN awards are "public educational agencies or public or private nonprofit educational organizations or institutions."

The Senate recedes.

46. The House bill, but not the Senate amendment, explicitly identifies this state-based program as the National Diffusion Network.

The Senate recedes.

47. The House bill (in section 2347), but not the Senate amendment, includes "training" in addition to "outreach, consultation, and dissemination" as part of the state-based program.

The Senate recedes.

48. The House bill define the NDN role as helping education providers in identifying and securing high quality technical assistance for as well as information on and assistance in adopting effective programs and

practices and working with the comprehensive assistance centers to provide these services. The Senate amendment identifies the NDN role only as assisting education providers to identify and implement exemplary or promising educational programs and practices.

The Senate recedes.

49. The House bill, but not the Senate amendment, includes a number of accountability measures including providing for an external peer review system, surveys, and performance measures.

The Senate recedes with amendments to strike the peer review provisions and the annual report provision and to require that the surveys be conducted of eligible recipients of services rather than simply of users of services.

50. Both the House bill and the Senate amendment provide for an evaluation. The House bill authorizes an "independent evaluation of the comprehensive centers and the NDN" while the Senate amendment authorizes an evaluation of all the activities assisted under this part.

The House recedes and the Senate recedes striking the evaluation provisions.

51. The House bill requires the evaluation to be reported to Congress prior to the next reauthorization of ESEA, while the Senate amendment requires it be reported to the President and Congress by January 1, 1998.

The House recedes and the Senate recedes.

52. The House bill, but not the Senate amendment, specifies that all funds under this section will be awarded for five-year periods.

The Senate recedes with an amendment striking the extension of contracts provision.

Requirements of Comprehensive Assistance Centers

53. The House bill section is entitled "Requirements of Comprehensive Assistance Centers" while the Senate amendment section is entitled "Comprehensive Regional Centers."

The Senate recedes with an amendment to merge the House requirements and duties of the centers and the Senate list of duties of the centers as follows:

"(b) SUPPORT AND ASSISTANCE.—Comprehensive regional assistance centers shall maintain appropriate staff expertise and shall provide support, training and assistance to State educational agencies, tribal divisions of education, local educational agencies, schools and other grant recipients under this Act in—

(1) improving the quality of instruction, curricula and assessments supported with funds under Title 1 of this Act;

(2) implementing effective schoolwide programs under Title 1 of this Act;

(3) meeting the needs of children served under this Act, including children in high-poverty areas, migratory children, immigrant children, children with limited English proficiency, neglected or delinquent children, homeless children and youth, Indian children, children with disabilities, and, where applicable, Alaska Native and Native Hawaiian children;

(4) implementing high quality professional development activities for teachers and, where appropriate administrators, pupil service personnel, and other staff;

(5) improving the quality of bilingual education, including programs that emphasize English and native language proficiency and promote multicultural understanding;

(6) creating safe and drug-free environments, especially in areas experiencing high levels of drug use and violence in the community and schools;

(7) implementing educational applications of technology;

(8) coordinating services and programs to meet the needs of students so that they can fully participate in the educational program of the school;

(9) expanding the involving and participation of parents in the education of their children;

(10) reforming schools, school systems and the governance and management of schools;

(11) evaluating programs; and

(12) meeting the special needs of students living in urban and rural areas and the special needs of local educational agencies serving urban and rural areas.

54. The House refers to each center as a "comprehensive assistance" while the Senate refers to each "comprehensive regional center."

The House recedes with an amendment to name the centers "comprehensive regional assistance centers".

55. The Senate amendment includes "shall" in the introduction to the paragraphs. The House bill includes "shall" at the beginning of each paragraph.

Legislative counsel.

56. The House bill, but not the Senate amendment, specifies that staff at the centers maintain expertise in "assessment."

The Senate recedes.

57. The House bill specifies that staff at the centers must maintain expertise in of "title I of the Act" while the Senate amendment states only "title I."

The Senate recedes.

58. The House bill, but not the Senate amendment, includes "immigrant children" in the types of children to be served.

The Senate recedes.

59. In listing the types of children whose needs should be served by the centers, the House bill, but not the Senate amendment, includes "where applicable, Alaskan Native children and Native Hawaiian children."

The Senate recedes.

60. In listing areas of professional development expertise, the Senate amendment, but not the House bill, includes "pupil services personnel."

The House recedes.

61. The House bill uses the term "challenging State performance standards" while the Senate amendment uses "challenging State content standards and challenging State student performance standards."

The House recedes and the Senate recedes.

62. The House bill, but not the Senate amendment, includes "coordination of services" in the list of areas of expertise to be maintained by the centers.

The Senate recedes.

63. The House bill, but not the Senate amendment, includes "school governance and management" in the list of areas of expertise to be maintained by the centers.

The Senate recedes.

64. The House bill, but not the Senate amendment, includes "partnerships between the public and private sector" in the list of areas of expertise to be maintained by the centers.

The House recedes.

65. The House bill includes a separate paragraph requiring that the centers "shall ensure, where appropriate" staff expertise in the needs of rural students and LEAs and includes "in" before "the special needs of LEAs." The Senate bill lists the needs of rural students and LEAs as a subparagraph of the paragraph outlining expertise to be maintained by each center.

The House recedes.

66. The Senate amendment, but not the House bill, uses "assisted" under this Act.

Legislative counsel.

67. The House bill, but not the Senate amendment, requires that the centers reflect the "diverse linguistic and cultural expertise appropriate to the region served."

The House recedes.

68. The Senate amendment, but not the House bill, requires that the centers work collaboratively with the Departments' regional offices.

The House recedes.

69. The House bill requires the centers to "coordinate services, work cooperatively, and regularly share information with" other technical assistance providers. The Senate amendment requires the centers to "work collabortively, and coordinates the services such centers provide with" other technical assistance providers.

The Senate recedes.

70. The House bill requires that the centers work with virtually all technical assistance providers funded by the Department of Education (and lists many of them) while the Senate amendment specifies that they work with the regional laboratories and NDN.

The Senate recedes.

71. The House bill, but not the Senate amendment, lists as the purposes of this "to provide a broad range of services to schools in the region while minimizing the duplication of such services.

The Senate recedes.

72. The Senate amendment, but not the House bill, requires that the centers consult with "representatives of State educational agencies, local educational agencies, and populations served under this Act."

The House recedes.

73. The House bill states that centers will work with or through NDN State Facilitators to provide services to SEAs, LEAs, tribes and schools and to provide the support that NDN agents need to carry out their mission. The Senate amendment requires the centers to provide information on exemplary and promising practices.

The Senate recedes.

74. The House bill, but not the Senate amendment, has a number of provisions specifying the duties of the comprehensive centers. These duties include providing the following assistance in the following areas to SEAs, LEAs, tribal divisions of education, schools and others: development of plans; development and use of curricula; development and use of instructional strategies and materials; development of non-discriminatory assessments; development and implementation of school-wide projects; professional development; parental involvement; creating safe and drug-free schools; coordination of services; evaluation of school programs; uses of technology; school governance; and establishing public/private partnerships.

Additional duties includes working with the NDN State Facilitators to disseminate promising programs, policies, and practices and working with States to establish school support teams for schoolwide projects.

The House recedes with an amendment to add the last duty in this section to the merged list of responsibilities for the centers.

75. The House bill, but not the Senate amendment, provides for maintaining at least current service levels for assistance to bilingual, migrant, immigrant, and Indian students.

The Senate recedes with an amendment adding "educationally disadvantaged students, including students in urban and rural areas" to those for whom services must be maintained.

76. The House bill, but not the Senate amendment, provides for maintaining the current ratio of technical assistance funds devoted to limited-English proficient, immigrant, and migrant relative to the whole of technical assistance funds.

The House recedes.

77. The House bill, but not the Senate amendment, provides for maintaining the current ratio of technical assistance funds devoted to Indian students relative to the whole of technical assistance funds.

The House recedes.

78. The House bill, but not the Senate amendment, requires that applications for grants or contracts for technical assistance centers include provisions concerning expertise, outreach, support from area served, how they will allocate services and how they will utilize technology to provide services.

The Senate recedes with an amendment to place this in subpart 1 and an amendment to strike the provision on technology.

79. The House bill, but not the Senate amendment, requires the Secretary to give priority to consortia including Indians when approving applications for centers serving Indians.

The House recedes.

80. Regarding transition activities, the House bill extends current technical assistance center and NDN contracts through fiscal year 1995. The Senate amendment requires the Secretary to use funds from this part "for at least fiscal years 1995 and 1996" for transition efforts. The Secretary shall use these funds to "draw on the expertise of staff and services from existing categorical assistance centers" and, where appropriate, to extend grants or awards to "ensure that services will not be interrupted . . ."

The Senate recedes with an amendment to extend the transition period through FY96 and add Senate language on drawing on the expertise of the current categorical centers.

81. The House bill includes a section on the purpose and duties of NDN while the Senate includes a separate subpart on NDN. See note #570.

The House recedes.

82. The House bill, but not the Senate amendment, includes "training" as part of this state-based program. See note #575.

Delete note.

83. The House bill authorizes OERI "to award grants or enter into contracts" for NDN State Facilitators. The Senate amendment requires that the OERI Office of Reform Assistance and Dissemination administer the NDN State Facilitators program.

The Senate recedes with an amendment to merge the House and Senate provisions on administration of NDN as follows:

ADMINISTRATION.—The National Diffusion Network State Facilitators programs shall be administered by the Office of Reform Assistance and Dissemination established under section 941(b) of the Educational Research, Development, Dissemination, and Improvement Act of 1994. Such office shall award grants or enter into contracts in each State with public or private nonprofit educational organizations or institution with demonstrated experience and expertise in the areas of implementation of education programs and program dissemination to carry out activities described in section .

84. The House bill's provisions under "National Diffusion Network State Facilitators" (subsection c) are similar to the Senate amendment's Coordination provisions (paragraph 1) except that the Senate amendment, but not the House bill, includes "close" before "coordination" and it includes "and coordinate their activities."

The House recedes.

85. The House bill, but not the Senate amendment, lists the recipients of technical assistance.

The Senate recedes with an amendment to write the introduction to the State Facilitator duties as follows:

STATE FACILITATOR ACTIVITIES.—The National Diffusion Network State Facilitators for each State shall provide professional development and technical assistance services to assist State educational agencies, local educational agencies, tribal divisions of education, schools, and other entities assisted under this Act in—"

86. The House states that the duties of the NDN State facilitators Facilitators shall be to: help define technical assistance needs and align them with school reform, professional development and technology plans; secure technical assistance services from all Department of Education and other technical assistance providers; identify and address educational technology needs; assist in preparation for intensive on-site technical assistance; assist in the use of technology including the development of regional and national electronic networks; deliver professional development services; and provide organizational development services.

The Senate amendment defines the State Facilitator duties as: identifying programs and practices for dissemination; identifying technical assistance needs, including those for technology; providing professional development services; identifying programs for dissemination; promoting and facilitating teacher networks throughout the State; and conducting outreach.

The Senate recedes with an amendment to combine the House and Senate list of activities as follows: defining technical assistance needs and aligning them with title 1, school reform, professional development, and technology plans and activities; securing the technical assistance and professional development services that can best fulfill such needs by utilizing the services of the comprehensive regional assistance centers, the regional education laboratories, the Eisenhower Math-Science regional consortia, State Literacy Resource Centers, and other technical assistance providers including local providers of professional development services; identifying educational technology needs and securing the necessary technical assistance to address them in coordination with the Eisenhower regional consortia; utilizing technology, including regional and national electronic networks, to increase their access to technical assistance, professional development services, and dissemination of effective programs and promising practices.

87. The House bill, not the Senate amendment, lists additional duties for NDN State Facilitators which include: sharing promising practices; working with school support teams; distinguished educators and the comprehensive centers; and conducting outreach.

The Senate recedes with an amendment to strike the House (2), (3), (4), and (6) and add the Senate's (1), (4), and (5) from note #614 to the Additional Duties provisions.

88. The House bill titles this subsection "National Diffusion Network Effective Practices" while the Senate amendment titles it "National Diffusion Network Effective Programs and Promising Practices System."

The House recedes.

89. Technical difference. (The House bill refers to "such programs" while the Senate amendment refers to "such system.")

Legislative Counsel.

90. Technical difference. (The House bill refers to the "Department of Education" while the Senate amendment refers to the "Department.")

Legislative counsel.

91. The House bill states "such a system should" while the Senate amendment states "such a system shall."

The House recedes.

92. Technical difference. (The House bill and Senate amendment refer to the "Office of Reform Assistance and Dissemination" differently.)

Legislative counsel.

93. The House bill refers to "a grants program to such validated Effective Practices"; the Senate amendment refers to "a grant program" and to "regarding such systems."

Legislative counsel.

94. The House bill, but not the Senate amendment, gives service priority to schoolwide projects and to the poorest LEAS and BIA schools.

The Senate recedes.

95. Technical difference. (The House bill, but not the Senate amendment, includes "also" before "authorized.")

The House recedes.

96. The Senate amendment, but not the House bill, lists "community-based organizations" as an entity to which technology-based technical assistance will be accessible.

The House recedes on "community-based organizations". The Senate recedes on keeping this provision a separate section paid for by funds other than those authorized in this title.

97. The House bill, but not the Senate amendment, states that the program under this part will be administered jointly by three offices in the Department of Education.

The House recedes.

98. The House bill authorizes the entire part at $70 million for 1995 with not less than $25 million of that amount to be for the NDN and such sums through 1999 while the Senate amendment authorizes $70 million in 1995 and such sums through 1999 for the comprehensive centers and $25 million in 1995 and such sums through 1999 for NDN.

The House recedes with an amendment to change subpart to part.

99. The House bill authorizes funds in this section for the entire part while the Senate amendment authorizes funds for each subpart at the end of each subpart.

The House recedes.

Program Established

100. The Senate amendment, but not the House bill, reauthorizes the Eisenhower Regional Math and Science Education Consortia as a subpart of this part. The Secretary, in consultation with the Director of the National Science Foundation, is authorized to award grants or contracts for such consortia for the purpose of disseminating math and science materials and providing technical assistance. One consortium shall be in each regional education laboratory region. Grants or contracts shall be for not more than five years.

The House recedes.

Use of Funds

101. The Senate amendment, but not the House bill, authorizes funds to: work with the Eisenhower Clearinghouse; assisting and providing technical assistance in the use of math and science materials; provide training in math and science instruction; provide financial assistance so that educators may attend consortium activities; implement programs and activities for groups underrepresented in and underserved by math and

science education; help SEAs and LEAs assess science equipment needs and the need for math and science academies; develop and disseminate early childhood math and science instructional materials; disseminate information on informal math and science activities in the region; collect data for the purpose of evaluating the work of the consortia; identify exemplary practices and materials within the region and report it to the Eisenhower Clearinghouse, communicate with other entities delivering services to students and teachers of mathematics; assist with State and regional plans for systemic reform in math and science; and increase the use of informal educational entities.

The House recedes.

Application and Review

102. In the Senate amendment, but not the House bill, applications must demonstrate: expertise in math and science education; the ability to implement and disseminate math and science materials, teaching methods, and assessment tools; the ability to carry out the functions of the regional consortium; an emphasis on meeting the needs of those underrepresented in and underserved by math and science education; that the business community will play an integral in the consortium's work; that the entity will consider Star School resources in carrying out this subpart; an assurance that activities will be conducted in compliance with copyright laws.

The House recedes.

103. In the Senate amendment, but not the House bill, the Secretary must develop procedures and criteria to ensure that grants or contracts are awarded based on merit through a peer review process consisting of national panels appointed by the Secretary.

The House recedes.

104. In the Senate amendment, but not the House bill, each entity receiving a grant or award shall establish a broadly representative regional board to oversee the administration and program priorities of the consortia. No federal funds may be used for this board except for travel or accommodations for board members who could not otherwise participate.

The House recedes.

Payments; Federal Share; Non-Federal Share

105. In the Senate amendment, but not the House bill, the federal share in funding the activities of the consortia shall be 80%. The remaining 20% may be cash or inkind contributions and at least 10% of the non-federal share must come from non-governmental sources.

The House recedes.

Evaluation

106. In the Senate amendment, but not the House bill, the Secretary, through OERI, shall collect data on, evaluate, and report on the effectiveness of the consortia by the end of each grant contract period, including an evaluation of how well the consortia meet the needs of the schools, teachers, administrators, and students of their respective regions.

The House recedes.

Definitions

107. In the Senate amendment, but not the House bill, this subsection defines several terms including eligible entity, mathematics, science, region, regional consortium, and State agency for higher education.

The House recedes.

Authorization of Appropriations

108. The Senate amendment, but not the House bill, authorizes $23 million for FY 95 and "such sums" for the following four years for this subpart.

The House recedes.

TITLE XIV—GENERAL PROVISIONS

Title

Definitions

The Senate amendment excludes the National Teacher Training Project from the definition of "covered program."

The House recedes.

The Senate amendment excludes from the definition of "covered program" the State and Local Programs for School Technology Resources, Technical Support, and Professional Development.

The House recedes.

The House bill excludes the definition of the targeted assistance program.

The House recedes.

The Senate amendment excludes from the definition of "current expenditures" the expenditures made from funds received under Title XIII.

The Senate recedes.

The House bill defines "educational service agency" to include agencies authorized to "provide services and programs;" the Senate amendment defines "educational service agency" to include agencies authorized to "provide services or programs."

The House recedes.

The House bill defines "elementary school" to mean a "nonprofit institutional day or residential school;" the Senate amendment defines "elementary school" to mean a "day or residential school."

The Senate recedes.

The Senate amendment, but not the House bill, defines "gifted and talented."

The House recedes.

The House bill defines "institution of higher education" to have the meaning given that term in section 1201(a) of the Higher Education Act of 1965; the Senate amendment defines "institution of higher education" to have the meaning given that term in section 1201 of the Higher Education Act of 1965.

The Senate recedes.

The Senate amendment, but not the House bill, defines "interoperable and interoperability."

The Senate recedes.

12. The Senate amendment, but not the House bill, includes in its definition of "local educational agency" a BIA-funded elementary or secondary school to the extent the inclusion makes the school eligible for programs not provided in other provisions of law, except that the school shall not be subject to the jurisdiction of any State educational agency other than the BIA; see section 9104 of the House bill for a related provision.

The House recedes with an amendment to include in the definition of a local educational agency an elementary or secondary school funded by the Bureau of Indian Affairs, but only to the extent that such school is not smaller in student population than the smallest local educational agency eligible for and receiving assistance under this Act.

13. The House bill, but not the Senate amendment, defines "mentoring."

The Senate recedes.

14. The House bill includes Palau in its definition of "outlying areas" but only until the effective date of the Compact of Free Association with the Government of Palau; the Senate amendment includes Palau without the proviso and also includes the Republic of the Marshall Islands and the Federated States of Micronesia.

The House recedes.

15. The Senate amendment, but not the House bill, defines "public telecommunications entity."

The House recedes with an amendment defining the territories as the Virgin Islands Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands and for the purpose of the Competitive Grants section—under Title I of this Act and discretionary grants under this Act, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau. The conferees intend that the Republic of the Marshall Islands, the Federated States of Micronesia and the Republic of Palau are not considered territories under this Act and may only receive funds under the Competitive Grants section—under Title I of this Act and discretionary grant programs under this Act.

16. In addition to technical drafting differences between the House and Senate versions of the definition of "pupil services personnel" and "pupil services," the Senate amendment, but not the House bill, specifies "other necessary services" to include "related services as such term is defined in section 602 of the Individuals with Disabilities Education Act."

The House recedes.

17. The House bill defines "secondary school" to mean a "nonprofit institutional day or residential school;" the Senate amendment defines "secondary school" to mean a "day or residential school." Also includes technical drafting differences.

The Senate recedes.

18. The Senate amendment, but not the House bill, defines "technology."

The House recedes with an amendment adding "and fiber optic transmission, computer, video" after "copper".

Applicability of This Title

19. The House bill, but not the Senate amendment, provides that references to section 1471 of this Act prior to enactment of the bill, "shall be deemed to refer to this section."

The Senate recedes with amendment changing "section" to "part."

20. The House bill, but not the Senate amendment, provides that certain consortia of BIA-operated schools shall be given the same consideration as a local educational agency and shall apply through the BIA, which shall apply to the Department of Education on their behalf; see related provision in the Senate amendment's definition of "local educational agency."

The Senate recedes with amendment striking "Such consortia shall apply through the Bureau of Indian Affairs which shall apply to the Department of Education on their behalf.

Flexibility in the Use of Administrative and Other Funds

21. The House bill, but not the Senate amendment, provides that a State educational agency may consolidate administrative funds "if such State educational agency can demonstrate that the majority of such agency's resources come from non-Federal sources." Also includes technical drafting differences.

The Senate recedes.

22. The Senate amendment, regarding the applicability of consolidation authority, includes those programs it defines under "covered programs" that are not included in the House bill; see comments 4 through 7. Also includes technical drafting differences.

Legislative counsel.

23. The Senate amendment, but not the House bill, regarding the applicability of

consolidation authority, includes the administrative funds under section 308(c) of the Goals 2000: Education America Act.

The House recedes.

24. The provision concerning the additional uses of consolidated funds includes technical drafting differences.

Legislative counsel.

25. The provision concerning unused administrative funds includes technical drafting differences.

Legislative counsel.

26. The Senate amendment, but not the House bill, provides that a State educational agency may consolidate funds available to it under title I of the ESEA and title III of Goals 2000 in order to develop State content standards, student performance standards, or assessments.

The House recedes with an amendment striking "State student performance standards" and adding "challenging" before State content standards.

27. The provision concerning single local educational agency States include technical drafting differences.

Legislative counsel.

Consolidation of Funds for Local Administration

28. The House bill provides for regulations "of the Secretary;" the Senate amendment provides for regulations "issued by the Secretary."

Legislative counsel.

29. The House bill provides for a percentage "established in each covered program;" the Senate amendment provides for a percentage "determined by its State educational agency."

The House recedes.

30. The provision concerning State procedures for fund consolidation includes technical drafting differences.

Legislative counsel.

31. The provision concerning uses of consolidated administrative funds includes technical drafting differences.

Legislative counsel.

Administrative Funds Study

32. The House bill provides that the Secretary's administrative funds study include the percentage of administrative funds "in all covered programs;" the administrative funds "in all covered programs."

The House recedes with amendment to: change section heading to "Administrative Funds Studies"; change the subsection heading to "(a) Federal Funds Study"; move the language on State submission of data on Title I administration activities from the Senate bill (section 1702(d)) to here and make it a new subsection (a)(2) and call it "Title I State Data"; and modify the language from section 1702(d) to change the reference from "this title" to "Title I" and references to "this section" to "section 1702."

33. The House bill, but not the Senate amendment, requires the Secretary to develop a definition of what types of activities constitute the administration of ESEA programs by State and local educational agencies.

The Senate recedes with amendments to merge the House bill paragraphs #2 and #3 concerning results of such study with the Senate paragraph #2 which also deals with results, and change the paragraph number to be #4; and make the language concerning reporting requirements following the words "the Secretary shall" in the House bill a new subparagraph (A).

34. The House bill authorizes the Secretary to issue regulations on the use of administrative funds; the Senate amendment requires the Secretary to promulgate final regulations on administrative funds within one year of the completion of the administrative funds study.

The House recedes with amendments to make the language following the words "the Secretary shall" in the Senate amendment concerning reporting requirement" a new subparagraph (B); change the reference in the Senate amendment from "paragraph (1)," to "paragraph (a)(1)" and insert after this reference the following: "which may included collection and analysis of the data under paragraph (2) and section 14010(b);" and modify the new subparagraph (B) to add the words "or guidelines" after the words "final regulations."

35. The House bill provides that the administrative funds regulations includes provisions on the limitation of the amount of administrative funds "where such limitation is not otherwise provided by law;" the Senate amendment does not contain this qualifying clause.

The Senate recedes.

36. The provision concerning administrative funds regulations also includes technical drafting differences.

The House recedes with amendments to move the language from subsection (b) to paragraph (a)(3) and change the heading from "Report" to "Federal Funds Report."

37. The Senate amendment, but not the House bill, requires the Secretary to complete the administrative funds study not later than one year after enactment of this bill. The reporting provision also includes technical drafting differences.

The House recedes with amendment striking all after the words "not later than" through 1994" and inserting "July 1997."

38. The House bill authorizes the Department of the Interior to use "up to" 1.5 percent of consolidated funds for administration; the Senate amendment authorizes the Department of the Interior to use "not more than" 1.5 percent of consolidated funds for administration.

Legislative Counsel.

Availability of Unneeded Program Funds

39. The provision concerning availability of unneeded program funds includes technical drafting differences.

Legislative Counsel.

Coordination of Programs; Consolidated State and Local Applications

40. The House bill, but not the Senate amendment, authorizes a local educational agency, individual school, or consortium of schools to use a total of up to 5% of ESEA funds to establish and implement a coordinated services project consistent with the requirements of title X (Coordinated Services Projects).

The Senate receds.

Optional Consolidated State Application

41. The House bill, regarding optional consolidated State applications, refers to a "State application;" the Senate amendment refers to a "State plan or application." However, both the House and Senate versions provide that a State educational agency shall not be required to submit separate State plans or not be required to submit separate State plans or applications in any program to which consolidation applies. Also includes technical drafting differences.

The House recedes on phrase "plan or application."

42. The House bill, but not the Senate amendment, authorizes a consolidated application also for the Goals 2000: Education America Act and the School-to-Work Opportunities Act.

The Senate recedes.

43. The House bill, but not the Senate amendment, provides that Secretary shall require such consolidated application materials as are absolutely necessary for the consideration of the State application.

The Senate recedes.

Consolidated Local Applications

44A. The House bill, regarding consolidated local applications, refers to an "application;" the Senate amendment refers to a "plan or application."

The House recedes with amendments including "Plan or" in title and throughout text.

Other General Assurances

44B. The House bill, but not the Senate amendment, provides that the Secretary shall require such consolidated application materials as are absolutely necessary for the consideration of the local application.

The Senate recedes with an amendment including "plan" throughout text with "application."

Relationship of State and Local Plans to Plans Under the Goals 2000: Educate America Act

44C. The Senate amendment, but not the House bill, provides that each State or local plan submitted under certain ESEA programs shall be integrated with each other and with the State plan developed under title III of the goals 2000: Educate America Act. If a State or local plan requirement in these programs is satisfied for that program need not separately address that requirement. State and local plans may be submitted as an amendment to the Goals 2000 plan. Each plan of operation under the Even Start program must be consistent with plans under title III of the Goals 2000: Educate America Act or, if there are no such plans, with the State and local plans under the basic program (part A of title I) of the ESEA.

The House recedes.

Waivers

45. The Senate amendment, but not the House bill, authorizes the Secretary to waive any requirement of, or regulations under, the General Education Provisions Act.

The Senate recedes. This section allows the Secretary to waive programmatic requirements on State educational agencies, local educational agencies and institutions receiving federal funds under applicable programs, in an effort to more effectively achieve the purposes of this Act. Nothing in this section allows the Secretary to waive requirements or provisions that Congress has placed on the Department of Education, including but not limited to section 432 of GEPA or sections 10602 and 10603 of this Act.

Waivers of Statutory and Regulatory Requirements

46. The House bill authorizes the Secretary to waive requirements or regulations for a "State educational agency, local educational agency, Indian tribe, or school;" the Senate amendment authorizes the Secretary to waive requirements or regulations for a "State educational agency, local educational agency, Indian tribe, or other agency, organization, or institution."

The Senate recedes with an amendment inserting "through an LEA" after "school."

NOTE: There is a probable error in the House bill. The last "or" preceding section 9401(a)(1) should probably be deleted, thus making the requirements of paragraphs (1) and (2) apply to the entities in the matter preceding paragraph (1).

Legislative Counsel.

47. The Senate amendment, but not the House bill, limits the waiver authority to funds authorized by the ESEA "from the Department."

Legislative Counsel.

48. The House bill, but not the Senate amendment, sets forth the descriptions that must be in a request for waiver.

The Senate recedes with an amendment adding the word "reasonable" such that the provision reads that in the case of a waiver proposal submitted by an SEA, the SEA "(A) provides all interested local educational agencies in the State with notice and a reasonable opportunity to comment on the proposal."

49. The House bill provides that local educational agencies submit waiver requests to State educational agencies which, in turn, submit waiver requests to the Secretary; the Senate amendment provides that waiver requests submitted by a local educational agency or other agency, institution, or organization receiving ESEA funds from a State educational agency and is accompanied by any comments of the State educational agency.

The House recedes with an amendment striking "or other agency, institution, or organization" such that the provision reads "in the case of a waiver proposal submitted by a local educational agency that receives funds under this Act from a State educational agency—"

50. The House bill, but not the Senate amendment, provides that waiver requests from Indian tribes shall be submitted to the Secretary.

The Senate recedes.

51. The House bill requires a State educational agency, local educational agency, or Indian tribe requesting waivers to provide notice and information to the public. The Senate amendment, in addition to requiring notice and information to the public by a State educational agency, local educational agency or other agency, institution, or organization, requires a State educational agency to (1) provide notice to all interested local educational agencies and an opportunity for them to comment, and to (2) submit any comments to the Secretary.

The House recedes with amendments providing that the opportunity to comment be "reasonable."

52. The House bill, but not the Senate amendment, prohibits waivers relating to the allocation of funds, Federal non-supplanting requirements, elements of a charter school, and prohibitions regarding State aid (section 9502) and use of funds for religious worship (section 9507).

The Senate recedes.

53. The Senate amendment, but not the House bill, prohibits waivers relating to the distribution of funds to States or to local educational agencies or other recipients of funds under the ESEA, applicable civil rights requirements, or requirements of section 438 and 439 of the General Education Provisions Act.

The House recedes.

54. The House bill prohibits waivers regarding the equitable participation of private school students and teachers; the Senate amendment prohibits waivers regarding the equitable participation of students attending private schools.

The Senate recedes.

Waiver Period

55. The House bill provides that the wavier period not exceed 3 years; the Senate amendment provides that the waiver period not exceed 4 years.

The Senate recedes.

56. The House bill provides for extension of the waiver period if the Secretary determines that the waiver has increased the quality of instruction or the academic performance of students; the Senate amendment provides for extension if the Secretary determines that the waiver has been effective in enabling recipients to carry out activities for which the waiver was requested, the waiver contributed to improved performance, and extension would be in the public interest.

The House recedes.

57. The House bill requires the Secretary to terminate a waiver if the Secretary determines that the waiver hasn't increased the quality of instruction, or improved students' academic performance, or is no longer needed to achieve the objectives of the recipients' performance or if the Senate amendment requires termination if the Secretary determines that a recipient's performance has been inadequate or if the waiver is no longer needed to achieve its original purposes.

The House recedes.

58. The House bill, but not the Senate amendment, sets forth reporting requirements from the local education agency to the State educational agency, from the State educational agency or Indian tribe to the Secretary, and from the Secretary to the Congress.

The Senate recedes with an amendment striking the word "annually" before "shall submit" and paragraph (A) which reads "summarizing the uses of waivers by State educational agencies, local educational agencies, Indian tribes, and schools; and" such that the relevant provision reads:

"(4) The Secretary, at the end of the second year and every year thereafter, shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report including whatever information the Secretary determines to be necessary."

59. The Senate amendment, but not the House bill, requires that notice of the Secretary's decision to grant a waiver be published in the Federal Register and requires the Secretary to disseminate the notice to interested parties.

The House recedes.

Prohibition Regarding State Aid

60. The House bill provides that no State "may" take ESEA funding into consideration in determining a local educational agency's eligibility to receive State aid; the Senate amendment provides that no State "shall" do so.

The House recedes.

61. The House bill, but not the Senate amendment, exempts impact aid funding from the prohibition regarding State aid.

The Senate receds.

Participation by Private School Children and Teachers

62. The House bill refers to services for the "teachers or other educational personnel" in private schools; the Senate amendment refers to services for the "teacher, administrators, and other staff" in these schools. Also includes technical drafting differences.

The Senate recedes.

63. The House bill, but not the Senate amendment includes in the provisions regarding the applicability of programs for participation by private school children and teachers the library media program.

The Senate recedes.

64. The Senate amendment, but not the House bill, includes in the provisions regarding the applicability of programs for participation by private school children and teachers the Star Schools program, the elementary mathematics and science equipment program, and the targeted assistance program.

The House recedes leaving open the question of science and math equipment program.

65. The Senate amendment, but not the House bill, requires the educational agency or consortium to conduct a timely consultation with private school officials on ESEA programs.

The House recedes.

Standards for By-Pass

66. The House bill refers to by-pass standards for "a State, local or intermediate educational agency or consortium," the Senate amendment refers to by-pass standards for "a State, local or intermediate educational agency or consortium of such agencies."

Legislative Counsel.

67. The provision concerning petition for review from the by-pass determination includes technical drafting differences.

Legislative Counsel.

68. The provision concerning prior determination for by-pass includes technical drafting difference.

The House recedes with an amendment adding that the provision shall not apply with respect to civil rights laws.

General Provisions Regarding Nonrecipient Nonpublic Schools

69. The general provision regarding nonrecipient nonpublic schools includes technical drafting differences.

Legislative Counsel

70. The House bill, but not the Senate amendment, sets forth provisions to comply with the Buy America Act.

The House recedes.

71. The House bill, but not the Senate amendment, provides that it is the sense of Congress that ESEA funding recipients should use ESEA funds for American-made products, and requires Federal agency heads to notify recipients of this "sense."

The Senate recedes.

72. The House bill, but not the Senate amendment, provides that anyone convicted of falsely affixing a Made in America label to a product shall be ineligible to receive a contract or subcontract made with ESEA funds.

The House recedes.

School Prayer

73. The House bill denies Department of Education funding to any State or local educational agency that has a policy of denying, or effectively denies, an individual's voluntary participation in constitutionally protected prayer in public schools, and bans the United States or any State or local educational agency from requiring prayer or influencing the content of constitutionally protected prayer in public schools. The Senate amendment denies Federal funding during a noncompliance period to any State or local agency judged to have willfully violated a court order to remedy a violation of students' rights with respect to prayer in public schools.

The House recedes with an amendment striking "Federal funds" and inserting "funds under this Act."

Youth Programs Limitation

74. The House bill mandates that public schools receiving ESEA funds stress abstinence and age appropriate materials in sex education courses, while providing that this section may not be construed to authorize

Federal control of, or administrative action with regard to curriculum. Two Senate amendments (section 407 and 408, respectively prohibit using ESEA funds to promote sexual activity and to make condoms available in schools.

The House recedes with an amendment striking section 406 of the Senate amendment and combining the remaining provisions of the House bill and Senate amendment.

Prohibition Against Funds for Homosexual Support

75. The House bill provides that no local educational agency "shall use funds made available under this Act to implement" activities encouraging homosexuality; the agency "that receives funds under this Act shall implement" such activities.

The Senate recedes with an amendment striking section 406 of the Senate amendment and combining the remaining provisions of the House bill and Senate amendment.

76. The House bill, but not the Senate amendment, prohibits local educational agencies from using funds under the ESEA to distribute or aid in the distribution by any organization of any obscene material to minors on school grounds.

The House recedes with an amendment striking section 406 of the Senate amendment and combining the remaining provisions of the House bill and Senate amendment.

77. The House bill, but not the Senate amendment, provides that the section prohibiting funds for homosexual support may not be construed to authorize Federal control of, or administrative action with regard to curriculum.

The House recedes with an amendment striking section 406 of the Senate amendment and combining the remaining provisions of the House bill and Senate amendment.

78. The Senate amendment, but not the House bill, sets an effective date for the section prohibiting funds for homosexual support as one day after enactment.

The House recedes with an amendment striking section 406 of the Senate amendment and combining the remaining provisions of the House bill and Senate amendment.

Nonsmoking Policy

79. The House bill, but not the Senate amendment, (1) mandates that each person receiving ESEA funds and providing services to elementary and secondary school students establish and make a good-faith effort to enforce a nonsmoking policy that bans the smoking in indoor school facilities used by children, (2) establishes due process and civil penalties for noncompliance, (3) sets forth an effective date, with exceptions for collective bargaining agreements, of 180 days after enactment, and (4) prohibits preemption of State laws at least as restrictive as the Federal law.

The House recedes.

Policy Regarding Criminal Justice System Referral

80. The House bill requires each local educational agency receiving ESEA funds to have a policy addressing student possession and use of a gun on school property, and suggests possible policy content. The Senate amendment mandates that no ESEA funds shall be made available to any local educational agency unless that agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student bringing a firearm or weapon to a school served by that agency.

The House recedes.

Gun-Free Schools

81. The Senate amendment, but not the House bill, prohibits, under the "Gun-Free Schools Act of 1994," a local educational agency from receiving ESEA funds unless that agency has a policy of requiring expulsion from school for not less than 1 year for any student bringing a weapon to a school under that agency's jurisdiction. This amendment allows for placement of the student in an alternative setting, sets forth a 1-year grace period for States having less restrictive expulsion laws, defines "weapon" and requires local educational agencies to report on State educational agencies on this matter.

Also, sections 404 and 405 of the Senate amendment, mandate disciplinary action for a student possessing a weapon in any school that receives Federal funds, and amend the Individuals with Disabilities Education Act to provide for an alternative setting in cases of life-threatening behavior by a child with a disability.

The House recedes with several amendments: requiring states receiving assistance under this Act to enact a law requiring the expulsion of students who bring a weapon to school for up to one year; directing the Secretary of Education to widely disseminate the current policy of the Department of Education with respect to disciplining children with disabilities; directing the Secretary of Education to collect data on the incidence of children with disabilities (as such term is defined in section 602(1) of IDEA) engaging in life-threatening behavior or bringing all types of weapons to schools and submit a report to Congress by January 31, 1995 analyzing the strengths and problems with the current approaches regarding disciplining children with disabilities. The Conferees expect that this information will assist us in our deliberations around this issue next year when the Individuals with Disabilities Education Act is reauthorized. Additionally, the House recedes with amendments to define the term "weapons" by incorporating by reference the definition used in the Gun-Free Schools Act, i.e., "a firearm as such term is defined in section 921 of title 18, United States Code."; to modify the length of time in the alternative placement is modified by inserting "45 days" in lieu of 90 days; and to clarify the construction clause by adding at the end of the following phrase: "except that this section shall be interpreted in a manner that is consistent with the U.S. Department of Education's Guidance Concerning State and Local Responsibilities Under the Gun-Free Schools Act of 1994, as printed in the Congressional Record of July 28, 1994, at S. 10017."

It is the conferees' intent that the IEP team meet to determine whether an alternative placement is appropriate as soon as possible after the incident occurs, especially when there is reason to believe that the action of bringing the gun to school is related to the child's disability.

Ethical Principles

83. The House bill, but not the Senate amendment, provides that it is the sense of the Congress that States, local educational agencies, and schools encourage families in teaching ethical principles to their children.

The House recedes.

Custodial Services

84. The House bill, but not the Senate amendment, provides that a local educational agency containing 5 counties and with a student population exceeding 900,000 may not use ESEA funding to compensate custodial personnel.

The House recedes.

Sense of the Congress to Increase the Total Share of Federal Spending on Education

85. The House bill, but not the Senate amendment, sets forth findings and provides that it is the sense of the Congress that the total share of Federal spending on education should increase by 1% per year until the share reaches 10% of the total Federal budget.

The Senate recedes.

Other Provisions

State Recognition of Exemplary Performance

86. The Senate amendment, but not the House bill, authorizes the State educational agency to implement a program of State recognition awards to ESEA recipients demonstrating outstanding performance.

The Senate recedes.

Prohibition on Federal Mandates, Direction, and Control

87. The Senate amendment, but not the House bill, provides that nothing in the ESEA shall be construed to authorize a Federal employee to control a "State, local educational agency, or school's curriculum or allocation of resources, or mandate costs not paid for under the ESEA.

The House recedes.

Report

88. The Senate amendment, but not the House bill, requires the Secretary to report to the Congress, within 180 days after enactment, regarding how the Secretary shall ensure that the Department's ESEA audits comply with changes made to the Act, particularly with regard to permitting children with similar educational needs to be observed in the same educational setting.

The House recedes.

Required Participation Prohibited

89. The Senate amendment, but not the House bill, provides that no State shall be required to participate in Goals 2000 programs or to have content or student performance standards approved under Goals 2000 in order to receive ESEA funds.

The House recedes.

Privately Managed Schools

90. The Senate amendment, but not the House bill, provides that the ESEA shall not be construed to deny States or local educational agencies the opportunity to use Federal funds to contract with private management firms.

The Senate recedes.

Evaluations

91. The Senate amendment, but not the House bill, authorizes the Secretary to reserve not more than 0.5% of ESEA appropriations to carry out evaluations of the effectiveness of ESEA and other Federal education programs. The amendment sets forth in detail the type of evaluations and studies to be undertaken, mandates the use of an independent panel to review the evaluation plan, and requires a report to the Congress by January 1, 1998. The amendment also authorizes the Secretary to provide guidance and technical assistance to ESEA recipients and provides that nothing in this provision shall be construed to establish a national data system.

The House recedes with amendments to merge the House and Senate language.

IASA TITLE II—AMENDMENTS TO THE GENERAL EDUCATION PROVISIONS ACT

Drafting Style

1. The Senate amendment uses subsection headings and U.S. Code citations throughout its GEPA provisions. The House bill does not.

The House recedes.

Title; Applicability; Definitions

2. The Senate amendment, but not the House bill, contains a parenthetical exception providing that a reference to the "Act" does not include Part G (Conforming Amendments).

The House recedes.

3. The House bill heading for section 400 reads in part "TITLE". The Senate amendment reads in part "SHORT TITLE".

Legislative Counsel.

Title; Applicability; Definitions

4. The definition of "applicable program" in the House bill uses the term "statutes". The Senate amendment uses the term "Federal law".

Legislative Counsel.

Repeal and Redesignation

5. The House bill places all of the repeal provisions in one place (i.e., section 212(a)). The Senate amendment has them spread among five different sections.

The Senate recedes.

6. The House bill, but not the Senate amendment, redesignates the remaining sections and parts.

The Senate recedes with an amendment adding section 403 to the list of sections that are repealed in section 212(a), and striking section 403 (and its redesignation as section 401) from section 212(b).

7. The House bill, but not the Senate amendment, repeals section 405 (OERI).

This section, which authorizes the Office of Educational Research and Improvement, was repealed by section 911 of P.L. 103-227, the Educational Research, Development, Dissemination, and Improvement Act of 1994. The House recedes.

8. The Senate amendment, but not the House bill, repeals sections 403, 411, and 426.

The House recedes with an amendment providing for the repeal of section 403 only.

Office of Non-Public Education

9. The House bill, but not the Senate amendment, amends section 403 (section 401 as redesigned) to change the section heading to "Office of Non-Public Education", strike subsections (a), (b), and (c), and change "(d)(1)" to "(1)".

The House recedes.

General Authority of the Secretary

10. The House bill refers to "vested". The Senate amendment refers to "vested in the Secretary".

Legislative Counsel.

Forward Funding

11. The House bill amends the current law advance funding section (411 redesignated as 420) to authorize forwarding funding. The Senate amendment repeals the underlying section (411).

The Senate recedes.

Availability of Appropriations

12. The House bill amends the heading of section 421 (as redesignated), using the term "expenditure". The Senate amendment amends the heading of section 412, using the term "obligation".

The House recedes.

13. The Senate amendment, but not the House bill, in paragraph (1)(A), strikes "to educational agencies or institutions".

The House recedes.

14. The Senate amendment, but not the House bill, in paragraph (1)(B), changes "expenditure" to "obligation".

The House recedes.

15. The Senate amendment, but not the House bill, in paragraph (1)(C) changes "agency or institution concerned" to "recipient".

The House recedes.

16. The Senate amendment, but not the House bill, amends section 412(b) to restrict carryover authority to "applicable State formula grant programs", to define the term, and to make conforming changes.

The Senate recedes.

17. The Senate amendment strikes subsection (c) of section 412 pertaining to obligation of funds following the institution of a judicial proceeding. The House bill retains subsection (c) and changes a Revised Statutes citation to a U.S. Code citation.

The Senate recedes.

Contingent Extension of Programs

18. The House bill provides for the contingent extension of otherwise expiring programs for one additional fiscal year. The Senate amendment provides for two fiscal years.

The Senate recedes.

19. The House bill refers to the regular congressional session which "ends prior to the beginning of the terminal fiscal year". The comparable reference in the Senate amendment is "ends prior to the terminal fiscal year" (i.e., not "the beginning of the").

Legislative Counsel.

20. The Senate amendment provides that the contingent extension occurs unless the Congress "extends or has rejected legislation that would have extended" the authorization. The House bill refers to "extends or repeals".

The Senate recedes.

21. The House bill and Senate amendment provision regarding the amount of the authorization in the extension period are worded differently but have the same effect.

Legislative Counsel.

22. The House bill and the Senate amendment provisions regarding the Secretary's acts and determinations in the extension year have the same effect but are worded differently.

Legislative Counsel.

23. The House bill, but not the Senate amendment, provides that the contingent extension authority does not apply to commissions, councils, or committees.

The Senate recedes.

State Reports

24. The House bill, but not the Senate amendment, requires States biennially to furnish certain types of information to the Secretary, and requires the Secretary to annually submit a report to the House and Senate authorizing committees.

The Senate recedes.

Biennial Evaluation Report

25. The House bill and the Senate amendment require the same dates for submission of the reports to the House and Senate committees but have different wording.

Legislative Counsel.

26. The Senate amendment provides that this be a report on the effectiveness of programs in achieving their "legislated intent and purposes". The House bill refers only to "legislated purposes".

The House recedes.

27. Both the House bill and the Senate amendment require that the report include information on the achievement of program objectives. In two places in paragraph (2), the House bill refers to "evaluation information". The Senate amendment refers only to "information".

The House recedes.

28. In paragraph (3), the House bill reads "contain selected significant program activities". The Senate amendment reads "contain selected significant program activities".

The House recedes.

29. In paragraph (5), the House bill, but not the Senate amendment, requires the report be prepared in concise summary form with necessary detailed data and appendices.

The Senate recedes.

30. At the end of paragraph (5), House bill reads "of their beneficiaries;". The Senate amendment reads "of the beneficiaries of such programs and projects; and".

Legislative Counsel.

31. The Senate amendment, but not the House bill requires, in paragraph (6), that the report include results of the Title I program evaluations under section 10107 of the Elementary and Secondary Education Act of 1965 (ESEA).

The House recedes with an amendment changing the ESEA reference to section 10701.

Technical Amendments

32. The section heading in the House bill reads "Technical Amendment". The heading in the Senate amendment reads "Technical Amendments."

Legislative Counsel.

33. The House bill and the Senate amendment provide different references to the Elementary and Secondary Education Act of 1965.

Legislative Counsel.

34. The House bill and the Senate amendment provide different references to certain provisions in the Impact Aid law relating to children with disabilities and the definition of low-rent housing. (Note: the House references are wrong; it should read "section 8004(d) or residing on property described in section 8012(4)(A)(iii)")

Legislative Counsel.

Coordination

35. The House bill, but not the Senate amendment requires that the National Assessment Governing Board, the Advisory Council on Statistics, the National Education Goals Panel, the National Education Statistics and Improvement Council and other boards relating to standards and assessments must coordinate with one another.

The Senate recedes with an amendment correcting the names of the Advisory Council on Education Statistics and the National Education Standards and Improvement Council, and making this provision a new section 428 of GEPA.

Joint Funding of Programs

36. The House bill and Senate amendment provision, pertaining to the use of funds in joint funding arrangement, have minor wording differences. Additionally, the Senate amendment, but not the House bill, provides that the funds must be used in accordance with appropriations Acts.

The Senate recedes.

37. In paragraph (2), the House bill refers to "by contract or grant only to recipients". The Senate amendment refers to "only to parties".

The Senate recedes.

38. In paragraph (3), the House bill refers to "an agreement". The Senate amendment refers to "a agreement".

The Senate recedes.

39. In paragraph (3), the House bill refers to "its procedures". The Senate amendment refers to "such agency's procedures".

Legislative Counsel.

40. In paragraph (3), the House bill refers to "award contracts or grants" and "such awards". The Senate amendment refers to "select recipients of funds under such project" and "the awards", respectively.

Legislative Counsel.

41. In paragraph (4), the House bill refers to "subsection (a) of this section". The Senate amendment refers to "this subsection".

Legislative Counsel.

43. In paragraph (4) the Senate amendment refers to "provides funding under the joint project". The House bill refers to "provides funding".

Legislative Counsel.

43 In paragraph (4), the House bill refers to "jointly funded projects" and to "those projects". The Senate amendment refers to "the jointly funded project" and "for such project", respectively.

Legislative Counsel.

44. In subsection (b), the House bill provides "awards are made". The Senate amendment provides "funds are awarded".

Legislative Counsel.

45. In subsection (b), the House bill refers to "must meet". The Senate amendment refers to "shall meet".

Legislative Counsel.

46. The House bill, but not the Senate amendment, provides in subsection (c) that the Secretary may not construe the provisions of this section to take precedence over a limitation on joint funding contained in an applicable statute.

The Senate recedes.

47. The House bill, but not the Senate amendment, requires in subsection (d) that the Secretary to give notice of joint funding agreements to the House and Senate committees within 60 days of making such agreements and describes the kind of information to be provided in the notices.

The Senate recedes.

Collection and Dissemination of Information

48. The House amendment and Senate amendment both amend section 422 of GEPA (redesignated section 431 by the House bill) to strike "(a)", change "Commissioner" to "Secretary", and strike paragraph (4) and subsections (b) and (c). The House bill makes the changes with cut and bite amendments. The Senate amendment rewrites the section and, in paragraph (3), changes "their purposes." to "the intended purposes of such programs.".

The House recedes.

Review of Applications

49. The Senate amendment, in subparagraphs (C) and (D) of paragraph (1) omits the word "thereof" found in paragraph (1)(C) and (D) of the House bill.

The Senate recedes.

50. In paragraph (2), the House bill uses "it". The Senate amendment uses "such term".

Legislative Counsel.

51. The Senate amendment, but not the House bill, breaks the text of paragraph (3) into subparagraphs.

Legislative Counsel.

52. In paragraph (3), the House bill refers to "each time it appears". The Senate amendment refers to "each place such term appears".

Legislative Counsel.

53. The House bill, but not the Senate amendment, requires that, whenever feasible, statistics and other data collection and analysis be collected, cross-tabulated, analyzed and reported by sex within race or ethnicity and socioeconomic status. In the event that the Secretary determines that such statistics or data collection and analysis reveals no significant differences among such categories, the Secretary shall include in the relevant report an explanation of such determination.

The House recedes.

Technical Amendment

54. The House bill, but not the Senate amendment, in section 427 (redesignated 434), changes "he" to "Secretary". Note that the House bill puts this provision in a separate section while the Senate amendment places it in a later section containing other technical amendments.

The Senate recedes.

Use of Funds Withheld

55. The House bill, in subsection (b)(1) refers to "allotments of other local educational agencies within the State, or the allotments of all States, in accordance with the statutes governing the program". The Senate amendment reads: "allotments or reallotments of local educational agencies within the State that are not described in subsection (a), or the allotments or reallotment of all States, in accordance with the Federal law governing the program".

The House recedes.

Applications

56. The Senate amendment, but not the House bill, provides that the amendment is to subsection (a) of the applications section (although that is the intent of the House bill).

The House recedes.

Regulations

57. The House bill strikes obsolete and unnecessary provisions from the current law (i.e., in cut and bite provisions), keeping many of the current law requirements. The Senate amendment contains similar requirements but does so in a rewrite of the current law.

The House recedes.

58. In addition to technical differences, the Senate amendment provides that, in order for one of the enumerated actions to be a "regulation", it must have a "legally binding effect in connection with, or affecting, the provision of financial assistance under any applicable program." The House bill leaves similar language in the current law provision requiring citations of legal authority.

The House recedes.

59. The Senate amendment requires that regulations issued by the Secretary or the Department contain citations of legal authority. The House bill preserves the similar current law provision which differs from the Senate amendment by not having the above underlined language and by providing that the citation requirement applies to regulations "in connection with, or affecting, the administration of any applicable program".

The House recedes.

60. The uniform application provision in the Senate amendment refers to "the 50 States". The current law language preserved by the House bill refers to "the fifty States".

Legislative Counsel.

61. The House bill preserves the current law provisions requiring the publication of proposed regulations, a 30-day comment period, publication of final regulations, transmission of such final regulations to the Congress and a 45-day delay in their effectiveness. The Senate amendment provides (i) for promulgation of regulations in accordance with section 553 of the Administrative Procedure Act (with no 45-day delay), and (ii) that the APA grant exemption shall apply only to regulations (i) that govern a grant competition for the first year of a new program, or (ii) where the Secretary determines that the requirements of this subsection will cause extreme hardship to intended program beneficiaries (similar to current law).

The House recedes with an amendment clarifying the language describing the regulations to which the APA grant exemption applies.

62. The regulations schedule provision in the Senate amendment is similar to the current law provisions preserved by the House bill, the major difference being that, under the provisions of the Senate amendment, the schedule does not have to be submitted to Congress within 60 days and regulations do not have to be promulgated within 180 days following the submission of the schedule. Instead, the Senate amendment requires that the schedule and promulgation of regulations be completed within 480 days.

The House recedes with an amendment providing that the regulations schedule must be submitted to the Congress within 60 days of the date of enactment of any Act, and providing that the regulations must be promulgated within 360 days of the date of enactment of any Act.

63. The Senate amendment, but not the House bill (or current law), provides that, if the Secretary determines, in an exceptional case and for good cause, that a final regulation cannot be promulgated within the 480-day period, the Secretary shall include in the schedule the reasons for the determination and the date when the regulation will be promulgated. The Senate amendment also provides that regulations will be promulgated in accordance with the schedule and if, for good cause, the Secretary later determines that the Department cannot comply with the schedule, the Secretary shall notify the Congress with reasons why and submit a new schedule.

The Senate recedes.

Records Reduction in Retention Requirements

64. In paragraph (1)(A), the House bill refers to "striking out". The Senate amendment refers to "striking".

Legislative Counsel.

65. In paragraph (1)(A), the House bill refers to "inserting in lieu thereof". The Senate amendment refers to "inserting".

Legislative Counsel.

66. In paragraph (1)(C), the House bill changes current law to reduce from 5 to 3 years the amount of time following a grant that a recipient must retain records. The Senate amendment eliminates the time period requirement altogether.

The Senate recedes.

67. In paragraph (2), the House refers to "striking out". The Senate amendment refers to "striking".

Legislative Counsel.

68. In paragraph (2), the House bill refers to "inserting the lieu thereof". The Senate amendment refers to "inserting".

Legislative Counsel.

69. In paragraph (2), the House bill refers to "currently maintained". The Senate amendment refers to "maintained".

Legislative Counsel.

Privacy Rights

70. The Senate amendment, but not the House bill, includes provisions on privacy rights which amend various portions of FERPA (section 438 or 444 as redesignated by the House bill). In particular, the Senate amendment (would deny funding under any applicable program to any SEA which has a

policy of denying (or which effectively prevents) the parents of students the right to inspect their children's education records maintained by the SEA, (ii) provides that the educational interests of other school officials, to whom students' educational records may be released without parental consent, include "the educational interests of the child for whom consent would otherwise be required," (iii) adds the entity or persons designated in a Federal grand jury or other subpoena to those individuals and organizations to whom students' educational records may be released without parental consent, (iv) provides that an educational agency or institution may be prohibited for a period of 5 years from providing information from educational records to a third party which illegally has permitted access to students' educational records or failed to properly destroy information, (v) places a time constraint of 240 days following enactment of the reauthorization bill on the requirement for the Secretary to adopt or identify appropriate regulations regarding student and family privacy rights, and (vi) adds a proviso that nothing in FERPA is designed to prohibit an educational agency from including appropriate information in the records of a student who poses a significant safety risk to other students and from disclosing such information to teachers and other school officials who have legitimate educational interests in the behavior of the student.

The House recedes with an amendment adding "or procedures" to the "appropriate regulations" language, clarifying that "appropriate information" is that concerning disciplinary actions taken against such student for conduct that poses a significant safety risk for others, and making technical corrections.

Release of Records

71. The House bill, but not the Senate amendment, amends FERPA to permit in limited circumstances the release of records concerning the ability of the juvenile justice system to more effectively serve students and describes the specific requirements for such release.

Senate recedes with an amendment clarifying that the disclosed information concerns the juvenile justice system and its ability to effectively serve the student whose records are released prior to adjudication.

Protection of Pupil Rights

72. The House bill, but not the Senate amendment, adds new provisions to section 439 (445 as redesignated by the House bill) requiring instructional materials be available for parental inspection, ensuring that students may not be required to reveal certain types of information through surveys, analyses or evaluations without prior consent, requiring that parents be advised of their rights under this section, requiring the Secretary to take appropriate action to enforce this section, and requiring the Secretary to designate an office and review board within the Department to investigate, process, review, and adjudicate violations of the rights established under this section.

An identical amendment was enacted as part of Goals 2000: Educate America Act, section 1017, P.L. 103-227. The House recedes.

Enforcement

73. The House bill, but not the Senate amendment, amends the GEPA audit and enforcement provisions to: clarify the congressional intent regarding the establishment of a prima facie case for the recovery of grant funds; extend from 30 to 60 days the time for filing for a review of a preliminary departmental decision; prohibit ex parte contact which otherwise could prejudice the review; confines the decision on the making of grantbacks to whether the recipient corrected the violations of law; and ensure that recovered funds remain available for a reasonable period of time if a recipient files for judicial review.

The Senate recedes with an amendment preserving the current law grantback language which requires that a recipient, in all other respects, be in compliance with the requirements of that program but provides that the recipient must have been notified of its noncompliance with such requirements within 100 days of receiving a preliminary departmental decision under section 452(a)(1).

Technical Amendments

74. Subsection (b) of the House bill contains "thereof". Subsection (b)(2) of the Senate amendment contains "of the matter preceding paragraph (1)".

Legislative Counsel.

75. Subsection (c) of the House bill uses "it". Subsection (c) of the Senate amendment uses "such term".

Legislative Counsel.

76. The Senate amendment, but not the House bill, replaces an exception related to an Impact Aid section with "All laborers".

The House recedes.

77. Subsection (d)(1) of the House bill reads "heading of". Subsection (e)(1) of the Senate amendment reads "heading for".

Legislative Counsel.

78. Subsection (2)(A) uses "it". The Senate amendment uses "such term".

Legislative Counsel.

79. Subsection (e)(1) of the House bill uses "it". The Senate amendment in subsection (f)(1) uses "such term".

Legislative Counsel.

80. Subsection (e)(2)(B) of the House amendment strikes an entire parenthetical phrase. Subsection (f)(2) of the Senate amendment amends the language to read "in the case of programs under chapter 1 and chapter 2 of title I of the Elementary and Secondary Education Act of 1965.

Legislative Counsel.

81. The Senate amendment, but not the House bill, strikes "title V of such Act" and inserts "part A of title V of the Elementary and Secondary Education Act of 1965".

Legislative Counsel.

82. Paragraph (2)(B) of the House bill uses "it". The Senate amendment in subsection (2)(B) uses "such term".

Legislative Counsel.

83. In paragraph (2)(C), the House bill refers to "(7)". The Senate amendment refers to "(7)(B)".

Legislative Counsel.

84. Subsection (g) (1) of the House bill contains the phrase "at the end thereof". Subsection (h)(1) of the Senate amendment does not.

Legislative Counsel.

85. Paragraph (4)(A) of the House bill and the Senate amendment use different drafting styles to strike ", or an administrative head of an education agency,".

Legislative Counsel.

86. Paragraph (4)(B) of the House bill and the Senate amendment use different drafting styles to strike "provisions of".

Legislative Counsel.

87. Paragraph (4)(D) of the House bill and the Senate amendment use different drafting styles to strike "provisions of".

Legislative Counsel.

88. Paragraph (5)(A) of the House bill amends "the Department of Health, Education, and Welfare" in section 438(g) (redesignated section 444) to read "the Department of Education". The paragraph (5)(A) of the Senate amendment amends such language to read "The Department".

Legislative Counsel.

Equity for Students, Teachers, and Other Program Beneficiaries

89. The House bill inserts this new section as section 427. The Senate amendment inserts it in section 426.

Legislative Counsel.

90. The House bill, near the end of subsection (a), reads "their ability". The Senate amendment reads "the ability of such students, teachers, and beneficiaries".

Legislative Counsel.

91. The House bill, in subsection (b), reads "its application the steps it proposes to take". The Senate amendment reads "such applicant's application the steps such applicant proposes to take".

Legislative Counsel.

92. The House bill, in subsection (d), refers to "is intended". The Senate amendment refers to "shall be construed".

Legislative Counsel.

Disclosure Requirements

93. The House bill is organized in a section of GEPA; the Senate amendment is organized in Title XII Disclosure Requirements.

The Senate recedes with an amendment providing that this is a new section 429 of GEPA.

94. The Senate bill, but not the House amendment refers to each educational agency "prior to enrolling a minor", and in subparagraph (B) any recruitment through "a local school official".

The House recedes.

95. The House bill says "any enticements offered to such teacher or personnel"; the Senate amendment says "any compensation or other benefit offered to such official, teacher, or personnel".

The House recedes.

96. The House bill refers to a verifiable statement "on" all enrollment; the Senate amendment refers to a verifiable statement "in" all enrollment.

The House recedes.

97. The House bill has a entitles the paragraph "Enforcement" and has a subparagraph heading "In General"; the Senate amendment has entitles the section "Enforcement".

The House recedes.

98. The House bill says the Secretary of Education shall monitor compliance with the provisions of this section; the Senate amendment says the Secretary shall widely disseminate information about the requirements of this section, and require educational organizations to submit appropriate information regarding compliance with this title.

The House recedes.

99. The House bill says if an educational organization knowingly violates any provision of this Act, the Secretary of Education, after notice and opportunity for hearing, may impose a civil fine of not more than $1000 for each such violation; the Senate amendment says the Secretary shall take whatever steps the Secretary determines are appropriate to enforce this title, including imposing civil fines (not to exceed $1,000 per violation) on educational organizations that knowingly violate this title.

The House recedes.

100. The Senate bill, but not the House amendment has a section heading and defines the term disability.

The House recedes.

101. The House bill says that educational organizations, as defined by this section, means an organization or groups which provides special honors programs, seminars or other educational experiences or honors generally directed toward minors or high school students and charges a tuition or enrollment fee; the Senate has a paragraph heading and says except as provided in subparagraph (B) and (C), the term educational organization means any organization or entity that provides an education program for a fee.

The House recedes.

102. The House bill, but not the Senate amendment, defines further defines educational organization as an organization or group which offers its program away from a students regular place of school attendance, includes not less than 1 supervised night away from home, and is intended to enhance a student's regular course of study.

The House recedes.

103. The House bill says advertises and recruits students through commercial media, direct mailings, school recruitment programs, or school administrators or teachers; the Senate amendment says recruits student through means such as commercial media, direct mailings, school recruitment programs, school administrators, teachers, or staff, or current or former participants in an education program offered by such organization or entity.

The House recedes.

104. The House bill says the definition in subparagraph (A) shall not include a local educational agency, State education agency, a State department of education, or an elementary or secondary school as defined by this Act; the Senate amendment says such term shall not include a local educational agency, a State educational agency, a State department of education, or an elementary or secondary school.

The Senate recedes with an amendment changing the reference to "this Act" to "the Elementary and Secondary Education Act of 1965".

105. The House amendment, but not the Senate bill says "as defined by the Higher Education Act of 1965.

The Senate recedes with an amendment adding a section reference to the Higher Education Act of 1965 reference.

106. The House bill says a recreational or entertainment organization; the Senate amendment says a recreational organization, an entertainment organization.

The House recedes.

107. The Senate amendment, but not the House bill, exempts certain organizations or entities from the definition.

The House recedes with an amendment simplifying the wording of subparagraph (C).

108. The Senate amendment, but not the House bill, defines the term "educational program".

The House recedes.

109. The Senate amendment, but not the House bill, defines the term "local school official".

The House recedes.

110. The Senate amendment, but not the House bill, defines the term "minor".

The House recedes.

111. The Senate amendment, but not the House bill, defines the term "membership organization".

The House recedes.

112. The Senate amendment, but not the House bill, defines the term "recreational organization".

The House recedes.

113. The Senate amendment, but not the House bill defines the term "recreational program".

The House recedes.

Department of Education Organization Act

114. The Senate amendment, but not the House bill, amends DEOA to establish an Office of Private Education.

The House recedes with an amendment changing the section heading to "Office of Nonpublic Education" and the text to an updated version of the language in section 203(a) of current law.

115. The House bill amends the DEOA to repeal section 414 (Rules) in its entirety. The Senate amendment strikes subsection (b) leaving a general statement of the Secretary's authority to issue rules.

The House recedes.

116. The House bill, but not the Senate amendment, redesignates the remaining sections of the DEOA.

The Senate recedes with an amendment striking the redesignation of sections 415 through 426.

117. The Senate amendment, but not the House bill, amends the gifts and bequests section to add "and to accept donations of services".

The House recedes.

118. The House bill, but not the Senate amendment, amends the DEOA table of contents.

The Senate recedes with an amendment adding "Sec. 214. Office of Non-Public Education", adding "Sec. 414. Rules", and redesignating the succeeding sections accordingly.

119. The House bill, but not the Senate amendment, establishes a Special Assistant for Gender Equity within the Department appointed by the Secretary.

The Senate recedes.

The Rehabilitation Act of 1973

120. The Senate amendment, but not the House bill, repeals sections and 9 and 100 of the Rehabilitation Act of 1973.

The House recedes with an amendment repealing section 9 only.

LASA TITLE III—AMENDMENTS TO OTHER ACTS

Amendments to the Individuals with Disabilities Education Act

Grant Amounts

1. The House bill refers to Grant Amounts. Senate Amendment refers to Maximum Amount. House bill uses the phrase "referred to in this title as the 'IDEA'" in parentheses. Senate amendment uses the phrase "hereinafter in this part referred to as the 'Act'," and cites 20 U.S.C. 1141(a).

The House recedes.

Grant Amounts

2. The House bill refers to "the grant for which a State is eligible under this section." Senate amendment refers to "grant for which a State is entitled under this section."

The House recedes.

3. The House bill and the Senate provisions have the same provision, but structure the sentence differently.

The House recedes.

4. The House bill and the Senate amendment have similar provisions, with technical differences throughout section 3(A)(i) and (ii). House bill refers to 199—; Senate amendment refers to 1994. House bill refers to "as in effect the day before the date of the enactment of the Improving America's School Act of 1994; the Senate amendment refers to "as such subpart was in existence on the day preceding the date of enactment of the Improving America's School Act of 1994.

The House recedes.

5. The House bill refers to "as in effect the day before the date of the enactment of the Improving America's Schools Act of 1994," and the Senate amendment refers to "(as such subpart was in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994)".

The House recedes.

6. The House bill inserts "and" at the end thereof. Senate bill does not.

The Senate recedes.

7. House bill and Senate amendment have technical differences throughout (i) and (ii).

The House recedes.

8. The House bill refers to "as in effect the day before the date of the enactment of the Improving America's Schools Act of 1994, the amount determined . . ." while the Senate amendment refers to "(as such subpart was in existence on the day preceding the date of enactment of the Improving America's School's Act of 1994)".

The House recedes.

9. The House bill uses the word "semicolon" and the phrase "at the end thereof" while the Senate amendment simply uses the symbol for semicolon and does not use the phrase "at the end thereof."

The House recedes.

10. The House bill entitles (b) "Amount Received." The Senate amendment titles it "State Uses." Technical differences in the description 611(b) of IDEA.

The House recedes.

11. The House bill adds the phrase "of this section" and refers to less than the combined amount it received for fiscal year 1994" while the Senate amendment refers to "less than the sum of the amount such State received for fiscal year 1994."

The House recedes.

12. The House bill refers to "as in effect the day before the date of the enactment of the Improving America's Schools Act of 1994" while the Senate amendment refers to "(as such subpart was in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994)."

The House recedes.

13. The House bill refers to "such State's fiscal year 1994 grants" and the Senate amendment refers to "that State's fiscal year 1994 grants." The House bill refers to "as in effect the day before the date of the enactment of the Improving America's Schools Act of 1994" while the Senate amendment refers to "(as such subpart was in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994) then."

The House recedes.

14. The House bill provides that in any fiscal year in which the amount appropriated for grants under this section is less, in real dollar terms, than the amount appropriated in the immediate preceding fiscal year, the amount for each State under this subsection will be reduced proportionately. The Senate amendment provides in (3)(A) that if the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under paragraphs (1) and (2) for such year, the Secretary shall ratably reduce the allocations to such States for such year.

The House recedes.

15. The Senate amendment further provides that if additional funds become available for making payments under paragraphs (1) and (2) for such fiscal year, allocations that were reduced under subparagraph (A) shall be increased on the same basis as such allocations were reduced.

The House recedes.

16. House bill entitles this section "Uses of Funds." Senate amendment entitles it "Distribution."

The House recedes.

17. House bill refers to "up to 25 percent." Senate amendment refers to "not more than 25 percent."

The House recedes.

18. The House bill refers to "75 percent to local educational agencies . . ." while the Senate amendment refers to "75 percent of such funds to local educational agencies . . ." and includes the word "and" at the end of the provision.

The House recedes.

19. The House bill entitles the section "State Funds;" the Senate amendment entitles it "Formula."

The House recedes.

20. The House bill refers to "receives, from the combination of such funds" while the Senate amendment includes "(as such subpart was in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994) receives, from the sum of such funds. . . ."

The House recedes.

21. The House bill states that the State "may use such funds to ensure that each local educational agency that received fiscal year 1994 funds . . ." The Senate amendment states that the State "shall use such funds, for fiscal years 1995 and 1996, and may use such funds, for fiscal years 1997, 1998 and 1999, to ensure that each local educational agency that received funds for fiscal year 1994 under such subpart . . ."

The Senate recedes.

22. The House bill provides that in any fiscal year in which the amount appropriated for grants under this section is less, in real dollar terms, than the amount appropriated in the preceding fiscal year, the amount for each State under this subsection will be reduced proportionately.

The House recedes.

23. The House bill entitles this section "Jurisdiction" while the Senate entitles it "Jurisdiction." Technical differences in describing Section 611(e)(1) of IDEA.

Legislative Counsel.

24. Both the House bill and the Senate amendment list the jurisdictions to which the subsection applies, but the House bill adds the phrase "(until the effective date of the Compact of Free Association with the Government of Palau)."

The Senate recedes.

25. The House bill entitles this section "Possible Ratable Reduction." The Senate amendment entitles it "Insufficient Appropriations" Technical differences in the wording of the section.

The House recedes.

26. Identical provisions except that in (B), the House refers to "the same basis as they were reduced" while the Senate amendment refers to "the same basis as such payments were reduced." In (C), the House bill uses the phrase "shall distribute them in accordance with this section" while the Senate amendment uses the phrase "shall distribute such funds in accordance with this section."

The House recedes.

27. The House bill refers to "such funds as it so used" and the Senate amendment refers to "such funds as the State so used."

The House recedes.

28. The House bill uses the phrase "the amount of funds available to it under this section that it estimates it will expend." The Senate amendment uses the phrase "the amount of funds available to such agency under this section that such agency estimates such agency will expend."

The House recedes.

29. The House bill, when referring to the state, uses the word "it." The Senate amendment uses the term "the State." See similar technical differences throughout section (B).

The House recedes.

30. The House bill refers to "IDEA" while the Senate amendment refers to "the Act (U.S.C. 1141 et seq.)."

The House recedes.

31. The Senate amendment adds the parenthetical: "(as such subpart was in existence on the day preceding the day of enactment of the Improving America's Schools Act of 1994)".

The House recedes.

32. Both the House bill states that the SEA shall ensure that each State agency that owns or operates or supports a program or school for children with disabilities with funds under this part provides each child with a disability in a school or program a free appropriate public education in accordance with this part, and submit an application to the SEA that meets the requirements of Section 614 that the Secretary finds appropriate. The Senate amendment requires the same, but requires the agency to provide an application to the SEA containing assurances that such measures will be taken. Technical differences in the structure of the provisions.

The House recedes.

33. The House bill entitles section (a) "Allotments." Senate amendment entitles it "Amendment." Technical differences in sentence formation. House bill amends paragraph (1) of subsection (c) in the act by exempting paragraphs (3) and (4). Senate amendment exempts paragraphs (3), (4), and (5), in its amendment.

The House recedes.

34. Technical difference in provision structure. Senate amendment includes "(3) by inserting after paragraph (1) the following new paragraphs:"

The House recedes.

35. The House bill refers to "the relative numbers of infants and toddlers" and the Senate amendment refers to "the relative number of infants and toddlers with disabilities."

The House recedes.

36. The House bill refers to "as in effect before the enactment of the Improving America's Schools Act of 1994" while the Senate refers to "(as such section was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994)."

The House recedes.

37. The Senate amendment includes "Except as provided in paragraph (5)," before the provision of (4)(A).

The House recedes.

38. The Senate amendment includes (5)(A), which is a ratable reduction provision.

The House recedes.

39. The Senate amendment includes (5)(B) which provides that if additional funds become available for making payments under this subsection for such fiscal year, allocations that were reduced under subparagraph (A) shall be increased on the same basis as such allocations were reduced.

The House recedes.

Family Support for Families of Children with Disabilities

40. The Senate amendment includes the Support for Families of Children with Disabilities Act of 1994, and amends the Individuals with Disabilities Education Act by adding a new part, entitled Family Support.

The House recedes with amendments, the first amendment adding a 75/25 matching requirement; the second amendment clarifying the obligation of States to conduct outreach to underrepresented populations such as minorities, the poor, and persons with limited-English proficiency. The third amendment clarifies that a state desiring to receive assistance must designate an existing council or establish a new council to be considered as a State Policy Council for Families of Children with Disabilities. The conferees intend that States should use existing councils, to the maximum extent appropriate.

41. The Senate amendment provides that a State desiring to receive financial assistance under this part shall establish a State Policy Council for Families of Children with Disabilities.

The House recedes with amendments, the first amendment adding a 75/25 matching requirement; the second amendment clarifying the obligation of States to conduct outreach to underrepresented populations such as minorities, the poor, and persons with limited-English proficiency. The third amendment clarifies that a state desiring to receive assistance must designate an existing council or establish a new council to be considered as a State Policy Council for Families of Children with Disabilities. The conferees intend that States should use existing councils, to the maximum extent appropriate.

Stewart B. McKinney Homeless Assistance Act

42. In General: The House bill, but not the Senate amendment, amends the table of contents of Part B.

The Senate recedes.

Adult Education for the Homeless

43. In General: Both the House bill and the Senate amendment make amendments to the section in the McKinney Act regarding education programs for homeless adults. Both the House bill and the Senate amendment refer to the section as "state literacy initiatives" but there are technical differences in the structure of the section's title. Section 321 of the House bill is entitled "Statement of Policy." Section 321 of the Senate amendment is entitled "State Literacy Initiatives."

Legislative Counsel.

44. The House bill includes a "Subtitle A—Adult Education for the Homeless" and follows with a section 701 entitled "State Literacy Initiatives" The Senate amendment amends this provision at Section 702.

Legislative Counsel.

45. The House bill refers to "funding recipients" while the Senate amendment refers to "recipients of funds;" the Senate amendment refers to part H of title IV of the Job Training Partnership Act, while the House bill does not refer to part H; the Senate amendment refers to part A of title I of the Domestic Volunteer Service Act of 1973, while the House bill makes no such reference; the Senate amendment refers to part F of title IV of the Social Security Act, while the House bill contains no such reference; the Senate amendment refers to part F of title IV of the Social Security Act, while the House bill contains no such reference.

Legislative Counsel.

46. The Senate amendment includes the title "Estimates and Amount." Technical differences with respect to placement of the word "shall;" the House bill refers to "he or she" while the Senate amendment refers to "such Secretary."

Legislative Counsel.

Education for Homeless Children and Youth

47. Technical differences in the structure of the title.

Legislative Counsel.

48. The House bill refers to "its" while the Senate amendment refers to "the State's."

Legislative Counsel.

49. The House bill refers to "they" while the Senate amendment refers to "such children and youth."

Legislative Counsel.

50. Technical difference in the position of the section headings and in the structure of provision on general authority.

Legislative Counsel.

51. The House bill refers to "and use these funds under terms that the Secretary determines best meet the purposes of the covered programs." The Senate amendment refers to "and use of the funds described in clause (i) under terms that the Secretary determines best meet the the purposes of the programs described in such clause."

Legislative Counsel.

52. Activities: The House bill entitles this section "Activities" while the Senate amendment entitles it "Mandated Activities." Both the House bill and the Senate amendment make the activities mandatory, by use of the word "shall."

The Senate recedes.

53. Grants: The House bill refers to "shall provide grants to local educational agencies for purposes of section 723." The Senate amendment refers to "shall use funds as exceed the amount such agency received for fiscal year 1990 under this subtitle to provide grants to local educational agencies in accordance with section 723."

The Senate recedes.

54. The House bill refers to "at its discretion, may provide such grants;" the Senate amendment refers to "at such agency's discretion, may provide grants."

Legislative Counsel.

Functions of the Office of Coordinator

55. The House bill refers to "homeless children and youth and their families, including children who are preschool age;" the Senate amendment refers to "homeless children and youth, including children and youth who are preschool age, and families of such children and youth."

Legislative Counsel.

State Plan

56. The House bill refers to "equal access to the same public preschool programs, administered by the State agency, as provided to other children" while the Senate amendment refers to "equal access to preschool programs provided to other children."

The Senate recedes.

57. The House bill refers to "that serves each homeless child and youth;" the Senate amendment refers to "of each homeless child and youth."

Legislative Counsel.

58. The House bill refers to "any public school;" the Senate amendment refers to "any school."

The Senate recedes.

59. In General: The House bill provides that in determining the best interests of the child or youth under subparagraph (A), the local educational agency shall comply with the request made by a parent or guardian regarding school selection unless there is a compelling reason for not complying with this request. The Senate amendment provides for the same compliance requirement, but states that the local educational agency shall comply with the request "to the extent feasible."

The House recedes with an amendment deleting provision requiring that a compelling reason be shown for noncompliance.

Provision and Coordination of Services

60. In General: Transportation: The House bill requires that each homeless child or youth shall be provided services comparable to services offered to other students in the school selected according to the provisions of paragraph (3), including transportation services. The Senate amendment includes the same provision, but states that transportation services shall be one of the comparable services provided to homeless children and youth," except as required by paragraph (9)," which requires that the state plan demonstrate that transportation will be provided at no cost to homeless children and youth attending the school in which such children are enrolled.

The Senate recedes.

61. In General. The House bill provides that each local educational agency serving homeless children and youth that receives assistance under this subtitle shall coordinate with local social service agencies and other agencies or programs providing services to such children or youth or their families including services and amendment has the identical provision, but does not require coordination with services or programs funded under the Runaway and Homeless Youth Act.

The Senate recedes.

62. The House bill refers to each local educational agency "in a state" and "receives a grant under this subtitle;" the Senate amendment refers to "receives assistance under this subtitle."

Legislative Counsel.

63. In General: Homelessness Liaison: The House bill provides that each local educational agency receiving assistance under this subtitle appoint a homelessness liaison to ensure that "homeless families, children and youth receive educational services for which they are eligible, including preschool programs administered by the local educational agency"; the Senate amendment refers only to "preschool programs."

The Senate recedes with an amendment to include Head Start so that the provision would read "including Head Start programs and preschool programs administered by the local education agency. . .".

64. LEA Plan: The Senate amendment provides that each plan adopted shall demonstrate that transportation will contain procedures for resolving disputes between LEAs or within as LEA concerning transportation costs for homeless children and youth.

The Senate recedes.

65. In General: Coordination of Services: The House bill refers to "A State and local educational agency shall coordinate" and "Consideration shall be given to State and local housing and shelter policies described in the Comprehensive Housing Affordability Strategy;" the Senate amendment provides that "Where applicable, each State and local educational agency shall coordinate" and includes after strategy "described in section 105 of the Cranston-Gonzalez National Affordable Housing Act.

The House recedes.

Local Education Agency Grants For the Education of Homeless Children and Youth

66. Technical differences in structure of the heading.

Legislative Counsel.

67. The House bill refers to "and with amounts made available;" the Senate amendment refers to "and from amounts made available."

Legislative Counsel.

68. LEA Grants: General Authority: The House bill provides that where services are provided through programs to homeless students to homeless students on school grounds, schools may provide services to other children and youth who are determined by the local educational agency to be at risk of failing in, or dropping out of, schools, on an incidental basis. The Senate amendment does not include the provision "on an incidental basis." Instead, it includes the identical provision stated above, and adds "except that priority for such services shall be given to homeless children and youth."

The Senate recedes.

69. The House bill provides that "Services provided under this section are not intended to replace the regular academic program and shall be designed to expand upon or improve services provided as part of the school's regular academic program." The Senate amendment states that Services shall be designed to expand upon or improve services provided as part of the schools' regular academic program, but does not include that services are not intended to replace the regular academic program.

The Senate recedes.

Authorized Activities

70. The House bill refers to "and with amounts made available;" the Senate amendment refers to "and from amounts made available."

Legislative Counsel.

71. Authorized Activities: The House bill and the Senate amendment both provide that authorized activities include the provision of before- and after-school and summer enrichment programs in which a teacher or other qualified individual provides tutoring, homework assistance, and supervision of educational activities. The House bill, however, includes mentoring programs in this list while the Senate amendment does not.

The Senate recedes.

72. Authorized Activities: The House bill includes "including programs funded under the Runaway Homeless Youth Act."

The Senate recedes.

73. Authorized Activities: The House bill refers to the provision of counseling as an authorized activity; the Senate amendment refers to the provision of pupil services.

The Senate recedes.

73A. (page 137 of the side-by-side) Add "1989" after "1988."

74. Authorized Activities: The House bill includes the provision of school supplies; the Senate amendment does the same, but expands the provision to school supplies to be distributed at shelters or temporary housing facilities, or other appropriate locations."

The House recedes with an amendment such that the provision would read: "the provision of school supplies, including those to be distributed at shelters or temporary housing facilities, or other appropriate locations;".

Secretarial Responsibilities

75. Technical differences in heading.

Legislative Counsel.

76. Submission and Distribution: The House bill, but not the Senate amendment, provides that the Secretary shall require applications for grants to be submitted to the Secretary not later than the expiration of the 60-day period beginning on the date that funds are available, and shall make such grants not later then 120 days later than that date.

The Senate recedes.

77. Secretarial Responsibilities: The House bill, but not the Senate amendment, provides that the Secretary shall determine the extent to which State educational agencies are ensuring that each homeless child and youth have access to a free appropriate public education.

The Senate recedes.

78. Reporting Requirements: The House bill provides that the Secretary shall prepare and submit a report to "the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate on the programs and activities authorized by this subtitle by December 31, 1997, and every third year thereafter. The Senate amendment has a similar provision, except it states that the Secretary shall prepare and submit a report "to Congress."

The Senate recedes.

Other Act

Goals 2000: Educate America Act

79. The Senate amendment repeals various sections of Goals 2000: Educate America Act, and amends other sections.

The House recedes.

80. The Senate amendment amends Section 204 of the Goals 2000: Educate America Act by providing that the National Education Goals Panel and the National Education Standards and Improvement Council may accept, administer, and utilize gifts or donations of services, money, or property, whether real or personal, tangible or intangible.

The House recedes.

81. The Senate amendment amends paragraph (4) of section 309(a) of the Goals 2000: Educate America Act by inserting the words "made by the local educational agency" after the words "modifications."

The House recedes.

82. The Senate amendment amends paragraph (2) of section 702(b) of the Safe Schools Act of 1994 (20 U.S.C. 5962(b)(2) by striking "10 percent" and inserting "5 percent."

The Senate recedes.

83. The Senate amendment provides that from the amount appropriated pursuant to the authority of subsection (f) for fiscal year 1994, the Secretary shall reserve a total of 1 percent to provide assistance under this section to the outlying areas.

The House recedes with amendment reserving 1 percent to outlying areas and BIA.

84. The Senate amendment repeals Title II of the Education Council Act of 1991.

The House recedes.

85. The Senate amendment repeals Title IV of the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988.

The House recedes.

86. The Senate amendment repeals the Star Schools Program Assistance Act.

The House recedes.

87. The Senate amendment repeals the Fund for the Improvement and Reform of Schools and Teaching Act.

The House recedes.

88. The Senate amendment makes amendments to Title II of the Technology-Related Assistance for Individuals with Disabilities Act of 1988.

The House recedes.

89. The Senate amendment amends Title II of the Dept. of Ed Organization Act by adding provisions for an Office of Indian Education.

The Senate recedes.

90. The Senate amendment amends Title XI of the Higher Education Act of 1965 by including provisions regarding rural community service.

The Senate recedes.

92. The Senate amendment amends the Carl D. Perkins Vocational and Applied Technology Education Act.

The House recedes.

93. The Senate amendment makes technical amendments to section 101A, striking "and Palau" and all that follows through the end of the subsection, and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau." This provision states that the set-aside for the outlying areas shall include these regions listed here.

The House recedes.

94. The Senate amendment amends the Second Morrill Act.

The House recedes.

95. The Senate amendment amends section 312 of the Higher Ed Act of 1965.

The House recedes with an amendment:

The House recedes with an amendment to strike the special definition of a "state" contained in the Senate amendment and add to section 312(b)(1)(C) of the Higher Education Act the names of the three institutions in the Freely Associated States (College of the Marshall Islands, College of Micronesia/Federate States of Micronesia, and Palau Community College.

96. The Senate amendment further amends the McKinney Homeless Assistance Act Regarding the Family Support Center Program.

The House recedes.

97. The Senate amendment amends the National Foundation on the Arts and the Humanities Act of 1965, increasing the authorization level to $100,000.

The House recedes.

98. The Senate amendment amends the Library Services and Construction Act. The House recedes. The Senate amendment effectively extends the Library Services and Construction Act for an additional fiscal year.

The House recedes.

99. The Senate amendment amends Section 315 of Goals 2000: Educate America Act with respect to the Bureau of Indian Affairs.

The House recedes.

100. The Senate amendment includes a part G covering cross references and conforming amendments.

Legislative Counsel.

"Community School Partnership Act"

1. The Senate amendment, but not the House bill, authorizes the "Community School Partnership Act". This amendment provides a 1-year, $10 million authorization of appropriations to enable the Secretary of Education to make an endowment grant to a national nonprofit organization to promote higher education goals for students from low income families through the development of local affiliated chapters in high-poverty areas.

The House recedes with an amendment to strike "the presence of any mental, sensory, or physical" in Section 8943(2)(E) of the Senate amendment and, in Section 8947 of the Senate amendment, to strike "1995" and insert "1996".

Technical Amendments to the Carl D. Perkins Vocational and Applied Technology Education Act

2. The Senate amendment, but not the House bill, restores the definition of the term "institution of higher education" for purposes of the Perkins Act as it applied prior to passage of the Higher Education Amendments of 1992. The amendment permits a State that previously distributed FY94 funds to proprietary institutions of higher education, however, to continue to distribute such funds to those institutions until July 1, 1995.

The House recedes.

3. The Senate amendment, but not the House bill, clarifies the eligibility of institutions in the Freely Associated States, formerly "Trust Territory of the Pacific Islands," for vocational education programs.

The House recedes with an amendment to substitute for the language of the Senate amendment a technical clarification of Section 101A of the Carl D. Perkins Vocational and Applied Technology Education Act updating the statutory reference to the Republic of Palau, formerly Palau, and Pacific Region Educational Laboratory (PREL), formerly the Center for Advancement of Pacific Education (CAPE).

Technical Amendment to the Second Morrill Act

4. The Senate amendment, but not the House bill clarifies the continued land grant status for the three institutions of higher education located in the successor governments of the former Trust Territory of the Pacific Islands (the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau).

The House recedes.

Technical Amendments to the Higher Education Act

5. The Senate amendment, but not the House bill, amends Section 312 of the Act to clarify the eligibility of institutions in the Freely Associated States for Title III programs by adding to that section a special definition of a "state" for the purposes of Part A of Title III of the Act.

The House recedes with an amendment to strike the special definition of a "state" contained in the Senate amendment and add to Section 312(b)(1)(C) of the Higher Education Act the names of the three institutions in the Freely Associated States (College of the Marshall Islands, College of Micronesia/Federated States of Micronesia, and Palau Community College).

6. The Senate amendment, but not the House bill, amends Section 404G of the Act to eliminate the funding trigger for the National Early Intervention Scholarship and Partnership Program.

The House recedes.

7. The Senate amendment, but not the House bill, makes a conforming change to Section 428(c)(1) of the Act to remove Lender-of-Last-Resort loans from the calculation of a guaranty agency's reinsurance "trigger" rate.

The House recedes.

8. The Senate amendment, but not the House bill, amends Section 428C of the Act to allow the inclusion of HHS nursing loans in the HEA, Title IV Consolidation Loan Program.

The House recedes.

9. The Senate amendment, but not the House bill, amends Section 439 of the Act to increase from 15% to 30% the current restriction on the value of transactions that the Student Loan Marketing Association may enter into which involve student and faculty housing. The Senate amendment also expands the category of student and faculty housing to include athletic facilities, dining halls, and student unions.

The House recedes with an amendment to strike "athletic facilities" and insert "facilities generally open for promoting fitness and health for students, faculty, and staff or for physical education courses".

10. The Senate amendment, but not the House bill, amends Part G of Title IV of the Act to exempt public and private, nonprofit nursing schools that award a diploma, rather than a degree, from the clock-credit hour conversion formula for the purposes of calculating eligibility for Title IV assistance.

The House recedes.

11. The Senate amendment, but not the House bill, amends Section 484(j) of the Act

to clarify the eligibility of citizens of the Freely Associated States, formerly the Trust Territory of the Pacific Islands, for the Pell Grant, TRIO, FSEOG, SSIG, Robert C. Byrd Honors Scholarship Program, and Federal Work Study programs.

The House recedes with an amendment to strike from the language of the Senate amendment "subparts 1, 2, 3, 4, and 6 of part A, . . ." and insert "subpart 1, chapter 1 of subpart 2, subpart 3, and subpart 6 or part A, . . .", thereby striking the reference to SSIG and restricting to chapter 1 TRIO programs such eligibility under subpart 2 of Title IV of the Higher Education Act.

12. The Senate amendment, but not the House bill, amends Section 723 of the Act to allow a participating institution's escrow funds to be returned when it repays its loan(s) made under this part, as opposed to when all loans made to all institutions under this part are retired.

The House recedes with an amendment to clarify that an eligible institution is required to maintain in escrow an amount equal to, but not in excess of, 10 percent of its own outstanding principal.

13. The Senate amendment, but not the House bill, amends Section 435(o) of the Act to allow borrowers with a 20 percent or greater federal education debt to disposable income ratio, to obtain an "economic hardship deferment" for a maximum of 3 years on their subsidized Title IV student loans (Stafford and FISL loans).

The House recedes with an amendment rewriting the additional criterion for economic hardship deferments to provide such deferments for borrowers whose federal education debt burden equals or exceeds 20 percent of their adjusted gross income (AGI) and whose AGI, minus federal education debt burden, is less than 220 percent of the poverty level measurement specified in the Department of Education's final regulations of June 29, 1994, pertaining to the "economic hardship" deferment.

The Managers adopted this provision to clarify the meaning of the term "economic hardship." Our action should not be interpreted as a change in the course of action we took regarding student loan deferments in the 1992 Higher Education Amendments. Those amendments eliminated categorical deferments for subsidized Title IV Loans, and we continue to support this policy.

The 1992 Higher Education Amendments directed the Secretary of Education to consider income and debt-to-income ratio as primary factors in developing criteria to determine borrower eligibility for the "economic hardship" deferment. Although the Secretary's Notice of Proposed Rulemaking did take into account a borrower's debt-to-income ratio as specified by Section 435(o)(2) of the Higher Education Act as amended, the final regulation does not do so. The Managers, therefore, agreed to language to clarify that borrowers with a very significant federal education debt burden, relative to their level of income, are considered to have an "economic hardship."

In implementing this language, the Managers intend that "federal education debt burden", as used in this amendment to Section 435(o) of the Act, shall consist of the annual total payments a borrower would be expected to make on all his federal education loans pursuant to a standard 10-year repayment schedule.

14. The Senate amendment, but not the House Bill, amends Section 1544 of the Higher Education Amendments of 1992 to permit institutions that practice need-blind admissions to voluntarily agree with other such institutions to: award non-federal HEA financial aid to students only on the basis of demonstrated financial need, determine student financial aid for non-federal HEA aid on common principles of need analysis, use common aid application forms for non-federal HEA aid, and exchange through an independent 3rd party certain financial data on commonly admitted applicants. The Senate amendment does not waive any requirements or obligations imposed under HEA nor does it affect any pending litigation. The provision sunsets on September 30, 1999.

This provision extends for an additional three years the temporary antitrust exemption for certain collegiate financial aid award analysis, which was originally enacted with the Higher Education Amendments of 1992 as a two-year exemption. The temporary exemption has also been revised in light of the "standards of conduct" adopted as part of the settlement of the antitrust action between the Department of Justice and Massachusetts Institute of Technology in the case of *United States* v. *Brown University, et al.*, Civ. Action No. 91-3274 (E.D. Pa.), on December 22, 1993.

As revised, the temporary exemption applies only to institutions of higher education that admit students on a need-blind basis. The definition of "on a need-blind basis" in subsection (c)(6) is based on language in the "standards of conduct" adopted in the MIT settlement. See also *United States* v. *Brown University*, 5 F.3d 658(1993).

The managers have decided against elaborating on the need-blind admissions standard in the statutory text. As should be obvious, however, evidence of a practice among admissions personnel at an institution of higher education of examining, discussing, or otherwise considering information relating to a student's financial circumstances that is derived from such student's financial aid application form, or from any other document or record obtained for the purpose of ascertaining such financial circumstances, before the decision is made regarding the student's admission will substantially increase the institution's burden of demonstrating that the school's admissions policy is truly need-blind. Prudence would counsel that schools wishing to make use of this provision insulate their admissions, process and admissions personnel as completely as possible from such student financial aid information, until after the admissions process is complete.

The term "principles of need analysis" in subsection (a)(2) has been substituted for the term "principles of professional judgment" in the earlier provision, and the inclusion of limited exchange of data specified in subsection (a)(4) has been added, in light of the "standards of conduct" adopted in the MIT settlement.

The sunset provision has been extended to September 30, 1997. While the Managers have decided to continue a temporary exemption for this limited period, it is expected that the exemption will not be extended further. Upon the expiration of this extension, those who support extending the exemption must meet the burden of demonstrating that it is truly needed in order to advance the generally pro-competitive goal of enhancing access by needy students to higher education.

15. The Senate amendment, but not the House bill, amends Section 455(f) of the Act to clarify that "old borrowers" (those who took out their first Title IV loan prior to July 1, 1993), who take out a Title IV, Part D loan will be eligible for the same deferment opportunities on such Part D loans as will "old borrowers" who take out additional Title IV, Part B loans.

The House recedes.

Equity in Athletics Disclosure Act

16. The Senate amendment, but not the House bill, authorizes the "Equity in Athletics Disclosure Act". This amendment to Section 485 of the Higher Education Act requires each institution that participates in Title IV student aid programs, and has an intercollegiate athletic program, to submit to the Secretary of Education an annual report detailing its expenditures for each of its sports teams, differentiating between the levels of participation and expenditures for its men's, women's, and coeducational teams. The amendment further requires that these expenditures be broken down into various specific categories and that, upon request, the information gathering pursuant to this new authority be disclosed to prospective students and to the public. The amendment requires the Secretary to compile and publish this information, breaking it down by both institution and athletic conference, in an annual report, the first of which is to be issued on or before July 1, 1995. The effective date of the amendment is July 1, 1994.

The House recedes with an amendment eliminating the requirement that institutions submit an annual report to the Secretary of Education. The amendment adds language requiring the Secretary to issue final regulations to eliminate the gender equity provisions within 180 days after enactment of this subsection. Each coeducational institution with an intercollegiate athletic program must, upon request, make available to prospective students, students, and the public its first annual report pertaining to its men's and women's varsity sports teams no later than October 1, 1996.

The House amendment modifies the Senate amendment's definition of "operating expenses" and requires that institutions report each team's total annual "operating expenses". The House amendment allows institutions to, at their discretion, additionally report team operating expenses on a per capita basis. The House amendment also permits institutions to report revenues generated on an individual team basis, in addition to the mandatory reporting of revenues generated across all men's sports and revenues generated across all women's sports.

In developing regulations to implement the gender equity in athletics provisions, the Managers intend that the Secretary ensure that those institutions electing to include the optional reporting elements of per capita operating expenses by team and individual team revenues do so alongside of the total team operating expenses and the total team revenues aggregated by gender, respectively, as required pursuant to (g)(1)(B)(ii) and (g)(1)(F). The Managers agree that these additional reporting elements are to be included at the discretion of the individual institution.

Equity in Educational Land-Grant Status Act of 1994

17. The Senate amendment, but not the House bill, authorizes the "Equity in Educational Land-Grant Status Act of 1994" to establish land-grant college status for 29 Native American institutions of higher education. For each of fiscal years 1996–2000, the amendment authorizes $4.6 million to establish an endowment fund for the "1994 Institutions" and $1.7 million for institutional capacity building grants. The amendment also authorizes $6.45 million under existing land-

grant program authorities for FY96 and for each fiscal year thereafter for the "1994 Institutions."

The House recedes with an amendment to strike "research" and insert "instructional activities".

The conferees in recognition of the distinguished service of William D. Ford agree to re-name the Federal Direct Student Loan Program the William D. Ford Federal Direct Student Loan program, and that henceforth such direct loans shall be called Stafford-Ford Loans. In conferring this honor, the conferees are fully aware that the Department of Education has numerous printed forms and materials referring to the current program. The conferees, therefore, intend that the Department and direct loan program participants continue to use existing materials and forms until they are exhausted, but that any new programs and materials that are prepared and printed after the effective date of this legislation shall bear designation of the program as the William D. Ford Federal Direct Student Loan Program and refer to such loans as Stafford-Ford loans.

IASA TITLE IV—NATIONAL EDUCATION STATISTICS

1. The House bill places the National Education Statistics Act as Title IV of the Improving America's Schools Act; the Senate amendment places it as Title XIV of ESEA.

The Senate recedes.

Findings; Purpose; Definitions

2. The House bill, but not the Senate amendment, defines various terms because the National Education Statistics Act is freestanding and not part of ESEA.

The Senate recedes.

3. The House bill defines "United States" and "State" to, for the purposes of the NAEP assessment to mean the 50 states, the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas and the Republic of Palau (until the effective date of the Compact of Free Association with the Government of Palau); the Senate amendment defines "State" and "United States" to mean the 50 states, D.C., Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau.

The House recedes with an amendment clarifying that the definition in subparagraph (B) includes the language in subparagraph (A).

Duties of the National Center for Education Statistics

4. The House bill, but not the Senate amendment, provides that the duties are to collect statistics on the condition of education at the preschool, elementary, secondary, and postsecondary level.

The Senate recedes.

5. The House bill says in subparagraph (B) that data should be collected "at all levels of education, and includes "out of school youth and adults in subparagraph (C);" the Senate amendment in subparagraph (B) says "including data on secondary school completions, dropouts, and adult literacy, which education statistics and data, whenever feasible, shall be collected, analyzed, cross-tabulated and reported by sex, race or ethnicity, and socioeconomic status."

The Senate recedes with an amendment including "secondary school completions, dropouts, and adult literacy".

6. The Senate amendment, but not the House bill, includes data on educational access and opportunity, including data on financial aid to postsecondary students.

The House recedes with an amendment inserting postsecondary education.

7. The House bill includes data on teachers, administrators, counselors, and other educational personnel at all levels of education, including the supply and demand for such teachers; the Senate amendment includes data on teaching, including curriculum, instruction, the conditions of the education workplace, and the supply and demand for teachers, which may include data on the proportions of women and men cross-tabulated by race or ethnicity, teaching in subjects in which such individuals have been historically underrepresented.

The House recedes with an amendment changing "curriculum" to "course-taking".

8. The House bill includes data on the learning and teaching environment including the nature and incidence of violence affecting students, school personnel, and other individuals participating in school activities; the Senate amendment included data the learning environment, and on libraries, the incidence of crime, violence, and substance abuse.

The House recedes with an amendment combining the two provisions.

9. The House bill, but not the Senate amendment, includes data on violence against teachers and students and other indices of school safety.

The Senate recedes with an amendment combining the provisions.

10. The Senate amendment, but not the House bill, includes data on revenues and expenditures.

The House recedes.

11. The House bill says collecting, analyzing, cross-tabulating, and reporting to the extent feasible so as to provide information by gender, race, socioeconomic status, limited-English proficiency, and other population characteristics when such information would facilitate decisionmaking; the Senate amendment has a subsection heading, and states the Center shall ensure that data in subsection (a)(1) whenever feasible, are collected by race, ethnicity, and socioeconomic status.

The Senate recedes.

Performance of Duties

12. The Senate amendment, but not the House bill, provides a time limit for grants, contracts, and cooperative agreements.

The House recedes.

13. The House bill, but not the Senate amendment, refers to "public and private" schools and "preschools".

The Senate recedes.

Advisory Council on Education Statistics

14. The House bill provides for a 18 member council appointed on the basis of their experience "within the field" with practicing educators at the preschool, elementary, or secondary school level, and 3 experts in educational measurement; the Senate amendment provides for a 15 member council appointed on the basis of their experience "within the field of education statistics", with 3 educators and a paragraph heading.

The Senate recedes with an amendment striking "at the preschool, elementary, or secondary level".

15. The House bill, but not the Senate amendment, provides for 3 individuals representing the public.

The Senate recedes.

16. The House bill requires the Commissioner to appoint the presiding officer; the Senate amendment requires the Secretary to appoint the presiding officer and entitles the paragraph "Presiding Officer".

The Senate recedes.

17. The House amendment says six members; the Senate amendment says 5 members and includes a paragraph heading.

The Senate recedes.

18. The House bill says the council shall meet in public session at the call of the presiding officer and whenever 10 members request a meeting; the Senate amendment has a paragraph heading, and says that the council shall meet at the call of the presiding officer and whenever 8 members requesting a meeting.

The Senate recedes.

19. The House bill says that 11 members constitute a quorum; the Senate amendment says 9 members constitute a quorum and has a subparagraph heading.

The Senate recedes.

20. The House bill, but not the Senate amendment, says that the Council shall advise the Commissioner and National Assessment Governing Board on matters related to the National Assessment.

The Senate recedes with an amendment clarifying that the advice is on technical and statistical matters.

21. The House bill, but not the Senate amendment, provides that the council shall appoint a staff.

The Senate recedes with an amendment providing that the staff shall consist of not more than 6 individuals with technical expertise.

Confidentiality

22. The House bill, but not the Senate amendment, provides that no collection of information and data to review except as required by OMB.

The Senate recedes.

Dissemination

23. The House bill says funds for work in this paragraph "shall be deposited in a separate account that may be used to pay"; the Senate amendment says funds for work in this subsection "may be used for the fiscal year for which such funds are received to pay" and has a paragraph heading.

The House recedes with an amendment striking "for the fiscal year for which such funds are received".

24. The House bill says the Center shall cooperate with other federal agencies; the Senate amendment says the Center shall, consistent with section 14008, participate with other federal agencies, and has a subsection heading.

The Senate recedes with an amendment ensuring that this provision is administered consistent with the provisions of section 408.

25. The House bill says the Commissioner shall establish 1 or more national cooperative education statistics systems; the Senate says the Commissioner may establish such systems.

The House recedes.

26. The Senate amendment, but not the House bill, authorizes a model data system to yield information about spending for administration at the school and local educational agency level and directs the Secretary to report to the Congress on several factors relating to the potential to reduce such administrative costs.

The House recedes with an amendment striking the required study and report.

National Assessment of Educational Progress

27. The House bill provides that the Commissioner shall carry out a national assessment with the advice of the Council established by section 407 and says (the National

Assessment); the Senate amendment says with the advice of the National Assessment Governing Board established under section 14012 and says (hereafter in this part referred to as the National Assessment).

The House recedes with an amendment combining the provisions.

28. The House bill, but not the Senate amendment, says that data is collected on students in public and private schools.

The Senate recedes.

29. The House bill says to include information on special groups; the Senate amendment says to include, whenever feasible, information collected, cross-tabulated, analyzed and reported by sex, race or ethnicity and socioeconomic status.

The House recedes with an amendment combining the provisions.

30. The Senate amendment, but not the House bill, says to collect and report data on students receiving services under part A of Title I.

The Senate recedes.

31. The House bill, but not the Senate amendment, provides that state assessments be conducted on a trial basis.

The Senate recedes with an amendment changing "trial" to "developmental" and providing the State assessments will be developmental until the Commissioner, based on evaluation results, determines that they produce high quality data that is valid and reliable.

32. The House bill says the Commissioner may decline to make cognitive questions available to the public; the Senate amendment says the Secretary may do this and has a subparagraph heading.

The Senate recedes.

33. The House bill, but not the Senate amendment, says the Commissioner may make test instruments available for assessments at the local educational agency level if requested by any State educational agency or local educational agency and only in a limited number of cases.

The House recedes.

34. The House bill, but not the Senate amendment, says participation by a local educational agency shall be voluntary.

The House recedes.

35. The House bill, but not the Senate amendment, says that a local educational agency must provide a written statement of concurrence for participating in local assessments.

The House recedes.

36. The House bill, but not the Senate amendment, requires that an agency give assurances to the Commissioner.

The House recedes.

37. The House bill says the Commissioner shall enter into agreements with states; the Senate amendment says the Secretary shall enter into agreements and has a paragraph heading.

The Senate recedes.

38. The House bill, but not the Senate amendment, provides that the non-federal share shall include the analysis and reporting of the data; the Senate amendment has paragraph and subparagraph headings.

The House recedes with an amendment adding analysis and reporting costs as examples of the reasonable costs associated with the non-Federal share.

39. The House bill, but not the Senate amendment, says that the implementation of subparagraph (C) shall involve no costs to the federal government.

The House recedes.

40. The House bill, but not the Senate amendment, says the National Assessment Governing Board working with the Assistant Secretary shall develop student performance levels, and that the Commissioner, with the advice of the Council, establish standards for the evaluation of the levels.

The Senate recedes with an amendment striking "working with the Assistant Secretary" and the provision requiring the Commissioner to develop evaluation standards.

41. The House bill, but not the Senate amendment, says that the levels shall be devised through a consensus approach, used on a trial basis, updated as appropriate, and reported separately from the national assessment when used on a trial basis.

The Senate recedes with an amendment changing "trial" to "developmental" and providing that the Commissioner and the Board shall ensure that reports that use the developmental student performance levels do so in a manner that makes clear their developmental status.

42. The House bill, but not the Senate amendment, says that after determining the levels are reasonable, valid, and informative to the public, the Commissioner may use them in reporting the results of the National Assessment and State assessments.

The Senate recedes with an amendment (i) clarifying that the Commissioner determines their reasonableness, validity, and informative value through an evaluation under subsection (f), and (ii) providing that once the Commissioner has made this determination, the Commissioner shall use the levels to report NAEP results.

43. The House bill provides that the Commissioner shall provide for review by the National Academy of Education or the National Academy of Sciences of national, state, and local assessments, including each trial state assessment, and student performance levels, and describes factors to be reviewed in the trial state assessments; the Senate amendment says the Secretary shall provide for the review of national and state assessments and does not specify the entities to carry it out.

The House recedes with an amendment (i) including developmental student performance levels, and (ii) providing that the evaluations are to be performed by one or more nationally recognized evaluation organizations such as the National Academy of Education and the National Academy of Sciences.

National Assessment Governing Board

44. The Senate amendment, but not the House bill, says that the testing and measurement experts shall have training and experience in the field of testing and measurement.

The House recedes.

45. The House bills says the Secretary shall ensure the membership of the Board reflects regional, racial, gender, and cultural diversity and balance; the Senate amendment says the Secretary and Board shall ensure this, that the Board exercises independent judgment, free from inappropriate influences and special interests, and has a paragraph heading.

The House recedes.

46. The House bill limits terms to 3-years and no member may serve more than 2 consecutive terms; the Senate amendment limits service to one 4-year term.

The Senate recedes with an amendment limiting service to not more than two 3-year terms.

47. The House bill says that the Secretary shall fill vacancies after soliciting recommendations from a variety of organizations including those representing the types of individuals on the Board, and in a manner that maintains the composition and diversity of the Board; the Senate amendment says the Secretary shall fill vacancies from individuals recommended by the Board which shall nominate 3 people for each vacancy.

The Senate recedes with an amendment providing that (i) nominees will be supplied by organizations representing the types of individuals needed to fill the vacancy, (ii) each group will nominate 6 people for each vacancy, (iii) the Secretary, in making appointments, will maintain the composition, diversity, and balance of the Board, and (iv) the Secretary may request that each organization submit additional nominees if the Secretary determines that none of the individuals nominated by such organization has appropriate experience.

48. The House bill says the Board, working with the Assistant Secretary, shall develop student performance levels; the Senate amendment says in carrying out its functions under this section the Board shall identify appropriate achievement goals.

The Senate recedes with an amendment striking the requirement that the Board work with the Assistant Secretary.

49. The House bill says that assessment objectives and tests specifications shall be developed through a national consensus approach; the Senate amendment says that each learning area assessment shall have goal statements devised through a national consensus approach.

The Senate recedes.

50. The Senate amendment, but not the House bill, says the Board shall select subject areas to be assessed, design the methodology of the assessment, and develop standards and procedures for comparisons.

The House recedes with an amendment providing that the Board shall design the methodology of the assessment in consultation with appropriate technical experts including the Advisory Council on Education Statistics.

51. The House bill says recommendations for actions are needed to improve the National Assessment; the Senate amendment says take appropriate actions needed to improve the Assessment.

The House recedes.

52. The Senate amendment, but not the House bill, says the Board may delegate certain functions to its staff.

The House recedes.

53. The Senate amendment, but not the House bill, says the Board shall have final authority on the appropriateness of cognitive items.

The House recedes.

54. The House bill says the Board working with the Commissioner shall take steps to ensure items are free from bias; the Senate amendment says the Board shall take steps to ensure items are free from bias.

The Senate recedes with an amendment striking the requirement that the Board work with the Commissioner in ensuring that items used in the National Assessment are free of bias.

55. The House bill, but not the Senate amendment, says the Board shall seek technical advice from the Commissioner and Advisory Council.

The Senate recedes with an amendment providing that the Board "may" seek technical advice from the Advisory Council and includes "other experts."

56. The House bill, but not the Senate amendment, says the Board shall report on steps it is taking to respond to recommendations of the evaluations of the student performance levels.

The Senate recedes.

57. The Senate amendment, but not the House bill, says that the Board shall be independent of the Secretary and the Department.

The House recedes.

58. The House bill allows the Secretary to appoint staff at the request of the Board "as will enable the Board to carry out its responsibilities"; the Senate amendment allows the Secretary to appoint staff at the direction of the Board "as the Board requires."

The Senate recedes with an amendment striking the reference to subsection (e)(1).

59. The House bill refers to "not more than 6 technical employees"; the Senate amendment refers to "not more than 6 technical employees to administer this subsection."

The Senate recedes.

60. The House bill says the Commissioner and Board shall meet to coordinate their duties and activities relating to the National Assessment; the Senate amendment says the Commissioner shall report to the Board on Department actions to implement the Board's decisions.

The Senate recedes with an amendment combining the provisions.

61. The House bill says that only sections 10, 11, and 12 of Federal Advisory Committee Act shall apply to the Board; the Senate amendment says the Board shall have the authorities authorized by the Federal Advisory Committee Act and be subject to its open meeting provisions.

The Senate recedes.

62. The House bill, but not the Senate amendment, says that no member or employee of the Board may lobby on legislation except when a representative of the Board has been requested to testify, and establishes penalties for violations of this provision.

The House recedes.

Authorization of Appropriations

63. The House bill authorizes $103,200,000 for fiscal year 1995 and such sums for fiscal years 1996 through 1999 for this title except for section 412; the Senate amendment authorizes $100 million for fiscal year 1995 and such sums for each of the 4 succeeding fiscal years.

The House recedes with an amendment authorizing (i) $65 million for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years for NCES, and (ii) $35 million for fiscal year 1995 and such sums as may be necessary for the succeeding two fiscal years for NAEP.

64. The House bill authorizes $2 million for fiscal years 1995 and 1996 for section 412; the Senate amendment says not more than 10 percent of the funds available for the National Assessment may be used for the National Assessment Governing Board and has a subsection and paragraph heading.

The Senate recedes with an amendment and authorizes $3 million for fiscal years 1995, and such sums as may be necessary for each of the two succeeding fiscal years.

IASA TITLE V—MISCELLANEOUS PROVISIONS

The Senate amendment, but not the House bill, provides that, in documents transmitted to Congress explaining the President's budget request for the Special Education account, the Department of Education shall display amounts included in the request to offset the termination of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 by the Improving America's Schools Act of 1994.

The House recedes.

1. The House bill, but not the Senate amendment, requires that the Secretary conduct an evaluation of how the federal government has assisted the states to reform their educational systems, through the various education laws enacted during the 103rd Congress.

The House recedes.

Budget Compliance

2. The House bill, but not the Senate amendment, says that any authority or requirement to make funds available under this Act shall be effective only to the extent provided in appropriations Acts.

The Senate recedes.

Parental Involvement

3. The Senate amendment, but not the House bill, declares that it is the policy of the Congress that states, in cooperation with LEAs, schools, and parents' groups, should be encouraged to involve parents of children who display criminal or violent behavior at school in disciplinary actions affecting such children.

The Senate recedes.

Grants to States for Workplace and Community Transition Training for Incarcerated Youth Offenders

4. The Senate amendment, but not the House bill, establishes a program to provide grants to states to assist and encourage incarcerated youths to acquire literacy, life, and job skills through the pursuant of education while in prison and on parole.

The House recedes with amendments to insert "education" between "State correction" and "agency" and insert "for each eligible student" after "State" in paragraph (e)(3) and change the authorization from $18 million to $5 million.

Criminal History Investigations of School Bus Drivers

5. The Senate amendment, but not the House bill, requires that notwithstanding any other provision of law, an LEA may not employ a school bus driver until the LEA conducts a background check of the driver. The background check must meet the guidelines of section 3(b) of the National Child Protection Act of 1993.

The Senate recedes.

Rate of Pay for the Deputy Director of the National Institute on Disability and Rehabilitation Research

6. The Senate amendment, but not the House bill, allows the Secretary to compensate anyone appointed during 1994 to be Deputy Director of the National Institute on Disability and Rehabilitation Research at level 5 of the Senior Executive Services Schedule.

The House recedes.

7. The Senate amendment, but not the House bill, includes a title called "Workers Technology Skill Development."

The House recedes with amendments to section 505(c) clarifying that in the development and dissemination of materials, the grant recipient could include information dealing with labor-management cooperation as well as the involvement of workers in designing new workplace practices.

8. Community School Partnerships. The Senate amendment authorizes the Secretary to competitively award an endowment grant to a national organization to enable such organization to support the establishment of area program centers that foster the development of local affiliated chapters in high-poverty areas which work to improve high-school graduation rates and postsecondary attendance through scholarship and other support services.

The House recedes.

Albert Einstein Distinguished Educator Fellowship Act

The Senate amendment establishes the "Albert Einstein Distinguished Educator Fellowship Act of 1994."

The House recedes.

Waste Management Education Research Consortium (WERC)

1. The Senate amendment authorizes the Secretary to establish a partnership of Department of Energy laboratories, academic institutions, and private sector industries to conduct environmentally related education programs, including programs involving environmentally conscious manufacturing and waste management activities that have undergraduate and graduate educational training as a component.

The House recedes.

The Senate amendment establishes "The Multi-Ethnic Placement Act of 1994", the purpose of which is to decrease the length of time that children wait to be adopted, to prevent discrimination in the placement of children on the basis of race, color or national origin, and to facilitate the identification and recruitment of foster and adoptive families that can meet children's needs.

The House recedes with amendments replacing references to "racial identity needs" with "racial background" and requiring an agency to comply with this subtitle not later than 6 months after publication of the guidance referred to in subsection (c), or 1 year after enactment, whichever is sooner.

MULTIETHNIC PLACEMENT

Subtitle A—Multiethnic Placement

Multiethnic Foster Care and Adoption Placements

Title VI of the Civil Rights Act of 1964 provides that programs that receive federal funds cannot discriminate on the basis of race, color, or national origin. Although race, color, or national origin may not be used as a basis for providing benefits or services, the federal policy guidelines that interpret Title VI's meaning in the context of adoption and foster care permit officials to consider these factors in making placements. The guidelines state that: "In placing a child in an adoptive or foster home it may be appropriate to consider race, color, or national origin as one of several factors . . . This policy is based on unique aspects of the relationship between a child and his or her adoptive or foster parent. It should not be construed as applicable to any other child welfare or human services area covered by Title VI."

Subtitle B—Other Provision

Effect of Failure to Carry Out State Plan

The "State plan" titles of the Social Security Act include Aid to Families with Dependent Children (AFDC) (Title IV–A), Child Welfare Services (Title IV–B), Child Support and Establishment of Paternity (Title IV–D), Foster Care and Adoption Assistance (Title IV–E), Job Opportunities and Basic Skills Training (JOBS) (Title IV–F), and Medicaid (Title XIX). Under these titles, as a precondition of funding, each participating State is required to develop a written "State plan" that meets certain statutory requirements in order to be approved by the Secretary of the Department of Health and Human Services (HHS).

The Adoption Assistance and Child Welfare Act of 1980 amended the Social Security Act to require States to provide in their Title IV–E plans that, in the case of each child, reasonable efforts will be made (a) prior to the placement of the child in foster care, to prevent or eliminate the need for removal of the child from his home, and (b) to make it possible for the child to return to his home (sec. 471(a)(15)).

On March 25, 1992, the U.S. Supreme Court held in *Suter* v. *Artist M.*, that the "reasonable efforts" clause does not confer a federally-enforceable right on its beneficiaries, nor does it create an implied cause of action on their behalf. In rendering its opinion, the Court also stated that although section 471(a) does place a requirement on the States, that requirement "only goes so far as to ensure that the States have a plan approved by the Secretary which contains the 16 listed features."

House Bill

No provision.

Senate Amendment

The official title of the Senate Amendment is the Multiethnic Placement Act of 1994. The stated purpose of the Multiethnic Placement Act is to decrease the length of time that children wait to be adopted and to prevent discrimination in the placement of children on the basis of race, color or national origin. It has the following provisions:

Prohibition

Agencies or entities receiving Federal funds who are involved in adoption or foster care placements may not, solely on the basis of the race, color, or national origin of the adoptive or foster parent, or the child, involved: (1) categorically deny to any person the opportunity to become an adoptive or foster parent, or (2) delay or deny the placement of a child for adoption or into foster care, or otherwise discrimination in making a placement decision.

Permissible Consideration

Any agency or entity may consider the race, color or national origin of child as a foster in making a placement decision if the factor is relevant to the best interests of the child involved and is considered in conjunction with other factors.

Definition

The term "placement decision" means the decision to place, or to delay or deny the placement of, a child in a foster care or an adoptive home, and includes the decision of the agency or entity involved to seek the termination of birth parent rights or otherwise make a child legally available for adoptive placement.

Limitation

The Secretary of HHS is prohibited from providing funds under Title IV–E of the Social Security Act for placement and administrative expenditures to any agency or entity that is not in compliance with the anti-discrimination policy outlined above.

Equitable Relief

The Act would provide a right to bring an action seeking relief in U.S. district court to any individual who is aggrieved by a violation of the anti-discrimination policy outlined above.

Construction

Nothing in the Multiethnic Placement Act shall be construed to affect the application of the Indian Child Welfare Act.

CONFERENCE AGREEMENT

Subtitle A—Multiethnic Placement

Multiethnic Foster Care and Adoption Placements

The conference agreement follows the Senate amendment with the following modifications:

Purpose

Change the purpose to read: It is the purpose of this Act to promote the best interests of children by: (1) decreasing the length of time that children wait to be adopted; (2) preventing discrimination in the placement of children on the basis of race, color, or national origin; and (3) facilitating the identification and recruitment of foster and adoptive families that can meet children's needs.

Permissible Consideration

Change permissible consideration to read: An agency or entity to which the prohibition against discrimination applies may consider the cultural, ethnic, or racial background of the child and the capacity of the prospective foster or adoptive parents to meet the needs of the child of this background as one of a number of factors used to determine the best interests of a child.

Limitation

Substitute the following language: Noncompliance with this Act constitutes a violation of Title VI of the Civil Rights Act of 1964.

Amendment to Title IV–B Child Welfare Services program

Add the following Title IV–B State plan requirement: The State plan must provide for the diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the State for whom foster and adoptive homes are needed.

Federal Guidance and Deadline for Compliance

Add the following: Not later than 6 months after enactment the Secretary of HHS must publish guidance to concerned public and private agencies and entities with respect to compliance with the Multiethnic Placement Act. An agency or entity that receives Federal assistance and is involved with adoption or foster care placements shall comply not later than 6 months after publication of guidance or 1 year after enactment, whichever is sooner. In cases where a State demonstrates to the Secretary's satisfaction that a particular practice cannot be changed without amending State law, the Secretary may extend the compliance date for such State a reasonable number of days after the closing of the first State legislative session beginning after the Federal guidance is published.

Subtitle B—Other Provision

Effect of Failure To Carry Out State Plan

The provision would amend Title XI of the Social Security Act by adding a new section that reads as follows: "In an action brought to enforce a provision of the Social Security Act, such provision is not to be deemed unenforceable because of its inclusion in a section of the Act requiring a State plan or specifying the required contents of a State plan. This section is not intended to limit or expand the grounds for determining the availability of private actions to enforce State plan requirements other than by overturning any such grounds applied in *Suter* v. *Artist M.*, 112 S. Ct. 1360 (1992), but not applied in prior Supreme Court decisions respecting such enforceability; provided, however, that this section is not intended to alter the holding in *Suter* v. *Artist M.* that section 471(a)(15) of the Act is not enforceable in a private right of action."

The intent of this provision is to assure that individuals who have been injured by a State's failure to comply with the Federal mandates of the State plan titles of the Social Security Act are able to seek redress in the federal courts to the extent they were able to prior to the decision in *Suter* v. *Artist M.* while also making clear at that there is no intent to overturn or reject the determination in *Suter* that the reasonable efforts clause to Title IV–E does not provide a basis for a private right of action.

The amendment would apply to actions pending on the date of enactment and to actions brought on or after the date of enactment.

For consideration of the House bill and the Senate amendment (except for sections 601-603 and 801-805):

WILLIAM D. FORD,
GEORGE MILLER,
DALE E. KILDEE,
PAT WILLIAMS,
MAJOR R. OWENS,
TOM SAWYER,
DONALD M. PAYNE,
JOLENE UNSOELD,
PATSY T. MINK,
JACK REED,
TIM ROEMER,
ELIOT L. ENGEL,
XAVIER BECERRA,
GENE GREEN,
LYNN C. WOOLSEY,
CARLOS ROMERO-BARCELÓ,
KARAN ENGLISH,
TED STRICKLAND,
ROBERT A. UNDERWOOD,

From the Committee on Education and Labor for consideration of sections 601-603 of the Senate amendment:

WILLIAM D. FORD,
MAJOR R. OWENS,
DONALD M. PAYNE,

From the Committee on Ways and Means for consideration of sections 601–603 of the Senate amendment:

SAM GIBBONS,
HAROLD FORD,

From the Committee on Education and Labor for consideration of sections 801–805 of the Senate amendment:

WILLIAM D. FORD,
PAT WILLIAMS,
TOM SAWYER,

From the Committee on Agriculture for consideration of sections 801–805 of the Senate amendment:

KIKA DE LA GARZA,
CHARLIE STENHOLM,
PAT ROBERTS,

Managers on the Part of the House.

EDWARD M. KENNEDY,
CLAIBORNE PELL,
HOWARD M. METZENBAUM,
CHRISTOPHER J. DODD,
PAUL SIMON,
TOM HARKIN,
BARBARA A. MIKULSKI,
JEFF BINGAMAN,
PAUL WELLSTONE,
HARRIS WOFFORD,
NANCY LANDON
KASSEBAUM,
JAMES M. JEFFORDS,
ORRIN HATCH,
DAVE DURENBERGER,

Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. UNDERWOOD (at the request of Mr. GEPHARDT) for today through Monday, October 3, on account of official business.

Mrs. LLOYD (at the request of Mr. GEPHARDT) for today, on account of medical reasons.

Mr. MCNULTY (at the request of Mr. GEPHARDT) for today after 12 noon and the balance of the week, on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GOSS) to revise and extend their remarks and include extraneous material:)

Mr. WELDON, for 5 minutes, today.

Mr. GINGRICH, for 5 minutes today.

(The following Members (at the request of Ms. DELAURO) to revise and extend their remarks and include extraneous material:)

Ms. DELAURO, for 5 minutes, today.

Mr. HUGHES, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DINGELL, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GOSS) and to include extraneous matter:)

Mr. KNOLLENBERG.

Mrs. ROUKEMA in two instances.

Mr. SCHAEFER.

Mr. KING.

Mr. OXLEY.

Mr. WELDON in three instances.

Mr. PETRI.

(The following Members (at the request of Ms. DELAURO) and to include extraneous matter:)

Mr. HOCHBRUECKNER.

Mr. LEVIN.

Mr. PETERSON of Minnesota.

Mr. LAFALCE.

Mr. KILDEE.

Mr. HAMILTON.

Mr. STOKES.

Mr. DEFAZIO.

Mr. BONIOR in three instances.

Mr. FROST.

Mr. HINCHEY.

Mrs. LLOYD.

Mr. UNDERWOOD.

Mr. DE LUGO.

Mr. FILNER.

(The following Members (at the request of Mr. BONIOR) and to include extraneous matter:)

Mr. NEAL of Massachusetts.

Mr. HOKE.

Mr. GEKAS.

Mr. OWENS.

Mr. PASTOR.

Mr. REYNOLDS.

Mr. KLEIN.

Mr. BROWN of Ohio.

Mr. YOUNG of Florida.

Ms. FURSE.

Mr. MENENDEZ.

Mr. GEPHARDT.

SENATE BILLS REFERRED

A bill and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2468. An act to permit the Secretary of Agriculture to make available certain amounts for FmHA farm ownership, operating, or emergency loans, and for other purposes; to the Committee on Agriculture.

S. Con. Res. 74. Concurrent resolution concerning the ban on the use of United States passports in Lebanon; to the Committee on Foreign Affairs.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3839. An act to designate the United States Post Office building located at 220 South 40th Avenue in Hattiesburg, Mississippi, as the "Roy M. Wheat Post Office."

H.R. 4177. An act to designate the United States Post Office building located at 1601 Highway 35 in Middletown, New Jersey, as the "Candace White Post Office."

H.R. 4191. An act to designate the United States Post Office building located at 9630 Estate Thomas in Saint Thomas, Virgin Islands, as the "Aubrey C. Ottley Post Office."

H.R. 4554. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1995, and for other purposes.

H.R. 4569. An act to extend and make amendments to the President John F. Kennedy Assassination Records Collection Act of 1992.

H.R. 4606. An act making appropriations for the Department of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes.

H.R. 4624. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 716. An act to require that all Federal lithographic printing be performed using ink made from vegetable oil and materials derived from other renewable resources, and for other purposes.

ADJOURNMENT

Mr. KILDEE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 28 minutes p.m.), the House adjourned until tomorrow, Thursday, September 29, 1994, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3875. A communication from the President of the United States, transmitting his request to make available appropriations totaling $14,505,000 in budget authority for the Federal Emergency Management Agency [FEMA], and to designate these amounts as emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, pursuant to 31 U.S.C. 1107 (H. Doc. No. 103–318); to the Committee on Appropriations and ordered to be printed.

3876. A letter from the Comptroller of the Department of Defense, transmitting a report of a violation of the Anti-Deficiency Act which occurred in the Department of the Army, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

3877. A letter from the Comptroller of the Department of Defense, transmitting a report of a violation of the Anti-Deficiency Act which occurred in the Department of the Army, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

3878. A letter from the Deputy Assistant Secretary, Department of the Air Force, transmitting notification that a study has been conducted with respect to converting the grounds maintenance function at Randolph Air Force Base, CO, and a decision has been made that performance under contract is the most cost-effective method, pursuant to Public Law 100–463, section 8061 (102 Stat. 2270–27); to the Committee on Armed Services.

3879. A letter from the Deputy Associate Director for Compliance, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Natural Resources.

3880. A letter from the Secretary, Department of Transportation, transmitting the Department's annual report entitled "Transportation Security" for calendar year 1993, pursuant to Public Law 101–604, section 102(a) (104 Stat. 3068); to the Committee on Public Works and Transportation.

3881. A letter from the Secretary of Energy, transmitting a report regarding the development of a list of potential international energy projects in host countries using renewable energy technologies; jointly, to the Committees on Energy and Commerce and Foreign Affairs.

3882. A letter from the Secretary of Health and Human Services, transmitting a report entitled "Monitoring the Impact of Medicare Physician Payment Reform on Utilization and Access", pursuant to Public Law 101–239; jointly, to the Committees on Energy and Commerce and Ways and Means.

3883. A letter from the Secretary of Health and Human Services, transmitting the annual report with respect to actions taken to recruit and train Indians to qualify them for positions subject to Indian preference; the annual report on actions taken to place non-Indians employed by the Indian Health Service in other Federal agencies, pursuant to 25 U.S.C. 472a(d); jointly, to the Committees on Natural Resources and Post Office and Civil Service.

3884. A communication from the President of the United States, transmitting the proclamation terminating the trust relationship between the United States and Palau and the entry into force of the Compact of Free Association between the United States and the Republic of Palau, effective October 1, 1994, pursuant to Public Law 101–219, section 101(1) & (2), Public Law 99–658, section 101(d)(1)(A) & (C), Public Law 99–239, section 102(b)(2)(B) (H. Doc. No. 103–317); jointly, to the Committees on Natural Resources and Foreign Affairs and ordered to be printed.

3885. A letter from the Comptroller General, General Accounting Office, transmitting an audit of the Department of Energy's Office of Civilian Radioactive Waste Management, pursuant to 42 U.S.C. 1022(d); jointly, to the Committees on Energy and Commerce, Natural Resources, and Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FROST: Committee on Rules. House Resolution 554. Resolution waiving points of order against the conference report to accompany the bill (H.R. 4650) making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes (Rept. 103–759). Referred to the House Calendar.

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 4734. A bill to require consultations, assessments, and monitoring of the effects of major trade actions on the environment generally, including fish, wildlife, endangered species, and other natural resources; with an amendment (Rept. 103–760, Pt. 1). Ordered to be printed.

Mr. FORD of Michigan: Committee of Conference. Conference report on H.R. 6. A bill to extend for 6 years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965 and for other purposes (Rept. 103–761). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. PETERSON of Minnesota:

H.R. 5115. A bill to improve the management of the project-based rental assistance program under section 8 of the United States Housing Act of 1937; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BROOKS (for himself, Mr. Fish, and Mr. Synar):

H.R. 5116. A bill to amend title 11 of the United States Code; to the Committee on the Judiciary.

By Mr. MURTHA:

H.R. 5117. A bill to amend title 10, United States Code, to provide for improved treatment of future actuarial gains and losses to the Department of Defense Military Retirement Fund; to the Committee on Armed Services.

By Mr. BERMAN:

H.R. 5118. A bill to amend the Tariff Act of 1930 to permit an extension for filing drawback claims in cases where the President has declared a major disaster; to the Committee on Ways and Means.

By Mr. DeFAZIO:

H.R. 5119. A bill to increase access to, control the costs associated with, and improve the quality of health care in States through health insurance reform, State innovation, public health and medical research, and for other purposes; jointly, to the Committees on Energy and Commerce, Ways and Means, and Education and Labor.

By Ms. DeLAURO (for herself and Mr. Gephardt):

H.R. 5120. A bill to facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of a National Infrastructure Development Corporation, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs, Ways and Means, and Public Works and Transportation.

By Mr. KLINK:

H.R. 5121. A bill to assist in the economic conversion and diversification of industries and small businesses in the defense industrial base of the United States that are adversely affected by significant reductions in spending for national defense; jointly, to the Committees on Energy and Commerce, Armed Services, Ways and Means, and Foreign Affairs.

By Mr. MANN:

H.R. 5122. A bill to require Federal agencies that own or lease motor vehicles to keep accurate records of the use of those vehicles by Federal employees, and for other purposes; to the Committee on Government Operations.

By Mr. RAHALL:

H.R. 5123. A bill to make a technical correction to an act preempting State economic regulation of motor carriers; to the Committee on Public Works and Transportation.

By Mr. REYNOLDS:

H.R. 5124. A bill to amend the Internal Revenue Code of 1986 to limit the interest deduction allowed corporations and to allow a deduction for dividends paid by corporations; to the Committee on Ways and Means.

By Mrs. ROUKEMA:

H.R. 5125. A bill to amend the Community Reinvestment Act of 1977 to enhance the availability of investment capital for low- and moderate-income housing in low- and moderate-income neighborhoods; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SANDERS (for himself and Mr. Owens):

H.R. 5126. A bill to amend the National Labor Relations Act, to establish the National Public Employment Relations Commission, and to amend title I of the Employment Retirement Income Security Act of 1974 to provide for joint trusteeship of single-employer pension plans; to the Committee on Education and Labor.

By Mr. UNDERWOOD:

H.R. 5127. A bill to amend title VII of the Civil Rights Act of 1964 to establish that English-only rules cause an adverse and disparate effect on certain employees and applicants for employment; to the Committee on Education and Labor.

By Mr. TORRICELLI (for himself and Mr. Hamilton):

H.J. Res. 416. Joint resolution providing limited authorization for the participation of United States Armed Forces in the multinational force in Haiti and providing for the prompt withdrawal of United States Armed Forces from Haiti; jointly, to the Committees on Foreign Affairs and Rules.

By Mr. DINGELL (for himself, Mr. Moorhead, Mr. Swift, and Mr. Oxley):

H.J. Res. 417. Joint resolution providing for temporary extension of the application of the final paragraph of section 10 of the Railway Labor Act with respect to the dispute between the Soo Line Railroad Co. and certain of its employees; to the Committee on Energy and Commerce.

By Mrs. LLOYD (for herself, Mr. Walsh, Mr. Slattery, Mr. Dellums, Ms. Pelosi, Mr. Sawyer, Mr. Tanner, Mr. Hochbrueckner, Mr. Farr, Mr. Gordon, Mr. Gutierrez, Mr. McDermott, Mr. Cramer, Mr. Oberstar, Mr. Cooper, Mr. Mazzoli, Mr. McCrery, Mr. Sangmeister, Mr. Ballenger, Mr. Blute, Mr. Stearns, Ms. Danner, Mr. Beilenson, Mr. Bateman, Mrs. Maloney, Mrs. Meek of Florida, Mr. Mineta, Mrs. Vucanovich, Mr. Duncan, Mr. Valentine, Mr. Brown of Ohio, Mr. Bevill, Mr. Roemer, Mr. Dornan, and Mr. Studds):

H.J. Res. 418. Joint resolution designating October 19, 1994, as "National Mammography Day"; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Mr. Cramer.
H.R. 746: Mr. Bachus of Alabama.
H.R. 1108: Mr. Calvert.
H.R. 1500: Ms. Margolies-Mezvinsky and Mr. Darden.
H.R. 1551: Mr. Chapman.
H.R. 1843: Mrs. Unsoeld.
H.R. 1945: Mr. Barcia of Michigan.
H.R. 2292: Mr. Hilliard, Mr. Jefferson, and Mr. Conyers.
H.R. 2305: Mr. Coppersmith.
H.R. 2340: Mr. Olver.
H.R. 2420: Mr. Olver, Mr. McDermott, Ms. Danner, and Mr. Bishop.
H.R. 2512: Ms. Pryce of Ohio.
H.R. 2717: Mr. Cramer.
H.R. 2873: Mr. Gallo.
H.R. 2918: Mr. Dixon, Mr. McCloskey, Ms. Slaughter, Mr. Lehman, and Mr. Lazio.
H.R. 2971: Mr. Payne of Virginia.
H.R. 3031: Mr. Burton of Indiana.
H.R. 3137: Mr. Richardson.
H.R. 3334: Mr. Rohrabacher.
H.R. 3488: Mr. Miller of Florida.
H.R. 3538: Ms. Slaughter.
H.R. 3739: Mr. Stump.
H.R. 3971: Mr. Duncan and Mr. McCandless.
H.R. 4091: Ms. Pelosi.
H.R. 4142: Mr. Swift.
H.R. 4416: Mr. Ehlers, Mr. Hilliard, Mr. Calvert, Mr. Lightfoot, Mr. Johnson of South Dakota, Mr. Lewis of Georgia, Mr. Condit, Mr. Pombo, Mr. Stenholm, Mr. Dooley, Mr. LaRocco, and Mr. Barrett of Wisconsin.
H.R. 4507: Mr. Torkildsen.
H.R. 4557: Mr. Hastert.
H.R. 4574: Mr. Goodlatte.
H.R. 4710: Mr. Spratt, Mr. Edwards of California, Mr. Gutierrez, Mr. Holden, Mr. Traficant, Mr. Washington, Mr. Filner, Mr. Watt, Mr. Conyers, Mr. Yates, Mr. Kingston, Mr. Nadler, Mr. Gonzalez, Mr. Miller of California, Mr. Brown of Ohio, and Mr. Vento.
H.R. 4873: Mr. Sisisky.
H.R. 4874: Mr. Ridge, Mr. Frost, and Mrs. Unsoeld.
H.R. 4875: Mr. Hilliard, Mr. Frost, and Mr. Evans.

H.R. 4877: Mr. JOHNSON of South Dakota.

H.R. 4878: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. HASTINGS, and Mr. GENE GREENE of Texas.

H.R. 4880: Mr. FROST.

H.R. 4887: Mr. ROTH.

H.R. 4912: Mr. ACKERMAN, Mr. ANDREWS of New Jersey, Mr. BERMAN, Mr. BORSKI, Mr. BARLOW, Mr. BILBRAY, Mr. DEUTSCH, Mr. DINGELL, Ms. ESHOO, Mr. FARR, Mr. FAZIO, Mr. SABO, Mr. SARPALIUS, Mr. SCHUMER, Mr. SLATTERY, Mr. TORRICELLI, Mr. WHITTEN, Mr. FORD of Tennessee, and Mr. BLUTE.

H.R. 4995: Mr. COOPER and Mr. MOORHEAD.

H.R. 5014: Mr. FROST, Mr. JOHNSON of South Dakota, and Mr. EVANS.

H.R. 5032: Mr. LAUGHLIN, Mr. KOPETSKI, Mr. KINGSTON, Mrs. UNSOELD, and Mrs. THURMAN.

H.R. 5062: Mr. EWING, Ms. PRYCE of Ohio, Mr. TANNER, Mr. ROYCE, Mr. STUMP, Mr. BOUCHER, Mr. PICKETT, Mr. WELDON, Mr. BROWN of California, Mr. GOODLING, Mr. RICHARDSON, Mr. BARRETT of Wisconsin, Mr. GLICKMAN, Mr. LANCASTER, Mr. MINGE, Mr. INGLIS of South Carolina, Mr. SKELTON, Mr. DEAL, and Mr. COOPER.

H.R. 5068: Ms. ROYBAL-ALLARD.

H.R. 5110: Mr. GIBBONS, Mr. MATSUI, Mrs. KENNELLY, Mr. LEVIN, and Mr. BACCHUS of Florida.

H.J. Res. 326: Mr. PALLONE.

H.J. Res. 332: Mr. GILCHREST, Mr. PAYNE of New Jersey, Mr. FRANK of Massachusetts, Mr. SKELTON, Mr. KNOLLENBERG, Ms. NORTON, Mr. GORDON, Mr. ROBERTS, Mr. ROGERS, and Mr. VISCLOSKY.

H.J. Res. 385: Mr. MARTINEZ, Mr. LIPINSKI, and Mr. BURTON of Indiana.

H.J. Res. 389: Mr. STUDDS, Mr. OXLEY, Mr. DEUTSCH, Mr. BECERRA, Mr. BROOKS, Mr. SHAW, Mr. FARR, Mr. LAROCCO, Mr. DEAL, Mr. POMEROY, Mr. JOHNSON of South Dakota, Mr. MANTON, Mr. ORTIZ, Mr. KNOLLENBERG, Mr. RUSH, Mr. STUPAK, Mr. THORNTON, Mr. KING, Mr. CASTLE, and Mr. STARK.

H.J. Res. 398: Mr. MINGE, Mr. HERGER, Mr. LEWIS of California, Mr. BEREUTER, Mr. SERRANO, Mr. TOWNS, Mr. HILLIARD, Mr. MATSUI, Mr. BARCA of Wisconsin, Mr. FRANKS of Connecticut, Mr. DEFAZIO, Mr. PICKLE, Mr. LEWIS of Florida, Mr. ROWLAND, Mr. EVANS, Mr. FIELDS of Louisiana, Mr. TALENT, Mr. MICHEL, Mr. SHAW, Mr. BLILEY, Mr. MEEHAN, Mr. TAYLOR of Mississippi, Mr. DEUTSCH, Mr. FISH, Mr. GEKAS, Mr. TORKILDSEN, Mr. JOHNSON of South Dakota, Mr. CASTLE, Mr. SAM JOHNSON, Ms. NORTON, Mrs. THURMAN, Mr. HALL of Ohio, Mr. POSHARD, Mr. NEAL of North Carolina, Mr. BILBRAY, Mr. BARLOW, Ms. MOLINARI, Mr. RANGEL, Mr. SAXTON, and Mr. DIAZ-BALART.

H.J. Res. 401: Ms. FURSE, Mr. GEJDENSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KENNEDY, Mr. KIM, Mr. LAFALCE, Mr. MCCRERY, Mr. MCHALE, Mr. MINETA, Mr. MYERS of Indiana, Mr. POSHARD, Mr. ROBERTS, Mr. ROSE, Mr. SHAW, Mr. STOKES, Mr. STUDDS, Mr. WHITTEN, Mr. WILSON, and Mr. YOUNG of Alaska.

H. Con. Res. 19: Mr. FINGERHUT.

H. Con. Res. 227: Mr. CRAPO.

H. Con. Res. 286: Mr. BATEMAN, Mr. EMERSON, Mr. LIVINGSTON, Mrs. MEYERS of Kansas, Mr. ROHRABACHER, and Mr. WALKER.

H. Res. 136: Mr. BARCIA of Michigan.

H. Res. 519: Mr. BARRETT of Nebraska.

H. Res. 546: Mr. PORTMAN, Mr. QUINN, Mr. COX, Mr. MCCANDLESS, and Mr. PORTER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 140: Mr. SHAYS.

H.R. 3222: Mr. BARCIA of Michigan.

H.R. 4821: Mr. LUCAS.

EXTENSIONS OF REMARKS

INTRODUCING THE HEALTH INNOVATION PARTNERSHIP ACT OF 1994

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. DEFAZIO. Mr. Speaker, 1 year ago, President Clinton stood in this Chamber to announce his health care reform legislation. He told us that our health care system was in crisis and that we are the only industrialized Nation that does not provide health care to all of its citizens. One year later, nothing has changed.

The Congress did not accept the President's proposal, in fact, it did not agree on any proposal. Congress failed to reach a consensus to deliver a national health care plan. If it was impossible to overhaul the health care industry when the national momentum was at its peak, then it would take nothing short of a miracle for reform to take place next year in a more partisan and unfriendly climate.

What is obvious after 2 years of intense health care debate is that many individuals, health care professionals, and policymakers agree some type of reform is needed. What's unresolved is what kind of reform is necessary and how to get there.

In the effort to overhaul the Nation's health care system, the shared goals of cost containment, increased access, and improved quality were lost. In fact, the latest health care reform effort seems to have abandoned the goals of health reform in a last-minute attempt to find the unattainable middle-ground reform solution. According to a statement by Senator DANIEL PATRICK MOYNIHAN in the September 14 CONGRESSIONAL RECORD.

> The Mainstream Coalition proposal would be a step backward for New York and other progressive states that have already taken actions to expand coverage and contain costs.

State efforts and innovation should not be thwarted in any national effort. It's ridiculous to ask progressive States to take a step backward and wait while other States try to catch up.

The reforms proposed are all based on programs abroad or theoretical models. As Yale professors Ted Marmor and Jerry Mashaw said in a New York Times editorial of June 12, 1994,

> If Congress adopts an unproven and untested * * * plan and it turns out to be the health care equivalent of a train wreck, it would be sensible to not have the country on the same train at the same time.

As we've learned from past Federal legislation, it's difficult to repair a system once it's enacted into law. A one-size fits all bill ignores that what may work it Oregon may not work in Pennsylvania, Connecticut, or Texas.

Without concrete examples of what works, I'm afraid we'll spend future congressional sessions rehashing this year's debate. While Congress abandons this issue, many Americans are left without coverage and some States are moving ahead with reforms of their own.

Six States have already enacted comprehensive health care reform proposals—Oregon, Hawaii, Massachusetts, Minnesota, Florida, and Washington. In addition, 44 States have begun small group insurance reform, 44 have enacted data collection systems and 41 have Medicaid managed care experiments underway.

Mr. Speaker, there is a viable alternative to this congressional impasse. Today, I introduce the Health Innovation Partnership Act. Senators MARK HATFIELD of Oregon and BOB GRAHAM of Florida are the principal sponsors in the Senate. This important legislation allows States the flexibility, with Federal assistance of $50 billion in State grants, to devise their own health reform plans that increase access, control costs, and improve the quality of care.

The Health Innovation Partnership Act uses States as laboratories to test successful reform efforts, allowing States to adopt single-payer, alliances, managed care, or any other plan that works for their citizens. This bill ensures that all individuals in a State will have equal or superior benefits to those they currently receive. Furthermore, this bill gives priority for grants to States expanding health coverage to children and youth.

At the end of the 5-year State innovation project period, a report will be made to Congress on the progress States made toward reaching the goals of expanding coverage and containing costs. This report will include recommendations for future action at both the national and State level, in addition to highlighting the successes and failures of individual States.

This bill also establishes a process for the creation of minimum national insurance standards, expands the infrastructure for public health and prevention activities in rural and underserved areas, and increases the funding for medical research.

The public health section seeks to promote prevention, public health, cost effective treatment, and health education through: First, strengthening the partnership with capacity of local and State public health departments to carry out core public health functions; second; expanding access to preventative and primary care services for vulnerable and medically underserved populations; third; supporting applied research on prevention and effective public health interventions; and fourth addressing public health work force needs and access problems.

Dr. C. Everett Koop, a leading advocate for preventative medicine, noted that 70 percent of all illness is preventable and that there are approximately 1 million deaths annually that are preventable. The failure to prevent these illnesses carries a hefty price tag in the billions. Ironically, our Nation invests less than 1 percent of our total health care dollars on public health. Common sense tells us it's time to redirect our priorities and increase funding for vital public health programs.

Our health care system could be more adequately described as a sick-care system. Instead of preventing illness and promoting healthy living, our system focuses on sickness and acute medical care. Keeping communities safe and healthy has long been the priority of public health organizations and departments.

We need to do more than control the costs of health care and rework the payment structure. We need to evaluate our delivery system and find ways to keep our citizens healthy.

The medical research component of the bill dedicates a minimum of 6 billion over the next 5 years to increase the annual appropriations to the National Institutes of Health Research. While I believe prevention should be the cornerstone of any health plan, we must also invest the money and energy needed to find cures for those illnesses that cannot be prevented. Medical research also augments our efforts to discover preventative treatments and genetic patterns that help improve the health of our people.

A mere 2 to 3 percent of our Nation's total health care spending goes to support medical research. At a time when our Nation is on the forefront of major medical research breakthroughs, we're unfortunately funding the fewest number of research grants in 10 years. Cures and preventive treatments will truly help us contain the costs of health care.

This federalist bill forms the Federal-State partnership our forefathers sought. The States can serve as microcosms, giving us accurate data on reform efforts and informing our national debate.

This bill is not the last word in the health care debate—but instead, a sturdy beginning. It's the first step toward improving health care coverage for all Americans.

In closing, I'd like to thank Senator BOB GRAHAM and MARK HATFIELD for their leadership on this legislation and their dedication to health care reform. I look forward to working with them to pass this important bill. I am also glad to work with any of my colleagues and others who have recommendations to improve this bill.

TRIBUTE TO GEBRAN S. ANTON

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. BONIOR. Mr. Speaker, this evening, the southeast Michigan chapter of the March of Dimes Birth Defects Foundation will be hosting

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the 11th annual Alexander Macomb Citizen of the Year award dinner. The award, instituted in 1984, is named after my home county's namesake, Gen. Alexander Macomb, a hero of the War of 1812.

This year, the March of Dimes has chosen my long-time friend, Gebran Anton, as a recipient of the award. A native of Mount Clemens, MI, Gabe Anton has worked hard to revitalize our community. As a developer, retailer, business leader, and community activist, Gabe has been instrumental in spearheading a master plan for the city. His leadership has fostered a sense of cooperation between the local business people that has not only given the city a new look, but a new attitude. Mount Clemens has again become a city where people are proud to work, shop, and live. He most recently has provided space for students from Mount Clemens High School to run a music store. His generosity is providing first hand experience to a new generation of Mount Clemens entrepreneurs.

Gabe's commitment to service and hard work are not limited to entrepreneurial endeavors. The Boy Scouts, the YMCA, the Elks Club, and the Knights of Columbus represent only a few of the many organizations to which he has committed his talents.

Through advocacy, education and community service, the March of Dimes has established itself as an organization with an impeccable reputation. And, the southeast Michigan chapter rightly recognizes Gebran Anton for his excellent service and outstanding leadership. Receiving recognition from the March of Dimes is an exceptional honor and I urge my colleagues to join me in saluting Gabe Anton, as a recipient of the Alexander Macomb Citizen of the Year Award.

COP COLLECTIBLE CARDS

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. WELDON. Mr. Speaker, I rise today to bring to the attention of my colleagues an outstanding and innovative program of my district's Brookhaven Police Department which has been enormously successful in teaching young citizens to stay away from the lure of illegal drugs.

As the incidence of juvenile crime and illegal drug use continue to reach near epidemic proportions, it's imperative that we as a nation do all that we can to educate students on the dangers of drugs, crime, and violence.

The Brookhaven Police Department has found a unique way to send positive messages to young people through a very successful program that other departments are now actively seeking for participation. Trading cards, a seemingly old fashioned idea, is once again gaining momentum.

Last year, the department issued its first edition of Cop Collectibles—trading cards, similar to baseball and football cards. However, instead of sports heroes, the card pictures the local police officers. On the back is the officer's biography and an antidrug message which the officer on the card has selected.

The Cop Collectible card program lets young citizens to know their police officer. Children not only receive a positive antidrug message, but get to know the officer as a friend, not a foe.

Police Chief John Eller has initiated Cop Collectible card contests that have gained the attention of the entire Brookhaven community. Youths who gether the largest collection of cop cards have won a variety of gifts including ballpark tickets and bicycles.

This unique program has not only provided a strong and effective antidrug message to the community's young people, but has fostered a stronger relationship between law enforcement and the local kids.

The Brookhaven Police Department has reached out to their community in an effective way that sends positive messages to local children.

I wish to commend Police Chief John Eller and the entire Brookhaven Police Department for their outstanding efforts and congratulate them on the success of the cop card program. It now serves as a model in other parts of the Seventh Congressional District.

I am confident that we will see the positive results of this program for years to come.

TRIBUTE TO FRED PRUITT

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. FILNER. Mr. Speaker and colleagues, I rise today to honor a great friend and community leader who passed away this week, Fred Pruitt. Fred always worked to make life better for everyone, believing that activism was better than lip service, progress better than the status quo.

In 1960, a young Fred Pruitt decided to serve his country by joining the U.S. Navy, where he was stationed on the U.S.S. *Black*. He served two tours in Vietnam as a fire control technician and returned home to become a journeyman electrician. He also attended San Diego State University, while juggling the responsibilities of a young family. In 1973, Fred joined the Jaycees. He was named Jaycee of the Year in 1974 and finally president of the national city chapter, but more was ahead for Fred Pruitt.

In 1975, he and his wife Allie opened up the National City home and Hardware Store. By 1977, he continued his service to his community on the board of directors of the National City Chamber of Commerce. He was later appointed the National City Civil Service Commission. In 1978, he was appointed to the National City Planning Commission and became chairman in 1982.

Fred was elected city council in National City in 1986, serving until 1990. During his tenure as city councilman, he also served as vice mayor of the city. For all of his achievements and contributions to his community, Fred and his wife Allie shared the Citizen of the Year Award for National City in 1991.

He was also recognized at the State level, winning the Outstanding Small Business Award for the State of California in 1993. Just recently, Fred and Allie flew to Oakland to receive the Minority/Supplier/Distributor of the Year Award for 1994 by the U.S. Department of Commerce.

But of all the awards he won, perhaps the most significant was the respect and admiration of his friends, family, and community for his unwavering commitment to hard work, community involvement, and a sincere belief that one person can make a difference.

In this lifetime, we all come across a small number of special people, those who touch our minds, hearts, and souls with their activism, optimism, and dedication to making everyone's life richer. Fred was one of those chosen few. My thoughts and prayers go out to Allie and his family, friends and the community. This world needs more people like Fred Pruitt; he will be sorely missed.

RESPONSIBILITY IN GOVERNMENT

HON. MARTIN R. HOKE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. HOKE. Mr. Speaker, I want to bring to the attention of my colleagues the efforts of an organization headquartered in my district, whose work should serve as a model for concerned citizens everywhere.

The organization is known as RIGOR, which stands for Responsibility in Government, Our Right, and is comprised of everyday Americans who are not content to sit back and complain about our Nation's state of affairs without doing something about it. RIGOR's mission is to work for responsible and responsive representation in government, and their dedication to this cause has proved an invaluable resource to me during my first term in Congress.

One of RIGOR's most valuable projects in recent months has been their circulation of a petition, reprinted below, calling for Congress to enact a market-based reform of the health care system and oppose a government-run, tax-heavy bureaucratic approach. I commend my colleagues RIGOR's petition, and I urge them to heed RIGOR's good advice when we take up health care reform in the next Congress.

PETITION TO CONGRESS ON HEALTH CARE REFORM

Responsibilty in Government, Our Right (R.I.G.O.R.) is an organization dedicated to promoting responsible and responsive government action. On behalf of R.I.G.O.R. and in accordance with its philosophy, the Trustees of R.I.G.O.R. hereby petition Congress regarding the present national discussion on Health Care as follows:

A. Any solution to problems in the health care system MUST NOT include comprehensive Federal regulation of health care. Present government intervention has already caused more problems than it has solved.

B. We prefer that a market-based approach favoring private enterprise and empowerment of individual health care consumers be the model for any health care policy changes. We believe that, given the chance, the health care industry will improve the current situation much faster than any government bureaucracy.

C. We fundamentally oppose the establishment of a Federally Mandated or Nationalized Health Care System. In England, Ireland and Canada, national health care systems have resulted in closed hospitals due to money shortages. National health care systems have proven to be expensive and inefficient.

The signers below, both members and nonmembers of R.I.G.O.R., endorse and support these principles and hereby petition Members of Congress to legislate in accordance with these principles.

NATIONAL BONE MARROW DONORS AWARENESS WEEK

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Ms. FURSE. Mr. Speaker, September 12 has been designated National Bone Marrow Donors Awareness Week, and I want to take this opportunity to applaud those who have volunteered to join the National Bone Marrow Registry.

The registry was set up by committed individuals with assistance from Congress in 1987 to help people with leukemia and other blood disorders to find potential bone marrow donors. Since the registry's inception, 1.4 million Americans have signed up and are available to donate their bone marrow to save another's life.

In my district in Oregon there are three donor collection and transplant sites: one in Portland, one in Aloha, and one in Tualatin. There are also 15 other collection and transplant sites around the State of Oregon. I support this program, and encourage all Americans to consider volunteering for the registry.

On this occasion, I want to recognize the efforts of a very special person, Oregon's Dave Frohnmayer. Dave Frohnmayer was formerly State attorney general and is currently the president of the University of Oregon. Along with his noble record of public service, Dave is a true hero for his endless dedication in promoting the marrow registry, recruiting volunteers for the program, and raising public awareness. His personal crusade began when his two daughters, Katie and Kristen, contracted a rare blood disease. In seeking treatment they discovered a lack of donors around the country. Katie Frohnmayer died September 26, 1991. Dave and his wife, Lynn, honor her life by continuing to work to expand the donor registry.

During National Bone Marrow Donors Awareness Week, I call on all Americans to join with Dave Frohnmayer and other American heroes and volunteer for the registry.

TRIBUTE TO DOMINIC AND FRED SEVERINI, JR.

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. BONIOR. Mr. Speaker, this evening, the southeast Michigan chapter of the March of Dimes Birth Defects Foundation will be hosting the 11th annual Alexander Macomb Citizen of the Year award dinner. The award, instituted in 1984, is named after my home county's namesake, Gen. Alexander Macomb, a hero of the War of 1812.

This year, the March of Dimes has chosen Dominic and Fred Severini, Jr., to be recipients of the second annual Family of the Year Award. Committed to improving the health of America's babies, the March of Dimes in southeast Michigan is paying tribute to the Severinis for their service and leadership in the community. The family is perhaps best known for the Fern Hill Country Club which offers golfing, racquetball, bowling, and excellent banquet facilities.

The sons of immigrant Italian parents, the Severinis have discovered the American dream while never forgetting the needs of the less fortunate. Their success has enabled them to bless the March of Dimes and many other community organizations with their skills and talents.

Through advocacy, education, and community service, the March of Dimes has established itself as an organization with an impeccable reputation. And, the southeast Michigan chapter rightly recognizes the Severinis for their commitment to our community. Receiving recognition from the March of Dimes is an exceptional honor and I urge my colleagues to join me in saluting Dominic and Fred Severini, as recipients of the Alexander Macomb Family of the Year Award.

TRIBUTE TO AL SCHACHT

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. WELDON. Mr. Speaker, after nearly 35 years with the Forest Service, Al Schacht, a resident of my congressional district, will retire tomorrow as Director of State and Private Forestry for the Northeastern Area.

Al joined the Forest Service in 1959 as an engineer, laying out roads for timber sales. Later, he served as a wildlife biologist at the Beaverhead National Forest. In 1966, Al joined the State and Private Forestry division, where he would remain for the rest of his career. His accomplishments there were many. He wrote legislation for the Forestry Incentive and Urban and Community Forestry Programs. He did the staff work for development of the rural community fire protection legislation guidelines and implementing procedures. He conceived and developed the State Forest Resource Planning Program.

Through his long career, Al demonstrated outstanding leadership qualities and a strong commitment to people and forests. He has made a very real contribution toward the conservation of our Nation's forests. Al will certainly be missed within the Forest Service, but his retirement is well earned. I wish him and his wife, Judy, much happiness in the future.

THE DUTY DRAWBACK DISASTER RELIEF ACT OF 1994

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. BERMAN. Mr. Speaker, more than 9 months after the devastating January 17 Northridge earthquake, many individuals, families, and businesses in the Los Angeles area are still picking up the pieces and trying to return to a normal existence. The Federal Government has played a central role in the recovery effort from day one, and to date significant progress has been made. FEMA Director James Lee Witt, SBA Administrator Erskine Bowles, and HUD Secretary Henry Cisneros deserve a great deal of credit for their willingness to go the extra mile to help those in need.

Despite the unprecedented flexibility demonstrated by Federal, State and local officials, some earthquake-damaged companies have been unable to obtain disaster assistance. A number of businesses face relatively unique problems that had not been previously experienced or anticipated, and are thus having trouble qualifying for the standard Federal disaster assistance programs.

To help ensure that some victims of the Northridge earthquake and other disasters don't fall through the cracks, I am introducing legislation today that would provide an 18 month extension of the duty drawback filing period for businesses that sustain damage in a presidentially declared disaster. Under current law, the Commissioner of Customs has no discretion to provide such an extension even if, through no fault of their own, businesses lose their records in a fire, flood, hurricane, tornado, earthquake or other disaster.

This legislation would have an almost negligible budgetary impact, yet would be of crucial importance to the small number of businesses unable to file drawbacks when disaster strikes. The Customs Service, the Treasury Department, and the Office of the United States Trade Representative have all signaled their support for this legislation, and I hope it will be enacted by the Congress in a timely fashion.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SPECIAL RULE FOR EXTENDING TIME FOR FILING DRAWBACK CLAIMS

Section 313(r) of the Tariff Act of 1930 (19 U.S.C. 1313(r)), is amended by adding at the end the following:

"(3)(A) Notwithstanding the limitation set forth in paragraph (1), the Customs Service may extend the time for filing a drawback claim for a period not to exceed 18 months, if—

"(i) the claimant establishes to the satisfaction of the Customs Service that the claimant was unable to file the drawback claim because of an event declared by the President to be a major disaster on or after January 1, 1994, and

"(ii) the claimant files a request for each extension with the Customs Service within 1 year from the last day of the 3-year period referred to in paragraph (1).

"(B) If an extension is granted with respect to a request filed under this paragraph, the periods of time for retaining records set forth in subsection (t) of this section and section 508(c)(3) shall be extended for an additional 18 months.

"(C) For purposes of this paragraph the term 'major disaster' has the meaning given such term in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)).".

THE PANAMA CANAL AND THE NEXT 5 YEARS

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. KING. Mr. Speaker, in just a little over 5 years, the Panama Canal will be transferred to Panama in accordance with the Carter-Torrijos Treaty.

The Panama Canal remains very important to the economic trade interests of the United States. We are the largest users of the Panama Canal with well over 50 percent of the cargo volume. Additionally, the metropolitan area of New York City relies significantly on the Panama Canal. According to the Port Authority of New York and New Jersey, some 60,000 jobs in our area are the result of traffic through the Panama Canal.

There are questions as to whether Panama has the capacity to operate the canal with the same safety and efficiency as the United States. Dealing with these questions, Robert R. McMillan, a fellow Long Islander and Chairman of the Board of the Panama Canal Commission, recently delivered an address in New York City to the Propeller Club of the United States. As a supporter of the American Merchant Marine, the Propeller Club has an obvious interest in the canal's future. After 5 years on the Board of the Panama Canal Commission and having served as Chairman for the last year, Mr. McMillan's remarks will be of great interest to my colleagues.

THE PANAMA CANAL AND THE NEXT FIVE YEARS

(By Robert R. McMillian)

At the outset, let me set the stage for our discussion. The Panama Canal is a business which employs some 7,500 people and has annual revenues in excess of $530 million. The Canal operates without any burden to the taxpayers of the United States. Based on the annuity and commissions paid to Panama, it can actually be said that the Panama Canal Commission makes a profit. The Canal represents almost twenty percent of the Panamanian economy. And while significant to the commercial activity of the United States, the Panama Canal no longer has as important a strategic military value as in the past.

What I want to deal with today is how the Panama Canal Commission and the respective governments of Panama and the United States are doing in the transition process—a process which will transfer the Canal to Panama at noon on December 31, 1999. First, keep in mind that the Panama Canal is much more than an international waterway. It is also a highly sophisticated industrial-maritime *business* complex—and I emphasize *business*. While obvious, it should be noted that operating in Panama is not similar to conditions at the St. Lawrence Seaway. The infrastructure in Panama does not have a bevy of electricians, divers, communications specialists, welders, carpenters, machine tool operators and other technically qualified people ready for call at a moment's notice. As a result, it is necessary to have in place, not only skilled management and engineers to supervise Canal operations, but it is essential to have the support crafts available at all times. It is important to understand the dimensions of the Canal as we lead up to a "seamless transfer" to Panama in just five years. By "seamless," the Board of Directors of the Panama Canal Commission means that there will be no perceivable bump in operations as Panama assumes responsibility for the business. Such will be the challenge for both the governments of Panama and the United States as well as the Panama Canal Commission and the entity to be created by Panama to manage the Canal. It is extremely important that you understand our mutual objectives and have faith in the implementation of our plans.

PANAMA

While all parties have a responsibility for the transfer of the business, let me begin with Panama. Key to the success, in our envisioned "seamless transfer," will be the actions of the Government of Panama. In that connection, I feel that Ernesto Perez Balladeres, the newly inaugurated President of Panama, could well be the right person at the right time. In my meetings with him since his May 8 election, I have found him decisive, full of confidence and greatly aware of the burden he has to prepare Panama for effective stewardship of the Panama Canal. In telling a friend about my confidence in the new President, I was greeted with a smile and the declaration, "It doesn't surprise me. We are both Notre Dame graduates!" Add to this President Perez Balladeres' Wharton School education, employment with a major international bank, and political experience—and it is clear why people are impressed with the new President. In preparing to assume the Presidency, he has used business-like approaches to issues facing Panama. In addition, he has selected many outstanding people for important government posts—individuals who have real ability and credibility. In addition, the new President will have a "workable" majority in Panama's legislative body, the National Assembly.

I have absolutely no doubt about the capability of Panamanians to run the Canal from the top to the bottom. Gilberto Guardia, a Panamanian, has done a first-rate job as Administrator. In all, Panamanians occupy almost 90 percent of Canal positions. They are making the operating decisions today—now—as I speak. Let me emphasize this point again. Panamanians, as I speak, are making Canal decisions affecting operations today and well past the year 1999. The transition has been under way for over fifteen years and is accelerating.

In addition to the Administrator, two of the three top Bureau heads are Panamanian. Panamanian managers are at every level within the Canal organization. They are all performing in an outstanding manner. I have little doubt that more Panamanians will move into management positions over the next several years, because that is the stated and unequivocal policy of the Panama Canal Commission's Board of Directors. This policy is fully supported by Canal management. The concern expressed, by some government officials in Panama, about having more Panamanians in management positions, while somewhat overstated for internal political purposes, is a constant reminder to the Commission of our responsibility in this area. Believe me—we take the responsibility very seriously.

Of most concern to Panama should be the creation of the entity which will assume responsibility for the Canal on the date of transfer. The National Assembly has already passed for the first time a new Constitutional Amendment which would create the Panama Canal Authority. The current National Assembly, which assumed office on September 1, will now have to consider passing this measure for a second time in order for it to become part of the Panamanian Constitution. Insulating Canal business operations from day to day politics in Panama is one of the major and most important features of this proposed Amendment. Treating the Canal as a business and not as an appendage of the government will be in the best interests of all users and those working for the Canal. There are now some doubts as to whether the Amendment will be approved for a second time by the current National Assembly. This is a decision for Panama. World shipping, anxious about the future, will be carefully observing what substitute is arranged should the Amendment be shelved.

The importance of this Panamanian Canal entity is best seen through some of the issues which must be considered. It will have to consider toll-rates, negotiations with labor unions, major capital expenditures committed to before 1999 and delivered well into the next century (The Gaillard Cut widening program is one example), budgets, financing, insurance and many other details—all of which should flow in an uninterrupted way through our "seamless transfer."

Another area of concern is the enactment of laws which will govern the Canal after 1999. Today, United States law covers most aspects of the Canal business. While the proposed Constitutional Amendment sets the tone and even incorporates certain laws of the United States, further legislative action by Panama is required. Codifying laws to cover ship liability, procurement, ethics and an entire personnel structure remain high on the list of priorities for Panama. The Commission is currently cooperating with the Government of Panama in drafting such legislation.

While these issues and many more remain on Panama's plate for consideration, I would be remiss if I did not comment on the fine work of the Presidential Commission headed by J.J. Vallarino. Mr. Vallarino, a Panamanian member of the Commission's Board, took on the responsibility for his country to develop the Constitutional Amendment mentioned earlier and worked arduously to frame the core laws needed to supplement the Constitutional Amendment. This Commission has made significant progress and should be complimented for its untiring and careful work.

It is a given that most people can correctly observe the scope of a problem. Fewer, then, have the capacity to lay out the necessary plans. And still fewer have the capability to execute the plans. With regard to the transfer, much of the execution is up to Panama. The next five years are critical. President Perez Balladeres has the "watch" during this critical period. From what I have seen to date, I believe he will lead Panama effectively through the transition process—so long as he is not distracted by internal Panamanian politics.

UNITED STATES AND PANAMA CANAL COMMISSION

During the transition period, the Panama Canal Commission must continue to maintain and operate a world class waterway. In that connection, the Canal management must constantly review operations to insure that innovation, creativity, cost savings and dedication to efficiency remain high priorities. There are several areas where the United States has a responsibility. First, is the passage of President Clinton's recommendations to the Congress for changes in the Panama Canal Commission. Turning the Panama Canal Commission into a Government Corporation is his key proposal. In calling for the Commission to become a corporation, the President's report said, "As an agency with a commercial mission, an organizational structure that allows market responsiveness and operational flexibility is, most desirable." A government corporation would be able to consider implementing operating conditions and regulations more conducive to transferring the Canal to a Panamanian entity—all which could be assured by that entity.

Other recommendations relate to greater Board involvement, qualifications for Board members, the toll-rate process, a study to cover budgeting, procurement, personnel, ethics, audits and liquidation of liabilities. This proposed legislation will probably be considered in the next Congress. Passage of President Clinton's proposals are essential to achieving a "seamless transfer" of the Canal to Panama.

Another topic of importance is the continuing necessity to increase the number of Panamanians moving into management positions. The Canal has marvelous training programs which are invaluable in meeting that objective. From the crafts to off Isthmus courses at U.S. Government facilities and universities, Panamanians are being prepared to handle the business. Training of people is one of the critical elements of our transition.

The PCC has taken steps to help in the transition. The Board of Directors, last April, created the Transition Affairs Committee which is made up of two U.S. and two Panamanian Directors. This Committee has the responsibility to monitor and supervise transition activities of the Commission. In addition, a special Office under the Administrator and Deputy Administrator has been created to coordinate transition matters within the Commission. The Panama Canal Commission will also have to provide assistance to the new Panamanian entity on a wide range of administrative matters—some of which I referred to earlier in these remarks. Full and open communications between the Panama Canal Commission and the Panamanian entity to be responsible for the Canal will be essential. This will require some mind set shifts for both Canal management and Panama.

There is one other area of concern which is applicable to both the United States and Panama. The preservation of Canal institutional memory and building on the trust developed over the last five years requires continuity in top management and the Board of Directors. The wholesale replacement of U.S. Board members would, in my opinion, seriously impact on the transition process as well as Canal operations.

Finally, from the viewpoint of the transition, I am constrained to comment on the role of the U.S. military in Canal affairs. It is a given that without the engineering capabilities of the U.S. Army Corps of Engineers, in cooperation with our Nation's industrial ingenuity, the Canal would probably not have been completed. But, today is a new day. Almost one year ago, I became the first non-Department of Defense person to Chair the Board of the Panama Canal Commission—and the Canal is still operating. That step sent an important and positive message to Panama. The Panama Canal should not be dominated by the U.S. Department of Defense. The Canal must be viewed—again quoting from President Clinton's report to the Congress—"As an agency with a commercial mission. . . ." That is the right message and example for Panama as we convert to a government corporation and prepare to transfer the Canal.

CONCLUSION

I have been privileged to serve on the Board of the Panama Canal for the last five years. It has been one of the most interesting experiences of my life. And I have to admit that I am enthralled by the Canal. In fact, much of America has had a love affair with the Panama Canal for some ninety years. Our ties are deep and emotional. After all, it was American perseverance, diplomacy, engineering, industrial might and medical know-how which completed the Canal after France's failure.

But the Canal is much more than an engineering triumph and complex maritime industrial business. When completed in 1914, the Panama Canal was the world's most expensive peace time project ever undertaken. It was completed ahead of schedule and under budget. With President Teddy Roosevelt at its side, the construction of the Canal also marked the entry of our nation onto the world stage. Further, it fulfilled the earlier visions which had inspired the explorations of Columbus, Balboa and Magellan. The Canal truly remains one of the World's wonders.

The maritime industry and the entire world economic community will be watching very carefully as the United States and Panama prepare to meet the Treaty commitments. Our customers want to continue doing business with the Canal. We want to continue doing business with them. Our employees and management are ready to uphold the traditions and world class service provided by the Canal over the last eighty years. It is now up to Panama and the United States to execute the transfer and permit the dedicated employees to operate the Canal without interference. As of this date, the "seamless transfer" is definitely on track—with only understandable caution lights flashing down the road.

HONORING SUZIE PUSKAS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. KILDEE. Mr. Speaker, I rise today to honor the recipient of the 1994 Golden Door Award, Mrs. Suzie Puskas. Mrs. Puskas will receive the award at the annual dinner meeting of the International Institute of Flint on Tuesday, October 11.

The International Institute of Flint presents this award annually to a foreign-born citizen who has substantially improved life in the Flint community. Suzie Puskas's service to newly arrived immigrants in Flint has spanned the last seven decades. She is an unwavering pillar of the International Institute's commitment to serving those who come to the United States seeking a better life.

Born in Hungary on February 16, 1895, Suzie emigrated to the United States in 1914. She worked in New York as a live-in maid during her first years in the United States. She was all alone in this country and corresponded with Andrew Puskas during World War I. Andrew was a U.S. soldier serving overseas. The couple married after the war and moved to Flint in 1919. They opened a grocery store in the St. John Street community serving the new immigrants. In 1923 Suzie met Beatrice Baker, the Institute's first executive secretary. Mrs. Baker asked Suzie to become a volunteer board member with the Institute. It was the beginning of a relationship that has lasted through the years.

Suzie Puskas has served where she was needed most. In addition to serving on the International Institute's board, she counseled new arrivals, taught English, located jobs, provided shelter and basic life necessities. She translated letters from soldiers to their families during World War II. She assisted war brides writing to their husbands. She worked as a volunteer for the American Red Cross during this time. During the influx of refugees from Hungary in the 1950's, Suzie coordinated efforts to settle them in the community. She is known affectionately by the nickname of Aunt Suzie among those she aided.

The same strength of spirit that motivated this lifetime of caring for others also inspired Suzie as she raised two children, Edward and Susan, and has witnessed the birth of her nine grandchildren. Her husband died in 1968.

Mr. Speaker, it is with great honor that I ask the U.S. Congress to rise with me today to applaud a truly great American, Suzie Puskas. Her humility and selfless devotion to service is an inspiration to all.

LEGISLATION TO RECTIFY PROBLEMS IN THE SECTION 8 PROJECT-BASED PROGRAM

HON. COLLIN C. PETERSON

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. PETERSON of Minnesota. Mr. Speaker, today I am introducing legislation to rectify widespread problems in the Section 8 Project-Based Assistance Program. This Section 8 Project-Based Program is separate from the more widely known Section 8 Voucher Program in that the subsidy attaches to the apartment rather than to the tenant. Tenants do not have the choice to move to another apartment building because their rental subsidy cannot be used elsewhere.

The Employment, Housing and Aviation Subcommittee which I Chair has been investigating this program. We held a hearing on July 26, 1994 and will have a second hearing next week on October 6. The results from the first hearing were startling. The Department of Housing and Urban Development [HUD], the agency that administers this program, could not even identify for the subcommittee which projects were troubled either financially or physically.

The HUD Inspector General reported that, to date, HUD has provided over $131 billion in assistance to over 20,000 projects. More than 30 percent of these projects are troubled. Many are in deplorable shape: families are living with rat infestation; leaking toilets, sinks and roofs; no heat or smoke detectors; and holes in walls and ceilings.

HUD has not done a complete assessment of its inventory of troubled projects, which this bill would require. This assessment would include a financial and cost-benefit analysis of each troubled property to determine appropriate remedial action. It would also examine the social impact these properties have on tenants, owners, and communities.

In addition, this bill would require HUD to identify its troubled properties, collect and analyze the financial information for each project, and weigh its options for remedial action. HUD would then choose the most cost-effective action to take, while considering its affect on tenants, owners, and the community. Without a systematic method of determining what actions it should take on troubled projects, HUD could be wasting millions of dollars on projects that should not receive further assistance.

One solution, included in the bill, would permit HUD to recapture section 8 project-based funds for reuse as vouchers or certificates. This would allow tenants who live in substandard apartments to move to another building.

In addition to being in deplorable shape, many apartments have rents that are higher, in some cases double, the rent of comparable apartments in the same neighborhood that do not receive a subsidy. The General Accounting Office found a troubled section 8 property in Chicago where rent for a two-bedroom apartment was over $800 and a comparable apartment in a nearby building was just over $400. Some owners of section 8 assisted projects may be receiving undue profit at taxpayers' expense. The bill contains provisions that will control section 8 rent increases and make the rents comparable to unassisted rents in the area.

I hope that with this bill, requiring more efficient and cost-effective HUD oversight of section 8 properties, we can improve the management and financial and physical condition of these properties; properties that, by law, are intended to provide habitable rental units for thousands of low-income Americans.

A summary of the legislation follows:

CONGRESSIONAL FINDINGS

The Subcommittee on Employment, Housing, and Aviation held a hearing on July 26, 1994 to examine problems in the Section 8 Project-Based Assistance Program. The findings from the hearing follow:

Approximately 30% of the projects do not meet HUD's housing quality standards and are classified as "troubled". Of the total inventory of over 20,000 projects, about 10,000 are insured by HUD;

HUD cannot identify which projects in its inventory are troubled;

HUD is neither adequately inspecting projects nor ensuring that repairs are made;

HUD is not taking aggressive enforcement action against owners of troubled projects. According to the HUD Inspector General, aggressive enforcement action is the "exception at HUD, not the rule." Although some of the sanctions available to HUD may hurt tenants, several of the administrative sanctions would not.

The inability of HUD to address the problems of troubled projects is due to a variety of factors, including ineffective management, inadequate data systems, staffing shortages, and a lack of program accountability.

HUD has not done a complete assessment of its inventory of troubled projects. This would include a financial and cost-benefit analysis of each troubled property to determine remedial action. It would also examine the social impact these properties have on tenants, owners and communities.

Many Section 8 apartments have rents that are excessive compared to comparable unassisted apartments in the same area. A 1993 HUD report analyzed 4,125 properties and concluded that 42% of those properties had assisted rents at, or exceeding, 140% of market rents in the area.

In 1989, Congress directed HUD to issue regulations for conducting rent comparability reviews, which examine the difference between HUD-assisted and unassisted rents charged for similar apartments in the same neighborhood. Although HUD issued a proposed rule in 1992, it has yet to issue a final rule—four and one-half years later. HUD placed a moratorium on conducting comparability reviews until the final rule is published. In the meantime, HUD is not doing comparability reviews, and owners are receiving automatic rent adjustments.

In order for HUD to take appropriate remedial actions, statutory changes may be required. For example, under current law, HUD cannot "recapture" Section 8 funds for reuse as vouchers or certificates.

BILL SUMMARY—SECTION 8 PROJECT-BASED PROGRAM MANAGEMENT IMPROVEMENT ACT OF 1994, H.R. 5115

The Section 8 Project-Based Management Improvement Act of 1994 would address many of the problems with Section 8 project-based properties. It would:

Require HUD to identify troubled Section 8 project-based projects within 30 days of the bill's enactment. HUD will establish two categories for projects—severely troubled and troubled.

Require HUD to have completed a financial and social impact analysis on all of its severely troubled and troubled projects. HUD will have 18 months after the bill's enactment to complete the analyses.

HUD is required to complete the analysis for all severely troubled projects in the first six months after the bill's enactment. HUD is required to complete the analysis for all troubled projects within eighteen months of the bill's enactment.

The financial and social impact analysis would assist HUD in determining remedial actions to be taken on projects. There are several actions that HUD can choose to take on each troubled project; such as providing funds to renovate the property; enforcing sanctions against the owner; providing Section 8 vouchers and certificates to tenants; and, in cases where a project is beyond repair, foreclosing on the building. HUD is required to collect and analyze the appropriate information on each project, and weigh the possible options. It should then choose the most cost-effective action to take, while considering its effect on tenants, owners, and the community.

In performing the financial and social impact analysis, HUD is required to include the following (1) background information (2) financial information (such as the project's estimated rehabilitation costs, alternative financing mechanisms, and income and expenses) (3) comparison of options for remedial action. (4) an assessment of the social impact of each option, and (5) any other information as determined by the Secretary of HUD.

Require HUD to develop the guidelines it will use for determining remedial actions to take on each project. HUD must submit these guidelines to Congress within 30 days of the bill's enactment.

Permit HUD to "recapture" project-based Section 8 funds for reuse as vouchers or certificates (under current law, terminated Section 8 funds had to be returned to the Treasury and could not be used for vouchers or certificates).

Repeal a prohibition on lowering Section 8 rents that were in effect on or after April 15, 1987 for certain projects.

Require HUD to develop final regulations on conducting comparability reviews within 30 days of the bill's enactment.

Permit HUD to switch between applying the two methods of determining rent increases for Section 8 projects when refinancing (Annual Adjustment Factors and budget-based).

SHIRLEY COLETTI HONORED FOR 25 YEARS OF SERVICE IN THE FIGHT AGAINST SUBSTANCE ABUSE

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. YOUNG of Florida. Mr. Speaker, the board of directors of Operation PAR, one of our Nation's leading substance abuse treatment programs located in St. Petersburg, FL, which I have the privilege to represent, will honor its president, Shirley Coletti, Thursday for her lifetime of service to treat and prevent substance abuse throughout our Nation.

In a fitting tribute to her 25 years of service in this field, the board will name its recently completed Academy for Behavioral Change for Adolescents and Their Families the Shirley D. Coletti Academy. While providing treatment, support, and encouragement for substance abusers of all ages, Shirley has taken a special interest over the years in the impact substance abuse has had on young women and their children. In fact, many of the programs she has developed at Operation PAR have been nationally recognized for their effectiveness and have been replicated elsewhere.

Since its founding in 1969, Operation PAR has developed the largest and most comprehensive nonprofit system of drug and alcohol abuse prevention, intervention, research, education, and treatment services in the southeastern United States. Operation PAR provides services to more than 50,000 individuals a year.

Shirley Coletti was a leading force in the establishment of Operation PAR and has been a driving force throughout its quarter century of service to expand the number of people touched by the program. A nurse by training, Shirley is recognized as an international expert on drugs and substance abuse. She served on the President's bipartisan Commission of Model State Drug Laws, was appointed by President Reagan to the U.S. Senate Caucus on International Narcotics Control, and has been a special representative of the State Department to many countries.

Her work has been nationally recognized by Presidents of the United States, the Congress, the Florida State Legislature, the Pinellas County Board of County Commissioners, and by her peers in the field. She has received the Outstanding Service Award from the Alcohol and Drug Problems Association of North America, the Special Award of Honor from the International Narcotics Enforcement Officers Association, the Administrator of the Year Award from the Florida Alcohol and Drug Abuse Associations, and the Distinguished Layman Award from the Florida Medical Association.

Mr. Speaker, I join the board of directors of Operation PAR and the people of Pinellas County, FL, as they honor Shirley Coletti for her lifetime of service to the victims of substance abuse. As a pioneer in the field of substance abuse treatment and prevention, she has been a champion of children, adults, and families in the battle against drug use and abuse. The true testament to her work are the thousands of lives she has touched over the past 25 years. With her support and encouragement, many have thrown off the scourge of drugs to reclaim their lives. Many more will be touched in the future by her work through the new Shirley D. Coletti Academy in St. Petersburg.

Shirley Coletti is a remarkable woman who has brought so much attention and energy to our Nation's ongoing battle against substance abuse, and I salute her for her lifetime of work.

TRIBUTE TO MS. CYNTHIA LANGLEY

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. NEAL of Massachusetts. Mr. Speaker, today I recognize a fine member of the community of Northampton, MA. Ms. Cynthia Langley, director of the Northampton Council on Aging for 19 years, has performed a number of valuable services for her community.

Ms. Langley, in her capacity as director of the Council on Aging, developed a number of creative programs with limited resources. Ms. Langley's commitment stretched beyond her duties as the director of the Council, including service on a number of human service organizations throughout Hampshire County. Her innovation and dedication have won the loyalty and respect of the people of Northampton, especially those most touched by her efforts—the elderly of that community.

Ms. Langley will now enter into employment with the American Association of Retired Persons, continuing her service to elderly and retired persons in this country. Her services will be missed by the people of Northampton. It is most difficult to replace a public servant with a distinguished record of service like Ms. Langley's.

For her tireless efforts on behalf of the elderly and her service to her community, I salute Ms. Cynthia Langley of Northampton, MA.

TRIBUTE TO REV. D. KEITH OWENS, PASTOR OF THE SALEM BAPTIST CHURCH

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. MENENDEZ. Mr. Speaker, I rise today before the House of Representatives to pay tribute to Rev. D. Keith Owens, Salem Baptist Church of Jersey City's new pastor.

The Salem Baptist Church was founded in 1870 and was born the Second Baptist Mission, when the congregation worshipped in the home of Joseph and Mary Bailey. In 1871, Rev. Hutchingson, the mission's second leader, secured the larger Carr's Hall for worship. In 1875 the mission was organized as the Salem Baptist Church and Rev. Hutchingson was ordained pastor. In 1877 Rev. Richard A. Motley accepted the pastorate and served until 1904. During this time a building was purchased and Joseph Bailey and Matthew Brown were ordained Salem's first deacons. From 1929 to 1934 the church was under the leadership of Rev. Furman W. Means. During these 14 years the Sunday school flourished, the auxiliaries expanded, and the church gained the national recognition of Baptists. The years to follow saw the church negotiate and pay for the present site of Salem at the corner of Clinton and Madison Avenues.

Rev. D. Keith Owens, born in Dillon, SC and raised in Newark, NJ, comes to Salem by way of Kaighn Avenue Baptist Church in Camden, NJ where he was senior pastor for 5 years. Emphasizing the importance of youth and education, Rev. Owens established a scholarship and endowment fund to help students in poor communities in Camden to afford college educations.

Living by the creeds of the greats who preceded him, including his parents, and other family members who were ministers, Rev. Owens' own achievements speak for themselves. At 32 years of age, he has written a weekly column on religion and current events for a local Camden area newspaper, taught speaking and English at a county college, directed public relations for the National Ministries, lectured throughout the United States and Africa, and made numerous television appearances in addition to pastoring. The list of accolades, memberships, and activities is endless.

I'm proud to have the opportunity to recognize Rev. D. Keith Owens and the Salem Baptist Church before the House, and I ask my colleagues to join me in thanking them for their service to the community and commending their achievements.

COMMUNITY REINVESTMENT IMPROVEMENT ACT OF 1994

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mrs. ROUKEMA. Mr. Speaker, today I am introducing legislation which would amend the Community Reinvestment Act of 1977 in order to make additional funds available for low- and moderate-income housing in certain distressed neighborhoods.

The Community Reinvestment Act was passed by the Congress in 1977 to curb the disinvestment in certain communities by insured depositories. The intention of the law was, in part, to ensure that lending institutions did not ignore the credit needs of certain communities in their home areas.

Over the years, however, we have seen the departure of most, if not all, lending institutions from certain distressed communities. These decisions were often good business decisions but they did leave very large gaps in the availability credit in those areas.

Under current law, if a local lender originates or participates in an affordable housing loan outside of its designated CRA lending area, the lender does not receive full CRA credit for that investment. My legislation would allow the appropriate bank regulator to grant full CRA credit for these types of activities.

Recently, in my State of New Jersey, the Federal Homes Loan Bank of New York, in cooperation with the New Jersey Savings League, established what has become known as the Regional Lender Consortia. This consortia, consisting of 86 members, acting through a lending organization known as the Thrift Institutions Community Investment Corporation (TICIC), is providing funding for low-income housing projects throughout the entire State.

At this time, the TICIC is processing loans for some $150 million in low- and moderate-income housing projects.

Despite the initial interest in this program, most of the participating institutions cannot receive full CRA credit for their participation because of the current CRA law. Consequently, they are reluctant to commit additional funds beyond their initial contribution.

Passage of my legislation would assure institutions that no matter where they were located or what their defined geographic lending area was, they could receive full CRA credit for the amount of funds they contribute to the consortium's effort.

Passage of this legislation could pave the way for many millions of dollars in loans for low- and moderate-income housing in many more of our communities so desperate for development and so in need of credit.

Mr. Speaker, many criticize our private sector financial institutions for not making credit available to our communities most in need. Often, this criticism is just not justified. The New Jersey Regional consortia is just the kind of proof that our lending institutions want to help. To encourage their greater participation, I believe this simple change in the CRA law is all that is needed. I urge the passage of my legislation.

TRIBUTE TO RUTH I. HOWELL, D.O.

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. BONIOR. Mr. Speaker, this evening, the Southeast Michigan Chapter of the March of Dimes Birth Defects Foundation will be hosting the 11th annual "Alexander Macomb Citizen of the Year" award dinner. The award, instituted in 1984, is named after my home county's namesake, Gen. Alexander Macomb, a hero of the War of 1812.

This year, the March of Dimes has chosen my long-time friend, Dr. Ruth Howell, as a recipient of the award. Being a physician is not simply a job for Ruth, it is an avocation. In addition to her responsibilities with her practice, she always finds time to devote energy to several service and professional organizations, including the Downriver Community Services where she cares for underserved obstetrical patients.

Ruth's devotion to her profession and the community are second to none. She has delivered and cared for thousands of children. In recent years she has begun to deliver a second generation. It is evident that her patients respect her at least as much as do her peers. Ruth was named Michigan General Practitioner of the Year in 1983 and was appointed as a member of the State of Michigan Board of Licensing and Registration. She is rightly recognized for her many contributions.

Through advocacy, education, and community service, the March of Dimes has established itself as an organization with an impeccable reputation. And, the southeast Michigan chapter rightly recognizes Dr. Howell for her excellent service and outstanding leadership. Receiving recognition from the March of Dimes is an exceptional honor and I urge my colleagues to join me saluting Dr. Ruth Howell, as a recipient of of the "Alexander Macomb Citizen of the Year Award."

TRIBUTE TO DOCTOR PAUL VICINANZA, HEAD START

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. WELDON. Mr. Speaker, this week marks an important milestone for Dr. Paul Vicinanza, a distinguished gentleman from Delaware County, PA. His family and friends will come together to wish him well as he enters retirement.

Dr. Paul Vicinanza is an individual who has been fully involved with the Delaware County Head Start Program for over 28 years. He began working with low-income families in 1965, at the beginning of his career. Then, under a grant from the Office of Economic Opportunity to the State, he became a regional Head Start training officer.

Operated by local nonprofit organizations in almost every county in the country, Head Start provides a great service of educating underprivileged and disabled children throughout our Nation.

Most recently, as Supervisory Head Start and Youth Program Specialist, Dr. Vicinanza broadened his functions to include managing staff and resources for both Head Start and Runaway and Homeless Youth Programs. As a Federal manager, he has been a leading advocate for children and families and for the development of effective family-based prevention and intervention strategies.

Dr. Paul Vicinanza is a rare individual who has served low-income families in the Delaware Valley region and helped thousands of children succeed. I commend him for his public service and civic involvement.

SWEZEY'S: A CENTURY OF SERVICE

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today with great pleasure to pay tribute to Swezey's Department Stores on their 100th anniversary. Swezey's and the Swezey family will be honored by the Greater Patchogue (New York) Chamber of Commerce on October 1 for this remarkable achievement.

In today's commercial market, with businesses rapidly changing hands, Swezey's has been an economic rock of stability for Long Island. Swezey's success is particularly impressive and notable because it has continued to operate at the same Patchogue, Long Island location for its entire century of service. The historical significance of this 100 years of continuous operation is unquestionable—particularly because the fourth generation of the Swezey family continues to manage the business. Longtime residents of Long Island carry many fond memories of Swezey's which include the old clock, various store expansions, and the overall significant contribution the store has made to the vitality of the Patchogue business community.

Importantly, the Swezey family continues to be as committed to improving their community through volunteerism as they are to the success of their business. The Patchogue Chamber of Commerce is proud to have Bill Knapp, the secretary-treasurer of Swezey's, as its current president. Bill is the son of Priscilla Swezey-Teich. Priscilla's other son David is a vice president of the firm. Caroll Swezey, Jr. is the chairman of the board. His son John is president of the firm and daughter Karen is vice president.

Mr. Speaker, it is with great pleasure that I pay tribute to the Swezey family and organization on their centennial celebration. Swezey's historic presence serves as a fine example to other Long Island businesses on the importance of hard work, excellence in service, and commitment to the community. I wish Swezey's another 100 years of success on Long Island. The Swezey family should be extremely proud of their accomplishments.

OBSERVANCE OF 75TH ANNIVERSARY OF ST. JAMES CATHOLIC CHURCH

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. LEVIN. Mr. Speaker, I wish to extend my congratulations to St. James Catholic Church in Ferndale, MI, upon their 75th anniversary. This weekend the church not only celebrates a birthday but also a remarkable record of community involvement.

At St. James Catholic Church the history is rich and the commitment is great. As congregants walk down memory lane this weekend, they will see how far the church has come since it was started by 50 families on October 1, 1919. Today the church has grown to over 1,000 people and touches the lives of countless others.

Families used to gather at the chicken coop at the Arthur Porter farm, which was located across Woodward Avenue from the church. The chicken coop served as home until 1920, when the church moved to a classroom at the old Central School to celebrate with Father James E. O'Brien.

In 1920, a chapel was built which later became the basement of St. James School. The school was completed in 1925, and until 1949 masses were held there. The cornerstone for the existing church was laid in 1949, and the first mass held in the church was Easter Sunday, April 1950.

Throughout the years, St. James Catholic Church has held war bond drives, directed cancer projects, collected money for victims of the 1967 Detroit riots, and most recently the church has sponsored a Habitat for Humanity house. I was privileged to attend the groundbreaking for this house and was once again reminded of the exceptional dedication which is abundant at St. James.

I applaud the many efforts of the St. James community on this significant anniversary and extend my warmest wishes to Father Robert Wurm and Dr. Robert Locey as they kick off this special celebration.

SHOWDOWN IN CAIRO

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. LAFALCE. Mr. Speaker, earlier this month the United Nations concluded its Conference on Population and Development in Cairo. After a long and difficult debate, conferees defeated U.S. attempts to establish abortion as a fundamental right of all women.

That is fortunate, for the original U.S. proposal would have run roughshod over the deeply held moral and religious beliefs of millions of people here and around the world.

Abortion cuts to the heart of the most fundamental right we cherish as Americans—the right to life. Statistics show that most Americans do not support unlimited access to abortion at any time for any reason. Why then should we attempt to force this proabortion scheme on the rest of the world—particularly on countries that have a strong religious and cultural tradition of respect for life?

Abortion advocates were unable to provide a satisfactory answer, and were forced to moderate their extreme proabortion agenda. John Leo of U.S. News and World Report has written an insightful analysis of the Cairo Conference, and of the internal dynamics which produced the final consensus. I commend this excellent article to the attention of my colleagues.

[From U.S. News and World Report, Sept. 19, 1994]

PLAYING HARDBALL AT CAIRO

(By John Leo)

The Cairo population conference will have to go down as one of the oddest adventures of the Clinton administration. Like many a Clinton saga, it follows the basic Lani Guinier story line; the staking out of a highly controversial position, an attempt to discredit opposition, followed by a quiet collapse and an explanation that "we never meant to do anything like that at all."

First the staking out. In March, a State Department "action cable" instructed all U.S. embassies to tell their host governments: "The United States believes that access to safe, legal and voluntary abortion is a fundamental right of all women. * * *"

The use of the term "fundamental right," as part of an aggressive U.S. lobbying effort, was a breathtaking leap. Since abortion is a fundamental right nowhere outside of North America, this amounted to an attempt to impose the ideological structure of Roe v. Wade on the rest of the world.

This was not an offer to fund abortion for poor nations that want it. It was an attempt to override laws and customs by establishing some sort of internationally recognized right that might be financially enforced in the future by the U.N. or international aid organizations.

Tim Wirth, under secretary of state and point man in the U.S. abortion lobbying effort, said that "a government which is violating basic human rights should not hide behind the defense of sovereignty." He meant that once international organizations accept abortion as a fundamental right, it can be cited to trump the laws, constitutions and sovereignty of any nation.

COSTLY RESISTANCE

Most Third World nations are heavily dependent on U.S. foreign aid, so the implication left hanging in the air is that resistance to the worldwide version of Roe v. Wade might prove costly. The March cable made it clear that the United States intended to play hardball, stating that "senior-level diplomatic interventions" with the World Bank and the International Monetary Fund would "advance U.S. population policy interest."

A spokesman for the U.S. Catholic bishops quoted a Guatemalan government minister as saying: "If I don't go along on abortion, there goes all my aid money." Miguel Prado, an adviser to Peru's delegation, told me much the same thing, complaining about the "fanatical agenda" and "big engine" of the U.S. abortion lobby at the conference.

Does the United States have the right to throw its weight around like this in the Third World? It depends on your taste for cultural imperialism and American arrogance.

Pushing other nations this hard was an extraordinary decision for Clinton to make. He picked a hard-line, hard-edged delegation, with a very aggressive game plan based on domestic "pro-choice" lobbying: Moral or cultural qualms were dismissed. Abortion was positioned as a woman's issue or a health issue. Abortion was a legitimate tool of population control, a fundamental right. Laws protecting the fetus were "coercive." Abortion should be covered by national health plans.

Many of the controversial American positions in the draft program of action were set forth in a fog of protective euphemisms. "Reproductive health services," it turned out, included abortion, and the persistent linking of the words "family planning" and "reproductive health services" was a devious way of expressing an idea that the American delegates didn't dare say out loud: that abortion should be a legitimate family planning method.

Because the Vatican challenged these linguistic sinkholes and rallied 20 to 30 nations to resist, the Clinton administration backed down. (Surprise!) By week's end, abortion was gone from the document's family planning section, Al Gore was acknowledging national sovereignty and disavowing both the "fundamental right" language and abortion as population control.

The press was so preoccupied writing articles about the pope as a fuddy-duddy obstructionist that it barely noticed that the Vatican had successfully picked apart the American word games and had the Clintonites in full retreat. The Vatican has its own problems here, notably its refusal to accept birth control; but in this case it exerted clear moral leadership, coming to the aid of poor nations being bullied by one particular rich one.

This whole episode raises serious questions about the Clinton administration. This wasn't an attempt by a "pro-choice" team to consult and persuade, or to offer clinics to nations that want them. It was a highhanded attempt to "push the envelope," as one delegate put it, by going way beyond what other nations want, and what the American people are willing to have done in their name.

The administration may be in favor of abortion rights, but it might have shown a decent respect for the obvious moral uneasiness Americans feel on this issue. This is an administration representing 43 percent of the voters in a nation where half the people consider abortion immoral and a fairly large majority thinks the government shouldn't be involved in abortion at all. There is no mandate here for turning America into the world's largest and pushiest abortion lobbyist. This is an administration that needs to get its constituent pressure groups under control.

RETIREMENT OF SAM CHALFIN

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. KLEIN. Mr. Speaker, I rise today to pay tribute to one of Paterson, NJ's most important and loyal employers, Mr. Sam Chalfin. It is with great pleasure that I join IPF International, Inc., along with Sam's many friends and family in congratulating him on the occasion of his retirement on Thursday, September 29, 1994.

Born on September 10, 1910, Mr. Chalfin's first job was as a shipping clerk in a clothing factory in New York. Sam saved over $500 and used the money to purchase half of his father's furniture business. They later moved to Paterson in 1935 as partners, and IPF soon became famous for exceptional furniture design and quality manufacture.

Mr. Chalfin has always prided his family's hands-on care and involvement with IPF. As Rod Allee of the Bergen Record recently documented, "Other old-time values still have meaning at the IPF plant, where furniture has evolved into an art form." Many of the 100 employees have been with the company for over 42 years and are addressed by their first names.

In addition to his work at IPF, Sam was a founder of the Fair Lawn Jewish Center and also an active member of the United Jewish Appeal in Fair Lawn.

Sam is 84 years old, and is retiring to Florida with his wife of over 53 years, Rhoda. I know that Paterson and IPF will miss his spirit and loyalty to his employees, yet I am told that the team of craftsmen, managers, and staff personnel will continue the IPF tradition of quality service and design.

A SPECIAL SALUTE TO JOHN BURRY, JR., RECIPIENT OF THE FRANKLIN ROOSEVELT SERVICE AWARD FOR EXCELLENCE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. STOKES. Mr. Speaker, I am proud to salute a very special individual who is being honored in my congressional district. On Saturday, October 1, 1994, the Northern Ohio Chapter of the March of Dimes will present its first Franklin Delano Roosevelt Service Award for Excellence. The inaugural recipient of the award is John Burry, Jr., chairman and chief executive officer of Blue Cross and Blue Shield of Ohio. I rise to share with my colleagues some pertinent information regarding this distinguished business leader who is being honored.

Jack Burry came to Cleveland in 1981 as president and chief administrative officer of Medical Mutual, Inc. [Blue Shield], having spent the previous 5 years with Blue Cross and Blue Shield of Michigan. In 1983, he was promoted to chief executive officer, and the following year he planned a merger with Blue Cross of Northern Ohio. In 1986, Jack Burry oversaw the merger with Blue Cross of Northwest Ohio, to form Blue Cross and Blue Shield of Ohio.

Under the strong leadership of Jack Burry, Blue Cross and Blue Shield in 1993 became the fastest growing Blue Cross plan in the country, with 120,000 new members. That same year, the company achieved a record surplus for the benefit of its policyholders of over $291 million.

Mr. Speaker, I am proud that the March of Dimes has selected Jack Burry to receive its first Franklin Delano Roosevelt Service Award for Excellence. We are aware of the important role the March of Dimes plays through its campaign to prevent birth defects. The organization instituted Service Award for Excellence to recognize outstanding volunteers who have demonstrated exemplary service to the March of Dimes and its mission.

For the past 6 years, Jack Burry has been the honorary chairman of the annual March of Dimes Celebrity Golf Classic, with Blue Cross and Blue Shield of Ohio serving as the event's largest corporate sponsor. The March of Dimes credits Jack and Blue Cross with turning the Celebrity Golf Classic into its largest and most successful golf fundraiser in the Nation, in terms of both dollars raised and number of participants. Over the past 5 years, the tournament has raised more than $750,000 to support the fight against birth defects.

Mr. Speaker, I am pleased to note that Blue Cross and Blue Shield has also donated resources and services to assist in printing brochures for educational outreach programs. This allows thousands of pregnant women to understand the importance of early prenatal care and other information to benefit their child's health. Through his tireless efforts, Jack Burry has supported the March of Dimes in meeting its mission, helping mothers and babies to live healthier lives.

In addition to his work with the March of Dimes, Jack Burry is a member of various boards, including the Greater Cleveland Growth Association, Cleveland Tomorrow, and the Weatherhead School of Case Western Reserve University board of visitors.

Mr. Speaker, as he receives the Franklin Delano Roosevelt Service Award for Excellence, I join his colleagues and friends throughout the community in congratulating Jack Burry. Over the years, I have benefitted from a close friendship and outstanding working relationship with him. Jack is an individual whom I greatly admire and respect, and I am pleased to salute him upon this important occasion.

INTRODUCTION OF LEGISLATION TO PROVIDE INCENTIVES FOR EQUITY FINANCING OF CORPORATIONS

HON. MEL REYNOLDS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. REYNOLDS. Mr. Speaker, today I rise to introduce the Debt/Equity Financing Act of 1994. I urge my colleagues to cosponsor this important legislation.

The purpose of the legislation is to provide incentives for equity financing of most American corporations while discouraging the implied risks of heavily leveraged companies.

This legislation seeks to amend the tax code by reducing the deduction on debt interest expense by 20 percent while increasing the deduction on dividends paid to 50 percent of the amount paid. As written, the legislation is designed to be revenue neutral. In the long run, it should actually be a revenue raiser as it rewards prudent, productive corporate management.

Mr. Speaker, at present, interest expense is fully deductible under the tax code, while dividends are not. As a result, the tax code implicitly favors debt financing.

As we have all seen, the accumulation of significant debt by corporations has put the long-term economic health of such corporations in jeopardy. Some survive such fiscal high wire acts, while many others have not. Those that have fallen under the weight of their leveraged debt have cost thousands of dedicated American workers their jobs, and impacted communities. This legislation seeks to encourage debate in the Congress and in the country regarding the financing of American business.

My colleague from Illinois, Senator PAUL SIMON has introduced this legislation in the Senate. I urge my colleagues to examine the legislation, and lend their support.

I thank the Chair.

CONGRATULATIONS TO THE REPUBLIC OF CHINA ON ITS 83D BIRTHDAY

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. SCHAEFER. Mr. Speaker, the Republic of China on Taiwan will soon be celebrating its 83d birthday. It has much to celebrate. After 40 years of hard work, Taiwan is the world's 13th largest economic entity with one of the largest foreign reserves of any country. Such success deserves the admiration and envy of all nations. I believe that the Republic of China is more than qualified to be an active participant in global affairs. I am sure Taiwan will continue to prosper and assume a major international role in the post-cold war era.

In terms of U.S.-Taiwan relations, I am glad to see that in recent years we have a far better understanding of issues of mutual concern. Much of this improvement in relations between our two countries was due to the efforts made by Ambassador Mou-shih Ding, who has returned to Taipei to assume the post of director general of the ROC's National Security Council. I believe that Ambassador Ding's successor, Ambassador Benjamin Lu, will continue to work toward mutual understanding and a strengthening of ties between Taipei and Washington.

On behalf of my constituents, I wish President Lee Teng-hui and Premier Lien Chan the best of luck and a happy 83d to the Republic of China on Taiwan.

CONGRATULATING PHIL GARVER OF LIMA, OH

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. OXLEY. Mr. Speaker, today, I congratulate 13-year-old Phil Garver, of Lima, OH, who recently received a National Medal of Merit from the National Office of the Boy Scouts of America. He is the son of Mike and Marcia Garver.

More important than the award, however, is what Phil did to receive this recognition. In June of 1992, he rescued a 4-year-old girl who had accidentally fallen into a lake in Arlington, OH. She was fortunate to have a hero nearby.

Phil is a member of Boy Scout Troop 106 in Lima and received his award from the Black Swamp Area Boy Scout Council. Only 1 percent of all Boy Scouts qualify for this recognition.

My best wishes to Phil Garver and his family on the occasion of this important recognition.

SUPPORTS THE INITIATION OF A SUPER 301 INVESTIGATION AGAINST JAPAN

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. FROST. Mr. Speaker, the President set September 30, 1994, as the deadline for initiating Super 301 investigations against Japan if progress is not made in the United States-Japan Framework negotiations to open the Japanese flat glass market. The deadline has been reached, and restrictive trade barriers remain in place to prevent United States access to Japanese markets. Given Japan's refusal to comply with U.S. demands to reform its exclusionary trade practices, I believe it is imperative that the administration initiate a section 301 investigation of Japan's flat glass market and take appropriate action to eliminate Japan's barriers.

For the U.S. flat glass industry, the stakes include retaining thousands of jobs here at home and sustaining its position of leadership in the international marketplace. The U.S. flat glass industry is responsible for creating over 100,000 high-quality American jobs. U.S. companies exported $722 million in flat glass products worldwide in 1992.

While United States flat glass manufacturers compete successfully around the globe, the United States share of the Japanese market is less than 1 percent. The United States will be at a severe competitive disadvantage if it is unable to compete on equal terms in the Japanese market.

It is time to show Japan that the United States will not tolerate its unfair and anticompetitive trade practices. I urge the administration to initiate a Super 301 investigation of Japan's flat glass market.

THE PASSING OF DONA FELA

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. DE LUGO. Mr. Speaker, one of the great figures of Puerto Rican history passed away last week. I was privileged to know her and I want to note her death and some of the accomplishments of her life of 97 years.

Felisa Rincon de Cautier, known respectfully as Dona Fela, is famous for her service as Mayor of San Juan from 1946 to 1969. In this post she was, in the words of the San Juan Star, "at heart a social worker who never tired of meeting people, listening to their hopes and needs, and taking heed of their complaints."

No problem was ever too small to deal with. "The hand out and the personal touch were the hallmarks of her administration," as an obituary aptly put it. She regularly visited the worst slums and held weekly open houses for constituents.

But Dona Fela's service was not simply limited to individual problems. Her goals were social reform and improving the lives of people as a whole, particularly society's needy.

She spent decades fighting for child care programs, legal aid for the poor, senior citizens' centers, and Head Start. She also built health dispensaries, schools, and public housing with nurseries. And she sought fair treatment for the least-powerful municipal employees, such as the street cleaners.

She was also a leader with flair. For 3 years, she convinced Eastern Airlines to fly planeloads of snow to Puerto Rico so that island children would have a "White Christmas."

An early struggle was helping women in Puerto Rico obtain the right to vote. She later helped found the Popular Democratic Party, which is identified with the island's commonwealth government.

I knew her best as a leader of that party and the national Democratic Party. We met when we both served on the Democratic National Committee—a position that she only vacated with her passing.

It was as a national Democrat that she was, perhaps, best known to politicians in the States. She became a friend of the late, great Hubert Humphrey when they both served as mayors and she was fondly remembered by President Kennedy for her campaigning for him in New York.

She had the distinction of being the oldest delegate, at 95, to the 1992 Democratic National Convention in New York.

Mr. Speaker, I will not say that I noted the passing of Felisa Rincon de Gautier with regret because her life was so full and productive. I will say, though, that I was blessed in having known her.

THE TRUTH ABOUT REPUBLICAN RECKLESSNESS IS THE DEMOCRATS' BEST WEAPON

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. OWENS. Mr. Speaker, under the new administration this 103d Congress has accomplished a great deal to improve the lives of the American people. So much more would have been achieved if the Republicans had not adopted a posture of irresponsibility and recklessness. Beginning with the stimulus program and ending with health care the Republicans have used the filibuster to wreck the wheels of progress. Now, these mad elephants are boasting that this is a strategy that will win them control of the Congress. Only if Democrats are stupid enough to refuse to play the blame game will the Republicans continue to confuse the American people. The only game in town is the blame game and the burden of blame rests squarely on the shoulders of the Republicans. Democrats must shove the truth about their outrageous performance squarely into the faces of the Republicans. Republicans are the murderers of the jobs that would have been created by the Clinton stimulus package. Republicans are the killers of health care. With the filibuster the Republicans have made a joke of the concept of a one-person, one-vote democracy. On the floor of the House Republicans have taken mean spiritedness to new depths in their cesspool. Democrats have a duty to fervently tell the American people the truth about the current Republican madness.

MAD ELEPHANTS

Gridlock guerrillas,
Health care killers,
Mad elephants are coming,
GOP stampede running.
Hide all grandmothers,
Protect the old,
Chiefs from Kansas,
Are merciless and cold.
Sound the survival alarm,
Mad elephants marching,
Do murderous and heavy harm.
Health care killers,
Gridlock guerrillas,
Circus Master Ollie North,
Assassin signed to train,
Beasts blindly pushing,
Great tons of public pain.
Mad elephants are coming,
Let the ghost of Paul Revere,
Ride real hard and show no fear.
The air is filled with lies,
Americans arise,
Before plain decency dies.
Mad elephants are stomping,
To kill all conscience,
And harden hearts,
They play their parts.
They know their role,
Kansas chiefs on elephants,
Are merciless and cold.
Gridlock guerrillas,
Health care killers,
The elephants stampede on,
Patriotism and pity,
Are now long gone.

TOMMY NUNEZ

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. PASTOR. Mr. Speaker, I would like to take this opportunity to congratulate Mr. Tommy Nunez, who was recently honored at the Hispanic Heritage Awards Dinner for excellence in sports.

An Arizona native, Mr. Nunez grew up in the Dupa Villa projects of East Central Phoenix. He joined the Marines and worked as a phone company switchboard repairman before he began his career as a referee for the National Basketball Association in 1973. As 1 of only 28 men who are officials with the National Basketball Association, he is the only Mexican-American to referee in the ranks of professional basketball.

Mr. Nunez' accomplishments alone serve as an inspiration to minority and underprivileged youth. Besides serving as a role model, he is dedicated to improving the lives of others around him. When he is not working for the NBA, Mr. Nunez works for the Arizona Department of Economic Security Job Training Administration as a summer youth employment monitor and coordinates the Tommy Nunez Hispanic Basketball Classic. In addition, Mr. Nunez travels to local schools speaking on the importance of education and teaching students how to cope with peer pressure. He serves on the Governor's Council on Fitness, the Phoenix Youth Commission, and the Mayor's Advisory Committee for Substance Abuse and Community Education.

Mr. Speaker, Tommy Nunez is an exceptional person whom I am honored to know and proud to recognize. His high sense of integrity and outstanding leadership have made a profound impact on the young people of Arizona. His many achievements and his active participation in the community make him a role model that we can all admire and learn from. Again, I would like to take this opportunity to congratulate Mr. Nunez and especially to thank him for all he is doing to make a positive influence in the lives of the people of Arizona and throughout the Nation.

PAKISTAN CONTINUES MISSILE PURCHASES FROM CHINA AND ESCALATES TENSIONS IN SOUTH ASIA

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. HINCHEY. Mr. Speaker, I want to call to the attention of my colleagues an article that appeared in the September 7 edition of the Washington Times regarding a major arms deal between the Islamic Republic of Pakistan and the People's Republic of China. This article, written by Bill Gertz, notes that United States intelligence agencies in August found new evidence that Pakistan is going forward with a plan to purchase M–11 missiles from China. The M–11 is capable of delivering a nuclear warhead. This disclosure is very ominous because it comes less than 2 weeks after the former Pakistani Prime Minister, Narwaz Sharif, announced publicly that Pakistan has possessed nuclear weapons for some time. The United States Government has suspected Pakistan of possessing the bomb for many years. For this reason, in 1987 Congress passed and President Reagan signed into law the Pressler amendment, which prohibits the United States from providing Pakistan with foreign aid unless the President certifies that Pakistan does not have a nuclear device. Although both President Bush and President Clinton have been unable to make such a certification, Pakistan has told the United States and the world community it does not possess nuclear weapons. Now, as the article correctly points out, nuclear proliferation experts are worried that Pakistan will use these weapons against India in a future war over Kashmir. Pakistan has gone to war with India over Kashmir three times in the last 40 years.

Mr. Speaker, the issue of Pakistan buying M–11 missile technology from China is not new. In 1992, Pakistan paid $83 million to China for delivery of M-11 components and apparently the missiles themselves. The 1992 shipments caused the Clinton administration to impose sanctions on China last year for violating the provisions of the Missile Technology Control Regime [MTCR]. The MTCR is an international nonproliferation agreement which China has not signed but which Beijing assured the United States in 1992 it would abide by. Despite this sanction, China continues to sell and Pakistan continues to purchase M-11 missiles as part of a plan to build a nuclear weapon delivery system which can be deployed in South Asia.

Mr. Speaker, I urge my colleagues to read the Times article. The article clearly shows that Pakistan's nuclear ambitions are a source of grave concern for the United States and every nation which is opposed to the growth of nuclear weaponry and the dangers it creates. The article also is ample evidence that any attempt by our Government to fashion a nuclear proliferation policy in the South Asian region that does not include China is destined to fail.

Mr. Speaker, I ask unanimous consent to have the Times article placed in the RECORD at this point.

[From the Washington Times, Sept. 7, 1994]

PAKISTAN-CHINA DEAL FOR MISSILES EXPOSED: NUCLEAR AMBITIONS SPUR UNITED STATES CONCERN

(By Bill Gertz)

U.S. intelligence agencies last month uncovered fresh evidence that Pakistan was moving ahead with a deal to buy M-11 missiles from China, and this month Chinese missile technicians are expected to arrive in Pakistan to help train forces in their use, Pentagon and intelligence officials say.

The missile transfer, the subject of U.S. sanctions against China last year, has fueled new concerns among proliferation experts in government that Pakistan will use the missiles to deliver nuclear weapons.

Adding to the concern was the announcement two weeks ago by Pakistan's former prime minister, Nawaz Sharif, that Pakistan possesses a nuclear bomb. The statement confirmed long-held suspicions about Islamabad's nuclear program.

According to U.S. officials, Pakistan on Aug. 22 agreed to pay China a $15 million installment on its 1988 contract with the China Precision Machinery Import & Export Corp., a government-owned missile producer, for an unspecified number of M-11 missiles, launchers and support equipment.

The last payment of $83 million took place in late 1992 and coincided with the delivery of M-11 components, and possibly missiles themselves, from China to Pakistan.

The M-11 is a ballistic missile with an estimated range of 186 miles, a factor that restricts sales of the missile under the Missile Technology Control Regime (MTCR). The MTCR is an agreement among 25 nations to limit the transfer of missile technology.

A solid-fuel valiant of the Soviet Scud, the missile is capable of carrying nuclear and high-explosive payloads, U.S. officials have said.

The 1992 shipment from China led the Clinton administration to impose sanctions on Beijing in August 1993 for transferring equipment that violates the MTCR. U.S. law requires the imposition of sanctions for violations of the agreement, which limit transfers of missiles with a range of 186 miles and payload capacities of 1,100 pounds.

Beijing officials had assured Secretary of State James A. Baker III in 1992 that China would abide by the MTCR.

The sanctions were imposed against the China Precision Machinery Import & Export Corp. which manufactures and exports M-11s and similiar missiles.

U.S. officials said there is strong evidence M-11s were shipped as part of the cargo in November 1992, but spy satellites have been unable to confirm their presence in Pakistan.

A team of Chinese missile technicians is expected in Sargodha, Pakistan, within the next two weeks to train the Pakistan military in using the M-11, according to officials who spoke on the condition of anonymity.

A separate team of Chinese technicians will go to Pakistan to unpack and assemble the M-11s later this year after the Sargodha missile facility is completed, the officials said.

Pakistan repeatedly has delayed the arrival of the assembly team because of concerns the missiles will be detected by spy satellites, the officials said.

Some intelligence reports indicate M-11s already are being stored in Pakistan at Sargodha, but operational missiles have not been seen.

Spy satellite photographs taken this spring showed canisters at the facility identical to those spotted at the M-11 production facility in China.

Intelligence analysts believed the canisters photographed at Sargodha were mock-ups used as part of a training exercise, although Pentagon officials believe the actual missiles are in Pakistan.

The latest action on the Pakistan-China missile transfer, outlined in intelligence reports to senior U.S. officials last week could unravel administration efforts to develop closer ties with Beijing.

Defense Secretary William Perry is expected to raise the issue of the M-11 transfers, as well as a planned Chinese underground nuclear test expected next month, in talks with Chinese officials when he visits Beijing next month.

Spokesmen for the Chinese and Pakistani embassies could not be reached for comment. Both governments have denied that M-11s or components have been or will be transferred.

Pakistan is developing a family of missiles known as the Hatf. The Hatf-1 has a range of 50 miles, and the Hatf-2 has a range of about 186 miles. A 372-mile range version, known as the Hatf-3, also is being developed.

Pentagon sources said the M-11s will either replace the Hatf-2s or serve as a temporary system until the Hatf-2 is fully developed and deployed.

"Selling out for money has bought the Clinton administration nothing but contempt from Chinese arms dealers," said a U.S. government specialist on China, referring to a recent trip to China by Commerce Secretary Ron Brown.

Mr. Brown announced in China that the administration is more concerned about promoting U.S. business than pressuring Beijing to improve its human rights record or halting the proliferation of Chinese weapons of mass destruction and missile-delivery systems.

A State Department official said the actual delivery of M-11s by China, which has not been confirmed by U.S. intelligence, automatically would prompt tighter sanctions against Beijing than the current restrictions imposed last year. "This would be extremely serious," he said.

The State Department official said the missile transfers would affect U.S. Chinese relations but that the administration is trying to separate out concerns about weapons proliferation from its overall strategic relationship with China.

"There're going to be lots of problems with China," the official said. "But it's too complex a relationship to have every issue linked."

The official said the Defense Intelligence Agency's view of China's proliferation activities has been "pretty aggressive and verges on hysterical."

A DIA report to the Senate in May stated that China is "still actively supporting proliferation of weapons of mass destruction" with the approval of senior Chinese officials.

Undersecretary of State Lynn Davis told reporters at the time sanctions were first imposed that the administration did not have evidence M-11s were in Pakistan, but that there was "conclusive evidence they're received from China material relating to an M-11 missile."

Reports of the M-11 deal coincided with the visit by a four-member team of MTCR officials to Pakistan and India last week.

Robert Einhorn, a senior official with the State Department's bureau of political-military affairs, took part in the visit, which a spokesman call "an educational visit" aimed at informing the Pakistanis about the missile agreement.

U.S. SCIENCE POLICY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, September 28, 1994 into the CONGRESSIONAL RECORD:

U.S. SCIENCE POLICY

Most of us probably do not realize how important science is. Without scientific progress the national health would deteriorate, we could not hope for improvement in our standard of living or increased number of jobs, and we could not have maintained our liberties against our adversaries. We have many social and economic problems besetting the United States. A vigorous science program can generate solutions to many of these problems.

ADMINISTRATION POLICY

Last month President Clinton issued a national science policy statement which underscores this nation's commitment to maintaining world leadership in science, math and engineering. The statement, the first in over 15 years, sets five national goals for U.S. science policy: (1) maintaining our leadership in the sciences; (2) enhancing connections between science research and national goals; (3) stimulating partnerships that promote investment in science and engineering; (4) producing the finest scientists and engineers for the twenty-first century; and (5) raising scientific and technological literacy of all Americans.

FEDERAL FUNDING

Research is the building block for scientific discovery and technological innovation. The White House report recognizes the need to sustain strong funding levels for basic and applied research. The federal government provides about two-thirds of U.S. investment in basic research—research involved with increasing general scientific knowledge. In contrast, the private sector provides most of the investment in applied research—research involved with finding commercial applications for scientific breakthroughs.

An important concern is that overall U.S. investment in basic and applied research has not kept pace with out principal economic competitors, Germany and Japan. Total U.S. support of non-defense research and development (R&D)—the key source for technological innovations—is about 1.9% of our Gross Domestic Product (GDP), while in Germany it is 2.5% of GDP and in Japan 3% of GDP. Our overall level of investment rises to 2.6% of GDP if defense-related R&D is included.

The report's long-term goal is to achieve a level of 3% of GDP investment in total civilian and defense R&D, with more defense dollars shifted to research into technologies with both civilian and military applications. This 3% of GDP would come from both government and the private sector.

SETTING PRIORITIES

The report acknowledges the importance of setting clear priorities for national science spending in the current budget climate and linking priorities to agreed-upon national goals. The recent deficit-reduction package places a hard freeze on domestic spending over the next several years. Consequently, increased federal investment in research must involve shifting of resources from other domestic programs as well as allocating limited science dollars in a more productive manner.

The report highlights two important science priorities: science infrastructure and science education. First, it underscores the need to modernize many of our country's academic research facilities, and commits the federal government to work with state governments and the private sector to renovate and upgrade these facilities. Second, it stresses the importance of educating a new generation of American scientists and making young Americans scientifically literate. The report concludes that scientific and technological literacy and critical to the economic competitiveness of our future workforce.

COOPERATIVE FEDERAL ROLE

The report seeks to promote science investment by increasing private sector and foreign involvement in U.S. science efforts. The private sector plays a critical role in developing new technologies that will have commercial applications in the marketplace. Government and the private sector can also work together to improve the science and math curriculum in our schools, expand research facilities in our universities, and boost investment in high tech industry.

Another way to meet the high cost of science research, particularly "big science" research on high energy physics, space exploration nuclear fusion and the like, is by pursuing joint funding efforts with other countries. The end of the Cold War provides us with new opportunities for cooperation. The U.S., of course, should have concerns about giving our international competitors unrestrained access to our most advanced technologies and relinquishing control over important scientific efforts. Even so, joint efforts, where appropriate, can offer substantial benefits to this country and its long-term economic strength.

FEDERAL LABS

The report calls for an interagency federal review of the role of federal labs in supporting national goals and the effectiveness of their contributions to scientific research. The nation's 700-plus federal laboratories are coming under closer scrutiny since the end of the Cold War. Some critics suggest they should be cut back and many of their scientists—over 70,000 scientists and engineers work in federal labs—transfered to private research facilities.

A more effective way to maximize their utility in the post-Cold War world may be through the promotion of commercial partnerships with the private sector. The vast network of federal laboratories continues to perform vital work for our national security, particularly in defense-related areas that cannot be undertaken by the private sector. A key challenge is finding commercial applications for defense-related technologies. The Idaho National Engineering Laboratory, for example, is working with farmers to use ultrasound technology to detect fibers that can contaminate wool and cotton. Federal labs can provide a model for a new cooperative relationship between government and the private sector in promoting and applying scientific research.

CONCLUSION:

I strongly believe that we must invest in science, both by allocating more dollars from the public and private sectors, and by making certain that the dollars are spent more wisely. I think there is widespread agreement in Washington that we are as a nation under investing in scientific research and development. We must promote our sciences because they are necessary for the national defense; they make our industries more competitive; and they satisfy human needs.

ENGLISH-ONLY RULER: UNFAIR DISCRIMINATION

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 28, 1994

Mr. UNDERWOOD. Mr. Speaker, in the United States, we pride ourselves on our freedom. We have the freedom to speak our minds and the freedom to pray as we wish. We have the freedom to assemble and the freedom to vote. And we have the freedom from unfair discrimination. But to this day we continue to define the contours of those freedoms in the country's courts and legislatures.

That is why I must bring to my colleagues' attention a development that threatens to take away many of our citizens' capacity to communicate. Bilingual Americans are being prevented from speaking in a language other than English while on the job, even if doing so will have no effect on their performance. Today, I am introducing a bill to correct this unfortunate situation.

Last year, the Ninth Circuit Court of Appeals said, in Garcia versus Spun Steak, that businesses can require their employees to speak only English on the job. In that case, bilingual Latino workers at a meat processing plant spoke to each other in Spanish. A Chinese-American employee and an African-American employee suspected that their Latino coworkers were making derogatory comments in Spanish. The employer responded by requiring all workers to speak English at all times while on the job. The Latino workers sued the employer, claiming that their rights under title VII of the Civil Rights Act of 1964 had been violated.

The Spun Steak court held that title VII had not been violated by the employer's English-only rule. It pointed to guidelines issued by the Equal Employment Opportunity Commission [EEOC] in 1980. Those guidelines stated that English-only rules place a burden on employees and are only allowed if required by a business necessity. Business necessity would mean, for example, that a telephone operator should be able to speak English while on the job, but a painter's job does not have the same language requirements. The court reasoned that the EEOC guidelines were not supported by any statutory or regulatory authority and therefore should not bear upon the court's decision. The court therefore rejected the EEOC's guidelines.

On appeal, the Supreme Court denied certiorari, which meant that throughout the ninth circuit, where one-third of the Nation's bilingual citizens live, businesses can establish English-only rules. But other circuits throughout the Nation have different interpretations of title VII, or have not yet addressed this issue.

I believe Congress must clarify our stance on English-only rules once and for all. I believe we must overturn Spun Steak and establish that, for the purposes of title VII, English-only rules are unfairly discriminatory and should only be allowed when justified by a legitimate business purpose. In other words, Congress must give the EEOC statutory authority to establish regulations on this matter, such as the guidelines cited in Spun Steak.

We are faced with a significant problem. In 1993, 14,394 complaints were filed with the EEOC for linguistic discrimination. This was a 30 percent increase from 1989. As the number of bilingual Americans increases, we cannot afford to ignore this development. There is no proof that English-only rules increase business productivity. However, many scholars have concluded that such rules create an atmosphere of isolation and intimidation.

Title VII of the Civil Rights Act forbids employment discrimination based on race, color, religion, sex, or national origin. English-only rules fall into the category of discrimination based on national origin. It is well established that, under title VII, discriminatory practices are those that cause a disparate impact on members of a group and cannot be justified by business necessity. The United States Solicitor General, in an amicus curae brief to the Supreme Court, stated:

> English-only rules * * * disproportionately burden national origin minorities because they preclude many members of national origin minority groups from speaking the language in which they are best able to communicate, while rarely, if ever, having that effect on non-minority employees.

Thus, English-only rules are discriminatory because they put a burden on certain minority employees while leaving other employees unscathed. This is unfair. Congress can, and should, act to prevent it.

My bill offers a simple solution to this problem. It simply states that, under title VII, an English-only rule creates an adverse and disparate effect on employees. By amending the law this way, Congress gives the EEOC authority to conclude, as it did way back in 1980, that English-only rules are inherently discriminatory and should only be allowed if required for business purposes.

Mr. Speaker, it is late in the session and I have no illusions about this bill passing in the 103d Congress. I am not introducing it today with the intent of passage before October 7. Instead, I am introducing it in preparation for next Congress, when I will bring this measure forward again and, with my colleagues on the congressional Hispanic caucus and the Asian/Pacific Islander caucus, push for Congress to address this critical issue.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, September 29, 1994, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 30

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold hearings on the nominations of Bruce A. Morrison, of Connecticut, and J. Timothy O'Neill, of Virginia, each to be a Director of the Federal Housing Finance Board, Department of Housing and Urban Development, and James Clifford Hudson, of Oklahoma, to be a Director of the Securities Investor Protection Corporation.

SD-538

OCTOBER 3

2:00 p.m.

Indian Affairs

To hold hearings on the nomination of Peter J. Osetek, of Arizona, to be Commissioner on Navajo and Hopi Relocation, Office of Navajo and Hopi Indian Relocation.

SR-485

3:00 p.m.

Governmental Affairs

To hold hearings on the nomination of Martha F. Riche, of Maryland, to be Director of the Census, Department of Commerce.

SD-342

OCTOBER 4

10:00 a.m.

Foreign Relations

To hold hearings to examine the status report on United States assistance to the newly Independent States.

SD-419

Governmental Affairs

Business meeting, to consider pending calendar business.

SD-342

Labor and Human Resources

To hold hearings on the Department of Labor's Job Corp. program for at-risk youth.

SD-430

OCTOBER 5

10:00 a.m.

Budget

To hold hearings on proposals to provide legislative line-item veto authority to the President, including expedited and enhanced rescission proposals, including S. 9, S. 224, S. 437, S. 690, S. 740, S. 2458, H.R. 1578, and H.R. 4600.

SD-608

1:00 p.m.

Finance

Energy and Agricultural Taxation Subcommittee

To hold hearings on miscellaneous farm tax issues.

SD-406

2:00 p.m.

Judiciary

Constitution Subcommittee

To hold hearings to examine the constitutional right to international travel.

SD-628

OCTOBER 6

9:30 a.m.

Governmental Affairs

To hold oversight hearings on the General Accounting Office.

SD-342

10:00 a.m.

Judiciary

To hold hearings to examine how the Violent Crime Control and Law Enforcement Act will fight drugs.

SD-226

OCTOBER 13

9:30 a.m.

Governmental Affairs

Oversight of Government Management Subcommittee

To hold oversight hearings on the Navy's mismanagement of the sealift tanker contract.

SD-342

CANCELLATIONS

SEPTEMBER 30

9:30 a.m.

Governmental Affairs

Regulation and Government Information Subcommittee

To hold hearings on S. 2136, to prohibit sponsorship of television violence by agencies of the Federal Government.

SD-342

SENATE—*Thursday, September 29, 1994*

(Legislative day of Monday, September 12, 1994)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore, the Honorable BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

In a moment of silence, let us remember the father of Senator BRADLEY, who is very near death.

Eternal God, sovereign Lord of history and Ruler of the nations, the words of one of the greatest monarchs of the ancient world, King David, are worthy of our contemplation. He prayed, *"How precious also are thy thoughts unto me, O God! How great is the sum of them! If I should count them, they are more in number than the sand* * * *."—Psalm 139:17, 18.

Gracious, loving Father, as the proximity of adjournment sine die and election day increases, the buildup of pressure increases. Like a vice, the Senators are squeezed between time and what remains to be done, which often stimulates cold hearts and hot heads.

Dear God, we pray for a special, divine dispensation to cover the Senate, its Members and all who labor in this place. Grant grace to distinguish between significance and urgency, and guide the Senators in a way that will close the 103d Congress, leaving them with great satisfaction and little disappointment.

In His name who is the way, the truth, and the life. Amen.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1995—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference on H.R. 4556 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4556) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1995, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 26, 1994.)

The Senate proceeded to the consideration of the conference report.

OFFICIAL PHOTOGRAPH OF THE SENATE

Mr. MITCHELL. Mr. President, in accordance with the provisions of Senate Resolution 272, the Republican leader and I have agreed that the official photograph of the U.S. Senate will be taken on Tuesday, October 4 at 2:30 p.m. All Senators should plan to be present on the floor at that time. That is Tuesday, October 4, at 2:30 p.m.

BILL EATON

Mr. MITCHELL. Mr. President, I know I speak for all Members of the Senate when I pay tribute to Bill Eaton of the Los Angeles Times. This is Bill Eaton's last day as Senate correspondent for the Los Angeles Times. He is to become the curator of the Hubert Humphrey fellowship program for foreign journalists at the University of Maryland. Bill has had a long, distinguished career as a journalist. He began at the Evanston Review, in Illinois, moved to United Press International, the Chicago Daily News, and then to Knight-Ridder.

While at the Los Angeles Times, Bill covered not only Washington but served as bureau chief in Moscow and New Delhi. Bill has been honored a number of times by his colleagues and his profession, including being the recipient of the Pulitzer Prize for national reporting. Bill's careful and fair reporting, his genial demeanor, will be missed by all of us who had the pleasure to work with him. He also has the good judgment to vacation regularly in Maine, and I wish him well in his new endeavors and hope to see him captaining his new boat among the islands off the coast of Maine.

I join all Members of the Senate in wishing Bill Eaton good luck and Godspeed.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator BRADLEY be recognized to address the Senate as in morning business for up to 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from New Jersey will be recognized for 15 minutes.

Mr. MITCHELL. And following Mr. BRADLEY's remarks, Senator HATFIELD will be recognized to address the Senate for up to 15 minutes, and upon the completion of Senator HATFIELD's remarks the Senate will return to legislative session and consideration of the pending Transportation appropriations bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from New Jersey [Mr. BRADLEY] is recognized for 15 minutes.

THE URUGUAY ROUND IMPLEMENTING LEGISLATION

Mr. BRADLEY. Mr. President, I rise to call the Senate's attention to an event of great significance to our country and to my home State of New Jersey. The President has submitted legislation to ratify and implement the Uruguay round GATT Agreement. With the formal submission of this legislation, we are one step closer to laying the foundation for American prosperity into the 21st century.

Not since the early days of this century has the world economy been as open or the potential for world economic development been as great as it is today. Paradoxically, rarely has America's anxiety about its own future been as great.

This is a normal reaction for a population which has largely defined the globe on its own terms since 1945. As our Nation struggles with the powerful, inexorable transformations of our day—the end of the cold war, the explosion of world markets, the information revolution, growing national debt—we naturally are anxious about what these fundamental forces mean to us.

But it is imperative that we respond by assessing control over our destiny, rather than passively allowing these global forces to dictate our future. Indeed, our identity as a nation is tied to our ability to manage change for our benefit. Adaptability as the engine of progress is central to the American experience.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The evolution from an agrarian to an industrial to a postindustrial American economy, the emergence of the progressive movement followed by the New Deal, and the growing role of women in and the increasing racial and ethnic diversity of America's ability to make social trends work in our favor. The rapidly changing nature of the contemporary world economy presents us with a new challenge. Today, in the Congress, that challenge is exemplified by our pending consideration of the Uruguay round.

The Uruguay round agreement provides us a framework for creating wealth from these developments rather than suffer the consequences of trying to ignore them. It will satisfy an American impulse that has guided us throughout our history—to embrace fair competition, confident in the belief that we will prosper whenever our national capabilities are matched against those of any other country in the world.

This is why I have supported free trade and the GATT. This is why I have supported the Uruguay round from before its inception. In 1984, I was approached by Arthur Dunkel, then Director General of the GATT, about serving on a seven-person study group to map the conceptual framework for a new GATT round, which became the Uruguay round.

At the time, the industrial democracies were just emerging from a severe recession. Growth was weak, unemployment high, and the increase in nontariff trade barriers was threatening to nip the recovery in the bud. The time was ripe for a new GATT round to fight back against protectionism and give a boost to the world economy.

As the only American and the only politician in the group, I felt a special responsibility to get this project done right. Other members were a Swedish industrialist, a French lawyer, a Brazilian financier, and Indonesian Cabinet Minister, an Indian economist, and a Swiss banker. Our interactions were frank and flowed from our different perceptions of the world economy as well as our common commitment to treat change as an opportunity and not a threat.

In the end, we issued a report with 15 recommendations. The most important were: increasing the transparency of trade policies, in other words, not hiding what we do, but doing it out in the open so all the world can see; bringing trade in textiles, services, and agricultural products into the overall GATT Agreement; reducing and controlling nontariff barriers, those things that each country would do so that they could not quite be seen and they could not be put as a tariff but, nonetheless they would impede world trade; tightening rules on subsidies, and improving GATT's dispute settlement system.

So Mr. President, for me, then, the Senate's vote will be the culmination of a decade-long process. Many of the areas that we urged action on in that report have been included in the final Uruguay round agreement.

This process has been rough, even precarious. Talks broke down more than once. Deadlines passed. Fast-track authority expired. The world economy transformed itself in ways we could not imagine in 1984, leaving negotiators scrambling to catch up with this rapid change.

But, in the end, the process ground to a conclusion. The tenacious efforts of four United States Trade Representatives, their staffs, and numerous others, sustained the Uruguay round over 7 years of difficult negotiations. Building on the work of his predecessors, especially the outstanding Carla Hills, Mickey Kantor finally brought the round to a successful conclusion last December. We have an agreement or, rather, a series of agreements, that substantially meets the goals that we set out in 1985 in that report. We will soon have before us the legislation to implement the agreements. This stage of the GATT process is almost at an end.

Any trade agreement must be understood, is an accumulation of individual interests. Some interests do better than others in the negotiations and legislative process. Those who believe they have done well, do not complain. Those who believe they have done less well complain, sometimes even oppose an agreement.

But what was true in 1984 is true today. The fundamental value of this agreement is that it strengthens the international trading system so that all interests, including the general interest, come out ahead. It preserves America's role at the heart of the international trading system, ensuring that Americans receive their share of the benefits of expanded trade.

The health of the international trading system is central to global economic health. We need only look at the history of the 20th century for proof. In 1930, Congress passed the Smoot-Hawley tariff, which helped plunge the world, not merely into recession, but into full depression. It exacerbated the trend that was already underway. Depression, in turn, paved the way to world war.

By contrast, in 1947, the General Agreement on Tariffs and Trade came into effect, and the world prospered on the back of expanding global trade. Or, rather, that part of the world prospered which integrated itself into the global trading system.

The health of the international trading system is vital to America's economic health. Let me cite just a few facts that demonstrate the importance of exports to our prosperity.

In my State of New Jersey alone, we have increased exports 90 percent since 1987 to 1993. We have over 12 to 14 billion dollars' worth of merchandise exported, over 200,000 jobs tied directly to exports.

In 1947, when the GATT took effect, U.S. exports were around 8 percent of an American GNP of just over $234 billion. Remember, this was when America stood as a colossus around the world.

In 1993, even though we now face strong competition from Europe, Asia, and even Latin America, America still exported over $660 billion worth of goods and services, accounting for 10.4 percent of an American GDP of almost $6.5 trillion and directly supporting 10 million American jobs. In nominal terms, American exports in 1993 were almost three times America's GNP in 1947.

Anyone who doubts the importance of trade and integration into the international trading system should compare economic performance in the United States and Argentina in this century.

The turn of the century was the last time that the world economy was as open and the flow of capital as free, it was in the midst of fundamental transformation. At that time, Argentina and the United States had much in common—large, underpopulated territory; continuing inflow of European immigrants and capital; vast agricultural and mineral riches, and rapid industrialization. Between 1900 and 1930, Argentina even had an average annual per capita rate of growth 50 percent higher than the United States.

However, following the Great Depression, the United States and Argentina embarked on opposite courses. The United States joined GATT and reopened to international trade. Argentina withdrew from the world and opted for economic autarky behind high tariff walls. And its politics became a bloody process of dividing up among elites smaller and smaller pieces of the economic pie.

It is no coincidence that America entered this decade as the largest, most productive country in the world, while Argentina began the 1990's a developing country struggling to rejoin the world economy. According to a study by Domingo Cavallo, and a number of others, if Argentina had maintained an open trading regime, its GNP in 1984 would have been 63 percent higher, investment would have doubled, and exports would have almost tripled.

I would note that Domingo Cavallo, one of the authors of this study, took its lessons to heart. As Economic Minister in Argentina, today he has orchestrated the reforms that have brought back Argentina economic stability and put that great country on the road to prosperity.

There is one more piece of the equation, Mr. President, which goes beyond trade and prosperity to bear on the stability of the international system as a whole. It has been our national experience that the world is safer for our interests when major nations have a stake in the functioning of the system. The world is safer for our interests when countries have an institutional structure within which to work out their differences. In today's world, the GATT—soon to be part of the World Trade Organization—is the most widely accepted and used example of an integrating and mediating organization. The habits of cooperation, adherence to rules, and responsibility fostered by negotiation and dispute resolution spill over into other aspects of dealings between nations.

Some have argued that this agreement is too long, too complex, and we should not be taking it up in the remaining days of this session. Mr. President, I could not disagree more. If we postpone this agreement until next year, we will damage the world economy, we will damage the American economy, and we will damage the American wage earner.

If the United States Congress were to delay this legislation until next year, we would call into question whether the Uruguay round would ever be implemented. The markets have already discounted this $744 billion global tax cut. Were it now to be withdrawn, the markets would react, and the result could be extremely adverse to Main Street as well as Wall Street.

If the United States were to call the Uruguay round into question, forces of protectionism around the world would be strengthened, the momentum for trade liberation would be stalled, and the United States would abdicate a leadership role in the international economy.

Closer to home, and our constituents, delaying 6 months would mean delaying the benefits of trade liberalization. Every year for the next 10 years, there will be 25,000 fewer jobs than if we act this year. Treasury projects that the average American family will lose $110 per year in income over the next decade if we simply delay this agreement 6 months—a delay of a real tax cut for Americans.

All of this assumes that after the delay, of course, we would still be able to pass this legislation—next February or March or April. This agreement is good today, and it will be good next February, they say. But delay will encourage GATT's opponents and give them more time to make their protectionist arguments. Who calculates the impact, especially on new Members of Congress, those who are out there now campaigning against GATT? When they get here, they will be against GATT. The prospects of passage will be less, not more.

Mr. President, in 1914 the world order was shattered by a bullet in Sarajevo. The crashing political order ultimately took the open world trading system with it, in part because the United States shied away from leadership. In 1914 and after, we were unable to cope with the transformations shaping our world. The result was depression, world war, and cold war.

In 1989, the world order was shattered again, as the Berlin Wall tumbled down. Once again, we face fundamental transformations that are reshaping our world. As a result, we have another chance to build a more stable, democratic, and prosperous world. Such a world can only rest on a sound international trading system that allows the market to regulate international competition. Such a world will only come to pass if America steps confidently forward to seize the challenge. Our vote on the Uruguay round will be a test of that confidence. We must vote this year, and we must vote "aye."

The ACTING PRESIDENT pro tempore. The Senator from Oregon [Mr. HATFIELD] is recognized for 15 minutes.

REMARKS OF SENATOR MITCHELL

Mr. HATFIELD. Mr. President, last Thursday night, the Senate gathered in a rather unusual format by having dinner with our spouses and enjoying the fellowship in a social setting that so oftentimes we miss by our respective schedules, which often carry us in different directions, toward such things as committee work, not a relaxed environment where we can really come to know each other. At that occasion, the majority leader, Senator MITCHELL, gave some remarks on behalf of the departing Senators who are retiring for various and sundry reasons.

Mr. President, as we all know, we have a rather common practice in the Senate—and a good one—of offering for the CONGRESSIONAL RECORD the remarks of colleagues or of people outside of the body politic, when those remarks have been very helpful or very impressive. And so it was that following the remarks by Senator MITCHELL, Senator GLENN of Ohio had them included in the CONGRESSIONAL RECORD. But I would not like to have such uncommon remarks be lost in a common practice because these were more than just good or excellent remarks. These remarks were some of the greatest commentary I have heard or seen relating to public life in general and to the body of the Senate and the Congress specifically.

I would like to just quote a few of these remarks and sort of exposit because I feel that such remarks do not happen very often.

If we go back in history, we find that truth is expressed in many different ways. We have had the early fathers of the church who had truth expressed through what they called revelation, revelation from the divine. We have had truth expressed through the use of satire. We have had truth expressed through pithy statements, Yogi Berra being such an example. But then we have found on occasion where truth emerges out of a very careful analysis based upon thinking, reflection, experience, all of these making it very, very unique truth. And that is the category in which I would place the majority leader's remarks.

I recall back in the classroom, when I was teaching political science, on occasion I would assign what would be called required reading. That was never greeted with enthusiasm by the students but oftentimes with appreciation after their reading. Many times it was not an entire book. It might be an essay. It might have been one of the Federalist papers. Or it might have been many other ways in which I felt important information was compiled.

I would say that this would be a required reading for all of my students were I back in the political science classroom. I think also it might be very excellent for the next session of the Congress to present these statements by Senator MITCHELL in an attractive format to the new, incoming Senators as a part of the so-called training and initiation sessions that we give to the new Senators in order to give them a perspective to begin their Senate career, to give them an outline of a kind of expectation of what is going to be experienced in their own personal lives as they serve in the Senate.

One of the comments Senator MITCHELL made was, "It is fashionable to criticize Congress." I am quoting now from his statement. "The criticism so resonates with the American people that some Members of Congress are themselves among the leading voices in disparaging this institution."

He goes on to say that Congress has never been necessarily a popular body within our political system. So he gives us a perspective of time, a perspective of history, an understanding of what this institution is really all about. He used as an example that people usually unite in times of great fear or challenge or war, and they let their differences become secondary. But he cited World War II and the attitudes that the American public expressed then, at a time of great danger for this country, as a time when things were in the balance as to the future of this country.

And yet he recalls for our benefit that such a time was even then filled with skepticism. It was filled with what you might call harsh criticism of this body. And he quotes Sam Rayburn, who was getting damned tired of hearing the Congress blamed for everything.

Now, Mr. President, I would like to just digress a moment to express my own observation that we have to understand and be forthright in admitting that this is an egocentric profession we are in, politics. The Senate is the epitome of egocentricity in the sense that, outside the Metropolitan Opera Company, I am not sure of any agency in life that massages the prima donna complex in people as does the body politic or the political profession, particularly the Senate. We are the upper body. We are a unique parliamentary upper body, one of the only bodies in the world of an upper chamber holding significant power and exercising significant power. I could go on with the distinctions of the Senate over any other upper body of a parliamentary system.

And so, being this kind of a body and this kind of people, we are supersensitive to criticism. I found myself in such an experience. At such moments in time, unfair and untruthful statements are often made toward us. Because of that, then we sometimes get so centered on the moment we think life is totally different than any other time in history, and we have to then have someone like Senator MITCHELL yank us up and say, "Now wait a minute." Sure, there is a lot of unfair criticism. We cannot deny that. We have proven its unfairness many times by the facts of the case and refuting such criticism, individually and corporately.

But on the other hand, criticism is part of the price of a free society. Senator MITCHELL says it is in the legislative chamber that human rights and political rights are guaranteed. Under any kind of system that only has the power vested in an executive—be he or she a king, a queen, a fuhrer, a duchy, a czar, whatever it may be—without a powerful legislative body, the people's rights are in jeopardy. If this is the price of freedom, then perhaps we should be a little more gracious in accepting that criticism.

Senator MITCHELL also points out in his remarks that society, particularly a free society, is always anxious for change—and fast change and rapid change. They see a problem, and they say, "Why don't you fix it?" Then we have political personages in our day who have a simplistic message: "Just give me power and I will fix it. I will fix it." How many times we have heard that over the last few years, and again in this election cycle. We heard that when the German people were desperate and in economic distress following World War I. We heard it when the Italian people were in economic distress following World War I. We hear it today amongst those who say, "Just give me the authority, the power, the vote, and I will fix it." That plays, of course, to the anxieties, the fears, the desires of people for quick change and progress. And again that is, I suppose, part of the price, one of the exercises of freedom, in a society such as ours.

Mr. President, I ask unanimous consent to again reprint this in full following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATFIELD. You see in Senator MITCHELL's remarks a very profound description of our role today in the context of history, in the comparison of our system against other systems less free.

Then he comes down to a conclusion when he says:

> I've been in the private sector, then in public office, and I'm returning to the private sector. I take nothing away from private life when I say that I don't think anything can ever give the deep and meaningful satisfaction that comes from public service.

So when you add up the ledger—the deficits and the assets—Senator MITCHELL says with all of the problems, the hurts, the unfair criticisms, and so forth on the deficit side, that if you add them up, it comes out with a net gain. It is not a gain in popularity or prestige and certainly not in economic terms. But the gains of public service are that kind of value that comes from within, which is the kind that is totally empirical, that a person understands when praise—and one of the phrases that has been used so often is "Well done, good and faithful servant"—has been given to you for your service. This phrase would certainly be, with his résumé of service, given to Senator MITCHELL. So he says public service must be and is its own reward.

These, I think, are not only words for further essays, words for sermons, but also words of encouragement for all of us who remain as Senator MITCHELL and some of our colleagues now go into retirement.

I cannot help but identify with some words that Senator MITCHELL also shared with us the other night. He said:

> It's because of the promise of America that I, the son of an uneducated, immigrant factory worker from a small town in Maine, was able to become the majority leader of the United States Senate.

And I suppose many could stand here today as I can stand here and say that, as a son of a railroad blacksmith with only 1 year of college and the son of a school teacher, only in America is it the privilege of people of any status—economic, heritage, religious, ethnic—to have the opportunity to rise into positions of leadership such as in the U.S. Senate.

He cites his colleague Senator BYRD as another example and the Republican leader, Senator DOLE, as another example. And there are many other examples across this Senate.

I think, therefore, that I would like to very humbly express my gratitude for not only the leadership and the public service of Senator MITCHELL, but for the inspiration that he gives all of us in his profound reflection, the truth that emanates from that reflection, and the encouragement and the challenge. And I for one am very grateful to have known Senator MITCHELL and, hopefully, I will continue to have a relationship with Senator MITCHELL. I am pleased this morning to express my deep gratitude for his presence here in the Senate.

EXHIBIT 1

STATEMENT OF SENATE MAJORITY LEADER GEORGE J. MITCHELL, SENATE SPOUSES' AND RETIRING MEMBERS' DINNER, SEPTEMBER 22, 1994

I am one of the Senators who will not be returning in January. I will miss the retiring Senators and all of our colleagues. Each is leaving for different reasons.

I will leave because of my personal concept of public service. Unfortunately, some have speculated that I'm leaving because of the difficulties of serving in Congress.

That speculation is not accurate. Of course there are difficulties and frustrations. We all know that. But I'm proud to be a Member of the United States Senate. It's a great honor, the greatest of my life.

Criticism of the Congress is frequent today. But that's not new.

Most Americans cherish the view that during World War II—a time when the Nation was unified in the fight against fascism—all of us pulled together, and cheerfully shared sacrifice and hardship.

But history tells us otherwise. In reality, throughout the war, the Congress was under intense attack for the wartime hardships.

Members of Congress were touchy and defensive. Speaker Rayburn said he was "damned tired of having Congress made the goat for everything." Senator Walter George said he was tired of "indiscriminate sniping and yowling."

It's still fashionable to criticize Congress. The criticism so resonates with the American people that some Members of Congress are themselves among the leading voices in disparaging this institution.

But it's important to keep it in perspective. There never was a time when the Congress was a loved institution. Americans, members of the first truly egalitarian society, have always been skeptical of those who are set apart, whether by wealth, by election, or for any other reason.

That's a good thing; a healthy thing. It keeps our feet on the ground.

But when skepticism turns to cynicism, as it lately has, we risk undermining democracy.

Every system of government, by definition, has an executive. Throughout most of human history, that's all most governments have had: A dominant executive, usually in the form of an elected monarch.

Individual freedom, the liberty that we Americans have come to take for granted, largely came about when independent legislatures came into existence.

Across the sweep of human history, the institution most responsible for the preservation of individual liberty has been the independent legislature.

The men who wrote the Constitution had as their central objective the prevention of tyranny in America.

They had lived under a British king. They did not want there ever to be an American king.

They were brilliantly successful. In two centuries, we've had 42 Presidents and no kings.

Because power is so widely dispersed in our system, the Congress, like Parliaments in other democracies, often looks chaotic, and disorganized. We often earn the criticism we get.

Every society includes impatient people who want to see rapid change, swift progress, sometimes even revolution. Every society also includes people secure with things as they are, who resist change.

The tensions created by such competing pressures are what drive us. How much change does a society need to stay vibrant? How much must a society conserve to remain orderly?

The critics think we get the answers wrong. And they question our motives and our values.

But what the critics miss is the public service gives work a value and meaning greater than mere personal ambition and private goals.

I've been in the private sector, then in public office, and I'm returning to the private sector. I take nothing away from private life when I say that I don't think anything can ever give the deep and meaningful satisfaction that comes from public service.

Public service must be and is its own reward, for it guarantees neither wealth nor popularity. And, to paraphrase Rodney Dangerfield, you don't get no respect, either.

It's often frustrating. But when you do something that will change the lives of people for the better, then it's worth all the frustrations.

It's often frustrating. But when you do something that will change the lives of people for the better, then it's worth all the frustrations.

Ours is virtually the only Government in history dedicated to opening doors, not closing them.

In America today, I believe anyone can go as far and reach as high as work, talent, and education allow. We can't equalize effort or talent. But we can equalize opportunity—the promise of a fair chance to succeed.

It's because of the promise of America that I, the son of an uneducated, immigrant factory worker from a small town in Maine, was able to become the Majority Leader of the United States Senate.

It's why Robert Byrd, our friend and mentor, could rise from the hard coal fields of West Virginia to serve as Leader in his time.

It's why my friend and colleague, Bob Dole, could come out of Russell, Kansas, and be Leader in his time.

Whatever new problems arise, whatever unforeseeable challenges come, if we can keep that promise alive for our children and theirs, America will never lose her way. For me, that's the purpose of public service, its inspiration, and finally, its reward. We are among a very fortunate few to have been able to reap that reward.

Thank you for the privilege of serving with you.

TRIBUTE TO SENATOR MITCHELL

Mr. WARNER. Mr. President, many of us were privileged, and I say privileged with the greatest sense of emotion, to be in attendance at a dinner given every other year by the wives of the U.S. Senate for the Members and most particularly those retiring.

At that dinner we were privileged to receive the remarks of our distinguished majority leader, the Senator from Maine. Certainly at my table, and I am certain at other tables, it was received as one of the most moving moments in our Senate careers. It was an absolutely magnificent message. It appears in the RECORD just following remarks of my distinguished colleague.

But I just wanted to pay respect to the distinguished majority leader for the friendship, the help, the guidance, and indeed the leadership that he has provided this Senator in the years that we have been privileged to serve together.

I only wish at this point in time I could bring back to memory one of his most remarkable statements. It went something to the effect that the actions that we take, the things that we do in this Chamber we simply know not how far and wide those actions flow through our country. But we can be assured that there are many who will be affected, and hopefully those actions will always be for the greater betterment of mankind and our country.

I yield the floor, and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LAUTENBERG). Without objection, it is so ordered.

Mr. CAMPBELL. Mr. President, I ask unanimous consent to proceed as in morning business for 4 minutes for the purpose of introducing a bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. CAMPBELL pertaining to the introduction of S. 2474 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

THE URUGUAY ROUND TRADE AGREEMENT

Mr. MOYNIHAN. Mr. President, I come to the floor with the momentous news that the Committee on Finance has unanimously, 19 to 0, reported the Uruguay round trade agreement to the floor, the largest and most important trade agreement in history.

President Clinton is quoted in the New York Times this morning as having said, and I say accurately and clearly it is the view of the committee: This is the biggest trade agreement in history. It is the biggest worldwide tax cut in history by reductions in tariffs that will give us 300,000 to 500,000 new high-wage jobs in the next few years.

A point that perhaps needs to be noted, tariffs are taxes. Until the Constitution was amended to allow the income tax to be levied by the Federal Government, most of our revenue came from tariffs.

This is a tax cut. It redeems a commitment the United States made 50 years ago at the Bretton Woods Agreement to establish, along with the World Bank and the International Monetary Fund, an international trade organization. That proposal died. In the Senate Finance Committee a half century later now it comes alive again.

It is a hugely important event, and I do greatly thank my friends for allowing me to interrupt their matters in order to bring this important announcement to the floor.

Mr. President, I yield the floor with great gratitude to the Senator from New York.

Mr. LAUTENBERG. Mr. President, I commend the senior Senator from New York for the excellent work that he does in his chairmanship of the Finance Committee moving things along.

One of the things that also happened, I understand of recent days, was to approve the Finance Committee section of the Superfund. So that is ready to come to the floor.

I congratulate our colleague and look forward to the day when the new railroad station in New York will be able to accommodate with convenience, safety and enjoyment the commuters from New Jersey who often travel through Penn Station to their jobs in New York.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

(Mr. CAMPBELL assumed the chair.)

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT OF 1995—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. LAUTENBERG. Mr. President, it is with some mixed emotions that I bring before the Senate the conference report accompanying H.R. 4556, the Transportation appropriations bill for fiscal year 1995.

This bill, like many of the appropriations bills passed in recent days, is very, very tight. While we were successful in making progress and investing scarce dollars in critical areas of our transportation infrastructure, we could not do all that we would have liked to do in a great many areas.

I hope that in future years, as we seek to prioritize Federal investments within the freeze on discretionary spending, we are going to be able to do better by critical transportation programs that do so much to promote prosperity and jobs in our country.

In that context, this conference report focuses on three goals.

First, it does achieve real spending restraint. For the purposes of conference, we faced a discretionary spending ceiling of $13.704 billion in budget authority and $36.513 billion in outlays. That means that our ceiling for conference was below the level we were required to work under when passing the Senate bill. As a result, we faced the very difficult task of meeting our Nation's needs and the Senate's priorities with less money.

Second, consistent with our limited funds, we made progress toward meeting our national transportation needs. The President spelled out his priorities in his Budget message. He said that we needed to increase investment in some critical areas in order to modernize systems and meet our national needs. Specifically, he called for increased investment in a number of areas: in the highway obligation ceiling; the capital part of mass transit formula grants; the FAA's facilities and equipment account; Coast Guard capital expenses; and Amtrak capital assistance. This bill makes a down payment on many of those investments.

The bill rejects, however, some of the President's proposals. He recommended deep cuts, for example, in transit operating assistance. We rejected that recommendation and, within very tight overall funding limits, restored more than half of the cut.

Third, consistent with limited funds and an emphasis on national priorities, we protected the interests of the Senate. In terms of policy differences, the Senate position prevailed in several key areas.

For example, one contentious area involved the Coast Guard. The House bill contained a sizable cut in Coast Guard operating expenses. We were successful in restoring much of that proposed cut. Over the last few months, we have seen the Coast Guard operating in overdrive, interdicting thousands of Cuban migrants and participating in Operation Restore Democracy in Haiti. I believe we all agree that now is not the time to impose deep cuts in the Coast Guard's budget.

In another area, regarding rail, the conferees agreed to many of the Senate provisions providing enhanced investment in our Nation's passenger rail infrastructure. The House bill made significant cuts below the President's request in rail capital investment, and I am pleased to report that we were able to reverse their position.

Finally, the House voted to eliminate funding for the Interstate Commerce Commission by more than 40 votes. The conference agreement, like the Senate bill, does not propose the elimination of the ICC. However, it does contain a very sizable reduction in the agency's overall budget and staffing. It will no longer be business as usual at the Interstate Commerce Commission.

Beyond these policy disputes, there were also differences between the House and Senate about specific projects in the transit and highway areas. In general, the Senate recognized fiscal reality and was inclined to fund existing projects, while the House moved to start a number of new projects without, in my opinion, giving due consideration to our ability to pay their total costs. As a result of these different approaches, we essentially divided the available funds and allowed each body to make decisions within its allotment. That meant there simply was not enough money to fully fund all members' individual transit or highway projects. We did the best we could with the resources available to us. And I want to thank all members for their cooperation and understanding through an extremely tight funding process.

I specifically want to thank the chairman of our committee, the President pro tempore, Senator BYRD. I have been disappointed by the misrepresentations and mischaracterizations of Senator BYRD's advocacy for a critical transportation project in his State. Those of us who work closely with this bill appreciate the issue of regional balance and the importance of recognizing that individual States differ in the amount and kind of infrastructure needed. As he has on the Senate floor many times, throughout the transportation conference Senator BYRD argued forcefully for the national benefit of infrastructure investments. I thank Chairman BYRD for the extraordinary degree of cooperation, courtesy and grace he demonstrated during the House-Senate conference.

I also want to say a special thank you to the chairman of the House transportation subcommittee, Congressman BOB CARR of Michigan. Congressman CARR has been an excellent leader of the subcommittee. His knowledge and concern for transportation matters is vast, and I hope he will be in a position to share it with us as a Member of the Senate.

I also thank my distinguished colleague from the other side of the Hudson River from New Jersey, Senator D'AMATO, who is the ranking member of the Transportation Subcommittee for his input and cooperation throughout the process. It was not easy for him either. The conference agreement before us is truly a bipartisan product. Indeed, it passed the House by voice vote without as much as a single objection.

So, Mr. President, at this time I would like to yield the floor so that Senator D'AMATO might make any statement that he would like to make.

Mr. D'AMATO. My distinguished colleague from New York, Senator MOYNIHAN, I think has an announcement of some consequences that he would like to make.

With the permission of the Chair, I would like to yield the floor to Senator MOYNIHAN.

Mr. LAUTENBERG. Absolutely.

The ACTING PRESIDENT pro tempore. The senior Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, may I first express the genuinely heartfelt thanks to the two hugely able and effective managers of this bill, the Senator from New Jersey and my colleague and my friend, Senator D'AMATO, from New York.

This measure contains the $40 million for the rebirth of Pennsylvania Station that will bring to $50 million all we can spend next year. Construction can start next week, thanks to these two valiant Senators. I want to make that remark.

Mr. D'AMATO. Mr. President, I rise in support of the conference report on H.R. 4556, the fiscal year 1995 appropriations bill for the Department of Transportation and related agencies.

This conference report details the final agreements of the House and the Senate conferees on fiscal year 1995 funding for $14.266 billion in transportation programs. These programs include highways, transit, U.S. Coast Guard, airport grants, air traffic control personnel and equipment, rail freight assistance, Amtrak passenger rail service, as well as other programs.

The report displays funding for covered programs at $482 million above the administration's request, and $1.23 billion above current levels. Our bill reflects Senate priorities for funding projects that promote safety, congestion mitigation, air quality enhancement, and new technologies. For example, I am pleased that the transit discretionary grant program for buses contains $7.3 million for Nassau County, Long Island to advance its national leadership in putting alternative fuels buses on the roads. We are striving through this program to encourage local transit authorities to acquire buses using cleaner-burning fuels, and we will all breathe easier for it.

The conferees have cut the funding for the Interstate Commerce Commission by one-third, to $30.3 million. The Trucking Industry Regulatory Reform Act of 1994, signed by the President on August 26, 1994, has stripped away many of the ICC's useless and obsolete functions such as tariff filings, and related regulatory and enforcement activities. Congress has made great progress this year in dealing with the dinosaur known as the ICC; however, I agree with my colleagues on the House side, Mr. KASICH and Mr. HEFLEY, that more needs to be done. In the coming year I expect to closely examine the ICC's budget as we debate whether this independent agency is worth the money it costs taxpayers, or whether its remaining functions can appropriately be performed by other agencies.

HIGHWAY DEMONSTRATION PROJECTS

The conferees agreed on a total pot of $352 million for 127 highway demonstration projects. The final agreement split the pot equally between House and Senate projects, giving each body $176 million for projects it initiated. The House funded 102 projects; the Senate funded 25 projects.

Much controversy surrounded the funding of these highway projects. In conference, $60 million was cut from two West Virginia highway demonstration projects and then reallocated to House and Senate projects. About $52 million was reallocated to 18 Senate projects, restoring all but 10 projects to their Senate-passed levels. Funding for 1 of these 10 projects, the Pittsburgh Busway was restored under transit grant programs. The balance, about $8 million was allocated by the House to its highway projects. Senate projects were included based on a showing that they were authorized to receive general funds in current law, or were ongoing projects that had previously received funds. No new starts were included.

We have heard much about fairness in allocating these highway funds. Our final conference agreement addresses those concerns by providing a more equitable balance among the Senate projects. However, the House's problems in satisfying their project requests go beyond how much money one State's projects received in the Senate bill. The House undertook a great burden when it funded over 70 new start projects contained in the House-passed version of the National Highway System Designation Act of 1994, H.R. 4385. The Senate version of the NHS bill has no such demonstration projects. Next year, and in the years to follow, the bills will come due to pay for these dozens of new projects.

TRANSIT DISCRETIONARY GRANTS: NEW STARTS

Thirty-two transit new start projects were funded at $646.67 million as proposed by the House, instead of $595 million as contained in the Senate bill.

This program continues to balloon-up in costs as we fund many projects that are in preliminary stages, as well as older projects whose expensive construction costs are coming due for payment. This year, the Senate earmarked funds for a total of 15 projects, including only 5 of the same projects as contained in the House bill. This process left out important ongoing projects, particularly in the States of Texas and Florida, that have strong support in the Senate. The House had earmarked a total of 25 projects.

The allocations for these projects have been controversial, as Members seek more funds for projects in their States. This year a new process was followed whereby House and Senate projects were considered separately in conference. This approach leaves the fate of Senate-supported projects mainly in the hands of the House conferees, and vice-versa. I do not think that this is an approach we should repeat in the future. A full picture of new start allocations needs to be before all conferees as we make decisions on a program with national impacts. Moreover, as transit operating dollars continue to shrink—$710 million is contained in this bill—11.5 percent cut from current levels—serious thought must be given to the projected ridership of these projects and who will pay to operate them as we proceed to make decisions about new start spending in the future.

TRANSIT DISCRETIONARY GRANTS: BUSES

The conference agreement provides a total of $353.3 million for 85 discretionary grants for buses and related facilities. The pot of funds left unearmarked and reserved for the Secretary's discretion was reduced from $197.5 million in the Senate—and from $51 million in the House—to $30 million in the final agreement.

Mr. President, I am pleased that we were able to come to agreement about the many issues contained in this legislation. A specific issue of local importance to New York State, is the $40 million contained in this bill to redevelop Amtrak's decrepit Penn Station in New York City at the nearby James A. Farley Post Office. Penn Station is the Nation's busiest train station—500,000 people use it each day. Passengers desperately need the safety and operational improvements, as well as the enhanced facilities that this redevelopment project will achieve. Firm commitments have been made by State and local governments to fund their $100 million share of the project, and the Long Island Railroad has just completed its $200 million portion of the station.

In addition, $1.25 million has been made available for an oil spill response simulator at the State University of New York Maritime College at Fort Schuyler in the Bronx. There is currently no such response program in one of the busiest ports of the world—the Port of New York and New Jersey. This year, over 25,000 gallons of oil have been spilled in over 180 separate spills in this port. This investment in prevention will be well spent in protecting our waters, sensitive wetland areas, and shorelines.

Mr. President, this was not easy. Let me say that I think it took an extraordinary effort by the chairman, by Senator LAUTENBERG, and by all of our colleagues working together to see to it that limited resources were used in the manner and the way that could really make a difference.

I want to commend Senator LAUTENBERG for his leadership. It was not easy. I also want to commend all of the Members for working together to make this a reality.

I support adoption of this conference report, and urge my colleagues to support it as well.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. DORGAN). The Chair recognizes the Senator from West Virginia.

Mr. BYRD. Mr. President, the distinguished and very able chairman of the Transportation Subcommittee, Mr. LAUTENBERG, and the equally capable ranking minority member, Mr. D'AMATO, deserve great credit for their efforts in bringing this Department of Transportation appropriation conference report to the Senate. This bill is the product of many months of hard work, of thoughtful analysis, and of the many hours of testimony that were taken on the 1995 Department of Transportation budget. This conference agreement represents a fair and balanced approach to our Nation's transportation needs. It recognizes the transit needs of those States which have large populations and population densities. It also provides for the transportation needs of smaller, less populous States whose major transportation systems are their highways.

I compliment the chairman and ranking minority member, as well as their excellent staff: Pat McCann, Peter Rogoff, Joyce Rose, Anne Miano, and Dorothy Pastis.

TRANSPORTATION FUNDING LEVELS

Mr. President, I have a table which sets forth information which was provided to the Appropriations Committee by the Department of Transportation relative to the funding levels for selected programs that will be provided for fiscal year 1995 to certain States pursuant to existing statutory authority. That authority allows obligations to be incurred from the Highway and Airport and Airway Trust Funds up to the levels set in the 1995 Department of Transportation appropriation bill. Also, under ISTEA, States will receive mass transit grants for both capital projects and operating costs in the amounts shown in the table.

I hope that this information will be helpful and instructive to those who may have the mistaken impression that there is unfairness in the distribution of Federal transportation dollars.

Funding for the District of Columbia is not included on the table, but for comparison, I would point out that the 1995 Transportation conference agreement contains $200 million for Metro construction, $9.2 million in interest payments on WMATA's bonds; $24 million for transit operating subsidies; and $17.3 million for rail modernization grants.

Mr. President, I ask unanimous consent that the table that I have referred to, entitled "Fiscal Year 1995 Funding of Selected Department of Transportation Programs," be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FISCAL YEAR 1995 FUNDING OF SELECTED DOT PROGRAMS

[In whole dollars]

State	Federal-aid Highways				Airport grants [2]	Transit formula [3]
	Obl. Limit	1994 MA	ISTEA Demos [1]	Total		
California	1,341,338,030	189,625,000	51,451,000	1,582,414,030	54,368,042	360,593,297
New York	845,225,887	0	45,348,000	890,573,887	28,072,738	440,845,878
Texas	953,452,461	119,393,000	34,798,000	1,107,643,461	48,246,684	125,918,186
Florida	521,735,792	161,433,000	27,427,000	710,595,792	32,744,685	110,308,020
Pennsylvania	653,853,400	53,342,000	129,477,000	836,672,400	21,280,388	129,844,979
Illinois	568,422,288	0	24,825,000	593,247,288	21,760,495	176,760,452
Virginia	293,977,580	77,643,000	20,602,000	392,222,580	13,489,835	41,837,189
West Virginia	148,457,229	0	48,853,000	197,310,229	4,507,633	5,646,635
All other	11,833,537,333			11,833,537,333	1,225,529,500	1,108,245,364
Total	17,160,000,000	601,436,000	382,781,000	18,144,217,000	1,450,000,000	2,500,000,000

[1] Represents 26% of estimated available balances of ISTEA demo funds to the above states through FY 1995—actual obligations will likely vary from these estimates.

[2] Assumes current enplanement numbers will be changed as finals become available; includes $140 M entitlement carryover.

[3] Distribution will change because new Sec. 15 performance numbers will be used for publication in Federal Register Oct. 1994.

Mr. BYRD. Mr. President, I also ask unanimous consent that an editorial, the first of a series in the Martinsburg, West Virginia, newspaper, The Journal, under date of September 29, 1994, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Journal (Martinsburg, WV), Sept. 29, 1994]

BYRD'S CRITICS OVERLOOK TRUTH WHILE FLINGING ACCUSATIONS

U.S. Rep. Frank Wolf, R-Va., demonstrated in the last two weeks that when all other rational arguments fail to bolster a weak argument, try slander and lies. Naive constituents will love you, big-money contributors will be generous and the Washington Post will lionize you.

In the last two weeks, Wolf has again taken on U.S. Sen. Robert C. Byrd, D-W.Va. Wolf, the ranking Republican on the House Appropriations transportation subcommittee, targeted Byrd's request for $140 million to be spent on engineering and construction of Corridor H. Last week, on the floor of the House of Representatives, Wolf created a cleverly constructed argument in which he contended that Byrd, chairman of the Senate Appropriations Committee, was making off with almost all of the federal government's money for highway construction.

On Sept. 21, he argued that West Virginia, with only 1.7 million people, was going to receive $140 million. He said eight states with more than 100 million people were only going to get $10 million. "That's not fair," declared Wolf.

Here-here, said the Post, in an editorial that curiously ran the next day. In a remarkable quick rewrite of Wolf's speech, the Post not only repeats Wolf's claim that a small state is getting a lot of money, but also prints, almost verbatim, Wolf's contention that the state would receive $133 million more than could be used in a four-month time period.

What Wolf and the Post don't say is that Corridor H is not new. It was proposed by the Appalachian Regional Commission nearly 25 years ago as a development highway. It was intended to complement the interstate highway system. Most of the easy corridors have been built. Most of the remaining projects are in, you guessed it, West Virginia.

Wolf and the Post also failed to note that the number of accidents in the Corridor H area are above the statewide average, and the state as a whole ranked second in the country in traffic deaths for each 10,000 motor vehicles registered. That's because most of the roads in the state were built in the 1930s and reflect what Byrd calls "a happenstance response to topography rather than strategic planning."

The Post and Wolf conveniently fail to mention that it isn't cheap to build highways in Appalachia. The costs of completing most Appalachian system corridors is about $10.9 million per mile. But because of the extremely difficult and environmentally sensitive terrain, Corridor H will probably cost more than $18 million per mile to build.

The Post and Wolf also failed to note that West Virginia will receive little money for airports and mass transit relative to states that have sophisticated systems and need the big bucks.

And guess who is going to pocket lots of mega bucks for airports and mass transit?

The federal government will have spent $9 billion on Washington D.C.'s 103-mile Metro system when it is completed. The bill that Wolf and the Post fume about provides a $200 million subsidy—no other word fits—for the operation of the Metro next year. That doesn't include the $27 million subsidy for the Washington D.C. bus system.

Wolf says he is protecting the interests of the people in Shenandoah County, Va., who don't want Corridor H spoiling their bucolic existence. Yet Wolf and his political buddy, Virginia Gov. George Allen, are demanding the federal government cough up big bucks for a new interchange on Interstate 66 that will serve the Walt Disney Co. theme park, "America." There are a lot of folks in that area who don't want the theme park or the new interchange, let alone a $166 million subsidy, but they must not count to Wolf—they don't live in Wolf's district.

Wolf is using the opposition to Corridor H in Shenandoah County as a red herring to disguise his real fear—the loss of more federal "back offices" to West Virginia and other states. He spoke to that concern when he recently announced he was opposed to the upgrade of W. Va. 9. In this computer age, it doesn't really matter where an office building full of bureaucrats is located. All that counts is the building be linked to a reasonably sophisticated and reliable telephone system. Thanks to Bell Atlantic, West Virginia has one of the most sophisticated telecommunications systems in the world. It also costs a whole lot less to do business in West Virginia than it does—you guessed—in Northern Virginia. The cost of labor, construction and housing is less. Taxes also are less.

Every time Byrd makes what is now a routine announcement about another federal agency moving to the Mountain State, a shiver must go up and down the spines of all of northern Virginia's movers and shakers. Those glad tidings mean the federal government will spend less in and around Washington D.C. That means fewer people who will buy houses or go to shopping centers in northern Virginia. That also means small but tangible numbers of people won't be patronizing businesses, that advertise in the Post. It won't take long for those businesses to rethink their advertising strategies.

Wolf and the Post think they have won this round. The transportation budget only allocates $40 million for Corridor H this year. Wolf can claim he humbled the all-powerful Byrd, the Post editors can crow how they struck a mighty blow against the evils of pork barrel politics.

But not everybody who works within the Beltway is quite so myopic. One congressional staffer who works for the House Appropriations Committee said Wolf's and the Post's criticism of Byrd only enhances Byrd's reputation in West Virginia. It also only causes nothing but fury for most West Virginia Republicans. The West Virginia's eastern region is viewed as fertile ground for them. Wolf's diatribes only undercuts their efforts.

Next year is another session of Congress and, if Byrd wins re-election, we shall see who has the last laugh.

Mr. DOMENICI. Mr. President, I rise in support of the conference agreement accompanying H.R. 4556, the Transportation and related agencies appropriations bill for fiscal year 1995.

The pending conference agreement provides a total of $14.3 billion in new budget authority and $12.4 billion in new outlays to fund the operations of the Department of Transportation agencies for the upcoming fiscal year. These agencies include the Federal Highway Administration, Federal Aviation Administration, the Federal Transit Administration, the Coast Guard, Amtrak, the Federal Railroad Administration, and the National Highway Traffic Safety Administration.

When outlays from prior-year budget authority and other completed actions are taken into account, the final bill totals $14.3 billion in budget authority and $37.1 billion in outlays for fiscal year 1995.

I commend the distinguished chairman and ranking member of the subcommittee for the hard work they have done on this important bill.

They have brought back to the Senate a final bill that is within the subcommittee's 602(b) budget allocation by $10 million in budget authority and less than $500,000 in outlays.

I thank the distinguished subcommittee leadership for the consideration and support they gave to programs important to my home State of New Mexico, including the completion of three ongoing projects. I urge the adoption of the conference agreement.

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator suggests the absence of a quorum. The absence of a quorum is noted. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE I-265 EXTENSION BRIDGE FUNDING

Mr. FORD. Mr. President, I wonder if the manager of the bill, my good friend from New Jersey, will yield to discuss the I-265 funding in the conference report?

Mr. LAUTENBERG. I would be happy to discuss this issue with the senior Senator from Kentucky.

Mr. FORD. Mr. President, Senator McCONNELL, Senator LUGAR, Congressman HAMILTON, and Congressman MAZZOLI have all supported the need for a new bridge linking southern Indiana with the Louisville, KY region. We are pleased the House and Senate agreed in this conference report to begin funding this project by including $500,000 for the I-265 extension.

Mr. McCONNELL. Mr. President, will the Senator yield for a question?

Mr. FORD. I would be pleased to yield to my colleague from Kentucky.

Mr. McCONNELL. First, I would like to thank the chairman and ranking member for including this project in the bill. Would my friend agree that there is a consensus on a need for a new bridge in the area and that local officials from both States have yet to agree on the exact location of the bridge?

Mr. FORD. That is my understanding.

Mr. LUGAR. Mr. President, will my good friend, the senior Senator from Kentucky, yield for a question?

Mr. FORD. I would be happy to yield to my good friend, the Senator from Indiana.

Mr. LUGAR. As I understand the problem my State of Indiana and the Commonwealth of Kentucky agree there is a need for a bridge in the area of Clark County, IN, Louisville, KY area, and Jefferson County, KY area, and that our States have not yet reached an agreement on the location.

Mr. FORD. The Senator is correct.

Mr. President, I say to my friend from New Jersey given the fact that the two States have not yet reached an agreement it is therefore my understanding that the funding in the conference report is not site-specific?

Mr. LAUTENBERG. I would say to my friend, the senior Senator from Kentucky, and to my friends, the senior Senator from Indiana and Senator McCONNELL, that the conference committee by designating the project I-265 extension does not mean that we have agreed to a site-specific location in the greater metropolitan area, but rather, the States of Kentucky and Indiana must come to an agreement on the specific location for the bridge.

Mr. D'AMATO. Would the Senator from Kentucky yield?

Mr. FORD. I would be happy to yield to the ranking member of the subcommittee.

Mr. D'AMATO. Mr. President, I want to point out that it is my understanding as well, that the I-265 project funds are to be used only at the location that is decided upon by the States of Kentucky and Indiana.

Mr. FORD. I thank the chairman and the ranking member for their remarks.

THE 5-PERCENT BONUS OBLIGATION LIMITATION

Mr. BAUCUS. Mr. President, I would like to clarify the chairman's intent with regard to the absence of a provision in this conference report. Is it the chairman's intent that, as in last year's transportation appropriations bill, lack of appropriations bill language affirming or restating the 5-percent bonus obligation limitation program should not be interpreted by the Department of Transportation to mean that the program should not be available to States in fiscal year 1995? That in fact, the reference to this program in section 1002(f) of the Intermodal Surface Transportation Efficiency Act [ISTEA] is sufficient reference to continue the program in fiscal year 1995?

Mr. LAUTENBERG. The Senator is correct. It is not my intention to make the 5-percent bonus obligation limitation program unavailable to States that meet the appropriate requirements in fiscal year 1995. The authorization statute in the ISTEA is sufficient reference to continue the program in fiscal year 1995.

Mr. HATFIELD. Mr. President, I want to thank Chairman LAUTENBERG for his help this year and for crafting an excellent and equitable 1995 Transportation appropriation bill.

Mr. President, the statement of managers accompanying the conference report includes language that modifies language passed by the Senate concerning the South/North rail line in Portland, OR and Vancouver, WA. Would my colleague please explain the modification made by the conferees?

Mr. LAUTENBERG. The Senate language directed that funds made available to Portland in interstate transfer monies be used for preliminary engineering and environmental impact studies for the South/North corridor project. The conferees have removed the requirement that these funds be used for this purpose creating flexibility for the Portland metropolitan area to use these formula funds on the South/North corridor or any other eligible project.

Mr. HATFIELD. I thank my colleague for that clarification.

MINISTERIAL ROAD

Mr. CHAFEE. Mr. President, I thank the distinguished chairman, Senator LAUTENBERG, and the distinguished ranking member, Senator D'AMATO, of the Subcommittee on Transportation and Related Agencies of the Appropriations Committee for including funds in the conference agreement for H.R. 4556 that I requested for Ministerial Road in Rhode Island. Amendment No. 157 in the conference report, House Report 103-752, includes the Senate language contained in section 324 of the Senate bill. Section 324 as included in amendment No. 157 provides $100,000 of existing funds for scenic byways to provide assistance to a community group incorporated for the purpose of protecting the scenic qualities of a designated scenic byway. The intent of this provision is to provide the existing $100,000 to the Ministerial Road Preservation Association for the purpose of developing and evaluating alternative design standards for Ministerial Road in Rhode Island. I would ask the distinguished chairman and ranking member if they agree with my characterization of amendment No. 157 in the conference agreement?

Mr. LAUTENBERG. The Senator from Rhode Island is correct. The intent of the conference agreement is to direct the Federal Highway Administration to provide these funds to the Ministerial Road Preservation Association in Rhode Island.

Mr. D'AMATO. The Senator from Rhode Island is correct.

Mr. CHAFEE. I thank the Senators for their response, and again thank them for including these funds for Ministerial Road.

UNANIMOUS-CONSENT AGREEMENT

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that a vote occur at 11:45 this morning.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

STATEMENT ON THE TRANSPORTATION APPROPRIATIONS CONFERENCE BILL

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 4556, the Transportation appropriations conference bill and has found that the bill is under its 602(b) budget authority allocation by $10 million and under its 602(b) outlay allocation by $0 million.

I compliment the distinguished manager of the bill, Senator LAUTENBERG, and the distinguished ranking member of the Transportation Subcommittee, Senator D'AMATO, on all of their hard work.

Mr. President, I have a table prepared by the Budget Committee which shows the official scoring of the Transportation appropriations conference bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 4556—FY 1995 TRANSPORTATION APPROPRIATIONS—CONFERENCE BILL

[In millions of dollars]

Bill summary	Budget authority	Outlays
Discretionary Totals:		
New spending in bill	13,694	11,951
Outlays from prior years appropations		24,595
Permanent/advance appropriations		
Supplementals		−34
Subtotal, discretionary spending	13,694	36,513
Mandatory totals	571	574
Bill total	14,265	37,087
Senate 602(b) allocation	14,275	37,087
Difference	−10	−(*)
Discretionary Totals above (+) or below (−):		
President's request	482	−93
House-passed bill	116	71
Senate-reported bill	−40	−87
Senate-passed bill	−40	−87
Defense		
International Affairs		
Domestic Discretionary	13,694	36,513

Mr. MURKOWSKI. Mr. President, today we will vote on the passage of the conference agreement to the Department of Transportation appropriations. While I intend to vote for this report because it provides funding for several important programs in my State, I do have some serious concerns about two provisions.

The conferees have endorsed an agreement between the Alaskan aviation community and the FAA to further enhance flight services in Alaska.

The report language notes the negative impact of the closing of the Bettles flight service station which served the vast northern half of my State. The FAA Alaska Region is presently assessing the possibility of reactivation of this station on a seasonal basis. As the report language reiterates, Bettles may be reactivated as a flight service station at the discretion of the Administrator of the FAA.

I want to make it perfectly clear that I believe this station should be reactivated seasonally and that its reactivation should have been part of this agreement. I also believe that any surplus funds from the rotation plan which are not used to carry out the rotational staffing process set up in the agreement should be set aside for the reactivation of the Bettles station in the event that the station is recommended for flight service status.

The other issue concerns the deletion of my amendment that would prohibit funds to be used to restrict overflights of Federal lands within Alaska. I am disappointed by this deletion since Alaskans depend upon aviation as a basic means of transport, just as other Americans depend upon roads. Not only do Alaskans fly more than citizens of the lower 48 States, but we also fly over Federal land more often because 58 percent of our State is owned by the Federal Government. Any effort to restrict travel over Federal lands contains the possibility of cutting people off from their homes, hospitals, and supply stores.

While other parks in America may face overflight problems, Alaska's do not. Under ANILCA, Alaskans were guaranteed access to their lands by traditional means. This includes aircraft. Though my amendment was not adopted in the conference report, I will continue to work to ensure that Alaskans are able to access what was promised to them.

MORNING BUSINESS

Mr. LAUTENBERG. Mr. President, I now ask unanimous consent that the Senate turn to morning business with Senators permitted to speak therein until such time as the vote occurs.

The PRESIDING OFFICER. Without objection, it is so ordered.

USING THE FILIBUSTER

Mr. SIMPSON. Mr. President, yesterday I addressed the Senate on the issue of why the Republicans, frequently with the assistance of Democrats, have utilized the filibuster during this Congress. The real justification for availing ourselves of this procedural right is a lack of honest, real—not rhetorical—consultation. I gave several examples, and I will not belabor the point.

Subsequent to my remarks, my distinguished colleague from California, Senator FEINSTEIN came to the floor to offer what she believed was an example of why my remarks were in error. She cited the California Desert bill, S. 21.

I ask unanimous consent that a letter dated September 23, 1994, which I received from five Republican Congressmen who represent that area be printed in the RECORD after my remarks.

The letter speaks for itself. Essentially, it corroborates my earlier remarks which asserted that the common denominator of each use of the filibuster is a lack of real consultation. These Congressmen from the affected area say that their suggestions for improving S. 21 were "repeatedly ignored," and that "none of our concerns saw the light of day." They cited the "hardball tactics" utilized by the proponents of the bill, and urged me to "oppose the motion to invoke cloture."

I intend to. I not only agree with the Congressmen on the merits, but I am painfully aware of the process which they have described. It is yet another exhibit in pleading the case I was making yesterday.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 23, 1994.

Hon. ALAN SIMPSON,
Senate Minority Whip, The Capitol, Washington, DC.

DEAR SENATOR SIMPSON: As representatives of the California Desert, we would like to convey our strong opposition to the Senate consideration of S. 21, the California Desert Protection Act, and urge you and your colleagues to oppose the motion to invoke cloture.

S. 21 is based on a myth—that the deserts of California are currently unprotected, and open to the ravages of greedy corporations and careless off-roaders who would destroy the desert for pure pleasure or the almighty dollar. This is a useful emotional lever, but it is patently false. The facts are these: in its passage of the landmark Federal Land and Policy Management Act of 1976 (FLPMA), Congress among other things mandated that a plan be prepared for the protection of the California deserts. At the direction of Secretary Cecil Andrus, an Advisory Committee representing the various desert user groups was formed to analyze and evaluate the California Desert Conservation Area for wilderness or nonwilderness designation. After an extensive outreach program which included years of public hearings and over 40,000 public comments, the Advisory Committee proposed that 2.3 million acres in 62 wilderness areas be preserved—far less than the eight million acre land grab we are considering today. Although these recommendations were introduced by the five desert Congressmen as H.R. 2379, our bill was never given a proper hearing by the House Committee on Natural Resources.

The second flaw of S. 21 is the enormous cost to the taxpayers of acquiring and managing the nearly eight million acres of proposed wilderness and park land protected by the bill. Not only does this measure fail to provide the funds necessary to acquire private inholdings, but it also neglects the 26-year, $1.2 billion backlog in land acquisition faced by the National Park Service. Moreover, the Park Service admits an additional 37-year, $5.6 billion backlog in capital construction and maintenance costs. By adding over three million acres to our already beleaguered system, three certainties will result: increases in visitation, decreases in budgets and staff, and accelerated deterioration of our National Parks.

The third, and perhaps the most troubling, shortcoming of S. 21 is the omission of the thoughts and views of desert residents—most of whom are the best and most knowledgeable caretakers of this resource. Since this debate began, we have collectively received thousands of calls and letters from people who fear they will be locked out of the desert they have enjoyed for generations. Under wilderness designation, areas will be accessible only on foot or on horseback, a daunting challenge considering the extreme heat and ruggedness of the terrain. Only the most physically able will be able to enjoy these expanses, underscoring the lack of foresight exercised by the armchair environmentalists who drafted S. 21.

We had hoped to help Senator Feinstein craft a sound desert bill in this Congress, but our offers of assistance were repeatedly ignored. Aside from a few minor concessions, none of our concerns saw the light of day until the legislation reached the House floor. This treatment and the resulting lack of balance in the compromise bill leaves us with no recourse but to oppose S. 21. It angers us that we have been painted into this corner, and we resent the hardball tactics of Senator Feinstein and a small band of her environmental allies. Without a doubt, the California Desert Protection Act will incur consequences and set unwanted precedents that will affect not only California, but also every other state in the Union. For these reasons, we respectfully request that you oppose the motion to invoke cloture. In a time when the federal government should be reined in, we are facing a dangerous expansion of federal authority under this legislation—at a price taxpayers cannot afford.

We thank you for your time and your consideration, and are available to you individually or as a group should you have any questions.

Sincerely,

JERRY LEWIS.
AL MCCANDLESS.
DUNCAN HUNTER.
BILL THOMAS.
HOWARD "BUCK" MCKEON.

TRIBUTE TO THE LATE MRS. LUCILE SIMS

Mr. THURMOND. Mr. President, I rise today to pay tribute to a dear friend, Lucile Sims, who recently passed away at the age of 100.

In the course of her life, Mrs. Sims became involved in a number of activities and made many contributions to South Carolina. A graduate of Winthrop College, an institution that specialized in training teachers, Mrs. Sims held several jobs in the educational field which included teaching in the Orangeburg public schools, starting one of the area's first kindergartens, and beginning the first nursery for underprivileged children.

Additionally, Mrs. Sims wrote a column for the Editor's Copy Syndicate, an editorial and feature service for newspapers that she and her late husband, Hugo S. Sims, Sr., founded. In a tribute to the Sims' foresight, the Editor's Copy continues to be a valuable tool for journalists.

Mrs. Sims activities and contributions went beyond that of her teaching and writing. During World War II, she served as the chairman of the Women's Division of the Civilian Defense Force; she was a lifelong member of the St. Paul Methodist Church; and she was an enthusiastic participant in Orangeburg's Little Theater. Her work as a civic leader, and dedicated mother led to her being awarded the title of Mother of the Year in 1959, and I was pleased to host a delegation luncheon in her honor that March.

Mr. President, Mrs. Sims was a woman who was a friend to everyone, regardless of their race or creed, and she worked hard to help make her community a better place for all of its citizens. This most gracious lady will be missed by all those who knew her, and I would like to take this opportunity to extend my deepest sympathies to her three sons; former Congressman Hugo Sims; Edward Sims, publisher of the Editor's Copy; and, Henry Sims, who has served in many of South Carolina's State offices. Each of them can take great pride in their mother and her many accomplishments, as well as their own.

PROTECTING YELLOWSTONE NATIONAL PARK'S GEOTHERMAL RESOURCES

Mr. BURNS. Mr. President, I rise today as a cosponsor to the amendment filed today to protect Yellowstone National Park's treasured geothermal resources.

Montana is proud to host our Nation's oldest national park. Yellowstone is the crown jewel of our National Park System.

One of the biggest attributes of Yellowstone are the geothermal features. These features should be protected from harm's way, and we need to err on the side of caution. That's why I support H.R. 1137, the Old Faithful Protection Act.

H.R. 1137 protects Yellowstone's geothermal features by codifying the water compact which the State of Montana reached with the Federal Government. In addition, Wyoming and Idaho were given a 2 years' reach similar compacts, as well. These compacts regulate water permitting processes for a protection zone around Yellowstone to ensure that development outside the park won't harm our geysers inside the park.

There is good news and bad news about H.R. 1137. The bill has been reported out of the Senate Energy and Natural Resources Committee. However, an amendment was added which would exempt Wyoming and Idaho from the bill. I don't support that exemption.

Let all of us work together to protect Old Faithful.

I yield the floor.

STATEMENT ON THE NOMINATION OF LT. GEN. BUSTER GLOSSON, U.S. AIR FORCE

Mr. NUNN. Mr. President, the Committee on Armed Services has issued a report on the nomination of Lt. Gen. Buster Glosson, U.S. Air Force, to retire in grade, Exec. Rept. 103–34, which is printed and available in the Senate Document Room. As I observed on September 27, Lieutenant General Glosson's distinguished 29-year career includes: His service as an F-4 pilot in Vietnam for which he was awarded the Distinguished Flying Cross for 139 combat missions, primary responsibility for planning and implementing the air campaign in Operation Desert Storm, and service as the Air Force Deputy Chief of Staff for Plans and Operations.

The committee has placed in room S-407, for review by Senators, a number of documents related to this nomination, including the report of a special review panel, materials prepared by the inspector general of the Department of Defense, and other documents submitted to the committee by the Department of Defense which contain information which the committee has treated as confidential. The committee also will make available to Senators, upon request, redacted versions of the panel report and the inspector general materials.

Mr. President, the printed version of the committee's report contains a typographical error on page 11, in the paragraph beginning with the word "Fourth." The paragraph, in its entirety, should read as follows:

> Fourth, if he is not confirmed to retire in grade as a three-star general, his retired pay will be reduced by approximately $6,700 every year. While the committee agrees that his improper communications merit serious administrative action, the committee does not believe that a single incident of non-criminal conduct in an otherwise distinguished career warrants an annual reduction of $6,700 in retired pay. The committee does not believe that one misstep, in light of his total career, warrants compounding the consequences he has already suffered by adding a $6,700 annual penalty.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, as of the close of business on Wednesday, September 28, the Federal debt stood at $4,672,476,525,565.65, meaning that on a per capita basis, every man, woman, and child in America owes $17,922.05 as his or her share of that debt.

BILL MOFFITT

Mr. KEMPTHORNE. Mr. President, in Idaho, we have a deep respect for individuals who give something back to their community. For the past 5 years, Bill Moffitt has been an active member of the Idaho Falls community and a solid contributor to a number of causes within the area.

While serving as president of Westinghouse Idaho Nuclear Co. [WINCO], Bill Moffitt has established himself as a true friend to the people of Idaho Falls. Most folks would use just a few words to describe Bill; a good citizen, dedicated to public service.

Bill always seems to be looking for a way to help out, either as an individual, or through his work. He currently serves as president of the Grand Teton

Council of the Boy Scouts of America, as deputy campaign chairman for the United Way, and as vice president of the Greater Idaho Falls Chamber of Commerce.

Bill also served as president of the Excellence in Education Fund and is on the board of the local economic development council. He has been a supporter of Junior Achievement and Westinghouse Programs designed to encourage economically disadvantaged youth to remain in school.

For his efforts and devotion to the community, the Idaho Falls Civitans Club named Bill Moffitt its 1992–93 Citizen of the Year.

In the corporate world, Bill is seen as a true leader. His ability to lead is centered on the fact that he demonstrates a genuine belief in his employees. As the president of WINCO, Bill has continued a tradition of a friendly and strong work ethic that permeates throughout the company.

Bill began his career in the nuclear industry while serving in the U.S. Navy's nuclear submarine program. He joined Westinghouse in 1971 at Hanford, WA. While there, he was responsible for the Fast Flux Test Facility and later managed Operations Support Services. He first came to Idaho as WINCO's production manager before moving on to becoming general manager of the Waste Isolation Division in Carlsbad, NM. He returned to WINCO as president in 1989.

With the consolidation of the Department of Energy contract at the Idaho National Engineering Laboratory, Bill now moves back to Hanford where he will become the executive vice president of Westinghouse Hanford.

Mr. President, this senator and the people of Idaho Falls are losing a good friend, a good neighbor, and a good citizen, and I wish Bill and his wife Jeanne all the best in their new endeavor.

EXCELLENCE IN EDUCATION

Mr. GORTON. Mr. President, today I would like to recognize three outstanding Washington State schools. One each at the upper elementary, middle, and high school level which are currently participating in the We the People. . . The Citizen and the Constitution Program. Each of these schools demonstrate excellence in education and have implemented this program which helps students understand the history and principles of our constitutional government.

While at home over the January recess, I organized a meeting of over 200 parents, teachers, administrators, and students. At this conference I listened carefully to the concerns and ideas of those in attendance. While I heard many varied and different suggestions, one theme was constraint. Innovative and resourceful programs which educators and community members work hard to plan and execute deserve more recognition. I therefore promised to recognize, on a monthly basis, a school or school district program that is outstanding and innovative. Bow Lake Elementary School in SeaTac, Cascade Middle School in Seattle, and Kelso High School in Kelso are schools deserving and worthy of such recognition.

The We the People . . . The Citizen and the Constitution Program is funded through the Department of Education by an act of Congress. The program focuses on the U.S. Constitution and Bill of Rights and fosters civic competence and responsibility among elementary and secondary school students in both public and private schools. Students who participate in the program learn critical thinking and analytical skills while developing a reasoned commitment to the fundamental principles and values of our constitutional democracy.

Again, I congratulate these three outstanding schools. It is a tribute to the hard work of the teachers, school officials, students, and the commitment of the parents and the community to have such schools representing Washington State. These qualities of excellence are necessary for tomorrow's schools and for fostering a continued awareness of our Nation's constitutional past. I hope their mission and vision of excellence in education will continue to spread across Washington State and the country.

BELLE FOURCHE IRRIGATION PROJECT—S. 1786

Mr. JOHNSTON. Mr. President, on September 26, the Committee on Energy and Natural Resources filed the reports to accompany S. 1988, the Stagecoach Reservoir Project Act of 1993, and S. 1786, an act to authorize rehabilitation of the Belle Fourche irrigation project, and for other purposes.

At the time these two reports were filed, the Congressional Budget Office had not submitted its budget estimates regarding these measures. The committee has since received these communications from the Congressional Budget Office, and I ask unanimous consent that they be printed in the RECORD in full at this point.

There being no objection, the estimates were ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington DC, September 27, 1994.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed estimate for S. 1786, an act to authorize rehabilitation of the Belle Fourche irrigation project, and for other purposes.

Enactment of S. 1786 would affect direct spending. Therefore, pay-as-you-go procedures would apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM
(For Robert D. Reischauer, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill Number: S. 1786.

2. Bill title: An act to authorize rehabilitation of the Belle Fourche irrigation project, and for other purposes.

3. Bill status: As reported by the Senate Committee on Energy and Natural Resources on September 26, 1994.

4. Bill purpose: S. 1786 would authorize the appropriation of an additional $10.5 million (in October 1, 1994, prices) for the rehabilitation of the Belle Fourche irrigation project. In addition, the bill would allow the repayment schedule of the $51 million already appropriated for the irrigation project to be renegotiated.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1995	1996	1997	1998	1999
Authorizations:					
Estimated authorization of appropriations	1	4	6	....	....
Estimated outlays	1	4	5	1	....
Direct spending:					
Estimated budget authority	(1)	(1)	(1)	(1)	(1)
Estimated outlays	(1)	(1)	(1)	(1)	(1)

(1) Less than $500,000.

The costs of this bill fall within budget function 300.

Basis of estimate: CBO assumed that the full amount authorized for the rehabilitation of the Belle Fourche irrigation project would be appropriated. Authorization estimates are based on a proposed project schedule obtained from the Bureau of Reclamation (BOR) and are adjusted for inflation. Outlay estimates are based on historical spending rates for similar projects.

The rehabilitation of the Belle Fourche irrigation project is 100 percent reimbursable. BOR does not expect to start receiving repayment of the $11 million of new authorizations until after fiscal year 2000. Finally, based on information from BOR, we expect that any change in the repayment of the $51 million already appropriated for the project because of a renegotiated repayment schedule would be insignificant for fiscal years 1995 through 1999. Any significant change would occur in the later years of the schedule. The repayments appear in the budgets as offsetting receipts, and thus any change would be considered direct spending.

6. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. S. 1786 would allow the repayment schedule of the $51 million already appropriated for the project to be renegotiated, which could affect direct spending. CBO estimates that any change in direct spending for fiscal years 1995 through 1998 would be insignificant. The following table shows the estimated pay-as-you-go impact of this bill.

[By fiscal years, in millions of dollars]

	1994	1995	1996	1997	1998
Change in outlays	0	0	0	0	0
Change in receipts	(1)	(1)	(1)	(1)	(1)

(1) Not applicable.

7. Estimated cost to State and local governments: The state share of the additional

project costs, to be paid by the State of South Dakota, would be at least $4 million.

8. Estimate comparison: None.
9. Previous CBO estimate: None.
10. Estimate prepared by: John Patterson.
11. Estimate approved by: C.G. Nuckols, Assistant Director for Budget Analysis.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 27, 1994.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1988, the Stagecoach Reservoir Project Act of 1993, as reported by the Senate Committee on Energy and Natural Resources on September 27, 1994. We estimate that enactment of this legislation would have no net impact on the federal budget or on the budgets of state or local governments. Enactment of this bill would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

S. 1988 would authorize the Bureau of Reclamation (BOR) to sell or accept prepayment of a small reclamation loan held by the Upper Yampa Water Conservancy District (district) in Colorado. The loans were made to the district for construction of the Stagecoach Reservoir Project. The bill specifies that the price paid for the loan be calculated such that there is no net cost to the federal government on a present value basis. Once payment is received for the loan, title to the Stagecoach Reservoir would be transferred to the district.

BOR has indicated that, if S. 1988 is enacted, the agency would accept a prepayment from the district of the remaining loan balance for the Stagecoach Reservoir Project. The district owes a total of $8.7 million in principal and interest for the project. CBO estimates that, assuming the prepayment amount is calculated as specified in S. 1988, enactment of this legislation would result in no net cost to the federal government.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Theresa Gullo, who can be reached at 226-2860.

Sincerely,
JAMES L. BLUM,
(For Robert D. Reischauer, Director).

RELATIVE TO THE SOO LINE/UNITED TRANSPORTATION UNION LABOR DISPUTE

Mr. CONRAD. Mr. President, I stand to introduce a joint resolution which I will send to the desk and ask my colleagues to take prompt action on it.

Today, I am introducing a resolution to temporarily extend the cooling-off period currently underway in the Soo Line/United Transportation Union labor dispute. I am pleased to be joined in introducing the resolution by Senator SIMON of Illinois.

On August 29 of this year, President Clinton used his authority under the Railway Labor Act to provide a cooling-off period and established a three-member Presidential emergency board to recommend a settlement in the dispute that had led UTU members to strike the railroad.

Unfortunately, that cooling-off period is scheduled to expire on November 11, after which a work stoppage could resume. At that point, Congress will not be in session and the work stoppage could wreak havoc on grain shipments. The problem we confront is one of timing. Harvest season is upon us, and major shipments will continue through the end of the year and beyond.

Mr. President, it is for that reason that Senator SIMON and I introduce this resolution to extend the cooling-off period.

Mr. President, I have always had reservations about involving the Federal Government in labor disputes. I have, for example, opposed imposing the recommendations of Presidential Emergency Board 219 on the parties for the last major national rail dispute a few years ago. However, the situation we confront today is different. The recommendations of the board have yet to be issued. Congress is facing adjournment which would potentially leave a work stoppage unaddressed for as long as 3 months; 3 months that are among the most critical of the year for moving grain.

I have already been approached about the uncertainty in the marketplace regarding a grain elevator buying, selling and shipping of grain after November 11. Unless Congress extends the cooling-off period, elevators will bid less for grain depressing incomes for hundreds of thousands of farmers who depend on the harvest for their livelihood. Enactment of this resolution could help prevent that by increasing certainty for elevators at least during the time when Congress would be out of session.

Mr. President, an identical resolution, House Resolution 417, was introduced yesterday in the House by Representatives DINGELL, SWIFT, and others. Both the railroads and the unions have signed off on the resolution.

I urge my colleagues to support prompt action on this important issue.

I want to thank my colleague from Illinois, Senator SIMON, who has joined me in this effort. We believe it is important for the economies of our part of the country and we think this is a reasonable solution.

As I said earlier, we have talked to both sides in this dispute and both have agreed that this is an appropriate remedy.

I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois [Mr. SIMON] is recognized.

Mr. SIMON. Mr. President, I want to commend our colleague from North Dakota, Senator CONRAD, for his leadership on this.

This really is important. We treat transportation matters in labor-management differently than any other type of labor-management relationship because it is so vital. It is the grain in North Dakota and Illinois. It is commuters in the greater Chicago area. And because of high capital costs today, automobile plants and other plants have a very low inventory. They depend on that transportation coming through. It is vital that we move ahead.

Five years ago or so I ended up mediating a strike between the United Transportation Union and the Chicago and Northwestern Railroad and became much more familiar with this area of the law than I ever intended to become. But Senator CONRAD's leadership on this is absolutely needed.

The American railroads support this. The American railroad unions support this. The Sioux Line is owned by Canadian Pacific, and they have no objection to it. It is clearly essential that we move ahead immediately on this. And I cannot think of any reason why anyone would object to moving ahead on this.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT OF 1995—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. The hour of 11:45 a.m. having arrived, by a previous unanimous consent agreement the Senate will now vote on the conference report to accompany H.R. 4556. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 89, nays 11, as follows:

[Rollcall Vote No. 312 Leg.]

YEAS—89

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Gorton
Grassley
Harkin
Hatch
Hatfield
Heflin
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Warner
Wellstone
Wofford

NAYS—11

Brown
Faircloth
Graham
Gramm
Gregg
Helms
McCain
Nickles
Roth
Smith
Wallop

So, the conference report was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. FORD). The majority leader.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1995, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1994—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate H.R. 4649, the conference report accompanying the District of Columbia appropriations bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 12 to the bill (H.R. 4649) entitled "An act making appropriations for the Government of the District of Columbia and other activities chargeable in whole or part against the revenues of said District for the fiscal year ending September 30, 1995, and for other purposes and concur therein with an amendment.

The Senate resumed consideration of the amendments in disagreement to the conference report.

Pending:

(1) Gramm Amendment No. 2585 (to House amendment to Senate amendment number 3), to strengthen the Violent Crime Control and Law Enforcement Act of 1994 by reducing the number of social programs and increasing the penalties for criminal activity.

(2) Cohen/Sasser Amendment No. 2594 (to House amendment to Senate amendment number 6), to provide for enhanced penalties for health care fraud.

(3) Wofford Amendment No. 2595 (to Cohen Amendment No. 2594), to disqualify Members of Congress from participating in the Federal Employee Health Benefits Program under chapter 89 of title 5, United States Code.

(4) Domenici Amendment No. 2596 (to House amendment to Senate amendment number 12), to improve the operations of the legislative branch of the Federal Government.

(5) Boren Amendment No. 2597 (to Domenici Amendment No. 2596), to improve the operations of the legislative branch of the Federal Government.

AMENDMENT NO. 2595 TO AMENDMENT NO. 2594

The PRESIDING OFFICER. The question before the Senate is an amendment in the second degree, Amendment No. 2595 offered by the Senator from Pennsylvania [Mr. WOFFORD].

The Senator from West Virginia.

Mr. BYRD. Mr. President, has the time under the Pastore rule expired for the day?

The PRESIDING OFFICER. No, it has not.

Mr. BYRD. It has not?

The PRESIDING OFFICER. It has not.

Mr. BYRD. I ask unanimous consent that I may speak out of order for 5 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator may proceed. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the Chair. I will not detain the Senate more than 5 minutes.

THOUGHTS ON HAITI

Mr. BYRD. Mr. President, many discussions concerning the scope and duration of our military operation in Haiti have been conducted in recent days, both on this floor and in other meetings. I am taking this opportunity to outline my views on the language that I believe should be adopted regarding Haiti.

I believe that we should act to set reasonable limits on the mission and duration of the United States operation in Haiti. I would propose defining and limiting the United States mission in Haiti to, first, protecting United States citizens and interests in Haiti, and protecting the safety of the multinational force now deployed in Haiti. The second element of the mission should be to stabilize the security situation in Haiti so that the restored democratically elected Government can quickly reassume the functions of government. This effort includes protecting the key individuals in this transition, such as in the United States role yesterday in protecting the Haitian Legislature so that it can meet and operate. It also includes providing technical assistance to the Haitian Government in order to begin the process of retraining the military and police, and enhancing their noncombat capabilities, to operate in support of the best interests of the people and the democratic constitution of Haiti. The third element of the mission in Haiti would be to facilitate the provision of humanitarian assistance to the people of Haiti. Finally, the fourth mission of the United States operation in Haiti should be to ensure the safe and orderly transition to the U.N. mission in Haiti, which is to replace the current United States-led operation, called for in the U.N. Security Council resolution.

We have all been mindful of the problems associated with vaguely defined missions, which seem to lead, as in the case of Somalia, to mission "creep," so-called, and operations of open-ended duration. I would propose to fund this operation through February 15, 1995, with two possible extensions. I would include a 1-month extension, to March 15, 1995, at the discretion and recommendation of the President, in order to ensure the orderly transition to the U.N. mission in Haiti and to provide for the safe and orderly withdrawal of United States forces, except those Americans included in the U.N. mission. Beyond March 15, I would propose a possible additional extension of the United States operation, if the President requests such an extension, and also the funding, and if the Congress approves the extension and the funding therefore. This request should be addressed under fast track rules, that would allow the Congress to offer germane amendments, but that would also ensure a congressional vote, within a very constricted timeframe, in relation to the President's recommendation.

As a final element, I believe that the President should report to the Congress on a monthly basis on the progress being made toward transitioning from a U.S.-led operation to a U.N.-led operation. These progress reports will help the Congress to evaluate any request for an extension of the United States operation. They also would serve to keep pressure on the United Nations to get its act together in organizing an effective follow-on force to the current U.S.-led operation.

Mr. President, I will have more to say on this subject matter, but I did think it only fair to my colleagues that they know that I do have a proposal that I may wish to advance. I may not have the votes for it, because the administration and others have been very busy in urging that there be no cutoff date. And I have not attempted to corral any votes or buttonhole any Senators. I think I have spoken to two different Senators about it, just by way of asking their opinions.

But, Mr. President, I do feel that my colleagues should know the bare outlines of the proposal that I am advancing. They can make their judgments about it when we get to a fuller discussion of the subject matter.

I thank the Chair and I thank all Senators.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1995, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1994—CONFERENCE REPORT

The Senate continued with the consideration of the amendments in disagreement to the conference report.

AMENDMENT NO. 2595

Mr. COHEN. Mr. President, I believe the regular order has been called.

The PRESIDING OFFICER. The question before the Senate is on the amendment in the second degree, amendment No. 2595, offered by the Senator from Pennsylvania [Mr. WOFFORD].

AMENDMENT NO. 2594, AS MODIFIED

Mr. COHEN. Mr. President, I modify my amendment to accept the pending second-degree amendment, as well as to make the following changes that I now send to the desk.

The PRESIDING OFFICER. The Senator has that right.

The amendment is so modified.

The amendment (No. 2594), as modified, reads as follows:

At the appropriate place, insert the following new subtitle:

Subtitle ___—Enhanced Penalties for Health Care Fraud

PART 1—ALL-PAYER FRAUD AND ABUSE CONTROL PROGRAM

SEC. ___01. ALL-PAYER FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—Not later than January 1, 1995, the Secretary of Health and Human Services (in this subtitle referred to as the "Secretary"), acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to the delivery of and payment for health care in the United States,

(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B of the Social Security Act and other statutes applicable to health care fraud and abuse, and

(D) to provide for the modification and establishment of safe harbors and to issue interpretative rulings and special fraud alerts pursuant to section ___03.

(2) COORDINATION WITH HEALTH PLANS.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

(3) REGULATIONS.—

(A) IN GENERAL.—The Secretary and the Attorney General shall by regulation establish standards to carry out the program under paragraph (1).

(B) INFORMATION STANDARDS.—

(i) IN GENERAL.—Such standards shall include standards relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

(ii) CONFIDENTIALITY.—Such standards shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) of the Social Security Act (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section, in the same manner as such section applies to information provided to organizations with a contract under subtitle B of title V of this Act, with respect to the performance of such a contract.

(C) DISCLOSURE OF OWNERSHIP INFORMATION.—

(i) IN GENERAL.—Such standards shall include standards relating to the disclosure of ownership information described in clause (ii) by any entity providing health care services and items.

(ii) OWNERSHIP INFORMATION DESCRIBED.—The ownership information described in this clause includes—

(I) a description of such items and services provided by such entity;

(II) the names and unique physician identification numbers of all physicians with a financial relationship (as defined in section 1877(a)(2) of the Social Security Act) with such entity;

(III) the names of all other individuals with such an ownership or investment interest in such entity; and

(IV) any other ownership and related information required to be disclosed by such entity under section 1124 or section 1124A of the Social Security Act, except that the Secretary shall establish procedures under which the information required to be submitted under this subclause will be reduced with respect to health care provider entities that the Secretary determines will be unduly burdened if such entities are required to comply fully with this subclause.

(4) AUTHORIZATION OF APPROPRIATIONS FOR INVESTIGATORS AND OTHER PERSONNEL.—In addition to any other amounts authorized to be appropriated to the Secretary and the Attorney General for health care anti-fraud and abuse activities for a fiscal year, there are authorized to be appropriated additional amounts as may be necessary to enable the Secretary and the Attorney General to conduct investigations and audits of allegations of health care fraud and abuse and otherwise carry out the program established under paragraph (1) in a fiscal year.

(5) ENSURING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of Health and Human Services is authorized to exercise the authority described in paragraphs (4) and (5) of section 6 of the Inspector General Act of 1978 (relating to subpoenas and administration of oaths) with respect to the activities under the all-payer fraud and abuse control program established under this subsection to the same extent as such Inspector General may exercise such authorities to perform the functions assigned by such Act.

(6) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978.

(7) HEALTH PLAN DEFINED.—For the purposes of this subsection, the term "health plan" shall have the meaning given such term in section 1128(i) of the Social Security Act.

(b) HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There is hereby established an account to be known as the "Health Care Fraud and Abuse Control Account" (in this section referred to as the "Anti-Fraud Account"). The Anti-Fraud Account shall consist of—

(i) such gifts and bequests as may be made as provided in subparagraph (B);

(ii) such amounts as may be deposited in the Anti-Fraud Account as provided in subsection (a)(4), sections ___41(b) and ___42(b), and title XI of the Social Security Act except for those penalties attributable to laws in existence prior to the enactment of this Act; and

(iii) such amounts as are transferred to the Anti-Fraud Account under subparagraph (C).

(B) AUTHORIZATION TO ACCEPT GIFTS.—The Anti-Fraud Account is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Anti-Fraud Account, for the benefit of the Anti-Fraud Account or any activity financed through the Anti-Fraud Account.

(C) TRANSFER OF AMOUNTS.—

(i) IN GENERAL.—The Secretary of the Treasury shall transfer to the Anti-Fraud Account an amount equal to the sum of the following:

(I) Criminal fines imposed in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

(ii) Administrative penalties and assessments imposed under titles XI, XVIII, and XIX of the Social Security Act (except as otherwise provided by law) except for those penalties attributable to laws in existence prior to the enactment of this Act.

(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

(iv) Penalties and damages imposed under the False Claims Act (31 U.S.C. 3729 et seq.), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator or for restitution) except for those penalties attributable to laws in existence prior to the enactment of this Act.

(2) USE OF FUNDS.—

(A) IN GENERAL.—Amounts in the Anti-Fraud Account shall be available without appropriation and until expended as determined jointly by the Secretary and the Attorney General of the United States in carrying out the health care fraud and abuse control program established under subsection (a) (including the administration of the program), and may be used to cover costs incurred in operating the program, including costs (including equipment, salaries and benefits, and travel and training) of—

(i) prosecuting health care matters (through criminal, civil, and administrative proceedings);

(ii) investigations;

(iii) financial and performance audits of health care programs and operations;

(iv) inspections and other evaluations; and

(v) provider and consumer education regarding compliance with the provisions of this subtitle.

(B) FUNDS USED TO SUPPLEMENT AGENCY APPROPRIATIONS.—It is intended that disbursements made from the Anti-Fraud Account to any Federal agency be used to increase and not supplant the recipient agency's appropriated operating budget.

(3) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed by the Anti-Fraud Account in each fiscal year.

(4) USE OF FUNDS BY INSPECTOR GENERAL.—

(A) REIMBURSEMENTS FOR INVESTIGATIONS.—The Inspector General is authorized to receive and retain for current use reimbursement for the costs of conducting investigations, when such restitution is ordered by a court, voluntarily agreed to by the payer, or otherwise.

(B) CREDITING.—Funds received by the Inspector General as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of their deposit.

SEC. ___02. APPLICATION OF FEDERAL HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO ALL FRAUD AND ABUSE AGAINST ANY HEALTH PLAN.

(a) CRIMES.—

(1) SOCIAL SECURITY ACT.—Section 1128B of the Social Security Act (42 U.S.C. 1320a–7b) is amended as follows:

(A) In the heading, by adding at the end the following: "OR HEALTH PLANS".

(B) In subsection (a)(1)—

(i) by striking "title XVIII or" and inserting "title XVIII,", and

(ii) by adding at the end the following: "or a health plan (as defined in section 1128(i)),".

(C) In subsection (a)(5), by striking "title XVIII or a State health care program" and inserting "title XVIII, a State health care program, or a health plan".

(D) In the second sentence of subsection (a)—

(i) by inserting after "title XIX" the following: "or a health plan", and

(ii) by inserting after "the State" the following: "or the plan".

(E) In subsection (b)(1), by striking "title XVIII or a State health care program" each place it appears and inserting "title XVIII, a State health care program, or a health plan".

(F) In subsection (b)(2), by striking "title XVIII or a State health care program" each place it appears and inserting "title XVIII, a State health care program, or a health plan".

(G) In subsection (b)(3), by striking "title XVIII or a State health care program" each place it appears in subparagraphs (A) and (C) and inserting "title XVIII, a State health care program, or a health plan".

(H) In subsection (d)(2)—

(i) by striking "title XIX," and inserting "title XIX or under a health plan,", and

(ii) by striking "State plan," and inserting "State plan or the health plan,".

(2) IDENTIFICATION OF COMMUNITY SERVICE OPPORTUNITIES.—Section 1128B of such Act (42 U.S.C. 1320a–7b) is further amended by adding at the end the following new subsection:

"(f) The Secretary may—

"(1) in consultation with State and local health care officials, identify opportunities for the satisfaction of community service obligations that a court may impose upon the conviction of an offense under this section, and

"(2) make information concerning such opportunities available to Federal and State law enforcement officers and State and local health care officials.".

(b) HEALTH PLAN DEFINED.—Section 1128 of the Social Security Act (42 U.S.C. 1320a–7) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) HEALTH PLAN DEFINED.—For purposes of sections 1128A and 1128B, the term 'health plan' means a public or private program for the delivery of or payment for health care items or services."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1995.

SEC. ___03. HEALTH CARE FRAUD AND ABUSE GUIDANCE.

(a) SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.—

(1) IN GENERAL.—

(A) SOLICITATION OF PROPOSALS FOR SAFE HARBORS.—Not later than January 1, 1995, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 U.S.C. 1320a–7b note);

(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) of the Social Security Act the (42 U.S.C. 1320a–7b(b)) and shall not serve as the basis for an exclusion under section 1128(b)(7) of such Act (42 U.S.C. 1320a–7(b)(7));

(iii) interpretive rulings to be issued pursuant to subsection (b); and

(iv) special fraud alerts to be issued pursuant to subsection (c).

(B) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL STATE HARBORS.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

(C) REPORT.—The Inspector General of the Department of Health and Human Services (hereafter in this section referred to as the "Inspector General") shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

(2) CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

(A) An increase or decrease in access to health care services.

(B) An increase or decrease in the quality of health care services.

(C) An increase or decrease in patient freedom of choice among health care providers.

(D) An increase or decrease in competition among health care providers.

(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

(F) An increase or decrease in the cost to Government health care programs.

(G) An increase or decrease in the potential overutilization of health care services.

(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions of—

(i) whether to order a health care item or service; or

(ii) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in Government health care programs.

(b) INTERPRETIVE RULINGS.—

(1) IN GENERAL.—

(A) REQUEST FOR INTERPRETIVE RULING.—Any person may present, at any time, a request to the Inspector General for a statement of the Inspector General's current interpretation of the meaning of a specific aspect of the application of sections 1128A and 1128B of the Social Security Act (hereafter in this section referred to as an "interpretive ruling").

(B) ISSUANCE AND EFFECT OF INTERPRETIVE RULING.—

(i) IN GENERAL.—If appropriate, the Inspector General shall in consultation with the Attorney General, issue an interpretive ruling in response to a request described in subparagraph (A). Interpretive rulings shall not have the force of law and shall be treated as an interpretive rule within the meaning of section 553(b) of title 5, United States Code. All interpretive rulings issued pursuant to this provision shall be published in the Federal Register or otherwise made available for public inspection.

(ii) REASONS FOR DENIAL.—If the Inspector General does not issue an interpretive ruling in response to a request described in subparagraph (A), the Inspector General shall notify the requesting party of such decision and shall identify the reasons for such decision.

(2) CRITERIA FOR INTERPRETIVE RULINGS.—

(A) IN GENERAL.—In determining whether to issue an interpretive ruling under paragraph (1)(B), the Inspector General may consider—

(i) whether and to what extent the request identifies an ambiguity within the language of the statute, the existing safe harbors, or previous interpretive rulings; and

(ii) whether the subject of the requested interpretive ruling can be adequately addressed by interpretation of the language of the statute, the existing safe harbor rules, or previous interpretive rulings, or whether the request would require a substantive ruling not authorized under this subsection.

(B) NO RULINGS ON FACTUAL ISSUES.—The Inspector General shall not give an interpretive ruling on any factual issue, including the intent of the parties or the fair market value of particular leased space or equipment.

(c) SPECIAL FRAUD ALERTS.—

(1) IN GENERAL.—

(A) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)) (hereafter in this subsection referred to as a "special fraud alert").

(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Inspector General shall in consultation with the Attorney General, issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

(2) CRITERIA FOR SPECIAL FRAUD ALERTS.—In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

(A) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

(B) the volume and frequency of the conduct that would be identified in the special fraud alert.

SEC. ___04. REPORTING OF FRAUDULENT ACTIONS UNDER MEDICARE.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish a program through which individuals entitled to benefits under the medicare program may report to the Secretary on a confidential basis (at the individual's request) instances of suspected fraudulent actions arising under the program by providers of items and services under the program.

PART 2—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

SEC. ___11. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) Individual Convicted of Felony Relating to Fraud.—

(1) In general.—Section 1128(a) of the Social Security Act (42 U.S.C. 1320a–7(a)) is amended by adding at the end the following new paragraph:

"(3) Felony conviction relating to fraud.—Any individual or entity that has been convicted after the date of the enactment of the Health Reform Act, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.".

(2) Conforming amendment.—Section 1128(b)(1) of such Act (42 U.S.C. 1320a–7(b)(1)) is amended—

(A) in the heading, by striking "Conviction" and inserting "Misdemeanor conviction"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

(b) Individual Convicted of Felony Relating to Controlled Substance.—

(1) In general.—Section 1128(a) of the Social Security Act (42 U.S.C. 1320a–7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) Felony conviction relating to controlled substance.—Any individual or entity that has been convicted after the date of the enactment of the Health Reform Act, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.".

(2) Conforming amendment.—Section 1128(b)(3) of such Act (42 U.S.C. 1320a–7(b)(3)) is amended—

(A) in the heading, by striking "Conviction" and inserting "Misdemeanor conviction"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

SEC. ___12. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) of the Social Security Act (42 U.S.C. 1320a–7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

SEC. ___13. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) of the Social Security Act (42 U.S.C. 1320a–7(b)) is amended by adding at the end the following new paragraph:

"(15) Individuals controlling a sanctioned entity.—Any individual who has a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of, an entity—

"(A) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection;

"(B) against which a civil monetary penalty has been assessed under section 1128A; or

"(C) that has been excluded from participation under a program under title XVIII or under a State health care program.".

SEC. ___14. ACTIONS SUBJECT TO CRIMINAL PENALTIES.

(a) Restriction on Application of Exception for Amounts Paid to Employees.—Section 1128B(b)(3)(B) of the Social Security Act (42 U.S.C. 1320a–7b(b)(3)(B)) is amended by striking "services;" and inserting the following: "services, but only if the amount of remuneration under the arrangement is (i) consistent with fair market value; (ii) not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals of patients directly contacted by the employee to the employer for the furnishing (or arranging for the furnishing) of such items or services; and (iii) provided pursuant to an arrangement that would be commercially reasonable even if no such referrals were made;".

(b) New Exception for Capitated Payments.—Section 1128B(b)(3) of the Social Security Act (42 U.S.C. 1320a–7b(b)(3)) is amended—

(A) by striking "and" at the end of subparagraph (D);

(B) by striking the period at the end of subparagraph (E) and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

"(F) any reduction in cost sharing or increased benefits given to an individual, any amounts paid to a provider for an item or service furnished to an individual, or any discount or reduction in price given by the provider for such an item or service, if the individual is enrolled with and such item or service is covered under any of the following:

"(i) A health plan which is furnishing items or services under a risk-sharing contract under section 1876 or section 1903(m).

"(ii) A health plan receiving payments on a prepaid basis, under a demonstration project under section 402(a) of the Social Security Amendments of 1967 or under section 222(a) of the Social Security Amendments of 1972;

"(G) any amounts paid to a provider for an item or service furnished to an individual or any discount or reduction in price given by the provider for such an item or service, if the individual is enrolled with and such item or service is covered under a health plan under which the provider furnishing the item or service is paid by the health plan for furnishing the item or service only on a capitated basis pursuant to a written arrangement between the plan and the provider in which the provider assumes financial risk for furnishing the item or service;

"(H) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all third party payors to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary; and

"(I) remuneration given to individuals to promote the delivery of preventive care in compliance with regulations promulgated by the Secretary.".

SEC. ___15. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) Minimum Period of Exclusion for Practitioners and Persons Failing To Meet Statutory Obligations.—

(1) In general.—The second sentence of section 1156(b)(1) of the Social Security Act (42 U.S.C. 1320c–5(b)(1)) is amended by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than 1 year)".

(2) Conforming amendment.—Section 1156(b)(2) of such Act (42 U.S.C. 1320c–5(b)(2)) is amended by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain".

(b) Repeal of "Unwilling or Unable" Condition for Imposition of Sanction.—Section 1156(b)(1) of the Social Security Act (42 U.S.C. 1320c–5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations,"; and

(2) by striking the third sentence.

SEC. ___16. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) Application of Intermediate Sanctions for Any Program Violations.—

(1) In general.—Section 1876(i)(1) of the Social Security Act (42 U.S.C. 1395mm(i)(1)) is amended by striking "the Secretary may terminate" and all that follows and inserting the following: "in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section; or

"(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).".

(2) Other intermediate sanctions for miscellaneous program violations.—Section 1876(i)(6) of such Act (42 U.S.C.

1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

"(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.".

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) of such Act (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary provides the organization with the opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1);

"(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an entity has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to their attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(4) CONFORMING AMENDMENTS.—Section 1876(i)(6)(B) of such Act (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—

(1) REQUIREMENT FOR WRITTEN AGREEMENT.—Section 1876(i)(7)(A) of the Social Security Act (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking "an agreement" and inserting "a written agreement".

(2) DEVELOPMENT OF MODEL AGREEMENT.—Not later than July 1, 1995, the Secretary shall develop a model of the agreement that an eligible organization with a risk-sharing contract under section 1876 of the Social Security Act must enter into with an entity providing peer review services with respect to services provided by the organization under section 1876(i)(7)(A) of such Act.

(3) REPORT BY GAO.—

(A) STUDY.—The Comptroller General of the United States shall conduct a study of the costs incurred by eligible organizations with risk-sharing contracts under section 1876(b) of such Act of complying with the requirement of entering into a written agreement with an entity providing peer review services with respect to services provided by the organization, together with an analysis of how information generated by such entities is used by the Secretary to assess the quality of services provided by such eligible organizations.

(B) REPORT TO CONGRESS.—Not later than July 1, 1997, the Comptroller General shall submit a report to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance and the Special Committee on Aging of the Senate on the study conducted under subparagraph (A).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1995.

SEC. ___17. EFFECTIVE DATE.

The amendments made by this part shall take effect January 1, 1995.

PART 3—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SEC. ___21. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) GENERAL PURPOSE.—Not later than January 1, 1995, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c).

(b) REPORTING OF INFORMATION.—

(1) IN GENERAL.—Each government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken against a health care provider, supplier, or practitioner.

(2) INFORMATION TO BE REPORTED.—The information to be reported under paragraph (1) includes:

(A) The name of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.

(C) The nature of the final adverse action.

(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

(3) CONFIDENTIALITY.—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

(4) TIMING AND FORM OF REPORTING.—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

(5) TO WHOM REPORTED.—The information required to be reported under this subsection shall be reported to the Secretary.

(c) DISCLOSURE AND CORRECTION OF INFORMATION.—

(1) DISCLOSURE.—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section respecting a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

(B) procedures in the case of disputed accuracy of the information.

(2) CORRECTIONS.—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

(d) ACCESS TO REPORTED INFORMATION.—

(1) AVAILABILITY.—The information in this database shall be available to Federal and State government agencies and health plans pursuant to procedures that the Secretary shall provide by regulation.

(2) FEES FOR DISCLOSURE.—The Secretary may establish or approve reasonable fees for the disclosure of information in this database. The amount of such a fee may not exceed the costs of processing the requests for disclosure and of providing such information. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

(e) PROTECTION FROM LIABILITY FOR REPORTING.—No person or entity, including the agency designated by the Secretary in subsection (b)(5) shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

(1) The term "final adverse action" includes:

(A) Civil judgments against a health care provider in Federal or State court related to the delivery of a health care item or service.

(B) Federal or State criminal convictions related to the delivery of a health care item or service.

(C) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—

(i) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

(ii) any other loss of license of the provider, supplier, or practitioner, by operation of law, or

(iii) any other negative action or finding by such Federal or State agency that is publicly available information.

(D) Exclusion from participation in Federal or State health care programs.

(E) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

(2) The terms "licensed health care practitioner", "licensed practitioner", and "practitioner" mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

(3) The term "health care provider" means a provider of services as defined in section 1861(u) of the Social Security Act, and any entity, including a health maintenance organization, group medical practice, or any

other entity listed by the Secretary in regulation, that provides health care services.

(4) The term "supplier" means a supplier of health care items and services described in section 1819(a) and (b), and section 1861 of the Social Security Act.

(5) The term "Government agency" shall include:

(A) The Department of Justice.

(B) The Department of Health and Human Services.

(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

(D) State law enforcement agencies.

(E) State medicaid fraud and abuse units.

(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

(6) The term "health plan" has the meaning given to such term by section 1128(i) of the Social Security Act.

(7) For purposes of paragraph (2), the existence of a conviction shall be determined under paragraph (4) of section 1128(j) of the Social Security Act.

(g) Conforming Amendment.—Section 1921(d) of the Social Security Act is amended by inserting "and section ____21 of subtitle ____ of the appropriations, 1995" after "section 422 of the Health Care Quality Improvement Act of 1986".

PART 4—CIVIL MONETARY PENALTIES

SEC. ____31. CIVIL MONETARY PENALTIES.

(a) General Civil Monetary Penalties.—Section 1128A of the Social Security Act (42 U.S.C. 1320a–7a) is amended as follows:

(1) In subsection (a)(1), by inserting "or of any health plan (as defined in section 1128(i))," after "subsection (i)(1)),".

(2) In subsection (b)(1)(A), by inserting "or under a health plan" after "title XIX".

(3) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraphs:

"(3) With respect to amounts recovered arising out of a claim under a health plan, the portion of such amounts as is determined to have been paid by the plan shall be repaid to the plan, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by subtitle ____ of the appropriations, 1995 (as estimated by the Secretary) shall be deposited into the Health Care Fraud and Abuse Control Account established under section ____01(b) of such Act.".

(4) In subsection (i)—

(A) in paragraph (2), by inserting "or under a health plan" before the period at the end, and

(B) in paragraph (5), by inserting "or under a health plan" after "or XX".

(b) Prohibition Against Offering Inducements to Individuals Enrolled Under Programs or Plans.—

(1) Offer of remuneration.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a–7a(a)) is amended—

(A) by striking "or" at the end of paragraph (1)(D);

(B) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(C) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(D) by inserting after paragraph (3) the following new paragraph:

"(4) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program;".

(2) Remuneration defined.—Section 1128A(i) of such Act (42 U.S.C. 1320a–7a(i)) is amended by adding the following new paragraph:

"(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include—

"(A) the waiver of coinsurance and deductible amounts by a person, if—

"(i) the waiver is not offered as part of any advertisement or solicitation;

"(ii) the person does not routinely waive coinsurance or deductible amounts; and

"(iii) the person—

"(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

"(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

"(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

"(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all third party payors to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary; or

"(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations.".

(c) Excluded Individual Retaining Ownership or Control Interest in Participating Entity.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a–7a(a)), as amended by subsection (b), is further amended—

(1) by striking "or" at the end of paragraph (3);

(2) by striking the semicolon at the end of paragraph (4) and inserting "; or"; and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection, retains a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of, an entity that is participating in a program under title XVIII or a State health care program;".

(d) Modifications of Amounts of Penalties and Assessments.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a–7a(a)), as amended by subsections (b) and (c), is amended in the matter following paragraph (6)—

(1) by striking "$2,000" and inserting "$10,000";

(2) by inserting "; in cases under paragraph (4), $10,000 for each such offer or transfer; in cases under paragraph (5), $10,000 for each day the prohibited relationship occurs; in cases under paragraph (6) or (7), $10,000 per violation" after "false or misleading information was given";

(3) by striking "twice the amount" and inserting "3 times the amount"; and

(4) by inserting "(or, in cases under paragraph (4), 3 times the amount of the illegal remuneration)" after "for each such item or service".

(e) Claim for Item or Service Based on Incorrect Coding or Medically Unnecessary Services.—Section 1128A(a)(1) of the Social Security Act (42 U.S.C. 1320a–7a(a)(1)) is amended—

(1) in subparagraph (A) by striking "claimed," and inserting the following: "claimed, including any person who repeatedly presents or causes to be presented a claim for an item or service that is based on a code that the person knows or should know will result in a greater payment to the person than the code the person knows or should know is applicable to the item or service actually provided,";

(2) in subparagraph (C), by striking "or" at the end;

(3) in subparagraph (D), by striking "; or" and inserting ", or"; and

(4) by inserting after subparagraph (D) the following new subparagraph:

"(E) is for a medical or other item or service that a person repeatedly knows or should know is not medically necessary; or".

(f) Permitting Secretary To Impose Civil Monetary Penalty.—Section 1128A(b) of the Social Security Act (42 U.S.C. 1320a–7a(a)) is amended by adding the following new paragraph:

"(3) Any person (including any organization, agency, or other entity, but excluding a beneficiary as defined in subsection (i)(5)) who the Secretary determines has violated section 1128B(b) of this title shall be subject to a civil monetary penalty of not more than $10,000 for each such violation. In addition, such person shall be subject to an assessment of not more than twice the total amount of the remuneration offered, paid, solicited, or received in violation of section 1128B(b). The total amount of remuneration subject to an assessment shall be calculated without regard to whether some portion thereof also may have been intended to serve a purpose other than one proscribed by section 1128B(b).".

(g) Sanctions Against Practitioners and Persons for Failure to Comply with Statutory Obligations.—Section 1156(b)(3) of the Social Security Act (42 U.S.C. 1320c–5(b)(3)) is amended by striking "the actual or estimated cost" and inserting the following: "up to $10,000 for each instance".

(h) Procedural Provisions.—Section 1876(i)(6) of such Act (42 U.S.C. 1395mm(i)(6)) is further amended by adding at the end the following new subparagraph:

"(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (A) or (B) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).".

(i) Effective Date.—The amendments made by this section shall take effect January 1, 1995.

PART 5—AMENDMENTS TO CRIMINAL LAW

SEC. ____41. HEALTH CARE FRAUD.

(a) In General.—

(1) Fines and imprisonment for health care fraud violations.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1347. Health care fraud

"(a) Whoever knowingly executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services;

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365(g)(3) of this title), such person shall be imprisoned for any term of years.

"(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 1128(i) of the Social Security Act.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud.".

(b) CRIMINAL FINES DEPOSITED IN THE HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—The Secretary of the Treasury shall deposit into the Health Care Fraud and Abuse Control Account established under section ___01(b) an amount equal to the criminal fines imposed under section 1347 of title 18, United States Code (relating to health care fraud).

SEC. ___42. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

"(6)(A) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that—

"(i) is used in the commission of the offense if the offense results in a financial loss or gain of $50,000 or more; or

"(ii) constitutes or is derived from proceeds traceable to the commission of the offense.

"(B) For purposes of this paragraph, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

"(i) section 1347 of this title;

"(ii) section 1128B of the Social Security Act;

"(iii) sections 287, 371, 664, 666, 1001, 1027, 1341, 1343, or 1954 of this title if the violation or conspiracy relates to health care fraud; and

"(iv) section 501 or 511 of the Employee Retirement Income Security Act of 1974, if the violation or conspiracy relates to health care fraud.".

(b) PROPERTY FORFEITED DEPOSITED IN HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—The Secretary of the Treasury shall deposit into the Health Care Fraud and Abuse Control Account established under section ___01(b) an amount equal to amounts resulting from forfeiture of property by reason of a Federal health care offense pursuant to section 982(a)(6) of title 18, United States Code.

SEC. ___43. INJUNCTIVE RELIEF RELATING TO FEDERAL HEALTH CARE OFFENSES.

Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by inserting "or" at the end of subparagraph (B); and

(3) by adding at the end the following:

"(C) committing or about to commit a Federal health care offense (as defined in section 982(a)(6)(B) of this title);".

PART 6—PAYMENTS FOR STATE HEALTH CARE FRAUD CONTROL UNITS

SEC. ___51. ESTABLISHMENT OF STATE FRAUD UNITS.

(a) ESTABLISHMENT OF HEALTH CARE FRAUD AND ABUSE CONTROL UNIT.—The Governor of each State shall, consistent with State law, establish and maintain in accordance with subsection (b) a State agency to act as a Health Care Fraud and Abuse Control Unit for purposes of this part.

(b) DEFINITION.—In this section, a "State Fraud Unit" means a Health Care Fraud and Abuse Control Unit designated under subsection (a) that the Secretary certifies meets the requirements of this part.

SEC. ___52. REQUIREMENTS FOR STATE FRAUD UNITS.

(a) IN GENERAL.—The State Fraud Unit must—

(1) be a single identifiable entity of the State government;

(2) be separate and distinct from any State agency with principal responsibility for the administration of any Federally-funded or mandated health care program;

(3) meet the other requirements of this section.

(b) SPECIFIC REQUIREMENTS DESCRIBED.—The State Fraud Unit shall—

(1) be a Unit of the office of the State Attorney General or of another department of State government which possesses statewide authority to prosecute individuals for criminal violations;

(2) if it is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority and has formal procedures, (A) assure its referral of suspected criminal violations to the appropriate authority or authorities in the State for prosecution, and (B) assure its assistance of, and coordination with, such authority or authorities in such prosecutions; or

(3) have a formal working relationship with the office of the State Attorney General or the appropriate authority or authorities for prosecution and have formal procedures (including procedures for its referral of suspected criminal violations to such office) which provide effective coordination of activities between the Fraud Unit and such office with respect to the detection, investigation, and prosecution of suspected criminal violations relating to any Federally-funded or mandated health care programs.

(c) STAFFING REQUIREMENTS.—The State Fraud Unit shall—

(1) employ attorneys, auditors, investigators and other necessary personnel; and

(2) be organized in such a manner and provide sufficient resources as is necessary to promote the effective and efficient conduct of State Fraud Unit activities.

(d) COOPERATIVE AGREEMENTS; MEMORANDA OF UNDERSTANDING.—The State Fraud Unit shall have cooperative agreements with—

(1) Federally-funded or mandated health care programs;

(2) similar Fraud Units in other States, as exemplified through membership and participation in the National Association of Medicaid Fraud Control Units or its successor; and

(3) the Secretary.

(e) REPORTS.—The State Fraud Unit shall submit to the Secretary an application and an annual report containing such information as the Secretary determines to be necessary to determine whether the State Fraud Unit meets the requirements of this section.

(f) FUNDING SOURCE; PARTICIPATION IN ALL-PAYER PROGRAM.—In addition to those sums expended by a State under section ___54(a) for purposes of determining the amount of the Secretary's payments, a State Fraud Unit may receive funding for its activities from other sources, the identity of which shall be reported to the Secretary in its application or annual report. The State Fraud Unit shall participate in the all-payer fraud and abuse control program established under section ___01.

SEC. ___53. SCOPE AND PURPOSE.

The State Fraud Unit shall carry out the following activities:

(1) The State Fraud Unit shall conduct a statewide program for the investigation and prosecution (or referring for prosecution) of violations of all applicable state laws regarding any and all aspects of fraud in connection with any aspect of the administration and provision of health care services and activities of providers of such services under any Federally-funded or mandated health care programs;

(2) The State Fraud Unit shall have procedures for reviewing complaints of the abuse or neglect of patients of facilities (including patients in residential facilities and home health care programs) that receive payments under any Federally-funded or mandated health care programs, and, where appropriate, to investigate and prosecute such complaints under the criminal laws of the State or for referring the complaints to other State agencies for action.

(3) The State Fraud Unit shall provide for the collection, or referral for collection to the appropriate agency, of overpayments that are made under any Federally-funded or mandated health care program and that are discovered by the State Fraud Unit in carrying out its activities.

SEC. ___54. PAYMENTS TO STATES.

(a) MATCHING PAYMENTS TO STATES.—Subject to subsection (c), for each year for which a State has a State Fraud Unit approved under section ___52(b) in operation the Secretary shall provide for a payment to the State for each quarter in a fiscal year in an amount equal to the applicable percentage of the sums expended during the quarter by the State Fraud Unit.

(b) APPLICABLE PERCENTAGE DEFINED.—

(1) IN GENERAL.—In subsection (a), the "applicable percentage" with respect to a State for a fiscal year is—

(A) 90 percent, for quarters occurring during the first 3 years for which the State Fraud Unit is in operation; or

(B) 75 percent, for any other quarters.

(2) TREATMENT OF STATES WITH MEDICAID FRAUD CONTROL UNITS.—In the case of a State with a State medicaid fraud control in operation prior to or as of the date of the enactment of this Act, in determining the number of years for which the State Fraud Unit under this part has been in operation, there shall be included the number of years for which such State medicaid fraud control unit was in operation.

(c) LIMIT ON PAYMENT.—Notwithstanding subsection (a), the total amount of payments made to a State under this section for a fiscal year may not exceed the amounts as authorized pursuant to section 1903(b)(3) of the Social Security Act.

SEC. . DISQUALIFICATION OF MEMBERS OF CONGRESS FROM PARTICIPATING IN THE FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAM.

(a) FINDINGS.—The Congress finds that—

(1) the Congress has failed to enact legislation that extends health insurance to all Americans and reduces inflation in health care costs;

(2) Members of Congress may obtain health insurance through the Federal Employees Health Benefits Program, which provides Members of Congress with guaranteed and affordable private health insurance, choice of health plans and choice of doctor, and no exclusions for preexisting medical conditions; and

(3) Members of Congress currently receive on average a 72 percent contribution of their health insurance premiums from their employer, the taxpayers.

(b) PURPOSE.—The purpose of this section is to provide that Members of Congress shall not obtain taxpayer-financed health insurance under the favorable conditions established through the Federal Employees Health Benefits Program unless Congress enacts health reform legislation that gives the American people the type of affordable, guaranteed health insurance that Members of Congress have provided for themselves.

(c) LIMITATION ON FEDERAL EMPLOYEE HEALTH BENEFITS PLAN COVERAGE FOR MEMBERS OF CONGRESS.—Effective on January 1, 1995.—

(1) the Office of Personnel Management shall—

(A) terminate the enrollment of any Member of Congress in a health benefits plan under chapter 89 of title 5, United States Code; and

(B) prohibit the original enrollment, re-enrollment, or change of enrollment of any Member of Congress in such a plan; and

(2) the Secretary of the Senate and the Clerk of the House of Representatives shall cease making applicable employee withholdings and Government contributions under section 8906 of title 5, United States Code, for any Member of Congress.

(d) CONTINUED COVERAGE.—A Member of Congress who is enrolled in a health benefits plan under chapter 89 of title 5, United States Code, on December 31, 1994, may receive continued coverage under section 8905a of such title.

AMENDMENT NO. 2599 TO AMENDMENT NO. 2594

Mr. DOMENICI. Mr. President, on behalf of Senator DOLE, I send to the desk an amendment to the amendment that is pending.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from New Mexico [Mr. DOMENICI], for Mr. DOLE, for himself, and Mr. DOMENICI, proposes an amendment numbered 2599 to amendment No. 2594, as modified.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is located in today's RECORD under "Amendments Submitted.")

Mr. COHEN. Mr. President, let me just take a moment to explain the effect of the change that has been sent to the desk. The effect of the change is to the working account language in my amendment to fend off a point of order on budget grounds. So any challenge that may lie to the amendment by virtue of its violating the budget has been corrected by this modification.

So the debate that took place yesterday, which I think was fully debated, is the issue of health care fraud, in which there is no disagreement on the part of anyone here that I am aware of, no disagreement from the President of the United States, none from the majority leader or minority leader in terms of the contents of the amendment. I believe it enjoys overwhelming bipartisan support.

At the proper time, I am going to urge my colleagues to vote in favor of it.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mrs. BOXER). The Senator from New Mexico.

AMENDMENT NO. 2597 TO AMENDMENT NO. 2596

Mr. DOMENICI. Madam President, I understand that it would be acceptable to Senator COHEN from Maine if we ask consent that his amendment be temporarily set aside so we may proceed with the Boren-Domenici amendments regarding congressional reform.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. I seek that request at this point, Madam President.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Madam President, I am proud to join with the Senator from New Mexico in offering this amendment that is now pending. As my colleagues know, over 2 years ago, both Houses of the Congress acted to pass legislation that established the Joint Committee on the reform of this institution. It was a very unusual joint committee that had an equal number of Members of the House and Senate, an equal number of Members from each party. There were six Democratic Senators, six Republican Senators, and a like number from the House of Representatives, plus the Democratic and Republican leadership of the two Houses.

That committee was asked to do its work expeditiously with the minimum of staff and the minimum amount of expenditures. It worked hard. The committee's work was completed on time within 1 year and, unlike most temporary committees around here, the committee then automatically went out of existence and all expenditures by the committee were stopped. We are exceedingly proud of that record.

The committee brought to us, to the membership of both Houses, a set of strong, constructive reform recommendations which would strengthen this institution. Those recommendations were then taken to the Rules Committee on this side of the Capitol. This Rules Committee made some modifications and reported them to us for our consideration.

Because of procedural problems on the Senate floor, we have been unable to bring those recommendations, those important recommendations of the bipartisan committee on the reform of Congress to this body for consideration. Out of frustration, the Senator from New Mexico, who was the vice chair on the Senate side of this committee, and I decided we should not allow this Congress to adjourn without giving the Members of the Senate an opportunity to vote on these reform recommendations. That is why we have taken the only option available to us and have presented those recommendations in the form of an amendment on the pending legislation.

It is perhaps ironic, and indeed symbolic, that in order to have the reform package—a product of long, bipartisan deliberation, much work, and much study—brought to the Congress of the United States for consideration, that it had to be added as an amendment to an amendment of disagreement to a conference report pending on a totally different subject. The fact that we have had to use this parliamentary device to bring before the Congress a recommendation on reforms that would make this body more efficient, more accountable to the American people, more able to make sound policy decisions, is indicative of the problem we now face.

I do not need to tell my colleagues, I do not need to tell the current occupant of the chair, that this institution is in grave trouble. Public confidence in this institution has sunk to an all-time low. According to some polling data, only 14 percent of the American people now have confidence in the Congress of the United States or approve of the way we are conducting our business —a historic, all-time low approval rating and confidence rating for the Congress of the United States.

According to a study done by the Kettering Foundation, 79 percent of the American people no longer feel that Congress represents or cares about people like them. They look at our process and they cannot understand what is going on. They see that action on important policy decisions simply does not occur and yet the situation is so confusing they do not know which Members of Congress to hold accountable. It is as if we are speaking a foreign language here when the parliamentary tangles in which we find ourselves are viewed by the public, and more and more they have come to view the Members of the House and Senate as Members of a privileged class of people, not living under the laws which we pass as other Americans have to live under those laws, not focusing our attention on the important matters that need to be decided for the Nation's future.

Some have said that Congress has always been unpopular to some degree. Certainly that is true. People have viewed the political process, they have thought of their own problems, and they have always expressed some frustration with the inability of Congress to come to grips with serious problems. But I suggest that the current level of disapproval of this body, the current lack of trust of this institution, has sunk to levels that are not normal by any standard of judgment.

Yes, it is true at any given time over the last two centuries of our existence as an independent Republic, 40 or 50 percent of the people have disapproved of this institution. There have been moments in the past when the approval rating of Congress has sunk as low as in the range of 30 to 40 percent approval. But we have never been in a period, as we have been in the last 4 to 5 years, in which approval ratings have hovered in the 20's and now dropped all the way down to 14 percent. It is not normal.

What is happening in this country is the development of an unparalleled level of cynicism on the part of people about their own Government. This institution, which belongs to the people, this institution where the people are to have a voice in important policy decisions, has come to be judged by the people as a place where they have no voice and where they are largely unrepresented. I cannot tell you adequately the depth of the concern that I have for the future of our political system in this country if we do not rebuild that relationship of trust between the American people and our institutions.

I will leave this Chamber for the last time in a few days as I will be leaving my membership in the U.S. Senate to go on to other opportunities for public service as president of the University of Oklahoma. I look back on my last 16 years as a U.S. Senator with great pride and in many ways with great satisfaction. As I walk up the steps to the Senate Chamber these days, I find myself pausing on some of the steps, looking up at the Capitol dome, and reflecting upon my experience here. I think about the greatness of this institution and all that it has contributed to this country in the course of its history.

As I sit here at my desk, I sometimes pull open the drawer and I look at the names of those Senators who have served here before me and who have occupied this desk—as we all have a tradition of carving our own names inside the drawers of the desks on the Senate floor where we sit. I have been privileged to occupy the desk previously occupied by late President Harry Truman. On this floor are the desks that have been used by Clay and Calhoun and Webster, by Presidents of the United States, by people who have made a great contribution to this country.

As you sit here you reflect upon the fact we are now the trustees of this institution. It has been said that the greatest thing that can happen to any human being in his or her life is to be able to be part of something larger than oneself; to serve a cause that is far more important than the personal success of any one of us as individuals; to devote your life to some great cause that matters.

All of us who have been privileged to come here by the votes of the men and women in our own States have, indeed, been given an opportunity to be part of something far greater than ourselves. Members of the Senate come and go, the membership of this body changes, but it remains—regardless of the identities of those who occupy these desks temporarily—an essential part, in fact, at the heart of our political process. It is the building block on which the legitimacy of our political system rests. We all remember the cry at the time of independence, "no taxation without representation," that we Americans wanted to establish a system of government in which we had the ultimate voice.

So, Madam President, when we reach a situation in this country in which the people themselves no longer feel that they are represented or heard by the Congress of the United States, we have cast in doubt the very legitimacy of our entire political process.

There is no greater danger to our democracy than the frustration of the American people and the feeling that they seem to be developing of utter helplessness to affect things in their own country. When the American people say to us, as they are saying in poll after poll after poll: We no longer are going to be involved in politics at the Federal level, either by voting or by campaigning for candidates in whom we believe, or participating in our political parties because we do not think we can make a difference—we have a problem that must not be ignored. We have a political system and a social system in peril.

And so, it is not only with a great sense of pride that I have had the privilege of serving here, not only with a feeling of gratitude to the people of my State who allowed me to come and be part of a cause and part of an institution far more important than my own individual well-being, it is also with an overwhelming sense of foreboding about the future of our political system and the future course of American politics that I will leave this institution in a few days.

Madam President, we are going to change what is happening in American politics. If we are going to change those figures in which it is indicated that four-fifths of the American people no longer believe that this institution belongs to them or they have any ability to impact it or even hold its Members accountable, we must act. There is no one else to do it. Those millions of Americans across this country who have lost their trust in this institution cannot come to this floor and vote. They cannot adopt the reforms that are necessary to make this institution, once again, accountable to them. They cannot come here and vote to change the way we finance campaigns.

Under a system in which people have to raise more and more and more money to have any chance to get elected—millions of dollars, $4 to $5 million on the average to win a U.S. Senate race, and the people look at that and they say, "If I don't have the money to give a thousand dollars for a dinner ticket to help some candidate, or $5,000, or if I don't have the power to hold a fundraiser and raise $1,200, why are any of those people going to listen to me?"

The American people do not have the opportunity to come here and vote for reforms in that system, but we do. We are Members of this institution. They have empowered us with their votes to act as their trustees. We have a chance to vote on it, Madam President. They do not have the power to come here as they look at what has happened to the U.S. Senate and the U.S. Congress, in terms of the inefficient way in which we conduct our business. They do not have the power to come here and change it.

They look at the fact that since the last major reform of this institution when we ended up with 38 committees, an equal number in each House, the same committee definitions in the House and the Senate so that if we had a difference of opinion between the two Houses we could get together and work it out. Thirty-eight committees, 19 in each House so the Members of the Senate and the Members of the House could belong to committees, focus their attention on important problems and get action.

They look at the fact that we have disintegrated and fragmented into a bureaucracy of our own that now strangles us. Three hundred committees and subcommittees, 300 committees and subcommittees in the Congress of the United States, all going off in different directions. No wonder we cannot balance the budget. No wonder we cannot get spending under control. No wonder we cannot make decisions on health care. No wonder we cannot get trade legislation like GATT. No wonder we cannot act on Superfund. Why? Because if you have any essential problem in this body, it ends up not going to one committee in each House, it ends up going to 10 or 15 committees in each House.

I have been on conference committees to work out differences between the House and the Senate on a particular bill in which as many as 13 different committees have been represented from the two Houses, and you have had over 200 Members of Congress trying to sit down in a room and work out a difference of opinion between the House and the Senate. It is more like the Versailles Treaty negotiations in the Hall of Mirrors at Versailles than it is like an orderly process to conduct business here.

Mr. DOMENICI. Will the Senator yield?

Mr. BOREN. I will be happy to yield.

Mr. DOMENICI. Might I ask, would you have a thought as to how many staffers were in attendance when you talked about 13 committees? Was there a big enough room?

Mr. BOREN. When I talked about 13 committees and I talked about 200 Members of the House and Senate, let me say that we had to move that to an auditorium, and in the chairs around the room were probably 400 or 500 staff members as well. That is something else that has happened.

Since 1946, we have gone from approximately 2,000 staff members working for the Members of the House and Senate to 13,000 to 14,000 working with us directly. If we add in the other support research groups, 38,000 staff. I ask my colleagues to ponder this point—the American people have already pondered it: The level of statesmanship in this institution, the quality of the decisions rendered on important policy decisions, has it improved dramatically because we have gone from 38 committees to 300 committees and subcommittees, because we have gone from 2,000 staff to 38,000 staff? We all know the answer.

The members of the American public, the American citizens, cannot come here and vote to change it. They cannot come here and vote to streamline it. They cannot come here and vote to make our process more accountable. But, Madam President, we can. We have the vote. We have been given the vote. We have been given the responsibility of making a decision on those important matters. Not only do we create an impossible bureaucracy with a myriad of committees, with a staff grown so large now that we can no longer even speak with each other, but we talk to each other through staff members.

Mr. DOMENICI. Will the Senator yield again?

Mr. BOREN. I will be happy to yield.

Mr. DOMENICI. I would like to make another observation. Perhaps you can comment on it, considering what you discussed. It is my understanding the bills clearing both Houses and going to the President are five times longer today than they were 20 years ago.

Mr. BOREN. The Senator is absolutely correct. They have become much longer. We micromanage in detail. We create work for ourselves because we have 100 or 200 unnecessary subcommittees.

For example, let us say you give a Member a subcommittee of their own. They also get two or three additional staff members to staff that subcommittee, which should not even exist in the first place. And then they quickly say, "We must show that there is a reason for our existence," and so the staff begins to develop some legislation. And then you begin to hold hearings on the legislation that was not needed in the first place. And then pretty quickly, you are getting letters from your constituents who are alarmed that this unnecessary subcommittee is holding unnecessary hearings on an unnecessary bill that should not have been introduced in the first place, and you have to hire more staff to answer the letters and the inquiry, and more staff members to dispatch to those unnecessary hearings on the unnecessary bill by the subcommittee that should not exist. By the time you are through, we have so clogged our agenda that there is no time left for us to do anything that is important to the future of this Nation.

Our bipartisan committee held 36 hearings for hundreds of hours, with 240 witnesses coming from both parties, thoughtful Members of Congress, thoughtful former Members of Congress, citizens from the grassroots coming here to testify and to talk to us. And one of the themes that came back again and again is, we do not make the long-range decisions on the important issues affecting America's future: How do we get spending under control? How do we change our tax policy to make us more competitive so we can compete in the marketplace in the world and have jobs for our children and grandchildren? How do we educate the next generation? What do we do about the school dropout rate? What do we do about the rising level of crime in our society because our social fabric is collapsing? These kind of long-range decisions. How do we change our foreign policy to develop a new and coherent architecture for making decisions in the post cold-war world?

Why do we not make these important decisions? Because, Madam President, for one thing, we do not have the time to even think about them because we are running from one unnecessary hearing of one unnecessary subcommittee to another, one committee meeting to another, we do not even have time to think. We have what Senator BYRD has called a fractured attention span. The average Member of the Senate serves on 12 different committees and subcommittees. You need roller blades to get from one place to the next. We are called the greatest deliberative body in the world.

Madam President, you are lucky if you can come from one committee meeting and stay there 10 or 15 minutes because you are already being called to go to the next one, or something else has happened on the Senate floor.

I was once asked to represent my party—there were four of us asked to sit down with four Senators from the other side of the aisle—to talk about the civil rights legislation, a very important bill. I remember the Senator from Missouri [Mr. DANFORTH] was leading the group on the other side of the aisle at that time. Eight Senators. We had passed a bill twice; the President had vetoed a bill twice; and we were going to sit down together, with representation from the White House, and work out a bipartisan solution that would bring progress to the country, that would have the support of the President and actually do something.

Madam President, it took us 3 weeks—3 weeks—to find a 1-hour time slot in which those eight Senators could sit down in the same room together and think about this problem and try to work it out. And do you know what happened? When the 1 hour finally arrived when all eight of us were supposed to be able to be there, never were there more than three of us in that room at the same time. A couple of people were there on time. They stayed about 5 or 10 minutes. They said, "I apologize, I have to rush off" to this hearing or rush off to that meeting. A different group of people, three or four different people, came in the middle of the meeting. They left before it was over. And two other, different Senators showed up at the end.

One hour of time that it took 3 weeks to find and we could not even keep eight people in the room to deliberate about something that important.

No wonder we have a budgetary situation like we have. No wonder we do not have any architecture for educational policy. No wonder our foreign policy is floundering all over the lot without any clear sense of direction. None of us has any clear sense of direction. We do not have time to think. It is outrageous that Members of the Senate would spread themselves to belong to 12 different committees and subcommittees. That is average. There is at least one Member of the Senate who belongs to 23 committees and subcommittees and several Members of the Senate who belong to more than 20 committees and subcommittees. We give waiver after waiver after waiver to Members of the Senate to serve on as many committees as they want.

Why would they do that? Print them all on that letterhead. Senator X belongs to this subcommittee and that subcommittee and this committee and that committee. And we have to have all those committees, also, so that everybody can be chairman or ranking member of something. Everybody has a little empire. At the end of the day we have spread ourselves so thin, we have become so fragmented we have spent our time dealing, as I said, with the unneeded hearing on the unneeded bill put forward by the unneeded subcommittee which, of course, is staffed by the unneeded staff and we do not have any time left to think about the important problems facing this Nation.

The American people cannot come here and vote to change that, but we can. We can. We have an opportunity to vote. We are going to vote at the end of this debate on this package of reform, which will cut in half virtually the number of unnecessary subcommittees, getting rid of them, cut in half the number of subcommittees, reduce the number of committees on which Members of the Senate can serve, set up a scheduling system that will work so that certain committees meet at certain times; they will not be overlapping. We will not be running from one place to the next.

Mr. SIMON. Will my colleague yield for a question?

Mr. BOREN. I would be happy to yield to my colleague.

Mr. SIMON. First of all, I wish to commend both Senator BOREN and Senator DOMENICI for leadership in facing some of our problems here.

The Senator mentioned all the committees. Committees are meeting right now. People come into the gallery and wonder how come the Senate is meeting. Right now, we have five Members of the Senate in the Chamber.

I served in the State legislature in Illinois, and in many ways we were not a strong body. We passed way more legislation than we should have. Committees were not strong. But when you were in the chamber, in the State legislature, whether it was the State Senate or State House of Representatives, the other members were there, and they could hear and listen to debate and thoughtfully take part in things.

I can remember one debate when Senator ROBERT BYRD was particularly forceful, and if all the Members of the Senate had heard what he had to say, his point of view would have carried. But there were just a handful of us here to listen to him.

One of the things—and I recognize the immediate proposal does not deal with this—but one of the things that we have to do, I think, at some point is to change our procedure so that when the Senate is in session, we are really in session and Senators are here.

I thank my colleague for yielding.

Mr. BOREN. I thank my colleague for his comments. He is absolutely correct. He is on target. We hope that these recommendations—which are included in this amendment, by the way—which set up a sequencing of committee meeting schedules would also make it possible for Members to be on the Senate floor when we are really conducting business. We have an opportunity to reform the system, to begin to get the staff back down to reasonable levels. I am here not denigrating the work of staff. Members of the staff are dedicated. They do good work. They would do better work if there were fewer of them.

Now, we cannot go all the way back to 2,000. We have a more complex situation than we had in 1946. But we never should have moved from 2,000 to 38,000. That is quite clear. We should have never moved from 38 committees and very, very few subcommittees to now 300 committees and subcommittees. We cannot allow Members of the House and Senate to continue to have waiver after waiver to serve on more and more committees because they cannot really be a part of the deliberative process.

If we would simplify this process, get rid of our own bureaucracy, the American people would also be able to fix responsibility. They would know which Senator it was or which group of Senators killed a bill or passed a bill. They could hold them accountable in the next election. Now they cannot even figure out what we are doing. It is a mystery. It is a maze.

We cannot even understand it. How many of us can even understand the Budget Act. We have been through a process here in the last few days on the campaign finance reform bill. We have been voting and having filibusters and cloture motions on a motion to disagree with the House, 30 hours of debate, a motion on asking for a conference, 30 hours of debate, a motion on appointing conferees before we can even sit down and talk to Members of the house on that issue.

We could pick 100 other issues. People cannot understand what we do let alone why we do it. We have a budgetary process, and I am going to defer to my colleague and friend from New Mexico to go into more detail on this subject because he has had the privilege of being one of the leaders of the Budget Committee of this institution, and he has provided extraordinary service there, under difficult circumstances because of the process, the process that we have. We pass a resolution to ourselves, telling ourselves what kind of budget we should write. Then we pass another resolution telling us whether we should do it. Then we pass another one enforcing it. And then we give instructions to all the committees to follow suit. And by the time we complete all the process, instructing ourselves and passing resolutions about what we ought to do, we do not have time to do it and very often we do not have it in place at the end of the year.

One of the things we do is reinvent the wheel every year. We go back and every single year you have to pass a reauthorization for every spending program. And then you have to pass an appropriation for every spending program. And of course, before that, you have to have passed a budget resolution telling us that we ought to pass a certain authorizing bill and a certain appropriating bill for that same function. We do it every single year, in spite of the fact that studies indicate that well over 90 percent of the budget does not change from one year to the next. But we spend all of our time and all of our effort and energy reenacting those things that remain the same every year.

Why in the world does the Senator from New Mexico propose to the joint committee, why not have a 2-year budget, 2-year authorizations, and 2-year appropriations? For that 6 or 8 percent that might need changing from one year to the next, we can devote our attention just to that. We can have supplemental appropriations bills that take care of emergency needs, things that have to be changed. But in the meantime we can use that other 92 percent of our time providing oversight over the programs that we passed last year.

Every bit as important, and I would think of more importance, to the average American is not only that we appropriate and spend their money but that we spend some time looking at how it is being spent. We pass a program. We pass billions of dollars to fund it. And then we spend almost no time looking to see if that money is being spent wisely or as it was intended to be spent. What progress could come if we would pass a 2-year budget, 2-year authorization bills, 2-year appropriations bills. The American people could engage in long-range planning, at least 2 years instead of 1 year, and we could spend additional time providing oversight for the American taxpayers to determine how their money has been spent.

Now, Madam President, we are not going to restore the confidence of the American people overnight. I would not pretend to say that this package of reforms solves all the problems. For example, I would like to see included in it—and we were not able to at that time complete our work on this proposal—I would like to see us pass provisions that would make sure we live under the provisions of law under which we insist the American people live. We pass labor rules, wage and hour laws, safety laws, and we say we will send inspectors down to every little, small business to make sure you comply with all these laws, and then we say, by the way, we exempt Congress.

No wonder we are not sensitive to the burdens we are placing on small businesses and other Americans with some of the laws we pass, because we do not have to struggle with living under them ourselves. That needs to be corrected.

We have an ethics process, for example, in which we are the judge and jury of our own Members if they are charged with misconduct. I think the American people would have much more confidence in us if we had some people from outside the membership of this organization looking at ethics cases. It is very difficult. How do you judge a colleague? Do you judge a colleague with whom you serve on the same committee? Or maybe a colleague who has a life-and-death power over some bill you are trying to pass? Yet you are asked to judge them in terms of their ethical behavior? So are other things that need to be done.

But this proposal now before us, the work of a joint bipartisan committee with hundreds of hours of hearings, 240 witnesses, 36 days of hearings, much tribulation, much working together, with Democrats and Republicans joining hands to do very significant things.

It does cut in half the number of subcommittees. It does cut in half individual Senate committee assignments so that people can focus this time. It abolishes the four joint committees that are unnecessary. It does mean that Members have to be at the committee meetings if they are going to cast a deciding vote on whether a bill is going to pass or not. They simply cannot send in the proxy and let somebody else vote for them.

It reforms the budget process. It establishes a 2-year process. It does require quarterly deficit reports so we know where we are in terms of trying to get the budget deficits under control.

It does bring about a 12-percent reduction in staff so that we can begin to get on the right track and stop the creation of unnecessary work for both the Members and the staff. It does require that we have some kind of control over additional people that are sent to work for us by other agencies of Government.

It does simplify our floor procedures so that we cannot have so many filibusters on so many things. So it begins to fix accountability, and it begins to help this institution function in a more workable way.

Madam President, the American people are going to know whether or not we voted to take this significant first step. I think it would be unthinkable for this session of Congress to adjourn without the Members even voting on recommendations that they themselves said they wanted to receive. They appointed us, 12 Members of the Senate and 12 Members of the House. They asked us to work hard. We did work hard. They said we do not want a proposal that is a pro-Democratic proposal or a pro-Republican proposal. We want to have something that will be in the national interest, something on which Republicans and Democrats can join hands. We have done that.

We had a unanimous-consent vote in our committee in terms of bringing this package of recommendations to the full Senate. The chairman of the Rules Committee, Senator FORD, who is on the floor now, was a member of our reform committee, and he also chaired the Rules Committee deliberations on that proposal. His committee spent many hours working on this proposal as well. It would be a shame and a disgrace if this Congress should adjourn without taking positive action on these recommendations.

There is a major disconnect between what we are doing and what the people want us to do. They want us to function efficiently. They want us to have careful oversight over taxpayer dollars. They want us to engage in long-range thinking and not short-term politics. They want us to quit spending so much of our time raising money from special interest groups to finance our campaigns and concentrate on the problems of the country. Above all they want us to quit playing petty partisan games like children in the schoolyard calling each other names, and figuring out how the Democrats can beat the Republicans or the Republicans can beat the Democrats or how we can use this institution not as a forum for making these decisions that are needed by our country, but as a forum for scoring political points, figuring out how we can get that vote to embarrass with an amendment that will put the other party on spot so it will be on the 6 o'clock network news.

As the American people have become more and more fed up with partisan politics, this institution has become more and more polarized along party lines. Here we come with a recommendation that does not come from that side of the aisle or this side of the aisle. It comes from both sides of the aisle. It comes as a proposal that is in the benefit of this country. It comes as a proposal from a committee that decided we will stop being Republicans or Democrats and we will be Americans for a change.

For us not to act positively after that kind of bipartisan effort would be a message to the American people that we do not care if 86 percent of you do not like the way we are doing business, and we do not care if 80 percent of you think we do not represent you, that we do not care about people like you; we are not concerned that the trust essential for the functioning of our Government has been broken between our institutions of Government and the American people.

We are willing to take that chance. We are willing to put at risk these precious political institutions for which men and women have died in one generation after another, in which those who formed this country in the beginning set up these institutions and had the intellectual insight to form them, and then the generations that have loved them one after another, even risking their lives.

We are willing to jeopardize the future vitality of these institutions because we are more interested in protecting our party's advantage or the little personal empires so we can have three more staff members for that unnecessary committee; so we can put another line on our stationery. Far be it from us to give up any of our little power bases in the name of accountability and efficiency of an institution that does not even belong to us. It belongs to the American people—not to a single one of us.

Madam President, they cannot vote. But we can. We are the trustees of this institution. How long are we going to wait to act? Are we going to wait until only 1 percent of the American people have confidence and trust in this institution? We are down to 14 percent. How long are we going to wait to act? It has been 46 years since the last significant reform of this institution. How long are we going to wait to act?

In the last election the American people spoke in every way they could, even voting for an independent, third-party candidate for President in record numbers. Why? Because they were trying to express their frustration. And in State after State, including mine which passed it by a 2-to-1 majority less than 10 days ago. The American people said we cannot do anything about it, we will turn to term limits as a radical solution if all else fails.

They have told us in every way that they can. How long are we going to wait? Are we going to wait until there is a march on Washington? Are we going to wait until the American people become so angry and so frustrated that they lash out in ways that might be destructive in the long run of the political process?

How long are we going to wait? My appeal to my colleagues is wait no longer.

Mr. DOMENICI. Will the Senator yield for a question?

Mr. BOREN. I am happy to yield.

Mr. DOMENICI. Will the Senator from Oklahoma add to his list? He mentioned the shameful things. Would he agree with this Senator that it would be shameful if this measure was defeated on a procedural vote by using an arcane provision of the Budget Act that says you cannot pass a bill on the floor of the Senate that affects the budget process unless it is reported by the Budget Committee? There are no dollars involved in this bill, are there, other than we are going to save money?

Mr. BOREN. Absolutely not.

Mr. DOMENICI. Why should the Senate defeat this bill on a point of order that it violates the Budget Act? The Budget Act most people think has to do with the budget, with dollars. They asked us to do this. They appointed us to do it. And sitting over here in a dark little corner is another part of this process that people do not understand; namely, this whole bill might fall, or we may need 60 votes, because the Senator is going to say it should have gone to the Budget Committee so they could have looked at two or three provisions that have to do with the budget. Is that not correct?

Mr. BOREN. I thank my colleague for his question. He is absolutely right.

Madam President, if on a matter of this importance, an opportunity to reform this institution, this is sidetracked on a procedural basis and Members of this institution go home and tell the voters, "Well, we would have voted for it but, of course, it would have violated this arcane procedure that we have," all I can say is if it is defeated on a procedural vote, giving Members an opportunity who do not really want reform to say "I had to vote that way because of the procedure," all I can say is I think 14 percent is a true high approval rating for this institution to have if that is what happens.

Let me close with this: I said it had been a privilege for me to serve here. It has been. Some of the finest men and women I know serve in the U.S. Senate. I have great admiration for a large number of my colleagues as individuals.

I am sure that never again in my life will I be associated with people who will have as high a commitment to serving their country as many of the people with whom I serve in this institution. And the saddest thing of all, to me, is to see Members come here, particularly the new Members who come here, with such a strong desire to make a difference, to render a service, to leave this institution stronger than they found it, to put something of themselves back, give something back to the country, so that when we hand over our political institutions to the next generation, to our children and our grandchildren, they will be even stronger than we found them. Think about it. Every succeeding generation of Americans has passed on to the next generation a country filled with more opportunity for them than the preceding generation had enjoyed.

Madam President, what a sad day and what a tragedy it would be if those who have come here desiring to serve, desiring to give of themselves, would pass up the opportunity to change the process, which so beats down the will of individual Members of this institution to make a contribution, and many come to feel it is almost impossible to get things done. It is not only the American people who think it is impossible to get things done here. It is many of the best Members of the House and Senate who have come to that conclusion themselves. And, regretfully, in many respects, I have come to that conclusion. That is why I am seeking another opportunity to serve the public where I think, at the end of the day, I will at least have the satisfaction of knowing that I have made a difference, particularly in the lives of young people who will be coming along in the next generation and providing leadership for this country.

So, Madam President, I appeal to my colleagues. So many have said, "I want to get things done, but the process prevents me from getting things done." Well, this is our chance. This is our chance to reform that process that takes away from our energies, that in the longrun defeats our resolve and our determination. Let us change it. Let us not wait. We have waited far too long. Let us not take the risk that comes from undermining the trust and confidence of the American people in this institution. We would be irresponsible indeed to allow that risk to continue.

It is time to act. Let us do it today. There is an opportunity. Let us put aside our own personal ambitions, our own personal empires, carved out with this institution, and let us take action. Let us take action that will make this institution vital, active, long range in its thinking, and accountable to the American people.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Madam President, while I cannot applaud the Senator, I really commend him on what he just said. I only regret that, as he said so eloquently, the way we are getting this reform measure up is not going to permit the American people to find out what we are recommending and what happens here. Obviously this matter deserves a lot of attention and it probably should have had a full week of debate at some point in time, and all those who wanted to pick it to death could come down, one by one, and try it. But put this measure that we were asked to pass before this body and before the American people for a long enough period of time for them to understand.

I thank the Senator very much for his remarks. He will be missed around here.

The PRESIDING OFFICER. If the Senator will suspend, it is incumbent upon the Chair to advise the galleries that the rules of the Senate do not permit the expression of approval or disapproval.

Mr. DOMENICI. Madam President, let us think back a little bit to June, July, and August, 1992, because it was in August 1992 that this body, the U.S. Senate, passed a resolution. I do not think there was a single dissenting Member to that resolution. That resolution asked a joint bipartisan committee to recommend reforming the U.S. Senate.

Why did that come about in August 1992? Because, I say to my friend from Oklahoma, the seeds were sown then that yield the 14 percent approval rating of Congress. Either scandals or alleged scandals in the other body and in chambers around the U.S. Capitol were rampant. The people were absolutely up in arms. They may not be up in arms today, but they are very close to giving up on us. When only 14 percent say they think we are responsible, that we might change things for the better, that August day when this resolution asking that Congress be reformed was a good day for the American people. And then everybody should know that this is one of the few times that a joint committee took a charge as seriously as this joint committee did.

The first hearing had all five leaders from the U.S. House and Senate; the first time in history. They all appeared, and they were saying: Reform, reform, reform. There were 36 hearings in 6 months; 243 witnesses; 37 Senators. Every Senator and 4,000 staff people were surveyed. There were 500 proposals, or more, considered. We continually consulted with our two leaders—the leader on that side and the leader on this side. We completed our work in 1 year, under budget, and returned 40 percent of the money that we got to do the work. Then although there were some who said they are voting for it in committee, with reservations, the truth of the matter is that these were unanimously recommended. That is, the 33 recommendations received everyone's vote on that committee that was assigned to do this job.

(Mr. KERREY assumed the chair.)

Mr. DOMENICI. Obviously, something is wrong with the way we do business. I am not one who thinks changing things will fix everything. But we are hearing a lot about reform these days, reforming the lobbyist activities, reforming gifts to the U.S. Congress and to members of our staffs. We have heard a lot about gifts in the White House and maintaining independence. We have heard many, many hours of talk on the floor about campaign reform. One of the leaders is my friend, Senator BOREN, who just spoke. I say that none of those reforms is as important as reforming the processes, the committees, the subcommittees, and the way we do business here on the floor of the Senate. Those reforms pale in proportion to making this institution and the one across the Capitol, as I see it, more accountable, more responsible, and more understandable.

When I took this job, after 1 week of hearings, I put in my head what I was trying to do. I believe to have a democracy and have confidence in legislators in the Nation's Capitol, legislators have to be accountable for what they do, I believe that they have to be responsible, and I believe they have to do work that is understandable. If you are doing mumbo jumbo and begging off on votes because they are technical, or hiding behind multiple committees that are hearing the same issue, and it was not us it was them, then it is not understandable and nobody can hold you accountable. Maybe that is the way some people like it to be. But I perceive that is what we were asked to fix, to make this place more understandable and make Members and committees more responsible and accountable.

I believe we did that, and I am going to repeat now and two or three times before we have the first vote because I believe the first vote is going to be on a technicality. I believe the first vote is going to be to wipe this bill out because of a budget point of order. What that is going to do, I say to the occupant of the chair, it is going to put us behind the eight ball right from the beginning because we are going to need 60 votes to prevail over that point of order.

I do not believe anybody assumed when this committee was assigned to reform the U.S. Congress—or excuse me—make recommendations, I do not believe anybody assumed that its recommendations were going to require 60 votes, at least not recommendations that have to do with 2-year budgets, 2-year authorizations. I do not believe anybody thought that the package of reforms were going to come to the floor and be subjected to a point of order on the basis that we did not send it to another committee. Is that not amazing?

We were charged with streamlining the process, make it so it is understandable, make it so you can be responsive and responsible and right off the first time the bill hits the floor we are going to use a process. We are going to say, no, we did not mean what we said. We want it to go to another committee.

Just so everybody will know, we recognized that we had this problem. I want to print in the RECORD a letter that we jointly sent. The chairman and I as vice chairman sent a letter to the leadership on August 10, and that letter clearly said that we do not think the intention was that this should go to other committees. We asked our leadership to help arrange to get this to the Budget Committee and get it cleared and get it out either without recommendation or with recommendation of pass or do not pass.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, August 10, 1994.

GEORGE J. MITCHELL, Majority Leader,
ROBERT DOLE, Republican Leader,
U.S. Senate, Washington, DC.

DEAR GEORGE and BOB: We are writing regarding the Senate's consideration of S. 1824, the Legislative Reorganization Act (Cal. Order #503). We fear the Senate's tight schedule and procedural roadblocks could make it impossible to produce reasoned reforms in Congress's operations this year.

Because S. 1824 contains matters in the Budget Committee's jurisdiction, it is subject to a point of order under section 306 of the Budget Act. If this point of order was raised against the bill, it requires 60 votes in the Senate to waive it.

We ask that the bill be referred to the Budget Committee for a limited time period, that the bill be discharged from the Budget Committee at the expiration of the referral, and that the Budget Committee's actions on the bill be limited to making recommendations. We hope that this action could take place quickly so that the bill could be taken up on the floor within a week after the recess.

We realize that this is an unusual request. However, this bill is unique in many respects. Last year, the Joint Committee on the Organization of Congress conducted the most exhaustive study of Congress ever. This effort led to a unanimous recommendation for legislation to reform the Congress, which we introduced as S. 1824.

Two years ago, the Senate passed legislation that called for Congressional reform and created the Joint Committee. After all this effort, it would be ironic indeed if the Senate did not bother to even consider Congressional reform legislation or if it died on a procedural motion.

We appreciate your consideration of this request.

Sincerely,

DAVID L. BOREN.
PETE V. DOMENICI.

Mr. DOMENICI. Mr. President, I lay no blame on anyone. But essentially that request was denied because nothing was done.

So here we are charged with trying to make things work better and we are going to get thrown off this floor by a procedure that says we really did not mean it. We did not mean your joint committee ought to do this. We meant when you are finished you ought to take it to the Budget Committee, take to the Governmental Affairs Committee, and you ought to take it to the Rules Committee. By the time we finished, we would be into the next century.

So we are here today in a very extraordinary way. You are going to get to vote. You are going to get to vote. If anybody thinks when they vote on that point of order—I will move to waive that point of order or my good friend from Oklahoma will—that it is not a vote on this bill, that it is a process vote, they are doing precisely the kind of thing in this body that we were asked to try to fix to make things understandable, forthright and accountable.

I would say to anybody that is going to vote against this, if that point of order is denied, then this would be subject to amendments. So it would be here and if Senators want to amend it, they could. We at least would have one vote indicating that "committee, you did a good job." Let us lay the work of the committee before the Senate.

Having said that, I want to remind everybody in one sense, when they vote to waive the Budget Act—or let me put it another way: When they waive to kill this bill on a point of order, they have just decided that they do not want to cut the subcommittees of the Senate in half. They are going to be voting that they do not want to cut individual Senators' assignments by 25 percent. They are going to vote that they do not want to abolish any committees. They are going to vote that Senators cannot decide the way the committees are going to be reduced. Under our recommendations, Senators are going to have that choice and some committees that do not have enough Senators choosing it are going to be rolled into other committees with appropriate jurisdiction. They are going to be voting against a proposition that says proxies cannot affect the outcome of a vote.

How many times do the American people ask how did that happen? How did this vote get out of there? They happen to catch it on C-SPAN and there were not very many people in attendance. Maybe five Senators. They heard three vote "no" and two vote "aye." And all of a sudden the bill is reported out 14 votes for it. They are saying why? It is because you are going to vote against the proposition that is going to say proxies cannot be used to affect the outcome of a vote.

Committees are meeting right now. I urge every Senator listening to pull out his little calendar for the day and see how many meetings are scheduled at the same time and we are not even in a real legislative session. If this was a month ago and, you took out your calendar you would probably have three meetings at the same time at 10 o'clock this morning. If you are on the Finance Committee, you have one. Obviously, if you were one of those Finance Committee members who is also on Governmental Affairs, you might have an investigative subcommittee there that you are supposed to be at, and then if you are on the Energy Committee, like I am, you would have that there.

Frankly, we believe the time has come to use computers and modern technology to force the scheduling of meetings so we do not have a maximum of overlap. Instead of just kind of arbitrarily saying too bad if you cannot come, the chairman has just decided that 1 week from today at 9:30 there is a hearing. That is what you are going to be voting against.

Mr. President, the Congress of the United States under our Constitution goes in session for 2 years, and 2 years happens to be one Congress. What do we do that befuddles the American people, frustrates Senators? One of our opponents who will raise the point of order, a very distinguished Senator, has said one of the things wrong with this Congress is fractured attention.

My friend from Oklahoma quoted Senator BYRD. He encapsulated what was one of the things wrong, "fractured attention." My notion of fractured attention is that we do things over and over and over again when it is not necessary.

Just think with me. The first year of the 103d Congress—remember it goes on for 2 years—the Defense authorization bill, they do one for 1 year because the appropriators are going to do one for 1 year. So if they do their work, they come to the floor and we vote on the same issues. My good friend from Arkansas will raise at least three amendments on the Defense authorization bill. Some time later on my good friend from Hawaii, Senator INOUYE, will bring a 1-year appropriations bill. We will again vote on the same issues.

The public is confused. They ought to be. And as it has developed now prior to all that, they will vote on a budget resolution, and even though the budget resolution says there are no line items in this, you just set a big dollar number for defense and all the other discretionary spending, you will have a vote probably on the same three issues because someone wants to make the point that you can get by with less defense if you take out these three things.

So in 1 year in this body you will vote three times on the same issue, and then it goes on to conference. You confer over there and you bring it back, and you will debate and vote again on the same issues in one combined package.

Just think of the wasted time, effort, and redundancy to do that all over again the next year. It is the same Congress. Hardly enough time has gone by for you to have even left the Appropriations Committee.

It seems to me you could almost sit in there and wait around for the next batch of appropriations—it comes so often. The year ends October 1. You come in this January. By February and March you are working on appropriations. You work on it all year. You vote on 13 appropriations bills. You have voted on a number of authorizing bills, some for 1 year, some for 2 years. You would have voted on a budget resolution for 1 year and you come back the next year and do it all over again.

Frankly, there probably is going to be some evidence presented here or some contention that that is good for the country. They will argue that that is how we get oversight, that each year if you do it every year you get a chance to look at the appropriations process annually and that gives you good Government and you get to develop good programs.

I believe that is not the case. As a matter of fact, I believe we are not getting any oversight because we do not have any time to do oversight. Anybody who can tell this Senator that with an annual budget, an annual appropriation and annual authorizations that there is time left over to go over and see what is happening to Medicaid, what is happening to any of the programs you get around—is fraud occurring? Go over and look at the housing programs. They are in such a mess that Congress does not even know which way to turn. We do not have the slightest idea how many billions of dollars it is going to cost for one of the programs that we have been funding on a short term that should be on long term. It could be $11 billion a year that we are short.

That is hardly enough time to have a hearing. Why? Every year you have to do an appropriations bill, you have to do a budget resolution, and you have to do a number of authorizations, at least authorizations for defense.

Now, many, many months ago—in fact, the months have now gone into years—a very distinguished Senator, who also happened to be from Oklahoma, Senator Bellmon, as he left, he kind of delivered one of his "Here's what I've learned and here's what the Senate has meant to me" speech. A very basic, simple suggestion was made. Essentially, the Senator from Oklahoma, Senator Bellmon, said: "Wouldn't it be marvelous if, for 1 year out of the 2, committees that have jurisdiction over programs had no excuse not to have hearings about them and oversight and to think about them because there would be no appropriations bills or a budget to consider that year?"

Essentially, he was suggesting that out of a 2-year Congress, you take 1 year and do all the appropriating, do the budgeting, do the tax writing, and then the second year do oversight, have hearings, in-depth hearings, to find out what is going on in the country, what is going wrong with legislation, what do we really need that we are not doing. He said, "Wouldn't that change things?"

That is exactly what this committee said we ought to do. And they said we ought to get quarterly budget reports and, yes, there could be supplemental appropriations and we are going to have some come down here and say, "That will not work."

Well, the Congressional Budget Office says that only 4 percent of the discretionary spending—and, to put it in everybody's language, discretionary spending is what you appropriate, what you must appropriate, because, by definition here, it lasts for 1 year and you have got to appropriate it again—4 percent of the discretionary spending must be annual because of unpredictable funding patterns.

That means 96 percent of discretionary spending does not need to be funded on an annual basis because it is predictable. Now why do we then insist on letting the 4 percent drive the 96? We could at least figure out a way that the 96 percent that is predictable go on a 2-year basis. That will have to take a little thinking, a little carving out.

Of the 725 discretionary accounts, says CBO, 63 percent changed by less than 10 percent from the previous year. Now, frankly, if we set about to do the 2 years, we would even be able to figure that out where there would not be any problem between the 2 years, because we would learn how to do it and it would not take very long. And then we would do the budget resolution for 2 years. We would not have a reconciliation bill. That is that big hodgepodge we put together to try to make some savings that are required by the budget resolution. We could not do those more than once every 2 years.

Now, I ask the occupant of the chair and every Senator that is listening, would not this make a dramatic, positive change in the U.S. Senate?

The committees that you are on, I say to Senators, that do not have time to have in-depth hearings, 2 or 3 weeks at a time of an oversight nature as to whether our veterans' hospitals are working right or not, whether the Indian programs for the Indian people are working or not, whether the bureaucracy is carrying out our will or have they gotten to a point where they are doing it their way.

In fact, I believe that our programs are in such a state of shambles because of management misdirection, and improper writing of laws, that there are scandals just waiting around to occur.

And guess how we do most of our oversight? I checked for just 3 or 4 weeks to see what some committees were doing. Most of the oversight that goes on goes on because somebody in the press found a program that is not working or they found a scandal out there that we were being ripped off and they write about it. It does not take a committee 2 weeks to get on with that. We ought to find those.

That is why the American people are angry at us. We are not spending enough time trying to find that out. And you speak of reinventing Government. You are not going to reinvent Government by just reducing the number of Federal employees and consolidating a few programs. You are reinventing Government when you find out what is not working in Government and do something about it across the board.

And I defy anybody to come here to the floor—dedicated appropriator, dedicated authorizer, dedicated tax writer, and entitlement writer—and tell this Senate that there is plenty of time under this system to get this done.

And I would also say, for those who think there is plenty of time and we go to the 2-year system, 1 year for one part of it and another year for the other part of it, for those of you who think we have plenty of time, it might be that we could even get out of here earlier. Maybe we could cut all this time in Washington in half.

I know Senator Baker and others have been suggesting we spend way too much time here. One way to do that is not to have to do everything so redundantly, over and over again every 12 months.

Now, when you vote within the next couple of hours to kill this bill on a point of order, you are voting against all these things that I am talking about. And you will have decided that you are going to take the easy way out, use a budget point of order that has literally, literally, said that the Budget Committee should have had this sent to them. This bill that we have ready here, this bill that we have on the reorganization of the Congress, did not go to them. Thus, they did not have time to look at it, although it went to the Rules Committee, although a bipartisan committee voted unanimously to report it out after 1 year of hearings, you just kind of cavalierly vote that it is subject to this procedural deficiency. If you do that, you are voting against these things that I am talking about and more because we have not listed all of them yet. There is plenty more reform.

Senator BOREN has alluded to reducing the number of subcommittees, cutting them in half. Well, I do not have any more confidence that if we do not do something like this that we will ever get them cut back. There is a waiver rule. The waiver gets changed all the time and the subcommittees grow.

Frankly, I have a lot of subcommittees. Somebody could come down here and say, "You serve on slightly above average." Of course, I do. I have been here for 22 years. I take my work seriously. But I cannot even go to all the subcommittees. Nobody works harder than this Senator. I cannot make it, because I have two or three at the same time. That is ridiculous.

The American people are wondering who is doing all this work up here; who is writing all these bills.

I just mentioned to my good friend, since 1970, on average, bills that come out of here are five times longer in terms of number of words used—five times. Why do you think we need so many staff? Because we do not have enough time to put our own attention on it and do it ourselves. We do it very superficially. And very bright, smart staff—God bless them—they help us all. They do the work. That is why the numbers have gone up, too.

We decided if you go with this 2-year cycle, you can reduce the staff, too. And so we are recommending that in here, that Congress get littler and its support agencies be more responsive. At the General Accounting Office, over 5,000 people work there.

Our bill says that in the second year of every Congress when we are supposed to be doing oversight, the primary role of the GAO—primary role—would be to help the committees and subcommittees to see what is going on, right or wrong, with their Government that the taxpayers are paying for. Those are important things.

Mr. BOREN. Mr. President, will the Senator yield?

Mr. DOMENICI. I will be pleased to yield.

Mr. BOREN. First, I commend the Senator on the comments he has just been making. I think those who have heard those comments understand why I feel a great debt of gratitude to him for the leadership he provided in this joint committee, bipartisan committee, on the reform of Congress.

Let me say, the spirit which he indicated and demonstrated throughout our proceedings is exactly the kind of spirit we need if we are going to get this country back on track—that is, thinking about what is in the national interest before we think about what is in a personal interest or in a narrow, partisan interest. I salute him for the spirit with which he served as the cochair and vice chair on the Senate side of that committee.

Would the Senator agree with me that it would be best if we could be having this debate in the format in which we are not having to tack on this comprehensive set of recommendations to another pending matter; in fact, an amendment in disagreement to a conference report on appropriations for the District of Columbia? As I have said, it is ironic and, indeed, symbolic that we are having to take this action, because it again demonstrates that it is very difficult in this institution to do our business in a straightforward fashion so we can focus our attention in an orderly sequence on matters that should come before us.

Would he agree with me that it would not have been our preference to have acted in this way and that, indeed, if we could have been assured by the leadership on both sides of the aisle—indeed, if we could still be assured by the leadership—that the recommendations of our committee as they came through the process, through the Rules Committee, both in terms of a bill and also of a resolution, that, if we could have assurance that we could have those matters considered on the floor, scheduled to a time certain, given a chance to have orderly and comprehensive debate on these proposals to amend these proposals and have them considered as they should be considered, that, indeed, is still our preference? It is only because as of this moment—and I suppose there is still time, we could receive such assurance and I hope we would—but as of this moment we are having to follow this procedural mechanism simply because we have not been allowed to receive those assurances which could be given by the joint leadership here, and that would be what would be preferable to us and I am sure to others on a matter of this importance.

Mr. DOMENICI. I could not agree more, and I thank the Senator for his comments about my work. I want to share just one more fact with the Senator.

We have one Appropriations Committee. It really is supposed to spend our money except for those programs we create which are entitlements. Let me, for the record, state what an entitlement is because it is very confusing. An entitlement is a benefit, either in kind or in dollars, that a citizen can go to court and sue for and get the money. So all these other definitions of entitlements pale before that one. That means Social Security recipients, if we stop paying them, they can go to a Federal court and have the Federal Government ordered to pay them. That means Medicaid, Medicare—the same kind of thing.

All those programs that are funded by the Appropriations Committees, the education program and every other program, is supposed to be authorized by a committee. We do not just pull it out and pay for it in appropriations.

This system is so broken down that $57 billion of appropriated money annually is not even authorized. We run around and say we have these two wonderful systems working together: One is the horse and one is the cart. But, frankly, the horse is broken down. The horse is the authorizing committee, and they say we are broken down because there are too many processes around here. They blame the budget process. Then they blame the appropriations process. Why do we not just say we want them all to be stronger? But they cannot all be stronger and have to do their work every year over and over again on the same or similar subject matter.

I want to go through just a couple more of what is in this bill. I repeat, the process we are going for is this: The Boren-Domenici amendment, which is the entire recommendation of the special joint bipartisan committee, is pending. If we defeat the point of order and adopt the amendment, it is subject to amendment. So those who want to amend it could amend it then.

This Senator, as a Republican—I went to those committee meetings in a total and pure spirit of not being partisan. But I must tell the Senate that I did not agree to be for pieces of this, one piece at a time. I am for some floor procedure amendments. They are in this package.

Motion to proceed? We do not take as much time on it. If this package is adopted, Senate resolutions have to have 10 sponsors. We did that, too. But I am in favor of these changes, if we adopt the full package, because I can see them all weaved together and they will make a tapestry that will make this place work better. But I am not going to be for pieces of it, and I urge my friends on this side of the aisle, if we dismember this into little pieces, I am going to urge they reconsider the whole thing and wait around until we can get back and have another package.

Let me conclude. We believe in an orderly process, cutting the number of subcommittees in half and making it almost impossible to add them by waiver because you have to bring it to the floor of the Senate and vote. We abolish four joint committees. Obviously, we may have lost a number of votes right there, because perhaps those who are on those joint committees will come down here and vote procedurally on killing this bill on a procedure called a point of order. But we think we did what you asked us to do.

On the 2-year budget cycle, some are going to come down and say, "Why do we not do the budget 2 years, but let us do appropriations every year?" Frankly, I believe there is more reason to do a budget resolution every year than there is appropriations every year, and I say that having been here a while and having done both. I believe that. But I think 2 years on both would be far better for this institution and for the American people in terms of our being able to get our job done right.

I want to close by saying this U.S. Senate is a fantastic place to serve. I have been very privileged. I hope I can serve here a lot longer. But I do believe that the most important thing we could do is to make the U.S. Senate work better. I believe we are too fractionalized, we cannot develop any attention span, and we relegate and delegate our job and our work too much to others because we are asked, under a process and procedure, to comply with rules and other things that make it almost impossible to get our job done.

So, sometime today there will be a vote. Obviously, I have told my colleagues what I think it is going to be. I urge everyone to give this reform a chance and deny the point of order and then let us take a look at it once it is before us in its true form.

I yield the floor.

Mr. PELL. Mr. President, I rise in opposition to the Domenici-Boren amendment because it does not reflect the revisions in congressional reorganization which were recommended by the Committee on Rules and Administration.

I am opposed to the proposed elimination of the Joint Committee on the Library, because I believe the Joint Committee fulfills a useful role and its proposed elimination would be a meaningless reform.

I should note for the record that I have served on the Joint Committee on the Library for many years and am its vice chairman during the 103d Congress. I might add that I regard this service as somewhat of a family tradition inasmuch as my father served on the joint committee as a member of the House of Representatives in the 1920's.

I can understand why the Joint Committee on the Library, which dates back to 1802 and is probably the oldest extant congressional committee, might be dismissed as an obsolete anachronism. But I would contest such a view and suggest it is more accurate to view the Joint Committee as a very useful vestige, which has survived precisely because of its utility.

In the early days of the Republic such joint committees were established for administrative purposes, and the Joint Committee on the Library filled just such a role for nearly a century. In effect, it managed the day-to-day operations of the Library, which in those early days must have been a very modest task.

But with the explosive growth of the Library's collections following the passage of the 1870 copyright law requiring the deposit of copyright items, the management task outgrew the joint committee's capacity and in 1897 Congress assigned to the Librarian of Congress direct responsibility for day-to-day management.

There remained a need to oversee and give policy direction to the Librarian, and that is what the role of the Joint Committee has been since that time. It is a role of consultative supervision somewhat akin to that of a corporate board of directors. Since the Joint Committee has no legislative authority, it exerts its influence by verbal advice and written consent, which reflects its members sense of congressional will.

The consultative process is largely informal and unstructured. The Librarian frequently simply advises the Joint Committee of various matters, sometimes seeking the assent of the chairman and vice chairman, representing as they do by tradition, the two Houses.

On matters of substance on which the formal approval of the Joint Committee is necessary and appropriate, the membership is generally polled by document and assent is registered by signature. The Joint Committee meets only infrequently, and then generally for informational hearings when there would be a clear benefit from a multilateral exchange of viewpoints.

I would submit to you that this arrangement, while not perfect, serves very effectively to coordinate congressional supervision of an institution which has a wholly unique relationship to the national legislature. The Library is the creature of the Congress and the Congress is in turn highly dependent on the Library for substantive support. There must be a continuing mechanism in place for transmitting the will of Congress to the Library, and the Joint Committee, in my view, is the most effective mechanism for this purpose.

I would further submit that there are clear advantages to both parties in having the mechanism of a joint committee. It gives the Library a single source to which if can turn for an expression of policy which represents the will of both bodies. And in this connection, I would note that the joint committee structure forces interhouse consultation at the staff level, and then assent by members, before any action of the Joint Committee can result.

The advantage, from the congressional point of view, is that the joint committee structure requires us to find a common ground of agreement on any given issue, and once having done so, we are protected, to a good degree, from having our client, the Library, play off one House against the other in seeking to manipulate congressional will.

I would hasten to add, parenthetically, that in my view the Joint Committee hardly poses a threat to the benefits of bicameralism which were argued so effectively by James Madison, because the function in this case is limited to consultation and administrative approval, relating to an institution which is intimately tied to the Congress as a whole and not to the House or Representatives or the Senate as separate entities.

Finally, I would note that the work of the Joint Committee is performed by staff members who have many other duties but who would probably have to perform the same functions with respect to the Library if the Joint Committee were to be abolished. So I submit that the proposed abolition would yield no significant economy and would only have the effect of removing a useful framework for coordinated oversight.

Turning to another aspect of the proposed reorganization, I would like to record my reservations about the proposal to limit the number of subcommittees that would apply to most committees. Speaking from my perspective as a chairman of the Committee on Foreign Relations, I find this proposal arbitrary and unduly restrictive.

Because the scope of the Foreign Relations Committee is indeed worldwide, we traditionally have organized our subcommittee structure along geographic lines and to a lesser extent along substantive lines as circumstances dictate. We currently have seven subcommittees in all, of which five are regional subcommittees, as follows: Subcommittee of African Affairs; Subcommittee on East Asian and Pacific Affairs; Subcommittee on European Affairs; Subcommittee on Near Eastern and South Asian Affairs; and Subcommittee on Western Hemisphere and Peace Corps Affairs.

In addition, we have a Subcommittee on International Economic Policy, Trade, Oceans, and Environment and a Subcommittee on Terrorism, Narcotics, and International Operations.

It seems to me that any requirement to merge or consolidate the work of these subcommittees could have the effect of reducing the focus and intensity of the committee's attention to the matters it must consider. And I might also note that most members of the committee already have limited themselves to only two subcommittees, so in that sense the objectives of the proposed reorganization are already attained, or soon can be with minimal adjustments.

I have the same reservations from my perspective as a member of the Committee on Labor and Human Resources, and as chairman of one of its subcommittees, namely the Subcommittee on Education, Arts, and Humanities.

The Committee on Labor and Human Resources has extremely broad jurisdiction over a wide range of social concerns and presently has six subcommittees to address those issues. In addition to the subcommittee already mentioned, the other subcommittees are: Subcommittee on Aging; Subcommittee on Children, Family, Drugs, and Alcoholism; Subcommittee on Disability Policy; Subcommittee on Employment and Productivity; and Subcommittee on Labor.

Given the broad scope of the committee's responsibilities, it seems to me that the consolidation of its structure into three subcommittees would make for unwieldy workloads at the subcommittee level and result in inefficiency and less effective operation of the committee.

Here too, to the extent the purpose of the proposed limitation is to lighten the workload of Senators, that objective can readily be obtained by enforcing the limitation on the number of subcommittees each member of the committee can serve on, namely two.

For all these reasons, I oppose the amendment as offered at this time. I do so with reservations because I supported the underlying reorganization plan in the form in which it was reported by the Committee on Rules and Administration. I regret that the committee's recommendations have not been considered and hope that they may be revived in the 104th Congress. But the amendment as proposed goes too far and comes to us at the wrong time and in the wrong form. It should be rejected.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1995—CONFERENCE REPORT

Mr. INOUYE. Mr. President, I submit a report of the committee of conference on H.R. 4650 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill H.R. 4650 making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 26, 1994.)

The Senate proceeded to consider the conference report.

Mr. INOUYE. Mr. President, I ask unanimous consent that there be 1 hour for debate on the conference report, with the time divided as follows: 30 minutes controlled by the chairman and vice chairman of the committee, 15 minutes under the control of Senator BUMPERS, 15 minutes under the control of Senator MCCAIN, that when the time is used, the conference report be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. INOUYE. Mr. President, I ask unanimous consent that the following persons be given the privilege of the floor during the consideration of this report:

David Hennessey, Nora Kelly, Nancy Lescavage, and Herb Nakamura.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. INOUYE. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, I am pleased to offer the conference report (H. Rept. 103–747) making appropriations for the Department of Defense for fiscal year 1995. The conference report before you provides funds to operate, maintain and equip the Defense Department and our military forces during fiscal year 1995.

There is some urgency to the enactment of this conference report, Mr. President. Title IX provides $299.3 million in fiscal year 1994 supplemental appropriations to meet the unbudgeted costs of emergency relief for Rwanda and for emergency migrant processing and safe haven costs in or around Cuba.

The fiscal year 1995 appropriations bill provides $243.6 billion for the Department of Defense. This amount is within the subcommittee's 602b allocation. Discretionary outlays from the bill will be $250.7 billion or about $50 million below the subcommittee's allocation.

Mr. President, this is a very lean bill. I must advise my colleagues that not every worthwhile program could be accommodated in this austere bill, but the conferees have done their best to produce a bill which meets the needs of our men and women in uniform.

MILITARY PERSONNEL

The bill provides a total of $70.3 billion for military personnel pay, allowances and related costs. This amount includes funding for a 2.6-percent pay raise for our uniformed personnel.

OPERATION AND MAINTENANCE

To operate and maintain our Forces, the conference agreement recommends $80.9 billion. It may be noted that we have exceeded authorized levels for the Service O&M accounts. In the course of our conference, we found that we were able to provide more funding for readiness programs than the authorizing conference had been able to accommodate.

Mr. President, we have added funding for aircraft and ship maintenance programs, unit training activities, and for returning excess Army equipment from Europe. We began this year by emphasizing the need to maintain the readiness of and quality of life for our troops. I believe this bill does preserve that critical readiness for another year.

As a matter of particular concern to the members of the subcommittee we have provided additional resources for the recruiting efforts of the Uniformed Services. We have provided a total of $89 million above the budget request for this purpose.

Also in this title, funds were added for select Defense conversion programs supported by many Members in this body. For example, the conference agreement adds funds for military youth programs, small business loan guarantees, and economic development programs in California, Florida, Michigan, and many other States affected by base closures.

PROCUREMENT

The bill would fund $43.4 billion for procurement, a decrease of nearly $1.2 billion below the amount provided last year.

Significant Army highlights of this action include providing $108 million to keep the main battle tank industrial base alive. The bill also provides funds for Apache and the advanced helicopters to keep these lines open.

For the Navy, the agreement provides funds to complete the procurement of the CVN–76 nuclear aircraft carrier and to support the purchase of three DDG–51 destroyers as requested by the administration.

Significant highlights for Air Force procurement include providing $2.2 billion to buy six C–17 aircraft this year and advance procurement funds for buying eight in fiscal year 1996.

Mr. President, the conference report reflects the strong support of the Senate regarding National Guard and Reserve equipment. While the House earmarked funds for specific projects, the Senate did not.

The conference agreement allows the chiefs of the Reserve components to determine which specific items will be purchased. The statement of the Managers earmarks $800 million for miscellaneous equipment and lists items which it believes should be given priority, but does not mandate which equipment must be acquired. Within this amount the statement earmarks $505 million for Guard and Reserve aircraft. The conferees intend that these aircraft can be either new production or newly refurbished aircraft.

RESEARCH AND DEVELOPMENT

Mr. President, in order to preserve the technological advantages which the United States enjoys over potential adversaries, the conference agreement made only modest changes to the research and development request.

In other highlights, the agreement funds the Army's Comanche, funds the Navy's F/A-18 E/F program, and the Navy's new attack submarine.

Mr. President, the conferees provided $2.5 billion for ballistic missile defense. In keeping with past practice, the conferees agreed to recommend a number of discrete reductions in this program.

OTHER RELATED AREAS

Mr. President, when H.R. 4650 was considered by the Senate a number of foreign policy provisions were added to the bill. Unfortunately, in conference, the House conferees, backed by their authorizing committees, were adamant that these provisions be removed from the bill. To gain agreement on the overall conference, the Senate conferees found it necessary to recede from the Senate position.

Mr. President, this has been a tough year for the Defense Subcommittee. The funding constraints that the committee had to meet were quite stringent. After 10 straight years of reducing Defense spending, development of a Defense appropriations bill is not an easy task. The Senate, I believe, met that challenge when it passed the Defense bill, and I am happy to say the conferees have also responded to that difficult challenge.

This report reflects a good compromise between the priorities of the Senate and the House. But most importantly, it is a good agreement which will provide for the safety and support of our men and women in uniform. So I urge all Members to support the conference report.

Mr. President, it has become my custom to identify a member of the Defense Subcommittee staff for individual recognition each year. There is one staff member who has served with particular devotion over many years who has not been singled out, one who is most deserved of tribute for his dedication to the Senate Appropriations Committee and this institution. I am speaking of our fine staff director, Mr. Richard Collins.

Mr. Collins began his tenure with the Senate Appropriations Committee on June 12, 1974, assigned to the Foreign Operations Subcommittee. As chairman of that subcommittee, at that time I soon realized that Mr. Collins was a man who possessed great wisdom, uncompromising integrity, and a finely honed sense of duty to his country. Mr. Collins quickly learned the business of the Foreign Operations Subcommittee, and in 1981, I was privileged to promote him to staff director of the subcommittee. He served in that position with me through 1988.

In 1989, I was selected to chair the Defense Subcommittee. There were many who suggested that I needed a staff director with a strong military background to run the Defense Subcommittee. But, for me, there was no doubt who to choose. I knew Richard Collins was the man who could best serve the Senate's interest as staff director of this subcommittee and I was proven correct.

Mr. Collins attacked the issue, learning everything about the Department of Defense. He spent countless days in briefings from each of the military departments, gaining a deep understanding of the pressing defense issues of the day. But he was not satisfied just to listen to what those in the Pentagon were saying. He traveled throughout the United States talking to our military commanders and soldiers, sailors, marines, and airmen in the field.

He reported back to me on the strengths and problems in the Defense Department as he continues to do so today. Richard Collins is my compass. He guides me every day in carrying out my duties to the Senate as chairman of the Subcommittee on Defense. As staff director, he is fully informed on all defense matters and he keeps me updated on the needs of our men and women in uniform.

Richard Collins has served me and, more importantly, this body for 20 years. We in the Senate owe him our undying gratitude for his tireless efforts, his moral certitude, and his dedication to this body. And, Richard, I salute you, sir.

Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator's 10 minutes has just expired.

Mr. INOUYE. I yield myself 2 more minutes.

Mr. President, this bill, as I indicated, involves over $243 billion. We have just passed a unanimous-consent request to conclude our debate in an hour, and upon its conclusion the report would be adopted, hopefully without a vote.

For those who may not be aware of the process in the legislature, it would seem that this was a very easy process with no controversies. This bill is filled with controversy. This bill is the most expensive measure facing the Congress of the United States. And yet, we come to this day and make it seem so easy. It is so because of one reason. This committee has been blessed with an extraordinary staff on the majority side and on the minority side. If it were not for the staff, I think we would be nitpicking and higgling and haggling for weeks and weeks to come.

So I would like to recognize these staff members: Richard Collins, Charles Houy, Peter Lennon, Jay Kimmitt, John Young, David Morrison, Mary Marshall, Dick D'Amato, Mazie Mattson, and Hallie Hastert. I would also like to make special recognition of Steve Cortese, who has been most helpful, Jim Morhard, and Dona Pate.

We have also had support from the Department of Defense: David Hennesey, Herbert Nakamura, Nora Kelly, and Sidney Ashworth.

So, Mr. President, I know the subcommittee joins me in extending our undying gratitude to these staff members.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I join the Senator from Hawaii, the chairman of our subcommittee, in presenting this conference report to the Senate and urge that it be approved. We filed this conference report on Monday, and it has been printed in the RECORD. It is a credit to the subcommittee as a whole, under the leadership of my good friend, Senator INOUYE, that this bill is before us prior to the end of the fiscal year. It has been facilitated in terms of the work we have done in the subcommittee by the support given to us by the chairman of the full committee, Senator BYRD, and the ranking member, Senator HATFIELD.

This bill, as the Senator from Hawaii has noted, meets the 602(b) allocation that was submitted to our subcommittee. We have not made any broad general reductions. There are no across-the-board cuts in this bill. I do not believe in them anyway. I am pleased to say that this conference has gone through this bill item by item. We have made specific adjustments. They have been consistent basically with the positions taken by the two military committees in both the House and the Senate. We have done this through consultation with leaders of the military and with representatives of the President through the Department of Defense and the White House. In other words, this bill has been very well staffed. It has been the subject of a great many individual consultations through the services of my good friend, the chairman, Senator INOUYE, and myself, with many other Members of the Senate and the House. We are privileged to work with a great team in the House, headed by Chairman MURTHA and the ranking member there, Mr. MCDADE.

I wish to say that when I appeared on the floor of the Senate earlier this year and talked about this bill, I was very much concerned that the authorized funding presented to us was too low to maintain our national security. I did not think it would support the efforts of our military to provide for our national defense consistent with our existing international obligations and those that seem to come on us now one by one. We are expanding our role as far as the use of our military, and the events of the past weeks confirm my concerns that I expressed here before. I see no reason to repeat them. I will add some comments concerning the stress that exists now for the men and women who serve in uniform for our country throughout the world, and particularly upon their families.

But let me state, Mr. President, over the recent recess, along with Senator WARNER of Virginia, I took the occasion to have some meetings with a series of military commanders and with our intelligence officials in Europe. We did discuss the operations in Bosnia and Rwanda and Iraq. I have returned heartened by the commitment and dedication of those armed services and the personnel we have overseas. But I continue to be troubled by the nature of the increasing deployments that we face as far as the Department of Defense is concerned.

Specifically, this bill contains a supplemental appropriation of $299.3 million to address some of the shortfalls that have been created by the deployments in Europe, Africa, the Middle East, and the Caribbean. The funds are designated as "emergency," consistent with the President's request. As such, the bill does not dip into existing funds that have been requested to maintain our military strategy and to provide for the quality of life of the people of our armed services. It is a bill that I consider to be vital today.

Let me point out that we had to have this bill done today, so it could be signed and made available for tomorrow. This is because some of the funds in this bill must be obligated in this fiscal year which expires tomorrow night.

I applaud the efforts of Secretary of Defense Bill Perry, the Deputy Secretary, John Deutch, and the Comptroller, John Hamre, who have worked with us to see to it that these funds could be secured in a way that would meet these obligations now and not impair the funds that might be necessary for the next fiscal year.

This supplemental only covers the expenses incurred by the Department of Defense for the missions that I have mentioned through September 18 of this year. All of those people who urged the President to utilize our armed services in Haiti I hope will be prepared next year to fund the costs that we have incurred. We are not funding those costs in this bill. The Department of Defense is currently operating under authority that gives them the right to incur obligations in advance of appropriations for the missions in Haiti. I am not sure how many people really realize that. We are not funding those operations with this bill.

When the Congress returns—hopefully, it will be in January, but when we do return we undoubtedly will receive a supplemental request for the military operations in Haiti. Certainly, that will be in excess, according to the current estimate, of over $0.5 billion.

It will be necessary for all Members of the Congress to work with the appropriations committees to ensure that the funding that we have here for the men and women in our military, their quality of life and for the systems to support them in the event that they are called upon to defend our country, will not suffer, that the funding for their ongoing programs will not suffer by virtue of the mission that we have undertaken in Haiti.

So far this year, Mr. President, the Department of Defense has expended $1.57 billion for peacekeeping and refugee support contingencies. That does not, as I say, include Haiti.

I ask unanimous consent that I may put in the RECORD a chart that reflects the funding that I have mentioned. It has been provided by the Department of Defense to show the cost for the missions that I mentioned and the number of personnel previously or currently engaged in those deployments.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONTINGENCY COSTS IN FISCAL YEAR 1994

[Dollars in millions]

	Costs	Current U.S. military
Somalia (UNOSOM, USLO)	$406.2	[3]0
Southwest Asia (Provide Comfort, Southern Watch, Desert Storm)	462.3	21,000
Bosnia (Deny Flight, Provide Promise, Sharp Guard, Able Sentry	266.6	6,550
Rwanda (Support Hope)	[1]87.9	565
Haiti interdiction/migrant processing (Uphold Democracy, Sea Signal, Distant Haven)	[2]170.6	[4]17,700
Cuba refugee operation (Able Vigil, Able Manner, Safe Haven)	106.3	2,700
Korea readiness costs	67.3	37,000

[1] Supplemental pending.

[2] Excluding Haiti Democracy Restoration.

[3] U.S. forces peaked at 24,165 during Dec. 1992–Sep. 1994.

[4] U.S. force level change daily per OPLAN; expected to increase as the operation unfolds.

Mr. STEVENS. Mr. President, again, this includes the Haiti migrant interdiction and processing, but it does not include the military operations in Haiti.

Let me say this. I am going to be brief because I see my good friend from Arizona is waiting to speak.

Mr. President, we have all said the cold war is over and that this is peacetime. But I think that Members ought to look at this chart and see that that status is little solace to the families of the men and women in the armed services and to those men and women who have been deployed this year. This year alone, 85,000 people have been deployed off our shores.

When we were in Europe, we discussed with pilots the problems of the men and women who are flying our aircraft that are maintaining the surveillance of Iraq. They are maintaining the surveillance in no-fly zone of Bosnia. They have been involved in Somalia and in the Rwanda operation. They have been involved in increased tensions in Korea. They have been involved in terms of trying to save lives as people tried to leave Cuba and come to our country. They have been involved in the problem of the surveillance of the Haiti refugee people. They are involved literally around the world today on a day-to-day basis. Speaking as someone who flew in wartime, they are flying more time daily than we used to fly in the war. It is having its toll now.

We talked to some of the people in the Navy. There is a blockade still in Iraq and a blockade still at Bosnia. They still have people in American vessels off Somalia. We still have the involvement in the Caribbean dealing with the Cuban refugees and the Haiti people, including the support of the Haiti military operations.

Mr. President, this is not normal peacetime. It certainly is not the peacetime that I knew in my youth. This is a time now when people have to realize that being in the armed services today means to be called on day after day, month after month after month and sometimes year after year after year to be away from one's family. We cannot afford to see the support for these people dwindle because of the constant erosion of the funds that are necessary for their support. This is caused by increased contingencies that Congress does not fund. We have an increased tendency now to say, "Well, the Department of Defense just ought to absorb that money. Somehow or other it ought to find the money and it can take the pay raise out of the funds that we previously allocated to them." And to an extent we do that in this bill. We also have them absorb other increases that are brought about by changes in law.

I think it is fortunate that we have people who are involved today in oversight of our military forces who have served in the armed services during wartime. But that time is going to disappear soon. There are not many of us left really. I am worried about the future of the men and women of our armed services if Members of Congress do not get out and find out what is happening to them: do not go on these trips that some people called junkets; and do not take the trips and go visit the Americans that we have deployed abroad because of some special interest of the United States in another part of the world. It is necessary, in my opinion, for more Members of Congress to take it upon themselves to go visit the sons and daughters of our constituents that are serving abroad. I am highly critical of those who call those trips junkets. They ought to come along sometime and see what goes on on those junkets.

But the thing that bothers me most, as I have returned now from this last visit, is this continued report about the fatigue of our men and women who are involved in these blockades and flying these constant day after day routine missions, and the fatigue of those who are providing for their support. They are also flying long resupply missions, flying them into everywhere, from Rwanda to Somalia to Italy, to Turkey, into the support for the Bosnian people. It seems to me that we owe a lot more to these men and women that are going out there on these routine missions than any of us realize.

I want to close, as I started, by thanking the chairman for his kind consideration to the many requests that I have made for special items that concern Members of the Senate on this side of the aisle. I can assure my colleagues that this bill has been cleared by all concerned. We have had every request that was made by any Member of the Senate considered by both Senator INOUYE and me and by our staff. We have given favorable consideration to everyone we could and we have tried to work out the problems for every State so that this bill could be fair in the allocation of moneys that we have available to run the Department of Defense for the next fiscal year.

I had the occasion to be chairman of this subcommittee at one time. I know that the Members of the House committee who worked with us feel as I do—that we have not only some great staff members but we have members of the staff of the House Subcommittee on Appropriations who have been working with us.

I want to mention specifically the retirement of two of the members of the House staff and want them to know that we will miss them. Mr. Don Richbourg has served as clerk to three different chairmen of the Defense Appropriations Subcommittee. It is a tribute to his professionalism. Also, Mr. Dave Willson is the senior member of the professional staff of the Defense Subcommittee on the House side. He has worked tirelessly over the years that we have worked with them to protect the readiness of our Armed Forces. I wish to state here that I think every Member of the Senate who has worked with the House Defense Appropriations Subcommittee and who has come to know these two gentlemen respect them and wish them and their families all the best in the future.

Mr. President, I too have been very fortunate to have the assistance of my good friend, Steve Cortese, and the assistance, provided by the Department of Defense, of Sid Ashworth who has worked with me, as well as Dona Pate and Jim Morhard of our staff.

I do not know. I am sort of stepping on a feathered pillow. But I heard my good friend from Hawaii give such great commendation to our good friend, Richard, that I do not know whether this is a swan song for Richard or just the praise that he deserves. I am going to take it to be the latter, Mr. President, and say that I too appreciate working with the majority staff. I think we have the best subcommittee in the Congress in terms of the attitude of our people. We all work for the same goal without regard to who is chairman. It has been probably the most nonpartisan and professional group that I have worked with in my service in the Senate.

It is a privilege to be once again here on the floor to present this bill that I commend to the Senate for its approval.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized for up to 15 minutes.

Mr. MCCAIN. Mr. President, the events of the last few days and weeks have again indicated that we have gone from the very dangerous, yet very predictable, world of the post-cold-war era to a still dangerous and much less predictable world. We now find 15,000 to 20,000 American troops in Haiti.

The talks with North Korea are approaching an apparent impasse. NATO air strikes and a renewed siege of Sarajevo indicate an unraveling situation in Bosnia. The effects of Islamic fundamentalism are being felt in Egypt, Algeria, Malaysia, Indonesia, and countries throughout the world. While any objective observer can see many situations in which the United States may have to become militarily involved, what we see today is a continued decline in the defense budget.

The defense budget has declined by nearly 35 percent in constant dollars since 1985, with another 10 percent reduction planned by 1999. Mr. President, I am convinced that if we continue this decline, it will result in a hollow military force which is unready to fight and win in future conflicts.

I would like to point out that the size of the defense budget begins with the submission of the President's budget, and its review by Congress. Then, as my colleagues know, the appropriations are divided up amongst various types of requirements, such as those of the Defense Appropriations Committee. As an example of the failure of the Senate and the Congress to appreciate the importance of defense spending, the fiscal year 1995 budget resolution this year cut $500 million in outlays from the overall discretionary spending account. It cut $42 billion over 5 years, all of which was taken from the defense bills and the appropriations allocations to defense. Now, the entire $500 million cut did not have to be taken from defense. This was a conscious decision on the part of the Appropriations Committee.

To compound the problem, the Appropriations Committee cut the allocation for the Defense Subcommittee and increased the allocation to the Military Construction Subcommittee by $490 million. This effectively made a billion-dollar cut in the President's request before we began the formal review of the defense program. Then, once we began to alter the budget request, we indulged in a process which resulted in many billions of dollars being taken out of the defense budget request and being reallocated to areas which have nothing to do with defense.

In fact, the Congressional Research Service recently prepared a study of the costs of nondefense activities funded in the defense budget during the 6-year period of 1990 through 1995. The results are astonishing: A total $52 billion was spent on nondefense programs out of the defense budget over the past 6 years. As has been pointed out by my friends from Hawaii and Alaska, we are taking further funds out of the defense budget for our peacekeeping obligations in Somalia, in Bosnia, or in Iraq, and now in Haiti. Our commitment in Haiti has cost well over $300 million since we began to enforce sanctions and prepare for an invasion. Some estimate it will probably exceed $2 billion before we are finished, and $850 million in the short term.

These expenditures are all coming from a defense budget which has been cut already 35 percent since 1985, and which has another 10 percent reduction planned for the future. The effect of such efforts is then dramatically exacerbated by the incredible ways we find to spend American tax dollars. Let me give you one example from the current bill, Mr. President. Let me quote from the portion of the bill called "Job Creation/Retention":

> The conferees strongly encourage the Department to make job creation and retention a selection criterion as a condition of the TRP award process—

That is the Technology Reinvestment Program.

> to make unions explicitly and directly eligible to apply for funds; and also to include union representatives among the list of eligible applicants for Technology Reinvestment Program grants in the next round of proposals.

I ask my friend from Hawaii, why not include the Sierra Club? Should they be in this? They are about as qualified as the unions. What about the Boy Scouts? Should we include the Boy Scouts? I think they are probably more qualified.

The bill then goes on to say:

> Other conversion initiatives. The conferees suggest that the Defense Department consider funding the following conversion projects during the course of fiscal year 1995:

Some of the suggested recipients are: Berkshire County Regional Employment Board; Hunters Point Civilian Job Training in Environmental Remediation; Domestic Fuel Cell Manufacturing; Great Lakes Environmental

Manufacturing Technology Center; Methanol Plantship Technology; Georgia Tech Plasma Arc Remediation; Great Lakes Environmental Manufacturing Technology Center; Torque Converter Project, and Michigan State University.

We have found out over the years, Mr. President, what the effect of these suggestions is. They happen. These suggestions get the money, Mr. President. So what we are doing, in addition to the earmarking that is already in the bill, is earmarking even more money away from real defense needs. Further, there are additional expenditures in this conference report which were not in either the House or Senate bill: $1 million for a police research institute; and $1 million for the southwest Oregon narcotics task force are just a few examples.

Meanwhile our military leaders are warning us about readiness. As you may know, I did a report last year called "Going Hollow," which analyzed the erosion of our readiness using the views of the heads of each of our military services. I went back this year and asked our chiefs similar questions about their state of readiness and their views of the future capabilities. Their responses are an even firmer warning. Let me give you a few quotes:

The Chief of Staff of the Army said:

> Although still trained and ready, the Army is now at the lower edge of the band * * * at the razor's edge.
>
> This [FY95] budget represents the minimum resources required to maintain the unmatched superiority your Army enjoys today. Any reduction in this budget request would jeopardize that assured superiority. However, this budget request will not pull us away from the razor's edge of readiness.
>
> Infrastructure/Facilities [are] still underfunded * * *. Quality of life [is] still underfunded * * *.
>
> * * * The "average" soldier * * * spends approximately 138 days each year away from home. * * * The situation will not improve.
>
> Retention rates are expected to decline this year. * * * The major factor is the perception that an Army career may not provide a secure future in the present environment.

The Navy says:

> The major problems the Department of Navy faces in terms of readiness are the increasing risks we are having to face in order to maintain adequate readiness levels * * * [including] increased readiness costs due to unforeseen contingency operations.
>
> Readiness levels have declined slightly from their peaks in the mid-1980s. * * * Programmed readiness levels nonetheless involve risk. These risks include * * * depot maintenance backlogs * * * reduction in afloat inventories.
>
> We are experiencing difficulty in maintaining unit integrity throughout full workup cycles for deploying units as we use force shaping tools * * * to decrease end strength.

The Marines said:

> Ongoing [budget] reductions, coupled with contingencies, have created a situation where existing assets are insufficient to support major operations plans simultaneously executed in separate theaters.
>
> * * * The fundamental truth is, readiness is directly proportionate to funding. Our analysis of Marine Corps requirements in the current years is that the Corps has inadequate resources to maintain the level of readiness expected by the Congress. * * *

All of the responses by our chiefs of staff are basically the same, Mr. President—problems and shortfalls in sustainability, readiness and morale, and the list of examples goes on and on. All of our service chiefs, whom we entrust with the responsibility for evaluating our military capability, are saying that we are treading on dangerous ground.

The Chief of Staff of the Air Force says:

> Over the last 7 years we have had a fourfold increase in deployment obligations, as we have been drawing down the Air Force by nearly one-third to meet Congressionally-mandated end strength requirements.
>
> * * * We've seen a subtle rise in overall cannibalization * * * rates.

We ought to pay attention, Mr. President, to what our military chiefs are saying. The fact is that we are already in a very serious situation, and we have major further budget problems to come. This is best illustrated by a recent GAO report saying the Department of Defense may be underfunded by about $150 billion. GAO cites such shortfalls as the failure to budget for inflation, overstated projected management savings, underfunded potential cost increases for base closures, et cetera.

The Department of Defense admits some of the problems exist. In a recent letter in response to the GAO report, Comptroller John Hamre, a man that all of us respect and admire, noted that "we do have a problem ranging from $26 billion to as much as $40 billion because of inflation and congressionally directed pay raises." Mr. Hamre also noted that the Department of Defense has not fully addressed these recognized funding shortfalls, leaving "a $20 billion adjustment to be made in future years."

These funding problems impact on more than readiness. Just last month, Deputy Secretary of Defense John Deutch published a memo written to the military services which directed that the services explore the idea of terminating the major procurement programs in their budgets. The memorandum directed the services to propose terminating such key projects as the Comanche helicopter and the Advanced Field Artillery System of the Army, deferring the F–22 and TSSAM programs of the Air Force, cancelling the V–22 and new attack submarines, and on and on.

The Assistant Deputy Secretary of Defense John Deutch is saying we may have to cancel virtually every new weapons system that the services are seeking. We all remember that in the 1970's, we spent money on new weapons systems but we allowed our military personnel situation, readiness, and sustainability to degenerate and deteriorate to the point where we had the most deplorable of conditions. This was exemplified by the failed rescue effort of the Iranian hostages. Now, we have gone to the other extreme. We are putting our few available funds into readiness and we are on the edge of terminating the kind of modernization and advance technology that gave us one of our greatest victories: Operation Desert Storm.

Mr. President, we now have a Hobson's choice between inadequate readiness and inadequate modernization and technology, and it seems to me one only answer is to do what the President of the United States said at his State of the Union Message last year when he said, "Do not let Congress cut defense any more." Those were his words.

This will not be enough to deal with the problem. First of all, I would like to see the President come over with a much larger proposal in his budget for defense. Instead of threatening to eliminate every major modernization program which will ensure technological supremacy in the future, the President, in my view, should allocate additional resources to the defense budget to make up for these shortfalls. And second of all, I have not heard the President say one additional word about defense spending since he said it that night before a joint session of the Congress. I would like to hear him repeat this statement and I would like to support him in that effort.

At the same time, I would like to see the Congress use the defense budget for defense. Mr. President, I talk often about nondefense spending in the defense budget. What Congress does is really mind-boggling at times. I will not belabor the resulting problems. I discussed them the last time this bill was up in the form of the appropriations bill before it went to conference.

But, there are some examples which in this bill are very hard to understand.

A national center for toxicological research in Jefferson, AR. Mr. President, you know what would happen if you asked any member of the military if they need a pay raise or more money in their weapons system or do they need $5.8 million for a national center for toxicological research in Jefferson, AR.

A remediation effort at Cordove, AK.

A total of $1 million earmarked for Director Shipyard environmental remediation. Finally, $5 million to Charleston Naval Hospital to establish a coastal cancer control program.

The fact is that what we do when we take hard-earned American tax dollars and use them on such projects, is to use them wastefully, or on low priority projects.

We also seem to have found a new name for pork called defense conversion. We now justify one local or parochial project after another to preserve what is called a defense industrial base. We now have a defense industrial base argument for bombers. We now have a defense industrial base argument for MRE's, meals ready to eat. We now have a defense industrial base argument for combat boots. We now have a defense industrial base argument for submarine reactors. You name it, Mr. President, we have a defense industrial base argument to fund it.

I think this kind of waste is outrageous. When we are cutting the defense budget so dramatically, we cannot maintain a defense industrial base for everything that has to do with the military. We need the Department of Defense to come forward with a set of criteria and clearly defined spending priorities—in fact, I met with some of their people this morning—which we can use to judge where a defense industrial base is really needed and where capabilities are not needed or may be nice to have but are not needed.

Mr. President, several times in this century we have found this Nation in a military crisis, and without the ability to cope with it, because of the mistakes the Congress and the President of the United States made in reducing our defense capability to such a degree that we could not defend this Nation's vital national security interests. Fortunately, in those prior times we were separated from Europe by a large body of water. The nature of technology and warfare gave us time to catch up and prevail.

Mr. President, I worry about the next time there is a severe national crisis which requires us to react strongly with a capable, well-manned military establishment, and I am afraid we are dramatically eroding the capabilities we need, and we have to act very soon to reverse current trends if we are not to be too late.

Mr. President, I appreciate the indulgence of my colleagues, and I thank the Senator from Hawaii and the Senator from Alaska for their usual outstanding job.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for a period of up to 15 minutes.

Mr. BUMPERS. Mr. President, first, I want to pay tribute to my chairman of the subcommittee. Senator INOUYE and I have differences on different weapons systems. We have differences on a lot of things. But I want to say he is eminently fair, unfailingly polite, and extremely conscientious about the status of our defense forces. So what I have to say today is certainly not intended as a denigration of my very good friend of 20 years, Senator INOUYE. I want to express some of my own personal thoughts.

First of all, I am constantly chagrined by the fact that we start a weapons system such as the B-1 bomber to penetrate the Soviet Union and then we make a conventional bomber out of it in order to have a rationale for building the B-2 bomber. We started the Milstar communications system in 1981 as a communications satellite system to communicate during a 6-month nuclear war. If you have a nuclear exchange with Russia, there is not going to be anybody left to communicate with. Everybody is going to be vaporized. That never made any sense.

So now the Defense Department says, well, we no longer need it to fight a nuclear war; we need it for conventional warfare such as Desert Storm even though it would handle only a minuscule portion of the communications traffic that the Defense Department would use during a war such as Desert Storm. And the costs are just staggering, staggering. Everybody knows that I tried this year to kill that program and got, I think, maybe 44 votes. I was shocked that I got 44 votes to terminate that program. But it is never quite enough.

Mr. President, the Defense Department admits that they are going to be $40 billion short over the next 5 years. In other words, they have programed the policies of the Defense Department, including procurement, and they will admit that they are $40 billion short to carry out their plan.

But do you know what the General Accounting Office is saying? The General Accounting Office says they are $150 billion short. And until this very moment the Defense Department has not told me, and I very strongly suspect they have not told the chairman of our subcommittee, where they are going to find that kind of money. We are trying to get the deficit down. This Congress, if GAO is right, is not going to be in any mood to increase defense spending by $30 billion a year. We could not do it if we wanted to. And yet the Defense Department has yet to tell us what they propose to do about this $150 billion shortfall.

The day before yesterday, I talked about the Republicans' Snake Oil Convention, NEWT GINGRICH stood on the Capitol steps saying, "Here is what we will do to the American people." And in a sense saying, if there is somebody out there that wants something that we did not include, let us know and we will give you that, too.

And how are the Republicans going to pay for it? They will add $300 billion to $400 billion on the deficit, and how are they going to pay for it? Well, they are going to put a little clause in the Constitution saying we must have a balanced budget.

What else do they say? That whatever it takes to pay for these tax cuts for the wealthiest people in America at the expense of education, health care, you name it, whatever it takes to pay for it, will come out of domestic spending, and $19 billion of it out of Medicaid and Medicare. The first thing you know, we are going to cut Medicare so much the doctors are going to have to pay people to come into the office; $200 billion in program cuts so the Republicans can take care of the wealthy.

But they say of all that roughly $400 billion in tax cuts, none of it—none of it—can come out of defense spending. It must all come out of domestic discretionary spending and entitlements. The things that we spend money for to make ourselves a civilized nation. They would cut domestic discretionary spending still further, almost in half from what it was 10 years ago.

Yesterday, I did a television interview and the interviewer asked me:

> Do you think we are headed for a hollow force? Do you think our defenses are going to become a hollow force when you consider all of our cuts?

I said:

> Well, I will say one thing. If we become a hollow military force while we are spending more money on defense than all the rest of the world combined

Let me repeat that, Mr. President—

> If we become a hollow force while we are spending more money than the rest of the world combined, twice as much as our 10 most likely adversaries, including Russia, China, Iraq, Iran, North Korea, we deserve it, because it means we will have presided over the most seriously mismanaged defense spending in the history of the world.

I do not say that to be dramatic. I simply say that to say, how on Earth could anybody conceive of us being a hollow force when we are spending between $250 and $275 billion a year on defense, more than the rest of the world combined?

Mr. President, I used to be a great champion of the C-17. As a matter of fact, we have a plant up in the Ozark Mountains that makes doors for McDonnell Douglas. It is not easy for me to oppose the C-17, considering the fact that Douglas has a good plant in my State. But $450 million for one C-17, which is about twice to three times what it started out to be, when we could have bought modified Boeing 747's for one-third that amount and gotten 80 percent of the capability we get out of the C-17.

The *Seawolf*. I confess before all the world that I voted for the last *Seawolf*, and I have regretted it ever since. Why are we going ahead building another *Seawolf*—there is no money in this bill for it, but next year there will be—and the last *Los Angeles* class attack submarine was launched just last week. Those submarines have a 30-year life. But we are soon going to retire some that are half that. You think of that.

The F-22 fighter plane. Who could be opposed to such a sophisticated aircraft as the F-22? And yet, Mr. President, GAO said we could save billions by delaying for 4-7 years the building of that airplane, which is going to cost right now $130 million each—$130 million for one fighter plane. And the F–15 is superior to any other interceptor in the world and will be for 15 more years.

Oh, yes, the good is the enemy of the best. No matter how good something is, the Defense Department can conjure up something that will be better that we have to have. And all of the sudden that weapons system that used to be the best, all of the sudden it is the enemy of the best. We even sell some of our most sophisticated weapons to other nations and then the Defense Department comes over here and says, "Look at all these sophisticated weapons the rest of the world have. We have to build something new to overcome that," when we sold it to them in the first place.

And I personally do not believe we need 12 aircraft carriers; 10 would be more than adequate. They cost $3.2 billion in today's dollars. And that does not include the cost of the planes on that aircraft carrier.

Mr. President, last—and again I would not presume to speak for the chairman of the committee, but I believe he is relatively sympathetic to an issue that I raised in the conference, and here it is.

Under the START II Treaty, which we must implement by the year 2003—and which Yeltsin and Clinton both yesterday said they want to hurry up, speed it up, do it before 2003—we are allowed 1,750 warheads in submarines.

Now today, we are planning on having 18 Trident submarines by 1998. Each Trident submarine carries 24 missiles. Each missile has eight warheads. That means that to come into compliance with the START II Treaty, Mr. President, we have to do either of two things: We have to either download those missiles from 8 warheads per missile to 4 warheads per missile, which would come out to about 1,750, the permissible number; or put 12 missiles on each submarine instead of 24. They cost about $40 million each. Put 12 on a submarine with their existing 8 warheads, and that will bring you in compliance.

I thought that made a lot of sense, but the Defense Department was not having any of that. That saves billions, incidentally; billions. It does not reduce our strategic capability one whit. But they are not having any of that.

And do you know why? Because they want to keep the D–5 missile production line open.

As long as the Soviet Union existed, we could use the cold war and the Soviet Union as the threat that kept us building these things. Today, we do not talk about the threat. We talk about our industrial base.

If you shut down the D–5 missile line, what will the Brits do? They want to buy some more D–5 missiles. Well, who are we to be protecting Britain in the purchase of D–5 missiles?

Three months ago, Mr. President, 3 months ago, the Navy said we will settle for 347 D–5 missiles. I wanted to have 10 less than that, but I said, "That's fine. We will go with 347." That will equip all of the 10 Trident submarines we have in the Atlantic. We also have eight Tridents in the Pacific. But they carry the C–4 missile.

All of a sudden, between the time we passed the bill here and went to conference, the Pentagon came out with a new nuclear posture review and now the Navy says, "No, we don't want 347. We want 425." It is only $3.4 billion more.

"What are you going to do with them?"

"We have decided we want four of our submarines in the Pacific to have the D–5 missile."

Everybody knows those submarines are now equipped with what we call the C–4 missile. It is a magnificent missile. It will last as long as the submarines will last. It lacks 450 feet being as accurate after a 4,000- or 5,000-mile trip as the D–5; less than half the distance of where I am standing to my office. That is how much accuracy you lose with a C–4 as opposed to the D–5. And there is not going to be anything alive within 50 miles of where it hits, anyway.

Mr. President, $3.4 billion to backfit four of those submarines and take off a perfectly good C–4 missile and put D–5's on. I can tell you categorically one of the reasons for this is not because it enhances our nuclear superiority or our nuclear posture. It is to keep the industrial base of the D–5 missile. Keep the line open. It does not make sense—any other argument you want to put on it makes no sense whatever. Yet, when I brought this up in the conference, the House was having none of that.

I said, "How do you answer this question?" The Defense Department did a study, which they completed November 9, 1992, less than 2 years ago, on this very subject: "Shall we backfit the Trident submarines in the Pacific Ocean?" And they came back and the results of the study were: No. The Defense Department, DOD, said, "No, we are not going to retrofit those submarines. The C–4 missile is fine. It will last as long as our submarines will."

Do you know what the Navy did? They went off in a corner and pouted and then they came back and said, "We want them anyway."

The PRESIDING OFFICER. The time of the Senator from Arkansas has expired.

Mr. BUMPERS. Mr. President, I ask unanimous consent for 3 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, do you know what happened? The downpayment for those extra 88 missiles is in this bill.

I have vented my spleen on things that are of great concern to me. I do not know any other way to express what I see as a continuing skewing of what I think the Defense Department's priorities ought to be. I have done everything I know to do, to point out things where they could save money. But we do not ever save money. We do not ever kill a weapons system.

I have talked about this with the Assistant Secretary of Defense, John Deutch. He was Assistant Secretary of Energy when Jimmy Carter was President—I was on the Energy Committee and Secretary Deutch and I got to know each other reasonably well. I had great confidence in him. And I pleaded with him to look at the Milstar communications system very carefully, think of the cost as opposed to the benefits you are going to get. I said please, do not buy all those MK–6 guidance systems. Please consider putting 12 missiles on each submarine with 8 warheads and save billions of dollars. And please, for god's sake, consider not backfitting those submarines in the Pacific—for nothing except spending $3.4 billion worth of the taxpayers' money.

He promised me that every one of those things were under serious review. This is not to denigrate him, but it is the same old story. Unless the Defense Department tells you they no longer want a weapon, nothing happens.

Mr. President, I am a former marine. The Marines want the V–22 Osprey worse than they want to go to Heaven. The Defense Department wanted to kill it and I voted with the Defense Department. It is still alive and kicking because of Congress. The Defense Department could not even kill that one. They did not want an additional 20 B–1 bombers, but we put $150 million in to keep the line open.

So Secretary Deutch may have reviewed them, but they all came out exactly the way I knew they would, and the way they have come out every year during the 20 years I have been in the U.S. Senate. I told the committee, in a different situation, though, this morning: These battles are kind of like me fighting with my wife. "Those I win just ain't over."

So I will be back at the same stand next year doing my very best to raise these issues to a level that the Members of the Senate will not only understand but appreciate and possibly adopt. We have been able to do a few things around here, but I am going to be anxious to hear the Defense Department testify next spring in our subcommittee about how they are going to find the $150 billion they have to find.

I would be remiss if I did not again pay respects and tribute to our distinguished chairman, who is so untiring and unstinting in his efforts to get this bill here. Those conference committees are very difficult. There is a lot of parochial interest, a lot of interest, sincere interest—I do not question anybody's sincerity about any weapons system. But there obviously is a lot of parochialism, and I am not above it myself when it comes to something for my State. But I tell you, we must start to do something about the billions of dollars we are prepared to waste on some of these weapons systems.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

WILLIAM LANGER JEWEL BEARING PLANT

Mr. INOUYE. Mr. President, the conferees agreed to eliminate Senate bill language—amendment No. 56—providing $2,500,000 only for "capital investment, operations, and such other expenditures as may be necessary to maintain the William Langer Plant as a going concern while it is being excessed under the provisions of the Federal Property and Administrative Services Act." The conferees felt that bill language was unnecessary to carry out the Senate's direction and therefore agreed to provide the $2,500,000 required for this effort within the statement of the managers in the "Missile Procurement, Air Force" account. The conferees specifically provided an additional $2,500,000 within the Industrial Facilities line—page 1 line 10—only to carry out the Senate's directions as explained in Senate Report 103-321, page 129. It was further the intent of the conferees that the Air Force transfer the funds provided for the Langer Plant to the manager of the National Defense Stockpile for execution.

DFAS CENTER FOR FINANCIAL MANAGEMENT EDUCATION AND TRAINING

Mr. President, before we conclude our business on the fiscal year 1995 Defense Appropriations Act, I want to bring to the attention of my colleagues a matter of importance that was not addressed in the conference report on this act. This matter concerns the establishment of the Defense Finance and Accounting Service's Center for Financial Management Education and Training in Southbridge, MA.

On May 9 of this year, the Department of Defense announced plans to establish the DFAS Financial Management Education and Training Center at Southbridge as part of its overall plan to consolidate DOD financial and accounting operations. The purpose of this facility is to support the planned consolidation and continued operation of DFAS accounting centers.

As determined by the Department during its review of DOD financial management operations, this new education and training center will be needed to assure the success of the envisioned consolidation. Though no funds were included in the President's 1995 defense budget request to initiate the establishment of this center, the Department has determined that it needs to move quickly to do so. Unfortunately, this budget inadequacy was brought to the conferees' attention very late in our deliberations, limiting our ability to fully address this issue.

Nonetheless, I can unequivocally state my full support for this vital project and that of my House counterpart. We believe the Department should move expeditiously to establish the Southbridge education and training center, using funds available to the Defense Finance and Accounting Service. Should any additional legislation be required to facilitate the establishment of this center, I can assure my colleagues that I will work to secure its prompt passage.

B-2 BOMBER CONVENTIONAL CAPABILITIES

Mr. President, this conference report represents an important step toward maintaining and enhancing the Nation's conventional bomber forces, especially the B-2 advanced technology stealth bomber. Contrary to assertions by some, the B-2 bomber can justifiably lay claim to being the foundation of our long-range, conventional, air power projection capabilities. No other aircraft embodies its unique combination of high survivability, long range, and large payload.

This conference report includes funds to maintain and improve all our bomber forces—the still useful B-52 bombers, the ailing B-1B bombers, and the superlative B-2 aircraft. Most noteworthy is the recommended appropriation of $125 million to protect the nation's B-2 production base and ensure that the option of producing additional B-2 aircraft remains viable for at least 1 more year.

Also noteworthy is the initiative to provide $25 million to support the acquisition for the B-2 of a limited stockpile of near precision conventional bombs, known as Global Positioning System [GPS]—Aided Munitions [GAMS]. In association with the GPS-aided targeting system, these weapons provide an early and accurate bombing capability for the B-2. They are a bridge to, not a substitute for, the Joint Direct Attack Munitions still being developed by the Air Force.

Mr. President, it is the conferees expectation that the Air Force will implement an acquisition strategy which provides an operational GAM capability as early as practicable and prudent—from the taxpayers' perspective of minimizing costs and the Air Force's perspective of improving our combat capabilities.

Mr. President, the conference agreement provides $243.6 billion for DOD. Together with military construction and nuclear energy programs, the amount appropriated for all national defense programs for fiscal year 1995 is $261.9 billion.

This amount, for total national defense, is $1.4 billion below the amount contained in the Defense Authorization Act in new budget authority. In outlays, the appropriations bills save $700 million from the authorized level.

But the Defense appropriations bill does not cut readiness. The Appropriations conference report provides more money for each military service and reserve component for critical readiness money than was authorized. The increases, above authorization, are as follows:

[In millions]

Army	+$271
Navy	+189
Marines	+2
Air Force	+116
Army Reserves	+5
Navy Reserves	+4
Marines Reserve	+1
A.F. Reserves	+7
Army Guard	+42
Air Guard	+1
Total	+638

Mr. President, in addition, the conference agreement provides $299.3 million in supplemental appropriations for fiscal year 1994 to replenish readiness funds used for operations in Rwanda and refugee assistance in Guantanamo Bay.

The bill cuts some modernization programs to allow for funding the increases in readiness. The conferees chose to protect readiness above the levels authorized at the expense of some investment programs. However, the majority of cuts made in investment programs were made because of programmatic delays or other fact of life changes that are already recognized by DOD.

Mr. President, the appropriators protected readiness. Of that, there can be no question.

THE FISCAL YEAR 1995 DEFENSE APPROPRIATIONS BILL

Mr. DOMENICI. Mr. President, I rise in support of H.R. 4650, the fiscal year 1995 defense appropriations conference report.

The conference report provides a total of $243.6 billion in budget authority and $164.2 billion in new outlays for programs of the Department of Defense for fiscal year 1995.

When outlays from prior-year budget authority and other completed actions are taken into account, the conference report totals $243.6 billion in budget authority and $250.7 billion in outlays for fiscal year 1995. The bill is $2 million in budget authority and $52 million in outlays below the subcommittee's 602(b) allocation.

I want to thank the conferees for the support they have given for the Defense Department's counterproliferation initiative. The conferees provide $60 million for this important effort.

These funds will serve to "jump start" the administration's multiyear plan to deter the spread of nuclear, biological, and chemical weapons.

Proliferation of such weapons may well be the most important threat to national and international security in the post-cold war era. The counterproliferation initiative will focus on deterring, detecting, protecting against, and responding to the threat posed by such weapons.

I also want to express my appreciation to the conferees for their support for several priority items important to the military presence in my home State of New Mexico.

Finally, I commend the distinguished conferees for bringing this bill to the floor within the subcommittee's section 602(b) allocation. As a member of the Senate defense appropriations subcommittee, I know how difficult a job it has been to sustain readiness in the face of ongoing, significant budget reductions.

I thank the conferees for the fine job they have done, and I urge all Senators to support the conference report.

HEAVY EQUIPMENT TRANSPORTER

Mr. BOND. Mr. President, I would like to raise one issue that was, I believe, inadvertently left out of the conference report. As we did last year, the conference committee left to the leaders of the Guard and Reserve the right to prioritize and buy their own equipment. Rather than earmarking funds for specific items, the committee instead provided a list of items that should be given priority consideration. That list was supposed to include the heavy equipment transporter [HET] for the Army Guard and Reserve, however, the HET was inadvertently left out of the final report.

I would ask of the chairman and ranking member of the subcommittee that they address this issue and, specifically, confirm that the HET was one of the programs that was intended to be highlighted.

Mr. INOUYE. Mr. President, I thank the Senator from Missouri for raising this issue. He is, in fact, correct that due to a printing error, the heavy equipment transporter was not included in the list of programs which the conference committee highlighted to the Guard and Reserve for priority. The HET System is an important one which addresses important logistics needs of the Army, and I will be sure that the leadership of both the Army Guard and Army Reserve are aware that we intended to include it in the conference report.

Mr. STEVENS. Mr. President, I would concur with the statement of the chairman. The conference committee intended to include the HET in the conference report, and we will ensure that the Guard and Reserve are aware of that.

Mr. BOND. I thank the chairman and ranking member for that clarification, and also for their continued strong support of the National Guard. As cochairman of the Senate National Guard caucus, I can say that the Guard has no stronger friends in this body than these two Senators.

With regard to the HET Program, I would just like to highlight the importance of this program. In hearings held earlier this year, members of the subcommittee heard from National Guard witnesses concerning their equipment shortfall. Specifically, we were told that the Guard is facing a severe shortfall of the most modern heavy equipment transporter [HET], the M1090 tractor and the M1000 trailer.

In Operation Desert Storm, modern and capable heavy equipment transporters were in short supply. When Gen. Norman Schwarzkopf briefed the subcommittee following his return to the United States, he cited HET as an item that should be a priority for both the Active and Reserve Forces. Unfortunately, the active Army faces a shortfall and, according to testimony, they will attempt to buy additional units if funding is available. The Army, however, has said it will not buy additional HET's for the Guard or Reserve out of its procurement funds. These HET's remain a priority for the Guard and for the Reserve, and it is my understanding that they plan to use some of the funding in this bill to purchase additional systems. I believe that makes a lot of sense, I am supportive of it, and I hope that they follow through on its plan to buy more HET's.

Mr. LEVIN. Mr. President, I want to commend the chairman of the Defense Appropriations Subcommittee for his excellent and successful effort in defending the Senate position with respect to funding for the Defense Contract Audit Agency [DCAA] and the Defense Contract Management Command [DCMC]. When this bill was considered by the Senate earlier this year, I had intended to offer an amendment to put the Senate on record in support of full funding for these two agencies. I withdrew that amendment when the chairman assured me that he would fight hard in conference for full funding and in no event would support a cut greater than the $36,500,000 for DCMC contained in the Senate bill. As I knew he would, the chairman kept his word and this conference report contains only this $36,500,000 cut for DCMC.

I do have one point I would like to make on this part of the conference agreement, Mr. President. And it concerns the statement of managers. The statement of managers reflects concern by the conferees that DCAA and DCMC achieve savings over the next few years by consolidating and streamlining. I take no issue with that recommendation. However the statement of managers also recommends that DCAA "reduce its incurred cost audit backlog to 1 year by 1997." I think that is an important goal and one that DCAA should try to meet. However, I think we should also recognize that DCAA needs some assistance from the contractors and DOD in order to reduce this backlog. DCAA needs the contractors to submit their incurred cost claims in a timely fashion, and DCAA needs the Department to provide DCAA with appropriate staffing.

There is a contractual requirement that each contractor submit incurred cost claims to the Government 90 days after the contractor's fiscal year ends. I have been advised that approximately 65 percent of contractors take 6 months or longer to submit incurred cost claims to the Government. DCAA cannot start the audit until it has the contractor's claim. Clearly, the timeliness of contractor incurred cost claims must improve in order for DCAA to reduce the incurred backlog to 1 year.

Mr. INOUYE. Mr. President, if the Senator from Michigan would yield.

Mr. LEVIN. I would be happy to yield to the senior Senator from Hawaii.

Mr. INOUYE. I agree with what the Senator from Michigan has said. The 1997 goal for reducing the backlog is an achievable goal, only with the cooperation of both the Department of Defense and the contracting community. I appreciate the Senator's remarks and his longstanding support of the work of these two agencies.

SENATE AMENDMENT NO. 24 TO H.R. 4650

Mr. INOUYE. Mr. President, I would like to clarify a matter that has arisen with regard to Senate amendment 24 to H.R. 4650, which provided $8 million for upgrades to the Air Force CAMS/REMIS System. This is the major Air Force data management system to provide maintenance technicians with up-to-date information on the maintenance and supply status of missiles, aircraft and other critical operation equipment.

During deliberations with House conferees on the fiscal year 1995 Department of Defense Appropriations Act, the Senate conferees receded to the House on amendment 24, but added funds to the Air Force Operation and Maintenance account for CAMS/REMIS, as identified in the table for this account in the accompanying statement of the managers to this conference report. This table confirms the decision of the conferees to provide $8 million only for the CAMS/REMIS upgrades. Inadvertently, additional explanatory language for the statement of the managers was not included in the final version. There should be no question that the $8 million identified in the operation and maintenance account for CAMS/REMIS is to be available only for upgrades to this system. These funds are in addition to any other funds included in the Air Force budget for the normal operation of CAMS/REMIS.

Mr. STEVENS. Mr. President, I fully concur with the statement made by the distinguished chairman. The $8 million appearing in the operation and maintenance account table for the Air Force in the statement of the managers may be used only for upgrades to the CAMS/REMIS System.

NATIONAL DEFENSE SEALIFT FEATURES

Mr. MITCHELL. Mr. President, I would like to engage the Senator from

Hawaii, chairman of the Subcommittee on Defense, in a brief colloquy regarding a program of significance to national defense. Mr. President, I am concerned that the conference agreement does not appear to provide funding for the National Defense Sealift Features Program. Can the manager of the bill explain the conferees action on this program?

Mr. INOUYE. Mr. President let me respond to the majority leader's request. As you will recall, the authorization conference included $43 million for the National Defense Sealift Features Program, as an alternative to expansion of the inactive Ready Reserve Force. The Senate-passed appropriation bill also funded the National Defense Features Program at $43 million. The House-passed appropriation bill, however, provided no funds to begin this program in fiscal year 1995. In the final analysis, the conferees on the defense appropriation bill were unable to identify sufficient funds for the National Defense Features Program.

Mr. MITCHELL. I thank the Senator for that explanation. Would it be correct to say that the conferees are in favor of the program, but simply did not have the money to pay for it at this time?

Mr. INOUYE. The majority leader is correct. The conferees support the program and encourage the Defense Department to include funding in the fiscal year 1996 budget request for the National Defense Sealift Features Program. Furthermore, because the authorization conference agreement authorizes funds for the program in 1995, I believe the conferees on the defense appropriation bill would support DOD efforts to initiate the program in 1995 through a reprogramming.

Mr. MITCHELL. I thank the chairman of the subcommittee for explaining this matter to the Senate. Would it be correct to summarize the manager's view that the conferees support the National Defense Sealift Features Program, hope it will be included in the DOD budget for fiscal year 1996, and would be supportive of efforts to reprogram $43 million to begin the program in fiscal year 1995?

Mr. INOUYE. The majority leader has expressed it correctly.

Mr. COHEN. Mr. President, I appreciate the comments from the Senator from Hawaii, chairman of the Appropriations Subcommittee on Defense, in support of the National Defense Sealift Features Program. As the Senator from Hawaii noted, the fiscal year 1995 National Defense Authorization Act contains $43 million in initial funding of the National Defense Sealift Features Program—for which Congress provided specific statutory authority in the fiscal year 1993 National Defense Authorization Act.

I also appreciate the fact that the Senator from Hawaii has encouraged the Defense Department to include funding for the National Defense Sealift Features Program in the fiscal year 1996 budget request, and to consider a fiscal year 1995 reprogramming for this purpose. The National Defense Sealift Features Program offers a cost-effective dual-use solution to the need for supplemental defense sealift assets in time of international crisis. It can also assist the preservation of defense-critical American shipyards, U.S.-flag merchant ships, and the jobs and vital skills of American shipyard workers and merchant mariners.

Mr. President, the Senator from Alaska, ranking minority member of the Appropriations Subcommittee on Defense, has expressed interest in joining this colloquy. I thank him for his supportive remarks to the Senate on the National Defense Sealift Features Program.

Mr. STEVENS. Mr. President, let me join the Senator from Hawaii, chairman of the Appropriations Subcommittee on Defense, in confirming to our colleagues from the State of Maine that I fully support the National Defense Sealift Features Program and its funding.

LHD-7 AMPHIBIOUS ASSAULT SHIP

Mr. COCHRAN. Mr. President, I am pleased to note the $50 million in funding for the LHD-7 amphibious assault ship in this conference report, as well as bill language directing the Secretary of the Navy to extend the option on the ship for not less than 1 year. The conferees have unambiguously endorsed this ship, and it is my understanding that the LHD-7 will be a priority in next year's Defense appropriations bill.

Mr. STEVENS. Mr. President, the amount of budget authority available this year was severely limited. That we were able to put even $50 million into the ship is testament to the strong support for LHD-7. It will be a high priority next year, and it is my intention to seek to fully fund the ship, even if it is not included in the administration's budget request for fiscal year 1996. The requirement for the ship is clear-cut, and by acting next year to complete the funding for the ship we will still be able to save several hundred million dollars.

Mr. COCHRAN. Mr. President, both the House and Senate placed a high emphasis on providing a sufficient amount of funding for the operations and maintenance account this year. Like many of my colleagues, I am concerned that the administration is failing to ask Congress to provide the Department of Defense with resources adequate to perform the mission it is charged with. I am also concerned that, notwithstanding administration pronouncements to the contrary, we are sliding back toward the hollow force of the late 1970's. Though we have increased the amount of money provided for the O&M account this year, there is only so much our military—the people and equipment—can do. We have reached the point, in many cases, where more people and more equipment are necessary, not just additional O&M funds.

Mr. STEVENS. Mr. President, the point raised by the Senator from Mississippi is entirely correct. On August 16, 1994, Secretary of Defense Perry was present to welcome the U.S.S. *Inchon*, an amphibious assault ship, back from the Caribbean. This ship deployed to the waters off of Haiti 2 weeks after returning from a 6-month deployment, where it was stationed first off of Bosnia and then off of Somalia. Despite the policy of having Amphibious Ready Groups—which are formed around amphibious assault ships, such as the LHD-7—at sea for 6 months and then back in port for 12 months, the *Inchon* had to steam out of Norfolk for Haiti 2 weeks after returning from a difficult 6-month deployment. Secretary Perry, when welcoming home the *Inchon*, said that the current operations and personnel tempos are too high, and that there continues to be a military requirement for 12 Amphibious Ready Groups. We currently have 11 Amphibious Ready Groups, and the only way to form a twelfth is to build LHD-7. I concur with Secretary Perry's comments, and ask that they be included at the conclusion of these remarks.

(See exhibit 1.)

Mr. COCHRAN. Mr. President, I thank both the Senator from Alaska and Senator INOUYE, the chairman of our subcommittee, for their support for LHD-7 again this year. I look forward to working with them next year to fully fund the ship.

[Exhibit 1]

SECRETARY OF DEFENSE WILLIAM J. PERRY REMARKS—TO "INCHON", AUGUST 6, 1994

SECRETARY PERRY: First of all, I wanted to simply welcome these marines and sailors back home. Secondly, I wanted to thank them, not just for a regular deployment, but for an extraordinary deployment. As you probably know, this was a second deployment—a two month deployment—tacked onto a six month deployment to Somalia.

I wanted to also comment that they had two extraordinary missions during these two different periods of deployment that they're on. In Somalia, they were executing a tactical withdrawal one of the most difficult military maneuvers to do well—and they did it very, very well. I wanted to thank them for the excellence of the operation that they performed there.

In Haiti, it was a standby operation. Even though some of the gossip was that we were down there for an invasion, the fact is, we were down there to provide an emergency evacuation capability should it be needed. Luckily, it was not needed, so we were able to bring them back. And they're now replaced with the WASP which is there to provide that function—again, if it were to be needed.

One of the specific reasons I came was to get some first-hand flavor for the stresses and strains that come from extra long deployments. We have what's called a personnel tempo, which is designed to be six months on deployment and then 12 months back in training and work outs. So we had them on the six-month deployment and then, instead of having them back for 12 months, we had them back for two weeks and sent them out again for two months. I wanted to assure them that the decision to send them out again after two weeks was not made lightly at all. In fact, General Shalikashvili and I both agonized over that decision before we actually did that. We did it because the mission was an important mission and needed to be met right then. And they were the best ready—the best trained unit—for doing it at that time, and we wanted to send the best. But we also committed, at the time we did that, that we would get them replaced just as soon as it was feasible to do that, and we've done that now by sending the WASP.

It's also worth noting that we expect to catch up with this. That is, the next planned long deployment of this battalion will be next December—December of '95—so there will be some catch up in the deployment phase.

All in all, one of the biggest problems we have today with the reduction of the military forces but no reduction in military needs—in mission needs, an increase in military needs—is a strain on the operational tempo that we're conducting. It has two different potential effects. One is it could take people out of the normal training cycle. We have to be very careful to ensure that we maintain the training cycles, that we maintain an adequate readiness for our forces. Second is the wear and tear on the morale of people and their families.

So what I was really trying to do today was get a first hand feeling of that latter point—the wear and tear on morale—by talking with the Marines, talking with the families. You don't get a flavor of that from reading the statistics and reading the reports. You get it by going out and talking with people and this seemed like a particularly good day to do that.

Q: What was the reaction?

A: Generally positive today, but mixed. There is no question that the families felt the stress and the strain of this long deployment, particularly the second deployment. There's no question that there was some resentment on the part of some of the families about this second deployment. I would like to have promised them that the next big deployment wouldn't occur until December of '95. But the fact is, all I can promise them is that's what the plan is, and that I cannot control the emergencies that might come up in the world between now and then. It's always possible that there will be an emergency and we'll have to pull them out sooner, but our plan is . . .

Q: [There was a Time magazine] article (inaudible) deadline for an invasion of Haiti. Does that mean you're opposed to an invasion?

A: My position on that, which I've stated several times, is that I think an invasion of Haiti is the last alternative that we should consider. We have plenty of other alternatives to develop first. We already have a course of what I call coercive diplomacy underway which are very heavy duty sanctions. And those are not, even today, not fully in effect, not fully biting the regime in Haiti today. We have just recently started to shut the back door on the sanctions—blocking off the Dominican Republic. That has to happen first. We're some period of time away from seeing the effects of that diplomacy.

Q: How long . . .

A: The last thing I will do is give you an estimate on that as to when or even whether. I have some optimism that this coercive diplomacy is going to be effective. I want it to have its full chance to work. If we have to go to an invasion, the conventional wisdom is that this will be a piece of cake. And I don't like that point of view. Any time you have a good operation an invasion, a forceful entry—you have a danger of a very high risk of casualties. The casualties from the possible resistance on the part of the Haitians, a large complex operation like that, some casualties, some accidents can happen. So we don't take that decision lightly and we will take every alternative we can to see that we don't have to do that.

Q: Have you made a decision about how many ARGs are appropriate, then, to help relieve some of this?

A: Yes. Our plan is to have . . . Let me put this in terms of LHAs and LHDs which is sort of the flag—the main ship of an ARG. Our plan is to maintain 12 of those. Coincidentally, that's the number that we have for carriers. But it's more than a coincidence. In both cases what that means is as we expect to be able to deploy three of them in three regions of the world simultaneously; and with 12, you can work out the ratio on that. That means if you're on a six-month overseas, there's 12 to 18 months then back in the States. It also allows a little time to rework on the ship.

So we will have enough ships to maintain the personnel tempo that we consider desirable—the operational tempo that we consider desirable.

Q: Your operational budget? These deployments have gone right into . . . You haven't had any additional funding for these * * * .

A: Yes. We have gotten—I don't want to be complacent about the funding—but we did put in for, and got approved, a supplementary for most of our extra deployments last year. As we speak, we have a supplemental being considered by the Congress for the deployments we made to Rwanda for humanitarian purposes. And I think we're probably likely to get $170 million supplemental appropriation for that.

The defense budget is just for maintaining the defense force. When you go on operations, that costs additional. So [for] every operation we go on, we have to somehow find additional funding for it—or the alternative is to take it out of the training and take it out of the operational account. That's what my job is—to resist that, and to be sure that we take on additional operations, we get the additional funding that goes with it.

These are not necessarily negative to readiness, if you can supplement the funding. What is happening on these operations would be generally good training in and of itself. But if you fund them out of the O&M account—the operations and maintenance account—then what you are doing is taking away the money that would have been used for training, that would have been used for quality of life initiatives, that would have been used for things around the base. That's what I'm resisting.

PRESS: Thank you very much.

CARRIER REPLACEMENT PROGRAM

Mr. SASSER. I would like to address a question to the distinguished floor manager of the bill. I noted that in conference the House receded to the Senate with regard to the amount appropriated for the carrier replacement program. The conferees thus cut the Navy's original request by $162 million, as was proposed by the Senate. According to the Senate report, however, the Senate's lower figure reflected concerns about the prices contemplated by the Navy, not about the specific equipment and services to be procured. Thus, I would assume that it was not the intention of the conferees to cancel the procurement of any equipment or services—such as the procurement of components or reactor fuel—that were contemplated by the Navy in connection with this and earlier requests. Is my assumption correct?

Mr. INOUYE. It is in fact correct.

DOD APPROPRIATIONS CONFERENCE REPORT

Mr. BYRD. Mr. President, I commend the chairman of the Defense Appropriations Subcommittee, Senator INOUYE, and the ranking member on the Defense Subcommittee, Senator STEVENS, for their superlative efforts in guiding this measure to completion prior to the beginning of the new fiscal year. Their work becomes ever more difficult with each year, as the budgetary constraints imposed upon the defense budget, and all discretionary budgets, become tighter. The chairman and the ranking member of the Defense Subcommittee, and their fine staff, have worked very hard to balance all of the competing needs and desires within the fiscal year 1995 Defense appropriations bill.

I also want to thank the Defense Subcommittee, and the conference, for agreeing to fund the restoration of a limited, three-plane, SR-71 reconnaissance contingency force, which was authorized in the conference agreement on the fiscal year 1995 Department of Defense Authorization Act. We are all aware that in the last few years, the world has been beset by troubles. One of these troubles has already required the deployment of United States military forces in a war against Iraq. Another troubling situation is still bubbling away on the Korean Peninsula, sometimes at a low simmer, sometimes looking like it is coming up to a boil. One of the critical lessons we learned from the Persian Gulf war is that, in a threatening situation or during the conduct of a war, a military commander cannot have too much information, too many maps, or too many "looks over the hill" to see what the enemy is doing. The Department of Defense's "Final Report to Congress on the Conduct of the Persian Gulf War" in 1992 noted that:

> Imagery was vital to Coalition operations, especially to support targeting development for precision guided munitions and Tomahawk Land Attack Missile attacks, and for BDA [bomb damage assessment]. Operations Desert Shield and Desert Storm placed great demands on national, theater, and tactical imagery reconnaissance systems. The insatiable appetite for imagery and imagery-derived products could not be met.

The U.S. Defense Mapping Agency had to use Landsat and SPOT data to create maps for the U.S.-led coalition's use in that war.

Mr. President, our national ability to meet that "insatiable appetite" has not improved in the intervening years. The "Final Report to Congress on the Conduct of the Persian Gulf War" went on to note that:

> The SR-71 could have been useful during Operation Desert Shield if overflight of Iraq had been permitted. In that case, the system would have provided broad area coverage of a large number of Iraqi units * * *. During Operation Desert Storm air operations, the SR-71 would have been of value for BDA [bomb damage assessment] and determining Iraqi force dispositions.

It is for this reason that I again, as I had in a letter to the Secretary of Defense before the war with Iraq, broached the subject of bringing the SR-71 Blackbird reconnaissance aircraft out of forced retirement.

In 1991, my suggestion to then Secretary of Defense Cheney was not adopted. The SR-71 program had been terminated as a full-fledged operational activity involving 12 aircraft in 1990 on the grounds of cost, lack of need due to the end of the cold war, and the promise of follow-on systems then in development. The follow-on to the SR-71 has since then also been canceled. The SR-71 Blackbird remains our sole manned, survivable, penetrating reconnaissance aircraft. The Congress had acted to preserve that capability. In June, 1990, the Secretary of the Air Force directed the Air Force to "place three SR-71A aircraft and six associated reconnaissance sensors and electronic countermeasure suites into long-term storage, rather than a flight ready status, as a hedge against a protracted conflict some time in the future." This was a far-sighted move. I believed in 1991 that we should have taken advantage of that foresight, and I continue to believe that we should take advantage of this fortuitous circumstance and create a contingency capability for the SR-71 in the face of the potential for conflict that continues to exist on the Korean Peninsula. Our military forces deserve access to every tool that we can provide, particularly tools of such demonstrated capability and need.

Unmanned aerial vehicles, or UAV's, have been touted as a penetrating and survivable follow-on to the SR-71 and, indeed, in a few years they may be developed to that point. Very high expenditures are under consideration for a family of various UAV's, amounting to almost $2.3 billion over the next 5 years. The funds for UAV development have come in part at the expense of upgrades and overhaul to other existing airborne reconnaissance platforms like the U-2 and RC-135, which unlike the SR-71 are not survivable over hostile territory. While potentially useful, the current program of UAV development is extremely ambitious and may not be fully attainable in the current constrained budget environment. The SR-71 is a cost-effective stop gap that makes use of existing, but still state of the art, equipment to fill an inarguable gap in battlefield intelligence. I do not view it as a competitor of UAV's—I support funding for an effective tactical UAV program.

The SR-71 as an aerial surveillance system complements other "national technical means," as satellite systems are euphemistically termed. A 1991 report by the Office of Technology Assessment, "Verification Technologies: Cooperative Aerial Surveillance," cites a 1990 report to the Department of Defense that states:

> The existence and utility of reconnaissance satellites is accepted . . . Satellite orbits are highly predictable. It is taken as a given by each side that the other will refrain from some activities, which would otherwise be observable, during a satellite pass—once or a few times a day, say for a total of 20 minutes. The long advance predictability of reconnaissance coverage makes it possible to hide, by careful advance scheduling, even very large and elaborate activities. Each side might worry, in the extreme case, that preparations for war or treaty breakout could thus be hidden.

The scheduling and route flexibility provided by aircraft platforms such as the SR-71 make it very nearly impossible to avoid detection. Properly employed, there should be no advance warning of when or where an SR-71 might fly. Given the repute of the North Koreans in concealing their facilities and installations even in peacetime, this flexibility might be essential should tensions escalate or hostilities erupt on the peninsula.

"National technical means" of intelligence collection will remain essential, but have some limitations, as I have just illustrated. Another weakness of current satellite intelligence systems, but a strength of the SR-71, is the ability to provide synoptic broad area coverage of large swaths of ground, needed for monitoring overall enemy forces dispositions and for specialized and updated mapping. Prior to the Persian Gulf war, the United States acquired Landsat and SPOT satellite images from which to build maps, because United States intelligence systems were swamped trying to monitor Iraqi military activities. Buying Landsat and SPOT imagery for these needs was a stopgap measure. We might not be so fortunate the next time a crisis arises. Nor may we benefit from 6 months to prepare for a conflict, as we did during the Persian Gulf conflict. Military reconnaissance missions' requirements for timeliness often exceed the current capabilities of civilian satellite systems. According to a 1993 Office of Technology Assessment report, "The Future of Remote Sensing From Space: Civilian Satellite Systems and Applications," Landsat satellites pass over any given place along the equator once every 16 days, while SPOT passes over once every 26 days. Each system may require weeks to process orders. The report goes on to state that "existing civilian satellite data are not adequate to create maps with the coverage or precision desired for military use."

The same report also notes that because other nations control some of the most capable civilian satellite imaging systems, they could in the future deny the United States access to their systems. Additionally, since all countries now generally follow a nondiscriminatory data policy, any purchaser can buy imagery at the same price and on the same delivery schedule. This means that in the future, Iraq or some other belligerent could purchase Landsat, SPOT, and other civilian satellite imagery to prepare their own battle maps for their troops or for their own future cruise missile systems. During the Persian Gulf conflict, both the SPOT and Landsat organizations cut off Iraq's access to satellite imagery, but such cooperation is not assured in the future as more and more companies and countries attempt to enter the satellite imaging business.

The SR-71, on the other hand, could have provided photographic coverage of Iraq in under 3 hours of flying time. It could have covered the country at regular intervals—daily or every several days, if necessary—to help update battle maps showing the widely dispersed Iraqi troop positions. Such missions might also have helped to reveal other Iraqi activities involving their nuclear, biological or chemical weapons industries that were uncovered only with great effort after the war. With electronic intercept sensors available for the SR-71, Iraqi air defense equipment could have been pinpointed prior to bombing raids. And with a different camera, the SR-71 could have followed bombing missions in to provide post-bombing damage assessments. An existing radar suite allows the SR-71 to support U.S. forces even in bad weather or at night, helping to keep an unblinking eye on every movement of enemy forces.

In any future conflict, the capabilities of the SR-71 would augment support to U.S. combat forces. A limited contingency capability involving three aircraft can be reconstituted for as little as $100 million, and maintained in standby status for under $50 million per year, according to estimates provided by the Defense Airborne Reconnaissance Office and by the contractor. The contractor is confident enough in these estimates to willingly accept a cap on the amount provided for the reconstitution of this capability. Over $700 million worth of spare parts remain in storage, ranging from spare engines to spare tires. By basing the contingency aircraft with the NASA-operated SR-71 fleet that is used for scientific studies, additional savings are possible for sharing support equipment. In this scenario, 12 months of operations would include one 30-day deployment in which 10 overflights would be conducted. If or when military tensions escalate, the operating tempo could be readily increased to meet the needs of the local commanders.

More creative use of the SR-71 is possible even while the aircraft remain in contingency status. In March, 1993 for instance, the United States used Landsat and SPOT data to create maps of the former Yugoslavia in order to support airdrops of food and medical supplies to towns and cities under siege in eastern Bosnia. With the greater resolution and finer detail achievable with SR-71 imagery, greater precision in airdrops would have been possible. Similarly creative use of the system is possible in support of humanitarian efforts now underway in Rwanda and Zaire, without drawing national collection systems away from other areas of interest.

Finally, I would note that an overflight by an SR-71 can be a potent signal to a potential adversary of the seriousness of U.S. intentions. Even moving an SR-71 into a region underscores U.S. intentions to support possible military actions by every means possible. It is a mechanism that the President can use selectively to demonstrate national will as a political instrument. Imagine the message received by an adversary when an unarmed, nonhostile SR-71 aircraft sweeps across their country at high speed—a portent of future waves of bombers that could follow. It is a message that no satellite blinking across the night sky can send.

During the period leading up to the Persian Gulf war, a political decision was made not to overfly Iraq, despite the potential intelligence that might be garnered for the United States and the coalition forces. But to conclude from that decision, as some have, that no American political authorities will ever have the "political will" to overfly another country, even when the vital interests of the United States demand it, denies the idea that any lessons were learned from the Persian Gulf war experience. A New York Times article from July 4, 1994, says that "senior officers questioned whether the United States had the political will to use the aircraft against North Korea, its likeliest target." I reject the assumption that we are incapable of learning from the past. It is not the job of military officers or professional intelligence officials to second guess the political will of our elected national leaders. Far better for the political authorities to have an instrument in hand to use if necessary, than to deny them the opportunity to use it by assuming that the Nation's leadership will never have the political will to overfly a nation if our intelligence needs, and our combat forces at risk, demand it. Reestablishing a limited contingent of SR-71 Blackbird reconnaissance aircraft is a prudent move, and one that I am glad that the conference has approved in this measure.

TECHNOLOGY REINVESTMENT PROJECT

Mr. PRYOR. I would like to thank my good friend and colleague, Senator INOUYE, for his assistance regarding funding for the Clinton administration's technology reinvestment project [TRP]. I am pleased the conferees agreed to fund this important defense conversion program at $550 million for fiscal year 1995.

However, I am concerned about language in this bill requiring the military services to exclusively select focus areas for $75 million of these funds. I am specifically concerned that the word "exclusively" would be interpreted to mean that the military services would operate outside of the current structure of the TRP when selecting these focus areas.

I therefore ask my friend, the Senator from Hawaii, whether the word "exclusively" was intended to encourage the military services to operate separate from the other agencies in TRP when selecting focus areas for this important program?

Mr. INOUYE. I thank Senator PRYOR for his question. I can answer by simply saying that it would be appropriate for the military services, in selecting focus areas for TRP, to consult with the other TRP agencies. Indeed, it is our hope that the military services will play an integral role in setting all TRP focus areas. The services have a unique perspective on how to maximize the military utility of these dual use funds. As a result, this subcommittee hopes that the military services will be allowed to actively work within the framework of the TRP to ensure the military utility of TRP funds.

Mr. PRYOR. I thank Senator INOUYE for his leadership and for his assistance with this important program.

Mr. NUNN. Mr. President, I would like to commend the managers of the fiscal year 1995 Defense appropriations bill, Senator INOUYE and Senator STEVENS, for their work in bringing this conference report before the Senate today.

As I well know, the managers faced many difficult choices this year. The defense budget is stretched very thin, even without the many contingencies which the Defense Department has been called on to respond to in recent months. The supplemental included in this bill will help the Defense Department meet the fiscal year 1994 costs of these contingencies without cutting funds from other readiness-related efforts.

I particularly want to commend the managers for their efforts in preserving the requested funding for the Cooperative Threat Reduction Program. Now that many of the international agreements are in place, I believe this program is ready to move forward more rapidly. The full funding of the $400 million request included in this bill will support projects which I believe will make significant contributions to our national security.

I also want to commend the managers for continuing to fund DoD's efforts in support of the 1966 Atlanta Olympic games, and for providing funding to preserve the bomber industrial base for another year while the Defense Department studies our bomber requirements.

Mr. President, this bill does a good job of protecting the quality of our military forces, but many tough decisions lie ahead. The administration's budget forecasts continued declines in defense spending in years ahead, even as Congress is voting to make further reductions in discretionary spending. At the same time, Secretary Perry and Deputy Secretary Deutch are attempting to find the money to increase military pay raises above the levels currently included in the administration's budget, which I believe is essential.

I remain concerned that the projected funding levels for national defense over the next several years will not be adequate to maintain the current readiness of our forces; provide for their needed modernization; support the compensation and quality of life improvements that we all want for our military members and their families; and still support the force structure necessary to carry out the full range of missions that we expect our military forces to be able to carry out.

Finally, as the new fiscal year starts on Saturday, our troops are deployed in Haiti. The costs of this operation are not included in the fiscal year 1995 authorization and appropriation bills, and will have to be addressed in a supplemental next year. The defense budget is going to continue to be under enormous pressure in the months and years ahead.

DON RICHBOURG

Mr. INOUYE. Mr. President, as a final note before we adopt the conference report, I wish to call attention to the dedication and service of a member of the professional staff who will not be with us to work on the Defense appropriations bill next year. He is a thoroughly competent professional, a quiet man whose depth of knowledge of the appropriations process is unmatched. He has earned the respect of the Senators and Senate staff with whom he has worked for the past 25 years.

Mr. President, I am pleased to have this opportunity to recognize Don Richbourg, a member of the professional staff of the House Appropriations Committee. I have worked with Don for many years, first on the foreign operations bill and more recently on the Department of Defense appropriations bill.

Mr. President, Don Richbourg has served the Congress well. He has served the Nation well. We will miss him, and we wish him well.

Mr. President, has all time been consumed?

The PRESIDING OFFICER. All time has expired.

Under the previous order, the conference report on H.R. 4650, the Department of Defense Appropriations Act, is agreed to.

The conference report on H.R. 4650 was agreed to.

The PRESIDING OFFICER. The motion to reconsider that vote is laid upon the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1995, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1994—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. The clerk will report the pending business.

The bill clerk read as follows:

> *Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 12 to the bill (H.R. 4649) entitled "An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1995, and for other purposes," and concur therein with an amendment.

Mr. HELMS. Mr. President, as I understand it, the amendment sponsored by Senator DOMENICI and Senator BOREN is the pending business. Is that correct?

The PRESIDING OFFICER (Mr. FEINGOLD). The Senator is correct. That is the pending question.

Mr. HELMS. I thank the Chair.

Mr. President, a lot of people who profess to admire Thomas Jefferson do not want to get even in the vicinity of the positions that Thomas Jefferson took. One of the great books that all Senators ought to read is a little book written by Thomas Jefferson, entitled, "Manual of Parliamentary Practice for the Use of the United States Senate." In this book, which is sort of a second Bible to me, Thomas Jefferson implicitly but nonetheless clearly warned those who in the name of institutional reform or ending gridlock or any other such contrivance seek to alter the rules which govern debate in the Senate.

Jefferson clearly sounded a warning which is being ignored time and time again. You hear all of these arguments about changing this rule and changing that and expediting this procedure. I wish Thomas Jefferson could come in that door and say, "Look here, fellows. Stop it." In my judgment, if Tom Jefferson were around today, he would disdain those who propose to change the Senate rules. In 1801, 12 years after the convening of the first Congress, Thomas Jefferson wrote this:

> Nothing tended to throw power into the hands of administration and those who acted with a majority of the House of Commons, than a neglect of, or a departure from the rules of proceeding.

Parenthetically, let me say, he was talking about rules of proceeding of the Senate. He was talking about those who might propose to change these rules. Then he continues. He said:

> * * * that these forms [rules], as instituted by our ancestors, operated as a check and control on other actions of the majority, and that they were in many instances, a shelter and protection to the minority against the attempts of power * * *
>
> * * * and whether these forms be in all cases the most rational, or not, is really not of great importance.
>
> It is much more material that there should be a rule to go by, than what the rule is; that there may be a uniformity of proceeding in business, not subject to the caprice of the Speaker, or captiousness of the members.

Unfortunately, Mr. President, there are some among us who are poised to head down the very path that Thomas Jefferson warned us not to take.

I have reviewed the recommendations of the Joint Committee on the Organization of Congress, and I acknowledge that the pending amendment contains some proposals of which I approve, such as the abolition of joint committees, limiting committee assignments, and the reduction in the size of personal office staffs and committee staffs. I am all for those.

But there are proposals that I believe Thomas Jefferson would reject out of hand—for example, the projected restrictions on the ability of a Senator or a group of Senators to debate and examine legislation could ultimately fracture the constitutional balance of power which has existed between the two Houses of Congress since the year 1789.

I do not make this observation lightly. There is no right as essential to maintaining our freedoms, nor is there a right as misunderstood, as the right of unlimited debate in the Senate of the United States. For more than 200 years the Senate has wisely guarded its role as a check on the "passions" of the House—to use James Madison's words—and as a court of last resort for the views of a minority—be it a minority of one Senator, a minority party, an ideological minority, or a regional minority. We must not do harm to unlimited debate.

In 1841, John Calhoun fought against the rechartering of the Bank of the United States. In debate, he remarked that what set the Senate apart from the controlled atmosphere of the House was:

> * * * the minority's unquestioned right to question, examine, and discuss those measures which they believe in their hearts are inimical to the best interests of their country.

As a result of Calhoun's fight, the Senate's role as the forum for protecting the rights of the minority became an accepted facet of American Government. Last year, a group of western Senators—Republicans as well as Democrats—used the same tactics, practiced by Calhoun and others, to prevent the majority of both Houses from trampling on the rights of sparsely populated States which derive substantial revenue from those who use public lands. If the right of unlimited debate had been curtailed, the needs of this regional minority would not have been served. The filibuster forced a recalcitrant Congress and adminisration to pay attention to those who otherwise would have been ignored, as if they were a ship passing in the night.

The so-called parliamentary reform advanced by the plan of the Joint Committee is the abolition of the right of unlimited debate on a motion to proceed to the consideration of a bill. Because recent Senate custom has allowed the majority leader to move to consideration of legisaltion at his pleasure, this change will represent a major expansion of the majority leader's power to set and dictate the Senate's schedule.

The majority leader is supposed to lead the Senate but he is not supposed to dictate to it. And that line has been crossed time and time again. The reform package would also require a three-fifths majority to overturn a parliamentary ruling of the Chair after cloture is invoked, again broadening the scope of the majority leader's power.

Mr. President, it is clear to anybody who reads the history of the Senate that the Founding Fathers never intended that any Member of the U.S. Senate, including a majority leader, assume the trappings of the Speaker of the House of Representatives who singlehandedly controls the timing of debate, controls interpretation of the rules of the House, and through his surrogates on the Rules Committee, even controls what amendments will or will not be considered by that body.

If and when the Senate majority leader—regardless of which party, and there are a lot of folks hoping that the mantle of control moves from one party to the other after the November election—is allowed to acquire such powers, and this legislation is the first step toward that, the Senate will be reduced to being nothing more than "an appendage of the House," as the distinguished President pro tempore, the Honorable ROBERT C. BYRD, has so eloquently noted in his history of the U.S. Senate.

There is no Member of this body who understands more clearly what is at stake here than Senator BYRD. I look forward to his remarks on the pending amendment. Senators had better heed it because he knows what he is talking about and he knows what is afoot.

Those who have argued for the elimination of unlimited debate contend that in a democracy the majority must always rule.

I dissent from that with all my being, and I call attention to a guy named Pontius Pilate, who abdicated his responsibility to a mob. Must the mob always rule? That position is at odds with the very principles upon which this Government was built. Do not forget how we honor the men whom we call our Founding Fathers and what they created at Philadelphia over 200 years ago. They got down on their knees and they prayed for guidance in the creation of this country, because they understood that nothing can be created if there is no Creator. The Founding Fathers viewed the Senate as the last check—the last check—on the potential excesses of the House of Representatives and the executive branch. Without the power to filibuster, the Founding Fathers' plan would be decimated, destroyed. During his first days in the Senate, a man named Lyndon Johnson discovered why the Senate's prerogatives must be carefully protected. Here is what Lyndon Johnson said:

> If I should have the opportunity to send into the countries behind the Iron Curtain one freedom and only one, I know what my choice would be * * * I would send to those nations the right of unlimited debate in their legislative chambers * * * If we now in haste and irritation, shut off this freedom,—

Meaning in the U.S. Senate,

> we shall be cutting off the most vital safeguard which minorities possess against the tyranny of momentary majorities.

Mr. President, it is true that from time to time there have been abuses of the right of unlimited debate. At times, unlimited debate has been inconvenient to some. How many times do we hear, "Well, I have to catch a plane, I have a fundraiser back home, and if you keep on talking, I will miss my plane." I always say to them, "You ought not to have made the plans to go home on a working day."

This system was not designed for the convenience of a President of the United States, or the whims of a majority leader, or any party. This system was designed to protect all citizens from the dangers of hurried, arbitrary, and ill-considered legislation. And the Lord knows a pile of it flows through this Senate Chamber every year.

The current rules of the Senate strike a necessary balance between the need of the Senate to carry on its business and the need to ensure that the minority is not overwhelmed by the majority, because as history shows, a majority in this town is not always in step with the wishes of the American people. I could cite a number of pieces of legislation this year and last year that are in that category. The defeat of the President's so-called job stimulus package last year is just one prominent case where the majority was proved wrong.

So if the Senate is really concerned and really serious about reform, it should not dispose of the rules which have made this body the most powerful Upper Chamber in the world. Instead, the Senate should focus on: First, ethics reform; second, making the laws we pass here in the Senate Chamber applicable to Congress—Senators and Members of the House of Representatives; and third, a plan for using unspent Senate funds to reduce the Federal deficit and get that burden off the taxpayers' back. These are meaningful reforms, which would increase public confidence in, and respect for, the U.S. Senate.

I close, Mr. President, with words from a reporter's account of an address delivered by Vice President Aaron Burr on March 5, 1805. That was the day of his departure from the Senate. Aaron Burr's speech has been described as "the most dramatic ever delivered before the Senate." I think it is proper to close my remarks by quoting from that speech, or at least the reporter's account of what Burr said:

> He [Vice President Burr] further remarked that the ignorant and unthinking affected to treat as unnecessary and fastidious a rigid attention to rules and decorum. This House, said he, is a sanctuary; a citadel of law, of order, and of liberty; and it is here—it is here, in this exalted refuge; here if anywhere, will resistance be made to the storms of political phrensy and the silent arts of corruption; and if the Constitution be destined ever to perish by the sacrilegious hands of the demagogue or the usurper, which God avert, its expiring agonies will be witnessed on this floor.

That is a very, very interesting comment by Aaron Burr. I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent I be allowed to proceed as in morning business for a period of time not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

IN MEMORY OF HARRY NALTCHAYAN

Mr. LEAHY. Mr. President, a couple of weeks ago, I was at my home in Vermont and received a call from Washington that Harry Naltchayan, the preeminent photographer of the Washington Post, had died unexpectedly.

Harry had been a photographer at the Post for 35 years, over a third of a century. I first met him when I was a very, very junior and very new Member of the U.S. Senate and I had taken my family to the premiere of the first Star Trek movie. We had gone, after the movie, to the Air and Space Museum, where the cast was meeting, and I had with me children ranging from about 5 or 6 years old to around 12.

Harry was there, looking for a photograph to take. He took photographs of the children talking with the cast. Frankly, I was far more pleased with that than I would have been with a picture of myself. I must say, they photograph a lot better than I. But he went beyond that. He had checked their names, where they lived, made up some prints, and sent them to them.

That was about 18 or 19 years ago, and my children to this day—now grown, two married—have those prints. And over the years, members of the LEAHY family have received other copies of pictures that Harry took.

He was an extraordinary person. It got so that anytime I went to something or saw a head of state visiting or a Presidential visit or major event at the White House, we would see Harry Naltchayan, a large, affable man with a poet's use of the camera. He would always holler out to me, I would see a great smile, and a flash would go off.

About a week ago, I was at an event where the White House press corps and White House photographers were, all of whom are extremely good—prize winners, excellent people. But I went over to them and I said that as much as I enjoyed seeing them there, I felt a sense of sadness not seeing Harry, because I think it was one of the first times I had been to something where he was not.

I feel so extremely sorry that this wonderful man, a great husband, father of some of the nicest children you might know—his daughters, Anie and Joyce, and sons Neshan and Haik. And, of course, his wonderful wife for all these years, Elizabeth. It is a shame that they could not have him for so many more years. But it is a great benefit to all of us, and to the people of this city, that we have had him for so many years.

So I am sorry to see a good friend go, but I am so proud of what he has left behind, with his family, his friends, and a tremendous body of work.

I ask unanimous consent the obituary that appeared in the Washington Post of September 17 be printed in the RECORD.

There being no objection the obituary was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 17, 1994]

PHOTOGRAPHER HARRY NALTCHAYAN DIES; WORKED FOR THE POST FOR 35 YEARS

(By Martin Weil)

Harry Naltchayan, 69, a photographer for The Washington Post for 35 years who won many awards and was widely recognized for his artistic gifts and personal charm, died yesterday after suffering a heart attack at his home in Annandale.

Adept in many areas of photography, Mr. Naltchayan showed a particular talent for portraiture, which he used to great effect in chronicling the Washington social scene at the White House, along Embassy Row and elsewhere. Among the city's movers and shakers, Mr. Naltchayan was recognized and welcomed for the quality of his work and for the warmth and humor of his vibrant personality.

A sophisticated man with a working knowledge of five languages and a feeling for the human condition, Mr. Naltchayan was a photographer and amateur athlete in his native Lebanon before coming to the United States in 1958 to make of his life an immigrant's success story.

He covered every president since Eisenhower, cut an imposing figure at work in his tuxedo at White House dinners, and was himself a guest at a State Dinner during the Johnson administration.

Photography was one of his life's constants. "He loved the business," said Jim Atherton, a former Post photographer editor. "That's why he was still working."

Although Mr. Naltchayan, with his white hair and air of old-world wisdom, seemed especially at home on the diplomatic circuit, he "went out and did the best he could" on the full variety of assignments that came the way of a newspaper photographer, Atherton said.

The assignments included crime and civil disorder. In the midst of some of those events, colleagues at The Post often got a chuckle from communicating with Mr. Naltchayan via his two-way car radio.

Invariably and eagerly, he responded "four-10" in place of the standard "10-four" familiar to citizens band radio enthusiasts and followers of television police stories.

"He was a real pro," Atherton said. "Fun to work with and always an asset to the staff."

A member of an Armenian family that settled in Lebanon, Mr. Naltchayan was born in Beirut and educated there at the College de St. Gregoire.

Photography was an early interest, as was bicycling. He and his brother Jean, were cycling champions as young men. In 1952, while they were pedaling along the Mediterranean shore, they came upon an event that helped determine Mr. Naltchayan's life.

The French liner Champollion, carrying pilgrims to Jerusalem, had run aground. Panic-stricken passengers were jumping overboard.

Mr. Naltchayan grabbed his camera. The pictures were exclusives. They appeared in magazines worldwide.

Later, Mr. Naltchayan received many assignments in the Middle East from news organizations, and he worked for the U.S. Embassy in Beirut.

Amid the factionalism of Lebanese politics, this association made life dangerous for Mr. Naltchayan and his wife, according to Washington photographer Fred Maroon.

"He probably would not have lasted if he stuck around," Maroon said. The Naltchayans came to Washington in 1958, and Maroon hired Harry Naltchayan as his assistant until a job opened at The Post.

"He had class," Maroon remembered. "He was a real gentleman."

Mr. Naltchayan was also a prominent figure in the Armenian American community in the United States.

"I don't think there was a celebrated Armenian in the country that he didn't cross paths with or get close to," Maroon said.

At the Post, recalled Dick Darcey, a retired director of photography at the newspaper, Mr. Naltchayan quickly demonstrated a variety of skills.

Faced with the need to get to a story quickly, he "drove like a French cab driver," Darcey said. He also demonstrated a gift for portraiture. Confronted by newspaper deadlines and the need to work quickly, Mr. Naltchayan snapped away on the fly at diplomatic receptions or embassy dinners.

Yet, when the pictures appeared the next morning, Darcey recalled, there frequently would be a telephone call from the ambassador of this or that country or from his wife, saying that their spouse had never been shown to such advantage.

"There's a special talent in photographing people," Darcey said. "Harry developed that talent."

Mr. Naltchayan won numerous honors, including at least four first place awards in the White house News Photographers Association contest and three first places in the Washington-Baltimore Newspaper Guild's Front Page contest.

In 1982, he won first prize in the World Press Photo Competition for a picture of President Reagan with three former presidents as they prepared to depart for the funeral of slain Egyptian president Anwar Sadat.

In addition to his brother, Mr. Naltchayan is survived by his wife, Elizabeth, of Annandale; two daughters, Anie, of Arlington, and Joyce, of Annandale; and two sons, Haik, of Annandale and Neshan, of Arlington.

Mr. LEAHY. Mr. President, I see a colleague on the floor and I yield the floor to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 2600 TO H.R. 1137

Mr. BAUCUS. Mr. President, Yellowstone National Park is a unique and fascinating place. Back in the 1850's, Americans first heard about Yellowstone's geothermal features from an old mountain man by the name of Jim Bridger.

He told about a place where water ran so quickly it heated the stream bed through friction—this explained why steam rose up from the edges.

He told folks about how you could cook a trout without taking it off the line—just catch the fish in the Firehole River and swing it into one of the steam cauldrons on the river's bank.

Well, folks in the 1850's were a little hard pressed to believe Jim Bridger. Today, however, millions of Americans have visited Yellowstone to see the geysers and mudpots and hot springs that make this such a singularly special place.

On behalf of myself and Senator BURNS, I submit an amendment to H.R. 1137, as reported by the Senate Energy Committee, that guarantees that Yellowstone will remain the marvel that it was, is, and should always be.

Last week, the Senate Energy Committee reported out H.R. 1137, the Old Faithful Protection Act of 1994. Unfortunately, this legislation, as reported, doesn't live up to its name.

During the committee's debate on this legislation, an amendment was accepted which substantially weakens the protection that Yellowstone National Park, this Nation's first national park, clearly deserves.

As amended, H.R. 1137 protects Yellowstone against damaging geothermal development in Montana but allows such development to occur in Wyoming and Idaho.

This approach makes about as much sense as leaving your wallet in the backseat of your car but only locking one door. Yellowstone deserves more than that.

My amendment restores complete protection to Yellowstone's world famous geysers, paint pots, mud volcanoes, and hot springs. It is identical to the original substitute amendment that was offered by Senator BUMPERS and accepted during the Energy Committee markup.

My amendment forbids geothermal development on Federal lands within approximately 15 miles of Yellowstone's boundaries.

It permits Montana, Idaho and Wyoming themselves to regulate geothermal development on State and private lands within this 15-mile buffer zone provided that each State develops a regulatory program that adequately protects Yellowstone.

My amendment is drafted so that Yellowstone Park is protected, private property rights are respected, and the appropriate role of the States in managing the water resources is recognized. It has the uniform, bipartisan support of the Governors of Montana, Idaho, and Wyoming.

While I recognize that time is short, I believe that there's very little more important than maintaining the integrity of Yellowstone National Park.

We owe it to future generations to preserve Yellowstone so that they can see the same wondrous sights that Jim Bridger saw 140 years ago. This amendment goes a long way to achieving as much, and I urge my colleagues to give it their strong support.

The amendment (No. 2600 to H.R. 1137) appears in today's RECORD under "Amendments Submitted."

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is amendment 2599 to amendment 2594.

Mr. GRAMM. Mr. President, parliamentary inquiry. If I ask for the regular order, would that bring the Gramm crime amendment to the D.C. bill back before the Senate?

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator is correct.

AMENDMENT NO. 2585

Mr. GRAMM. Mr. President, I want to take this opportunity this afternoon to talk about several issues. Like many Members of the Senate, as we face the end of this session, I have been busy doing many things related to the interest of my State on various bills that are working their way through the body. I have been involved in trying to absorb the President's GATT proposal, which is very difficult since—I do not know about other Members of the Senate, but I have not received the detailed explanations that I had hoped to receive, which has made it more difficult.

So we have had discussion now for several days on the floor of the Senate of issues to which I am at least tangentially related. And so, as a result, I wanted to come talk about them, even though they are not directly related to each other.

First of all, I want to go back to the amendment that is currently pending to the D.C. appropriations bill, an amendment that I offered on Friday. I was ready on Friday to have a vote.

Mr. President, I am not calling for the regular order. I am simply expositing.

At the end of last week, I offered an amendment to an amendment in disagreement on the D.C. appropriations bill that would have brought before the Senate for debate at that moment—in fact, did bring before the Senate—the Republican revisions to the crime bill. It is a very simple provision. Every Member of the Senate understands it.

When the Senate passed the crime bill—I am sure the presiding officer will remember—we voted for a crime bill that cost $22 billion. It went to conference with the Democrats. It came back as a $33 billion bill. The Senate adopted mandatory minimum sentencing for selling drugs to children of 10 years in prison without parole. The bill, as it initially came out of conference, overturned mandatory minimum sentencing for drug felons selling drugs at a junior high school and, in fact, did it retroactively in such a way that it could have let out of prison an estimated 10,000 convicted drug felons.

Needless to say, we had a very contentious debate on the crime issue. There were those who argued, as I did, that if social programs solve crime problems, that our Nation would be the safest spot on the planet. But demonstrably, this is not the safest spot on the planet. So Republicans wanted to offer a crime bill that went back and took $5 billion of pork-barrel spending on social programs out of the crime bill as adopted in the Congress and put back into the bill our mandatory minimum sentencing provisions.

Let me briefly go over those. First, in addition to taking the $5 billion of pork-barrel spending out of the bill, we wanted to guarantee that the $7.9 billion that we provided for prisons was actually spent on prison construction. As all Senators know, there is language in the final bill that is very general as to how this money may be spent. It makes it possible for some of the money to go to alternative correctional facilities. But it was the intention of the Senate that this money go to build new prisons.

It was our hope that we would stop building prisons as though they were Holiday Inns and that we would put prisoners to work. We then wanted minimum mandatory sentencing, 10 years in prison without parole for possessing a firearm during the commission of a violent crime or drug felony, 20 years for discharging the firearm, life imprisonment for killing somebody, and the death penalty in aggravated cases.

We wanted 10 years in prison without parole for selling drugs to a minor or using a minor for drug trafficking. As our presiding officer is aware, I am sure, one of our problems in drug enforcement is that minors are often used to deliver the drugs and pick up the money and, as a result, the drug kingpin ends up not being at the critical point where arrests are often made and where evidence collected from that point is in turn used for prosecution. We wanted to try to get at these people to say if you use a minor in a drug conspiracy and you were convicted of it, it was an automatic 10 years in prison without parole, and if you got out and were stupid enough to do it again, you went to prison for life.

We wanted to be certain that we deported criminal aliens. We have the absurd situation today where someone comes into the country illegally, robs a liquor store, is sentenced to prison for 10 years, serves about 18 months of their sentence in a State prison, they are let out of prison, they walk away and then a month later or 6 months later, the Border Patrol or the INS has to try to find him to deport him.

We had a provision in the bill that passed the Senate that said when they let them out of prison, the INS agent was there to pick them up and at that point they were deported. That provision, like our mandatory minimum sentencing for gun offenses and selling drugs to minors, was dropped from the final crime bill.

Finally, we wanted to overturn the provision of law which the President and the Attorney General spent 16 months to try to get adopted, and that is a provision that will overturn mandatory minimum sentencing and circumvent the will of the people of this country, as expressed through the Congress, that is, if somebody traffics in illegal drugs, they go to prison and they serve their full sentence.

Last week, I offered these crime provisions as an amendment to an amendment in disagreement on the D.C. appropriations bill. It was my hope at that point that we would have a debate on the amendment and that we might actually vote at the end of last week.

The distinguished majority leader, who was waiting to get recognition to basically end the debate at that point, asked me to agree in advance, which I was happy to do, that the manager of the bill would be recognized to suggest the absence of a quorum after I offered the amendment to give the majority leader an opportunity to decide how he wanted to proceed with my amendment.

Today is Thursday. This represents 1 week that this amendment has been pending before the Senate. The point I want to make is a fairly obvious point; and that is, I offered the amendment because I wanted to vote on it. I want to pass a crime bill that cuts the pork-barrel spending out of our initial crime effort that was adopted about 4 weeks ago. I want to pass a crime bill that grabs violent criminals by the throat and does not let them go to get a better grip. I offered the amendment last week because I am for the amendment. I believe if we have an up-or-down vote on it, the amendment will probably be adopted. If we divide the amendment into 10 parts, which we can do under the rules, I am certain that at least 5 or 6 parts will, in fact, be adopted.

The House will then be forced to vote on those amendments. If they accept them, then they would become the law of the land—well, they would go to the President as part of the D.C. appropriations bill. If he signed the bill, they would become the law of the land.

Now, since that time, there has been a great deal of suggestion that I am holding up the D.C. appropriations bill. Let me simply repeat that I offered my amendment last week. I was ready last week to debate the amendment, to vote on the amendment. I am ready today to debate the amendment, to vote on the amendment. I am willing to offer the majority leader a time limit on the amendment. I would be happy to have an hour equally divided, have an up-or-down vote on the amendment. I would be willing to have an agreement that if the amendment goes over to the House and they defeat it, that we would drop it for the rest of the session. I would like an agreement obviously, if they accept it, that we follow the regular procedure and, of course, the bill goes to the President and he can sign it or veto it.

So the point I want to make is, that while so many are unhappy that the D.C. appropriations bill has been imperiled by this and other amendments, my point is that I offered my amendment last week. I have no desire whatsoever to hold up the D.C. appropriations bill. I would like a vote on my amendment. I am ready at any moment to have a short debate on the amendment. I would like to have a vote on the amendment.

I would simply like to say that we have been held up because the majority has not been ready to bring up the amendment.

Now, I am not complaining about it. I think the majority leader is perfectly within his rights to ask that the amendment be set aside to go to other business. I have tried, as I always do, to be reasonable and allow the majority leader to conduct the business of the Senate. But the point I want people to understand is that I want a vote on my amendment. I have no interest in holding up the D.C. appropriations bill. We are getting toward the end of the fiscal year. It will put hardship on the District of Columbia if we do not act. I think it is a terrible indictment of the District of Columbia that we are here still a day or so from the end of the fiscal year and yet they are already gasping for air in that they need this Federal money to spend at the first part of the fiscal year.

But that is another problem on another debate on another day. My point is this: Last week, I offered a crime bill because I am for that crime bill. I believe the American people are for it. I believe the American people do not believe that social spending will solve the crime problem. I believe the American people are for mandatory minimum sentencing. They want to grab by the throat people who use guns in violent crimes and drug felonies. They want to deal harshly with people who sell drugs to minors.

I want a vote on my amendment, and I urge those who express great concern about holding up the D.C. appropriations bill to engage in the debate. Let us set a time limit. Let us vote on my amendment. Let us move on with the D.C. appropriations bill.

On the other hand, I would have to say, Mr. President, that if the majority is unwilling to bring the amendment up to vote on it, when I am willing to do that, when I offered the amendment last week, then I hope they will do me the favor of not saying I am the person who is delaying this whole process.

All I want is a vote on my crime bill. If I am given that vote, I am willing to set a very short time limit on the debate. Let us have the vote. We either win or lose and then we go on about our business. The District of Columbia can go on about its business, and hopefully people will be happy. So I hope everybody understands where I am coming from on that issue.

GATT

Mr. GRAMM. Mr. President, I now want to turn to a discussion of GATT. I think we have had a lot of discussion about GATT. We only recently have received the President's bill. As I said, it is a 600-page bill. I think everybody is trying now to go through it and understand it.

What I wish to do today is to try to talk about GATT in general. I wish to talk about some very real concerns I have about what the President has proposed, but I want to make it clear where I stand on the fundamental issue because I think we are coming down to the moment of truth on this issue. It is a very important issue. In fact, I think those familiar with my record know that there is no stronger supporter of trade in the Congress than I am.

So let me first talk about GATT, the agreement, the procedure, what the President has done, what I object to, where we are, and where I come down on the issue.

First of all, expanding trade is vitally important to the future of America. I oppose protectionism in all of its forms. I think it is absolutely outrageous that we still have a world where protectionism is practiced, where the well-being and living standards of the working people of countries all over the world are artificially depressed to benefit special interests that would lose from full and free competition.

I take a back seat to no person in the Congress on the issue of supporting free trade.

The GATT process is a very important process. It represents one of the great achievements of the postwar period. I give Ronald Reagan a lot of credit for winning the cold war, for rebuilding the fence, for recruiting and retaining the finest young men and women who have ever worn the uniform of our country, for leading America, for pressuring the Soviet Union in tearing down the Berlin Wall, for liberating Eastern Europe and transforming the Soviet Union. But the most important ingredient in building the post-World-War-II world, the most important ingredient in winning the cold war, was trade. Trade made it possible to rebuild Europe. Trade made it possible to rebuild the economy of Japan. Trade made the economic miracle in Korea and Taiwan possible, and the growing wealth machine that was created by world trade ultimately applied such immense pressure that it mutated communism in China and it collapsed the Soviet Union internally.

GATT is a continuation of that process. As a continuation of that process it deserves our attention. I believe that the process itself deserves our support.

One of the objections that I have—and it is a very strong, profound objection—is that when the Clinton administration came into office, one of the changes it made to the GATT proposal was, for the first time, to make it possible for nations under specific sanction of the GATT to engage in industrial policy.

This was a new facet of the agreement reached by the Clinton administration. While the language in previous trade agreements had been either silent or vague, and I think painfully so, for the first time ever, under the agreement negotiated by the Clinton administration, it will be acceptable government policy under GATT for countries to engage in industrial policy. With GATT approval they can specifically set out a policy within the country to use government resources, government privilege, government favor to try to foster industries that are under political favor by the host country.

I think that is a very bad mistake. I think it flies in the face of everything we know about economic development. I think it is counter to the overall objective of trade and competition and free enterprise, and I strongly oppose it.

One of the things, however, that you have to condition yourself to in a democracy is that you lose elections. When the American people elected Bill Clinton, they in essence moved the country toward a greater role for Government in the economy. In the process, part of what they voted for, whether they knew it or not, was a movement toward having the government participate in an activity of choosing winners and losers in the economic process. I have no doubt about the fact that the country will be poorer and less free as a result of that policy.

When it got down to the bottom line in looking at the industrial policy built into the GATT agreement, which provisions I adamantly oppose, and the overall GATT agreement, which will lower tariffs, which builds on our success in the postwar period, and which is, I believe, essential to expanding world trade and continuing the world wealth creation process in motion, I decided that this is one of these provisions you have to swallow hard and you have to accept.

So while I am strongly opposed to the industrial policy section of GATT, it is far outweighed by the positive aspects of the GATT agreement. If I believed that we could put GATT on hold until 1997, when I hope and believe we are going to have a new President, and we could renegotiate GATT and take this industrial policy stuff out, I would do it.

Let me tell you, however, that I am afraid that if we let Humpty Dumpty fall off this wall, we may not be able to get him back together again. And so while there would be gain in waiting for a new administration for a new GATT without this industrial policy provision, I think it is inherently dangerous to do it. I am afraid that we could have growth in protectionism in the world. This is one of these unhappy occasions where if you lose an election it makes a difference; it changes policy. But that is what democracy is about.

Since the President has negotiated the GATT agreement, I would like to remind my colleagues that the GATT agreement was completed 9 months ago, over the last 9 months the President has been involved in a political process, trying to put together votes for GATT primarily by negotiating with members of one party, the Democratic Party.

Under our trade agreement procedures that we follow in Congress, we have what is called fast track. To the average guy that means absolutely nothing. To the trade process and to Congress, however, it means a great deal. What it means is that we have found in the past that you cannot go out and negotiate a treaty on trade with another country, or in this case with 125 countries, then bring the agreement back to Congress with the prospect of Congress rewriting it. You just would not have any hope of negotiating trade agreements.

So Congress reluctantly agreed to the process of the fast-track procedure, whereby the President's trade agreements were not subject to amendment. Congress had to accept them or reject them. It is a procedure that I support. I think there is no logical alternative to it if you want to expand world trade. Until the President submitted this GATT agreement, the procedure had been one where he submitted the agreement that had been reached internationally, and Congress either accepted it or rejected it. In each and every case we have accepted it.

What the President has done on this agreement is that he has fundamentally changed the fast-track process. Quite frankly, Mr. President, I worry that President Clinton may well have killed the fast-track procedure with this bill, because this bill is full of provisions that have absolutely nothing to do with the GATT agreement. Whereas, the Congress passed the fast-track process to allow the President to get an up-or-down vote on his trade agreement, what we are seeing now is all kinds of provisions in this bill, which we cannot amend, that have absolutely nothing to do with the GATT agreement that was signed 9 months ago.

Let me list some of these provisions.

We have a textile and apparel provision having to do with the rules of origin, that has nothing to do with GATT, that is counter to the stated objective of GATT, and that has only one purpose. That purpose is to buy votes in the Congress, from people who fundamentally are against expanding trade, by changing the rules of origin in such a way as to restrict imports and make working families in America pay more for clothing. This provision has absolutely nothing to do with GATT.

Mr. President, I am not opposed to the process of putting together bills and cutting deals. That is something that happens in Congress every day. I think some people are outraged by it, but I think it is a fact of life, and I am not criticizing the President for it.

What I am criticizing the President for is that this textile protection provision has nothing to do with GATT, and it should never have been put into this bill under fast-track procedures. This is something we should have been able to debate, to have amended, and to have thrown out of the bill or modified if we wanted to do it. What the President has done, in my opinion, is that has jeopardized passage of another fast-track bill because he has put in provisions that have absolutely nothing to do with the GATT agreement.

The President's bill extends the generalized system of preferences. This is not part of GATT. It has nothing to do with GATT. It is something that ought to be dealt with independently. The bill renews the Super 301 legislation, which is legislation whereby protectionist measures can be imposed if someone in the country claims that they are facing unfair trade practices. Mr. President, I am not wild about the Super 301 provisions, and I readily admit it. But the point is that these provisions have absolutely nothing to do with GATT.

We have in this bill a reform of the Pension Benefit Guarantee Corporation. That has absolutely nothing to do with GATT.

Mr. President, in order to pay for the GATT bill, since GATT loses revenues under the way we score bills—quite frankly I would like to change the way we score bills, because everybody knows that GATT will create jobs, that GATT will generate Federal revenues, and that the country will be a winner from the overall GATT agreement. I would like to see us change the way we score bills so we could look more realistically at things like GATT and at things like cutting the capital gains tax rate. But the current law of the land says that this bill loses money. And so under our budget process, the President had to come up with a way of paying for it.

We spend $1.5 trillion a year in Federal outlays. In order to pay for this bill, the President had to come up with about $3 billion a year of cuts. He had to save $3 billion out of $1.5 trillion of annual outlays of the Federal Government.

Republicans and many Democrats said to the President, "Do not ask us to waive the Budget Act. Do not ask us to say that we are willing to look the other way and violate a budget agreement which has been one of the few impediments to runaway Government spending and has been one of the few things that has kept the budget from exploding in the last 2 years." What did the President do? What the President did is basically come up with a series of gimmicks and tax increases because the President was unwilling, out of a $1.5 trillion budget, to find $3 billion of spending that was less important than passing the GATT agreement.

I have spent a considerable amount of time talking about it. Let me sum up where we are. The GATT agreement is far from perfect. I do not like the industrial policy parts of it. I do not like the abuse of the fast-track process. If I thought we could defeat this bill and hold the trade system as it is until we have a Republican in the White House and do it again and do it right, I would oppose this bill. But I am afraid that if we let Humpty-Dumpty fall off this wall, we are never going to get him put back together. So what I have decided about the GATT agreement itself, when you look at GATT as an overall agreement, the good in GATT far outweighs the bad in this proposal.

Questions have been raised about national sovereignty. I do not know, Mr. President, who made up the term "World Trade Organization." Whoever did has never run for sheriff in a small county in Texas or anywhere else, because that term is a term that just scares people to death. Most Americans hardly believe in national government. They certainly do not believe in world government. So this has created an outpouring of concern all over the country that somehow we are giving up national sovereignty as part of this agreement.

What we are talking about here is the enforcement of agreements. If you have an international trade agreement, you have to have an organization that prevents people from cheating. For example, we entered into the free trade agreement with Mexico. That free trade agreement allowed us, for example, to shift livestock back and forth across the United States-Mexican border. If the Mexican Government comes in and says that we in the United States use growth hormones for our cattle and, therefore, to protect their people from those growth hormones, they have to restrict American cattle being sold in Mexico, we have to have somebody come in and look at their charge and make a determination as to whether they are violating the trade agreement or whether there is a legitimate concern. In this case, if they did that, they would clearly be violating the trade agreement. Under that agreement, we have a panel made up of Mexicans and citizens of the United States, and what they would do is look at this claim and decide whether it was within the limits of the free-trade agreement. That is what we have in GATT, a dispute resolution process. You cannot have an international trade agreement without such an enforcement process, just as you cannot engage in commerce without a system to enforce contracts, or in investment without a system of justice that would enforce property rights.

Had others negotiated the agreement, would this World Trade Organization have been structured differently? Probably it would have. Would it have been called a World Trade Organization? Almost certainly not. But I do not see the great threat to national sovereignty here that others have talked about. I do not believe that that concern would justify defeating GATT.

The bottom line is that we are not just voting on the GATT agreement. We are voting on many other provisions that have been added by this administration that have absolutely nothing to do with GATT. Some of these extraneous provisions have profound impacts on the trading system. Others cover everything from pensions to super 301 trade enforcement mechanisms, none of which have anything to do with GATT.

We also are going to have to vote on waiving the Budget Act to bring the bill up. I am still looking at this bill. In the end, I will likely support GATT. But here is where we are. The administration has added so many bad things to the enabling legislation that they are forcing people like me to look at GATT and say, given all these other factors that have nothing to do with GATT that are tied into this bill, is it worth taking all of these rotten provisions in order to get the GATT agreement?

I am not ready today to make that judgment, but I will say this: I know that we have a lot of negotiations underway. I know the distinguished chairman of the Commerce Committee has said that he is not going to bring the bill up until he has had the 45 days established by law. I do not have a dog in that fight. Quite frankly, I hope after the election that we will have a more Republican Senate and House. I hope at that time we will have more support for trade, and perhaps the President would not have to have so many rotten provisions in the bill to get it passed.

But I want to make this point clear: It may be that with a big clothespin on my nose, I can overlook all these rotten provisions which the President has put into the enabling legislation, that have absolutely nothing to do with GATT. It may be in the end that GATT is so important to the future of free enterprise and economic growth and job creation in the world that I can overcome all of these problems in this bill. But if the President cuts one more deal and puts one more rotten provision into this enabling legislation, I am going to oppose GATT and I am going to fight it to beat it.

So I hope the President is listening. I know he is trying to get Democratic votes. I know he is trying to cut deals with them. But at some point, the President is going to begin losing votes of people who believe in trade, people who support GATT. It is already a very heavy, smelly wagon that the President is asking us to pull. Put one more thing in this wagon, and I will not pull it; one more provision and I will certainly vote to sustain the budget point of order. I do not know, I have not gone through the whole agreement, and in the end I may not support it anyway. My inclination is to support it. But if the President adds one more deal, adds another provision, I hope he is getting votes for doing so because he is going to lose my vote.

Mr. FORD. Will the distinguished Senator yield for a question?

Mr. GRAMM. Certainly.

Mr. FORD. You are talking about cutting deals or adding something to GATT. As I understand, the Finance Committee has already reported GATT out from their committee, and it is on the fast track and it is unamendable. So if it is unamendable, there are no other deals to be cut. Unless you withdraw it and take it back, I do not know how you do that. As I understood the Senator and as I understand the rules of the Senate and fast track, to which he has alluded already, there are no amendments.

So, therefore, regarding the so-called arrangements that are accommodating Senators, as we have seen done around here for the last 20 years, we always try to accommodate Senators and their States and particular problems. So I just wanted to be sure, and I think I am right.

Mr. GRAMM. Let me reclaim my time. Let me go back to my point. There is no doubt about the fact that if the President allows the current GATT arrangement to stand, it is unamendable. But the point I am trying to make is this. Given the substantial roadblock from our colleague from South Carolina, the chairman of the Commerce Committee, there may be a temptation on the part of the White House to pull the GATT provision back to the White House, perhaps looking at withdrawing it and resubmitting it with some further change.

I wanted to say, for the RECORD, that this bill is already laden with a lot of irrelevant provisions, that have nothing to do with GATT. If they add one more provision, I am going to oppose GATT. I am going to fight it hard on the point of order, and I am going to fight it on final passage. I want to be sure they understand that, if they are cutting more deals, engaging in more protectionism with the idea of getting another vote, there is at least one vote they are going to lose. I am hopeful that they are not going to withdraw the bill and start the process over.

I say to the Senator from Kentucky that I do not believe they are going to. But I wanted to make it clear, because I know there are immense pressures, given the position that has been taken by the chairman of the Commerce Committee, and I know the President desperately wants this bill voted on this year. I just wanted to let the President know in advance, because when you believe in trade as strongly as I do, when you are talking about voting against GATT, it is a very serious matter.

We have reached the point where the benefits of GATT relative to the cost of all of these add-on, extraneous provisions is getting smaller and smaller.

Mr. FORD. Mr. President, this is interesting. I thought statutorily, once a bill is introduced, you do not withdraw it. Since it is introduced, I do not believe you can withdraw it. Your staff probably will give you the answer. But my knowledge of the rules and so forth is that you could not withdraw.

Mr. GRAMM. Reclaiming my time, Mr. President. I have been around here long enough to know that ways can be found. For example, on the crime bill, after a conference report was reported, the House went back into conference on that bill. I am concerned that the administration is obviously in trouble on this bill, and their opposition is coming from people who oppose GATT because they do not support more trade. I support more trade.

What I want to be absolutely certain of is that the administration understand that whatever they gain by doing more to restrict trade, to offset the objectivse of GATT, will cause them to lose people on the other side.

I hope that our colleague from Kentucky is right and that there is no possibility the bill will be withdrawn and resubmitted. I do not know in parliamentary terms whether it could happen or not.

I know that if people want to do something, and they are determined enough, and they are clever enough, under our rules they can almost always do it. Certainly, they could have a side deal dealing with another piece of legislation. There are many things that could be worked here.

I am simply trying to say that as a person who wants to support GATT, I believe that the President is making it very, very hard for people like me to support a position which we are very much in favor of. It is already hard. It was hard when the President put industrial policy into GATT. It got harder when the President added a variety of different provisions to the enabling legislation that have absolutely nothing to do with GATT.

I am saying that it is already a close call, and if we go any further, by any means, either by withdrawing this bill or by having a side deal where other bills would be passed as a part of the agreement, which happens all the time and could happen here, whatever the

President gains in votes he is going to lose at least one vote. That is a simple point and that is my point.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. Mr. President, this GATT treaty will not go to conference. It has already been to conference and the House and the Senate came together and then the passable treaty language was sent to the White House for them to consider and then send to us.

So, one, I do not know of any statutory provisions that allow them to withdraw. It does not go to conference. What you see is what you get.

I do not understand why the Senator from Texas wants to threaten us with the fact that if he gets something else in GATT he will not vote for it.

I am sure he is aware of side deals. I do not know. I have not been able to culminate a side deal yet. But maybe he knows more about that than I do.

But, one, there is no statutory provision for withdrawing the treaty.

Two, it does not go to conference because it has already been there. So GATT is what you see is what you get. The Finance Committee has already met and they considered it. They have sent it out to the Senate floor. The rules here are the rules.

Under fast track, every chairman who has something to do with GATT has the ability to have that bill assigned to his committee or go to his committee for consideration and has so many days to keep it there.

Now, the time of persuasion is here. So we go from there.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1995, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1994—CONFERENCE REPORT

The Senate continued with consideration of the amendments in disagreement to the conference report.

AMENDMENT NO. 2597 TO AMENDMENT NO. 2596

Mr. FORD. Mr. President, the Senator from New Mexico offered an amendment which was Joint Committee on Organization of the Congress legislation. It is S. 1824.

Mr. President, I am not opposed to this piece of legislation. There are an item or two in it that I have agreed not to support.

I favor the 2-year budget very much, but that will not pass. The 2-year authorization is in the bill. So let me kind of go through a little history of what happens.

Mr. President, I oppose the amendment offered by the Senator from New Mexico because this amendment is not the bill which was reported by the Rules Committee.

When the Senate members of the Joint Committee on the Organization of Congress met on November 10, 1993, they unanimously adopted the recommendations of the chairman and vice chairman, Senators BOREN and DOMENICI. Those recommendations formed the basis of S. 1824, as it was introduced in February 1994.

The recommendations contained in S. 1824 called for, among other things: A 2-year congressional budget process, including biennial appropriations; stricter committee assignment limitations; a 2-hour limit on the motion to proceed to legislation; the elimination of all joint committees; limitations on the number of Senate subcommittees; reductions in the number of legislative branch staff; the abolition of standing committees if at the start of a Congress they fall below half their previous membership; and the periodic reauthorization of the legislative support agencies.

However, when the Senate members met, many Members made it clear that they did not support all of the recommendations. As a member of that joint committee, along with Senator STEVENS, I recall that several Senators made known their reservations about some of these recommendations.

At the outset of the Rules Committee's consideration of S. 1824, I said: "Although the Senate members of the Joint Committee voted unanimously to report the recommendation contained in S. 1824, no one should be misled. All the provisions of the bill do not enjoy unanimous support."

It was with that knowledge that several of the provisions of S. 1824 did not enjoy unanimous support, that the Rules Committee began its consideration of the bill in February 1994.

The Rules Committee held a comprehensive series of hearings to consider this legislation. In fact, the Rules Committee held five separate hearings on every aspect of this legislation. The sponsors of S. 1824 appeared before the committee on February 24, 1994.

And in four subsequent hearings, on March 10 and 17, April 28, and May 5, the committee received testimony from other Senators, congressional experts, the leaders of several legislative support agencies, and the former director of the Office of Management and Budget, and now Chief of Staff for President Clinton, Leon Panetta.

The committee hearings on this issue of legislative reorganization built upon the hearing record of the Joint Committee on the Organization of Congress. We had the benefit of all the hearings of the Joint Committee, and then we built upon those in our hearings. Many of the witnesses who appeared before the joint committee were witnesses at the Rules Committee hearings. These witnesses testified on issues ranging from Senate committees and floor procedures to biennial budgeting to oversight of the legislative support agencies.

As I stated, we heard from the former Director of OMB, Leon Panetta. We also heard from James Blum, the Deputy Director of the Congressional Budget Office.

The committee heard testimony on those portions of S. 1824 dealing with the joint committees and the legislative support agencies, including the Library of Congress. Several Senators presented testimony on the importance of retaining the joint committees.

The committee heard testimony from the senior Senator from Rhode Island, the Senator from New York, and the senior Senator from Maryland. These Senators all gave convincing testimony on the role that the joint committees play and the need and importance for their retention.

Another important factor that was considered in retaining the joint committees is that membership on the Joint Committee on Tax, the Joint Committee on the Library, and the Joint Committee on Printing is taken from existing standing committees. In fact, only the Joint Economic Committee is considered a separate standing committee with membership on that committee counting toward a Member's committee assignments. Membership on the Joint Committees on Tax, the Library, or Printing do not count against the limits on committee assignments.

The heads of the legislative support agencies stated their views on provisions that directly affected their organizations, such as the periodic reauthorization of the support agencies, preparation by the support agencies of annual cost accounting reports, and the feasibility of establishing a voucher allocation system for committees and Members using agency facilities and services.

In fact, the Comptroller General of the United States voiced opposition to repealing the permanent authorization of the General Accounting Office. He said that if that permanent reauthorization were repealed, it would subject GAO to partisan political pressure which would jeopardize the agency's independence and credibility.

Several of the other support agency leaders raised concerns about the voucher allocation system, cost accounting, staff reduction, and the applicability of certain Federal laws to their organizations.

All these considerations and views were considered by the Rules Committee when we met on June 9 to mark up the bill. After a lengthy debate and several amendments, the Rules Committee unanimously reported a substitute amendment. At that time, there was concern that S. 1824 included several provisions which would amend the Standing Rules of the Senate. Because the Senate is solely responsible for determining its rules of procedure, it was determined that these matters should be included in separate resolutions which would be acted on only by the Senate. The substitute amendment to S. 1824 includes those matters that should be appropriately considered by both Houses of Congress.

Mr. President, the Rules Committee acted in good faith to give S. 1824 a full and fair consideration. We built upon the record which was established by the joint committee, and considered the views of the Members of the Senate, and of the legislative support agencies. To adopt the amendment by the Senator from New Mexico, in my opinion, is unwise and ignores the work of the Rules Committee.

More importantly, Mr. President, there is a real institutional concern that is raised by this amendment. It would permit the House of Representatives—I want to take notice of this—it would permit the House of Representatives, the amendment that is now before us submitted by the Senator from New Mexico, to determine the rules of procedure for the Senate. I do not think the House wants us to determine their rules and we certainly do not want them to determine our rules.

As this amendment is drafted, it permits the House to legislatively change the committee structure of the Senate—I do not think we want that—the rules of committees, they can change that, and the rules of the floor procedure for the Senate.

That is the reason we separated these out into resolution form so the Senate could vote on what applied to the Senate and the House could then vote on what applied to the House.

When the Rules Committee considered S. 1824, we separated the rules changes and incorporated those into two separate resolutions. Those resolutions, Senate Resolution 227 and Senate Resolution 228, were reported by the Rules Committee on June 16, 1994.

Senate Resolution 227 would make changes to committee assignments and structure. Senate Resolution 228 contains several provisions to revise Senate floor procedures.

To permit the House to debate our rules, to permit the House to have an opportunity to amend the Senate's rules through legislation is simply wrong and is in direct violation of the Constitution.

Mr. President, the Rules Committee has given this issue its full and fair consideration. In the name of reform, it is inappropriate to disregard the work of one of the Senate's committees, in my opinion. This is not the way we should be considering the reform of the Congress.

I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I am sure we are not going to be too much longer as far as Senator BOREN and myself.

But I just want to tell the Senate as to the last statements by the distinguished chairman of the Rules Committee with reference to giving the House authority to change the rules of the Senate, clearly, I hope that Senators know both Senator BOREN and Senator DOMENICI well enough to know we would not do that and we do not believe we have done that.

As a matter of fact, we have checked that very carefully. And the reason we put it all in one bill is because we agreed to all of it or none of it when we did this work, at least the principals did. We were not going to consider rules changes in the Senate, which are strictly the Senate's prerogative, if we did not adopt the rest of the bill.

We have been told that it is out of order for the House to consider any changes in that section of this bill that applies to the rules of the Senate. They have no authority, no power to do that. So it is in that context that we put it in. We would not put it in to send them something they could amend or change. They have no power to change, according to our readings from the Parliamentarians in both bodies.

Mr. FORD. I just say to my good friend from New Mexico, the very fact that we allow the House to vote on these rules, they then, in my opinion, are jeopardizing our ability to be the sole decisionmaker for the Senate. So the House rules are going to be voted on by the Senate and the Senate rules are going to be voted on by the House, because this changes the rules of both the House and the Senate and we allow the House to approve or disapprove it.

So, under those circumstances—I think that I am correct; the learned Senator from New Mexico is a lawyer and very articulate and he understands this; he has been through these procedures many times—but when we allow the House to vote on our rules under this amendment, then we are giving up the ability of the Senate to provide its own rules.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mrs. FEINSTEIN). The Senator from New Mexico is recognized.

Mr. DOMENICI. Madam President, I repeat, it is not the opinion of the Senator from New Mexico that the House of Representatives can do anything to our rules under the procedure we have chosen to follow. We do not believe they have any authority to amend any part of this.

But let me give you my last observations. I hope Senators will not vote in favor of a point of order on this entire reform package because of that argument, because, let me repeat, if the point of order is defeated, then the bill is before the U.S. Senate. And once it is adopted, it is subject to amendment and we could have debates as much as we would like on pieces of it. We could have a full-blown debate on any part, including the part that my good friend, the chairman, alludes to with reference to the rules changes.

I want to repeat my simple argument with reference to why the point of order which is going to be made shortly should not be granted. Frankly, it is kind of amazing—I hope Senators will consider it rather amazing—that we are asked to suggest reforms to the U.S. Senate, streamlining the committee system so that we can get our job done, we do that and we offer that here in good faith, and now we are told that it is subject to a point of order because it did not go to another committee to have an opportunity to look at some piece of it. What an irony.

I mean, here we are suggesting a way to reform, pursuant to a direction given us by this body to help streamline, have your hearings, report a bill, and now somebody is going to come down and say, "Kill the bill because it did not go to the Budget Committee for their consideration."

I really believe that would not be something that most Members would feel very proud of. After it is adopted, they can clearly take pieces of it and debate them and strike them and amend them.

But we just want an opportunity to lay before the Senate the product of the bipartisan, bicameral commission that worked very hard and reported out exactly what is before the Senate.

Now, as far as the Rules Committee, the Rules Committee had hearings and did what it thought it ought to do to the package we recommended. And, in a very real sense, Senator BOREN and I, who worked long and hard for almost a year, think that the package that was presented by the bicameral, bipartisan commission is the best product, better than what the Rules Committee did.

Now, that is nothing without precedent around here. We all vote changes to what committees recommend. It is nothing lacking in deferential treatment toward the Rules Committee. It is just saying that the two of us who cochaired this think this is a better product.

And, again, rather than kill this with a procedural point of order, let it live and let them offer that Rules Committee package as a substitute and let the Senate decide which they prefer, rather than to get rid of reform in one fell swoop with a point of order that seems to me to be the kind of point of order that cries out for a waiver.

Whenever we waive the Budget Act—you understand there is a little provision in there that says it is subject to a point of order unless the Senate in its wisdom decides to waive for good reason. And if there was a good reason to waive the point of order against this, we ought to consider that as a substantive matter.

There is no budget involved. There are no dollars involved. It is just the process of sending it to the Budget Committee. After it has been heard, reported, and gone to the Rules Committee, send it to one more, and since you have not, you need 60 votes.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. Madam President, as the Senator well knows, he and I agree on a lot of items in this bill, items that I have long advocated. Some of them are not doable, the support is not there. So you take as large a step as you can.

The Senator from New Mexico indicated that this legislation as an amendment on the D.C. appropriations bill does not break the Senate rules. And I want to reiterate that we looked at the rules of the Senate very closely, and we felt that this package that set the rules of the Senate, the number of committees, the size of committees—and the House vote on what we could or could not do was taking away the authority of the Senate to promulgate its own rules. I think that is simple enough.

So what we did to try to prevent the House from having an opportunity to vote up or down on our rules, to amend this bill, we separated those items that we determined were changing the rules of the Senate, and we put those in resolution form.

Now the Senator says we ought to use that as a substitute. I cannot substitute a resolution for a bill. I have to change the resolving clause, I have to do a lot of other things. So I cannot do that, and I think the Senator understands that.

So I have the two resolutions and an amendment. And if the Senate in its wisdom could approve those two resolutions, then we have a piece of legislation that can go to the House, that those of us on the Rules Committee—and I say to my friend, we have the Republican leader on that committee, Senator DOLE. We have Senator BYRD, who is President pro tempore, on the committee. We have several learned chairmen and ranking members. They indicated this was what they thought we ought to do and supported that position. I am not sure if we had any opposition. It may have been unanimous when it came out of there. But those positions were accepted.

Now, I hate to see the House voting on Senate rules and procedures and the Senate voting on the House rules or procedures. That is not going to work. It is not going to fly. Even though you say you have it fixed, I think, any way you fix it, that if the House is put in a position to vote on ours and we are put in a position to vote on theirs, that we are not doing the right thing as it relates to the rules of the Senate.

I do not want to be cynical. I do not want to be obstructionist. I do not want to do those sorts of things. I want to pass some of these things. And under the circumstances and the rules of the Senate is where we are running into problems here. I think if my colleague would separate out what the Rules Committee had, and do that, you have a better chance of not stumbling and we would have a better chance of making provisions that I think most of the Senators want.

I do not have but two A's and one B. I am fine. So whatever is done under assignments of committees it does not bother me; I have my hands full. I have two committees I am chairman of on each of the majors, so I am really short. I am really short, based on what this reorganization group put forward. So it does not bother me any at all. I think that is all anybody should have. So I am for those things.

But under the rules of the Senate it just will not work. Now, if we get 60 votes then you can do anything you want to—that is the rule of the Senate. But I sure do not want the House telling us and voting on our rules. And I can assure you, Madam President, that the House certainly does not want us voting on the rules and procedures of the House. As long as it is that way, then we are not moving in the right direction.

Madam President, I yield the floor.

Mr. BYRD. Madam President, while I oppose this amendment for a number of reasons, I nevertheless recognize the sincerity of its authors, Senators BOREN and DOMENICI, in bringing this amendment to the Senate. They very ably led a delegation of 14 Senators that served on the Joint Committee on the Organization of Congress. For the past year, that Joint Committee spent a great deal of time and effort looking at ways to reform Congress to make it a more accountable and responsible institution. The product of their efforts was referred to the Rules Committee. On June 9 of this year, the Rules Committee, upon which I serve, ordered reported S. 1824, based on the Joint Committee's recommendations. However, there were a number of changes agreed to by the Rules Committee which, I note, have been deleted in the pending amendment. In other words, the authors of this amendment have reversed the decisions reached by the Rules Committee in perfecting the recommendations of the Joint Committee on the Organization of Congress.

The first of these changes made by the Rules Committee, which this amendment reverses, has to do with biennial appropriations. The Joint Committee recommended a biennial budget and appropriations process. During the Rules Committee markup on June 9, I offered an amendment to delete the provisions relating to biennial appropriations, leaving in place a requirement for 2-year budget resolutions and a requirement that all authorization measures be for periods of at least 2 years.

The committee agreed with my amendment to strike biennial appropriations by a vote of 13-3. The case for biennial appropriations has simply not been made. In fact, many of the arguments advanced to justify biennial appropriations are close to specious. And the benefits claimed for biennial appropriations turn out, upon close analysis, to be almost entirely illusory.

We are told that a biennial appropriation cycle will promote more effective oversight. Shifting to a biennial scheme will enable the legislative committee to focus on this function in the second session of each Congress. So runs the argument.

The facts simply do not support the contention that annual appropriations consume an inordinate amount of the Senate's time. For one thing, most of the heavy lifting on appropriations bills is done by members of the Appropriations Committee, not by the legislative committees. Moreover, appropriations bills *per se* are not as a rule subject to long debate and delay on the Senate floor. The data from last year are instructive.

The Senate enacted a total of 19 regular and supplemental appropriation bills last year, including continuing resolutions. Action was completed on six of these on the same day they were taken up. Six others were taken up one day and passed the next.

In four cases, third reading was reached on the third day. Two other bills took the better part of a week and one was cleared on the twelfth day of consideration. In each of these instances, debate was prolonged by amendments dealing with controversial policy issues, rather than funding levels. For example, the Senate revisited both abortion and the Davis-Bacon Act on the Labor, Health and Human Services, Education Act (H.R. 2518).

For fiscal year 1995 appropriations bills, as Senators are aware, six have been signed into law: Legislative, Foreign Operations, Military Construction, Energy and Water, Commerce/Justice, and VA/HUD. Of the remaining seven bills, all except D.C. have been cleared for the President's signature. If we can complete action on the D.C. bill this week, we will have enacted all 13 appropriation bills prior to the beginning of the fiscal year, for only the third time in the last two decades.

It would be ironic if the D.C. appropriation bill were not enacted into law by October 1 because of the adoption of amendments, such as the pending amendment, which, according to its authors, is intended to assist the Congress in completing its appropriations work in a timely and orderly fashion.

The appropriations process is itself an important instrument of congressional oversight. Requiring the agencies of the executive branch to submit justification for and to defend their programs and budgets every year provides a regular, predictable, and inescapable opportunity to delve into the management, utility, and costs of their activities.

Proponents of biennialism also allege that the annual appropriations cycle creates too much unpredictability in funding and inhibits effective planning by Federal managers. This notion does not hold much water either. True, funding for programs and personnel may be—and probably is—somewhat uncertain from year to year. But this is a consequence not of the schedule of appropriations decisions but of changing priorities and a diminishing discretionary budget.

Moreover, where there are legitimate requirements for multiyear commitments, the annual appropriations cycle can and routinely does accommodate them. Most education programs, for instance, are already forwarded—funded a year in advance. And in virtually every case, appropriations bills contain appropriations that remain available either for more than one fiscal year or until expended. In fact, the General Accounting Office has found that about 70 percent of the accounts on an annual appropriations cycle contain some multiple year or no year funds. So the financial needs of projects or activities extending over several years can easily be met within the framework of annual appropriations.

As for planning, I would suggest that Federal managers and budget analysts already have enough difficulty projecting the costs and scope of the programs and services of their agencies. The formulation of the President's budget under the current cycle begins 15 to 18 months prior to the beginning of a fiscal year. Predicting actual requirements that far in advance is hardly an exact science. Extending the planning horizon another 12 months by moving to a biennial appropriations cycle would not improve the quality of agency estimates or eliminate unanticipated requirements.

It is arguable that even within an ostensibly biennial framework, annual budget submissions would be unavoidable. Changing circumstances and congressional adjustments to the President's budget will have important implications for the second year of the biennial request. It follows that the President will be forced to submit a revised budget for the second year, and the process will simply start over.

It is also argued that a biennial cycle will save executive branch agencies time and resources and enable managers to focus more on administering and improving their programs. This, of course, conveniently overlooks the fact that every department and agency has a specialized budget office primarily responsible for the actual formulation and execution of the agency's budget. Thus, there is a clear division of labor between budgeting and program management. The people who do the actual work on developing and implementing a budget are not the same people who are responsible for managing an agency's programs. Biennial appropriations will not save program managers time nor improve their performance.

In addition to the change in biennial budgeting, the Rules Committee made other significant modifications to the product of the Joint Committee. Several of these changes affect the organization of the Senate and its consideration of legislation. And as I have said, would reverse the decisions of the Rules Committee in marking up S. 1824. For example, the pending amendment would allow the appointment of committee members by majority and minority leaders. The Rules Committee deleted that provision from the Joint Committee's recommendations. The pending amendment would limit the use of proxies in committee to votes where their use would not affect the outcome. The Rules Committee deleted that provision from the Joint Committee's recommendations. Finally, this amendment would charge time on quorum calls to the Member calling for a quorum in postcloture situations. Here again, the Rules Committee deleted that provision from the Joint Committee's recommendations.

I supported the action of the Rules Committee in each of these matters that I have just raised. Therefore, I oppose the pending amendment in these areas and will be pleased to discuss any or all of them further if any Senator wishes to do so.

Another very serious consideration is the response of the House to the pending amendment, if it were adopted. While the Rules Committee in the House has not completed action on a congressional reform package, Roll Call, in its Monday edition, reported that the committee's starting point is the chairman's mark rather than the reform package of the Joint Committee on the Organization of Congress. Chairman MOAKLEY's mark eliminates the Byrd rule and does not include biennial appropriations. An amendment offered, and agreed to, in committee, eliminated the provision providing for biennial budget resolutions.

House members have also expressed a desire to amend Senate rules to eliminate the super-majority requirement for limiting debate. If we open the door to changing House rules on an appropriation bill by the adoption of this amendment, it is likely that the House will respond in kind.

Madam President, the pending amendment deals with matters in the jurisdiction of the Senate Budget Committee and has been offered to legislation not reported from that committee. Under 306 of the Congressional Budget Act of 1974, as amended, it is not in order to consider matters in the jurisdiction of the Budget Committee on a bill not reported from that committee.

Earlier today in debate on this amendment the senior Senator from New Mexico [Mr. DOMENICI] mentioned that his proposed amendment was subject to an "arcane" Budget Act point of order. The Budget Act point of order to which he referred is section 306 of the Congressional Budget Act, as amended. Under that section it is not in order to consider matters in the jurisdiction of the Budget Committee unless it is on a measure reported from the Budget Committee. To overcome such a point of order requires a vote of 60 members duly chosen and sworn.

That point of order is the very same one made against the conference report on the Violent Crime Control and Law Enforcement Act. I would remind my colleagues that the point of order was made by my friend from New Mexico who today expresses outrage at the possibility of the use of the rules to bring down his amendment.

I might add that in the case of the conference report, it was not subject to amendment. The Senator appears to embrace the Budget Act and its protections on one day and rail against them on another. The Senator has the right. The Budget Act is not self-executing. We all may choose to ignore or enforce it.

In this instance, I do not consider the Budget Act point of order to be arcane. This amendment deals with significant changes to the Congressional Budget Act which deserve the careful consideration of members of the Budget and Governmental Affairs Committees. They and their staffs have the necessary expertise to consider all aspects of such important changes to the budget and appropriation processes. But an amendment in disagreement on an appropriation bill is not the place to enact fundamental changes to the budget and appropriations processes. We have to have this bill enacted by tomorrow night if we are to avoid the necessity for a continuing resolution for the operation of the DC government. We do not have time to take amendments such as this to the House, have them consider such massive changes, and resolve those differences to the satisfaction of either the House or Senate in such a short time. For these reasons, I urge Senators to vote against a waiver of the section 306 Budget Act point of order.

The PRESIDING OFFICER. Who seeks recognition?

Mr. FORD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Madam President, a parliamentary inquiry. What is the pending business?

The PRESIDING OFFICER. The pending amendment is the Boren amendment to the Domenici amendment.

Mr. MITCHELL. Madam President, I have discussed the matter with Senators BYRD, DOMENICI, and BOREN. They are in agreement that we can proceed as follows, and this is not a unanimous-consent request. I will describe it first and then present it formally:

That Senator BYRD now be recognized to make a point of order against the amendment; that Senator DOMENICI then be recognized to move to waive the point of order; that there then be 30 minutes of debate, half of which be controlled by Senator BYRD, half by Senators DOMENICI and BOREN; and then the Senate vote on the motion to waive the point of order.

I note the presence of my colleagues and believe that is agreeable to them.

Mr. DOMENICI. I wonder if we might get the yeas and nays as part of the unanimous consent, that it be in order——

Mr. BYRD. No, we do not have a problem with that. Do not include that in the unanimous-consent request.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. BYRD. OK, make it in order then, to order the yeas and nays on the motion to waive.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Madam President, I ask unanimous consent that Senator BYRD be recognized to make a point of order against the pending amendment; that Senator DOMENICI then be recognized to make a motion to waive the Budget Act with respect to that point of order; that there then be 30 minutes for debate on the motion to waive, equally divided and under the control of Senators BYRD and DOMENICI.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

Mr. MITCHELL. Madam President, I now ask unanimous consent that it be in order to request the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Madam President, I now ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Madam President, Senators then should be aware that a rollcall vote will occur at approximately 5:45 p.m.—that is 30 minutes from now—on the motion to waive the Budget Act, to be made shortly by Senator DOMENICI.

I thank my colleagues for their cooperation. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 15 minutes.

Mr. BYRD. Not at this point, Madam President.

Madam President, the pending amendment deals with matters in the jurisdiction of the Senate Budget Committee and it has been offered to legislation not reported from that committee.

Under section 306 of the Congressional Budget Act of 1974, as amended, it is not in order to consider matters in the jurisdiction of the Budget Committee on a bill not reported from that committee.

I do not intend to speak further on my point of order. Everything I think that needs to be said has already been said in that respect. And so I now make that point of order.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Madam President, pursuant to section 904 of the Budget Act, I move to waive the point of order against the Domenici and Boren amendments.

The PRESIDING OFFICER. Under the previous order, there is 30 minutes of debate equally divided: 15 minutes controlled by the Senator from West Virginia and 15 minutes controlled by the Senator from New Mexico.

Who seeks recognition?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. DOMENICI. Madam President, I have on more times than not had the privilege of being on the floor supporting positions of the distinguished chairman of the Appropriations Committee and President pro tempore of the Senate. But in this case, I am on the opposite side. I have expressed myself for maybe 20 minutes this morning on this issue, but I want to take a few minutes to speak to just two parts of the reason that I move to waive. There are two reasons for it.

One, Madam President, while the distinguished Senator from West Virginia is technically correct—that is, if you read the Budget Act, you are supposed to send matters to the Budget Committee that are within its jurisdiction—but in this case, everybody ought to know that we are not talking about a budget, we are not talking about any dollars, we are talking about reform. And in the process of reform, a special committee, bipartisan, bicameral, equal representation from both sides recommended significant changes to the way we do business in the Senate.

Frankly, I believe that more than any other reform around—we consider reform of the system of lobbyists, we look at reform for campaign financing, and we say if we can change some of these things, it will affect how the people think about the governing body, that part called the legislative body. I do not believe anything—anything—will do more to give our people more confidence in us than if we reform the way we do business, to make our actions more responsible, more accountable, and more understandable.

A committee worked for a year making recommendations. It is ironic to this Senator that after all that work—and we were charged with doing this in the name of reform, in the name of streamlining things—that we bring our recommendations to the floor and the first thing we find is that we are right back in the muddle that we have been asked to fix. We are going to get stricken on a point of order because we did not send the recommendations to the Budget Committee to look at.

Frankly, it is very simple for everyone to understand what we recommended that affects the budget. Essentially, we have said we do not need to appropriate every year, do it every 2 years; we do not need a budget resolution every year, do it every 2 years, because a Congress lasts 2 years. Those essentially, and a couple more provisions, are the reasons that the point of order lies, because those should be looked at by the Budget Committee.

Frankly, I believe when you ask this committee to consider reform, it is fair for this committee to at least understand that their work will not be killed on the floor of the Senate pursuant to a procedural matter that just says you have not gone through enough hoops.

So that is the reason that I believe my waiver, which I do not make very often on budget matters, should be granted here today.

Second, there should be no doubt that if the Boren-Domenici amendment is adopted, it is subject to amendment. So if it is not perfect, give it a chance.

The action here this afternoon is to kill it, dead as can be. There will be no reform this year. It is gone, after more than a year of work. This started before the last Presidential election, Madam President. August 1992 was when the Senate asked that we consider serious reform. It will be dead and gone, finished. There will be nothing to vote on and, as a matter of fact, nothing to amend. We will be back on the appropriations bill.

We are merely asking that the amendment not be killed in that manner; that it be permitted to live and see the light of day and be adopted subject to amendment, and then anything anybody wants to do in the next 24, 48 hours, they can try to do to it. Then they can vote no on it if they do not like it. But if you want to streamline the committees, get rid of half the subcommittees, if you want to make our processes streamlined so that you do not have to appropriate every year and budget every year and you are mandated to authorize every year, thus cutting the work of the Senate in half so you have another half the time to look at the laws you have passed, to do oversight, that is the issue. Can we do more in less time?

I yield an additional minute.

My last comment is I hope the Senators who have listened and their staff who are advising do not really believe we are giving the House in this measure an opportunity to change our rules. I really do not believe that is a valid argument. Actually, we frequently send to the House bills—let me mention them. Gramm-Rudman had changes in our rules. They did not touch them because they do not have any authority to touch them.

We send them in our appropriations bills funding and certain things about our body. Sure, they could amend them. They do not. They leave the Senate alone. We sent them an ethics reform package in a substantive law. They could have changed it. They did not change it because it is our business.

The same thing will apply here. If we adopt the package, when the time comes to amend it, if the sections are not amended, we will not be giving the House an opportunity to amend our rules, and I hope no one will vote against it on that basis. That is not a valid reason to vote against it.

I reserve the remainder of my time.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Of course, the House would have a voice in this matter if it is sent back as an amendment to the pending appropriations bill. I hope the Senator is not trying to tell the Senate that we can change the Senate rules to provide that appropriations bills would be biennial bills and that the House will not do anything on that matter. How are we going to have biennial appropriations bills in the Senate unless the House also has that procedure?

Madam President, let us not kid ourselves. This is an appropriations bill. It is not the proper place for this amendment. I hope we would not have any amendments attached to this bill. We are within striking distance of having all of the appropriations bills passed before the new fiscal year begins. Unless we free this bill, pass it by adopting the conference report, let it go on to the President so he can sign it into law, then not only will the District government have problems but we will have spoiled an excellent chance to show the people of this country that we can pass all of the appropriations bills prior to the beginning of the new fiscal year. We have done that I think twice before in the last 20 years. The last time I believe was 1988. I would like to do it again. So I hope that we will not adopt this amendment and we avoid that by voting down the waiver.

Now, Madam President, my friend—and he is my friend—is critical of this point of order. He says that it would send—that point of order being made because this was not sent to the Budget Committee, and he bemoans the fact that this point of order will kill this amendment, and that therefore a procedural motion will have killed it.

But the same point of order was made on the crime bill conference report. It had to do with the creation of the violent crime reduction trust fund. And, of course, that point of order was not even raised when the bill passed the Senate, at which time my distinguished friend, the Senator from New Mexico [Mr. DOMENICI], and I had some discussion about the fact that a point of order would, indeed, lie against that bill. We both said, or at least I interpreted our discussion as being to the point that crime in this country had reached such proportions that it was perhaps the major issue confronting the people of this country, and we ought to pass the bill and not use a procedural point of order to kill that bill.

I agreed that such a point of order would lie. So no opportunity was taken advantage of at that point. But when the conference report came back to this body, the point of order was made on the other side of the aisle, I believe, against the conference report under 306 of the Congressional Budget Act of 1974.

So now it is said that we should not use that procedure. My friend from New Mexico used it then and defended it then. And he had a right to use it. I am not questioning his right to use it. But he has used the word "ironic." Let me use it. It seems a little ironic to me that my good friend from New Mexico today is assailing in a very mild manner this point of order when he used it when he thought it was to his advantage on a very important bill. And the waiver, I believe, carried by something like 61 votes—carried by 1 vote, I suppose. I mean it was defeated by 1 vote. I believe there were 61 votes. But, anyhow, the waiver carried by 61 votes.

Earlier today, in debate on this amendment, my friend mentioned that this proposed amendment was subject to an arcane Budget Act point of order—arcane. As I have already stated, that same point of order was made against the conference report on the crime bill.

I would remind my colleagues that in the case of the crime bill, it was not subject to an amendment. But on that occasion he embraced it, did he not? He embraced this procedure. So he appears to embrace the Budget Act and its protections on one day and to rail against them on another. That is all right. We all rail a little now and then. The Senator has that right. I do not question his right to do that. But the Budget Act is not self-executing. We may choose to ignore it or we may choose to enforce it. I do not consider the Budget Act point of order to be arcane. I did not say it on that occasion when I opposed the point of order on the crime bill. I did not say that procedure was arcane.

I should also point out that this requirement of 60 votes to waive section 306 of the Congressional Budget Act of 1974, as amended, was added to the Budget Act as a part of the Gramm-Rudman-Hollings Act. The Balanced Budget and the Emergency Deficit Control Act of 1985 was itself an amendment to House Joint Resolution 372, an act increasing the public debt limit. Section 306 would require that original act—the original act included the provision, section 904, that permitted the waiver of any of the provisions of titles 3 and 4 of the Budget Act by a majority vote, and the Gramm-Rudman-Hollings Act changed the requirement for waving section 306 to 60 votes in the Senate.

I think it is a good thing. I think it is a good thing to have that point of order and to require 60 votes to waive it. That change was made in 1985 when my distinguished friend, Mr. DOMENICI, was chairman of the Budget Committee. So perhaps it depends on whose ox is being gored as to whether or not it is a good procedure.

Madam President, I sincerely hope that we can dispose of this amendment, and that we can get on with disposing of the other amendments to amendments in disagreement, pass this bill, send it to the President, and let the American people know that we can indeed do our work on appropriations and do it in an orderly and timely fashion.

I reserve the remainder of my time.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Madam President, how much time remains under the control of the Senator from New Mexico?

The PRESIDING OFFICER. Eight minutes and twenty-five seconds.

Mr. DOMENICI. I wonder if the Senator from Oklahoma could leave me 2 minutes and he 6.

Mr. BOREN. Madam President, I will just take 5 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Madam President, I had the privilege of speaking earlier on the floor on this matter outlining why I feel so strongly that we should not miss this opportunity to bring about real reform for this institution. The work of the Joint Committee on the Reorganization of Congress has had 36 hearings. We heard from 240 witnesses, and our work was completed in an expeditious fashion.

Many Members of the Senate and many Members of the House from both parties contributed greatly to that process, including the distinguished President pro tempore who lodged this point of order. Let me say that no one understands this institution better, is more knowledgeable of its history and its rules than the distinguished President pro tempore. It is with a great amount of humility that I would rise to oppose him on this particular matter and to urge that the Budget Act be waived so that this package can be considered and adopted.

This is not the ideal way for this matter to be considered. If we had been able to follow an orderly process, if we had the ability to move these proposals through the Budget Committee it would have been far better. If we could have considered this proposed package of reforms as a freestanding matter without having to consider it in this fashion by attaching it as an amendment to amendments in disagreement on the D.C. appropriations bill, certainly that would have been preferable. As I said earlier, it is indeed ironic and perhaps symbolic of the need to reform this institution that the only way we can get a matter of this seriousness, a matter which would be of this much concern to not only Members of this institution but to the American people, the only way we could have it considered is to try to latch on to perhaps the last legislative vehicle available to us in this Congress.

So I regret that we find ourselves having to offer a proposal of this significance to this particular vehicle. This is an opportunity for us to do many things that need to be done if we are to restore that trust that should exist between the American people and Congress as an institution.

Madam President, I spoke of my feelings as I think about leaving the Senate of the United States in just a few days never to be able to return to the floor as a sitting Member as my time of service here comes to an end. I leave with, of course, the pride in having had the opportunity to serve here with reverence for the political process and constitutional process of this country. But I also leave with a great sense of foreboding.

Nothing is more important than that element of trust. When I read polling data that indicates that over 80 percent of the American people no longer feel that this institution represents people like them, cares about people like them, that the Members here do not speak for people like them, I have grave concern about what might happen to the political process in this country. The legitimacy of our whole form of Government rests upon the principle that there will not be taxation or decisions on major policy questions without representation.

And therefore when the people come to feel that this institution has so badly failed them because of flawed rules, flawed process, a flawed manner in which we finance campaigns with more and more money flowing into the process, from special interest groups largely, when they see that we have too many committees and subcommittees so that the Members of this body cannot focus attention on the important issues that should dominate our long-range thinking that prepare us and our country for future challenges which we face, when they see that we are so caught up in busy work with all of these myriad of committees that we have, with a growing burgeoning staff of bureaucracy that finally makes it impossible for us to act, and impossible for the American people to even understand the process to the degree that they can hold Members accountable for their action, Madam President, I believe that there is an urgent need for a change.

I believe that if we fail to act in a positive fashion on major structural reforms in this Congress in this session that we will let down the American people. Here we have an opportunity to do away with unnecessary subcommittees. We have added over the years since 1946 many committees and subcommittees that are not necessary. We have grown from 38 standing committees of the House and Senate now to almost 300 committees and subcommittees. Our staff has grown from 2,000 to almost 40,000, if you count support staff in such agencies as the General Accounting Office as well as counting direct staff which number somewhere between 12,000 and 14,000. Members of Congress have their attention spread very thin. They are trying to serve on the average of 14 committees and subcommittees. They therefore cannot focus time and attention on the problems that need to be solved.

Madam President, this is an opportunity to do something about that process that zaps the energy, strength and effectiveness of men and women who come here wanting to render a public service and give of themselves to make this a better country. If we do not act, who will? How long are we going to wait? We have waited until we now have only a 14 percent approval rate, with only 14 percent of the American people saying they have confidence in Congress as an institution. Will we wait until it is 10 percent, 5 percent? Will we wait until it is 1 percent? We have already waited too long to enact basic reforms. Let us not miss this opportunity.

The PRESIDING OFFICER. Who yields time?

The Senator from West Virginia is recognized.

Mr. BYRD. Madam President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 5 minutes and 19 seconds.

Mr. BYRD. I thank the Chair.

Madam President, I hope that Members will understand that it is a serious matter to attach this amendment to this bill at this juncture.

At this juncture. First of all, it will result in a continuing resolution in the final analysis, because it would kill the bill. And if the House chose to respond with amendments, which it could very well do, then we might consider the result. While the Rules Committee in the House has not completed action on a congressional reform package, Roll Call in its Monday edition reported that the committee's starting point is the chairman's mark, rather than the reform package of the Joint Committee on the Organization of Congress. Chairman MOAKLEY's mark eliminates the Byrd rule. Both the Senator from New Mexico and I want the Byrd rule. We want that Byrd rule. But if it goes over to the House with this amendment attached to it, then the House will certainly be glad to deal with that.

Chairman MOAKLEY's mark eliminates the Byrd rule and does not include by any appropriations an amendment offered and agreed to in committee eliminating the provision for biennial budget resolutions. So the House would not provide for the budget resolution. I am in agreement for having a biennial budget resolution. House Members have expressed a desire to eliminate the rule for a supermajority requirement for limiting debate. The best protection my friends on the other side of the aisle can have is the rule in this Senate that allows unlimited debate. Sometimes it is called "filibuster," but that is one of the things that is unique about the Senate and makes it one of the most outstanding upper legislative bodies in the world.

House Members want to get rid of the Senate rule and eliminate the supermajority requirement for limiting debate. Instead of 60, they would like to see debate limited over here by a majority, 51 votes, if all Senators are present and voting. So if we open the door to changing House rules on appropriations rules by the adoption of this amendment, it is likely that the House will respond in kind. Do not kid yourself.

Madam President, I hope that the Senators will reject the motion to waive so that this amendment will fall. It is the underlying amendment, and it will carry with it the amendment in the second degree. Then we can get on with our business.

I reserve the remainder of my time.

Mr. DOMENICI. How much time do I have?

The PRESIDING OFFICER. The Senator has 2 minutes 5 seconds.

Mr. DOMENICI. Madam President, first, let me say that the Senator knows that many of the things he just said I agree with. But I really hope that the Senate understands the predicament that we find ourselves in. I did not want to put this amendment to offer the reform package on an appropriations bill. When and where would I offer it? There is no time and no place, and we are ready to go home. I do not know if we are coming back in a lame duck session. I see somebody here who may have more to say about that than any of us. Clearly, there was no intention to even let the Senate consider this. So we had no alternative. We tried it here. I would prefer to do it in a much more appropriate manner with a week's debate with a freestanding bill.

Second, if I used the word "arcane," I say to my friend from West Virginia that I meant arcane in its application, not arcane in that the rule is arcane. But, frankly, can the Senate on its own decide whether it wants 2-year budgeting and 2-year appropriations? Can we decide that on our own, or must we kill this bill and send it to the Budget Committee so that they can consider that? That is the issue. It is not something that is difficult, some budgetese, some hard outyear funding. The issue is that they are supposed to look at it in the Budget Committee because it has matters in the Budget Act. The matters essentially are: Do you want 1-year appropriations and to do it every single year? Or do you want to do it every 2 years? Do you want an annual resolution on the budget or every 2 years? You can vote on that today, instead of using a rule that would say send it back to the Budget Committee for legislation. I do not have any doubt that this bill deserves much more debate. Neither do I have any doubt that reform of the U.S. Senate by way of fewer committees, and all the other things we have been talking about, is dead if you give to this bill the death knell of a point of order. I think this is the right time to waive and is appropriate under the law. I hope the Senate will waive the Budget Act and proceed to debate the bill.

Mr. BYRD. How much time do I have?

The PRESIDING OFFICER. The Senator has 1 minute 55 seconds.

Mr. BYRD. Madam President, while I oppose this amendment for a number of reasons, I nevertheless recognize the sincerity of its authors, Senators BOREN and DOMENICI, in bringing the amendment to the Senate. I know they are sincere about that. They very ably led a delegation of 14 Senators that served on the Joint Committee on the Organization of Congress. And for the past many months, that Joint Committee spent a great deal of time and effort looking at ways to reform Congress to make it a more responsible institution.

There are many things in their product that I can support, and there are some features of it that I would suggest be changed. There are other things I would suggest be added. But this is not the time for that. I hope that Senators will vote against the motion to waive and free the appropriation bill for final action and signature by the President.

Mr. SIMPSON. Madam President, I rise to speak very briefly regarding the amendment by Senators DOMENICI and BOREN. These superb colleagues consistently demonstrate what the term statesmanship truly means. I will take a more extensive opportunity prior to the end of this Congress to pay tribute to Senator BOREN, and to my other retiring colleagues. But today, I want to thank him for what he has tried to accomplish with this legislation. Senator BOREN has a passion for bipartisanship, and I am proud to have come here with him, and to have served with him. And there is no more solid, dedicated, hardworking, conscientious Member of this body than Senator DOMENICI. The brokerage house commercial could have been about him—when he talks people listen, and if they don't—they should.

Any committee established to reform an institution which is over 200 years old has a formidable, uphill task. It is inescapable that if such a committee does its work it will change the status quo and negatively impact the jealously guarded power of some. It is also true that if the recommendations of the committee are at all comprehensive, no one will totally embrace each of its provisions.

But the debate on the issue of congressional reform must proceed, and I commend the sponsors of this amendment, which incorporates the recommendations of the Joint Committee on the Organization of Congress. Accordingly, I intend to vote with Senators DOMENICI and BOREN on any procedural motion which furthers the debate on this issue. The recommendations of the committee were thoughtfully reached over a great deal of time, and in consideration of painstakingly detailed testimony. Viewed in their totality, I agree with most of the recommendations of the Joint Committee.

I particularly applaud their efforts to cut half the subcommittees in the Senate, to cut Senate committee assignments, to cut Senate staff, to go to a 2-year budget cycle, to establish a regular review of support agencies like GAO, to require quarterly deficit reports, and to require unused committee or office personal office funds to go to deficit reduction, and not back into the "congressional pot."

I urge my colleagues to join me in waiving the point of order to this amendment.

Mr. HATFIELD. Madam President, I support congressional reform that will make the legislative process more efficient and which will make the Senate more responsive to the people that we serve. The matter before us was fully debated in the Rules Committee, on which I serve. This amendment in bill form was debated in the Rules Committee and amended by that committee. Unfortunately the changes made by the Rules Committee to that bill have not been included in this amendment. I cannot support this effort to circumvent the committee process where debate on this amendment has occurred and produced a legislative product, thus I cannot support this amendment.

Mr. BAUCUS. Mr. President, I rise today in opposition to the Domenici amendment to the amendments in disagreement to the District of Columbia Appropriations Act. This amendment would attach the so-called congressional reform package to the appropriations for the District of Columbia.

Mr. President, I would begin by saying that congressional reform—true reform—is in order. My colleagues have indicated their desire for reform. The American public has called for reform. President Clinton and Vice President GORE were elected on a platform of reform. Unfortunately, this is not reform.

Many times I have been dismayed by the pace of this body. It can frequently move too slow. However, the procedure by which a bill becomes law necessarily takes time. There are many opportunities for public input, committee review, and debate. Sadly, this effort at reform has by-passed much of that process. That is simply inappropriate.

Substantively, it is true that this amendment contains improvements. It also has numerous flaws. First it tinkers with the very rules which differentiate this body from the House. Second, it would eliminate the Joint Committee on Taxation—a step which would dramatically reduce the efficiency of our budgeting process. As a resource both the House and the Senate, Joint Tax provides invaluable and timely technical assistance and independent revenue estimates.

And finally, Mr. President, this amendment, jeopardizes the ability of this Senator to serve all his constituents through a dramatic change in committee selection.

If this amendment were enacted, I would be bumped from the Senate Committee on Agriculture, Nutrition, and Forestry. In 1989 I fought hard to get on that committee to represent Montana's largest industry more effectively. This position has been very important as I addressed the needs of Montana's agriculture and forestry industries.

As we enter 1995, it is likely that major farm legislation will be considered and I intend to see that farm policy is crafted which will meet the needs of this important Montana constituency. I cannot stand idly by as this proposal jeopardizes my ability to serve this group.

I will continue to fight for Montana as long as I serve in this body. And in this instance, that means I must vigorously oppose this amendment and I urge my colleagues to do the same.

Mr. President, I yield the floor.

Mr. BYRD. I yield back any time I may have.

The PRESIDING OFFICER. All time has been consumed.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Virginia [Mr. ROBB] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 58, nays 41, as follows:

[Rollcall Vote No. 313 Leg.]

YEAS—58

Bennett
Biden
Bingaman
Boren
Bradley
Brown
Bryan
Bumpers
Burns
Chafee
Coats
Cohen
Coverdell
Craig
D'Amato
Danforth
Dole
Domenici
Durenberger
Faircloth
Feingold
Gorton
Graham
Gregg
Hatch
Hutchison
Jeffords
Kassebaum
Kempthorne
Kennedy
Kerry
Kohl
Lautenberg
Levin
Lieberman
Lott
Lugar
Mack
McCain
Murkowski
Nickles
Nunn
Packwood
Pressler
Pryor
Reid
Roth
Sasser
Shelby
Simon
Simpson
Smith
Specter
Thurmond
Wallop
Warner
Wellstone
Wofford

NAYS—41

Akaka
Baucus
Bond
Boxer
Breaux
Byrd
Campbell
Cochran
Conrad
Daschle
DeConcini
Dodd
Dorgan
Exon
Feinstein
Ford
Glenn
Gramm
Grassley
Harkin
Hatfield
Heflin
Helms
Hollings
Inouye
Johnston
Kerrey
Leahy
Mathews
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Pell
Riegle
Rockefeller
Sarbanes
Stevens

NOT VOTING—1

Robb

The PRESIDING OFFICER. On this question, the yeas are 58, the nays are 41. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained. The amendment falls.

Who seeks recognition? The Senator from Maine is recognized.

AMENDMENT NO. 2594 (TO HOUSE AMENDMENT TO SENATE AMENDMENT NO. 6), AS MODIFIED

Mr. COHEN. Madam President, I call for the regular order, please.

The PRESIDING OFFICER. The regular order? Is the Senator seeking to call up his amendment?

Mr. COHEN. I am.

Mr. BURNS. Madam President, I suggest the Senate is not in order.

The PRESIDING OFFICER. The Senator from Montana is correct. Does the Senator from Maine wish to be recognized?

AMENDMENT NO. 2594 (TO HOUSE AMENDMENT TO SENATE AMENDMENT NO. 6), AS MODIFIED FURTHER

Mr. COHEN. Madam President, I wish to further modify my first-degree amendment.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

The further modification to the amendment (No. 2594) is as follows:

At the appropriate place, insert the following new subtitle:

"Subtitle".

Mr. COHEN. If I might explain very briefly, Madam President?

The PRESIDING OFFICER. The Senator may explain, and I ask Senators who are conversing to my left, please withhold.

Mr. COHEN. Madam President, the modification I sent to the desk was simply a technical one in nature. It did not alter the substance of the amendment that I offered earlier today that was amended by the Senator from New Mexico [Mr. DOMENICI].

Basically, we are back to discussing health care fraud and, as we discussed it at length yesterday, this is an opportunity for us to go on record trying to pass legislation that will save billions of dollars that are currently being wasted through fraud and abuse in the health care system.

This is an amendment which is supported by virtually everyone.

Mr. FORD. Madam President, the Senate is not in order.

The PRESIDING OFFICER. The Senator is correct.

The Chair asks Senators to the left of the well to also withhold their conversation.

Mr. FORD. Madam President, will the distinguished Senator from Maine allow me to ask him a question?

Mr. COHEN. I yield for a question.

Mr. FORD. The Senator has an amendment in the second degree to his amendment? So we cannot vote on the Senator's amendment; we would have to vote on the amendment to his amendment, and that amendment is the so-called Dole health care bill?

Mr. COHEN. No. Senator DOMENICI had offered an amendment in the second degree to mine, which is not the Dole health care bill.

Mr. FORD. What is the amendment, then, in the second degree?

Mr. COHEN. Simply a change in date.

Mr. FORD. A change in date? Is that all? What change in the date would that be, then? It is identical? You modified his amendment as you modified yours, except for the date?

Mr. COHEN. Except for the date; 1 day's difference.

Mr. DOMENICI. Yes.

Mr. FORD. The Senator modified the amendment of the Senator from New Mexico? I did not think you had a right to modify his amendment.

Mr. COHEN. No, I modified my amendment, the first-degree amendment, that he then amended in the second degree. I modified the underlying amendment.

Mr. FORD. We are trying to unravel this Christmas tree a little bit. I want to be sure we are not thinking we are going one route rather than another, and I want to be sure we understand—at least that this Senator understands—what you are trying to do.

Mr. COHEN. The current situation is the amendment I have currently offered dealing with health care fraud was amended in the second degree by Senator DOMENICI, that second-degree amendment, pending as well, and that deals solely with the subject of health care fraud.

Mr. FORD. And you modified yours on two separate occasions?

Mr. DOMENICI. I might say, when I offered the modification, I say to my friend, I did not change everything in his amendment. He is changing something in his amendment that remained there. I had not touched that and he found an error in that, in the underlying amendment.

Mr. FORD. So actually your amendment is not the same as the amendment in the first degree?

Mr. DOMENICI. That is correct.

Mr. FORD. So if we vote on his, it would change your amendment.

I thank the Senator.

Mr. WOFFORD. Parliamentary inquiry.

The PRESIDING OFFICER. The Chair will recognize the Senator from Pennsylvania for a parliamentary inquiry, but Senators need to address each other through the Chair, in the third person.

The Senator from Pennsylvania.

Mr. WOFFORD. Parliamentary inquiry, Madam President. This Senator needs to understand whether the present parliamentary situation is such that the amendment I put forth has now been stricken from the Cohen-Domenici amendment. Is that correct? Is that correct, Madam President?

The PRESIDING OFFICER. The Senator from Maine needs to clarify the substance of his amendment. That should answer the question of the Senator from Pennsylvania.

Mr. COHEN. Madam President, I would like to clarify it. Earlier today, I took the floor to accept the amendment of the Senator from Pennsylvania. I then sent a modification to the desk, and at that point, Senator DOMENICI then amended the proposal in the second degree. So that effectively wiped away the amendment of the Senator from Pennsylvania. That was done earlier today, and not through the modification I just offered. The modification I just offered to my first-degree amendment was in the nature of a technical amendment. It only changed simply a word dealing with subtitles.

Mr. WOFFORD. Parliamentary inquiry. Madam President, would my colleague from Maine clarify whether the amendment that was just amended does not still include my amendment, before his technical modification just now?

Mr. COHEN. It did not. It does not. By virtue of having accepted your amendment earlier today, I believe that the parliamentary situation was that your amendment was stricken at that time.

Mr. WOFFORD. Then, Madam President, the parliamentary situation is that my amendment can be reoffered when I am recognized duly after this amendment has been dealt with?

Mr. COHEN. Not on this amendment, but an amendment in disagreement, yes.

Mr. WOFFORD. The Senator still has his right to put his amendment to the Cohen amendment before it is——

Mr. COHEN. No.

Mr. WOFFORD. Could the Parliamentarian——

The PRESIDING OFFICER. Could the Senator repeat his question to the Senator from Maine, the Chair was consulting the Parliamentarian because this is becoming a complicated situation.

Mr. WOFFORD. For this Senator, too. I would like a parliamentary clarification as to whether I would have the right to put my amendment forth to the Cohen amendment before the Cohen amendment is adopted. I look forward to voting for the Cohen amendment, but I also look forward to having a vote on my amendment.

The PRESIDING OFFICER. There is currently a second-degree amendment pending to the Cohen amendment. When that second-degree amendment is disposed of, the Cohen amendment could be further amended.

Mr. WOFFORD. Thank you, Madam President.

Mr. COHEN. But then it has to dispose of the Domenici second-degree amendment.

The PRESIDING OFFICER. The Senator is correct. The Chair might note to the Senator from Maine, that microphone is not working as well to hear the amplification of his remarks.

Mr. COHEN. I will try and hold it up as close as possible.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Does the Senator from Maine have the floor?

Mr. COHEN. I do.

Mr. BUMPERS. Will the Senator yield to me for 30 seconds to speak on an unrelated item?

Mr. COHEN. Without losing my right to the floor, certainly.

The PRESIDING OFFICER. Without objection, the Senator from Arkansas may proceed.

ELATED AT DISNEY'S DECISION

Mr. BUMPERS. Madam President, I thank the Senator very much. I simply want to say when Disney decided to build their theme park, Disney America, in this northern Virginia area just west of here, I took strong exception to that. I held a hearing in my Subcommittee on National Parks and Public Lands, and virtually every historian in the country came in to testify against that proposal.

I was strongly opposed to it, but I recognized there was very little Congress could do about it. But I rise today, Madam President, to say I am elated at Disney's decision, and I want to express my gratitude to them for having made that decision. I think it is going to be good for Disney and it is certainly good for America.

While I was strongly opposed to their decision, I now applaud them for making what I consider to be a very fine decision, and I do not think they can help but enhance their image with that decision.

I thank the Senator from Maine.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1995, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1994—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Madam President, I will not take a good deal of time this evening. We have debated this issue for hours. It is strange because there is no debate. There has been no opposition to this amendment, no expressed opposition, I should say.

This is an amendment designed to deal with the problem of widespread health care fraud and abuse. The numbers are staggering. I mentioned them time and time again. GAO estimates that we are losing $100 billion a year, which works out to $275 million a day, and $11.5 million an hour. We have been standing idly by. We do not have an effective mechanism to begin to cope with the volume of fraud that is currently being perpetrated.

This amendment, in and of itself, will not and could not hope to prevent all the fraud that is and will be perpetrated against the American taxpayers, but it is something that everyone agrees is desperately needed to at least arm our prosecutors, the FBI, the Justice Department, and the Health and Human Services inspector general. They need this tool in order to more effectively combat those who are committing fraud against the American people.

We know that this provision was in the President's health care proposal. It was in Senator MITCHELL's health care proposal. It was in Senator DOLE's health care proposal. It was in the so-called bipartisan mainstream coalition proposal. So no one is in disagreement with the need and the necessity for this legislation.

Earlier in the week, I sought to attach it to the Health and Human Services appropriations bill. I yielded to the importuning of the Senator from Oregon who asked me to defer consideration of this amendment and to put it on DC appropriations. Which I did.

Portions of this same amendment were attached to the crime bill which we passed over a year ago in the Senate—the title XVIII provisions that are contained in this amendment. The House of Representatives stripped that out of the crime bill because they argued this really belongs on health care reform. I think it belongs on a crime bill because crimes are being committed against the American people. They said, "No, put it on health care reform."

It is obvious why they said that. They wanted it on health care reform because they looked at the numbers that say $100 billion. So if we could make headway in combating fraud and abuse, we would save substantial money maybe billions of dollars, and I think the President hoped that those moneys that were saved could then be used to pay for an expansion of health care coverage for those who are currently uninsured.

But we do not have a health care reform bill this year. We are not likely to have one in the waning days of this session. So we are faced with the prospect now of another year having elapsed and no statute on the books which the Justice Department can go to to prosecute individuals who are robbing us and bleeding us blind.

If we wait until next year, we will have potentially lost another $100 billion. If we come back in January, we will not begin our session until the latter part of January. We will then go out on the Lincoln Day recess, we will come back some time in late February or early March to begin substantive deliberations again. Hearings will have to be held in the various committees. Labor, Education, Finance, perhaps the Aging Committee, other committees with overlapping jurisdiction—all will have to hold their hearings all over again. Legislation will finally be brought to the floor. We will debate that at length, hopefully pass some legislation, and then await House action, which will go through the exact same process.

So we are looking at months into next year before we can hope to pass any kind of health care reform, which would include a provision dealing with health care fraud.

Madam President, I do not think we can afford to wait. Since last year when we passed the provision dealing with title XVIII to the crime bill, we have lost roughly $85 billion in that period of time. I do not think the American people will tolerate us failing to take action. They did not apparently want us to take action on a health care reform package. That is understandable because of so much complexity associated with the bill, so much confusion about exactly what the administration or we might be up to. But this is something that is pretty clear. There is no confusion about this. There is no lack of clarity on what has to be done and what this legislation will do.

So, Madam President, it is my hope that we will approve the amendment that I have submitted, as amended by Senator DOMENICI, and at least have the opportunity to go on record to say that we think this has to stop, this is something that is not a matter of debate or dissension within the membership here.

It is something we should move on quickly and can move on quickly and at least put the question to the House of Representatives as to whether they want to wait another year before we have any kind of meaningful legislation dealing with fraud.

Madam President, I yield the floor.

Mr. BYRD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WOFFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRYAN). Without objection, it is so ordered.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Pennsylvania [Mr. WOFFORD].

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1995, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1994—CONFERENCE REPORT

The Senate continued with the consideration of the amendments in disagreement to the conference report.

AMENDMENT NO. 2595 TO AMENDMENT NO. 2594

Mr. WOFFORD. Mr. President, I just want briefly to make clear where we are and what my intentions are in regard to the amendment that I have been putting forth.

I want to stress once again that I strongly support Senator COHEN'S amendment relating to fraud and abuse. It is, as he said, in all of the bills that we have been working on not idly but hard. It is also in the 7 points that I proposed as a small step to Senator MITCHELL and Senator DOLE a little while ago.

I look forward to voting for it. I do not know what its fate will be in the House. But I look forward very much to working with the Senator from Maine to see that it becomes a reality.

I also want to make sure, to the best of my ability, that we have an up-or-down vote in due course on my amendment which under the procedural amendments that we had today is no longer before this body but which will be once again before this body when I get recognition to move it in due course, which I will do, because I do believe that Members of Congress should not take from the taxpayers the kind of affordable private health insurance that they will not guarantee for the taxpayers, their employers.

I do not need to restate the case tonight. When we come to an up-or-down vote, before that we will have a chance to hear any other views, but it seems to me that it is a self-evident truth that what is so good for us, and it is a good plan, the last thing I ever intend to do when I came here is to take that plan away from Members of Congress, but I think it is a self-evident truth that if we are not willing to take action to assure the American people the kind of choice of private health insurance guaranteed with our employer, the taxpayers, contributing the majority of our health insurance, then I think we should not be requiring the taxpayers to pay for our health insurance.

I think it is a proposition that is of such basic fairness that it will be very difficult to explain to people why we will not take action, but we are going to insist upon holding to the benefits that we have established for ourselves.

So I look forward to that debate and an up-or-down vote.

I yield the floor.

Mr. KOHL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. KOHL. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

OFFICE OF INTERNAL OVERSIGHT SERVICES AT THE UNITED NATIONS

Mr. PRESSLER. Mr. President, I come to the floor today to raise my continued concerns about the United Nation's inadequate attempt to create an inspector general office. As my colleagues know, I repeatedly have fought for the establishment of an independent reform office at the United Nation. Last January, my colleagues overwhelmingly supported me during floor debate on the Foreign Relations Authorization Act by voting to make U.S. contributions to the international body contingent upon the United Nation's creation of an independent inspector general office. In April, the President signed the Foreign Relations Authorization Act into law, making binding my amendment—known as section 401.

As a result of section 401, the President is required to certify to Congress that all procedures are in place at the United Nations regarding the establishment of the independent inspector general office. In July, my colleagues again supported me by adopting my amendment to the Commerce, State, Justice appropriations bill. This amendment required the President to notify Congress 15 days prior to his certification pursuant to section 401. I offered this amendment to ensure Congress the ability to comment on the proposed Presidential certification. That, Mr. President is why I am here today.

One week ago, Ambassador David Birenbaum, U.S. Representative to the United Nations for Management and Reform, met with my staff to discuss the administration's willingness to certify that procedures are in place at the United Nations. The administration is prepared to certify, shortly, that the United Nations is prepared to clean up its act. I am not completely convinced the recently created Office of Internal Oversight Services [OIOS] will have the independence necessary to function effectively. The Department of State is willing to certify that all procedures are in place and in compliance with section 401. I fear the OIOS does not have full independence to conduct needed audits and investigations. I am disappointed the United Nations is not willing to construct a truly independent and functional office.

I am not attempting to bash the United Nations, nor am I attempting to discredit Ambassador Albright's efforts to fight U.N. waste, fraud, and abuse. I simply do not believe that the OIOS is fully independent. Without true independence, the reform office will be a sham.

Two key components of section 401 are the requirements for procedural independence and whistle blower protection. Neither mandate appears to be fully operational in the OIOS. First, the OIOS merely will inherit the budget and the staff from the current U.N. Office of Inspections and Investigations. In other words, the newly created OIOS will be staffed with the same U.N. bureaucrats—bureaucrats who have done little to conduct investigations and audits for the Office of Inspections and Investigations. Additionally, the OIOS cannot submit its budget directly to the General Assembly for approval. Rather, it must be approved by the Secretary General before the General Assembly has the opportunity to vote on it. Is this independence? To me it sounds more like dependence on the Secretary General. Furthermore, the OIOS currently has a scant $12 million budget for the biennium. Given the monumental size of the overall U.N. budget—including both the regular budget and peacekeeping assessments—$12 million is a pittance, a mere drop in the bucket.

Second, in order for the OIOS to function, U.N. employees must feel free to comment on acts of malfeasance. While the OIOS will have some procedures in place to accommodate the confidentiality of whistle blowers, there is a potential for reprisal against those employees whose information turns out to be false. It will be left up to the U.N. bureaucrats to determine whether false information had knowingly been provided. This procedure certainly will not serve as an incentive for U.N. staff to disclose information.

Another issue of contention is the fact that UNICEF and UNDP will not be subject to OIOS audits and investigations. Certainly, these U.N. appendages should be subject to the same budget and management scrutiny as the rest of the U.N. Secretariat. The OIOS does not have the reach necessary to uncover fully the rampant cases of U.N. malfeasance.

While I applaud the efforts of the United Nations and the administration, I feel the administration has missed a monumental opportunity. Once U.S. contributions begin flowing into the United Nations after formal certification, what incentive will remain for the international bureaucracy to put their house in order? The United Nations has dressed enough windows. It is time for genuine reform. It is time for the United Nations to clean up its act.

CONFERENCE REPORT ON H.R. 6, IMPROVING AMERICA'S SCHOOLS ACT OF 1994

Mr. LAUTENBERG Mr. President, I rise to congratulate the conferees on the elementary and secondary education bill for keeping the tough gun-free school language that the Senate unanimously passed earlier this year. There were rumors floating around recently that this language, which requires that all schools adopt a zero tolerance for guns, was going to be severely weakened by the conferees.

As many of my colleagues know, the Senate also unanimously passed this provision as a 1-year amendment to Goals 2000 bill earlier this year. This provision requires every school district receiving Federal funds to adopt a policy of expelling a student for 1 year if he or she carried a gun into school. This was a tough provision but it is time to be tough. Now that the conferees on the Elementary and Secondary bill have adopted it, it will become permanent law.

Mr. President, we must have zero tolerance for guns in our schools. Unfortunately, many children in our society fear walking around in their own neighborhoods. They are afraid of the gun violence that is plaguing our country. It is shame that children are afraid in their own communities and homes. We must do everything we can—put more police on the street, tighten controls on guns, get tough on criminals and give our young people positive reinforcement—to make our cities and towns safer.

But there is one place where a child should be absolutely safe—never afraid of gun violence—and that is at school. A school building must be a safe haven for all of our children. They should feel totally secure at school, so that they can devote all of their attention to learning.

However, if children attend school and fear for their lives they will not receive a high-quality education. If they do not get an excellent education, they will not get good jobs. And if they do not get good jobs they will likely live in poverty and be more likely to commit crimes.

We can break this cycle if we start by making our schools completely safe.

Mr. President, the problem of bringing guns to school is not a minor one. According to the National Education Association and the National School Boards Association, an estimated 135,000 guns are brought into our Nation's schools every day. And since 1993, there have been at least 35 deaths and 94 injuries that resulted from gun violence in our schools.

Mr. President, this is totally unacceptable. I am pleased that the conferees retained this language. Our position should be loud and clear—no guns in our schools, period.

MESSAGES FROM THE HOUSE

At 12:37 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4650) making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

At 5:31 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1970. An act to authorize the Secretary of Agriculture to reorganize the Department of Agriculture, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 349) to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes.

ENROLLED BILLS SIGNED

At 7:22 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 4230. An act to amend the American Indian Religious Freedom Act to provide for the traditional use of peyote by Indians for religious purposes, and for other purposes.

H.R. 4539. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1995, and for other purposes.

H.R. 4602. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1995, and for other purposes.

H.R. 4650. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3360. A communication from the Secretary of Commerce, transmitting, pursuant to law, the annual report of the National Technical Information Service for fiscal year 1993; to the Committee on Commerce, Science, and Transportation.

EC-3361. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on First-of-a-Kind Engineering Program for commercialization of Advanced Light Water Reactor Technology; to the Committee on Energy and Natural Resources.

EC-3362. A communication from the Secretary of Energy, transmitting, pursuant to law, the report entitled "Superfund Costs Claimed by the Department of Energy Under Interagency Agreements with the Environmental Protection Agency For Fiscal Year 1993"; to the Committee on Environment and Public Works.

EC-3363. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, notice of a certification relative to the United Nations agency or U.N. affiliated agencies; to the Committee on Foreign Relations.

EC-3364. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the report relative to commercial disputes in Saudi Arabia; to the Committee on Foreign Relations.

EC-3365. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the reports and testimony for August 1994; to the Committee on Governmental Affairs.

EC-3366. A communication from the Acting Archivist of the United States, transmitting, pursuant to law, notice relative to an improperly alienated federal record; to the Committee on Governmental Affairs.

EC-3367. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report entitled "Family Planning and Five Year Plan" for fiscal years 1991 and 1992"; to the Committee on Labor and Human Resources.

EC-3368. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report entitled "Center for Disease Control and Prevention Plan For Preventing Birth Defects"; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 338. A bill to amend the Petroleum Marketing Practices Act to clarify the Federal standards governing the termination and nonrenewal of franchises and franchise relationships for the sale of motor fuel, and for other purposes (Rept. No. 103-387).

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

H.R. 2194. A bill for the relief of Merrill Lannen.

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 265. A resolution to express the sense of the Senate concerning District Council elections in Hong Kong on September 18, 1994.

S. Res. 270. A resolution to express the sense of the Senate concerning U.S. relations with Taiwan.

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

S. 2352. A bill to amend the Public Health Service Act to reauthorize certain programs relating to the Substance Abuse and Mental Health Services Administration, and for other purposes.

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

S. 2475. An original bill to authorize assistance to promote the peaceful resolution of conflicts in Africa.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Robert B. Fulton, of Pennsylvania, to be an Associate Director of the United States Information Agency.

Cecil James Banks, of New Jersey, to be a Member of the Board of Directors of the African Development Foundation for a term expiring November 13, 1995.

Geraldine A. Ferraro, of New York, for the rank of Ambassador during her tenure of service as the Representative of the United States of America on the Human Rights Commission of the Economic and Social Council of the United Nations.

Patricia Hill Williams, of New York, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring September 20, 2000.

William Hybl, of Colorado, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 1997.

Vonya B. McCann, of Maryland, for the rank of Ambassador during her tenure of service as Deputy Assistant Secretary of State for International Communications and Information Policy.

Walter R. Roberts, of the District of Columbia, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring April 6, 1997.

Patrick J. Leahy, of Vermont, to be a Representative of the United States of America to the Forty-ninth Session of the General Assembly of the United Nations.

Madeleine Korbel Albright, of the District of Columbia, to be a Representative of the United States of America to the Forty-ninth Session of the General Assembly of the United Nations.

David Elias Birenbaum, of the District of Columbia, to be an Alternate Representative of the United States of America to the Forty-ninth Session of the General Assembly of the United Nations.

Frank H. Murkowski, of Alaska, to be a Representative of the United States of America to the Forty-ninth Session of the General Assembly of the United Nations.

Karl Frederick Inderfurth, of North Carolina, to be an Alternate Representative of the United States of America to the Forty-ninth Session of the General Assembly of the United Nations.

Edward William Gnehm, Jr., of Georgia, to be a Representative of the United States of America to the Forty-ninth Session of the General Assembly of the United Nations.

Victor Marrero, of New York, to be an Alternate Representative of the United States of America to the Forty-ninth Session of the General Assembly of the United Nations.

David George Newton, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Yemen.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: David George Newton.

Post: Sanaa, Yemen.

Contributions, Amount, Date, Donee.

1. Self, David G. Newton, None.

2. Spouse, Christa M. Newton, None.

3. Children, and Mark A. Newton, Lesley C. Newton, none.

4. Parents, Charles P. Newton, deceased 1975, Gladys E. Newton, deceased 1978.

5. Grandparents, George H. Newton, deceased 1924, Martha Paul Newton, deceased December 1951. Frederick S. Moore, December 1946, (spouse) Moore December 1942.

6. Brothers and spouses, none.

7. Sisters and spouses, Martha L. Luchsinger, Juan Luchsinger, none.

Robert Edward Service, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Paraguay.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Robert Edward Service.

Post: Asuncion, Paraguay.

Contributions, amount, date, donee.

1. Self, Robert Edward Service, none.

2. Spouse, Karol Christine Service, none.

3. Children, Jennifer L. & John T. Service, none.

4. Parents, John S. and Caroline Service, $3,037, 1/90-5/94, various (see itemized list attached).

Political contributions by John S. Service, 01-01-90 to 06-01-94.

3-4-90 Council for a Livable World	$50
3-4-90 Democratic Senate Campaign Committee (DSCC)	25
3-4-90 Calif. Demo. Victory Fund	30
4-27-90 Independent Action	40
7-9-90 Common Cause	25
7-9-90 DSCC	25
7-30-90 Common Cause	50
8-17-90 Democratic National Committee	20
9-10-90 Democratic National Committee	25
9-26-90 Harvey Grant for Senate	30
10-2-90 Nat. Com. for Effective Congress (NCEC)	50
12-10-90 Dem. Cong. Campaign Committee (DCCC)	30
1-17-91 Council for Livable World	30
1-17-91 Demo. National Committee (DNC)	20
1-17-91 Americans for Democratic Action (ADA)	50
2-28-91 Independent Action	40
2-28-91 DSCC	40
2-28-91 NCEC	50
8-30-91 Council for Livable World	35
10-3-91 DNC	35
11-11-91 ADA	30
11-11-91 Cal. Demo. Victory Fund	30
1-8-92 Independent Action	40
1-8-92 Ron V. Dellums	25
1-8-92 NCEC	50
1-8-92 DSCC	25
1-8-92 DCCC	30
4-23-92 Council for Livable World	50
7-20-92 ADA	50
7-20-92 Council for Livable World	50
7-20-92 Common Cause	50
7-20-92 DSCC	25
7-20-92 Clinton for President	50
7-20-92 Calif. Demo. Party	30
11-19-92 Independent Action	40
1-6-93 Independent Action	40
1-16-93 DNC	50
1-16-93 ADA	40
4-12-93 Independent Action	40
4-12-94 NCEC	50
4-20-93 DSCC	25
5-6-93 DCCC	30
6-30-93 Concord B Coalition	50
7-17-93 Common Cause	50
9-23-93 AFSA Legislative Action Fund	25
1-22-94 Independent Action	40
2-1-94 ADA	45
2-1-94 Concord Coalition	50
4-6-94 DCCC	45
4-6-94 DNC	50
4-6-94 Calif. Demo. Party	30
4-6-94 Common Cause	20
4-6-94 Concord Coalition	50
4-6-94 NCEC	50
4-6-94 Independent Action	40
Political contributions of Caroline S. Service, 01-01-90 to 07-01-94.	
1990 Congressional Agenda	120

1991 Congressional Agenda	120
1992 Congressional Agenda	120
1993 Congressional Agenda	120
1994 Congressional Agenda	60
3-7-90 DNC	30
7-5-90 DNC	25
9-12-90 NOW Pol. Action Committee	25
10-1-90 DNC	30
11-2-90 Calif. Demo. Victory Fund	20
4-4-91 DNC	15
7-11-91 Cal. Demo. Victory Fund	52
10-30-91 DNC	50
1-13-92 DNC	30
3-29-92 DNC	25
10-9-92 DNC	50
3-17-93 DNC	50

5. Grandparents, Edward and Katherine Schulz, Robert and Grace Service, (deceased).

6. Brothers and spouses, Philip M. & Kiisa Service, none.

7. Sisters and Spouses, Virginia & Garth P. McCormick, none.

Peter Jon de Vos, of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Costa Rica.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Peter Jon de Vos.

Post: U.S. Ambassador to Costa Rica.

Contributions, amount, date, donee.

1. Self, none.

2. Spouse, none.

3. Children and spouses, none.

4. Parents, Paul Louis de Vos, (deceased), Elizabeth Suzanne Towers, none.

5. Grandparents, (deceased), none.

6. Brothers, none.

7. Sisters, Gretchen Banks, Lurline de Vos, none.

Gabriel Guerra-Mondragon, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Chile.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is completed and accurate.

Nominee; Gabriel Guerra-Mondragon.

Post: U.S. Ambassador to Chile.

Contributions, amount, date, donee.

1. Self, see attachment.

February 12, 1991, Hispanic PAC USA Inc.	$500.00
January 22, 1992, Clinton for President	1,000.00
January 28, 1992, Committee to Re-Elect Nydia Velazquez	200.00
March 7, 1992, Becerra for Congress	100.00
June 3, 1992, Becerra for Congress	100.00
May 26, 1992, Hispanic PAC USA	500.00
August 4, 1992, Sosa for Congress	100.00
October 2, 1992, Bustamante for Congress Committee	150.00
February 2, 1993, Friends of Paul McHale Debt Retirement	200
December 2, 1992, Committee to Elect Nydia Velazquez	250.00
February 2, 1993, Friends of Paul McHale Debt Retirement	200.00
August 10, 1993, Transportation Communications International Union	60.00
March 15, 1994, Lucille Roybal-Allard for Congress	75.00
April 12, 1994, Committee to Re-Elect Esteban A. Torres	1,000.00
May 3, 1994, Chief Deputy Whip's Fund	500.00

2. Spouse, none.

3. Children and spouses, none.

4. Parents, Gabriel Guerra-Mondragon, deceased, none.

5. Grandparents, Carmen Casalduc, deceased, all four, none.

6. Brothers and spouses, none.

7. Sisters and spouses, Carmen Guerra-Mondragon, Elliott Holt, none. Maria Guerra-Mondragon, Herman Colberg, none.

Jerome Gary Cooper, of Alabama, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Jamaica.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, Amount, Date, Donee.

1. Self, none.

2. Spouse, none.

3. Children and spouses, Patrick Cooper, Joli C. Cooper, none. Julia Cooper, Gladys S. Cooper, none.

4. Parents A. J. Cooper deceased. Gladys M. Cooper, deceased.

5. Grandparents, Clarence Mouton, Agnes Mouton, deceased. Osceola Cooper, Alice Cooper, deceased.

6. Brothers and spouses, A. J. Cooper, Jr. Mario Cooper, none. William M. Cooper, deceased.

7. Sisters and spouses, Peggy Cooper Cafritz, $1,000, 1991. Conrad Cafritz, Sidney Yates. Dominic Cooper, none.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PELL. Mr. President, for the Committee on Foreign Relations, I also report favorably a nomination list in the Foreign Service which was printed in full in the CONGRESSIONAL RECORD of September 22, 1994, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of September 22, 1994 at the end of the Senate proceedings.)

By Mr. INOUYE, from the Committee on Indian Affairs:

LaDonna Harris, of New Mexico, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring May 19, 2000.

Barbara Blum, of the District of Columbia, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for the remainder of the term expiring May 19, 1996.

Loren Kieve, of New Mexico, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for the remainder of the term expiring May 19, 1996.

(The above nominations were reported with the recommendation that they be confirmed.)

By Mr. PELL, from the Committee on Foreign Relations:

Treaty Doc. 103-23 Two Treaties With The United Kingdom Establishing Caribbean Maritime Boundaries (Exec. Rept. 103-35).

Treaty Doc. 103-27 Convention on the Conservation and Management of Pollock Resources In the Central Bering Sea (Exec. Rept. 103-36).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATFIELD:

S. 2473. A bill to provide for the reconstitution of outstanding repayment obligations of the Administrator of the Bonneville Power Administration for the appropriated capital investments in the Federal Columbia River Power System; to the Committee on Energy and Natural Resources.

By Mr. CAMPBELL (for himself, Mr. CRAIG, Mr. KEMPTHORNE, Mr. LEAHY, and Mr. BURNS):

S. 2474. A bill to amend the Intermodal Surface Transportation Efficiency Act of 1991 to improve the national recreational trails funding program, and for other purposes; to the Committee on Environment and Public Works.

By Mr. PELL:

S. 2475. An original bill to authorize assistance to promote the peaceful resolution of conflicts in Africa; from the Committee on Foreign Relations; placed on the calendar.

By Mr. CHAFEE:

S. 2476. A bill to amend the Internal Revenue Code of 1986 to encourage individuals to save through individual retirement accounts, and for other purposes; to the Committee on Finance.

By Mr. GREGG:

S. 2477. A bill to amend the Internal Revenue Code of 1986 to preserve family-held forest lands, and for other purposes; to the Committee on Finance.

By Mr. KERRY (for himself, Mr. BUMPERS, Mr. PRESSLER, Mr. NUNN, Mr. CHAFEE, Mr. INOUYE, Mr. BURNS, Mr. LAUTENBERG, Ms. MOSELEY-BRAUN, Mr. CAMPBELL, Mr. WELLSTONE, Mr. WOFFORD, and Mr. KOHL):

S. 2478. A bill to amend the Small Business Act to enhance the business development opportunities of small business concerns owned and controlled by socially and economically disadvantaged individuals, and for other purposes; to the Committee on Small Business.

By Mrs. MURRAY:

S. 2479. A bill to promote the construction and operation of United States flag cruise vessels in the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SIMPSON:

S. 2480. A bill to amend the Immigration and Nationality Act to add provisions relating to the treatment of criminal aliens under the immigration laws of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. REID (for himself, Mr. BIDEN, Mr. BINGAMAN, Mr. BRADLEY, Mr. BRYAN, Mr. D'AMATO, Mr. DORGAN, Mr. GLENN, Mr. HOLLINGS, Mr. LEVIN, Mr. PELL, Mr. RIEGLE, Mr. ROCKEFELLER, and Mr. SASSER):

S.J. Res. 225. A joint resolution to designate February 5, 1995, through February 11, 1995, and February 4, 1996, through February 10, 1996, as "National Burn Awareness Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATFIELD:

S. 2473. A bill to provide for the reconstitution of outstanding repayment obligations of the Administrator of the Bonneville Power Administration for the appropriated capital investments in the Federal Columbia River Power System; to the Committee on Energy and Natural Resources.

THE BONNEVILLE POWER ADMINSITRATION APPROPRIATIONS REFINANCING ACT

• Mr. HATFIELD. Mr. President, on behalf of the administration, I am introducing legislation entitled the "Bonneville Power Administration Appropriations Refinancing Act." The bill was transmitted officially to the Senate on September 15, 1994, and is similar to S. 2332, legislation that Senator MURRAY and I introduced on July 28,1994.

Although insufficient time remains in this session for the Senate to consider the proposal, I am pleased that the administration has endorsed the refinancing of the BPA's appropriated debt, and believe that this support is crucial for the enactment of a refinancing bill during the next session of Congress. I look forward to working with the administration and my Senate and House colleagues on this important legislation in the 104th Congress.

Mr. President, I ask unanimous consent that the bill, a section-by-section analysis, and the letter of transmittal from the Secretary of Energy to the President of the Senate be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2473

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the "Bonneville Power Administration Appropriations Refinancing Act."

SEC. 2. DEFINITIONS.

For the purposes of this Act—

(1) "Administrator" means the Administrator of the Bonneville Power Administration;

(2) "capital investment" means a capitalized cost funded by Federal appropriations that—

(A) is for a project, facility, or separable unit or feature of a project or facility;

(B) is a cost for which the Administrator is required by law to establish rates to repay to the U.S. Treasury through the sale of electric power, transmission, or other services;

(C) excludes a Federal irrigation investment; and

(D) excludes an investment financed by the current revenues of the Administrator or by bonds issued and sold, or authorized to be issued and sold, by the Administrator under section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838(k));

(3) "new capital investment" means a capital investment for a project, facility, or separable unit or feature of a project or facility, placed in service after September 30, 1995.

(4) "old capital investment" means a capital investment whose capitalized cost—

(A) was incurred, but not repaid, before October 1, 1995, and

(B) was for a project, facility, or separable unit or feature of a project or facility, placed in service before October 1, 1995;

(5) "repayment date" means the end of the period within which the Administrator's rates are to assure the repayment of the principal amount of a capital investment; and

(6) "Treasury rate" means:

(A) for an old capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding October 1, 1995, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between October 1, 1995, and the repayment date for the old capital investment; and

(B) for a new capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the new capital investment.

SEC. 3. NEW PRINCIPAL AMOUNTS.

(a) Effective October 1, 1995, an old capital investment has a new principal amount that is the sum of—

(1) the present value of the old payment amounts for the old capital investment, calculated using a discount rate equal to the Treasury rate for the old capital investment; and

(2) an amount equal to $100,000,000 multiplied by a fraction whose numerator is the principal amount of the old payment amounts for the old capital investment and whose denominator is the sum of the principal amounts of the old payment amounts for all old capital investments.

(b) With the approval of the Secretary of the Treasury based solely on consistency with this Act, the Administrator shall determine the new principal amounts under section 3 and the assignment of interest rates to the new principal amounts under section 4.

(c) For the purposes of this section, "old payment amounts" means, for an old capital investment, the annual interest and principal that the Administrator would have paid to the U.S. Treasury from October 1, 1995, if this Act were not enacted, assuming that—

(1) the principal were repaid—

(A) on the repayment date the Administrator assigned before October 1, 1993, to the old capital investment, or

(B) with respect to an old capital investment for which the Administrator has not assigned a repayment date before October 1, 1993, on a repayment date the Administrator shall assign to the old capital investment in accordance with paragraph 10(d)(1) of the version of Department of Energy Order RA 6120.2 in effect on October 1, 1993; and

(2) interest were paid—

(A) at the interest rate the Administrator assigned before October 1, 1993, to the old capital investment, or

(B) with respect to an old capital investment for which the Administrator has not assigned an interest rate before October 1, 1993, at a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the old capital investment.

SEC. 4. INTEREST RATE FOR NEW PRINCIPAL AMOUNTS.

As of October 1, 1995, the unpaid balance on the new principal amount established for an old capital investment under section 3 bears interest annually at the Treasury rate for the old capital investment until the earlier of the date that the new principal amount is repaid or the repayment date for the new principal amount.

SEC. 5. REPAYMENT DATES.

As of October 1, 1995, the repayment date for the new principal amount established for an old capital investment under section 3 is no earlier than the repayment date for the old capital investment assumed in section 3(c)(1).

SEC. 6. PREPAYMENT LIMITATIONS.

During the period October 1, 1995, through September 30, 2000, the total new principal amounts of old capital investments, as established under section 3, that the Administrator may pay before their respective repayment dates shall not exceed $100,000,000.

SEC. 7. INTEREST RATES FOR NEW CAPITAL INVESTMENTS DURING CONSTRUCTION.

(a) The principal amount of a new capital investment includes interest in each fiscal year of construction of the related project, facility, or separable unit or feature at a rate equal to the one-year rate for the fiscal year on the sum of—

(1) construction expenditures that were made from the date construction commenced through the end of the fiscal year, and

(2) accrued interest during construction.

(b) The Administrator is not required to pay, during construction of the project, facility, or separable unit or feature, the interest calculated, accrued, and capitalized under subsection (a).

(c) For the purposes of this section, "one-year rate" for a fiscal year means a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year, on outstanding interest-bearing obligations of the United States with periods to maturity of approximately one year.

SEC. 8. INTEREST RATES FOR NEW CAPITAL INVESTMENTS.

The unpaid balance on the principal amount of a new capital investment bears interest at the Treasury rate for the new capital investment from the date the related project, facility, or separable unit or feature is placed in service until the earlier of the date the new capital investment is repaid or the repayment date for the new capital investment.

SEC. 9. APPROPRIATED AMOUNTS.

(a) Notwithstanding any other law and without fiscal year limitation, there are appropriated to the Administrator $15.25 million in fiscal year 1996, $15.86 million in fiscal year 1997, $16.49 million is fiscal year 1998, $17.15 million in fiscal year 1999, $17.84 million in fiscal year 2000, and $4.10 million in each succeeding fiscal year so long as the administrator makes annual payments to the Tribes under the settlement agreement.

(b) For the purposes of this section—

(1) "settlement agreement" means that settlement agreement between the United States of America and the Confederated Tribes of the Colville Reservation signed by the Tribes on April 16, 1994, and by the United States of America on April 21, 1994, which settlement agreement resolves claims of the Tribes in Docket 181-D of the Indian Claims Commission, which docket has been transferred to the United States Court of Federal Claims; and

(2) "Tribes" means the Confederated Tribes of the Colville Reservation, a federally-recognized Indian Tribe.

SEC. 10. CONTRACT PROVISIONS.

In each contract of the Administrator that provides for the Administrator to sell electric power, transmission, or related services, and that is in effect after September 30, 1995, the Administrator shall offer to include, or as the case may be, shall offer to amend to include, provisions specifying that after September 30, 1995—

(1) the Administrator shall establish rates and charges on the basis that—

(A) the principal amount of an old capital investment shall be no greater than the new principal amount established under section 3 of this Act;

(B) the interest rate applicable to the unpaid balance of the new principal amount of an old capital investment shall be no greater than the interest rate established under section 4 of this Act;

(C) any payment of principal of an old capital investment shall reduce the outstanding principal balance of the old capital investment in the amount of the payment at the time the payment is tendered; and,

(D) any payment of interest on the unpaid balance of the new principal amount of an old capital investment shall be a credit against the appropriate interest account in the amount of the payment at the time the payment is tendered;

(2) apart from charges necessary to repay the new principal amount of an old capital investment as established under section 3 of this Act and to pay the interest on the principal amount under section 4 of this Act, no amount may be charged for return to the U.S. Treasury as repayment for or return on an old capital investment, whether by way of rate, rent, lease payment, assessment, user charge, or any other fee;

(3) amounts provided under section 1304 of title 31 United States Code, shall be available to pay, and shall be the sole source for payment of, a judgment against or settlement by the Administrator or the United States on a claim for a breach of the contract provisions required by this Act; and

(4) the contract provisions specified in the Act do not—

(A) preclude the Administrator from recovering, through rates or other means, any tax that is generally imposed on electric utilities in the United States, or

(B) affect the Administrator's authority under applicable law, including section 7(g) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839e(g)), to—

(i) allocate costs and benefits, including but not limited to fish and wildlife costs, to rates or resources, or

(ii) design rates.

SEC. 11. SAVINGS PROVISIONS.

(a) This Act does not affect the obligation of the Administrator to repay the principal associated with each capital investment, and to pay interest on the principal, only from the "Administrator's net proceeds," as defined in section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k(b)).

(b) Except as provided in section 6 of this Act, this Act does not affect the authority of the Administrator to pay all or a portion of the principal amount associated with a capital investment before the repayment date for the principal amount.

BONNEVILLE POWER ADMINISTRATION APPROPRIATIONS REFINANCING ACT—SECTION-BY-SECTION ANALYSIS

INTRODUCTION

The Bonneville Power Administration (BPA) markets electric power produced by federal hydroelectric projects in the Pacific Northwest and provides electric power transmission services over certain federally-owned transmission facilities. Among other obligations, BPA establishes rates to repay to the U.S. Treasury the federal taxpayers' investments in these hydroelectric projects and transmission facilities made primarily through annual and no-year appropriations. Since the early 1980's, subsidy criticisms have been directed at the relatively low interest rates applicable to many of these Federal Columbia River Power System (FCRPS) investments. The purpose of this legislation is to resolve permanently the subsidy criticisms in a way that benefits the taxpayer while minimizing the impact on BPA's power and transmission rates.

The legislation accomplishes this purpose by resetting the principal of BPA's outstanding repayment obligations at an amount that is $100 million greater than the present value of the principal and interest BPA would have paid in the absence of this Act on the outstanding appropriated investments in the FCRPS. The interest rates applicable to the reset principal amounts are based on the U.S. Treasury's borrowing costs in effect at the time the principal is reset. The resetting of the repayment obligations is effective October 1, 1995, coincident with the beginning of BPA's next rate period.

While the Act increases BPA's repayment obligations, and consequently will increase the rates BPA charges its ratepayers, it also provides assurance to BPA ratepayers that the Government will not further increase these obligations in the future. By eliminating the exposure to such increases, the legislation substantially improves the ability of BPA to maintain its customer base, and to make future payments to the U.S. Treasury on time and in full. Since the Act will cause both BPA's rates and its cash transfers to the U.S. Treasury to increase, it will aid in reducing the Federal budget deficit by an estimated $45 million over the current budget window.

SECTION 1. SHORT TITLE

This section sets the short title of this Act as the "Bonneville Power Administration Appropriations Refinancing Act."

SECTION 2. DEFINITIONS

This section contains definitions that apply to this Act.

Paragraph (1) is self-explanatory.

Paragraph (2) clarifies the repayment obligations to be affected under this Act by defining "capital investment" to mean a capitalized cost funded by a Federal appropriation for a project, facility, or separable unit or feature of a project or facility, provided that the investment is one for which the Administrator of the Bonneville Power Administration (Administrator or BPA) is required by law to establish rates to repay to the U.S. Treasury. The definition excludes Federal irrigation investments required by law to be repaid by the Administrator through the sale of electric power, transmission or other services, and, investments financed either by BPA current revenues or by bonds issued and sold, or authorized to be issued and sold, under section 13 of the Federal Columbia River Transmission System Act.

Paragraph (3) defines new capital investments as those capital investments that are placed in service after September 30, 1995.

Paragraph (4) defines those capital investments whose principle amounts are reset by this Act. "Old capital investments" are capital investments whose capitalized costs were incurred but not repaid before October 1, 1995, provided that the related project, facility, or separable unit or feature was placed in service before October 1, 1995. Thus, the capital investments whose principal amounts are reset by this Act do not include capital investments placed in service after September 30, 1995. The term "capital investments" is defined in section 2(2).

Paragraph (5) defines "repayment date" as the end of the period that the Administrator is to establish rates to repay the principal amount of a capital investment.

Paragraph (6) defines the term "Treasury rate." The term Treasury rate is used to establish both the discount rates for determining the present value of the old capital investments (section 3(a)) and the interest rates that will apply to the new principal amounts of the old capital investments (section 4). The term Treasury rate is also used under section 8 in determining the interest rates that apply to new capital investments, as the term is defined.

In the case of each old capital investment, Treasury rate means a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding October 1, 1995, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between October 1, 1995, and the repayment date for the old capital investment. Thus, the interest rates and discount rates for old capital investments reflect the Treasury yield curve proximate to October 1, 1995. Likewise, in the case of each new capital investment, the Treasury rate means a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields during the month preceding the beginning of the fiscal year in which the related facilities are placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year in which the related facilities are placed in service and the repayment date for the new capital investment. Thus, the interest rates for new capital investments reflect the Treasury yield curve proximate to beginning of the fiscal year in which the facilities the new capital investment concerns are placed in service.

The term Treasury rate is not to be confused with other interest rates that this Act directs the Secretary of the Treasury to determine, specifically, the short-term (one-year) interest rates to be used in calculating interest during construction of new capital investments (section 7) and the interest rates for determining the interest that would have been paid in the absence of this Act on old capital investments that are placed in service after the date of this Act but prior to October 1, 1995 (section 3(b)(2)). These latter interest rates reflect rate methodologies very similar to those specified by the term Treasury rate, but apply to different features of this Act.

It is expected that the Secretary of the Treasury will use an interest rate formulation that the Secretary uses to determine rates for federal lending and borrowing programs generally.

SECTION 3. NEW PRINCIPAL AMOUNTS

Section 3 establishes new principal amounts of the old capital investments, which the Administrator is obligated by law to establish rates to repay. These investments were made by Federal taxpayers primarily through annual appropriations and include investments financed by appropriations to the U.S. Army Corps of Engineers, the U.S. Bureau of Reclamation, and to BPA prior to implementation of the Federal Columbia River Transmission System Act. In general, the new principal amount associated with each such investment is determined (regardless of whether the obligation is for the transmission or generation function of the FCRPS) by (a) calculating the present value of the stream of principal and interest payments on the investment that the Administrator would have paid to the U.S. Treasury absent this Act and (b) adding to the principal of each investment a *pro rata* portion of $100 million. The new principal amount is established on a one-time-only basis. Although the new principal amounts become effective on October 1, 1995, the actual calculation of the reset principal will not occur until after October 1, 1995, because the discount rate will not be determined, and BPA'S final audited financial statements will not become available, until later in that fiscal year.

As prescribed by the term "old capital investments," the new principal amount is not set for appropriations-financed FCRPS investments the related facilities of which are placed in service in or after fiscal year 1996, for Federal irrigation investments required by law to be recovered by the Administrator from the sale of electric power, transmission or other services, or for investments financed by BPA current revenues or by bonds issued or sold, or authorized to be issued and sold, under section 13 of the Federal Columbia River Transmission System Act.

The discount rate used to determine the present value is the Treasury rate for the old capital investment and is identical to the interest rate that applies to the new principal amounts of the old capital investments. Thus, the Secretary of the Treasury is responsible for determining the interest rate and the discount rate assigned to each old capital investment.

The discount period for a principal amount begins on the date that the principal amount associated with an old capital investment is reset (October 1, 1995) and ends, for purposes of making the present value calculation, on the repayment dates provided in this section. The repayment dates for purposes of making the present value calculation are already assigned to almost all of the old capital investments. For old capital investments that will be placed in service after October 1, 1993, but before October 1, 1995, no such dates have been assigned. The Administrator will establish the dates for these latter investments in accordance with U.S. Department of Energy Order RA 6120.2—"Power Marketing Administration Financial Reporting," as in effect at the beginning of fiscal year 1994. These ideas are captured in the definition of the term "old payment amounts."

The interest portion of the old payment amounts is determined on the basis that the principal amount would bear interest annually until repaid at interest rates assigned by the Administrator. For almost all old capital investments, these interest rates were assigned to the capital investments prior to the effective date of this Act. (For old capital investments that are placed in service after September 30, 1993, the interest rates to be used in determining the old payment amounts will be a rate determined by the Secretary of the Treasury proximate to the beginning of the fiscal year in which the related project or facility, or the separable unit or feature of a project or facility, was placed in service. Section 3(c)(2)(B) provides the manner in which these interest rates are established.) Thus, for purposes of determining the present value of a given interest payment on a capital investment, the discount period for the payment is between October 1, 1995, and the date the interest payment would have been made.

The *pro rata* allocation of $100,000,000 is based on the ratio that the nominal principal amount of the old capital investment bears to the sum of the nominal principal amounts of all old capital investments. This added amount fulfills a key financial objective of the Act to provide the U.S. Treasury and Federal taxpayers with a $100,000,000 increase in the present value of BPA's principal and interest payments with respect to the old capital investments. Since the $100,000,000 is a nominal amount that bears interest at a rate equal to the discount rate, the present value of the stream of payments is necessarily increased by $100,000,000.

Paragraph (b) of section 3 provides that with the approval of the Secretary of the Treasury based solely on consistency with this Act, the Administrator shall determine the new principal amounts under section 3 and the assignment of interest rates to the new principal amounts under section 4. The Administrator will calculate the new principal amount of each old capital investment in accord with section 3 on the basis of (i) the outstanding principal amount, the interest rate and the repayment date of the related old capital investment, (ii) the discount rate provided by the Secretary of the Treasury, and (iii) for purposes of calculating the pro rata share of $100 million in each new principal amount under section 3(a)(2), the total principal amount of all old capital investments. The Administrator will provide this data to the Secretary of the Treasury so that the Secretary can approve that the calculation of each new principal amount is consistent with this section and that the assignment of the interest rate to each new principal amount is consistent with section 4.

The approval by the Secretary of the Treasury will be completed as soon as practicable after the data on the new principal amounts and the interest rates are provided by the Administrator. It is expected that the approval by the Secretary will not require substantial time.

SECTION 4. INTEREST RATES FOR NEW PRINCIPAL AMOUNTS

Section 4 provides that the unpaid balance of the new principal amount of each old capital investment shall bear interest at the Treasury rate for the old capital investment, as determined by the Secretary of the Treasury under section 2(6)(A). The unpaid balance of each new principal amount shall bear interest at that rate until the earlier of the date the principal is repaid or the repayment date for the investment.

SECTION 5. REPAYMENT DATES

Section 5, in conjunction with the term "repayment date" as that term is defined in section 2(5), provides that the end of the repayment period for each new principal amount for an old capital investment shall be no earlier than the repayment date used in making the present value calculations in section 3. Under existing law, the Administrator is obligated to establish rates to repay capital investments within a reasonable number of years. Section 5 confirms that the Administrator retains this obligation notwithstanding the enactment of this Act.

SECTION 6. PREPAYMENT LIMITATIONS

Section 6 places a cap on the Administrator's authority to prepay the new principal amounts of old capital investments. During the period October 1, 1995 through September 30, 2000, the Administrator may pay the new principal amounts of old capital investments before their respective repayment dates provided that the total of the prepayments during the period does not exceed $100,000,000.

SECTION 7. INTEREST RATES FOR NEW CAPITAL INVESTMENTS DURING CONSTRUCTION

Section 7 establishes in statute a key element of the repayment practices relating to new capital investments. Section 7 provides the interest rates for determining the interest during construction of these facilities. For each fiscal year of construction, the Secretary of the Treasury determines a short-term interest rate upon which that fiscal year's interest during construction is based. The short-term interest rate for a given fiscal year applies to the sum of (a) the cumulative construction expenditures made from the start of construction through the end of the subject fiscal year, and (b) interest during construction that has accrued prior to the end of the subject fiscal year. The short-term rate for the subject fiscal year is set by the Secretary of the Treasury taking into consideration the prevailing market yields on outstanding obligations of the United States with periods to maturity of approximately one year. These ideas are included in the definition of the term "one-year rate."

This method of calculating interest during construction equates to common construction financing practice. In this practice, construction is funded by rolling, short-term debt which, upon completion of construction, is finally rolled over into long-term debt that spans the expected useful life of the facility constructed. Accordingly, section 7 provides that amounts for interest during construction shall be included in the principal amount of a new capital investment. Thus, the Administrator's obligation with respect to the payment of this interest arises when construction is complete, at which point the interest during construction is included in the principal amount of the capital investment.

SECTION 8. INTEREST RATES FOR NEW CAPITAL INVESTMENTS

Section 8 establishes in statute an important component of BPA's repayment practice, that is, the methodology for determining the interest rates for new capital investments. Heretofore, administrative policies and practice established the interest rates applicable to capital investments as a long-term Treasury interest rate in effect at the time construction commenced on the related facilities. By contrast, section 8 provides that the interest rate assigned to capital investments made in a project, facility, or separable unit or feature of a project or facility, provided it is placed in service after September 30, 1995, is a rate that more accurately reflects the repayment period for the capital investment and interest rates at the time the related facility is placed in service. The interest rate applicable to these capital investments is the Treasury rate, as defined in section 2(6)(B). Each of these investments would bear interest at the rate so assigned until the earlier of the date it is repaid or the end of its repayment period.

SECTION 9. APPROPRIATED AMOUNTS

Pursuant to the settlement agreement with the Tribes, the Administrator will become obligated to pay amounts to the Tribes so long as Grand Coulee Dam produces electric power. Section 9 appropriates certain amounts to the Administrator. (The definitions of Tribes and Settlement Agreements are found in paragraph (b) of section 9). In effect, the appropriations partially offset the Bonneville rate impacts of the annual payments by the Administrator to the Tribes under the settlement agreement. Thus, the taxpayers, through the appropriated amounts under section 9 and amounts that are to be paid from the judgment fund to the Tribes under the settlement agreement, and Bonneville's ratepayers, through the Administrator's obligation to pay annual amounts under the settlement agreement, each bear an equitable share of the costs of the settlement.

Although the amounts appropriated to the Administrator in section 9 are made in connection with the settlement agreement, the Administrator may obligate against these amounts for any authorized purpose of the Administrator. In addition, these amounts are made available without fiscal year limitation, meaning that the amounts remain available to the Administrator until expended. In this manner the amounts appropriated under section 9 are the equivalent of other amounts available in the Bonneville fund and constitute an "appropriation by Congress for the fund" within the meaning of section 11(a)(3) of the Federal Columbia River Transmission System Act (16 U.S.C.S. 838i(a)(3).

SECTION 10. CONTRACT PROVISIONS

Section 10 is intended to capture in contract the purpose of this legislation to permanently resolve issues relating to the repayment obligations of BPA's customers associated with an old capital investment. With regard to such investments, paragraph (1) of section 10 requires that the Administrator offer to include in power and transmission contracts terms that prevent the Administrator from recovering and returning to the U.S. Treasury any return of the capital investments other that the interest payments or principal repayments authorized by this Act. Paragraph (1) of section 10 also provides assurance to ratepayers that outstanding principal and interest associated with each old capital investment, the principal of which is reset in this legislation, shall be credited in the amount of any payment in satisfaction thereof at the time the payment is tendered. This provision assures that payments of principal and interest will in fact satisfy principal and interest payable on these capital investments.

Whereas paragraph (1) of section 10 limits the return to the U.S. Treasury of the Federal investments in the designated projects and facilities, together with interest thereon, paragraph (2) of section 10 requires the Administrator to offer to include in contracts terms that prevent the Administrator from recovering and returning to the U.S. Treasury any additional return on those old capital investments. Thus, the Administrator may not impose a charge, rent or other fee for such investments, either while they are being repaid or after they have been repaid. Paragraph (2) of section 10 also contractually fixes the interest obligation on the new principal obligation at the amount determined pursuant to section 4 of this Act.

Paragraph (3) of section 10 is intended to assure BPA ratepayers that the contract provisions described in paragraphs (1) and (2) of section 10 are not indirectly circumvented by requiring BPA ratepayers to bear through BPA rates the cost of a judgment or settlement for breach of the contract provisions. The subsection also confirms that the judgment fund shall be available to pay, and shall be the sole source for payment of, a judgment against or settlement by the Administrator or the United States on a claim for a violation of the contract provisions required by section 10. Section 1304 of title 31, United States Code, is a continuing, indefinite appropriation to pay judgments rendered against the United States, provided that payment of the judgment is "not otherwise provided for." Paragraph 3 of section 10 of this Act assures both that the Bonneville fund, described in section 838 of title 16, United States Code, shall not be available to pay a judgment or settlement for breach by the United States of the contract provisions required by section 10 of this Act, and that no appropriation, other than the judgment fund, is available to pay such a judgment.

Paragraph (4)(A) of section 10 establishes that the contract protections required by section 10 of this Act do not extend to Bonneville's recovering a tax that is generally applicable to electric utilities, whether the recovery by Bonneville is made through its rates or by other means.

Paragraph (4)(B) of section 10 makes clear that the contract terms described above are in no way intended to alter the Administrator's current rate design discretion or ratemaking authority to recover other costs or allocate costs and benefits. This Act, including the contract provisions under section 10, does not preclude the Administrator from recovering any other costs such as general overhead, operations and maintenance, fish and wildlife, conservation, risk mitigation, modifications, additions, improvements, and replacements to facilities, and other costs properly allocable to a rate or resource.

SECTION 11. SAVINGS PROVISIONS

Subsection (a) of this section assures that the principal and interest payments by the Administrator as established in this Act shall be paid only from the Administrator's net proceeds.

Subsection (b) confirms that the Administrator may repay all or a portion of the principal associated with a capital investment before the end of its repayment period, except as limited by section 6 of this Act.

THE SECRETARY OF ENERGY,
Washington, DC, September 15, 1994.

Hon. AL GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is proposed legislation entitled the "Bonneville Power Administration Appropriations Refinancing Act."

Since the early 1980's, criticism has been directed at the relatively low interest rates outstanding on many of the Federal Columbia River Power System investments funded by Federal appropriations and the flexible method used by the Bonneville Power Administration to schedule principal payments on its Federal obligations. This legislation addresses long-standing subsidy criticisms in a way that benefits the taxpayer while minimizing the impact on Bonneville's power and transmission rates.

Last fall, as part of the President's National Performance Review initiative, the Administration proposed legislation that called for Bonneville to buy out its outstanding, low interest repayment obligations on appropriations with debt that Bonneville would issue in the open market. Although the proposed legislation would have increased the present value of Bonneville's debt service payments to the U.S. Treasury, it was scored as adding to the Federal deficit because Bonneville would have incurred issuance costs and a higher rate of interest than if the buy-out were financed through the U.S. Treasury. That legislation also raised concerns that Bonneville open-market access could conflict with the Treasury's overall debt management plans.

Since last fall, Bonneville has collaborated with its customers and with other agencies in the Executive Branch to develop revised legislation that avoids the issues raised by Bonneville open-market access. The enclosed legislation calls for Bonneville's outstanding repayment obligations on appropriations to be reconstituted by re-setting outstanding principal at the present value of the principal and annual interest that Bonneville would pay to the U.S. Treasury, plus $100 million. Interest rates on the new principal would be reassigned at current Treasury interest rates. The bill also restricts prepayments of reconstituted obligations to $100 million in the period from October 1, 1995 through September 30, 2000. Other repayment terms and conditions would remain unaffected.

Benefits to the Government of this legislation are that it provides a minimum $100 million increase in the present value of Bonneville's debt service payments to the U.S. Treasury. This increase represents agreement between ratepayers and the Government to resolve the subsidy criticisms for outstanding appropriation repayment obligations. It would reduce the Federal deficit by an estimated $45 million because Bonneville cash transfers to Treasury and rates will increase. Bonneville's customers recognize that recurring subsidy criticisms must be addressed once and for all because of the risk they pose to Bonneville's financial stability and rate competitiveness. The legislation includes assurances to ratepayers that the Government will not maintain its customer base, improve its competitive position, and strengthen its ability to meet future payments to the U.S. Treasury on time and in full.

The legislation also proposes that certain appropriations be provided to Bonneville in connection with payments Bonneville would make under a proposed litigation settlement. The United States and the Confederated Tribes of the Colville Reservation propose to settle the Tribes' claims that they are entitled to a share of the power production revenues of Grand Coulee Dam. The settlement would have the Tribes dismiss the claims in return for a one-time cash payment of $53 million payable from the Judgment Fund (authorized in section 1304 of title 31, United States Code), and annual payments from Bonneville through the revenue-generating life of Grand Coulee Dam.

The annual payments from Bonneville would begin at approximately $15 million in FY 1996, and escalate under provisions in the settlement. Bonneville would receive appropriations equal to 100 percent of the annual payments in each of fiscal years 1996 through 2000. In fiscal years thereafter, Bonneville would receive an appropriation equal to approximately $4 million per year. These appropriations, together with the one-time Judgment Fund payment, represent an equitable allocation of the cost of the settlement between Bonneville ratepayers and Federal taxpayers.

The Administration recently submitted Colville Settlement legislation that contains repayment credit provisions rather than the appropriation that is in the legislation being forwarded here. The appropriations in section 9 of the enclosed Bonneville Power Administration Appropriations Refinancing legislation supersede those in the administration's Colville Settlement legislative proposal. The Administration is open to the concept of merging these two proposals in the legislative process. By the same token, because the same results associated with implementing the settlement agreement are achieved with respect to the Tribes, the Treasury, and the rate payers, we are comfortable with proceeding with the Colville debt repayment concept at this time and then enacting the Bonneville Power Administration Appropriations Refinancing Act subsequently.

The Omnibus Budget Reconciliation Act of 1990 requires that all revenue and direct spending legislation meet a pay-as-you-go requirement through fiscal year 1998. That is, no revenue and direct spending bill should result in an increase in the deficit, and if it does, it will trigger a sequester if it is not fully offset. The provisions of this legislation taken together would decrease net Federal outlays by approximately $45 million over fiscal year 1996 through fiscal year 1998.

The Office of Management and Budget advises that the enactment of this legislative proposal would be in accord with the program of the President.

Sincerely,

HAZEL R. O'LEARY.●

By Mr. CAMPBELL (for himself, Mr. CRAIG, Mr. KEMPTHORNE, Mr. LEAHY, and Mr. BURNS):

S. 2474. A bill to amend the Intermodal Surface Transportation Efficiency Act of 1991 to improve the national recreational trails funding program, and for other purposes; to the Committee on Environment and Public Works.

THE NATIONAL RECREATIONAL TRAILS FUNDING PROGRAM AMENDMENT ACT OF 1994

Mr. CAMPBELL. Madam President, I rise today to introduce a bill that will correct a problem in getting funding to maintain and expand our Nation's Trail System.

Trails are the historic backbone of our transportation system in this country. Trails guided settlers to the West. Trails helped bring commerce and supplies to those settlers. Today, trails still provide transportation, but also provide exercise and relaxation. Our trail system is suffering due to a lack of money. In 1991, Congress promised millions of dollars to the States for trails. Unfortunately, the States have not seen this funding due to a technical glitch.

In 1991, Congress passed the Intermodal Surface Transportation Efficiency Act. Included in ISTEA was the National Recreational Trails Trust Fund Act, which returns to each State a portion of the sales tax on gasoline purchased by all motorized trail users. The moneys were to be used to construct and maintain a State's motorized and nonmotorized trails.

Trails funding seems to be on a downward spiral. Although $30 million was authorized for trails under ISTEA, only $7.3 million was appropriated in fiscal year 1993. In fiscal year 1994, the matter became more technical. While ISTEA established a Trails Trust Fund, no administrative mechanism was established to distribute the funds; therefore, no budget States of my colleagues. I have a letter from the Governor of Colorado that was sent to Secretary Peña explaining his concern about the lack of trails funding that I ask unanimous consent to be included in the RECORD.

As mentioned, funding for the National Recreational Trails Trust Fund is generated by the Federal motor fuels tax. A recent report released by the U.S. Treasury Department showed that $63 million in Federal gas taxes were collected in fiscal year 1992 from motorcyclists. Collections in fiscal year 1993 totaled $64 million.

The philosophy of user pay/user benefit has been a tenet of tax policy. Under the act, these funds should be returned to State trails programs. However, of the $127 million collected in those 2 years, the National Recreational Trust Fund has received only $7.5 million. This $119.5 million shortfall is unjust.

The $7.5 million allocated in fiscal year 1993 was used for badly needed trail maintenance and repair. A national advisory board has been working with State advisory boards to improve trail conditions for both motorized and nonmotorized trail users. But this program has been cut short by the unexpected stoppage of Federal appropriations.

Madam President, our trails need every cent of available Highway Trust Fund money intended for this purpose. My bill would provide $6 million for the National Recreational Trails Trust Fund. This money comes from projects in the National Highway System bill that are no longer needed, or projects that will not use all of their allocation has been made for the appropriation of funds. This apparently caused the authorizing and appropriating committees to argue whether funding could be provided for this program—leading to a deletion of trails funding in fiscal year 1994. To make matters worse, trails funding was not included in the President's fiscal year 1995 budget request.

My State of Colorado received a grant for $122,022 in 1993. Motorized and nonmotorized projects each received 30 percent of the money, and 40 percent went to combined or multiple-use trail projects.

Communities have used these grants as seed money to encourage the building of trails. Municipalities, businesses, volunteers, and civic groups have donated time and money to build these trails. This is truly an endeavor in which the government and the public can work together to achieve positive results.

While many use and appreciate trails, many may not realize how they came about and realize their need for financing. According to a student research project conducted at the University of Northern Colorado, every dollar spent on a multiuse trail—hike, bike, equestrian, et cetera—returns $28 to the community. The results included such indirect returns as environmental benefits and better community health.

It is unfortunate that such a worthy program, which is authorized under ISTEA, has had so many complications in receiving its deserved funding. This has caused a severe lack of money for important trail projects in my State, and in the appropriated funds.

I hope that my colleagues will talk to trail users in their States and join me in cosponsoring this necessary legislation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF COLORADO,
November 9, 1993.

FEDERICO PEÑA,
Secretary of Transportation,
Washington, DC.

DEAR FEDERICO: I am writing to express my disappointment that the National Recreational Trails Fund, administered by your department, will likely have its funding cut for fiscal year 1994. The start-up funding available during fiscal year 1993 provided Colorado with $122,000, nearly doubling the resources we had available for important new trail projects across the state. I am writing to urge your immediate help in continuing this small but productive flow of funds.

In recent years, the state has consistently received requests for more than $2 million from local governments for trail construction and maintenance. As a state, we have made a bold, long-term commitment through Great Outdoors Colorado. In addition, we applaud the commitment of the Clinton Administration in proposing funding for the trails program, using a federal gas tax paid on off-highway recreational activities.

The National Recreation Trails Fund is a program with a real Colorado connection, and one which has been championed in Congress by Colorado Senator Ben Nighthorse Campbell. It is my understanding that the decision to delete funding was made at the staff level during the recent transportation appropriation bill conference, based on a technical question raised by the House, and without consideration of the strong support for the substance of the program.

The trails program has been a positive catalyst for progress on trails in Colorado in just one year. I would appreciate your consideration of this effective program.

Sincerely,

ROY ROMER,
Governor.

By Mr. CHAFEE:

S. 2476. A bill to amend the Internal Revenue Code of 1986 to encourage individuals to save through individual retirement accounts, and for other purposes; to the Committee on Finance.

THE IRA EQUITY AND ENHANCEMENT ACT OF 1994

Mr. CHAFEE. Mr. President, I am pleased to come to the floor this afternoon to introduce legislation to give much-needed help to working families. My bill will expand individual retirement accounts, and give them added flexibility to help alleviate some of the financial worries facing families today.

My legislation has two components to it. First, it eliminates an inequity in current law that works to the disadvantage of single-earner families. Under current law, families where both spouses work can contribute up to $4,000 to an IRA. However, families with only one working spouse is limited to $2,250—$2,000 for the wage earner and a mere $250 for the nonworking spouse. This stricter limit makes it very difficult for these families to accumulate adequate funds for their retirement. This situation is made all the more worse because the non working spouse has no other access to a retirement plan and is not earning Social Security credits. This problem was highlighted earlier this year by Senators HUTCHISON and MIKULSKI when they introduced legislation correcting this problem. Like their bill, my proposal eliminates this inequity and allows all eligible families to contribute the maximum $4,000 to an IRA.

My legislation also makes individual retirement accounts more attractive by increasing their flexibility. This bill eliminates the 10-percent penalty for early withdrawals from an IRA if the money is used to purchase a first home, to meet tuition needs, to pay medical or long-term care expenses, or to carry a family through periods of prolonged unemployment.

Today, families are reluctant to take advantage of IRA's because they fear that some unforeseen expense will arise that will require them to dip into their savings. Under current law, if a family member is faced with a medical or long term care expense, or is without a job for a substantial period of time, the Federal Government exacts a 10-percent penalty for using funds in an IRA to meet this need. This penalty is imposed above and beyond the normal income tax that is due. My bill eliminates that penalty in these situations.

In addition to meeting emergency medical needs, the bill allows IRA's to be used—without penalty—for the purchase of a first home or to further the education of a member of the family. Owning a home and educating their children are two of the most important goals of Rhode Island families. They also represent the two greatest financial challenges facing families today. By making IRA's accessible for these purposes, we can make it a little easier for families to meet these goals.

In summary, the legislation makes IRA's fairer by eliminating the bias against nonworking spouses. It also makes IRA's a more attractive savings vehicle by allowing access to these funds to meet pressing financial needs that may arise before retirement.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUESTIONS AND ANSWERS ON SENATOR CHAFEE'S IRA EQUITY AND ENHANCEMENT ACT

1. Won't this bill encourage families to use their retirement savings for purposes other than retirement?

The bill allows IRA funds to be used to buy a first home, to meet tuition expenses, to pay medical or long-term care expenses, or to make ends meet during a period of prolonged unemployment. Each of these situations represents a genuine financial concern facing families today. The federal government should do what it can to assist families in meeting these challenges rather than create obstacles.

2. Why increase the maximum contribution for non-working spouses?

This provision is designed to level the playing field for all families. Families that decide to have one spouse stay at home to raise their children should not be penalized by making it harder for them to save for retirement.

3. Who qualifies as a "first-time homebuyer?"

A first-time homebuyer is anyone who has not had an ownership interest in a principal residence for three years prior to acquiring the home.

4. Can a person take advantage of the penalty-free distribution to purchase a home for someone other than him or herself?

Yes. Penalty-free distributions can be made for the individual's spouse, children or grandchildren, so long as the person who will reside in the home qualifies as a first-time homebuyer.

5. What institutions qualify for the component of the bill relating to higher education expenses?

Most public and nonprofit universities and colleges and certain vocational schools will qualify.

6. What education expenses can penalty-free distributions be made for?

Distributions can be made for tuition, fees, books, supplies and equipment required as part of the enrollment or attendance at these schools.

7. Are the qualified education expenses limited to the owner of the IRA?

No. Distributions used to pay the education expenses of the IRA owner and his or her spouse, child, or grandchild are eligible for the favorable tax treatment.

8. What expenses qualify as long-term care?

These expenses include necessary diagnostic, preventive, therapeutic, rehabilitative, and maintenance services required by an individual to perform normal living activities such as eating, dressing, and bathing.

9. Who qualifies as needing long-term care under this proposal?

Someone who is certified by a licensed health care practitioner as being unable to perform at least three normal activities of daily living (eating, transferring, toileting, dressing, and bathing).

10. How long does one need to be unemployed before being able to use their IRA funds without penalty?

Anyone who has received unemployment compensation for twelve consecutive weeks under any Federal or State unemployment compensation law can get penalty-free access to their IRA money.

By Mr. GREGG:

S. 2477. A bill to amend the Internal Revenue Code of 1986 to preserve family-held forest lands, and for other purposes; to the Committee on Finance.

FAMILY FOREST AND PRESERVATION ACT

• Mr. GREGG. Mr. President, I introduce the Family Forestland Preservation Act of 1994. This bill amends several key tax provisions in order to help landowners keep their lands in long-term private forest ownership and management. Without these changes, many landowners will continue to be forced to sell or change the use of their land.

This bill derives from 4 years of work by the Northern Forest Lands Council [NFLC]. The NFLC was created in 1990, to seek ways for Maine, New Hampshire, Vermont, and New York to maintain the "traditional patterns of land ownership and use" in the forest that covers this Nation's northeast. The northern forest is a 26 million acre stretch of land, home to 1 million residents, and within a 2-hour drive of 70 million people. Nearly 85 percent of the forest is privately owned. However, times have changed and social and economic forces have begun to affect the traditional patterns of land use with more and more land being marketed for development.

This bill will help maintain traditional patterns, and thus preserve the forest, by adjusting several estate tax provisions. This bill would allow heirs to make postmortem donations of conservation easements on undeveloped estate land and allow the valuation of undeveloped land at current use value for estate tax purposes if the owner or heir agrees to maintain the land in its current use for a period of 25 years. This bill would also establish a partial inflation adjustment for timber sales by allowing a tax credit not to exceed 50 percent.

This will encourage landowners to maintain their timberland for long-term stewardship that is both economically and environmentally desirable. Also, the bill would eliminate the requirement that landowners generally must work 100 hours per year in forest management on their forest properties to be allowed to deduct normal management expenses from timber activities against nonpassive income. Currently landowners are required to capitalize these losses until timber is harvested. This legislation, though prompted by the NFLC's work, will not benefit only the four States that make-up the northern forest. It will benefit all States with forest land and all who enjoy the multiple uses of forest land. I urge my colleagues to support this bill, that will not only protect the historic current use patterns, but allow the rustic beauty of our forests to be enjoyed by all.•

By Mr. KERRY (for himself, Mr. BUMPERS, Mr. PRESSLER, Mr. NUNN, Mr. CHAFEE, Mr. INOUYE, Mr. BURNS, Mr. LAUTENBERG, Ms. MOSELEY-BRAUN, Mr. CAMPBELL, Mr. WELLSTONE, Mr. WOFFORD, and Mr. KOHL):

S. 2478. A bill to amend the Small Business Act to enhance the business development opportunities of small business concerns owned and controlled by socially and economically disadvantaged individuals, and for other purposes; to the Committee on Small Business.

THE BUSINESS DEVELOPMENT OPPORTUNITY ACT OF 1994

• Mr. KERRY. Mr. President, today, I am joined by Senators PRESSLER, BUMPERS, NUNN, and others in introducing the Business Development Opportunity Act of 1994. This bill will reform the Small Business Administration's [SBA] Minority Small Business and Capital Ownership Development Program commonly referred to as the 8(a) program. It will transform what is now an overly bureaucratic set-aside program into a true business development program. The reformed program provides program participants improved and intensified managerial training, access to equity, reduction of bureaucratic redtape, and opportunities for program graduates. Further, it will increase safeguards against abuse.

SBA Administrator Erskine Bowles has made a strong start in addressing the persistent problems of the program through the Minority Enterprise Development program [MED]. I believe this bill we are introducing today can be an important part of the development of the MED program. I hope that together our efforts will help develop a strong and vibrant minority small business community in every part of the Nation. I look forward to working with the SBA on these matters.

Minority business development should not be viewed as only part of our social agenda but also as an essential national economic imperative. A growing minority enterprise community is needed for the well-being of our Nation. America must be able to field its complete team if we are to succeed in the fierce global competition of the 21st century.

Small business is an important vehicle for historically disadvantaged minority groups to foster economic development for themselves and their communities. However, these groups have not had the access to equity necessary to develop a strong small business foundation. They have not had the access to information on how to develop small businesses. Furthermore, minority-owned small businesses have historically been underrepresented as contractors in the Federal procurement process.

I seek to fashion a more effective minority enterprise development program. One that will contribute to the long-term viability of participating firms after graduation and one that provides a full array of business development assistance.

The new program must be capable of helping more firms at different states of development, including start-up firms. As reflected in repeated General Accounting Office [GAO] reviews since 1980, the current program has provided too little assistance for the vast majority of the firms participating. We tried to address those problems in the 1988 legislation through requirements for transition management planning and business mix targets that gradually diminished the firm's dependence on 8(a) contracts, but they have not yet been fully implemented.

Our bill addresses this issue by improving and focusing SBA's Management Assistance program. This will add core business development skills, such as marketing and proposal development to 8(a) certified businesses only.

It will improve access to capital for program graduates by allowing them to sell a noncontrolling equity share of their business without losing the right to continue performance of contracts won while affiliated with the program. The bill will implement the Surety Bond Waiver Test program, which has granted waivers of surety bond requirements to qualified companies for some Government contracts. Also, it authorizes a test program to permit 8(a) program graduates to recompete for one Government contract that it had won while in the program as long as 25 percent of the contract is subcontracted to a current 8(a) participant.

There have been charges by the SBA inspector general office that some of the 8(a) certified small businesses are actually "fronts" for nonminority businesses which would otherwise not qualify for these programs.

Our bill will deter "front" companies from the various small disadvantaged business programs by improving SBA's administration of a Governmentwide protest system in which other participants can challenge a firm's eligibility. It gives the SBA access to more information on potential program abusers. It also encourages the use of available administrative as well as criminal remedies for those individuals or firms found to be engaged in misrepresentation.

The program has developed a maze of regulations and paperwork that keep many from even applying for certification. Applications are reviewed not only at the regional SBA offices but at the central SBA offices. By not allowing businesses to deal directly with agencies but only through the SBA the program adds a needless extra level of bureaucracy. Once a contract is signed, too many cumbersome reports are needed, draining valuable time and resources away from where they are needed the most.

This legislation will streamline and simplify the 8(a) programs certification and contracting process. It develops a onestop application process to expedite the application process. It accelerates the contract award process by allowing Federal agencies to award contracts directly to 8(a) certified businesses. It will streamline and simplify the process by which a company and the SBA determine whether companies fit into the appropriate size classifications for specific contracts.

Not enough has been done to allow agencies to reach the minority set-aside goals.

Our bill will expand the tools available for agencies to meet set-aside goals in addition to the 8(a) program. It extends the Department of Defense section 1207 program which provides tools for agencies to help them meet their goals for contracting with small disadvantaged businesses to all agencies can use a more streamlined and more competitive program.

I believe that the Business Development Opportunity Act of 1994 will help minority owned small businesses grow and prosper through training, assistance, financing, a reduction in paperwork, and safeguard against fraud. I hope my colleagues will support this important legislation.

I ask unanimous consent that the text of the bill and a summary of its provisions appear in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2478

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Business Development Opportunity Act of 1994".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—AMENDMENTS TO THE MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT PROGRAM

PART A—PROGRAM ORGANIZATION AND PARTICIPATION STANDARDS

Sec. 101. Minority Enterprise Development Program.

Sec. 102. Consolidation of eligibility review function.
Sec. 103. Clarification of various eligibility criteria.
Sec. 104. Clarification of certain additional eligibility criteria imposed by regulation.
Sec. 105. Enhancing due process in eligibility determinations.
Sec. 106. Improving geographic distribution of program participants.

PART B—BUSINESS DEVELOPMENT ASSISTANCE

Sec. 111. Developmental assistance authorized for program participants.
Sec. 112. Expanding the eligible uses for loans under existing loan programs for program participants.
Sec. 113. Test program for the use of surety bond waivers.
Sec. 114. Targeting section 7(j) business management assistance to program participants.
Sec. 115. Other enhancements to the section 7(j) management assistance program.
Sec. 116. Developmental teaming.

PART C—IMPROVING ACCESS TO EQUITY FOR PROGRAM GRADUATES

Sec. 121. Continued contract performance.
Sec. 122. Continued program participation.

PART D—CONTRACT AWARD AND ELIGIBILITY MATTERS

Sec. 131. Contract award procedures.
Sec. 132. Timely determination of eligibility for contract award.
Sec. 133. Competition requirements.
Sec. 134. Standard industrial classification codes.
Sec. 135. Use of contract support levels.
Sec. 136. Business mix requirements.
Sec. 137. Encouraging self-marketing.
Sec. 138. Bundling of contractor capabilities.

PART E—TRIBALLY OWNED CORPORATIONS

Sec. 141. Management and control of business operations.
Sec. 142. Joint ventures.
Sec. 143. Rule of construction regarding the Buy Indian Act.

PART F—CONTRACT ADMINISTRATION MATTERS

Sec. 151. Accelerated payment.
Sec. 152. Expedited resolution of contract administration matters.
Sec. 153. Availability of alternative dispute resolution.

PART G—PROGRAM ADMINISTRATION

Sec. 161. Simplification of annual report to Congress.
Sec. 162. Reduction in reporting by program participants.

TITLE II—CONTRACTING PROGRAM FOR CERTAIN SMALL BUSINESS CONCERNS

PART A—CIVILIAN AGENCIES PROGRAM

Sec. 201. Procurement procedures.
Sec. 202. Implementation through the Federal Acquisition Regulation.
Sec. 203. Sunset.

PART B—ELIGIBILITY DETERMINATIONS REGARDING STATUS

Sec. 211. Improved status protest system.
Sec. 212. Conforming amendment.

TITLE III—EXPANDING SUBCONTRACTING OPPORTUNITIES

Sec. 301. Evaluating subcontract participation in awarding contracts.
Sec. 302. Subcontracting goals for certain small business concerns.
Sec. 303. Small business participation goals.
Sec. 304. Improved notice of subcontracting opportunities.

TITLE IV—REPEALS AND TECHNICAL AMENDMENTS

PART A—REPEALS

Sec. 401. Loan program superseded by section 7(a) loan program.
Sec. 402. Superseded loan program relating to energy.
Sec. 403. Employee training program of limited scope.
Sec. 404. Expired provision.
Sec. 405. Expired direction to the Administration.

PART B—TECHNICAL AMENDMENTS

Sec. 411. Technical amendments.

TITLE V—DEFINITIONS

Sec. 501. Historically underutilized businesses.
Sec. 502. Emerging small business concern.

TITLE VI—REGULATORY IMPLEMENTATION AND EFFECTIVE DATES

PART A—ASSURING TIMELY REGULATORY IMPLEMENTATION

Sec. 601. Deadlines for issuance of regulations.
Sec. 602. Regulatory implementation of prior legislation.

PART B—EFFECTIVE DATES

Sec. 611. Effective dates.

TITLE I—AMENDMENTS TO THE MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT PROGRAM

PART A—PROGRAM ORGANIZATION AND PARTICIPATION STANDARDS

SEC. 101. MINORITY ENTERPRISE DEVELOPMENT PROGRAM.

(a) PROGRAM ESTABLISHED.—Section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) is amended—

(1) by striking the subsection designation and the first 2 sentences and inserting the following:

"(10) MINORITY ENTERPRISE DEVELOPMENT PROGRAM.—

"(A) ESTABLISHMENT.—There is established within the Administration a Minority Enterprise Development Program (hereafter in this paragraph referred to as the 'Program'), which shall be administered by an Associate Administrator in accordance with this paragraph and section 8(a).";

(2) by striking subparagraph (B);

(3) by striking "(A) The Program shall—" and inserting the following:

"(B) PROGRAM GOALS.—The Program shall—"; and

(4) in subparagraph (C)(i), by striking "participating in any program or activity conducted under the authority of this paragraph or".

(b) PROGRAM PHASES.—Section 7(j)(12) of the Small Business Act (15 U.S.C. 636(j)(12)) is amended to read as follows:

"(12) SEGMENTING OF MINORITY ENTERPRISE DEVELOPMENT PROGRAM.—

"(A) IN GENERAL.—In addition to such other segments as the Administrator deems appropriate, the Minority Enterprise Development Program established in paragraph (10) shall consist of the following 3 phases:

"(i) The Business Creation Phase.

"(ii) The Business Development Phase.

"(iii) The Business Development (Preferential Contracting) Phase.

"(B) ELIGIBILITY FOR PREFERENTIAL CONTRACTING.—Only a firm participating in the Business Development (Preferential Contracting) Phase shall be eligible for award of Federal contracts pursuant to section 8(a) (and shall be referred to as a 'Program Participant' for the purposes of this section and section 8(a)).

"(C) PARTICIPATION BY FIRMS.—Except as provided in section 10(c), a firm may participate in the Business Development (Preferential Contracting) Phase described in subparagraph (A)(iii) for a total period of not more than 9 years, which period shall be divided into the following 2 stages:

"(i) A developmental stage (of not more than the first 5 years).

"(ii) A transitional stage.".

(c) CONFORMING AMENDMENTS.—The Small Business Act (15 U.S.C. 601 et seq.) is amended—

(1) by striking "Minority Small Business and Capital Ownership Development" each place it appears and inserting "Minority Enterprise Development";

(2) by striking "Capital Ownership Development" each place it appears and inserting "Minority Enterprise Development";

(3) by striking "capital ownership development" each place it appears and inserting "minority enterprise development";

(4) by striking "Business Opportunity Specialist" each place it appears and inserting "Business Development Specialist"; and

(5) by striking section 7(j)(15) and inserting the following:

"(15) [Reserved].".

SEC. 102. CONSOLIDATION OF ELIGIBILITY REVIEW FUNCTION.

Section 7(j)(11)(E) of the Small Business Act (15 U.S.C. 636(j)(11)(E)) is amended by striking the third sentence.

SEC. 103. CLARIFICATION OF VARIOUS ELIGIBILITY CRITERIA.

(a) TRIBALLY OWNED CORPORATIONS.—Sections 7(j) and 8(a) of the Small Business Act (15 U.S.C. 636(j), 637(a)) are each amended by striking "an economically disadvantaged Indian tribe" each place it appears and inserting "an Indian tribe".

(b) NATIVE HAWAIIAN ORGANIZATIONS.—Section 8(a)(4)(A) of the Small Business Act (15 U.S.C. 637(a)(4)(A)) is amended by striking "an economically disadvantaged Native Hawaiian organization" each place it appears and inserting "a Native Hawaiian organization".

(c) PRESUMPTION OF ECONOMIC DISADVANTAGE.—Section 8(a)(6)(A) of the Small Business Act (15 U.S.C. 637(a)(6)(A)) is amended by striking the last sentence.

SEC. 104. CLARIFICATION OF CERTAIN ADDITIONAL ELIGIBILITY CRITERIA IMPOSED BY REGULATION.

Section 7(j)(11)(G) of the Small Business Act (15 U.S.C. 636(j)(11)(G)) is amended to read as follows:

"(G) An applicant shall not be denied admission into the Minority Enterprise Development Program established in paragraph (10) based solely on a determination by the Division that—

"(i) specific contract opportunities are unavailable to assist in the development of such concern, unless—

"(I) the Government has not previously procured and is unlikely to procure the types of products or services offered by the concern; and

"(II) the purchases of such products or services by the Federal Government will not be in quantities sufficient to support the developmental needs of the applicant and other Program Participants providing the same or similar items or services;

"(ii) the prospective Program Participant firm has not been in operation for a period of time specified by the Administration prior to making application to the Program, if the prospective Program Participant firm can demonstrate that—

"(I) the individual or individuals upon whom eligibility is to be based have substantial and demonstrated business management experience;

"(II) the prospective Program Participant has demonstrated technical expertise necessary to carry out its business plan with a substantial likelihood of success;

"(III) the prospective Program Participant has, or can demonstrate its ability to timely obtain, adequate capital to carry out its business plan;

"(IV) the prospective Program Participant can demonstrate the competitive award and performance (either ongoing or completed) of contracts from governmental or nongovernmental sources in the primary industry category reflected in its business plan; and

"(V) the prospective Program Participant has, or can demonstrate its ability to timely obtain, the personnel, facilities, equipment, and any other requirements needed to perform contracts of the type likely to be awarded to the firm pursuant to section 8(a);

"(iii) the individual or individuals upon whom eligibility is to be based have not been working full time at managing the prospective Program Participant firm for a period specified by the Administration prior to making application to the Program;

"(iv) the prospective Program Participant is a tribally owned corporation whose chief executive officer (or chief operating officer) is other than a Native American, if the governing body of the Indian tribe certifies to the Administration that it was unable to hire a qualified Native American after conducting a national recruitment for such individual; or

"(v) the prospective Program Participant lacks reasonable prospects for future success despite access to one or more of the types of developmental assistance provided for in paragraph (13), unless such determination is supported by specific findings.".

SEC. 105. ENHANCING DUE PROCESS IN ELIGIBILITY DETERMINATIONS.

Section 7(j)(11)(H) of the Small Business Act (15 U.S.C. 636(j)(11)(H)) is amended—

(1) by striking "(H)" and inserting "(H)(i)"; and

(2) by adding at the end the following new clauses:

"(ii) The Associate Administrator for Minority Enterprise Development shall—

"(I) notify an applicant, in writing, of the denial of an application under clause (i), stating the specific determinations supported by specific findings in support of the denial; and

"(II) provide the applicant an opportunity to respond (or to modify the business organization of the applicant in response) to matters raised in the notice of denial and to seek a reconsideration of the application.

"(iii) If the application is denied upon reconsideration pursuant to clause (ii) and the denial is based upon determinations or findings not previously cited as a basis for the initial denial of the application, the Associate Administrator for Minority Enterprise Development shall provide the applicant an opportunity to respond to the determinations or findings not previously raised, or to modify the business organization of the applicant in response to such determinations or findings.".

SEC. 106. IMPROVING GEOGRAPHIC DISTRIBUTION OF PROGRAM PARTICIPANTS.

(a) Action Plan Required.—The Administrator of the Small Business Administration shall develop an action plan for improving participation in the Minority Enterprise Development Program established by section 101 by firms across the Nation.

(b) Contents of the Action Plan.—In addition to such other matters as the Administrator deems appropriate, the action plan developed under subsection (a) shall address—

(1) an outreach program directed at small business concerns owned and controlled by socially and economically disadvantaged individuals eligible for program participation in those States with historically low rates of participation in the Minority Enterprise Development Program (and its predecessor program, the Minority Small Business and Capital Ownership Development Program); and

(2) improved implementation of section 8(a)(16)(B) of the Small Business Act (relating to geographic distribution of contracts awarded noncompetitively pursuant to section 8(a)(1) of such Act).

(c) Public Participation.—In carrying out this section, the Administrator shall seek public comment on the proposals to be included in the action plan.

(d) Submission.—Not later than June 30, 1995, the action plan developed under subsection (a) shall be submitted to the Committees on Small Business of the Senate and House of Representatives.

PART B—BUSINESS DEVELOPMENT ASSISTANCE

SEC. 111. DEVELOPMENTAL ASSISTANCE AUTHORIZED FOR PROGRAM PARTICIPANTS.

Section 7(j) of the Small Business Act (15 U.S.C. 636(j)) is amended—

(1) in paragraph (13), in the matter preceding subparagraph (A), by striking "the stages of program participation specified in paragraph 12" and inserting "its Program participation"; and

(2) by striking paragraph (14) and inserting the following:

"(14) [Reserved].".

SEC. 112. EXPANDING THE ELIGIBLE USES FOR LOANS UNDER EXISTING LOAN PROGRAMS FOR PROGRAM PARTICIPANTS.

Section 7(a)(20)(A)(iii) of the Small Business Act (15 U.S.C. 636(a)(20)(A)(iii)) is amended by striking "to be used" and all that follows before the semicolon.

SEC. 113. TEST PROGRAM FOR THE USE OF SURETY BOND WAIVERS.

Section 7(j)(13)(D) of the Small Business Act (15 U.S.C. 636(j)(13)(D)) is amended—

(1) by striking clauses (i) through (iii);

(2) by striking "A maximum" and inserting "(i) A maximum";

(3) by striking ", except that, such exemptions may be granted under this subparagraph only if—" and inserting a period; and

(4) by adding at the end the following new clauses:

"(ii) The agency with contracting authority may, upon the request of the Program Participant, grant an exemption pursuant to clause (i), if—

"(I) the Program Participant provides certification, in the form prescribed by the Administration, that the firm was unable to obtain the requisite bonding from corporate surety bonding firms even with a guarantee issued by the Administration pursuant to title IV of the Small Business Investment Act of 1958;

"(II) the Program Participant has provided for the protection of persons furnishing materials or labor under the contract by arranging for—

"(aa) the direct disbursement of funds owed to such persons by the procuring agency or through an escrow account provided by any bank the deposits of which are insured by the United States Government; or

"(bb) irrevocable letters of credit (or other alternatives to surety bonding acceptable to the procuring agency); and

"(III) the award value of the contract for which the exemption is being sought does not exceed $1,000,000.

"(iii) The authority to grant an exemption under clause (ii) shall cease to be effective on September 30, 1997.".

SEC. 114. TARGETING SECTION 7(j) BUSINESS MANAGEMENT ASSISTANCE TO PROGRAM PARTICIPANTS.

Section 7(j)(1) of the Small Business Act (15 U.S.C. 636(j)(1)) is amended by striking "individuals or enterprises eligible for assistance under sections 7(i), 7(j)(10), and 8(a) of this Act" and inserting "participants in the Minority Enterprise Development Program established in paragraph (10)".

SEC. 115. OTHER ENHANCEMENTS TO THE SECTION 7(j) MANAGEMENT ASSISTANCE PROGRAM.

(a) Focus on Business Management Assistance.—Section 7(j)(2)(E) of the Small Business Act (15 U.S.C. 636(j)(2)(E)) is amended to read as follows:

"(E) the furnishing of business development services and related professional services, especially accounting and legal services, with special emphasis on marketing, bid and proposal preparation, financial management, strategic business planning, and transition management planning for participants in the Minority Enterprise Development Program, that will foster the continued business development of the Program Participants after program graduation.".

(b) Two-Year Authorization.—Section 7(j)(5) of the Small Business Act (15 U.S.C. 636(j)(5)) is amended to read as follows:

"(5)(A) Financial assistance authorized in paragraph (1) may be provided through grants, cooperative agreements, or contracts.

"(B) Funds appropriated to carry out paragraph (1) shall remain available for obligation by the Administration during the fiscal year succeeding the fiscal year for which the funds were appropriated.

"(C) Recipients of financial assistance awarded pursuant to paragraph (1) may expend such funds prior to the expiration date of the grant, cooperative agreement, or contract under which the funds were awarded.".

(c) Eligibility for Certain Educational Institutions.—Section 7(j) of the Small Business Act (15 U.S.C. 636(j)) is amended—

(1) in paragraph (2)—

(A) by redesignating subparagraphs (A) through (E) as subparagraphs (B) through (F), respectively; and

(B) by inserting before subparagraph (B), as redesignated, the following new subparagraph:

"(A) business executive education programs conducted by institutions of graduate business education for owners or managers of small business concerns owned and controlled by socially and economically disadvantaged individuals (as defined in section 8(d)(3)(C));"; and

(2) by striking paragraph (4) and inserting the following:

"(4) In making awards pursuant to paragraph (1) to institutions of graduate business education eligible under paragraph (2)(A), the Administration shall give preference to institutions that have previously provided such programs, with the greatest preference being accorded to institutions that have provided such programs for a period of not less than 10 consecutive years.".

SEC. 116. DEVELOPMENTAL TEAMING.

(a) Program Established.—There is established a Developmental Teaming Program (hereafter in this section referred to as the "Program") within the Minority Enterprise Development Program established under section 101.

(b) PURPOSE.—The purpose of the Program shall be to foster the business development and long-term business success of firms participating in the Minority Enterprise Development Program by encouraging the formation of teaming arrangements and long-term strategic business alliances between such firms and firms that have graduated from the Minority Enterprise Development Program (and its predecessor program, the Minority Small Business and Capital Ownership Development Program).

(c) PROGRAM PARTICIPANTS.—

(1) ASSISTANCE RECIPIENTS.—Small business concerns owned and controlled by socially and economically disadvantaged individuals that are participants in the Business Development (Preferential Contracting) Phase of the Minority Enterprise Development Program shall be eligible to participate in the Program (and shall be referred to as "Program Participants" for purposes of this section).

(2) ASSISTANCE PROVIDERS.—A small business concern owned and controlled by socially and economically disadvantaged individuals that is a graduate (or a current Program Participant in the Transitional Stage) of the Business Development (Preferential Contracting Phase) of the Minority Enterprise Development Program (and its predecessor program, the Minority Small Business and Capital Ownership Development Program) shall be eligible to participate in the Program and to furnish developmental assistance to Program Participants through a developmental teaming agreement, approved pursuant to subsection (d). (For purposes of this section, firms having, or seeking to establish, a developmental teaming agreement shall be referred to as "Developmental Teaming Partners").

(d) TEAMING AGREEMENTS.—

(1) ASSISTANCE AUTHORIZED.—A Developmental Teaming Partner may provide to a Program Participant one or more of the following forms of developmental assistance and training:

(A) General business management (including financial management, organizational management and personnel management).

(B) Business development, marketing, and proposal preparation.

(C) Process engineering (including production, inventory control, and quality assurance).

(D) Award of subcontracts on a noncompetitive basis.

(E) Technology transfer.

(F) Financial assistance (including loans, loan guarantees, surety bonding, advance payments, and accelerated progress payments).

(G) Such other forms of assistance designed to foster the development of the Program Participant, contained in a developmental teaming agreement approved pursuant to paragraph (3).

(2) CONTENT OF AGREEMENTS.—In addition to such other matters as the parties may deem appropriate, each developmental teaming agreement shall include the matters described in subsection (e).

(3) APPROVAL REQUIRED.—Each developmental teaming agreement shall be approved by the Administration before—

(A) the furnishing of any type of developmental assistance to a Program Participant pursuant to such agreement; or

(B) the Developmental Teaming Partner becomes eligible for any of the incentives authorized by subsection (f).

(4) ACTION BY THE ADMINISTRATION.—Each proposed developmental teaming agreement shall be reviewed and approved (or denied approval) not later than 45 days after the receipt of such agreement by the Administration. A denial of approval shall state specific reasons for the denial and shall afford the applicant an opportunity for reconsideration. Every reasonable effort shall be made by the Administration to act upon matters relating to the administration of an approved developmental teaming agreement not later than 30 days after the receipt of such agreement by the Administration.

(e) CONTENT OF THE AGREEMENT.—

(1) FORMS OF ASSISTANCE.—Each developmental teaming agreement shall specify forms of business development assistance to be furnished by the Developmental Teaming Partner and indicate how these forms of assistance are designed to advance the approved business plan of the Program Participant.

(2) MEASURES OF SUCCESS.—Each developmental teaming agreement shall include specific milestones or benchmarks which will permit objective measurement of whether the agreement has advanced the business development of the Program Participant.

(3) DURATION OF AGREEMENT.—Each developmental teaming agreement between a Program Participant and a Developmental Assistance Provider may be for a term not to exceed 3 years, with the option of the parties to renew the agreement upon its expiration for an additional term of not to exceed 2 years.

(4) TERMINATION OF AGREEMENT.—The developmental teaming agreement shall include provisions regarding the termination of the agreement that meet the standards of subsection (h).

(f) PARTICIPATION AS SUBCONTRACTOR.—A Developmental Teaming Partner may be awarded a subcontract under a contract awarded pursuant to section 8(a)(1) of the Small Business Act, without regard to the subcontracting limitations of section 8(a)(14) of such Act, if—

(1) the contract was awarded to a Program Participant with which such firm has an approved developmental teaming agreement; and

(2) the subcontract award was approved as part of the developmental teaming agreement (or subsequently approved by the Administration).

(g) AFFILIATION OR CONTROL.—For the purposes of the Small Business Act, no determination of affiliation or control (either direct or indirect) shall be found on the basis that a Program Participant is being furnished (or has entered into agreement to be furnished) developmental assistance pursuant to a developmental teaming agreement, approved pursuant to subsection (d).

(h) TERMINATION OF AGREEMENTS.—

(1) BY A PROGRAM PARTICIPANT.—A Program Participant may voluntarily terminate a developmental teaming agreement after giving not less than 30 days advance notice to its Developmental Teaming Partner.

(2) BY A DEVELOPMENTAL ASSISTANCE PROVIDER.—

(A) WITHDRAWAL FROM PROGRAM.—A Developmental Teaming Partner may terminate its developmental teaming agreement with a Program Participant by withdrawing from the Program after giving not less than 30 days advance notice to the Administration and to each of the Program Participants for which the firm was a Developmental Teaming Partner.

(B) TERMINATING AN AGREEMENT FOR CAUSE.—

(i) IN GENERAL.—A Developmental Teaming Partner may terminate its developmental teaming agreement with a Program Participant for cause in accordance with the procedures in clause (ii).

(ii) NOTICE.—In terminating an agreement under clause (i), the following procedures shall apply:

(I) IN GENERAL.—The Program Participant shall be furnished a written notice of the proposed termination under clause (i), not less than 30 days prior to the effective date of such proposed termination, that states the specific reasons for the proposed termination.

(II) RESPONSE.—The Program Participant shall have not more than 30 days to respond to such notice of proposed termination, rebutting any findings believed to be erroneous and offering a remedial program.

(III) FINAL ACTION.—After giving the Program Participant's response prompt consideration, the Developmental Teaming Partner shall either withdraw the notice of proposed termination or issue a notice of termination.

(iii) NONREVIEWABILITY.—The decision of the Developmental Teaming Partner regarding a termination for cause, conforming to the procedures of clause (ii), shall be final and shall not be subject to review by the Administration.

(3) BY THE SMALL BUSINESS ADMINISTRATION.—

(A) IN GENERAL.—The Administration may terminate the participation of a Developmental Teaming Partner or a Program Participant for cause in accordance with subparagraph (B).

(B) PROCEDURES.—In terminating an agreement under subparagraph (A), the following procedures shall apply:

(i) NOTICE.—The firm proposed for termination from the Program shall be furnished a written notice of the proposed termination, not less than 30 days prior to the effective date of such proposed termination, that states the specific reasons for the proposed termination.

(ii) RESPONSE.—The notice of proposed termination shall provide 30 days for the firm proposed for termination to respond to such notice.

(iii) FINAL ACTION.—After giving prompt consideration to the response of the firm proposed for termination, the Administration shall either withdraw the notice of proposed termination or issue a notice of termination.

(C) REVIEWABILITY.—A decision by the Administration to terminate for cause the participation of a firm in the Program shall be final, but may be appealed pursuant to section 8(a)(9) of the Small Business Act.

(i) DURATION OF THE PROGRAM.—

(1) IN GENERAL.—Business concerns eligible to participate in the Program may enter into developmental teaming agreements during the period commencing on the effective date of the regulations required by subsection (j) and ending on September 30, 1997.

(2) TERMINATION.—The Program shall terminate on September 30, 2002.

(j) REGULATIONS.—The Administrator of the Small Business Administration shall prescribe regulations to carry out the Developmental Teaming Program. Proposed regulations shall be published not later than 90 days after the date of enactment of this Act. Final regulations shall be promulgated not later than 180 days after the date of enactment of this Act.

(k) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) SMALL BUSINESS CONCERNS.—The term "small business concern" means a business concern that meets the requirements of section 3(a) of the Small Business Act and the regulations promulgated pursuant to such section.

(2) SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "small business concern owned and controlled by socially and economically disadvantaged individuals" has the same meaning as in section 8(d)(3)(C) of the Small Business Act.

(3) MINORITY ENTERPRISE DEVELOPMENT PROGRAM.—The term "Minority Enterprise Development Program" means the program authorized by section 7(j)(10)(A) of the Small Business Act (as amended by section 101).

(4) GRADUATED.—The term "graduated" has the same meaning as in section 7(j)(10)(H) of the Small Business Act.

PART C—IMPROVING ACCESS TO EQUITY FOR PROGRAM GRADUATES

SEC. 121. CONTINUED CONTRACT PERFORMANCE.

Section 8(a)(21) of the Small Business Act (15 U.S.C. 637(a)(21) is amended—

(1) in subparagraph (B), by striking "The Administrator may, on a nondelegable basis, waive the requirements of subparagraph (A) only if 1 of the following conditions exist:" and inserting "The requirements of subparagraph (A) may be waived, under any of the following circumstances:"; and

(2) by striking subparagraph (C) and inserting the following:

"(C)(i) Except as provided in clause (ii), a request for a waiver pursuant to subparagraph (B) shall be submitted prior to the actual relinquishment of ownership or control.

"(ii) Under the circumstances described in subparagraph (B)(iii), the waiver request shall be made as soon as practicable after the incapacity or death occurs.".

SEC. 122. CONTINUED PROGRAM PARTICIPATION.

Section 7(j)(11)(D) of the Small Business Act (15 U.S.C. 636(j)(11)(D)) is amended to read as follows:

"(D)(i) A Program Participant shall remain eligible for participation in the Program after a transfer of an ownership interest in the firm if ownership and control (as required by section 8(a)(4)) is—

"(I) retained by the socially and economically disadvantaged individuals upon whom Program eligibility is based; or

"(II) acquired by a small business concern owned and controlled by socially and economically disadvantaged individuals who have graduated from the Program or otherwise exited the Program through a means other than a termination proceeding.

"(ii) A Program Participant shall remain eligible for participation in the Program after transfer of ownership and control (as required by section 8(a)(4)) to individuals who are determined to be socially and economically disadvantaged pursuant to section 8(a). Unless graduated or terminated, the Program Participant shall be eligible for a period of continued Program Participation not to exceed the period described in paragraph (15).

"(iii) A Program Participant that is a tribally owned corporation may remain eligible for participation in the Program with other than a Native American as the firm's chief executive officer (or chief operating officer), if the governing body of the Indian tribe certifies to the Administration that it was unable to hire a qualified Native American after conducting a national recruitment for such an individual.".

PART D—CONTRACT AWARD AND ELIGIBILITY MATTERS

SEC. 131. CONTRACT AWARD PROCEDURES.

Section 8(a)(1) of the Small Business Act (15 U.S.C. 637(a)(1)) is amended—

(1) by striking subparagraphs (A), (B), and (C); and

(2) by striking "(a)(1)" and inserting the following:

"(a)(1)(A) The Administration shall ensure that contracts sufficient to satisfy the contract support levels identified by participants in the Minority Enterprise Development Program established in section 7(j)(10) are designated by the various Federal agencies for award pursuant to this subsection.

"(B) Except as provided in subparagraph (D), the award of contracts under this section shall be made on a noncompetitive basis by the agency offering the contracting opportunity to the Program Participant selected for the award, and determined to be responsible by such agency. The award shall be made at a fair market price.

"(C)(i) The Administration shall determine the eligibility of the Program Participant to receive the award in accordance with the eligibility criteria listed in paragraph (16).

"(ii) With respect to an individual contracting opportunity, the Administration may provide, upon a request by the Program Participant, assistance with respect to—

"(I) the negotiation of the terms and conditions of the award; and

"(II) the resolution of controversies arising from the performance of the contract prior to such contract performance controversies becoming formal contract disputes within the meaning of the Contract Disputes Act of 1978;

"(iii) In the event of an adverse decision by an agency regarding a contracting opportunity, the Administrator may—

"(I) not later than 5 days after receiving notice of such adverse decision, file a notice of intent to appeal with the head of the agency; and

"(II) not later than 15 days after receiving such notice, file an appeal with the head of the agency, requesting reconsideration of the adverse decision.

"(iv) Upon receipt of the notice of intent to file an appeal under clause (iii)(I), further action regarding award of the contract shall be suspended, unless the head of the agency makes a written determination, supported by specific findings, that urgent and compelling circumstances that significantly affect the interests of the United States will not permit reconsideration of the adverse decision.

"(v) If the head of the agency sustains the adverse decision upon reconsideration, the decision by the head of the agency shall be in writing and shall be supported by specific findings.

"(vi) An adverse decision regarding the responsibility of a Program Participant shall be decided pursuant to subsection (b)(7).

"(vii) For the purposes of this subparagraph, an adverse decision includes a decision by the contracting officer responsible for the contracting opportunity—

"(I) failing to respond to a request from the Administration to make a specific contracting opportunity available for award pursuant to this subsection;

"(II) declining to make available for award under this subsection a contracting opportunity (or class of contracting opportunities) or failing to support such a determination with specific findings;

"(III) finding a Program Participant to be ineligible for award of a contracting opportunity on the basis of a determination of nonresponsibility; or

"(IV) failing to reach agreement with the Program Participant with respect to the terms and conditions of a contract selected for award under this subsection.".

SEC. 132. TIMELY DETERMINATION OF ELIGIBILITY FOR CONTRACT AWARD.

(a) IN GENERAL.—Section 8(a)(16) of the Small Business Act (15 U.S.C. 637(a)(16)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (E);

(2) by striking subparagraph (A) and inserting the following:

"(A) Upon receiving notification that a Federal agency intends to consider a Program Participant for award of a contract pursuant to this subsection (on a competitive or noncompetitive basis), the Administration shall promptly notify the agency regarding the eligibility of the Program Participant for award of the contract, and shall identify all matters that could reasonably be expected to render the Program Participant ineligible at the time of the contract award."; and

(3) by inserting after subparagraph (A) (as added by paragraph (2)) the following new subparagraphs:

"(B) A Program Participant may be found to be ineligible for award of the contract pursuant to this subsection, if—

"(i) the award of the contract would result in the Program Participant failing to attain its business activity targets established pursuant to section 7(j)(10)(I); or

"(ii) the Program Participant has failed to make the submissions required under paragraph (6)(B).

"(C) A small business concern owned and controlled by socially and economically disadvantaged individuals that has completed its Program Participation term pursuant to section 7(j)(15) shall be eligible for award if—

"(i) in the case of a contract to be competitively awarded, the prospective contract recipient was a Program Participant eligible for award of the contract on the date specified for receipt of offers, and such firm had timely submitted an offer (including price); or

"(ii) in the case of a contract to be noncompetitively awarded, the prospective contract recipient was a Program Participant eligible for award of the contract on the date specified by the agency contracting officer for the submission of an offer (including price).

"(D) If the Administration determines that a Program Participant is ineligible for consideration for award of a contract under subparagraph (B) or (C), the determination shall be supported by specific findings. The determination (and supporting findings) shall be furnished to the Program Participant and to the contracting officer for the agency providing the contracting opportunity.".

(b) CONFORMING AMENDMENTS.—Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) is amended—

(1) in paragraph (3)—

(A) by striking subparagraph (A) and inserting the following:

"(A) [Reserved]."; and

(B) by striking subparagraph (D) and inserting the following:

"(D) Subsequent to the award of a contract under this subsection, if requested by the recipient of the contract, the Administration shall not publicly disclose the agency's estimate of the fair market price.";

(2) in paragraph (7), by striking subparagraph (A) and inserting the following:

"(A) [Reserved].";

(3) in paragraph (12)(A), by striking "eligible to receive subcontracts" and inserting "eligible for contract awards"; and

(4) in paragraph (9)(B)—

(A) in clause (iii), by striking "and";

(B) by redesignating clause (iv) as clause (v); and

(C) by inserting after clause (iii) the following new clause:

"(iv) a determination of ineligibility for award of contract pursuant to paragraph (16)(B); and".

SEC. 133. COMPETITION REQUIREMENTS.

(a) Indefinite Quantity and Delivery Contracts.—Section 8(a)(1)(D) of the Small Business Act (15 U.S.C. 637(a)(1)(D)) is amended—

(1) by redesignating clause (ii) as clause (iv); and

(2) by inserting after clause (i) the following new clause:

"(ii) Whenever a requirements-type contract (including a task order contract, indefinite quantity contract, or indefinite delivery contract) is to be awarded, the thresholds for competition required under clause (i)(II) shall be calculated on the basis of the estimated total value of the contract.".

(b) Authorization for Additional Noncompetitive Contract Awards.—Section 8(a)(1)(D) of the Small Business Act (15 U.S.C. 637(a)(1)(D)) is amended by inserting after clause (ii) (as added by subsection (a)) the following new clause:

"(iii) The Associate Administrator for Minority Enterprise Development, on a nondelegable basis, may authorize the noncompetitive award of contracts in excess of the amounts specified in clause (i)(II) to a Program Participant, if—

"(I) such Program Participant is an emerging small business concern;

"(II) the award of such contracts would contribute substantially to the development of the Program Participant in accordance with its business plan, including attainment of the business activity targets established pursuant to section 7(j)(10)(I), by the time such firm enters the transitional stage;

"(III) the award value of the contract does not exceed twice the amounts specified in clause (i)(II); and

"(IV) the aggregate dollar value of awards pursuant to this clause does not exceed $20,000,000.".

SEC. 134. STANDARD INDUSTRIAL CLASSIFICATION CODES.

(a) Approval of Codes.—As part of the process of developing and maintaining a business plan pursuant to section 7(j)(10)(D) of the Small Business Act, a Program Participant may designate its capabilities to perform contracting opportunities under one or more standard industrial classification codes.

(b) Determinations by Procuring Agency Regarding Applicable Standard Industrial Classification Code.—The standard industrial classification code assigned to a contracting opportunity by the responsible contracting officer shall apply, unless modified by the contracting officer after considering additional information furnished by the Administration or from other sources.

(c) Effect of Responsibility Determinations.—The Administration shall be bound by a determination of responsibility by the agency contracting officer with respect to a Program Participant being considered for award of a contract pursuant to section 8(a) of the Small Business Act.

(d) Conforming Amendment.—Section 8(a)(7) of the Small Business Act (15 U.S.C. 637(a)(7)) (as amended by section 132(b)(2)) is amended to read as follows:

"(7) [Reserved].".

SEC. 135. USE OF CONTRACT SUPPORT LEVELS.

Section 7(j)(10)(D) of the Small Business Act (15 U.S.C. 636(j)(10)(D)) is amended by adding at the end the following new clause:

"(v) The forecasts of overall business activity contained in the business plan of a Program Participant or the estimate contained in the section 8(a) contract support level of such firm shall not be used by the Administration to make a determination that such firm is ineligible for the award of a contract to be awarded pursuant to section 8(a).".

SEC. 136. BUSINESS MIX REQUIREMENTS.

Section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) is amended—

(1) in subparagraph (D)—

(A) in clause (iii), by striking "contracts awarded" and inserting "contracts awarded noncompetitively"; and

(B) in clause (iv)(I), by striking "contracts awarded" and inserting "contracts awarded noncompetitively"; and

(2) in subparagraph (I)—

(A) in clause (i)—

(i) by striking "for contracts awarded other than pursuant to section 8(a)" and inserting "through contracts other than contracts awarded noncompetitively pursuant to section 8(a)"; and

(ii) by striking "will engage a" and inserting "will engage in a";

(B) in clause (iii)—

(i) by redesignating subclauses (II) through (V) as subclauses (III) through (VI), respectively;

(ii) by striking subclause (I) and inserting the following:

"(I) establish business activity targets applicable to Program Participants during each year of Program participation, which reflect a consistent increase in new contracts awarded other than pursuant to section 8(a), so that not more than 20 percent of the dollar value of the Program Participant's business base (as a percentage of total sales) at the beginning of the ninth year of Program participation is derived from contracts awarded pursuant to section 8(a);

"(II) provide that the business activity targets established pursuant to subclause (I) reflect that not more than 50 percent of the dollar value of the new contracts awarded during the fifth and succeeding years of Program Participation be awarded pursuant to section 8(a) on a noncompetitive basis;";

(iii) by striking subclause (IV), as redesignated, and inserting the following:

"(IV) require that a Program Participant in the transitional stage of Program participation certify compliance with its business activity targets (or with any program of remedial measures that may have been imposed pursuant to subclause (VI) for failing to attain such targets) to eligible for award of a contract pursuant to section 8(a);";

(iv) in subclause (V), as redesignated, by striking "and" at the end;

(v) by striking subclause (VI), as redesignated, and inserting the following:

"(VI) authorize the Administration to require a Program Participant that has failed to attain a business activity target to undertake a program of remedial measures designed to assist the firm to reduce its dependence on contracts awarded pursuant to section 8(a); and"; and

(vi) by adding at the end the following new subclause:

"(VII) authorize the Administration to limit the dollar volume of contracts awarded to the Program Participant pursuant to section 8(a), especially those awarded noncompetitively, if the firm has not made substantial progress toward attaining its business activity targets."; and

(C) by adding at the end the following new clause:

"(iv) Actions by the Administration relating to enforcing compliance with business activity targets shall not be reviewable pursuant to section 8(a)(19), unless such action is a termination from further Program participation.".

SEC. 137. ENCOURAGING SELF-MARKETING.

(a) Elimination of Regulatory Limitations.—In accordance with the schedule for the issuance of revised regulations contained in section 601(a), the Administration shall promulgate such regulations as may be necessary to eliminate regulatory limitations on self-marketing by Program Participants, including limitations relating to so-called "National Buys" and "Local Buys".

(b) Conforming Amendment.—Section 8(a)(11) of the Small Business Act (15 U.S.C. 637(a)(11)) is amended to read as follows:

"(11) [Reserved].".

SEC. 138. BUNDLING OF CONTRACTOR CAPABILITIES.

(a) In General.—Section 8(a)(14) of the Small Business Act (15 U.S.C. 637(a)(14)) is amended to read as follows:

"(14)(A) Except as provided in subparagraph (B), a contract shall not be awarded pursuant to this subsection unless the small business concern complies with the requirements of section 15(o).

"(B)(i) Whenever the Administration determines that a proposed contract opportunity represents a bundling of contract requirements as defined by section 3(n), a Program Participant may propose a team of subcontractors meeting the requirements of clause (ii) without regard to the requirements of section 15(o) or regulations of the Administration regarding findings of affiliation or control, either direct or indirect.

"(ii) The subcontracting team proposed by a Program Participant may include—

"(I) other Program Participants;

"(II) other small business concerns;

"(III) business concerns other than small business concerns, whose aggregate participation may not represent more than 25 percent of the anticipated total value of the contract; and

"(IV) historically black colleges and universities and other minority institutions.".

(b) Definition.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following new subsection:

"(n) Contract Bundling.—For purposes of contracting opportunities subject to sections 8(a) and 15, the terms 'contract bundling' and 'bundling of contract requirements' mean the practice of consolidating two or more procurement requirements of the type that were previously solicited and awarded as separate smaller contracts into a single large contract solicitation likely to be unsuitable for award to a small business concern due to—

"(1) the diversity and size of the elements of performance specified;

"(2) the aggregate dollar value of the anticipated award;

"(3) the geographical dispersion of the contract performance sites; or

"(4) any combination of the factors described in paragraphs (1), (2), and (3).".

(c) Conforming Amendment.—Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended by striking "If a proposed procurement" and all that follows through "prime contract participation unlikely," and inserting the following: "If a proposed procurement represents a bundling of contract requirements, as defined in section 3(n),".

PART E—TRIBALLY OWNED CORPORATIONS

SEC. 141. MANAGEMENT AND CONTROL OF BUSINESS OPERATIONS.

Section 8(a)(4)(B)(ii) of the Small Business Act (15 U.S.C. 637(a)(4)(B)(ii)) is amended to read as follows:

"(ii) in the case of a tribally owned corporation, an individual designated by the Indian tribe (or the board of directors of a wholly owned entity of such tribe), who shall be a Native American if such individual is available; or".

SEC. 142. JOINT VENTURES.

(a) IN GENERAL.—Section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15)) is amended to read as follows:

"(15)(A) Except as provided in subparagraph (B), a contract may be awarded pursuant to this subsection to a joint venture owned and controlled by a Program Participant, notwithstanding the size status of such joint venture, if the Program Participant—

"(i) is owned and controlled by an Indian tribe;

"(ii) owns at least 51 percent of the joint venture;

"(iii) is located and performs most of its activities on the reservation of such Indian tribe; and

"(iv) employs members of such tribe for at least 50 percent of the work force of such joint venture.

"(B) A contract may not be awarded to a joint venture pursuant to subparagraph (A) if an Indian tribe owns and controls one or more Program Participants who are currently joint venturers on more than 5 contracts awarded pursuant to subparagraph (A).".

(b) DEFINITIONS.—

(1) INDIAN TRIBE.—Section 3 of the Small Business Act (15 U.S.C. 632) (as amended by section 139(b)) is amended by adding at the end the following new subsection:

"(o) INDIAN TRIBE.—For purposes of this Act, the term 'Indian tribe' means an Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation (as defined in section 3 of the Alaska Native Claims Settlement Act that—

"(1) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or

"(2) is recognized as such by the State in which such tribe, band, nation, group, or community resides.".

(2) NATIVE HAWAIIAN ORGANIZATION.—Section 3 of the Small Business Act (15 U.S.C. 632) (as amended by paragraph (1)) is amended by adding at the end the following new subsection:

"(p) NATIVE HAWAIIAN ORGANIZATION.—For purposes of this Act, the term 'Native Hawaiian organization' means a community service organization serving Native Hawaiians in the State of Hawaii that is—

"(1) a not-for-profit organization chartered by the State of Hawaii;

"(2) controlled by Native Hawaiians; and

"(3) engaged in business activities that will principally benefit such Native Hawaiians.".

(3) CONFORMING AMENDMENT.—Section 8(a)(13) of the Small Business Act (15 U.S.C. 637(a)(13)) is amended to read as follows:

"(13) [Reserved].".

SEC. 143. RULE OF CONSTRUCTION REGARDING THE BUY INDIAN ACT.

A contract awarded pursuant to section 8(a) of the Small Business Act to a small business concern owned and controlled by members of an Indian tribe (or a wholly owned business entity of such tribe) shall be considered to be in compliance with section 23 of the Act of June 25, 1910 (25 U.S.C. 47).

PART F—CONTRACT ADMINISTRATION MATTERS

SEC. 151. ACCELERATED PAYMENT.

Section 8(a)(1) of the Small Business Act (15 U.S.C. 637(a)(1)) is amended by adding at the end the following new subparagraph:

"(E)(i) Any contract awarded pursuant to subparagraph (B) to a Program Participant in the developmental stage of the Program shall include a payment term requiring payment of any invoice, progress payment request, or other authorized request for payment, not later than 20 days after receipt of a proper invoice or other form of payment request.".

SEC. 152. EXPEDITED RESOLUTION OF CONTRACT ADMINISTRATION MATTERS.

Section 8(a)(1)(E) of the Small Business Act (15 U.S.C. 637(a)(1)(E)) (as added by section 151) is amended by adding at the end the following new clause:

"(ii)(I) A Federal agency awarding a contract under this subsection shall make every reasonable effort to respond in writing to any written request made to a contracting officer with respect to a matter relating to the administration of such contract, not later than 15 days such request.

"(II) If the contracting officer is unable to reply before the expiration of the 15-day period described in subclause (I), the contracting officer shall transmit to the contractor within such period a written notification of a specific date by which the contracting officer expects to respond.

"(III) The provisions of this subparagraph do not apply to a request for a contracting officer's decision under the Contract Disputes Act of 1978 nor create any new rights pursuant to such Act.".

SEC. 153. AVAILABILITY OF ALTERNATIVE DISPUTE RESOLUTION.

Section 8(a)(1)(E) of the Small Business Act (15 U.S.C. 637(a)(1)(E)) (as amended by sections 151 and 152) is amended by adding at the end the following new clause:

"(iii)(I) Except as provided in subclause (II), an agency awarding a contract pursuant to subparagraph (B) shall make available, upon the request of a Program Participant, an alternative means of dispute resolution pursuant to subchapter IV of chapter 5, of title 5, United States Code.

"(II) In carrying out this clause, the agency need not provide an alternative dispute resolution procedure if the agency makes a written determination, supported by specific findings, citing one or more of the conditions in section 572(b) of title 5, United States Code, or such other specific reasons, that alternative dispute resolution procedures are inappropriate for the resolution of the dispute for which such procedures were sought under the contract.".

PART G—PROGRAM ADMINISTRATION

SEC. 161. SIMPLIFICATION OF ANNUAL REPORT TO CONGRESS.

Section 7(j)(16)(B)(v) of the Small Business Act (15 U.S.C. 636(j)(16)(B)(v)) is amended to read as follows:

"(v) The total dollar value of receipts received during the most recently completed program year from contracts awarded pursuant to section 8(a), and such amount expressed as a percentage of the total sales of—

"(I) all firms participating in the Program during the preceding fiscal year; and

"(II) firms in each of the 9 years of Program participation.".

SEC. 162. REDUCTION IN REPORTING BY PROGRAM PARTICIPANTS.

Section 8(a)(20)(A) of the Small Business Act (15 U.S.C. 637(a)(20)(A)) is amended by striking "semiannually report" and inserting "report, not less often than annually,".

TITLE II—CONTRACTING PROGRAM FOR CERTAIN SMALL BUSINESS CONCERNS

PART A—CIVILIAN AGENCIES PROGRAM

SEC. 201. PROCUREMENT PROCEDURES.

Section 8(c) of the Small Business Act (15 U.S.C. 637(c)) is amended to read as follows:

"(c) PROCUREMENT PROCEDURES.—

"(1) IN GENERAL.—For the purpose of attaining an agency's goal for the participation of small business concerns owned and controlled by socially and economically disadvantaged individuals pursuant to section 15(g)(1), the head of a participating executive agency may enter into contracts using—

"(A) less than full and open competition, by restricting the competition for such awards to small business concerns owned and controlled by socially and economically disadvantaged individuals as defined in subsection (d)(3)(C); and

"(B) a price evaluation preference, of not to exceed 10 percent, when evaluating an offer received from such a small business concern as the result of an unrestricted solicitation.

"(2) DEFINITION.—For the purposes of this subsection, the term 'participating executive agency' means a Federal agency, as defined in section 3(b), in the executive branch of the Federal Government, other than the Department of Defense.".

SEC. 202. IMPLEMENTATION THROUGH THE FEDERAL ACQUISITION REGULATION.

(a) IN GENERAL.—The Federal Acquisition Regulation shall be amended to provide uniform implementation by each executive agency choosing to participate in the program authorized in section 8(c) of the Small Business Act (as amended by section 201).

(b) MATTERS TO BE ADDRESSED.—The provisions of the Federal Acquisition Regulation prescribed pursuant to subsection (a) shall include—

(1) conditions for the use of advance payments;

(2) provisions for contract payment terms that provide for—

(A) accelerated payment for work performed during the period for contract performance; and

(B) full payment for work performed;

(3) guidance on how contracting officers may use, in solicitations for various classes of products or services, a price evaluation preference pursuant to section 8(c)(1)(B) of the Small Business Act (as amended by section 201) to provide a reasonable advantage to small business concerns owned and controlled by socially and economically disadvantaged individuals without effectively eliminating any participation of other small business concerns; and

(4)(A) procedures for a person to request the head of a Federal agency to determine whether the use of competitions restricted to small business concerns owned and controlled by socially and economically disadvantaged individuals at a contracting activity of such agency has caused a particular industry category to bear a disproportionate share of the contracts awarded to attain the goal established for that contracting activity; and

(B) guidance for limiting the use of such restricted competitions in the case of any contracting activity and class of contracts determined in accordance with such procedures to have caused a particular industry category to bear a disproportionate share of the contracts awarded to attain the goal established for that contracting activity.

SEC. 203. SUNSET.

The amendments made by section 201 shall cease to be effective on October 1, 2000.

PART B—ELIGIBILITY DETERMINATIONS REGARDING STATUS

SEC. 211. IMPROVED STATUS PROTEST SYSTEM.

Section 7(j)(10)(J) of the Small Business Act (15 U.S.C. 636(j)(10)(J)) is amended by striking clause (ii) and inserting the following new clauses:

"(ii) A protest may be brought regarding a self-certification by a business concern regarding its status as a small business concern owned and controlled by socially and economically disadvantaged individuals by—

"(I) another person with a direct economic interest in the award of the contract or subcontract under which such business has allegedly made the false certification regarding its status as a small business concern owned and controlled by socially and economically disadvantaged individuals;

"(II) a prime contractor receiving specific and credible information that an actual or prospective subcontractor or supplier has falsely certified its status as a small business concern owned and controlled by socially and economically disadvantaged individuals;

"(III) a contracting officer receiving a self-certification regarding an actual or prospective contractor's status, which such officer reasonably believes to be false; or

"(IV) the Associate Deputy Administrator for Minority Enterprise Development and Government Contracting of the Small Business Administration (or any successor position).

"(iii) The Office of Hearings and Appeals shall hear appeals regarding the status of a concern as a small business concern owned and controlled by socially and economically disadvantaged individuals for purposes of any program or activity conducted under section 8(d) or any other Federal law that refers to such section for a definition of program eligibility.

"(iv) A decision issued pursuant to clause (iii) shall—

"(I) be made available to all parties to the proceeding;

"(II) be published in full text; and

"(III) include findings of fact and conclusions of law, with specific reasons supporting such findings and conclusions, on each material issue of fact and law of decisional significance regarding the disposition of the protest.

"(v) A decision issued pursuant to clause (iii) shall be considered a final agency action, and shall be subject to judicial review under section 553 of title 5, United States Code.

"(vi) If a firm engages in a pattern of misrepresentations regarding the status of the firm in violation of section 16(d)(1), the Administration or the aggrieved executive agency shall initiate an action to impose an appropriate penalty under section 16(d)(2).".

SEC. 212. CONFORMING AMENDMENT.

Section 7(j)(11)(F) of the Small Business Act (15 U.S.C. 636(j)(11)(F)) is amended by—

(1) striking clause (vii); and

(2) redesignating clause (viii) as clause (vii).

TITLE III—EXPANDING SUBCONTRACTING OPPORTUNITIES

SEC. 301. EVALUATING SUBCONTRACT PARTICIPATION IN AWARDING CONTRACTS.

Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended—

(1) in paragraph (4), by striking subparagraphs (A) through (D) and inserting the following:

"(4)(A) Each solicitation for the award of a contract (or subcontract) with an anticipated value of $1,000,000, in the case of a contract for construction (including repair, alteration, or demolition of existing construction) or $500,000, in the case of a contract for all other types of services or supplies, that can reasonably be expected to offer opportunities for subcontracting, shall—

"(i) in the case of a Federal contract to be competitively awarded, include solicitation provisions described in subparagraph (B);

"(ii) in the case of a Federal contract to be noncompetitively awarded, require submission and acceptance of a subcontracting plan pursuant to subparagraph (C); and

"(iii) in the case of a subcontract award, require submission and acceptance of a subcontracting plan pursuant to subparagraph (D).

"(B) With respect to subcontract participation by small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals, the solicitation shall—

"(i) specify minimum percentages for subcontract participation for an offer to be considered responsive whenever practicable;

"(ii) assign a weight of not less than the numerical equivalent of 5 percent of the total of all evaluation factors to a contract award evaluation factor that recognizes incrementally higher subcontract participation rates in excess of the minimum percentages;

"(iii) require the successful offeror to submit a subcontracting plan that incorporates the information described in paragraph (6); and

"(iv) assign a significant weight in any evaluation of past performance by the offerors in attaining subcontract participation goals.

"(C)(i) Each small business concern apparent successful offeror shall negotiate—

"(I) a goal for the participation of small business concerns and for the participation of small business concerns owned and controlled by socially and economically disadvantaged individuals; and

"(II) a plan for the attainment of the goals that incorporates the information prescribed in paragraph (6).

"(ii) The goals and plan shall reflect the maximum practicable opportunity for participation of small business concerns in the performance of the contract, considering the matters described in subparagraph (F)(iii). If, within the time limits prescribed in the Federal acquisition regulations, the apparent successful offeror fails to negotiate such a subcontracting plan, such offeror shall be ineligible for contract award.

"(D) An apparent subcontract awardee shall negotiate with the prime contractor (or higher-tier subcontractor) a goal for the participation of small business concerns and for the participation of small business concerns owned and controlled by socially and economically disadvantaged individuals, and a plan for the attainment of those goals which incorporates the information prescribed in paragraph (6). Such goals and plan shall reflect the maximum practicable opportunity for participation of such small business concerns in the performance of the contract, considering the matters described in subparagraph (F)(iii).";

(2) by striking paragraph (5) and inserting the following:

"(5) [Reserved]."; and

(3) in paragraph (6)—

(A) by redesignating subparagraphs (B) through (F) as subparagraphs (C) through (G), respectively; and

(B) by inserting the following new subparagraph (B):

"(B)(i) a listing of the small business subcontractors (including suppliers) who have actual or contingent awards for participation in the performance of the contract, identifying the work to be performed and the anticipated award value of the subcontracts; and

"(ii) assurances that the list of small business subcontractors described in clause (i) will be regularly revised to identify firms that have been removed from or substituted for previously listed firms, and annotated to reflect the reasons for any removal or substitution;".

SEC. 302. SUBCONTRACTING GOALS FOR CERTAIN SMALL BUSINESS CONCERNS.

Section 8(d)(7) of the Small Business Act (15 U.S.C. 637(d)(7)) is amended to read as follows:

"(7)(A) Except as provided in subparagraph (B), paragraphs (4), (5), and (6) shall not apply to offerors who are small business concerns.

"(B) A small business concern owned and controlled by socially and economically disadvantaged individuals shall be required to negotiate a subcontracting plan for the use of emerging small business concerns owned and controlled by socially and economically disadvantaged individuals, if—

"(i) the prime contract was awarded pursuant to—

"(I) subsection (a) or (c) of section 8;

"(II) section 2323 of title 10, United States Code; or

"(III) any law that authorizes the award of a Federal contract as the result of a competition restricted to small business concerns owned and controlled by socially and economically disadvantaged individuals as defined in section 8(d)(3)(C);

"(ii) the anticipated total value of the contract exceeds $20,000,000; and

"(iii) subcontracting opportunities are expected.".

SEC. 303. SMALL BUSINESS PARTICIPATION GOALS.

Section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)) is amended by striking "20 percent" and inserting "25 percent".

SEC. 304. IMPROVED NOTICE OF SUBCONTRACTING OPPORTUNITIES.

(a) USE OF THE COMMERCE BUSINESS DAILY AUTHORIZED.—Section 8 of the Small Business Act (15 U.S.C. 637) is amended by adding at the end the following new subsection:

"(k) NOTICES OF SUBCONTRACTING OPPORTUNITIES.—

"(1) IN GENERAL.—Notices of subcontracting opportunities may be submitted for publication in the Commerce Business Daily by—

"(A) a business concern awarded a contract by an executive agency subject to subsection (e)(1)(C); and

"(B) a business concern which is a subcontractor or supplier (at any tier) to a contractor required to have a subcontracting plan pursuant to subsection (d) having a subcontracting opportunity in excess of $100,000.

"(2) CONTENTS OF NOTICE.—The notice of a subcontracting opportunity shall include—

"(A) a description of the business opportunity that is comparable to the description specified in paragraphs (1), (2), (3), and (4) of subsection (f); and

"(B) the due date for the receipt of offers.".

(b) Regulations Required.—The Federal Acquisition Regulation shall be amended to provide uniform implementation of the amendments made by this section.

(c) Conforming Amendment.—Section 8(e)(1)(C) of the Small Business Act (15 U.S.C. 637(e)(1)(C)) is amended by striking "$25,000" each place it appears and inserting "$100,000".

TITLE IV—REPEALS AND TECHNICAL AMENDMENTS

PART A—REPEALS

SEC. 401. LOAN PROGRAM SUPERSEDED BY SECTION 7(a) LOAN PROGRAM.

(a) In General.—Section 7(i) of the Small Business Act (15 U.S.C. 636(i)) is amended to read as follows:

"(i) [Reserved].".

(b) Conforming Amendments.—The Small Business Act (15 U.S.C. 601 et seq.) is amended—

(1) in section 2(d)(1), by striking "sections 7(i) and 7(j)" and inserting "section 7(j)";

(2) in section 4(c)(2), by striking "7(i),";

(3) in section 5(e)(3), by striking "sections 7(a)(4)(C) and 7(i)(1)" and inserting "section 7(a)(4)(C)";

(4) in section 7(j), by striking "sections 7(i), 7(j)(10), and 8(a)" each place it appears and inserting "paragraph (10) and section 8(a)"; and

(5) in section 7(k), by striking "sections 7(i), 7(j)(10), and 8(a)" and inserting "subsection (j)(10) and section 8(a)".

SEC. 402. SUPERSEDED LOAN PROGRAM RELATING TO ENERGY.

(a) In General.—Section 7(*l*) of the Small Business Act (15 U.S.C. 636(*l*)) is amended to read as follows:

"(*l*) [Reserved].".

(b) Conforming Amendments.—Section 4(c)(2) of the Small Business Act (15 U.S.C. 601 et seq.) is amended by striking "7(l),".

SEC. 403. EMPLOYEE TRAINING PROGRAM OF LIMITED SCOPE.

Section 15(j)(13)(E) of the Small Business Act (15 U.S.C. 644(j)(13)(E)) is amended to read as follows:

"(E) [Reserved].".

SEC. 404. EXPIRED PROVISION.

Section 8(a)(2) of the Small Business Act (15 U.S.C. 637(a)(2)) is amended to read as follows:

"(2) [Reserved].".

SEC. 405. EXPIRED DIRECTION TO THE ADMINISTRATION.

Section 303(f) of the Business Opportunity Development Reform Act of 1988 (15 U.S.C. 637 note) is repealed.

PART B—TECHNICAL AMENDMENTS

SEC. 411. TECHNICAL AMENDMENTS.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) in section 8(d)(10)(C) (15 U.S.C. 637(d)(10)(C)), by striking "in the case contractors" and inserting "in the case of contractors";

(2) in section 10—

(A) in subsection (a), by striking "the Senate Select Committee on Small Business"; and

(B) in subsection (b), by striking "to the Senate Select Committee on Small Business, and to the Committee on Small Business of the House of Representatives" and inserting "to the Committees on Small Business of the Senate and House of Representatives"; and

(3) in section 15(g)(1)—

(A) in the first sentence, by striking "The President" and inserting "(A) The President";

(B) by striking the second and third sentences and inserting the following:

"(B) The Governmentwide goals established pursuant to subparagraph (A) shall be—

"(i) for small business concerns, 20 percent of the total prime contracts for the fiscal year; and

"(ii) for small business concerns owned and controlled by socially and economically disadvantaged individuals, 8 percent of the total value of all prime contracts and subcontracts for the fiscal year.";

(C) in the fourth sentence, by striking "Notwithstanding the Government-wide goal" and inserting the following:

"(C) Notwithstanding the Governmentwide goal"; and

(D) in the fifth sentence, by striking "The Administration" and inserting the following:

"(D) The Administration".

TITLE V—DEFINITIONS

SEC. 501. HISTORICALLY UNDERUTILIZED BUSINESSES.

(a) Definition.—Section 8(a)(4)(A) of the Small Business Act (15 U.S.C. 637(a)(4)(A)) is amended by striking "socially and economically disadvantaged small business concern" and inserting "historically underutilized business".

(b) Technical Amendment.—Section 9(j)(2)(F) of the Small Business Act (15 U.S.C. 638(j)(2)(F)) is amended by striking "socially and economically disadvantaged small business concerns, as defined in section 8(a)(A)" and inserting "small business concerns owned and controlled by socially and economically disadvantaged individuals".

SEC. 502. EMERGING SMALL BUSINESS CONCERN.

(a) In General.—Section 3 of the Small Business Act (15 U.S.C. 631) is amended by adding at the end the following new subsection:

"(q) Emerging Small Business Concern.—For purposes of sections 8 and 15, the term 'emerging small business concern' means a small business concern the size of which is less than or equal to 25 percent of the numerical size standard for—

"(1) in the case of a contracting opportunity being awarded by the Government, the standard industrial classification code assigned by a contracting officer; or

"(2) in all other cases, the standard industrial classification that encompasses the principal line of business of the business concern.".

(b) Delayed Applicability to the Small Business Competitiveness Demonstration Program.—For the purposes of the Small Business Competitiveness Demonstration Program, the amendment made by subsection (a) shall not supersede the definition of "emerging small business concern" provided in section 718(b) of the Small Business Competitiveness Demonstration Program Act of 1988.

TITLE VI—REGULATORY IMPLEMENTATION AND EFFECTIVE DATES

PART A—ASSURING TIMELY REGULATORY IMPLEMENTATION

SEC. 601. DEADLINES FOR ISSUANCE OF REGULATIONS.

(a) Proposed Regulations.—Proposed amendments to the Federal Acquisition Regulation or proposed Small Business Administration regulations shall be published not later than 120 days after the date of enactment of this Act for the purpose of obtaining public comment pursuant to either section 22 of the Office of Federal Procurement Policy Act or chapter 5 of title 5, United States Code, as appropriate. The public shall be afforded not less than 60 days to submit comments.

(b) Final Regulations.—Final regulations shall be published and become effective not later than 270 days after the date of enactment of this Act.

SEC. 602. REGULATORY IMPLEMENTATION OF PRIOR LEGISLATION.

(a) Proposed Regulations.—Proposed amendments to the Federal Acquisition Regulation or the Small Business Administration regulations pertaining to the statutory provisions listed in subsection (c) shall be published not later than 30 days after the date of enactment of this Act for the purpose of obtaining public comment pursuant to either section 22 of the Office of Federal Procurement Policy Act or chapter 5 of title 5, United States Code, as appropriate. The public shall be afforded not less than 60 days to submit comments.

(b) Final Regulations.—Final regulations implementing the amendments made by this Act shall be published and shall take effect not later than 120 days after the date of enactment of this Act.

(c) Delayed Regulations.—

(1) Section 203 of the Small Business Administration Reauthorization and Amendments Act of 1990 (15 U.S.C. 637 note; 104 Stat. 2818).

(2) Section 221 of the Small Business Credit and Business Opportunity Enhancement Act of 1992 (15 U.S.C. 636 note; 106 Stat. 999).

(3) Section 222 of the Small Business Credit and Business Opportunity Enhancement Act of 1992 (15 U.S.C. 632 note; 106 Stat. 999).

PART B—EFFECTIVE DATES

SEC. 611. EFFECTIVE DATES.

(a) Effective Date of Act.—Except as provided in subsection (b), this Act shall take effect on the date of the enactment of this Act.

(b) Amendments Requiring Implementing Regulations.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this Act which require the issuance of regulations shall take effect on the date on which final implementing regulations are prescribed in accordance with section 601.

(2) Exceptions.—The amendments made by sections 101, 102, 111, 112, 114, 115, 122, 133, 134, 135, 136, 138, 141, 142, 143, 161, 162, and 211 shall take effect on the date of enactment of this Act.

Summary of the Business Development Opportunity Act of 1994

The "Business Development Opportunity Act of 1994", being sponsored by Senator John Kerry of Massachusetts, is aimed at fostering the growth of small businesses owned and controlled by socially and economically disadvantaged individuals, commonly referred to as small disadvantaged businesses (SDBs).

The bill would—

establish a Minority Enterprise Development (MED) Program, a new three-phase program to replace the Small Business Administration's (SBA's) existing Minority Small Business and Capital Ownership Development Program (commonly referred to as the 8(a) Program from that section of the Small Business Act which provides special contracting authority), implementing SBA's MED Program proposal of June 1994—

providing tailored business development assistance, for the complete range of firms from new "start-ups" to on-going businesses, to improve substantially their prospects for long-term success after graduation;

providing coordinated business development assistance by applying the resources of all available SBA programs as well as those other Federal agencies and SBA's private sector resource partners;

reducing the costly paperwork burdens on Program Participants by eliminating "non-value added" oversight and monitoring;

eliminating the second-guessing of business decisions made by Program Participants and by contracting officers at Federal agencies offering contracting opportunities to Program Participants;

correcting provisions of Public Law 100-656, the "Business Opportunity Development Reform Act of 1988", which have led to implementation contrary to Congressional intent; and

implementing recommendations of the September 1992 Final Report of the Commission on Minority Business Development;

advance the attainment of the existing Government-wide goal for the participation of SDBs in Federal contracting opportunities as prime contractors as well as subcontractors and suppliers, by—

extending to the civilian agencies of the Federal Government the procurement tools available to DOD since 1988 (under the Section 1207 Program, which was reauthorized in 1992 through September 30, 2000);

harnessing the intense competition for the award of major contracts to foster increased SDB subcontract participation by making the use of SDBs as subcontractors and suppliers a very important consideration in the solicitation and award process for prime contracts; and

improving access to information about subcontracting opportunities.

Some specific changes that the "Business Development Opportunity Act of 1994" would make to the SBA's MED Program, include:

PROGRAM ADMISSION

eliminating the duplicative regional review of applications to help expedite the chronically slow Program application process;

forcing full implementation of the statutory waiver enacted in 1990 to SBA's rule that a Program applicant must be in business for two years prior to making application (Two-Year Rule);

requiring that an applicant denied admission into the Program be furnished specific reasons and be given an opportunity to respond;

requiring SBA to develop an action plan to improve the geographic distribution of firms participating in the Program and the award of 8(a) contracts;

IMPROVED BUSINESS DEVELOPMENT ASSISTANCE

establishing a pilot Developmental Teaming Program to encourage Program graduates to enter into SBA-approved mentoring relationships with current Program Participants to furnish them practical business development training and to team with them as subcontractors on 8(a) contracts;

focusing the 7(j) Management Assistance Program on core business development skills, such as marketing and proposal development, and making it available exclusively to Program Participants;

IMPROVING ACCESS TO EQUITY FOR PROGRAM GRADUATES

encouraging SBA to use the waiver authority enacted in 1988 allowing a Program graduate to sell a non-controlling equity share of the firm without losing the right to continue performance of contracts won while in the Program;

providing a Program Participant a right to sell an equity interest in the firm so long as 51% ownership and control are maintained;

CONTRACT AWARD AND ELIGIBILITY MATTERS

accelerating the 8(a) contract award process by allowing the Federal agency offering a 8(a) contract opportunity to make award directly to the Program Participant (but requires SBA to assist a Program Participant requesting help during contract negotiations or contract performance);

eliminating the requirement to obtain advance approval from SBA regarding SIC codes used by a Program Participant;

prohibiting a Program Participant's forecast of its anticipated 8(a) contract awards (contract support level) from being used as a bar to the award of an 8(a) contract won competitively or through self-marketing;

strengthening business-mix provisions of P.L. 100-656 to encourage Program Participants to steadily diminish their dependence on 8(a) contracts as the firms approach Program graduation;

correcting a provision of P.L. 100-656 which did not permit a Program Participant to count competitively won 8(a) contracts towards attaining its competitive business-mix requirements;

authorizing a Program Participant to "bundle" the capabilities of a team of subcontractors so as to more effectively compete for the large, complex, and diverse "bundled" contract opportunities that are becoming more common, by allowing SBA to waive certain limitations, including level of subcontracting;

CONTRACT ADMINISTRATION IMPROVEMENTS

requiring expedited Government payment of invoices and progress payment requests under 8(a) contracts;

requiring expedited Government responses to questions arising during the performance of 8(a) contracts;

making available Alternative Disputes Resolution (ADR) techniques for disputes and claims arising under 8(a) contracts; and

REDUCING REPORTING AND PAPERWORK BURDENS

reducing reporting burdens on Program Participants.

Other provisions of the "Business Development Opportunity Act of 1994" are aimed at—

MAINTAINING PROGRAM INTEGRITY

deterring "front" companies from self-certifying as SDBs by improving SBA's administration of the Government-wide "status" protest system and encouraging the use of available administrative as well as criminal remedies for those individuals or firms found to be engaged in a pattern of misrepresentation;

INCREASING THE FEDERAL CONTRACT PARTICIPATION OF SMALL BUSINESSES GENERALLY

making the evaluation of subcontract participation in the awarding of major prime contracts, apply to subcontracting with all small business concerns; and

increasing the Government-wide goal for participation of small business concerns generally in Federal contracting, from 20% to 25%.

SECTION-BY-SECTION ANALYSIS OF THE BUSINESS DEVELOPMENT OPPORTUNITY ACT OF 1994

Sec. 1. Short Title.

This section establishes the bill's citation as the "Business Development Opportunity Act of 1994".

Sec. 2. Table of Contents.

This section sets forth the headings of the bill's various sections in the form of a Table of Contents.

TITLE I—AMENDMENTS TO THE MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT PROGRAM

Part A—Program Organization and Participation Standards

Sec. 101. Modification of Program Title.

This section would change the name of the program from the Minority Small Business and Capital Ownership Development (MSB/COD) Program to the new title of the "Minority Enterprise Development" (MED) Program, as recommended by the Small Business Administration. In adopting a new program title that more aptly and succinctly describes the Program's actual objectives, it is expected to facilitate the renewed effort to successfully implement a coordinated business development program and to encourage the common use of a term other than the "8(a) Program", which suffers from almost universally negative perceptions within the general public emphasizing the unregulated use of non-competitive or "sole-source" contracting and other abuses. Adoption of the new program name, the MED Program, is designed to send a clear message that this legislation, as well as SBA's "reinvention" initiatives, are determined to reshape the program into one that will provide effective business development assistance to Program Participants, which will provide a firm foundation for long-term business success after Program graduation, enhancing their prospects for success at least to the level of small business concerns that are owned and controlled by individuals who are other than socially and economically disadvantaged individuals.

Sec. 102. Consolidation of Eligibility Review Function.

This section would eliminate the review of Program applications at the regional level, one of the three levels of review through which a Program application must presently pass. GAO has found that the eligibility review conducted at the Regional Office level is essentially repeated when the application reaches the SBA Central Office. Under the provisions of the amendment, the substantive evaluation of Program applications would be made only once at a single centralization location either located at (or reporting to) the SBA Central Office by personnel focused on Program applications. The amendment would leave unchanged: (a) convenient access to advice concerning the Program, including the application process at the local SBA District Office; and (b) the District Office's responsibility to initially review a Program application for completeness and suitability for eligibility review within 15 days of submission.

Sec. 103. Clarification of Various Eligibility Criteria.

Subsection (a) eliminates the paperwork burdens associated with an Indian Tribe having to furnish data to prove its status as "economically disadvantaged" so that a tribally-owned business may be admitted to the Program. No business concern of a tribal Government has been declined admission to the Program for failure to be economically disadvantaged. This recommendation was included among the legislative recommendations contained in SBA's FY 1992 report to the Congress on MSB/COD Program.

Subsection (b) makes a series of necessary conforming amendments.

Sec. 104. Clarification of Certain Additional Eligibility Criteria Imposed by Regulation.

This section makes a series of amendments to the Small Business Act to address several limitations on Program eligibility imposed by SBA exclusively through regulations.

First, SBA regulations currently require that a prospective Program Participant must be in business for two years in order to be eligible to make a Program application. Section 203 of Public Law 101-574, the "Small Business Administration Reauthorization and Amendments Act of 1990", specified criteria for the waiver of the so-called "Two-Year Rule". This rule essentially excluded the participation of "start-up" firms, despite the ability of the new firm to demonstrate substantial likelihood of future success based upon the firm having (or being able to obtain) necessary financial and other resources as well as the management and technical capabilities of its owners and key employees derived from substantial experience working for others. Although over three years have passed since the effective date of the statute, no action has been taken to incorporate the statutorily required waiver into the Program's published regulations. Without modifications to published regulations, prospective Program Participants continue to believe a rigid Two-Year Rule still applies. This section incorporates the waiver standards into the Small Business Act.

Second, SBA regulations require that the socially and economically disadvantaged individual upon whom eligibility is based must be working full-time at managing the firm seeking Program admission. This requirement is another obstacle to the admission of a "start-up" firm. Some prospective Program Participants retain employment with another concern to maintain a steady family income while awaiting access to the Program's various forms of developmental assistance.

Third, SBA regulations require a tribally-owned corporation to employ a Native American as chief executive officer (CEO) to manage the firm's day-to-day operations in order to obtain (and maintain) Program eligibility. Many tribal governments have experienced difficulty in identifying Native American CEOs. Under current regulations, a tribally-owned corporation's continued eligibility is jeopardized if the tribal government is unable to maintain a Native American CEO. This provision would permit the tribal government to use someone other than a Native American CEO, if it certifies to SBA that it is unable to hire a qualified Native American CEO after conducting a national recruitment.

Fourth, under current regulations, SBA may deny admission to the Program on the basis of a general finding that the prospective Program Participant lacks "a likelihood of future success". This section would require SBA to provide specific findings if an applicant firm is denied admission on this basis. A subsequent conforming amendment of the bill would repeal the statutory provision that SBA identifies as the statutory basis for this wholly subjective criteria for Program admission.

Finally, the provision maintains the current limitation on SBA's ability to deny admission to a prospective Program Participant if the type of goods or services being offered by the firm are not purchased in sufficient quantities by the Federal Government. The existing statutory limitation was based on an amendment offered by Senator John Kerry to the legislation which became Public Law 100-656, the "Business Opportunity Development Reform Act of 1988".

Sec. 105. Enhancing Due Process in Eligibility Determinations.

This section would require SBA to support a denial of an application for Program admission with specific determinations supported by specific findings and to provide an opportunity for a Program applicant to respond (or to make appropriate modifications to its application or business organization to address valid concerns). It would also require that if SBA declined the application on reconsideration, it would have to give the applicant an opportunity to respond to any grounds not previously raised by SBA. Currently under SBA's Program regulations, an applicant is entitled to only one reconsideration. After being declined on reconsideration, the regulations require the prospective Program Participant to wait a year before again being eligible to submit a Program application. SBA's internal SOPs (Standard Operating Procedures), however, do not preclude basing an adverse decision on reconsideration on matters not previously raised, effectively denying the applicant any opportunity to respond (or take corrective action).

Sec. 106. Improving Geographic Distribution of Program Participants.

This section would require SBA to develop an action plan for improving participation in the MED Program by firms across the Nation. The section specifies that the required action plan would have to address two persistent concerns about the existing MSB/COD Program the concentration of Program Participants and contracts awarded under the authority of section 8(a) in certain geographic areas. First, the action plan would have to specify an outreach program focused on reaching eligible small business concerns in States with historically low rates of Program participation. Second, the action plan would have to make recommendations for improved implementation of section 8(a)(16)(B) of the Small Business Act, added in 1988 by P.L. 100-656. This current provision of the Small Business Act express the Congressional objective of improving the equitable distribution of 8(a) contracts awarded on a noncompetitive basis.

It is recognized that effecting such equitable distribution of contracts is made more complicated by three factors. First, the geographic concentration of Program Participants in certain States or regions. Second, the natural tendency of more developed and aggressive Program Participants to locate within cities or regions in which their Federal customers' principal buying activities are centralized. And third, the emphasis on self-marketing by Program Participants as a skill development objective, which was an objective of the 1988 legislation, is re-emphasized buy other provisions of this bill, and is increasingly becoming the almost exclusive method by which new Federal contracting opportunities are identified for award pursuant to section 8(a). Nevertheless, more aggressive implementation of section 8(a)(12 of the small business and better use of agency procurement forecasts required by provision of existing law may be fruitful areas for consideration by SBA in formulating its action plan. Similarly, the implementation of electronic contracting and mandate use of commercial products mandated by the "Federal Acquisition Streamlining Act of 1994" should also be considered in formulating the action plan.

Part B—Business Development Assistance

Sec. 111. Developmental Assistance Authorized for Program Participants.

This section would make all Program Participants eligible for the full range of developmental assistance authorized under the Program. Under amendments made by Public Law 100-656, some forms of developmental assistance are not available to firms in the so-called Transitional Stage of Program participation, i.e., the last five years of the nine-year Program participation term. More than four years of experience under the 1988 reform legislation has demonstrated that such a limitation only denied Program Participants to beneficial business development assistance without substantially advancing the Congressional objective of encouraging the Program Participant's preparation for graduation.

Sec. 112. Expanding the Eligible Uses for Loans Under Existing Loan Program for Program Participants.

This section would expand the eligible uses for the proceeds of loans currently authorized for Program participants. Under the proposed amendment loan proceeds could be used for working capital by Program Participants providing services. Currently, the loan program is targeted to Program Participants in manufacturing with the focus on the capitalization of facilities or production equipment. This recommendation was included among the legislative recommendations contained in SBA's FY 1992 report to the Congress on MSB/COD Program.

The statutory authority for loans to Program Participants adopted as Section 302 of P.L. 100-656 (which added a new Section 7(a)(20) to the Small Business Act (15 U.S.C. 636(a)(20)) is sufficiently flexible to permit the SBA to implement two elements of its proposed MED Program aimed at expanding access to capital for Program Participants. First, the statute would permit loans to be made at the higher guarantee rates being contemplated for Program participants, since the only statutory limitation is that guarantee rate cannot be less than 85%. Second, the authorizing statute would impose no obstacle regarding the SBA's proposal regarding the pre-authorization of a Program Participant for a loan. Such a pre-authorization process holds great promise as a means to substantially expedite the current process by which a Program Participant seeks to obtain a loan from a participating bank.

Sec. 113. Test Program for the Use of Surety Bond Waivers.

This section would extend until September 30, 1997, the test program for the use of surety bond waivers authorized by Section 7(j)(13)(D) of the Small Business Act, which was authorized in Public Law 100-656, the "Business Opportunity Development Reform Act of 1988" and subsequently extended through October 1, 1994 by Section 206 of Public Law 101-574, the "Small Business Administration Reauthorization and Amendments Act of 1990". It would also amend Section 7(j)(13)(D) to facilitate future implementation of the surety bond waiver authority by the various procuring agencies and by SBA.

Sec. 114. Targeting Section 7(j) Management Assistance to Program Participants.

This section would target the management assistance program authorized by Section 7(j)(1) of the Small Business Act to Program Participants. Such targeting is likely to substantially increase the impact of the limited resources allocated to the 7(j) Management Assistance Program, slightly more than $8 million for FY 1994.

The management assistance needs of other small business concerns owned and controlled by socially and economically disadvantaged individuals, who are currently eligible for 7(j) management assistance, would be met through increased emphasis on the needs of such firms by the national network of Small Business Development Centers (SBDCs) supported by SBA and by improved coordination with the national network of Minority Business Development Centers operated by the Minority Business Development Administration (MBDA) at the Department of Commerce.

Sec. 115. Other Enhancements to Section 7(j) Management Assistance Program.

This section would further amend the Section 7(j) Management Assistance Program to authorize funds appropriated to the program to remain available for obligation during the year in which they are appropriated and during the succeeding fiscal year. This amendment fulfills a suggestion previously made by the SBA in October, 1993.

This subsection would also accord a preference in the award of financial assistance pursuant to the Section 7(j) Management Assistance Program to certain university-sponsored programs for the training of minority entrepreneurs, such as the resident course at the Amos Tuck School of Business at Dartmouth University. SBA's proposed MED Program contains a similar element regarding executive development among its proposals for enhanced Managerial Training and Assistance for Program Participants.

Sec. 116. Developmental Teaming.

This section would establish a pilot Developmental Teaming Program with the SBA's Minority Enterprise Development (MED) Program. The purpose of the Developmental Teaming Program is to encourage the formation of mentoring relationships, contract teaming arrangements and strategic business alliances between current MED Program Participants and more developed minority business enterprises, principally graduates of the MED Program (and its predecessor program, the Minority Small Business and Capital Ownership Development (MSB/COD) Program).

Subsection (c) established the basic qualifications for a firm to be an assistance recipient or an assistance provider under the Developmental Teaming Program. Assistance providers, to be called "Developmental Teaming Partners" may either be graduates of the MED Program (or the MSB/COD Program) or current Program Participants nearing graduation who are found by SBA to be unusually well-developed and fully capable of providing business development assistance.

Subsection (d) recites the array of developmental assistance that may be furnished under the Developmental Teaming Program. The provision provides ample flexibility for the parties to a proposed Developmental Teaming Agreement to tailor a program to their unique and mutual needs, since it specifically authorizes "such other forms of assistance * * * contained in a developmental teaming agreement".

Subsection (d) also makes explicit that each Developmental Teaming Agreement must receive prior approval by SBA, before being implemented by the parties. It is intended that SBA shall require specification of the developmental assistance to be furnished in sufficient detail to permit monitoring, while being mindful of the flexibility that must be available in a bilateral business development mentoring relationship. Similarly, it is intended that SBA exercise approval regarding the percentage of a contract performance undertaken by each of the parties under a specific contract awarded to the Program Participant pursuant any program that accords a preferential status to the Program Participant as a small business concern owned and controlled by socially and economically disadvantaged individuals.

Subsection (e) specifies the minimum elements of a Developmental Teaming Agreement, including its duration. An agreement may have an initial term of three years, with an option for an additional two years. Such a potential for a five-year Developmental Teaming relationship mirrors the five-year duration (one base year and four one-year option years) that has become prevalent in Federal contracting (and was given explicit statutory recognition in the "Federal Acquisition Streamlining Act of 1994").

Subsection (f) provides an incentive to the Developmental Teaming Partner to enter into a developmental mentoring relationship and furnish assistance by permitting the award of subcontracts under 8(a) contracts by the Program Participant to its Developmental Teaming Partner in amounts that would otherwise be prohibited by section 8(a)(14) of the Small Business Act (which requires performance of 50% of the work by the prime contractor).

Subsection (g) provides protection for the participants of an approved Developmental Teaming Agreement from a finding by the SBA that the parties to the agreement are affiliates or that one party is controlling (either directly or indirectly) the business activities of the other. Activities outside the scope of the approved agreement are not shielded by this provision.

Subsection (h) specifies procedures for termination of Program participation by firms receiving assistance under the Program and those providing assistance. The provisions are designed to assure "due process" protections to recipients of Developmental Teaming assistance. The provision also specifies the procedures relating to SBA powers to terminate Development Teaming Agreements (as well as the appeal rights accorded to the private sector parties).

Subsection (i) specifies the duration of the pilot program. Developmental Teaming Agreements approved by SBA from the effective date of the Program's implementing regulations through September 30, 1997. Performance of approved Developmental Teaming Agreements may continue through the Program's termination date, September 30, 2002.

Subsection (j) specifies a timetable for the issuance of proposed and final regulations for the implementation of the Program.

Subsection (k) contains definitions of terms by cross-references to existing definitions in the Small Business Act.

Part C—Improving Access to Equity for Program Graduates

Sec. 121. Continued Contract Performance.

This section seeks to encourage the SBA to make use of the statutory waiver authority related to the performance of a contract awarded pursuant to section 8(a) when the socially and economically disadvantaged owners of the firm awarded the contract relinquish ownership or control of the firm. Under current law, an 8(a) contract would have to be terminated, if the socially and economically disadvantaged individuals upon whom Program eligibility were established relinquished (or entered into an agreement to relinquish) ownership or concern that was awarded the 8(a) contract, unless a waiver was granted by the SBA Administrator. While the statute specifies a broad array of circumstances under which such a waiver can be granted, the waiver authority was restricted to the SBA Administrator, "on a nondelegable basis". Experience has indicated that this nondelegability has unexpectedly resulted in making the waiver authority unavailable in practical terms. The proposed amendment would permit the delegation of the waiver authority. It is expected that this legislative change, when coupled with the less control-oriented management style under SBA's new MED Program, should strike the balance sought by the 1988 legislation. "Selling" of 8(a) contracts will be deterred, while not placing unreasonable burdens on the transfer of ownership or control under legitimate circumstances.

Sec. 122. Continued Program Participation.

This section amends Section 7(j)(11)(D) of the Small Business Act to clarify the right of a Program Participant to transfer a non-controlling ownership interest in the firm to another small business concern owned and controlled by socially and economically disadvantaged individuals. The proposed amendment would revoke an existing regulatory prohibition on the transfer of more than a 10 percent ownership interest to a small business concern owned and controlled by socially and economically disadvantaged individuals if that firm is a graduate of the MSB/COD Program. We should be encouraging rather than discouraging capital investment in less developed Program Participants by Program graduates.

Part D—Contract Award and Eligibility Matters

Sec. 131. Contract Award Procedures.

This section would permit the direct award of contracts under the authority of Section 8(a) by the agency having the contracting opportunity. Currently, Section 8(a) contains the legal fiction that the contracting agency awards a prime contract to SBA, which then subcontracts to a Program Participant. This provision adopts a recommendation contained in the Final Report of the Commission on Minority Business Development, established by Section 505 of the "Business Opportunity Development Reform Act of 1988", P.L. 100–656. A similar recommendation was included in the September 1993 Report of the Vice President's National Performance Review, and has been endorsed by the Administration as part of its comments on S. 1587, the "Federal Acquisition Streamling Act of 1994".

The amendment would permit a Program Participant to request the SBA's assistance with respect to the contract negotiations with the agency making the contract award and with respect to the resolution of contract administration matters arising during performance of the 8(a) contract. The amendment also retains SBA's current authority to appeal a broad array of "adverse decisions" relating to making a contracting opportunity available for award pursuant to Section 8(a) and the award of a contract to a Program Participant.

Sec. 132. Timely Determination of Award Eligibility for Contract Award.

This section would require the SBA to promptly inform a contracting activity regarding the eligibility of a Program Participant for award of a contract under section 8(a). Similarly, it would require SBA to establish the eligibility for award of competing Program Participants at the closing date for receipt of offers. Currently, the conduct 8(a) competitions are being impeded by ineligibility determinations being made at the close of the competitive process with regard to the Program Participant selected for award by the contracting agency.

Section 131 makes explicit that the procuring agency is responsible for determining whether the Program Participant is capable of performing the contract (a "responsibility determination" in the jargon of Federal procurement). A determination of "non-responsibility" by the agency's contracting officer is subject to an independent review of the firms capabilities to perform the contract by the SBA under the Certificate of Competency Program, in the same manner as a "non-responsibility" determination regarding finding regarding any small business concern. In addition to a responsibility determination made by the agency contracting officer, this section recites the existing statutory criteria under which a Program Participant can be found to be ineligible for award by SBA.

Sec. 133. Competition Requirements.

Subsection (a) establishes the standard for determining whether various forms of requirements-type contractors (often referred to as ID/IQ (indefinite delivery/indefinite quantity) contracts to be awarded pursuant to section 8(a) should be awarded as a result of a competition among eligible Program Participants or on a sole-source basis. Current law requires a competition among Program Participants if the anticipated value of the contract (including options) is expected to exceed $5 million in the case of a contract requiring manufacturing and $3 million in the case of a contract to furnish any other product or service (including construction).

Under existing SBA MSB/COD Program regulations, the decision on whether the contracting opportunity should be subject to competition is to be based upon the dollar value of task orders or delivery orders guaranteed under the contract. Such "guaranteed minimums" commonly reflect but a very small percentage of the aggregate value of all task order or delivery orders actually placed under an ID/IQ contract. This regulatory exception to competition has apparently resulted in a large number of 8(a) contracting opportunities to be offered as ID/IQ contracts, with guaranteed minimums below the threshold for competition, irrespective of the estimated total value of the contract (in terms of both requested and approved levels of authorization and appropriation).

Audits of ID/IQ contracting in support of the MSB/COD Program have reached the conclusion that the SBA Program regulations and the widespread use of ID/IQ contracts with low guaranteed minimums have largely frustrated the Congressional objective of having larger dollar value contracts awarded after competitions among Program Participants. In a particularly critical audit report (DOD IG Audit Report No. 93024) issued in November, 1992, the DOD Inspector General recommended to SBA that its Program regulations be modified to make explicit that the threshold for competition on ID/IQ contracts be determined on the basis of the estimated total value of the contract. The DOD IG notes that this is the standard used in the Government-wide Federal Acquisition Regulation (FAR) to find a broad array of regulatory requirements applicable to ID/IQ contracts. Although agreeing to change its Program regulations, SBA has yet to propose a modification after nearly 18-months.

The same DOD IG audit report also found that Program Participants under non-competitively awarded ID/IQ contracts relating to computer services and equipment were essentially acting as brokers, merely furnishing computer equipment to the DOD buying activity on a sole-source basis through an 8(a) contract award. By having the equipment purchases made under an 8(a) contract, the DOD buying activities were able to use the 8(a) contract to avoid the justifications and approvals that would otherwise be statutorily required for such a sole source purchase.

Subsection (b) would permit the Associate Administrator for the MSB/COD Program, on a nondelegable basis, to authorize non-competitive 8(a) contract awards in excess of the thresholds for competition under limited circumstances. Essentially, up to $15 million in non-competitive awards could be authorized for a Program Participant in the Developmental Stage (first five years) of its nine-year Program Participation Term and if the firm has not exceeded 25 percent of the size standard for its principal line of business as reflected in its most recent business plan.

Sec. 134. Policies Regarding SIC Codes.

This section would modify the processes by which Standard Industrial Classification (SIC) Codes are utilized by a Program Participant in describing the firm's business activities and by an agency contracting officer in describing the item or service being procured under a specific contract solicitation.

The system of SIC Codes, maintained by the Office of Management and Budget, provides broad descriptions of classes of business activity in manufacturing and services, which are intended to permit various agencies of Government to capture consistent data for economic and other purposes. The SBA assigns a numerical size standard (number of employees or average gross receipts over a three year period) to each of these SIC Codes, which is the principal method for determining whether a business concern is to be recognized as a "small business". Program Participants use these SIC codes to describe the types of business activity in which the firm is engaged (and in which it intends to become engaged if its business plan is successfully implemented). With respect to Government contracting, an agency contracting officer assigns an SIC code to describe the principal product or service being sought by the Government through a contract solicitation. Because of the linkage to the SBA size standards, the contracting officer's designation of the appropriate SIC Code to describe the contracting opportunity can be determinative of whether a particular firm will be recognized as a "small business concern" and be permitted to participate, if the competition is to be restricted to small businesses, or to be awarded pursuant to section 8(a) (as well as other statutorily authorized preferential procurement techniques for small business concerns owned and controlled by socially and economically disadvantaged individuals).

Subsection (a) would make explicit the right of a Program Participant to designate the SIC codes applicable to the firm's current and planned business activities as reflected in its business plan (or any modifications to such plan), without obtaining specific prior-approval from the SBA, which is currently required by Program regulations. Program Participants complain that delays attendant to such prior-approval requirements have impeded the ability of some firms to be considered eligible for award of an 8(a) contract, even though the contracting officer was prepared to determine that the firm was capable of performing the contract. At the same time, given the preferential nature of the 8(a) contracting process, it is not wholly uncommon for a Program Participant to declare its capability to furnish particular types of products or services after a specific contracting opportunity has been made available. The provision contemplates the issuance of revised Program regulations that would accord substantially more freedom for a Program Participant to chart its own business destiny, but still require an orderly process of adopting SIC codes that is linked to the firm's announced vision of its intended patterns of growth and development as reflected in its business plan.

Subsection (b) would make explicit the right of a contracting officer to assign an SIC Code to a contracting opportunity to be awarded pursuant to section 8(a) in the same manner such officer assigns an SIC code to other contracting opportunities. Current Program regulations reserve to SBA final approval of the SIC code of a contracting opportunity to be awarded under section 8(a), apparently as an additional check upon the potential for abuse. The proposed change is in keeping with the overall theme of the bill in placing principal responsibility for the award of contracts pursuant to section 8(a) in the hands of the contracting agencies.

It should be noted, however, that subsection (a) is not intended to impair SBA's existing authority to protest, under existing regulations, the appropriateness of the SIC code assigned by a contracting officer to a specific contracting opportunity. This authority, if vigorously used by the SBA when circumstances appear to warrant, should provide adequate opportunity to check the real potential for abuse in the assignment of SIC codes.

Subsection (c) would make explicit the right of a contracting officer to make the determination that a prospective contractor is capable of performing the proposed contract (a determination of "responsibility" in the jargon of Government contracting) to be awarded pursuant to section 8(a) in the same manner such officer assigns an SIC code to other contracting opportunities. Current Program regulations reserve to SBA the right to make the final determination of responsibility regarding the award of a contract pursuant to section 8(a), apparently as an additional protection for Program Participants. The proposed change is in keeping with the bill's theme of placing principal responsibility for the award of contract pursuant to section 8(a) in the hands of the contracting agencies.

It should be noted, however, that subsection (c) does not impair the protections accorded through the SBA Certificate of Competency (COC) Program under the authority of Section 8(b)(7) of the Small Business Act. If a contracting officer makes a "nonresponsibility" determination regarding a Program Participant with respect to a potential 8(a) contract award, the Program Participant is entitled to an independent review by SBA of the contracting officer's nonresponsibility determination under the COC Program in the same manner as any small business.

Sec. 135. Use of Contract Support Levels.

This section would prohibit SBA from determining a Program Participant to be ineligible for the award of pursuant to section 8(a) because the award would cause the firm to exceed its so-called 8(a) contract support level.

Under the 1988 amendments to the MSB/COD Program, a Program Participant is required to forecast the volume of business activity the firm will be seeking through 8(a) contract awards (competitive as well as non-competitive) as part of the firm's annual business planning process. It was intended that such forecasts would provide the SBA with an additional tool with which to urge the various procuring agencies to make available additional contracting opportunities for award pursuant to section 8(a). In implementing this statutory provision, SBA made the 8(a) contract support level forecasted by each Program Participant into a ceiling on the dollar volume of 8(a) contract awards the firm would be permitted to receive.

This restrictive interpretation of the statutory provision has led to several adverse consequences. First, some Program Participants have been denied award of 8(a) contracts, even if the contract was to be awarded as the result of the firm's having won an 8(a) contract competition. Second, recognizing the 8(a) contract support level forecast was being implemented as a "ceiling" rather than a "floor", Program Participants began to offer unrealistically inflated forecasts to avoid even the possibility of losing a future 8(a) contract award. This has diminished the utility of the forecasts to be an effective marketing tool for the SBA in its dealings with the various procuring agencies.

Sec. 136. Business Mix Requirements.

This section would amend section 7(j)(10) of the Small Business Act to permit contracts awarded as a result of competitions among Program Participants to be counted as competitive for the purpose of attaining the firm's "business mix" goals.

The "Business Opportunity Development Reform Act of 1988" established "business mix" targets aimed at gradually reducing the dependence of Program Participants on the award of contracting opportunities awarded pursuant to Section 8(a), especially those awarded on a non-competitive basis. Gradually reducing the firm's dependence on 8(a) contract awards during the nine years of its Program participation term would substantially increase the prospect for success after graduation.

Experience with the Act since 1988 strongly suggested that 8(a) contract awards won as the result of an 8(a) contract competition should have been creditable as "competitive" in attaining the firm's business mix targets. With competitive 8(a) awards unavailable for meeting a Program Participants "business mix" targets, firms in the later stages of their Program Participant term were being deterred from competing for 8(a) awards, since they lacked sufficient dollar volume of other competitive awards which were creditable to the attainment of the "business mix" targets.

The amendment would again make consistent the Congressional intent to distinguish between competitive and non-competitive awards, and to encourage Program Participants to participate in increasingly less restrictive forms of contract competition, so as to prepare them most effectively for "full and open competition" for government contracts and the unrestricted competitions of the commercial marketplace.

Sec. 137. Encouraging Self-Marketing.

Subsection (a) of this section would direct the SBA to modify its regulations for the MSB/COD Program to eliminate the restrictions on "self-marketing" to the various agency buying activities by Program Participants through its restrictions on so-called "National Buys" and "Local Buys".

Under Program regulations a "Local Buy" is a product or service purchased to meet the specific needs of one user on one location. A "National Buy" is a product or service purchased by a centralized procuring activity to support the needs of one or more users at two of more locations.

Subsection (b) repeals the requirement that construction contracts be awarded to firms in the county or state in which the work is to be performed.

Inadvertently left unaddressed in 1988, this provision conflicts with both the intent of the Public Law 100-656 and the practical business realities of the modern construction market. First, Public Law 100-656 sought to ease the myth that Program Participants could expect to be "given" contracts by SBA. It sought to erase that myth by making explicit the responsibility of Program Participants to engage in self-marketing. The provision to be repealed places an entirely artificial impediment on self-marketing that is also contrary to the business realities of modern construction contracting. Prospectively successful small construction firms must be able to develop the capabilities to undertake projects outside of their immediate geographic location.

Further, the implementation of this provision often prevents Program Participants from self-marketing in their natural markets simply because those markets happened to be located across a state line. For example, a firm in southern New Jersey being able to self-market work in the Philadelphia area. Or conversely, a Program Participant in southeastern Pennsylvania can currently be prohibited from self-market business opportunities in southern New Jersey, simply because of a state boundary that does not constitute an unsurmountable obstacle to business activities outside the Program. Further, reports from Program Participants strongly suggested that the statutory provision was not being uniformly applied by various SBA regional and district offices, or in some instances within the same district or regional office.

Sec. 138. Building of Contractor Capabilities.

Subsection (a) of this section would permit a Program Participant to assemble a subcontract team capable of competing for a so-called "bundled" contract opportunity by authorizing the waiver of existing requirements relating to permissible amounts of subcontracting and the inclusion of other than small business concerns. Such authority is seen as a more flexible alternative to the formation of joint ventures.

Currently, a Program Participant may propose for SBA approval a joint venture, provided that the Program Participant holds a 51% interest in the joint venture and exercises control of the joint venture's day-to-day business operations. Since a joint venture is a separate legal entity, both the Program Participant and its joint venture partners must incur legal costs relating to defining the proposed joint venture, so that they may be reviewed and approved by SBA. And subsequently, incur additional costs relating to the actual formation of the approved joint venture for the purpose of competing for one or more contracting opportunities. Success in winning such contracts, while enhanced by the combined capabilities of the joint venture partners, is not guaranteed.

By facilitating the formation of more tailored and targeted prime contractor-subcontractor teams, the proposed new authority will provide the same opportunity to pool resources, while the unnecessary cost of creating a new legal entity. As with the information of a joint venture, the proposed prime contractor-subcontractor team would be subject to approval by SBA, if the Program Participant prime contractor was anticipated to be performing less than 50% of the work (as is currently required by statute if the completing is restricted) or the proposed subcontracting with a large firm would otherwise result in a finding of affiliation with, or control by, the large firm subcontractor. Under the proposed provision a large firm (technically, a firm that is "other than a small business concern") would be permitted to be a major subcontractor (up to 25% of the total value of the contract).

Subsection (b) provides a definition of "contract bundling".

Subsection (c) makes a necessary conforming amendment to the Small Business Act which inserts a cross-reference to the new definition.

Part D—Tribally-Owned Corporations

Sec. 141. Management and Control of Business Operations.

This section would permit the day-to-day business operations of a tribally-owned corporation to be managed by other than a Native American with the necessary skills and experience to serve as the tribal corporation's chief executive officer (CEO). The use of such a non-Native American CEO would be subject to approval by SBA.

Under current law, the CEO of a tribal corporation must be a Native American if the tribal corporation is to be eligible for Program admission or to maintain Program eligibility. Some tribal corporations have had their continued Program eligibility jeopardized when their current Native American CEO chose to depart and they were unable to identify a qualified replacement, even after a national recruitment. While steadily increasing in number, due to opportunities offered by the growing number of tribal corporations, the cadre of Native Americans CEOs remains relatively small. This provision would avoid penalizing legitimate tribal corporations, with their potential to bring desperately needed employment to reservations, from participating in the Program simply because they were unable to identify a qualified Native American CEO.

Since this provision would permit the day-to-day business management of the tribal corporation to be exercised by other than a socially disadvantaged individual, it is expected that SBA's implementing regulations would require the tribal government to demonstrate that it had conducted a national recruitment to locate a qualified Native American CEO before approving the use of a non-Native American CEO. Similarly, it is expected that the tribal government would conduct such a national recruitment to identify a Native American CEO each time a vacancy arises.

Sec. 142. Joint Venture Authority.

Subsection (a) of this Section codifies and makes permanent the current authority for tribal corporation Program Participants to enter into joint ventures under certain specified circumstances. This joint venture authority was initially granted on a three-year pilot basis by Section 602(b) of Public Law 100-656, the "Business Opportunity Development Reform Act of 1988". The joint venture authority was extended for an additional three years (through September 30, 1994) and expanded to apply concurrently to five contracts rather than two by Section 205 of Public Law 101-574, the "Small Business Administration Reauthorization and Amendments Act of 1990".

Experience during the pilot phase suggests that the authority has worked as intended. These joint venture relationships have permitted the tribal corporations to undertake larger contracts, bring more employment opportunities to the reservations, and have provided informal opportunities for developmental mentoring between the tribal corporation and its large joint venture partner.

Subsection (b) would move to Section 3 of the Small Business Act definitions of "Indian tribe" and "Native Hawaiian organization", which are currently found in Section 8 of the Act. The definitions are being transferred without substantive change.

Sec. 143. Rule of Construction Regarding the "Buy Indian Act"

This section establishes a statutory rule of construction that seeks to avoid any conflict between the eligibility requirements for award of a contract pursuant to Section 8(a) of the Small Business Act and for award of a contract pursuant to the so-called "Buy Indian Act".

Part F—Contract Administration Matters

Sec. 151. Accelerated Payment.

This section would require that any contract awarded pursuant to Section 8(a) to a Program Participant in the Development Stage (first four years of its nine-year Program Participation Term) must provide for payment within 20 days for any proper payment request for work performed. Since cash flow is the life blood of any business concern, accelerating cash flow for such smaller, new entrants to the Program represents an exceedingly valuable form of developmental assistance.

Essentially, the provision is directing the inclusion in 8(a) contracts of a specific payment term in the same manner that the Prompt Payment Act (Chapter 39 of title 31, United States Code) specifies accelerated payment terms for enumerated classes of products or services. Other than specifying a payment term to be inserted in certain contracts awarded pursuant to section 8(a), the provision does not alter the requirements imposed on contractors or the protections accorded to the Government (and contractors) by the Prompt Payment Act.

Sec. 152. Expedited Resolution of Contract Administration Matters.

Subsection (a) of this section would amend the Small Business Act to require a contracting officer to provide a substantive response in writing to an inquiry from a Program Participant awarded a contract pursuant to Section 8(a) within 15 days of receiving a written inquiry concerning a matter relating to the administration of the contract. If the contracting officer is unable to respond within the 15-day period, such officer shall provide a written response within such 15-day period specifying a date certain by which the Program Participant may expect a substantive response to its inquiry.

Subsection (b) of the Section set forth a rule of construction making explicit that the amendment to Section 8(a) of the Small Business Act shall not be considered to have created any new rights under the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

Sec. 153. Availability of Alternative Disputes Resolution.

This section would amend Section 8(a) of the Small Business Act to require the contracting officer responsible for the administration of an 8(a) contract to make available alternative disputes resolution (ADR) processes authorized by Section 6(e) of the Contract Disputes Act of 1978 (41 U.S.C. 603(e)) upon the request of the Program Participant, unless certain conditions were met.

The contracting officer would not have to provide ADR procedures if the contracting officer determined that the use of ADR techniques was inappropriate to the contract dispute at issue. The contracting officer's determination would have to cite one or more of the statutorily enumerated conditions (5 U.S.C. 572(b)) making ADR inappropriate or some other specific reason directly related to the contract dispute at issue. The contracting officer would be required to support such a determination with specific findings.

ADR techniques have been demonstrated to expedite resolution of contract disputes and to be substantially less costly than disputes pursued before the boards of contract appeals or through the courts. Making available such accelerated and less costly disputes resolution techniques is another obvious means by which the Government can assist Program Participants.

Part G—Program Administration

Sec. 161. Simplification of Annual Report to Congress.

This section would amend Section 7(j)(16) of the Small Business Act relating to the content of the report pertaining to the MSB/COD Program which SBA is required to submit annually to the Congress. It would modify the reporting requirement regarding the dependency of Program Participants on contracts awarded pursuant to the authority of Section 8(a).

Sec. 162. Reduction in Reporting by Program Participants.

This section reduces from a semiannual basis to an annual basis the report which a Program Participant must submit to SBA relating to the firm's use of agents to obtain Federal contracts.

TITLE II—CONTRACTING PROGRAM FOR CERTAIN SMALL BUSINESS CONCERNS

Part A—Civilian Agencies Program

Sec. 201. Procurement Procedures Authorized.

This section adds a new Section 8(c) to the Small Business Act extending to the civilian agencies the special procurement procedures currently available to the Department of Defense under its so-called Section 1207 Program (Section 1207 of Public Law 99-661, the "National Defense Authorization Act for Fiscal Year 1987"), which established a five percent goal for the participation of SDBs in Defense contracting opportunities. Subsequently, Section 502 of Public Law 100-656, the "Business Opportunity Development Reform Act of 1988" established a Government-wide five percent goal for SDB participation in Federal contracting opportunities (as well as a 20 percent goal for the participation of all types of small businesses), but did not afford the civilian agencies the special procurement procedures to attain their SDB goals.

Section 801 of Public Law 102-484, the "National Defense Authorization Act for Fiscal Year 1994" extended the Section 1207 Program through September 30, 2000 and codified it as Section 2323 of Title 10, United States Code.

Sec. 202. Implementation Through the Federal Acquisition Regulation.

Subsection (a) of this section requires uniform implementation of the new statutory authority through the Government-wide Federal Acquisition Regulation (FAR). While the provision is not intended to impair the existing regulations for the DOD Section 1207 Program found in the DFARS (Defense Federal Acquisition Regulations Supplement) or any DFARS supplement issued by a Military Service or a Defense agency, DOD would not be precluded from using the FAR coverage and reducing its DFARS coverage only to matters not addressed in the FAR. Since the special procurement authorities relating to the contract participation of SDBs in contracting (and subcontracting) opportunities are intended to mirror DOD practices, it is likely that any need for special DFARS coverage would be relatively minimal.

Subsection (b) of this section describes specific matters that are to be included in the regulations.

Sec. 203. Sunset.

This section establishes a sunset for the civilian agency equivalent of DOD's Section 1207 Program. The termination date is the same as that established for the DOD Program in October 1992 by the FY 1993 DOD Authorization Act, September 30, 2000.

Part B—Eligibility Determinations Regarding Status

Sec. 211. Improved Status Protest System.

This section amends Section 7(j)(10)(J) of the Small Business Act for the purpose of revitalizing the SBA's system for hearing and deciding protests regarding whether a firm has improperly self-certified its status as a small business concern owned and controlled by socially and economically disadvantaged individuals.

Currently, the authority to receive and decide status protests is vested in the Division of Program Certification and Eligibility within SBA's Office of Minority Small Business and Capital Ownership Development, pursuant to Section 7(J)(11)(F)(vii) of the Small Business Act. Under the provisions implementing regulations, a finding that a business concern is not a small business concern meeting the standards of section 8(d) of the Small Business Act, that is, a small business concern owned and controlled by socially and economically disadvantaged individuals, only applies to the procurement under which the status protest has been lodged. Except for an obligation to inform the contracting officer that such an adverse status protest decision has been issued, the firm is permitted to self-certify its status as a disadvantaged small business concern on a subsequent contracting opportunity. Further, many questions were raised about the substantial delays in the issuance of status protest decisions by SBA. Finally, critics of the current status protest system urge that it is further weakened by SBA's unwillingness to initiate action (or to permit a procuring agency to initiate action) to impose any of the statutorily authorized administrative or judicial remedies for multiple false certifications of status by the same firm. Taken together, these weaknesses have tended to virtually eliminate confidence regarding the utility of the status protest system (or SBA's willingness to police the self-certification system) within both the contracting officer community as well as the contractor community.

Under the proposed amendments, protests regarding status are transferred to SBA's Office of Hearings and Appeals. Some additional personnel resources may be required by the Office of Hearings and Appeals to assure that decisions on status protests are promptly rendered. Such an effective protest forum is essential if the integrity of the self-certification process regarding SDB status under various preferential contracting programs across Government is to be restored.

Finally, the proposed amendments would make explicit that a Federal agency (as well as the SBA) is authorized (and even encouraged) to initiate appropriate proceedings to impose statutorily authorized administrative or judicial remedies with regard to a firm that has been found to have engaged in a pattern of misrepresentations regarding its status as a small business concern owned and controlled by socially and economically disadvantaged individuals.

Sec. 212. Conforming Amendment.

This section would repeal the existing provision of Section 7(j)(11)(F) of the Small Business Act which currently authorizes the Division of Program Certification and Eligibility within SBA's Office of Minority Small Business and Capital Ownership Development to hear and decide status protests.

TITLE III—EXPANDING SUBCONTRACTING OPPORTUNITIES

Sec. 301. Evaluating Subcontract Participation in Awarding Contracts.

This section amends Section 8(d) of the Small Business Act to provide for the consideration of goals for the proposed participation of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals as subcontractors and suppliers as part of the process of selecting among competing offerors for the award of a prime contract in excess of $500,000 ($1 million in the case of construction).

Under current law, an offeror having been selected for the award of a prime contract in excess of the applicable threshold is required to negotiate goals and submit a plan for the use of such small businesses as subcontractors and suppliers. Although actual award of the contract is theoretically contingent upon the negotiation of goals and a plan acceptable to the agency's contracting officer, practical experience strongly suggests that the Government's leverage to negotiate the most ambitious goals is substantially diminished by the fact that the prospective prime contractor has already been selected for contract award. By making small business subcontract participation an important factor in the award of the prime contract, it is possible to harness the contract competition, which is frequently quite intense, to substantially increase the amount of small business subcontract participation.

The amendment also includes other safeguards to assure that a prime contract actually makes use of those subcontractors which the firm has identified as subcontractors or suppliers under the prime contract.

Sec, 302. Subcontracting Goals for Certain Small Business Concerns.

This section amends Section 8(d)(7) of the Small Business Act to require that a small business concern owned and controlled by socially and economically disadvantaged individuals having been awarded a contract with an anticipated total value of $20 million or more through a competition that was restricted to such small disadvantaged businesses, shall be required to negotiate a goal and furnish a plan for the participation of so-called emerging disadvantaged small business concerns as subcontractors and suppliers. Section 502 of the bill defines an emerging small business concern as one which does not exceed 25 percent of the SBA's numerical size standard for a small business concern.

Sec. 303. Small Business Participation Goals.

This section amends Section 15(g) of the Small Business Act increasing the goal for the participation of small business concerns from 20 percent to 25 percent and from 5 percent to 8 percent for the participation of small business concerns owned and controlled by socially and economically disadvantaged individuals.

Under present law, an eight percent goals applies to the contracting activities of several civilian agencies, including NASA and EPA. Further the existing 5 percent goal for SDB participation by the Department of Defense was exceeded during FY 93, attaining [5.x percent], which the Government-wide SDB participation rate was [x.x percent], which substantially diminishes the efficacy of the current Government-wide 5 percent participation goal, which was adopted in 1988.

TITLE IV—REPEALERS AND TECHNICAL AMENDMENTS

Part A—Repealers

Sec. 401. Loan Program Superseded by Section 7(a) Loan Program.

This section repeals Section 7(i) of the Small Business Act which authorizes a guaranteed loan program that has been superseded by the Section 7(a) Guaranteed Loan Program.

Sec. 402. Superseded Loan Program Relating to Energy.

This section repeals Section 7(l) of the Small Business Act which authorizes a dormant loan program relating to stimulating business activities in the improved utilization of fossil fuels and advancing the use of non-fossil fuel energy sources. The objectives of this specialized loan program are now being met through the less restrictive, and funded, Section 7(a) Guaranteed Loan Program.

Sec. 403. Employee Training Program of Limited Scope.

This section repeals Section 15(j)(13)(E) of the Small Business Act which authorizes a program under which SBA may provide financial assistance for the training of employees (or perspective employees) of firms participating in the SBA Minority Small Business and Capital Ownership Program. This program has remained unfunded since it was authorized as part of P.L. 100-656. the "Business Opportunity Development Reform Act of 1988". Repeal of this provision is in keeping with the Administration's effort to rationalize and to a greater extent consolidate the worker training programs scattered through various Departments and agencies of the Federal Government

Sec. 404. Expired Provision.

This section would repeal Section 8(a)(2) of the Small Business Act, which expired on September 30, 1988. The subject matter of this provision was included in Section 7(j)(13)(D) by a provision of P.L. 100-656, the "Business Opportunity Development Reform Act of 1988".

Part B—Technical Amendments

Sec. 411. Technical Amendments.

This section makes a series of technical corrections throughout various provisions of the Small Business Act, correcting grammatical errors and modernizing citations.

TITLE V—DEFINITIONS

Sec. 501. Historically Underutilized Business.

This section would substitute the term "historically underutilized business" for the term "socially and economically disadvantaged small business concern". It would not alter the existing statutory requirements regarding who is presumed to be socially disadvantaged or may demonstrate their status as being economically disadvantaged. Similarly unchanged are the current requirements that the firm must be owned and its day-to-day business operations controlled by individuals who are both socially and economically disadvantaged.

The adoption of the term "historically underutilized business" to replace the term "small disadvantaged business" (to describe a small business concern owned and controlled by socially disadvantaged individuals) was one of the recommendations of the Commission Minority Business Development (established by Section 505 of Public Law 100-656 for the purpose of reviewing and assessing all Federal programs intended to foster the development of minority-owned businesses). The Commission's Final Report noted that the currently prevalent term "small disadvantaged business" (SDB) tends to have the effect of demeaning from the outset the capabilities of the firm, which may be substantial, even if the firm is owned and controlled by socially and economically disadvantaged individuals.

Sec. 502. Emerging Small Business Concern.

Subsection (a) of this section establishes a new definition of "emerging small business concern". An emerging small business concern is one which has not yet achieved 25 percent of the applicable SBA numerical size standard as a small business concern.

Subsection (b) of this section makes explicit that the existing definition of "emerging small business concern" established by Section 718(b) of the Small Business Competitiveness Demonstration Act of 1988, Title VII of Public Law 100-656, remains unaffected. For the purpose of the Small Business Competitiveness Demonstration Program, an emerging small business concern shall continue to be a small business concern that has not exceeded 50 percent of the applicable SBA numerical size standard for determining whether a business concern may claim to be a small business concern.

TITLE VI—REGULATORY IMPLEMENTATION AND EFFECTIVE DATES

Part A—Assuring Regulatory Implementation

Sec. 601. Deadlines for Issuance of Proposed and Final Regulations.

Subsection (a) of this section requires that proposed regulations implementing the Business Development Opportunity Act of 1994 be published within 120 days of enactment. It further requires that the public be afforded at least 60 days to provide comments on the proposed regulations.

Subsection (b) establishes a statutory deadline for the issuance of the final regulations implementing the Act. Final regulations must be issued within 270 days from the date of enactment.

Sec. 602. Regulatory Implementation of Prior Legislation.

This section establishes a statutory schedule for the issuance of proposed and final regulations implementing provisions previously enacted which have yet to be implemented through published regulations. Subsection (c) lists the provisions of law covered by this section. Some have remained without implementing regulations for more than three years.

Part B—Effective Dates

Sec. 611. Effective Dates.

This section establishes the effective dates for the various provisions of the "Business Opportunity Development Act of 1994".•

• Ms. MOSELEY-BRAUN. Mr. President, at the outset, I want to thank Senator JOHN KERRY for his leadership on behalf of small businesses that are owned and controlled by socially and economically disadvantaged individuals.

I am proud to be an original cosponsor of this legislation and I am particularly pleased that some suggestions I made to Senator KERRY are included in this bill: Particularly developmental teaming agreements, and the improved notice of subcontracting opportunities.

The purpose of the Developmental Teaming Program is to foster the business development and long-term business success of firms participating in the Minority Enterprise Development Program. Encouraging the formation of teaming arrangements and long-term strategic business alliances between such firms and firms that have graduated from the Minority Enterprise Development Program will help enhance these firm's overall business performance.

Historically, firms owned by socially and economically disadvantaged individuals have had difficulty in the initial stages of business development, and these developmental teaming agreements will provide these start-up firms with the kind of assistance that will help them succeed. Specifically, developmental teaming agreements will provide critical assistance targeted to developmental 8(a) firms in those areas that are most important for sustained business growth. The graduating firm will provide business management, financial management, organizational management, and personnel management assistance along with marketing and proposal preparation skills, production inventory control, and quality assurance. The graduate firm can award subcontracts to their teaming firm and give financial assistance in the form of loans, loan guarantees, surety bonding, advance payments, and accelerated progress payments.

The developmental teaming agreements must first be approved by the Small Business Administration, and would last 3 years with an option to renew the agreement for an additional 2 years.

The provisions within this bill will also allow for the improved notice of subcontracting opportunities by requesting that all subcontracting opportunities and awards above $100,000 be published in the Commerce Business Daily. This will provide the information subcontractors need to submit proposals on contract opportunities that have not previously been made public.

The objective of this amendment is to gain equal access to subcontracting opportunities. Firms need to be aware of subcontracting opportunities in order to pursue competitive contracts.

In 1992, 50 firms or fewer than 2 percent of all 8(a) companies, received about $1.5 billion, or 40 percent of the nearly $4 billion in 8(a) contracts awarded during that year. This legislation would assist 8(a) firms in the self-marketing process by allowing them access to information.

These provisions will assist 8(a) firms in becoming successful. The Small Business Administration's 8(a) Program needs real reform and I believe that the Business Development Opportunity Act will help the SBA assist 8(a) firms in becoming more successful.

Although we will not move this legislation through Congress this year, I will work closely with Senator KERRY and the Small Business Committee to pass this bill in the next Congress.

I would like to again thank Senator KERRY for including my provisions in this bill. Senator KERRY should be commended for his leadership on behalf of small businesses across the United States.•

• Mr. PRESSLER. Mr. President, I rise today as an original cosponsor of the Business Development Opportunity Act of 1994. This legislation, introduced today by the Senator from Massachusetts, Senator KERRY, takes an important step forward in improving business and enterprise opportunities for socially and economically disadvantaged individuals.

The bill marks the first significant legislative action on the Small Business Administration's [SBA] Minority Business Development/Capital Ownership Development [MBD/COD] Program since 1988. As my colleagues well know, to say the MBD/COD Program—also known as the 8(a) program—has not received rave reviews over its lifetime is an extreme understatement. Though this program has proven beneficial for many disadvantaged firms, these successes have been overshadowed by stories of failure, waste, fraud, and abuse. In fact, SBA Administrator Erskine Bowles once referred to the 8(a) program as "a mess." The Small Business Committee, of which I am the ranking member, recently held two hearings on the 8(a) program, both of which explored many of its problems.

The first hearing, held on July 27, 1994, included the General Accounting Office [GAO], the SBA inspector general, and the Department of Defense inspector general. Witnesses presented the administration's views on the program. The second hearing, held on August 9, 1994, provided a forum to discuss the SBA's proposed Minority Enterprise Development [MED] Program and Senator KERRY's Business Opportunity Act. Both of these hearings were instrumental in developing the legislation we are introducing today. Through the testimony of witnesses, I was able to see more clearly the flaws within the current program. More importantly, committee members were able to identify solutions to those problems.

I commend Senator KERRY for his able leadership in this area. I also want to thank my colleague for his cooperation in addressing several concerns I had with the bill. However, I should note my concern over the fact that many questions I submitted in writing to panelists at the oversight hearings remain unanswered. I believe these responses could play an important role in further developing this reform legislation. Upon receipt of those responses, I may consider further amendments to fine tune the bill. Failure to address comprehensively the 8(a) program flaws that allow waste, fraud, and abuse to continue would be a failure to legislate responsibly.

A significant portion of changes I considered necessary already have been made. First, the initial version of the legislation did not address the widely acknowledged problem of disparity in award distribution. Of the inequitable distribution of awards among firms and areas of the country, GAO stated that despite past congressional action to correct this problem, "the concentration of 8(a) contracts * * * is a long-standing condition that is continuing." GAO continued by noting that approximately 1 percent—50 of the 5,382 firms in the program as of 1994—received 33 percent of all 8(a) contract dollars. I believe the revised version of this bill takes an active approach toward correcting this inequity. Section 106 requires the SBA to develop an outreach plan aimed at increasing participation among different firms located across the Nation. With this provision, it is my hope the new Minority Enterprise Development [MED] Program will extend its helpful reach beyond beltway firms to those in States like South Dakota.

Another area in which I expressed concern involves competition requirements for 8(a) participants. Again, this was an issue GAO identified in the July 27 hearing as a problem within the current program. According to GAO, the purpose of maintaining competitiveness thresholds and targets is "to help develop [8(a)] firms and better prepare them to compete in the commercial marketplace." Exposing 8(a) participants to competition plays an extremely important role in preparing disadvantaged firms for success once they graduate and enter the free market. Unfortunately, the SBA has failed to implement an adequate competitive and sole-source mix requirement. In addition, it has failed to sufficiently monitor this important developmental tool.

This bill highlights the importance of the competitive experience for 8(a) firms. Through discussions with Senator KERRY, he and I developed a provision that would create more effective business mix targets within the program. Under the revised version of this bill, participants eventually would have to conduct no less than 80 percent of their total sales outside the 8(a) program. Another provision I worked to revise would limit the number of competitive awards that derive from 8(a) competitions to 50 percent. In its original form, this bill would have allowed 8(a) firms to graduate from the program without ever having competed for a contract with non 8(a) firms.

Another concern I had was the proposed increase in the sole-source set-aside from 5 percent to 8 percent. Not only would such a change have increased dependence on sole-source contracts and eliminated the need for competitive bidding, it also would have placed more emphasis on the contracting portion of the MED Program, overshadowing its extremely important business development mission. This proposed increase also raised concerns over the ability of non 8(a) small business to have a fair opportunity to contract with the Federal Government. Thus, I am extremely pleased the current form of this bill retains the five percent goal.

The final issue regarding competition requirements of concern to me would have allowed the SBA to make exceptions to the $3 million and $5 million competitiveness thresholds. Though the history of fraud within this program leaves me somewhat reluctant to allow any exception, section 133 now allows the SBA to waive the competitiveness thresholds only under certain circumstances. This provision also would limit any such award to a value twice the threshold. By holding the Associate Administrator for Minority Enterprise Development accountable, this new provision should prevent abuse of such a waiver.

The last issue I wish to discuss is section 116, establishing "Developmental Teaming" agreements between MED participants and graduates. This would allow experienced businesses to pass their knowledge on to fledgling firms and developing firms to subcontract a portion of 8(a) awards to graduated firms. My hope is that developing firms will be able to capitalize on the experience of graduated firms and that such relationships will enhance SBA's business development assistance. I do have concerns, however. Though existing provisions limit participation, I hope this measure will not encourage graduated firms to remain dependent on 8(a) awards or developing firms to become "front companies."

Though this bill is not perfect, I believe it takes a responsible approach to making the SBA 8(a) Program more effective. It makes changes necessary to aid participants, agencies, and the administration alike. I remain committed to making this program more efficient and more effective through increased competition and stricter oversight. The language contained in this legislation represents months of hard work and consideration by members and staff alike.

I again would like to thank my good friend, Senator KERRY, for his hard work and leadership on this issue. As I mentioned, I intend to consider additional improvements to this bill as necessary. In order to ensure quality policy, it is absolutely necessary to keep this legislation open to suggestions and ideas. I look forward to working with my colleague as this bill continues through the legislative process.•

By Mrs. MURRAY:

S. 2479. A bill to promote the construction and operation of U.S. flag cruise vessels in the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

UNITED STATES CRUISE VESSEL DEVELOPMENT ACT

• Mrs. MURRAY. Mr. President, today I introduce S. 2479, a bill to promote the construction and operation of U.S. flag cruise vessels in the United States. This bill is almost identical to a provision that Representative UNSOELD successfully incorporated into the Coast Guard authorization bill which recently passed in the House. The bill would encourage the domestic construction of U.S. cruise ships and create more cruise ship activity in our ports. It would allow certain foreign-built ships into the domestic trade provided that another cruise ship is built by the operator in a U.S. shipyard. In addition, the bill guarantees that the majority interest in these vessels will be in U.S. hands. The bill also gives these ships preference for permits to enter National Park Service marine sites.

This bill is needed immediately to allow the U.S. ports in the Pacific Northwest to share in the lucrative and expanding cruise ship trade to Alaska. Although the vast majority of the passengers are U.S. citizens, Vancouver, Canada, has become the primary port of departure. Vancouver is the major economic beneficiary of this cruise ship trade. Vancouver saw 263 cruise ship sailings in 1993, which was estimated to add $120 million to the local economy in that year alone. All industry observers expect this trade to continue to expand for at least another decade.

The bill would change the Passenger Service Act to promote American maritime jobs, American shipbuilding jobs and economic opportunities in American ports. As the facts stand now, aside from two ocean-going cruise ships deployed solely in the Hawaii inter-island trade, every major cruise ship is foreign-built and operated. This bill makes it clear that none of the vessels allowed under this provision could compete with the Hawaiian vessels.

This bill is a modest attempt to create a domestic cruise ship industry and encourage ship building. Over time, I will seek additional ways to encourage this industry. Nevertheless, if only a few ships take advantage of this bill, its significance will be substantial. It has been estimated that 20 homeport calls can pump $7 million into a local economy, create 100 jobs, and generate $300,000 in local taxes.

I urge my colleagues to support me in passing this bill.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2479

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Cruise Vessel Development Act of 1994".

SEC. 2. PURPOSE.

The purpose of this Act is to promote construction and operation of United States flag cruise vessels in the United States.

SEC. 3. COASTWISE TRANSPORTATION OF PASSENGERS.

Section 8 of the Act entitled "An Act to abolish certain fees for official services to American vessels, and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes", approved June 19, 1886 (24 Stat. 81, chapter 421; 46 App. U.S.C. 289), is amended to read as follows:

"SEC. 8. COASTWISE TRANSPORTATION OF PASSENGERS.

"(a) IN GENERAL.—Except as otherwise provided by law, a vessel may transport passengers in coastwise trade only if—

"(1) the vessel is owned by a person that is—

"(A) an individual who is a citizen of the United States; or

"(B) a corporation, partnership, or association that is a citizen of the United States under section 2(a) of the Shipping Act, 1916 (46 App. U.S.C. 802(a));

"(2) the vessel meets the requirements of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883); and

"(3) for a vessel that is at least 5 net tons, the vessel is issued a certificate of documentation under chapter 121 of title 46, United States Code, with a coastwise endorsement.

"(b) EXCEPTION FOR VESSEL UNDER DEMISE CHARTER.—

"(1) IN GENERAL.—Subsection (a)(1) does not apply to a cruise vessel operating under a demise charter that—

"(A) has a term of at least 18 months; and

"(B) is to a person described in subsection (a)(1).

"(2) EXTENSION OF PERIOD FOR OPERATION.—A cruise vessel authorized to operate in coastwise trade under paragraph (1) based on a demise charter described in paragraph (1) may operate in that coastwise trade during a period following the termination of the charter of not more than 6 months, if the operation—

"(A) is approved by the Secretary; and

"(B) is in accordance with such terms as may be prescribed by the Secretary for that approval.

"(c) EXCEPTION FOR VESSEL TO BE REFLAGGED.—

"(1) EXCEPTION.—Subsection (a)(2) and section 12106(a)(2)(A) of title 46, United States Code, do not apply to a cruise vessel if—

"(A) the vessel—

"(i) is not documented under chapter 121 of title 46, United States Code, on the date of enactment of the United States Cruise Vessel Development Act of 1994; and

"(ii) is not less than 5 years old and not more than 15 years old on the first date that the vessel is documented under that chapter after that date of enactment; and

"(B) the owner or charterer of the vessel has entered into a contract for the construction in the United States of another cruise vessel that has a total berth or stateroom capacity that is at least 80 percent of the capacity of the cruise vessel.

"(2) TERMINATION OF AUTHORITY TO OPERATE.—Paragraph (1) does not apply to a vessel after the date that is 18 months after the date on which a certificate of documentation with a coastwise endorsement is first issued for the vessel after the date of enactment of the United States Cruise Vessel Development Act of 1994 if, before the end of that 18-month period, the keel of another vessel has not been laid, or another vessel is not at a similar stage of construction, under a contract required for the vessel under paragraph (1)(B).

"(3) EXTENSION OF PERIOD BEFORE TERMINATION.—The Secretary of Transportation may extend the 18-month period under paragraph (2) for an additional period of not to exceed 6 months for good cause shown.

"(d) LIMITATION ON OPERATIONS.—A person (including a related person with respect to that person) who owns or charters a cruise vessel operating in coastwise trade under subsection (b) or (c) under a coastwise endorsement may not operate any vessel between—

"(1) any 2 ports served by another cruise vessel that transports passengers in coastwise trade under subsection (a) on the date the Secretary issues the coastwise endorsement; or

"(2) any of the islands of Hawaii.

"(e) PENALTIES.—

"(1) CIVIL PENALTY.—A person operating a vessel in violation of this section is liable to the United States Government for a civil penalty of $1,000 for each passenger transported in violation of this section.

"(2) FORFEITURE.—A vessel operated in knowing violation of this section, and its equipment, are liable to seizure by and forfeiture to the United States Government.

"(3) DISQUALIFICATION FROM COASTWISE TRADE.—A person that is required to enter into a construction contract under subsection (c)(1)(B) with respect to a cruise vessel (including any related person with respect to that person) may not own or operate any vessel in coastwise trade after the period applicable under subsection (c)(2) with respect to the cruise vessel, if before the end of that period a keel is not laid and a similar stage of construction is not reached under such a contract.

"(f) DEFINITIONS.—In this section—

"(1) the term 'coastwise trade' includes transportation of a passenger between points in the United States, either directly or by way of a foreign port;

"(2) the term 'cruise vessel' means a vessel that—

"(A) is at least 10,000 gross tons (as measured under chapter 143 of title 46, United States Code);

"(B) has berth or stateroom accommodations for at least 200 passengers; and

"(C) is not a ferry; and

"(3) the term 'related person' means, with respect to a person—

"(A) a holding company, subsidiary, affiliate, or association of the person; and

"(B) an officer, director, or agent of the person or of an entity referred to in subparagraph (A).".

SEC. 4. CONSTRUCTION STANDARDS.

Section 3309 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) A vessel described in paragraph (3) is deemed to comply with parts B and C of this subtitle.

"(2) The Secretary shall issue a certificate of inspection under subsection (a) to a vessel described in paragraph (3).

"(3) A vessel is described in this paragraph if—

"(A) the vessel meets the standards and conditions for the issuance of a control verification certificate to a foreign vessel embarking passengers in the United States;

"(B) a coastwise endorsement is issued for the vessel under section 12106 of this title after the date of enactment of the United States Cruise Vessel Development Act of 1994; and

"(C) the vessel is authorized to engage in coastwise trade by reason of subsection (c) of section 8 of the Act entitled 'An Act to abolish certain fees for official services to American vessels, and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes', approved June 19, 1886 (24 Stat. 81, chapter 421; 46 App. U.S.C. 289).".

SEC. 5. CITIZENSHIP FOR PURPOSES OF DOCUMENTATION.

Section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802), is amended—

(1) in subsection (a) by inserting "other than primarily in the transport of passengers," after "the coastwise trade"; and

(2) by adding at the end the following new subsection:

"(e) For purposes of determining citizenship under subsection (a) with respect to operation of a vessel primarily in the transport of passengers in coastwise trade, the controlling interest in a partnership or association that owns the vessel shall not be deemed to be owned by citizens of the United States unless a majority interest in the partnership or association is owned by citizens of the United States free from any trust or fiduciary obligation in favor of any person that is not a citizen of the United States.".

SEC. 6. AMENDMENT TO TITLE XI OF THE MERCHANT MARINE ACT, 1936.

Section 1101(b) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271(b)) is amended by striking "passenger cargo" and inserting "passenger, cargo,".

SEC. 7. PERMITS FOR VESSELS ENTERING UNITS OF NATIONAL PARK SYSTEM.

(a) PRIORITY.—Notwithstanding any other provision of law, the Secretary of the Interior may not permit a person to operate a vessel in any unit of the National Park System except in accordance with the following priority:

(1) First, any person that—

(A) will operate a vessel that is documented under the laws of, and the home port of which is located in, the United States; or

(B) holds rights to provide visitor services under section 1307(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3197(a)).

(2) Second, any person that will operate a vessel that—

(A) is documented under the laws of a foreign country, and

(B) on the date of the enactment of this Act is permitted to be operated by the person in the unit.

(3) Third, any person that will operate a vessel other than a vessel described in paragraph (1) or (2).

(b) REVOCATION OF PERMITS FOR FOREIGN-DOCUMENTED VESSELS.—The Secretary of the Interior shall revoke or refuse to renew permission granted by the Secretary for the operation of a vessel documented under the laws of a foreign country in a unit of the National Park System, if—

(1) a person requests permission to operate a vessel documented under the laws of the United States in that unit; and

(2) the permission may not be granted because of a limit on the number of permits that may be issued for that operation.

(c) RESTRICTIONS ON REVOCATION OF PERMITS.—The Secretary of the Interior may not revoke or refuse to renew permission under subsection (b) for any person holding rights to provide visitor services under section 1307(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3197(a)).

(d) RETURN OF PERMITS.—Any person whose permission to provide visitors services in a unit of the National Park System has been revoked or not renewed under subsection (b) shall have the right of first refusal to a permit to provide visitors services in that unit of the National Park System that becomes available when the conditions described in subsection (b) no longer apply. Such right shall be limited to the number of permits which are revoked or not renewed.●

By Mr. SIMPSON:

S. 2480. A bill to amend the Immigration and Nationality Act to add provisions relating to the treatment of criminal aliens under the immigration laws of the United States, and for other purposes.

CRIMINAL ALIENS AND VISA WAIVER EXTENSION ACT

Mr. SIMPSON. Mr. President, I rise today to introduce a bill which addresses three issues: the expeditious deportation of criminal aliens, a 7-day extension of the visa waiver program, and provisions, which for the duration of this extension of the visa waiver program, would allow certain countries to participate.

The expeditious deportation of criminal aliens provisions were unanimously passed by the Senate in the crime bill, but were stripped in conference. This bill would also expand the definition of "aggravated felony" so that aliens convicted of serious crimes can be swiftly deported. It would allow the Attorney General to enter a deportation order against an alien convicted of a serious crime and thereby eliminate the current complex administrative deportation process. However, the convicted felon would still be entitled to due process through a more limited judicial review of the deportation order. It would allow a Federal judge to enter an order of deportation against an alien convicted of a serious crime at the time of the criminal sentencing. It would restrict certain defenses against deportation available to criminal aliens who have been sentenced to 5 or more years. Current law only restricts these defenses after the alien has served 5 or more years. It would expand the use of the criminal aliens tracking center funded in this year's crime bill. The criminal alien tracking center assists Federal, State, and local law enforcement agencies in identifying criminal aliens.

The bill also extends the current visa waiver program for 7 days. The visa waiver program allows tourists from countries whose nationals have a proven record of returning home when their visas expire to enter the United States without a visa. This vital program frees up the resources of U.S. consular offices abroad and facilitates travel to the United States for many law-abiding foreign tourists.

The visa waiver program expires this Saturday. By extending this program for 7 days, Congress will be afforded the time necessary to pass the 2 year extension contained in another bill, H.R. 783, the Immigration and Nationality Technical Corrections Act of 1994.

Finally, for the duration of this extension, the bill provides a probationary status for certain countries to participate in the visa waiver program. To qualify for the probationary status, a country must: First, have a good record of its nationals returning home when their visas expire—even though its record does not quite meet the present standards required in the current program; and second, show an improvement in its record during its probationary status.

At present, Ireland is the only country which qualifies for this status, however, more may qualify in the future.

It is not my intention to derail the important visa waiver program. And, I do not oppose the opportunity for countries to qualify for this new probationary status. Nevertheless, my top legislative priority, one which I have worked so very closely with—and have had the cooperation of the Attorney General—is the enactment of the criminal alien deportation provisions. I intend to diligently continue this effort.

I urge my colleagues to support this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2480

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXPANSION OF DEFINITION OF AGGRAVATED FELONY.

(a) EXPANSION OF DEFINITION.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended to read as follows:

"(43) The term 'aggravated felony' means—

"(A) murder;

"(B) illicit trafficking in a controlled substance (as defined in section 102 of the Controlled Substances Act), including a drug trafficking crime (as defined in section 924(c) of title 18, United States Code);

"(C) illicit trafficking in firearms or destructive devices (as defined in section 921 of title 18, United States Code) or in explosive materials (as defined in section 841(c) of that title);

"(D) an offense described in section 1956 of title 18, United States Code (relating to laundering of monetary instruments) or section 1957 of that title (relating to engaging in monetary transactions in property derived from specific unlawful activity) if the amount of the funds exceeded $100,000;

"(E) an offense described in—

"(i) section 842 (h) or (i) of title 18, United States Code, or section 844 (d), (e), (f), (g), (h), or (i) of that title (relating to explosive materials offenses);

"(ii) section 922(g) (1), (2), (3), (4), or (5), (j), (n), (o), (p), or (r) or 924 (b) or (h) of title 18, United States Code (relating to firearms offenses); or

"(iii) section 5861 of the Internal Revenue Code of 1986 (relating to firearms offenses);

"(F) a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least 5 years;

"(G) a theft offense (including receipt of stolen property) or burglary offense for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 33 months;

"(H) an offense described in section 875, 876, 877, or 1202 of title 18, United States Code (relating to the demand for or receipt of ransom);

"(I) an offense described in section 2251, 2251A, or 2252 of title 18, United States Code (relating to child pornography);

"(J) an offense described in section 1962 of title 18, United States Code (relating to racketeer influenced corrupt organizations) for which a sentence of 5 years' imprisonment or more may be imposed;

"(K) an offense that—

"(i) relates to the owning, controlling, managing, or supervising of a prostitution business; or

"(ii) is described in section 1581, 1582, 1583, 1584, 1585, or 1588, of title 18, United States Code (relating to peonage, slavery, and involuntary servitude);

"(L) an offense relating to perjury or subornation of perjury if the offense involved causing or threatening to cause physical injury to a person or damage to property;

"(M) an offense described in—

"(i) section 793 (relating to gathering or transmitting national defense information), 798 (relating to disclosure of classified information), 2153 (relating to sabotage) or 2381 or 2382 (relating to treason) of title 18, United States Code; or

"(ii) section 601 of the National Security Act of 1947 (50 U.S.C. 421) (relating to protecting the identity of undercover intelligence agents);

"(N) an offense that—

"(i) involves fraud or deceit in which the loss to the victim or victims exceeds $200,000; or

"(ii) is described in section 7201 of the Internal Revenue Code of 1986 (relating to tax evasion) in which the revenue loss to the Government exceeds $200,000;

"(O) an offense described in section 274(a)(1) of title 18, United States Code (relating to alien smuggling) for the purpose of commercial advantage;

"(P) an offense described in section 1546(a) of title 18, United States Code (relating to document fraud) which constitutes trafficking in the documents described in such section;

"(Q) an offense relating to a failure to appear by a defendant for service of sentence if the underlying offense is punishable by imprisonment for a term of 15 years or more; and

"(R) an attempt or conspiracy to commit an offense described in this paragraph.

The term applies to an offense described in this paragraph whether in violation of Federal or State law and applies to such an offense in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to convictions entered on or after the date of enactment of this Act.

SEC. 2. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) ELIMINATION OF ADMINISTRATIVE HEARING FOR CERTAIN CRIMINAL ALIENS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(f) DEPORTATION OF ALIENS WHO ARE NOT PERMANENT RESIDENTS.—

"(1) Notwithstanding section 242, and subject to paragraph (5), the Attorney General may issue a final order of deportation against any alien described in paragraph (2) whom the Attorney General determines to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony).

"(2) An alien is described in this paragraph if the alien—

"(A) was not lawfully admitted for permanent residence at the time that proceedings under this section commenced, or

"(B) had permanent resident status on a conditional basis (as described in section 216 or 216A) at the time that proceedings under this section commenced.

"(3) No alien described in this section shall be eligible for any relief from deportation that the Attorney General may grant in his discretion.

"(4) The Attorney General may not execute any order described in paragraph (1) until 14 calendar days have passed from the date that such order was issued, unless waived by the alien, in order that the alien has an opportunity to apply for judicial review under section 106.

"(5) Pending a determination of deportability under this section, the Attorney General shall not release the alien. An order of deportation entered pursuant to this section shall be executed by the Attorney General in accordance with section 243. Proceedings before the Attorney General under this section shall be in accordance with such regulations as the Attorney General shall prescribe and shall include requirements that provide that—

"(A) the alien is given reasonable notice of the charges;

"(B) the alien has an opportunity to have assistance of counsel at no expense to the government and in a manner that does not unduly delay the proceedings;

"(C) the alien has a reasonable opportunity to inspect the evidence and rebut the charges;

"(D) the determination of deportability is supported by reasonable, substantial, and probative evidence; and

"(E) the final order of deportation is not adjudicated by the same person who issued such order.".

(b) LIMITED JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) in the first sentence of subsection (a), by inserting "or pursuant to section 242A" after "under section 242(b)";

(2) in subsection (a)(1) and subsection (a)(3), by inserting "(including an alien described in section 242A)" after "aggravated felony"; and

(3) by adding at the end the following new subsection:

"(d) Notwithstanding subsection (c), a petition for review or for habeas corpus on behalf of an alien described in section 242A(c) may only challenge whether the alien is in fact an alien described in such section, and no court shall have jurisdiction to review any other issue.".

(c) TECHNICAL AMENDMENTS.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended—

(1) in subsection (a)—

(A) by striking "(a) IN GENERAL.—" and inserting the following:

"(b) DEPORTATION OF PERMANENT RESIDENT ALIENS.—

"(1) IN GENERAL.—"; and

(B) by inserting in the first sentence "permanent resident" after "correctional facilities for";

(2) in subsection (b)—

(A) by striking "(b) IMPLEMENTATION.—" and inserting "(2) IMPLEMENTATION.—"; and

(B) by striking "respect to an" and inserting "respect to a permanent resident";

(3) by striking subsection (c);

(4) in subsection (d)—

(A) by striking "(d) EXPEDITED PROCEEDINGS.—(1)" and inserting "(3) EXPEDITED PROCEEDINGS.—(A)";

(B) by inserting "permanent resident" after "in the case of any"; and

(C) by striking "(2)" and inserting "(B)";

(5) in subsection (e)—

(A) by striking "(e) REVIEW.—(1)" and inserting "(4) REVIEW.—(A)";

(B) by striking the second sentence; and

(C) by striking "(2)" and inserting "(B)";

(6) by redesignating subsection (f), as added by subsection (a) of this section, as subsection (c);

(7) by inserting after the section heading the following new subsection:

"(a) PRESUMPTION OF DEPORTABILITY.—An alien convicted of an aggravated felony shall be deportable from the United States."; and

(8) by amending the section heading to read as follows:

"EXPEDITED DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of enactment of this Act.

SEC. 3. JUDICIAL DEPORTATION.

(a) JUDICIAL DEPORTATION.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(d) JUDICIAL DEPORTATION.—

"(1) AUTHORITY.—Notwithstanding any other provision of this Act, a United States district court shall have jurisdiction to enter a judicial order of deportation at the time of sentencing against an alien whose criminal conviction causes such alien to be deportable under section 241(a)(2)(A)(iii) (relating to conviction of an aggravated felony), if such an order has been requested prior to sentencing by the United States Attorney with the concurrence of the Commissioner.

"(2) PROCEDURE.—

"(A) The United States Attorney shall provide notice of intent to request judicial deportation promptly after the entry in the record of an adjudication of guilt or guilty plea. Such notice shall be provided to the court, to the Service, to the alien, and to the alien's counsel of record.

"(B) Notwithstanding section 242B, the United States Attorney, with the concurrence of the Commissioner, shall file at least 20 days prior to the date set for sentencing a charge containing factual allegations regarding the alienage of the defendant and satisfaction by the defendant of the definition of aggravated felony.

"(C) If the court determines that the defendant has presented substantial evidence to establish prima facie eligibility for relief from deportation under section 212(c), the Commissioner shall provide the court with a recommendation and report regarding the alien's eligibility for relief under such section. The court shall either grant or deny the relief sought.

"(D)(i) The alien shall have a reasonable opportunity to examine the evidence against him or her, to present evidence on his or her own behalf, and to cross-examine witnesses presented by the Government.

"(ii) The court, for the purposes of determining whether to enter an order described in paragraph (1), shall only consider evidence that would be admissible in proceedings conducted pursuant to section 242(b).

"(iii) Nothing in this subsection shall limit the information a court of the United States may receive or consider for the purposes of imposing an appropriate sentence.

"(iv) The court may order the alien deported if the Attorney General demonstrates by clear and convincing evidence that the alien is deportable under this Act.

"(3) NOTICE, APPEAL, AND EXECUTION OF JUDICIAL ORDER OF DEPORTATION.—

"(A)(i) A judicial order of deportation or denial of such order may be appealed by either party to the court of appeals for the circuit in which the district court is located.

"(ii) Except as provided in clause (iii), such appeal shall be considered consistent with the requirements described in section 106.

"(iii) Upon execution by the defendant of a valid waiver of the right to appeal the conviction on which the order of deportation is based, the expiration of the period described in section 106(a)(1), or the final dismissal of an appeal from such conviction, the order of deportation shall become final and shall be executed at the end of the prison term in accordance with the terms of the order. If the conviction is reversed on direct appeal, the order entered pursuant to this section shall be void.

"(B) As soon as is practicable after entry of a judicial order of deportation, the Commissioner shall provide the defendant with written notice of the order or deportation, which shall designate the defendant's country of choice for deportation and any alternate country pursuant to section 243(a).

"(4) DENIAL OF JUDICIAL ORDER.—Denial of a request for a judicial order of deportation shall not preclude the Attorney General from initiating deportation proceedings pursuant to section 242 upon the same ground of deportability or upon any other ground of deportability provided under section 241(a).".

(b) TECHNICAL AMENDMENT.—The ninth sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by striking "The" and inserting "Except as provided in section 242A(d), the".

(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to alter the privilege of being represented at no expense to the Government set forth in section 292 of the Immigration and Nationality Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens whose adjudication of guilt or guilty plea is entered in the record after the date of enactment of this Act.

SEC. 4. RESTRICTING DEFENSES TO DEPORTATION FOR CERTAIN CRIMINAL ALIENS.

(a) DEFENSES BASED ON SEVEN YEARS OF PERMANENT RESIDENCE.—The last sentence of section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended by striking "has served for such felony or felonies" and all that follows through the period and inserting "has been sentenced for such felony or felonies to a term of imprisonment of at least 5 years, if the time for appealing such conviction or sentence has expired and the sentence has become final. For purposes of this section, the term 'sentence' does not include a sentence the execution of which was suspended in its entirety.".

(b) DEFENSES BASED ON WITHHOLDING OF DEPORTATION.—Section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)) is amended—

(1) by striking the final sentence and inserting the following new subparagraph:

"(E) the alien has been convicted of an aggravated felony."; and

(2) by striking "or" at the end of subparagraph (C) and inserting "or" at the end of subparagraph (D).

SEC. 5. MISCELLANEOUS AND TECHNICAL CHANGES.

(a) FORM OF DEPORTATION HEARINGS.—The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting before the period the following: "; except that nothing in this subsection shall preclude the Attorney General from authorizing proceedings by electronic or telephonic media, in the discretion of the special inquiry officer, or, where waived or agreed to by the parties, in the absence of the alien.".

(b) CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.—No amendment made by this Act and nothing in section 242(i) of the Immigration and Nationality Act (8 U.S.C. 1252(i)) shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. 6. CRIMINAL ALIEN TRACKING CENTER.

(a) OPERATION.—The Attorney General shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien tracking center.

(b) PURPOSE.—The criminal alien tracking center shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to deportation by reason of their conviction of aggravated felonies.

SEC. 7. EXTENSION OF VISA WAIVER PILOT PROGRAM.

Section 217(f) of the Immigration and Nationality Act (8 U.S.C. 1187(f)) is amended by striking "ending" and all that follows through the period and inserting "ending on October 7, 1994".

SEC. 8. CREATION OF PROBATIONARY STATUS FOR PARTICIPANT COUNTRIES IN THE VISA WAIVER PROGRAM.

Section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is amended—

(1) in subsection (a)(2)(B) by inserting before the period "or is designated as a pilot program country with probationary status under subsection (g)";

(2) by adding at the end the following new subsection:

"(g) PILOT PROGRAM COUNTRY WITH PROBATIONARY STATUS.—

"(1) IN GENERAL.—The Attorney General and the Secretary of State acting jointly may designate any country as a pilot program country with probationary status if it meets the requirements of paragraph (2).

"(2) QUALIFICATIONS.—A country may not be designated as a pilot program country with probationary status unless the following requirements are met:

"(A) NONIMMIGRANT VISA REFUSAL RATE FOR PREVIOUS 2-YEAR PERIOD.—The average number of refusals of nonimmigrant visitor visas for nationals of the country during the two previous full fiscal years was less than 3.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years.

"(B) NONIMMIGRANT VISA REFUSAL RATE FOR PREVIOUS YEAR.—The number of refusals of nonimmigrant visitor visas for nationals of the country during the previous full fiscal year was less than 3 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

"(C) LOW EXCLUSIONS AND VIOLATIONS RATE FOR PREVIOUS YEAR.—The sum of—

"(i) the total number of nationals of that country who were excluded from admission or withdrew their application for admission during the preceding fiscal year as a nonimmigrant visitor, and

"(ii) the total number of nationals of that country who were admitted as nonimmigrant visitors during the preceding fiscal year and who violated the terms of such admission,

was less than 1.5 percent of the total number of nationals of that country who applied for admission as nonimmigrant visitors during the preceding fiscal year.

"(D) MACHINE READABLE PASSPORT PROGRAM.—The government of the country certifies that it has or is in the process of developing a program to issue machine-readable passports to its citizens.

"(3) CONTINUING AND SUBSEQUENT QUALIFICATIONS FOR PILOT PROGRAM COUNTRIES WITH PROBATIONARY STATUS.—The designation of a country as a pilot program country with probationary status shall terminate if either of the following occurs:

"(A) The sum of—

"(i) the total number of nationals of that country who were excluded from admission or withdrew their application for admission during the preceding fiscal year as a nonimmigrant visitor, and

"(ii) the total number of nationals of that country who were admitted as visitors during the preceding fiscal year and who violated the terms of such admission,

is more than 2.0 percent of the total number of nationals of that country who applied for admission as nonimmigrant visitors during the preceding fiscal year.

"(B) The country is not designated as a pilot program country under subsection (c) within 3 fiscal years of its designation as a pilot program country with probationary status under this subsection.".

"(4) DESIGNATION OF PILOT PROGRAM COUNTRIES WITH PROBATIONARY STATUS AS PILOT PROGRAM COUNTRIES.—In the case of a country which was a pilot program country with probationary status in the preceding fiscal year, a country may be designated by the Attorney General and the Secretary of State, acting jointly, as a pilot program country under subsection (c) if—

"(A) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission during the preceding fiscal year as a nonimmigrant visitor, and

"(B) the total number of nationals of that country who were admitted as nonimmigrant visitors during the preceding fiscal year and who violated the terms of such admission,

was less than 2 percent of the total number of nationals of that country who applied for admission as nonimmigrant visitors during such preceding fiscal year."; and

(3) in subsection (c)(2) by striking "A country" and inserting "Except as provided in subsection (g)(4), a country".

By Mr. REID (for himself, Mr. BIDEN, Mr. BINGAMAN, Mr. BRADLEY, Mr. BRYAN, Mr. D'AMATO, Mr. DORGAN, Mr. GLENN, Mr. HOLLINGS, Mr. LEVIN, Mr. PELL, Mr. RIEGLE, Mr. ROCKEFELLER, and Mr. SASSER):

S.J. Res. 225. A joint resolution to designate February 5, 1995, through February 11, 1995, and February 4, 1996, through February 10, 1996, as "National Burn Awareness Week"; to the Committee on the Judiciary.

NATIONAL BURN AWARENESS WEEK

• Mr. REID. Mr. President, I rise today to introduce a joint resolution designating the first week in February of both 1995 and 1996 as National Burn Awareness Week.

1995 will host the 10th Annual National Burn Awareness Week. The purpose is to bring national attention to the serious problem of injuries and deaths due to burns. It has been proven that over 75 percent of all burn injuries and deaths could be prevented if the general public were made aware that they can make a difference.

Ten years ago, a few dedicated individuals dreamed that there would be national awareness and recognition of the seriousness of the burn problem in the United States. They formed the Burn Awareness Coalition and developed a national task force and advisory board composed of members of the medical, fire fighting, and general burn prevention community. Over the years, they have produced materials used to educate the general public about the burn problem, expanded media connections, and reached millions of individuals. This has all been done with donations from concerned sponsors, with no Government funding.

The Coalition has come a long way since the first National Burn Awareness Week. The response to date has been tremendous. Most of the burn centers, emergency rooms, fire fighters, and educators across the country are using National Burn Awareness Week materials throughout the year to educate the public and save lives.

There have been many success stories. Senior citizen groups have used National Burn Awareness Week materials to force landlords to reduce the water temperature in hot water heaters. Children have learned how to escape burning homes through what they have learned from fire fighters and school teachers. Parents have been told by children to put batteries in smoke detectors. Burn centers and fire departments have given smoke detectors for birthday presents which have saved lives.

This important program saves lives and reduces pain and suffering. I urge my colleagues to support this resolution which will recognize the great benefits of National Burn Awareness Week.•

ADDITIONAL COSPONSORS

S. 39

At the request of Mr. CHAFEE, his name was added as a cosponsor of S. 39, a bill to amend the National Wildlife Refuge Administration Act.

S. 257

At the request of Mr. CHAFEE, his name was added as a cosponsor of S. 257, a bill to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self- initiation of mining claims, and for other purposes.

S. 1288

At the request of Mr. AKAKA, the names of the Senator from Iowa [Mr. HARKIN] and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of S. 1288, a bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture commercialization research program, and for other purposes.

S. 1889

At the request of Mr. CHAFEE, the names of the Senator from New Jersey [Mr. BRADLEY] and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of S. 1889, a bill to amend title XIX of the Social Security Act to make certain technical corrections relating to physicians' services.

S. 1976

At the request of Mr. DODD, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 1976, a bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the Act.

S. 2071

At the request of Mr. LIEBERMAN, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 2071, a bill to provide for the application of certain employment protection and information laws to the Congress and for other purposes.

S. 2101

At the request of Mr. BRADLEY, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2101, a bill to provide for the establishment of mandatory State-operated comprehensive one-call systems to protect all underground facilities from being damaged by any excavations, and for other purposes.

S. 2264

At the request of Mr. DORGAN, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 2264, a bill to provide for certain protections in the sale of a short line railroad, and for other purposes.

S. 2294

At the request of Mr. HATFIELD, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2294, a bill to amend the Public Health Service Act to provide for the expansion and coordination of research concerning Parkinson's disease and related disorders, and to improve care and assistance for its victims and their family caregivers, and for other purposes.

S. 2375

At the request of Mr. LEAHY, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 2375, a bill to amend title 18, United States Code, to make clear a telecommunications carrier's duty to cooperate in the interception of communications for law enforcement purposes, and for other purposes,

S. 2411

At the request of Mr. DOLE, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 2411, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 2460

At the request of Mr. CHAFEE, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 2460, a bill to extend for an additional 2 years the period during which medicare select policies may be issued.

SENATE JOINT RESOLUTION 219

At the request of Mr. LEAHY, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Joint Resolution 219, a joint resolution to commend the United States rice industry, and for other purposes.

SENATE RESOLUTION 264

At the request of Mr. MCCAIN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Resolution 264, a resolution expressing the sense of the Senate that the President should issue an Executive order to promote and expand Federal assistance for Indian institutions of higher education and foster the advancement of the National Education Goals for Indians.

SENATE RESOLUTION 270

At the request of Mr. MURKOWSKI, the name of the Senator from Tennessee [Mr. MATHEWS] was added as a cosponsor of Senate Resolution 270, a resolution to express the sense of the Senate concerning United States relations with Taiwan.

AMENDMENTS SUBMITTED

DISTRICT OF COLUMBIA APPROPRIATIONS ACT FOR FISCAL YEAR 1995

DOLE (AND DOMENICI) AMENDMENT NO. 2599

Mr. DOMENICI (for Mr. DOLE, for himself and Mr. DOMENICI) proposed an amendment to amendment No. 2594 proposed by Mr. COHEN to the bill (H.R. 4649) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1995, and for other purposes; as follows:

In the pending amendment after the word "subtitle" insert the following

Subtitle ___—Enhanced Penalties for Health Care Fraud

PART 1—ALL-PAYER FRAUD AND ABUSE CONTROL PROGRAM

SEC. ___01. ALL-PAYER FRAUD AND ABUSE CONTROL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—Not later than January 1, 1995, the Secretary of Health and Human Services (in this subtitle referred to as the "Secretary"), acting through the Office of the Inspector General of the Department of Health and Human Services, and the Attorney General shall establish a program—

(A) to coordinate Federal, State, and local law enforcement programs to control fraud and abuse with respect to the delivery of and payment for health care in the United States,

(B) to conduct investigations, audits, evaluations, and inspections relating to the delivery of and payment for health care in the United States,

(C) to facilitate the enforcement of the provisions of sections 1128, 1128A, and 1128B of the Social Security Act and other statutes applicable to health care fraud and abuse, and

(D) to provide for the modification and establishment of safe harbors and to issue interpretative rulings and special fraud alerts pursuant to section ___03.

(2) COORDINATION WITH HEALTH PLANS.—In carrying out the program established under paragraph (1), the Secretary and the Attorney General shall consult with, and arrange for the sharing of data with representatives of health plans.

(3) REGULATIONS.—

(A) IN GENERAL.—The Secretary and the Attorney General shall by regulation establish standards to carry out the program under paragraph (1).

(B) INFORMATION STANDARDS.—

(i) IN GENERAL.—Such standards shall include standards relating to the furnishing of information by health plans, providers, and others to enable the Secretary and the Attorney General to carry out the program (including coordination with health plans under paragraph (2)).

(ii) CONFIDENTIALITY.—Such standards shall include procedures to assure that such information is provided and utilized in a manner that appropriately protects the confidentiality of the information and the privacy of individuals receiving health care services and items.

(iii) QUALIFIED IMMUNITY FOR PROVIDING INFORMATION.—The provisions of section 1157(a) of the Social Security Act (relating to limitation on liability) shall apply to a person providing information to the Secretary or the Attorney General in conjunction with their performance of duties under this section, in the same manner as such section applies to information provided to organizations with a contract under subtitle B of title V of this Act, with respect to the performance of such a contract.

(C) DISCLOSURE OF OWNERSHIP INFORMATION.—

(i) IN GENERAL.—Such standards shall include standards relating to the disclosure of ownership information described in clause (ii) by any entity providing health care services and items.

(ii) OWNERSHIP INFORMATION DESCRIBED.—The ownership information described in this clause includes—

(I) a description of such items and services provided by such entity;

(II) the names and unique physician identification numbers of all physicians with a financial relationship (as defined in section 1877(a)(2) of the Social Security Act) with such entity;

(III) the names of all other individuals with such an ownership or investment interest in such entity; and

(IV) any other ownership and related information required to be disclosed by such entity under section 1124 or section 1124A of the Social Security Act, except that the Secretary shall establish procedures under which the information required to be submitted under this subclause will be reduced with respect to health care provider entities that the Secretary determines will be unduly burdened if such entities are required to comply fully with this subclause.

(4) AUTHORIZATION OF APPROPRIATIONS FOR INVESTIGATORS AND OTHER PERSONNEL.—In addition to any other amounts authorized to be appropriated to the Secretary and the Attorney General for health care anti-fraud and abuse activities for a fiscal year, there are authorized to be appropriated additional amounts as may be necessary to enable the Secretary and the Attorney General to conduct investigations and audits of allegations of health care fraud and abuse and otherwise carry out the program established under paragraph (1) in a fiscal year.

(5) ENSURING ACCESS TO DOCUMENTATION.—The Inspector General of the Department of Health and Human Services is authorized to exercise the authority described in paragraphs (4) and (5) of section 6 of the Inspector General Act of 1978 (relating to subpoenas and administration of oaths) with respect to the activities under the all-payer fraud and abuse control program established under this subsection to the same extent as such Inspector General may exercise such authorities to perform the functions assigned by such Act.

(6) AUTHORITY OF INSPECTOR GENERAL.—Nothing in this Act shall be construed to diminish the authority of any Inspector General, including such authority as provided in the Inspector General Act of 1978.

(7) HEALTH PLAN DEFINED.—For the purposes of this subsection, the term "health plan" shall have the meaning given such term in section 1128(i) of the Social Security Act.

(b) HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There is hereby established an account to be known as the "Health Care Fraud and Abuse Control Account" (in this section referred to as the "Anti-Fraud Account"). The Anti-Fraud Account shall consist of—

(i) such gifts and bequests as may be made as provided in subparagraph (B);

(ii) such amounts as may be deposited in the Anti-Fraud Account as provided in subsection (a)(4), sections ___41(b) and ___42(b), and title XI of the Social Security Act except for those penalties attributable to laws in existence prior to the enactment of this Act; and

(iii) such amounts as are transferred to the Anti-Fraud Account under subparagraph (C).

(B) AUTHORIZATION TO ACCEPT GIFTS.—The Anti-Fraud Account is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Anti-Fraud Account, for the benefit of the Anti-Fraud Account or any activity financed through the Anti-Fraud Account.

(C) TRANSFER OF AMOUNTS.—

(i) IN GENERAL.—The Secretary of the Treasury shall transfer to the Anti-Fraud Account an amount equal to the sum of the following:

(I) Criminal fines imposed in cases involving a Federal health care offense (as defined in section 982(a)(6)(B) of title 18, United States Code).

(ii) Administrative penalties and assessments imposed under titles XI, XVIII, and XIX of the Social Security Act (except as otherwise provided by law except for those penalties attributable to laws in existence prior to the enactment of this Act).

(iii) Amounts resulting from the forfeiture of property by reason of a Federal health care offense.

(iv) Penalties and damages imposed under the False Claims Act (31 U.S.C. 3729 et seq.), in cases involving claims related to the provision of health care items and services (other than funds awarded to a relator or for restitution except for those penalties attributable to laws in existence prior to the enactment of this Act).

(2) USE OF FUNDS.—

(A) IN GENERAL.—Amounts in the Anti-Fraud Account shall be available without appropriation and until expended as determined jointly by the Secretary and the Attorney General of the United States in carrying out the health care fraud and abuse control program established under subsection (a) (including the administration of the program), and may be used to cover costs incurred in operating the program, including costs (including equipment, salaries and benefits, and travel and training) of—

(i) prosecuting health care matters (through criminal, civil, and administrative proceedings);

(ii) investigations;

(iii) financial and performance audits of health care programs and operations;

(iv) inspections and other evaluations; and

(v) provider and consumer education regarding compliance with the provisions of this subtitle.

(B) FUNDS USED TO SUPPLEMENT AGENCY APPROPRIATIONS.—It is intended that disbursements made from the Anti-Fraud Account to any Federal agency be used to increase and not supplant the recipient agency's appropriated operating budget.

(3) ANNUAL REPORT.—The Secretary and the Attorney General shall submit jointly an annual report to Congress on the amount of revenue which is generated and disbursed by the Anti-Fraud Account in each fiscal year.

(4) USE OF FUNDS BY INSPECTOR GENERAL.—

(A) REIMBURSEMENTS FOR INVESTIGATIONS.—The Inspector General is authorized to receive and retain for current use reimbursement for the costs of conducting investigations, when such restitution is ordered by a court, voluntarily agreed to by the payer, or otherwise.

(B) CREDITING.—Funds received by the Inspector General as reimbursement for costs of conducting investigations shall be deposited to the credit of the appropriation from which initially paid, or to appropriations for similar purposes currently available at the time of deposit, and shall remain available for obligation for 1 year from the date of their deposit.

SEC. ___02. APPLICATION OF FEDERAL HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO ALL FRAUD AND ABUSE AGAINST ANY HEALTH PLAN.

(a) CRIMES.—

(1) SOCIAL SECURITY ACT.—Section 1128B of the Social Security Act (42 U.S.C. 1320a-7b) is amended as follows:

(A) In the heading, by adding at the end the following: "OR HEALTH PLANS".

(B) In subsection (a)(1)—

(i) by striking "title XVIII or" and inserting "title XVIII,", and

(ii) by adding at the end the following: "or a health plan (as defined in section 1128(i)),".

(C) In subsection (a)(5), by striking "title XVIII or a State health care program" and inserting "title XVIII, a State health care program, or a health plan".

(D) In the second sentence of subsection (a)—

(i) by inserting after "title XIX" the following: "or a health plan", and

(ii) by inserting after "the State" the following: "or the plan".

(E) In subsection (b)(1), by striking "title XVIII or a State health care program" each place it appears and inserting "title XVIII, a State health care program, or a health plan".

(F) In subsection (b)(2), by striking "title XVIII or a State health care program" each place it appears and inserting "title XVIII, a State health care program, or a health plan".

(G) In subsection (b)(3), by striking "title XVIII or a State health care program" each place it appears in subparagraphs (A) and (C) and inserting "title XVIII, a State health care program, or a health plan".

(H) In subsection (d)(2)—

(i) by striking "title XIX," and inserting "title XIX or under a health plan,", and

(ii) by striking "State plan," and inserting "State plan or the health plan,".

(2) IDENTIFICATION OF COMMUNITY SERVICE OPPORTUNITIES.—Section 1128B of such Act (42 U.S.C. 1320a-7b) is further amended by adding at the end the following new subsection:

"(f) The Secretary may—

"(1) in consultation with State and local health care officials, identify opportunities for the satisfaction of community service obligations that a court may impose upon the conviction of an offense under this section, and

"(2) make information concerning such opportunities available to Federal and State law enforcement officers and State and local health care officials.".

(b) HEALTH PLAN DEFINED.—Section 1128 of the Social Security Act (42 U.S.C. 1320a-7) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) HEALTH PLAN DEFINED.—For purposes of sections 1128A and 1128B, the term 'health plan' means a public or private programs for the delivery of or payment for health care items or services.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1995.

SEC. ___03. HEALTH CARE FRAUD AND ABUSE GUIDANCE.

(a) SOLICITATION AND PUBLICATION OF MODIFICATIONS TO EXISTING SAFE HARBORS AND NEW SAFE HARBORS.—

(1) IN GENERAL.—

(A) SOLICITATION OF PROPOSALS FOR SAFE HARBORS.—Not later than January 1, 1995, and not less than annually thereafter, the Secretary shall publish a notice in the Federal Register soliciting proposals, which will be accepted during a 60-day period, for—

(i) modifications to existing safe harbors issued pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 (42 U.S.C. 1320a-7b note);

(ii) additional safe harbors specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) of the Social Security Act the (42 U.S.C. 1320a-7b(b)) and shall not serve as the basis for an exclusion under section 1128(b)(7) of such Act (42 U.S.C. 1320a-7(b)(7));

(iii) interpretive rulings to be issued pursuant to subsection (b); and

(iv) special fraud alerts to be issued pursuant to subsection (c).

(B) PUBLICATION OF PROPOSED MODIFICATIONS AND PROPOSED ADDITIONAL STATE HARBORS.—After considering the proposals described in clauses (i) and (ii) of subparagraph (A), the Secretary, in consultation with the Attorney General, shall publish in the Federal Register proposed modifications to existing safe harbors and proposed additional safe harbors, if appropriate, with a 60-day comment period. After considering any public comments received during this period, the Secretary shall issue final rules modifying the existing safe harbors and establishing new safe harbors, as appropriate.

(C) REPORT.—The Inspector General of the Department of Health and Human Services (hereafter in this section referred to as the "Inspector General") shall, in an annual report to Congress or as part of the year-end semiannual report required by section 5 of the Inspector General Act of 1978 (5 U.S.C. App.), describe the proposals received under clauses (i) and (ii) of subparagraph (A) and explain which proposals were included in the publication described in subparagraph (B), which proposals were not included in that publication, and the reasons for the rejection of the proposals that were not included.

(2) CRITERIA FOR MODIFYING AND ESTABLISHING SAFE HARBORS.—In modifying and establishing safe harbors under paragraph (1)(B), the Secretary may consider the extent to which providing a safe harbor for the specified payment practice may result in any of the following:

(A) An increase or decrease in access to health care services.

(B) An increase or decrease in the quality of health care services.

(C) An increase or decrease in patient freedom of choice among health care providers.

(D) An increase or decrease in competition among health care providers.

(E) An increase or decrease in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

(F) An increase or decrease in the cost to Government health care programs.

(G) An increase or decrease in the potential overutilization of health care services.

(H) The existence or nonexistence of any potential financial benefit to a health care professional or provider which may vary based on their decisions of—

(i) whether to order a health care item or service; or

(ii) whether to arrange for a referral of health care items or services to a particular practitioner or provider.

(I) Any other factors the Secretary deems appropriate in the interest of preventing fraud and abuse in Government health care programs.

(b) INTERPRETIVE RULINGS.—

(1) IN GENERAL.—

(A) REQUEST FOR INTERPRETIVE RULING.—Any person may present, at any time, a request to the Inspector General for a statement of the Inspector General's current interpretation of the meaning of a specific aspect of the application of sections 1128A and 1128B of the Social Security Act (hereafter in this section referred to as an "interpretive ruling").

(B) ISSUANCE AND EFFECT OF INTERPRETIVE RULING.—

(i) IN GENERAL.—If appropriate, the Inspector General shall in consultation with the Attorney General, issue an interpretive ruling in response to a request described in subparagraph (A). Interpretive rulings shall not have the force of law and shall be treated as an interpretive rule within the meaning of section 553(b) of title 5, United States Code. All interpretive rulings issued pursuant to this provision shall be published in the Federal Register or otherwise made available for public inspection.

(ii) REASONS FOR DENIAL.—If the Inspector General does not issue an interpretive ruling in response to a request described in subparagraph (A), the Inspector General shall notify the requesting party of such decision and shall identify the reasons for such decision.

(2) CRITERIA FOR INTERPRETIVE RULINGS.—

(A) IN GENERAL.—In determining whether to issue an interpretive ruling under paragraph (1)(B), the Inspector General may consider—

(i) whether and to what extent the request identifies an ambiguity within the language of the statute, the existing safe harbors, or previous interpretive rulings; and

(ii) whether the subject of the requested interpretive ruling can be adequately addressed by interpretation of the language of the statute, the existing safe harbor rules, or previous interpretive rulings, or whether the request would require a substantive ruling not authorized under this subsection.

(B) NO RULINGS ON FACTUAL ISSUES.—The Inspector General shall not give an interpretive ruling on any factual issue, including the intent of the parties or the fair market value of particular leased space or equipment.

(c) SPECIAL FRAUD ALERTS.—

(1) IN GENERAL.—

(A) REQUEST FOR SPECIAL FRAUD ALERTS.—Any person may present, at any time, a request to the Inspector General for a notice which informs the public of practices which the Inspector General considers to be suspect or of particular concern under section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)) (hereafter in this subsection referred to as a "special fraud alert").

(B) ISSUANCE AND PUBLICATION OF SPECIAL FRAUD ALERTS.—Upon receipt of a request described in subparagraph (A), the Inspector General shall investigate the subject matter of the request to determine whether a special fraud alert should be issued. If appropriate, the Inspector General shall in consultation with the Attorney General, issue a special fraud alert in response to the request. All special fraud alerts issued pursuant to this subparagraph shall be published in the Federal Register.

(2) CRITERIA FOR SPECIAL FRAUD ALERTS.—In determining whether to issue a special fraud alert upon a request described in paragraph (1), the Inspector General may consider—

(A) whether and to what extent the practices that would be identified in the special fraud alert may result in any of the consequences described in subsection (a)(2); and

(B) the volume and frequency of the conduct that would be identified in the special fraud alert.

SEC. ___04. REPORTING OF FRAUDULENT ACTIONS UNDER MEDICARE.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish a program through which individuals entitled to benefits under the medicare program may report to the Secretary on a confidential basis (at the individual's request) instances of suspected fraudulent actions arising under the program by providers of items and services under the program.

PART 2—REVISIONS TO CURRENT SANCTIONS FOR FRAUD AND ABUSE

SEC. ___11. MANDATORY EXCLUSION FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) INDIVIDUAL CONVICTED OF FELONY RELATING TO FRAUD.—

(1) IN GENERAL.—Section 1128(a) of the Social Security Act (42 U.S.C. 1320a–7(a)) is amended by adding at the end the following new paragraph:

"(3) FELONY CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted after the date of the enactment of the Health Reform Act, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(1) of such Act (42 U.S.C. 1320a–7(b)(1)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

(b) INDIVIDUAL CONVICTED OF FELONY RELATING TO CONTROLLED SUBSTANCE.—

(1) IN GENERAL.—Section 1128(a) of the Social Security Act (42 U.S.C. 1320a–7(a)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) FELONY CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted after the date of the enactment of the Health Reform Act, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.".

(2) CONFORMING AMENDMENT.—Section 1128(b)(3) of such Act (42 U.S.C. 1320a–7(b)(3)) is amended—

(A) in the heading, by striking "CONVICTION" and inserting "MISDEMEANOR CONVICTION"; and

(B) by striking "criminal offense" and inserting "criminal offense consisting of a misdemeanor".

SEC. ___12. ESTABLISHMENT OF MINIMUM PERIOD OF EXCLUSION FOR CERTAIN INDIVIDUALS AND ENTITIES SUBJECT TO PERMISSIVE EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128(c)(3) of the Social Security Act (42 U.S.C. 1320a–7(c)(3)) is amended by adding at the end the following new subparagraphs:

"(D) In the case of an exclusion of an individual or entity under paragraph (1), (2), or (3) of subsection (b), the period of the exclusion shall be 3 years, unless the Secretary determines in accordance with published regulations that a shorter period is appropriate because of mitigating circumstances or that a longer period is appropriate because of aggravating circumstances.

"(E) In the case of an exclusion of an individual or entity under subsection (b)(4) or (b)(5), the period of the exclusion shall not be less than the period during which the individual's or entity's license to provide health care is revoked, suspended, or surrendered, or the individual or the entity is excluded or suspended from a Federal or State health care program.

"(F) In the case of an exclusion of an individual or entity under subsection (b)(6)(B), the period of the exclusion shall be not less than 1 year.".

SEC. ___13. PERMISSIVE EXCLUSION OF INDIVIDUALS WITH OWNERSHIP OR CONTROL INTEREST IN SANCTIONED ENTITIES.

Section 1128(b) of the Social Security Act (42 U.S.C. 1320a–7(b)) is amended by adding at the end the following new paragraph:

"(15) INDIVIDUALS CONTROLLING A SANCTIONED ENTITY.—Any individual who has a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of, an entity—

"(A) that has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection;

"(B) against which a civil monetary penalty has been assessed under section 1128A; or

"(C) that has been excluded from participation under a program under title XVIII or under a State health care program.".

SEC. ___14. ACTIONS SUBJECT TO CRIMINAL PENALTIES.

(a) RESTRICTION ON APPLICATION OF EXCEPTION FOR AMOUNTS PAID TO EMPLOYEES.—Section 1128B(b)(3)(B) of the Social Security Act (42 U.S.C. 1320a–7b(b)(3)(B)) is amended by striking "services;" and inserting the following: "services, but only if the amount of remuneration under the arrangement is (i) consistent with fair market value; (ii) not determined in a manner that takes into account (directly or indirectly) the volume or value of any referrals of patients directly contacted by the employee to the employer for the furnishing (or arranging for the furnishing) of such items or services; and (iii) provided pursuant to an arrangement that would be commercially reasonable even if no such referrals were made;".

(b) NEW EXCEPTION FOR CAPITATED PAYMENTS.—Section 1128B(b)(3) of the Social Security Act (42 U.S.C. 1320a–7b(b)(3)) is amended—

(A) by striking "and" at the end of subparagraph (D);

(B) by striking the period at the end of subparagraph (E) and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

"(F) any reduction in cost sharing or increased benefits given to an individual, any amounts paid to a provider for an item or service furnished to an individual, or any discount or reduction in price given by the provider for such an item or service, if the individual is enrolled with and such item or service is covered under any of the following:

"(i) A health plan which is furnishing items or services under a risk-sharing contract under section 1876 or section 1903(m).

"(ii) A health plan receiving payments on a prepaid basis, under a demonstration project under section 402(a) of the Social Security Amendments of 1967 or under section 222(a) of the Social Security Amendments of 1972;

"(G) any amounts paid to a provider for an item or service furnished to an individual or any discount or reduction in price given by the provider for such an item or service, if the individual is enrolled with and such item or service is covered under a health plan under which the provider furnishing the item or service is paid by the health plan for furnishing the item or service only on a capitated basis pursuant to a written arrangement between the plan and the provider in which the provider assumes financial risk for furnishing the item or service;

"(H) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all third party payors to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary; and

"(I) remuneration given to individuals to promote the delivery of preventive care in compliance with regulations promulgated by the Secretary.".

SEC. ___15. SANCTIONS AGAINST PRACTITIONERS AND PERSONS FOR FAILURE TO COMPLY WITH STATUTORY OBLIGATIONS.

(a) MINIMUM PERIOD OF EXCLUSION FOR PRACTITIONERS AND PERSONS FAILING TO MEET STATUTORY OBLIGATIONS.—

(1) IN GENERAL.—The second sentence of section 1156(b)(1) of the Social Security Act (42 U.S.C. 1320c-5(b)(1)) is amended by striking "may prescribe)" and inserting "may prescribe, except that such period may not be less than 1 year)".

(2) CONFORMING AMENDMENT.—Section 1156(b)(2) of such Act (42 U.S.C. 1320c-5(b)(2)) is amended by striking "shall remain" and inserting "shall (subject to the minimum period specified in the second sentence of paragraph (1)) remain".

(b) REPEAL OF "UNWILLING OR UNABLE" CONDITION FOR IMPOSITION OF SANCTION.—Section 1156(b)(1) of the Social Security Act (42 U.S.C. 1320c-5(b)(1)) is amended—

(1) in the second sentence, by striking "and determines" and all that follows through "such obligations,"; and

(2) by striking the third sentence.

SEC. ___16. INTERMEDIATE SANCTIONS FOR MEDICARE HEALTH MAINTENANCE ORGANIZATIONS.

(a) APPLICATION OF INTERMEDIATE SANCTIONS FOR ANY PROGRAM VIOLATIONS.—

(1) IN GENERAL.—Section 1876(i)(1) of the Social Security Act (42 U.S.C. 1395mm(i)(1)) is amended by striking "the Secretary may terminate" and all that follows and inserting the following: "in accordance with procedures established under paragraph (9), the Secretary may at any time terminate any such contract or may impose the intermediate sanctions described in paragraph (6)(B) or (6)(C) (whichever is applicable) on the eligible organization if the Secretary determines that the organization—

"(A) has failed substantially to carry out the contract;

"(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section; or

"(C) no longer substantially meets the applicable conditions of subsections (b), (c), (e), and (f).".

(2) OTHER INTERMEDIATE SANCTIONS FOR MISCELLANEOUS PROGRAM VIOLATIONS.—Section 1876(i)(6) of such Act (42 U.S.C. 1395mm(i)(6)) is amended by adding at the end the following new subparagraph:

"(C) In the case of an eligible organization for which the Secretary makes a determination under paragraph (1) the basis of which is not described in subparagraph (A), the Secretary may apply the following intermediate sanctions:

"(i) Civil money penalties of not more than $25,000 for each determination under paragraph (1) if the deficiency that is the basis of the determination has directly adversely affected (or has the substantial likelihood of adversely affecting) an individual covered under the organization's contract.

"(ii) Civil money penalties of not more than $10,000 for each week beginning after the initiation of procedures by the Secretary under paragraph (9) during which the deficiency that is the basis of a determination under paragraph (1) exists.

"(iii) Suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under paragraph (1) and until the Secretary is satisfied that the deficiency that is the basis for the determination has been corrected and is not likely to recur.".

(3) PROCEDURES FOR IMPOSING SANCTIONS.—Section 1876(i) of such Act (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may terminate a contract with an eligible organization under this section or may impose the intermediate sanctions described in paragraph (6) on the organization in accordance with formal investigation and compliance procedures established by the Secretary under which—

"(A) the Secretary provides the organization with the opportunity to develop and implement a corrective action plan to correct the deficiencies that were the basis of the Secretary's determination under paragraph (1);

"(B) in deciding whether to impose sanctions, the Secretary considers aggravating factors such as whether an entity has a history of deficiencies or has not taken action to correct deficiencies the Secretary has brought to their attention;

"(C) there are no unreasonable or unnecessary delays between the finding of a deficiency and the imposition of sanctions; and

"(D) the Secretary provides the organization with reasonable notice and opportunity for hearing (including the right to appeal an initial decision) before imposing any sanction or terminating the contract.".

(4) CONFORMING AMENDMENTS.—Section 1876(i)(6)(B) of such Act (42 U.S.C. 1395mm(i)(6)(B)) is amended by striking the second sentence.

(b) AGREEMENTS WITH PEER REVIEW ORGANIZATIONS.—

(1) REQUIREMENT FOR WRITTEN AGREEMENT.—Section 1876(i)(7)(A) of the Social Security Act (42 U.S.C. 1395mm(i)(7)(A)) is amended by striking "an agreement" and inserting "a written agreement".

(2) DEVELOPMENT OF MODEL AGREEMENT.—Not later than July 1, 1995, the Secretary shall develop a model of the agreement that an eligible organization with a risk-sharing contract under section 1876 of the Social Security Act must enter into with an entity providing peer review services with respect to services provided by the organization under section 1876(i)(7)(A) of such Act.

(3) REPORT BY GAO.—

(A) STUDY.—The Comptroller General of the United States shall conduct a study of the costs incurred by eligible organizations with risk-sharing contracts under section 1876(b) of such Act of complying with the requirement of entering into a written agreement with an entity providing peer review services with respect to services provided by the organization, together with an analysis of how information generated by such entities is used by the Secretary to assess the quality of services provided by such eligible organizations.

(B) REPORT TO CONGRESS.—Not later than July 1, 1997, the Comptroller General shall submit a report to the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance and the Special Committee on Aging of the Senate on the study conducted under subparagraph (A).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1995.

SEC. ___17. EFFECTIVE DATE.

The amendments made by this part shall take effect January 1, 1995.

PART 3—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SEC. ___21. ESTABLISHMENT OF THE HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) GENERAL PURPOSE.—Not later than January 1, 1995, the Secretary shall establish a national health care fraud and abuse data collection program for the reporting of final adverse actions (not including settlements in which no findings of liability have been made) against health care providers, suppliers, or practitioners as required by subsection (b), with access as set forth in subsection (c).

(b) REPORTING OF INFORMATION.—

(1) IN GENERAL.—Each government agency and health plan shall report any final adverse action (not including settlements in which no findings of liability have been made) taken against a health care provider, supplier, or practitioner.

(2) INFORMATION TO BE REPORTED.—The information to be reported under paragraph (1) includes:

(A) The name of any health care provider, supplier, or practitioner who is the subject of a final adverse action.

(B) The name (if known) of any health care entity with which a health care provider, supplier, or practitioner is affiliated or associated.

(C) The nature of the final adverse action.

(D) A description of the acts or omissions and injuries upon which the final adverse action was based, and such other information as the Secretary determines by regulation is required for appropriate interpretation of information reported under this section.

(3) CONFIDENTIALITY.—In determining what information is required, the Secretary shall include procedures to assure that the privacy of individuals receiving health care services is appropriately protected.

(4) TIMING AND FORM OF REPORTING.—The information required to be reported under this subsection shall be reported regularly (but not less often than monthly) and in such form and manner as the Secretary prescribes. Such information shall first be required to be reported on a date specified by the Secretary.

(5) TO WHOM REPORTED.—The information required to be reported under this subsection shall be reported to the Secretary.

(c) DISCLOSURE AND CORRECTION OF INFORMATION.—

(1) DISCLOSURE.—With respect to the information about final adverse actions (not including settlements in which no findings of liability have been made) reported to the Secretary under this section respecting a health care provider, supplier, or practitioner, the Secretary shall, by regulation, provide for—

(A) disclosure of the information, upon request, to the health care provider, supplier, or licensed practitioner, and

(B) procedures in the case of disputed accuracy of the information.

(2) CORRECTIONS.—Each Government agency and health plan shall report corrections of information already reported about any final adverse action taken against a health care provider, supplier, or practitioner, in such form and manner that the Secretary prescribes by regulation.

(d) ACCESS TO REPORTED INFORMATION.—

(1) AVAILABILITY.—The information in this database shall be available to Federal and State government agencies and health plans pursuant to procedures that the Secretary shall provide by regulation.

(2) FEES FOR DISCLOSURE.—The Secretary may establish or approve reasonable fees for the disclosure of information in this database. The amount of such a fee may not exceed the costs of processing the requests for disclosure and of providing such information. Such fees shall be available to the Secretary or, in the Secretary's discretion to the agency designated under this section to cover such costs.

(e) PROTECTION FROM LIABILITY FOR REPORTING.—No person or entity, including the agency designated by the Secretary in subsection (b)(5) shall be held liable in any civil action with respect to any report made as required by this section, without knowledge of the falsity of the information contained in the report.

(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

(1) The term "final adverse action" includes:

(A) Civil judgments against a health care provider in Federal or State court related to the delivery of a health care item or service.

(B) Federal or State criminal convictions related to the delivery of a health care item or service.

(C) Actions by Federal or State agencies responsible for the licensing and certification of health care providers, suppliers, and licensed health care practitioners, including—

(i) formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation,

(ii) any other loss of license of the provider, supplier, or practitioner, by operation of law, or

(iii) any other negative action or finding by such Federal or State agency that is publicly available information.

(D) Exclusion from participation in Federal or State health care programs.

(E) Any other adjudicated actions or decisions that the Secretary shall establish by regulation.

(2) The terms "licensed health care practitioner", "licensed practitioner", and "practitioner" mean, with respect to a State, an individual who is licensed or otherwise authorized by the State to provide health care services (or any individual who, without authority holds himself or herself out to be so licensed or authorized).

(3) The term "health care provider" means a provider of services as defined in section 1861(u) of the Social Security Act, and any entity, including a health maintenance organization, group medical practice, or any other entity listed by the Secretary in regulation, that provides health care services.

(4) The term "supplier" means a supplier of health care items and services described in section 1819(a) and (b), and section 1861 of the Social Security Act.

(5) The term "Government agency" shall include:

(A) The Department of Justice.

(B) The Department of Health and Human Services.

(C) Any other Federal agency that either administers or provides payment for the delivery of health care services, including, but not limited to the Department of Defense and the Veterans' Administration.

(D) State law enforcement agencies.

(E) State medicaid fraud and abuse units.

(F) Federal or State agencies responsible for the licensing and certification of health care providers and licensed health care practitioners.

(6) The term "health plan" has the meaning given to such term by section 1128(i) of the Social Security Act.

(7) For purposes of paragraph (2), the existence of a conviction shall be determined under paragraph (4) of section 1128(j) of the Social Security Act.

(g) CONFORMING AMENDMENT.—Section 1921(d) of the Social Security Act is amended by inserting "and section ___21 of subtitle ___ of the ________ Appropriations Act of 1995" after "section 422 of the Health Care Quality Improvement Act of 1986".

PART 4—CIVIL MONETARY PENALTIES

SEC. ___31. CIVIL MONETARY PENALTIES.

(a) GENERAL CIVIL MONETARY PENALTIES.—Section 1128A of the Social Security Act (42 U.S.C. 1320a-7a) is amended as follows:

(1) In subsection (a)(1), by inserting "or of any health plan (as defined in section 1128(i))," after "subsection (i)(1)),".

(2) In subsection (b)(1)(A), by inserting "or under a health plan" after "title XIX".

(3) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraphs:

"(3) With respect to amounts recovered arising out of a claim under a health plan, the portion of such amounts as is determined to have been paid by the plan shall be repaid to the plan, and the portion of such amounts attributable to the amounts recovered under this section by reason of the amendments made by subtitle ___ of the ________ Appropriations Act of 1995 (as estimated by the Secretary) shall be deposited into the Health Care Fraud and Abuse Control Account established under section ___01(b) of such Act.".

(4) In subsection (i)—

(A) in paragraph (2), by inserting "or under a health plan" before the period at the end, and

(B) in paragraph (5), by inserting "or under a health plan" after "or XX".

(b) PROHIBITION AGAINST OFFERING INDUCEMENTS TO INDIVIDUALS ENROLLED UNDER PROGRAMS OR PLANS.—

(1) OFFER OF REMUNERATION.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a-7a(a)) is amended—

(A) by striking "or" at the end of paragraph (1)(D);

(B) by striking ", or" at the end of paragraph (2) and inserting a semicolon;

(C) by striking the semicolon at the end of paragraph (3) and inserting "; or"; and

(D) by inserting after paragraph (3) the following new paragraph:

"(4) offers to or transfers remuneration to any individual eligible for benefits under title XVIII of this Act, or under a State health care program (as defined in section 1128(h)) that such person knows or should know is likely to influence such individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, under title XVIII, or a State health care program;".

(2) REMUNERATION DEFINED.—Section 1128A(i) of such Act (42 U.S.C. 1320a-7a(i)) is amended by adding the following new paragraph:

"(6) The term 'remuneration' includes the waiver of coinsurance and deductible amounts (or any part thereof), and transfers of items or services for free or for other than fair market value. The term 'remuneration' does not include—

"(A) the waiver of coinsurance and deductible amounts by a person, if—

"(i) the waiver is not offered as part of any advertisement or solicitation;

"(ii) the person does not routinely waive coinsurance or deductible amounts; and

"(iii) the person—

"(I) waives the coinsurance and deductible amounts after determining in good faith that the individual is in financial need;

"(II) fails to collect coinsurance or deductible amounts after making reasonable collection efforts; or

"(III) provides for any permissible waiver as specified in section 1128B(b)(3) or in regulations issued by the Secretary;

"(B) differentials in coinsurance and deductible amounts as part of a benefit plan design as long as the differentials have been disclosed in writing to all third party payors to whom claims are presented and as long as the differentials meet the standards as defined in regulations promulgated by the Secretary; or

"(C) incentives given to individuals to promote the delivery of preventive care as determined by the Secretary in regulations.".

(c) EXCLUDED INDIVIDUAL RETAINING OWNERSHIP OR CONTROL INTEREST IN PARTICIPATING ENTITY.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a-7a(a)), as amended by subsection (b), is further amended—

(1) by striking "or" at the end of paragraph (3);

(2) by striking the semicolon at the end of paragraph (4) and inserting "; or"; and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) in the case of a person who is not an organization, agency, or other entity, is excluded from participating in a program under title XVIII or a State health care program in accordance with this subsection or under section 1128 and who, at the time of a violation of this subsection, retains a direct or indirect ownership or control interest of 5 percent or more, or an ownership or control interest (as defined in section 1124(a)(3)) in, or who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of, an entity that is participating in a program under title XVIII or a State health care program;".

(d) MODIFICATIONS OF AMOUNTS OF PENALTIES AND ASSESSMENTS.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a-7a(a)), as amended by subsections (b) and (c), is amended in the matter following paragraph (6)—

(1) by striking "$2,000" and inserting "$10,000";

(2) by inserting "; in cases under paragraph (4), $10,000 for each such offer or transfer; in cases under paragraph (5), $10,000 for each day the prohibited relationship occurs; in cases under paragraph (6) or (7), $10,000 per violation" after "false or misleading information was given";

(3) by striking "twice the amount" and inserting "3 times the amount"; and

(4) by inserting "(or, in cases under paragraph (4), 3 times the amount of the illegal remuneration)" after "for each such item or service".

(e) Claim for Item or Service Based on Incorrect Coding or Medically Unnecessary Services.—Section 1128A(a)(1) of the Social Security Act (42 U.S.C. 1320a–7a(a)(1)) is amended—

(1) in subparagraph (A) by striking "claimed," and inserting the following: "claimed, including any person who repeatedly presents or causes to be presented a claim for an item or service that is based on a code that the person knows or should know will result in a greater payment to the person than the code the person knows or should know is applicable to the item or service actually provided,";

(2) in subparagraph (C), by striking "or" at the end;

(3) in subparagraph (D), by striking "; or" and inserting ", or"; and

(4) by inserting after subparagraph (D) the following new subparagraph:

"(E) is for a medical or other item or service that a person repeatedly knows or should know is not medically necessary; or".

(f) Permitting Secretary To Impose Civil Monetary Penalty.—Section 1128A(b) of the Social Security Act (42 U.S.C. 1320a–7a(a)) is amended by adding the following new paragraph:

"(3) Any person (including any organization, agency, or other entity, but excluding a beneficiary as defined in subsection (i)(5)) who the Secretary determines has violated section 1128B(b) of this title shall be subject to a civil monetary penalty of not more than $10,000 for each such violation. In addition, such person shall be subject to an assessment of not more than twice the total amount of the remuneration offered, paid, solicited, or received in violation of section 1128B(b). The total amount of remuneration subject to an assessment shall be calculated without regard to whether some portion thereof also may have been intended to serve a purpose other than one proscribed by section 1128B(b).".

(g) Sanctions Against Practitioners and Persons for Failure to Comply with Statutory Obligations.—Section 1156(b)(3) of the Social Security Act (42 U.S.C. 1320c–5(b)(3)) is amended by striking "the actual or estimated cost" and inserting the following: "up to $10,000 for each instance".

(h) Procedural Provisions.—Section 1876(i)(6) of such Act (42 U.S.C. 1395mm(i)(6)) is further amended by adding at the end the following new subparagraph:

"(D) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under subparagraph (A) or (B) in the same manner as they apply to a civil money penalty or proceeding under section 1128A(a).".

(i) Effective Date.—The amendments made by this section shall take effect January 1, 1995.

PART 5—AMENDMENTS TO CRIMINAL LAW

SEC. ___41. HEALTH CARE FRAUD.

(a) In General.—

(1) Fines and imprisonment for health care fraud violations.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1347. Health care fraud

"(a) Whoever knowingly executes, or attempts to execute, a scheme or artifice—

"(1) to defraud any health plan or other person, in connection with the delivery of or payment for health care benefits, items, or services; or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health plan, or person in connection with the delivery of or payment for health care benefits, items, or services;

shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury (as defined in section 1365(g)(3) of this title), such person shall be imprisoned for any term of years.

"(b) For purposes of this section, the term 'health plan' has the same meaning given such term in section 1128(i) of the Social Security Act.".

(2) Clerical amendment.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1347. Health care fraud.".

(b) Criminal Fines Deposited in the Health Care Fraud and Abuse Control Account.—The Secretary of the Treasury shall deposit into the Health Care Fraud and Abuse Control Account established under section ___01(b) an amount equal to the criminal fines imposed under section 1347 of title 18, United States Code (relating to health care fraud).

SEC. ___42. FORFEITURES FOR FEDERAL HEALTH CARE OFFENSES.

(a) In General.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (5) the following new paragraph:

"(6)(A) The court, in imposing sentence on a person convicted of a Federal health care offense, shall order the person to forfeit property, real or personal, that—

"(i) is used in the commission of the offense if the offense results in a financial loss or gain of $50,000 or more; or

"(ii) constitutes or is derived from proceeds traceable to the commission of the offense.

"(B) For purposes of this paragraph, the term 'Federal health care offense' means a violation of, or a criminal conspiracy to violate—

"(i) section 1347 of this title;

"(ii) section 1128B of the Social Security Act;

"(iii) sections 287, 371, 664, 666, 1001, 1027, 1341, 1343, or 1954 of this title if the violation or conspiracy relates to health care fraud; and

"(iv) section 501 or 511 of the Employee Retirement Income Security Act of 1974, if the violation or conspiracy relates to health care fraud.".

(b) Property Forfeited Deposited in Health Care Fraud and Abuse Control Account.—The Secretary of the Treasury shall deposit into the Health Care Fraud and Abuse Control Account established under section ___01(b) an amount equal to amounts resulting from forfeiture of property by reason of a Federal health care offense pursuant to section 982(a)(6) of title 18, United States Code.

SEC. ___43. INJUNCTIVE RELIEF RELATING TO FEDERAL HEALTH CARE OFFENSES.

Section 1345(a)(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by inserting "or" at the end of subparagraph (B); and

(3) by adding at the end the following:

"(C) committing or about to commit a Federal health care offense (as defined in section 982(a)(6)(B) of this title);".

PART 6—PAYMENTS FOR STATE HEALTH CARE FRAUD CONTROL UNITS

SEC. ___51. ESTABLISHMENT OF STATE FRAUD UNITS.

(a) Establishment of Health Care Fraud and Abuse Control Unit.—The Governor of each State shall, consistent with State law, establish and maintain in accordance with subsection (b) a State agency to act as a Health Care Fraud and Abuse Control Unit for purposes of this part.

(b) Definition.—In this section, a "State Fraud Unit" means a Health Care Fraud and Abuse Control Unit designated under subsection (a) that the Secretary certifies meets the requirements of this part.

SEC. ___52. REQUIREMENTS FOR STATE FRAUD UNITS.

(a) In General.—The State Fraud Unit must—

(1) be a single identifiable entity of the State government;

(2) be separate and distinct from any State agency with principal responsibility for the administration of any Federally-funded or mandated health care program;

(3) meet the other requirements of this section.

(b) Specific Requirements Described.—The State Fraud Unit shall—

(1) be a Unit of the office of the State Attorney General or of another department of State government which possesses statewide authority to prosecute individuals for criminal violations;

(2) if it is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority and has formal procedures, (A) assure its referral of suspected criminal violations to the appropriate authority or authorities in the State for prosecution, and (B) assure its assistance of, and coordination with, such authority or authorities in such prosecutions; or

(3) have a formal working relationship with the office of the State Attorney General or the appropriate authority or authorities for prosecution and have formal procedures (including procedures for its referral of suspected criminal violations to such office) which provide effective coordination of activities between the Fraud Unit and such office with respect to the detection, investigation, and prosecution of suspected criminal violations relating to any Federally-funded or mandated health care programs.

(c) Staffing Requirements.—The State Fraud Unit shall—

(1) employ attorneys, auditors, investigators and other necessary personnel; and

(2) be organized in such a manner and provide sufficient resources as is necessary to promote the effective and efficient conduct of State Fraud Unit activities.

(d) Cooperative Agreements; Memoranda of Understanding.—The State Fraud Unit shall have cooperative agreements with—

(1) Federally-funded or mandated health care programs;

(2) similar Fraud Units in other States, as exemplified through membership and participation in the National Association of Medicaid Fraud Control Units or its successor; and

(3) the Secretary.

(e) Reports.—The State Fraud Unit shall submit to the Secretary an application and an annual report containing such information as the Secretary determines to be necessary to determine whether the State Fraud Unit meets the requirements of this section.

(f) FUNDING SOURCE; PARTICIPATION IN ALL-PAYER PROGRAM.—In addition to those sums expended by a State under section ___54(a) for purposes of determining the amount of the Secretary's payments, a State Fraud Unit may receive funding for its activities from other sources, the identity of which shall be reported to the Secretary in its application or annual report. The State Fraud Unit shall participate in the all-payer fraud and abuse control program established under section ___01.

SEC. ___53. SCOPE AND PURPOSE.

The State Fraud Unit shall carry out the following activities:

(1) The State Fraud Unit shall conduct a statewide program for the investigation and prosecution (or referring for prosecution) of violations of all applicable state laws regarding any and all aspects of fraud in connection with any aspect of the administration and provision of health care services and activities of providers of such services under any Federally-funded or mandated health care programs;

(2) The State Fraud Unit shall have procedures for reviewing complaints of the abuse or neglect of patients of facilities (including patients in residential facilities and home health care programs) that receive payments under any Federally-funded or mandated health care programs, and, where appropriate, to investigate and prosecute such complaints under the criminal laws of the State or for referring the complaints to other State agencies for action.

(3) The State Fraud Unit shall provide for the collection, or referral for collection to the appropriate agency, of overpayments that are made under any Federally-funded or mandated health care program and that are discovered by the State Fraud Unit in carrying out its activities.

SEC. ___54. PAYMENTS TO STATES.

(a) MATCHING PAYMENTS TO STATES.—Subject to subsection (c), for each year for which a State has a State Fraud Unit approved under section ___52(b) in operation the Secretary shall provide for a payment to the State for each quarter in a fiscal year in an amount equal to the applicable percentage of the sums expended during the quarter by the State Fraud Unit.

(b) APPLICABLE PERCENTAGE DEFINED.—

(1) IN GENERAL.—In subsection (a), the "applicable percentage" with respect to a State for a fiscal year is—

(A) 90 percent, for quarters occurring during the first 3 years for which the State Fraud Unit is in operation; or

(B) 75 percent, for any other quarters.

(2) TREATMENT OF STATES WITH MEDICAID FRAUD CONTROL UNITS.—In the case of a State with a State medicaid fraud control in operation prior to or as of the date of the enactment of this Act, in determining the number of years for which the State Fraud Unit under this part has been in operation, there shall be included the number of years for which such State medicaid fraud control unit was in operation.

(c) LIMIT ON PAYMENT.—Notwithstanding subsection (a), the total amount of payments made to a State under this section for a fiscal year may not exceed the amounts as authorized pursuant to section 1903(b)(3) of the Social Security Act. This section is effective one day after the date of enactment.

OLD FAITHFUL PROTECTION ACT OF 1994

BAUCUS (AND BURNS) AMENDMENT NO. 2600

(Ordered to lie on the table.)

Mr. BAUCUS (for himself and Mr. BURNS) submitted an amendment intended to be proposed by them to the bill (H.R. 1137) to amend the Geothermal Steam Act of 1970 (30 U.S.C. 1001–1027), and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

TITLE I—OLD FAITHFUL PROTECTION ACT

SECTION 101. SHORT TITLE.

This Title may be cited as the "Old Faithful Protection Act of 1993".

SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) Yellowstone National Park is a unique and irreplaceable national and international treasure and part of one of the few remaining undisturbed hydrothermal systems in the world;

(2) there is a risk that unrestricted hydrothermal or geothermal resource development adjacent to Yellowstone National Park in the States of Montana, Wyoming, and Idaho will interfere with or adversely affect the hydrothermal and geothermal features of such Park or the management of relevant mineral resources;

(3) further research is needed to understand the characteristics of the thermal systems and features and the effects of development on such systems and features on lands outside of Yellowstone National Park but within the Yellowstone Protection Area, as such area is defined in this Title;

(4) preservation and protection of the thermal system associated with and the features within Yellowstone National Park is a benefit to the people of the United States and the world;

(5) cooperation between the United States and the States of Montana, Idaho, and Wyoming to protect and preserve Yellowstone National Park is desirable; and

(6) as a settlement of litigation concerning water rights, including the reserved water rights of the United States associated with units of the National Park System in Montana, the Department of the Interior and the Department of Justice, on behalf of the United States, and a Compact Commission, on behalf of the State of Montana, have developed a Compact that constitutes such a settlement of litigation concerning matters within its scope and which, in Article IV, establishes a program for regulation of development and use of groundwater in areas adjacent to Yellowstone National Park.

(b) PURPOSES.—The purposes of this Title are—

(1) to require the Secretary to take the necessary actions to preserve and protect the thermal systems and features of Yellowstone National Park;

(2) to provide a framework for management by the States of Montana, Wyoming, and Idaho of regulated resources within the Yellowstone Protection Area outside of but directly related to Yellowstone National Park to preserve and protect the thermal systems and features of Yellowstone National Park;

(3) to authorize, as provided in section 8, approval of Article IV of the Compact as an appropriate State program;

(4) to require relevant research; and

(5) to authorize to be appropriated, as provided in section 112, necessary sums.

SEC. 103. DEFINITIONS.

For purposes of this Title:

(1) The term "Secretary" means the Secretary of the Interior except as otherwise provided.

(2) The term "Yellowstone Protection Area" means the area in Montana, Idaho, and Wyoming identified on the map entitled "Yellowstone Protection Area", numbered 20036A, and dated July 1994, and any modifications thereof as may be made under section 7.

(3) The term "thermal systems and features" means the hydrothermal and geothermal systems and features of Yellowstone National Park associated with the regulated resources within the Yellowstone Protection Area.

(4) The term "regulated resources" means—

(A) geothermal steam and associated geothermal resources, as defined in section 2(c) of the Geothermal Steam Act of 1970 (30 U.S.C. 1001(c)); or

(B) groundwater with a temperature in excess of 59 degrees Fahrenheit.

(5) The term "well" means a well or facility producing or intended to produce regulated resources but excludes facilities that would do no more than utilize the natural unenhanced surface flow of a natural spring.

(6) The term "approved State program" means a program of Montana, Idaho, or Wyoming that has been submitted to the Secretary and has been approved pursuant to this Title.

(7) The term "Compact" means the water rights compact entered into by the United States and the State of Montana on January 31, 1994.

(8) Except as otherwise provided in this title, terms used in this title shall have the same meaning as in the Geothermal Steam Act of 1970.

SEC. 104. RESTRICTION ON FEDERAL LANDS.

(a) The Congress hereby declares that—

(1) Yellowstone National Park possesses numerous thermal features, including Old Faithful geyser and approximately 10,000 other geysers and hot springs, and is hereby designated as a significant thermal feature unto itself; and

(2) Federal legislation is desirable to preserve and protect these features.

(b) The Congress hereby declares that any use of, or production from, any existing well, or any exploration for, or development of, any new well within the boundary of the Yellowstone Protection Area, as defined in section 103(2) of the Old Faithful Protection Act of 1994, risks adverse effects on the thermal features of Yellowstone National Park.

(c) Notwithstanding any other provision of law, the Secretary shall not issue any geothermal lease pursuant to the Geothermal Steam Act (30 U.S.C. 1001 and following) for lands within the boundary of the Yellowstone Protection Area. Nothing in this section shall be construed to apply to any lands not owned by the United States.

SEC. 105 MORATORIUM OF LANDS WITHIN THE YELLOWSTONE PROTECTION AREA.

(a) PROHIBITION.—Except as provided by sections 107 and 108 of this title, there shall be no use (except for monitoring by the Secretary or monitoring under an approved State program) of, or production from, any existing well and no exploration for, or development of, any new well within the Yellowstone Protection Area.

(b) MANAGEMENT.—The Secretary shall review National Park Service management of

Yellowstone National Park and shall take such steps as may be necessary to protect and preserve the thermal systems and features of such National Park.

SEC. 106. RESEARCH.

(a) In General.—The National Park Service, in consultation with the Forest Service, the United States Geological Survey, and each State agency implementing an approved State program, shall research the characteristics of the thermal systems and features within the Yellowstone Protection Area, inventory and research the existing and potential effects (including cumulative effects) of hydrothermal or geothermal development on such systems and features, and periodically, but not less than once every five years, inform Congress concerning the results of such inventory and research.

(b) Under State Program.—If an approved State program provides for research described in subsection (a), both the Secretary and the relevant State may conduct such research within the Yellowstone Protection Area.

(c) Nonintrusive Methodologies.—Except for research within a National Park System unit within the Yellowstone Protection Area approved by the Secretary or elsewhere under a permit issued by a State agency implementing an approved State program, research pursuant to this section shall exclusively use nonintrusive methodologies.

Limitation.—Nothing in this Title shall be construed as authorizing any activities within any unit of the National Park System in the Yellowstone Protection Area inconsistent with laws or policies applicable to the relevant unit.

SEC. 107. STATE MANAGEMENT PROGRAMS.

(a) Development.—The States of Montana, Wyoming, and Idaho are encouraged to develop and maintain State programs for the management of regulated resources outside of Yellowstone National Park to preserve and protect the thermal systems and features of Yellowstone National Park.

(b) Permit.—Except as provided for in section 6, as of the date of enactment of this Title, no person shall engage in any use (including research), production, exploration, or development of any regulated resources on non-Federal lands within the Yellowstone Protection Area except to the extent authorized by a permit issued by a State agency implementing an approved State program.

(c) State Authority.—(1) In the implementation of an approved State program, a State may exercise the authority to grant permits under subsection (b) for the use (including research), production, exploration, or development of any regulated resources within the Yellowstone Protection Area.

(2) Notwithstanding any other provision of law, no permit within the Yellowstone Protection Area for regulated resources issued prior to the date of enactment of this Title shall be deemed to have been issued in the implementation of approved State program: *Provided, however*, that permits issued by the State of Montana after January 31, 1994, shall be deemed to have been issued in the implementation of an approved State program.

(3)(A) The Secretary shall monitor the implementation of an approved State program (including the State's enforcement thereof) to assure consistency with the requirements of this Title.

(B) The Secretary may suspend implementation of an approved State program if such implementation (including the State's enforcement thereof) is not being exercised in a manner consistent with this Title. During any such suspension, no permit granted under such program shall be effective except to the extent the Secretary determines that the permitted activities would be consistent with the purposes of this Title.

(C) If an approved State program includes procedures for the exercise of the Secretary's authority to suspend such a program's implementation, the Secretary shall follow such procedures. If no such procedures are included in a State program, the Secretary shall provide notice and a reasonable time to comply with this Title.

(d) Approval By The Secretary.—(1) The Secretary shall approve a program submitted by a State if the Secretary determines that such program, when implemented, will fulfill the purposes of this Title regarding the protection of the thermal systems and features of Yellowstone National Park.

(2) The Secretary shall not approve any State program submitted under this section until the Secretary—

(A) solicited, publicly disclosed, and considered the views of the heads of other State and Federal agencies the Secretary determines are concerned with the proposed State program;

(B) solicited, publicly disclosed, and considered the views of the public; and

(C) found that the State has the necessary legal authority and personnel for the regulation and management of regulated resources outside Yellowstone National Park consistent with the requirements of this Title.

(3)(A) The Secretary may approve or disapprove a program in whole or in part.

(B) If the Secretary disapproves any proposed State program, in whole or in part, the Secretary shall notify the State in writing of the decision and set forth in detail the reasons therefor. The State may submit a revised State program or portion thereof.

(4) The Secretary shall not approve any State program that does not, at a minimum—

(A) include ongoing scientific review of restrictions, boundaries, and permits applicable to the development of a regulated resource;

(B) requires that, in conducting the scientific review referred to in subparagraph (A) and in implementing the State program, any doubt shall be resolved in favor of protection of the thermal systems and features of Yellowstone National Park; and

(C) allow the State agency authorized to administer the program to reject recommendations based on the scientific review referred to in subparagraph (A), to the extent such rejection is necessary to protect and preserve the thermal systems and features of Yellowstone National Park.

(e) Scope.—Except to the extent an approved State program is being implemented by a State, section 105(a) of this Title shall apply to the Yellowstone Protection Area.

(f) Modification of Yellowstone Protection Area.—(1) The boundaries of the Yellowstone Protection Area in a State may be modified pursuant to an approved State program if such modification is approved by the Secretary.

(2) The Secretary shall not approve any such modification that the Secretary finds would not be consistent with the purposes of this Title.

(3) The Secretary shall revise the map of the Yellowstone Protection Area to reflect any approved boundary modifications.

(4) If an approved State program includes procedures for the exercise of the Secretary's authority to approve modifications of the boundaries of the Yellowstone Protection Area, the Secretary shall follow such procedures.

(g) Cooperative Agreements.—The Secretary is authorized to enter into cooperative agreements with the States of Montana, Idaho, and Wyoming and with the Secretary of Agriculture to fulfill the purposes of his Title.

(h) Federal Financial Assistance.—(1) Subject to appropriation, the Secretary may provide financial assistance for the implementation of an approved State program. In providing such assistance, the Secretary may enter into appropriate funding agreements, including grants and cooperative agreements, with a State agency or agencies, upon such terms and conditions as the Secretary deems appropriate.

(2) A recipient State may invest funds provided under this subsection so long as such funds, together with interest and any other earnings thereon, shall be available for use by the State only under the terms and conditions of the approved State program and an agreement entered into with the Secretary under this subsection and shall not be used by the State for any other purpose.

SEC. 108. MONTANA PROGRAM.

(a) Approval.—(1) The Congress finds that Article IV of the Compact fulfills the purposes of this Title regarding the protection of the thermal systems and features of Yellowstone National Park.

(2) All provisions of section 107 are applicable to this section, except for purposes of section 107(d)(1) the Compact shall be deemed to have been submitted to the Secretary, and, notwithstanding sections 107(d)(2), 107(d)(3), and 107(d)(4), Article IV thereof shall be considered an approved State program for regulation of groundwater resources within the Montana portion of the Yellowstone Protection Area. Article IV of the Compact shall not be considered an approved State program for the management of regulated resources within the Montana portion of the Yellowstone protection area other than groundwater resources.

(b) Scope.—Nothing in this Title shall be construed as amending the Compact or as altering its status in relationship to any litigation with regard to water rights.

(c) Review Procedures.—For purposes of sections 107(c)(3)(B), 107(c)(3)(C), 107(f)(1), and 107(f)(2), the provisions of the Compact with respect to—

(1) review of administrative decisions under Article IV of the Compact;

(2) enforcement of the Compact;

(3) the discretion of any party to the Compact to withdraw therefrom; and

(4) modification of boundaries and restrictions within the Controlled Groundwater Area, shall be deemed to be procedures for the exercise of the Secretary's authority to approve modifications of the boundaries of the Yellowstone Protection Area or to suspend the implementation of an approved State program.

SEC. 109. IDAHO AND WYOMING PROGRAMS.

(a) Section 104, subsection 105(a), subsection 107(b), and paragraph 107(c)(2) shall not be effective with respect to the Yellowstone Protection Area within the State of Idaho and the State of Wyoming for two years after the date of enactment of this Title if the Governor of the State notifies the Secretary that the State will prohibit any permit action or other approval action involving regulated resources within the Yellowstone Protection Area during such two year period.

(b)(1) The State of Wyoming or the State of Idaho may, within the two year period provided for in subsection (a), submit a state program to the Secretary for approval.

(2) Upon receipt of a state program within the two year period provided for in subsection (a), the Secretary shall review such program pursuant to section 107.

(c) Section 104, subsections 105(a), 107(b), and paragraph 107(c)(2) shall become effective with respect to the Yellowstone Protection Area within the State of Idaho or the State of Wyoming:

(1) upon the approval or disapproval of the respective State program;

(2) at the end of the two year period provided for in subsection (a); or

(3) if the State takes any permit action or other approval action contrary to the notification provided to the Secretary pursuant to subsection (a).

SEC. 110. JUDICIAL REVIEW.

(a) ADMINISTRATIVE PROCEDURES.—Except as provided in this section, any Federal agency action or failure to act to implement or enforce this Title shall be subject to judicial review in accordance with and to the extent provided by chapter 7 of title 5, United States Code.

(b) REMEDY.—The sole remedy available to any person claiming deprivation of a vested property right by enactment of this Title or Federal action pursuant to this Title shall be an action for monetary damages, filed pursuant to sections 1491 or 1505 of title 28, United States Code, in the Court of Federal Claims. Any just compensation awards determined by the Court of Federal Claims to be due to a claimant, shall be paid consistent with section 2517 of such title.

SEC. 111. REGULATIONS.

No later than two years after the date of enactment of this Title, the Secretary shall promulgate such rules and regulations as are necessary to implement this Title.

SEC. 112. AUTHORIZATION APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Title.

SEC. 113. SCOPE OF TITLE.

Nothing in this Title shall be construed as increasing or diminishing any rights of the United States with respect to water, or as affecting any previous adjudication of or any agreement concerning any such rights.

SEC. 114. LAND EXCHANGE.

(a) GENERAL.—Notwithstanding any other provision of law and subject to the provisions of this title, the Secretary of Agriculture shall acquire by exchange certain lands and interests in lands owned by the Church Universal and Triumphant, its successors and assigns, (referred to in this title as "the Church"), located in the Yellowstone Controlled Groundwater Area and Corwin Springs Known Geothermal Resource Area of the Gallatin National Forest.

(b) OFFER AND ACCEPTANCE OF LAND AND INTEREST IN LAND.—

(1) NON-FEDERAL LANDS AND INTERESTS.—If the Church offers:

(i) title that is acceptable to the United States to all rights, title, and interests to approximately 26 acres of land owned by the Church as depicted on the maps entitled "Church/Forest Service Land Exchange Proposal", dated July 1994;

(ii) all right, title and interest to the subsurface regulated resources estate on all Church properties within the Yellowstone Controlled Groundwater Area;

(iii) a perpetual public access road and utility easement of 60 feet in width, plus allowance for cuts and fills, over Church property to the Gallatin National Forest lands in the Cutler Homestead/Sentinel Butte area, as depicted on the maps referenced in paragraph (b)(1)(i); and

(iv) other rights and covenants in accordance with the terms of the "Church/Forest Service Land Exchange Specifications" document prepared pursuant to paragraph (b)(3); the Secretary of Agriculture shall accept a warranty deed to the land specified in paragraph (b)(1)(i), a special warranty deed to the regulated resources specified in paragraph (b)(1)(ii), State water rights transfer documents, and any other such instruments as may be necessary to transfer the above referenced property interests.

(2) FEDERAL LAND AND INTERESTS.—

(A) GENERAL.—Upon acceptance by the Secretary of Agriculture of title to the lands, interests, and rights and covenants offered by the Church pursuant to paragraph (b)(1):

(i) the Secretary, upon request by the Secretary of Agriculture, shall convey by patent to the Church, subject to all valid existing rights, and a reservation to the United States of all regulated resources, title to approximately 11 acres within the Gallatin National Forest, as depicted on the map referenced in paragraph (b)(3);

(ii) the Secretary of Agriculture shall convey an easement to the Church granting the right to collect and transport across Federal lands the natural unenhanced surface flow at LaDuke Hot Springs from its source to the east bank of the Yellowstone River as depicted on the maps referenced in paragraph (b)(1), and the United States shall withdraw all of its water rights claims and objections filed with regard to LaDuke Hot Springs in pending water rights adjudications under Federal and State law;

(iii) the Secretary shall grant to the Church standard Forest Service rights-of-way authorizations for existing roads across National Forest System land as generally depicted on the maps referenced in paragraph (b)(1) and further defined by the document referenced in paragraph (b)(1)(i); and

(iv) the Secretary shall grant to the Church other rights and covenants in accordance with the terms of the "Church/Forest Service Land Exchange Specifications" document pursuant to paragraph (b)(3).

(B) SURVEYS.—Surveys prepared to standards approved by the Secretary shall be furnished by the Church for the affected Federal and non-Federal lands and surface interests prior to conveyance of the Federal lands and interests in this exchange.

(3) AGREEMENT.—The document entitled "Church/Forest Service Land Exchange Specifications," jointly developed and agreed to by both parties, shall define the non-Federal and Federal lands and interests involved in this exchange, including legal descriptions of lands and interests, and other terms, conditions, and covenants, but shall not include any minimum surface flow requirements to the Yellowstone River from LaDuke Hot Springs. Such document, upon completion, shall be transmitted to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives and shall not take effect until 60 days after receipt by both Committees.

(c) TITLE.—

(1) REVIEW OF TITLE.—Within ninety days of receipt of the approved surveys and title documents from the Church, the Secretary shall review the title for the non-Federal lands described in paragraph (b) and determined whether—

(A) the applicable title standards for Federal land acquisition have been satisfied subject to any variances expressly contained in this title; and

(B) all draft conveyances and closing documents have been received and approved.

(2) CONVEYANCE OF TITLE.—In the event the quality of title does not meet Federal standards or is otherwise unacceptable to the Secretary, the Secretary shall advise the Church regarding corrective actions necessary to cure title defects. The conveyance of lands to the Church described in paragraph (b)(2)(A) shall be completed not later than ninety days after the Secretary has approved title.

SEC. 15. GENERAL PROVISIONS.

(a) MAPS AND DOCUMENTS.—The maps referred to in section 14 are subject to corrections for any technical errors in describing the properties. The maps and documents described in section 14(b)(1) and (3) shall be on file and available for public inspection in the Office of the Chief of the Forest Service, in Washington, D.C.

(b) NATIONAL FOREST SYSTEM LANDS.—All lands and interests in lands conveyed to the United States under this Title shall be administered in accordance with the laws and regulations pertaining to the National Forest System.

(c) VALUATION.—The value of the lands and interests in lands to be exchanged under this Title and described in section 14(b) are deemed to be equal, and therefore, no appraisals shall be required.

TITLE II.—LOST CREEK LAND EXCHANGE.

SEC. 201. SHORT TITLE.

This title may be cited as the "Lost Creek Land Exchange Act of 1994".

SEC. 202. LAND EXCHANGE.

(a) GENERAL.—Notwithstanding any other provision of law, the Secretary of Agriculture (hereinafter referred to in this title as the "Secretary") is authorized and directed to acquire by exchange certain lands and interests in lands owned by the Brand S Corporation, its successors and assigns, (hereinafter referred to in this title as the "Corporation"), located in the Lost Creek area of the Deerlodge National Forest and within the Gallatin National Forest.

(b) OFFER AND ACCEPTANCE OF LAND.—

(1) NON-FEDERAL LAND.—If the Corporation offers to convey to the United States fee title that is acceptable to the United States to approximately 18,300 acres of land owned by the corporation and available for exchange, as depicted on the maps entitled "Brand S/Forest Service Land Exchange Proposal," numbered 1 through 3, dated March 1994, and described in the "Land Exchange Specifications" document pursuant to paragraph (b)(3), the Secretary shall accept a warranty deed to such lands.

(2) FEDERAL LAND.—Upon acceptance by the Secretary of title to the Corporation's lands pursuant to paragraph (b)(1) and upon the effective date of the document referred to in paragraph (b)(3), and subject to valid existing rights, the Secretary of the Interior shall convey, by patent, the fee title to approximately 10,800 acres on the Deerlodge and Gallatin National Forests, and by timber deed, the right to harvest approximately 3.5 million board feet of timber on certain Deerlodge National Forest lands, as depicted on the maps referenced in paragraph (b)(1) and further defined by the document reference in paragraph (b)(3): Provided, That, except for the east ½ of sec. 10, T3S, R8E, the Secretary shall not convey to the Corporation the lands on the Gallatin National Forest identified as the "Wineglass Tract" on the map entitled "Wineglass Tract," dated September 1994, unless the Secretary finds that measures are in place to protect the

scenic, wildlife, and open space values of the Wineglass Tract. Such finding shall be contained in the document referenced in paragraph (b)(3)

(3) AGREEMENT.—A document entitled "Brand S/Forest Service Land Exchange Specifications," shall be jointly developed and agreed to by the Corporation and the Secretary. Such document shall define the non-Federal and Federal lands to be exchanged, and shall include legal descriptions of such lands and interests therein, along with any other agreements. Such document shall be transmitted, upon completion, to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives and shall not take effect until 60 days after transmittal to both Committees.

(4) CONFLICT.—In case of conflict between the maps referenced in paragraph (b)(1) and the document referenced in paragraph (b)(3), the maps shall govern.

(c) TITLE.—

(1) REVIEW OF TITLE.—Within sixty days of receipt of title documents from the Corporation, the Secretary shall review the title for the non-Federal lands described in paragraph (b) and determine whether—

(A) applicable title standards for Federal land acquisition have been satisfied or the quality of title is otherwise acceptable to the Secretary;

(B) all draft conveyances and closing documents have been received and approved;

(C) a current title commitment verifying compliance with applicable title standards has been issued to the Secretary; and

(D) the Corporation has complied with the conditions imposed by this title.

(2) CONVEYANCE OF TITLE.—In the event the title does not meet Federal standards or is otherwise unacceptable to the Secretary, the Secretary shall advise the Corporation regarding corrective actions necessary to make an affirmative determination. The Secretary, acting through the Secretary of the Interior, shall effect the conveyance of lands described in paragraph (b)(2) not later than ninety days after the Secretary has made an affirmative determination.

(d) RESOLUTION OF PUBLIC ACCESS.—The Secretary is directed, in accordance with existing law, to improve legal public access to Gallatin National Forest System lands between West Pine Creek and Big Creek.

SEC. 203. GENERAL PROVISIONS

(a) MAPS AND DOCUMENTS.—The maps referred to in section 202(b)(1) shall be subject to such minor corrections as may be agreed upon by the Secretary and the Corporation. The maps and document described in section 202(b) (1) and (3) shall be on file and available for public inspection in the appropriate offices of the Forest Service.

(b) NATIONAL FOREST SYSTEM LANDS.—

(1) IN GENERAL.—All lands conveyed to the United States under this title shall be added to and administered as part of the Deerlodge or Gallatin National Forests, as appropriate, and shall be administered by the Secretary in accordance with the laws and regulations pertaining to the National Forest System.

(2) WILDERNESS STUDY AREA ACQUISITIONS.—Until Congress determines otherwise, lands acquired within the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area pursuant to this Title shall be managed by the Secretary of Agriculture and the Secretary of the Interior, as appropriate, so as to maintain the presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

(c) VALUATION.—The values of the lands and interests in lands to be exchanged under this title and described in section 202(b) are deemed to be of approximately equal value.

(d) LIABILITY FOR HAZARDOUS SUBSTANCES.—

(1) The Secretary shall not acquire any lands under this title if the Secretary determines that such lands, or any portion thereof, have become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601)).

(2) Notwithstanding any other provision of law, the United States shall have no responsibility or liability with respect to any hazardous wastes or other substances placed on any of the lands covered by this title after their transfer to the ownership of another party, but nothing in this title shall be construed as either diminishing or increasing any responsibility or liability of the United States based on the condition of such lands on the date of their transfer to the ownership of another party.

PROPOSED REPORT LANGUAGE

H.R. 1137—The Old Faithful Protection Act

The Forest Service is encouraged to expedite land exchanges with the Idaho Department of Lands within the Yellowstone Protection Area in order to consolidate land ownerships.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. KOHL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, September 29, 1994, at 10:30 a.m., in SR-332, to consider the nomination of Marsha P. Martin, of Texas, to be a member of the Farm Credit Administration Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. KOHL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 2:00 p.m. on Thursday, September 29, 1994, in open session, to consider the following pending military nominations: Gen. Ronald R. Fogleman, USAF for reappointment to the grade of General and to be Chief of Staff, U.S. Air Force; Lt. Gen. John J. Sheehan, USMC for appointment to the grade of General and to be Commander in Chief, U.S. Atlantic Command; Gen. Robert L. Rutherford, USAF for reappointment to the grade General and to be Commander in Chief, U.S. Transportation Command and Commander, Air Mobility Command; and Lt. Gen. Daniel W. Christman, USA for reappointment to the grade of Lieutenant General and to be assistant to the Chairman of the Joint Chiefs of Staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. KOHL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., August 29, 1994, to receive testimony on the agreement for cooperation on peaceful uses of atomic energy between the United States and the European Atomic Energy Community [Euratom].

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. KOHL. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today, September 29, 1994 at 10:00 a.m., to consider legislation to approve and implement the Uruguay round of multilateral trade negotiations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. KOHL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, September 29, 1994 at 1:00 p.m. to hold a hearing on implementation of the Violence Against Women Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. KOHL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, September 29, 1994 at 10:00 a.m. to a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. KOHL. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Thursday, September 29, 1994, at 9:30 a.m. to hold a hearing titled "Uninsured Bank Products: Risky Business for Seniors?" to examine the sale of uninsured bank products to older Americans.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CLEAN WATER, FISHERIES AND WILDLIFE

Mr. KOHL. Mr. President, I ask unanimous consent that the Subcommittee on Clean Water, Fisheries and Wildlife, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, September 29, beginning at 9:30 a.m., to conduct a hearing on the reauthorization of the Endangered Species Act focusing on conservation on public lands.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FORCE REQUIREMENTS AND PERSONNEL

Mr. KOHL. Mr. President, I ask unanimous consent that the Subcommittee on Force Requirements and Personnel of the Committee on Armed Services be authorized to meet at 9:30 a.m. on Thursday, September 29, 1994, in open session, to receive testimony on the Department of Defense response to the Persian Gulf illness.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

POLISH ARMED FORCES CONTRIBUTIONS IN WORLD WAR II

• Mr. LAUTENBERG. Mr. President, today I am submitting for the RECORD a study entitled "Polish Armed Forces Contributions to Allied Victory in World War II." The study was prepared for the New Jersey Polish-American Congress and is an overview of Polish military and paramilitary activities dating from the Nazi invasion of Poland on September 1, 1939, to the surrender of Nazi forces nearly 6 years later, on May 8, 1945.

The study's author is retired Rear Adm. Sigmund Bajak, USNR. A member of the Polish-American Congress, Admiral Bajak is a veteran of World War II, Korea, and Vietnam. He is currently completing a doctorate in Polish military history at the University of Warsaw.

I hope my colleagues find this study informative.

I ask that the full text of my statement, as well as the accompanying study appear in the RECORD.

The study follows:

POLISH ARMED FORCES CONTRIBUTIONS TO ALLIED VICTORY IN WORLD WAR II

(By Sigmund Bajak)

Introduction: On May 8, 1945, when United States Army General Carl Spaatz, together with his Allied military colleagues, accepted the unconditional surrender of Germany in the Berlin suburb of Karlhorst the Polish Armed Forces numbered about 600,000. Of this total, 180,000 Polish soldiers were part of the 400,000-strong Soviet Army which conquered Berlin. The remainder of the Polish Forces served throughout the western front with the Allies.

In addition to regular Polish Forces, hundreds of thousands of Poles fought in the Polish underground armies in Poland as well as in the occupied countries of Europe. In Poland itself there were four different underground armies numbering about 500,000 partisans of both sexes and all ages. They were: the Home Army, Peasant Battalions, the Peoples Army and the National Armed Forces.

Son of Poland Pope John Paul II, on the 10th anniversary of his pontificate, said, "In World War II, on every front, Poles shed their blood for independence. Polish independence cannot be measured in geopolitical terms, but only according to authentic criteria of national sovereignty in its own nation."

It is necessary to elaborate on the participation of Poles in World War II, if only in the briefest terms, to truly understand Polish contributions to allied victory. What follows is a partial review of the efforts of Poles, in and out of uniform, as they fought from 1939 to 1945 for their independence and for the Allied cause.

POLAND—SEPTEMBER 1939

Westerplatte (Located in the Baltic Port of Gdańsk—a Free City): At 4 AM on September 1, 1939 the German battleship *Schleswig-Holstein* opened fire on the small Polish military transit depot, at Westerplatte. Major Henryk Sucharski, and his force of about 170 men held their ground for 7 days against overwhelming numbers of German ground troops before being forced to surrender. General Eberhadt, Commander of the German forces in Gdańsk, refused to accept the Major's sword because of the uncommon bravery shown by the Polish garrison. The sword was later taken away from the Major at a German prison camp.

Bzura River Counteroffensive (The Bzura River lies on a path Leczyca-Lowicz-Sochaczew, and joins the Vistula at Wyszogrod): On the evening of September 9, 1939, General Tadeusz Kutrzeba and his Polish Army of Poznań, located in northwest Poland, attacked the 4th, 8th and 10th German armies as they progressed eastward toward Warsaw. Kutrzeba was successful in delaying the Germans for two days before the Wermacht overwhelmed his forces. Kutrzeba's effort gave the Polish Warsaw and Lublin Armies time for reorganization after the initial German offensive.

The Hel Peninsula (Located between the Bay of Gdańsk and the Baltic Sea): Polish Admiral Józef Unrug, a Pole of German heritage, did not surrender his command, located on the Hel peninsula, until October 2, 1939 four days after Warsaw was forced to capitulate. Before doing so he gave his staff permission to attempt escape by sea to Sweden. During the surrender a German trawler was sunk by one of the Admiral's mines. It's reported that the Admiral always insisted on a translator in the Germany prison camp because he said he was a Pole.

Defense of Poland: The defense of Warsaw began on September 8, 1939. On the 17th of September the Red Army crossed the eastern borders of Poland and began its march toward Warsaw. Warsaw capitulated on September 28, 1939. German losses were about 45,000 killed and wounded. Poland lost 200,000 or more soldiers killed or wounded. The Germans took some 400,000 Polish soldiers prisoner and about 200,000 were taken by the Soviets. Another 85,000 soldiers were interned in Rumania, Hungary, Latvia and Lithuania. Both the victorious Germans and Soviets murdered thousands of Polish prisoners of war. Probably the best known atrocity was the murder of more than 15,000 Police officers and men by the Soviets at Katyn forest.

ENIGMA—JULY 1939

During the period 1933–1938 three Polish mathematician-decryptologists managed to construct their version of a German Enigma code machine. These scientists, Messrs. Marian Rejewski, Henryk Zygalski and Jerzy Rózycki, successfully broke the German code. At the end of July 1939, the Polish General Staff turned over the Polish Enigmas and decoded German ciphers to France and Great Britain. In Britain, operation "Magic" made use of the Poles' findings at the Center of Decryptology located in Bletchley. All Enigma and operation "Magic" files have not been declassified. Despite this fact, there is no disagreement among historians as to the role the Enigmas, further developed and used by the Allies, had on the outcome of the war.

POLISH ARMY IN FRANCE—1939 TO 1940

On September 20, 1939, Polish General Wladyslaw Sikorski, who would become the Commander-in-Chief of all Polish Armed Forces, was appointed commander of all Polish forces in France by the exiled Polish government in France officially recognized by the Allies on September 30, 1939. On June 5, 1940 when the Germans attacked France, Sikorski had an army of about 82,000 soldiers. In view of the military situation on France, Sikorski and Polish President Raczkiewicz flew to London and met with Winston Churchill who was moved by the Poles determination to continue their fight against the enemy. On June 21, 1939 following the French defeat only 27,000 Polish officers and men were evacuated to Britain with the President of Poland who was welcomed by King George VI.

TATRA HIGHLANDS RIFLE BRIGADE IN NARVIK, NORWAY—SPRING 1940

When the Germans attacked Norway on April 9, 1940, the Tatra Brigade was sent to Norway as part of an Allied Expeditionary Force to take back Narvik from a strong German force. The attack was successful but in view of the situation in France, the Allies decided to evacuate the Expeditionary Force to Brest and the Tatra Brigade provided cover for the evaluation. Three Polish destroyers, *Lightning*, *Storm* and *Thunder* protected Polish passenger liners, *Batory*, *Sobieski* and *Chrobry*, which were used to transport the Force. *Chrobry* was sunk on May 16, 1940 in the vicinity of Bodo. The Tatra Brigade reached Brest but was disbanded after France fell. Some members of the Brigade who were able to flee French ports, with great difficulty, reached Scotland to resume the fight.

CARPATHIAN RIFLE BRIGADE IN TOBRUK, LIBYA—1941 TO 1942

In August 1941 the Brigade, 4,683 strong and under cover of darkness, landed at Tobruk and eventually took up positions at the foot of Ras al-Medauar. Behind Ras al-Medauar were amassed 380 machine guns and another 110 guns of various sizes manned by crack German troops. On December 1, 1941 the Brigade attacked the German positions and at 1000 hours the red and white flag of the Polish Republic flew atop Ras al-Medauar. After the blockade of Tobruk, the Brigade took part in the counter-offensive of the British 8th Army. On the 15th of December they broke through the German-Italian lines at El Gazala. On March 24, 1942 the Brigade returned from the front to Egypt.

POLISH ARMED FORCES ON THE WESTERN FRONT FROM 1942 TO 1945

General Maczek's Polish First Armored Division: The 1st Polish Armored Division led by General Stanislaw Maczek began organizing in England on February 25, 1942. It was made up of Poles who managed to flee from France, and Polish soldiers repatriated from the Soviets following Polish-Soviet negotiations which took place on July 30, 1941. At the end of July 1944, the Division was in France; it numbered 885 officers and about 15,000 men. Maczek and his Poles fought in the Falaise-Chambois-Mont Ormel region, breaking through the 1st SS Adolf Hitler Division and the 12th SS Hitlerjugend Division and taking almost 5,000 prisoners including one general and 150 officers.

On September 28, 1944 the Division crossed the French-Belgian border and freed Ypres. Moving northward on October 27th they freed Breda, and the village made every member of the Division an honorary citizen. For the next five months the Division guarded the port of Antwerp in Belgium where the Allies shipped war supplies for the European campaign. In April, 1945, the Division was again in combat at the Kusten Canal and on

May 4, 1945, participated in the attacks on Wilhelmshaven. The following day the German forces in this area surrendered. The total losses of the First Armored Division were 1,290 dead, 3,803 wounded and 585 missing as it fought for Polish independence and Allied victory.

Polish Second Corps on the Italian Front—Monte Cassino, Ancona and Bologna: The Polish 2nd Corps was organized in 1943 from repatriated Polish soldiers who had been captured by the Soviets in 1939. The Corps was composed of 52,692 soldiers led by Polish General Wladyslaw Anders who reported to the British 8th Army Commander General Oliver Leese. General Leese ordered the Poles to take the Monte Cassino complex. The extremely bloody fighting began on May 11, 1944 and ended on May 19th when Monte Cassino was taken by the Poles. This forced the Germans to fall back from the Gustav line to the Hitler line of defense. The Polish losses included 4,290 killed, wounded and missing. British Marshal Alexander sent a signal to the Poles which said that if he had the opportunity to choose those he wanted to serve under his command, his choice would be the Poles of the 2nd Corps. The Marshal ended his signal with a salute of deep respect.

Monte Cassino was only a warmup for the Polish 2nd Corps. The following month, June 15, 1944, the Corps was transferred to the Adriatic front. From that date to the first days of September the Corps advanced, fighting brilliantly, taking Ancona and breaking the northern German defense line near Pesaro. The Poles took about 4,000 German prisoners and more than 300 weapons of all types. They buried nearly 3,000 Germans. General Leese congratulated General Anders and his soldiers for conducting a most successful campaign.

The Polish Corps moved slowly northward during the winter and early spring over difficult mountain terrain and in very bad rainy weather. By April 9th the Corps began its final thrust to Bologna. The way was mined and trapped. There were seven rivers to cross: Senio, Santerno, Sellustra, Sillaro, Giaino, Idice and Svena. On April 15, 1944 at 0600 hours the Poles entered Bologna following the American 5th Army which entered at 0800. The new British 8th Army Commander, General MacCreery, signalled General Anders: "In your march on the Vis Emilia to Bologna you fought the 26th and 1st German armored divisions and four parachute divisions, some of the best in the German Army. In these operations you showed admirable fighting spirit, steadfastness and competence in battle. I send you and all your officers and men my warmest congratulations and expressions of admiration." The campaign on the Adriatic side of Italy cost the 2nd Polish Corps 2,300 killed, 8,000 wounded and 264 missing.

POLISH AIR FORCE AND THE AIR BATTLE OF BRITAIN

After the defeat of Poland, much of the Polish Air Force fled to France. During the invasion of France, Poles downed 56 German aircraft and damaged another 9. Polish losses were 26 killed which included 11 pilots. Following the capitulation of France, 986 officers and 3,217 men of the Polish Air Force managed to escape to England.

In England, the Polish Air Force was organized into two fighter divisions—the 302 and 303—and two bomber divisions, the 300 and 301. After training conducted by the Royal Air Force (RAF), the Poles contributed to Allied victory in the Battle of Britain during the period August 8, to October 31, 1940. The score for Polish pilots was 203 enemy aircraft shot down, 35 probables, and 35 damaged. This was more than 25 percent of all the German air losses. The Poles lost 33 pilots out of a total of 131 who took part in the battle.

POLISH NAVY 1939 TO 1945

According to an agreement between Poland and Britain signed on November 19, 1939, what remained of the Polish Navy came under the command of the British Admiralty which also leased the Poles a number of ships. With this arrangement the Polish fleet numbered two cruisers, 10 destroyers, five submarines, 30 miscellaneous craft and 47 naval personnel units. The Polish fleet engaged the enemy 665 times sinking seven warships, two submarines, 339 transports and shooting down 20 enemy aircraft. Perhaps the most memorable of these engagements took place the night of May 26–27, 1941, when the Polish destroyer *Lightning*—as part of the 4th British Destroyer Flotilla—sighted and attacked the crippled German battleship *Bismarck*. The *Bismarck* was sunk on the morning of May 27th by the British Fleet.

Polish Navy losses during the war were 404 killed and 191 wounded. The fleet lost 13 ships of all types, two submarines and 74,500 tons of shipping.

THE POLISH UNDERGROUND 1940 TO 1945

HOME ARMY: The Home Army, otherwise known as the AK (an acronym for "Armia Krajowa") was by far the largest partisan organization in occupied Poland. On March 1, 1944, the AK numbered 389,129 soldiers. The Army conducted 1,175 recorded actions which included train derailments, burning of trains and the destruction of 38 bridges. In addition, the AK damaged 19,508 railroad cars, destroyed 1,167 containers of gasoline, burned 272 supply warehouses and damaged 4,326 vehicles of various types. German supply lines and communication points were constantly under attack. A number of Gestapo jails were broken into and almost 2,000 Gestapo agents were assassinated.

PEOPLES ARMY: The communist dominated Peoples Army was formed on January 1, 1944 and was joined by the Peoples Guards which created a partisan force of about 50,000 soldiers. The Army reported more than 1,550 actions which included 774 attacks on enemy transport and communications. There were 220 counterattacks against German terrorist activities and 190 sorties against the German military supply infra-structure. There were 370 battles recorded against the Wehrmacht and German Security Forces.

OPERATION "BURZA" (STORM): In January 1944, plan Burza was executed. The AK in an effort to reclaim Polish territories attacked retreating German forces and bands of Ukrainian Nationalists alongside the Red Army. At first there was cooperation between the Poles and the Reds. But in less than three weeks of Operation Burza AK General Okulicki was forced to disband the AK because he had no choice. The Red Army disarmed the Poles and sent some to the Polish Army in Wolyn and interned a portion in Vilno. The remainder were arrested and sent to camps in the USSR. About 200,000 members of the Home Army, including some 50,000 soldiers were deported to the east.

WARSAW UPRISING ON AUGUST 1, 1944: The eastern battle front had moved very close to Warsaw by the summer of 1944. This encouraged the Home Army Command (AK), in concert with the Polish government in exile, to liberate Warsaw by attacking the German occupation forces. An attack was ordered and a catastrophe ensued. Promised supplies from the west by air drop never came. In the east, Stalin's armies, which included General Zygmunt Berling's Polish army, were not allowed by Stalin to cross the Vistula to support the uprising. More than 10,000 insurgents were killed, most of them young men and women. Nearly 7,000 were wounded and 5,000 were missing. More than 188,000 civilians were killed. Hitler personally ordered that survivors vacate the city and that the German Army destroy all of Warsaw.

POLISH ARMY IN THE USSR AND THE EASTERN FRONT

REPATRIATION OF POLISH ARMY: When Hitler attacked the USSR in June 1941 Stalin found himself on the side of the Allies. This opened the door to diplomatic relations between Poland and the Soviets. On July 30, 1941, an agreement was reached between the Poles and the Soviets with the help of the British. General Sikorski met Stalin in Moscow December 3rd and 4th and discussed the repatriation of Polish prisoners of war in the custody of the Soviets and the freeing of Polish civilians.

From January 13 to 25, 1942, the Polish Army was transferred from the various Soviet prison camps to southern asiatic republics in the USSR. Polish prisoners were held in far away Soviet camps under extremely difficult conditions. Thousands of Poles died in captivity. An accounting of Poles held prisoner was almost impossible and research concerning those that never returned from captivity continues to this day. Finally, by the summer of 1942 the Poles were evacuated to Persia in two groups. The final count was 115,742 persons. There were 78,470 soldiers and 32,272 civilians which included 12,733 war orphans.

The repatriated Polish officers and men evacuated to Persia under the leadership of General Anders formed the 2nd Polish Corps which fought so well on the Italian front.

POLISH ARMY IN THE USSR: In April of the following year, the Poles in London and the Soviets broke off diplomatic relations. For Poles who had not managed to leave the USSR with General Anders this was another opportunity to fight the Germans. In May 1943 the 1st Polish Infantry Division was formed in Sielce under the leadership of Colonel Zygmunt Berling. By October 1943 the formation was large enough to be designated the 1st Polish Army Corps.

The baptism of battle for the 1st Polish Infantry occurred in the area of Lenino. Action against strong German forces began on October 12, 1943. The Poles showed a great will to fight and inflicted heavy losses on the enemy. More than 1,500 Germans were killed and 329 taken prisoner. The Poles lost 502 killed, 1,776 wounded and 663 missing.

The 1st Polish Army Corps by March 1944 had grown to the 1st Polish Army commanded by newly promoted, General Zygmunt Berling. At the end of April, the Poles joined Soviet armies at the White Russian (Belorussian) front.

THREE POLISH ARMIES AND WARSAW: In the 1944 Soviet summer offensive the 1st Polish Army marched westward freeing Lublin on July 22, 1944. At this time, in accordance with a decree of the communist-controlled Polish National Freedom Committee in Poland, the 1st Polish Army and the underground Peoples Army were joined into one force under the command of General Michal Rola-Żymierski. Two more Polish armies were formed; The 2nd commanded by General Stanislaw Poplawski and the 3rd under General Karol Świerczewski.

The armies marched westward and on September 14, 1944 General Berling with his 1st Army entered the Praga section of Warsaw located on the east side of the Vistula River. The Warsaw insurgents were still fighting the Germans in Żoliborz and Mokotów on the west side of the Vistula in city proper. The Polish armies remained on the east side of the Vistula until January 1945 when General Berling was relieved of the 1st command by General Poplawski and the 3rd Army was disbanded. This left General Świerczewski free to take command of Poplawski's 2nd Army.

FROM THE VISTULA TO THE ODER: On January 14, 1945 the Soviets launched their great offensive from the Vistula to the west. By March the 1st Polish Army reached the Baltic in the vicinity of Kolobrzeg and by the 29th of March the Polish flag flew over Gdańsk. The 2nd Polish Army after February operations in the Kutno-Lódź area reported to the Soviet commander of the Ukrainian front, and then marched westward to take part in the Berlin operation.

POLISH FIRST AND SECOND ARMIES AND BERLIN: At the beginning of April 1945 both Polish armies reached a strength of about 390,000 soldiers. April 16, 1945, the 1st Army fought its way across the Oder and four days later was in pursuit of retreating German forces. On May 3, 1945 its troops reached the Elbe. The next day they joined with the American 9th Army in the outskirts of Berlin. The 2nd Artillery Brigade, the 6th Motorized Battalion and the 1st Infantry Division of the 1st Polish Army took part in the conquest of Berlin which took place on May 2, 1945. The Polish flag flew alongside the flag of the USSR over Berlin.

The 2nd Polish Army spent most of its time fighting the stubborn German "Mitte" (Middle) Army which refused to surrender after the fall of Berlin. On May 7, 1945, five days after the fall of Berlin the 2nd Polish Army crossed the border into Czechoslovakia in pursuit of the Mitte Army. On the 11th, the Germans ceased fighting near Prague.

POLISH WAR LOSSES 1939–1945

The contributions of the Polish Armed Forces to Allied victory were never well known and are by now mostly forgotten. Poles contributed much as can be seen from the foregoing review. But the Polish nation also lost heavily and suffered terribly while making its contributions and while trying to survive under the oppressor.

Hitler's aim was to exterminate not only the Jews but also Poles and their entire culture. Of all the Allies who fought, Poland suffered the greatest losses. It is estimated that Poland lost 220 out of every 1000 citizens during the war. By comparison the Soviets lost 124. The number for France was 13, Great Britain 8 and the United States 1.4.

In addition to human losses, Poland suffered enormous material losses which in 1945 were estimated to be near 50 billion dollars. There was also the loss of an estimated 43% of all Polish art, national archival material and other historical and cultural treasures.

It is appropriate to end this partial review by repeating the words of Pope John Paul II: "In World War II, on every front, Poles shed their blood for independence. Polish independence cannot be measured in geopolitical terms, but only according to authentic criteria of national sovereignty in its own nation."

NB. The primary source for this review is: Baluk and Michalowski, Polski czyn zbrojny 1939–1945, (Polish Military History 1939–1945), Wydawnictwo Polonia, Warszawa, 1989.

About the Author: Sigmund Bajak is a retired Rear Admiral in the U.S. Naval Reserve who served in World War II, Korea, Berlin Crisis and Vietnam. As a civilian, he spent 30 years as an executive for the National Broadcasting Company in New York rising to a Director's position. At present, he is a doctoral candidate in Polish military history at the University of Warsaw. He is a member of the Polish-American Congress.•

POSTMASTER GENERAL STAMPS OUT HOPES FOR VETERANS

• Mr. SMITH. Mr. President, this past Memorial Day, May 30, 1994, the Senate wrote to Postmaster General Marvin Runyon requesting the issuance of a commemorative stamp honoring American POW's and MIA's. On September 12, 1994, I took the floor to notify my colleagues that, at that time, 14 weeks later, we still had not received a response to our letter. Since 82 Senators had signed the letter, I felt that it would interest them to know that the Postal Service still lacked the common courtesy to respond.

Well, Mr. President, over 100 days, several unanswered telephone calls, and one floor statement later, I have the Postmaster General's answer, if it can be called an answer. I would point out that this is not the original signed copy. That is still making its way through the Postal delivery system. This one is a photocopy. In fact, I have received two photocopies. Both were addressed to me, but neither was intended for me. As indicated by the highlighted names at the end of the letter, one was intended for Senator KEMPTHORNE, and one was intended for Senator DASCHLE, both of whom were signers of the original letter.

The issue that brings me to the floor is not that I received the letter third-hand. Frankly, I was happy to receive it at all. The issue is not the fact that it took nearly 4 months to get an answer. I addressed that issue last time I took the floor.

The issue, Mr. President, is the letter itself. If this letter is representative of the current Postal Service management, we are in big trouble. The letter demonstrates that its author, Postmaster Runyon, or whoever drafted the letter, has little command over the issue at hand. Indeed, one would seem to infer from the response that the writer hardly read the original letter, signed by 82 Senators.

To begin, Mr. President, I will ask that the Senate's original letter to Postmaster Runyon, his response and my followup letter to him be inserted for the RECORD at this point, and then I will go through—point by point—my concerns with his response.

U.S. SENATE,
Washington, DC, May 30, 1994.

Hon. MARVIN RUNYON,
Postmaster General, U.S. Postal Service, Washington, DC

DEAR MARVIN: We are writing to urge you to approve the issuance of a commemorative stamp honoring American prisoners of war and missing in action personnel.

As you may know, in late 1992, the Senate unanimously adopted an amendment to the Department of Defense Authorization Bill mandating the issuance of a POW/MIA stamp. Although this amendment was removed from the bill in deference to the normal stamp approval process, the conference nevertheless stated its strong support for such a stamp.

The issuance of a POW/MIA stamp is very important to us and, we hope, important to you. As we are sure you realize, it is also important to the families of missing service personnel and to millions of American veterans, including many Postal Service employees.

We are also asking that the normal licensing fee for the stamp design be waived, as was recently done for the AIDS stamp, in order to allow veterans' organizations and POW/MIA family organizations to reproduce the design.

This year marks the 30th anniversary of the capture of Everett Alvarez, a Lieutenant j.g. in the U.S. Navy, who became the first and longest-held American POW in North Vietnam. Lt. Alvarez was released in 1973, during "Operation Homecoming." We are also observing the 50th anniversary of the landing at Normandy, which led to the liberation of Europe and the subsequent release of hundreds of American POWs. Given the recent focus on America's efforts to account for POWs and MIAs, we believe that the release of a POW/MIA stamp would be timely and appropriate.

National POW/MIA Recognition Day is scheduled for September 16, 1994. We suggest that this would be an excellent target date for the unveiling of the stamp. As the expedited approval of the AIDS awareness stamp demonstrated, this date is not unreasonable.

A POW/MIA stamp meets the critical elements normally used for selecting commemorative stamps.

1. American POWs and MIAs have contributed significantly to America and its history.

2. The POW/MIA issue is a theme of widespread national appeal and significance. Indeed, Presidents Reagan, Bush, and Clinton have publicly declared the resolution of this issue to be a matter of "highest national priority."

3. A POW/MIA stamp was last issued on November 24, 1970, over 23 years ago. This far exceeds the policy of not considering stamp proposals if a stamp treating the same subject has been issued in the last 10 years.

4. The Postal Service normally desires the submission of subjects three years prior to the proposed date of issuance. Members of Congress, veterans organizations, and families of POWs and MIAs have been continuously petitioning for such a stamp for well over a decade.

5. As the number of petitions which have already been sent to the Citizens' Stamp Advisory Committee would clearly demonstrate, there is considerable interest in a POW/MIA stamp and, as such, its issuance would generate millions of dollars in postal revenues. Veterans and veterans' organizations, families and friends of POWs and MIAs, military personnel, and supporters, would all be likely to use such a stamp. From a marketing perspective, a POW/MIA stamp would be an excellent choice.

We thank you in advance for your assistance and cooperation in this matter, and we look forward to working with you.

Sincerely yours,

Bob Smith, Bill Roth, Strom Thurmond, Herb Kohl, Dick Lugar, Barbara A. Mikulski, Kent Conrad, Thad Cochran, Fritz Hollings, Alfonse D'Amato, Daniel K. Akaka, David Durenberger, Thomas Daschle, Larry E. Craig, John Breaux, Paul Sarbanes, Jesse Helms, Frank R. Lautenberg, Conrad Burns, Harris Wofford, Jeff Bingaman, Jim Jeffords, Ben Nighthorse Campbell, J. Bennett Johnston, Tom Harkin, Ted Stevens, Kay Bailey Hutchison, Hank Brown, Daniel Inouye, Judd Gregg, J. Lieberman, Arlen Specter, Paul Wellstone, Dirk Kempthorne, George Mitchell, Dan Coats, Lauch Faircloth, John Warner, Patrick Leahy, Paul Simon, Alan Simpson, Don Riegle, Richard Shelby, John Chafee, Dennis DeConcini, Sam Nunn, Robert C. Byrd, Bob Graham, Bill Cohen, Phil Gramm, John F. Kerry.

Chuck Grassley, Connie Mack, Carol Moseley-Braun, Slade Gorton, Wendell Ford, Jim Sasser, Edward M. Kennedy, David Patrick Moynihan, Chuck Robb, Harlan Mathews, Paul D. Coverdell, Russ Feingold, John Kerry, Patty Murray, Max Baucus, Trent Lott, Harry Reid, Nancy Landon Kassebaum, Christopher J. Dodd, Dianne Feinstein, Alfonse D'Amato, Frank H. Murkowski, Jay Rockefeller, Don Nickles, Richard Bryan, Larry Pressler, Bob Packwood, Pete Domenici, Byron Dorgan, Orrin Hatch, Barbara Boxer, Malcolm Wallop.

U.S. POSTAL SERVICE,
Washington, DC, September 20, 1994.

Hon. BOB SMITH,
U.S. Senate,
Washington, DC.

DEAR SENATOR SMITH: This is in response to the 35,000 signed public petitions and your request along with 81 other Senators, for the issuance of a commemorative stamp on September 16, to honor Prisoners of War and Missing in Action Personnel (POW/MIA).

The U.S. Postal Service supports the concept of publicizing information and scheduling events to increase public awareness of the continuing plight of locating and releasing POW/MIAs. As noted in your recent correspondence to us, we issued a commemorative POW/MIA stamp over 23 years ago on November 24, 1970. While 23 years may have passed since the issuance of this stamp, it still remains a one-time occasion, in competition with many other historical events. In view of these known realities, we would like to recommend for your consideration an alternative to the issuance of another POW/MIA stamp.

Our suggested option to the POW/MIA commemorative stamp emphasizes the need for a greater national appeal. In doing so, we realize that any relating commemorative events should include not only the efforts of the Postal Service, but that of Congress, state, local, and federal agencies, and POW/MIA organizations. In view of the prospective to both broaden and heighten the emphasis on this issue, we recommend that in 1995, Congress establish a national, annual recognition period (day, week, or month) to honor POW/MIAs.

In its efforts to make certain that such an annual event receives full attention and recognition, the Postal Service would support the activities initiated by the Veterans Administration or other lead governmental organizations. This could be accomplished by reminding our 700,000 employees of the event through creation of a generic special cancellation for use at local ceremonies. Additionally, the creation of a cancellation die hub could be used to cancel mail at selected locations.

We strongly believe that an annual recognition event would have more impact and generate more public awareness than issuing another one-time commemorative stamp. With that thought in mind, we would appreciate your careful consideration of our proposal. It is our goal to not only bring forth a compromise on this issue, but a greater substantive and meaningful approach to a national issue that is very important to families of missing service personnel, and to millions of American veterans, including Postal Service employees.

Best regards,

MARVIN RUNYON,
Postmaster General, CEO.

U.S. SENATE,
Washington, DC, September 30, 1994.

MARVIN RUNYON
Postmaster General, CEO, U.S. Postal Service, Washington, DC.

DEAR MARVIN: This is in response to your letter concerning the issuance of a POW/MIA stamp dated September 20, 1994, a copy of which has been provided to my office.

For your information, Congress has annually enacted a National POW/MIA Recognition Day since 1979 with the support of each Administration during this period. Therefore, your "compromise" proposal for an annual POW/MIA day instead of a commemorative stamp is not a reasonable compromise at all. It is offensive to the hundreds of thousands of veterans and POW/MIA families who have petitioned the Postal Service for a stamp on this matter for the last decade.

Since President Reagan took office, the POW/MIA issue has been designated as a matter of "highest national priority" by every Administration. Because of your inadequate response, I am now firmly committed to enacting legislation which will require the Postal Service to issue a POW/MIA stamp.

Given the expressed views of Congress on this matter by a vote of the Senate, Conference Report language, and the May, 1994 follow-up letter, I had hoped, and indeed still hope, that you will alleviate the need for legislative action by issuing a POW/MIA stamp in the same manner the AIDS awareness stamp was issued.

Sincerely,

BOB SMITH,
U.S. Senator.

Mr. SMITH. I will start at the top of the page, with the date. Postmaster Runyon's letter was sent on September 20, 1994. As my colleagues know, I personally presented the original letter to the vice president of the Postal Service, Robert Harris, on May 30, 1994. That letter, which I have just inserted for the RECORD, specifically requests that the stamp be issued by September 16, 1994. One would think that, at the very least, we could have received a response by then.

The letter begins "This is in response to the 35,000 signed petitions . . . ." Let's stop right here. Mr. President, I received that many petitions during my years in the other body alone. The Veterans' organizations have certified to me that there have, in fact, been hundreds of thousands of petitions sent to the Postal Service on this issue. I am not saying that the Postal Service needs to count every one of these petitions, although you would think that when someone goes through the trouble of signing and mailing a petition, they ought to be acknowledged. But there out to be some way to keep a close estimate of how many petitions have come in.

The first sentence goes on to acknowledge our request that the stamp be issued by September 16, 1994. This is correct, we did request that the stamp be issued on September 16. Although, given that Mr. Runyon's letter is dated September 20, 1994, the September 16 deadline would seem to be a moot point.

The next sentence:

> The U.S. Postal Service supports the concept of publicizing information and scheduling events to increase public awareness of the continuing plight of locating and releasing POW/MIAs.

The most ironic part of this sentence is that the Postal Service supports the concept of publicizing information. Every year, we call the Postal Service to find out whether the POW/MIA stamp is even up for consideration by the Citizen's Stamp Advisory Committee. The Postal Service has always strongly maintained that it could not publicize this information. To correct that problem, I may well introduce legislation next Congress to require the Citizens's Stamp Advisory Committee to adhere to all of our Federal "government in the sunshine" laws. I know that the operations of the Citizens Stamp Advisory Committee were of concern to my friend Senator STEVENS, the ranking Republican on the subcommittee with jurisdiction over these issues, since, during the 102d Congress, he introduced legislation to restructure the Stamp Advisory Committee.

The letter goes on to say:

> As noted in your recent correspondence to us, we issued a commemorative POW/MIA stamp over 23 years ago on November 24, 1970. While 23 years may have passed since the issuance of this stamp, it still remains a one-time occasion, in competition with many other historical events.

This is a bit confusing to me. First of all, as I understand the same approval guidelines, we are only supposed to allow a 10 year period between issuing stamps treating the same subject. That period has obviously long-since expired. I would like to ask unanimous consent that a report by the Congressional Research Service entitled "Commemorative Postage Stamps: History, Selection Criteria, and Revenue-Raising Potential," be included in the RECORD at the conclusion of my remarks. I would point out for my colleagues that the Senate's original letter specifically addresses the issue of how a POW/MIA stamp meet these criteria.

Second, and most importantly, what does Mr. Runyon mean by "it still remains a one-time occasion"? If any of my colleagues could help me figure this one out, I would appreciate it. I hope he is not implying that we should only care or be concerned about these Americans only once in a lifetime. There were still many POW's in Vietnam in 1970, when the POW/MIA/KIA stamp was issued. But, Vietnam was certainly not the only place in which Americans were held as prisoners of war, and if Mr. Runyon is implying that the taking of prisoners was a one-time occasion in Vietnam, he is sorely mistaken. Frankly, I have tried to see Mr. Runyon's point here, and I cannot see how he can consider the plight of American POW's and MIA's to be a one-time occasion, because it certainly is not.

Frankly, I would like to know what the Postmaster General considers a one time occasion. I would assume that the Moon landing would be a one time occasion. That was a truly historic occasion, and I can remember watching it. Of course we ought to have a stamp honoring that occasion, and the men who took that giant step for mankind. They risked their lives so that they could spend a long extended period of time in a cramped, uncomfortable environment, terrified, and uncertain of their fate. It is perfectly appropriate that we pay tribute to their achievement. That is why, since that time, there have been no fewer than five different stamps treating the subject of the Moon landing. There have also been numerous others treating the overall subject of space exploration. But, Mr. President, at the same time that all of this great achievement took place, there were American soldiers held in Vietnamese prison camps, suffering inhuman conditions, and facing near-certain deaths. They risked everything so that we might have our freedom. They are as deserving as anyone of commemoration.

Mr. President, I would only like to make three more points on the subject of the one time occasion. First, the Moon landing was, in fact, an occasion. But, POWs and MIAs are people. To commemorate them is not to commemorate some one-time occasion, because, in fact, we can not point to any one occasion that exemplifies their heroism. We commemorate the soldiers themselves, not any related event. Second, I would say that, even if it were a one-time event, that is not an adequate excuse as to why the Postal Service refuses to issue a stamp. That is pointed out by the fact that the Moon landing has been the subject of numerous stamps in a shorter amount of time. Third, one might say that the Moon landing has much broader appeal. I would disagree in the strongest possible terms. Evidence of this is the fact that hundreds of thousands of Americans have signed and mailed petitions to the Postal Service requesting a POW/MIA stamp. At the same time, the Postal Service has been forced to run paid television advertisements to sell their space exploration stamp.

My point is not that there is anything wrong with space stamps. I am one of the strongest supporters of space exploration, and I believe it is a perfectly appropriate subject for commemorative stamps. And they do have a broad appeal. Everyone loves space exploration. But, my point is that, if the Postal Service's main criteria for choosing stamp designs is what will sell—as I personally believe it should not be—but if that is their criteria, they could not pick a stamp with a larger popular appeal than the POW/MIA stamp.

Mr. President, the whole issue of this being a one-time occasion brings up an important point. When many people think about POWs and MIAs, they think about the Vietnam war. This is understandable. But, more recently, the issue took on a special meaning for me when I watched Michael Durant, one of my constituents from Berlin, NH, bravely standing before the television cameras while he was being held captive in Somalia. Mr. Durant was thankfully returned home to his family, and I had the honor of attending an event in Berlin paying tribute to Mr. Durant. But, not every POW was returned to his family. In fact, as television cameras graphically depicted, some were beaten to death and dragged through the streets of Mogadishu. Sadly, they will not be returned to their families to be honored with celebrations and parties. The least we can do is to issue a commemorative stamp which pays tribute to their bravery. And we should also be paying tribute to those who remain unaccounted for as a result of their military service during World War II, the Korean war, and the cold war. There are several hundred military personnel from these wars whose fates remain unknown to this day. There are even servicemen from the Persian Gulf war whose remains have not or cannot be recovered by the United States. We should be paying tribute to all of these personnel who made the ultimate sacrifice.

Now, Mr. President, comes the most interesting and pathetic part of Mr. Runyon's letter. In light of Mr. Runyon's unyielding reluctance to issue a stamp honoring POWs and MIAs, he suggests a compromise. We compromise all the time around here, so I was interested to read on and hear him out. But, by virtue of the compromise he suggests, which is the whole point of his letter, I can come to no conclusion other than the fact that he did not even bother to carefully read the letter signed by 82 Senators. Mr. Runyon writes as follows:

> In view of these known realities, we would like to recommend for your consideration an alternative to the issuance of another POW/MIA stamp.
>
> Our suggested option to the POW/MIA commemorative stamp emphasizes the need for a greater national appeal. In doing so, we realize that any relating commemorative events should include not only the efforts of the Postal Service, but that of Congress, State, local and Federal agencies, and POW/MIA organizations. In view of the prospective to both broaden and heighten the emphasis on this issue, we recommend that in 1995, Congress establish a national, annual recognition period (day, week, or month) to honor POW/MIAs.

Until now, I had thought that the Postal Service had been about as unresponsive as it could possibly be. This alternative proposal proved me wrong. First of all, as my colleagues know, for the past 10 years, Congress has passed annual resolutions calling on the President to issue proclamations in observance of National POW/MIA Recognition Day. I would have hoped that the Postmaster General would have known that, particularly in light of the large number of Postal Service employees who are veterans. But, he is a busy man, and I guess he cannot be responsible for knowing all of these things. The fact that irritates me is that it was clearly stated in our original letter that September 16, 1994, was National POW/MIA Recognition Day. The fifth paragraph of our letter states as follows:

> National POW/MIA Recognition Day is scheduled for September 16, 1994. We suggest that this would be an excellent target date for the unveiling of the stamp.

Even if he hadn't read the letter, you would think that, after 14 weeks, his staff could have done some research about what had been done to honor POWs and MIAs. Second, how can Postmaster Runyon acknowledge our request for the issuance of a commemorative stamp on September 16, and ignore the very reason that request was made. I could say that perhaps Mr. Runyon overlooked the part about POW/MIA recognition day, but it is inconceivable that that is so. The only place that the September 16 date was mentioned in our letter was when we said "National POW/MIA recognition day is scheduled for September 16, 1994." It does not appear anywhere else in the letter. Yet, Mr. Runyon acknowledges the September 16 date in the very first sentence of his letter, and he goes on to offer his brilliant idea, his compromise, to use his own words, as an alternative to our stamp request. He does so as if it had not even occurred to any of us, and as if he was in some special position to offer such a proposal.

Mr. President, this is no compromise. Furthermore, this is not an oversight. As it is impossible to conclude that this was an error, the only conclusion I can make is that this is a blow off. Pure and simple. Postmaster Runyon does not want a POW/MIA stamp, for whatever reason. He ought to just say so. This is an attempt to appease the hundreds of thousands of petitioners and the 82 Senators who have have expressed their strong desire for a POW/MIA stamp. But, Mr. President, it doesn't fly.

Mr. Runyon goes on to write:

> In its efforts to make certain that such an annual event receives full attention and recognition, the Postal Service would support the activities initiated by the Veterans Administration or other lead governmental organizations. This could be accomplished by reminding our 700,000 employees of the event through the creation of a generic special cancellation for use at local ceremonies. Additionally, the creation of a cancellation die hub could be used to cancel mail at selected locations.

These are things that Mr. Runyon could have and should have been doing all along. Why did he not remind his 700,000 employees of POW/MIA recognition day this year. A resolution was passed by both Houses of Congress. The Postal Service has an entire legislative department that monitors legislative developments. Someone should have taken notice when Congress declared September 16, 1994, to be POW/MIA recognition day. If not, Mr. Runyon was made aware of this upcoming recognition day when 82 Senators wrote to him. Finally, if he had not noticed any of that, President Clinton himself issued a Presidential proclamation calling for the observance of POW/MIA recognition day. I ask unanimous consent that President Clinton's proclamation be inserted in the RECORD at this point.

The proclamation follows:

NATIONAL POW/MIA RECOGNITION DAY, 1994—A PROCLAMATION BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

This year marks the 50th anniversary of America's participation in the largest single amphibious assault in history. Considered by many to be a turning point in the Second World War, the D-Day invasion at Normandy serves as a clear reminder of our Nation's long-standing commitment to fight for the principles of democracy and to defeat the forces of oppression.

We must always remember the dedication and sacrifice of our service men and women who, throughout our history, have risked their lives to preserve freedom for future generations. As a Nation, we are forever indebted to these outstanding Americans for their selfless devotion to duty. In expressing our gratitude, we should also pause to recognize those patriots who were held as prisoners of war and those who remain unaccounted for as a result of their heroic service.

On September 16, 1994, the flag of the National League of POW/MIA Families, a black and white banner symbolizing America's missing, will be flown over the White House; the Capitol; the U.S. Departments of State, Defense, and Veterans Affairs; the Selective Service System headquarters; the Vietnam Veterans Memorial; and national cemeteries across the country. This flag is a powerful reminder to people everywhere of our country's firm resolve to achieve the fullest possible accounting of every member of the United States Armed Forces.

On this day, we pay tribute to our missing service members and civilians. In their names, we reaffirm our national commitment to securing the return of all Americans who may be held against their will and to repatriating all recoverable remains of those who died in service to our country. That effort ranks among our highest and most solemn national priorities. America's heroes, and their families and loved ones, deserve no less.

The Congress, by Senate Joint Resolution 196, has designated September 16, 1994, as "National POW/MIA Recognition Day" and has authorized and requested the President to issue a proclamation in observance of this day.

Now, Therefore, I, William J. Clinton, President of the United States of America, do hereby proclaim September 16, 1994, as National POW/MIA Recognition Day. I ask that every American take time to honor all former American POWs, as well as those service members and civilians still unaccounted for as a result of their service to our great Nation. I encourage the American people to recognize the families of these missing Americans for their ongoing dedication to seek the truth and for their determination to persevere through many long years of waiting. Finally, I call upon State and local officials and private organizations to observe this day with appropriate ceremonies and activities.

In Witness Whereof, I have hereunto set my hand this fourteenth day of September in the year of our Lord nineteen hundred and ninety-four, and of the Independence of the United States of America the two hundred and nineteenth.

WILLIAM J. CLINTON.

Mr. SMITH. My colleagues will note that the President calls on "State and local officials and private organizations to observe this day with appropriate ceremonies and activities," the very same suggestions that Mr. Runyon makes in his "compromise proposal."

Mr. Runyon's concluding paragraph states as follows:

> We strongly believe that an annual recognition event would have more impact and generate more public awareness than issuing another one-time commemorative stamp.

First of all, it is ludicrous to say that a National Recognition Day would generate more public awareness than a commemorative stamp. Evidence of this fact is that neither Mr. Runyon or any of his deputies who wrote this letter has any idea that there already is a POW/MIA Recognition Day, and has been for the past 10 years. Everyone uses stamps. I suspect that a first-class POW/MIA stamp—29 cents or whatever the going first-class rate is at the time that it is issued—would be that most popular stamp issued. As popular as Popeye, Marilyn Monroe, and Elvis may be, I think that a stamp honoring our American POWs and MIA's would have a much broader and more serious appeal. Certainly, it would be more in keeping with the traditional role of stamps calling attention to outstanding Americans, historic events, and national goals.

Finally, Mr. Runyon states "With that thought in mind, we would appreciate your careful consideration of our proposal." Mr. President, as the author and sponsor of Senate Joint Resolution 196, designating September 16th as National POW/MIA Recognition Day, I can tell you that this certainly was not Postmaster Runyon's proposal. Nor, Mr. President, do I claim ownership for the proposal. The recognition day initiative belongs to the thousands of families of POW's and MIA's. It belongs to the millions of veterans and their families and friends. It belongs to the POW's and MIA's themselves, many of whom we are still trying to account for.

So, Mr. President, in conclusion, I am not going to consider Mr. Runyon's proposal, because it is not a proposal. What he proposes has already existed for over a decade. His letter is, therefore, an affront to every American who has worked so hard to gather signatures, and to push for this simple stamp. More importantly, it is an affront to all American prisoners of war, whether they came home or are still missing. Issuing a POW/MIA stamp is a simple gesture that Mr. Runyon could do in an afternoon. He did it in a heartbeat when he wanted the AIDS stamp. He could do it now. What I am going to consider is offering legislation, identical to the legislation I offered last year, mandating that Postmaster Runyon issue a POW/MIA stamp. It had 65 cosponsors and passed the senate unanimously as an amendment. I was told that it was stripped from the underlying bill by a handful of conferees because they did not want to create a precedent for Congress to mandate stamps. I was urged to go through the normal channels in trying to encourage Mr. Runyon to make this simple gesture.

But, now, Mr. President, having gone through every nonlegislative channel, I have come to the conclusion that Postmaster Runyon simply does not want to issue a POW/MIA stamp. Perhaps it is because it is not politically correct, like many of the other stamps the Postal Service has issued during Mr. Runyon's tenure. Whatever the reason, it is not good enough for this Senator, and it is time for Congress and the American people to step in.

CRS REPORT FOR CONGRESS—COMMEMORATIVE POSTAGE STAMPS: HISTORY, SELECTION CRITERIA, AND REVENUE-RAISING POTENTIAL

(By Bernevia M. McCalip, Analyst in Business and Government Relations Economics Division)

SUMMARY

One of the most successful revenue-raising programs, other than the sale of regular postage stamps, operated by the U.S. Postal Service (USPS) is the commemorative stamp program. The technical name for stamp collecting is philately. A major portion of philately involves the printing, buying, selling, and collecting of commemorative stamps. In fiscal year 1991, philatelic sales generated an estimated $191 million in revenues, a 24-percent increase over 1990.

In fiscal year 1991, the USPS produced 110 new stamps and stationary items in honor of anniversaries, notable people, and special events. According to Postmaster General (PMG) Marvin Runyon, fewer commemorative stamps will be issued in 1993 in response to collectors' complaints about the number of new stamps issued and concerns that the current level of commemoratives issued diminishes the value of stamps and drives collectors away.

To help in the selection of commemorative stamps, the PMG seeks the aid of its Citizens' Stamp Advisory Committee. The Committee considers each stamp proposal and advises the PMG on stamp selection and design after which the PMG makes the final selections. The process of selecting commemorative stamps is a complex procedure guided by twelve basic criteria.

In recent years, the production and quality of commemorative stamps have raised various concerns among policymakers and stamp collectors. These concerns were the primary focus of congressional hearings held in 1991 by the House Post Office and Civil Service Subcommittee on Postal Operations and Services.

Since 1971, when the Post Office was reorganized, commemorative stamp sales have been viewed as an important and much needed revenue-raising function of the USPS. In the United States, the number of stamp collectors is estimated at 15 million, making stamp collecting one of the most popular hobbies in the United States if not in the world. Thus, a "well-chosen" stamp design can generate millions of dollars in postal revenues.

THE USPS COMMEMORATIVE POSTAGE STAMP

In addition to its regular line of postage stamps, one of the major activities of the USPS is the issuance of commemorative stamps. Since these issues focus on an important event, person, or theme, the selection of subjects and design of these stamps can be both controversial and financially rewarding to the USPS. Consequently, the USPS has developed a structured procedure to deal with the commemorative stamp process and, for economic reasons, to consider the revenue-raising potential through effective marketing.

The first commemorative postage stamp was issued in 1893 commemorating the historic Columbian Exposition. This series of 16 Columbian stamps was among the first postage stamps in the United States to feature pictures of other than portraits of Presidents or other famous people. The success of the Columbian stamp series prompted the Post Office to continue offering stamps to mark historic events and thus, the commemorative stamp became a regular feature of the Postal Service. Later, commemoratives were expanded and now include social issues such as conservation, employment of the handicapped, and higher education.

Commemorative stamps are printed in limited quantities in specific postage rate denominations and are sold in local post offices for specified periods. When the supply of commemorative issues is no longer available from the Postal Service, the issue is only available through buying, selling, and trading among the estimated 15 million stamp collectors and dealers in the United States.

The selection of subjects for commemoratives is a difficult and complex task, one which requires the aid and expertise of a Citizen's Stamp Advisory Committee. The Committee, made up of private citizens, reviews all proposals for the Postmaster General. In fiscal year 1991, the Postal Service received over 13,000 letters proposing more than 3,800 stamp issues.[1] Of the 3,800 stamp suggestions received, 110 stamp and postal stationery items were approved for commemoration and printed for distribution to the public.

In recent years, the Postal Service's stamp program has been criticized by collectors for issuing to many commemoratives, as well as producing too many stamps of a particular issue. Concerns are that too many stamps not only diminish the value of the hobby but drive collectors away. Postmaster General (PMG) Marvin Runyon, a former collector himself, has placed new persons in management positions, including those affecting the commemorative stamp program. Consequently, only 63 commemorative stamps are planned in 1993, a significant reduction in the number of commemoratives issued in 1992.

What additional effect the reorganization within the USPS' management level will have on the commemorative stamp program is unclear. Also unclear is how many of the current commemorative stamp functions will be retained by the Postal Service under a restructured program. One popular element of the stamp program is "first-day ceremonies" (the day that new stamps are unveiled) to the public. PMG Runyon has publicly announced that first-day ceremonies will continue, although the question as to who will arrange the events has not been addressed to date. Nevertheless, since the Postal Service is now in the midst of a major cost-reduction program, the revenue-raising potential of commemoratives could be a factor in deciding future stamp activities. And, although the positions of many Postal headquarters personnel previously assigned to arrange events such as the first-day ceremonies have been eliminated under the management restructuring plan, such authorized events could be managed by postal officials at the local level.

THE CITIZEN'S STAMP ADVISORY COMMITTEE

The Citizen's Stamp Advisory Committee was established in the former U.S. Post Office Department in March 1957 by the Postmaster General to "provide the Post Office Department philatelic, history, and artistic judgment and experience influencing the subject matter, character, and beauty of postage stamps." Carried over into the new USPS in the 1970 Postal Reorganization Act (P.L. 91–375), the Committee operates under the powers granted in Title 39 U.S.C., section 404(4)(5) and consists of a cross-section of experts in American art, business, history, technology (stamp design), culture, and philately. The members of the Committee serve at the pleasure of the Postmaster General for indefinite periods. The Committee now consists of eleven members, none of whom are postal employees.

The primary responsibility of these eleven members is to review and appraise all proposals for stamp subjects and to make recommendations for stamp subjects and design to the Postmaster General who has the exclusive and final authority to determine both subject matter and designs for U.S. postage stamps and stationery.[2] Because the Committee does not operate under a budget and meets about every eight weeks to carry out its statutory responsibilities, a considerable amount of research and work is required prior to a Committee meeting. To speed up the Committee's task, research employees of the USPS' Stamp Management Office receive and analyze all stamp subjects upon initial receipt. Subcommittees are formed among researchers by special theme such as sports, medicine, transportation, Black heritage, and performing arts to provide additional background and research if it becomes necessary. Occasionally, commemorative ideas require additional research into the subject to further "explore the idea's merit or to come up with a strong visual angle."[3] All supporting materials are then presented to the Committee along with the suggestions.

CRITERIA FOR SELECTING COMMEMORATIVE STAMPS

As a basis for its recommendation to the Postmaster General, the Citizen's Stamp Advisory Committee has outlined twelve standards for considering suggested commemorative stamp subjects.

1. It is a general policy that U.S. postage stamps and stationery primarily will feature American or American-related subjects.

2. No living person shall be honored by portrayal on U.S. postage.

3. Commemorative stamps or postal stationery items honoring individuals usually will be issued on, or in conjunction with, significant anniversaries of their birth, but no postal item will be issued sooner than 10 years after the individual's death. The only exception to the 10-year rule is the issuance of stamps honoring deceased U.S. Presidents. They may be honored with a memorial stamp on the first birth anniversary following death.

4. Events of historical significance shall be considered for commemoration only on anniversaries in multiples of 50 years.

5. Only events and themes of widespread national appeal and significance will be considered for commemoration. Events or themes of local or regional significance may be recognized by a philatelic or special postal cancellation,[4] which may be arranged through the local postmaster.

6. Stamps or postal stationery items shall not be issued to honor fraternal, political, sectarian, service or charitable organizations which exist primarily to solicit and/or distribute funds, commercial enterprises; or a specific product.

7. Stamps or postal stationery items shall not be issued to honor cities, towns, municipalities, counties, primary or secondary schools, hospitals, libraries or similar institutions. Due to the limitations placed on annual postal programs and the vast number of such locales, organizations and institutions, it would be difficult to single out any one for commemoration.

8. Request for observance of statehood anniversaries will be considered for commemorative postage stamps only at intervals of 50 years from the date of the State's first entry into the Union. Requests for observance of other State-related or regional anniversaries will be considered only as subjects for postal stationery, and only at intervals of 50 years from the date of the event.

9. Stamps or postal stationery items shall not be issued to honor religious institutions or individuals whose principal achievements are associated with religious undertakings or beliefs.

10. Stamps or postal stationery items with added values referred to as "semi-postals," shall not be issued.[5] Due to the vast number of worthy fund-raising organizations in existence, it would be difficult to single out specific organizations to receive such revenue. There also is a strong U.S. tradition for private fund-raising for charities, and the administrative costs involved in accounting for sales would tend to negate the revenues derived.

11. Requests for commemoration of significant anniversaries of universities or other institutions of higher education shall be considered only in regard to Historic Preservation Series postal cards featuring an appropriate building on the campus.

12. No stamp shall be considered for issuance if one treating the same subject has been issued in the past 10 years. The only exceptions to this rule will be those stamps issued in recognition of traditional themes

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Footnote at end of article.

such as Christmas, U.S. Flag, Express Mail, Love, etc.

The USPS encourages the submission of subjects for commemorative postage stamps to the Committee at least three years prior to the proposed date of issuance to allow sufficient time for consideration, design, and production. Suggestions may be addressed to the Citizen's Stamp Advisory Committee, 475 L'Enfant Plaza, Room 4474E, Washington, D.C. 20260–6756.

Congressional involvement in the commemorative stamp process

In the selection and design of commemorative stamps, only the Postmaster General has the statutory authority to approve and issue such stamps. However, Members of Congress are generally requested by their constituency to support a particular commemorative theme or event. In doing so, a Member may choose to write the Postmaster General expressing support for a particular stamp proposal. In some cases, Members have introduced a House Resolution calling for the issuance or non-issuance of a stamp to commemorate a specific proposal. In the 102d Congress, nine such resolutions were introduced addressing the issue of commemorative stamps.

REVENUE RAISING POTENTIAL

Since operation of the Postal Service in 1971, the selection of commemorative stamps has been viewed as an important and necessary revenue-raising function. A "well-chosen" stamp design can generate millions of dollars in postal revenues. Consequently, a keen marketing strategy is also included as part of the commemorative stamp process.

Estimating revenues generated from the sale of commemorative related products is difficult, mainly because commemorative sales are not counted separately from the sale of other stamps and stamp products. Therefore, the Postal Service cannot accurately determine which stamps or products are actually used as postage and which are held by purchasers and not redistributed through the mail stream.

However, the Postal Service, in an attempt to gain some knowledge of how successful its commemorative program is, conducts annual surveys. The USPS' records show that the commemorative postage stamp program, other than the sale of regular postage stamps, is one of the most successful revenue-raising activities of the U.S. Postal Service. Although only a small proportion of the USPS' total revenue (less than one-half of one percent), the USPS estimated that $191 million was generated from the sale of commemorative stamps and postal stationery in fiscal year 1991. The Postal Service, in its 1991 *Comprehensive Statement on Postal Operations* (p. 52), noted that the Postal Service stamp program continues to generate the interest and enthusiasm of stamp collectors and the public.

Over the past several years, the USPS' commemorative sales marketing strategy has changed and at times has generated controversy. Until recent years, stamps celebrating historic Americans and events were the mainstay of the commemorative stamp program. According to Postmaster Runyon, while stamps honoring or featuring historic Americans or events are historically important, they have relatively little revenue potential. While stamps commemorating flowers, sport horses, entertainers (e.g., Elvis Presley) etc., generate some degree of controversy, the USPS has determined that the sale of such stamps have a greater revenue-raising potential. While it is expected that stamps commemorating historic Americans or events will not be significantly cut, stamp collectors and the public can expect much less of the old and much more of the "big attention-getters" such as the Elvis Presley stamp.[6]

FOOTNOTES

[1] There are rare occasions when the Postmaster General may select a commemorative stamp absent the Stamp Advisory Committee's recommendation.

[2] Three items of postal stationery are popular with collectors: embossed stamped envelopes, postal cards, and aerogrammes.

[3] Birth of a Stamp is a Sticky Issue. Insight, July 4, 1988. p. 61.

[4] Special postal cancellation is a phrase to commemorate a local event used by the Postal Service to cancel stamps.

[5] Semi-postals are stamps with a surcharge over and above the usual postage rate, with the extra revenue earmarked for a designated charity or government program.

[6] Stamp Trail to Oregon, Washington Post, Weekend, November 27, 1992. p. 78.•

AQUATIC WEED MANAGEMENT

• Mr. COCHRAN. Mr. President, a growing problem faces the water resources of our country. The inadvertent introduction of exotic plant species from Europe and Asia, such as Eurasian watermilfoil and hydrilla, is a nationwide ecological disaster in the making.

These nuisance aquatic weeds are rapidly choking our freshwater bodies, crowding out native and endangered aquatic species, hindering shipping lanes, restricting recreational activities, causing waterfront property values to drop, and restricting water flow through irrigation canals, drainage ditches and hydroelectric intake screens and turbines.

There are several methods of aquatic weed management, but very limited dollars are earmarked for solving this growing problem. State ecologists, fish and wildlife experts, and waterbody managers are convinced that safe, selective tools are available for controlling these nuisance weeds and restoring the ecological balance of our waters. States simply need funding to get the job done.

Therefore, I hope when we consider the Interior and related agency appropriations for fiscal year 1996, we will take a serious look at providing funding for States to institute effective methods of aquatic weed management.•

ORDER FOR STAR PRINT—S. 1991

Mr. KOHL. Mr. President, I now send to the desk and ask unanimous consent that a star print be made of S. 1991, the Professional Boxing Safety Act, in order to correct an inadvertent omission when the Senate Commerce Committee reported this matter on September 28.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 1098, 1099, 1100, 1143, 1145, 1179.

I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that upon confirmation, the motions to reconsider be laid on the table en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Paul M. Igasaki, of California, to be a Member of the Equal Employment Opportunity Commission for the remainder of the term expiring July 1, 1997.

Paul Steven Miller, of California, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 1998.

Gilbert F. Casellas, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 1999.

DEPARTMENT OF DEFENSE

Philip Edward Coyle, III, of the District of Columbia, to be Director of Operational Test and Evaluation, Department of Defense.

Jan Lodal, of Virginia, to be Deputy Under Secretary of Defense for Policy.

DEPARTMENT OF LABOR

Timothy M. Barnicle, of Maryland, to be an Assistant Secretary of Labor.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

HOUSE OF REPRESENTATIVES CAMPAIGN SPENDING LIMIT AND ELECTION REFORM ACT OF 1993—MESSAGE FROM THE HOUSE

Mr. MITCHELL. Mr. President, I ask the chair to lay before the Senate a message from the House on S. 3.

The Senate resumed consideration of the message from the House.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. on Friday, September 30; that following the prayer, the Journal of proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that immediately thereafter, the Senate resume consideration of the motion to request a conference with the House on S. 3, campaign finance reform, with the time until 9:30 a.m. for debate on the motion to invoke cloture on the motion to request a conference; and that the time be equally divided and controlled between Senators BOREN and MCCONNELL, or their designees; that at 9:30 a.m., the Senate vote on the motion to invoke cloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 7:33 p.m., recessed until Friday, September 30, 1994, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 29, 1994:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PAUL M. IGASAKI, OF CALIFORNIA, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JULY 1, 1997.

DEPARTMENT OF DEFENSE

PHILIP EDWARD COYLE III, OF THE DISTRICT OF COLUMBIA, TO BE DIRECTOR OF OPERATIONAL TEST AND EVALUATION.

JAN LODAL, OF VIRGINIA, TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR POLICY.

DEPARTMENT OF LABOR

TIMOTHY M. BARNICLE, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF LABOR.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Thursday, September 29, 1994*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

When we see the opportunities of the new day, O God, may we remember the beauty of Your creation in all the world; when we see people become whole and experience the fullness of life, may we give thanks for healing in body, mind, and spirit; when we see anger turn to kindness and estrangement turn to conciliation, may we express our gratitude to You, O God, for Your grace and Your mercy and Your peace. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. HEFLEY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HEFLEY. Mr. Speaker, I object to the vote on the grounds that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to the provisions of clause 1, rule I, the vote will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Indiana [Mr. VISCLOSKY] come forward and lead the House in the Pledge of Allegiance.

Mr. VISCLOSKY led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

THERE IS NO FREE LUNCH UNLESS YOU ARE RICH

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker and Members of the House, "There is no free lunch unless you are rich." This should be the motto of the Republican Party. In 1980 Republicans said they could cut taxes, increase defense spending, and balance the budget. They cut taxes for the richest Americans by over half and increased defense spending by massive amounts. Did they balance the budget? Hardly, as our debt increased by $3 trillion or $12,000 for every American, under this supply side economic plan. This week Republicans called their fold together to sign a contract for their plan of action. What is their plan? Cut taxes for the rich, increase defense spending, and balance the budget. After offering their plan they then partied with those that will benefit the most, special interests and fat cats. Do we want another decade of massive deficits when only the Michael Milikins of the world get richer while the middle class, students, and senior citizens pay the way? Americans, watch closely today and see how Republicans vote on the rule and bill to cut off lobbyists. Do they represent you or do they represent special interests?

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that it will restrict 1-minute requests to 10 on each side.

THE AMERICAN PEOPLE KILLED HEALTH CARE REFORM

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, the leader of the other body has pulled the plug on health care, and do you know who is to blame for no health care reform this year? He says it is the Republicans that are to blame for no health care reform.

Now, maybe I am confused. I thought that the Democratic Party had the majority in both houses and could do anything they could agree upon doing. But, no, it is the Republicans, they say, that are at fault for no health care reform.

Why could he not have just been honest? Why could he not have said we made a mistake? And the mistake we made was letting the American public find out what was in the health care bill. We could have passed it, had the American people not found out.

The people found out they did not want less choice, a giant bureaucracy, major tax increases, rationing, employer mandates, and on and on. So it was not the Republicans and it was not the talk show hosts that killed health care reform in this session of Congress. It was the American people, who found out, and is not it about time we began to listen to the voice of the American people?

REJECT ASSAULT ON SENIORS AND TAX CUTS ON WEALTHY

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEPHARDT. Mr. Speaker, I rise today out of deep concern for America's seniors—the elderly men and women who built this country, and gave us everything we have today.

For generations, the hallmark of the Democratic Party has been our commitment to seniors. That is why we fought for Social Security, even though the Republicans called it "the lash of the dictator." That is why we fought for Medicare, even though the Republicans said it was "socialized medicine."

This week, the Republican assault continues. Virtually every Republican House candidate in this country has now signed a contract with their leadership—a blood oath which many candidates had not even seen before they signed it.

The Republicans pledge to cut taxes for the wealthy, jack up defense spending, and balance the Federal budget.

If you look at the numbers, it is clear that their budget would be balanced on the backs of our seniors.

Since their giveaways to the rich would create a trillion-dollar hole in the budget—since they will not increase taxes or cut defense spending—and since Social Security and Medicare make up 40 percent of all funds available for cutting—they will have no choice but to make deep, devastating cuts in Social Security and Medicare—anywhere from 24 to 33 percent of their budgets in the year 2002.

Think about what a whopping 24-percent cut in a Social Security check would mean to an older American. Think about how a 24-percent Medicare cut would devastate elderly who need quality medical care. Let's face it—when you are living check to check, a tax cut for the wealthy, just does not pay the bills.

Let us reject this assault on seniors—as we have rejected so many Republican assaults in the past. That is in

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the best tradition of our party—and the best tradition of human decency as well.

DEMOCRAT LIABILITY INSURANCE

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, the Democrats are distorting the record on the Republicans' contract with America. Could it be that they are just afraid of their own, so close to November?

As anyone knows who has read the Republican contract, it lays out 10 proposals that embody America's demand for change in Washington.

Our contract represents not just a promise but a guarantee that we will bring these bills up for a vote if Republicans control the agenda.

Of course, the Democrats not only would never offer a contract with America, they have yet to make contact with America.

Instead the President satisfies himself with reshuffling the White House, while continuing to deal America the same bad hand time and time again. In the administration's policy deck, all the cards seem to be jokers.

The contrast between Republicans and Democrats has never been clearer than it is today. With Republicans, America gets a contract, a guarantee as to what we will do.

With Democrats, America needs to get liability insurance for what they have already done.

COMMENTS ON GOP CONTRACT WITH AMERICA

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, on Tuesday the Republicans held a giant pep rally on the Capitol steps to show their party unity and their support for their leadership. There they very publicly unveiled and signed the Republican leadership's contract on the American people.

Republican challengers traveled from as far away as California to publicly sign their loyalty to the Republican leadership. Incumbents, however, signed in private. Nobody knows how many of them actually put their name on the line. There was no publicity, no cameras.

The pledge they signed, those who did, indicated openness in government would be their watchword. We are now hoping that the Republican leadership will release names of all those who signed, not just who said they might sign ahead of time.

Now, in press reports we are hearing about people backing down with codicils and caveats, and people who actually did not bother to show up and did not, therefore, follow through on their commitment to sign it. This is an opportunity for the American people to know where people really stand. So we are hopeful that the American people will soon know who it is who believes that the Republican Party, in the midst of an election, should once again sign up for trillion dollar deficits and cuts in Social Security and Medicare. Perhaps those who are not publicly on the list at the moment have come to realize, as we Democrats have, that this contract is really a con on the American people.

□ 1010

THE FACTS ON THE CONTRACT WITH AMERICA

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute.)

Mr. THOMAS of Wyoming. Mr. Speaker, this week, as has been pointed out, on the steps of the Capitol, Republican Members of the House and Republican candidates from around the country unveiled a contract with America. It is a contract which has caused the Democrat spin doctors to work overtime, and it is driving the Democrats crazy.

The Democrats are visibly upset because the Republicans are going to do something they would never do. We are going to spell out to the American people exactly what will happen when we become a majority next November.

On the first day of the new Congress, we will cut the number of committees and committee staffs. What is wrong with that?

We will impose a three-fifths majority on any bill requiring tax increases. What is wrong with that? We will eliminate proxy voting. How about that one? Would that be all right?

And in the first 100 days, we will vote up or down on a balanced budget. Are they opposed to that? How about a line-item veto? They do not like that one. A crime bill, welfare reform, tax cuts, term limits, none of these appeal to them.

We will guarantee all of this in writing. And if we do not deliver, let our constituents fire us.

Mr. Speaker, there is a reason why Democrats spin doctors are working overtime. The American people are going to embrace the contract, and they are going to elect a new Congress which will honor the terms of this contract.

MORE ON THE CONTRACT WITH AMERICA

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, recently, Republican candidates were summoned to Washington to sign a contract with their congressional leadership.

The Republican leadership contract claims to balance the budget by cutting taxes for the wealthy and increasing defense spending.

Anyone who believes this, might be interested in the Republican leadership contract diet—you lose all the weight you want by stuffing yourself with cake and ice cream.

These same people might be interested in the Republican leadership contract medical degree—you become a doctor by watching "General Hospital" and "Oprah" every day.

The American people are too smart to be tricked by this plan. Like any snake oil, they know the reality will not match the rhetoric. The Republican contract is the same old voodoo economics that tripled our national debt in just 12 years.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 995) "An Act to amend title 38, United States Code, to improve reemployment rights of veterans and other benefits of employment of certain members of the uniformed services, and for other purposes."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2170. An act to provide a more effective, efficient, and responsive Government.

THE AMERICAN DREAM AND OUR CONTRACT

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, the American Dream has always been a goal that has drawn people from around the globe to our shores. But more importantly, this vision of success has inspired people to build a brighter and more prosperous future for their families.

It has been said that every American is the owner of this idea. But sadly, after 40 years of half-hearted, hollow promises, this heritage has all but vanished from the American landscape. The Democratic leadership has tried to convince the hardworking public that their policies of a bigger and more costly government are an essential part of our national identity.

Nothing could be further from the truth.

Two days ago, the Republicans in, and those that aspire to this Chamber, signed an agreement that will begin to restore the public's faith in the promise of the American Dream.

The American Dream Restoration Act is one of the 10 key elements of our contract with America. It tries to right the wrongs of 40 years of one-party political domination.

By our very nature, Americans are hopeful. We live for the promises of a brighter future, and a mere 48 hours ago, we staked our claim to help fulfill this promise.

REPUBLICANS' CONTRACT FOR FISCAL DISASTER

(Mr. PRICE of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of North Carolina. Mr. Speaker, if anyone wondered about whether Republicans cared about reducing the Federal deficit or being fiscally responsible, we got a clear and resounding answer on the steps of the House on Tuesday: No.

The Republicans' contract for fiscal disaster would reverse the tremendous progress we have made on reducing the Federal deficit. It is incredible that just when we have succeeded in getting the deficit down for 3 years running—the first time since Harry Truman's administration—the Republicans want to resurrent discredited supply-side economics and blow the deficit sky high.

But you do not have to believe a House Democrat. One Republican Senator has been quoted in the Wall Street Journal as saying the Republican proposal is "just blowing away money." And Martha Phillips of the Concord Coalition said in the Washington Post, "The question is, 'how do you pay for that and does anyone care about the deficit?'"

Our efforts at deficit reduction are too critical to fall prey to a political stunt by the House Republican leadership. I urge those Republicans who signed on so eagerly Tuesday to go back to their homes and let people know they have signed over the interests of their districts to Republican party leaders in Washington without consulting them. And then let them know it will cost a trillion dollars. And after their constituents are revived by smelling salts, I hope they will do the correct thing for their district and the Nation: Remove their name from the Republican contract for fiscal disaster.

CRITICISM OF THE CONTRACT WITH AMERICA DOESN'T PASS THE LAUGH TEST

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, the House Republican "contract with America" is a bold effort to change politics as usual. The American people are fed up with Congress. Why? Because Democrats in Washington do not listen to the American people.

The contract with America is different than empty political promises. It is literally a contract with the American people that says: if you will give the Republicans the opportunity to lead Congress we will honor your trust by voting on the issues most important to you.

Political promises are one thing, but a signed contract is quite another. The Republican contract with America scares the Democrats in Washington because it is different: the contract is for a balanced budget, a tough crime bill, real welfare reform, and term limits.

Democrats claim that the contract with America will increase the deficit. Coming from the tax-and-spend party, this criticism doesn't pass the laugh test.

Mr. Speaker, the fact is Democrats in Washington don't care about the deficit, they care about holding on to power.

If the Democrats have a better plan than Republicans for America, let us see it.

A CONTRACT OF CONCEPTS, BUT NO DETAILS

(Mr. JOHNSTON of Florida asked and was given permission to address the House for 1 minute.)

Mr. JOHNSTON of Florida. Mr. Speaker, Will Rogers enjoyed telling the story of a Republican House Member who was asked by a reporter during World War I how to stop the German U-boats from sinking American ships.

He thought for a minute and said: "Drain the Atlantic Ocean."

The astonished reporter said, "How do you plan to accomplish this?"

The Republican Member simply replied, "I deal in concepts, not in details."

Tuesday my Republican colleagues unveiled their ambitious contract with America.

The Republicans were again asked the question: How do you propose to accomplish your goals without increasing the debt by $1 trillion?

Based on the statements forthcoming from Republicans, they still want to drain the Atlantic Ocean. They are dealing in concepts, Mr. Speaker, not in details.

CONSTITUENT SUPPORT FOR REPUBLICAN CONTRACT

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, I have talked to my constituents about the Republican contract. I am addressing the Democratic side of the aisle. They see the merit in that contract. They are not worried about the false charges of increasing the deficit, because they know if they reelect a Democratic Congress, we will increase the deficit. Those charges are so phoney, it is unbelievable.

Just look at the bills the Republicans have put forth to cut the deficit, to cut the budget, and Members will see where we get the money. Democrats can get up and talk all they want in general terms about us increasing the deficit. Give us the majority and we will show them how to reduce that deficit and carry out what the American people want.

If they think I am frustrated, they ought to sit on our side of the aisle and watch themselves govern as I have and the American people have, and they will see something change.

□ 1020

FLOW CONTROL

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, along with my colleague, JACK FIELDS, I will offer a bipartisan amendment in the nature of a substitute that sharply curtails the future ability of local governments to exercise complete control of municipal solid waste disposal.

If adopted, this amendment will send a signal that Congress cares more about the environment, more about the free market and more about the future ability of businesses large and small to compete than about the pressure packed pleas of those who have been telling us that local governments need unfettered monopoly power over local solid waste disposal decisions.

The Richardson-Fields amendment addresses the legitimate concerns of local governments by allowing them to continue exercising flow control authority for a limited time but says that future waste disposal decisions should be based on competition not monopoly control.

Our amendment will not saddle waste generators with potential Superfund liability or require them to send waste to substandard facilities.

Our amendment will not open the door for more dangerous waste incinerators to be built.

When the House takes up flow control today, I urge my colleagues to support the Richardson-Fields amendment.

DESPITE PARTISAN ATTACKS, THE PEOPLE WILL SPEAK ON NOVEMBER 8

(Mr. HOKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOKE. Mr. Speaker, this is for me at least deja vu all over again. Two years ago I had the privilege of being the instrumentality used by the people of the 10th District of Ohio to rid themselves of representation that they did not feel was very good, that did not give them the kind of honest representation in the House they wanted.

What we have seen now with the big dogs coming out first, and everybody else throwing on their smear, is the same exact kind of campaign that I went through. What you are going to see is all kinds of distortions of the record, and it is not about, it is not about representative government, it is about the kinds of things that happen before a group that has had a stranglehold on power for 40 years finally gives it up.

It has only begun. The attacks have only begun. The dirt, the poison, the grotesqueness of the attacks, have only just begun. Just see the pitch go up and up and up and up as money on this side, money, tries to outdo the reality of representing people on this side.

This House does not belong to the Democratic Party any more than it belongs to the Republican Party. It belongs to the people of the United States of America, and they are the ones who will speak on November 8.

MORE EMPTY PROMISES FROM THE GOP

(Mrs. MEEK of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEEK of Florida. Mr. Speaker, the Republicans are pouring old wine into new bottles.

Mr. Speaker, in 1980 a group of Republican candidates came to the Capitol steps and pledged that, if elected, they would enact a supply-side miracle that would raise defense spending, cut taxes across the board, and still eliminate the deficit in 4 years.

Ronald Reagan was President, the Senate was controlled by Republicans, and a coalition of conservative Democrats combined with the Republicans and took effective control of the House. They rammed their supply-side quick-fix through the Congress, and claimed it would solve all of our problems.

Well, as they say, "The Rest is History."

We all learned the hard way that neither a family nor a nation can increase spending, cut income, and produce anything but a financial disaster.

After the 1980 mess: Deficits exploded to four times the previous highs; the national debt quadrupled; and the rich rode a gravy train while everyone else paid the bill.

Mr. Speaker, this country has been digging itself out from under the mountain of debt and the terrible unfairness left by that Republican magic. And now in an incredible display of contempt for the intelligence of the American people, House Republicans are betting Americans will have forgotten the wreckage produced by their first contract.

The Republicans now want to do it all over again.

Their latest contract calls for: Another round of defense spending increases, and a longer list of pie in the sky tax cuts.

What they do not tell us is that their contract will do two other things: First, blow a $1 trillion hole into their balanced budget promise; and second, produce another tax windfall for the wealthy while leaving the middle class and the poor behind.

Mr. Speaker, the Republicans are simply looking to the past for answers to the future. This contract is not only reckless but deceptive.

DEMOCRATS ATTACK GOP CONTRACT OUT OF FEAR

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, today we have heard from Democrats who are scared to death of the Republican contract with America because they have totally lost contact with America.

All one has to do is look at the legislation that they are bringing to the House floor today. The so-called lobbying bill turns out to be a massive assault on religious people in America who seek to petition their government.

Not long ago, the chairman of the Democratic Congressional Campaign Committee said that his party was going to launch a political assault on the religious conservatives who have the audacity to think that they should have some say about what their government does. Now we see what he meant. The lobbying bill contains a grassroots gag rule that could result in intimidation of religious groups that seek to speak up for the things they believe.

The Democrats attack the contract with America because they fear the commonsense policies it advocates. Meantime, they propose legislation aimed at shutting up America so they do not have to listen to the complaints about Democrat failures.

ELIMINATE THE CIA AND INVEST IN AMERICA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, 20 CIA patriots were assassinated because of a spy named Aldrich Ames. One of the worst breaches of security in American history, and CIA Director Woolsey has finally acted.

Mr. Speaker, the CIA director has reprimanded 11 agents for gross negligence. Beam me up. Not one demotion, not one firing. Does that mean, Mr. Speaker, that they will at least lose their parking privileges? Mr. Speaker, when did Congress make treason a misdemeanor?

We need the CIA about as much as we need more double agents from Russia. I say throw them the hell out and invest in our cities. You will have a safer America, and you will not need all these contracts.

URGING DEFEAT OF THE GRASSROOTS GAG RULE

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I urge all of my colleagues to look at page 13 of the conference report on the grassroots gag rule that is being brought to the floor today. It says that churches are exempted from this, and religious orders are exempted from this, "if the communication constitutes the free exercise of religion."

Who is going to decide that? A director appointed by Bill Clinton. As for me, Mr. Speaker, the prospect of a Roberta Achtenburg, of Dr. Elders, or of VIC FAZIO or their ally being appointed to define "the free exercise of religion" I think is a very chilling prospect.

I urge the defeat of this effort to gag Americans at the grassroots level.

COMMEMORATING THE 175TH ANNIVERSARY OF THE ESTABLISHMENT OF THE UNDERGROUND RAILROAD

(Mr. WATT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WATT. Mr. Speaker, today, citizens in my district will commemorate the 175th anniversary of the establishment of the national Underground Railroad. While many people associate the Underground Railroad with the courageous efforts of Harriet Tubman, in actuality the Underground Railroad started in Greensboro, Guilford County, NC, in 1819, 1 year before Harriet Tubman was born.

Founded by Vestal Coffin, a member of the Society of Friends, this slave escape system made it possible, during more than 35 years of operation, for hundreds of thousands of African-Americans to flee from captivity and enslavement. This mysterious transportation system, a primitive system with many routes, was never discovered by the slave owners.

According to "White Water, Colored Water," a history of Greensboro's African-American community, the Underground Railroad began when Greensboro, founded in 1808, was a village only 11 years old.

A slave named Sol assisted Vestal Coffin in preparing many slaves for their escape. By day, Sol sought out slaves who were interested in escaping or who had been free blacks, kidnaped and forced into slavery. He then fed this information to Coffin. In 1819, John Dimrey became the first passenger on the secret escape route traveling from Greensboro to Richmond, IN.

As John Dimrey was traveling north from Greensboro on the Underground Railroad, another African-American man, Benjamin Benson, became the first slave to successfully go to a local court to obtain his freedom. This was in Greensboro, NC. Many will also remember that Greensboro later became the place of the first sit-in demonstrations which launched years of efforts which resulted in the opening of public accommodations to black people.

The Quakers—as the members of the Society of Friends are called—stood against the institution of slavery through the Manumission Society, also based in Greensboro. One of the Quakers, Levi Coffin—cousin of the founder of the Underground Railroad and also a Greensboro native—became the president of the national Underground Railroad system.

I ask all Americans to join me, Project Homestead and Greensboro city officials today in this special remembrance of Sol, Vestal Coffin, Levi Coffin, John Dimrey and others who originated the historic Underground Railroad.

LIBERALS ARE WORRIED

(Mr. YOUNG of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Florida. Mr. Speaker, I yield to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Speaker, the liberal Democrat establishment in Washington is worried. Judging from their reaction to the idea of a contract with America it is clear they are afraid—if the American people are given a pledge that is kept, it will ruin their chances of every making empty promises again.

Everyone should be aware that the same people who are upset with the contract with America are the same people who promised to deliver health care in 100 days—2 years ago; the same people who promised a middle class tax cut and raised everyone's taxes instead; the same people who promised to end politics as usual and instead have given us a scandal a week.

Every part of the Republicans' contract with America is supported by the American people. That's what Democrats are worried about.

□ 1030

A VOTE AGAINST GATT

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, I congratulate Senator HOLLINGS for his decision to slow down the GATT—a new world trade agreement that is the culmination of nearly 15 years of radical free-trade-at-any-price policies that have run up more than $1 trillion in trade deficits and made the United States the world's largest debtor nation.

All we hear is that this GATT lowers tariffs. If that is all it did, I might support it. But it goes much further than that.

This GATT creates a new world trade organization—a United Nations of trade—except the United States will have no veto power. The tiny nation of Rwanda will have exactly the same vote and same power in this organization that we will.

A panel of three unelected trade bureaucrats will decide international trade disputes in secret sessions, without any possibility of appeal.

GATT puts every one of our Federal, State, and local laws on the table. If they are challenged as unfair trade barriers, a secret tribunal could order massive trade sanctions against our products and our markets until Congress changed those laws.

U.S. food safety standards could be challenged as unfair trade barriers. U.S. consumers could be forced to accept foreign foods that contain pesticide residues that are illegal under our laws.

U.S. environmental laws—like our automobile mileage standards will be overturned and protections for dolphins and other wildlife—have already been successfully challenged.

The Japanese Government has already said it will challenge our ban on the export of logs from our national forests as an unfair trade barrier. Many State and local laws, like Oregon's bottle bill, could be challenged.

Under the new GATT, faceless trade bureaucrats in Switzerland would aim trade sanctions against our markets that would put huge costs on U.S. consumers—until Congress changed those laws.

And finally, Mr. Speaker, this GATT is a $40 billion budget buster. And to pay for it, the Clinton administration is resorting to gimmicks that would make Ronald Reagan blush.

Senator HOLLINGS is right. Give the American people and the Congress a few months to read the fine print before Congress signs on the bottom line.

Send this turkey back to the White House for Thanksgiving and give the American people a break.

DO NOT SURRENDER OUR SOVEREIGNTY

(Mr. HUNTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, the President in sending GATT down in an attempt at the last minute to get it through is really doing a disservice to our country. He is doing a disservice particularly to the sovereignty of this country. Eighty-three of the nations that will be members of the WTO, the World Trade Organization, and that will be about two-thirds of the membership, have a record in the United Nations of voting more than 50 percent of the time against America.

What President Clinton is doing is giving away our strong right to bilateral negotiations in trade. He is surrendering that to a committee that does not like us very much. This President is sending our Government to the United Nations, our troops to Haiti, and our jobs to Japan.

CONTRACT WITH AMERICA IS A CONTRACT FOR FAILURE

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, on Tuesday, Republican Members of this body and Republican candidates from across the country gathered on the steps of the U.S. Capitol to pledge their allegiance to the GOP agenda. That agenda is nothing new. It is the same old combination of increased defense spending and tax cuts for the wealthy that tripled our country's debt in the 1980's.

Of the so-called contract with America, David Broder wrote: "It sounds suspiciously like the fairytale economics of the 1980's, which landed us in this budgetary mess."

The New York Times called the contract "duplicitous propaganda."

The director of Citizens for Tax Justice called the contract "voodoo economics: the sequel."

Now that the reviews are in, Republican candidates across the country are shying away from the contract. And, the Republican leadership will not release the names of the candidates who blindly signed this contract for failure. The same party that led the fight to have discharge petitions made public, now has its own secret list. Let the American people see who signed this contract to cut Social Security and Medicare. Release the list.

PASS REFORM LEGISLATION

(Mr. BARCA of Wisconsin asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARCA of Wisconsin. Mr. Speaker, today we will bring up for debate a lobby law reform. That is very positive, that at long last this will be brought before us for a debate and final resolution.

But let us not forget the rest of the reform agenda. My understanding is that we are very close to an agreement on election law reform. We passed a strong election law reform bill in this House that was supported by all of the reform groups. We need to pass it. We need more support from our colleagues to team up with the rest of us who are demanding that the Senate bring up the Swett-Shays Congressional Accountability Act. That passed this House nearly unanimously.

Then we need to have a similar kind of bipartisan team effort to call for the rest of the reform agenda: A line-item veto, emergency spending restraint, and baseline budgeting. All of these passed this House by a large majority. Let us team up. Let us ask for colleagues in the Senate. We can still pass it this session. That will bring fiscal responsibility to this Congress once and for all.

CONTRACTS AND PLEDGES SHOULD BE KEPT

(Mr. STENHOLM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, we are talking a lot about contracts today and I could not agree more with the gentleman who said that contracts and pledges should be kept. I found it very ironic that yesterday on the agriculture reorganization bill, the first recorded vote that this body, after a contract has been signed for reform and making changes, that 171 of my colleagues on the Republican side of the aisle, and 6 on this side voted against reform and change.

As the chairman of the committee that has worked very hard for over 2 years with the previous administration as well as this administration, I found it very ironic that on the first recorded vote of keeping a pledge for change and reform and saving money, we vote different than what we pledge.

I say in a very, very sincere way: Whatever we do or say in this campaign on whatever issues we say, we must be prepared to come to this floor and vote the same way that we say.

VOTERS BEWARE OF TRICKS

(Ms. SHEPHERD asked and was given permission to address the House for 1 minute.)

Ms. SHEPHERD. Mr. Speaker, voters should beware of election year tricks.

It is a trick to propose a plan that pretends to cost nothing, but that adds $1 trillion to the Federal deficit.

It is a trick to support reform in word and then vote against it on the floor.

The latest trick is the assertion that the lobbying reform bill threatens grassroots religious efforts.

The Lobbying Disclosure Act has received the support of the U.S. Catholic Conference, the Baptist Joint Committee, and the Religious Action Center of Reform Judaism. The Joint Baptist Committee says that the language of the bill and the report "protects the free exercise of rights of Churches and religious organizations. * * *"

Mr. Speaker, today the real reformers will stand up and be counted by voting "yes" on the rule and then "yes" for adoption of the Lobbying Disclosure Act.

TIME FOR A CHANGE

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, I have heard my Democrat colleagues come to the floor today attacking our contract with America because they are scared to death. They have lost election after election after election this year. The Speaker only got 35 percent of the vote in his own district. They are all terrified.

I would like to ask them, what is wrong with making a contract with America that says we will bring to the floor of the House a balanced amendment to the Constitution? They do not want to do that. What is wrong with bringing a line-item veto piece of legislation to the floor for a vote? They do not want to do that. What is wrong with tax fairness for senior citizens, where they go on Social Security and right now they are penalized if they work. We are going to change that if we get a chance, but they do not want to do that because they say it is going to take money away from the Treasury that they want to spend on more and more new social programs.

If we cut taxes, we put more money in Americans' pockets that they can spend and create an economic boom that brings in more taxes because more people are working. But they do not want to do that. They believe Government knows best how to spend your money. We do not believe that. That is why we want to change. They have had control for 40 years. It is time for a change, America.

We are going to bring these things to the floor so you will get what you want out of Congress, not what they are giving you, more and more government.

REPUBLICANS WILL BALANCE BUDGET

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, I sure am glad that 16 years ago I did not move to Washington after I was first elected to the House. I have been going home every weekend, because people outside the beltway think differently than the Democrats. I just cannot believe Democrats stand up here and complain when we Republicans want to take money out of the way of the Government and give it to the people. What in the world is wrong with that?

Democrats say that we Republicans want to balance the budget and that this is going to cost $1 trillion. Ladies and gentlemen, that is going to save $1 trillion. The balanced budget alternative that I offered on this floor back in April actually cut the deficit by $750 billion. That did not cost the taxpayers, it saved the taxpayers. Who did it cost? It cost the Government bureaucrats.

Give us 218 Republicans and we will pass not just the balanced budget amendment, but a balanced budget as well. We will give the American people back $750 billion.

□ 1040

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3949

Mr. FROST. Mr. Speaker, I ask unanimous consent my name be withdrawn as a cosponsor of H.R. 3949.

The SPEAKER pro tempore (Mr. VISCLOSKY). Is there objection to the request of the gentleman from Texas?

There was no objection.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 4650, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1995

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 544 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 554

Resolved, That all points of order against the conference report to accompany the bill (H.R. 4650) making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes, and against its consideration are waived.

The SPEAKER pro tempore (Mr. McDERMOTT). The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume. All time yielded during the consideration of this resolution is yielded for the purpose of debate only.

Mr. Speaker, House Resolution 554 waives all points of order against the conference report to accompany H.R. 4650, the Department of Defense appropriation for fiscal year 1995, and waives all points of order against the consideration of this conference report.

Mr. Speaker, indeed all of the bills which appropriate funds to operate our Government are important, but the events of the past year, and certainly of the past few weeks, show the critical importance of the appropriations bill for the Department of Defense. This conference report appropriates $243.6 billion for defense programs which is $3.5 billion more than the amount appropriated for the current fiscal year.

The conference agreement contains $299 million to pay for the relief operations in Rwanda and Guantanamo, as well as recent rescue operations off Haiti and Cuba. These funds do not, however, fund the costs associated with Operation Restore Democracy; the administration will submit a request for those funds with their budget request next year. The $299 million is provided to replenish operations funds which have been drawn down in order to fund the Cuba and Haiti humanitarian programs.

The conference agreement also contains $467 million in research and development funds for the V–22 Osprey. I was gratified earlier this month when the Defense Acquisition Board recommended that the Department of Defense go forward with production of this vital new aircraft. Because the Osprey was included in a list of defense programs the Deputy Defense Secretary sent to the Defense Resources Board to consider for reduction or cancellation, the DAB recommendation is especially important. The events in Haiti certainly point to how valuable the capabilities of the V–22 would be to the Marine Corps and I commend Chairman MURTHA and his subcommittee for their continued support for this important defense program.

The conference agreement also contains $2.9 billion for missile defense systems, $2.2 billion for a new aircraft carrier, and $2.2 billion for six C–17 transport planes. But, in addition to the funds for procurement, this bill contains an important appropriation of $400 million for denuclearization and demilitarization efforts in the states of the former Soviet Union. These efforts, along with the continued development of our own military systems, are critically important to guaranteeing long term stability in the post-cold-war world.

Mr. Speaker, I am sure most Members of this body, myself among them, believe that funding for our Nation's defense should never be compromised. Any further reductions of DOD programs should be carefully weighed against the cost of possibly leaving our men and women in uniform unprepared to meet today's challenges. However, given the budget realities in which we operate, it would be extremely difficult to develop a better balanced package than the conference agreement before us today. I urge my colleagues to support this rule in order that we may proceed to the consideration of this conference agreement.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, we have before us a rule that will permit the expeditious consideration of the conference report for the defense appropriation bill for the coming fiscal year. This is the 13th and final general appropriation bill to come before the House. As far as I am concerned, once we pass this one and the Senate is done with it, let us go home and get out of here and go back to the real world.

The Committee on Appropriations should be saluted for completing its work on budget and on time. Maybe we should have put them in charge of health legislation and maybe we would have come out with something decent this year. In any event, Mr. Speaker, the committee deserves our thanks.

There is no need to repeat what the gentleman from Texas has told us other than to say that the rule now before us does waive all points of order against the conference report and against its consideration. The waivers are required for a handful of items and deal with either scope, germaneness, or legislating in an appropriation bill. I am assured by the gentleman from Pennsylvania [Mr. MURTHA], chairman of the subcommittee, whom I have great respect for, and the gentleman from Pennsylvania [Mr. MCDADE], the ranking Republican, whom I have really great, great respect for, that there are no violations of the Budget Act. And if they say there are not, then there are not.

I might point out that the supplemental appropriation of just under $300 million which is contained in this conference report will replenish the readiness account, and there are very few things more important than that, ladies and gentlemen. So I commend the committee for doing that.

I am not going to make an issue of these waivers. The House must be permitted to go forward and work its will on this final appropriation bill.

Mr. Speaker, the appropriators have a long record of trying to keep their bill closely in line with the defense authorization bill, and that bill is about to be signed by the President in probably the next day or two. That of course is indeed the case again this year. The two bills are very much consistent.

Mr. Speaker, I said last year during the debate on this bill that there are no two Members in this body to whom I would be more willing to entrust the security of the country than the two gentlemen who just happen both to be from Pennsylvania, JOHN MURTHA, the chairman, and JOE MCDADE, the ranking Republican. Once again, they and their colleagues have produced a bill that makes the most out of a very, very difficult situation. With the limited funds available to them under the budget resolution, they have seen to it that our Armed Forces will retain a good state of readiness in the coming year and that the quality of life issues that are so important to maintaining a high state of morale among our military personnel—our all volunteer military—see to it that those needs have been adequately addressed.

But, Mr. Speaker, despite all of the good work by the gentlemen from Pennsylvania and their colleagues on the Committee on Appropriations, the danger signs are everywhere. They are very apparent. I honestly wonder how much longer our defense budget can hold up under the fiscal and policy constraints that have been imposed upon it.

I know one thing: The ability of our country to meet its obligations and defend its vital interests is withering all over this world.

Mr. Speaker, by the end of fiscal year 1995, which will be next October, defense spending will represent only 3.8 percent of the Nation's gross domestic product. A level that low has been seen only once since 1941, and that came in 1948 after the end of the Second World War when we were demobilizing and Stalin was carving up Eastern Europe. We all understand the consequences of that and what happened when we let defense spending reach that low ebb.

By fiscal year 1999, at the end of the current 5-year phased reduction in defense spending, the defense budget will be down to 2.9 percent of gross domestic product. Ladies and gentlemen, read the Constitution of the United States. This is a republic of States that was formed to provide for the common defense.

My colleagues, a level of 2.9 percent for defense spending has not been seen since the 1930's when dictators were on the march and America was fumbling along with Armed Forces smaller than those of a country like Romania.

Let us look at some other figures.

Active duty force levels are down by 29 percent since 1985. That is almost one-third. And active duty reserves and civilian defense personnel are being cut, that means they are being furloughed, and they are being sent home, knocked out of the military, at a rate of 15,000 a month. Even now, 15,000 are being furloughed every single month.

□ 1050

Procurement in real dollars is down by 67 percent since 1985. Listen to this, the Army has been reduced from 18 active divisions down to 12 since 1989. The Navy's battle fleet has been reduced by almost one-third, 32 percent, in the past 5 years. The number of aircraft carriers on active duty has been reduced from 15 down to 11. Those aircraft carriers are the reason we can defend America's interests around the world, and now we are down to just 11 of them. The Air Force's active fighter wings have been reduced from 24 down to 13. All of this has happened just since 1989.

Mr. Speaker, I could go on and on with these kinds of statistics. One thing is crystal clear: 3 years after Operation Desert Storm, our country could no longer even think about mounting such an effort without leaving ourselves dangerously exposed in many other critical areas of the world.

Mr. Speaker, in conclusion, I salute the good work of the appropriators, especially under such extraordinary budgetary constraints. But I must once again warn all Members that a level of commitment to the common defense of this Nation at these low levels cannot go on much longer without doing substantial, even irretrievable, damage to our national interest and the peace of this world.

I hope that Members will not oppose this rule so that the House may be able to consider the conference report expeditiously.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I am happy to yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding to me.

As a member of the Appropriations Subcommittee that brings this bill to the floor, I want to commend the gentleman, and I want to thank him for his understanding of how our subcommittee is not responsible for the tremendous reduction in our defense appropriation.

We are in a dangerous trend. This is the ninth year in a row that we have reduced funding available for our national security interest, and the gentleman made excellent points about how this has happened, how we reduced the Army and the Navy and the Air Force and the Marine Corps.

The reason I asked the gentleman to yield is I would like to point out that while we have been reducing the members of our Armed Forces, we have been giving them more jobs to do than they have had to do in a long time. We are deploying Armed Forces personnel all over the world in places that Americans do not even know about. We are finding that soldiers and sailors and airmen and marines are being deployed for longer periods of time now than they have before. This is causing tremendous problems not only in the military but in their families, family problems, domestic problems in the military today, especially at the lower ranks, which are getting worse and worse. Nearly 65 percent of our enlisted personnel are on food stamps. We are making a big mistake.

If we ever get faced with a real major regional conflict, and I pray that we do not, but I am not satisfied that we are going to be able to defend our own national security interest. This trend has got to stop. We need to pass this rule, and we need to pass this conference report, because it is a good job and an excellent job with the assets that were available to us.

But the trend has got to stop, or this country could be in serious trouble in the future.

Mr. SOLOMON. Mr. Speaker, I just want to say this about the gentleman from Florida. He serves not only on the Committee on Appropriations, on the Defense Subcommittee, but he is also the former ranking member on the Intelligence Committee and has served on that committee for many, many years. He probably has more expertise in this field and knows the real dangers out there than any other Member in this body.

I really do commend the gentleman for the great work he has done on the committee.

Mr. Speaker, I yield to the gentleman from Louisiana [Mr. LIVINGSTON], a member of the Committee on Appropriations.

Mr. LIVINGSTON. Mr. Speaker, I thank my friend, who is the ranking minority member of the Committee on Rules, soon to be chairman of the Committee on Rules, and for his comments.

I likewise want to congratulate the gentleman from Florida for his comments. I totally agree.

I am a member of the subcommittee, and I think the subcommittee, under the leadership of the chairman and the ranking member, has done an outstanding job on the bill to provide the money for our armed services within the parameters given us by the Committee on the Budget and by OMB and by the White House and by this administration, but just as we speak, we have thousands of troops, 10,000 or more troops, down in Haiti. We have troops in northern Iraq. We have troops all over Europe. We have troops in Asia. We have troops all over this world. Some 80,000 to 100,000 troops are deployed all around the world in at least 18–19 separate countries, and yet we are still continuing the downward spiral in the overall appropriations for the armed services of this country when you consider inflation into the numbers since 1985. That concerns me greatly.

Our troops are suffering. They are suffering in terms of limited money for training. Our Navy has just found they did not have the money to sustain the Reserves. We are cutting back on squadrons and fleets, as the gentleman from Florida has pointed out, and moreover, our airmen and our sailors and marines and perhaps our Army is being deployed in more and more places with less and less time to go home and regroup, rest, and relax and be with their families. All of this is destroying the morale of our troops.

Frankly, I think it is a terrible trend which is certainly not going to be improved by the deployment of our troops in Haiti, the poorest nation in the Western Hemisphere, which has no relationship to the United States national interest. I am of great concern North Korea could blow up with its nuclear capability or Iran, which is threatening the Middle East with its fundamental radicalism, could prove a great, great problem in the weeks or months to come, and here we are wasting our time with all of our forces against the superpower of the Caribbean known as Haiti.

I think, frankly, this administration better go back to the drawing board, rethink its foreign policy, and start supporting the troops that we are asking to do all of these jobs, or else we ought to start pulling out of these other countries altogether and forget about peacekeeping throughout this world.

I thank the gentleman for his time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman makes an excellent point in citing the 10,000 troops that we now have in Haiti. And one thing that bothers me is all this being talked about as a multinational force. There are 10,000 American troops there. There are 24 from other countries, 24. That shows us what kind of costs we are incurring to maintain our troops, and those costs will drain this defense budget by three-quarters of a billion dollars in just a very short time. That will exacerbate the serious problems we have now.

The gentleman from Louisiana is a very great member of the Committee on appropriations. We commend you for the great work you did.

Mr. LIVINGSTON. If the gentleman will yield further, I think it is inspirational we have those 24. I appreciate those countries committing them. I cannot escape remembering the headlines 3 weeks ago across the Washington Post, which said, "21 nations are going to help us in Haiti"; Barbados, Trinidad. I tell you what, this is a joke.

Mr. SOLOMON. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, for the purposes of debate only, I yield 3 minutes to the gentleman from California [Mr. BROWN], the chairman of the Committee on Science, Space, and Technology.

Mr. BROWN. of California. Mr. Speaker, I thank the gentleman very much for yielding me this time.

Mr. Speaker, I have had some problems with the defense appropriation bills in the recent past. I am happy to say that I have fewer problems with this bill than I have had in the past. I likewise have had some problems with the rules, and again I have fewer problems with the rules this time than I have had in the past. This lukewarm endorsement is about the best that I can do.

I am not going to urge defeat of either the rule or the conference report, but I do want to point out some of my concerns.

The rule waives all points of order against the bill, which I consider to be extremely undesirable. There are a number of things in here which should be subjected to debate, but since they are protected by the rule, we will not get the chance to do that.

I want to commend the Committee on Rules, however, for allowing the full 3-day layover so that the contents of this conference report could be reviewed in some reasonably adequate fashion. The staff of my committee has looked at the bill, and we find that it is considerably improved over what it has been in the past with regard to the issue which deeply concerns me. That issue is the earmarking of academic research facilities and programs.

It is my very strong opinion that earmarks for academic research and facilities deprive the American taxpayer of the best use of his dollars.

It is the essence of science that you want excellence, and there are ways in which you can get excellence. They are not perfect, but they are better than having it done by the senior members of the Committee on Appropriations.

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I make this remark with no disrespect intended to these very able gentleman who have done so well in bringing this bill to the floor.

In reviewing the bill we have learned from various sources that it has a substantially fewer number of earmarks in a number of areas of interest to us, such as defense conversion, the technology reinvestment program, and the manufacturing technology program. There are no earmarks in the university research grant account. However, there are $140 million in earmarks for academic facilities in other accounts. We will put a chart in the RECORD showing these.

Of those $140 million, 90 percent go to members of the Appropriations Committee. The argument that this is equitable, this serves the best interests of the small and deprived institutions around the country falls on its face. And I am not decrying the value of these particular earmarks. I am just saying 90 percent of them go to members of the Appropriations Committee, mostly those serving on the conference committee.

As an authorizing committee member, I would like to work with the appropriators to authorize these projects, but we have not been invited to participate at that level. I hope they will consider doing that in the future.

Mr. Speaker, as I said before, I have had trouble over the past few years with the way the appropriations process has worked, especially with the Defense appropriations bill. I have been concerned that appropriations bills have been excessively laden with earmarks; I have been concerned that they have had excessive legislative language that should properly be left to the authorizing committees; and I have been concerned that they have been considered under restrictive rules that allow the decisions of a small group of Members to go unchallenged, even if they are radically different from bill that the whole House voted on.

Finally, with respect to the Defense bill in particular, I have been outraged at the ways bill or conference reports have been brought up so quickly that Members have not had time to read, much less understand, their content. This is especially unacceptable when there are new provisions that have not appeared in either the House or the Senate bill or report.

Mr. Speaker, today I would like to acknowledge that some progress has been made on many of these fronts. I am still unhappy that we have to consider this conference report under a rule that waives all points of order. I hope that we can think seriously next year about how to reform the process to allow much more open debate of these important appropriations decisions.

Although I am not happy about the rule, I am gratified that Members have at least had time to look at the conference report between Tuesday and today. This is progress in light of the recent history of defense appropriations. But I must remind Members, Mr. Speaker, that this is the way it is supposed to be under the rules of the House. In the future, I hope we will not have to think of it as a remarkable achievement.

In addition to the progress we see in terms of the process for consideration of this important appropriations measure, we see some progress in the earmarking of funds for particular projects. I will discuss these earmarks in greater detail below.

Turning to the substance of this Defense appropriation, the conference report provides $243.6 billion for fiscal year 1995, an increase of just over $3.5 billion from fiscal year 1994, and a reduction of $822 million from the President's request. Defense R&D in the Research, Development, Test, and Evaluation account appears to be funded at $35.9 billion, but $370 million in reductions for federally funded research centers of various sorts are included in general provisions and should be subtracted from this total.

Mr. Speaker, funding for defense RDT&E is up slightly over fiscal year 1994, but is below the President's request. I wish I could say that this represents a rational decision by the Congress to reallocate R&D from defense to nondefense purposes in light of the end of the cold war and a renewed recognition of the importance of civilian R&D to this Nation's future economic growth and prosperity. But I fear that when we look at the overall results of the R&D decisions we have made in this year's appropriations bills we will find that civilian R&D is lagging behind the objectives set forth in Science and the National Interest—the administration's vision for the future of science policy.

One method of converting from defense R&D to civilian R&D is the encouragement of dual-use technologies, primarily through the Technology Reinvestment Program [TRP]. Unfortunately, the conference has reduced TRP funds from the request of $625 to $550 million, even though both the House and Senate recommendations supported the full request.

On the positive side, I am pleased to see that, again this year, the conference report reiterates the legal requirement that TRP funds be awarded on a competitive basis. I must express some concern, however, that this year's conference report contains extensive additional legislative language, added by the other body, specifying how the Department should award TRP funds, including a segregation of $75 million for projects in specially selected areas. This is just the kind of legislative language added to the bill by the other body that we should be able to debate openly when we vote on a conference report.

Mr. Speaker, I want to note that this year's Defense appropriations bill and the accompanying reports reduce university research funding by $200 million, including $181 million in general reductions in the various RDT&E accounts and $19 million in university-affiliated research centers. Estimates of how much university research fund by DOD vary between $1.5 and $1.8 billion, but even with the higher estimate, the reduction in this conference report is over 10 percent. Certainly, this is not as Draconian as the 50-percent cut proposed in the House bill, but we did not get to debate that cut and we do not get to debate this cut.

Moreover, there is immense confusion at the Department of Defense over the intentions of the conferees. For example, while defensewide university research is directed to take an $86 million cut, the university research initiative is increased in the conference report by $21 million over the President's request to $253 million. Was it the intention of the conferees that the University Research Initiative Program would be immune from absorbing any of this cut or does the Secretary have the discretion to distribute the cuts as he sees fit? This is just one example of where the conferees seem to be pointing in two directions at the same time.

The conferees do not really explain the $200 million cut, but they do express some concern about the overhead costs of university research. My committee has its own concerns about the indirect cost rate at American universities and I have offered to work with the distinguished gentleman from Pennsylvania on this issue. I remain open to working in a collaborative way to determine whether we are getting as much bang for our buck as we should be.

In case the conferees were unaware of it, I would like to point out that an earmarked grant is just as subject to indirect cost-rate charges as a competitively awarded grant. If you are concerned about indirect cost rates and use that as a rationale for cutting university research support, that same logic should apply to earmarks to support universities.

As I noted earlier, however, there are at least $140 million in earmarks to academic institutions. There is another handful of academic earmarks that do not have a dollar amount specified. Then there are another 8 projects worth almost $43 million that are probably going to academic institutions, though the report language is a little obscure. What I am suggesting is that the $200 million cut from university research programs is almost equal to the probable total of academic earmarks being made in this Defense appropriation report. The conferees advice—because that is the legal status of report language—is that $200 million be removed from the discretionary control of the Secretary of Defense and the priorities established by the Pentagon and to projects that members of the conference think are most needed in their home districts and States. This kind of self-serving reprioritization bothers me a great deal.

I want to call my colleagues' attention to one project in particular which was included in amendment 101. This project appeared at conference and transfers $15 million from our underfunded, hollow-force Department of Defense to the Department of Energy. Now, I assure you that DOE could use more funding as well, but I don't think robbing the Department of Defense is the way to provide support for the Department of Energy. In any case, neither House nor Senate Appropriations Committee staff was able to provide guidance on what this earmark is for beyond the language in the amendment that it is to support a center for bioenvironmental research. However, I will attach to this statement an article from the Times-Picayune of March 31, 1994 which seems to shed light on this unauthorized project.

Identifiable academic earmarks of approximately $140 million are well below last year's level of approximately $275 million. If these numbers hold up to further analysis, it will represent significant progress. Now, all of you know that I believe that the process by which earmarks are made undercuts the prioritization of executive departments and authorizers and it freezes the vast majority of Members of this House out in the cold. Proof that having a Member in the room is critical to the ability to get earmarks comes from the concentration of earmarks in just three States: Hawaii, 30 percent; California, 20 percent; and Louisiana, 12 percent. These three States account for 62 percent of the identifiable earmarks. And I note that of the 35 earmarks that can be tied to a particular State and school, only 3 were to States that did not have a representative on a Defense Appropriations Subcommittee or a conferee. I include in the RECORD a list of identifiable earmarks as well as an analysis of their distribution by State.

The final point I want to make on the issue of earmarks is to call my colleagues attention to very disturbing testimony that my committee received last week. We learned that a Federal agency had made three earmarks on the basis of nothing more than a phone call from Appropriations Committee staff. There was nothing in either the bill nor the report to suggest that a plus-up for a generic type of research was actually intended to go to a specific location.

There is no Member of this body—at least among authorizers—who can pick up the phone and instruct an agency to make a grant to an institution in our districts. Many is the time we have probably wished we could. However, I guess we have to seek out a second career as Appropriations Committee staff before we can get away with that. This is outrageous and I will be seeking the assurance of the distinguished gentleman from Pennsylvania that no such shenanigans go on surrounding the bill that he has responsibility for.

Mr. Speaker, I will vote for this rule and for this conference report. I commend the Appropriations Committee for the positive steps that have been taken so far that allow me to do this. But I am sure it is evident that my support comes with a number of qualifications. I hope that we can continue to build on the improvements that have been made so far and I will not have to speak to these concerns in the future.

ENVIRONMENTAL RESEARCH IS ON; BUILDING DEDICATED BY XAVIER, TULANE

(By John Pope)

The pollution of the Mississippi River and the lingering effects of the 1986 nuclear-reactor explosion at Chernobyl are two of dozens of topics researchers will explore in a $35 million building Tulane and Xavier universities dedicated Wednesday.

The J. Bennett Johnston Health and Environmental Research Building, a seven-story structure at 1324 Tulane Ave., contains the Tulane/Xavier Center for Bioenvironmental Research, which was established five years ago with $33 million from the Defense Department. Since then, the center has received $67 million more in public and private research grants, Tulane spokeswoman Kandace Power Graves said.

And more grants totaling nearly $7 million will be awarded this spring, said Susan Davis Allen, the center's interim director.

"I think this probably is the best-funded bioenvironmental research center in the United States," Tulane University Medical Center Chancellor Neal A. Vanselow said.

Its relative wealth and the scope of its work put the New Orleans center in a league with environmental-research programs at such universities as Johns Hopkins, Columbia, the California Institute of Technology and Texas A&M, said Gene D'Amour, Tulane's vice president for institutional program development and government agency affairs.

Grants already received include:

$25 million to study the effect of hazardous materials on aquatic environments.

$5 million to investigate risks associated with petrochemical waste-disposal sites.

$3 million to establish the South Central Regional Center of the National Institute for Global Environmental Change, which investigates such climate-changing phenomena as global warming.

$850,000 to look into concerns more prevalent in poor communities, such as lead poisoning and the effects that exposure to pollutants may have on children.

The building is named for Louisiana's senior senator, who helped get the grant to set up the center.

"With this center of research, Tulane and Xavier will claim their place among the best institutions in the world," Johnston said at the dedication ceremony in the building's atrium.

"Isn't it nice that a state that hasn't been known for the cleanliness of its environment will now stake a place in the cleaning of the environment?" he said.

Grants already awarded have underwritten research in such fields as the effect cigarette smoke has on the lungs of asthma sufferers, the combined effects of radiation injury and lung damage, and the prospect of getting water pollutants to cling together for easy, clean removal from industrial-waste water.

By working on such projects, Tulane and Xavier are involved "in something that is important and growing," Johnston said.

Besides the bioenvironmental center, the 200,000-square-foot structure contains a conference center, Tulane's cancer center and research office, and a department to get and maintain the equipment needed for sophisticated research.

Eventually, Vanselow said, all these activities should provide more jobs—and, perhaps, a lure to companies concerned with environmental issues.

DISTRIBUTION OF DOD EARMARKS BY STATE

State	No. of projects	Dollars	Percent of total
Alaska	1	5,000,000	3.56
Arizona	1	834,000	0.59
California *(1)	5	29,000,000	20.68
Florida	1	10,000,000	7.13
Georgia	2	4,400,000	3.14
Hawaii	6	42,325,000	30.18
Illinois	1	8,500,000	6.06
Louisiana	4.5	17,250,000	12.30
Massachusetts	1	4,000,000	2.85
Michigan	1	500,000	0.36
Mississippi	1	1,000,000	0.71
New Jersey	1	2,800,000	2.00
Pennsylvania *(2)	4	6,000,000	4.28
Tennessee *(1)	1		
Texas *(1)	1.5	500,000	0.36
Washington	1	150,000	0.11
West Virginia	2	8,000,000	5.70
Totals	35	140,259,000	100.00

An asterisk (*) followed by a number in parentheses indicates the number of projects which were earmarked but for which no dollar amount was given.

ACADEMIC EARMARKS INCLUDED IN H.R. 4650, THE DEFENSE APPROPRIATIONS BILL

Section	School	Project	Amount	State
Bill/Title IV, Navy RDT&E (amend. 94)	University of Mississippi	National Center for Physical Acoustics	$1,000,000	MS.
Bill/Title IV, Air Force RDT&E (amend. 97)	Universities of New Mexico, Cornell, Carnegie Mellon	Maui Supercomputer	13,000,000	HI.
Bill/Title IV, Defensewide RDT&E (amend. 101)	Xavier and Tulane	Center for Bioenvironmental Research	15,000,000	LA.
Report	Louisiana State University	Nutrition research	250,000	LA.
Report	University of Washington	Trauma care	150,000	WA.
Report	University of Hawaii	Serum cholesterol research	425,000	HI.
Report	University of Hawaii	Agribusiness Devl. Corporation	4,500,000	HI.
Report	University of Pittsburgh	Facility Env. Management and Monitoring System	5,000,000	PA.
Report	University of Hawaii	Haw. Small Business Devl. Center	5,400,000	HI.
Report	West Virginia University	Laser Vibration Sensing System	4,000,000	WV.
Report	Illinois Institute of Tech	Instrumented factories for gears	8,500,000	IL.
Report	University of New Orleans & Lamar University	Center for Excellence in Ship Hull Design	1,000,000	LA, TX.

ACADEMIC EARMARKS INCLUDED IN H.R. 4650, THE DEFENSE APPROPRIATIONS BILL—Continued

Section	School	Project	Amount	State
Report	Pennsylvania State University	Coal based jet fuel	1,000,000	PA.
Report	University of Alaska	High altitude auroral research	5,000,000	AK.
Report	University of Arizona	Adaptive optics	834,000	AZ.
Report	University of New Mexico, Cornell, Carnegie Mellon	Maui Supercomputer	7,000,000	HI.
Report	University of Mass.	Large Millimeter Telescope	4,000,000	MA.
Report	Marshall University	Institute for Advance Flexible Manufacturing Systems	4,000,000	WV.
Report	Florida Int'l., Georgia Tech, University of SW Louisiana, Fashion Institute of Tech, N.C. State, Clemson.	Military sewn products	10,000,000	FL.
Report	Rutgers University	Combat rations	2,800,000	NJ.
Report	University of Tennessee	Electric vehicles		TN.
Report	University of Pittsburgh	CALS		PA.
Report	Lamar	CALS in Orange, TX		TX.
Report	University of Pittsburgh	National Defense Center for Environmental Excellence		PA.
Report	Georgetown and University of Hawaii	Akamai health project	12,000,000	HI.
Report	Louisiana State University	Nutrition research	750,000	LA.
Report	LSU	Nutrition research	750,000	LA.
Report	Loma Linda University	Prostate treatment study		CA.
Report	Georgia Inst. of Tech	Center for International Defense Conversion	400,000	GA.
Report	Monterey Inst. of International Studies	Non-Proliferation Institute	4,000,000	CA.
Report	San Diego State	Center on Defense Conversion	10,000,000	CA.
Report	Georgia Institute of Technology	Plasma arc remediation	4,000,000	GA.
Report	Cal State University	Fort Ord	14,000,000	CA.
Report	Michigan State University	Torque Converter Project	500,000	MI.
Report	University of California	Fort Ord Cleanup Technology	1,000,000	CA.
Total			140,259,000	

There are eight other projects worth $42.9 million that may be going to academic institutions, but there is insufficient information provided in the report to determine the recipients.

Mr. SOLOMON. Mr. Speaker, let me commend the Committee on Appropriations for the work that they have done under these circumstances.

Mr. Speaker, I yield back the balance of our time.

Mr. FROST. Mr. Speaker, for the purpose of debate only, I yield 2 minutes to the gentlewoman from California [Ms. HARMAN] who is our last speaker.

Ms. HARMAN. Mr. Speaker, I rise in support of the rule and in support of the fiscal year 1995 Defense appropriations conference bill, and I must say that I salute the sense of bipartisanship that is exhibited here today in support of both of these.

As the member of the House Armed Services Committee who represents the aerospace center of California, I have fought hard for robust funding for critical defense priorities. This bill funds those priorities, and strikes a successful balance among the various accounts in the defense budget. Procurement funding provides for continued production of F/A–18's, C–17's, Milstar, and conventional bomber upgrades. Each of these projects is critical to maintaining our industrial base. Research and development funding provides for essential technology programs ranging from ballistic missile defense to law enforcement and technology. Over $3.3 billion is included for reinvestment and transition assistance, to help companies and their workforces diversify. Another vital program included in the bill is Nunn-Lugar—a necessary part of our nonproliferation strategy.

In any view, this is a much better defense appropriations bill than last year. More thought and better results are achieved.

Under the current budget constraints, this conference bill represents what Congress can do and I believe Congress has done very well. I would particularly like to commend the subcommittee chairman, the gentleman from Pennsylvania, Mr. MURTHA, and my colleagues from California, Mr. DIXON and Mr. LEWIS, for their excellent effort. The people of California—especially the people in my aerospace-based district in California—appreciate their efforts.

Mr. FROST. Mr. Speaker, I have no further requests for time, and I move the previous question.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3222

Mr. PETRI. Mr. Speaker, I ask unanimous consent that my name be removed as a consponsor from the bill, H.R. 3222.

The SPEAKER pro tempore (Mr. VISCLOSKY). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

CONFERENCE REPORT ON H.R. 4650, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1995

Mr. MURTHA. Mr. Speaker, pursuant to House Resolution 554 just adopted, I call up the conference report on the bill, H.R. 4650, making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 26, 1994, at page H9607.)

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. MURTHA] will be recognized for 30 minutes, and the gentleman from Pennsylvaniva [Mr. MCDADE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. MURTHA].

GENERAL LEAVE

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill, H.R. 4650, making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes and that I may include extraneous and tabular matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. MURTHA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I first want to commend the gentleman from Pennsylvania [Mr. MCDADE] and also offer our condolences to him. I know he is here at a time when his mother-in-law, who was 82 and was a very vivacious lady, has just died. All of us offer our condolences to the gentleman from Pennsylvania. We appreciate him being here.

Mr. Speaker, we are going to try to expedite the proceedings so Mr. MCDADE can attend the funeral.

Mr. Speaker, I bring to the floor the conference report for the fiscal year 1995 Defense appropriations bill. This conference report provides the vast amount for the funds provided for the Department of Defense. Some additional funds for the Defense Department are included in separate legislation—the military construction appropriations bill and the energy and water appropriation bill.

I would like to thank the distinguished ranking minority member of the committee, my friend, Congressman JOE MCDADE. He and all members of the committee have worked hard all year.

I also would like to extend my special thanks to two of the committee's staff who are retiring—Mr. Donald Richbourg and Mr. J. David Willson. They have both worked for the appropriations for over a quarter of a century. Their expertise will be sorely missed.

This bill provides $243.6 billion for DOD. The total provided in the bill is: Basically at the budget request; at the ceiling set for the national security function in the budget resolution; and at the 602(b) allocation set for the Defense Subcommittee.

Mr. Speaker, I would like to place in the RECORD at this point a table listing the funding level for the major titles of the bill.

BUDGET AUTHORITY

	Fiscal year 1994 enacted	1995 estimates	Conference
Title I—Military Personnel	$70,624,044,000	$70,475,397,000	$70,389,202,000
Title II—Operation and Maintenance	76,616,787,000	81,926,891,000	80,925,585,000
Title III—Procurement	44,663,078,000	42,698,919,000	43,423,847,000
Title IV—Research, Development, Test and Evaluation	35,191,491,000	36,225,013,000	35,870,044,000
Title V—Revolving and Management Funds	2,643,095,000	1,777,638,000	1,669,638,000
Title VI—Other Department of Defense Programs	11,021,820,000	11,329,706,000	11,368,346,000
Title VII—Related agencies	403,588,000	305,384,000	349,184,000
Title VIII—General provisions	−618,958,000	7,131,000	−266,058,000
Title IX—FY 1994 Supplemental Appropriations		270,000,000	299,300,000
Procurement: General Provisions		−304,900,000	−304,900,000
(Additional transfer authority)	(2,500,000,000)	(2,000,000,000)	(2,000,000,000)
Total, Department of Defense	240,544,945,000	244,711,179,000	243,724,188,000
Scorekeeping adjustments	−465,300,000	−261,200,000	−96,061,000
Prior year (outlays only)			
Grand total	240,079,645,000	244,449,979,000	243,628,127,000

DEFENSE PERSPECTIVE

Mr. Speaker, before providing the House with some of the highlights of the bill in the separate accounts, I would like to make a few general comments about the overall status of defense spending. The DOD has proceeded with a dramatic force structure downsizing in the wake of the end of the cold war.

For example:

From fiscal year 1985 through fiscal year 1995 over 1,000,000 personnel have been reduced from the manpower levels of the Active Force, the Guard and Reserve, and civilians employed by the DOD.

Measured in constant fiscal year 1995 dollars the procurement account has declined from $132.7 billion in fiscal year 1985 to $43.4 billion fiscal year 1995.

A dramatic downsizing in the domestic and international base structure continues.

Despite the end of the cold war, our troops have been called on time and time again in recent years to support the foreign policy of America: The Persian Gulf war; Somalia; enforcing the no-fly zone in northern and southern Iraq; enforcing the no-fly zone and arms embargo in the former Yugoslavia; deploying to Haiti; and numerous other small operations.

This high tempo of operations has been taking place in the midst of a dramatic downsizing of our forces. Mr. Speaker, the bottom line is that our servicemen and servicewomen are spread very thin. Because of the nature of the military operations that some units conduct, these same units are called on time after time to be deployed to various global locations.

I remember inspecting a Marine unit in Somalia about 18 months ago. This unit had been deployed to the Persian Gulf during Christmas 1990, deployed to Okinawa for a rotational deployment during Christmas 1991, deployed to Somalia during Christmas 1992 and at the time of my inspection was scheduled to be overseas on a rotational deployment during Christmas 1993. The simple reality is that such a high tempo of deployment is eroding the morale of our troops and ultimately, if it continues, will erode the fabric of the quality of our forces.

While I believe the funding provided in this bill should be adequate to meet our military objectives for the upcoming fiscal year, I must admit our readiness is now on the razors edge and I am very concerned about the outyears. Deputy Secretary of Defense, John Deutch recently testified that the funding profile for the Department of Defense for the next 5 years has a $40 billion shortfall. Suffice it to say, we all face some very tough budget decisions during the next few years.

CONFEREES EMPHASIZE READINESS

The conferees fully funded the administration's 1995 readiness requests in the operation and maintenance account. The administration's budget request increases constant dollar operating resources by +14 percent per Army combat battalion, +11 percent per Navy ship, and +12 percent per Air Force aircraft between fiscal year 1993 and fiscal year 1995.

To further strengthen the administration's initiative, the conferees recommended major readiness enhancements totaling over $1,850,000,000 over the budget request. some of those increases are listed below.

	Millions
Depot Maintenance	$262
Real Property Maintenance	156
Military Pay Increase	186
Ammunition	336
Sealift	135
OPTEMPO, Training, Spares	360
Korean Patriot/Apache	51
Military family programs	85

HIGHLIGHTS BY TITLE

Mr. Speaker, I would like to briefly highlight some of the major issues and programs included in the bill in the first four titles.

Title I.—Military Personnel

The conferees recommend $70.4 billion for the military personnel account. The Active Force, Guard and Reserve and civilian employed by the DOD will be downsizing by 180,000 in fiscal year 1995—15,000 people a month or 500 per day. Fortunately, the pace of the personnel downsizing slows down significantly after fiscal year 1995. This stability should have a positive effect on morale, quality of life, and overall combat readiness.

The conferees included an increase of $186 million to provide a pay raise for the men and women of our armed forces.

Title II.—Operation and Maintenance

The conferees recommend $80.9 billion for the operation and maintenance account. As discussed earlier in my statement, numerous increases were made to improve readiness and the bulk of those funds were included in the operation and maintenance account.

The conferees also fully funded the request of $400 million to continue the demilitarization program for the former Soviet Union.

Title III.—Procurement

The conferees recommend $43.4 billion for the procurement account. Measured in constant fiscal year 1995 dollars, this is a reduction of $89.3 billion from the 1985 level of $132.7 billion. Funding highlights for fiscal year 1995 include the following:

Army.—Blackhawk helicopters: Provided $318.4 million for continued procurement of the Blackhawk helicopter.

AHIP: Provided $120 million for the AHIP helicopter program.

Navy.—F/A-18 Aircraft: Conferees provided $1 billion for the procurement of 24 F/A-18 aircraft.

Trident II Missiles: Provided $616 for 18 Trident II Missiles.

Carrier Replacement Program: Provided $2.2 billion to complete financing of the next aircraft carrier.

DDG–51 Destroyers: Provided $2.7 billion for the procurement of three DDG–51 destroyers.

Air Force.—C–17 Aircraft: Included $2.2 billion for six aircraft $189 million for advanced procurement.

E–8 JSTARS Aircraft: Included $441 million for procurement of two aircraft.

ABRAAM Missiles: Included $289 million for the procurement of 413 missiles.

TITLE IV.—RESEARCH, DEVELOPMENT, TEST AND EVALUATION [RDT&E]

Provides $35.9 billion for the research, development, test and evaluation account. Highlights include:

Army.—Medical Research: Provided $258 million for medical research, an increase of $217 million above the budget. This includes an increase of $150 million for breast cancer research.

Comanche Helicopters: Provided almost $500 million for the Army's next generation reconnaissance helicopter, the Comanche.

Armored System Modernization: Provides $175 million for the development of a tank to replace the Sheridan.

Navy.—New Attack Submarine: Provided $470 million development of the new attack submarine.

F/A–18 E/F: Provided $1.3 billion for continued development for the next generation of F–18 aircraft.

Air Force.—F–22: Provided $2.35 billion for the next generation tactical fighter.

Milstar: Provided $607.2 billion for the Milstar communications satellite.

GUARD AND RESERVE

Another high priority of the conferees was to provide increased funding for the Guard and Reserve. The valuable role of the Guard and Reserve within the total force concept was shown in the Persian Gulf war. The President has also authorized the call up of 1,600 reservists for the Haitian deployment.

The conferees added a total of $800 million for equipment for the Guard and Reserve. Within those funds, $505 million are for aircraft.

CLARIFYING LANGUAGE

Mr. Speaker, there are two minor matters which I would like to briefly address to clarify the conferees position.

The conferees direct the Department of the Air Force to initiate the process of transferring the Air Force Reserve 928th Tactical Airlift Group out of the O'Hare Air Reserve Forces facility in Illinois. The Department should make all funds necessary to accomplish the transfer available during the course of fiscal year 1995. Further, priority consideration should be given to relocating the unit to Scott Air Force Base, IL.

The following language clarifies the intent of the conferees concerning the William Langer Jewel Bearing Plant.

The conferees agreed to eliminate Senate bill language providing $2,500,000 only for "capital investment, operations, and such other expenditures as may be necessary to maintain the William Langer Plant as a going concern while it is being excessed under the provisions of the Federal Property and Administrative Services Act". The conferees felt that bill language was unnecessary to carry out the Senate's direction and agreed to provide the $2,500,000 required for this effort within the Statement of the Managers in the missile procurement, Air Force account. The conferees specifically provided an additional $2,500,000 within the industrial facilities line, P–1 line No. 10, only to carry out the Senate's directions as explained in Senate Report 103–321, page 129. It was further the intent of the conferees that the Air Force transfer the funds provided for the Langer plant to the manager of the National Defense Stockpile for execution.

CONCLUSION

In conclusion Mr. Speaker, this conference report: Provides $243.6 billion in budget authority for the fiscal year 1995 activities of the Department of Defense; is just below the budget request; is within ceiling for the national security function established in the budget resolution; is within the 602(b) allocation set for defense; emphasizes readiness by increasing funding for a number of programs and reduces funding for lower priority programs.

I urge support and passage of the fiscal year 1995 defense conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. McDADE. I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this conference report, and I begin my remarks by paying tribute to my dear friend from Pennsylvania, Mr. MURTHA, who, as chairman of the subcommittee, has set a standard for all other Members of the House to live up to as they do their work. He has brought to this committee great industry, great intellect, and great integrity.

The result is that this particular conference report we bring to you today is supported on both sides of the aisle by all members of the committee, as indicated by my colleagues, the gentleman from Florida [Mr. YOUNG] and the gentleman from Louisiana [Mr. LIVINGSTON], in a difficult environment and try to bring our resources to bear, making sure that our military preserves the quality of life for our people, preserve its readiness and continues, to the extent that we can, with the modernization program which enables our young people to be able to confront the problems of the world in a well-trained and equipped manner.

That is our goal, that is what this bill does, and that is what we believe it ought to do.

In closing, I know we have Mr. Don Richbourg, staff director of the Defense Subcommittee, on the floor here today, as well as Mr. David Willson. This is their last bill as both are retiring at the end of the session.

Mr. Speaker, between the two of these gentlemen they have over 50 years of service to this institution and to their country. It is a better country and a better institution because they were willing to devote that much of their lives to making it a better country. We appreciate their efforts.

Mr. Speaker, I rise in support of this conference report and urge its adoption.

Mr. Speaker, this is a good bill, supported by every member of the Defense Subcommittee, both sides of the aisle. We are not aware of any problems and I expect we will be able to bring it to a vote quickly.

Having said that, I want the record to show I support this conference report not because of its resemblance to the Defense budget submitted by the administration—to the contrary. I support it because we have done our best, within the limited dollars available, to correct the most serious flaws in that budget.

Exhibit A: Taking care of the troops. The budget proposed, for the second year in a row, to hold military pay below the level needed to keep pace with inflation. This at a time when we are asking our troops more than ever to "do more with less;" when we are sending them away from home with disturbing frequency; and when we are shamed by reports that a growing number of military families need Federal assistance such as food stamps. This bill says "we can do better * * * we must do better." It provides a full cost-of-living allowance for the military, and restores equity between the COLA's received by our military retirees and their civilian counterparts.

Another example: Readiness. I agree the Pentagon deserves credit for placing readiness at the top of its priorities—but the budget they sent us did not do enough. Problems abound—from an alarming growth in maintenance backlogs, to cuts in training resulting directly from the overseas deployments which have become a fixture of this administration's foreign policy. A situation which if left unaddressed takes us right back to a hollow force.

We can't fix all these problems today, but we're recommending a series of changes which collectively are a step in the right direction. We add nearly a billion over the budget for critical readiness areas, ranging from enhancing our posture in Korea to correcting dangerous shortages in spare parts and repair funds. And we've included a $300 million supplemental to pay for the added costs resulting from Rwanda and refugee relief in the Caribbean.

We also reverse what I consider a series of misguided budget proposals—be it the premature retirement of half the B–52 fleet, or the dismantling of the ammunition industrial base, and others. And we reject completely the administration's plan to siphon off $300 million from the Defense budget to pay U.N. assessments.

We do this while keeping what is left of the Pentagon's modernization program intact—we fund the new aircraft carrier, the C–17 airlifter, and the continued development of new generation aircraft for the military services.

In all, we recommend a reordering of priorities, intended first and foremost to keep faith with the men and women in the service and to give them the training and equipment needed to carry out their missions.

Have we been able to do enough? Regrettably, in this Member's opinion, no, we have not. We can't do everything because we have to live under the confines of the overall budget, which until we can change it is without question taking our defense posture down too fast and too deep.

But that is a debate for another day. For now I would ask all Members to support this conference report which has the consensus support of the committee.

Mr. Speaker, at this point I want to express my appreciation to all the members of the conference committee on both sides of the Capitol for their contributions in what was our toughest Defense conference yet. In particular I wish to congratulate our chairman, my friend from Pennsylvania, whose tireless efforts brought our work to a successful conclusion. And I would be remiss if I didn't thank the committee staff who have once again lived up to their reputation as the best on the Hill.

In that regard I want to recognize two members of the staff who are with us here on the floor for the last time, who between them have served the committee and the House for over 50 years.

The first is David Willson, who has been with the committee since 1971. I've had the good fortune of working closely with Dave for over 20 years, starting on the Interior Subcommittee and then Defense, where for the past 17 years he has been the senior staffer responsible for the weapons procurement accounts, especially those for the U.S. Army. Those of us who have seen his work firsthand know his quiet professionalism has saved the taxpayer billions.

Mr. Speaker, perhaps the most dramatic way to see what Dave Willson has done for the country is to think back a few years to those vivid scenes from the desert. We all remember seeing APACHE helicopters, Bradley fighting vehicles, M–1 tanks—the tools our Army used to bring Desert Storm to a quick and decisive end. Each and every one of those systems were literally on the drawing board when Dave began his work with the subcommittee and his contributions have been instrumental in getting them to the troops in the field. We've had a good run together, David, and I thank you.

And then there's the staff director of the Defense Subcommittee, Ron Richbourg. Don has been with us for 28 years, over which time he has deservedly gained a reputation as one of the best staff members on the Hill. He has truly become an institution on the committee, and I can't say enough about the skill and judgment he's shown year after year in helping us handle one of the most complex and critically important bills before the Congress. He has been scrupulously nonpartisan, in the best traditions of the Appropriations Committee, and I speak for all the members on our side who have benefited from his steadiness and hard work. It's hard for me to imagine a hearing or a markup without you, Don. To both of you, the country is better off for your contributions and we wish you well in your future endeavors.

Mr. Speaker, I reserve the balance of my time.

Mr. MURTHA. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. OBEY], the chairman of the full committee.

Mr. OBEY. I thank the gentleman for yielding this time to me.

Mr. Speaker, I want to take this opportunity to inform the House that the conference report we are now considering is the 13th and final conference report to come before the House for the fiscal year which begins on Saturday. Assuming that the Senate behaves responsibly, there should be no reason for a continuing resolution this year.

This is the first time the House will have completed action on all conference reports before the end of the fiscal year since 1988 and it is the first time the House will have cleared all appropriations matters before September 30 since that day was made the end of the fiscal year in 1977. I think that was made possible because of the extraordinary cooperation which the committee has received from almost all quarters.

Completion of all work on our appropriations bills prior to the beginning of the fiscal year did not happen without a lot of hard work and a great deal of cooperation, not only from those who serve on the committee but many who do not. I thank all members for their cooperation. The lead role was obviously played by the subcommittee chairmen of each of the 13 subcommittees, and without exception they did an excellent job.

Every member of the committee had to work long hours and demonstrate more flexibility than ever before, given the hard decisions that had to be made. A great portion of the credit for what was accomplished has to go to JOE McDADE and the ranking Republican members on the 13 subcommittees. I think our committee did its work in a bipartisan manner, and without the cooperative efforts of JOE and the other ranking members, we would not have been able to achieve the results we did.

I want to thank the leadership of the House on both sides of the aisle and their staffs for their efforts in getting our bills to the floor. Also the Rules Committee ought to be mentioned for their important role in providing for the orderly consideration of our appropriation bills and conference reports. Many times, our bills require the Rules Committee to do its works on short notice. I appreciate the cooperation we received.

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Finally, Mr. Speaker, I want to thank the many support personnel of the House for the hard work that has led to the successful completion of appropriations legislation for the 103d Congress: the Parliamentarians, the reading clerks who expedite getting the papers to the Senate, the Reporters of Official Debates, the tally clerks who are personally affected when we get midnight filing consent, the enrolling clerks who have to adjust the bills to reflect conference action and then proofread all the changes, the Journal clerks, the bill clerks, the Cloakroom staff and the committee reporters who transcribe our committee hearings. In short, I want to thank the entire legislative operations support group. I think too often we forget about the extra effort these people make, and I want to personally thank them for all their hard work. It has meant a lot to our committee. Mr. Speaker, these are all people who, through their hard work, their care and pride in doing a quality job, can share my pleasure in getting our work done and doing a good job well.

Mr. Speaker, I also should say that the House should be proud, not only of the timeliness of these bills, but also the content. We are witnessing a major shift in the availability of resources away from the discretionary portion of the Federal budget, the portion that is under the jurisdiction of this committee. The outlays from the Federal Treasury in the coming fiscal year, occurring as a result of the passage of these 13 bills, will actually drop below the nominal levels of the current year. Spending on nonmandatory appropriated items will decline markedly as a percentage of the overall budget and as a percentage of the economy.

To find room to fund some new initiatives, Mr. Speaker, we needed to reduce, or terminate, hundreds of ongoing programs, and nearly three dozen existing programs have been eliminated in the course of considering these 13 bills. The reality of this has been painfully brought home to Members as the bills were considered because we did not have the money to fund all the programs that individual Members thought were important.

Mr. Speaker, to stay within our tight limits we brought difficult choices to the House. The House faced up to those choices. The deficit was not increased in order to support new programs. Instead we reduced and terminated other ongoing programs. By adopting these bills Members agreed to $4.4 billion in committee recommended reductions below the President's request. House action cut another $75 million. In the next few days I will be providing Members with more detailed information on program reductions, terminations and increases.

Mr. Speaker, again I thank all Members for their support. I urge adoption of the defense appropriation conference report so we can complete our job, and I also want to second the remarks made by the gentleman from Pennsylvania [Mr. McDADE] in saluting the staff members who have done such great work, and, as we know, are leaving. I say to the gentlemen, "We have come to count on you for a lot these years, and you're going to be missed. I appreciate the efforts that have been expended on behalf of the committee and the House."

Mr. McDADE. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Pennsylvania.

Mr. McDADE. If I may, I just want to take a few seconds to say to my friend from Wisconsin that we are very grateful for the leadership that he has provided as the new chairman of the Committee on Appropriations. He has done an excellent job. I want to say, as members of the minority side, we have never been more included in the decisionmaking process, and I think that is probably one reason that all these bills are here in such a timely way before the end of the fiscal year.

I say to the gentleman, you've done a great job, DAVE. We have enjoyed working with you. We look forward to working with you next year.

Mr. Speaker, I yield back the balance of my time.

Mr. MURTHA. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Speaker, in the fiscal year 1995 Defense appropriations conference bill, H.R. 4650, the conferees agreed to include $25 million for the GPS-aided munitions [GAM's], in missile procurement, Air Force, at page 97 of the conference report.

I support this provision, and want to stress the importance of this program.

The $25 million is provided to support the acquisition of a limited stockpile of GPS-aided munitions [GAM's] as an interim near-precision conventional bomb capability on block 20 B–2 bombers in association with the GPS-aided targeting system [GATS].

In order to accomplish this effort, the Air Force is directed to implement an acquisition strategy and contract type which will provide the earliest possible near-precision conventional all-weather capability for the B–2. The conferees have determined that this procurement will ensure the lowest risk schedule, accordingly, the acquisition strategy may include noncompetitive procurement through the B–2 prime contractor for the initial limited stockpile.

Specifically, the funds were included to provide operational GAM capability on the first available block 20 aircraft, that will exist as of July 1996.

Mr. ROHRABACHER. Mr. Speaker, I rise today in support of the conference report.

Mr. Speaker, contained in this report are two extremely important provisions. The first may be found in section 8106. It sends money Congress appropriated in fiscal year 1994 to ARPA to NASA—and then it sends it from NASA back to the Air Force, to PE 63401F.

At first glance this would seem a silly thing to do, but we in Congress have been forced to do so by the actions and in-actions of the Advanced Research Projects Agency—[ARPA].

A year ago Congress appropriated $40 million for ARPA to begin work on a Single-Stage-To-Orbit [SSTO] X-vehicle; an experimental test vehicle meant to be the follow-on to the successful DC–X1 test vehicle. This money was also meant to be used to fund the remaining flight test program of the DC–X1. But here we are, only hours away from the end of fiscal year 1994, and ARPA has yet to take any steps toward fulfilling the law, other than to propose a program that has yet to be briefed to anyone in Congress; a program designed to waste and dissipate the money we had appropriated to it.

When the executive fails to observe the law, Congress must act. Section 8106 takes fiscal year 1994 money from ARPA and sends it to NASA for NASA to pursue the start of construction of the X–33 SSTO test vehicle. NASA is also obligated by section 8106 to spend this money as the Air Force's Phillips Laboratory in New Mexico, where the Air Force's SSTO expertise currently resides. These actions, Mr. Speaker, are consistent with President Clinton's space launch policy and his call for a supporting role for DOD in the NASA-led development of the X–33. Section 8106 also provides for this money to be available to be spent to fund the completion of the original flight test program of the DC–X1.

Mr. Speaker, the second important provision in this conference report that I'd like to highlight is the inclusion of $30 million in new, fiscal year 1995 money, also contained in PE 63401F, that is meant to be spent by the Air Force at Phillips Lab in support of their activities in helping to build and, soon, to fly, the X–33.

Mr. Speaker, these two provisions go a long way toward helping to start to implement the President's space launch policy mandates for DOD, and give DOD equity in the NASA-led program to build and fly the X–33 SSTO experimental vehicle. Flying the X–33 will give this Nation, in just a few years, revolutionary new space capabilities.

Mr. Speaker, I would like to commend Chairman MURTHA for his foresight and leadership on this issue, and for his service to this Nation's vital interests in assuring a robust future space launch capability. I would also like to commend in similar fashion my colleagues Mr. SKEEN of New Mexico, Mr. LIVINGSTON of Louisiana, Mr. McDADE of Pennsylvania, and Mr. LEWIS of my own State of California, all of whom were critical to the inclusion of these provisions in the final conference report, as was also Mr. VISCLOSKY of Indiana on the majority side of the aisle. Finally, I'd like to also thank Mr. DOMENICI of New Mexico, a Member of the other body who was also a member of the conference committee, and without whose gracious help and understanding these two provisions would not be here in this conference report.

Mr. BEREUTER. Mr. Speaker, this Member rises in strong support for the Defense Appropriations Act of 1995. This Member would commend the chairman of the subcommittee, the distinguished gentleman from Pennsylvania Mr. MURTHA, and the distinguished ranking member Mr. McDADE, for their efforts to present a conference report with bipartisan support.

In particular, the conference report contains language that addresses the status of the military technicians for the National Guard and Reserves. As the chairman knows, these technicians are a vital component of maintaining the high readiness level of our Guard and Reserves. Section 8118 of the conference report prohibits funds from being used to reduce military—civilian—technicians of the Reserve components, and states that there should be no administratively imposed ceiling on the technicians unless those reductions are the direct result of a reduction in military force structure. Mr. Speaker, this is essential language that addresses the deep concern that has been voiced by our local Guard and Reserve components, and this Member thanks his colleagues for acting on this matter.

A second provision of particular interest to this Member of the inclusion of a reporting requirement on new membership in NATO. The issue of new members in NATO is fast upon us, with nations such as Poland, the Czech Republic, and Hungary eager to become full members of the Alliance. Indeed, just last month, United States and other NATO forces conducted exercises in Poland as part of the Partnership for Peace. It is time to start thinking seriously about specific criteria for membership. The reporting requirement included in the conference report calls for the Secretary of Defense to present specific military, economic, and political criteria for admission of new members. The report will also include the measures that NATO members need to undertake in order to establish full military cooperation and interoperability with aspiring members. This is a logical and a necessary step that will advance the Partnership for Peace, and will speed the day when Eastern and Central European nations can be full and contributing members of the Alliance. This Member appreciates the willingness of the conferees to include this provision.

Mr. Speaker, this Member would urge adoption of H.R. 4650.

Mr. FAWELL. Mr. Speaker, as cochairman of the bipartisan Porkbusters Coalition, I often rise to point out unauthorized projects in each of the 13 appropriations bills. Today we have before us the conference report for Defense appropriations for fiscal year 1995. I come not to point to a particular project, but a phrase included in the conference report. Included in amendment 13, which was reported in technical disagreement, is this phrase: "Deletes House language prohibiting obligation of $473 million until authorized." In other words, the House had originally prohibited spending an additional $473 million on operations and maintenance for the Army until it was authorized. The conference deleted the authorization requirement.

Mr. Speaker, I have been criticized for my strict scrutiny of appropriations bills. My colleagues ask why I would question unauthorized projects in appropriations bill when language specifically mandates that the project must be authorized before funds are obligated? Because sometimes these authorization provisions are dropped.

As we see in today's conference report, authorization language is deleted, enabling $473 million to slide by without authorization. This is why I fight unauthorized projects regardless of language which requires authorization at some point in the future. This is why the House of Representatives requires two steps before taxpayer's money can be spent. First the authorization, then the appropriation. First the horse, then the cart. This ensures that when the House proceeds to fund a project, we know what we are funding. We can have confidence that this expenditure has been approved by a committee of authorization, that congressional hearings have been held, that this expenditure is in the national interest of our country.

The Porkbusters and I will continue to fight unauthorized projects. We will continue to carefully analyze each of the appropriations bills for authorization language which may or may not be included in final versions of legislation. We will continue to insist on authorization, and then appropriation, as established by the rules of the House. And, we will fight again.

Mr. GLICKMAN. Mr. Speaker, while I am generally supportive of this conference report, I do take objection to the inclusion of a provision to reactivate the SR-71 *Blackbird* reconnaissance aircraft. A similar provision was included by the defense authorization conference, of which I was a member, and it was the reason I did not sign that conference report.

The SR-71 was an excellent intelligence platform—in its day. The trouble is that its day has long since passed. Nearly 5 years ago, Congress and the Department of Defense looked at the SR-71's limitations—it can effectively operate only in good weather and cannot transmit the images it collects directly to those who need them—and concluded that the aircraft should be retired. New systems with an ability to stay over a target for long periods of time, in any weather conditions and relay images instantly to military commanders on the ground were planned. The availability of those systems has been delayed, in part because of opposition from some of the same quarters now advocating the reactivation of the SR-71 as necessary to fill an intelligence collection gap.

Reactivating the SR-71 will only exacerbate those delays. The $100 million appropriated in this conference report will not solve the *Blackbird's* problems. The aircraft needs new sensors and it is extremely expensive to maintain. Meeting those costs will require hundreds of millions of dollars more, money which will be taken from the development of more modern and more capable systems. The realization that the SR-71 would be a drain on scarce resources is one of the reasons that the Department of Defense does not support bringing it out of retirement. The Intelligence Committee, which I chair, shares that judgment.

Mr. Speaker, if one precept should guide our expenditure of the taxpayer's dollars, it is that we should only invest in technologies which will be useful in the future. We are not doing that with the decision we will make today on the SR-71. Spending money to return to active service an aircraft now housed in museums across the country does not make sense. I hope that this issue will be given more thought next year and that this decision will be reversed.

Mr. MURTHA. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. VISCLOSKY). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCDADE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 327, nays 86, not voting 21, as follows:

[Roll No. 446]

YEAS—327

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Baesler
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clinger
Clyburn
Coleman
Collins (GA)
Collins (MI)
Condit
Cooper
Coppersmith
Costello
Coyne
Cramer
Cunningham
Danner
Darden
de la Garza
Deal
DeLauro
Derrick
Deutsch
Dickey
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (TX)
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fazio
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Franks (CT)
Frost
Furse
Gallegly
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Gordon
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastert
Hastings
Hefner
Hinchey
Hoagland
Hobson
Hochbrueckner
Holden
Horn
Houghton
Hoyer
Hughes
Hunter
Hutchinson
Hyde
Inhofe
Inslee
Istook
Jacobs
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Lipinski
Livingston
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McDade
McDermott
McHale
McHugh
McKeon
McKinney
McMillan
Meehan
Meek
Menendez
Mfume
Mica
Michel
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roemer
Rogers
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sangmeister
Santorum
Sarpalius
Sawyer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waters
Weldon
Whitten
Williams
Wilson
Wise
Wolf
Wynn
Yates
Young (AK)
Young (FL)

NAYS—86

Allard
Archer
Armey
Bachus (AL)
Barrett (WI)
Bartlett
Barton
Becerra
Bunning
Burton
Buyer
Clement
Coble
Collins (IL)
Combest
Conyers
Cox
Crane
Crapo
DeFazio
DeLay
Dellums
Diaz-Balart
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (CA)
Ehlers
Fawell
Fields (TX)
Frank (MA)
Franks (NJ)
Gekas
Goodling
Goss
Grams
Hancock
Hansen
Hefley
Herger
Hoekstra
Hoke
Huffington
Inglis
Johnson, Sam
Johnston
Klein
Klug
Knollenberg
Kyl
Linder
McInnis
Meyers
Miller (FL)
Minge
Myers
Nadler
Nussle
Paxon
Penny
Peterson (MN)
Petri
Ramstad
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Sanders
Saxton
Schaefer
Sensenbrenner
Shays
Solomon
Stump
Thomas (WY)
Walker
Watt
Waxman
Woolsey
Wyden
Zeliff
Zimmer

NOT VOTING—21

Applegate
Bacchus (FL)
Baker (CA)
Fields (LA)
Gallo
Hayes
Hilliard
Hutto
Jefferson
Lloyd
McCrery
McCurdy
McNulty
Neal (NC)
Slattery
Smith (IA)
Sundquist
Thompson
Torkildsen
Washington
Wheat

□ 1138

The Clerk announced the following pair:

On this vote:

Mr. McCrery for, with Mr. Baker of California against.

Messrs. EDWARDS of California, SOLOMON, ZELIFF, DOOLITTLE, FIELDS of Texas, WATT, THOMAS of Wyoming, and BECERRA changed their vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1140

THE JOURNAL

The SPEAKER pro tempore (Mr. MCDERMOTT). Pursuant to clause 5 of rule I, the pending business is the question of agreeing to the Speaker's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 249, nays 163, not voting 22, as follows:

[Roll No. 447]

YEAS—249

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Bateman
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Everett
Farr
Fazio
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hinchey
Hoagland
Hochbrueckner
Holden
Houghton
Hoyer
Hughes
Inglis
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kingston
Kleczka
Klein
Kopetski
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Livingston
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pombo
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Schenk
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Tanner
Tauzin
Tejeda
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Whitten
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Synar
Thompson
Torkildsen
Washington
Wheat
Williams

NAYS—163

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clay
Clayton
Clinger
Coble
Collins (GA)
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Ewing
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gilchrest
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Huffington
Hunter
Hutchinson
Hyde
Inhofe
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Kim
King
Klug
Knollenberg
Kolbe
Kreidler
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lucas
Machtley
Manzullo
McCandless
McCollum
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Murphy
Nussle
Oxley
Packard
Paxon
Petri
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Saxton
Schaefer
Schiff
Schroeder
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Talent
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—22

Applegate
Bacchus (FL)
Boehner
Fields (LA)
Gallo
Hayes
Hilliard
Hutto
Klink
Lloyd
McCrery
McCurdy
McNulty
Sabo
Slattery
Sundquist

□ 1158

So the Journal was approved.

The result of the vote was announced as above recorded.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 349, LOBBYING DISCLOSURE ACT OF 1994

Mr. FROST. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 550 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 550

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (S. 349) to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes. All points of order against the conference report and against its consideration are waived except for the provisions of clause 2 of rule XXVIII (the three-day availability requirement for conference reports). The conference report shall be considered as read.

□ 1200

The SPEAKER pro tempore (Mrs. MEEK of Florida). The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Madam Speaker, for the purposes of debate only, I yield 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume. All time yielded during the debate on this resolution is for the purpose of debate only.

Madam Speaker, with the exception of House rule 28, clause 2(a) which requires a 3-day layover for conference reports, House Resolution 550 waives all points of order against the conference report to accompany S. 349, the Lobbying Disclosure Act of 1994. The Committee on Rules has recommended this rule in order to allow Members adequate time to study the provisions of this landmark bill while assuring that the conference report can be expeditiously considered prior to the adjournment of the 103d Congress.

The committee believes the waivers provided for in this rule will actually allow the House to consider legislation which is stronger than it was when it was passed by the House in March. This is because the conference report contains new provisions relating to gifts which are more restrictive than those passed by either the House or the Senate. The conference report bans lobbyists from offering, and Members from accepting, meals, entertainment, travel as well as contributions to charities, legal defense funds, or congressional retreats.

The imposition of these restrictions sends a clear message to the electorate:

that Members of this body represent the will of the people and not the will of monied special interests. It may be considered naive in some circles to believe that the men and women who serve in this body are decent and honorable and cannot be influenced by a meal or a golf game. But, I believe every Member of this body understands that to reject this legislation would call our intentions as legislators and representatives of the people into question. I call upon each and every Member of this House to send the message that we are responsive to our constituents, that we do understand their concerns about the integrity of this institution, and that we care enough about our Government and our country to impose these new, strict rules on ourselves.

Madam Speaker, this conference report is not just about meals and golf games. It seeks to completely revamp the rules governing the activities of those individuals who are hired to influence the outcome of the legislative process in Washington. This law will cover all professional lobbyists and requires them to reveal how much they are being paid to lobby whom and on what issues. The new rules imposed on lobbyists will be enforced by a new independent agency in the executive branch and the rules of the House and Senate will be amended to cover the requirements and restrictions of this legislation. Enforcement in Congress will be undertaken by the House and Senate Ethics Committees.

Madam Speaker, the American people sent the Congress a clear signal 2 years ago that business as usual was not acceptable. While it may seem to some that these new rules are a long time in coming, I should point out that this bill has been carefully crafted to protect first amendment rights while assuring that no one person or interest will have an undue influence on the Congress. This legislation represents a landmark in the evolution of the Congress as the body closest to the people: It provides the assurance that we, all of us, believe in the people, by the people and for the people.

I urge adoption of this resolution in order that the House may consider and pass this conference report.

Mr. DREIER. Madam Speaker, I yield myself such time as I might consume.

Madam Speaker, today is the 259th legislative day of the so-called reform Congress with approximately six exciting, action-packed legislative days remaining before we adjourn sine die. If this rule is adopted, we will complete the final sad chapter on the reform Congress that was not.

This rule and the bill it makes in order, S. 349, are indicative of the Democrat leadership's penchant for undermining any attempts to change the status quo in this institution.

Take, for example, the work of our much heralded Joint Committee on the Organization of Congress. Unlike the legislation before us, the joint committee was created to reform the internal operations of Congress and alleviate an institutional crisis that breeds gridlock and undermines the ability of Members to effectively legislate.

Elements of this crisis include:

Closed rules that, as a Washington Post editorial pointed out this week, are used by the Democrat leadership to distort debate and gag Democrats and Republicans alike from offering popular amendments;

A lack of long-term planning by House and Senate leaders which has created erratic legislative schedules that place terrible pressures on family life and district work schedules;

A lack of confidence in the Federal budget process under which timetables are rarely followed, caps are evaded, budget cuts not what they appear, and programs are not evaluated to determine if they are accomplishing their intended purpose; and

An overstaffed and archaic committee system which has created abuses of power, fractured attention, interest group dominance and jurisdictional gridlock.

Madam Speaker, the leadership's sorry track record on reform issues is now on display today with this so-called lobbying reform and gift ban bill. The procedures that created this bad bill are exactly what reform would correct.

There was no committee deliberation in the House that would have alerted the American people back home that the Democrat version of lobby reform meant taking away their right to communicate with their Member of Congress. The problem with this bill is that when the American people call for lobby reform, they want to reform the way inside Washington, DC works. They do not want to reduce their ability to communicate from home to Washington. If anything, we need more influence from the grass roots to shake up the closed door influence peddling of inside Washington.

The legislation is disingenuous in other ways, Madam Speaker. For example, a group of lobbyists cannot buy a $10 lunch for a Member of Congress while discussing legislation because it would be perceived as an undue influence. Yet that same group of lobbyists can form Political Action Committees and have the same conversation while handing that Member up to $10,000 in campaign contributions. That is something that the Democrats do not want to change.

In addition, lobbyists who violate the rules will face stiff fines and other penalties while Members of Congress who violate those same rules will face at most a slap on the wrist from the Ethics Committee.

It is ironic, Madam Speaker, that we are being asked to consider a bill that imposes an array of onerous new rules on the American people under a procedure that violates all but one of the rules under which we are required to operate. And we wonder why the American people are so cynical toward the Congress.

Madam Speaker, bad bills and bad rules seem to go hand in hand in this institution, and this bill and rule are no exception.

Madam Speaker, I include for the RECORD the Washington Post editorial referred to earlier as well as the rollcall votes in the Committee on Rules on S. 349.

The material referred to follows:

[From the Washington Post, Sept. 27, 1994]

Closed Rules in the House

Senate Republicans have been denounced by indignant Democrats in recent days for using the filibuster rule to obstruct and thwart majority rule. The indignation is deserved, but the Democrats should cast their net more broadly. In the House, it's they who have been bending the rules for years to fend off what would otherwise be majority votes.

Twenty years ago, most legislation went to the House floor under an open rule. Almost any amendment was in order so long as it was germane. Today, in order to maintain control, the Democratic leadership has had to tile in the oppose director most major bills are considered under restrictive rules that either bar amendments entirely or list in advance and limit those that can be offered.

In the 95th Congress, Jimmy Carter's first, the Rules Committee, which is a creature of the leadership, granted 211 rules, 85 percent of them open. In Ronald Reagan's first Congress, the 97th, the figure was still 75 percent. By the 102d Congress, the last of the Bush Administration, it was 34 percent.

Nor is that the only example of a cracking down. Republicans complain that the Democrats have made it harder to offer floor amendments to appropriations bills saying no funds may be used for disputed purposes. They note that key committees (including Rules) are filled with more Democrats than the overall House party ratios would allow. They say the minority is denied a fair share of staff on some committees and is sometimes denied what would otherwise be committee victories by rubbery rules with regard to proxy voting and the existence of quorums. They object to the erratic enforcement of a rule meant to ensure that members have a chance to read legislation—particularly the work of House-Senate conference committees—before they have to vote on it. They are surely right about this practice. Members are sometimes forced to vote on bills they haven't read and into which provisions have been inserted that might not be able to stand the light of day; the crime bill was a recent example.

The Democratic leadership and its defenders don't so much deny that these things are done as say that the Republicans do them too—which is not exactly to address the charges. At any rate, they cheerfully acquiesce in these practices when it suits their interests. The Democrats also claim that they aren't thwarting majority rule in the same way filibusters do in that no rule for floor debate in the House can be adopted except by majority vote, and sometimes rules are defeated. But not even the stoutest Democrat denies that a principal purpose of the restrictive rules is protective. They're typically used to bar amendments that would likely pass if offered and could sink the underlying bill passed.

Republicans like to say the Democrats, who have controlled the House since 1955, are acting out of arrogance. But in fact they're acting out of weakness. They have less control of the House than the nominal lineup of 256 Democrats and one independent to 178 Republicans would suggest. On many issues, enough conservative Democrats are prepared to vote with the Republicans to give them the majority unless the votes can be avoided. Avoidance has thus become the game. But in the House no more than in the Senate is that a defensible way to govern.

ROLLCALL VOTES IN THE RULES COMMITTEE ON THE RULE FOR S. 349, LOBBYING DISCLOSURE ACT

1. Dreier Motion on 3-day Layover Rule—Motion to exempt for the waiver of points of order the provisions of clause 2 of rule XXVIII, the three-day layover requirement for conference reports. Adopted: 5-4. Yeas: Beilenson, Solomon, Quillen, Dreier, Goss. Nays: Moakley, Bonior, Hall, Slaughter. Not Voting: Derrick, Frost, Wheat, Gordon.

AN AMENDMENT OFFERED BY MR. DREIER TO THE RULE FOR S. 349, LOBBYING DISCLOSURE ACT OF 1994

At line 4, insert the following before the period: "except for the provisions of clause 2 of rule XXVIII (the three-day availability requirement for conference reports)".

Explanation: This amendment to the rule would exempt from the blanket waiver of points of order the provisions of clause 2 of rule 28 which prohibit the consideration of a conference report until the third day on which it is available to Members.

Madam Speaker, I yield 4 minutes to our revered Republican leader, the gentleman from Peoria, IL [Mr. MICHEL].

Mr. MICHEL. Madam Speaker, I rise in opposition to the rule. Some say it is easy for BOB to oppose the rule; he is retiring. Yes, I am. Perhaps that fact allows me some freedom to say some things that ought to be said. But those who know me well realize I would speak my mind under any given set of circumstances.

For the past several Congresses I have been consistently and forcefully urging real reform of this House, first our ethic laws, then our campaign laws and congressional rules. We succeeded in 1989 in achieving significant reforms in House ethics. We eliminated honoraria, limited the gifts to Members and staff and called for full and complete disclosure, and that is always the key.

Back in March of this year we passed a lobbying bill that focused on the lobbyists banning gifts to Members and staff. We in effect put a "scarlet L" on their foreheads to clearly identify them, and there is nothing wrong with that. But in this measure before us today it is no longer just lobbyists we have banned, it is instead just about every other American. In our lust for public approval, we have lost sight of our true goal, which is to reform ourselves, not to create a whole new class of officially designated "usual suspects."

□ 1210

Given the fear and loathing with which Congress is held by the public, it is no surprise some of us have succumbed to panic and embraced this bill. But creating a new set of rules is no substitute for true reform.

And what about real reform, as the gentleman from California was talking about a few moments ago? Where is campaign reform? It is not in this bill. Where is the ban on campaign contributions from political action committee lobbyists? It is not in this bill.

Would you believe this bill approves a lobbyist giving you a $5,000 contribution at one instance, but it prohibits that very same lobbyist from taking you to McDonald's for a Big Mac? How ridiculous can we be?

And there will be others who will demonstrate with several anecdotes today of how this bill is just absolutely ridiculous.

Is there any wonder why, I guess, there is so much public cynicism out there.

We were elected to wrestle with the legislative issues of the day. Here we are today demeaning ourselves by saying, "Oh, please stop me before I accept another cup of coffee and a Danish. Lock me in the closet, bolt the door, lest I succumb to the blandishments of those unscrupulous demons who can buy my soul with a round of golf." This is not self-reform. It is self-flagellation, a practice which may have a fascinating attraction to some, but I consider it degrading and debasing, and what is more important, not really reform.

I think Members will recognize that I have deeply respected this institution over my tenure here, dedicated really my life's energies to it, but, my friends, you do not redeem yourselves by passing this conference report. It actually confirms everything negative, every suspicion people have about this House.

Contrary to popular myth, the trouble with this institution is not endemic moral corruption, but refusal to implement real reforms such as those I spoke of earlier. No amount of bills like the one before us today is going to cure us of that failure. Our faults, dear colleagues, lie not in our perks but in our posturing.

I would urge Members to vote against this rule or at least to recommit the conference report.

Mr. FROST. Madam Speaker, for the purposes of debate only, I yield 6 minutes to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Madam Speaker, I thank the gentleman for yielding me this time.

Madam Speaker and Members, we today embark on the last step in an attempt to pass legislation which will restore public confidence that we are operating in a way that legislation that passes this institution is passed free of daily influence from lobbyists who, in the view of the public, should not be—in Washington, DC, or anywhere else—buying our meals, paying for golf, paying for tickets to the theater or the ball game, or flying us across the country to participate in some type of charitable or noncharitable golfing event.

I think that the speech just made by the gentleman from Illinois [Mr. MICHEL] was one that certainly was heartfelt, and I think it reflected a very high opinion of this institution which I completely share, but the bottom line of it is it was a speech in favor of continued free meals, continued free tickets to the ball game and to the theater, and continued free trips clear across the country to play golf at the expense of the very people who are paid to come here and influence us and try to obtain a specific outcome in a legislative activity.

What is before us at this moment is the rule. Members, when we passed the bill in March, many of you voted against it—and there were not very many, I might point out—many who voted against the rule said they did so because the bill was not tough enough. I think there are many of us that understood that what they really wanted to say was they did not want the bill to pass because they did not want to give up their freebies. They said the bill was not tough enough. Well, now it is. Many of those who voted against it cited the opposition to the bill of Common Cause and the New York Times. They now support this measure, as does Public Citizen, the Washington Post, and others who have editorialized in favor of the strong legislation.

We are here today requesting the rule to pass that would give us a waiver of points of order against the conference committee report for one reason: because several tough new gift provisions that are included in the report go beyond the scope of the conference. The vote on this rule is a vote on the provision to make this entire bill tougher. If you are in favor of making it tougher, as many of you said you were when the bill passed last March, this rule allows us to make it tougher. We have done exactly what many opponents to the bill said they wanted.

For example, while the Senate-passed lobbying bill covered gifts from lobbyists, and the House-passed bill covered gifts from lobbyists and others such as clients, the conference report which we want to bring to the floor pursuant to this rule contains rules covering all gifts given to Members or staff.

Second, both the Senate- and House-passed lobbying bills required only disclosure of charitable contributions given in lieu of honoraria, of contributions to congressionally affiliated retreats and contributions to legal defense funds, but the conference report which will be brought to the floor today pursuant to this rule bans lobbyists from making these types of gifts.

Third, both the Senate- and House-passed bills allowed privately funded travel and lodging for recreational events such as charity golf tournaments, if the travel-related expenditures were disclosed. The conference report bans privately funded travel and lodging for substantially recreational events or for other charity events. The bill also requires staff to get approval from their supervising Members before traveling, and requires disclosure of travel expenses by Members and staff within 30 days after returning from a trip.

The conference report makes the legislation stronger, and what we are asking for when we ask you to vote for this rule is to give us permission to make this bill stronger.

Many of these new provisions are based on a separate gift reform bill that passed the Senate by a vote of 95 to 4 on May 11, and as Members know, the conference report was filed on Monday, and was laid over for 3 days. Everybody has had an opportunity to take a look at it.

We have been at this for over 18 months. Everybody has had an opportunity to have input into this legislation, both in the subcommittee and in the ad hoc committee that was appointed by the Republican leader and the Speaker.

They have had as much time to learn about this legislation as they possibly could.

I was astonished to learn last night for the first time in the entire 18-month history of this bill that the Republican whip stood on the House floor and attacked this bill and said that somehow or another it was going to limit the ability of grassroots organizations, in particular religious organizations, to lobby. Nothing could be further from the truth. That is a ruse to protect the desire of many Members of this Congress, and I am afraid to say some of them who may very well be engaged in this debate, to keep on playing free golf and keep on eating free meals and keep on getting free tickets to the baseball games and the football games. That is a ruse.

I will read to you a letter from the Baptist Joint Committee which we just received. We asked them to clarify their position on the conference report because they supported the bill, as well as the U.S. Catholic Conference and the Religious Action Center for Reform Judaism. I am hesitant to take the time to read the entire thing. I want to read this paragraph. It says:

> I am, therefore, puzzled by Mr. Gingrich's letter questioning this legislation on the basis of the effect that it would have on religious organizations. I think he is plainly wrong. We very much appreciate your willingness to accommodate religious liberty concerns in this legislation and appreciate the cooperation of your staff.—J. Brent Walker, General Counsel.

Let me just say if you are going to be against this bill, stand on the floor and say you are against it because you want to keep on getting free meals and free dinners and you want to keep playing free golf. Do not hide behind the skirts of legitimate public-interest organizations and churches. They are happy with the bill. This does not hurt them.

It is the same language we have had in the bill for 18 months. If you were concerned about it, where have you been the last 18 months?

Mr. WALKER. Madam Speaker, will the gentleman yield?

Mr. BRYANT. I yield to the gentleman from Pennsylvania.

Mr. WALKER. The Christian Coalition, amongst others, does oppose it.

But let me ask the gentleman, in which bill was the grassroots gag that the gentleman now brings to the floor in this particular legislation?

Mr. BRYANT. There is no grassroots gag. I would urge you to hew to the truth as you talk about this bill, because it is virtually the same language that passed the House back in March. We have not changed it. If you were concerned about it, I say to the gentleman from Pennsylvania [Mr. WALKER], where have you been the last 18 months?

Mr. WALKER. The point is under which the bills was the grassroots gag originally brought in that allows a Government bureaucrat to determine how it applies to religion?

Mr. BRYANT. There is no grassroots gag, and I am not going to give you time to allow you to say that. There is no grassroots gag. If you want to keep playing free golf, admit it.

Mr. WALKER. I do not play golf. Maybe the gentleman does.

Mr. DREIER. Madam Speaker, I yield 3 minutes to the gentleman from Sanibel, FL [Mr. GOSS], my Committee on Rules companion.

Mr. GOSS. Madam Speaker, I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Madam Speaker, the gentleman from Texas was very sanctimonious and self-righteous just a few minutes ago. I know he is an honorable man, but one of the things that concerns me is he is putting a penalty in here if you have a Big Mac with somebody. I know nobody is going to buy his influence. But he got $10,000 this year from the United Steelworkers, $10,000 in PAC contributions; $10,000 in PAC contributions. He got $5,000 from the United Auto Workers PAC. Now, a Big Mac will not buy any influence from anybody. I am sure $15,000 will not buy influence from anybody. But there is some kind of a contradiction. Why is it that we can get $15,000 or $20,000 from a political action committee, like the gentleman from Texas has, but we cannot have lunch with someone? That makes no sense. This is an absolutely insane piece of legislation.

□ 1220

Mr. GOSS. Reclaiming my time, Madam Speaker, on Tuesday the Rules Committee actually did the right thing—and resisted the pressure by those who have labored over the intricacies of this bill for 18 months to rush blindly forward and pass it without reading it thoroughly. The Rules Committee protected Members' rights by voting to uphold House rules that allow Members who are not familiar with the minutiae of this conference report, the normal 3 days to review the details. The caption in the House newspaper, Roll Call, labeling this process "Bungling by the Rules Committee," says more about the bias of Roll Call as a tool of the power structure around here. I hope my colleagues availed themselves of that time and are prepared today to discuss and vote on this bill with full knowledge of what it contains.

As the debate unfolds, I expect some will say this bill contains good policy changes while others are just as sincere in their concern that this bill, with all its exceptions and vague definitions will establish rules that Members and ordinary citizens will have trouble adhering to.

I think it is appropriate that Members of Congress not accept expensive meals, gifts or travel from lobbyists. But this bill establishes new definitions for the rest of the world—the nonlobbyists—definitions that we can expect to be much more confusing in practice than they are in the legislative language.

The world is now defined in three categories: lobbyists, nonlobbyists, and family or personal relations. In many cases, the specifics of how this bill will apply to these three groups are left to the Ethics Committee to work out—a challenging mission, to say the least, for our Ethics Committee. For example, under this bill, a nonlobbyist still can buy a Member lunch in Washington as long as it costs less than $20, but that same nonlobbyist can spend more for a Member's lunch in the Member's home State. How much more? That is left to the Ethics Committee to decide. To add more confusion, a lobbyist can buy a Member lunch or football tickets, if that lobbyist has a personal relationship with that Member. How do we define personal relationship? Again, it is left up to the Ethics Committee to provide clarification and guidance on these changes—another enormous task of the committee. I say this not because the Ethics Committee is unwilling or unable to perform these functions, but because Members should understand that all the answers are not in this bill—in fact, in my view this bill raises almost as many questions as it answers and I expect Members will be fumbling around for many months trying to sort out all the distinctions.

Legislating morality is always difficult—but that is our task in considering this bill. The one thing we need to remember is that we are here to serve our constituents—not ourselves.

But I am puzzled why the Ethics Committee was not fully consulted in development of this legislation. I do not believe this matter is ripe for consideration and I believe the Ethics Committee should have had input in crafting this bill. I will vote "no" on this rule and urge other to do so because it is so vague and so ambiguous that it demands further work.

Mr. FROST. Madam Speaker, I yield myself 1 minute.

Madam Speaker, I would urge my colleages on the other side to be a little more restrained in terms of the language that they use during this debate. No one is interested in asking that words be taken down, but I would urge my colleagues to debate this on the merits and to enjoin the issue on the merits.

Madam Speaker, this is a serious matter that deserves a serious discussion. There are strong feelings on both sides on this issue. Let us deal with the merits and let us not deal with individuals as this debate proceeds.

Mr. WALKER. Madam Speaker, will the gentleman yield?

Mr. FROST. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Madam Speaker, I would hope the same thing would apply to the people on the other side of the aisle who have suggested anybody who opposes this is in favor of being corrupt. That kind of thing also should not be done.

Mr. FROST. Madam Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Ohio [Mr. FINGERHUT].

Mr. FINGERHUT. I thank the gentleman for yielding this time to me.

I also would agree with the comments on both sides that we ought to discuss this issue on the merits.

Let me first begin by thanking the gentleman from Texas [Mr. BRYANT] for his hard work on this issue. He has indeed struggled over the last 18 months to bring together as many groups that have an interest in this issue, as many objections as have been heard; religious organizations, civic organizations, et cetera, to seek to reach a good and effective compromise.

Let me try in just my brief time to walk us through what it is that we are doing here today in this legislation.

It is absolutely clear that over the course of the last decade or so that practice of professional lobbying has grown to be an industry of some significance here in this Capital. It has gone beyond just having professionals come to our offices to make the case on particular pieces of legislation. It has grown to include the practice of developing so-called grassroots lobbying networks, phone banks, sophisticated targeting of Members, the practice of encouraging phone calls, et cetera. All of this has become part of a very sophisticated public relations industry, all of which is intended to influence the course of legislation here in Washington.

The current state of the law, however, is that only a very small percentage of those individuals who are engaged in that activity must register their activities with the Government so that the public can have that information, and only a very small part of those moneys that are spent by those interest groups to try to influence the legislation in this body is in fact known to the public.

So what this bill does is it does two things that are really very significant but also, I think, very straightforward, despite all of the debate we are going to hear.

The first thing is that it says that everyone one who is engaged as a profession in the business of trying to influence the course of legislation in the Congress or in the executive branch ought to register with the Government so that the public and the media can have access to that information.

Second, they ought to report for the public information, for the media information, that which they are spending to influence the course of activities of legislation in the Congress and of legislation in the Federal Government.

And, yes, that includes if they are using sophisticated network of phone banks and whatever else it is to try to generate so-called grassroots activities, they need to tell us how much money is being spent by that interest group so that the newspapers, the reporters, whoever it is in our districts can report to the public that that money is being spent, by whom it is being spent, and for what purpose. So the public can factor into their decisionmaking about our activities and about the activities of the legislative process that which they now know about the present situation.

Mr. DREIER. Madam Speaker, I yield 2 minutes to my good friend, the gentleman from Redlands, CA [Mr. LEWIS].

Mr. LEWIS of California. I thank my colleague very much for yielding.

Somehow it has become fashionable to attack lobbyists—individuals who are professionals paid to represent many diverse interests of people in America here in the Halls of Congress, in the people's House. There are lobbyists on every side of every issue: lobbyists who represent unions, lobbyists who represent small business, lobbyists who represent local governments. Somehow this bill depicts them as being corrupt.

I am reminded of the picture seen by the public not long ago of a former judge, who was later a Member of Congress, stuffing dollar bills in his back pocket. Our debate today operates on the pretext that one solves problems by saying one cannot have lunch or play golf with someone who represent an interest. We believe in some way we are improving ourselves. At the same time, we take thousands of dollars from these lobbyists, and like that judge, put them in our campaign coffers, and say we are pure.

Ladies and gentlemen, this is the most cynical piece of legislation I have ever seen. I have talked to my colleagues on the other side of the aisle and I have said to them, "You know this is a piece of garbage." They look at me and say, "We know it, but the Senate will take care of it."

This bill is for pure political purposes and reflects the worst of legislating in this body. It is unbelievable that this is a major cornerstone of the other side of the aisle's token effort to improving our Government.

Mr. FROST. Madam Speaker, I yield such time as she may consume to the gentlewoman from Indiana [Ms. LONG].

Ms. LONG. Madam Speaker, I rise in strong support of both the rule and the bill.

Madam Speaker, Americans voted for change during the last election. As another election approaches, Americans are still dissatisfied with the pace and progress of that change.

Congress, especially, should take heed of the country's impatience. Correctly or not, the public perceives we are more concerned with our perks and privileges than we are with the public's business. And for too long, we have delayed acting on meaningful congressional reforms to correct that impression.

That is why the Congress needs to pass this thoughtful effort to reform gift rules—rules which currently still allow lobbyists to buy gifts, purchase an unlimited number of meals, and underwrite travel and entertainment for lawmakers.

That is also why it is unfortunate that some Members are opposing the rule today. Make no mistake about it, some Members do not want to vote on this legislation and that is why they do not support this rule.

While some Members do not want any bill to pass, there are others—such as myself—who would like to go even further. The conference report strikes a reasonable balance which combines important features of both the House and Senate bills. It is a measure which has the best chance of passing the Congress.

Two years ago, millions of voters were energized by the promise of economic and political change. Now it is time for Congress to delivery on that promise of change by enacting real reform. The House should do the right thing today and vote for the rule and for the lobbying reform and gift ban bill.

Mr. FROST. Madam Speaker, for the purpose of debate only, I yield 1½ minutes to the gentlewoman from Connecticut [Ms. DELAURO].

□ 1230

Ms. DELAURO. Madam Speaker, we stand here today faced with a critical opportunity. An opportunity to help restore the credibility of this institution. To reduce the power of special interests. To renew the faith of the American people in our ability to govern in their interest.

Each of us know how angry people are with government. We have been home. We have heard the cynicism and distrust. And this bill shows that we recognize the problem and are moving toward a strong solution.

This bill bans gifts to Members. It bans meals, entertainment, and travel. It includes tough enforcement provisions. It requires full disclosure of who is lobbying whom and expands the list of those who have to register as lobbyists.

This bill is important in and of itself. But it carries a greater message than lobby reform. It says no more business as usual. That is what people are asking for and this is the people's House.

"Public confidence in the integrity of the Government is indispensable to democracy." Those words of Adlai Stevenson are a sharp reminder of what we must do today.

Pass the rule, and pass this bill.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4556), "An Act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1995, and for other purposes."

CONFERENCE REPORT ON S. 349, LOBBYING DISCLOSURE ACT OF 1994

Mr. DREIER. Madam Speaker, I yield 2 minutes to my friend, the gentleman from Metairie, LA [Mr. LIVINGSTON].

Mr. LIVINGSTON. Madam Speaker, lacking any visible, significant reform in Congress, I rise in opposition to this complex, unworkable piece of bad legislation and against this heavy-handed rule which denies the right to any Member to offer constructive, well-intentioned and thoughtful amendments in order to make legitimate improvement to this bill.

Madam Speaker, I am one who believes that, contrary to the hysteria created by the modern media, the vast majority of Republicans and Democrats, conservatives and liberals, in this House of Representatives and in the other body across the way are at the very core decent, law-abiding, well-meaning, well-intentioned people who are repulsed by corrupt practices. But if this rule denies us the opportunity to improve this bill, and if this bill in turn passes, the most honest among us will risk being pilloried in the press and perhaps dragged through the mud by way of political indictment for some innocuous and incidental infraction.

Madam Speaker, this bill stifles honest exchange of views and opinions between good people, and, as such, the rule and the bill should be defeated.

Mr. FROST. Madam Speaker, for purposes of debate only, I yield 3 minutes to the gentlewoman from Utah [Ms. SHEPHERD].

Ms. SHEPHERD. Madam Speaker, I am a newcomer to this body. I just came barely 2 years ago, and I have been working on this bill since I got here. I worked on it because when I was in my campaign I learned a startling thing. I learned that the general public, the ordinary Joe and Jane who live in every house in America, believe that they do not have the same access to their Members of this body as lobbyists have. That is what they believe, and they believe it thoroughly. They do not believe that they can get to us as easily, or as quickly, or as effectively as lobbyists can.

That is what this bill is about; that is all this bill is about. This bill stops the fancy recreational trips. This bill stops the fancy, expensive meals. This bill stops the unlimited access that lobbyists have to us because they are willing to pay for everything, and they do pay for everything.

The objections that this bill is not a campaign finance reform bill are really nonsense. This House already passed a campaign finance reform bill, and I hope that the conference report will come back to us very soon and we will be able to pass that as well.

The objection that the Members of this House do not understand this bill is utter nonsense. I have been working on this bill for 2 years. The gentleman from Texas [Mr. BRYANT] has been killing himself for over 8 months. He has held caucuses, he has gone to bipartisan caucuses, he has gone to Democrat caucuses, he has gone to Republican caucuses. Frankly not enough people have come to hearings, but he has done it again, and again, and again, and I submit to my colleagues and I beg them to be part of the solution to this problem, not part of the problem.

Madam Speaker, this is a good bill. This is a good bill, and it is not being submitted because any one of us think that any one of our colleagues are guilty of any wrongdoing. This bill is not being submitted because any Member of this House believes that lobbyists are guilty of wrongdoing. To characterize it in that way is to change the subject in order to defeat the bill.

This bill is being proposed because Americans do not believe that they have access to this body in the same way, and they do not. When somebody comes to Washington who is an ordinary citizen and walks in my office, they cannot take me to play golf. They cannot afford it, my colleagues. They do not make enough money. They cannot take me on to the ski lifts and buy my ski passes. They cannot afford it.

I urge this body to come to grips with this problem and pass this bill.

Mr. DREIER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, as I listened to the gentlewoman from Utah [Ms. SHEPHERD] describe all of the hoops that the gentleman from Texas [Mr. BRYANT] has gone through, she failed to mention the only thing that he ignored was the legislative process. There was never a full committee markup on this legislation.

Madam Speaker, I yield 2 minutes to my friend, the gentleman from Cape Girardeau, MO [Mr. EMERSON].

Mr. EMERSON. Madam Speaker, one of the problems here in Congress is that we are very often trying to fix problems by addressing perceptions rather than realities. If we would have a thorough debate and address the realities, I believe the perceptions would take care of themselves.

The measure before us is such an example.

There is a big difference between honest lobbying and influence peddling. Elements of the media and some special interest groups, whose very purpose it is to denigrate Congress, have conjured in such a way to try to obscure the differences between legitimate lobbying and influence peddling in the public's perceptions.

I submit that the realistic answer to regulating what the measure before us attempts to regulate is to simply have full public disclosure. Let us reveal our lobbying contacts and have stiff penalties for willful violation. In a time of budget austerity, do we really want to create a new bureaucracy at taxpayer expense as we do in the measure before us that will in effect become the meal police, surveilling whether or not a Member of Congress accepted at $19.75 meal and thus remained as clean as a hound's tooth, or accepted a meal that cost $20.25 and became a criminal? If we are going to regulate, let us at least do so in a commonsense way that will make it possible to live within the letter and the spirit of the law, rather than erect another scheme that will have the ultimate effect of further eroding the public's perception of the institution.

I am very often asked questions at home about special interests and lobbyists. The fact is they are a part of the system, and the public interest would be much more highly served if this issue was explained and if we used full disclosure as the appropriate remedy for perceived infractions than to take the route that we are taking. I am hard put, as I tell my constituents, to find someone who does not belong to a special interest group that does in fact have lobbyists. Senior citizens may say, "not us," but then I must ask if they have ever heard of the National Committee to Preserve Social Security and Medicare or the AARP. Farmers may say, "not us," but then I must ask if they have ever heard of the Farm Bureau or the Cattlemen's Association or the Cotton Producers or the Rice Millers or the Corn Producers, and on and on. Teachers? I think the answers are obvious. Business? How about the Chamber of Commerce, the NAM, and the very effective champion of small business, the National Federation of Independent Business? Labor unions; how many are there? Yes, even religious groups have lobbyists; so, make no mistake about that.

I am concerned that the measure is antihuman nature, antireal world. I think it is an effort to cut off Congress from different elements of our society and force us to legislate in a vacuum—pursuing to an illogical extension and conclusion the idea that if someone knows something about the subject about which they are speaking they obviously have biases. The Traditional Values Coalition sent a message to me this morning arguing that the bill "creates a chilling effect on individuals who simply want to petition their elected officials on issues being considered by Congress." They say that citizens already discouraged by the political process and the workings of government will be made to further feel that Congress is unresponsive and out of touch. They argue that the measure before us is unconstitutional because it adds impediments to the constitutionally protected right to redress grievances.

□ 1240

Mr. BRYANT. Madam Speaker, for the purposes of debate only, I yield 1½ minutes to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Madam Speaker, across America they say that there is no such thing as a free lunch.

Now that will be as true inside the beltway as it is outside the beltway, thanks to passage of the Lobbyist Disclosure Act.

Let me be clear: No meal or no turkey sandwich ever persuaded a member of Congress to vote one way or another.

But I am tired of seeing Members of Congress look like turkeys on the evening news for enjoying free meals, free gifts, and free vacations, all courtesy of powerful lobbying interests.

Those privileges reinforce the perception held by too many Americans that they have no influence with their elected Representative.

This bill will also shed sunshine on who is wooing whom, how much lobbyists are being paid, what issues are being pressed, and how much is being spent to advance those causes by requiring full disclosure and full registration by all lobbyists.

Madam Speaker, the loss of a few lunches or trips is a small price to pay for restoring the people's trust.

Coupled with a meaningful campaign finance reform bill, which I hope will pass this session.

The Lobbyist Disclosure Act, which I hope will likewise pass this session, will put the people back into the People's House.

Mr. DREIER. Madam Speaker, I yield 2 minutes to my friend and classmate, the gentleman from Findlay, OH [Mr. OXLEY].

Mr. OXLEY. Madam Speaker, I rise in opposition to this exercise in self-flagellation. We are pretty good at these kinds of things. We have managed to deny ourselves for 2 years in a row a worthwhile cost-of-living allowance that most Americans get. So now we are going to somehow try to fool the American public with this phony reform package.

Let me just read to the Members a partial list of major legislation that this Congress has failed to pass: health care, Superfund, GATT, A to Z spending cuts, clean air, immigration reform, welfare reform, telecommunications legislation, campaign finance reform, middle-class tax cuts, a debate and a vote on Haiti, capital gains cut, congressional reform, a balanced budget, and a line-item veto, and on and on and on. And we stand before the American public and say we are going to flog ourselves in public and somehow they are going to forgive us and reelect us. What absolute nonsense.

I want to give the Members an example of what this bill does, what it really does. We had a discussion with the sponsor of the bill when he was briefing us. I asked him about the congressional baseball game that is traditionally played here. For 40 years we played that game. I played it for 14 years. We get out at 7 o'clock in the morning and practice for about 3 weeks, and then we have this game, and we sell tickets. And guess what? Some lobbyists buy tickets to that game, and then we give the proceeds to charity. There was $30,000 this year given to the Washington Literacy Council that we raised because we were able to do so in the congressional baseball game.

We have a great time. A lot of staffers come out, and people enjoy it. I did not enjoy it so much this year as in other years, but it is a lot of fun. We raise the money for charity.

I asked the sponsor of the bill, under the legislation currently pending, if we could do that. The answer was that we could not do that. We cannot sell tickets to lobbyists; we cannot have the Rawlings Co. provide the equipment for the baseball game.

I asked, what if MARTY SABO, the manager of the Democratic team, and DAN SCHAEFER, the manager of the Republican team, had a joint fund-raiser for the baseball game; could they in fact do that and the money would go, of course, to their campaigns? And the gentleman from Texas said, "Well, as long as the money wouldn't go to charity."

I ask the Members, have we lost our minds? Are we in a situation where we could have a congressional baseball game as a fund-raiser for our campaigns in the political sense and we cannot raise $30,000 for a worthwhile charity?

Madam Speaker, I suggest to the Members that this is a fraud, and I suggest that we vote against the rule.

Mr. BRYANT. Madam Speaker, will the gentleman yield so I may ask a question about the baseball game?

The SPEAKER pro tempore (Mrs. MEEK of Florida). The time of the gentleman from Ohio [Mr. OXLEY] has expired.

Mr. FROST. Madam Speaker, I yield 1 minute to the gentleman from Texas [Mr. BRYANT] so he may propound a question.

Mr. BRYANT. Madam Speaker, this bill does not affect the congressional baseball game, topside or bottom.

I yield back the balance of my time.

Mr. OXLEY. Madam Speaker, will the gentleman yield?

Mr. BRYANT. The gentleman did not yield to me, so I am not going to yield to the gentleman.

Mr. OXLEY. I did not have any time. Has the gentleman changed his mind since we had that discussion.

Mr. BRYANT. You have misquoted me pretty grossly, Mr. OXLEY. You are one of the Members for whom I have a great deal of respect and admire very much in this institution, . . .

Mr. BURTON of Indiana. A point of order, Madam Speaker.

Mr. WALKER. Madam Speaker, I demand that the words be taken down.

□ 1310

The SPEAKER pro tempore (Mrs. MEEK of Florida). The Clerk will report the gentleman's words.

The Clerk read as follows:

You have misquoted me pretty grossly, Mr. OXLEY. You are one of the Members for whom I have a great deal of respect and admire very much in this institution, but I find it very hard to understand why you would simply not come forward and say, as those of you who are speaking on that side, or thinking—We want to play free golf, we want free meals. You are not concerned about charity, you are not concerned about congressional baseball, you are just concerned about more freebies, and this bill says no to the freebies-seeking Members of Congress, who I regret to say are a small minority of this House, yet you create a bad impression for the rest of us. This bill says no.

The SPEAKER pro tempore. For what purpose does the gentleman from Texas [Mr. BRYANT] rise?

Mr. BRYANT. Madam Speaker, I ask unanimous consent that any reference to any individual Member and to the motivations of any individual Member be withdrawn.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. WALKER. Madam Speaker, reserving the right to object, I do not intend to object, but I am concerned that this has become a pattern, and it seems to me it would be helpful if the Chair would police any kind of personal references so we do not have to go through this process in order to protect Members from having personal motivations questioned.

Mr. DURBIN. Madam Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Illinois, under my reservation of objection.

Mr. DURBIN. Madam Speaker, the gentleman, of course, is referring to speeches on both sides of the aisle; is that correct?

Mr. WALKER. Absolutely. All I am asking is that the Chair begin the process of enforcing the rules of the House with regard to personal motives. It seems to me that we could then move outside this.

I would hope, also, that in the withdrawal of the words, that that would be an apology for the words that were done here earlier.

Mr. ROGERS. Madam Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Kentucky.

Mr. ROGERS. Madam Speaker, this gentleman is prepared to object, unless the gentleman who issued those offending words apologizes personally to this Member who was offended. There is a reason for the rule. The reason for the rule is that this body expects gentlemanly conduct. When a Member violates that rule by using personally attacking, offensive words, the House expects the Member to apologize, so unless the Member apologizes for those words, I am going to object to their being withdrawn.

Mr. WALKER. Madam Speaker, reserving the right to object, I would certainly be happy to yield to the gentleman from Texas [Mr. BRYANT]. I would certainly be happy to yield to the gentleman from Texas, if we could have something here that would avoid an objection. As I say, I do not intend to object.

Mr. BRYANT. Madam Speaker, will the gentleman yield to me?

Mr. WALKER. I yield to the gentleman from Texas.

Mr. BRYANT. Madam Speaker, I would just say to the gentleman from Pennsylvania [Mr. WALKER] that if he heard my words correctly, the first words I spoke to the gentleman from Ohio [Mr. OXLEY] were that I have the highest regard for him. I went forward to say, however, that it was my view that the reasons being offered for opposition to this bill were not the real reasons.

The ruling of the Chair apparently was, there was no ruling. The ruling, obviously, that I do not want to receive is that somehow that was a personal reference. I did not intend any personal reference to the gentleman from Ohio [Mr. OXLEY] at all. I have a very high regard for him. I did intend a reference, however, to the opponents of this legislation; or rather, the outcome.

Madam Speaker, to the extent that I would, in any respect, suggest that any type of a personal prejudice or personal suggestion of motivation of the gentleman from Ohio for that, of course, I would quickly apologize. He is my friend and I have a high regard for him.

Mr. CUNNINGHAM. Madam Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. CUNNINGHAM. Madam Speaker, I would disagree with the gentleman in the fact that he used direct reference and repeated the words that said, "You don't want to just play baseball, you want to do these things," so he was directly talking to the gentleman from Ohio [Mr. OXLEY], because of the statements that he made before.

Madam Speaker, I think it is just like when the gentleman from Wisconsin [Mr. OBEY] and I got into it the other day; that, you know, we apologized to each other and we separated happy. I think that when you directly attack someone personally, which, in the words, you did, then I think at a minimum you could apologize to the gentleman from Ohio and there would be no objection, because whether you meant to or not, you attacked him.

Mr. BRYANT. Madam Speaker, if the gentleman will continue to yield, all I can say is what I have just said a moment ago. It was my intent to use the general "you," not to speak to him specifically. He knows my relationship with him. I have prefaced my remarks by stating what high regard I had for him. I was making clear my feeling about the purposes of the opponents of this legislation, not the gentleman from Ohio [Mr. OXLEY] personally. I have already said exactly what the gentleman wanted me to say with regard to the gentleman from Ohio.

Mr. CUNNINGHAM. If the gentleman will yield further, then the gentleman should say it, "I'm sorry," and we will press on with it.

Mr. WALKER. Madam Speaker, continuing my reservation of objection, the gentleman from Kentucky [Mr. ROGERS] had asked me to yield. I will yield to him, and then I will come to the gentleman from Virginia [Mr. BATEMAN].

Mr. ROGERS. Madam Speaker, I thank the gentleman for yielding. I have yet to hear the personal apology to the gentleman from Ohio [Mr. OXLEY].

No. 2, if the reference was to, when you say "you," if it was not to the gentleman from Ohio [Mr. OXLEY], but to the rest of us, then I am personally offended for the same reason.

Mr. BATEMAN. Madam Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Virginia, under my reservation of objection.

Mr. BATEMAN. Madam Speaker, I would repeat the point. The offhanded, backhanded apology to one Member, if that indeed is what it was, is certainly aggravated, if anything, by the fact that the gentleman has generalized the aspersion on everyone else who happens to oppose his point of view. That is totally unacceptable.

Mr. BRYANT. Madam Speaker, if the gentleman will continue to yield, if I may respond to the gentleman, let me just say that what was requested was an apology to the gentleman from Ohio [Mr. OXLEY]. I do not feel like my words call for an apology, but I would quickly give it, because of my high regard for him.

Madam Speaker, if I might just finish, the gentleman that just spoke a moment ago took offense to the fact that I said that I was speaking with a general "you" referring to the opponents of the bill in general. I do not wish to ascribe a motivation to those who are——

Mr. BATEMAN. If the gentleman will yield further, but you have done so.

Mr. BRYANT. If in fact you feel that way, I would quickly apologize to you, as well, but I want to emphasize that under no circumstances would I ever ascribe an unworthy motivation to the gentleman from Ohio [Mr. OXLEY], and I did not do so. I do not think that I sounded as though I did so. However, in the event that the Parliamentarian disagrees, I wish to withdraw those.

Madam Speaker, I have offered the apology to the gentleman from Ohio [Mr. OXLEY] which the gentleman from Kentucky [Mr. ROGERS] asked for.

Mr. BATEMAN. Madam Speaker, if the gentleman will yield further, it is absolutely amazing and mind-boggling to me that you do not think you gave offense, but if you did, to the gentleman from Ohio [Mr. OXLEY], you will apologize. That is hardly an apology.

Then to go on to suggest that everyone who does not share your view on what I regard as one of the shoddiest pieces of legislation that has come before this House is guilty of improper motives, and that is exactly what you attributed to everyone who opposes your point of view, you owe an apology to more than the gentleman from Ohio [Mr. OXLEY], and an unequivocal one.

Mr. WALKER. Madam Speaker, continuing my reservation of objection, I would ask if the gentleman from Texas [Mr. BRYANT] wishes me to yield to him.

Mr. BRYANT. If the gentleman will yield, I have said about as much as can be said. I think the gentleman from Ohio [Mr. OXLEY] would have to be the one to judge whether or not he feels like it is adequate, but I have been as clear as I can possibly be. I do not intend to ascribe motivations to anyone, nor do I intend to in any way personalize my comments with regard to the gentleman from Ohio [Mr. OXLEY]. I did not intend it at the time, and in the event anyone thinks I did, I certainly would apologize to the gentleman from Ohio [Mr. OXLEY].

Mr. WALKER. Madam Speaker, further reserving the right to object, I think that the question on our side is does the gentleman apologize to the gentleman from Ohio [Mr. OXLEY].

Mr. BRYANT. If the gentleman will yield, yes.

Mr. WALKER. Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Without objection, the words are withdrawn.

There was no objection.

Mr. DREIER. Madam Speaker, may I inquire of the Chair how much time remains on both sides for this stimulating debate?

The SPEAKER pro tempore. That time was not extracted from anyone's time. The gentleman from California [Mr. DREIER] has 10½ minutes remaining, and the gentleman from Texas [Mr. FROST] has 10 minutes remaining.

Mr. FROST. Madam Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Minnesota [Mr. MINGE].

□ 1320

Mr. MINGE. Madam Speaker, this acrimonious debate this afternoon in my opinion is a thinly disguised attempt to return us to gridlock in the House of Representatives. What I see happening here this afternoon is a bill that we have worked on for months and months being challenged for reasons that are being attributed to the chief architect of the bill that are not accurate. I feel this criticism is not well-taken. We have engaged in an extensive debate, and an extensive effort to craft legislation to give the American people reason to believe that this institution is not governed by the whims of lobbyists.

We must continue to hold the course, or I know what will happen next week. We will be told that the House of Representatives was unable to pass lobby reform. It will simply be added to the list that was recited earlier, of pieces of legislation which have been attacked and attacked for one reason on the floor of the House before the vote and then after the vote for a very different reason.

I think at this point in time, it is important that we recognize that there are thousands of employees in the executive branch of Government who have held themselves to a very high standard, there are hundreds in the legislative branch of Government who have held themselves to a high standard, and it is time that we memorialize this standard in the form of legislation so that we all know what the standard is so that the American people know what the standard is, and so that we can lay to rest the concern and the suspicion that lobbyists buy legislation in this institution, which is not the case, should not be the case, and will not be the case.

Mr. FROST. Madam Speaker, if I may, with the forbearance of the other side, I have one speaker who needs to leave the floor shortly and would like to recognize for 1 minute, please.

Madam Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Madam Speaker, I have been involved in reform issues in this House for a long time. I simply would make one statement: However Members feel on the bill. I would beg you not to vote against the rule that allows the bill to be debated. If Members have legitimate objections to the bill, do not hide behind the fact that we have to pass a rule to debate the bill. If Members think that there is something wrong with this proposal, then have guts enough to debate it fully. But allow it to come to the floor by voting for this rule. It would be an absolute hit on the reputation of this House, unfair, but it would be a hit none the same if we use the fact that the rule has to be passed in order to prevent the bill from even being considered by this House. This House deserves better than that from all of us.

Mr. BURTON of Indiana. Madam, Speaker, will the gentleman yield for a real quick question? Is this a closed rule or an open rule?

Mr. OBEY. This is a totally legitimate rule meant to bring a bill to the House which the public is demanding and it is about time we pass it.

Mr. BURTON of Indiana. Is it a closed rule?

The SPEAKER pro tempore (Mrs. MEEK of Florida). The gentleman's time has expired.

Mr. DREIER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I would observe that this legislation never went through a full committee process and it was passed under suspension of the rules, not allowing a free flow of debate.

Madam Speaker, I yield 1½ minutes to my dear friend, the gentleman from Long Beach, CA [Mr. HORN] the former president of Long Beach State University.

Mr. HORN. Madam Speaker, the gentleman from California is absolutely correct. If there was a way to amend this bill, we could clean it up. I will vote for the bill, but I feel just as the gentleman from Virginia earlier felt, that we have got some shoddiness. I am for the ban on the $20 lunch, but I am going to vote against the rule, because I would like to see happen to this bill what happened to the first crime bill. The first crime bill was a mess. When we turned that rule down, they had to go back to conference, they had to clean it up so enough of us on the Republican side could vote for it, and we can take pride in what was accomplished.

What is not being accomplished here is we are worrying about a $20 lunch when we permit $10,000 in PAC money to come to every member that wants to take PAC money. It is getting so that easily the Congressman can afford to take the lobbyist to lunch. We need to face up to PAC's. Maybe that conference would do it.

People are upset about the Congress and the House in particular, but it is the $10,000 in PAC money that causes them to be upset. So let us vote "no" on the rule, let us send back and get a positive product out of conference, and maybe we can also get a rule out of conference that says when a Member speaks, he will disclose with his speech the PAC money related to those remarks. I think that would be a real advancement in terms of full disclosure, and let the people know. Let us get some decent reform and banning PAC's is it.

Mr. DREIER. Madam Speaker, I yield 1 minute and 10 seconds to my good friend, the gentleman from Indianapolis, IN [Mr. BURTON].

Mr. BURTON of Indiana. Madam Speaker, I thank the gentleman for yielding me the time.

Madam Speaker, I just want to make 2 points. On page 10 of the conference committee report, it says that the name, address, and principal place of business of any person or entity other than the client who paid the registrant to lobby on behalf of the client has to be reported. That means that people who give $10 to many of these organizations like the Christian Coalition and others are going to have their names on a Government list. I do not think the people of this country really want that kind of Government interference in their lives.

In addition to that, I just want to say, and I am not impugning anybody's integrity or questioning their motives, but the fact of the matter is many, many, many people who have gone to the well of this House today and spoken in favor of eliminating a Big Mac sandwich being purchased by a lobbyist so that they can talk about a bill before the Congress are taking thousands and thousands and thousands of dollars from those same lobbyists through PAC's. I am not questioning their integrity, but I am pointing out that there is a bigger question, a bigger question of possible influence-buying by PAC's giving money to Congressmen in the amount of $10,000.

I think there is a much bigger question among the public about getting

$10,000 from a labor PAC instead of a $1 or a $1.50 Big Mac at the corner restaurant.

Mr. DREIER. Madam Speaker, I yield 1 minute to the gentleman from California [Mr. DORNAN], our fighter from Garden Grove.

Mr. DORNAN. Madam Speaker, after that little scene a few minutes ago, I have to weigh my words carefully because I want to talk about one of the Members on the other side. At a press conference this Member had at the National Press Club, he talked about religious conservatives, the religious right. Into this group he put not only every fringe, fever-swamped group of America, but also mainstream groups such as those promoting term limits. I know his motivations were nothing but pure. I know VICTOR was only talking about snake charmers and people who march at skinhead rallies. But others aren't. I went up to the Vice President of the United States in the back of this Chamber and pointed out to AL GORE that Mother Teresa was part of the religious right and so was Pope John II, and so were most observant Jews, Christians, and Moslems. We have all used this term "the devil is in the details" and here literally is the demonic detail in this bill relating to all religious groups in this country. If they see a moral issue before the country, they must hire a lobbyist who must divulge lots of things about the religious group involved in our political discourse. Shame, shame.

☐ 1330

Mr. FROST. Madam Speaker, for the purposes of debate only, I yield 1 minute to the gentleman from Arizona [Mr. COPPERSMITH].

Mr. COPPERSMITH. Madam Speaker, I rise in support of the Lobbying Disclosure Act conference report. We have to change the way Congress does business, and one step we can take today is eliminating the freebie culture that helps people in Washington hold themselves to a different standard than the American people.

It is time to have the same rules in Washington as we already have in Arizona. We have in my State what Common Cause calls the toughest lobbyist registration law in the country. We need that kind of disclosure here in Congress, and we need it now.

This bill ends the free gifts and perks and travel that must be intended to influence Members of Congress. It does not affect grassroots religious organizations. The U.S. Catholic Conference, the Baptist Joint Committee, and the Religious Action Center of Reform Judaism all say the bill protects the free exercise of rights of religious groups. But the bill does end a culture of entitlement that afflicts many Washington insiders who somehow believe that they never should pick up a check at a restaurant or pay greens fees at a golf course. Most importantly, it shines a long overdue light of disclosure on the lobbying industry.

If we are serious about restoring the people's trust in the Government, first we must put the people's House in order, and this vote is one step toward that goal.

Mr. FROST. Madam Speaker, for the purposes of debate only, I yield 2 minutes to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Madam Speaker, a couple of years ago I was walking across the street from the Longworth Building to the Capitol to handle a bill, and along the way I was offered a free cruise on a foreign cruise ship by representatives of the foreign cruise ship lobby. One of the reasons this really sticks out in my mind is I was on the way to handle a bill that would take away the loopholes that allow them to have foreign-made, foreign crews, and foreign-owned ships and still operate out of our ports and avoid all of the responsibilities that their American competitors have to live by and still get all of the breaks.

That really gripped me, and this body passed that bill. But strangely it keeps dying in the other body.

I was so upset that I asked for a list of Members who had had free cruises, and they did not want to supply it, and only after a threat of actually subpoenaing the records did they release a partial list. We know how it works in the other body. It only takes one Member to keep something from becoming law.

I come from a shipbuilding district. I come from a district of seafarers. I am trying to do good things for my constituents, trying to see to it that those people who benefit from our society at least pay the dues of our society and not get tax breaks like the foreigners do, and not get away from all of the regulations like foreigners do.

I cannot give away free cruises. The welders and pipefitters at Ingals and Trinity cannot give away free cruises, but those guys can.

This is not a perfect bill, but I am sick and tired of those guys buying influence with free cruises, and if this measure will help us stop that practice, then I am going to vote for it, and I wish I could vote for it 10 times.

Mr. DREIER. Madam Speaker, I yield 1 minute and 50 seconds to my distinguished friend, the gentleman from East Petersburg, PA [Mr. WALKER], our chief deputy whip.

Mr. WALKER. Madam Speaker, I thank the gentleman for yielding me the time.

Madam Speaker, we have heard reference to a number of groups that are supporting this bill. Let me talk about some groups that have some problem with the bill, beginning with the Christian coalition who has written and said: "This legislation serves the interest of some in Congress who have targeted religious people for direct and virulent attacks over the past several months * * * this legislation represents a new 'gag rule' on democratic participation."

Americans for Tax Reform say: "The 'chilling effect' of such a vague, broad piece of legislation is unimaginable * * * the power concentrated in an unaccountable 'directorate' is frightening."

The Small Business Survival Committee says: "There is no benefit to the Nation in stifling the kind of communications outlined in the bill."

The National Committee of Catholic Laymen say: "The American people who belong to organizations such as ours will be intimidated."

The problem with this bill is not the question of gifts from lobbyists. Across the board here I think all of us suggest that gifts from lobbyists are a bad thing. But to take a bill about gifts from lobbyists and turn grassroots America into a lobbying community that then is gagged is absolutely wrong.

The problem with this bill is that we have made a lobbying bill into a grassroots gag that religious America is beginning to understand is aimed directly at them.

The problem is that there have been meetings held in the Capitol Building that have indicated that legislation of this type was about to come down the pike. Today we see the first fruits of this kind of legislation.

Many in this body are concerned about the wave of phone calls that they get every time a controversial piece of legislation comes up. They want to stop it, and in this bill they are attempting to stop it by gagging the grassroots. And the grassroots have found out about it and they are upset, and so group after group is coming forward yet today saying that they will no longer permit Congress to hide behind fancy titles in bills that gag grassroots America.

CALL OF THE HOUSE

Mr. DREIER. Madam Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 448]

ANSWERED "PRESENT"—408

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski

Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hefley
Hefner
Herger
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
Meehan
Meek
Menendez
Meyers
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

☐ 1401

The SPEAKER pro tempore (Mr. HASTINGS). On this rollcall, 408 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call were dispensed with.

CONFERENCE REPORT ON S. 349, LOBBYING DISCLOSURE ACT OF 1994

The SPEAKER pro tempore. The Chair will announce that 9 minutes of debate time remain on the pending resolution.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, I want to speak specifically to the allegations that were made earlier in debate and in 1-minutes about some sort of effort here to gag religious communities and their legitimate right to address government, Congress, et cetera. I would never be, nor would anyone, I believe, on this floor be part of any effort to gag any group of people, particularly people speaking from a religious perspective.

Mr. Speaker, this bill specifically exempts churches, their auxiliaries, their conventions or associates of churches and religious orders from any reports of grassroots lobbying activities. That is clear. It also specifically excludes any communication which constitutes the free exercise of religion from the definition of lobbying.

Now I am in receipt of three letters, one from the Jewish community which says, and this is the Religious Action Center of Reform Judaism:

> It is therefore with astonishment that I read today Representative Newt Gingrich's letter attacking the lobby disclosure bill on the basis that religious organizations would have to register and report their expenditures.

Mr. speaker, I have also a letter from the Baptist Joint Committee which is made up of 12 subgroups of the Baptist faith. It says:

> I am, therefore, puzzled by Mr. Gingrich's letter questioning this legislation on the basis of the effect that it would have on religious organizations. I think he is plainly wrong.

Now here is one from the Catholic Conference. It says:

> It is our understanding that those church organizations which fit the definition contained in the bill will be exempt from registering and reporting any legislative activities involving communications with their own membership.

So, Mr. Speaker, there is no question here that, if one wants to oppose this bill, they can do so, but they ought not to do it under the cloak of religion, implying that it is impossible for people of faith to communicate with us without falling under the provisions of this bill. That is totally antithetical to the Constitution, to the traditions of this body and, I think, to everyone's understanding of what this bill is really about.

Mr. FROST. Mr. Speaker, for purpose of debate only, I yield 1 minute to the gentlewoman from California [Ms. SCHENK].

Ms. SCHENK. Mr. Speaker, many of us in the freshman class promised our constituents throughout our first term that we would reform the way Congress does business. Yesterday most of our Republican colleagues made representations about changing this body if they were to be the majority party. Today all of us have the opportunity to deliver on our promises.

Mr. Speaker, this conference report represents real reform that would change the way Washington does business and would do it in an immediate and dramatic fashion by banning all the lobbyists' freebies that have kept the playing field unlevel.

Earlier, one of our colleagues seemed to bemoan the loss of lobbyist-purchased hamburgers. Surely with what we earn we can pay for our own hamburgers.

If this bill goes down, we break faith with the American people. Let us stop the empty promises and starting delivering. Let us pass the rule, let us pass the bill, and begin the process of restoring faith.

Mr. DREIER. Mr. Speaker, I yield the balance of our time, which I believe is 5 minutes, to the distinguished Republican whip, the gentleman from Marietta, GA [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, let me start out by saying what these next two votes are not about. They are not about the gift rule, and they are not about lobbyists' lunches. The motion to instruct conferees, which will be offered if the rule goes down, will not in any way touch the gift rule or lunches, so all the speeches about that are irrelevant to the next two votes.

Mr. Speaker, the vote coming up is an opportunity to do exactly what the

House did on the crime bill to defeat a rule and reopen the conference. Now why would we want to do that?

Let me start out by saying I think there are four reasons we want to return this bill to conference to change four key provisions that threaten the American people's right to be active citizens. There are four:

First, the worst single thing, which I doubt if many Members even looked at yet, is that, if you're a citizen, you can pay a $200,000 fine under this bill. If you're a Member, you might not even be named in the incident in which a citizen pays a $200,000 fine, and I will return to that.

Second, there is, in the judgment of those of us who are active in the grassroots, a grassroots gag rule here, and I will cite from grassroots Catholic organizations their fear of being intimidated.

Third, there is an issue of who defines "religious freedom" and whether or not you truly want one person appointed by the Clinton administration to define "religious freedom."

And fourth, the concept of that one person having virtually dictatorial powers, powers over lobbying groups, powers over every filing, file powers over every penalty, and for those of you on the left who think it is going to be fine if it is a Clinton appointee, how would you have felt during the Bork nomination if that person had been a Reagan appointee? And you might say, "We're going to get a paragon of virtue and they'll always be just," and I suggest to you that is a long way from how the real world works.

Now let me expand.

First, we recently voted overwhelmingly to require the Congress to be under the same laws as the rest of the country. Everywhere I go in America, when I describe the Shays Act and say, "Every Member of Congress will obey the same law," this bill sets one standard of criminal and civil penalties for citizens and then exempts the Member of Congress from exactly the same activities.

I say to my colleagues, "Now you can't vote for this bill, you can't vote yes on the rule, and go home and say you want to cover Congress because this bill has two very different standards, and I know that Members have been reassured on both sides of the aisle."

□ 1410

"Oh, you won't be covered. The lobbyist might go to jail, the citizen might pay $200,000, but you'll be OK. Don't be afraid of this."

That is wrong.

Second, when you read the provisions that define what the time of a Lobbyist is, 10 percent of their time paid as a lobbyist, over 2,500 hours in 6 months is for a lobbyist. One trip from California to visit your Member of Congress and two nights in a Washington hotel, and you may have passed the limit, and then you are a citizen and you did not know you were supposed to file; you would have to pay 10 percent because you belong to the California Desert Association, something many of our friends on the left might be concerned about. They say, "Oh, I want them to call and visit me." But now they have got to fill out a form; now they have to start registering because with 10 percent of their paid time in a State-level organization, they are visiting the 52 members of the California organization, and believe me, if you visit all the members of the California delegation, that is 10 percent of your time.

Now they are subject to a Federal law with Federal penalties under a Federal involvement at the local grassroots. And by the way, this includes reporting when they are communicating with their own constituents. It says specifically in here, "communicating with your own members of your own group." That is covered, and you have to report in aggregate on what you do.

That is not lobbying the U.S. Congress; that is crippling the citizen's right to be involved.

Third, on page 13 this bill describes "religious freedom." The exemption the gentleman from California referred to says they are exempted, the church or religious institution is exempted—and this is page 13—"if the communication constitutes the free exercise of religion."

I will say to my friends on the left that maybe from your standpoint an administration which appoints Roberta Achtenberg or an administration which appoints Joycelyn Elders might be fine for a single person appointed by this administration to define what constitutes "religious freedom." But I am not sure I want a papal message on abortion, a papal message on homosexuality, or a papal message on any other issue such as school prayer interpreted by a secular, antireligious liberal as to whether or not that is a political message or a religious freedom message.

And finally, there is the question of allowing one person to make these kinds of decisions. You can vote yes today and you can say, "Well, I had to do it." But let me say that someplace down the road some grotesque injustice is going to be enacted by a single person who has a bias, whether it is right or left or just personal, but a single person who is given virtually dictatorial powers under this to punish—and by the way, for the same action they have a different penalty for different groups based on their interpretation of motive.

This is a dangerous bill. All we are asking is this: We are not asking to beat the bill. We are asking Members to vote no on the rule, as they did on the crime bill, send it back to conference, and let them fix those parts. This has nothing to do with lunches; this has nothing to do with gifts; this has to do with fixing some very dangerous provisions, and then we can bring it back next week and we can debate any other provisions. But for today, I say, do not accept the flawed document from the conferees; do not threaten the rights of our fellow citizens; do not threaten religious freedom; and do not turn over dictatorial powers of government; and finally, do not vote for a $200,000 fine on citizens and nothing to punish Members of Congress. That is wrong.

Mr. FROST. Mr. Speaker, for the purposes of debate only, I yield our 1 remaining minute to the gentleman from Missouri [Mr. GEPHARDT].

Mr. BRYANT. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Texas.

Mr. BRYANT. Mr. Speaker, I will only take a few seconds to say that the characterization of the bill just made by the gentleman from Georgia [Mr. GINGRICH] is inaccurate. It is inaccurate with respect to grassroots lobbying, and it is inaccurate with respect to lobbying registration. It is wholly inaccurate, and we never heard about these concerns until right now after 18 months of considering this bill.

Mr. GEPHARDT. Mr. Speaker, let me just say to the Members what I think this bill is about and what the American people are concerned about. They are concerned about undue influence of lobbyists.

I think the House of Representatives is a wonderful organization of wonderful, dedicated, committed people, and I resent the implication that sometimes is made that lobbyists run Washington and not Members representing their constituents. By the passage of this bill, we make it clear to everyone that if someone comes here to lobby, they have to register. These are lobbyists who are here actively to lobby, not grassroots organizations, and they have to tell what they are doing and how they are doing it.

The public deserves that kind of explanation.

Mr. Speaker, let us make the record of this Congress what it ought to be—good, committed people doing the right thing by their constituents, with Government not run by lobbyists, but run by the American people. I ask the Members to vote for the rule and to vote for the bill.

The SPEAKER pro tempore (Mr. HASTINGS). All time has expired.

Mr. FROST. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 216, nays 205, not voting 14, as follows:

[Roll No. 449]

YEAS—216

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (OH)
Bryant
Byrne
Canady
Cantwell
Cardin
Carr
Clayton
Clyburn
Coleman
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Filner
Fingerhut
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Levin
Lewis (GA)
Lipinski
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
Meehan
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Ridge
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Skaggs
Skelton
Slaughter
Smith (IA)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swift
Synar
Taylor (MS)
Tejeda
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Whitten
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—205

Allard
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Brown (FL)
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Castle
Chapman
Clay
Clement
Clinger
Coble
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Cox
Crane
Crapo
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (NJ)
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Laughlin
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Machtley
Manzullo
McCandless
McCollum
McHugh
McInnis
McKeon
McMillan
Meek
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Murtha
Myers
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Petri
Pickett
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Traficant
Upton
Valentine
Vucanovich
Walker
Walsh
Weldon
Williams
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—14

Applegate
Fields (LA)
Gallo
Hayes
Hutto
Lloyd
McCrery
McCurdy
McDade
McNulty
Slattery
Thompson
Washington
Wheat

□ 1438

Mr. BARTLETT of Maryland and Mr. DEAL changed their vote from "yea" to "nay."

Messrs. LAFALCE, MFUME, PAYNE of New Jersey, HILLIARD, FLAKE, TUCKER, BISHOP, and TOWNS changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1440

Mr. BRYANT. Madam Speaker, I call up the conference report on the Senate bill (S. 349) to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Ms. PELOSI). Pursuant to House Resolution 550, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 26, 1994, at page 25733.)

The SPEAKER pro tempore. The gentleman from Texas [Mr. BRYANT] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Madam Speaker, I yield myself 6 minutes.

Madam Speaker, the Lobbying Disclosure Act of 1994 is easily one of the most important bills and sweeping changes we will consider as this session comes to a close. It is the product of more than 18 months of hard work. It was in the beginning a bipartisan product. To some extent I think it still will be, notwithstanding the developments of the last 24 hours. It is needed to help restore the confidence of the American people, both in the lawmaking process and in the men and women who serve them in this institution.

I want to say at the outset that, as is the case with every law we pass, and perhaps with every rule in our society, it is written to affect the behavior of a small minority of people; in this case, a small minority of those who lobby to influence the Members of this House. We must deal with the perception of the public. This bill takes head-on the concern that the public has about the lawmaking process and the extent to which those who are paid to influence it succeed.

Simply put, this bill will ensure that our constituents know how much is being spent to influence the decisions that we were sent here to make on their behalf. It will close the loopholes in the existing lobbying disclosure laws. It will also streamline disclosure requirements and establish a more effective and equitable system for administering and enforcing disclosure rules. The bill's registration requirement applies to each organization that is a separate legal entity, whether related to another organization or not.

Madam Speaker, this bill will also permanently bar lobbyists from gaining access to Members by picking up tabs for meals and entertainment, and it will end subsidies for what is essentially private recreational travel.

Madam Speaker, this bill passed the House last March by a 3-to-1 margin, after having been reported unanimously—all Members, Republican and Democrat—by our subcommittee, and the Senate lobbying bill passed by a vote of 95 to 2. Given the wide margins of passage in both the House and the Senate and the broad public support for what this bill is attempting to do, it is hard to believe that there remains any suspense about whether or not we can succeed in getting the bill enacted.

The bill has been mischaracterized and parts of the bill that have been settled for months are, only in the last 36 hours, coming under attack. Madam Speaker, I must ask the question, about the questions that were asked earlier, why were those questions not asked at some point during the last 18 or 20 months? Never once did we hear a concern expressed about the provisions for grassroots lobbying until last night at 7:30, when the Republican leader made a speech about it.

I submit to the Members that had there been any significant problem with the grassroots lobbying portion of this bill, we would have heard about it from the Catholic Conference. Instead, they wrote a letter saying the provisions were quite all right. We heard from the Baptist Joint Committee. They said the provisions in the bill with regard to lobbying for them were quite all right. We would have heard from the spokesman for the Jewish community. We heard from the Religious Action Center, which represents Reform Judaism. They said the provisions of the bill are quite all right.

The conference report does absolutely nothing to hamper or to require disclosure of churches' communications with their members, clergymen's sermons from their pulpits, or the activities of church volunteers who contact Members of Congress. Such activities are all exempted under the bill. The provisions relating to church groups were discussed at great length with all the affected groups.

Questions have also been raised about whether reports will be required on expenditures to organize a grassroots lobbying campaign. Estimates of grassroots expenditures will not be required unless the organization conducting the campaign has a paid lobbyist who otherwise meets the requirements of the act. Members of organizations who contact Members in response to such an effort do not have to register or report their expenditures and are not affected by this bill in any way, and never have been.

Madam Speaker, do not be fooled by the arguments that will be made either against the bill or in favor of the minority's anticipated motion to recommit. This debate is only about one issue: Whether we will continue to allow Members and their staffs to be wined and dined and flown around the country at lobbyists' expense, or whether we are going to put a stop to it by voting for this legislation.

As my colleagues know, and as I said at the beginning, I believe the stereotypes of the vast majority of the Members of this House, as well as those in the private sector that work with this House, are wrong. This institution is not filled with Members who are, in my view, influenced by meals, travel, entertainment, or other gifts, but the fact of the matter is that a minority of this body has managed to make the public believe that something is wrong here.

Far more important than any of the perks of this office is the importance of underscoring and reinforcing public confidence in the lawmaking process. That is what we are doing with this bill today.

Based upon the statements that are repeatedly made, some by Members of this body, based upon the behavior of a tiny minority of this body, past, present, and no doubt future, as well, the American people can be forgiven for concluding that these gifts affect the process and that there is something wrong. Regardless of whether there is or there is not, we have the obligation to reinforce public confidence in this lawmaking institution, and that is what this legislation would do.

Madam Speaker, I reserve the balance of my time.

Mr. GEKAS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I yield to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Madam Speaker, I rise in opposition to the bill, and in favor of the motion to recommit.

Madam Speaker, I rise to oppose the conference report on lobbying regulation just as I opposed the bill when it first passed the House.

This legislation does not represent reform in any sense of the word. Instead it constitutes more big brother central control and orwellian denial of freedom in the name of reform and good government. Moreover the bill will not result in a more honest special-interest-free Congress, but rather it will encourage some otherwise well-intentioned Members to engage in subterfuge and obfuscation, thereby increasing the public's distrust of elected leaders, rather than alleviating their existing alienation.

I intend to scrupulously obey the law, whatever it may be. But I am concerned that in this new effort to legislate morality, we may be setting traps for Members to run afoul of technical barriers, thereby opening themselves to picayune charges of ethical lapse and even criminal violation.

Far better than this atrocity is to impose rigid and enforceable mandates of disclosure on Members and lobbyists, so that Members will know in advance that all activities in which they engage will be reported and made known to their constituents. Such procedure would more simply and straightforwardly put the onus on a Member's discretion and judgement, rather than binding him in a strait-jacket of rigid prohibition and inducing him to refrain from innocent contact with legitimate advocates of American interest.

I urge an "aye" vote on this motion to recommit and a "no" on the bill.

Mr. GEKAS. Madam Speaker, when we began this long journey that brought us to this very controversial day, we began with the idea of addressing the very serious problems that we had with lobbying and lobbying registration, particularly as it applied to foreign agents. The Foreign Agents Registration Act, FARA, and other lobbying requirements were arcane, were unenforceable, gave much heartache and heartburn to Members of Congress, to the proper exercise of governmental functions across the board.

□ 1450

That was our original purpose. Through a convolution of events that happened since then, this whole bill now has been wracked with attacks from the left and from the right on a various number of considerations where we now have to deal with gift bans. There is not a Member of the House, as far as I have been able to discern, who is not willing to put in writing and to keep in place a gift ban. That is good. But then when that is applied to other situations where campaign contributions are specifically exempted from this, we have the anomaly which has been touched upon by so many Members, that on one hand you cannot accept a Big Mac but on the other you can accept, specifically exempted in this language, you can exempt a big PAC. You receive a campaign contribution from the very lobbyist who cannot buy you a Big Mac to try to influence your responses on the floor of the House of Representatives. That is bad. It is good that we prohibit gifts, but it is bad that we then allow a tremendous loophole through which the biggest gift of all, money, can still be placed at the doorstep of the Member of Congress to influence him if the Member of Congress is influenceable by that. Is he influenceable by the Big Mac? That is a judgment we have to make. That is bad. The very fact that we have exempted campaign contributions, the biggest gift of all, makes the gift ban to some people laughable.

What am I going to do about it? I want to exempt gifts, to ban gifts, and I have voted that way. But also at the conference, I offered an amendment that would make campaign contributions, the biggest gift of all, as one of the banned gifts that lobbyists cannot approach Members of Congress with that big PAC, that big gift. But I was rebuffed at the conference.

What am I going to do? I am going to include that into a motion to recommit this bill with instructions to consider those kinds of gaping loopholes. The big PAC has got to be included in the next session of this conference. Where we have not specifically exempted it, we want to include it.

It is good that we have brought into this bill certain tightening up of registration and reporting requirements for the lobbyists. That is good. We have done that. And for foreign agents. That is really good. But it is bad when you lump into that what happens to be a grassroots lobbying activity. That is bad.

We are not here to tell Members that under the explanations that were given to us that the proponents of the bill at conference feel that grassroots activities who do not have a registered lobbyist are exempt from all of the requirements of this bill. That may be correct, but at best it is ambiguous.

We have heard today from various Members of Congress about how that can militate, at least to have the appearance of militating against and chilling the effect of citizen efforts to lobby Members of Congress on their neighborhood projects. Citizens against the bomb, citizens against an incinerator, citizens against whatever are included in this prohibition, in this set of regulations, if they have a registered lobbyist. If they do not, then they are in some ambiguous, cloudy areas in which they may or may not be, depending upon how much money, time they spend, et cetera.

My motion to recommit, later after this debate, to recommit to the conference with instructions will cover that situation. We want to make clear at the behest of all the Members who are interested not in gagging the grassroots activities, we want to have an opportunity in the conference to straighten that out, to remove the ambiguities. It is good that we have tightened up lobbying and registration and money situations and all of that for lobbyists, but it is bad if we lump into that, by inadvertence or misinterpretation, the grassroots activities that are so near and dear to the hearts of the American public and to which we have been responsive ever since the founding of the republic. That is good.

It is good that we have in the legislation some reference, some exemption, some adherence to religious organizations and organizations with religious purposes. The proponents of the bill and in conference, we think that we have covered that. But it is bad that it is not less ambiguous. We have got to straighten out that language.

So here we are. A great bona fide effort to ban gifts, and we may be banning religious organizations from proper activities at the doorstep of the Congress of the United States. We want to clean it up.

My motion to recommit, I repeat, and this is the whole essence of the debate, will include a plank in which we will try to undo the ambiguities that are circling around the religious section of this legislation.

We want to return to the conference for a whole host of reasons. These 2 primarily are the engine that forces us to take this position and ask the Members of Congress to help us ban gifts but to help us clear up the language on grassroots lobbyists. To ban the lunch but do not ban the hunch of lobbyists that they can still give Members a campaign contribution. We are for banning those gifts, but let us straighten out the language of campaign contributions, should they belong.

We ought to make a judgment, should we have made this bill a companion bill to campaign reform and bring both together? Why did we isolate this gift ban from campaign contributions, the biggest gift of all?

Madam Speaker, we have a situation where it is good that we have within the purview of these lobbying requirements the staff of legislators, the staff of Members of Congress. They are included in the overall language on prohibition on gifts and all the other prohibitions that are in this bill, legislative staff. Yet when I offered at the committee an amendment to include executive assistants and executive Cabinet officials like from the GS–14 and above who are decisionmakers and who have more power and influence than any 20 lobbyists sometimes and could be the subject of importuning on the part of a lobbyist, I was rebuffed at the conference. I want the opportunity to do something that is good. It is good that we have staff of the Members of Congress included as covered officials. It is bad that we do not have GS–14 and above in the various agencies and bureaus of our government not included as covered officials.

The good, the bad and the ugly are all in this bill. I want to separate the bad and not even look at the ugly and keep the good after the conference reassembles and takes into consideration what this House will say on the motion to recommit, namely, that the good is good, we can make it even better, we will excise the bad and not even have a chance to look at the ugly.

We have got to recommit this bill, because those of us who want the ban on gifts to remain pure and proper cannot in the same hand in which we offer that to the American public say, "We are going to hold on to campaign contributions." There you are. "I will not have lunch with a lobbyist. I will accept a contribution, a financial contribution to make sure that I am reelected to this Congress. You can keep your hors d'oeuvres, keep your lunch, just give me the campaign contribution."

Mr. BRYANT. Madam Speaker, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Texas.

Mr. BRYANT. Madam Speaker, I assume the gentleman would acknowledge that first we did not hear about this concern about the campaign contributions in subcommittee in November, on the floor in March.

Mr. GEKAS. Madam Speaker, I seize back the balance of my time. I tell the gentleman from Texas that this last week was the first time that we were able to even discuss as a conference. We failed, somebody failed to call a conference, and we had only 1 day in which to bring these concerns which had been fomenting for a long time. The full committee never considered it, the subcommittee never considered the prefaces to these matters. Then we went straight to conference without the full committee having the light of day in this thing.

I will continue. On the gentleman's own time, he can castigate my inability to bring this up 18 months ago, when the chairman of the subcommittee well knows that the original purpose was lobby registration, not a gift ban and not all the other considerations that have surfaced since.

□ 1500

Mr. BRYANT. The gentleman voted for it.

Mr. GEKAS. On the gentleman's own time he may cross examine me and I will speak if he yields to me then.

So, the whole issue revolves about and down to and through the motion to recommit with instructions. If Members feel that this is unambiguous about religious organizations, that it is unambiguous about campaign contributions, that it is unambiguous about grassroots activities, then they should vote against the motion to recommit that is to follow and vote their own conscience on final passage.

I for one will present with as much fervor as I can the motion to recommit with the hope that the gift ban will survive and the lobbying registration requirements will survive while we make sure that the grass roots are not hurt, that religious organizations are not found in a cloudy area, and where campaign contributions can be visited as the real, big gift that we ought to be addressing, not the Big Mac, which cannot, I hope, influence actions of Members of Congress.

Madam Speaker, I reserve the balance of my time.

Mr. BRYANT. Madam Speaker, I yield 2 minutes to the gentlewoman from Indiana [Ms. LONG].

Ms. LONG. Madam Speaker, I strongly support this lobbying reform and gift ban bill, and commend—above all other Members—Mr. BRYANT, the chairman of the subcommittee for his steadfast leadership on this important legislation. Today is the time to do the right thing and pass this legislation.

Current law still allows Members to accept gifts worth up to $250 from any one source, and an unlimited number of gifts worth $100 or less. Last year, I introduced the first gift ban bill in the House. That legislation mirrors—to a great extent—the conference report before us today. Some of my colleagues believe current rules are tough enough, but many of our constituents see these gifts, trips, and meals as a way for lobbyists to gain a level of access and influence that is not available to the average citizen back home.

Our constituents are right. While it is extremely unlikely that any Member of Congress would ever cast a vote on the basis of a meal or a gift purchased by a lobbyist, gifts from lobbyists do alter the nature of the relationship. The truth is that gift giving is an integral part of a money-driven Washington way of life which helps explain why voters are so angry at politicians today.

The House should do the right thing and pass the conference report today.

Again, Madam Speaker, I want to commend the gentleman from Texas [Mr. BRYANT] for his tireless work on behalf of this legislation.

Mr. BRYANT. Madam Speaker, I yield 30 seconds to the gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. Madam Speaker, I come from a State where we have had a law prohibiting gifts from lobbyists for many years. I want to report to those Members, particularly those on the other side of the aisle, there has not been a single legislator in the State of Wisconsin who has starved to death since this law went into effect. It is a good law, a law we should pass here.

The issue is very plain. If Members think legislators should accept gifts from lobbyists then they should not vote for this bill. But if they think, as the American people do, that legislators should not accept gifts, trips or lunches from lobbyists, they should vote for this very good bill.

Mr. BRYANT. Madam Speaker, I yield 2 minutes to the gentlewoman from Utah [Ms. SHEPHERD].

Ms. SHEPHERD. Madam Speaker, on August 3 of last year I introduced H.R. 2835, the Congressional Ethics Reform Act, which called for a ban on any gift valued at more than $20 to Members of Congress and their staffs. Some Members at that time criticized that effort, saying the proposed restrictions were too stringent. But Madam Speaker, we are now on the verge of adopting legislation that contains virtually all of the provisions and I sought I proposed in that legislation.

For more than a year now, I have been happy to work with Chairman JOHN BRYANT as he has crafted an extraordinary bill that will fundamentally change the way business is conducted in Washington.

The current hodge-podge of existing lobbyist registration statutes, some of which are half a century old, will be replaced by a comprehensive law that consolidates registration and reporting requirements so that the public will finally know who is spending how much to influence whom.

Equally important, in my view, are the gift ban provisions added to this bill. The tough new curbs on gifts will help assure the public that their voices are not being drowned out by the free flow of perks being bestowed by special interests.

Last spring, when the House first considered this legislation on the floor, I spoke in favor of its passage. But I added, "I have argued—and I will continue to argue—for strengthening amendments when this legislation goes to conference." Madam Speaker, I want to assure my colleagues today that we were successful in making this an even better bill in conference. We have before us today a bill that combines the best provisions of three different bills, including restrictions on gifts that no one in this Chamber dreamed possible when this Congress convened last year.

I rise in happy support of the conference report, and I encourage all of my colleagues to join me in voting for this landmark legislation.

Mr. BRYANT. Madam Speaker, I yield 3 minutes to the gentleman from Washington [Mr. MCDERMOTT].

Mr. MCDERMOTT. Madam Speaker, I rise here really to try and clarify some things that I have heard on the floor. As chairman of the Ethics Committee I am not sure whether it is from ignorance or from an attempt to mislead, but there has been an issue raised about whether or not Members of the House of Representatives can be fined as though this bill sets up a fine for people in the public but nothing for us.

Under the theory of separation of powers, we have set up an agency of the Federal Government to deal with the lobby registration and deal with their problems, but the House is still covered by the Ethics Committee. I would just remind Members that in the manual we pass out to all Members, under rule 20(e) Members of the House can be expelled, they can be censured, they can be reprimanded, they can be fined, they can be denied or limited any privilege including voting by this House if the Ethics Committee recommends it to the House and the House votes such a penalty. So the ability to fine a Member is defined in our rules. Everybody ought to know that. When Members vote for this bill they are simply saying they accept that the House can fine Members at any point.

Let me finish with a couple of other things. There has been a question raised out here, Members have used the illustration that we can take $10,000 from a PAC. That would lead anyone watching this or listening to this to believe that Members can go around and accept from a PAC $10,000, and a Member actually indicated "Put it in my pocket" as though it were their personal money to spend. I would remind the Members that under the rules of the House under which all of us live, rule 45.6 it says a Member of the House shall keep his campaign funds separate from his personal funds. A Member shall convert no campaign funds to personal use.

So the idea that Members can use money from a PAC, a Member can take $10,000 for personal use is absolutely fallacious. That same rule in almost exactly the same words is in the Federal Election Commission prohibition against the use of campaign funds for private funds.

So all of us in the House are subject not only to House rules, but also to the Federal Election Commission, and it is absolutely prohibited to use campaign funds for private use. If Members do it, they are subject to fine and go to prison, and there are all sorts of things that can happen, and everybody here knows that no one can take $10,000.

I would like to say one other thing. The reason I support this bill is that it is stricter than current law, it is stricter than current rules in the House, and we have looked at it, there has been consultation with the staff of the Ethics Committee and with Members, and it is workable.

□ 1510

We did not want any surprises for Members. In fact, that is the reason the bill has as its effective date May 31, 1995, so there will be time for the rules to be drawn and issued so that Members will know.

I urge your support of this bill.

Mr. GEKAS. Madam Speaker, I yield myself such time as I might consume.

Madam Speaker, the gentleman from Washington has touched upon a subject that has to be cleared up. This statute which we are creating by this conference report is one that visits criminal penalties against lobbyists and not against Members of Congress unless there is complicity or conspiracy or that kind of thing. And it leaves, most of it, to the Ethics Committee. It reestablishes that principle that on the receipt of a gratuity or a gift, those kinds of things that are already part of the ethics community that a Member of Congress is not chargeable like a lobbyist is for violation of the statute, but would be, in effect, referred to the Ethics Committee for any kind of reprimand that might come out of that situation.

That has been affirmed and reaffirmed in recent arguments on this very floor. I remember in the act of 1989, et cetera, that officials receiving gratuities come under their own ethics groupings both in the executive and in the House of Representatives in the Congress.

Madam Speaker, I reserve the balance of my time.

Mr. BRYANT. Madam Speaker, I yield 1 minute to the gentleman from Washington.

Mr. MCDERMOTT. Madam Speaker, I would take a minute to point out to the gentleman from Pennsylvania that on page 44 of the bill it says, "Assessing a civil monetary penalty." We are not talking criminal, and there is no criminal penalty in this. This is civil monetary penalties only.

We can do the very same to the Members in the House under the House rules. So there is a balance.

The House rules allow us to fine the Members, and this allows us to fine a lobbyist who breaks the rules.

Mr. GEKAS. Madam Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. I thank the gentleman for yielding this time to me.

Madam Speaker, I rise in opposition to this bill, this conference report. I do so because to my mind it is a product in which zeal has overcome judgment. You can try and fudge around the edges of it, but there is something terribly unappealing to the notion that to someone who has made a gift that violates some technical standard in this bill about which they are unaware is subject to the imposition of a $200,000 fine, whereas the person who ought to be charged with superior knowledge of whether something can or cannot be accepted is very unlikely to be disciplined in anything such as that magnitude.

It is to me passing very, very strange to say that those who cannot buy you lunch, bearing in mind that it is not a personal contribution but a campaign contribution, can visit you in your office and on two occasions leave behind $5,000 contributions.

This bill, I think, is terribly ill-conceived. It proceeds from the premise that those who lobby are somehow shady, bad characters who are despoiling the legislative process. Yet everyone who rises says they really do not see anything wrong with what people are doing; they are worried about a perception. I think we are creating a perception. I think it is indeed a false perception. I think this bill is born more and more of political desperation than it is its merits. I shall vote against it.

Mr. BRYANT. Madam Speaker, I yield myself 30 seconds to just simply say I am not clear whether the last gentleman who spoke is in favor of $5,000 campaign contributions or against them.

Let me make something very clear. Mr. GEKAS, at the last minute in the conference, brought to us a notion that we ought to put a provision in this bill, a provision which says that a lobbyist cannot make a campaign contribution. That might be a very good idea if we are taking up campaign finance legislation. But Mr. GEKAS' proposal and what he intends to put in his motion to recommit says a lobbyist cannot make a campaign contribution to an incumbent but can make one to a challenger, which is unconstitutional. At the behest of Senator COHEN, one of the members of the conference, he then withdrew the unconstitutional proposal. It cannot be made constitutional. This is a bill that regulates the way in which lobbyists relate to Members of the House and of the Senate. We can regulate their behavior with regard to that, but we cannot regulate their behavior with regard to non-Members. Accordingly, this is not the vehicle to deal with the campaign finance question. That is not in the bill.

The other reason perhaps it is not in the bill is because we never heard a single thing about it. Mr. GEKAS never said a single word about this until the last 36 or 48 hours. All I can say is, if you are genuinely concerned about it, get involved in the campaign finance reform debate.

Madam Speaker, I reserve the balance of my time.

Mr. GEKAS. I yield 3 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. I thank the gentleman for yielding this time to me.

Madam Speaker, there is more to this bill than prohibiting gifts from lobbyists. In my opinion, this bill is "Big Brotherism" from Washington at its worst, disguised as an ethics reform for Congress. Why do I say this? I say it because there are a number of provisions in the bill that put so much control over private groups in the hands of the Federal Government, and not the Federal Government but one person who is going to decide whether or not they violated the law. And the penalties for individuals is up to $10,000 and could be as much as $200,000.

Now, the gentleman there said the ethics rules in this House would penalize a Member of this House in the event that they broke the law that is in this bill. I would like to ask anybody here when was the last time you heard of any Member being penalized to the tune of $10,000 or $200,000? It just does not happen. For you to say it happens is erroneous. It simply is not going to happen.

You might chastise them or censure them here in this body, but they are not going to be penalized like the average citizen who is going to get hit with a $10,000 or $200,000 fine.

Now, we talk about the PAC contributions. The gentleman from Texas, the sponsor of this bill, from April 9 of this year to June 30 got 76 percent of his campaign contributions from PAC's, $42,500. Now, I am not saying that influences him, but I would say that it would probably have more of an impact on him than a Big Mac that he is getting from the same people who are giving him this money.

From January 1 to February 16 of this year he got 45 percent of the money from PAC's, or $26,357.11. Now, I am not saying that influences him, but I would say it would have more of an impact on him or anybody else than a Big Mac. Yet if somebody takes a Member of Congress out and buys him a sandwich, he is guilty of breaking the law and can be penalized $10,000, but he cannot be if he gives him $45,000.

Where is the logic in that? It makes absolutely no sense whatsoever.

This bill will stop, kill, in my opinion, many philanthropic organizations that give millions of dollars to cancer research projects, child and wife abuse centers, Ronald McDonald Houses, and others because it, in effect, prohibits any Congressman from participating in those charitable events. You are not going to be able to do it anymore. Believe it or not, folks, some people like us to go to these events and raise money for these charities. That is prohibited. So who is going to pick up the tab? It is going to be the taxpayers because those philanthropic organizations are not going to get that money in the future.

My question to my colleagues is why not make all lunches or all dinners or any event reportable on the reports that we file? We have to report about 9 reports this year alone. Why not report all of that?

If we did that, the public would know, our constituents would know, who we are having lunch with and who is taking us out to play golf or something, and the media would know. Make no mistake about it, the media watches every single thing we do around here. So they would know if we were grossly violating or even remotely violating any kind of ethics rules of this House.

□ 1520

By doing that, Mr. Speaker, we would not create a new bureaucracy costing millions of dollars to the American taxpayer and infringing on their rights to contact their Congressman under the threat of a $100,000 fine.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4650) "An Act making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes."

CONFERENCE REPORT ON S. 349, LOBBYING DISCLOSURE ACT OF 1994

Mr. BRYANT. Mr. Speaker, I yield 1½ minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, there is clearly a need for campaign finance reform. I personally believe there is a need for limits on special interests or PAC contributions. I support that. But that need does not obviate or destroy the need for passage of Federal lobbying reform bills, and I think this is a sensible bill that puts Federal legislators essentially on a similar plane that most State legislators are already on in this country. They are subject to the restrictions and the amount that lobbyists can provide in terms of gifts and related things, and they seem to operate very nicely in those confines, and all we are asking is that Members of this body and the other body should be treated similar to what most State legislators are treated in this country.

I also believe this issue of grassroots lobbying that has come up in the last 24 to 48 hours is a bit of a red herring. The fact of the matter is we heard nothing about this during the time the bill was going through the legislative process. Most of the major large national religious organizations like the U.S. Catholic Conference and others support the provisions of this bill, do not believe in any way that this bill is going to infringe on legitimate grassroots lobbying nor impede or restrict people's rights to lobby or right to call on their Congressmen in any way whatsoever.

There is an extraordinary cynicism in this country about public life, about Washington, about the things that we do up here. I do not know if this bill is going to be any miraculous cure or try to be an antidote to that. I doubt it, but I do think it is important for us, if we want to preserve the democracy that we live in, this wonderful country of representative form of government, and we have to show the people that we are independent from those who want to influence government, that we are independent of the lobbyists, and therefore, Mr. Speaker, I urge support for this bill.

Mr. GEKAS. Mr. Speaker, I yield 1½ minutes to the gentleman from Michigan [Mr. KNOLLENBERG].

Mr. KNOLLENBERG. Mr. Speaker, I rise in strong opposition to this bill.

Folks, the idea that a Member of Congress can be bought with a fancy meal, a round of golf, or even a ticket to a baseball game, is a slap in the face to the integrity of this Chamber. I cannot conceive the type of political deception that would create a measure of this kind.

When I cast my first vote in this Chamber, I was struck by the truly awesome responsibility given me by the people of the 11th District of Michigan. I would certainly like to know which of my colleagues would forsake this responsibility and sell their votes for a hamburger and a coke.

Second, this bill is riddled with inconsistencies. It would impose $200,000 fines and harsh criminal penalties on our constituents, while doling out mere slaps-on-the-wrists to Members of Congress who violate its provisions.

How can anyone suggest that all the blame belongs to one side is beyond me.

Furthermore, why is it that, under this bill, it is OK for a constituent to take me to a Tiger-Orioles game in Detroit but it is a criminal offense for that same constituent to take me to a Tiger-Orioles game at Camden Yards.

I think everybody knows what's going on here. This piece of legislation is designed for one reason and one reason alone—politics. It seems that there are a number of Members who are willing to malign the integrity of this Chamber for their own personal political gain. And it is this kind of behavior, not the issues addressed in the bill, that has undermined the public's trust in Congress.

My constituents did not send me here to pass shoddy, half-way measures designed to pull the wool over the eyes of the American public.

I encourage my colleagues: do what you know in your heart is right—vote against this bill and vote for a motion to recommit.

Mr. BRYANT. Mr. Speaker, I yield 1 minute to the gentleman from Alabama [Mr. BROWDER].

Mr. BROWDER. Mr. Speaker, I rise in strong support of this conference report, and I would like to thank the gentleman from Texas [Mr. BRYANT] and the people who have worked on this legislation from both sides of the aisle.

Mr. Speaker, this is an important piece of legislation. I have got friends on both sides. Some of my friends are concerned because they see possible problems in this legislation. But, Mr. Speaker, the problems that they are going to encounter if we pass this legislation are small. They are greatly outweighed by the benefits of this legislation.

I urge strong support for this legislation among my colleagues and also from those who think that this is just for public perception that we are doing this. I think this legislation acknowledges that the vast majority of this body intends to conduct its business in a reasonable way that the people of this country expect.

I rise in strong support and urge my colleagues to vote for this legislation.

Mr. BRYANT. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. FINGERHUT].

Mr. FINGERHUT. Mr. Speaker, I thank the gentleman from Texas [Mr. BRYANT] for yielding this time to me as well as for his long, hard work on this subject. As someone who has been somewhat involved in this piece of legislation, Mr. Speaker, I can tell all those who are listening to this debate today that it is no picnic to be the person carrying the bill that is seeking to change the basic way that we do business in this body. The gentleman from Texas deserves our gratitude, and he has mine.

The arguments against this bill, as usual, come down both to what it does do and what it does not do, and let me just briefly respond, taking the latter first. It is always possible to argue against any bill on this floor about what it does not do. The principal argument here about what it does not do is it does not solve the problem of campaign finance reform, how we raise and spend money on our campaigns. I, like many others on this floor today, wish to reform the subject of campaign spending, and I am working on that legislation, as are many on the other side. But that does not mean that we should not take up this legislation today.

The second argument, about what it does do, I think is also not well taken today. One is that somehow we should not enact a gift ban because there is no specific allegation that anyone's vote has been bought or sold. We are dealing, regrettably but honestly and seriously, with perceptions that exist in this country about how this body operates in light of the tremendous growth in the practice of professional lobbying over the last decade. To do something about that by drawing a line between ourselves and those who are professionally engaged in the practice of lobbying is appropriate, is correct and will do a lot of good.

The second thing is to argue that somehow this has a chilling effect on the practice of grassroots lobbying. In fact it has been called on this floor today a gag rule. Nothing could be further from the truth. I believe the public has the right to know that there are organizations who have invested considerably in professional public relations firms in Washington who specialize in reaching out and generating phone calls and letters. If with that information they then continue to respond to those appeals, then they will at least be doing so fully informed. We are informing them today.

I urge support of the bill.

Mr. Speaker, there are few things I have worked as long or as hard for as the Lobbying Disclosure Act. As you know, in March 1993, the freshman Democrats released a comprehensive, 27-point reform package which included a section on limiting the influence of well-financed lobbyists. We expressed our strong support for legislation that would close loopholes in the current lobbying registration laws, and we supported efforts to force the itemized disclosure of lobbying expenses.

Mr. Speaker, the Lobbying Disclosure Act accomplishes these goals and more. It will require the registration of thousands of lobbyists who have never been registered. Anyone who spends more than 10 percent of his or her time lobbying senior executive branch officials, legislative branch officials, and congressional employees will have to register with the Federal Government as a lobbyist.

The legislation also requires the registration of people who do grassroots style lobbying.

As recommended in the freshman Democratic task force report, lobbyists will also be required to itemize their expenditures in detail which will include the identity of their employers or clients, issues on which the lobbyist is lobbying, and an estimate of the total amount of all income from the client or expenses incurred in connection with lobbying activities.

Mr. Speaker, I commend my colleagues, Representative JOHN BRYANT in the House and Senator CARL LEVIN in the Senate for their hard work on developing this underlying registration bill. In the controversy about the gift provisions of this conference report, the important registration requirements are often overlooked. Long before I took office, Representative BRYANT and Senator LEVIN were working hard to craft effective lobbyist registration legislation.

An outgrowth of my work on the reform package was an interest on my part in somehow further limiting the influence of lobbyists by restricting any financial benefits they give to members and their staffs. In August 1993, Representative KAREN SHEPHERD and I introduced the Sunshine for Lobbyists Act and the Congressional Ethics Reform Act which essentially prohibited Members of Congress from receiving any but the most nominal gifts and to disclose those that they do receive. Our legislation was patterned after legislation introduced as an amendment by Senator PAUL WELLSTONE and after a sense of the Senate resolution introduced by Senator FRANK LAUTENBERG. Both of these measures were added to Senator LEVIN's underlying registration bill.

Over the course of the past year and a half, Representative SHEPHERD and I have worked with Representative BRYANT and his staff on the inclusion of our legislation in his registration bill. We gathered support from a number of our freshman colleagues who cosponsored our bills and from more senior members like Representative JILL LONG and Representative DAN GLICKMAN who had introduced gift limitation legislation of their own. I appreciate their input throughout the process.

On March 24, 1994, by an overwhelming vote of 315 to 110, the House passed S. 349, Senator LEVIN's underlying registration bill with Representative BRYANT's gift limit language that paralleled our legislation. On May 6, the Senate passed similar legislation and a week later a separate gift ban bill introduced by Senator WELLSTONE. We in the House realized that our legislation would have to be strengthened in order to compare favorably with that of the Senate, and many of us vowed in March on the House floor to bring back a bill that was even stronger after the conference with the Senate.

This brings us to the conference report that we have before us today. This is a good piece of legislation. It is not perfect, but it is an excellent step towards addressing the concerns of our constituents about the way that business is done here in Washington. There is a very real perception outside the beltway that we members of Congress are treated like kings and queens and that we are wined and dined every night of our existence. Obviously, for most of us, this is not the case. However, the people in Ohio and in Utah and in Indiana, see us portrayed by the media as privileged people who never have to lift a finger for ourselves. They see lobbyists who have special access and influence, and they feel that their input is somehow less important.

The public's trust in Congress is at an historic low, and it is deepening. Let's act to address this problem by changing the way that things work around here. Let's restore the faith of our constituents in this body by passing the final version of this legislation to bring sunshine to our system of governing.

Mr. BRYANT. Mr. Speaker, I yield 1 minute to the gentlewoman from Georgia.

Ms. MCKINNEY. Mr. Speaker, I rise in support of the Lobbying Disclosure Act and gift ban.

My constituents are the little people, not the high rollers. When I lunch with constituents in my district, we eat fried chicken in a little cafe without tablecloths, and I am happy to pick up my own check. Really, there aren't too many places in my district where you can spend $20 on lunch for one person.

The average American doesn't eat lunch or dinner in a fancy restaurant with clean white table cloths. My constituents don't take vacations at fancy golf resorts—they pile the kids in the van and go to grandma's. So, when the people's servants are seen at fancy resorts and upscale restaurants spending time with lobbyists, it just doesn't look right.

I urge my colleagues to support strong lobbying reform. Support this conference report.

□ 1530

Mr. BRYANT. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. Speaker, I support the Lobbying Disclosure Act because it is a step toward a more open Government, responsive to the people, not special interests. It will be good for this institution, closing loopholes in existing lobbying registration and disclosure laws, and includes the toughest restrictions on gifts to Members and staff in the history of this institution.

The tactics of the opposition are diversionary. Unwilling to face the music, opponents try to change the subject. For example, in campaign finance reform, we do need to enact it, but the deadlock to date on that subject is no excuse for gridlock on lobbying reform.

The reference to Big Mac is a big smoke screen. The opponents have tried to politicize this issue. For example, on the subject of grass roots lobbying. This bill will not inhibit efforts by religious and other grass roots organizations to express their views.

The opponents have gone too far, overpoliticizing this issue. They are standing in the way of the very kind of change they sometimes proclaim that they favor. Those proclamations now have a very hollow ring.

Mr. GEKAS. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, the problem with this place is they pass legislation that has fancy sounding titles, like this bill, the Lobbying Disclosure Act of 1994. What a bunch of bunk. Look at what this piece of legislation does. And I made this same speech when it was before us before. Now, does this bill disclose more to the public and to the press and to people who need to know?

Right now you must disclose four times a year. This bill says twice a year. Now, do you get to know more of what they are spending money on to defeat or pass legislation, I ask you?

The current law has criminal penalties. This law does not. Is that tougher enforcement? Is that going to ensure disclosure?

Do not give me this stuff about free trips going to end. With trips, this bill just limits the confines of the trip, and the same thing will go on, and the public will be dismayed.

You know what the title of this bill should be? This bill should be entitled the "Big D.C. Law Firm Relief Act," because what it does in fact is it really requires you to use one of the 23,000 attorneys in this town to present your case before this Congress.

This is a sham. This is a disgrace, that we should allow thresholds created by this bill. Are you 10 percent lobbying, are you 10 percent pregnant? Come on. You are fooling the American people. Why not, if you have got it even a dime report it. Report it, who gave it, who got it.

Now, I know who wrote this bill, and it is a sham. I support the gift provisions, but you have weakened the system, and you are going to force the American people to again to be dismayed by your actions here. And yet we can take, as they have said here, a $20 meal and reject, not today, a $10,000 PAC contribution. What a sham.

Mr. BRYANT. Mr. Speaker, I yield myself 30 seconds, in which I would like to say that the gentleman from Florida who just spoke indeed did make those points in debate last March. He was dead wrong then, and he is dead wrong now.

At this time, I yield 1 minute to the gentlewoman from Washington [Ms. CANTWELL].

Ms. CANTWELL. Mr. Speaker, we are here today to follow through on a commitment that many of the freshmen made this place work in congressional reform legislation. This bill before us is that commitment, signed, sealed, and delivered. Our message is clear: Instead of empty rhetoric, we have chosen to act. The Lobbying Disclosure Act that was originally proposed by the freshmen Democratic task force in 1993 is what is before us today, and is that commitment to the American people. It moves us one step closer.

Those same people want to see campaign lobbying reform. They wanted to see other improvements, and we hope that we will get bipartisan efforts to bring those bills before Congress and continue to have them voted on before we adjourn.

But, specifically, what we are voting on today, this legislation includes the broadcast and strictest lobbying disclosure requirements ever enacted. It provides a total ban on entertainment and other gifts from lobbyists to Members of Congress and their staffs, and it permanently limits the influence of lobbyists and special interests on Capitol Hill.

This, I think, is the most important lobbying disclosure act that we can pass. Let us move a step closer to the American people. Let us move a step closer to Government that makes sure that these interests are registered.

Mr. BRYANT. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from Texas for yielding, and I thank the gentleman from Texas for listening to all of this. There is no one that should have gotten abuse on this, because he has worked so hard to tighten up these loopholes.

If people want to know what a sham was, a sham was the prior laws on lobbyists, and that is why we have such an incredible culture growing here, where we have tens of thousands of lobbyists blooming all over this city, along with many lawyers who can also be lobbyists. Now they are going to have to register and tell and disclose a lot more, and now they are going to have to sell us on the facts. And that is what it is all about.

Actually, that is what it has really been about for a lot of people for a very long time. I am always amazed, and it always reminds me of how much this law and this reform is needed, whenever I have a constituent following me around during the day. Because at the end of the day, they always say. "Wow, that is not what I thought your life was like."

When you ask them what they thought your life was like, they thought it was about getting gifts and fancy meals, playing athletic games, and doing all sorts of things. They had no idea that we really worked here. And that has been the media image, and that has been the unfortunate image many people picked up.

Well, that is not the image for most Members of Congress. This is a very hard-working group. But for those who have abused it, this is the way we bring those abuses under control. Let us be perfectly clear what this is about. The Committee on the Judiciary that I have sat on has done long, long hearings on this, has looked at this. It is very similar to what they have done in many State legislatures.

It does not do anything about cutting off grass roots. For heaven's sake, anybody can phone, anybody can write, and this means their phone call and their letter is going to mean a whole lot more. Because those who weigh more heavily on the sides of others will now have to listen to everybody more equally.

I say support this reform. It is long overdue. I thank the gentleman from Texas [Mr. BRYANT] for bringing it to the floor.

Mr. GEKAS. Mr. Speaker, I have a list of speakers yet to appear, and would ask the gentleman from Texas if he would proceed until they appear on the floor. I had the gentleman from Georgia [Mr. ROWLAND] down as a speaker. The speakers yet to come to the podium are not present, so I ask the indulgence of the Chair and indulgence of the gentleman from Texas to proceed on your side until they appear.

Mr. BRYANT. The difficulty, of course, is we have now expended more time than you have.

Mr. GEKAS. Mr. Speaker, than I move that we recess.

The SPEAKER pro tempore. The Chair does not entertain that motion. We should proceed in regular order. Does the gentleman from Pennsylvania seek time, or does the gentleman reserve the balance of his time?

□ 1540

PARLIAMENTARY INQUIRY

Mr. YOUNG of Alaska. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. LAROCCO). The gentleman will state it.

Mr. YOUNG of Alaska. Mr. Speaker, a motion to adjourn is in order, is it not? And there will be a vote taken on it, will there not?

The SPEAKER pro tempore. Did the gentleman say a motion to adjourn?

Mr. YOUNG of Alaska. Yes. Mr. Speaker, is in order, is it not? Is it not?

The SPEAKER pro tempore. As long as it does not take a Member from his feet, it is in order, between speakers. Does the gentleman wish to enter a motion?

Mr. YOUNG of Alaska. Mr. Speaker, I asked a parliamentary inquiry. This is going to be worked out, or I will make a motion to adjourn.

Mr. GEKAS. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. ROWLAND].

Mr. ROWLAND. Mr. Speaker, I rise in opposition to this legislation in its present form.

Mr. Speaker, while I support many of the provisions of the Lobbying Disclosure Act and appreciate the efforts of those involved in developing the conference report, I am opposed to S. 349 for a number of reasons. Specifically, I am distressed that the conference report does not include a provision pertaining to charity functions. While I will not be affected personally as I will not be returning next Congress, I remain concerned about the impact on charities.

In March of this year, the House of Representatives approved a lobbying reform bill that also banned lobbyists from giving Members gifts, meals or entertainment; however, it would permit Members to travel to charity events. I supported the House version of the bill as it does not adversely impact the endeavors of those who raise money for worthy causes. An excellent illustration is the Danny Thompson Memorial Golf Tournament which has raised approximately $2.5 million for the University of Minnesota Leukemia Research Fund and the Mountain States Tumor Institute.

In addition, it is unclear how S. 349 will impact the efforts of grassroots groups from our districts that come to Capitol Hill to inform us of their views. For example, a local chamber of commerce that has a military base in their community on the closure list would likely meet the threshold of spending 10 percent of its budget or $5,000 to plead their case in Washington. Such a group would then be subject to the reporting and registration requirements under this bill or face liability of $200,000 for failure to comply. Groups like our local Farm Bureaus who travel to Washington for brief periods of grassroots activity could be similarly affected.

As a result of these concerns, I must oppose this legislation despite its good intentions.

Mr. GEKAS. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. HOEKSTRA].

Mr. HOEKSTRA. Mr. Speaker, I thank the gentleman for yielding time to me.

Two years ago I did not think I would be coming to the floor of the House of Representatives speaking against a reform effort, but the bill that we have in front of us today is a sham. In many ways it is once again a Washington solution to a very serious problem, but once again, the Washington solution falls far short of what we need to do. It really goes in the wrong direction.

How do we solve a perceived ethics problem in the House of Representatives or our relationships with lobbyists? We are going to create a new bureaucracy. We are going to muzzle the grassroots, and we are going to provide preferential treatment for Members of Congress.

I do not believe that is what the American people sent us to Washington for, and I do not believe that that is what the American people will identify as reform.

In many ways the legislation in front of us is the height of hypocrisy. Let me just outline some of the things that is going to be in front of the grassroots organizations, the people that we want to open up the process to, the types of things that they are going to have to go through.

They are going to have to have and meet pages and pages of new requirements that probably will ensure that they will spend more on reporting their contacts with Congress rather than the actual dollars that they will spend on any exercises. They will have to maintain a list and an inventory of all their contacts with committees, with committee members, contacts with Members of the House of Representatives, contacts with Federal agencies. They will have to go into a whole new series of accounting techniques independent of what they do for the IRS; good faith estimates of the total expense of the registrant; good faith estimate of total expenses of the registrant and its employer in connection with the lobbying activities; a list of the employees of the registrant who acted as lobbyists; a list of all the people who may have contributed to support the lobbying activities.

What we have is a typical Washington solution, a new bureaucracy and more paperwork, and the problem will still be with us.

Mr. GEKAS. Madam Speaker, I yield 5 minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Madam Speaker, I thank the gentleman for yielding time to me.

Madam Speaker, I oppose this bill, and I will vote against the bill.

Every time Congress passes a so-called reform, you must ask yourself, "What is being taken away from the American people?" Are we taking away from ordinary Americans their precious right to pick up the telephone and petition their elected representatives in Congress? It seems that we are. I oppose this bill because it would further isolate this institution from the American people—hard as that may be to imagine.

The more you read this bill, the more questions arise—questions for which we have, as yet, received no satisfactory answers. Let me just pose a few of those questions.

Will this bill stop secret, 500 member health care task forces from working with special interest groups, be they corporate lobbyists or nonprofit advocacy groups, to overhaul our Nation's health system?

Will this bill require advocacy groups and labor unions to report their specific contacts and agendas within such groups as the secret, 500-member health task force?

What if Lane Kirkland, president of the AFL-CIO, talked to President or Mrs. Clinton to specifically ask that the President's health bill be revised to exempt union-negotiated health plans? Would the AFL-CIO have to report the contact and the specific favor it sought?

Would the Children's Defense Fund, the Robert Woods Johnson Foundation, or the Sierra Club, or any other such group, have to disclose their lobbying of the administration for special contracts, grants, or regulatory changes?

Will the bill permit the American people to scrutinize the pervasive behind-the-scenes influence of the incredible network of congressional committees, nonprofit groups, and advocacy organizations that the Wall Street Journal has dubbed the Clinton "adhocracy"?

Will the bill disclose the activities of high-paid lobbyists and consultants, such as James Carville, Paul Begala, Mandy Grunwald, Stan Greenberg, Betsy Wright, Susan Thomases, and Tony Coehlo when they obtain White House passes to enter into high level decision making on Presidential initiatives and decisions?

Will the bill prevent a friend of the President, for example, Hollywood producer Harry Thomasson, from directing the hiring and firing of career White House staff at the White House travel office in order to ensure that the Government air charter business works through a company owned partially by himself?

Will the bill treat as a gift a $600,000 mortgage loan for a plush apartment at remarkably favorable interest rates when the recipient of the loan is a high-level White House staffer on a $125,000 a year salary?

Will the bill prevent a Cabinet Secretary, say, the Agriculture Secretary, from conducting his official business at the Super Bowl, courtesy of a chicken company? Will it prevent the Cabinet member from accepting free trips, cheap jeep rentals, and who knows what else until an independent counsel completes an investigation?

Will the bill prevent a Cabinet member, say, the Commerce Secretary, from soliciting contributions from big business special interests during the Presidential inaugural festivities?

Will the bill force someone who works on the President's election campaign and hopes to be rewarded with a plumb post after the election, say, the job of U.S. trade representative, to brief such clients and potential clients as General Electric, Bell Atlantic, and U.S. West?

The authors of this bill owe us answers to these questions.

Madam Speaker, I will submit in the RECORD selected newspaper articles and other material relating to the questions I have just asked.

Finally, I will also submit in the RECORD a sample of the disclosure form that the House Judiciary Subcommittee has advised would be an acceptable disclosure form under the terms of this bill. I think the American people may be disappointed with how little the bill would actually reveal about the contacts occurring between paid lobbyists and their Government in Washington.

When Congress says it wants to protect your right to petition Congress, read the fine print.

I urge my colleagues to oppose the rule, support the motion to recommit, and oppose this bad piece of legislation.

Madam Speaker, I include for the RECORD the articles to which I referred.

[From the Washington Times]

DWINDLING VITAL SIGNS OF HEALTH CARE REFORM

(By Paul Greenberg)

No wonder Hillary Rodham Clinton didn't want to reveal the working papers of her Task Force on National Health Care Reform. She successfully stonewalled for some 18 months before releasing 234 boxes of documents, each containing about 2,500 pages of material. Her task force was able to maintain its secrecy much longer than the one amassed around Haiti, but of course Miss Hillary's outfit had a more determined commander in chief.

And what do the first, cursory dips into this library of healthspeak show? That almost from the first, officials within the administration were making the kind of devastating criticisms that, in the end, sank this Task Force. The criticisms were ignored, but nobody can say Ira Magaziner, who was supposed to coordinate this uncoordinated effort, wasn't warned. Hillary Clinton should have been able to detect the torpedoes, too. They started coming early:

On Feb. 17, 1993, a senior economist at Treasury—James R. Ukockis, described the administration's health-care planners as having gone "from frenetic to frantic" in trying to answer unanswerable criticisms of its work. It was clear to Mr. Ukockis even then that the White House "was not interested in a balanced evaluation" of its plan, but just looking for "someone to make the best possible case for a specific price control program."

Somehow this does not surprise. Rather than conducting an objective study to find the best solution to the problems of American health care, the organizers of the task force seemed out to confirm their own preconceptions. True Believers are like that; they hold onto their cognitive dissonance as if it were an article of faith, confident that sheer will power can make 2 plus 2 equal 5. Or at least 4½ as a compromise. Can this be what Bill Clinton, in his 1992 presidential campaign, used to deride as "brain-dead politics"?

A month later (March 23, 1993) Mr. Ukockis surveyed the jury rigged plan being assembled and warned: "Every option has fatal flaws, which, although passed off as problems 'still under examination,' are actually major roadblocks to successful implementation." It would take more than a year for the administration to tacitly admit as much when it agreed to scuttle the task force's plan. The challenge now is to make a strategic rout sound like a great victory.

The big problem with the Clinton Plan was that, instead of making only incremental changes, or beginning anew, it attempted to make coherent changes—well, changes that seemed coherent to its theorists—in a health-care system that isn't a coherent whole to begin with. How did health insurance in America ever get tied to employment in the first place? Because war industries during the First World War set up their own medical systems to care for their workers, and everything else just grew from the quirk. If the American (non)system of health care had a name, it would be Topsy.

Eventually the country would develop an arrangement under which insurance companies make medical decisions, lawyers' fees determine insurance rates, competition has less effect on price than do government dictates, coverage tends to end when the job does, employees have an HMO instead of a doctor, taxes are called "mandates" * * * and the whole, ramshackle system continues to grow in all directions, or maybe shrink.

One cannot make changes, however rational in theory, to selected parts of this clanking, uneven machine without throwing off all the other parts. The economist at Treasury had identified the big problem with the Clinton Plan early in the game: "Every option has fatal flaws" that could be disguised as "problems still under examination" only for so long. Eventually the American people, to judge by the polls, caught on, Congress followed suit, and ClintonCare was undone.

Here's a memo from Treasury that affords a glimpse into how things worked on Planet Clinton: On April 1, 1993, when the administration was asked to provide some reliable figures on how much its health plan would cost, the health planners "sat around the table making guesstimates of the savings to be realized" by their ever-changing plan. Conclusion: "It was an appropriate exercise for April Fool's Day."

What we have here is the familiar triumph of theory over mere reality: First concoct a program or a policy, and then find the numbers to justify it. The administration's health-care plan, like Dr. Johnson's description of second marriages, was a triumph of hope over experience.

The administration was able to pursue this complex mirage for more than a year, but inevitably it fell apart. What reason cannot teach, time must. And now Congress is considering only incremental reforms that could have been passed in President Clinton's first year in the White House, or maybe even President Bush's last.

The True Believers are in retreat for the moment. What is remarkable is not that they had to retreat, but that they held out against the facts for so long. Ira Magaziner's leadership style, which might best be described as extraterrestrial, lost touch with reality early, while Hillary Clinton did not give up the struggle till late, apparently under the impression that arithmetic was but another sneaky Republican plot that must be foiled at all costs.

Whatever all this says about the health plan, it demonstrates once again that the Clintons make a perfectly balanced political couple: If the president seems to have no convictions he won't sacrifice for political advantage, Mrs. Clinton has entirely too many.

[From the Washington Post, April 15, 1994]

CARVILLE'S ARTFUL DODGE

(By Jack Anderson and Michael Binstein)

In politics, sometimes appearance is everything. Nobody understands that better than James Carville, the "Ragin' Cajun" whose political prowess helped transform the governor of Arkansas into the president of the United States. Today, Carville's celebrity has crowned him with two highly desirable hats: presidential confidant and a top draw on the speaking circuit.

Although no official numbers were available, each appearance nets him more than $15,000, according to several sources, including one whose group recently hired Carville to speak. Recent engagements were before organizations the White House might label "special interests": the American Hospital Association, the American Trucking Associations, the National Association of Home Builders and the New Mexico Oil and Gas Association.

Because Carville is not a government employee, he is in an ethical no man's land—allowed to float from the private to the public sector without being subjected to the stringent new ethics rules of the Clinton administration or those already in place proscribing acceptance of speaking income.

The arrangement suits both President Clinton and Carville. Clinton can capitalize on Carville's trouble-shooting skills, and Carville, a member of Clinton's "Kitchen Cabinet," can pursue a private-sector career while maintaining White House ties.

Although Carville's road show breaks no laws or regulations, some believe it's an artful dodge, particularly given the cleaner-than-Caesar's-wife standard set by the Clinton administration.

"Carville can say that he's not in government. But if you're at the White House every day, you're in government," says Charles Lewis, executive director of the nonpartisan Center for Public Integrity. "Perception and reality are not the same thing, though they become the same thing here."

Carville makes no apologies for his role, and defends actions of the consulting firm he runs with partner Paul Begala. "Let me make this perfectly clear. We have never taken corporate clients—ever," Carville told our associate Jan Moller. Carville confines his consulting to working to elect Democrats to office.

"Every candidate I've worked for has asked me to stay on in some way or another," Carville said, adding that he has turned down offers of "millions" to lobby on behalf of corporate interests.

Last year, corporate lobbying became a major issue after conservative Patrick J. Buchanan scolded President Bush for taking advice from Charles Black and James Lake, both of whom worked for firms with extensive corporate and foreign clients.

Carville is not the first White House adviser to confront ethical questions related to public speaking. Former national drug policy director William J. Bennett and Clinton health care adviser Paul Starr, for example, have wrestled with similar questions but arrived at different conclusions than Carville has.

Bennett turned down an offer to head the Republican National Committee in 1990, fearing in part that his extensive speaking schedule could be seen as conflicting with his role as a White House adviser. His speechmaking technically would have fit within the rules.

More recently, Starr, a top adviser to Hillary Rodham Clinton's health care task force, has put his own lucrative public speaking career on hold while he serves the country. Starr, a professor at Princeton, is considered one of the grandfathers of health care reform, having developed one of the models for "managed competition" that has gained wide notice among Clinton's reformers. But sources tell us that when Starr was tapped as an adviser to the task force, he voluntarily gave up all speaking engagements until that work is finished.

The Senate discussed honoraria from speeches as part of ethics reform in 1989. After much deliberation, it banned the acceptance of honoraria in exchange for a hefty salary increase. Today, senators are required to give proceeds from speeches to charity.

"If we think honoraria is a potentially corrosive thing for congressmen, then why would it not be a problem for a daily, de facto employee?" Lewis says. Of Carville and his firm, Lewis adds: "I do admire and commend them [for rejecting corporate clients]. But if they're going to be that diligent, then they should be the same way about their honoraria."

There is no evidence to suggest Carville has let the agendas of his speaking circuit hosts filter into his discussions with Clinton. Carville says all of his engagements are booked by a speakers bureau and he plays no role in choosing his audiences. Yet there is always the problem of appearance.

[From Business Week, Nov. 15, 1993]

IT'S THE MONEY, STUPID

FOUR CAMPAIGN AIDES ARE MAKING POTS OF CASH AS CONSULTANTS—WHILE STILL ADVISING THE PRESIDENT

It was a few weeks after Inauguration Day, and delirious Democrats were still celebrating. But not James Carville, Paul E. Begala, Mandy Grunwald, and Stanley B. Greenberg. The four Clinton campaign veterans sat in a Chicago hotel room, looking through a one-way mirror while voters in an adjoining room talked about their frustrations with the nation's health system.

When the focus group ended, the four were convinced that the cautious approach some Democrats were taking on health reform was off base. Voters knew plenty about the intricacies of the health system and wanted radical change. "That knocked my socks off," recalls Begala. "It led us to understand that the President was right in wanting to move more forcefully." Back in Washington, Greenberg conveyed the message directly to the Oval Office. And that helped persuade Bill Clinton to seek the most sweeping social reform since the New Deal.

"NETHERWORLD"

Nearly a year later, the four still exert enormous clout at the White House. Like full-time White House staffers, each carries the special security pass that grants entry to 1600 Pennsylvania Ave. But none, by choice, is on the White House staff, where top aides earn $125,000. Instead, group members earn far more as consultants to the Democratic National Committee. This arrangement permits them to act as troubleshooters while working for other candidates, corporations, even foreign political parties. Never before have so many key political advisers plied their trade as free-lancers—freed from the restrictive conflict-of-interest rules that govern Administration appointees.

This dual role worries government-watchdog groups. The four "are operating in an ethical netherworld," contends Ellen S. Miller, director of the Center for Responsive Politics. "The fact that they have a close relationship with the White House while maintaining outside clients raises the specter of conflict of interest." Adds Charles Lewis, head of the Center for Public Integrity: "The DNC and its advisers have become an adjunct wing of government—with no accountability to government."

The doubts haven't stopped Carville, Begala, Grunwald, and Greenberg from becoming the hottest hired guns in politics. "Every Democrat running for high office next year will call one of these people," says Republican consultant Jay Severin III. "Hire someone with their track record, and you look more like a winner than you did the day before." But their popularity raises a tantalizing question: Are the Fab Four's services being sought because they're good or because they're close to Clinton? Says one Democratic activist: "People are buying a name and a connection."

One person who isn't complaining is Bill Clinton. He constantly enlists the inside-outsiders in his "permanent campaign." The four helped direct the fight for the President's economic plan, mopped up after early stumbles over Cabinet appointments, and provided brilliant image counseling for Hillary Rodham Clinton. More recently, they developed the marketing strategy for health reform, with its alluring emphasis on lifetime security. The four are "conceptual thinkers, each with a piece of the whole," says Samuel L. Popkin, a University of California-San Diego political scientist who worked on the campaign. "Stanley knows how to think about an issue, Paul knows how to talk about it, Mandy knows how to picture it. And James just nails it."

Obviously, each one of the four could have had top White House posts. Although Campaign Manager David C. Wilhelm was sent to head the DNC, most war-room commandos, such as George R. Stephanopoulos, went to the White House.

ROCKY RELATIONS

Critics feel that by staying outside, the four deprived Clinton of a heavyweight staff. Indeed, while Carville, Begala, Grunwald, and Greenberg ply their private interests. White House operations have been left in the hands of such relatively inexperienced aides as Chief of Staff Thomas F. "Mack" McLarty III, a former Arkansas utility executive, and Stephanopoulos and his fellow thirty-somethings. Even with the arrival of image counselor David R. Gergen, who has improved operations, few think the setup works well.

Group members dismiss the notion that Clinton needs them 'round the clock. But they fret possible conflicts. To insulate themselves, the quartet made a pact: No corporate lobbying and no deals with foreign governments. "We asked for information from the White House and DNC counsel about laws that governed us," says Grunwald. "We found out there were very few. So we decided to make our own rules." The Clintonites see no problem with self-policing. Says Wilhelm: "They come to me when there are questions. These are folks with good judgment."

YANKED PASS

Still, there are doubts. For starters, the fact that group members have White House passes troubles some—especially because a few Friends of Bill have been controversial. New York attorney Harold C. Ickes had his pass yanked after he was hired by companies to lobby against expanding a tax break for investment in Puerto Rico. New York lawyer Susan P. Thomases, a Hillary chum, surrendered her pass after McLarty raised questions about her corporate clients.

By past standards, Carville, Begala, Grunwald, and Greenberg merit passing grades for handling potential conflicts. Pollsters have traditionally worked part-time for Presidents, and Greenberg—unlike Carter guru Patrick Caddell and Reagan pollster Richard Wirthlin—has refrained from rapid expansion fueled by corporate work. Carville and Begala advise just a handful of campaigns, though that's likely to change in 1994. Grunwald's firm is growing fast but still concentrates on politics. "The President," insists Carville, "is happy for our success."

* * * * *

Carville seems intent on grasping the fleeting brass ring of celebrity. "I've never made any money in my life. If I don't make it now, I'm never going to." says Carville and his fiancee.

* * * * *

In his guise as the Ragin Cajun. Carville is a defender of the downtrodden. But now, his typical audience is a business group, which Carville describes as "150 rich white guys who quote Rush Limbaugh to me." Past clients include the American Hospital Assn., the National Restaurant Assn., and McGraw-Hill, publisher of Business Week. Isn't he taking corporate cash? Carville concedes "most of these companies are not riddled with Democrats," but denies that he's peddling access. "Reports of my influence are exaggerated."

That didn't stop the restaurateurs from making a pitch to him. Last April, the group invited Carville to speak. At the time, the White House was proposing further limits on the deductibility of business meals. Upset members buttonholed Carville. Says spokeswoman Wendy Webster: "They hope he would bring back a message to the President." Carville portrays himself as an entertainer, but not everyone agrees. Carvell & Co. "are very powerful people" says one Democratic activist. "What do they think people are buying?"

Except for lectures, Carville & Begala don't accept business clients. "When I advise the President that a tax on beer is a bad idea, he doesn't have to worry that I work for Budweiser," says Begala. Carville claims the policy "has cost us $10 million." The bids come from companies, bond houses, interest groups, even foreign governments.

As for C&B's political candidates. Begala insists that "we can't do anything to help clients at the White House." As evidence, he cites the six-week stretch he served as a White House temp during the budget fight. "When New Jersey, Georgia, and Pennsylvania [states where C&B has clients] came up, I left the room." Moreover, Carville adds, by aiding endangered Democrats such as New Jersey Governor James J. Florio, the pair is also helping Clinton.

C&B won't represent foreign governments in the U.S. But they see dollar signs in campaigns abroad. The duo recently handled the reelection bid of Greek Prime Minister Constantine Mitsotakis—badly, as it turned out. Mitsotakis was trounced by Socialist Andreas Papandreou, and C&B left Greece shaken by the death threats they received.

DRIVING MISS MANDY

Of all the inside-outsiders, Grunwald has the most complicated task—juggling White House demands and her media firm. Business is booming for Grunwald, Eskew & Donilon, which makes ads for state and congressional candidates. Recent business clients include cable giant Tele-Communications Inc. GED made ads for local cable operators battling TV stations over programming rights. Meanwhile, Grunwald has become a key player in selling health reform and the North American Free Trade Agreement.

Grunwald has a talent vital to Clinton: She can translate the most convoluted wonkisms into terms Joe Sixpack can understand. "On health reform, Mandy spent hours refining the language, fine-tuning the names of things, so people would get it," says White House Communications Director Mark D. Gearan.

Of the Fab Four, Grunwald is the most plugged in to the *zeitgeist*. She convinced Clinton to appear on MTV and *Arsenio*. "Mandy's immersed in popular culture," says partner Carter Eskew. "A lot of people in our business think in words. She thinks in pictures."

Grunwald's firm has become a magnet for politicians—so much so that some contests pose potential problems for Clinton. For instance, GED is committed to handle Alabama educator Paul R. Hubbert's expected primary challenge to Governor Jim Folsom Jr. next year.

The White House fears that when Pennsylvania Senator Harris Wofford runs for reelection next year, he may trumpet his opposition to NAFTA. In New Jersey, Senator Frank Lautenberg may boast of his vote against Clinton's tax-heavy budget. Would Grunwald produce such ads? "I don't consider that a problem," she says. Still, she adds: "I don't think it's good politics to spend a lot of time attacking this President—ask what's-his-name in Texas." The reference is to ousted Senator Bob Krueger, whose Clinton-bashing campaign flopped despite help from—guess who?—Carville & Begala.

Although Grunwald insists that DNC work is a small part of her business, it's lucrative. The party pays her $15,000 a month. In addition, the DNC compensates her firm at the standard rate—around 15%—for its media purchases. In May and June, she got more than $113,000 in DNC consulting fees, according to the Federal Election Commission.

Grunwald also handles media for the DNC's national health-care blitz. The campaign has an ad budget of $3 million, most of it raised from the pesky corporations the inside-outsiders say they try to avoid.

Some competitors think that's fine. "To the victor go the spoils," says one GOP adman. Others disagree, noting that Grunwald was among the Clinton pols who urged delaying the trade pact for fear it would clash with health reform. "Everyone knows she's against NAFTA," grouses a Democratic consultant.

Is Grunwald selling something she doesn't believe in? "I have absolutely no personal views on NAFTA," she replies. "My job is to make sure my client has his views accurately described. I understand the President's views. And I understand why Senator Wofford and others oppose it."

BEARER OF THE SCROLLS

To meet pollster Stan Greenberg is to meet a truly happy man. Ever since his college activist days, Greenberg has only wanted to work for reformist Democrats. When he met Clinton, who inhales polls like Big Macs, the two clicked instantly. Now Greenberg zips in and out of the White House with his latest readings of the President's job performance. "Clinton is remaking the country," the pollster says approvingly, "I organized my DNC contract so I can spend all my time working for him."

Actually, Greenberg Research still polls for long-standing clients: Senators Jeff Bingaman (N.M.) and Joseph Lieberman (Conn.), plus Michigan Representatives Bob Carr and David Bonior. Working for Bonior is another jarring bit of inside-outism, since he's leading anti-NAFTA forces. Greenberg says an associate is handling Bonior. Nor is he concerned about the free work he does for the African National Congress.

Despite his firm's demands, Greenberg meets White House aides nearly every day and gives Clinton a weekly briefing on his standing with voters. "Stan's the one who has to go in and say 'Mr. President, you're dropping like a hot rock,'" say Begala.

Although their circumstances differ, Clinton's inside-outsiders insist they are trying to keep their private pursuits from entangling with Clinton's. "Judge them by what their counterparts did in the past, and you see a higher standard," says party activist Mark Siegel.

Perhaps. But given their boss's vow to rid Washington of influence-peddling, even some CBGG admirers wonder whether they shouldn't take an extra step. "They should disclose their clients and their fees," says a top Democratic consultant. "That's a commonsense way to avoid potential problems in the '90s."

[From the Washington Times, Sept. 22, 1994]

ESPY "DEAD" AS REPORTS OF IMPROPER CONDUCT CONTINUE

Support for embattled Agriculture Secretary Mike Espy is quickly eroding as speculation heightens that he will resign soon.

Reports that he was paying back thousands of dollars to correct the appearance of past improprieties have not helped his cause.

Senior sources on Capitol Hill yesterday were dismayed at the increasing flow of negative reports on Mr. Espy, including details of personal trips to his home state, Mississippi, at taxpayer expense.

"Espy is dead. He has lost any moral credibility," a senior Capitol Hill official said.

An influential agricultural lobbyist agreed, saying, "All the financial stuff and the travel—it just looks horrible."

A refusal by the White House to say whether Mr. Espy had offered his resignation fueled speculation that he will quit soon, but a senior aide to the secretary denied such plans.

"The rumors are completely unfounded," said Ali Webb, director of communications at the Agriculture Department. "The secretary has not offered his resignation and has no plans to do so."

White House spokeswoman Dee Dee Myers said President Clinton will not prejudge the secretary. "The president has confidence in the job Mike Espy's done. He thinks he's served ably and well as agriculture secretary," she said. "I think the president is going to make a judgment based on the facts, not on a call for rush to judgment."

Asked whether Mr. Espy had offered to resign, Miss Myers said, "I'm not going to open that door."

Pressed on the matter, she said, "I don't want to [answer]. I do know, and I choose not to comment, and I wouldn't read anything into that."

But sources on Capitol Hill and around the city said the continual bad publicity on Mr. Espy had pushed him past the point of redemption. They said he is an embarrassment to a White House already worried about losing congressional seats in the Nov. 8 general election.

"If you were the president and were in striking distance of losing the House and the Senate, and one guy could drag you down, then what would you do?" a congressional source said.

"Espy's exercised some very bad judgment. A lot of people don't think he'll last past the election," a well-placed Senate source said.

REGISTRATION FOR LOBBYING

PURSUANT TO PROPOSED LOBBYING DISCLOSURE ACT OF 1993

A. Organization or individual filing: (if total income or expenses are $1,000 or more in semiannual period), National Association of Manufacturers, 1331 Pennsylvania Avenue, NW, #1500—North Tower, Washington, DC 20004–1703, (202) 637–3000.

Principal place of business: same as above.

Client address & principal place of business: same.

General description of client's business or activities: The NAM is a voluntary trade association principally involved in protecting & furthering the competitive free enterprise system.

B. Name of any organization that contributes more than $5,000 in a semiannual period, significantly participates in the supervision or control of the lobbying activities, and has a direct financial interest in the outcome of the lobbying activities: None.[1]

C. Name, address and approx. percentage of equitable ownership in the client [of] any foreign entity that holds at least 20% equitable ownership in the client; directly or indirectly, in whole or in major part, supervises, controls, directs, finances, or subsidizes the activities of the client; or is an affiliate of the client that has a direct interest in the outcome of the lobbying activity: None.

D. The general issue areas in which the registrant expects to engage in lobbying, and a list of specific issues that have already been addressed or are likely to be addressed: See attachment.

E. The name of each employee of the registrant expected to act as a lobbyist on behalf of the client. If any such employee has served as a covered legislative or executive branch official in the 2 years prior to the date of registration, list the position in which such employee served. See attachment.

SEMIANNUAL REPORT

PURSUANT TO PROPOSED LOBBYING DISCL. ACT OF 1993

(due July 30 and January 30)

A. Name of Registrant: National Ass'n of Manufacturers.

B. Name of Client: Same.

C. List any changes in above from initial registration: None.

D. For each general issue area in which the registrant engaged in lobbying activities during the past 6 months (use additional pages if needed):

1. A list of the specific issues upon which the registrant engaged in significant lobbying activities, including a list of bill numbers and references to specific regulatory actions, programs, projects, contracts, grants and loans: See Attachment 1.

2. A statement of the Houses and committees of Congress and the Federal agencies contacted by lobbyists employed by the registrant on behalf of the client: See Attachment 1.

3. A list of employees who acted as lobbyists for each issue area: See Attachment 1.

4. A description of the interest in the issue of any foreign entity listed in the registration: None.

E. Estimate of total income from the client (or for organizations lobbying on their own behalf, estimate of total expenses incurred in connection with lobbying activities):

At least $1,000 but not more than $10,000.

More than $10,000 but not more than $20,000.

More than $20,000 but not more than $50,000.

More than $50,000 but not more than $100,000.

More than $100,000 but not more than $200,000.

More than $200,000 rounded to the nearest $100,000: $900,000.

Houses and committees of Congress and the Federal agencies contacted:

Senate Committee on Appropriations.

Senate Committee on Energy and Natural Resources.

Senate Committee on Finance.

Senate Committee on Small Business.

House Committee on Appropriations.

House Committee on Energy and Commerce.

House Committee on Interior and Insular Affairs.

House Committee on Science, Space & Technology.

U.S. Environmental Protection Agency.

U.S. Department of the Interior.

Office of Management and Budget.

A list of employees who acted as lobbyists: Michael E. Baroody, Jerry J. Jasinowski, Jan Amundson, John Cohen, Susan R. Hogg, Mary C. Pigott, H. Richard Seibert

Issue area: Labor relations and product liability.

Specific Issues:

Consumer Product Safety Comm'n Reauthorization, H.R. 4706.

Medical Malpractice Reform, S. 489, H.R. 1004.

Family and Medical Leave Legislation, H.R. 2, S. 5.

Product Liability Reform, S. 640, H.R. 3030.

Drug Testing bill, H.R. 33, S. 2008.

Civil Rights Damages, S. 2062, H.R. 3975.

ERISA Preemption, S. 794, H.R. 1602, H.R. 2782.

Replacement of Strikers, H.R. 5, S. 55.

Whistleblower Protection.

OSHA Reform, H.R. 3160, S. 1622.

OSHA Criminal Penalties, S. 445, H.R. 1192, H.R. 549.

Pension Simplification.

Health System Reform, S. 1227, H.R.5502, S. 1872, S. 1936, S. 2731, S. 2732.

Unemployment Compensation Amendments of 1992, H.R. 5260.

Houses and committees of Congress and the Federal agencies contacted: [similar to listings above].

A list of employees who acted as lobbyists: [similar to listings above].

Issue area: [Others omitted—sample only].

ATTACHMENT 1 (ITEM D1 AND D2)

NAM ISSUE AREAS AND SPECIFIC ISSUES

NAM LOBBYING REPORT—JULY THROUGH DECEMBER 1992

Issue area: International Economic Affairs

Specific Issues:

Trade Import Restrictions, H.R. 5100.

Foreign Direct Investment Reporting, H.R. 2624, H.R. 2631.

Export Administration Act Reauthorization, H.R. 3489.

Export-Import Bank Reauthorization, S. 2864, H.R. 5739.

U.S.-Mexico Free Trade Negotiations.

Manufacturing Strategy Act, S. 1330.

Industrial Design Protection, H.R. 1790.

Denial of Most-Favored-Nation Status to China, H.R. 5318, H.J. Res. 502.

Trade with former Soviet Union, S. 2532.

Overseas Private Investment Corporation Reauthorization, H.R. 4996, S. 2338.

Houses and committees of Congress and the Federal agencies contacted:

Senate Committee on Banking, Housing, and Urban Affairs.

Senate Committee on Finance.

Senate Committee on Foreign Relations.

Senate Committee on the Judiciary.

House Committee on Banking, Finance and Urban Affairs.

House Committee on Energy and Commerce.

House Committee on Foreign Affairs.

House Committee on the Judiciary.

U.S. Department of Commerce.

U.S. Trade Representative.

A list of employees who acted as lobbyists: Michael E. Baroody, J. Lee Hamilton, Jerry J. Jasinowski, Howard Lewis III, William G. Morin.

Issue area: Resources and Environment.

Specific Issues:

Arctic National Wildlife Refuge, S. 1220.

Global Climate Change, H.R. 4750.

National Energy Strategy, H.R. 776.

Environmental Crimes.

Superfund Reauthorization.

Superfund Lender Liability.

Resource Conservation and Recovery Act, S. 976, H.R. 3865.

□ 1550

Mr. GEKAS. Madam Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. CRANE].

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[1] Questions or suggestions are discussed in NAM testimony. All entries are fictional and for demonstration purposes only.

Mr. CRANE. Madam Speaker, I rise in strong opposition to this conference report. I would simply remind the members that the British Colonial Government cut off the freedom of speech and the right of petition to our Founding Fathers, too.

Madam Speaker, I rise to oppose the conference report to accompany S. 349, the Lobbying Disclosure Act of 1994.

Madam Speaker, there are perhaps many reasons to oppose this legislation; however, I want to focus on a few of my reservations.

Man's right to free speech is an inalienable one. Thankfully, our Constitution and its Bill of Rights recognizes and preserves that right. Included in that right to free speech is freedom to petition the Government. This right was not guaranteed to the Founding Fathers by the British Colonial Government and led to their fight for independence. The conference report, as currently written, is a direct attack on that right.

Particularly onerous is the requirement that grassroots lobbying organizations release the names of their contributors. If this conference report is passed, the Federal Big Brother will be given authority to barge into the living rooms of Americans demanding to know their political views. In addition, this legislation denies an exemption to people who lobby on behalf of religious organizations, forcing them to register and report their business.

Because of the new rules created by this legislation, a businessman who flies from my home State of Illinois and spends several days in Washington to visit members of the Illinois congressional delegation could easily fall within the new definition of a lobbyist. I resent the attempt by the majority party to prohibit my constituents from expressing their legislative concerns to me.

Furthermore, the bill will create another bureaucratic agency, the Office of Lobbying Registration and Public Disclosure. The position of Director in this office will be politically appointed by President Clinton, and responsible for governing lobbying organizations. I shudder to think of the retribution that could be wielded against individuals who oppose the President's policies.

Madam Speaker, for these reasons, I urge my colleagues to vote against this conference report.

Mr. BRYANT. Madam Speaker, I yield 2½ minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Madam Speaker, as so often in life, there comes a moment where it is either put up or shut up. I am comfortable that history and the American public, in reviewing today's debate, will see through the hyperbole and the reinvention of facts which we have been hearing about.

What this lobbying disclosure bill is not about is impinging upon one's religious freedom. It is not about stopping or gagging a citizen's grass roots participation in this democracy. What it is about is cleaning up and defining an outdated gift rule, and modernizing lobbying rules which reflect the new dynamics of pressure politics.

Most of all, however, it is about ensuring our ability to govern ourselves as a nation. No country, no democratic government, can function without the confidence and trust by those who we serve, for right or wrong, whether we admit it or not, even in this the cleanest democracy on the face of the Earth, we are challenged each year, each day, to constantly and regularly strengthen that bond and trust.

Passage of this lobbying disclosure bill continues to build that faith. I encourage my colleagues to keep that faith and to make it better.

Mr. BRYANT. Madam Speaker, I yield myself the remainder of my time.

Madam Speaker, I thank all of the Members for their patience throughout this long debate, and throughout the last 18 months. I will have to say that while I am glad to be finished with it, I think it is going to cause a very significant improvement in the public's perception of this institution and the way in which we do business. I think one thing has been lost in the process, and that has been the realization that it seems to be almost virtually impossible to succeed with a bill like this on a bipartisan basis as we would like to have done.

Madam Speaker, the only issue that Members have mentioned to me today that they are concerned about has been this issue of grass roots lobbying. Yet less than 24 hours ago, no one had asked me about that question for 18 months, 20 months. All this time has passed and not one time did we see anybody come forward and say, "We are worried about it." Not one time did the Republican leader come forward and say, "We want to change it." Not one time did we have anybody from these organizations want to contact us.

In fact, the religious organizations we have worked with support the language and have reaffirmed their support of it, even in the last 12 hours. The fact of the matter is, the bill does not contain anything that would limit or inhibit in any way the ability of religious organizations or other grass roots organizations to petition this Congress or to lobby with regard to their objectives, not in any way whatsoever.

Madam Speaker, the facts are very, very clear. The grass roots provisions have been in the bill since last November when it passed out of subcommittee unanimously, with the support of the gentleman from Pennsylvania [Mr. GEKAS] and the Republicans. They were in the bill in March when the bill passed this House with only 110 people voting no. Nobody said a word about grass roots lobbying at the time. We checked the record today. The words "grass roots lobbying" were never uttered during that debate.

Madam Speaker, the fact of the matter is that at the very last minute, for purposes that are, I think, not too hard to figure out, we have watched many people in this country, probably people who are idealistic, who are deeply religious, be used by the leadership of the other side in an effort to stop a bill for reasons that do not have anything to do with grass roots lobbying, but have a whole lot to do with maintaining the status quo.

What is the status quo? Free meals, free tickets, free trips. That is what the status quo is. This bill is about one thing and one thing only: Changing the way we do business in Washington, DC, and reinforcing public confidence in the House of Representatives and the U.S. Senate. I strongly urge the Members to show the courage today and the foresight to reject this last-minute lobbying effort, this last-minute telephone effort, this last-minute radio show effort that is going on right now and has begun only in the last few hours, to say no to that and to say yes to a new policy that will reinforce the public's understanding that this legislative body makes it decisions based upon the public interest; that no one will have the opportunity, whether it would have that effect or not, no one will have the opportunity to wine or dine or pay for travel for Members of this Congress in order to influence the outcome of legislation.

Madam Speaker, that is the sum total of this bill. That is the sum total of the meaning of the Members' vote. Vote against the motion to recommit, vote for this bill.

Madam Speaker, I thank all the Members who have participated in this debate for their courage and their long months of work.

Mr. DOOLITTLE. Mr. Speaker, I rise in strong opposition to S. 349, the Lobby Reform and Disclosure Act. I voted for this measure when it originally came before the House only because it arose under suspension. There was no way to amend it, and Members were not aware of the more pernicious provisions in the bill.

Like the crime bill, Mr. Speaker, this legislation has noble goals that all Members of Congress share. Unfortunately, this bill, like the crime bill, is a sham. It is full of loopholes that protect the Washington special interests but infringe on the right of ordinary Americans to contribute to the national debates that affect their daily lives.

The first amendment to the U.S. Constitution states that "Congress shall make no law * * * abridging the freedom of speech * * * or the right of people * * * to petition the Government for a redress of grievances."

The bill before us today will have a chilling effect on free speech and will make it more difficult for American citizens to have their voices heard in Washington.

What's in the bill? First, it puts more restrictions on private individuals and grassroots organizations than it does on Members of Congress. For instance, the bill authorizes fines up to $200,000 against private citizens for failing to register with the new lobbying bureaucracy created by the act. Yet a Member of Congress will not even have his or her name disclosed if he or she breaks this law. This is justice, Washington-style.

Even worse, Mr. Speaker, this bill forces grassroots groups, such as churches, to register and report to the Federal Government all expenditures and list every individual who lobbies on their behalf, including volunteers. And while the Government keeps records on all individuals that lobby—a move certain to have a chilling effect on free expression—the bill addresses only appearances of impropriety for big money lobbyists.

Under the new law, lobbyists will be prohibited from taking a Member of Congress to lunch at McDonald's but will be allowed to dump $10,000 from a single PAC into the coffers of a beholden Member. This discrepancy is unjustified, Mr. Speaker, for it is big PAC's, not Big Mac's that cause the problem in Washington.

Amongst the many diverse groups opposed to this legislation are the American Civil Liberties Union, U.S. Chamber of Commerce, Defenders of Property Rights, and the Christian Coalition.

Mr. Speaker, this bill is a grassroots gag rule and deserves to be defeated. We cannot afford to tarnish the worthy cause of lobby reform with such a sham measure. Let us kill this bill, and vote for real reform that eliminates PAC's but protects first amendment freedoms.

Mr. LEWIS of Kentucky. Mr. Speaker, I rise today in support of reforming the laws that govern Washington lobbyists. In the end, I am going to vote for the Lobby Reform and Disclosure Act conference report because it makes important changes in the way lobbyists interact with Congress.

But I am concerned about one aspect of this legislation as it is now written. In our zeal to make some important changes affecting special interest lobbyists, we may be unfairly hindering individual citizens that want to express their views through grassroots organizations.

For that reason, I will support a motion to recommit the bill back to conference so that we can make some adjustments and if that is unsuccessful I will support legislative initiatives to make this bill a better law. We must ensure that this legislation does not have the unintended effect of discouraging citizens from becoming part of the political process.

Make no mistake, the Lobby Disclosure Act makes many important changes and that is why I am going to vote for it today. Quite frankly, we need to limit the role of influence peddlers in Washington. There should be no free lunch from lobbyists, no free trips, no free golf games, for Members of Congress. This bill rightly stops this practice.

Unfortunately, the conference report language raises some issues that need to be addressed regarding the reporting requirements of activist citizens. We should not create a situation in which citizens who want to petition their elected officials on issues being considered by the Congress are afraid to do so because of concern about the complicated laws that apply to registered lobbyists.

For example, it appears that this bill would require a representative of a grassroots organization sent to Washington to speak with an official covered by the Lobby Disclosure Act to register and then in certain instances disclose all subsequent expenditures of the organization. This may very well give an advantage to Washington based lobbyists over those who come to Washington from our districts.

The bill may also require that any organization that attempts to influence Federal decisions with the help of a grassroots operation reveal the specific names, possibly including volunteers, addresses and principal places of business retained in grassroots lobbying.

Moreover, the bill potentially sets up a double standard, imposing dramatic penalties on citizens who violate its provisions while protecting Members of Congress from exposure.

For these reasons, I support the motion to recommit so that we can make this bill even better. And if we choose not to do that, I will work tirelessly with my colleagues to amend this law and correct any problems that arise with the provisions that impact the grassroots community.

Mr. WHEAT. Mr. Speaker, I rise to express my continued support for the Lobbying Disclosure Act—legislation I was proud to vote for when it was first passed by the House of Representatives this March.

Although I was unavoidably detained during the vote on the conference report today, the Lobbying Disclosure Act has my full support. This measure is the most significant reform of our Nation's lobbying disclosure laws in decades. It builds on legislation many of us cosponsored in recent years to prohibit tax breaks for lobbying, and which was passed into law last year.

The Lobbying Disclosure Act bans Members of Congress or their staffs from receiving free meals, entertainment, travel, or gifts from professional lobbyists. It closes current loopholes without undermining grassroots lobbying, or the activities of religious organizations. It expands lobbyist registration requirements for those who lobby for a living.

In short, it opens the door, and lets the American people see exactly who is seeking to influence legislation affecting their lives and how much is being spent for that purpose. And, in the process, the measure will restore a greater measure of public confidence in the institution of Congress.

Mr. Speaker, in recent years, we have taken important steps in reforming the way Congress does the people's business. In 1989, I supported the Ethics Reform Act, the most sweeping overhaul of House ethics rules and governmentwide conflict of interest laws in over a decade.

That measure banned Members of Congress from accepting money for speeches to organizations and special interests. It restricted the ability of former high government officials to turn around and lobby Congress. And it put an end to the conversion of campaign funds by ex-Members of Congress for personal use.

In 1990, I supported the Franking Reform Act which has placed strict limits on congressional mailings and required the disclosure of how much each Member spends on mail.

Last year, Congress enacted legislation to reduce the number of legislative branch employees by 4 percent and cut the congressional budget $500 million over the next 5 years. Congressional pay has been frozen for the second year in a row, and I have voted on three separate occasions to freeze salaries. In addition, I was a cosponsor of legislation to ban pay raises for Members of Congress.

I have also supported a crucial measure approved by the House to reform our campaign finance laws and create a more level playing field for candidates, legislation which I have cosponsored since my first term in Congress.

Taken together, these measures—along with today's passage of the Lobbying Disclosure Act—are steps to move us forward toward the goal of a more responsive, more accountable government for the American people.

But while Congress tends to the business of the Nation, there is more that can and must be done to change how Washington conducts its own business.

In particular, we must pass the Congressional Accountability Act to make sure that Congress lives under the same workplace laws as everyone else. As a cosponsor of the Congressional Accountability Act, I was proud to join my colleagues in the House last month to pass this measure by an overwhelming margin, 427 to 4.

Congress will make wiser policies when it lives under the same rules and regulations others must live by. But time is running short, and the other body has yet to pass the Congressional Accountability Act.

The American people have heard enough talk, they want action on a tough, strong bill on congressional compliance and enforcement. They want campaign finance reform. And they want lobbying reform. It's time to deliver these bills to the American people and help renew public faith and trust in the institution of Congress.

Mr. CALVERT. Mr. Speaker, in 1992 the voters sent Washington a clear message: They are tired of the Government being controlled by a power elite—a small political class comprised of politicians and fat-cat lobbyists, and during these last 2 years, the people have begun to mobilize at the grassroots level to take back their Government.

They have mobilized in churches. They have mobilized under the banner of citizens' movements such as United We Stand America. They have even mobilized via informal computer networks, and quite frankly, seeing the people mobilize scares the hell out of the party that has run this place for 40 years, and, it scares the hell out of the big unions and other special interests who support and control them.

Mr. Speaker, this legislation is a sham.

It is not a lobbying reform bill.

It is a protect the power brokers bill.

The provisions of this legislation will reduce public input into Congress, rather than increase it. It will have a chilling effect on religious groups, independent political parties, Chambers of Commerce and other local individuals who want their message to be heard in Washington. It won't hurt the AFL–CIO and it won't hurt the foreign governments who hire big time lobbying firms; but, it will hurt grassroots organizations like small-town religious, business or civic groups.

The registration and reporting requirements proposed in this bill threaten to jeopardize the basic right of all Americans to communicate with and lobby their Government. Apparently, that is what the majority party and their allies want, but, that is not what the American people want

Mr. Speaker, if a small church congregation from Corona, CA can't send a representative two or three times a year to tell me their views about legislation without being hassled by a Federal Bureaucracy, there is something wrong.

I urge my colleagues to send this bill back to committee.

Mr. BAKER of California. Mr. Speaker, I rise today to register my support for true lobbying reform and opposition to the Lobby Reform and Disclosure Act.

This bill has laudatory goals—to put a stop to special interest manipulation and perks paid for by lobbyists. I support these goals. However, the bill is riddled with loopholes for those inside the Washington beltway and restrictions on constitutional rights for the rest of America.

Moreover, this legislation stifles free speech and makes it more difficult for average Americans to express their views.

The First Amendment to the U.S. Constitution, in the Bill of Rights, states: "Congress shall make no law—abridging the right of the people—to petition the Government for a redress of grievances." Unfortunately, this bill puts more restrictions on private individuals and grassroots organizations than it does on Congress. This bill authorizes fines of up to $200,000 on private citizens for failure to register with the forthcoming lobbying bureaucracy at the White House. But a Member of Congress would not even have his or her name disclosed, even if he or she is involved in a violation of this legislation. Not only is this a double standard, it also violates the spirit of legislation the House passed recently to require that the laws Congress passes for everyone else apply to Congress itself.

This bill forces grassroots groups, such as churches, to register and report all expenditures and list those lobbying on their behalf, including volunteers.

While this bill puts a gag on grassroots lobbying, it addresses only appearances of impropriety on the part of big-money lobbyists. For instance, lobbyists would be prohibited from taking a Member of Congress for lunch at MacDonald's, but would still be permitted to give $10,000 to a Congressman from a single PAC.

I urge a "no" vote on this fatally flawed bill and welcome true reform legislation, including the elimination of political action committees. We need real and permanent change, not a bill that undermines the Constitution we are sworn to uphold.

Mr. ZIMMER. Mr. Speaker, once again Congress is coming up short on reform. This bill addresses only a minor part of the problem that has caused Americans to lose faith in their government. We need tougher lobby reform, and more important, we need meaningful campaign finance reform.

What's the point in banning a lobbyist from buying lunch for a Congressman if he is still allowed to hand him a $10,000 PAC check? The link between big money and politics won't be severed until we enact real campaign finance reform. But the leadership of Congress doesn't seem to want to change the rules under which they got here.

Moreover, this bill completely ignores scandalous lobbying practices that cry out for reform. For instance, Members of Congress too often leave public service and then use their contacts and knowledge to influence the very people they worked with as a public servant. I have introduced legislation with my colleague from Florida, Mr. BACCHUS, that would slam shut this revolving door. It would impose a 5-year ban on Members of Congress who seek to lobby any committee on which they served and would permanently ban them from lobbying on behalf of foreign nationals. I have introduced another bill that would prevent former Members of Congress and high-level staff from lobbying the executive branch. And, I will soon be introducing legislation that would permanently ban former Members of Congress who have been convicted of a felony from becoming lobbyists.

Despite its flaws and omissions. I will be voting for the lobbying bill because I believe it is a small step toward restoring some measure of accountability to Congress.

Mrs. COLLINS of Illinois. Mr. Speaker, as I have stated before on the floor of this Chamber, I recognize and support reasonable initiatives that seek to ensure greater openness and accountability in our legislative process. However, I do not believe that the bill before us today adequately addresses the most substantive ways in which we as Members of Congress can meet these important goals. Unfortunately, this conference report and all the innuendo and hype surrounding it have simply fed the fuel of negative opinions that all too many Americans have about Washington without tackling the real concerns on the minds of most citizens.

Each one of us as Members has been charged with the responsibility of representing the priorities and interests of thousands of individuals, families, and businesses back home in our districts. We meet this responsibility by listening to their concerns and voices at a variety of times and in a myriad of settings, including over meals or during conferences. However, this legislation seems to suggest that doing so is somehow improper or corrupt or that Members' motivations on such occasions stem from nothing more than mere self-interest. I deeply resent such a suggestion.

It is ludicrous that some of my colleagues would imply that by accepting an invitation to dinner or to an industry function my views and decisions on a particular legislative issue will be swayed. This is flatout false, and I believe that an overwhelming majority of Members would agree to this premise.

These incidental measures included in the conference report we are considering will have but minor impact on the vital business of the Nation that we conduct in this Chamber every day. For the remainder of this Congress and into the next, Members must continue to focus their efforts upon the more important and fundamental issues that underlie lobby reform and the public's disenchantment with this institution.

This issue before us is not whether Congress is for sale. It is not. The real issue is how do we expand the ability of more individuals and groups to have a say in the democratic governing process. Throughout the 103d Congress we have been extremely successful under the leadership of President Clinton in revitalizing the economy, creating jobs, strengthening our communities, families, and schools, and making our streets safer—and I look forward with great optimism to the opportunities that await the next Congress to once and for all tackle such issues as comprehensive health care and welfare reform.

My colleagues, we need to stop playing the blame game and pointing fingers at one another. We need to move forward and get on with the vital legislative business of the Nation that the American people want passed. We should not have to apologize for carrying out the important work which our constituents sent us to this body to perform. We do not need to legislate our integrity. We need to continue with the mission for which we were elected to Congress—to listen to, communicate with, understand, and represent average, hard-working Americans.

I urge my colleagues to vote no on the rule.

Mr. FAZIO. Mr. Speaker, I spoke at length when the House passed the lobbying reform bill, and so I will only take a few minutes today.

The bill that has come out of conference has been praised by reform advocates, including Common Cause. The lobbying reform bill will ban meals, travel, entertainment, and gifts from lobbyists to Members of Congress and their staff. In addition, the bill places new restrictions on meals, entertainment, and gifts from nonlobbyists.

There is a decided view in America that lobbyists and special interests have too much access to elected officials. The Lobbying Disclosure Act will address these concerns by requiring those who lobby to disclose their activities—to document the issues they lobby on and the amount of money they spend doing so.

I rise in support of the Lobbying Disclosure Act, not to limit or stop the act of lobbying, but to shed light on the process and to instill confidence that lobbying is an appropriate avenue for people to express their concerns and interests to their elected representatives.

When this bill is enacted, the American people will be better informed and educated. Whether it is a group of activists who organize a letter writing campaign, or a one-on-one meeting with a company's representative—the American people will know it happened, know what issue was discussed and how much money was spent in the process.

This bill will ban lobbyists from buying lunches, providing gifts, and paying for entertainment for Members of Congress—but it will allow Members to continue to have legitimate interaction with their constituents.

Mr. COBLE. Mr. Speaker, legislative action continues on the Lobbying Disclosure Act Conference Report. I voted against this measure primarily because of the so-called gag rule on grass-roots lobbying. This provision, buried in the conference report, is designed to kill citizen pressure from back home that has been so effective in the last few years.

This gag rule would force many groups, including religiously affiliated organizations, to register and report their activities to a new bureaucracy in the executive branch. This raises constitutional and financial considerations for grass-roots organizations.

Who will be called a lobbyist under this bill? Anyone spending 10 percent of his or her time talking to Federal officials and whose lobbying income exceeds $2,500 or expenses are more than $5,000 in a 6-month period. No grassroots group can exist without somebody in that group devoting his or her time to the effort. Because this bill would identify that person as a lobbyist, the entire organization and its members may be brought under the reporting and penalty provisions.

A newspaper in our district, the High Point Enterprise, stated, "Citizens who join their voices once or twice in an effort to influence Congress should not be treated the same as Washington's standing army of professional corporate and special-interest group lobbyists." Let's not trample on the rights of citizens to protest the actions of their government. Our constituents should not have to register with a bureaucracy in Washington. That's not the American way. Let's kill the gag rule on grassroots lobbying and preserve every American's right to voice his or her opinion.

The SPEAKER pro tempore (Ms. PELOSI). Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. GEKAS

Mr. GEKAS. Madam Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. GEKAS. In its present form, I am, Madam Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. GEKAS moves to recommit the conference report on the bill (S. 349) to the committee of conference with instructions for the managers on the part of the House to carry out the following:

(1) In the proposed section 103—

(A) strike out paragraph (8),

(B) strike out the second sentence of paragraph (9)(A), and

(C) strike out subparagraph (B) of paragraph (9),

(2) Strike out paragraph (5) of section 104(b).

(3) Strike out paragraph (6) of section 105(b).

(4) In the proposed section 103(10)(B)(xviii), strike out the material following subclause (II).

(5) In the proposed section 103, insert before the period at the end of paragraph (12) the following: "or a person who spends more than $100,000 in a 6 month period to influence decisionmaking in the executive and legislative branch.".

(6) In the proposed section 106(c), strike paragraph (2).

(7) In the proposed Rule XXXV of the Standing Rules of the Senate strike out subparagraphs (a) and (c) of paragraph 2 and in clause 4 of Rule XLIII of the Rules of the House of Representatives strike out paragraphs (b) and (d) of clause 4.

(8) In title I redesignate sections 112 through 121 as sections 113 through 122, respectively, and add after section 111 the following:

SEC. 112. LEGISLATIVE SERVICE ORGANIZATIONS.

(a) COVERAGE.—Any entity affiliated with a legislative service organization shall be considered a lobbyist subject to—

(1) the registration, reporting, and disclosure requirements of sections 104 and 105

(2) the prohibition of section 106, and

(3) the amendments to the Standing Rules of the Senate and the Rules of the House of Representatives made by title II.

(b) OTHER REQUIREMENTS.—Each entity affiliated with a legislative service organization shall report to the Office of Lobbying Registration and Public Disclosure—

(1) the names and salaries of its staff,

(2) arrangements made with others to share staff and costs,

(3) relationships with other organizations in connection with lobbying activities, and

(4) any contributions, gifts, or reimbursements received.

(c) REPORTS.—Any person, organization, or foreign government which makes any contribution to any entity affiliated with a legislative service organization during the semiannual period beginning on the first day of January or the first day of July of each year shall report such contribution to the Office of Lobbying Registration and Public Disclosure not later than 30 days after the end of that semiannual period.

(d) SPECIAL FORM.—For purposes of reporting, the Office of Lobbying Registration and Public Disclosure shall issue a form that clearly identifies reportable activity by or to an entity affiliated with a legislative service organization.

(e) DEFINITIONS.—For purposes of this section:

(1) The term "contribution" means a gift, subscription, loan, advance, or deposit of money or anything of value and includes a contract, promise, or agreement, whether or not legally enforceable, to make a contribution.

(2) The term "legislative service organization" refers to a particular category of working groups or caucuses organized to provide legislative services and assistance to Members of the House of Representatives and certified by the Committee on House Administration.

(3) The term "entity affiliated" means an organization which is described in at least 2 of the following:

(A) An organization which spends at least 10 percent of its funds in any year on—

(i) travel expenses for Members of Congress or congressional staff,

(ii) meals, receptions, or other food and beverage expenses on activities attended by Members of Congress or congressional staff, and

(iii) gifts (other than educational materials) to Members of Congress or congressional staff.

(B) An organization which has a name which is like or similar to the name of an entity of the House of Representatives, including a legislative service organization or congressional member organization, or uses the word "congressional" in its official name or title.

(C) An organization which has a Member of Congress serving on its board of directors or holding another controlling position.

In the proposed section 103(3), strike "and" at the end of subparagraph (F), strike the period at the end of subparagraph (G) and insert "; and", and insert after subparagraph (G) the following:

(H) any other officer or employee not otherwise described in this paragraph serving in a position in the executive branch that is classified at or above GS–14 of the General Schedule.".

At the end of the bill, add:

Any penalty applicable to lobbyists or lobbying firms in this bill shall also apply to Members of Congress.

Mr. GEKAS (during the reading). Madam Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

Mr. BRYANT. Madam Speaker, reserving the right to object, I would like to ask the gentleman from Pennsylvania [Mr. GEKAS] if the motion to recommit is the one that was most recently given to our side.

Mr. GEKAS. Madam Speaker, will the gentleman yield?

Mr. BRYANT. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Yes, Madam Speaker, we believe so.

Mr. BRYANT. Madam Speaker, I would ask if we could get a clear identification of which motion it is.

Mr. GEKAS. Madam Speaker, if the gentleman will continue to yield, we are down to two versions, the one that is now being read, or was being read, the one concerning grassroots lobbying, GS–14's and 16's, campaign spending, campaign contributions, and a few others.

Mr. BRYANT. Madam Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

POINT OF ORDER

Mr. BRYANT. Madam Speaker, I make a point of order that the motion to recommit offered by the gentleman from Pennsylvania [Mr. GEKAS] is not in order, in that it instructs the conferees to carry out instructions which exceed the scope of the matters committed to conference. Specifically, the motion to recommit contains language which expands the definition of lobbyists and expands the definition of covered executive branch officials.

Both of these expanded definitions exceed the scope of the matters committed to conference. Therefore, Madam Speaker, I insist on the point of order.

The SPEAKER pro tempore. Does the gentleman from Pennsylvania [Mr. GEKAS] desire to be heard on the point of order?

Mr. GEKAS. Yes, Madam Speaker.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. GEKAS] is recognized on the point of order.

Mr. GEKAS. Madam Speaker, if I am to understand the point of order, it is visited against the section that we have in which we strike out, or that we have a motion to instruct the conferees to eliminate campaign contributions, is that correct? Is that part of the point of order that was made? I could not hear all of it.

Mr. BRYANT. Madam Speaker, I have already stated my point of order.

PARLIAMENTARY INQUIRIES

Mr. GEKAS. I have a Parliamentary inquiry, Madam Speaker. If the gentleman would respond to me, I am asking if in his point of order he itemizes the campaign contributions as one of the items.

The SPEAKER pro tempore. The Chair will control the debate. Does the gentleman from Pennsylvania [Mr. GEKAS] concede the point of order?

Mr. GEKAS. No, Madam Speaker, I want to speak on it, but I want to make sure that that is what I heard; that in the point of order that he made, as a parliamentary question, I would ask does the point of order that was just entered by the gentleman from Texas [Mr. BRYANT] include a point of order against the campaign financing feature of my motion?

The SPEAKER pro tempore. The gentleman from Texas [Mr. BRYANT] has made a point of order on several grounds. The Chair will entertain argument on the point of order from each Member on his own time.

□ 1600

Mr. GEKAS. Madam Speaker, as a point of parliamentary inquiry, I simply wanted to have repeated whether or not the point of order that was made included the point on campaign financing. I could not hear the gentleman from Texas.

The SPEAKER pro tempore (Ms. PELOSI). Will the gentleman from Texas repeat his point of order.

Mr. BRYANT. Madam Speaker, I made a point of order that the motion to recommit offered by the gentleman is not in order in that it instructs the conferees to carry out instructions which exceed the scope of the matters that were committed to the conference.

Specifically the motion to recommit contains language which expands the definition of lobbyists and expands the definition of covered executive branch officials. both of these expanded definitions exceed the scope of the matters committed to conference.

Mr. GEKAS. Madam Speaker, I believe that the motion to recommit is in order. The important feature of the motion to recommit has to do with campaign contributions in which we feel that, as we argued in the well of the House, the big gift that we should be banning is campaign contributions by lobbyists, not just sandwiches. The question is, if the point of order is to prevail and the Chair is to rule that my campaign contribution feature is out of order, does that not return it to the status of the current law in which, then, the whole issue becomes one that cannot be a point of order if it is returned to current law? I pose that as a parliamentary inquiry.

The SPEAKER pro tempore. If the Chair rules this motion out of order, the gentleman may offer another motion to recommit.

Mr. GEKAS. Madam Speaker, that is not answering my question. My inquiry is this: If the Chair rules that my motion is out of order in that the striking of campaign contributions is beyond the scope, is not the result of that, and this is the test of whether or not it is out of order, is not the result of that to return campaign contributions to the status in current law, thus making the point of order inoperable?

The SPEAKER pro tempore. The Chair cannot respond to that inquiry. The Chair will address the point of order that has been raised.

Mr. GEKAS. Madam Speaker, I have a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. GEKAS. Madam Speaker, is the motion in order insofar as it seeks to clarify the ambiguous language that we feel is contained in this legislation on grassroots lobbying?

The SPEAKER pro tempore. The Chair is prepared to rule on the point of order of the gentleman from Texas.

Mr. GEKAS. Madam Speaker, I have a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. GEKAS. Madam Speaker, I think I know the answer to this, but I must pose it for the record.

Is the motion that I have made divisible in any way?

The SPEAKER pro tempore. The gentleman's motion is not divisible. The gentleman may offer one, proper motion to recommit.

Mr. GEKAS. I understand that. I will yield to the decision of the Chair on this matter.

Mr. ARMEY. Madam Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. ARMEY. Madam Speaker, I see by the rule just passed that allows this bill to be under consideration that in this rule, it says all points of order against conference report and against its consideration are waived except the provisions of clause 2. If in fact the majority is able to bring the bill to the floor by waiving all points of order against the bill, would that waiver not also cover the gentleman's motion to recommit?

The SPEAKER pro tempore. The waiver does not inure to the motion to recommit.

Mr. ARMEY. The waiver only applies to the bill brought to the floor by the majority, not to the motion to recommit offered by the minority?

The SPEAKER pro tempore. To the conference report.

Mr. GEKAS. Madam Speaker, before we receive the final edict of the Chair, am I to understand in the nature of a parliamentary inquiry that the point of order is based partially on our effort in the motion to have the conference reconsider language that would equalize the penalties making Members of Congress equally liable to citizens who violate the grassroots lobbying requirements?

The SPEAKER pro tempore (Ms. PELOSI). The gentleman from Texas has stated the point of order two times for the gentleman.

The Chair is prepared to rule. The gentleman from Texas makes a point of order against the motion to recommit offered by the gentleman from Pennsylvania.

As discussed in section 26.12, chapter 33 of Procedure in the U.S. House of Representatives, a motion to recommit a conference report may not instruct House conferees to include matter beyond the scope of differences committed to conference by either House.

The motion offered by the gentleman from Pennsylvania includes several instructions that violate this principle. For example, the motion instructs conferees to expand the definition of "lobbyist" as defined in both the Senate bill and House amendment to include not only persons who spend a certain period of time engaging in lobbying activities while serving a client but also those who spend more than a certain dollar amount within a fixed period to influence decisionmaking.

Another example is found in the instruction that expands the definition of "covered executive branch official" as defined in both the Senate bill and House amendment to include a position in the executive branch that is classified at or above GS–14 of the General Schedule.

The inclusion of even one of the above-described instructions provides the Chair with an adequate basis to find the entire motion out of order on the grounds the instructions exceed the scope of differences committed to conference. Accordingly, the point of order is sustained.

Mr. GEKAS. Madam Speaker, that is a marvelous conclusion. I thank the Chair.

MOTION TO RECOMMIT OFFERED BY MR. GEKAS

Mr. GEKAS. Madam Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. GEKAS moves to recommit the conference report on the bill (S.349) to the committee of conference with instructions for the managers on the part of the House to carry out the following:
>
> (1) In the proposed section 103—
>
> (C) strike out subparagraph (B) of paragraph (9).
>
> (2) Strike out paragraph (5) of section 104(b).
>
> (3) Strike out paragraph (6) of section 105(b).

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

POINT OF ORDER

Mr. BRYANT. Madam Speaker, I am reserving a point of order against the gentleman's motion.

The SPEAKER pro tempore. The gentleman must state his point of order now.

Mr. BRYANT. Madam Speaker, it is not clear to our side whether or not this motion includes section 1, subsection (c), or only includes section 2 and 3. The motion that we have been given has portions stricken out by hand and it is not clear to us what is in and what is out.

The SPEAKER pro tempore. Without objection, the Clerk will reread the motion.

There was no objection.

The Clerk reread the motion.

The SPEAKER pro tempore. Does the gentleman from Texas insist on his point of order?

Mr. BRYANT. I do not insist, no.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

PARLIAMENTARY INQUIRY

Mr. GEKAS. Madam Speaker, I have a parliamentay inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. GEKAS. Madam Speaker, are we to understand now that what lies before the Members of the House is our motion to recommit to the conference with instructions to sort out the language on grassroots lobbying, to strike the requirements for grassroots registration?

The SPEAKER pro tempore. That is the gentleman's interpretation of his motion.

The motion as read is what is before the House.

Mr. GEKAS. I understand.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. GEKAS. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 202, nays 215, not voting 18, as follows:

[Roll No. 450]

YEAS—202

Allard
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Brewster
Brooks
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chapman
Clement
Clinger
Coble
Collins (GA)
Combest
Condit
Costello
Cox
Crane
Crapo
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (NJ)
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Hefner
Herger
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lancaster
Laughlin
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Machtley
Manzullo
McCandless
McCollum
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Montgomery
Moorhead
Myers
Nussle
Ortiz
Oxley
Packard
Parker
Paxon
Payne (VA)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Valentine
Vucanovich
Walker
Walsh
Weldon
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—215

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Clay
Clayton
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooper
Coppersmith
Coyne
Cramer
Danner
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Filner
Fingerhut
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lantos
LaRocco
Lehman
Levin
Lewis (GA)
Lipinski
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Orton
Pallone
Pastor
Payne (NJ)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickle
Pomeroy
Price (NC)
Rangel
Reed
Reynolds
Richardson
Ridge
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Skaggs
Slaughter
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swift
Synar
Taylor (MS)
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Whitten
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—18

Applegate
Berman
Clyburn
Fields (LA)
Fish
Gallo
Hayes
Hutto
Lloyd
McCrery
McCurdy
McDade
McNulty
Owens
Slattery
Thompson
Washington
Wheat

☐ 1629

Ms. DANNER and Mr. OLVER changed their vote from "yea" to "nay."

Messrs. ORTIZ and SHAYS changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Ms. PELOSI). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GEKAS. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 306, noes 112, not voting 17, as follows:

[Roll No. 451]

AYES—306

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Blute
Boehlert
Bonilla
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (OH)
Bryant
Byrne
Calvert
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Coleman
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Crapo
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Duncan
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
English
Eshoo
Evans
Ewing
Farr
Fawell
Fazio
Filner
Fingerhut

Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastert
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoke
Holden
Horn
Hoyer
Huffington
Hughes
Hutchinson
Hyde
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lazio
Leach
Lehman
Levin
Levy

Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McHugh
McInnis
McKinney
Meehan
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Morella
Murphy
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Reed
Regula
Reynolds
Richardson
Ridge
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski

Roth
Roukema
Roybal-Allard
Sabo
Sanders
Sangmeister
Santorum
Sawyer
Saxton
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Sundquist
Swett
Swift
Synar
Tauzin
Taylor (MS)
Tejeda
Thomas (WY)
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Tucker
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Walsh
Waters
Watt
Waxman
Weldon
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zeliff
Zimmer

NOES—112

Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Bartlett
Barton
Bateman
Bentley
Bliley
Boehner
Brewster
Brooks
Brown (FL)
Bunning
Burton

Buyer
Callahan
Camp
Clinger
Coble
Collins (GA)
Collins (IL)
Combest
Cox
Crane
Cunningham
DeLay
Dickey
Dooley
Doolittle
Dornan
Dreier

Dunn
Emerson
Everett
Fields (TX)
Fowler
Gallegly
Gingrich
Goss
Grams
Grandy
Hall (TX)
Hancock
Hansen
Hastings
Hefley
Herger
Hoekstra

Houghton
Hunter
Inglis
Inhofe
Istook
Johnson, Sam
Kim
King
Kingston
Knollenberg
Kolbe
Kyl
Laughlin
Lewis (CA)
Lewis (FL)
Livingston
Lucas
McCandless
McCollum
McKeon
McMillan

Meek
Mica
Michel
Miller (FL)
Molinari
Moorhead
Moran
Murtha
Myers
Orton
Oxley
Packard
Parker
Paxon
Pombo
Quillen
Ravenel
Roberts
Rohrabacher
Rowland
Royce

Rush
Sarpalius
Schaefer
Shuster
Skeen
Smith (OR)
Spence
Stearns
Stump
Talent
Tanner
Taylor (NC)
Thomas (CA)
Traficant
Vucanovich
Walker
Whitten
Wilson
Young (AK)

NOT VOTING—17

Applegate
Clyburn
Fields (LA)
Fish
Gallo
Hayes

Hutto
Lloyd
McCrery
McCurdy
McDade
McNulty

Owens
Slattery
Thompson
Washington
Wheat

□ 1651

Mr. HALL of Texas and Mr. LAUGHLIN changed their vote from "aye" to "no."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BRYANT. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore (Ms. PELOSI). Is there objection to the request of the gentleman from Texas?

There was no objection.

FLOW CONTROL ACT OF 1994

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 552 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 552

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4683) to amend the Solid Waste Disposal Act to provide congressional authorization of State control over transportation of municipal solid waste, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. SKAGGS). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 552 is an open rule providing for consideration of H.R. 4683, the Flow Control Act of 1994. The rule provides for 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Energy and Commerce Committee.

Mr. Speaker, House Resolution 552 is a totally open rule providing that any germane amendment may be offered to the bill when it is considered for amendment. The rule provides that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on energy and Commerce now printed in the bill as an original bill for the purpose of amendment under the 5-minute rule, and the substitute shall be considered as read.

The rule further provides that, at the conclusion of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted and that any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole.

Finally, the rule provides that the previous question shall be ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Mr. Speaker, H.R. 4683 provides the specific congressional authorization needed to assure States and localities of their ability to control the flow of municipal solid waste and recyclable materials within their boundaries. States rely upon the assurance of an adequate waste stream to repay the bond obligations incurred to finance new or expanded waste management facilities.

A recent Supreme Court decision has raised some question about the ability of States and localities to exercise their flow control authorities. Specifically, the Court struck down a New York State control ordinance on the grounds that it interfered with interstate commerce. It is clear that, without some congressional directive, many State and local governments which now depend upon flow control to repay their indebtedness will face significant uncertainties.

H.R. 4683 addresses the problem raised by the Carbone decision, and provides the tools necessary for the States and localities to carry out their responsibilities. I urge my colleagues to support this open and fair rule.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the distinguished chairman of the Rules Committee, Mr. MOAKLEY, and I join him in supporting this open rule.

We witnessed a rare occasion, perhaps even a first, when the Energy and Commerce Committee appeared before the Rules Committee earlier this week and requested an open rule for two bills under its jurisdiction. I applaud the committee for a job well done, and I ask unanimous consent to insert extraneous materials into the RECORD following my statement.

Mr. Speaker, H.R. 4683 is commonly known as the flow control bill. Flow control refers to State and local laws that confer power on local governments to manage municipal solid waste disposal. This bill complements the interstate waste bill we considered earlier. It addresses a Supreme Court ruling by clarifying the rights of State and local governments to exercise their flow control authority.

I understand that some Members have very strong opposing views on many provisions of this legislation, and this open rule allows all members the opportunity to offer amendments which address their particular concerns.

I urge adoption of this rule so we can proceed with the business at hand.

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted [1]	Open rules		Restrictive rules	
		Number	Percent [2]	Number	Percent [3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	99	31	31	68	69

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Sept. 28, 1994.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (d–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1(not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173 May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176.. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1; R–1)	N/A	A: Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D–6; R–11)	4 (D–1; R–3)	A: 238–182. (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A: Voice Vote. (Nov. 16, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	N/A	N/A	
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D–8; R–19)	9 (D–1; R–8)	F: 191–227. (Feb. 2, 1994).
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D–9; R–6)	4 (D–1; R–3)	A: 233–192. (Nov. 18, 1993).
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D–7; R–14)	6 (D–3; R–3)	A: 238–179. (Nov. 19, 1993).
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D–1; R–0)	N/A	A: 252–172. (Nov. 20, 1993).
H. Res. 319, Nov. 20, 1993	MC	H.R. 3: Campaign Finance Reform	35 (D–6; R–29)	1 (D–0; R–1)	A: 220–207. (Nov. 21, 1993).
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D–15; R–19)	3 (D–3; R–0)	A: 247–183. (Nov. 22, 1993).
H. Res. 336, Feb. 2, 1994	MC	H.R. 3759: Emergency Supplemental Appropriations	14 (D–8; R–5; I–1)	5 (D–3; R–2)	PQ: 244–168. A: 342–65. (Feb. 3, 1994).
H. Res. 352, Feb. 8, 1994	MC	H.R. 811: Independent Counsel Act	27 (D–8; R–19)	10 (D–4; R–6)	PQ: 249–174. A: 242–174. (Feb. 9, 1994).
H. Res. 357, Feb. 9, 1994	MC	H.R. 3345: Federal Workforce Restructuring	3 (D–2; R–1)	2 (D–2; R–0)	A: VV (Feb. 10, 1994).
H. Res. 366, Feb. 23, 1994	MO	H.R. 6: Improving America's Schools	NA	NA	A: VV (Feb. 24, 1994).
H. Res. 384, Mar. 9, 1994	MC	H. Con. Res. 218: Budget Resolution FY 1995–99	14 (D–5; R–9)	5 (D–3; R–2)	A: 245–171 (Mar. 10, 1994).
H. Res. 401, Apr. 12, 1994	MO	H.R. 4092: Violent Crime Control	180 (D–98; R–82)	68 (D–47; R–21)	A: 244–176 (Apr. 13, 1994).
H. Res. 410, Apr. 21, 1994	MO	H.R. 3221: Iraqi Claims Act	N/A	N/A	A: Voice Vote (Apr. 28, 1994).
H. Res. 414, Apr. 28, 1994	O	H.R. 3254: NSF Auth. Act	N/A	N/A	A: Voice Vote (May 3, 1994).
H. Res. 416, May 4, 1994	C	H.R. 4296: Assault Weapons Ban Act	7 (D–5; R–2)	0 (D–0; R–0)	A: 220–209 (May 5, 1994).
H. Res. 420, May 5, 1994	O	H.R. 2442: EDA Reauthorization	N/A	N/A	A: Voice Vote (May 10, 1994).

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.—Continued

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 422, May 11, 1994	MO	H.R. 518: California Desert Protection	N/A	N/A	PQ: 245–172 A: 248–165 (May 17, 1994).
H. Res. 423, May 11, 1994	O	H.R. 2473: Montana Wilderness Act	N/A	N/A	A: Voice Vote (May 12, 1994).
H. Res. 428, May 17, 1994	MO	H.R. 2108: Black Lung Benefits Act	4 (D–1; R–3)	N/A	A: VV (May 19, 1994).
H. Res. 429, May 17, 1994	MO	H.R. 4301: Defense Auth., FY 1995	173 (D–115; R–58)		A: 369–49 (May 18, 1994).
H. Res. 431, May 20, 1994	MO	H.R. 4301: Defense Auth., FY 1995		100 (D–80; R–20)	A: Voice Vote (May 23, 1994).
H. Res. 440, May 24, 1994	MC	H.R. 4385: Natl Hiway System Designation	16 (D–10; R–6)	5 (D–5; R–0)	A: Voice Vote (May 25, 1994).
H. Res. 443, May 25, 1994	MC	H.R. 4426: For. Ops. Approps, FY 1995	39 (D–11; R–28)	8 (D–3; R–5)	PQ: 233–191 A: 244–181 (May 25, 1994).
H. Res. 444, May 25, 1994	MC	H.R. 4454: Leg Branch Approp, FY 1995	43 (D–10; R–33)	12 (D–8; R–4)	A: 249–177 (May 26, 1994).
H. Res. 447, June 8, 1994	O	H.R. 4539: Treasury/Postal Approps 1995	N/A	N/A	A: 236–177 (June 9, 1994).
H. Res. 467, June 28, 1994	MC	H.R. 4600: Expedited Rescissions Act	N/A	N/A	PQ: 240–185 A:Voice Vote (July 14, 1994).
H. Res. 468, June 28, 1994	MO	H.R. 4299: Intelligence Auth., FY 1995	N/A	N/A	A: Voice Vote (July 19, 1994).
H. Res. 474, July 12, 1994	MO	H.R. 3937: Export Admin. Act of 1994	N/A	N/A	A: Voice Vote (July 14, 1994).
H. Res. 475, July 12, 1994	O	H.R. 1188: Anti. Redlining in Ins	N/A	N/A	A: Voice Vote (July 20, 1994).
H. Res. 482, July 20, 1994	O	H.R. 3838: Housing & Comm. Dev. Act	N/A	N/A	A: Voice Vote (July 21, 1994).
H. Res. 483, July 20, 1994	O	H.R. 3870: Environ. Tech. Act of 1994	N/A	N/A	A: Voice Vote (July 26, 1994).
H. Res. 484, July 20, 1994	MC	H.R. 4604: Budget Control Act of 1994	3 (D–2; R–1)	3 (D–2; R–1)	PQ: 245–180 A: Voice Vote (July 21, 1994).
H. Res. 491, July 27, 1994	O	H.R. 2448: Radon Disclosure Act	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 492, July 27, 1994	O	S. 208: NPS Concession Policy	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 494, July 28, 1994	MC	H.R. 4801: SBA Reauth & Amdmts. Act	10 (D–5; R–5)	6 (D–4; R–2)	PQ: 215–169 A: 221–161 (July 29, 1994).
H. Res. 500, Aug. 1, 1994	MO	H.R. 4003: Maritime Admin. Reauth.	N/A	N/A	A: 336–77 (Aug. 2, 1994).
H. Res. 501, Aug. 1, 1994	O	S. 1357: Little Traverse Bay Bands	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 502, Aug. 1, 1994	O	H.R. 1066: Pokagon Band of Potawatomi	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 507, Aug. 4, 1994	O	H.R. 4217: Federal Crop Insurance	N/A	N/A	A: Voice Vote (Aug. 5, 1994).
H. Res. 509, Aug. 5, 1994	MC	H.J. Res. 373/H.R. 4590: MFN China Policy	N/A	N/A	A: Voice Vote (Aug. 9, 1994).
H. Res. 513, Aug. 9, 1994	MC	H.R. 4906: Emergency Spending Control Act	N/A	N/A	A: Voice Vote (Aug. 17, 1994).
H. Res. 512, Aug. 9, 1994	MC	H.R. 4907: Full Budget Disclosure Act	N/A	N/A	A: 255–178 (Aug. 11, 1994).
H. Res. 514, Aug. 9, 1994	MC	H.R. 4822: Cong. Accountability	33 (D–16; R–17)	16 (D–10; R–6)	PQ: 247–185 A: Voice Vote (Aug. 10, 1994).
H. Res. 515, Aug. 10, 1994	O	H.R. 4908: Hydrogen Etc. Research Act	N/A	N/A	A: Voice Vote (Aug. 19, 1994).
H. Res. 516, Aug. 10, 1994	MC	H.R. 3433: Presidio Management	12 (D–2; R–10)	N/A	A: Voice Vote (Aug. 19, 1994).
H. Res. 532, Sept. 20, 1994	O	H.R. 4448: Lowell Natl. Park	N/A	N/A	
H. Res. 535, Sept. 20, 1994	O	H.R. 4422: Coast Guard Authorization	N/A	N/A	A: Voice Vote (Sept. 22, 1994).
H. Res. 536, Sept. 20, 1994	MC	H.R. 2866: Headwaters Forest Act	16 (D–5; R–11)	9 (D–3; R–6)	PQ: 245–175 A: 246–174 (Sept. 21, 1994).
H. Res. 542, Sept. 23, 1994	O	H.R. 4008: NOAA Auth. Act	N/A	N/A	A: Voice Vote (Sept. 26, 1994).
H. Res. 543, Sept. 23, 1994	O	H.R. 4926: Natl. Treatment in Banking	N/A	N/A	
H. Res. 544, Sept. 23, 1994	O	H.R. 3171: Ag. Dept. Reorganization.	N/A	N/A	A: Voice Vote (Sept. 28, 1994).
H. Res. 551, Sept. 27, 1994	MO	H.R. 4779: Interstate Waste Control	22 (D–15; R–7)	N/A	A: Voice Vote (Sept. 28, 1994).
H. Res. 552, Sept. 27, 1994	O	H.R. 4683: Flow Control Act	N/A	N/A	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

Mr. Speaker, I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

☐ 1700

The SPEAKER pro tempore (Mr. SKAGGS). Pursuant to House Resolution 552 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4683.

☐ 1700

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4683) to amend the Solid Waste Disposal Act to provide congressional authorization of State control over transportation of municipal solid waste, and for other purposes, with Mrs. UNSOELD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Washington [Mr. SWIFT] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. OXLEY] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Madam Chairman, I yield myself such time as I may consume.

Mr. SWIFT. Madam Chairman, I rise in support of H.R. 4683, the Flow Control Act of 1994, which was ordered reported by the Committee on Energy and Commerce by a voice vote with bipartisan support. We have been working for months to bring this important legislation to the floor, and I commend the Members both on and off the committee who have worked so hard on this legislation.

Madam Chairman, flow control authority is that authority of a local government that allows it to direct that all municipal solid waste generated within its borders be delivered to one or more specified waste management facilities. It is often utilized to provide assurances that an adequate waste stream to guarantee revenue to pay bonds issued to finance municipal solid waste management facilities is available.

Since RCRA became law in 1976, many States have adopted comprehensive waste management plans. The nature of these plans and the increasing complexity and costliness of waste management facilities have had significant effects at the local level, where responsibility for municipal solid waste management has traditionally rested.

Further, Madam Chairman, because the Federal Government does not share the cost of waste management programs at the local or State level, States and local governments have adopted various means, including flow control, to finance MSW management services and facilities. For example, when a local government builds waste management facilities, it will often use flow control to provide insurance that an adequate waste stream is there to guarantee revenue to repay bonds issued to finance municipal solid waste management facilities or systems.

Madam Chairman, we hear a great deal of debate on this floor regarding unfunded mandates. This is a similar situation. By failing to pass this bill, and thus failing to restore local governments' authority to use flow control to manage their municipal solid waste, we will be leaving local governments with the responsibility to manage their wastes, but we at the Federal level will have denied them a critical tool that they need to do it. It is nothing less than an unfunded mandate in reverse.

According to the EPA, 35 State laws authorizing their political subdivisions to use flow control exist today. Eight other States have indirectly authorized the use of flow control. In these States, billions, billions of dollars have been invested in municipal solid waste management facilities or integrated systems.

The ability of State and local governments to repay this debt, these billions of dollars, is predicated on the ability of them to control the flow of the waste stream. Local governments argue that without flow control, they will be unable to build new facilities to meet the stricter environmental requirements, and they may default on bonds issued for existing and proposed facilities.

Madam Chairman, in 1994, May 16 of this year, the Supreme Court struck down Clarkston, NY's flow control ordinance on the grounds that it discriminated against interstate commerce, and thereby precipitated this entire nationwide crisis. As a result of that, many State and local governments that relied on flow control now face significant financial uncertainties.

The issues in the flow control debate are complex and controversial, and affect many different parties. I believe that because local governments are traditionally given the responsibility for municipal solid waste management, we should be at the Federal level very careful how we restrict the tools they have to carry out those responsibilities.

Unless the Federal Government wants to take over the responsibility for dealing with and handling solid waste, unless it wants to do that, then it seems that it must do what it can to ensure that local government has access to the tools to carry out that responsibility.

During preparation of this legislation for the subcommittee's consideration, a great deal of time and effort was spent by both parties on both sides of this debate in an effort to narrow the differences. I have to commend everybody involved, Madam Chairman, because those differences were narrowed to a very significant degree.

However, it became apparent that there are two principal approaches to addressing the concerns raised by the Clarkston case. In our committee we considered each of these approaches as two separate amendments to the base text. No other amendments were offered. The full committee adopted the one offered by the gentleman from New Jersey [Mr. PALLONE], and his amendment is now embodied in the bill we bring before the Members today.

Madam Chairman, it is critical, and I think most of us agree, that we do something to protect the roughly $14 billion in outstanding municipal bonds that are now at risk because of the court's decision. Whether or not to give local governments more flexibility than they have since the Supreme Court decision is the primary issue of our debate today.

Madam Chairman, this is a philosophical and jurisdictional dispute between those who would believe that local governments need to have recourse to the tools to carry out the solid waste management requirements that have traditionally been their responsibility and, on the other hand, those who really wish to radically change that traditional model and let the marketplace handle it, with all of the resulting uncertainties.

Today, Madam Chairman, we are presented with this choice: One, there will be an amendment offered providing limited protection for local governments from the Supreme Court decision, with a return in the relatively near future to the current situation, with flow control not being available as a viable waste management policy; or, sticking with the basic text, which preserves the bill reported by the committee, it provides that local governments have the flexibility to manage their solid waste into the future, but with limits placed on their ability to use flow control as a management tool.

In neither case, Madam Chairman, would recyclable materials be subject to flow control, unless the recyclables are voluntarily surrendered by the generator or owner.

I support the committee-reported bill. I believe it is a better approach to solving the flow control dilemma. I also note that the proponents of both proposals have made significant changes in their proposals in order to make them more reasonable, and I commend them for their efforts. It is unfortunate that we were unable to come any closer to agreement.

Madam Chairman, I believe this is the optimal way to proceed, because it will give both sides the opportunity to have a free-flowing open debate on both approaches simultaneously. Again, this is exactly what happened to the committee. I have been working with both sides to try to set up that scenario.

Madam Chairman, I urge my colleagues to listen to that debate. I think it can be very informative.

Madam Chairman, I reserve the balance of my time.

Mr. OXLEY. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, for more than two decades local governments exercised flow control authority primarily to finance municipal solid waste incinerators. However, in recent years flow control has been used as a tool to address solid waste management problems. Facilities subject to flow control now include not just incinerators but landfills, materials recovery facilities, transfer stations, and composting facilities.

When Congress adopted the Resource Conservation Recovery Act, it recognized that municipal solid waste creates problems for local governments. Nonetheless, Congress believed that collection and disposal of garbage should remain the responsibility of State and local governments. To carry out that responsibility, many States have allowed local governments to use flow control authority to achieve the goal of reducing reliance on landfills and minimizing limited landfill disposal facilities.

In Ohio, solid waste districts have had flow control authority since 1988. In fact, until last year State law required localities to use flow control. As a result, many solid waste districts made large financial investments in recycling programs, waste material processing centers, composting facilities, and hazardous waste collection programs.

Ohio has found flow control to be an effective mechanism for protecting human health and the environment, for developing waste management capacity, and for encouraging waste reduction and recycling. In fact, my constituents believe flow control is an essential tool for local government to perform integrated waste management.

Last May the Supreme Court ruled that the flow control laws which has worked so effectively for my constituents in Ohio are unconstitutional in the absence of clear congressional authorization.

□ 1710

This legislation is clear congressional authorization. The decision has forced Congress to reexamine local governments' responsibility for solid waste management and more importantly what authority local governments need to carry out that responsibility. Reasonable arguments have been made by those who support authorizing the use of flow control and by those who oppose it. Because the Carbone decision has resulted in many State and local governments facing financial uncertainty, there is general agreement that at a minimum Congress should act to protect the financial viability of existing solid waste management facilities.

In addition, I believe that communities who have relied on flow control to safely manage municipal solid waste need certainty. Ever increasing volumes of waste combined with ever increasing Federal environmental legislation has made it more difficult for localities to plan for and pay for disposal of municipal solid waste. Flow control ordinances have been a key component of many solid waste management and financing plans. To help local governments face the challenge of safely disposing of waste and avoid disruptions in their integrated waste management plans. I urge my colleagues to support H.R. 4683 without amendment. This bill is not perfect but it certainly represents a compromise between local government and the private sector. It will provide the necessary protection without adverse effects on small businesses and consumers or for the environment.

Madam Chairman, at this time I say to the gentleman from Washington [Mr. SWIFT], the chairman of the subcommittee, it has been a pleasure in working with him in crafting this compromise legislation. All of us know the difficulty of dealing with this issue and the number of components that it undertook and all of the various groups that were interested in this legislation. Having been through all of that and worked our way through the legislative process, not unlike what we accomplished just yesterday with the interstate waste bill, this I think is an example of how our committee can work effectively for the benefit of the environment and for our constituents and I am proud to have been part of that particular facility.

Madam Chairman, I yield to the gentlewoman from Maine [Ms. SNOWE] for the purpose of a colloquy with the chairman of the subcommittee.

Ms. SNOWE. Madam Chairman, I thank the gentleman for yielding.

I would like to engage the gentleman from Washington, the chairman of the subcommittee, in a colloquy.

Mr. SWIFT. Madam Chairman, if the gentleman will yield, I am happy to join the gentlewoman in a colloquy.

Ms. SNOWE. Madam Chairman, the bill before us today is designed in part to allow the qualified political subdivisions that have already adopted flow control ordinances to continue to exercise flow control authority over municipal solid waste generated within their jurisdictions. In many cases, these municipalities must retain flow control authority in order to meet their financial and contractual obligations with designated disposal facilities.

Some municipalities find themselves in related but somewhat unique circumstances, however. They signed long-term contracts with waste disposal facilities which require them to either deliver a minimum quantity of waste to a designed disposal facility, or to pay for that minimum quantity of solid waste even if the minimum quantity is not delivered. In Maine, 160 municipalities have signed these so-called put-or-pay contracts with one particular disposal facility. They signed these contracts prior to 1994 with the understanding that they would be able to enact flow control ordnances if necessary to meet their obligations under the contracts. Unfortunately, many of these towns had not formally enacted flow control ordinances at the time of the Carbone decision, and as a result of that decision, they now face the prospect of having to meet expensive contractual obligations without having the regulatory authority to guarantee delivery of the required amount of waste.

Was the intent of the committee, in writing and reporting H.R. 4683, to preserve flow control authority for qualified political subdivisions whose previous commitments and investments on solid waste were predicated on a need for flow control authority?

Mr. SWIFT. Yes, among other things, the Committee's purpose in reporting the legislation was to allow qualified political subdivisions that had entered legally binding agreements such as put-or-pay contracts to exercise flow control authority after May 15, 1994.

Ms. SNOWE. Madam Chairman, let me state further that the language of H.R. 4683, particularly subsection (a)(2), would appear to preserve flow control authority over municipal solid waste for qualified political subdivisions that have signed put-or-pay contracts, and begun delivering waste to a designed facility, but that have not yet enacted a flow control ordinance.

Is it your understanding that the committee, in writing and reporting H.R. 4683, intended to preserve the ability of qualified political subdivisions that signed put-or-pay contracts prior to May 15, 1994, and that have begun delivering waste to facilities designated in the contracts, to exercise flow control authority over municipal solid waste generated within their borders, even if those municipalities had not formally enacted flow control ordinances before that date?

Mr. SWIFT. Yes, the committee intends to preserve flow control authority over municipal solid waste for qualified political subdivisions that had signed put-or-pay contracts or other legally binding agreements. The fact that a flow control ordinance had not been enacted by May 14, 1994, does not disqualify municipalities from the protections provided by subsection (a)(2), as long as the municipality had signed the put-or-pay contract with a designed disposal facility and had begun delivering waste before that date.

We recognize that these qualified political subdivisions signed the contracts under the assumption that they had the authority to direct their waste pursuant to the contract, and that their decision to sign such contracts might have been very different had they known that flow control authority would not be available to them. It would be unfair to change the rules for these cities and towns now after they have already signed expensive contracts for which their citizens are liable. We believe that H.R. 4683 as written, particularly subsection (a)(2), addresses this problem and allows municipalities in this situation to exercise flow control authority in the future for municipal solid waste generated within their boundaries.

Ms. SNOWE. Madam Chairman, I thank the gentleman, chairman of the subcommittee, for his clarifying this very important point of this legislation to communities in Maine and other communities across this country.

Mr. OXLEY. Madam Chairman, I reserve the balance of my time.

Mr. SWIFT. Madam Chairman, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON], who is author of the primary amendment. I want to commend the gentleman for how he has worked with the committee. This has been a difficult situation and everybody connected with it has behaved in an extraordinarily civil and useful way which has made the legislative process work the way it is supposed to.

Mr. RICHARDSON. Madam Chairman, let me say I must return the compliment to the gentleman from Washington [Mr. SWIFT] and the gentleman from Ohio [Mr. OXLEY]. They truly worked in a spirit of trying to work this issue out. Regrettably, we were not able to.

Madam Chairman, I rise today in opposition to H.R. 4683, the Flow Control Act of 1994.

At the appropriate point, I plan to introduce an amendment offered by myself, Mr. FIELDS of Texas, and the more than 20 bipartisan cosponsors of the bill, H.R. 4643, upon which it is based.

I will offer this amendment out of concern that the bill approved by the Committee on Energy and Commerce and sent to the floor today goes much further than necessary to correct problems that might result from the recent Supreme Court flow control decision. The Court held that local flow control laws violate the commerce clause of the Constitution.

This decision has caused a panic in local governments across the country. Local solid waste management officials are worried that their previously existing waste agreements are now invalid.

While I feel that these concerns have merit, I believe that we are going too far in alleviating the problem. As currently drafted, H.R. 4683 is equivalent of trying to save a drowning man in the shallow end of the pool by jumping into the deep end without a life preserver.

Yes, we need to provide relief to those municipalities dependent on flow control for their waste disposal.

No, we do not need to go beyond simple "grandfather" authority to grant broad new powers in the future.

The bipartisan amendment I plan to introduce will grandfather existing flow control arrangements to protect those facilities financially dependent on flow control, and allow local governments which have shown significant movement toward designation to continue flow controlling waste for a limited time.

For those Members who have followed this issue, it should be no surprise that organizations such as the National Federation of Independent Businesses, the National Association of Manufacturers, the Sierra Club, the National Taxpayers Union, the U.S. Chamber of Commerce, and the Environmental Industries Association oppose flow control entirely.

But, for most Members this may come as a shock. We have heard that the language in the committee-passed bill is supported by everyone and that there is no controversy about its passage. That assertion is simply not true.

In fact, the bill my amendment is based on was originally conceived as a compromise position between the organizations solidly opposed to flow control and those in favor of broad flow control authority.

Our true compromise amendment really reflects the halfway point between the two very contentious sides of this debate.

Unfortunately, flow control has been an incredibly complicated issue that has not caught the attention of our constituents and therefore has not been at the forefront of our attention.

However, I can assure my colleagues that H.R. 4683 is a bill in trouble. As we head for the home stretch of the legislative session, I do not think that we should blindly go forward on legislation that is the source of as much controversy as this legislation.

From the Sierra Club, NY Public Interest Research Group, and Clean Water Action we have heard that flow control impedes recycling efforts and promotes the spread of dioxin-spewing incinerators throughout the country. On environmental grounds alone we should oppose the current language.

From the National Taxpayers Union, the Competitive Enterprise Institute, and Citizens for a Sound Economy we have heard that "flow control would establish protected government monopolies that have no incentive to increase the quality of their services. Waste management prices would be set by political forces, without regard for market pressures. There is little doubt that under this scenario, consumers of waste management services would pay more."

From the National Federation of Independent Businesses and the National Association of Manufacturers we have heard that flow control hurts small business because the monopolization of the marketplace under flow control deprives small businesses from securing the most inexpensive or most environmentally preferable method of waste disposal.

From Browning Ferris Industries, Laidlaw Inc., Chambers Development Corp., Union Pacific and Southern Pacific Corp., we have heard that flow control would impose Superfund liability on waste generators by stripping them of the ability to send waste to the protective facility of their choice or the most environmentally appropriate location.

Madam Chairman, the Richardson-Fields amendment addresses all of these areas by providing careful, rational, responsible relief to those facilities that truly need it.

I do not believe it makes sense for Congress to consider any more far-reaching policy than that without the benefit of a thorough debate on the Resource Conservation Recovery Act which will not happen until next year at the earliest.

As the second session of the 103d Congress comes to a close, now is not the time to act hastily on emotional appeals which will result in higher prices for waste management services and higher taxes for our constituents.

Now is the time to solve the problems of the Nation quickly and efficiently and go home.

I urge my colleagues to join me in supporting the Richardson-Fields amendment and opposing the overreaching and monopolistic provisions of the current bill.

□ 1720

Again, Madam Chairman, let me say that Chairman SWIFT, the committee, and the gentleman from Ohio [Mr. OXLEY], have made an honest effort to work with us. We came close, but regrettably not close enough so that there will be unanimity on the bill. So the choice will be on an approach that we think is market oriented and we think is environmentally sound, the approach which Chairman SWIFT and the gentleman from Ohio [Mr. OXLEY], have, which is an honest effort, but we do not think it goes far enough.

Mr. OXLEY. Madam Chairman, I yield 4 minutes to the gentleman from California [Mr. MOORHEAD], the ranking member of the full committee.

Mr. MOORHEAD. Madam Chairman, I thank the gentleman for yielding me the time.

I rise in support of H.R. 4683, the Flow Control Act of 1994. Disposal of waste has become a major problem in the United States.

We need limited and responsible flow control legislation this Congress. Flow control is the ability of local governments to direct the flow of municipal waste in a given jurisdiction to a specific facility. This authority allows for more stable financial planning for municipal facilities. However, such authority can also restrict free market competition for waste management services. That is why I believe flow control legislation should be focused on the immediate problem.

The recent Supreme Court decision in Carbone versus Clarkstown has placed a number of communities which rely on flow control in a difficult situation. Accordingly, I support enactment of some flow control legislation this Congress to help communities that relied on flow control when planning for existing facilities.

Two competing compromise bills were presented on this issue in the Energy and Commerce Committee: H.R. 4683 and the Richardson-Fields substitute. The Richardson-Fields approach is more consistent with my belief that free market competition will, on balance, provide the most economical and efficient national policy. Accordingly, I plan to vote for the Richardson-Fields amendment.

However, I believe both H.R. 4683 and the Richardson-Fields substitute are responsible compromises. I plan to support either on final passage.

Mr. SWIFT. Madam Chairman, I am happy to yield 3 minutes to the gentleman from New Jersey [Mr. PALLONE], who has also been invaluable in helping to develop the compromise that resulted in this bill.

Mr. PALLONE. Madam Chairman, I also want to thank the gentleman from Washington [Mr. SWIFT] and the gentleman from Ohio [Mr. OXLEY] for all of their work on this legislation.

Madam Chairman, the Committee-passed legislation provides equity to local communities where there has been reliance and tax dollars expended. For more than two decades local governments financed waste disposal facilities and environmental projects, such as composting and recycling plants and waste reduction programs under flow control laws and ordinances.

The Committee-passed legislation does not endorse incineration or any particular type of waste management. Rather, the committee bill is narrowly drawn to protect the investment of public funds while assuring that competition is preserved in the free market should a local community decide to exercise other options for its waste management.

On May 15, the Supreme Court barred such flow control without an express affirmation from the Congress. It is critical for the Congress to act before this session ends to help these communities who have relied on flow control to finance disposal facilities.

The Energy and Commerce Committee bill strikes an appropriate balance between public and private sector concerns and has the broadest political support of any proposal. Here are four reasons why this bill should be enacted:

It strikes a fair balance: It protects only those communities that have already relied on flow control or have made significant recent financial commitments in the process of implementing flow control. It also bars flow control over commercial waste in the future.

It preserves competition and is pro-small business: No new flow control is permitted without meeting strict competitive standards spelled out in the legislation. Many small businesses support our proposal because it levels the playing field.

It is pro-environment and pro-recycling: Without the revenue bond financing available because of flow control, recycling and composting facilities will not be built by communities without tax increases or reliance on general revenue bonds. Also, our proposal permits flow control over recyclable materials only if they are voluntarily relinquished.

It is pro-consumer: Despite statements by some flow control opponents, waste disposal costs in flow controlled systems are not higher than in non-flow-controlled ones and, in many instances, are significantly lower.

It is pro-labor: The American Federation of State, County and Municipal

Employees recognizes the value of flow control as an important tool for waste management, and they, with dozens of other local government organizations, have endorsed the bill.

Madam Chairman, what we are talking about today is simply an issue of equity: equity for the hundreds of counties and municipalities that have already built recycling facilities, landfills or waste-to-energy facilities using flow control, and equity for the many communities that have expended significant amounts of public dollars to build integrated waste management systems. Without this legislation, Congress will be turning its back on both of these groups of local governments, the result of which will be potential default on billions of dollars of bonds which are supporting these systems.

Mr. OXLEY. Madam Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. MCMILLAN], a member of the committee.

Mr. MCMILLAN. Madam Chairman, I rise in support of the Pallone-McMillan-Lambert compromise, which is the true compromise of this committee which passed overwhelmingly. Flow control, I recognize, is not easy for anyone to understand. But if you live in a community in this country that has a coordinated waste management plan, then you know exactly what we are talking about, and many of them are in very difficult straits because of a court ruling that reversed the orderly development of flow control in this country.

Increased knowledge of the environment has given us a greater understanding of the consequences of waste disposal. Because of the importance of protecting the natural resources, Congress passed environmental laws designed to protect groundwater supplies and other natural elements. The Solid Waste Disposal Act, commonly known as RCRA, was passed to insure safe disposal of solid waste.

One of the side effects of the passage of RCRA was the reduction in the number of landfills and an increase in the cost of waste disposal facility construction and permitting. Furthermore, RCRA increased awareness of solid waste issues in State legislatures. This awareness, in conjunction with other reasons, led many legislatures to pass State waste management laws and recycling requirements to reduce flow. It is these State laws which contain the flow control provisions that have stimulated the legal battle and congressional concern.

Municipal solid waste residential flow control is a necessary tool for communities to insure the proper handling of solid waste. Municipalities have historically been held responsible for proper and effective residential waste disposal in order to protect health, aesthetics and safety in the community.

Flow control authority was established for communities by States to insure several things. State legislatures wanted to insure proper waste management practices were being performed, including waste reduction, recycling, composting, waste to energy—incineration—and landfilling. This coordinated waste management structure was and is seen throughout States and local government as an effective and environmentally friendly way to manage waste.

Opponents of flow control will argue that flow control may result in high waste disposal fees. There is a simple and good explanation for this. Along with flow control ordinances, a community generally enacts a coordinated waste management plan which is environmentally preferable to the option of simple landfilling. It is the environmentally friendly waste management plan that gives the impression of higher costs associated with flow control. Flow control enables the municipality to get the best deal for its taxpayers and absorb environmental costs.

Opponents of flow control would have you believe that flow control authority is anticompetitive. This is not the case. In fact, many communities which exercise flow control authority do so through private companies which have competitively bid for selection. Furthermore, this legislation requires competitive bidding be a part of the process in the implementation of any flow control authority which is not now required. Therefore, it will engender more, not less, competition.

The fundamental responsibility of waste disposal lies within the local community and on their elected officials. These officials must decide what waste disposal methods are in the long-term interest of the community. Officials must be able to insure safe disposal as well as waste reduction options which can be viable for the long-term. Flow control must be one tool which can be utilized to achieve health and environmental goals consistent with a community's needs.

I urge my colleagues to support this legislation.

□ 1730

Madam Chairman, this is a must bill for communities that are trying to do a comprehensive, environmentally effective job. I urge my colleagues to pass this bill as turned out by the committee.

Mr. SWIFT. Madam Chairman, I yield 2½ minutes to the gentlewoman from Arkansas [Ms. LAMBERT].

Ms. LAMBERT. Madam Chairman, today I rise in strong support of H.R. 4683, a bill to assist local communities in managing the disposal of their solid waste.

Many may ask, what is flow control? Many of us have learned from our local communities, flow control is an important tool locals use to manage the disposal of the huge amount of trash that we produce daily. Flow control grants communities the authority to direct that waste generated within waste management districts be disposed in the district.

Unfortunately this tool has been taken away by the Supreme Court in the Carbone decision that came down in mid-May. This decision held that communities who implement flow control violate the interstate commerce clause of the Constitution because flow control impedes the flow of interstate commerce. Along the lines of Philadelphia versus New Jersey, which was the original case that determined that solid waste was a commercial commodity, flow control was struck down as unconstitutional.

Since the Carbone decision, communities have not known where to turn. Many communities invested large sums of money in new disposal facilities to meet requirements which need the waste stream to generate the revenue to pay off their debt. However, without flow control, these communities will not be able to do this.

Mr. SWIFT, Mr. PALLONE, Mr. MCMILLAN, Mr. MINGE, and I have been working with the local communities and they in turn have forged a compromise with waste management, Ogden, the recycling industry and the public financing authorities to address flow control after the Carbone decision. I believe it is a good compromise, good policy and the only approach with such a broad base of support.

H.R. 4683 reflects this agreement. It grandfathers current facilities and the amount of waste they currently flow control. In addition, it grandfathers management plans for waste disposal. The Richardson/Fields approach would only grandfather current facilities until the end of their lives. However, this limited fix would not help communities that have instituted integrated management plans for the disposal of solid waste. Many communities have in place various methods of waste disposal, including recycling, composting, landfilling and incineration. My concern with Mr. RICHARDSON's simple grandfather is that if one of the disposal components within the entire waste disposal system, such as the composting facility, becomes either obsolete or worn out, communities will be unable to flow control to the new facility which would treat the same amount as the old facility thus breaking down the whole integrated waste management plan.

Mr. RICHARDSON's proposal also would not grandfather those communities that have invested large financial and personal resources and are in the process of implementing flow control. For example, in my district, one of the waste management districts decided to implement flow control in

January of this year. From January through to the Supreme Court decision in May, they passed a regulation and followed up with ordinances from each major city and county. However, they were unable to secure all of the ordinances before May 16, the date of the Supreme Court decision declaring these type of arrangements unconstitutional. Now this community has secured financing to purchase a landfill through the issuance of a revenue bond and devoted much time and money—however, they would receive no relief and be out of luck under the Richardson amendment. H.R. 4683 would cover this type of situation and grandfather communities who have devoted significant financial and technical resources to the development of their flow control activities.

In addition, the simple grandfather offered by Mr. RICHARDSON and Mr. FIELDS would not cover the expansion of existing facilities that need more space. H.R. 4683 would.

Local communities, in many cases, have taken the initiative to finance innovative methods to handle trash. They have installed recycling facilities, composting facilities, household hazardous waste pickup and disposal facilities in addition to the more traditional method of landfilling and incineration. These communities should have the ability to continue their work.

Local communities have always had the ultimate responsibility of disposing our trash. We don't appreciate the hard work they do or the headaches they endure to make sure that every Monday morning the trash is removed. All we do, in many areas, is put our trash bins out on the curb, and we expect that the waste is removed and disposed of in an environmentally sound way.

These local communities should have the tools available to them to control the movement of the waste so that when they plan in the future, in an environmentally responsive way, both for disposal techniques and future capacity, that they have some certainty that they can carry out their plans.

H.R. 4683 would not include the prospective flow control of commercial waste, but it would include the prospective flow control of residential waste under 2 very important stipulations: As long as there is a competitive bid process and as long as there is the presorting of recyclables before the disposal of the waste.

This is a good bill and good policy, and I urge you to vote "yes" on H.R. 4683 and "no" on the Richardson amendment.

Mr. OXLEY. Madam Chairman, I yield 2 minutes to the gentleman from upstate New York [Mr. WALSH].

Mr. WALSH. I thank my friend for yielding this time to me and also for his leadership, along with that of Mr. SWIFT, Mr. PALLONE, and Ms. LAMBERT, on this bill. I rise in strong support of committee bill H.R. 4683.

I would also like to identify myself with the comments of the gentleman from Washington [Mr. SWIFT] and the gentleman from Ohio [Mr. OXLEY] on this bill.

Flow control is smart; unfortunately, the Supreme Court did not agree with that. But they did leave us the opportunity to intervene statutorily, and this is our chance.

We have a good bill before us. I urge my colleagues to support the committee bill and oppose the Richardson-Fields amendment. Flow control is proenvironment. It allows a municipality to charge a higher fee so that it can do the recycling and the other aspects of waste removal which are required. Is it not better that every community in America handle its trash locally than to send it all over the country by truck or train or by whatever transportation vehicle there is? It is better to take care of it locally. It is better than a landfill. There are toxics, certainly, that are emitted from the smoke stack but the technology has improved dramatically. It is far safer in the long term than the time bomb of a landfill which will allow toxic wastes to go into our water supply and pollute the land and the air. It is also wasteful to ship.

I would like to read just a portion of a letter I received from our county legislature:

> Our Onondaga County solid waste system includes several components, including recycling, yard waste composting, household hazardous waste collection, waste-to-energy production and finally landfilling. Our recycling program has received national recognition and awards for recycling approximately one-third of our waste stream. Our community has borrowed more than $175 million for the construction of a waste-to-energy facility that will greatly reduce the volume of waste. Additionally, our community will also benefit from the sale to Niagara Mohawk Power Corporation of electricity produced at the Rock Cut Road Waste-to-Energy Facility.

Madam Chairman and my colleagues, this legislation is good legislation. It will help all of our communities to deal with their own problems rather then send their waste around the country somewhere else.

Mr. SWIFT. Madam Chairman, I am happy to yield 2 minutes to the gentleman from Washington [Mr. KREIDLER], a member of the committee.

Mr. KREIDLER. Madam Chairman, I thank the gentleman for yielding this time to me.

Madam Chairman, some say that this bill is bad for the environment—that it will hurt recycling and encourage incineration.

I am now and always have been a strong supporter of recycling. I am from a State that strongly supports recycling.

That is why I am also a supporter of this bill.

It will help local communities develop stable and comprehensive recycling programs.

It will give recycling companies like Weyerhaeuser the certainty they need to make investments in recycling technologies.

If this bill would harm recycling efforts, why is it supported by those who make a living by recycling, including the Institute of Scrap Recycling, Weyerhaeuser, and the American Forest and Paper Association?

If this bill would encourage incineration, why is it opposed by large waste management companies, many of whom construct, own, and operate incinerators?

I urge my colleagues to recognize this argument for what it is—a red herring—and to support the bill.

□ 1740

Mr. OXLEY. Madam chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. SMITH] who has been an active participant on this issue since its inception, and I salute his leadershop on this important issue.

Mr. SMITH of New Jersey. Madam Chairman, I thank the gentleman from Ohio [Mr. OXLEY] for those kind words, and I thank he and the distinguished chairman, the gentleman from Washington [Mr. SWIFT], for this good work on this. Although I am not a member of the subcommittee, the chairman and the ranking member have been very, very kind in extending their hand to me to be a part of the process, and I am very grateful for that and say, "Thank you, Chairman SWIFT."

Madam Chairman, I rise today in very strong support of H.R. 4683, the Waste Flow Control Act, a bill to help remedy the solid waste management crisis created by the Supreme Court's May 16 decision in Carbone versus Clarkstown, New York. In the Carbone case, Madam Chairman, the High Court seemingly pulled the plug on each and every flow control ordinance in the land. Flow control, the ability of governments to direct the garbage to its ultimate disposal, was, as the court said, not authorized by Congress and thus ruled that such an ordinance was an excessive burden on interstate commerce. The court, however, invited Congress to take action and to authorize flow control as a means of garbage management and as a means to finance long-term, environmentally sound, integrated waste management programs.

Madam Chairman, H.R. 4683 answers the Court's invitation and grandfathers those laws, and ordinances, and solid waste management plans adopted prior to May 15 so that local governments can continue to regulate the transportation management or disposal of their trash. The bill, which is a produce of hours, weeks, of labor, of negotiations and a bipartisan consensus building protects the investments of time, money, energy and resources made by State and local governments in order to procure safe, clean, and financially efficient garbage disposal. Additionally the bill provides for a strong free market and public involvement through a new competitive bidding and designation process.

Madam Chairman, flow control is the linchpin of waste management self-sufficiency for my State of New Jersey and for many, many other States. Flow control enables communities to determine their waste tonnage, their cost projections, their financing needs, and their disposal methods and capacities. To date New Jersey communities have assumed a $1.6 billion debt in bond obligations in order to move forward with high tech recycling, waste to energy and composting facilities. If we do not protect waste flow control authority, this debt and the $10 billion debt incurred through projects around the country will be shifted to the taxpayer while future technologically sophisticated projects are likely to be scapped.

Madam Chairman, over the past several months I have worked very hard with a dedicated group of people representing diverse interests to develop a consensus approach to flow control policies and protecting taxpayers. This coalition, with more than 300 members, includes recycling groups, the Public Securities Association, State and local governments such as the National Association of Counties, the League of Cities, the Conference of Mayors and many others all working together in a cooperative way to find solutions.

This agreement did not come easy. I would like to especially point out that in my own State Mercer County Executive Bob Prunetti did an outstanding job in leading the county executives around the country and in making sure that this job was done, and I also would like to single out David Brooman who drafted major portions of this bill, and he is the unsung hero in this long journey to waste flow control enactment.

Mr. SWIFT. Madam Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Madam Chairman, I thank and commend the distinguished chairman, the gentleman from Washington [Mr. SWIFT], and my colleague, the gentleman from New Jersey [Mr. PALLONE], for their leadership in this legislation.

New Jersey has the most developed system of planning and regional self-sufficiency in the Nation. This hard won achievement was in response to the victimization of the people of the state by racketeers. Hiding behind the facade of private sector businesses, these mobsters monopolized the private handling of waste hauling, engaged in the illegal dumping and mixing of toxic waste with municipal trash. I will, under leave to include extraneous matter, include a related Wall Street article in my statement.

In the Carbone decision, the Supreme Court struck down the authority of state and local government to direct the flow of interstate waste. Under this decision, waste haulers cannot be directed by States or localities to specific facilities for waste disposal. The Carbone case was largely paid for by organized crime.

New Jersey has paid approximately $1.6 billion for waste disposal self sufficiency. This money has funded transfer stations, resource recovery facilities, recycling and incineration centers. Without flow control, these facilities will be unable to meet bonding obligations. Failing to pass flow control legislation will require local taxpayers to pay huge tax increases to pay off defaulted bonds. This legislation prevents needless increase in local taxes.

Flow control is not a question of free markets. Let me quote the New Jersey attorney general in her brief before the U.S. Court of Appeals.

> The purpose of New Jersey's system was to take control of an industry facing capacity and corruption crises in the 1970's and '80s and to insure that every piece of solid waste in this State had an environmentally sound destination [and was properly handled] at a just and reasonable rate. Essentially we note that New Jersey has tried the free market in the solid waste industry and it has failed. The free market in this state resulted in the disposal crises and in industry-wide indictments for anticompetitive conduct.

In August, the New Jersey attorney general indicted the individuals who were major contributors to the Carbone case. In a 31 count indictment including fraud, racketeering and theft, the conspirators were accused of having "masterminded a sophisticated, multimillion dollar shell game.—through sham recycling and other unregulated companies.—they have maintained their place in the solid waste industry" after having been fined $4 million and banned from that industry in the 1980's.

Waste disposal is a $26 billion industry. Do not give a huge subsidy to organized crime. Support the flow control legislation.

FIGHTING CITY HALL: IN A TUSSLE OVER TRASH, 2 HAULERS COULD WIN RULING COSTLY TO TOWNS

(By Jeff Bailey)

HILLSDALE, NJ.—Municipal sanitation chiefs across the country face a frightening prospect: a Supreme Court decision expected soon that could strip away their control over trash, threatening billions of dollars of public investment in dumps and incinerators. The legal challenge doesn't come from a national waste-control company but from two local garbage haulers who are hoping for sweet revenge.

For 15 years, state and local officials have tried to run Salvatore and Carmine Franco out of the garbage business in part because, they allege, the Francos have Mafia ties. New Jersey wants to bar the two brothers' grown children, too. And authorities in the state are preparing a sweeping criminal case, hoping to seize much of the family's wealth and send the elder Franco to jail.

The Supreme Court case runs along a separate legal path and can't stop the anticipated indictments, but it does give the Francos a chance to get even. It also underscores the increasingly rancorous battles between municipalities and haulers for control of the $25 billion-a-year trash industry. At stake are many municipal budgets, more than $10 billion in bonds issued to finance waste facilities and, ultimately, the garbage fees paid by millions of households and businesses.

"The satisfaction I'm going to get," Sal Franco, the more diplomatic of the brothers, says of the possibility of a high court decision in his favor, "is that I kicked their a p---." The surprising story stretches from three unsolved murders to a trash-strewn expressway to the halls of Congress.

A municipal role in trash initially made sense. Many places had been gouged by private haulers found to have engaged in collusive price-fixing and bid-rigging schemes during the 1970s and 1980s. Public officials were further alarmed by the tendency of some privately operated dumps to turn into toxic sewers.

But many cities and counties may have gone too far. They invested heavily in dumps, incinerators and garbage-transfer stations and then legislated "flow control," which allows them to commandeer all the trash within their borders and direct it to a favored disposal site. Once wielding monopoly power, many municipalities jacked up their dumping fees to pay for other services, such as recycling, cleaning up old dumps and salaries for sanitation officials. Haulers fumed.

Then, although officials had predicted a shortage of dump space, a glut developed. And market forces began eroding public control. Haulers cheated on flow control, sneaking trash off to cheaper private outlets. And some, like the Francos, sued.

Their case, C&A Carbone Inc. (named for some partners) versus Clarkstown, N.Y., involves a transfer station just over the New Jersey border into New York, where trucks were unloaded and waste was repacked into big rigs for trips to dumps in Pennsylvania and beyond. Authorities in New Jersey and New York, suspecting that the Francos were diverting trash from municipalities in both states in violation of flow-control laws, mounted an impressive investigation: helicopter surveillance, troopers pulling over big rigs on interstate highways and an armed raid by more than 30 law-enforcement officials in June 1991 to seize records.

Officials may now wish they hadn't bothered. Many experts expect the Supreme Court to rule for the Francos, holding that flow control illegally interferes with interstate commerce. If so, municipal sites could get too little trash and disposal prices could plunge in some areas. That could trigger a price war among haulers, to the benefit of businesses and consumers.

Most vulnerable is the Francos' home turf; New Jersey has nearly $2 billion invested in public trash facilities. Some counties charge $100 a ton and more to dump, while $50-a-ton disposal abounds across the Delaware River in Pennsylvania. Fearing defeat, local-government groups already are lobbying Congress to preserve some sort of flow control and protect public-sector investments and bondholders.

The Francos, acknowledged as talented entrepreneurs even by some government critics, would probably prosper in no-holds-barred competition. With additional transfer stations here in Bergen County, N.J., and in Philadelphia, and a sizable hauling operation, the family business has annual revenue of $50 million to $100 million. It is one of the largest haulers in New Jersey, a state with a fragmented market that WMX Technologies Inc. and Browning-Ferris Industries Inc., which operate nationally, have yet to dominate.

Entering the New Jersey hauling business in 1963, the Francos showed an early flair for organization. In 1976, Carmine Franco became president of a haulers' group, the Trade Waste Association, that law-enforcement officials have frequently alleged brought to New Jersey a New York City-style price-fixing system. What set that scheme in motion, the New Jersey Board of Public Utilities concluded after hearings, was Mr. Franco's bold move in setting July 1, 1977, as the cutoff date for competition; customers swiped from other haulers before then could be kept but, after that date, a hauler's accounts couldn't be touched.

After official meetings of the trade group, Carmine Franco would adjourn to a restaurant to settle grievances among haulers. Sal Franco says his brother's edicts weren't binding, that haulers were "free to tell Carmine * * * 'I'm not giving the customer back.'"

Subduing competitive instincts proved difficult. Alfred DiNardi, a New Jersey hauler who took customers from rivals, was shot to death in a New York City parking garage in June 1976. Gabriel San Felice, another hauler who bid on and took a rival's account, was shot dead in May 1978 while dropping a load of garbage at a dump. And Crescent Roselle, a hauler who had lost business to both victims, was himself murdered in December 1980 outside his office. All three killings remain unsolved.

Another hauler, Eugene Sorgine, underbid the Francos in the 1970s on a job to operate a dump. He later sold his business to them. About the same time, a fire broke out at his house.

No one has been charged. "So his house burns," Sal Franco says, denying any involvement. "We get blamed for it. Three guys get killed. Police tried like hell to attribute that to us."

During a daylong interview while touring the trash facilities of Bergen County and Clarkstown in his Mercedes sedan, the 55-year-old Mr. Franco says he and his brother aren't Mafia-connected, though he acknowledges they know a few mobsters socially.

Tino Fiumara, identified by law-enforcement officials as a Genovese crimefamily soldier, "was a friend of ours," Sal Franco says. Mr. Fiumara was released in early February after 14 years in prison on racketeering and extortion convictions. Sal Franco says he has also socialized with Salvatore Avellino, the Long Island trash chief for the Lucchese crime family. Mr. Avellino pleaded guilty in mid-February to racketeering charges that include extortion and conspiracy in the murder of two haulers who defied Mafia price fixing.

Carmine Franco himself, now 58, pleaded guilty to a misdemeanor in the 1983 Trade Waste Association price-fixing case, in which New Jersey charges against organized-crime figures, including Mr. Fiumara, were dropped. The judge who in 1983 sentenced Mr. Franco to 180 days, served on work release, said evidence of his mob ties "is almost solely by way of innuendo, hearsay and triple hearsay."

While the Francos have never been accused of a violent crime or extortion, the mob tag—asserted by New Jersey and other states' law-enforcement officials and widely publicized—has stuck. "The newspapers do a hell of a job," Sal Franco says. "My customers don't want to leave—they're afraid. Even our lawyers think, well maybe."

After Carmine Franco's guilty plea, the Francos and New Jersey officials settled into trench warfare. The state bumped a $4,000 fine up to $2.2 million, though a state appellate court reversed that. The state litigated until 1987 and finally succeeded in ousting Carmine Franco from the New Jersey trash business. (He now runs the Philadelphia operation.)

Along the way, the Francos frustrated public officials' broader goal of controlling trash and thus established themselves as a defiant presence. In the late 1980s, Bergen County, for instance, built the nation's biggest transfer station, about four times the size of a football field and capable of handling all the county's trash. That ignored, however, the fact that private transfer stations, including one owned by the Francos, already had ample capacity. The county tried using flow control to force trash into its facility, but, in a test of wills with haulers, lost.

One morning, Sal Franco drops by the county plant and finds it quiet. A trickle of no more than 400 tons of trash a day arrives at the facility, though it is designed for up to 3,750 tons daily. Albert Adcock, security chief for the county utilities authority, welcomes Mr. Franco, and the two men commiserate over the recent demise of a favorite Hackensack saloon.

Nature calls, Mr. Adcock offers his washroom to Mr. Franco, and alone with a reporter, volunteers: "All that stuff you hear about Sal, it's bull s---." In the background, a bulldozer slowly pushes a trash pile around the plant floor.

In contrast, the Francos' Sal-Car transfer plant in Hillsdale is a model of efficiency, with trucks lined up to empty trash onto a tiny tipping floor where a giant compactor immediately reloads the waste into big rigs.

Indeed, state and local officials charge that the site has been too busy, exceeding its daily permitted limit and, in effect, spreading to adjoining Franco property that lacks a proper permit. The state has also gone after the Francos for having too many hauling permits, which makes it difficult to put them out of business; if one hauling permit were revoked, state officials complain, the Francos could shift customers to another hauler.

Sal Franco was banned from the industry in New Jersey administrative proceedings involving multiple hauling permits, and the state later charged him with contempt for allegedly continuing to run the business. The state has also sought to bar six grown sons and daughters of Carmine and Sal Franco who, according to the Francos, now run the business.

Nearly all these disputes, in which the state seeks millions of dollars in penalties, have been appealed by the Francos from administrative proceedings to state courts. The Francos deny wrongdoing.

Steven J. Madonna, the state environmental prosecutor who has overseen much of the civil litigation, says he wants the Francos out of the trash business. "We're working toward ending their involvement," he says. Of their alleged business ties with the mob, Mr. Madonna says, "I don't think anybody cannot take into account that reality." He mentions murder, violence and arson. "I'm not making a leap that that is the Francos. But it would be unreasonable to disregard that."

In recent months, meanwhile, Sal and Carmine Franco and some of their grown sons have received so-called target letters from the state attorney general saying they could soon be indicted on criminal charges. A state official confirms that an indictment is expected soon, but won't discuss the charges. Sal Franco says the charges would include theft for diverting trash from Bergen County's flow-control system and contempt for his staying in the business. He expects the state to seek prison terms for him and Carmine and financial penalties as high as $20 million. "They're going to come up with a big one. I guarantee you."

The increasing nastiness with New Jersey officials followed the Francos to their New York state operation, where Sal is an owner but Carmine never was (through he helped in the business). Clarkstown also has flow control, requiring haulers to dump at a town transfer station for $81 a ton. The Francos were doing business nearby at $70. Clarkstown, losing volume, went looking for the reason.

The town's police staked out the Francos' business, first trying to hide beside the Deer Head Inn, a tavern up the road. "We thought it was a speed trap," says the bar's owner, Ken Brennan, who sent a bartender out to ask the police if they wanted anything. Police switched to helicopter flyovers. "Real cloak-and-dagger stuff," Sal Franco says.

The break in the case come in March 1991, when an Indiana trucker, Carl E. Drake, loaded up with trash at the Franco site, got lost and turned into the Palisades Interstate Parkway, which bars trucks. His trailer rammed the first bridge it came to, spilling the trash.

On the bridge overhead, Carmine Franco was soon spotted trying to direct a hurried cleanup, according to Paul D'Alessandro, a Clarkstown detective. Troopers and police started pawing through the mess and say they found what they were looking for, Clarkstown trash, by looking at addresses on the junk mail.

The Francos say that the trash was from elsewhere and that local stuff must have got mixed in when police impounded the load and took it back to the Clarkstown transfer station for a closer look.

In the following weeks, police pulled over and checked the loads of more truckers leaving the Franco operation. Then, in June 1991, police, prosecutors and environmental regulators from New York and New Jersey, guns drawn, descended on the site. "They opened the door and pointed their guns into the office," says Linda Franco, Sal's daughter, who was working there at the tme. She was frightened. For that, Mr. Franco says Clarkstown can expect an especially spirited competitive effort from the Francos should the Supreme Court toss out flow control. "I'll never forgive what they did to my daughter," he adds.

The Francos haven't fought this battle entirely on their own. More than 100 New Jersey and New York haulers paid $1,000 apiece last fall to attend a legal-defense fund-raiser in Manhattan. And the Franco case has become a darling of the free-enterprise set. Friend-of-the-court arguments poured in from, among others, Detroit's Big Three auto makers, the National Association of Manufacturers and the Chemical Manufacturers Association; big business also doesn't like to be told where and at what price to dump its trash. "Hell no, we won't flow," says Bruce Parker, a Washington lawyer for a haulers' group.

On the other side, municipal governments weighed in, warning about bond defaults and environmental risks if haulers prevail. "We're talking disaster," says H. Lanier Hickman, head of a municipal trash officials' group.

After oral arguments before the Supreme Court last December, Detective D'Alessandro walked up to Sal Franco and asked, "Who would've thought it would wind up here?" The hauler replied: "You underestimated the Francos."

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Mr. Chairman, first of all I rise in support of H.R. 4683. Let me congratulate and thank my distinguished colleague, the gentleman from Ohio [Mr. OXLEY], and also acknowledge the leadership of the gentleman from Washington [Mr. SWIFT], the gentleman from New Jersey [Mr. PALLONE] and the gentlewoman from Arkansas [Ms. LAMBERT] on this important piece of legislation.

Mr. Chairman, H.R. 4683 allows for the control and management of municipal solid waste. The bill reinstates local government authority to manage the flow of municipal solid waste.

Mr. Chairman, for two decades local governments have exercised authority over the flow of municipal waste within their jurisdiction. It was this authority which has allowed municipalities to build the facilities required to address the solid waste needs of their residents.

Without the ability to control the flow of municipal waste, local and State governments would be unable to finance the needed waste management infrastructure, including environmentally sound technologies such as recycling and composting. Unfortunately, this spring that control was put in jeopardy by the Supreme Court.

Flow control is a key mechanism for implementing local government decisions regarding integrated municipal solid waste management. Once the decision has been made to develop new waste management infrastructure, flow control is a means, first, to effectuate that decision regarding the best method for managing MSW, and, second, securing the community's financial support. Without flow control, many communities would not be able to develop environmentally advanced MSW management systems. This reflects the fundamental fact, recognized in a lengthy study by Congress' Office of Technology Assessment, that if left to the normal operation of the economic forces of the marketplace, MSW will flow to the lowest cost, short-term alternative. I must emphasize short term. If we want local government to develop long-term environmentally sound MSW management systems at stable prices for our constituents then they must have flow control authority. It is that simple.

I should also emphasize that environmentally sound MSW management and public health protection are the predicate for exercising flow control authority under State laws. Moreover, the use of flow control offers additional environmental benefits. One example is a significantly increased commitment to recycling. Flow control authority allows local government to provide very costly recycling, yard waste collection, household hazardous waste collection, and other types of programs without imposing any direct charge on their residents for those services. That powerful incentive for recycling would not be possible without flow control authority.

I must also note that H.R. 4683 represents a very exhaustive compromise effort that included all sectors of the waste industry, local government, recycling industries, and others. The process that led to this legislation was extraordinarily inclusive.

In particular I want to emphatically reject a myth that some have offered to oppose flow control—specifically the false claim that flow control is anticompetitive. The private waste industry is highly concentrated, and becoming even more so. That concentration has been coupled by explosive growth in the industry and outstanding profitability. I would simply refer you to the recent annual reports filed with the SEC by major waste management companies. Their profits are soaring. And as emphasized by these reports, growth has been the dominant feature of their business. All of this has occurred in direct parallel with increasing use of flow control by local government. Don't get me wrong, I have no problem with increasing profitability. But in the face of these facts, the assertion that flow control is anticompetitive doesn't hold any water.

In addition, flow control is not a debate between public versus private facilities. Local governments that rely on flow control repeatedly use a competitive process to procure waste management services from private companies. And flow control allows those communities to obtain environmentally sound waste management capacity for the long term at stable prices.

Finally, yesterday we approved H.R. 4779, which will restrict the ability of States to export municipal solid waste and require exporting States to become more self-sufficient. Flow control is the essential complement for restrictions on interstate transportation of MSW. Flow control provides local government with the tools for self-sufficiency.

On May 15, 1994, the Supreme Court ruled in C&A Carbone versus Town of Clarkstown that local governments do not possess the ability to control the flow of waste unless Congress grants it to them. H.R. 4683 does just that. It will grant our governments the authority they have relied on for decades to address their municipal waste needs.

Mr. Chairman, we cannot deny our towns, cities, and counties the tools they need to govern. We must pass H.R. 4683, and I encourage all my colleagues to join me in supporting this important measure.

Mr. SWIFT. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. MINGE] who has been a consistent worker on this issue since the first day he walked onto the floor in this Congress.

□ 1750

Mr. MINGE. Madam Chairman, I would like to associate myself with the remarks made by other Members of this Chamber. I certainly agree with their insights, their comments, their analysis, of the problem we face. I would just like to briefly outline a slightly different approach to what we are trying to address in this legislation today.

We had a lot of discussion in Congress in the last few months about unfunded mandates, and we have had a lot of discussion about the impact that this has on local units of government. In fact, the Federal Government and States have placed an unfunded mandate in many respects upon local units of government, and that mandate is that solid waste, or trash, must be disposed of in a manner that is consistent with the environmental laws that have been passed in this city and in State capitals around the country.

Local communities have responded to this mandate. They have constructed state-of-the-art facilities. They have constructed landfills. They have gone to great expense. They have bonded to cover the financing costs. And what they have found is that once they constructed these facilities and tried to make sure that they were financially self-supporting, they were involved in litigation. That litigation, tragically, resulted in the U.S. Supreme Court determining that trash is a commodity and, when it moves in interstate commerce, only Congress can regulate its flow. Consequently, we are here this afternoon.

The other tragic aspect of the litigation is that these local units of government that have acted responsibly to meet an unfunded mandate, have had the power, the tools that they need, to meet this mandate, stripped away.

This legislation goes a long way toward redressing this tragic result. One thing that we still have to address is what do we do with the hundreds, perhaps thousands, of local units of government that are still in the process of trying to determine how to effectively and economically deal with their trash problems, and what can we do in the future to ensure that they have the tools available to them to meet this mandate in a responsible fashion.

I know that this added concern is one that is shared by many Members of this institution, and hopefully in the months to come, we will find a way to resolve that as well.

But in the meantime I would like to join with the other Members here in indicating my support of H.R. 4683, and urging all Members to support this important legislation.

Madam Chairman, on May 16, 1994, the U.S. Supreme Court ruled that local flow control laws were unconstitutional. This stripped local governments of the tools they need to meet environmental standards handed down by the Federal Government. In her concurring opinion, Supreme Court Justice Sandra Day O'Connor made clear that it was within Congress' power to authorize and make available local autonomy over waste flow control. All Congress has to do is act and that would promote the continued use of innovative and environmentally sound solid waste management.

Afer 1½ years of negotiations, H.R. 4683 represents a compromise agreement reached by local governments, some of the waste management industry, public finance groups, and others impacted by court decisions against waste flow control.

Flow control simply means that local governments can designate an environmentally safe facility for trash disposal. When the Federal Government mandated that States meet minimum environmental standards for garbage disposal, some of our localities adopted flow control ordinances in order to comply with these unfunded Federal mandates. In trying to meet these mandates, some communities borrowed millions of dollars to build environmentally sound disposal facilities with the assurance that they could designate that site as the community site for garbage disposal.

In my own district, two counties issued $7.9 million in revenue bonds to construct a state-of-the-art composting facility. To ensure that waste generated within the counties would be disposed of at the new facility and to protect the integrity of those outstanding bonds, the counties implemented the flow control ordinances. But a waste hauler—which owns a landfill in Iowa—challenged flow control, and now, the counties' municipal solid waste is being hauled over the border and dumped into the clay-lined landfill.

With the recent Supreme Court decision and local ordinances overturned, responsible solid waste management has been handicapped and the integrity of some $18 billion nationwide in outstanding municipal bonds has been undermined.

This compromise would allow: First, flow control over residential waste and second, flow control over commercial waste only in those communities which have already designated a facility for commercial waste—or that had committed to designate.

Flow control is an option for our localities—not a requirement. In Minnesota we encourage private enterprise as the preferred waste managers. Flow control is only our final tool to ensure that RCRA mandated standards are met.

Support this legislation and restore local government choice. They know better than we what is best for them.

Support this legislation and unite the hands of local government in their efforts to manage their waste stream in a way that's sound economically and environmentally.

Support this legislation and promote recycling and the environment. Without flow control, environmentally sound disposal methods will likely be replaced with the cheapest disposal option—large regional landfills.

And finally, support this legislation and give our localities the tools they need to protect our environment—and in turn—protect our children and our communities.

Mr. OXLEY. Madam Chairman, I yield 2 minutes to our good friend the gentleman from upstate New York [Mr. BOEHLERT].

Mr. BOEHLERT. Madam Chairman, forget about every negative argument you have heard about flow control. Quite simply, they just do not flow. As the House considers H.R. 4683, let us look at the facts.

Fact No. 1: A reversal of flow control policy represents a classic unfunded mandate. The Federal Government requires that municipal solid waste be disposed of in a particular manner, and then it strips States and local communities of the means to meet these requirements, including jurisdictions that have invested millions of dollars and made long-range commitments to properly dispose of solid waste in an environmentally sound manner.

Fact No. 2: The bill is not bad for the environment. In fact, failure to pass this bill may jeopardize current successful environmental programs already implemented by many local communities.

Fact No. 3: Flow control authority is not anticompetitive. Under H.R. 4683, flow control arrangements would have to meet strict competitive standards before flow control authority would be granted.

Fact No. 4: Flow control policy represents a successful partnership between the private sector and local governments. Flow control systems often result in lower costs for the consumer due to high volume business and increased negotiating leverage.

These are the facts, Mr. Chairman. H.R. 4683 is responsible legislation, and we are doing it in a responsible manner. We are doing the House proud, because this is a bipartisan measure. Republicans and Democrats, the gentleman from Washington, Chairman SWIFT, the gentleman from Ohio, ranking minority member OXLEY, working hand in glove, consulting every step of the way, to fashion a bill that deals with a serious national problem in a very responsible way.

Madam Chairman, I urge my colleagues to support this worthy legislation.

Mr. SWIFT. Mr. Chairman, I am happy to yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding, and congratulate him and his ranking member, the gentleman from Ohio [Mr. OXLEY] for their work on this.

Mr. Chairman, solid waste and dealing with solid waste and the problems of solid waste are I think one of the leading environmental problems in the country. It is an issue that is intrinsically local in its nature. It is simply impossible for us to superimpose an overall solution on the Nation. This is something that involves education, and it involves a myriad of different efforts at the local level.

In fact, that effort has begun. It is amazingly successful in many of our communities. As I have seen States convey to the counties certain responsibility in Minnesota, they have entered into agreements and attempted successfully to deal with solid waste, recycling, and trying to provide the impetus to the market.

In order to do that, they have what they call tipping fees they charge when there is solid waste put in a solid waste facility, a landfill, or put into a process for recycling. Most of them necessitate a subsidy because the market does not sustain them, but we know environmentally it is much better to recycle the aluminum, to use the various products that can be recycled.

Unfortunately, this particular system is about to have the rug pulled out from under them. They cannot do that unless they have the tools. The rug is being pulled out by someone in Iowa or Wisconsin, saying you can come dump this in my landfill and pay a much lower tipping fee. Of course, at the point of the customer, where the customer is paying, they can dramatically reduce the price, undercutting those dealing with this in an environmentally sound manner.

I know there has been some very creative thinking here in terms of how to avoid this problem. So they have appealed through the courts under the interstate commerce laws, as is appropriate. The end result, of course, is you are going to have anarchy.

If we want this issue dealt with, you have to put the tools in the hands of the local and State governments so they can do it. We are not going to do it in Congress. You are not going to avoid the dreaded incinerator, which apparently is one of the criticisms here, that there is someone who bonded an incinerator. They bonded incinerators for some waste, and when they cannot recycle it, they burn it.

Vote with the committee, and against the amendments which weaken the tools given to local governments.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to my old friend and colleague just north of my district, the gentleman from Ohio [Mr. GILLMOR].

Mr. GILLMOR. Mr. Chairman, I rise to support the bill and to oppose the amendment to be offered by the gentleman from New Mexico [Mr. RICHARDSON].

I was president of the Ohio Senate in 1988 when our State passed one of the most comprehensive, forward-thinking solid waste disposal laws in the country. We did what Congress wanted us to do: We planned for our disposal needs well into the future, set up local solid waste districts, and required management plans. We gave local waste districts the power to designate where their waste would go. That is called flow control.

Some of the waste districts quickly designated facilities to which their waste would go. Some bought land to guarantee future disposal space. Some decided they would wait because their disposal needs would not change for a few years. That is, they wouldn't need to build a new facility for several years thus make an obligation of public funds, buy land, site the facility, go through permitting, and so on.

We have counties across our State in varying stages of solid waste planning and management, and varying amounts of effort and investment that would be lost without flow control. It is the same thing all across the country—cities and counties find themselves in different positions. The Richardson amendment would leave a lot of them financially exposed. For example, it wouldn't protect a community that has perhaps spent years and significant of money siting a facility but has not yet "committed to its construction." The committee-passed bill would protect a much broader range of situations.

If we pass the Richardson amendment, we risk creating a disparity between two communities that are at exactly the same point in their waste planning process, except that one merely hasn't formally signed a construction contract. The solid waste management process involves a great deal more than simply signing a contract, and the committee-passed bill recognizes this. Let us stick with the bill as it is.

□ 1800

Mr. SWIFT. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Chairman, I rise in support of H.R. 4683, legislation that I believe is crucial to the promotion of responsible solid waste management.

During my tenure as mayor of Akron, OH, in the early to mid-eighties, Akron's flow control ordinance was challenged by private haulers as being unconstitutional. At every legal step, including two appeals to the Supreme Court, I fought successfully to retain Akron's law. As mayor, I understood how vital flow control authority is to responsible waste management planning. Local governments have the responsibility to pick up and dispose of all of the trash generated within their borders. We simply cannot allow them to lose the principal tool they have to finance the construction and operation of the facilities they need to meet this obligation.

The people of Ohio recently passed a broad waste management law which requires local governments to band together to ensure that they have adequate disposal capacity for decades to come. Without flow control authority, many of these collaborative agreements will be in jeopardy. This type of responsible planning is crucial to the future of innovative and integrated recycling programs and waste management techniques.

Mr. Chairman, I want to thank Chairman SWIFT for his willingness to work with me to clarify that the counties I represent will be able to pursue their long-range management plans. As usual, the gentleman from Washington has listened to diverse interest and has worked to craft consensus legislation that moves this Nation forward. Again, I thank him for his assistance on this bill and for his years of brilliant service to this House.

Mr. GEJDENSON. Madam Chairman, I rise in support of H.R. 4683. I want to thank the gentleman from Washington [Mr. SWIFT], and the gentleman from Michigan [Mr. DINGELL], for bringing this bill to the floor. I also want to thank the gentleman from New Jersey [Mr. PALLONE], who has been a strong advocate of protecting the interests of local governments across the Nation.

The Supreme Court decision in the case of C&A Carbone, Inc. versus Town of Clarkstown has significant implications for municipalities and taxpayers across the country. The case invalidated the use of flow control to manage solid waste generated within the borders of a community. The implications are far reaching because according to the Congressional Research Service [CRS], 41 States exercise flow control either through statute or other means. Many States have used flow control to ensure that municipal solid waste [MSW] is disposed of in accordance with several Federal laws and regulations.

Flow control authority is especially important to communities across my State of Connecticut. Many small towns in eastern Connecticut have contracts with solid waste disposal facilities which require them to deliver a minumum amount of waste or face financial penalties, also known as "put or pay" requirements. Towns entered into these agreements because they believed that flow control ordinances, authorized under State law, would allow them to meet their contractual obligations. Without flow control, residents in communities such as Norwich, Vernon, Gordon, Tolland, Westbrook and many others will be forced to pay higher taxes to pay penalties for failing to deliver the minimum volume of waste. To make matters worse, the majority of solid waste disposal facilities in my State have been financed with State revenue bonds. Disposal authorities require a minimum amount of waste to operate at levels sufficient to generate revenue to repay these bonds. If facilities can not make these payments, the bond holders could be forced to make the payments. According to Connecticut's attorney general, the State and its taxpayers could ultimately be responsible for $520 million worth of bonds. This would be disastrous for our State which is only beginning to fully recover from the recession.

H.R. 4683 will provide relief to these communities. It grandfathers existing flow control ordinances, statutes, and agreements. It also allows communities to flow control certain recyclable material provided that the material is voluntarily relinquished. This is especially important because flow controlling common household recyclables in urban areas helps to subsidize recycling efforts in rural communities. The bill makes it clear that such authority does not place an undue burden on interstate commerce.

Contrary to what some opponents of the bill argue, this is a balanced approach. For MSW generated by entities other than households, a community must have a flow control ordinance in place or have identified one or more solid waste disposal methods before May 15, 1994, in order to exercise flow control in the future. In addition, it limits flow control authority only to those materials addressed in the ordinance. In order to use flow control over household MSW or recyclables, a community must demonstrate that flow control is necessary to meet its solid waste management needs and establish a competitive process for designating a disposal facility for recyclable material. This is not anticompetitive. In addition, the bill terminates flow control authorization if a community does not actually designate a disposal facility within 5 years of enactment of this bill. If flow control is essential to a community, it should act in a reasonable amount of time to exercise that authority or lose it. Finally, the bill specifically prohibits States from requiring owners of recyclables to give up those products.

Madam Chairman, I want to take a moment to comment on the charge that flow control damages the environment. I am not aware of a single case where this argument has been proven conclusively. In fact, the vast majority of communities use flow control to direct waste to state-of-the-art disposal facilities. In my State, waste goes to transfer stations, landfills, and other facilities which meet strict State, Federal, and local standards designed to project the air, water, and public health. Charges that flow control damages the environment are a red herring designed to prevent Congress from providing important relief to small communities across the country.

Madam Chairman, it is essential that the House pass this legislation today. If we fail to act, taxpayers across the country could face much higher tax bills as their communities are penalized for failing to meet their contractual obligations. This is a balanced bill which provides needed relief while placing reasonable limits on future flow control authority. I urge my colleagues to support this important bill.

Mr. MCHALE. Mr. Chairman, in anticipation that the vote on final passage on H.R. 4683 will be by voice vote, I would like to take this opportunity to express, for the RECORD, my support of this bill.

A few minutes ago, I voted for the Richardson-Fields amendment in belief that while some version of flow control is essential, the Richardson amendment was superior to the existing bill. However, with defeat of the Richardson amendment, I am convinced that the committee draft of the legislation, as now before us, should be enacted. It is my intention, therefore, to vote "aye" on final passage of H.R. 4683, the Flow Control Act of 1994.

Mr. Chairman, recent Supreme Court decisions on the subject of flow control have cast doubt on the continuing constitutional validity of existing State and local flow control legislation. In my own State of Pennsylvania, our existing State statutes, and the local waste disposal plans adopted subject to it, are now faced with the very real possibility of a successful constitutional challenge. State and local governments should not be held hostage to evolving Supreme Court case law. For this reason, it is important that the validity of existing State and local legislation be confirmed by an appropriate delegation of authority under the commerce clause. Though a voice vote will prevent Members from documenting their individual positions regarding final passage, I wish to make it clear that my vote will be aye.

Mr. OXLEY. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. SWIFT. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. VENTO). Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered as having been read.

The text of the committee amendment in the nature of a substitute is as follows:

S. 4683

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL AUTHORIZATION OF STATE CONTROL OVER TRANSPORTATION, MANAGEMENT, AND DISPOSAL OF MUNICIPAL SOLID WASTE.

(a) IN GENERAL.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following new section:

"SEC. 4011. CONGRESSIONAL AUTHORIZATION OF STATE CONTROL OVER TRANSPORTATION, MANAGEMENT, AND DISPOSAL OF MUNICIPAL SOLID WASTE.

"(a) AUTHORITY.—Each State and each qualified political subdivision may, in accordance with this section, exercise flow control authority within the boundaries of such State or political subdivision, as the case may be, for each of the following:

"(1) Municipal solid waste generated from household sources within the boundaries of the State or qualified political subdivision.

"(2) Municipal solid waste generated within the boundaries of the State or qualified political subdivision, if, before May 15, 1994, the State or qualified political subdivision adopted a law, ordinance, regulation, solid waste management plan or legally binding provision that—

"(A) exercised flow control authority over such solid waste with respect to a proposed or existing waste management facility designated before May 15, 1994, or

"(B) identified the use of 1 or more waste management methods that will be necessary for the transportation, management, or disposal of municipal solid waste generated within its boundaries, and committed to the designation of 1 or more waste management facilities for that method or methods.

"(3) Recyclable materials generated within the boundaries of the State or subdivision.

Any State or qualified political subdivision meeting the requirements of subparagraph (A) or (B) of paragraph (2) may also, after the effective date of this section, direct, limit, regulate or prohibit the transportation, management, and disposal of such solid waste from any existing or future waste management facility to any other existing or future waste management facility, and may do so without regard to subsection (b)(2).

"(b) LIMITATIONS.—(1) A State or qualified political subdivision may exercise the authority described in paragraph (3) of subsection (a) with respect to recyclable materials only if—

"(A) the generator or owner of the materials voluntarily made the materials available to the State or qualified political subdivision, or the designee of the State or qualified political subdivision, and relinquished any rights to, or ownership of, such materials; and

"(B) the State or qualified political subdivision, or the designee of the State or qualified political subdivision, assumes such rights to, or ownership of, such materials.

"(2) A State or qualified political subdivision may exercise the authority provided by subsection (a)(1) or (a)(3) only if the State or qualified political subdivision—

"(A) before exercising the authority described in subsection (a)(1), establishes a program to separate, or divert at the point of generation, recyclable materials from the municipal solid waste, for purposes of recycling, reclamation, or reuse, in accordance with any Federal or State law or municipal solid waste planning requirements in effect; and

"(B) after conducting 1 or more public hearings—

"(i) finds, on the basis of the record developed at the hearing or hearings that it is necessary to exercise the authority to meet the current solid waste management needs (as of the date of the record) or the anticipated solid waste management needs of the State or qualified political subdivision for management of municipal solid waste or recyclable materials; and

"(ii) provides a written explanation of the reasons of the finding described in clause (i).

"(3) The authority to direct, limit, regulate, or prohibit the transportation, management, or disposal of solid waste pursuant to subsection (a)(2) shall apply only to the specific classes or categories of solid waste to which the authority under subsection (a)(2)(A) was applied by the State or qualified political subdivision before May 15, 1994, and/or to the specific classes or categories of solid waste for which the State or qualified political subdivision committed to designate a waste management facility under subsection (a)(2)(B).

"(4) The authority granted under subsection (a)(2).shall expire if a State or qualified political subdivision has not designated, by law, ordinance, regulation, solid waste management plan, or other legally binding provision, 1 or more proposed or existing waste management facilities within 5 years of the date of enactment of this section.

"(c) COMPETITIVE DESIGNATION PROCESS.—A State or qualified political subdivision may exercise the authority provided by subsection (a) only if the State or qualified political subdivision develops and implements a competitive designation process with respect to waste management facilities or facilities for recyclable materials which—

"(1) ensures that the designation process is based on, or is part of, a municipal solid waste management plan that is adopted by the State or qualified political subdivision and that is designed to ensure long-term management capacity for municipal solid waste or recyclable materials generated within the boundaries of the State or subdivision;

"(2) sets forth the goals of the designation process, including at a minimum—

"(A) capacity assurance;

"(B) the establishment of provisions to provide that protection of human health and the environment will be achieved; and

"(C) any other goals determined to be relevant by the State or qualified political subdivision;

"(3) identifies and compares reasonable and available alternatives and options for designation of the facilities;

"(4) provides for public participation and comment;

"(5) ensures that the designation of the facilities is accomplished through an open competitive process during which the State or qualified political subdivision—

"(A) identifies in writing the criteria to be utilized for selection of the facilities;

"(B) provides an opportunity for interested public persons and private persons to offer their existing (as of the date of the process) or proposed facilities for designation; and

"(C) evaluates and selects the facilities for designation based on the merits of the facilities in meeting the criteria identified; and

"(6) bases the designation of each such facility on reasons that shall be stated in a public record.

"(d) CERTIFICATION.—(1) A Governor of any State may certify that the laws and regulations of the State in effect on May 15, 1994, satisfy the requirements for a competitive designation process under subsection (c).

"(2) In making a certification under paragraph (1), a Governor shall—

"(A) publish notice of the proposed certification in a newspaper of general circulation and provide such additional notice of the proposed certification as may be required by State law;

"(B) include in the notice of the proposed certification or otherwise make readily available a statement of the laws and regulations subject to the certification and an explanation of the basis for a conclusion that they satisfy the requirements of subsection (c);

"(C) provide interested persons an opportunity to comment on the proposed certification, for a period of time not less than 60 days after publication of the notice; and

"(D) public notice of the final certification, together with an explanation of the basis for the final certification, in a newspaper of general circulation and provide such additional notice of the final certification as may be required by State law.

"(e) OWNERSHIP OF RECYCLABLE MATERIALS.—

"(1) PROHIBITION ON REQUIRED TRANSFERS.—Nothing in this section shall authorize any State or qualified political subdivision (or any designee thereof) to require any generator or owner of recyclable materials to transfer any recyclable materials to such State or qualified political subdivision, unless the generator or owner voluntarily made the materials available to the State or qualified political subdivision (or any designee thereof) and relinquished any rights to, or ownership of, such materials.

"(2) PROHIBITION ON PROHIBITED TRANSACTIONS.—Nothing in this section shall prohibit any person from selling, purchasing, or accepting, conveying, or transporting any recyclable materials for purposes of transformation or remanufacture into usable or marketable materials, unless the generator or owner voluntarily made the materials available to the State or qualified political subdivision (or any designee thereof) and relinquished any rights to, or ownership of, such materials.

"(f) EXISTING LAWS AND CONTRACTS.—

"(1) IN GENERAL.—This section shall not supersede, abrogate, or otherwise modify any of the following:

"(A) Any contract or other agreement (including any contract containing an obligation to

repay the outstanding indebtedness on any proposed or existing waste management facility) entered into before May 15, 1994, by a State or qualified political subdivision in which such State or qualified political subdivision has designated a proposed or existing waste management facility pursuant to a law, ordinance, regulation, solid waste management plan or legally binding provision adopted by such State or qualified political subdivision before May 15, 1994.

"(B) Any other contract or agreement entered into before May 15, 1994, for the management of solid waste.

"(C)(i) Any law, ordinance, regulation, solid waste management plan or legally binding provision—

"(I) that is adopted before May 15, 1994; and

"(II) that pertain to the transportation, management, or disposal of municipal solid waste generated within the boundaries of a State or qualified political subdivision;

if the law, ordinance, regulation, solid waste management plan or legally binding provision is applied to the transportation, management, or disposal of municipal solid waste, generated from household sources within its boundaries, to a proposed or existing waste management facility designated before May 15, 1994, under such law, ordinance, regulation, solid waste management plan or legally binding provision.

"(ii) Any law, ordinance, regulation, solid waste management plan or legally binding provision—

"(I) that is adopted before May 15, 1994;

"(II) that pertains to the transportation, management, or disposal or municipal solid waste generated within the boundaries of a State or qualified political subdivision; and

"(III) under which a State or qualified political subdivision, prior to May 15, 1994, directed, limited, regulated, or prohibited the transportation, management, or disposal of municipal solid waste that is generated, or is commingled with municipal solid waste that is generated, from commercial, institutional, or industrial sources within its boundaries, or construction debris or demolition debris, generated within its boundaries;

provided that the law, ordinance, regulation, solid waste management plan or legally binding provision is applied to the transportation, management, or disposal of such solid waste described in subclause (III), to a proposed or existing waste management facility designated before May 15, 1994, under such law, ordinance, regulation, solid waste management plan or legally binding provision.

"(iii) Any law, ordinance, regulation, solid waste management plan or legally binding provision—

"(I) that is adopted before May 15, 1994; and

"(II) that pertains to the transportation or management of recyclable materials generated within the boundaries of a State or qualified political subdivision;

provided that the law, ordinance, regulation, solid waste management plan or legally binding provision is applied to the transportation or management of recyclable materials, that are generated within its boundaries and with respect to which the generator or owner of the materials, and the State or qualified political subdivision, have met the appropriate conditions described in subsection (b)(1), to a proposed or existing facility for recyclable materials designated before May 15, 1994, under such law, ordinance, regulation, solid waste management plan or legally binding provision.

"(2) CONTRACT INFORMATION.—A party to a contract or other agreement that is described in subparagraph (A) or (B) of paragraph (1) shall provide a copy of the contract or agreement to the State or qualified political subdivision on request. Any proprietary information contained in the contract or agreement may be omitted in the copy, but the information that appears in the copy shall include at least the date that the contract or agreement was signed, the volume of municipal solid waste covered by the contract or agreement with respect to which the State or qualified political subdivision could otherwise exercise authority under subsection (a) or paragraph (1)(C), the source of the waste or materials, the destination of the waste or materials, the duration of the contract or agreement, and the parties to the contract or agreement.

"(3) LIMITATION.—Any designation by a State or qualified political subdivision of any waste management facility or facility for recyclable materials after the date of enactment of this section shall comply with subsection (c). Nothing in this paragraph shall affect any designation made before the date of enactment of this section, and any such designation shall be deemed to satisfy the requirements of subsection (c).

"(g) SAVINGS CLAUSE.—(1) Nothing in this section is intended to supersede, amend, or otherwise modify Federal or State environmental laws and regulations that apply to the disposal or management of solid waste at waste management facilities or facilities for recyclable materials.

"(2) Nothing in this section shall be interpreted to authorize a qualified political subdivision to exercise the authority granted by this section in a manner inconsistent with State law.

"(h) EFFECT ON INTERSTATE COMMERCE.—The exercise of flow control authority in compliance with this section by a State or qualified political subdivision shall itself be considered a reasonable regulation of commerce and shall not itself be considered as imposing an undue burden on or otherwise impairing, restraining, or discriminating against interstate commerce.

"(i) DEFINITIONS.—As used in this section—

"(1) FLOW CONTROL AUTHORITY.—The term 'flow control authority' means the authority to control the movement of solid waste or recyclable materials and direct the transportation of such waste or recyclable materials to one or more designated waste management facilities or facilities for recyclable materials.

"(2) INDUSTRIAL SOLID WASTE.—The term 'industrial solid waste' means solid waste generated by manufacturing or industrial processes, including waste generated during scrap processing and scrap recycling, that is not hazardous waste regulated under subtitle C.

"(3) MUNICIPAL SOLID WASTE.—

"(A) IN GENERAL.—(i) The term 'municipal solid waste' means all waste materials discarded for disposal by households, including single and multifamily residences.

"(ii) The term also includes waste materials generated by commercial, institutional, and industrial sources, to the extent such wastes—

"(I) are essentially the same as waste normally generated by households; or

"(II) were collected and disposed of with other municipal solid waste as part of normal municipal solid waste collection services, and regardless of when generated, would be considered conditionally exempt small quantity generator waste under section 3001(d).

"(iii) The term includes residue remaining after recyclable materials have been separated, or diverted at the point of generation, from waste materials described in clause (i) or (ii).

"(iv) The term also includes any waste material or waste substance removed from a septic tank, septic pit, or cesspool.

"(v) Examples of municipal solid waste include food and yard waste, paper, clothing, appliances, consumer product packaging, disposable diapers, office supplies, cosmetics, glass and metal food containers, elementary or secondary school science laboratory waste, and household hazardous waste.

"(B) EXCLUSIONS.—The term does not include any of the following:

"(i) Any solid waste identified or listed as a hazardous waste under section 3001.

"(ii) Solid waste containing a polychlorinate biphenyl regulated under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

"(iii) Any solid waste, including contaminated soil and debris, resulting from—

"(I) a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9604 or 9606),

"(II) a response action taken under a State law with authorities comparable to the authorities of section 104 or 106, or

"(III) a corrective action taken under this Act.

"(iv) Recyclable materials.

"(v) Materials and products returned from a dispenser or distributor to the manufacturer or an agent of the manufacturer for credit, evaluation, and possible reuse.

"(vi) Industrial solid waste.

"(vii) Any solid waste that is—

"(I) generated by an industrial facility; and

"(II) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or is located on property owned by the generator or a company with which the generator is affiliated.

"(viii) Any medical waste referred to in section 11002 that is segregated from, or not mixed with, solid waste.

"(4) QUALIFIED POLITICAL SUBDIVISION.—The term 'qualified political subdivision' means a governmental entity or political subdivision of a State, as authorized by the State, to plan for, or determine the methods to be utilized for, the collection, transportation, disposal or other management of municipal solid waste generated within the boundaries of the governmental entity or political subdivision.

"(5) RECYCLABLE MATERIAL.—The term 'recyclable material' means any material (including any metal, glass, plastic, textile, wood, paper, rubber, or other material) that has been separated, or diverted at the point of generation, from solid waste for the purpose of recycling, reclamation, or reuse.

"(6) SOLID WASTE MANAGEMENT PLAN.—The term 'solid waste management plan' means a plan for the transportation, treatment, processing, composting, combustion, disposal or other management of municipal solid waste adopted by a State or qualified political subdivision pursuant to and conforming with State law.

"(7) WASTE MANAGEMENT FACILITY.—The term 'waste management facility' means any facility or facilities in which solid waste is separated, stored, transferred, treated, processed, combusted, deposited or disposed.

"(8) COMMITTED TO THE DESIGNATION OF ONE OR MORE WASTE MANAGEMENT FACILITIES.—The phrase 'Committed to the designation of one or more waste management facilities' as used in subsection (a)(2)(B) means that the State or qualified political subdivision, prior to May 15, 1994, was legally bound to designate one or more existing or future waste management facilities, or performed or caused to be performed one or more of the following actions for the purpose of designating one or more such facilities:

"(A) Solicitation of proposals for designation of a waste management facility.

"(B) Purchase of land on which the waste management facility to be designated will be located.

"(C) Execution of a legally binding contract or franchise agreement for waste collection services expressly for the delivery of waste to a waste management facility to be designated.

"(D) Other action since January 1, 1993, that evidences recent significant financial commitment for the continuing development of a waste

management facility for which a designation will be made unless such action has been halted by a court order based upon a ruling under the Constitution of the United States.".

(b) TABLE OF CONTENTS.—The table of contents for such subtitle D is amended by adding at the end of the items relating to such subtitle the following new item:

"Sec. 4011. Congressional authorization of State control over transportation, management, and disposal of municipal solid waste.".

The CHAIRMAN pro tempore. Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. SKEEN

Mr. SKEEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SKEEN: Page 20, after line 12, insert:

SEC. 2. EFFECTIVE DATE OF TRUCKING DEREGULATION.

Section 601(d) of the Federal Aviation Administration Authorization Act of 1994 is amended by striking "January 1, 1995" and inserting "January 1, 1996".

SEC. 3. TECHNICAL CORRECTIONS TO ACT PREEMPTING STATE ECONOMIC REGULATION OF MOTOR CARRIERS

(a) Section 11501(H)(2) of Title 49, United States Code, is amended as follows:

(1) Strike "and" after subparagraph (A).

(2) Strike the period at the end of subparagraph (B) and insert in lieu thereof a semicolon.

(3) Insert the following new subparagraphs at the end thereof:

"(C) does not apply to the transportation of garbage and refuse;

"(D) does not apply to the transportation of recyclable materials, as defined under section 10733(b), pursuant to programs conducted under the auspices of any unit of government; and

"(E) does not apply to motor carriers providing tow or wrecker services.".

Mr. SKEEN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. SWIFT. Mr. Chairman, I reserve a point of order on the amendment.

Mr. SKEEN. Mr. Chairman, I have taken this opportunity and I appreciate the concession from the chairman of the subcommittee and the ranking member, because I want to offer this amendment to delay trucking deregulation for a year. I seek principally an opportunity to discuss some salient points in support of this need for the delay.

Early last month the House and Senate conference committee attached legislative language to the Federal Aviation Administration Authorization Act which essentially deregulates interstate trucking. This bill is now law, and deregulation will take effect on January 1, 1995.

Many States are in the same position as New Mexico in that the State legislature and small trucking companies will not have an opportunity to meet and adjust to this deregulation by this January. Deregulation would require or will require new State authority to address safety, taxes, and a myriad of other legislative reforms.

Those supporting the delay include the National Conference of State Legislators, National Association of Regulatory Utility Commissioners, Regular Common Carrier Conference, the Teamsters, the National League of Cities, Public Citizen, and a number of State motor carrier associations from Michigan, California, Oregon, Washington, Oklahoma, Louisiana, Pennsylvania, just to name a few.

I would also like to thank the gentleman from Michigan [Mr. BONIOR] and the gentleman from Indiana [Mr. MCCLOSKEY] and the gentleman from Oklahoma [Mr. LUCAS], who offered to be cosponsors of a bill to effect this delay. And rather than take this, that course, it was deemed more prudent to try this as an amendment.

Whether or not Members agree with the concept of trucking deregulation, the responsible thing to do is to give State regulatory bodies and small truckers time to adjust.

Mr. Chairman, I ask unanimous consent that the amendment be withdrawn.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The CHAIRMAN pro tempore. Are there further amendments to the bill?

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. RICHARDSON

Mr. RICHARDSON. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. RICHARDSON: Strike all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Municipal Solid Waste Flow Control Act of 1994".

SEC. 2. CONGRESSIONAL AUTHORIZATION OF STATE CONTROL OVER MOVEMENT OF MUNICIPAL SOLID WASTE AND RECYCLABLE MATERIALS.

(A) AMENDMENT.—Subtitle D of the Solid Waste Disposal Act is amended by adding the following new section after section 4010:

"SEC. 4011. CONGRESSIONAL AUTHORIZATION OF STATE CONTROL OVER MOVEMENT OF MUNICIPAL SOLID WASTE AND RECYCLABLE MATERIALS.

"(a) AUTHORITY.—Each State and each political subdivision thereof is authorized to require the movement of municipal solid waste generated, and recyclable material voluntarily relinquished by its owner, within its jurisdiction to one or more waste management facilities or recycling facilities if such requirement—

"(1) is imposed pursuant to a law, ordinance, or other official act of the State or political subdivision in effect on May 15, 1994; and

"(2) has been implemented by designating before May 15, 1994, the particular management facilities in operation as of May 15, 1994, to which the municipal solid waste and recyclables must be moved. Such authorization shall include any political subdivision that has in fact implemented such requirements prior to May 15, 1994, by requiring municipal solid waste to be sent to particular waste management facilities, but for which the legal authority for requiring such movement of municipal solid waste does not require the designation of particular facilities to receive such waste, or such legal authority resides in a designated official of the political subdivision. The authority of this section shall only extend to the specific classes or categories of municipal solid waste which were actually subject to a requirement of movement to one or more waste management facilities on or before May 15, 1994. With respect to each designated facility, the authority of this section shall be effective for the remaining life of a contract between the State or political subdivision and any other person regarding the movement or delivery of such waste or recyclable materials (as in effect May 15, 1994), or until completion of the schedule for payment of the capital costs of the facility concerned (as in effect May 15, 1994), or for the remaining useful life of the facility, whichever is longer.

"(b) CERTAIN REDESIGNATIONS OF FACILITIES.—Notwithstanding the restrictions in subsection (a)(2), any political subdivision of a State, which (1) required the movement of municipal solid waste or recyclable materials voluntarily relinquished by its owner to one or more waste management facilities or recycling facilities prior to May 15, 1994; (2) declared its intent to redesignate the facilities receiving such materials prior to May 15, 1994, and (3) as of the date of enactment of this section is in the process of redesignating the facilities receiving such materials, shall be granted the authority in subsection (a).

"(c) COMMITMENT TO CONSTRUCTION.—Notwithstanding the restrictions in subsection (a)(1) and (2), any political subdivision of a State may be granted the authority in subsection (a), if—

"(1) the law, ordinance, regulation, solid waste management plan, or legally binding provision specifically provides for the transportation or disposal of municipal solid waste generated within its boundaries, was in effect prior to May 15, 1994, and, in the case of a solid waste management plan, has the approval of either the State or the Administrator pursuant to this title, and

"(2) commits to the selection of one or more waste management facilities for such method of transportation facilities or disposal of municipal solid waste. Such a commitment to one or more waste management facilities is demonstrated by one or more of the following factors—

"(A) all required permits for the construction of such facility were submitted prior to May 15, 1994,

"(B) contracts for the construction of such facility were in effect prior to May 15, 1994,

"(C) revenue bonds were presented for sale to specifically provide revenue for the construction of such facility prior to May 15, 1994, or

"(D) the State or subdivision submitted to the appropriate regulatory agency or agencies, on or before May 16, 1994, administratively complete permit applications for the construction and operation of the waste management facility.

"(d) RETAINED AUTHORITY.—Upon the request of any generator of municipal solid waste affected by this section, the State or political subdivision may authorize the diversion of all or a portion of the solid wastes generated by the generator making such request to a solid waste facility, other than the facility or facilities originally designated by the political subdivision, where the purpose of such request is to provide a higher level of protection for human health and the environment and reduce potential future liability under Federal or State law of such generator for the management of such wastes. Requests shall include information on the environmental suitability of the proposed alternative treatment or disposal facility and method, compared to that of the designated facility and method. In making such a determination the State or political subdivision shall consider the ability and willingness of both the designated and alternative disposal facility or facilities to indemnify the generator against any cause of action under State or Federal environmental statutes, and against any cause of action for nuisance, personal injury or property loss under any State law.

"(e) Flow Control Study.—The Administrator, in cooperation with the National Academy of Public Administration, shall conduct a study of the extent to which the decision of the United States Supreme Court in C & A Carbone v. Clarkstown, New York has affected the ability of public and private agencies and entities to secure or retain financing for solid waste management facilities or services. Such study shall address whether such decision is likely to interfere with the implementation of State solid waste management plans, and whether such decision is likely to reduce the increased use of recycling or composting. The Administrator shall submit a report on such study to Congress, together with recommendations for needed legislation, if any, not later than March 31, 1996.

"(f) Effect on Other Laws.—Nothing in this section shall be interpreted or construed to have any effect on any other law relating to the protection of human health and the environment, or the management of municipal solid waste.

"(g) Definitions.—For the purposes of this section—

"(1) The term 'municipal solid waste' means solid waste generated by the general public and from residential, commercial, institutional, and industrial sources, consisting of paper, wood, yard waste, plastics, leather, rubber, and other combustible materials and noncombustible materials such as metal and glass, including residue remaining after recyclable materials have been separated from waste destined for disposal, and including septage, except that the term does not include—

"(A) any waste identified or listed as a hazardous waste under section 3001 of this Act or waste regulated under the Toxic Substances and Control Act,

"(B) any waste, including contaminated soil and debris, resulting from response taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9602 or 9606) or a corrective action taken under this Act;

"(C) medical waste;

"(D) industrial waste;

"(E) recyclable materials; or

"(F) sludge.

"(2) The term 'recyclable materials' means any materials that have been separated from waste otherwise destined for disposal (either at the source of the waste or at processing facilities) or that have been managed separately from waste destined for disposal, for the purpose of recycling, composting or organic materials such as food and yard waste, or reuse (other than for the purpose of incineration), only to the extent that the generator or owner of the materials has voluntarily made the materials available to the State or qualified political subdivision, and relinquished any rights to, or ownership of, such materials, and the State or political subdivision assumes such rights to, or ownership of such materials.

"(3) The term 'waste management facility' means any facility collecting, separating, storing, transporting, transferring, treating, processing, or disposing of municipal solid waste.".

"(b) Table of Contents.—The table of contents for subtitle D of the Solid Waste Disposal Act is amended by adding the following new item after the item relating to section 4010:

"Sec. 4011. Congressional authorization of State control over movement of municipal solid waste and recyclable materials.".

Mr. RICHARDSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the Record.

The CHAIRMAN pro tempore (Mr. Montgomery). Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Chairman, I offer this amendment in the nature of a substitute of H.R. 4683 with Mr. Fields of Texas and the 22 cosponsors of H.R. 4643, the bill upon it is based.

In this congressional session when nearly all the environmental legislation we have considered has been stalled, we do have an opportunity to do something positive for environmental protection, for Superfund reform, for environmental justice, and for competition and free market principles. That opportunity is this amendment.

As we enter the final days of the 103d Congress, there is no denying that we are all looking for ways to pass important bipartisan legislation that responsibly addresses the problems of this Nation: We are all trying to work hard and go home.

The Richardson-Fields amendment offers the perfect broad-based, bipartisan opportunity to do just that. Where else will you find the National Taxpayers Union and Clean Water Action, National Association of Manufacturers, and the Sierra Club on the same side of an issue?

The Richardson-Fields amendment would grandfather existing flow control arrangements to protect those facilities financially dependent on flow control, and allow local governments which have shown significant movement toward designation to continue flow control controlling waste for a limited time in the future.

However, our amendment will not allow for future flow control authority. If you are not flow controlling now, and you cannot prove that you had made significant steps toward flow control authority prior to the Supreme Court decision then you should not be able to exert new monopoly power in the future.

Mr. Chairman, the one thing to remember through all the hazy rhetoric we will hear today is that without our amendment, we will continue the monopoly power of local governments to continue to exert sole authority over waste disposal in the future.

But, don't be fooled, we aren't playing with Monopoly money. If you defeat the Richardson-Fields amendment you will be writing a blank check that will be cashed on the taxpayer's money.

FLOW CONTROL AND RECYCLING

In the past several days, local governments have been telling Members that flow control is pro-environment and pro-recycling.

In fact, because flow control guarantees a waste stream for newly constructed facilities like incinerators, the Sierra Club says that "these facilities lock out the adoption of recycling and source reduction alternatives because incinerators compete for the same materials collected by recycling programs."

And the New York Public Interest Research Group, Clean Water Act, the Audobon Naturalist Society, Baltimore Recycling Coalition, the Environmental Planning Lobby, and the Grassroots Environmental Organization of New Jersey all say that "Congressional authorization of flow control could inhibit the development of alternative waste management options, including market-driven recycling efforts."

These same organizations further charge that flow control laws "unnecessarily inhibit the ability of recyclers and other ecological entrepreneurs to compete in the marketplace."

So, my fellow colleagues, you have a choice. You can believe the monopoly proponents that flow control is somehow good for recycling, or you can believe a nationwide coalition of environmental groups that flow control and recycling are like oil and water: they don't mix.

FLOW CONTROL AND INCINERATION

During this debate, we will hear that flow control and incineration do not necessarily go hand in hand. But who do you believe? The Sierra Club says that "H.R. 4683 would make it significantly easier to site new incinerators."

The executive director of Pittsburgh Against Toxic Incineration, Clean Water Action, and the New York Public Interest Research Group say that the monopoly power over solid waste decisions conferred by flow control leads to the disposal of waste at "overpriced, inefficient incinerators."

The Nation's environmental groups say flow control is bad for the environment; the Nation's two largest incinerator companies are trying to convince Congress that flow control is good for you and poses no threat to environmental protection efforts. You be the judge.

FLOW CONTROL AND SUPERFUND

Future flow control authority has the potential to lock waste generators and communities into using unnecessary or unsafe disposal facilities.

Local governments are not required to ensure that a facility treat waste in the safest possible manner. Waste generators who have no control over where or how their waste is disposed of under flow control, could be liable as a potentially responsible party under Superfund simply because their waste was shipped to an environmentally unsuitable facility.

The American Trucking Association and the National Association of Manufacturers have said that "flow control is totally at odds with the objections of Superfund" because "generators are denied altogether the ability to send waste to the most environmentally appropriate location."

Waste generators should demand that flow control not be enacted or even considered until the Congress can consider comprehensive RCRA reauthorization next year.

And, as many of my colleagues may know, waste generators and waste transporters are demanding that future flow control not be debated until we can talk about RCRA comprehensively. Kimberly-Clark Corp., the National Association of Manufacturers, the American Trucking Association, Southern Pacific Transportation Co., Union Pacific Corp., and Chicago and Illinois Midland Railways are all opposed to H.R. 4683.

FLOW CONTROL AND ENVIRONMENTAL JUSTICE

Because flow control leads to more incinerators, H.R. 4683 presents a problem for environmental justice advocates. As Congressman ED TOWNS and I know from the sponsorship of our incinerator bill, H.R. 2488, incinerators are more often located in communities of color and low-income areas.

If we pass H.R. 4683 today without the Richardson-Fields amendment, we will be signing a blank check for the future construction of incinerators. The EPA's recently announced reassessment of the toxic dioxin found that the most common source of dioxin emissions in the United States is municipal solid waste incinerators.

If Congress passes H.R. 4683 today without the Richardson-Fields amendment, we will be saying to people of color and people of low incomes that we don't care about their health and well-being because we're going to allow more dioxin-spewing incinerators to be located in their neighborhoods to dispose of someone else's trash.

FLOW CONTROL AND CONSUMERS

The National Taxpayers Union, Citizens for a Sound Economy, and the executive director of the Consumer Alert Advocate say that "flow control confers a portion of the solid waste management market to politically preferred constituencies at the expense of consumers."

In describing the effect of unlimited flow control authority in the future, these organizations say that "consumers of waste management services would pay more as they would be deprived of the option to take their business elsewhere when prices get too high."

FLOW CONTROL, COMPETITION, AND THE FREE MARKET

A diverse group of businesses including Browning-Ferris Industries, Laidlaw, Inc., and the National Association of Manufacturers says that "under flow control, competition would be limited and costs would increase."

The Competitive Enterprise Institute and the Reason Foundation say that "flow control would establish protected government monopolies that have no incentive to increase the quality of their services. Waste management prices would be set by political forces, without regard for market pressures."

Mr. Chairman, competition not monopolization is the best alternative for waste disposal decisions. The artificial constraints of flow control represent a step backward toward government control of waste policy, not free market competition where the best facility at the best price wins.

The argument has been made that our efforts to block future flow control authority represent another unfunded Federal mandate. This is simply not true. The Richardson-Fields amendment would in fact provide local governments with relief from the immediate impact of the Supreme Court decision while allowing the free market and open competition to prevail in the future.

The following organizations have opposed H.R. 4683: National Federation of Independent Business; National Association of Manufacturers; Chamber of Commerce of the United States of America; American Trucking Associations; Sierra Club; Clean Water Action; Environmental Action; Audubon Naturalist Society; National Taxpayers Union; Consumer Alert Advocate; Citizens for a Sound Economy; Competitive Enterprise Institute; New York Public Interest Research Group, Inc.; New Jersey Chamber of Commerce; Ohio Chamber of Commerce.

International Council of Shopping Centers; Union Pacific Corporation; Southern Pacific Transportation Company; CS First Boston; Browning-Ferris Industries; Laidlaw, Inc.; Chambers Development Company, Inc.; Kimberly-Clark Corporation; New Jersey Business & Industry Association; Georgia Chamber of Commerce; American Bakers Association; The John Locke Foundation; Environmental Industry Associations; Environmental Transportation Association; Grassroots Environmental Organization of New Jersey.

Institute for Justice; Indiana Policy Review Foundation; Arizona Institute for Public Policy Research; The Yankee Institute for Public Policy Studies; National Center for Public Policy Research; Institute for Local Self-Reliance; Hudson River Sloop Clearwater; The Heartland Institute; Chicago and Illinois Midland Railways; Intermodal Technologies; National Environmental Development Association's RCRA Project; Pittsburgh Against Toxic Incineration; Waste-NOT; PERC; Environmental Planning Lobby.

SEPTEMBER 26, 1994.

Hon. BILL RICHARDSON,
Rayburn House Office Building,
Washington, DC.

DEAR REPRESENTATIVE RICHARDSON: The issue of flow control—the monopolization of municipal solid waste by local governments—is a deeply troubling one for us. The implications for taxpayers, businesses and the environment are extremely dangerous. Congress should not lightly interfere with interstate commerce, and Congress should not confer monopoly power on the public sector when there is a competitive private sector already operating successfully.

Under flow control, competition would be limited and costs would increase. We urge Congress to act to reduce costs by assuring the continuing existence of a vibrant private sector industry.

We believe flow control is totally at odds with the objectives of Superfund. It is unfair to impose Superfund liability on waste generators who would be stripped of the ability to send waste to the protective facility of their choice. Under flow control they could be forced to send their waste to sites that either are or may well end up on the Superfund list. Instead of providing incentives for waste generators to take steps that protect the environment, generators are instead denied altogether the ability to send waste to the most environmentally appropriate location.

Flow control does a disservice to the environment. Flow control commits communities, in many cases for 20 to 30 years or more, to massive investments in environmental technologies that may soon be outdated. By interfering with the free market, flow control can also represent a barrier to recycling, which depends on the untrammeled movement of post-consumer recyclables for its success.

For all these reasons—threat to the free market, increased costs, imposition of Superfund liability and obstruction to environmental advances and recycling—we urge Congress to approach the issue of flow control with extreme caution. Excessively broad flow control legislation, and most certainly the virtually unlimited grant of flow control authority that recently passed the House Energy and Commerce Committee, would present precisely those problems that we believe Congress should be trying to prevent, not create. If it is necessary to legislate in this area, we believe that an approach that protects existing facilities dependent on flow control for the life of the original facility, but that confers the benefit of the free market in all other circumstances, is the best way for Congress to proceed. We would appreciate your support for our position.

Respectfully submitted,

International Council of Shopping Centers; Southern Pacific Transportation Company; Union Pacific Corporation; Intermodal Technologies; Chicago and Illinois Midland Railways; The National Environmental Development Association's RCRA Project; National Association of Manufacturers; American Trucking Association; Browning-Ferris

Industries; Chambers Development Company, Inc.; Kimberly-Clark Corporation; Environmental Transportation Association; and Laidlaw, Inc.

SIERRA CLUB,
Washington, DC, September 27, 1994.

DEAR REPRESENTATIVE: Broad "flow control" legislation, H.R. 4683, to be voted on by the full House this week, could negatively impact public health, the environment and safe waste disposal. Such legislation would give local governments exclusive control over the flow of trash, make it significantly easier to site new incinerators, and increase the possibility of Superfund liability for waste generators. Sierra Club strongly urges you to narrow the scope, and curb these impacts by supporting an amendment expected to be offered by Reps. Bill Richardson (D-NM) and Jack Fields (R-TX).

Flow control requires that municipal solid waste be disposed of in a designated waste facility. The overwhelming experience in most communities has been the use of flow control to support the construction of capital intensive incinerators or waste-to-energy facilities which can emit dangerous toxins. (Flow control guarantees a waste stream for newly constructed facilities. Thus the revenue from the waste allows a facility to pay off the indebtedness occurred from building the facility.) These facilities also lock out the adoption of recycling and source reduction alternatives because incinerators compete for the same materials collected by recycling programs. Sierra Club urges that prospective flow control be considered only within the context of a RCRA reauthorization where sound solid waste plans—including reduction, recycling, and composting—and enforcement of those plans, can be adopted.

Furthermore, flow control could potentially lock waste generators and communities into using unnecessary or unsafe disposal facilities. Local governments are not required to ensure that a facility treat waste in the safest possible manner. Thus a generator might be liable simply by complying with a municipalities' flow control requirements should the waste facility ultimately be listed under Superfund. Waste generators should demand that flow control not be enacted or even considered until the best waste management system is established under RCRA.

The Richardson-Fields amendment would "grandfather" current flow control arrangements established prior to May 15, 1994, yet require new facilities to be built based on competition. This "grandfather" provision would prevent the disruption of existing municipal financing arrangements. Additionally, the Richardson-Fields grandfather has been broadened further to include those existing facilities that have not completed the schedule of payments for capital costs, or those in which the useful life of the original facility had not expired, whichever is longest.

The ramifications of enacting flow control legislation are great. We urge you to vote for the Richardson-Fields amendment which would provide a reasonable compromise to full-scale flow control. Sound solid waste management should not bring waste facilities on-line hastily, or when they are not the safest option.

Thank you for your consideration.

Sincerely,

A. BLAKEMAN EARLY,
Washington Director, Environmental Quality Program.

COMPETITIVE ENTERPRISE INSTITUTE,
Washington, DC, September 20, 1994.

Hon. STROM THURMOND,
U.S. Senate,
Washington, DC.

DEAR SENATOR THURMOND: In May of this year, the Supreme Court ruled that local flow control laws are unconstitutional impositions on interstate commerce. Now, some in Congress hope to reverse this decision and provide specific Congressional authorization for those laws. We, the undersigned, believe that this would be a terrible mistake and urge you to oppose any such efforts.

Flow control is the practice whereby local governments require all waste within their jurisdiction be processed at designated facilities, often at overpriced, inefficient incinerators. In this manner, flow control confers a portion of the solid waste management market to politically-preferred constituencies at the expense of consumers. It is this type of arrangement that the Supreme Court declared unconstitutional.

Reauthorizing the use of flow control would be a step backward in the handling of municipal solid waste. Rather than encourage expanded markets in solid waste management that would encourage greater efficiencies and innovation, flow control would establish protected government monopolies that have no incentive to increase the quality of their services. Waste management prices would be set by political forces, without regard for market pressures. Public sector facilities would not have to compete for any of their business. There is little doubt that under this scenario, consumers of waste management services would pay more as they would be deprived of the option to take their business elsewhere when prices get too high.

Equally important, Congressional authorization of flow control could inhibit the development of alternative waste management options, including market-driven recycling efforts. Flow control laws unnecessarily inhibit the ability of recyclers and other ecological entrepreneurs to compete in the marketplace. While our organizations have different perspectives on waste management, we agree that if recycling efforts are to succeed, they need to establish a firm foothold in the marketplace. Flow control represents a political barrier to this development.

We, the undersigned, represent no single ideological or economic interest. Rarely are we united on a single issue. In this instance, however, we are working together to oppose the folly of flow control. Flow control laws unnecessarily limit competition within the waste management industry, increase costs for local consumers, and discourage environmental innovation. They are not in the interest of the American people.

Sincerely,

Fred L. Smith, Jr., President, Competitive Enterprise Institute, Washington, DC.

Larry Shapiro, Senior Attorney, New York Public Interest Research Group, Inc., New York, NY.

Michael Sanera, President, Arizona Institute for Public Policy Research, Phoenix, AZ.

Neal Fitzpatrick, Conservation Director, Audubon Naturalist Society, Chevy Chase, MD.

Daniel Jerrems, Coordinator, Baltimore Recycling Coalition, Baltimore, MD.

Paul Beckner, President, Citizens for a Sound Economy, Washington, DC.

Paul Schwartz, Assistant to the Director, Clean Water Action, Washington, DC.

David Ridenour, Vice President, National Center for Public Policy Research, Washington, DC.

David Keating, Executive Director, National Taxpayers Union, Washington, DC.

Richard Stroup, Senior Associate, PERC, Bozeman, MT.

Betsy Ensminger, Founding Member, Pittsburgh Against Toxic Incineration, Pittsburgh, PA.

Robert Poole, President, The Reason Foundation, Los Angeles, CA.

Joseph Stouffer, Legislative Director, Sierra Club—Atlantic Chapter, Albany, NY.

Paul and Ellen Connett, Co-Editors, Waste-NOT, Canton, NY.

Laurence Cohen, Executive Director, The Yankee Institute for Public Policy Studies, Glastonbury, CT.

Frances Smith, Executive Director, Consumer Alert Advocate, Arlington, VA.

Lee Wasserman, Executive Director, Environmental Planning Lobby, Albany, NY.

Madelyn Hoffman, Director, Grassroots Environmental Organization of New Jersey, Flanders, NJ.

Joseph Bast, President, The Heartland Institute, Palatine, IL.

Bridget Barclay, Environmental Director, Hudson River Sloop Clearwater, Poughkeepsie, NY.

Thomas Hession, President, Indian Policy Review Foundation, Indianapolis, IN.

William H. Mellor III, President and General Counsel, Institute for Justice, Washington, DC.

Neil Seldman, President, Institute for Local Self Reliance, Washington, DC.

Marc Rotterman, President, The John Locke Foundation, Raleigh, NC.

□ 1810

Mr. PALLONE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, in my opinion the Richardson substitute is really unfair. The Richardson alternative would freeze out communities that have spent significant resources to build facilities. The Richardson substitute would bar using flow control in the future to finance new facilities, retrofits, or expansions necessary to meet current needs or new environmental requirements.

A community that has spent years and hundreds of thousands of dollars to finance its facility would be frozen out under the amendment. Richardson pretends to grandfather communities that have invested in good faith reliance on flow control authority, but only under very rigid and limited circumstances.

The committee bill, on the other hand, will not now nor will it ever provide unfettered flow control authority. It simply recognizes the equity of allowing counties that have made significant financial investments in integrated waste systems to go ahead with their plans where those plans have been relying on flow control.

The committee-passed legislation neither encourages nor discourages a particular method of disposal, and I think that is very important to emphasize. We are not discouraging or encouraging any particular method of disposal: incineration, landfill, whatever.

For example, in my home State, we have an integrated system that consists of 12 modern lined countywide landfills, 14 major transfer stations, and 5 regional incinerators. I view flow control as prorecycling and procomposting.

In my home county, which is called Monmouth County, we have an aggressive recycling program in place which has achieved a 42 percent total waste stream and a 44 percent municipal waste stream recycling rate. Through county planning and with the use of flow control authority, Monmouth County is well on its way toward meeting the statutory 60 percent total and 50 percent municipal stream recycling goals by the end of 1995. We would not be able to achieve this without flow control authority.

Mr. Chairman, some have argued that flow control authority merely fuels incinerators, and I think this is very misleading. Flow control allows the local governments to move forward and implement better technologies, environmental technologies. The real environmental danger comes from the reduced recycling and haphazard disposal of trash that will occur without strong flow control authority from municipalities.

Recycling and composting facilities are very costly initiatives, often requiring designating authority and subsidies to make them viable. What responsible local government could finance or construct a recycling or composting facility without flow control authority.

The financial community testified, Mr. Chairman, before the subcommittee in the Committee on Energy and Commerce and warned that recycling and composting facilities would not likely be financed without the option of flow control. Should a county like Monmouth County, my own county, want to build a composting or recycling facility, they would have no choice without flow control but to raise taxes. They would have no other alternative.

Mr. Chairman, I personally am concerned as an environmentalist that we may face a major step backward in environmental protection as the short-term economic gains of artificially cheap disposal prevail over more comprehensive long-term strategies to reduce the amount of waste we produce through resource reduction, reuse, and recycling. Make no mistake that the environmental vote is no on the Richardson amendment.

Mr. FIELDS of Texas. Mr. Chairman, I rise in support of the Richardson-Fields amendment.

Mr. Chairman, first of all, I want to commend the gentleman from New Mexico [Mr. RICHARDSON] for his eloquent statement and explanation of our amendment just a moment ago.

Mr. Chairman, I rise today in support of the Richardson-Fields amendment.

Since the recent Supreme Court Carbone decision, the local governments' push for legislative relief has intensified. After many negotiations and significant alterations to our bill, I am proud to be a sponsor with my friend, Mr. RICHARDSON, of an amendment to be offered as a substitute to the bill today. Our amendment will protect those facilities financially dependent on flow control but would rely on the free market and open competition in the future.

Our amendment addresses the core problem by providing the needed relief to the local government which are currently operating under flow control ordinances until such time as their contract expires or the current schedule of payments for the facility is paid off, whichever is longer. This amendment actually goes beyond our original bill by including facilities not yet constructed if they meet certain requirements such as having obtained required construction permits, the completion of contracts for construction or the presentation for sale of revenue bonds for financing the construction of the facility.

As a proponent of the free market, I believe our approach is the only one which would protect taxpayers, businesses, and the environment. Unlimited flow control authority which gives local governments a monopoly power would disrupt open competition and could raise prices for waste collection and disposal. As we all know, the market for waste is a large and extremely competitive one. Having no evidence that the private sector cannot effectively and maybe more efficiently control the movement of municipal solid waste, there is no need for Congress to grant this monopoly power to the local governments.

You all should have received a copy of a letter from the National Federation of Independent Businesses stating their opposition to virtually any flow control ordinance. The National Association of Manufacturers, the U.S. Chamber of Commerce, the Associated Builders and Contractors are just a few of the others who strongly oppose flow control.

They are concerned that small and large businessowners who want the ability to contract for the best possible price for their solid waste collection will not be able to do so under eternal flow control arrangements. They also feel that all waste companies should be allowed to compete fairly for waste collection contracts.

Let's address the real problem today and grandfather those facilities which would be affected immediately by the Supreme Court decision and leave the future in the hands of a competitive marketplace.

Mr. Chairman, I urge my colleagues to support the Richardson-Fields amendment. I yield back the balance of my time.

The environmental vote is aye, and the pro-business vote is aye.

□ 1820

Mr. MINGE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am very interested in the arguments in favor of the Richardson substitute. I feel they are fallacious. To say that the environmentally favorable position is aye on this amendment really defies analysis. What we see happening around this country is that hundreds of local communities are attempting to do the right thing environmentally. They are being hamstrung by the Carbone decision. They are being hamstrung by the delay in Congress in responding to that decision. The responsible thing is to let local governments get on with the environmentally sound work that they have started. In my State, we have dozens of local communities that are trying to work together to do the right thing with local enterprise.

The other aspect of this which I find very interesting is that if we can, we should allow local units of government to solve these problems in their own communities rather than trying to micromanage things from Washington, DC or forcing local units of government to have one hand tied behind their back as they deal with a very difficult problem.

Mr. Chairman, I feel that those of us here in Congress on both sides of the aisle recognize the importance of maximum local autonomy to respond as is appropriate to local problems. I feel that the responsible vote on this amendment is no if we are thinking about how we relate to our local units of government and those officials. What we should do is encourage this debate to occur in our local communities. Let them thrash out the problem. Local businesses can come in, present their arguments, and they can work out an accommodation that makes sense at the county level.

Therefore, Mr. Chairman, I urge that all in this Chamber vote against the Richardson substitute.

Mr. MCMILLAN. Mr. Chairman, I move to strike the requisite number of words and I rise today in opposition to the amendment offered to the committee-passed bill.

Mr. Chairman, proponents of Richardson argue that flow control is environmentally unsound, and anti-competitive. It is pure and simple one waste management company and the Sierra Club.

Each of these charges is specious. The committee bill, which this amendment seeks to strike, has language to compel the use of competitive bidding, solid waste management planning, and a time certain when commercial flow control authority ends. This is not the open-ended granting of broad authority that the proponents of Richardson would have you believe it is. The committee bill balances the needs of both sides of the debate, Richardson does not.

Forty-three States allow the use of flow control authority, most as a base for environmentally sound solid waste management laws. Richardson would effectively make compliance with many of those laws impossible because the laws were based on flow control authority.

Under the Richardson language, scores of communities who have made substantial financial commitments could be left without the means to accomplish waste management goals required by State law.

Proponents of Richardson argue that flow control leads to incineration and supporting this amendment will result in a reduction in exposure to dioxin. This argument ignores that incineration is strictly regulated by EPA and a choice a community should make.

Finally, to say the committee bill eliminates competition in the marketplace is wrong. I am a strong advocate of competition and worked to insure that any flow control legislation include a requirement that competitive bidding be a part of any new designation. This competitive bidding process increases not decreases private sector involvement.

The arguments supporting this amendment were weak and unsound when it was handily defeated in the full Energy and Commerce Committee and they are weak and unsound today. I urge a "no" vote on this amendment.

Ms. LAMBERT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the Richardson Amendment. I believe that this amendment, while providing limited relief to our local communities, still leaves many communities, who have relied in good faith on flow control, out in the cold.

The Richardson approach would not help communities that are in the process of implementing flow control nor would it help communities that have comprehensive waste management plans in place. In both of these situations, communities have devoted much time and money.

Mr. Chairman, flow control will not create new monopolies with the localities. First, H.R. 4683 would provide for a competitive bid process for future flow control authority; second, it does not expand on existing flow control authority.

Mr. Chairman, some would say that H.R. 4683 is bad for small business and bad for the environment. I disagree.

Under this bill, small waste haulers will be able to compete on an equal level with the large vertically integrated waste management companies. Since these large waste management companies own their own landfills in addition to hauling waste, their tipping fees at the landfill can partially subsidize the costs associated with their hauling expenses. However, where the local governments own the waste disposal facility, the most competitive and price effective waste hauler will win the hauling contract, regardless of the size of the business. For this very reason, these small mom and pop trash haulers have survived and flourished in flow control jurisdictions.

This bill is also environmentally friendly. Under many flow control jurisdictions, local governments have installed new environmentally sound methods of waste disposal. Many localities have built and financed recycling and composting facilities and have organized curbside recycling and household hazardous waste pickups. None of these jurisdictions would have been able to invest in such facilities were it not for flow control. Without flow control, the locals would be unable to secure an adequate waste stream to pay off the debt secured by revenue bonds.

Additionally, recyclers are in strong support of H.R. 4683. Supporters of this bill include the American Forest and Paper Association, Weyerhaeuser, and the Institute of Scrap Recycling Industries. Many of my colleagues know that I am a strong proponent of recycling. I am pleased to say that the bill before the House protects municipal, as well as commercial, recycling of paper, glass, plastic, metals, textiles, and rubber. Recyclables voluntarily provided to governmental entities are unaffected by H.R. 4683. This bill does not subject to flow control those recyclables which have been collected and processed by commercial entities and which have not been voluntarily relinquished to government programs. Thus, this bill preserves the commercial market for recyclables.

In closing, flow control will not create new monopolies with the localities. First of all, H.R. 4683 would provide for a competitive bid process for future flow control authority and, second of all, it does not expand upon existing flow control authority.

H.R. 4683 is responsible legislation and I urge my colleagues to vote "no" on the Richardson amendment that would weaken this bill.

Mr. SCHAEFER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Richardson-Fields amendment. This substitute offers us a responsible compromise to the troubling issue of flow control. Ultimately, flow control is about a choice between inefficient government monopolies and a competitive free enterprise system. The Supreme Court has already chosen in favor of free enterprise. It has already ruled that local governments should not be able to have a monopoly on the flow of waste.

My preference would be to allow the court decision to stand. Congress does not need to provide broad new authorities to overturn the Court's ruling. Let the free market do the job.

I do realize that some local communities will suffer if Congress does not take some sort of action. If Congress must act, it should be in a very limited way to assist these communities and leave the core of the Carbone decision intact. This is what the Richardson-Fields amendment would accomplish. It would protect those communities currently involved in flow control, and it would protect free enterprise in the future.

If we must act, let us act responsibly. The Richardson-Fields amendment will accomplish this outcome. The bill before us right now will not.

Mr. UPTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am pleased to join my good friends from New Mexico and Texas in support of their amendment to grandfather existing flow control programs.

Flow control is a legal regimen that some communities have adopted to underwrite expensive waste projects. It was adopted because these communities found that they could not raise the necessary capital to pay for high priced incinerators and landfills without somehow assuring that the flow of waste would be large enough to provide the revenues to pay for that capital.

When the Supreme Court's Carbone decision struck down flow control, it left many communities that had made such commitments with stranded investments. Some cities and counties had invested tens of millions of dollars in landfills, incinerators, and waste-to-energy plants.

With flow control suddenly gone, how are they to pay back the loans or service the bonds that were issued to pay for these facilities?

The Richardson-Fields amendment resolves this problem by simply allowing communities that had made such financial commitments to retain flow control authority long enough to honor these obligations.

It is not the "Hands off Carbone" policy some of the waste companies and environmental groups wanted. It is not the complete, unlimited grant of flow control authority that some communities want. Like the interstate waste bill we passed overwhelmingly yesterday, it is legislation that gives no party all that it wants but, most importantly, it is fair to all parties.

Mr. HUGHES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not going to take 5 minutes because much of what I have to say has been said in one form or another. However, I did not want the opportunity to go by without responding to something that was said about New Jersey, and also to reinforce the belief of I think most of this House that this committee has done a good job really in bringing out a balanced piece of legislation addressing a very difficult but important issue. I congratulate the gentleman from Washington State and the gentleman from Ohio for their work.

□ 1830

I rise in support of the committee bill and in opposition to the Richardson-Fields amendment.

If a Member wants to be a mayor of a community, they ought to go back and run for mayor. They have enough problems trying to deal with waste management and they have done a good job.

I invite my colleagues to come to New Jersey and see what New Jersey is doing to recycle its waste. It is one of the most densely populated States in the Union, a lot of miles of coastline. Much of my industry is tourist oriented, and we have a major problem trying to manage waste. We have made major investments in facilities to recycle. We are aggressive recyclers. We are ahead of the curve. We are doing a good job in New Jersey like in many parts of the country.

We cannot invest millions and millions of dollars, as we have done, in major facilities without having some ability to control the flow of wastes. That is what these municipalities have done, they have invested tens of millions of dollars in an effort to provide good waste management.

Those who suggest that the environmental vote is a vote in favor of Richardson really have not looked at what is happening in waste management, because the committee bill basically does encourage, it grandfathers those that presently are managing wastes through flow control. It also encourages those who are trying to grapple with the problems to invest in facilities that will do just that, to recycle, to develop better waste management programs, and that is why the committee bill is the right bill, and I urge my colleagues to support it and salute the committee for their outstanding work.

Mr. HASTERT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Richardson-Fields amendment.

In very practical language, in my district in Illinois there is a real practical problem, a practical problem that some cities have pulled together in cooperative entities to try to solve the waste problems, and some of them, 50 some communities have been tied into a consideration that has spent a lot of money and used taxpayers' money. All of a sudden these cities now cannot get out of that amalgamation because of this waste flow legislation. They cannot get out and they cannot invest in better ways and the new technologies in the environmentally sound ways, and quite frankly, they cannot get out to save their taxpayers money.

The Richardson-Fields amendment holds harmless those people who are already doing it but prospectively allows us to start to plan for cities to be able to find better opportunities not being tied into the old corporate schemes that are out there. I think it is a good amendment. It deserves the support of this body and I ask for positive support.

Mr. Chairman, it is premature and irresponsible for Congress to pass this bill at this time. Congress should wait, and not enact any flow control legislation, until we have had time to determine the impact of the Carbone decision pertaining to currently operating waste management facilities. Furthermore, I do not believe any case can be made for granting prospective relief from Carbone.

As currently created, H.R. 4683 would enable local governments to control where wastes brought into a community, or generated within a community, will be disposed of. Such authority could remove many existing waste facilities from the competitive marketplace, a marketplace which in many instances would save taxpayers money. Additionally, this flow control legislation would eliminate incentives to control costs, provide quality services, and maintain efficient facilities. In short, this legislation creates a government monopoly that would stifle competition and deny the public the benefits of a free market system. To be sure, Congress should not be in the business of creating these government monopolies.

In conclusion, I believe that the free market is capable of responsibly and efficiently managing our waste facilities. Accordingly, I am opposed to enacting any flow control legislation during this Congress. I urge my colleagues to act responsibly and defeat this ill-timed piece of legislation.

Mr. SMITH of New Jersey. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I too rise in opposition to the Richardson-Fields amendment.

Mr. Chairman, H.R. 4683 very wisely grandfathers integrated systems including a full range of services such as recycling, composting, and energy to waste. H.R. 4683 enables communities that use flow control to continue advancing and creating better and more sophisticated means of disposal.

The Richardson-Fields amendment, on the other hand, grandfathers facilities only, and once a facility runs its useful life, flow control authority is over as well, no grandfathering of retrofits, expansions, redesignations, or modifications. If a landfill becomes full, tough luck, no more flow control. If a burner is too small for increased waste, too bad.

Mr. Chairman, the Richardson amendment will freeze out hundreds of local governments across the Nation, including many counties in my State of New Jersey that have taken meaningful actions toward flow controlling their waste management facilities but have not yet completed such actions.

I think the committee has, again, very wisely, crafted a bipartisan bill, a bill I think that is environmentally sound, and I think that the Richardson amendment ought to be rejected and this consensus bill accepted by the House.

Mr. EHLERS. Mr. Chairman, I move to strike the requisite number of words. I just want to expand on this issue as I rise in opposition to the Richardson-Fields amendment, and I rise based on the experience I had in local government for 8 years and the State legislature for 11 years. As county commissioner I served as chairman of the Board of Public Works and had a great deal of responsibility with solid waste disposal and became intimately familiar with solid waste problems and handling these problems at the local level. In the State Senate I chaired the Natural Resources and Environmental Affairs Committee and was involved in developing a State-county planning mechanism which was very effective in resolving some of the issues we are talking about here.

I believe it is very important to pass the original bill and to reject the Richardson-Fields amendment because States and counties have in many cases worked out systems of modified flow control which I believe are legitimate, should be constitutional, and will work.

I believe in competition, as the sponsors of the amendment do. But I have found that in the area of solid waste we generally do not have true competition. First of all, in this era of superlarge landfills and limited numbers of landfills, we often have a monopoly situation, and that does not lend itself to competition. Frequently it is necessary to institute flow control in order to obtain competition.

Furthermore, we have to recognize that the true costs of landfills are not always apparent. As an example, we are spending billions of dollars through Superfund to clean up landfills, and including the true costs of those landfills make waste reduction facilities, incinerators, and other facilities look far more competitive. We still have that problem today. We must introduce some other methods to assure true competition.

with flow control we can still have industry competition, as we do in Michigan, by having the State and the county have limited flow control, but then having the projects bid out to the private sector. That I think is probably the best way of ensuring competition in a semimonopolistic situation.

I am well aware of the environmental community's concerns with incinerators, but I have investigated that thoroughly, and I am convinced that the use of incinerators with good air-pollution controls, along with aggressive recycling programs, is better than the use of landfills, which are often the only alternative.

Mr. Chairman, I urge this body to reject the Richardson-Fields amendment and pass the bill as originally submitted.

Mr. BLILEY. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, I would like to remind Members that this committee was the first committee the Congress formed after 1787. It did so because of the squabbles between the States and reaffirmed that we regulate interstate commerce.

We need a bill, but I think we need a bill as moderate as we can get. We need to act very cautiously in a very limited manner when addressing this issue which we knew arose as a result of the Supreme Court decision.

Our colleagues, the gentleman from New Mexico [Mr. RICHARDSON] and the gentleman from Texas [Mr. FIELDS], have an amendment that addresses a genuine problem: to grandfather existing facilities in communities that had invested in flow control laws. This legislation, with some very minor fine tuning, should be all that is needed.

While I have the greatest respect and have enjoyed working with the chairman of the subcommittee for the 14 years I have been privileged to serve on the Committee on Energy and Commerce, and I have enjoyed working with the gentleman from Ohio, and as much as I respect him, I think on this issue that they are wrong, that the gentleman from Texas [Mr. FIELDS] and the gentleman from New Mexico [Mr. RICHARDSON] have the better argument.

☐ 1840

Mr. OXLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Richardson-Fields amendment.

Mr. Chairman, first, I would like to note that I believe both H.R. 4683 and the Richardson-Fields approach represent responsible compromises and that I would vote for either approach upon final passage.

I have discussed these approaches with community leaders in my district. At this time and based on these discussions, however, I prefer the approach in H.R. 4683.

The approach in H.R. 4683, in effect, grandfathers flow control systems and, thus, allows for redesignation. The Richardson-Fields substitute authorizes flow control for only the initial facility, which may make it difficult for communities to provide for integrated waste management that may include transfer facilities, and different types of disposal facilities that may change over time.

I also do not believe that H.R. 4683 is a blank check to local governments. H.R. 4683 only allows for flow control of commercial waste under reasonable indicia of a commitment to designate a facility within a specified period of time. Moreover, the bill contains a competitive designation process that ensues some competition for operating the facility. Flow control in such situations, in effect, allows a community to bargain for the most cost-effective and environmentally sound waste management system for the whole community and assured financial stability for that system. This is a traditional function of local government.

I am not saying that flow control is the best option in any given community. I do, however, believe that legislation should not limit existing operations or facilities late in the planning process. I am more confident that H.R. 4683 will not disrupt these local communities, than I am with the Richardson-Fields substitute.

Accordingly, I ask my colleagues to vote against the Richardson-Fields amendment.

Mr. SWIFT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I had brilliant remarks in opposition to the amendment offered by the gentleman from New Mexico, but in an act of heroic restraint, I will not give them at this time.

While I recognize that the gentleman from New Mexico has made a number of improvements to his amendment, and commend him for making these changes, I cannot support it for the following reasons:

First, the amendment contains only a narrow grandfather, limited to facilities. To me, this does not adequately address the issue of the integrated waste management systems which we have been urging States and local governments to adopt.

Second, the grandfathered flow control authority sunsets at the end of the life of contracts for delivery of waste to the facility, or the completion of the schedule of repayments for the facility, whichever is longer.

This sunset ensures that, while the local government will probably be able to pay off its financial commitment regarding the facility, it will never be able to use the facility to generate revenue. In effect, the use of the facility beyond the sunset date will be taken away.

Third, while the amendment makes some provision for local governments that need to redesignate facilities to account for a facility's closing, the grant of authority to make such redesignations is too restrictive.

Fourth, the same is true of the amendment's language regarding facilities in the pipeline, but not up and running, as of the date of the Carbone decision.

The Richardson amendment calls for an end to flow control in the near future. Before we take that step, we should consider a few factors:

Local governments have traditionally had the responsibility for waste management. They need to have the full range of available tools in order to best fulfill this responsibility.

Flow control is a useful solid waste management tool, especially for local governments that wish to develop integrated waste management systems.

Perhaps the alternative to providing local governments with the waste management tools they need is to take the responsibility for waste management from them and give it to another entity, such as the Federal Government.

Another option would be to regulate the waste disposal industry as a public utility.

The private sector will not always provide every service a community desires, especially when some of these services are not profitable. Examples of such services are household hazardous waste and scrap tire collection.

Local governments can use flow control to subsidize these unprofitable, but desirable, services.

The private sector is often the beneficiary of flow control—it provides them with long-term waste supplies at a guaranteed price. Besides, several of the larger members of the industry do not seem to be unduly suffering under the current system.

The escalating construction and operation costs for waste management facilities such as landfills, and the increasing reliance on regional facilities, automatically lead to more private sector involvement—it seems unlikely to me that many local governments will be building large subtitle D landfills in the coming years. They might wish, however, to contract with a private landfill operator, in which case they will probably need to guarantee a reliable waste stream for that privately owned or operated facility. Flow control is an excellent way to do this.

Mr. GRAMS. Mr. Chairman, as an original cosponsor of the Richardson-Fields flow control grandfather legislation, I rise in strong support of the Richardson-Fields amendment. Minnesota—like 28 other States—is a flow control State. When the U.S. Supreme Court ruled State flow control laws unconstitutional, local governments in my State were thrown into turmoil.

In my home State, county officials developed an integrated waste management system premised upon waste flow control laws. They build incinerators or composting facilities with a mandate for a steady stream of waste to finance them. Yet, as a result of the Carbone decision, these county commissioners have been faced with the unsavory options of having to cut vital programs or raising residential taxes.

Over the past 2 years, I have worked closely with Minnesota officials and representatives from the various parties interested in the flow control debate. I've worked hard to identify a compromise to address the arguments being made on all sides of this issue.

That compromise is embodied in the Richardson-Fields amendment. This language protects existing investments made under flow control before it was struck down, but does not expand the practice to the remainder of the country. It is a pure grandfather—affecting only those facilities teetering out on a limb—and sunsetting when the facility debt is paid off or a flow control contract expires.

Richardson-Fields fixes only what is broken, and does not interfere with the free-market in situations where flow control did not exist. That is why Richardson-Fields has gained the broadest base of support, including environmental groups, business groups, taxpayer, and consumer groups.

The Richardson-Fields amendment is the true compromise here today. I urge my colleagues to adopt the Richardson-Fields amendment as a solution for those governments which are in a bind as a result of the Carbone decision, and as a means of averting efforts to expand flow control.

Mr. ACKERMAN. Mr. Chairman, I rise today to speak on an issue that has affected municipalities in my district and districts all over the country, flow control of municipal waste.

Ever since a recent U.S. Supreme Court decision struck down local laws that control the flow and disposal of trash, municipalities, large and small, have been in conflict in an effort to best serve the needs of their taxpayers.

In my district, flow control was locally enacted several years ago, in order to ensure that incinerators owned and operated by the town governments received a constant and steady supply of garbage. The Supreme Court, however, has ruled that State and local governments cannot use their regulatory power to favor their own incinerators.

These incinerators were built by the towns in order to dispose of the waste created there, when the town governments felt they were under an obligation to do so. Smaller municipalities now wish to find more cost effective places to dispose of their waste, to benefit their taxpayers. If the town incinerators go unused, however, it is these same taxpaying citizens who are the real losers.

For these reasons, I rise in support of H.R. 4683, the Municipal Solid Waste Flow Control Act of 1994. This legislation would grandfather existing flow control contracts, which provide authority to local governments to designate facilities where municipal solid waste must be disposed of. Additionally, it would allow States and local governments to exercise flow control authority for either household waste or recyclable materials if it: First, establishes a program providing for separation or recyclable materials from other waste, for recycling, reclamation and reuse; and second, makes a finding, on the basis of one or more public hearings, that the use of flow control is necessary to meet current or anticipated solid waste management needs.

I urge my colleagues to support this bill.

Mr. TOWNS. Mr. Chairman, I rise in support of the flow control substitute offered by the gentleman from New Mexico.

Despite the attention given to many environmental issues, flow control is relatively esoteric and commands few headlines. Yet it could effect the pocketbooks of ratepayers and businesses throughout the United States.

We are voting today to decide what local governments can do to determine where people must send their trash. For most, this is not much of a constraint, residents put their trash at curbside and are happy to be rid of it. For businesses, commercial and industrial, waste disposal is more complicated, and certainly the cost of waste disposal is an important concern to a business' viability.

With flow control, many local governments will be able to plan knowing that they can capture all the ordinary garbage, residential and commercial, that is generated. The effect of this may not be so sanguine. Many governments have overbuilt for disposal, and need flow control precisely because their facilities are much more expensive than other options.

In particular, flow control supports incinerators, which are often more expensive than alternatives. I have been urging my own city, New York, to invest as much in recycling as they have in new incinerators. Ironically, recycling capacity could easily dwarf the capacity of the pending incinerator proposals, and it does not lock the city into an expensive technology for 20 years.

I am glad to see that flow control can also be used to support recycling programs, but I am not convinced that flow control is necessary to make recycling work. Most residents will surrender their trash happily. Many businesses will seek a part in recycling because that is seen as "the right thing to do." But flow control casts too broad a net, and supports foolish decisions as well as wise ones.

I am especially troubled by how this might affect businesses under Superfund. A local government would have the authority to tell a business where to send its trash. But if that site is not as well-managed or as well-designed as hoped, it could become, or contribute to, a superfund site. Businesses could have superfund liability where they had no choice. I support making the polluter pay, but this does not strike me as fair.

It is not that I do not acknowledge the merits to some of the arguments the other side will make. People hold local governments responsible for handling trash, and Congress has certainly encouraged planning at local and State levels. But we do not need the broad flow control in the current bill.

We do need to do something limited in this area to protect a few communities who have already issued bonds and built facilities under the assumption that they could use flow control, but we do not need to encourage this inefficient behavior.

I support the much more limited option in the amendment of my good friend from New Mexico. I urge my colleagues to support this substitute.

The CHAIRMAN pro tempore (Mr. MONTGOMERY). The question is on the amendment in the nature of a substitute offered by the gentleman from New Mexico [Mr. RICHARDSON].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. RICHARDSON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 161, noes 244, not voting 34, as follows:

[Roll No. 452]

AYES—161

Allard
Andrews (TX)
Archer
Armey
Bachus (AL)
Baker (CA)
Barca
Barcia
Barrett (NE)
Bartlett
Barton
Becerra
Beilenson
Bentley
Bereuter
Berman
Bliley
Blute
Boehner
Bonilla
Boucher
Bryant
Bunning
Byrne
Callahan
Camp
Canady
Chapman
Conyers
Coppersmith
Cox
Cramer
Crane
Crapo
Cunningham
de la Garza
de Lugo (VI)
DeLay
Doolittle
Dreier
Duncan
Dunn
Edwards (TX)
English
Eshoo
Ewing
Fields (TX)
Filner
Fowler
Frost
Furse
Gallegly
Geren
Gilchrest
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Grams
Grandy
Green
Gunderson
Hall (TX)
Hancock
Harman
Hastert
Hefley
Hoekstra
Huffington
Hunter
Hutchinson
Hyde
Inglis
Jefferson
Johnson, E. B.
Johnson, Sam
Kennedy
Kim
Kingston
Klink
Klug
Kolbe
Kopetski
Kyl
LaFalce
Leach
Lewis (GA)
Lightfoot
Linder
Livingston
Machtley
Maloney
Mann
Manton
Manzullo
Martinez
McCollum
McHale
McInnis
Mfume
Michel
Mineta
Moorhead
Morella
Nadler
Norton (DC)
Nussle
Obey
Ortiz
Parker
Pastor
Payne (VA)
Pelosi
Pickle
Pombo
Porter
Poshard
Pryce (OH)
Quinn
Rahall
Reed
Richardson
Roberts
Rohrabacher
Romero-Barcelo (PR)
Roth
Roybal-Allard
Royce
Sanders
Sarpalius
Schaefer
Schiff
Scott
Serrano
Shepherd
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence
Stenholm
Stump
Swett
Talent
Tanner
Tejeda
Thomas (WY)
Torkildsen
Torres
Towns
Upton
Velazquez
Vucanovich
Waters
Watt
Waxman
Wilson
Young (AK)
Zeliff

NOES—244

Abercrombie
Ackerman
Andrews (ME)
Bacchus (FL)
Baesler
Baker (LA)
Ballenger
Barlow
Barrett (WI)
Bateman
Beyill
Bilbray
Bilirakis
Bishop
Blackwell
Boehlert
Bonior
Borski
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Burton
Buyer
Cantwell
Cardin
Carr
Castle
Clay
Clayton
Clement
Clinger
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Cooper
Costello
Coyne
Danner
Darden
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Dornan
Durbin
Edwards (CA)
Ehlers
Emerson
Evans
Everett
Farr
Fawell
Fazio
Fingerhut
Flake
Foglietta
Ford (TN)
Frank (MA)
Franks (CT)
Franks (NJ)
Gejdenson
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Gordon
Goss
Greenwood
Gutierrez
Hall (OH)
Hamburg
Hamilton
Hansen
Hastings
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoke
Holden
Horn
Houghton
Hughes
Inslee
Istook
Jacobs
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnston
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kleczka
Klein
Knollenberg
Kreidler
Lambert
Lancaster
Lantos
LaRocco
Lazio
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lipinski
Long
Lowey
Lucas
Margolies-Mezvinsky
Markey
Matsui
Mazzoli
McCandless
McCloskey
McDermott
McHugh
McKeon
McKinney
McMillan
Meehan
Meek
Menendez
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Murphy
Myers
Neal (MA)
Neal (NC)
Oberstar
Olver
Orton
Oxley
Packard
Pallone
Paxon
Payne (NJ)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pomeroy
Portman
Price (NC)
Ramstad
Rangel
Ravenel
Regula
Reynolds
Roemer
Rogers

Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Rush
Sabo
Sangmeister
Santorum
Sawyer
Saxton
Schenk
Schroeder
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stearns
Strickland
Studds
Stupak
Swift
Synar
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thornton
Thurman
Torricelli
Traficant
Tucker
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walker
Walsh
Weldon
Whitten
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Young (FL)
Zimmer

NOT VOTING—34

Andrews (NJ)
Applegate
Calvert
Clyburn
Engel
Faleomavaega (AS)
Fields (LA)
Fish
Ford (MI)
Gallo
Hayes
Hoyer
Hutto
Inhofe
King
Laughlin
Lloyd
McCrery
McCurdy
McDade
McNulty
Murtha
Owens
Quillen
Ridge
Slattery
Stark
Stokes
Sundquist
Thompson
Underwood (GU)
Washington
Wheat
Yates

□ 1903

The Clerk announced the following pair:

On this vote:

Mr. Calvert for, with Mr. Andrews of New Jersey against.

Mrs. MEEK of Florida and Messrs. VENTO, JACOBS, FARR of California, MILLER of California, and MYERS of Indiana changed their vote from "aye" to "no."

Mr. BOEHNER, Ms. ENGLISH of Arizona, Messrs. LEACH, JEFFERSON, and WILSON, Ms. NORTON, and Messrs. McCOLLUM, DOOLITTLE, POMBO, and CUNNINGHAM changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Mrs. ROUKEMA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today in support of H.R. 4683, flow control legislation brought to the House floor by the Energy and Commerce Committee. This bill will ensure that States, like New Jersey, which have made flow control an important part of their solid waste management plans have the necessary authority to do so.

Unfortunately, the Supreme Court's Carbone ruling this past May, which held that local governments do not have the legal right to enact flow control ordinances absent Congressional authorization, has cast into doubt a local government's right to adopt flow control policies. Prompt passage and enactment of this legislation, prior to our final adjournment, must be a very high priority for the bipartisan leadership of the 103d Congress and President Clinton.

Earlier this week, I received a letter from the State Department of Environmental Protection's [DEP] Commissioner, Robert Shinn, outlining why New Jersey prefers H.R. 4683, as reported by the Energy and Commerce Committee, to the Richardson-Fields alternative.

Having said that, the State has made it clear to the New Jersey delegation that it would still like to see some improvements to H.R. 4683 with respect to its provision that a State's Governor affirmatively certify compliance with the so-called competitive designation provision. I hope that when the conference committee meets to craft a final version of flow control legislation that the concerns of New Jersey can be addressed. If so, I would welcome the chance to support final passage and enactment of that bill as well.

In the meantime, I urge all of my colleagues in the House join me in supporting House passage of the Energy and Commerce Committee version of H.R. 4683 this afternoon.

Mr. SWIFT. Mr. Chairman, I move to strike the last word for the purpose of informing the membership that there has been agreement on both sides that the vote we just had will be the last vote of the evening. We will seek a voice vote on final passage, or, should we be surprised, we will roll that vote until tomorrow so the membership can plan the rest of its evening.

Mr. BLILEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I originally planned to offer an amendment, but I will not, Mr. Chairman, because of my respect for the chairman of the subcommittee with whom I have had the privilege to work with for the last 14 years, and this may be the last vote on the last bill that he controls the time on the floor, and certainly it is one of the last.

Mr. Chairman, it has been a privilege to work with the gentleman from Washington [Mr. SWIFT]. He has always been patient and understanding, particularly when I first came in as a young man, ready to change the world, and he tried to change me, sometimes successfully, and sometimes unsuccessfully. But on this matter of flow control I think that the term "significant finance commitment" is unnecessarily broad, and I would hope that he and the ranking member, as they go to conference with the other body, will look at this with a view, possibly, to see if it might be tightened up.

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. BLILEY. I yield to the gentleman from Washington.

Mr. SWIFT. Mr. Chairman, I thank the gentleman from Virginia [Mr. BLILEY] for suggesting that he was such a young man and that this old man helped him, but I would remind the gentleman that his hair was gray before mine was.

Mr. BLILEY. Mr. Chairman, that is from serving in local government. One gets that way in a hurry.

Mr. SWIFT. Of course I would be very happy to work with the gentleman from Virginia on his areas of concern to see if there is some accommodation that can be reached.

Mr. SMITH of New Jersey. Mr. Chairman, the section in the bill that Mr. BLILEY would have amended is designed to provide authority to those communities that, pursuant to State law, have made significant financial commitment to develop waste management facilities for which a designation has not yet been made. These communities have spent hundreds of thousands of dollars in reliance on the right to flow control to determine sound municipal waste management options, but they have not yet secured financing for a particular waste facility.

The Bliley amendment now withdrawn would make it exceedingly difficult for those communities to carry through on their obligations and realize their investments.

More important, the Bliley amendment would subject communities to significant lawsuits brought by the waste management industry over what is and what is not "significant substantial investment", "detrimental reliance" and "substantial loss". It would be inherently unfair to local communities to second guess what is or is not a significant financial investment.

H.R. 4683 Mr. Chairman, as reported by committee is designed in part to end litigation that has saddled and burdened local community resources. The bill is designed to enable communities to effectively and efficiently manage municipal solid management without the threat of litigation.

Municipal solid waste management is a critical role of local communities today and the communities must be provided tools to do it effectively without the threat of litigation.

Mr. BLILEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. MONTGOMERY). Are there further amendments to this bill?

If not, the question is on the committee amendment in the nature of a substitute.

The Committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. ROEMER) having assumed the chair, Mr. MONTGOMERY, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 4683) to amend the Solid Waste Disposal Act to provide congressional authorization of State control over transportation of municipal solid waste, and for other purposes, pursuant to House Resolution 552, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1910

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT TO ACCOMPANY H.R. 4299, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–766) on the resolution (H. Res. 555) waiving points of order against the conference report to accompany the bill (H.R. 4299) to authorize appropriations for fiscal year 1995 for intelligence and intelligence-related activities of the U.S. Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT TO ACCOMPANY H.R. 6, IMPROVING AMERICA'S SCHOOLS ACT OF 1994

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–767) on the resolution (H. Res. 556) waiving points of order against the conference report to accompany the bill (H.R. 6) to extend for 6 years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965, for certain other purposes, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 4926, NATIONAL TREATMENT IN BANKING ACT OF 1994

Ms. SLAUGHTER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 543 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 543

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 4926) to require the Secretary of the Treasury to identify foreign countries which may be denying national treatment to United States banking organizations and to assess whether any such denial may be having a significant adverse effect on such organizations, and to require Federal banking agencies to take such assessments into account in considering applications by foreign banks under the International Banking Act of 1978 and the Bank Holding Company Act of 1956. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Banking, Finance and Urban Affairs now printed in the bill. Each section of the committee amendment in the nature of a substitute shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER. Mr. Speaker, I yield the customary 30 minutes of debate time to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 543 is an open rule providing for the consideration of H.R. 4926, the National Treatment in Banking Act of 1994.

The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs.

The rule makes in order as an original bill for the purposes of amending an amendment in the nature of a substitute recommended by the Committee on Banking, Finance and Urban Affairs now printed in the bill. Each section of the substitute shall be considered as read.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 4926, the bill for which the Rules Committee has recommended this rule, would require the Secretary of the Treasury to identify foreign countries that may be denying national treatment to U.S. banking organizations and to determine whether that denial is having an adverse effect on the banking organizations. Federal banking agencies would be required to take notice of any such assessment published by the Secretary when considering applications filed by foreign banks under various banking statutes.

Mr. Speaker, I urge my colleagues to support this open rule so that the House may consider this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this rule for consideration of the National Treatment in Banking Act. It is an open rule that does not waive points of order against the bill or any amendments. Nobody is gagged, and nobody is given preferential treatment.

Mr. Speaker, spotting a rule like this coming out of the Committee on Rules is an endangered species sighting of sorts. When it occurs, it is cause for a small celebration. I urge all Members to support this rule, and I hope very much that we see a resurgence of fair open rules emanating from our Committee on Rules.

I do have some concerns about the legislation. However, I believe that any legislation that can have the potential of closing our market to quality goods and services must be very closely scrutinized. The burden of proof must lie with those who want to restrict or threaten to restrict trade. Last fall, a year-long study by the Nation's three top experts on productivity, including Nobel laureate Robert Solow, found that the United States is still the world's productivity leader, outdistancing Japan and Germany by significant margins.

Mr. Speaker, the key finding of the report was that protectionist barriers hurt productivity in the country that blocks foreign competition. The more open the economy, the more productive the industries. While the competitiveness of the U.S. banks has been hindered by Depression-era banking laws and regulations, in general the United States has the fewest trade barriers, resulting in the United States remaining most productive. The report recommends reducing trade barriers.

The message is clear, despite how much we detest unfair treatment in other countries, protectionism abroad hurts the other country more than it hurts us. At the same time, closing our market, even in the name of increasing exports at some future date, hurts us. Therefore, while we work, even struggle to open foreign markets to highly competitive American industries such as our banking institutions, resorting to protecting our market in retaliation would in practice shoot ourselves in the foot.

Therefore, despite the very good intentions of the authors and supporters of the bill, I do not believe it is in our national interests to threaten to close our market or abandon national treatment in banking. However, I recognize the desire to provide a stick to our trade negotiators as they painstakingly work to gain national treatment agreements for financial services.

In order to better focus the legislation on the trade negotiation leverage, rather than on the potential for self-destructive regulatory protectionism, I will be using the open amendment process to offer two amendments.

One amendment will clarify that the review process undertaken by the Treasury Department is not intended to implicate treatment by countries with which the United States has negotiated trade agreements pertaining to banking, such as those in the North American Free-Trade Agreement. I believe that this will be a noncontroversial amendment.

My second amendment recognizes the fact that the administration does not have fast-track negotiating authority for financial services agreements. The administration has asked for that authority and they have repeatedly claimed that it is critical to concluding successful negotiations. I believe that without fast track, this bill creates a stick to punish offending countries without the authority to achieve the carrot of market opening agreements.

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Therefore, the amendment would defer the actions of the Treasury Department until fast track is granted to the administration.

In the meantime, Mr. Speaker, I strongly support this rule and urge adoption of it and look forward to working with my colleagues on this legislation.

Mr. Speaker, I include for the RECORD the following:

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted[1]	Open rules		Restrictive rules	
		Number	Percent[2]	Number	Percent[3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	99	31	31	68	69

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Sept. 28, 1994.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (d–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1(not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173 May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H,R 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176.. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993)
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1; R–1)	N/A	A: Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D–6; R–11)	4 (D–1; R–3)	A: 238–182. (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A: Voice Vote. (Nov. 16, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	N/A	N/A	
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D–8; R–19)	9 (D–1; R–8)	F: 191–227. (Feb. 2, 1994).
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D–9; R–6)	4 (D–1; R–3)	A: 233–192. (Nov. 18, 1993).
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D–7; R–14)	6 (D–3; R–3)	A: 238–179. (Nov. 19, 1993).
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D–1; R–0)	N/A	A: 252–172. (Nov. 20, 1993).
H. Res. 319, Nov. 20, 1993	MC	H.R. 3: Campaign Finance Reform	35 (D–6; R–29)	1 (D–0; R–1)	A: 220–207. (Nov. 21, 1993).
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D–15; R–19)	3 (D–3; R–0)	A: 247–183. (Nov. 22, 1993).
H. Res. 336, Feb. 2, 1994	MC	H.R. 3759: Emergency Supplemental Appropriations	14 (D–8; R–5; I–1)	5 (D–3; R–2)	PQ: 244–168. A: 342–65. (Feb. 3, 1994).
H. Res. 352, Feb. 8, 1994	MC	H.R. 811: Independent Counsel Act	27 (D–8; R–19)	10 (D–4; R–6)	PQ: 249–174. A: 242–174. (Feb. 9, 1994).
H. Res. 357, Feb. 9, 1994	MC	H.R. 3345: Federal Workforce Restructuring	3 (D–2; R–1)	2 (D–2; R–0)	A: VV (Feb. 10, 1994).
H. Res. 366, Feb. 23, 1994	MO	H.R. 6: Improving America's Schools	NA	NA	A: VV (Feb. 24, 1994).
H. Res. 384, Mar. 9, 1994	MC	H. Con. Res. 218: Budget Resolution FY 1995–99	14 (D–5; R–9)	5 (D–3; R–2)	A: 245–171 (Mar. 10, 1994).
H. Res. 401, Apr. 12, 1994	MO	H.R. 4092: Violent Crime Control	180 (D–98; R–82)	68 (D–47; R–21)	A: 244–176 (Apr. 13, 1994).
H. Res. 410, Apr. 21, 1994	MO	H.R. 3221: Iraqi Claims Act	N/A	N/A	A: Voice Vote (Apr. 28, 1994).
H. Res. 414, Apr. 28, 1994	O	H.R. 3254: NSF Auth. Act	N/A	N/A	A: Voice Vote (May 3, 1994).
H. Res. 416, May 4, 1994	C	H.R. 4296: Assault Weapons Ban Act	7 (D–5; R–2)	0 (D–0; R–0)	A: 220–209 (May 5, 1994).
H. Res. 420, May 5, 1994	O	H.R. 2442: EDA Reauthorization	N/A	N/A	A: Voice Vote (May 10, 1994).
H. Res. 422, May 11, 1994	MO	H.R. 518: California Desert Protection	N/A	N/A	PQ: 245–172 A: 248–165 (May 17, 1994).
H. Res. 423, May 11, 1994	O	H.R. 2473: Montana Wilderness Act	N/A	N/A	A: Voice Vote (May 12, 1994).
H. Res. 428, May 17, 1994	MO	H.R. 2108: Black Lung Benefits Act	4 (D–1; R–3)	N/A	A: VV (May 19, 1994).
H. Res. 429, May 17, 1994	MO	H.R. 4301: Defense Auth., FY 1995	173 (D–115; R–58)		A: 369–49 (May 18, 1994).
H. Res. 431, May 20, 1994	MO	H.R. 4301: Defense Auth., FY 1995		100 (D–80; R–20)	A: Voice Vote (May 23, 1994).

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.—Continued

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 440, May 24, 1994	MC	H.R. 4385: Natl Hiway System Designation	16 (D–10; R–6)	5 (D–5; R–0)	A: Voice Vote (May 25, 1994).
H. Res. 443, May 25, 1994	MC	H.R. 4426: For. Ops. Approps, FY 1995	39 (D–11; R–28)	8 (D–3; R–5)	PQ: 233–191 A: 244–181 (May 25, 1994).
H. Res. 444, May 25, 1994	MC	H.R. 4454: Leg Branch Approp, FY 1995	43 (D–10; R–33)	12 (D–8; R–4)	A: 249–177 (May 26, 1994).
H. Res. 447, June 8, 1994	0	H.R. 4539: Treasury/Postal Approps 1995	N/A	N/A	A: 236–177 (June 9, 1994).
H. Res. 467, June 28, 1994	MC	H.R. 4600: Expedited Rescissions Act	N/A	N/A	PQ: 240–185 A:Voice Vote (July 14, 1994).
H. Res. 468, June 28, 1994	MO	H.R. 4299: Intelligence Auth., FY 1995	N/A	N/A	A: Voice Vote (July 19, 1994).
H. Res. 474, July 12, 1994	MO	H.R. 3937: Export Admin. Act of 1994	N/A	N/A	A: Voice Vote (July 14, 1994).
H. Res. 475, July 12, 1994	0	H.R. 1188: Anti. Redlining in Ins	N/A	N/A	A: Voice Vote (July 20, 1994).
H. Res. 482, July 20, 1994	0	H.R. 3838: Housing & Comm. Dev. Act	N/A	N/A	A: Voice Vote (July 21, 1994).
H. Res. 483, July 20, 1994	0	H.R. 3870: Environ. Tech. Act of 1994	N/A	N/A	A: Voice Vote (July 26, 1994).
H. Res. 484, July 20, 1994	MC	H.R. 4604: Budget Control Act of 1994	3 (D–2; R–1)	3 (D–2; R–1)	PQ: 245–180 A: Voice Vote (July 21, 1994).
H. Res. 491, July 27, 1994	0	H.R. 2448: Radon Disclosure Act	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 492, July 27, 1994	0	S. 208: NPS Concession Policy	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 494, July 28, 1994	MC	H.R. 4801: SBA Reauth & Amdmts. Act	10 (D–5; R–5)	6 (D–4; R–2)	PQ: 215–169 A: 221–161 (July 29, 1994).
H. Res. 500, Aug. 1, 1994	MO	H.R. 4003: Maritime Admin. Reauth.	N/A	N/A	A: 336–77 (Aug. 2, 1994).
H. Res. 501, Aug. 1, 1994	0	S. 1357: Little Traverse Bay Bands	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 502, Aug. 1, 1994	0	H.R. 1066: Pokagon Band of Potawatomi	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 507, Aug. 4, 1994	0	H.R. 4217: Federal Crop Insurance	N/A	N/A	A: Voice Vote (Aug. 5, 1994).
H. Res. 509, Aug. 5, 1994	MC	H.J. Res. 373/H.R. 4590: MFN China Policy	N/A	N/A	A: Voice Vote (Aug. 9, 1994).
H. Res. 513, Aug. 9, 1994	MC	H.R. 4906: Emergency Spending Control Act	N/A	N/A	A: Voice Vote (Aug. 17, 1994).
H. Res. 512, Aug. 9, 1994	MC	H.R. 4907: Full Budget Disclosure Act	N/A	N/A	A: 255–178 (Aug. 11, 1994).
H. Res. 514, Aug. 9, 1994	MC	H.R. 4822: Cong. Accountability	33 (D–16; R–17)	16 (D–10; R–6)	PQ: 247–185 A: Voice Vote (Aug. 10, 1994).
H. Res. 515, Aug. 10, 1994	0	H.R. 4908: Hydrogen Etc. Research Act	N/A	N/A	A: Voice Vote (Aug. 19, 1994).
H. Res. 516, Aug. 10, 1994	MC	H.R. 3433: Presidio Management	12 (D–2; R–10)	N/A	A: Voice Vote (Aug. 19, 1994).
H. Res. 532, Sept. 20, 1994	0	H.R. 4448: Lowell Natl. Park	N/A	N/A	
H. Res. 535, Sept. 20, 1994	0	H.R. 4422: Coast Guard Authorization	N/A	N/A	A: Voice Vote (Sept. 22, 1994).
H. Res. 536, Sept. 20, 1994	MC	H.R. 2866: Headwaters Forest Act	16 (D–5; R–11)	9 (D–3; R–6)	PQ: 245–175 A: 246–174 (Sept. 21, 1994).
H. Res. 542, Sept. 23, 1994	0	H.R. 4008: NOAA Auth. Act	N/A	N/A	A: Voice Vote (Sept. 26, 1994).
H. Res. 543, Sept. 23, 1994	0	H.R. 4926: Natl. Treatment in Banking	N/A	N/A	
H. Res. 544, Sept. 23, 1994	0	H.R. 3171: Ag. Dept. Reorganization	N/A	N/A	A: Voice Vote (Sept. 28, 1994).
H. Res. 551, Sept. 27, 1994	MO	H.R. 4779: Interstate Waste Control	22 (D–15; R–7)	N/A	A: Voice Vote (Sept. 28, 1994).
H. Res. 552, Sept. 27, 1994	0	H.R. 4683: Flow Control Act	N/A	N/A	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentlewoman for yielding time to me. I thank the Committee on Rules for giving us this open rule, which was requested by the chairman of the Committee on Banking, Finance and Urban Affairs. An earlier version of this legislation got bogged down because there were jurisdictional problems involving the Committee on Energy and Commerce and the Committee on Ways and Means.

This bill has been redrafted so that it impinges on the jurisdiction of no other committee. I share the sentiments of the gentleman from California that our goal ought to be to open markets. We regard this as a market opener. And as the gentleman said, he has two amendments. I would just say, of his amendments, one is better than the other. And we will get into the specifics tomorrow. But we believe that the result of this will be that more markets will be opened.

America now has very open markets in the banking area. Others are not. All we are saying is, and we are not going to disrupt any existing relationships, everybody is grandparented. If one is a foreign bank and one is applying to the Federal Reserve or the Office of the Controller of the Currency or the FDIC, to any American banking regulator, if the Secretary of the Treasury has reported that their host country denies access to American banks, the regulator must take that into account. It does not even mandate that the regulator must say no. But it does give our regulators a tool which we think will result in greater opening. That is the purpose of it.

When we discussed this earlier, some of the financial institutions were worried that they might get caught up in cross-sectoral problems, that a problem in the securities industry might interfere with banking and vice versa.

This bill is drafted so that no cross-sectoral problems can arise. it deals only with banking. Because the Committee on Rules did not waive points of order, at our request, any amendment that tried to involve securities would be out of order.

I would intend to make that point of order. I am sure others would. So I can reassure Members that none of the cross-sectoral problems will come up. No committee jurisdiction problems will come up. It is our judgment that this is a useful tool to give our regulators in terms of trying to open markets.

We will discuss it more tomorrow, but that is the essentials of the bill.

I thank both the majority and minority Members of the Committee on Rules for this open rule.

Mr. DREIER. Mr. Speaker, I have no requests for time, and I am very enthused about the project of an open rule on legislation which is designed to break down barriers and expand export opportunities for goods and financial services.

Mr. Speaker, I yield back the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

BEGINNING FARMER TECHNICAL CORRECTIONS ACT OF 1994

Mr. JOHNSON of South Dakota. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the bill, (H.R. 5065) to amend the Consolidated Farm and Rural Development Act to make technical corrections to certain provisions relating to beginning farmers and ranchers, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. ROEMER). Is there objection to the request of the gentleman from South Dakota?

Mr. ALLARD. Mr. Speaker, reserving the right to object, I shall not object, and I yield to the gentleman from South Dakota [Mr. JOHNSON] for an explanation of the bill.

Mr. JOHNSON of South Dakota. Mr. Speaker, this legislation was introduced by the gentleman from Minnesota [Mr. PENNY] who also introduced the original beginning farmer legislation.

H.R. 5065 makes certain technical changes in the operation of the Beginning Farmer loan program administered by USDA's Farmers Home Administration.

The bill was approved by voice vote of the Committee on Agriculture on Wednesday. I urge the House to support its passage.

Mr. ALLARD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5065

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Beginning Farmer Technical Corrections Act of 1994".

SEC. 2. LAND OWNERSHIP LIMITATION MADE INAPPLICABLE TO OPERATING LOANS.

Section 343(a)(11) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(11)) is amended by adding after and below the end the following:

"As used in subtitle B, the term 'qualified beginning farmer or rancher' shall have the meaning given in the preceding sentence without regard to subparagraph (F).".

SEC. 3. GRADUATION OF BORROWERS WITHOUT REGARD TO YOUTH LOANS.

Section 319 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1949) is amended by adding at the end the following:

"(c) DISREGARD OF LOANS MADE TO YOUTHS.—As used in this section, the term 'loan' does not include any loan made under section 312(b).".

SEC. 4. LOAN HISTORY AND GUARANTEE HISTORY CONSIDERED SEPARATELY IN APPLYING THE TRANSITION RULE FOR GRADUATION OF BORROWERS.

Section 319(b)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1949(b)(2)) is amended by striking all that follows the 4th comma and inserting "the Secretary shall not make a loan to the borrower under this subtitle after the 5th year occurring after the date of enactment for which a loan is made under this subtitle to the borrower, nor shall the Secretary provide such a guarantee with respect to a loan made to the borrower for a purpose specified in this subtitle after the 5th year occurring after the date of enactment for which such a guarantee is provided with respect to the borrower.".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JOHNSON OF SOUTH DAKOTA

Mr. JOHNSON of South Dakota. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. JOHNSON of South Dakota: Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Beginning Farmer Technical Corrections Act of 1994".

SEC. 2. LAND OWNERSHIP LIMITATION MADE INAPPLICABLE TO OPERATING LOANS.

Section 343(a)(11) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(11)) is amended by adding after and below the end the following:

"As used in subtitle B, the term 'qualified beginning farmer or rancher' shall have the meaning given in the preceding sentence without regard to subparagraph (F).".

SEC. 3. GRADUATION OF BORROWERS WITHOUT REGARD TO YOUTH LOANS.

Section 319 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1949) is amended by adding at the end the following:

"(e) DISREGARD OF LOANS MADE TO YOUTHS.—As used in this section, the term 'loan' does not include any loan made under section 311(b).".

SEC. 4. DIRECT LOAN HISTORY AND GUARANTEE HISTORY TO BE CONSIDERED SEPARATELY IN APPLYING THE TRANSITION RULE FOR GRADUATION OF BORROWERS.

Section 319(b)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1949(b)(2)) is amended to read as follows:

"(2) TRANSITION RULES.—

"(A) CONSIDERATION OF DIRECT LOAN HISTORY.—If, as of October 28, 1992, the Secretary has, for 5 or more years, made a loan to a borrower under this subtitle, then, after the 5th year (occurring after October 28, 1992) for which a loan has been made to the borrower under this subtitle, the Secretary shall not make a loan to the borrower under this subtitle.

"(B) CONSIDERATION OF GUARANTEE HISTORY.—If, as of October 28, 1992, the Secretary has, for 10 or more years, provided a guarantee under this subtitle with respect to a loan made to a borrower, then, after the 5th year (occurring after October 28, 1992) for which a guarantee has been provided under this subtitle with respect to a loan made to the borrower, the Secretary shall not provide a guarantee under this subtitle with respect to a loan made to the borrower.".

Mr. JOHNSON of South Dakota (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from South Dakota [Mr. JOHNSON].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JOHNSON of South Dakota. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

FARM CREDIT SYSTEM AGRICULTURAL EXPORT AND RISK MANAGEMENT ACT

Mr. JOHNSON of South Dakota. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the bill (H.R. 4379) to amend the Farm Credit Act of 1971 to enhance the ability of the banks for cooperatives to finance agricultural exports, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Dakota?

Mr. ALLARD. Mr. Speaker, reserving the right to object, I will not object. I yield to the gentleman from South Dakota [Mr. JOHNSON] to explain the bill.

Mr. JOHNSON of South Dakota. Mr. Speaker, H.R. 4379, the Farm Credit System Agricultural Export and Risk Management Act would expand the authority of Farm Credit System's banks for cooperatives to finance exports of agricultural products. It allows the banks for cooperatives to participate in financing arrangements with other domestic or foreign businesses to promote the export of U.S. agricultural commodities. The bill specifically prohibits any of these institutions from financing the relocation of a plant or facility from the United States to another country.

The bill also allows Farm Credit System banks and associations to better manage the risk in their loan portfolios.

The bill was considered and approved by voice vote of the Committee on Agriculture on Wednesday of this week. The bill is designed to help American agriculture expand exports. I urge the bill's passage.

Mr. DE LA GARZA. Mr. Speaker, yesterday (Wednesday, September 28) the House Agriculture Committee considered and approved by voice vote the bill H.R. 4379, the Farm Credit System Agricultural Export and Risk Management Act. This legislation has two basic objectives.

First, the bill expands the authority of Farm Credit System's banks for cooperatives to finance exports of agricultural products. The bill allows the banks for cooperatives to participate in financing arrangements with other domestic or foreign businesses to promote the export of U.S. agricultural commodities.

The bill also allows the banks for cooperatives to finance joint ventures, partnerships and similar arrangements by eligible U.S. agricultural cooperatives, with certain limitations. To safeguard American jobs, the bill prohibits any of these institutions from financing the relocation of a plant or facility from the United States to another country.

Second, the bill allows Farm Credit System banks and associations to better manage the risk in their loan portfolios. The bill authorizes Farm Credit System institutions to purchase and sell loan participations with non-System lenders, thus reducing their concentration of risk by geography and industry.

Mr. Speaker, the bill was introduced by myself and Mr. ROBERTS, the ranking minority member of the Committee on Agriculture and several other Members from both sides of the aisle.

The bill has been the subject of a public hearing and was also included in our committee's proposals for inclusion in the Uruguay round implementation bill. This provision was not included in the final implementation bill and so we bring it to the House floor today so it can be considered as a separate measure.

Mr. Speaker, the committee has not had an opportunity to complete its report to accompany H.R. 4379. I do, however, want to submit and have printed in the CONGRESSIONAL RECORD at this point in the debate official correspondence and a technical analysis of the legislation received from the Farm Credit Administration, the Federal agency that regulates and examines the Farm Credit System institutions. The correspondence and technical analysis follows:

FARM CREDIT ADMINISTRATION,
McLean, VA, August 17, 1994.
Hon. E. (KIKA) DE LA GARZA,
Chairman, Committee on Agriculture, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for the opportunity to provide comment on H.R. 4379, the "Farm Credit System Agricultural Export and Risk Management Act," as modified by the House Committee on Agriculture's recommended changes to the discussion draft of legislation to implement the Uruguay Round Agreements.

The Farm Credit Administration (FCA) neither supports nor opposes the expanded authorities that would be granted to System institutions by H.R. 4379. Rather, as the agency that regulates and examines the System, we are providing an analysis of the effect of the amendments.

In addition to the technical analysis of the impact of the proposed legislation on existing authorities earlier provided to Committee staff, the FCA has evaluated the effect of each of the expanded authorities on the safety and soundness risks facing the System. (See attached addendum.) In general, we concluded that certain types of credit risk—underwriting, credit monitoring, currency risk, and political risk—may be increased, but that other risks such as concentration risk and sensitivity to changes in governmental farm and water policies are potentially decreased by the greater opportunities for diversification and the development of a broader business base. Management risk that comes from entering new lines of business may be increased, but this will depend on the extent to which the authorities are used to finance unfamiliar businesses and unfamiliar types of borrowers. In the international arena, the potential for a greater volume of unguaranteed and uninsured lending will require particular attention because of increased currency and political risk.

Although the expanded authorities granted by H.R. 4379 may require both the System and the FCA to develop additional expertise, the FCA regards the risks resulting from the expanded authorities as manageable. From a safety and soundness viewpoint, such risks, if prudently managed, may be more than offset by the opportunity for greater diversification. We would, of course, continue close regulatory oversight if System institutions were to expand into new lines of business.

More diverse and sophisticated lending could require the FCA to incur additional expense to acquire needed expertise and examination capability. However, it is not possible to provide the cost estimate you requested until we know how the expanded authority will be used. There is a significant potential, especially for banks for cooperatives, to finance new types of businesses and new types of borrowers, perhaps involving more sophisticated transactions. However, because the proposed legislation expands eligibility by relaxing restrictions on loan purpose and eligibility of existing classes of borrowers, rather than by authorizing new types of loans, it is difficult to predict what additional expertise, if any, will be needed or to quantify the additional resources that will be required. We see no immediate need to increase the FCA staff. Rather, we expect that any additional costs as may be incurred would be in response to demonstrated need and incremental in nature.

On a final note, the expansion of international lending authority for banks for cooperatives in H.R. 4379 may bring an increase in the volume of uninsured, nonguaranteed international lending, some of which may be to countries of the former Soviet Union and emerging democracies. While such loans now are statutorily required to be 95 percent Federally guaranteed, current guarantee restrictions would be superseded under H.R. 4379. Thus, the National Bank for Cooperatives (CoBank) would be able to lend, on a nonguaranteed basis, up to 35 percent of its capital ($336 million), and in certain circumstances, up to 50 percent of its capital, to an emerging democracy. Section 3.28 of the Act constrains the FCA's flexibility to respond to such an increased risk involving a single large CoBank credit.

We thank you for the opportunity to comment and stand ready to offer whatever further assistance you may require as you consider this legislation.

Sincerely,

DOROTHY L. NICHOLS
(For Billy Ross Brown, Chairman).

ANALYSIS OF IMPACT OF H.R. 4379[1] ON RISKS FACING THE FARM CREDIT SYSTEM

Expansion of international lending authorities. The expansion of international lending authorities for banks for cooperatives (BCs) would increase credit risk by increasing the potential for uninsured, nonguaranteed lending to noncooperative parties. Although BCs are currently engaged in international lending, most BC loans are guaranteed by the United States Government or agencies thereof. Loans to constituent entities of the former Soviet Union and emerging democracies (FSUs) are statutorily required to be Federally guaranteed in an amount equal to 95 percent of the loan amount. In addition, FCA regulations currently require all loans financing foreign trade receivables to be guaranteed or insured to the extent such insurance or guarantees are available, except for borrowers with high credit ratings and borrowers who have longstanding successful business relationships with the BC.

The expanded international authority of H.R. 4379 is of two types: (a) authority to lend to any exporter, domestic or foreign (whether or not a cooperative), who gives priority to cooperatively sourced products or services, where reasonably available; and (b) authority to lend to any entity, domestic or foreign, (whether or not a cooperative) in which an eligible cooperative has an ownership interest of any size for any purpose that facilitates the domestic or foreign operations of the eligible cooperative. Under the first of these authorities, loans that do not finance cooperatively sourced products and services and are not 95 percent federally insured or guaranteed are limited to 50 percent of the BC's capital, but there is no such limitation on uninsured loans financing cooperatively sourced goods or on lending to entities in which an eligible cooperative has an ownership interest. Since borrower stock is not required on international loans, capital will act as a constraint on the volume of such loans.

Because these authorities supersede current FSU authority, there would no longer be a statutory requirement that loans to FSU countries be insured or guaranteed. Although FCA regulations require that loans financing forcing trade receivables be insured or guaranteed if such insurance is available, there is no requirement, statutory or regulatory, for insurance or guarantees if the volume of international lending activity should increase beyond the supply of available insurance and guarantees. This would mean an increase in the volume of uninsured, nonguaranteed international lending, some of which may be to FSU countries.

In addition, the class of eligible entities and the types of businesses a BC is authorized to finance is significantly expanded by the elimination of the current requirements that an exporter be party to a transaction with an eligible cooperative and that the financing substantially benefit an eligible cooperative, as well as by the broadening of the permissible purposes for which a loan may be made to an entity owned by an eligible cooperative. Such expanded authority potentially increases underwriting and credit monitoring risk and the risk that the institution's expertise may not be adequate to exercise the authority prudently. However, it permits greater diversification and potentially decreases sensitivity to changes in governmental farm and water policies, which decreases the concentration risk of leading to a single industry.

Expansion of BC domestic lending authority. With respect to domestic lending authority, the relaxation of eligibility requirements for entities owned by eligible cooperatives and utilities eligible for assistance from the Rural Electrification Administration (REA) and Rural Telephone Bank (RTB)(REA- and RTB-eligibles) effects a similar expansion of the class of eligible entities and the types of businesses a BC is authorized to finance under its domestic lending authority. Currently, BCs may lend to any entity that is more than 50 percent owned by eligible cooperatives and/or REA- or RTB-eligibles. The proposed expansion of domestic authority would permit lending to any entity in which an eligible cooperative or REA- or RTB-eligible has an ownership interest for any purpose that facilitates its domestic operation, but if the entity is less than 50 percent owned by eligible entities, the amount of the financing is limited to the percentage ownership of the borrower by eligible entities. Since there is no minimum ownership requirement and the loans are not restricted to agricultural purposes, there is a potential for the risks of lending to unfamiliar businesses and unfamiliar borrowers to increase. Once again, however, there is a potential decrease in concentration risk resulting from the opportunity for greater diversification.

Expansion of BC participation authorities. In 1992, Congress granted BCs authority to purchase participation interests in loans made by other lenders to entities that are ineligible for BC financing, but engaged in operations functionally similar to eligible entities. H.R. 4379 would add a definition of "participation" for the purpose of the "similar entity" participation authority. The proposed definition is more expansive than the current regulatory definition of "participation" in that it permits risk-sharing on a basis other than pro rata. In addition, it appears to expand the "similar entity" participation authority to include participations in technical and financial assistance. This expanded definition of "participation" potentially increases credit risk, in that it permits the purchase of subordinated portions of loans. It increases management risk, in that the increased flexibility as to the types of agreements that are permitted is likely to result in more varied, complex and sophisticated agreements, increasing the risk that an institution may enter into complex arrangements without sufficient expertise to protect its interests. However, the expanded definition of "participation" also allows institutions to decrease credit risk by purchasing senior interests in loans and by purchasing interests in loan syndications, which better protect the institution from the insolvency of the lead lender. Here too, concentration risk may be decreased because greater flexibility as to the types of agreements may result in fuller and more effective use of participations to achieve diversification.

Expanded FCB participation authorities. H.R. 4379 would authorize FCBs and direct lender associations to purchase participations in loans that are made by nonSystem lenders to entities not currently eligible under the Act but whose operations are functionally similar to entities that are. This expansion would provide authority similar to that granted to the BCs in 1991. Since there are no statutory restrictions on the types of entities to which FCBs and associations can lend, as there are for BCs, the effect of the authority is to override such restrictions on eligibility such as the statutory restrictions on processing and regulatory restrictions on foreign ownership of farming corporations. However, such participations are limited to the types of loans the FCBs and associations are authorized to make. Therefore, although there is some opportunity for added diversification from the use of this authority, it is not as likely to involve financing new and unfamiliar businesses as the existing BC authority, because FCBs and associations are subject to more loan purpose restrictions than BCs. For this reason, this authority may not have the same potential for diversification as the corresponding BC authority. The primary benefit may be in facilitating ongoing participation relationships with nonSystem lenders that will permit the sale of participation interests as well.

Credit risk may be increased to the extent an institution relies on the credit judgment of others or purchases interests in loans too remote to monitor effectively, but these risks are present under existing participation authorities and are addressed in FCA regulations. The more expansive definition of "participation," on the other hand, presents new risks in that it permits institutions to share risk on a basis other than pro rata. This would permit the purchase of subordinated pieces of loans as well as the senior pieces and transactions of increased variety, complexity and sophistication. The greater flexibility permitted under this expanded definition increases the management risk that an institution may lack sufficient expertise to adequately protect its interests in complex and sophisticated transactions.

On balance, the risks inherent in the exercise of the expanded participation authority are risks that can be managed by prudent underwriting, expert legal counsel, and effective regulatory oversight.

In sum, the greatest risk posed by the broader lending authority of H.R. 4379 is that institutions may make or participate in loans financing unfamiliar businesses and borrowers without adequate expertise or without adequate capacity to monitor. In addition, the potential for greater volume of unguaranteed and uninsured international lending increases currency and political risk. However, from a safety and soundness standpoint, these risks, if prudently managed, may be more than offset by the opportunity for greater diversification.

TECHNICAL ANALYSIS OF H.R. 4379

(As modified by the En Bloc Proposal Containing Recommended Changes to the Discussion Draft of Legislation to Implement the Uruguay Round Agreements offered by Chairman de la Garza and Mr. Roberts)

Section 3. Participation defined.

This section adds a definition of "participation" to the authority previously granted to banks for cooperatives (BCs) by section 3.1(11)(B) of the Farm Credit Act of 1971 (Act) to purchase participations in loans made to "similar entities" by non-System lending institutions. This definition does not require an undivided fractional interest in the principal amount of the loan (as FCA regulations do) and hence does not require pro rata risk sharing. Although this definition allows participation in loan syndications, which may better protect the participating institution from the insolvency of the lead lender, the effect of this change is also to allow the purchase of riskier investments, such as the subordinated pieces of loans, and the purchase of less risky investments, such as the senior pieces of loans. Also, although the authority granted by section 3.1(11)(B) is restricted to loans, the definition of participation includes other extensions of credit and other technical and financial assistance. In addition, the phrase "other forms of the purchase, sale, or transfer of interests in loans" would appear to allow the purchase of interests in loans other than principal amount, such as servicing rights.

Section 4. Agricultural Export Financing.

Section 4 of H.R. 4379 amends section 3.7(b)(1) of the Act as follows:

(1) Section 3.7(b)(1) would be amended by deleting all existing international authorities except authority to lend to noncooperative counterparties to import transactions with BC voting stockholders. The deleted authorities would be expanded by the amendment to (b)(2) of the Act, as described below. The remaining authority to finance counterparties to import transactions of voting stockholders is unchanged. The borrower must be a party to a transaction with a voting stockholder of a BC and the financing must substantially benefit the voting stockholder.

(2) Section 3.7(b)(2) would be amended to expand existing export lending authority and authority to lend to third parties in which eligible cooperatives have an ownership interest to facilitate import and export activities, as well as to expand domestic eligibility. Although the stated purpose of this amendment is to provide more flexibility to fund joint ventures, the authority is not limited to joint ventures. This expansion supersedes the narrower authority to lend to constituent entities of the former Soviet Union and emerging democracies (FSU authority), which sunsets in 1995.

Export lending authority. Currently, BCs can lend to non-cooperative parties with respect to import or export transactions with eligible cooperatives that are voting stockholders of the BC, provided the voting stockholder substantially benefits from the financing. This authority would be expanded by deleting the requirement that the borrower have a transaction with a voting stockholder of the BC and the requirement that the financing provide a substantial benefit to such stockholder. As long as there is compliance with BC policies designed to ensure that priority is given to products or services originally sourced from an eligible cooperative (as defined in 3.8(a)), where reasonably available, the borrower need not be a cooperative or actually export cooperatively sourced products, and the financing need not benefit any cooperative. However, the bill would limit the total volume of loans financing exports not originally sourced from eligible cooperatives and not insured by an agency, bureau, board, commission or establishment of the United States or a corporation wholly owned directly or indirectly by the United States in an amount equal to 95 percent of the loan amount. The uninsured amounts of such loans would be limited to 50 percent of the BC's capital. The total amount of uninsured loans financing the export of non-cooperatively sourced products and services in excess of 50 percent of the BC's capital would be required to be sold outside the Farm Credit System.

Other international lending authority. Currently, BCs are authorized to lend to domestic or foreign parties in which cooperatives have the minimum ownership interest approved by the FCA for the purpose of facilitating the export or import operations of a voting stockholder of the BC, provided the voting stockholder substantially benefits from the financing. This authority would be expanded by deleting the requirements that the borrower have a transaction with a voting stockholder of the BC and that the financing provide a substantial benefit to such stockholder. In addition, the requirement for the FCA to specify the qualifying minimum ownership is eliminated, and the permissible loan purpose is expanded from facilitating import or export transactions to facilitating the domestic or foreign operations of the eligible cooperative. In addition, the BCs would be permitted under this authority to lend to third parties, domestic or foreign, in which a person who has obtained credit from or been certified as eligible to obtain credit from the Rural Electrification Administration (REA) or the Rural Telephone Bank (RTB) (REA- or RTB-eligible) has an ownership interest, but only for the purpose of facilitating the domestic operations of the REA- or RTB-eligible.

If entities eligible for this authority—eligible cooperatives as defined in 3.8(a) and REA- and RTB-eligibles—own more than 50 percent of the borrowing entity, there is no limitation on the amount of the financing. However, if entities eligible for this authority own less than 50 percent of the borrowing entity, the amount of the financing is limited to the percentage of ownership by eligible entities. (This codifies the FCA's regulatory requirement for international lending and substitutes it for the existing domestic eligibility requirement for more than 50 percent cooperative ownership, as discussed below under domestic eligibility.)

Effect on FSU authority. Although proposed amendment of 3.7(b)(2) would delete the specific authority to lend to constituent entities of the former Soviet Union and emerging democracies (FSU authority), the authority that would be granted by the amendment is broad enough to accommodate such lending. This change has the effect of extending FSU authority beyond its current sunset date of 1995 and eliminating the requirement that FSU loans be 95% guaranteed. Note that in the proposed legislation the limitation on the amount of uninsured loans applies to the authority granted under 3.7(b)(2)(A)(i) but not to the authority granted by 3.7(b)(2)(A)(ii). However, many, if not most, loans to FSU countries may be made under (A)(i). Although the limitation on non-cooperatively sourced uninsured export loans would provide an incentive to insure such loans and limit the risk of such loans, there is no statutory requirement for insurance for export loans that are cooperatively sourced, even if the borrower is an FSU country.

FCA regulations currently require institutions engaging in the financing of foreign trade receivables to avail themselves of such guarantee and insurance plans as are available in the United States and other countries, such as the Foreign Credit Insurance Association and the Export-Import Bank of the United States, except where a prospective borrower has had a longstanding, successful business relationship with the eligible cooperative borrower or has a high credit rating. See 12 CFR 614.4700. However, should the availability of such plans be limited, there would be no requirement, statutory or regulatory, for such guarantees or insurance, even for FSU countries. The statutory limitation on the (A)(ii) authority would be the only statutory or regulatory protection, even for FSU countries, and it only applies to loans financing noncooperatively sourced goods.

Effect on domestic lending authority. This provision also expands domestic eligibility by authorizing lending to any domestic or foreign party in which an eligible cooperative, as defined in section 3.8(a), has an ownership interest of any size for any purpose that benefits the domestic or international operations of the cooperative. This change accounts for the need for the conforming amendment to section 3.8(b)(1)(B) (made by Section 5 of the bill) to delete the more-than-50-percent-ownership requirement and the requirement that the combined entities meet the other eligibility requirements. In lieu of the restriction on ownership, the amendment limits the amount of the financing to the percentage of cooperative ownership in cases where the entity is not at least 50 percent owned by eligible cooperatives. If the cooperative ownership is 50 percent or more, there is no restriction on the amount of the financing.

New Limitation. The authorities granted by 3.7(b)(2)(A)(i) and (ii) may not be used to finance the relocation of a plant or facility from the United States to another country—a new limitation.

Effect on Similar Entity Authority. Because of the absence of loan purpose restrictions in Title III of the Act, the restriction on the types of loans a BC can make are primarily in the form of the eligibility requirements of its borrowers. Hence, the expansion of BC eligibility expands the type of loans a BC can make. As the class of eligible BC borrowers expands, the businesses in which they may be engaged is also likely to be more varied. To qualify for the BC similar entity participation authority, an entity need only be engaged in some business functionally similar to that in which an eligible borrower is engaged. Hence expansion of BC eligibility also expands the class of similar entities eligible for the loan participation authority, which may further expand the types of loans a BC can make. Since there is no statutory restriction to agricultural or agriculturally related loans in Title III, the loan need not be agriculturally related to qualify for BC financing. Loans that are not agriculturally related at all will qualify for the BC's similar entity participation authority. For FCBs and associations, on the other hand, this is not as true, because FCBs and associations are subject to statutory loan purpose restrictions. However, to keep the potential for BC participation in loans unrelated to agriculture in perspective, it should be noted that such participations are subject to a limitation of 15 percent of assets. Moreover the added flexibility to diversify may have safety and soundness benefits.

Section 6. Loan Participation Authority for Farm Credit Banks and Direct Lender Associations.

This section authorizes Farm Credit and direct lender associations to participate in loans of the types authorized under Titles I and II by other lenders to entities that would be ineligible to borrow under Titles I and II, provided such entities are engaged in operations functionally similar to those of an eligible entity. Because there are no statutory restrictions on the types of entities to which FCBs and associations can lend, the effect of the amendment is to override other types of statutory and regulatory restrictions on eligibility with respect to such participations, such as regulatory requirements designed to ensure that eligibility is restricted to entities that qualify as American farmers, and statutory and regulatory restrictions on the financing of processing and marketing activities.

The cumulative amount of participations in loans to ineligible entities is limited to 15 percent of the institution's assets, and participation in a particular loan is subject to an individual institution and a Systemwide limitation of 50 percent of the loan. Such loans are also subject to a statutory single credit risk limitation of 10 percent of the institution's capital (or the applicable higher lending limit authorized under FCA regulations if shareholders approve).

For similar entities that are eligible to borrow from a bank for cooperatives under title III, FCBs/associations must obtain the approval of the BC having the greatest loan volume in the state in which the similar entity's headquarters office is located. However, they do not need the approval of any other BC, even though the entity might be eligible to borrow from more than one BC and might in fact have a loan with another BC. Hence, this approval requirement is not quite the reciprocal of the approval requirement in 3.1(11)(B)(iii), which requires the approval of any FCB in whose territory the entity is eligible to borrow.

The authority does not apply to rural housing loans. There is no similar limitation in the existing BC authority to participate in loans to similar entities; possibly it was not deemed necessary because BCs are not expressly authorized to make rural housing loans and do not generally lend to individuals directly. However, restrictions on BC lending are primarily in the form of eligibility requirements of its borrowers rather than on the types of loans it can make, and eligibility is significantly broadened by this bill.

"Participation" is defined in the same manner as for the BC similar entity authority. See comments on section 3 of the bill above. For BCs, the expansion of the similar entity authority to include authority to participate in "technical and financial assistance" is consistent with their authority to offer such services directly. For FCBs and associations, however, it is different from their direct authority to offer technical assistance and financially related services appropriate to on-farm operations. It is unclear whether this definition of participation would permit FCBs and associations to purchase participations in financially related services that are not related to on-farm operations, since the authority granted is limited to "loans of a type otherwise authorized under Titles I and II of the Act." If so, the result would be to permit participation in a broader array of financially related services for ineligible borrowers than are available to eligible borrowers.

H.R. 4379 would help American agriculture take fuller advantage of the market opportunities in today's global economy. I urge the House to support its passage.

Mr. ALLARD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4379

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Farm Credit System Agricultural Export and Risk Management Act".

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act a section is amended, repealed, or referenced, such amendment, repeal, or reference shall be considered to be made to that section of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

SEC. 3. PARTICIPATION DEFINED.

Section 3.1(11)(B) (12 U.S.C. 2122(11)(B)) is amended by adding at the end the following new clause:

"(iv) As used in this subparagraph, the term 'participate' or 'participation' means multi-lender transactions including, but not limited to, syndications, assignments, loan participations, subparticipations, or other form of the purchase, sale, or transfer of interests in loans, other extensions of credit, or other technical and financial assistance.".

SEC. 4. AGRICULTURAL EXPORT FINANCING.

(a) Section 3.7(b)(1) (12 U.S.C. 2128(b)(1)) is amended by—

(1) striking "assistance to (A)" and inserting "assistance to";

(2) striking "the export or" and inserting "the"; and

(3) striking ", and (B)" and all that follows through "subparagraph (A)".

(b) Section 3.7(b) (12 U.S.C. 2128(b)) is further amended by striking paragraph (2) and inserting the following new paragraph:

"(2)(A) A bank for cooperatives is authorized to make or participate in loans and commitments to, and to extend other technical and financial assistance to—

"(i) any domestic or foreign party for the export, including (where applicable) the cost of freight, of agricultural commodities or products, farm supplies, or aquatic products from the United States under policies and procedures established by the bank for cooperatives to ensure that such commodities, products, or supplies are originally sourced, where reasonably available, from one or more eligible cooperative associations on a priority basis; and

"(ii) except as provided in subparagraph (B), any domestic or foreign party in which an eligible cooperative association (as defined in section 3.8) has an ownership interest, for the purpose of facilitating the association's domestic or foreign business operations: *Provided*, That if the ownership interest by an eligible cooperative association, or associations, is less than 50 percent, then such financing shall be limited to the percentage held in the party by such association or associations.

"(B) A bank for cooperatives shall not use the authority provided in paragraph (2)(A)(ii) to provide financial assistance to a party for the purpose of financing the relocation of plants or facilities from the United States to another country.".

SEC. 5. CONFORMING AMENDMENT.

Section 3.8(b)(1) (12 U.S.C. 2129(b)(1)) is amended by—

(1) striking subparagraph (B); and

(2) redesignating subparagraph (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

SEC. 6. LOAN PARTICIPATION AUTHORITY FOR FARM CREDIT BANKS AND DIRECT LENDER ASSOCIATIONS.

Title IV (12 U.S.C. 2151 ed seq.) is amended by inserting after section 4.18 (12 U.S.C. 2206) the following new section:

"SEC. 4.18A. AUTHORITY OF FARM CREDIT BANKS AND DIRECT LENDER ASSOCIATION TO PARTICIPATE IN LOANS TO SIMILAR ENTITIES FOR RISK MANAGEMENT PURPOSES.

"(a) IN GENERAL.—Notwithstanding any other provision of this Act, any Farm Credit Bank or direct lender association chartered under this Act is authorized to participate in any loan of a type otherwise authorized under title I and II made to a similar entity by any person in the business of extending credit; except that a Farm Credit Bank or direct lender association may not participate in a loan under this section if—

"(1) such participation would cause the total amount of all participants by the Farm Credit Bank or association under this section involving a single credit risk to exceed 10 percent (or the applicable higher lending limit authorized under regulations issued by the Farm Credit Administration if the stockholders of the respective Farm Credit Bank or association so approve) of the Farm Credit Bank's or association's total capital;

"(2) such participation by the Farm Credit Bank or association would itself equal or exceed 50 percent of the principal of the loan or, when taken together with participations in the loan by other Farm Credit Banks and associations under this section would cause the cumulative amount of the participants by all Farm Credit Banks and associations in the loan to equal or exceed 50 percent of the principal of the loan;

"(3) such participation would cause the cumulative amount of participations that the Farm Credit Bank or association has outstanding under the section to exceed 15 percent of its total assets; or

"(4) the loan is of the type authorized under section 1.11(b) or 2.4(a)(2).

"(b) SIMILAR ENTITY DEFINED.—For the purposes of this section, the term 'similar entity' means a person or entity that, while not eligible for a loan from the Farm Credit Bank or association, has operations functionally similar to a person or entity eligible for a loan for the Farm Credit Bank or association in that it derives a majority of its income from, or has a majority of its assets invested in, the conduct of activities functionally similar to those conducted by an eligible person.

"(c) PRIOR APPROVAL REQUIRED.—

"(1) With respect to a similar entity that is eligible to borrow from a bank for cooperatives under title III, the authority of a Farm Credit Bank or association to participate in a loan to such entity under this section shall be subject to the prior approval of the bank for cooperatives having, at the time the loan is made, the greatest loan volume in the state in which the similar entity's headquarters office is located.

"(2) Approval under paragraph (1) of this subsection may be granted on an annual basis and under such terms and conditions as may be agreed on between the Farm Credit Bank or association, as the case may be, and the bank for cooperatives granting the approval.

"(3) An association may not participate in a loan to a similar entity under this section without the approval of the association's supervising Farm Credit Bank.

"(d) DEFINITION.—For purposes of this section, the term 'participate' or 'participation' shall have the same meaning as provided in section 3.1(11)(B).".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JOHNSON OF SOUTH DAKOTA

Mr. JOHNSON of South Dakota. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. JOHNSON of South Dakota: Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Farm Credit System Agricultural Export and Risk Management Act".

SEC. 2. PARTICIPATION DEFINED.

Section 3.1(11)(B) of the Farm Credit Act of 1971 (12 U.S.C. 2122(11)(B)) is amended by adding at the end the following new clause:

"(iv) As used in this subparagraph, the term 'participate' or 'participation' refers to multilender transactions, including syndications, assignments, loan participations, subparticipations, or other forms of the purchase, sale, or transfer of interests in loans, other extensions of credit, or other technical and financial assistance.".

SEC. 3. AGRICULTURAL EXPORT FINANCING.

Section 3.7(b) of the Farm Credit Act of 1971 (12 U.S.C. 2128(b)) is amended—

(A) in paragraph (1)—

(i) by striking "assistance to (A)" and inserting "assistance to";

(ii) by striking "the export or" and inserting "the"; and

(iii) by striking "and (B)" and all that follows through "subparagraph (A): *Provided*, That a" and inserting "if the"; and

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2)(A) A bank for cooperatives may make or participate in loans and commitments to, and extend other technical and financial assistance to—

"(i) any domestic or foreign party for the export, including (where applicable) the cost of freight, of agricultural commodities or products thereof, farm supplies, or aquatic products from the United States under policies and procedures established by the bank to ensure that the commodities, products, or supplies are originally sourced, where reasonably available, from one or more eligible cooperative associations described in section 3.8(a) on a priority basis, except that if the total amount of the balances outstanding on loans made by a bank under this clause that—

"(I) are made to finance the export of commodities, products, or supplies that are not originally sourced from a cooperative, and

"(II) are not guaranteed or insured, in an amount equal to at least 95 percent of the amount loaned, by a department, agency, bureau, board, commission, or establishment of the United States or a corporation wholly-owned directly or indirectly by the United States,

exceeds an amount that is equal to 50 percent of the bank's capital, then a sufficient interest in the loans shall be sold by the bank for cooperatives to commercial banks and other non-System lenders to reduce the total amount of such outstanding balances to an amount not greater than an amount equal to 50 percent of the bank's capital; and

"(ii) except as provided in subparagraph (B), any domestic or foreign party in which an eligible cooperative association described in section 3.8(a) (including, for the purpose of facilitating its domestic business operations only, a cooperative or other entity described in section 3.8(b)(1)(A)) has an ownership interest, for the purpose of facilitating the domestic or foreign business operations of the association, except that if the ownership interest by an eligible cooperative association, or associations, is less than 50 percent, the financing shall be limited to the percentage held in the party by the association or associations.

"(B) A bank for cooperatives shall not use the authority provided in subparagraph (A)(ii) to provide financial assistance to a party for the purpose of financing the relocation of a plant or facility from the United States to another country.".

SEC. 4. CONFORMING AMENDMENT.

Section 3.8(b)(1) of the Farm Credit Act of 1971 (12 U.S.C. 2129(b)(1)) is amended—

(A) by striking subparagraph (B);

(B) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively; and

(C) by aligning the margin of subparagraph (D) (as so redesignated) so as to align with the margin of subparagraph (C) (as so redesignated).

SEC. 5. LOAN PARTICIPATION AUTHORITY FOR FARM CREDIT BANKS AND DIRECT LENDER ASSOCIATIONS.

IN GENERAL.—Title IV of the Farm Credit Act of 1971 (12 U.S.C. 2151 et seq.) is amended by inserting after section 4.18 (12 U.S.C. 2206) the following new section:

"SEC. 4.18A. AUTHORITY OF FARM CREDIT BANKS AND DIRECT LENDER ASSOCIATIONS TO PARTICIPATE IN LOANS TO SIMILAR ENTITIES FOR RISK MANAGEMENT PURPOSES.

"(a) DEFINITIONS.—As used in this section:

"(1) PARTICIPATE AND PARTICIPATION.—The terms 'participate' and 'participation' shall have the meaning provided in section 3.1(11)(B)(iv).

"(2) SIMILAR ENTITY.—The term 'similar entity' means a person that—

"(A) is not eligible for a loan from the Farm Credit Bank or association; and

"(B) has operations that are functionally similar to a person that is eligible for a loan from the Farm Credit Bank or association in that the person derives a majority of the income of the person from, or has a majority of the assets of the person invested in, the conduct of activities that are functionally similar to the activities that are conducted by an eligible person.

"(b) LOAN PARTICIPATION AUTHORITY.—Notwithstanding any other provision of this Act, any Farm Credit Bank or direct lender association charted under this Act may participate in any loan of a type otherwise authorized under title I or II made to a similar entity by any person in the business of extending credit, except that a Farm Credit Bank or direct lender association may not participate in a loan under this section if—

"(1) the participation would cause the total amount of all participations by the Farm Credit Bank or association under this section involving a single credit risk to exceed 10 percent (or the applicable higher lending limit authorized under regulations issued by the Farm Credit Administration if the stockholders of the respective Farm Credit Bank or association so approve) of the total capital of the Farm Credit Bank or association;

"(2) the participation by the Farm Credit Bank or association would equal or exceed 50 percent of the principal of the loan or, when taken together with participations in the loan by other Farm Credit System institutions, would cause the cumulative amount of the participations by all Farm Credit System institutions in the loan to equal or exceed 50 percent of the principal of the loan;

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"(3) the participation would cause the cumulative amount of participations that the Farm Credit Bank or association has outstanding under this section to exceed 15 percent of the total assets of the Farm Credit Bank or association; or

"(4) the loan is of the type authorized under section 1.11(b) or 2.4(a)(2).

"(c) PRIOR APPROVAL REQUIRED.—

"(1) IN GENERAL.—With respect to a similar entity that is eligible to borrow from a bank for cooperatives under title III, the authority of a Farm Credit Bank or association to participate in a loan to the entity under this section shall be subject to the prior approval of the bank for cooperatives having, at the time the loan is made, the greatest loan volume in the State in which the headquarters office of the similar entity is located.

"(2) TERMS AND CONDITIONS.—Approval under paragraph (1) may be granted on an annual basis and under such terms and conditions as may be agreed on between the Farm Credit Bank or association, as the case may be, and the bank for cooperatives granting the approval.

"(3) APPROVAL BY SUPERVISING FARM CREDIT BANK.—An association may not participate in a loan to a similar entity under this section without the approval of the supervising Farm Credit Bank of the association.".

SEC. 6. CONFORMING AMENDMENTS.

Section 3.1(11)(B)(i)(I)(bb) of the Farm Credit Act of 1971 (12 U.S.C. 2122(11)(B)(i)(I)(bb)) is amended—

(A) by striking "the other banks for cooperatives under this subparagraph" and inserting "other Farm Credit System institutions"; and

(B) by striking "all banks for cooperatives" and inserting "all Farm Credit System institutions".

Mr. JOHNSON of South Dakota (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from South Dakota [Mr. JOHNSON].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JOHNSON of South Dakota. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

ENSURING THAT TIMBER-DEPENDENT COMMUNITIES QUALIFY FOR CERTAIN LOANS AND GRANTS

Mr. JOHNSON of South Dakota. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the bill (H.R. 4196) to ensure that all timber-dependent communities qualify for loans and grants from the Rural Development Administration, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Dakota?

Mr. ALLARD. Mr. Speaker, reserving the right to object, I yield to the gentleman from South Dakota [Mr. JOHNSON] to explain the bill.

Mr. JOHNSON of South Dakota. Mr. Speaker, H.R. 4196, has been introduced by the gentleman from Washington [Mr. DICKS].

The bill provides for a temporary increase in the population cap used in determining the eligibility of certain timber-dependent communities in the Pacific Northwest for loans and grants from USDA's Rural Development Administration.

Mr. Speaker, as we all know, many communities in the Northwest are struggling to retool their economies in the face of necessary changes in timber-cutting policies. What Mr. DICKS and others have become aware of is a gap in the funding eligibility limits for waste and water loans for communities between 10,000 and 15,000 in population. FmHA waste and water loans are available to communities up to 10,000 in population and HUD has a program that starts at 15,000. Hence, the gap.

This legislation allows these communities in Oregon, Washington, and eight counties in northern California that are under the President's northern spotted owl plan to qualify for this Federal assistance. The bill's changes terminate effective September 1998.

The bill was approved by voice vote of the Committee on Agriculture on Wednesday. I urge the House to support its passage.

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Mr. ALLARD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. ROEMER). Is there objection to the request of the gentleman from South Dakota?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4196

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) timber-dependent communities including those in the Pacific Northwest have contributed significantly to the economic needs of the United States, and have helped ensure an adequate national supply of timber and timber products;

(2) a significant portion of the timber traditionally harvested in the United States, including the Pacific Northwest, derived from Federal forest lands, and these forests have played an important role in sustaining local economies;

(3) a number of traditionally timber-dependent communities are experiencing significant economic difficulties, particularly those located in proximity to the range of the northern Spotted Owl; and

(4) timber-dependent communities need economic assistance to help them diversify, including support from water and waste facility loans and grants and community facilities loans and grants funded through the Rural Development Administration.

SEC. 2. ELIGIBILITY OF TIMBER-DEPENDENT COMMUNITIES FOR CERTAIN RURAL DEVELOPMENT GRANTS.

Section 306(a)(7) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(7) is amended to read as follows:

"(7)(A) As used in this title, the terms 'rural' and 'rural area' shall not include any area in any city or town which has a population in excess of 10,000 inhabitants, except as otherwise provided in this paragraph.

"(B) For purposes of loans for essential community facilities under subsection (a)(1), the terms 'rural' and 'rural area' may include any area in any city or town that has a population not in excess of 20,000 inhabitants.

"(C) For purposes of loans and grants for private business enterprises under sections 304(b) and 310B, and subsections (b), (c), and (d) of section 312, the terms 'rural' and 'rural area' may include all territory of a State that is not within the outer boundary of any city having a population of 50,000 or more inhabitants and its immediately adjacent urbanized and urbanizing areas with a population density of more than 100 inhabitants per square mile, as determined by the Secretary of Agriculture according to the latest decennial census of the United States, and special consideration for such loans and grants shall be given to areas other than cities having a population of more than 25,000 inhabitants.

"(D) As used in this title, the terms 'rural' and 'rural area' shall include any town, city, or municipality—

"(i) part or all of which lies within 100 miles of the boundary of a national forest;

"(ii) that is located in a county in which at least 15 percent of the total primary and secondary labor and proprietor income is derived from forestry, wood products, or forest-related industries such as recreation and tourism; and

"(iii) that has a population of not more than 25,000 inhabitants.".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JOHNSON OF SOUTH DAKOTA

Mr. JOHNSON of South Dakota. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. JOHNSON of South Dakota: Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. TEMPORARY EXPANDED ELIGIBILITY OF CERTAIN TIMBER-DEPENDENT COMMUNITIES IN THE PACIFIC NORTHWEST FOR LOANS AND GRANTS FROM THE RURAL DEVELOPMENT ADMINISTRATION.

(a) FINDINGS.—Congress finds the following:

(1) Timber-dependent communities in the Pacific Northwest have contributed significantly to the economic needs of the United States and have helped ensure an adequate national supply of timber and timber products.

(2) A significant portion of the timber traditionally harvested in the Pacific Northwest is

derived from Federal forest lands, and these forests have played an important role in sustaining local economies.

(3) A number of traditionally timber-dependent communities are experiencing significant economic difficulties as a result of their proximity to the range of the northwest spotted owl.

(4) These timber-dependent communities need economic assistance to help them diversify, including support from water and waste facility loans and grants and community facility loans and grants funded through the Rural Development Administration.

(b) EXPANDED ELIGIBILITY.—During the period beginning on the date of the enactment of this Act and ending on September 30, 1998, the terms "rural" and "rural area", as used in the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), shall include any town, city, or municipality—

(1) part or all of which lies within 100 miles of the boundary of a national forest covered by the Federal document entitled "Forest Plan for a Sustainable Economy and a Sustainable Environment", dated July 1, 1993;

(2) that is located in a county in which at least 15 percent of the total primary and secondary labor and proprietor income is derived from forestry, wood products, or forest-related industries such as recreation and tourism; and

(3) that has a population of not more than 25,000 inhabitants.

(c) EFFECT ON STATE ALLOTMENTS OF FUNDS.—This section shall not be taken into consideration in alloting funds to the various States for purposes of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), or otherwise affect or alter the manner under which such funds were alloted to States before the date of the enactment of this Act.

Mr. JOHNSON of South Dakota (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from South Dakota [Mr. JOHNSON].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. JOHNSON OF SOUTH DAKOTA

Mr. JOHNSON of South Dakota. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. JOHNSON of South Dakota: Amend the title so as to read: "A bill to ensure that timber-dependent communities adversely affected by the Forest Plan for a Sustainable Economy and a Sustainable Environment qualify for loans and grants from the Rural Development Administration.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JOHNSON of South Dakota. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT OF 1994

Mr. MINETA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1887) to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. SHUSTER. Mr. Speaker, reserving the right to object, I do not intend to object, but I yield to the distinguished gentleman from California [Mr. MINETA], the chairman of our committee, for an explanation.

Mr. MINETA. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, our intent is to simply take the Senate National Highway System bill, insert in lieu thereof the House-passed bill, and ask for a conference.

Mr. SHUSTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1887

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Highway System Designation Act of 1994".

SEC. 2. NATIONAL HIGHWAY SYSTEM DESIGNATION.

Section 103 of title 23, United States Code, is amended by inserting after subsection (b) the following new subsection:

"(c) NATIONAL HIGHWAY SYSTEM DESIGNATION.—

"(1) DESIGNATION.—The most recent National Highway System as submitted by the Secretary of Transportation pursuant to this section is hereby designated to be the National Highway System.

"(2) MODIFICATIONS.—

"(A) IN GENERAL.—At the request of a State, the Secretary may—

"(i) add a new route segment to the National Highway System, including a new intermodal connection; or

"(ii) delete a then existing route segment and any connection to the route segment,

if the total mileage of the National Highway System (including any route segment or connection proposed to be added under this subparagraph) does not exceed 165,000 miles (265,542 kilometers).

"(B) PROCEDURES FOR CHANGES REQUESTED BY STATES.—Each State that makes a request for a change in the National Highway System pursuant to subparagraph (A) shall establish that each change in a route segment or connection referred to in such subparagraph has been identified by the State, in cooperation with local officials, pursuant to applicable transportation planning activities for metropolitan areas carried out under section 134 and statewide planning processes carried out under section 135.

"(3) APPROVAL BY THE SECRETARY.—The Secretary may approve a request made by a State for a change in the National Highway System pursuant to paragraph (2) if the Secretary determines that the change—

"(A) meets the criteria established for the National Highway System under this title; and

(B) enhances the national transportation characteristics of the National Highway System.".

MOTION OFFERED BY MR. MINETA

Mr. MINETA. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MINETA moves to strike all after the enacting clause and insert in lieu thereof the text of H.R. 4385, the "National Highway System Designation Act of 1994," as passed by the House, as follows:

H.R. 4385

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Highway System Designation Act of 1994".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Secretary defined.

TITLE I—NATIONAL HIGHWAY SYSTEM DESIGNATION AND OTHER PROVISIONS

Sec. 101. National Highway System designation.
Sec. 102. Congestion mitigation and air quality improvement program.
Sec. 103. Quality improvement.
Sec. 104. Contracting for engineering and design services.
Sec. 105. Highway safety promotion program.
Sec. 106. Project eligibility.
Sec. 107. Wisconsin substitute project.
Sec. 108. Use of recycled paving material.
Sec. 109. Work zone safety.
Sec. 110. Corrected projects.
Sec. 111. Rescissions.
Sec. 112. Additional projects.
Sec. 113. Study of radio and microwave technology for commercial and other motor vehicles.
Sec. 114. Foothill/Eastern Transportation Corridor Agency.
Sec. 115. Railway-highway crossings project.
Sec. 116. New River Parkway, West Virginia.
Sec. 117. National recreational trails.
Sec. 118. Coal Heritage.
Sec. 119. Limitations on funding of operating assistance.
Sec. 120. Intercity bus transportation.
Sec. 121. Repeals of existing projects.
Sec. 122. Miscellaneous transit projects.
Sec. 123. Multiyear contract for metro rail project.
Sec. 124. Metric system signing.
Sec. 125. Metropolitan planning.
Sec. 126. Statewide planning.
Sec. 127. High priority corridor feasibility study.

Sec. 128. Reevaluation.
Sec. 129. Funding.
Sec. 130. Nondivisible loans.
Sec. 131. Commercial motor vehicle accidents.

TITLE II—TECHNICAL CORRECTIONS TO ISTEA AND RELATED LAWS

Sec. 201. Definitions.
Sec. 202. References to Dwight D. Eisenhower System of Interstate and Defense Highways.
Sec. 203. Federal-Aid Systems.
Sec. 204. Apportionment.
Sec. 205. Programs of projects.
Sec. 206. Advance acquisition of rights-of-way.
Sec. 207. Standards.
Sec. 208. Letting of contracts.
Sec. 209. Prevailing rate of wage.
Sec. 210. Construction.
Sec. 211. Advance construction.
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Sec. 214. Availability of funds.
Sec. 215. Federal share.
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Sec. 217. Relocation of utility facilities.
Sec. 218. Advances to States.
Sec. 219. Emergency relief.
Sec. 220. Applicability of axle weight limitations.
Sec. 221. Toll roads.
Sec. 222. Rail-highway crossings.
Sec. 223. Surface transportation program.
Sec. 224. Metropolitan planning.
Sec. 225. Statewide planning.
Sec. 226. Control of junkyards.
Sec. 227. Nondiscrimination.
Sec. 228. Enforcement of requirements.
Sec. 229. Availability of rights-of-way.
Sec. 230. Highway bridge program.
Sec. 231. Great River Road.
Sec. 232. Hazard elimination program.
Sec. 233. Use of safety belts and motorcycle helmets.
Sec. 234. National maximum speed limit.
Sec. 235. Minimum allocation.
Sec. 236. National minimum drinking age.
Sec. 237. Revocation of drivers' licenses of individuals convicted of drug offenses.
Sec. 238. Reimbursement for segments of Interstate System constructed without Federal assistance.
Sec. 239. Federal lands highway program.
Sec. 240. Bicycle transportation and pedestrian walkway.
Sec. 241. State Highway Department.
Sec. 242. Management systems.
Sec. 243. State planning and research.
Sec. 244. Appropriation for highway purposes of Federal lands.
Sec. 245. International highway transportation outreach program.
Sec. 246. Highway safety programs.
Sec. 247. National Highway Safety Advisory Committee.
Sec. 248. Alcohol-impaired driving countermeasures.
Sec. 249. Public transit facilities.
Sec. 250. Roadside barrier technology.
Sec. 251. Pensacola, Florida.
Sec. 252. High cost bridge projects.
Sec. 253. Congestion relief projects.
Sec. 254. High priority corridors on National Highway System.
Sec. 255. High priority corridor projects.
Sec. 256. Rural access projects.
Sec. 257. Urban access and mobility projects.
Sec. 258. Innovative projects.
Sec. 259. Intermodal projects.
Sec. 260. Miscellaneous Intermodal Surface Transportation Efficiency Act amendments.
Sec. 261. Disadvantaged business enterprise program.
Sec. 262. Amendments to Surface Transportation and Uniform Relocation Assistance Act of 1987.
Sec. 263. Freeway service patrols.
Sec. 264. Pan American Highway.
Sec. 265. Section 3 program amendments.
Sec. 266. Metropolitan planning.
Sec. 267. Formula grant program.
Sec. 268. Mass transit account block grants.
Sec. 269. Grants for research and training.
Sec. 270. General provisions.
Sec. 271. Period of availability and reapportionment of section 16 funds.
Sec. 272. Rural transit program.
Sec. 273. Nondiscrimination.
Sec. 274. Authorizations.
Sec. 275. Project management oversight.
Sec. 276. Planning and research program.
Sec. 277. Needs survey and transferability study.
Sec. 278. State responsibility for rail fixed guideway system.
Sec. 279. National Transit Institute.
Sec. 280. Increased Federal share.
Sec. 281. Performance reports on mass transit systems.
Sec. 282. Cross reference to Federal Transit Act.
Sec. 283. Participation in International Registration Plan and International Fuel Tax Agreement.
Sec. 284. Intelligent vehicle-highway systems.
Sec. 285. Title 49, United States Code, amendments.
Sec. 286. Surface Transportation Assistance Act of 1982 amendments.
Sec. 287. Commercial Motor Vehicle Safety Act of 1986 amendments.
Sec. 288. Cleveland Harbor, Ohio.
Sec. 289. Other Intermodal Surface Transportation Efficiency Act technical amendments.

SEC. 2. SECRETARY DEFINED.

In this Act, the term "Secretary" means the Secretary of Transportation.

TITLE I—NATIONAL HIGHWAY SYSTEM DESIGNATION AND OTHER PROVISIONS

SEC. 101. NATIONAL HIGHWAY SYSTEM DESIGNATION.

(a) DESIGNATION; MODIFICATIONS.—Section 103 of title 23, United States Code, is amended by inserting after subsection (b) the following:

"(c) INITIAL DESIGNATION OF NHS.—The National Highway System as submitted by the Secretary of Transportation on the map entitled 'Official Submission, National Highway System, Federal Highway Administration', and dated May 10, 1994, is hereby designated within the United States, including the District of Columbia and the Commonwealth of Puerto Rico.

"(d) MODIFICATIONS TO THE NHS.—

"(1) PROPOSED MODIFICATIONS.—The Secretary may submit for approval to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives proposed modifications to the National Highway System. The Secretary may only propose a modification under this subsection if the Secretary determines that such modification meets the criteria and requirements of subsection (b). Proposed modifications may include new segments and deletion of existing segments of the National Highway System.

"(2) APPROVAL OF CONGRESS REQUIRED.—A modification to the National Highway System may only take effect if a law has been enacted approving such modification.

"(3) REQUIRED SUBMISSION.—Not later than 2 years after the date of the enactment of the National Highway System Designation Act of 1994, the Secretary shall submit under paragraph (1) proposed modifications to the National Highway System. Such modifications shall include a list and description of additions to the National Highway System consisting of—

"(A) connections to major ports, airports, international border crossings, public transportation and transit facilities, interstate bus terminals, rail and other intermodal transportation facilities; and

"(B) any congressional high priority corridor or any segment thereof established by section 1105 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2037) which was not identified on the National Highway System designated by subsection (c), subject to the completion of feasibility studies.".

(b) PROPOSED NTS.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit to Congress a proposal for a comprehensive National Transportation System using the National Highway System as the backbone for establishing the National Transportation System. In developing such proposal, the Secretary shall consult with and consider the views of States and metropolitan planning organizations.

SEC. 102. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

(a) APPORTIONMENT FORMULA.—Section 104(b)(2) of title 23, United States Code, is amended—

(1) by inserting "in fiscal year 1994" after "State" each place it appears;

(2) by inserting "in fiscal year 1994" after "States" the first place it appears;

(3) in subparagraph (A) by inserting "in fiscal year 1994" after "Act";

(4) in subparagraph (B) by inserting "in fiscal year 1994" after "subpart";

(5) in subparagraph (C) by inserting "in fiscal year 1994" after "subpart";

(6) in subparagraph (D) by inserting "in fiscal year 1994" after "subpart";

(7) in subparagraph (E) by inserting "in fiscal year 1994" after "subpart";

(8) by inserting "in fiscal year 1994" after "carbon monoxide"; and

(9) by inserting "in fiscal year 1994" after "relative populations".

(b) ELIGIBLE PROJECTS.—Section 149(b) of such title is amended by inserting before "of a national ambient" each place it appears "or maintenance".

(c) STATES WITHOUT A NONATTAINMENT AREA.—Section 149(c) of such title is amended by inserting "in fiscal year 1994" after "Act".

SEC. 103. QUALITY IMPROVEMENT.

(a) LIFE-CYCLE COST ANALYSIS.—Section 106 of title 23, United States Code, is amended by adding at the end the following:

"(e) LIFE-CYCLE COST ANALYSIS.—

"(1) ESTABLISHMENT.—The Secretary shall establish a program to require States to conduct an analysis of the life-cycle costs of all projects on the National Highway System.

"(2) ANALYSIS OF LIFE-CYCLE COSTS DEFINED.—In this subsection, the term 'analysis of life-cycle costs' means a process for evaluating the total economic worth of one or more projects by analyzing both initial costs as well as discounted future costs, such as maintenance, reconstruction, rehabilitation, restoring, and resurfacing costs, over the life of the project or projects.".

(b) VALUE ENGINEERING.—Section 106 of such title is amended by adding at the end the following:

"(f) VALUE ENGINEERING FOR NHS.—

"(1) REQUIREMENT.—The Secretary shall establish a program to require States to carry out a value engineering analysis for all projects on the National Highway System.

"(2) VALUE ENGINEERING DEFINED.—For purposes of this subsection, the term 'value engineering analysis' means a systematic process of review and analysis of a project or activity during its design phase by a multidisciplined team of persons not originally involved in the project or activity in order to provide suggestions for reducing the total cost of the project or activity and providing a project or activity of equal or better quality. Such suggestions may include a combination or elimination of inefficient or expensive parts of the original proposed design for the project or activity and total redesign of the proposed project or activity using different technologies, materials, or methods so as to accomplish the original purpose of the project or activity.".

(c) GUARANTEE AND WARRANTY CLAUSES.—Section 112 of such title is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following:

"(f) GUARANTEE AND WARRANTY CLAUSES.—The Secretary shall, by regulation, permit a State highway department, in accordance with standards developed by the Secretary in such regulations, to include a clause in a contract for the construction of any Federal-aid highway project requiring the contractor to warrant the materials and work performed in accordance with the contractor's obligations and responsibilities under the terms of the contract. The warranty or guarantee clause shall be reasonably related to the materials and work performed and in accordance with the contractor's obligations and responsibilities under the terms of the contract, and shall not be construed to require the contractor to perform maintenance.".

(d) REGULATIONS.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding for developing standards under section 112(f) of title 23, United States Code, as added by subsection (c) of this section.

SEC. 104. CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.

(a) PERMANENT PROGRAM.—Section 112(b)(2) of title 23, United States Code, is amended by adding at the end the following new subparagraphs:

"(C) PERFORMANCE AND AUDITS.—Any contract or subcontract awarded in accordance with subparagraph (A), whether funded in whole or in part with Federal-aid highway funds, shall be performed and audited in compliance with cost principles contained in the Federal acquisition regulations of part 31 of title 48 of the Code of Federal Regulations.

"(D) INDIRECT COST RATES.—Instead of performing its own audits, a recipient of funds under a contract or subcontract awarded in accordance with subparagraph (A) shall accept indirect cost rates established in accordance with the Federal acquisition regulations for 1-year applicable accounting periods by a cognizant government agency or independent certified public accountant if such rates are not currently under dispute. Once a firm's indirect cost rates are accepted, the recipient of such funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment and shall not be limited by administrative or de facto ceilings in accordance with section 15.901(c) of such title 48. A recipient of such funds requesting or using the cost and rate data described in this subparagraph shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided, in whole or in part, to any other firm or to any government agency which is not part of the group of agencies sharing cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

"(E) STATE OPTION.—Subparagraphs (C) and (D) shall take effect 2 years after the date of the enactment of this subparagraph with respect to all States; except that if a State, during such 2-year period, adopts by statute an alternative process intended to promote engineering and design quality and ensure maximum competition by professional companies of all sizes providing engineering and design services, such subparagraphs shall not apply with respect to such State.".

(b) REPEAL OF PILOT PROGRAM.—Section 1092 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 112 note; 105 Stat. 2024) is repealed.

SEC. 105. HIGHWAY SAFETY PROMOTION PROGRAM.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by inserting after section 312 the following new section:

"§ 313. Highway safety promotion program

"(a) ESTABLISHMENT.—The Secretary shall carry out education, research, development, and technology transfer activities to promote the safe operation and maintenance of commercial motor vehicles in interstate commerce.

"(b) GRANTS.—To carry out the purposes of this section, the Secretary shall make grants to, and enter into cooperative agreements with—

"(1) a not-for-profit membership organization that has been engaged exclusively in truck-related research and education since 1985; and

"(2) not-for-profit organizations engaged in commercial motor vehicle safety research.

"(c) FEDERAL SHARE.—The Federal share of the costs of activities carried out under this section shall be 100 percent.

"(d) FUNDING.—Out of administrative funds deducted under section 104(a) of this title for each of fiscal years 1995 through 1997, the Secretary shall make available—

"(1) for making grants and entering into cooperative agreements under subsection (b)(1) $1,000,000; and

"(2) for making grants and entering into cooperative agreements under subsection (b)(2) $500,000.

Such funds shall remain available until expended.

"(e) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, approval by the Secretary of a grant under this section shall be deemed a contractual obligation of the United States for payment of the Federal share of the grant.

"(f) ANNUAL REPORT.—Annually, beginning on January 1, 1996, the Secretary shall transmit to Congress a report which provides information on the progress and activities of the programs conducted under this section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of such title is amended by inserting after the item relating to section 312 the following:

"313. Highway safety promotion program.".

SEC. 106. PROJECT ELIGIBILITY.

Section 108(b) of the Federal-Aid Highway Act of 1956 (23 U.S.C. 101 note) is amended—

(1) by striking "(1)" before "such costs may be further"; and

(2) by striking ", and (2) the amount of such costs shall not include the portion of the project between High Street and Causeway Street".

SEC. 107. WISCONSIN SUBSTITUTE PROJECT.

(a) FEDERAL ASSISTANCE.—Subsection (b) of section 1045 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1994) is amended to read as follows:

"(b) ELIGIBILITY FOR FEDERAL ASSISTANCE.—

"(1) GENERAL RULE.—Upon approval of any substitute project or projects under subsection (a)—

"(A) the costs of construction of the eligible transitway project for which such project or projects are substituted shall not be eligible for funds authorized under section 108(b) of the Federal-Aid Highway Act of 1956; and

"(B) a sum equal to the amount that would have been apportioned to the State of Wisconsin on October 1, 1994, under section 104(b)(5)(A) of title 23, United States Code, if the Secretary had not approved such project or projects shall be available to the Secretary from the Highway Trust Fund to incur obligations for the Federal share of the costs of such substitute project or projects.

"(2) AVAILABILITY.—Amounts made available under paragraph (1)(B) shall be available for obligation on and after October 1, 1994. Amounts made available under paragraph (1)(B) shall remain available until expended and shall be subject to any limitation on obligations for Federal-aid highways established by law.

"(3) APPLICABILITY OF TITLE 23 U.S.C.—Amounts made available under paragraph (1)(B) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project carried out with such funds shall be determined in accordance with section 103(e)(4)(D) of such title.".

(b) CONFORMING AMENDMENTS.—

(1) SUBSECTION (c).—The second sentence of subsection (c) of section 1045 of such Act is amended by striking "the authority of section 103(e)(4) of title 23, United States Code," and inserting "section 21(a)(2) of the Federal Transit Act".

(2) SUBSECTION (d)(1).—Subsection (d)(1) of section 1045 of such Act is amended by striking "project for" and all that follows through the period at the end thereof and inserting "transit project.".

(3) SUBSECTION (d).—Subsection (d) of section 1045 of such Act is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(c) REDUCTION OF INTERSTATE CONSTRUCTION AUTHORIZATION.—Section 108(b) of the Federal-Aid Highway Act of 1956 is amended by striking "$1,800,000,000 for the fiscal year ending September 30, 1996" and inserting "$1,800,000,000, reduced by the amount made available under section 1045(b)(1)(B) of the Intermodal Surface Transportation Efficiency Act of 1991, for the fiscal year ending September 30, 1996".

SEC. 108. USE OF RECYCLED PAVING MATERIAL.

(a) DOT GUIDANCE.—Section 1038(c)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 109 note) is amended by striking "an interest in the use of such asphalt" and inserting the following: "concern in fulfilling the minimum utilization requirements of subsection (d)(1). Such technology transfer activities and training programs shall be initiated without delay and shall include all eligible uses of recycled rubber, alternative applications, and other materials and shall focus on achieving the best performance results for all eligible uses. Not later than 90 days after the date of the enactment of this sentence, the Secretary shall transmit to Congress a report detailing the plans to implement this subsection.

(b) STATE CERTIFICATION.—Section 1038(d)(1) of such Act is amended—

(1) by striking "established by this section." and inserting ", other materials, and alternative applications established by this section. Each State shall also annually certify its progress in its waste tire abatement program under paragraph (7).";

(2) by striking "1995" the first place it appears and inserting "1996";

(3) in subparagraph (A) by striking "1994" and inserting "1995";

(4) in subparagraph (B) by striking "1995" and inserting "1996";

(5) in subparagraph (B) by inserting "and" after the semicolon at the end;

(6) in subparagraph (C), by striking "1996; and" and inserting "1997."; and

(7) by striking subparagraph (D).

(c) OTHER MATERIALS.—Section 1038(d)(2) of such Act is amended by striking the period at the end and inserting the following: "; except that, of that amount, no more than ½ may be met with the use of asphalt containing reclaimed asphalt in fiscal years 1996 and 1997. For the purposes of this paragraph, cold in-place recycling technology shall be allowable.".

(d) PENALTY.—Section 1038(d)(4) of such Act is amended—

(1) by inserting before "The" the following: "(A) WITHHOLDING.—";

(2) by indenting subparagraph (A), as designated by paragraph (1) of this subsection, and moving such paragraph 2 ems to the right;

(3) by inserting before "utilization requirement" the following: "by which such State does not satisfy the"; and

(4) by adding at the end the following:

"(B) ESCROW ACCOUNT.—Apportionments withheld from a State by the Secretary under this subsection shall be placed in escrow for 2 years pending satisfaction of the minimum utilization requirement of paragraph (1) and pending satisfaction of the requirement for which the apportionments were originally withheld. Pending satisfaction of such requirements, the withheld apportionment shall be returned to the State.

"(C) SUNSET PROVISION.—If a State which has apportionments withheld under this paragraph has not satisfied current minimum utilization requirements of paragraph (1) within 2 years and has not fulfilled the previous requirements for which such apportionments were withheld, then the apportionments held in the escrow account shall be returned to the Highway Trust Fund.".

(e) INDIVIDUAL STATE REDUCTION.—Section 1038(d)(7) of such Act is amended—

(1) by striking "prior to disposal"; and

(2) by adding at the end the following: "The Secretary, in consultation with the Administrator, shall exempt from the requirements of paragraph (1), any State that has implemented a documented waste tire abatement program if such program will result in the elimination of tire stockpiles by 1997.".

(f) ALTERNATIVE APPLICATION.—Section 1038(d) of such Act is further amended by adding at the end the following:

"(8) ALTERNATIVE APPLICATIONS.—

"(A) IN GENERAL.—A State may for any year meet up to ½ of the minimum utilization requirement established by paragraph (1) (excluding any deduction a State may take pursuant to subsection (c)) by using an equivalent amount of recycled rubber for alternative applications, other than making asphalt pavement, if—

"(i) the State certifies that the alternative application does not present a threat to safety, human health, or the environment; and

"(ii) it is demonstrated that such alternative applications provide equal or enhanced engineering benefits.

"(B) GUIDELINES.—The Secretary, in consultation with the Administrator, shall issue guidelines with respect to compliance with alternative applications under the conditions set forth in clauses (i) and (ii).".

(g) DEFINITIONS.—Section 1038(e) of such Act is amended—

(1) by striking "and" at the end of paragraph (1);

(2) in paragraph (2) by inserting before "taken" the following: "(other than tire buffings defined as a byproduct of the retreading industry) or any products produced from the processing of whole scrap tires or tire materials";

(3) by striking the period at the end of paragraph (2) and inserting a semicolon; and

(4) by adding at the end the following:

"(3) the term 'alternative applications' means uses of recycled rubber in such civil engineering applications such as noise and safety barriers, other safety hardware, fences, soil retaining walls, slope stabilization measures, subgrade insulation, and lightweight fill, where the product or material containing recycled rubber provides a benefit to the highway construction and is left in place as a result of the highway construction; such term does not apply to products or materials, such as traffic cones or vehicles, which are used only temporarily in construction of the highway;

"(4) the term 'Administrator' means the Administrator of the Environmental Protection Agency; and

"(5) the term 'State' has the meaning such term has under section 101 of title 23, United States Code.".

SEC. 109. WORK ZONE SAFETY.

Section 1051 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 401 note) is amended—

(1) by inserting "technologies and services," after "appurtenances,";

(2) by inserting "training," after "traffic control plans,"; and

(3) by adding at the end the following new sentence: "The Secretary shall annually review, and provide to State and local governments, information and recommendations concerning safety practices that can enhance safety at highway construction sites, including information relating to new safety technologies, services, traffic control plans, training, and work zone-related bidding practices. The Secretary is directed to develop within the program a process for assuring that, for each project, there will be a person trained and certified who will have the responsibility and authority for assuring that the provisions of the traffic control plan and other safety aspects of the work zone are effectively administered.".

SEC. 110. CORRECTED PROJECTS.

(a) IN GENERAL.—The purpose of this section is to provide assistance for certain highway projects in order to correct errors and omissions in the Intermodal Surface Transportation Efficiency Act of 1991.

(b) AUTHORIZATION OF PROJECTS.—The Secretary is authorized to carry out the projects described in this subsection. There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal year 1995 to carry out each such project the amount listed for each such project:

City/State	Projects	Amount in millions
1. North Minnesota.	Construction and reconstruction of Forest Highway 11 connecting Aurora-Hoyt Lakes and Silver Bay, MN.	8.5
2. Philadelphia, Pennsylvania.	Reconstruction of the Old Delaware Avenue Service Road.	1.6

(c) FEDERAL SHARE.—The Federal share payable on account of any project under this section shall be 80 percent of the cost thereof.

(d) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this section to the State in which such project or projects are located upon request of such State.

(e) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this section—

(1) has obligated all funds allocated under this section for construction of such project; and

(2) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this section.

(f) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be determined in accordance with this section and such funds shall remain available until expended. Funds authorized by this section shall not be subject to any obligation limitation.

SEC. 111. RESCISSIONS.

(a) RESCISSIONS.—Effective October 1, 1994, the following unobligated balances on September 30, 1994, of funds made available for the following provisions are hereby rescinded:

(1) $78,993.92 made available by section 131(c) of the Surface Transportation Assistance Act of 1982.

(2) $26,500,000 made available by section 404(a)(2) of the Surface Transportation Assistance Act of 1982.

(3) $1,500,000 made available by section 106(a)(1) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(4) $942,249 made available for section 149(a)(66) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(5) $376,194.94 made available for section 149(a)(111)(C) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(6) $36,979.05 made available for section 149(a)(111)(J) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(7) $34,281.53 made available for section 149(a)(111)(K) of the Surface Transportation

and Uniform Relocation Assistance Act of 1987.

(8) $258,131.85 made available for section 149(a)(111)(L) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(9) $446,768 made available for section 149(a)(92) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(10) $2,058,323 made available for section 149(a)(94) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(11) $52,834 made available for section 149(a)(95) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(12) $427,340 made available for section 149(a)(99) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(13) $3,559,837 made available for section 149(a)(35) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(14) $797,800 made available for section 149(a)(100) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(15) $55.43 made available by section 149(c)(3) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(16) $49,700,000 made available by section 1012(b)(6) of the Intermodal Surface Transportation Efficiency Act of 1991.

(17) $29,300,000 made available by section 1003(a)(7) of the Intermodal Surface Transportation Efficiency Act of 1991.

(18) $150,000,000 made available by section 1036(d)(1)(A) of the Intermodal Surface Transportation Efficiency Act of 1991.

(19) $1,500,000 made available by section 1036(d)(1)(B) of the Intermodal Surface Transportation Efficiency Act of 1991.

(20) $10,800,000 made available by section 21(a)(1) of the Federal Transit Act.

(b) REDUCTIONS IN AUTHORIZED AMOUNTS.—Section 1036(d)(1)(A) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1986) is amended—

(1) by striking "$100,000,000" the second place it appears and inserting "$50,000,000"; and

(2) by striking "$125,000,000" each place it appears and inserting "$62,500,000".

SEC. 112. ADDITIONAL PROJECTS.

(a) AUTHORIZATION OF PROJECTS.—The Secretary is authorized to carry out the projects described in this subsection. There is authorized to be appropriated for fiscal years 1995, 1996, and 1997 to carry out each such project the amounts listed for each such project:

State	Project name	Authorization in millions from highway trust fund (other than mass transit account)	Authorization in millions from general fund of the Treasury
1. Alabama	Birmingham Northern Beltline		2.900
2. Alabama	Black Warrior River Bridge Study		0.100
3. Alabama	I–759 Extension		20.000
4. Alabama	AL182/I–10 Evacuation Connector Improvements		4.000
5. Alabama	Patton Island Bridge Construction	9.000	
6. Alabama	Montgomery Outer Loop Beltway		3.000
7. Arizona	Gila River Crossing	6.000	
8. Arizona	US93 Upgrade: Kingman to Lake Mead		3.000
9. Arizona	Veterans Memorial Overpass		5.000
10. Arkansas	US71 Upgrade: Alma to Louisiana Border		3.000
11. Arkansas	US71 Upgrade: I–40 to Fayetteville	3.500	7.000
13. Arkansas	Lake Bull Shoals Bridge	0.400	
14. Arkansas	Van Buren Regional Intermodal Facility	0.100	
15. Arkansas	US63 Bypass Upgrade, Jonesboro		5.000
16. Arkansas	Conway Bypass Study and Design		3.000
17. California	CA84/I–580 Interchange Construction	4.000	
18. California	CA4 Freeway Expansion, Pittsburg		2.000
19. California	Galena Street Improvements/I–15 Interchange Construction		2.000
20. California	CA56 Extension: I–5 to I–15		3.000
21. California	Stocker Street/La Cienega Interchange		7.100
22. California	South Lake Tahoe Loop Road Reconfiguration		2.000
23. California	Bristol Street Improvement Project		3.000
24. California	CA30 Extension/Gap Closure	2.000	5.000
25. California	CA87 Corridor Construction	7.000	
26. California	CA113 Railroad Grade Separation		5.240
27. California	Third Feather River Bridge	1.500	
28. California	I–5/Highway 99W Interchange	0.500	
29. California	CA113/I–5 Interchange and Improvements		0.500
30. California	CA905 Congestion Mitigation	4.000	5.000
31. California	CA119/US101/Rice Avenue Interchange Upgrade		1.000
32. California	Humboldt Bay Port Access Enhancement	10.000	
33. California	CA7 Improvements: CA98 to I–8		2.000
34. California	Ontario Airport Ground Access	4.000	
35. California	CA71 Planning and Design, Riverside County		2.000
36. California	CA57 Interchange, Brea		0.950
37. California	CA41 Expansion		3.000
38. California	I–15 Widening: Victorville to Barstow	2.000	14.000
39. California	I–15 Access, George Air Force Base		1.000
40. California	Arden-Garden Connector		6.000
41. California	CA126 Improvements: I–5 to McBean Parkway	4.000	
42. California	CA138–Avenue P–8 Improvements: CA14 to 50th St, E		2.000
43. California	CA4 Upgrade	19.000	
44. California	Mare Island Access Study		1.000
45. California	CA237—Maude Avenue/Middlefield Road Interchange	13.500	
46. California	I–205 Widening: I–580 to I–5		3.000
47. California	I–710/Firestone Boulevard Interchange		5.800
48. California	CA58 Upgrade, Bakersfield	2.000	2.500
49. California	CA178 Crosstown Corridor: CA 178 to CA99	2.000	2.500
50. California	I–5 Capacity Enhancement		9.400
51. California	Alameda Corridor	4.000	5.000
52. California	Arbor Vitae Street Expansion		4.000
53. California	Pacific Coast Highway Palisades Bluff Stabilization		5.000
54. California	US101—Sonoma County Congestion Relief		4.000
55. California	US101—Marin County HOV Lanes		1.000
56. Colorado	Powers Boulevard Corridor		1.000
57. Colorado	120th Avenue Improvements	5.500	
58. Connecticut	Regional Transportation Center Improvements, Norwich		6.000
59. Connecticut	Hartford Riverfront Access		3.000
60. Connecticut	Seaview Avenue Reconstruction		2.000
61. District of Columbia	Constitution Avenue Rehabilitation	3.000	
62. District of Columbia	Independence Avenue Rehabilitation	0.590	
63. District of Columbia	First Street Rehabilitation	0.260	
64. Florida	Fuller—Warren Bridge	2.000	19.000
65. Florida	Jacksonville Airport Access Road		2.000

State	Project name	Authorization in millions from highway trust fund (other than mass transit account)	Authorization in millions from general fund of the Treasury
66. Florida	Midpoint Bridge and Corridor	2.000	5.000
67. Florida	FL7/US441 Widening		5.000
68. Florida	I–4/Greeneway Interchange	4.000	2.000
69. Florida	US301/University Parkway Intersection Upgrade		2.000
70. Florida	Palm Beach Port Road Relocations	0.265	5.000
71. Florida	Eller Drive/I–595 Improvements	2.600	
72. Florida	Northeast Dade Bike Path	1.135	
73. Georgia	GA61 Connector with I–20		7.200
74. Georgia	Appalachian Scenic Parkway		4.000
75. Georgia	GA92 Corridor Upgrade, Cherokee County	1.700	20.000
76. Georgia	GA9 Widening, Roswell	8.300	
77. Georgia	Sidney-Lanier Bridge Reconstruction	4.000	6.000
78. Georgia	University Center Pedestrian Corridor, Atlanta		12.960
79. Hawaii	Kuakini Street Improvements		1.500
80. Illinois	Sauget Road Extension	3.100	0.818
81. Illinois	West Boulevard Extension	0.900	
82. Illinois	IL159 Relocation, Edwardsville		6.000
83. Illinois	US67/IL267 Improvements		4.000
84. Illinois	Centennial Bridge Improvements		1.000
85. Illinois	Business Loop 55 Widening: I–55 to Clearwater Ave	5.000	
86. Illinois	Central Avenue Bypass, Chicago	15.000	
87. Illinois	US20 Improvements: East Dubuque to Galena		2.000
88. Illinois	Peoria—Chicago Highway	3.000	2.000
89. Illinois	Springfield Veterans Parkway	2.000	2.000
90. Illinois	Grand View Drive Improvements		3.000
91. Illinois	Heartland Riverfront Project		2.000
92. Illinois	US67: Macomb to Jacksonville		1.000
93. Illinois	Brush Creek Connector	3.000	
94. Illinois	Richton Road Improvements, Crete	1.720	
95. Illinois	Steger Roadway Improvements, Steger	0.720	
96. Illinois	Polk Avenue Extension, Richton Park	0.336	
97. Illinois	Minooka Street Improvements, Minooka	0.334	
98. Illinois	Rathje Road Improvements, Peotone	0.320	
99. Illinois	Main Street Improvements, Ottawa	0.312	
100. Illinois	Otter Creek Road Improvements, Streator	0.270	
101. Indiana	96th Street Upgrade	2.000	5.000
102. Indiana	Hoosier Heartland Corridor: Ft. Wayne to Lafayette		3.000
103. Indiana	I–265 Extension		10.000
104. Indiana	US231 Reconstruction		10.000
105. Indiana	Evansville—Bloomington Corridor		5.000
106. Indiana	Lafayette Rail Relocation	5.000	18.500
107. Indiana	Six Points Road Interchange		1.500
108. Indiana	City of Columbus "Front Door"		8.000
109. Indiana	IN67 Improvements		1.000
110. Indiana	East Chicago Marine Access Road		4.834
111. Indiana	Lake Shore Drive Extension Study		0.600
112. Iowa	I–29 Corridor Improvements, Sioux City		2.000
113. Iowa	IA330: Marshalltown to Des Moines		6.000
114. Iowa	Burlington Iowa Southern Arterial Connector	0.880	
115. Iowa	US 63: Bremer County to Minnesota Border		3.000
116. Iowa	IA5 Relocation		10.000
117. Kentucky	US231 Relocation	5.000	
118. Kentucky	US27 Improvements	1.000	3.000
119. Kentucky	KY114 Widening: Salyersville to US23	1.000	5.000
120. Louisiana	I–10/I–12 Baton Rouge Bypass		1.000
121. Louisiana	I–210/Nelson Access Road	3.000	
122. Louisiana	I–10: St. Charles Parish Line to Tulane Avenue	2.000	3.000
123. Maryland	MD5/MD373 Interchange		10.000
124. Maryland	MD235 Improvements		5.000
125. Maryland	MD237 Improvements	3.882	
126. Maryland	Beltway Advanced Traffic Monitoring		3.000
127. Massachusetts	Lincoln Square, Southbridge Street Gateways	2.400	
128. Massachusetts	I–90/MA146 Reconstruction	1.600	
129. Massachusetts	Franklin County Bikeway		2.250
130. Michigan	US23 Expansion	3.000	
131. Michigan	Bay City Road Interchange		3.000
132. Michigan	M–59 Corridor		20.000
133. Michigan	Highway Safety Improvements		20.000
134. Michigan	Ambassador Bridge Facilities	10.000	
135. Michigan	Monroe Rail Consolidation		10.000
136. Michigan	Detroit Airport Access Road		5.000
137. Michigan	US31 Improvements: Holland to Grand Haven	1.200	
138. Michigan	M–6: Grand Rapids South Beltline Construction	6.800	4.000
139. Michigan	M–102/Grand River Interchange Redesign		4.000
140. Michigan	McClellan Avenue		2.300
141. Michigan	US31 Upgrade, Berrien County	2.000	5.000
142. Minnesota	TH610–Crosstown Expressway	1.000	3.000
143. Minnesota	Trunk Highway 33 Improvements	9.680	
144. Minnesota	34th Street Corridor		2.000
145. Minnesota	TH212 Construction		3.000
146. Minnesota	77th Street Improvements	5.000	10.000
147. Minnesota	Wabasha Street Bridge Replacement	9.000	11.000
148. Mississippi	Norrell Road Interchange	3.000	
149. Missouri	Lindbergh Boulevard Relocation		5.000
150. Missouri	St. Joseph Loop Expressway	8.300	
151. Missouri	Chouteau Bridge Replacement		9.000
152. Missouri	Cape Girardeau Bridge Replacement	6.250	5.000
153. Missouri	MO21 Upgrade		13.400

State	Project name	Authorization in millions from highway trust fund (other than mass transit account)	Authorization in millions from general fund of the Treasury
154. Missouri	MO Highway M Relocation	3.000	
155. Missouri	I–255/MO231 Intersection		1.600
156. Missouri	Hannibal Bridge Replacement	1.000	2.000
157. Montana	MT323 Upgrade		5.000
158. Montana	Belgrade/I–90 Interchange	2.110	
159. Nebraska	Niobrara, NE/Springfield, SD Bridge		3.000
160. Nebraska	27th Street and Highway 2 Pedestrian Bridge		0.413
161. Nebraska	South and East Beltway Study, Lincoln		0.400
162. Nevada	Spring Mountain I–15 Interchange		5.000
163. Nevada	I–80/Sparks Road Pyramid Interchange	1.000	4.000
164. New Hampshire	Second Nashua River Crossing	3.000	1.500
165. New Hampshire	Manchester Airport Access Road Construction	5.000	
166. New Jersey	I–287 Improvements: I–78 to US22	4.000	
167. New Jersey	NJ21/McCarter Highway Improvements	5.000	
168. New Jersey	NJ17/NJ4 Interchange, Paramus		3.000
169. New Mexico	Santa Fe Relief Route		5.000
170. New Mexico	Sunport Boulevard East Corrdior		1.400
171. New Mexico	US70/Las Cruces Frontage Road System		3.000
172. New York	Utica-Rome Expressway	6.250	5.000
173. New York	Westchester/Putnam Intelligent Vehicle Highway Systems		2.000
174. New York	NY60 Reconstruction, Ellicott		3.000
175. New York	Quay Street Extension, Niagara Falls		2.240
176. New York	Delaware Street Reconstruction, Tonawanda		2.100
177. New York	Williams Road Widening, Wheatfield		1.060
178. New York	Lockport Corridor Study, Erie and Niagara Counties		0.800
179. New York	Rochester-Brockport Access Study		0.800
180. New York	NY531 Extension Study: Ogden to Sweden		0.400
181. New York	Jericho Turnpike Improvements: New York City to Herricks Road	4.000	2.000
182. New York	New York Thruway Upgrade		5.000
183. New York	US9 Reconstruction, Plattsburgh		1.750
184. New York	International Bridge Feasibility Study		.250
185. New York	New York Intermodal Facilities Study	1.000	
186. New York	NY277 Reconstruction, Cheektowaga	4.000	
187. New York	Main Street Bascule Bridge		2.000
188. New York	Bronx/North Manhattan Intelligent Vehicle Highway System		6.480
189. New York	Latta Road Improvements, Monroe County	6.000	
190. New York	Baldwinsville Bypass		5.000
191. North Carolina	US220 Construction		3.000
192. North Carolina	US17 Bridge Replacement		5.000
193. North Carolina	Charlotte Beltway East Segment		2.000
194. North Carolina	US64 Improvements		6.185
194A. North Carolina	Peace St. Crossing in Thomasville		2.415
194B. North Carolina	Unity St. Crossing in Thomasville		1.400
195. North Carolina	US74 Improvements		10.000
196. North Carolina	US19/23 Upgrade		1.000
197. North Carolina	Southern Charlotte Outer Loop		5.000
198. Ohio	Lorain Central Corridor		5.000
199. Ohio	US23–Fostoria Bypass		3.000
200. Ohio	US22/US33–Lancaster Bypass	1.000	5.800
201. Ohio	Boston Road Interchange		1.000
202. Ohio	Cleveland Gateway Project		1.000
203. Ohio	New Intermodal Terminal, Fearing Boulevard		5.000
204. Ohio	US30: OH235 to US68		4.000
205. Ohio	Alum Creek Drive Improvements	2.000	4.000
206. Ohio	US30 Widening: Wooster to Riceland	3.400	10.000
207. Ohio	Mt. Vernon to I–71 Connector Study	1.600	
208. Ohio	OH43 Improvements		3.920
209. Ohio	Cuyahoga River Bridge, Cleveland		4.320
210. Ohio	Cleveland Pedestrian Walkway		1.440
211. Ohio	Pomeroy to Ravenswood Access Improvements		8.900
212. Ohio	Youngstown-Hubbard Expressway	10.000	
212A. Ohio	Trotwood Connector in Montgomery Co., Ohio	.750	
213. Oklahoma	I–44 Widening: Arkansas River to Yale Avenue	6.250	5.000
214. Oregon	Jordon Cove Road Safety Improvements	0.529	
215. Oregon	Salem Bypass Improvements		4.471
216. Oregon	Columbia Slough Intermodal Projects		5.000
217. Pennsylvania	Philadelphia Traffic Signal Controllers	1.800	
218. Pennsylvania	Philadelphia Bicycle Network	0.472	
219. Pennsylvania	Tioga Marine Terminal	8.000	
220. Pennsylvania	US15 Upgrade—Tioga County	5.952	
221. Pennsylvania	US 219 Truck Route—Osterhout Street	2.880	
222. Pennsylvania	PA948 Improvements, Forest County	1.168	
223. Pennsylvania	Pennsylvania Pier 98, Philadelphia		1.000
224. Pennsylvania	PA2001 Improvements, Pike County	4.800	0.300
225. Pennsylvania	PA14 Improvements, Bradford County		4.800
226. Pennsylvania	PA3011 Improvements, Scranton		3.500
227. Pennsylvania	PA1069 Widening, Athens	0.200	1.400
228. Pennsylvania	US219 Improvements, Cambria County	10.000	
229. Pennsylvania	PA56 Improvements: Johnstown to Cessna	8.000	
230. Pennsylvania	US 22—Section B07 Reconstruction		8.000
231. Pennsylvania	US219 Improvements: Carrolltown to I–80	1.000	2.000
232. Rhode Island	Davisville Bridges		5.000
233. South Carolina	US17 Bridges	2.485	1.515
234. South Carolina	US301 Improvements	1.515	
235. South Dakota	Vermillion Bridge		4.600
236. Tennessee	Harding Place Extension	5.000	
237. Tennessee	Gay Street Bridge Rehabilitation	5.760	
238. Tennessee	Foothills Parkway—Missing Link	.490	10.000

State	Project name	Authorization in millions from highway trust fund (other than mass transit account)	Authorization in millions from general fund of the Treasury
239. Tennessee	Old Nashville Highway Bridge		4.000
240. Tennessee	Murfreesboro Alternative Transportation System		1.000
241. Tennessee	I–81 Interchange Construction	1.200	
242. Tennessee	Memphis Outer Loop Beltway		2.000
243. Texas	TX121 Upgrade Study	2.500	
244. Texas	Border Highway Extension		10.000
245. Texas	NASA Road 1 Upgrade	4.500	15.000
246. Texas	US59 Upgrade, Ft. Bend County	0.500	
247. Texas	US67 Widening	5.416	
248. Texas	Loop 12 Widening		2.200
249. Texas	TX36 Improvements	5.000	
250. Texas	Brownsville Navigation District Access		1.680
251. Texas	Brownsville 6th & 7th Streets Improvements		1.600
252. Utah	US89 Upgrade	4.000	
253. Utah	I–15/University Avenue Interchange		3.000
254. Utah	20th East Highway Project	6.000	
255. Utah	I–15 Corridor Improvements, Salt Lake County		6.000
256. Virgin Islands	Christiansted Bypass	5.000	
257. Virginia	Coleman Bridge Expansion		2.000
258. Virginia	I–95/Outer Connector/VA627 Interchange		2.000
259. Virginia	Coalfields Expressway	5.000	
260. Virginia	VA123 Philadelphia, Northern Virginia	10.000	
261. Virginia	Fairfax County Parkway/Franconia-Springfield Parkway		5.000
262. Virginia	I–81 to I–40 "I–83" Connector		5.000
263. Virginia	Pinners Point Connector		4.400
264. Virginia	S. Battlefield Boulevard/VA168		5.000
265. Virginia	14th Street Bridge Lane Addition	5.000	7.000
266. Washington	I–5/196th Street Interchange	3.336	
267. Washington	WA305 Improvements		0.672
268. Washington	Port Angeles Multi-Model Center		6.400
269. Washington	WA18 Improvements: 312th Way to Maple Valley	4.000	1.000
270. Washington	I–405/Northeast 8th Street Interchange		1.000
271. Washington	US12 Improvements		9.000
272. Washington	US395 Improvements		9.000
273. Washington	Chelan/Douglas Transportation Center		2.000
274. Washington	Mill Plain Extension		5.000
275. West Virginia	Fairmont Riverside Expressway	10.000	
276. West Virginia	New River Parkway	14.400	
277. Wisconsin	Janesville River Street Realignment	3.454	
278. Wisconsin	Main Street Bridge Replacement, Racine		2.000
279. Wisconsin	CTH P Improvements	0.480	
280. Wisconsin	WI29 Upgrade	10.000	
281. Wisconsin	Oshkosh Rail Relocation	6.000	
282. Wisconsin	US10 Upgrade: Anderson Road to CTH U	4.000	
283. Wisconsin	US41 Upgrade: Kaukauna to CTH F		3.000

(b) ALLOCATION PERCENTAGES FOR HTF FUNDS.—65.86 percent of the amount allocated by subsection (a) from the Highway Trust Fund for each project authorized by subsection (a) shall be available for obligation in fiscal year 1995. 17.07 percent of such amount shall be available for obligation in each of fiscal years 1996 and 1997.

(c) APPROPRIATIONS CAP.—Of the amounts authorized to be appropriated from the general fund of the Treasury by subsection (a), not more than $300,000,000 may be appropriated in any single fiscal year.

(d) FEDERAL SHARE.—The Federal share payable on account of any project under this section shall be 80 percent of the cost thereof.

(e) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this section to the State in which such project or projects are located upon request of such State.

(f) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this section—

(1) has obligated all funds allocated under this section for construction of such project; and

(2) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this section.

(g) APPLICABILITY OF TITLE 23.—Funds authorized by this section from the Highway Trust Fund shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be determined in accordance with this section and such funds shall remain available until expended. Funds authorized by this section shall not be subject to any obligation limitation.

SEC. 113. STUDY OF RADIO AND MICROWAVE TECHNOLOGY FOR COMMERCIAL AND OTHER MOTOR VEHICLES.

(a) IN GENERAL.—Section 6057 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2194) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) STUDY OF RADIO AND MICROWAVE TECHNOLOGY FOR COMMERCIAL AND OTHER MOTOR VEHICLES.—

"(1) IN GENERAL.—The Secretary shall conduct a research study to develop and evaluate radio and microwave technology for furtherance of safety in commercial and other motor vehicles.

"(2) EQUIPMENT.—Equipment developed under the study to be conducted under paragraph (1) shall be directed toward, but not limited to, warning drivers of obstructions in a highway or limited visibility conditions caused by snow, rain, fog, or dust.

"(3) SAFETY APPLICATIONS.—In conducting the study under paragraph (1), the Secretary shall determine whether the technology described in paragraph (1) has other safety applications consistent with the goals of this Act.".

(b) FUNDING.—Such section is further amended by adding at the end the following new subsection:

"(d) FUNDING.—Of the funds made available in fiscal year 1995 to carry out section 6058(b), $500,000 shall be used to conduct the study under subsection (b).".

(c) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in the section heading by inserting "and other" after "commercial"; and

(2) in the heading to subsection (a) by inserting "OF SAFETY TECHNOLOGY FOR COMMERCIAL MOTOR VEHICLES" after "STUDY".

SEC. 114. FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY.

(a) FEDERAL LINE OF CREDIT.—For the purpose of carrying out a demonstration of the construction of public toll roads in Orange County, California, authorized by section 129(d) of title 23, United States Code, there is authorized to be appropriated $10,000,000 for the Secretary to enter into an agreement to make a line of credit available, with a principal amount not to exceed $120,000,000 to the public entity or entities with the statutory authority to construct such facilities.

(b) Effective Period.—The line of credit under this section shall be available for draws during the period beginning on the date of completion of construction and ending on the last day of the tenth calendar year following the date construction of the facilities is completed.

(c) Purposes.—The line of credit under this section shall be available to pay the costs of extraordinary repair and replacement of the facilities, unexpected Federal or State environmental restrictions, operation and maintenance expenses of the facilities, and debt service on tax-exempt or taxable obligations financing the facilities.

(d) Limitations.—

(1) Capital expenditures.—With respect to capital expenditures, draws on the line of credit under this section shall only be made if and to the extent proceeds from the sale of the obligations issued by the public entity or entities which otherwise would be available for such purposes are exhausted, or are otherwise unavailable for the payment of such capital expenditures.

(2) Expenses.—With respect to expenses, including operation and maintenance expenses and debt service, a draw on the line of credit under this section shall only be made if revenues from toll operations and capitalized interest are insufficient (or are otherwise unavailable) for such purposes.

(3) Per year.—No more than 10 percent of the total principal amount of the line of credit under this section shall be available for draws in any one year.

(4) Third party creditor rights.—No third party creditor of the public entity or entities shall have any right against the Federal Government with respect to draws on the line of credit under this section.

(5) Availability for particular costs.—There is no guaranteed availability of proceeds of the line of credit under this section for the payment of any particular cost of the public entity or entities which might be financed under this section.

(e) Interest Rate and Repayment Period.—Any draws (except for operation and maintenance expenses) on the line of credit under this section shall accrue interest at the 30-year United States Treasury bond rate beginning on the date such draws are made and shall be repaid in not more than 30 years; except that any draws under the line of credit for operation and maintenance expenses shall accrue interest at the 3-year United States Treasury note rate beginning on the date such draws are made and shall be repaid in not more than 3 years.

SEC. 115. RAILWAY-HIGHWAY CROSSINGS PROJECT.

Of the funds appropriated by Public Law 103–122 for railroad-highway crossings projects, $20,000,000 shall be made available for costs, not to exceed 80 percent, of a project to reduce rail-highway conflicts on M–59 near Pontiac, Michigan, and a project on Bristol Road near Flint, Michigan. From the $20,000,000 made available under the preceding sentence, $500,000 shall be made available to improve and upgrade Maple Road at Bishop Airport, Michigan.

SEC. 116. NEW RIVER PARKWAY, WEST VIRGINIA.

(a) Priority Consideration.—

(1) Completion of studies.—The Secretary shall require, as a matter of the highest priority, the completion of all remaining studies associated with the project authorized by section 149(a)(69) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 191).

(2) Schedule.—Notwithstanding any other provision of law, the Secretary is authorized and directed to establish a schedule—

(A) for the completion by other Federal agencies of any reviews required by law of such studies; and

(B) by which the reconciliation of any discrepancies among reviewing Federal agencies must be met.

(3) Deadline.—The schedule referred to in paragraph (2) shall provide for the project referred to in paragraph (1) to proceed to construction before December 31, 1995.

(b) Visitors Center.—

(1) Grants.—The Secretary shall make grants to the Secretary of the Interior, acting through the Director of the National Park Service, for the planning, design, and construction of a visitors center, and such other related facilities as may be determined to be necessary, to facilitate visitor understanding and enjoyment of scenic, historic, cultural, and recreational resources accessible by the New River Parkway, West Virginia, and any related buildings as may be determined to be necessary for the administration of the parkway.

(2) Site.—The visitors center, related facilities, and buildings referred to in paragraph (1) shall be located at a suitable location on a site for which title is held by the United States in the vicinity of the intersection of the New River Parkway and Interstate Route 64 or along the New River Parkway itself.

(3) Consultation.—The Director of the National Park Service shall consult with the New River Parkway Authority and the State of West Virginia in the planning, design, and construction of the visitors center, related facilities, and buildings referred to in paragraph (1).

(4) Funding.—Of the amounts made available pursuant to section 1003(a)(6)(C) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1919) $1,300,000 for fiscal year 1995 and $1,200,000 for fiscal year 1996 shall be made available for the purposes of carrying out this subsection. Such funds shall remain available until expended.

SEC. 117. NATIONAL RECREATIONAL TRAILS.

(a) State Eligibility.—Section 1302(c) of the Intermodal Surface Transportation Act of 1991 (33 U.S.C. 1261(c)) is amended—

(1) by striking "Act" each place it appears and inserting "part";

(2) in paragraph (2) by striking subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively; and

(3) by adding at the end the following:

"(3) Sixth year provision.—On and after the date that is 5 years after the date of the enactment of this part, a State shall be eligible to receive moneys under this part in a fiscal year only if the State agrees to expend from non-Federal sources for carrying out projects under this part an amount equal to 20 percent of the amount received by the State under this part in such fiscal year.".

(b) Administrative Costs.—Section 1302(d)(1) of such Act (33 U.S.C. 1261(d)(1)) is amended—

(1) in subparagraph (C) by striking "national surveys" and inserting "a 1-time national survey";

(2) by striking "and" at the end of subparagraph (C);

(3) by redesignating subparagraph (D) as subparagraph (E) and inserting after subparagraph (C) the following:

"(D) contracting for services with other land management agencies; and"; and

(4) by adding the end the following:

"The 3 percent limitation in the preceding sentence shall not apply to expenditures to pay the cost of conducting the 1-time national survey described in subparagraph (C).".

(c) Environmental Mitigation.—

(1) In general.—Section 1302(e) of such Act (33 U.S.C. 1261(e)) is amended by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (6), (7), (8), and (9), respectively, and by inserting after paragraph (4) the following:

"(5) Environmental mitigation.—

"(A) Requirement.—To the extent practicable and consistent with other requirements of this section, in complying with paragraph (4), a State shall give priority to project proposals which provide for the redesign, reconstruction, nonroutine maintenance, or relocation of trails in order to mitigate and minimize the impact to the natural environment.

"(B) Compliance.—The State shall receive guidance for determining compliance with subparagraph (A) from the recreational trail advisory board satisfying the requirements of subsection (c)(2)(A).".

(2) Conforming amendment.—Section 1302(e)(4) of such Act (33 U.S.C. 1261(e)(4)) is amended by striking "paragraphs (6) and (8)(B)" and inserting paragraphs "(7) and (9)(B)".

(d) Exclusions.—Section 1302(e)(7) of such Act, as redesignated by subsection (c), is amended—

(1) by striking "(7) Small state exclusion.—Any State" and inserting the following:

"(7) Exclusions.—

"(A) Small state.—Any State";

(2) by moving the text of subparagraph (A), as so designated, 2 ems to the right; and

(3) by adding at the end the following:

"(B) Best interest of a state.—Any State which determines based on trail needs identified in its State Comprehensive Outdoor Recreation Plan that it is in the best interest of the State to be exempt from the requirements of paragraph (4) may apply to the Secretary for such an exemption. Before approving or disapproving an application for such an exemption, the Secretary shall publish in the Federal Register notice of receipt of the application and provide an opportunity for public comment on the application.".

(e) Return of Moneys Not Expended.—Section 1302(e)(9) of such Act, as redesignated by subsection (c), is amended—

(1) by inserting "the State" before "may be exempted"; and

(2) by striking "and expended or committed" and all that follows before the period.

(f) Authorization of Appropriations.—Section 1302 of such Act (16 U.S.C. 1261) is amended by adding at the end the following:

"(h) Authorization of Appropriations.—

"(1) In general.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section and section 1303 $6,000,000 for fiscal year 1995.

"(2) Applicability of title 23.—Funds authorized by paragraph (1) shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of activities conducted with such funds shall be as provided in this section, such funds shall not be subject to any obligation limitation other than subsection (d)(3), and such funds shall remain available until expended.

"(3) TREATMENT.—Funds authorized by paragraph (1) shall be treated as if such funds were part of the National Recreational Trails Trust Fund for purposes of making allocations to the States under subsection (d).".

(g) ADVISORY COMMITTEE.—Section 1303 of such Act (16 U.S.C. 1262) is amended—

(1) in subsection (b) by striking "11 members" and inserting "12 members";

(2) in subsection (b) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following:

"(2) 1 member appointed by the Secretary representing individuals with disabilities;".

SEC. 118. COAL HERITAGE.

(a) GRANTS.—The Secretary shall make grants to the State of West Virginia for the purpose of erecting signs or other informational devices depicting Coal Heritage along public roads identified as "Heritage Tour Routes" and "Tour Route Connectors" on the map entitled "Alternative Concept C" in the the study entitled "A Coal Mining Heritage Study: Southern West Virginia" (1993, United States Department of the Interior, National Park Service) and along additional public roads which provide access to the interpretive sites and areas identified on such map. Such signs or devices shall be devised by the West Virginia Division of Culture and History with the concurrence of the West Virginia Division of Highways and shall be subject to public comment.

(b) TECHNICAL ASSISTANCE.—With respect to areas along the roads referred to in subsection (a) which are administered by Federal, State, local, or nonprofit entities, the Secretary may, pursuant to cooperative agreements with such entities and in consultation with the State of West Virginia, provide technical assistance in the development of interpretive devices and information in order to contribute to public appreciation of the historical, cultural, natural, scenic, and recreational sites along such roads.

(c) FUNDING.—Of amounts made available pursuant to section 1047(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1998), there shall be available $1,000,000 per fiscal year for each of fiscal years 1995 and 1996 for the purposes of carrying out this section. Such sums shall remain available until expended.

SEC. 119. LIMITATIONS ON FUNDING OF OPERATING ASSISTANCE.

Section 9(k)(2) of the Federal Transit Act (49 U.S.C. App. 1607a(k)(3)) is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (E) and (F), respectively;

(2) in subparagraph (E), as redesignated by paragraph (1), by inserting "INCREASE.—" before "Beginning";

(3) in subparagraph (F), as redesignated by paragraph (1)—

(A) by inserting "CONSUMER PRICE INDEX DEFINED.—" before "As"; and

(B) by striking "(B)" and inserting "(E)";

(4) by moving subparagraphs (E) and (F), as redesignated by paragraph (1), 4 ems to the right; and

(5) by striking "(2)" and subparagraph (A) and inserting the following:

"(2) LIMITATIONS ON FUNDING OF OPERATING ASSISTANCE.—

"(A) IN GENERAL.—The amount of funds apportioned under this section which may be used for operating assistance shall not exceed 80 percent of the amount of funds apportioned in fiscal year 1982 under paragraphs (1)(A), (2)(A), and (3)(A) of section 5(a) of this Act to an urbanized area with a population of 1,000,000 or more, 90 percent of funds so apportioned to an urbanized area with a population of 200,000 or more and less than 1,000,000 population; and 95 percent of funds so apportioned to an urbanized area of less than 200,000 population. Notwithstanding the preceding sentence, an urbanized area that first became an urbanized area under the 1980 census or thereafter may use each fiscal year for operating assistance not to exceed an amount equal to ⅔ of its apportionment during the first full year it received funds under this section.

"(B) SPECIAL RULE FOR CERTAIN URBANIZED AREAS WITH REDUCED POPULATIONS.—If an urbanized area had a population under the 1980 decennial census of the United States of more than 1,000,000 and has a population under the 1990 decennial census of less than 1,000,000, the maximum percentage of funds which may be used for operating assistance for purposes of subparagraph (A) shall be 90 percent of the amount of funds apportioned in fiscal year 1982 under such paragraphs (1)(A), (2)(A), and (3)(A) to such area.

"(C) SPECIAL RULE FOR URBANIZED AREAS OF LESS THAN 200,000.—If an urbanized area had a population under the 1990 decennial census of the United States of less than 200,000, 100 percent of the funds apportioned to such area under this section for each of fiscal years 1995, 1996, and 1997 may be used for operating assistance, notwithstanding any limitation otherwise imposed on operating assistance.

"(D) OFFSET.—The amount of funds apportioned under this section to each urbanized area with a population of 200,000 or more in each of fiscal years 1995, 1996, and 1997 which may be used for operating assistance but for this subparagraph shall be reduced by the amount determined by multiplying—

"(i) the aggregate amount of increases of operating assistance under subparagraph (C) in such fiscal year; by

"(ii) the quotient determined by dividing—

"(I) the amount of funds apportioned under this section to such area in such fiscal year which may be used for operating assistance but for this subparagraph; by

"(II) the aggregate amount of funds apportioned to all urbanized areas with a population of 200,000 or more under this section in such fiscal year but for this subparagraph which may be used for operating assistance.".

SEC. 120. INTERCITY BUS TRANSPORTATION.

(a) BASIC PROGRAM.—Section 18(i)(1) of the Federal Transit Act (49 U.S.C. App. 1614(i)(1)) is amended—

(1) by striking "and" before "15 percent";

(2) by inserting ", and 7.5 percent of such amounts in fiscal year 1995" after "1994"; and

(3) by inserting after "demonstration projects," the following: "the purchase of accessibility devices,".

(b) DISCRETIONARY PROGRAM.—Section 3 of such Act (49 U.S.C. App. 1602) is amended by adding at the end the following new subsection:

"(o) INTERCITY BUS TRANSPORTATION.—Of the amounts made available by subsection (k)(1)(C) in each fiscal year beginning after September 30, 1994, the Secretary shall make to operators of intercity bus transportation systems capital grants to support such systems, including the purchase of accessibility devices, an amount equal to 7.5 percent of the amounts made available under section 18 in such fiscal year. The Federal grant for any project under this subsection shall be 80 percent of the net project cost; except that the Federal grant for the purchase of accessibility devices under this subsection shall be 90 percent of the net project cost.".

SEC. 121. REPEALS OF EXISTING PROJECTS.

(a) LONG BEACH METRO LINK FIXED RAIL PROJECT.—Section 3035(o) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2131) is repealed.

(b) HONOLULU RAPID TRANSIT PROJECT.—Section 3035(ww) of such Act (105 Stat. 2136) is repealed.

SEC. 122. MISCELLANEOUS TRANSIT PROJECTS.

(a) PORTLAND WESTSIDE LIGHT RAIL PROJECT.—Section 3035(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2129) is amended—

(1) by inserting "(1) IN GENERAL.—" after "WESTSIDE LIGHT RAIL PROJECT.—";

(2) by striking the last sentence;

(3) by indenting paragraph (1) and moving it 2 ems to the right; and

(4) by adding at the end the following:

"(2) AMENDMENT.—

"(A) NEGOTIATION.—Within 90 days after the date of the enactment of this paragraph, the Secretary shall negotiate and sign an amendment to the Westside Light Rail Project multiyear grant agreement authorized under paragraph (1) with the Tri-County Metropolitan Transportation District of Oregon to carry out the final design and construction of the locally preferred alternative for the Hillsboro extension, systems related costs as authorized in Public Law 102-240, and acquisition of low floor light rail vehicles, as set forth in Public Law 102-388.

"(B) ADVANCE CONSTRUCTION; CONTINGENT COMMITMENT.—The amendment negotiated under this paragraph shall provide for the use of advance construction authority under section 3(l) of the Federal Transit Act and for the use of contingent commitment authority under section 3(a)(4)(C) of the Federal Transit Act for the activities set forth in subparagraph (A) for an amount equivalent to the Federal share authorized under section 3 of the Federal Transit Act for each specific activity; except that the Federal share of the cost of the final design and construction of the Hillsboro extension shall not exceed ⅓.

"(C) SPECIAL RULE FOR ADVANCE CONSTRUCTION.—In the event that the Tri-County Metropolitan Transportation District of Oregon uses advance construction authority under this paragraph, the Secretary shall convert that authority into a grant and shall reimburse the Tri-County Metropolitan Transportation District of Oregon from funds made available under section 3 of the Federal Transit Act in fiscal years 1998 and 1999 for the Federal share of the amounts expended (plus any eligible financing costs).

"(D) INTEGRATED PROJECT FINANCING PLAN.—The amendment negotiated under this paragraph shall also include an integrated project financing plan to permit the interchangeable use of Federal funds for activities set forth in paragraph (1) and subparagraph (A) to maintain the entire project construction schedule.

"(3) TREATMENT AS A SINGLE PROJECT.—The Hillsboro extension to the Westside Light Rail Project shall be considered by the Federal Transit Administration as a single project extending from downtown Portland, Oregon, to downtown Hillsboro, Oregon, for the purposes of project review, evaluation, and approval of construction under section 3(i) of the Federal Transit Act and for the purpose of preparing a report under section 3(j) of such Act.".

(b) NEW JERSEY URBAN CORE PROJECT.—Section 3031(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2122-2123) is amended—

(1) by inserting after "Hudson River Waterfront Transportation System" the following:

"(including corridor connections to and within the city of Bayonne)"; and

(2) by inserting after "Concourse," the following: "the West Shore Line,".

(c) North Bay Ferry Service.—Section 3035(c) of such Act (105 Stat. 2129) is amended by striking "$8,000,000" and all that follows through "1993" and inserting "$17,000,000".

(d) Staten Island-Midtown Manhattan Ferry Service.—Section 3035(d) of such Act is amended by striking "$1,000,000" and all that follows through "1993" and inserting "$12,000,000".

(e) Central Area Circulator Project.—Section 3035(e) of such Act is amended by striking the last sentence.

(f) Salt Lake City Light Rail Project.—Section 3035(f) of such Act is amended by inserting after "including" the following: "related high-occupancy vehicle lane, intermodal corridor design,".

(g) Los Angeles-San Diego Rail Corridor Improvement Project.—Section 3035(g) of such Act is amended by striking "not less than" and all that follows through "1994" and inserting "$20,000,000".

(h) Additional Trackage Rights and Right-of-Way Purchase for Gilroy Service.—Section 3035(h) of such Act is amended—

(1) by striking "July 1, 1994" and inserting "September 30, 1996"; and

(2) by striking "August 1, 1994," and inserting "October 31, 1996,".

(i) Dallas Light Rail Project.—

(1) Multiyear grant agreement.—Section 3035(i) of such Act is amended—

(A) by striking "6.4 miles" and inserting "9.6 miles";

(B) by striking "10 stations" and inserting "not to exceed 14 stations";

(C) by striking "such light rail line" and inserting "the program of interrelated projects identified in section 3(a)(8)(C)(vii) of the Federal Transit Act"; and

(D) by striking "of such elements" and inserting "element of such program of interrelated projects"

(2) Program of interrelated projects.—Section 3(a)(8)(C)(vii) of the Federal Transit Act (49 U.S.C. App. 1602(a)(8)(C)(vii)) is amended by striking "Camp Wisdom" and inserting "Interstate Route 20, L.B.J. Freeway".

(j) South Boston.—Section 3035(j) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2130–2131) is amended—

(1) by striking "$278,000,000" each place it appears and inserting "$323,000,000";

(2) by inserting "the second place it appears" after "striking '—' "; and

(3) by adding at the end the following: "Funds made available for the South Boston Piers Transitway in fiscal year 1994 for alternatives analysis may also be used for construction.".

(k) Kansas City Light Rail Line.—Section 3035(k) of such Act is amended by striking "$1,500,000 in fiscal year 1992, and $4,400,000 in fiscal year 1993" and inserting "$5,900,000".

(l) Downtown Orlando Circulator Project.—Section 3035(l) of such Act is amended—

(1) by striking "No later than April 30, 1992, the" and inserting "The";

(2) by striking "$5,000,000" and inserting "$12,000,000"; and

(3) by striking "for" the second place it appears and all that follows through the period at the end and inserting "and the completion of final design, construction, land and equipment acquisition, and related activities for the Downtown Orlando Circulator project.".

(m) Detroit Light Rail Project.—Section 3035(m) of such Act is amended by striking "not less than" the first place it appears and all that follows through "1993," and inserting "$20,000,000".

(n) Lakewood-Freehold-Mattawan or Jamesburg Rail Project.—Section 3035(p) of such Act is amended by striking "$1,800,000" and all that follows through "1994" and inserting "$7,800,000".

(o) Charlotte Light Rail Study.—Section 3035(r) of such Act is amended by striking "$125,000" and all that follows through "1993" and inserting "$500,000".

(p) San Diego Mid Coast Fixed Guideway Project.—Section 3035(u) of such Act is amended—

(1) in the subsection heading by striking "Light Rail" and inserting "Fixed Guideway";

(2) by striking "No later than April 30, 1992, the" and inserting "The";

(3) by striking ", $2,000,000" and all that follows through "right-of-way," and inserting "$42,000,000"; and

(4) by striking "Light Rail" and inserting "Fixed Guideway".

(q) RAILTRAN Commuter Rail Project.—Section 3035(x) of such Act is amended—

(1) by striking "No later than April 30, 1992, the" and inserting "The"; and

(2) by striking "$2,480,000" and all that follows through "1993" and inserting "$8,680,000".

(r) Eureka Springs, Arkansas.—Section 3035(z) of such Act is amended by striking the first sentence and inserting the following: "From funds provided under section 3(k)(1)(c) of the Federal Transit Act, the Secretary shall make available $63,600 to Eureka Springs Transit for the purchase of an alternative fueled vehicle, which is accessible to and usable by individuals with disabilities.".

(s) Baltimore-Central Light Rail Extension.—Section 3035(nn) of such Act is amended—

(1) in paragraph (1) by striking "as follows:

"(A) Not less than $30,000,000 for fiscal year 1993.

"(B) Not less than $30,000,000 for fiscal year 1994."

and inserting "and shall be $60,000,000."; and

(2) in paragraph (2) by striking "as follows" and all that follows through the period at the end of subparagraph (C) and inserting "totaling $160,000,000.".

(t) Jacksonville Automated Skyway Express Extension.—Section 3035(vv) of such Act is amended to read as follows:

"(vv) Jacksonville Automated Skyway Express Extension.—Not later than December 31, 1994, the Secretary shall negotiate and sign an agreement which modifies the full funding agreement signed on September 27, 1991, with the Jacksonville Transportation Authority for phase 1–B of the north segment of the Automated Skyway Express project to make available $15,000,000 in already appropriated funds and $35,000,000 under section 3(k)(1)(B) of the Federal Transit Act to carry out construction of the locally preferred alternative for an operable segment of a not to exceed 1.8 mile extension to such project.".

(u) Dulles Corridor Rail Project.—Section 3035(aaa) of such Act is amended—

(1) by striking "No later than April 30, 1992, the" and inserting "The";

(2) by striking "$6,000,000" and inserting "$16,000,000"; and

(3) by striking "the completion" and all that follows through "engineering for".

(v) Central Puget Sound Regional Transit Project.—Section 3035(bbb) of such Act is amended to read as follows:

"(bbb) Central Puget Sound Regional Transit Project.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $300,000,000 for the Central Puget Sound Regional Transit Project.".

(w) Canal Street Corridor Light Rail.—Section 3035(fff) of such Act is amended—

(1) by striking "No later than April 30, 1992, the" and inserting "The"; and

(2) by striking "negotiate" and all that follows through "includes" and inserting "make available"; and

(3) by striking "$4,800,000" and all that follows through "statement for" and inserting "$44,800,000 to construct".

(x) Additional Projects.—

(1) Santa cruz bus facility consolidation.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $4,120,000 for the Santa Cruz Bus Facility Consolidation project.

(2) Santa cruz fixed guideway.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $4,750,000 for the Santa Cruz Fixed Guideway project.

(3) San francisco ferry building renovation.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $1,250,000 for the San Francisco Ferry Building Renovation project.

(4) AC transit bus improvements.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $10,000,000 to the Alameda County Transit District for the purchase of buses.

(5) Denver southwest corridor light rail.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $13,000,000 for the Denver Southwest Corridor Light Rail project.

(6) Griffin line transitway.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $4,900,000 for the Griffin Line Transitway project.

(7) Tampa to lakeland commuter rail.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $16,300,000 for the Tampa to Lakeland Commuter Rail project.

(8) Ravenswood rapid transit line.—From funds provided under section 3(k)(1)(A) of the Federal Transit Act, and before the formula distribution of funds under such section, the Secretary shall make available $20,000,000 to the Chicago Transit Authority for the reconstruction of track on the Ravenswood Rapid Transit line between Kimball Terminal and Clark Junction and between Armitage Avenue and Tower 18.

(9) Fitchburg intermodal facility.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $2,250,000 for the Fitchburg Intermodal Facility.

(10) East-west transitway.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $5,000,000 for the East-West Transitway project in Montgomery County, Maryland.

(11) Minneapolis.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $20,000,000 for the Minnesota Central Corridor Light Rail project.

(12) Hoboken terminal facility improvements.—From funds provided under section

3(k)(1)(A) of the Federal Transit Act, and before the formula distribution of funds under such section, the Secretary shall make available $8,000,000 to rehabilitate the Hoboken Terminal and Yard Complex in Hoboken, New Jersey.

(13) WEST 72D STREET TRANSIT STATION.—From funds provided under section 3(k)(1)(A) of the Federal Transit Act, and before the formula distribution of funds under such section, the Secretary shall make available $9,500,000 to refurbish and expand the West 72d Street Transit Station in New York, New York.

(14) TREN URBANO LIGHT RAIL LINE.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $40,000,000 for the Tren Urbano Light Rail project in Puerto Rico.

(15) MEMPHIS RIVERFRONT LOOP.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $5,900,000 for the Memphis Riverfront Loop Light Rail project.

(16) DART NORTH CENTRAL LIGHT RAIL EXTENSION.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $18,628,000 for the DART North Central Light Rail Extension project.

(17) AUSTIN LIGHT RAIL PROJECT.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $5,000,000 for the Austin Light Rail project.

(18) EDMONDS MULTI-MODAL CENTER.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $400,000 for fixed guideway improvements in the vicinity of the Edmonds, Washington ferry terminal.

(19) MILWAUKEE BUS PURCHASE.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $10,000,000 to purchase transit buses in Milwaukee County, Wisconsin.

(20) TRI-STATE TRANSIT AUTHORITY PURCHASE.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $3,416,000 to the Tri-State Transit Authority in Huntington, West Virginia, for the purchase of transit vehicles, equipment, and related right-of-way facility costs.

(21) ALASKA MARINE TRANSPORTATION SYSTEM.—Notwithstanding section 3(a) of the Federal Transit Act, from funds provided under section 3(k)(1)(B), the Secretary shall make available $20,000,000 to the State of Alaska for the Alaska Marine Transportation System project.

(22) LONG BEACH BUS PURCHASE.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $3,000,000 to the Long Beach Public Transportation Company for the purchase of buses and spare parts.

(23) PALM DESERT PEOPLE MOVER.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $5,000,000 for the Palm Desert People Mover Project.

(24) LOS ANGELES/BURBANK/GLENDALE/SAN FERNANDO VALLEY LIGHT RAIL/INTERMODAL CONNECTION.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $10,000,000 for the Los Angeles/Burbank/Glendale/San Fernando Valley Light Rail/Intermodal Connection project.

(25) ORANGE COUNTY TRANSITWAY.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $15,000,000 for the Orange County Transitway Project, including the connector in Costa Mesa, California .

(26) GOLDEN EMPIRE TRANSIT LIGHT RAIL.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $2,000,000 for the Golden Empire Transit Light rail project.

(27) DELAWARE AREA RAPID TRANSIT BUS PURCHASE.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $5,000,000 to the Delaware Area Rapid Transit District for the purchase of buses.

(28) TRI-COUNTY COMMUTER RAIL.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $20,000,000 for capital improvements to Tri-Rail Commuter Rail Service.

(29) SAFETY AND SECURITY PILOT PROJECT.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $2,750,000 for a safety and security pilot project in Champaign-Urbana, Rock Island, and Springfield, Illinois.

(30) METRO WISCONSIN CENTRAL COMMUTER RAIL LINE.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $5,000,000 for capital improvements to provide commuter rail service between Antioch, Illinois, and Chicago Union Station.

(31) CINCINNATI NORTHEAST/NORTHERN KENTUCKY RAIL LINE.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $6,000,000 for the Cincinnati Northeast/Northern Kentucky Rail Line project.

(32) WORCESTER INTERMODAL CENTER.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $20,000,000 for the Union Station Intermodal Center project.

(33) BOSTON COLLEGE ALTERNATIVE FUELS/ENVIRONMENTAL EFFICIENCY BUS DEMONSTRATION PROJECT.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $1,600,000 to Boston College for the alternative fuels/environmental efficiency bus demonstration project.

(34) SHADY GROVE TO FREDERICK CORRIDOR.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $5,000,000 to the State of Maryland for a corridor study of transit options in the Shady Grove to Frederick Corridor.

(35) BALTIMORE REGIONAL TRANSIT CORRIDOR STUDY.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $10,000,000 to the State of Maryland for a study of transit corridors in the Baltimore and southern Maryland regions.

(36) WEST TRENTON LINE.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $10,000,000 to make capital improvements for the West Trenton Commuter Rail Line.

(37) WHITEHALL FERRY TERMINAL.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $20,000,000 for reconstruction of the Whitehall Ferry Terminal in New York, New York.

(38) BUFFALO CROSSROADS STATION.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $9,000,000 to the Niagara Frontier Transportation Authority for the Crossroads Station project.

(39) COLUMBUS NORTH CORRIDOR/OSU LINK.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $10,000,000 for the Columbus North Corridor/OSU Link project.

(40) BAYFRONT CENTRE INTERMODAL COMPLEX.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $8,000,000 for the Bayfront Centre Intermodal Complex project.

(41) ST. LOUIS METRO LINK EXTENSIONS.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $16,000,000 for the St. Clair extension to the St. Louis Metro Link light rail transit system, $2,450,000 for the Cross-County extension to such system, and $3,450,000 for the St. Charles extension to such system.

(42) ALBANY MULTIMODAL TRANSPORTATION FACILITY.—From funds provided under section 3(k)(1)(C), the Secretary shall make available $590,000 for the multimodal transportation facility in Albany, Oregon.

(43) MIAMI METRORAIL NORTH CORRIDOR EXTENSION.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $15,000,000 for the northern extension of the Metrorail rapid transit system in Miami, Florida.

(44) VALPARAISO-CHICAGO COMMUTER CORRIDOR STUDY.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $56,000 to determine the feasibility of restoring commuter rail service between Valparaiso, Indiana, and Chicago, Illinois.

(45) AREA TRANSPORTATION AUTHORITY OF NORTH CENTRAL PENNSYLVANIA.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $3,434,000 for construction of a bus maintenance facility in Elk County, satellite garage in Potter County, and CNG fueling equipment in DuBois for the Area Transportation Authority of North Central Pennsylvania.

(46) JOHNSTOWN, PENNSYLVANIA.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $2,700,000 for the purchase of buses and repair of a storage and repair facility and associated fuel storage tanks for the Cambria County Transit Authority, Pennsylvania.

(47) INDIANA COUNTY, PENNSYLVANIA.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $600,000 for the purchase of buses for the Indiana County Transit Authority, Pennsylvania.

(48) ALTOONA, PENNSYLVANIA.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $1,200,000 for the purchase of buses and spare parts, an electronic public information system and capital improvements to the Altoona Transportation Center to Altoona Metro Transit, Pennsylvania.

(49) DUBOIS/FALLS CREEK/SANDY TOWNSHIP, PENNSYLVANIA.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $480,000 for the purchase of buses and lift-equipped vans for the DuBois/Falls Creek/Sandy Township Area Transit Authority, Pennsylvania.

(50) TACOMA EASTERN RAIL.—From funds provided under section 3(k)(1)(B) of the Federal Transit Act, the Secretary shall make available $4,000,000 to the city of Tacoma, Washington, for the Tacoma Eastern Rail project from Tacoma to Ashford.

(51) PITTSBURGH BUSWAY.—From funds provided under section 3(k)(1)(B) of the Federal

Transit Act, the Secretary shall make available $5,036,000 for the Pittsburgh Busway project.

(52) ILLINOIS BUS PROJECTS.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $5,000,000 for the purchase of buses in Peoria, Champaign-Urbana, Rockford, PACE in the suburban area of Chicago, and other nonurbanized area systems in Illinois.

(53) SOUTHWEST BROOKLYN TRANSIT STATION AND TRACK IMPROVEMENT PROJECT.—From funds provided under section 3(k)(1)(A) of the Federal Transit Act, and before formula distribution of funds under such section, the Secretary shall make available $4,000,000 to make station and track improvements in Southwest Brooklyn, New York.

(54) WISCONSIN BUS PROJECTS.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $2,600,000 for the purchase of buses, vans, and bus-related facilities to the State of Wisconsin.

(y) 1996 OLYMPIC AND PARA-OLYMPIC BUS GRANTS.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act in fiscal year 1995, the Secretary shall transfer $16,000,000 to the program being carried out under section 9 of such Act to make available $10,400,000 in capital and operating grants for the 1996 Olympic and Para-Olympic games and $5,600,000 in capital and operating grants for the 1996 Para-Olympic games. The Federal share of such grants shall be 100 percent.

(z) CALSTART CONSORTIUM.—From funds provided under section 3(k)(1)(C) of the Federal Transit Act, the Secretary shall make available $5,000,000 to the CALSTART Consortium to perform the services described in section 6071(c) of the Intermodal Surface Transportation Efficiency Act of 1991.

SEC. 123. MULTIYEAR CONTRACT FOR METRO RAIL PROJECT.

(a) IN GENERAL.—Section 3034 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2126–2129) is amended—

(1) in subsection (b)(3)(A) by striking "$695,000,000" and inserting "$720,000,000";

(2) by adding at the end of subsection (e)(3) the following:

"(D) SCOPE.—The amended contract under subparagraph (A) shall provide Federal assistance for the design and construction of an interim operable segment of the East Side Extension, consisting of a line running generally east from Union Station of approximately 3.7 miles in length or in accordance with the East Side Extension locally preferred alternative, when approved by the Board of the Los Angeles County Metropolitan Transportation Authority.

"(E) FUNDING.—The $25,000,000 increase in authorization provided for Minimum Operable Segment-3 under the National Highway System Designation Act of 1994 shall be made available by the Secretary for funding the scope of the East Side Extension described in subparagraph (D). These funds shall be in addition to the amounts provided for the East Side Extension in the contract executed in May 1993 pursuant to subsection (b) of this section.".

(b) DEFINITIONS.—Section 3034(i)(3) of such Act is amended—

(1) by striking "7 stations" and inserting "12 stations";

(2) by striking "11.6" and inserting "15.4"; and

(3) by striking subparagraph (C) and inserting the following:

"(C) One line, known as the East Side Extension locally preferred alternative, running generally east from Union Station for approximately 6.8 miles to the Whittier/Atlantic Station, with 6 intermediate stations.".

SEC. 124. METRIC SYSTEM SIGNING.

(a) PLACEMENT OF SIGNS.—Before September 30, 1997, the Secretary may not require the States to expend any Federal or State funds to construct, erect, or otherwise place any sign relating to any speed limit, distance, or other measurement on any highway for the purpose of having such sign establish such speed limit, distance, or other measurement using the metric system.

(b) MODIFICATION OF SIGNS.—Before September 30, 1997, the Secretary may not require the States to expend any Federal or State funds to modify any sign relating to any speed limit, any distance, or other measurement on any highway for the purpose of having such sign establish such speed limit, distance, or measurement using the metric system.

(c) DEFINITIONS.—For purposes of subsections (a) and (b), the following definitions apply:

(1) HIGHWAY.—The term "highway" has the meaning such term has under section 101 of title 23, United States Code.

(2) METRIC SYSTEM.—The term "metric system" has the meaning the term "metric system of measurement" has under section 4 of the Metric Conversion Act of 1975 (15 U.S.C. 205c).

SEC. 125. METROPOLITAN PLANNING.

Section 134(g)(2)(A) of title 23, United States Code, is amended by inserting after "transit," the following: "airport, port, inland waterway,".

SEC. 126. STATEWIDE PLANNING.

(a) INTEGRATED STATE TRANSPORTATION SYSTEM FACILITIES.—Section 135(e) of title 23, United States Code, is amended by inserting after the first sentence the following: "The plan shall, at a minimum, identify transportation facilities (including major roadways, transit, airport, port, inland waterway, and multimodal and intermodal facilities) that should function as an integrated State transportation system, giving emphasis to those facilities that serve important national and regional transportation functions.".

(b) MEETING FUNDING NEEDS OF INTERNATIONAL BORDER CROSSING COMMUNITIES.—Such section is further amended by inserting after the first sentence the following: "The State plan must consider the special transportation requirements created by international motor vehicle border crossings if applicable to such State.".

SEC. 127. HIGH PRIORITY CORRIDOR FEASIBILITY STUDY.

With amounts available to the Secretary under section 1105(h) of the Intermodal Surface Transportation Efficiency Act of 1991, the Secretary in cooperation with the States of Virginia and West Virginia shall conduct a study to determine the feasibility of establishing a route for the East-West Transamerica Corridor (designated pursuant to section 1105(c)(3) of such Act) from Beckley, West Virginia, utilizing a corridor entering Virginia near the city of Covington then moving south from the Allegheny Highlands to serve Roanoke and continuing east to Lynchburg. From there such route would continue across Virginia to the Hampton Roads-Norfolk area.

SEC. 128. REEVALUATION.

(a) INITIATION.—After completion of current construction on Interstate Route 10 and Gessner Road, Texas, the Secretary shall initiate a reevaluation in consultation with State and local officials of—

(1) a proposed exit ramp from the Sam Houston Tollway eastbound direct connector to the eastbound Interstate Route 10 frontage road between Beltway 8 and Gessner Road; and

(2) a proposed entrance ramp from the westbound Interstate Route 10 frontage road between Gessner Road and Beltway 8 to the westbound direct connector to the Sam Houston Tollway in Houston, Harris County, Texas.

(b) DEADLINE FOR DECISION.—The Secretary shall issue a decision on the proposed ramps referred to in subsection (a) within 6 months after completion of the construction referred to in subsection (a).

SEC. 129. FUNDING.

(a) STUDY.—The Secretary shall conduct a study of how the existing Federal-aid highway and transit funding is utilized by States and metropolitan planning organizations to address transportation needs.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report containing the results of the study conducted under this section.

SEC. 130. NONDIVISIBLE LOADS.

Not later than 30 days after the date of the enactment of this Act, the Secretary shall institute a rulemaking proceeding to define the term "vehicles and loads which cannot be easily dismantled or divided" as used in section 127 of title 23, United States Code, including consideration of a commodity-specific definition of such term. The Secretary shall complete the proceeding required by this subsection not later than 270 days after the date of the enactment of this Act. The Secretary may apply such regulations to all vehicle loads operating on the National Highway System if the Secretary determines that it is in the public interest.

SEC. 131. COMMERCIAL MOTOR VEHICLE ACCIDENTS.

(a) STUDY.—The Secretary shall conduct a study of methods to reduce accidents on Federal-aid highways caused by drivers falling asleep while operating a commercial motor vehicle used to transport freight.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a).

TITLE II—TECHNICAL CORRECTIONS TO ISTEA AND RELATED LAWS

SEC. 201. DEFINITIONS.

Section 101(a) of title 23, United States Code, is amended by striking the 1st undesignated paragraph of such section that relates to public lands highways.

SEC. 202. REFERENCES TO DWIGHT D. EISENHOWER SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS.

(a) DECLARATION OF POLICY.—Section 2 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1914–1915) is amended—

(1) in the 3d undesignated paragraph by striking "National System of" and inserting "Dwight D. Eisenhower System of"; and

(2) in the 7th undesignated paragraph by striking "Interstate and Defense Highway System" and inserting "Dwight D. Eisenhower System of Interstate and Defense Highways".

(b) COMPLETION OF INTERSTATE SYSTEM.—Section 1001 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note; 105 Stat. 1915–1916) is amended in each of subsections (a) and (b) by striking "National".

(c) Definition of Interstate System in Title 23.—The undesignated paragraph of section 101(a) of title 23, United States Code, relating to the Interstate System, is amended by striking "National".

(d) Conforming Amendment to Vehicle Weight Limitations.—Section 127(a) of title 23, United States Code, is amended by striking "National" each place it appears and inserting "Dwight D. Eisenhower".

(e) Vehicle Length Restriction.—Section 411(j) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311(j)) is amended in each of paragraphs (1), (5)(D), and (6)(A) by striking "National" and inserting "Dwight D. Eisenhower".

(f) Longer Combination Vehicle Defined.—Section 4007(f) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2153) is amended by striking "National" and inserting "Dwight D. Eisenhower".

(g) Commemoration.—Section 6012 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 2180–2181) is amended—

(1) in the section heading by striking "national"; and

(2) in subsection (a) by striking "National".

SEC. 203. FEDERAL-AID SYSTEMS.

(a) Interstate System.—Section 103(e)(1) of title 23, United States Code, is amended by striking the next to the last sentence.

(b) Substitute Projects.—Section 103(e)(4) of such title is amended—

(1) in the last sentence of subparagraph (B) by striking "projects on the Federal-aid secondary system" and inserting "surface transportation program projects";

(2) in subparagraph (G) by inserting "and" before "$240,000,000"; and

(3) in subparagraph (J)(i) by inserting a comma after "October 1, 1991".

SEC. 204. APPORTIONMENT.

(a) Set-Aside.—Section 104(a) of title 23, United States Code, is amended—

(1) by striking "for the Federal-aid systems" and inserting "for this chapter"; and

(2) by striking "upon the Federal-aid systems" and inserting "under this chapter".

(b) Cross Reference to Interstate Construction Period of Availability.—Section 104(b)(5)(A) of such title is amended by striking "118(b)(2)" and inserting "118(b)(1)".

(c) Technical Amendment.—Section 104(b)(5)(B) of such title is amended by striking the comma following "1984" each place it appears.

(d) Repeal of Urban System Apportionment.—Section 104(b)(6) of such title is repealed.

(e) Planning Set-Aside.—Section 104(f)(3) of such title is amended by striking "(j)".

(f) Transferability Among Safety and Bridge Programs.—Section 104(g) of such title is amended by striking "Not more than" and all that follows through "any other of such sections" the second place it appears and inserting the following: "Not more than 40 percent of the amount which is apportioned in any fiscal year to each State under section 144 or which is reserved for such fiscal year under section 133(d)(1) only for carrying out section 130 or 152 may be transferred from the apportionment under section 144 or one of the reservations under section 133(d)(1) to the apportionment or reservation under such other section if such a transfer is requested by the State highway department and is approved by the Secretary as being in the public interest. The Secretary may approve the transfer of 100 percent of the apportionment under section 144 or one of the reservations under section 133(d)(1) to the apportionment or reservation under such other section".

SEC. 205. PROGRAMS OF PROJECTS.

(a) Repeal of Requirement.—Section 105 of title 23, United States Code, and the item relating to such section in the analysis for chapter 1 of such title are each repealed.

(b) Conforming Amendments.—Section 106(a) of such title is amended—

(1) by striking ", as soon as practicable after program approval,"; and

(2) by striking "included in an approved program".

(c) Priority for High Priority Segments of Corridors of National Significance.—Section 1105(g)(7) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2036) is amended to read as follows:

"(7) Priority for high priority segments of corridors of national significance.—In selecting projects for inclusion in a plan or program under chapter 1 of title 23, United States Code, a State may give priority to high priority segments of corridors identified under subsection (c) of this section.".

SEC. 206. ADVANCE ACQUISITION OF RIGHTS-OF-WAY.

(a) Interstate System.—Section 107(a)(2) of title 23, United States Code, is amended by striking "subsection (c)" and inserting "subsection (a)".

(b) Apportioned Funds.—Section 108(a) of such title is amended—

(1) by striking "on any Federal-aid highway" and inserting "for any project eligible for assistance under this chapter";

(2) by striking "on such highway" and inserting "on such project"; and

(3) by striking "a road" and inserting "the project".

(c) Right-of-Way Revolving Fund Funds.—Section 108(c) of such title is amended—

(1) in paragraph (2) by striking "highways and passenger transit facilities on any Federal-aid system" and inserting "any project eligible for assistance under this chapter"; and

(2) in paragraph (3) by striking "such project for the actual construction" and all that follows through "Secretary" the last place it appears and inserting "actual construction of such project on rights-of-way with respect to which funds are advanced under this subsection, whichever shall occur first, the right-of-way revolving fund shall be credited with an amount equal to the Federal share of the funds advanced, as provided in section 120 of this title, out of any funds apportioned under this chapter to the State in which such project is located and available for obligation for such projects and the State shall reimburse the Secretary".

(d) Early Acquisition.—Section 108(d)(2)(F) of such title is amended by striking "this Act" and inserting "this title".

SEC. 207. STANDARDS.

Section 109 of title 23, United States Code, is amended—

(1) in subsection (h) by striking "Federal-aid system" and inserting "Federal-aid highway"; and

(2) in subsection (q) by striking "under sections" and inserting "under section".

SEC. 208. LETTING OF CONTRACTS.

Section 112(g) of title 23, United States Code, relating to applicability to contracts for projects on the secondary system, as redesignated by section 103(c) of this Act, is repealed.

SEC. 209. PREVAILING RATE OF WAGE.

Section 113 of title 23, United States Code, is amended—

(1) in subsection (a) by striking "highway projects on" and all that follows through "authorized under" and inserting "highway projects on Federal-aid highways authorized under";

(2) in subsection (a) by striking "upon the Federal-aid systems," and inserting "on Federal-aid highways,"; and

(3) in subsection (b) by striking "of the Federal-aid systems" and inserting "Federal-aid highway".

SEC. 210. CONSTRUCTION.

Section 114 of title 23, United States Code, is amended—

(1) in subsection (a) by striking "highways or portions of highways located on a Federal-aid system" and inserting "Federal-aid highway or portion thereof";

(2) in subsection (b)(1) by striking "highways or portions of highways located on a Federal-aid system" and inserting "a Federal-aid highway or portion thereof"; and

(3) in subsection (b)(3) by striking "highways or portions of highways located on a Federal-aid system" and inserting "any Federal-aid highway or portion thereof".

SEC. 211. ADVANCE CONSTRUCTION.

Section 115 of title 23, United States Code, is amended—

(1) in subsection (a)(2) by striking "Plans, specifications," and inserting "Project approval"; and

(2) in subsection (c) by striking "134," and the second comma after "144".

SEC. 212. MAINTENANCE.

Section 116 of title 23, United States Code, is amended—

(1) by inserting "highway" before "project" the first place it appears in each of subsections (a) and (c);

(2) in subsection (a) by striking "no longer constitutes a part of a Federal-aid system" and inserting "is no longer a Federal-aid highway"; and

(3) in subsection (b) by striking "the Federal-aid secondary system" and inserting "a Federal-aid highway".

SEC. 213. CERTIFICATION ACCEPTANCE.

Section 117 of title 23, United States Code, is amended—

(1) in subsection (e) by striking "2000(d)" and inserting "2000d"; and

(2) by striking subsection (f), relating to discharge of the Secretary's responsibilities with respect to the secondary system.

SEC. 214. AVAILABILITY OF FUNDS.

(a) Period of Availability.—Section 118(b)(1) of title 23, United States Code, is amended—

(1) in the first sentence by striking "Interstate construction in a State" and inserting "completion of the Interstate System in a State"; and

(2) in the second sentence by inserting "for completion of the Interstate System" after "shall be allocated".

(b) Set-Aside for Interstate Construction Projects.—Section 118(c)(1) of such title is amended by striking the period at the end of the first sentence and all that follows through the period at the end of the second sentence and inserting "for obligation at the discretion of the Secretary for projects to complete the Interstate System.".

(c) Set-Aside for 4R Projects.—Section 118(c)(2) of such title is amended by inserting "of" after "$64,000,000 for each".

SEC. 215. FEDERAL SHARE.

(a) Interstate System Projects.—Section 120(a) of title 23, United States Code, is amended by inserting before "including a project" the following: "including a project the cost for which is included in the 1991 interstate cost estimate and".

(b) Safety Projects.—Section 120(c) of such title is amended by striking "for all the Federal-aid systems".

(c) Emergency Relief.—The first sentence of section 120(e) of such title is amended—

(1) by striking "system, including" and inserting ", including a highway on";

(2) by striking "on a project on such system";

(3) by striking "and (c)" and inserting "and (b)"; and

(4) by striking "90 days" and inserting "180 days".

(d) Planning Projects.—Section 120 of such title is amended by adding at the end the following new subsection:

"(j) Planning Projects.—The Federal share payable on account of any project to be carried out with funds set aside under section 104(f) of this title shall be 80 percent of the costs thereof unless the Secretary determines that the interest of the Federal-aid highway program would best be served by decreasing or eliminating the non-Federal share of such costs.".

(e) Conforming Amendment.—Section 208(2) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3338(2)) is amended by striking "section 120(a) of title 23, United States Code;".

SEC. 216. PAYMENT TO STATES FOR CONSTRUCTION.

Section 121 of title 23, United States Code, is amended—

(1) in subsection (b) by striking "After" and inserting "Except as otherwise provided in this title, after"; and

(2) in subsection (c) by striking "Federal-aid system" and inserting "Federal-aid highway".

SEC. 217. RELOCATION OF UTILITY FACILITIES.

Section 123(a) of title 23, United States Code, is amended—

(1) by striking "on any Federal-aid system" and inserting "eligible for assistance under this chapter"; and

(2) by striking the last sentence.

SEC. 218. ADVANCES TO STATES.

Section 124(a) of title 23, United States Code, is amended by striking "projects on any of the Federal-aid systems, including the Interstate System, he" and inserting "a project eligible for assistance under this title, the Secretary".

SEC. 219. EMERGENCY RELIEF.

(a) Technical Amendment.—The first sentence of section 125(b) of title 23, United States Code, is amended by striking all preceding "*Provided*" and inserting the following: "The Secretary may expend funds from the emergency fund herein authorized for projects for repair or reconstruction on Federal-aid highways in accordance with the provisions of this chapter:".

(b) Conforming Amendments.—Section 125(b) of such title is further amended—

(1) by striking "authorized" in the second sentence and all that follows through the period at the end of such sentence and inserting "authorized on Federal-aid highways."; and

(2) by striking "the Disaster Relief and Emergency Assistance Act (Public Law 93-288)" and inserting "The Robert T. Stafford Disaster Relief and Emergency Assistance Act".

SEC. 220. APPLICABILITY OF AXLE WEIGHT LIMITATIONS.

(a) Wisconsin State Route 78 and United States Route 51.—Section 127 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(f) Operation of Certain Specialized Hauling Vehicles on Certain Wisconsin Highways.—If the 104-mile portion of Wisconsin State Route 78 and United States Route 51 between Interstate Route 94 near Portage, Wisconsin, and Wisconsin State Route 29 south of Wausau, Wisconsin, is designated as part of the Interstate System under section 139(a) of title 23, United States Code, the single axle, tandem axle, gross vehicle weight, and bridge formula limits set forth in subsection (a) shall not apply to the operation on such 104-mile portion of any vehicle which could legally operate on such 104-mile portion before the date of the enactment of this subsection.".

(b) Vehicle Weight Limitations in the State of Ohio.—

(1) Review.—The Secretary of Transportation shall review the Federal and State commercial motor vehicle weight limitations applicable to Federal-aid highways in the State of Ohio.

(2) Waiver Authority.—If the Secretary of Transportation determines, on the basis of the review conducted under paragraph (1), that it is in the public interest, the Secretary may waive application of the vehicle weight limitations of section 127(a) of title 23, United States Code, and of the State certification requirements of sections 141(b) and 141(c) of such title, in whole or in part, to highways on the Dwight D. Eisenhower System of Interstate and Defense Highways in the State of Ohio for short wheel-base vehicles for such period as the Secretary determines may be necessary to permit a reasonable period of depreciation for short wheel-base vehicles purchased before October 1, 1991.

(3) Moratorium on Withholding of Funds.—Until the Secretary of Transportation makes a determination relating to the public interest under paragraph (2), the Secretary shall not withhold funds under section 127(a) or 141(c) of title 23, United States Code, from apportionment to the State of Ohio for failure to comply with such section with respect to short wheel-base vehicles.

(c) Technical Amendments.—Section 127 of title 23, United States Code, is amended—

(1) in subsection (a) by striking "118(b)(1)" and inserting "118(b)(2)"; and

(2) in subsection (d)(1)(E) by striking "July 5, 1991" and inserting "July 6, 1991".

SEC. 221. TOLL ROADS.

(a) Use of Revenues.—Section 129(a)(3) of title 23, United States Code, is amended by striking "all toll revenues received" and all that follows through the period at the end of the first sentence and inserting the following: "toll revenues received from operation of the toll facility will be used for financing and any other obligations in respect of the facility, for reserves, for reasonable return to investors financing the project (as determined by the State), and for the costs necessary for the proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation.".

(b) Reference to Federal-aid Highways.—The last sentence of section 129(a)(4) of such title is amended by striking "the Federal-aid system" and inserting "Federal-aid highways".

(c) Loans.—Section 129(a)(7) of such title is amended—

(1) by inserting "or commit to loan" after "loan" the first place it appears;

(2) by striking "agency" each place it appears and inserting "entity";

(3) by inserting after "constructing" the first place it appears "or proposing to construct";

(4) by striking "all Federal environmental requirements have been complied with and permits obtained" and inserting "the National Environmental Policy Act of 1969 has been complied with";

(5) by inserting "to a private entity" after "Any such loan";

(6) by inserting after the fifth sentence the following new sentence: "Any such loan to a public entity shall bear interest at such rate as the State determines appropriate."; and

(7) by striking "the time the loan was obligated" and inserting "the date of the initial funding of the loan".

(d) Construction of Ferry Boats and Ferry Terminal Facilities.—Section 129 of such title is amended—

(1) in the first sentence of subsection (b) by striking "the route of which" and all that follows through the period at the end of such sentence and inserting "the route of which has been classified as a public road and has not been designated as a route on the Interstate System."; and

(2) in subsection (c)(4) by striking "and" preceding "repair".

(e) Pilot Program.—Section 129(d) of such title is amended—

(1) in each of paragraphs (1) and (3) by striking "7" and inserting "9";

(2) in paragraph (3) by striking "State of Pennsylvania" each place it appears and inserting "States of Pennsylvania and West Virginia"; and

(3) in paragraph (3) by inserting "the" before "State of Georgia".

(f) Treatment of Centennial Bridge, Rock Island, Illinois, Agreement.—For purposes of section 129(a)(6) of title 23, United States Code, the agreement concerning the Centennial Bridge, Rock Island, Illinois, entered into under the Act entitled "An Act authorizing the city of Rock Island, Illinois, or its assigns, to construct, maintain, and operate a toll bridge across the Mississippi River at or near Rock Island, Illinois, and to a place at or near the city of Davenport, Iowa", approved March 18, 1938 (52 Stat. 110), shall be treated as if such agreement had been entered into under section 129 of title 23, United States Code, as in effect on December 17, 1991, and may be modified accordingly.

(g) Treatment of I-95 and Pennsylvania Turnpike.—For purposes of section 129 of title 23, United States Code, the project for construction of an interchange between Interstate Route 95 and the Pennsylvania Turnpike shall be treated as a reconstruction project described in section 129(a)(1)(B) of such title.

SEC. 222. RAIL-HIGHWAY CROSSINGS.

Section 130 of title 23, United States Code, is amended—

(1) in subsection (a) by striking "Except as provided in subsection (d) of" and inserting "Subject to";

(2) in subsection (a) by striking "entire" each place it appears;

(3) in subsection (a) by striking "except as provided in subsection (d) of" and inserting "subject to";

(4) in subsection (e) by striking "authorized for and";

(5) in subsection (e) by striking the last sentence;

(6) by striking subsection (f) and redesignating subsections (g) and (h) as subsections (f) and (g), respectively; and

(7) in subsection (f) as so redesignated by striking "railroad highway" and inserting "railroad-highway".

SEC. 223. SURFACE TRANSPORTATION PROGRAM.

(a) State Certification.—Section 133 of title 23, United States Code, is amended—

(1) in subsection (c) by striking "subsections (b) (3) and (4)" and inserting "subsections (b)(3) and (b)(4)";

(2) in subsection (d)(3)(B) by striking "tobe" and inserting "to be"; and

(3) in subsection (e)(2) by inserting after "each State" the following: "or the designated transportation authority of the State".

(b) TECHNICAL AMENDMENT.—Section 1007(b)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1930) is amended—

(1) by striking "104(b)(3)" and inserting "104(b)"; and

(2) by striking "to read as follows" and inserting "by inserting after paragraph (2) the following new paragraph".

SEC. 224. METROPOLITAN PLANNING.

(a) TECHNICAL AMENDMENTS.—Section 134 of title 23, United States Code, is amended—

(1) in each of subsections (b)(2), (b)(3), and (h)(4) by striking "the date of the enactment of this section" and inserting "December 18, 1991";

(2) in each of subsections (b)(3)(B) and (g)(2)(B) by striking "long-range" and inserting "long range";

(3) in subsection (f)(11) by inserting "passengers and" before "freight";

(4) in subsection (g)(5) by redesignating subparagraphs (i) and (ii) as subparagraphs (A) and (B); and

(5) in subsection (k) by striking "the Federal-Aid Highway Act of 1991" and inserting "this title".

(b) FACTORS TO BE CONSIDERED.—Section 134(f) of such title is amended by adding at the end the following new paragraphs:

"(16) Recreational travel and tourism.

"(17) Revitalization of the central urban core.".

(c) TRANSFER OF FUNDS.—Section 134(k) of such title is amended by striking the last sentence.

(d) CONFORMING CHAPTER ANALYSIS AMENDMENT.—The analysis for chapter 1 of such title is amended by striking

"134. Transportation planning in certain urban areas."

and inserting

"134. Metropolitan planning.".

SEC. 225. STATEWIDE PLANNING.

Section 135 of title 23, United States Code, is amended—

(1) in subsection (c) by striking paragraph (1) and inserting the following new paragraph:

"(1) The transportation needs identified through use of the management systems required by section 303 of this title.";

(2) in subsection (c)(5) by inserting after "nonmetropolitan areas" the following: ", including the identification of a rural priority local road and bridge system,";

(3) in subsection (c) by striking paragraph (15) and redesignating paragraphs (16) through (20) as paragraphs (15) through (19), respectively;

(4) in subsection (c)(18), as so redesignated, by striking "commercial motor vehicles" and inserting "passengers and freight";

(5) in subsection (d)(3) by striking "concerns" and inserting "transportation needs";

(6) in each of subsections (e) and (f)(1) by inserting "Indian tribal governments," after "private providers of transportation,"; and

(7) in subsection (h)—

(A) by striking "United States Code," and inserting "other Federal laws, and";

(B) by striking "this Act" and inserting "this title"; and

(C) by striking "or section 8 of such Act," and inserting "of this title, or section 8 of the Federal Transit Act,".

SEC. 226. CONTROL OF JUNKYARDS.

(a) STRICTER STATE STANDARDS.—Section 136(l) of title 23, United States Code, is amended by striking "the Federal-aid highway systems" and inserting "Federal-aid highways".

(b) PRIMARY SYSTEM DEFINED.—Section 136 of such title is amended by adding at the end the following new subsection:

"(n) PRIMARY SYSTEM DEFINED.—For purposes of this section, the term 'primary system' means the Federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system but which is on the National Highway System.".

SEC. 227. NONDISCRIMINATION.

(a) STATE ASSURANCES.—Section 140(a) of title 23, United States Code, is amended by striking "any of the Federal-aid systems" and inserting "Federal-aid highways".

(b) TRAINING.—Section 140(b) of such title is amended—

(1) by striking "for the surface transportation program"; and

(2) by striking "the bridge program".

SEC. 228. ENFORCEMENT OF REQUIREMENTS.

Section 141(b) of title 23, United States Code, is amended by striking "the Federal-aid primary system" and all that follows through "including" and inserting "Federal-aid highways, including highways on".

SEC. 229. AVAILABILITY OF RIGHTS-OF-WAY.

Section 142 of title 23, United States Code, is amended—

(1) in subsection (a)(2) by striking "the surface" and inserting "surface"; and

(2) in subsection (f) by striking "exits" and inserting "exists".

SEC. 230. HIGHWAY BRIDGE PROGRAM.

(a) SET-ASIDES.—Section 144(g) of title 23, United States Code, is amended—

(1) in paragraph (1) by striking "103" and inserting "1003";

(2) in paragraph (3) by striking "OFF-SYSTEM BRIDGES" and inserting "BRIDGES NOT ON FEDERAL-AID HIGHWAYS";

(3) in paragraph (3) by striking ", other than those on a Federal-aid system" and inserting "that are functionally classified as local or rural minor collectors"; and

(4) in paragraph (3) by striking "bridges not on a Federal-aid system" and inserting "such bridges".

(b) CROSS REFERENCE.—Section 144(i) of such title is amended by striking "307(e)" and inserting "307(h)".

(c) CONTINUATION OF EXISTING BRIDGE APPORTIONMENT CRITERIA.—The criteria for apportionment of funds used by the Department of Transportation under section 144 of title 23, United States Code, as in effect on September 30, 1991, shall remain in effect until September 30, 1997, or until changed by law, whichever occurs first.

SEC. 231. GREAT RIVER ROAD.

Section 148(a)(1) of title 23, United States Code, is amended by striking "centers of the State" and inserting "centers of the States".

SEC. 232. HAZARD ELIMINATION PROGRAM.

Section 152 of title 23, United States Code, is amended—

(1) in subsection (c) by striking "authorized" and inserting "available"; and

(2) by striking subsections (d) and (e) and redesignating subsections (f), (g), and (h) as subsections (d), (e), and (f), respectively.

SEC. 233. USE OF SAFETY BELTS AND MOTORCYCLE HELMETS.

(a) REFERENCE TO DATE OF ENACTMENT.—Section 153 of title 23, United States Code, is amended—

(1) in subsection (c) by striking "the date of the enactment of this section" and inserting "December 31, 1991"; and

(2) in subsection (i)(3) by striking "the date of the enactment of this section" and inserting "December 31, 1991,".

(b) ELIGIBILITY FOR GRANTS.—Section 153(f)(2) of such title is amended by striking "at all times" each place it appears.

(c) PENALTIES.—Section 153(h) of such title is amended—

(1) in paragraph (1) by striking "at any time in" and inserting "by the last day of";

(2) in paragraph (2) by inserting "by the last day of fiscal year 1995 or" after "If,";

(3) in paragraph (2) by striking "1994," and inserting "1995,"; and

(4) in paragraph (4)(A) by striking "under section 402" and inserting "by this subsection".

(d) DEFINITIONS.—Section 153(i) of such title is amended by adding at the end the following new paragraph:

"(5) STATE.—The term 'State' has the meaning such term has under chapter 4 of this title.".

SEC. 234. NATIONAL MAXIMUM SPEED LIMIT.

(a) EXISTING PROGRAM.—Section 154(a)(1) of title 23, United States Code, is amended by striking "on the Interstate System" and all that follows through "or more" and inserting "described in clause (2) or (3) of this subsection".

(b) NEW PROGRAM.—Section 1029 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1968–1970) is amended—

(1) in subsection (c)(1)(A) by inserting "of a State" after "apportionments";

(2) in subsection (c)(1)(A) by striking "if a State" and inserting "to the apportionment of the State under section 402 of such title if the State";

(3) in subsection (c) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(4) by inserting after paragraph (1) of subsection (c) the following new paragraph:

"(2) LIMITATION ON USE OF FUNDS.—

"(A) GENERAL RULE.—A State must obligate at least 50 percent of its funds transferred pursuant to this subsection for a fiscal year for speed limit enforcement and public information and education.

"(B) WAIVER.—Upon request of a State, the Secretary may waive the requirement of subparagraph (A) for any fiscal year if in the preceding fiscal year the State was in compliance with the speed limit requirements established pursuant to paragraph (1).".

SEC. 235. MINIMUM ALLOCATION.

Section 157 of title 23, United States Code, is amended—

(1) in subsection (a)(2) by striking "118(b)(2)" and inserting "118(b)(1)";

(2) in subsection (a)(3)(A) by striking "year 1989" and inserting "years 1989"; and

(3) by striking subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 236. NATIONAL MINIMUM DRINKING AGE.

Section 158 of title 23, United States Code, is amended—

(1) in subsection (a) by striking "104(b)(5), and 104(b)(6)" each place it appears and inserting "104(b)(3), and 104(b)(5)";

(2) in subsection (b)(1)(A)(iii) by striking "104(b)(6)" and inserting "104(b)(3)";

(3) in subsection (b)(3)(B) by striking "104(b)(5)(B), or 104(b)(6)" and inserting "104(b)(3), or 104(b)(5)(B)"; and

(4) in each of subsections (b)(3) and (b)(4) by striking "118(b)" and inserting "118".

SEC. 237. REVOCATION OF DRIVERS' LICENSES OF INDIVIDUALS CONVICTED OF DRUG OFFENSES.

Section 159 of title 23, United States Code, is amended in each of subsections (b)(3) and (b)(4) by striking "118(b)" and inserting "118".

SEC. 238. REIMBURSEMENT FOR SEGMENTS OF INTERSTATE SYSTEM CONSTRUCTED WITHOUT FEDERAL ASSISTANCE.

Section 160 of title 23, United States Code, is amended—

(1) in subsection (b) by striking "The amount" and inserting "Subject to subsection (g), the amount"; and

(2) by adding at the end the following new subsection:

"(g) PUERTO RICO.—Notwithstanding any other provision of this section, Puerto Rico shall receive in a fiscal year ½ of 1 percent of the amounts appropriated pursuant to subsection (f) for such fiscal year. No State (including the District of Columbia) which has a reimbursement percentage in the table contained in subsection (c) of 0.50 shall have its reimbursement amount in fiscal years 1996 and 1997 reduced as a result of the enactment of the preceding sentence.".

SEC. 239. FEDERAL LANDS HIGHWAY PROGRAM.

(a) PUBLIC LANDS HIGHWAYS ALLOCATION.—Section 202(b) of title 23, United States Code, is amended by striking "66 percent of the remainder" and inserting "the remaining 66 percent".

(b) AVAILABILITY OF FUNDS.—Section 203 of such title is amended by striking the comma preceding "forest development" each place it appears.

(c) PURPOSES FOR WHICH FUNDS MAY BE USED.—Section 204(b) of such title is amended—

(1) by striking "construction and improvement" each place it appears and inserting "planning, research, engineering, and construction"; and

(2) by striking "construction or improvement" and inserting "planning, research, engineering, or construction".

(d) APPROVAL OF INDIAN RESERVATION ROAD PROJECTS.—Section 204(c) of such title is amended by inserting "of" after "15 percent".

(e) INDIAN RESERVATION ROADS PLANNING.—The first sentence of section 204(j) of such title is amended to read as follows: "An Indian tribal government receiving funds under the Indian reservation roads program may use up to 10 percent of its annual allocation under such program for transportation planning activities pursuant to the provisions of the Indian Self-Determination and Education Assistance Act.".

(f) OBLIGATION OF FUNDS.—Section 204 of such title is amended by adding at the end the following new subsection:

"(k) OBLIGATION OF FUNDS.—Notwithstanding any other provision of law, funds available for Federal lands highway programs shall be treated as obligated if—

"(1) the Secretary authorizes engineering and related work for a particular project; or

"(2) the Secretary approves plans, specifications, and estimates for procurement of construction under section 106 or 117 of this title.".

(g) SET-ASIDE FOR ADMINISTRATIVE EXPENSES OF INDIAN TRIBES.—Section 204 of such title is further amended by adding at the end the following:

"(l) SET-ASIDE FOR ADMINISTRATIVE EXPENSES OF INDIAN TRIBES.—

"(1) IN GENERAL.—Up to 1 percent of the funds made available for Indian reservation roads for each fiscal year shall be set aside by the Secretary of the Interior for transportation-related administrative expenses of Indian tribal governments.

"(2) DISTRIBUTION.—The Secretary of the Interior shall make available to each Indian tribal government with an approved application under paragraph (3) an equal percentage of any sum set aside pursuant to paragraph (1).

"(3) APPLICATIONS.—To receive funds under this paragraph, an Indian tribal government must submit to the Secretary of the Interior for approval an application in accordance with the requirements of the Indian Self-Determination and Education Assistance Act. The Secretary of the Interior shall approve any such application that demonstrates that the applicant has the capability to carry out transportation planning activities or is in the process of establishing such a capability.".

(h) TRANSPORTATION ENHANCEMENT ACTIVITIES.—Section 204 of such title is further amended by adding at the end the following:

"(m) TRANSPORTATION ENHANCEMENT ACTIVITIES.—In making expenditures for transportation enhancement activities as required under section 133, a State shall consider any application submitted to the State by an Indian tribal government seeking assistance to conduct such activities.".

(i) APPROVAL OF INDIAN RESERVATION ROAD PROJECTS BY THE SECRETARY.—Section 204 of such title is further amended by adding at the end the following:

"(n) APPROVAL OF INDIAN RESERVATION ROAD PROJECTS BY THE SECRETARY.—

"(1) ESTABLISHMENT OF PILOT PROGRAM.—The Secretary shall establish a pilot program (hereinafter in this subsection referred to as the 'program') for the purposes described in paragraph (2) and shall carry out such program in each of fiscal years 1995, 1996, and 1997.

"(2) PURPOSE.—The purpose of the program shall be to permit an Indian tribal government to apply directly to the Secretary for authorization to conduct projects on Indian reservation roads using amounts allocated to the Indian tribal government under the Indian reservation roads program.

"(3) TREATMENT AS STATES.—Except as otherwise provided by the Secretary, an Indian tribal government submitting an application to the Secretary under the program shall be subject to the same requirements as a State applying for approval of a Federal-aid highway project.

"(4) SELECTION OF PARTICIPANTS.—

"(A) APPLICATIONS.—An Indian tribal government seeking to participate in the program shall submit to the Secretary an application which is in such form and contains such information as the Secretary may require.

"(B) MAXIMUM NUMBER OF PARTICIPANTS.—The Secretary shall select not more than 10 Indian tribal governments to participate in the program.

"(5) TECHNICAL ASSISTANCE.—The Secretary, in cooperation with the Secretary of the Interior, shall provide technical assistance to Indian tribal governments participating in the program.

"(6) TRANSITIONAL ASSISTANCE.—Upon request of the Secretary, the Secretary of the Interior shall provide to the Secretary such assistance as may be necessary for implementation of the program.

"(7) REPORT.—Not later than September 30, 1997, the Secretary shall transmit to Congress a report on the results of the program. In developing such report, the Secretary shall solicit the comments of Indian tribal governments participating in the program.".

(j) REFERENCE TO PARK ROADS.—Section 1003(a)(6)(C) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1919) is amended—

(1) by striking "HIGHWAYS" in the subparagraph heading and inserting "ROADS"; and

(2) by striking "highways" the place it appears preceding "$69,000,000" and inserting "roads".

(k) TECHNICAL AMENDMENT.—Section 1032(b)(2) (A) of such Act (105 Stat. 1974) is amended by striking "improvements" and inserting "improvement".

SEC. 240. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAY.

Section 217 of title 23, United States Code, is amended—

(1) in subsection (b) by inserting "pedestrian walkways and" before "bicycle transportation facilities";

(2) in subsection (f) by striking "and the Federal share" and all that follows through "80 percent";

(3) by redesignating subsection (j) as subsection (k); and

(4) by inserting after subsection (i) the following new subsection:

"(j) INCLUSION OF PEDESTRIAN WALKWAYS AND BICYCLE TRANSPORTATION FACILITIES IN PLANNING.—

"(1) GENERAL RULE.—The Secretary may not approve under this chapter a highway project for new construction or reconstruction within the boundaries of a State along which a pedestrian walkway or bicycle transportation facility is required to be included under the State's transportation improvement plan developed under section 135 unless such pedestrian walkway or bicycle transportation facility is part of such highway project.

"(2) EXCEPTION.—The Secretary does not have to approve a project for construction of a pedestrian walkway or bicycle transportation facility under paragraph (1)—

"(A) if the Secretary determines that such construction is not feasible or that use of the walkway or facility would pose a safety risk to pedestrians or bicyclists, as the case may be; or

"(B) the Secretary determines that there will be no substantial transportation or recreation benefit resulting from the project.".

SEC. 241. STATE HIGHWAY DEPARTMENT.

Section 302(b) of title 23, United States Code, is amended by striking "on the Federal-aid secondary system, financed with secondary funds," and inserting "not on the National Highway System".

SEC. 242. MANAGEMENT SYSTEMS.

Section 303 of title 23, United States Code, is amended in each of subsections (a) and (b) by striking "1 year after the date of the enactment of this section" and inserting "December 18, 1992".

SEC. 243. STATE PLANNING AND RESEARCH.

Section 307 of title 23, United States Code, is amended—

(1) in subsection (c)(1) by striking "104" and inserting "104(b)";

(2) in subsection (e)(3)(C) by striking "climactic" and inserting "climatic";

(3) in subsection (e)(13) by striking the quotation marks preceding "$35,000,000";

(4) in subsection (f)(2) by striking "section" the first place it appears and inserting "paragraph";

(5) in the heading to subsection (f)(3) by inserting "EARTHQUAKE" after "NATIONAL"; and

(6) in subsection (f)(3) by inserting "Earthquake" after "National".

SEC. 244. APPROPRIATION FOR HIGHWAY PURPOSES OF FEDERAL LANDS.

Section 317(d) of title 23, United States Code, is amended by striking "system" and inserting "highway".

SEC. 245. INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.

Section 325(a)(5) of title 23, United States Code, is amended by striking "the date of the enactment of this section" and inserting "December 18, 1991".

SEC. 246. HIGHWAY SAFETY PROGRAMS.

(a) In General.—Section 402 of title 23, United States Code, is amended to read as follows:

"§402. Highway safety programs

"(a) In General.—Each State shall have a highway safety program approved by the Secretary which is designed to reduce traffic accidents and deaths, injuries, and property damage resulting therefrom.

"(b) Uniform Guidelines.—

"(1) Requirement.—The State highway safety programs approved under this section shall be in accordance with uniform guidelines promulgated by the Secretary.

"(2) Performance criteria.—The uniform guidelines shall be expressed in terms of performance criteria.

"(3) Purposes.—The uniform guidelines shall include, at a minimum, criteria relating to—

"(A) reducing injuries and deaths resulting from motor vehicles being driven in excess of posted speed limits;

"(B) encouraging the proper use of occupant protection devices (including the use of safety belts and child restraint systems) by occupants of motor vehicles and increasing public awareness of the benefit of motor vehicles equipped with airbags;

"(C) reducing deaths and injuries resulting from persons driving motor vehicles while impaired by alcohol or a controlled substance;

"(D) reducing deaths and injuries resulting from accidents involving motorcycles;

"(E) reducing injuries and deaths resulting from accidents involving school buses; and

"(F) improving law enforcement services in motor vehicle accident prevention, traffic supervision, and post-accident procedures.

"(4) Effectiveness determination.—A State highway safety program relating to a guideline established pursuant to paragraph (3) shall be considered a most effective program for purposes of subsection (i) unless the Secretary determines, after a rulemaking process under subsection (i), that it should not be so considered and submits a report to Congress describing the reasons for the determination.

"(5) Additional purposes.—The uniform guidelines may include provisions to improve driver performance (including driver education, driver testing to determine proficiency to operate motor vehicles, driver examinations (both physical and mental) and driver licensing) and to improve pedestrian performance and bicycle safety. In addition the uniform guidelines may include provisions for an effective record system of accidents (including injuries and deaths resulting therefrom), accident investigations to determine the probable causes of accidents, injuries, and deaths, vehicle registration, operation, and inspection, highway design and maintenance (including lighting, markings, and surface treatment), traffic control, vehicle codes and laws, surveillance of traffic for detection and correction of high or potentially high accident locations, and emergency services.

"(6) Applicability to federally administered areas.—The uniform guidelines which are applicable to State highway safety programs shall, to the extent determined appropriate by the Secretary, be applicable to federally administered areas where a Federal department or agency controls the highways or supervises traffic operations.

"(7) Limitation on statutory construction.—Implementation of a highway safety program under this section shall not be construed to require the Secretary to require compliance with every uniform guideline, or with every element of every uniform guideline, in every State.

"(8) Cooperation in promulgation.—Uniform guidelines promulgated by the Secretary to carry out this section shall be developed in cooperation with the States, their political subdivisions, appropriate Federal departments and agencies, and such other public and private organizations as the Secretary deems appropriate.

"(9) Assistance of other federal departments.—The Secretary may make arrangements with other Federal departments and agencies for assistance in the preparation of uniform guidelines for the highway safety programs contemplated by this subsection and in the administration of such programs. Such departments and agencies are directed to cooperate in such preparation and administration, on a reimbursable basis.

"(c) Requirements for Approval.—

"(1) In general.—The Secretary may not approve a State highway safety program under this section which does not—

"(A) provide that the Governor of the State shall be responsible for the administration of the program through a State highway safety agency which shall have adequate powers and be suitably equipped and organized to carry out, to the satisfaction of the Secretary, such program;

"(B) authorize political subdivisions of the State to carry out local highway safety programs within their jurisdictions as a part of the State highway safety program if such local highway safety programs are approved by the Governor and are in accordance with the uniform guidelines promulgated by the Secretary under this section;

"(C) except as provided in paragraph (2), provide that at least 40 percent of all Federal funds apportioned under this section to the State for any fiscal year will be expended by the political subdivisions of the State, including Indian tribal governments, in carrying out local highway safety programs authorized in accordance with subparagraph (B); and

"(D) provide adequate and reasonable access for the safe and convenient movement of individuals with disabilities, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks throughout the State.

"(2) Waiver.—The Secretary may waive the requirement of paragraph (1)(C), in whole or in part, for a fiscal year for any State whenever the Secretary determines that there is an insufficient number of local highway safety programs to justify the expenditure in the State of such percentage of Federal funds during the fiscal year.

"(3) Use of technology for traffic enforcement.—The Secretary may encourage States to use technologically advanced traffic enforcement devices (including the use of automatic speed detection devices such as photo-radar) by law enforcement officers.

"(d) Data Collection and Reporting Program.—

"(1) Establishment.—The Secretary shall establish a highway safety program for the collection and reporting of data on traffic-related deaths and injuries by the States. Under such program, the States shall collect and report to the Secretary such data as the Secretary may require.

"(2) Purposes.—The purposes of the program under this subsection are to ensure national uniform data on such deaths and injuries and to allow the Secretary to make determinations for use in developing programs to reduce such deaths and injuries and making recommendations to Congress concerning legislation necessary to implement such programs.

"(3) Program requirements.—The program under this subsection shall include information obtained by the Secretary under section 4004 of the Intermodal Surface Transportation Efficiency Act of 1991 and provide for annual reports to the Secretary on the efforts being made by the States in reducing deaths and injuries occurring at highway construction sites and the effectiveness and results of such efforts.

"(4) Reporting criteria.—The Secretary shall establish minimum reporting criteria for the program under this subsection. Such criteria shall include, but not be limited to, criteria on deaths and injuries resulting from police pursuits, school bus accidents, and speeding, on traffic-related deaths and injuries at highway construction sites and on the configuration of commercial motor vehicles involved in motor vehicle accidents.

"(e) Use of Funds.—

"(1) For highway safety programs.—Funds authorized to be appropriated to carry out this section shall be used to aid the States to conduct the highway safety programs approved in accordance with subsection (a), including development and implementation of manpower training programs, and of demonstration programs that the Secretary determines will contribute directly to the reduction of traffic accidents and deaths and injuries resulting therefrom.

"(2) Administrative expenses.—Funds authorized to be appropriated to carry out this section shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this section, and the remainder shall be apportioned among the several States under subsection (f).

"(3) Limitation.—Nothing in this section authorizes the appropriation or expenditure of funds—

"(A) for highway construction, maintenance, or design (other than design of safety features of highways to be incorporated into guidelines); or

"(B) for any purpose for which funds are authorized by section 403 of this title.

"(f) Apportionment of Funds.—

"(1) Formula.—After the deduction under subsection (e)(2), the remainder of the funds authorized to be appropriated to carry out this section shall be apportioned 75 percent in the ratio which the population of each State bears to the total population of all the States, as shown by the latest available Federal census, and 25 percent in the ratio which the public road mileage in each State bears to the total public road mileage in all States.

"(2) Minimum percentage.—The annual apportionment to each State shall not be less than ½ of 1 percent of the total apportionment; except that the apportionments to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not be less than ¼ of 1 percent of the total apportionment.

"(3) Approved highway safety program.—The Secretary shall not apportion any funds under this subsection to any State which is not implementing a highway safety program approved by the Secretary in accordance with this section.

"(4) Reduction of Apportionment.—Funds apportioned under this section to any State, that does not have a highway safety program approved by the Secretary or that is not implementing an approved program, shall be reduced by amounts equal to not less than 50 percent of the amounts that would otherwise be apportioned to the State under this section, until such time as the Secretary approves such program or determines that the State is implementing an approved program, as appropriate. The Secretary shall consider the gravity of the State's failure to have or implement an approved program in determining the amount of the reduction.

"(5) Apportionment of Withheld Funds.—The Secretary shall promptly apportion to the State the funds withheld from its apportionment if the Secretary approves the State's highway safety program or determines that the State has begun implementing an approved program, as appropriate, prior to the end of the fiscal year for which the funds were withheld. If the Secretary determines that the State did not correct its failure within such period, the Secretary shall reapportion the withheld funds to the other States in accordance with the formula specified in this subsection not later than 30 days after such determination.

"(6) Determination of Public Road Mileage.—For the purposes of this subsection, the term a 'public road' means any road under the jurisdiction of, and maintained by, a public authority and open to public travel. As used in this subsection, public road mileage shall be determined as of the end of the calendar year preceding the year in which the funds are apportioned and shall be certified to by the Governor of the State and subject to approval by the Secretary.

"(g) Applicability of Chapter 1.—

"(1) In general.—Except as otherwise provided in this subsection, all provisions of chapter 1 of this title that are applicable to National Highway System highway funds, other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the highway safety funds authorized to be appropriated to carry out this section.

"(2) Inconsistent provisions.—If the Secretary determines that a provision of chapter 1 of this title is inconsistent with this section, such provision shall not apply to funds authorized to be appropriated to carry out this section.

"(3) Credit for State and local expenditures.—The aggregate of all expenditures made during any fiscal year by a State and its political subdivisions (exclusive of Federal funds) for carrying out the State highway safety program (other than planning and administration) shall be available for the purpose of crediting such State during such fiscal year for the non-Federal share of the cost of any project under this section (other than one for planning or administration) without regard to whether such expenditures were actually made in connection with such project.

"(4) Increased Federal share for certain Indian tribe programs.—In the case of a local highway safety program carried out by an Indian tribe, if the Secretary is satisfied that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of such program, the Secretary may increase the Federal share of the cost thereof payable under this title to the extent necessary.

"(5) Treatment of term 'State highway department'.—In applying the provisions of chapter 1 of this title in carrying out this section, the term 'State highway department' as used in such provisions shall mean the Governor of a State for the purposes of this section.

"(h) Application in Indian Country.—

"(1) In general.—For the purpose of the application of this section in Indian country, the terms 'State' and 'Governor of a State' include the Secretary of the Interior and the term 'political subdivision of a State' includes an Indian tribe. Notwithstanding the provisions of subsection (c)(1)(C), 95 percent of the funds transferred to the Secretary of the Interior under this section shall be expended by Indian tribes to carry out highway safety programs within their jurisdictions. The provisions of subsection (c)(1)(D) shall be applicable to Indian tribes, except to those tribes with respect to which the Secretary determines that application of such provisions would not be practicable.

"(2) Indian country defined.—For the purpose of this subsection, the term 'Indian country' means—

"(A) all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

"(B) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof and whether within or without the limits of a State; and

"(C) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

"(i) Rulemaking Process.—The Secretary may from time to time conduct a rulemaking process to determine those highway safety programs that are most effective in reducing traffic accidents, injuries, and deaths. Any rule under this subsection shall be promulgated taking into account consideration of the views of the States having a major role in establishing such programs. When a rule promulgated in accordance with this subsection takes effect, only those programs established by such rule as most effective in reducing traffic accidents, injuries, and deaths shall be eligible to receive Federal financial assistance under this section.".

(b) Section 2005.—Section 2005(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2079) is amended—

(1) by striking "and" the first place it appears and inserting a comma; and

(2) by striking ", 1994," and inserting "and 1994, and $146,000,000 for each of fiscal years".

SEC. 247. NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE.

Section 404(d) of title 23, United States Code, is amended by striking "Commerce" and inserting "Transportation".

SEC. 248. ALCOHOL-IMPAIRED DRIVING COUNTER- MEASURES.

(a) Technical Amendment.—Section 410(d)(1)(E) of title 23, United States Code, is amended by striking "the date of enactment of this section" and inserting "December 18, 1991".

(b) Basic Grant Eligibility.—Section 410(d)(3) of such title is amended—

(1) by inserting "(A)" after "(3)"; and

(2) by adding at the end the following:

"(B) A State shall be treated as having met the requirement of this paragraph if—

"(i) the State provides to the Secretary a written certification that the highest court of the State has issued a decision indicating that implementation of subparagraph (A) would constitute a violation of the constitution of the State; and

"(ii) the State demonstrates to the satisfaction of the Secretary—

"(I) that the alcohol fatal crash involvement rate in the State has decreased in each of the 3 most recent calendar years for which statistics for determining such rate are available; and

"(II) that the alcohol fatal crash involvement rate in the State has been lower than the average such rate for all States in each of such calendar years.".

SEC. 249. PUBLIC TRANSIT FACILITIES.

Section 1023(h) of the Intermodal Surface Transportation Efficiency Act of 1991 is amended by striking "this Act" each place it appears and inserting "the Department of Transportation and Related Agencies Appropriations Act, 1993".

SEC. 250. ROADSIDE BARRIER TECHNOLOGY.

Section 1058 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 109 note; 105 Stat. 2003) is amended—

(1) in subsection (a) by striking "median" and inserting "or temporary crashworthy";

(2) in subsection (a) by inserting "crashworthy" after "Innovative";

(3) in the heading of subsection (c) by inserting "Crashworthy" after "Innovative";

(4) in subsection (c) by inserting "crashworthy" after "innovative";

(5) in subsection (c) by striking "median";

(6) by inserting "or guiderail" after "guardrail"; and

(7) by inserting before the period at the end of subsection (c) ", and meets or surpasses the requirements of the National Cooperative Highway Research Program 350 for longitudinal barriers".

SEC. 251. PENSACOLA, FLORIDA.

Section 1086(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2022) is amended by striking "Not later than 2 years after the date of the enactment of this Act," and inserting "On or before June 18, 1995,".

SEC. 252. HIGH COST BRIDGE PROJECTS.

The table contained in section 1103(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027–2028) is amended—

(1) in item number 5, relating to Gloucester Point, Virginia, by inserting after "York River" the following: "and for repair, strengthening, and rehabilitation of the existing bridge"; and

(2) in item number 10, relating to Shakopee, Minnesota, by inserting "project, including the bypass of" after "replacement".

SEC. 253. CONGESTION RELIEF PROJECTS.

The table contained in section 1104(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2029–2031) is amended—

(1) in item number 10, relating to San Diego, California, by striking "1 block of Cut and Cover Tunnel on Rt. 15" and inserting "bridge decking on Route 15"; and

(2) in item number 43, relating to West Virginia, by striking "Coal Fields" and inserting "Coalfields".

SEC. 254. HIGH PRIORITY CORRIDORS ON NATIONAL HIGHWAY SYSTEM.

(a) East-West Transamerica Corridor.—Section 1105(c)(3) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended by inserting before the period at the end the following: ", including (A) a Kentucky corridor centered on the cities of Paducah, Benton, Hopkinsville, Bowling Green, Columbia, Somerset, London, Hazard, Jenkins, and Pikeville, Kentucky, to Williamson, West Virginia, and (B) a West Virginia corridor from Williamson to the vicinity of Welch, West Virginia, sharing a common corridor with the I-73/74 corridor (referred to in item 12 of the table contained in subsection (f)), and from the vicinity of Welch to Beckley, West Virginia, as part of the Coalfields Expressway described in section 1069(v)".

(b) INDIANAPOLIS TO HOUSTON CORRIDOR.—Section 1105(c)(18) of such Act (105 Stat. 2032) is amended by inserting before the period at the end the following: ", including a Kentucky corridor centered on the cities of Henderson, Sturgis, Smithland, Paducah, Bardwell, and Hickman, Kentucky".

SEC. 255. HIGH PRIORITY CORRIDOR PROJECTS.

The table contained in section 1105(f) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2033–2035) is amended—

(1) in item 1, relating to Pennsylvania, by inserting after "For" the following: "the segment described in item 6 of this table and, after completion of such segment, for"; and

(2) in item number 26, relating to Indiana, Kentucky, Tennessee, by striking "Newberry" and inserting "Evansville".

SEC. 256. RURAL ACCESS PROJECTS.

(a) PROJECT DESCRIPTIONS.—The table contained in section 1106(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2037–2042) is amended—

(1) in item number 34, relating to Illinois, by striking "Resurfacing" and all that follows through "Omaha" and inserting "Bel-Air Road improvement from south of Carmi to State Route 141 in southeastern White County";

(2) in item number 52, relating to Bedford Springs, Pennsylvania, by striking "and Huntington" and inserting "Franklin, and Huntingdon";

(3) in item number 61, relating to Lubbock, Texas, by striking "with" and inserting "with Interstate 10 through";

(4) in item number 75, relating to Pennsylvania, by striking "Widen" and all that follows through "lanes" and inserting "Road improvements on a 14-mile segment of U.S. Route 15 in Lycoming County, Pennsylvania";

(5) in item number 92, relating to Ohio, by striking "Minerva, Ohio" and insert "Lisbon, Ohio";

(6) in item number 93, relating to New Mexico, by striking "Raton-Clayton Rd., Clayton, New Mexico" and inserting "U.S. Rt. 64/87 from Raton, New Mexico, through Clayton to the Texas-New Mexico State line"; and

(7) in item number 111, relating to Parker County, Texas (SH199)—

(A) by striking "Parker County" and inserting "Parker and Tarrant Counties"; and

(B) by striking "to four-" and inserting "in Tarrant County, to freeway standards and in Parker County to a 4-".

(b) ADDITIONAL FUNDING.—Section 1106(a) of such Act is amended by adding at the end the following:

"(8) ADDITIONAL FUNDING.—In addition to funds otherwise made available by this subsection for the project described in item number 52 of the table contained in paragraph (2), there shall be available from the Highway Trust Fund (other than the Mass Transit Account) for carrying out such project $5,000,000 for fiscal year 1995 and $1,300,000 per fiscal year for each of fiscal years 1996 and 1997.".

SEC. 257. URBAN ACCESS AND MOBILITY PROJECTS.

The table contained in section 1106(b)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2043–2047) is amended—

(1) in item number 13, relating to Joliet, Illinois, by striking "and construction and interchange at Houbolt Road and I-80"; and

(2) in item number 36, relating to Compton, California, by striking "For a grade" and all that follows through "Corridor" and inserting "For grade separations and other improvements in the city of Compton, California".

SEC. 258. INNOVATIVE PROJECTS.

The table contained in section 1107(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2048–2059) is amended—

(1) in item 20, relating to Holidaysburg, Pennsylvania—

(A) by striking "Holidaysburg," the first place it appears; and

(B) by inserting ", or other projects in the counties of Bedford, Blair, Centre, Franklin, and Huntingdon as selected by the State of Pennsylvania" after "Pennsylvania" the second place it appears;

(2) in item number 29, relating to Blacksburg, Virginia, by inserting "methods of facilitating public and private participation in" after "demonstrate";

(3) in item number 35, relating to Alabama, by striking "to bypass" and all that follows through "I-85" and inserting "beginning on U.S. Route 80 west of Montgomery, Alabama, and connecting to I-65 south of Montgomery and I-85 east of Montgomery";

(4) in item number 52, relating to Pennsylvania, by striking "off Interstate" and all that follows through "Pennsylvania" and inserting "and other highway projects within a 30-mile vicinity of Interstate Route 81 or Interstate Route 80 in northeastern Pennsylvania";

(5) in item number 61, relating to Mojave, California, by striking "Mojave" and inserting "Victorville" and by inserting "Mojave" after "reconstruct";

(6) in item number 76, relating to Tennessee—

(A) by inserting after "I-81" the following: "interchange at"; and

(B) by striking "Interchange" and inserting "or Kendrick Creek Road";

(7) in item number 100, relating to Arkansas, by striking "Thornton" and inserting "Little Rock";

(8) in item number 113, relating to Durham County, North Carolina, by inserting after "Route 147" the following: ", including the interchange at I-85"; and

(9) in item number 114, relating to Corpus Christi to Angleton, Texas, by striking "Construct new multi-lane freeway" and inserting "Construct a 4-lane divided highway".

SEC. 259. INTERMODAL PROJECTS.

The table contained in section 1108(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2060–2063) is amended—

(1) in item number 5, relating to Pennsylvania, by striking "Upgrading" and inserting "To study the need to upgrade" and by inserting "to a 4-lane limited access highway" after "Airport";

(2) in item number 9, relating to E. Haven/Wallingford, Connecticut—

(A) by striking "$8.8" and inserting "$7.5";

(B) by striking "$2.4" and inserting "$2.0"; and

(C) by striking "$0.7" and inserting "$0.6";

(3) in item 38, relating to Provo, Utah, strike "South" and all that follows through "Airport" and insert "East-West Connector from United States Highway 89-189, Provo, Utah"; and

(4) in item 51, relating to Long Beach, California, by inserting "(including a grade separation project for the Los Alamitos traffic circle at Lakewood Boulevard and Pacific Coast Highway)" after "Access".

SEC. 260. MISCELLANEOUS INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT AMENDMENTS.

(a) CROSS REFERENCE IN HIGHWAY USE TAX EVASION PROGRAM.—Section 1040(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 1992) is amended by striking "(e)" and inserting "(f)".

(b) REPORT TO CONGRESS ON QUALITY IMPROVEMENT.—Section 1043(b) of such Act (105 Stat. 1993) is amended by inserting "General" after "Comptroller".

(c) COALFIELDS EXPRESSWAY.—Section 1069(v) of such Act (105 Stat. 2010) is amended by striking "97, 10, 16, and 93" and inserting "16, and 83".

(d) PERIOD OF AVAILABILITY OF FUNDS FOR MISCELLANEOUS PROJECTS.—Section 1069 of such Act is amended—

(1) by striking the last sentence of subsection (y); and

(2) by adding at the end the following new subsection:

"(ii) PERIOD OF AVAILABILITY.—Funds provided to carry out this section shall remain available until expended.".

(e) FINAL RULE FOR ROADSIDE BARRIERS AND SAFETY APPURTENANCES.—Section 1073(b) of such Act (105 Stat. 2012) is amended by striking "1 year" and inserting "2 years".

(f) INTERSTATE STUDY COMMISSION.—Section 1099 of such Act (105 Stat. 2026) is amended—

(1) by striking "bill" and inserting "Act";

(2) by striking "passage of this legislation" and inserting "the enactment of this Act";

(3) by inserting after "Columbia" the second place it appears the following: "appointed by the Governors of the States of Maryland and Virginia and the Mayor of the District of Columbia, respectively"; and

(4) by striking "appointed by the Governors and the Mayor" and inserting ", 1 each for Maryland, Virginia, and the District of Columbia appointed by the Governors and the Mayor, respectively".

(g) DRUG RECOGNITION EXPERT TRAINING PROGRAM.—Section 2006(b) of such Act (23 U.S.C. 403 note; 105 Stat. 2080) is amended by inserting "Federal" before "Advisory".

(h) APPLICABILITY OF OBLIGATION CEILING TO CERTAIN HIGHWAY SAFETY PROGRAMS.—Section 2009 of such Act (105 Stat. 2080) is amended—

(1) by striking "(a) IN GENERAL.—";

(2) by striking "211(b)" the first place it appears and inserting "211";

(3) by striking "102" and inserting "1002"; and

(4) by striking subsection (b).

SEC. 261. DISADVANTAGED BUSINESS ENTERPRISE PROGRAM.

In administering section 1003(b) of the Intermodal Surface Transportation Efficiency Act of 1991, the limitation on annual gross receipts of a small business concern set forth in paragraph (2)(A) of such section shall be the only limitation on annual gross receipts which applies to small business concerns.

SEC. 262. AMENDMENTS TO SURFACE TRANSPORTATION AND UNIFORM RELOCATION ASSISTANCE ACT OF 1987.

(a) Section 149.—Section 149(a)(69) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 191), relating to Burbank-Glendale-Pasadena Airport, California, is amended—

(1) in the first sentence by striking "highway";

(2) in the first sentence by striking "and construction of terminal and parking facilities at such airport"; and

(3) by striking "by making" in the second sentence and all that follows through the period at the end of such sentence and inserting: "by preparing a feasibility study and conducting preliminary engineering, design, and construction of a link between such airport and the commuter rail system that is being developed by the Los Angeles County Metropolitan Transportation Authority.".

(b) Section 317.—Section 317(b) of such Act (49 U.S.C. App. 1608 note; 101 Stat. 233) is amended—

(1) in paragraphs (2) and (3) by inserting "or cooperative agreement" after "contract" each place it appears; and

(2) by adding at the end the following new paragraph:

"(7) Conversion of contracts.—The Secretary may convert existing contracts entered into under this subsection into cooperative agreements.".

SEC. 263. FREEWAY SERVICE PATROLS.

(a) General Rule.—Except to the extent that the Secretary shall find that it is not feasible, any funds expended in a fiscal year directly or indirectly for freeway service patrols from amounts made available to a State under titles I and III of the Intermodal Surface Transportation Efficiency Act of 1991 shall be expended with privately owned or privately operated business concerns. The preceding sentence shall not apply to any publicly owned or operated freeway service patrol that was in operation before the date of the enactment of this Act.

(b) Definition.—For purposes of this section, the term "freeway service patrol" means automotive road service vehicles and automotive towing vehicles operated in a continuous, dedicated service as part of an incident management program.

SEC. 264. PAN AMERICAN HIGHWAY.

(a) Study.—The Secretary shall conduct a study on the adequacy of and the need for improvements to the Pan American Highway.

(b) Elements.—The study to be conducted under subsection (a) shall at a minimum include the following elements:

(1) Findings on the benefits of constructing a highway at Darien Gap, Panama and Colombia.

(2) Recommendations for a self-financing arrangement for completion and maintenance of the Pan American Highway.

(3) Recommendations for establishing a Pan American highway authority to monitor financing, construction, maintenance, and operations of the Pan American Highway.

(4) Findings on the benefits to trade and prosperity of a more efficient Pan American Highway.

(5) Findings on the benefits to United States industry through the use of United States technology and equipment in construction of improvements to the Pan American Highway.

(6) Findings on environmental considerations, including environmental considerations relating to the Darien Gap.

(c) Report.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this section.

SEC. 265. SECTION 3 PROGRAM AMENDMENTS.

(a) Letters of Intent.—Section 3(a)(4)(E) of the Federal Transit Act (49 U.S.C. App. 1602(a)(4)(E)) is amended—

(1) in the first sentence by striking "letters of intent" and all that follows through "shall not exceed the" and inserting "letters of intent, early systems work agreements, and full funding grant agreements shall not exceed the"; and

(2) in the second sentence by striking "new letters issued" and all that follows through "shall not exceed any" and inserting "new letters issued and contingent commitments included in early systems work agreements and full funding agreements shall not exceed any".

(b) Assured Timetable for Final Design Stage.—Section 3(a)(6)(C) of the Federal Transit Act (49 U.S.C. App. 1602(a)(6)(C)) is amended by inserting before the period at the end the following: "or, if an environmental impact statement is not required for such project, the date of completion of an environmental assessment for such project or of a finding of no significant impact".

(c) Oregon Light Rail Program.—Section 3(a)(8)(C)(v) of such Act is amended—

(1) by striking "Westside" the first place it appears;

(2) by striking "and" following "101-584;"; and

(3) by inserting before the period at the end the following "; and the locally preferred alternative for the South/North Corridor Project between Clackamas County, Oregon, Portland, Oregon, and Clark County, Washington".

(d) Rail Modernization.—Section 3(h) of such Act is amended in paragraph (6) by striking "paragraph" and inserting "subsection".

(e) Nonapplicability.—Section 3(i)(5)(C) of such Act is amended by striking "the Federal-Aid Highway Act of 1991" and inserting the following: "title 23, United States Code,".

(f) Transitional Provision for Programs of Interrelated Projects.—Section 3011(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (49 U.S.C. App. 1602 note; 105 Stat. 2098) is amended by inserting after "interrelated projects" the following: "but excluding any project for which a timetable for project review or for Federal funding is provided for by a provision of law other than section 3(a)(6) of the Federal Transit Act and for which such timetable is different than the timetable established by such section".

(g) Conforming Amendments.—Section 3007 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2091) is amended—

(1) in paragraph (5)(B) by striking the comma which precedes the closing quotation marks and the semicolon; and

(2) in paragraph (6) by striking the comma which precedes the closing quotation marks and the final period.

SEC. 266. METROPOLITAN PLANNING.

(a) Technical Amendments.—Section 8 of the Federal Transit Act (49 U.S.C. App. 1607) is amended—

(1) in subsection (f)(5) by inserting "of title 23, United States Code" after "133";

(2) in subsection (f)(9) by striking "of this title" and inserting "of such title";

(3) in subsection (f)(11) by inserting "passengers and" before "freight";

(4) in subsection (g)(5) by redesignating subparagraphs (i) and (ii) as subparagraphs (A) and (B), respectively;

(5) in subsection (i)(3) by striking "this title and the Federal Transit Act" and inserting "title 23, United States Code, and this Act";

(6) in subsection (i)(4) by striking "or pursuant to the Federal Transit" and inserting ", or pursuant to this";

(7) in subsection (i)(5) by inserting "of title 23, United States Code," after "section 134";

(8) in subsection (i)(5) by inserting "of such title" after "104(b)(3)";

(9) in subsection (i)(5) by inserting "of such title" after "133(d)(3)" each place it appears;

(10) in subsection (i)(5) by striking "the Federal Transit" the first 2 places it appears and inserting "this";

(11) in subsection (i)(5) by striking "section 8(o) of the Federal Transit Act" and inserting "subsection (o) of this section";

(12) in subsection (m)(1) by striking "or the Federal Transit" and inserting ", or this";

(13) in each of subsections (p)(2) and (p)(4) by striking "section 8" the first place it appears and inserting "this section";

(14) in subsection (p)(2) by striking "section 8 of this Act" and inserting "this section";

(15) in subsection (p)(3) by striking "subparagraph (B)" and inserting "paragraph (2)"; and

(16) in subsection (p)(5) by striking "paragraph" and inserting "section".

(b) Factors To Be Considered.—Section 8(f) of such Act is amended by adding at the end the following new paragraph:

"(16) Recreational travel and tourism.".

(c) Long Range Plan.—Section 8(g)(2)(B) of such Act is amended by striking "long-range" and inserting "long range".

(d) Transfer of Funds.—Section 8(k) of such Act is amended by striking the last sentence.

(e) Nonattainment Area Requirements.—Section 8(l) of such Act is amended by striking "transit" and inserting "highway".

SEC. 267. FORMULA GRANT PROGRAM.

(a) Transit Security Systems.—Section 9(e)(3) of the Federal Transit Act (49 U.S.C. App. 1607a(e)(3)) is amended by inserting before "and any other" in the last sentence the following: "employing law enforcement or security personnel in areas within or adjacent to such systems;".

(b) Grandfather of Certain Urbanized Areas.—Section 9(s)(2) of such Act is amended by striking "fiscal year 1993," and inserting "each of fiscal years 1993 and 1994,".

(c) Ferryboat Operations.—For purposes of calculating apportionments under section 9 of the Federal Transit Act for fiscal years beginning after September 30, 1994, 50 percent of the ferryboat revenue vehicle miles and 50 percent of the ferryboat route miles attributable to service provided to the city of Avalon, California, for which the operator receives public assistance shall be included in the calculation of "fixed guideway vehicle revenue miles" and "fixed guideway route miles" attributable to the Los Angeles urbanized area under sections 9(b)(2) and 15 of such Act.

SEC. 268. MASS TRANSIT ACCOUNT BLOCK GRANTS.

Section 9B(a) of the Federal Transit Act (49 U.S.C. App. 1607a-2(a)) is amended by striking "subsections (b) and (c) of".

SEC. 269. GRANTS FOR RESEARCH AND TRAINING.

(a) National Center.—Section 11(b)(10)(A) of the Federal Transit Act (49 U.S.C. 1607c(b)(10)(A)) is amended by striking "technology" and inserting "Technology".

(b) Applicability of Obligation Ceiling to Funding for University Transportation

CENTERS.—Section 11(b)(12) of such Act is amended by striking "102" and inserting "1002".

(c) UNIVERSITY RESEARCH INSTITUTES.—Section 11(c) of such Act is amended—

(1) in the heading to paragraph (1) by striking "INSTITUTE FOR NATIONAL" and inserting "INTERNATIONAL INSTITUTE FOR";

(2) in paragraph (1) by striking "an institute for national" and inserting "an international institute for";

(3) in paragraph (3) by striking "through the Institute for Transportation Research and Education and" and inserting a comma;

(4) in paragraph (3) by inserting a comma after "South Florida";

(5) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively;

(6) by inserting after paragraph (5) the following:

"(6) INSTITUTE FOR TRANSPORTATION POLICY AND MANAGEMENT.—

"(A) GRANTS.—The Massachusetts State highway department shall make grants under this section jointly to the University of Massachusetts, Harvard University, and the Massachusetts Institute of Technology to establish and operate an interdisciplinary institute to carry out research and training on issues and operations in urban transportation policy and on strategies for the improvement of urban transportation management and to disseminate the findings thereof.

"(B) FUNDING.—The Massachusetts State highway department shall expend, from amounts made available to it for each of the fiscal years 1995 through 1997 under section 307(c) of title 23, United States Code, $1,000,000 per fiscal year to carry out the purposes of this paragraph"; and

(7) in paragraph (7) by striking "through the Institute for Transportation Research and Education".

SEC. 270. GENERAL PROVISIONS.

(a) CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.—Section 12(b) of the Federal Transit Act (49 U.S.C. App. 1608(b)) is amended by adding at the end the following new paragraph:

"(5) SPECIAL RULES FOR ENGINEERING AND DESIGN CONTRACTS.—

"(A) PERFORMANCE AND AUDITS.—Any contract or subcontract awarded in accordance with paragraph (4), whether funded in whole or in part with Federal transit funds, shall be performed and audited in compliance with cost principles contained in the Federal acquisition regulations of part 31 of title 48 of the Code of Federal Regulations.

"(B) INDIRECT COST RATES.—Instead of performing its own audits, a recipient of funds under a contract or subcontract awarded in accordance with paragraph (4) shall accept indirect cost rates established in accordance with the Federal acquisition regulations for 1-year applicable accounting periods by a cognizant government agency or independent certified public accountant if such rates are not currently under dispute. Once a firm's indirect cost rates are accepted, the recipient of such funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment and shall not be limited by administrative or de facto ceilings in accordance with section 15.901(c) of such title 48. A recipient of such funds requesting or using the cost and rate data described in this subparagraph shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided, in whole or in part, to any other firm or to any government agency which is not part of the group of agencies sharing cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

"(C) STATE OPTION.—Subparagraphs (A) and (B) shall take effect 2 years after the date of the enactment of this paragraph with respect to all States; except that if a State, during such 2-year period, adopts by statute an alternative process intended to promote engineering and design quality and ensure maximum competition by professional companies of all sizes providing engineering and design services, such subparagraphs shall not apply with respect to such State.".

(b) RAIL TRACKAGE RIGHTS AGREEMENTS.—Section 12(c)(1) of such Act is amended by inserting "payments for the capital portions of rail trackage rights agreements," after "rights-of-way,".

(c) TECHNICAL AMENDMENT.—The first sentence of section 12(f)(1) of such Act is amended by striking "such State of local" and inserting "such State or local".

(d) TURNKEY SYSTEM PROJECT.—Section 12(l) of such Act is amended—

(1) in paragraph (1)(C) by striking "is" and inserting "may be"; and

(2) in paragraph (3) by striking "the date of the enactment of this Act" and inserting "the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991".

(e) SALE OF CAPITAL ASSETS.—Section 12 of such Act is further amended by adding at the end the following new subsection:

"(n) SALE OF CAPITAL ASSETS.—

"(1) IN GENERAL.—If a recipient of assistance under this Act determines that facilities and equipment and other assets (including land) acquired, in whole or in part, with such assistance are no longer needed for the purposes for which they were acquired, the Secretary shall authorize the sale of the assets with no further obligation to the Federal Government if the Secretary determines that—

"(A) there are no purposes eligible for assistance under this Act for which the asset should be used; and

"(B) the proceeds from the sale of the asset will be used by the recipient to procure items eligible for capital assistance under this Act.

"(2) RELATIONSHIP TO OTHER LAWS.—The provisions of this subsection shall be in addition to and not in lieu of any other provision of law governing use and disposition of facilities and equipment under an assistance agreement.".

SEC. 271. PERIOD OF AVAILABILITY AND REAPPORTIONMENT OF SECTION 16 FUNDS.

Section 16 of the Federal Transit Act (49 U.S.C. App. 1612) is amended—

(1) in subsection (b) by inserting "and" after the semicolon at the end of paragraph (1);

(2) in subsection (b) by striking "; and" at the end of paragraph (2) and inserting a period;

(3) in subsection (b) by striking paragraph (3) and inserting the following:

"Eligible capital expenses under this subsection may include, at the option of the recipient, the acquisition of transportation services under a contract, lease, or other arrangement.";

(4) in subsection (c)(4) by striking "the enactment of the Federal Transit Act" and inserting "the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991";

(5) by adding at the end of subsection (c) the following new paragraph:

"(5) PERIOD OF AVAILABILITY.—Sums apportioned under this subsection shall be available for obligation by the State for a period of 2 years following the close of the fiscal year for which the sums are apportioned and any amounts remaining unobligated at the end of such period shall be reapportioned among the States for the succeeding fiscal year.";

(6) in subsection (e) by striking "handicapped and elderly individuals" and inserting "elderly persons and persons with disabilities"; and

(7) in subsection (e) by striking "such individuals" and inserting "such persons".

SEC. 272. RURAL TRANSIT PROGRAM.

The second sentence of section 18(a) of the Federal Transit Act (49 U.S.C. App. 1614(a)) is amended by striking the final period.

SEC. 273. NONDISCRIMINATION.

Section 19 of the Federal Transit Act (49 U.S.C. App. 1615) is amended—

(1) by striking "(1)" each place it appears;

(2) by redesignating paragraphs (2), (3), (4) and (5) as subsections (b), (c), (d), and (e), respectively;

(3) in subsection (c) as so redesignated—

(A) by striking "(A)" and inserting "(1)";

(B) by striking "(B)" and inserting "(2)";

(C) by striking "paragraph (a)" and inserting "paragraph (1)";

(D) by striking "(i)" and inserting "(A)";

(E) by striking "(ii)" and inserting "(B)";

(F) by striking "(iii)" and inserting "(C)"; and

(G) by striking "(iv)" and inserting "(D)"; and

(4) in subsection (d) as so redesignated by striking "(a)(3)(B)(ii)" and inserting "(c)(2)(B)".

SEC. 274. AUTHORIZATIONS.

(a) FORMULA GRANT PROGRAM FROM TRUST FUND.—Section 21(a)(1) of the Federal Transit Act (49 U.S.C. App. 1617(a)(1)) is amended—

(1) by striking "8 9B," and inserting "6, 8, 9B, 10,"; and

(2) by inserting "20," after "18,".

(b) FORMULA GRANT PROGRAM FROM GENERAL FUND.—Section 21(a)(2) of such Act is amended—

(1) by striking "8 9," and inserting "6, 8, 9, 10,"; and

(2) by inserting "20," after "18,".

(c) SETASIDE FOR PLANNING, PROGRAMMING, AND RESEARCH.—Section 21(c) of such Act is amended—

(1) by inserting "beginning after September 30, 1992," after "each fiscal year";

(2) by striking "or appropriated" each place it appears;

(3) in paragraph (3) by striking "the State program under"; and

(4) in paragraph (4) by striking "the national program under".

(d) OTHER SETASIDES.—Section 21(d) of such Act is amended by striking "or appropriated" each place it appears.

(e) COMPLETION OF INTERSTATE TRANSFER TRANSIT PROJECTS.—Section 21(e) of such Act is amended by striking "$160,000,000" and all that follows through the period at the end and inserting "for fiscal years beginning after September 30, 1991, not to exceed $324,843,000. Such sums shall remain available until expended.".

SEC. 275. PROJECT MANAGEMENT OVERSIGHT.

Section 23 of the Federal Transit Act (49 U.S.C. App. 1619) is amended—

(1) in subsection (a) by striking "or 18" and inserting "and 18"; and

(2) in subsection (h) by striking "subsections (a) (1) through (5)" and inserting "subsection (a)".

SEC. 276. PLANNING AND RESEARCH PROGRAM.

(a) State Program.—Section 26(a) of the Federal Transit Act (49 U.S.C. App. 1622(a)) is amended to read as follows:

"(a) Allocation of Planning Funds.—

"(1) Transit cooperative research program.—Fifty percent of the funds made available under sections 21(b)(3)(D) and 21(c)(3) shall be available for the transit cooperative research program to be administered as follows:

"(A) Independent governing board.—The Secretary shall establish an independent governing board for such program to recommend such transit research, development, and technology transfer activities as the Secretary deems appropriate.

"(B) National academy of sciences.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities as the Secretary determines are appropriate.

"(2) State planning and research.—The remaining 50 percent of funds made available under sections 21(b)(3)(D) and 21(c)(3) shall be apportioned to the States for grants and contracts consistent with the purposes of sections 6, 8, 10, 11, and 20 of this Act in the ratio which the population in urbanized areas in each State bears to the total population in urbanized areas in all the States, as shown by the latest available decennial census, except that no State shall receive less than ½ of 1 percent of the amount apportioned under this subsection. In any case in which a statewide transit agency is responsible under State law for the financing, construction, and operation, directly, by lease, contract, or otherwise, of statewide public transportation services, such agency shall be the recipient for receiving and dispensing funds under this paragraph.

"(3) Allocation within a state.—A State may authorize a portion of its funds made available under paragraph (2) to be used to supplement funds available under paragraph (1), as the State deems appropriate.".

(b) National Program.—Section 26(b) of such Act is amended—

(1) in paragraph (1) by striking "section 21(c)(4)" and inserting "sections 21(b)(3)(E) and 21(c)(4)"; and

(2) in paragraph (2) by inserting "annually" after "$2,000,000".

(c) Pilot Project.—Section 26(c)(4) of such Act is amended by striking "the date of the enactment of this Act" each place it appears and inserting "the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991".

SEC. 277. NEEDS SURVEY AND TRANSFERABILITY STUDY.

Section 27(b) of the Federal Transit Act (49 U.S.C. App. 1623(b)) is amended—

(1) in paragraph (1) by striking "(3)";

(2) in paragraph (2) by striking "such sections" and inserting "section 9(j) of this Act"; and

(3) in paragraph (2) by striking "With" and inserting "with".

SEC. 278. STATE RESPONSIBILITY FOR RAIL FIXED GUIDEWAY SYSTEM.

Section 28 of the Federal Transit Act (49 U.S.C. App. 1624(b)) is amended—

(1) in the section heading by inserting "rail" before "fixed guideway"; and

(2) in subsection (b)(1) by inserting "rail" before "fixed guideway".

SEC. 279. NATIONAL TRANSIT INSTITUTE.

Section 29 of the Federal Transit Act (49 U.S.C. App. 1625) is amended in the heading to subsection (b) by striking "FUNDING" and inserting "TRAINING OF STATE AND LOCAL GOVERNMENT TRANSPORTATION PERSONNEL".

SEC. 280. INCREASED FEDERAL SHARE.

The Federal Transit Act (49 U.S.C. App. 1601–1625) is amended by adding at the end the following new section:

"SEC. 30. INCREASED FEDERAL SHARE.

"(a) States With Large Areas of Indian and Certain Public Domain Lands.—In the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments, exceeding 5 percent of the total area of all lands in the State, the Federal share which, but for this subsection, would be applicable for any construction project under this Act shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in the State is of its total area.

"(b) States With Large Areas of Indian and Public Domain Lands and National Forests, Parks, and Monuments.—In the case of any State containing nontaxable Indian lands, individual and tribal, public domain lands (both reserved and unreserved), national forests, and national parks and monuments, the Federal share which, but for this subsection, would be applicable for any construction project under this Act shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State is of its total area.

"(c) Maximum Share.—Notwithstanding subsections (a) and (b) of this section, the Federal share for any construction project under this Act shall not exceed 95 percent of the total cost of such project.

"(d) Grant Recipient Agreement.—In any case where a grant recipient elects to have the Federal share provided in subsection (b) of this section, the grant recipient must enter into an agreement with the Secretary covering a period of not less than 1 year, requiring grant recipient to use solely for purposes eligible for assistance (other than operating assistance) under this Act (other than paying its share of projects approved under this Act) during the period covered by such agreement the difference between the grant recipient's share as provided in subsection (b) and what its share would be if it elected to pay the share provided in subsection (a) for all projects subject to such agreement.".

SEC. 281. PERFORMANCE REPORTS ON MASS TRANSIT SYSTEMS.

Section 308(e)(1) of title 49, United States Code, is amended by striking "January of each even-numbered year" and inserting "January 1994, January 1995, and January of each odd-numbered year thereafter".

SEC. 282. CROSS REFERENCE TO FEDERAL TRANSIT ACT.

Section 176 of the Clean Air Act (42 U.S.C. 7506) is amended in each of subsections (c)(2) and (d) by striking "Urban Mass Transportation" each place it appears and inserting "Federal Transit".

SEC. 283. PARTICIPATION IN INTERNATIONAL REGISTRATION PLAN AND INTERNATIONAL FUEL TAX AGREEMENT.

Section 4008(j) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2155) is amended by striking "102" in the second sentence and inserting "1002".

SEC. 284. INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.

(a) Operational Testing Projects.—Section 6055(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2192–2193) is amended by inserting "and enter into cooperative agreements and contracts with" after "The Secretary may make grants to".

(b) Funding.—Section 6058 of such Act (105 Stat. 2194–2195) is amended—

(1) in the second sentence of subsection (d) by striking "projects undertaken pursuant to subsection (c) of this section" and inserting "activities undertaken with funds made available under subsection (b) and activities undertaken with funds subject to subsection (c)";

(2) in subsection (e) by striking "102" and inserting "1002"; and

(3) by adding at the end the following new subsection:

"(f) Nonapplicability of Other Requirements of Law.—A person (including a public agency) that does not receive assistance under title 23, United States Code, the Federal Transit Act, or any provision of this Act (other than the Intelligent Vehicle-Highway Systems Act of 1991) shall not be subject to any Federal design standard, law, or regulation applicable to persons receiving such assistance solely by reason of such person receiving assistance under this section.".

SEC. 285. TITLE 49, UNITED STATES CODE, AMENDMENTS.

The analysis for chapter 1 of title 49, United States Code, is amended—

(1) by striking "Sec. 110. Saint Lawrence Seaway Development Corporation."; and

(2) by striking "Sec. 111." and inserting "111.".

SEC. 286. SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982 AMENDMENTS.

(a) Motor Carrier Safety Grant Program.—Section 402 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2302) is amended—

(1) by moving each of subparagraphs (H) through (N) (including any clauses therein) 2 ems to the left;

(2) in subsection (b)(1)(N) by striking "give" and inserting "gives"; and

(3) in subsection (d) by striking "3" and inserting "5".

(b) Cargo Carrying Unit Limitation.—Section 411(j)(5)(D) of such Act (49 U.S.C. App. 2311(j)(5)(D)) is amended by striking "prohibited under" and inserting "subject to".

SEC. 287. COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1986 AMENDMENTS.

(a) Section 12011.—Section 12011 of the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2710) is amended—

(1) in each of subsections (a) and (b) by striking "104(b)(5), and 104(b)(6)" and inserting "104(b)(3), and 104(b)(5)"; and

(2) in subsection (c)(1)(A)(ii) by striking "104(b)(6)" and inserting "104(b)(3)".

(b) Section Number Redesignation.—Such Act is further amended by redesignating the second section 12020, relating to violation of out-of-service orders, as 12021.

SEC. 288. CLEVELAND HARBOR, OHIO.

Section 1079 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2018–2019) is amended—

(1) by striking the semicolon at the end of subsection (b) and inserting a period; and

(2) in subsection (d)—

(A) by striking "279.31 feet" and inserting "269.31 feet";

(B) by striking "127.28 feet" and inserting "137.28 feet";

(C) by striking the comma following "Grid System";

(D) by striking "33° – 53′ – 08″ east" the first place it appears and inserting "33° – 53′ – 08″ west";

(E) by striking "north-westerly" and inserting "northwesterly"; and

(F) by striking "174,764 square feet (4.012 acres)" and inserting "175,143 (4.020 acres)".

SEC. 289. OTHER INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT TECHNICAL AMENDMENTS.

(a) SOUTHERN FLORIDA COMMUTER RAIL.—Section 3014 of Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2108) is amended by striking "(49 U.S.C. 1607a)".

(b) ROAD TESTING OF LCV'S.—Section 4007(d)(1) of such Act (49 U.S.C. App. 2302 note) is amended by striking "on board" and inserting "onboard".

(c) NATIONAL COMMISSION ON INTERMODAL TRANSPORTATION.—Section 5005 of such Act (49 U.S.C. 301 note; 105 Stat. 2160–2162) is amended—

(1) in subsection (d)(1) by striking "11 members" and inserting "15 members";

(2) in subsection (d)(1)(A) by striking "3 members" and inserting "7 members"; and

(3) in subsection (i) by striking "1993" and inserting "1994".

(d) SECTION 6017.—Section 6017 of such Act (105 Stat. 2183) is amended by striking "502(a)" and inserting "5002(a)".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 4385) was laid on the table.

APPOINTMENT OF CONFEREES

Mr. MINETA. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to S. 1887 and request a conference with the Senate thereon.

The motion was agreed to.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. MINETA, OBERSTAR, RAHALL, SHUSTER, and PETRI.

There was no objection.

MAKING A TECHNICAL CORRECTION TO AN ACT PREEMPTING STATE ECONOMIC REGULATION OF MOTOR CARRIERS

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the bill (H.R. 5123) to make a technical correction to an act preempting State economic regulation of motor carriers, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. SHUSTER. Reserving the right to object, Mr. Speaker, I do not intend to object, but I yield to my distinguished colleague, the gentleman from West Virginia [Mr. RAHALL] for an explanation.

Mr. RAHALL. Mr. Speaker, I appreciate the distinguished ranking member yielding to me.

Mr. Speaker, last month Congress passed the Federal Aviation Administration Authorization Act of 1994, which included a provision in section 601 to preempt State economic regulation of intrastate trucking.

The pending measure would make one technical correction to that act to address an item which Congress did not intend to be within the scope of section 601.

The purpose of section 601 was to address issues relating to the intrastate transportation by motor carrier of general freight and express small packages.

We now find that the act would also affect the ability of a State to regulate tow trucks in those States which engage in such regulation.

This clearly was not our intention. And, in fact, many States regard the regulation of tow trucks as a matter of consumer protection.

For this reason, the pending measure would provide for continued State economic regulation of intrastate tow and wrecker services where such regulation exists.

That completes my explanation.

Mr. SHUSTER. Mr. Speaker, continuing my reservation of objection, I would appreciate it if the gentleman would confirm, first, that this exemption would be only for 2 years, and at the end of 2 years, tow trucks will fall within the deregulation which will not apply to the other modes, is that correct?

Mr. RAHALL. If the gentleman will continue to yield, the gentleman is accurate, pending the adoption of the amendment I will shortly offer.

Mr. SHUSTER. Mr. Speaker, further continuing my reservation of objection, it is my understanding from the gentleman that we have his commitment that should the Senate attempt to change our language here and add to it, the gentleman would then oppose any such action to expand this and we would not permit the legislation to become law?

Mr. RAHALL. If the gentleman will yield further, the gentleman is accurate, and certainly we would continue to work with him.

Mr. SHUSTER. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5123

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intrastate Tow and Wrecker Truck Transportation Technical Correction Act of 1994".

SEC. 2. TECHNICAL CORRECTION.

Section 11501(h)(2) of title 49, United States Code, is amended as follows:

(1) Strike "and" after subparagraph (A).

(2) Strike the period at the end of subparagraph (B) and insert in lieu thereof "; and".

(3) Insert the following new subparagraph at the end thereof:

"(C) does not restrict the regulatory authority of an agency with statewide jurisdiction with respect to tow trucks or wreckers providing for-hire services.".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. RAHALL

Mr. RAHALL. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. RAHALL: Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intrastate Tow and Wrecker Truck Transportation Technical Correction Act of 1994".

SEC. 2. TECHNICAL CORRECTION.

Section 11501(h)(2) of title 49, United States Code, is amended as follows:

(1) Strike "and" after subparagraph (A).

(2) Strike the period at the end of subparagraph (B) and insert in lieu thereof "; and".

(3) Insert the following new subparagraph at the end thereof:

"(C) does not restrict the regulatory authority of an agency with statewide jurisdiction, insofar as such authority relates to tow trucks or wreckers providing for-hire services.".

SEC. 3. EXPIRATION.

The amendment made by section 2 shall cease to be in effect on January 1, 1997.

Mr. RAHALL (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. RAHALL. Mr. Speaker, this amendment is being offered to address the concerns of our distinguished ranking minority member of the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation, the gentleman from Wisconsin [Mr. PETRI]. It would provide for the amendment made by the bill to expire on January 1, 1997.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from West Virginia [Mr. RAHALL].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

THE COMING DEBATE IN CONGRESS ON AMERICA'S OCCUPATION OF HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, on this eleventh day of the occupation of Haiti by the American armed services, I think it is appropriate that people in this country know that we in Congress have not given up our determination to have a debate on this subject here, and to deliberate what is going on, what is at risk, what are the costs involved, what are the likely standards of measure of what we have achieved anything, and the question of the way we get out of the quagmire we have gotten ourselves into.

Mr. Speaker, this debate will be coming forward, I think in a more formalized fashion next week. We have been promised that by the Majority Leader in response to a colloquy from the gentleman from California [Mr. COX]. I understand that there is now a bill coming forward from the Committee on Foreign Affairs, which is also going to come up to the Committee on Rules, so we are finally beginning to get the mechanisms of Congress focused on this situation where, in a friendly neighboring country of the United States of America, we have about 16,000 or so men and women in our armed services in a hazardous situation. It is not outright combat, of course, as we all know, but it is deadly serious situation, and in fact, there are casualties.

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I have just come from a meeting with a person who has been in contact with family and friends and relatives in Haiti this afternoon, and the situation is becoming much more unstable in terms of the extremes that exist in Haiti. The pro-Aristide forces are sort of manifesting themselves more regularly and more intensely because there is an understanding that the military, the Haitian military, is not there to resist and this is like sort of a great venting exercise, and old scores are being threatened to be settled. We have found that in places like Cap-Haitien up on the north coast, there is a real feeling of anxiety and we are told yesterday that in the northern departments, things have become even more chaotic, particularly in the Department of the Northwest. That is the northern rim of Haiti. We are told there that the military has virtually disappeared, gone into the woods. Five anti-Aristide supporters were killed by pro-Aristide supporters either yesterday or today. Stores are being looted, particularly the food stores because people see this as not only the opportunity to get even but the opportunity to get some food which they need as the result of the embargo we have had on that country for so long which has made things so difficult in that country.

Also, I have not read any news accounts or heard on the media yet, but we are informed also that the pro-Aristide people suffered casualties at the installation of the mayor who came out of hiding and was reinstalled, the mayor of Port-Au-Prince, somebody apparently threw a grenade into a crowd there and five pro-Aristide supporters were killed.

Every day as we go back and we look at the violence and the escalation of violence, we discover first we are talking about 1 or 2, then we are talking about 5 or 10, and presumably it is going to keep escalating that way, a little bit at a time, a little bit at a time, as people get even.

The problem here is that it is our Armed Forces that are in the middle of all this and we do not have a firm understanding of when they are coming back or exactly what it is they are going to accomplish. We all are fervently behind them, in protecting them in every possible way with the best equipment, the best training, all of the things we want our men and women in harm's way to have so that they can take care of themselves and carry out their mission. But this mission is a little different. These folks are standing around in the middle of what are about to be riots all over the country with no clear orders of how they cope with all of that. Perhaps in some cases not even manpower. But up on the north coast of Haiti, we are now told that our forces have been asked to provide police protection for the stores and to, in fact, replace the Haitian army which has disappeared, gone off into the woods across the cities of the north. That mission, of taking on that role in addition to other chores of protecting themselves, is an extremely important concern.

The anarchy that is beginning to grow in Haiti I think is something that we cannot fail to address. It would be bad enough if there were not American forces there. It is something we should attend to, because we have an interest in a friendly neighboring country having this kind of difficulty. But the fact that our troops are there and the fact that the U.S. Congress has not yet had a vote on that or deliberated on the issue of the safety of our troops and when they are coming back is to me unpardonable and unconscionable.

Sooner or later there will be accountability to the American people for the policy that the Clinton administration has used and the lack of justification for why this House has not debated and not executed our responsibilities to the people we represent on behalf of our armed service personnel there.

CALL FOR WITHDRAWAL OF AMERICAN TROOPS FROM HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana [Mr. LIVINGSTON] is recognized for 5 minutes.

Mr. LIVINGSTON. Mr. Speaker, as our military forces remain bogged down in Haiti, and as the morale of our troops stretches to the breaking point—and past it, in the case of one unfortunate soldier who apparently took his own life—and as we use more and more of our resources in support of the mission in Haiti, I become increasingly concerned that we will be bogged down there, and may not be able to respond to a real emergency.

I am particularly concerned with American interests in regions which are always unstable, such as Korea or in the Persian Gulf, where radicals still rule Iran and Iraq.

For example, if a crisis erupts in the Persian Gulf, once again threatening the world's oil supplies, will America be as ready to act as we were when George Bush told Saddam Hussien that his aggression would not stand? Or will our military be too busy policing the streets of Port-au-Prince in order to make Haiti safe for a radical leftist anti-American named Aristide?

Will soldiers who already have seen duty and witnessed death in both Somalia and Haiti be at their best if rapidly redeployed back to the desert? Would there be any other choice than to redeploy the same brave soldiers, sailors, airmen, and Marines? Or has our President cut our forces so far, so fast, that we don't have enough other troops to rotate into duty?

I fear that this Haitian experiment could be very costly, because the evidence indicates that our forces have indeed been spread too thin. That's a dangerous position at any time, but being distracted by this voodoo to-do makes the danger to our real national interests far greater still.

More than a year ago, in a September 1, 1993 speech at the Heritage Foundation, I warned about just such circumstances. I said then, and I repeat today, that the morale of our sailors, soldiers, Marines, and airmen is essential to an effective fighting force. Yet, by not diminishing the calls on our service people, while at the same time reducing the size of our forces, we directly threaten that morale by ensuring longer and more frequent deployment of a smaller number of ships, planes, and armament.

In that same speech, more than a year before we deployed not one but two aircraft carriers to subdue the great Haitian superpower, I warned against just such an invasion. I quoted Mr. Aristide, accurately, as encouraging the necklacing of opponents with burning, gasoline-soaked tires, calling it chic, classy, elegant and snappy. "It smells good," he said, "and wherever you go you want to smell it." Then I asked the key questions, which still reverberate around this mission:

> Is Aristide worth the risk of a single American life? Will President Clinton wish to explain the death of an American serviceman or woman killed on this mission to his or her mother?

The answer, then and now, is a resounding no.

Two weeks ago, on the day before the planned invasion, I repeated my arguments on a national radio response to President Clinton. I said that even if Mr. Aristide were more to our liking, Haiti still would be a quagmire not worth hundreds of millions of dollars of our tax money, much less American lives.

Mr. Speaker, now, though, our troops are there watching as Haitians kill Haitians, themselves being forced to kill Haitians when provoked, aware of the comparison to Somalia, and risking their own lives in the process.

For the RECORD, I submit three columns, including one by former Secretary of State Henry Kissinger and another by Donald Lambro of the Washington Times, both of which argue that we should exit from Haiti as soon as is humanly possible. I endorse their reasoning and add my own strong belief that Haiti is a dangerous distraction and a waste of military resources already spread too thin.

The third article suggests, unfortunately, the likelihood of civil war in Haiti once Aristide returns.

Mr. Speaker, Mr. Aristide has $39 million left in his bank account. Instead of wasting it on his own comfort and his slew of high-priced lobbyists, he should use it to hire his own soldiers. Meanwhile, we in America should withdraw our fighting men from Aristide's island, before the civil war begins, and save them for causes more worthy of the world's only remaining superpower.

If we don't, America can become a paper tiger, incapable of confronting other more meaningful challenges on the geopolitical stage.

We must not let that happen. Let's remedy this foolish mistake and get our troops out fast.

Mr. Speaker, the documents referred to in my remarks are as follows:

OUT OF HAITI—FAST

(By Henry Kissinger)

The ink was barely dry on the agreement negotiated by President Carter's team in Haiti when second-guessing developed. It came as a shock to many that the administration postponed its proclaimed goal of overthrowing the junta and that the landing in Haiti was brought about with the cooperation of leaders described by President Clinton as mass murderers only 72 hours earlier.

But the criticism should focus not so much on the culmination of the crisis as on the policy that left no other option except military invasion by a high-tech superpower of a practically unarmed country and the poorest nation of the Western Hemisphere. The agreement negotiated by the Carter team saves American and Haitian lives, removes the Haitian junta, albeit with a slight delay, and returns the deposed elected leader, Jean-Bertrand Aristide, to power, sacrificing only grandiloquent statements that should never have been made. Most important, the brief interval in which these changes take place provides an opportunity for sober reflection about just how deeply America should launch itself into the Haitian morass.

In my view, any prolonged military occupation must be avoided; another attempt at nation-building will trap us in an endless enterprise before it ends in a fiasco. Too much has already been staked; some relationship between means and ends must be reestablished.

The basic dilemmas of postwar American foreign policy have been the result of enterprises undertaken lightly, with little if any opposition and from which extrication proved hellishly difficult. The Carter mission has eased the entry of American troops—a success that is also an admission ticket to the far more complex danger of American forces finding themselves engulfed in the passions and conflicts of Haitian factions much more practiced in violence than in pluralism and which may yet undermine the agreement. A prolonged U.S. military occupation of Haiti would almost guarantee that the hatreds accumulated over decades would overwhelm the purposes for which we entered.

I have always had grave doubts about military intervention to restore Aristide. That America should favor an elected president over the murderous junta was inherent in our values, and justified diplomatic pressure and embargoes of the kind that had, after all, contributed to the overthrow of the Duvalier dictatorship. But American lives should be risked only when there is a demonstrable threat to the national security, on behalf of clearly defined objectives and with forces proportionate to the objective.

The administration policy failed all three tests. Haiti posed no conceivable direct threat. Contrary to administration statements, the junta represented no model any Western Hemisphere nation might be tempted to follow. The stated objectives were vague, and the force deployed was disproportionate to any sensible goal. When CNN shows daily briefings by the press officer of the American Embassy in Port-au-Prince describing locations from which to view the planned invasion of the country to which he was accredited and promising the arrival of additional personnel to handle the overflow demand for invasion coverage, the argument that the threat represented by Haiti cannot wait for the operation of less drastic measures becomes hardly plausible. (Moreover, it raises the question of how to curb public relations efforts whose proconsular character undermines America's relations with the other nations of this hemisphere.)

Ambassador Madeleine Albright's invocation of moral absolutes that transcend all practical considerations is belied by the actual record. The administration did not intervene in Bosnia or Rwanda, where the atrocities were far greater; in Rwanda, President Clinton stood apart from genocide with the argument that America could not serve as the world's policeman and that it had no national interest in that part of Africa. The current administration, like any other, cannot escape the need for selectivity.

Thus the principal achievement of the Carter mission is that it provides a graceful exit from becoming engulfed in the vortex of Haitian domestic politics. It is senseless to talk of the "restoration" of democracy in a country that has never known democracy, or to equate the fact that Aristide was elected with a certificate of democratic practices—as Sen. Nunn has wisely pointed out. To turn Haiti into a pluralistic society may take a decade or more and cannot be achieved by military occupation.

Even the limited task of disarming Haiti's armed forces implies difficult decisions: How, when and by whom is the army to be disarmed or restrained? To whom do we provide protection once Aristide is back in power? What precisely are the terms of the amnesty and which parliament approves it—the existing one or that emerging from future elections? Will Aristide abide by the amnesty despite his opposition, and what is America's obligation to enforce the Carter agreement?

Nor can the dilemmas of a prolonged military operation be avoided by turning nation-building over to the United Nations. I hope that President Clinton was speaking euphemistically when he presented America's policy on Haiti as relfecting some kind of international political consensus. For the international support we elicited was a tribute to America's power, not to its purposes. With the exception of Argentina, it included not a single major country of Latin America. Most of the nations participating from outside the hemisphere do so because of the economic strength of the United States, as a quid pro quo for past or future American security assistance, or to gain some influence over actions they far from approve. Neither Bangladesh nor Israel has heretofore exhibited any major political and security interests in the Caribbean. Thus there is no other group to which this assignment can be turned over. International support of a military occupation may provide a few auxiliaries and a modicum of financial help. But in the real world, the military occupation of Haiti will remain America's problem.

The artificial nature of this international support has already levied an exorbitant toll. One of the most hallowed principles of American foreign policy has been to keep the military power of other continents out of the Western Hemisphere. From the Monroe Doctrine to the 1947 Rio Treaty setting up a collective security system for the Western Hemisphere and in the decades since, every U.S. administration has insisted that hemispheric problems be settled by the nations of this hemisphere. Yet the administration recoiled from involving the institution specifically designed for that purpose—the Organization of American States—because it realized that our partners in this hemisphere would never approve military intervention, though they would and did support diplomatic and economic measures short of it. Appealing for the military assistance of nations outside the hemisphere on an inter-American issue sets a precedent that future American administrations may well come to regret.

Another such booby trap is inherent in the Security Council resolution authorizing the use of force for the purpose of replacing the Haitian junta, a resolution that passed with Russian support. The precedent for Moscow's ambitions in what Russia calls the "near abroad" is hard to miss—the worrisome policy of forcing the republics of the former Soviet Union to return to the imperial fold. That this tacit quid pro quo is understood in Washington is reflected in pronouncements by Ambassador Albright and President Clinton stating that each major power has a special responsibility for peace-keeping and stability in "its own back yard."

It is a dangerous doctrine. America's actions in Haiti, however ill-advised, do not affect overall security. America's interventions in this hemisphere have been short-lived; Russia's military advances have tended to be permanent. They are certain to rekindle ancient fears and tensions. Three conclusions follow.

America's military presence in Haiti ought to be brought to a rapid conclusion, preferably by the end of this year. We will have restored an elected president. By then, we will have disarmed or neutralized those Haitian armed forces threatening his rule. Aristide should be able to maintain himself after that by his own efforts, helped by generous American economic aid.

If our armed forces stay beyond this mandate, they will either become spectators in a bloody spectacle or participants in struggles where it may not be easy to tell which side to back—rebellious crowds or forces appearing in the guise of law and order. In the end, even Aristide will turn on the United States, if only to demonstrate that he is a genuine nationalist and not America's instrument—a tendency already implicit in his conduct.

Once American forces—except for a small training mission—are withdrawn, the remaining tasks can be assigned to inter-American institutions, which, when freed of the Latin American fear of U.S. military intervention, could prove quite effective. Governmental reform could be assigned to the OAS, economic assistance to the inter-American financial institutions—backed up, of course, by a continuing U.S. interest.

The Haitian crisis provides an occasion for the administration to review the practices that have produced such stark alternatives and such an obsession with public relations. Symbolic of these tendencies is the decision to launch the 82nd Airborne Division while American emissaries were still on the ground in Haiti. Given the possibility of glitches in any military operation, what was the hurry? What if the Haitian junta had not yielded, the attack had proceeded, and Carter's plane had blown a tire on takeoff? What if the junta, learning of the launch—as it is said to have done—had taken the American delegation as hostages? Surely there was no need for surprise when the projected landing sites could be seen on television. If the purpose was to land before Congress could pass a resolution of disapproval the next day, the enterprise marked an astonishing disintegration of the executive-congressional relationship.

It is painful to come to such conclusions while a military operation is underway. But the greatest risk we now face is an open-ended commitment of military forces to tasks for which they are not designed. The greatest need is a bipartisan reassessment of our foreign policy and above all a prudent definition of the circumstances in which American power is to be engaged.

IF PAST COMMENTS ARE PROLOGUE

(By Donald Lambro)

As debate over Bill Clinton's long-term military occupation of Haiti intensifies, little attention is being paid to what will happen when exiled Haitian President Jean-Bertrand Aristide is restored to power.

Now, as the countdown nears the Oct. 15 deadline when Haiti's military rulers must relinquish power, some long overdue attention may begin to focus on this leftist revolutionary whose heroes include Fidel Castro's henchman Che Guevara, Chile's Marxist President Salvador Allende and the French Revolution's Maximilien Robespierre.

Most Americans are justifiably opposed to occupying a nation that has been a hotbed of political turmoil and bloodshed over its nearly 200 years of independence. We have no national security interests in Haiti and do not belong there.

But beyond the obvious risks to young U.S. servicemen in Haiti, we might also consider the disastrous economic consequences that are certain to flow from the anticapitalist, class-struggle policies that Mr. Aristide intends to impose on his country.

Haiti is one of the most impoverished countries in our hemisphere, made even poorer by Mr. Clinton's misguided economic sanctions.

What will likely follow will be years of continued poverty, desperation and further unrest, only this time the United States will be the one imposing the sentence upon the poor people of Haiti.

Only someone like Mr. Clinton, who has played the politics of class envy and believes there is a government solution to every problem, could put the United States in the position of supporting such a bizarre and radical figure who loves socialism and hates capitalism.

Most Americans know little about the man we are putting back into power because the Clinton administration has chosen to keep the focus away from his past, and the national news media has gently treated him as a benign political figure.

But an examination of Mr. Aristide's past statements "raises serious questions about whether the United States should be betting the lives of Americans and its international credibility on him," says foreign policy specialist Lawrence Di Rita in an eye-opening analysis for the Heritage Foundation.

He is bitterly anti-American and has spoken lovingly of incinerating his political enemies with gasoline-filled tires placed around their necks, a tactic known as "necklacing."

Consider these coldblooded remarks from an address that Mr. Aristide gave at the National Palace that was broadcast over Radio Nationale in Port-au-Prince on Sept. 27, 1991:

"What a nice tool! [Necklacing] What a nice instrument! [Loud cheers from crowd.] What a nice device! It is a pretty one. It is elegant, attractive, splendorous, graceful and dazzling. It smells good. Wherever you go, you feel like smelling it. [The crowd cheers.]"

Little wonder that this former Roman Catholic priest was dismissed from his order in 1988 for "incitement to hatred and violence." His passion for hate did not change when he went into politics.

"Although elected democratically, Aristide governed quite undemocratically," says Mr. Di Rita. "He established a reputation, in the words of New York Times correspondent Howard French, as 'an insular and menacing leader who saw his own raw popularity as a substitute for the give and take of politics.'"

His far-left brand of economics also tells us much about his hatred for the United States and the direction in which he wants to take Haiti. Consider these statements from his autobiography:

"Socialism in Haiti is not a new thing: Its practice is rooted in the period of our first independence."

"The colonial powers, including the United States, must make amends for the wrong inflicted on the colony or protectorate in those days. The debt experts, when they speak of our liabilities, need to add up the second column of their own accountability."

"Economic efficiency is not compatible with justice, except at the price of a permanent struggle against all the seeds of corruption."

"Economic liberalism, which democrats and technocrats have made a panacea, I find intolerable."

"The wealthy have often become what they are by virtue of exploiting others."

Here is Mr. Aristide on the men he most admires:

"I did not invent class struggle, no more than Karl Marx did. . . . But who can avoid encountering class struggle in the heart of Port-au-Prince.

"I . . . welcome those ideas that rest on the values of beauty, dignity, respect and love. Che Guevara . . . certainly incorporated some of those values, as did Allende. . . . I feel more affection and sympathy for them than I do for many others."

"There is no question that there are common denominators between us and the makers of the French Revolution. . . . How much I owe to the makers of the French Revolution!"

Is this the man and are these the ideas that are worth risking one American life? Apparently Bill Clinton thinks so. What do you think?

ARISTIDE OPPOSES BLANKET AMNESTY; CEDRAS SAYS HE SEES CIVIL WAR POSSIBILITY

Haitian President Jean-Bertrand Aristide said today he opposes blanket amnesty for the military rulers who overthrew him. Aristide said on CNN that he holds Haiti's military responsible for thousands of deaths and he urged the Haitian parliament not to grant blanket amnesty for those crimes. Aristide said he favors amnesty only for political crimes committed against him at the time of the coup in September 1991.

Meanwhile, Lt. Gen. Raoul Cedras said on CNN: "I see the specter of civil war in this country now. . . . People in this country are very scared. Many people do not want peace, do not want reconcilation."

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VACATION OF SPECIAL ORDER AND REQUEST FOR SPECIAL ORDER

Mr. DORNAN. Mr. Speaker, I ask unanimous consent to vacate my special order for 60 minutes tonight and request a 5-minute special order following the gentleman from Indiana [Mr. BURTON].

The SPEAKER pro tempore (Mr. ROEMER). Is there objection to the request of the gentleman from California?

There was no objection.

LOBBYING DISCLOSURE BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MICA] is recognized for 5 minutes.

Mr. MICA. Mr. Speaker, I come before the House this evening to talk for a few minutes about the lobbying disclosure bill that was passed by the House today. I had just 2 minutes to speak very rapidly when the measure was before the House and I made some points there that I wanted to elaborate on this evening.

First of all, the title of the bill, as I said, is the Lobbying Disclosure Act of

1994. The American people really deserve under our system to know that a piece of legislation that passes this body does indeed do what the title says. As I pointed out in those remarks, and I want to point out again tonight, that bill that passed this House really does not do what the title states. It does not provide more disclosure.

For example, let us just take a few minutes here and look at what the bill does. Is it more or less disclosure if you decrease the reporting periods from four times a year, that is quarterly under the current law, to two times per year? What is the intent of this disclosure law?

The intent is to know more about how money is spent to influence or pass legislation in this Congress. Does this bill in fact provide more information and more disclosure or less, reporting twice a year instead of four times a year? I submit very simply it gives less information, gives the public, the media and others who are interested in how legislation is influenced and passed in this body less information, less disclosure.

Let us take the second point that I raised today, a criminal versus civil penalty. Under current law there are criminal penalties. Unfortunately, there are also weak enforcement provisions in the current law. But which is stronger, criminal or civil penalties? In the bill that passed this House today, there are civil penalties that are replacing criminal penalties, so we have actually less enforcement potential and less penalties under this bill that was passed by the House today.

Now let us look at the final issue here of disclosure. Are we going to have more people report or less people report? There is a 10 percent of your time expended in lobbying provision in this bill. That provides in my estimation a great loophole, and I said it some months ago when this was before us, that it is big enough to drive a lobbyist's limousine through. There are 23,000 attorneys in this town, and they are looking for relief from this bill. So what did they do? They put in here a little provision that said 10 percent of your time. The larger the law firm the better advantage this type of legislation.

I said then and I say now if you get 10 cents, a simple dime for lobbying or influencing legislation and you are paid for it, why not report it? But this bill does not do that.

Then let me talk also about the trips that have been on television and before the public. This only defines the amount of time. This does not eliminate those trips. If you can do a golf exercise or whatever you do, and fortunately I am not a golfer, but those that golf can still go. Do not be fooled into thinking that that is banned by this bill. It is just confined in the amount of time.

So there is less disclosure, there is less information, there is less reporting, and there is less penalty.

The gift ban I agree with, and I said I agree with it. If we want to ban all gifts, I think that that sets a fine standard for this body and is acceptable. But this is the Lobby Disclosure Act of 1994. It does not disclose, it again, and I heard this repeated here today that we have to do something about perception, it only deals with perception. It does not deal with real reform, and it will create even more cynicism toward this body and toward this institution that I have grown to love and respect during my 2 short years as a Member here.

So Mr. Speaker, I submit this additional evidence that we made a mistake in judgment here, and it is a sad mistake because this institution is a great institution and we should be doing a better job to reinforce its standing with the American people.

LOBBYING DISCLOSURE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. HOKE] is recognized for 5 minutes.

Mr. HOKE. Mr. Speaker, I rise to speak about this Lobbying Disclosure Act today, and I want to share with the House and with the public a couple of ideas I really think ought to be pointed out.

It is a fact that somewhere between 25, 30, and 35 Members at the most in this House do not accept any contributions from political action committees, special interests for their campaigns. So it is a very small number of us. I am one of them that refused to accept these campaign contributions.

But all of this talk that we have heard today about lobbying reform and gift reform, while some of it is good, some of the legislation is good, some of the legislation is bad, the fact is that it really is a side show to the real problem with respect to who owns influence buying and influence peddling in the United States Congress, and that is the mechanism that has been set up through political action committees which actually do in fact purchase over a period of time first of all access, second of all influence, and finally, ultimately votes on very narrow, specific pieces of legislation that they want to see passed. And when we spend all of this time and energy and effort talking about lobbying reform and gift reforms for $20 gifts, it may very easily have the tendency to confuse the American public about what the real problem is.

The fact is that $200 million was spent in the 1992 cycle on special interest contributions to political campaigns in the U.S. Congress. That is $200 million, an average of a quarter of a million dollars per candidate per campaign, a quarter of a million dollars. That is where the real problem is. That is where the influence gets purchased. That is why special interests have such a death grip stranglehold on this House of Representatives, and that is why, in part, this House is able to continue to bring across legislation that is so unreflective and unrepresentative of the wishes, the hopes, the desires and the aspirations of the American public.

□ 2000

So let us call it what it is. Let us be truthful about the situation. The situation is that, yes, it is probably just as well we eliminate gifts completely. Yes, we should not be in the business of taking trips, and that is good legislation, as well; and, yes, there should be some tightening down of lobbyists' ability to entertain, perhaps.

But that is not the real problem; $20–$30 meals are not where the influence is purchased. Because every single Member of this House wants one thing more than anything else, and it is very bipartisan, and that is to get reelected, to come back here. When you have that motivation combined with the kind of money that is paid to campaigns in order to get people reelected, and as we have become more and more dependent upon the political action committee function of special interests for the financing of these campaigns, that has a very insidious influence and a very insidious impact on the way that legislation gets fashioned, crafted, and finally voted on in this House.

I think that it is very important for all of us in this house to be reminded of that fact, and it is even more important for the American people to know that while, yes, there is probably on balance more good than bad in the bill that was passed today, and, yes, there are some technical things that need to be done to fix it, the fact is we have not begun to go after the real problem, and that is political action committee influence that is purchased for special interests every single election cycle.

IN HARM'S WAY IN HAITI

The SPEAKER pro tempore (Mr. ROEMER). Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, today a hand grenade was exploded outside the mayor's residence in Port-au-Prince, Haiti; five people were killed, and a large number were injured, and very close by was an American unit. I understand, fortunately, none of those people were maimed or killed.

But the fact of the matter is they are in harm's way down there, and it is just a matter of time until American young men and women are killed or maimed. The number is something we just cannot predict right now. But there are going to be some young Americans killed or maimed down there, and it is unnecessary.

The thing that is most disturbing to me today is an item brought to my attention by my colleague, the gentleman from California [Mr. DORNAN], in an article that was in the Washington Times, and it is very disturbing, because it infers very clearly, in fact, it states very clearly that the President put our troops in harm's way for political purposes.

Let me read what was said. Dante Caputo, the former Special U.N. Envoy on Haiti, said that he had talked to Strobe Talbott, the Deputy Secretary of Defense, and Strobe Talbott had indicated they were going to put troops in Haiti because they had to get the President's political ratings up, and it would show he had some expertise in foreign affairs, which the press and others had said he did not have because of Somalia and other things.

Let me just read a couple of things that were in the article. The story said:

> Mr. Caputo had reported back to his boss, U.N. Secretary General Boutros Boutros-Ghali, that the administration had made up its mind in the spring.

in the spring,

> to invade Haiti and believed it would help Mr. Clinton to stem the criticism of his foreign policy. Mr. Caputo, in memos to Mr. Boutros Boutros-Ghali and later in a meeting with Canadian Foreign Minister Andre Ouellet, reported on meetings he had with Mr. Talbott. He said United States positions such as laid out by Mr. Strobe Talbott, "Haiti represents a test case for which the United States has to have found a solution before November." He went on to say in another memo administration considers that an invasion is its best option. He went on to say the lesser evil and a chance to show after the strong media criticism of the administration the President's decisionmaking capability and the firmness of leadership in international political matters.

Now, this gentleman, I understand, has impeccable credentials, and he is a man of integrity. That being the case, he is not lying; he is telling the truth.

Now the gentleman from Pennsylvania [Mr. WELDON], our colleague who I was hoping would be back here by now, has put into the CONGRESSIONAL RECORD several copies of these memos, I just alluded to.

Mr. DORNAN. Will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from California.

Mr. DORNAN. I went over to my office and got them, and they are going to be placed in the RECORD at the conclusion of this special order by the gentleman from Indiana [Mr. BURTON], and although they have "Confidential" at the top, they are not confidential anymore. They have been published in the New York Times and other papers. We will put in all of them at this point.

[Confidential]

Attention: The Secretary General.
From: Dante Caputo, RSSC

Over the past fifteen days, I had the pleasure of meeting several times with Strobe Talbott and other officials of the American State Department. I also had some meetings in Paris with M. Alain Juppé, Minister of Foreign Affairs and in Ottawa with Mr. André Cueller, Minister of Foreign Affairs. Moreover, I was able to have some informal conversations with other areas of American political life.

The conclusions that I am drawing today are as follows:

1. The U.S. administration considers that an invasion of Haiti is its best option.

2. The principal objection to this type of action comes from the act that "if it is easy to initiate this type of action, it is more difficult to exit from it."

3. In order to resolve this dilemma, the U.S. administration will seek to act in the following manner:

(a) set up a unilateral action, a surgical action, with the eventual participation of several countries in the region so as to give it a certain legitimacy;

(b) put President Aristide back in power;

(c) It will seek a quick replacement of the armed intervention forces by the [illegible] whose mandate and structure will have been redefined beforehand.

4. This strategy would allow it to capitalize on the experience with such an operation, transferring the political cost on the UN.

5. In the same fashion, the President of the United States' main advisers are of the opinion that not only does this option constitute the lesser evil, but that is politically desirable. Thus we think that the current opposition of public opinion to an armed intervention will change radically, once it will have taken place. The Americans see in this type of action a chance to show, after the strong media criticism of the administration, the President's decision making capability and the firmness of leadership in international political matters.

6. The position of the friendly countries vis a vis this strategy is the following:

FRANCE

France is opposed to the use of force be it multilateral or unilateral. It is ready to participate in a MINUAH under the terms foreseen in July, 1993, that is to say, technical assistance and participation in forming a police force. In an explicit manner, France is opposed to participating in whatever activity that would imply direct police action.

France considers that it is urgent that a meeting of the Four Friends take place at the department head or under secretary level, preferably in New York.

France insists as well on Argentina's participation as a fifth friendly country given that it is a member of the Security Council.

CANADA

Canada does not wish to participate in a multilateral armed intervention force. Canada thinks that in the present situation, there is probably no other alternative to that which the U.S. administration will adopt. In this perspective, according to Minister Quellet, our problem will consist of knowing how to "manage" this new reality. Canada seems equally disposed to participate in a MINUAH whose mandate will have been redefined. Canada also considers it urgent to call a meeting of the Four Friends.

7. The permanent U.S. Mission has undertaken the necessary steps so that the Security Council comes to a decision very soon on the MINUAH's mandate and structure.—May 23, 1994.

REPORT OF A DISCUSSION OF THE SECRETARY GENERAL WITH HIS SPECIAL REPRESENTATIVE FOR HAITI AT THE UNITED NATIONS HEADQUARTERS, TUESDAY, MAY 24, 1994 AT 6:30 PM

Present: The Secretary General, Mr. Gharekhan, Mr. de Soto, Mrs. Green, Mrs. Seguin-Horton.

Subject: The situation in Haiti. Possibilities for a military intervention by the United States.

The Secretary General says to Mr. Caputo that he's well aware of his last summary report.

Mr. Caputo explains that he did not dare present any options and policies to the Secretary General in this report. The fact is that he had lately a large number of informal consultations that are all going in the same direction: The Americans will not be able to stand for much longer, until August at the latest, the criticism of their foreign policy on the domestic front. They want to do something; they are going to try to intervene militarily.

The Secretary General wonders if President Aristide could invoke Article 51 of the Charter in order to call for a military intervention.

Mr. de Soto says that the constitution prevents him from doing so.

Mr. Caputo thinks that after having asked for the intervention, Mr. Aristide will condemn it. Moreover, the United States, that wants to obtain the Security Council's blessing, is now actively studying the means to accord a legal protection to this affair.

Mr. de Soto recalls that this idea recently provoked a general protest among the OAS.

What can the United Nations Secretariat do, either to avoid or to encourage this intervention?, asks the Secretary General.

Mr. Caputo predicts a disaster. The United States will make the UN bear the responsibility to manage the occupation of Haiti. "With Aristide as President during two or three years, it will be Hell!" It is not so much the armed intervention itself that we have to avoid. What we do not want, is to inherit a "baby". For the Americans' are fixing to leave quickly. They would not intervene if they had to remain.

Mr. Gharekhan asks Mr. Caputo what he understands by leaving "quickly". One month, replies Mr. Caputo. Who is going to replace the Americans?, asks the Secretary General.

"Us", replies Mr. de Soto. The Americans will be applauded and the dirty work will come back to the U.N. The only thing that could discourage the United States would be to not obtain any contributing countries for mounting a multinational operation.

France, according to Mr. Juppé, is opposed to it, confirms Mr. Caputo. As for Canada, it is committed to strictly limiting its contribution to the formation of a new Haitian police.

The Secretary General believes that in making an effort, the United States will be able to manage to obtain 2,000 French-African troops and a few troops from the Caribbean.

Mr. Caputo says that the United Nations would have to work with a complex force and that it would be difficult for it to mount an operation in a one-month period. The Latin American countries are not ready to contribute. Mr. Caputo knows that Argentina, for example, is not very favorable to this idea. He also doubts that Mexico, Brazil or Venezuela would be tempted.

This scenario would be fraught with consequences for the United Nations as well as for this region of the world. Dante Caputo emphasizes that it is harmful that at the conclusion of the cold war, no other answer can be found for such a crisis.

In answer to the Minister's question about the consequences of the American intervention in Panama, Dante Caputo replies that it concerned a different time where the cold war was still taking place. Today, we are right in expecting that other types of means be activated. The United Nations will be perceived as being impotent before the region's problems. They will have to face up to a particularly difficult post-intervention situation.

To the Minister's question about the existence of another alternative, Dante Caputo replies that the United States acted as a brake to a diplomatic solution, creating a situation where the intervention became nearly inevitable.

The Minister remarks that actually, despite the goodwill of the United Nations, its credibility is jeopardized and the [Haitian] military leaders are "laughing at us." The Minister stresses the difficulties of a strict and effective implementation of planned sanctions and expresses its doubt over the possibility of a complete closing of the border.

The Minister shares Dante Caputo's appreciation of the need to make some arrangements in the event of a unilateral intervention. However, the Minister continues to affirm that Canada will not commit itself to hostile activities in Haiti. Canada is ready to favorably consider a United Nations request favoring a peace keeping operation with the view of consolidating a democratic regime, aid programs, and participation in a better equipped MUNUHA. Basically, the Minister concedes that only the United States can wrestle with the [Haitian] military leaders.

To improve our image relative to President Aristide, the Minister believes that the President should participate in the next meeting of the Four Friends. Regarding this meeting, Dante Caputo maintains that it would be preferable if it be held first of all without the President, and that he not participate except after the meeting. In the perspective of managing the post intervention situation, Dante Caputo thinks that it is important that President Aristide can consider himself to be an integral part of the Four Friends' action.

According to the Minister, President Aristide's credibility risks to be stained, if he restored after the U.S. intervention.

The Minister questions himself over the composition, nature and on the willingness of the countries that would be ready to participate in the MINUHA.

Dante Caputo emphasizes that France expressed the wish to participate in the formation of a police force in Haiti and is reticent to do "monitoring". Ambassador Préchette then recalls the difficulties encountered at the moment of recruiting the components of the operation's police force in 1993. Dante Caputo remarks that the question of this police force's role and mandate should be determined as a function of the whole and notes that the countries interested in taking part remain few, in addition to Canada, the United States, Argentina, and France.

The fundamental question remains the post-intervention role, multilateral action being put aside, indicates Dante Caputo. Ambassador Préchette replies that in effect, the United Nations will not vote for this type of action, but could be in favor of a "green light" for a coalition of States that would invite countries interested in toppling the [Haitian] military leaders if a very serious incident unfolded. Dante Caputo adds that this American initiative could be blocked by an internal decision process.

The Minister concludes the meeting by recalling that this is an emergency, that Canada wants to play a role, and that he will be guided by the advice and suggestions of Dante Caputo. In the probable case where sanctions would have no immediate effect and would act in the military leaders' favor, the Minister remarks that it would then be necessary to explain why sanctions are being maintained against Haiti.—Juliette Rémy, May 23, 1994.

The Secretary General recalls that in the past, the United States was able to show that it could mount a multinational force, if only in appearance. "Must we say that we think that a military intervention in Haiti would be negative?"

Mr. de Soto thinks that insinuating the possibility of an armed intervention is working to produce a certain effect in Haiti. The [Haitian] military leaders are nervous. * * * It would thus be politically dangerous to publicly discourage this menace.

According to Mr. Caputo, it must first be proposed that the President of the Security Council ask for a closing of the border between Haiti and the Dominican Republic. This measure will have a certain economic and psychological impact.

The Secretary General wonders how it is possible to really close this border. A very clear commitment on the part of the Dominican authorities must be required, replies Mr. Caputo. The Secretary General thinks that the Dominican government does not have the means to prevent infiltration.

Mr. Caputo considers that the land or sea routes can be controlled if the authorities accept to play the game. In this regard, Mr. Caputo informs the Secretary General that the Americans have proposed to him to accompany them tomorrow to meet President Balaguer in Santo Domingo. Mr. Caputo has not yet replied, but he thinks that he must accept this offer in order to show that he is being active on the diplomatic front.

Replying to a question from the Secretary General, Mr. Gharckhan makes the point that the Security Council specifically mentioned the border in his presidential declaration.

Mr. de Soto thinks that the other friends of Haiti must be made to participate at this meeting, if only through their ambassadors in Santo Domingo.

Moreover, Mr. Caputo pointed out that the Republicans have the tendency to keep their distance vis a vis the idea of intervening thinking that President Clinton would be committing a monumental error there.

Nobody can tell if such an operation will succeed or fail, notes the Secretary General. In addition to closing the border, continues Mr. Caputo, we will have to keep the same political framework set up two months ago if the United States requests.

The Secretary General asks Mr. Caputo if he still believes that after 17 month spent in his position, if the United States can conduct diplomacy. The Americans are still deeply divided on the Haitian question; there are supporters and detractors of President Aristide.

Mr. Caputo thinks that it is now or never to show the Americans that there is a political alternative to American intervention.

Mr. de Soto wonders if in fact Mr. Caputo should not go to Port au Prince to challenge the military leaders and try to convince Mr. Cedras, who pretends to be a "negotiator".

Mr. Caputo affirms that he is ready to go to Haiti. The problem is that if his visit fails, and that if it is accompanied by demonstrations by the BRAPH and by a definite "no" from Mr. Cedras, we risk provoking an armed intervention.

Mr. Gbarekahan thinks that, in effect, the Americans could feel justified to intervene.

According to Mr. de Soto, this would be the case if it were already August, but if we try now, we still have time, he says.

Mr. Caputo declares that he likes this idea because the United Nations seems to be making every possible effort on the diplomatic front on the condition, of course, of obtaining a meeting with Mr. Cedras. In reply to a question from the Secretary General, he has the means to contact him.

Moreover, Mr. Caputo points out that the French insist a lot on including Argentina in the Group of the Secretary General's Friends. Argentina, who was rather tepid two or three months ago, now seems interested in the question.

The French find in effect that the Argentina's presence would allow a better balance * * * Security Council, among the Group of Friends. Venezuela would not be excluded for as much.

Aware of the risk of displeasing Brazil who is also a member of the Security Council, the Secretary General proposes to use the criteria of Argentina's active participation in the search of a solution to the Haitian problem. Isn't Argentina a frigate that sails in the region to check on the embargo's enforcement?

Mr. Gharekton believes that he remembers that Mr. Goulding was totally opposed to this idea.

In answer to the Secretary General's question, Mr. de Soto says that Mr. Goulding thinks that including Argentina would bother Brazil.

Mr. Caputo suggests consulting Brazil.

Mr. de Soto points out that Mr. Lula da Silva, Brazil's presidential candidate, has come out in favor of intervention . . .

Summarizing the situation, the Secretary General proposes to act in the following manner: 1) Mr. Caputo reports tomorrow at Santo Domingo to discuss the border; 2) He makes contact with Mr. Cedras to set up an appointment with him; 3) He goes to Haiti to strengthen his credibility; 4) The Secretariat contacts Brazil to announce the decision to invite Argentina to be part of the Group of Friends, 5) The Secretariat invites Argentina.

Evoking the role of the United Nation's mission in Haiti (MINUAH), Mr. Caputo recalls that the American plan is to intervene, leave quickly and pass the torch to the U.N. But, if they saw how difficult it is to mount a UN operation on the spot, they would perhaps reflect some more before intervening.

Mr. de Soto emphasizes that the MINUAH mandates exists. The United States has met with officers from the [illegible] Department for Peace Keeping to study means of renewing, redefining, and strengthening the Mission. Replying to the Secretary General, Mr. de Soto indicates that the initial mandate foresees 700 to 800 men. The United States is in the process of broadening the scope of MINUAH to a mission, not only of technical assistance, but also one peace keeping. This would thus be a way to discourage the United States to intervene in showing them how difficult it is to set up the Mission that it would like to see following its intervention.

Mr. Gharakhan thinks that the Secretariat cannot highlight this difficulty since the

United States has the means to obtain the necessary troops.

The Secretary General fears that the United States will take a unilateral decision and that it will repeat the Somalian experience. The main question remains knowing what to do to avoid this unpleasant role for the United Nations.

According to Mr. de Soto, the Security Council's backing can be politically costly to the United States in so far as it will cause the United States to make concessions.

The Secretary General points out that the United States can even choose to leave forces behind.

Mr. de Soto says that the closest analogy is the one of Panama. The United States knows that the Latin American countries will protest out of principle while at the same time they will be relieved to get rid of Mr. Cédras.

Suggesting to proceed by stages, the Secretary General concludes that they agree on the five points mentioned above. These points already will allow for movement. Mrs. Green, having asked if Mr. Aristide was going to be contacted, the Secretary General replies in the affirmative. He agrees to telephone Mr. Aristide. He suggests to put off until later the more substantial reflections on the question, but keeps in mind the fact that there is a risk of escalation. It should not be forgotten that the Haitian people suffer because of those sanctions.—Fabienne Seguin-Horton, May 25, 1994.

[Confidential]

Note for the File—MEETING BETWEEN MR. DANTE CAPUTO, SREG FOR HAITI WITH MR. ANDRE QUELLET, FOREIGN AFFAIRS MINISTER OF CANADA, OTTAWA, MAY 19, 1994

Present: Mr. Stanley E. Gooch, Assistant Vice Minister, Latin American and Caribbean Desk, Mrs.; Louise Préchatte, Permanent Canadian Representative at the United Nations.

After being warmly welcomed by the Minister. Dante Caputo stresses, first of all, the different options for a solution and relates, for the Minister's benefit, the reactions observed in Paris and Washington. The first option consists of waiting for sanctions put in place to produce the desired effect: the military leaders' departure. In this regard, France and the United States have the same worry of seeing that the border between the Dominican Republic and Haiti be hermetically sealed.

However, stresses Dante Caputo, the United States would not be ready to wait several months for this to produce the desired effect. The second option, consists of using the sanctions as an instrument to support a political strategy. France is in favor of such a scenario and, in this regard, supports the idea of a high level meeting of the Secretary General's Four Friends Countries. The third option consists of using unilateral force, multilateral force, or a combination of the two. France is opposed to this. Concerning the United States position, such as laid out by Strobe Talbot, Dante Caputo thinks that time is short, and that the situation today cannot last beyond July. Dante Caputo emphasizes that Haiti represents a test case for which the United States has to have found a solution before November. The United States supports the return of a reinforced MINUAH (self defense, protecting sites) without specifying the probable means for the [Haitian] military leaders' departure.

Dante Caputo gives his personal impression of the strategy that the United States would get ready to implement. According to him, the United States cannot wait any longer to obtain the benefits of an action in favor of Haiti for a just cause; it would intervene punctually in order to then cede its place to the MINUAH.

This scenario would be fraught with consequences for the United Nations as well as for this region of the world. Dante Caputo emphasized that it is a shame that at the end of the Cold War, another response cannot be given to a crisis of this type.

To the minister's question on the consequences of the American intervention in Panama, Dante Caputo responded that it was a different time, when the Cold War was still a reality. Today, one has the right to expect other types of means to be implemented. The United Nations will be perceived as being powerless regarding the problems of the region. It would have to deal with a particularly difficult post-intervention situation.

To the minister's question on the existence of another alternative, Dante Caputo answered that the U.S. has served as a restraint for a diplomatic solution, creating a situation where intervention has become almost inevitable.

The minister remarked that in fact, despite the good will of the United Nations, its credibility is being questioned and the military is laughing at us." The minister underlined the difficulties of a strict and effective implementation of the sanctions planned and shared his doubt regarding the possibility of a total closure of the border.

The minister shared Dante Caputo's view regarding the need to take steps in the case of a unilateral intervention. Nevertheless the minister stated that Canada will not engage in activities hostile to Haiti. Canada is ready to favorably study a U.N. request for a peace-keeping operation, with a view to consolidating a democratic regime, assistance programs, and participation of a better equipped U.N Mission for Haiti. Basically, the minister conceded that just the U.S. can engage in arm wrestling with the military.

In order to improve our image regarding President Aristide, the minister felt that the president should participate in the upcoming meeting of the four friendly nations. Regarding this meeting, Dante Caputo stated that it would be preferable for it to take place initially without the president and that he not participate except subsequent to the meeting. In the perspective of the question of the post-intervention situation, Dante Caputo felt that it is important that President Aristide be able to consider himself an integral part of the action of the four friendly nations.

According to the minister, if he is reestablished after the U.S. intervention, President Aristide's credibility risks being blemished.

The minister asked about the composition, nature and will of the countries that would be willing to participate in the U.N. Mission for Haiti.

Dante Caputo emphasized that France has expressed the desire to participate in the formation of the police in Haiti and shows a reluctance to doing monitoring. Ambassador Frechette then recalled the difficulties encountered at the time of recruitment of the elements of the police for the 1993 operation. Dante Caputo remarked that the question of the role and mandate of these policemen should be determined according to the panorama and noted that the countries interested in participating are few, namely Canada, the U.S., Argentina and France.

The basic question is the post-intervention rule, multilateral action being rejected, Dante Caputo indicated. Ambassador Frechette responded that in fact, the U.N. will not vote for this type of action but it could be in favor of a "green light" for a coalition of states that would invite the countries interested in removing the military from government, if a very serious incident took place. Dante Caputo added that this American initiative could be blocked by an internal decision-making process failing.

The minister concluded the meeting by recalling that there is urgency, that Canada is anxious to play a role and that it will be guided by the advice and suggestions of Dante Caputo. In the probable case where the sanctions did not have an immediate effect and worked in favor of the military, the minister remarked that it would then be necessary to explain why the sanctions are being maintained against Haiti.—Juliette Rémy, May 23, 1994.

Mr. BURTON of Indiana. I appreciate my colleague bringing those to the floor. As I said before, the gentleman from Pennsylvania [Mr. WELDON] put them in the RECORD, I believe, previously.

Let me just say this, if this is true, if this is true, Strobe Talbott, the Deputy Secretary of State, should be summarily fired, removed from his position, because they have intentionally put our young people in harm's way for political purposes and for no other reason.

Almost 80 percent of the American people did not want our young people sent to Haiti, because there was no national interest. Over 75 percent of the Congress did not want our young people in Haiti, and yet the President went to the United Nations and got the approval of Boutros Boutros-Ghali without coming to the Congress and decided by himself to send our troops down there.

Now we find out that he did it for political purposes, and it was planned back in the spring of this year.

I want to tell you, Strobe Talbott should be fired. I am going to send a letter to the President tomorrow signed by many of my colleagues, I am sure, asking for his resignation.

Mr. DORNAN. I will sign it.

Mr. BURTON of Indiana. In addition to that, the President should be taken to task if that was his purpose in putting our troops down there. They are in harm's way. Some of them undoubtedly are going to be killed or maimed, and this guy is doing it for political purposes. That is unthinkable, unthinkable.

Mr. DORNAN. Here, I say to the gentleman from Indiana [Mr. BURTON], is a line from these memos. Some of these memos are meetings with Mr. Caputo and the French Ambassadors up at the United Nations their staff. By the way, everybody up there is paid their massive salaries tax-free from every country in the world including the United States of America; actually, to get around theirs being tax-free, we pay their taxes, the U.S. taxpayer.

UNITED STATES TROOPS IN HARM'S WAY IN HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, we will just continue the colloquy started by the gentleman from Indiana [Mr. BURTON].

One of the memos that I put in before, and the gentleman from Pennsylvania [Mr. WELDON] has put in, here is a meeting between Daniel Caputo, who by the way answers to Boutros-Ghali as one of our American professional U.N. people up there, and he has a job, or, no, with Mr. Andre Ouellet, Foreign Affairs Minister of Canada, so he is meeting with big people up there.

Mr. BURTON of Indiana. If the gentleman will yield, as I understand it, Mr. Caputo has resigned his position at the United Nations because of this affair.

Mr. DORNAN. Yes; yes. I do not know he got around the confidentiality of these memos unless he was the one who declared them confidential, but the one with the French representatives up there is very definitive. The French say they do not want an invasion or occupation of their former French colony, two centuries ago, 1804, but it is the only French-speaking nation in all of this hemisphere except two little Canadian islands in the mouth of the St. Lawrence, and then the two colonies, Guadalupe and Martinique that answer directly with independent departments, the French call them, to Paris.

But listen to this again:

> The Americans will not be able to stand for much longer press criticism until August at the latest the criticism of their foreign policy on the domestic front. They want to do something. They are going to try and intervene militarily. Mr. Caputo predicts a disaster. The United States will make the U.N. bear the responsibility to manage the occupation. With Aristide as President, doing 2 or 3 years, there will be a hell. It will not be so much the armed intervention itself that we have to avoid. What we do not want to do is inherit a "baby" for the Americans are fixing to leave quickly. They would not intervene if they had to remain.

Clinton himself said on the news the other night we are going to be out fast. I am not going to give out names or even hint with States or titles, but a senior, senior high-ranking Democrat chairman, and I am not going to say subcommittee or committee, in the corner of the House in my presence, with two other Democrats that I respect were all there together, that he thinks we are in an absolute disaster, that Americans will be killed, and he says, "My party," the Democrat Party, "will take a bath in the elections on November 8 like we cannot believe." He looks right at me, and he does not care. I am not giving out any names. That is a fact. What a horrible thought to contemplate.

I am praying for a miracle that Plato is wrong that only the dead have seen the end of war. I am praying that with Aristide saying no amnesty on today's ticker tape, and I have got it right here, Raoul Cedras predicting a civil war in and around our young men and women, a civil war. I am praying for a miracle that God will not harm, allow to be harmed, or killed, one American soldier. It is going to have to be a miracle.

Fifteen thousand-sixteen thousand people from Cap-Haitien out on those two long peninsulas, on Gonave Island, and not have some American hit by a grenade or some loose fire from some wild firefight? This is a ghastly situation. I called it yesterday the La Brea tar pits. This mammoth superpower is like a woolly mammoth caught in the tar in a firefight. It is unbelievable.

Mr. WELDON. If the gentleman will yield, there are two points I wanted to make. I apologize for being late.

The first is we have been getting nothing but misinformation on the situation in Haiti, which really offends me.

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This mammoth superpower is like a wooly mammoth caught in the tar pit within a fire fight. It is unbelievable.

I yield to my colleague.

Mr. WELDON. There are two points I want to make. And I apologize for being late.

The first is that we have had nothing but misinformation on the situation in Haiti, which really offends me. As a member of the Committee on Armed Services, we have been asking for a closed briefing. Yesterday we finally got it. Strobe Talbott never showed up despite the fact he was listed as a witness. Many of us think it was because he thought we were going to caution him on the Caputo memos.

Mr. DORNAN. We sat there for 2 hours with an empty seat in front of the sign marked Strobe Talbott.

Mr. WELDON. Representing the Secretary of State.

The most damaging statement by Dante Caputo—and you have heard some of them. I have put these in the RECORD twice, once in July and once in September. Now, is when he is talking, and this is on May 23rd of this year, talking about another alternative to armed intervention. Dante Caputo replies, and I quote:

> The U.S. acted as a brake to a diplomatic solution, creating a situation where military intervention became nearly inevitable.

So here we are telling the American people we really want to have a diplomatic solution, when the United Nations special envoy to Haiti is telling Boutros-Ghali that the United States is putting a brake on diplomatic solutions. They wanted to go to military solutions. Then he predicts the actual timeframe when it will take place.

Now, as a member of the Armed Services Committee, what offends me is we would lose American lives in a military situation.

CONTINUATION OF UPDATE ON HAITIAN SITUATION

The SPEAKER pro tempore (Mr. ROEMER). Under a previous order of the House, the gentleman from Pennsylvania [Mr. WELDON] will be recognized for 5 minutes.

Mr. WELDON. I thank the Speaker.

Mr. Speaker, the situation here is very grave because we have young people in harm's way.

We know there is conflict right now. We know there is going to be loss of life.

The other major thing that we have been misled on, that the American people have been misled on, is the actual number of coalition forces in there with U.S. troops. In yesterday's closed briefing I asked Secretary Deutch, Deputy Secretary of Defense, at this point in time, 10 days after we entered Haiti, how many American troops are in Haiti? He said 19,000. I said, "How many coalition forces are there?" President Clinton told the American people it is a 24-nation coalition. He hemmed and he hawed. I said, "How many Mr. Secretary?" He said about two dozen. Where are they? I said, "Do you mean as in 24?" He said, "Yes. There are 24 coalition forces in Haiti," 11 days after we sent our troops in. And I said, I asked him where they were, and he said the coalition troops are inside the command headquarters. They are not out there with our troops on the streets.

I yield to the gentleman from California.

Mr. DORNAN. Listen to this statement we both have put into the CONGRESSIONAL RECORD of these Dante Caputo memos: "In the same fashion, the President of the United States' main advisers, led by Strobe Talbott," and this is important. Clinton's roommate in Oxford, he was actually sleeping on Strobe Talbott's floor. Going through the third dodging-the-draft process which is described, and I submit the article for the RECORD.

CLINTON AND THE DRAFT: A PERSONAL TESTIMONY

(By Strobe Talbott)

This is a glimpse into the past—the fall of 1969—and into the lives of two Americans abroad, Frank Aller and Bill Clinton. I shared with them a sparsely furnished row house in Oxford. Frank was there to learn about Chinese history and culture; Bill's field, not surprisingly, was political science. But in addition to our formal studies, we were enrolled in a permanent, floating, teacherless seminar on Vietnam. Like many of our contemporaries, we felt that the war was profoundly wrong. Many of us had to decide what to do if we were ordered by our government to fight, kill, perhaps die for a cause we did not believe in. We talked about that more than anything else among ourselves.

We were also engaged, although from a distance, in an angry, ugly debate that was going on back home. In the polarized climate of those days, each side impugned the motives of the other. Those of us who opposed the war didn't just disagree with those who conducted it—we often denounced them as fools, knaves, even criminals. I'm not proud of having marched to the cadence of "Hey, hey, L.B.J.! How many kids did you kill today?" For their part, supporters of U.S. policy were quick to charge dissenters with selfishness, cowardice, even treason.

I recall all this now, 23 years later, because that whole messy, divisive issue is back, along with the tendency toward cynicism and name-calling. This is happening because Clinton may become the first member of the Vietnam generation to be a candidate in a general election for the post of Commander in Chief.

Clinton and I have remained close since Oxford. I've always suspected that eventually his prominence as a political figure would require me to write about him. Readers are entitled to know if a journalist has personal ties to a subject of public attention. Therefore I've been prepared to acknowledge the bias of friendship the first time Clinton's name appeared under my byline.

But now that the day has come, I find that what also requires full disclosure is my knowledge of Clinton's attitude and conduct during the Vietnam War. What I know is quite different from what the electorate has been led to believe.

"Draft questions still plague Clinton," reported the Wall Street Journal on its front page last Friday. The item added that to fend off Republican attacks on this score, Clinton may feel compelled to pick as his running mate his erstwhile rival Bob Kerrey, who lost a leg and won the Congressional Medal of Honor in Vietnam.

Since shortly before the New Hampshire primary, Clinton has been accused of having dodged the draft. His opponents are hoping that impression will resonate with attacks on his character. That's politics, I suppose. But I've been disappointed to see how many of my colleagues in the press, in their coverage of Clinton, have referred to the matter as though draft dodging were proved. Well, it's not, and it can't be, because it's not true.

In the summer of 1969, after the first year of his Rhodes scholarship, Clinton was indeed casting about for some way to avoid going to Vietnam—not by evading the draft, but by taking advantage of one of a number of special deals that the system offered to young men who were well connected. One way was to enlist in the National Guard. That's how Dan Quayle was able to do military duty in his home state of Indiana.

An alternative was to join a Reserve Officers Training Corps program in graduate school. Clinton signed up for ROTC at the University of Arkansas Law School, which he intended to enter the following year: That would have exempted him from being sent to Vietnam for several years, by which time the war would probably be over.

As the summer went on, Clinton was increasingly unsure about the course he had chosen. He and I talked about his situation on a number of occasions by phone that August, when I was home in Cleveland and he in Hot Springs, Ark. He was troubled that while he would be earning an officer's commission and a law degree, some other, less privileged kid would have to go in his place to trade bullets with the Viet Cong.

In September 1969 he decided to withdraw from ROTC—specifically in order to put himself into the pool of young men liable to call-up. Back at Oxford, he asked his stepfather in Arkansas to notify his draft board of this decision. He was reclassified as 1-A or draftable, in late October.

In early December, Clinton explained his decision in a letter to Colonel Eugene Holmes, the ROTC director at the University of Arkansas: "I began to wonder whether the compromise I had made with myself was not more objectionable than the draft would have been."

The letter to Colonel Homes, which was released two months ago, has only fueled the controversy. Ironically, it turns out that Clinton opened himself to the charge of draft dodging by doing just the opposite—by making himself subject to the draft.

A number of articles have argued, in essence, that giving up the ROTC option was a disingenuous, self-serving gesture, since Clinton was already safe from the draft. The heart of the case was summed up in the headline on a front-page article by David E. Rosenbaum in the New York Times on Feb. 14: Clinton could have known draft was unlikely for him.

Why? Supposedly because during that period, the Nixon Administration lowered draft quotas, decreasing the risk to those in the pool, and announced that graduate students would be able to finish their current academic year before being called. Furthermore, on Dec. 1, two days before Clinton wrote colonel Holmes, the government has held a lottery based on birth dates—the higher the number the lower the chance of being called. Clinton had drawn a lucky 311.

Against that backdrop, his letter to Colonel Holmes has been disparaged as an after-the-fact gimmick intended to establish a noble-sounding alibi for his maneuvering during the preceding months. The incident is being treated as evidence of how slick "Slick Willie" was even in his salad days.

At issue here is what lawyers call state of mind; How real was Clinton's concern that he might be drafted? The surmise that Clinton had nothing to worry about is based on more than 20 years' hindsight. It's a perfect example of how a partial recitation of the fact can lie, especially if it fails to take into account the tenor of the time when the facts occurred.

In the autumn of '69, no one who was at the mercy of the draft knew for sure who would be called up when and according to what procedures. The Administration's policy was constantly shifting, and its pronouncements were, from the standpoint of an antiwar 23-year-old, far from trustworthy.

Clinton showed up in Oxford that fall so uncertain about his future that he didn't even arrange in advance for a place to live. He camped out with various friends, including Richard Stearns, a Rhodes scholar from California who is now a superior court judge in Massachusetts. After living the life of an off-campus nomad, Clinton moved in with Aller and me.

Aller had already decided to resist the draft and remain in England as a fugitive from American justice. Clinton later referred to him, although not by name, in his letter to Colonel Holmes. "One of my roommates is a draft resister who is possibly under indictment and may never be able to go home again. He is one of the bravest, best men I know. His country needs men like him more than they know. That he is considered a criminal is an obscenity."

I sat in on many long, intense discussions between Frank and Bill that fall. One particularly sticks in my mind. That November, we had a houseful of visitors, including a young woman from the U.S., whom I subsequently married. She found a turkey in a local market and prepared it for Thanksgiving. She used a recipe that required basting the bird every 15 minutes for four hours. She organized the crowded household for the task. Frank and Bill shared what was supposed to be the first shift and ended up so deep in conversation that they did the whole job. Perhaps because it was such an American holiday and they felt so far from home in so many ways, they talked on and on about whether real patriotism required submitting to the draft or resisting it.

The hell of it was, there was no right answer. If you obeyed your country, as Bill had concluded he should do, you'd be contributing to its greatest folly. If you followed your conscience and defied the law—Frank's choice—you would be causing pain, even disgrace, to your family and outrage in your community back home.

Those, like myself, with medical deferments had our own, less muscular demons to wrestle with. My gimpy knee was enough to keep me out of the Mekong Delta but not off the squash courts and playing fields of Oxford. As a beneficiary of the capriciousness of the system. I felt relief, of course, but also a moral discomfort that bordered on guilt, specially when I listened to Frank and Bill discuss the ethical implications of their 1-A classifications.

While very clear in my mind, these are recollections from more than 20 years ago. But there's at least one document that has not come to light before. It is a letter Clinton wrote to Stearns on Sept. 9, 1969. It's full of articulate ambivalence, expressing confusion, self-doubt, even self-recrimination. The principal reason for the anguish is the one he stressed to me in our phone conversations during the preceding weeks: after arranging to go to the University of Arkansas (which he mocks in the letter as "The thing for aspiring politicos to do"), he spent the summer in his hometown, "where everyone else's children seem to be in the military, most of them in Vietnam." He felt he was "running away from something maybe for the first time in my life." As a result, he describes himself as being in "mental torment," adding that "if I cannot rid myself of it, I will just have to go into the service and begin to root out the cause."

He writes that he is on the brink of a decision to abandon the ROTC shield from the draft: "I am about resolved to go to England come hell or high water and take my chances." He is not referring to the risk of being run over by a double-deck bus on the Oxford High Street.

In tone and content, this letter is totally consistent with the now famous one that Clinton wrote to Colonel Holmes three months later. Together, the two letters bracket the period when Rosenbaum and others suggest Clinton as confident that he had successfully dodged the draft.

After withdrawing his name from the University of Arkansas, Clinton applied to Yale Law School. In the spring of 1970, the Rhodes administrators circulated a questionnaire to determine which scholars were planning to return for a third year at Oxford. Clinton's answer: "Perhaps. If not, will be entering Yale Law School, or getting drafted."

Such was his state of mind. Frank's was even more tormented. Like Bill, he had initially decided on one way of coping with the dilemma posed by the war and the draft, then had second thoughts. After a miserable

> year, he concluded that it was a mistake to cut himself off from his family and his country, so he went home to Spokane to sort out his life. He was unable to do so. On Sept. 12, 1971, he killed himself. I called Bill with the news. There was nothing slick in his grief.

It completely weaves a false tale involving this whole period. Here is what Caputo continues to say:

> The President of the United States's main advisers, led by Strobe Talbott, are of the opinion that not only does this option constitute the lesser evil but is politically desirable, and we think the current opposition of public opinion to nonintervention will change radically once it has taken place.

Now, there was a short bounce, and now the American people are going, "Oh, oh," they are seeing the bloody carnage which looks like a mortar shell in Bosnia—this is the biggest grenade I ever heard of—to kill 5 and maim 9 or 10 others. We are doing this for a politically desirable option, and then we are going to get out, dump it in the United Nations. It goes on to say this will end the talk that Clinton is indecisive.

Mr. BURTON of Indiana. Another big problem is that Strobe Talbott lied to a congressional committee. Now, he is the Deputy Secretary of State, and he came up here and lied to a congressional committee. He ought to be summarily fired. If he is really doing what the President wanted and he did mislead the American public, the President should be taken to task.

I would ask my two colleagues tomorrow to join me in a letter to President Clinton asking about these issues, and if they are true, that Strobe Talbott either resign or be removed summarily.

Mr. WELDON. I do not disagree with the gentleman. I think we owe Strobe Talbott the ability to respond. But I can tell you in a closed briefing with eight Members who are in JACK FIELDS's office in late August about the Coast Guard situation, the representative of the National Security Council in the White House, in direct response to my question about these memos, said, "We have no comment." He did not say we deny them, he did not say they were false. He said, "We have no comment." This was in August of this year.

Now all of a sudden we look at these memos and I sent about 300 copies of these across the country to people who have asked for them. Two different memos and two notes of meetings that were held. These memos lay out exactly what is happening. So the United Nations knew back in May we were going to go in there with our troops. The United Nations knew we were going to not allow sanctions to work. Here we are and now we find out we are also paying all of the costs. When these other troops come in, the American taxpayers are going to pay the full bill, 100 percent of all the costs. We are paying for the guns they are buying back.

Mr. DORNAN. At $50 a pop.

Mr. WELDON. The United States is sustaining the bill up to $1.5 billion.

Under questioning yesterday, Secretary Deutch said, "Well, the estimate is $800 million, but that is high. Internal Pentagon documents have shown that this could cost us $1.5 billion, American money only, not U.N. money, American money." This is an outrage.

Mr. DORNAN. The gentleman and I as of the midafternoon were supposed to be going with one of the leaders on the other side that we think very highly of, going to Haiti on Saturday. Now I understand it is iffy, that they may only take one Republican, a freshman. And I think he should go. He has the 10th Mountain Division.

I want to go down there to understand where all these foreign nations are down there that are supposed to politically take up the heat once we are out of there. And nobody in this country can give us a price tag, as the gentleman just said. They are paying $300 for rockets; not one has been turned in, not a single one; $100 for automatic weapons; none have been turned in. Just old rusty rifles so far.

If Cedras is right, and there are those who would take vengeance, he has $39 million in the bank. What Catholic priest, excommunicated or self-excommunicated, has $39 million to spend?

FEE SPEECH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. EHLERS] is recognized for 5 minutes.

Mr. EHLERS. Mr. Speaker, today in the House of Representatives we passed a bill dealing with lobbying. There has been a lot of criticism of this bill, much of it justified. I voted for the bill because I believe it is necessary for us to remove any perception of wrongdoing on the part of the Congress in any dealings with lobbyists or with friends, others who may in some way give us gifts or assist us with travel.

I think we have to have a squeaky clean operation in the Congress, and I support that. I rise tonight to speak briefly about something else that I believe is an important issue which must be addressed.

Again, it may not involve any wrongdoing, but it certainly involves the perception of wrongdoing. It is an issue that I have struggled with for some time.

It has come to focus in the last few weeks with an article in the September 12 issue of the New Yorker. I notice that Representative MILLER circulated copies of that to our colleagues today. But I read the original and decided at that time to speak on it before this body.

The title of the article is "Fee Speech," not, free speech, but fee speech, "free" with the "r" removed.

Mr. Speaker, this article talks about members of the media who are very critical of the Congress for any perks we have, real or imagined, and who are very critical of the honoraria that Members of Congress used to receive. In fact the bill we passed today not only prevents us from receiving honoraria, which was already prevented, but also prevents us from receiving honoraria designated to charitable institutions when we speak to a group. I think that is going too far, but that is a side issue.

But in this case I am speaking about the honoraria or the fees that reporters receive for speaking to groups about Congress, and speaking about issues of national importance.

This is an important issue. It is not negligible. I found it very interesting, as the article points out, that Sam Donaldson of ABC displayed a certain ethical obtuseness by noting that just 4 days earlier, before this reporter's writing, "Prime Time Live," which Sam Donaldson coanchors, had attacked the Independent Insurance Agents of America for treating congressional staff people to a trip, this is not even congressmen, but congressional staff people, to a Key West trip.

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Yet several months earlier the same insurance group had paid Donaldson a $30,000 lecture fee to speak to that group.

I can go through the many other examples here, and I will take time at some later date to do that, but the point the article makes is that many reporters, not just Sam Donaldson, but many reporters, speak to the same groups that we deal with, lobbying organizations, associations of businesses. They speak to these organizations for exorbitant fees ranging from $7,000 per speech up to $35 or $40,000 per speech, and yet they are reporting on the activities of those very same groups, they are reporting on the issues that these groups are lobbying in the Congress about, and what is fascinating is that the reporters who receive these amazing fees for speaking to these groups think there is nothing wrong with it. Their defense is, as Donaldson says:

> I believe it's not the appearance of impropriety that's the problem. It's impropriety.

And yet this is the same profession that says we must not display any appearance of impropriety.

There are others who, when asked about this practice of theirs, say, "It's none of your business," and when Fred Barnes, who appears in the McLaughlin Group and other areas, was asked how he would respond to a question posed by Members of Congress, he said:

> They're elected officials. I'm not an elected official. I'm not in government. I don't deal with taxpayers' money.

And Wolf Blitzer, CNN senior White House correspondent, when asked what he would say to a Member of Congress who asked how much he made speaking and from which groups, said:

> I would tell a Congressman, "It's none of your business."

Now frankly I think it is the people's business when we have people in the national media accepting very large speaking fees from organizations and then speaking to the American public through print, through the electronic media, about these various issues. Frankly, the Congress has very little power, and individual Congressmen have much less power, than a major network news person. They have a much greater impact on public policy and on shaping public opinion, and I believe it is time for us to recognize that and talk about possibly disclosing the fees that these figures receive.

Mr. Speaker, I appreciate the opportunity to address the body, and I will amplify on these remarks at a later time and go into them in greater detail.

NAFTA

The SPEAKER pro tempore (Mr. ROEMER). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 30 minutes as the designee of the majority leader.

Ms. KAPTUR. Mr. Speaker, this evening I would like to place in the RECORD information that is not available in the nation of Mexico, or at least not able to be placed in the press, and the purpose of my special order this evening concerns the North American Free Trade Agreement [NAFTA] and, as we promised, we would provide information to the American people as we saw this trade agreement implemented.

We have heard about the so-called benefits of NAFTA, and there has been quite a campaign in this country since its passage last year and implementation starting January of this year to try to convince us that it was all good for us. Well, nobody seems to be talking about the millions of people, ordinary Americans, and Mexican workers and farmers, who have seen none of the benefits of NAFTA, and tonight I would like to speak on behalf of them and give a human face to this trade agreement.

The real side of the NAFTA story needs to be told. Let us call it the big picture. In fact, since NAFTA's passage America's historic trade advantage with Mexico has declined by one-third already this year. That is compared to past years when we had a much greater surplus. At the same time investment flows have been leaving our country and going to Mexico at a much faster pace. That means investment that could have occurred in this country but in fact has been moving south. Foreign investment has expanded in Mexico by over one-third, with over 60 percent of that new investment coming from our country even though here in our Nation we have one of the worst savings and investment rates in the world. The number of factories which have already left the United States this year for Mexico and the number of United States workers left in their wake is an untold story.

According to the Department of Labor and the NAFTA trade adjustment assistance program, already our country has lost over 224 more factories to Mexico. That is one factory a day since NAFTA's passage and over 8,000 more of our citizens are out of work because of NAFTA. And in fact, if you look at what has been happening with all of this investment in Mexico and the expansion of plants down there, what has been happening is the continued development of an export platform, goods being manufactured there and then shipped back into our country. And some people would tell us that all this would be good because in fact the Mexican people would earn more money and they would be able to buy the goods that they are making, except what do the numbers tell us for this year? The numbers tell us that the productivity of the Mexican worker has been going up at skyrocketing rates, increasing by 64 percent just this year. And their wages? Well, their wages have been cut by another third. In terms of real buying power today they have less than they did a decade and a half ago.

The environmental mess at our borders grows every day, and the problems associated with even greater numbers of Mexican citizens apprehended at our border, due to trade policies that ignore people, only increase. From October of last year to June of this year more than 730,000 Mexican citizens were apprehended by our United States Border Patrol attempting to gain entry into our country, more than ever before. The political instability, largely caused by poverty in Mexico, and the lack of buying power looms a serious challenge for long-term stability on this continent.

NAFTA truly has been a bad deal for ordinary Mexicans. Just ask them. Poverty has grown for 40 million Mexicans over this last year, especially those being thrown off their land, while the 24 most wealthy Mexican individuals, billionaires, saw their wealth increase by over 100 percent. On the other hand, the 24 most impoverished municipalities in Mexico have on average an illiteracy rate of over 67 percent, with more people, the poor from the countryside, being divested of their farm production, moving into these swollen population centers that are just teeming with people in dire poverty. Eighty-seven percent of these people lack sewers and drainage systems. Eighty-seven percent have no electricity. Eighty-four percent have no running water. Ninety-five percent have dirt floors in their homes. If you have ever traveled there, you know that. Ninety-one percent earn little more than the minimum salary of about a dollar an hour.

The big picture can be numbing, and a human face needs constantly to be placed on these trade numbers, and tonight I want to talk about that more personal side, a story about the labor abuses in Mexico and of bureaucratic ineptitude right here in Washington, in our Nation's Capital. I am speaking of the historic first case of labor abuse under the NAFTA accord brought forward to the National Administrative Office known as NAO, administered by our U.S. Department of Labor and how that office has mishandled those cases because the law and the treaty is so poorly drafted.

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It is my belief that the cases of Honeywell and General Electric, which I will document tonight, are representative of what has always been wrong with NAFTA and trade agreements like it, which do not balance corporate profits with decent treatment of people.

Within weeks of hosting a tour of United Electrical Workers, electrical workers from Pennsylvania and Ohio, 11 workers from General Electric's Compania Armadora plant in Juarez, Mexico, were fired for trying to organize a free trade union. That is one not controlled by the government of Mexico, on December 2, 1993.

After protests from union locals in the United Electrical Workers and from citizens in Mexico, General Electric claimed to have afforded reinstatement to 6 of the 11 workers who were fired. It was later determined that General Electric never even contacted the 6 workers to offer them reinstatement.

This evening I would like to provide to the RECORD a photo entitled "General Electric's Mexican Labor Relations Strategy: You're fired." This was in the United Electrical Workers newsletter. A subhead read "6 of the 11 General Electric employees in the General Electric plant in Juarez have been fired for trying to organize a union at the plant."

And what is interesting, some of these individuals we have talked to, and I am providing their names for the RECORD tonight. This is a story that did not make it on the front pages of our paper, but this is a very historic story, because these are people of true courage.

General Electric, a corporation incorporated in this Nation, with stockholders around this country, has blocked independent trade union organizing activities at this company, Compania Armadora, by restricking workers' access to organizer and union literature.

More seriously, General Electric recently terminated or pressured into voluntary resignation over 100 workers, including a young woman who came to the United States to learn how to organize a workers' union in that plant.

This is widely perceived as an effort by General Electric to rid itself of senior workers in that country of Mexico who speak up for better wages, for more purchasing power, to get something for the work that they put in, or who complain about shop conditions, and union activists.

As detailed in an article by David Brauer in the Twin Cities Reader, the Honeywell case is similar to that of General Electric and thousands of other United States and Mexican workers. In the past decade, membership in the local union representing the Twin Cities Honeywell assembly workers has dropped by more than 3,000 workers. Approximately 6,000 nonunion workers have replaced them, putting together what that company makes, air filters, thermostats, and air conditioner switches at so-called maquiladora plants near the Mexican-American border.

A woman named Ofelia Medrano was one of the Mexican workers for Honeywell until last November 25th, Thanksgiving day in our country, when Honeywell fired her and 22 other employees at its Chihuahua plant just 8 days after NAFTA passed Congress. Ofelia Medrano was fired because she tried to organize an independent union, a rare thing in Mexico, where most unions are controlled by that Government and where people fear speaking out for their own rights and their own dignity as workers.

The Honeywell and General Electric cases are important, because they are the first to be filed with the National Administrative Office, the office set up under the NAFTA side agreements here in our country to monitor labor abuses in Mexico, which are overwhelming.

Given the importance of these two cases, one would assume that our Government would have paid special attention to their handling. Instead, our Government has treated the cases with a patent disregard for the principles and the people involved.

I know that my colleagues have much to say on the subject of how our Department of Labor and NAO specifically handled the Honeywell and General Electric cases. But let me just state a few of the criticisms.

The actual companies were not required to appear at the hearing. Even after a promise was given for permitting media coverage during the hearing, this was disallowed at the last minute. This is happening in our country.

There was no simultaneous translation available, thus cutting the time for people who had traveled so very far from Mexico to properly state their case. They were limited to a very short period of time.

Although the date for the hearing was finally changed due to pressure from this Congress, the hearing was initially scheduled for the week leading up to the Mexican presidential election, which would have precluded the attendance of any Mexican representatives who were busy trying to participate in elections in their own country.

The hearing was held here in Washington, making it extremely difficult for Mexican workers who earn $1 an hour to attend, a very long way away from where the problem occurred.

Finally, our Government refused to commit adequate funds for a proper hearing to be held. Of course, even if abuses were documented during the hearing, the NAFTA agreement is such a toothless tiger, it has no enforcement. So all that can happen under the agreement is these people, who take their own futures in their hands, come here to our country in hopes that someone here will listen to their story.

These are just some of the criticisms of the manner in which this particular first hearing was handled, and, by extension, our administration so poorly handled these first hearings, there is no doubt in my mind that they gave hope to those who wish to perpetrate more labor abuses in Mexico.

The administration talked a great deal about protecting the rights of Mexican workers and American workers during the NAFTA debate, but their actions betray their true sentiments since NAFTA.

The supporters of NAFTA sold the trade agreement as one which will benefit ordinary Americans and Mexicans. But when questioned about tying American high-wage, high-skilled jobs to the lower wages and standards prevalent in Mexico, the answer was given that Mexican wages were sure to increase, and eventually match those of the United Electrical Workers States because of productivity gains. The question remains, however, how can Mexican wages ever be expected to increase, when Mexican workers are powerless to collectively bargain, to organize, or even to peacefully demonstrate to improve their working conditions and express their grievances? How can wages really go up in Mexico, unless our Government is able to be a force for a better way of life in that country as well as our own?

Equally disturbing is how U.S. workers are asked to sit idly by as their jobs continue to be shipped further south. If this administration is truly concerned about the plight of our workers and Mexico's workers, it can begin at least by giving those who have suffered the worst abuses under NAFTA a fair and a very thorough hearing.

For purposes of the record, I would like to read the names of those Mexican workers fired by General Electric for trying to organize a union at the General Electric Compania Armadora plant in Ciudad Juarez, Mexico.

From left to right, those who were fired, and these are true leaders of ordinary people fighting for their own rights, are Fernando Castro Hernandez, who came to testify at the hearings in Washington and was given so little time; Jorge Cobarrubias; Roberto Valerio; Gerardo Baltazar Olaya; Manuel Gomez; and Apolonio Talamantes, who is kneeling.

In their own country, they are given no opportunity to be known. I hope as the American people listen tonight, I hope you will know them, and I hope your hearts will be with them, and I hope in the future our Government is able to stand up for decent working conditions and fair treatment of people, regardless of which side of the border they live on.

□ 2040

INCREMENTAL REFORM

The SPEAKER pro tempore (Mr. ROEMER). Under the Speaker's announced policy for February 11, 1994, and June 10, 1994, the gentleman from Washington [Mr. MCDERMOTT] is recognized for 30 minutes as the designee of the majority leader.

Mr. McDERMOTT. Mr. Speaker, as you are aware, I have made an effort to talk on a regular basis about various issues in health care reform. Tonight I want to talk about the suspension of health care reform in this session of Congress.

And I want to talk about how we cannot allow themselves to be distracted in the next session of Congress, as we were in this session, by the false promise that incremental reform, health insurance reform, somehow will get us part way to our goals.

We cannot be distracted by the notion that we can avoid giving every American health insurance that can never be taken away.

Now some people are saying it will be harder next year to guarantee every American health insurance that can never be taken away. Some people are saying we can only take small steps. A lot of people have convinced the American people that true health reform really cannot happen.

Mr. BUYER. Mr. Speaker, will the gentleman yield for a parliamentary inquiry?

Mr. McDERMOTT. I yield to the gentleman from Indiana.

PARLIAMENTARY INQUIRY

Mr. BUYER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BUYER. Mr. Speaker, my question is, on Special Orders, that the Special Order was yielded to the gentleman. However, the gentlewoman from Ohio is no where in the well. Is the gentlewoman supposed to stay here and be present in yielding 30 minutes to someone else on other issues, when I have reserved the time?

The SPEAKER pro tempore. Under the Speaker's announced policy, each party leader has an hour to designate to their individual speakers. Under this arrangement, the gentlewoman from Ohio was designated by the majority leader for 30 minutes, and the gentleman from Washington was designated by the majority leader for 30 minutes, a total of an hour.

The gentleman from Indiana will be recognized shortly for a portion of the minority leader's hour.

Mr. BUYER. Mr. Speaker, I thank the Chair.

Mr. McDERMOTT. Mr. Speaker, it is pretty clear that the advocates of incremental reform will be back next year trying to convince the American people that we can do health reform without universal coverage.

Well, I am here to tell you that those people are wrong. The reason incremental reform did not pass this year is because no one could figure out a way to do affordable insurance reform without universal coverage.

Every proposal for insurance reform alone without universal coverage would have caused private health insurance premiums to increase. The truth is that universal coverage is the foundation of affordable health care.

By the year 2000, health insurance premiums are expected to double. And as premiums go up, more and more people will lose coverage because their employers won't be able to provide it—and people simply will not be able to purchase it by themselves.

The inability of incremental reform to solve these problems is not going to change. So we have to start over, we have to return to the basics, and do this right in the next session of Congress.

So let's return to the basics.

When we started the reform process almost 2 years ago, we shared a vision—of a health care system financed by everyone and covering everyone.

We had a vision of a health care system that was fair and ended the cost-shifting that business and those with health insurance no longer can sustain.

We envisioned providing our people with health coverage so secure that they could devote themselves without distraction to their families and their jobs.

We envisioned a health care system that would grow at a predictable rate so that the rest of our economy could flourish.

The question is: Has anything happened since we began this process to justify abandoning health reform goals of universality, affordability, security, and choice?

Are more people insured today? Are more employers providing insurance? Are health care costs declining? Are citizens enjoying increased choice of providers and receiving better continuity of care? Are administrative costs declining? The resounding answer to these questions is "no."

In fact, more people have lost insurance since 1992, bringing the total of uninsured to almost 40 million. More employers are dropping insurance and when people change jobs, their new employers are less likely to provide comparable health benefits.

Health care costs continue to rise, assuring that health insurance will be unaffordable to Americans who do not receive it through their employment. Those Americans who do have insurance are increasingly unable to choose their doctors and hospitals.

Involuntarily forced into managed care plans selected by their employers, more Americans lose their doctor every time their employers change plans—a source of increasing anxiety and frustration.

This trend continues against the backdrop of soaring administrative cost within the insurance industry. The nation's largest managed care companies now devote nearly 30 percent of premium dollars to administrative overhead and profit.

The question is: will incremental reform do anything to address these fundamental problems or will it make things worse?

Having examined the existing proposals, I have concluded that they not only will make things much worse—reducing coverage, increasing costs, further eroding choice for our citizens—but that in fundamental ways they will set back the course of health reform 30 years.

I want to make clear why insurance reform as currently conceived will represent a giant step backward.

The element of incremental reform that has attracted a great deal of attention is the effort to make sure that people who have medical problems will not continue to be prevented from buying insurance. The phrase used to describe this is limiting exclusions due to preexisting medical conditions.

The problem is that this approach will only work if it is applied in a system in which there is universal coverage.

Universal coverage is the foundation of successful health care reform. We cannot construct any reasonable shelter unless it is built on that foundation. Put another way, universal coverage is the big tent.

With universal coverage, everyone can fit into the tent. People with preexisting conditions are in the tent and have health insurance coverage. With universal coverage, your health insurance moves with you when you change jobs, so you stay in the tent.

With universal coverage, you can get cost-containment and insurance premiums become more affordable because insured people are no longer paying for someone else's bad debt—and everyone can stay in the tent.

But if you try to eliminate preexisting condition exclusions without universal coverage, insurance premiums will increase. People with preexisting conditions may no longer be technically excluded—they simply will not be able to afford the price of the insurance policy.

Without universal coverage, there is no way to keep healthy people in the insurance system. The tent gets smaller. As a result, when people with preexisting conditions finally buy insurance and healthy people leave the insurance pool, the risk pools worsen, premiums rise, fewer individuals and employers can afford the price of buying health insurance and people lose coverage—they have been forced out of the tent.

Whatever we do in health care reform, we must assure that health care becomes more affordable or it is inevitable that people will lose coverage.

Only universal coverage makes insurance affordable. Without it, we will never be able to spread the risk of insurance to keep costs low and we will never be able to control cost-shifting—the means by which the insured patient pays for the debt of the uninsured patient.

And unless we stop cost shifting, cost containment throughout the entire system is a pipe dream.

Without universal coverage, someone is uninsured. And providing care to the uninsured is terribly expensive because they are simply too sick by the time they seek care.

The uninsured patient is like the leak in the dike. Either you fix the dike or you face the flood, and without universal coverage the flood is uncontrollable health care costs.

The element of incremental reform that is supposed to at least get the Nation on the road to universal coverage is the subsidy program that would give people vouchers to help them buy private insurance. But the way the incremental proposals pay for those subsidies will cause many Americans to lose coverage they already have.

How would these proposals pay for the subsidies to help people buy insurance? They would cut the Medicare Program, our national health insurance program for senior citizens and the Medicaid Program, our national/state health insurance program primarily for mothers and children.

This is just robbing Peter to pay Paul, except at the end of the day, fewer people will have insurance coverage and the robbery will create great disruption in our health care system.

Assuming that you could overcome the enormous hurdle of administering voucher subsidies on an individual basis to well over 100 million Americans—a task that is completely unnecessary in a single-payer system—a subsidy program could work to expand coverage if: the level of the subsidy were sufficient to assure that the voucher actually could pay for an adequate insurance policy and people knew they could count on the vouchers if they needed them.

None of the proposals for incremental reform designs a voucher system that will actually pay for insurance policies or be there when you need them. They all tie the funds available for subsidies to deficit reduction, resulting in an inadequate and unstable subsidy program.

The George Washington University Center for Health Policy Research determined that under incremental subsidy proposals, a family earning a total of $23,780 per year still would need to spend more than 16 percent of its gross income on health insurance.

The linkage between financing and subsidies in the incremental proposals are particularly destructive. The incremental proposal in the House proposal terminates the Medicaid Program removing the guaranteed safety net of medical care in this country.

It is replaced only with a conditional subsidy program that will fluctuate from year to year: People may be eligible in 1 year but not the next or may have a voucher that will actually purchase an adequate policy—or may not. Literally millions of people—mostly mothers and children—who have some protection now will be placed at risk.

Because these proposals are more concerned with reducing the deficit than expanding coverage, the subsidies are financed with cuts in the Medicare and Medicaid Programs. Contrary to the widespread claims, these cuts are not just reductions in payments to doctors and hospitals, but include real cuts in services.

For example, under the financing package which forms the basis for the financing discussions by the minority Members in the other body, the Early and Periodic Screening, Diagnosis and Treatment Program for children—the foundation of child health care in this country for 30 years—would be terminated while the House proposal ends the early childhood immunization program.

The proposed cuts will affect directly more than 1 million infants, toddlers, and school-aged children who suffer from chronic diseases and physical and developmental disabilities and require health care programs to succeed in school. The cuts in programs serving disabled adults will affect hundreds of thousands of adults who rely on health care services to remain employed.

It is important to understand that the cuts affect more than the patients these programs are designed to serve. Major health care institutions and community-based providers rely on Medicaid and Medicare for their survival.

Children's hospitals rely on Medicaid and Medicare payments for between 40 and 70 percent of their revenues. It is doubtful that one children's hospital in the country would survive this disruption in its financing.

Rural health clinics and public health agencies offering primary care services as well as the Nation's teaching hospitals all depend to a great degree on Medicaid and Medicare.

Yet, under the financing package proposed in the Senate by opponents of universal coverage, Medicaid coverage of rural health clinics and federally qualified community health centers would be eliminated, costing these clinics an enormous proportion of their operating revenues.

The combined effect of these financing provisions cuts into the heart and soul of the entire pediatric health care system in this country. Even the wealthy will not have access to care if major providers cease to exist.

Public hospitals and many urban hospitals would be devastated by this reduction in funding. The only option for those hospitals that have a private patient base would be to shift costs onto the privately insured, causing health insurance premiums to skyrocket.

Mr. Speaker, I cannot understand how anyone can defend an approach to health care reform that weakens what little security our system currently provides. Is this what health care reform was supposed to do?

Is eliminating children's health care institutions, academic health centers, and the major providers of rural health care in this country a step forward?

Of course not. These proposals take us 30 years back. What they fail to recognize is that we just cannot turn the clock back 30 years and pretend that nothing has happened in the interim.

We simply cannot contain costs in the public health care system alone without creating huge distortions throughout the entire system.

The effect will be massive disruption in the delivery system as a whole, significant increases in private health insurance premiums, particularly to small businesses, and dramatic and visible reductions in access to care.

What insurance reform and a subsidy program as directed by the minority in the Senate and House offer the American people is subsidy programs that are illusory, unstable financing, the elimination of existing health coverage, narrow risk pools, and a health care system plunging further into chaos—all of which will lead to higher health insurance premiums.

And in all of these proposals there is not one word that will protect the American people from the disruption in the patient/doctor relationships that people now experience at the hands of their changing health plans.

These incremental proposals simply enable insurance companies to complete their takeover of the health care process.

But more importantly, nominal incremental reform delays us—possibly for years—from confronting the real problems while we wait to see the clearly predictable consequences of incrementalism unfold.

The cost of intervening later will be much, much higher and the toll taken in human suffering much greater.

But Mr. Speaker, I want to be absolutely clear about what has happened to health care reform in this session of Congress.

This is not the failure of comprehensive reform. This is the failure of incremental reform.

We were tempted, Mr. Speaker, by the promise that universal coverage was not necessary right away, that we could do other things first.

So we put comprehensive reform and universal coverage to one side while we tried these other things. And what happened, Mr. Speaker, is that no one could come up with a plan for incremental reform that did more good than harm.

What happened, Mr. Speaker, is that we learned that we must have universal coverage before we can do anything else.

What happened, Mr. Speaker, is that we learned that we took a false road in the hope of finding a shortcut and now we have to return to the right road.

There are no shortcuts here. We learned that we have to come back and provide universal coverage or nothing else will work.

Mr. Speaker, as difficult as the past 2 years have been for the American people and for the Members of this Congress as we truly struggled with this issue, I believe the 2 years were worth learning the lesson that halfway measures and shortcuts will not work.

So when the advocates of incremental reform come back again to attempt to obstruct real solutions with promised shortcuts, the American people must be prepared to defend universal coverage by asking tough questions.

To the opponents of universal coverage, we must ask:

If I change jobs, how can I afford to take my health insurance with me if my employer does not contribute to the premium? I can pay $6,000 for a health policy today on my own and get insurance. Isn't incremental reform just saying, "Go buy insurance"? Why is that reform?

Even if I can technically buy insurance with a preexisting condition, how will that help me if I can't afford the premium which will be $12,000 a year for a family by the year 2000?

How can I keep my doctor if my employer changes health plans?

Where will I go for health care if my rural health clinic or the children's hospital has closed?

Where will I get my health care if providers won't accept Medicare patients anymore?

The incremental proposals have no answers to these questions. And the reason is that universal coverage lies at the heart of the answers.

Providing universal coverage in America is not Mount Everest. In fact, it is not even a hill. We already have the delivery system. We already conduct the research. And we already spend the money. We simply are trying to adjust our already oversized health care system to serve all of our citizens.

To say that we are the only Nation in the industrialized world that cannot provide affordable universal health coverage is unworthy of the American people.

Winston Churchill observed that "you can always count on the Americans to do the right thing—but only after they have tried everything else."

When it comes to health care reform, we have tried everything else, and it now is time to do the right thing. We can do it, and I intend to come back again in the next session of Congress to do just that.

□ 2100

HAITI

The SPEAKER pro tempore (Mr. ROEMER). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Indiana [Mr. BUYER] is recognized for 60 minutes as the designee of the minority leader.

Mr. BUYER. Mr. Speaker, I come to the House floor tonight to discuss an issue that has been discussed a lot here on the House floor, not really in forms of debate, not in forms of hearings that have occurred in any of the committees except for one recent discussion today in the Committee on Foreign Affairs room on the Torricelli bill, or actually resolution.

I came to the floor to discuss Haiti. The only way I can really begin to discuss Haiti is starting with the history of Haiti. Then I want to discuss the President's foreign policy, some indecisions at the White House, the characterization of problems with regard to Haiti intervention, I will list 3 points. Then I want to discuss where we go from here.

Haiti, we have to understand, was established in 1804 after a slave revolt against the French. It was ruled by ex-slaves. The political system was full of problems from its inception. Twenty-two different dictators ruled Haiti from 1843 to 1915. Of these, only one served out his term. Many were forcibly removed from office, three died in office, one was blown up, one was poisoned, one was hacked to death and one resigned. Between 1867 and 1910, there were 8 United States military interventions in Haiti to save foreign lives and property.

In 1915, President Wilson sent the United States Marines when Haitians revolted, dragged their then President from his palace and killed him. Three thousand marines occupied Haiti and met some resistance. The marines began a long term of nation-building projects building roads, installing sewer systems, had a telephone system, forming and training and leading the Haitian police force and running vital governmental functions. A revolt of peasants from 1920 to 1922 resulted in 3,000 Haitians and 1,400 Americans dead, so history says. This caused public opinion both in Haiti and in the United States to turn against the occupation. In 1934, the marines left Haiti, no more prosperous in the democratic forum than it was in 1915.

Haiti continued to suffer through a series of dictators until 1957 when six regimes rose and fell in 1 year. On the edge of civil war, Francois Papa Doc Duvalier took over power. This began a corrupt and murderous regime that was so infamous that President Kennedy cut off aid to Haiti in 1963. Papa Doc turned over power to his son Baby Doc in 1973 and the atrocities continued until 1986 when Baby Doc was forced into exile. From 1986 to 1991, six more regimes came and went until Jean-Bertrand Aristide was elected in early 1991 only to be overthrown by a military coup later that same year.

That is the history of Haiti. Let me shift to the President's foreign policy and I will return to the history.

President Clinton's foreign policy is based on an idea of enlarging democracy. One of President Clinton's national security staff Morton Halperin wrote in an article for Foreign Affairs last year that:

> When people attempt to hold free elections and establish a constitutional democracy, the United States and the international community should not only assist but should guarantee the result.

He also wrote in this article of guaranteeing democracy that an international guarantee clause will be credible only if key countries including the United States commit to using force to restore or establish constitutional democracy.

They spell this out, when you read this article, you get a good blueprint of the President's foreign policies, especially with regard to Haiti. The analogy is, here in the United States, we have a guarantee clause in our Constitution. The guarantee clause would be that when there are other States out there, if there is a State that seeks to change from a republican form of government, the guarantee clause will ensure that all other States will make sure that that State that seeks to change is not allowed and will guarantee a republican form of government. That is what we have in our Constitution.

What Mr. Halperin is suggesting is that in our international agreements, we should have a guarantee clause. Now, think about this. We have a guarantee clause in our U.S. Constitution. Morton Halperin suggests that we should have international guarantee clauses in these agreements. So if there is a country out there that wants to turn democratic, the credibility from an international guarantee clause would be the use of force. So in order for that to occur in his thesis he says that we, the United States, must give up our unilateral abilities to act in the world and only move in a multilateral force. What that means is that we in the United States would give up our unilateral abilities and move to the United Nations and allow the United Nations to move in a multilateral force to guarantee democracy abroad in other countries who seek to be democratic. That is exactly what is occurring with Haiti.

I encourage anyone to read Morton Halperin's article on guaranteeing democracy. You begin to understand what is occurring in the White House. I do not question the sincerity of the President or his national security advisers on what they are trying to do. If you read this article, you begin to understand much better how they are seeking their process. I do not agree with it. I do not agree at all with it. But you begin to understand much better where they are coming from.

I think it is difficult to establish a consistent and workable foreign policy that is based on such a utopian ideal. In 1991, the United States went to war in the Persian Gulf not only to stop the aggressor nation from overwhelming the peaceful neighbor of Kuwait, but also to protect the world's oil supply and to seek stability in a region of the world in fact which was unstable. In doing so we protected one autocratic regime, Saudi Arabia, and rescued another, Kuwait. These were not democracies, yet this action was in our United States vital national security interest.

□ 2110

In 1992 Algeria was about to elect a Moslem fundamentalist government that was hostile to the United States. The military overthrew the fundamentalists. I doubt that it would have been in America's best interests to uphold this democratic fundamentalist regime.

In Nigeria last year the elected civilian leader was jailed by the military, yet we did not intervene in that nation, and the military remains in charge.

If we follow this utopian ideal set out by Mr. Halperin, which they are following at the White House, we could find ourselves engaged in many places throughout the world. I believe we should return to a pragmatic foreign policy that is based on protecting America's vital national security interests. American military forces should only be deployed when those interests are truly threatened, and also to protect and save American lives abroad.

In remarks to the National Press Club on November 28, 1984, then-Secretary of Defense Casper Weinberger outlined six criteria for the use of force overseas. He called it the Weinberger doctrine. The Weinberger doctrine was at that time drafted by a young general who was moving through the ranks rather quickly by the name of Colin Powell. It set forth that, first, vital national interests must be at stake. Second, troops should be committed with the intention of winning. Third, we should have clearly defined military and political goals. Fourth, we should size our forces to accomplish our goals. Fifth, the military commitment must have the backing of the American people. Last, and sixth, the forces should be committed as a last resort.

President Clinton I believe has violated most of these principles of the Weinberger doctrine with his recent intervention in Haiti. In addition to being based on the unachievable utopian ideal of Morton Halperin's theories, Clinton's foreign policy is dangerously multilateral. It is obvious from this most recent intervention and from the previous one in Somalia that he is more interested in the approval of the United Nations than the opinion of the American people and that of the elected representatives here in the U.S. Congress.

Many of us on both sides of the aisle have been asking for debates. I asked for hearings in the Armed Services Committee. I did it in May, I did it in June, I did it in July, I did it in August, and I did it in September. Those hearings do not come, and it is completely unfortunate.

The problems with the Haitian intervention, one point I would like to make is that there are no clear vital national security interests in Haiti. This intervention will not solve the economic, social and political problems in Haiti. You cannot restore democracy in a place where it never was in the first place.

The military forces should be used when our vital national security interests are at stake and American lives are threatened. Haiti cannot be compared to, as I read in the press, and as the President sought in justification, cannot be compared to Panama where at that time one United States officer was killed, one military family kidnaped the canal threatened with major drug trafficking and the declaration of war even against the United States. And in Grenada, a Russian financed, Cuban-built airfield under construction, 800 U.S. students threatened by the shoot-to-kill night curfew. At no time has Haiti presented a security threat to the United States or the stability of the region, not only within our own hemisphere, not only within our own continent, but not even in the Caribbean.

The so-called crisis I believe was created by President Clinton, who then forced a situation where Clinton's credibility was on the line. The President's political credibility I believe is the worst possible reason to risk American lives. This is no time I believe for the administration to thump their chest for having taken one of the poorest nations in our hemisphere. While it has always been accepted that our forces could enter Haiti easily, it is difficult to see how we can expect our forces to accomplish the long-term mission of nation building.

Point No. 2 is that returning Aristide to power does not mean democracy in Haiti. Jean-Bertrand Aristide is a defrocked priest who has embraced Marxism and is anti-American. Aristide is no George Washington. Two days before he was ousted in a coup he gave the speech of which many have talked, advocating the use of necklacing for his political enemies. Aristide has actively and passively supported his followers taking violent revenge upon political opponents and even those in the Catholic Church in Haiti. It has been Clinton's support for Aristide's unwillingness to even consider amnesty for General Cedras that has brought this crisis to a head. The Governors Island Agreement had a clause that guaranteed Cedras amnesty. Aristide withdrew his support for this amnesty. Aristide withdrew his support for this amnesty after the agreement was signed. Cedras subsequently refused to sit down as called for in the accord.

Aristide has been a reluctant and ungrateful supporter of the United States actions in Haiti. After 3 days of silence following the landing of U.S. troops he has only said thank you. He has given speeches, but you can tell in his tone. After pressure from the administration and full honors on arrival at the Pentagon with a 21-gun salute has brought about his comments.

According to the Washington Post, Anthony Lake and Strobe Talbott return Aristide as a way of distancing the administration from the policy of supporting brutal military leaders in Latin America, because they were friends of big business or anticommunism.

William Grey III, the White House special adviser on Haiti and former Member of this body, did state that "We used to put in place characters like Cedras in order to keep characters like Aristide out."

The third point I would like to make is that the United States is conducting a form of liberal colonialism in Haiti. I first heard the Senator from Indiana, DICK LUGAR, talk about this new era of colonialism, and I think he is right. President Clinton has conducted a military operation to install someone who is an anti-American defrocked priest as president. The operation is full of inconsistencies. President Clinton allowed former President Carter to turn General Cedras from being the thug into America's new partner in maintaining order in Haiti. Cedras says he will not leave and Aristide says he must go. Folks, this creates a lot of real problems. The U.S. forces are stuck right in the middle and mission creep sets in.

First United States forces are not allowed to interfere to stop the Haitian police from beating civilians. They have to just stand by and watch the brutality. Then they change the orders. Now our forces are charged with maintaining civil order. United States troops will now disarm the Haitian military and police, then protect the military and police from angry Aristide supporters who want revenge. U.S. troops will protect the Parliament so it can meet and vote the amnesty called for in the Carter agreement or else Cedras will not sit down and Aristide will not return.

To quote one of the recent columnists, "We are in Haiti to restore democracy to a country that never had it, to build a civilian-controlled military where it had never existed and to create a secure environment for peaceful transition of power among murderous rivals."

What really concerns me is placing the U.S. military in the middle. It is hard to predict in a country such as Haiti the volatility between warring factions.

☐ 2120

We cannot forget the lessons that occurred with the mission creep in Somalia, when you take the military and you place them in the position of being now a referee, and that at some point in time then having to choose a side as they walk into the street, and they see fighting or a gunburst.

How is that 19-year-old private going to make a decision on who is the good guy and who is the bad guy? You see, you have to exercise some good common sense here. I believe the sooner the U.S. military gets out, the better. The sooner we can establish an environment for which Mr. Aristide returns, we get out, and a peacekeeping force in an international capacity goes in, the better, because, you see, when the United States moves in and places themselves on the side of Mr. Aristide, they have chosen sides, and once Aristide comes back into power, things are going to happen.

Even Mr. Aristide may try, in his efforts to stop any activities, any murderous conduct or terror, it is going to happen. There have been people who want to get back, revenge, seek retribution.

Now, where does that place our military? How about Cedras' followers, taking potshots at our military?

You see, it really concerns me. I will exercise common sense. When you come from Indiana and a basketball State, when our military comes in and plays the part of a referee, you cannot choose sides, because when you choose sides, you become a target.

Let us say there is a basketball game between Indiana and Notre Dame. I am going to be the referee. Now, what protects me between the players, or like the soldiers, the players on the floor in that arena and from the fans is my neutrality. So during that game I can make all the calls and nobody gets too upset. They might a little bit, because they see that I am neutral, but now if I come to the game already being on the side of Indiana, wearing an Indiana T-shirt, I say I am already for Indiana, I want Indiana to win, and I am going to promote Indiana, and then I am going to take the floor.

First of all, Notre Dame is going to think something is up. Then when I am on the floor, Notre Dame is on a breakaway layup, I have had it with this guy who does all the scoring, so I trip him and throw him into the wall. I tell you what, I have no neutrality whatever. I have shown what side I am going to be on. I am not neutral.

U.S. troops cannot participate in peacekeeping missions. They are not neutral. They have already established a side, Aristide's side. So they become targets to other factions, and that referee becomes a target not only by Notre Dame, now also upset, but also from Notre Dame fans who definitely want to throw me out of the arena.

So we have to be very careful in this era of multilateralism. I do not care if it is Haiti, I do not care if the President wants to live up to his commitment and puts troops in Yugoslavia, if we conduct air strikes and dropping bombs and being seen as an enemy, you cannot put United States troops on the ground, put them in peacekeeping missions, and call them neutral if they have already decided which side they are going to be on, because they are targets. So we have to be very, very careful.

I think we have been very fortunate so far on the limited loss of life. I note we had lost one military officer.

I guess, really, where do we go from here? I am not a Member of this body who just likes to bash. I think it is very important. I think it would be wonderful if we had more open debates and discussions and a more democratic process really in the House to really get in and debate matters of policy.

You see, I was one that was pretty upset when I constantly asked for hearings on the Committee on Armed Services with reference to let us debate Haiti, let us debate it, let us talk about it—let us debate it, let us talk about it, let us exhaust our ideas, and it never happened. And then as soon as we have a peaceful entry of Haiti, immediately rushed to the House floor is this vote, a vote to commend the President, commend Carter—former President Jimmy Carter—and Senator SAM NUNN, and Gen. Colin Powell, and to commend the troops.

You see, I was pretty upset about that. I really felt that was politics, and I would not participate in it, and I voted "present." You see, it is pure politics. All of a sudden we can rush to vote something to commend, but no, let us not debate and discuss the ramifications of military intervention of Haiti.

President Clinton right now has placed our military in an impossible situation, but I think one from which we can discern.

Now that our forces are in Haiti, there are a few good options, whether we stay or leave. United States forces are in Haiti. Their stated mission is to ensure the Haitian military complies with the provisions of the Carter agreement, ensure the safe return of President Aristide, and provide for parliamentary elections, facilitate the flow of humanitarian aid, ensure the return of Haitian refugees from Guantanamo Bay in Cuba.

Today the Committee on Foreign Affairs passed on a party-line vote, 27 to 18, a bill sponsored by the gentleman from New Jersey [Mr. TORRICELLI], authorizing the United States military to stay in Haiti until March 1, 1995, and limiting its role to protecting United States citizens, stabilizing security, and helping provide humanitarian aid.

While I oppose this military intervention in Haiti, I have serious reservations about setting a "date certain" for our withdrawal. Setting a date will create a situation on the ground in Haiti that will hamper our military's ability to conduct any type of operation, including an orderly withdrawal. Setting a date may unnecessarily endanger our troops already on the ground in Haiti by allowing opposition forces to lay low until we leave before rising again to create more unrest. We saw that in Somalia.

Given the situation, we need to ensure the swift transition of power from the coup leaders to a legitimate government. With this being accomplished, our forces should not remain in Haiti to referee the hostilities between the two rival groups.

I have cited that example. You see, we have already chosen sides. We cannot just move in and say, "OK, now they are going to be peacekeepers." It is time to move out.

Our mission, the missions in Haiti, should be limited, clearly defined, and achievable. We should not become involved in the long-term, open-ended mission such as nation-building or restoring democracy. These are utopian ideals that involve the long-term reform of the entire Haitian culture.

Given Haiti's history, it is highly unlikely we could succeed. It is certainly not a mission for our Armed Forces, so we should do what is responsible and prudent, and that is to get our troops out as soon as possible from Haiti.

Mr. WELDON. Mr. Speaker, will the gentleman yield?

Mr. BUYER. I yield to the gentleman from Pennsylvania.

Mr. WELDON. I thank my colleague for yielding, and I appreciate his taking out this very important special order this evening.

This has been a continuing effort on the part of many of our colleagues in the House to bring forth facts that we would like to debate openly on the House floor as well as in committee on Haiti but have not been given that opportunity.

I know my colleague and friend who sits on the Committee on Armed Services, as I do, shares my feelings that we have an obligation as members of the Committee on Armed Services to especially watch out for the safety and well-being of our troops.

The special concern we have, as we have had in Desert Storm and even when our troops have been deployed out here domestically as they were with Hurricane Andrew and other sites, is to make sure we are doing what is in their best interests, and I think it is probably safe to say that the majority of our colleagues who sit on the Committee on Armed Services are not happy with where we are in terms of Haiti.

I want to discuss a couple of points and build upon some issues that the gentleman raised this evening in the remaining time, if he will allow me.

The first is, I think, the misconceptions that have been brought forth to the American people and Members as to why we are in Haiti. The President and our U.N. Ambassador and our Secretary of State made a series of speeches where they maintained that one of the prime reasons for going into Haiti was to stop the boat people from coming in, to protect our country from illegal immigration. I would submit if that is our policy perhaps we should invade Mexico, because we have far more illegal immigrants coming across the border from Mexico than have ever come in from Haiti.

But be it as it may, we have to look at why are these boat people coming to America. I think we have to go back to November 12, 1992, when then-candidate Bill Clinton made the following quote while George Bush was the President of the United States, and he said, "I think that sending the refugees back to Haiti is an error, so I will modify that process. I can tell you I am going to change that policy."

Now, here is a candidate for the Presidency of the United States stating publicly his criticism of then-President George Bush because he was stopping the boat people, and this candidate for the highest office in the country said, "When I am elected, and if I am elected, I will change that policy, and I will allow the boat people to come in." Yet 2 years later, after the boat people are coming in, he says, "We are going to put our troops in Haiti, because we have to stop the boat people from coming here."

Part of the reason why we are where we are today in regard to Haiti is because of the President not having a consistent policy when it comes to our relationship with Haiti.

□ 2130

The second thing that has really bothered me about this whole operation, besides the fact that we have not been able to have a full debate before putting our troops into harm's way, was that the President, when he spoke to the American people that Thursday evening before the mission moved into Haiti, made the case this was going to be a multinational effort, in fact this was not going to be America alone. In fact, he boasted of the fact that 24 countries had agreed to join this effort, they were going to be supplying troops and dollars and so forth.

Most of us knew that was not the case because all of our key allies had denied the request to go in with us; Canada, Great Britain, our European allies did not want to put any of their troops in harm's way and, in fact, would not cooperate in the Haitian effort.

In fact, here we are now, 11 days after the occupation of Haiti by some 19,000 troops—as I mentioned earlier today—I had the opportunity in a hearing yesterday on the Armed Services Committee to ask Deputy Secretary of Defense John Deutch exactly how many of our allied cooperative nations were involved in the Haiti mission as of that date. As of yesterday there were 19,000 American young troops all throughout Haiti; the total amount of other nations amounted to 24 individuals—not 24 nations, 24 people. When I asked him where those 24 were, he went on to say in front of the committee that those 24 were in the headquarters building in Port-au-Prince.

Mr. Speaker, that really bothers me because here we are being led as a nation to believe that this really is a multinational effort, that we are sharing the responsibility, when nothing could be further from the truth.

Secretary Deutch went on to tell us in committee that there will be additional commitments of troops and some are being trained right now for the police part of this operation, not for the initial military occupation.

But he also told us, and this leads to another major concern that I have, that America will bear the full cost of this operation. We will, the taxpayers of this country, pay the full cost for all of those troops that go into Haiti with us. The United Nations will not pay that bill; Haiti will not pay that bill; Aristide will not pay that bill; the American taxpayers will pay that bill.

When I asked Secretary Deutch what that amount of money would be, he hemmed and hawed and said, well, there was one figure floating around in the Pentagon that talks about an amount somewhere near $800 million but he doubted that it would go that high.

Most of us who sit on the Armed Services Committee know full well that the internal documents of the Pentagon show that, depending upon how long we stay in Haiti, that figure could rise to $1.5 billion.

Here we are talking about not enough money for some of the basic domestic problems we have in this country. We are talking about not being able to extend unemployment comp benefits to people that are out of work; we are talking about not having enough money to meet some of the other concerns that Americans have, student loan funding for kids who want to go to college. Yet we are going to spend $1.5 billion of our taxpayers' money to fund the Haiti operation, where many of us believe 6 months after we leave Haiti we will find the country in exactly the same situation we found it, as was outlined by my colleague, Mr. BUYER, here tonight. That has been the policy and the history of Haiti throughout this century.

So cost, in fact, is a big factor in terms of how long we are staying. But there is another issue that has not been raised much that needs to be talked about. This President did something in Haiti that undermines a basic foreign policy objective of this country throughout this entire century. One of the most hallowed principles of American foreign policy has been to keep the military power of other nations out of the Western Hemisphere. From the Monroe Doctrine to the 1947 Rio Treaty setting up a hemispheric cooperative military force, every U.S. administration, Republican and Democrat, during that time period has insisted that no other nonwestern hemisphere nation come into our hemisphere to help militarily in terms of a threatening situation. Yet that is exactly what we have done here.

Just this past week, the President announced that even Russia would be sending troops to Haiti. Many of the most learned foreign policy experts in this Nation now feel that we have made a grave error. We have opened the door and established a precedent for other military operations, not just in the Western Hemisphere, but we have also—supposedly behind the scenes—agreed to an understanding with Russia whereas we will not object to their activities in the former Republic of Georgia.

So there are foreign policy implications well beyond Haiti that unfortunately have been overturned with our current mission there.

My key concern right now, Mr. Speaker, is how are we going to get our troops out of Haiti? I was over in Somalia in January after we sent our troops in that fall to allow the relief supplies to get to the starving people in Mogadishu and Baidoa and the rest of the impoverished nation.

While we were in Mogadishu, we were at the United States command center meeting with General Johnston. Once again, the 10th Mountain Division was in Somalia, and as they are doing now in Haiti, they did a fantastic job there. In our discussions with General Johnston, we said, "When do you expect the United Nations to take over so that the United States troops could come back from Somalia." What he told us was that he had not heard from or seen anyone from the United Nation. We all know that it was not until May of that year that we began to see U.S. troops come home.

Unfortunately, we did not turn over the entire command. We allowed 4,500 of our troops to stay. We denied the backup support they needed that was requested by one of our on-scene generals. and in September of that year we lost 20 young Americans to the point we were not even able to go in there and retrieve their bodies in downtown Mogadishu after they had been attacked, and their bodies were dragged through the streets of that country.

Many of us fear the same thing could occur in Haiti.

A question that I asked of General Sheehan and the Deputy Secretary of Defense at our briefing 2 days ago, I said it is not a question of when General Shalikashvili determines we should turn it over, that is the easy part. We have confidence in our generals, in our military leadership. The question is not when General Shali is ready to turn over command, the question is when will the United Nations be ready to take over the command in Haiti?

As of this moment we see no U.N. activity, we see no U.N. multinational force moving into place, and we see articles like the one that was in the Boston Globe just this past week saying we could have extensive involvement in Haiti through the year 1996.

If that occurs, we continue to subject American young men and women to possible attacks like the one we saw today, where five innocent citizens were killed. We also see a larger and larger dollar figure in terms of the amount of money we are going to have to spend to keep the Haiti operation viable.

And we do this at a time when we are cutting back on the readiness of our reserve forces, cutting back on the amount of training and steaming hours and flying hours for our military because our defense budget is already being squeezed in such a hostile manner.

Mr. Speaker, there are just too many things here that do not add up. But what really bothers most of the colleagues that I have talked to in this body is what appears to be the long-term understanding of why we are going into Haiti in the first place.

I know that all goes back to the series of internal U.N. memos prepared by the U.N. special envoy, Dante Caputo. In those documents released during the summer on ABC–TV and the Wall Street Journal, two internal memos where Dante Caputo was writing to Boutros-Ghali telling him about what the U.S. ultimate goal was and what our intentions were, as well as the notes from the two meetings that Dante Caputo attended with both U.S. administration officials, including Strobe Talbott, and other officials from other allied nations. Those documents clearly show as far back as May of this year that the U.S. intent was not to solve this problem diplomatically but rather to resort to a military action.

I have placed the Dante Caputo memos and internal notes into the CONGRESSIONAL RECORD in their entirety on two separate occasions, in early August of this year, when I first got them, and again the first week of September to focus attention on these memos.

I have done talk radio shows all across the country, CNN live debates to let the American people and our colleagues understand that here was the U.N. special envoy to Haiti telling us we are going to experience what we are now experiencing, that President Clinton in fact was going to have our troops enter Haiti sometime before the end of the summer or, at the very latest, by the November elections. And that is in black and white in these special documents.

The documents further stated that Dante Caputo's impressions were that the United States actually stopped, and held back, and put a brake on the actual negotiated settlement in terms of Haiti's leadership and actually wanted to see a military involvement to help bolster the President's political standing.

□ 2140

All of this, Mr. Speaker, is in black and white, and that is what so enrages me.

We have tried to see whether or not these memos are true. We have not had anyone refute them, but two startling things have happened.

The first, Mr. Speaker, was in August when the gentleman from Texas [Mr. FIELDS], the ranking member of the Committee on Merchant Marine and Fisheries that oversees the Coast Guard, of which I am a member, a ranking member of a subcommittee there; JACK FIELDS held a briefing in his office with eight of our colleagues. We had the Commandant of the Coast Guard present. We had other members of the Coast Guard personnel, and we had one of the top assistants to the President's national security team from the White House. At that meeting were other Members of this body. I asked him very specifically in August, "What is the administration's response to the Dante Caputo memos which say we're going to be in Haiti militarily within a matter of weeks and months?"

His response to me, in front of all of our colleagues, was, "No comment. The President and the administration have no comment. Not denying them, not saying they're false, simply no comment."

The second thing that is of concern in relation to these memos is that, when the President decided to go into Haiti a week ago Sunday, the next day, on Monday, Dante Caputo announced that he was resigning from his post at the United Nations, and in his resignation statement he referred to the fact that he was so upset with the policy that the United States had taken in regard to Haiti, that clearly this had been our objective all along and that he saw it coming, that we, as a nation, really had no intent of allowing a negotiated settlement to occur.

So here you have the same man who was in these meetings who wrote these internal memos to Boutros-Ghali now having the integrity to resign his position because of America's action, and what did our President do? He did not invade Haiti on a day that we were in session when we could vote. He waited until we were in recess for the Jewish holiday, and on that Sunday evening, when he knew we would not be in session, he ordered the planes to take off with our troops.

Mr. Speaker, someone has to answer the Dante Caputo memos because in my opinion they are a time bomb waiting to explode because, if they are true, what, in fact, they say is, that the President and this administration entered Haiti for purely political purposes to enhance the President's image in terms of being a world leader. It is clear. It is in the memos. They are in the RECORD. In fact, our colleague inserted them in the RECORD again this evening.

Nowhere in the history of this country have we ever seen a Commander in Chief commit our troops to enhance his political standing, and certainly not without a full debate in this body and a vote in this body, yet that is what is happening.

I was hoping, as many of my colleagues were hoping, that we would get a chance to ask Strobe Talbott or Warren Christopher, our Secretary of State, directly as to what their response was to the Caputo memos. The Committee on Armed Services briefing, which was held 2 days ago, was supposed to have three witnesses. The witnesses were supposed to be John Deutsch, who showed up; General Sheehan, in charge of operations for the Joint Chiefs of Staff, who showed up; and Strobe Talbott representing the State Department. Strobe Talbott's name tag was on the table, but Strobe Talbott never showed up for the 2-hour briefing with members of the Committee on Armed Services. Even through he was not there, Mr. Speaker, I asked the questions about the Caputo memos because they have to be answered.

Now the Committee on Foreign Affairs had held a hearing the day before. Strobe Talbott showed up for that hearing, and he was asked about the memos, and in published reports today in the Washington papers he denies knowing anything about them and, furthermore, denies any conversations with Dante Caputo that would suggest what Caputo wrote to Boutros-Ghali that America's motives were less than honorable in terms of our position with Haiti.

Mr. Speaker, what this leads to is a simple conclusion: Someone is lying. Either Dante Caputo, the U.N. special enovy to Haiti, is lying when he said as far back as May 23 of this year that we had no intent of involving Haiti without a political involvement—I mean a military involvement—or else Strobe Talbott is lying. Mr. speaker, the American people deserve to know the truth; Members of this body deserve to know the truth; and constituents of ours across the country, and especially our Armed Forces, deserve to know the truth.

Mr. Speaker, I would say to you that during the 8 years I have served on the Committee on Armed Services I have used every moment of my time to fight for the best interests of our military. I have been to every place that we have sent them to make sure they are properly protected, they have the best equipment, their morale is up. But I can tell you right now, today, that while I support them unequivocally—I will do anything to assist them in Haiti—but I know it is only a matter of time before we see additional casualties in Haiti. We have already had one young military personnel that has been killed. We do not know the events surrounding his death. We think it is a possible suicide, but that has not been determined yet. We know today we had five civilians that were bombed by hand grenades. We are going to see more of this occur.

Mr. Speaker, at the very least this body has to debate this issue. We have been told we will debate it next week, 2½ weeks after we entered Haiti. That is unacceptable.

What also has offended me with the President is when he stood up in the national news conference the day after the vote in this House Chamber last Monday in terms of supporting our troops and said to the media, "I was very pleased that the House of Representatives voted overwhelmingly today to support our position in Haiti," and then the White House came on CNN later on and said, "No Democrat opposed that measure." Mr. speaker, I called CNN and had them correct that on the news that evening, which they did, because, as we all know, that resolution was not one to support the President's Haiti policy.

That resolution said two things. It said this Congress recognizes and supports the efforts of Jimmy Carter's team that went down to Haiti to avert a military armed intervention in Haiti, and for that we were very happy and thankful, and the second thing that resolution said was that we support our troops. There was no mention in that resolution of support for President Clinton, yet he said publicly on TV that he hoped the Senate would pass a resolution also supporting him.

In fact, during the debate on the House floor that day on that very resolution there were 34 Members of Congress who spoke in the well or at one of the microphones. These are people who did not insert their comments in the RECORD. Fourteen of those Members are Republican, and all 14 Republicans said they were voting for the resolution and supporting it but they did not support the President's policy. Twenty Members, of the Democrat Party, also spoke on that resolution and 10 of them, half of them, expressed reservations during their comments in regard to the President's policy of committing our troops there. So 24 of 34 Members of this body who spoke on the House floor on that resolution said unequivocally that we have concerns with the President's policy. Many of them said they would like to have an up or down vote as to whether or not we should commit our troops there.

Now our troops have been there 11 days, still in harm's way, no end in sight, no game plan, and we are talking about a vote and debate next week. Mr. Speaker, I think this policy is wrong. I think it is outrageous, and it scares me because I have constituents who are in Haiti wearing our uniform, especially in light of what I feel to be an unhonorable way to go in there in light of Dante Caputo's memos saying that our total initiative all through the summer was to have a military occupation occur.

Mr. Speaker, I would hope that our colleagues would continue to express outrage on this issue. I would hope that at some point in time one of our committees could have Dante Caputo come before that committee, and I have asked for that on the Committee on Armed Services. I have written to the gentleman from California [Mr. DELLUMS], the chairman, and also to the ranking member, the gentleman from South Carolina [Mr. SPENCE] asking them to invite Dante Caputo to come in and testify as to the veracity of his memos and the internal notes, as well as the reason why he resigned, and to respond to Strobe Talbott's testimony before the House Committee on Foreign Affairs 2 days ago that said that that was not in fact what he said to Dante Caputo and was not the impression that he left him.

Mr. Speaker, someone is lying. Someone is lying, and that lying has allowed us to put our troops in harm's way, and we have got to get to the bottom of what our real motives are. More importantly, we have to obtain a timetable as to when those troops are going to be brought home.

□ 2150

Mr. Speaker, I would be happy to again remind our colleagues that may be listening tonight, and our constituents, that they can obtain copies of the Caputo memos—and there are 13 pages of them—from the CONGRESSIONAL RECORD. It has now been inserted three times, including today, so they can see for themselves and read for themselves what in fact the United Nations said we would do, that in fact we are doing at this very point in time in Haiti with our military troops.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FIELDS of Louisiana (at the request of Mr. GEPHARDT) for today and tomorrow, on account of official business.

Mrs. LLOYD (at the request of Mr. GEPHARDT) for today, on account of medical reasons.

Mr. HUTTO (at the request of Mr. GEPHARDT) for today, on account of official business.

Mr. FALEOMAVAEGA (at the request of Mr. GEPHARDT) for today through Monday, October 3, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LIVINGSTON) to revise and extend their remarks and include extraneous material:)

Mr. LIVINGSTON, for 5 minutes, today.
Mr. KASICH, for 5 minutes, today.
Mr. GINGRICH, for 5 minutes, today.
Mr. MICA, for 5 minutes, today.

(The following Members (at the request of Mr. MCDERMOTT) to revise and extend their remarks and include extraneous material:)

Ms. DELAURO, for 5 minutes, today.
Mr. SWETT, for 5 minutes, today.
Mr. FINGERHUT, for 5 minutes, today.
Mr. OWENS, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 5 minutes, today.
Mr. HOKE, for 5 minutes, today.

(The following Member (at the request of Mr. BURTON of Indiana) to revise and extend his remarks and include extraneous material:)

Mr. WELDON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LIVINGSTON) and to include extraneous matter:)

Mr. CALVERT.
Mr. SOLOMON, in three instances.
Mr. MYERS of Indiana.
Mr. CALLAHAN.
Mr. ZIMMER.
Mr. FISH.
Mr. KING.
Mr. DORNAN.
Mr. PETRI.
Mr. SCHAEFER.
Mr. CRANE.
Mr. ROTH.

(The following Members (at the request of Mr. MCDERMOTT) and to include extraneous matter:)

Mr. COLEMAN.
Mr. REED.
Mr. JACOBS, in two instances.
Mr. SKELTON, in three instances.
Mr. BARRETT of Wisconsin.
Mr. PALLONE.
Mr. ACKERMAN.
Mr. ROSE.
Mr. KILDEE.
Mr. CHAPMAN.
Mr. ANDREWS of New Jersey, in two instances.
Mr. LANTOS.
Mr. TOWNS.
Mrs. MALONEY, in six instances.
Mr. BARCA of Wisconsin.
Mr. BONIOR.
Mr. JOHNSON of South Dakota.
Mr. MILLER of California.
Mr. WHEAT, in two instances.
Mr. LIPINSKI, in two instances.
Mr. RAHALL.
Mr. FILNER.
Ms. LONG.
Ms. MCKINNEY.
Mr. BROWN of Ohio.
Mr. GEJDENSON.
Mr. ANDREWS of Texas.

(The following Members (at the request of Mr. WELDON) and to include extraneous matter:)

Mr. BUYER.
Mr. PASTOR.
Ms. ESHOO.
Mr. MCINNIS, in four instances.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4230. An act to amend the American Indian Religious Freedom Act to provide for the traditional use of peyote by Indians for religious purposes, and for other purposes.

H.R. 4539. An act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1995, and for other purposes.

H.R. 4602. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1995, and for other purposes.

H.R. 4650. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 2144. An act to provide for the transfer of excess land to the Government of Guam, and for other purposes.

H.R. 4624. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the year ending September 30, 1995, and for other purposes.

ADJOURNMENT

Mr. WELDON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 51 minutes p.m.), the House adjourned until tomorrow, Friday, September 30, 1994, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3886. A communication from the President of the United States, transmitting the bimonthly report on progress toward a negotiated solution of the Cyprus problem, including any relevant reports from the Secretary General of the United Nations, pursuant to 22 U.S.C. 2373(c); to the Committee on Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MINETA: Committee on Public Works and Transportation. H.R. 4967. A bill to designate the Federal building and U.S. courthouse in Detroit, MI, as the "Theodore Levin Federal Building and United States Courthouse"; with amendments (Rept. 103–762). Referred to the House Calendar.

Mr. MINETA: Committee on Public Works and Transportation. H.R. 4910. A bill to designate the U.S. courthouse under construction in White Plains, NY, as the "Thurgood Marshall United States Courthouse" (Rept. 103–763). Referred to the House Calendar.

Mr. MINETA: Committee on Public Works and Transportation. H.R. 4939. A bill to designate the U.S. courthouse located at 201 South Vine Street in Urbana, IL, as the "Frederick S. Green United States Courthouse" (Rept. 103–764). Referred to the House Calendar.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4394. A bill to provide for the establishment of mandatory State-operated comprehensive one-call systems to protect natural gas and hazardous liquid pipelines and all other underground facilities from being damaged by any excavations, and for other purposes; with amendments (Rept. 103–765 Pt. 1). Ordered to be printed.

Mr. BEILENSON: Committee on Rules. House Resolution 555. Resolution waiving points of order against the conference report to accompany the bill (H.R. 4299) to authorize appropriations for fiscal year 1995 for intelligence and intelligence-related activities of the U.S. Government, the community management account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. 103–766). Referred to the House Calendar.

Ms. SLAUGHTER: Committee on Rules. House Resolution 556. Resolution waiving points of order against the conference report to accompany the bill (H.R. 6) to extend for 6 years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965, and for certain other purposes (Rept. 103–767). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CONYERS (for himself, Mr. CLINGER, Mr. TOWNS, and Mr. SHAYS):

H.R. 5128. A bill to strengthen the partnership between the Federal Government and State, local, and tribal governments, to end the imposition, in the absence of full consideration by the Congress, of Federal mandates on State, local, and tribal governments without adequate funding in a manner that may displace other essential governmental priorities, to better assess both costs and benefits of Federal legislation and regulations on State, local, and tribal governments, and for other purposes; jointly, to the Committees on Government Operations and Rules.

By Mr. BARCA of Wisconsin:

H.R. 5129. A bill to provide for a reduction in the number of members of the Armed Forces of the United States stationed in Europe unless the European member nations of NATO assume an increased share of the nonpersonnel costs of U.S. military installations in those nations; jointly, to the Committees on Armed Services and Foreign Affairs.

By Mr. GOODLING (for himself, Mr. PETRI, Mrs. ROUKEMA, Mr. GUNDERSON, Mr. ARMEY, Mr. FAWELL, Mr. BALLENGER, Mr. BARRETT of Nebraska, Mr. BOEHNER, Mr. CUNNINGHAM, Mr. HOEKSTRA, Mr. MCKEON, Mr. MILLER of Florida, and Mr. CASTLE):

H.R. 5130. A bill to extend for 1 year the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965 and for certain other purposes; to the Committee on Education and Labor.

By Mr. HINCHEY (for himself and Mr. KANJORSKI):

H.R. 5131. A bill to amend the Housing and Community Development Act of 1974 to prohibit the Secretary of Housing and Urban Development from recapturing, adjusting, withdrawing, or reducing any UDAG funds from recipients of UDAG grants, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HUTCHINSON:

H.R. 5132. A bill to establish a period during which individuals under 65 years of age who are entitled to benefits under part A of the Medicare Program on the basis of a disability or end state renal disease may enroll under part B of the Medicare Program in order to meet eligibility requirements for health benefits under the Civilian Health and Medical Program of the Uniformed Services under title 10, United States Code; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. POMBO (for himself and Mr. THOMAS of California):

H.R. 5133. A bill to provide for expediting an investigation by the International Trade Commission by providing for the monitoring of the importation of certain kinds of tomatoes and peppers; to the Committee on Ways and Means.

By Mr. SANTORUM (for himself, Ms. PRYCE of Ohio, Mr. CANADY, Mr. CLINGER, Mr. WELDON, Mr. BOEHNER, Mr. ARMEY, Mr. RIDGE, Ms. MOLINARI, Mr. KYL, Mr. DELAY, Mr. CUNNINGHAM, Mr. LIVINGSTON, Mr. BACHUS of Alabama, Mr. HUNTER, Mr. TORKILDSEN, Mr. INGLIS of South Carolina, Mr. LINDER, Mr. ROTH, Mr. MCCOLLUM, Ms. DUNN, Mr. DUNCAN, and Mr. KNOLLENBERG):

H.R. 5134. A bill to protect victims of crime; to the Committee on the Judiciary.

By Mr. SAXTON:

H.R. 5135. A bill to amend title I of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to clarify provisions governing fiduciary duties in relation to external benefits, social investing, and economically targeted investments; jointly, to the Committees on Education and Labor and Ways and Means.

By Mr. TAUZIN:

H.R. 5136. A bill entitled, "The Offshore Supply Vessel Construction and Development Act of 1994"; to the Committee on Merchant Marine and Fisheries.

By Mr. VOLKMER:

H.R. 5137. A bill to amend the Internal Revenue Code of 1986 to restore and increase the deduction for the health insurance costs of self-employed individuals; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. RAMSTAD introduced a bill (H.R. 5138) for the relief of Saeed Ghasemimehr; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 22: Mr. CARR.

H.R. 300: Mr. CASTLE.

H.R. 393: Mr. ANDREWS of Maine.

H.R. 739: Mr. LEVY.

H.R. 885: Mr. BARCIA of Michigan.

H.R. 911: Mr. DE LA GARZA.

H.R. 1322: Mr. GLICKMAN and Mr. UNDERWOOD.

H.R. 2213: Mr. BARCIA of Michigan.

H.R. 2418: Mr. TORKILDSEN.

H.R. 2717: Mr. BLUTE.

H.R. 3207: Ms. SLAUGHTER.

H.R. 3393: Mr. BARCIA of Michigan.

H.R. 3449: Mr. LEWIS of Kentucky.

H.R. 3538: Mrs. MORELLA and Mr. JOHNSTON of Florida.

H.R. 3619: Mr. HERGER.

H.R. 3851: Mr. FIELDS of Texas.

H.R. 4279: Mr. LEWIS of Georgia.

H.R. 4404: Mr. RAMSTAD, Ms. DELAURO, Mr. LEWIS of Georgia, Mr. KLECZKA, Mr. SABO, Mr. MINGE, Mr. MAZZOLI, and Mr. HORN.

H.R. 4411: Mr. ENGEL.

H.R. 4578: Mr. EVANS and Ms. SLAUGHTER.

H.R. 4589: Mr. BARCA of Wisconsin.

H.R. 4610: Mr. ROSE, Mrs. UNSOELD, Ms. VELÁZQUEZ, Mr. DURBIN, Mr. DUNCAN, Mr. SARPALIUS, and Mr. BARLOW.

H.R. 4786: Mr. PARKER.

H.R. 4830: Mr. TORKILDSEN.

H.R. 4831: Mr. FROST and Mr. SKEEN.

H.R. 4936: Mr. GUNDERSON, Mr. KASICH, Mr. STUMP, Mr. KOPETSKI, Mr. LIGHTFOOT, Mr. SPENCE, and Mr. ZIMMER.

H.R. 4942: Mr. ORTIZ.

H.R. 4957: Mr. MENENDEZ, Mr. HAMBURG, and Mr. BARCA of Wisconsin.

H.R. 4996: Mr. KLECZKA and Mr. HILLIARD.

H.R. 4997: Ms. NORTON, Mr. REYNOLDS, Mr. GEJDENSON, Mr. ABERCROMBIE, Mr. PORTER, Mr. DEUTSCH, Ms. ESHOO, Ms. ROYBAL-ALLARD, and Ms. FURSE.

H.R. 4998: Mr. GILLMOR.

H.R. 5062: Mr. LAFALCE, Mr. SAM JOHNSON of Texas, Mr. SCHIFF, Mr. MAZZOLI, Mr. GRAMS, Mr. TAYLOR of North Carolina, Mr. MCCURDY, Mr. SISISKY, Mr. COBLE, Mr. SANGMEISTER, Mr. DICKEY, Mr. RAMSTAD, Mr. SKEEN, Mr. CLAY, Mrs. VUCANOVICH, and Mr. GREENWOOD.

H.R. 5071: Mr. BONIOR, Mr. LUCAS, and Mr. MCCLOSKEY.

H.R. 5082: Mr. MCCLOSKEY, Mr. PETRI, Mr. HASTINGS, Mr. OLVER, Mr. GINGRICH, Mr. GRAMS, Mr. TORKILDSEN, Mr. SHARP, Mr. LEWIS of Kentucky, Mr. KIM, Ms. ROS-LEHTINEN, Mr. HUFFINGTON, Mr. KNOLLENBERG, Mr. BILIRAKIS, Mr. COOPER, Mr. HALL of Texas, Mr. REGULA, Mr. FAWELL, Mr. DIAZ-BALART, Mr. PETERSON of Minnesota, Mr. BERMAN, Mr. BUNNING, Mr. SABO, Mr. DORNAN, Mr. HUNTER, Mr. MCCANDLESS, Mr. COX, Mr. PACKARD, Mr. CONDIT, Mr. CALVERT, Mr. COPPERSMITH, Mr. MINGE, Mr. BARLOW, Mr. OBEY, Mr. DEFAZIO, Mr. PICKLE, Ms. PRYCE of Ohio, Mr. LONG, Mr. CUNNINGHAM, and Ms. ROYBAL-ALLARD.

H.R. 5083: Ms. PELOSI.

H.R. 5111: Mr. TAYLOR of North Carolina, Mr. SARPALIUS, Mr. TALENT, Mr. VALENTINE, Mr. MANZULLO, Mr. FRANK of Massachusetts, Ms. SHEPHERD, Mr. HAMBURG, Mr. HEFLEY, Ms. ROYBAL-ALLARD, Mrs. THURMAN, Mr. FROST, Mr. DOOLEY, and Mr. WHEAT.

H.J. Res. 184: Mr. MCDADE, Mr. QUINN, Mr. HASTERT, Mr. POSHARD, and Mr. BACCHUS of Florida.

H.J. Res. 332: Mr. TAYLOR of Mississippi, Mr. KENNEDY, Mr. TEJEDA, Ms. ROYBAL-ALLARD, and Mr. SERRANO.

H.J. Res. 358: Mr. SHAW, Mr. JOHNSON of South Dakota, Mr. SKEEN, Mr. EVANS, Mr. RAHALL, Mr. BATEMAN, Mr. LANCASTER, Mr. MACHTLEY, and Mr. MARTINEZ.

H.J. Res. 385: Ms. MCKINNEY, Mrs. BENTLEY, Mr. BERMAN, Mr. CLEMENT, Mr. CALLAHAN, and Mr. COPPERSMITH.

H.J. Res. 398: Mrs. KENNELLY, Mr. MCKEON, Mr. BISHOP, Mr. OLVER, Mr. REYNOLDS, Mr. OBERSTAR, Mr. STOKES, Mrs. BYRNE, Mr. SCOTT, Mr. WELDON, Mr. GREENWOOD, Mr. EWING, Mr. GILMAN, Mr. CRAPO, Mr. SLATTERY, Mr. GALLEGLY, Mr. BLACKWELL, Mr. KILDEE, Ms. BROWN of Florida, Mr. LANCASTER, Mr. COLLINS of Georgia, Mr. PETRI, Ms. MCKINNEY, Mr. OXLEY, Mr. DIXON, Mr. REGULA, Mr. LEVY, Mr. ORTIZ, Mr. TAYLOR of North Carolina, Mr. FILNER, Mr. SCHUMER, Mr. CLYBURN, Mr. GOODLING, Mr. GORDON, Mr. YATES, Mr. KLECZKA, Ms. MARGOLIES-MEZVINSKY, Mr. THOMPSON, Mr. MCDERMOTT, Mr. WATT, Mr. THORNTON, Mr. HEFNER, Ms. KAPTUR, Mr. TUCKER, Mr. VENTO, Mr. JOHNSTON of Florida, Mrs. LOWEY, Mr. RICHARDSON, and Mr. MCINNIS.

H.J. Res. 401: Mr. ANDREWS of Maine, Mr. CALVERT, Ms. DELAURO, Mr. EDWARDS of Texas, Mr. GLICKMAN, Mr. GREENWOOD, Mr. HALL of Texas, Mr. HAMBURG, Mr. HILLIARD, Mr. HUGHES, Mr. FRANK of Massachusetts, Mr. MCHUGH, Mr. MENENDEZ, Mrs. MEYERS of Kansas, Mr. NEAL of North Carolina, Mr. ORTIZ, Mr. SISISKY, and Mr. SPENCE.

H.J. Res. 418: Mr. MANTON, Mr. BURTON of Indiana, Mr. SWETT, Mr. WYDEN, Ms. NORTON, Ms. PRYCE of Ohio, Mr. PRICE of North Carolina, Mr. LIPINSKI, Mr. EMERSON, Mrs. UNSOELD, Mr. MONTGOMERY, Mr. MEEHAN, Ms. SNOWE, Mrs. JOHNSON of Connecticut, Ms. MCKINNEY, Mrs. MORELLA, Mr. WILSON, Mr. MFUME, Mr. STENHOLM, Mrs. MINK of Hawaii, Mr. FRANK of Massachusetts, Mrs. THURMAN, Mr. DOOLITTLE, Ms. SHEPHERD, Ms. WOOLSEY, Mr. SHARP, Mr. FROST, Ms. KAPTUR, Mr. NEAL of Massachusetts, Mr. CALVERT, Mr. ORTIZ, Mr. BAKER of California, Mr. BROWDER, Mr. COBLE, Mr. CONYERS, Ms. COLLINS of Michigan, Mr. EWING, Mr. EVANS, Mr. GLICKMAN, Mr. HEFNER, Mr. HUTTO, Mr. LANCASTER, Mr. TORRICELLI, Mr. HAMILTON, Mr. HERGER, Mr. MARTINEZ, Mr. YOUNG of Florida, Mr. TAYLOR of Mississippi, Mr. TAUZIN, Mr. BORSKI, Mr. HOLDEN, Mr. JEFFERSON, Mr. TOWNS, Mr. WYNN, Ms. FURSE, Mr. LEWIS of Georgia, Mr. CONDIT, Mrs. MEYERS of Kansas, Mrs. ROUKEMA, Mr. ROWLAND, Mr. VOLKMER, Mr. LIGHTFOOT, Mr. LIVINGSTON, Mr. TRAFICANT, Mr. PETE GEREN of Texas, Mrs. BENTLEY, Mr. SISISKY, Mr. LANTOS, Mr. PICKLE, Mr. HOYER, Mr. COLEMAN, Ms. SCHENK, Mr. ROSE, Mr. SPENCE, Mr. THORNTON, Mr. COPPERSMITH, Mr. HUGHES, Mr. STOKES, Mr. PAYNE of Virginia, Mr. RICHARDSON, Mr. SABO, Mr. DEAL, Mr. HALL of Ohio, Mr. GREENWOOD, AND Mr. SYNAR.

H. Con. Res. 98: Mr. DIXON and Mr. SHAYS.

H. Con. Res. 212: Mr. LAFALCE and Mr. WYNN.

H. Con. Res. 281: Mr. PALLONE, Mr. FROST, Mr. FILNER, Mr. ENGEL, and Mr. BARCA of Wisconsin.

H. Con. Res. 296: Mr. BACCHUS of Florida, Mr. KLEIN, Mr. PALLONE, Mr. HUTTO, Mr. LEWIS of California, Mr. BERMAN, Ms. LOWEY, Mr. MCNULTY, Mr. LIPINSKI, Mr. MANTON, Mr. HOCHBRUECKNER, Mr. FROST, Mr. SAWYER, Mrs. UNSOELD, Mr. FILNER, Mr. GILMAN, Mr. MCDERMOTT, Mr. ORTIZ, and Mr. ENGEL.

H. Res. 525: Mr. CALVERT, Mr. DICKEY, and Mr. MANZULLO.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3222: Mr. PETRI.

H.R. 3949: Mr. FROST.

EXTENSIONS OF REMARKS

OPPOSE PRO-DRUG TELEVISION—BOYCOTT MTV

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. SOLOMON. Mr. Speaker, it was recently brought to my attention by the International Drug Strategy Institute that MTV is once again broadcasting pro-drug messages. The MTV network recently broadcast "Straight Dope: A News Special on Drugs," which supported legalization and portrayed pro-drug advocates and users as drug experts. This pro-drug special was assisted by the Drug Policy Foundation; a well financed, pro-drug lobbying organization.

Instead of responding to the concerns of drug experts regarding inaccurate and biased information. MTV repeated the hour-long show six times between August 23 and August 28. The promotion of these pro-drug messages by a network watched regularly by millions of young children and teenagers across this Nation is an outrage.

In response to this programming the International Drug Strategy Institute has joined with Drug Watch International to encourage parents in the United States to "Pull the Plug on MTV." Both of these groups are nonprofit organizations concerned with effective international policies and strategies which discourage drug use, oppose legalization of illicit drugs, and provide accurate scientific information on drug use. Parents are urged to contact their local cable television company and request that a "block" be placed on the MTV channel of their cable service.

Furthermore, parents are also urged to contact the advertisers on MTV to oppose this type of programming. A number of major national advertisers did respond to the calls of concerned parents and drug experts by canceling their support of the broadcasts. According to Eric Voth, M.D., chairman of the International Drug Strategy Institute, "Because of its pro-drug messages, MTV has caused concern to parents in the past. But the network's inaction on this television special tells America MTV promotes drugs to children. Parents can tell the network that they don't want drug use glamorized to their kids in their own homes. They can "Pull the Plug on MTV."

First as a father and grandfather and as a Member of Congress I commend the International Drug Strategy Institute for their concerted efforts to rid our Nation of illicit drug use and to protect our children from the horrors of drug addiction. I urge my colleagues to join me in boycotting MTV and opposing this misuse of television technology. I fear for a nation that delivers this type of message to its future generation of leaders.

PULASKI DAY PARADE

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mrs. MALONEY. Mr. Speaker, I rise today in tribute to a wonderful annual event in New York City—the Pulaski Day Parade. This year's parade, to be held this Sunday, October 2, will be the Nation's largest, with over one million people attending. I would like to give a special note of tribute to Mr. Thomas Wojslawowicz, president of the Parade Committee and a leading citizen in the Polish-American community and to Grand Marshal Leon P. Klementowicz, director of the Polish and Slavic Center and a resident of my own Greenpoint district. I would also like to add a note of thanks to all my loyal friends in Greenpoint, a large and vibrant Polish-American community. Their continuing support has been wonderful.

Mr. Speaker, the Pulaski Day Parade commemorates that great son of Poland Gen. Casimir Pulaski, the Father of the American Cavalry. At the age of 30, General Pulaski came to America on July 23, 1777, to help our struggling Nation in its fight for independence against British tyranny. This heroic son of Poland organized the cavalry forces of our infant Republic and died of a wound received at the Battle of Savannah on October 11, 1779.

General Pulaski's career highlights the special responsibility America has toward Poland—a responsibility which is recognized in the recently announced Partnership for Peace program. However, I do not believe that program goes far enough. Poland had demonstrated her commitment to democracy. The bravery of her people in the struggle for independence inspired the world. I believe that Poland will assume an increasingly vital role in central Europe in the years to come.

That is why I strongly support the NATO Expansion Act, legislation that would guarantee Poland full membership in NATO by 1999 at the latest. I think it is time for America to look to the long-term security and stability of Central Europe. The inclusion of Poland and the other newly reborn democracies of Eastern Europe in NATO is the best means to that end.

I am fighting hard for the extension of many of the benefits of NATO membership to Poland. Poland was the forerunner of the democratic spirit which has swept through Eastern Europe over the past decade. She deserves to be treated just like any other European democracy. America must not repeat the mistakes made at Yalta 50 years ago. We must start bringing Poland into NATO now.

TRIBUTE TO COL. KATHRYN G. CARLSON, U.S. ARMY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. SKELTON. Mr. Speaker, today I pay tribute to a dedicated U.S. Army officer and gentlewoman as she departs from her post after 4 years as a Deputy Legislative Assistant for the chairman of the Joint Chiefs of Staff to the position of commander, Military Entrance Processing Stations, eastern region.

Col. Kathryn G. Carlson deserves our tribute and honor. She has been connected with the Congress in one position or another for over 6 years of her distinguished 20-year Army career. Colonel Carlson's challenges and accomplishments read like an emerging history of the U.S. Army in its third century of service to the Nation as it fully realizes the incredible talent and potential of women in its ranks.

A native of Latta, SC, Colonel Carlson graduated Phi Beta Kappa from the University of South Carolina in 1970. She also earned a master's degree in counseling from Wayne State University. Her military career began in 1974 when she received a direct commission in the U.S. Army. Upon completing her routine initial training, she acquired an Adjutant General Corps Officer specialty with an additional public affairs qualification. She served two separate tours with the U.S. Command in Berlin, managing protocol, public affairs, and personnel activities. She has also been assigned to key personnel positions at the U.S. Army Infantry Center and Infantry School, Fort Benning, GA, and U.S. Army Forces Command, Fort McPherson, GA.

This fine officer has held high level assignments on the Army Staff, in the Army Secretariat, and on the Joint Staff. She served consecutively at the Pentagon as executive officer for the Army's civilian personnel modernization project; personnel staff officer in the Office of the Deputy Chief of Staff for Personnel, directing enlisted promotion and professional development programs; Chief of Special Actions Branch in the Office of the Army's Chief of Legislative Liaison; and finally in the Office of the Chairman, Joint Chiefs of Staff.

Colonel Carlson is a graduate of the Women's Army Corps and Adjutant General Corps Officer Basic Courses, the Adjutant General Corps Officer Advanced Course, the U.S. Army Command and General Staff College, and the Army War College. Her awards and decorations include the Defense Meritorious Service Medal, multiple awards of the Army Meritorious Service Medal, the Army Commendation Medal, and the Army of Occupation Medal.

She has been one of the principal liaison officers to Congress for two Chairmen of the Joint Chiefs of Staff, Gen. Colin Powell and

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Gen. John Shalikashvili, during momentous times in our Nation's history—the end of the cold war, Operations Desert Shield/Storm, Provide Promise, Provide Hope, Provide Comfort, Southern Watch, Deny Flight. She has served as the Chairman, Joint Chiefs of Staff principal liaison with the House Foreign Affairs, Senate Foreign Relations, House and Senate Intelligence Committees, and earlier with the House Armed Services Committee.

Mr. Speaker, it is an honor and privilege for me to pay tribute to Col. Kathryn G. Carlson today. It is clear, through her record of accomplishment and her command assignment, that she is a professional soldier with the clear sense of honor, integrity, and purpose found in the finest military officers of this Nation.

I know that the other Members of this body wish her well in her new assignment.

HOW DO YOU SPELL R-E-L-I-E-F?

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. JACOBS. Mr. Speaker, our most distinguished former colleague, Walter Fauntroy, has written an excellent letter to President Clinton. The letter represents Mr. Fauntroy's usual insight and eloquence.

NEW BETHEL BAPTIST CHURCH,
Washington, DC, September 19, 1994.

Hon. WILLIAM J. CLINTON,
The White House, Washington, DC.

DEAR MR. PRESIDENT: I simply cannot tell you how proud I am of your leadership over the past seven days in rescuing the Haitian people and the American people from what would have been a disastrous situation for all, had we been forced to shoot our way into that tortured nation.

The strategy which you devised in the eleventh hour was simply superb. I say that not just because it included the first two of an eight point plan that I have earnestly tried to get staffers for both you and President Bush to adopt since first this crisis developed three years ago, but also because it really opens the door now for a sharp break in Haiti with its brutal past.

HOW DO YOU SPELL R-E-L-I-E-F?

My first reaction to your success was one of relief. A very ugly, violent and painful situation would have ensued had we launched an invasion. Not only would thousands of anti and pro Aristide supporters been killed by one another and by our forces in the initial period of chaos accompanying an invasion, but it is likely that many of our young men and women would have died as well. There remained the real possibility that shooting our way in would have initiated a war of attrition like that waged against the U.S. occupation from 1915 to 1934, and the one waged against Napoleon's army in the Nineteenth Century. That would have required not only that we remain at least as long as we did after our 1915 invasion, but it would also have impeded the enormous task of recovery for an economy that has been devastated by both the embargo and two decades of decline.

I am relieved as well that the embargo has been lifted. I have always been opposed to the embargo because it devastated an already pitiful economy, punished the poor whom we wanted to help, empowered and enriched the worst elements in Haiti, drove out U.S. industries and tens of thousands of scarce jobs, and destroyed years of work that we had invested in reforestation and soil conservation programs.

I'm also pleased that at long last the rest of the formula for resolution of this crisis that I have advocated from the outset, is getting serious consideration. You may recall from several previous letters I have sent you on this subject that, drawing upon my fifteen years as chair of a Bi-partisan Task Force on Haiti in the Congress, I have been pushing an eight point plan, two key features of which had been rejected by both the Bush Administration and your advisors up until last week. The first was my insistence that you appoint a negotiation and medication team composed of experienced people who were knowledgeable of the history and political culture of Haiti, and who I thought could win a negotiated and peaceful settlement. I had been pushing President Carter and General Powell for such a role for months. As late as July of this year, I talked to Colin about offering himself for such a role. In Senator Sam Nunn, chairman of the Armed Services Committee, we got the absolutely perfect complement to President Carter and General Powell.

As you see from an enclosed press release that I issued in July of this year, my second appeal was that you make it clear to President Aristide that his posture must be one of reconciliation of all elements of Haitian society, and stern opposition to any form of retribution on the part of his supporters. When in your address to the nation on Thursday night you announced such a position for President Aristide, my spirits were lifted. When I learned later that the Carter delegation was talking "amnesty" for the coup leaders, I breathed a sigh of relief, for I knew we were on our way. Those two things were the only reasons the Governor's Island Accord of July, 1993 was not in fact implemented. What Carter and company were able to accomplish, quite frankly, was the implementation of the Governor's Island Accord, free of signals by Aristide that he would neither allow amnesty nor restrain his supporters from deadly acts of retribution when the U.S. returned him to power.

In short, what began with your speech on Thursday night and ended with the Carter team visit with the Haitian leaders was a skillful and effective negotiation that saved the day; and for that, the American people and the people of Haiti are forever in your debt.

WHERE WE GO FROM HERE

While we averted an invasion that would have killed a lot of people and made the job of reconciliation and recovery enormously more difficult, that was really the easy part compared to what now must be done. I am comforted that our military has in place the civil affairs and legal units that can manage adherence to the dictates of the Haitian Constitution by all parties in Haiti, including the Aristide government. I am pleased that we have the Military Police units going in to establish a sense of order in the day-to-day on-the-street situation in Haiti. I can't wait to see the dimensions of the program for economic recovery in Haiti that is to be put in place by the United States and other donor nations to undergird the democracy that we are now committed to put in place. I think it will take every cent of the hundreds of millions of dollars that we have saved by not having to go through with an invasion.

May I be so bold, Bill, as to suggest to you what it's going to cost now after the enormous damage done by our failure to follow the eight point program I outlined some nearly three years ago after I had had an opportunity to study the situation. In my view, there are at least five initiatives that must now be taken to give the democratic process any chance of taking root in Haiti:

At least a $10 million program to get the Port Au Prince port up to competitive standards in the region, $5 million for the actual physical improvements, and another $5 million for technical assistance.

At least $5 million for the provision of the electrical power necessary in the short term to begin the economic recovery process. Only 10% of the population of Haiti has access to electricity now, for example. Haiti desperately needs an energy strategy to replace wood fuels with viable alternatives. Initially I would strongly suggest that we deploy some of our largest warships off the coast of Haiti for purposes of providing power to key cities and regions of the country.

We are going to have to commit at least $8 to $10 million in a short term effort to revitalize the Export Manufacturing sector that has be decimated by the embargo. Employment in the export sector dropped from 46,410 workers to less than 15,000 today. We've got to find ways to quickly bring back the firms that left for greener pastures in places like Costa Rica, Honduras and the Dominican Republic as a result of the embargo.

A meaningful rural public works program is going to cost at least $20 to $30 million if there is to be any hope of stability and subsistence in those regions of Haiti where the wretchedly poor live. Roads, bridges, wells, latrines, houses, schools and health centers need to be provided as matters of highest priority in Haiti's rural communities.

Finally, agricultural production for both export and domestic consumption needs a $10 to $15 million shot in the arm. Only 28% of Haiti's land is now cultivatable to begin with, and 65% of the work force and 46% of the land is farmed—much of it in ways that exacerbate the extremely serious environmental degradation that occurs in Haiti. We've got to concentrate on established crops that have the greatest export potential to assure fast capital infusion into Haiti. I'm talking about the production of mangos, limes, coffee, papayas and rice, for example.

Please take note as well, Bill, of items three through eight of my earlier recommendations.

If I can be of any help to you in defending publicly your noble and sagacious actions in resolving this crisis in a manner that facilitates reconciliation, the building of democratic institutions, tolerance, and economic recovery, please feel free to call upon me.

Sincerely,

WALTER E. FAUNTROY,
Member of Congress, 1971–1991.

LOURDES SENIOR COMPANIONS—GREAT ASSETS TO SOUTHERN NEW JERSEY

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. ANDREWS of New Jersey. Mr. Speaker, on October 21, 1994, the Lourdes Senior Companion volunteers will be honored at a recognition luncheon given on their behalf. The Senior Companion Program was authorized in 1973 as part of the Domestic Volunteer

Service Act and is now part of the Corporation for National Service. The program was established to provide individualized support and create part-time stipended volunteer community service opportunities for low-income persons aged 60 and over. Senior companions provide assistance to elderly adults experiencing difficulty with one or more activities of daily living. As part of a comprehensive care team, they help homebound persons live independently.

The program at our Lady of Lourdes began in 1989 in the city of Camden and now serves older residents of Camden and Burlington Counties. There are currently 92 active volunteers and 20 volunteer stations, serving over 250 clients. When we talk of unsung heroes or heroines, these senior companions come to mind. They provide invaluable person-to-person services.

Mr. Speaker, I would like to thank and congratulate these extraordinary individuals. They are William Addison, John Anderson, Hester Banks, Gertrude Booker, Mabel Boone, Willa Mae Braddy, Gladys Braxton, Mary Brockington, Frances Burch, Marie Carlson, James Carter, Annie Clayborne, Catherine Cook, Geneva Cox, Juanita Cruz, Rose D'Angelo, Nancy Darby, Anna DeLeonardia, Margaret DiNunzio, Josephine Doria, Guillermo Enriquez, Theresa Fahey, Gabriel Ferraro, Sr., Catherine Forgacs, Ophelia Fuller, Hester Funches, Mary Garner, Carmela Gentile, Ramona Gonzales, Doris Grant, Ora Green, Frances Hallman, Helen J. Hannum, Catherine Hansbury, Jean P. Harvey, Elizabeth Helmstead, Theresa I. Hussey, Alice Ingalls, Herbert Johnson, Marjorie Johnson, Mildred R. Johnson, Esther H. Jones, Anita Kalick, Mary Katz, Martha Kersey, George King, Miriam Kyle, Carrie LaBoy, Mae Helen Lee, Galdys A. Lewis, Lena T. Lewis, Miriam Lott, Hannah E. Lovelock, Beauty Lovett, Gladys Mallon, Shahidah Matean, Margaret Menoken, Veronica Meyers, Aguatin Molina, Eula E. Moore, Else Mulvenna, Sara Y. Nathan, Clifford Nelson, Estella Pratt, Cecilia Read, Vivian Rhone, Isaac Rodriquez, Annie Rozier, Katie Scanes, Elizabeth Schilling, Sophie Schmidt, Carrie Solomon, Maceo Stewart, Azelda Stovall, Helen M. Thom, Willa Mae Thomas, Hattie Thompson, Madeline M. Thorne, Michael Threadgill, Rose Tragno, Violet Tresvant, Cecil Virgo, Marian Ward, Mary Watkins, Gladys M. Williams, Leslie Wilson, Christine Wing, and Clara M. Wittenberger.

Mr. Speaker, I would also like to congratulate and commend Catherine Virginia Jerecki and Anne Marie McAdams for their dedicated and caring service to our program and community.

TRIBUTE TO CLAUDE MATTHEWS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. McINNIS. Mr. Speaker, I rise today to recognize an amazing feat accomplished by one of my constituents, Mr. Claude Matthews.

Mr. Claude Matthews of Palisade, CO was recently recognized for his contribution to highway safety. Mr. Matthews, an employee of Roadway Express, Inc., as a commercial truck driver, was commended for driving 2 million miles without a preventable accident. This performance is a tribute to Mr. Matthews' professional approach to driving and dedication to safety. This achievement is a milestone attained only by a select few professional drivers.

Mr. Speaker, I ask that all our colleagues join me in congratulating Mr. Matthews' for a job well done. He has proven to be an outstanding professional driver and an important member of our Nation's vital trucking industry.

TRIBUTE TO RABBI H. DAVID TEITELBAUM

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Ms. ESHOO. Mr. Speaker, I rise today to honor Rabbi David Teitelbaum, an outstanding leader of the 14th Congressional District and Temple Beth Jacob in Redwood City, CA. This year he celebrated his last high holiday services as head of this remarkable congregation as he prepares for his coming retirement.

David Teitelbaum came to Temple Beth Jacob 38 years ago as its third full-time rabbi at a time when it had just 100 active families. Under his leadership, the oldest Jewish congregation in San Mateo County grew to its present size of 480 families. Rabbi Teitelbaum brought to the congregation his devotion to scholarship, his interest in interfaith couples, and his passion for civil rights.

This remarkable man marched with Rev. Martin Luther King, Jr., in Selma, AL, and spoke out early and courageously against America's involvement in the Vietnam war. Rabbi Teitelbaum has always considered it his moral duty to speak out against injustice, believing that the history of persecution of the Jewish people creates in them a special obligation to protect the human rights of all.

Mr. Speaker, throughout his remarkable career, Rabbi David Teitelbaum has preached a message of compassion, justice, and service to others, and every day of his life he has served as a shining example of these values. I urge my colleagues to join me in saluting this noble man of faith, this passionate community leader, and this inspiring human being.

BIRTH OF TWINS VINCENT AND NICHOLAS DORY

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleagues the birth of twin babies. Vincent Edward Dory and Nicholas Edward Dory were born to Edward and Darlene Dory, who reside in Lemont, IL.

Vincent Edward Dory was born at 3:39 p.m. on August 24, 1994. One minute later, at 3:40 p.m. his twin brother Nicholas Edward Dory was born. On an occasion such as this, I join with the members of the Dory family in wishing the newborns all the best for the promising future ahead of them.

I am sure that my colleagues join me in congratulating the proud parents, Edward and Darlene, on this most joyous occasion. With the new addition of twins, their life together will no doubt continue to be an adventure. May this blessed addition to their lives bring them much happiness in the years to come.

HONORING FATHER CARMELO GAGLIARDI'S 20 YEARS IN THE PRIESTHOOD

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues a wonderful man who will mark his 20th anniversary in the priesthood on Sunday, October 2.

Padre Gagliardi Mario Carmelo was born in the small Italian town of Savoia di Lucania in 1946 to Michael and Maria Mangino. His parents were farmers of modest means, and made many sacrifices for their three children.

From early in his life, Father Carmelo has been dedicated to improving himself, and the lives of those around him. He began his education at Savia di Lucania Elementary School, and continued his education at Vietri di Potenza, nearly 10 miles from his home. Despite the fact that the mountainous roads between from Savoia to Vietri were not paved and difficult to traverse, young Father Carmelo made it to school every day on foot or by bicycle. Years later, Father Carmelo would attend Seminario Regionale di Salerno, where he would receive his bachelor's of science in theology in June 1974.

In 1981, Father Carmelo moved to New York, where he has become an invaluable part of the community, touching the hearts of countless New Yorkers. He is particularly active in efforts to support the religious and social needs of the Italian-Americans at Mount Carmel Church in Brooklyn, NY. In 1987, he founded the Italian Center of New York City, an association for Italian emigrants, where he gives social, cultural, and religious assistance to those in need.

In addition to his involvement with the center he founded, Father Carmelo is also a member of the Foundation for a Brighter America, the Theatrical Association of New York, and European Community of Journalists. Currently, Father Carmelo is a representative, to the International Catholic Education Office at the United Nations. His outstanding work on behalf of Italian community of New York recently earned him a citation from the New York State Assembly.

Mr. Speaker, there is little doubt the world became a better place when Father Carmelo entered the priesthood, and it is New York's good fortune that he decided to make New York his home. I take this occasion to salute his tremendous accomplishments, and wish him well on his next 20 years in the priesthood.

CLINTON'S MILITARY: SITTING ON THE SIDELINES

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. SOLOMON. Mr. Speaker, I have said it before and I will say it again, the Clinton administration is bringing this country to the brink of unilateral disarmament.

The latest evidence of this is truly shocking, Mr. Speaker. I still can't believe this. Last week, the commander of the Naval Reserve ordered that all paid drills and annual training for reservists be cancelled for the rest of the fiscal year. So there we have it. While President Clinton is diverting our precious defense resources to an unimportant island in the Caribbean, the Naval Reserve has just folded up shop due to budgetary constraints.

And listen to this: The Navy has also shut down three carrier air wings and six naval patrol squadrons for the rest of the year. I am just aghast, Mr. Speaker. We have a military that cannot operate and train for its real missions—defending America and her interests—because the Clinton administration has got us involved in countless places that are of no strategic interest to the United States, while simultaneously gutting the Defense budget. Add to this the diversion of defense resources for things like aid to Russia, defense conversion, environmental cleanup etcetera, etcetera, etcetera, and it is just no wonder that this is happening.

Mr. Speaker, it turns out that those of us who have been saying recently that we are going hollow were wrong. We are hollow.

A SALUTE TO THE MOBILE, AL, BLACK HISTORY MUSEUM

HON. SONNY CALLAHAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. CALLAHAN. Mr. Speaker, I would like to take this opportunity to give recognition to an extraordinary program that has boldly taken a leading role in promoting cultural awareness of African-American history in the Mobile area.

As we all know, Alabama has played an important role in the advancement of African-Americans, including its role as the nerve center from which much of the modern-day civil rights movement originated.

However, what most people don't realize is that Mobile has its own special chapter of black history even beyond that movement. It is the purpose of the Mobile Black History Museum to convey this legacy to this generation of African-Americans, as well as all future generations.

Three years ago, Robert Battles began his struggle to make the vision for the Mobile Black History Museum become a reality.

His efforts to enshrine the contributions of the African-American men and women who have come before us into the hearts and minds of the youth of Mobile County are to be commended. Quite frankly, it has become very easy these days for people to concentrate on only the negative things happening around us. While these factors cannot be ignored, neither should we ignore the positive things that occur each day. Indeed, we should strive to focus our attention on these positive things.

The Mobile Black History Museum is unique in its contribution because it highlights the struggles and achievements of Mobilians. It is important that the youth of Mobile see that there is always room for change and reform, no matter who you are, no matter where you come from.

Young minds need role models, and with the rampant increase in black on black violence, AIDS, drug abuse, and poverty, it is more important than ever before to take time to care for our future as a community, State, and nation.

The museum directs its efforts toward youth, targeting kindergarten through 12th grade. Recently, they sent out over 5,000 pamphlets to schools in the Mobile area in hopes of reaching all of the young people of our county.

Mr. Speaker, I commend Mr. Robert Battles, executive director and curator of the museum, for his leadership in making this museum a reality. Soon, young people of all races will be able to learn about African-American history, as well as the many achievements of the black community of Mobile in education, social reform, sports, science, and medicine.

And on behalf of the museum, as well as the people of Mobile, I want to extend a cordial, south Alabama invitation to all visitors who may be in our vicinity, to visit the Mobile Black History Museum and experience history that is truly living.

TRIBUTE TO NORVAL E. "NORV" CAREY

HON. JOHN T. MEYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. MYERS of Indiana. Mr. Speaker, Norval E. Carey is retiring, and his colleagues and his friends on the Hill are sorry to see him leave.

Norv spent 30 years at General Atomics. His distinguished record includes expertise in energy and defense matters and his knowledge, competence, and honesty are well recognized by those who know him. Over those years he accumulated a wealth of institutional knowledge, and I have benefited from his expertise. Norv has been a valuable resource. But now he will sharpen his fishing techniques and get in the time on the water that he has postponed all these years.

Fish, beware.

Norv's friendship I will always cherish. It must be something about the Midwest, but that Nebraska native and this Hoosier learned the value of a dollar early on and shared the same sense of what direction our country needed to go to enhance its future.

Born in Overton, NE, Norv graduated from his hometown high school, earned a degree from Hastings College and received a law degree from the Cumberland School of Law in 1951. A Navy veteran, Norv also is a former FBI special agent. And a great American.

In 1954 Norv went to work for Lawrence Livermore National Laboratory. In 1964 he joined the General Atomics Division of the General Dynamics Corp. and in 1969 became its Washington office manager. He was made a vice president of General Atomics Co. in 1974 and a senior vice president in 1987.

Norv helped establish the American Nuclear Energy Council and served as secretary and treasurer for several years. He has maintained membership in the American Nuclear Society, the American Defense Preparedness Association, National Security Industrial Association, the Air Force Association, the U.S. Army Association, and the Navy League.

Norv is a good friend. A good husband to Claire, a good father to 5 children, a good grandfather to 14 grandchildren, and an incredible great father. He's a solid citizen. Straight forward. One who speaks his mind. And one whose gentle smile belies a piercing wit.

Well, Norv, in retirement you'll do it right, casting your line ever so smoothly into new waters, listening carefully to the gurgles and the splashes, always ready to extend that guiding hand for those who reach out.

Congratulations, pal, you've earned it.

INTRODUCTION OF THE OFFSHORE SUPPLY VESSEL CONSTRUCTION AND DEVELOPMENT ACT OF 1994

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. TAUZIN. Mr. Speaker, I rise to introduce the Offshore Supply Vessel Construction and Development Act of 1994. This bill would grant the Secretary of Transportation, through the Coast Guard, specific authority to establish regulations to allow domestic shipyards and operators to design offshore supply vessels [OSV's] in accordance with the International Tonnage Convention measurement system. This bill will promote U.S. shipbuilding and operators by encouraging the domestic OSV industry to build and operate vessels designed to compete in the world market.

OSV's serve the offshore petroleum industry by delivering supplies, material, workers, and fuel to offshore exploration and production facilities.

Currently, U.S.-flag OSV's must be built in accordance with a statutory definition that is based on the antiquated U.S. regulatory measurement system. The old U.S. tonnage system encourages ship designs that have proven to be less competitive in the world market than vessels built according to the international system. The international system promotes cleaner ship designs, that are more efficient, safer, and more easily maintained than vessels built to the present domestic standards.

This bill would offer ship builders the option of designing to U.S. regulatory or ITC measurement standards. It empowers the Coast Guard to determine the size limitations on the new vessels and any additional safety requirements that the agency might deem to be appropriate.

This issue was the subject of two hearings before the Subcommittee on Coast Guard and Navigation during the 103d Congress concerning U.S. maritime regulatory reform initiatives. This bill was developed through a cooperative effort between the Coast Guard and the OSV industry.

This bill has the full support of the Coast Guard's Office of Marine Safety, Security, and Environmental Protection and the Offshore Marine Services Association.

The following report language is recommended to clarify how certain provisions of the bill should be administered by the Secretary of Transportation and the Coast Guard:

First, under the new definition of an OSV, a vessel owner will continue to be able to use the optional regulatory measurement system under section 14305(a)(1) for the inspection of the vessel since chapter 33 is in part B of subtitle II.

Second, in establishing the upper limit for the size of an OSV, the Secretary should consider the established provisions and guidelines of the International Maritime Organization.

Third, in prescribing regulations to implement the amendments made by the act, the Secretary, in compliance with the Administrative Procedure Act, should consult with representatives of the private sector having experience in the operation of OSV's and shall consider the unique characteristics, methods of operation, and nature of service of OSV's.

I ask my colleagues to support the Offshore Supply Vessel Construction and Development Act of 1994 and help reestablish our domestic shipbuilding industry.

TRIBUTE TO SHERIFF ROBERT A. O'NEAL

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. JACOBS. Mr. Speaker, Indianapolis is closing quickly on the 40th anniversary of a significant public event, the election in 1954 of Robert A. O'Neal as the sheriff of the Indianapolis county of Marion.

Bob O'Neal's election marked the historic demarcation between the old system of political patronage for policing and the new system of professional officers.

Sheriff O'Neal had served as superintendent of the Indiana State Police, and his father served as chief of Indianapolis Police. Steeped in the tradition of professional excellence, Bob O'Neal embarked upon the noble effort of transforming the Marion County Sheriff's Department into a modern organization suitable to the emerging extension of Indianapolis into the suburbs.

Because of the inspiration of his example. the State of Indiana adopted its first statute guaranteeing merit policing in its sheriffs' departments. And that guarantee of professionalism has endured to this day, a fine legacy of a fine police officer who, now retired from active police work, continues to be a model citizen in our community. He deserves this happy anniversary of extraordinary community achievement.

TRIBUTE TO GEN. MERRILL A. "TONY" McPEAK

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. SKELTON. Mr. Speaker, I wish to take this opportunity to publicly recognize the career of one of this country's great airmen, Gen. Merrill A. "Tony" McPeak, General McPeak will retire from his position as the Chief of Staff of the Air Force after selflessly serving our Nation for 37 years. General McPeak's leadership and vision have prepared not just the Air Force, but our Armed Forces and Nation for the 21st century.

General McPeak has been formulating what type of Air Force we need since his graduation from San Diego State and its Reserve Officer Training Program in 1957. First, he became a superb and skill aviator, flying the F-100 and F-104. He also flew over 260 combat missions in Southeast Asia.

Then, General McPeak built upon this experience by successfully commanding a variety of Air Force organizations, from the historic 20th Tactical Fighter Wing at RAF Upper Heyford to 12th Air Force to our Pacific Air Forces.

But, when we asked him to take charge of the Air Force in October 1990, he recognized, perhaps better than any contemporary military leader, that the post-cold-war era demanded a dramatically different type of military. And, General McPeak set out to reinvent the Air Force along these lines. First, he reshaped the structure of the Air Force, reducing its major commands from 13 to 8. He eliminated an entire management level—the Air Division. He changed the Number Air Forces from a management bureaucracy to an operational, warfighting command geared to support joint operations. In the process, he streamlined, flattened, delayered the Air Force, making it more responsive, more flexible, smarter, and more capable. We have an Air Force today that meets the fiscal and security demands of our new era.

At the same time, his leadership has ensured that our Nation has the tools needed to meet our Nation's international commitments. Our men and women in Air Force blue have provided a continuous air occupation over Iraq, enforcing the U.N. mandate. And, in almost every other operation—from providing relief to Russia, Bosnia, Somalia, and Rwanda—we've turned to the Air Force first. General McPeak has made sure these forces are capable—they've gotten the job done in superb style.

General McPeak has also had his eyes turned to the future. During the past decade, while the Air Force budget has declined about 40 percent, its procurement budget is down over 60 percent. Recognizing that today's modernization is tomorrow's capable Air Force, General McPeak has stressed before this distinguished body the importance of maintaining key modernization programs, like the F-22 to continue our 40-plus year record of never losing a soldier to enemy aircraft attack. There's also the importance of the C-17, needed if we are to keep the pace of our international operations. Quite frankly, I don't see an end in sight, and General McPeak has been right to push for continued support for this aircraft. General McPeak has also been a staunch supporter of upgrading our space assets—from launch capabilities to ensure we have affordable and available access to space—to the satellites that allows the Air Force to exploit space through monitoring world events and providing critical navigational and communications support to the warfighter. There are a host of other key issues that General McPeak has championed, from taking care of the men and women who wear the uniform, to the need for a modern, stealth bomber with capable, smart conventional munitions that gives our national leadership options.

At the beginning of his tenure as Chief of Staff, he published a watershed document, "Global Reach—Global Power." This document outlined how air and space power now offers the Nation the ability to mass and maneuver in the air. Modern conflict is essentially a contest with which the battle for control of air and space precedes the control of territory. And, General McPeak has detailed how our stealth and precision strike capabilities have given our Air Force the ability to dominate air and space.

During the next 50 years, many in the Air Force and Defense Department will look back on General McPeak as probably the most influential Chief of Staff since Gen. Carl Spaatz first established the Air Force as an independent Air Force. We will miss his stewardship, vision, leadership, and command of so many complex defense and security issues. As the General and Mrs. McPeak leave active duty, I encourage my colleagues to join me in wishing them well and saluting their dedicated service to our Nation.

HONORING ANTHONY BELLINI

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues the achievements of Andy Bellini, a very important member of my community in Astoria, NY.

Andy Bellini has a long history of service, commitment and leadership to his community. This became quickly evident soon after graduating from the Long Island City High School in June 1943, when a young Andy Bellini eagerly joined the U.S. Marine Corps to help out our great country during World War II. From the islands of Hawaii to the Japanese mainland, Andy served this Nation with honor and distinction, and at the end of the war, after the official declaration of peace was signed on the Battleship *Missouri*, Andy's division had the unique opportunity of accepting Japan's formal surrender in Sasebo.

After the war, Andy carried his service and leadership skills to New York City's wine and spirits industry where he has since made a strong mark in the business community through his many accomplishments. Beginning as a retailer in Astoria, Andy later became a gifted salesman and an outspoken union representative. So much so that in 1981, Charmer Industries awarded him Salesman of the Year, and his successful qualities as both a great salesman and a union leader easily won him an appointment as executive secretary of the Liquor Salesman's Union, Local No. 2, a position he continues to hold to this day.

During the early 1980's, State Senator Anthony Gazzara recognized Andy's talents and hired him as a legislative aide. Andy soon became known for helping many area residents and community organizations with their problems. He continued his generosity and kindness by later working for Senator George Onorato. For more than a decade, Andy's dedication and enthusiasm as a legislative aide have helped improve the quality of life in our neighborhoods. He is a trusting friend, and his actions show clearly how much he cares for the people and causes that he fights for.

Andy has also been an outstanding member of the Taminent Regular Democratic Club. His diligence and eye for detail have been essential to many of Taminent's successful club functions.

Mr. Speaker, because of his tremendous achievements on behalf of others, I hope my colleagues will join me in honoring Mr. Anthony Bellini. He deserves our highest respect.

TRIBUTE TO BILL HARTLESS ON BEING NAMED EMPLOYEE OF THE YEAR

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. MCINNIS. Mr. Speaker, today, I would like to congratulate Mr. Bill Hartless, property technician at Centennial Correctional Facility in the East Canon Correctional Complex, on the occasion of being named employee of the year by the department of corrections.

Employees of the year are selected by their peers on the Department of Corrections executive employee council based on qualities that include job performance, professionalism, and community involvement.

During his 10-year career, Mr. Hartless has been an outstanding employee whose dedication and proficiency has allowed him to earn this prestigious award. Besides being a role model in the workplace, Bill is also an important part of the community. He is active in community affairs, the Boy Scouts of America, and the Red Cross, to mention just a few.

Mr. Speaker, I ask our colleagues to join me in congratulating Bill Hartless on his award. I know all of us thank him for his dedication, professionalism, and service to the department of corrections.

TRIBUTE TO LEONARD "POOCH" MILLER—THE MAN WITH THE MEDALS

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. FISH. Mr. Speaker, 60 years ago, my father's most noted constituent, Franklin Roosevelt, had just taken office as President, our economy had no place to go but up, a cup of coffee was a nickel or less and Leonard "Pooch" Miller was about to begin his stint in Washington's restaurant business.

First honing his skills at Harvey's as maitre d', and then at O'Donnels and the National Press Club, "Pooch" was well known to hungry thousands before he joined the House dining room staff in 1971. Since then he has kept us happy and nourished.

"Pooch" is a special fellow: an unruffled gentleman always at his hectic post. Resplendent in the medals and pins representing our States, counties, and towns, he has always been professional and courteous. No matter whether it was for J. Edgar Hoover at Harvey's or any of us in the dining room, "Pooch" did his job for all these years in outstanding fashion.

Now "Pooch" has chosen to retire. I know this was a difficult decision, as it has been for me. I wish "Pooch" Miller, the "Man with the Medals" Godspeed and much happiness.

RETIREMENT OF HON. PHILIP T. COLE

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. COLEMAN. Mr. Speaker, I wish to pay tribute to the Honorable Philip T. Cole on the occasion of his retirement. I am especially indebted to this individual because he has dedicated the past 14 years of his life as a U.S. magistrate judge in the Western District of Texas, El Paso Division. Judge Cole's retirement will be effective today, September 30, 1994.

In September of 1994, Judge Cole entered the University of Texas School of Law. While a law student, he worked as a student attorney for the Legal Aid Clinic, a cooperative project with the Travis County Bar Association, providing legal services to the poor. He was employed part-time in the Texas House of Representatives and later as clerk with the Austin law firm of Clark, Thomas, Harris, Denius & Winters. He also served as an associated editor of the Texas Law Review from 1960 to 1962. He graduated with honors on January 7, 1962.

After graduating from law school, Judge Cole returned to his hometown of El Paso. He was licensed to practice on April 23, 1962, and immediately thereafter was appointed assistant county attorney in El Paso. He left the County Attorney's Office to enter private practice in 1964. On March 21, 1980, he was appointed U.S. magistrate in El Paso.

Judge Cole is a member of the American Bar Association and the American Judicature Society, and a former director of the El Paso Bar Association.

Judge Cole's success as a magistrate is based on a combination of profound insight and a prodigious awareness of the law and its place in our society. He is greatly respected by his peers in the legal profession. He is a man of great intellect and wit, and also of great compassion. Judge Cole is to be commended for the exemplary wisdom and dispassionate judgement that he has exercised from his position as Federal magistrate to this Nation.

I ask my colleagues to join me in congratulating Judge Cole on the occasion of his retirement and wish him well in all of his future endeavors.

TRIBUTE TO THE 1994 INDUCTEES TO THE ENTREPRENEURSHIP HALL OF FAME

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. LIPINSKI. Mr. Speaker, I rise today to recognize the entrepreneurial achievements of a select group of leaders from the Chicago metropolitan business community. I am proud to salute these entrepreneurs and founders of small and mid-sized businesses for their induction into the 10th annual Entrepreneurship Hall of Fame, Thursday evening, October 20, 1994, in Chicago.

The Institute for Entrepreneurial Studies in the College of Business Administration at the University of Illinois at Chicago cofounded and continues to sponsor the Entrepreneurship Hall of Fame, honoring outstanding business leaders whose spirit and success help keep America's business community strong and vital.

The sponsors, the Arthur Anderson Enterprise Group, LaSalle National Bank, and William Blair & Co., have enabled the university to cement this partnership and recognize outstanding entrepreneurs. The program is exceptional because it creates an active partnership between the academic and business communities. Students and entrepreneurs alike benefit from an exchange of knowledge, experience, and creativity.

Today, I would like to congratulate these leaders, each of whom is listed below, for using their imagination and resources to foster an excellent program which enhances the quality of higher education and underscores the value of entrepreneurship in America. I am sure that my colleagues join me in recognizing these entrepreneurial leaders for their important contributions to employment generation, the entrepreneurial spirit, and our great Nation.

The 1994 inductees to the Entrepreneurship Hall of Fame: Bud Greene, Dick Rosenberg, Glen A. Johnson, Larry I. Kane, Thomas Kreher, Lee Loudermilk, Bill McInerney, Roger P. Miller, Seymour H. Persky, Mark S. Pflanz, Theodore H. Pincus, Mark Polinsky, Allen Sutker, John W. Rogers, Jr., Scott Wald, Jay

N. Whipple III, Michael B. Arrington, Diane Asche, Larry L. Asche, Keven M. Clark, Lisa Brandau, Becky Wright, Irwin H. Cole, Sidney J. Taylor, James L. Coxworth, Richard C. Crandall, Jr., Kathleen B. Drennan, Cindy Ellis, Barry Potekin, Mary Nissenson Scheer, Joan Weinstein, and Andrew J. Zahn.

TRIBUTE TO CANTOR HANS COHN

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Ms. ESHOO. Mr. Speaker, I rise today to honor Cantor Hans Cohn of Temple Beth Jacob in Redwood City, CA, in the 14th Congressional District. This year he celebrated his last High Holiday services as cantor with this remarkable congregation as he prepares for his coming retirement.

Hans Cohn has served Temple Beth Jacob, the oldest Jewish congregation in San Mateo County, for 30 years. He is renowned for his remarkably beautiful voice, great skill as a teacher, and genuine compassion as a spiritual leader. Succeeding generations of congregation families have benefited from his wisdom, instruction, and longstanding devotion to Temple Beth Jacob.

The life of Hans Cohn is a portrait in courage. A native of Germany, he lost most of his relatives in the Holocaust and as a boy was himself held in a refugee camp in China. Toward the end of his career, this great singer has battled throat cancer with amazing tenacity. Despite this illness, Cantor Cohen was with his congregation this year for High Holiday services, leading the choir.

Mr. Speaker, throughout his extraordinary career, Cantor Hans Cohen has inspired his congregation not only with the beauty of his voice but also with the passion of his spirit. I urge my colleagues to join me in saluting this blessed man of faith, this gifted teacher, and his shining example of courage.

WE SHOULD TAKE A HARD LOOK AT PAKISTAN

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. ANDREWS of New Jersey. Mr. Speaker, in August I expressed my grave concern about Pakistan waging a proxy war in the Indian State of Jammu and Kashmir. Today, I rise to express further concern about Pakistan's ever-growing support of fundamentalist groups in Afghanistan and India.

I would like to bring to your attention two reports which are very timely in revealing a Pakistani link to fundamentalist groups. First is a documentary by Peter Arnett: "Terror Nation? U.S. Creation?" The film, which was viewed on CNN by the American public last month, provides an account of links between Pakistan and the fundamentalist regime of Gulbuddin Hekmatyar. It was very disturbing to note that some of the Afghan groups that have had close affiliation with Pakistani intelligence are believed to have been involved in the New York World Trade Center bombings. In addition, some of the prime suspects of the World Trade bombing center are also said to have been bound together by the holy war headquarters in Peshawar, Pakistan, the bustling base of operations for the Afghan resistance.

Second, is an article that appeared in the Washington Post on September 12, 1994. The article states that:

> Pakistan's army chief and head of its intelligence agency proposed a detailed "blueprint" for selling heroin to pay for the country's covert military operations in early 1991, according to former Prime Minister Nawaz Sharif.

The report provides considerable detail on the degree to which Pakistan's military leaders have been involved in their pursuit of a nuclear bomb and export of fundamentalism to India.

Mr. Speaker, growing evidence of a correlation between these reports and reports of Pakistani involvement in the heinous bombings in Bombay, India, last March cannot be ignored. A prime suspect in these bombings has recently been arrested with documents, including a passport, drivers license, and birth certificate, provided to him by the Pakistani intelligence organization. Pakistan's encouragement and support of these fundamentalist groups and their destabilizing effects on Afghanistan and India should not be condoned.

I believe that it is important for the United States to look into this situation before another crisis occurs. I would ask the State Department to investigate these reports and share its findings with the committee's of jurisdiction. If the investigation does support the reports cited above, then Pakistan should be placed again on the State Department's watch list of nations suspected of supporting terrorism. We should address this situation in the interest of preserving security in an increasingly volatile region.

TRIBUTE TO THE HONORABLE JUDGE GEORGE C. STEEH III

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to Circuit Court Judge George C. Steeh III. In 2 weeks, on October 12, Judge Steeh will be honored at the 10th annual Daughters of Isabella Queen of the Skies Circle fundraiser.

Judge Steeh has been a leader in our community since at least 1965 when he was captain of the Mount Clemens High School football team. George went on to distinguish himself both as an undergraduate at the University of Michigan and in law school where he graduated with honors. He continues to distinguish himself in Macomb County as a circuit judge.

Outside the courtroom, George has dedicated his time and talents to such organizations as the March of Dimes, Catholic Social Services, and Comprehensive Youth Services where he serves as an officer and member of the board of directors. George's involvement within the community exemplifies his commitment to service. I believe his ongoing efforts provide George with experience that well qualifies him to serve as judge. We are fortunate that Judge Steeh is willing to continue serving our community.

Each year the honoree of the Daughters of Isabella testimonial/roast selects a charity to receive proceeds from the dinner. This year the recipients are Turning Point, a domestic violence shelter, and the Interfaith Center for Racial Justice. Because of the concern and generosity of the organizers and the honoree, this event will promote greater understanding within our community and provide assistance to victims of abuse. I applaud their efforts to make Macomb County a better place to live.

I am pleased to pay tribute to Judge Steeh and the Daughters of Isabella. I ask that my colleagues join me in saluting their commitment to our community.

CONGRATULATIONS TO THE STAFF OF RIVERSIDE GENERAL HOSPITAL

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. CALVERT. Mr. Speaker, there has been much said in this House about the topic of health care during the 103d Congress, but, unfortunately, words alone—even those from Members of Congress—do not make people healthier.

While we have been talking about health care reform, a dedicated group of health care professionals and local officials in my district have been hard at work doing something to improve the quality of health care for the citizens of Riverside County, CA. Working together, they have begun preparations for construction of the new Riverside General Hospital-University Medical Center.

For more than 100 years, Riverside General Hospital has served the needs of the citizens of Riverside County, and is currently the only county-funded hospital in Riverside County, and the only hospital to serve people without benefits and others unable to pay for their health care.

First established in 1893, Riverside General is currently a 358 bed facility, owned and operated by the County of Riverside, and governed by the county board of supervisors. It treats all persons, regardless of age, race, sex, creed, or ability to pay, and it offers training programs for nursing students, medical residents and allied health professionals attending Riverside Community College, Loma Linda University and other regional colleges.

As a Level II Trauma Center, Riverside General treats more than 60,000 patients in its emergency room each year, and provides special services for neurosurgery, neonatal intensive care, pediatric intensive care, high risk obstetrics, child abuse and neglect, and hemodialysis.

In addition, this wonderful medical facility provides more than 120,000 outpatient visits each year with a staff of 1,500 and an operational budget of approximately 200 million dollars.

On October 13, a "Field of Dreams" groundbreaking ceremony for the new Riverside General Hospital-University Medical Center will take place in Moreno Valley in Riverside. I want to offer my congratulations to the Riverside General Board of Supervisors and to the administrators and staff of Riverside General on the beginning of an exciting new era of health care delivery in our county.

When this magnificent new facility is opened in 1997, the excellent staff of doctors, nurses and other health care providers at Riverside General will have a facility worthy of their skills and talents—a facility which will enable them to better serve the health care needs of the people of our county.

Thanks and congratulations to all who have made the "Field of Dreams" a reality.

QUAKER SPRINGS UNITED METHODIST CHURCH CELEBRATES 150TH ANNIVERSARY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. SOLOMON. Mr. Speaker, it used to be called "the little church by the side of the road."

But the Quaker Springs United Methodist Church in Schuylerville, NY is much more than that, Mr. Speaker. Like many of the fine, old churches in our 22d Congressional District, Quaker Springs United Methodist has been not only an important center of worship, but a virtual museum of local history.

And on November 6, 1994, Quaker Springs United Methodist Church will be celebrating its 150th anniversary.

Mr. Speaker, a few years before Quaker Springs United Methodist Church was founded in 1843, a Frenchman by the name of Alexis de Toqueville visited the young United States. One of the things that stood out among his impressions was the religious fervor of Americans. He remarked that America would be great as long as she was good, and America's natural goodness he attributed to the numerous churches that formed the core of the Nation's community life.

I mention this story, Mr. Speaker, because Quaker Springs United Methodist Church has been exactly the kind of church Mr. de Toqueville had in mind. The present building was erected in 1844 and dedicated in 1845. The church was incorporated under the laws governing churches in New York State in 1880.

From the beginning, the church has been a center of faith and social life for generations of area Methodists, and an enduring monument to the legacy of religious freedom our forefathers fought and died to preserve.

Mr. Speaker, America is still great because she is still good, and she is good because in communities across this Nation, churches like Quaker Springs United Methodist play such important roles.

Mr. Speaker, I ask all Members to join me in congratulating Quaker Springs United Methodist Church on this occasion, and to recognize it's 150 years of outstanding service to the community.

MALONEY PRAISES SHARE-A-WALK

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues an important event which will be taking place in my district on Sunday, October 2.

Mr. Speaker, every year for 4 years now, I have participated in a march to raise awareness about one of the most important issues which face women in this country: breast and ovarian cancer. Since 1991, the annual Share-a-Walk has focused the attention of New Yorkers and others on these devastating diseases.

There is no more pressing concern for women than finding a cure for these terrible women-killers. That's why I am so pleased that, for the first time, Congress has allocated significant funding for breast and ovarian research—over $300 million.

This year alone, it is estimated that 182,000 women will be diagnosed with breast cancer and that 46,000 will die. Over 22,000 women will be diagnosed with ovarian cancer. These numbers merely indicate the severity of the problem; they cannot explain the human tragedy behind each statistic: the families which are torn apart, the children who lose their mothers. But the work of coping with the breast and ovarian cancer epidemic doesn't stop with funding research.

That's why Share, Self Help for Women with Breast or Ovarian Cancer, is so important. Share helps women cope with the emotional and social problems associated with these diseases. They also provide support to the families of women so that they can understand and manage better under such difficult circumstances.

Thanks to the phenomenal success of Share-a-Walk and the thousands who turn out every year, Share has been able to expand its services throughout New York City. Today, Share offers support groups and hotlines in English and Spanish, numerous education and wellness programs, and of course advocacy opportunities.

Mr. Speaker, because of the efforts of Share and the volunteers of Share-a-Walk, and of women across the country, the days of silence are over. Never again will women's health concerns be swept under the mat. As a mother of two young girls, I will be there on Sunday to march for the future of another generation of women who should not have to live in fear of breast and ovarian cancer. As the representative of thousands of women who have been diagnosed with these diseases, I hope my colleagues will be able to join me in thanking each and every participant in Share-a-Walk.

TRIBUTE TO SGT. MAJ. JAMES JUSTIN HEINZLER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. SKELTON. Mr. Speaker, today I wish to recognize Command Sgt. Maj. (retired) James Justin Heinzler for serving over 42 years in the Missouri National Army Guard. He served from April 22, 1952, to September 11, 1994.

Command Sergeant Major Heinzler's most recent service with the Missouri Army National Guard was with the 1st Battalion, 128th Field Artillery. He served in this position for his last 16 years. Throughout his career, he has strongly committed himself to all that is required. He has gone beyond to provide guidance and support for his fellow soldiers.

He has received numerous military awards throughout his career. The awards are the Army Service Ribbon, the National Defense Service Medal, the Army Reserve Components Achievement Medal with silver oak leaf cluster, the Armed Forces Reserve Medal with three 10-year devices, and the Army Commemoration Medal. He is submitted for the Meritorious Service Medal.

Command Sergeant Major Heinzler has not only provided faithful and dedicated service to the Missouri National Guard, but to his country as well. I urge my colleagues to join me in congratulating him on his service.

TRIBUTE TO VIOLET EFFINGER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to commend Mrs. Violet Effinger. Vi, as she is known to everyone in Copper Mountain, CO, has diligently worked 19 years for the U.S. Post Office.

Violet is the epitome of the Postal Service motto. Through sleet, snow, rain, or shine, Vi has been there for the people of Copper Mountain. If the U.S. Post Office is ever in seach of a national spokesperson or role model for efficiency, they should look no further than Copper Mountain and Violet Effinger.

Mr. Speaker, I ask our colleagues to join me in thanking Violet for her years of dedication, professionalism, and selfless service to the citizens of the United States of America. May her remaining years with the U.S. Post Office be as rewarding as the past 19 years.

TRIBUTE TO CHARLA SULLIVAN AND SHAUNDA BRIGHAM

HON. JIM CHAPMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. CHAPMAN. Mr. Speaker, I would like to bring to my colleagues' attention the accomplishments of two of my constituents in Paris, TX. Charla Sullivan and Shaunda Brigham, both of Troop No. 55 in the Red River Valley Girl Scout Council, have completed the demanding requirements for Girl Scouting's top achievement, the Girl Scout Gold Award.

The Gold Award is a nationally recognized award presented to girls based on their efforts and outstanding contribution in the areas of leadership, community service, career planning, and personal development. Charla Sullivan and Shaunda Brigham have successfully completed these goals and made significant contributions to their communities.

My colleagues, who have served in the Girl Scouts or worked with their daughters in the Girl Scouts, understand the commitment and dedication it takes to reach the Gold Award. I want to extend my sincerest congratulations to these Gold Award winners and encourage them to continue their efforts for the Girl Scouts and the Paris community.

RESIDENTS FOR A MORE BEAUTIFUL PORT WASHINGTON

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. ACKERMAN. Mr. Speaker, I rise today to join with the members of Residents for a More Beautiful Port Washington and the people of the Fifth Congressional District in honoring Myron Blumenfeld, a most unique and dedicated individual.

In a time when we search for heroes and look for leaders willing to take on the responsibility of upgrading our daily existence, it is reassuring to note that Mike Blumenfeld is available to the residents of Port Washington. Beginning in 1969, Mike and a handful of Port Washington residents who were concerned about environmental conditions in the area brought this wonderful organization into being. With no headquarters, no staff, and a next to nonexistent budget, Residents for a More Beautiful Port Washington began its operations. Through Mike's exceptional leadership, the organization now has over 1,000 members, a cadre of highly active volunteers, a staff, and a large group of architect and engineer volunteers.

Under Mike's leadership, residents undertook an approach for dealing with the environment that can readily serve as a yardstick by which all such community action can be measured. Its history reflects what can be done under effective leadership in preserving and upgrading the economy. In 1970, residents successfully opposed a plan by the town of North Hempstead that would have dumped incinerated garbage into Hempstead Harbor. In addition, through the residents' efforts, LILCO has moved its utility lines underground and over 500 trees have been planted to enhance the area.

Mike and his group did not stop here. They gained national attention by appearing with Mike Wallace on "60 Minutes" in publicizing and demanding government action on a town-owned landfill that was generating methane gas. As a result of residents' efforts, the landfill was put on the Federal Superfund's list of most hazardous waste sites.

Mike and his residents have gone beyond the stage of reacting to existing crises and have undertaken an intergenerational program to create positive understandings and actions toward the environment. In conjunction with the Port Washington Board of Education and the School District Administration, residents have contributed thousands of dollars to fund projects which will provide students with an understanding and desire to maintain and enhance the environment.

Mr. Speaker, I ask my colleagues here today to join with me in recognizing the most necessary and effective contributions that have been made by Mike Blumenfeld and Residents for a More Beautiful Port Washington.

TRIBUTE TO SPECIAL AGENT PHILIP G. REILLY

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. REED. Mr. Speaker, it gives me great pleasure to rise today on behalf of Special Agent Philip G. Reilly who is retiring after a long and distinguished career with the U.S. Department of Justice's Federal Bureau of Investigation.

Philip G. Reilly was born and raised in Rhode Island and graduated from LaSalle Academy and Providence College. Upon graduation, he enlisted in the U.S. Marine Corps and left the corps as a first lieutenant after 3 years of exemplary military service. After completing his military obligation, Special Agent Philip Reilly was selected for the Federal Bureau of Investigation in February 1964 and was initially sent to the Kansas City Division. Subsequent division assignments were in Savannah, GA and New York City. In March 1976, Special Agent Reilly was assigned to the Boston Division/Providence Resident Agency.

Over the course of his public service career, Special Agent Philip Reilly received numerous letters of commendation recognizing his professional and outstanding conduct in performance of his duties. He has been involved in many investigations spanning a wide range of cases and is well respected by his peers in law enforcement. The people of Rhode Island have been well-served by his devotion to duty, professionalism, and many years of service to our country and I am proud to honor him on the occasion of his retirement after three decades of service.

Mr. Speaker, on behalf of my home State of Rhode Island, I would respectfully ask my fellow colleagues to join me in honoring an outstanding member of the F.B.I. from my district, Special Agent Philip G. Reilly.

"K.I.A."

HON. JILL L. LONG

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Ms. LONG. Mr. Speaker, the song—Killed in Action or K.I.A.—is a composition dedicated to the memory of those who were killed in all of our Nation's conflicts. The words and music were written by Robert D. Lynch from who resides in the Fourth Congressional District of Indiana. K.I.A. was scored and arranged by Georianna Judkins. K.I.A. is a song worth listening to. I am inserting the words of K.I.A. into the RECORD so that others may benefit from reading the verses.

The words of the song follow:

K.I.A. [KILLED IN ACTION]

For freedom's sake they fought and died in battles far away.
They gave all of their tomorrows that we might have today.
Not asking any quarter going bravely to the fray, they gave all of their tomorrow that we might have today.

The fought on every continent in the air, on land and sea.
Surrendering their precious lives to keep our nation free.
Standing at the great white throne they heard the master say, "You gave all of your tomorrow come live with me today.
All of your tomorrow in paradise you'll stay."

Throughout our country's history in peril or in strife.
They opted for their liberty without regard for life.
Then before the great white throne the Master bade them stay.
"For giving your tomorrow. Paradise is yours today."

CONGRATULATIONS TO CH2M HILL

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. BARRETT of Wisconsin. Mr. Speaker, it is my pleasure to congratulate the international consulting engineering firm CH2M Hill for receiving the American Consulting Engineers Council [ACEC] Honor Award for the design of the Wisconsin Avenue Viaduct project in Milwaukee. CH2M Hill's many offices include a long-time presence in the city of Milwaukee.

The Wisconsin Avenue Viaduct was originally built in 1911, and was a vital transportation link between the city and its western neighbors. When the bridge became too expensive to maintain, the city wanted a new structure as impressive as the old one: a 1,500-foot-long open-spandrel arch viaduct with eight graceful spans. The firm designed a precast concrete strutted-arch bridge, the first of its kind in the country. The use of precast concrete saved the city some $2 million and shortened the construction period.

I congratulate CH2M Hill for winning this important award.

MALONEY HAILS GROUNDBREAKING OF DAG HAMMARSKJOLD PARK

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues an important event which will take place in my district on Wednesday, October 12. On that day, residents of the East Side will gather to celebrate the groundbreaking of Dag Hammarskjold Plaza Park, a long-awaited development which will mark the implementation of a beautiful park design and the first step in the creation of a splendid new public space.

At a time when the city is paring its budget, it is comforting to note that we still have the will and the vision to improve our open spaces. Dag Hammarskjold Plaza was always intended to be an impressive gateway to the United Nations; at long last this concept is on its way to fruition.

Mr. Speaker, there are many individuals who deserve to be thanked for their tireless work on this project. But I would rather focus on this project as the product of the efforts of the entire community. The new park will stand not only as a testimony to the wisdom and courage of the great statesman for whom it was originally named, but also to the ability of a community to unite behind a vision and see it through.

In particular, the Turtle Bay Association and the Friends of Dag Hammarskjold Plaza should be singled out for their leadership. Collectively, they recognized that the problems of vagrancy and vandalism only escalate when a park looks neglected. By providing the community with an open space of which they can be proud, the creation of the new Dag Hammarskjold Plaza Park will ensure future generations respect and care.

Mr. Speaker, I couldn't be any more pleased that this project will finally get under way on October 12. I hope all of my colleagues will join me in congratulating all those who made this wonderful day a reality.

TRIBUTE TO LAURENCE WEISS

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. PALLONE. Mr. Speaker, on Sunday, October 2, 1994, at the Victoria Manor in Edison, NJ, the Middlesex County American-Hungarian Democratic Organization will pay tribute to one of New Jersey's leading citizens, Mr. Laurence S. Weiss of Perth Amboy, NJ.

Mr. Speaker, the story of Larry Weiss is one of the great American success stories. Born in Hungary, he immigrated to the United States with his parents at the age of 3. The Weiss family settled first in Jersey City, then Carteret, where Larry went through the public schools and graduated from the high school. After attending Middlesex County College and operating a service station in Newark, NJ, Mr. Weiss enlisted in the Army in 1940. After training at Fort Dix and Fort Jay, he was selected to go to Officers Candidate School at Fort Benning, GA, and was subsequently commissioned a 2d lieutenant, infantry. He served in the Pacific, through the campaigns on New Guinea, Leyte, Luzon, Bataan, and Mindanao, earning promotions to 1st lieutenant and company commander. He took part in the original landings on Shikokui, Japan, in August 1945 and remained there until his return to the United States. He joined the Army Reserve and was recalled to active service during the Korean conflict. He remained a member of the Reserve until 1958. His list of citations includes the Purple Heart, Bronze and Silver Stars, American, Asiatic, and European Theater Ribbons, and two Presidential Citations.

Upon his return, Mr. Weiss joined his former employer, the American Petroleum Corp., of Perth Amboy, NJ, and became the company's president in 1960. He served as a member of the Woodbridge, NJ, Library Board for 5 years, including service as the board's president and was instrumental in completing their building program. He also served as a member of the Middlesex County Planning Board.

Laurence Weiss was elected to the New Jersey State Senate in 1977, and went on to compile a remarkable and distinguished 14-year career for which he deserves the lasting respect and gratitude of the people of New Jersey. He served on the committees on agriculture, State government, education, oversight, and the legislative commission. But it was in his capacity as a member for 12 years of the senate finance, revenue, and appropriations Committee for which he is perhaps best remembered, particularly the 6 years during which he served as chairman. During my tenure as a State senator, I had the honor and privilege of being a member of Chairman Weiss' committee, and I was consistently impressed by his command of the facts, his fairness to all sides of an issue and, most importantly, his commonsense respect for how we spent the people's hard-earned tax dollars. He worked hard for balanced budgets. He consistently spoke for the adoption of a "rainy day fund," a mechanism to force all administrations to put money away in times of plenty to be used in times of meager income so that taxes would not have to be raised to cover budgetary short falls. His type of no-nonsense approach to protecting the taxpayers could sure come in handy these days.

Larry Weiss and his wife, Edith, whom he married back in the 1940's while he was in the Army, have two grown children: a daughter, Patricia W. Fisher, who works for the U.S. Fish and Wildlife Service in Washington, and a son, Dr. Steven A. Weiss, an engineer who lives in Florida. They have two grandchildren.

Mr. Speaker, it is a great privilege for me to pay tribute to Mr. Weiss in the pages of the CONGRESSIONAL RECORD. I look forward to joining his many friends and admirers for Sunday's tribute.

CELEBRATION OF THE FOURTH ANNIVERSARY OF THE WORLD SUMMIT FOR CHILDREN

HON. DICK ZIMMER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. ZIMMER. Mr. Speaker, today marks the fourth anniversary of the World Summit for Children. At the 1990 summit, 159 nations, including the United States, pledged to achieve a set of global goals by the year 2000. These goals include: reducing child deaths by at least one-third; reducing maternal mortality and child malnutrition by half, and providing all children access to basic education. Investments in child survival activities and in basic education provide some of the highest impact and most cost-effective assistance possible, as demonstrated by successful community-based programs such as ASAPROSAR and the Bangladesh rural advancement committee.

Despite such proven benefits, the administration has cut funding to key programs which would help reach the global goals set at the summit. In fiscal year 1994, child survival and basic survival and basic education programs were cut by $40 million and $30 million respectfully, below their 1993 levels. The fiscal year 1995 foreign aid appropriations bill recently passed by Congress calls on USAID to reverse the cuts and transfer funds from projects that are not achieving results to child survival and basic education programs.

Mr. Speaker, the goals established by the World Summit for Children are vitally important, and we must continue our commitment to ensure they are met.

TRIBUTE TO RUTH ZEMLOCK

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. McINNIS. Mr. Speaker, today, I want to congratulate Mrs. Ruth Zemlock for her dedication, devotion, and service to the community of Glenwood Springs and Valley View Hospital in particular.

Although Mrs. Zemlock has been retired for about 5 years from the coal, sand, and gravel company she and her husband Andy ran, she has not slowed down one bit when it comes to working. For the past 9 years, Ruth has been a volunteer at Valley View Hospital. Ruth has selflessly given countless hours of time to other such worthy agencies as the Professional Advisory Council to Valley View's Home Health Care Agency and Lift-Up.

Mr. Speaker, I ask our colleagues to join me in congratulating Mrs. Ruth Zemlock. I would also like to join her son Marty, daughter Dawn, and her four grandchildren in saying that Ruth's dedication, professionalism, and service to the community of Glenwood Springs does not go unnoticed. Again, thank you, Ruth, for everything.

GINETTA SAGAN: A HEROIC WOMAN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. LANTOS. Mr. Speaker, I rise today to recognize and honor Ginetta Sagan for her lifelong work to promote and ensure basic human rights for people everywhere. Her voice raised against tyranny and human cruelty has saved many from death, torture, imprisonment, and other suffering, and her now legendary story serves to inspire many others to work and care for the cause of human rights. On October 2, 1994, a special luncheon is being held by Amnesty International and her friends in order to honor Ginetta for all that she has done.

My wife, Annette, and I have known and worked with Ginetta for over a decade. She is a person of great courage, dignity, and compassion, and her efforts have immeasurably advanced both the concept of the need for guaranteed human rights, and their actual realization in many places and situations.

Ginetta was a member of the Italian Resistance during the Second World War. She helped run an underground railroad that smuggled many Jews and other persecuted groups out of Italy to safety. In 1945, while she continued with this work, she was captured by Fascist secret police, imprisoned, and then brutally tortured. She was 19 years old. A doctor who had also been tortured and knew he would die wrote Ginetta a letter. It said, "Do everything you can to survive. There will be other human beings in the same condition as we are. Let your voice be heard." As we all know, there were others, and since then Ginetta has continuously spoken out to the world on their behalf.

In 1967, Ginetta was one of the founders of Amnesty International USA, and several years later she was instrumental in the development of the organization on the west coast. Since then, on two separate occasions she has served on the national board of directors, and in 1994 was named honorary chair. Also in recognition of her contributions, Amnesty International has created an annual award in her name that is given to people who have furthered the power and commitment of membership-based human rights organizations.

Ginetta also founded and runs the Aurora Foundation, which she created following the Vietnam war to document, study, and monitor the situation of political prisoners and reeducation camp detainees in the Socialist Republic of Vietnam. She was one of the first to bring attention to the needs of those who continued to be persecuted in Vietnam. Since then Ginetta has broadened the work of the Aurora Foundation to intervene on behalf of human rights all over the world often at great risk to herself.

Ginetta has been honored extensively for her work. She was named Italo-American Woman of the Year, has received an Honorary Doctorate of Humane Letters from the Starr King School of Religion, and is a recipient of the Jefferson Award, the Humanist Distinguished Service Award, and the Albert Schweitzer Award. In addition, she was recently nominated by the Congressional Human Rights Caucus for the Presidential Medal of Freedom, considered the Nation's highest civilian honor.

It is with great pleasure that I invite my colleagues to join me in paying tribute to this wonderful person, who dedication and respect for human life has helped and touched so many.

KILDEE SALUTES 75 YEARS OF WORSHIP AT BETHANY PRESBYTERIAN CHURCH

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. KILDEE. Mr. Speaker, I rise today to urge my colleagues in the House of Representatives to join me in commemorating the 75th anniversary of Bethany Presbyterian Church serving my hometown of Flint, MI. The anniversary will be marked with the installation of two former pastors of the church, Rev. Bert Clark and Don Lomas as Pastors Emeritus. The celebration will continue with a potluck dinner to be held after services on Sunday, October 2, 1994.

The long and very distinguished history of Bethany Presbyterian Church began in October 1918 when Mr. and Mrs. Robert Seaton started a Sunday School in the 1700 block of Delaware Ave. On May 11, 1919, a committee of Flint Presbyters met and formally organized Bethany Presbyterian Church with 21 charter members. The Rev. George B. Crawford was installed as the first pastor of Bethany, with William Mrohs and Robert Seaton serving as the first elders. In 1921, Bethany purchased four lots at the corner of Delaware and Franklin Aves. and the first building was completed in 1923.

The Rev. E. Gordon Black became pastor in June 1930. Under Rev. Black's guidance, work began on a new building at the corner of Nebraska and Minnesota Aves. during the summer of 1948. Many members of the church generously dedicated their time, talents, and resources to complete this building. The proud members held their first worship service in the new building on March 13, 1949 and the dedication ceremony was held on May 15, 1949.

Throughout it's history, Bethany has been truly blessed to be served by such dedicated servants of the Lord. When Reverend Black retired after 29 years of distinguished service, Rev. Donald Hart Gordon became pastor after serving as associate pastor for 2 years. In August 1962, Rev. Donald F. Lomas became pastor. In response to the continued growth of the congregation and the need for new education facilities, a fully graded program was established in the new Church School in the mid-1960's.

The Reverend Bert E. Clark was called as pastor in 1970, following Reverend Lomas' retirement. Reverend Clark served Bethany as pastor for over two decades. His dedication and commitment to serving the Lord was and remains an inspiration to his congregation and the community as a whole.

Reverend Clark retired on January 1, 1991, and the church was served well by Rev. George McMican and Rev. Harry Capps, until Rev. James Offrink was installed as pastor of Bethany on March 1, 1992. Reverend Offrink, his wife, Sally, and their three children, Laura, Andrew, and Benjamin are welcome additions to the Bethany family.

Mr. Speaker, without a doubt, our community is a much better place in which to live because of the 75 years of service, love, and spiritual support from Bethany Presbyterian Church. I urge my colleagues to join me in congratulating the congregation of Bethany Presbyterian Church for a wonderful, fulfilling 75 years, and in extending our best wishes and prayers for even greater success in the years ahead.

AMERICANS LOSE AS CONGRESS CLOSES THE BOOK ON HEALTH CARE REFORM

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. ANDREWS of Texas. Mr. Speaker, this week Senate majority Leader GEORGE MITCHELL declared health care reform dead. This is regrettable, and it could have been avoided. The 103d Congress made real progress in this debate, and it is a shame that it failed to enact health care reform legislation this year. Even incremental measures which would not have fully accomplished all the worthwhile goals the President set out to achieve initially would have started us in the right direction. According to an ancient Chinese proverb, "A journey of a thousand miles must begin with a single step."

During this session, Congress had a truly historic opportunity that may not be repeated soon. Not since the enactment of Medicare nearly 30 years ago had health care been given such attention in Congress. And never has there been so much public information and education about the issue. Such a big investment of time, effort, and money should not have gone to waste.

Even though nothing was passed, the current problems of cost and access won't vanish; they will continue to worsen. And they will get harder and more daunting to solve. By starting now to improve access to coverage and to get increasing health care costs under control, Congress would have been more able and willing to put forth additional effort in the future.

Most Americans want access to coverage at reasonable rates; they want their health insurance to cover them without tricky exceptions; and they want assurances that they will not lose their coverage if they change jobs or become ill.

There is general agreement in Congress that it should enact insurance reforms to solve these problems. And it is possible to do so without significant negative consequences. By requiring insurers to accept and keep anyone who applies for coverage, by applying preexisting condition limitations only if people fail to maintain coverage, and by allowing rates within a community to be reasonably adjusted for age, insurance reforms can attract young and healthy people into the system, keeping costs down.

In addition, purchasing groups for individual and small employers will achieve economies of scale that will bring costs down and help compensate for the cost-increasing tendency of sicker people on average to purchase insurance in a voluntary system.

Competition created by empowering consumers with appropriate incentives and information will also be a powerful cost containment tool. Many employers contribute more on behalf of employees who choose more costly plans. Congress could have enacted a rule that requires employees who contribute to their employees' coverage to contribute the same amount whichever plan an employee chooses. This way, the employee would get the savings from choosing a less costly plan.

In combination with rules for standardized benefits and quality reports that will help people compare plans, such reform would provide strong incentives for cost containment.

Incremental reforms could have also expanded options for elderly Americans by allowing them to apply their government payment to the private sector health plan of their choice. Under this proposal, beneficiaries who choose an efficient private sector plan would get more value for their money, with less paperwork, and better benefits, including prescription drugs, with the savings from more efficient care.

Similarly, changes in rules for Medicaid could have allowed States to contract with the most efficient private sector managed care organizations without requiring them to jump through bureaucratic hoops to obtain a special waiver permitting them to do so.

Incremental reforms would have improved access and started to bring costs down. As a result, fewer people would have been uninsured. For those remaining uninsured, there would be some safety net with county hospitals. Congress could have monitored this system under incremental reform and worked to improve it as necessary.

While incremental reform is not synonymous with universal coverage that can never be taken away, it would have been a valuable and important first step in a process of making much-needed improvements in our ailing health care system.

These steps would have been small but important. They would have affected millions of Americans and laid a foundation for a larger health care debate next year in the Congress and across the country. Thoughtful Americans understand fully the importance of reforming our Nation's health care system. The 103d Congress, however, did not grasp this, and it squandered an important and single opportunity to start the job.

LENOX HILL NEIGHBORHOOD HOUSE—A CENTURY OF CARING SERVICE

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mrs. MALONEY. Mr. Speaker, it is my great pleasure this evening to bring to the attention of my colleagues the centennial anniversary of the founding of the Lenox Hill Neighborhood House, a multifaceted service organization located in the Manhattan portion of my congressional district.

One of the booklets put out by this stellar organization poses the question "Who needs a social service agency on the Upper East Side?" The answer is more than 52,000 people, ranging from 13,750 older adults living alone to 1,300 homeless people who avail themselves of the myriad services offered by Lenox Hill Neighborhood House.

The Lenox Hill Neighborhood House was founded 100 years ago as a kindergarten school for immigrant children. From those modest beginnings, LHNH has grown with the needs of its community.

Today, Lenox Hill Neighborhood House provides Head Start and after-school programs for young children, vocational training for at-risk teenagers, and counseling programs for families in crisis. For older East Siders, Lenox Hill Neighborhood House provides transportation for the disabled, a senior center with numerous activities and in-home care for those who are unable to leave their residence. This home care is comprehensive with trained assistants providing assistance with bathing, dressing, feeding, shopping, cooking, laundry, and cleaning. For the homeless, Lenox Hill Neighborhood House provides the kind of comprehensive, supportive services that are a model for helping homeless people back on their feet, permanently.

One of the greatest accomplishments of Lenox Hill Neighborhood House is that it achieves so much through the use of volunteers from the East Side. Many times, these volunteers are people who, at one time or another, made use of the services provided by LHNH.

Mr. Speaker, Lenox Hill Neighborhood House truly represents what is best about our community and truly reflects the ideal of service to our neighbors. I would hope that my colleagues will join me in congratulating this wonderful institution on its 100th birthday.

THE 50TH ANNIVERSARY OF THE BATTLE OF LEYTE GULF

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. KING. Mr. Speaker, I rise today to commemorate one of the monumental events in the global struggle against tyranny that was led by American forces in Africa, Europe, the Atlantic, Asia, and the Pacific from 1941 to 1945. This October marks the 50th anniversary of the Battle of Leyte Gulf—one of the largest naval engagements in the history of the world—the battle that cleared the way for the liberation of the Philippines and destroyed forever Imperial Japan's naval power.

I would like to focus on one small, but significant portion of this huge action—the outstanding combat record compiled by the U.S.S. *Orestes AGP–10*, a PT-boat tender that found itself in the very thick of the battle.

The U.S.S. *Orestes* was commissioned on April 25, 1944 and distinguished herself supporting the New Guinea Campaign. She was assigned to Gen. Douglas MacArthur's Philippines invasion forces, taking part in the historic Battle of Leyte Gulf.

Serving as the flagship of Task Group 77:11, the *Orestes* led a convoy as part of a diversionary feint during the invasion of Luzon. Noted naval historian Samuel Eliot Morrison described the mission of TG 7:11 as "three days and nights of hell." The convoy downed over 200 Japanese planes and was called by one historian, the "most kamikazed convoy of the war."

Upon reaching Mangarin Bay, Mindoro on October 30th, 1944, the *Orestes* was hit by a kamikaze. The ship was badly damaged and many of its crew killed or seriously wounded. Later, the *Orestes* was again attacked, this time struck by a 500-lb. anti-personnel bomb. One of my constituents, Edward Uher of Farmingdale, was a survivor of that attack. He heroically carried a badly wounded fellow seaman off the stricken ship to a field hospital.

The *Orestes* played an immeasurably valuable role in the success of the liberation of the Philippines. Throughout its service in the Pacific, the ship's crew suffered a casualty rate of 52 percent, with 59 KIA's and 106 WIA's.

The *Orestes* was the only ship of its class to suffer so high a casualty rate and the only PT boat tender authorized to carry the Navy's Amphibious shield. The *Orestes* was honored for its participation in four island assaults and its gunners credited with the destruction of 15 enemy planes.

The men of the *Orestes* crew symbolized through their courage and devotion to duty, the commitment and determination of the millions of Americans who served in World War II.

Next week, on October 6, 1994, the *Orestes* will be remembered by members of its crew in a ceremony at Battleship Cove in Massachusetts. Mr. Speaker, I know that every Member of this House joins me in saluting these brave men and their fallen comrades.

LEGISLATION ADDRESSING FEDERAL PRINTING POLICY

HON. CHARLIE ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. ROSE. Mr. Speaker, I am pleased to note that we have reached an agreement with the administration to collaborate during fiscal year 1995 on legislation addressing Federal printing policy. This agreement also maintains the status quo regarding present printing and duplicating arrangements between the Government Printing Office and the executive branch.

I particularly wish to express my thanks to Acting Director Alice Rivlin for issuing a memorandum to executive agencies setting forth the goals we seek to achieve. Specifically, we recognize that legislative reform must achieve several goals. First, it should improve the efficiency and cost effectiveness of Government printing and duplicating by maximizing the use of private-sector printing and duplicating capability through open competitive procedures. Second, it should limit Government-owned printing and duplicating resources to only those necessary to maintain a minimum core capacity. By crafting legislation to meet these goals, we hope to be able to improve the efficiency of Government printing and save the taxpayers money.

Finally, it should enhance public access to Government information by improving the information dissemination practices of the Federal Government. In this regard, I particularly note the fundamental contributions of the Depository Library Program toward meeting this goal, and want to ensure that the Depository Library Program's role continues in the future.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, September 19, 1994.

Memorandum for Heads of Executive Departments and Agencies
From: Alice M. Rivlin, Acting Director.
Subject: Procurement of Printing and Duplicating through the Government Printing Office.

BACKGROUND

Information technology is changing the way words and images are put on paper, blurring traditional notions of printing and duplicating. As a result, the framework of laws governing these aspects of government publishing has become outdated.

In his July 22, 1994, statement accompanying the Fiscal Year 1995 Legislative Appropriations Act, the President expressed his eagerness and resolve to accomplish a comprehensive reform of Federal printing. The leadership of the Congressional committees of jurisdiction has agreed to work with the Administration to produce a legislative approach to solving this problem next year. Accordingly, we have agreed to maintain the status quo regarding present printing and duplicating arrangements during Fiscal Year 1995 to allow this initiative to go forward.

We have agreed that legislative reform of government printing must strive to achieve three goals. First, it should improve the efficiency and cost effectiveness of government printing and duplicating by maximizing the use of private sector printing and duplicating capability through open competitive procedures. Second, it should limit Government-owned printing and duplicating resources to only those necessary to maintain a minimum core capacity. Finally, it should enhance public access to government information by improving the information dissemination practices of the Federal government. I am certain you share these goals. We look forward to consulting with you as this legislative program is formulated.

POLICY

Accordingly, as a matter of Administration policy, Executive departments and agencies are to carry out their printing and duplicating activities during Fiscal Year 1995 in accordance with the following:

The procurement of printing and duplicating services from private sector sources shall continue to be the preferred method of fulfilling agency printing and duplicating requirements.

All procurement of printing and duplicating from private sector sources shall be through the Government Printing Office, except for individual printing or duplicating orders costing not more than $1,000, if such orders are not of a continuing or repetitive nature and cannot be provided more economically through the Government Printing Office.

Existing agency in-house printing and duplicating operations and agency cross-servicing arrangement (e.g., GSA's provision of duplicating services to other agencies in field locations) may continue to operate normally.

Agency printing and high speed duplicating capacity shall not be expanded. This is not intended to affect the ordinary maintenance and replacement of existing equipment capacity.

Existing agency plans to downsize internal printing and duplicating capacity shall continue to be carried out.

Agencies should ensure that all government publications, as defined in 44 U.S.C. Part 19, are made available to the depository library program through the Superintendent of Documents.

I must emphasize that agency compliance with these policies, and cooperation with Congressional oversight, is essential to the ultimate success of a comprehensive legislative initiative to reform government printing.

DOD APPROPRIATIONS CONFERENCE REPORT

HON. SAM GEJDENSON

OF CONNECTICUT
IN THE HOUSE OF REPRESENTATIVES
Thursday, September 29, 1994

Mr. GEJDENSON. Mr. Speaker, today we passed the conference report on H.R. 4650, the Department of Defense appropriations bill. I wish to recognize the distinguished chairman of the House Defense Appropriations Subcommittee for his dedication and hard work in bringing together a bill which so well addresses our national security needs while accommodating the difficult fiscal environment in which we must operate.

Among the programs funded by the bill is the Navy's new attack submarine, or NSSN. The report language addressing this program cautions the Navy that above all, controlling costs of the NSSN must remain paramount as the Navy proceeds with this vital program. I am in full agreement with the conferees on this issue, and I can assure my colleagues that no one will be more diligent than I in monitoring the Navy's progress in keeping the NSSN affordable.

Included in the language accompanying the conference report, however, are some statements which should be corrected. This is necessary in order that the record accurately reflects the intentions of the Congress. For example, the recommendation of the Deputy Secretary of Defense is to remove the third NSSN, scheduled for authorization in 2001, from the Defense plan, not the second NSSN as stated in the conference report. Also, the House actually reduced funding for this program by $100 million, not the $200 million as stated in the report. Finally, it should be noted that the construction cost of the first NSSN has been stated by the Navy to be $2.3 billion, not the $3.4 billion mentioned in the report. Apparently the development costs were included in the procurement cost stated in the report.

Once again, Mr. Speaker, I wish to express my appreciation for the tireless efforts of our subcommittee chairman in bringing to fruition the Defense appropriation bill for fiscal year 1995.

APPRECIATION TO REPRESENTATIVE MOU-SHIH DING

HON. TIM JOHNSON

OF SOUTH DAKOTA
IN THE HOUSE OF REPRESENTATIVES
Thursday, September 29, 1994

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise today to bid farewell to a distinguished public servant from the Republic of China on Taiwan, the Honorable Mou-shih Ding, and to offer congratulations on his recent promotion to the post of Secretary General of the National Security Council in Taipei. Representative Ding has spent the last 6 years at the Coordination Council for North American Affairs effectively dealing with all aspects of U.S./RoC relations. From the executive to the legislative branches of our government, Mr. Ding has represented his country in a most honorable and praiseworthy manner.

Many of us in Congress have had the pleasure of working with Representative Ding, not only during his tenure in the United States, but also earlier when he served as the Minister of Foreign Affairs. He has been an important leader in the impressive economic, social and political transformation that has occurred in the Republic of China on Taiwan.

We are approaching October 10, which is widely observed as National Day, commemorating the date in 1911 when the Republic of China was founded by Sun Yat-sen as the first republic in Asia. On this anniversary, it is appropriate to note that U.S./RoC relations over the past several years have taken many positive, cooperative steps—a continuation of the sincere friendship and respect that have long existed between the people of our two nations. And on the world stage, the increasing impact and influence of the Republic of China on Taiwan is obvious.

Yet, there is a matter that remains unresolved. As one of the world's leading economic powers, the Republic of China on Taiwan deserves a seat in the United Nations. I encourage my colleagues to support this initiative, which would have a positive effect on the U.N. and its various international organizations. It is a goal that many of us share with the people of the Republic of China on Taiwan and with the man who has represented them with distinction in Washington for the past 6 years, Representative Mou-shih Ding.

ISLAMIC HOLY WAR IN KASHMIR

HON. SHERROD BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. BROWN of Ohio. Mr. Speaker, I call my colleagues' attention to an article in the August 26 London Times: "Kabul Paymasters Aim for Jihad in Kashmir."

The article is unsettling for those of us in Congress who are concerned about the rise of terrorist acts being perpetrated against Indian citizens in the Province of Kashmir.

According to Times correspondent Christopher Thomas, Pakistan's foreign policy on Kashmir has been taken captive by foreign Islamic terrorists who are determined to wage a holy war of terrorism on Kashmir.

Thomas notes that no Pakistani Government has ever been fully in control of its Kashmir policy.

Rather, until recently Pakistan's Kashmir policy has been directed largely by the Pakistani Army, which has contributed significantly to the unrest in Kashmir by training, supplying, arming, and underwriting Indian Kashmiris who have fought to overthrow the Indian Government and establish an independent Kashmir state.

Evidence is mounting, however, that in recent months, this military support has given way to foreign Islamic extremists allied with Gulbuddin Hekmatyar, the Prime Minister of Afghanistan.

These extremists are using Pakistan as a base to channel greater and greater amounts of funds, armaments, and soldiers into Kashmir.

The attack on Kashmir has now evolved from a secular independence movement into a religious holy war with a goal of making Kashmir a part of Pakistan.

Mr. Speaker, this is an ominous development.

First, Pakistan has declared war on India three times over the past four decades. Each of these wars has involved Kashmir, an Indian state over which Pakistan continues to claim territorial sovereignty.

Second, former Pakistani Prime Minister, Nawaz Sharif, recently stated publicly that Pakistan has for some time possessed nuclear weapons, despite statements to the contrary to the world community for the past 7 years. Former Army Chief of Staff General Mirza Aslam Beg also has said publicly that Pakistan would be prepared to use these weapons against India in any future war between the two nations.

Finally, Mr. Speaker, India is anxious to return self government to Kashmir, which had substantial control over its own affairs prior to this outbreak of terrorist aggression 4 years ago. However, India remains unable to return decisionmaking to the local level in the face of ever-widening terrorist attacks in Kashmir and Islamic fundamentalists in Pakistan, who have gained control of Pakistan's Kashmir policy.

Mr. Speaker, I urge my colleagues to read the Times article closely.

The issues raised in this important article cannot be ignored by the U.S. Government.

I ask that the article be included in the RECORD at this point.

[From the Times of London, Aug. 26, 1994]

KABUL PAYMASTERS AIM FOR JIHAD IN KASHMIR

(By Christopher Thomas)

Pakistan appears to have lost control of its Kashmir policy to foreign Islamic extremists who are channeling increasing amounts of money and weaponry into India's only Muslim majority state. This makes a peaceful solution all but impossible, despite India's apparent readiness to offer significant political concessions.

Benazir Bhutto, the Prime Minister, could not halt the flow of funds, men and guns across the mountainous border, even if she wanted to. No government in Islamabad has ever been fully in control of Kashmir strategy, which has been directed largely by the armed forces, but events have now moved well beyond the present government's reach.

Kashmir valley has become irrelevant, since the important paymasters are Islamic groups that see this as the next jihad (holy war). The sophisticated weapons entering the valley are proof of the escalating resources being committed to the conflict.

Groups within the Pakistani military continue to support the rebellion, but training, financing and supplying Indian Kashmiris is now mostly the business of foreign Islamic groups, primarily those in Afghanistan with most limitless resources from narcotics sales. Afghanistan rivals Burma as the world's largest supplier of raw opium.

Gulbuddin Hekmatyar, the nominal Prime Minister of Afghanistan, is close Hizbul Mujahidin, the biggest rebel group in the valley, which is fighting to reunite the former Kashmiri kingdom under the Pakistani flag, something the Muslims of the valley fear. The secular groups that launched the rebellion in 1989 wanted independence both from Pakistan and India, but such organizations are now almost irrelevant. What began as a nationalist uprising has been hijacked by Islamic extremists who have more money and better weapons.

Mian Nawaz Sharif, the former Pakistani Prime Minister, yesterday defended his claim that Pakistan has a nuclear bomb and that his government, which lost power last year, gave substantial funds to help the Kashmir uprising. In a written statement, he said has remarks were designed to stop Mrs. Bhutto from giving in to foreign pressure to curb the nuclear programme.

Mrs. Bhutto was seeking a compromise with the United States on the nuclear issue in the hope that Washington would restore military and economic aid, which had ended in 1990 because of suspicions that Pakistan has assembled the components for a nuclear bomb. After Mr. Sharif's comments on Tuesday, the Prime Minister cannot afford to be seen to offer any concessions on the nuclear issue.

Commentators suggested yesterday that Mr. Sharif's remarks were made at the behest of the Pakistani military, which is deeply committed to the nuclear programme as a defence against India's superior conventional forces and feared it might be rolled back under a pact with the United States.

Tensions on the line of control dividing Kashmir, which is heavily patrolled by troops on both sides, have risen amid rumours that some senior Indian army officer favour a policy of hot pursuit across the border. The Indian government has firmly ruled out such a policy, aware that it could spark war. In the latest atrocity in Kashmir yesterday, eight people were killed and 29 injured in a bomb on a school bus in a Hindu-majority region of Kashmir.

Delhi is ready to return substantial powers to Kashmir, which used to enjoy special status that gave it control over most of its own affairs, if peace and democracy can be restored. The government concedes that elections are impossible in the foreseeable future. Kashmiri Muslims fear that any elections would be rigged, as in the past, and their leaders have said they would order a boycott of any poll.

TRIBUTE TO FIVE CONGRESSIONAL BASEBALL GREATS

HON. DAN SCHAEFER

OF COLORADO

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. SCHAEFER. Mr. Speaker, the congressional baseball game dates back to 1909. Since then, Democrats and Republicans have taken the field to battle each other in a true game of political hardball to benefit charities. While the players and outcomes have varied throughout the years, one thing has remained constant: help from people who love the game. In recent years, five individuals have given undying support for the congressional baseball game. They are: Kenny Burkheadt, Shepard Hill, Joseph Foley, Chinch Wollerton, and Wilmer "Vinegar Bend" Mizell. Today, we rise in recognition of their contribution of time and effort.

As our colleagues and teammates polish their skills at our early morning practices, these gentlemen patiently catch, throw, hit, and coach. Their dedication is remarkable. They come back year after year, continuing to help out wherever they can. It is because of their consistency and loyalty to this congressional tradition that we honor them today.

The congressional baseball game stands out as an institution of Congress that contributes to bipartisan cooperation and literally gives back to the Washington, DC community. This year alone, the game raised over $30,000 for local charities. This simply could not be accomplished without these five gentleman. We urge all of our colleagues to join us in recognition and appreciation of their efforts.

TRIBUTE TO MAHATMA GANDHI

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. FILNER. Mr. Speaker and colleagues, I rise today to mark the celebration of the 125th birthday of a great revolutionary and social reformer, Mahatma Gandhi. Gandhi was one of those unique individuals that sets out on a course to touch every life they come across in a positive manner, using their talents to promote change and progress.

He was born in a seacoast town in the Kathiaware Peninsula, north of Bombay, to a wealthy family. He practiced law, using both his intellectual abilities and deep religious beliefs to bring equality and justice to society.

In 1893, he accepted an offer from a Moslem firm to represent it in Pretoria, in the Union of South Africa. While traveling in a first-class train compartment in Natal, he was asked by a white man to leave. He spent the night at the train station meditating on the incident and made the momentous decision to devote his life toward eradicating prejudice. He helped to launch a campaign to improve the legal status of Indians in South Africa who, at the time, suffered the same discrimination as blacks. Gandhi knew he faced a monumental task; in fact, when he reached South Africa, an angry mob stoned and attempted to lynch him. But he continued to fight for equality and justice for Indians in South Africa, eventually winning a law declaring Indian marriages valid in South Africa and abolishing the tax on former indentured Indian labor.

Then he turned his eyes to his homeland.

Gandhi knew how to reach the masses, working with them to spread the idea of a new and free Indian individual. He also moved his people toward a spiritual regeneration of the nation, raising awareness and activism.

One technique he used in his effort to promote progress and change was the fast. He undertook a 21-day fast to bring the Hindu-Moslem communities together, believing that together they could accomplish much. In 1930, he began his famous 24-day salt march to the sea. At that time, a British law taxed all salt used by Indians, creating a severe hardship on the very poor. Several thousand marchers walked hundreds of miles to the coast, where Gandhi picked up a handful of salt in defiance of the government. This helped to start a nationwide movement against the tax, and made the British aware of Indian unrest.

In August 1947, India finally celebrated its independence. Gandhi is still regarded as the most influential force in making this possible, through his teaching of nonviolent civil disobedience and his work in bringing the Indian people together for the betterment of the whole nation.

In January 1948, Gandhi began his last fast, praying for Indian unity. He was shot and killed for his beliefs, but his ideals and works live on. Gandhi believed, as I do, that one person CAN make a difference. His followers joined with their hearts and minds to make their country better, not just for themselves, but for future generations. I join my friends today in remembering this great man and his work to bring the ideals of equality, justice and freedom to reality.

COMMEMORATING THE RETIREMENT OF DR. BENEDICT K. ZOBRIST, DIRECTOR OF THE HARRY S TRUMAN LIBRARY

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. WHEAT. Mr. Speaker, it is an honor for me to rise to pay tribute to Dr. Benedict K. Zobrist who will be retiring next month as director of the Harry S Truman Library in Independence, MO.

For nearly a quarter of a century, Dr. Zobrist has been at the helm of the Truman Library—overseeing its growth over the years and sharing the Truman legacy with countless thousands. He leaves behind a proud record of service and dedication to one of our Nation's most treasured landmarks.

Mr. Speaker, after leaving the White House, Harry Truman focused much of his efforts on establishing the Truman Library to help educate the country about his life, his work, and his times.

He never wanted the library to be a temple for tribute, but, instead, a place for people to read, to listen, to learn, and to judge the period and Truman's work for themselves.

As director, Dr. Zobrist made sure the library was run just the way Truman had envisioned it—and I know of no higher compliment than that.

Researcher after researcher, author after author, have singled out the library and Director Zobrist for praise. In his Pulitzer Prize winning work—Truman—David McCullough probably said it best when he cited Dr. Zobrist and wrote, "In my experience there is no more agreeable place in which to do research than the Truman Library."

Through his work as director, as an adjunct professor of history, as a lecturer, and in numerous other roles, Ben Zobrist has been a leading force in our community. He has helped open people's eyes and minds to the life and times of one of the greatest public figures of the 20th century.

Over the course of my years in Congress, Dr. Zobrist has also been an important source of information and assistance to me and others who have worked on congressional efforts to preserve and enhance the Truman legacy.

Even through Dr. Zobrist is technically retiring, I know that he will continue to carry on his work, including his important service on the Missouri State Historical Records Advisory Board.

I wish Dr. Zobrist all the best as he looks back on a long and distinguished career and looks forward to the challenges ahead.

SELECTIVE SEPARATION OF CHURCH AND STATE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. CRANE. Mr. Speaker, at the same time Democrats visciously attacked Christian Republicans, apparently fearing a breach in the infamous wall separating church and state, President Clinton attended a church service and called passage of his boondoggie crime bill "the will of God." It is just another example of the misunderstanding of that overused remark made by Thomas Jefferson.

The Founding Fathers did not advocate a federally run church in the United States. In fact, the wall to which Mr. Jefferson refers is designed to protect churches from the government, not vice versa. At the time of this Nation's founding, States ensured that their Christian population would be well represented as Members of Congress were required to sign pledges affirming their Christianity.

While much has changed in the more than 200 years since then, America undoubtedly remains a theistic society. Although some Members of Congress cringe when children have a moment of silence to pray or reflect in public school, we still start our legislative days with a prayer. Although Democrats fight for the rights of atheists, the leader of their party can call on a Christian God to help pass his legislation. Although Democrats can accuse Christians of radicalism, their leader speaks about the need for family—that is Christian—values.

A recent article by nationally syndicated columnist Joseph Sobran addresses this convenient use of religion by the Democrats and I commend it to the attention of my colleagues.

SELECTIVE SEPARATION OF CHURCH, STATE

"The will of God," as Mr. Clinton called his crime bill in an unexpected seizure of piety, has been accomplished. If I may be allowed a little pun, it was an arresting phrase.

The crime bill will do for the crime problem exactly what the war on drugs has done for the drug problem. But never mind that for the moment.

My keen-eyed colleague Cal Thomas has remarked that the liberal media found nothing amiss in Mr. Clinton's stepping into a pulpit to equate his agenda with the purposes of the Almighty. Usually the media are on the qui vive for breaches of the separation of church and state, but not this time.

As a matter of fact, the liberal Democrats always have used the churches when it has served their purpose. The civil rights and antiwar movements have featured many clergymen who used their stature and charisma to advance political causes: Martin Luther King, the Berrigan brothers, William Sloane Coffin, Ralph Abernathy, Robert Drinan, Jesse Jackson. This is fine with me, and it was fine with the media.

But when "reactionary" clergymen get into politics—Jerry Falwell, Pat Robertson, the Religious Right in general—we hear dark media murmurs about the danger to the American tradition of separationism.

You can gauge how deeply the media care about religious freedom by the extent of their coverage of the oppression and persecution of Christians under communism: just about zero. Christians have never made the liberal honor roll of accredited victims.

And it isn't just the news media. Education is now assumed to mean exclusively secular subjects, even though throughout most of Western history religion was the central subject of education (as it still is in the Islamic world), most of our great universities were founded as Christian institutions, and most of our greatest art and music is Christian.

The Canadian writer John Muggeridge recalled in a recent speech that he had once taken a course in French literature that included no religious writing at all. And he was astonished, when he read on his own the same writers he had read in his courses, to find that many of them had written religious and devotional works. It was as if he'd taken a course in English literature without learning that Chaucer, Spenser, Milton, Donne, Bunyan, Swift, Dr. Johnson and T.S. Eliot were devout Christians.

We talk about "multiculturalism" at the same time we are systematically ignoring the core of our own culture. An Italian priest observed to me recently that America has "In God we trust" on its coins, and even chaplains in Congress yet won't provide for a moment of prayer in its public schools.

Nobody can claim to be fully educated without some awareness of religious experience. Not everyone can have faith, but no mind can be well informed without an inkling of it. Christianity is still at the center of many if not most Americans' lives.

Yet the majority of journalists show little interest and less sympathy for it. They seem to feel no obligation to become acquainted with it before reporting on it. No wonder their reporting shows a tin ear for the inner life of faith. Christians, when they are not simply ignored, are usually portrayed as hypocrites and fanatics—unless they are liberals. The churches are portrayed as tyrannical for trying to maintain their own traditions, but the Democratic Party is permitted to escape criticism when it won't allow anti-abortion speakers like Gov. Robert Casey of Philadelphia to speak at its national convention.

Jacques Barzun has said that if you don't know baseball, you don't know America. He has a point. But the point applies even more strongly to religion. No newspaper would send a reporter who was ignorant of baseball to cover the World Series. Why do they send ignorant and even hostile skeptics to cover the activities of Christians?

COMMUNITY GROUPS WORKING TO STOP THE VIOLENCE

HON. PETER W. BARCA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. BARCA of Wisconsin. Mr. Speaker, this weekend in Racine, WI, various community groups and concerned citizens are gathering to call for peace on the streets and in the schools.

That's because 40 of Racine's young people have lost their lives to violence in the last 3 years alone.

Think about it.

That's a classroom of kids who are no longer with us because of violence.

Mr. Speaker, earlier this month, President Clinton signed into law a tough and smart crime bill to try to prevent this type of violence. But we all know that Government can't stop the violence by itself. Stopping the violence starts in the community.

The Promoters of Peace in Racine, WI, have begun that fight. This weekend, on October 1, the Promoters of Peace and the Second District Action Coalition are holding a Community Awakening Gospel Festival at the Duke Hamilton Park in Racine. They have invited the entire community to participate in this event. The Community Awakening Gospel Festival is being dedicated to all of the young people in Racine, WI, who have lost their lives to violence.

I commend the Promoters of Peace and the Second District Action Coalition in their fight against violence. I hope that communities across the country will follow this example and end the senseless killing that is robbing this great Nation of our future.

100TH ANNIVERSARY OF THE APPLETON FIRE DEPARTMENT IN APPLETON, WI

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. ROTH. Mr. Speaker, I rise today to praise the Appleton Fire Department for 100 years of service to the people of Appleton, WI. Generations of Appleton residents have benefited from the brave and valiant service given by these firefighters.

The Appleton Fire Department was initially founded in June, 1854, with the enactment of the city's first fire protection ordinance. It was given responsibility for the prevention and fighting of fires in Appleton, the summoning and recruitment of volunteers, and the coordination of water supplies.

However, the department did not become a full-time operation until November, 1894. At that time, it had only 10 full-time fire fighters, and just one fire station.

Today the Appleton Fire Department is staffed by 89 heroic men and women working in 5 fire stations. They serve over 68,000 individuals with the same rigor and dedication as their forefathers did one century ago. In addition to selflessly risking their lives on behalf of others when fighting fires, they spend countless hours teaching children and others about fire safety.

In recognition of the many good deeds of the department and its firefighters past and present, a memorial is being dedicated in the memory of fallen comrades and to honor the current firefighters who serve their community so well. A brief dedication ceremony will be held on October 12, 1994, to unveil the memorial and to place a historical time capsule.

The firemen and women of the Appleton Fire Department are still providing the same admirable service as was given years ago, namely, to protect the citizens and city of Appleton from the ravages of fire. They do their jobs with bravery, honor, and true dedication.

I honor those who have served the people of Appleton for so long and so well. Congratulations once again to the Appleton Fire Department for 100 years of service to the city of Appleton.

TITO PUENTE

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. PASTOR. Mr. Speaker, I would like to take this opportunity to congratulate Mr. Tito Puente who was recently honored at the Hispanic Heritage Awards Dinner for Excellence in Arts.

Born to Puerto Rican immigrants, Mr. Puente grew up in New York's Spanish Harlem. He later served in the Navy and through the GI bill was able to attend the Julliard School of Music where he studied conducting, orchestration and theory. Since the 1950's, he has traveled the world sharing his musical gift. He is best known for his musical style that brings together the Latin mambo rhythms and salsa mixed with jazz and the big band sound.

Mr. Puente has recorded over 100 albums earning him numerous Grammy awards and a Hollywood star. In addition to his musical career, he appeared in "The Bill Cosby Show", the feature film "The Mambo Kings" and he hosted a show on Hispanic television. Throughout his career, Mr. Puente has not only given us the gift of his music but has committed himself to supporting the musical talents of Latino youth. The Tito Puente Scholarship Foundation has provided over 80 underprivileged youth with the opportunity to develop their musical talent.

As a long time fan of Tito Peunte, I am indeed honored to recognize his achievements. He is truly an exceptional artist who has played a pivotal role in disseminating the artistic and musical traditions of the Latin beat.

RAHALL SALUTES BLUEFIELD STATE COLLEGE ON THE OCCASION OF ITS CENTENNIAL YEAR

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. RAHALL. Mr. Speaker, I rise today to recognize and congratulate Bluefield State College of West Virginia, located in my third congressional district, on the occasion of the centennial year of its founding in 1895. I am very proud of Bluefield State's designation as an historically black college, and I honor it for its original mission, to educate talented African-American students in the coal fields, as well as the mission it now has to serve all students in an everexpanding range of educational and cultural learning experiences.

For an entire century, Bluefield State College has been committed to providing quality education in southern West Virginia. The history of the college is the heroic story of remarkable achievement in the face of seemingly insurmountable obstacles, establishing a legacy that provides an inspiration and challenge to those who follow.

Bluefield State College was created to provide better educational opportunities and services for African-Americans in the region. To serve the racially segregated public schools in turn-of-the-century coal camps, progressive citizens established Bluefield Colored Institute. BCI's first president, Hamilton Hatter, overcame enormous challenges and ran the institution with no legislative appropriations for 2 years.

Later, Bluefield State College adopted formal teacher training, as the college distinguished itself in the preparation of educators to carry traditions of excellence throughout the coal fields.

The college expanded, and in the 1920's and 1930's was involved in the explosion of black American culture known as the Harlem Renaissance.

In 1954, Bluefield State College observed another landmark, as white students seeking high-quality, low-cost, fully accredited higher education began to join the black students attending classes at BSC.

Curricular changes led to the creation of new academic areas such as engineering technology and computer science, business administration, and health sciences.

Mr. Speaker, as Bluefield State College celebrates its centennial, its president, Dr. Robert Moore, the dedicated faculty, and staff, merit high praise for their very significant accomplishments and for their vision and creative spirit in providing ever-expanding educational opportunities.

Bluefield State stands proud of its strong past, and exceptional willingness to meet the changing needs of the region it serves in what promises to be a dynamic future.

CLINTON'S MILITARY BUDGET—A DEFENSE DISASTER

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 29, 1994

Mr. DORNAN. Mr. Speaker, I cannot in good faith support this Defense budget which still remains a Clinton blueprint for dismantling our military.

I include for the RECORD a recent memo by DOD asking the services to terminate or delay vital new weapon systems such as the RAH–66 Comanche V–22 Osprey and F–22 Lightning II.

Many of these systems are funded in this report, yet these research dollars could be wasted if Mr. Clinton has his way.

The memo states that we need to fund other areas such as the pay raise. It is Mr. Clinton who originally cut the pay raise for the military. It is Congress, not DOD, who restored this raise.

If you want to find additional savings Mr. President, then consider cutting items such as: Summer Olympic support; humanitarian assistance; and foreign aid to the former Soviet Union.

These are not DOD areas of responsibility.

I also include for the RECORD my dissenting views to the Defense authorization bill, a draft letter to Secretary of Defense Perry protesting new Defense cuts, and an article outlining how the Navy has run out of money to train reservists this year. The Clinton Defense budget is a disgrace.

DEPUTY SECRETARY OF DEFENSE,
Washington, DC, August 18, 1994.

[Memorandum for members of the defense resources board]

Subject: Additional DRB Program Alternatives.

The Program Decision Memorandum (PDM) for the first phase of the Fiscal Years 1996–2001 Program Review covered initial adjustments to the Military Department Program Objectives Memorandum (POM), as well as funding changes and policy guidance in other programs such as Ballistic Missile Defense and Chemical Demilitarization.

DMI, however, did not address several areas, particularly the possibility of funding a military pay raise at the ECI minus 0.5 percent level. Because the desire for the pay raise and for improvements in other areas such as readiness, sustainability and quality of life may require us to shift resources from some POM priorities, we need to review several programs. What follows is a list of the program options that the relevant Department of Defense component should prepare for review by the Defense Resources Board (DRB) in September. Each of the components should provide a written summary of its program options to me by September 7, 1994, and be prepared to brief the DRB. This effort should not interfere with submittal of the Budget Estimate Submission (BES) as scheduled on September 9, 1994.

DEPARTMENT OF THE ARMY

Comanche helicopter program. The Army should develop a program alternative that terminates the Comanche.

Advanced Field Artillery System (AFAS). The Army should develop a program alternative that terminates AFAS and replaces it with additional upgrades to the Paladin system.

DEPARTMENT OF THE AIR FORCE

Joint Primary Aircraft Training System (JPATS) program. The Air Force should develop at least two program alternatives for JPATS: (1) deferring introduction of the JPATS trainer for up to seven years and (2) reducing cost by increased reliance on commercial practices, a slower procurement profile, and enhanced joint training.

F–22 fighter program. The Air Force should develop a program alternative that delays the initial procurement of F–22 fighters by up to four years.

Precision-Guided Munition (PGMs). The Air Force should develop at least two alternative programs: (1) cancelling the Tri-Service Standoff Attack Missile (TSSAM) and procuring other PGMs to perform the mission and (2) retaining TSSAM, but adding $100 million per year to near-term PGM programs.

DEPARTMENT OF THE NAVY

Medium Lift Replacement. From the September Defense Acquisition Board meeting on medium lift programs, the Navy and Marine Corps should submit for DRB consideration the most promising alternative that cancels the V–22 and replaces it with a helicopter alternative.

DDG–51 Destroyers. The Navy should develop two program alternatives for DDG–51 procurement in the FY 1996–01 period: (1) 2.5 per year beginning with two in FY 1996 and (2) two per year beginning in FY 1996. (In both alternatives procurement would return to three per year after 2001.

New Attack Submarine. The Navy should submit an alternative NSSN program that does not include a submarine in FY 2001.

Advanced Amphibious Assault Vehicle (AAAV). The Navy and Marine Corps should develop a program alternative that cancels the AAAV.

JPATS and PGMS. The Navy should develop alternatives that reflect the impact of the different Air Force JPATS and TSSAM alternatives on the navy.

OTHER DOD COMPONENTS

In addition to the options prepared by the Military Department, the DoD comptroller should identify potential reductions in overhead and infrastructure. These options should include personnel reductions in the Office of the Secretary of Defense and related defense support activities and operating agencies greater than four percent per year.

JOHN M. DEUTCH.

I also insert for the RECORD my extended remarks and a letter to Secretary Perry that I am circulating for signatures.

"WHY I OPPOSE THE 1995 DEFENSE BUDGET"

It is with some regret that I find myself, as a member of the House Armed Services Committee, opposing the recent House-Senate Conference Report on the FY 1995 Defense Authorization Bill. While there were some very positive steps taken by both the House and Senate Armed Services Committees towards maintaining and even improving U.S. military combat readiness, I fear that Congress has again lost a "golden" opportunity to influence the short-sighted policies of this present Administration with regards to the U.S. armed forces.

The military policies and budget set forth by this Administration simply do not make sense. During a time of drastically declining defense resources, when we should be requiring the highest standards of performance and capability from those few retained on active duty, this president has decided to turn the military into a social laboratory. From lifting the ban against homosexuals to opening up combat positions to women, the president has sought to use our military as a domestic political tool rather than even addressing whether or not such policy decisions would improve combat readiness.

In addition to these narrow minded political decisions, there is a dangerous hypocrisy resulting from a mismatch between the president's vague but growing foreign policy initiatives and continuing cuts to already reduced defense forces. Without clearly defining U.S. national interests or specific military objectives, the president has decided to offer U.S. military forces as the on call "911" forces of the U.N. and the rest of the world. Meanwhile, as the tempo for operations for our military continues to increase, including time away from home and family, the resources devoted to rewarding, training, and equipping these personnel continue to diminish at alarming rates.

This Administration supposedly cannot find enough funding within the Federal budget to provide our military with a modest 2.6 percent pay raise; it cannot provide enough dollars for Army tank battalion commanders to exercise units above the platoon level; it cannot buy additional B–2 bombers to replace aging B–52 aircraft. However, in spite of these defense budgetary constraints, the president can find more than enough funding from the Department of Defense for humanitarian assistance, foreign aid, and defense conversion projects. How do these programs directly improve U.S. combat readiness? How do these programs help our forces cope with the ever increasing tempo of operations as a result of increased foreign commitments? If the president wants to use our military forces as instruments of his foreign policy, then he must give them the funding necessary to perform their mission including adequate pay, adequate training, and new and improved weapons systems. If the Administration continues to gut the defense budget, then it must not continue to offer the U.S. military as the "911" force of the U.N. and the world!

What then, should Congress do to correct such shortcomings on the part of the executive branch?

First, we should demand that the Administration utilize some type of solid criteria before using military force and endangering lives. Any time we send troops abroad, whether it be for peacekeeping, humanitarian assistance, or direct combat, we must anticipate that the result could eventually be armed conflict. While we do not want to prohibit the President from acting as commander in chief, we do want to ensure that U.S. troops are not sent into areas where there are no vital interests or specific military objectives (i.e. Somalia and Haiti). I would suggest using criteria first outlined in a November 28, 1994 speech by then Secretary of Defense Caspar Weinberger. I have expanded on his six guidelines in developing my own ten commandments for the use of U.S. military force. Included in these commandments are:

Thou shall not commit U.S. combat forces unless the situation is vital to U.S. or allied national interests.

What, for example, are the specific national interests at stake in Haiti?

Thou shall not commit U.S. combat forces unless there are clearly defined political and military objectives.

If we send troops to Bosnia, some estimates as great as 25,000, what will their objectives be? What do we specifically intend to accomplish with military force? When can these forces depart?

Thou shall not commit U.S. combat forces unless under the operational command of American commanders or allied commanders under a ratified treaty.

Clinton foreign policy, including PDD-25, seeks to expand U.S. involvement in international peacekeeping operations under foreign command. Lessons of Somalia clearly indicate that such command arrangements can be disastrous. Unless such command arrangements are with long-standing allies such as NATO countries, foreign command should not even be considered.

Next, we in Congress must address the growing threat of proliferation of ballistic missiles and nuclear, biological, and chemical (NBC) weapons/warheads. No other weapons can so directly threaten the United States, our allies, and forward deployed forces, as can these devastating weapons of mass destruction. Fortunately, the only direct defense against such weapons is now within our grasp, ballistic missile defense (BMD). However, both this Administration and this Congress have failed to provide adequate funding for even near term/low cost systems such as sea-based missile defense. We should immediately provide additional dollars for the handful of promising technologies that could deter, and if necessary defeat, the growing threat of ballistic missile attack from North Korea, Iraq, and elsewhere. Upper-tier sea-based systems on board Navy Aegis ships, Army theater high altitude area defense (THAAD), and Air Force boost phase intercept systems, all are technologies that should be developed and deployed now, not later when it may be too late.

In addition, we should immediately seek to repeal the outdated Anti-ballistic Missile (ABM) Treaty (a treaty with an evil empire that no longer exists) which threatens, as an obsolete political document, to limit the capability of even these modest BMD systems.

Finally, we must be more selective in approving which programs will relieve scare defense funds. We should evaluate every defense dollar and policy decision in terms of combat readiness. If a program or proposal does nothing to enhance our military's ability to deploy, fight, win and survive on the field of battle, we should consider opposing the program. In a tight budgetary period and a rapidly evolving world political environment, we cannot afford non-defense issues or programs to interfere with the much more pressing demands of troop morale, combat training, and weapons modernization.

Perhaps George Washington, our first President and first great military leader, said it best: "To be prepared for war is one of the most effectual means of preserving peace."

Congress should heed Washington's advice and ensure that every precious defense dollar is used to train, equip, maintain, and prepare our soldiers, sailors, airmen, and Marines for war.

OCTOBER 5, 1994.

Hon. WILLIAM PERRY,
Secretary of Defense,
The Pentagon,
Washington, DC.

DEAR MR. SECRETARY: We are extremely concerned over recent efforts by the Department of Defense (DoD) to identify additional weapons modernization programs for possible delay or outright cancellation in order to achieve additional cuts to an already greatly reduced defense budget.

An August 18 memorandum from Deputy Secretary of Defense John Deutch to the Defense Resources Board (DRB) identifies nine programs in the Departments of the Army, Navy, and Air Force that would be considered for delay or termination. According to the memorandum, "Because the desire for the pay raise and for improvements in other areas such as readiness, sustainability and quality of life may require us to shift resources from some POM priorities, we need to review several programs."

We find the stated rationale for cutting these programs absurd. First, it was this administration which initially cancelled the regularly scheduled pay raise for members of the military in both 1993 and 1994. It was then only through congressional action that this pay raise was fully restored.

Next, no apparent consideration is being given to identifying other potential sources of cost savings that could be used instead of cutting back combat systems which address clear military requirements. There are an increasing number of programs currently funded by the DoD that are more properly the function of other agencies or departments and could be reduced or eliminated with far less consequences for DoD's combat mission.

For example, a September 1994 Congressional Research Service report identifies over $11 billion in FY 1995 defense funding that may not be directly related to traditional military capabilities. Included in this report are non-defense operations and maintenance programs ($1.4 billion), environmental activities ($5.6 billion) and defense conversion programs ($3.4 billion). In this era of rapidly declining defense resources, we should consider every defense dollar and policy decision in terms of combat readiness. If a program does nothing to enhance our ability to deploy, fight, win and survive on the field of battle, we should consider terminating that program before considering further modernization cuts. We simply can no longer afford non-defense programs to drain resources from the much more pressing demands of troop morale, combat training, and modernization.

It is becoming increasingly obvious that the administration's current defense budget plan cannot pay for the Bottom-Up Review two MRC (major regional contingency) strategy and associated force structures. Therefore, the operative consideration should be how to properly resource the Department of Defense budget, not how to make further reductions.

We remain committed to providing our armed forces with the best and highest quality troops, training, and technology possible. This requires continued pay raises to recruit and retain highly motivated young men and women, increased funding for combat training and equipment maintenance, and continued development and fielding of new weapon systems designed to improve the effectiveness and survivability of U.S. armed forces on the battlefield. We believe any attempts to cancel or delay the few remaining systems still left in the current DoD acquisition plan instead of first cutting non-defense programs or increasing the overall defense budget, to be shortsighted and directly counter-productive to promoting combat readiness.

We therefore urge you to immediately reconsider cancelling or delaying these new weapons programs and instead consider other available alternatives to address pressing Department of Defense budgetary shortfalls.

Best regards,

ROBERT K. DORNAN.

HOUSE OF REPRESENTATIVES—*Friday, September 30, 1994*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

With grateful appreciation, O God, and with earnest thanksgiving, we remember those people to whom special responsibility has been given and who occupy offices of great trust. For those in authority we offer this prayer of petition that they will be good stewards of the resources of our land and do those things that bring justice and fairness to all people. May Your spirit, O God, that renews and gives strength to every person, be with the leaders of our country and grant them the vision and courage to do justice, to love mercy, and ever walk humbly with You. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Ms. DELAURO. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Ms. DELAURO Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 212, nays 136, not voting 86, as follows:

[Roll No. 453]

YEAS—212

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Bateman
Becerra
Bevill
Bilbray
Bishop
Bonior
Borski
Boucher
Brooks
Brown (OH)
Byrne
Cantwell
Cardin
Carr
Chapman
Clayton
Clement
Collins (IL)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Danner
Darden
Deal
DeLauro
Dellums
Deutsch
Dicks
Dixon
Dooley
Durbin
Edwards (CA)
Engel
English
Eshoo
Evans
Everett
Farr
Fazio
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Geren
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hochbrueckner
Holden
Houghton
Hoyer
Hughes
Inglis
Inslee
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kingston
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Livingston
Long
Lowey
Maloney
Mann
Margolies-Mezvinsky
Markey
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
Meehan
Meek
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Murtha
Myers
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pombo
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schumer
Scott
Serrano
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Stark
Stokes
Studds
Stupak
Swett
Swift
Tanner
Tejeda
Thornton
Thurman
Torres
Torricelli
Traficant
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Watt
Waxman
Wilson
Wise
Woolsey
Wyden
Yates

NAYS—136

Allard
Archer
Armey
Bachus (AL)
Ballenger
Barrett (NE)
Bartlett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Camp
Canady
Castle
Clay
Clinger
Coble
Cox
Crapo
Cunningham
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
Fawell
Fields (TX)
Fowler
Franks (CT)
Franks (NJ)
Gekas
Gilchrest
Goodlatte
Goodling
Goss
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Hyde
Jacobs
Johnson (CT)
Johnson, Sam
Kim
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lucas
Machtley
Manzullo
McCandless
McCollum
McHugh
McInnis
McKeon
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Murphy
Nussle
Oxley
Packard
Paxon
Petri
Portman
Pryce (OH)
Quinn
Ramstad
Ravenel
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Schaefer
Schiff
Schroeder
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Talent
Taylor (MS)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (FL)
Zeliff
Zimmer

NOT VOTING—86

Applegate
Baker (CA)
Baker (LA)
Beilenson
Berman
Blackwell
Brewster
Browder
Brown (CA)
Brown (FL)
Bryant
Callahan
Calvert
Clyburn
Coleman
Collins (GA)
Collins (MI)
Cramer
Crane
de la Garza
DeFazio
DeLay
Derrick
Dingell
Dornan
Edwards (TX)
Ewing
Fields (LA)
Ford (MI)
Gallegly
Gallo
Gephardt
Gibbons
Gingrich
Grams
Grandy
Hall (TX)
Hayes
Hinchey
Hoagland
Huffington
Hunter
Hutchinson
Hutto
Inhofe
Istook
King
Lipinski
Lloyd
Manton
Martinez
McCrery
McCurdy
McDade
McMillan
McNulty
Menendez
Moran
Nadler
Neal (NC)
Porter
Quillen
Ridge
Roemer
Roth
Santorum
Saxton
Sharp
Slattery
Smith (OR)
Spratt
Strickland
Sundquist
Synar
Tauzin
Taylor (NC)
Thompson
Towns
Tucker
Washington
Waters
Wheat
Whitten
Williams
Wynn
Young (AK)

☐ 1023

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. MONTGOMERY). Will the gentleman from Georgia [Mr. LINDER] please lead the House in the Pledge of Allegiance.

Mr. LINDER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces he will receive fifteen 1-minutes on each side.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

WHEN THE AMERICAN PUBLIC JOINS IN, GOP BALL GAME WILL BECOME FULL CONTACT SPORT

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, the Washington Post today reminds me of the similarity of elections and football. In football, some people keep wanting to try to run the same play.

Take supply-side economics. Remember that one? Cut taxes for the wealthy, increase spending, and promise to balance the budget. The result, a political touchdown, but everybody in the stands was thrown for a $3.5 trillion loss.

Now that famous backfield is back: Michael Boxton, who quarterbacked us into the greatest recession we have had in decades, says he would sign on immediately. So does Dan Quayle. We remember him, one of the galloping horsemen. James Miller, who lugged the ball for Ronald Reagan right into a recession. They want to run the same play again.

This time, Mr. Speaker, the public will not be fooled by that flashy ball handling and contract signing, not when they find out that it means Social Security cuts, Medicare cuts, an exploding deficit, adding $1 trillion more. That is when the public jumps into the ball game, and those who signed so proudly in Washington are going to find out what a full contact sport they are in.

WHY THE UPROAR OVER THE CONTRACT WITH AMERICA?

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, this week the Republican contract with America was unveiled on the Capitol steps, and signed by more than 350 Republican incumbents and candidates from around the country. Apparently, from the speech we just heard and from what we have been hearing over the last few days, this has struck a raw nerve with the Democratic leadership and the liberal media.

The contract spells out exactly what a Republican majority will do on the first day of the 104th Congress, and what legislation it will bring to the floor in the first 100 days: a plan and a pledge. Why the uproar from our Democratic friends?

The uproar is because we have promised the American taxpayers that the public's House, the people's House, will actually vote on a number of issues that are very important to them: a balanced budget amendment, a line-item veto, welfare reform, tax reform, and a real crime bill.

The Democrats do not want to vote on these issues. These are issues important to the American people. They should be debated, they should be amended, they should be voted on. Some will pass and some will not, but at least they should be discussed in the people's House.

GOP URGED TO RELEASE THE SECRET LIST

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, on Tuesday of this week, Republican House Members and candidates from across the country stood on the steps of the Capitol to sign a contract with the Republican leadership. The feel-good contract proposes more tax cuts for the wealthy, increased defense spending, and a secret plan on how to pay for it all. But, that is not the only secret of the contract.

Now that this budget-buster has been widely panned for being a cynical, election-year gimmick, the Republican leadership is keeping the names of contract signers secret. The same party that led the fight to make the names of discharge petition signers public, now has its own secret list.

If the Republican leadership truly believes in open government, it is time to prove it. The American people have a right to know which candidates signed a contract to explode our deficit—a $1 trillion explosion—which candidates signed a contract to cut Social Security and Medicare; which candidates signed a contract to bring back the star wars program. Release the secret list.

DEMOCRATS' LACK OF IMAGINATION

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, last Tuesday the Republicans did indeed unveil a plan, in response to America's demand for change. Called the contract with America, it is a positive plan to end once and for all the same old, stale old, status quo in Washington.

What has been the Democrat response? The carping criticism of closed craniums that cannot imagine having a record they could run for instead of running from. They cannot imagine offering the opportunity to debate issues that are important to America, rather than special interests. They cannot imagine giving America a chance to shut down the Washington spending machine with a balanced budget amendment.

□ 1030

They cannot imagine putting aside personal responsibility, putting it back into the Nation's life and pulling big government from it. They cannot imagine any of those because they go right on like a stake in the heart of the Clinton agenda, an agenda that seeks to insert the Federal Government into every nook and cranny of the American life, from health care to welfare. Democrats cannot imagine ending big government, big taxes, and big bureaucracy.

THE NEW REPUBLICAN PARTY?

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, the Republican Party has had a bad week.

First, Republican candidates signed a bizarre, blood oath contract that abdicates their judgment and independence to the Republican leadership.

The contract is a combination of proven bad ideas from the past and feel-good, political snake oil which, thankfully, has fooled no one.

Next, after thumping their chests about cleaning up Washington, the first thing this new breed of Republican candidates do is go to the ultimate Washington insider, a fundraiser financed by the gun lobby, the tobacco lobby, and the insurance lobby.

Who are these Republican candidates kidding?

And yesterday, Republicans, led by their leadership, voted to allow lobbyists—paid, special interest lobbyists—to buy them rounds of golf, trips to the Virgin Islands, and meals at restaurants that you and I could never afford.

Mr. Speaker—golf games? Insider Washington fundraisers? Blind, meek obedience to the Republican leadership and their snake oil plan?

This is the new Republican party?

This is what the voters want in November?

Come on.

WHAT THE CONTRACT WITH AMERICA OFFERS

(Mr. GOODLATTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOODLATTE. Mr. Speaker, during nearly all of my lifetime, the Democrat Party has completely dominated the House of Representatives—that is 40 consecutive years of one-party rule. And in recent years it has been American families and businesses who have paid the price for the Democrats' tax increases, ethical scandals, budget deficits, and tired old government-knows-best nannyism.

However, simply opposing the President and the Democrats in Congress is not enough. So this week, over 350 Republican congressional candidates have signed a solemn contract with America that lays out in detail our vision for America and the specific steps we are going to take to make our Nation an even better place to live, work, and to raise our families.

Mr. Speaker, all Americans should take a look at what our contract offers.

THE GINGRICH MANIFESTO

(Mr. SKAGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKAGGS. Mr. Speaker, we now have seen the Gingrich manifesto—the contract. This is an incredible proposal to redistribute wealth—up. It stakes out new depths for cynicism and political pathology by promising to deceive the American people. What a thing to behold. The gentleman from Georgia [Mr. GINGRICH] rallying his troops to restore America's wealth to the wealthy. It was a little scary to watch the shock troops of the Gingrich revolution marching up in lockstep to sign the manifesto. Slightly Orwellian to see so many fine, young, earnest Republican candidates give up so freely their individuality and their creativity for the chilling uniformity of Newtspeak.

CONTRACT WITH AMERICA

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, is it not amazing that the Democrats have spent the entire past week talking about the Republican contract with America. It seems they do not have any issues of their own to boast about, so the only thing they can do right now is to attack Republicans.

President Clinton made his own verbal promises about what he would do in the first 100 days of his administration—why are the Democrats not talking about Clinton's promises? Because he broke his promises. There was no health care bill in 100 days—there was no middle class tax cut.

On the other hand, Republicans have signed a contract with America. Republicans have listened to the people. Republicans are restoring the bond of trust between the people and their elected representatives.

It is too bad the only thing the Democrats can do right now is lift their voices to try to cover up their own party's failures.

RESURRECTION OF VOODOO ECONOMICS

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, this week Republican congressional leaders summoned their candidates to Washington to sign a contract to raise voodoo economics from the dead.

Instead of moving forward the Republican contract will turn the clock back to the days of tax cuts for the rich, outrageous star wars defense spending, and exploding deficits.

The numbers on the Republican have been crunched. The Republican plan will blow a $1 trillion hole in the budget and ask people on Social Security and Medicare to pick up the tab.

It is clear that the Republican contract will mortgage our future and threaten the middle class.

What is not clear is just who signed the contract. We know what it says. We know what it will do. But we do not know who signed it.

As long as the Republican leadership wants to take us back to the past the American people have a right to know the names of everyone who wants to take them for a ride.

I ask the Republican leader to release the names. We are waiting.

TRIBUTE TO PATSY PYE, RECIPIENT OF NATIONAL DISTINGUISHED PRINCIPAL AWARD

(Mr. RAVENEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAVENEL. Mr. Speaker, I rise today to salute my constituent, Mrs. Patsy Pye of Summerville, SC, who is the 1994 recipient of the National Distinguished Principal Award from the National Association of Elementary School Principals and the U.S. Department of Education. Mrs. Pye is a 1969 graduate of Charleston Southern University. After 6 years of classroom teaching she became an assistant elementary school principal. Since 1987 she has served as principal of Oakbrook Elementary School in Dorchester County which just last year received the "Palmetto's Finest" Award, was also named one of Redbook magazine's "America's Best Schools," and now will be receiving the "Blue Ribbon" Award. Naturally it is with a sense of pride that I recognize this exceptional leader and educator, Mrs. Patsy Pye.

READ THE FINE PRINT IN REPUBLICANS' CONTRACT

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, the Republicans have presented the American people with what they are calling a contract. However, this contract is more like a bill because it costs at least $800 billion to fulfill the promises they make. Yet they do not say which programs they will cut to achieve these needed savings. The Republicans did not strike a nerve, they slashed their wrists.

I urge my colleagues to read the fine print in this contract and discover what this contract will really mean for America. It will cut Social Security and Medicare. In order to make that cut, they will have to drastically cut Medicare and Social Security. This contract means that senior citizens will no longer be receiving their health benefits under Medicare or their Social Security checks. Just this year, Congress voted on a balanced budget amendment. The reason it did not pass is they would not exempt Social Security. Yet we are going to get it again and they are going to say, "Well, we can't balance the budget without cutting your cost of living or Social Security."

For the first time, the people are finally realizing that they are not going to lose their benefits. We are not going to balance the Federal budget on the backs of senior citizens for their 30-second TV spot.

BRING THE TROOPS HOME

(Mr. MANZULLO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MANZULLO. Mr. Speaker, we have heard a lot of talk this morning about a contract. Our President has a contract with the United Nations but not with the U.S. Congress. Pursuant to the terms of that contract, he has brought into play thousands of American troops that are now in Haiti being subjected to the rioting that we see live from Port-au-Prince, all for the purpose of installing the democratic leader, the one in whose biography he praises his good friend in memory Che Guevara. U.S. troops to put a man who loves Che Guevara into power? No way. Let us bring our American troops home as soon as possible.

□ 1040

REPUBLICANS REFUSE TO DISCLOSE NAMES OF CONTRACT SIGNERS

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MCKINNEY. Mr. Speaker, this week the Republican Members and candidates held a press conference to sign a contract with the Republican leadership. But, guess what, Mr. Speaker, they will not disclose the names of the people who signed it.

Mr. Speaker, we should not be surprised that Congressman GINGRICH will not tell us who signed the contract; Congressman GINGRICH will not even disclose the names of the people who pump millions of dollars into his very political machine.

The American people deserve to know who wants to cut programs for senior citizens. They deserve to know who endorses deep voo-doo economics and they should know which candidates have already pledged their souls to the Republican leadership before even one vote has been cast.

WHY DO DEMOCRATS DISLIKE THE CONTRACT WITH AMERICA?

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, I was thinking about it this morning as I was running on The Mall, what, what is it that the critics of our contract with America, what it is actually that they do not like?

Maybe it is the balanced budget part that says that we as a Congress are going to have to balance our books the same way that we balance our books as persons, as individuals, that companies have to balance books, that States and municipalities have to, maybe that is the part they do not like. No, they probably do not like that.

It is probably the term limit, that is the part they do not like, the part where we are going to vote on terms limit. I can understand that because let us face it, their own Speaker has sued his own constituents to say that we are not going to have term limits. So perhaps that is it, maybe that is the part they do not like.

Let me tell them something I do not like. Maybe this is why they do not like it. It does not have something that addresses campaign finance reform, and I would like to see some real campaign finance reform in our contract with America. It does not have that.

But now what the good news is, is that is all under an open rule. That means that I can represent the people of northeastern Ohio, just the same way as the people of Chicago, or the people of Los Angeles, or the people of northern Washington can be represented as well.

TODAY ENDS FEDERAL FUNDING FOR EDUCATION

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, today we will either stand up for Federal funding for education or we will let special interest politics dictate once again. If those special interests prevail, Federal funding for education will expire on October 1.

If Members think the gun lobby can get mad, wait until they face parents, school administrators, and kids.

Mr. Speaker, the arguments against the bill are bogus. On school prayer we can vote for language that was endorsed and voted on by Senators KASSEBAUM and HELMS.

On sex education, there are strong restrictions including a prohibition on funds to purchase condoms, to distribute obscene materials, or to promote sex education unless the benefits of abstinence are also taught.

How much further can we go? Once again, it looks like some want politics to permeate education.

The conference report contains a broader prohibition on sex education than the original Helms amendment while retaining local control for implementing these decisions.

I, therefore, urge my colleagues to support H.R. 6 on final passage

LET'S FACE UP TO THE PROMISES BEFORE THE NATION GOES BROKE

(Mr. HORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HORN. Mr. Speaker, today marks the end of the Federal Government's budget year. Since every responsible organization regularly reviews its achievements, we can ask "How well has the Federal Government performed this year?"

Many may not know that in 1994, for the 25th straight year, the Federal Government has failed to balance the budget. This year's deficit according to OMB is $220 billion or $880 for every man, woman, and child in the USA.

But this is only part of the story, the USA annual shareholders' report assembled by citizens for Budget Reform uncovers the astonishing fact that cost of Federal promises are increasing 10 times faster than the national debt. Analysis by Citizens for Budget Reform shows that each citizen's share of these Federal promises is $145,000. The total for all Americans is $36.2 trillion—yes trillion—with a "t", not a "b". Thus, the average family is responsible for $400,000.

Taxpayers cannot afford these promises. How can we in Congress continue on this irresponsible course? The top 10 Federal promises each total $1 trillion dollars or more. And the next 19 promises each exceed $100 billion.

The 81 Federal welfare programs—over $5 trillion—and nuclear waste cleanup—$1 trillion—are indicative of the bill that we citizens have been committed to pay.

We need to examine these promises. Social Security and Medicare and civil service, military service, and veterans commitments should be kept, but let us carefully examine each of the others.

Existing Federal promises will require that by 2030 Federal taxes would be doubled, as spending moves from 21.9 percent of GDP this year to a projected 37.3 percent. The cataclysmic consequences of too many Federal promises should be every citizen's nightmare.

REPUBLICAN CONTRACT IS SAME OLD SONG AND DANCE

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, in the greatest miscalculation since Adolf Hitler made it clear he did not want a wake-up call on D-day, the House Republicans made an announcement this week that they were going to enter into a contract.

When we look at the specifics, it is warmed over Reagan-Bush economics, a trillion dollars more for the national debt, and they promise tax cuts for everybody. We have heard that song and dance before.

If we take a look at those who showed up to sign the contract, it is very interesting. Not one Senate Republican would walk across the Rotunda to sign this contract. When the House incumbent Republicans were to sign it, they did it in private. They did not want the public to see which Members of the House caucus on the Republican side refused to sign it. Now they come tell us they are for open government.

We would like to see a list of the names, which Republican candidates and which Republican incumbents were willing to sign on to this contract which has been universally scorned?

Name names, NEWT, and do it now.

RETURNING THE PEOPLE'S HOUSE

Mr. KNOLLENBERG. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

Mr. WALKER. Reserving the right to object, and I shall not object, but in light of what we have been hearing in the last few minutes, the House needs to be informed that at 3 o'clock last night the list of everybody who signed the contract with America was in fact released.

Further reserving the right to object, it is in fact a list which is now available to the public, and we do believe it is not time to release Hillary's list of all of the people who participated in the health care conference.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. KNOLLENBERG. Mr. Speaker, 3 days ago over 300 Republican Members and challengers signed an historic contract with America. This contract not only changes the fundamental way Congress does business, but also the business that Congress does.

The contract creates an open system—where issues are debated on the floor of this Chamber, for all of America to see, instead of behind the closed doors and iron fists of committees and committee chairman.

The current committee system, run by the Democrat leadership, bottles up legislation and blocks an honest and public debate of the issues.

Why is it that the vast majority of Americans support term limits, yet this House refuses to debate the issue on the floor?

The Republican contract with America guarantees that bills such as term limits, a balanced budget amendment, and tax cuts for the middle class come to the floor of the house for an open, honest debate within 100 days.

Mr. Speaker, let us put an end to the old committee system and move forward with the country's business.

IT IS TIME FOR JAPAN TO LIVE UP TO PROMISES ON TRADE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Fact, Mr. Speaker, for 40 years Japan's trade practices have ripped us off.

Fact, Mr. Speaker, for 40 years Japan has promised to stop it.

Fact, Mr. Speaker, for 40 years the White House has threatened sanctions.

Now the truth is if America had one dollar for every promise Japan made on trade we would have no deficit, and the truth is if American workers had one job for every threat the White House made, we would have no unemployment.

Ladies and gentlemen, it is time for Congress to say it is high noon with Japan. What are we going to do, Congress? Are we going to send John Wayne with a 301 six-shooter this time, or are we going to continue to send Woody Allen, this time with a GATT agreement?

This is unbelievable. Congress is literally ripping off the American workers and is turning their back. Shame, Congress, shame.

REPUBLICAN CONTRACT WITH AMERICA ENGINEERS INTERESTING RESPONSES

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, to watch the Democrat response to our contract with America is—shall we say—interesting. We are told that the costs are too high and that Republicans were forced to sign onto an agenda driven by our leadership.

Both are wrong. But if I were faced with an agenda which had the overwhelming support of the American people I would be reluctant to take issue with the specifics too.

Which of our issues is wrong? Do the Democrats not believe we should vote on a real balanced budget amendment? I guess so since they have successfully prevented that vote from coming to the floor.

Do they not believe that the Nation needs legal reform? Do they think that a real crime bill is out of step with America? Do they believe that everything is just wonderful with our welfare system?

No—they cannot take issue with the substance so they make up charges.

The cost issue is, of course, made up of whole cloth. I never tire of seeing the Democrats repeat these outrageous statements with a straight face. It is a sight to behold. This proposal is only slightly different than the last Kasich budget which according to the CBO had more deficit reduction than the President's budget.

I ask "You remember the CBO; don't you?" That is the estimating office that the President said is the only reliable source for numbers. But that was when he was selling his agenda.

On the question of marching in lock step let me just observe that it was not NEWT GINGRICH marching Members to the well of the House yesterday to change their votes on the lobbying rule—it was the Democrat leadership. One by one—arm in arm—they were marched to the well to obey the leadership.

Who is fooling whom?

□ 1050

BRING THE TROOPS HOME NOW

(Mr. PARKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PARKER. Mr. Speaker, I have always been willing to give the sitting President much latitude in his role as Commander in Chief—even when I am in disagreement. However, I am gravely concerned about our Nation's escalation of military activity in Haiti—particularly in the absence of decisive leadership and in light of the inaccurate information that this administration provides.

Shortly after the American occupation of Haiti, Secretary of Defense William Perry advised Members of this body that less than the originally planned complement of 15,000 troops would be needed to secure Haiti and restore their democratically elected government. However, news reports today are confirming that over 20,000 American soldiers are now on Haitian soil. If there has been a change in circumstances that necessitates additional troops, President Clinton needs to advise this body, and the American people, of that change.

I am extremely concerned about mission creep in Haiti. Additional troops only add to my concerns. It is imperative that we get our young men and women out of harm's way.

If our efforts in Haiti are going to be multinational in scope, we should be replacing our troops daily with a true international force. Our troops do not belong in Haiti. On behalf of every American who is putting his or her life on the line, I ask that the President bring them home now.

REQUEST FOR ACCOUNTABILITY ON HAITI

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Mississippi who just made such, I think, a telling comment.

I stood in this well last evening and talked to reports received by phone yesterday of the chaos in Haiti; pictures say so much more than words can.

Today we see on the TV news this morning the chaos. It is a sense out of control. We did not see the whole picture, because they did not have the TV cameras everywhere. They were not up on the north coast where pro-Aristide people, the Lavalas, were killing their opponents. So in Port-au-Prince we have one group killing one side, and on the north coast we have the other group killing the other side.

This is called a civil war, and it is not our civil war, and this 12th day of occupation, the smartest thing we can do is start getting our troops out of harm's way right now.

The next thing we have to do, once we get the troops out of the way, is go through our constitutionally required exercise of congressional oversight of what this has been about. There is going to have to be accountability.

Why has the Clinton administration been less than candid and straightforward with the U.S. Congress on how we got there, what we are doing, and what is going on? That accountability will come.

FOURTH ANNIVERSARY OF WORLD SUMMIT FOR CHILDREN

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, today is the fourth anniversary of the World Summit for Children. On September 30, 1990, 71 national leaders and delegations from 88 other countries met at the United Nations to outline a series of goals to be reached by the year 2000. These goals include: Reducing child and infant deaths by at least one third, material deaths by half, child malnutrition by half; and providing universal access to basic education, safe drinking water, and family planning services.

Four years later, millions of saved lives are the result. If the United States is to meet the commitment we made 4 years ago, however, we must safeguard and increase development aid targeted for child survival. By doing so, we will also ensure that when political upheavals occur, as we have witnessed in Somalia and Rwanda, the cost in human lives will be greatly reduced because of simple preventive health measures already implemented. I urge my congressional colleagues to honor our promise to the children of the world.

QUESTIONS RAISED ON ARISTIDE'S VIOLENT PAST AND TALBOTT'S TESTIMONY ON CAPUTO'S MEMOS

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, several crucial questions remain unanswered about the explosive situation in Haiti.

One, is President Aristide sufficiently fit for office to justify the risking of American soldiers' lives to force his return to power?

While it was one thing to broker a peaceful diplomatic return of a duly elected President, it is quite another to risk American lives to effectuate that return.

Knowing of the serious charges against Mr. Aristide regarding his support of violence, I asked him yesterday in a Foreign Affairs Committee meeting if he has ever supported violence in general, or necklacing in particular.

Necklacing is a barbaric practice of assassination where the victim is bound, his arms tied or hacked off and a gasoline-filled tire put around his neck and ignited. In Haiti, necklacing is called Pere lebrun (Father Lebrun), the name of a popular Haitian tire dealer.

President Aristide said, "I did not, am not and will never embrace necklacing."

Mr. Aristide's speeches and credible evidence suggest the opposite. For example, Mr. Aristide was ejected from the Salesian Order of the Catholic Church in 1988 for "incitement to hatred and violence * * *"

In an address at the National Palace on September 27, 1991, President Aristide said about necklacing:

> What a nice tool! What a nice instrument! What a nice device! It is a pretty one. It is elegant, attractive, splendorous, graceful, and dazzling. It smells good. Wherever you go, you feel like smelling it. It is provided for by the Constitution, which bans macoutes from the political scene * * *

President Aristide said yesterday that he saw the translation, and it was bad.

Maybe.

The bottom line remains, with American lives at risk, we absolutely need to know the truth.

Another pertinent question remains as to whether politics and the November elections had anything whatsoever to do with the United States invasion of Haiti and the timing of that operation.

Earlier this week at a Foreign Affairs hearing, I asked Deputy Secretary of State Strobe Talbott this question and exactly what U.N. Envoy to Haiti Dante Caputo meant in a confidential memo that represented the United States position on Haiti "as a test case for which the United States has to have found a solution before November?"

Mr. Caputo, a former Argentinean foreign minister, also wrote in a memo to U.N. Secretary General Boutros-Ghali on May 23, that "the Americans see in this type of action a chance to show, after the strong media criticism of the administration, the President's decisionmaking capability and firmness of leadership in international political matters," and pointed out that a U.S. armed deployment was "politically desirable" and that "the current opposition of public opinion to an armed invasion will change radically once it has taken place."

The credibility of these statements are of particular value when one recalls that it was Mr. Caputo who brokered the Governor's Island Agreement between General Cedras and President Aristide. Sadly, in protest of the United States invasion, Mr. Caputo resigned as U.N. Envoy to Haiti hours after the invasion.

Mr. Talbott, for his part, denied under oath before our committee on Tuesday, ever referring to November in those conversations or that politics had anything to do with the decision to invade Haiti.

But Americans have a right to know if the November elections—and Mr. Clinton's own political fortunes—had anything whatsoever to do with his decision to invade. Did Mr. Caputo dream all this up?

Were politics ever discussed in any way at the White House in relation to the invasion?

Mr. Talbott says no. His denial, however, raises more questions than it answers. And I strongly believe that he and other high-level Clinton administration leaders need to be questioned under oath to determine whether or not American lives have been put at risk for political reasons. For now, the jury is out and Americans have a right to know the answer.

CONTRACT BELONGS IN RIPLEY'S BELIEVE IT OR NOT

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, Ripley's Believe It Or Not should be interested in this week's activities of the Republican Party. On Tuesday they joined together to sign a contract with their leadership proclaiming how they are going to change things in Washington. Before the ink had dried on their document calling for a balanced budget. They came to the House floor and voted for the Allard amendment which would have undone the reorganization of the USDA legislation to cut 7,500 Government jobs saving millions of dollars. Tuesday they sign a document they claim is a contract with Americans, yet yesterday they come to the floor of the House and fight to protect lobbyists representing foreign interests from having to disclose who they represent. Do you really think the American citizens want to protect those that lobby against American companies in favor of foreign interests, just so you can travel, eat and play for free. The only change the Republican contract will achieve is more for the fat cats at the expense of the middle class, senior citizens and students. This contract belongs in Ripley's Believe It Or Not.

WHY ARE OUR TROOPS IN HAITI?

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, why are our troops in Haiti?

You know, I was watching television this morning, and I saw all that rioting and civil disorder and looting. There is anarchy down there.

Why are our troops in Haiti? The President says it is to restore democracy, and yet U.N. Haiti Representative Dante Caputo said in a memo last May or June that this administration planned to send our troops down there before November for political purposes, to help bolster the President's image and his party's image so they could pick up seats in the November elections.

Now, as the gentleman from New Jersey [Mr. SMITH] said just a few moments ago, he questioned the Deputy Secretary of State about this who made these comments, and he said he did not say them.

Now, if he did say them, as Mr. Caputo said he did, then he is lying to the Congress, and if he is lying to the Congress, he should be summarily removed. Strobe Talbott should be fired or resign.

And if the President of the United States, and I hate to say this, but if the President of the United States can be proven that he put our troops in harm's way for political purposes this year, he should be impeached.

DO NOT RUSH GATT

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, no trade agreement 22,000 pages long, and no trade bill 1,000 pages long, should be rammed up against the closing deadline hours of this session of Congress. I know a fastball when I see one.

Let me congratulate the gentleman from South Carolina from the other body. Yesterday he actually made an incredible request: He wants to read the 1,000-page draft bill called GATT before the other body votes on it. The House should do no less.

If this legislation is so essential, should we not give it as much time as we gave the California desert bill?

☐ 1100

So I say to the President of our country, to the Finance Committee in the other body and the Ways and Means Committee in this body, I understand the rush, oh, yes, I understand it real well, but it is not right. We should not rush this bill through in the closing hours of this session. Let us do it next year when people have had a chance to vote on something that they have read.

MORE ON THE CONTRACT WITH AMERICA

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, I join my Democrat, Republican, and Independent friends and colleagues in congratulating NEWT GINGRICH and the Republican Party for setting forth a specific plan and promises for when he becomes Speaker of the House. Instead of the usual 30-second attack Clinton ad which asserts that our opponents will go to heaven or hell depending on their voting record, Mr. GINGRICH and Republicans have crafted a specific contract. Yet many paranoid Democrats are already whining. They prefer the politics of half-truths over substance.

The contract which they have been whining about calls for votes on a balanced budget amendment, term limits, line item veto, cutting congressional staff by one-third and reforming welfare.

The Democrats prefer what we have now, even with control of the House, control of the Senate, control of the White House, we have a $200 billion deficit, no middle-class tax cut, no health care reform, foreign policy triumphs in Bosnia, North Korea, Haiti, and Somalia. If that is what they want, I say to the American people ask a Democrat Congressman for a copy of the contract and ask them to show it to you.

Mr. Speaker, the choice is clear.

SUPPORT PASSAGE OF CONFERENCE REPORT ON H.R. 6

(Mr. OWENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS. Mr. Speaker, today we have an education survival bill on our agenda. Let us not play politics with the schoolchildren of America. Let us all unite to support the largest constituency of the Congress: Teachers, students, and parents who are waiting for the school aid provided by the Improving America's Schools Act.

Mr. Speaker, one of the reasons for the unpopularity of Congress as an institution is the fact that we too often neglect this education constituency, our largest and our most worthy constituency.

On Monday, 3 days from now, these funds will stop flowing to all of our schools if we do not pass this bill today. Every school district in this Nation will remain funded at the same level as last year. The needs are great all over America, in all of our schools.

Let us not play politics; instead let us make a contract, let us all make a contract with the schoolchildren of America.

Vote "yes" for the Improving America's Schools Act and let us do the job today.

THE FIASCO IN HAITI

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, once again this administration has bungled the Haiti situation beyond belief.

First we failed to promptly enforce an international accord and stood by while their military murdered the opposition.

Then we imposed economic sanctions killing 60,000 manufacturing jobs that were feeding nearly a third of their population.

Now our troops stand by while the Aristide supporters murder the other side and loot, pillage, and rob the last shreds of remaining business.

Honestly in my wildest imagination, I did not believe that President Clinton could concoct a wilder scheme to totally destroy Haiti.

Now—we have annihilated the entire economy, put our troops in the middle of an unending civil conflict and put their whole country on a Clinton-style American welfare plan.

Now we are buying guns while they use grenades, knives, tires, and machetes.

I cannot wait for the next turn in this incredible U.S. taxpayer financed fiasco.

H.R. 6: MOST SWEEPING EDUCATIONAL IMPROVEMENT IN DECADES

(Mr. KLINK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLINK. Mr. Speaker, the vote on H.R. 6 is a vote on the future of education.

All the issues that you may hear about, all the motions to recommit, are red herrings. H.R. 6 represents the most sweeping educational improvement and reform legislation in decades. It is our best chance to increase Federal aid for elementary and secondary education.

Despite what you may hear, "constitutionally protected" school prayer is protected under H.R. 6. H.R. 6 also prohibits the use of Federal funds to promote or encourage any sexual practice.

But the real issue is funding for education. If we recommit H.R. 6 to conference, $11 billion in education aid is in jeopardy. Federal education funding could be cut off to 13,000 school districts.

So ignore the red herrings. Support education and H.R. 6.

H.R. 6: WHAT DOES THE FORMULA DO FOR YOU IN YOUR DISTRICT IN THIRD, FOURTH, AND FIFTH YEARS?

(Mr. GOODLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOODLING. Mr. Speaker, I would respond to the gentleman from New Mexico as well as the gentleman from Pennsylvania as well as the gentleman from New York, the discussion today should have very little to do with the issues they talked about. There is only one issue that is major, and that issue is what does the formula do for you in your district in the third, fourth, and fifth years of this authorization?

No one, not the chairman of the committee, not the chairman of the subcommittee, not the ranking member, not any of the staff can tell you that. That is why I said we need 3 days so that we can get the runs, so we can tell you what it will mean to your district.

So I would hope that you put all the other rhetoric aside, concentrate on the ability to get the information you need to know what happens to your district.

We are moving the program from a program of educationally disadvantaged to a program of poverty. That is not what the program was all about.

The chairman said that six times in the conference.

So I would hope you would concentrate on the discussion in relationship to the formula in the last 3 years of this authorization.

SUPPORT THE MOTION TO RECOMMIT H.R. 6

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I would just like to provide my colleagues with another reason to support the motion to recommit H.R. 6 today.

House conferees had the opportunity to accept a Senate amendment to the bill which would have given local schools needed authority to prevent violence in the classroom. It would have closed a loophole in Federal law that presently allows students who commit extremely violent acts to claim Federal protection under the IDEA. Yes, Federal law requires that a student who commits a deadly assault, a stabbing, or a rape, stay put in that school if he or she can make a claim to IDEA protection.

The Gorton-Lieberman amendment in the Senate passed that body overwhelmingly with strong support from both parties. Many of you have expressed support for a similar bill I have introduced in the House. We have a chance to fix a law that is being exploited today, a chance to provide greater protection to our students and teachers, but we can only do it if we recommit this terrible bill to conference.

If the chapter 1 provisions and if the diluted school prayer and homosexual instruction language are not enough then the fact that we are not being allowed to even see the formulas we are voting on, on a bill that we can not get a copy of from our Document Room should be plenty of reason to vote for the motion to recommit. Please vote to recommit H.R. 6 to protect students and teachers in your local schools.

CONTRACT WITH AMERICA

(Mr. SMITH of Michigan asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. SMITH of Michigan. Mr. Speaker, we have heard complaints about Republicans commitment to lower taxes, less government, and balancing the budget of the Federal Government. In particular, Democrats complain that Republicans have failed to say how they are going to pay for our contract with America. Some liberals, in traditional scare tactics style, have suggested that we are going to cut Social Security.

I just want to point out that last year, and again this year, Republicans presented this House their own budget resolution stipulating deficit reduction without tax increases, without any cuts in Social Security, and specifying exactly where spending cuts should occur.

The contract with America has a total cost of approximately $140 billion. The $140 billion is tax cuts. The Republican budget proposal presented earlier this year included these same tax cuts for middle income Americans and still reduced deficit spending by $300 plus billion.

Mr. Speaker, the conservatives in this Chamber believe that it is time we get this bloated Federal bureaucracy under control, cut spending, and leave more hard-earned dollars in the hands of working Americans by reducing taxes.

WAIVING POINTS OF ORDER AGAINST THE CONFERENCE REPORT ON H.R. 6, IMPROVING AMERICA'S SCHOOLS ACT OF 1994

Ms. SLAUGHTER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 556 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 556

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 6) to extend for six years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965, and for certain other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. PETE GEREN of Texas). The gentlewoman from New York (Ms. SLAUGHTER) is recognized for 1 hour.

PARLIAMENTARY INQUIRY

Mr. DORNAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DORNAN. Mr. Speaker, we only have about 6 legislative days left. When 1-minutes are cut off to get into business, that means that the rule still pertains that we will open up to 10-minutes at the end of legislative business?

The SPEAKER. There will be an opportunity at the end of the day, the gentleman is correct.

Ms. SLAUGHTER. Mr. Speaker, I yield the customary 30 minutes of debate time to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume.

Mr. Speaker, during consideration of this resolution, all time yielded is for the purpose of debate only.

□ 1110

Mr. Speaker, House Resolution 556 provides for the consideration of the conference report on H.R. 6, the Improving America's Schools Act of 1994.

The rule waives all points of order against the conference report and against its consideration.

The rule further provides that the conference report shall be considered as read.

Mr. Speaker, the conference report on H.R. 6, the bill for which the committee has recommended this rule, will reauthorize the major Federal elementary and secondary education programs.

The conference committee that negotiated this bill deserves the utmost praise and thanks from all of us. We ought to especially recognize the work of the committee's chairman, the gentleman from Michigan [Mr. FORD], who is completing his congressional service this year. Mr. Speaker, throughout the length and breadth of the United States there are students, and parents, and educators who owe an enormous, incalculable debt to the gentleman from Michigan. His wise counsel and his direction in making certain that we meet the educational needs of America's children, for migrant children to homeless children, is extraordinary, and despite numerous disagreements with the other body, Mr. Speaker, the leadership of the gentleman from Michigan has produced a conference report which is substantially similar to the House-passed version of H.R. 6. The gentleman from Michigan [Mr. FORD] was joined in his hard work by the committee's ranking member, the gentleman from Pennsylvania [Mr. GOODLING], as well as his colleague, the subcommittee chairman, the gentleman from Michigan [Mr. KILDEE].

Mr. FORD's service as steward of this ambitious education bill began last year. He guided the legislation through a lengthy debate on the floor of this House, which continued for 4 weeks and involved consideration of over 40 amendments. Finally, he led House conferees during extremely complex negotiations to reconcile our bill with the Senate's proposal. The result of his labor is here before us, and it is a wonderful capstone to his legislative career.

Mr. Speaker, Congress must act very quickly to pass this legislation. H.R. 6 reauthorizes title 1 and over 40 other Federal education programs, including: the Eisenhower Teacher Training Program, the Impact Aid Program, the Chapter Two Block Grant, the Drug-Free Schools Act, the Magnet Schools Program, the Even Start Act, and migrant education.

Under this reauthorization, approximately $11 billion of funding for these programs can be distributed to school districts for the fiscal year 1995. But the Department of Education has informed Congress that these funds cannot be released until H.R. 6 is signed into law. After 2 years of discussion and evolution, we have finally arrived at an excellent piece of legislation. Failure to pass it now will threaten Federal funds for schools in every hometown in the country.

H.R. 6 also reauthorizes Federal funds to help homeless children stay in school. I initiated many of these programs in legislation I wrote in 1990, and I am proud to see them extended and strengthened in this conference report.

An estimated 100,000 of America's children go to sleep homeless in this Nation every night. Families with children are the fastest growing segment of the homeless population. Given these startling realities, it is critical that every school district in the country works to remove special obstacles that homeless children face in getting their education.

From simple matters, like completing paperwork without home addresses, to tougher issues, like affordable school supplies and transportation, the grants will help schools to keep homeless kids enrolled. This is more than simple compassion, it is an investment in our future. Without special intervention, these young people will never get the education they need to break the cycle of poverty, and the homeless students of today will become the welfare dependents of tomorrow.

I would especially like to thank the gentleman from Michigan [Mr. KILDEE] and the gentlewoman from Washington [Mrs. UNSOELD] for their assistance in this portion of the legislation.

Hand in hand with Goals 2000, this conference report establishes a new framework for education in our country. We in Washington will give local communities, parents and teachers greater flexibility, and in exchange they will hold our Nation's children to higher educational standards.

But that flexibility does no good to our local school districts if the programs are not reauthorized. Some 13,000 local educational agencies are relying on the Federal funds authorized by H.R. 6. At this late date, a vote to recommit this conference report, or to defeat this rule, could well prevent its consideration this year.

This is carefully crafted and balanced legislation. I urge my colleagues to support both the rule and the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I certainly thank the gentlewoman from Rochester, NY [Ms. SLAUGHTER] for graciously giving us half her time.

Mr. Speaker, I would like to say to the Members who are not on the floor, you should turn up the volume on your TV's back at your offices, and you better listen up because you're about to see the school districts in your area receive short shrift.

Mr. Speaker, we are being asked in this rule to waive every rule of the House against the conference report on this 6-year, $50 billion elementary and secondary education bill. That means quite simply, Mr. Speaker, we are waiving the 3-day layover requirement for conference reports, the scope and germaneness requirements, appropriations in an authorization bill, the budget act itself, and every other House rule.

I say to my colleagues, I want you to just look at this. Twelve hundred pages. And we are going to do this whether those rules have been actually violated in the conference report or not.

Perhaps the most telling provision of this rule is the last sentence which reads, and I quote, "The conference report shall be considered as read."

Well, what does that mean?

That language would not be necessary if we were complying with House rules in the first place, since under clause 2 of rule XXVIII, if a conference report has been available to Members for 3 days, it will be considered as having been read when it is called up for consideration. If it has not been available to Members for 3 days, the authors of this particular provision of rule XXVIII thought it should be in order for Members to hear the conference report read in its entirely. No one would have had the time to have read it for themselves, but this rule makes sure that no one will have time to either read the conference report or to hear it read. As my colleagues know, there is no way that we are going to have this read on the floor by the Clerk because it is 1,200 pages of legalese. So, that is why we needed the 3-day layover, so that Members would have had the weekend to actually understand what is happening here.

Mr. Speaker, at the time this conference report came to the Committee on Rules yesterday, we only had this foot-high stack of papers. I must confess I was afraid to read it for fear of causing an avalanche. How ironic is it that on an education bill, we are asking Members to vote on such a massive, 1,200-page document without being fully educated to its contents? We are being asked instead to cast an uneducated, uninformed vote on an unread bill, all for the sake of educating our Nation's elementary and secondary school students. Let us just hope that they do their homework a little better than we are going to do our homework.

Mr. Speaker, when I asked the chairman of the Committee on Education and Labor, who I have great respect for and who is leaving us after, I think, 30 years of service; I asked him why we needed to waive the 3-day layover requirement. He pointed out to me that the authorizations for these programs expired at midnight tonight. But does anybody expect the other body to pass this bill, as well, by midnight tonight? We know they will not, and I say, let's get serious around here.

Moreover, Mr. Speaker, I am informed that it is not true that the money will run out at midnight tonight. Under permanent statutory authority, the Education Department tells me the existing programs can continue to receive funds at current levels—so the money is not going to stop at midnight tonight. It is going to continue to flow as it always has.

The chairman also testified on something more, and I say to my colleagues, if you're listening back in your offices, you ought to listen to this because this is terribly important.

□ 1130

If we wait until Monday to vote on this conference report, the chairman said, we would be flooded with phone calls on Monday morning when people found out what it really does.

That testimony yesterday was the second day in a row that the Committee on Rules was asked by a chairman to waive a 3-day rule for a conference report on the grounds they did not want there to be time for people to learn what was in their bills, for fear that opposition would mount.

Wednesday, the Committee on Rules voted 5 to 4 against waiving the 3-day rule on the lobby disclosure conference report. Yesterday, they reversed themselves in the Committee on Rules and voted 4 to 3 to waive the 3-day layover on this bill. Why? What kind of democracy have we come to, when we are afraid to let the people know what we are doing here?

I always thought that our system of Government was dependent on an informed citizenry. Now we are being told we cannot even afford to have informed representatives before we make decisions on massive bills costing billions of dollars like this.

Mr. Speaker, I am not just talking theoretically here. In this case, there are real winners and there are real losers. I was fortunate enough, and I think, Members, you better listen back in your offices again, because you are going to get the short shrift in your districts. I was fortunate enough to get an early printout on this new title I formula that was concocted in the conference committee, and it shows that all nine of my rural counties will lose money under this bill.

The chairman of the Committee on Education and Labor admitted that there are a lot of losers under this bill. He talked about a teeter-totter tipping back and forth between the east coast and the west coast, depending on how you tinker with the formulas. Well, if that is the case, I feel like the victim of a school yard prank, where the person at the bottom of the teeter-totter suddenly jumped off and the person goes plunging to the ground with a major jolt that sends him tumbling down in pain.

Mr. Speaker, if this bill becomes law, my district gets the short end of the teeter-totter and gets a major jolt to the wallets of my constituents. And I am talking about rural counties that are already severely strapped financially due to a lagging economy and thousands of job layoffs, 10,000 in the Hudson Valley alone just in the last 18 months.

I suspect that there are a great many Members in this House who are similarly affected by this bill, and they will not have time to find out because they are not going to have time to read the bill. Try to explain your support for this rushed rule to your local districts when they find out how much they will be losing under this new formula.

Think about it back in your offices now. Do you know how much they are going to be losing? You had better come find out. You are not going to have time to find out, because after this rule, if it passes, we go to the bill. The bill is going to pass one hour after that, and it is too late for you and the people you represent.

Mr. Speaker, I do not mean to trash this bill in its entirety or the work of our conferees. There are plenty of wonderful things in the bill. The local school districts are given more flexibility in many cases than previously. There is much that is commendable in this legislation, at least I am told so by respected Members. The gentleman from Michigan, Chairman FORD, and the ranking Republican, the gentleman from Pennsylvania, Mr. GOODLING, and their fellow conferees were grappling with a variety of very difficult challenges in putting together this major rewrite.

These programs mean a lot to our local school districts in providing a better quality of education for our young people. But any work of this magnitude deserves more attention and more understanding than this rule allows. In a way, the rule is an insult to the work of the conferees.

Mr. Speaker, a political scientist once defined politics as the science of how, and who gets what, when, and why. This conference report, involving billions of dollars for programs affecting millions of students spread over some 90 percent of the school districts in America, is surely testimony to that definition of politics.

But I suspect the method of allocating these scarce resources in a conference committee is less a science than it is an art. Politics is, after all, the art of compromise, and the conferees had to hammer out numerous compromises to bring the programs up to date.

All I am asking in opposing this rule, Mr. Speaker, is to let the 400 Members of the House who were not conferees have a chance to study the compromises, at least over the weekend, to determine what they are, what they do, and whether they are, in the final analysis, fair and in the best interests of the country and its educational systems.

Mr. Speaker, I am asking Members to come over here and try to find out how your school districts are affected and see what is happening to you. If you do, you are going to find—the vast majority of this Congress—you are going to vote no on this rule. Please do.

Mr. Speaker, I reserve the balance of my time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PETE GEREN of Texas). The Chair will remind all Members to address their remarks to the Chair, and not Members sitting in their offices.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes for the purpose of debate only to the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Speaker, I rise in support of the rule providing for the consideration of the conference report on H.R. 6, Improving America's Schools Act of 1994.

Mr. Speaker, this is the most important reauthorization since ESEA was enacted in 1965, and the process for its development was very open and very inclusive.

We began several years ago with an invitation from the Committee on Education and Labor, signed by the gentleman from Pennsylvania [Mr. GOODLING], myself, and the gentleman from Michigan [Mr. FORD], to hundreds of organizations with an interest in education to send us their comments and recommendations. Then we considered this bill on the House floor for 29 hours under an open rule, 1 full month of debate, from February 24 to March 24. We all remember H.R. 6.

We had a very lengthy conference, during which many issues were extensively discussed. The result of our deliberations is a good agreement, which reflects a strong defense of House-passed provisions, and includes all the major components of the House bill.

As refashioned by H.R. 6, Federal elementary and secondary education programs now become an integral part of State and local reform efforts by providing more local flexibility, requiring greater accountability for results, and, through the use of waivers, allowing funds to be creatively combined in order to improve student achievement.

In the process of reconciling the differences between the House and Senate versions of this massive reauthorization, it is not surprising that there are several minor scope and budget exceptions. For instance, the agreement includes a Senate provision authorizing the National Education Goals Panel to accept gifts from private donors, a provision requested by the administration and supported by the House Republicans.

There is also a provision reauthorizing the Even Start Program, authorized by the gentleman from Pennsylvania [Mr. GOODLING], to include a limitation on school districts forming partnerships, a change proposed by a Republican Member that was contained in neither bill.

For these reasons and for other reasons, this rule protects the conference report from all points of order.

Mr. Speaker, I live in a district that is quite a cross-section of America, two large urban cities, wealthy suburbs, some not so wealthy suburbs, soybean farmers, wheat farmers, beef farmers. I have rural school districts, and I have urban school districts. I have worked out assiduously a formula that will guarantee equity for all the school districts in this country, because my district is a microcosm of this country.

I urge my colleagues to support this rule and to bring this very important conference report before the House for consideration.

Mr. Speaker, I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield 6 minutes to the very distinguished ranking Republican member of the Committee on Education and Labor, the gentleman from Pennsylvania [Mr. GOODLING].

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GOODLING].

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. GOODLING] is recognized for 8 minutes.

Mr. PORTER. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, I thank the gentleman for yielding.

Now, Mr. Speaker, I am for this education bill. Among many other things, it contains an impact aid provision I urged the committee to write which will help keep the North Chicago Schools in my congressional district from closing this year.

But, Mr. Speaker, I want to say something about one argument that is being made about the need to pass the bill. The Department of Education and, I understand, the chairman of the Appropriations Committee are arguing that because the Education appropriations bill, for which I am the ranking subcommittee member, references the Improving America's School Act, if that act is not passed, then the education funding cannot be obligated in 1995.

I believe that argument is absolutely absurd. I can tell you, that regardless of what position the Department or the committee may now take on the technical merit of the appropriations language, it was my understanding, and I believe that of every other participant in the conference, that the appropriations language provides a fall back to the expired authorization if the Improving America's Schools Act were to fail enactment.

Mr. Speaker, I want to illustrate the absurdity of this situation. We all know that appropriations bills are not supposed to fund unauthorized programs. And yet, over the years, it has been common practice to fund programs whose authorizations have expired because the authorizing committees were unable or unwilling to pass the necessary legislation. In the Labor, Health and Education bill, for example, we have funded the title X pregnancy counseling program without a current authorization for a decade. Are Members on the other side now suggesting the Department of HHS ought to have withheld funding for that program? Substance abuse treatment programs, which will receive over a billion dollars in 1995, are not authorized. Is HHS going to withhold funding for those programs pending a reauthorizing bill which may not come until late next year?

Mr. Speaker, across the government, the list of unauthorized programs is a long one: $11.6 billion for housing programs; $500 million for the Secret Service; the entire Department of Energy, except for fossil fuel which hasn't been authorized since 1984;

The Legal Services Corporation; the Immigration and Naturalization Service; the Bureau of Land Management—10 years unauthorized; NASA, unauthorized since 1992; and, FBI general appropriations $2.2 billion.

Mr. Speaker, the list goes on for some time. The point I am making is that if the administration is going to start withholding funding for programs which have not been timely reauthorized, it must apply this consistently and withhold funding of all unauthorized programs. No, clearly, the appropriations bills, where authorizations, for whatever reason, have not been made, in every instance intend not only to appropriate but to reauthorize existing law, and this one is no different. That, plainly was our intent.

I want to reiterate: I am for the bill. But we ought not to argue for the bill on the basis of an absurd construction by the Department of Education.

Now, in addition, Mr. Speaker, I have looked at the letter from the general counsel of the Department of Education and I would say to the gentleman that I am amazed by this so-called legal opinion that says that the existing law would not be funded if we did not pass this bill.

Now, I am very strongly for this bill. I believe the bill makes good changes in the law and we ought to adopt it, but for the legal counsel to say that funding will not continue under existing law in the absence of enactment of the new law is absolute nonsense. There is even the suggestion in this letter that people might have standing to sue in the court under a law that has never been enacted, which I find ludicrous.

□ 1130

I would say to the gentleman, I believe very strongly that if we do not pass the law, nevertheless we would continue to operate under existing law. And the appropriation bill would appropriate properly under the law.

Mr. Speaker, I thank the gentleman for yielding to me.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Speaker, we took care of the concerns of the gentleman from Illinois [Mr. PORTER] about impact aid. But I want to tell the gentleman that impact aid is not authorized beyond midnight tonight. It is not authorized beyond midnight tonight. All of the education programs that are in this bill were authorized for a finite period of time. The authorization runs out at midnight tonight.

Mr. PORTER. Mr. Speaker, if the gentleman will continue to yield, I would say to the gentleman, I am very strongly for this bill. I will vote for the bill. But I believe that the opinion of the counsel of the Department of Education is simply wrong. The authorization would not expire tonight. In fact, the appropriation bill would operate to reauthorize existing law.

Mr. FORD of Michigan. Mr. Speaker, the gentleman is on the Committee on Appropriations. Does he remember that he put language in the appropriations bill saying that the expenditure of 1995 appropriations is contingent upon the passage of this law?

Mr. PORTER. Mr. Speaker, no, I do not believe there is any such language in the appropriation.

Mr. FORD of Michigan. Mr. Speaker, yes, it is. The gentleman even nailed it down tighter than the law would have been without it.

Mr. GOODLING. Mr. Speaker, reclaiming my time, that is only on the new programs that are involved. Here are $60 billion of programs that were appropriated this particular year in 1994, $60 billion with no authorization whatsoever, no reauthorization whatsoever.

Mr. Speaker, I went to the Committee on Rules yesterday, primarily because I believe it is the responsibilities of Members of a committee authorizing legislation and bringing it to the floor of the House to be able to tell all the other Members exactly what the legislation does in relationship to their district.

As I said earlier in my 1 minute, we have a magnificent staff on both sides of the aisle. They cannot tell Members what happens in the third, fourth, and fifth year. The chairman cannot tell Members what happens in the third, fourth, and fifth year. The subcommittee chairman cannot tell Members what happens in the third, fourth, and fifth year. I cannot tell my colleagues what happens in the third, fourth and fifth year. That is why it is so important that we not waive the 3 days so that we have an opportunity to be able to tell Members just that.

This is very misleading. Somebody is sending out this kind of information. When we get over here to 1996, it says, "96 conference agreement," tells me how much more money I am getting. In relationship to what? Not in relationship to the current formula, not at all.

We need that column in there to be able to tell Members exactly what it means to them in 1996, 1997, 1998, the out years. We positively cannot tell anybody what it means to them.

I think that is a fault on our part as an authorizing committee. We should be able to tell every Member exactly what happens in their districts.

During the last hours of our conference, unfortunately, things started moving rapidly. I guess we got impatient. I guess Members started thinking that, well, we will not come up with something if we do not move and we do not give.

That is why we cannot explain to Members this particular formula. I would like to have the time, and I do not, to show my colleagues the formula, and then they can tell me what they think that formula does for them in those last years. If Members can tell me that, they are the smartest persons on Earth, there is no question about it.

Again, the issue has nothing to do with all the issues we heard in the 1 minutes. The issue has strictly to do with what happens to Members in their districts, because when they get down here to the third year, our 2 percent drops out, if they have less than 2 percent poverty.

Some will say, that is good. We ought to concentrate it.

Let me tell my colleagues, this bill, as the chairman said six or eight times during the conference, was written for educationally disadvantaged youngsters. It was not a poverty program, so we may have a thousand educationally disadvantaged youngsters, the next district may have only 500. But their percent of poverty is above the 2 percent and, therefore, you get nothing and they get the money.

That is not what the legislation was all about. That is not who we were just trying to serve. We were trying to serve all of those who are educationally disadvantaged.

Then when we get into the next year, now we really start targeting, targeting, targeting. So it means that the educationally disadvantaged again lose less, lose less. There is a hold harmless in there, but look at how the hold harmless is written.

If you are in this certain percentage of poverty, your hold harmless is such. If you are in this, it is something else. If you are in this, there is three different categories. It is something else.

The educationally disadvantaged have to suffer, particularly in those out years.

I think before we vote on the bill, we really need to know what happens in the third and the fourth and the fifth year. Members are coming down here making speeches who have no idea what is in the bill and have very little knowledge, if any, about the formula.

I have studied and studied the formula and still cannot tell Members in the third, fourth, and fifth year how they will fair under this new formula, very convoluted, very confusing. And it will take a lot of study on Members' parts. We needed 3 days so that we could get runs that mean something so that we could tell every Member in this body exactly how they fair under this particular piece of legislation in the out years.

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Michigan [Mr. FORD], the chairman of the committee.

Mr. FORD of Michigan. Mr. Speaker, I rise to try to clear up a little of the smoke that has just begun to waft across the floor here. I tried to engage in an exchange with the gentleman from the Committee on Appropriations who denies that this language is there, so I got the report, dated September 20, from the conference on the appropriations that cover this legislation. I would like to read from that report.

> Both the House and the Senate bills provided funding for education for the disadvantaged activities based on proposed changes in the Elementary and Secondary Education Act currently being considered by Congress. The House bill provided funding based on the authorization as passed in the House on March 24, 1994. The Senate bill provided funding based on the bill as passed in the Senate on August 2nd, 1994. The conference agreement provides funding based on the authorization "as enacted into law." This action protects the rights of both the House and the Senate as the reauthorization process is completed.

That is the language that says, we are appropriating this money on condition that you complete action on the law.

Now, as Members know, under normal circumstances, we cannot appropriate money for anything that is not authorized by the Congress. And it has been a continuing practice for the Committees on Appropriations on both sides, if we pass in the House, the reauthorization, to appropriate to that level contingent upon us finishing the process by going to conference and coming back, as we are here with this conference report.

The long and the short of it is, at midnight tonight, on all the programs, including the program of the gentleman, money for impact aid, which we worked so hard to protect for him, it is drop dead time. It would be the height of irresponsibility to vote down this rule and not have the House of Representatives do its part to meet that deadline. It is up to the Senate, when we finish today, whether they meet the deadline or not.

□ 1140

I feel it is my obligation as the chairman of this committee to send the House Members back to see their constituents, not faced with a headline next week saying the XYZ school district in their district has just learned that the money, whatever number of hundred thousand dollars that has been coming year after year after year to that district, will not be coming because Congress did not complete its work on the reauthorization.

Mr. Speaker, I am supporting things in this conference report that I in past years would have fought very bitterly, to the very end, to oppose, because of the urgency of getting this job done. I have sublimated some of my strongest feelings in order to accomplish this for the Members of this House. I hope they appreciate that we are giving them a chance to go home and say "I did my job."

If we are going to stop at this point and start quibbling, to hear the gentleman from Pennsylvania [Mr. GOODLING] say he does not know what is going to happen in the third, fourth, and fifth years of this authorization at this late date is a disappointment to me. The formula passed the committee 41 to 2, and the gentlemen voted for the formula. The formula passed this House after 7 days on the floor without a single amendment to that formula being offered, and a single word of criticism of the formula.

The formula that we brought back to you from conference is far more like the House-passed formula than the Senate-passed formula. I spent days in that conference defending the House formula, in large part because the Republicans on my committee, the Democrats almost universally, the two votes I had against it, incidentally, were Democratic votes. Not one Republican voted against the formula in the committee.

I kept faith with what they asked for on this floor, and in the conference. For them to be coming up at the last minute and saying "We do not know how much it is going to be in the third, fourth, and fifth years" is disingenuous, at best.

Let me say, the first year we appropriate numbers in this legislation. Each year therefore it is such sums as may be necessary, and it is up to the Committee on Appropriations to decide what the numbers are.

Therefore, if there is any doubt about what is going to happen in the third, fourth, and fifth years, it is no different than the doubt has always been. We do not know how much the Committee on Appropriations is going to appropriate in the third, fourth, and fifth years. The sheet we passed out that the gentleman showed does not purport to have us look at a crystal ball and predict for us what the Committee on Appropriations will do.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the very distinguished gentleman from Wisconsin [Mr. GUNDERSON], a member of the committee.

Mr. GUNDERSON. Mr. Speaker, if there is one thing I think is the reason people hate the Congress of the United States, it is because we play these games of fiscal brinksmanship. We hear this rhetoric that says "Vote for this bill today, or you are not going to have any kind of money for schools." We all know that is crazy.

No. 1, we can go back and change this formula. We are all going to be here for another week. No. 2, we have a bill in that extends every one of these programs for another year. Do not let anybody tell you it is this or nothing for your schools.

Second, let us understand exactly what we are dealing with here. There is probably nobody in this Congress that wants to vote for an education bill more than I do. I have voted for every education bill in this entire Congress, and I am proud of that. I thought until Monday of this week that I would be voting for this one.

However, the reason we ought to be defeating this rule today is because absolutely nobody knows what we are voting on. I know there is not a Member of Congress that has read the bill, but I am not going to make that case. I am going to say that I know there is not a member of Congress who can tell a school district in their State or in their congressional district what they are going to get under this bill for funding when the new formula goes into effect.

Mr. Speaker, on Wednesday of this week I got this formula right here. It told me my district was going to lose $288,000. No one has ever accused STEVE GUNDERSON of having a rich congressional district, but I was going to lose $288,000 in my small, rural schools.

Thursday of this week I got a formula that said I am going to lose not $288,000, I am going to lose $344,000 in Chapter 1 money under this particular new compromise formula.

Then Friday morning, earlier this morning, the Chairman sent me, and I suspect many others, a letter. The letter says "Don't worry, all this rhetoric is untrue. In 1996 you are going to be better off than you are under the 1994 allocation."

Mr. Speaker, everybody is better in 1996 than they are in 1994, because, No. 1, we have added $300 million new money and, No. 2, we hold everybody harmless.

In all due respect, Mr. Speaker, if Members got this letter in their offices, tear it up. It is not worth the paper it is printed on, because it does not tell you the truth, which is, the new formula goes into effect in 1997.

The chairman of the committee stands up and says nobody is going to lose money under this act. That is simply untrue. In 1994 funding, every school is told under this new formula, unlike the formula passed by the House of Representatives, that "That is all you are going to get. You are going to take cuts for the allocation of census redistribution", et cetera.

We received this morning from our Wisconsin Department of Public Instruction information, we were informed by our Wisconsin Department of Public Instruction this morning, Mr. Speaker, that 89 school districts covering 5,569 students, Chapter 1-eligible students, would be, under this new formula, told that they will have a declining revenue from that 1994 base on out, and they will get no new money ever in the future, as they would have under the formula that passed the House of Representatives.

Mr. Speaker, if Members worried about previous votes, they ought to worry about this for two reasons. No. 1, they do not know what they are voting on, nobody knows. No. 2, we are going to vote on a proposal and a formula that is going to cut Chapter 1 dollars big time to our schools in 1997, 1998, 1999 under this program. That is not a commitment to education, that is fiscal irresponsibility by the Congress of the United States.

Defeat this rule, send us back to the conference to restore the Chapter 1 formula. It was approved on a bipartisan basis by the House early on.

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only I yield 4 minutes to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I thank my friend and colleague, the gentlewoman from New York [Ms. SLAUGHTER], for yielding time to me.

Mr. Speaker, I rise in strong support of the rule and the conference report on H.R. 6, the Improving America Schools Act. I was a conferee, and we met many, many times with the Senate to hash this out.

Mr. Speaker, I have heard delaying tactics here and partisanship here and attempts to defeat this rule in order to stymie this bill. It is not a matter of giving people a few more days to study it and know what is in it. It is a matter of giving people a few more days so they can attempt to strangle and kill the bill next week.

When we met in the conference, every attempt was made by the Chairman and the conferees to bend over backward to satisfy people on both sides of the aisle. We have heard rhetoric "This is a bad bill, and amendments make the bill worse," but then when you ask the other side "If we do not have the amendment, will you vote for the bill," we do not get any affirmative responses.

Let us see this for what it is worth. It is an attempt to defeat this rule and defeat this bill next week, and to throw everything into turmoil. Unfortunately, that seems to be what is happening on the other side of the aisle. They want gridlock, they want it to continue. They want nothing to pass. They want to go to the November elections with nothing passed, so they can say "See, the Democrats in Congress cannot even do anything right."

I do not think we should be playing games with America's education. Education should be bipartisan. We tried to craft a bipartisan bill. You can only get a bipartisan bill if two sides are willing to craft it. We sat down. We attempted to work this out. This is a very, very good bill. We worked very, very hard on H.R. 6. It came to the floor time and time again.

As the Chairman pointed out, Mr. Speaker, the final formula for chapter 1 funding is very similar to the formula that the House originally voted on, which was passed by virtually all Members of the committee on both sides of the aisle.

Mr. Speaker, defeating this rule would be a tragedy. It would be a tragedy for America, it would be a tragedy for America's children, it would be a tragedy for education in America.

Mr. Speaker, I want to take this time to commend both the chairman of the committee and the chairman of the subcommittee, the gentlemen from Michigan, Mr. FORD and Mr. KILDEE, and all my colleagues on the Committee on Education and Labor, for their work on this legislation.

This is an excellent bill. It will provide important funding for many education programs. It includes a fair funding formula for chapter 1, which provides 300 million new dollars in fiscal year 1995 for this important program.

Additionally, it holds all school districts harmless for any formula change in fiscal year 1995, and starting in fiscal year 1996, so no one will be hurt, Mr. Speaker. No districts will be hurt.

☐ 1150

The new formula attempts to concentrate some of the new money in areas which serve a high number of disadvantaged students. This formula was carefully crafted to ensure that virtually no State will lose money under this bill.

I ought to mention, also, Mr. Speaker, an important program in this bill which I fought hard for, the Community Cultural Partnership Act. This legislation is designed to link local community cultural resources with the children and youth who are most at risk of dropping out of school. I am a former teacher, guidance counselor, and the father of three young children and I have always seen education as a bipartisan issue. When you have a bill of this magnitude, you are never going to get something that is 100 percent to everybody's liking but I can tell my colleagues with all sincerity, we worked darned hard to make this bill a bill that ought to be passed with votes on both sides of the aisle.

I beg Members, please do not defeat this rule. Defeating this rule will mean that the bill will most likely be defeated and that again would be a tragedy.

When the other side of the aisle raised chapter 2 funding, I was the only Democrat to support them because I felt that the point they were making was very, very true and a block grant program for States was very, very important.

I would urge my colleagues on both sides of the aisle—this is a good bill for America, a bipartisan bill—please support the rule and please support the bill today.

Mr. SOLOMON. Mr. Speaker, I can understand the gentleman's support. It takes money out of my district in upstate New York and gives it to New York City. Naturally he would be for it.

Mr. Speaker, I yield 2 minutes to my good friend, the gentleman from San Diego, CA [Mr. CUNNINGHAM], a member of the committee.

Mr. CUNNINGHAM. Mr. Speaker, I would like to address some statements that the gentleman from New York [Mr. ENGEL] made. First of all I am not going to support this rule but I am supporting the bill, and I will tell why, so there is an affirmative on this side. I, like the gentleman from New York, feel if we can invest where we can invest money, we ought to invest in our children. But I also know there are people in this bill under the formula that do lose money. My State, California, benefits greatly. We have increased by 38 percent our population. It was based on 1980 census. Then it goes up. Then in 1997 we are going to have a country census. In 1999 we are going to have another. I think the gentleman from Wisconsin [Mr. OBEY's] district, for example, loses greatly, upstate New York loses greatly and is targeted. The first year it is held in current law, the second year held harmless. Then we will also gain because we are increasing in population which will take away from other States. But in this, I think there are many people that under the current formula, and the gentleman from Michigan [Mr. FORD], the chairman, and the gentleman from Michigan [Mr. KILDEE], I think they worked in the conference. They did a job where we could not budge the Senate or the House position. I preferred the House position. But it was not going to go anywhere. I think there was disagreement on what our position was going to stay at the House position. But in the meantime under this formula, many States do lose.

I would ask people to look, and all we are asking is that we have time to make a run to see what those States and what they do win and what they do not lose. For that reason, I am going to vote against the rule, but I will vote for the bill because of what it does for California. It also is a fairly good bill.

I look at a bill for the good, the bad, and the ugly of it. This has got more good than it has bad in it. But for a lot of people it has more bad than it does good.

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only, I yield 1½ minutes to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Speaker, I thank the gentlewomen from New York [Ms. SLAUGHTER] for allowing me to participate in this discussion on the rule.

Mr. Speaker, I rise in support of the rule for H.R. 6, the Improving America's Schools Act.

It is imperative that we put partisan politics aside and pass the rule on this conference report for this is a fair and equitable rule and this conference report is in the best interest of children of our Nation.

We will have failed as legislators if we do not work toward our Nation's future by providing adequate funding for the education of our children.

My district, the First Congressional District of North Carolina, is severely economically disadvantaged. These funds enhance equal opportunity for improved education for all students, regardless of locality. The school districts of my constituency desperately need the Federal funds provided through this bill to provide the necessary educational services to the children of eastern North Carolina so that they have the skills to be productive members of society. If we willingly deprive them of these funds, we doom them to failure not only in the present but in the future.

I strongly urge my colleagues on both sides of this aisle to support the rule on H.R. 6 so that our children may achieve to the levels that we know they are capable of.

Mr. SOLOMON. Mr. Speaker, this body has distinguished new Members from both sides of the aisle. I yield 2 minutes to the gentleman from Holland, MI [Mr. HOEKSTRA], one of those new Members and member of the committee.

Mr. HOEKSTRA. Mr. Speaker, I thank the gentleman from New York for yielding me the time.

Mr. Speaker, 2 years ago when I decided to come to this House, it was pretty easy to say that Washington did not look very good from west Michigan. The disappointing thing is that when you come to Washington, you find out that what goes on in the House here does not look a lot better when you come up close. That is what we are talking about here today. We are talking about the rule, the process by which we are going to consider 12 billion dollars' worth of spending.

I would like to say that this is the bill and we could review this in 24 hours. But in reality, this is the piece of legislation that we are going to have less than 48 hours to review before we are going to have to vote on it. What is contained in these 1,200 pages? There are $12 billion of authorizations. The bill has 20 new programs. Eleven of these programs have never been considered in the House. They were not approved in the full committee. These 11 bills are going to cost $364 million. We in this body do not know what is contained in these programs. It also includes $138 million of continued spending for five programs that we tried to eliminate. We are going to be voting on 1,200 pages of legislation, $12 billion of spending, 11 new programs that we do not fully understand, and a funding formula that I really do not know whether it is going to add money to my district in the out years or it is going to take money away, but the bottom line is we do not know what is in the bill.

Once again this body is flying feet first. Let us give everyone a chance to thoroughly review its consequences.

Ms. SLAUGHTER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Speaker, I am pleased to come before the House to support the conference report to accompany H.R. 6, the Improving America's Schools Act of 1994.

The legislation includes several provisions that are designed to ensure gender equity in education. These provisions, backed by the Congressional Caucus for Women's Issues, will go a long way toward making sure that our young women and girls as well as our young men and boys receive the best education possible.

There are two provisions that I sponsored and that are especially important to me. They are the provisions concerning athletic disclosures and child abuse.

Twenty-two years ago, Congress sought to eliminate sex discrimination in education, including athletics, when it passed title IX of the education amendments to 1972. Despite initial progress in women's sports, sex discrimination continues at our Nation's college and universities. Women's teams are often given less financial support, which includes operating expenses, scholarship expenses, and recruiting expenses. They are given poorer facilities for training, worse hours for practice and competition, inferior travel accommodations, and little, if any, promotional support. Things do not have to be this way and we should not let them stay this way.

Earlier this Congress, I introduced H.R. 921, the Equity in Athletics Disclosure Act to require colleges and universities to publicly disclose data concerning their commitment to ensuring gender equity in athletics for men and women. Senator MOSELEY-BRAUN introduced companion legislation and was victorious in attaching the disclosure provisions included into the Senate version of the bill.

A goal of the disclosure provisions is to ensure that young women are given equitable athletic opportunities; however, gender equity in athletics is not only about providing young women with physical exercise. A report sponsored by the Women's Sports Foundation found that,

> the greater the level of women's past involvement in organized athletics, the more likely they are to positively evaluate themselves in regard to setting objectives, leading a group, motivating others, sharing credit and feeling comfortable in a competitive environment.

This legislation will require colleges and universities to publicly disclose data concerning their commitment to ensuring gender equity in athletics for men and women. By encouraging gender equity in athletics, we are laying the groundwork for creating a new generation of women leaders with increasing abilities to compete and excel in corporate America. In addition, this legislation will shine a light on the schools that take their women athletes seriously and those that do not. Students will know the record of the college or university before they decide to attend and schools will be encouraged to comply with Title IX.

The other provision that I want to address relates to child abuse. In response to the growing problem of child abuse in our Nation, I introduced H.R. 125, the Child Abuse Prevention Act. The provisions of H.R. 125 are included in the conference report and will enable elementary and secondary schools to use Federal grants to train teachers and develop curricula regarding child abuse prevention and education in elementary and secondary schools. Clearly, the provisions of the legislation will help child abuse victims that would otherwise remain unnoticed or unrecognized.

Mr. Speaker, many individuals helped craft this legislation and time will not permit me to congratulate everyone. However, at the very least, I would like to commend the chairman of the Education and Labor Committee, Mr. FORD, the chairman of the Labor and Human Resources Committee, Senator KENNEDY, the chairman of the Subcommittee on Elementary, Secondary, and Vocational Education, Mr. KILDEE, the chairman of the Subcommittee on Select Education and Civil Rights, Mr. OWENS, and their staffs for all of their hard work in designing this legislation. Also, I would like to commend Congresswoman MINK, Senator MOSELEY-BRAUN, Congresswoman WOOLSEY and their staffs and the Congressional Caucus for Women's Issues for help in perfecting the legislation.

Also, Mr. Speaker, I would remiss, if I did not acknowledge the Feminist Majority, National Women's Law Center, American Association of University Women, Women's Sports Foundation, and the National Association for Girls and Women in Sport for their assistance in promoting the athletic disclosure provisions.

I urge the support of my colleagues for the rule and for the conference report.

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, I rise in support of the rule and in support of the bill.

Mr. Speaker, it is amazing some of the things that are being said on the floor today and that we should hold this over so that runs can be made to predict how this bill and these formulas are going to affect particular areas in 1997 and beyond. The problem with those statements is that we are creating a formula that is based on, "Let us send the money to where the problem is, let us send the money to where the poverty is, and then give flexibility to those schools to use that money within their entire school program." We are not going to have the census done until 1997 and 1999. So how are we going to make any runs this week or next week that are going to predict how individual schools are going to be affected?

□ 1200

What is happening instead, Mr. Speaker, is that we are seeing the first attempt at paying for the Newt Gingrich $1 trillion deficit, that is the lack of balance in the budget that is in the Republican contract, because this effort now by the Republican leadership is to take away from those schoolchildren, from those programs that need this money and instead slide it over and give additional tax benefits to the wealthy.

We need this bill, and we have to recognize that the money has to go where the need is and where the poverty is.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the very distinguished gentleman from Hickory, NC [Mr. BALLENGER], a member of the committee.

Mr. BALLENGER. Mr. Speaker, as a conferee on H.R. 6 who was unable to sign the conference report due to the bill's many inadequacies, I rise in opposition to passage of this bill to reauthorize the Elementary and Secondary Education Act. My opposition to this legislation is based, in part, on my belief that pages of Federal education policy requirements and directives should not be attached to the relatively small amount of Federal aid for elementary and secondary education. By making so-called Federal education funds contingent upon State and local school agency adoption of bad education policy, we are wrongly accepting the idea that there are so-called Federal funds. Mr. Speaker, I have yet to see the Federal Government raise major revenue without the American taxpayer. Federal funds are taxpayer funds, and Federal education dollars should flow back to the people from whence they came without burdensome spending stipulations. I trust the elected school board members and school administrators throughout this country will make wise education policy decisions—decisions that mirror the concerns of parents and work in the best interest of our schoolchildren. Although I support many of the existing programs in this legislation, I simply cannot support any move toward a Washington takeover of our schools.

So far, I have spoken in broad terms. Mr. Speaker, let me give you an example of flawed education policy coupled with taxpayer dollars. This bill requires States receiving funds to adopt a 1-year expulsion policy for students bringing guns to school but allows school administrators to waive the policy on a case-by-case basis. we are all against guns and violence in schools, but expulsion policy should not be dictated from Washington, and the case-by-case wording only leaves the schools open for litigation based on alleged inequities in policy enforcement.

Mr. Speaker, Washington wants to dictate expulsion policy, but when it comes to formulating a policy to protect a constitutional right, the right to voluntary school prayer, Washington comes up short. The school prayer language in this bill places legal hurdles in front of children wishing to exercise their right to voluntary prayer. Parents throughout this country have asked Congress to protect this fundamental right, and I feel we can do better than the language contained in this bill.

I urge my colleagues to oppose this conference report. Let us be clear, this is not a vote against education, but rather a vote against growing Federal control over education. Not only are opportunity to learn standards present in this bill through State demonstration requirements for academic standards for title I children, the bill also includes gender-based reporting requirements for college athletic programs, 20 new programs that may reduce funding for other more deserving programs, and a weak answer to the chapter I formula debate. I oppose the rule, the conference report, and support efforts to extend the program authorizations for 1 year under current law so a better bill may be approved next year.

Ms. SLAUGHTER. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I rise in support of the rule.

Mr. Speaker, it seems to me that too many of us are more interested in the formula than educating our children. Instead of targeting this money to the areas of greatest need, we seem to be talking about targeting it to areas of least need. Instead of discussing the educational needs of our students we are arguing about how much some rich districts will receive or will not receive.

Mr. Speaker, three of the programs included in this legislation are very vital to the educational needs of our children, the title I program, a revised Dwight D. Eisenhower Mathematics and Science Education Program, and the Magnet Schools Assistance Program.

Since the inception of the Elementary and Secondary Act of 1965, Title I has provided through the years a vital and crucial link in helping to deliver high quality education to economically disadvantaged children.

Title I has served as a basis of hope in helping many young people sometimes perceived as losers to become winners. It has been extremely significant in providing services to our Nation's children and youths in reading and mathematics as well as in the development of critical thinking skills.

The move toward excellence and inclusiveness which began so nobly in 1965 with then President Lyndon Baines Johnson signing the Elementary and Secondary Education Act into law, must be permitted to move forward.

The Dwight D. Eisenhower Mathematics and Science Program in this bill will encourage professional development of teachers, staff, and administrators in increasing their knowledge and skills of the subject matter.

The Magnet Schools Assistance Program helps school districts fulfill the Federal commitment to school desegregation. Clearly, how we modify and reauthorize the Magnet Schools Assistance Program will demonstrate our continuing commitment to school desegregation in compliance with Brown versus Board of Education, 1954.

Mr. Speaker, I support the opportunity-to-learn standards provisions as included in this legislation. Opportunity-to-learn standards would identify the elements necessary in helping children to achieve the content and performance standards. Content standards indicate what children should know and be able to do; performance standards determine whether children are learning. I fully support both content and performance standards; however, I firmly believe that it is inequitable to hold students accountable for their performance without addressing the capacity of the school to educate children to the level required under the student performance standards. If we require content and performance standards, then opportunity-to-learn standards should be included in this legislation.

Mr. Speaker, this legislation is needed in order to enrich and expand educational opportunity for children and youths at all levels.

Mr. Speaker, I urge my colleagues to support this rule so that we may be able to consider and pass the conference report accompanying H.R. 6.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. DUNCAN]. When the elections take place 38 days from now and Republicans take control of this House, we will pass a line-item veto, and no Member will deserve more credit for that than the gentleman from Tennessee, Mr. JIMMY DUNCAN.

Mr. DUNCAN. Mr. Speaker, I thank the gentleman for yielding the time, and certainly the gentleman from New York [Mr. SOLOMON] is one of our finest Members in this entire body.

Mr. Speaker, I rise in opposition to the rule that brings this conference report to the floor. This conference report flies in the face of the expressed will of this House.

Just a few days ago this body voted by an overwhelming margin of 369 to 55 to insist on the stronger House language on school prayer, yet this conference report contains the much weaker Senate language.

This comes at a time when everyone, from President Clinton to Dan Quayle, is talking about our loss of values and the decline in morality.

Morton Zuckerman, a liberal who is editor of U.S. News and World Report wrote recently a hard-hitting editorial entitle "Where Have our Values Gone Wrong?"

School prayer will certainly not cure everything that is wrong with this country, but it could help many, many young people across this land. We need to support the strongest possible language on this.

Janet Reno, the Attorney General, recently said,

> School prayer advocacy, especially in inner cities, is a symptom of people trying to figure every way they can to reinforce people's ability to work together, to live together in families, to have a sense of purpose, a sense of self-respect, a sense of regard for others, and how we get along with each other.

William Raspberry, the great columnist for the Washington Post, wrote a column recently and he said this:

> Almost every commentator on the current scene bemoans the increased violence, lowered ethical standards, and loss of civility that mark American society. Is the decline of religious influence no part of what is happening to us? Is it not just possible that antireligious bias masquerading as religious neutrality is costing more than we have been willing to acknowledge?

We should acknowledge those words of William Raspberry which are certainly true.

As the gentleman from Michigan [Mr. HOEKSTRA] pointed out, no one really knows what exactly is in this bill. But basically, to sum it all up, this bill is simply a last gasp at a failed big Government liberalism. It certainly could not pass in the next Congress and everyone knows that, so many are desperate to pass a bad bill at this time.

This rule and this bill should be defeated.

□ 1210

Mr. SOLOMON. Mr. Speaker, I yield the balance of my time to the gentleman from Florida [Mr. GOSS], our final speaker, a distinguished member of the Committee on Rules, who toils in that committee year in and year out. He is about to get a hernia here from carrying this bill down to the well.

Mr. GOSS. Mr. Speaker, I thank the distinguished gentleman for yielding me this time.

Mr. Speaker, I just wanted to try and hold this up. This is about $1 billion a pound, just about $1 billion a pound. If I put it down there and stand on it, I would be 8 feet tall. Anybody who stands on this bill in this Congress is going to be at least 8 feet tall. It is about 2 feet thick.

We are going forward again, succumbing to supposed pressures here of the calendar. We are bypassing an opportunity for common sense and rational thought.

Here we have a very highly complex bill that impacts directly on our children's schools, and yet we are rushing into passage of a 1,200-page conference report whose text only became available to Members yesterday afternoon.

Even the bill's authors could not know for sure how the intricate formulas for allocating limited Federal education dollars would play out in the different school districts. The best estimate I could get suggested serious repercussions in just my area of southwest Florida with three counties expected to lose something on the order of $150,000, an unpleasant surprise.

Here we are flying headlong into this debate without all the facts and a clear picture of where this bill is going to take us.

Why? Chairman FORD gave two reasons, both equally troubling. The first was concern for the timetable of the other body, the threat that perhaps a few days' delay in the House would threaten the viability of these school programs. Well, I say nonsense, because I have read page 32 of the conference report, and the dollars are there. The guarantee is there to continue the program, so that just does not carry it.

The second point, the second reason, was that a few days' delay would give the public time to find out what was in the bill and start voicing their concerns by calling our offices. Imagine that the public were going to call their Representatives about this bill. Perhaps I have missed something, but I though that was what democracy was supposed to be about.

I oppose the rule. I oppose the bill. I challenge every Member to respond to the question: What will this bill do to my district? Your constituents are going to ask that. Count on it.

Mr. Speaker, I ask unanimous consent that the Reading Clerk read the bill.

Ms. SLAUGHTER. Mr. Speaker, I object.

The SPEAKER pro tempore (Mr. PETE GEREN of Texas). Objection is heard.

Mr. GOSS. Mr. Speaker, who objected?

Ms. SLAUGHTER. I did, Mr. Speaker.

Mr. GOSS. The distinguished gentlewoman from New York objected to the reading of the bill?

Ms. SLAUGHTER. Yes, sir.

Mr. GOSS. Thank you very much.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, one other question to ask yourselves is what happens in your district if this bill does not pass.

Mr. Speaker, I yield the remainder of my time to the gentleman from Texas [Mr. GENE GREEN].

Mr. GENE GREEN of Texas. Mr. Speaker, let me say to the earlier speaker, coming from Houston, I stood next to Akeem Olajuwon, and he could stand on it all he wanted, and he would not be 8 foot tall next to Akeem Olajuwon.

I am proud to serve on the committee, and I would like to thank the chairman, the gentleman from Michigan [Mr. FORD], and the subcommittee chairman, the gentleman from Michigan [Mr. KILDEE], for all of their work.

This bill has been read. The folks who are opposing this bill have had a year and a half to read this bill. We have had a year and a half of hearings here in Washington and all over the country on reauthorizing elementary and secondary education. We have spent time reading.

We have heard from our constituents, and again, we can read the bill, and I have read it, but it does not mean that you may be able to understand it just by reading it, because it does a great many good things.

Let me correct some of the fallacies we have heard this morning. This is more Federal control: by one of my colleagues on the committee. There is much less Federal control in this bill than any reauthorization bill that has come up.

Let me read the mandate section alone, the first time the conference committee has put this in an education bill: "Nothing in this act shall be construed to authorize any officer or employee of the Federal Government to mandate, direct, or control a State or local agency, education agency, or school's curriculum, program, instruction, or allocation, State or local resources, mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this act."

People have been asking for years, do not send us mandates unless you send the money. We are not doing it in this bill, and everyone who votes against this rule, votes to recommit, or votes against the bill, will be voting against that language. For the first time, we actually are not sending mandates without money.

This bill is one of the most far-reaching education bills we have ever passed in the 30 years of Federal funding.

Let us talk about the prayer amendment. This prayer provision in here is not what the House had, and I voted for the instructions for the House. But we could not get that in conference committee. But I will tell you what; Senator HELMS voted for this amendment that is in here on the floor. Senator HELMS did, and if I, as a Democrat, follow what Senator HELMS did in the Senate on prayer, I think I am probably in pretty good shape.

The people supporting the bill are a broad spectrum: education leaders, obviously religious leaders. That is why I encourage all of the Members to vote for the rule and ultimately vote against the motion to recommit.

Ms. SLAUGHTER. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 230, nays 168, not voting 36, as follows:

[Roll No. 454]

YEAS—230

Abercrombie
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bevill
Bilbray
Bishop
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
English
Eshoo
Evans
Farr
Fazio
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Neal (MA)
Oberstar
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Tanner
Tauzin
Taylor (MS)
Tejeda
Thornton
Thurman
Torres
Torricelli
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—168

Ackerman
Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cooper
Cox
Crane
Crapo
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Grandy
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Machtley
Manzullo
McCandless
McCollum
McHugh
McInnis
McKeon
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nussle
Obey
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Pryce (OH)
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—36

Applegate
Baker (LA)
Berman
Blackwell
Callahan
Calvert
Engel
Fields (LA)
Gallegly
Gallo
Gingrich
Gordon
Grams
Greenwood
Hayes
Hutto
Inhofe
Lipinski
McCrery
McCurdy
McDade
McMillan
McNulty
Neal (NC)
Quillen
Richardson
Saxton
Slattery
Smith (OR)
Spratt
Sundquist
Synar
Thompson
Towns
Washington
Wheat

□ 1235

The Clerk announced the following pairs:

On this vote:

Mr. Berman for, with Mr. Calvert against.

Mr. Wheat for, with Mr. Quillen against.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ENGEL. Mr. Speaker, on rollcall vote No. 454, I voted "aye" but the voting machine failed to register my vote.

PERSONAL EXPLANATION

Mr. GREENWOOD. Mr. Speaker, I was unavoidably detained in a meeting this morning, and unfortunately missed rollcall vote No. 454, the rule for consideration of H.R. 6, Improving America's Schools Act. Had I been present, I would have voted "nay."

MESSAGES FROM THE PRESIDENT

Secondary messages in writing from the President of the United States were communicated to the House by Mr. Edwin Thomas, one of his secretaries.

CONFERENCE REPORT ON H.R. 6, IMPROVING AMERICA'S SCHOOLS ACT OF 1994

Mr. FORD of Michigan. Mr. Speaker, pursuant to the provisions of House Resolution 556, I call up the conference report on the bill (H.R. 6) to extend for 5 years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965, and for certain other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. PETERSON of Florida). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Wednesday, September 28, 1994, at page 26358.)

The SPEAKER pro tempore. The gentleman from Michigan [Mr. FORD] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent to yield the majority's time to the gentleman from Michigan [Mr. KILDEE], chairman of the Subcommittee on elementary, Secondary, and Vocational Education, with authority for him to yield time to Members on our side.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Speaker, H.R. 6, the Improving America's Schools Act of 1994, reauthorizes and improves most of the Federal programs providing assistance to elementary and secondary education. The majority of these programs are included in the Elementary and Secondary Education Act of 1965 and provide approximately $11 billion of assistance to States and local school districts in the present fiscal year. The conference agreement contains numerous programmatic improvements and approves a new formula for the distribution of title I funds. While changes were made in the conference to the formula, it remains remarkably similar to the one originally passed by the House.

The major features of the formula are for fiscal year 1995, Mr. Speaker, we will continue to use the current law formula which includes both basic and concentration grants. For fiscal year 1996, we move to a two-part formula which will continue to use the current law formula for amounts up to the fiscal year 1995 level and a new weighted student formula for new money.

☐ 1240

County allocations are also hold harmless in their fiscal year 1995 funding amounts. For fiscal year 1997 through 1999, we continue to use the two-part formula, with an 85-percent hold harmless.

The most a school district could lose because of shifts and changes in appropriations would be 15 percent. Updates of census poverty data will be available for counties in 1997 and for school districts in 1999.

A major feature of H.R. 6 is that Federal educational programs are refashioned so that they become an integral part of State and local reform efforts. H.R. 6 does this by providing more local flexibility, and that flexibility is due to a great extent to the good work of the gentleman from Pennsylvania [Mr. GOODLING], who has become "Mr. Flexibility" on the committee.

We also require greater accountability through the use of waivers allowing greater Federal program funds to be creatively combined to improve student achievement. In the past we never allowed that combination. The auditors would look over our shoulders. But we do allow creativity to combine some Federal program funds.

This approach is one that has broad support across business, education, and civil rights groups. In fact, the types of reforms H.R. 6 supports are those most strongly supported by the business community. For example, for the first time the achievement of title I students is tied to high State standards. School-wide programs combine other Federal program funds with their title I funds for more coordinated programs serving all children.

We also have burdensome testing requirements replaced with a more sensible system based on State assessments, and it will be easier under this reauthorization for limited English-proficient students and disabled students to participate in title I programs.

But the heart of the legislation is to demand greater educational achievement in exchange for more freedom in the use of Federal funds. The whole bill can be summed up in two words—flexibility and accountability.

If educational gains are not achieved, the school districts are expected to help schools improve, and if there is still no success, then States are expected to intervene under State law to secure the results.

H.R. 6 is the most important reauthorization since the Elementary and Secondary Education Act of 1965 was enacted. By passing this legislation, the Congress will give a substantial boost to improving education for all children, including those who have too often been forgotten.

Mr. Speaker, I want to thank all the members of the Committee on Education and Labor and their staffs for the many hours of work that has gone into developing the bill before us today.

Mr. Speaker, on the committee we have had a wide range of support from both sides of the aisle in developing this bill. I want to thank, obviously, the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from Wisconsin [Mr. GUNDERSON], particularly the gentleman from Pennsylvania [Mr. GOODLING] for his good work on the flexibility portions of this bill. He has been hounding us on that for several years, and I think we have achieved a great deal on this aspect in this bill.

Reaching perhaps further into the committee for a newer member, let me mention the gentleman from California, Mr. DUKE CUNNINGHAM. DUKE may be perceived by some as being right wing, but he has been one of the most really flexible and helping hands on the committee. I have found him to be a strong supporter of education. Obviously, from time to time DUKE CUNNINGHAM and I have disagreed, but he has always listened and he is flexible. He wants to accomplish something for education, and he has certainly been a good addition to our committee.

I also want to thank the administration both for the well-thoughtout reauthorization proposal and for the assistance they have provided throughout the process.

Mr. Speaker, I urge the adoption of the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I want to make it very clear, as I did during the debate on the rule, that my argument is with the rule; my argument is not with the legislation.

In my estimation, there was no reason under the Sun that we could not have 3 days to get the runs that we should as members of this committee to be able to show to all of our colleagues what happens in the third, fourth, and fifth years. I can tell them generally what happens. What happens is that we move the program from a program dedicated to the educationally disadvantaged to a program of poverty. That is embarrassing to those in poverty because what it is, I guess we are saying they do not have the smarts somebody else does, and that is nonsense.

The bill would mean that in the third, fourth, and fifth years, particularly the fourth and fifth, you could have a thousand students disadvantaged in your school district and because you have less than 2 percent and then 5 percent poverty, you get nothing. There is a hold harmless which goes down so rapidly that basically you get nothing. On the other hand, you could be a district over here with 500 students and you have 2 percent poverty and more, and you get the bucks. That is unfortunate.

Let me tell the Members what the difference is between the formula when it left the House and the formula as it is now. We have heard that there is very little difference. Yes, it is closer to ours, but let me tell the Members what the differences were.

We did not have a 2-percent cutoff of funds; we did not have a 5-percent cutoff of new money; we did not have new money being so targeted that people who have disadvantaged youngsters in relation to their academic preparation get nothing. We kick in to the LEA in 1996 rather than waiting until 1997. What does that do to a city like York, with 25 percent poverty? They get no concentration grants. Why? Because it is the county where we kick it in. We wanted to kick it in much earlier.

It was unfortunate in the discussion on the rule that somebody was trying to somehow or other blackmail people and say that if we did not do this, the end of the Earth comes today. Let me tell the Members that chapter 1 money is out there. Chapter 1 money is out there until July 1.

Let me also tell the Members that impact aid, as we read the report of the

Appropriations Committee, is out there. It is there. We make a big mistake in that we do not tell the people and all of our colleagues what is in the formula and what it is the formula does to them in the third, fourth, and fifth years. It is not the bill. We have wonderful staffers on both sides of the aisle. Members on both sides of the aisle spent a year-and-a-half perfecting this bill, and it is not the bill; it is the fact that we do not know whether any money is there or how much money we get in the out years.

Mr. Speaker, I reserve the balance of my time.

Mr. KILDEE. Mr. Speaker, I yield 2 minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I would like to thank Chairmen FORD and KILDEE for all their efforts to put forward this critical bill which authorizes $12 billion for elementary and secondary education. This bill is the primary Federal funding bill for almost every school district in the country, and it must be passed.

I also want to thank the chairmen for working with me and Representatives SWETT and CASTLE to guarantee an appropriate level of funds for small States. I am delighted that Congress approved our amendment earlier this year that restored millions that had been cut from six small State education budgets.

Mr. Speaker, what that amendment is about is that it is not just big States that have educational funding needs. In my State of Vermont our people cannot afford higher and higher property taxes to fund education. Because this amendment is part of this bill and because the Federal Government is more adequately funding Vermont's educational needs, there will be less need for increased property taxes or State taxes in the State of Vermont.

The conference agreement on Improving America's School Act, H.R. 6, provides Vermont with $14.5 million for its chapter 1 programs that assist low-income students. Vermont lost $2 million of its chapter 1 funding this year and these funds will not only restore those losses next year, but will provide additional funding for low-income students in years to come.

☐ 1250

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA], a member of the committee.

Mrs. ROUKEMA. Mr. Speaker, I rise with regret in opposition to this conference report. I supported this legislation when it was reported by our Committee on Education and Labor and when it was considered by the House of Representatives. I will not support it today—This bill needs work, a lot of it.

Let us be frank. The chapter 1 Program for disadvantaged students is where the money is. By this measure, my State of New Jersey comes out behind. Oh yes, next year we will be allocating chapter funds as we did this year. And, in the following year, New Jersey loses a full 15 percent of its title 1 funds, followed by another 15-percent cut the following fiscal year.

In essence, the conferees have rejected a bipartisan consensus House formula in favor of a scheme that attempts to lull many of our colleagues and state and local school officials into a false sense of security. When the axe finally does fall, we will be only halfway to another reauthorization during which we could possibly revamp or fine-tune the formula to correct inequities.

We have heard for 2 years now that there is no "wiggle room" in the formula because appropriations are so tight, because we don't have the money.

Will someone explain to me why then does this legislation establish 20 entirely new programs. Listen to the list: $10 million for family support; $1 million for Alaskan native education; $10 million for Dollars for Scholars, and $18 million for prisoner education grants.

And we know how that works in this town. These programs are planted—fertilized with some minor appropriations in the early years—and soon they sprout—sink deep, deep roots and grow its own strong constituency. Once that happens, no one will be able to cut them down.

Allow me to offer another example.

Tucked away in this legislation is a program to assist local school districts repair, renovate, or actually build schools. Anyone who has ever served on a local school board has wrestled with this issue. The House proposed a loan program for this purpose. Arguing against establishing a new burdensome loan bureaucracy, the Senate proposed a program of outright grants. So what's the compromise? Our conferees decided to do both—loans and grants.

And if that weren't bad enough, local officials could actually turn to this new Federal program for school construction dollars after voters/taxpayers may have rejected a local funding proposal.

Will we ever learn? We have a $4 trillion national debt and yet here we are assuming funding responsibilities that have been and should be left to local communities.

Mr. Speaker, we should have used this reauthorization process for a hard-clear-eyed review of every education program on the books. Fund the ones that work and eliminate all the rest.

Mr. Speaker, let me briefly express my concern regarding the so-called compromise on the "sex-related issues" in this legislation. When this bill left the House, it barred the use of funds in this bill for the promotion of homosexuality. Unfortunately, the conferees developed a compromise that causes me great concern.

And finally we come to the issue of school prayer.

Mr. Speaker, when this legislation left this House, it contained clear language regarding the responsibilities of local school district officials on school prayer. H.R. 6 contained the Helms language which prohibited funds under this bill from going to States or school districts that have adopted a policy that prohibits individuals from participating in "constitutionally protected" prayer on a voluntary basis.

Let me repeat and clarify: To lose Federal funds under this act a school district must have adopted a policy that denies individuals the right to voluntary "constitutionally protected."

I would remind my colleagues that this is voluntary school prayer and would not force anyone to violate their religious rights or even participate in school prayer.

I would also remind my colleagues that this language was adopted 345 to 64 and later reaffirmed in a vote to instruct us—the conferees—by a vote of 369 to 55.

Mr. Speaker, I must take issue with my distinguished chairman, the gentleman from Michigan, a colleague who has contributed mightily to the quality of this Nation's education for so long. I will say that I will miss Chairman FORD but not before I say how I disagree with him on this issue.

The Helms language will not require the appointment of a "Federal prayer czar" to determine just what is "constitutionally protected prayer." And I cannot for the life of me fathom why Chairman FORD, a fierce fighter for the rights and prerogatives of the legislative branch, would hold that "the courts" should determine whether a local school district loses its Federal funds.

Mr. Speaker, this legislation needs work—a lot of it. We should start right now by adopting the motion to recommit to be offered by Mr. JOHNSON. Take this bill back to conference and begin work right here, right now.

Mr. KILDEE. Mr. Speaker, I yield 2 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I thank the subcommittee chair.

Mr. Speaker, today I rise in strong support of H.R. 6, the conference report extending and improving Federal elementary and secondary education programs.

This is a vitally important conference report. It continues Federal programs that school districts rely on to help them teach our kids. Programs such as title I, impact aid, bilingual education, Indian education. Unless we pass this conference report today, 13,000 local school districts will lose $11 billion in Federal education assistance.

My home State of Montana would lose $25 million in title I funds alone. I don't know about your State, but the loss of $25 million in education funding would be devastating to schools in Montana. I think most states would experience similar harmful consequences. We can't permit this to happen.

There have been a lot of rumors circulating around the Hill the past couple of days regarding this bill. Let me try to put a few of them to rest. First, this bill does not and will not affect home schools. For some reason there are some lobbyists out there who are trying to stir up dissent on this bill by talking about home schools. They did it before. We took care of their concerns. Now they're trying to do it again. Let me read to you what H.R. 6 says on this issue:

> Nothing contained in this Act shall be construed to affect home schools.

We added this language when the bill was first before the House. We kept this language in conference.

H.R. 6 further says:

> Nothing in this Act shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State Law. This section shall not be construed to bar private, religious, or home schools from participation in programs or services under this Act.

We added this language, which was offered by Mr. ARMEY on the House floor at the request of the national group representing home schools. We've kept this language in the conference report. H.R. 6 is clear: It does not affect home schools.

There have been rumors circulating that H.R. 6 is bad for rural schools. That just is not so. H.R. 6 helps rural school districts more than the original House-passed bill did. It helps them more than the Senate-passed bill. H.R. 6 also contains my Rural Schools of America Act, a bill that most members of the Rural Caucus have co-sponsored. H.R. 6 helps rural kids. To say otherwise is to ignore the facts.

For those of you who have military bases or Federal installations in your districts, H.R. 6 continues and improves the Impact Aid Program. And it does so by adopting the recommendations of the folks back home who run the Impact Aid Program.

For my colleagues from the West and Midwest who have Native American populations, H.R. 6 continues and improves Indian education programs. And for the first time Indian Schools, under H.R. 6, are given a fair chance to compete for Federal education dollars. H.R. 6 helps Indian schools. And as my colleagues know, these schools are probably the schools in our Nation that are most in need of help. With H.R. 6, these schools will benefit.

For all of my colleagues who want to help schools in their districts deal with the massive problems of deteriorating school facilities, H.R. 6 provides an answer. It authorizes a facilities improvement program, and funding for that program has included in the fiscal year Education appropriations bill.

H.R. 6 is a good bill that deserves all of our support. It has programs that will help our schools come to grips with the technological revolution that is occurring in our world. It provides some help to school districts that want to upgrade the skills of their classroom teachers. It gives some assistance to schools that want to try some ways of teaching our kids better. And it begins to take some important steps to make sure that American students are once again the best in the world.

In closing, I urge my colleagues to vote for this bill and reject any attempt to kill this important legislation. What we're experiencing today, and what we saw yesterday, should alarm the American people. Yesterday we began to see our colleagues on the other side of the aisle begin to flesh out their "Contract with America." Yesterday we saw their leaders oppose lobbying form. To Say they are trying to kill Federal aid to education. What the American public is now seeing is what this so-called Republican contract is all about, and they are beginning to see that the downpayment on that contract is an effort to defeat this legislation to benefit America's children.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. MILLER], a member of the committee.

Mr. MILLER of Florida. Mr. Speaker, 2 years ago I ran for Congress because I was mad about runaway Federal spending and runaway deficits. Now I am even madder. The American people are right when they sense that we are dealing with a broken process. And H.R. 6 is a perfect example of what is wrong here in Washington. First, the House passes a bill and loads it down with pork. And then when it comes back from conference there magically appears over 20 new programs.

When the House considered H.R. 6 this spring, I focused on removing 1.8 billion dollars of excess pork programs. Now, the conference report on this legislation includes the $1.8 billion of pork programs plus over 20 brand new programs adding another $1 billion.

Next, I object to the endless stream of Federal mandates in this legislation. The Federal Government only provides 6 percent of education funding in this country. That is a limited investment and therefore we should provide limited input. Why can we not trust the local school boards and local principals to find solutions best suited to their children? Who in this body really believes that Washington politicians—5 weeks before an election—have better solutions for the challenges facing Bradenton, FL or Spokane, WA?

Let me give you just one example. When this legislation left the House there was a compromise provision that required local school boards to develop a policy about disciplining children who bring guns to school. The sensible compromise gives local communities the flexibility to address the problem. Incidently, all the major education agencies across the Nation objected to the Senate's intrusive language: National School Boards Association, National PTA, National Association of Elementary School Principals.

But now, for purely political purposes, the bill mandates that every school have the exact same policy automatically expelling any student for 1 year who brings a gun to school. Every Member in this body wants to keep guns out of schools. But there are a lot of Members who believe the local principals and school boards are more capable to solve the problem than two Senators running for reelection. The Federal Government is not the local school board.

Oppose this conference report.

Mr. KILDEE. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Speaker, I want to congratulate and thank the gentleman from Michigan [Mr. KILDEE], chairman of the subcommittee, for the 2 years of hard work that he has put in on bringing this reauthorization to the floor. I want to thank the gentleman from Michigan [Mr. FORD], chairman of the committee, for his masterful leadership of the negotiating team between the House and the Senate. I also want to thank all staff who worked on this bill, including my own.

The primary objection that is being raised today concerns the possible future reductions in some districts, in that they will be held harmless and everybody will receive the same, no less than the amount of money they received previously or they presently have for the first and second year, but they are worried about future years.

There is a simple remedy to this perceived problem: Increase the funding for education and extend the hold harmless provisions permanently. All districts in America can make good use of Federal funds for education. We have all too few funds available now. Let us make a contract with the children of America. Let us make a contract with the students of America. The power is in our hands. The power is in the hands of this body to increase funding for education with a proviso that "hold harmless" will be there forever for those districts that are in danger of losing money 3 or 4 years from now.

□ 1300

We need a great increase in our Federal commitment to funding for education. We can take the money simply out of the intelligence budget, the CIA, and intelligence budget, that Aldrich Ames agency that everybody admits is a corrupt racketeering body at this point that could use some reduction. They could be reduced in size and still they could do as much as they are doing now, I assure my colleagues. So from the intelligence community, which is obsolete, let us move the money into the intelligence community which is vigorous and ongoing and really the future of America, the intelligence community of public schools. Let us move forward. The power is in our hands. Let us make a contract with the schoolchildren of America. We can increase funding and everybody can be held harmless forever.

Mr. GOODLING. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. GUNDERSON], a valued member of the committee.

Mr. GUNDERSON. Mr. Speaker, I think it is most unfortunate that the atmosphere this afternoon has taken on the sense of confrontation it has because it has destroyed what has been probably the best education Congress in the history of this Nation in terms of what we have accomplished, from Head Start to Youth Apprenticeship to National Service, to Goals 2000. It has also, I think, caused some confrontation that is most unfortunate when we are dealing with the very justified and appropriate tributes that first and foremost the chairman of our full committee, the gentleman from Michigan [Mr. FORD], ought to have for his long career and commitment to education. And also a special tribute, I think, goes to the lead democratic staffer on this bill, Jack Jennings, who was also a staffer during the first ESEA authorization.

So I very much regret the atmosphere that has come forth today, but I have to tell Members that sometimes we have to stand up for the school back home. And unfortunately, in the last minutes of the conference, we took a very, very good bill in a number of areas and we made some mistakes. We decided that the Chapter 1 program, which is meant to be a program to fund education for educationally disadvantaged students, and we chose to, in essence, make it a poverty program.

I just received, literally 5 minutes ago, the latest run I have seen which compares what many of my rural schools would get in 1999, under the current law formula and under the formula that we have adopted. Small schools being told, like Blair, WI, that they are going to be losing $14,000 in their Chapter 1 allocation. Another small school, Alma, that only gets $37,000, being told that literally they are going to have almost a 10-percent reduction in their Chapter 1 funds. Frankly, the school of my Democratic opponent in the November election, Amery, WI, is going to lose $27,000 under this new formula. And the list goes on.

I just bring that up to Members because I really wish that we would have found a way for every Member to get the data to know what they were voting on. The House Chapter 1 formula was a compromise formula and we should have stuck to that.

Having said that, I want to point out, as the chairman of our subcommittee and as the gentleman from Pennsylvania [Mr. GOODLING], our ranking Member have done, there are an awful lot of good things in this bill that are being lost as a result of this.

We have been able to reauthorize and make positive changes in Chapter 2. I am proud to say we have included the authorization for the 21st Century Community Learning Centers, a program that I authored because I think we must understand, it is this reauthorization that designs the educational delivery system for the 21st century. And very frankly, in a high technology interactive age of lifelong learning, we need to totally rechange the thinking and definition of how we educate not only children but adults in our community schools.

So there are many, many good things in this bill. I regret that we have had this one formula fight, which has destroyed all of those good things.

Mr. KILDEE. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. CUNNINGHAM], a good friend of education.

Mr. CUNNINGHAM. Mr. Speaker, this bill has good, bad and ugly in it. And I think that when we look at any bill, we need to take a look not only at the needs of the country but an economic model. Will the bill pay for itself? Well, I think that, yes, this one will. We could make it more cost effective, but the bill, in my opinion, does pay for itself. Let me explain.

The Chapter 1 funds that the gentleman from New York was talking about, in California we have large numbers of educationally disadvantaged students. Let us take a child that is disadvantaged and let us put him through the sixth or seventh grade. If he is not brought up to speed, then he is going to be far behind. And large numbers of these children are dropping out of school every single day.

That same child, if we educate him and give him an incentive to where he can get a job at the end of school, also has an impact on crime prevention. Education is a very good crime fighter. It does not belong in the crime bill, but it is a good indicator.

So the point is, if we can teach that child, at the end of that time period, he is going to have on advantage. He is less likely to get involved in crime. So it is "pay me now a little bit or pay me a lot later." I think that is important.

The last speaker, the gentleman from Wisconsin [Mr. GUNDERSON], talked about the child nutrition program that we sponsor. A child that is healthy is going to learn a lot better. The DARE Program keeps our kids out of the drug infested areas and at least gives them an opportunity—that saves money.

I remember the teacher that wrote President Bush a letter that had 15 misspelled words in it. We need an upgrade of our teachers and our programs. The Eisenhower Grant Program, has been reauthorized in this bill. It not only improves students chances for learning, but it improves the teachers as well.

What about California? California has lost money for the last decade, why? Because the Chapter 1 funds are based on census, old 1980 census, before this bill. We had a 38 percent increase in poor children and the northeast States were stealing California's money. Under this formula, all the schools, all the California schools are under current law. The second year they are held harmless. The following year, there would be a 1997 update in our census on a county level, and in 1999, an update at the LEA level. So the California schools are going to benefit under this bill. I would tell my Californians, conservative, moderate, that this bill pays for itself.

There is an economic model to it. If Members look at the programs, like Eisenhower math and science, we are the ones on this side of the aisle that keep talking about how we want greater math and science in the schools. We want increased high tech education into our schools.

So, Mr. Speaker, I would ask my colleagues to seriously think about an economic model of this bill.

I also understand there were a lot of areas that do not gain under this bill, especially in title 1, with the formula. I understand those Members and their discontent.

For the State of California, I would like to thank my subcommittee chairman, the gentleman from Michigan [Mr. KILDEE], the gentleman from Michigan [Mr. FORD], and the gentleman from Pennsylvania [Mr. GOODLING], who has fought for the rights of schools. And for the disagreement, I am sorry.

As a conferee on the Improving America's Schools Act, I have watched firsthand the contentious debate surrounding many of the programs in this reauthorization.

I am not pleased with all aspects of this bill.

When we started this reauthorization the goal was to consolidate programs—we ended up with 18 new programs.

Language regarding sex education and prayer in schools can be improved and strengthened.

And while I wholeheartedly support parental involvement and professional development I do not believe set-asides are necessary.

As usual, there is simply too much Federal bureaucracy.

But in all fairness, we have also made many achievements.

We were able to give more schools the ability to go schoolwide by lowering the poverty rates to 60 percent in the first year and 50 percent thereafter. This allows almost twice the number of schools the ability to combine funds from all ESEA programs and benefit the entire school and raise achievement for all students.

There are waiver provisions that give schools more flexibility in operating ESEA programs.

There are standards and assessment provisions in title I that are designed to raise academic standards for title I children.

Additionally, there were several significant changes to the education impact aid program. This program is vital to school districts like those in San Diego that are heavily impacted by Federal property.

Most importantly to California: In the past 13 years, California has had to operate title I programs based on funds from the 1980 census from 1980 to 1990 my State had a 38 percent increase in poor children. Educationally disadvantaged children who are supposed to be served under the title I program were being shortchanged.

Throughout this reauthorization, one of my top priorities has been to update census data more frequently so these shortchanges would never happen again, in any State.

In this bill we have finally achieved those updates.

Under the title I formula—California finally gets it's fair share.

These are not insignificant gains. Title I will provide over $720 million to California schools next year.

The new title I formula is responsive to the reality and needs of California school districts and to those in San Diego County. It will increase overall funding, target money to students and districts with the highest need while addressing the needs of poverty in our suburban districts as well.

Because of the updating of decennial census poverty data and the gains for the State of California—I rise in support of the conference report.

☐ 1310

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, since the Eisenhower Program is one I put in a long time ago and it got all messed up in this particular authorization, that is why I was not singing its praises.

Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. BARRETT], a member of the committee.

Mr. BARRETT of Nebraska. Mr. Speaker, I thank the gentleman from Pennsylvania, the ranking member, for yielding time to me.

Mr. Speaker, I rise in opposition to the conference report on H.R. 6 because it contains too many new programs and new bureaucrat demands on school districts. So much for change in education.

This bill contains 20 new programs—including 1 to get the Federal Government into the business of building schools. So much for local control of education.

It dictates to schools that they must use 1 percent of their chapter I funds for parental involvement. So much for local control of education—we cannot even trust the school boards to use 1 percent of chapter I money.

It dictates that 10 percent of chapter I funds over 2 years be used for professional development. So much for local control of education.

It creates an entirely different Eisenhower Science and Math Program, totally focused on professional development. So much for local control of education.

Mr. Speaker, it appears to me that instead of making changes for the better—to give schools more flexibility to address their own needs—the conference report maintains business as usual. More mandates, more mandates, and more mandates.

So much for local control of education.

Mr. KILDEE. Mr. Speaker, I yield 2 minutes to the gentleman from the Virgin Islands [Mr. DE LUGO].

Mr. DE LUGO. Mr. Speaker, I rise in support of the conference report for H.R. 6, the Improving America's Schools Act.

H.R. 6 is the culmination of months and months of hard work. Committee members and staff have invested many long hours in this bill. I commend our chairman, BILL FORD, and subcommittee chairman, DALE KILDEE, for their outstanding leadership on H.R. 6.

In many ways H.R. 6 is one of the most important pieces of legislation this House will consider this session. H.R. 6 will provide assistance to our schools; assistance our schools need to provide a solid education to this country's future—our children. If our children do not receive the tools they need now, not only will they suffer, but this country will suffer.

H.R. 6 provides $11 billion in education aid annually for 13,000 local school districts. Without this bill, this money will not be available for our schools. H.R. 6 provides funding for the disadvantaged in this country. Without this bill, they will not receive the extra help they need. H.R. 6 provides a professional development program, continues the chapter 2 block grant program, includes a safe and drug-free schools provision, and does much more. Unless we support H.R. 6 today and vote "no" on the motion to recommit, none of this assistance will reach our schools. And our schools cannot afford for this bill to fail.

I urge my colleagues to vote "yes" for education, "yes" for H.R. 6 and "no" on the motion to recommit.

Mr. GOODLING. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. HOEKSTRA], a member of the committee.

Mr. HOEKSTRA. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I would like to bring two points to the attention of the House. No. 1, we have just approved a rule that says we are considering 1,200 pages of legislation that most of us do not have a copy of, none of us have had the opportunity to read, and we know at the grassroots level nobody has had the opportunity to see what is in the bill.

There is a different way to do it. In the next Congress, when we have a new set of rules, we will make this information available on the information superhighway, so that not only will the Members of Congress have the opportunity to review legislation, but citizens all around the country will actually finally be able to see what goes on in this House of Representatives, and what is actually contained in the legislation that we are debating. The light will shine.

Mr. Speaker, let us talk about another piece of specific action in this program today, great intent. We "recognize that worker participation and labor-management cooperation in the deployment, application, and implementation of advanced workplace technologies make an important contribution * * *." What a brilliant revelation by our Committee on Education and Labor.

Mr. Speaker, reading this, we would get the sense that the mentioned workplace activities so praised and aspired to, we would actually believe that they were legal. Let me say, this is not the case in the vast majority of circumstances. The kinds of programs authorized by the Workplace Technology Skill Development Act are in many, and in perhaps most cases, illegal under current interpretations of our arcane labor laws.

Mr. Speaker, unfortunately, title V, section 541 of the bill assumes that these ideals can only be achieved if we spend money on them and we create a new government program, so it authorizes grants to nonprofit organizations to disseminate information, provide technical assistance, conduct research, develop training programs to achieve a high-skilled, highly involved workplace.

Where has the Committee on Education and Labor been? Businesses all around the country have been doing this kind of work. They are moving in this direction. They do not have to be told to do this by the Federal Government.

Once again, Mr. Speaker, we in Washington are behind the curve. We are not even in the wake of what is going on in the American workplace. There is something that the Government can do. We can achieve high involvement workplace by getting out of the way. The source of the problem is a little-known provision in the National Labor Relations Act. It prohibits employers from dominating labor organizations.

Mr. Speaker, what we need to do is, we need to go back and we need to address our labor laws. We need to stop putting these kinds of programs, these kinds of dollars, into another educational program. Congressional action here ignores the problem. We are the problem. Let us amend the NLRA.

Mr. KILDEE. Mr. Speaker, I yield 8 minutes to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Speaker, I thank the gentleman for yielding time to me, and I thank the chairman of the subcommittee who brought this piece of legislation to the floor.

Mr. Speaker, I rise to enthusiastically support the conference report, and to thank the gentleman from Michigan, BILL FORD.

Mr. HEFNER. Mr. Speaker, will the gentleman yield?

Mr. SAWYER. I am glad to yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Speaker, not to be confrontational, but for my own information, I would like to engage in some serious information-getting here on my part as it regards the prayer in school amendment that I voted for, and it passed this House on two or three occasions, the amendment of the gentleman from Texas [Mr. SAM JOHNSON].

Mr. Speaker, what I want to know is this. I am a little bit confused on the motion to recommit as it affects the local jurisdictions of our elected school officials, or appointed, whatever they might be. What I want to know is, whichever way we go, either whether it is recommittal or the Kassebaum language that is in this bill, I want to understand, so I can tell constituents in a halfway literate way when they call, whichever way we go; are we still going to have some language as it relates to constitutional prayer in the schools? I would yield to anybody who would like.

Mr. SAWYER. Mr. Speaker, inasmuch as it is my time, I would be pleased to respond to the gentleman's inquiry with regard to the question of whether the conference report protects the right to constitutionally protected prayer.

The answer is, absolutely it does. The conference report includes the Kassebaum amendment from the Senate, which requires the cutoff of funds if a school district curtails constitutionally protected prayer.

Mr. SAM JOHNSON of Texas. Mr. Speaker, will the gentleman yield?

Mr. SAWYER. I am pleased to yield to the gentleman from Texas.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I would be happy to do a colloquy with the gentleman. It was said on the conference committee that Mr. HELMS supported the Kassebaum language, and he has told me, and I have a letter from him, that he does not, absolutely burden of proof under that language to ever reach the point where you would protect prayer in the school, because you have to go to court twice.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. SAWYER. I am pleased to yield to the gentleman from Michigan.

□ 1320

If the gentleman will look in the first row of Senators, he will see HATCH, HEFLIN, HELMS, HOLLINGS, HUTCHISON. The Senator from North Carolina [Mr. HELMS] indeed did vote for the language that we accepted. And that was represented to us by the Senators in the conference.

Mr. SAM JOHNSON of Texas. Mr. Speaker, if the gentleman will yield, that was after the Helms amendment was defeated.

The SPEAKER pro tempore. The gentleman from Ohio controls time and must yield time.

Mr. HEFNER. Mr. Speaker, if the gentleman will yield further, all I want is for my own edification here, I do not mean to draw any individuals into this debate. I just want to make sure that whatever takes place, if this bill becomes law, that we are going to have the constitutional prayer amendment in the legislation.

Mr. SAWYER. Mr. Speaker, the answer to the gentleman's question is absolutely yes.

Mr. Speaker, I reclaim my time.

Mr. HEFNER. Sure. I just wanted that information.

Mr. KILDEE. Mr. Speaker, will the gentleman from Ohio [Mr. SAWYER] yield back to me for a moment?

Mr. SAWYER. I would be pleased to yield to the gentleman from Michigan.

Mr. KILDEE. Mr. Speaker, as chairman of the subcommittee, I reiterate what the gentleman from Ohio has told the gentleman from North Carolina. He is absolutely correct.

I would also say this on a personal note. I have prayed every day of my life since I was 3 years old, every day. That included prayers when I was a public school teacher privately in the public school. I would say a prayer before I entered every classroom and that was constitutionally protected and will be protected under this. That was in my private prayer. That prayer is always constitutionally protected and this bill does that. I did that as a teacher and I do not want anyone to be deprived of their constitutional rights to pray on their own in a public school.

Mr. HEFNER. Mr. Speaker, I thank the gentleman.

Mr. SAWYER. Mr. Speaker, I particularly want to take a moment to thank the gentleman from Michigan [Mr. FORD] who really did an extraordinary job on this piece of legislation. He was there when the historic measure that underlies all of this was passed in 1965 and he has this year presided over the most fundamental progressive reform since it was first enacted. The principal thrust of this really goes to the heart of what we believe most deeply about education, that it will rise the achievement levels of educationally disadvantaged students. This bill assumes that disadvantaged students can excel if they are exposed to a rigorous curriculum and well-trained teachers. We have heard any number of people talk about the provisions of the bill, the ability to target funds more precise over time, to respond to changes in population, and to be more exact about where those populations lie. That kind of change will benefit school districts all over the country. It provides for an enhanced professional development program. It is modeled on the highly successful math and science teacher training programs of recent years and expands them into all of the core subject areas. It provides for technology in the classroom, where the technology levels in the American classroom lag behind the fast-food industry in some uses of information technology.

For the first time since 1965, this bill reflects the reality that the old chief modalities of teaching and learning, the teacher, the chalk board, the book, are being superseded by a world of information that can break the logjam of pupil-teacher ratios and overcome the isolation of classrooms. This measure is a major step forward.

The gentleman from Michigan suggested earlier that somehow this was in conflict with the goals of American business. I have received just a moment ago a letter from the National Alliance of Business, the Chamber of Commerce of the United States, the Committee for Economic Development, and the American Business Conference, all in strong support of H.R. 6 and call for its immediate enactment. The work that has been done among the religious community is every bit as compelling. The letter that we just received from the Baptist Joint Committee representing a broad range of Baptist denominations in the United States, commenting that they have followed the debate on H.R. 6 and particularly the Duncan-Johnson amendment concerning prayer in the public schools. We opposed that amendment because it was unnecessary and would have forced school administrators and teachers to become constitutional scholars and would have potentially encouraged violations of the Constitution. It is our position that the Kassebaum amendment contained in the conference report solves many of these problems and is the better approach.

In short, let me just suggest, Mr. Speaker, that the work that has been done on this bill represents a coming of full circle, the passing to another generation of the kind of leadership that we have seen from the gentleman from Michigan [Mr. FORD] and carried on by the gentleman from Michigan [Mr. KILDEE] that will move now into another generation of students who will benefit enormously.

Mr. Speaker, I rise today in strong support of the conference report on H.R. 6, the Improving American Schools Act of 1994 and to offer my tribute to the distinguished chairman of our committee, BILL FORD, who will leave this institution at the end of this year with many significant accomplishments. I can think of none with greater importance to our Nation than the Elementary and Secondary Education Act of 1965. I should point out to my colleagues who are not privileged to serve on the committee that BILL FORD served on the Education and Labor Committee when this genuinely historic measure was signed by President Johnson and will leave after presiding over the most fundamental and optimistic redesign of its entire mission since it was enacted.

The principal thrust of this measure is to help schools raise the achievement levels of educationally disadvantaged children. That has not changed. What has changed is the assumption that disadvantaged children cannot perform to the same high academic standards that other children do. They can. Children with well-trained teachers with access to rigorous and innovative curriculum can excel.

I would like to take a minute to point out several important changes in the bill. First, we will be able to target assistance to educationally disadvantaged children under title I more precisely because the distribution of funds will be based on poverty data which are updated over time. Currently, the Census Bureau only measures poverty below the national level every 10 years. But throughout the decade between censuses, the incidence of poverty is changing and shifting among States and communities. By measuring poverty every 2 years, first at the county and then at the school district level, we can ensure that title I dollars flow continuously to the children that need the most help, while avoiding the disruptive effects of huge shifts in funding allocations after each decennial census.

H.R. 6 also contains important new tools for teachers and students. Title II of the bill establishes a new teacher training program modeled on the highly successful Eisenhower Math and Science Professional Development Program. This new program provides national leadership and resources but grants absolute freedom to classroom teachers to design their own plans for professional development activities based on local needs. A one size fits all approach to teacher training will not work. The new Eisenhower Professional Development Program recognizes that teachers are the single most important factor in opening the world of learning to students at the same time that it acknowledges that the most effective teacher training programs are locally designed by classroom teachers.

But make no mistake about it, if students are going to meet the growing requirements of the information age, they need the appropriate tools. We cannot allow American education to lag behind the fast food industry in the use of information technology. For the first time, this enactment will reflect the reality that the days when the chief modalities of teaching and learning are a teacher, a chalkboard and a book are over. This conference report authorizes $200 million for grants to create partnerships with local schools, private industry, colleges, libraries and others to integrate educational technology into classroom. Again, the central recognition here is there is no one right way to pursue this goal.

Again, Mr. Speaker, I would like to commend my subcommittee chairman, DALE KILDEE, and my full committee chairman, BILL FORD, for their forceful leadership. You both should feel a great deal of pride. Finally, I want to thank the staff on both sides of the aisle for the prodigious effort that this measure represents.

I urge my colleagues to support this conference report.

Mr. Speaker, I include for the RECORD the letter of September 30, 1994, from the National Alliance of Business and the letter of September 30, 1994, from the Baptist Joint Committee, as follows:

BUSINESS SUPPORT FOR ELEMENTARY AND SECONDARY EDUCATION ACT

SEPTEMBER 30, 1994.

Hon. WILLIAM D. FORD,
Chairman, Committee on Education and Labor, House of Representatives, Washington, DC.
Hon. WILLIAM F. GOODLING,
Ranking Minority Member, Committee on Education and Labor, House of Representatives, Washington, DC.

DEAR CHAIRMAN FORD AND CONGRESSMAN GOODLING: The undersigned business organizations urge all members of the House to give the Improving America's Schools Act, H.R. 6, their full support. We believe the enactment of this reauthorization of the Elementary and Secondary Education Act (ESEA) is essential before Congress adjourns. Additionally, we believe the successful implementation of the Goals 2000: Educate America Act and the building of a globally competitive workforce is contingent on the passage of ESEA.

Although we recognize that individual members may have concerns with specific provisions, including the Title I formula, we believe that on balance H.R. 6 makes a significant contribution to supporting systemic education reform efforts across the country. The alignment of ESEA with Goals 2000 provides this country with a real opportunity to implement comprehensive systemic education reform in every state and local community by providing additional incentives and resources for states and communities to adopt the principles contained in Goals 2000—high standards for all students, first rate professional development, and unprecedented flexibility to design and operate educational programs.

Enacting ESEA in a timely manner will ensure that all students, even the most disadvantaged, are held to the same high standards encompassed in Goals 2000. Without the enactment of ESEA there will be unnecessary delay in all communities being able to fully participate in Goals 2000 efforts as poorer districts and states struggle to assemble the resources necessary to implement reforms. In sum, passage of ESEA will help ensure that the objectives of Goals 2000 become a reality.

ESEA passage will guarantee that for the first time in this nation's history there will be a comprehensive framework and the appropriate federal incentives to support widespread systemic reform efforts. As the recently released 1994 National Goals Panel Report indicates, this country can not wait any longer to implement these efforts without risking significant setbacks in educational progress. We urge you to put partisan differences aside and pass ESEA to help support the long term educational progress and economic security of our nation's future workforce.

We commend the House Committee on Education and Labor for its leadership and persistence in the development and passage of the ESEA, and we urge its swift passage.

Sincerely,

National Alliance of Business, Chamber of Commerce of the United States, Committee for Economic Development, American Business Conference.

BAPTIST JOINT COMMITTEE,
Washington, DC, September 30, 1994.

DEAR REPRESENTATIVE: The Baptist Joint Committee serves the below listed Baptist bodies on religious liberty and church-state issues.

We have followed the debate on HR 6 and particularly the Duncan-Johnson amendment concerning prayer in the public schools. We opposed that amendment because it was unnecessary, would have forced school administrators and teachers to become constitutional scholars, and would have potentially encouraged violations of the constitution. It is our position that the Kassebaum amendment contained in the conference report solves many of these problems, and is the better approach.

Accordingly, we support the conference report with regard to the prayer issue and oppose a motion to recommit.

Yours very truly,

J. BRENT WALKER,
General Counsel.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, when Congress tells you a bill is going to make Federal education programs better, less bureaucratic, more flexible, and increase the involvement of parents, as opposed to merely helping the teachers' unions—I would advise you to read the fine print.

And when the chairman of the Education and Labor Committee, at the last minute, produces an alarming letter from the Education Department claiming that all Federal education funding will simply end at midnight tonight if you don't vote "yes" on an authorization bill today, a bill which has been rushed to the floor with hair-curling haste—I would advise you to watch your wallet.

Lack of authorization has never stopped us from funding anything before. Why would it stop us now? The truth of the matter is the world will not end if we do not pass this bad bill. Slowing down this high-speed train would merely give members and their constituents more time to find out what is really in this bill. Which may explain its authors' sense of urgency.

There are abundant reasons to oppose this bill, but for time's sake, let me point out just one. The bill says that if you want to protect your child's right to pray voluntarily in a public school, you have to go to court not once but twice to vindicate your child's first amendment right.

First, you must get a court order against the school district. And then you must go back to court to prove the school district "willfully" violated the order. The burden of proof is on you, the parent, to prove your rights are being violated.

But with obscene art, it is just the opposite. A law we passed in 1991 says that if an artist creates obscene art with your tax dollars, the burden is not on the artist, but on the Government to prove the artist has abused taxpayer money.

Now I ask you, which deserves more protection—a schoolchild's right to pray, or an artist's right to offend us with our own money?

Incidentally, we are being told it is OK to vote against this motion to recommit because Senator HELMS voted for the prayer language in the bill. Well, I have here in my hand a copy of a letter from Senator HELMS, dated today, which makes it absolutely clear that Senator HELMS strongly opposes the language in this bill. The Senator voted for the so-called Kassebaum language only because his own much stronger language was already in the bill and superseded KASSEBAUM's. When the conference committee removed the Helms language, that changed everything. So to repeat, Senator HELMS does not support this language. He vigorously opposes it. And so, I might add, should the 350 Members of this House who have voted for the Helms-Duncan-Johnson language on not one, not two, but three separate occasions this year.

I will insert Senator HELMS' letter in the RECORD following my remarks.

If some Members' votes on school prayer today do not square with their previous three votes, I would love to be there when those Members have to explain to their constituents why school prayer mattered so much to them that they were willing to vote for it, and vote for it, and vote for it—right up until the moment their vote actually counted.

This is a bad bill. The world will not end if we take a little more time to get it right. And I would suggest prayer deserves at least as much protection as obscene art. Vote "yes" on the motion to recommit.

Mr. Speaker, I include Senator HELMS' letter for the RECORD, as follows:

U.S. SENATE,
Washington, DC, September 30, 1994.

DEAR COLLEAGUE: Which deserves more protection, a student's right to pray in school or an artist's right to create obscenities at federal expense? Well, if you vote against the motion to recommit the H.R. 6 conference report—in order to change its language on school prayer—you will be voting to provide more legal protection for obscene artists than for students who want to pray at school.

As a result of 1991 reauthorization language, which is still law [20 U.S.C. 952 (j-l) & 954 (l)], the National Endowment for the Arts (NEA) cannot stop an artist from creating obscene art with a discretionary federal grant unless the Government first takes the artist into federal court and gets a final judgement that the art is legally obscene. However, under the H.R. 6 conference report, any teacher or local school official can stop any child from voluntarily praying at school unless the STUDENT takes the GOVERNMENT to court and gets an order saying his prayer is constitutionally protected.

Is that really the way we want the law to read: that a student is not free to pray at school until he takes the government to court, but an artist is free to be obscene—at federal expense—unless and until the government takes him to court?

Furthermore, under the Kassebaum school prayer language as adopted by the conferees, even after a student pays to go to court and vindicates his or her constitutional right to pray, the officials and the school that violated his rights are not penalized at all unless they violate the trial court's order. And before justice is given, it is up to the student to pay for another trial to prove not only that they violated the order, but that they willfully violated it—an almost impossible burden of proof.

It is clear that the school prayer language in the H.R. 6 conference report is—and was meant to be—an impossible hurdle for students to overcome before school officials could be compelled to let the students engage in voluntary, student-initiated prayer.

Student-initiated prayer should be treated the same as all other student-initiated free speech, which the United States Supreme Court has upheld as constitutionally-protected as long as it is done in an appropriate time, place, and manner such that it "does not materially disrupt the school day." [*Tinker* vs. *Des Moines School District*, 393 U.S. 503.]

We urge you to vote yes on the motion to recommit the conference report on H.R. 6 to compel the conferees to add the House passed school prayer language so school prayer will be treated at least as well as Congress has treated legally obscene art.

Sincerely,

SAM JOHNSON.
JESSE HELMS.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. SAM JOHNSON].

Mr. SAM JOHNSON of Texas. Mr. Speaker, we have discussed this and discussed this, and I cannot believe that we have voted 3 times on it and the last vote being 369 to 55, that we have conferees who cannot carry out the will of the House. Here is a list of all of them, including some of our leaders who have been talking against it.

This is no protection for prayer in school. In fact, it provides hurdles.

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The Christian Coalition says the language currently in the report replaces such hurdles on aggrieved individuals whose constitutional rights to school prayer have been violated. For all intents and purposes it is meaningless. It means that someone has to take a case to court twice in order to protect the privilege of the voluntary right to pray in school.

I want to reiterate our First Amendment to the Constitution. "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." We are prohibiting it really by the language in the bill today my making them go to court.

I would also like to share a letter that I got yesterday from an 11-year-old girl in my district, Erin Small. She said, "A topic that I've always had on my mind was that topic of prayer in schools. It has always bothered me that on our dollar bills and coins it says 'In God we trust' but in our schools we are not allowed to pray."

There are many organizations that support the House language as did the House, the Christian Coalition, American Family Association Foundation, Concerned Women of America, Eagle Forum, Family Research Council, Traditional Values Coalition, just to name a few.

The real issues here, what are they? Fear, real or imagined, that a strong, moral influence may once again be legally acceptable during our school children's days requiring open and honest discourse between people of differing backgrounds.

I believe that we in America need to protect prayer in school. I ask Members to support the motion to recommit.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, up until 10 minutes ago I certainly expected to support this legislation. A printout has just now come which would make that very, very difficult for me, and that is a tragedy. As I said, we spent a year and a half, the gentleman from Michigan [Mr. FORD], the gentleman from Michigan [Mr. KILDEE], the gentleman from Wisconsin [Mr. GUNDERSON], myself, and all of the Members of the committee writing what I thought was good legislation, assisted by an outstanding staff. I am not going to refer to each one, because I will miss somebody. But I too want to pay tribute to the master staff man. I do not know who the encyclopedia is going to be when Mr. Jennings leaves, because he has 30 years of history to tell it the way it is. He never confuses us with 30 years of history. So we certainly are going to miss Jack.

But, as I said, we worked awfully hard to put together a bill and the staff worked even harder. I think we probably should have quit at the staff level. Maybe we never should have gone to the Member's conference and we should have stopped at that point.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I am happy to yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Speaker, at least once today I rise to associate myself with the remarks of the gentleman about the great and professional work that we have had the benefit of for so many years with John Jennings, Jack Jennings as we know him, who is clearly one of the most professional staffers that I have ever worked with. I agree with everything the gentleman has said about him.

Mr. GOODLING. I thank the gentleman.

Mr. Speaker, the problem I now find myself in is a printout has now come to us showing what will happen in 1999. My poorest district, the poorest district I have has 25 percent poverty. They have never been able to get a concentration grant because it goes to the county, not to the local district. In our bill, when it left the floor here, we moved to the LEA's in 1996 which would have given them an opportunity to get into that new concentration money block.

Looking at the printout now, in 1999 if we take current law, and then take this law that we are now passing, they will lose $59,000, a 25-percent poverty district will lose $59,000.

One might say well, what would they lose under the formula as it left in H.R. 6? The formula in H.R. 6 when it left the House, as I indicated, takes us down to the local education agency in 1996, which means that they pick up that concentration grant money.

So as I indicated, my whole problem has been why did we have to rush and not be able to give all Members an indication of what it is they do get in those last 3 years?

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. BOEHNER], a member of the committee.

Mr. BOEHNER. Mr. Speaker, we spent 18 months working on this piece of legislation in the subcommittee and full committee, and I want to congratulate those on both sides of the aisle who have spent a lot of effort, a lot of time trying to put this legislation together.

But as I look at the bill, I think it is the wrong direction. It is just more of the same.

The bill is entitled "Improving America's Schools Act." I do not think that any Member of this House believes that the legislation before us is going to make hardly a dent in trying to improve America's schools.

The one area that I have the greatest difficulty with, beyond the fact that we have a formula problem, is to look at the number of set-aside programs that we have in the bill. When we started this process 18 months ago we had about 48 individual programs in terms of getting money out to schools. The President, rightly, suggested that this number ought to be reduced to 26. I and others wanted to reduce the number of programs even more so that we could focus our attention in on those areas of America's schools that really do need help and that we really can improve. On the House side we reduced the number of programs slightly, not to the 26 as suggested by the President, but when we sent it to the Senate they began to add programs, not only all of those that we got rid of, but they added a lot more. Now instead of reducing the number of programs from the number we started with, 48, we did not reduce any. We are up to almost 70 programs.

If anybody thinks that this is the way to improve America's schools, they are kidding themselves. The whole direction of this bill is more of the same. It has not worked for 20 years. Why do we think that adding more programs, more of the same kind of restrictions will work? We were going to give schools more flexibility and they ended up with less flexibility. Why do we think this is going to help our schools? It is not.

It is time to reject this model. It is time to start over, and it is time to begin to understand how we can help American schools, not hurt them.

Mr. GOODLING. Mr. Speaker, I yield 1½ minutes to the gentleman from Michigan [Mr. EHLERS].

Mr. EHLERS. Mr. Speaker, I rise to speak on the issue of racial adoption which has been added to this bill by the Senate. I am concerned about that. It is an issue we had some difficulty with in the State of Michigan, and eventually ended up in court because we had the provision similar to what is in this bill before us, and it was interpreted by the State agencies, particularly the Department of Social Services and their social workers, to imply that same-race adoption took a top priority, and that if a couple of one race wanted to adopt a child of a different race that that was automatically denied unless they were really desperate in terms of a placement.

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The net result of all of this is that a number of children spent as much as 2 or 3 years in foster care waiting for adoption when, in fact, there was a family waiting and able to adopt and would have made wonderful parents.

I have a serious concern about the language as it is contained in the conference report, the language prepared by the Senate, and as modified by the conference; I just want to raise a caution flag on this. It is something I believe we will have to go back and visit later and clarify, because clearly under the language that is involved here we are very likely going to have children placed in foster care and remaining in foster care much longer than they should.

Mr. KILDEE. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, I rise in support of the conference report on H.R. 6, to reauthorize the Elementary and Secondary Education Act, and against the motion to recommit.

I want to compliment BILL FORD and DALE KILDEE for their successful effort. H.R. 6 is a fair bill. It will help schools, students, parents, and educators in every school district in America. Under the Chapter 1 funding formula in this conference report, no school which has a Chapter 1 program now will lose funds.

The Chapter 1 formula is sensibly balanced to meet a variety of education needs in a variety of public schools. It will preserve current programs, and also give extra help to those schools and students who need it the most.

H.R. 6 also funds programs such as the Safe and Drug Free Schools Act, impact aid, the Eisenhower Professional Development Program, and technology education.

ESEA authorizes Federal funds for schools, without Federal mandates. Local school decisions will be made by the parents, educators, and school boards in our communities, just as they are now and just as they should remain.

Mr. Speaker, I urge my colleagues to vote for the conference report on H.R. 6. We will be voting for Chapter 1 programs, technology in classrooms, training programs for teachers and safer schools. We will be voting for the special interest of all Americans—our children.

Vote "yes" on the conference report and "no" on the motion to recommit.

Mr. GOODLING. Mr. Speaker, I yield 1¼ minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I rise today in support of the motion to recommit offered by Mr. JOHNSON from the great State of Texas.

Mr. Speaker, last year in Corpus Christi, students at various high schools and junior highs were ordered by school officials to disperse and advised that they would receive disciplinary action for gathering before school to pray around a flagpole. The lawsuit is still pending.

In addition, in Dallas, students at Skyline High School were threatened by their principal if they continued to read audibly from their Bible and pray on the school lawn before school.

This is not only outrageous, it is unconstitutional. Voluntary prayer in school is a first amendment right. The House has voted three times by overwhelming margins to protect voluntary school prayer. Nonetheless, the conferees have replaced it with the weaker Senate language.

Some would have you believe that the Johnson language gives control to the Federal Government of the courts. This is simply not true. The Johnson language provides for Federal or court involvement only if the local school boards and State education agencies fail to act and correct the problem.

In addition, the Johnson language is far less burdensome than the Senate language. The Senate language requires a person to go before the courts twice, and prove that the school willfully violated their constitutional right to voluntary school prayer.

Vote yes on the motion to recommit to protect our children's constitutional right to voluntary prayer.

Mr. KILDEE. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I rise in strong support of H.R. 6 and against the motion to recommit.

As I mentioned when I spoke on the rule, I was a conferee on this bill. In my 6 years in Congress, I hardly know of another bill where more diligent work was put into it, long hours in the subcommittee level, the committee level. I was a conferee.

Education policy ought to be bipartisan. Every attempt was made to put together a bipartisan bill, a good bill for America, a good bill for America's children. That is what this is all about, educating America's children.

This final version is very, very close to the House version that we initially passed, much more so than the Senate version or the President's bill. Members on both sides of the aisle voted for the House version of this bill.

People who want an excuse to vote against a bill will wiggle around and find any kind of excuses. The bottom line is these formulas were crafted carefully. Everything was done carefully.

This is a good bill, a bipartisan bill, and I urge my colleagues to support it.

Mr. GOODLING. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, first of all, let me say I know the gentlewoman did not mean no school will lose funds under the formula, because, of course, schools will lose funds under the formula, some schools less than 2 percent of funds. People will eventually lose all of their funds. So there is that possibility.

But again, I just will take this as my last opportunity to say my congratulations to the staff on both sides of the aisle who worked hundreds of hours on this legislation and to the Members who also worked diligently. My hat is off to the chairman who is being honored in this legislation by having a portion of it named after him.

I must again say that by not knowing until 2 seconds ago what will happen, and no one else knows in those last 3 years, I now have the problem of my biggest district, 25 percent poverty, losing $50-some-thousand in 1999 when we get to that point. So it makes it very difficult. That is the school district that needs the support in my district.

Mr. Speaker, I yield 1¼ minutes to the gentlewoman from Ohio [Ms. PRYCE].

Ms. PRYCE. Mr. Speaker, I rise in opposition to the conference report on H.R. 6. This legislation contains a provision entitled "The Multiethnic Placement Act." The original purpose of this act was to end the discrimination which prevents many minority children from being adopted, especially out of the foster care system. Currently, minority children are entering the foster care system in unprecedented numbers, and they are waiting years longer than white children for families.

However, when the bill came to be considered in conference, the administration insisted on amendments that would undermine the fundamental purpose of the bill.

Now the bill requires something called diligent recruitment of face-matching families and there are serious questions about whether this language could be used to deny placements across racial lines.

The administration amendments gut the original bill, defeat its purpose, and would make it even more difficult for minority children to find families.

The Multiethnic Placement Act is clearly not in the best interest of the children in foster care who are waiting for loving homes. As an adoptive mother, I urge you to vote for the motion to recommit.

Mr. FORD of Michigan. Mr. Speaker, I yield myself 30 seconds.

As we are on the floor at this moment, a longtime staffer of the Committee on Education and Labor is being interred in Arlington Cemetery, and many of us had expected to be at the memorial service at 1 o'clock. Because we could not go, I wanted to put the remarks that I have here in the RECORD to recognize the many years under the direction of Carl Perkins that he gave to this country and to the original construction of this law and its improvement over the years.

Hartwell D. "Jack" Reed of Kentucky was the predecessor to John Jennings, whom we have been talking about here, clearly one of the great people who have served with the greatest chairman the Committee on Education and Labor ever had, Carl Perkins.

Consequently, I urge all members to support H.R. 6. It is a bill which will truly help America's children.

This legislation is one of the most carefully crafted bills which have come out of the Committee on Education and Labor. The members deserve credit for all their work, but I also want to thank the staff members for their extraordinary contributions.

Diane Stark worked night and day on this bill and applied her keen intelligence to make it such a fine piece of legislation which will improve education for many children. Her wonderful personality combined with her intelligence and experience guarantee her a fine future.

Omer Waddles is cut from the same cloth as Diane. His dedication combined with his intelligence and willingness to work long hours makes him one of the best professionals we have ever had on the committee.

Toni Painter has been the person behind the scenes who keeps us all on course. Her good humor and sharp skills make us all proud. We will miss her when she retires from the Committee this year.

Kris Gilbert, Alan Lovesee, and June Harris have all contributed to improving the programs contained in this bill. Their abilities are recognized by all the various education groups they deal with.

Other people I want to commend are the staff members of the Subcommittee on Elementary, Secondary, and Vocational Education. Susan Wilhelm, the staff director has mastered in a surprisingly short period of time the intricacies of the laws under her responsibility. Jeff McFarland and Mary Cassell have also earned the respect of all of us. And Bessie Taylor helps to hold this whole operation together by her diligence and nice personality. DALE KILDEE, as subcommittee chairman, has assembled a fine staff, and our committee will benefit for years from their expertise.

The last person I want to thank is Rosemary Gallagher, the legislative counsel for the bill. She, too, worked long hours and deserves great credit for the quality of the final bill.

Mr. Speaker, I urge my colleagues to vote against any motions to recommit the bill and to vote for final passage of H.R. 6, the Improving America's Schools Act.

Every member of the House receives Federal aid for his or her school district under this bill. We are dealing with $11 billion of vital aid every year to 13,000 school districts in the country.

The Secretary of Education has said that his lawyers tell him that he cannot disburse this $11 billion for these programs unless this bill passes. Chairman OBEY of the Appropriations Committee confirms this opinion and says that the money in the Labor-HHS-Education appropriation bill cannot be sent out to school districts unless we pass this authorization.

Any motion to recommit this bill will kill it because we do not have enough time in the remaining few days of this Congress to reconvene the conference, report a new bill, face another motion to recommit, and then face a filibuster in the Senate.

If you want your school districts to receive money under more than 40 education programs, you have to vote against any motion to recommit and vote for the bill. Some examples of the funds which will be lost include:

Title I grants to schools districts	$6,698,356,000
Migrant education	305,475,000
Eisenhower Prof. Development Program	320,298,000
Chapter 2	347,250,000
Safe and Drug-Free Schools	481,962,000

Some opponents of this bill have been sowing confusion among the members by saying that the conference report is unfair to rural areas. Those assertions are simply not true.

The conference report treats rural areas even better than the bill which passed the House last March. We looked at 40 rural areas spread throughout the country and in reviewing every county in those districts we found that nearly all of them did better under the conference report than under the bill we passed 6 months ago.

I am especially concerned about the misinformation which is being given out about rural areas because the people who are distributing it are the ones who are the prime sponsors of the formula we wrote in committee last spring. Those members thought that the formula was fair to rural areas and supported it in committee and then on the floor. Now they are asserting the conference report is unfair when it treats rural areas better than the formula they themselves wrote.

The last point I want to make is that there is going to be a lot of confusion spread about the social amendments we had to deal with in this conference. Let me make some facts crystal clear. First, both bills required school districts to permit constitutionally protected prayer. The House bill had the Secretary of Education determine what is permitted under the Constitution. Then, he could cut off a school district's funds if they disobeyed him. The Senate bill adopted the Kassebaum amendment, supported by Senator HELMS, which placed the authority in the courts for determining what is "constitutionally-protected" and then it penalizes a school district for violating a court order.

The conference committee adopted the Kassebaum amendment. This means that no school district can forbid constitutionally-protected prayer as determined by a court or that school district will lose its Federal funds for education.

On the sex issues, we passed amendments in both the House and the Senate and have put them together into a provision which will bar for the first time the use of Federal education money—No. 1, to promote any sexual activity—heterosexual or homosexual; No. 2, to disseminate obscene material to minors on school grounds; No. 3, to purchase condoms; or No. 4, to fund sex education programs unless they stress the benefits of abstinence.

The conference report, in adopting all these prohibitions for the first time at the Federal level, also respects local control of curriculum by forbidding the U.S. Secretary of Education from directing or controlling local control of education.

My personal view is that we should not have any provisions in Federal law dealing with school prayer or sexual activities but that was not the will of the House or the Senate. Therefore, in conference we fashioned agreements that contain restrictions on prayer and sexual activities, but respect local decisions.

One last note is that at the very time we are debating H.R. 6, amending and extending the Elementary and Secondary Education Act of 1965, a man who made a vital and important contribution to that legislation is being interned at Arlington Cemetery. Hartwell D. "Jack" Reed retired in 1984. He had served the Committee on Education and Labor for 23 years.

He made a vital and impressive contribution to all the important social legislation of that era. The Economic Opportunity Act, the Comprehensive Employment and Training Act, and vocational education; all of these he worked on. He had a detailed knowledge of the substantive aspects of all of this legislation. He was an imaginative and extraordinarily good draftsman. His quite "good sense" caused most members of the Committee to seek his advice and counsel.

Jack drafted many of the amendments to our committee rules that marked the liberalization and the democratization of the Committee process in the 60's and 70's.

As his ashes are interned in Arlington, there are many of us who miss him. He was a professional; he contributed much to the legislative process.

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Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. PORTER], my leader on the Committee on Appropriations.

Mr. PORTER. I thank my distinguished colleague for yielding, and I rise in very strong support of the conference report and commend the chairman and ranking Republican members of the committee.

Mr. Speaker, the conference report contains a provision which I helped to write to compensate heavily federally-impacted school districts with very high tax efforts. I want to thank Representatives GOODLING, KILDEE, and FORD and their staffs for working with me on and adopting this provision which is so critical to the North Chicago Community Unit School District in my congressional district. In addition, I want particularly to thank Lynn Selmser and Jeff Mcfarland, the committee staff who worked so hard on many of the arcane provisions of the Impact Aid reauthorization.

The Impact Aid Program compensates school districts for the cost of educating federally-connected children, many of them children of military personnel, whose parents live and work on Federal property and therefore pay no property taxes to support the local schools. I have three school districts in my congressional district which are impacted by military presence in their communities. While these communities have welcomed the military families which contribute greatly to the local culture and particularly the schools, they have rightfully asked the Federal Government to provide adequate support to the local schools to compensate for the most property tax revenues resulting from Federal ownership of local housing.

As the first Federal education program enacted in the 1950's Impact Aid was fully funded by the Congress during the first two decades of its existence. However, as Congress dramatically expanded the number and breadth of Federal education programs in the 1960's and 1970's, Impact Aid begin to compete for increasingly scarce Federal dollars. Over the last decade, Impact Aid has increasingly been funded below the so-called entitlement level—the amount of revenue all schools forego due to Federal ownership of local housing. As result, school districts, like North Chicago, have increasingly been called upon to subsidize the education of federally-connected children. While many schools must provide either a relatively small subsidy or are able to compensate because of the large tax bases, many schools have been driven literally to the brink of bankruptcy.

In particular, school districts in Highland Park and North Chicago in my congressional district are now providing annual multimillion dollar subsidies to the Federal Government through uncompensated education for federally-connected children. In the case of North Chicago, the school district, which serves over 4,000 students, recently was forced to petition for dissolution and nearly ceased operation in midschool year. At the last minute, the State legislature passed emergency legislation to keep the school district afloat for another year. The school's financial demise was due in large measure to the failure of the Federal Government to fully and fairly fund the Impact Aid Program over the last decade.

The establishment of the new Impact Aid provision which I helped to write will guarantee that communities with heavily-impacted school districts who are making the effort to keep the schools afloat by taxing themselves at extraordinarily high rates will get some Federal relief—enough we hope to keep them in operation over the long term. I want to emphasize that this funding will be provided within the budget caps. In addition, it does not comprise a Federal hand-out to the school district; it is simply reducing the subsidy the school district provides to the Federal Government. In other words, enactment and appropriation of this new provision will ensure that the Federal Government does a better—though not complete—job of meeting its obligation to heavily-impacted school districts.

Mr. Speaker, I also want to thank my Appropriation Chairman NEAL SMITH and Senators HARKIN and SPECTER for agreeing to accept my proposal to provide $40 million in 1995 to fund the new so-called section (f) provision for heavily impacted schools. This funding will ensure that the former 3(d)2(B) schools and heavily impacted schools like North Chicago will be more adequately compensated for the cost of educating military dependents.

In the future, I hope the Appropriations Committee will be able to more fully fund the Impact Aid Program thereby eliminating the need for section (f) funding. But in the interim, I am pleased that the Congress has recognized the plight of very heavily impacted schools and has taken corrective action.

Mr. KILDEE. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Hawaii.

Mrs. MINK of Hawaii. I thank the gentleman, and I rise in strong support of H.R. 6.

Mr. Speaker, I rise today in strong support of the conference report on H.R. 6, the Improving America's Schools Act. Education of our children must be our highest priority, and this is what H.R. 6 is all about—providing our local schools with desperately needed Federal assistance to improve educational opportunities for all children.

Twenty-nine years ago I was privileged to serve as a member of the Education and Labor Committee and had a part in the passage of the first Elementary and Secondary Education Act of 1965, along with my good friend and colleague, Chair BILL FORD. The final bill before us today is evidence of how our commitment to education has grown over the years, and I am proud to have had a hand in reporting this bill once again.

H.R. 6 will provide $11 billion of Federal aid to over 13,000 school districts around the country for programs that have stood the test of time, like the Chapter 1 Program for disadvantaged children, Impact Aid, and Bilingual Education, and new programs to meet the changing needs of America's schools, like educational technology, coordinated health and social services, and school repair and renovation funds.

Mr. Speaker, one of the most exciting aspects of H.R. 6 is that it includes a comprehensive package geared towards assuring that girls and young women have equitable educational opportunities, known as the Gender Equity in Education Act.

The Gender Equity in Education Act is a package of nine bills developed by the Congressional Caucus on Women's Issues to address the educational inequities girls and women face in our education system.

The Caucus developed this legislation in response to the increasing evidence that despite the fact that title 9 prohibits sex discrimination in our schools, many inequities in our schools continue to prevent girls from reaching their full academic, social, and economic potential.

Studies have shown that the inequities are often not obvious or purposeful, but are deeply imbedded in school practices, even where discriminatory policies have been abolished. The results are that girls get less attention from their teachers; girls are not encouraged to take math and science courses; girls lack female role models in those academic areas which will lead to the high-skilled, high paying jobs; sexual harassment is not taken seriously and on the rise; tests continue to be gender-biased; and the needs of pregnant and parenting teens are not met.

The Gender Equity in Education Act was developed through the Caucus Task Force on Economic and Educational Equity, of which I chair. We worked closely with the co-chairs of the Caucus, PAT SCHROEDER and OLYMPIA SNOWE and the other Caucus members. Congresswomen JOLENE UNSOELD, LYNN WOOLSEY, SUSAN MOLINARI, NITA LOWEY, OLYMPIA SNOWE, CONNIE MORELLA, LOUISE SLAUGHTER, and CARDISS COLLINS all contributed to our efforts by sponsoring the bills included in the package. The Senate sponsors who helped guide these provisions through the Senate and conference committee are Senators TOM HARKIN, PAUL SIMON, CAROL MOSELEY-BRAUN, BARBARA MIKULSKI, BARBARA BOXER, and DIANE FEINSTEIN.

Through the hard work of the Caucus and the Members of the Education and Labor Committee, I am proud to say that we were able to include a piece of every single bill within the Gender Equity in Education Act.

The cornerstone of the gender equity provisions included in H.R. 6 is the reauthorization of the Women's Educational Equity Act. I authored the Women's Educational Equity Act [WEEA] in 1974 to assist schools in complying with title 9, which had been enacted in 1972. This program which funds research, development, and dissemination of curricular materials, teacher training programs, guidance and counseling activities, and other projects to promote educational equity for women and girls.

For over a decade WEEA has been severely neglected, enduring severe budget cuts and proposed elimination by previous administrations. In 1980 the program received $10 million, but by 1992 the program had been whittled down to just $500,000. The conference report brings the funding back up to $5 million, which has already been provided by the appropriations committee.

In addition, the bill seeks to recapture the original intent of women's Educational Equity Act by retaining the current WEEA grant program to develop and disseminate model programs, curricula, and materials to advance educational equity. But more importantly, the bill also establishes an implementation grant program to provide funds to school districts, community organizations and other entities to implement gender equity programs within local schools systems.

Many model equity programs have been developed over the last 15 years and now is the time to assist schools and school districts in actually integrating these programs into their educational systems.

Reform within the educational system begins at the local level. And as we seek to eliminate discrimination, inequities and barriers that continue to prevent girls and women from achieving educational, economic and social parity in this society, we must assure that schools all across the country implement and integrate into their curriculum, policies, goals, programs and activities, initiatives to achieve educational equity for women and girls.

Along these lines, the bill also establishes within the Department of Education a Special Assistant for Gender Equity to promote, coordinate and evaluate gender equity programs in all education programs, including the Women's Educational Equity Act. Currently gender equity programs of varying sizes exist through the Department of Education, however, there is no mechanism to ensure communication and evaluate progress among all gender equity programs.

The Special Assistant to the Secretary for Gender Equity would help assure the promotion, coordination, implementation, and evaluation of gender equity act activities within the Department of Education and work with other Federal agencies with jurisdiction over Federal education programs.

Other gender equity provisions have been incorporated throughout the programs of the bill to specially address the areas of teacher training, math and science, pregnant and parenting teens, sexual harassment and abuse, coordinated health and social services, and data collection.

The bill includes provisions to promote professional development strategies, methods, and techniques which meet the needs of female and minority students in the Title I Program and the new Eisenhower Professional Development Program. The bill also encourages the recruitment of female and minority teachers in subject areas in which they are underrepresented, such as math and science.

Pregnancy is the most common reason girls give for dropping out of school and almost half of teen mothers who drop out never complete high school. H.R. 6 includes dropout programs targeted to address the needs of pregnant and parenting teens so that they will stay in school.

A fundamental prerequisite for an effective learning environment is that it be free from sexual harassment in our schools, the bill includes sexual harassment prevention programs in the definition of violence prevention programs in the Safe and Drug Free Schools Act.

It also, allows funds under the Safe and Drug Free Schools act to be used for sexual harassment prevention programs and other strategies including conflict resolution and mentoring to prevent sexual harassment in schools.

The final bill also establishes a new coordinated services program designed to assist schools in providing comprehensive education, health and social services in a school-based or school-linked setting.

Many schoolchildren today are struggling with a host of social problems—including poverty, poor nutrition, drug abuse, family violence, and inadequate health care—that prevent them from achieving their full academic potential. A hungry, sick, worried child will not learn well; her basic needs must be met before she can turn full attention to schooling.

Under this provision schools and school districts can use up to 6 percent of their funds received under the Elementary and Secondary Education Programs to finance the coordination of services.

The bill also provides funds under the Safe and Drug Free Schools Act and the Fund for the Improvement of Education [FIE] to be used for the development of curricula related to child abuse prevention and training of personnel to teach child abuse education and prevention to elementary and secondary school children.

H.R. 6 also expands data collection requirements for Chapter 1 and all major Federal education programs in order to better assess the achievement and participation rates of males, females, minority and ethnic populations, and the disadvantaged.

Research and data collection are vital components of any attempt to eliminate gender inequity in education. Unfortunately, current Department of Education data collection activities provide insufficient information on gender issues.

And finally, the bill includes the Equity in Athletics Disclosure Act, which requires all institutions of Higher Education participating in Federal aid programs to disclose certain information on their men's and women's athletics teams.

This provision was included in the Senate version by Senator CAROL MOSELEY-BRAUN and authored in the House by Congresswoman CARDISS COLLINS. It is essential in providing information to young women about the strength of women's athletics at a particular institution to give the general public and the Department of Education a more comprehensive picture of whether schools are complying with title 9 in relation to their athletic programs.

Mr. Speaker, the Gender Equity in Education Act was the first comprehensive educational initiative put forth by the Congressional Caucus on Women's Issues. It is the culmination of over 2 years of work, and I am pleased that we were able to include virtually the entire package in this bill.

Just as importantly, I want to mention a provision that did not make it into the final bill.

The Educational Opportunity Demonstration Program, sponsored by Senator JOHN DANFORTH and included in the Senate version was overwhelmingly rejected by the conference committee.

This program would have allowed the Secretary of Education to waive title 9 of the Education Act Amendments of 1972 in 10 school districts in order to institute single sex classes or schools.

This proposal would have set a dangerous precedent which would have allowed for the first time the waiver of a fundamental civil rights law. There is no doubt that it had serious legal ramifications that would have weakened civil rights protections and reduce educational equity for girls.

Title IX was enacted in 1972 to address the long history of discrimination in sex segregated educational settings. History, as well as recent experiments in this area have proved that once you begin segregating students by sex, it is the girls that always lose. It was not too many years ago, when girls continued to be forced to take home-making while boys took technical training classes which gave them skills they could easily translate into the marketplace.

The Danforth proposal would have allowed schools to travel back down the path of separate but equal, which has never proved to benefit minorities, girls or any other group that has been historically discriminated against in our schools system.

The conference committee rightfully rejected the Danforth proposal with Members on both sides of the aisle voting against the proposal.

Mr. Speaker, the conference report on H.R. 6 is the fine product of many hours of hard work by Members and staff. I commend our Chair, BILL FORD for his hard work on this bill and many other initiatives in his 30 years of service to this institution. It has been a real pleasure to serve with BILL FORD, and to call him a friend. This bill is truly an example of his fine leadership and his commitment to the education of our children.

I hope that all my colleagues will join me in supporting the conference report on H.R. 6, the Improving America's Schools Act.

Mr. KILDEE. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, I thank the gentleman for yielding time, and I rise in support of the conference report and against any motion to recommit.

Mr. KILDEE. Mr. Speaker, I would like to read a portion of a letter from the Committee on Appropriations:

That means until H.R. 6 is signed, even though the fiscal year 1995 Appropriations Act for the Department of Education has been signed, the department will not be able to obligate those funds for those programs until H.R. 6 becomes law.

The letter referred to is as follows:

COMMITTEE ON APPROPRIATIONS,
Washington, DC, September 30, 1994.

Hon. WILLIAM FORD,
Chairman, Committee on Education and Labor, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I want to confirm your understanding that funds in Titles I, II, III, IV, V, VII, VIII, IX, and XV included in the Fiscal Year 1995 appropriations bill for the Department of Education are available to carry out activities authorized by the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act as enacted into law.

That means until H.R. 6 is signed, even though the fiscal year 1995 appropriations Act for the Department of Education has been signed, the Department will not be able to obligate those funds for those programs unless H.R. 6 becomes law.

Sincerely,
DAVID R. OBEY, *Chairman.*

Mr. KILDEE. I also submit that for the RECORD a letter from the Council for American Private Education, the Lutheran Church-Missouri Synod, National Society for Hebrew Day Schools, Seventh Day Adventist Board of Education, the U.S. Catholic Conference, opposing the motion to recommit and supporting passage of the bill.

The letter referred to is as follows:

DEAR REPRESENTATIVE: On behalf of the Council for American Private Education, I urge you to support the conference report to H.R. 6, the reauthorization of the Elementary and Secondary Education Act (ESEA), and to reject any motion to recommit or otherwise hold up passage of the bill. Any delay toward enactment of H.R. 6 in these closing days of the 103rd Congress will jeopardize continuance and funding of ESEA programs affecting millions of students.

CAPE is a Washington-based coalition of 14 national elementary and secondary private school associations, which are listed below. Our schools are non-profit and subscribe to a policy of non-discrimination in their admissions. The CAPE member organizations represent about 70 percent of the 5 million children enrolled and 384,000 teachers in private schools. There are 30 state CAPE affiliates which extend the coalition throughout the country.

We strongly support the Elementary and Secondary Education Act and feel its programs have been beneficial to all the nation's students and teachers—in both private and public schools. The fabric of American education has been strengthened by this Act since its inception in 1965. A driving principle for this success and effectiveness has been that the law seeks to address the needs of all students, regardless of what kind of school they attend.

Therefore, we are concerned that efforts may be made to recommit the bill to conference in the closing days of the session. Consideration of the reauthorization has been underway formally since December 1992, with extensive review, deliberations, and public hearings. While CAPE could take issue with certain provisions of this comprehensive bill which affect our schools, we recognize the legislative process requires good will, bi-partisanship, and compromise.

CAPE urges the House to move expeditiously to consideration and final passage of the conference report to H.R. 6 before the end of the 103rd Congress.

Sincerely,
JOYCE G. MCCRAY,
Executive Director.

Mr. KILDEE. Also, a letter from the U.S. Catholic Conference, Department of Education

When the House considers the Elementary and Secondary Education Act conference report, we urge you to vote against any attempt to recommit the bill to conference.

The letter referred to is as follows:

U.S. CATHOLIC CONFERENCE,
DEPARTMENT OF EDUCATION,
Washington, DC, September 29, 1994.

DEAR REPRESENTATIVE: In 1965, the Congress passed and the President signed into law the Elementary and Secondary Education Act of 1965 (ESEA), thus making an historic commitment to serve the needs of all educationally disadvantaged children in our nation's schools. Since passage in 1965 ESEA has provided federally financed services to all students who have a right to them irrespective of the schools they attend. For 29 years, Congress has not only reauthorized, but has strengthened the provisions of ESEA in order to ensure that the Federal government keeps faith with this historic commitment to both public and nonpublic school students and teachers.

In anticipation of the current ESEA reauthorization, the United States Catholic Conference (USCC) has, since 1992, provided public testimony and additional written documentation to both House and Senate Committees and the Administration in order to present our concerns and recommendations which were intended to improve those provisions of ESEA which address the needs of nonpublic school students and teachers.

As the House of Representatives prepares to vote on final passage of the Conference Report on H.R. 6, Improving America's Schools Act of 1994, the USCC believes that the bill addresses many of our concerns and recommendations. The USCC believes that H.R. 6 provides important benefits to eligible nonpublic school students and teachers, which should be supported by members of the House.

When the House considers the ESEA Conference Report, we urge you to vote against any attempt to recommit the bill to conference. Any delay in the enactment of ESEA will jeopardize the implementation of the essential improvements to American public and nonpublic education that are contained in this critical legislation. The Congress has been engaged in the reauthorization of the Elementary and Secondary Education Act for two years. All issues have been fully debated and considered in committee and on the floor. Any effort to delay action on the measure now is an attempt to prevent or delay enactment of legislation that has been adopted with strong bipartisan support for three decades.

Thank you for your consideration of our views on this important issue.

Sincerely,
SR. LOURDES SHEEHAN, RSM,
Secretary for Education.

Mr. CLAY. I rise in support of the H.R. 6 conference report reauthorizing the Elementary and Secondary Education Act.

While there are many legitimate reasons for supporting this conference report, the most important is that further delay in implementing ESEA will adversely impact the children who benefit most from the programs funded in this bill.

Given the problems encountered in bringing this bill to fruition, once again the perception given the public is that the Congress is unable to deal with the critical and basic issues facing this Nation. We seem eager to respond to minutia and frivolous matters of little consequence to most Americans but when it comes to the welfare of our children, we seem to be unable to do what is necessary to ensure their future.

The people's agenda includes economic development, crime abatement, education, and health reform.

The conference committee has tried to be responsive. Those who would thwart such efforts appear to have a different agenda which speaks to special interests like baseball, hockey, term limits, and bogus election year contracts.

H.R. 6, the Improving America's Schools Act of 1994 extends through 1999 almost all of the major Federal elementary and secondary education programs.

Since its inception in 1965, this act has provided a vital and crucial link in helping to provide high-quality education to economically disadvantaged children, particularly in the areas of reading and mathematics as well as in the development of critical thinking skills.

The move toward excellence and inclusiveness which began so nobly in 1965 when, then President Lyndon Baines Johnson signed the Elementary and Secondary Education Act into law, must be permitted to move forward.

The Dwight D. Eisenhower professional development component of this bill will facilitate improvement in the professional skills of teachers, staff, and administrators.

The Magnet Schools Assistance Program helps school districts fulfill the Federal commitment to school desegregation.

A recent report on school desegregation, issued in December 1993 by Gary Orfield states: "For the first time since the Supreme Court declared school segregation in the south unconstitutional in 1954, the public schools in that region have turned back toward greater segregation." Clearly, in reauthorizing the Magnet Schools Assistance Program we can demonstrate our continuing commitment to school desegregation in compliance with the 1954 Supreme Court decision in Brown versus Board of Education.

Mr. Speaker, the opportunity-to-learn standards provisions included in this legislation clearly provides for content and performance standards as well as assessments that would be established or used for title I programs. Content standards indicate what children should know and be able to do; performance standards determine whether children are learning. I fully support both content and performance standards; however, I firmly believe that it is inequitable to hold students accountable for their performance without addressing the capacity of the school to educate children to the level required under the student performance standards.

The legislation is needed in order to enrich and expand educational opportunity for children and youths at all levels.

The reality is that title 1 and the other programs included in this legislation are crucial if we are to provide world class education for our children.

Mr. Speaker, let's do the people's business and give our youth a fighting chance to be productive adults. I urge my colleagues to hear the people, to do what is right, and vote in favor of the conference report accompanying H.R. 6.

Mr. SCHUMER. Mr. Speaker, I will oppose the motion to recommit this education bill. I do so with a heavy heart because I fully support the right of voluntary prayer in school and supported the House position on this issue repeatedly. However, passage of the motion would effectively kill this bill and that is something I cannot support. The bill before us contains the most sweeping educational reforms to come before this Congress and it is critical that we pass it now.

Mr. FRANKS of Connecticut. Mr. Speaker, last March I voted for the reauthorization of the Elementary and Secondary Education Act with confidence that the final version brought to the House would deserve my vote. Today the final version is before us, and while I believe that improvements should still be made, the bill as a whole is worthy of support.

This bill will do much to help schools in my district. I will mention in particular the schools in Waterbury. The title I grants will improve the educational opportunities for the students who live in Waterbury, especially those from low-income neighborhoods. This bill also allows States to use Federal funds to develop and implement public school choice programs. I am hopeful that the State of Connecticut will be willing to take this first step toward a true program of school choice. I feel that competition is an important element in the struggle to improve the schools in our most troubled neighborhoods.

At a time when the Clinton administration is neglecting the threat of drug abuse in our country, it is good to see that this bill reauthorizes the drug abuse resistance programs, or DARE. I have been a supporter of the DARE program since I entered Congress. Our Nation's children need encouragement to resist the temptations of street drugs. Considering the cost of drug use to society and taxpayers, the Federal Government should be doing even more to give children the confidence to stay off of drugs.

Ms. PELOSI. Mr. Speaker, I rise today in strong support of the conference report to H.R. 6, the Improving America's Schools Act. The reauthorization of the Elementary and Secondary Education Act [ESEA] is a critical component of quality education for millions of students. This reauthorization will renew and improve major education programs, such as chapter I, bilingual education, and safe and drug-free schools. In my district of San Francisco, ESEA provides much-needed educational funding for services essential to the success of the city's neediest and disadvantaged students.

Any delay in passage of this legislation will threaten the funding of these ESEA programs, thereby jeopardizing students' access to enormous educational opportunities. We need to guarantee quality and comprehensive education programs that meet the needs of our growing and diverse population of students. We as a nation simply cannot afford to deny our children the resources that will help them face the challenges of the future.

I urge my colleagues to demonstrate their commitment to the quality and equality of education—vote for the passage of the conference report on H.R. 6. I also wish to commend the chairman of the committee, Mr. FORD, and the members for their excellent work in bringing this legislation to the floor.

Mr. WHEAT. Mr. Speaker, I rise in strong support of the conference report on H.R. 6, improving America's Schools Act of 1994. This vital legislation reauthorizes many of the Federal Government's programs providing assistance under the Elementary and Secondary Education Act and includes other initiatives to improve our Nation's educational system, certainly an endeavor all of us should advocate.

Our children will have the responsibility for the future of our Nation. It is our responsibility, however, to ensure that they are prepared for that obligation, that trust, and a sound education is an essential part of the growth process.

Included in the conference report on H.R. 6 is the Multiethnic Placement Act of 1994. I was pleased to introduce this legislation in the House of Representatives and am also pleased to support the amended version embodied in this bill.

Minority children wait longer for adoption, are less likely to be placed and are disproportionately represented among children waiting to be adopted. Both informal and, in some States, formal policies provide barriers to transracial adoptions, thereby keeping minority children apart from permanent, stable homes. This must not continue.

I am deeply committed to reducing the length of time children remain in foster care, eliminating barriers to adoption and ending discrimination in adoption placements. All children need loving homes and a sense of permanence and the race or ethnic background of a child ought not determine whether the child remains in the limbo of foster care or joins a new family. I believe the multiethnic Placement Act will go a long way in achieving those goals. This important legislation should be approved today.

Many organizations have written in support of the Multiethnic Placement Act, particularly the revised language included in H.R. 6. They include the Child Welfare League of America, the Children's Defense Fund, the American Civil Liberties Union, the North American Council on Adoptable Children, and Adoptive Families of America, Inc.

In a letter of support, Secretary of the Department of Health and Human Services, Donna Shalala, stated that the administration "strongly supports the goal of this bill, namely the elimination of racial and ethnic discrimination in the making of foster and adoptive home placement." Furthermore, the administration strongly supports the amended language included in this conference report.

I am also greatly pleased that the conference report on H.R. 6 includes provisions which give greater attention to parental involvement in the education of their children. Valuable programs, like Missouri-based Parents as Teachers, help prepare parents and make sure that children enter school ready to learn. In my own State of Missouri we have seen the Parents as Teachers program work. Parents become more actively involved in their children's education and more confident and effective in their role as parents and as teachers. Children are better prepared for school and have a much improved education experience.

Our children deserve the best we can give them. That includes loving, stable homes, good health, and an excellent education. I encourage my colleagues to vote for H.R. 6, for the education programs and for the Multiethnic Placement Act.

Mrs. MALONEY. Mr. Speaker, I rise today to urge my fellow members to support H.R. 6, Improving America's Schools Act. Few Federal priorities can be as important as education. As a former teacher, school administrator, and the mother of two school-age daughters, I am particularly proud to participate in today's debate to reauthorize for 5 years most of the Federal assistance for elementary and secondary education programs.

I would like to thank Chairman FORD for all of his diligent work on this important legislation, so crucial to America's children. I would also like to mention the efforts of two of my fellow New Yorkers, ELIOT ENGEL and MAJOR OWENS, and to thank them for protecting the interests of our city and State.

Of all of this legislation's many important programs, it is perhaps the title I Compensatory Education Program which provides the most direct and dramatic assistance to schoolchildren in New York and throughout the country. This important program provides economically and educationally disadvantaged children the concentrated extra help they need.

H.R. 6 authorizes $8 billion in title I funding for fiscal year 1995 and such sums as may be necessary for the remaining 4 years. In New York City over half of our schools receive title I funding—666 schools out of a total of 1,105, with an estimated 237,000 students receiving benefits. As impressive as that may seem, that number is unfortunately only a little over half of those eligible.

This is the main reason why I supported President Clinton's original formula, which would have targeted more of the available resources toward the Nation's poorest schools. In New York City, a school must have 62 percent of its students in poverty to receive title I funds, in contrast to the national average of only 25 percent. Although the President's formula was not adopted, I do believe that the final formula represents a step in the right direction. The three New York boroughs that I represent—Manhattan, Brooklyn, and Queens—will receive an additional $22.6 million in fiscal year 1996 as a result of the new formula for a total of over $313 million.

Mr. Speaker, there are other important features of this legislation. For instance title IV authorizes $655 million in fiscal year 1995 for drug and violence prevention programs in an effort to ensure the safe environment so crucial to the academic environment. Title V funds magnet schools, which have a magnificent track record in my district for promoting innovative educational programs and cultural diversity. Title II includes the Eisenhower Professional Development Program to sustain and intensify teacher training opportunities.

Mr. Speaker, I am proud to support this huge investment in our children's future. It's a good bill for New York and for our Nation. Let's not play politics with our children—let's pass this bill now.

Mr. SWETT. Mr. Speaker, today we are being asked to recommit the elementary and secondary education conference report due to its language regarding school prayer, which is not the language so many of us in the House supported.

I have consistently advocated a moment of silence in schools. But while I support my colleagues who are fighting for the House language, I cannot dismiss a bill that many have worked so hard to pass and that will provide much needed funding to our States' education programs.

The elementary and secondary education bill does not, in any way, jeopardize the use of prayer in schools. The Senate language, which was included in the conference report, will withhold Federal funds from any school district that violates a court order to allow constitutionally protected voluntary prayer in school. This measure will go a long way to protect school prayer, as ESEA will go a long way to improve America's schools.

Mr. Speaker, I respectfully request that my colleagues join me in voting "no" on the motion to recommit the conference report on H.R. 6. It is my hope this body will join together in support of the elementary and secondary education bill.

Mr. EMERSON. Mr. Speaker, I rise today in strong support of the motion to be offered by the gentleman from Texas [Mr. SAM JOHNSON] to recommit the conference report to reauthorize the Elementary and Secondary Education Act offered by my colleague from Texas. Frankly, I find it unbelievable that we are here today debating this motion to recommit because last week the House easily passed the motion to instruct conferees to accept the House-passed language to H.R. 6 regarding school prayer offered by Mr. GUNDERSON. The House sent a strong message to members of the conference committee to accept the House-passed language. We have sent this same message to the other body on numerous occasions.

While there are provisions in this bill I strongly support, I must object to the conference committee's blatant rejection of the strong message sent by the House on the issue of school prayer. As passed by the House on March 24 by a convincing vote of 289–128, H.R. 6 included language denying funds to any State or local educational agency which has a policy of denying or preventing participation in constitutionally protected school prayer. The bill also stipulated that the Federal Government cannot require any person to participate in school prayer.

The Senate language would make schools judged by a Federal court to have willfully violated a Federal court order mandating that they correct violations of constutionally protected school prayer, ineligible for funds until they comply with the court order. The bill also states that funds are not reimbursable for the period during which schools were in willful noncompliance. This language is not acceptable.

The House language does not mandate school prayer or require schools to write any particular prayer. Under this language, a school is not required to do anything in favor of voluntary prayer. It simply must refrain from instituting policies prohibiting voluntary student prayer.

One of the many liberties our forefathers founded this great Nation upon was freedom of religion; a freedom to pray to the god we want, when we want, and where we want. Unfortunately, this freedom has been eroded by the Supreme Court over the last few decades. I firmly believe that no one should be forced to pray, especially if a certain prayer is contrary to an individual's beliefs. But, there can be no question that every American citizen has the right to pray voluntarily whenever and wherever he or she chooses, and that includes children in public schools. This is protected under the first amendment; "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." It is that second part that I ask you to pay special attention to today.

As President Reagan so eloquently stated in 1982, "the first amendment of the Constitution was not written to protect the people of this country from religious values; it was written to protect religious values from Government tyranny."

This language has overwhelmingly passed the House on several occasions and based on that fact, the motion to recommit should also pass overwhelmingly. I urge an affirmative vote on the Johnson motion to recommit H.R. 6 to support the House-passed language.

Mr. SMITH of New Jersey. Mr. Speaker, this conference report contains an unfortunate provision that could seriously inhibit the placement of minority race children in adoptive homes.

According to the National Council for Adoption, there are currently about 200,000 children available for adoption. Black children make up about 40 percent of this pool and that percentage could increase if this legislation is enacted in its current form.

The Multiethnic Placement Act was originally introduced to mitigate practices which often prevent minority children from being placed in adoptive homes for many years. Too often, social workers decline to place children for adoption along racial or ethnic lines in order to preserve the children's "cultural identity." This causes children to linger in foster care for years and years, often going from one home to another. The sad result is that these children fail to form a family identity and a sense of security that comes from having loving parents and a stable home environment.

At the insistence of the Clinton administration, language was added to this bill which requires "diligent recruitment" of race-matched families. Bureaucrats at the Department of Health and Human Services [HHS] will have the authority to micromanage adoption placement practices in all 50 States. A legislative remedy that had the support of the National Council for Adoption, Jesse Jackson's Rainbow Coalition and the Children's Defense Fund has been turned virtually inside out in this legislation. The effect of codifying and expanding an ill-advised practice will likely be that fewer black children will be placed for adoption, and those that are will not be placed until they are older and more insecure after years of lingering in orphanages or foster homes.

Mr. Speaker, the provisions of the Multiethnic Placement Act allow agencies to "* * * consider the race, color or national origin of a child as a factor * * *" However, that carefully considered legislation does not allow social workers to endlessly delay the placement of a child who desperately needs a stable home and loving parents. I urge Members to vote to recommit this conference report and address adoption policies in a manner that puts the well-being of our Nation's children first.

Mr. FAWELL. Mr. Speaker, I rise in opposition to H.R. 6, the Improving America's Schools Act. I supported the House-version of H.R. 6, but am unable to vote for the conference report.

The Elementary and Secondary Education Act currently consists of 46 programs. When President Clinton submitted his recommendations for this reauthorization, he suggested that we eliminate unnecessary programs and consolidate others so that the bulk of Federal education dollars could be focused in the programs with broad support and proven records of effectiveness. While I did not agree with all of the President's recommendations, I did support the concept of consolidation and streamlining. Regrettably, this conference report takes a step in the opposite direction. Rather than eliminating and consolidating programs, this bill eliminates few programs and creates many new ones. The conference report includes 15 more programs than the House-passed version, 63 programs in all, and more than double the number of programs that the President recommended.

I am also concerned about the possible effects of changes in the title I formula on schools in my congressional district. The House is considering this legislation without providing Members of Congress the requisite 3 days for reviewing the legislation which is over 1,200 pages long. No Member of Congress has read the entire bill, and no one really knows what the effect of the formula will be.

In addition, I am opposed to the version of the Multiethnic Placement Act which has been included in the conference report. Denying adoption of black children by white families effectively sentences these children to unnecessary years of going from one home to another without having a chance to emotionally bond with permanent adoptive parents. This is tragic and avoidable. Senator HOWARD METZENBAUM's original legislation would correct this situation by denying any Federal foster care and adoption assistance money to adoption agencies which deny or delay the placement of a child based solely on the race, color, or national origin of the adoptive parents.

Under the original Metzenbaum proposal, social workers could select parents of the same race over equally qualified candidates of another race if they believed doing so was in the best interest of the child. The legislation made clear, however, that delaying or denying the adoption of a child by qualified adoptive parents of any color is not in the child's best interest and is prohibited.

As a House conferee on this provision, I worked with the National Council For Adoption and other Members of Congress to eliminate the roadblocks to transracial adoption. Regrettably, the U.S. Department of Health and Human Services [HHS], which runs Federal adoption programs, has insisted on major changes which will have the effect of permitting agencies to discriminate on the basis of race. Among the changes sought by HHS are the exapnsion of a "permissible consideration" provision which would allow an agency to consider "the cultural, ethnic, or racial background of the child and the capacity of the prospective foster or adoptive parents to meet those needs as one of a number of factors used to determine the best interests of a child." In addition, HHS recommended changing the enforcement mechanism from mandatory to discretionary enforcement. Unfortunately, the majority party of Congress agreed to acquiesce to the HHS recommendations, and the conference report would reaffirm that racially coordinated adoptions are strongly preferred, and that delays and denials for this purpose will be permissible.

Mr. Speaker, supporters of H.R. 6 have argued that Federal education funding will not be given to the schools this year if we do not pass this legislation. This simply is not so. The House and Senate have already approved H.R. 4606, with my support, which provides funding of Federal education programs for the next year. If we do not pass H.R. 6, funds will be allocated according to existing law.

In the 104th Congress, I believe that Congress can come up with a better product than H.R. 6, and urge Members to vote "no" on the conference report.

Mrs. UNSOELD. Mr. Speaker, I rise today in support of the conference report on H.R. 6 and against the motion to recommit. We have heard a lot about the formula for the chapter 1 program. We have heard a lot about the issue of school prayer. What we have not heard about is the kids that these Federal funds will help.

The bill contains provisions to help keep pregnant and parenting teenagers in school and off the welfare rolls. The bill also contains provisions to make it easier for homeless children to attend school. And the bill contains a wonderful program to help Head Start and Even Start kids make the transitions from preschool to the elementary school setting so that they can successfully stay in school. Without these programs, these are children and youth who will fall through the cracks of our society.

Finally, this bill emphasizes the importance of local control over education decisions by minimizing the Federal role in curriculum decisions. In the conference committee, we fought long and hard to keep decisions where they belong—at the local level.

Mr. EMERSON. Mr. Speaker, I rise today to express my sincere appreciation and gratitude to Chairman FORD and KILDEE, and ranking member BILL GOODLING for their tremendous efforts on behalf of the Winona R–III School District in Missouri.

Since 1986, I have been working with school officials from Winona, Senators DANFORTH and BOND, the Department of Education and members of the House Committee on Education and Labor on this issue.

Briefly, Winona R–III is a small school district in rural, low-income Winona, MI, which has been saddled with a problem since 1986. The district is heavily impacted by Federal land—approximately 47 percent, and 26 percent is further owned by the State of Missouri. Winona is not financially well-off. State income tax returns for 1989 showed the average income in the Winona School District was significantly lower that the statewide average. It is clear that in Winona, meeting even the most basic educational expenses is a formidable task.

In 1985, the Winona High School was housed in a 68-year-old building which had been declared by the State to be a threat to public health and safety. Winona applied to the U.S. Department of Education for impact aid construction funding in 1985. In 1987, after Federal officials visited the district and realized the urgency of the situation, the school received a No. 1 priority for construction funding.

Yet there was a problem. At the time of the school's application for Federal funding in 1985, the assessed valuation of the school district was $2,470,000. State land was reassessed later that year, and the assessed valuation more than doubled to $5,980,000. Prior to reassessment, the property levy was $4.00 per $100 in assessed valuation. However, the State realized that a substantial change in the paper value of the land will not substantially change the ability of the residents to pay for that levy. Thus, the State of Missouri enacted a law requiring a rollback of the property levy, so that the paper change in assessed valuation would not result in any additional taxes. After reassessment there was a levy ceiling of $2.09 per $100 in assessed valuation, and the tax burden remained the same.

As far as Winona's school construction application was concerned, however, the statewide reassessment caused the effective tax burden to more than double. This is because the impact aid school construction law requires each applicant school district to demonstrate a substantial local effort toward the building of the school. The Department of Education considers a reasonable tax effort to be 10 percent of the district's assessed valuation. When Winona applied for the school construction funds, it fully expected to contribute this reasonable tax effort—or roughly $247,000—of its own funding toward the construction project. After Missouri's reassessment, however, the Department of Education stated that it would require Winona to pay $598,000 up front before it would agree to fund Winona's new school.

At this point, Winona was faced with a decision. If the school district could not come up with the $598,000, it would be forced to forfeit the Federal school construction funding. Winona opted to go forward and was able to borrow the $598,000 at interest rates much higher than prudence would allow, prudence, however, was understandably sacrificed to desperation. Winona contributed this $598,000, satisfied its local effort requirement and the school was built and is currently operational.

Now, Winona is saddled with a $598,000 private debt. It has no more ability to pay the debt now than it did in 1987, when it was forced to come up with the money. The people are no wealthier, and the federally and State owned property still fails to produce tax revenue. To complicate matters further, Missouri State law forbids any local school district from finishing the school year in deficit. Thus, when Winona cannot afford to both buy textbooks and service its debt, State law requires that the district service its debt. As one can well imagine, this mandated decision contributes little to the education of the children in Winona.

Today, I am pleased to report that the conference report for H.R. 6 contains a legislative remedy for Winona, similar to the bill I have introduced for years. It is very simple, and it consists of a grand total of 10 lines. As a result of the passage of this bill, Winona will still be required to contribute a fair and reasonable local effort—$200,000—toward the school construction. However, the school district will be relieved of the excess $398,000 that the Department of Education previously required of it.

I am pleased that the Congress has recognized the hardship faced by Winona and has taken this corrective action. Again, I want to thank everyone involved in this effort. I also want to commend the persistent efforts of Winona's superintendent, Michael Greene. Michael has been dogged in his pursuit to resolve this matter. Now Mr. Greene will be able to turn his attention where it should have been all along—to the children of Winona.

Mr. GOODLING. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PETERSON of Florida). All time has expired.

Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. SAM JOHNSON OF TEXAS

Mr. SAM JOHNSON of Texas. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. SAM JOHNSON of Texas. In its present form, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. SAM JOHNSON of Texas moves to recommit the conference report on the bill H.R. 6 to the committee of conference with instructions to the managers on the part of the House to disagree to section 14510 of the Elementary and Secondary Education Act of 1965, relating to school prayer, as proposed to be added by title I of the conference substitute recommended by the committee of conference and insist on section 9513 of the Elementary and Secondary Education Act of 1965, relating to protected prayer, as proposed to be added by title I of the House bill.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken, and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I object on the ground a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage.

The vote was taken by electronic device, and there were—yeas 184, nays 215, not voting 36, as follows:

[Roll No. 455]

YEAS—184

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Boucher
Browder
Bunning
Burton
Buyer
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Condit
Cooper
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (NJ)
Frost
Gekas
Geren
Gilchrest
Gillmor
Goodlatte
Goodling
Goss
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lancaster
Laughlin
Lazio
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lloyd
Long
Lucas
Machtley
Manzullo
McCandless
McCollum
McHugh
McInnis
McKeon
Mica
Michel
Miller (FL)
Molinari
Montgomery
Moorhead
Myers
Nussle
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quinn
Ramstad
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Traficant
Tucker
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—215

Abercrombie
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bishop
Blackwell
Boehlert
Bonior
Borski
Brewster
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Coyne
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Filner
Fingerhut
Fish
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Furse
Gejdenson
Gephardt
Gilman
Glickman
Gonzalez
Green
Gutierrez
Hall (OH)
Hamburg
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lantos
LaRocco
Leach
Lehman
Levin
Lewis (GA)
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Penny
Peterson (FL)
Pickle
Pomeroy
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Skaggs
Slaughter
Smith (IA)
Snowe
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Tejeda
Thornton
Thurman
Torres
Torricelli
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—36

Ackerman
Applegate
Baker (LA)
Berman
Callahan
Calvert
Fields (LA)
Gallegly
Gallo
Gibbons
Gingrich
Gordon
Grams
Grandy
Hayes
Hutto
Inhofe
Lipinski
McCrery
McCurdy
McDade
McMillan
McNulty
Mineta
Quillen
Ravenel
Shaw
Slattery
Smith (OR)
Spratt
Sundquist
Synar
Thompson
Towns
Washington
Wheat

□ 1413

The Clerk announced the following pairs:

On this vote:

Mr. Calvert for, with Mr. Ackerman against.

Mr. Grams for, with Mr. Berman against.

Mr. Quillen for, with Mr. Mineta against.

Mr. Smith of Oregon for, with Mr. Wheat against.

Mr. HORN and Mr. SISISKY changed their vote from "nay" to "yea."

So the motion to recommit was rejected

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. PETERSON of Florida). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. KILDEE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 262, noes 132, not voting 41, as follows:

[Roll No. 456]

AYES—262

Abercrombie
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Baesler
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bevill
Bilbray
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Cunningham
Danner
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Filner
Fingerhut
Fish
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Furse
Gejdenson
Gephardt
Geren
Gillmor
Gilman
Glickman
Gonzalez
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Horn
Hoyer
Huffington
Hughes
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Lewis (GA)
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Quinn
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Tanner
Tauzin
Taylor (MS)
Tejeda
Thomas (CA)
Thornton
Thurman
Torkildsen
Torres
Torricelli
Traficant
Tucker
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waters
Watt
Waxman
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—132

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Ballenger
Barca
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Bonilla
Bunning
Burton
Buyer
Camp
Canady
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Deal
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Franks (NJ)
Gekas
Gilchrest
Goodlatte
Goodling
Goss
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Knollenberg
Kolbe
Kyl
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Manzullo
McCandless
McCollum
McHugh
McInnis
McKeon
Mica
Michel
Miller (FL)
Moorhead
Myers
Obey
Oxley
Packard
Paxon
Petri
Pombo
Portman
Pryce (OH)
Ramstad
Regula
Ridge
Roberts
Rohrabacher
Roth
Royce
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shuster
Skeen
Smith (MI)
Smith (TX)
Spence
Stearns
Stenholm
Stump
Talent
Taylor (NC)
Thomas (WY)
Upton
Walker
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—41

Ackerman
Applegate
Baker (LA)
Berman
Brooks
Callahan
Calvert
Fields (LA)
Gallegly
Gallo
Gibbons
Gingrich
Gordon
Grams
Grandy
Hayes
Hutto
Inhofe
Johnston
Lantos
Lipinski
McCrery
McCurdy
McDade
McMillan
McNulty
Mineta
Quillen
Ravenel
Roukema
Shaw
Slattery
Smith (OR)
Solomon
Spratt
Sundquist
Synar
Thompson
Towns
Washington
Wheat

☐ 1426

The Clerk announced the following pairs:

On this vote:

Mr. Berman for, with Mr. Ackerman against.

Mr. Mineta for, with Mr. Solomon against.

Mr. Calvert for, with Mr. Grams against.

Mr. Wheat for, with Mr. Quillen against.

Mr. GILLMOR changed his vote from "no" to "aye."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GALLEGLY. Mr. Speaker, I was unavoidably not present for the votes today on the conference report to H.R. 6, Improving American Schools Act. Had I been present, I would have voted "nay" on the rule, "aye" on the motion to recommit, and "nay" on final passage.

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous matter on the conference report on H.R. 6, which was just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

SCHEDULE FOR SUBMITTING AMENDMENTS FOR PREPRINTING TO H.R. 5044, AMERICAN HERITAGE AREAS PARTNERSHIP PROGRAM ACT OF 1994

(Ms. SLAUGHTER asked and was given permission to address the House for 1 minute, and to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, the rules committee may grant a rule for H.R. 5044, American Heritage Areas Partnership Program Act of 1994, that would require amendments to be printed in the amendment section of the CONGRESSIONAL RECORD prior to the bill's consideration.

The tentative schedule of the House would seem to indicate that the bill may be considered as early as Tuesday, October 4, 1994. To ensure Members rights to offer amendments under the rule, they should submit those amendments for preprinting in the CONGRESSIONAL RECORD by the close of business on Monday, October 3, 1994.

Amendments should be titled "Submitted for printing under clause 6 of rule XXIII" and submitted at the Speaker's table. Amendments do not need to be submitted to the Rules Committee.

Mr. Speaker, let me repeat that Members should have their amendments to H.R. 5044 printed in Monday's CONGRESSIONAL RECORD.

NATIONAL TREATMENT IN BANKING ACT OF 1994

The SPEAKER pro tempore (Mr. PETERSON of Florida). Pursuant to House Resolution 543 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4926.

☐ 1429

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4926) to require the Secretary of the Treasury to identify foreign countries which may be denying national treatment to U.S. banking organizations and to assess whether any such denial may be having a significant adverse effect on such organizations, and to require Federal banking agencies to take such assessments into account in considering applications by foreign banks under the International Banking Act of 1978 and the Bank Holding Company Act of 1956, with Mr. BARLOW in the chair.

The Clerk read the title of the bill.

□ 1430

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Massachusetts [Mr. FRANK] will be recognized for 30 minutes, and the gentleman from Iowa [Mr. LEACH] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. SCHUMER], the sponsor of the bill.

Mr. SCHUMER. Mr. Chairman, let me begin by expressing my sincere thanks to my coauthor, the gentleman from Iowa [Mr. LEACH], to the gentleman from Texas [Mr. GONZALEZ], and the staff of the Committee on Banking, Finance and Urban Affairs, and especially to the gentleman from Massachusetts [Mr. FRANK], and the staff of his Subcommittee on International Development, Finance, Trade and Monetary Policy, who worked exceptionally hard to shepherd this legislation through the process today to the floor today.

Mr. Chairman, I am most pleased this measure is before the full House for consideration. I would urge my colleagues to cast an affirmative vote on an important issue in the U.S. financial services industry which accounts for fully 6 percent of our GNP and for America's position in the global economy. The National Treatment in Banking Act represents a positive, creative step in this direction by establishing American insistence on the consistent application of the national treatment principle for banking organizations worldwide.

Simply put, the objective of H.R. 4926 is to provide an effective tool to encourage nations around the world to grant U.S. banking organizations and, by extension, to all foreign banks the same rights to do business in their respective national markets as they do in their domestic banks. So what this bill does, Mr. Chairman, is very simple. It expands the notion of financial services. It is not a protectionist measure but quite the opposite. It provides our government tools to open up foreign markets that have not been fair to us.

National treatment, as everyone knows, means that our banks have to be treated like other banks. And it is a principle, I think, we all can agree upon.

It is particularly important at this time, in light of the urgent need to negotiate a satisfactory agreement on financial services as part of the GATT. It is designed, as I say, to open up foreign markets, not close American markets. It seeks to establish a level playing field that permits open, fair competition. It has the support of the administration and bipartisan support. The gentleman from Iowa [Mr. LEACH], the gentleman from Nebraska [Mr. BEREUTER], and others have been strong advocates from the other side of the aisle.

For these and many other reasons, I urge my colleagues to vote yes and strike a blow for the kind of fair and open rules of competition that create wealth and prosperity, not only for the United States but for the global community of nations.

Mr. Chairman, permit me to begin by expressing my sincere thanks to my coauthor, Mr. LEACH, to Chairman GONZALEZ and the Banking Committee staff, and especially to Chairman BARNEY FRANK and the staff of his Subcommittee on International Development and Finance, who worked exceptionally hard to shepherd this legislation through the process to the floor today.

Mr. Chairman, I am most pleased that this measure is before the full House for consideration today. I would urge all my colleagues to cast an affirmative vote for a bill that addresses an important issue for the U.S. financial services industry, which accounts for fully 6 percent of our GNP, and for America's position in the global economy. I have long been involved in efforts to assure a level playing field for financial services worldwide by trying to open foreign markets still closed to U.S. banks, securities firms, and insurance companies. The National Treatment in Banking Act of 1994 represents a positive, concrete step in this direction by clearly establishing American insistence on the consistent application of the national treatment principle for banking organizations worldwide. It would amend U.S. banking laws to: (1) require the Secretary of the Treasury to identify countries that deny national treatment, with significant adverse effects, to U.S. banks; (2) authorize the Treasury Secretary to publish such assessment; and (3) require U.S. banking regulators to take such Treasury notices into account in deciding applications by foreign banks seeking to establish new entities in the United States. The bill would not affect foreign banking offices already established and operating in the United States.

Simply put, the objective of H.R. 4926 is to provide an effective tool to encourage nations around the world to grant to U.S. banking organizations—and by extension to all foreign banks—the same rights to do business in their respective national markets as they grant to their domestic banks. In the case of the United States, this means affording to U.S. banks overseas nothing more—but nothing less—than the national treatment the United States affords to foreign banks operating in our market, something we've been doing as a matter of law since we passed the International Banking Act 16 years ago. American providers of financial services are the unquestioned world leaders in innovation, quality, and efficiency, and it is really unacceptable that they continue to face trade barriers that deny them the opportunity to compete fairly in significant overseas markets. They should be permitted to enter and operate in foreign markets in the same way that foreign banks and financial institutions have access to the large and lucrative U.S. market.

Mr. Chairman, this bill is particularly important at this time in light of the urgent need to negotiate a satisfactory agreement on financial services as part of the General Agreement on Trade in Services [GATS]. The Uruguay round negotiations, completed last December, failed to achieve an adequate convention on financial services, but allowed a limited period for further talks in this realm of critical importance to today's global economy and to America's place in it. But the clock is ticking—this negotiating period could end as early as mid-1955—and therefore it is imperative that the U.S. Congress act now to maintain pressure on America's trading partners to resolve the remaining issues and reach a multilateral accord that ensures fairness for all financial service providers, including American ones.

Mr. Chairman, this bill is designed to open foreign markets, not close the American market. It seeks to establish and enforce a level playing field that permits open, fair competition among all nations. While I share the wishes of many that the securities and insurance industries be included in this legislation, that goal unfortunately is not practical at this time, and we should proceed now with a bill I hope and believe we can pass, a bill that will still contribute very positively to the ultimate, broader objective of ensuring fairness for all financial service providers. Let us take advantage now of a real opportunity not only to send a clear signal of our concerns and intentions, but also to pass a bill that permits us to take meaningful and effective action when justified. The National Treatment in Banking Act has administration and strong bipartisan support; Mr. LEACH, Mr. BEREUTER, and others have been strong advocates from the other side of the aisle on the Banking Committee, which reported the bill out by unanimous voice vote.

For all of these and many other reasons, Mr. Chairman, I urge my colleagues in the House to vote yes, and thus strike a blow for the kind of fair and open rules of competition that create wealth and prosperity not only for the United States, but for the global community of nations.

Mr. LEACH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first let me just stress, this resolution is very heavy in principle and a bit lighter on implementation. But it does make clear to the world that this Congress expects equal treatment for our financial institutions.

It also makes clear to the world that fair trade and financial institutions is a matter of high priority in this Congress and high vigilance in future Congresses.

I would simply like to stress that unfortunately GATT to date has not yet well-addressed the financial services issue.

I would also like to stress that in one sense, financial services are just like any other industry. They involve employment. They involve a great deal of labor-intensive effort. But unlike other industries, financial services are the grease for virtually everything else. That is what credit extension is all about.

So this particular industry is particularly important. It is one that we lead the world in. It is one that we should not shy away from making clear that we expect equal competitive laws being adopted.

Finally, let me just express particular thanks to the leadership of the gentleman from New York [Mr. SCHUMER], and the gentleman from Massachusetts [Mr. FRANK], as well as the gentleman from Nebraska [Mr. BEREUTER], on our side of the aisle. I would say in this regard that if it were not for the insistence of the gentleman from Massachusetts [Mr. FRANK], that this issue not be ducked, we would not be dealing with it late in this Congress. So for him in particular, this Member would like to express great admiration.

Mr. Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. GONZALEZ], who I must say has helped the Committee on Banking, Finance and Urban Affairs compile in housing and interstate banking, et cetera, a very impressive legislative record this year.

Mr. GONZALEZ. Mr. Chairman, I rise in strong support. I want to complement the gentleman from Massachusetts [Mr. FRANK], the gentleman from New York [Mr. SCHUMER], the minority leader and his associates on the minority side, the gentleman from Iowa [Mr. LEACH].

Mr. Chairman, the National Treatment in Banking Act was adopted unanimously in the Banking Committee.

This legislation is not a complex bill. It directs the Treasury Department conduct an annual survey and determine if other nations provide national treatment, that is, do these foreign countries treat U.S. banks the same way they treat their own domestic financial institutions?

This policy of national treatment has been the official position of the United States for over a generation since the passage of the International Banking Act of 1978.

The remainder of the bill says that if foreign countries do not provide U.S. firms with national treatment, we reserve the right to possibly deny applications from banks in these countries that seek to open or extend business activities in the United States.

This legislation should not be controversial; it is not a trade agreement nor will it, under any circumstances, precipitate retaliation measures.

It is commonsense, about-time, reversal of the United States all-too-often role of being the patsy of the international financial markets.

Fortunately, most of the important members of the world financial community provide U.S. firms with national treatment and access to their domestic markets. Nothing in this bill affects our relationships with these countries or our international treaties.

There are notable exceptions where countries enjoy having their banks do business in the United States but deny, either by law or regulation, business opportunities for our firms in their country. It is simply unfair that they can have it both ways. Their one-way street policy leaves our firms competing with their banks in the United States, even without the opportunity to enter the domestic market of the foreign country.

The Banking Committee believes enough is enough. It is time for a realistic policy because at stake are U.S. jobs and economic opportunities for U.S. firms. Very simply, the issue is fairness.

I commend Chairman FRANK for his leadership for bringing this bill to the floor and I applaud the two sponsors of the bill, Congressman CHUCK SCHUMER and Congressman JIM LEACH for putting together the bipartisan coalition who will today pass this legislation.

Mr. LEACH. Mr. Chairman, I yield 3 minutes to the gentleman from Nebraska [Mr. BEREUTER], whose leadership on this issue has been so impressive.

Mr. BEREUTER. Mr. Chairman, this Member rises in strong support of the National Treatment in Banking Act of 1994, H.R. 4926, and this Member would like to commend the gentleman from Texas, the chairman of the committee, Mr. GONZALEZ, the gentleman from Iowa, the ranking minority member, Mr. LEACH, particularly the gentleman from Massachusetts, the chairman of the Subcommittee on International Development, Finance, Trade and Monetary policy, Mr. FRANK for his innovative approach which is the basis of this legislation, and the gentleman from New York, the legislation's sponsor, Mr. SCHUMER, for their hard work in bringing this legislation to the floor.

Mr. Chairman, the National Treatment in Banking Act of 1994 is important legislation which will help open foreign financial service markets to U.S. banks.

First, this legislation requires the Secretary of the Treasury to identify foreign countries which unfairly deny national treatment to U.S. banks or simply treat U.S. banks differently than domestic banks.

Second, this legislation requires the Secretary of the Treasury to assess whether a foreign country's denial of national treatment is having an adverse impact on U.S. banking organizations.

Third, this legislation requires that Federal banking agencies consider the Secretary of the Treasury's finding when evaluating applications for overseas financial firms wishing to conduct business here in the United States.

Mr. Chairman, in nearly every service and industrial sector the United States is, perhaps, the most open market in the world. Since World War II, the United States vast and lucrative market has been the world's engine of growth for the war-torn countries of Europe and Japan. More recently, the United States market has stimulated the export-driven economies of countries like Korea, Taiwan, Singapore, Thailand, and now China.

Unfortunately Mr. Chairman, the United States past policy to stimulate foreign economies by encouraging them to export here has, perhaps, worked too well. Now, the United States is faced with chronic trade deficits—like July's whopping $11 billion trade deficit in goods and services.

What then, Mr. Chairman, should the United States do to remedy our chronic trade deficits? There are those who say, we must erect barriers immediately to stem the flow of foreign goods; however, Mr. Chairman, this simple response is not the answer. Unfortunately, the U.S. Congress tried that philosophy in the Smoot-Hawley legislation of the 1930's and it only precipitated a serious depression and financial disaster for the country.

No, Mr. Chairman, we must attempt to give U.S. goods and service exporters a level playing field by attempting to lower barriers to foreign markets rather than by raising our own. Of course, retaliation against foreign countries in the form of higher tariffs and denied market access must always be a last-resort possibility, but first we must attempt to encourage foreign countries to open their markets to U.S. goods and services.

Mr. Chairman, in many sectors and industries, United States trade officials have long enjoyed the use of trade remedies which enable them to persuade foreign countries to open their markets. For example, trade officials have used section 301 trade legislation to open foreign markets for U.S. goods and service exports covered under bilateral and multilateral trade agreements. Additionally, U.S. trade officials have another tool, special 301 trade legislation, to require that foreign countries respect the intellectual property rights of U.S. patent and copyright holders.

But unfortunately, Mr. Chairman, U.S. trade officials and negotiators have not been given the appropriate tools—or crowbars as Secretary of the Treasury, Lloyd Bentsen puts it—to pay open foreign markets for the U.S. financial services industry.

Mr. Chairman, the National Treatment in Banking Act of 1994, strikes the appropriate balance in attempting to open up overseas financial markets to U.S. banking organizations. While it does not automatically sanction foreign economies for restricting access to U.S. banking organizations, it approximately requires that Federal financial regulatory agencies consider the foreign treatment of U.S. banks when evaluating applications for overseas financial firms wishing to conduct business here in the United States.

Mr. Chairman, this Member was very disappointed that U.S. trade officials failed to reach a successful agreement on trade in financial services during the last stages of negotiations of the Uruguay round trade agreement. Nevertheless, by prospectively applying this national treatment policy to foreign banks wishing to enter or expand in the United States, U.S. negotiators—who have long sought a level playing field for U.S. financial institutions in world markets—should finally have the tools and negotiating leverage to accomplish this important task.

Frankly, Mr. Chairman, this legislation is long overdue. Action on the issue has been delayed, in part, by committee jurisdictional disputes. One of the results is that, despite their worldwide recognition as innovative leaders, U.S. banks have fallen completely off the list of the world's largest 25 banks in the last 10 years. Nevertheless, Mr. Chairman, it is not too late; by passing this legislation, we can help ensure that U.S. financial institutions are treated fairly in competing for markets in foreign countries. Therefore, this Member strongly urges his colleagues to support this legislation.

Mr. DEUTSCH. Mr. Chairman, I think it vital that, before we adjourn, we pass H.R. 4926, the National Treatment in Banking Act, in order to insure that American banks receive fair access to overseas markets. However, before we vote, I want to make my colleagues aware of several provisions contained in the recently passed Riegle-Neal interstate banking bill that may cause American banks to have problems overseas. I refer to the fact that there are several provisions contained in this bill that will make it significantly more difficult for foreign banks operating in this country to expand their operations. We need to address these problems in the next Congress.

In the interstate bill, we adopted the basic philosophy that foreign banks should be treated exactly the same as domestic banks. Unfortunately, the interstate bill does not recognize that most foreign banking organizations operating in the United States are fundamentally different than domestic banks. The interstate bill overlooks a fundamental difference between these two types of institutions: Foreign branches do not take insured retail deposits, whereas domestic branches do. And I'm not just speculating about industry practice. Rather, I'm talking about three fundamental legal distinctions contained in the 1991 Foreign Bank Supervision Enhancement Act and in the interstate bill. First, foreign banks cannot operate FDIC-insured retail branches. Second, foreign banks cannot carry Federal deposit insurance. Third, the interstate bill provides that foreign banks cannot accept deposits of less than $100,000 unless the total amount of such deposits does not exceed 1 percent of the average deposits in the branch.

So, foreign bank branches are institutions which deal only in wholesale activities. Their customer base is not retail depositors, but rather industries involved in the provision of export financing. An excellent example was provided by Florida's senior U.S. Senator, BOB GRAHAM, in the September 13, 1994, CONGRESSIONAL RECORD, at page S 12781.

> I was recently in a conversation with an American business person who is involved in the sale of United States agricultural products, primarily in the Caribbean and Latin America, and that individual told me that the typical transaction . . . for the sale of an American agricultural product to Argentina is to have an Argentine bank in the United States provide the letters of credit and other export financing which are the essential ingredients to making the transaction viable. Without ready access to these foreign banks and their branches, it makes that transaction a more difficult one.

In the Miami area alone, there are over 70 offices of foreign banks. These banks have been a very important component of our State's ability to enhance export opportunities. They've also been equally important in California, New York, Illinois, Texas, and Washington State.

Mr. Chairman, I am concerned that because of these limitations, foreign banks who are so important to the export financing of U.S.-made products and services, will not be able to expand. Today, States make their own determinations about how they want to treat foreign banks. Unfortunately, the interstate bill prevents States from making that determination. We need to change Federal law in a way which recognizes the basic differences between wholesale activities of foreign banks and retail activities of domestic banks, so that all States may be able to take advantage of the export-enhancing operations of foreign banks.

Mr. Chairman, as we consider the National Treatment in Banking Act, to encourage countries to allow U.S. banks greater market access, we must realize that we are passing laws that enact impediments to banks from other countries which wish to operate on a national basis here. This is not so much a foreign bank issue as it is an issue related to the effective marketing and exporting of American products.

Next year, I hope that Congress will give serious attention to legislation which returns to the States their ability to allow entry by foreign banks. In addition, I hope that the Banking Committee will look more closely at this issue and its impact on American exports.

Mrs. ROUKEMA. Mr. Chairman, I rise in support of H.R. 4926, the National Treatment in Banking Act.

I want to commend the authors of this legislation, our Banking Committee colleague from New York, Mr. SCHUMER, and our own ranking member, Mr. LEACH, for their strong and persistent support for the equalization of treatment for U.S. banks who operate in foreign nations.

I also want to commend our colleague, Mr. FRANK for his efforts as the chairman of our International Development and Financial Institutions Subcommittee to fashion a bill which addresses the concerns of the Banking Committee while not treading on the jurisdiction of several other committees with jurisdiction over international trade issues.

H.R. 4926 directs the Treasury Secretary, in consultation with Federal banking agencies, to identify foreign countries that deny national treatment, such as equal access to competitive markets, to U.S. banking companies and to assess whether denial of this treatment is adversely affecting U.S. financial institutions.

If there is such a determination, the Secretary is instructed to publish the findings in the Federal Register and the regulators are to take this into consideration when considering applications and notices filed by foreign banks.

This is good legislation which helps provide important and equal treatment for our banks operating abroad.

I urge passage of this legislation.

Mr. ROTH. Mr. Chairman, the bill before us, H.R. 4926, the National Treatment in Banking Act of 1994, is worth enacting even though it is a mere shadow of its former self.

It is better than nothing, however, and so I urge my colleagues to join me in voting for this limited trade-related legislation.

This legislation would direct the Treasury Secretary to identify those countries that do not provide U.S. banks national treatment—that is, the same competitive opportunities that are provided a foreign country's own domestic banks.

Then the Secretary would be directed to determine whether this abuse were having a significant adverse effect on the affected U.S. banks.

His determination would have to be published in the Federal Register.

The rub would come when and if that foreign bank were to make an application to do business in the United States under the International Banking Act or Bank Holding Company Act.

Federal bank regulators would then be required to take into account whether a foreign bank's host country had been cited in the Federal Register for no providing national treatment.

The regulators would be given the power to reject the foreigner's banking application.

The facts are, witnesses told our committee earlier this year, some foreign governments are making Uncle Sam and the rest of us look like saps.

"Our U.S. financial services sector is one of the world's most innovative and competitive, yet we face many foreign barriers that limit our ability to penetrate markets abroad," said Marc E. Lackritz, president of the Securities Industry Association.

Foreign financial services providers, taking advantage of a captive customer base to their benefit, have stepped in to provide the financial services our long-standing customers need overseas.

At the same time, these same foreigners have entered the U.S. capital markets where tremendous opportunities for expansion are joined with the open regulatory environment that does not exist elsewhere.

Thus, our foreign competitors have exploited a structural advantage: Protection at home, unfettered opportunity in the United States.

The President wants this bill passed this year because he hopes it will be in time to influence the outcome of the GATT Uruguay round of trade talks on financial services.

It is certainly true that the GATT talks will deeply involve conditions under which banks and other services will operate in foreign lands.

As presented to the Congress, the GATT accord would not open up financial services to U.S. banks, insurers, or securities firms.

That is the heart of the issue addressed by this legislation—opening up foreign markets to U.S. financial services companies—particularly in the emerging financial markets in Asia and Latin America.

In fact, all that GATT would do for financial services, when and if approved by the Congress, would be to set a 2-year timeframe for continued negotiations on financial services.

Our goal in this legislation today is simple: To ensure that U.S. bankers are treated by other countries the same way foreign financial companies are treated in the U.S. market.

That is called national treatment—and that concept was resisted strongly in the GATT talks.

As originally drafted, this legislation would have closed the American market to foreign financial companies if their home country does not grant equal access to U.S. financial firms.

I voted for this broader version, and there was strong bipartisan support for it.

After all, overseas banking generated $5.4 billion in income for U.S. financial companies in 1992, and generated a $2 billion trade surplus for the United States.

It should be plain for anyone to see why it is so important to the United States that GATT rules be extended to services.

In 1992, we had an $84 billion deficit in merchandise trade.

But our services sector generated a $60 billion surplus—offsetting three-fourths of our merchandise deficit.

Last year, 1993, our merchandise deficit shot up to $116 billion—but our services trade again generated a $60 billion surplus.

The message is clear—services is an area where the United States is able to win in foreign markets.

So, we are going to insist that our services firms have access to foreign markets, or GATT will have a very shaky future in the U.S. Congress.

The course of events in the GATT talks on financial services will be a factor in how we ultimately act and operate under the GATT accord.

If there continues to be a stonewall against our services companies in foreign markets, then our Government negotiators need this legislation—even though it is limited only to banks and not to securities and insurance companies.

Congress, in the International Banking Act of 1978 and subsequent legislation, provided national treatment for foreign banks in the United States.

But, 16 years later, some foreign countries still do not provide national treatment for our banks.

I am talking about such countries as Brazil, Korea, India, Taiwan, and Japan—all of whom still being relatively closed to United States banks and other financial services despite more than a decade of bilateral negotiations on market access.

Clearly, more arrows are needed in our quiver of trade weapons if we are to obtain significantly greater access for financial services.

This bill would be such an additional weapon. I favor this measure because in today's world of emerging democracies our financial services industry could provide the financial fuel and leadership for these new, struggling economies.

American financial institutions, risking life and limb of their people as well as their money and credit in unlikely places, deserve this helping hand from their government.

The Committee on Banking, on which I serve, approved a broader bill, H.R. 3248, the Fair Trade in Financial Services Act, by voice vote on March 9, 1994.

The Senate has passed similar legislation several times. But we cannot get a vote on this in the House.

While the bill before us today applies only to banking, the earlier measure covered the securities and insurance industries as well.

That earlier bill had more teeth in it too: It would have authorized the Treasury Secretary—not the Secretary of State or the U.S. Trade Representative—to negotiate directly with foreign countries to provide more competitive opportunities of suffer being closed out of the U.S. market.

But the bill stalled because the Ways and Means Committee and the Energy and Commerce Committee objected to it as an infringement on their jurisdictions.

For these same reasons, we were unavailing in our efforts to incorporate the earlier bill in the omnibus banking bill, H.R. 3474, the Community Development Financial Institutions Act. That bill became law on September 23, 1994, as Public Law 103–325.

So we are left with this scaled-back version. And we have no idea about what the other body would do if we sent this version over to it.

There is one feature that I do like about this bill: The Congressional Budget Office says enactment of H.R. 4926 would result in no significant costs to the taxpayers.

This measure deserves our attention and considered action at this time. I urge my colleagues to vote for this bill.

Mr. FINGERHUT. Mr. Chairman, I rise in strong support for the National Treatment in Banking Act which is designed to help our government open foreign markets for U.S. banking organizations.

First, let me commend my colleagues on the Banking Committee, Subcommittee Chairman BARNEY FRANK and Full Committee Chairman GONZALEZ, for their hard work on this important legislation.

Briefly, Mr. Chairman, the problem we are trying to address with this legislation is that some foreign countries do not provide U.S. banks with the same treatment as they provide to their own domestic banks. This is referred to as "national treatment." This legislation directs the Secretary of the Treasury to identify foreign countries where U.S. banking organizations are adversely affected by a denial of national treatment. The bill then amends various banking statutes to require the Federal banking agencies to take into account the Treasury's evaluation of a foreign bank's home country when they act on the foreign bank's application to enter or to expand activities in the U.S. market.

Ultimately, this bill will create pressure that will help open foreign markets for U.S. banks.

Since the United States is generally considered to provide national treatment to foreign banks, it is only reasonable to expect that U.S. banks seeking to operate in other nations receive the same treatment.

I join my colleagues from the Banking Committee in supporting this bill.

Mr. LEACH. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered under the 5-minute rule by sections and each section shall be considered as read.

The Clerk will designate section 1.

The text of section 1 is as follows:

H.R. 4926

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Treatment in Banking Act of 1994".

The CHAIRMAN. Are there any amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. FAILURE TO ACCORD NATIONAL TREATMENT TO UNITED STATES BANKING ORGANIZATIONS.

(A) IDENTIFYING COUNTRIES THAT MAY BE DENYING NATIONAL TREATMENT TO UNITED STATES BANKING ORGANIZATIONS.—The Secretary of the Treasury shall identify, after consultation with the Federal banking agencies, the extent to which foreign countries may be denying national treatment to United States banking organizations.—

(1) based on information relating to banking in the most recent report under section 3602 of the Omnibus Trade and Competitiveness Act of 1988 (or the most recent update of such report); or

(2) based on more recent information that the Secretary considers appropriate.

(b) ASSESSING WHETHER POSSIBLE DENIAL OF NATIONAL TREATMENT MAY BE HAVING A SIGNIFICANT ADVERSE EFFECT.—

(1) IN GENERAL.—The Secretary shall assess, after consultation with the Federal banking agencies, whether the possible denial of national treatment to United States banking organizations by a foreign country identified under subsection (a) may be having a significant adverse effect on such organizations.

(2) FACTORS TO BE CONSIDERED.—In making any assessment under paragraph (1), the Secretary shall consider appropriate factors, including the following:

(A) The extent of United States trade with and investment in the foreign country, the size of the foreign country's markets for banking services, and the extent to which United States banking organizations operate or seek to operate in those markets.

(B) The importance of operations by United States banking organizations in the foreign country to the export of goods and services by United States firms to such country.

(C) The extent to which the foreign country provides in advance to United States banking organizations a written draft of any measure of general application that the country proposes to adopt, such as regulations, guidelines, or other policies regarding new products and services, in order to allow an opportunity for such organizations to comment on the measure and for such comments to be taken into account by the foreign country.

(D) The extent to which the foreign country—

(i) makes available, in writing, to United States banking organizations the foreign country's requirements for completing any application relating to the provision of financial services by any such organization;

(ii) applies published, objective standards and criteria in evaluating any such application from any United States banking organization; and

(iii) renders administrative decisions relating to any such application within a reasonable period of time.

(3) SOLICITATION OF COMMENTS.—Before making any assessment under paragraph (1), the Secretary may solicit comments concerning the effect of the possible denial of national treatment on United States banking organizations from interested parties.

(c) PUBLICATION.—The Secretary may publish a notice in the Federal Register of—

(1) any assessment made under subsection (b)(1) with respect to any country; and

(2) any change made with respect to any assessment under such subsection which was previously published in the Federal Register.

(d) DEFINITIONS.—The following definitions shall apply for purposes of this section:

(1) BANKING ORGANIZATION.—

(A) IN GENERAL.—The term "banking organization" means any bank, any bank holding company (including any company required to file reports pursuant to section 4(f)(6) of the Bank Holding Company Act of 1956), and any savings and loan holding company (as such term is defined in section 10(a)(1)(D) of the Home Owners' Loan Act).

(B) BANKING TERMS.—For purposes of this paragraph, the terms "bank" and "bank holding company" have the same meaning as in section 2 of the Bank Holding Company Act of 1956.

(2) FEDERAL BANKING AGENCIES.—The term "Federal banking agencies" has the same meaning as in section 3(z) of the Federal Deposit Insurance Act.

(3) NATIONAL TREATMENT.—The term "national treatment" means, with respect to any foreign country, treatment that offers United States banking organizations the same competitive opportunities (including effective market access) in such country as are available to the foreign country's domestic banking organizations in like circumstances.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

The CHAIRMAN. Are there any amendments to section 2?

AMENDMENT OFFERED BY MR. DREIER

Mr. DREIER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DREIER: Page 2, line 10, strike "The Secretary" and insert "Effective as of the date of the enactment of an Act establishing expedited procedures for the consideration in the Senate and the House of Representatives of a bill submitted by the President to implement trade agreements with respect to financial services, the Secretary".

Mr. DREIER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DREIER. Mr. Chairman, this bill is intended to represent a carrot and stick approach to negotiating financial services agreements. While I am concerned with any prospect that barriers will be imposed on trade in banking services, at least the goal of this legislation is to promote the opening of foreign markets to more free trade.

I was concerned that the failure to extend fast-track trade negotiating authority to the administration as part of the Uruguay Round Agreement implementing legislation had upset the balance of this proposal by denying the administration the tools needed to negotiate financial services national treatment agreements. We would be left with a stick but no carrot.

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During fast-track negotiations for the Uruguay round legislation, administration representatives repeatedly argued that extension of fast-track is critical to completing new trade agreements. One of the negotiating touted by the administration was in the area of financial services. The case was made that when the administration's fast-track authority expires upon adoption of the legislation implementing the Uruguay Round Agreement, trade negotiations, including those dealing with banking and financial services, would be left in a state of suspended animation.

My response to this apparent loss of negotiating authority was to prepare an amendment to delay implementation of this bill until fast-track authority is extended to the administration for financial service negotiations. However, when I discussed this amendment with representatives of the Treasury Department, I was told that they believe that they had the authority to negotiate national treatment in banking agreements without fast-track authority. It appears that at least in the area of financial services, fast-track authority is not as pressing a concern as some might have thought.

Mr. Chairman, I would like to engage the chairman of the subcommittee in this matter.

Mr. Chairman, I would ask the gentleman from Massachusetts [Mr. FRANK], is it his understanding that while the administration would have preferred to have fast-track authority for the completion of the Uruguay round financial services negotiations, they believe that they have adequate authority to successfully complete these negotiations without the fast-track procedures?

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. DREIER. I am happy to yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, that is the understanding. The administration does believe it has adequate authority to agree to the financial services negotiations under the Uruguay round. They point to section 135 of the implementing bill, which does set up negotiating objectives for continued talks and financial services.

They also know that the statement of administrative action establishes procedures for reporting to Congress and for consultation with both Congress and industry throughout the negotiation period.

Mr. DREIER. I thank the gentleman.

Mr. LEACH. Mr. Chairman, will the gentleman yield?

Mr. DREIER. I am happy to yield to the gentleman from Iowa, the distinguished ranking member.

Mr. LEACH. Mr. Chairman, the explanation the gentleman has given is similar to the views of this gentleman. I would simply stress that it is my view that the administration has not given near high enough priority to date to the financial services issue, and that, quite frankly, it is something that must be done.

This bill partly moves in the direction of expressing congressional concern, but I think it should be understood as critical that GATT also include financial services. I would simply hope that that message be conveyed to those conducting negotiations on behalf of the United States at this time.

Mr. DREIER. Mr. Chairman, that happens to be our goal here.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Without objection, the amendment is withdrawn.

There was no objection.

The CHAIRMAN. The Clerk will designate section 3. The text of section 3 is as follows:

SEC. 3. APPLICATIONS BY FOREIGN BANKS AND OTHER PERSONS OF A FOREIGN COUNTRY.

(a) APPLICATIONS UNDER THE INTERNATIONAL BANKING ACT OF 1978.—Section 7(d) of the International Banking Act of 1978 (12 U.S.C. 3105(d)) is amended by adding at the end the following new paragraph:

"(6) ADDITIONAL STANDARD.—In acting on any application under paragraph (1), the Board shall take into account whether the Secretary of the Treasury has published a notice, in accordance with section 2(c) of the National Treatment in Banking Act of 1994, that the possible denial of national treatment to United States banking organizations by the foreign bank's home country identified under section 2(a) of such Act may be having a significant adverse effect on such organizations.".

(b) APPLICATIONS UNDER THE BANK HOLDING COMPANY ACT OF 1956.—Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended by adding at the end the following new subsection:

"(g) APPLICATIONS BY A FOREIGN BANK.—In considering any application or notice under section 3 or 4 by any foreign bank (as defined in section 1(b) of the International Banking Act of 1978), the Board shall take into account whether the Secretary of the Treasury has published a notice, in accordance with section 2(c) of the National Treatment in Banking Act of 1994, that the possible denial of national treatment to United States banking organizations by the foreign bank's home country identified under section 2(a) of such Act may be having a significant adverse effect on such organizations.".

(c) AMENDMENT TO CHANGE IN BANK CONTROL ACT.—Section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)) is amended by adding at the end the following new paragraph:

"(19) NOTICE BY A PERSON OF A FOREIGN COUNTRY.—

"(A) IN GENERAL.—In considering a notice under this subsection by a person of a foreign country, the appropriate Federal banking agency shall take into account whether the Secretary of the Treasury has published a notice, in accordance with section 2(c) of the National Treatment in Banking Act of 1994, that the possible denial of national treatment to United States banking organizations by such person's home country identified under section 2(a) of such Act may be having a significant adverse effect on such organizations.

"(B) PERSON OF A FOREIGN COUNTRY DEFINED.—For purposes of this paragraph, the term 'person of a foreign country' means—

"(i) any entity that—

"(I) is organized under the laws of the foreign country, or

"(II) has the entity's principal place of business in the foreign country;

"(ii) an individual who—

"(I) is a citizen of the foreign country, or

"(II) is domiciled in the foreign country; and

"(iii) any person that is, directly or indirectly, under the control of any entity or individual described in clause (i) or (ii).".

(d) AMENDMENT TO NATIONAL BANK ACT.—Section 5155 of the Revised Statutes (12 U.S.C. 36) is amended by adding at the end the following new subsection:

"(i) APPLICATION BY A BANK WHICH IS A PERSON OF A FOREIGN COUNTRY.—In considering any application under this section by any bank which is a person of a foreign country (as defined in section 7(j)(19)(B) of the Federal Deposit Insurance Act), the Comptroller of the Currency shall take into account whether the Secretary of the Treasury has published a notice, in accordance with section 2(c) of the National Treatment in Banking Act of 1994, that the possible denial of national treatment to United States banking organizations by such person's home country identified under section 2(a) of such Act may be having a significant adverse effect on such organizations.".

(e) AMENDMENT TO FEDERAL DEPOSIT INSURANCE ACT.—Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is amended by adding at the end the following new paragraph:

"(12) APPLICATION BY A BANK WHICH IS A PERSON OF A FOREIGN COUNTRY.—In considering any merger transaction under this subsection involving any bank which is a person of a foreign country (as defined in section 7(j)(19)(B), the responsible agency shall take into account whether the Secretary of the Treasury has published a notice, in accordance with section 2(c) of the National Treatment in Banking Act of 1994, that the possible denial of national treatment to United States banking organizations by such person's home country identified under section 2(a) of such Act may be having a significant adverse effect on such organizations.".

(f) AMENDMENT TO FEDERAL RESERVE ACT.—The 3d undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 321) is amended in the proviso by inserting ", including section 5155(i) of the Revised Statutes," after "limitations and restrictions".

AMENDMENT OFFERED BY MR. DREIER

Mr. DREIER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DREIER: Page 10, after line 14, insert the following new section:

SEC. 4. CONSISTE4NCY WITH BILATERAL AND MULTILATERAL AGREEMENTS.

No authority under this Act or any amendment made by this Act to any other law may be used to take any action with respect to a foreign country which is inconsistent with any bilateral or multilateral agreement that governs financial services in which such country is obligated to provide national treatment for United States banking organizations.

Mr. DREIER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DREIER. Mr. Chairman, a free-trade agreement is a very complex, multifaceted agreement that reduces barriers to trade in a wide range of goods and services. Banking and financial services are generally an important part, but only one part, of such an agreement.

The purpose of my amendment is to ensure that countries which have entered free-trade agreements with the United States that include banking are not subject to the enforcement process in this bill

For example, Mr. Chairman, less than a year ago we passed the North American Free-Trade Agreement. In that we agreed to the general principle of national treatment in financial services, but throughout the agreement there are exceptions to the principle of free trade. In a complex trade agreement, it is possible that U.S. negotiators would agree to provide some exceptions or reservations for our trading partner in the area of banking in exchange for U.S. exceptions in another area.

I do not believe that the national treatment review authority provided to the Treasury Department in this bill should override or call into question those negotiated agreements. In some cases, the United States may have agreed to less than full national treatment. In other cases, if a trade agreement provides for full national treatment in banking services, and that treatment is not provided, the U.S. Government should first use the dispute resolution process contained in the agreement, not resort to unilateral action.

Again, Mr. Chairman, to use NAFTA as an example, if Canada or Mexico were not meeting their commitments in the area of banking services, the appropriate course of action would be to first initiate action through the NAFTA dispute resolution process.

Mr. Chairman, I yield to the distinguished gentleman from Massachusetts [Mr. FRANK], chairman of the subcommittee.

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the gentleman for yielding. We welcome this amendment. The committee report states that we do not intend for this legislation to alter the obligations of the United States under the international agreement. The gentleman's amendment to the bill removes any possible ambiguity on this point.

Mr. DREIER. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I yield to the gentleman from Iowa [Mr. LEACH], the ranking member of the full committee.

Mr. LEACH. Mr. Chairman, I would only stress that this is a unique legislative circumstance in one sense. This was part of the original bill, and it was not included before it was brought to the floor to avoid certain jurisdictional concerns, but it is a very thoughtful aspect of any approach of this nature. I think it is appropriate that the gentleman from California [Mr. DREIER], from the Committee on Rules, has brought the bill back more precisely to its original intent. It is a welcome amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, if the gentleman will continue to yield, I think it is a wonderful amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. DREIER].

The amendment was agreed to.

The CHAIRMAN. Are there any further amendments to the bill? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SCOTT) having assumed the chair, Mr. BARLOW, chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4926) to require the Secretary of the Treasury to identify foreign countries which may be denying national treatment to U.S. banking organizations and to assess whether any such denial may be having a significant adverse effect on such organizations, and to require Federal banking agencies to take such assessments into account in considering applications by foreign banks under the International Banking Act of 1978 and the Bank Holding Company Act of 1956, pursuant to House Resolution 543, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The bill was passed.

The title of the bill was amended so as to read: "A bill to require the Secretary of the Treasury to identify foreign countries which may be denying national treatment to U.S. banking organizations and to assess whether any such denial may be having a significant adverse effect on such organizations, and to require Federal banking agencies to take such assessments into account in considering certain applications and notices by foreign banks and other persons of a foreign country.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRANK of Massachusetts. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CONFERENCE REPORT ON H.R. 4299, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 555 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 555

Resolved, That all points of order against the conference report to accompany the bill (H.R. 4299) to authorize appropriations for fiscal year 1995 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, and against its consideration are waived.

The SPEAKER pro tempore. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield the customary one-half hour to the gentleman from Florida [Mr. GOSS], pending which I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, House Resolution 555 is the rule providing for the consideration of conference report on H.R. 4299, the Intelligence Authorization Act for fiscal year 1995.

The rule waives all points of order against the conference report and against its consideration. The request of the chairman of the Intelligence Committee for the waivers of points of order that might lie against the conference report, was agreed to by the ranking minority member, and appear to have widespread bipartisan support.

For my colleagues' information, the waivers deal almost entirely with matters of scope. No waiver of the 3-day layover rule, which is often so controversial, was required since the conference report was filed in time to comply with the layover rule.

The conference report does contain several provisions which exceed the scope of the conference. The chairman testified that all of these provisions were included to respond to events which occurred after the House and Senate bills had either been reported or passed.

For example, section 504 limits the reach of a section in the 1995 defense authorization act for fiscal year 1995 which, is not addressed, would undermine the National Security Act's requirement that spending on intelligence programs be specifically authorized.

Section 602 responds to the controversy surrounding the National Reconnaissance Office's headquarters facility by establishing a requirement to clearly delineate intelligence community construction projects with a cost in excess of $750,000.

In addition, the conference report contains an authorization, contained in the classified schedule of authorizations, for an arms control treaty monitoring activity which the administration did not request until last month.

The chairman testified that these provisions, and other out-of-scope items adopted in conference, address important issues that the conferees felt could not wait to be included in the fiscal year 1996 authorization bill. If the House is to consider these matters this year, the points of order that would otherwise lie against them must be waived.

Mr. Speaker, the conference report of H.R. 4299, authorizes funds for all the intelligence and intelligence-related activities of the United States for the coming fiscal year. It also provides legislative authorities for the conduct of U.S. intelligence activities which are regularly found in an intelligence authorization bill.

The authorization levels in the conference report are classified, but they have been available for review by Members. The amount authorized is approximately 2 percent less than the President's budget request, and 2 percent less than last year's appropriated level.

Mr. Speaker, this bill contains several important provisions, some of which are in response to the Aldrich Ames espionage case which has caused—and I might add, continues to be responsible for—so much concern to all of us who are interested in the successful operation of our intelligence community.

Chief among the provisions approved by the conference committee in response to the Ames case is one strengthening the role of the Federal Bureau of Investigation in counterintelligence activities.

I commend the committee for the persistence it has shown in dealing with this serious case and for including in this legislation some of the safeguards that must be taken to ensure that this not occur again.

The bill also recognizes the necessity for the entire intelligence community to adjust to the post-cold-war era. It is obvious that the intelligence agencies need to reexamine their overall roles and missions in this new world, and the conferees have given the agencies guidance in this respect.

Mr. Speaker, the Intelligence Committee is also to be commended for attempting to make the intelligence budget reflect the reality of a world significantly changed from a national security standpoint, while ensuring that the United States maintains the ability to provide timely and reliable intelligence to its policymakers and military commanders.

The committee is bringing the intelligence budget down, but in a measured way which preserves essential capabilities and encourages investment in the collection and processing systems which will be needed in the future. Personnel rolls are being trimmed as well and, as a result of actions mandated by Congress 2 years ago, by the end of fiscal year 1997, employment levels will be a least 17.5 percent less than they were in fiscal year 1992.

Despite the demise of the Soviet Union, the world clearly remains an unpredictable and dangerous place. There is a need for effective intelligence, especially in light of the worldwide reduction of U.S. military personnel.

The conference report also requires the intelligence agencies to review their operations, another step which is important in responding to the Ames case and all the events that allowed that case to reach the stage it did.

Spending throughout the national security establishment has been reduced in recent years, and intelligence has been no exception. This was inevitable given the significant changes which have occurred in the world. It is the Intelligence Committee's judgment that neither the reductions made in past years, nor those contained in this year's bill, will hinder the ability of the intelligence agencies to respond to essential intelligence requirements.

Mr. Speaker, this is a good rule, and I urge my colleagues to approve it so that we may proceed with consideration of this important conference report today.

□ 1450

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule is quite straightforward—in fact, as we work our way through the myriad of conference reports in these closing days of the 103d session, Members should be getting used to seeing such blanket waivers of points of order. Although it is understandable that technical waivers of scope and germaneness may be necessary to ease consideration of these mammoth bills, I do believe it is worthwhile to proceed with the exercise of specifying exactly which waivers are necessary on each conference report and for what reason. Again I wish to remind my colleagues that we generally get in trouble around here when, in a rush to move a bill through, we waive the rules, expedite consideration and end up voting on legislation containing unexpected surprises. I daresay the folks at Lamar University in Texas are still smarting over the spate of undeserved negative publicity that was generated by one such "surprise" item inserted into the recent crime bill conference report, that did for Lamar University what the Edsel did for the Ford Motor Co.

For that reason, I was very glad that Chairman GLICKMAN and ranking member COMBEST were able to complete work on the intelligence authorization conference report in concert with the House schedule to allow Members the customary 3 days' time to review this important bill before today's vote. For the record, I commend Chairman GLICKMAN and ranking member COMBEST for coming to the Rules Committee fully prepared to discuss the specific rules waivers needed and the reasons for those waivers. I certainly hope this trend will continue and expand to all committee chairmen in the 104th Congress.

Regarding the underlying conference report for H.R. 4299, I understand the difficult choices the members of the committee had to make in a somewhat hostile environment of public and official scrutiny and media malevolence toward our Nation's intelligence programs. I remain concerned about the ongoing efforts to scale back—some might even say cripple—our intelligence capabilities by those who harbor the misguided view that somehow the threat to United States security and world stability has disappeared with the Soviet Union. Clearly, that is not the case—but just as clearly our policymakers have, it seems, and the Clinton Administration in particular, have not made a strong enough case to the American people and those in control of the purse strings regarding the enormous contribution and continued need for accurate, timely, and effective intelligence. I am pleased that this bill provides for a new Commission to review our Nation's intelligence capabilities, a review that should highlight the continuing importance of quality intelligence operations. But I hope that effort will be a cooperative mission to generate productive reforms for the CIA and other intelligence components and, not a slash-and-burn attempt to further weaken our intelligence capabilities. Finally, Mr. Speaker, let me express my disappointment that, despite the hard work and support of ranking member COMBEST, a provision that had been added to the House bill requiring Members of Congress to sign an oath of secrecy and be held accountable for their treatment of classified material, was once again deleted by the conference. I remain absolutely convinced that Members of Congress need to raise their awareness of the responsibility they hold when they seek access to classified material, and I view a simple secrecy oath as a painless but effective means to accomplish that goal. Having said that, Mr. Speaker, let me repeat my congratulations to the chairman and ranking member for their hard work and express my support for this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in conclusion and to repeat, this rule waives all points of order against the conference report on the authorization bill and against its consideration. I remind my colleagues that these waivers were fully supported by the ranking minority member of the Permanent Select Committee on Intelligence and received unanimous approval of the Committee on Rules.

Mr. Speaker, finally, I want to take this time to congratulate my good friend and colleague the gentleman from Kansas [Mr. GLICKMAN], the chairman of the Permanent Select Committee on Intelligence, and the gentleman from Texas [Mr. COMBEST], the ranking minority member, for their excellent work on issues that are extremely important and often very difficult to deal with. They have again brought us a good piece of legislation. I again urge my colleagues to vote for the rule so that we may consider the conference report on the bill today.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. GLICKMAN. Mr. Speaker, pursuant to House Resolution 555, I call up the conference report on the bill (H.R. 4299), to authorize appropriations for fiscal year 1995 for intelligence and intelligence-related activities of the U.S. Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. WATT). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Tuesday, September 27, 1994, at page H9883.)

The SPEAKER pro tempore. The gentleman from Kansas [Mr. GLICKMAN] will be recognized for 30 minutes, and the gentleman from Texas [Mr. COMBEST] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. COLEMAN], the distinguished chairman of the Subcommittee on Legislation.

Mr. COLEMAN. Mr. Speaker, I rise in support of the conference report on H.R. 4299, the intelligence Authorization Act for fiscal year 1995. This legislation addresses many significant issues, particularly those raised in the wake of the arrest and conviction of Aldrich Ames, the most notorious spy in the history of the Central Intelligence Agency. Passage of this legislation should enhance U.S. counterintelligence capabilities and deter espionage in the future. I want to quickly highlight some of the matters that were not found in the House-passed bill.

First, the conference agreement requires the President to establish uniform, minimum standards to govern access to classified information by employees of the executive branch. As one of the requirements of receiving access, employees will be required to consent to allow the disclosure, under certain circumstances of certain financial credit and travel records, to authorized investigative agencies, during background investigations, while the employee is granted access to classified information, and for 3 years thereafter.

Investigative agencies may request these records when there are reasonable grounds to believe, based on credible information, that the individual is disclosing classified information in an unauthorized manner to a foreign power, when there is credible information of unexplained affluence or excessive indebtedness, or when circumstances indicate the individual had the capability and opportunity to disclose classified information known to have been lost or compromised to a foreign power.

A second major provision of the conference agreement requires the executive branch to bring physical searches conducted for intelligence purposes under the court order procedure of the Foreign Intelligence Surveillance Act. Currently, these searches are undertaken only on the basis of Attorney General approval, without judicial review of any kind. Although an argument can be made that these national security searches are constitutional, there is no authoritative Supreme Court decision on the question. Had the Ames case gone to trial, the legality of the searches of his home, authorized by the Attorney General but without a judicial warrant, certainly would have been litigated. If the searches were found to have been illegal, it is likely the entire prosecution would have been thwarted, and Aldrich Ames would have walked away free. There was thus broad—although not universal—support for taking action on this legislation, requested by the administration, to ensure better judicial and congressional oversight of these searches.

The conferees took steps to improve the Senate version of the physical search legislation, particularly with respect to searches of the residences of U.S. persons. The conferees agreed that the Attorney General, as part of an application for a court order, should state what investigative techniques had been previously utilized to acquire the foreign intelligence information concerned. In addition, the conferees provided authority for the court to release more information to the subject of a search during court proceedings challenging the legality of the search. Furthermore, the conferees directed the Attorney General to give notice of a search to its subject if at any time after the search the Attorney General determines there is no national security interest in continuing to maintain its secrecy.

A third major provision of the conference report addresses the problems of coordination of counterintelligence activities which has had a long and sorry history. The agreement requires the establishment of a counterintelligence policy board to develop policies and procedures for the approval of the President on the conduct of counterintelligence activities. The provision requires the heads of Federal departments and agencies to report, immediately to the Federal Bureau of Investigation any information, regardless of its origin, that indicates classified information may have been disclosed in an unauthorized fashion to a foreign power. The efforts the President has made to improve the workings of the bureaucracy, and this provision in law, should ensure these coordination problems do not persist in the future.

Additionally, the conference report repeals the limitation on U.S. intelligence cooperation with the government of South Africa. Although this provision was not included in the House bill, it was the subject of a hearing before my Subcommittee on Legislation. The conferees were convinced that the repeal was appropriate now that the people of South Africa have freely elected a new government.

Finally, the conference agreement requires the establishment of a 17-member commission to undertake a comprehensive assessment of the roles and capabilities of the intelligence community in the post-cold-war global environment. The charter for this commission is far-reaching, and its conclusions could be extremely useful in setting intelligence policy for the next century.

Mr. Speaker, I regret that the conference agreement does not include the provision which would have established in statute the offices of the inspectors general at the defense Intelligence Agency and the National security Agency. I believe our legislation would have improved the effectiveness of these offices to a considerable degree, but concerns raised by the Department of Defense led the conferees to put the provision aside. Certainly, this issue should be addressed again next year so that these inspectors general have the tools they need to perform their mission.

Again, Mr. Speaker, this is a good agreement, and I urge my colleagues to support it.

Mr. GLICKMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. DICKS], the distinguished chairman of the Subcommittee on Oversight and Evaluation.

Mr. DICKS. Mr. Speaker, I want to place in the RECORD two documents that give an accurate picture regarding the NRO Westfield Facility. The first document details what the Senate Select Committee on Intelligence [SSCI] knew and when they knew it. It is clear that the SSCI not only supported the reorganization but actually added $30 million to accelerate the project. Senators and staff, some whom are still serving on the committee, were given detailed briefings about the NRO project by top NRO officials, including the director of the NRO, Martin Faga.

I am disappointed by the current SSCI leadership in their efforts to create the impression that they knew little or nothing about this project.

I also am including a statement by the Director of Central Intelligence and the Deputy Secretary of Defense.

JOINT STATEMENT ISSUED BY THE DIRECTOR OF CENTRAL INTELLIGENCE AND THE DEPUTY SECRETARY OF DEFENSE, SEPTEMBER 29, 1994

On August 8, 1994, the Director of Central Intelligence and the Deputy Secretary of Defense announced the formation of a team to review the history of the National Reconnaissance Office (NRO) headquarters construction project, the information provided to Congress during the course of the project, and ways to ensure completion in as cost-effective manner as possible. Named to cochair the review team were Assistant Secretary of the Navy Nora Slatkin and Central Intelligence Agency Principal Deputy General Counsel John R. Byerly.

Ms. Slatkin and Mr. Byerly have now briefed the Director of Central Intelligence and the Deputy Secretary of Defense on the team's principal findings and recommendations. A written report is being prepared and will be submitted shortly.

The results of the review are as follows:

The team found no intent to mislead Congress.

The oversight Committees approved the reorganization of the National Reconnaissance Office, specifically authorizing $30 million in additional funds for this purpose as early as 1989. They also approved the purchase of property in Fairfax County, Virginia, and the startup of building construction.

The National Reconnaissance Office failed to follow Intelligence Community guidelines for presenting new initiatives in its Congressional Budget Justification Books.

In response to Congressional requests, the National Reconnaissance Office provided cost data on the project. But, the data was not presented in a consistent fashion and did not include the same level of detail as comparable military construction requests.

The NRO was responsive to Congressional requests for other information and provided details on site selection, commercial cover to protect NRO's classified status, and overall facilities design.

The Director of Central Intelligence and the Deputy Secretary of Defense have approved the review team's recommendation that, in consultation with the Congress, the National Reconnaissance office should ensure that future budget submissions conform to Intelligence Community guidelines and meet Congressional needs.

The review team found that the construction costs per square foot for the headquarters facility are reasonable based on comparable military facilities and that the National Reconnaissance Office's streamlined execution of the project is working well.

The team determined that, when judged by General Services Administration standards, the headquarters facility will be underutilized when completed and can house at least 500 and as many as 1,000 persons in addition to the approximately 2,900 NRO personnel currently planned. The team concluded that this underutilization was the result of faulty initial assumption about space requirements and was perpetuated by the absence of further internal or an external review.

Consistent with the team's recommendations, the Director of Central Intelligence and the Deputy Secretary of Defense have instructed the Director of the National Reconnaissance Office, working with the Intelligence Community Management Staff, to present to the Director of Central Intelligence for approval a plan for accommodating between 500 and 750 additional personnel in the facility, which is scheduled for occupancy in January 1996. This number of additional personnel would bring the building within the normal occupancy range for GSA buildings in the National Capital Region, and requires no significant change in construction.

For major NRO infrastructure construction projects in the future, the Director of Central Intelligence and the Deputy Secretary of Defense will name appropriate representatives to review and validate the facility requirements from the outset and at each major milestone.

The review team concluded that declassification of the NRO's ownership and use of the facility will permit significant tax savings because United States Government facilities are not subject to state and local taxation.

The team determined, and the NRO agreed, that the NRO's budget for furniture and support equipment could be reduced by at least $8 million. In addition, the team identified $6 million in the budget for communications-related items that need further review. As recommended by the team, the Director of Central Intelligence and the Deputy Secretary of Defense have instructed the Director of the NRO to conduct a review before expending funds for these items.

Source: Senate Supplement to Report No. 101-78.

Date: 1989.

Content: NRO Reorganization (FY90 $+30.0M; * * *) * * *

The Committee believes that the best approach to insuring a robust national reconnaissance program is to reorganize the NRO in a way which facilitates greater communication, cross-system and cross-program fertilization, and common security, support, and administrative practices. Thus, the Committee directs that, unless an Alternative plan approved by the Secretary of Defense and the DCI is submitted prior to November 1, 1989, the NRO begin, no later than November 1, 1989, a reorganization according to the plan outlined in a letter to the Intelligence Committee dated November 21, 1988 by then Secretary of the Air Force Edward C. Aldridge, Jr. * * *

(2) collocation of remaining activities in a central facility in the Washington, D.C. area; and * * *

* * * the Aldridge Plan * * * Ultimately, circa 1991–1992, the plan called for the collocation of the CIA, Air Force, and Navy program offices in a new facility in Northern Virginia. The Committee believes these goals and the timetable are realistic. Moreover, additional realignment of program office functions are made feasible by the collocation and should be pursued. * * *

Accordingly, the Committee directs that all activities of the various program offices be collocated according to the 1991–1992 timetable unless the Director, NRO decides, based on compelling reasons, that certain sub-elements of the three program offices should not collocate. In such a case, the Director should notify the Intelligence Committees of his decision and describe his rationale for it. * * *

The Committee authorizes an additional $30.0 million in FY1990 and $27.0 million in FY1991 in the NRP for the reorganization.

Source: FY 1990 Intelligence Authorization Act * * * Committee of Conference.

Date: 1989.

Content: * * * After conducting its own review, the Senate reached a similar conclusion and added $30,0 million in fiscal year 1990 to provide for reorganization activities. The Senate bill also required that a reorganization plan be provided by November 1, 1989.

The conferees agreed to authorize $30.0 million for reorganization activities including planning, contract support, * * * and modification, equipment and furniture, etc. * * *

Source: FY 1990 Appropriations Conference Classified Annex

Date: November 27, 1989

Content: The conferees agree, subject to the authorization process, to provide $30,000,000 for certain facilities costs associated with the NRO reorganization. * * *

Source: Joint Letter from the DCI and the SECDEF to: The Honorable David L. Boren, Chairman, Select Committee on Intelligence, United States Senate, Washington, DC 20510.

Date: 26 February 1990

Content: In our July 3, 1989 letter regarding the NRO restructure we stated our intent to: * * * *

a. Implement a NRO headquarters collocation that will include the DNRO, his deputies, their staff support, management elements from the three Program Offices, and appropriate centralized support functions in order to facilitate a more integrated organizational approach to accomplishment of the * * * mission.

We endorse the DNRO's decision not to pursue further collocation at this time. * * * However, we do believe, as he does, that it is important that we continue to protect the option to implement additional collocation initiatives if required. The DNRO's facility acquisition strategy will support this objective. * * *

WILLIAM H. WEBSTER,
Director of Central Intelligence.
RICHARD B. CHENEY,
Secretary of Defense.

Attachment.

NRO RESTRUCTURE

In order to provide the required facilities in as timely a manner as possible and to maintain the flexibility to implement the full range of potential restructure alternatives, a phased, incremental facility strategy has been adopted.

I have decided to protect for a least-total-cost acquisition strategy for the permanent facility which involved the purchase of both the land and the buildings required. This approach has the highest near-year costs but it provides the greatest flexibility regarding additional collocation decisions and, in a budgetary sense, protects for any other approach.

C. Funding

Facilities permanent

Fiscal year:	
1991	$31.9
1992	70.1
1993	44.4
1994	19.8
1995	29.2
Total	195.4

Source: Excerpt from FY 1991 Congressional Budget Justification Book, submitted to all appropriate authorization and appropriations committees.

Date: Early 1990.

Content: This element of the Mission Support expenditure center includes the facilities required in the NRO reorganization. * * *

The MRO is using a phased incremental facility strategy as part of its overall restructure process. The facilities include a * * * permanent facility. The NRO plans to acquire the permanent facility to accommodate all functions * * * and other NRO activities as directed by the DNRO. Financial figures in the Report on the NRO restructure protect the option to acquire the land to support a total collocation and a building sized for less than total collocation. * * *

Source: Letter to David L. Boren, Chairman, Senate Select Committee on Intelligence from DNRO, Faga.

Date: September 17, 1990.

Content: This letter provides formal notification of the National Reconnaissance Office (NRO) intent to purchase a parcel of land in support of the permanent facility collocation activities of the NRO restructure efforts. This action is consistent with our overall facility strategy and the NRO Restructure Report published in January 1990.

The third phase of the facility support plan, the subject of this letter, involves the acquisition of property and facilities that provide a permanent solution for our collocation activities. Our intent is to be able to accommodate, in the permanent facilities, all the activities previously located.* * * In addition, the permanent facility site will allow for additional collocation up to and including all of the NRO and some of our supporting contractors.* * *

* * * The actual land purchase agreement will be executed between the land owner and our facility support contractor. Title to the property will be notionally held in the name of our facility support contractor, thus supporting our cover and security.* * * This will then be converted to pass-through arrangement between the facility support contractor and the United States Government. A similar arrangement will be used during the building construction phase. There will be no G&A or fee markup on the pass-through contracts * * *

* * * Size of the parcel: The size of the parcel in approximately 68 acres.

* * * The current master plan provides for the development of approximately 1.3 million square feet on the site. The purchase agreement allows us to develop slightly less than 1.5 million square feet.* * * The master plan has been structured by definition as a three-phase development program. Phase one provides for the construction of approximately 500,000 square feet.* * * Phase two would add an additional 400,000 square feet. Phase three would provide an additional 400,000 square feet. Flexibility is inherent in the master plan to allow phase two and three to be sized differently as the need arises. We plan to proceed with phase one construction only at this time. Phase two and three protect the option for additional collocation, up to, and including a total collocation.

Source: Department of Defense Appropriation Bill, 1991.

Date: October 9, 1990

Content: * * * Furthermore, in order to support the *permanent restructure* of the NRO, the Committee authorizes the NRO to continue to *contract directly* for its facility activities including planning, contract support, * * * modification, land and building acquisition and equipment. *Land and facility acquisition will remain subject to the prior approval of the appropriate Congressional committees. The permanent facility site should provide for expansion capability* to accommodate additional collocated activities as required.

Source: Intelligence Authorization Act for Fiscal Year 1991.

Date: 1991.

Content: Furthermore, to support the *permanent restructuring* of the NRO, the conferees agreed to authorize the NRO to continue to *contract directly* for its facility activities including planning, contract support, * * *, modification, land and building acquisition, and equipment. *Land and facility acquisition will remain subject to the prior approval of the appropriate Congressional committees. The permanent facility site should provide for expansion capability* to accommodate additional collocated activities as required.

Source: Excerpts from the FY 1992–1993 Congressional Budget Justification Book, submitted to all appropriate authorization and appropriation committees.

Date: Early 1991.

Content: * * * center includes the facilities required in the NRO reorganization * * *

The NRO is using a phased strategy for the facility restructure process. The facilities include a * * * final facility * * *

The NRO is using a phased strategy for the facility restructure process. The facilities include a * * * final facility * * * *In FY 1991, the NRO acquired the land for the final facility*, as well as collocation of some program offices although the *the parcel of land is sized to protect the option of a total collocation* if required. This budget submission only includes funding for a less than full collocation approach.

Source: Excerpts from the FY 1993 Congressional Budget Justification Book, submitted to all appropriate authorization and appropriation committees.

Date: Early 1992.

Content: The NRO is using a phased strategy for the facility restructure process. The facilities include a * * * final facility. * * * In FY 1991, the NRO acquired a parcel of land sufficient to protect for the option of full collection. The final NRO facility headquarters will be located in western Fairfax, Virginia on approximately 70 acres. The facility master plan allows for a six building complex, structured parking, emergency generator building, warehouse, conference facility, and cafeteria. The current construction plan and budget provide for three buildings to accommodate all functions currently located at * * * well as collocation of some program office elements; general site development; site security; and the basic infrastructure support additional buildings. The site development phase, begun in FY 1991, included clearing and grading, roads, site utility installation, parking structures and building foundation. The building core and shell construction is scheduled to begin in summer 1992. Building fit-up will commence in summer 1993 with building activation, equipment installation and testing scheduled for early 1995 leading to occupancy in late 1995. The total construction is approximately 800,000 gross square feet.

Source: Senate Select Committee on Intelligence Question for the Record, Fiscal Year 1993.

Date: May 19, 1992.

Content: Question 3. Please provide a budget breakout for NRO facilities contruction for each year FY93-FY95. Please indicate the number of people who will occupy the new facility in FY95, and the savings that will be achieved as NRO elements vacate other facilities.

Answer: The FY 1993 CBJB contains the following for the permanent facility development Activities:

Fiscal year:	
1993	$80.0
1994	80.9
1995	65.7
Total	227.4

This FY 1993 budget provides for construction, outfitting, operations and maintenance of three permanent buildings. It also provides for general site development of the NRO Facilities compound, site security, structured parking, and an emergency generator building, warehouse, conference center and cafeteria.

The current three-building plan is designed to accommodate approximately 1700 people * * *.

Source: Senate Select Committee on Intelligence Question for the Record, Fiscal Year 1993 CBJB.

Date: May 19, 1992.

Content: QUESTION 4. What are the costs in FY 93 and FY 93-97 to accelerate construction plans sufficient to provide for full collocation of Program A and Program B at the western Fairfax facility?

ANSWER: The additional cost for full collocation of the NRO into the western Fairfax facility in accordance with the approved site plan is as follows:

Fiscal year:	
1993	$59.5
1994	74.9
1995	41.1
1996	27.2
1997	25.3
Total	228.0

These costs provide for the additional design, site work, utilities, parking, construction, security, commo, operations, and maintenance associated with the addition of the fourth building at our permanent facility. This will allow us to achieve full collocation of the NRO * * * We are preparing a FY 1992 reprogramming request for your approval so that we may proceed in an expeditious fashion.

Source: Senate Select Committee on Intelligence—Question on the Collocation Project.

Date: 29 May 1992.

Content: What is the FY92 and FY93 budget for the permanent facility and what is the cost to complete of the permanent facility?

The current budget for the permanent facility development activities is as follows:

Fiscal year:	
1992	$81.6
1993	80.8
1994	80.9
1995	65.7

Source: Letter to The Honorable David Boren, Chairman Senate Select Committee on Intelligence from D/NRO Faga.

Date: October 16, 1992.

Content: I am writing to request approval to reallocate $22 million of FY 1992 * * * funds within the National Reconnaissance Program (NRP) * * *

The panel recommends reorganization into several directorates, * * * and collocation of major NRO elements as expeditiously as possible. This recommendation was approved by the DCI, the Secretary of Defense, and the President.

Our Congressional Oversight Committees have been encouraging collocation for several years and the FY 1993 Appropriations Conference report specifically permits us to proceed. * * *

The $22 million will be used for design and construction activities related to increasing the size of the permanent facility, approved by Congress in FY 1991 * * *

MARTIN C. FAGA.

Source: Appropriations for Fiscal Year 1993 for Intelligence.

Date: 1992.

Collocation in the National Capitol Region: The conferees agree that the NRO may proceed with the collocation of the NRO program offices in the National Capitol Region.

Source: Briefing provided to Senate Select Committee on Intelligence Staff Members.

Date: 10 November 1992.

Benefits

Strengths Technical Capability of Organization
Improves Decision Making
Facilitates Functional Organization Structure
Allows Merging of Similar Functions—Minimize Redundancy
Promotes Closer, More Active, Interfaces with Customers
Improves Ability to Develop More Integrated * * * Architecture

Modified Plan—Total NRO collocation by 1993

* * * Panel Recommendation—Supported by SECDEF and DCI
Initiate Option for Additional Space at Westfields * * *

WF CURRENT BASELINE

4 Six story office buildings
Conference Center
Cafeteria
Emergency generator building
2 Guard houses
Approximately 1 million sq ft

ROUGH GRADING

Cost—975K
Schedule—1991
Cleared site
Install storm drainage system and retention ponds
Fenced the site
Rough excavation

SITE DEVELOPMENT

Cost—22.4 M
Schedule 8/91-6/91
Building parking garages
Road construction
Site utilities
Foundations for tower 1 & 2

CORE AND SHELL

Cost—87.7 M
Schedule—8/92-9/94
Tower 3 and 4 foundation and conference center
Tower 1-4 base building construction (exterior shell, roof, unfinished floors)
Central plant (elec and HVAC)
Back-up generator building
Toilets, elevators, stairs, mechanical rooms, plumbing, electrical, vertical HVAC, light fixtures, doors, fire alarms, and energy management system

WF COST (COST PER SQ FT—1,063,000 FT)

Core and Shell (C&S)—$82.50
C&S and site development—$103.57
+Rough grading—$104.49
+Land—$127.09
+F/U—$175.16

FACILITY BUDGET

Westfields—Design/construction and support

Total facility budget

1993	$114.3
1994	187.0
1995	138.3
1996	108.3
1997	100.3

Includes $22.0M reallocation.

Source: Letter to DNRO Faga from David L. Boren, Chairman and Frank H. Murkowski, Vice Chairman, SSCI.

Date: November 13, 1992.

Content: This letter is in response to your October 16, 1992 request to reallocate $22 million of fiscal year 1993 * * * to accelerate the NRO's consolidation plan.

The Committee does not object to the expenditure of funds for the purpose specified. * * *

Source: Excerpts from the FY 1994-1995 Congressional Budget Justification Book, submitted to all appropriate authorization and appropriation committees.

Date: Early 1993.

Content: * * * includes the facilities to support the NRO reorganization. * * *

The Restructure Plan approved by the SECDEF and DCI collocates most of the NRO to a single location as soon as possible. * * * Full collocation will be supported with the occupancy of the NRO Westfields facility in 1996 * * * final NRO facility headquarters will be located in western Fairfax, Virginia on approximately 70 acres * * * The current construction plan and budget provide for four buildings to accommodate all functions currently located * * * general site development, site security, and the basic infrastructure support for additional buildings. * * * The total construction is approximately 1,000,000 gross square feet.

Source: Excerpts from the FY 95 Congressional Budget Justification Book, submitted to all appropriate authorization and appropriation committees.

Date: Early 1994.

Content: This element of the Mission Support expenditure center includes the facilities * * *

The Restructure Plan approved by the SecDef and the DCI collocated most of the

NRO to the East Coast as soon as possible. Full collocation will be supported with the occupany of the NRO Westfields facility in 1966 * * * The final NRO facility headquarters will be located in western Fairfax County, Virginia on approximately 70 acres * * *

The current construction plan and budget provide for four buildings to accommodate all functions currently located at * * * general site development, site security, and the basic infrastructure support for additional buildings * * *

Significant progress has been made in our efforts to reorganize into an integrated functional organization. * * *

Source: Statement to the Senate Select Committee on Intelligence from D/NRO Harris.

Date: 10 August 1994.

Content: * * * I was pleased to read in the draft SSCI audit report that the NRO had never failed or refused to answer when asked questions about the Westfields facility, and I wholeheartedly concur with the audit report's observation that communication is a dual sided issue and both parties have an inherent responsibility to the other * * *

Source: Statement to the Senate Select Committee on Intelligence from D/NRO Harris.

Date: 10 August 1994.

Content: * * * We were reassured when the draft SSCI audit report concluded that the Westfields project costs per square foot, in constant FY 1996 dollars, will cost about the same as other comparable Intelligence Community construction projects which have been completed over the past decade * * *

Source: Code of Federal Regulations 41, Chapter 101.

Date: Revised as of July 1, 1993.

Content: * * * Primary office area is the personnel-occupied area in which an activity's normal operational functions are performed * * *

The 125 square feet represents the amount of space occupied by employees housed in GSA office space * * *

Source: Statement to the Senate Select Committee on Intelligence from D/NRO Harris.

Date: 10 August 1994.

Content: * * * With regard to the size, the Westfields complex will provide 133 square feet per person, based on our current estimate of the personnel occupancy. This is only slightly higher—6%—than the General Services Administration (GSA) guideline of 125 square feet per person. With the possible addition of 200 people, we would be at or below the GSA guideline.

Mr. GLICKMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 4299, the fiscal year 1995 intelligence authorization bill. The conference report and statement of conference managers which are before the Members do not tell the whole story on this legislation. The funding levels agreed to in the conference are set forth in a classified schedule of authorizations which is incorporated by reference in the conference report. A classified annex to the statement of managers describes the classified schedule in detail. These classified documents are available for review by Members in the offices of the Intelligence Committee.

The version of this legislation adopted by the House in July was about 2.4 percent below the President's budget request and a similar amount below the fiscal year 1994 appropriated level. The Senate's reductions were smaller. In conference we moved in the direction of the Senate, but only modestly. The conference report is still 2 percent below both the budget request and the total amount appropriated in fiscal year 1994.

I believe this result accurately reflects a judgment by a majority of the House Intelligence Committee that, while we need to keep pressure on the intelligence agencies to reduce spending, we need to do so in a way that does not jeopardize the ability of those agencies to perform their critical missions in addressing threats posed by international terrorists, narcotics traffickers, and those who would make weapons of mass destruction more readily available. I do not believe that any budgetary action recommended by the conferees will have a negative impact on any essential capability within the intelligence community. In fact, speaking now only for myself, I believe we could have made more significant cuts in some areas without affecting essential capabilities, but that is an argument for another day.

I have frequently compared intelligence to an insurance policy. Neither administration since the end of the cold war has clearly articulated how much coverage is necessary under that policy and why. As a result, Congress has focused largely on the premiums, with a general sense that they were too high but with a reluctance to trim them too much without being certain of the consequences. This has been a frustrating process and one which I do not believe is sustainable for much longer. It is for that reason that I supported the inclusion in the conference report of a provision establishing a commission to conduct a bottom-up review of intelligence. Such a review is desperately needed, in fact, it is several years overdue. No organization can function effectively if it is unsure of what it is supposed to be doing and how it fits within the larger structure of which it is a part. The intelligence community needs well-defined roles and missions for the post-cold-war world, and I have concluded that they are going to have to be imposed from outside rather than adopted from within. The committee will continue to do what it can in this regard, but we will welcome the assistance of those who will serve on the commission.

While Mr. Coleman, the chairman of our Subcommittee on Legislation, will explain the legislative provisions of the bill in detail, there are several on which I want to comment.

The committee has operated for most of this year against the backdrop of the unfolding Ames espionage case. On September 28, we met with the Director of Central Intelligence and the inspector general of the Central Intelligence Agency to discuss the inspector general's report on the CIA's handling of the case. The report provides a thorough and critical analysis of this affair and I want to compliment Inspector General Hitz and his staff for a very effective job. The report, however, only confirmed what most of us had already concluded: the Ames case was an unqualified disaster. The full extent of the damage done by Ames' spying will not be known for some time, if ever, but it was clearly on an unprecedented scale.

The committee has reviewed the report and I expect we will be meeting again with the inspector general to discuss it in more detail. We have our own inquiry underway, however, and while we will make full use of the work of the inspector general, we will be reaching our own conclusions and will have our own recommendations to make about the responses we consider appropriate to the institutional deficiencies which exist or the individual failures which occurred.

The conference report contains a number of provisions which constitute a legislative response to the Ames case. Most are designed to deter people from committing espionage or make it easier to catch them if they do. Chief among these is section 802 which will require executive branch employees, in exchange for being granted access to classified information, to consent to the disclosure of their records held by financial institutions, credit bureaus, and commercial travel entities to their employing agencies or authorized investigative agencies.

I support all of the counterintelligence provisions in the conference report, but I do not believe that any of them would have been necessary to short-circuit the espionage career of Aldrich Ames. That could have been done if managers at the CIA had been sufficiently attentive to numerous warning signs not only about Ames' financial status, but about his problems as an employee. Legislation was not necessary to prevent Mr. Ames from being placed in jobs which were perfect places from which to conduct espionage, even after he was rated as, at best, a below average employee. The failures in the Ames case were not the result of a lack of legislation. They were the result of grievous mistakes made by a number of individuals at the CIA, and I believe that the conclusion is inescapable that Ames flourished as a spy as a result.

I expect that the report based on the committee's inquiry will make some judgments about whether the right people were disciplined for those mistakes and whether the discipline was commensurate with the gravity of their conduct. If there has been for too long a business as usual attitude at the CIA, and I believe there has been, it is imperative that the disposition of this case be seen to be directed at ending it. That cannot be accomplished if the level of accountability for the Ames fiasco is not set high enough.

Director Woolsey is uniquely situated to make sure that occurs. He bears no responsibility for the years in which little attention was paid by senior managers to the hunt for a "mole" within the CIA, and yet history will fairly criticize him if he does not effectively discharge the responsibility he does have to ensure that Harry Truman's famous axiom "The buck stops here" applies in the Ames case. The people who ran the CIA from 1985 through 1992—the Directors of Central Intelligence and the Deputy Directors for Operations—must bear ultimate responsibility for what went wrong in this case. If they did not direct that the pursuit of a spy at the heart of the CIA be made the highest priority of the Agency, we need to know why.

In that regard, one of the most significant provisions in the conference report is section 811 which requires that the Federal Bureau of Investigation be immediately advised of information that indicates classified information is being disclosed in an unauthorized manner to a foreign power. Espionage is a crime and it should be chiefly investigated by law enforcement officials.

In the Ames case, even after the likelihood that there had been a human penetration of the Agency was clear, the investigation was chiefly directed by the CIA. If this case teaches any clear lesson, it is that spies are not good cops. I believe that there would have been a faster, more efficient investigation of this matter if trained police officers, the FBI, had been in charge. The FBI should determine when an espionage investigation is to be undertaken and how it is to be pursued. The agency whose employee may be involved in the commission of the crime may be able to provide valuable assistance, but that should be the FBI's decision. There can only be one entity in charge of a criminal investigation and that should be a law enforcement entity. Section 811 is intended to make clear the division of responsibility in the conduct of espionage investigations.

Before leaving the subject of counterintelligence, I want to note section 807 which provides a court order process for certain physical searches undertaken for foreign intelligence purposes. Currently, such searches are conducted pursuant to a so-called national security letter signed by the Attorney General. Section 807 will require a judicial determination before the search is conducted in a manner similar to that which applies when a wiretap is undertaken for foreign intelligence purposes. While I understand the concerns of those who believe that a search of a residence should only be conducted pursuant to a warrant which meets fourth amendment standards, I believe that the rights of a potential criminal defendant are much better protected under the procedure established by section 807 than by the current procedure which allows executive branch officials to authorize a search which their employees will conduct.

After the Ames case, the intelligence story most in the news this year related to the construction of the National Reconnaissance Office headquarters facility. As I stated on the House floor last month, the Intelligence Committee was aware of this project. The degree of knowledge about the specifics of the project varied between members of the committee and the committee staff, but I suspect that is not unusual. The point is, the building did not arise in northern Virginia without the committee knowing about it. Having said that, this episode did highlight the fact that budget submissions from intelligence agencies, particularly from the NRO, are not always as detailed as they should be. The conference report therefore contains a provision requiring that future intelligence community construction projects in excess of $750,000 be specifically identified in the President's budget submission and separately authorized by Congress. In addition, the conference report requires that a greater degree of detail be used to describe the budget category known as base so that it can no longer be what it has been—a catch-all, miscellaneous category in which to aggregate funds used in the acquisition not only of pencils, paper clips, and cleaning supplies, but multimillion dollar office buildings as well.

I began by discussing spending on intelligence activities and I want to close in a similar vein. The intelligence agencies, like all organizations which handle sensitive information, spend millions of dollars and employ hundreds of people to classify documents and ensure their security. In my judgment, far too much information is classified by our Government, for too long a time, and at too great an expense. This is due in part to an Executive order on the classification and declassification of information which was promulgated 12 years ago, at the height of the cold war. That Executive order needs to be revised and a provision in the conference report requires a new Executive order to be promulgated within 90 days of enactment. The provision also expresses the sense of Congress as to areas on which the new Executive order should place emphasis. I believe that if the order reflects this expression of congressional sentiment fewer documents will be classified, the process of declassification will be expedited, and significant sums of money will be saved. On that last point, another provision in the conference report requires the larger intelligence agencies to allocate at least two percent of the funds appropriated for security activities to declassification efforts including reducing classified archives. This provision was authored by Mr. SKAGGS who has been a leader in the committee's work in this area.

Before concluding, I want to pay tribute to the service of several Members who, under current House rules must leave the committee at the end of this Congress. First among these Members is Mr. COMBEST, the committee's ranking Republican with whom it has been a genuine pleasure to serve. I have found him to be an effective advocate for his views whose common sense and even-handed approach to issues was never clouded by partisan considerations. Also scheduled to depart on the Republican side are Mr. BEREUTER and Mr. DORNAN. They are joined by Mr. RICHARDSON on the Democratic side. Each of these members has made many valuable contributions to the committee's work and they will be missed.

Mr. Speaker, the conference report on H.R. 4299 has a significance which, despite the important advances it makes in areas like imagery intelligence, will be measured largely in non-budgetary terms. It is good legislation which deserves the support of the House. I urge its adoption.

□ 1500

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. GLICKMAN. I am glad to yield to my colleague, the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I want to thank the distinguished chairman and the ranking member, the gentleman from Texas [Mr. COMBEST], for the very fair way in which they looked at this question about the NRO facility in Virginia. I must tell my colleagues, and I am going to place in the RECORD today the briefing material that we received regarding what the other body knew and when they knew it and what they did about it, and I think any fair-minded person and I think our committee on a bipartisan basis agrees with this, when one looks at the evidence it is clear that this project was understood and, in fact, in 1989 the other body added $30 million to accelerate the project because they were so much in favor of it.

So now I am really very stunned by this accusation that we did not know anything about it, we did not know what the total costs were. There are other documents in the record that will show that they asked questions on an annual basis about the project. It was a high priority of one of the senior Members who comes from the State of Virginia.

□ 1510

They asked questions about the project, and the entire cost data was presented in the record, which I am also going to place in the RECORD today. So I regret that there was confusion about this.

I want to support the chairman, because I have been fighting for several years to get more detail into the budget so that there would not be confusion about what is a new initiative and what is in the base.

I think it is wrong. I think what we did in reforming that is a major step in the right direction, and I want to say I was pleased to be one of the sponsors of that provision along with the chairman of the select committee on the other side. That may have been one of the few things in this conference we did agree about.

I regret very much there has been an aspersion made about the NRO. I feel they are one of the finest and most professional organizations that we have. There was no intent on their part to mislead the Congress, and that has been stated by everyone who has looked at this fairly and objectively.

As I said, not only did they put $30 million in in 1989 to accelerate the project, they also supported it on an annual basis and were given information about its total cost.

I want to compliment the chairman. I think we have made a lot of progress on this on clarifying the budget detail and think we are in a stronger position for the future.

I am going to put it in the RECORD, so all of my colleagues who are interested in this subject can fairly assess what actually happened. I think when they do, fair-minded people will conclude our committee, of course, was correct in stating that the NRO gave us accurate information.

Mr. GLICKMAN. Mr. Speaker, I reserve the balance of my time.

Mr. COMBEST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would first like to thank our committee chairman, Mr. GLICKMAN, for continuing to lead our committee in a collegial manner and encouraging the honest sharing of views. I could not ask for more cooperation—on several issues we believe that he has been open to our working together to make some significant improvements over our original authorization of June this year. I should also state that we found the conferees from the other body approached conference with a willingness to compromise on a number of outstanding issues

This is a conference report of which we can all feel proud—though some of us may have different reasons than others. Let me first mention some budgetary issues.

BUDGETARY ISSUES

I and my colleagues in the minority are pleased that the conference has been more judicious in its efforts to limit intelligence spending. The conference report's significant cuts to the requested budget are made with a logical rationale of judging programs by their merits and by their contributions to this Nation's security. That is a process with which we agree.

The conference report fully funds counterintelligence lines which the President and the DCI, Jim Woolsey, have created to fund the new National Counterintelligence Center. Although we have some discomfort over a few of the cuts to intelligence collection and analysis, we believe that the conference report funds those capabilities which we strongly believe are essential to keep U.S. policy makers and military operators informed and, frankly, to protect national security. We note with satisfaction that the intelligence community will be able to move along with some long-term technical programs which will be of particular value to the military. We are particularly pleased that the conference report funds HUMINT—human collection or espionage activities—at a level allowing this critical part of the intelligence community to continue the process of modernization and restructuring.

In this last regard I would like to draw your attention to some much neglected facts which do not get heard above the din surrounding the Ames affair. These relate to the fact that, despite the Ames incident and their having only a single digit percentage of the intelligence budget, the CIA's Directorate of Operations and other HUMINT collectors provide a preponderant amount of our critical intelligence. Some recent studies have shown quite clearly that in the areas of tracking terrorism, narcotics activities, and weapons proliferation, HUMINT is without parallel. The same studies show that for following events in the Middle East, Europe, North Africa, and much of Asia it provides our most important insights. Anecdotes are hard to give without revealing sources and methods, but I can tell you that even in the last couple of months HUMINT has saved lives and thousands of American jobs. Specifically, it has adverted planned terrorist attacks and protected U.S. business by salvaging billion dollar trade deals from unfair and illegal trade practices by foreign Governments. We strongly support whatever it takes to fix what is broken in the Directorate of Operations and elsewhere in the intelligence community but we will not stand by to see its critically important capabilities gutted.

LEGISLATIVE ISSUES

Legislatively, the conference report includes numerous items of significance.

We are particularly pleased with some of the counterintelligence legislation. It will give appropriate authorities much greater access to financial, credit, and travel information on U.S. employees with security clearances. The conference report also includes provisions for criminal forfeiture for violations of espionage laws.

We are also cautiously optimistic about the report's creation of what has become known as the Warner Commission. This is to be a Presidential commission to study the roles and capabilities of the intelligence community and to make suggestions on changes which might improve its operation. We sincerely hope that the President will appoint to this commission objective experts who will think and act on the facts they review rather than on prejudices or political expediences. We hope the eight congressional designees will be similarly qualified. The Nation will be very poorly served should this commission be hijacked by partisans who want to use such a commission to validate their efforts to dismantle the intelligence community.

The conference report also improves the reporting requirements to Congress for requests for intelligence funds for construction purposes. We all remember the purported surprise of the other body's Intelligence Committee about the National Reconnaissance Office's headquarters building. This legislation should please everyone since, not only will it facilitate congressional oversight, but it will also protect the intelligence community from false accusations of withholding information from Congress. Beyond the topicality of the NRO issue, we in the minority strongly support any reasonable legislation enhancing congressional fiscal oversight.

CLOSING

In summary, as a realist I am pleased with this, the last conference report to be prepared in my 6-year tenure on this committee. I have enjoyed every last minute of my 2 years as the ranking member on the committee. For a committee that does most of its business behind closed doors and deals with the most secret activities of the Government, it has, nonetheless, been a very public rollercoaster ride. You would think that I would have grown used to it, but those of you who have had the privilege of working on the committee will understand my amazement at how the activities of some of the most dedicated, hard working, creative, and loyal American Government employees manage so regularly to be portrayed negatively.

At the very top of this group is the DCI, Jim Woolsey. He is a loyal Democrat serving a Democrat administration, but even as a true-blue Republican I must confess my belief that he is the right man in the right job trying to do the right thing. Yet, he is, in my opinion much under-appreciated by some of his fellow Democrats. He deserves the respect and support of us all.

There is also something I want to say to the rest of the men and women of the intelligence community, those in uniform and out, those working long hours at desks in Washington and those risking their lives in the most dangerous corners of the world. Since I will never have occasion to speak to them collectively, I would like to say something to them now on the record in the hope that some of them may hear of it:

Keep the faith. Your good works will never receive the attention of your mistakes—real and imagined. You will continue to suffer at the hands of those who do not know better. You will suffer body blows to your pride; your character may be assailed; your most fundamental value may be questioned. But we, who are fortunate enough to have the opportunity to see your work—and who have actually taken the effort to do so—know of your sacrifices and know of the profound satisfication you have in doing the right thing even when it will remain unheralded or may be misconstrued. If there is a moral to the history of the United States it is that when the democratic system is allowed to operate freely it will—eventually—come to the right conclusion. Be proud of your work, be vigilant in your duty, and know that you are crucial to the life and liberty of us all.

□ 1520

Mr. Speaker, I reserve the balance of my time.

Mr. GLICKMAN. Mr. Speaker, I yield such time as he may consume to the minority leader, the gentleman from Illinois [Mr. MICHEL] under the normal terms of yielding for the purpose of discussing the schedule.

LEGISLATIVE CALENDAR

Mr. MICHEL. Mr. Speaker, before yielding to the distinguished majority leader for the program, let me for just a moment compliment the distinguished gentleman from Texas [Mr. COMBEST] for serving these past 6 years as our ranking member on the Permanent Select Committee on Intelligence. I appointed him thinking he was the best man for the job, and certainly he has given me every reason to be mighty proud of his stewardship during the course of these very critical years.

His statement, which just preceded our being acknowledged here attests to the diligence with which he has approached that very important position all through these years. I want to thank him especially for that fine job.

Mr. Speaker, at this time I am happy to yield to the gentleman from Missouri, my distinguished colleague, Mr. GEPHARDT.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, there will be no more votes today. There will be a schedule: On Monday October 3, the House will meet at 10:30 a.m. for morning hour, and the House will meet at noon for suspensions on 62 bills which the distinguished minority leader I believe has in front of him. I will not take the time of the body to read those, but they are available to both sides.

The suspensions referred to are as follows:

1. H.R. 4781, International Antitrust Enforcement Assistance Act of 1994.
2. H.R. 546, to limit State taxation.
3. H.R. 4999, Civil Rights Commission Reauthorization.
4. H.R. 2129, Madrid Protocol Implementation Act.
5. H.R. 4608, Patent And Trademark Office Authorization Act of 1994.
6. H.R. 4896, to grant the consent of Congress to the Kansas and Missouri metropolitan culture district compact.
7. S. 1233, Arizona Wilderness Land Title Resolution Act of 1994.
8. H.R. 4777, technical improvements in the U.S. Code.
9. H.R. 4778, to codify without substantive change recent laws related to transportation.
10. H.R. 5102, to amend title 18, U.S. Code, regarding crimes relating to medals of honor.
11. S. 2170, Government Management Reform Act of 1994.
12. H.R. 3678, Outer Continental Shelf sand and gravel resources.
13. H.R. 5108, Export Administration Act extension.
14. H. Con. Res. 279, condemning the July 13, 1994, sinking of the *13th of March* tugboat.
15. H. Con. Res. 257, commending the work of the U.S. Attaché Corps.
16. H. Con. Res. 286, recognizing President Alfredo Christiani's contribution to achieve peace In El Salvador.
17. H.R. 4704, Hopewell Township Investment Act of 1994.
18. H.R. 4939, Frederick S. Green U.S. Courthouse.
19. H.R. 4910, Thurgood Marshall U.S. Courthouse.
20. H.R. 4967, Theodore Levin Federal Building And U.S. Courthouse.
21. H.R. 4495, Airliner Cabin Air Quality Act of 1994.
22. H.R. 2440, Independent Safety Board Act Amendments.
23. H.R. 4460, Water Resources Development Act of 1994.
24. H.R. 4394, Comprehensive One-Call Notification Act.
25. H. J. Res. 417, to extend status quo in Soo Line dispute.
26. H.R. 1520, Petroleum Marketing Practices Act Amendments.
27. H.R. 2919, Indoor Air Act of 1994.
28. H.R. 2305, United States-Mexico Border Health Commission.
29. H.R. 5103, to provide for an Executive Director of the GAO Personnel Appeals Board.
30. H.R. 2970, to reauthorize the Office of Special Counsel.
31. H.R. 5139, reemployment of improperly separated Postal Service employees.
32. H.R. 5084, Census Address List Improvement Act.
33. S. 1312, Pension Annuitants Protection Act.
34. H. Con. Res., Correction in the enrollment of S. 1312.
35. H.R. 4814, central Midwest Interstate Low-Level Radioactive Waste Compact Amendment Consent Act.
36. H.R. 4757, claim settlement of the Confederated Tribes of the Colville Reservation.
37. H.R. 4615, applying the provisions of the Warren Act to the central Utah project.
38. H.R. 4944, Water Desalination Act of 1994.
39. S. 1146, Yavapai-Prescott Indian Tribe Water Rights Settlement Act of 1994.
40. H.R. 3612, to amend the Alaska Native Claims Settlement Act.
41. H.R. 3613, the Kenai Natives Association Equity Act.
42. H.R. 734, to amend the extension of certain Federal assistance to the Pascua Yaqui Indians of Arizona.
43. S. 720, Indian Lands Open Dump Cleanup Act.
44. H.R. 4462, Indian Federal Recognition Administrative Procedures Act of 1994.
45. H.R. 4833, American Indian Trust Fund Management Reform Act of 1994.
46. H.R. 4180, Federally Recognized Indian Tribe List Act of 1994.
47. S. 1919, Rio Puerco Watershed Act of 1994.
48. S. 316, Saguaro National Park Establishment Act.
49. H.R. 4533, National Park Service Entrepreneurial Management Reform Act.
50. H.R. 5096, amend the Pennsylvania Avenue Development Corporation Act of 1972.
51. S. 986, Corinth, MS, Battlefield Act of 1993.
52. S. 1614, Better Nutrition and Health for Children Act.
53. H.R. 5116, Bankruptcy Reform Act of 1994.
54. H.R. 4922, to amend title 18, U.S. Code, regarding the interception of communications for law enforcement purposes.
55. S. 1457, to amend the Aleutian and Pribilof Islands Restitution Act.
56. H.R. 2289, Office of Government Ethics Authorization Act of 1994.
57. H.R. , transfer of Naval vessels to foreign countries.
58. H. Con. Res. 214, United States policy toward Tajikistan.
59. H. Res. , regarding prospect for peace in Northern Ireland.
60. H. Con. Res. 278, United States policy toward Vietnam.
61. S. Con. Res. 74, ban on the use of United States passports in Lebanon.
62. H.R. 2135, Native American Veterans' Memorial Establishment Act.

I would also state to the gentleman that the votes would not begin until 5 p.m. on Monday so Members would have an opportunity to travel back here.

There is also a possibility of some action needed on Monday with the D.C. appropriations bills. The gentleman knows negotiations are still going on in the other body. Maybe that bill can be finished tonight without change, in which case it and all of the appropriation bills would then be on the President's desk before the end of the fiscal year. We all hope for that. But indeed if it does not happen, we may have to take action on Monday on the D.C. appropriations bill.

On Tuesday, October 4, and the balance of the week the House will meet at 10:30 a.m. for morning business on Tuesday and then at noon on Tuesday, and meet at 10 a.m. on Wednesday, Thursday, and Friday.

We will be taking a House Concurrent Resolution Sense of the Congress regarding entitlement spending, subject to a rule, H.R. 3800, Superfund Reform Act of 1994, subject to a rule; S. 455, Payments in Lieu of Taxes Act, subject to a rule; H.R. 5044, American Heritage Areas Partnership Program Act, subject to a rule; H.R. 5110, trade agreements concluded in the Uruguay round of multilateral trade negotiations, subject to a rule; House Joint Resolution 416, Limited Authorization for the United States-led force in Haiti, subject to a rule; and H.R. 3801, Legislative Reorganization Act of 1994, subject to a rule.

On Thursday the House will recess immediately and reconvene at approximately 11 a.m., to receive the President of the Republic of South Africa, Mr. Nelson Mandela, in a joint meeting.

Following the joint meeting, the House will reconvene for legislative business. Conference reports may be brought up at any time. Any further program will be announced later.

I would say to the gentleman as he undoubtedly already knows, it is our hope and intent to finish and adjourn sine die on Friday, October 7. It is impossible today to give Members a specific guarantee as to a time that that might be accomplished, and obviously we will be consulting with the minority throughout the week on what matters may need to be brought up before we can reach that adjournment resolution. But it is our clear intent as early as possible on that day to be able to reach an adjournment sine die.

Finally, let me say that this may be the last time while the distinguished minority leader is minority leader, as he has announced his retirement, to carry on a dialog of this kind about the program for the next week.

Again I want to say to the distinguished minority leader how much respect and affection every Member of this body has for him and his family. I am sorry that we will not have these opportunities again. It has been a real joy to work with the gentleman. He has been a great legislator and a great patriot and a great American, and everyone here wishes him every good wish for his future plans.

Mr. MICHEL. I thank the distinguished majority leader. I suspect, however, next week we will still have occasion to exchange a few thoughts with one another. As I have observed windups of Congress over the years, why, that last week usually turns out to be quite hectic to the degree that we have had to keep our heads close together to make sure that it all does end on an orderly note.

If I might return the compliment, for me over these past many years, what a joy it has been to work with the distinguished gentleman from Missouri, when we were both junior Members and as we have risen up through the ranks to become leaders in our respective parties. It has been one of those things we will never forget, probably cherish more than anything else in my tenure in this House, the relationships and friendships between individuals as distinguished from the kind of legislative prowess we may or may not have had on any specific bill. That is the real strength of this body, those kinds of friendships that are forged as we have come to know them over the years.

Mr. GLICKMAN. Mr. Speaker, I have no further requests for time at this time, and I reserve the balance of my time.

Mr. COMBEST. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Nebraska [Mr. BEREUTER].

Before yielding, let me say that I have had the pleasure for the past 6 years in this committee of working with the gentleman from Nebraska. I think he is unequaled in members of that committee who have dedicated and spent a great deal of their time, very silently but very methodically and judiciously. He is someone whom his constituents in Nebraska can feel very proud of the efforts he has made toward our national security.

Mr. BEREUTER. Mr. Speaker, I rise in support of the conference report. I want to begin by thanking my distinguished ranking member, the gentleman from Texas [Mr. COMBEST], for his very generous remarks and for the kind of very positive and open relationship he and I have had throughout our 6 years on the Intelligence Committee, where we sat side by side for those 6 years.

I want also to say it has been my privilege to serve under three exceptional chairmen and three exceptional ranking members. Mr. BEILENSON, Mr. McCURDY, and our current chairman, Mr. GLICKMAN are outstanding individuals. They provided exceptional leadership to the committee. They have been ably assisted by our ranking members, Mr. HYDE, Mr. SHUSTER, and Mr. COMBEST during my tenure.

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I would also say quite sincerely that I believe that the Permanent Select Committee on Intelligence's staff is, without any doubt whatsoever, the highest quality staff that operates in the House of Representatives. We are extremely well served by them because of their contributions, their dedication and their knowledge of our jurisdictional area. It is unparalleled, and we owe them a debt of gratitude that is often not expressed.

Mr. Speaker, having said that, quite sincerely I want to express regret that it is my sixth and, therefore, my last year as a member of the Permanent Select Committee on Intelligence. Since I am also a member of the Foreign Affairs Committee, in parting I would like to reflect on some of the difficulties the intelligence community faces in coming up with a post-cold-war intelligence program to meet recurrent congressional demands for a fresh, cost-efficient and effective strategy.

Intelligence officials do not make up their own foreign policy—unless they wish to court big trouble—but, rather, exist to support the Nation's established foreign and national security policies. When, as now, under the Clinton administration, America lacks a coherent foreign and national security policy, carefully formulated and appropriately enunciated, it is almost impossible to plan wisely. It is certainly difficult to properly shift financial and personnel resources within the limits of the appropriated funds.

The Clinton administration's ineptness and incoherence in foreign policy has become abundantly clear to nearly every careful observer in America and abroad. As a result, the administration has lunged from one foreign policy crisis to another, embarrassed by contradictions, unsupported threats, and reversals. The ship of state seems to be without a captain, in uncharted waters, even as the world and the American public look to U.S. leadership for direction through a storm of uncertainty, instability, and violence. It is a critical time of world transition, but unfortunately the United States is having very little effect on the shape of things to come.

Given this erratic behavior, how can the U.S. intelligence community plan a strategy of support even through 1996? Given the dearth of direction and leadership and the potentially adverse public reaction to such ill-advised, haphazard ventures as we do undertake, how can U.S. intelligence properly assist in implementing U.S. foreign policy after 1996? Given the military's apparent inability to fight two major regional conflicts simultaneously because of budget cuts and the expenses of the Clinton administration's ill-advised commitments of our military around the world, should the intelligence community seriously program resources to support this two-major-regional defense policy? Given the White House's unwillingness or disinterest in supporting its Director of Central Intelligence—indeed, its disinterest in the advice of the intelligence community in general—the question is what budgets, programs or strategies are politically supportable for the intelligence community? Since U.S. policy is adrift, it follows logically that the efforts of the intelligence community seem to be adrift as well.

Uncertainties in planning have been exacerbated by the dissolution of the Soviet world empire. This is a violent, vengeful, dangerous time. Sorting out the East-West ideological rivalry was simple compared to divining the threats of terrorist groups and states and the personal and tribal vendettas and agendas within multiethnic States. Even in the more predictable past, it was difficult to foretell the next hot spot. This new multithreat and unstable environment is a good argument for attempting to maintain basic intelligence coverage worldwide. That attempt, however, clashes with new budget realities. How should the intelligence community now decide which countries, regions or topics to write off?

With the changing circumstances at the end of the cold war, the intelligence community's priorities changed to reflect the increasing importance of the counterproliferation, counternarcotics, economic competitiveness, and counterterrorism missions. Additionally, the United States' increasing involvement in regional crises and peacekeeping activities places a growing burden on an intelligence community with declining resources.

At first, the bills were paid by drastically cutting our intelligence community's budget for collection and analysis conducted on the former Soviet States. This was in part justified and in part it was done to show an insistent Congress that the Community had, indeed, adapted to new times. Considering the facts that Russia is markedly less stable and less predictable than in the past and yet Russia remains the only country on earth capable of destroying the United States, one might wonder if changes in priorities went to far too quickly.

But even these drastic cuts could not pay all the bills. It seems the budget cuts require other tradeoffs. Which regions or missions should we write off from our intelligence coverage? Should we cut back on already anemic R&D efforts? Should we change our strategy of investment among the various intelligence components, INTs? Should we favor collection, processing of intelligence, or personnel?

Perhaps the biggest question since the gulf war is our commitment to improve intelligence support for the military. Broad-area imagery, real-time dissemination, sensor to shooter target information and the critical role of intelligence in information warfare have been much discussed. But the price tags on these innovations are hardly negligible. Again, can we do more—this much more—with less resources? That is apparently the demand.

If we want a new intelligence strategy, we need a foreign policy strategy on which to base it. This bill creates a new Commission of the Roles and Capabilities of the U.S. intelligence community.

Mr. Speaker and my colleagues, as I leave the Permanent Select Committee on Intelligence, I want to remind Members of Congress and the administration that the success of the intelligence community in meeting demands placed upon it by our top policy leaders in the highly unstable and unpredictable post-cold-war environment will largely be determined by whether this administration and the next are able to articulate a coherent foreign policy and national security policy to support it. Mr. Speaker and my colleagues, without the formulation of a coherent and appropriate foreign policy the intelligence community cannot serve as the vital national asset America requires to perform its world leadership role and to protect the lives and interests of the American people.

Mr. Speaker, again I urge the support of this conference report. It is an important improvement from the intelligence authorization legislation earlier reported from the House and a good investment in our Nation's future.

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Mr. COMBEST. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DORNAN], a great patriot, an individual whose level of energy is certainly not matched by mine, only envied.

Mr. DORNAN. Mr. Speaker, I thank the gentleman from Texas [Mr. COMBEST] for yielding this time to me, and I want to echo everything that he has said about the honor of serving on this committee, everything the gentleman from Nebraska [Mr. BEREUTER] said, all the staff has said, all of our chairmen, and one tends to be very fond of the current chairman. In this case it is very easy because we are classmates from 1976.

Mr. Speaker, I also am leaving this committee after 6 years, probably the fastest 6 years of my life, and, as with all Members who took their assignment to the Permanent Select Committee on Intelligence seriously, it will be missed, but, as with all Members who have ever served on the committee, I have noticed on both sides of the aisle it has made them a more valuable Member, a more thoughtful Member, a Member better able to evaluate the dangerous state of the world today, better able to appreciate that the Communist dragon, after killing far more people than even the Nazi regime of Adolf Hitler, finally was slain after three-quarters of a century, only to be replaced by a world of poisonous snakes around us everywhere.

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For several years now, many of us have argued against deep cuts against intelligence, because of its support to our military. We have stressed that intelligence serves as a "force multiplier" to the military, and that it can provide timely warnings—that goes without saying—and assessments which can directly enhance the effectiveness of our increasingly downsized forces.

I recall the words of the immediate prior chairman, the gentleman from Oklahoma [Mr. MCCURDY], as the House debated in a 1992 intelligence budget, the one for fiscal year 1993, which the committee had cut by 5 percent. Here is Mr. MCCURDY's exact words on this floor: "This is a significant cut. It represents for a bipartisan majority on the committee the outer limit on which the intelligence community can reasonably be expected to reduce spending next year."

Well, in the last couple of years, Mr. Speaker, we have gone beyond even that outer limit point that the gentleman from Oklahoma set in 1992. The fate of the gentleman from Kansas [Mr. GLICKMAN] has been to withstand pressure for savage cuts, and he has done a magnificent job holding the line.

I am pleased to note that this year's funding of military intelligence needs, while not without substantial reductions, at least has not followed the precipitous path of the past several years. The budget reflected in this conference report before the House will maintain key intelligence capabilities and pay for the development of new systems that we desperately need.

Some may ask, they ask all the time, why we continue to fund our intelligence at these levels, or even greater, as we address the needs of national security and our military in this decade and into the next century. During the Persian Gulf war, now it is fading some 3 years ago in the past, the military took home a number of valuable lessons on how intelligence can better serve our commanders, and most importantly, our young men and women in the field. These lessons included such things as the need for better dissemination of all visual imagery, a broad area search capability, better and real time dissemination of tactical intelligence information, and greater interoperability between and among the individual service elements.

In all these years since Desert Storm, significant improvements have been made in every one of those areas. Interoperability has improved appreciably.

Commanders can communicate in real time over sophisticated conferencing networks from different locations all around the world. In the combat theater of Haiti we are going to see how this works as the rioting builds to a fever pitch and the looting takes place at this very moment we speak on this House floor, with over 20,000 American men and women intermixed in all areas of the country in a very dangerous situation. How much human intelligence are we going to get fed back here to Washington and to our troops?

Other needs, such as the requirement for broad area search capabilities, these are being addressed through the unmanned aerial vehicle programs currently under development. Downlinking capabilities and better dissemination of imagery and other key intelligence information areas have also been improved. All of these improvements have continued and, God willing, will continue to improve, but it is going to require investments of intelligence dollars.

While we have seen our budget shrink, frankly the result has not been all that bad. Smaller budgets have forced greater efficiencies. Fewer dollars have encouraged organizations to work smarter and to work much more efficiently. Interservice research and development and joint activities are becoming the order of the day, finally.

We must be mindful of two things, though, as we look to the future expectations of intelligence budgets over the remainder of this decade. The first is keeping up with technological developments and executing well thought out decisions to modernize military intelligence systems. That is going to cost additional dollars. The development of new intelligence systems or even upgrading what we have is always costly and will have to be reflected in future intelligence budget totals, and, Lord knows, it saves lives.

Second, in recent years we have watched the United States become involved in a number of low-level conflicts ranging from Yugoslavia to Haiti. Regardless of the degree to which the United States becomes involved, at all times intelligence support is going to be key, it must be supported. This often means additional maintenance costs and operational costs associated with every level of intelligence gathering. The establishment of communications lines, not only to support our U.S. needs or NATO treaty needs, but now the U.N., and the deployment of analysts and other intelligence support elements, including all those that are only known to the committees of the Senate and House. There are also moneys which must be reflected in the budget totals which Congress will evaluate in the years to come.

That is my written statement, Mr. Speaker. I just wanted to conclude with a word to my colleagues that will be seeking to get an appointment to the Intelligence Committee by the Speaker, whichever party that may be, to be determined by an election in about 38 days, and by the minority leader, whichever party Member that might be. I hope our leaders will select people, and I exclude myself from this category, because I also want to say what a pleasure it was to serve with the two that I came on the committee with, the gentleman from Nebraska [Mr. BEREUTER], who has an intelligence background, and the gentleman from Texas [Mr. COMBEST], who has dogged every step of our excellent chairman and made this the primary focus of his congressional duties, and all of those that will have been added since I have been here.

We have a great team on both sides, and with everybody being replaced, I do not know how many will be replaced on the other side, I hope our leaders take due diligence and forget politics when they pick the members to replace us.

To those that want it, and I have had some approach me, that want desperately on this committee, let me tell them the bad side. You do not get day-to-day "hot" information on things happening around the globe. I find everybody on the committee, like me, tunes into CNN to watch the rioting down there in Haiti. Being on Intelligence, I have had no leg up on other information sources to find one shred of evidence that the young man who died in Haiti 4 days ago was in fact a suicide. During Mogadishu the attitude at the Pentagon was terrible, that they would not give anybody on our committee, even the leaders on either side, any shred of evidence. They were so psyched by the politics and the people in the suits, rather than the people in uniform in the Pentagon, and it is happening again in Haiti.

But, that is not the purpose of our committee. The purpose of our committee, even though I have an addiction now to the NID, National Intelligence Daily, that I will have a total break with in 3 months, the best part of being on our committee is the long-range planning, the long-range objectives, and getting those hearing to find out whether organized crime does totally run some of the former slave colonies of the Soviet Union and mother Russia herself. It is an excellent committee. There are no press releases, no political gain for it in your district, but I would recommend everybody fight for it, and may the best men and women get those assignments. It has been the most rewarding experience I have had on Capitol Hill.

Mr. COMBEST. Mr. Speaker, I will save my final accolade for the people we could not work without, and that is the staff, those sitting behind me, behind the chairman, and those up in H 405. These are as dedicated and competent people as I have ever known.

Mr. Speaker, I would commend this conference report to the passage of the House, and, with that, yield back the balance of my time.

Mr. GLICKMAN. Mr. Speaker, I yield 1 minute to the patriotic gentleman Congressman from the Gulf Coast of Texas, Mr. LAUGHLIN.

Mr. LAUGHLIN. Mr. Speaker, I just want to echo the accolades that have been passed out, but to also say as a new member of the committee, serving my first 2-year term on the House Permanent Select Committee on Intelligence, how proud I am as an American to see the leadership that we have received form Chairman GLICKMAN and from the ranking Republican from my State, Mr. COMBEST, in leading our committee through the difficult decisions we had to make. Behind the closed doors, great work was done, because we were not of like mind, and we struggled with the decisions we had to make for our Nation's future.

I would say as a soldier of more than 30 years service in the Army, our committee members and staff have served with the same commitment to the welfare and safety and security of America as our uniformed forces, and I am proud of our committee members and the staff that we have working with us.

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Mr. GLICKMAN. Mr. Speaker, I yield myself such time as I may consume.

Just in closing, I would say this has been an extraordinarily difficult time for the intelligence community. Changes are in the offing. Great difficulties are occurring and will continue to occur. But with all the criticism that has flowed out of my mouth and other mouths, and hopefully it has been constructive, the fact of the matter is that a strong America in the world depends upon access to good, solid information about what is happening. Where are terrorists located? Where are chemical and biological, nuclear weapons located? Who is passing narcotics to whom? Who maybe is taking advantage of us illegally in the economic transactions of the world. We in this committee which oversee the intelligence community are trying to make sure the intelligence agencies can provide this information.

While changes are going to happen, we should never lose sight of the fact that our goal is high quality information for America so we can continue to be the strongest and freest nation in the world.

Mr. DORNAN. Mr. Speaker, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from California.

Mr. DORNAN. Mr. Speaker, the gentleman's staff is absolutely sensational, patriots all, and so is mine. I did not want to leave that out. Best staffs on the Hill.

Mr. GLICKMAN. Mr. Speaker, we agree on that.

Mr. SPENCE. Mr. Speaker, as the ranking Republican member on the House Armed Services Committee and a conferee to the Intelligence Authorization conference, I joined my Armed Services Committee colleagues RON DELLUMS and NORMAN SISISKY in declining to sign this conference report.

My decision was based on our strong objection to the action taken by the conference in attempting to reverse and overturn the policy position endorsed by the Defense authorization conference regarding how the U–2 reconnaissance aircraft should be funded. The U–2 issue was fully discussed and debated during the Defense authorization conference with the full participation of all relevant committees—including the House Permanent Select Committee on Intelligence—yielding a position endorsed by both Chambers.

However, this conference report, with no participation or prior knowledge by the Armed Services Committee conferees, advances a position on how to fund the U–2 that is diametrically opposed to that taken by both the Defense authorization conference report and the Defense appropriations conference report adopted yesterday.

As most Members know, the Permanent Select Committee on Intelligence and the Armed Services Committee share jurisdiction over a significant portion of the intelligence budget. As such, it is imperative that the two committees work closely in coordinating how these shared areas of jurisdiction are represented in each committee's respective annual authorization bill. While such an arrangement will always present complex challenges, over the years it has worked adequately well on the basis of mutual comity and cooperation. On the U–2 issue, this relationship obviously broke down and the outcome is contrary to the position of the other committees of jurisdiction.

Mr. Speaker, the issue here is not limited to jurisdictional or process concerns. There is a legitimate and long standing policy issue involved. Beginning several years ago, the Armed Services Committee began pressing the Department of Defense and the intelligence community to do a better rationalization on how the intelligence budget is structured and divided. Currently, intelligence funding is broken down into two principal components: national and tactical. In large measure, the category in which a given intelligence program or activity is placed greatly affects how that program is treated in the budget process both in the executive branch and in the Congress. However, we have found that many programs are placed in one category or another for what appear to be largely arbitrary reasons.

In response to the committee's urging, the Department of Defense has begun a process to better rationalize how the intelligence budget is structured. The initial results of the effort were manifested in the fiscal year 1994 budget request wherein several programs with little or no intelligence function were moved out of the intelligence budget and into the defense budget, while other programs were shifted between the national and tactical accounts. The largest single shift in programs within categories was the proposal to shift the U–2 from the national intelligence category to the tactical budget.

The Armed Services Committee took a close look at this proposal and endorsed both the specifics of the proposed U–2 shift as well the overall effort to better structure the budget. We fully expect this process to continue and look forward to similar progress in the fiscal year 1996 budget process.

For this reason, the effort by the intelligence committees to deny the administration's proposal to fund the U–2 out of the tactical budget is a counterproductive development that directly undermines the ongoing effort to better structure the intelligence budget. Therefore, I oppose this provision of the report and urge the administration not to follow it given specific direction to the contrary already found in the Defense authorization and appropriations bills.

Mr. SISISKY. Mr. Speaker, I join my Armed Services Committee colleagues RON DELLUMS and FLOYD SPENCE in voicing opposition to the provision in this conference report that attempts to reverse the position of the Defense authorization and appropriations conferences on U–2 funding.

As my colleagues have already explained in some detail, our committee worked this issue through in good faith during our conference and arrived at a position that endorses the administration's efforts to better rationalize how the intelligence budget is structured. The recommendation to fund the U–2 as a tactical program instead of a national asset makes perfect sense and ensures that this critical capability will continue to be responsive to the needs of our military commanders during a time of crisis.

However, by rejecting this recommendation, this conference report succeeds in sending the administration a confused and conflicting message from Congress at the same time we are pressing the intelligence community to restructure and find more efficient ways to make do with decreasing resources. We should instead find ways to send a consistent message of encouragement for ongoing efforts to better manage intelligence programs.

It is my hope that the administration will not interpret the conference's action as a rejection of the work being done in this area and will continue to aggressively develop the Joint Military Intelligence Program [JMIP] as a means to better allocate and structure dwindling intelligence resources for our warfighters.

Mr. DELLUMS. Mr. Speaker, I rise in opposition to the conference report.

I have two main concerns: One, a longstanding opposition to the unnecessary level of secrecy in which the intelligence budget is cloaked; and two, the abrupt change in direction that the intelligence conferees have taken in their report regarding two important intelligence programs.

First, I will state to my colleagues once again my belief that the foreign policy activities of this Nation; taken by our Government on behalf of its citizens, should and is, for the most part, done in the open. I believe it is wrong, however, that an arm of our Government is given the authority to conduct operations, other than intelligence gathering, in support of foreign policy goals that are unknown to our citizens. The people of the United States have a right to be engaged in the debate which yields our foreign policy activities. I do not here refer to the important maintenance of operational secrecy, but rather to the need to debate in the open whether and when we would engage in hostile operations against another country.

In this context, my concern lies not specifically the overall budget level for intelligence, although I believe that prudent savings in the intelligence budget can be realized with careful planning and a recognition of the many new and open ways in which information flows to policymakers. Additionally, it is the right of the people of our country to know the funding level of its intelligence agencies. I will continue to support legislative efforts that would bring these aspects into the sunshine.

My second objection to the report is concerned more with what has become a blurred relationship between the National Foreign Intelligence, or NFIP programs, and Tactical Intelligence and Related Activities, or TIARA programs. I think it is time we substantially change this arrangement.

I am disappointed and concerned that the conferees have increased the authorization for NFIP above the budget request while authorizing a corresponding decrease in TIARA programs. This action is contrary to actions taken by the conferees on the fiscal year 1995 Defense Authorization and Appropriations Acts and contrary to agreements reached between the Secretary of Defense and the Director of Central Intelligence resulting from their joint review of NFIP and TIARA programs.

We should be focusing on the interoperability of capabilities in support of military operations, ensuring essential improvements for imagery support, as well as developing a new U.S. intelligence program and budget structure to better reflect user needs and priorities, consistent with our changed strategic environment.

The blurring of national versus tactical intelligence was highlighted last year when the committee raised concern in its report on the fiscal year 1994 Defense Authorization bill. The committee then observed that over the years, the boundaries between TIARA and NFIP components of the intelligence budgets have become a source of confusion and contention. The committee was, and continues to be, concerned that the lack of clearly established definitions for NFIP and TIARA have led to the sometimes arbitrary assignment of intelligence programs and functions within these categories. As a consequence, the Armed Services Committee called on the Secretary of Defense and the Director of Central Intelligence to review intelligence programs and activities and provide to Congress a report identifying those programs which support: First, primarily national purposes; second, primarily defensewide, theater activities, and the Unified Command; or three, primarily a single service or agency. The report was also to have identified those programs and activities that should no longer be included in the intelligence budget. Although we have seen fragments and/or bits and pieces of what appears to be a concerted effort to address this matter, a formal, comprehensive report has yet to be provided.

An important review was undertaken by the Department earlier this year to determine what, if any, programs or activities should be removed from TIARA. This effort was undertaken in response to the fiscal year 1994

House Armed Services Committee language asking the Department to identify programs and activities that should no longer be included in the intelligence budget. As a result, the Department determined that, indeed, there were certain programs that fell outside the definition of TIARA used by the congress and has subsequently proposed to delete these activities from the fiscal year 1996 TIARA Congressional Justification Book. These programs include, for example, Ballistic Missile Defense, the Defense Meteorological Support Program. Tanker Support to Reconnaissance, and the Navy's Mapping, Charting and Geodesy, to name a few. When added up, funding for these programs totaled more than a half a billion dollars, in each of fiscal year 1994 and 1995.

Further, earlier this year, now-Deputy Secretary of Defense John Deutch notified officials within the Department of Defense and Congress that effective June 1, 1994, he was establishing the Joint Military Intelligence Program, or JMIP, to focus on joint, defensewide initiatives, activities, and programs that predominantly provide intelligence information and support to multiple defense customers. The goal of the JMIP is to bridge existing programmatic divisions across national and service or departmental intelligence lines to provide more effective and coherent intelligence programmatic decisionmaking and, ultimately, to provide support to military intelligence consumers—policymakers, force modernization planners and warfighters. I concur with the administration in their intent to submit a Joint Military Intelligence Program [JMIP] budget request for fiscal year 1996 this January.

I intend to make the analysis of these and other intelligence-related issues a priority issue for the Armed Services Committee during our review in the next budget cycle.

In closing, Mr. Speaker, I join the calls for openness in the national debate on intelligence funding decisions and for the realignment of the programs I have stated above. As this conference report represents a departure from those goals, I will have to oppose it.

Mr. GLICKMAN. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GLICKMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore (Mr. WATT). Is there objection to the request of the gentleman from Kansas?

There was no objection.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO FILE REPORT ON H.R. 4460, WATER RESOURCES DEVELOPMENT ACT OF 1994

Mr. LAUGHLIN. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may have until 6 p.m., September 30, 1994, to file the committee report on H.R. 4460, the Water Resources Development Act 1994.

It is my understanding that this request has been cleared by both the minority leadership of the House and the Committee on Public Works and Transportation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

NATIONAL BREAST CANCER AWARENESS MONTH

Mrs. BYRNE. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 185) to designate October 1994 as "National Breast Cancer Awareness Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore (Mr. GUTIERREZ). Is there objection to the request of the gentlewoman from Virginia?

Mr. PORTER. Mr. Speaker, reserving the right to object, I yield to the gentlewoman from Illinois [Mrs. COLLINS] who is the chief sponsor of House Joint Resolution 311.

Mrs. COLLINS of Illinois. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I rise today in proud support of my bill, House Joint Resolution 311 which designates October 1994 as National Breast Cancer Awareness Month. With the support of more than 250 of my colleagues, the generous donation of time and energy by Mr. Elmer Cerin who helped encourage cosponsorships, and the assistant of Chairman CLAY who quickly brought this resolution to the floor, I am pleased that once again, October will be designated as "National Breast Cancer Awareness Month."

I regret that the need for this resolution is so great. The tragic facts, however, are that this year, more than 182,000 women are expected to be diagnosed with breast cancer and 46,000 women and 300 men will die from it. My State of Illinois, alone, will lose 2,200 women to the disease. Most tragic of all is the fact that the cause and cure of breast cancer remain unknown.

With increased funds earmarked especially for breast cancer research, I am hopeful that we will eventually be able to find the cause and a cure for this terrible disease and dramatically reduce the incidence and mortality rate of breast cancer in the United States. Until that time, however, we must use the only weapon that is available to use at this point. Early detection only through self-examination, examination by our doctor and mammograms—is our only real weapon in the battle against this dreaded disease. If breast cancer is detected early, it can be treated and lives can be saved. In fact, in my State of Illinois, it is estimated that 3,795 lives were saved during the last decade because of early detection.

In order to detect the cancer early and dramatically increase the numbers of survivors, however, we need to continually stress the importance of early detection. For the past several years, National Breast Cancer Awareness Month has provided an opportunity for congressional offices, women's organizations, community groups, news programs, magazines, and newspapers to do so in meaningful ways.

Clearly, we have a long, tough road ahead of us until this disease is finally conquered. In the meantime, however, I hope that we can continue to work together to make National Breast Cancer Awareness Month a time of heightened awareness of the need for early detection by all women and those who love them.

Mr. PORTER. Mr. Speaker, further reserving the right to object, I commend my good friend and colleague the gentlewoman from Illinois, for sponsoring this very important resolution.

Mr. Speaker, continuing my reservation of objection, I yield to the gentlewoman from Maryland [Mrs. MORELLA] for comments on National Breast Cancer Month.

Mrs. MORELLA. Mr. Speaker, I thank the gentleman from Illinois [Mr. PORTER] for yielding to me.

Mr. Speaker, I rise in strong support of Senate Joint Resolution 185, to designate October as Breast Cancer Awareness Month. Many of us stand together in support of this resolution each year, but its passage continues to be critical.

Mr. Speaker, it is estimated that in 1994, 46,000 women will die from breast cancer, and another 182,000 women will be diagnosed with the disease. Breast cancer is the leading cause of death for women between the ages of 35 and 54. Seventy-five percent of all breast cancers occur in women with no known risk factors. One out of eight women will be diagnosed with breast cancer sometime in their lifetime; in 1960, the number was 1 in 20 women.

Over the past several years, this commemorative resolution has been critical in bringing public attention to this epidemic and educating women about breast cancer. Mr. Speaker, we are moving in the right direction; funding for breast cancer has been substantially increased in the past several years. But we must be vigilant in keeping this momentum going by ensuring access for all women to appropriate methods of detection and treatment for breast cancer and by ensuring that breast cancer research continues to be well funded.

Mr. Speaker, I recently participated in a hearing held by the Subcommittee on Compensation and Employee Benefits, on which I serve as ranking Republican member, during which we discussed the need to expand the Federal Employees Health Benefits Program to cover high dose chemotherapy with autologous bone marrow transplants [HDC/ABMT], the treatment that has been effective for many women with very advanced stages of breast cancer, multiple myleloma, and epithelial ovarian cancer. I am pleased to announce that OPM has announced that every plan participating in FEHBP will soon be required to cover HDC/ABMT. I want to congratulate OPM Director, Jim King, and Curtis Smith of OPM, who were instrumental in this effort.

I commend the gentlewoman from Illinois for her sponsorship of this critical resolution, and I urge my colleagues to support it.

Mrs. LLOYD. Mr. Speaker, I am pleased today to lend my strong support for passage of Senate Joint Resolution 185, designating the month of October as Breast Cancer Awareness Month. I commend my friend and colleague, Representative COLLINS for her continued commitment and leadership in this area.

In 1994 alone, 182,000 women will be diagnosed with breast cancer, and 46,000 women will die of this dreaded disease. The epidemic proportions of this disease affects not only women and their families but also costs this Nation over $6 billion in medical costs. It is the most common cancer among women in the United States and its incidence is on the rise.

National Breast Cancer Month can bring about changes in the way women receive health care in this country by increasing the public awareness of this dreaded disease, and by encouraging the practice of early detection techniques such as self-examination and mammography.

As a breast cancer survivor, I personally know of the value of early detection and the need to spread awareness of this disease. Until a cure for breast cancer is found, women must concentrate on prevention. Early detection does save lives.

Mrs. VUCANOVICH. Mr. Speaker, today I rise with great pleasure to support Senate Joint Resolution 185 which designates October 1994 as National Breast Cancer Awareness Month.

During the last year, our Nation has seen a number of exciting changes in the area of breast cancer research. Promising developments in gene identification give hope to every mother who has had breast cancer. As a breast cancer survivor and a mother, grandmother, and great grandmother I pray for the day when there will be early identification and a cure for this dreaded disease.

Until that day, however, it is absolutely essential that women and men know the facts. Breast cancer can kill and early detection is the best means of survival. Women must perform a monthly basic self examination, obtain a yearly breast examination by a health professional, and obtain a mammogram after the age of 40. Let October 1994 be a reminder to women and their families to use these tools for early detection. Let October 1994 be a reminder to Congress that we have much more work to do in the fight against breast cancer. Approximately 46,000 women are expected to die this year from this devastating disease and that is 46,000 too many. Congress must work together to make early detection techniques more affordable and accessible to women.

Senate Joint Resolution 185 deserves your support and I know it will have mine. Knowledge is the key if we are to win the war against breast cancer.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of Senate Joint Resolution 185 which designates October 1994 as "National Breast Cancer Awareness Month."

Mr. Speaker, I continually find the statistics on breast cancer, and the mortality rate from breast cancer highly distressing. An estimated 180,000 new cases of breast cancer among women were diagnosed in the United States during 1992. Approximately one of every nine women will develop breast cancer during her lifetime. Additionally, breast cancer occurs rarely in men. Moreover, breast cancer incidence rates have increased about 3 percent a year since 1980. Some of this increase is believed to be due to screening programs detecting tumors before they become clinically apparent.

In spite of these shocking statistics many women do not practice routine breast examinations or utilize today's advanced mammography technology. I hope designating October as "National Breast Cancer Awareness Month" will reveal to all Americans the importance of prevention and early detection, because one in every five deaths from breast cancer could be avoided by early detection.

Educating the public on the warning signals of breast cancer is essential to combating this life-threatening disease. Breast changes that persist, such as a lump, thickening, swelling, dimpling, skin irritation, distortion, retraction, scaliness, pain, or tenderness of the nipple must be brought to the attention of a physician. Early detection and treatment can save lives.

Statistics show that women with early stages of breast cancer, when the disease is still localized, experience a 92-percent survival rate, while the survival rate for women with more advanced regional cancer is only 71 percent. Even more tragic is the fact that the survival rate for women with breast cancer which has advanced to more severe stages is only 18 percent.

Surely this is a disease for which an ounce of prevention is worth a pound of cure. National Breast Cancer Awareness month can help get this message out and can actually save women's lives.

Accordingly, I urge my colleagues to vote in favor of Senate Joint Resolution 185.

Ms. SNOWE. Mr. Speaker, I rise today in support of Senate Joint Resolution 185, which designates October as "National Breast Cancer Awareness Month." Greater recognition is necessary because we have no cure for breast cancer.

The medical profession can prolong lives, and if a woman survives breast cancer for 5 years, according to medical statistics, she is considered a survivor. Yet, one in eight women will be diagnosed with breast cancer in her lifetime. Breast cancer is expected to kill 46,000 women and afflict another 182,000 women in 1994.

As cochair of the Congressional Caucus for Women's Issues, I have worked diligently to have women included in clinical research trials, to increase funding for basic and clinical research on breast cancer, and for women to have access to treatment and early detection services such as mammography. Through the efforts of the caucus and other breast cancer advocates, breast cancer research has increased. More of the National Cancer Institute's research funds are budgeted for breast cancer than any other type of cancer. And this has paid off. Just this month, there was an announcement of the discovery of a gene that causes breast cancer. Progress is being made.

But in fact, this discovery may only affect a small proportion of women, probably only 5 percent of all discovered breast cancers in women with a family history due to an inherited defective gene. What about all the other women? The mothers, sisters, and friends who are in the other 95 percent?

Mammography screening, coordinated with clinical breast examination and breast self-examination, is the most reliable tool for detection of breast cancer. Breast cancer treated at its earliest stages costs about $14,000 as contrasted with advanced stage treatment which costs more than $84,000, according to the Centers for Disease Control and Prevention, not to mention the potential for additional years of healthy living and the untold suffering and pain that could be avoided by taking simple preventive measures.

I urge my colleagues to support Senate Joint Resolution 185 to designate October "National Breast Cancer Awareness Month." Help spread the word that regular mammograms, self-examination, and examinations by health care providers increase the success of treatment and the survival rate. You will be saving lives.

Mr. PORTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 185

Whereas breast cancer will strike an estimated 182,000 women and 1,000 men in the United States in 1994;

Whereas the risk of developing breast cancer increases as a woman grows older;

Whereas breast cancer is the second leading cause of cancer death in women, and will kill an estimated 46,000 women and 300 men in 1994;

Whereas the 5-year survival rate for localized breast cancer has risen from 78 percent in the 1940's to over 90 percent today;

Whereas most breast cancers are detected by the woman herself;

Whereas educating both the public and health care providers about the importance of early detection will result in reducing breast cancer mortality;

Whereas appropriate use of screening mammography, in conjunction with clinical examination and breast self-examination, can result in the detection of many breast cancers early in their development and increase the survival rate to nearly 100 percent;

Whereas data from controlled trials clearly demonstrate that deaths from breast cancer are significantly reduced in women who have been screened by mammography;

Whereas many women are reluctant to have screening mammograms for a variety of reasons, such as the cost of testing, lack of information, or fear;

Whereas access to screening mammography is directly related to socioeconomic status;

Whereas increased awareness about the importance of screening mammography will result in the procedure being regularly requested by the patient and recommended by the health care provider; and

Whereas it is projected that more women will use this lifesaving test as it becomes increasingly available and affordable: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1994 is designated as "National Breast Cancer Awareness Month" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate programs and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

THE YEAR OF GOSPEL MUSIC

Mrs. BYRNE. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 157) to designate 1994 as "The Year of Gospel Music," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

Mr. PORTER. Mr. Speaker, reserving the right to object, and I do not object, I would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 157

Whereas Gospel music is a uniquely American art form, one that has provided hope and inspiration for generations of Americans;

Whereas Gospel music the forerunner of many forms of popular music in the United States;

Whereas Gospel music an important art form, and a vital part of our cultural heritage; and

Whereas it is in our national interest to promote and preserve Gospel music for generations of Americans to come: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1994 is designated "The Year of Gospel Music", and that the President is authorized and requested to issue a proclamation calling upon the people of the United States to mark that year with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

YEAR OF THE GRANDPARENT

Mrs. BYRNE. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 198) designating 1995 as the "Year of the Grandparent," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

Mr. PORTER. Mr. Speaker, reserving the right to object, I do not object, but I would simply inform the House that the minority has no objection to the legislation now being considered.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of Senate Joint Resolution 198 which designates 1995 as the "Year of the Grandparent."

Mr. Speaker, in lieu of the ever-increasing breakdown of family values and lack of the parental presence, it is in the best interest of this Congress to promote and support the crucial role that grandparents play in our youth's development.

The steady increase in reported child abuse and neglect is one of the past decade's most troubling trends. More than 2.9 million children were reported abused or neglected in 1992. Experts believe that increasing economic stress on families and crises caused by drugs and violence have fueled the rise in abuse and neglect.

Additionally, an increasing number of children are growing up in a home where both parents work. Children are spending more time in a day care setting, at an earlier age. In many instances, grandparents have taken on the role of day care provider. Grandparents provide the nurturing support that grandchildren need, as well as providing the support system for their own children.

Mr. Speaker, it is vital that we recognize the sacrificial and far-reaching impact that grandparents have made throughout our society.

Accordingly, I urge my colleagues to give grandparents the recognition they deserve, by declaring 1995 as the "Year of the Grandparent."

Mr. PORTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 198

Whereas grandparents bring a tremendous amount of love and power for good into the lives of their grandchildren;

Whereas grandparents, in partnership with parents, help deepen every child's roots and strengthen every child's wings so that every child may soar into adulthood with a glad heart and a confident spirit;

Whereas grandparents are a strong and important voice in support of the happiness and well-being of children;

Whereas grandparents often serve as the primary caregivers for their grandchildren, providing a stable and supportive home environment;

Whereas grandparents should be acknowledged for the important role they play within families, and for the many and varied contributions they make to enhance and further the value of the family and family traditions;

Whereas public awareness of and appreciation for the contribution of grandparents should be strengthened;

Whereas grandparents should be encouraged to continue as a vital force in the shaping of American families today and into the future;

Whereas the Nation acknowledges the contributions of grandparents by celebrating National Grandparents Day each September; and

Whereas there should be a year-long national celebration of grandparents and grandparenting: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1995 is designated the "Year of the Grandparent", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe that year with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WORLD POPULATION AWARENESS WEEK

Mrs. BYRNE. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 135) designating the week beginning October 25, 1993, as "World Population Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

Mr. PORTER. Mr. Speaker, reserving the right to object, I do not object, but I would just simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, I rise in support of House Joint Resolution 268, designating the week beginning October 23, 1994, as "World Population

Awareness Week." Over 3,000 events around the world will be held in honor of this year's World Population Awareness Week, which will highlight the recent success of the United Nations Conference on Population and Development, otherwise known as the ICPD, held in Cairo, Egypt earlier this month.

Mr. Speaker, I had the honor of traveling to Cairo to attend the ICPD as a congressional delegate, and I commend the organizers of World Population Awareness Week for focusing this year's events on prompt and meaningful follow-up to the conference. The Population Conference was one of the most critical meetings in world history. Delegates to this conference, representing over 160 countries, agreed, with very few exceptions, by unanimous consent to a program of action to slow population growth over the next 20 years. How well the world community implements that document will determine the quality of life for every person on earth well into the future.

Mr. Speaker, I would like to commend the fine work of the U.S. delegation to the conference and our delegation's leaders. The U.S. delegation, which included representatives from the administration, Congress and a range of non-governmental organizations, garnered widespread praise for working toward genuine compromise and consensus. I would also like to acknowledge President Mubarak and the Egyptian people for hosting the conference and for their hospitality and warmth. Finally, I would like to thank the other governments, their leaders and non-governmental organizations from around the world who participated in the conference and helped make it a true success.

Approximately 5.5 billion people occupy the world today. As has been cited many times, if actions are not taken to slow the current rate of population growth, the world's population could reach 12.5 billion or more by the year 2050. Over 90 percent of this growth will take place in the developing world, where governments are already struggling to meet the basic needs of their people. If governments carry out the actions outlined in the Cairo document, global population will reach only 9.8 billion as opposed to 12.5 billion by the middle of the next century.

In my mind, slowing this rate of growth is the most important challenge the world community faces and one where the United States must demonstrate international leadership. Rapid population growth is both the cause and result of persistent poverty, natural resource scarcity, mass migrations, disease and other conditions which undermine sustainable development efforts and lead to political instability. With the threat of communism over, the United States must now turn its attention to these urgent matters.

Thanks in large part of U.S. leadership, delegates to the Cairo Conference agreed that, rather than adopt strict national targets for reducing fertility and impose top-down contraceptive programs, the best way to slow population growth over the long run is to empower individuals, especially women. I have long argued that it is a fundamental human right to determine the number, timing, and spacing of one's children and to have the means to do so. Delegates to the conference recognized this right and identified the obstacles which prevent individuals from exercising it.

The conference delegates overwhelmingly agreed, Mr. Speaker, that the inaccessibility of safe, affordable, and comprehensive reproductive health care and women's low status prevent millions of women from exercising the control over their fertility that they desire. The International Planned Parenthood Federation [IPPF] estimates that more than 500 million women lack access to safe and effective family planning. Even where these services are available, social, cultural and economic barriers may prevent women from using them.

In many parts of the world, women are denied education, secure livelihoods, and the full legal and social rights of citizenship, and as a result may depend on children as their only means of attaining status and security. Where women are better educated, have more economic opportunities and political freedoms, they not only have greater power to make decisions over their fertility, but they generally want to have fewer children in the first place.

Mr. Speaker, representatives from 160 countries—representing a wide range of moral beliefs and political idealogies—agreed in Cairo that enhancing educational, political, and economic opportunities for women is perhaps the surest way to curb further population growth. In many parts of the world, acknowledging that gender equality is a laudable goal is absolutely radical. In this context, it is a near miracle that these 160 governments agreed to take concrete steps to eliminate legal and social barriers to gender equality within their borders.

While the media focused almost entirely on the discord over abortion at the conference, the Cairo Conference was in fact characterized by an extraordinary degree of international agreement rivaled only by the Earth Summit held 2 years earlier. Given the sensitive nature of the issue, the degree of consensus at the Population Conference is unprecedented. Even the Vatican, which appeared determined to obstruct progress at the conference, in the end joined in consensus on several parts of the Cairo document, including the chapters on "Gender Equality" and the "Interrelationship between Population, Sustained Economic Growth, and Sustainable Development."

Mr. Speaker, the type of negotiation and agreement that prevailed both prior to and during the ICPD should serve as a model for dealing with other global issues that confront humanity and place demands on our shared planet. The majority of delegates, in partnership with non-governmental organizations, operated under the assumption that the interests of the human community cut across national and ideological boundaries. Only through this type of cooperation can we prepare for the future rather than letting the future overtake us.

It is imperative that the United States lead the world in implementing the program of action agreed to in Cairo. As a first step, it is very important that we declare the week of October 23d as World Population Awareness Week. I urge my colleagues to support House Joint Resolution 268.

Mr. Speaker, I yield to the gentlewoman from Maryland [Mrs. MORELLA] for comments on the World Population Awareness Week resolution.

Mrs. MORELLA. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I rise in support of the measure before us, Senate Joint Resolution 135, World Population Awareness Week. There is also the counterpart on the House side, H.J. Res. 268, that was introduced by the gentleman from California [Mr. BEILENSON]. I think it is so important that we look at overpopulation and population awareness.

Overpopulation is an issue touching nearly every aspect of our lives, including unemployment, immigration, disease, hunger, and ecological degradation. The world's population is almost at the 5.6 billion mark and is expected to double by 2025. Ninety percent of this growth will occur in developing countries, those countries already hard-pressed to provide food, shelter, education, employment, and basic health and social services to their citizens. With 93 million people added to the planet last year, an increasing strain on environmental and economic systems is incurred as natural resources are consumed at greater rates.

The impact of human population growth, combined with widespread poverty, is evident in mounting signs of stress on the world's environment, particularly in tropical deforestation, erosion of arable land and watersheds, extinction of plant and animal species, global climate changes, waste management, and air and water pollution.

Earlier this year, the gentleman from California [Mr. BEILENSON] and I introduced the International Population Stabilization and Reproductive Health Act, and Senators BINGAMAN and SIMPSON introduced similar legislation in the Senate. This legislation will establish accessibility to family planning services and information as a principle objective of U.S. foreign policy. Of critical importance is the bill's emphasis on improving the health, social, and economic status of women as essential for any country's economic progress. It has been established that women who participate in the social, economic, and political affairs of their communities are more likely to exercise their choices about childbearing than those who do not. Indeed, it is important to note that the current rate of global population growth would decrease by 30 percent if women were able to have only the number of children they wanted.

Whether the Earth's population doubles or triples in the next century will be determined by actions we take during this decade to improve access to family planning programs for all women who desire it.

Rapid population growth fuels tensions and instability, as hopelessness and desperation arise from rapid urbanization, lack of government services, unemployment, and declining public health standards. As early as 1980, the

National Security Council reported that "these factors add up to a growing potential for social unrest, political instability, mass migrations and international conflict."

Mr. Speaker, I finally just want to allude to what I consider to have been a very successful International Conference on Population and Development that was held in Cairo. The gentleman from Illinois [Mr. PORTER] was there with me and the gentleman from California [Mr. BEILENSON], the gentleman from New Jersey [Mr. SMITH], the gentlewoman from Colorado [Mrs. SCHROEDER], and the Senator from Wyoming [Mr. SIMPSON].

At that conference, we entered the conference with 92 percent of the plan of action already approved, so only 8 percent was considered in terms of possible changes. The conferences looked to the effect on the environment, migration, family responsibility, health care, and the education of women. Now it is up to us in Congress and in other bodies to move forward beyond the plan of action.

Mr. GILMAN. Mr. Speaker, I rise in support of Senate Joint Resolution 135, which designates the week beginning October 23, 1994, as "World Population Awareness Week." I commend my colleague, Congressman BEILENSON, for working so tirelessly to educate us on global population issues.

This is a vital international issue. This resolution seeks to educate Americans about overpopulation and the dramatic effects that global population will have on the world's future. Our world population today exceeds 5.7 billion, and increases at the rate of some 100 million per day.

Population growth is fast becoming one of the most critical issues impacting our society, and the world at this time. Population trends affect our lives in profound ways. Poverty and food supply, the international economy, the environment, and the health of children and women around the world are all influenced by population growth.

It is critical for us as policy-makers to understand population's significant relationship to our global society.

This resolution comes at an appropriate time, as the United Nations has recently concluded its International Conference on Population and Development. This Conference, which examined global population, child and maternal health, education of women and girls, development in Third World countries, and a host of other issues, brought worldwide attention to the issues related to rapid and unsustainable population growth.

Population and family planning are crucial matters for our environment, our economy, and our children's future. World Population Week serves as an important time for Americans to focus on these issues, I urge my colleagues to support this resolution.

Mr. BEILENSON. Mr. Speaker, I rise today in strong support of Senate Joint Resolution 135, which I introduced with our colleague, the gentleman from Illinois [Mr. PORTER], to designate the week of October 23, 1994, as "World Population Awareness Week." The purpose of this observance, which has already been approved by the Senate, is to increase understanding about overpopulation and the adverse effects that rapid global population growth will have on the world's future.

The rapid growth of the human population is the No. 1 problem facing our planet and yet, there is a general lack of awareness of how rapidly the world's population is growing and the fact that what we do this decade will significantly determine the kind of world we leave to future generations.

The world's population now exceeds 5.6 billion people, and it is growing by almost 100 million people every year. Every day every single day, there are 260,000 more people on the Earth than there were the day before. Day after day, inexorably, unendingly, relentlessly more than a quarter of a million people are added to the population: a quarter of a million more people to provide shelter, jobs, health care, and drinking water for, a quarter of a million more mouths to feed and children to educate.

Nearly 95 percent of this increase is occurring in developing countries, countries which cannot begin to adequately take care of their existing populations, where there are already too few jobs, inadequate schools, inadequate health care, inadequate amounts of food and, usually, very little, if any, individual freedom.

Future prospects, moreover, are even more staggering. The United Nations' high fertility populations indicate that even if the total fertility rate drops from the current world average of 3.2 children per woman to stabilize at 2.5 children—quite a significant reduction—world population could still grow to 12.5 billion by the year 2050. And, if effective action is not taken within this decade, as today's 1.6 billion children in the developing world under the age of 15 reach their child-bearing years, the Earth's population could nearly quadruple to over 19 billion people by the end of the next century.

This rapid growth underlies virtually every environmental, developmental, and national security problem facing the world today. In much of the developing world, high birth rates, caused largely by the lack of access of women to basic reproductive health services and information, are contributing to intractable poverty, malnutrition, widespread unemployment, urban overcrowding, and the rapid spread of disease. Population growth is outstripping the capacity of many nations to make even modest gains in economic development, leading to political instability and negating other U.S. development efforts. In the next 15 years, developing nations will need to create jobs for 700 million new workers, which is more than currently exist in all of the industrialized nations of the world combined.

Overpopulation, however, is not a problem for lesser developed countries only. In November 1993, the U.S. Census Bureau revised its domestic population estimates, projecting U.S. population to reach 392 million people by the year 2050, more than a 50 percent increase from the 1990 population. This is the equivalent of adding more than 38 cities the size of Los Angeles. But if current trends continue, the Nation's population could double during the same time period; if this growth remains unchecked, it is easy to foresee a dramatically lower quality of life for our children.

Earlier this month, representatives of nearly 180 countries met in Cairo at the International Conference on Population and Development [ICPD] to forge a new international consensus on the importance of slowing population growth, and to reach a final agreement on a Program of Action that will help guide the population programs of the United Nations and national governments into the next century.

As a member of the U.S. delegation, I can report that the Cairo conference, was a remarkable success. In contrast to previous population conferences, and to the picture of controversy portrayed by the media, there was an exceptional level of consensus among participating governments on such diverse issues as sustainable development, gender equity, reproductive health, migration and funding requirements.

The ICPD Plan of Action represents an historic opportunity to adequately address the world's exponential population growth while placing an emphasis on individual choice and freedom. But to reap the benefits of this conference, we are going to have to find a way to keep attention focused on the population problem. This is what we hope to achieve by passing this resolution.

This year, in recognition of World Population Awareness Week, events are being planned in every congressional district. Over 110 national and local organizations, including the National Wildlife Federation, the United Methodist Church, and the American Public Health Association, are involved in planning discussion groups, films, and other educational events to raise public awareness of this critical issue. In addition, many international organizations as diverse as the International Confederation of Midwives, the Catholic University of Lublin, Poland, and the Family Life Association of Swaziland are also observing the week.

Mr. Speaker, I believe World Population Awareness Week provides an important opportunity for Americans to learn more about the rapid growth of the world's population and its dire consequences for the environment, for food supplies, for political and social stability, and for the well-being of people in this country and around the world. I am hopeful that as Americans learn more about this problem, they will recognize that slowing population growth is the most humane, farsighted, and economically effective effort this country and the international community can undertake to improve life on earth for generations to come.

I urge my colleagues to join me in supporting this legislation.

Mr. PORTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 135

Whereas the population of the world today exceeds 5.5 billion and increases at the rate of some 100 million per year;

Whereas more than 90 percent of world population growth occurs in developing countries, those least able to provide even basic services for their citizens;

Whereas rapid population growth and overconsumption are major deterrents to sustainable development;

Whereas 40 countries with 40 percent of the population of the developing world are currently unable to provide enough food for their inhabitants to meet average nutritional requirements;

Whereas the global community has for more than 25 years recognized the basic right of individuals to voluntarily and responsibly determine the number and spacing of their children;

Whereas expanded accessibility to family planning has led to a world with 400 million fewer people than there might have been;

Whereas at least one-half of the women of reproductive age in developing countries want to limit the number of their children, but lack the means or ability to gain access to modern family planning methods;

Whereas numerous studies provide compelling evidence of a strong correlation between a smaller desired family size and the elevation of the status of women, especially through opening educational and employment opportunities; and

Whereas preparations are underway for the 1994 International Conference on Population and Development (ICPD) in Cairo, Egypt, focusing world attention on the integral linkage between population, sustained economic growth and sustainable development—more specifically, the importance of family planning, the role of women, the effects of migration, the need for increased resources, and the devastation caused by AIDS: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning October 25, 1993, is designated as "World Population Awareness Week," and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such a week with appropriate programs, ceremonies, and activities.

AMENDMENT OFFERED BY MRS. BYRNE

Mrs. BYRNE. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. BYRNE: Page 2, line 3, strike "October 25, 1993" and insert "October 23, 1994".

The SPEAKER pro tempore. The question is on the amendment offered by the gentlewoman from Virginia [Mrs. BYRNE].

The amendment was agreed to.

AMENDMENT TO THE PREAMBLE OFFERED BY MRS. BYRNE

Mrs. BYRNE. Mr. Speaker, I offer an amendment to the preamble.

The Clerk read as follows:

Amendment offered by Mrs. BYRNE to the Preamble: In the last whereas clause of the preamble—

(1) strike "preparations are underway for"; and

(2) strike "focusing" and insert "will focus".

The SPEAKER pro tempore. Question is on the amendment to the preamble offered by the gentlewoman from Virginia [Mrs. BYRNE].

The amendment to the preamble was agreed to.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed.

AMENDMENT TO THE TITLE OFFERED BY MRS. BYRNE

Mrs. BYRNE. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Amendment to the title offered by Mrs. BYRNE: Amend the title so as to read: "Joint Resolution designating the week beginning October 23, 1994, as 'World Population Awareness Week'.".

The amendment to the title was agreed to.

A motion to reconsider was laid on the table.

□ 1600

NATIONAL GOOD TEEN DAY

Mrs. BYRNE. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 326) designating January 16, 1995, as "National Good Teen Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. GUTEIRREZ). Is there objection to the request of the gentlewoman from Virginia?

Mr. PORTER. Mr. Speaker, reserving the right to object, I do not object, but I would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. TRAFICANT. Mr. Speaker, I rise today in support of H.J. Res. 326, designating January 16, 1995, as "National Good Teen Day."

I introduced this bill earlier this year because I believe that a national day should be created to focus on the positive qualities in America's Youth. For the past 2 years Presidents Clinton and Bush have signed this initiative into law, officially decreeing January 16, 1993, and January 16, 1994, as "National Good Teen Day." In fact, in his proclamation observing this important day, President Clinton remarked. "We are justifiably proud of American teens. They deserve our recognition and appreciation, and it is fitting to honor them."

Mr. Speaker, the concept of a "Good Teen Day" was created by Mr. Robert Viencek, an instructor of English at Salem, (OH), High School in my congressional district. He selected January 16 as "Good Teen Day" because, in part, Abraham Lincoln, our 16th President, was quoted as saying, "When you look for the good in man, you'll always find it." Viencek also notes that the 16th is " . . . a special year in the lives of teenagers, as it is the age when many young people start to drive and start to work. It is also the middle date of the seven teen years—13 to 19."

Since 1992, the Salem City Schools, the city of Salem and the Ohio House of Representatives have all helped to expand Mr. Viencek's vision by declaring "Good Teen Day" on the local and State level. "National Good Teen" appropriately caps this steady progression.

Mr. Speaker, America's 24 million teenagers are the future of this great country and they deserve to be recognized. "National Good Teen Day" is a step in this direction.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 326

Whereas Salem City Schools in Salem, Ohio, have proclaimed January 16, 1992, as "Good Teen Day";

Whereas both the United States Congress and the President of the United States have proclaimed January 16, 1993, and January 16, 1994, as "National Good Teen Day";

Whereas there are more than twenty-four million teenagers in the United States according to the 1990 census;

Whereas our Nation's teenager represent an important part of our society, and the many physical and emotional changes and character-building experiences which teenagers go through are an important concern;

Whereas it is easy to stereotype teenagers as either those who have problems or those who excel;

Whereas teenagers should not simply be recognized for their intelligence, abilities, skills and talents, but rather for the good which is inherent in all human beings;

Whereas as unique individuals, teenagers are encouraged to esteem the good as well as the potential that is within each of them;

Whereas a day should be created to focus on the positive qualities in America's youth; and

Whereas teenagers are the future of this great country: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 16, 1995, is designated "National Good Teen Day," and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day by recognizing the teenagers of the United States and by participating in appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

IRISH-AMERICAN HERITAGE MONTH

Mrs. BYRNE. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 401) designating the months of March 1995 and March 1996 as "Irish-American Heritage Month."

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

Mr. PORTER. Mr. Speaker, reserving the right to object, I do not object, but I would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. MANTON. Mr. Speaker, I rise today in support of House Joint Resolution 401, a resolution I introduced to proclaim the months of March 1995 and 1996 as "Irish-American Heritage Month." I am pleased that a majority of my colleagues have joined me in sponsoring this important resolution. I would also like to thank Chairman CLAY for bringing this resolution to the floor.

This is the fifth consecutive year I have introduced this legislation in celebration of the over 40 million Americans of Irish descent. This resolution has particular significance because 1995 marks the 150th anniversary of the Great Hunger that devastated Ireland between 1845 and 1851. Within 5 years, the famine reduced a population of 8.1 million by almost half through death and mass emigration of the Irish to the United States, Canada, and England.

These Irish immigrants of the mid-19th century and those who followed in later years dedicated themselves to helping build this Nation. According to the most recent census data, more than 44 million Americans are of Irish descent. House Joint Resolution 401 is designed to celebrate the heritage of these Irish-Americans and complement the hundreds of parades and activities sponsored around the United States every March in honor of St. Patrick's Day.

Mr. Speaker, the idea for an Irish-American Heritage Month was first conceived by the late John W. O'Beirne, chairman of the American Foundation for Irish Heritage. The passage of this resolution will serve as a tribute to his hand work and dedication to increase the awareness of Irish-American heritage.

Mr. Speaker, I am honored to sponsor this resolution which remembers the millions of Irish who died or were forced to flee Ireland during the Great Potato Famine and pays tribute to their descendants in the United States who continue to contribute to all facets of American culture.

Again, I would like to thank my friend Mr. CLAY for bringing House Joint Resolution 401 to the floor today. I urge my colleagues to join me in supporting this important resolution.

Mr. GILMAN. Mr. Speaker, I am pleased and honored to join in support of this resolution to honor Irish-American heritage. I commend my colleague from New York, Mr. MANTON, for his leadership and support for this resolution.

More than 40 million Americans trace their ancestral roots to Ireland, and are immensely proud of its rich heritage.

The contributions of Irish Americans and that proud heritage are an integral part of American history from the American Revolution through today.

It is little noted, but at one time our President, the Speaker of the House, and the Senate Majority Leader were all of Irish heritage. During the administration of John F. Kennedy, the Irish in America held the three highest elected offices in the land. In the modern era, former President Ronald Reagan proudly pointed to his Irish heritage and ancestral family links to Ballyporeen, County Tipperary, Ireland.

The Irish have given much to American politics, and also in the areas of sports, law enforcement, commerce, law, our armed services, the arts, and literature. The Irish have contributed to this great Nation's history and culture. A month honoring that heritage is a fitting tribute to the numerous significant contributions of those of Irish heritage in American society.

Yesterday, in Washington, we hosted Dick Spring, the Deputy Prime Minister and Foreign Minister of the Irish Republic. In addition, we are working to move OPIC legislation along in the Congress to facilitate up to $60 million in loan guarantees for Ireland to help foster the current peace process, a process that presents the best change in 25 years for peace in the North of Ireland.

This is an important and critical moment of America's relationship with Ireland. The Irish in America will play a critical role in seeing that a lasting peace becomes a reality. I am gratified to report that Ireland is up front on America's agenda today.

I am pleased to rise in support of this important measure, and I urge my colleagues to join in support of this timely resolution.

Thank you.

Mr. PORTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 401

Whereas 150 years ago, the blight that struck Ireland's potato crop ("the single root that changed the history of the world"), known as the Great Famine, caused 2,000,000 of Ireland's population to emigrate, mostly to America's shores;

Whereas in 1847 alone, 25,000 Irish immigrants arrived in Boston;

Whereas by 1851, the end of the famine exodus, 1,712 emigrant ships had sailed up the Narrows into New York harbor;

Whereas during the "Great Hunger" (1845–1851) more people left Ireland than had emigrated in the previous 250 years;

Whereas within a few years of their arrival in the United States, these Irish immigrants took jobs as laborers, built railroads, canals, and schools, dedicated themselves to help build this Nation, and this same legacy remains a part of today's American mainstream;

Whereas James Smith, George Taylor, Matthew Thornton, and Charles Thomson, 4 of the individuals who signed the Declaration of Independence, were Irish born and 9 other signers were of Irish ancestry;

Whereas Irish-born James Hoban designed and supervised the building of the White House and its restoration after it was burned in 1814;

Whereas more than 200 Irish-Americans have been awarded the Congressional Medal of Honor;

Whereas 19 Presidents of the United States proudly claim Irish heritage, included among them, the first President, George Washington;

Whereas John W. O'Beirne, Founder of the American Foundation for Irish Heritage, first requested in 1990 that Congress designate March as "Irish-American Heritage Month"; and

Whereas the 44,000,000 Americans of Irish ancestry, like their forebearers, continue to enrich all aspects of life in the United States, in science, education, art, agriculture, business, industry, literature, music, athletics, military and governmental service: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the months of March 1995 and March 1996 are designated as "Irish-American Heritage Month". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe these months with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL CHILDREN'S DAY

Mrs. BYRNE. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 389) to designate the second Sunday in October 1994 as "National Children's Day."

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

Mr. PORTER. Mr. Speaker, reserving the right to object, I do not object, but I would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. KENNEDY. Mr. Speaker, it seems that every time we turn on the television, every time we turn up the radio, every time we read a newspaper or magazine we see and hear yet another story about another young person lost to the endless and hopeless cycle of violence, poverty, drugs, and despair.

Yet we rarely take the time to focus on the American youth across our great Nation who are making strides, both large and small, toward improving their communities, crossing racial boundaries, beating back the plague of violence and dangerous behavior that sometimes threaten to overwhelm, and moving ahead toward knowledge, understanding, and achievement.

There are young people out there, children and teenagers, who are doing their part to create and preserve a safe and successful future for themselves. They deserve our recognition and support. That is why this year, for the fifth consecutive year, I am introducing a bill to remember these children by celebrating them with National Children's Day 1994 on October 9, the second Sunday of October.

National Children's Day is a time to honor America's young people, celebrate their many triumphs, listen to their hopes and concerns, and reflect for a moment on the world they are living in and the world we are leaving them.

By establishing a National Children's Day, we will set aside 1 day a year, in the tradition of Mother's Day and Father's Day, on which we can honor our children. During this day all children will be held up for recognition because of their contributions to their family and their community and because we, as a nation, recognize that they are our greatest natural resource. Americans everywhere can take this day to spend time with their children. Those who don't have children of their own can go to a park or take a bike ride with a neighbor's kid, or a nephew or niece.

This is also a day for communities and cities and States to recognize the accomplishments of children. It is a time for us to take a closer look at how children are living in America.

I recently learned of a tale of hope—evidence of the genuine good being achieved right now by our youth—that I want to share. A young girl from San Antonio, TX was a gang member by age 13 and rose to leadership within the gang war community. But the constant violence and destruction drove her from being a gang leader to becoming a leader in her community, advocating peace and working actively through the gang peace summits to help people across the country understand urban hardships and the hope to overcome them. And she is not alone among American youth who are trying to protect their future.

The ultimate goal of National Children's Day is to encourage celebratory activities in every community across the country. State and municipal governments, school groups, youth groups and national organizations like the Child Welfare League of America, the National Parent-Teacher Association, the 4-H clubs, and boys and girls clubs are planning and participating in events to celebrate this day. We commemorate National Children's Day in the hope that every city and town will find its own way to honor its young people.

America's youth look to us for leadership and strength, look to us for welcoming, look to us for support. To turn away from America's children, to give up hope on America's children is to turn our backs on America's future. Please show your support by voting to continue to celebrate our children with National Children's Day 1994.

Mr. PORTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 389

Whereas the people of the United States should celebrate children as the most valuable asset of the Nation;

Whereas children represent the future, hope, and inspiration of the United States;

Whereas the children of the United States should be allowed to feel that their ideas and dreams will be respected because adults in the United States take time to listen;

Whereas many children of the United States face crises of grave proportions, especially as they enter adolescent years;

Whereas it is important for parents to spend time listening to their children on a daily basis;

Whereas modern societal and economic demands often pull the family apart;

Whereas encouragement should be given to families to set aside a special time for all family members to engage together in family activities;

Whereas adults in the United States should have an opportunity to reminisce on their youth to recapture some of the fresh insight, innocence, and dreams that they may have lost through the years;

Whereas the designation of a day to commemorate the children of the United States will provide an opportunity to emphasize to children the importance of developing an ability to make the choices necessary to distance themselves from impropriety and to contribute to their communities;

Whereas the designation of a day to commemorate the children of the Nation will emphasize to the people of the United States the importance of the role of the child within the family and society;

Whereas the people of the United States should emphasize to children the importance of family life, education, and spiritual qualities; and

Whereas children are the responsibility of all Americans, thus everyone should celebrate the children of the United States, whose questions, laughter, and tears are important to the existence of the Untied States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second Sunday in October of 1994 is designated as "National Children's Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PARENTS' DAY

Mrs. BYRNE. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 398) to establish the fourth Sunday of July as "Parents' Day."

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

Mr. PORTER. Mr. Speaker, reserving the right to object, I do not object, but I would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. FLAKE. Mr. Speaker, I rise today to ask my colleagues to support National Parents' Day. I want to commend Representative BURTON for ensuring that this important legislation received its deserved recognition before the 103d Congress adjourned. Representative BURTON and I worked very hard this year to make Parents' Day 1994 a success. I thank many of my colleagues for their contributions to this effort.

I thank all of you who cosponsored the current legislation to establish National Parents' Day as an annual event. We are well on our way to annually honoring parents, whether they are biological or perhaps someone who took time out to care for those who will be our future. These people exist within your districts and mine, it is only appropriate that we honor them 1 day a year for all the good work they do 365 days a year.

National Parents' Day will commemorate parents and volunteers every year for their hard work and sacrifices made for both their own children, and other children in need. These people build the foundation for our children and it is up to us to let them know that their efforts are not in vain.

Mr. PORTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 398

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the fourth Sunday of every July shall be established as "Parents' Day" to be recognized as a recurring, perennial day of commemoration.

SEC. 2. RECOGNITION.

All private citizens, organizations, and governmental and legislative bodies at the local, State, and Federal level are encouraged to recognize Parents' Day through proclamations, activities, and educational efforts in furtherance of recognizing, uplifting, and supporting the role of parents in the rearing of their children.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL PENNY CHARITY WEEK

Mrs. BYRNE. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 415) designating the week beginning October 16, 1994, as "National Penny Charity Week."

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

Mr. PORTER. Mr. Speaker, reserving the right to object, I do not object, but I would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, I rise in strong support of H.J. Res. 415. Mr. Speaker, there are 170 billion pennies in jars, dresser drawers, and piggy banks all across this country. They are not being spent. They are not being carried by individuals. They are being deposited there every night because the lowly penny has not much purchasing power in the minds of the American people.

Mr. Speaker, our mint will spend $164 million this year to produce new pennies because of Americans hoarding them. One evening I thought, as I was depositing the pennies from my pocket into the jar in my room, that if everyone would donate their hoarded pennies to their favorite charity, charities would have $1.7 billion more to spend on worthwhile causes. In addition, the demand on the U.S. Mint to produce additional pennies would be reduced, and people would have tax deductions that they would otherwise not have.

Mr. Speaker, the Penny Lovers of America is a not-for-profit organization that promotes character, scholarship, and patriotism among America's youth by collecting penny donations to finance our young people's educational pursuits. To celebrate their 10th anniversary they are conducting a penny recycling campaign.

Mr. Speaker, this resolution would mesh very closely with their work. It designates the week of October 16, 1994, as "National Penny Charity Week." It urges Americans to empty their jars, dresser drawers, and piggy banks, and to give their pennies to their favorite charities, especially to direct service charities, to help the needy and the poor in our country.

Mr. Speaker, I am very pleased that the gentleman from Missouri, BILL CLAY, and the gentleman from Indiana, JOHN MYERS, the chairman and ranking member, respectively, of the Committee on Post Office and Civil Service, are cosponsors with me on this resolution, together with 200 other Members of the House. I commend the resolution to all Members.

Mr. Speaker, the individual penny, it is true, cannot buy much any more. However, combined with others, millions of others, it can do a lot of good for a lot of people. Mr. Speaker, I would urge all Americans to participate in this campaign, give their pennies to charities during the week of October 16 through October 22. It will mean a great deal to all of us in this country.

□ 1610

Mr. PORTER. Mr. Speaker, continuing my reservation of objection, I commend the gentlewoman from Maryland for her great leadership on both the issue of breast cancer and certainly on population and development as well, and for her excellent statement on both of those resolutions.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. GUTIERREZ). Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 415

Whereas 170 billion pennies—$1.7 billion—are circulating in the economy;

Whereas financial institutions, merchants, and retail establishments are reporting a shortage of pennies;

Whereas this shortage is a result of American people hoarding their pennies;

Whereas, during fiscal year 1994, the United States Mint will spend $1.64 million to produce 13.3 billion pennies in order to counter the effect of hoarding;

Whereas donating hoarded pennies to charities provides the charities with funds, diminishes the shortage of pennies, lowers the demand on the United States Mint to produce additional pennies, and ultimately saves the United States Treasury money;

Whereas Penny Lover's of America is a not-for-profit charitable organization that seeks to promote character, scholarship, and patriotism among America's youth by collecting penny donations to finance their educational pursuits;

Whereas Penny Lover's of America is celebrating its 10th anniversary this year by conducting a penny recycling campaign; and

Whereas "National Penny Charity Week" coincides with Penny Lover's of America's "National Penny Campaign Recycling Project" both of which will assist in alleviating the penny shortage and raise funds for charitable and community causes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the week of October 16, 1994, as "National Penny Charity Week" and to call on the people of the United States to observe such week with appropriate ceremonies and activities, including the donation of pennies to charities, particularly to those which provide direct services to the Nation's underprivileged and disadvantaged population, and to worthy community causes.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. BYRNE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the several joint resolutions just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

ADJOURNMENT TO MONDAY, OCTOBER 3, 1994

Mrs. BYRNE. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10:30 a.m. on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mrs. BYRNE. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

AUTHORIZING THE SPEAKER TO DECLARE A RECESS ON THURSDAY, OCTOBER 6, 1994, FOR THE PURPOSE OF RECEIVING IN JOINT MEETING MR. NELSON MANDELA, PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

Mrs. BYRNE. Mr. Speaker, I ask unanimous consent that it may be in order at any time on Thursday, October 6, 1994, for the Speaker to declare a recess, subject to the call of the Chair, for the purpose of receiving in joint meeting Mr. Nelson Mandela, President of the Republic of South Africa.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

DESIGNATION OF THE HONORABLE STENY H. HOYER TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH OCTOBER 3, 1994

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 30, 1994.

I hereby designate the Honorable STENY H. HOYER to act as Speaker pro tempore to sign enrolled bills and joint resolutions through October 3, 1994.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the designation is agreed to.

There was no objection.

DECLARATION OF NATIONAL EMERGENCY CONCERNING NONPROLIFERATION CONTROLS AND RESTRICTING PARTICIPATION IN WEAPONS PROLIFERATION ACTIVITIES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 103–319)

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

Pursuant to section 204(b) of the International Emergency Economic Powers Act (50 U.S.C. 1703(b)) and section 301 of the National Emergencies Act (50 U.S.C. 1631), I hereby report to the Congress that I have exercised my statutory authority to declare a national emergency and to issue an Executive order, which authorizes and directs the Secretary of Commerce, in consultation with the Secretary of State, to take such actions, including the promulgation of rules, regulations, and amendments thereto, and to employ such powers granted to the President by, the International Emergency Economic Powers Act, as may be necessary to continue to regulate the activities of United States persons in order to prevent their participation in activities, which could contribute to the proliferation of nuclear, chemical, and biological weapons, and the means of their delivery.

These actions are necessary in view of the danger posed to the national security, foreign policy, and economy of the United States by the continued proliferation of nuclear, biological, and chemical weapons, and of the means of delivering such weapons, and in view of the need for more effective controls on activities sustaining such proliferation. In the absence of these actions, the participation of United States persons in activities contrary to U.S. nonproliferation objectives and policies, and which may not be adequately controlled, could take place without effective control, posing an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States.

The countries and regions affected by this action would include those currently identified in Supplements to Part 778 of Title 15 of the Code of Federal Regulations, concerning nonproliferation controls, as well as such other countries as may be of concern from time to time due to their involvement in the proliferation of weapons of mass destruction, or due to the risk of their being points of diversion to proliferation activities.

It is my intention to review the appropriateness of proposing legislation to provide standing authority for these controls, and thereafter to terminate the Executive order.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 29, 1994.*

CONTINUATION OF EMERGENCY WITH RESPECT TO HAITI—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 103-320)

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Haitian emergency is to continue in effect beyond October 4, 1994, to the Federal Register for publication.

Resolution of the crisis between the United States and Haiti is in sight as a result of the September 18 agreement reached in Port-au-Prince by the delegation led by former President Carter. Pursuant to that agreement I have announced that all unilateral United States sanctions against Haiti will be suspended with the exception of the blocking of the assets of any persons subject to the blocking provisions of Executive Orders Nos. 12775, 12779, 12853, 12872, or 12914 and Haitian citizens who are members of the immediate family of any such person as identified by the Secretary of the Treasury.

At the same time, the United Nations Security Council, with our support, has decided that the sanctions established in Resolutions 841 and 917 should remain in force, consistent with the provisions of Resolutions 917 and 940, until the military leaders in Haiti relinquish power and President Aristide returns to Haiti. That may well not occur before October 4, 1994. Therefore, I have determined that it is necessary to retain the authority to apply economic sanctions to ensure the restoration and security of the democratically elected Government of Haiti.

While the UN Security Council sanctions remain in force and in order to enable the multinational forces to carry out their mission and to promote the betterment of the Haitian people in the interval until President Aristide's return, I have directed that steps be taken in accordance with Resolutions 917 and 940 to permit supplies and services to flow to Haiti to restore health care, water and electrical services, to provide construction materials for humanitarian programs, and to allow the shipment of communications, agricultural, and educational materials. This will allow the Haitian people to begin the process of reconciliation and rebuilding without delay.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 30, 1994.*

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Public Works and Transportation, which was read and, without objection, referred to the Committee on Appropriations:

COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION,
Washington, DC, September 28, 1994.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the provisions of the Public Buildings Act of 1959, I am transmitting herewith the resolutions (originals plus one copy) approved today by the Committee on Public Works and Transportation.

Sincerely yours,

NORMAN Y. MINETA,
Chairman.

There was no objection.

□ 1620

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. GUTIERREZ). Under the Speaker's announced policy of February 11, 1994, June 10, 1994, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

INCREASING CONCERN WITH STRUCTURED NOTES IN BANKING INDUSTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, at the time I was elected chairman of the Committee on Banking, Finance and Urban Affairs on the first occasion, which was January 1989, I came to the well and promised to keep the Members of the House informed on questions then agitating the minds not only of the Congress but of the whole country, and I did, and subsequent to that I have attempted to.

Today I rise in pursuance of that commitment in order to initiate what I hope to terminate next week, if we do adjourn a week from Friday sine die, in order to render an accounting in one of the most effective and yet very substantial issues that have been confronted by the Committee on Banking, Finance and Urban Affairs of the U.S. House of Representatives.

Today I want to report letters I have written first to the Honorable Alan Greenspan, chairman of the Federal Reserve Board. The reason for that is because I have expressed grave concern for several years, but particularly during the last 2 years, at the amount of risk involving our insured depository institutions such as commercial banks, credit unions, and savings and loans, and also putting at risk, tremendous risk to the taxpayer in the ongoing what is in our opinion and in simple words nothing less than gambling and high-risk ventures in high volume and in such global terms that it defeats ability to explain fully in any program such as this.

But in my letter to Chairman Greenspan I said I have become increasingly concerned about the use of structured notes. There is always a very, very great knack on the part of these enterprising risk-takers to coin words, create terminology, a jargon. Structured notes is a fancy word for another form of what today is agitating and causing great concern and great loss to such things as political entities, Charles County in Maryland, a junior college in Texas, a county in Minnesota, and others where they have placed tax funds and revenue funds in the hands of these gamblers and have lost everything and find it difficult to meet the obligations of their political dependencies. This so-called structured note is just one form in which I fear the commercial banks and the savings and loans and others are exposing to great risk.

So I continue and say I believe that the price volatility and the illiquidity of the many types of these derivatives, because that is what they are, call them structured notes or whatever, but they are so-called derivative, and I have called this global tremendous thing that denies even explanation and even my colleagues on the Banking Committee do not grasp the volume. I have been trying to explain that even as I am speaking here right now today, what they use as terminology, "a nanosecond," which means the speed of light, you may have not billions but trillions of dollars being transferred electronically, megabytes. But what kind of money is that? It totals now even, according to the Wall Street Journal, this unbelievable $38 trillion, and it is gambling. It is not in order to carry on the world's commerce, or purchase of goods, manufacture of goods or trade. It is gambling on such things as currency rate fluctuations, the value of the dollar, which incidentally ought to be our biggest concern because it is approaching a dangerous point where it could be debauched. What we have today compared to the baseline year of 1970 is a 10-cent dollar. This is why our constituents cannot explain why their dollars that they find it hard to earn nowadays cannot buy as much as they used to, and as I have constantly reminded the big panjandrums that govern these big things, the Chairman of the Federal Reserve, the big commercial bankers, groceries are costing more, utilities cost more, rent costs more. Where is inflation controlled?

In this gambling, which I am attracting the interest and I hope the attention of the leading regulators, beginning with the Federal Reserve Board, I am hopeful they will do something, at least something about it.

Mr. Speaker, I include for the RECORD the letters I previously referred to, as follows:

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON BANKING, FINANCE,
AND URBAN AFFAIRS,
Washington, DC, September 27, 1994.

Hon. ALAN GREENSPAN,
Chairman, Board of Governors of the Federal Reserve System, Washington, DC.

DEAR CHAIRMAN GREENSPAN: I have become increasingly concerned about the use of structured notes by insured depository institutions. Although most structured notes are issued by Government Sponsored Enterprises and other reputable institutions, I believe that the price volatility and illiquidity of many types of these derivatives present significant risks to the banks that have purchased them and, by extension, to the Bank Insurance Fund.

The cash flow characteristics of structured notes often depend on the performance of one or more indices, such as interest rates, prepayment rates, commodity prices, etc. According to a recent Federal Deposit Insurance Corporation memorandum to its regional directors, these cash flows "can be variable in the timing and amount of cash received by the investor throughout the life of the security, making the evaluation of cash flows and risks of these securities a difficult process." Given these difficulties, I want to ensure that banks which purchase structured notes are capable of managing the risks they pose.

To assist the Committee, please provide an overview of the Federal Reserve's experience in regulating bank transactions in structured notes. This should include the steps you are taking to ensure that structured notes transactions are consistent with safe and sound banking practices. I also request an estimate of the losses caused by structured notes at the banks the Federal Reserve regulates.

Thank you in advance for your cooperation and attention to this request.

With best wishes.

Sincerely,

HENRY B. GONZALEZ,
Chairman.

COMMITTEE ON BANKING, FINANCE
AND URBAN AFFAIRS,
Washington, DC, September 28, 1994.

Hon. ANDREW C. HOVE, Jr.,
Acting Chairman, Federal Deposit Insurance Corporation, Washington, DC.

DEAR CHAIRMAN HOVE: I have become increasingly concerned about the use of structured notes by insured depository institutions. Although most structured notes are issued by Government Sponsored Enterprises and other reputable institutions, I believe that the price volatility and illiquidity of many types of these derivatives present significant risks to the banks that have purchased them and, by extension, to the insurance funds.

The cash flow characteristics of structured notes often depend on the performance of one or more indices, such as interest rates, prepayment rates, commodity prices, etc. According to a recent memorandum issued by your agency, these cash flows "can be variable in the timing and amount of cash received by the investor throughout the life of the security, making the evaluation of cash flows and risks of these securities a difficult process." Given these difficulties, I want to ensure that banks which purchase structured notes are capable of managing the risks they pose.

To assist the Committee, please provide an overview of the Federal Deposit Insurance Corporation's (FDIC) experience in regulating bank transactions in structured notes. This should include the steps you are taking to ensure that structured notes transactions are consistent with safe and sound banking practices. I also request that you provide the Committee with information on the number of FDIC-regulated banks that have incurred losses caused by structured notes, as well as the amount of the loss at each institution.

Thank you in advance for your cooperation and attention to this request.

With best wishes.

Sincerely,

HENRY B. GONZALEZ,
Chairman.

COMMITTEE ON BANKING, FINANCE
AND URBAN AFFAIRS,
Washington, DC, September 28, 1994.

Mr. JONATHAN FIECHTER,
Acting Director, Office of Thrift Supervision, Washington, DC.

DEAR DIRECTOR FIECHTER: I have become increasingly concerned about the use of structured notes by insured depository institutions. Although most structured notes are issued by Government Sponsored Enterprises and other reputable institutions, I believe that the price volatility and illiquidity of many types of these derivatives present significant risks to the thrifts that have purchased them and, by extension, to the Savings Association Insurance Fund.

The cash flow characteristics of structured notes often depend on the performance of one or more indices, such as interest rates, prepayment rates, commodity prices, etc. According to a recent Federal Deposit Insurance Corporation memorandum to its regional directors, these cash flows "can be variable in the timing and amount of cash received by the investor throughout the life of the security, making the evaluation of cash flows and risks of these securities a difficult process." Given these difficulties, I want to ensure that thrifts which purchase structured notes are capable of managing the risks they pose.

To assist the Committee, please provide an overview of the Office of Thrift Supervision's (OTS) experience in regulating thrift transactions in structured notes. This should include the steps you are taking to ensure that structured notes transactions are consistent with safe and sound practices. I also request that you provide the Committee with information on the number of thrifts that have incurred losses caused by structured notes, as well as the amount of the loss at each institution.

Thank you in advance for your cooperation and attention to this request.

With best wishes.

Sincerely,

HENRY B. GONZALEZ,
Chairman.

COMMITTEE ON BANKING, FINANCE
AND URBAN AFFAIRS,
Washington, DC, September 28, 1994.

Hon. EUGENE A. LUDWIG,
Comptroller of the Currency, Washington, DC.

DEAR COMPTROLLER LUDWIG: I have become increasingly concerned about the use of structured notes by insured depository institutions. Although most structured notes are issued by Government Sponsored Enterprises and other reputable institutions, I believe that the price volatility and illiquidity of many types of these derivatives present significant risks to the banks that have purchased them and, by extension, to the Bank Insurance Fund.

The cash flow characteristics of structured notes often depend on the performance of one or more indices, such as interest rates, prepayment rates, commodity prices, etc. According to a recent Federal Deposit Insurance Corporation memorandum to its regional directors, these cash flows "can be variable in the timing and amount of cash received by the investor throughout the life of the security, making the evaluation of cash flows and risks of these securities a difficult process." Given these difficulties, I want to ensure that banks which purchase structured notes are capable of managing the risks they pose.

To assist the Committee, please provide an overview of the Office of the Comptroller of the Currency's (OCC) experience in regulating bank transactions in structured notes. This should include the steps you are taking to ensure that structured notes transactions are consistent with safe and sound banking practices. I also request that you provide the Committee with information on the number of OCC-regulated banks that have incurred losses caused by structured notes, as well as the amount of the loss at each institution.

Thank you in advance for your cooperation and attention to this request.

With best wishes.

Sincerely,

HENRY B. GONZALEZ,
Chairman.

WE CANNOT ESCAPE HISTORY

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes as the designee of the minority leader.

TRIBUTE TO OFFICER FLOYD HENSLEY ON HIS RETIREMENT

Mr. DORNAN. Mr. Speaker, first of all, some important business about one of our excellent staffers around here on the uniformed side. One of our great Capitol Hill police officers, Floyd Hensley, is retiring after 25 years of service. He always seemed to pull the tougher shift in my memory, always at the majority or Speaker's side door, coming in here early in the morning, very early in the morning he was often heard to say, "Is it 3 o'clock yet?" That was his break time. And some of the good folks around here would say, "Floyd, it is 3 o'clock." Now he can go play golf during his well-deserved retirement.

After 25½ loyal and hard-working years I hope Floyd finds a second career, if that is what he wants. If not, may he break his own golf score every time until he hits that magical score of 18 eagles, 18 on the score card. Nobody has ever done that.

Mr. Speaker, yesterday three of us shared three 5-minute special orders on Haiti. If I had to pick a title for my remarks this afternoon, and this is the end of our next-to-last week, next week is the last. I believe if we are in on Saturday it will be a 50–50 chance that we probably will be out about the time the roosters are crowing on the 8th. I think there is a good chance we will be out on the 7th, particularly if we do not debate the GATT bill, which I do not think we should, because now it appears to be on too fast a track. The Senate is definitely not going to take it up, so they are going to come back in a lame duck session when there may be many defeated Members from that chamber, and there is state of high dudgeon, and a state of what the Germans call angst, the Republicans will be picking their leadership for the new session in the Senate for, if there is mercy, a new rotating leadership. It is all up to the voters on November 8. But I believe that that lame duck session for the Senate has about as much chance of conducting any business as a snowball in hell. Therefore, what is the point of our taking hours and hours of contentious debate on a very important trade treaty, series of treaties, very complicated, when the Senate is not going to do anything, and it is going to have to be done all over again with a Congress composed of a totally different makeup, men and women from all of our 50 States.

□ 1630

So I would hope we would not do GATT. If we do not, we are out of here on Friday, 1 week from today, or this evening.

If I had to put a title on my remarks this evening, Mr. Speaker, I would quote Abe Lincoln and simple say, "We cannot escape history," and the current events of every day of our lives are creating history to be studied by young men and women in the future, and not just the young men and women of this country, but educated people all over the world.

This day, September 30, has brought about terrible rioting and looting in Haiti. It was supposed to be a day of parades and celebration, because it was 3 years ago today that a self-excommunicated and prior to that suspended by the Salesians of Don Bosco, priest was deposed, and only days before in a very ugly speech given in French, describing burning people to death in the slow manner as chic that is both the same obviously in French or in English, chic, and then French words for pretty, wonderful, he admired the smell of burning flesh.

Within minutes, within the hour, one of the presidential candidates from a prior election that John-Bertrand Aristide had defeated, Mr. Silvio, or in Haiti they say Monsieur Silvio Claude; he was captured by a crowd as Aristide had suggested be done to Aristide's enemies. He was almost beaten to death, then lynched, and then when they found the gasoline they were looking for, they attempted to burn him alive. Instead they burned his corpse. Every human rights group worthy of the name in Haiti or in the Caribbean says that Aristide was responsible for that death.

In my Catholic training there were three things required for a mortal sin capable of destroying your soul for eternity unless you were sorry. It was a grievous matter to bring about the death, let alone the torture death, of a fellow citizen, a fellow human being, a fellow politician, a candidate you defeated is certainly a grievous matter, and the other two theologians talk about for centuries, sufficient reflection and full consent of the will.

An ordained Catholic priest under the order of Melchizedek, certainly in every case that I know of, at least in this country and this hemisphere, is a college graduate, and Mr. Aristide is a man of many letters, and that would indicate sufficient reflection and full consent of the will of this ordained Catholic priest. That is just one among many, I use the word "sins," of Jean-Bertrand Aristide, such as inciting a mob to burn down the papal nuncio's house, the Pope's representative in the majority catholic nation of Haiti.

Last month I said, and I have said this on the floor twice, he fingered for mob vengeance every bishop in Haiti because every bishop in Haiti signed a letter, intellectually written, responding to the U.N. mandate to invade Haiti, the only mandate that Clinton looked for. He did not care about the elected Representatives of this Chamber or the United States Senate. But when the United Nations said, "Go for it, Bill Clinton," the bishops in Haiti said, "Do not invade our country. Violence is not the answer to resolve the violence that is before us," and Aristide said, "These men, the bishops, are as equally criminal as the men who overthrew me in the illegal coup," September 30, 1991, 3 years ago this very day. So the rioting goes on now.

I do not want to lose any of my electronic audience on C–SPAN, Mr. Speaker, but I just came from a television set looking at a film scene of rioting and looting in Port-au-Prince with no American troops in sight. I think that may be merciful, because the vengeance could have gone either way.

The cameramen reached the zenith of reportorial courage. One camerman was filming another cameraman being beaten, because a man about to be beaten to death was hiding behind him, and they were clubbing him over and around the cameraman, and a cameraman is the easiest target to blindside in the world in any situation, because that big, heavy camera is on his shoulder, looking through that lens, concentrating on a narrow vision, and all of a sudden blood splatters on the lens of the CNN camera shooting. I have never seen that in my life. Then the blood begins to drool down the left side of your television screen. It is a dimensional problem like when you see water on a lens, it is right in your face up close, and you are seeing the action through the draining blood, and you see a man being dragged with a knife held right at his throat. He is obviously very submissive with the dagger at his throat, then you see more beating and pounding, and then it says what you see being looted is a cash and carry store, no cash, plenty of carrying, and it was a sad sight, and I will leave this Chamber, go right to the CNN news and see again, as I do every day, have any American men or women been asked by President Clinton to trade their young lives for this worse than flawed excuse for a deposed president.

Because I believe he brought it on himself. And I make no case for the thugs that overthrew him or the Tons-Tons Macoutes, so-called attache style of torture and abuse that the God-loved dirt-poor people of Haiti have suffered.

Today is a tough day in history. Lincoln was right, we cannot escape it. Today in 1938, and I did an hour special order on the 50th anniversary back in 1988, smart, smart politicians in Britain, France, and evil politicians in Italy and Germany, ended their Munich conference, disgraceful conference. Yesterday was when Chamberlain, Neville Chamberlain, said, "Peace in our time." Today he took off in a Lockheed aircraft for Heston Airfield outside of London, now just a housing project. I looked for the site once, tried to find just a maker that said, "Here is where Chamberlain landed September 30 and said, 'Peace in our time.'"

What a terrible conference that was in Munich. It approved of the Nazi annexation of Czechoslovakia, Sudetenland. What was the result, Mr. Speaker? Fifty-five million people dead, more women and children and elderly people than men and women in uniform. What a tragedy.

And then communism prevails on one side of that world conflict and continues to kill and torture for almost three-quarters of a century, ending finally when the Berlin Wall came down on my son's birthday, November 9, 1989.

Today, this very day, 1777, this Congress was fleeing. We then met up in Philadelphia. British offensive military pressure caused the Congress to withdraw. We do not even think about things like that in this Chamber today, everybody running for their horse, trying to reach their wives and families, and communication no different than it had been for tens of thousands of years, and the Congress was withdrawn to York, PA.

First atomic-powered submarine, the *Nautilus*, was commissioned at Groton, CT; Babe Ruth hit his 60th homer, breaking his own record today; Jimmy Dean dead in a sports car only at age 24 in Cholame, CA; a young black, African-American student James Meredith succeeded on his fourth try getting into the University of Mississippi.

And then World War II. Mr. Speaker, I have said many times on this floor that I am stunned that we have gone through all of 1942, 1943, 1944, the 50th anniversaries; of all of those years, not a word by anybody, not a word by anybody except the gentleman from Mississippi [Mr. MONTGOMERY], a reserve National Guard general, not a word about the cataclysmic battles in the Pacific.

Today, 1944, September 30, the military in the Pacific declared the Battle of the Palau Islands, particularly the battle of the island of Peleliu, at an end. It was not so. The military was not trying to deceive, but they meant the issue was no longer in doubt. We controlled the island. But for 58 days our young Marines and one of our Army infantry divisions continued fighting in among all of these jagged volcanic rocks of Mount Umurgrobol, as many deaths as Iwo Jima, but a name lost in the pages of history.

□ 1640

The French units were having some success, small French units; 117 days after Normandy. And the beautiful French port city of Calais finally surrendered to Canadian divisions 117 days after Normandy. That battle was still continuing all along the French coast. And deep within, for the first time American and German tanks met in even numbers, and we prevailed with the inferior but reliable Sherman tank.

In a beautiful French forest that I visited once, if you went there today you would have no idea that 50 years ago today a terrible tank battle with great loss of life on both sides was fought to recapture the land, after we had been expelled from capturing it once from the German tank forces in the Gremlecey forest.

If anybody wonders, Mr. Speaker, why I sometimes spell these tough words, it saves the reporters from chasing me down afterward because they like to get it right too.

So this is one of these days in history. As we stand here, sit here, record here, listen here on September 30, to the rioting going on in Port-au-Prince, putting our men and women in danger from all sides and recall what we brought out on this floor last night, that there are only 24 people in the so-called multinational force and they are all safely in one of the headquarters buildings in Port-au-Prince.

Here is what the Washington Times writes as an editorial on the No. 2 man at the State Department, Strobe Talbott, the man who let Clinton sleep on the floor of his digs in Oxford, England. Mr. Talbott, writing in Time magazine, April 6, 1992, which is in today's RECORD that I put in last night, he himself was not proud of having chanted, "Hey, hey, LBJ, how many babies did you kill today?" Our No. 2 man at the State Department said he chanted that on the streets of a foreign country and in this country, and he is not proud of it.

But now he is the man who is the principal architect of this "tar pit" disaster that we are in in Haiti. Mr. Talbott is now in an absolute nose-to-nose shootout with Dante Caputo, who quit as one of our highest American representatives at the United Nations because of the dialog that went on in the spring and summer between him and representatives of the Clinton White House, particularly Mr. Talbott. I will tell you, the hottest desired item on talk shows right now is—the most sought-after guest, is Mr. Dante Caputo. And he is going to be the most sought-after person on this Hill for a rush to have some hearings next week to see who is the foul liar, to find out the truth, whether it is Strobe Talbott or Dante Caputo who is twisting the conversations that went on with Mr. Talbott and Mr. Boutros Boutros-Ghali.

Here is what the editorial in the Washington Times says:

> Say what, Mr. Talbott?

And it goes on,

> As Senate and House committees debate and vote on Haiti doing after the fact what the Democratic leadership made sure they could not do before United States troops landed on Haitian shores, the question of how we got there in the first place remains of enduring interest.
>
> Particularly intriguing is the question of the extent to which the invasion or the occupation, as it has turned out, of Haiti has been based on domestic political considerations. The official administration line has been that the President expects no boost in popularity.

He will not get one.

> Was that always the case? Or maybe rather is that really the case? That was the subject of the line of questions posed to Deputy Secretary of State Strobe Talbott by Representative Chris Smith, New Jersey, during House Foreign Affairs Committee hearings Tuesday.

The next day, because of the toughness of CHRIS SMITH's questioning, Mr. Talbott stiffed those of us on the Committee on Armed Services who had every bit as much interest in Haiti, because the Foreign Affairs Committee has jurisdiction over the general foreign policy of this country and they also have concern for our fighting men and women. But the Armed Services Committee has additional committee responsibility in addition to our constitutional oath that a whole new Congress will take in this Chamber on the first Monday of January, and that is the welfare of our young people in a hot combat, riots, or civil war situation. And he stiffed us.

I stared at the sign "Strobe Talbott" all morning long yesterday. He did not show up and sent no underling or representative. Just nobody from the State Department.

John Deutch, No. 2 at Defense, doing a good job, and General Sheehan, the military planner for Haiti, also doing a good job, were both there although General Sheehan, 3-star Marine general, shocked my socks off when he told me that he had never heard that the father of a Medal of Honor winner killed in Mogadishu 1 year ago this coming Monday, the father of Randall Shugart, had never heard that the father of Sergeant Shugart refused to shake Clinton's hand in the White House posthumous Medal of Honor awarding ceremony. I cannot believe that anybody in the military had not heard that story after the national radio coverage it received and at least was printed in newsletters and the Washington Times, thanks to columnist, Reicard Grennier, who had seen it on the front page of a British paper, which is where I saw it when I went over for the 50th anniversary of the D-day invasion.

The editorial continues:

> Chris Smith, boring in: Mr. Smith's questions were based on a series of memos and minutes of May meetings at the United Nations involving U.N. Haiti representative Dante Caputo, Secretary General Boutros Boutros-Ghali, and Canadian officials. The existence of the memos was first reported in the Washington Times in June, and their substance relates to conversations between Caputo, who withdrew from his post in protest as American troops landed in Haiti.

So he has only been out there in the private sector for a few days, "and Mr. Talbott himself."

That is who the conversation was between.

> What about these memos, Mr. Smith asked. On May 13 foreign minister of Canada commented at a meeting with U.N. Representatives in Ottawa concerning the United States's position such as laid out by Strobe Talbott, Dante Caputo, since the time is short and the situation today cannot last beyond July.

The building political pressure domestically.

> Dante Caputo emphasized that Haiti represents a test case for which the United States has to find a solution before November. Mr. Caputo had at that time spent over 2 weeks with American and Canadian officials, sounding out their views. According to Mr. Talbott, he never mentioned the word November to Mr. Caputo or anyone else.

This is Mr. Talbott at the foreign Affairs meeting Tuesday.

> I never discussed with Mr. Caputo or, for that matter, anybody else I was dealing with during that period, November in any context, notably, including in any context having to do with our own domestic politics. But Mr. Caputo, in his own confidential memo dated May 23 to Mr. Boutros Boutros-Ghali, put it this way: "The Americans see in this type of action a chance to show strength after the strong media criticism of the administration, the President's decision-making capability and firmness of leadership in international political matters; believed armed intervention to be politically desirable. U.S. Officials think that 'the current position of public opinion to an armed invasion will change radically once it has taken place.' What is more, the Washington Times observes Mr. Caputo was concerned because he perceived that Americans were quickly foreclosing diplomatic options so that this politically desirable invasion could take place.

Footnote: This is why former President Jimmy Carter said our foreign policy was a disgrace, and he moved in without really being asked and inserted himself into this position with former chief of staff of all of our military, Colin Powell, and the distinguished Senator SAM NUNN, to save American lives. There were no foreign nationals involved in the invasion at night, as our 82d Airborne, our Rangers, and on Special Forces were prepared to bail out in the night sky over Haiti.

□ 1650

Now—whether or not anyone used the word "November"—it is evident that Mr. Talbott and other State Department officials were concerned about Mr. Clinton's credibility and popularity and that somehow this was related to the November midterm elections. How could that have happened? Whether or not Mr. Talbott made the connection, his purely political concerns were perfectly clear to a number of people, and in any event it is hard to imagine that a conspiracy of Canadian and U.N. diplomats have made this story up. So, Mr. Speaker, there are going to be an awful lot of people trying to pin down Mr. Talbott. He is going to be avoiding Capitol Hill like the bubonic plague that is breaking out in India. He will make every effort to get this House adjourned. I bet he is telling everybody in the White House as a senior FOB, friend of Bill, "Don't bring up GATT, get them out of town, and then the administration will rule the roost."

And this happens with all administrations. When this Chamber and the other Chamber of a hundred breaks up into 535 separate people going home to their States or their congressional districts to seek election, the executive branch, the White House rules, and they will have all of October while the rest of us are campaigning and Mr. Clinton is not, all of November, all of December, with or without a ridiculous Senate lame duck session, and generally, if there is a tidal sea change around here, they will have most of January and February, if the Democrat Party wins, to do whatever they want in Haiti, and I hope that every American is as concerned as I am about the death toll mounting and that we will, as I said, pray for a miracle, and I guess this happens occasionally in dangerous situations. The State of South Carolina pounded the Union fort on April 12, 1861, to begin the Civil War, pounded it from this big, beautiful, massive forth with hundreds of cannons in it, into a pile of rubble, all night and all morning, and not a single Union Soldier died. Miracles can happen in combat.

I had a gentleman write me this week, just reach his letter at about 2 a.m. last night. Charles B. O'Connor, June 19, finally made it to me. Sorry, Mr. O'Connor. He was one of the survivors of one of the greatest naval ships ever to sail, the U.S.S. Franklin, CV-13 in World War II, that during this time, in that Second World War crusade, this ship lovingly called Big Ben took massive damage, the worst damage any of our carriers took that did not sink, and sailed out of the combat zone to limp back into the Brooklyn Navy Yard. I remember it to this day, all those pictures, some of them taken through the televised wreckage of where the Japanese bombs and flaming airplanes had crashed on its deck. In one horrible incident of combat on that carrier, the U.S.S. *Franklin*, 913, as Charlie O'Connor puts it, very young men died. He belongs to a group called The 704 Club; the survivors, I guess they reduced that number each year as some of these heroes go to their eternal reward. He said:

"Please mention that we have had our 50th reunion in September. We have not forgotten."

And I do not want to embarrass Charlie, who had retired, had a great 40-year career with Westinghouse. He send me the calendar of the reunion year, and I, in the back, noticed there were two Medal of Honor winners, and one of them was a hero of my family, and I remember meeting him, Father Joseph T. O'Callahan, a Jesuit who won the Medal of Honor on the deck of the *Franklin* with explosions all around him, moving from boy to boy, giving them last rites, most of them burnt to death or dying, and many Americans remember this famous picture where Father O'Callahan is in a combat helmet, a Navy all-weather jacket, and he puts his hands together reverently, like an altar boy, after he blessed each dying sailor and officer, and then raises his eyes to heaven; I remember that picture vividly from the closing months of the war. Lieutenant Donald A. Gary and Father O'Callahan saved dozens of men, and fortunately both of these Medal of Honor winner survived the war. I have no idea if they are alive now, but they have gone to heaven. Donald Gary, and Joseph O'Callahan,—tonight I will get out my Medal of Honor book and read every detail of how they won their Medals of Honor.

Now Back to those two Medal of Honor winners in Mogadishu on October 3 last year:

In that 2-page essay, and I have never seen a 2-page essay in Time, except on the fall of Communism, glorifying Gorbachev; in that 2-page essay by Strobe Talbott, and it is in today's RECORD. Anybody can send for it through their Congressman. Give me a break! Write your own Congressman. It is in the RECORD of September 29. Strobe Talbott says that he got out of serving in Vietnam with a—how did he put it—a trick knee, and he said that it did not keep him off the squash courts or the playing fields of Oxford. That is his exact words, and, oh, how he, free from serving, listened to the anguish of Clinton and Frank Aller, who later committed suicide. He committed suicide after the Federal Government pardoned him, and let him go, and said, "We don't need you anyway." Then he committed suicide because his family had never accepted that he let other young men go in his place.

But Strobe Talbott in that 2-page essay in April 1992 admitted he was a friend of Clinton's for 23 years and then wove a clever, devious story, hoping to put away, with absolute provable misstatements, tried to put away, the triple draft evasion, draft avoidance, of Bill Clinton. This is the man who is now accused of lying by a man who resigns in anger from his U.N. post, Dante Caputo. I am inviting Mr. Caputo—we have got calls out to him now—to come here to a luncheon meeting or Republican committee meeting next week to get to the truth of this.

Now, remember Charlie O'Connor, one of the proud survivors of that day 50 years ago when over 900 young Americans died in an incident as the *Franklin* lifted out of the water with massive explosions; he said that he watches the proceedings of this Chamber, Mr. Speaker, talks about listening to Rush Limbaugh, says, "What is the liberal bunch in Washington doing to our great country," and then he says three words that I had said to my staff last week when I saw the cover of Time or Newsweek magazine with a 14-year-old boy murdered execution style by the gang members who recruited them into their gang and ordered him to murder an 11-year-old girl. An 11-year-old child dead, her murderer executed at 14, and I turned to my staff, and I said, "Are we doomed?"

And then I read these words a week later in Charlie O'Connor's letter. Congressman, can we reverse the direction in which we are headed? I believe that we have a very poor President, a man unworthy of holding such high office, exactly what Medal of Honor winner, dead hero Randy Shughart's father said to Clinton's face in the East Ballroom May 23. I believe he is a man unworthy of holding such high office. We have no foreign policy. Clinton detests the military, is morally bankrupt, and appears not to be able to tell the truth about anything. And then he said things so rough that I am not going to read them. He said that if we continue on his liberal left path of socialism, I foresee a very bleak future for the United States of America. Please keep up the good fight. You echo our sentiments at every turn. Very truly yours, Charles V. O'Connor, Retired United States Navy.

Charlie, I would tell him, Mr. Speaker, chin up. Get all your friends to vote November 8. Pick the best man or woman that you think is going to keep our country from being doomed, and fight on with the same spirit of Big Ben, the U.S.S. *Franklin.*

Mr. Speaker, I am assembling a lot of photographs from my past because this is my last race for the House. I am living up to my 12-year term limit bill that I put in as a freshman with then Congressman Dan Quayle.

□ 1700

I am going to take a couple of special orders next week. Gosh, I hope I am not talking about Haiti and deaths. I pray that will not happen. Please, God, give us a miracle.

In going through some of the old photograph files, I found pictures of a very young looking BOB DORNAN, 23, the age when Strobe Talbot and Bill Clinton and Frank Aller were organizing demonstrations in foreign countries against their United States, denying them the opportunity to ever be commissioned even as a noncommissioned officer, ever in any of our services, security branches, CIA, FBI, most police departments, certainly not even the Coast Guard, nothing. While they were doing that, I found this picture of myself 23 years of age, that I have never used in a brochure, I am hanging off the side of a F-100 supersonic Saber. It says "Lt. BOB DORNAN" on red wings shaped on the side of the cockpit. I could not believe they let me fly when I looked that young.

And behind that picture, I found a yellow wing, well, it is yellow legal tablet, getting faded, of handwritten notes, not too many corrections, I am proud to say, of my original statement. It says in orange ink up in the corner, faded red, "Written 25 January, 1976, typed at 4 a.m. the night of 25/26." My five young teenagers, all in their thirties now, had gone to bed. My wife was sleeping on the couch in front of me. I remember I had a severe cold.

And I typed this statement, to be read 1 day later on the 27th at the L.A. Press Club. It is five pages. It opens up with the words thank you for coming to the press club in L.A. And I remember I had an expression for when all seven TV stations in L.A., VHS stations, turned out, I called it rolling a 7. I have only done that a few times. I did that the day I declared. I rolled a 7. Channels 2, 4, 5, 7, 9, 11, and 13 were there. I had a short career at three of them.

I read this to my staff. I said, let's read it cold. I don't have any idea what I said. I have not seen this document since I did it. And one of my staffers, Joe Eule, said Congressman, don't do Haiti tomorrow. Read this on the House floor. It is 19 years old this coming January, and what has changed?

So I told him, Mr. Speaker, I would do it. I said I will have to do Haiti too. Pray for that miracle down there. And then I said I will read it.

It starts, I repeat, thank you for coming, ladies and gentlemen of the press. Today I am declaring—I was 42 years of age—today I am declaring my candidacy for the 27th Congressional District of the U.S. House of Representatives. The 27th District is comprised of 15 beach communities, and then I named them all, ending with Ronald Reagan's hometown of Pacific Palisades. I was his Congressman for 6 years.

In our Nation of 215 million people—I am going to try to discipline myself not to interrupt 42-year-old BOB DORNAN. But, Mr. Speaker, there are today 261,602,000 Americans, 41 million more American citizens, and about 10 million illegal people living in our country, and we take care of them pretty good, access to most of our services, 41 million more since I first declared for Congress a year before I was sworn in. In our Nation of 215 million people, very few citizens ever find themselves in the position to campaign with hope of victory for the honor of representing their fellow Americans. To find myself in the position of a front running candidate, I was running third, Mr. Speaker, I have to be honest. A front running candidate in an open primary election for a district as unique as the 27th is certainly a humbling experience. As with most candidates who have a recognition factor in their favor, I have that advantage because of the unselfish assistance of countless people in the causes we have championed together.

My origination of the POW bracelet, proudly worn at its zenith by 5 million Americans, and my worldwide travels, even to Communist countries with courageous wives and mothers of missing in action servicemen, these efforts were made possible by the patriotic generosity of others funding the trips. The opportunity to lecture and debate for over 16 years across our country, to host issue-oriented radio programs, and to produce my own television shows for over 6 years in Los Angeles, all this was made possible by others. But I have worked extremely hard over the years to justify the faith that people have put in me through their support.

I must also acknowledge with loving gratitude the spiritual and patriotic inheritance entrusted to me by my recently deceased mother and father, two of the greatest Americans I will ever know.

I will win the 27th Congressional District primary on June 8, and carry my lead on to victory in the general election on November 2d.

There were 14 people in both those primaries.

Because the voters of both parties in my district are hungry for a Congressman to represent them who is an outspoken fighter.

Mr. Speaker, that word "outspoken" is twice in here, and it is used against me all the time. I guess I kept my promise over 19 years, didn't I?

An outspoken fighter. A Congressman who will in a sense put them in Washington with a strong voice that can really make a difference, someone who is clear thinking and straightforward. When elected, I will articulate the concerns of those I represent with forcefulness and clarity.

One deep concern that will anger and frustrate all citizens in America is the lack of morality in government, which naturally results in an absence of leadership. Voters have been betrayed for years by political corruption, waste, absenteeism, laziness, arrogant self-indulgent pay raises.

We were making $42,000 then. Now it is $133,600, augmented by constantly expanding fringe benefits. As an outspoken opponent of immorality in all facets of modern life, I will continue to hit hard and often at every attempt to abuse the taxpayers. I will call for a six-term limit for all U.S. Congressmen, and two terms for U.S. Senators. Three additional areas of concern stand out when talking with citizens in my 27th Congressional District. I have found during visits to 42 States in the last 2 years—I was traveling, speaking for a group against child pornography—in the last 2 years, that these same three issues are paramount with the voters nationwide. And then I split the three issues into four.

Americans are devastated by the twin brothers of unemployment and inflation—that is the one thing we have cured in this letter, inflation—that works to destroy our fantastic free enterprise system. Reckless government spending a la New York City creates the vicious hidden tax of inflation, an economic cancer that eats away at the paychecks of all Americans. Government now absorbs 44 percent of our personal income.

We left 50 behind a long time ago, Mr. Speaker.

Next, most Americans insist upon a strong national defense shield.

This is 7 years before SDI or strategic defense. We pray for lasting peace with our adversaries, but détente must be a two-way street. Détente must not become the epitaph scrawled across the coffin of liberty. Her torch of freedom now burns in only 2 dozen or so countries, and that threatened light will quickly be extinguished in each and every remaining democracy if the United States does not, to quote from our preamble, provide for the common defense, and maintain her military strength, both strategic and conventional.

□ 1710

A fourth issue, of particular interest, is that Americans are outraged at the growth of all crime. Nineteen years ago, organized crime, street crime, white collar crime, and the mislabeled so-called victimless crimes, referring to prostitution, and narcotics. The preamble to our great Constitution speaks of establishing justice, ensuring domestic tranquility. We Americans had better start thinking of justice for the victims of crime.

As for domestic tranquility, what a deepening disgrace to have foreign totalitarian regimes, hated by their own people, able to point with scorn at our soaring rates of murder, rape, assault, and drug addiction and then sneer about the decline of decadent western culture.

Are we an example of freedom or gutless passivity? One year from now, when I take the oath of office as a U.S. Congressman, you have to enter these campaigns with a lot of confidence, the people of the 27th district will have a fighter representing them who has a sense of commitment and a determination second to none.

Today we are defending in an increasingly dangerous world the most delicate and fragile of societies, a Republic. For all of its flaws, the Nation of which we are citizens, is a wonderful country with a truly remarkable history. What a magnificent challenge to defend her and to improve her. We should welcome that challenge with a renewed spirit of '76, now in 1976. Yes, we should ask for God's blessings on our beautiful land, but we should also roll up our sleeves and try to correct the manmade social problems that torment us.

I will start by campaigning vigorously and positively and treating my opponents with respect for their desire to serve. I want to come back to that, Mr. Speaker.

Together, let us lean on our apathetic fellow voters and ask that they inform themselves on the issues, participate in the process, and then use that enlightenment to exercise one of the greatest rights in a free society, the right to choose leaders through the ballot. See you out there in the precincts and at the polls on June 8 and November 2 of our bicentennial year, 1976.

Mr. Speaker, my young opponent—I never laid eyes on him. Younger than all five of my kids who, as I said, were teenagers then, four of the five are now married and they have made me and Sally proud grandparents nine times.

My opponent says that he is determined to make my character the issue in this campaign. He proceeded to tell the press that he was going to run the dirtiest campaign I had ever seen. If I said that, if any Republican said that, we would be properly crucified. I wish they applied the same standard to some challengers in your party.

This young person, who I would not know if I fell over him, has taken money from pornographers. I forced him to give it back. He wants to cut off the home mortgage interest deduction on our IRS 1040 forms. He wants to put a 50 cent gasoline tax on every gallon of gas you and I buy, Mr. Speaker, for the rest of our lives, because we are still paying excise tax on our phones. That was put in to rebuild the *USS Franklin* in World War II, to fight the good fight against Nazism and fascism, and we still have excise tax on our phones. I have never seen a State gasoline tax rolled back. When you put 10 gallons in a tank or if you fill it up with 20, that is $10 on every tank of gas for the rest of your life.

But what I resent is this boast that he is going to make it a dirty campaign. Let me come back to that with words I wrote in the margin 19 years ago. Get something clear for the LA Times here. I will start by campaigning vigorously and positively and treating my opponents with respect for their desire to serve.

One of the great mythologies built around ROBERT KENNETH DORNAN by the liberal press, Mr. Speaker, is that I fight too tough in campaigns. I gave my young multimillionaire opponent 17 debates in that first campaign. We were both challengers. It was an open seat. No big deal. He stayed clean until 3 weeks out. He got so dirty 3 weeks out, I sued him for millions of dollars. Millions is just for the lawyers. That is all show. But guess what, Mr. Speaker? I am the only Member of this Chamber in all of history, 218 years, no U.S. Senator has ever done this, I refused to drop the suit after I won big. I said I would win with 54.5 percent. I won with 54.7. Pretty good campaigning. I wrote it on a blackboard, morning of the election.

He gave me a $35,000 cashier's check, tax free, legal damages, of $35,000. Thomas Jefferson sued somebody, never got a nickel. Bill Buckley sued Gore Vidal, got a dollar and court costs.

Nobody in history has ever sued an opponent and got money. He might have beat me in court. We know what we are supposed to be subjected to out there in the free marketplace. But his father was a good man, owned Familion Pipe and Supply, and he wanted this thing done because it was hurting his father's reputation because the son got dirty in the last few minutes. He was not a bad fellow at that. Had these two Dino Ferraris up on blocks to run for Congress.

Then came Gregory Peck's son. LA Times to this day cheats and lies on my 1978 campaign. Young Peck, Gregory Peck's son, took 13 sequentially numbered money orders on children and dead people from the State of Alabama. I forced him to give them back. I filed against him 2 years later when I found out about it. He had to apologize to the press after a lot of weasling around and the Times to this day says my charges were false and it was the biggest FEC fine in the history of the FEC up to that point $30,000. And they never collected a nickel of it from anybody. Although the young man, 28, who gave him the money from Alabama went to prison for a year for stealing a million dollars from California.

My 1980 race, I gave Peck over 15 debates. I was a freshman. Cost me a 51 to 49 percent race. In 1980, Peck came at me with all guns blazing. Filthiest campaign of my life. I never did a thing until I had to fight back and counterpunch. I do have Irish blood.

And I ran a clean campaign against Pete Wilson and became one of his best speakers after he beat me fair and square. I ran against Tom Bradley. He said it was the cleanest campaign he had ever had. I have run against Sam Yorty in the primary. He made me his number one speaker after he beat me. Ran the college trustees board, predicted I would get 44 percent and got it. I was just in training for the race I won, this 1976 race. Today I am still friends with Gwen Moore, who is still in the California assembly, who beat me. That Familion and that Peck race were rotten, and they started it. I did not match them in kind. I just got tough with the facts. When somebody is dirty and they are being hit with facts, they always call it dirty campaigning. I am the only Congressman here, Mr. Speaker, who represents two totally different seats, the 27th, 38th, and now I am in the 46th.

In my 1984 race, a newspaper did something I have never heard of before or since. They mistakenly, I think honestly, printed the incumbent Congressman's vote and my votes during the 6 years that I served here with him from the Santa Monica district. They printed our votes together and they gave me all of his votes and, worse than that, gave him all of my votes, on abortion, on busing, on all these key issues.

□ 1720

Mr. Speaker, I could not believe my eyes. They said, "We will correct it." They buried the correction on B–12, the second section. I told him he would reprint it as a last-minute mailer. They said never would anybody do so outrageously a foul deed. The sitting 10-year Congressman did just that, created a mailer giving all of my votes to him and attributing all of his liberal votes to me. It nailed him. I won 53 to 42, and he had won 62 just a few years before, in 1982.

Then my 1986 race, Tony Coelho comes out to my district. Years before he left here in disgrace. He questions my military record, when I had been on television in L.A. during the whole Vietnam war. He lied and said I tried to indicate I was a Vietnam vet.

I was a Korean vet, and I was in pilot training when that war ended. I am proud I was a civilian Eisenhower warrior who never had to kill another mother's son. I have said that for years on TV.

But Coelho tried this. The assemblyman he was trying to help, Willy Brown's lieutenant, the number three man in the California legislature, he was peculiarly quiet at that press conference. He told everybody for 12 years he was a Marine officer, a fighter pilot, and a helicopter gunship pilot. I said, "Why would he sit there quiet and tell Coelho, 'Don't do that to a fellow officer,' or why wouldn't he participate and be a sleaze along with Coelho?" So I checked his record. He was a private, warehouseman, never flew an airplane, never flew a helicopter. He has been impersonating an officer for 12 years in the California Assembly. He will never run again. The L.A. Times refused to print it. His roommate called and said he was lying. He got a ride on an F–4 as an enlisted man in El Toro, and he used the photograph for 12 years. They would not print a word of it.

Mr. Speaker, I did not have any race to speak of in 1988 and 1990, and in 1992 I had a primary where $700,000 of liberal Democrat abortion money came at me in a period of 3 weeks, used by a so-called Republican lady who had been appointed a judge for a couple of years by Jerry Brown; unbelievable.

I responded with tough fighting. No, I passed all my character tests. I lived up to everything, and every promise I made in that five-page, handwritten, with very few corrections, statement for my declaration 19 years ago this January.

Mr. Speaker, I am trying to figure out what 1997 and 1998 holds for me. I am going to continue to be outspoken in this Chamber, Mr. Speaker, as you are outspoken. If I win this election in 38 days, and I think I will, I will be here in Clinton's last 2 years. I will be here to protect the military, to help democracies flourish, to help starving people where we can, but to not squander the lives of young men in dingy alleyways, as those who died in Mogadishu, and then not be able to explain to Gary Gordon's parents or his widow, or Carmen or Herb, Shugart's parents, or have Gordon's little children, Ian and Brittany, when they grow up, unable to understand why a person who three times sent high school people to serve in his place and got his education overseas without going to class and demonstrated against his country can put young men and women in harm's way in Haiti and Mogadishu, and talks about doing it in Bosnia and other places. This is going to be a tough, key election in the history of our country. It is going to be a painful 2 years until we get ourselves a new President.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate of the bill (H.R. 4649) "An Act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1995, and for other purposes.".

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 3, 6, 12, 15, 18, 20, 21, and 23, to the above entitled bill.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DORNAN) to revise and extend their remarks and include extraneous material:)

Mr. WELDON, for 5 minutes, today and October 3.

Mr. EHLERS, for 5 minutes each day, on October 3, 4, 5, 6, and 7.

Mr. HORN, for 5 minutes each day, on October 3, 4, 5, 6, and 7.

Mr. DORNAN, for 5 minutes each day, on October 3, 4, 5, 6, and 7.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. WISE, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. FINGERHUT, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. PETRI and to include therein extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,167.

(The following Members (at the request of Mr. DORNAN) and to include extraneous matter:)

Mr. SOLOMON.

Mr. THOMAS of California.

Mr. BURTON of Indiana in two instances.

Mr. HORN.

Mr. BILIRAKIS.

Mr. YOUNG of Alaska.

Mr. HEFLEY.

Mr. GALLEGLY.

Mr. DICKEY.

Mr. GOODLING.

Mr. DORNAN.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. MANN.

Mr. REED.

Mr. FARR of California.

Mr. PAYNE of New Jersey.

Mr. BONIOR in two instances.

Mr. FORD of Tennessee.

Mrs. MALONEY.

Mr. STARK.

Mrs. MEEK of Florida.

Mr. MILLER of California.

Mr. MANTON.

Mrs. SCHROEDER.

Mr. SWETT.

(The following Members (at the request of Mr. DORNAN) and to include extraneous matter:)

Mr. ORTON.

Mr. BONILLA.

Mr. HOYER.

Ms. FURSE.

Mr. KLEIN.

Mr. MENENDEZ.

Mr. TOWNS.
Mr. KYL.
Ms. HARMAN.
Mr. GREENWOOD.
Mr. WAXMAN.
Mrs. LLOYD.
Mrs. BYRNE.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 995. An act, to amend title 38, United States Code, to improve reemployment rights and benefits of veterans and other benefits of employment of certain members of the uniformed services, and for other purposes.

H.R. 4556. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1995, and for other purposes.

H.R. 4649. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1995, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1587. An act to revise and streamline the acquisition laws of the Federal Government, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, bills of the House of the following titles:

On September 29, 1994:

H.R. 4606. An act making appropriations for the Department of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes.

H.R. 4554. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1995, and for other purposes.

H.R. 4569. An act to extend and make amendments to the President John F. Kennedy Assassination Records Collection Act of 1992.

H.R. 4191. An act to designate the United States Post Office building located at 9630 Estate Thomas in Saint Thomas, Virgin Islands, as the "Aubrey C. Ottley Post Office."

H.R. 4177. An act to designate the United States Post Office building located at 1601 Highway 35 in Middletown, New Jersey, as the "Candace White Post Office."

H.R. 3839. An act to designate the United States Post Office building located at 220 South 40th Avenue in Hattiesburg, Mississippi, as the "Roy M. Wheat Post Office."

ADJOURNMENT

Mr. DORNAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 24 minutes p.m.), under its previous order the House adjourned until Monday, October 3, 1994, at 10:30 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3887. A letter from the Secretary, Department of Education, transmitting a report entitled, "Second Biennial Report to Congress on Vocational Educational Data in the Department of Education", pursuant to Public Law 101-392, section 407 (104 Stat. 824); to the Committee on Education and Labor.

3888. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting the Secretary's determination and memorandum of justification for assistance to support the U.N. Voluntary Fund for Victims of Torture; to the Committee on Foreign Affairs.

3889. A letter from Secretary of the Interior, transmitting a draft of proposed legislation entitled, "Approving the Location of a Thomas Paine Memorial"; to the Commission on Natural Resources.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MINETA: Committee on Public Works and Transportation. H.R. 4394. A bill to provide for the establishment of mandatory State-operated comprehensive one-call systems to protect natural gas and hazardous liquid pipelines and all other underground facilities from being damaged by any excavations, and for other purposes; with amendments (Rept. 103-765, Pt. 2). Referred to the Committee on the Whole House on the State of the Union.

Mr. MINETA: Committee on Public Works and Transportation H.R. 4704. A bill to provide for conveyance of certain lands and improvements in Hopewell Township, PA, to a nonprofit organization known as the "Beaver County Corporation for Economic Development" to provide a site for economic development; with an amendment (Rept. 103-768). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLAY: Committee on Post Office and Civil Service. H.R. 2970. A bill to reauthorize the Office of Special Counsel, and for other purposes; with an amendment (Rept. 103-769). Referred to the Committee of the Whole House on the State of the Union.

Mr. MINETA: Committee on Public Works and Transportation H.R. 4460. A bill to provide for conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; with an amendment (Rept. 103-770). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CLAY:

H.R. 5139. A bill to amend title 39, United States Code, to provide for procedures under which persons involuntarily separated by the U.S. Postal Service as a result of having been improperly arrested by the Postal Inspection Service on narcotics charges may seek reemployment; to the Committee on Post Office and Civil Service.

By Mr. SKELTON (for himself, Mr. DELLUMS, Mr. KYL, Mrs. SCHROEDER, Ms. HARMAN, Mrs. LLOYD, Mrs. FOWLER, Ms. FURSE, Mr. PICKETT, Mr. LANCASTER, Mr. RAVENEL, Mr. FARR, Mr. BUYER, and Mr. UNDERWOOD):

H.R. 5140. A bill to provide for improved procedures for the enforcement of child support obligations of members of the Armed Forces; to the Committee on Armed Services.

By Mr. WAXMAN (for himself, Mr. DINGELL, Mr. GREENWOOD, Mr. STUDDS, Mr. SHARP, Mr. MARKEY, Mr. SWIFT, Mrs. COLLINS of Illinois, Mr. SYNAR, Mr. WYDEN, Mr. RICHARDSON, Mr. BRYANT, Mr. MANTON, Mr. TOWNS, Mr. KREIDLER, Ms. DELAURO, Mr. DIXON, Mr. FRANK of Massachusetts, Mr. GUTIERREZ, Mr. KLECZKA, Mrs. MALONEY, Mr. MEEHAN, Mrs. MORELLA, Mr. NADLER, Mr. OLVER, Mr. PASTOR, Ms. PELOSI, Mr. RANGEL, Mr. SERRANO, and Ms. VELAZQUEZ):

H.R. 5141. A bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ANDREWS of New Jersey:

H.R. 5142. A bill to amend the Agricultural Trade Act of 1978 to establish a condition on the provision of assistance under the export enhancement program for the export of durum wheat; to the Committee on Agriculture.

By Mr. BEREUTER:

H.R. 5143. A bill to amend the Fair Credit Reporting Act to provide for disclosures by consumer reporting agencies to the Federal Bureau of Investigation for counterintelligence purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. EDWARDS of Texas (for himself, Mr. BONILLA, Mr. STENHOLM, Mr. FIELDS of Texas, Mr. PETE GEREN of Texas, Mr. SAM JOHNSON, Mr. SARPALIUS, Mr. ARMEY, Mr. LAUGHLIN, Mr. ROBERTS, Mr. FROST, Mr. SKEEN, Mr. TEJEDA, Mr. YOUNG of Alaska, Mr. BREWSTER, Mr. POMBO, Mr. CONDIT, Mr. BLILEY, Mr. HERGER, Mr. CALLAHAN, Mr. CALVERT, Mr. COLLINS of Georgia, Mr. DICKEY, Mr. DOOLITTLE, Ms. DUNN, Mr. EVERETT, Mr. HUNTER, Mr. HUTCHINSON, Mr. ISTOOK, Mr. LEWIS of Kentucky, Mr. LINDER, Mr. LUCAS, Ms. MOLINARI, Mr. ROGERS, Mr. ROYCE, Mr. STUMP, and Mr. HUFFINGTON):

H.R. 5144. A bill to amend the Endangered Species Act of 1973 to provide that no species may be determined to be an endangered species or threatened species, and no critical habitat may be designated, until that act is reauthorized; to the Committee on Merchant Marine and Fisheries.

By Mr. GOODLING (for himself, Mr. FAWELL, Mr. BALLENGER, Mr. BOEHNER, Mr. HOEKSTRA, and Mr. MCKEON):

H.R. 5145. A bill to amend section 1977A of the Revised Statutes of the United States to repeal the authority to award punitive damages for violations of title VII of the Civil Rights Act of 1964 and the Americans With Disabilities Act of 1990, for the purposes of equalizing damages between the Congress and the private sector under these laws; jointly, to the Committees on the Judiciary and Education and Labor.

By Mr. HEFLEY:

H.R. 5146. A bill to amend the Occupational Safety and Health Act of 1970; to the Committee on Education and Labor.

By Mr. HINCHEY:

H.R. 5147. A bill to amend title XIX of the Social Security Act to lower the maximum Federal medical assistance percentage that may be applied with respect to any State under the Medicaid Program and to increase such percentage with respect to all States under such program; to the Committee on Energy and Commerce.

By Mr. INSLEE:

H.R. 5148. A bill to authorize certain elements of the Yakima River Basin Water Enhancement Project, and for other purposes; to the Committee on Natural Resources.

By Mr. KLEIN:

H.R. 5149. A bill to amend the Community Reinvestment Act of 1977 to enhance the flow of investment capital for low- and moderate-income housing in low- and moderate-income neighborhoods; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LEHMAN:

H.R. 5150. A bill to amend the Federal Water Pollution Control Act concerning the eligibility of officers and employers of State, county, and municipal governments to serve as members of State boards that issue permits for discharges into the navigable waters; to the Committee on Public Works and Transportation.

By Mr. PASTOR:

H.R. 5151. A bill to amend the Fair Labor Standards Act of 1938 to provide for an exemption from the overtime provisions for professional employees of contractors or subcontractors of the Resolution Trust Corporation who are paid on a hourly basis; to the Committee on Education and Labor.

By Mr. REED:

H.R. 5152. A bill to require States to report certain information to the Federal Bureau of Investigation for certain crimes; to the Committee on the Judiciary.

By Mr. STARK:

H.R. 5153. A bill to amend title VIII of the Social Security Act to provide for an open enrollment period under part B of the Medicare Program for individuals formerly covered as retirees under group health plans of local educational agencies; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. MINGE:

H.R. 5154. A bill to amend the Agricultural Act of 1949 to temporarily suspend operation of the precondition on the provision of extended price support loans for corn under the farmer owned reserve program; to the Committee on Agriculture.

By Mr. HASTERT (for himself and Mr. HALL of Ohio):

H.J. Res. 419. Joint resolution designating the week beginning October 23, 1994, as "Center City Church Week"; to the Committee on Post Office and Civil Service.

By Ms. LOWEY:

H.J. Res. 420. Joint resolution to approve the location of a Thomas Paine Memorial; to the Committee on Natural Resources.

By Mr. MURPHY:

H.J. Res. 421. Joint resolution designating the week of November 6, 1994 through November 12, 1994, "National Health Information Management Week"; to the Committee on Post Office and Civil Service.

By Mr. SCHUMER:

H.J. Res. 422. Joint resolution designating December 1994 as "Goods for Guns Month"; to the Committee on Post Office and Civil Service.

By Mr. YOUNG of Alaska:

H.Con. Res. 300. Concurrent resolution expressing the sense of the Congress regarding the commonwealth option presented in the Puerto Rican plebiscite of November 14, 1993; to the Committee on Natural Resources.

By Mr. ORTON:

H. Con. Res. 301. Concurrent resolution expressing the sense of the Congress regarding entitlements; to the Committee on Government Operations.

By Mr. ANDREWS of New Jersey (for himself and Mr. GILMAN):

H. Con. Res. 302. Concurrent resolution urging the President to promote political stability in Tajikistan through efforts to encourage political resolution of the conflict and respect for human rights and through the provision of humanitarian assistance and, subject to certain conditions, economic assistance; to the Committee on Foreign Affairs.

By Mr. KENNEDY (for himself, Mr. BORSKI, Mr. CONYERS, Mr. COYNE, Mr. DELLUMS, Mr. ENGEL, Mr. EVANS, Mr. FRANK of Massachusetts, Mr. HOKE, Mr. HUGHES, Mr. JEFFERSON, Mr. KING, Mr. KOPETSKI, Ms. LOWEY, Mr. MCDADE, Ms. MCKINNEY, Mr. MANTON, Mr. MARKEY, Mr. MEEHAN, Mr. MILLER of California, Ms. MOLINARI, Mr. MORAN, Mr. OWENS, Mr. PALLONE, Mr. POSHARD, Mr. QUINN, Mr. SANGMEISTER, Mr. SCHUMER, Mr. SERRANO, Mr. SHAYS, Mr. TORKILDSEN, Mr. TOWNS, and Ms. VELAZQUEZ):

H. Con. Res. 303. Concurrent resolution concerning commencement of all-party talks to seek a peaceful resolution to the conflict in Northern Ireland; to the Committee on Foreign Affairs.

By Mr. MILLER of California (for himself, Mr. MARTINEZ, Mr. SCHUMER, Mr. STEARNS, and Mr. WASHINGTON):

H. Res. 557. Resolution commending the Police Athletic League; to the Committee on Education and Labor.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 162: Mr. COYNE, Mr. JACOBS, Mr. COOPER, Mr. HOCHBRUECKNER, Mr. MINGE, Ms. LONG, Mr. LIPINSKI, Mr. REGULA, Mr. COPPERSMITH, Mr. YATES, and Mr. INHOFE.

H.R. 2305: Mr. KYL.

H.R. 2420: Mr. MONTGOMERY and Mr. NADLER.

H.R. 2488: Mr. WYDEN.

H.R. 2727: Mr. RANGEL.

H.R. 3039: Ms. DUNN and Mr. FAWELL.

H.R. 3270: Mr. MANN.

H.R. 3705: Mr. COOPER.

H.R. 3862: Mr. JACOBS.

H.R. 4040: Mr. THOMPSON and Ms. ENGLISH of Arizona.

H.R. 4056: Mr. SKEEN and Mr. NEAL of Massachusetts.

H.R. 4091: Mr. SCHUMER.

H.R. 4142: Mr. TORKILDSEN and Mr. KIM.

H.R. 4394: Ms. FURSE.

H.R. 4514: Mr. MONTGOMERY.

H.R. 4517: Mr. OWENS.

H.R. 4527: Mr. CARR.

H.R. 4699: Mr. NADLER.

H.R. 4758: Mr. ZIMMER and Mr. WELDON.

H.R. 4789: Mrs. MINK of Hawaii and Mr. SHARP.

H.R. 4839: Mr. SCHUMER and Mr. EVANS.

H.R. 4936: Mr. BURTON of Indiana and Mr. LEWIS of Georgia.

H.R. 4938: Mr. FROST.

H.R. 4957: Mr. FILNER.

H.R. 5005: Mr. RICHARDSON, Mr. STARK, and Mr. KLEIN.

H.R. 5062: Mr. SARPALIUS, Mr. SMITH of Iowa, Mr. CALLAHAN, Mr. CALVERT, Ms. KAPTUR, Mr. NEAL of North Carolina, Mr. LIPINSKI, Mr. BUNNING, Mr. Orton, Mr. LUCAS, Ms. ROYBAL-ALLARD, Mr. QUINN, Mr. BLILEY, Mr. HOUGHTON, Mr. BARRETT of Nebraska, Mr. SMITH of Michigan, Mr. LIVINGSTON, Mr. BARTLETT of Maryland, and Mr. LEVY.

H.R. 5089: Mr. FROST.

H.J. Res. 385: Mr. VENTO, Mr. MANTON, Mr. LEVY, Mr. FAWELL, and Mr. EVANS.

H.J. Res. 389: Ms. SHEPHERD, Mr. GEPHARDT, and Mr. DURBIN.

H.J. Res. 398: Mr. VISCLOSKY, Mr. WISE, and Mr. ZELIFF.

H.J. Res. 401: Mr. CHAPMAN, Mr. PETE GEREN of Texas, Mr. HOYER, Ms. MOLINARI, Ms. PELOSI, Mr. RAHALL, Mr. TUCKER, and Mr. WATT.

H.J. Res. 403: Ms. LOWEY, Mrs. CLAYTON, Ms. SLAUGHTER, and Mr. BLILEY.

H.J. Res. 405: Mr. BAKER of California, Mr. SKELTON, Ms. DANNER, Mr. GRANDY, Mr. TALENT, Mr. WHEAT, Mr. GUNDERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. STENHOLM, Mr. FROST, Mr. SMITH of Oregon, Mr. EDWARDS of Texas, Mr. PICKLE, and Mr. CONDIT.

H.J. Res. 411: Mr. COBLE, Mr. KLEIN, Mr. MURTHA, Mr. SCHIFF, Mr. MCDADE, Ms. DUNN, Mr. OBERSTAR, Mr. POSHARD, Mr. BRYANT, Mr. MONTGOMERY, Mr. SWETT, Mr. SAXTON, Ms. PELOSI, Mr. LEWIS of California, Mr. KING, Mr. BOUCHER, Mr. LAZIO, Mr. SISISKY, Mr. CONDIT, Mr. MCHUGH, Mr. BLILEY, Mr. GORDON, Ms. PRYCE of Ohio, Mr. JACOBS, Mr. SABO, Mr. BERMAN, Mr. GALLEGLY, Mr. MEEHAN, Mrs. FOWLER, Mr. BILBRAY, Mr. DE LA GARZA, Mr. OWENS, Ms. BROWN of Florida, Mr. QUINN, Mr. PETE GEREN of Texas, Mr. FILNER, Mr. MATSUI, Mr. LEWIS of Georgia, Ms. SLAUGHTER, and Mrs. LLOYD.

H.J. Res. 415: Mr. ABERCROMBIE, Mr. ARMEY, Mr. BAKER of California, Mr. BARRETT of Nebraska, Mr. BATEMAN, Mr. BEREUTER, Mr. BEVILL, Mr. BILIRAKIS, Mr. BLILEY, Mr. BOEHLERT, Mr. BOEHNER, Mr. BONILLA, Mr. BREWSTER, Mr. BROOKS, Mr. BUNNING, Mr. BURTON of Indiana, Mr. BUYER, Mr. CALVERT, Mr. CALLAHAN, Mr. CAMP, Mr. CASTLE, Mr. CHAPMAN, Mr. CLEMENT, Mr. CLINGER, Mr. COBLE, Ms. COLLINS of Michigan, Mrs. COLLINS of Illinois, Mr. COLLINS of Georgia, Mr. COOPER, Mr. COX, Mr. COYNE, Mr. CRAPO, Mr. CUNNINGHAM, Mr. DEAL, Mr. DELAY, Mr. DELLUMS, Mr. DERRICK, Mr. DIAZ-BALART, Mr. DICKS, Mr. DOOLITTLE, Mr. DORNAN, Mr. DREIER, Mr. DUNCAN, Ms. DUNN, Mr. DURBIN, Mr. EDWARDS of California, Mr. EHLERS, Mr. EMERSON, Mr. ENGEL, Ms. ESHOO, Mr. EVERETT, Mr. EWING, Mr. FAWELL, Mr. FAZIO, Mrs. FOWLER, Mr. FROST, Mr. GALLEGLY, Mr. GEKAS, Mr. PETE GEREN of Texas, Mr. GIBBONS, Mr. GILCHREST, Mr. GILMAN, Mr. GONZALEZ, Mr. GOODLATTE, Mr. GOODLING, Mr. GRANDY, Mr. GREENWOOD, Mr. GUNDERSON, Mr. HALL of Texas, Mr. HALL of Ohio, Mr. HANCOCK, Mr. HANSEN, Mr. HASTERT, Mr. HASTINGS, Mr. HEFNER, Mr. HERGER, Mr. HOAGLAND, Mr. HOBSON, Mr. HOEKSTRA, Mr. HOKE, Mr. HORN, Mr. HOUGHTON, Mr. HUFFINGTON, Mr. HUGHES, Mr. HUNTER, Mr. HUTCHINSON, Mr. ISTOOK, Mr. JACOBS, Mr. JEFFERSON, Mr. SAM JOHNSON, Ms.

EDDIE BERNICE JOHNSON of Texas, Mr. KASICH, Mrs. KENNELLY, Mr. KILDEE, Mr. KIM, Mr. KING, Mr. KLECZKA, Mr. KLUG, Mr. KNOLLENBERG, Mr. KOLBE, Mr. KYL, Mr. LANTOS, Mr. LAZIO, Mr. LEACH, Mr. LEVIN, Mr. LEVY, Mr. LEWIS of California, Mr. LEWIS of Georgia, Mr. LEWIS of Kentucky, Mr. LEWIS of Florida, Mr. LIGHTFOOT, Mr. LIVINGSTON, Mr. LUCAS, Mr. MCCANDLESS, Mr. MCCOLLUM, Mr. MCCRERY, Mr. MCKEON, Mr. MCMILLAN, Mr. MACHTLEY, Mrs. MALONEY, Mr. MANZULLO, Mr. MARKEY, Mr. MARTINEZ, Mr. MATSUI, Mr. MAZZOLI, Mrs. MEEK of Florida, Mrs. MEYERS of Kansas, Mr. MICHEL, Mr. MILLER of Florida, Mr. MILLER of California, Mrs. MINK of Hawaii, Ms. MOLINARI, Mr. MOLLOHAN, Mr. MONTGOMERY, Mr. MOORHEAD, Mrs. MORELLA, Mr. MURPHY, Mr. NADLER, Mr. NEAL of North Carolina, Mr. NUSSLE, Mr. OLVER, Mr. ORTON, Mr. OXLEY, Mr. PACKARD, Mr. PAXON, Ms. PELOSI, Mr. PENNY, Mr. PETERSON of Florida, Mr. PETRI, Mr. PICKLE, Mr. POMBO, Mr. PORTMAN, Mr. PRICE of North Carolina, Mr. QUILLEN, Mr. QUINN, Mr. RAHALL, Mr. RAMSTAD, Mr. REGULA, Mr. RIDGE, Mr. ROBERTS, Mr. ROEMER, Mr. ROGERS, Mr. ROHRABACHER, Mr. ROMERO-BARCELO, Mr. ROSE, Mr. ROTH, Mr. ROWLAND, Mr. RUSH, Mr. SANGMEISTER, Mr. SAWYER, Mr. SAXTON, Mr. SCHAEFER, Mr. SCHIFF, Mrs. SCHROEDER, Mr. SCHUMER, Mr. SCOTT, Mr. SERRANO, Mr. SHAYS, Ms. SHEPHERD, Mr. SKAGGS, Mr. SKEEN, Mr. SKELTON, Ms. SLAUGHTER, Mr. SMITH of New Jersey, Mr. SMITH of Texas, Mr. SMITH of Iowa, Mr. SMITH of Michigan, Mr. SMITH of Oregon, Ms. SNOWE, Mr. SOLOMON, Mr. SPENCE, Mr. STEARNS, Mr. STENHOLM, Mr. STUDDS, Mr. STUMP, Mr. SWETT, Mr. SWIFT, Mr. TALENT, Mr. TAUZIN, Mr. TAYLOR of North Carolina, Mr. TAYLOR of Mississippi, Mr. THOMAS of California, Mr. TORKILDSEN, Mr. TORRES, Mr. TORRICELLI, Mr. TRAFICANT, Mrs. UNSOELD, Mr. UPTON, Ms. VELAZQUEZ, Mr. VENTO, Mrs. VUCANOVICH, Mr. WALKER, Mr. WALSH, Mr. WATT, Mr. WILSON, Mr. WOLF, Mr. WYDEN, Mr. YOUNG of Florida, Mr. YOUNG of Alaska, Mr. ZIMMER, and Mr. FIELDS of Texas.

H.J. Res. 418: Mr. KLECZKA, Mr. KING, Mr. MCCOLLUM, Mr. NADLER, Mr. HANSEN, Mr. MURPHY, Mr. HASTINGS, Mr. SWIFT, Mr. THOMAS of California, Mr. BEREUTER, Mr. JOHNSON of South Dakota, Mr. BUNNING, Mr. ROSTENKOWSKI, Mr. CRANE, Mr. MCHUGH, Mr. SHUSTER, Mr. BOEHLERT, Mr. MOORHEAD, Mr. UPTON, Mr. BACCHUS of Florida, Mr. CLAY, Mr. EHLERS, Mr. DREIER, Mr. FIELDS of Texas, Mr. MACHTLEY, Mr. YOUNG of Alaska, Mr. CHAPMAN, Mr. KLUG, Mr. FORD of Tennessee, Mr. DICKS, Ms. WATERS, Mr. WATT, Mr. SCOTT, Mr. KENNEDY, Mr. DURBIN, Mr. ABERCROMBIE, Mr. GEPHARDT, Mr. MORAN, and Mr. MATSUI.

H. Con. Res. 35: Mr. VISCLOSKY, Mr. BEVILL, Mr. HAMILTON, Mr. SHARP, and Mr. CARR.

H. Con. Res. 148: Mr. HUGHES and Mr. BREWSTER.

H. Con. Res. 281: Mr. ZIMMER and Mr. KLEIN.

H. Con. Res. 297: Mr. TAYLOR of North Carolina, Mr. BACHUS of Alabama, Mr. MCCOLLUM, Mr. INGLIS of South Carolina, Mr. CRANE, Mr. DUNCAN, and Mr. CANADY.

H. Res. 389: Mrs. BENTLEY.

H. Res. 432: Ms. SLAUGHTER.

H. Res. 473: Mr. CHAPMAN, Mr. COOPER, Mr. FILNER, Mr. GUNDERSON, Mr. HUGHES, Mr. MILLER of California, Mr. MOAKLEY, Mr. SERRANO, Ms. SHEPHERD, and Mrs. THURMAN.

H. Res. 525: Mr. DOOLITTLE, Mr. BAKER of California, Mr. POMBO, Mr. HUNTER, Mr. LIVINGSTON, Mr. SENSENBRENNER, Mr. ARMEY, and Mr. WELDON.

H. Res. 541: Mr. PALLONE.

H. Res. 545: Mr. GOSS, Mr. INGLIS of South Carolina, Mr. DELAY, Mr. PACKARD, Mr. ROBERTS, Mr. CANADY, Mr. GOODLATTE, Mr. BAKER of California, and Mr. TAYLOR of Mississippi.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 3 by Mr. McCOLLUM on House Joint Resolution 38: Christoper Shays.

Petition 15 by Mr. BILIRAKIS on House Resolution 382: Major R. Owens.

Petition 18 by Mr. HASTERT on House Resolution 402: Peter G. Torkildsen and James H. (Jimmy) Quillen.

Petition 23 by Mr. TAUZIN on H.R. 3975: Martin Frost.

SENATE—*Friday, September 30, 1994*

(Legislative day of Monday, September 12, 1994)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable PATTY MURRAY, a Senator from the State of Washington.

The PRESIDING OFFICER. This morning's prayer will be led by our guest chaplain, Dr. Arvol Looking Horse, keeper of the sacred pipe of the Sioux Nation.

PRAYER

The guest chaplain, the Reverend Dr. Arvol Looking Horse, offered the following prayer:

Tunkasila Wakantanka, Great Spirit, Creator of all things, I would like to pray to you in a humble way. I would like to pray from my heart. I would like to pray for wolakota, peace and harmony, to the four directions, to the Great Spirit, Mother Earth. I would like to pray for all people, all nations, for understanding the values of respect, generosity, and to humble ourselves that we understand Mother Earth, and to see and to hear from our hearts, that we would heal and pray for the seventh generation. I would like to pray not to forget the past but to complete it so we can feel good inside ourselves. And I would like to pray for health and happiness for all nations—Mitakuye owasin, all my relation. Thank you.

APPOINTMENT OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr.BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 30, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PATTY MURRAY, a Senator from the State of Washington, to perform the duties of the Chair.

ROBERT C.BYRD,
President pro tempore.

Mrs. MURRAY thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

HOUSE OF REPRESENTATIVES CAMPAIGN SPENDING LIMIT AND ELECTION REFORM ACT OF 1993

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the motion to request a conference on disagreeing votes of the two Houses on S. 3, which the clerk will report.

The assistant legislative clerk read as follows:

Resolved, That the bill from the Senate, S. 3, entitled "An Act entitled the 'Congressional Spending Limit and Election Reform Act of 1993,' " do pass with amendments.

The Senate resumed consideration of the motion.

The ACTING PRESIDENT pro tempore. The time between now and 9:30 a.m. is equally divided and controlled between the Senator from Oklahoma [Mr. BOREN] and the Senator from Kentucky [Mr. MCCONNELL].

Who yields time?

Mr. WELLSTONE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. WELLSTONE. Madam President, I ask unanimous consent that I be able to speak for 5 minutes of Senator BOREN's time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Minnesota is recognized.

Mr. WELLSTONE. I thank the Chair.

Madam President, I want to just give one example that I think tells a very large story about the mix of money and politics in our country today. It is an example that comes from the health care debate that we have gone through here in the Congress. And I do think, by the way, that what has happened with health care makes the best case for campaign finance reform that I know.

Madam President, several months ago, I was invited to speak to a gathering of surgeons. There were about 350 surgeons. It was early morning. I was supposed to speak at 8:30. I arrived at 8:25. I went to the back of the room to get a cup of coffee, at which point the director, political director—a nice person, this is not a snide comment I am about to make—was talking to the doctors. And now I essentially quote him. He said when you go to see your Senator or Representative, you cannot give them a PAC check in their office. So they may want to go out in the hall to receive it, or if they do not go out in the hall they will tell you where to send it. Then he hesitated, and he looked at everybody and said with a smile, "But they will take it," at which point there was among 350 doctors this kind of cynical but also awkward laugh because, after all, if they thought there was something wrong with the taking of the money, they were doing the giving; they were part of this enterprise as well.

Now it was my turn to speak, and I stood up and said to the doctors, in all due respect to you and to others, I do not think Senators and Representatives, Democrats or Republicans, should be taking any of this political action committee money and—and—large contributions, should not be taking any contributions from anyone in the health care industry, broadly defined, over $100 per person.

Madam President, I thought there was going to be hostility, and instead there was almost a standing ovation, which really surprised me. Then I looked at everybody in the room. I was a teacher for 20 years. You were a teacher. You learn to read faces. I looked at these doctors, and I said now I understand what is going on here. You are told, or you actually believe that you have to come to the Nation's Capitol, checkbook in hand, to have influence. I am told I have to raise the average of $13,000 a day to be viable for reelection. No wonder people are losing confidence in this process. No wonder there is the anger.

This vote at 9:30 is a critically important vote. I hope people in the country will understand that this is a vote which just determines whether we can go to conference committee to try and work out an agreement whereby we can begin to reduce the huge amount of money that is injected into politics in our country. It is not a be all or an end all, but it certainly would make a huge difference. And I know the people in Minnesota, the people in Washington, the people in Kentucky, and people around the country find the amount of money that is spent on these races to be obscene, hate to see this money chase, feel that they are all too often cut out of the loop, feel that the Government is not responsive, and they want these elections to be their elections. These elections do not belong to the people of this country any longer.

Communication technology has become the main weapon of electoral conflict. It is capital intensive, requires huge bucks, and therefore those individuals, groups, and organizations that have those huge bucks are the people who can most affect our tenure

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

or lack of tenure. Therefore, they have too much access, too much influence, too much power, and too many people are left out.

This is as important a vote as Senators are going to cast in this Congress, and I hope Senators will vote for cloture so we can go to conference committee, so that we can work out what I think will be a very, very important reform which is all about making this process more accountable and making representative democracy operative in our country.

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. McCONNELL. Good morning, Madam President.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky is recognized.

Mr. McCONNELL. Madam President, this vote we will have this morning will be an opportunity for us to for the last time this year, and I believe for the last time for years to come, put an end to the notion that it is somehow appropriate for the Government to dictate how much speech will be allowed in political campaigns in America, and, further, to have that speech paid for by the taxpayers of the United States. That notion, it seems to me, has been clearly discredited over the last few years and particularly in the course of this debate. Hopefully, this morning we can put that foolish notion to rest forever.

Just to recount a little bit of how we got to where we are, Madam President, the Senate passed a campaign finance bill September 17, 1993. That is last year, June of last year. On November 22, 1993, the House of Representatives passed a different version of the campaign finance bill. Now all these months later, just days before the final adjournment of the 103d Congress, the majority has decided it wants to appoint conferees to reconcile the two bills. Keep in mind, Madam President, these bills came out of the House and the Senate last year. Campaign finance bills are not like fine wine; their prospects do not improve with age. In fact, the older the vintage, the more likely the contents are spoiled goods.

Yet here we are today: after 10 months of Common Cause direct-mail solicitations; after 10 months of Roll Call and Congress Daily articles; after dozens and dozens of haranguing editorials in the Washington Post and the New York Times; after 10 months of speculation that it would be next week, next month, before the Easter recess, before the Memorial Day recess, before the Fourth of July recess, before the August recess; after 10 months during which the east coast froze and thawed and started getting chilly again; 10 months during which the Santa Monica Freeway collapsed and rose again from the rubble; one Super Bowl, one NBA final, one March Madness, one Dream Team, one World Cup, and one baseball strike later.

Finally, Senate, and House Democrats have come to an agreement among themselves.

After 10 tortuous, nail-biting, edge-of-your-seat months, and just when the suspense had become almost unbearable, Senate and House Democrats have broken the campaign finance gridlock—among themselves.

Yes, Madam President, it is true. Gridlock. As I say that awful, ugly word, shivers run down the spines of decent folk everywhere. I regret to inform you, Madam President, that gridlock has invaded these hallowed Chambers.

Yes, we have got trouble right here in River City. That starts with "T" and that rhymes with "G" and that stands for gridlock.

But the gridlock was just over on the other side of the aisle. Or to use the majority leader's favorite new word, Democratic obstructionism. Senate and House Democrats have been the ones holding up action on campaign finance reform for the last 10 months. That is where the gridlock has existed for nearly a year: on the other side, on their version of campaign finance reform. And what is truly amazing is that these bills, which were written entirely by the other side's congressional leadership, have been obstructed because they could not agree on what should be in their final package. It has been an epic struggle over the last year, but the truth is that Republicans have played no part in it.

It was the other side that was deadlocked over who to stick with the bill for a new entitlement program for politicians, or whether to even start such an entitlement program, given the violent opposition of most voters.

And then there was the critical issue of what to do about political action committees. PAC's: To be or not to be that was the question that bedeviled those meetings between House and Senate Democratic leaders.

Whether 'tis nobler in the campaign to suffer the deprivation of such outrageous fortune, or to take arms against a sea of challengers, and by accepting PAC money, defeat them. That was the question that wracked the very souls of those stalwart Democratic negotiators.

But now, after almost a year of bickering between House and Senate Democratic leaders on their own campaign finance bills, they have finally ended the gridlock—the obstructionism—among themselves.

A Democrats-only conference has produced a deal that only Common Cause could love: chockfull of PAC's, taxpayer financing for congressional campaigns, carefully concealed incumbent protection devices, separate rules for the House and Senate, and obscenely unconstitutional restrictions on free speech.

This is the kind of bill that gives gridlock a good name. The highlights of this deal are as follows:

PAC'S APLENTY

PAC contribution limits will be gently phased down to $6,000 per election cycle by 1998; this applies to both House and Senate candidates. Common Cause has stated publicly that lower PAC contribution limits will have virtually no effect on the total PAC receipts of House incumbents. A perfectly phony nonreform.

The aggregate limit for PAC contributions is increased for House candidates only, from 33 to 40 percent of total receipts. The net result: House incumbents will be able to dun more PAC's for more money.

Leadership PAC's maintained by Members of Congress will be phased out by the end of 1996—sort of the "soft trigger," you might call it. Of course there will be a new entitlement program for Congress. Complying House candidates will be eligible for food stamps for politicians: taxpayer-funded matching payments to buy their TV ads. This is the House Democrats' revenge for not getting their pay raise, probably.

All complying candidates will receive unlimited infusions of taxpayer dollars to counteract independent expenditures and excessive speech by their opponents.

All complying candidates will get a generous mail subsidy, paid for by everyone in America who buys stamps. Plus they will get a 50-percent broadcast discount, the latest unfunded mandate.

They are going to make the broadcast industry pay for these campaigns.

The other side has claimed that their entire proposal will cost just $168 million over 5 years. Well, that is a lot of money, but quite frankly it is pretty hard to see how it could only cost $168 million.

However, the other side's cost estimate is also simply incorrect. Leaving aside the independent expenditure counteracting funds, the mail subsidy, the financing of fringe candidates—all of which cost millions and millions of dollars—you can add it up on the back of a napkin that the basic package of matching funds for House candidates will run $174 million every 2 years.

And besides, what entitlement program has not ended up exceeding its initial cost projections?

They usually grow out of sight.

A lot of the funding for this new entitlement program comes from new taxes on speech. Among the funding provisions are income tax forms that will include an add-on of $5 per person, or $10 for joint filers, to fund campaigns for Congress. I bet that is going to get an overwhelming positive response from the people filing their tax returns.

PAC's will be charged a 5-percent reporting fee—that is, tax—on their total receipts, for the privilege of giving to House incumbents.

Everyone classified as a lobbyist will pay a fee—that is, tax—for the privilege of petitioning their Government. The filing fee for foreign agents will be increased.

All candidates will have to pay the top corporate tax rate on their campaign committee investment income; amazingly, it's not retroactive.

Then there is the speech tax which will impose the top corporate tax rate on the total receipts of any candidates who exceed the speech limit. That is a terrific idea. Maybe we could extend it further and tax pornography, dirty rock lyrics, TV violence, and how about newspaper editorials? That might be the favorite of many of us.

After helping to obstruct this bill for nearly a year, the majority leader is complaining that the Republicans' supposedly obstructionist tactics have not been used in the Senate for 210 years. My response is that the Senate has rarely seen a bill in its 210-year history that so deserved to be obstructed as this one.

Let us compare this 11th-hour deal to the principles outlined by the Republicans who supported cloture on the bill last year.

On PAC's: The Senate voted 86 to 11 last year to ban PAC contributions and leadership PAC's. The Republicans' principles—which was not my position—included: First, PAC contribution limits should be no higher than individual contribution limits; second, we should pursue aggressive aggregate limits; and third, the House and Senate must play by the same rules.

All of those were in the statement of principles of the Republicans last summer who supported cloture on the bill; not my position.

This deal fails on all three counts.

It would just phase down the PAC contribution limit to $6,000 per election cycle. Moreover, candidates could get up to $5,000 from PAC's before the primary, a measure clearly designed to benefit incumbents only.

This deal would also raise the aggregate limit for House candidates only to 40 percent of total receipts.

Not surprisingly, as of the middle of this year, House Democratic candidates have gotten on average 41 percent of their total receipts from PAC's.

As I said earlier, Common Cause has said that these lower contribution limits would have almost no impact on House PAC receipts. It is a nonreform, a transparent trick.

Let us look at the Republican statement of principles on taxpayer financing, Madam President. Again, this was reflected in a statement of principles last summer by the Republicans who supported cloture, not my position.

Let us look at the Republican statement of principles on taxpayer financing. Last year, their letter said that we should avoid taxpayer financing and we should not create a new entitlement program for politicians.

The Republicans' point No. 9 stipulated that the bill must "clearly incorporate the method for offsetting the cost;" and "if public financing is available during general elections, it must be available during primaries * * *." And House and Senate rules must be the same.

This deal again fails all of these principles.

The Democrats' 11th-hour deal provides matching funds for House campaigns only—no comparable funding for the Senate. There are no public funds available for primaries, which violates one of the Republican principles intended to protect challengers.

Further, although the deal suggests some obscenely unconstitutional ways to fund this new entitlement for politicians, it's not clear where they intend to stick the actual financing mechanisms.

It is also doubtful they will ever be able to come up with the money. I can just imagine the glut of taxpayers who will want to add another $10 to their tax bill on April 15—when they are already in a great mood—to pay for congressional campaign bumper stickers and negative ads.

Who dreams up these ideas, anyway?

Next, let us see how this deal stacks up against the Republican principle of same rules for the House and Senate.

As the Republican letter clearly stated,

> * * * the House and Senate must play by the same rules. If certain kinds of campaign practices are unacceptable for one body, they shouldn't be permitted in the other.

The Democrats' 11th-hour deal treats the House as if it is ethically challenged. It treats the House more leniently on PAC's, allows the House to send franked mass-mail during election years, and provides matching funds to House candidates in the general election.

The obvious question is: What happens if a House Member runs against a sitting Senator?

Let us go to another important issue raised by the group of Republicans who supported cloture last time.

They stipulated that the final bill should prohibit campaigns from paying back personal loans made by the candidate. This was an effort to close the millionaire's loophole—whereby wealthy candidates can loan their campaigns huge sums of money, and then pay themselves back with post-election contributions after they win.

In fact, the Senate-passed bill banned post-election paybacks of candidate loans.

However, the Democrats' 11th-hour deal disposed of that provision, citing constitutional reasons. It is comforting that the other side has finally discovered the Constitution on this issue—but not terribly convincing.

Let us look at another key issue. Last year, Senator JEFFORDS attached an important amendment to the Senate bill, which required full disclosure of all nonparty soft money—and allowed political parties to provide matching funds for candidates to respond.

The proposal before us would require disclosure of nonparty soft money, but it omits the crucial provision allowing political party matching funds.

As a result, candidates would be able to see who is shooting them and how much ammunition they have; but they would not have the wherewithal to shoot back. Some deal.

Finally, I want to mention one other issue where the other side has ignored our serious concerns. Last year, Senator COHEN offered a key amendment deleting the bill's controversial FEC enforcement provisions—including one section that gave the FEC general counsel—an unelected career bureaucrat—a tie-breaking vote to initiate investigations.

The 11th-hour deal put forth yesterday virtually ignores the legitimate concerns raised by Senator COHEN's amendment.

It would restore nearly all of the deleted enforcement provisions—except the section giving the general counsel tie-breaking vote. Instead, a Democratic leadership memo sent to the Republican group states that:

> Consideration is also being given to providing the General Counsel with subpoena power to expedite cases by eliminating need to get Commission approval for each subpoena.

The fact is that giving the general counsel unilateral subpoena power is a back-handed way of allowing him to initiate investigations without Commissioner approval. Another restored provision would give the FEC injunctive power to shut down campaigns for any alleged violations.

Taken point by point, this 11th-hour deal does not pass the reform test posed by Republicans who supported cloture last year. It does not even come close.

In conclusion, this is the kind of legislation that gives gridlock a good name.

The other side has helped to obstruct the progress of this bill for almost an entire year. The least we can do—as Republicans who want to stop this entitlement program for politicians—is obstruct it for another week.

His is the vote that counts. We now know what is in the other side's plan, and it is not going to change. Roll Call observed yesterday that any conference at this point would be a mere formality. They are right.

We do not need to drag this out any further: Now is the time to stop this terrible bill.

Mr. BOREN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma is recognized.

Mr. BOREN. Madam President, how much time to I have?

The PRESIDING OFFICER. The Senator has 9 minutes remaining.

Mr. BOREN. I yield myself 8 minutes.

Madam President, there is an old tactic used in any political argument and that is to throw up a smokescreen if you do not want to really talk about the issue at hand. That is exactly what happened in this debate. We have had smokescreen after smokescreen after smokescreen thrown up in the course of this debate, because those opposing this basic reform do not want to really talk about the major issue.

The major issue is whether or not this Congress will finally put a stop to the money chase in American politics, whether or not we will finally adopt a system that will allow a reasonable amount of money to be spent, but not more than a reasonable amount; whether or not we can return competitiveness in American politics to competition based upon the ideas candidates put forward, based upon the character of those candidates, based upon the qualifications and experience of those candidates; or whether or not we are going to continue to have elections run and decided mainly on the basis of which candidate can raise the most money. That is the issue, clear and simple.

Do the American people want the Members of the Congress of the United States using their time in dealing and grappling with the problems at hand, being full-time policymakers, listening to the American people, or do they want us to be part-time policymakers and full-time fundraisers? Because if you are going to raise the $4 to $5 million in the average State, or $10 to $20 million in a large State—which it costs on the average, according to all the figures to successfully wage a race for the U.S. Senate—there is no way that you can be anything other than a full-time fundraiser.

The issue is whether or not we will take Congress off the auction block and make Congress again accountable to the average American citizen. As I have said time and time again on this floor in the last few days, well over 80 percent of the American people now say they do not believe that Congress cares about people like them. They do not believe that Congress represents people like them. We can no longer afford to play Russian roulette with the American political system by refusing to make reforms that would restore the trust and confidence of the American people back in their own political institutions. That is what is at issue here—whether or not we are going to have undue influence by those that have the ability to write thousand-dollar checks, or $5,000 and $10,000 PAC checks, or hold $300,000 and $400,000-a-night fundraisers here in Washington, or whether or not we are going to say that Members of the Congress should go back home to the grassroots, listen and talk to their people, learn about their problems, finance chair campaigns largely in contributions from the grassroots.

Is it good for this country? Can we really say it has been good for this country that the cost of campaigns, just during the 16 years I have served in the Senate, have gone from half a million dollars on the average to win a successful U.S. Senate race to over $4 million, up 52 percent in the last election cycle, well on the way to $10 million early in the next century. Is that good for the American political process? Is it good that over half of the money coming to over half the Members elected to this Congress, this sitting Congress, came not from the people in their own States and districts, not from people that have ever set foot in their States, but from special interest groups trying to affect the legislative agenda and the policy agenda of this country? Is that good?

If you can say that has been good for this country, that more and more of the money to finance campaigns has come not from the people, but from the political action committees, the interest groups outside the home State, then vote against this bill. If you can say you think it will be good for the political system for the average cost of campaigns, the cost of winning and mounting a successful race for the U.S. Senate, to have gone from half a million dollars to $4 million, on its way to $10 million and $20 million, then vote against this bill. Just say I like it as it is. If you think it is fair to have a system that protects incumbents and keeps out new people with new ideas and new hopes to contribute to their country, then vote against this bill, because under the current system with the unlimited right to raise money, incumbents, sitting Members of Congress, on the average, have raised 5 times as much as challengers. That is what the current system allows, since in over 90 percent of the cases the candidate that raises the most money wins, obviously the incumbents usually win. If you think you like a system under which the special interests, political action committees, give $10 to every sitting Member of Congress because they are already here with power and are on those key committees that effect their interest rates—$10 for every dollar they give to challengers, people with new ideas that want to break into the system, then vote against this bill, because you like the status quo, you like Congress on the auction block, you like the perception of the American people that the average citizen out there—that student, that teacher, that factory worker, that small business person, that farmer who cannot write $1,000 check, that perception they have that Congress no longer represents them because money is deciding American politics. If you believe that, then vote against this bill.

That is the issue. The American people are watching us; the American people are holding us accountable. As I have said day in and day out, how long are we going to wait? We have waited, we have watched. The confidence in the American people in this institution is down. This is their Congress, their institution; they own everything in this room—and they should. We have watched their confidence fall from 60 percent to 50 percent, and we waited on reform and saw it fall to 40 percent, and we waited on reform. Then we saw it fall to 30 percent and to 20 percent, and now it is down to 14 percent.

How long are we going to wait to give the American people back this institution? How long are we going to wait to take action that will cause the American people to say once again: We believe the Congress of the United States represents us. We believe the Congress of the United States cares about people like us. We want a system in which the Members running for election will not have to spend their time in New York, Miami, or Los Angeles, or Chicago, because that is where the money is. We will have a system where they can have the time to come back home and talk to us, the people who vote in the elections at the grassroots, the people to whom this Government should belong.

We have heard a smoke screen, a smokescreen: "Oh, this is going to cost," we heard in some debate, "a billion dollars every 2 years." The Congressional Budget Office says it is going to cost $168 million every 5 years; $168 million in 5 years versus $1 billion in 2 years. It is not surprising that these figures get confused. It is "close enough for Government work." Government is not very good on its estimates. It is just only about a tenfold error over 5 years.

We have had another argument: This is an entitlement for politicians. This is not an entitlement. This is an appropriated fund. This bill says if there is not enough money in the fund to pay any of the benefits to induce people to have spending limits, then the benefits are cut back proportionally. It is not an entitlement for any politics. It is an entitlement for the American people to take back their own Government. Nor is it a tax on the American people. We have had that argument. This is a tax to pay for politicians. Look at how the revenue is raised: By registration fees on lobbyists, on those who represent foreign governments, agents of foreign powers; registration fees on political action committees, and investment income on campaign committees.

That is not $1 of tax on the average American. It is a clean Government fund to put the governmental power back in the hands of the American people.

The issue is this: Do you want to stop the money chase in American politics? Do you want to take Congress off the auction block? This is your chance. Let us not wait until there is not a solitary soul left in this country that no longer has confidence in this institution.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. McCAIN. Mr. President, after much soul searching I have come to the conclusion that I must vote against invoking cloture on the campaign finance reform bill. I believe that we must reform the campaign finance system. The money chase that occurs is obscene, and it must be stopped.

I wanted to be able to allow this bill to go to conference so that a good bill could be crafted. However, yesterday afternoon I was made aware of the fact that House Speaker FOLEY, Congressman GEPHARDT, Senator MITCHELL, Senator FORD, and Senator BOREN held a press conference to announce that a deal had been struck on campaign finance reform. They distributed to the press gathered there a four-page summary of the bill they had agreed upon. With this announcement my hopes and aspirations for meaningful campaign finance reform were dashed.

Mr. President, I ask unanimous consent that the document I referred to be inserted in the RECORD at this point.

There being no objection, the summary ordered to be printed in the RECORD, as follows:

CONGRESSIONAL CAMPAIGN SPENDING LIMIT AND ELECTION REFORM ACT OF 1994

CONGRESSIONAL ELECTION SPENDING LIMITS

A system of voluntary flexible spending limits would be established for Senate and House campaigns. For candidates to the U.S. Senate, the spending limit would be based on state voting age population, ranging from a minimum of $1.2 million to a maximum of $5.5 million, for general election campaigns, indexed from calendar year 1996. The spending limit for primary elections would be 67% of the general election limit, up to a maximum primary limit of $2,750,000. For candidates to the U.S. House of Representatives, the spending limit would be $600,000 per two-year election cycle, indexed from calendar year 1992. The limit is increased $200,000 for candidates who win a contested primary with a margin of 20% or less, and for candidates forced into a runoff election.

BENEFITS FOR ELIGIBLE CONGRESSIONAL CANDIDATES

Candidates for the Senate who raise a threshold amount equal to 5% of the Senate general election spending limit and candidates for the House of Representatives who raise 10% of the House election cycle limit, in small individual contributions ($250 for Senate candidates and $100 for House candidates), and who voluntarily agree to abide by the spending limits would be eligible to receive certain defined benefits:

A. Voter Communication Vouchers: Eligible House candidates could receive vouchers on a matching basis equal to one-third of the spending limit ($200,000) to purchase broadcast and print advertisements, postage, and other voter contact materials.

B. Broadcast Discounts: Eligible Senate candidates would be permitted to purchase non-preemptible television broadcast time at one-half the lowest unit rate charged to commercial purchasers.

C. Low Cost Mail: Eligible Senate candidates would be permitted to send campaign mailings at the bulk rate for nonprofit organizations up to two pieces for each eligible voter.

D. Response to Independent Expenditures: Eligible House and Senate candidates could receive matching resources to respond to independent expenditures aggregating more than $10,000 from any one source during the general election period.

E. Contingent Public Financing: Eligible Senate candidates would receive additional public funding if an opposing non-participating candidate exceeds the spending limits.

FINANCING

The preliminary CBO estimate of the five year cost of the bill $168 million. No tax revenues collected from the general public could be used to fund the bill. The bill would be funded as follows: a voluntary tax checkoff, a reporting fee on PACs, registration fees on lobbyists and foreign agents, an increase in the marginal tax rate on candidate committee investment income, and the imposition of a tax on the excess expenditures of nonparticipating congressional candidates.

LIMITATIONS ON CONTRIBUTIONS FROM PACS AND INDIVIDUALS

The maximum allowable contribution from political committees to federal candidates would be reduced from $10,000 per election cycle to $6,000 per election cycle, with no more than $5,000 allowed for any one election.

Senate candidates would be limited to receiving aggregate PAC contributions aggregating no more than 20 percent of the election cycle spending limit, but not less than $375,000 nor more than $825,000. House candidates would be limited to receiving PAC contributions aggregating no more than ⅓ of the election spending limit, and individual contributions greater than $200 aggregating no more than one-third of the election spending limit.

LEADERSHIP PACS

Effective after the 1996 election cycle, all leadership PACs would be prohibited. In their place, each chamber's party leadership would be permitted to establish one committee to cover the cost of campaign travel and research expenses.

INDEPENDENT EXPENDITURES

Clarifies communications which are "express advocacy" and thus subject to federal election law—those which taken as a whole suggest support for or opposition to specific candidates or parties. Clarifies definition of independent expenditures to exclude expenditures by those who have communicated with or assisted candidates in the election cycle. Provides for enhanced reporting and disclosure requirements for persons who make independent expenditures aggregating more than $10,000 per candidate. Requires broadcasters to make offer of equal opportunity to participating candidates to respond to broadcast independent expenditures.

SOFT MONEY REFORMS

Prohibits national parties from soliciting or receiving any contributions not subject to the limitations, prohibitions and reporting requirements of the Federal Election Campaign Act (FECA), except for funds transferred to state parties and used solely for certain defined activities which do not affect federal candidates. Prohibits state parties from soliciting or receiving contributions not subject to the limitations, prohibitions and reporting requirements of FECA for any activity that identifies or promotes a federal candidate regardless if a state or local candidate is also identified (including GOTV during a Presidential election year, voter registration, any other generic activity).

Authorizes state parties to establish State Party "Grassroots Funds" for generic campaign activities, GOTV on behalf of the presidential candidates, and voter registration. The amounts raised and spent by State Party "Grassroots Funds" would have to comply with the contribution limitations and prohibitions of FECA.

The bill would increase the allowable amount an individual may contribute to candidates, political parties, and political committees from the current $25,000 per year to $60,000 per election cycle.

Prohibits federal candidates and officeholders from soliciting and receiving contributions not subject to limitations and prohibitions of FECA.

Requires corporations and membership organizations to promptly disclose to the FEC partisan communications and nonpartisan get-out-the-vote campaigns directed at their shareholders and members.

RESTRICTIONS ON BUNDLING

Bundling in excess of the contribution limits would be prohibited to all party committees; political committees connected to a trade association, corporation or labor organization; lobbyists, and individuals acting on behalf of corporations, labor unions, or trade associations. Nonconnected political committees which do not lobby and have no affiliation with any organization that lobbies would not be covered by the rule.

PROHIBITS CONTRIBUTIONS FROM MINORS

Prohibits contributions from dependents who have not attained the legal age for voting for federal elections.

CAMPAIGN ADVERTISING

A. Lowest Unit Rate: All federal candidates would be entitled to purchase non-preemptible broadcast time at the lowest unit rate charged to commercial broadcasters during the 30 days before a primary election and during the 45 days prior to a general election. Eligible Senate candidates would be permitted to purchase broadcast time at half the lowest unit rate during the 30 days before a primary and during the 60 days prior to a general election.

B. Candidate Accountability: An image of the candidate will be required to appear in broadcast campaign advertisements with an audio statement by the candidate identifying the candidate and stating that the candidate has approved of the communication.

RESTRICTIONS ON THE USE OF CAMPAIGN FUNDS FOR PERSONAL USE

Present and former candidates would be prohibited from using campaign funds for any use which confers a personal benefit.

RESTRICTIONS ON THE USE OF THE CONGRESSIONAL FRANK

Prohibits Senate members and House members who become a candidate for the Senate, from mailing franked mass mail during the federal election calendar year.

FEC REFORM AND REPORTING REQUIREMENTS

Enforcement of the law would be strengthened by a number of changes to current law, including an increase in penalties for violation of the law, improved reporting requirements, random audits, authority for the FEC to seek injunctions in court for violations of the law, and expedited procedures to dispose of cases.

PRESIDENTIAL SYSTEM

The Presidential system would be simplified by removing the state by state primary limits and the separate fundraising limits. The threshold to qualify for primary matching payments would be increased from the requirement that $5,000 be raised in 20 states, to the requirement that $15,000 be raised in 26 states. Persons who have been convicted of violating the presidential system campaign financing rules would be prohibited from receiving any public financing.

EFFECTIVE DATE

The provisions of this bill would be effective for federal election activities occurring after January 1, 1995.

Mr. McCAIN. Mr. President, this document is clear evidence that there is regrettably no reason for us to convene a conference because the deals have already been made—a deal that falls far short of the reforms we must make and that the American people deserve.

Early last year, I declared on the floor a set of principles that I believed and continue to believe must be contained in any campaign reform bill. I then outlined those principles in letters to all concerned parties.

I ask unanimous consent that a copy of that letter appear in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, May 6, 1993.

Hon. ROBERT DOLE,
Office of the Republican Leader,
Washington, DC.

DEAR BOB: We are writing to inform you of several key principles that will be guiding our decisions when Campaign Finance Reform comes to the Senate floor.

We are optimistic that campaign finance reform can become law this year. We believe that this reform must be bipartisan and must not favor one party over the other.

At the outset, we would like to emphasize that there are significant areas of common ground in both S. 3 and S. 7, the Democratic and the Republican campaign finance reform bills. For example, both proposals would prohibit bundling by special interest groups and would require disclosure of independent expenditures. Congress should not hesitate to adopt proposals that are clearly bipartisan, broadly supported reform goals.

Each of us is committed to other campaign finance reform principles that are not included in this letter or go further than those listed in this letter, but that we individually believe are essential elements of reform. The following is a list of core principles that we have in common that we believe will constitute meaningful campaign finance reform?

1. Politician Action Committee (PAC) contributions should be subject to further limitation. PAC contribution limits should be no higher than individual contribution limits, so that PACs have no more of a financial advantage than the average citizen. In addition, we should pursue aggressive aggregate limits.

2. The House and Senate must play by the same rules. If certain kinds of campaign practices are unacceptable for one body, they shouldn't be permitted in the other.

3. Disclose all soft money, not just party soft money. It doesn't make sense to selectively target political party soft money but ignore the soft money that pours into elections from tax-exempt special interests. Sunshine is still one of the best disinfectants.

4. In-state contributions should be favored over out-of-state contributions. The individual limit for out-of-state contributions should be lowered from $1000 to $500. Candidates should receive most of their financial support inside their state, from the citizens they seek to represent.

5. Severability. If one provision of the campaign finance reform package is struck down as unconstitutional, the rest of the reforms should survive intact.

6. Campaign fundraising should be limited to the actual election cycle. Candidates who are not in an election cycle should be able to raise funds only from their constituents.

7. Campaign committees should not pay back loans that candidates make to their own campaigns. We need to address the unfair advantage of millionaires who are able to bankroll their own campaigns.

8. Avoid taxpayer financing of campaigns. At a time when the federal government is calling on Americans to make sacrifices to reduce the deficit, Congress shouldn't create a new entitlement program for politicians. We are not opposed to spending limits, but it might not be necessary to swallow the bitter pill of taxpayer financing to get them. Now is the time for creative proposals that test the boundaries of Buckley v. Valeo and provide for voluntary spending limits without dipping into the federal treasury.

9. Any bill that provides for public financing must be paid for. The bill presented to the Senate must clearly incorporate the method for offsetting the cost, and this method must not increase the deficit. In addition, if public financing is available during general elections, it must be available during primaries to give a fair shake to challengers.

We have taken the responsibility of crafting reform principles very seriously, since campaign finance reform is actually incumbents writing the rules for their own reelection. We believe that campaign finance reform should be meaningful, and it must also be bipartisan. We hope that our efforts will help to build the consensus that will be necessary to enact campaign finance reform this year.

Sincerely,

DAVE DURENBERGER.
JOHN H. CHAFEE.
WILLIAM S. COHEN.
JOHN MCCAIN.
JAMES M. JEFFORDS.

Mr. McCAIN. I have fought for those basic principles believing that they reflect the real reform Americans want. However, the deal that was agreed upon by the Democratic leaders in the House and Senate did not meet these core principles.

First, last year, the Senate voted 86–11 to ban PAC's—including leadership PAC's. The public believes—rightly so that PAC's must be eliminated.

However, under the Democratic deal, PAC's would not be eliminated, or even greatly reduced. Instead, PAC contributions would be limited to $6,000 per election cycle. Additionally, leadership PAC's would not be banned until the end of 1996, and Emily's List and other nonpolitical, nonconnected PACs that do not lobby may continue to bundle campaign contributions.

Second, principle No. 8 stipulated that we should avoid taxpayer financing and "shouldn't create a new entitlement program for politicians." Point 9 stipulates that the bill must "clearly incorporate the methods for offsetting the cost" and "if public financing is available during general elections, it must be available during primaries * * *."

Again, the deal announced falls short on this point. Reality tells us that no one is going to add $10 to their tax bill for congressional campaigns. Additionally, the other taxes mandated in this bill to pay for congressional and Senate races de facto force our constituents to pay for our campaign. That is wrong, and I cannot support these new taxes.

The second principle stipulates: "The House and Senate must play by the same rules. If certain kinds of campaign practices are unacceptable for one body, they shouldn't be permitted in the other." As we all know, under current law, both House and Senate campaign operate under exactly the same rules.

However, the deal presented yesterday, contains different rules for House and Senate candidates on: First, aggregate PAC contribution limits; second, matching funds for House candidates only; third, different limits on large contributions for House and Senate candidates; fourth, different rules for House and Senate candidates if a House candidate wins the primary in a close election; fifth, use of broadcast vouchers, and sixth, election-year franking restrictions for Senate candidates only.

Mr. President, there is simply no reason for the House and Senate to live by different rules. Differing rules will only result in increased litigation and electoral confusion.

Point 7 stipulates that campaigns should not be allowed to pay back personal loans made by candidates. The Senate-passed bill banned post-election paybacks of candidate loans.

The sponsors of the pending bill, however, now state that disallowing payback of loans violates the ability of someone to contribute. This is simply not true. A candidate could still contribute as much as he or she wants. However, they would not be allowed to be reimbursed. This is not a prohibition on free speech. This is the same as the "personal use" restriction: if you can't reimburse yourself for cars and clothes, you shouldn't be able to reimburse loans. This is a wide-open loophole to circumvent the personal use prohibition, favoring the wealthy.

Mr. President, I wish we had been able to pass campaign finance reform. We have been debating this issue for too long and the public is growing weary of inability to reform the system. They are right to feel that way.

But the public does not want us to pass sham campaign finance reform, and that is unfortunately what has been presented to us today. I have fought for good campaign finance reform. I will redouble my efforts in the future. When we return next year, we must do what is right and pass real campaign finance reform. If we do not attempt to do so, then the public will reform the system by sending new representatives to Washington. And they will be right in doing so.

Mrs. KASSEBAUM. Mr. President, as one who has long supported a complete overhaul of our campaign finance laws, I am disappointed that this effort once again has failed. However, despite significant progress in some areas, it is clear that we cannot and should not attempt to force this effort through the Congress in the final days of this session.

That is why I have voted today against sending this issue to a House-Senate conference. In fact, a conference has effectively already been held by the Democratic leadership, and it is clear their legislation is what would be returned to the Senate after a token meeting.

The agreement, which has been widely reported in the press, was reached among the House and Senate Democratic leadership is not acceptable reform of our campaign finance laws. I could not support it now or later for several reasons.

First, it fails to effectively reduce the role of special interest money in our campaigns. As I understand the Democratic plan, the maximum contribution from political action committees, the so-called PAC's, would be reduced from a total of $10,000 to $6,000. This compares with the elimination of PAC contributions in the Senate bill, which I supported, or, if that were found to be unconstitutional, a maximum limit of $2,000, which is the limit I have applied in all of my Senate campaigns.

As all of us know, PAC contributions have been the key sticking point in the negotiations that occurred among the Democratic leadership. The House insisted on retaining the current $10,000 limit and only reluctantly agreed to the proposed reduction to $6,000. I note, however, that the outline I have been given indicated that PAC's still would be allowed to give up to $5,000 in general elections—exactly as they can under current law, if they give only $1,000 in the primary election.

A second fundamental problem is that the proposed Democratic plan sets up different campaign finance systems for the House and the Senate. House candidates would be eligible for partial public financing of their campaigns, while Senate candidates would be eligible for reduced broadcast rates and low-cost mailings, with a backup system of public financing in certain cases.

Incumbent Senators and incumbent House Members running for the Senate would be prohibited from using franked mailings during an election year—but House incumbents running for reelection to the House would still be able to send out mass mailings at the taxpayers' expense.

Mr. President, there are other serious problems with this proposal that bother me deeply. One is that new restrictions are imposed on so-called bundling of campaign contributions, but a special exception is then included for groups such as Emily's List.

There are good features in the proposal, but all of the fine-tuning that has occurred in the negotiations among Democrats has carried this plan further and further toward protecting incumbents rather than effectively reforming our campaign finance laws. For that reason, I have concluded that it is time to terminate this effort for now. It is my hope that we can and will try again in the new Congress, when we may be able to shape a plan that is genuinely bipartisan and makes real, substantive changes in the way we finance our campaigns.

THE MYTH CALLED CAMPAIGN FINANCE REFORM

Mr. CHAFEE. Mr. President, for years the public has complained, understandably, that political campaigns cost too much, last too long, and are financed by too much special interest money. Last year, several of us demonstrated our willingness to set aside partisanship in an effort to address these concerns. We were hopeful that the House of Representatives would put aside self interests to enact reforms which strengthen, rather than weaken, legislation approved this summer by the Senate.

The compromise reform package that was agreed upon in the Senate provided for a system of voluntary spending limits to cap expenditures at reasonable levels. The current system of unrestrained campaign spending benefits incumbents in almost every instance and inhibits electoral competition far more than would reasonable spending limits. In some races, the task of raising as much money as is available to the incumbent is so daunting that credible challengers cannot be found.

The Senate-passed bill limited the influence of special interest money. To ensure the primacy of individual citizens in the political process, political action committee contributions to federal candidates were prohibited, soft money gifts and expenditures by business and labor were restricted, and the bundling loophole was closed.

In an effort to curb the amount of time that is spent on fundraising, contributions to Senate candidates from out-of-State donors were prohibited, except during the 2 years before the election. To reduce further the advantage of incumbency, publicly financed election year mass mailings by Members of Congress seeking reelection were eliminated. Important at a time of staggering Federal deficits, the Senate approved system of campaign finance reform was self financing.

Unfortunately, Democratic leaders in the House of Representatives crafted legislation which ignored the underlying Senate bill and efforts toward real political reform.

Rather than limit campaign spending to promote political competition, the House legislation would have permitted incumbent representatives to raise and spend sums approaching $1 million in each 2-year period. Rather than limit taxpayer-financed mass mailings, ban soft money and address the problem of bundling, the measure proposed minor changes or maintained the status quo.

Rather then moving dramatically away from candidate reliance on PAC's, the proposed House bill did virtually nothing to create a system in which candidates would require the support, both financial and electoral, of those they seek to represent.

Under the House bill, House incumbents would be able to raise $200,000 in chunks of $5,000 from PAC's, who overwhelmingly contribute to incumbents over challengers. With a superior fundraising apparatus, incumbents would easily raise the $200,000 in other contributions that would qualify them for another $200,000 in taxpayer dollars. All the while, they would be able to communicate with voters in their district through mass mailings at the taxpayer's expense. This kind of reform would leave challengers in the dust.

During the last Congress, the House and Senate easily approved campaign finance reform legislation that had no possibility of becoming law. President Bush was sure to veto it, and he did.

This year we had the opportunity to begin restoring public confidence in Congress. We had the chance to enact campaign finance reform legislation that would address the key problems that have discredited our current system. I supported efforts to bring the House and Senate bills to conference with the hope that the Senate bill would prevail.

Yesterday, we learned that the Democratic leadership had reached an agreement on what would be included in a conference report, and that agreement was far from the reform that I had hoped for. When he introduced the administration's plan for campaign finance reform legislation, President Clinton said he wanted to make sure that "the voice of the people is heard over the voice of the special interests." But if the Democratic compromise had been agreed to, the voice of the people would have been little more than a whisper compared with that of special interests.

The so-called compromise would have permitted PAC's to contribute up to $6,000 per candidate for Federal office. Some might say that's a good start, down from $10,000. According to an article that appeared in the Washington

Post on June 13, 1994, "The average PAC donation to a candidate in the 1992 elections was only about $1,600, according to an analysis of Federal Election Commission records. The median donation was $1,000, and the most common donation was $500." In other words, reducing the PAC limit to $6,000 would have absolutely no effect on reducing special interest influence on the election process.

The Senate has made great strides in eliminating the incumbent advantage provided by the frank. The Senate-passed bill included my amendment to prohibit unsolicited, franked mass mailings during a Senator's election year, and the legislative branch appropriations bill for fiscal year 1995 eliminates the use of the frank for all unsolicited, mass mailings other than town meeting notices. The Democratic leadership's compromise did nothing to end excessive election year franking in the House. An editorial that appeared in Roll Call on September 22, indicated that "Use of the frank by House Members surged by 33 percent in the first half of 1994 over 1993, obviously because this is an election year." The editorial went on to say that "Members facing tough reelection races or trying to move on to a new office do so by sending out gobs of free mail." Certainly, we should be able to erase this blatant incumbent advantage.

I hope that when we address this troubling issue in the next Congress, the House will be more forthright in its efforts.

Mr. McCONNELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky [Mr. McCONNELL] is recognized.

Mr. McCONNELL. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 44 seconds remaining.

Mr. McCONNELL. Madam President, I take this opportunity to thank my staff, and particularly Steven Law, my chief of staff, who has done an absolutely brilliant job on this issue over the last 6 or 7 years and Tamara Somerville, whose outstanding work and good sense of humor has contributed mightily on this side.

I also thank Bob Peck and the American Civil Liberties Union, who has been a very important part of our debate on this from the beginning; and my secretary, Susan Oursler, who has done spectacular job of scheduling Senators last week, and all Republican Senators who spoke during the extended discussion of taxpayer funding of elections.

I also thank staff members Valerie Wilson, Scott Douglas, and Chip Begley, who have done a great job with the support work this effort entailed these last few weeks.

The ACTING PRESIDENT pro tempore. All time has expired.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to request a conference with the House on the disagreeing votes of the two Houses with respect to S. 3, the Campaign Finance Reform Act:

David Boren, Wendell Ford, Dennis DeConcini, Patrick Leahy, Harris Wofford, Chris Dodd, Carl Levin, Paul Wellstone, John F. Kerry, Barbara Boxer, Bob Graham, Tom Daschle, David Pryor, Byron L. Dorgan, Joe Biden, Herb Kohl.

VOTE

The ACTING PRESIDENT pro tempore. By unanimous consent, the quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to request a conference with the House on the disagreeing votes of the two Houses relative to S. 3, the campaign finance reform bill, shall be brought to a close?

The yeas and nays are mandatory under the rule, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. BENNETT] and the Senator from Oklahoma [Mr. NICKLES] are necessarily absent.

The yeas and nays resulted—yeas 52, nays 46, as follows:

[Rollcall Vote No. 314 Leg.]

YEAS—52

Akaka
Baucus
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Chafee
Conrad
Daschle
DeConcini
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Jeffords
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Simon
Wellstone
Wofford

NAYS—46

Bond
Brown
Burns
Campbell
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
Danforth
Dole
Domenici
Durenberger
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Hatfield
Heflin
Helms
Hutchison
Johnston
Kassebaum
Kempthorne
Kerrey
Lott
Lugar
Mack
Mathews
McCain
McConnell
Murkowski
Packwood
Pressler
Roth
Shelby
Simpson
Smith
Specter
Stevens
Thurmond
Wallop
Warner

NOT VOTING—2

Bennett
Nickles

The ACTING PRESIDENT pro tempore. On this question, the yeas are 52, the nays are 46. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The majority leader is recognized.

MORNING BUSINESS

Mr. MITCHELL. Madam President, I ask unanimous consent there now be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Several Senators addressed the Chair.

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

The Senate will be in order.

CAMPAIGN FINANCE REFORM

Mr. DOLE. Madam President, like so much we do around here, you will not know anything about a proposal unless you look beyond the label and read the fine print.

Everyone is for health care reform, until you find out that reform means a Government takeover of the best health care delivery system in the world. Everyone wants to support a crime bill, until you find out that it actually coddles criminals and wastes billions and billions of taxpayer dollars on misguided social-welfare programs. And, I suspect, most people would support legislation advertised as campaign finance reform, unless they took a moment to look behind the label and examine what reform actually means.

Mr. DOMENICI. May we have order, Madam President?

Mr. WELLSTONE. Could we have order?

The ACTING PRESIDENT pro tempore. The Republican leader will withhold. The Senate will be in order.

TAXPAYER FINANCING OF CAMPAIGNS

Mr. DOLE. For starters, reform apparently means a new entitlement program. Not for the needy. Not for the working poor. Not even for the middle class. But for politicians.

Under the so-called campaign reform compromise unveiled yesterday, each House candidate would have been eligible to receive up to $200,000 in taxpayer funds. When the smoke finally cleared after each election cycle, the total taxpayer-payout could have amounted to hundreds of millions of dollars.

So, as public approval of Congress sinks to an all-time low, our first instinct is not to change our own behavior, but to look to the taxpayers themselves as the funding source for our own political campaigns: more money for politicians. Less money for the American people. That is what is known in Washington as a reform proposal.

Republicans are proud to stand with the taxpayers and against the public-financing of congressional campaigns. We opposed this taxpayer hand-out, and we are proud to have done so.

SPENDING LIMITS

My colleagues on the other side of the aisle constantly remind us that we spend too much on campaign advertising, which is another way of saying that we spend too much on political speech.

Mr. BYRD. Madam President, may we have order in the Senate?

The ACTING PRESIDENT pro tempore. The Republican leader will withhold. Will all Senators please take their conversations to the Cloakroom.

Mr. DOLE. I thank the distinguished Senator.

Mr. BYRD. Madam President, there is still not order in the Senate.

The ACTING PRESIDENT pro tempore. The Senate will be in order.

The Republican leader is recognized.

Mr. BYRD. I may not agree with what the Republican leader is saying, but he is entitled to be heard.

Mr. DOLE. I thank the Senator from West Virginia.

Mr. BYRD. I am not sure the Senator from West Virginia is finished. There is not enough order in the Senate.

I thank the Chair.

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. DOLE. As a result, they have proposed placing an overall cap on the amount a campaign may spend in any election cycle. This cap is called a spending limit.

But if we spend too much on politics, what should be our spending priorities? Instead of politics, should we spend more money on hamburgers? On cars? On video games? On vacations?

Is participating in politics by making a voluntary campaign contribution to a candidate of your own choosing really such a bad thing?

Expert after expert has testified that spending limits not only reduce political speech, they also make it much more difficult for challengers to mount successful campaigns against entrenched incumbents who enjoy huge advantages: High name recognition. The franking privilege. Large staffs. And easy access to the media.

Inflexible spending limits, in other words, are anticompetitive and pro-incumbent.

Of course, the Supreme Court has held that spending limits are constitutional if they are voluntary. But as my distinguished colleague from Missouri, Senator DANFORTH, pointed out last week, there is nothing voluntary about the so-called speech tax that would have been imposed on candidates who did not abide by the limits. The speech tax is a club, a way to beat candidates into submission so that they will have no other choice but to accept the spending limit. The biggest winners, of course, are the incumbents. And the biggest loser is the Constitution of the United States.

As Roll Call magazine pointed out last year,

> The version of campaign finance reform passed by the Senate * * * is a miserable piece of legislation. Its key provision—the spending limit—is outrageously unconstitutional. Why would Senators pass a bill that so blatantly restricts the right of free political speech, as the Supreme Court clearly defined in Buckley versus Valeo? Partly, to rescue themselves from the political liability of failing to pass a campaign bill but, more importantly, to keep their own seats warm and secure.

And let me just say that I do not blame my colleagues on the other side of the aisle for stacking the deck in their own favor. They control Congress now, and they want to continue to control Congress next year, and the following year, and into the next century. After all it's only human nature to try to hold on to what you do not want to give up, and, in all candor, if Republicans controlled Congress, we would probably be doing the same thing—bringing a bill out here that favors us. That is the way it works. And it does not take a rocket scientist to know you cannot tell anybody otherwise. Nobody is going to convince people who understand this that when one party has a majority they are not going to try to preserve that majority and write legislation and pass legislation that certainly helps them preserve that majority.

That is why the distinguished majority leader and I asked a bipartisan group of experts to come up with campaign finance reform. It is my view, whether Democrats or Republicans control the Congress, we are not going to have real campaign reform until we have some outside, nonpartisan, objective group take a look at it.

If we are going to look at it from the perspective of how we are going to protect Republicans or how we are going to protect Democrats, as long as that is the problem, it seems to me we are not going to get very far.

We all know that PAC's love incumbents. In 1992, in races where Members of Congress were up for reelection, incumbents received a staggering 86 percent of the PAC contributions—86 percent. That is $126 million for incumbents versus a paltry $21 million for challengers.

At the urging of Republicans, including my colleague from South Dakota, Senator PRESSLER, the Senate passed a bill last year that banned PAC's outright. No PAC's; no exceptions. That was a step in the right direction, a step that should have been taken by the House of Representatives.

We had a strange mix in this so-called compromise where the Senate had one set of rules and the House had another set of rules. It seems to me it just does not add up. I want to particularly congratulate my colleague from Kentucky, Senator MCCONNELL. He understands this probably as well or better than anybody in this body or anybody in this town. He spent a lot of time on it. He has worked day and night on it because he believes, and he truly believes, that this is bad legislation.

It seems to me when all this is done behind closed doors, and Republicans are never consulted—we are always the ones that are charged with gridlock, obstruction and everything else—my view is that maybe this is one case where it was a good idea. I think the taxpayers will agree by about a 70 percent margin that public financing is bad.

So for all the reasons I can think of, it seems to me the Senate has taken appropriate action, and maybe next year we will find some way of not being shut out of the process, not being shut out of meetings, not being shut out of negotiations.

I do not think any of the seven Senators who wrote me a letter saying, if you do certain things, we will vote for the bill, I am not certain any of them were consulted. I checked with a couple. They never were consulted. They were supposed to be key to this process. They listed seven or nine principles that, if they were followed in the process, they would vote for cloture.

As I looked at it yesterday and reviewed it, five of the seven were largely ignored. I do not believe any of the seven Members on our side were consulted in an effort to work it out. At least the ones I talked to had not been.

And so I will also say to Senator BOREN, certainly he was committed, convinced, felt strongly about this. I do not have any quarrel with his efforts, except I think in this case he was not able to persuade the House to go along. I think if maybe Senator BOREN and others on his side might have had their way, it would have been a much better bill.

Senator MCCONNELL has brought intelligence to this debate. He is an expert. As far as I am concerned, there is no one in the United States today who can match his command of this complex subject. As I said before, I certainly extend my congratulations to Senator MCCONNELL for his outstanding effort.

Madam President, when I hear some of my colleagues on the other side of the aisle complain that Republicans have somehow blocked campaign reform, I know it is time for a little history lesson.

The Senate passed a bill more than a year ago, in June 1993. The House soon followed suit, passing its own version of campaign finance reform in November 1993. And, now, 10 months later, we have finally gotten around to working out the differences.

It is not Republicans who have blocked campaign reform, it is my colleagues on the other side of the aisle. They are the ones who have been meeting behind closed doors. And they are the ones who waited until just yesterday to reach an agreement among themselves.

Yes, restoring the credibility of Congress is critical.

Yes, campaign reform is essential if we are to win back the confidence of the American people.

And yes, Republicans want reform. That is why we introduced a bill at the beginning of this Congress, S.7—that would have banned PAC's, provided seed money for challengers, prohibited soft-money contributions, and required candidates to receive most of their contributions from their own constituents.

Unfortunately, S.7 was never treated seriously by our Democrat colleagues. From day one, Republicans have been shut out of the process. No meetings. No negotiations. It has been take it or leave it—the Democrat plan or no plan at all.

And that is why campaign finance reform failed again this year: For when all is said and done, the American people do not want a political document. They want a document they can trust—one that enjoys bipartisan—and nonpartisan support.

A few years ago, Senator MITCHELL and I tried the bipartisan approach when we appointed a six-member commission of outside experts to look at the campaign finance issue and report back to us with a package of recommendations. I thought many of these recommendations made some sense, but as it turned out, the report was largely ignored.

In the future, convening a nonpartisan—or bipartisan—panel of outside experts may be the only way to break the logjam and craft rules that are equally fair—and equally unfair—to both parties. If recent history teaches us anything, it teaches us that the temptation to use the campaign laws to extract partisan advantage is perhaps too great to leave Congress to its own devices.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from Oklahoma.

Mr. MITCHELL addressed the Chair.

Mr. BOREN. Mr. President, I yield to the majority leader.

Mr. MITCHELL. Mr. President, I have the greatest respect for the distinguished Republican leader, but I take very strong exception to the statement he just made. The bill described by the distinguished Republican leader and by his colleagues during the debate is not the bill that the Senate voted on. This has been a classic campaign of misinformation, opposing a bill that was not before the Senate, so as to obscure the issue.

The fact of the matter is that Senate Republicans have just gone on record as favoring a continuation of the current discredited system of campaign finance reform, which has the effect of undermining public trust and confidence in the legislative process.

Public opinion poll after public opinion poll shows that an overwhelming majority of Americans believe, unfortunately, in my view, but in reality believe that the Members of this Senate are responsive to the money interests who finance their campaign. And this system perpetuates that belief. Every Member of this Senate knows of the never-ending chase for money in which Senators engage on a regular basis, day in, day out, month in, month out, year in, year out. Every Senator knows that this system demeans the Members of the Senate, as it does those who contribute, as it does the American people and as it does democracy itself. To go around with your hand out to people day after day after day begging for money demeans the individual, demeans the process and corrodes the public trust and confidence in democracy itself.

Our Republican colleagues said today, let us keep this system. Mr. President, that is what is at stake here. All of the arguments about taxpayer money; not a penny—not one penny—of general taxpayers' funds will be used under this bill, and the statements to the contrary are untrue.

My distinguished friend and colleague from Oklahoma, who is the principal author of the bill and who I commend for his efforts in this, will describe the bill in more detail in a moment, and I ask him to pay particular attention to that.

But it is simply not true. This is a system which will be financed by voluntary payments by those taxpayers who choose to do so under a voluntary checkoff system which has existed for a long time. And the spectacular irony of Republican Senators constantly complaining about taxpayer funds when Republican after Republican has run for President and received hundreds of millions of dollars in taxpayers' funds in what is plainly and obviously a taxpayer-financed system. The largest recipients of public funding for elections in our Nation's history have been Republican candidates for President.

In the 1970's, our Nation was shocked when the corrupt system of financing elections for President was exposed in full view as a consequence of the Watergate scandal. Americans learned that the highest officials in the country were affected by a system in which suitcases full of cash were carried into high public office, and members of the President's Cabinet were involved in shakedowns of cash from people who did business with the Government, and they revolted against that system and instituted for the election of the President a taxpayer-financed system.

Our colleagues can rail all they want against taxpayer financing, but would they like to go back to the day when the President of the United States and the Vice President of the United States and Cabinet Members were going around the country shaking people down for cash to seek the highest office in the land and the most powerful office in the world? And yet if it is good enough to elect Presidents, why is it not good enough to elect Senators and Members of Congress?

The fact of the matter is, Mr. President, every Senator knows this system stinks. Every Senator who participates in it knows this system stinks. And the American people are right when they mistrust this system, where what matters most in seeking public office is not integrity, not ability, not judgment, not reason, not responsibility, not experience, not intelligence, but money. We could have a candidate of the highest integrity, the highest intelligence, the most vast experience who can be overwhelmed by a tide of money by someone who has none of them. Money dominates this system. Money infuses the system. Money is the system. And our colleagues to score a few political points keep raising this argument about taxpayer money, which is not even true, even as they accept taxpayer money.

Mr. President, Members of the Senate, several of us are leaving. I will speak only for myself, but I believe it is true of everyone who is leaving. Others can speak for themselves. I will miss a great deal of the Senate. I will miss all of my colleagues on both sides of the aisle, friends of many years, people with whom I have worked closely. But I wish to say here and now, one thing I will not miss is the never-ending money chase in which we have all had to be engaged. Every single Senator knows deep within his heart and soul and mind exactly what I am talking about.

We had a chance here to do something about it. It was not—I repeat, it was not—a system intended to favor one party. It was a system to level the playing field between incumbents and challengers, to create a fair opportunity for competition, and that really is essentially the basis of the opposition. This is a case of incumbents protecting themselves, not wanting to give challengers a fair chance, wanting to accept the overwhelming advantages of incumbency.

Of course, in this election we are seeing there are other offsetting disadvantages of incumbency, and so the tendency is to rack up even more money, to exploit even more fully the advantage so as to offset those disadvantages.

I am very deeply disappointed, Mr. President, at this result—very deeply disappointed. I am disappointed not just in those of our Republican colleagues who overwhelmingly voted against it—92 percent of them voted against it, while 90 percent of Democrats voted for it. I am disappointed in those Democrats who chose to vote against this measure on what I believe to be sorely mistaken and inadequate grounds. But the fact is that 90 percent of Democrats voted for it, 92 percent of Republicans voted against it. So it is very clear who favored it and who killed it. It is a very regrettable result.

This is, I believe, just a temporary setback. I think it is inevitable that there are going to be changes in this system, and I hope very much that those who remain and who have fought this battle so vigorously and with so much energy and effort over many years will continue the effort to create a situation where the American people can look at the Members of the Senate with pride and not with the embarrassment and the shame that so many feel now when they see this corrupting and corrosive system that exists, corrupting of the public trust in the Senate.

The fact is I believe that the overwhelming majority of Members of the Senate are men and women of integrity. They are not adversely influenced, as many believe. But the impression is there, and the impression is so deeply held and so strongly fed by the system and by the reports of it, that it is inevitable that it must change because I think public attitudes are going to get worse and worse and worse.

It is an irony, it is a huge and spectacular irony, that those who are opposed to changing this system in a way that will restore public trust are themselves seeking to become the beneficiaries of that public mistrust. The very people who want to keep this system which brings the institution of Congress into such disrepute are trying to be the beneficiaries of that disrepute—tear down the institution so that we can inherit the rubble.

That is what is happening here, and it is a very sad and tragic day for the Senate and for those who remain in the Senate. But I hope very much that our colleagues will persevere, that in time the American people will rise up in indignation and demand that this system be changed.

I want to conclude by saying one word, finally. No matter how many times our colleagues say it, this is not a taxpayer-financed system. This system is financed by voluntary participation by taxpayers. No general taxpayer will be forced to pay anything to fund this system. The distinguished chairman, the Senator from Oklahoma, the author of this bill, will describe it in a little more detail I hope. But I just want to make sure every American understands that, that these statements made to the contrary are simply not true.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BYRD. Will the Senator from Oklahoma yield to the President pro tempore?

Mr. MITCHELL. Mr. President, will the Senator yield?

Mr. BOREN. Yes, I yield.

Mr. BYRD. Mr. President, I will be very brief. I know others have been standing on their feet.

Mr. President, when Cineas was sent to Rome by Pyrrhus, the king of Epirus, laden with gifts to buy the Senators and Senators' wives, Cineas returned following his mission and reported to Pyrrhus that he had witnessed the Senate of Rome and that it was veritably "an assemblage of kings." This was in 280 B.C. There were no takers of his gifts.

About 170 years later, Gaius Sallustius Crispus, a Roman historian who lived between the years 86 and 34 B.C., wrote about the conspiracy of Catiline and also about the Jugurthine war which occurred between the years 112 and 105 B.C. Sallustius writes that when the Roman Senate ordered Jugurtha to leave Italy and to return to Africa, Jugurtha passed through the gates of Rome and looked back at the city several times in silence, and finally exclaimed: "Yonder is a city put up for sale, and its days are numbered if it finds a buyer."

What a sad commentary upon Rome and the Roman Senate which had so changed after 170 years.

The same commentary can very well be said about this city.

I am sorry to say it can also be said with respect to this institution. It is like property owned by the special interests. They hold title in fee simple to it—a title that is vested in special interests.

Eight times, I tried to get cloture on campaign finance reform legislation when I was majority leader during the years 1987 and 1988. There were more cloture motions against that legislation at that time than ever were filed before or since, and I failed eight times to get cloture. And the current majority leader has tried many times, and he has failed.

Mr. President, until the American people understand that campaign finance reform is more important than any other reform and until, as the majority leader stated, they rise up in indignation and say they have had enough, then this institution will continue to be the property of the special interests. We all know it. And it is too bad that the American people just don't get it and realize it to be the case. They are the real losers.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I thank the Chair.

It is clear that the effort for campaign finance reform this year is over. I would announce to my colleagues that we will make no effort to lodge another cloture motion in order to try to bring this bill to conference. I think it is a sad day for the political system.

This Congress was sent here by the American people to be the reform Congress. Throughout the last election, there was much discussion of reform. There were many pledges by Members of Congress on both sides of the Capitol and on both sides of the aisle that this would be the reform Congress. Now we run the risk that this Congress will adjourn, being known as the no reforms Congress except for a few largely cosmetic actions that do not affect the basic functioning of the political process.

We may pass a bill with provisions that prohibit us from taking gifts over minimal amounts. We have failed to pass a bill now that would affect the millions and hundreds of millions of dollars that flow into the political process that give the American people the impression that Congress is on the auction block because our politics will be dominated, as the majority leader said so well, not by quality of the candidates, not by the abilities of the candidates, but by which candidate is most successful in raising campaign funds.

It is a disappointment to me after 11 years of working on this legislation that we have come to this point. There have been many who have labored long and hard on both sides of the aisle to make this a reality, to bring about this change, including former Senator Goldwater and former Senator Stennis, who was the original author with me of the bill 11 years ago; including the President pro tempore, who just spoke a moment ago, who attempted through cloture votes to pass this legislation previously; including the majority leader, who will be retiring at the end of this session, who has fought valiantly for this effort in the course of the term of his leadership of this institution.

I see also on his feet the Senator from Vermont, Senator JEFFORDS, who I would say to my colleagues has been stalwart in this effort for campaign finance reform.

It has been an effort by concerned individuals on both sides of the aisle to bring about change. Today, we see this bill the victim of what I would call buzz word politics. If we say the right buzz words long enough and loud enough, perhaps you can succeed. We have heard all the buzz words here. We have heard the buzz words taxpayer financing. We have even heard that we were trying to pick the pockets of the American taxpayers to pay for campaign finance reform.

Mr. President, as the majority leader has said, not one single dollar of general taxpayer financing is in this bill. Not one single average American taxpayer is being asked to pay one single extra dollar in taxes to pay for cleaning up the political system.

Where does the money in the trust fund come from that would be used to induce candidates to accept spending limits? It comes, one, from voluntary contributions, absolutely voluntary contributions, if citizens want to add an additional contribution to their tax returns. It comes from additional charges on lobbyists, additional registration charges on lobbyists who try to seek to influence, who are paid to seek to influence legislation. It comes from higher registration fees on those who are agents of foreign powers, those who come here trying to represent the other interests of other countries, including the economic interests of other countries, to try to influence the Congress of the United States. It comes with increased reporting charges on political action committees, PAC's, that are usually formed to look after a particular economic interest. It comes from increased taxes on the investment income of political campaign committees of those candidates who refuse to accept spending limits, who want to have the right to take in all the money they can possibly take in from special interest groups.

You notice I did not mention one single average American taxpayer. But the buzz word taxpayer financing has been used. Which taxpayers? The taxpayers that are agents of foreign governments?

Mr. President, do you think if you polled the American people that the American people would say we are going to rise up in arms because those who are paid to lobby for the economic interests of other countries, which sometimes are not the same as our own interests, that they are going to have to pay more to register to lobby, to be paid to lobby for foreign governments? I do not think so. But that is the buzz word that was used.

Then there was the buzz word entitlements, as if we were going to write checks to political candidates out of a fund financed the way I just described, whether there was money in it or not, added to the deficit, another entitlement.

Mr. President, anyone who bothers to read the bill knows that there was a separate trust fund set up; that if the money from the sources I have just talked about was not sufficient to pay the incentives for spending limits in this bill, then those incentives would have been reduced proportionately. There was no entitlement in this bill.

Then we were told incumbents cannot be trusted to write a campaign reform bill. Mr. President, incumbents wrote the present rules. The rules that we are now living under were written by incumbents. They were passed by both Houses of Congress, and no wonder they set up the current system. No wonder incumbents would want to keep the present system. The facts speak for themselves.

In the last election, incumbents, sitting Members of Congress, were able to raise five times as much money as challengers—five times as much. Do you think incumbents would want to change the system to put spending limits in place when they can raise five times as much as new people trying to break into politics? The current rules were written by incumbents. They allowed political action committees to pour $10,000 into every election committee, for each political action committee, and the political action committees poured in $10 for incumbents for every $1 that they gave to challengers—a 10-to-1 advantage.

Of course, incumbents wrote those rules. And that is why it is so difficult to get incumbents, the Members who are sitting here now, to vote to change it, because they have so much advantage, so much advantage in a system dominated by money when sitting Members of Congress have so much more power to raise money than the new people trying to break into the system.

So, Mr. President, what we have seen today is buzz word politics at its best using false words about taxpayer financing and entitlement and incumbent protection to present an image to the American people of this bill that is absolutely opposite from, in fact, what it would have provided.

Mr. BIDEN. If the Senator will yield for a question, I compliment him for his work on this. I have been with him from the beginning. I am sorry he is leaving.

This is the question: In the time the Senator has been here, has he ever seen a circumstance where on the floor of the Senate—on almost any bill, but this bill in particular—where a Senator can stand up on the floor, criticize what is being proposed, and be the very recipient of the very thing he is criticizing? I think it is evident that the public and the press have already discounted this—not this, but discounted this institution. Does the Senator ever recall when somebody can say, by the way, this is the public dole and the public trough and this is going to provide all this money for incumbents, and those persons have already accepted tens and hundreds of thousands of dollars from the same system?

Mr. BOREN. No; I say, Mr. President, that the Senator is absolutely correct. I have thought that we have strained the boundaries of possible hypocrisy in the past, but I believe we have finally broken through them with the extreme example that we have seen in the course of this debate.

Mr. President, if we want to know where we are in this country, I would recount, without using any names, a conversation I heard on the floor of the U.S. Senate a few days ago. I overheard two of my colleagues discussing a candidate. They said the candidate was trying to decide whether or not he wanted to spend the next 2 weeks campaigning, out telling the people of his State what he believed in, out discussing the issues, out listening to the people about what was on their minds, the problems they wanted solved, or whether he should spend that 2 weeks on the telephone raising money. Mr. President, both of my colleagues' advice was: If that candidate had any sense, he better spend the 2 weeks on the telephone raising money instead of out discussing the issues with the people or listening to the people.

Sadly, my two colleagues were right. They were right, because if that candidate wanted to have a chance, he has to understand that he is participating in a system in which money—not what the people back home think, not the problems on their minds, not the ideas he or she has to present to the voters, but who can get the money to buy more of those 30-second television attack spots—that is what is dominating elections.

So, Mr. President, I can only say this: We are playing Russian roulette with our system of Government, because when we allow a system to continue that so undermines the faith and confidence of the American people, that so clearly allows money to be the deciding factor, that shuts out the majority of Americans who do not have the financial means to write that $1,000 check, or that $5,000 or $10,000 PAC check, we are continuing to erode the confidence of people in their own Government.

I have to believe—and I have faith and confidence in what the majority leader said—that some day the system will be changed. He and I will not be here. We will both be leaving the Senate at the end of this session and trying to serve the public in other ways. But I know that one of these days—and I hope we are both invited, along with others who have been part of this cause—the President of the United States will sign a bill that will change this rotten and corrupt system. I hope we will be invited to be there for that bill signing. I know there will be others in this institution who will carry forward this fight and battle. It cannot be allowed to continue, nor should we allow it to continue. If we do, we further erode that trust and we erode the legitimacy of the system.

Mr. JEFFORDS. Mr. President, I know the majority leader would like to speak. I would like to discuss the past bill for 2 minutes, if that would be all right, or else I could yield now if that is not convenient.

Mr. MITCHELL. I want to get a unanimous-consent agreement with respect to the GATT implementing legislation. So if the Senator wants to speak for 2 minutes, or a short time, I will be pleased to yield to him for that purpose.

Mr. BOREN. I yield to the Senator from Vermont.

Mr. JEFFORDS. Mr. President, I would like to make an inquiry of Senator BOREN. I listened to the majority leader and I agree with everything he said. I am one of the 8 percent he referred to who has been working hard here to try and get an agreement. I was discouraged to hear from the Senator from Oklahoma that the bill is dead. I would like to bring to his attention those things which I feel would have to be modified in order to reach the agreement that the six or seven of us had to vote for cloture. I would like to comment, and then get your comment, as to whether or not it would be foreseeable to try to get those changes in the time we have left.

I commend the Senator for the tremendous work he has done. I have enjoyed working with him. The elements that we have concern about are basically as follows: First of all, the reduction of the PAC limits. The Democrats in the House, who have been holding this process up, came down in their limit. They came down from a $10,000 to a $6,000 total limit for the election cycle. That is not even halfway from where we started. I would hope they would agree to come down at least another $1,000. The more difficult part of the PAC aspect relates to the differences between the House and Senate limits, regarding what percentage of the total money can be used within the spending limits. It is 20 percent for the Senate in PAC's and 40 percent for the House. This is in violation of the guideline that we had. They had to be the same.

The frank is another area where there is a difference which creates difficulties on this side. As far as the Senate is concerned, we would have no frank during the election period, whereas, in the House there is no agreement on this issue. These are, I think, the major areas of concern. I am perhaps an incurable optimist, but I hate to give up. I would like to inquire as to whether or not it would be conceivable that we could get adjustments in these areas so that we could perhaps get back together again on cloture.

Mr. BOREN. I thank the Senator from Vermont. Mr. President, I would have to say to the Senator, in all honesty, we have pursued negotiations over a long period of time, and let me say that the minority leader commented that, as far as he knew, there has been no consultations with those on the other side of the aisle, the seven who had voted previously to push this legislation forward. I want to say that we have had consultations. I personally have had consultations with every single person as we have gone through the process—certainly, as the Senator knows, with him individually on several occasions.

It was not my purpose, in any way, to pass a bill to seek partisan advantage for this side of the aisle or the other side, but to be evenhanded. And we have had very fine cooperation from several individuals, including the Senator from Vermont, on the other side of the aisle.

We pushed very hard for all of the points that were raised in the letter, from those on the Republican side of the aisle who voted to send this bill forward. We succeeded to some degree—not to every degree, but to some degree. We did get the amount of PAC spending that could go to candidates reduced, as the Senator said, from $10,000 to $6,000. I wish we could have gotten it reduced much further. We did succeed in keeping the McCain amendment, which made certain that campaign funds would not be used for personal use.

We did make a great deal of progress on nonparty soft money, along the lines suggested by the Senator from Vermont, requiring that when nonparty groups are utilizing soft money to influence elections, that soft money has to be disclosed—within 20 days of the election—every 24 hours. We made some progress on further curtailing mass mailings and misuse of the frank in elections, although there were some differences—the Senator is right—and there were differences on the aggregate amount of PAC money that could be accepted.

The final result in the House was one-third, 33 percent. We did not get down to 20 percent. We did bring it down some. We got it down to 33 percent.

I just say to my colleague that we did the best that we could. I believe we had a bill that still with its shortcomings, and there were shortcomings, and I think the Senator from Vermont has enumerated some of those shortcomings, I think it is still well worth passing.

I do not believe at this point and given the procedural situation where we have a postcloture filibuster of 30 hours even if we get cloture—we failed to get cloture today —I think given that circumstance the majority leader pointed out this is the first time in 210 years in the history of this institution that this tactic has been used of filibustering the motion to even go to conference, the motion to even try to sit down with the House and form a bill.

So it is clear, I believe, at this late hour and in this Congress with the tactics that have been employed, and undoubtedly will continue to be employed by some who opposed this bill, we would have time for additional negotiations.

I have to say with reluctant sadness after 11 years of personal work on this matter that I believe with this Congress this legislation is now dead for this year.

I know my colleague will be returning to the Senate. I hope that he will continue his effort for a bipartisan solution. I hope that others on his side of the aisle will join him. I hope there will be those on this side of the aisle who have been for this provision in the past for major reform will continue this.

I wish him well in that effort. I will never cease to have an interest in it and never cease to speak out about whatever my role in life might be.

Let me conclude, Mr. President, by saying to the Senator from Vermont that it has been a personal privilege for me to have served with him as a Member of the U.S. Senate. I have talked very often about the need to set aside partisanship. I have said on some occasions I wish I could speak from the center of the aisle because if there is any affliction along the way we finance campaigns that I think is undermining our political process it is that all too often we think of ourselves, first, as Republicans or Democrats and then, second, as Americans. We have it mixed up.

We were sent here to it be Americans first. We were sent here to work together without regard to parties for what is good for this country.

Let me say that among those Members of the Senate who have worked the hardest to present themselves as Americans who have worked in a bipartisan spirit for genuine and basic reform, the Senator from Vermont stands in that group for which I have the greatest admiration. The people of Vermont are very fortunate to have such a Senator representing them, and I have the utmost respect for him.

I simply want to say in this public forum there has been no one on either side of the aisle during my time of working on the issue of campaign finance reform that has worked harder or more sincerely or with more dedication and determination for this effort than has the Senator from Vermont.

If we were close at hand I would shake his hand with thanks for being an American first and putting the interests of this country ahead of any personal or partisan political considerations, and I state again in closing that it has been a real privilege to serve with him in this institution.

Mr. JEFFORDS. I thank the Senator for the comments, and I share them.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the time for committee consideration of S. 2467, the GATT implementing legislation, continue to be counted regardless of whether or not the Senate is in session.

The PRESIDING OFFICER. Is there objection?

Mr. HOLLINGS. Mr. President, reserving the right to object, I just talked with the leader and we are going to agree. Perhaps the best procedure is to make as part of the consent agreement that I be recognized after it is agreed to that I be recognized and have the floor and I can explain to the colleagues my position on this if that could be part of the agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

That is made part of the agreement. The unanimous-consent request is agreed to.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the information of all Senators, when the Senate adjourns, it will stand in adjournment until 9 a.m. on Wednesday, November 30. On that day we will use 12 hours of the statutory 20-hour time limit for consideration of the GATT implementing legislation.

When the Senate recesses on that day it will stand in recess until 10 a.m. on Thursday, December 1, at which time it will reconvene for the remaining 8 hours of debate on the GATT legislation.

The final vote on that legislation will, therefore, occur at approximately 6 p.m. on Thursday, December 1. When the Senate completes action on the GATT implementing legislation, it will adjourn sine die. No other business will be conducted on those 2 days of session.

Mr. President, I want to thank all of my colleagues who have participated in the discussions leading to this agreement, including first, of course, the distinguished Senator from South Carolina, and I thank him for his courtesy on this matter, and the distinguished Republican leader, who I also thank for his courtesy on this matter, and all other Senators involved.

Mr. President, I simply say to Senators that with respect to the remainder of the day as soon as the Senators now present who wish to speak on other matters complete their remarks we will return to the D.C. appropriations bill.

It remains my hope and my intention to complete action on that bill. We expect the Senator from Ohio, Senator METZENBAUM, to be present shortly to offer an amendment to that bill which will be debated and disposed of today, and while we are on that subject, which I expect will take some time, while we are on that amendment which will take some time we hopefully will be making progress on a procedure to complete action on that bill today.

Mr. President, I thank my colleagues.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

CAMPAIGN FINANCE REFORM

Mr. HOLLINGS. Mr. President, I thank the distinguished majority leader and the Senator on the other side of the aisle. I have two comments, in essence, one with respect to campaign finance, and one with respect to GATT.

With respect to campaign finance reform, I have been off in the curtain, so to speak, waiting the outcome of this exercise, which I might add is going nowhere. It has been like a dog chasing its tail.

Some 8 years ago I proposed a constitutional amendment of one line that would allow the Congress to control or regulate expenditures in Federal Elections. Since that time, I have had several votes, gaining a majority and getting votes on both sides of the aisle. It has been a bipartisan approach.

Why a constitutional amendment? Specifically, I saw what happened during the 1968 Presidential election when Maurice Stans, who later was the Secretary of Commerce under President Nixon, exacted thousands and thousands of dollars from various constituents. One gentleman up in Chicago gave a million, 2 million bucks. After President Nixon had taken office Secretary of Treasury Connally, his good friend, came to him and he said: "Mr. President, there are a lot of people who have given you large sums of money. They have not really had a chance to shake your hand and meet you. I think you should come down to a Texas ranch and we will have a barbecue. There you can meet and thank them." The President said, "That is a good idea."

On the day of the barbecue, Dick Tuck pulled a Brink's truck up to the ranch entrance and a picture was taken. When the picture was published, there was an uproar on both sides of the aisle. The image was that the Government was up for sale.

As a result, in 1974 we passed a bipartisan campaign finance reform bill. Everyone agreed, except one gentleman. The distinguished Senator from New York, Jim Buckley. Not wanting spending controlled, Senator Buckley sued the Senate, the Clerk of the Senate, Frank Valeo. That is the famous Supreme Court decision of *Buckley* v. *Valeo*, a 5-to-4 decision. In *Buckley*, the Court equated money with speech, and struck down as unconstitutional the capping of campaign spending.

This decision resulted in a huge loophole in our current campaign finance laws. Let us say I have all the money which in essence gives me all the speech I could possibly use. You, however, have very little money which in essence limits your speech. This has not preserved your 1st amendment privilege of free speech. In fact, it absolutely violates it because if you and I run in a campaign and you have $100,000 and I have $1 million, I wait until right now, October 1, and I come in with an onslaught of newspapers, billboards, TV, magazine articles, and everything else. You are trying to respond with your little $100,000. The next thing you know you run out of money by October 10, and I have a free run to election day. With all my money, I have virtually taken away your speech.

Now, what we should do is what a majority has voted for bipartisanly—adopt a constitutional amendment limiting campaign expenditures. Five of the last six constitutional amendments deal with elections and all were adopted within 18 months. Don't give us the arguments that it would be a terrible constitutional violation to amend the Constitution or that it could not be adopted in any amount of time. If we passed it now and proposed it to the legislatures of the States, I can tell you here and now that it would be ratified before the November elections. In fact, my amendment, at the request of the States, allowed for the limiting of campaign expenditures for not only Federal elections but also State elections.

I hope now we get past all of these arguments: How much do you give? How are you going to get the money? Whether you are taxpayer financed or whether you are not. The current effort to reform campaign financing proved to be a good college try but again and again, it is getting fewer and fewer votes. Let us now go back to the real world and cut out playing games and do as we did in the 1974 campaign finance reform, no cash, all contributions on the top of the table, limited to 1,000 bucks, recorded here and at the secretary of state back home, all expenditures recorded, and most importantly, total expenditures capped. At that particular time, South Carolina's limit for a Senate candidate was $512,680. I think the candidates in the State of Minnesota, for example, got around $730,000, a much larger State. Whatever it is, we must limit total expenditures.

Whatever it is, we have to get away from this nonsense that the incumbent has the advantage. I can tell you now, I just ran less than 2 years ago, and you do not want to be an incumbent. I was fortunate enough to have someone with a congressional record running against me. I am glad somebody without a record did not run against me because all the negative politics comes into play. They can twist, distort, charge, and everything else. That is the game of politics today.

I think you have already seen the best of the best over on the House side lose out in a primary. He had all the money and the challenger only spent a very, very limited amount and won.

So get away from all this who gets the money. It is an even-steven proposition. Hold down the spending. Let us go with the constitutional amendment.

GATT

Mr. HOLLINGS. Mr. President, with respect to the agreement, this is not really my agreement.

I had talked early on. Let us go back to April. We were marking up the budget in conference. At that particular time in the budget conference there was a dispute between the House and Senate that ensues this minute with respect to GATT, as to whether or not it is revenue neutral. The House has a 5-year rule and we have a 10-year rule. Within 5 years, yes, we could find, let us say, $12 billion. But within the 10 years, nobody could find the additional $31 billion, because the CBO had found $43 billion was necessary to make it revenue neutral.

On that particular score, I did get a call from the President of the United States, who asked that I waive that budget provision. I told him I thought it would be a bad mistake to do so. I did not want to do it. And we finally agreed not to waive it.

But at the time of the conversation, I said, "Mr. President, you beat me on NAFTA."

And I say to the Senator, I am not going to get into the NAFTA debate. I would be delighted to do it.

I said, "That was a bad mistake. Immigration is up and trade is down, jobs are down in the United States. And we can prove it categorically. Industries are leaving."

But I said, "You beat me with that white tent you put out on the back lawn with all those Republicans that gathered there under the tent. So, Mr. President, on GATT, you better get out your little tent again and put them all under there and get those Republican votes, because I am absolutely opposed to this so-called free trade nonsense."

What happens is, in exercising our right—and it is a deliberate right under the Constitution, article 1, section 8, that the Congress, not the President, the Congress of the United States shall regulate foreign commerce. We have a constitutional responsibility.

We yielded substantial rights of that particular responsibility with this so-called fast track. And what happens is, we said, "All right, Mr. President, there is difficulty getting a lot of nations together and a lot of amendments. We understand it. But at least let us have, with the committees involved, 45 days in committee and then 15 days on the floor, or 60 days, 60 days with fast track in the Senate."

Now they come and instead of fast track they want instant track. They say, "You are holding up the works." Well, let us see who is holding up the works.

When we exercise our right—and the President knew—everyone there connected, Ambassador Kantor knew my particular position—that we wanted to air it out, we wanted to debate in the open. We never had open debate on the floor of the U.S. Senate because by the time fast track comes to the floor—it is worse than fast track, in that the jury has been fixed.

I had lunch yesterday with Leon Panetta, the Chief of Staff. At that lunch, he said he already had 300 votes over on the House side. I said, "You ought to be O.J.'s lawyer. You know how to really fix the jury ahead of the debate."

We had not even begun to debate. In fact, we did not get the implementation document until yesterday morning. We have had it in our committee for less than 48 hours, and they are wondering, "Why are you dragging your feet?"

I knew that, under GATT, since you have to the end of June of next year to ratify that agreement here in the Congress, that since none of the major trading powers in Europe or Japan had ratified it, that certainly it would be that they would not cause a lame duck session in the context of bringing everybody back in an emergency situation for GATT when they did not do it for health care, they did not do it for campaign finance reform, they did not do it for the information super highway, they did not do it for the maritime bill, they did not do it for the technology bill.

We have all these measures, highly important, more debated, more worked on by all the committees and ready to go and ready to be agreed upon.

But with the shenanigans going on and not being able to get these things up, if they were not going to bring the Congress back in a lame duck session for any of those, certainly they would not for one that they could easily agree on at the first of the year.

So exercising the rights under fast track, I knew we would have 4 months before we came back in January to fully air and debate it, and that is all I could ask for to try to educate the folks in the mistake they are making.

But they took this different turn, and now they are requiring us to come back.

So if anybody is to call for a lame duck, it is the President himself. I cannot call anybody back. And we are playing by his rules and he knew it and Ambassador Kantor knew it.

And I thought, really, I had all the rules in line, but the majority leader has educated me. And that is, they have the full intent, if we did not agree, that the leader would come in, the Chaplain would give a prayer, and the leader would move to adjourn. And the next day, the Chaplain would come in, the majority leader, exercising his right to first be recognized, would move to adjourn. And on and on for 45 days. And he has that right.

And I said, "Now, wait a minute. I am trying to persuade, not alienate everybody. So I am not going to be that nasty." There is no idea to be nasty or anything else about this thing. "But you put in me a position where I guess I have to agree. I have run out of rights. I have run out of rules."

I have run out of rules. So therein is the reason for this. I am fully intent on killing this measure, GATT. The President says he needs it now because he has to lead, and nothing, nothing, nothing could be further from the truth.

There is no chance of him leading. He is not a leader in international trade. I do not know how we get that through his head, that head, this head, or anybody else's head around here. They are not leaders. The United States is not the superpower, Japan is.

We have two fundamentally different trade systems and economies. We follow, of course, Adam Smith, David Ricardo; the doctrine of comparative advantage, free markets and free trade. They follow the Friedrich List—the Germans, the Japanese—of the wealth of the nation being measured not by what you can buy but by what you can produce. And they look at us in total dismay when we talk in terms of morality; that you are cheating on the trade things, that you are unfair. "Be fair. Be fair."

Come on, get off of that childish nonsense about being fair—trade is trade. You learn in Contracts I in law school, "a sound article for a sound price."

The context of our current trade policy is the cold war: The cold war, where we had to subordinate the economic interests of your country and mine for national security, to keep everybody within the alliance against communism and against the Soviets—and yes, they give me history—President Reagan initiated this GATT round. You are right. You are as right as rain. President Reagan started this GATT with the same old cold war philosophy and pressures at the time here, 8 years ago.

So here it is. President Reagan, President Bush, and now President Clinton, want to continue cold war trade policies—when what we need to do is refurbish our manufacturing sector and strengthen the economy of the United States. The foreign policy they talk of is like a three-legged stool: You have the one leg of your values as a country, you have the second leg as your military power, and your third leg is your economic power.

Under the first leg is the values of the country—no one questions it. The United States gives lives to feed the hungry in Somalia and now is trying to build democracy down in Haiti.

The second leg is that of the military power—unquestioned.

But the third leg, the economic leg, is fractured. We are in deep trouble.

You can only go back to the same promises they made in 1979 under the last round, the Tokyo round. I was on a program last night and I heard the same sing-song, "*x* thousands of jobs are going to be built up, we are going to have a beautiful economy." It was the same old malarkey we heard under Reagan economics that George Bush called voodoo.

Now we have international voodoo, or trade voodoo. We heard that in 1979. We have it given to us in 1994, and there is no education in the second kick of a mule. Mr. President, since that 1979 agreement we have had an outflow due to our trade deficit—historically never having occurred in one nation in the history of this world—of $1.4 trillion. We have had 3.2 million jobs lost. We have had an inflow of manufactured goods. So now our manufacturing sector has dropped from 26 percent of our work force to 16 percent of our work force. What jobs we have are part-time jobs that they are all bragging about creating. And those Americans with regular jobs are taking home less pay in real terms than what they were taking home 20 years ago, and less than even a few years ago.

So do not give me all of these wonderful things. Here I am losing out. I heard the gentleman last night representing the Alliance for GATT Now, the blue-chip corporations. And, heavens above, they do not have any standing in this court of trade disputes.

Here it is, "The Work of Nations," by none other than Robert B. Reich, the Secretary of Labor. And Bob Reich says in his book—just one line I will read and we have plenty of lines to read on this one. Listen to this: "America's 500 largest industrial companies failed to create a single net new job between 1975 and 1990." They had not created any jobs in 15 years. The gentleman I was speaking to is one of the largest exporters from Taiwan—yes, they create jobs in Taiwan and other countries of the world around.

And what have they done in the last few years? The lingo in the news now is "downsizing." Downsizing—they are firing 60,000 from IBM; 71,000 from General Motors. Aircraft? Mr. President, 28,000 from Boeing—gone. I am going to have that Washington crowd over there join this textile Senator.

They say, "Oh, HOLLINGS, he's just a textile fellow crying because he has low-skilled workers and he is just shilling for them."

I am not just shilling for the textile industry. I am shilling for the aircraft and the automobile and the high-tech industries, because when we had the NAFTA debate it came out. You have to understand. They build things very, very productively in these other countries. Down in Mexico—not Detroit, not Europe, but the most productive Ford factory is down in Mexico. Look at the rankings by J.D. Powers.

I know they get skilled because I get them skilled. Why do you think they are coming with BMW to South Carolina instead of Detroit? We never have manufactured a car. But I have to go listen to Michael Porter from Harvard talk about the same old "comparative advantage."

See, they are off on the example of the British. The British reassured themselves 25, 30 years ago—"Don't worry. Instead of a Nation of brawn you are going to be a Nation of brains." And, "Instead of producing products you are going to create services. Service economy, service economy, service economy—instead of creating wealth you are going to handle it and be a financial center."

Now England is a museum to visit. It is pleasant. You can look at the countryside. There are two levels of society, the impoverished and the very wealthy with these large estates. If they want to know where a historic Disneyland can be located, it is going to be located right here in Washington. We are going the way of England, "to hell in a hand basket" economically.

We have to wake up. How do you get their attention and how do you wake them up? How do you get that media crowd? "Whose bread I eat whose song I sing."

When we debated this one time before I went to the Washington Post, about 5 years ago. They made $1 billion, and about 80 percent of it, $800 million, was from retail advertising. How does that crowd come in?

Oh, we will get into it because we are going to show the imported article does not reduce the price. It increases the profit. You see, the nationals went over and became multinationals, the banks became multinational banks. They are financing the consultants, the think tanks, the Washington lobbyists, the Trilateral Commission—all put on the full court press: Free trade, free trade—dump, dump, dump, dump, dump—their products. Over half of our imports are American-produced products overseas and brought back in. We are playing the game against ourselves and do not even understand it. So the retailers making a bigger profit and are the ones who pay and fix the vote. You are not getting it cheap.

Then you talk about consumerism, consumerism, consumerism—that crowd that is firing everybody is interested in consumers?

Yes, they are making more money, but I can tell my colleagues now, you can produce anything anywhere. We are not in charge. And what is the real danger?

You have, as I speak, Ambassador Kantor, the Special Trade Representative, right in conflict, let us call it, with the Japanese trying to get a bilateral trade agreement. Now, question one: Why, if these 117 nations are all going to be dealing by the same rules and singing out of the same hymnal, why, if GATT gets everybody playing by the same rules, is he so intent on getting an agreement with the Japanese? And how does he try to enforce that agreement with the Japanese, like we did with semiconductors? We said we are going to use super 301, and that is how we got these voluntary restraint agreements and that is how we rebuilt our semiconductor industry, and that is the tool he is using.

Mr. President, that goes out with GATT. Let us get right to it. Here it is, "The Report on United States Barriers to Trade and Investment." And if you look on page 12, you will find section 301 contradicts GATT. You can go through the book. Not just with the Europeans. Here is a booklet entitled "94 Report: Unfair Trade Policies by Major Trading Partners of Japan," finding 301 GATT illegal. And we can go to the few remaining tools we have on the books to go against dumping which go out the window with GATT.

I can go at length into how we will have one man, one vote in Geneva, how Castro can cancel out our vote. The fact of the matter is, of the emerging nations, three-fourths of the 117 countries, three-fourths of them have voted against us a majority of the time in the U.N.

Take Mexico. President Salinas is the man they want to be leading the WTO. Mexico has voted against us around 75 percent of the time in the United Nations Look at the record last year. Go back to the record and find out where we are and sober up, and quit going home and saying, "Oh, I'm for jobs." We have an affirmative action policy with GATT in these trade policies of exporting our jobs and importing the unemployment of the world, and we cannot afford it anymore. We cannot afford it anymore.

We said, thinking we were in charge, that GATT in December was going to get us financial services. They did not get financial services. All they got was an agreement to talk for 2 more years. They tried to get labor and environmental rights in April when Ambassador Kantor went to Marakesh. He could not get it then. So then they brought in the Commander in Chief, President Clinton, and in Naples in June, they presented a plan to the G–7 group in Naples and they said, "Let's go out and have a drink. We'll see you later, President Clinton. Goodbye." And here is the man who says he is in charge, that he has the lead.

Environmental, labor rights—that is exactly what Ambassador Kantor tried to get in Marakesh. The rest of the world rebuffed us. So you do not have those things covered. It is not just my million of textile jobs; it is high-tech jobs, it is environmental concerns, it is labor rights. All of those things go out on this full-court press where they do not want debate, they do not want coverage, they do not want an understanding whatsoever. And then they want to say, "Oh, he is being technical and causing us to come back."

No, we can come back. There is plenty of time between January and June of 1995 when the new GATT is supposed to take effect. You can bring it up at any time, we can debate it, and we can have a vote. Look at the ads. Look at all of those things on TV. Their sponsors do not—when are you going to wake up—create jobs. We are losing them right and left. They do not increase the economy.

And what has really happened on the other side of the ledger with our spend and spend and spend and spend—that is another thing. You talk about bipartisanship. We had bipartisanship for Reaganomics, and now neither side cares about paying the bill. I have advocated a value-added tax—a tax. I had to run on that just the year before last. But I want to pay the bills. Read Tom Friedman in the New York Times about a giant restraint in trade policy. Actually, Kantor is not our trade negotiator. The Secretary of Treasury, on account of fluctuations——

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator has exceeded his time in morning business.

Mr. HOLLINGS. I then have to close, Mr. President. I appreciate it very much. But I will just end with that. If you want to get trade policy, unfortunately, you have to go to the Secretary of the Treasury. The simple reason is that we had a 10 percent cut, for example, in tariffs, but they had a 9-percent devaluation of the peso in Mexico and that immediately canceled out the so-called tariff cuts.

I want to get into the tariff cuts later. GATT does not change any entry into markets like they are talking about. That is why Mr. Kantor is trying to get in Japan now. He is not going to get in there.

Until we start enforcing our dumping laws, sober up and begin to act for the economic interests of this land, we are going down the tubes in this country.

I thank the distinguished Senator for yielding.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

CAMPAIGN FINANCE REFORM AND HEALTH CARE REFORM

Mr. DURENBERGER. Mr. President, I rise to discuss two topics that are central to the Senate debate in these closing weeks. One is health care reform and the other is campaign finance reform.

I am not the first Senator to address the connection between these two issues, but my point of view may differ from that of previous speakers. I will begin with the matter that appears to have been at least partially concluded this morning, and that is the issue of a filibuster on campaign finance reform.

I have been here not only for the vote but for the arguments made by many of my colleagues subsequent to that vote. All of them were, with the exception of the Republican leader's arguments, by people on the other side of the aisle. One of the first points that was made, of course, is that campaign finance reform is a highly partisan issue. My colleague from South Carolina just gave us some evidence that goes back 30-plus years on that subject. The fact that election law reform, campaign finance reform, is inevitable has been testified to here on the floor of the Senate over the last 2 years by the arguments that have been made on behalf of campaign finance reform.

But the arguments made this morning were largely about who killed campaign finance reform, as though it were dead. In my view, it is not dead. It died here about 15 months ago on the floor of the Senate. It was resurrected by this Senator and by my colleague, the senior Senator from Nebraska. We pulled it up out of a filibuster at that time. We got a consensus on the floor of the Senate that was bipartisan, and we passed it out of the U.S. Senate, sent it to the House of Representatives, and it is there that it was killed. It was not killed here. This was a ceremony this morning. This was a ceremony this morning that was presided over by the Democratic leadership to say that they had failed to come to a consensus between the House and the Senate within the Democratic leadership on the issue of campaign finance reform.

It is a fact that Republicans almost to the person—not quite; there were seven of us in this group—did not like our proposition. In fact, I will never forget the fact that the same evening that we got this bill out of the Senate, I had a fundraiser. A lot of my colleagues had promised to come to my fundraiser. I think two of them showed up, plus one Democrat, the first time a Democrat had ever come to one of my fundraisers.

So there were a lot of partisans on this side of the aisle who did not want to see the kind of campaign finance reform that we reported out of the Senate. Quite a few Members on the other side of the aisle did not want to see the kind of campaign finance reform that was reported out of the Senate. But there was enough of a consensus to revive this thing and to send it to the House. And for 15 months, Democrats have been dissecting the body of that amendment, trying to put it back together again, never talking to me, and I cannot vouch for the other Members of our group of seven Republicans. I know of only one who has had any conversations with any Democratic Members. But it was the Democratic leadership, going over this body piece by piece, trying to put back together something that would look like the independent, bipartisan proposal that came out of the Senate, and they could not do it. They just could not do it.

I think our colleague from Oklahoma, who spoke here this morning, who provided the leadership to help us put this together, pretty well admitted the fact that they just could not do it. I do not agree with my colleague from Vermont when he says maybe if they had taken the PAC's from $6,000 to $5,000, he might have agreed with it. He might have agreed with it. But nobody else in our group would have agreed with it. We came to this issue because of PAC's. We came to this issue because of special interests. We came to this issue because of the money chase. And we were not going to stand around here and compromise by asking if you will knock off 1,000 here and 1,000 there. That just means you are going to have more parties, more fundraisers, more special interests, because the need is still there. And if you cut the PAC limit from 10,000 to 6,000, it means you are going to have 40 percent more fundraisers. That does not end the money chase. And the Members of the House of Representatives on the Democratic side of the aisle know that. That is the way they survive.

I have had three elections, two of them against megamillion-dollar candidates who were financing their own elections out of their own pockets. I had to raise PAC money, and I became a defender of the PAC's because I could not have been elected without them. But I only raised 25 percent of my total from political action committees. I raised 75 percent from ordinary people. By the time of my last race, I had 50,000 people contributing to my campaign. I defy anybody in this body to find 50,000 people—other than maybe in a large State like California—who are individual contributors. So I took 25 percent from PAC's, and I am going to tell you in a minute what I paid for that.

My colleagues in the House on the Democratic side in Minnesota take in an average of around 75 percent of their money from political action committees. Do you think they want to part with that? Of course not. Of course not.

That is where campaign finance reform died, if in fact it is dead. But it is not dead. The Democratic leadership, which so excoriated the alleged filibuster conducted by my colleagues on this side of the aisle can get back together again. They have a chart. They have had it for 15 months. They have had a set of principles. They have had a bipartisan consensus proposal built by Democrats and Republicans here 15 months ago they can work with.

It is all there. They know it. So during the debate about is it dead, who killed it, all the rest of that sort of thing, you could tell by each of these successive votes that it was not being killed in this Chamber.

This last vote in effect was 52 to 48—technically it was 52 to 46, but two of my colleagues on the Republican side of the aisle, Senators NICKLES and BENNETT, were not here today to vote. They have consistently voted against cloture. So I say it is a 52-to-48 vote. The message keeps coming down, and it is to the Democratic leadership: Decide whether you are going to do bipartisan, nonpartisan campaign finance reform or, if you just cannot do it, then why not admit to everybody in the country why you cannot.

I do not think it is the fault of the Senate Democratic leadership. I think Senator MITCHELL has been patient beyond belief. We all know he has been patient with Republicans. But I think he has been even more patient with his counterparts on the House side on the Democratic side of the aisle. I think he has tried and tried and tried as his last stand on the Democratic side of the aisle to come up with something that might be this miraculous bipartisan, nonpartisan reform.

But as his friend, the Republican leader, Senator DOLE, said an hour or two ago, that is probably trying the impossible. Only if someone takes this whole issue outside of this body and the other body and gives it to people who are not paid to be Democrats or paid to be Republicans or paid to be Senators or paid to be Congressmen and ask them how this Nation is going to restore confidence in the election process are you ever going to resolve this issue.

My colleague from Oklahoma talked about buzzword politics, and I wish to talk to my colleagues about buzzword politics. Last week, an organization that calls itself Citizens Action released a report that if I were not in the Senate and you were not in the Senate and others were not in the Senate would be libelous. It, in essence, accused Members of this body of taking bribes. Some Members have picked up on that theme on the floor of the Senate and said that health care reform failed because Members of Congress are so greedy and so craven that our will to pass health reform was overwhelmed by millions of dollars of campaign contributions, some of which many of us have accepted over many years.

Mr. President, the popular chorus is that there is a lot of Washington that does not work well, that does not work the way people expect it to work. That is the chorus, it is true. But I am not going to let these preposterous allegations stand unchallenged.

Citizens Action and their spokespersons in and outside the Senate are proponents of a single-payer health care system. That is their goal.

Their approach was rejected by most Members of this body, most Members of the House, by the White House, and by the American public. If ever there was a clear message on health reform from the American people, it is their absolute opposition to turning the health care system of this country over to the Government.

Yet the supporters of single payer would have America believe they are the only true proponents of health care reform. Once they declare—and this is just to give you one example of how this system of political action committees and special interest financing works—once this outside group declares that they have a monopoly on virtue, then they denounce the rest of the proposals—the mainstream plan, Dole plan, and all the others—as sellouts to special interest groups.

They will not entertain the notion that anyone can disagree with them on principle. They flatter themselves into believing that anyone who disagrees with them must be a crook engaged in a bidding process with special interest fat cats.

Mr. President, I heard the majority leader say something about integrity in this body and his belief about the Members of this body. That comes from experience. Mine is the same. The allegation of crooks doing bidding to special interest fat cats is false. It is irresponsible. And as you have heard throughout the debate on campaign finance reform, and lobby reform, it is destructive of this institution.

One way to deal with these allegations is to have a public hearing on them. Frankly, I would challenge Citizens Action or anybody else who thinks that health care reform was killed by campaign contributions to present that case in some kind of an open hearing. Again, let us get it outside the body in a public forum and let us debate that issue. But I do not think that is going to happen.

It will not happen because the easy way is to present evidence of the contributions—as though they are a study—at a time when there is a failure in the system to meet the goals of the virtuous proponents of a particular proposal and then let the public draw their conclusions.

The public has had this presentation made to them so consistently, so often in the 16 years I have been in the Senate, that they buy it. Of course they buy it. They presume that there is a link between contributions and the failure of the system to respond to their needs.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. DURENBERGER. I would be pleased to.

Mr. MOYNIHAN. Mr. President, the Senator is a distinguished and revered member of the Finance Committee. We would concede happily that no one on the Finance Committee has studied the health care questions more than he has done nor has brought more knowledge and concern for the subject. He and I and the other 18 Senators spent much of this year on this subject—31 hearings, and endless discussions. The mainstream grew out of our bipartisan committee. I do not recall a single word spoken in this year that could in any way be associated with some economic interest that had influenced a member of the committee.

Does he recall such position being put forward, such implication being suggested? Does he think that contributions or even local interests were the subject of our discussions to any degree that would be significant in terms of the outcome?

Mr. DURENBERGER. Mr. President, I would say no and quite to the contrary. As my colleague, the chairman of the Finance Committee, knows only too well, those of us who have had the experience of having to take on these difficult battles in which special interests are involved are very grateful to the chairman of the Senate Finance Committee for beginning the process with a whole year solid of hearings, sometimes two or three hearings a week on all of the interests, all of the principles, all of the plans, all of the proposals, all of the great ideas in health care. We are grateful for that approach because one knows in advance that there will be allegations by winners and losers of ideas or principles or plans that somehow or other some money or some other influence may have come to bear.

So he has not said it, but I think the fact of the matter is, to those of us who have been on the Finance Committee and who know our colleague well, who know the ways in which the Finance Committee operates, there may have been a purpose in preceding the decisionmaking process the way we did on a subject dear to the hearts of everyone in this country and difficult to understand. We had all these hearings so we could cover all of the interests involved, all of the different approaches, all of the different ideas.

It is amazing to me that as the hearing process went on, people learned. They began to ask different kinds of questions. They began to reshape their own views on the process, but it came out of the open process. It did not come out of the back door. It did not come out of Gucci Gulch. It did not come out of the fundraisers. It was happening in a public hearing. Senators were being educated. People were learning. Experts were having an influence, not with their checkbooks but with their ideas, and with their own experience. It is amazing, is it not, that this could happen in the U.S. Senate? Mr. President, I will say that in 16 years this has happened many times —not necessarily with the visibility that was given this particular effort by the people, the elections, the President and the chairman of the committee—but this happened time and time and time again. The larger influence on any of my thinking comes from my constituents and my judgment. But that is enhanced by the process we all go through in this body of debating, hearing, listening to experts, having public testimony and hearings, and all the rest of that sort of thing. That is the essence of this process.

It is not the fundraisers, of which there are many. It is not Gucci Gulch, which does exist. There is no question about that.

There is a clear impression by people who have not come to these hearings, who have not lived through this experience, who are constituents of mine, that leaves only 12 percent of them trusting this process. They may think the decision making process I have just described may occasionally happen, but the fundraiser at night is where the real action takes place.

I just want to say that is a lie. I have not seen it happen that way. I understand people can have different views on where you come out on health care reform. I think people can have different views on a whole lot of things. But I would suggest, and I would even use my colleague from Minnesota as an example, that many of these views come from experience and judgment. They do not come from the so-called grubby interests. If I have it right, I can take the so-called million dollars that I have raised over 16 years from health-related interests—this is what I was charged with by Citizens Action—and put that against about $200,000 that my colleague, PAUL WELLSTONE, got from labor unions. Given the time we have been here, that means he has received about as much proportionately from labor unions as I received from health interests.

So someone could say PAUL voted for S. 55, PAUL voted on Davis-Bacon, PAUL WELLSTONE voted on all these labor union issues, and was influenced by $200,000. But I know better. I know that his influence comes from his life experience. It comes from his belief system. It comes from his judgment about what is the common good, all of which differs from mine on those particular issues.

But I believe that is where it comes from. It is his view of the role of Government in our society which is different from mine. But it is his view, not the unions' view imposed on him with a contribution.

It is his view of the role of markets in our lives. It is not the unions' view. So my view, the view of the Senator from New York, other people's view of the health care system, health care generally, health care financing, health care reform, that comes in the largest part from a set of life experiences, a belief system, a judgment about the common good, a view of the role of Government, and a view of the role of the market.

That is the reality. But that is not the judgment of Citizens Action. That is not the judgment of liberal editorials. That is not the judgment of cynical journalists in this country.

The connection between all of that activity in the last week or two blaming the insurance industry, the doctors, the hospitals, the health plans, for the destruction of Citizens Action and campaign finance reform is simple. It is called the blaming game. You do not get your way, and you blame somebody else. That is basically the way it works around here. The blame game is as destructive an exercise as we engage in in this body. The blame carries the implicit allegations that the majority of Members of this body are taking bribes. I think it is particularly destructive.

I know as I leave the Senate, as we leave this subject, the blame game will go on. It is the nature of modern politics.

Today, right now, while we speak, up there in the gallery behind the doors the blame game for campaign finance reform is going to get played out, and it will be partisan and it will be bitter. And, if history is any indication, it will consist mainly of half-truths on both sides.

My vote this morning against cloture on the campaign finance reform bill is going to be misrepresented by all kinds of people, and each of them has some ax to grind. I need to make the record clear today, in spite of what is probably going to be said about me in the days to come.

As I said earlier, 15 months ago I worked for hours with Senator BOREN, Senator MITCHELL, and finally Senator EXON to craft the compromise that allowed campaign finance reform to pass the Senate. We worked hard. We worked in good faith.

The product was a bitter pill for some partisans. But it was a better bill than we started with. And I could support it with enthusiasm.

From the day that bill passed until yesterday morning, the Democrats in the House and Democrats in the Senate have been meeting to craft a Democrat-only compromise. I have not been invited to a single meeting. I have not been asked my view on a single item at a single time. There has been no effort to work together.

Yesterday morning I was presented with a bill, and was told it was a done deal. I was told it was the best that the Democrats had to offer and there could be no changes.

In short, for whatever reasons, the Democrats decided to have a conference committee of their own. No Republicans were invited. And now we have the results of that one-party conference, and we are told a formal conference will effectively be a rubberstamp of the deal.

I can see no reason to cast a vote to send a bill to conference when the majority has already decreed what the final conference report would be.

Many have urged me to let this go to conference to see what comes out. Ordinarily, I would do that but I have been told in this case that the conference is a formality. The deal has already been worked out by the Democratic leadership. I could vote for cloture this week, let the conferencing go through a charade and then vote against the bill next week. But next week will be too late to fix the bill.

So I chose to send my signal to the Democratic leadership and to Common Cause today. If they are serious about reform, they ought to get back to work. That is the message.

Mr. President, I want to compliment the Democratic Members who voted the same way I did on this issue because I think it is important that both Democrats and Republicans send that message to the Democratic leadership. They could rethink the $200,000 taxpayer subsidy for the House candidates to run their campaigns. The money is structured in this bill to virtually guarantee that every incumbent will get it before his or her challenger. Some challengers will never qualify for it but every incumbent certainly will.

Two of my Democratic colleagues this morning have said no, there is no public financing in this bill. But there is a tax checkoff. In other words, you use your tax form to put in the money for campaigns. There is a reporting fee on foreign PAC's and there is a registration fee on lobbyists and foreign agents, all of which are requirements. If you are going to do business, you have to pay this reporting fee or registration fee. There is an increase in the marginal rate of tax on campaign investment income. And there is a tax from the Senate bill on noncomplying candidates. To say that this is not public financing is to say, to use a health care analogy, that where States have put surcharges on hospital bills it is not a tax on health insurance premiums. But it is. It clearly is. You can call it any name you want. It comes out the same way. It is a tax, and it is a public fund administered by a public agency. I served on the Ethical Practice Board in Minnesota. When we went to public financing, a bipartisan group got to spend this money, decide how it should be spent. If that is not public financing, I do not know what it is.

Second, every incumbent in the House will be able to roll over an unlimited war chest. In our set of principles, we thought it was important to address the unfair advantage of incumbents. You should not build up a big war chest in one campaign and carry it with your incumbency over to the next one and have this big lead on your challenger. Add to that your $200,000 in public financing before your challenger even has a chance to surface. The House said that they will not give up their financial advantage over challengers.

Those two things alone are enough to make this a bad deal for challengers. But they are not the worst thing. Let us return to the subject with which I opened—PAC money.

I have already said that the allegation that special interest money caused the demise of health reform is remarkable. I also know that the demagogues continue to allege it. I know a lot of the news media will promote the idea regardless of the lack of evidence.

Mr. President, as I said earlier, I ran two of my three campaigns against megamillionaires who financed their own campaigns; 25 percent of my contributions came from political action committees. I raised a lot of PAC money because the only alternative I could see was to allow two millionaires to buy a Senate seat.

Mr. President, I have paid for that with my Senate life, and I am still paying for it. Every time I expose myself in a difficult leadership role, somebody reports a health contribution or agriculture contribution or something like that. That is one of the difficult, if you will, suppressants of leadership in a place like this, as I know my colleague from New York already knows, and I assume my colleague from Colorado will learn as time goes on.

I will soon conclude, because I know my colleague from New York wants to speak.

This is why we have to get rid of the political action committees. I did not always feel that way. I would not be here if it had not been for the role they played. I would prefer a system of individual contributors. I would prefer that only the people I represent in Minnesota actually contribute to my campaign, through private contributions. I think that would be terrific. In Minnesota, we have a record of going door to door as Republicans and raising a lot more money than the Democrats. So gradually the Democratic Party has made it more and more difficult for parties to make contributions to political campaigns.

I also happen to think that if more of the contributions were going to the parties, then parties would be a lot stronger. When you cut the role the party plays down to almost nothing in a campaign, I hold no allegiance to my party. I stand up here as an entrepreneur in health care, or whatever it is. I owe no allegiance because they do not have enough influence to make a difference. I stand here as a Republican. I am elected as a Republican, but we have so tied the hands of political parties that we are now facilitating the transfer of power within those parties to the extremes.

I think if there were more power in being a Republican or more power in being a Democrat, there would be more Democrats and more Republicans, not just left-wing Democrats and right-wing Republicans. There would be more people, because they would carry their commitment, their dollars, and their time to a candidate through a political party, to a candidate that would be more responsive. That is a hard sell today, because most Americans do not feel represented by either party. So the idea that we ought to be giving them more authority is difficult to swallow.

I agree that the money chase is the problem. I have no question about the fact that the perception among Americans is that money influences this process. For that reason, I have felt so strongly that the elimination of PAC contributions is the only way to begin the process of genuine election law reform.

The Democratic proposal would not eliminate PAC contributions. It reduces them from $10,000 a cycle to $6,000 a cycle. As I said earlier, that only increases the money chase. It does not decrease it.

So, Mr. President, let there be no mistake about where this bill died and how it died. It died because the Democrat leadership, particularly in the House, did not know how to disconnect their political lifeblood from the special interests and political action committees. It did not die because the Republicans were unhappy, although they were. They did not like this bill, and they did not like any of us who supported it. But they did not kill this bill.

There could have been campaign finance reform. There could have been the kind that was bipartisan that came out of this body. But it was rejected by the Democratic leadership, not by the votes on the floor of the Senate today.

The thing that the House Democrats are most resisting is precisely the thing we must do. We need to put an end to PAC's. If that is not constitutionally viable, we need to reduce PAC's to a level no better than that of any ordinary constituent.

Obviously, my attitude on PAC's has changed over the last 5 years. I have come to conclude that we need to bring an end to PAC's in order to save this institution.

Senator MITCHELL said the other day, in announcing the end of the health care reform debate, that one of the obstacles to reform was the lack of trust of the American people in their Government in general and the Congress in particular. He is correct. The American people do not trust us in Congress to act in their best interests. That lack of trust arises from many sources.

But one of the major sources of that lack of trust is the stream of demagoguery that comes from this Chamber, from much of the media and from all kinds of self-appointed and self-interested groups who presume to speak with a moral monopoly.

We cannot take away their right to speak, no matter how false their words.

We cannot take away their hard evidence, because they have none.

So we must take away their flimsy evidence. We need to take away the special interest money.

When we get a PAC check it often carries the name and even the cause of the special interest right on the check. It is the committee to stop this or the committee to support that. I know that those checks to do not buy the results they seek. But they are sent to those whose judgment on a particular issue at certain times coincides with theirs. That is the poison in the well of politics. And as long as we accept the checks we leave ourselves open to the allegation. To end the allegation and the damage that it does, we need to stop the checks.

A PAC ban will not solve the problem completely. Those who are unwilling to accept the unpopularity of their policy preferences will find another scapegoat for their failure. I have no doubt that they have the ingenuity to do so.

And when they do, the Congress will have to deal with that.

But today we have PAC contributions. They are not destructive because they buy votes—they do not. They are destructive because they allow the rhetoric of the demagogues to come between this body and the people we represent.

I do not have much confidence that we will succeed this year. But before I leave I want the record to reflect why I think it is vitally important that we succeed eventually and that we do it right.

Mr. President, I ask unanimous consent to speak for 3 minutes on the Metzenbaum amendment to the D.C. appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

BASEBALL

Mr. DURENBERGER. Mr. President, I come from Minnesota, the Minneapolis-St. Paul area, what used to be the home of the North Stars, almost was not the home of the Timberwolves, and I have what I might characterize as a personal and parochial interest in the proposal of my colleague from Ohio.

My State is what they call a small-market State—lots of people, if you stretch the geography all the way to Colorado, but not a lot of people if you are looking at a television market. We lost our NHL hockey team. We are close to losing our NBA franchise. We came real close and somebody rescued it and Lord knows how long it will last. The damage to my State, if we lose baseball to a large market, would be substantial. The amendment of the Senator from Ohio will make that much more likely.

Baseball has regulated itself for the protection of smaller markets, like the twin cities of Minneapolis-St. Paul, and the Senate ought to respect that process.

Although the Senator from Ohio may deny it, the enactment of his legislation would represent direct intervention by the Government in a private collective bargaining negotiation. Even worse, by passing this legislation, the Senate would be choosing sides in the very midst of a private labor dispute. This legislation is a significant precedent for every other union to seek the same special treatment now being sought for the major league baseball players by the Senator from Ohio.

Our system of labor-management relations has been built on the principle of free collective bargaining. That is, private labor disputes are best resolved by the Negotiations of voluntary agreements through good-faith bargaining by the parties to the dispute. Free collective bargaining is the principle theory behind not only the Norris-LaGuardia Act, but also the Wagner Act, and the Taft-Hartley Act as well as the labor provisions of the Clayton Act. Government intervention in the collective bargaining process is against the principles of free collective bargaining. Congress repeatedly has concluded that the Federal Government should not intervene in or dictate the resolution of private labor disputes. Even in areas of national security or national economic emergencies, such as railroad strikes, Congress has provided for substantial hurdles before the Government can intervene in the collective bargaining process.

The baseball players' strike is neither a national security threat nor a national economic emergency.

The proposal by the Senator from Ohio would change the existing law now available for all employers to implement a settlement after a bargaining impasse by denying this right only to the 28 owners of major league baseball teams. In a nation with millions of employers, this is the very epitome of special interest legislation. Even worse, the Senator from Ohio is proposing that the Senate enact this special interest legislation in the midst of an ongoing collective bargaining negotiation.

The Senate would be appalled if legislation were introduced to legislate away the employees' right to strike during the middle of a private collective bargaining dispute. Senators undoubtedly remember how the railroad unions have denounced Congress whenever it has legislated the end to one of their strikes under the national economic emergency provisions of the Railway Labor Act.

The same thing is true of airline strikes. Stripping away an employers' right to implement a settlement at impasse is the legal counterweight to the employees' well established right to strike. While we all miss baseball and wish that the players had elected to continue collective bargaining rather than striking, the cure of the Senator from Ohio would destroy the principle that private collective bargaining should be free from Government intervention.

The legislation of the Senator from Ohio attempts to give 750 major league baseball players more rights than those enjoyed by football, basketball, and hockey players and every other group of unionized employees in the Nation. The legislation provides that the antitrust laws "shall apply to any term or condition unilaterally implemented by the Major League Baseball owners." The Federal courts have held that the Federal Labor laws and not the antitrust laws apply to unilaterally implemented terms and conditions of employment as long as there is an ongoing collective bargaining relationship. As a result, the labor exemption to the antitrust laws, which governs all unionized employees and employers shields such terms and conditions from challenge by the antitrust laws. My colleague's legislation would strip the 28 major league baseball owners of the protection enjoyed by every other employer in the Nation, giving league baseball players far greater rights than any other group of unionized employees.

It is clear that the Senate should not insert itself into this private labor dispute nor should it choose sides in any labor disputes, as it would do so by favoring the players union with this special interest legislation.

Lets urge the owners and players to resolve their differences through the collective bargaining process and avoid rushing into something that undermines the principles of collective bargaining that have served this Nation so well for over 60 years.

Mr. President, I want to add a personal and parochial argument as well. My State has lost an NHL hockey team. We are close to losing an NBA team. The damage to my State if we lose baseball to a large market would be substantial. This amendment will make that more likely.

Baseball has regulated itself for the protection of smaller markets like the Twin Cities and the Senate ought to respect that process.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York [Mr. MOYNIHAN] is recognized.

Mr. MOYNIHAN. Mr. President, before the Senator from Minnesota leaves the floor, I wish to say just one remark in summation.

It has been a great honor to serve in this body, where one has the opportunity to serve with persons of great moral and political strength. Of such persons I have known none such as he, the Senator from Minnesota, a man of perfect honor, an incredible capacity for listening and trying to reach solutions. He has graced this Chamber, and I hope we will not be without his advice or at least his prayers in the years to come.

Mr. DURENBERGER. Mr. President, I am most grateful to my colleague from New York, and I may say I will certainly see him on November 30 and December 1.

Mr. MOYNIHAN. That is right.

Mr. DURENBERGER. But on a subject near and dear to both of us, the income security of people of this country, including health care reform, I plan to be around as long he needs me. I am grateful to him for his comments and thank him very much.

The PRESIDING OFFICER. The Senator from New York.

THE GATT DEBATE

Mr. MOYNIHAN. Mr. President, I rise briefly but with great satisfaction to note that the majority leader has worked out with the Republican leader an agreement under which we will return on Wednesday, November 30, to take up the implementing legislation of the Uruguay round of the General Agreement on Tariffs and Trade. The next day, December 1, will conclude the 20 hours the statute provides. This will be a moment deserving of some notice by the American people.

Fifty years ago at the Bretton Woods Conference the allied nations gathered, recognizing that the economic failures of the peace treaty negotiated at the end of the First World War led directly to the Second World War, and thought to put in place three major institutions that would serve the purposes that had gone unserved with such disastrous consequences.

The first was the International Bank for Reconstruction and Development, which we know as the World Bank; the second was the International Monetary Fund—both headquartered here in Washington; and the third was to be the International Trade Organization. It was supposed to have its headquarters in Havana, as a matter of fact.

The first two institutions came into being. The third, the ITO, as it had come to be known, went down to defeat in no small part because of opposition in the Senate Finance Committee, and an informal arrangement was put together, the General Agreement on Tariffs and Trade, which refers not to an organization but just to a meeting that took place. And a British civil servant, Eric Wyndham-White, was recruited to be a kind of informal convener of these GATT conferences. And from time to time they have taken place, and some institutional structure has evolved.

Now, however, yesterday morning in the Finance Committee, by unanimous vote, we approved the implementing bill, including the proposal to establish a World Trade Organization, to be a real dispute settlement mechanism in trade matters. The disputes in trade matters of the 1930's were settled in the

Second World War. There are better ways for doing this, and also to facilitate the gradual opening of the world trading system, of which the largest event in history to date will be the Uruguay round.

The numbers are startling, Mr. President. We will see tariff cuts on U.S. exports of 40 percent worldwide, and in the European Union, Europe, 50 percent. That is a cut in the cost of American goods sold abroad.

It will be the largest tax cut, if you like, in the history of the world, $750 billion worldwide over a decade for American exports. It will be a $35 billion U.S. tax cut over the next 10 years. We buy imported goods, and why ought we not? You cannot trade if you do not trade back and forth.

It is not always remembered because we are so used to the income tax, but a tariff is a tax. Up until the income tax came into effect, under President Wilson in 1913, the majority of the revenues of the Federal Government came from tariffs.

The first bill enacted by the new Congress in 1789 and signed by the President, concerned the oath of office for the new Republic in a world where monarchy was the norm. And the second bill, among other things, imposed a 10-cent-a-gallon tariff on Jamaican rum. There was a whole list of tariffs by which revenue would be raised to manage our affairs.

We are going to cut those tariffs. It is a tax cut well deserved and welcomed because there is going to be an enormous increase in American exports.

The comment was made this morning that after the Tokyo round, signed in 1979, passed the U.S. Senate 90 to 4, the comment was made that U.S. jobs disappeared.

Jobs did not disappear. We have had the most extraordinary increase in jobs in the 15-year period since that I can recall. I do not want to be held to memory. But in 1979 there were 98.8 million persons in civilian employment. In 1993 that had grown nearly 21 million to 119.3 million. That is a solid 20 percent increase in a 15-year period.

I do not know where there has been such an increase at any other time. Possibly World War II would represent that. But that is a formidable growth in employment, not always at the wage levels we would like, but even so, I think we can look forward to more.

The Council of Economic Advisers does very much expect that we will see a $100-billion to $200-billion growth in the U.S. gross domestic product over the next 10 years as a consequence of the Uruguay round. There will be exports of manufactured goods sent overseas. There will be some losses as well.

But I would like to say, if I can, to the Senate and to you, Mr. President, that we need not be fearful of these things. It would be, oh, 30 years ago that the very distinguished economist, Ray Vernon, now at the Massachusetts Institute of Technology, described what he called the "trade cycle." It meant to apply to an advanced economy, but he had the most advanced economy then, as now, in mind, the American. He was talking about how when an invention takes place, a new product appears.

An automobile, for example. The internal combustion engine was developed in Europe, as well as here. But the first vast manufacture of automobiles was in the United States.

And following the appearance of a new product here, gradually that product begins to be exported abroad. Then you will find that it begins to be manufactured abroad. And then, in the last phase of the cycle, it will be exported from abroad and imported into the United States. That is fine, as long as in the meantime we are thinking up new things, as indeed we incredibly always are.

Just think of the phenomenon that now seems familiar to any of us, the fax machine, which is sort of replacing the telephone and the mail; just instant communications anywhere in the world, written documents. It did not exist 10 years ago, except in an experimental mode.

Think of the cellular telephone. We spend half our time in automobiles or walking around the parks on the telephone.

On the subject of trade, I spoke the other day with the chairman of the Kodak Co., George Fisher. I called him in his office in Rochester. He called me back from a parking lot in Cologne on a cellular phone. Again, a product that did not exist 10 years ago.

That trade cycle is normal, not to be feared; in fact, to be encouraged.

I do not think we could thank the majority leader nor the Republican leader too much for making it certain that we will have the GATT agreement approved by December 1. The President has our commitment on this. We have the votes. I repeat, the measure was reported out yesterday morning in the Finance Committee unanimously.

And as the President goes to the economic summit in Asia and then to the Americas summit in Miami in the next few months, he will go with the confident knowledge that the United States not only maintains its leadership in world trade but brings it to an ever greater culmination. The culmination of 60 years. I mentioned Bretton Woods 50 years ago. You can go back 10 years earlier to the reciprocal trade agreement program that Cordell Hull began under Franklin D. Roosevelt, and we learned a great lesson, a bitter lesson.

Mr. President, if you were to list five, say, arbitrarily, five events that led to the Second World War, that catastrophic war, well, the first would be the Versailles Treaty and what Lord Keynes called, in his pamphlet, the "economic consequences of the peace." They did not see that an economy the size of Germany needed to be allowed to expand and grow and be integrated into the existing economic system.

But after No. 1, the treaty at the end of World War I, the second event would be the Smoot-Hawley tariff. It took place on this floor in 1930. We raised tariffs to an average level of 60 percent. And, indeed, just as predicted by its advocates, we saw imports strapped by one-third in 2 years' time. But so were exports.

I had occasion to say in the caucus the other day, that if you like 50-cent wheat, you can get it again. Just go that route. That is what the Great Depression did to the farmers, much less to the merchant marine, to the manufacturers.

We do not have to have that now. We are turning away from that. Had we not gotten this agreement, the possibility of a European union building walls, the possibility of an Asian system of building walls, and us doing the same, following the practices of the 1930's.

But after Smoot-Hawley, the British went off free trade to Commonwealth Preference, the Japanese began the Asia Coprosperity Sphere, unemployment reached 30 percent in Germany, and Adolph Hitler came to power in a free election.

We have said no to all that. We have learned that lesson. And now we go forward.

I want to thank the majority leader for his persistence and his ingenuity in working this out. And I would like also to thank my friend Senator HOLLINGS for accommodating the Senate, exercising his rights under the law, but seeing, even so, that this matter will come to a final conclusion.

He and I go back a long way in these matters. I was one of the negotiators under President KENNEDY of the Long-term Cotton Textile Agreement, which enabled us to pass the Trade Expansion Act of 1962, which in turn resulted in the Kennedy round. We have not always agreed, but we have not always disagreed, either. He makes powerful points and he will make them in the coming debate.

But in the end, I would say there are 80 votes on this floor—for that matter, it might be 90. A great age of world trade is before us in which we move out of the simple tariff arrangement for goods and move into services, where the great majority of Americans are now employed, because we are at the advance, we are at the edge of the economies of the world. And now these services will be sold all over the world, just as intellectual property—trademarks, patents—will be protected.

I think we can look forward to a much better future for the whole of the world—a stable society, international economy. We can now begin serious discussion of the admission to the world trading system, done under the General Agreement, of Russia and other members of the former Soviet Union, and of the People's Republic of China, as well.

Good news, and a good time to conclude our work here and get on with the other affairs of the Nation.

I thank the Chair. I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER (Mr. KERREY). The majority leader is recognized.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1995, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1994—MESSAGE FROM THE HOUSE

Mr. MITCHELL. Mr. President, I ask the Chair to lay before the Senate a message from the House on H.R. 4649, the conference report accompanying the District of Columbia appropriations bill.

The PRESIDING OFFICER. The Chair lays before the Senate a message from the House.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: ": *Provided*, That the District of Columbia shall provide to the Committees on Appropriations of the House of Representatives and the Senate quarterly reports by the 15th day of the month following the end of the quarter showing how monies provided under this fund are expended with a final report providing a full accounting of the fund due October 15, 1995 or not later than 15 days after the last amount remaining in the fund is disbursed.

And

On page 13 line 9 of the House engrossed bill, H.R. 4649, strike the period at the end of the line.

Pending:

(1) Gramm Amendment No. 2585 (to House amendment to Senate amendment number 3), to strengthen the Violent Crime Control and Law Enforcement Act of 1994 by reducing the number of social programs and increasing the penalties for criminal activity.

(2) Cohen/Sasser Modified Amendment No. 2594 (to House amendment to Senate amendment number 6), to provide for enhanced penalties for health care fraud. (As modified, the amendment incorporates the provisions of Wofford Amendment No. 2595, listed below.)

(3) Domenici (for Dole) Amendment No. 2599 (to Amendment No. 2594), to provide for enhanced penalties for health care fraud.

The Senate resumed consideration of the message from the House.

Mr. MITCHELL. Mr. President, it is my understanding that the distinguished Senator from Ohio is ready.

AMENDMENT IN DISAGREEMENT TO THE AMENDMENT OF THE SENATE NO. 12

Mr. MITCHELL. Mr. President, it is my understanding the distinguished Senator from Ohio is ready to proceed with an amendment. I therefore ask that amendment No. 12 be laid before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 12 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: "forecast which shall be supported and accompanied by cash forecasts for the general fund and each of the District government's other funds than the capital projects fund and trust and agency funds."

AMENDMENT NO. 2601

Mr. METZENBAUM. Mr. President, on behalf of myself and Senator HATCH I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM], for himself and Mr. HATCH, proposes an amendment (No. 2601) to the amendment of the House to the amendment of the Senate numbered 12 to H.R. 4649.

At the end of the amount add:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Baseball Fans Protection Act of 1994".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to encourage serious negotiations between the major league baseball players and the owners of major league baseball;

(2) to prevent continued economic loss to individuals not involved in the negotiations whose livelihoods depend on baseball's being played;

(3) to prevent continued losses to communities that host major league baseball; and

(4) to preserve the remainder of the 1994 regular season, the 1994 playoffs and World Series, and the 1995 spring training season for the fans of baseball.

SEC. 3. APPLICATION OF THE ANTITRUST LAWS TO MAJOR LEAGUE BASEBALL IN EXCEPTIONAL AND EXTRAORDINARY CIRCUMSTANCES.

The Clayton Act (15 U.S.C. 12 et. seq.) is amended by adding at the end the following new section:

"SEC. 27. (a) IN GENERAL.—In the event that a unilateral term or condition is imposed by any party that has been subject to an agreement between the owners of major league baseball and the labor organization representing the players of major league baseball, the antitrust laws shall apply to that term or condition, and that term or condition may be challenged by any party to such agreement in any United States district court in a district in which 1 of the parties is doing business.

"(b) STAY OF CERTAIN TERMS AND CONDITIONS.—If, prior to the mutual adoption of agreements between the owners of major league baseball and the labor organization representing the players of major league baseball that replaces the agreements between the parties that expired on or after December 31, 1993, unilateral terms and conditions are imposed by any party to the prior agreement, and those terms and conditions are challenged in a court action in accordance with the provisions of subsection (a), the application of such unilaterally imposed terms and conditions shall be stayed until any such action is final, including any appellate review thereof, and the parties shall be bound by the terms and conditions of the agreements between the parties in effect on December 30, 1993 until such stay has expired.

"(c) DEFINITION.—In this section, 'term or condition' does not include a strike or a lockout.".

Mr. METZENBAUM. Mr. President, once again I am forced to address the issue of major league baseball's antitrust exemption, an exemption that has no rhyme nor reason to it and only one of two exemptions in the antitrust laws of this country—one having to do with the insurance industry that came about by reason of some very effective lobbying some years ago, and this one which came about by reason of a decision of Justice Oliver Wendell Holmes on the Supreme Court approximately 60 years ago.

As my colleagues know, I have fought against all exemptions to our Nation's competition laws, whether in the insurance industry, shipping industry, or professional baseball. As a matter of policy, I believe in the free enterprise system and that means that everyone—I do not mean just some, but I mean everyone—should abide by the same fair competition rules. This country's growth was based upon the free enterprise system and fair competition. What baseball has is not what other major sports have—basketball does not have it, hockey does not have it, football does not have it, soccer does not have it—but baseball has the exemption. The owners have taken advantage of that exemption in order to unilaterally attempt to impose working conditions on the players of baseball. Many would say players, they are not such great guys. They get very high salaries. I respect the fact that they get very high salaries. That is arguable, whether it is right or wrong, but it is not a decision for us to make. That is between the owners and the players.

But I know that when you impose on one side in a labor-management dispute, terms and conditions and you do it by reason of getting 28 owners together and agreeing that these are the terms that will be imposed upon them, there is something wrong and it is unfair. It is not right and it is something to which the Congress should be addressing itself.

I tried to strike major league baseball's total antitrust exemption but my colleagues on the Judiciary Committee were not prepared to challenge the baseball barons. Then, last spring when I saw that the 1994 season could end prematurely because of a major dispute, I modified my legislation to apply the antitrust laws only to matters affecting labor relations. I was very pleased and gratified that one of the members on the Judiciary Committee who had voted against the repeal of the total exemption, Senator HATCH, came on board. And he joined with me in offering the amendment that is before us today.

I was afraid then if Congress did not act, the players would go on strike. Unfortunately, we were unable to move the bill through the Judiciary Committee and, as a consequence, there was a shutdown of the baseball season. Not only the shutdown of the baseball season but, I think, as we meet here, every American who has any interest in baseball has to be concerned as to whether or not there will be a new season in 1995, whether there will be spring training.

After this year's baseball season came to a crashing halt, I, frankly, modified my bill a second time. Senator HATCH and I have tried over and over again to bring this bill to a vote on the floor of the Senate in an effort to salvage the rest of the season and the World Series. We were thwarted in every instance. And then the owners announced that the season was over.

Despite the demise of this season, we have been determined to try to salvage next year's spring training and season. The players said if Congress passes the Metzenbaum-Hatch bill, they will go to spring training next season. And to my delight, what a fantastic action it was, that yesterday the House Judiciary Committee overwhelmingly, by voice vote, passed a similar bill to the one that is in the amendment that is at the desk at this moment.

I want to say to my good friends Congressman JACK BROOKS, chairman of the committee, and MIKE SYNAR, one of the leading members of that committee—they did yeomen work in getting that far in the House at this time.

Unless the owners and the players come to their senses soon, the only hope we have of resurrecting baseball as the Nation's favorite pastime is to pass legislation giving the players a chance to take their issue to the courts rather than to the streets.

I urge the adoption of the amendment.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I appreciate my colleague from Ohio. I, for one, will be sorry to see him go as he retires at the end of this year. We came to the Congress together and we have battled each other all these 18 years. I have tremendous respect for him.

I have to say on this issue he has certainly fought long and hard.

Over the last few weeks, there has been remarkable congressional progress on the legislation that Senator METZENBAUM and I introduced last month and the companion bill in the House, which was introduced by Congressmen SYNAR and BUNNING. It is clear that our colleagues are beginning to appreciate the importance of the legislation, and the devastating impact this labor dispute is having on baseball and on the millions of Americans who are fans or involved in the game.

I hope both sides in this dispute—the players and the owners—understand the significance of what is happening. The assumption that Congress will stay silent on baseball's antitrust exemption, that we will never question baseball's unique legal status, is no longer valid.

The House Judiciary Committee has passed legislation which, for the first time, limits baseball's antitrust exemption if the owners unilaterally impose terms and conditions on the players. If the Senate Judiciary Committee could hold a vote, I expect there would be a similar result.

It is also clear that there are too many procedural hurdles in these waning days of the session for legislation to pass this year. With only a handful of days left in the session, it is very easy for one Senator to block passage in this body, and there clearly are comparable problems in the House.

The real message today should be a wake-up call to baseball. If you do not want Congress to become involved, settle this dispute among yourselves. I hope the owners would send an important signal to Congress and to the fans that they will forgo their right to unilaterally impose terms and conditions after declaring an impasse in bargaining and settle their problems at the bargaining table.

That is what the distinguished Senator from Ohio and I have been trying to do. It would be the one way that they could indicate that they do intend to resolve this dispute through good faith bargaining.

Months ago, Senator METZENBAUM warned that unless Congress acted, the baseball season would be in jeopardy, that we could lose the World Series for the first time in 70 years. Unfortunately for the fans, he was absolutely right.

But this issue will not end with Senator METZENBAUM's retirement. If baseball does not end its destructive dispute before Congress reconvenes, we will be back on this issue next year, and I expect that Congress will be willing to take even more dramatic action than envisioned in our simple legislation here that would have given a level playing field to both sides.

The onus is now on both sides—the players and the owners—to fix their problems or Congress may be forced to become directly involved. There was no excuse for canceling the World Series, and there will be no excuse for destroying the 1995 season as well.

I think the American people deserve some consideration in this matter, and I urge both sides to get together.

I suggest to my dear colleague and friend from Ohio that he has made the case. His predictions have come true. This bill that we have would be a reasonable solution, but in this context, I urge him to withdraw the amendment, and I assure him that we will fight to resolve this problem early next year, either on this legislation or on a more stringent basis than this.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I am very grateful to my colleague and friend from Utah for his suggestion, for his support. He did not vote with us in committee, but he has been a staunch supporter of the more modified amendment on the floor of the Senate. We worked closely together. When he makes a promise and pledge to move forward in the next session of the Congress, which I will not be in, it is certainly very significant. No question he is the ranking member of the Judiciary Committee. If some people on that side of the aisle have their way, he might even be the chairman of the Judiciary Committee, which I hope not, notwithstanding my friendship with him.

It is very significant that he makes that recommendation. There are a number of other Members of our colleagues who have indicated they want to come to the floor to be heard. I would like to check to see whether or not they do, indeed, want to come, what their views are. But I take very seriously his recommendation and particularly his recommendation with his pledge to move forward in this area in the next session of Congress.

VISIT TO THE SENATE BY MEMBERS OF THE RUSSIAN PARLIAMENT

Mr. MITCHELL. Mr. President and Members of the Senate, we are honored to have with us today several members of the Duma and the Federated Council of the Russian Parliament. They are being hosted by the distinguished chairman and ranking member of the Senate Armed Services Committee, Senator NUNN and Senator THURMOND.

I say to our colleagues from the Russian Parliament, in behalf of all Members of the United States Senate, we welcome you here today. We know that you have been having good and productive discussions with our colleagues in the Senate. We are pleased at the positive and encouraging results of the meeting this week between President Clinton and President Yeltsin, a summit which was marked by a common purpose and a desire for economic growth and prosperity and friendship in both countries. And so it is an appropriate time for your visit. We welcome you. We look forward to many more such visits in the future.

RECESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate stand in recess for a period of 5 minutes to give Senators the opportunity to greet our colleagues from the Russian Parliament and that when the Senate reconvenes in 5 minutes, the Senator from Nebraska [Mr. EXON] be recognized.

There being no objection, the Senate, at 12:32 p.m., recessed until 12:37 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. KERREY).

Mr. METZENBAUM. I see my friend from Nebraska standing looking for recognition. May I inquire of him, I know at one point he indicated he wanted to offer a motion to table. I gather he has no intention of doing that at this moment.

Mr. EXON. The Senator is correct, I have no intention of doing that at this point.

Mr. METZENBAUM. I appreciate that. I just think we ought to see if other Members want to come to the floor.

Mr. EXON. Mr. President, I will be very pleased to answer the question properly put to me by the Senator from Ohio. As he knows, we have worked together on so many issues over the years. We do not happen to agree on this one, but there was an agreement made yesterday that when an amendment was offered by the Senator from Ohio, that I would oppose it. The amendment has been offered. I stand now in opposition to that and will cite briefly my reasons once again for being in opposition.

At an appropriate time, I do not think the Senator from Ohio wants to drag this out for any length of time, unless the amendment offered and presently pending before the Senate is withdrawn by the Senator from Ohio—and that is his right—I will offer a tabling motion, as I indicated and as we both understood on yesterday and the day before. I will simply ask, without losing my right to the floor, if the statement that I have just made completely agrees with the understanding that I had reached with my friend from Ohio?

Mr. METZENBAUM. My friend from Nebraska is correct. We will proceed to see if there are other Members who wish to be heard and then certainly the Senator from Nebraska would be within his rights to offer a motion to table. I appreciate his courtesy in not doing so, which he could do at this moment, but recognizes somebody else's wishes to be heard and giving them the opportunity.

Mr. EXON. I thank my friend from Ohio. Mr. President, again I am here today without charts and without baseball caps or other gimmicks attempting to bring some reasoned debate and, hopefully, a degree of logic as to why I believe that the Senate at this late date should refrain from any action whatsoever to involve itself in a labor dispute between baseball owners and baseball players.

The facts are as follows: First, tomorrow is the first day of October; second, the 1994 baseball season, for whatever reason and regardless of who is to blame, is over. It is kaput. It is football, hockey, and basketball time. Three, the effort to inappropriately involve the Congress in this labor dispute is tied to the last legislative train to leave the station, the DC appropriations bill, which is before us. It clearly does not belong on this measure because it is clearly, in my view, legislation on an appropriations bill. It is clearly legislation, therefore, that supposedly is against the rule.

Nonetheless, Mr. President, I thank my good friend—and I mean that more than just terminology. He is a good friend. He has been a great colleague over the years and I, for one, am going to miss him very, very much when we begin the new session of the Congress. The Senator from Ohio should be thanked, and I personally thank him for his usual excellence in the presentation of his position, as wrong as I think he is in this case.

This is the last chance for him to obtain a vote, if he wants it, on something that I recognize that he feels very strongly about. He has employed no gimmicks and, as is his forte, has argued his position very forthrightly and honorably. I just think that his position is wrong. He failed, as did his colleague from Utah who spoke a few moments ago, in his attempt to address this matter previously this year in the Senate Judiciary Committee, on which both of them have served very long and very admirably.

The Senator from Ohio should not be successful, in my view, today, anymore than he was successful previously. In fact, I would like to point out and hope that the Senate will agree that this should be tabled. It should be withdrawn and this is not the time to address it.

Mr. President, I emphasize again what I have said previously; that I am willing to consider in January, or sometime in that area, lifting the legislative exemption that baseball has from the antitrust laws. The Senator from Ohio has made many good points, however, as to why he thinks we should act now.

I emphasize once again that nothing whatsoever can be gained, in my view, by taking action now. This is not going to change anything, as it presently exists. There is not going to be any National or American League baseball in October, November, December, January, or February.

Mr. President, I am hopeful that before next March, the owners and the players will come to their senses by slugging it out among themselves and, by then, hopefully have come to a resolution of this matter. If not, we might—and I suggest and emphasize we might—at that time as a Congress feel that it is time to step in. I suggest that that action is now.

Mr. President, I would like to talk a little bit about the reason that I am very much upset both with the ownership and with the players in this whole thing. I am very fearful that both of them are looking at their own individual selfish interests and have kissed off the very loyal baseball fans and are simply saying to them, "You, Mr. and Mrs. Baseball Fan of America, will have to live by whatever we work out and whatever we choose to do."

Mr. President, I simply say and would remind all that of all the sporting events we have held in the United States over the years, traditionally baseball, because of the many games that are played and because it has permeated our society for a long, long time, is generally considered and thought to be a sport where mom and dad could take young Americans out to the game with them. I simply point out that in their seeking of profits, higher profits and higher salary, major league ownership and the major league baseball players seem unconcerned about that.

At the present time, Mr. President, the average price for all baseball tickets—average; that is, the bleachers and behind home plate and in the press boxes—they average $10.45 per person. The National Basketball Assocation has an average price of $27.12. The National Football League has an average price of $28.68. The National Hockey League has an average of $28.

I would simply add at this point, Mr. President, that those who have been following the sports pages recently recognize that probably tomorrow we are going to have a strike in the National Hockey League. Why is it that someone is not up in the Chamber saying, "Well, that is bad, that is wrong. We ought to move in and do something about that."

Mr. President, I happen to feel that at this juncture, because of the timing, as I have outlined previously in these remarks, we have no business as a Congress getting involved in this labor dispute at this juncture.

If we are going to go ahead, though, and allow forever major league ownership and major league players to have no consideration whatsoever for the fans, then we are going to see the downsizing, the lack of interest of what most of us have felt was our American pastime for a long, long time. How many moms and dads, Mr. President, in America today could afford to take their family of five to a National Football League game. It would be about $150.

It seems to me that not only do we have an obligation here, but the players and the owners of baseball have an obligation to slug out whatever their problems are and possibly the fans, for whom I think this Senator is trying to speak, had better send a message: A curse on both of your houses if you are not going to have any consideration for us.

The Senator from Minnesota earlier talked about the fact that he probably would be against lifting the antitrust laws because it would very likely be the end in the near future of the have-not baseball team moneywise, as is the case with the team in Minneapolis.

Mr. President, in addition to that, we are going to turn these people loose to locate their franchises wherever they want to locate them for the highest buck. We are also recognizing that the fans will continue to pay through the nose not only for the cost of their baseball ticket but through their taxes. We are going to throw this wide open in America to let the greedy ownership and the greedy players go about raising the prices more and more and higher and higher.

That is only part of the cost. You are also going to find that many cities, in the interest of economic development, are going to be bidding for all of these franchises that might become available. When they do that, the taxpayers, mom and dad that cannot hardly afford to take their family to a game today, are also going to be paying through the nose for increased taxes for brand new, magnificent, multimillion-dollar stadiums. After that is created, of course, you are going to have to have another multimillion-dollar parking garage that is going to be paid for by the taxpayers.

I think I simply would say, "A curse on all of their houses," Mr. President. They are interested only in money, m-o-n-e-y. As a dedicated baseball fan all my life, I am not only discouraged, but I am disgusted.

I will move at the appropriate time to table the amendment offered by the Senator from Ohio because I think we are involving ourselves in a labor dispute on the wrong piece of legislation at the wrong time. It would be much better for us to recognize that when we come back here after the first of the year, if the strike has not been settled, I would be at least acceptable to further consideration at that time.

I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise in support of the amendment offered by Senator METZENBAUM. Three months ago, I supported S. 500, which would have eliminated the antitrust exemption that major league baseball enjoys as it relates to labor issues. Unfortunately, that bill was narrowly defeated in the Senate Judiciary Committee, despite the argument that it might help to avoid the baseball strike which, of course, began a few weeks later.

Senator METZENBAUM now offers an even narrower amendment, which does not repeal the full antitrust exemption for the major leagues. Instead, the amendment simply applies the antitrust laws to any unilateral terms imposed in baseball labor negotiations in the absence of a contract.

I have had some skepticism about the ability of the antitrust laws to provide a magic bullet to resolve the current baseball labor dispute. However, I am encouraged by the willingness expressed by the players to end their strike if this amendment is adopted.

Mr. President, this limited amendment is not intended to and will not resolve the deeper problem of major league baseball not showing sufficient attention to its fans. Nonetheless, I believe this narrowly tailored amendment may have a desirable impact on the baseball strike and urge my colleagues to adopt it.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, I want to talk from a personal perspective on the amendment that is before us. One should not mistake the fact that I did not play professional baseball. But I did play professional basketball, and for a number of years I was a depreciable asset.

I remember meeting with President Reagan at the time of the tax reform legislation when we cut tax rates and eliminated the loopholes. In fact, it changed the depreciation clause. At one point, I remarked to him, "Well, you know, we both come at this from different angles." He was an actor when tax rates were 90 and 95 percent. I was a depreciable asset. So tax reform brought us together by lowering the rates which he wanted in loosening up some of the loopholes, including the depreciable asset nature of professional athletes.

But I recall that one of my early substantive contacts with the U.S. Senate was in 1971 when the owners of the professional basketball teams, the owners of the NBA teams and then the ABA teams, sought an antitrust exemption from the Congress, an antitrust exemption that at that time was enjoyed by baseball. We testified in hearings as players opposed to the antitrust exemptions. We were opposed to the antitrust exemption because, in the world with the reserve clause, the existence of two leagues was—for the first time in the history of professional basketball, there was actually competition for player services.

At that time, the average player salary was about $9,500 a year when I came into the league in 1967. With competition, that, of course, increased dramatically. In fact, my wife suggested maybe I was born too soon, and I reminded her, "well, I might have been at a higher salary, but it might not have been here."

The point is that it is a situation where a player with an exemption to the antitrust laws at that time would have had no market in which to put his services. People used to come to me and say they thought it was outrageous that the players were making as much as they made, considerably more than I have made. My response was, "Well, if somebody is foolish enough to pay them the salary, this is America and the market determines the value of that service."

So I come to this particular amendment offered by Senator METZENBAUM, which I would support with that background, and to make the point relevant to baseball. In professional basketball, when I was there for 10 years, we never had a strike.

There was a threatened strike in 1965–66, in order to get recognition of the union, where players such as Wilt Chamberlain, Oscar Robertson, and Bill Russell sat in the locker room and would not go out to play the All-Star game until the union was recognized, so that the union could get things like second-class hotel rooms instead of third-class hotel rooms, a per diem of maybe $18 a day, and maybe travel in airplanes so that if you were in a three-seat transcontinental airplane, you would not be in the middle between some guy in 6A and 6C. Those are the things you fought for after it was recognized.

But we had no exemption. Therefore, when there was the reserve clause, we were able to pursue our remedy through the courts, and we commenced a lawsuit, the essence of which the argument was that the reserve clause was a violation of the antitrust laws. And through creative union leadership and creative management leadership, we were able to come to a settlement of that lawsuit, which eliminated the reserve clause.

In professional baseball, the players do not have that option. Because there is an exemption to the antitrust law for baseball, there is no judicial remedy for players. Therefore, they sit across the table from owners and they come to loggerheads and they come to a strike, and that is where we are today, where baseball fans across the country, including myself are saying, "I wish we were playing baseball and I wish we were preparing for the World Series."

I suggest that by eliminating this exemption, we would be placing baseball in the same relative position as the other league sports, and we would be allowing players to pursue their objectives through the judicial system, in addition to the bargaining table. I believe that is a proper course to take.

I have been against exemptions to antitrust laws for professional sports leagues since 1970, and so today I am against exemptions for professional sports to the antitrust laws. Some of my friends, who are owners, call and say, "Well, how can you do this now? This is the wrong time." And maybe this is the wrong time. I appreciate that this might not be the right time to push this amendment to a vote or to try to do this in the middle of a labor dispute. But there can be no doubt about the fact that the exemption itself cannot be justified.

Owners say, "Oh, well, what about our minor league teams?" Well, I think there is an answer to that question. But I suggest only that by passing this amendment, if it should come to a vote, we would be sending a signal that we want all sports leagues to be on the same footing, that we want players to have the same rights in baseball as they have in basketball or football, and that we believe that the exemption, which was really put into law in 1922, is really at this moment—the time has passed it by, and we need to recognize that professional sports is an element of commerce in this country just like virtually any other, and there is no overwhelming public justification for retaining this exemption.

Again, I kind of wish I was playing now, where the average salary is a little more than the $10,000 or $12,000 average salary it was when I was a player. But that should not cloud my judgment about what is the proper course to take here when it comes to eliminating this exemption for professional baseball.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, the Senator from New Jersey certainly was a national hero as a professional basketball player. I did not realize the extent of it until the other night when I was flying home. I was reading a novel, which was actually about a district attorney, but a good part of it was about Bill BRADLEY and his prowess as a basketball player. I must say I enjoyed it very, very much.

Mr. President, I rise today as the Senator from California, which is the proud home of the following major league professional baseball teams: The San Francisco Giants, the Oakland A's, the Los Angeles Dodgers, the San Diego Padres, and the California Angels. These five clubs are important to my State. Frankly, I want to keep them in California, Mr. President. That is the crux of my argument this afternoon.

Accordingly, I rise to underscore a conviction that I have held for a very long time—namely, that major league baseball's antitrust exemption must not be repealed or weakened. Accordingly, I will oppose—and urge my colleagues to oppose—the pending amendment.

There are two major ones to defeat this amendment, but before I detail them I want to elaborate on what the Senator from Nebraska was saying, and that is that the U.S. Congress has no business getting in the middle of a baseball strike. I would ask: Do the American people want us to get in the middle of a baseball strike? The answer would have to be an emphatic "No."

Two recent polls solidly support that view and I ask that they be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD as follows:

MAJOR LEAGUE BASEBALL POLL

SEPTEMBER 13–14, 1994

Do you think that there is a role for Government to play in bringing an end to the baseball strike?

	Percent
Yes	16.1
No	80.6
Don't know	3.3

Do you think that Congress should get more involved in the management of baseball?

	Percent
Yes	9.1
No	88.6
Don't know	2.2

Now that other sports have started, are you following the strike as closely as you were before, less closely, or not at all?

	Percent
As closely as before	28.3
Less closely	47.5
Not at all	23.6
Don't know	0.6

Do you look for articles about the strike when you read newspapers?

	Percent
Yes	34.5
No	61.1
Don't read a paper	4.1
Don't know	0.4

Do you strongly support, somewhat support, somewhat oppose, or strongly oppose a salary cap or placing a limit on the amount of money baseball teams can spend on players' salaries?

	Percent
Strongly support	53.2
Somewhat support	18.9
Somewhat oppose	10.0
Strongly oppose	12.9
Don't know	5.1

In the current Major League Baseball strike, which side do you think is more in the right—the owners or the players?

Owners	39
Players	22
Neither/both	15
Don't care about baseball	6

Source: New York Times, August 20, 1994.

Do you favor or oppose a salary cap for Major League Baseball?

	Percent
Favor	76
Oppose	17
Don't know	2

Source: Gallup poll, June 30, 1994.

Are Major League Baseball players paid too much?

	Percent
Too much	73
Too little	3
About right	18

Source: Time! CNN poll, August 22, 1994.

How do you feel about the Clinton administration intervening to settle a baseball strike?

	Percent
Oppose	72
Favor	24

Source: USA Today /CNN/ Gallup poll, August 11, 1994.

Mrs. FEINSTEIN. Mr. President, the first is a USA Today-CNN-Gallup Poll of August 11, in which the question was asked: "How do you feel about the Clinton administration intervening to settle a baseball strike?" Resoundingly, 72 percent of the people said they would oppose such intervention.

I also note a poll taken on September 13 and 14, which asks the question: "Do you think there is a role for Government to play in bringing an end to the baseball strike?" To this question, 80.6 percent of the American people said "No."

A second question: "Do you think that Congress should get more involved in the management of baseball?" To this question, 88 percent of the people said "No."

The intent of the pending amendment, namely to influence the ongoing baseball strike, is thus completely at odds with the overwhelming preference of the American public.

There are two other principal reasons, in my view, to oppose the pending measure. One of them is the public interest in preserving franchise stability, and the second is the equally strong need to assure that minor league baseball continues to be enjoyed by millions of Americans who live in small- and medium-sized towns across this country.

These are not just abstract policy or debating points, Mr. President. The spirit and cultural lives of 28 of the Nation's cities and the emotions and loyalties of tens of millions of fans are what this debate is about and why I have so strongly opposed efforts of the kind that are now being debated on the floor.

When I was mayor of San Francisco, home to two great professional sports teams—the San Francisco Giants in baseball, and the San Francisco 49ers in football—I can tell you firsthand that these franchises are not just economic concerns. They are living, breathing parts of the city's body politic.

Players and management alike are active parts of the community. They raise money for worthy causes, they serve as mentors and role models to countless young people, and they galvanize civic pride. I will never forget when the San Francisco 49ers won their first Super Bowl. Two million people lined the streets to cheer them as they came home. I will never forget that day. I have never seen a community come together with such enormous civic pride. San Francisco's teams give, and continue to give, to their city in ways that other purely economic concerns cannot.

Moreover, the emotional ties and personal loyalties flow both ways. San Francisco's fans—and the same is true in hometowns all across this country—make their teams part of their lives on a daily basis. From organized tailgate parties on game day to impromptu water cooler conversations in offices days after the cheering is over, countless lives are enriched in countless ways by the symbiosis that defines a franchise and its fan.

Destroy that synergy and you destroy part of the community and part of each and every member of that community in a very real way.

That is what would have happened in San Francisco, in my view, in the mid-eighties had major league baseball's exemption from the antitrust laws not been upheld 72 years ago.

The San Francisco Giants had a better offer from Tampa Bay, FL, and they would have gone had not major league baseball denied them the ability to move, a decision based primarily on the strength and stability of fan support that had been built up over the years. It was that support, coupled with the League's legal ability to take it into account, that kept the Giants in San Francisco where millions of people have since seen them play.

Without the antitrust exemption, the league would have been powerless to veto the Giants' move to Tampa Bay, just as the National Football League—which has no such exemption—was powerless to stop the Oakland Raiders from being uprooted from one of the most loyal fan bases I know of in America.

No fans anywhere felt more passionately about their team than the fans of the East Bay area of San Francisco Bay area felt about the Oakland Raiders. The Raiders were torn from them and moved to Los Angeles just as the Baltimore Colts were moved—literally in the middle of the night—to Indiana.

Under the current antitrust exemption, baseball has not permitted a franchise to be relocated since the Washington Senators moved to Texas in 1972, 22 years ago. That compares over the same period to three football and three basketball franchise moves, and two hockey relocations.

So baseball has been stable and yet football and basketball have had these moves. It is baseball's antitrust exemption, I am convinced, that prevents clubs from seeking greater riches in a new city every time new opportunities present themselves.

That is why I joined 20 other mayors in 1985 in supporting a resolution by the U.S. Conference of Mayors opposing repeal of baseball's exemption.

That is why I testified before the Senate Judiciary Committee's Antitrust Subcommittee barely a month after being elected to the Senate, opposing changes to baseball's exemption.

That is why I voted with nine other Senators in the Senate Judiciary Committee this past June against an earlier version of the amendment before us.

And that is why I will vote against this amendment and urge other Senators to do the same.

Mr. President, I ask unanimous consent that my remarks before the Judiciary Committee be printed in the RECORD at the end of my remarks here today.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mrs. FEINSTEIN. Thank you, Mr. President.

I would like to turn, secondly, to the issue of preserving the minor leagues.

The baseball antitrust exemption not only keeps major league franchises in the communities that care so deeply for them, but helps assure the survival of the more extensive minor league system as well. I do not know whether it is widely known, but currently 170 cities are home to minor league teams, 11 in California alone. In 1993, more than 1.35 million tickets were sold nationally to see them play, often at just $2 a seat.

Major league baseball is uniquely dependent on this so-called "farm team" system. Unlike major sports, whose new talent can be directly recruited out of college or even high school, young baseball players are just not ready for the major leagues. Indeed, only 4 out of 750 active players came to the majors straight from college.

Without an antitrust exemption, major league organizations could be forced to sever their unique agreements with minor league teams. Farm players would thus be able to change their team affiliation every year unless they were offered long-term contracts.

Because so few players ultimately ascend to the big leagues, such contracts would impose tremendous costs on teams, costs that could be controlled only by signing fewer prospects. Fewer contract players would, in turn, mean fewer teams and thus far less access to minor league baseball for millions of residents of small and medium-sized towns across America.

As a result, Stanley M. Brand, vice president of the National Association of Professional Baseball Leagues, confirmed yesterday that "the minor leagues remain unalterably opposed to this ill-conceived legislation."

Mr. President, I ask unanimous consent that Mr. Brand's statement be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mrs. FEINSTEIN. Mr. President, one final thought: As a matter of labor law policy, wholly independent of baseball or any other sport, Congress has no business, in my view, placing its heavy thumb on the scale in any pending labor dispute.

Significant and disappointing as the current baseball strike is, it does not jeopardize the Nation in the way, for example, that the steel strike in the middle of World War II did, or that various transportation shutdowns over the years have ground national commerce to a halt. Absent a national emergency of that magnitude, I feel strongly that this Congress should not take steps to intervene, or signal its future willingness to intervene, in ongoing labor actions.

In conclusion, Mr. President, I, too, am disappointed that the only baseball we have at this point in time is the marvelous Ken Burns documentary currently airing across the Nation.

"Inning Eight" of that series, shown locally in this area just the other night, brilliantly chronicled the effects of the loss of Dodgers on Brooklyn. Although Brooklyn's loss was Los Angeles' gain, I would not wish that pain, the real emotional pain, of that loss on the tens of millions of fans in any of the 28 cities now home to major league baseball.

I urge my colleagues to preclude that possibility by joining me in opposing this amendment.

I thank you, Mr. President.

I yield the floor.

EXHIBIT 1

STATEMENT OF SENATOR DIANNE FEINSTEIN BEFORE THE SENATE JUDICIARY COMMITTEE

Mr. Chairman, before I begin my statement, I would like to ask for unanimous consent to submit for the record the testimony of my colleague, Senator-elect Barbara Boxer, who has indicated that she wishes to associate herself with the comments I am about to make.

Now, I would like to introduce a number of leaders from California: San Francisco Mayor Frank Jordan, who has led the effort to keep the Giants in San Francisco; Jim Gonzalez, chair of the Finance Committee of the Board of Supervisors; and City Attorney Louise Renne, whose office has taken a forceful legal stand to see that San Francisco's legal rights are protected.

In testimony later this morning, Mayor Jordan will detail the integral relationship between the Giants and San Francisco and the steps that have been taken to keep this key 35-year resident of our city at home.

As a former Mayor and a new Senator from California, my objective here today is quite clear: without baseball's exemption from the antitrust laws, San Francisco could have lost the Giants. So, my choice is clear. I support the exemption.

Some will say the exemption should go and that baseball is a private business that should be freely subject to the marketplace. But in California we have seen what can happen in the free marketplace. Oakland, California, lost the Raiders in a devastating blow to thousands of diehard fans in a major American city.

Major League Baseball is more than just another business. It is deeply linked to the psyche and fabric of the American city.

Baseball requires stability to build fan support. Fans identify with their teams. This loyalty stretches over years, through changes in roster and management, and over the ups and downs of the win-loss column. Families have an opportunity to enjoy wholesome, relatively inexpensive entertainment. Young boys and girls play in little league games every afternoon, using the professional players as their role models.

For 35 years, the Giants have been part of the rich mosaic of San Francisco. The Giants have given us one of the greatest rivalries in baseball with the Los Angeles Dodgers, and this team has produced many of the greatest players of all time—including Willie Mays, Willie McCovey, Juan Marichal, Will Clark, and now—hopefully—Barry Bonds.

Fan clubs, communities, governments, and Chambers of Commerce all become deeply involved in supporting a team.

For example, in San Francisco, the Giants are exempted from an admissions tax. While I was Mayor, the city remodeled Candlestick Park building 110 luxury suites, improving concessions and restrooms, and expanding Candlestick's capacity by 10,000 seats. The city initially built the stadium with bond funds, and the Candlestick Park Fund contributed $30 million to its remodeling. The stadium is under the jurisdiction of the City and County's Recreation and Park Department. The field and stadium are maintained by the city. The city has a real interest in retaining the team.

Some are calling for the removal of baseball's anti-trust exemption saying that the sport is a private business engaged in interstate commerce and should be treated like any other business. However, no other private business is really comparable to a major sports franchise. In my view, major league sport franchises are a good deal different than any other corporate asset that can be sold willy nilly to any highest bidder. A major league sports franchise is not a product like a box of Tide that can be sold in a supermarket.

It is absolutely proper for the League to consider a number of factors when determining whether or not to approve the sale of a franchise.

Baseball should not be stripped of its ability to ensure that the owners are of good reputation, will keep team in America, and keep a good geographical spread to the organization.

The League has taken these steps to protect the city and fans of San Francisco when it rejected the proposal to sell the Giants to St. Petersburg after considering scheduling difficulties, media markets, divisional realignment issues, and fan support.

It makes no sense to me for this Congress to be involved in legislation that would permit the type of devastation that occurred in Oakland when the Raiders moved to Los Angeles and in Baltimore when the Colts were stolen in the darkness of the night from their fans.

In the end, Major League Baseball made a baseball decision and not simply a business decision. In my opinion, baseball cannot be faulted for making decisions in the best interests of the sport and in the best interests of the fans in Major League cities.

In conclusion, stability is not a new issue. In 1985, I joined more than 20 Mayors in supporting a resolution by the United States Conference of Mayors which supported S. 259—a measure that would have protected team stability. A copy of that resolution is attached.

I appear today to support baseball's antitrust exemption.

Again, Mr. Chairman and men of the committee, thank you for this opportunity.

EXHIBIT 2

NATIONAL ASSOCIATION OF PROFESSIONAL BASEBALL LEAGUES, INC.,
Washington, DC, September 29, 1994.

The language added to the Synar bill at the 11th hour in an attempt to protect the minor leagues is, unfortunately, fatally flawed and totally ineffective in saving the minors. Significantly, the language does not protect the amateur draft through which the minor league rosters are filled each year.

The rules governing the minor league players are inextricably intertwined with those regulating Major League players and therefore, it is impossible to predict how application of the antitrust laws under the Synar bill will negatively impact the minor leagues. Accordingly, the minor leagues remain unequivocally opposed to this ill-conceived legislation.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Chair recognizes the distinguished Senator from Florida [Mr. MACK].

Mr. MACK. Mr. President, I, too, would reflect on the hours of Ken Burns' documentary on the history of baseball since the 1830's to 1850's.

Unfortunately, I did not have the time during last week to see most of those shows, but a number of my colleagues came up and told me about seeing my grandfather's picture and the story of his involvement in major league baseball, the founding of the American League in 1901, the forming of the Philadelphia Athletics in 1901, a team that he managed and eventually owned—managed for 50 years, the same town, the same team, for 50 years.

It was ironic, I think, that we were watching the Ken Burns documentary at a time when major league baseball is not being played and people do not have the opportunity to participate in the game. I thought it was also ironic that, as people told me about what they saw during those television shows about my grandfather, one of the situations involved his team from 1910 to 1914, where he won the pennant and the World Series a couple of times. At the end of 1914, he ended up having to sell the team off. Contrary to the popular opinion that he was just trying to make money by selling the players and keeping the money, the reality was he was dealing with competition. He was dealing with competition of an attempt to start a third league, a Federal league.

Now, I think there is a lesson here that even though he had to respond to this effort that was established to bring about a third league in which the industrialists of the period had tremendous resources, my grandfather's team survived. He sold that team off. They remained in Philadelphia. They were able to come back, and again in 1928, 1929, 1930, and 1931 I would probably claim that that was the best team in major league baseball history as opposed to the 1927 Yankees, but that is up for debate as well.

But again my interest in this issue really has been focused more as a result of the incident that was referred to by the Senator from California a little bit earlier, and I will get to that as I go through my comments.

Mr. President, throughout America, in a ritual renewed each spring, young boys and girls reach into closets, dust off well-worn baseball gloves, search frantically for that scuffed-up baseball from last summer, put on their favorite baseball cap, grip a bat, and dream.

It is a special season of the year when baseball fans—of all ages—shake away the doldrums of winter to relive great memories of America's pastime and create new ones.

For over 100 years, the game's greatest players have made the annual trip to Florida to share this tradition and to begin the long trip to the World Series.

Because there appears to be no end in sight for the baseball strike, spring training is in jeopardy. Spring in Florida without baseball will certainly have a sentimental impact but it will also result in a major economic blow.

Twenty of twenty-eight major league teams have their spring training in Florida.

According to the Orlando Sentinel, spring training games in Florida draw 1.6 million fans—with most coming from out-of-State.

The Orlando Sentinel also reported that spring training pumps $305 million a year into Florida, according to a study conducted by Florida's department of commerce. In that same article, it is stated that central Florida stands to lose $40 to $50 million if spring training is canceled. In Lakeland, FL, spring training home of the Detroit Tigers the Lakeland Chamber of Commerce estimates the Tigers generate about $18 million for the area economy.

What will February and March 1995 be like with no baseball? Will the fans make their annual sojourn to Florida if there is no spring training?

My State fears the worst.

The strike must be resolved so the millions of baseball fans in Florida and elsewhere can once again enjoy America's favorite pastime.

For some time now, baseball has been operating under a dark cloud. News has been dominated by the disarray in the business of baseball—the fight over salary negotiations and revenue sharing which has resulted in the current player strike; the firing of Commissioner Fay Vincent and the contrived inability to appoint a replacement; and, the underhanded blocking of a legitimate business deal to move a money-losing team to a better market.

My interest lies in the owners' 1992 decision to block a business agreement between the owner of the San Francisco Giants and a Tampa Bay ownership group to purchase the team and move it to St. Petersburg. Before the agreement, Giant's owner Robert Lurie's efforts to keep the team in San Francisco had received little local support.

Let me focus a little bit on this timeframe.

My interests really became focused in an incident a little earlier than this transaction in San Francisco. If you remember, not long before that, the Seattle ball club was in trouble and the Seattle team had made the decision that they were going to move that franchise because they could not find a local ownership group.

For years, major league baseball has said that two of their major objectives are, one, to require that ownership of the team be held by local folks; and the second was, as has been indicated earlier, that they do not lose the teams. Well, here they were faced with a very difficult set of circumstances and a decision had to be made. Which were they going to give up?

What they decided was, they gave up on the determination that the ownership group must be dominated locally and they decided that their No. 1 concern was that franchises had to remain where they were.

Now what that did was it sent a signal to the rest of us who have an interest in trying to get major league baseball into our communities; that it is not going to happen until the owners decide that they are going to expand.

And let me make a second point here. The owners act as if the cities around the United States that are large enough and desirous of having major league baseball are not the markets of the cities and the fans but, in fact, are the markets of the owners of major league baseball and they will be used when they decide, not when the fans and the community decides that they ought to participate in major league baseball.

I just think that is fundamentally wrong. And, as Senator FEINSTEIN said earlier with respect to the San Francisco deal, Bob Lurie entered into a legitimate contract to sell his team—his team—to an ownership group in St. Petersburg and major league baseball, because of the exemption, denied him the right to sell that team to whom he wanted to and to move it to where the purchasing group wanted to move the team. And, in addition, that he had to sell that team for $15 million less than the St. Petersburg-Tampa ownership group was willing to pay for it. Now there is something fundamentally wrong when that takes place.

That is why I commend my colleague, Senator METZENBAUM, for his vigorous effort here to bring this issue before the U.S. Senate. I would prefer—and he knows this—that the issue we were debating were the full lifting of the exemption for major league baseball. But I understand the circumstances and I want to work with him to try to make this happen.

Yesterday, we received good news from the Judiciary Committee in the House that they at least were willing to move that out of the Judiciary Committee. It is a signal, I think, to all of us who are interested in this that clearly there is movement now on the issue of the antitrust exemption.

So I thank my colleague, Senator METZENBAUM, for his efforts.

I just have a point or two more that I want to make.

Seventy-two years ago, the Court, in Federal Baseball Club of Baltimore, Inc. versus National League of Professional Baseball Clubs, gave baseball immunity from antitrust laws because it considered the game a pastime and not the subject of interstate commerce. Since then, the Court has laid the responsibility of removing baseball's prized exemption squarely on Congress' shoulders.

The point I am making here was raised by the Senator from California. Why is the Congress involved in this? Well, frankly, I wish the Congress was not involved in it. But the Court made a decision 72 years ago and they said since then they are not going to readdress the issue; that Congress has to readdress the issue. And that is why we are involved in this discussion.

As many of my colleagues are aware, Senator METZENBAUM and I introduced legislation last year to repeal the antitrust exemption. The Metzenbaum-Hatch amendment represents a pared down version of the legislation we introduced and I intend to support this labor carve out.

I believe allowing the free market to work in baseball—without the legal shield of an outdated antitrust exemption—could mean more baseball in more cities for more fans and more kids to enjoy.

America was built on the principles of the free market system—given the owners clear capitalistic motives, I do not see why baseball should be any different.

Mr. President, I have a long family tradition in the game of baseball and I am proud of that. I love the game. I want to see it grow and I want to see it prosper.

Baseball must swiftly and earnestly address its problems before it is too late—before it completely loses the interest and faith of the American people.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I rise in strong opposition to the amendment offered by the Senator from Ohio, because it places the U.S. Senate squarely in the middle of a private labor dispute between major league baseball owners and players. And I would suggest, moreover, that this amendment is not a panacea for baseball's labor problems or for baseball fans.

With the introduction of this amendment, we are hearing an interesting debate, beause we all care about baseball. It is a national pastime in America. And I think we all reflect back on memories that we have of baseball.

For me, it was growing up in the summer and my father sitting on the front porch listening to Harry Caray broadcast the St. Louis Cardinals. That was before the Kansas City Royals.

But I think we can all reflect in one way or another how baseball has touched us, and it certainly has come back for those who are watching the Ken Burns "Baseball" series.

Mr. President, this amendment is an unprecedented attempt to affect the outcome of the labor relations dispute between major league baseball owners and the union representing the baseball players. The amendment prevents the owners from unilaterally implementing their final bargaining position—a salary cap—by subjecting the salary cap to U.S. antitrust laws.

My colleagues should be aware that this amendment has nothing to do with the existing exclusive antitrust exemption that baseball now enjoys. Rather, the amendment would place one party in this dispute at a disadvantage that no other party—in any dispute—has ever been placed.

Mr. President, I think we are all saddened by the major league baseball strike. America's national pastime has been sidelined by a labor dispute between the baseball owners and the baseball players' union.

Most Americans have little patience for the situation. They want to see major league baseball, rather than a major league labor dispute. They want action.

But I oppose any congressional intervention in the baseball strike. For almost 60 years, our Federal labor policy has been to promote the private system of collective bargaining to resolve labor disputes. In fact, the preamble to the National Labor Relations Act of 1935 states:

> It is hereby declared to be the policy of the United States to eliminate * * * certain * * * obstructions to the free flow of commerce * * * by encouraging the practice and procedure of collective bargaining * * *.

The collective bargaining system does not tip the scales for or against either side. It simply establishes a process for the parties peacefully to resolve their differences at the bargaining table. And if that fails, the system provides limited economic weapons—the strike, lockout, and unilateral imposition of the employer's final offer—for the parties to utilize at their discretion.

The parties themselves must evaluate the relative strength of their positions. Congress has never established itself as the final arbiter of labor agreements, and for good reason.

We cannot and should not determine the respective bargaining positions of labor or management. That decision is theirs and theirs alone. Not even the National Labor Relations Board [NLRB], which has some expertise in labor law, has the capacity to do that.

Labor would be justifiably upset if we decided that their bargaining position was meritless. The union has a right to demand salary increases for players.

Similarly, baseball clubs have a right to insist upon a salary cap if they believe that fans will not pay higher ticket prices and clubs in smaller media markets cannot afford to pay higher player salaries.

Without doubt, the Metzenbaum amendment is designed to pressure major league baseball owners to capitulate to player demands. That is not the business of the Congress, any more than it is the business of Congress to order the players to cease their strike and to return to work.

I submit that the U.S. Senate should not influence a private labor dispute. Congressional intervention in labor matters sets a very dangerous precedent. Next time, perhaps it will be another sport, such as basketball, hockey, or football where Congress will be called upon to intervene.

And where will it end? Will other industries be coming to Congress asking for Federal intervention? I have no doubt that others will think it advantageous to lobby us to help resolve their labor disputes. And other industries, such as the construction industry, the trucking industry, or the meat packing industry, will find themselves on our doorstep. We should be careful not to put ourselves on this slippery slope.

After the players and the owners settle their labor dispute at the bargaining table, then perhaps Congress should debate repeal of baseball's antitrust exemption—not before.

My personal feeling is that if we carefully examined the antitrust exemption we would find that it serves an important national interest. As I am sure everyone in this Chamber knows, there is a significant relationship between major league baseball and the minor leagues system that benefits baseball fans everywhere. It is a relationship based on contractual and business agreements that depend upon the antitrust exemption.

Currently, major league teams subsidize their minor league affiliates to the tune of approximately $200 million per year. Major league teams pay the salaries and the signing bonuses of all minor league players and coaches; they pay for minor league equipment; and they pay for scouting services. This financial assistance is critical to many minor league clubs.

It is reasonable to assume that repeal of the antitrust exemption would jeopardize the structure and viability of minor league baseball—and that would certainly be a great loss for our country. After all, the vast majority of professional baseball is played at the minor league level. These teams are a source of civic pride for their communities and provide many fans from over 170 communities with their only opportunity to see live professional baseball. I know I have spent many enjoyable evenings watching the minor league team in Wichita play.

It has been argued by some of my colleagues that baseball should not retain an exemption that no other sport enjoys. But Mr. President, I think we would be wise to remember that no other sport has a minor league system similar to baseball's. It is a system that is important to rural and small communities across the United States, and I certainly hope we do not destroy it in our rush to try and settle the major league strike.

Mr. President, I would also point out that other sports that lack the antitrust exemption still have significant labor relations problems. Football, basketball, and hockey all have experienced strikes in the past and likely will experience strikes in the future. Ending baseball's antitrust exemption will not end labor disruptions in baseball, and the fans will continue to be disappointed regardless of the antitrust exemption.

If we were really interested in protecting the fans, then why not simply order the players back to work? The answer is that such congressional action would directly interfere with a private labor dispute on management's side by eliminating the players' right to strike, and that is equally unacceptable.

Mr. President, baseball fans such as myself want to see players back on the field. As a U.S. Senator, I encourage the players and owners to resolve their differences at the bargaining table, and not in Congress.

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida [Mr. GRAHAM].

Mr. GRAHAM. Mr. President, I want to express my appreciation and admiration to Senator METZENBAUM. We know that, to our regret and loss, this will be one of the last days that he will be with us on the floor of the U.S. Senate. HOWARD METZENBAUM is a unique human being, unique in his intellect, unique in his understanding of the range of people that he represents. I have been especially impressed with the passion of Senator METZENBAUM. When he engages in an issue he does so from a depth of genuine commitment. He does so with tenacity and, in most cases, with victory.

It is fitting that at this moment in his career that he again has taken the lance and is leading the charge on an issue which has deep significance to the soul of America. I thank Senator METZENBAUM for his leadership on this, and so many other issues, and wish him well.

Mr. METZENBAUM. I thank my colleague.

Mr. GRAHAM. As Senator METZENBAUM has so articulately stated, baseball is an important part of the culture of America. Many of us have spent hours in the last few days, watching the Ken Burns series on baseball. And, while it has reminded us of individual events, games, World Series, it has also underscored the fact that baseball in the American culture is more than just an individual series of athletic events, teams, and players.

It is an important part, in many ways a reflection of basic aspects of our national culture.

From the time immediately after the Civil War when baseball, which had been disseminated in many ways by the campfire games of the combatants, helped to bring the country back together to the times within our lifetime when baseball served as the leader in opening up opportunity in this country.

After almost a century of a gentlemen's agreement which had denied access to baseball to African-Americans, Jackie Robinson foreshadowed what was to come in the next few decades in terms of expanding opportunities.

So many of our most fundamental and deepest experiences as a nation are related to what has happened through baseball. Each of us can personally identify with this. One of the important aspects of baseball at a personal level is its intergenerational appeal. How many Americans cannot remember experiences with their parents, with brothers and sisters, with others close to them that began watching a baseball game?

I remember my father, who grew up in a small town in Michigan and was a long-time follower of the Detroit Tigers. Sitting in Briggs Stadium watching Hal Newhouser and George Kell, and those great players of the immediate postwar period were an immediate part of my life, illustrative of millions of other Americans who have, through baseball, broadened and deepened their understanding of their parents and now are transferring that to their children and grandchildren.

So as the question is asked, why here in the last days of this session of Congress with so many important issues before us are we spending time on this subject? I think it is because baseball plays a role in our Nation which is beyond what can be counted in terms of its economic contribution to our gross national product, beyond the numbers of persons involved, beyond the immediate personalities in this current dispute.

Baseball is a fundamental part of and a reflection of fundamental aspects of the American character.

The antitrust exemption, Mr. President, also carries with it an important part of that reflection of the American character. The antitrust laws were established in and around shortly after the turn of the century as a statement that Americans believed in fair play. We did not believe in people who happened to have acquired significant economic power using that power in a coercive way, in a way which would deny others economic opportunity.

The history of antitrust and baseball is one which is linked to the saddest period of our national game. In 1919, the first and only time there was a throwing of a World Series, when the Chicago White Sox, eight players of that time succumbed to the temptation to take bribes in order to play less than at their full capability, and the result was that the Cincinnati Reds won the 1919 World Series.

It was around that time that players were tempted to do so, to accept those bribes because they felt that they were being treated as chattel; that their salaries were being unnecessarily restrained; that their efforts to establish alternative leagues, where their worth could be bargained for in the marketplace of real competition, had been frustrated. It was in that same period that players went to the courts seeking relief from the restraints on their economic mobility.

In 1922, the U.S. Supreme Court upheld a lower court's opinion that baseball was not subject to the antitrust exemption, not because Congress had granted it an exemption, but rather because baseball was not determined to be commerce, as the Court interpreted that word to be, rather that it was a series of exhibitions, not the business to which the antitrust exemption was applied.

It is significant that at the same time that the Supreme Court was upholding that lower opinion, that the man who had first ruled that the antitrust law did not apply to baseball was being designated as the first commissioner of baseball in order to bring some public confidence to a sport which had been savaged by the results of the 1919 World Series. That commissioner, Kenesaw Mountain Landis, brought a very strong principle of representing the public interest in baseball decisions; that baseball was the embodiment of the fact that it was more than just a business-economic relationship.

Throughout baseball, there has been this continuing tumultuous period of labor-management relations. It is not insignificant that there had been more labor stoppages in baseball, with its antitrust exemption, than in any other professional sport in America which operates without an antitrust exemption.

With that brief history, Mr. President, I would like to talk about a few of the questions that have been raised. One of the questions is, is it appropriate for Congress to be involved in this issue? Is this not an issue that should be left to the parties to resolve? The fact is the Congress was made a party to these disagreements by the action of the Supreme Court in 1922, when the Court said that we are going to place baseball in a protected status and not allow the forces of the free market, protected by the antitrust law, to operate as it relates to baseball.

We have been placed in this situation, Mr. President, because organized baseball for the first time since 1922 is now without a commissioner and, quite obviously, a determination has been made that it will not have a commissioner until there has been a completion of its efforts to change its labor-management relations. So whereas in previous disputes between players and owners, there was that third party, that party who carried the stamp of legitimacy from Commissioner Landis forward to step in, there is no such person today.

The purpose of this amendment is not to have Government get into dispute, but to get Government out of the dispute by treating baseball like other professional sports and like the vast majority of other commerce and business in the United States, and that is subject to the rules of fair play embodied in the antitrust exemption.

A second question is, should this be considered on the District of Columbia appropriations bill? Is there not a more appropriate forum for this consideration? I have listened to the statement made by the Senator from Minnesota and the Senator from California, two good friends, and I was struck by the irony of their comments about how much it means to the Twin Cities to have the Minnesota Twins and to San Francisco to have the San Francisco Giants. If my history is correct, the Minnesota Twins used to be the Washington Senators, before they moved from Washington to Minnesota.

The San Francisco Giants used to be the New York Giants, until they moved from New York to San Francisco. I remember one of those experiences of childhood. My high school graduation present from my father in 1955 was to take my first trip to New York City to see a series between the Brooklyn Dodgers and the New York Giants at the Polo Grounds. It is one of the jewels of my life, having been able to share those days with my dad watching these two great franchises, two of the original teams in the National League in that great inner-city rivalry.

Do we now dismiss the emotion of the people of New York and Brooklyn, people of Washington, DC, when they lost their franchises and elevate teams as they exist today to some pedestal of special purpose?

It is further ironic that after a period in which major league baseball encouraged, or at least acquiesced in, substantial franchise relocation, that now for a period of almost a quarter of a century, we have had no franchise relocation.

Major league's use of antitrust has restrained not only the movement of existing franchises but has restrained the development of additional franchises. My home State of Florida is proud to be the home to one of the two newest franchises in major league baseball, the Florida Marlins. It had been many years that we felt our State was prepared to be the home for one or more major league baseball teams, and yet we waited for decades in order to have that opportunity.

There is a very clear linkage between the antitrust exemption as it applies generically, and specifically as it applies to franchise relocation and establishment, and the antitrust exemption which is now being used in order to impose a settlement on players.

What is that linkage? The fact that franchises have not been established to serve markets that are prepared to support major league baseball. While franchises are retained through the use of the antitrust exemption in markets that are declining their ability to support major league baseball has resulted in a growing economic gap between the haves and have-nots of major league baseball. Major league baseball, particularly those smaller markets, is now calling upon the larger market partners for revenue sharing. That is not an unusual request. In the National Football League there is revenue sharing at the gate. There is revenue sharing among national television, and individual teams are not allowed to have their own local television arrangements. So there is a general parity in terms of the economic circumstances, whether it happens to be the Green Bay Packers or the New York Giants.

Baseball has not had that kind of a revenue sharing and even today has resisted that revenue sharing, particularly as it relates to local television revenue, which is the principal contribution to the wide economic gaps between the haves and have-nots.

What major league baseball is saying is that they want to have a form of revenue sharing financed by the players being forced to accept a cap on their salaries and thus a condition which in large part grew out of the application of the antitrust exemption to keep communities that were financially able to support teams from having teams has now been used at the end of this process in order to try to extract from the players the cost of trying to maintain some parity between the have and the have-not franchises.

A third and final question, Mr. President, is timing. Why are we doing this now? Well, we should have done it years ago. Clearly, the fundamental rationale of the antitrust exemption has been unsubstantiated for decades. In the 1950's, in the case of Curt Flood, a great center fielder for the St. Louis Cardinals who refused to accept a trade to the Philadelphia Phillies and went to court, the U.S. Supreme Court ruled in his case that the rationale of the 1922 opinion no longer existed but that the Supreme Court, in deference to the principle of precedent and unwilling to overrule that 1922 case on its own, deferred to the Congress to take the steps necessary in order to apply the antitrust law to baseball.

We should have done it at that time. We should have done it this spring when Senator METZENBAUM brought before the Senate Judiciary Committee legislation that would have repealed the antitrust exemption. The fact is that we did it at neither of those two opportunities, nor many others that have existed in the recent past.

Now we face a strike of major league baseball that is of unprecedented proportions. Only once since the World Series started has there not been a World Series, in 1904, when a disagreement between the leagues caused no series to be held. Now, 90 years later, we are going to have the second example of no World Series for the baseball fans of America.

I anticipate that shortly after the leaves of fall have blown away, a fall devoid of this great classic, and the snows begin to fall, we are going to see the major league owners impose a cap on players' salaries arbitrarily, unilaterally. We are going to see the players' resolve to resist that heightened and thus we will see, in February of next year, instead of the pitchers and catchers coming to Florida and Arizona to start that ritual of spring as we prepare for another season, we will see the cold chill of winter continue. We will see no baseball in the spring. We will see no baseball in the summer of 1995.

I believe this is the time, before all of those bleak prospects become inevitable, that we take what I consider to be appropriate and restrained action. The resolution, the amendment as offered by the distinguished Senator from Ohio, simply states that in the event there is a unilateral term or condition imposed on any party that has been subject to an agreement between the owners of major league baseball and their labor organization, the antitrust laws shall apply to that term or condition and that that term or condition may be challenged by any party to such agreement in any United States district court.

I believe that is an appropriate statement of the fair play that we ask as part of the American culture. Baseball is a game which is played by the same rules, whether it is from the largest to the smallest, with the exception, I might say, with sadness, of such intrusions as the aluminum bat and the designated hitter. But with those exceptions, to which we all express our distress and sadness, baseball is a game played by common and fair rules across the land. Those same common and fair rules are another extension of baseball's reflection of American culture where we believe in fair play. Fair play says that persons should not be allowed to use their excessive economic power, I say to Senator ROCKEFELLER, to collude against the public interest, and that should be a principle that applies in all aspects of our American life. With the adoption of the amendment by Senator METZENBAUM, we will move towards the realization of that high standard in baseball and do it now.

Mr. President, I close by just returning to the remarks I made as I began my statement, and that is my deep appreciation to Senator METZENBAUM for having brought this issue to us at this hour. I admire his commitment and his tenacity. The Senator, unfortunately, will not be with us in 1995, but his spirit will live here. Whatever the result of his efforts this afternoon, I can assure the Senator, Senator HATCH and others, the leadership that he has provided will continue to inspire us, and eventually we will win that seventh game.

Mr. METZENBAUM. I thank my friend and colleague from Florida for his kind comments.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas [Mr. GRAMM].

Mr. GRAMM. Mr. President, let me say that we certainly have had an opportunity today to hear some great tributes to baseball. We all lament the fact that the season was not completed, especially me since I represent a State that has two teams that were doing well.

I think we all are saddened by the fact there is no World Series, but I think the bottom line of this whole debate is there is something more important than baseball. What is more important than baseball is freedom. What we have here is a blatant attempt at the end of the session to inject the Senate into a labor dispute.

We have a labor dispute underway in baseball. We have a decision that has been made by players and owners to end the season. We are all unhappy about it. We do not like it. But we live in a free country where labor has the right to decide to stop playing baseball and management has the right to end the season.

I am not going to get into a lengthy argument here about the antitrust exemption. It has been on the books for 72 years, since the Supreme Court decision in 1922, and it is going to be the law of the land when this Senate adjourns.

I can assure my colleagues that this amendment is not going to pass. I assume that the distinguished Senator from Ohio at some point, having had some fun today, having allowed us all to eulogize baseball, is going to withdraw this amendment. But if this amendment is not withdrawn, we are going to have other amendments offered to it, and we are going to have a prolonged debate because as strongly as I feel about baseball, I feel more strongly about freedom. I am not going to stand by and see our Government inject itself into this labor dispute, taking sides in a dispute where I do not believe—given that the dispute is underway, the strike is underway, the season has been canceled—that we ought to be injecting ourselves into that dispute.

This antitrust exemption repeal was debated in the committee of jurisdiction, and the Senator's amendment was rejected 7 to 10.

As I said earlier, I am not going to waste the time of my colleagues. I see we have several others here who want to speak. But I do not think today is the day to get into a debate about the antitrust exemption. Quite frankly, I think it is an open question.

I would be happy on another occasion when we are shooting with real bullets, when we are actually debating something that could be considered more thoroughly to listen to whether or not there should be an antitrust exemption in baseball. But in the midst of a strike where the clear objective here is to inject the Federal Government into the baseball dispute, I am adamantly opposed to it. I want to do everything I can do to see that does not happen.

It is not that baseball is not important. It is not that the people of my State did not have high hopes for our two teams. It is not that we do not want to see a World Series. But the point is there are some limits to the Federal Government's power. Having already messed up so much of American life, today we ought to leave baseball alone. It seems to me that baseball has enough problems of its own without the Federal Government jumping into the middle of a dispute.

So on that basis, Mr. President, let me say I am opposed to this amendment. I am open to a future debate about the antitrust exemption. I think it is something on which we should follow normal procedure. If in the next Congress an amendment is offered, I would be happy to look at the arguments to try to weigh the pros and cons. But here, today, on a Friday afternoon, 1 week from adjournment, I am adamantly opposed to the Federal Government jumping into a baseball strike.

I assume this amendment at some point is going to be taken down and we are going to get on with other discussion. If it is not withdrawn, I am prepared to offer a second-degree amendment. But I am opposed to this amendment, and I do not plan to see it become the law of the land.

I yield the floor.

Mr. METZENBAUM. Will the Senator yield for a question?

Mr. GRAMM. Yes.

Mr. METZENBAUM. Would the Senator from Texas be good enough to indicate the nature of the second-degree amendment?

Mr. GRAMM. It would overturn the Clinton Social Security tax.

Mr. METZENBAUM. I thank the Senator from Texas.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, I rise in opposition to the amendment. I must say that I agree with the Senator from Texas that it is not advantageous or wise at this time during a labor dispute to take away an existing law that applies to baseball.

Quite frankly, I have some real reservations about baseball's antitrust exemption. I have expressed my concerns to and talked and consulted with the Senator from Ohio. Let me say about the Senator from Ohio that, indeed, he is doing this because he really believes in a fair market. Antitrust has been his legacy here, among others, whether it is big business, international corporations, or in this case the big business of sports. I appreciate that. Actually, I have learned a lot about antitrust by serving on the Judiciary Committee with the Senator from Ohio. So I have some feelings and understanding about his arguments and the need to address this issue.

I also feel that tipping the scale now by removing an antitrust exemption that is currently the law and that permits the owners to bargain in the manner they are bargaining, would not be appropriate.

Repealing existing law at this time disturbs me a great deal. I think we should be cautious about interfering in such labor strikes. There are some exceptions. Maybe baseball, some will contend, falls into that exception. The national urgency is, if you cannot get gasoline or coal or water or some necessity that is provided by the private sector because of a labor dispute, there are provisions in the law for the President to get involved. But that is not the case here.

I just do not see the justification to step in at this time. I do not know if it is the 11th hour or the 2nd hour of this dispute. There are problems on both sides. The owners have not, in my judgment, done what the owners in the other professional sports have done, such as pooling the resources from electronic media, mainly television. That is part of the argument about why almost half of their teams are losing money. To me that should be considered because that has worked in other professional sports. In baseball, you have teams that are literally losing money because they do not have the TV markets, they do not have the endorsements, they do not have the advertisers and they may go broke.

But if the owners really wanted to help the game, they would spread that revenue as the National Football League has done, for instance, and the basketball league has done through pooling of TV revenues. But the owners have decided not to do that. In addition, the owners have been, in my judgment, very stingy on expansion. I am glad to see that they have gotten the message. I must say I think the Senator from Ohio has been a messenger to them about that. If they do not expand, they will lose the support I think they currently have in this body not to take away their antitrust exemption.

But there is another side; that is, the players. Nobody can quantify the great baseball players that we have today, and missing watching those games, the playoffs, and then the World Series. It is a loss. We cannot put a money value, I do not think, on their talent. It is very difficult to do that. On the other hand, the players are not doing badly. As a matter of fact, the average salary of all professional baseball players in the major league is $1.2 million which is not too bad. That means some of them are making $20 million, $6 million, $12 million, and upwards of those figures.

(Mrs. FEINSTEIN assumed the chair.)

Mr. DECONCINI. Madam President, it seems that there is a problem on both sides here. I am sorry to say this to the owners and to the players. But, as a fan, I look at it as greed. Nobody seems to really want to put it together so that the fans benefit. They want to keep lining their pockets. They want to make money, and they really seem to have given up the purpose of what baseball is all about. It is the fans. They are the ones that are left out. As a fan, I am mad about it. I am upset, and I feel that it is unfair to the public, to us, and I think that we do need to address the problem.

I have introduced legislation. It does involve the Government deeply into this monopoly. It does provide for arbitration if there is an impasse in a labor dispute. It would require the owners and players to come together and settle their disputes. It would be binding arbitration because I think the best interests of the public would be served by such legislation. We are debating whether or not to lift the antitrust exemption that baseball has, the owners have, the league has.

I oppose this. I hope that the vote will be against lifting baseball's antitrust exemption at this time.

Mr. SIMPSON. Madam President, I want to say a few words on this amendment. First, my rich commendation to Senator HOWARD METZENBAUM for his tireless work on this issue. He has been very fair. He has certainly been attentive to my concerns. I think we all know of this man that when he sinks his teeth into an issue, he is dogged, passionate, determined, and he presses forward to the very end. But he is also fair and is a pleasure to work with. I shall miss the spirited camaraderie that I have shared with this man, and I mean that. I wish he and his wife, Shirley, well, as they go on to new pursuits. I know not what they will be, but they will be performed with passion and energy.

This is a tough issue for me and to come to this part. I have been interested from the time baseball's ownership unceremoniously sacked a most able and gracious commissioner, Fay Vincent, who had taken over for a beloved man, Bart Giamatti, who was just a unique jewel of a human, and then they left the game without a guiding hand to act in the interest of the fans. It is almost like: Is anybody paying attention to the fans? I can tell you that the owners, I think, in many ways, are not, and the players, in many ways, are surely not. So that has been my primary interest and my motivation from the beginning, to restore the office of the commissioner of baseball back to its former power and influence. I am truly regretful that it has not come to pass.

Unfortunately, from my perspective, there are so many who have interests in baseball's antitrust exemption for so many different reasons, though perfectly legitimate to me, and they are entirely different. Many stand to gain or to lose, depending on what we in the Congress do about the exemption. Some are interested in expansion; others in franchise relocation. Of course, both sides in the baseball negotiations have a stake in this. The players' union wants very much to see this antitrust exemption revoked so they can press their case in the courts instead of by striking. So, unavoidably, if we act on this legislation and we make explicit reference to "actions taken" or "conditions imposed" in the course of baseball's labor and negotiations, we become participants in this great struggle. I am uncomfortable with that. I do not believe that this is what baseball's fans would like to see.

So, for me, the issue is strictly one of whether or not baseball should have a commissioner, an independent commissioner, and whether baseball should be governed internally in a way that entitles it to a special legal status. I know fully where I stand. I am very happy to induce baseball to return to its traditional structures, but this is a different business. I am not certain that baseball's fans want us to say, "If one side does this or the other side does that, then the antitrust exemption gets taken away," or any variant of that. I do not want to play around in that. I just want to see them get an independent commissioner. And I will push in any way I can, without trying to give one side an advantage over the other side.

I regret to say that I could not support this amendment. Its implications are very clear, and the players' union chief, Donald Fehr, said he would call off the strike in a New York minute if we only passed some legislation like this. Certainly most Americans and I and the occupant of the chair and all of us in this Chamber would like to see the strike end, especially as we approach the first of October. There is something about the first of October and a yearning for baseball and the World Series. Maybe that is some of the discord and anxiety in the land. But I do not think we should try and bring the strike to an end by offering a change in the law that has the effect of benefiting one side or the other. The players' union has made it very clear that this legislation would be a valuable tool for them, very valuable tool. I am simply not willing to step forward and hand a new tool to either side in this unseemly struggle.

It is ugly, it is greedy, and I am appalled at the owners, and I am appalled at the players. I would really like to smack them both around, but I do not know how to get that done. I almost feel that it is like in the great history of France where an arrogant observer in the royalty, who is uncaring of the citizens, says, "Let them eat cake." That is the way I feel about both sides in this one. Let them eat cake. For this reason, I will have to vote "no" on the amendment.

I thank the Chair.

Mr. ROCKEFELLER. Madam President, I, along with most people, am a baseball fan. I have been ever since I grew up in New York City and became a New York Giants baseball fan. When they moved to San Francisco things became tough for me, but I stayed with them until Willie McCovey retired, and then I was left without a baseball team. By that time, I had been living in West Virginia for a long time, and I became a "cable baby," so to speak, and have been an Atlanta Braves fan for the past 15 or 20 years.

None of that means anything, but it does in the sense that there are millions and millions of people in this country who work very hard and whose wages are not increasing and, in fact, are decreasing, and when they come home, one of the things they look forward to is baseball. Baseball is unlike any other game that I know of in that it has a rhythm and a sense of peace, a sense of throwback to an America that was more predictable, more dependable. It brings to the life of Americans a sense of tranquility and stability, which is hard to find in a country which is ravished by self-doubt and anger in these recent years.

So I think that the fact that there has been a baseball strike and the fact there have been a number of them in recent years is serious. I do not think it is just a matter of getting baseball going again. I think it has something to do with the American psyche. It has something to do with the American sense of well-being.

I am one who believes that if this strike is not settled it will continue into the 1995 season. There are no professional baseball teams at the major league level in my home State of West Virginia. We do have farm teams. I care about that. I do not want to see America move into the next year, 1995, without a settlement already in hand.

I have learned some lessons from the coal fields of West Virginia, as I am sure Senator METZENBAUM has, because they mine coal in the southern part of his State.

A very interesting lesson took place a number of years ago. It was basically during the seventies. And, Madam President, it happened that every time there was a dispute in the coal mines, there was a temporary restraining order, and people immediately went to the courts, but there was always labor instability, and it hurt our State. It hurt our self-image. It hurt our sense of moving forward.

But suddenly labor and management grew tired of this because it was hurting both of them, and they sat down in no particular formal agreement, and decided to work things out at what they called the face of the mine. That is where coal is actually mined, way underground. And if there was a dispute there between a worker and a foreman they would simply work it out at the face.

They found a period of tranquility in the coal mines of West Virginia wherein there was not a strike for years and years. One of the reasons that they were able to achieve this tranquility and achieve this type of stability was that they both had equal access and equal rights, they had equal powers, and they both knew that.

I think, by and large, in our society with different groups that have different points of view, when they know they have equal access to separate recourse or to the courts, knowing that they have those rights often in and of itself prevents problems that might arise because the other side knows that the other side has the same strength, the same accessibility to the courts.

Therefore, I am one who believes that the unique antitrust exemption which baseball has should be removed, and that, in fact, if it were removed baseball would come back, not this year, but it would certainly come back in 1995.

There is a feeling that owners make too much money and players make too much money. That is nothing that this Congress can change, because that is a matter of what the free market is and how people negotiate.

But the Supreme Court has said it will not decide whether lifting the antitrust exemption should be done or not and that Congress must decide the issue. So I think it is possible for me intellectually and logically to stand here and say that the fact that we are not doing anything as a Congress is in fact a part of the reason for the continuation of the strike.

The Court first back in 1922 ruled that baseball was not interstate commerce. The Court then later said that baseball was interstate commerce but, on the other hand, they were not going to decide to lift the antitrust exemption, that this is something which should be decided by Congress. I am not a lawyer and do not have all the details as to that. Congress decided not to decide, except Senator HOWARD METZENBAUM decided that Congress should decide, and over the years he persisted on this matter on the floor and in private conferences with many of us in the corridors of Congress.

I have been one who has stood back, saying that baseball problems would work their way through. I no longer share that point of view. I think we do have to intervene. I do think we have to create equality as between the two sides.

There is now inequality. Management has more recourse, more power, more ability to cause and stop events than do the players. And we are a country which prides ourselves on justice, on an equal and good relationship between labor and management, labor, and capital, however you want to put it. And I think it is long time past now that we act on this.

I happen to admire a fellow who writes for the Washington Post by the name of Tom Boswell. I have come to know him in recent months. I have talked to him a lot about this, and I think he has a very even point of view. He has helped me to understand and to believe what would happen if we were to repeal this exemption.

Even more, I happened to talk on this matter with the President several weeks ago encouraging him to intervene. Unfortunately, the very next day the owners declared that the season was over. There was not much that he could do.

But it was his view that if the President even said something so much as "I give you my full faith and credit that I will do everything I can to remove the antitrust exemption" the players would have gone back to playing baseball immediately, and this would have been several weeks ago and the season might not have been called off. The owners would have had to respond to that and, in fact, there might have been negotiations and perhaps things would have been settled.

In any event, giving players equal right in the courts, I think, is a pretty basic American principle.

I met with a couple of major league baseball players yesterday. I was very impressed by them. I asked one of them a question. I made reference, I say to the Senator from Ohio, that when we deregulated, wrongly in my judgment, the airlines in this country, all of a sudden American Airlines, United Airlines, Eastern Airlines, all of which would fly into Charleston, WV, on a regular basis on many flights a day, they were all gone within 3 months.

I asked the players about how the amendment would affect fans in the State of West Virginia where we do not have major league baseball but we follow basically the Pittsburgh Pirates and the Cincinnati Reds, which are not big baseball markets in terms of megamarkets like New York and Los Angeles. Why would it not be if you were able to do whatever you wanted that you would simply go to Los Angeles or to the New York Yankees or to one of the rich teams and that there would be created more imbalance within our system?

And two of the players answered I thought very honestly. One of them said: "I cannot stand the east coast and the west coast, and I would not want to live there. I am from the heartland. I need to be with a team like Milwaukee, Pittsburgh, Cincinnati or Cleveland. I want to be in the heartland. That is where I am from. And my wife feels strongly about that. My kids feel strongly about that."

Another one said: "You know when you are looking as a free agent at where you are going to go you also look at the lineups of the teams that you might be considering. And it works out that if you are thinking you want to go to the New York Yankees or the Los Angeles Dodgers or the San Francisco Giants you look at the outfield and find they are very strong outfields. You do not want to go there because you are not going to play there. What you naturally want to do is go to a place where you are going to play and inherent in that is the idea of strengthening of teams which are now weaker either because they are in small markets and cannot afford to pay as much or because they just happen to be weaker."

I was struck by the honesty both of their answers and the way in which they gave their answer, which was very credible. One of the players is a very fine pitcher who is in his waning years and does not have a lot to gain by this, but he just spoke of his feeling that baseball players ought to have the same rights as owners have. I share that view. And that is why I am here on the floor to say that.

I think that the Metzenbaum-Hatch amendment is a limited, reasonable measure. I think it is something we ought to adopt.

I do not think the amendment, in fact, particularly takes sides, because nobody can say what it is that the courts will do if both sides have recourse to the courts, which I think they ought to have. It simply grants baseball players the same rights enjoyed by the coal miners in my State, the steel workers in the Senator from Ohio's State, and workers everywhere in this country. It is only in baseball that we have this particular situation.

Let us not be confronted by the idea of their salaries. I mean, we have that in show business, we have that on Wall Street in bonds and securities. People are often paid salaries that are out of proportion with what a reasonable person would say they ought to be paid. But the market decides that. The Congress cannot decide that.

But equal access to the courts we can decide. I think it is time that we allow that.

I urge my colleagues to support the Metzenbaum-Hatch amendment.

I thank the Presiding Officer and yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Madam President, the debate here this afternoon has been very gratifying to the Senator from Ohio, because when I came over I did not know whether anybody else was going to come over or have any interest in it. I am pleased that so many have come forward and indicated their concern and their support.

I was particularly impressed with the remarks of the Senator from Nebraska, who had come to the floor the other day when I brought up this same amendment and had indicated that at the appropriate time he would be prepared to move to table the amendment. He also indicated he opposed the amendment and would offer a tabling motion today if that were the case.

Before my colleague from West Virginia leaves the floor, let me just tell him how much I appreciate his comments, his inquiry that he made into this subject, and his incisive thinking. As usual, he has indicated what a stalwart and great Member of this body he is and a great friend of mine. I appreciate it.

The Senator from Nebraska was speaking and indicating his opposition to moving forward on this amendment at this point. But I thought that there were some particularly important words that he spoke. Let me repeat them. Said he:

> I am hopeful that before next March the owners and players will come to their senses by "slugging it out" among themselves. If not, we might then consider congressional action, but not now.

He went on to say:

> Mr. President, I emphasize again what I have said previously, that I am willing to consider in January whether we should lift the exemption baseball has from the antitrust laws. The Senator from Ohio has made some good points.

Now I thought that was important because this is a Member of this body who has been opposed to this amendment of Senator HATCH and myself, but has indicated that if the owners do not sit down with the players and work out something, then he is prepared to reevaluate and very possibly support the amendment.

Let me assure my colleagues that unless Congress acts to eliminate baseball's antitrust immunity, the owners will continue to abuse the players, the cities and the fans.

The owners do not give a damn. They are arrogant. They are rich. They think this is a great opportunity to show those players really what you can do if you have all the money in the world.

The cities are losing $1.6 million for every game that is canceled. Arizona and Florida will lose hundreds of millions of dollars if spring training is canceled by this strike or there is an owners lockout.

This problem will never be fixed until Congress revokes baseball's special antitrust privilege. If we do not do it today, we are putting the fans at risk of losing another season of baseball. Congress does not have to let that happen.

To those who are so smug about the franchises which they presently have—and let me say that we have two in Ohio and I am very proud of them and very proud of the teams, Cleveland and Cincinnati—but those in baseball who are the owners, who are saying that maybe we will change from having major league baseball, maybe we will just go to professional baseball, well, let me say to those cities that now have franchises, maybe you will not be so happy when you get some little league-big league team instead of a big league-big league team.

Now where are we at this moment? It is 2:30 on a Friday afternoon. A number of our colleagues have probably left for the weekend. My colleagues from the House have informed me that there is not enough time left in this session to move the baseball antitrust bill to a floor vote.

They did yeoman work—yeoman work—by passing it out of committee yesterday, and I congratulate them.

I must say that I am just totally delighted that so many of my colleagues in the Senate have joined me today and are committed to passing this legislation next year if the strike is not over.

With the leadership of people like Senators HATCH, SIMPSON, BRADLEY, THURMOND, GRAHAM, MACK, and ROCKEFELLER, it is a pretty loud and clear message that there is not just one Member of this Senate that is determined to move forward, but there are many others who are determined to move forward, whether or not I am in this body.

I am comfortable and feel good that my antitrust bill will be left in good hands. It will be left in the hands of those people who understand the implications of what management has done as far as the players are concerned.

It is not a one-sided issue. The players are not all totally right, and I am not prepared to totally side with them with respect to all the issues.

But I had a lifetime career of being involved in labor-management relations. I was a labor union lawyer, represented many unions. And I was a corporate executive in three companies, one on the New York Stock Exchange, one on the American, and one on the over-the-counter market. So I think I understand the forces that are involved with respect to management and labor.

But I believe that it is unrealistic—no, I do not believe it is unrealistic, I know it is unrealistic to think that we can pass this amendment, particularly in view of the fact that the Senator from Texas, Senator GRAMM, has indicated that he is prepared to offer a second-degree amendment to our amendment, the amendment of Senator HATCH and myself. And Senator GRAMM's second-degree amendment, according to him, would overturn what he calls the Clinton Social Security tax.

Now I have to tell you, I do not know what he is talking about. I asked a few other Members and they do not seem to know what he is talking about.

But, suffice it to say that the Senator from Texas is in a position to do mischief and certainly tie up the Senate for a good many days ahead of us.

The Senator from Utah, who has been my colleague in pushing this amendment on the floor, has indicated that he will take a leadership role with respect to the repeal of the antitrust exemption come next year. I have much confidence in him. He is an able Member of this body. He is a determined Member of this body, and he will fight for what he says he will.

Under those circumstances, I would find it foolhardy on my part to go forward, in view of the fact that the Senator from Texas will be offering a second-degree amendment. I am also aware of the fact that the House is not prepared to complete action on this measure.

I think the owners ought to get the message that Congress is prepared to act when we return in January if they are not prepared to sit down with the players and work out their differences.

Under those circumstances, I withdraw the amendment and yield the floor.

The PRESIDING OFFICER. The amendment is withdrawn.

Who seeks recognition? The Senator from Indiana is recognized.

Mr. COATS. Madam President, I am pleased the Senator from Ohio has decided to withdraw this amendment. I think he has raised legitimate questions, questions that this Congress, perhaps, should at least examine. But I do not believe it is in the best interests of baseball or in the best interests of the U.S. Congress to move forward with a legislative solution to the impasse that currently exists between the owners and the players of major league baseball.

We were all, of course, disappointed that the fundamental issues that divide the players and the owners were not resolved during the season so that the season could conclude. We were all disappointed that the World Series and the playoffs could not be conducted. And I think we all hope that this impasse can be resolved before the next season begins. But for Congress to rush to judgment in its waning days and hours of this 103d Congress and attempt to impose a legislative solution to what ought to be a collective-bargaining process, I think would be inappropriate and ill-advised. It perhaps could set precedents in terms of other labor disputes that we would come to regret.

So the Senator from Ohio's decision to withdraw this particular amendment at this particular time I think is a prudent decision. I think it is with only the greatest of national interests at stake that the Congress should make an effort to settle what has otherwise been left to the parties involved. We should intervene only with great reluctance. We should intervene only when great national interests are at stake. And, while we all take pride in claiming baseball as a unique national interest, it is certainly not the kind of national interest that I believe justifies our intervention.

Having said that, I hope the players, and particularly the owners involved in this dispute, would recognize that we are dealing with something almost unique; that is, the antitrust exemption granted to major league baseball. That, I believe, puts a special responsibility on the shoulders of the owners and the recipients of that antitrust exemption. And that requires they negotiate in good faith in attempting to settle this dispute.

By the same token, I do not believe that under the emotion of the moment, in the waning hours of the Congress, that we should overturn something that has worked relatively well. Baseball, obviously, is in a season of major changes, as it has been over the past decade or decade and a half. But there are sound arguments on both sides of this question, and I, for one, want to hear those arguments and think them through carefully. I want to have a thorough process of examination if we are to move forward with a legislative remedy, or even consider a legislative remedy.

Obviously, the best solution to all of this is for both sides to sit down in good faith and bargain together and resolve the issue before the next Congress convenes. The last thing I want to see and the last thing, I hope, that my colleagues would want to see, is the Congress plunged into the middle of a dispute that ought to be settled in a collective-bargaining way between the parties involved. I hope we do not come back in January faced with this issue and involve ourselves in this process. We have some months ahead now in order to settle this. It is clear we are not going to salvage this season. Let us hope the parties involved can, in their own interests but particularly in the interests of fans all across this country, resolve this matter in an equitable way. Frankly, there is enough money to go around to satisfy both sides.

We do need to be cognizant of the fact that large markets and small markets create a major problem for major league baseball and that there has to be some equity between the clubs in order to promote, in the long run, not only a competitive situation within the leagues, but also to provide some protection for the smaller markets who, I believe, deserve a chance to have a baseball club represent their community and with some assurance that there will be stability in the process.

So, having said that just very briefly, deliberately trying not to get involved in the issues themselves, let me thank the Senator from Ohio for his willingness to withdraw this amendment. Let us just hope we can urge, effectively, both sides of this issue to resolve their differences so that at the beginning of spring training in February 1995, we will once again hear two of the most important and inspiring words in the American system: Play ball.

I yield the floor, and, Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DORGAN). Without objection, it is so ordered.

The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank the Chair.

CONGRESSIONAL ROLE IN HAITI

Mr. BYRD. Mr. President, these are dangerous days for our troops in Haiti. Today is the third anniversary of the coup d'etat that supplanted the elected Government of Haiti, and massive demonstrations are expected. The climate of violence is obvious to anyone who watched television news reports yesterday and this morning. As was amply demonstrated just yesterday, when a grenade or other explosive device was tossed into a group of Aristide supporters, killing at least five Haitians and wounding many more, there is the potential for the demonstrations today to erupt into Haitian-on-Haitian violence. And United States troops could very easily get caught in the middle by acting, as they are, as the guarantors of President Aristide's return and as the only civil police force for large areas of Haiti.

This has always been my greatest concern regarding Haiti, that United States forces on the ground could again, as they did so tragically in Somalia, become prize targets for the Haitian military and other opponents to the intervention and to President Aristide's return. Today, tensions could rise to a flashpoint. October 15th could be another flashpoint, as are dates linked to the departure of the military junta, to legislative campaigns, and to legislative elections. I raised these concerns with the President in a meeting over two months ago and expressed my opposition to an invasion of Haiti. I believed then, as I believe now, that a United States military intervention in Haiti is an extremely risky proposition, with a dangerous potential to expand into a difficult and lengthy exercise in nation-building.

Although an invasion, as such, did not occur, almost 20,000 U.S. troops are now on the ground in this risk-filled environment. And according to the Pentagon spokesman, that number may rise, despite earlier assurances that only 15,000 troops would be needed and that those numbers would rapidly decrease. I believe that the Congress has a responsibility to those troops, and a responsibility to the Constitution—which we swore an oath to support and defend—we have a responsibility to weigh in on this issue. We were not in on the takeoff, but we are not without responsibility and recourse. I firmly believe that we ought to establish an end date for this operation, with a funding cutoff. I cursorily outlined my views on this issue yesterday on this floor when I suggested that February 15, 1995, was a reasonable end date for this operation. But, I am not at all tied to that date, and may very well support an earlier one. I would prefer an earlier, rather than a later, date for the end of this operation.

Anything less than a cutoff of funds for this operation is inadequate, an abdication of Congress' role with respect to the power of the purse and the constitutionally mandated role in raising and supporting armies and providing and maintaining a navy.

James Madison stated,

> Those who are to conduct a war cannot in the nature of things, be proper or safe judges, whether a war ought to be commenced, continued, or concluded. They are barred from the latter functions by a great principle in free government, analogous to that which separates the sword from the purse, or the power of executing from the power of enacting laws.

This Congress is charged by the Constitution with the very great responsibility of making those determinations, of whether a war ought to be commenced, continued, or concluded, just as it is charged with the responsibility of raising and supporting armies and providing and maintaining a navy. Although this is not a war in the sense of the constitutional phrase, "to declare war," this Congress has a responsibility to act on this issue, because it is a very volatile environment in which American fighting men and women are potentially the target of actions as deadly as in an all-out shooting war. And, through the power of the purse, this Congress has the means, and indeed the solemn duty, to enforce its judgment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

LOCAL CONTROL OVER SCHOOL VIOLENCE

Mr. GORTON. Mr. President, I am deeply disturbed—I think I can appropriately say outraged—that the Gorton-Lieberman local control over school violence amendment, which was passed, after a day-long debate by this Senate, by a vote of 60–40, with strong bipartisan support and with support from five major national education associations, was stricken from the bill, the Improving America's Schools Act during the course of a conference committee with the House of Representatives. And, of course, it was passed by the House of Representatives without that amendment being a part of it.

Time and time again, I have had the opportunity, with other Members of this body, to come before my fellow Senators to speak and fight to protect our students from the violence that is tearing our society apart and is literally destroying educational opportunities for thousands of America's young people.

On two separate occasions now, the Senate has adopted amendments, of which I have been a sponsor, dealing with school violence. But, again, the conferees on the part of the Senate have retreated from language passed by the Senate, ignored the wishes of the majority of the body, and have stricken this effective language during conference committees. The bipartisan fight for school safety, in other words, has been simply ignored.

This time, the amendment was replaced with a watered down version that may actually exacerbate the discipline problems our local school officials on the front line experience each and every school day. Educators across the country actively supported the language. The language accepted by the conferees, on the other hand, simply directs the Secretary of Education to disseminate widely the current policy on disciplining children with disabilities and directs the Secretary to collect data on the incidence of disabled children engaging in life-threatening behavior or bringing weapons to school and report to Congress by the end of January of next year. It will, of course, do nothing about violence in the schools during this entire school year, at the very least.

In addition, the act as passed defines the term "weapon" as it is in the Gun-free Schools Act. The new definition is:

> Any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive or any destructive device which includes any explosive, incendiary or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce.

Fundamentally, this watered down language that the conferees included not only strikes the important life threatening behavior clause, which in turn was defined with a great deal of caution, as it is under the guidelines for the sentencing commission for those who are to go to prison, but the language now in the bill also focuses solely on guns. What about knives? What about other weapons that can maim or kill our students at schools?

I must say that I find this action hard to comprehend. Do the members of the conference committee really believe that guns are the only problems relating to discipline in our schools? Do they not realize that guns are only a part of the problem and truly violent life threatening behavior is also a serious problem and that other weapons are also serious problems? Why did they neglect the pressing safety problems in our Nation's schools today? How many more destructive incidents have to take place before real action is taken by the Congress?

Mr. President, no student whether or not he or she is defined as disabled, has the right to bring a dangerous weapon into a classroom or a school or a school-sponsored event, nor should any student be able to engage in life-threatening behavior in the classroom or in school without appropriate disciplinary action being taken. This type of behavior is totally destructive to the learning environment of all of our children and must not be tolerated. Our school authorities have to be the ultimate repository of authority to deal with these questions in their own schools. In spite of the overwhelming logic of this position, the conferees dropped this crucial language.

With the constant increase of violent incidents in our schools, our educators, our teachers, our administrators, our school board members, must be able to take reasonable measures to protect students and teachers and other school personnel from bodily harm while at the same time, of course, meeting the needs of children with disabilities for a free appropriate public education. The amendment that the distinguished Senator from Connecticut and I offered and had accepted by this body was a first step toward increasing the safety of all students in our public schools.

That amendment, as I have already said, was endorsed by five national educational associations. In addition to that, there was strong support from the educational community in Washington State where the push for this amendment is widespread.

I received the support of the Washington Association of School Principals, the Washington School Directors Association, the Washington State PTA, the Committee for the Right to Keep and Bear Arms, and several school districts.

Violent and disruptive students who prevent others from learning cannot be disciplined effectively by reason of Federal rules and the fear of lawsuits. Educators must have restored to them the authority to address the problems of violent and criminal behavior in their schools. They must be able to restore discipline and reduce violence both in our schools and in our communities. The amendment proposed to do just exactly that. It regained the control of our classrooms and returned the authority to school officials to address serious disciplinary problems and to be able to do their own jobs of educating our children.

Today, our educational system by reason of Federal law provides a dual system of discipline. Some students who are involved in bringing dangerous weapons to class or who demonstrate life-threatening behavior are properly disciplined under the authority of school districts, and others are not. It is destructive and discriminatory to have one set of rules for regular students and another for special education students protected under the Individuals With Disabilities Education Act. The message this sends is obviously both unclear and unfair to all students.

The section of our amendment addressing the Individuals With Disabilities Act made it permissible immediately to remove a student who brings to a school or a school-sponsored event a weapon that violates school policies. It also allowed the removal of a student who has demonstrated life-threatening behavior in the classroom or on school premises. It required that any such child be moved and put into an interim alternative setting for up to 90 days until a final decision could be reached. If parents called for a due process hearing, the child would stay in the interim placement rather than in the classroom during the course of that hearing in order to prevent further disruptions. That would have provided our teachers and the school districts much-needed local disciplinary control.

Instead, the language that was accepted by the conferees removes the life-threatening behavior language completely and solely concentrated on guns. In addition to the study it calls for, it allows a student protected under IDEA to be removed from the main classroom and placed in an interim placement for only 45 days, half of the previous period.

This watered down language does very little to address the problems of our Nation's schools today. Weapons, other than guns, are prevalent on school grounds, and extremely violent outbursts are occurring in the classrooms with increasing frequency. The Education Committee conferees had a chance to increase the safety and protect our children in the schools by incorporating the Gorton-Lieberman amendment. Instead, they watered down one of the few amendments in the education bill that actually would have improved our Nation's schools.

I am disappointed, I am disgusted, I am outraged that this language that would actually make it safer to walk in the halls and to study in the rooms of our Nation's schools was stripped from the bill. It was as important to me as the rest of the bill. No student can learn in an environment plagued with fear and violence. No student should ever have to do so.

I believe firmly that this seriously weakens the entire bill and raises significantly the question as to whether or not this subject should go over to the next Congress, at which time I am convinced public demand for safe schools would cause an amendment of this sort to be a part of any bill dealing with the education of our students.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that my remarks be delivered as if in executive session.

The PRESIDING OFFICER (Mr. MATHEWS). Is there objection?

The Chair hears none. It is so ordered. The Senator from Texas is recognized.

OPPOSING CONSIDERATION OF THE CONVENTION ON BIO-DIVERSITY

Mrs. HUTCHISON. Mr. President, on August 5, 35 Senators signed a letter to the majority leader regarding consideration by the Senate of the Convention on Bio-Diversity. The letter requested that the Senate delay consideration of the treaty until our concerns were addressed. These concerns remain, but it appears that the majority leader intends to bring up the treaty before adjournment.

Under the treaty, a conference of parties will meet after the treaty is in force to negotiate the details of the treaty. We need to know how the Senate, in fulfilling its constitutional responsibilities to concur in treaties, can review the provisions of a treaty that will not be written until the meeting of the conference of parties. As Senators HELMS, PRESSLER, and COVERDELL stated in the committee report on this Bio-Diversity Treaty.

> The financing mechanism, the degree to which intellectual property is protected, the definitions of developed and developing states, the voting weights and procedures for member states: all of these and other important matters are left undecided.

Moreover, the convention and resolution of ratification do not require that protocols or amendments developed by the conference of parties that are signed by the President be submitted to the Senate for ratification. Protocols are being drafted for the November conference that we have not had a chance to review and will not have the opportunity to approve. We are sworn to uphold the Constitution. We cannot delegate that duty with a blank check to an international body, or to the President.

We need to know why the treaty prohibits countries from making reservations from agreeing to any of its provisions. Because the treaty is not subject to reservation, any congressional or Executive statements saying we do not agree to be bound by a provision of the treaty will be ineffective after the treaty is in force. We will instead be bound by the conference's interpretations of the treaty.

I am especially concerned about the effect of the treaty on private property rights in my State and throughout America. Private property is constitutionally protected, yet one of the draft protocols to this treaty proposes "an increase in the area and connectivity of habitat." It envisions buffer zones and corridors connecting habitat areas where human use will be severely limited. Are we going to agree to a treaty that will require the U.S. Government to condemn property for wildlife highways? Are we planning to pay for this property? One group, the Maine Conservation Rights Institute, has prepared maps of what this would mean—I do not know if they are accurate yet, but that is my point. Neither do the proponents of this treaty.

Article 10 of the treaty states that we must "protect and encourage customary use of biological resources * * * that are compatible with conservation or sustainable use requirements"—as set by the treaty. Whether our ranchers could continue to use public and private land for grazing could depend not just on the Secretary of the Interior's latest grazing rulemaking, but on whether grazing is considered a compatible use for conservation under the treaty. This bio-diversity treaty could preempt the decisions of local, State, and Federal lawmakers for use of our natural resources. The details that are left for negotiation could subject every wetlands permit, building permit, waste disposal permit, and incidental taking permit to international review.

We would be subjecting property owners to international review, which would be yet another step in the already egregious bureaucratic processes, just to have the very basic permits necessary for the use of their own private property.

I believe that arguments that the treaty should have been approved by August 30, 1994, in order to have a vote at the conference of parties in November 1994, are without merit. The administration is fully aware of the Senate's authority to approve treaties and the time necessary for approval. The administration should have left more time for consideration by the full Senate.

Here we are, in the last 10 days of scheduled session, and we are being asked to consider a very important international treaty that is not very well known, and the consequences of which are even less well known.

I am well aware of some Senators' concerns about approving the treaty before the November conference of parties so that we can be a participant. But we will qualify as an observer to the negotiations. The United States would be the largest donor to the Global Environment Facility—the proposed financing mechanism—and certainly can expect the parties to pay close attention to our suggestions if they want us to contribute money.

Mr. President, I think the responsible approach here would be to let the November conference of parties come together before we have passed this treaty. Let us review what other parties propose at the negotiations. I think it would be better to pass the treaty later, after we know the details.

I do not feel comfortable, Mr. President, giving a blank check, passing a treaty which is a very important constitutional responsibility of this Senate, before we have fully negotiated the treaty and know what will be in it.

I think it is very, very important that we wait and get more information. We can ratify the treaty later. The important thing, Mr. President, is that we do not pass something that will bind this Congress and our Nation when we do not have enough information about what is going to be in the treaty.

We cannot approve a treaty on someone else's timetable. Unless we are given adequate time to fully debate the treaty and make reservations and understandings as are absolutely necessary, we should not act. We should have full and open debate on these issues. We should not rush this treaty at the last moment before the end of Congress.

Several of my colleagues and I have statements for the RECORD in opposition to consideration of the treaty at this time, and about the concerns that we would like to have addressed before or during the November meeting. The five of us, and many others of our colleagues, will oppose a motion to proceed to consideration of the treaty.

THE BIODIVERSITY TREATY

Mr. BURNS. Mr. President, the Biological Diversity Treaty may come before the Senate for ratification. I strongly oppose this treaty. I am fearful of how this treaty will effect Montana's agriculture and our other natural resource industries. This is yet another example of the Clinton administration's war on the West.

The Convention on Biological Diversity was reached at the Rio De Janeiro meeting in 1992. At the time the treaty was drafted, the United States was cautious about embracing such a sweeping plan. Since that time the Clinton administration has asked the Senate to ratify the treaty.

This treaty makes me nervous. U.S. environmental laws are currently encroaching on our private property rights. Provisions like the Endangered Species Act and wetlands laws are dictating what private land owners can and cannot do with their own land. This treaty could give a panel outside the United States the right to dictate what our environmental laws should say. That is wrong.

I have long believed that the best land management decisions are those made at the local level. Instead of moving our decisions from Washington to the local level, this treaty moves these decisions overseas.

Each Senator should have received a letter from 293 groups from around the Nation who oppose this treaty—14 Montanan groups, including the Montana Farm Bureau Federation, Putting People First, and Grassroots for Multiple Use have joined in this impressive letter. These folks are right, the treaty is vague and leaves too many questions unanswered.

Just as the intent of the Endangered Species Act has been twisted, I am fearful of how this treaty could be twisted to push legitimate, job creating activities, off not only public, but private lands. Montanans do not want that.

I urge my Senate colleagues to join me in opposing this treaty.

CONVENTION ON BIOLOGICAL DIVERSITY

Mr. CRAIG. Mr. President, on August 5, 1994, I was one of 35 Senators who wrote to the majority leader raising a number of questions about the Convention on Biological Diversity. The concerns I had then remain, despite attempts of the administration to explain away apparent flaws in the document.

If anything, I have become even more concerned about the convention after reading the analysis titled Technical Review of the Convention on Biological Diversity written by Mark Pollot and Allan Fitzsimmons. This new report raises very serious questions about the purpose of the convention and the impact it may have on domestic policy. My reading is that States' rights and private property rights could be severely compromised.

I am not at all inclined to take the position that it will all work out for the best, and accept the premise that the convention will not be used to inflict added regulation on property owners and public land uses. I have seen too much of that in recent years. I have no doubt that environmental interest groups are waiting in the wings to attack the Western public lands States with legal actions stemming from new authorities they find in the convention. Article 8, for instance, calls for the eradication of alien species which threaten ecosystems. I envision that provision being used as leverage to eliminate cattle and sheep grazing from public lands. Article 8 also calls for added regulations outside protected areas. That sounds exactly like the calls I have heard, so far unsuccessful, from opponents of multiple use who wish to create artificial buffer zones for millions of acres outside Yellowstone National Park and Hell's Canyon National Recreation Area.

The Federal Government controls 63 percent of the land in the State of Idaho. Our economy and our lifestyle are sensitive to the pull and tug of environmental laws and their interpretation by Federal agencies—particularly so when it comes to the Endangered Species Act. The majority of the State's land area is encumbered by one or another species listed under the ESA. Unfortunately, the ESA has become a tool for those groups attempting to stop logging, mining, and irrigation, and to remove cattle from the public range. They have used every nuance offered by the ESA and its interpretation in the courts to raise challenges and pursue litigation at an alarming rate. At this very moment, a Federal judge is considering a request for injunction which would shut down all activities on six national forests in Idaho. Environmentalists will stop at nothing in their zeal to extend the power of the ESA, regardless of the disruption and damage which results.

Though the ESA is well beyond its time for reauthorization, the Environment and Public Works Committee has delayed markup and rebuffed amendments. I believe the convention would lend even more strength to the ESA and offer further opportunity for those who oppose traditional Western public land uses. I am not about to let that happen. There are many other examples I could quote from the convention which appear to open public land management to a new barrage of legal initiatives from those who would close these lands to public use.

The convention simply is not ready for ratification by the Senate. Terms are too vague and definitions are lacking. The convention needs much more thorough review by committees with jurisdiction before any action is taken. One hearing was held in the Foreign Relations Committee. I believe the Committee on Energy and Natural Resources, and perhaps others, have an interest and should have time to hold hearings and develop the record in terms of public land and agricultural implications.

As I understand it, there is no advantage to the United States to ratify the treaty at this time. The United States will be in attendance at the conference of parties which is scheduled for late November. Our status there will not change if the treaty is ratified now. The conference will begin to add details and understandings to the convention. Even today, a 300=page draft of protocols to be considered at the conference is just arriving for review. We will know much more after the convention about how the terms of the convention will be interpreted. An argument has been made that our negotiating position at the conference is stronger if the Senate has not ratified the treaty. Other countries will be aware that the United States is withholding approval until after definition is added and we have had a chance to review and analyze it.

Mr. President, there are simply too many unanswered questions about the convention. The Senate needs more time to examine all aspects. I strongly urge that we not act on the resolution for ratification at this time.

CONVENTION ON BIOLOGICAL DIVERSITY

Mr. HELMS. Mr. President, I have a number of concerns about this treaty—concerns that I have expressed before, and which I will repeat for the record.

The many nations represented at the negotiation of this treaty at the so-called Earth summit had widely varying national agendas—agendas that had little to do with environmental protection. Further, I believe that many of the clauses and statements in this treaty reflect a rather common view among so-called developing nations that this treaty is some sort of an international cash cow to be milked by transferring, with no strings attached, wealth and technology from developed nations to promote the economic growth of developing nations. I give them credit for recognizing their own national interests and pursuing them—a matter in which I believe our own State Department could learn a thing or two.

In particular, I find the convention's treatment of intellectual property rights, finances, voting procedures, technology transfer and biotechnology dangerously muddled, vague, and disturbing.

But there is an even more fundamental concern: The treaty before us will commit the United States to certain obligations, but the Senate, which is being urged to ratify this treaty now, has no way of knowing the nature and extent of those obligations. The treaty spells out no details, nor does it refer directly to any existing mechanism or structure.

For example, articles 20 and 21 of this treaty commit the developed country parties to provide new and additional financial resources to developing country parties. Who are the developed countries and who are the developing countries? That will not be known until after the treaty enters into force. At its first meeting, the so-called conference of parties will establish a list.

What about these new and additional financial resources? How much money will the Senate be committing the United States to paying by ratifying this treaty? Is that not a reasonable and straightforward question, one which we are obliged to ask before ratifying?

Yet we don't know. Once again, we learn that there shall be a mechanism for the provision of financial resources to developing countries and the operation of that mechanism shall be carried out by such institutional structure as may be decided upon by the conference of parties at its first meeting.

Tim Wirth came before this committee and assured us that our financial obligations are known, that the financial mechanism is in fact established. I challenge him to specify where that is stated in the treaty. The treaty itself is silent on these matters, and, according to the Vienna Convention on the Law of Treaties, matters or disputes requiring interpretation shall refer to the text of the treaty itself.

The administration assures us that it will guard U.S. interests at the conference of parties. It assures us that it will not allow any surprise developments that we would not support. I am gratified to hear that, but I cannot accept this abdication of the Senate's constitutional privilege to advise and consent to a treaty before ratification.

This so-called treaty is scarcely more than a mere preamble, not a treaty. The real treaty—the essential nuts and bolts—is yet to be created at the conference of parties. If the Senate precipitously ratifies this preamble falsely described as a treaty, it will have given away one of its major constitutional authorities and will have betrayed the trust of the American people.

There is a simple solution: Article 23, paragraph 5 of the treaty provides that any state not party to this convention may be represented as observers at meetings of the conference of parties. Even if the United States ratified the convention now, it could participate in this first conference of parties only as observers. But that is just fine: the United States' voice will be heard loud and clear. The United States is the single largest contributor to this convention; it plans to fund it to the tune of $420 million over 5 years. If that does not count for something, then we are crazy to even consider ratification. When some of the vagueness of this convention is cured—the voting rules, financial procedures, definitions of developed and developing States, definition of terms like "alien species" and "biosystem," technology transfer arrangements, biotechnology issues, et cetera—then bring it back to the Senate for hearings and consideration. The more this administration tries to push this through at the eleventh hour of the 103d Congress, the more suspicious I get.

THE CONVENTION ON BIOLOGICAL DIVERSITY

Mr. NICKLES. Mr. President, along with several of my colleagues, I continue to have serious concerns regarding the Convention on Biological Diversity, treaty document 103-20. I understand that the distinguished majority leader may bring the convention before the Senate prior to adjournment. One of several major issues that has not been adequately addressed by the Clinton administration relates to the effect of the convention on State, local, and tribal laws and rules.

Prior to Senate consideration, it is imperative that we are sure about the extent to which this convention will impact Federal agency regulations and actions taken by the Federal Government, its agencies, or its agents in pursuit of or in furtherance of the convention. Will the convention be construed by courts to preempt, supersede, or limit any existing or future State, local, or tribal laws or regulations, including those laws or regulations that apply to private lands, such as those lands that may lie adjacent to Federal wildlife refuges or wilderness? At this point, we do not know.

The Clinton administration has frequently assured us that they will take care of these problems. They have sent up supporting statements about the convention, but they have given little information on the likely effect on State, local, and tribal law.

I point out that the memorandum of record signed by the Secretaries of State, Agriculture, and Interior on August 16, 1994, states that the convention does not provide for a private right of action. This is small comfort, and may not even be true. Many Federal environmental and administrative procedure laws generously provide third parties with standing to bring enforcement actions or challenges into Federal courts. Frivolous suits brought by groups against individuals and small businesses have been devastating to the defendants named in those suits, even if the plaintiffs' suits are ultimately dismissed for lack of standing. But standing may be granted simply because this is a treaty, irrespective of the absence of specific language in the convention providing a private right of action. As discussed by constitutional lawyer Mark Pollot in "Technical Review of the Convention on Biological Diversity:"

> Indeed, the very existence of the convention itself may be used by opponents of the state-based action to move actions into federal court on the theory that the convention makes local and State land use and zoning questions inevitably Federal questions based on a claim of preemption. It is not the treaty itself which gives rise to the question, but the supremacy clause [of the U.S. Constitution].

I am very concerned about the potential reach of this convention into the realm of constitutionally protected property rights of individuals and the rights of State, local, and tribal governments to control uses of land within their jurisdictions. I am also highly concerned about the effect of the convention and actions taken under it on the financial and other resources of the individuals and State, local, and tribal governments who will be forced to expend those resources to defend against the infringement of their constitutionally protected rights when actions taken in pursuance of the convention affect those rights.

This is only one of the many issues left unanswered about the convention's possible impact. It is clear that the Senate should not try to rush through its advice and consent to the convention's ratification until we have more information. In particular, the conference of the parties provided for in the convention will meet in November, and is expected color in many of the blank areas in the convention text. Also, hundreds of pages of protocol language is currently being drafted for the November meeting, none of which will be subject to Senate advice and consent if the Senate rushes to take action now. The Senate must be allowed to review the convention with these details attached before deciding whether this is in the interest of the United States. We should at least wait until next year before committing our country to unknown obligations we may have reason later to regret.

CONVENTION ON BIOLOGICAL DIVERSITY

Mr. WALLOP. Mr. President, I rise today to express my concern on the haste with which we are being asked to act on the Convention on Biological Diversity. When reviewing international treaties, it is the role of the Senate to provide advice and consent to the President. This process is meant to protect the interests of the U.S. treaties define the United States relations in the international community and, as such, can have a tremendous effect on domestic law.

The so-called biodiversity treaty attempts to globalize the enforcement of restrictive environmental laws. These laws, as contained in the treaty, remain consistent with this administration's current environmental policies. At the agency level and in Federal courts across this Nation, the administration has fought to subordinate private property rights to the newly proclaimed rights of various plant and animal species. It has sought to define ponds and lawns wet from leaky sprinkler systems as navigable waterways under the Clean Water Act, simply to transfer more property from private ownership to the Government. The biodiversity treaty, as written, would give the Clinton administration even greater authority to accomplish suspect environmental goals.

Furthermore, article 8 of this treaty mandates that parties to the treaty take appropriate action and special measures to conserve biological diversity in protected areas. What is a protected area? By the treaty's definition, it is a geographically defined area which is regulated to achieve specific conservation objectives. In other words, a protected area is whatever an anonymous Federal bureaucrat says it is.

Under this treaty, the Federal Government would be required to manage biological resources important for the conservation of biological diversity whether within or outside these protected areas. Yet, nowhere in this treaty, or in any literature about the treaty, is there an explanation of the substantive qualities of protected areas, threatened species, or alien species, which necessitate their regulation or, in the case of alien species, their eradication.

Many of us have taken long lists of concerns to the State Department. In return we have received the weakest of verbal assurances that our concerns will be taken care of. We have been told that unseen, forthcoming protocols will rectify and clarify any and all problems. The State Department has even gone so far to say that we can safely agree to the treaty without ever seeing these 300 pages of protocols.

We know that this treaty is not complete, and we know it will not be complete until after the conference of parties has completed its work. I ask you, can the United States Senate, in good faith, give its consent to this treaty without having had an opportunity to scrutinize the completed convention? The best advice we can give President Clinton right now is to wait until the Convention on Biological Diversity has been completed before asking for our consent.

AMENDMENT NO. 2601

Mr. CHAFEE. Mr. President, I am relieved Senators METZENBAUM and HATCH have agreed to withdraw their amendment to limit the antitrust exemption conferred upon major league baseball by a 1922 Supreme Court decision.

First, this is no way to legislate. We are in the 11th hour of the session, on the last appropriation conference report pending in the Congress. The Judiciary Committee is the place to consider, debate and refine an authorization such as this—not the Senate floor.

The real issue is whether or not the Federal Government should inject itself into a private labor-management dispute—plain and simple. It is my steadfast view that the Congress has no business interfering in a collective bargaining dispute, except under the most extraordinary of circumstances.

Second, and finally, I am opposed to this amendment because it would have a detrimental impact on minor league baseball, which draws substantial financial support from the major league franchises. This is the farm team system, the fresh blood for the major leagues, and thus, crucial to the future of baseball.

The salaries of all minor league players are covered by major league baseball—a cost to the clubs of about $8 million per year. This subsidy enables minor league baseball to sell affordable tickets, and to provide maximum benefit to the fans.

Rhode Island is a minor league State, and we are extremely proud of our own Pawtucket Red Sox, a club within the International League. And let me tell you, they have had a great season, with a packed stadium almost every night. That team has been the training ground for some great players including Jim Rice, Fred Lynn, Wade Boggs, and Roger Clemens. Rhode Island has had a long tradition of minor league baseball, dating back to the founding of the Providence Grays in the 1890's. Our own Pawtucket Red Sox began their great tradition in 1968. They are a valued asset in our State, with a passionate and loyal following. Their future would be threatened if this legislation were enacted, and thus, I will continue to oppose legislation along these lines.

Mr. WOFFORD. Mr. President, here it is the end of September—and there are no pennant races. Obviously, baseball has serious problems. We are at a major impasse.

The owners and the players could not sit down at a table and work out a compromise to save the season, and we are all the losers for it.

The amendment offered by my colleague from Ohio, Senator METZENBAUM however well-intentioned, is not the best way to go forward. I'm concerned that it would hurt small market teams.

While I agree that it is proper for Congress to review the state of the game, I would have voted against Senator METZENBAUM's amendment.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

GATT

Mr. DORGAN. Mr. President, there has been a fair amount of discussion in the last couple of days here in Congress and in the newspapers about the subject of GATT, General Agreement on Tariffs and Trade.

Frankly, not many people know very much about GATT, what it means. It sounds sort of dull, like a backwater in public policy. But GATT, the General Agreement on Tariffs and Trade, the potential ratification of the Uruguay round of these trade talks, will have enormous effect on the lives of every single American and every American family.

I wanted to say a few words about it today because I sense there is an impatience here in Congress and in the country on the subject of GATT. Some people are impatient because they think our trade negotiators have negotiated an agreement with many, many other countries and it a fundamental nuisance if we now decide we cannot move this swiftly and approve it quickly. It is just a nuisance if somebody wants to have a discussion or debate about it.

I would say, it is not at all a nuisance for us to be talking about the fundamental economic and trade policies. These are some of the most important and profound policy changes in the last quarter or half-century.

This country, as I have said on the floor on previous occasions, is in a sour mood. It does not take much to find that out. Turn on your radio and listen to the next talk show. Turn on the television. Go visit with some folks in a cafe and see what they think about life, about Washington, about their Government, about where the country is headed.

At least part of that, it seems to me, is what they see in the institution of Government. They see waste and they see problems and they see evidence of concern. That sours them. But there is another element to all this because I think the Government, the Congress, for example, has addressed a lot of things in very important ways. We affect senior citizens in a positive way, affect farmers in a positive way, affect wage earners in a positive way. So not all is bad and not all that has been done represents a step backward. We have made many steps forward. But it is so much easier to be critical than it is to look at the positive side of things—and I understand all that.

Yet at least part of the discontent deep in the gut of every American is some basic understanding that we are not quite doing as well as we used to do. It used to be almost a given when you woke up in the United States of America, you knew that we were the biggest, the best, the most, the first: No. 1. It was just the way it was. And you knew that is the way it was going to be in the future. And you knew life was better for you than it was for your parents. And life was going to be better for your kids than it was for you. That is the way it worked. That is the way things have been for several decades in this country.

But things have changed. The fact is, the average American family has less income now, adjusted for inflation, than that family did a decade ago. If you talk to parents you will find out they are not so sure their kids are going to do better or have it better. In fact, most people think their kids are going to confront more challenges and more trouble and lower incomes and less opportunity. That gnaws at people and leads people to be concerned about the future and to have less confidence in the future.

People know that if you look around you will see other people around the world now have jobs that we used to have. Whoever might be watching C-SPAN on television will understand, probably, that we invented television. The United States of America invented television. We invented it but we no longer produce many television sets. The production of television sets has largely all moved offshore. We invented the technology and someone else produces the television sets.

The American people know that. And they know that it is not just television sets. We have lost market share in many other things. We have, in the last decade developed an economy in which we listen to economists and we listen to the soothsayers on Wall Street and the business folks and others. And we have been led to believe that we should measure our economic health based on what we consume rather than what we produce. No country will long remain a world economic power unless it measures in a real way its opportunity and its strength based on what it produces, not what it consumes.

Turn on the radio as you drive down the beltway and listen to the next economic statistic. The next question is, what were retail sales this month? The whole series is geared on what we consume rather than what we produce. And that is the dilemma that we face in our country. GATT, the General Agreement on Tariffs and Trade, furthers this consumption mentality.

The notion of GATT is that we should reduce tariffs. Last evening I was listening to the news. The description of GATT was: It is a reduction of trade barriers. Who could be against that? I do not know of one thinking person in this country who would say: Gee, I am against the reduction of barriers. Phrase it that way and I say sign me up. Send me in. I am all for it.

But that is not exactly what is going on with GATT. Yes, it reduces tariffs. That was part of the negotiations, country to country. It does open up markets. I think it will do that.

It also establishes the rules of competition. Most certainly it will do that. It establishes the rules by which we in America who produce certain products will compete against others in other countries who produce those same products. And the rules of competition, it seems to me, are rules designed to facilitate the economic interests of the largest producers in the world, those economic interests who are very large. These producers are not American firms or Japanese firms or British firms or German firms any longer; these companies do not get up in the morning and say the Pledge of Allegiance to the Flag. These big producers are multinational corporations. They are international corporate citizens interested in one thing: Maximum advantage for their stockholders.

Those corporations, which I think largely drive these discussions, have an interest that is very, very simple. Their interest is to produce their products in an area of the globe where they can find the cheapest possible production and then to sell their products in the area of the world where they can find the best markets for sale. What does that mean? It means that when you are producing something, if you can possibly find a way to produce it paying 15 cents an hour labor and then sell it in a rich, aggressive market like America, you will maximize your profits.

So we set up competition in which producers can judge where in the world to produce. It is as if you get on an airplane and you fly around the world and peer down and say, "All right, where will I produce this product? Who has the capability? Who has the labor force? And what will it cost me?"

I have said on the floor previously that the cost comparisons are very interesting, which is why the competition for production established in these kinds of trade agreements is so fundamentally unfair to the American worker. We now pay about $16 an hour for average manufacturing wages in the country. That level comes from a very long struggle between producers and workers, and the collective bargaining process and our notion of what a living wage should be. That network of rules and notions has developed over a long period of time in this country.

Now, in many other countries there is no such network at all. In many other countries we are not talking about a real comparative economic advantage, as economic theory would describe it. We are talking about political comparative advantages, political in the sense a country can decide that it is not interested in upholding fair labor standards.

Some countries do not have standards for safety in the workplace, standards that prevent 10-year-old children from working 10-hour days in sweatshops. These are political decisions, and some countries make them all the time in order to inhibit the growth of a well-paid labor force.

So the result is, we have many areas around the world where you have relatively low-skilled but very, very low-paid, workers. These workers are willing to work for multinational companies for what we would consider to be an insignificant amount of money.

I mentioned the other day a woman named Sadisha. Sadisha is a woman in Indonesia who makes shoes. She works 10½ hours a day. She works 6 days a week, and she makes 14 cents an hour. The product of her work is a pair of shoes that will sell for $80 in the United States of America. She needs about 1¼ hour to make a single pair of shoes, so an $80 pair of shoes costs only 20 to 25 cents in labor.

Would a company who wants to produce shoes decide to produce them in Pittsburgh? Or would that company decide to produce them where they can pay 14 cents an hour? What is the economic decision for that company? It is clear. It is a decision that too many companies have made over the past few years. A manager thinks to himself, I have a choice: I can hire one American at the average manufacturing wage, or for the same money I can hire 20 people from the Philippines. Rather than that one American, I can hire 40 people from India. Rather than hiring one American at an average manufacturing wage, I can hire 80 people from China.

Those are the choices that producers have if you establish a competitive trade system in which you say, "We're not too much worried about standards; all we want to do is reduce the tariffs. And if we can reduce the tariffs, we'll pretend we just won the Olympics. We'll celebrate. We'll declare a day of feasting and rejoicing. And we'll call the agreement free trade."

Of course it is not fair trade because we have then said to the American worker, "We want to set up competition for you and, gee, we think you're good, we think you're hardworking and enterprising, and we think you can win." They say, "What is that competition?"

We say, "You now earn $15 an hour average manufacturing wage, and we're going to put you in the ring and you are going to compete with somebody making 14 cents an hour."

They are going to scratch their heads and say, "You know, I'm not sure we can compete. I'm not sure we want to compete. Who thinks we can compete with 25-cents-an-hour wages, or 50-cents-an-hour wages, or $1-an-hour-wages when, after all that we have been through in this country to improve living standards and working conditions, to try to give people who work hard a living wage, we are now told that we have a new system of competition." That is what is at work in these discussions about trade rules and GATT.

Yesterday, I was in a discussion about this issue. It took no more than 30 seconds to become the predictable discussion between people who talk right past each other. I raised some of these same issues, and the response by a friend of mine was, for those of you who want to build walls around America and keep out all imports—and I thought to myself, gee, that is not what I am talking about. I would never suggest that. I want American consumers to have a wide choice of goods produced in the world. So immediately we talk past each other in these debates.

Maybe we should construct trade rules differently. Competition should be fair competition, not between us and everybody in the world, or us and those who will be willing to work for 25 cents an hour. The competition would be fair between the industrialized countries where living standards and work standards are relatively similar.

And then let's use preferential trade conditions to try to bring some of the other countries up to our level, rather than being dragged down. That would be better than what happens now. Now the producers fly around the globe and say, "Where on Earth can I produce for the cheapest cost?" Of course, we learn that those very same places where you can produce for the least cost are going to allow you to hire workers who cannot begin to purchase the products they produce.

So you have no choice but to ship these goods to the United States. You need to develop markets and try to sell your product here. This works for a while, and then one day, inevitably, not enough people will be working here to be able to afford to buy the products that you produced elsewhere.

That is the fundamental problem of putting together a trade system that works.

It is not just an inconvenience, and it is not just a nuisance for us to decide to stop and try to promote a serious and abiding national discussion about these policies. These policies, after all, are about this country's economic future. It is not about free trade versus protectionism. That is far too simplistic.

The Senator from North Carolina raises these questions, and some others of my colleagues raise these questions. We are viewed with arched eyebrows as "folks who don't quite get it, folks who just can't quite see over the horizon, who just do not have the vision to understand exactly what is happening."

I do not agree. I and a lot of the American people understand exactly what is happening. In fact, I think this problem fuels part of the engine of discontent in this country. Too many American families understand their incomes are lower than they were a decade ago. Too many American families understand that when they are looking for jobs for their kids, well educated or not, it is going to be harder to find the jobs. Those jobs have left.

That is what this debate needs to be about. We had an economist, who is a friend of mine and for whom I have great respect, come to a hearing some while ago. He said, "These kinds of trade agreements will mean, yes, lower income, but only for the unskilled workers in America."

I said, "What do you define as unskilled workers in America?" Seventy percent of the American work force—70 percent of the American work force.

"Yes," the economists say, "this will mean lower income for unskilled workers, only for unskilled workers." What they are saying is, these kinds of agreements will mean lower income for 70 percent of the American work force. Is that a policy that we want for America's future?

Those who are opposed to these viewpoints will say, "Well, should we not compete?" Absolutely. No question about it. Is competition good? You bet it is. Can we do without competition? No, I do not think so, because without competition you do not have creativity, you do not have innovation, you do not have the kind of aggressive invention and production that goes on in a free society. So we need it.

The question has never been that. The question is fair competition. Do we want to compete against 25-cent-an-hour wages? Do we want to compete against $1-an-hour-wages? Or do we want to decide to compete when we have developed rules of competition that are fair? Those are the questions, it seems to me, that we must begin to answer.

There are times these days when I think everyone serving in this Chamber wonders how will we ever change the mood in this country; how will we ever try to respond to the increasing volume of negative cries and responses in this country.

One way we do that is to understand that all of us have individual responsibilities that start with us, not with Government, and they start with us at home, in our neighborhoods, and in our communities. We also need to meet the responsibility we all have to make sure that our Government does the right things for our future.

The right thing, it seems to me, that restores hope and confidence in this country, is to provide people with an understanding that tomorrow there will be opportunity. That is all our obligation is; that is all people want. People want to be able to see opportunity ahead.

As I close, I cannot help but point out one other thing. A few days ago we saw this exercise of a contract for the future on the steps of the Capitol—a contract. I looked at that contract; I thought somebody ought to be sued for contract fraud here. There are certain timeless truths that ought to go across every single debate and every single understanding we have: Pay your bills.

The contract they are talking about says, "Let's increase the deficit massively, not worry about it, promise and promise and promise, and not decide how we pay for it."

Pay your bills. That is the first virtue, it seems to me. It is a truth that we all ought to understand, individually and especially in our Government.

Educate your kids. Give your kids an opportunity, invest in them, invest in human potential—that is the way to move this country ahead.

Keep your streets and neighborhoods safe. Deal with the problem of security and crime. If you cannot, kids cannot learn if they are not safe, families do not stay together. You cannot produce if you do not feel safe. The fact is, security and safety are critical.

And then provide an opportunity in which our workers compete fairly—fair trade—and that is what GATT is all about—fair trade. That is why this need for a debate is so important.

I guess I am so concerned about GATT because we need to enable the American people to hope for the future. People hope in the future if they believe that the future holds opportunity. That is what this debate is about.

I am not one who believes the economic future of this country is inevitably a future towards fewer jobs and lower income. It is the future we decide it will be. We can compete anywhere on this globe. We have the ingenuity, the capability. We have the natural resources. If we have the national will and if we develop the national policies, we will do just fine.

But this debate is about the policies and the will. That is why I would say to those who think this is all a nuisance, and who believe we should not worry too much about GATT, you are wrong. This is the time, this is the place, and this is the purpose of this institution. We need to have a meaningful debate about this country's economic future.

Mr. President, I yield the floor.

Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER (Mr. ROCKEFELLER). A quorum has been questioned. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MACK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MACK. Mr. President, I ask unanimous consent to address the Senate as if in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MACK. Thank you, Mr. President.

ROBERT LEE FULTON SIKES

Mr. MACK. Mr. President, early Wednesday morning, America lost a remarkable son. Robert Lee Fulton Sikes was a citizen, businessman, father, and patriot who served the people of the Panhandle of Florida in the House of Representatives for 38 years.

He cast a long shadow during his years in Washington, and continued to do so in the years following his retirement in 1978.

It was a pleasure and an honor to have known Bob Sikes. His contributions to America and the State of Florida will endure through generations to come.

He worked tirelessly to strengthen America's armed forces, serving as chairman of the Military Construction Appropriations Subcommittee in order to provide for the needs of our men and women in uniform.

An avid hunter, he loved the land of northwest Florida and is credited with creating the spectacularly beautiful Gulf Islands National Seashore.

Bob Sikes was born 88 years ago in Isabella, GA, and he attended the University of Georgia where he studied agriculture and journalism. After receiving a master's degree in English from the University of Florida, he became a newspaper publisher in Crestview, FL.

He was first elected to the House of Representatives in 1940. He served in the Army Reserve, including a European tour during World War II while a Member of the House, and he eventually rose to the rank of major general.

Congressman Sikes had a unique nickname, "He-Coon," which later served as the title of his autobiography. He once explained the nickname, saying the He-Coon was a kind of leader. He knew where the food was and where to get the water.

He was supposed to have been able to keep off his enemies and to protect his own. He was simply supposed to look after those around him who depended upon him. It would be hard to find a more fitting description of the feelings so many of his constituents held for their Congressman.

I had the chance to witness that esteem firsthand a couple years ago when he escorted me around his beloved Crestview. The outpouring of love and respect for him from everybody we met was overwhelming.

Our thoughts and prayers are with his wife Joan, his son Robert, his daughter Bobbye, and his entire family. He served well the country he loved. To borrow a phrase I often heard him use, during his remarkable life Bob Sikes surely "covered himself in glory." We will miss him.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT OF 1995, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RECISSIONS ACT, 1994—MESSAGE FROM THE HOUSE

The Senate continued with the consideration of the message.

Mr. DURENBERGER. Mr. President, I ask unanimous consent to set aside the pending amendment to offer an amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 2602 TO AMENDMENT IN DISAGREEMENT NO. 12

Mr. DURENBERGER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER], for himself, Mr. CONRAD, Mr. CHAFEE, Mrs. FEINSTEIN, Mr. BOND, Mr. HEFLIN, Mrs. HUTCHISON, Mr. DANFORTH, Mr. DECONCINI, and Mr. ROCKEFELLER, proposes an amendment numbered 2602.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . MEDICARE SELECT.

Section 4358(c) of the Omnibus Budget Reconciliation Act of 1990 is amended by striking "3-year period".

Mr. DURENBERGER. Mr. President, this amendment is designed to extend what is called the Medicare Select Program. The program is scheduled to expire in 3 months, on December 31. At this point in my remarks, for the benefit of the 20 to 25 of my colleagues who are lined up at an airport waiting to leave, I intend to withdraw this amendment at an appropriate point in time, when there is an agreement relative to the disposition of the underlying bill. I also say that for the Mayor of the District of Columbia, and everybody else.

Mr. President, I ask unanimous consent that Senator ROCKEFELLER be included as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. The Medicare Select Program is a demonstration program which is well known to many of our colleagues. It was initiated in OPRA 90 to provide beneficiaries with a managed care option for supplemental benefits. The program is working. Its authority to operate needs to be extended, and it is that simple. Every once in a while we do something right around this place.

Medicare Select is a name attached to an opportunity, if you will. It has strong bipartisan support. It was included this year in the majority leader's health care reform bill, the Finance Committee bill, in the minority leader's bill, and in the mainstream bill—I imagine every bill but the single payer bill. I understand the Senators from Florida, Mr. MACK and Mr. GRAHAM, support the program as well.

Mr. President, these bills included provisions to extend and expand the program to allow all States to participate. It is currently limited in participation to 15 States. My amendment only attempts to guarantee continuity for the program in the States where it is already operational, not to extend its authority.

I will explain why it is so important to extend its authority. Over 400,000 Medicare beneficiaries currently are enrolled in this program in these 15 demonstration States.

The impact of not extending Medicare Select will be, very simply, higher premiums for the elderly, less choice for beneficiaries, and higher costs to the current part A, part B Medicare system.

What does all of this mean to elderly Americans? It means that congressional gridlock could cause rate increases to many Medicare beneficiaries in 1995. It means that some beneficiaries will lose the option of continuing with their current plan variety. In my State of Minnesota, for example, it will impact two of the five current managed care choices. I have a chart here which looks like it is done in fine print, but in order to get all of the benefits and all of the choices available to seniors in my State, thanks to Medicare Select, and also thanks to the even older contract programs, that we still are managing to operate in my State, we put them all on this chart.

Many elderly Americans are used to just getting part A and part B from the Government and then getting sold a bunch of supplementals that fill the gaps in their Government program, sold to them by they used to say "overaged movie actors"—but the closer I get to that age, the less I say that—on TV. If you need a drug benefit, buy a supplemental; if you want to cover your deductible in the hospital, buy a supplemental.

Thanks to the current occupant of the chair, the majority leader, and many others who worked on the Finance Committee to try to improve choices for the elderly in my State of Minnesota—particularly in the Minneapolis-Saint Paul area—this is the kind of choice currently available to people under Medicare.

On the left-hand side of this chart we list the benefits that are available to seniors: Hospital inpatient, hospital outpatient, or physician network services, and emergency services. Then if you look across the top, you see Medicare parts A and B; you see Medicare basic supplemental; you see Medicare extended basic supplemental. Then you see two more choices, and these are the Medicare Select choices. The Blue Cross/Blue Shield of Minnesota choice, called Senior Gold. And then the med centers choice called Seniors Choice II. These are the Medicare Select choices, followed in my State by what is called Health Care Prepayment Plans. These are under a different approach which we authorized way back in 1983. There again, you see a Blue Cross/Blue Shield product called Blue Plus, a Medicare project, and a plan from Physician's Health Plan, now called Medica.

In my State, seniors have really six choices with two supplementals to their Government plan. What happens with all of this choice and with this ability to make comparisons, of course, is that seniors are actually shopping health plans that suit their needs, not the Government's needs, not your needs or mine, but their needs. The cost of care and of access is going down. The quality of care is improving. The costs are coming down.

So the two plans in the middle—Medicare Select plans—are the alternatives for the seniors we are trying to preserve in Minnesota. There are two like that in some of the metropolitan areas in Florida—we discussed that with the Senator from Florida—the Humana plan and Blue Cross/Blue Shield plan. And in 13 other States in this country, there are supplemental options for seniors who are enrolled in the traditional fee-for-service program.

For example, Medicare Select offers full coverage of the deductibles and copayments. That is one of these choices. You can have, in one plan, your deductible and your copayments could be covered. Medigap does not offer that guarantee. You can take that choice. You may still pay charges to the physician above the Medicare accepted amounts, and depending on the policy you buy, you may still have to pay the Medicare required deductible.

We struggled this year in health care reform to balance two potentially conflicting goals. One was how to save money in Medicare and how to finance more benefits, such as prescription drugs and long-term care. Medicare Select plans are able to offer beneficiaries supplemental benefits at a lower cost than traditional Medigap policies. When the program expires at the end of this year—and this is why I am here—when the program expires, the plans will not be able to enroll new members.

So the present people in Minnesota or in Florida who are having choices of Medicare will continue to have those choices.

But when the plan is not able to enroll new members and the present membership ages, what happens? The cost of their care goes up and so the price of caring for them goes up.

The benefit of extending Medicare Select is to continue to encourage these plans to continually enroll new members giving new people arriving at age 65 an opportunity to have this choice, and the risk gets spread across many more people thus keeping the cost low. If we let this close up at the end of this year and freeze in the existing members what happens over time is the sick stay in, the costly stay in, some other people may leave as the prices go up, and pretty soon you have a worthless demonstration.

I ask unanimous consent that Senator KOHL be added as a cosponsor of Medicare Select.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, it is really self-defeating not to continue this program. It would be helpful to expand this program to many more States, to all 50 States, but we are not asking to do that. We will not ask to do that program. But at least in the States where it is working and it is saving beneficiaries money and it is saving the taxpayers' money, we need to continue it in existence.

I have spent the last 16 years working to bring Medicare up to date with private health care systems. Medicare Select is the working example of what the private system can do to help Medicare beneficiaries offer quality health care at a better price.

Medicare beneficiaries have a generous Federal subsidy of 75 percent, yet Medicare costs continue to soar. Today's elderly Americans must pay $41.10 per month for Medicare part B coverage. In addition, they pay a really large hospital deductible of $696. They pay hospital coinsurance which depending on the period of hospitalization, can be $174 or $348 per day. They pay $100 part B deductible and they pay at least 20 percent of physician's charges. All that adds up and then you shop around for supplement coverage, and that really adds up.

So recognizing all of that burden, all of that complication, that we are only too well aware of for our elderly parents, for elders generally, we created the Medicare Select Program to bring more affordable coverage to seniors. Medicare Select gives them the choice of purchasing their standard Medigap insurance policy through managed care networks. It operates like the point of service option like we discussed under health care, through benefits provided by doctors with contracts with the plan, standard Medicare benefits provided by any physicians of their choice, and all the savings are passed on to the beneficiaries.

Those purchasing Medicare Select policies save from 10 percent to 37 percent on their premiums over those who buy the traditional fee-for-service Medigap insurance policies. This translates into saving as much as $25 a month for a senior or $300 per year. It does not seem like much to some. But it is tangible real savings for people on fixed incomes.

In addition, these Medicare Select policies are proving to be of high quality and very desirable among Medicare beneficiaries.

Consumer Reports in the August 1994 issue rated the top Medigap policies in the Nation. Of the top 15 Medigap policies, 8 were Medicare Select. And we have only been in business for 3 years, believe it or not. I mean, we all know from watching TV and looking at the literature that our parents get how much of this supplemental Medigap stuff is being foisted on them.

To know that after not quite 3 years—1992 was the first year, 1993 and now we are into 1994—maybe just 2 full years under our belt of experimenting, Consumer Reports says 8 of the top 15 Medigap policies in the country—supplemental policies—are Medicare Select plans, and we are only operating in 15 States. Wow, that is terrific. It is really terrific. I use the word "we" to give some sense of ownership over the authorship of this, but it is not our plan. Unlike part A part B, these are private plans. These are the same kind of plans that people had access to when they were ordinary working stiffs in America. It is the private health plan that President Clinton said everybody ought to have from a choice of private health plans. It is a wonderful opportunity for seniors, and you can see how the market is responding. If 8 out of the top 15 are rated among the best in the country, the market is really there.

Mr. President, I know that amendments on appropriations bills are not the vehicle of choice in this place. This was one of the few vehicles left, and I know that health reform will not happen this year, and I know that the medical technical corrections bill is not ready for easy passage in the House, or so I am told.

I know that one of our colleagues whom the present Presiding Officer and I know only too well on the House side who has jurisdiction over this program does not seem to like it at all, although it is working wonderfully well out in the part of the district that he represents out in California.

So we have some problems. It is not so much our problems. We have still the opportunity. The problem is 400,000 Americans and another maybe 20 million Americans or 18 million Americans in these 15 States could have opportunities like the 400,000 people have already.

So, this does not seem to me to be helpful that someone who disagrees with the value of this program in the face of some proven results can put us in the position where it is very difficult just to continue a demonstration in an appropriate way.

Clearly, in my State the select plans will continue to be offered, but they can only be offered to the people who presently own them. Eventually, in just a matter of a couple short years, that means the program is going to go down in value.

So I would certainly appeal to my colleagues, who may have some ownership over some other vehicles that might come through here next week and my colleagues who are considering what they are going to do about the District of Columbia appropriations bill, that they consider this is not just some Senator trying to make a name for himself who is standing up here trying to foist off a piece of legislation on to the citizens of the District of Columbia. Certainly I am not trying to hold up appropriations for them.

We did not do the national Federal part of health reform this year. We are failing to make good things available to our constituents, if we do not pass something like this.

So until I find out exactly what is going on with the underlying appropriations bill and until I find out what other vehicles might be available in the early part of next week that are moving out of the parking lot and have some success maybe on the House side as well and with an appeal to people at HCFA and the appeal to some of our colleagues on the House side, I will at this stage just simply yield the floor to my colleague from Texas, who has reported to me personally and privately the success in a fairly high-priced State, Texas, where it cost money to see a doc in a hospital, reports the early success and fairly good success of Medicare Select in her State.

So I will yield the floor at this point.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I commend the Senator from Minnesota for taking this leadership role in trying to make sure that in this year, when we have talked about health care reform and are trying to give more access to affordable health care to more people, for not letting this very important program expire, and I do hope very much that the Senator from Minnesota gets the opportunity to put this amendment forward.

We must act, and I am pleased to see that the Presiding Officer is also a sponsor of this amendment and wants to do the same thing, that is to make sure that we have this program in place.

The Medicare Select option is something that is working. It is a program we should encourage and promote. To think that in a year when we have focused so much on health care we would let it die is something we should not allow to happen. It is unthinkable.

Our senior citizens have a hard time when they are on a fixed income, and this Medicare Select program does give them options. In Texas more than 8,000 senior citizens are enrolled in Medicare Select plans, which saves them an average of 15 to 30 percent of the cost of Medicare supplemental plans. This is really significant savings to people who are on a fixed income. Nationwide, 400,000 people are participating in this program in 15 States.

If we allow this program to expire at the end of this year, all of those 400,000 seniors are going to be faced with higher premiums. That is something that we cannot let happen.

Medicare Select policies are highly rated by Consumer Reports magazine. In its August 1994 issue, Consumer Reports included Medicare Select policies in the top 15 best value medigap products nationwide. In fact, almost every health care bill that was introduced on this floor—from the majority leader's bill to the Dole-Packwood bill, to the mainstream bill, every one of them—would have made this a permanent part of our health care system. It would have been a permanent extension to 50 States. Right now, people in 15 States are able to have this very important program.

So I commend my colleague from Minnesota and I commend my colleague from West Virginia and the others who are cosponsoring this proposal. I hope that all of us will be able to look for a vehicle to make sure that Medicare Select does continue next year so that this option will be available to our senior citizens. They are trying to insure themselves. They are doing their best to be responsible citizens, and to have the security that they need for health care. I think we should help them get it.

I commend Senator DURENBERGER, and I thank you, Mr. President.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I appreciate very much the comments by my colleague from Texas.

As one who has been, as the Presiding Officer knows, spending a fair amount of time both on Medicare and health care reform and so forth, I have been waiting a long time for other people to get interested in health care and health care reform and so forth.

It was such a pleasure, when the now majority leader took over as subcommittee chair, to see his enthusiasm, and then when he become majority leader to see the junior Senator from West Virginia take over and get very enthusiastic about the subject.

But I will tell you, when a brandnew Senator shows up and has the enthusiasm for the subject that Senator HUTCHISON has, it really kind of surprises you, particularly because, since Senator HUTCHISON has been here, she has had the right to be preoccupied with other things. I mean, she has had two elections, as I recall, or 1½ elections, since she got here. But, obviously, she is not only aware of the fact that the cost of health care and so forth is a problem, she represents a State that in one way or another has been trying to do something about it.

My impression, from sitting through a lot of meetings on the Republican side with her, as we try to evaluate what is the best approach to health care reform, is that as I leave here, at least looking at my side of the aisle, in particular, as I leave here I am so pleased to know that the citizens of Texas have the opportunity to be so well represented on health care issues. And just the very brief statement this afternoon in recognition of the need by Medicare Select is only a small part of the contribution she already made.

Mrs. HUTCHISON. Will the Senator yield for a question?

Mr. DURENBERGER. Yes.

Mrs. HUTCHISON. Mr. President, as a freshman in the Senate, I am certainly number 100 out of 100 in this august body.

But, of course, the Senator from Minnesota has been in the forefront of health care reform even before this year when the President brought it forward as an issue. I appreciate his leadership. I want to say that he will certainly be missed as we take up health care reform next year. I plan to be here. I am sorry that he will not be here, because he has chosen not to run for reelection. But I do think that we will go forward and we will, I think, improve our health care system.

I wanted to mention one other thing, and that is that our colleague on the other side of this Capitol, Congresswoman NANCY JOHNSON, has been so tenacious in trying to make sure that Medicare Select does not die. I know she has talked to Senator DURENBERGER, she has talked to me, she has talked to many others in the Senate to say, "Please, don't let this very important program die. It is important."

I want to commend the Congresswoman from Connecticut, NANCY JOHNSON, for her leadership in trying to make sure that this important program stays in place.

I thank the Senator from Minnesota for his kind remarks. I will say that when we do pass health care reform next year, it will be because of the efforts that the Senator has made that built up this crescendo of awareness of the very important need that we have in this country to have more access to affordable health care coverage while we maintain the quality in the system. That is the goal we will try to meet once again next year, in his absence.

Thank you, Mr. President.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I acknowledge and appreciate very much the comments of my colleague from Texas.

I am glad she mentioned NANCY JOHNSON, because I have had so many telephone messages from NANCY JOHNSON in the last 2 weeks that I keep asking the people who hand me the messages, is this the one that has come in the last hour or is the one from the previous hour?

There is no one more tenacious than she on this subject. And those of us who have been in conferences with the Congresswoman from Connecticut know how committed she is, particularly on this particular program. She is on the subcommittee of jurisdiction and certainly has a tremendous opportunity, even though she is in the minority party over there.

I also was just informed that the chair of the District of Columbia authorizing committee on the House side is the same person who is the chair of the Health Subcommittee of the committee of jurisdiction on the House side. And that is sort of an incongruous position for us to be in right now, that the same gentleman who at least suggested he has some difficulties with extending Medicare Select even for a year or two is also the person who has authorizing responsibility for the District of Columbia.

And so, perhaps, if Members of the House are still around, he will hear that there is a bit of a quandary here and maybe he will find a way to help us resolve it.

Mrs. FEINSTEIN. Mr. President, I rise in support of Senator DURENBERGER's amendment to extend the Medicare Select Program, which currently provides MediGap health benefits to roughly 400,000 older Americans by using a managed care model.

Like many of the other original cosponsors of Senator DURENBERGER's amendment—Senators ROCKEFELLER, KOHL, CONRAD, CHAFEE, HUTCHISON, BOND, and HEFLIN—I come from 1 of the 15 States where the Medicare Select demonstration program has proved its popularity during the last 3 years.

Medicare Select, which currently provides 100,000 Californians with low-cost MediGap insurance using a managed care model, was enacted in 1990 as a 3-year demonstration program and has proved to be extremely popular, enrolling 400,000 seniors in 15 States. This program used a network of providers to cut premium costs by 10–30 percent over fee-for-service MediGap products—those services and costs not covered by Medicare.

In California, roughly 100,000 seniors have signed up for the program, and Blue Cross of California alone is enrolling an additional 2,200 per month. These Medicare enrollees are signing up because the Medicare Select Program can provide low-cost, high-quality health benefits while still retaining a high degree of choice over their physician.

The reasons for the program's popularity are simple. In order to save money or receive added drug benefits, more and more older Americans are enrolling in managed care plans. In fact, Consumer Reports lists many Medicare Select products as its highest-rated values, and extension of the Medicare Select Program is strongly endorsed by California Insurance Commissioner Garamendi, as well as the National Association of Insurance Commissioners. In addition, the Mainstream plan—and nearly every other health reform proposed this Congress—provided for a continuation and expansion of Medicare Select and other forms of managed Medicare.

Certainly, managed Medicare programs like Medicare Select must be implemented carefully, in order to ensure that Medicare enrollees are appropriately informed of the benefits of this program, provided with high-quality services, and ensured access to highly trained physicians. In addition, managed care programs must be shown to provide lower costs to the Federal Government in addition to consumer discounts.

However, without the extension of the Medicare Select Program, which has already proven its initial success, new enrollments will be cut off at the end of 1994—before a national report has been issued or additional health car reform has been enacted. In the absence of national health care reform, I believe that this successful and popular managed Medicare Program should be allowed to continue.

Mr. CHAFEE. Mr. President, I am pleased to join as a cosponsor of this amendment to permanently extend the Medicare Select Program.

Based on legislation which I introduced in 1990, Medicare Select is a demonstration project operating in 15 States with more than 400,000 participants. Under this program, Medicare beneficiaries have the option to purchase Medicare supplemental insurance policies—otherwise known as MediGap policies—through non-HMO managed care networks.

The program has been a huge success. Recent data show that Medicare beneficiaries who purchase Medicare Select products pay premiums which are 10 to 37 percent less expensive than the premiums for traditional Medigap products. Moreover, consumer satisfaction with these products is extremely high. Of the to 15 Medigap products ranked by Consumer Reports in its August 1994 issue, 8 were Medicare Select policies. Unfortunately, under current law, Medicare Select carriers will have to halt enrollment on December 31, 1994.

Almost all the major health care reform plans introduced during this session of Congress included provisions to expand the Medicare Select Program to all 50 States. As we all know now, however, health care reform is not going to happen this year. Therefore, at the very least, we should enact legislation which will allow the current 15 State demonstration project, which has been such a success, to continue. This amendment will do just that, and I urge my colleagues to support it.

THE NFIB DOESN'T OPPOSE HEALTH REFORM

Mr. DURENBERGER. Mr. President, the National Federation of Independent Business [NFIB] is getting a lot of heat for its alleged hypocrisy these days. The Washington Post reports that while the NFIB is running ads to complain about the failure of health reform this year, the NFIB itself was opposed to some key elements of the Clinton bill.

That is not hypocritical. As someone who has been fighting for real health reform for nearly two decades—and who was therefore opposed to the worst elements of the Clinton bill—I think it is a pro-reform position.

The kind of health reform the NFIB wanted is exactly the kind of health reform America really needs.

To begin with, the NFIB opposed employer mandates. To enact mandates on employers would just impose universal coverage on a system that doesn't work. It would do absolutely nothing to reform the government subsidies that are the cause of today's major cost shift in the health system.

So employer mandates are not reform. What is reform?

I would begin by reforming the system of tax deductibility for health benefits, which the NFIB also wants to do. Today's system is very regressive. We have to level the playing field between small and large companies.

The NFIB also wants to encourage purchasing pools. We have to give small companies the same decent price for insurance that large companies enjoy. Some win, some lose, but everyone pays a fair price. That is the whole idea of insurance in the first place.

The NFIB is also fighting for guaranteed issue and renewal of health insurance—yet another vital component of real health reform. it is a major step toward making health insurance companies truly accountable to consumers.

These are just a few important changes that would vastly improve the health insurance market in this country. The NFIB supports them, and I support them. To dismiss us as opponents of reform just because we do not buy into the Clinton administration's Rube Goldberg contraption is both cynical and false.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2594

Mr. MITCHELL. Mr. President, I call for the regular order with respect to the Cohen amendment.

The PRESIDING OFFICER. The Cohen amendment is the pending question.

Mr. MITCHELL. In behalf of Senator COHEN, I ask unanimous consent to withdraw the Cohen amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2594) was withdrawn.

AMENDMENT NO. 2585

Mr. MITCHELL. Mr. President, I call for the regular order with respect to the Gramm amendment.

The PRESIDING OFFICER. The Gramm amendment is in fact the pending question.

Mr. MITCHELL. In behalf of Senator GRAMM, I ask unanimous consent to withdraw the Gramm amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2585) was withdrawn.

AMENDMENT NO. 2602

Mr. DURENBERGER. Mr. President, I ask unanimous consent that I withdraw my amendment.

The PRESIDING OFFICER. The Senator has that right. Without objection, it is so ordered.

The amendment (No. 2602) was withdrawn.

CONCURRENCE EN BLOC TO THE REMAINING AMENDMENTS IN DISAGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate concur en bloc to the amendments in disagreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments in disagreement agreed to en bloc are as follows:

Resolved, That the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4649) entitled "An Act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1995, and for other purposes.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 11 to the aforesaid bill, and concur therein.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 3 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed in said amendment, insert: ", of which $1,500,000 shall be used to provide additional support to title I (chapter I) of the Elementary and Secondary Education Act (20 U.S.C. 2701 et seq.) and $910,000 shall be available for the National Learning Center, Options School ($750,000) and Model Early Learning Center ($160,000)".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 15 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: ; (5) Explanations of the impact on meeting the budget, how the results may be reflected in a supplemental budget request, or how other policy decisions may be necessary which may require the agencies to reduce expenditures in other areas; and

(6) An aging of the outstanding receivables and payables, with an explanation of how they are reflected in the forecast of cash receipts and disbursements.

(c) REPORTING ON NONAPPROPRIATED FUNDS.—Not later than the date on which the Mayor issues the Comprehensive Annual Financial Report of the District of Columbia for the fiscal year ended September 30, 1994, the Mayor shall submit to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on the District of Columbia of the House of Representatives, and the Committee on Governmental Affairs of the Senate a report on all revenues and expenditures of the general fund of the District that are characterized as nonappropriated in the Comprehensive Annual Financial Report. The report required by this subsection shall include the following information for each category of nonappropriated funds:

(1) The source of revenues:

(2) The object of the expenditures;

(3) An aging of outstanding accounts receivable and accounts payable;

(4) The statutory or other legal authority under which such category of funds may be expended without having been appropriated as part of the District's annual budget and appropriations process;

(5) The date when such category of funds was first expended on a nonappropriated basis;

(6) The policy or rationale for why the revenues and expenditures of such funds should not be part of the District's annual budget and appropriations process; and

(7) A reconciliation of the amounts reported under this subsection with the amounts characterized as nonappropriated in the Comprehensive Annual Financial Report

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 18 to the aforesaid bill, and concur therein with an amendment as follows:

Delete the matter inserted by said amendment,

and

On page 34, line 7 of the House engrossed bill, H.R. 4649, after the word "Mayor" insert "of the District of Columbia",

and

On page 34, line 14 of the House engrossed bill, H.R. 4649, strike "Flow Statements" and insert in lieu thereof "Forecasts",

and

On page 34, line 16 of the House engrossed bill H.R. 4649, strike all after "include" down through and including "the" on line 18 and insert in lieu thereof "revisions to the forecasts reported in accordance with subsection (b) of section 137 of this Act that incorporate the",

and

On page 34, line 4 of the House engrossed bill H.R. 4649, strike "Congress" and insert in lieu thereof: "Committees on Appropriations of the House of Representatives and the Senate, the Committee on the District of Columbia of the House of Representatives, and the Committee on Governmental Affairs of the Senate",

and

On Page 34, line 11 of the House engrossed bill, H.R. 4649, strike "Congress" and insert in lieu thereof "Committees on Appropriations of the House of Representatives and the Senate, the Committee on the District of Columbia of the House of Representatives, and the Committee on Governmental Affairs of the Senate".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 20 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment,

and

On page 35 of the House engrossed bill, H.R. 4649, strike all after line 3 through and including line 24.

and

On page 36 of the House engrossed bill, H.R. 4649, strike lines 1 through 8 and insert in lieu thereof the following:

(b) Annual Limitation on Disbursements.—

(1) Aggregate limitation.—The total disbursements and net payables of the government of the District of Columbia from the funds by paragraph (2) during fiscal year 1995 shall exceed the total receipts collected by the government and available for such funds during fiscal year 1995.

(2) Individual fund limitations.—The disbursements and net payables of the government of the District of Columbia from the general fund and from each of the government's other funds not covered by paragraph (3) during fiscal year 1995 shall not exceed the receipts collected by the government and available for the general fund and for each such fund during fiscal year 1995.

(3) Capital projects, trust and agency funds limitations.—The disbursements and net payables of the government of the District of Columbia from each of the government's capital projects, trust and agency funds during fiscal year 1995 shall not exceed the total of the cash available to each such fund at the beginning of fiscal year 1995 plus the receipts of each such fund during fiscal year 1995.

(c) Enforcement.—

(1) Placement in escrow of portion of annual federal payment.—Upon receipt of the annual Federal payment for fiscal year 1996 authorized by sections 502(a) and 503 of the District of Columbia Self-Government and Governmental Reorganization Act or made pursuant to any other provision of law authorizing a Federal payment to the general fund of the District of Columbia for fiscal year 1996, the Mayor of the District of Columbia shall place in escrow—

(A) 10 percent of the Federal payment, for purposes of enforcement of subsection (a); and

(B) an additional 10 percent of the Federal payment, for purposes of enforcement of subsection (b)(1).

(2) Availability of escrowed amounts.—No portion of the funds placed in escrow under paragraph (1) of this subsection shall be available for use by the government of the District of Columbia until the Mayor submits to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on the District of Columbia of the House of Representatives, and the Committee on Governmental Affairs of the Senate two reports, each certified by an independent public accountant, on (A) the spending reductions required by subsection (a) of this section, and (B) the disbursements, net payables, and receipts covered by paragraph (1) of subsection (b) of this section. In no event shall the reports required by this paragraph be submitted later than the date on which the Mayor issues the Comprehensive Annual Financial Report of the District of Columbia for the fiscal year ended September 30, 1995.

(3) Amounts of escrowed funds available.—Fifteen days after submitting the reports required by paragraph (2), the funds placed in escrow under paragraph (1) shall be available for use by the government of the District of Columbia only if—

(A) the Mayor pays to the Treasury of the United States the sum of—

(i) the amount (if any) by which the actual reduction implemented under subsection (a) fails to achieve the reduction made by paragraph (1) of such subsection; and

(ii) the amount (if any) by which the disbursements and net payables described in subsection (b)(1) exceed the receipts described in such subsection; and

(B) such payment is made by the Mayor within such fifteen-day period from the escrowed funds or, if such escrowed funds are insufficient, from other funds available to the government of the District.

(d) Violation Reports.—Not later than the date on which the Mayor issues the Comprehensive Annual Financial Report of the District of Columbia for the fiscal year ended September 30, 1995, the Mayor, Deputy Mayor for Financial Management, and Controller shall jointly submit to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on the District of Columbia of the House of Representatives, and the Committee on Governmental Affairs of the Senate a separate report on each fund described in paragraphs (2) and (3) of subsection (b) of this section that violated the limitation applicable to the fund. Each report shall contain, but not be limited to—

(1) the amount of the violation;

(2) an analysis of the difference between the budgeted and actual disbursements, payables, and receipts for fiscal year 1995;

(3) an explanation of policies, events, or other factors that caused or contributed to the violation;

(4) actions taken or to be taken against government officials or employees for causing or contributing to the violation; and

(5) actions taken or to be taken to prevent recurrence of the violation in fiscal year 1996.

(e) Definitions.—For purposes of this section—

(1) the term "net payables" means the difference in the amount of payables for a fund at the beginning of a fiscal year and the amount of such payables for such fund at the end of the fiscal year;

(2) the term "payables" means accounts payables and compensation payables; and

(3) the terms "disbursements", "accounts payables", "compensation payables", "receipts", "capital projects fund", "trust funds" and "agency funds" shall have the same meaning as such terms had for purposes of the Comprehensive Annual Financial Report of the District of Columbia for the fiscal year ended September 30, 1993.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 21 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment and delete the matter inserted by said amendment,

and

On page 36 of the House engrossed bill, H.R. 4649, strike lines 9 through 11.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 23 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of matter proposed in said amendment, insert:

LIMITATIONS ON FULL-TIME EQUIVALENT POSITIONS

Sec. 141. (a) Reduction.—The total number of full-time equivalent positions financed from District of Columbia appropriated funds shall not exceed 33,588.

(b) Monitoring and Notification.—The Mayor of the District of Columbia shall—

(1) regularly monitor the total number of full-time equivalent positions financed from District of Columbia appropriated funds and make a determination on the first date of each quarter of the fiscal year of whether the requirements under subsection (a) are met; and

(2) notify the Committees on Appropriations of the House of Representatives and the Senate, the Committee on the District of Columbia of the House of Representatives and the Committee on Governmental Affairs of the Senate on the first day of each quarter of the fiscal year of the determinations made under paragraph (1).

Sec. 142. (a) In General.—The Secretary of the Army, acting through the Chief of Engineers, shall conduct a study of the Washington Aqueduct. The study shall be conducted in consultation with the Environmental Protection Agency, the Office of Management and Budget, and the non-Federal public water supply customers of the Washington Aqueduct.

(b) Study Contents.—The study required by subsection (a) shall include analyses of—

(1) the current condition of the Washington Aqueduct;

(2) the operation and maintenance activities and capital improvements required at the Washington Aqueduct facility to ensure the availability of an uninterruptible supply of potable drinking water sufficient to meet the current and future needs of the District of Columbia and its environs;

(3) alternative methods of financing such operation and maintenance activities and capital improvements; and

(4) alternative arrangements for ownership of the Washington Aqueduct facility, including the operation of establishing a non-Federal regional water authority and transferring ownership and operating responsibility from the Department of the Army to such regional authority or to another appropriate non-Federal entity.

(c) REPORT.—Not later than February 1, 1995, the Secretary of the Army, acting through the Chief of Engineers, shall submit to the Congress a report setting forth the findings of the study required by subsection (a) and any recommendations as a result of the findings. The report shall include a recommendation on the advisability of establishing a non-Federal regional water authority and transferring ownership of and operating responsibility for the Washington Aqueduct facility from the Department of the Army to such regional authority.

(d) DEFINITION.—For purposes of this section, the term "non-Federal public water supply customers of the Washington Aqueduct" means the District of Columbia, Arlington County, Virginia, and the City of Falls Church, Virginia.

ANNUAL BOARD OF EDUCATION REPORT AND BUDGET REVISION

SEC. 143. (a) ANNUAL REPORT ON POSITIONS AND EMPLOYEES.—Hereafter, the Board of Education of the District of Columbia shall annually compile an accurate and verifiable report on the positions and employees in the public school system of the District. The first such annual report shall be verified by independent auditors.

(b) REQUIRED CONTENTS OF ANNUAL REPORT.—The annual report required by subsection (a) shall set forth—

(1) the number of validated schedule A positions in the public school system of the District of Columbia for the following fiscal year on a full-time equivalent basis, including a compilation of all positions by control center, responsibility center, funding source, position type, position title pay plan, grade, and annual salary; and

(2) a compilation of all employees in the public school system of the District of Columbia as of the preceding December 31, verified as to its accuracy in accordance with the functions that each employee is actually performing, by control center, responsibility center, agency reporting code, program (including funding source), activity, location for accounting purposes, job title, grade and classification, annual salary, and position control number.

(c) SUBMISSION OF ANNUAL REPORT.—

(1) FIRST REPORT.—The first annual report required by subsection (a) shall include the information required by subsection (b)(1) for each of the fiscal years 1993, 1994, and 1995, and shall be submitted to the Congress, and to the Mayor and Council of the District of Columbia, by not later than October 1, 1994.

(2) SUBSEQUENT REPORTS.—Except as provided in paragraph (1), the annual report required by subsection (a) shall be submitted to the Congress, and to the Mayor and Council of the District of Columbia, by not later than April 15 of each year.

(d) ANNUAL BUDGET REVISION.—

(1) IN GENERAL.—Not later than October 1, 1994 and each succeeding year or within 15 calendar days after the date of the enactment of the District of Columbia Appropriations Act for the fiscal year beginning on such October 1 (whichever occurs first), the Board of Education of the District of Columbia shall submit to the Congress, and to the Mayor and Council of the District, a revised appropriated funds operating budget for the public school system of the District for such fiscal year that is in the total amount of the approved appropriation and that realigns budgeted data for personal services and other-than-personal services, respectively, with anticipated actual expenditures.

(2) REQUIRED FORMAT.—The revised budget required by paragraph (1) shall be submitted in the format of the budget that the Board of Education of the District of Columbia submits to the Mayor of the District for inclusion in the Mayor's budget submission to the Council of the District pursuant to section 442 of the District of Columbia Self-Government and Governmental Reorganization Act (Public Law 93-198; D.C. Code, sec. 47-301).

Mr. MITCHELL. Mr. President, have we now completed action on the measure?

The PRESIDING OFFICER. Without objection, the Senate does concur with all the amendments from the House and that does, thereby, conclude action.

Mr. MITCHELL. I thank my colleagues. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. Mr. President, many people are happy to see this bill finished and probably none more than Tim Leeth, the appropriations staff member who staffs the D.C. Appropriations Subcommittee. Tim has been invaluable to me in putting together the D.C. budget bill that we are sending to the President today, just as he has been invaluable to many other chairmen of the D.C. Appropriations Subcommittee.

Putting together a decent and fair D.C. budget is a thankless job in this institution, but Tim does it seriously, tirelessly, and well. He makes my job easy and he is indeed a credit to the Senate.

Mr. President, I want to thank all Senators for their restraint and understanding today in allowing this bill to be sent on to the President before the end of the fiscal year. In particular the chairman of the Appropriations Committee, Senator BYRD, and the majority leader, Senator MITCHELL, on our side have once again brought the Senate to the right conclusion at the right time.

The D.C. government was making contingency plans to stop all nonessential services if this bill did not pass. We came very close to closing the public schools in Washington by our inaction, that has been avoided. The city will receive the Federal payment on time and there will be no lapse in its authority to operate the local government. The cuts that we require in the conference agreement will be made, as will the reductions required in the number of employees.

Mr. President, in closing I again want to express to Senators my appreciation and that of the citizens of Washington.

Mr. BYRD. Mr. President, I ask unanimous consent the vote on the conference report be reconsidered and laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion to lay on the table was agreed to.

THE 1995 APPROPRIATIONS BILLS

Mr. BYRD. Mr. President, the Senate has just cleared the last of the 13 fiscal year 1995 appropriations bills—the District of Columbia bill—for the President's signature. This means that all 13 appropriation bills will be enacted by the beginning of fiscal year 1995, which begins just after midnight tonight. This is only the third time in the last two decades that all 13 appropriation bills have been enacted by the beginning of the fiscal year; the other two occasions being 1976 and 1988.

As all Senators know, we who serve on the Appropriations Committees of the House and Senate start out each year with the goal of completing action on our appropriation bills in a timely way. We do our best to avoid the necessity of continuing resolutions. Over the past 6 years, large, omnibus, long-term continuing resolutions have not been necessary. But we have had to have temporary, short-term continuing resolutions each year since 1988 in order to complete action on certain of our appropriation bills.

One key reason for our success this year was the leadership of the chairman of the House Appropriations Committee, Mr. DAVID OBEY of Wisconsin. In my meetings with Chairman OBEY soon after he assumed the chairmanship of the House Appropriations Committee, it was very clear that Mr. OBEY intended to do everything in his power to expedite House action on appropriation bills. That was a very important reason for our success. The Senate Appropriations Committee received all 13 regular appropriations bills from the House in time to mark them up and bring them to the Senate floor well before the August recess. So I wish to thank Mr. OBEY for a very fine, warm, and cordial relationship, which exists between the two of us.

I thank the Senate majority and the Senate minority leader, Senators MITCHELL and DOLE respectively, for their unfailing cooperation in scheduling Senate action for all 13 bills prior to the August recess. I also thank my colleagues on the Appropriations Committee for their cooperation, not just this year, but every year. These chairmen of subcommittees and ranking members and these members of the various subcommittees work long and hard to meet their responsibilities on the various appropriations subcommittees on which they serve. Our hearings and committee markups are, without exception, conducted on a nonpartisan basis. I thank, most particularly, the very able ranking member of the committee, my good friend and colleague, Senator HATFIELD, for his splendid wisdom and counsel throughout the year. Having served as chairman of the committee for 6 years, MARK HATFIELD is exceptionally knowledgeable in all appropriation matters and he always brings a very well thought out and wise perspective to our deliberations. The committee is indeed fortunate in having MARK HATFIELD as its ranking member.

I also thank all Senators for their cooperation throughout the year. I thank those who raised difficult issues—and there are many difficult issues dealt with on these appropriations bills. All Senators have been cooperative in scheduling debate on their amendments and in understanding that we are often required to compromise, and sometimes to delete items of great interest to them from appropriation bills in our conferences with the other body.

I also appreciate the excellent cooperation of the heads of the various departments and agencies of the administration who came before the committee and presented testimony concerning their budgets. I particularly appreciate the support and cooperation of the Office of Management and Budget and its directors—both Mr. Panetta and Ms. Rivlin. They worked closely with us through each step necessary to enact these appropriation bills.

I thank the fine floor staff for its good work in helping to schedule action on the appropriations bills and helping to move them along by arranging for the times on which to act and for helping us to arrange to get the subcommittee chairmen, the ranking members, and others, to the floor.

Finally, I thank the fine staff which serve both the House and Senate Appropriations Committees. These are very capable men and women who have dedicated themselves to public service. They work long days and many nights and weekends throughout the year in meeting their responsibilities. We in Congress, and, I believe I speak for the American people as well, owe these professional staff people a debt of gratitude.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. AKAKA). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT OF 1994

Mr. COATS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 537, S. 2345, the Interstate Transportation of Municipal Solid Waste Act of 1994; that the bill be read three times, passed and the motion to reconsider be laid upon the table; that any statements relating thereto appear in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, today the Senate is considering S. 2345, the Interstate Transportation of Municipal Solid Waste Act of 1994.

Over the years, my position on interstate garbage restrictions has remained the same. My State has a policy of solid waste self-sufficiency by the end of the decade. Just over the last few years, New Jersey has reduced exports of municipal solid waste by over 50 percent, from 1988 levels.

New Jersey has been able to make these reductions by increasing its recycling efforts and by building additional instate solid waste capacity.

New Jersey has shown that it will continue to move to implement its commitment to self-sufficiency. What New Jersey wants to assure that it will be able to export reduced levels of garbage while it moves towards self-sufficiency.

I have asked the commissioner of the New Jersey Department of Environmental Protection to review S. 2345. The commissioner has told me that New Jersey will be able to implement its self-sufficiency policy under this bill.

So I will not object to consideration of S. 2345.

Mr. DOMENICI. Mr. President, I would like to express my support for this measure which would permit a State's Governor to restrict the disposal of out-of-State municipal solid waste in any landfill or incinerator in his or her jurisdiction with certain limited exceptions. My colleague from Indiana, Senator COATS, deserves tremendous credit for keeping this issue before the public and the Congress in response to an urgent national problem.

I would also offer my congratulations and support to the chairman of the Environment and Public Works Committee, Senator BAUCUS, for his efforts to bring this legislation to the floor.

State and local governments must be able to ensure that their people will have safe and reliable disposal facilities. Not only is this important for the management of municipal waste, but is essential for the protection of limited and precious groundwater resources. This need for protection is of special concern to the people of the West, who are often targeted for disposal of solid waste from more populous and geographically restricted States. I reiterate my support for this bill, and urge my colleagues to do likewise.

Mr. MOYNIHAN Mr. President, it is only with great reluctance that I can bring myself to let this measure come to a vote. Many States have attempted to restrict imports of waste. In fact, at least 37 States have enacted laws that restrict or otherwise treat out-of-State wastes differently than wastes generated within the State. However, when these have been subject to constitutional challenge, the courts have upheld such challenges on the ground that the restriction of interstate commerce, without specific approval by Congress, violates the Constitution's Commerce clause.

Article I, section 8 of the Constitution makes it clear that only the Congress has the power to regulate Commerce with foreign nations, and among the several States, and with Indian Tribes. In its wisdom, Congress has not seen fit to allow States to regulate the interstate transport of waste. I would prefer it not do so now, but the fact is that the House has passed a bill to do so by an overwhelming margin, 368 to 55, and the Senate has passed similar bills in the past two Congresses by like majorities, and seems inclined to do so in this Congress.

The House bill is a draconian measure, extremely harmful to New York. It does not sufficiently protect existing waste disposal contracts. I am unalterably opposed to this bill and will do whatever is necessary to ensure it does not become law.

The Senate bill [S. 2345] is certainly not helpful to New York, but neither is it punitive as is the House bill. And so my able colleague, Senate D'AMATO, and I have reluctantly concluded that the interests of New York State and New York City are best served at this point by allowing the bill reported by the Committee on Environment and Public Works to pass the Senate, thereby avoiding a result far worse for New York. We have consulted representatives of the Governor of New York and the mayor of New York City and they have concurred with this assessment.

Mr. DORGAN. Mr. President, I would like to engage the Senator from Montana in a colloquy on S. 2345, the Interstate Transportation of Municipal Solid Waste Act of 1994. Although this legislation only deals with the question of granting States authority to control imports of out-of-State municipal waste, does the Senator agree that the matter of interstate transportation of industrial waste is a concern at least in some States and this issue needs further consideration?

Mr. BAUCUS. Yes. I understand that at least in some States, including

North Dakota, the importation of out-of-State industrial waste is a concern. However, more information is needed to better understand this issue. For example, we need to have a better understanding of the sources of industrial waste, where it is shipped and stored. Up until now, the focus of our attention has been on the interstate transportation of municipal waste and we have not fully studied the issues involved with respect to the interstate transportation of industrial waste.

Mr. DORGAN. As chairman of the Senate Environment and Public Works Committee, would the Senator from Montana commit to holding a hearing on this subject next year?

Mr. BAUCUS. Yes. I intend to hold a hearing next year in the Senate Environment and Public Works Committee on the issue of interstate transportation of industrial waste.

In addition, I would be happy to work with the Senator from North Dakota to attain more data and information on issues related to the interstate shipping and storage of industrial waste. I would be willing to join the Senator in inquiring with the General Accounting Office about attaining more information on interstate transportation of industrial waste and ask for their analysis with respect to what problems, if any, should be address by the Congress in the future.

Mr. DORGAN. I should like to thank the Senator for his cooperation and his leadership in this important subject.

RECYCLING

Mr. LAUTENBERG. Mr. President, I want to engage the chairman of the committee in a colloquy concerning the effect of this bill on recycling. It is my understanding that the chairman does not intend for this bill to have any effect on the interstate transportation of recyclable materials.

The bill defines recyclable materials as material that has been separated or diverted from municipal solid waste and has been transported for the purpose of recycling or reclamation. There are recyclers in my State which takes paper from New York City buildings to their recycling facility in New Jersey where it removes unwanted materials and sorts the paper by grade. It places bins in the buildings and identifies the bins for recycled paper. But people put other materials which they think can be recycled beside paper and regular garbage. So there is sorting before material is transported across State lines but a further sorting is conducted after material is transported.

I am concerned that the bill could be interpreted to exclude material from the definition of recycling when further sorting may be needed even though some sorting has occurred before material is transported.

I want to ask whether the Senator will agree that the definition of recycling which talks about material which has been separated includes materials where there has been some sorting even though additional sorting may be necessary after the material has crossed State lines?

Mr. BAUCUS. I agree with the Senator from New Jersey that the bill's definition of recycling includes material where there has been some sorting even though additional sorting may be necessary after material has crossed State lines. I strongly support recycling and do not want this bill interpreted in any way which could adversely affect legitimate recycling efforts.

Mr. LAUTENBERG. I thank the Chairman for his comments.

INTERSTATE WASTE LEGISLATION

Mr. SPECTER. Mr. President, I am pleased that the Senate has turned to this critical environmental issue and I urge my colleagues to support this legislation, the Interstate Transportation of Municipal Solid Waste Act of 1994.

This legislation would provide much-needed relief to Pennsylvania, which is by far the largest importer of out-of-State waste in the Nation. According to the Pennsylvania Department of Environmental Resources, 3.8 million tons of waste came into Pennsylvania in 1992 and 4.1 million tons of out-of-State waste entered my State in 1993. Most of this trash came from other States in the Northeast; in 1993, New York and New Jersey were responsible for 3.2 million of the 3.8 million tons imported into my Pennsylvania.

This legislation would go a long way toward resolving the landfill problems facing Pennsylvania, Indiana, and similar waste importing States. I am personally familiar with the anxiety that the landfill crisis provokes in local communities. On several occasions, I have met with Lackawanna County officials, environmental groups representatives, and other residents of northeastern Pennsylvania to discuss the solid waste issue. The Empire landfill, Pennsylvania's largest, is located in Lackawanna County, and I came away from those meetings impressed by the deep concerns expressed by the area's residents.

Recognizing the recurrent problem of landfill capacity in Pennsylvania's 67 counties, since 1989 I have pushed to resolve the interstate waste crisis. In 1989 and 1991, I joined my late colleague, John Heinz, to introduce the Solid Waste Disposal Act amendments, which would have provided incentives for States to devise realistic long-term plans for handling solid waste disposal.

I also supported the Interstate Transportation of Municipal Waste Act of 1992, which passed the Senate by an 89–2 vote in July 1992. That bill would have allowed a Governor, at the request of a local government, to prohibit the disposal of out-of-State municipal waste in any landfill or incinerator within its jurisdiction. The House failed to take action on that bill, leaving it to this Congress to act on this issue.

Building on our near-success in 1992, I joined Senator COATS in trying to jumpstart the process when we and 16 of our colleagues introduced bipartisan interstate waste legislation on February 25, 1993. That bill was modeled on the waste legislation which passed the Senate in July 1992 by an overwhelming margin. Nonetheless, it has taken 19 months for the Senate to have the opportunity during the 103d Congress to consider this much-needed interstate waste legislation.

The legislation we are considering today builds upon the 1992 legislation that passed by an 89–2 vote and the Coats-Specter bill introduced 19 months ago. I am confident that it will empower States to deal with their solid waste more effectively because it would provide every State with significant new authority to restrict imports of out-of-State municipal solid waste.

Without Federal legislation to empower States to restrict cross-border flows of garbage, States such as Pennsylvania inevitably end up as the dumping ground for States that have been unwilling to enact and enforce realistic long-term waste management plans. While we have heard that these States are making some progress, some continue to ship increasing amounts of waste to Pennsylvania landfills.

This legislation will lead to significant reductions in the amounts of out-of-State waste imported into Pennsylvania and other States. According to Governor Casey's office, when the provisions are fully in effect, it should result in reductions as high as one-half of 1993 import levels.

Let me explain how this will be accomplished. First, the legislation allows a Governor to freeze unilaterally out-of-State waste at 1993 levels at landfills and incinerators that received waste in 1993. In addition, a Governor may unilaterally ban out of State waste from any State exporting more than 3.5 million tons in 1995, going down to 1 million tons in 2002 and thereafter. Another provision, known as the import state ratchet, provides that a Governor may restrict waste imported from any one State in excess of 1.4 million tons in 1995, down to 600,000 tons in 2001 and thereafter. This provision provides a concrete incentive for the largest exporting States to get a handle on their solid waste management immediately.

It is important to note that this legislation explicitly protects State contract law and protects host community agreements. It also authorizes restrictions on waste imported from Canada if doing so is found by the President to be consistent with NAFTA and GATT.

I am glad that the Senate has once again had the opportunity to consider this much-needed interstate waste legislation, which will improve the quality of life in Pennsylvania. We must make a vigorous war on waste and I believe that we are moving in the right direction in making the environment one of our critical priorities.

Mr. CONRAD. Mr. President, I am pleased that the Senate today is considering S. 2345, legislation to give States and local governments the power to regulate and, if they so choose, reject, interstate shipments of municipal solid waste. I fully support S. 2345 and hope the Senate will approve it.

This is a problem I and others in the Senate have been working on for many years. Twice, the Senate has passed legislation addressing this issue, but we still do not have a law allowing regulation of interstate waste. It is time to take action that will finally give to the people of our States the power to decide whether or not to receive out-of-State waste.

Waste imports are a growing problem in our country, with an estimated 15-18 million tons of municipal solid waste traveling across State lines each year. Around the country, landfills are filling up and communities are now looking to send their trash to rural States like North Dakota. In rural areas, land is cheap and small communities usually do not have the resources to fight off giant waste companies who want to site new landfills. In addition, some small communities may be willing to take huge amounts of money from a waste company in exchange for landfill space.

Whether they want this imported waste or not, States are almost powerless to stop the flow of garbage across their borders. The Supreme Court has clearly ruled that States may limit interstate waste, but only if they are expressly given this power by Congress. S. 2345 would give the States this power.

States should be able to regulate how much solid waste comes into the State so that they can implement effective waste disposal policies. The Federal Government requires the States to manage and oversee solid waste disposal programs. States are required to issue permits, monitoring existing sites, and enforce landfill regulations. Why, then, should States not also be able to regulate how much waste comes in from out of State? It only makes sense that they have this power.

Imported waste not only takes up precious landfill space, but it also puts a strain on services of the importing State without properly compensating that State. Waste trucks from out of State wear down the roads of the importing States, but the exporting community pays nothing for the maintenance of these roads. Similarly, States must spend money to run their solid waste program, but they get no additional payments for accepting out of State waste. In other words, exporting communities are passing on their waste problems, and the costs associated with them, on to importing States. This isn't fair, and it should change.

Locally affected communities also must have a say in whether or not to accept imported waste. Waste affects more than just the single town that hosts a disposal site. It affects the entire surrounding area, posing a potential threat to aquifers, surface waters, air quality, road quality, soil quality, the list goes on and on. A decision on siting a solid waste landfill, especially one that will take large amounts of imported waste, must be a collective one. A small community alone should not be able to make a decision that will affect so many people.

Mr. President, the bill before us accomplishes the goal of giving States and local communities the authority to regulate imported waste. The bill is not as strong as I would have liked. I believe both Governors and local communities should have even greater authority. Nevertheless, S. 2345 builds on what the Senate has done in the past and goes a long way toward solving the interstate waste problem.

Specifically, it gives Governors the authority to freeze waste imports at current levels, and it allows Governors to reject waste shipments aimed at communities that do not want them. In addition, it requires that waste companies fully disclose their plans for waste disposal if they want to enter into an agreement with a host community. This will allow the community to make a fully informed decision on whether to take imported waste.

This last provision is particularly important, and I worked closely with Senator BAUCUS to have it included. In my State, we have many small communities that are economically depressed and desperate for economic opportunity. Waste companies prey on communities like these. The companies polish their image and hold up the promise of jobs and economic incentives. However, they never reveal the potential risks involved in their plans, and, in many cases, they don't even reveal their overall plans until it is too late to stop them. One practice I have seen involves having a local developer purchase a site and get a permit to dispose of modest amounts of solid waste. The big waste company then buys out the local party and aggressively expands the site's permit. The local community doesn't have a chance. This isn't fair and cannot be allowed to continue. Communities need to make informed choices, so we should require full disclosure of all relevant information prior to any decision being made.

Some of my colleagues may think that interstate waste is not a problem. They should think again. The trash is coming—by truck, by train, by barge—from all over the country. If it hasn't come to your State today, you can be sure that it will tomorrow. States and locally affected communities must have the power to manage waste in the most effective manner possible. In addition, giving States and communities the power to regulate waste imports will provide a powerful incentive for exporting communities to reduce their waste stream and increase recycling.

The House recently passed its own bill regulating interstate waste. I urge the Senate to work quickly with the House to arrive at a compromise that can be enacted into law so that we can finally provide States and local communities with the authority they so desperately need.

Mr. BAUCUS. Mr. President, I am pleased that the Senate is considering S. 2345, the Interstate Transportation of Municipal Waste Act of 1994. This bill will give our States the authority they need to regulate shipments of garbage between States. It was unanimously approved on June 23 of this year by the Environment and Public Works Committee.

We have been working on this issue for 5 years. We have explored all options in an effort to find a workable solution. We have held hearings on interstate waste issues. We included interstate provisions in the RCRA bill we reported last Congress.

And we passed a stand alone interstate bill by a vote of 89 to 2 last Congress. Unfortunately that bill died in the House. But I am hopeful that the bill we pass today will win the approval by the House and be enacted into law.

This bill builds on last year's proposal. It is a balanced approach to a problem that our States cannot solve without congressional action. The Supreme Court repeatedly has struck down State laws aimed at restricting out-of-State garbage, because these laws violate the Constitution's interstate commerce protections.

Not many people think of garbage as a valuable commodity like other products traded in interstate commerce—but it is:

Every year, the United States produces more than 200 million tons of municipal waste. Seven percent of this garbage—1 ton in 14— is sent to a landfill or incinerator in another State for a price.

Nearly every State is both a willing seller and a willing buyer in the municipal waste market: 43 States some export some garbage, and 42 States import some.

When you think about it, trading garbage makes some sense especially for border towns. In Montana for example, two towns have made arrangements to share landfills with western North Dakota towns. And some trash from Yellowstone Park is disposed in Montana. These arrangements save money to communities. Moreover, these shared regional landfills are the waive of the future.

But no city or State should be allowed to become a dumping ground simply because an exporting community does not have the will to build a new landfill. While interstate commerce is a protected right of the Constitution, not in my backyard or NIMBY is not a protected right—nor should it be.

The bill before us today helps all States address their trash problems. The effect of this bill will be to reduce exports over time.

More importantly, it will ensure that in the future exports to landfills and incinerators in other States will be an option only if the community wants it.

Simply stated, this bill gives States and communities the power to decide what's best for them: Accepting garbage from other States—or refusing it.

Moreover, it will put pressure on the Nation's largest exporting States to cut their exports by specific amounts or importing States will be able to ban their exports altogether. It puts pressure on exporting States to take care of their own needs so there will be less pressure to export garbage to neighboring States.

This bill strikes the balance that I believe is needed to make interstate waste shipment legislation work for every community. It achieves this by letting Governors stem the rising tide of incoming garbage without forcing communities that now rely on this commerce to scramble.

AUTHORITY FOR STATES

The cornerstone of this bill is the added authority for all States. It lets every Governor freeze future shipments of garbage at the amounts received in 1993, no more than what was received in 1993. Unlike the bill passed last Congress, under this bill a Governor does not need to wait for a request for action from the local community to freeze imports. It can do it on its own.

At landfills or incinerators that did not receive out-of-State waste in 1993, any Governor may ban out-of-State garbage at landfills or incinerators if the local community does not want it.

To give every community incentive to reduce waste, the bill has a mechanism to force large exporting States to reduce their exports. What are they? Under the bill no State may export: more than 3.5 million tons of municipal waste in 1995; more than 3 million tons in 1996 and 1997; more than 2.5 million tons in 1998 and 1999; more than 1.5 million tons in 2000 and 2001; and more than 1 million tons in the year 2002 and beyond.

If a State does not meet these reductions, then any Governor may ban out-of-State garbage coming from that State. Not only will this help reduce exports, it will add some marketplace muscle by rewarding recycling and other efforts to cut the amount of garbage we produce in this country.

Finally, to ensure that no State becomes a dumping ground for any other State, the bill authorizes a Governor to limit the amount of waste exported to another State. Under the bill, by the year 2001 and each year thereafter no State may export more than 600,000 tons to another State.

This bill puts both local communities and States in the position to decide whether to accept more out-of-State garbage. It is their decision. The only way new imports would be allowed is if the affected local community agrees to take out-of-State waste and enters into what we are calling a "host community agreement."

While everyone agrees that "host community agreements" are desirable, one concern has been that a very small community could enter into such an agreement when the larger community opposes it. To protect against that, the bill allows the Governor to decide which local entity can enter into new agreements.

But one a so-called host community agreement is in place it will be protected from any interstate restrictions unless it violates a State's solid waste management plan.

In addition, new "host community agreements" must be very specific. Not only must they allow for out-of-State waste they must also specify the amounts allowed. And before they can be executed, the public must be notified and given an opportunity for comment.

I believe the result of this bill will be to give States better control of their borders, and local communities more say over what happens in their backyards.

This is a rational way to deal with a real problem that does not have the perverse effects of broader proposals that give State or local government blanket power to stop all interstate waste shipments immediately. It provides balance. It is common sense. It is all or nothing. It is a worked out combination and solution.

It will provide importing States the authority to restrict imports, and it will require exporting States to reduce their exports.

It will accomplish this in an orderly way without disrupting beneficial existing arrangements or lead to illegal disposal. And mostly it will give people in local communities more control over their own lives.

Mr. President, S. 2345 as unanimously approved by the Environment and Public Works Committee, is a good and responsible bill that addresses the needs of State and local communities in a balanced way.

Mr. President, I give special thanks to many Senators for their very, very hard work to help resolve this very vexing, not very glamorous but very vexing issue.

Special thanks go to Senator COATS of Indiana, a tireless worker, to resolve this, Senator WOFFORD for his diligence and perseverance to try to find solutions, particularly in his home State; Senator LAUTENBERG of New Jersey, another member of our committee for his hard work; Senator MOYNIHAN, the chairman of the Committee on Finance; Senator CHAFEE of Rhode Island, the ranking member of our committee; and as well as Senator ROBB of Virginia, whose State has a direct interest in this bill.

Mr. President, they worked long and hard to finally have this bill passed. I am hopeful in the remaining few days we can work out other arrangements in a similar bill in both the House and Senate so our people can have more control over their lives.

So the bill (S. 2345) was passed, as follows:

S. 2345

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Interstate Transportation of Municipal Solid Waste Act of 1994".

SEC. 2. INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE.

Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following new section:

"INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE

"SEC. 4011. (a) AUTHORITY TO RESTRICT OUT-OF-STATE MUNICIPAL SOLID WASTE.—(1) Except as provided in paragraph (4), immediately upon the date of enactment of this section if requested in writing by an affected local government, a Governor may prohibit the disposal of out-of-State municipal solid waste in any landfill or incinerator that is not covered by the exceptions provided in subsection (b) and that is subject to the jurisdiction of the Governor and the affected local government.

"(2) Except as provided in paragraph (4), immediately upon the date of publication of the list required in paragraph (6)(D) and notwithstanding the absence of a request in writing by the affected local government, a Governor, in accordance with paragraph (5), may limit the quantity of out-of-State municipal solid waste received for disposal at each landfill or incinerator covered by the exceptions provided in subsection (b) that is subject to the jurisdiction of the Governor, to an annual amount equal to the quantity of out-of-State municipal solid waste received for disposal at such landfill or incinerator during calendar year 1993.

"(3)(A) Except as provided in paragraph (4), immediately upon the date of publication of the list required in paragraph (6)(E), and notwithstanding the absence of a request in writing by the affected local government, a Governor, in accordance with paragraph (5), may prohibit the disposal of out-of-State municipal solid waste, at any landfill or incinerator covered by the exceptions in subsection (b) that is subject to the jurisdiction of the Governor, generated in any State that is determined by the Administrator under paragraph (6)(E) as having exported, to landfills or incinerators not covered by host community agreements, more than—

"(i) 3.5 million tons of municipal solid waste in calendar year 1995;

"(ii) 3.0 million tons of municipal solid waste in each of calendar years 1996 and 1997;

"(iii) 2.5 million tons of municipal solid waste in each of calendar years 1998 and 1999;

"(iv) 1.5 million tons of municipal solid waste in each of calendar years 2000 and 2001; and

"(v) 1.0 million tons of municipal solid waste in calendar year 2002 and each year thereafter.

"(B) No State may export more than 1.4 million tons of municipal solid waste to any one State in calendar year 1995 or 90 percent of the 1993 levels exported to a State, whichever is greater, 1.3 million tons in 1996 or 90 percent of the 1995 levels exported to a State, whichever is greater, 1.2 million tons in 1997 or 90 percent of the 1996 levels exported to a State, whichever is greater, 1.1 million tons in 1998 or 90 percent of the 1997 levels exported to a State, whichever is greater, 1 million tons in 1999, 800,000 tons in 2000, and 600,000 tons in 2001 and each year thereafter, to landfills or incinerators not covered by host community agreements. Governors of importing States may restrict levels of imports to reflect the appropriate level of out-of-State municipal solid waste imports if—

"(i) the Governor of the importing State has notified the Governor of the exporting State and the Administrator 12 months prior to enforcement of the importing State's intention to impose the requirements of this section;

"(ii) the Governor of the importing State has notified the Governor of the exporting State and the Administrator of the violation by the exporting State of this section at least 90 days prior to the enforcement of this section; and

"(iii) the restrictions imposed by the Governor of the importing State must be uniform at all facilities.

"(C) The authority provided by subparagraphs (A) and (B) shall apply for as long as a State exceeds the permissible levels as determined by the Administrator under paragraph (6)(E).

"(4)(A) A Governor may not exercise the authority granted under this section if such action would result in the violation of, or would otherwise be inconsistent with, the terms of a host community agreement or a permit issued from the State to receive out-of-State municipal solid waste.

"(B) Except as provided in paragraph (3), a Governor may not exercise the authority granted under this section in a manner that would require any owner or operator of a landfill or incinerator covered by the exceptions provided in subsection (b) to reduce the amount of out-of-State municipal solid waste received from any State for disposal at such landfill or incinerator to an annual quantity less than the amount received from such State for disposal at such landfill or incinerator during calendar year 1993.

"(5) Any limitation imposed by a Governor under paragraph (2) or (3)—

"(A) shall be applicable throughout the State;

"(B) shall not directly or indirectly discriminate against any particular landfill or incinerator within the State; and

"(C) shall not directly or indirectly discriminate against any shipments of out-of-State municipal solid waste on the basis of State of origin and all such limitations shall be applied to all States in violation of paragraph (3).

"(6)(A)(i) Any Governor who intends to exercise the authority provided in paragraph (2) or (3) shall, within 120 days after the date of enactment of this section, and on the same day of each year thereafter, submit to the Administrator information documenting the State of origin and the quantity of out-of-State municipal solid waste received for disposal at landfills and incinerators covered by the exceptions provided in subsection (b) in the State of such Governor during calendar year 1993.

"(ii) The Administrator is authorized and directed to collect such additional information in addition to what is submitted under clause (i) as may be necessary to determine if the level of exports of municipal solid waste by any State exceeds the level established in subparagraph (A) or (B) of paragraph (3).

"(B) On receipt of the information submitted or collected pursuant to subparagraph (A), the Administrator shall notify the Governor of each such State and the Governors of States with exports that exceed the level of exports of municipal solid waste established in subparagraph (A) or (B) of paragraph (3) and shall publish notice and shall provide a comment period of not less than 30 days.

"(C) Not later than 60 days after receipt of information from a Governor, and any additional information obtained by the Administrator, under subparagraph (A), the Administrator shall determine the quantity of out-of-State municipal solid waste that was received for disposal in the State during calendar year 1993, the State of origin and the total amount of municipal solid waste exports from each State that exceeds the level established in subparagraph (A) or (B) of paragraph (3), and the quantity of out-of-State municipal solid waste received for disposal at landfills and incinerators covered by the exceptions provided in subsection (b) in the State of such Governor during calendar year 1993. The Administrator shall publish a public notice and shall provide direct notification to each of the Governors of all States affected by this determination, for each such State for which the determination is made. A determination by the Administrator under this subparagraph shall be final and not subject to judicial review.

"(D) Not later than 180 days after the date of enactment of this section, the Administrator shall publish a list of the quantity of out-of-State municipal solid waste that was received during calendar year 1993 at each landfill and incinerator covered by the exceptions provided in subsection (b) for disposal in each State in which the Governor intends to exercise the authority provided in paragraph (2) or (3), as determined in accordance with subparagraph (C).

"(E) Not later than March 1, 1996, and on March 1 of each year thereafter, the Administrator shall publish a list of States that the Administrator has determined have exported out of State an amount of municipal solid waste in excess of 3.5 million tons in calendar year 1995, 3.0 million tons in each of calendar years 1996 and 1997, 2.5 million tons in each of calendar years 1998 and 1999, 1.5 million tons in each of calendar years 2000 and 2001, and 1.0 million tons in calendar year 2002 and each year thereafter, as determined in accordance with subparagraph (C).

"(F) Not later than March 1 of each year after the date of enactment of this section, or as required by State law, the owner or operator of each landfill or incinerator receiving out-of-State municipal solid waste shall submit to the Governor of the State in which the landfill or incinerator is located information specifying, by State of origin, the amount of out-of-State municipal solid waste received for disposal during the preceding year. Each year the Governor of a State who intends to exercise the authority provided in paragraph (2) or (3) shall publish and make available to the public a report containing information on the amount of out-of-State municipal solid waste received for disposal in the State during the preceding year.

"(7) Any affected local government that intends to submit a request under paragraph (1) or take formal action on a host community agreement shall, prior to taking such action—

"(A) notify the Governor, contiguous local governments, and any contiguous Indian tribes;

"(B) publish notice of the action in a newspaper of general circulation at least 30 days before taking such action;

"(C) provide an opportunity for public comment; and

"(D) following notice and comment, take formal action on any proposed request or action at a public meeting.

"(8) Any owner or operator seeking a host community agreement shall provide to the affected local government the following information, which shall be made available to the public from the affected local government:

"(A) A brief description of the planned facility, including a description of the facility size, ultimate waste capacity, and anticipated monthly and yearly waste quantities to be handled.

"(B) A map of the facility site that indicates the location of the facility in relation to the local road system and topographical and hydrological features and any buffer zones and facility units to be acquired by the owner or operator of the facility.

"(C) A description of the existing environmental conditions at the site, and any violations of applicable laws or regulations.

"(D) A description of environmental controls to be utilized at the facility.

"(E) A description of the site access controls to be employed, and roadway improvements to be made, by the owner or operator, and an estimate of the timing and extent of increased local truck traffic.

"(b) EXCEPTIONS TO AUTHORITY TO PROHIBIT OUT-OF-STATE MUNICIPAL SOLID WASTE.—(1) The authority to prohibit the disposal of out-of-State municipal solid waste provided under subsection (a)(1) shall not apply to landfills and incinerators in operation on the date of enactment of this section that—

"(A) received during calendar year 1993 documented shipments of out-of-State municipal solid waste; and

"(B)(i) in the case of landfills, are in compliance with all applicable Federal and State laws and regulations relating to operation, design and location standards, leachate collection, ground water monitoring, and financial assurance for closure and post-closure and corrective action; or

"(ii) in the case of incinerators, are in compliance with the applicable requirements of section 129 of the Clean Air Act (42 U.S.C. 7429) and applicable State laws and regulations relating to facility design and operations.

"(2) A Governor may not prohibit the disposal of out-of-State municipal solid waste pursuant to subsection (a)(1) at facilities described in this subsection that are not in compliance with applicable Federal and State laws and regulations unless disposal of municipal solid waste generated within the State at such facilities is also prohibited.

"(c) ADDITIONAL AUTHORITY TO LIMIT OUT-OF-STATE MUNICIPAL SOLID WASTE.—(1) In any case in which an affected local government is considering entering into, or has entered into, a host community agreement and the disposal or incineration of out-of-State municipal solid waste under such agreement would preclude the use of municipal solid waste management capacity described in paragraph (2), the Governor of the State in which the affected local government is located may prohibit the execution of such host community agreement with respect to that capacity.

"(2) The municipal solid waste management capacity referred to in paragraph (1) is that capacity—

"(A) that is permitted under Federal or State law;

"(B) that is identified under the State plan; and

"(C) for which a legally binding commitment between the owner or operator and another party has been made for its use for disposal or incineration of municipal solid waste generated within the region (identified under section 4006(a)) in which the local government is located.

"(d) SAVINGS CLAUSE.—Nothing in this section shall be interpreted or construed—

"(1) to have any effect on State law relating to contracts; or

"(2) to affect the authority of any State or local government to protect public health and the environment through laws, regulations, and permits, including the authority to limit the total amount of municipal solid waste that landfill or incinerator owners or operators within the jurisdiction of a State may accept during a prescribed period, provided that such limitations do not discriminate between in-State and out-of-State municipal solid waste, except to the extent authorized by this section.

"(e) DEFINITIONS.—As used in this section:

"(1)(A) The term 'affected local government', used with respect to a landfill or incinerator, means—

"(i) the public body created by State law with responsibility to plan for municipal solid waste management, a majority of the members of which are elected officials, for the area in which the facility is located or proposed to be located; or

"(ii) the elected officials of the city, town, township, borough, county, or parish exercising primary responsibility over municipal solid waste management or the use of land in the jurisdiction in which the facility is located or is proposed to be located.

"(B)(i) Within 90 days after the date of enactment of this section, a Governor may designate and publish notice of which entity listed in clause (i) or (ii) of subparagraph (A) shall serve as the affected local government for actions taken under this section and after publication of such notice.

"(ii) If a Governor fails to make such a designation, the affected local government shall be the elected officials of the city, town, township, borough, county, parish, or other public body created pursuant to State law with primary jurisdiction over the land or the use of land on which the facility is located or is proposed to be located.

"(C) For purposes of host community agreements entered into before the date of publication of the notice, the term means either a public body described in subparagraph (A)(i) or the elected officials of any of the public bodies described in subparagraph (A)(ii).

"(2)(A) The term 'host community agreement' means, with respect to any agreement entered into on or after June 23, 1994, a written, legally binding document or documents executed by duly authorized officials of the affected local government that expressly authorizes a landfill or incinerator to receive specified amounts of municipal solid waste generated out of State.

"(B) The term 'host community agreement' means, with respect to any agreement entered into before June 23, 1994, a written, legally binding document or documents executed by duly authorized officials of the affected local government expressly authorizing a landfill or incinerator to receive municipal solid waste generated out of State, but does not include any agreement to pay host community fees for receipt of waste unless additional express authorization to receive out-of-State municipal solid waste is also included. For purposes of a host community agreement entered into before June 23, 1994, such agreement may use a term other than 'out-of-State', provided that any alternative term or terms evidence the approval or consent of the affected local government for receipt of municipal solid waste from sources or locations outside the State in which the landfill or incinerator is located or is proposed to be located.

"(3) The term 'out-of-State municipal solid waste' means, with respect to any State, municipal solid waste generated outside of the State. To the extent that the President determines it is consistent with the North American Free Trade Agreement and the General Agreement on Tariffs and Trade, the term shall include municipal solid waste generated outside of the United States.

"(4) The term 'municipal solid waste' means refuse (and refuse-derived fuel) generated by the general public or from a residential, commercial, institutional, or industrial source (or any combination thereof), consisting of paper, wood, yard wastes, plastics, leather, rubber, or other combustible or noncombustible materials such as metal or glass (or any combination thereof). The term 'municipal solid waste' does not include—

"(A) any solid waste identified or listed as a hazardous waste under section 3001, or any solid waste containing polychlorinated biphenyls regulated under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

"(B) any solid waste, including contaminated soil and debris, resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604 or 9606) or a corrective action taken under this Act;

"(C) any metal, pipe, glass, plastic, paper, textile, or other material that has been separated or diverted from municipal solid waste (as otherwise defined in this paragraph) and has been transported into a State for the purpose of recycling or reclamation;

"(D) any solid waste that is—

"(i) generated by an industrial facility; and

"(ii) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or is located on property owned by the generator of the waste, or is located on property owned by a company with which the generator is affiliated;

"(E) any solid waste generated incident to the provision of service in interstate, intrastate, foreign, or overseas air transportation;

"(F) any industrial waste that is not identical to municipal solid waste (as otherwise defined in this paragraph) with respect to the physical and chemical state of the industrial waste, and composition, including construction and demolition debris;

"(G) any medical waste that is segregated from or not mixed with municipal solid waste (as otherwise defined in this paragraph); or

"(H) any material or product returned from a dispenser or distributor to the manufacturer for credit, evaluation, or possible reuse.

"(5) The term 'compliance' means a pattern or practice of adhering to and satisfying standards and requirements promulgated by the Federal or a State government for the purpose of preventing significant harm to human health and the environment. Actions undertaken in accordance with compliance schedules for remediation established by Federal or State enforcement authorities shall be considered compliance for purposes of this section.".

SEC. 3. TABLE OF CONTENTS AMENDMENT.

The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding at the end of the items relating to subtitle D the following new item:

"Sec. 4011. Interstate transportation of municipal solid waste.".

AUBURN INDIAN RESTORATION ACT

Mr. COATS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 582, H.R. 4228, a bill to extend Federal recognition to the United Auburn Indian Community.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (H.R. 4228) to extend Federal recognition to the United Auburn Indian Community.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection the Senate proceeded to consider the bill which had been reported from the Committee on Indian Affairs, with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Auburn Indian Restoration Act".

SEC. 2. RESTORATION OF FEDERAL RECOGNITION, RIGHTS, AND PRIVILEGES.

(a) FEDERAL RECOGNITION.—Notwithstanding any other provision of law, Federal recognition is hereby extended to the Tribe. Except as otherwise provided in this Act, all laws and regulations of general application to Indians or nations, tribes, or bands of Indians that are not inconsistent with any specific provision of this Act shall be applicable to the Tribe and its members.

(b) RESTORATION OF RIGHTS AND PRIVILEGES.—Except as provided in subsection (d), all rights and privileges of the Tribe and its members under any Federal treaty, Executive order, agreement, or statute, or under any other authority which were diminished or lost under Public Law 85-671 are hereby restored and the provisions of such Act shall be inapplicable to the Tribe and its members after the date of enactment of this Act.

(c) FEDERAL SERVICES AND BENEFITS.—Notwithstanding any other provision of law, and without regard to the existence of a reservation,

the Tribe and its members shall be eligible, on and after the date of enactment of this Act, for all Federal services and benefits furnished to federally recognized Indian tribes or their members. In the case of Federal services available to members of federally recognized Indian tribes residing on a reservation, members of the Tribe residing in the service area of the Tribe shall be deemed to be residing on a reservation.

(d) HUNTING, FISHING, TRAPPING, AND WATER RIGHTS.—Nothing in this Act shall expand, reduce, or affect in any manner any hunting, fishing, trapping, gathering, or water right of the Tribe and its members.

(e) INDIAN REORGANIZATION ACT APPLICABILITY.—The Act of June 18, 1934 (48 Stat. 984 et seq., chapter 576; 25 U.S.C. 461 et seq.), shall be applicable to the Tribe and its members.

(f) CERTAIN RIGHTS NOT ALTERED.—Except as specifically provided in this Act, nothing in this Act shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes levied.

SEC. 3. ECONOMIC DEVELOPMENT.

(a) PLAN FOR ECONOMIC DEVELOPMENT.—The Secretary shall—

(1) enter into negotiations with the governing body of the Tribe with respect to establishing a plan for economic development for the Tribe;

(2) in accordance with this section and not later than 2 years after the adoption of a tribal constitution as provided in section 7, develop such a plan; and

(3) upon the approval of such plan by the governing body of the Tribe, submit such plan to Congress.

(b) RESTRICTIONS.—Any proposed transfer of real property contained in the plan developed by the Secretary under subsection (a) shall be consistent with the requirements of section 4.

SEC. 4. TRANSFER OF LAND TO BE HELD IN TRUST.

(a) LANDS TO BE TAKEN IN TRUST.—The Secretary shall accept any real property located in Placer County, California, for the benefit of the Tribe if conveyed or otherwise transferred to the Secretary if, at the time of such conveyance or transfer, there are no adverse legal claims on such property, including any outstanding liens, mortgages, or taxes owed. The Secretary may accept any additional acreage in the service area of the Tribe pursuant to the authority of the Secretary under the Act of June 18, 1934 (48 Stat. 984 et seq., chapter 576; 25 U.S.C. 461 et seq.).

(b) FORMER TRUST LANDS OF THE AUBURN RANCHERIA.—Subject to the conditions specified in this section, real property eligible for trust status under this section shall include fee land held by the White Oak Ridge Association, Indian owned fee land held communally pursuant to the distribution plan prepared and approved by the Bureau of Indian Affairs on August 13, 1959, and Indian owned fee land held by persons listed as distributees or dependent members in such distribution plan or the Indian heirs or successors in interest of such distributees or dependent members.

(c) LANDS TO BE PART OF THE RESERVATION.—Subject to the conditions imposed by this section, any real property conveyed or transferred under this section shall be taken in the name of the United States in trust for the Tribe or, as applicable, an individual member of the Tribe, and shall be part of the reservation of the Tribe.

SEC. 5. MEMBERSHIP ROLLS.

(a) COMPILATION OF TRIBAL MEMBERSHIP ROLL.—Within 1 year after the date of the enactment of this Act, the Secretary shall, after consultation with the Tribe, compile a membership roll of the Tribe.

(b) CRITERIA FOR ENROLLMENTS.—(1) Until a tribal constitution is adopted pursuant to section 7, an individual shall be placed on the membership roll compiled under this section if the individual is living, is not an enrolled member of another federally recognized Indian tribe, is of United Auburn Indian Community ancestry, possesses at least one-eighth or more of Indian blood quantum, and if—

(A) the name of the individual was listed on the Auburn Indian Rancheria distribution roll compiled and approved by the Bureau of Indian Affairs on August 13, 1959, pursuant to Public Law 85–671;

(B) the individual was not listed on, but met the requirements that the individual was required to meet to be listed on, the Auburn Indian Rancheria distribution list compiled and approved by the Bureau of Indian Affairs on August 13, 1959, pursuant to Public Law 85–671; or

(C) the individual is a lineal descendant of an individual, living or dead, identified in subparagraph (A) or (B).

(2) After the adoption of a tribal constitution pursuant to section 7, such tribal constitution shall govern membership in the Tribe, except that in addition to meeting any other criteria imposed in such tribal constitution, any person added to the membership roll of the Tribe shall be of United Auburn Indian Community ancestry and shall not be an enrolled member of another federally recognized Indian tribe.

(c) CONCLUSIVE PROOF OF UNITED AUBURN INDIAN COMMUNITY ANCESTRY.—For the purpose of subsection (b), the Secretary shall accept any available evidence establishing United Auburn Indian Community ancestry. The Secretary shall accept as conclusive evidence of United Auburn Indian Community ancestry information contained in the Auburn Indian Rancheria distribution list compiled by the Bureau of Indian Affairs on August 13, 1959.

SEC. 6. INTERIM GOVERNMENT.

Until a new tribal constitution and bylaws are adopted and become effective under section 7, the governing body of the Tribe shall be an Interim Council. The initial membership of the Interim Council shall consist of the members of the Executive Council of the Tribe on the date of the enactment of this Act, and the Interim Council shall continue to operate in the manner prescribed for the Executive Council under the tribal constitution of the Tribe adopted on July 20, 1991, to the extent that such constitution is not contrary to Federal law. Any new members filling vacancies on the Interim council shall meet the enrollment criteria set forth in section 5(b) and be elected in the same manner as are Executive Council members under the tribal constitution adopted July 20, 1991.

SEC. 7. TRIBAL CONSTITUTION.

(a) ELECTION; TIME AND PROCEDURE.—Upon the completion of the tribal membership roll under section 5(a), and upon the written request of the Interim Council, the Secretary shall conduct, by secret ballot, an election for the purpose of adopting a constitution and bylaws for the Tribe. The election shall be held according to section 16 of the Act of June 18, 1934 (48 Stat. 987, chapter 576; 25 U.S.C. 476), except that absentee balloting shall be permitted without regard to voter residence.

(b) ELECTION OF TRIBAL OFFICIALS; PROCEDURES.—Not later than 120 days after the Tribe adopts a constitution and bylaws under subsection (a), the Secretary shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in such tribal constitution. Such election shall be conducted in accordance with the procedures specified in subsection (a) except to the extent that such procedures conflict with the tribal constitution.

SEC. 8. DEFINITIONS.

For purposes of this Act:

(1) The term "Tribe" means the United Auburn Indian Community of the Auburn Rancheria of California.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Interim Council" means the governing body of the Tribe specified in section 6.

(4) The term "member" means any person meeting the enrollment criteria under section 5(b).

(5) The term "State" means the State of California.

(6) The term "reservation" means those lands acquired and held in trust by the Secretary for the benefit of the Tribe pursuant to section 4.

(7) The term "service area" means the counties of Placer, Nevada, Yuba, Sutter, El Dorado, and Sacramento, in the State of California.

SEC. 9. REGULATIONS.

The Secretary may promulgate such regulations as may be necessary to carry out the provisions of this Act.

AMENDMENT NO. 2603

(Purpose: To provide Federal recognition of the Mowa Band of Choctaw Indians of Alabama)

Mr. COATS. Mr. President, on behalf of Senator INOUYE, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

The Senator from Indiana [Mr. COATS], for Mr. INOUYE, proposes an amendment numbered 2603.

Mr. COATS. Mr. President, I ask unanimous consent that the amendment be considered as read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, between lines 9 and 10, insert the following:

TITLE I—AUBURN INDIAN RESTORATION

On page 9, line 10, strike "section 1" and insert "sec. 101".

On page 9, lines 11 and 20, strike "Act" each place it appears and insert "title".

On page 9, line 13, strike "2" and insert "102".

On page 10, lines 16 and 24, strike "Act" each place it appears and insert "title".

On page 11, line 3, strike "3" and insert "103".

On page 11, line 11, strike "7" and insert "107".

On page 11, lines 19 and 20, strike "4" each place it appears and insert "104".

On page 12, line 23, strike "5" and insert "105".

On page 13, lines 4 and 24, strike "7" each place it appears and insert "107".

On page 14, line 14, strike "6" and insert "106".

On page 14, line 16, strike "7" and insert "107".

On page 15, line 1, strike "5(b)" and insert "105(b)".

On page 15, line 4, strike "7" and insert "107".

On page 15, line 6, strike "5(a)" and insert "105(a)".

On page 15, line 22, strike "8" and insert "108".

On page 15, line 23, strike "Act" and insert "title".

On page 16, line 7, strike "6" and insert "106".

On page 16, line 9, strike "5(b)" and insert "105(b)".

On page 16, line 14, strike "4" and insert "104".

On page 16, line 18, strike "9" and insert "109".

On page 16, after line 20, add the following new title:

TITLE II—CHOCTAW INDIANS RECOGNITION

SEC. 201. SHORT TITLE.

This title may be cited as the "Mowa Band of Choctaw Indians Recognition Act".

SEC. 202. FEDERAL RECOGNITION.

Federal recognition is hereby extended to the Mowa Band of Choctaw Indians of Alabama. All Federal laws of general application to Indians and Indian tribes shall apply with respect to the Mowa Band of Choctaw Indians of Alabama.

SEC. 203. RESTORATION OF RIGHTS.

(a) IN GENERAL.—All rights and privileges of the Mowa Band of Choctaw Indians which may have been abrogated or diminished before the date of enactment of this Act by reason of any provision of Federal law that terminated Federal recognition of the Mowa Band of Choctaw Indians of Alabama are hereby restored and such Federal law shall no longer apply with respect to the Band or the members of the Band.

(b) CONGRESSIONAL APPROVAL.—(1) Congress finds that under the treaties entered into by the ancestors of the Mowa Band of the Choctaw Indians all historical tribal lands were ceded to the United States.

(2) Congress hereby approve and ratifies such cession effective as of the date of the such cession and such cession shall be regarded as an extinguishment of all interest of the Mowa Band of Choctaw Indians, if any, in such lands as of the date of the cession.

(3) By virtue of the approval and ratification of the cession of such lands, all claims against the United States, any State or subdivision thereof, or any other person or entity, by the Mowa Band of Choctaw Indians, including claims for trespass damages or claims for use and occupancy, arising subsequent to the cession that are based upon any interest in or right involving such land, shall be considered as extinguished as of the date of the cession.

(c) CLAIMS.—(1) The Mowa Band of Choctaw Indians may not be considered to have a historical land claim.

(2) The Mowa Band of Chowtaw Indians may not use the Federal recognition provided to the Mowa Band of Choctaw Indians under this Act to assert any historical land claim.

(3) As used in this subsection the term "historical land claim" means a claim to land based upon—

(A) a contention that the Mowa Band of Choctaw Indians, or its ancestors, were the native inhabitants of such land;

(B) the status of Mowa Band of Choctaw Indians as native Americans; or

(C) the Federal recognition of the Mowa Band of Choctaw Indians, as provided by this title.

(d) STATUTORY CONSTRUCTION.—Except as otherwise specifically provided in section 204 or any other provision of this title, nothing in this title may be construed as altering or affecting—

(1) any rights or obligations with respect to property;

(2) any rights or obligations under any contract; or

(3) any obligation to pay a tax levied before the date of enactment of this Act.

SEC. 204. LANDS.

(a) IN GENERAL.—All legal rights, title, and interests in lands that are held by the Mowa Band of Choctaw Indians of Alabama on the date of enactment of this Act are hereby transferred to the United States to be held in trust for the use and benefit of the Mowa Band of Choctaw Indians of Alabama.

(b) INTERESTS.—(1)(A) Notwithstanding any other provision of law, the Mowa Band of Choctaw Indians of Alabama shall transfer to the Secretary of the Interior, and the Secretary of the Interior shall accept on behalf of the United States, any interest in lands acquired by such Band after the date of enactment of this Act.

(B) Such lands shall be held by the United States in trust for the benefit of the Mowa Band of Choctaw Indians of Alabama.

(2) Notwithstanding any other provision of law, the Attorney General of the United States shall approve any deed or other instrument used to make a conveyance under paragraph (1).

(c) RESERVATION.—Any lands held in trust by the United States for the benefit of the Mowa Band of Choctaw Indians of Alabama by reason of this section shall constitute the reservation of the Mowa Band of Choctaw Indians of Alabama.

(d) FINDINGS.—Congress finds that the provisions of this section—

(1) are enacted at the request of the Mowa Band of Choctaw Indians of Alabama; and

(2) are in the best interest of such Band.

SEC. 205. SERVICES.

The Mowa Band of Choctaw Indians of Alabama, and the members of such Band, shall be eligible for all services and benefits that are provided by the Federal Government to Indians because of their status as federally recognized Indians. Notwithstanding any other provision of law, such services and benefits shall be provided after the date of enactment of this Act to the Band, and to the members of the Band, without regard to the existence of a reservation for the Band or the location of the residence of any member of the Band on or near any Indian reservation.

SEC. 206. CONSTITUTION AND BYLAWS.

(a) IN GENERAL.—The Mowa Band of Choctaw Indians of Alabama may organize for the common welfare of the Band and adopt a constitution and bylaws in accordance with regulations prescribed by the Secretary of the Interior. The Secretary of the Interior shall offer to assist the Band in drafting a constitution and bylaws for the Band.

(b) FILING.—Any constitution, bylaws, or amendments to the constitution or bylaws that are adopted by the Mowa Band of Choctaw Indians of Alabama shall take effect only after such constitution, bylaws, or amendments are filed with the Secretary of the Interior.

SEC. 207. MEMBERSHIP.

(a) IN GENERAL.—Until a constitution for the Mowa Band of Choctaw Indians of Alabama is adopted, the membership of the Band shall consist of each individual who—

(1) is named in the tribal membership roll that is in effect on the date of enactment of this Act, or

(2) is a descendant of any individual described in paragraph (1).

(b) AFTER THE ADOPTION OF A CONSTITUTION.—After the adoption of a constitution by the Mowa Band of Choctaw Indians of Alabama, the membership of the Band shall be determined in accordance with the terms of such constitution or any bylaws adopted under such constitution.

SEC. 208. REGULATIONS.

The Secretary of the Interior shall prescribe such regulations as may be necessary to carry out the purposes of this title.

Mr. COCHRAN. Mr. President, I oppose an amendment that is being offered to H.R. 4228, the Auburn Indian Restoration Act, which would grant Federal recognition to the Mowa Band of Choctaw Indians of Alabama.

The matter of granting legislative recognition to nonrecognized groups of Indian people is clearly a controversial issue. As I have stated in the past, I believe all groups seeking recognition should go through the Federal acknowledgment process in the Department of the Interior and meet the established criteria. Legislative action creates a dual system for recognition, one system in which the Congress applies no criteria, and one system in which the Interior Department applies a set of established criteria. Congress should not grant Federal recognition due to the inconsistency and unfairness it creates among petitioning groups.

As a member of the Interior Appropriations Subcommittee, I am aware that funding for Indian programs lags far behind equivalent Federal programs. Native Americans suffer the worst conditions of unemployment, the lowest life expectancy, and least adequate education of all national groups.

Our Government has a responsibility to Native Americans based on treaties, statutes and Federal court rulings. Federal acknowledgment establishes a perpetual Government-to-Government relationship between the tribe and United States, which has major political, social, and economic implications for the petitioning tribe and Federal, State, and local governments.

Congress has created special programs for federally recognized tribes, including housing, educational assistance, social services, and medical benefits. To qualify for the protection, benefits, and services available to federally recognized tribes, a group must satisfy the requirements for recognition established by the Department of the Interior. These qualifications are as follows:

First, the Indian group is identifiable by historical evidence, written or oral, as being an American Indian tribe;

Second, its members must have existed as a distinct Indian community throughout history until the present.

Third, the Indian group must have maintained political influence over its members as an autonomous entity throughout history until the present;

Fourth, the membership of the group is composed principally of persons who are not members of any other Indian tribe; and

Fifth, the tribe has not been the subject of congressional legislation expressly terminating their relationship with the Federal Government.

While the 3,000 members of the Mowa group deserve every benefit and protection afforded by our constitutional system, I do not support legislation that would entitle the Mowa to all federally funded services by circumventing the established administrative recognition process—a process developed in 1978 with the support of Indian tribal governments, Congress, and the administration to ensure objective and uniform evaluation.

According to a 1992 statement by the Congressional Budget Office, the cost of the Mowa legislation to the American taxpayers is estimated at $10 million a year. This expenditure would have a profound effect on federally recognized tribes which have met the established requirements I previously listed.

I believe it is a bad precedent to depart from the existing requirements of law in controversial recognition cases. It creates an exception based on evidence that is in sharp dispute regarding the legitimacy of petitions. I hope the Senate will exercise restraint in the future when considering exceptions to the rule.

I am, however, not opposed to the Mowa Tribe seeking Federal recognition. I merely believe that the tribe should follow the same recognition process as other groups petitioning the Federal Government. The Federal acknowledgment process does not seek to determine if an individual is or is not Indian, it merely establishes the authenticity of a sovereign legal entity.

Senator MCCAIN and I introduced S. 1844, the Indian Federal Recognition Administrative Procedures Act of 1994, to improve and strengthen the administrative recognition process. If the current administrative process needs reform, then we as Members of Congress should place a stronger emphasis on comprehensively correcting the process, not circumventing the current system.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2603) was agreed to.

Mrs. FEINSTEIN. Mr. President, I rise today in support of restoring Federal recognition to the United Auburn Indian community of the Auburn Rancheria of California.

I applaud the action taken by the Senate in passing this legislation that is so vital to the tribe's future. I also want to commend Chairman INUOYE, the members of the Indian Affairs Committee and the committee staff for expediting consideration of this legislation.

The Auburn Tribe lost its Federal recognition in 1958, when the Federal Government adopted a termination policy that allowed it to sever its trust relationship with tribes throughout the country, including 41 California rancherias.

Legislative action to restore recognition has been ongoing since 1973, when now-Assistant Secretary for Indian Affairs Ada Deer led the fight to restore recognition to a tribe in Wisconsin. Recently, restoration was restored to the Tillie-Hardwick Tribes in California. In addition, 10 other terminated California tribes have regained their Federal recognition status. However, 14 California tribes remain terminated.

The United Auburn Indian community is one of those tribes. It is a community that, against the odds, has remained intact, despite long years of termination. While they have been forced by financial difficulties to give up a portion of their original rancheria, members of the Auburn Indian community have held their tribe together on 22 of their reservation's original 44 acres. Sixty of the 125 tribal members are living on what remains of their land.

The United Auburn Indian community is a tribe that had trouble coming up with the money to fax my office copies of the community letters of support for this bill. They have not had an easy time of it since their recognition was terminated almost 36 years ago to the day. But please don't get me wrong—this tribe is not looking for a government handout. What they want—and what they deserve—is to regain their rightful status as a federally recognized tribe.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

H.R. 4228

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AUBURN INDIAN RESTORATION

SEC. 101. SHORT TITLE.

This title may be cited as the "Auburn Indian Restoration Act".

SEC. 102. RESTORATION OF FEDERAL RECOGNITION, RIGHTS, AND PRIVILEGES.

(a) FEDERAL RECOGNITION.—Notwithstanding any other provision of law, Federal recognition is hereby extended to the Tribe. Except as otherwise provided in this Act, all laws and regulations of general application to Indians or nations, tribes, or bands of Indians that are not inconsistent with any specific provision of this title shall be applicable to the Tribe and its members.

(b) RESTORATION OF RIGHTS AND PRIVILEGES.—Except as provided in subsection (d), all rights and privileges of the Tribe and its members under any Federal treaty, Executive order, agreement, or statute, or under any other authority which were diminished or lost under Public Law 85–671 are hereby restored and the provisions of such Act shall be inapplicable to the Tribe and its members after the date of enactment of this Act.

(c) FEDERAL SERVICES AND BENEFITS.—Notwithstanding any other provision of law, and without regard to the existence of a reservation, the Tribe and its members shall be eligible, on and after the date of enactment of this Act, for all Federal services and benefits furnished to federally recognized Indian tribes or their members. In the case of Federal services available to members of federally recognized Indian tribes residing on a reservation, members of the Tribe residing in the service area of the Tribe shall be deemed to be residing on a reservation.

(d) HUNTING, FISHING, TRAPPING, AND WATER RIGHTS.—Nothing in this title shall expand, reduce, or affect in any manner any hunting, fishing, trapping, gathering, or water right of the Tribe and its members.

(e) INDIAN REORGANIZATION ACT APPLICABILITY.—The Act of June 18, 1934 (48 Stat. 984 et seq., chapter 576; 25 U.S.C. 461 et seq.), shall be applicable to the Tribe and its members.

(f) CERTAIN RIGHTS NOT ALTERED.—Except as specifically provided in this title, nothing in this title shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes levied.

SEC. 103. ECONOMIC DEVELOPMENT.

(a) PLAN FOR ECONOMIC DEVELOPMENT.—The Secretary shall—

(1) enter into negotiations with the governing body of the Tribe with respect to establishing a plan for economic development for the Tribe;

(2) in accordance with this section and not later than 2 years after the adoption of a tribal constitution as provided in section 107, develop such a plan; and

(3) upon the approval of such plan by the governing body of the Tribe, submit such plan to Congress.

(b) RESTRICTIONS.—Any proposed transfer of real property contained in the plan developed by the Secretary under subsection (a) shall be consistent with the requirements of section 104.

SEC. 104. TRANSFER OF LAND TO BE HELD IN TRUST.

(a) LANDS TO BE TAKEN IN TRUST.—The Secretary shall accept any real property located in Placer County, California, for the benefit of the Tribe if conveyed or otherwise transferred to the Secretary if, at the time of such conveyance or transfer, there are no adverse legal claims on such property, including any outstanding liens, mortgages, or taxes owed. The Secretary may accept any additional acreage in the service area of the Tribe pursuant to the authority of the Secretary under the Act of June 18, 1934 (48 Stat. 984 et seq., chapter 576; 25 U.S.C. 461 et seq.).

(b) FORMER TRUST LANDS OF THE AUBURN RANCHERIA.—Subject to the conditions specified in this section, real property eligible for trust status under this section shall include fee land held by the White Oak Ridge Association, Indian owned fee land held communally pursuant to the distribution plan prepared and approved by the Bureau of Indian Affairs on August 13, 1959, and Indian owned fee land held by persons listed as distributees or dependent members in such distribution plan or the Indian heirs or successors in interest of such distributees or dependent members.

(c) LANDS TO BE PART OF THE RESERVATION.—Subject to the conditions imposed by this section, any real property conveyed or transferred under this section shall be taken in the name of the United States in trust for the Tribe or, as applicable, an individual member of the Tribe, and shall be part of the reservation of the Tribe.

SEC. 105. MEMBERSHIP ROLLS.

(a) COMPILATION OF TRIBAL MEMBERSHIP ROLL.—Within 1 year after the date of the enactment of this Act, the Secretary shall, after consultation with the Tribe, compile a membership roll of the Tribe.

(b) CRITERIA FOR ENROLLMENTS.—(1) Until a tribal constitution is adopted pursuant to section 107, an individual shall be placed on the membership roll compiled under this section if

the individual is living, is not an enrolled member of another federally recognized Indian tribe, is of United Auburn Indian Community ancestry, possesses at least one-eighth or more of Indian blood quantum, and if—

(A) the name of the individual was listed on the Auburn Indian Rancheria distribution roll compiled and approved by the Bureau of Indian Affairs on August 13, 1959, pursuant to Public Law 85–671;

(B) the individual was not listed on, but met the requirements that the individual was required to meet to be listed on, the Auburn Indian Rancheria distribution list compiled and approved by the Bureau of Indian Affairs on August 13, 1959, pursuant to Public Law 85–671; or

(C) the individual is a lineal descendant of an individual, living or dead, identified in subparagraph (A) or (B).

(2) After the adoption of a tribal constitution pursuant to section 107, such tribal constitution shall govern membership in the Tribe, except that in addition to meeting any other criteria imposed in such tribal constitution, any person added to the membership roll of the Tribe shall be of United Auburn Indian Community ancestry and shall not be an enrolled member of another federally recognized Indian tribe.

(c) CONCLUSIVE PROOF OF UNITED AUBURN INDIAN COMMUNITY ANCESTRY.—For the purpose of subsection (b), the Secretary shall accept any available evidence establishing United Auburn Indian Community ancestry. The Secretary shall accept as conclusive evidence of United Auburn Indian Community ancestry information contained in the Auburn Indian Rancheria distribution list compiled by the Bureau of Indian Affairs on August 13, 1959.

SEC. 106. INTERIM GOVERNMENT.

Until a new tribal constitution and bylaws are adopted and become effective under section 107, the governing body of the Tribe shall be an Interim Council. The initial membership of the Interim Council shall consist of the members of the Executive Council of the Tribe on the date of the enactment of this Act, and the Interim Council shall continue to operate in the manner prescribed for the Executive Council under the tribal constitution of the Tribe adopted on July 20, 1991, to the extent that such constitution is not contrary to Federal law. Any new members filling vacancies on the Interim council shall meet the enrollment criteria set forth in section 105(b) and be elected in the same manner as are Executive Council members under the tribal constitution adopted July 20, 1991.

SEC. 107. TRIBAL CONSTITUTION.

(a) ELECTION; TIME AND PROCEDURE.—Upon the completion of the tribal membership roll under section 105(a), and upon the written request of the Interim Council, the Secretary shall conduct, by secret ballot, an election for the purpose of adopting a constitution and bylaws for the Tribe. The election shall be held according to section 16 of the Act of June 18, 1934 (48 Stat. 987, chapter 576; 25 U.S.C. 476), except that absentee balloting shall be permitted without regard to voter residence.

(b) ELECTION OF TRIBAL OFFICIALS; PROCEDURES.—Not later than 120 days after the Tribe adopts a constitution and bylaws under subsection (a), the Secretary shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in such tribal constitution. Such election shall be conducted in accordance with the procedures specified in subsection (a) except to the extent that such procedures conflict with the tribal constitution.

SEC. 108. DEFINITIONS.

For purposes of this title:

(1) The term "Tribe" means the United Auburn Indian Community of the Auburn Rancheria of California.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Interim Council" means the governing body of the Tribe specified in section 106.

(4) The term "member" means any person meeting the enrollment criteria under section 105(b).

(5) The term "State" means the State of California.

(6) The term "reservation" means those lands acquired and held in trust by the Secretary for the benefit of the Tribe pursuant to section 104.

(7) The term "service area" means the counties of Placer, Nevada, Yuba, Sutter, El Dorado, and Sacramento, in the State of California.

SEC. 109. REGULATIONS.

The Secretary may promulgate such regulations as may be necessary to carry out the provisions of this Act.

TITLE II—CHOCTAW INDIANS RECOGNITION

SEC. 201. SHORT TITLE.

This title may be cited as the "Mowa Band of Choctaw Indians Recognition Act".

SEC. 202. FEDERAL RECOGNITION.

Federal recognition is hereby extended to the Mowa Band of Choctaw Indians of Alabama. All Federal laws of general application to Indians and Indian tribes shall apply with respect to the Mowa Band of Choctaw Indians of Alabama.

SEC. 203. RESTORATION OF RIGHTS.

(a) IN GENERAL.—All rights and privileges of the Mowa Band of Choctaw Indians which may have been abrogated or diminished before the date of enactment of this Act by reason of any provision of Federal law that terminated Federal recognition of the Mowa Band of Choctaw Indians of Alabama are hereby restored and such Federal law shall no longer apply with respect to the Band or the members of the Band.

(b) CONGRESSIONAL APPROVAL.—(1) Congress finds that under the treaties entered into by the ancestors of the Mowa Band of the Choctaw Indians all historical tribal lands were ceded to the United States.

(2) Congress hereby approve and ratifies such cession effective as of the date of the such cession and such cession shall be regarded as an extinguishment of all interest of the Mowa Band of Choctaw Indians, if any, in such lands as of the date of the cession.

(3) By virtue of the approval and ratification of the cession of such lands, all claims against the United States, any State or subdivision thereof, or any other person or entity, by the Mowa Band of Choctaw Indians, including claims for trespass damages or claims for use and occupancy, arising subsequent to the cession that are based upon any interest in or right involving such land, shall be considered as extinguished as of the date of the cession.

(c) CLAIMS.—(1) The Mowa Band of Choctaw Indians may not be considered to have a historical land claim.

(2) The Mowa Band of Chowtaw Indians may not use the Federal recognition provided to the Mowa Band of Choctaw Indians under this Act to assert any historical land claim.

(3) As used in this subsection the term "historical land claim" means a claim to land based upon—

(A) a contention that the Mowa Band of Choctaw Indians, or its ancestors, were the native inhabitants of such land;

(B) the status of Mowa Band of Choctaw Indians as native Americans; or

(C) the Federal recognition of the Mowa Band of Choctaw Indians, as provided by this title.

(d) STATUTORY CONSTRUCTION.—Except as otherwise specifically provided in section 204 or any other provision of this title, nothing in this title may be construed as altering or affecting—

(1) any rights or obligations with respect to property;

(2) any rights or obligations under any contract; or

(3) any obligation to pay a tax levied before the date of enactment of this Act.

SEC. 204. LANDS.

(a) IN GENERAL.—All legal rights, title, and interests in lands that are held by the Mowa Band of Choctaw Indians of Alabama on the date of enactment of this Act are hereby transferred to the United States to be held in trust for the use and benefit of the Mowa Band of Choctaw Indians of Alabama.

(b) INTERESTS.—(1)(A) Notwithstanding any other provision of law, the Mowa Band of Choctaw Indians of Alabama shall transfer to the Secretary of the Interior, and the Secretary of the Interior shall accept on behalf of the United States, any interest in lands acquired by such Band after the date of enactment of this Act.

(B) Such lands shall be held by the United States in trust for the benefit of the Mowa Band of Choctaw Indians of Alabama.

(2) Notwithstanding any other provision of law, the Attorney General of the United States shall approve any deed or other instrument used to make a conveyance under paragraph (1).

(c) RESERVATION.—Any lands held in trust by the United States for the benefit of the Mowa Band of Choctaw Indians of Alabama by reason of this section shall constitute the reservation of the Mowa Band of Choctaw Indians of Alabama.

(d) FINDINGS.—Congress finds that the provisions of this section—

(1) are enacted at the request of the Mowa Band of Choctaw Indians of Alabama; and

(2) are in the best interest of such Band.

SEC. 205. SERVICES.

The Mowa Band of Choctaw Indians of Alabama, and the members of such Band, shall be eligible for all services and benefits that are provided by the Federal Government to Indians because of their status as federally recognized Indians. Notwithstanding any other provision of law, such services and benefits shall be provided after the date of enactment of this Act to the Band, and to the members of the Band, without regard to the existence of a reservation for the Band or the location of the residence of any member of the Band on or near any Indian reservation.

SEC. 206. CONSTITUTION AND BYLAWS.

(a) IN GENERAL.—The Mowa Band of Choctaw Indians of Alabama may organize for the common welfare of the Band and adopt a constitution and bylaws in accordance with regulations prescribed by the Secretary of the Interior. The Secretary of the Interior shall offer to assist the Band in drafting a constitution and bylaws for the Band.

(b) FILING.—Any constitution, bylaws, or amendments to the constitution or bylaws that are adopted by the Mowa Band of Choctaw Indians of Alabama shall take effect only after such constitution, bylaws, or amendments are filed with the Secretary of the Interior.

SEC. 207. MEMBERSHIP.

(a) IN GENERAL.—Until a constitution for the Mowa Band of Choctaw Indians of Alabama is adopted, the membership of the Band shall consist of each individual who—

(1) is named in the tribal membership roll that is in effect on the date of enactment of this Act, or

(2) is a descendant of any individual described in paragraph (1).

(b) AFTER THE ADOPTION OF A CONSTITUTION.—After the adoption of a constitution by the Mowa Band of Choctaw Indians of Alabama, the membership of the Band shall be determined in accordance with the terms of such

constitution or any bylaws adopted under such constitution.

SEC. 208. REGULATIONS.

The Secretary of the Interior shall prescribe such regulations as may be necessary to carry out the purposes of this title.

Mr. COATS. Mr. President, I move to reconsider the vote. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COATS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, the Senate has just passed a measure which allows States and communities the right to say no to out-of-State trash. This issue has become quite well known to this body over the past 4 years. During that time, the Senate has spoken twice, and now today for the third time, passing legislation by significant bipartisan margins which will allow States and communities to restrict unwanted trash imports.

This is an issue that first came to light nearly 4 years ago, brought to my attention as I traveled throughout the State by small communities that found themselves unwanted recipients of unwanted out-of-State trash. Centerpoint, IN, became a national story as trash was moved from east to west in a daily flow that was quickly overwhelming their landfill.

As a consequence of that, I brought legislation to this floor, as I said, over the past 4 years in a tortured journey. This legislation has twice passed the Senate but failed to pass the House of Representatives.

The House has now passed similar legislation, and the Senate's action today means that we have taken a giant step forward in enacting into law legislation that gives our States and our communities jurisdiction and power over the unwanted flow of out-of-State trash.

This legislation accomplishes three essential things. No. 1, it gives States and communities the power to say no to new shipments of out-of-State trash. No. 2, it allows continued trash shipments to a limited universe of landfills that meet all Federal and State standards for environmentally sound facilities. And No. 3, it provides that no landfill becomes a target for out-of-State trash by giving all States the ability to freeze volumes at grandfathered facilities.

We all know the problem with our landfills. Landfill space is continuing to fill up with trash, much of it imported, which endangers the ability of a State and community to take care of its own needs and to plan for its own future in terms of how they dispose of their own waste. We do recognize that exporting States need time to take care of their own problems. The question is how much time they need and in solving their problem do they create a problem somewhere down the road.

In 1990, Thomas Jorling, the commissioner of New York's Department of Environmental Protection, testified before the Senate Environment Committee that New York would be self-sufficient in solid waste management by the turn of the century.

Jorling went on to reason:

> States like New York can proceed with environmentally sound solid waste management programs only if the export option is available on a short term basis until temporary capacity crises and relieved. We strongly believe that State and local governments should be self sufficient and eventually develop all of their capacity in State.

We have been working to gain a resolution of this issue for over 4 years now. Political will to solve the crisis in exporting States, is necessary if we are to succeed. Consider the case of Pennsylvania where it took less than 3 years to move from less than 2 years landfill capacity to greater than 10 years.

In this Nation, we have unintentionally created a system which penalizes States that have mustered the political will to handle their own waste disposal needs. But it still provides no penalties for exporting States which drag their feet on dealing with their own trash.

INDIANA SITUATION

In my State, we have a very ambitious State solid waste management plan which will be overwhelmed if we are not able to regulate the flow of waste into our State.

My State faces the urgency of a ticking clock—we have less than 5 years landfill capacity left.

During 1993, over 820,000 tons of trash produced in other States were buried in Indiana soil.

Indiana had 150 landfills in 1980. Today, 64 remain.

Despite our best efforts to manage our own solid waste, we are still faced with a simple fact: We can't control our future if we can't control our borders.

In Indiana we are taking care of our own trash. We ask only that every State be environmentally responsible and accountable for the trash it generates.

CONSTITUTIONAL PROBLEM

State legislatures have tried to take care of the interstate waste problem but their ability to act effectively is limited. Each time States attempt to address this situation, the courts have ruled the State laws unconstitutional

The Courts have done so because the Courts have ruled that trade is protected by the commerce clause of the constitution and that States cannot enact laws interfering with that trade.

In June 1992, the Supreme Court handed down a decision reaffirming that only Congress possesses the constitutional mandate to regulate trade between the States.

In Fort Gratiot Sanitary Landfill Inc. versus Michigan the court reviewed a Michigan statute that allows the State's counties to regulate out-of-State and out-of-county waste disposal. The court struck down the statute as an unconstitutional interference with interstate commerce.

In his dissent in Fort Gratiot, the Chief Justice of the Supreme Court, William Rehnquist stated that he saw no reason in the commerce clause that requires certain cheap land States to become waste repositories for their brethren. But the court cases have also been clear in stating that if Congress legislates the issue, that will be determinative of the law, and that will address the constitutional question. What has failed is the ability of the U.S. Congress to override the provisions of the commerce clause, which the Court has expressly said they can do if we legislatively act. But as I indicated earlier, we have been unable to accomplish that. Today we have taken, after much deliberation, after much negotiation over a long period of time, a major and, hopefully, determinative step to finalize this entire question in this issue.

The House now having passed similar legislation, as the Senate has just passed, means that we, hopefully, can quickly move to resolve the few differences between the two versions and put this on the President's desk for signature. It has been a long road. It has required great effort and persistence by many, many people. We have shown endless patience in seeking a resolution for one of our States; if not the most pressing concern, if not the most pressing environmental concern.

Mr. President, I will skip the recitation of all of the ins, outs, ups and downs and difficult hurdles we have had to overcome to get to this particular point. Many of my colleagues have worked very, very hard to see that this is finally accomplished. We have had to give and take on both sides.

But today, with the clock ticking in the 103d Congress, we have passed legislation crafted out of the Environment and Public Works Committee with the chairmanship of Senator BAUCUS and with the assistance of the ranking member, Senator CHAFEE and members of that committee, with the assistance of my colleagues on both sides of the aisle, Republicans and Democrats, those from both importing States and exporting States, who have been alerted to the crisis and who have seen the need to be environmentally responsible, and seeing it understood that simply solving a problem in one State was creating a problem in another

State. We have had help from Governors from across the country. And it is the efforts of many, many people that have brought this to this particular point.

The legislation that we have just passed, as I said, strengthens the hands of importing States in many key ways. It provides all States additional authority to restrict waste imports. The original legislation only went to certain targeted States. This now gives all States additional powers. It requires the biggest exporting States to finally take control of their own waste. They will need to reduce exports over the next 8 years. And, if they fail to meet certain milestones, they will face an immediate ban. It leaves protection of existing waste contracts up to State law rather than granting them new Federal protections as was the case in the 1992 Senate-passed bill.

In sum, Mr. President, the amendment would give States and communities the authority to stop new movements of out-of-State waste. It allows continued trash shipments to a limited universe of landfills which received out-of-State trash in 1993 and that meet all Federal and State standards for environmentally sound facilities. I want to repeat that. It only allows continued trash shipments to a very limited universe of landfills and only if they received out-of-State trash in 1993 and only if those landfills meet all Federal-State standards for environmentally sound facilities.

The legislation provides that no landfill becomes a target for out-of-State trash by giving all States the ability to freeze volumes at grandfathered facilities, and it requires the biggest exporting States to finally take control of their own waste. They will need to reduce exports. If they fail to meet their milestones created in the bill, they will face an immediate ban.

We have clearly waited our turn. We have clearly demonstrated great patience on this issue. We have now acted. And I thank my colleagues for their cooperation in doing so. If this amendment can be taken up quickly in conference, I am satisfied that we will be able to have this signed into law quickly.

In February 1992, then candidate Bill Clinton, now President, clearly understood the problem when he stated in a debate in South Dakota in February 1992 and I quote:

> Our State—

Meaning Arkansas.

> —was targeted by people from back East who wanted to bring a lot of their garbage in * * * one of the things that the United States Congress should pass, and the President should sign, an act which gives every State the right to ban the import of out-of-State waste * * * the States ought to be able to decide.

So we are confident that, if we can quickly resolve the very minor differences between the House and the Senate legislation, the President will sign this bill. If the bill is not enacted this year, we are back to square one.

Let me make a prediction. Without a law this year, the problem moves west and south and more States will know the crisis which Indiana, Ohio, Pennsylvania, and Michigan have known for years.

This is, and has been, the simple appeal of importing States. It is important that we not squander our chance to enact meaningful restrictions. It is important that the House and the Senate move quickly so that this can be finalized in the 103d Congress.

I thank Senator SPECTER from Pennsylvania for being a champion in working with us side-by-side since we began this process. I thank my other colleagues, both Republicans and Democrats. I want to acknowledge the support and the help of the chairman of the Environment and Public Works Committee, who just arrived on the floor, for working diligently with us, for passing legislation out of his committee after some long and difficult negotiations, and for his help in bringing us to this particular point.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan [Mr. RIEGLE] is recognized.

COLLOQUY DURING SENATE FLOOR CONSIDERATION OF THE FISCAL YEAR 1995 LABOR-HHS CONFERENCE REPORT

Mr. KERRY. Mr. President, I would like to commend you and the members of your subcommittee on both sides of the aisle on the fiscal year 1995 Labor-HHS appropriations conference agreement. You have crafted an excellent bill with the conferees from the other body involving many difficult issues. The bill represents a balanced set of decisions that meets the needs of our constituents while also observing the budget caps associated with deficit reduction objectives.

In particular, Mr. President, I would like to utilize this colloquy to clarify and strengthen the congressional intent behind the resources provided for diabetes research and specifically diabetes-related eye research.

Am I correct that your subcommittee received many requests for increased emphasis and increased resources on these two areas of diabetes research from Senators, experts in the medical community, and constituents suffering from diabetes?

Mr. HARKIN. The Senator is correct.

Mr. KERRY. Is it also true this support from both the Senate and the other body was largely responsible for the increased resources provided to NIDDK and the National Eye Institute within the fiscal year 1995 conference agreement?

Mr. HARKIN. The Senator is again correct.

Mr. KERRY. And finally, Mr. President, is it also true that in the spirit of health care reform and the desire to see health care costs reduced, that the overriding purpose of providing resources for diabetes research in the fiscal year 1995 Appropriations Act lies in determining the cause and finding ways in which diabetes and complications from diabetes can be reduced and ultimately eliminated as the leading cause of blindness and third leading cause of death among Americans?

Mr. HARKIN. The Senator is correct.

Mr. KERRY. I thank the Chairman for his indulgence in this colloquy. I am personally interested in diabetes research, as are many of my constituents, and I intend to communicate my concerns to NIH in the hope that NIH will concentrate its efforts toward eliminating this source of death, disability, suffering, and expense by more closely focusing upon the critical diabetes research areas, particularly diabetes-related eye research.

Again, I thank the Chairman for his assistance here and the outstanding leadership he has shown in constructing this bill.

CONGRATULATING ELNOR G. HICKMAN

Ms. MOSELEY-BRAUN. Mr. President, I would like to take a moment to congratulate Elnor Hickman on her recent appointment to international president of Professional Secretaries International. Ms. Hickman is the first African-American to hold this very prestigious office in the 52-year history of PSI.

Ms. Hickman started her career as a result of Lyndon Johnson's Manpower Development and Training Act, part of the War on Poverty that President Johnson fought. She completed a MDTA course in 1967 and was placed in a position with the Legal Assistance Foundation of Chicago, where she is still working today.

Elnor Hickman has had a very illustrious career in PSI, holding offices in the organization at every level. In addition she has also been very active in community service in Chicago. She is involved in Career Links, a mentoring program developed by Women Employed and is a regular participant in programs at Robert Morris College.

As she takes her seat as international president, Elnor Hickman will preside at the Second International Secretarial Summit to be held in connection with PSI's international convention in Seattle in July 1995. The theme she has chosen for her year as international president is "Degrees of Excellence," an apt choice considering the excellence to which Ms. Hickman has devoted her life. The honor of serving as international president reflects her service and professionalism, and I am glad to see a resident of Illinois achieving this position.

HEALTH INSURANCE TAX DEDUCTION FOR THE SELF-EMPLOYED

Mr. McCAIN. Mr. President, I rise today to raise a major concern for small business throughout this country, the expiration of the 25-percent tax deduction for individuals who are self-employed and their dependents and employees. This deduction, which was first contained in the Tax Reform Act of 1986, expired last year. Since 1989, we have been keeping small business in limbo each year while Congress decides whether to extend this deduction.

Throughout the health reform debate, I have argued that this deduction for self-employed individuals should be expanded to be comparable to the full deduction that other businesses are entitled to. Ironically, not only are we failing to provide equity to these self-employed individuals, but we are allowing their small tax benefit to be eliminated. If we do not pass an extension very soon, self-employed individuals will not be able to deduct their health insurance this year.

One of my constituents has gone as far as alleging that small businesses are being punished for opposing the health reform bills proposed by the administration. Another has claimed that by allowing the tax deduction to expire, those who favor the various universal coverage bills, such as the Clinton and single-payor plans, are encouraging individuals to drop their coverage, thereby increasing the number of uninsured Americans and creating greater political pressure for passage of their plan next year.

I disagree with these allegations. I would never attribute such objectionable motives to any of my colleagues. I believe that we all want to increase the number of Americans who have adequate health insurance coverage, though we differ on how best to achieve this goal. I do agree, however, that the result of allowing the deduction to expire will be to increase the number of uninsured Americans. I also agree that this is extremely unfair and will impose a large burden on individuals we should be helping, those who have taken the initiative and risk associated with small business and self-employment.

What is happening here is another excellent example from the health reform debate of the perfect being the enemy of the good. Many of us have proposed full deductibility of health insurance for the self-employed in our various health reform bills. The vast majority of us at least favor that these individuals not lose their current small tax benefit which helps them to purchase coverage. However, because we cannot have everything that we want, we are not willing to pass a bill that we all can agree on.

Mr. President, we must pass an extension of the health insurance tax deduction for the self-employed this year. The many small businesses that will be harmed if we do not extend it are among the most vital and important participants in our economy. It is outrageous that they are not permitted to deduct the same percentage of their health insurance costs as do large corporations. It is even more outrageous that we are taking away the small amount that we currently allow them to deduct.

If we are serious about expanding health insurance coverage in this country, we cannot allow this tax deduction to lapse.

VOODOO 2: THE REPUBLICAN CONTRACT WITH AMERICA

Mr. DECONCINI. Mr. President, earlier this week 300 Republicans stood on the Capitol steps and signed a contract with America. If Republicans take over Congress, they pledged a return to the Reagan years—with promises of a balanced budget, tax cuts, and defense buildups. The contract comes with a $1 trillion price tag: a price tag that would have to be made up in unprecedented budget savings. Yet the Republicans have no solid ideas on how to pay the bill.

Let me remind my Republican colleagues that a contract, by definition, is a solemn agreement, enforceable by law. By contrast, what the Republicans have offered is pie in the sky, a chicken in every pot, election year smoke and mirrors. As my good friend from Arkansas, Senator BUMPERS, stated, what America witnessed on the Capitol steps this week was a "snake-oil convention"—300 individuals concerned not with the next generation, but with the next election.

Even members of their own party see the Republican agenda for what it is: political hogwash. FRED GRANDY, Republican from Iowa, labels the Republican proposals, and I quote, "the crassest kind of politics." "How many times does the elixir salesman show up with the hair tonic," GRANDY said, "before people figure out this stuff doesn't work?"

The last time we heard Republicans say they could balance the budget while cutting taxes was in 1981. "This administration is committed to a balanced budget," President Reagan pledged in 1981, "and we will fight to the last blow to achieve it by 1984." This is what President Reagan said. What President Reagan did was double the national debt. It took this Nation over two centuries—205 years to be exact—to pile up a debt of $1 trillion. It took us only 5 years—5 Reagan years—to pile up our second trillion dollars of debt. This Reagan feat was a direct consequence of unprecedented tax cuts plus historic defense buildups and no sound policy to pay for them.

And so the American taxpayer paid, Mr. President—and paid and paid and paid. Under President Reagan, the average taxpayer in America had to work one-and-a-half weeks just to pay for the interest of the national debt. Under Reagan, we had interest rates of 13 and 14 percent. Under Reagan, we had 6 of the 10 largest deficits ever run up in this Nation. Under Reagan, we had a recession from which we are only now beginning to recover. Mr. President, this was not morning in America.

Our Republican colleagues, shrewdly taking note of election year tax cut fever, have also promised tax breaks for the middle class. This is what they promise, Mr. President, but what they will deliver is more tax breaks for the rich. Enact their capital gains tax cut, and 70 percent of its benefits will go to families making over $100,000. Take the cap off IRA's, and who will benefit? Not middle-class America, Mr. President. At least 95 percent of the proposed new tax benefit will go to the top fifth of all taxpayers and one-third will go to the richest 3 percent. The rest of America will have to shoulder the $8 billion increase this tax benefit will add to the deficit.

Does this sound familiar, Mr. President? Four Presidential elections ago, candidate Reagan campaigned as a friend of the middle class. But the facts show that over one-third of the Reagan tax cuts went to the Rolls Royce crowd—the richest 5 percent of the taxpayers. His tax changes decreased by $73,000 per year the taxes paid by the richest 1 percent of Americans, while they eliminated benefits for the poorest and increased the tax burden on the middle class. To paraphrase Yogi Berra, the Republican agenda is "deja vu all over again." Mr. President, this is not morning in America.

And how are our Republican colleagues planning to pay for their tax breaks for the rich? House Republicans give virtually no clue on how they will find the savings. Count on a strong economy, they say. It is an unsettling echo of Ronald Reagan's rosy scenario, his pain-free, trickle-down recovery—and we all know how that turned out: Recordbreaking deficits and an America that was suddenly the biggest debtor on Earth

Senate Republicans are a bit more concrete. They say they will find the savings by cutting $238 billion from non-Social Security entitlement programs over 5 years. This translates into 238 billion dollars' worth of cuts solely in Medicare and Medicaid. This is a warning in red. Without health care reform, cuts of this size could have a devastating impact. Millions more Americans would be added to the rolls of the uninsured. Premium costs for Medicare beneficiaries would soar.

Count on hospitals being forced to close their doors. Mr. President, this is not morning in America.

What House and Senate Republicans both pledge is that they will not touch Social Security. Well, let me remind my colleagues that throughout his 1980 campaign President Reagan also pledged his support for Social Security. But less than 4 months after taking the oath of office, President Reagan tried to eliminate the Social Security minimum benefit. He called for a delay in the annual cost-of-living raise. He called for a reduction in benefits for those retiring at age 62. Fortunately, Congress rebuffed Reagan's assaults on Social Security. But if Republicans take over Congress, who is to say they will not go after Social Security again?

Mr. President, 2 days ago my colleague from Arkansas, Senator BUMPERS, took to the Senate floor and made a masterful speech about the need today for moral fortitude. As elected officials, we have a moral obligation to cast our votes for what is in the best interest of the people of this country—and not for what can ensure us 6 more years in office or what can bring down the opposition party. The American people have grown sick and tired of political posturing. Sadly, they see too many of their elected officials as motivated not by the public interest, but by private gain. We must acknowledge this attitude—take responsibility for it—if there is ever to be any hope for change.

Last year 50 courageous lawmakers in this body voted to break gridlock and change the Nation's course. The vote was on President Clinton's comprehensive budget bill—and the Senate chamber was heavy with predictions of national doom and gloom. My colleague from Texas, Senator GRAMM, perhaps best summed up the doomsday message:

> I want to predict here tonight that if we adopt this bill the American economy is going to get weaker and not stronger, the deficit four years from today will be higher than it is today and not lower. . . . When all is said and done, people will pay more taxes, the economy will create fewer jobs, government will spend more money, and the American people will be worse off.

Contrary to Senator GRAMM's gloomy forecast, virtually every one of our indicators points to an economic revival. The deficit is coming down after going up almost unstopped for 12 years; interest rates and inflation are at historic lows; unemployment is down; and single-family housing starts are at their highest level in 15 years.

I know how much Arizonans have benefitted from President Clinton's economic plan. My State has added 6,900 manufacturing jobs in the last 17 months. Our unemployment rate has dropped from 7 percent to 6.3 percent. Annual growth in personal income has tripled that of the previous 4 years; and new business incorporations are up 23 percent. I know that Arizona is not alone in experiencing an economic revival.

I want to emphasize that 50 lawmakers took a risk in voting for a proposal that would put this country back on track. They voted for the proposal in the face of unfounded and false charges that it would cost jobs; flatten the economy; and raise taxes on all Americans. But Democratic lawmakers were willing to take a personal risk for the sake of a larger cause. I could also cite examples of my friends across the aisle making equally courageous choices. Not that many years ago, the minority leader worked tirelessly to pass a bipartisan budget that made unpopular choices for the good of this country.

The unfortunate fact is that courageous choices—choices which call for sacrifice and pain—often exact personal consequences. Many of my colleagues who voted for the Clinton budget are in tough reelection campaigns because of that vote. But there are worse consequences—consequences that are paid by the people of this country when politicians take the easy road and make the promises people want to hear.

"I don't believe irresponsible promises are good politics," Adlai Stevenson once said. "Promise-peddling and double talk may be expedient and catch some votes from the unwary and innocent, but promises also have a way of coming home to roost." Promises can indeed backfire on those who make them. But they can also backfire on those to whom the promises are made—the American people. We saw such consequences during the Reagan era. Mr. President, I pray we do not witness them once again through a contract which promises to revise those Reagan years.

Let me say loud and clear: The Republican promises are not honest. They are pie-in-the-sky election-year posturing. And like the Reagan-era excesses, they will bring this Nation to its knees.

I have great faith in the American people. I predict that they will not be fooled again by snake-oil promises which have dangerous consequences.

POSITION ON VOTE

Mr. ROBB. Mr. President, while my vote would not have changed the outcome, I rise to say that had I been present for yesterday's vote on the Legislative Reorganization Act, I would have voted "aye." I have long supported biennial budgeting, limiting post-cloture debate, and other measures contained in that bill. In testimony I submitted to the Rules Committee during their consideration of this legislation last February, I outlined key reforms that I favor to increase the efficiency and accountability of the Senate. The Joint Committee accomplished a difficult tasks in developing reasonable changes to improve the working of this body, and I am particularly gratified that some of my recommendations were included. In this context, I request that this statement be inserted in the RECORD at this time.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR CHARLES S. ROBB ON THE CONGRESSIONAL REORGANIZATION ACT OF 1994

I want to thank the members of the recently adjourned Joint Committee for making such a concentrated effort at what is largely a thankless task. I believe that if Congress is to be improved through these proceedings, the Legislative Reorganization Act will have to be strengthened and expanded to contain more of the good ideas explored by that body. This is one of those frustrating situations where the provisions in the bill do not measure up to the exciting ideas contained in the committee report. However, I understand the difficulties the Joint Committee encountered in reaching consensus, and hope the Rules Committee is able to break some of the logjams.

I would like to point out that public disapproval and distruct of the institution is based primarily on Congress' failure to carry out its most important responsibility—managing the public purse. In my mind, popular disapproval of Congress relates back closely to the budgetary deficits that we approve each year and the debt that we have accumulated for our grandchildren.

Democracy is intrinsically susecptable to fiscal mismanagement. It is the nature of a legislature to spend, and it is the nature of voters to reward those who provide them with a piece of the treasury. In The Republic, Book VIII, Plato decried this tendency over 2000 years ago. We have checks on this pattern of behavior, many implemented in the past 10 years, but it is crucial to the health of our democratic experiment that these checks be periodically reinforced and reformed. I believe this is central to the effectiveness of this reform bill.

The move to biennial budgeting and authorization would constitute an effective retrenchment in the battery of checks against spending. Long term planning is noticeably absent in the present mad rush to approve the 13 annual appropriation bills, and far too much time is spent debating the same controversial provisions each year. With appropriations being the focus only one year of a two year cycle, there will be more time set aside for authorization and regulatory oversight. I have supported a move to biennial budget in the past, and welcome this renewed attempt to make the process more ordered.

In addition, I continue to advocate the creation of a new "budgetary leadership committee" to replace the current Budget Committee. While no such provision is currently included in the bill, consolidation of budgetary responsibility within a leadership committee, composed of the majority and minority leaders along with the chairmen and ranking members of the Finance and Appropriations Committees, would bring a more realistic alignment of spending versus receipts to the process. In a two year budgeting system, this committee would meet, perhaps, only in the first (odd numbered) year of a Congress, and would set parameters for the authorizing committees in their work.

Much more could be done to streamline the legislative process in areas beyond those budgetary. I would like to see germaneness more strictly defined as it applies in Rules XVI, XXII, and XXVII to avoid the tortured interpretation currently employed. In addition, I support changes in the rules to extend the germaneness requirement to amendments to emergency appropriations and major, omnibus legislation. I grant that the definition of what legislation is "major" and which is not would be difficult to spell out. It would be worth the effort, however, to end the current situation where major legislation is passed onto the President covered with a host of "Christmas tree ornaments" of non-germane amendments that, more times than not, benefit only a narrow constituency.

There are other areas I would like to see addressed in this package of reforms. We are all aware that unnecessarily burdensome federal regulations fuel the public perception of Congress as out of touch with the people we serve. While I believe the time set aside for authorization and regulatory oversight in a two year authorizing process would have a salutary effect, there is a step that we can take right now to clear up our greatest regulatory sin—Congressional exemptions. For a small business owner plowing through the federal forms and mandates handed down from this body, the true insult comes with the discovery that the body which initiated such regulations also is exempt from them. This is contrary to the express intentions of the framers and an unhealthy trend.

There is no provision in the current draft to address this issue, and there should be. The House version of this bill, specifically Chapter 3, Subtitle C, is stronger in this regard, and has elicited the support of nearly 250 members. On the Senate side, I support the efforts of Senator Lieberman in his work on the Congressional Accountability Act. I understand he is working to introduce a stronger version of this bill with Senator Grassley, and I would like to see it considered as a part of the entire package of reforms.

This bill is in response to public criticism of the way Congress does business. Some of this criticism is based on misconceptions, and some is spread by people who serve their own interest by bashing Congress. Most of the criticism, however, is based on a very real perception that Congress has systemic problems in managing the national budget and in regulating its own internal affairs. While Congress rarely enjoys high ratings, I believe that some lasting good can come of the current down-turn in public confidence in this institution. We should capitalize on the political momentum behind this bill, and implement well-reasoned and far-reaching reforms.

CRYPTOSPORIDIUM AND THE SAFE DRINKING WATER ACT

Mr. FEINGOLD. Mr. President, this week NBC's news program "Dateline" ran a three part series on incident of cryptosporidium in the Nation's water supply. Wednesday night's broadcast addressed what citizens can do to protect themselves from their own drinking water given that congressional action is still pending. The Safe Drinking Water Act amendments have passed the other body and the measure is now scheduled to go to conference. Mr. President, it is the hope of this Senator that though the clock is running down on this session, the conferees move with diligence and expedience in addressing their task. Having the press telling our citizens to boil their water, while we wait to take up the measure next year is simply not responsive to the concerns of those who are increasingly afraid to use the most essential, life sustaining resource.

These broadcasts made one fact perfectly clear: Milwaukee's problem is the country's problem, but Milwaukee's solution is not the country's practice. As described Tuesday night by Paul Nannis, Milwaukee's health commissioner, the city now notifies at risk populations of detections of cryptosporidium in municipal water, contacting hospitals, AIDS care facilities, institutions that service the metropolitan areas' elderly, informing all those with fragile immune systems so they can protect themselves. The city is engaged in a multitier approach to investigating whether cryptosporidium is present in the drinking water: testing occurs at the facility for the parasite, particulates and turbidity of the water are used as indicators, and the city has established a network to monitor disease outbreaks that suggest individuals have been exposed to cryptosporidium.

As the shows have also described, Mr. President, it is not only those with fragile immune systems that experience health problems when exposed to cryptosporidium. Over 400,000 people of all states of health became ill in Milwaukee and 104 people died following the city's cryptosporidium outbreak in April 1993, more than 1 year ago. I have observed firsthand the lingering health problems Milwaukee citizens continue to face. The shocking part of these broadcasts, Mr. President, is that Milwaukee is not alone in experiencing drinking water health problems. Outbreaks in several large cities were highlighted. News show time limits prohibited a listing of all the cases of concern. Between 1986 and 1992, the Center for Disease Control reported a total of 102 drinking water disease outbreaks linked directly or indirectly to microscopic parasites, viruses, and bacterium, striking 34,155 people in 35 States.

In conclusion, Mr. President, this body has acted, our colleagues in the other body have acted, and it is time to complete our commitment to ensure that the Nation's drinking water is safe. Let us make certain that Dateline's news epilog ends with congressional action, rather than how-to hints.

IN CELEBRATION OF THE REPUBLIC OF CHINA'S NATIONAL DAY

Mr. CRAIG. Mr. President, last May I had an opportunity to visit the Republic of China on Taiwan. It was a wonderful experience forging new friendships and strengthening the many ties between the Republic of China and my home State, Idaho. I was very much impressed by the public officials with whom I met.

During my meeting with President Lee Teng-Hui, I learned of his genuine interest in seeing his country play a larger international role, which is a goal befitting Taiwan's economic power and place within the international community. President Lee urged all nations, especially the United States, to give their support to Taiwan's campaign to return to the United Nations. It is my hope that this goal will someday be realized.

I also had a very interesting conversation with Dr. Fredrick Chien, the Republic of China's Foreign Minister. A Yale-educated Ph.D. and diplomat, Minister Chien's vast abilities offer a great deal to both the people of the Republic of China and the world. His grasp of international events, his wit, and his intellect are impressive. I enjoyed our discussion on the relationship between the Republic of China and the United States, and share Minister Chien's desire to see a further strengthening of ties between Taipei and Washington.

After extensive internal review, there has been recent progress toward upgrading the relations between the United States and Taiwan, which was good news from the Clinton administration. The administration has agreed to help Taiwan enter certain international organizations, especially those that deal primarily with trade and commerce. The Clinton administration has also agreed to allow the ROC to change the name of its offices in the United States from the Coordination Council for North American Affairs, to the Taipei Economic and Cultural Representative Office. These modest improvements in relations between our two countries are certainly a step in the right direction. It is hoped that we will see this pattern of improvement continued.

On the eve of the Republic of China's 83d National Day, I believe we should continue to give our support to the Republic of China's bid to be a member of the GATT and the United Nations. In addition, I hope that remaining issues or obstacles can be resolved so that President Lee Teng-Hui and Vice President Li Yuan-Zu can be allowed to visit the United States. It is my understanding that a number of my colleagues have extended invitations to President Lee and other leaders from Taipei, to visit Capitol Hill. I know for a fact that President Lee has much insight to share with us, especially on east Asian affairs.

Before concluding, Mr. President, on September 20, 1994, I attended a congressional farewell reception for Ambassador and Mrs. Mou-Shih Ding in the Mansfield Room. I was glad to see many of my Senate colleagues in attendance. They clearly had a great deal of affection for the Dings and the Republic of China. Ambassador Ding's successor, Ambassador Benjamin Lu, is a multilingual diplomat with Washington experience. Lu was stationed here in Washington in the 1980's as the director of the economic division of the then-titled Coordination Council for North American Affairs. I welcome Ambassador and Mrs. Lu to Capitol Hill and look forward to their tenure in Washington, DC.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE ABOUT THAT

Mr. HELMS. Mr. President, before we ponder today's bad news about the Federal debt, let us have a little pop quiz: How many million dollars would you say are in a trillion dollars? And when you answer that, just remember that Congress has run up a debt exceeding $4½ trillion.

To be exact, as of the close of business Thursday, September 29, the Federal debt stood—down to the penny—at $4,669,822,761,500.75 meaning that every man, woman, and child in America owes $17,911.87 computed on a per capita basis.

Mr. President, to answer the question—how many million in a trillion?—there are a million million dollars in a trillion dollars. I remind you, the Federal Government, thanks to the U.S. Congress, owes more than $4½ trillion.

THE CWC REPORT

Mr. DECONCINI. Mr. President, the Senate Select Committee on Intelligence has just issued a report on U.S. Capability to Monitor Compliance with the Chemical Weapons Convention, an analysis of the monitoring and counterintelligence implications of this arms control agreement that has been submitted to the Senate for its advice and consent to ratification. The committee will send each member a printed copy of this report, and we would be happy to provide a typescript copy to anybody who would like to see the report before the Senate adjourns.

This report fulfills a traditional function of the Intelligence Committee with regard to arms control agreements, to give both the Senate Foreign Relations Committee and the Senate as a whole our independent assessment of such issues as how well or poorly the United States will be able to monitor other countries' compliance with the convention, and whether the executive branch is prepared to protect classified information during foreign inspections of U.S. facilities. Because the CWC will also involve inspections of private facilities in the United States, our report also covers issues relating to the protection of confidential business information.

The committee's unclassified report includes 14 recommendations, some of which relate to language in the resolution of ratification. The report, which the committee approved by a vote of 16 in favor and none opposed, also contains three additional views, by Senators JOHN GLENN, JOHN F. KERRY and MALCOLM WALLOP.

There is a longer, highly classified version of this report, which is held in the committee's offices. We invite all interested Members of the Senate to read this more detailed report at their convenience.

Mr. President, I ask unanimous consent that the committee's findings and recommendations, which are summarized in the final section of our report, be included in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REPORT OF THE SELECT COMMITTEE ON INTELLIGENCE, U.S. SENATE: SELECT COMMITTEE ON INTELLIGENCE, U.S. SENATE: U.S. CAPABILITY TO MONITOR COMPLIANCE WITH THE CHEMICAL WEAPONS CONVENTION

SUMMARY: FINDINGS AND RECOMMENDATIONS

This summary largely repeats the findings and recommendations contained in the body of the Committee's report. The reader is encouraged to consult the full text to understand the context of those findings and recommendations and the reasons for them.

IMPLICATIONS OF THE CWC TEXT

The Committee pursued several issues of treaty interpretation in its hearing and in questions for the record, and the answers provided by the Executive branch were generally reassuring. The lack of a definition of "law enforcement purposes" could lead, however, to compliance disputes.

If the CWC is ratified, a new Executive order will be needed to minimize the risk of American use of riot control agents in ways that would raise compliance questions.

It is likely that some States Parties to the CWC will assert that the Convention requires substantial changes in the functioning of the Australia Group. The Committee trusts that the United States and other Australia Group members will prepare to counter such arguments both publicly and in international fora.

Recommendation #1.—The Senate should make its consent to ratification of the CWC conditioned upon a binding obligation upon the President that the United States be present at all Amendment Conferences and cast its vote, either positive or negative, on all proposed amendments made at such conferences, thus ensuring the opportunity for the Senate to consider any amendment approved by the Amendment Conference.

MONITORING AND VERIFICATION

A single, all-encompassing judgment cannot be made regarding the verifiability of the CWC or U.S. capability to monitor compliance with the Convention. In some areas our confidence will be significantly higher than others. Like the Executive branch, however, the Committee largely accepts the Intelligence Community's pessimistic assessment of U.S. capability to detect and identify a sophisticated and determined violation of the Convention, especially on a small scale. The Committee also notes the Intelligence Community's assessment that the CWC would give the U.S. Government access to useful information, relevant to potential CW threats to the United States, that would not otherwise be obtainable.

It is likely that some countries that ratify the CWC will seek to retain an offensive chemical weapons capability. While it is unlikely that they would do so by diverting declared CW stocks, the covert stockpiling of undeclared agent or munitions could well occur. Monitoring such illicit behavior will be the single most challenging task for the CWC verification regime and U.S. monitoring.

OPCW investigators, if not blocked from gaining needed access to sites and affected persons, should be able to determine whether chemical weapons have been used in a particular case.

Recommendation #2.—The Executive branch should work to foster OPCW procedures that would permit on-site inspectors to identify and record the presence of non-scheduled chemicals, while taking extraordinary steps, if necessary, to protect any confidential information thereby acquired.

If the international inspectorate is determined, well trained, and well equipped, and if U.S. or other States Parties provide accurate and timely leads to the OPCW, there may well be some occasions in which on-site inspection will produce evidence of CWC violations. It will be vital, however, that the OPCW not lose sight of that objective.

In addition, U.S. and international monitoring will, at times, be sufficient to raise well-founded questions. In order to maintain the effectiveness of the Convention and to deter potential violators, the United States and the OPCW must pursue such questions vigorously, even to the point of seeking international sanctions if a State Party does not adhere to the principle set forth in paragraph 11 of Article IX of the CWC, that "the inspected State Party shall have the right and the obligation to make every reasonable effort to demonstrate its compliance with this Convention." U.S. verification policy and investment in monitoring technologies should start from the principle that monitoring can contribute to effective international action even if it cannot conclusively demonstrate a country's violation of the Convention.

Recommendation #3.—The Executive branch should adhere to an arms control verification policy that does not require agencies to prove a country's noncompliance before issues are raised (either bilaterally or in such international fora as the OPCW or the United Nations) and appropriate unilateral actions are taken.

The deterrent effect of the CWC is extremely difficult to predict. A strong U.S. commitment to the enforcement of the CWC will be essential to the effectiveness of the Convention. It may in fact be possible to achieve a measure of both enforcement and deterrence, but only if the United States is prepared to make compliance with the CWC a major element of its foreign policy stance toward each State Party to the Convention.

IMPROVING U.S. MONITORING AND VERIFICATION

Recommendation #4.—The Committee endorses the call by the interagency committee under the Deputy Secretary of Defense for increased funding of CW sensor technology and urges the Executive branch to redirect FY 1995 funds for this purpose as well. The Committee also recommends that Congress rescind its restriction on DOE efforts to develop CW (and BW) sensors based upon technologies it is developing in the nuclear field.

Funds invested in CW sensor technology may well be wasted, however, unless the Executive branch institutes effective oversight of the multitude of agency programs in this field. The recent formation of a Nonproliferation and Arms Control Technology Working Group may provide an appropriate forum in which to deconflict and narrow the focus of agency programs and to fund the most promising avenues to ensure expeditious completion. The Executive branch should ensure that the body that makes such decisions is fully briefed on all relevant intelligence and defense programs. Even highly sensitive programs should not be immune from high-level interagency consideration to determine whether they warrant increased or lessened support.

COOPERATION WITH THE OPCW

The lack of U.S. access to raw data from on-site inspections will impede the Intelligence Community's monitoring of CWC compliance.

Progress is being made in The Hague on enabling the OPCW to take advantage of the information resources of States Parties; the Executive branch should give this matter high priority.

Recommendation #5.—Rather than waiting until the CWC enters into force, the Executive branch should begin preparing now to meet the likely need for U.S. support to OPCW inspections, including information that would be needed for challenge inspections of declared and undeclared sites pursuant to Part X of the CWC Verification Annex.

The Committee cannot assure the Senate that the Preparatory Commission's other recommendations will improve CWC verification significantly, but it is encouraged by the reported general direction of those talks.

THE QUESTION OF RUSSIAN COMPLIANCE

The Committee views with great concern Russia's failure to comply fully with the data declaration provisions of the Wyoming MOU and its implementing procedures. In the absence of full compliance with the Wyoming MOU, neither the Committee nor the Senate can overlook the distinct possibility that Russia intends to violate the CWC.

The failure to implement all the on-site inspections originally agreed to in the Wyoming MOU is another cause for serious concern. The inspections under Phase II of the MOU are no longer likely to make a significant contribution to compliance monitoring or verification. Rather, as pared down in 1993 and in the final implementing procedures, they will continue the confidence-building process and help the two sides prepare for later inspections under the BDA and/or the CWC. Given Russia's refusal to permit a full suite of technical inspection equipment, even after most inspections and all challenge inspections of non-declared sites were eliminated, the Senate must assume that Russia may have something to hide.

Recommendation #6.—The President should make full Russian implementation of the Wyoming MOU and the BDA an issue of high priority in U.S.-Russian relations and raise the matter personally at the highest levels. The Committee recommends that the Senate add a condition to the resolution of ratification of the CWC requiring the President, 10 days after the CWC enters into force or 10 days after the Russian Federation deposits instruments of ratification of the CWC, whichever is later, either—

(a) to certify to the Senate that Russia has complied fully with the data declaration requirements of the Wyoming MOU; or

(b) to submit to the Senate a report on apparent discrepancies in Russia's Wyoming MOU data and the results of any bilateral discussions regarding those discrepancies.

The Committee further recommends that the Senate add a declaration to the resolution of ratification of the CWC expressing the sense of the Senate that if Russian data discrepancies remain unresolved 180 days after the United States receives information on Russia's initial CWC data declarations from the OPCW Technical Secretariat, the United States should request the Executive Council of the OPCW to assist in clarifying those discrepancies pursuant to Article IX of the Convention.

Given the passage of one-and-a-half years since Russia and the United States reached ad referendum agreement on BDA implementation, and given the fact that the BDA mandates extensive on-site inspection by U.S. personnel, the Committee believes there is a real risk that the BDA will never enter into force, notwithstanding Russia's economic incentive to accept bilateral verification. In the absence of agreement on BDA implementation, the Committee advises the Senate that verification of Russian compliance would likely be based upon a smaller number of inspections than originally anticipated, that the inspections of Russian sites would be conducted by the OPCW inspectorate rather than by U.S. personnel, and that there would be no guaranteed U.S. access to the detailed inspection data. On the other hand, the OPCW is unlikely to exempt Russia from the requirements set forth in the CWC's provisions.

Recommendation #7.—The Senate should add a condition to the resolution of ratification of the CWC, barring the deposit of instruments of ratification until the President certifies to Congress either: (a) that U.S.-Russian agreement on BDA implementation has been or will shortly be achieved, and that the agreed verification procedures will meet or exceed those mandated by the CWC; or (b) that the OPCW will be prepared, when the CWC enters into force, to effectively monitor U.S. and Russian facilities, as well as those of the other States Parties. Relevant committees may also wish to consider whether it would be effective to attach conditions to one or more elements of U.S. economic assistance to Russia.

Recommendation #8.—The Executive branch and the committees of Congress with responsibility for U.S. contributions to the OPCW budget should pay close attention to the OPCW's changing needs, so that additional funds can be made available in a timely fashion if current planning assumptions prove too conservative.

Recommendation #9.—The Executive branch should ensure that the effectiveness of the CWC, both in Russia and around the world, is the primary objective of U.S.-Russian CW policy.

PROTECTING CLASSIFIED AND PROPRIETARY INFORMATION

Although some loss of sensitive information will likely occur as a result of CWC data declarations and on-site inspections, the Executive branch is taking all reasonable steps to protect classified information that may be at risk. The Committee welcomes the recent increase in efforts to help U.S. industry, but believes that still more can be done to protect confidential business information held by private firms.

Some loss of classified or proprietary information in challenge inspections is likely, at least through perimeter monitoring. It will be especially important, therefore, for the OPCW to have effective regulations and procedures guarding against disclosure of such information by OPCW personnel.

Recommendation #10.—The United States should exercise its right to reject a proposed inspector or inspection assistant when the facts indicate that this person is likely to seek information to which the inspection team is not entitled or to mishandle information that the team obtains.

Recommendation #11.—Congress should amend the CWC implementing legislation (S. 2221) to give the DoD On-Site Inspection Agency (OSIA) authority to escort inspectors on non-DoD sites, when asked to do so by the owners or managers of those sites, on a non-reimbursable basis to the extent that funds are available.

Recommendation #12.—The Department of Commerce, with assistance from the Department of Defense, should develop a database similar to the Defense Treaty Inspection Readiness Program (DTIRP) database, to which interested firms could voluntarily contribute information on security needs at their facilities in the event of a CWC inspection.

Given industry's important role in data declarations, the first of which must be submitted by the United States only 30 days after the CWC enters into force, the risk that industry unpreparedness will lead to inaccurate U.S. declarations is a cause for concern.

Recommendation #13.—The Commerce Department should undertake a substantially-increased outreach program to inform companies that do not yet understand their data declaration obligations, in particular. Because U.S. ratification of the CWC may well precede enactment of implementation legislation, the Commerce Department should begin this effort now, rather than waiting for formal designation as the lead agency for this effort.

Recommendation #14.—The Senate Committee on Foreign Relations should pay particular attention to whether section 302 of S. 2221 provides for sufficient disclosure of information to Congress and, if necessary, to the public.

THE PRESIDENT'S COMMITTEE ON THE ARTS AND THE HUMANITIES

Mr. PELL. Mr. President, on September 20, 1994, President Clinton announced his appointments to the President's Committee on the Arts and the Humanities and named Dr. John Brademas to chair the Committee. The President also announced that First Lady Hillary Rodham Clinton will serve as Honorary Chair.

THE IMPORTANCE OF THE ARTS AND THE HUMANITIES

In making these appointments, President Clinton said,

> The Federal, state and local governments together provide only a small percentage of the support essential to our cultural life. These appointments underscore the vital partnership between the government and the private citizens who do so much to enrich and preserve the arts and humanities in our country. I am pleased that John Brademas, who has been a vigorous champion of learning and culture both in Congress and as a university president, has agreed to chair the Committee. At a time when our society faces new and profound challenges, when we are losing so many of our children, and when so many people feel insecure in the face of change, the arts and the humanities are fundamental to our lives as individuals and as a nation.

The President's Committee, created by Executive order in 1982, is charged with advancing public understanding of the arts and the humanities and establishing new partnerships between the private sector and Federal agencies to address critical issues in cultural life.

JOHN BRADEMAS APPOINTED CHAIRMAN

Mr. President, I am pleased that President Clinton has appointed as Chairman of the Committee, our distinguished former colleague and former Majority Whip of the House of Representatives, John Brademas.

John Brademas, now president emeritus of New York University, was Representative in Congress of Indiana's Third Congressional District. While Dr. Brademas was serving in the House of Representatives, he and I coauthored the Arts and Artifacts Indemnity Act and the Museum Services Act, which created the Institute of Museum Services.

Dr. Brademas was an original cosponsor of the National Arts and Humanities Act of 1965, the legislation that created the National Endowment for the Arts and the National Endowment for the Humanities, and for ten years chaired the House subcommittee with jurisdiction over the Endowments.

He also, in 1990, cochaired, with Leonard Garment, the Independent Commission, mandated by Congress to study the grantmaking procedures of the National Endowment for the Arts.

In ceremonies at the White House on September 21, President Clinton and the First Lady charged the members of the President's Committee on the Arts and the Humanities to expand private philanthropic assistance for the humanities and the arts, develop new private sector resources to aid cultural organizations, support cultural programs that reach at-risk youth and encourage international cultural exchanges.

THREE VICE CHAIRS

President Clinton also named three vice chairs for the Committee:

Peggy Cooper Cafritz of Washington, D.C.: Ms. Cafritz is a long-time advocate of the arts in Washington, a past chair of the D.C. Commission on the Arts and Humanities, and she currently heads the Ellington Fund, the fundraising arm of the Duke Ellington School of the Arts in Washington, D.C. Cynthia Perrin Schneider of Sandy Spring, Maryland: Ms. Schneider is Associate Professor of Fine Arts at Georgetown University and author of Rembrandt's Landscapes: Prints and Designs and numerous other studies in art history. Terry Semel of Los Angeles, California: Mr. Semel is Chairman and Co-Chief Executive Officer of Warner Brothers.

Ellen McCulloch-Lovell, a former director of the Vermont Arts Council, was named Executive Director of the President's Committee by President Clinton in February. Before her appointment to the Committee, she previously served as Chief of Staff for the distinguished senior Senator from Vermont, The Honorable Patrick Leahy, for ten years.

Mr. President, at this point in the RECORD, I insert the remarks by President Clinton, the First Lady and Dr. Brademas at the White House ceremonies of September 21 as well as Chairman Brademas' opening statement at the first formal meeting of the Committee on that same day.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MRS. CLINTON'S REMARKS

Mrs. Clinton: Thank you. Thank you very much. Thank you and please be seated.

It is a great pleasure for the President and me to welcome all of you to the White House. We are very pleased and proud of this committee and are grateful to all who agreed to serve, and are particularly grateful to Dr. Brademas for taking on the job of being the chair; the distinguished vice-chairs; and everyone who has been willing to take time for this commitment.

We believe this is an important day for those of us who care deeply about American culture. It's important because this committee has so much potential not only to do good in ways that will affect the lives of Americans, but also to focus particularly on providing hopeful and productive outlets for our children.

We want to support and nurture our artists and humanists and the traditions that they represent. And we want also to bring those traditions alive for literally millions and millions of children who too often grow up without opportunities for creative expression; without opportunities for intellectual stimulation; without exposure to the diverse cultural traditions that contribute to our identity as Americans.

Too often today, instead of children discovering the joyful rewards of painting, or music, or sculpting, or writing, or testing a new idea, they express themselves through acts of frustration, helplessness, hopelessness and even violence.

We see too clearly how an erosion and breakdown of our most cherished institutions have resulted in a fraying of the whole social fabric. We see it most tragically in children killing children.

We know that the arts have the potential for obliterating the limits that are too often imposed on our lives. We know that they can take anyone, but particularly a child, and transport that child beyond the bounds the circumstance has prescribed.

We hope that among the many contributions this committee makes, it will be thinking and offering ideas about how we can provide children with safe havens to develop and explore their own creative and intellectual potential.

The arts and humanities have the potential for being such safe havens. In communities where programs already exist, they are providing soul-saving and life-enhancing opportunities for young people. And I am delighted that as one of its major endeavors, this committee will be considering ways of expanding those opportunities to all of our children.

Doing what we can here in the White House and throughout this administration to promote and nurture the arts and humanities is one of the great pleasures that has been ours in the last 20 months. The President believes so strongly in the role that the arts and humanities have played in individual lives and in our collective life as a nation. As a child, he found so much joy and challenge in music and in the other art forms. And together, we have tried in our own lives and with our own daughter to provide that kind of exposure and opportunity.

So it is with great pleasure and particular joy, in front of this group on this day, for me to introduce the President of the United States. (Applause.)

PRESIDENT CLINTON'S REMARKS

The President. Thank you very much, the First Lady and my old friend John Brademas, and to all of you who have agreed to serve, and your friends and supporters who are here.

[Here the President speaks of the situation in Haiti.]

* * * *

Now, let me thank you all again, all of you who've agreed to serve on the President's Committee on the Arts and the Humanities, to underscore the vital partnership that must exist between your government and the private citizens who do the work of the arts and humanities in our nation. I want to thank the First Lady for agreeing to be the honorary chair, although this is a job she wanted, unlike some of those I've asked her to take on. (Laughter.) You couldn't have a much more appreciative or informed friend.

JOHN BRADEMAS TO SERVE AS CHAIRMAN

I am also very, very pleased that John Brademas has agreed to serve as the chairman. I have known him for many years since his distinguished career in the United States Congress and through his brilliant presidency of New York University. I think he is one of our nation's most outstanding citizens and will certainly be one of the most eloquent advocates imaginable for the cause you are here to further. (Applause.)

He also happens to have been an original cosponsor of the bill that created the National Endowment for the Arts and the Humanities, and he wrote the bill that established the Institute of Museum Services. He also promised to give me free congressional lobbying advice on the side in return for his appointment. (Laughter.)

THE PRESIDENT'S COMMITTEE FOR THE ARTS AND THE HUMANITIES

I have charged the President's Committee with advancing public understanding of the arts and humanities, which is so important to our democracy, and to establish new partnerships between the federal agencies and the private sector.

As a sign of our commitment to the arts and humanities today, we have here with us members of the Cabinet and the administration, including Secretary Riley, Sheldon Hackney, Jane Alexander, Joe Duffey, and a number of other government officials.

AN EXTRAORDINARY GROUP OF AMERICANS

I appointed, as all of you can see, an extraordinary group of Americans to this committee—artists, scholars, writers, thinkers, leaders in the corporate world and the philanthropic community, committed citizens, activists recognized in their communities—people who represent outstanding achievement and a commitment to the cultural life of our nation—a commitment to keep it alive and to make it more accessible.

A REPORT ON THE STATE OF CULTURE

By this time next year, I want you to deliver to me a report on the progress we're making in furthering America's cultural life. For 200 years the arts and humanities have helped to bridge American differences, learned to appreciate differences that helped Americans to learn to appreciate differences, one from another, and to build strong and vibrant institutions across our country. You must help us explore ways to do this better.

The most disturbing thing to me about American life today is not the problems we have, although we have problems a-plenty, it is the lack of unity among Americans and the lack of optimism we feel in dealing with those problems.

REASONS FOR OPTIMISM

Just a couple of weeks ago, a distinguished international panel of economists said that the United States was the most productive country in the world. They said that for the first time in almost a decade because of the remarkable resurgence of our economy, because of the number of jobs we're creating, because we accounted for almost all the job growth and three-quarters of the economic growth in the seven great industrial nations of the world in the last year and a half, and because we are taking on a lot of our biggest challenges—bringing our government deficit down three years in a row for the first time since Mr. Truman was president—the only country of all the advanced economies to do that. And yet, so many Americans still feel that we're kind of adrift and falling apart from one another.

AMERICA'S LEADERSHIP ROLE IN WORLD AFFAIRS

Maybe even more important, as you look toward the 21st century, isn't it interesting that in the last year and a half the South Africans wanted us to spend $35 million and send our best people to South Africa to work on making that election a success? The Irish and the English have been fighting for eight centuries now. They wanted the United States to be involved in the process of reconciliation that is now taking hold in Northern Ireland. After decades of brutal struggle, the Israelis and the Arabs working together to make peace in the Middle East want the Americans to be centrally involved.

Even in the moment of our greatest tension a few days ago in Haiti, one of the military leaders said, well, if the President is determined to do this, and the world community is absolutely determined to go ahead, we want the Americans here. Why is that? We have Haitian Americans, Jewish Americans, Arab Americans, Irish Americans, English Americans. You think of it—this diversity we have which cuts across racial and religious and philosophical and regional and income lines—it is the source of our great strength today in a world that is ever more interdependent.

And people look at us and say, you know, with all their problems—yes, their crime rate's too high; and, yes, they're too violent; yes, too many of their kids drop out of school; and yes, there's too much income inequality, especially for working people—but you know, they get along pretty well. And people from all different kinds of backgrounds wind up pursuing their chosen path in life and living up to their God-given potential. And they're adaptable—they work their way through the changes that time and circumstance are imposing on them. That's what others think about us.

THE ROLE OF THE ARTS AND THE HUMANITIES

We somehow have to begin to think that about ourselves again. And I cannot help but believe that the arts and humanities must play a central role in that task. How we imagine our own lives and our own future and how we imagine ourselves as a country will have as big an impact on what it is we ultimately become as anything in the world.

I said the other day, I will just say again, a lot of you have been involved in various enterprises, great business enterprises, great arts enterprises, great entertainment enterprises. Just imagine how you would function if everyday in all the important years of your life you showed up for work and two-thirds of the people you were working with thought that your outfit was going in the wrong direction and nothing good could happen. (Laughter.) Imagine what would happen if the National Gallery of Art were given the most priceless collection of impressionist paintings uncovered after having been thought destroyed for 50 years, and two-thirds of the people said, I don't believe they're Impressionist paintings. (Laughter.) I know Monet—he was a friend of mine. That's not him. (Laughter.) Don't bother me with the facts. (Laughter.) You're laughing because you know that it's true, don't you? (Laughter.) There is a grain of truth in this. Somehow we have to not sweep our problems under the rug and not sweep our differences under the rug, for that is also what makes America great.

APPRECIATING WHERE WE ARE

But we only find energy for dealing with our problems and the heart and the hearing to deal with our differences when at least we have a realistic appreciation of where we are, what we're doing and where we're going. And I feel so good about the work we've done to move America forward in the last 20 months, but we'd all have to admit we've still got a lot of work to do in bringing America together, in giving our people a realistic feeling about where we are in the world and where we're going. You can do that. You can make a huge difference. The arts and humanities have always helped to do that work.

AN AGENDA FOR THE PRESIDENT'S COMMITTEE

So I urge you to continue in this work. I urge you to make your progress report to me. I urge you to remember what we are trying to do in our schools in helping to improve our children's education with the arts and humanities. I urge you to work to expand private philanthropy. We all know that the government in this country provides a crucial measure, but only a tiny measure of the support that the arts and humanities need.

I urge you to promote international cultural exchange and understanding, not only because we need desperately to know more about others throughout the world, but because I believe that we'll learn a lot more about ourselves if we just come in contact with people from other walks of life and other paths of the world.

Thanks to phones, faxes, internet, E-mail, CNN, we can see the power of our cultural traditions as they are exported around the world. And sometimes they come back to us. We had the only—we're the first White house to communicate with huge numbers of people from all over by E-mail. And I'm trying to do a sociological analysis now of whether there's a difference between the E-mail communication and the mail communication—or the female communication. (Laughter.)

I am very hopeful that you will make a remarkable contribution to this country. I went over this list of people with great care. I tried to get a very different group of people. I tried to imagine all the different things that I hope that this committee could deal with and all the different challenges I hope you could assume. If I haven't done a good job, it's not your fault, it's mine in picking you, but I think you're pretty special.

MAKING THE ARTS AND THE HUMANITIES ACCESSIBLE

Let me say in closing that I hope that in addition to the schools, you can think about how we can increase access to the arts and humanities all across America for people who might otherwise be isolated from them—people who are homebound, people who live in very isolated ares, people who now don't even know how to speak the language that would be necessary to ask for something that might change their lives forever. I ask you also to think of that.

We've faced a lot of challenges as a country, but I'm actually pretty optimistic about it based on the objective evidence. What remains is whether we can develop a vision that will sustain us as a people as we move through a period of change without a known big enemy into an uncertain future. It requires courage, but courage comes from having something inside that you can connect with what you see outside.

You can help us as we work our way through this in this remarkable time in our country's history. I hope you enjoy it. I thank you for serving. And I thank you for being here today. Thank you. (Applause.)

REMARKS OF DR. JOHN BRADEMAS

Mr. President, Mrs. Clinton, at the outset, let me put you both at ease. I am a child of the United States House of Representatives and not the Senate and, therefore, I shall be very brief (laughter).

Mr. President, you do great honor to all of us whom you have asked to serve as members of the President's Committee on the Arts and the Humanities, and I am grateful to you for having done me the honor of asking me to chair the Committee.

AN EXTRAORDINARY GROUP OF CITIZENS

You have chosen an extraordinary group of private citizens to serve on the Committee even as the public members are outstanding leaders of government, most of whom are friends and former colleagues of mine.

I am also glad that the able executive director of the President's Committee is someone who for several years led the Vermont State Arts Council and was for ten years chief of staff to the distinguished senior Senator from Vermont, Senator Patrick Leahy—Ellen McCulloch-Lovell.

Mr. President, that with all the other issues, foreign and domestic, on your mind, you should have taken time to meet with us today to charge us with the mission of encouraging greater support, private and public, of the arts and the humanities in American life, is a powerful demonstration of the commitment you and the First Lady bring to our purpose.

And, Mr. President, that you have asked the First Lady to serve as Honorary Chair of the President's Committee reinforces that commitment.

REPORT ON THE STATE OF CULTURE

You have asked us, Mr. President, to give you a report on the state of the culture in our country, to consider the implications for the arts and the humanities of the information infrastructure, to encourage greater access for the American people to the arts and the humanities and to look at international cultural exchanges.

So, Mr. President, you have given us a tall order. I am confident, however, that with this superb group of Americans and the support of the President of the United States and the First Lady, we will respond constructively and effectively to your challenge.

Thank you again, Mr. President, for the honor that you do us.

OPENING STATEMENT OF DR. JOHN BRADEMAS, CHAIRMAN, PRESIDENT'S COMMITTEE ON THE ARTS AND THE HUMANITIES

I want to extend a warm welcome to all of you whom President Clinton has selected to serve on the President's Committee on the Arts and the Humanities.

You are an outstanding group of men and women about to embark on an exciting day and an important mission.

I am greatly honored that the President asked me to chair this committee, and that he has named to it such an extraordinary group of people.

With your help and active participation, I'm confident that the President's Committee on the Arts and the Humanities will fulfill its promise.

Of course, we are all delighted that the First Lady, Hillary Rodham Clinton, has graciously agreed to serve as Honorary Chair of the Committee.

The prestige of our Committee and the backing of the White House can, I feel sure, influence private philanthropy in our country and encourage greater support for the cultural life of the nation.

A VITAL PARTNERSHIP

As President Clinton said in naming all of you to the Committee, "The Federal, state and local governments together provide only a small percentage of the support essential to our cultural life. These appointments underscore the vital partnership between the government and the private citizens who do so much to enrich and preserve the arts and humanities in our country.

At a time when our society faces new and profound challenges, when we are losing so many of our children, and when so many people feel insecure in the face of change, the arts and the humanities are fundamental to our lives as individuals and as a nation."

Our Committee can create partnerships with other Federal departments and agencies, as we are already doing with the Department of Commerce, to promote cultural tourism, and with the Departments of Justice, Health and Human Services and Housing and Urban Development—the last three in order that arts and humanities organizations will have access to the new prevention programs in the Crime Bill the President has just signed into law.

Please remember that with so many senior members of the government on our Committee, we also function as an interagency task force on the arts and the humanities. Indeed, I'm very pleased that so many of the government members of our Committee are with us today and I'm delighted that Secretary of the Interior Babbitt has asked Roger Kennedy, Director of the Park Service, to serve; that Secretary of the Treasury Bentsen has asked his Assistant Secretary for Tax Policy, Leslie Samuels, to join us; and that Secretary of State Christopher has designated my former colleague in the House, the Undersecretary of State for Global Affairs, Tim Wirth, to be a member of the Committee.

Let me say that we are here to assist—and not to duplicae—the mission of the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services.

MISSION OF THE PRESIDENT'S COMMITTEE

Now the mission of the President's Committee is to advance public understanding of the arts and the humanities, and to establish new partnerships between the private sector and Federal agencies to address critical issues facing cultural life in the United States.

The arts and the humanities and their power to inform and uplift our lives and help the country's diverse population understand and communicate with one another should be at the center of everyday life, not at the margins.

In the next two—I believe, six—years, our Committee has an opportunity to take on some compelling issues and exciting projects, ones that can contribute both to enriching the nation's cultural life and society at large.

THE COMMITTEE'S AGENDA

Working with the White House, we have developed an ambitious agenda for the Committee. We can succeed with this agenda only if all of you are committed and active.

I think it important here to note that whatever projects we decide to undertake will need to be privately funded. So as you go through this exciting day, please think about what you can do to advance our work.

Today we'll be talking about how the Committee can help reverse the downward trends in private funding for the arts and the humanities.

This Administration will do everything it can to support cultural life, through the personal advocacy of the President and the First Lady, through events at the White House, through support from other departments of the government and by maintaining adequate requests in the Federal budget.

I think it safe to say, however, that with continuing efforts to reduce the deficit, and in light of the controversies in Congress, our arts and humanities agencies are not likely to win a big increase in their budgets.

In my judgment, we should be able to build the groundwork for increasing those budgets.

VALUING ARTISTS AND SCHOLARS

All of us know that artists and scholars are not valued enough, nurtured enough. All of us know that many cultural institutions, whether large and established or small and community-based, are in economic crisis and that that condition affects the access of people to their offerings. Indeed, the economic situation of the arts and the humanities is in many respects so fragile that the loss of even a modest government grant or support from a private donor can mean a crisis. So we must take seriously our mission to stimulate private sector giving.

Private contributions have been especially difficult, outside higher education, to attract to the humanities. We are exploring with the NEH and the Federation of State Humanities Councils a challenge grant to help state humanities councils increase their fundraising for annual operating support.

PUTTING THE ARTS BACK IN THE CLASSROOM

You will also hear today about the efforts of the government to improve educational standards and to put the arts back into the classroom. The National Endowment for the Arts and the Department of Education have forged a partnership to demonstrate how the arts fit into the National Education Goals approved in the Goals 2000 legislation Congress passed this year, and to get national standards—voluntary standards—in the arts adopted by every state. We endorse this effort as a necessary foundation for all other efforts to reach children.

President Clinton will also ask our Committee to pay particular attention to what happens to young people when they are not in school: to use the power of the arts and, through the humanities, of ideas, to offer young people creative alternatives to destructive urges . . . To give them "safe havens"; places to go where there are caring adults and where they can experience the joy, discipline and positive self-expression that training in the arts and the humanities offers.

You will hear as well about government partnerships, some of which the President's Committee has already initiated.

For example, the Committee staff was asked by the Department of Commerce to write one of the eight new policy papers about the National Information Infrastructure—better known as the Information Superhighway. Our staff worked together with the NEA, NEH and IMS to produce a report, "Arts, Humanities, Culture on the NII," which was released by Secretary Ron Brown on September 7. And there are many significant projects that can come out of that policy review.

I personally hope that our committee will also give attention to how we can encourage more international exchange among artists and humanists. What we may call "cultural diplomacy" often precedes economic exchange and improves the political climate in foreign affairs. I believe that if we imaginatively address cultural diplomacy, we can help this Administration and our country in other parts of the world.

The Department of Commerce has also encouraged a partnership for cultural tourism, to publicize cultural events in the United States in markets abroad. The Department is encouraging cultural organizations to take part in the 50 state conferences on tourism that will lead up to the November 1995 White House Conference on Tourism. And our Committee is urging the organizers of the conference to include a session on cultural tourism.

Much of what we do, of course, and what we seek to encourage, can be advanced by an effective media plan.

ENHANCING PUBLIC AWARENESS

There are several ways we can work with radio, television and publications to enhance public awareness of the arts and the humanities. For example, we've already been working with National Public Radio to develop a national book club on the air. We'll discuss more ideas later at our meeting where I hope to draw on the considerable expertise of this Committee.

During the course of the day, our Executive Director, Ellen McCulloch-Lovell, will report to you about some other activities that she and the staff began by way of developing an agenda for the next couple of years.

Before we plunge into the agenda, let me say a word about the Committee. The President has named a Chairman and three Vice-Chairmen—Peggy Cooper-Cafritz, Cynthia Perrin Schneider and Terry Semel—who comprise a small executive committee. The authority for our Committee comes, of course, from the President—and our agenda is shaped by his and the First Lady's mandates, which you will hear this afternoon.

ELLEN MCCULLOCH-LOVELL TO SERVE AS EXECUTIVE DIRECTOR

Now I should like to introduce the Executive Director of our Committee. She has, in my view a superb background for her important responsibility—nine years as Director of the Vermont State Arts Council and then ten years as Chief of Staff to the distinguished Senior Senator from Vermont, Patrick Leahy.

I have myself, in the relatively short time we have been working together, been impressed by her energy, her intelligence, her judgment and her dedication to the purpose that brings us together today.

Now all of you bring tremendous experience to the Committee, and there is always room for new ideas. By the end of today, I hope to be able to create working groups to deal with the items on our agenda as well as working group to develop any ideas that emerge from this meeting.

I will ask each working group to articulate the objectives of the project it recommends; identify those government, corporate or nonprofit partners with which we will work to carry out the project; and indicate how it will be financed.

We will move ahead on those projects to which the White House has agreed. When new ideas are developed, I will review them for approval with our Honorary Chair, Hillary Clinton.

We should have a great day together. More important, I believe that working together, we can accomplish something of significance for the President of the United States and for the people of our country, for what we do in the arts and the humanities tells who we are as a people. Our educational and cultural institutions are indispensable to the quality of our lives, the strength of our communities and the vitality of our democracy. For the arts and the humanities to thrive now and into the next century, we must have the support of both the government and the private sector.

PRIVATE MEMBERS OF THE PRESIDENT'S COMMITTEE

Mr. President, here follows a list of the private citizens appointed by President Clinton to the President's Committee on the Arts and the Humanities:

Susan Barnes-Gelt of Denver, Colorado. Ms. Barnes-Gelt is Deputy Director of the International Center at the University of Colorado at Denver and a member of the Colorado Council on the Arts.

Lerone Bennett, Jr. of Chicago, Illinois. Ms. Bennett is the Executive Editor of Ebony magazine and the author of several popular works of African-American history and culture.

Madeleine Harris Berman of Franklin, Michigan. Ms. Berman currently serves as Vice Chairman of the American Council on the Arts and its Chairman of the National Clearing House and Archive for Arts Policy Research.

Curt Bradbury of Little Rock, Arkansas. Mr. Bradbury is the President and Chief Executive Officer of the Worthen Banking Corporation and serves as the Chairman of the Arkansas State Board of Higher Education.

John H. Bryan of Chicago, Illinois. Mr. Bryan is Chairman of the Board and Chief Executive Officer of Sara Lee Corporation. He is a past Chairman of the Business Committee for the Arts and serves on the Trustees Council of the National Gallery of Art and the board of directors for the Art Institute of Chicago.

Hilario Candela of Coral Gables Florida. Mr. Candela is President of Spillis, Candela and Partners, the largest minority-owned architectural, engineering and interior design firm in the United States.

Anne Cox Chambers of Atlanta, Georgia. Ms. Chambers was formerly U.S. ambassador to Belgium and is Chairman of Atlanta Newspapers, Inc., which owns and operates the Atlanta Journal-Constitution.

Margaret Corbett Daley of Chicago, Illinois. Mrs Daley is the First Lady of the city of Chicago and the Chair of the Chicago Cultural Center Foundation. She created and serves as Chair of Gallery 37, a summer program which offers employment in the arts to Chicago-area youth.

Everett Fly of San Antonio, Texas. Mr. Fly is President of E.L. Fly and Associates, a landscape design firm. He currently serves on the board of the Texas Committee for the humanities and has directed a national project to document the evaluation of historic African-American settlements in the United States.

David P. Gardner of Menlo Park, California. Mr. Gardner is the President of the William and Flora Hewlett Foundation. He was formerly the President of the nine-campus University of California system and President of the University of Utah.

Harvey Golub of Saddle River, New Jersey. Mr. Golub is Chairman and Chief Executive Officer of the American Express. Company and serves on the board of Carnegie Hall.

Richard S. Gurin of Easton, Pennsylvania. Mr. Gurin is President and Chief Executive Officer of Binney & Smith, the manufacturers of Crayola products. Mr. Gurin has served on national advisory panels in arts education, including the National Committee for Standards in the Arts and the Coalition for Goals 2000.

Irene Y. Hirano of Los Angeles, California. Ms. Hirano is Executive Director and President of the Japanses American National Museum which opened in April 1992.

David Henry Hwang of Marina del Ray, California. Mr. Hwang, a playwright and screenwriter, is the author of M. Butterfly and other acclaimed works for the stage and screen.

William Ivey of Nashville, Tennessee. Mr. Ivey is the Director of the Country Music Foundation and an author and scholar who specializes in folk music. He serves on the executive board of the American Folklore Society.

Quincy Jones of Los Angeles, California. Mr. Jones is a musician, composer, film and record producer, and record company executive and multi-media entrepreneur. In the course of his career he has won 27 Grammy Awards and the prestigious Polar Music Prize of the Royal Swedish Academy of Music.

Robert Menschel of New York City, New York. Mr. Menschel is a Limited Partner with the Goldman Sachs Group, a New York investment firm. He serves on numerous boards including those of the Museum of Modern Art, the New York Public Library, and the Institute for Advanced Study in Princeton, NJ.

Rita Moreno of New York City and Los Angeles, California. Ms. Moreno is an actress, singer, and dancer and the only female performer to have won an Emmy, an Oscar, a Tony and a Grammy for her performances on television, film, the Broadway stage, and for musical performances.

Jaroslav Pelikan of New Haven, Connecticut. Mr. Pelikan is Sterling Professor of History at Yale University and the President of the American Academy of Arts and Sciences.

Anthony Podesta of Washington, DC. Mr. Podesta is an attorney and President of Podesta Associates, a national public policy and public affairs firm based in Washington, DC. He was the founding President of People for the American Way.

Phyllis Rosen of New York City, New York. Ms. Rosen is a real estate developer and President of P. Rosen, Inc. She serves on the New Jersey Council on the Arts and has been active in the development of the Park East Day School in New York City.

Ann Sheffer of Westport, Connecticut. Ms. Sheffer is active in the theatre and serves on the Westport Arts Advisory Council, the board of the Westport Art Center, and the Westport Education Foundation.

Issac Stern of New York City, New York. Mr. Stern is an internationally known violinist. He has served as the President of Carnegie Hall for over 30 years and is active with many other cultural organizations.

Dave Warren of Santa Fe, New Mexico. Mr. Warren is a member of the Santa Clara Pueblo (Tewa) and is Vice President of Media Resources Associates, Inc., which is producing a nine part television program on Native American art and culture. He was active in the creation of the Smithsonian Institution's National Museum of the American Indian.

Shirley Wilhite of Shreveport, Louisiana. Ms. Wilhite is a civic leader who has been active in the arts. She serves on the Shreveport Regional Arts Council and is also active in the Aspen-Snowmass Colorado Arts Council.

Harold Williams of Los Angeles, California. Mr. Williams is President and Chief Executive Officer of the J. Paul Getty Trust, which administers funds for education and research in the arts and the humanities. An attorney, Mr. Williams is also the former chairman of the Securities and Exchange Commission.

NEED TO PASS SEC FUNDING LEGISLATION

Mr. RIEGLE. Mr. President, today is September 30, the end of the Federal fiscal year. By this date, all Government agencies are supposed to be provided with the funds they need to operate for the next fiscal year, which starts at midnight tonight. We face a very serious situation, because the Securities and Exchange Commission has not yet been provided with funding sufficient to carry it through the new fiscal year.

At the present time, Mr. President, the Congress has provided the agency with only a portion of the funding that it needs for the next 12 months. Legislation that would provide the needed full funding was passed by the House of Representatives earlier this week. That bill, H.R. 5060, is at the Senate desk, Mr. President. It is crucial that the Senate immediately take up and pass this bill.

If we do not provide the agency with full funding by midnight tonight, the SEC will have to start preparing to shut down. If Congress adjourns without providing the needed funds, the SEC will have to shut down. I understand that as of Monday, October 3, the agency will immediately freeze all hiring. The SEC will issue a stop work order, shutting down the electronic filing system that is used by all publicly traded companies to provide information to the investing public. Within 30 days, the agency will have to start scaling back its operations. The agency will have to notify employees that they will be laid off. Registration statements for new issues of securities will not be reviewed. Investigations of securities fraud will not be completed. Fraud actions against will not be brought.

Why is this important? Because the SEC is crucial to the smooth operation of our capital markets, and our capital markets are crucial to the smooth operation of our economy. The success of the U.S. financial markets is due, in large part, to the presence and vigilance of the SEC in policing and regulating the markets and their participants. Curtailment of the SEC's efforts could lead to a loss of investor confidence in the market. Corporate America depends on a strong market, buoyed by investor confidence, to maintain businesses' value and access to capital. Also, in recent years, growing numbers of individual investors have placed their life savings and retirement moneys in the nation's securities markets.

If the SEC operates at a diminished level, its ability to police the markets or effectively respond to a market emergency, will be seriously impaired, placing the markets and the personal savings of millions of individual investors at risk. In turn, the Nation's economy as a whole could be severely harmed. We cannot run that risk.

Mr. President, the Senate passed the language contained in H.R. 5060 earlier this year, as part of an appropriations bill. It was not included in the House-Senate appropriations conference report at that time, but is now before the Senate again. This legislation enjoys the strong support of both of the SEC's regulated industries and the administration. It is crucial that the Senate take up and pass this legislation today, to protect the smooth operation of our markets, to ensure that investors are protected, and to guarantee the efficient operation of our Government.

GATT

Mr. DANFORTH. Mr. President, I will vote in favor of the Uruguay round implementing legislation when it comes before the full Senate later this year.

The Uruguay round GATT agreement is a historic achievement. It was negotiated by three Presidents. It is the world's largest tax cut. It will cut worldwide tariffs on U.S. exports by almost 40 percent. The reduction in these trade barriers will create hundreds of thousands of high-paying jobs for American workers.

Equally important, the new agreement expands the rules of the GATT to cover important areas of international trade previously outside the GATT. The agreement establishes international trading rules to protect U.S. intellectual property rights and to govern trade in services—two areas where the United States has a clear competitive advantage. It also phases out quotas on textiles and apparel goods over 10 years. And the agreement for the first time sets limits on agricultural subsidies. European agricultural export subsidies that have injured U.S. farmers will be cut by 21 percent over 6 years.

Furthermore, the Uruguay round establishes a new dispute settlement procedure to ensure that we can enforce our rights as a nation under the GATT. Under current GATT rules, a country that loses a dispute can block the GATT from enforcing the rules against it. The European Union has used this loophole against the United States in numerous cases where we had won cases at the GATT. Under the new World Trade Organization, other countries will no longer be able to block GATT cases against them. This will permit us to enforce the rules of the GATT to open foreign markets to our exports.

Finally, it should be noted that several concerns that I and other Republican Senators had expressed regarding the implementing legislation for the GATT have been successfully resolved during the drafting of that legislation in the Finance Committee.

As my colleagues know, I had serious objections to the new subsidies rules negotiated by the Clinton administration. These rules permit certain green light subsidies to be granted by governments without the possibility of imposing countervailing duties to offset the injurious effects of those subsidies. These green light rules would put the United States on the horns of a dilemma, forcing us to choose between subsidizing our own industries, or allowing them to lose out to subsidized foreign competition. To address this problem, several provisions were added to the implementing bill to define narrowly what constitutes a green-lighted subsidy, to sunset the green light categories at the end of 5 years, and to provide a new trade remedy for U.S. industries injured by foreign green-lighted subsidies.

There was also substantial Republican opposition to the administration's request for a grant of fast track authority linking trade policy to labor and environmental issues. I oppose any linkage between trade and labor and environmental policies because it would subordinate trade policy to these other objectives, and would lead to the closing of the U.S. market rather than the opening of foreign markets to U.S. exports. In the face of these concerns, the administration agreed to drop its request for an extension of fast track authority from the Uruguay round implementing bill. Instead, the Senate will consider separate legislation to renew fast track authority next year. The resolution of this issue earlier this month cleared the way for consideration of the implementing bill this year.

Mr. President, given the clear benefits of the Uruguay round to the United States, I urge all my colleagues to support quick passage of the implementing legislation before we adjourn next week. The sooner we can pass this historic trade agreement, the better off we will be as a country.

CONGRATULATIONS TO THE REPUBLIC OF CHINA ON ITS 83D NATIONAL DAY

Mr. WALLOP. Mr. President, on the occasion of the 83d National Day of the Republic of China, I offer my best wishes and congratulations to President Lee Teng-hui, Vice President Li Yuan-zu and Foreign Minister Fredrick Chien of the Republic of China on Taiwan. Together they have made Taiwan into one of the most democratic and prosperous nations in East Asia.

It is my hope that the Republic of China will be able to become a member of GATT and the United Nations in the near future. The Republic of China is clearly an economic power and deserves full participation in world affairs.

It is also my hope that there will be further strengthening of relations between Washington and Taipei. In the not too distant future, we hope to be able to welcome President Lee Teng-hui and other ROC leaders to Washington, DC. Furthermore, we hope that our Government will soon see the efforts made by the ROC in environmental protection, including wildlife, and pollution control.

I am confident that the future of our relations with Taipei will remain as bright as ever, and I urge my colleagues to work with Taipei's new representative in Washington, Ambassador Benjamin Lu, a diplomat of impeccable credentials.

ON THE 125TH ANNIVERSARY OF THE BIRTH OF MAHATMA GANDHI

Mr. MOYNIHAN. Mr. President, I rise to bring to my colleagues attention a very important anniversary which will be celebrated over the weekend. Sunday, October 2 is the 125th birth anniversary of Mohandas Karamchand Gandhi—the Mahatma.

It is difficult to capture the profound impact that Gandhi had on our world. His is still a household name admired some 125 years after his birth. A name which calls up inspiring images of a single man dressed in hand-spun cloth, leading a nation to independence. The effects of his nonviolent actions were not limited to his country, nor his time. Leaders of today continue to study his life and adopt aspects of his thought.

If I may invade ever so slightly the privacy of the President's luncheon table, in May, 1994, Mr. Clinton had as his guest the distinguished Prime Minister of India, Mr. P.V. Narasimha Rao, who in his youth was a follower of Mahatma Gandhi. In a graceful passage, the P.M. related how it came to pass that Mahatma Gandhi, caught up in the struggle for fair treatment to the Indian community in South Africa, and in consequence in jail, read Thoreau's essay on "Civil Disobedience" which confirmed his view that an honest man is duty-bound to violate unjust laws. He took this view home with him, and in the end the British raj gave way to an independent Republic of India. Then Martin Luther King, Jr. repatriated the idea and so began the great civil rights movement of this century. A movement even so, still far from fulfillment.

It is no fluke that in 1994, when the heads of two democracies governing over one fifth of the world lunch, that Mahatma Gandhi should be a topic of conversation. Even as we pause on the threshold of a new millennium, we recall how his legacy shaped us and how it will be carried into the future.

U.S. COMMUNICATIONS LAWS

Mr. PRESSLER. Mr. President, I was disappointed by Commerce Committee Chairman HOLLINGS' announcement Friday that S. 1822 would not be considered by the Senate prior to sine die adjournment. I will not say that S. 1822 was a perfect bill. Commerce Committee members worked diligently to fashion a bill that would be acceptable to the Senate. As a member of the farm team, a group of original cosponsors of the bill who represent small city and rural areas, I want to commend Chairman HOLLINGS, ranking minority member DANFORTH, and their staffs for their willingness to consider provisions to ensure that all Americans have the opportunity to benefit from advanced communication services, whether they live in New York City or Humboldt, SD.

We need to revise our Nation's communications laws. The current statute is 60 years old, and does not address the realities of today. The Modified Final Judgment [MFJ] entered into by AT&T and the Federal court in 1982 is still in force. The Bell Operating Companies created by the MFJ to this day must seek relief from the judge charged with overseeing the 1982 agreement. These companies are proscribed from entering into the long distance service market and from manufacturing telecommunications equipment. These companies have been pursuing opportunities to expand their services through the U.S. court system. This is precisely why Congress must act. It is poor public policy for the U.S. judicial system to bear the burden of administering and adjudicating a significant segment of the Nation's telecommunication industry. Providing appropriate laws for this important industry sector is a legislative branch responsibility. I know many of my colleagues believe as I do that it is important for us to address this issue early in the next Congress.

Failure to act on legislation to set appropriate guidelines for such an important industry would hurt us internationally as well as domestically. The U.S. telecommunications services and equipment industries are the most competitive in the world. Our telecommunications companies are in the international market and are doing well, frequently against great odds that are stacked against them in many countries.

United States telecommunications executives in Europe privately have complained to me that the majority of the European Union [EU] member countries resist opening their markets. The Europeans will quickly point to United States restrictions on foreign ownership of radio licenses to make a weak argument that the United States market is not open. This is a red herring. The U.S. telecommunications equipment market is wide open. Ericsson, Philips, British Telecom, Siemens, and other European firms know this well and provide jobs to thousands of Americans in their plants in the United States.

The United States has used quiet diplomacy to encourage the European Union countries to open their markets. The goal adopted by the EU was liberalization of all telecommunications markets by 1998. Earlier this year, I had an article printed in The Wall Street Journal outlining why the United States could not wait until 1998 for liberalization. I ask unanimous consent that this article appear at this point in the RECORD. Shortly after this article appeared, the European Parliament adopted a resolution to delay liberalization past the 1998 target. That is unacceptable.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal Europe, July 7, 1994]

U.S. CALLERS PAY FOR EUROPE'S MONOPOLIES

(By Larry Pressler)

U.S. communications companies are working hard to do business in Europe. Their task is not easy. Despite Europe's professed commitment to open its telecom markets, government-owned phone monopolies are still preventing U.S. firms from competing on their turf.

The failure of Europeans to open their markets affects not only U.S. communications equipment and service suppliers. It also affects everyone in America who uses a telephone, since U.S. long distance carriers and their ratepayers must subsidize European telephone companies. European nations received approximately $554 million from U.S. carriers in 1993. Approximately $411 million were subsidies imposed on U.S. carriers for the right to have customers' calls connected in Europe.

These subsidies are a direct charge to U.S. consumers: It is estimated that the average U.S. international caller pays $100 each year due to the above-cost accounting subsidies to foreign telephone companies.

Here's how it works. International carriers negotiate a rate for calls placed between two countries. This negotiated rate does not reflect the real economic cost of connecting the call, nor does it reflect the rates charged in the calling country. For example, Germany's Deutsche Bundespost Telekom, a government-owned monopoly, could insist in its negotiations with any of the 183 U.S. carriers offering service from the U.S. that it will cost $1.18 per minute for calls between the U.S. and Germany. This figure may be far above the real cost.

Deutsche Telekom has been able to price international calls above the actual cost because there has been no other carrier in Germany. The German collection rate for an international call exceeds the actual economic cost of the call by as much as 75%. In 1993, U.S. carriers paid Deutsche Telekom almost $196 million as settlement for calls placed from Germany to the United States. Approximately $146 million of this figure represents a pure subsidy. Calling rates between European countries are generally lower, though European consumers also pay for the lack of competition in telecommunications by higher rates than are found within, say, the U.S.

The result is an irrational and anti-market system of international communications whereby American international long distance carriers and consumers are subsidizing phone rates in Europe. The cost of sending a letter between points in Europe and the United States is the same. But a telephone call from Frankfurt, Germany, to Sioux Falls, South Dakota, will cost significantly more if placed from Germany than from the United States. This defies logic.

The EU is scheduled to implement internal liberalization of the telecoms market by January 1998. To be sure, some progress is being made. European companies are exploiting loopholes in EU law and lobbying politicians to open their markets to competition. The electric utility holding company Viag AG, for instance, will be offering telephone service to big German companies in late next year, presenting for the first time an alternative to Deutsche Telekom. The EU Commission has supported this in principle, but the bureaucratic hegemons of state telecom monopolies, flanked by the unions, are not anxious to comply. Moreover, this spirit of liberalization has not translated to open markets for foreign competitors.

By opening their basic telephone services market to competition, the cost of calling would be reduced, encouraging more Europeans to make phone calls to the United States. Without market liberalization, the U.S. carriers—and U.S. ratepayers—will continue to pay higher settlement costs to European companies each year.

The U.S. Congress should consider requiring the adoption of a telecommunications trade-in-service agreement as a condition for the implementation of the new GATT agreement. No proposal is on the negotiating table currently and U.S. negotiators report that, despite the rhetoric, real progress on getting Europe to open its markets is slow.

If the EU is unwilling to negotiate, the United States must seek bilateral agreements with nations, such as the U.K., that have made a real effort to liberalize their markets. If the U.S. is to approve the proposed purchase of 20% of U.S.-owned Sprint by European telephone monopolies Deutsche Telekom and France Telecom, then it is only fair that U.S. companies be able to provide basic telephone services in Germany and France.

The U.S. market may be criticized for not being completely open in all sectors, but it is still the most open market in the world. If Europeans want to compete in our backyard, they should be ready for the U.S. to compete in theirs. We cannot wait until 1998.

Mr. PRESSLER. The U.S. international telecommunications carriers pay settlement rates to European nations of approximately $554 million each year. Of this figure, $411 million is a pure subsidy. Worldwide, our carriers are paying $4 billion a year in settlement rates, of which an estimated $2.3 billion is a subsidy. This is not a small amount of money; it is a major outpayment of U.S. hard currency that is equivalent to approximately 30 percent of our total foreign assistance budget.

International accounting rate settlements and foreign market liberalization must be given greater attention by Congress and the administration. I have no quarrel with the acquisition of stakes in U.S. carriers by foreign telecommunication companies. Indeed, such acquisitions may result in the accelerated liberalization of markets in France and Germany.

AT&T Chairman Robert Allen addressed Comm Week's International Network Economy Conference in Washington Monday on this point. He forcefully addressed the U.S. international carriers' need for relief from paying excessive subsidies for the completion of telephone calls to foreign nations. I agree with Mr. Allen that the Federal Communications Commission [FCC] must give priority to the development of a comparable market access standard for foreign companies. I have written to FCC Chairman Reed Hundt about this matter, and I will have the opportunity to speak with him about it this week.

Mr. President, I ask permission for AT&T Chairman Robert Allen's timely and frank speech to be printed in the RECORD at this point.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

KEYNOTE SPEECH OF ROBERT E. ALLEN, COMM WEEK INTERNATIONAL NETWORKED ECONOMY CONFERENCE

Thank you Denis, and good morning everyone.

It goes without saying that it's a privilege to keynote the first session of this conference. And it's an honor to follow Anne Bingaman.

It's also a little ironic that the last time I was invited to speak at a Comm Week conference in Washington, AT&T was in the throes of acquiring NCR. Now we've just completed the acquisition of McCaw Cellular.

It's beginning to look like a major acquisition is a prerequisite for getting invited; and if that's the case, we can't afford to have me come back again too soon.

When I was here in 1991, the term "Information Superhighway" wasn't quite in mass circulation.

Today some people object to that term on aesthetic grounds. They're just plain tired of hearing it.

But I have to confess, I like it.

There's a good reason why the highway metaphor has become so widely used. It's a form of short-hand for the collective expectations people all over the world have for what information technology can deliver.

Expectations differ from country to country, from business to business and household to household. But around the world, there's a well-justified sense of excitement about the benefits of emerging information technology. And more than a little concern about how those benefits should be delivered.

Part of the appeal of the superhighway is the image it gives of high speed, high volume traffic with easy access.

A highway system like that expedites trade in goods between people in distant places. A Global Information Superhighway should do the same thing for trade in information and services.

To build an information superhighway, we need a strong foundation in the form of a global communications market that offers the same kind of access and mobility associated with a modern highway.

We need a market where customers consistently have access to competitive choices.

We need a market that can provide multinational companies with truly seamless, worldwide services.

And we need a market where communications companies are free to cross national borders to give customers the services they want.

Clearly, we don't have a market like that yet; not in most parts of the world. The main reason we don't have it is the lingering fear of competition, especially when it comes to providing basic network services in countries outside the United States.

But anyone who went through the competitive revolution in the United States over the last ten years understands the benefits of competition to customers. And what's good for customers is good for industries and countries.

Conversely, any industry or country that ignores what's good for customers is ignoring its own long-term interests.

Earlier this month a group of visiting telecommunications officials from developing counties in Africa met with FCC Chairman Reed Hundt, who'll be speaking to us at lunch. He told them it was an illusion to think that any nation can't afford to have competition in its telecom market.

Specifically, the chairman said, quote: "Countries and consumers can't afford NOT to have competition. Competition helps lower prices, increase efficiency, improve and expand service. It encourages the entry of the most modern technologies and increases a country's competitiveness in the world market."

We've all heard that the winds of competition are blowing in communications markets around the world. And that's true. The need for competition is recognized just about everywhere, first and foremost by customers. But after years of discussion, those winds of competition aren't much more than a light breeze.

In the industrialized countries of Western Europe, the European Union has consistently called for liberalized market access and competition. That's a sincere effort. But even the most optimistic view of the EU's plans doesn't include concrete market results for voice infrastructure competition until 1998, at the very earliest.

But one thing IS certain; the same trade barriers that are impeding competition in the market for communications services are also impeding construction of the Global Information Superhighway.

Consider the five principles of Global Information Infrastructure issued by Vice President Gore at the World Telecommunications Development Conference last March in Buenos Aires.

Number one, encourage private investment.

Number two, promote competition.

Number three, create a flexible regulatory frame work that can keep pace with rapid technological and market changes.

Number four, provide open access to the network for all information providers.

And number five, ensure universal service.

I think those five principles make excellent construction guidelines for the Global Information Superhighway. And they remind us that technology alone won't get us where we want to go.

The most efficient rule for traveling on the Information Superhighway is a high-octane blend of technology and competition, with a light touch of public policy.

The ideal mix differs from country to country. But too many countries have trouble applying the competition element of this formula—especially when it come to basis network services in their own markets.

On the other hand, the interest in technology has set off a boom in infrastructure investment worldwide.

You can pick up the Wall Street Journal or the Financial Times almost any day and see headlines about high tech alliances and budding multimedia services. But keep in mind that two-thirds of the world's households don't even have telephones.

One half the world's population, about three billion people, are still waiting to make their first phone call. Never mind accessing a multimedia data base.

So it's no wonder that visions of the Global Information Superhighway look different in different parts of the world.

But there's universal recognition of the link between information technology and economic growth. Many countries are playing catch-up, and playing it well, especially in East Asia, Latin America, Eastern Europe and the former Soviet Union.

In fact, the UN just reported a record of $80 billion in private foreign investment in developing countries last year. And the majority of that investment went to countries with ambitious infrastructure programs. Twenty-six billion went to China alone.

The growth of China's infrastructure is even more breathtaking than the double-digit growth of its economy.

China is expanding its national network at the rate of 12 million lines a year. Six years from now it plans to be expanding at almost that rate—20 million lines a year. In terms of capacity that's the equivalent of creating a new Bell Atlantic or Nynex every year.

China seems intent on realizing its potential of being an economic superpower in the 21st Century. And its leaders recognize that they need a world class information infrastructure to make that happen.

AT&T has memorandum of understanding with China that covers a long-term partnership to provide services, equipment and technology throughout the system. And I can assure you that the Chinese not only have a voracious appetite for more capacity, they also have gourmet tastes in technology.

The Chinese government is determined that their information infrastructure will be in the fast lane of the Global Information Superhighway, and they are by no means alone in that desire.

I was in Saudi Arabia this summer for the launching of the biggest single network expansion project ever outside the United States. The Saudis are doubling their national network, from 1.5 million to 3 million lines, all digital.

The Kingdom of Saudi Arabia is looking for economic diversification. And they, too, want an infrastructure that can take full advantage of anything coming down the global information superhighway.

We've seen the same kind of determination at work in South Korea, Mexico, Argentina and many other countries.

But the newest chapter in the world infrastructure story is being written right here in the United States.

Until just the last few years, the market for transmission and switching systems in the U.S. was huge, but barely growing. That's changed dramatically.

The regional Bell companies, GTE and some of their competitors in the cable television business, are investing in the technology to deliver multimedia consumer services—the kind of services people in this country associate with the idea of an Information Superhighway. We're working as a technology supplier to both industries.

The advanced state of technology is due in no small measure to the advanced state of competition in the U.S. market. For a variety of reasons, the fuel of choice on our National Information Superhighway is blended in about equal parts of technology and competition. And so far, public policy has walked the fine line of supporting the expansion of information technology while leaving the actual work to competitors in the marketplace.

There's still some work to do in getting the FCC and some state regulators out of the business of regulating prices in long distance. And we still have some work to do in introducing competition into the local exchange market.

That's the newest frontier in America's continuing competitive revolution. And the action is centered right here in Washington.

Congress has been debating the first major communications legislation in this country in 60 years.

Unfortunately, events compelled withdrawal of the Hollings bill in the Senate on Friday. So apparently there won't be telecommunications reform this year.

We've supported the Hollings bill because it provides a logical approach to the expansion of competition.

It anticipated the local exchange companies' eventual freedom to enter the already competitive long distance market. But not until the introduction of real competition, in the local exchange market, where the local exchange companies still have a monopoly.

That arrangement strikes me as fair. And hopefully, these principles will be part of any legislation proposed in congress next year.

Meanwhile, the size and relative openness of the U.S. market have attracted competition from all over the industrialized world. Unfortunately the open door policy of the U.S. market has not generated comparable progress in other countries. They want the freedom to compete for customers in the United States, but they haven't taken significant steps to dismantle their monopoly control at home.

I don't mean any disrespect to my fellow panelists or to their companies. And I certainly don't want to suggest that anyone in America should be telling another country how to run its telecommunications system.

France Telecom and the Deutsche Bundespost have created some of the best technical infrastructure in the world. They've been serving their own populations for most of this century without any policy advice from the United States, thank you very much.

But the problems created by closed markets transcend the borders of any one nation.

The proposal of France Telecom and Deutsche Bundespost Telekom to enter the U.S. network services market through their investment in Sprint goes well beyond the internal policies of any of the countries involved. It underscores the question of whether America can afford to open the door to competitors from countries which offer very little in the way of comparable market access.

If I may be permitted to answer my own question: The time for this lop-sided arrangement is long past.

Not just because it strikes many people as unfair, but more important, it deprives U.S. customers of competitive choices in the global market, and it poses the risk of reducing the competition that's already the strength of the U.S. market.

Meanwhile, business and residential customers are looking for the best possible combination of price and service here and abroad. They want the option of buying exactly the services they want from the carrier of their choice. And they want that carrier to meet their needs inside and across the borders of other countries.

Even putting aside the new information services that will be coming down the superhighway, competitive access is crucial for delivering the full benefits of the voice and data services that make up most of the global market right now.

The big multinational customers whose buying power drives that market are growing impatient. They've been teased long enough with the promise of competitive choices for seamless global connections through the world's public switched networks.

That's impossible right now. Not because technology is lacking, but because competition is lacking. And competition will remain lacking as long as carriers from other countries are allowed to compete in the U.S. at the same time they sharply restrict access to their home markets.

This just doesn't make sense for customers. They are being denied the economic benefits of facilities-based competition among carriers outside the United States.

Permitting any country to operate this kind of a closed market while its own affiliate competes on an equal footing in the United States is not in the best interests of full and fair competition.

And the France Telecom/Deutsche Bundespost Telekom/Sprint deal as proposed now would not fit any reasonable definition of full and fair competition.

Not as long as France and Germany maintain their tight grip on competition in switched voice services and infrastructure.

It's encouraging that France and Germany have recently made significant strides in bringing international settlement rates down closer to cost—a practice we'd like to see more countries emulate.

American international callers pay out $4 billion a year more than the U.S. takes in from all foreign governments. An estimated $2.3 billion of that is pure subsidy. It amounts to a tax on Americans.

And while they're collecting this premium to complete calls from America, many countries use discriminatory rates to charge carriers from other parts of the world substantially less for similar access.

High and discriminatory settlement rates are symptoms of uncompetitive markets. They represent toll booths on the Global Information Superhighway, and the tolls are still too high.

It's time for strong action by the U.S. government to demonstrate that comparable market access is no longer an abstract hope. It's a principle, a standard for telecommunications trade between the U.S. and other countries, and a necessity for giving customers the level of services they want.

Specifically, we are asking the Federal government to take action now.

We are requesting that the FCC act on the filing we made a year ago and develop uniform rules that would make comparable market access a standard for foreign carriers to enter the U.S. telecom services market. And we're asking the FCC to review the France Telecom/Deutsche Bundespost Telekom/Sprint deal in the context of that standard.

We're calling on the commission to use its statutory authority to require foreign carriers looking to do business in the U.S. to first demonstrate that their home markets are open to competition in basic services, and provide the kind of network interconnections that go with true competition.

And, of course, we want the commission to insist that any foreign carrier looking to compete in this market offer cost-based, non-discriminatory accounting rates to all U.S. carriers.

The Department of Justice is already reviewing the antitrust issues raised by the France Telecom/Deutsche Bundespost Telekom investment in Sprint. But I can't imagine any set of conditions imposed here that would be more effective than the establishment of real competition in France and Germany.

With that in mind, we're requesting that the U.S. Trade representative begin negotiations to achieve comparable access in France and Germany, and we're asking the U.S. Congress to examine the larger issue of comparable market access globally.

This kind of attention to the market for services would be entirely consistent with the support already provided by the Clinton Administration for the rising trend in American exports of telecommunications equipment. The freedom of American carriers to provide their customers with end-to-end global services should not be impeded by political boundaries.

We're not asking the U.S. government to create a draconian set of market entry conditions here. The bottom line is simply this: We want U.S. carriers to have the practical opportunity to compete in the home markets of other carriers on a comparable basis with the opportunity those carriers have in the U.S.

I have great respect for France Telecom/Deutsche Bundespost Telekom and Sprint. AT&T has known them individually as customers, competitors and suppliers. I don't even fault the French and German companies for trying to take advantage of the lopsided market access policies in America.

But I would find fault with American public policy if it continues to allow this kind of market imbalance on a case by case basis. American policy-makers should be leaders in seeing that national boundaries don't stand between customers and competitive choices.

We appreciate the progressive forces at work in Europe. They recognize the value and the necessity of competition in delivering the benefits of the Information Superhighway.

We applaud their efforts to open up their markets to competition. And we sincerely hope that the U.S. government will support those efforts by setting policies that encourage full and fair competition in basic communications services.

If our government is successful in that, America will earn the gratitude of all future travelers on the Global Information Superhighway, whatever their starting points, and whatever their destinations.

Thank you very much.

MATTHEW J. BRAUN, A YOUNG SCHOLAR

Mr. MOYNIHAN. Mr. President, yesterday's Chicago Tribune carried splendid news indeed about the scholastic achievements of Mr. Matthew J. Braun, the son of our distinguished colleague from Illinois, Senator CAROL MOSELEY-BRAUN. Matthew Braun, who is a senior at St. Ignatius College Preparatory School in Chicago, has been named a semifinalist in the National Achievement Scholarship Program for Outstanding Negro Students, which is conducted by the National Merit Scholarship Corp. Fewer than 90 high school students in the State of Illinois, and just 1,500 nationally, have earned this distinction. As a semifinalist, Matthew is now eligible to be awarded one of 800 achievement scholarships.

This is a fine accomplishment and one in which Matthew and his family should take great pride. I know all Senators join me in congratulating Matthew Braun and his mother, Senator MOSELEY-BRAUN, in whose footsteps Matthew already seems to be following—withal he is leery of politics and determined not to become a lawyer. I ask unanimous consent that the article from the Chicago Tribune of September 29, 1994, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BLACK SCHOLARSHIP SEMIFINALISTS ANNOUNCED

More than 80 Illinois high school students—including 16 from Chicago's Whitney Young Magnet High School—are among the approximately 1,500 semifinalists competing in a national scholarship program for African-American students.

The seniors are eligible for about 800 achievement scholarships, worth about $3 million, from the National Achievement Scholarship Program for Outstanding Negro Students. The privately financed program is being conducted by the National Merit Scholarship Corp.

This year's Illinois semifinalists include:

AURORA: Lakeisha D. Heard, Nsesa M. Kazadi, Tly R. Martin, Dorothy J. Pleas, Illinois Science and Math Academy; Claudine V. Rigaud, Rosary High School; Shea D. Caruthers, Kimberly J. Collins, Waubonsie Valley High School.

BELLEVILLE: Norval J. Hickman, Governor French Academy.

BOLINGBROOK: Jean C. Domercant, Bolingbrook High School.

CHATHAM: Eboseyl L. Imeokbaria, Glenwood High School.

CHICAGO: Darnell Lewis, Nicholas J. Sneed, Carver High School; Torean I. Wilson, Hales Franciscan High School; Femi Allen, Juvon Dixon, Folann S. Dosunmu, Andre E. Haynes, Tony J. Pemer, Nwadinobi N. Ude, Kenwood Academy; Tayo O. Akinyemi, Christiana O. Oladini James, Abeni Shauri, Harlette S. Washington, Lincoln Park High School; Tony B. Jones, Kobie O. Mahin, Morgan Park High School; Michael D. Brown, Quigley Preparatory Seminary; Tashaunda R. Baskerville, Matthew J. Braun, Chika I. Chukudebelu, Salah M. Goss, Muriel Jean-Jacques, Jon C. McDonald, Robyn D. Reid, Chad J. Saunders, Moses W. Scott, St. Ignatius College Preparatory School; Funmilayo Akiniawon, St. Scholastica High School; Sparkle Labon, Steinmetz High School; William E. Spann, Randel Tempo, University of Chicago Lab High School; Lincoln J. Chandler; Tallah A. Charlton, Enesha M. Cobb, George R. Davis, Traci L. English, Kimberly L. Hale, Debrell L. Head, Delma Y. Jarrett, Twila R. Jones, Allsya L. Lowery, Lugman M. Muhammad, Joshua Oliver, Griffin A. Rodriguez, Rashaan J. Sales, Lora D. Turner, Annisah Umran, Whitney Young Magnet High School.

COLLINSVILLE: Jane M. Strode, Collinsville High School.

COUNTRY CLUB HILLS: Shavon M. McGowan, Hillcrest High School.

CRYSTAL LAKE: Braden T. Lozan, Crystal Lake Central High School.

DE KALB: Robin E. West, De Kalb High School.

DOWNERS GROVE: Maya K. May, Downers Grove South High School.

ELGIN: Amber A. O'Neal, Larkin High School.

EVANSTON: Marcy A. Ellis, Leah E. Squires, Evanston Township High School.

FLOSSMOOR: Katrina L. Rhodes, Homewood-Flossmoor High School.

HARVEY: Adam B. Murphy, Thornton Township High School.

LA GRANGE PARK: Willie C. Cobbins, Nazareth Academy.

LAKE ZURICH: Dalasini S. Cummings, Lake Zurich High School.

LANSING: Nicole Peoples, Thornton Fractional South High School.

MUNDELEIN: Charmaine A. Smith, Carmel High School.

OAK PARK: Devardi Parker, Fenwick High School; Vincent T. Ireland, Oak Park-River Forest High School.

OLYMPIA Fields: Frederick C. Brunson, Tiphany H. Pugh, Ingrid E. Roseborough, Rich Central High School.

PARK FOREST: Anderi D. Heward-Mills, Rich East High School.

PEORIA: Khary M. Burke, Peoria High School.

ROMEOVILLE: Terrence D. Hill, Romeoville High School.

ROSELLE: Kirin L. Murphy, Lake Park West High School.

SKOKIE: Nadege J. Souvenir, Niles North High School.

SOUTH HOLLAND: Leilah D. McNabb, Thornwood High School.

SPRINGFIELD: Halton A. Peters, Springfield High School; Gloria J. Winger, Springfield Southeast High School.

WESTVILLE: Heather D. DeBarba; Westville High School.

WHEATON: William C. Terry, St. Francis Preparatory High School; Selamawi H. Asgedom, Wheaton North High School.

WILMETTE: Philip W. Ingram, Loyola Academy.

A ROLE FOR TAIWAN IN THE UNITED NATIONS

Mr. PELL. Mr. President, on Tuesday Dr. Trong Chai came to Washington as part of a large Taiwanese delegation to the United States seeking support for Taiwanese membership in the United Nations.

I have known Dr. Chai for a great number of years. He was the founder and first president of the Formosan Association for Public Affairs [FAPA], an organization that has long struggled to draw attention to political and economic developments on Taiwan. Dr. Chai's career is testimony to the impressive changes that has occurred in Taiwan.

Four years ago I pressed the Taiwanese Government to permit Dr. Chai, then a professor of political science at the City University of New York, to return to Taiwan. Permission was granted and, after 30 years of exile in the United States, Dr. Chai made the journey back to his homeland. There he formed an organization to press for the international recognition of Taiwan.

Two years later Dr. Chai was elected to the Legislative Yuan, Taiwan's parliament, and this month he became the co-chair of the Committee on Foreign Relations.

In the last few weeks I have had the opportunity to meet with leaders of both the opposition and ruling party in Taiwan. I have been impressed with the unanimity of agreement that exists concerning the issue of Taiwanese membership in the United Nations. The economic success of Taiwan and its emerging democracy have contributed to a rising nationalism in Taiwan. In my view, the nature of Taiwan's success will ultimately bring it the international recognition that it deserves. I am pleased that the Taiwanese leadership is united in its efforts to achieve this goal.

At a luncheon sponsored by the Formosan Association for Public Affairs earlier this week, Dr. Chai presented his views concerning why the United States should support Taiwan's readmission to the United Nations.

I ask unanimous consent that Dr. Chai's speech be included in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

THE UNITED STATES SHOULD SUPPORT TAIWAN IN JOINING THE UNITED NATIONS

(By Trong R. Chai)

Today is a day for family reunions in Taiwan. It is the day of Taiwan's Moon Festival, a day when the family in Taiwan lift their heads together and enjoy the full moon. We are here to lower our heads for a moment and think about why there is no international family reunion with Taiwan.

On October 25, 1971, The United Nations, by a vote of 76 to 35, passed GA/RES 2758, recognizing the government of China to be represented in the U.N. With this resolution, the other entity for China represented by Chiang Kai-Shek was deemed illegal and expelled from the U.N. Since then, the people of Taiwan have been shut off from this international organization.

Taiwan is qualified to be a U.N. member. It has scored great economic achievements: a GNP of $220 billion which ranks 20th in the world, a Per Capita Income of $10,500 that ranks 25th, and a foreign trade volume which ranks 13th with a foreign reserve that stands at world's pinnacle. Judging from these records, Taiwan should be admitted to the U.N.

Among the world's 191 nations, only Switzerland, Holy See, Tonga, Nauru, Tuvalu, Kiribati and Taiwan are not U.N. members. Taiwan is the only nation truly left out of the U.N. Switzerland, the perennial neutral nation, never has the intention of becoming a U.N. member. The other five nations, with an aggregate population of no more than 190,000, occupy small, limited areas of land, and are not willing to join the U.N. Taiwan has been willing and able to become a member of the world organization. However, due to political reasons, it has been denied U.N. membership. The denial of representation for 21 million Taiwanese people, who rank 43rd most populous in the world, violates not only moral principles but also human rights.

It has been 23 years since Chiang Kai-Shek's Kuomintang (KMT) was expelled from the U.N. Although the people of Taiwan have incessantly expressed their desire to join that world body during these years, their efforts have thus far been in vain. There are two reasons for the failure:

First, as one of the permanent members of the U.N. Security Council, the People's Republic of China, ignoring the internationally known fact that Taiwan has been independent for forty-five years, still insists that "Taiwan is a part of China" and use this as a reason for denying Taiwan's U.N. membership.

Second, since it retreated to Taiwan in 1949, the KMT government has adhered to the so-called one-China policy, which creates not only great confusion among the international community but also causes Taiwan to linger outside the U.N. door.

Recently, the KMT government wishes to imitate the precedents set by the two Koreas and the two Germanys and hope that parallel representation would be applicable to Taiwan. Thus, the KMT formulates the formula of "One nation, two seats," by which Taiwan would be able to join the U.N. along with the People's Republic of China. This approach, however, is unrealistic, doomed to fail.

The reason that all the Koreans and Germans were admitted to the U.N. is that prior to applying for the U.N. membership, both two Koreas and two Germanys had been simultaneously recognized by the international community. In fact, the ground for their admission is based on "two nations, two seats," not "one nation, two seats." Since no nation has simultaneously maintained formal diplomatic relations with both the People's Republic of China and the Republic of China on Taiwan, there is no chance that Taiwan would be admitted to the U.N. with the idea of "one nation, two seats" and in the name of the "Republic of China."

To strengthen the humanistic and moral pleas embedded in their endeavor to join the U.N., a plebiscite must first be held. The plebiscite, to determine whether or not the name of "Taiwan" would be used, would not only help Taiwan reach a consensus on the name among its people but also show the world the will and the determination of the people of Taiwan in joining the U.N. When the people of Taiwan, by a huge margin, decide to use the name of "Taiwan," the world community should give moral support to the people of Taiwan in their application for a new membership.

As a champion of human rights and the leader of the democratic world, the United States has taken political and economic sanctions against those nations that seriously violate human rights. This year, the United States has urged China to improve the human rights situation when granting China the Most Favored Nations status. And now that 21 million Taiwanese people are being denied U.N. membership, the United States should support Taiwan in joining the U.N. on the ground of universality of membership and for the respect of the human dignity of and human rights of the people in Taiwan.

COMMENTING ON THE PRESIDENT'S FOREIGN POLICY

Mr. D'AMATO. Mr. President, I rise today to again comment on the President's foreign policy, or lack thereof.

I am astonished by the indifference of the President's foreign policy and national security team to the unfolding events in Haiti. It is truly incredible that the administration could allow former President Carter to travel to Haiti and hijack our Nation's foreign policy and substitute it with his own, "peace at any price" policy.

Mr. President, I will say no more than if the story is true that while former President Carter was in Haiti negotiating, Secretary of State Christopher and Deputy Secretary of State Talbott attended a Saturday matinee showing of the movie "Quiz Show," on the day before the President was planning to authorize an invasion of Haiti, then what use are they? Logic would dictate that they should be in the White House participating in the planning. Obviously, they were not needed.

This Nation's foreign policy is in a sad state of affairs. Let us hope that our adversaries do not try to take advantage of this fact.

Mr. President, I ask unanimous consent that the text of an article by Joe Klein, appearing in the October 3, 1994, issue of Newsweek, be printed in the RECORD, following my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EMPATHY FOR THE DEVIL: THE REPUBLICAN FANTASY OF DEMOCRATIC FOREIGN POLICY COMES TRUE

It is said that Colin Powell closed the Haiti deal in a conversation with the president late that remarkable Sunday afternoon. Bill Clinton was in the throes of one of his famous, exuberant agonies: should he approve the agreement negotiated by Jimmy Carter or not? Powell induced action by talking to the president as he had been trained to do by Republicans—and in a manner foreign to Democrats: he talked about power, not principle. By the end of this week, he said, you could have 15,000 troops on this island without a shot fired in anger. You can use this power to impose any result you want.

Gulp. It is not an easy thing for a Democrat to contemplate the use of power; postponing it until next week is always better. But, to Bill Clinton's credit, he did the right thing. It's even vaguely possible, if the president proceeds steadfastly, that his bizarre Caribbean adventure will not prove cataclysmic. The Haitian army may be disarmed and the police restrained. The junta may resign. Aristide may return (he may even be a reasonable democrat). The extremists on both sides may choose not to shoot, beat and necklace each other. American troops may escape the crossfire; they may leave before the millennium. But don't bet the farm.

Even if it does work, Bill Clinton has done massive, perhaps irreparable, damage to his presidency, to his party—and, worse, to America's status in the world. His jittery performance seems a vindication of the perennial Republican canard about how Democrats act in office: they either launch the country frivolously into war or act cravenly, undermining American power. It's always Vietnam or Munich, quagmire or capitulation. Indeed, Clinton has proved the accusation insufficiently creative: he has combined the two, capitulating into a quagmire. And he has done this with an all-star cast—a timid secretary of state; an invisible, moralizing national-security adviser; an ignored, technocratic secretary of defense . . . and, to top it off, Jimmy Carter, Prince of Peace. The stray details of the operation are a profound American embarrassment: the helpless secretary of state and his deputy, Strobe Talbott, going off to see the movie "Quiz Show" on Saturday afternoon, as Carter negotiated in Haiti; Carter, telling the Haitians he was "ashamed" of this country's policy, Carter, ignoring the demand that Cédras leave the country because it would be a violation of the dictator's human rights. Who could invent such stuff?

"None of this would be happening," a Republican quipped, "if Warren Christopher were still alive." Which is only partly true. Christopher did detach himself from Haiti policy—in silent protest, apparently—from the very start; and he did, reportedly, oppose the Carter mission. But he is, even when not inert, a Democrat—and prone to the party's peculiar proclivities. "Republicans make many of the same mistakes, but they manage to hide it better," said Leslie H. Gelb, president of the Council on Foreign Relations. "They couch it better. Democrats talk about principle; Republicans, about hard-headed national interests. Democrats want to work things out with their adversaries; Republicans reduce everything to raw considerations of power."

It is true, Republicans screw up, too. Nixon compounded the ignominy in Vietnam. Reagan put marines into Beirut on an ill-conceived mission that ended disastrously. But Reagan also understood—as most Democrats never did—that raw power, as symbolized by the introduction of Pershing missiles in Europe (and the threat of Star Wars, for that matter), might push the Russians past the breaking point in the cold war. The Republican foreign-policy grammar is simply more plausible than the Democrats': the protection of national interests seems a lot more solid than the promulgation of national principles, however worthy.

Moreover, there is a fatal, effete high-mindedness in the Democrats' method. It is a two-step prescription for paralysis, perfected by Jimmy Carter. First, a principle is formulated: America should act to expand democracy, to stand up for human rights, to root out thugs. But step two, the all-purpose application of empathy, inevitably negates step one: we must try to understand evil rather than condemn it. There are root causes. Society produces a Cédras (just as it produces our own street thugs). Redemption is always possible. Thugs can evolve. Raoul, is there something you want to share with us? In this case, Carter's ladling of empathy served to create an embarrassing step three:

a questioning of Bill Clinton's initial motives. If Cédras were "honorable" enough—Powell's word—to adhere to this agreement, maybe Clinton was motivated by domestic politics to overstate the case against the thugs.

One wonders about Clinton. "There is no instinct for power," says a disgusted administration official. "Policy discussions are conducted on a level of abstraction entirely disconnected from real experience. There is an operational incompetence that is profound and intractable. Nor do many of these people [in the inner circle] have practical political experience. None of them has ever run for sheriff." It gets worse. On the day after Jimmy Carter publicly denigrated the Clinton Haiti policy—and after Carter, remarkably, boasted to The New York Times that he lobbied foreign leaders to oppose the United States position on the gulf war—the State Department smiled on the peanut farmer's pending efforts to solve . . . Korea. "He is a unique asset," said Assistant Secretary Robert Gallucci. The mind reels.

JOHN HUME'S WORDS OF WISDOM

Mr. PELL. Mr. President, I would like to bring to the attention of my colleagues a piece written by John Hume that appeared in last Friday's Washington Post. I ask unanimous consent that at the end of my remarks, Mr. Hume's piece be inserted in the RECORD.

John Hume is well known to many of us as a friend and colleague, a fellow legislator, a thoughtful and skilled negotiator, a man of peace. I believe John Hume, with his steadfast belief in the gifts and capabilities of the Irish peoples, deserves the lion's share of the credit for the positive developments we are witnessing in Northern Ireland.

During John Hume's visit to the United States last week, we were treated to his eloquent words of wisdom about how to maintain the momentum, and ultimately, achieve peace in Northern Ireland. Several members of the Foreign Relations Committee met with him personally at a coffee meeting I attended just downstairs in the Foreign Relations Committee room.

Many of the sentiments that Mr. Hume expressed to the committee are reiterated in his recent article. I am particularly impressed with John Hume's admission that his views have been shaped by his European experience and his contact with the United States. Mr. Hume is right on target when he suggests that many of us do not give a second thought to the fact that the European Union, one of the most powerful economic and political blocs in the world, has as its members both Germany and France, countries with a long history of mutual animosity and war. He also reminds us that the United States is a shining example of a country where "the essence of unity is the acceptance of diversity." Seeing John Hume's vision and political skills, I have great hope that he will one day be able to point to Northern Ireland as an example of a place where diversity is celebrated as a source of stability and democracy.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NEW ERA IN IRELAND

With the announcement of a cessation of military activities by the IRA and the commitment of their political voice, Sinn Fein, to peaceful and democratic means to reach an agreement between the people of Ireland that can earn the allegiance of all our traditions, we are now at the beginning of a new era in Ireland. That was the clearly stated objective of my dialogue with Gerry Adams. Since five British governments and 20,000 troops failed to stop the violence, I took the view that if the killing of human beings on our streets could be ended by direct dialogue, then it was my duty to do so. I am naturally pleased that we have achieved this first major step toward lasting stability.

Now we must move on to our next major challenge—to reach agreement on how we share our piece of earth together. The challenge is to find common ground between two fundamentally different mind-sets, the unionist and the nationalist. The unionist mind-set based largely in the Protestant population of Northern Ireland, is akin to that of the Afrikaner who believes that, surrounded by hostility that is real or apparent, the only way to protect his people is to concentrate power in their own hands to the exclusion of all others.

That approach is not only doomed to encourage widespread discrimination and conflict but is ultimately unsustainable. Nor does it do justice to the unionist tradition. The Unionist of Northern Ireland are justly proud of their heritage and their contribution to the world. As many as 11 American presidents came of their stock. They number captains of industry and colonial governors among their great men. They see themselves as a pragmatic, hardheaded, straight-talking, skeptical, robust people and there is much in their history to justify their view.

However, the negative impact of their laager mentality has tended to dry up their creativity and paralyze their political talents. The time has come for them to believe in themselves as their own best guarantors in a future shared with the rest of the people of Ireland. They must realize that because of their geography and their numbers, the problem cannot be solved without them. Their true interest depends precisely on the exercise of their traditional gifts of self-confidence and self-reliance. Let them exercise those gifts now in the face of a historic opportunity by engaging in the political process of dialogue and consensus building.

The nationalist mind-set has traditionally relied less on the discipline of its people and more on its commitment to the territory of Ireland. "This is our land, and you unionists are a minority and you cannot stop us taking it over" can fairly well sum it up. But Irish nationalism has grown in its complexity, and it accepts that unity is not a territorial objective but one that involves people. It is people who have rights and not territory. A divided people can only be brought together by agreement. If coercion entrenches those divisions, only dialogue can bridge them.

In my whole approach to this process, I have been strongly inspired by both my European experience and my contact with the United States. The European Union is the greatest testament to the resolution of conflict. After one of the bloodiest conflicts in history, which left 35 million dead across our continent a mere 50 years ago, Europeans are engaged in a level of cooperation so intense it has blurred the traditional bounds of sovereignty. The political system of the United States commands the loyalty of citizens despite the diversity of their ethnic makeup and experiences. And each U.S. citizen carries in the small change in his or her pocket the maxim that holds the country together—*e pluribus unum*, from many we are one, the essence of unity is the acceptance of diversity.

We in Ireland are engaged in a process that seeks to give reality to this most profound truth. We must create by agreement, as was done in postwar Europe, institutions that respect our diversity but allow us also to work our substantial economic ground together—and by spilling our sweat and not our blood to begin our healing process. If that happens, a new Ireland will evolve, and the model that emerges may be very different from the traditional models of the past. It will be based on agreement and can earn the allegiance of people from all our traditions.

While we work for political agreement, we should also—in conjunction with the Irish abroad, particularly in the United States—work together to build our country economically, concentrating on areas of higher unemployment in the North so that the positive results of the peace process can be visible to our young people. We must give them hope and belief in the constitutional process. We must plan to give them the opportunity to earn a living in the land of their birth and to contribute to its development.

I have had major contacts in the U.S. political and business communities, where people of Irish extraction are prominent in both. I have learned that they would be keen to help in the development effort. Indeed, they are already doing so through the International Fund for Ireland, which has already created 20,000 jobs. Reconstruction goes hand in hand with reconciliation.

My hope, and it is a confident hope, is that the fast approaching 21st century will be the fist century in our island history in which the evil genius of mistrust and violence will be finally laid to rest, and politics alone—in all its dynamism and vigor—will direct the affairs of all of the people of Ireland.

Mr. PELL. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I see the Senator from Pennsylvania on the floor.

I take this time to specifically and particularly thank him for his very, very hard work in helping to resolve a very difficult issue, not only for the country but for the people of Pennsylvania.

I just hope that the people of Pennsylvania have some sense of understanding of all that he has done for Pennsylvania, not only on this issue but other related matters. He has been a tireless worker, a very good Senator to work with, and that is because his word is his bond. When the Senator from Pennsylvania says he is going to do something, he does it. That is not always true with everyone else in the world we have to work with and deal with sometimes.

But I just take this opportunity to particularly thank the Senator from Pennsylvania for his very diligent and very effective work.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania [Mr. WOFFORD].

Mr. WOFFORD. Mr. President, at the end of this hard week's work, I thank the Senator from Montana. I thank Senator BAUCUS, the chairman of our committee, for those warm words. More important, I thank him for his good work, his leadership of our committee, and the good leadership he has given on this bill.

As he knows, high on my agenda from the time I got here was to help Pennsylvania deal with the mountain of trash coming into the Commonwealth. It is a battle our Governor, who first appointed me to this position and gave me the opportunity to serve on the Environment and Public Works Committee with Senator BAUCUS, has fought for a long time.

I thank Senator BAUCUS for coming with Governor Casey and me to Lackawanna County and looking firsthand at our problem and seeing why the people of Pennsylvania want us to fight to get control of our destiny in this matter.

I also thank Senator COATS for his good work. I think the way we worked together across party lines on this issue is an example of what we need to do in this country and in this Congress on so many other issues.

Mr. BAUCUS. Mr. President, will the Senator yield for a question, please?

Mr. WOFFORD. I yield.

Mr. BAUCUS. Mr. President, I would just like to tell the Senator how much I appreciate not only Senator WOFFORD's request but the opportunity to see firsthand the problems that Pennsylvania is faced with, particularly Lackawanna County.

When I visited with the Senator at his request and with the Governor of Pennsylvania, Governor Casey, to see firsthand, I must say regrettably the smell firsthand, the results of this very large unwelcome landfill, and with the trucks rumbling by tearing up pavement and just causing havoc and particularly seeing the concern in the eyes of mothers with small children who were exposed to all this, not only the trucks going up and down the streets and constantly this landfill but also the various problems of the landfill, that made a big difference to the committee and helped the committee forge a solution to this bill.

I thank the Senator for his invitation and for that opportunity for this member of the committee to see firsthand those problems and, therefore, help the committee forge a good solution to the problem.

Mr. WOFFORD. Mr. President, I thank Senator BAUCUS for his further account about his trip to Pennsylvania, which we greatly appreciated. He saw not only our citizens in action as they assembled that day to talk to us and make us look, smell, and listen to them, but he saw our Governor in action.

Our Governor came down with his airplane to make sure we got there. The Senator saw what kind of a fighting Governor Bob Casey is on things when he knows what the common good calls for and that it calls for action. I am very glad we were able to show him that.

On occasions related to the environment, particularly in our committee, we have proved that we can work across party lines for the common good in this country.

The legislation is going to provide, once we get over the final hurdle in the conference and back in final passage, relief to Pennsylvania communities by allowing reductions in out-of-State waste.

Pennsylvania leads the Nation in the amount of imported municipal solid waste. Over 3.8 million tons came into the Commonwealth in both 1992 and 1993. These figures represent over 30 percent of the total waste disposed in Pennsylvania each year. No other State has such a high volume or percentage of out-of-State waste transported for disposal.

Since 1989 Pennsylvania has issued citations for either safety or environmental violations to 29,379 trash trucks. The overwhelming majority of these were issued to trucks from outside Pennsylvania. In addition, 340 trucks were ordered to return to their State of origin because of serious environmental violations. Since 1987, Pennsylvania has collected over $24 million in fines and penalties under the State Solid Waste Management Act. It is unfair for our State to be burdened with regulating and policing landfills whose sole purpose is to accept vast amounts of out-of-State waste.

Pennsylvania has turned around its waste disposal problem in its own house. As recently as 1986 the Commonwealth exported over 3 million tons of municipal solid waste. Now that figure is under 1 million tons annually. Through aggressive efforts in waste management, recycling, and capacity planning, Pennsylvania has effectively created an environmentally sound structure to meet State needs with sufficient capacity into the next century.

In spite of these State efforts, Federal court decisions in recent years have left Pennsylvania helpless to control the increasing amounts of out-of-State waste coming into the Commonwealth. This legislation addresses many of the issues created by those court decisions.

I offered four amendments, which the Environment and Public Works Committee accepted, during consideration of this legislation. The most important of those amendments, which is section 2 of this bill, assures that Pennsylvania will see an actual decrease from the largest exporting States of municipal solid waste during the coming few years. It is time that other States follow the lead of Pennsylvania and develop the necessary capacity for the disposal of their own waste.

Mr. President, the battle for this bill is not finally over, but we have reached an important milestone. This is a vital bill for our country and for our commonwealth.

ENDING TAXPAYERS' CONTRIBUTION TO MEMBERS' HEALTH INSURANCE

Mr. WOFFORD. Mr. President, I would like to close the week in this Hall, at least for me, with a statement before we complete our business here today that makes very clear what happened and what will happen to the amendment I proposed earlier this week that would end the taxpayers' contribution to our health insurance and our choice of private health insurance. It would end that so long as we have failed to take action to assure for the American people the kind of choice of private health insurance that we have arranged for ourselves.

I offered that amendment because I believe it expresses a matter of basic fairness and common sense that Members of Congress should not take from the taxpayers the kind of affordable private health insurance that they will not guarantee for the taxpayers.

Well, through a series of procedural ploys, Members on the other side of the aisle avoided a vote on my amendment. As the saying goes, "They can run, but they can't hide." I intend to be back with this amendment.

For the moment, we should, as we are now, go forward with the District of Columbia appropriations bill. It is necessary before the fiscal year ends today. So I have told the majority leader that I will not offer my amendment to this bill again now.

As I said on the floor last night, it is not my goal to prevent the passage of a vital appropriations bill necessary for the District of Columbia or to prevent passage of Senator COHEN's amendment on health care fraud and abuse, which I strongly support and which is a key element of the health care bills that I have been crafting and fighting for, including the seven-point small first installment that I proposed to the majority leader and Republican leader some days ago.

The majority leader, Senator MITCHELL, has assured me that he will bring up a bill next week to which my amendment can be attached. I accept his assurance and I intend to take that opportunity.

It does not surprise me that some Members of this body do not want a straight vote on my amendment. I know it is an uncomfortable proposition. It brings the reality of the health care problem very close to home. But it is not easy to explain to the people why Members of Congress have a wide choice of private health plans, guaranteed health insurance which the taxpayers help pay for, when they have not taken action to make that kind of coverage available to the people who pay those taxes and employ them.

People think—and so do I—that Members of Congress should support the plan they live under or live under the plan they support.

My amendment is not just a symbolic step. To me and to many people in this country, this is a matter of basic fairness—do unto others as you would have them do unto you.

My amendment turns that self-evident truth into a reality. I know it is not popular in these Chambers. It was not popular when I introduced a bill to end the free care that Members used to get from the attending physician. But we did it because we discovered together that it was the right thing to do.

There are Members of Congress who say doing nothing on health care will not hurt them at all, who have actually celebrated their success at blocking action for universal health insurance. I hope this amendment will help in a small way to show them that there is nothing to celebrate—not for the American people, and not for us.

From this perch, it is easy to think everything is fine for everyone else when we have such a good, wide choice of health plans, guaranteed at work, and largely paid for by our employer—the taxpayers.

In pressing this amendment, it is not my purpose to take away a good choice of health care plans and employer contributions for Members of Congress. But it is my purpose to see that that kind of opportunity which we have is at long last extended to all of the American people. If we put Congress, if we put ourselves, in the same boat as the American people, I think the need for action will suddenly become much clearer in very personal terms.

We have seen it before. In 1981, Social Security was in deep financial trouble. In 1982, Congress included itself in the system. And the very next year, Congress found a way to come together to put Social Security back on a sound footing. I do not think that was a coincidence.

I hope that people across this country will understand that, instead of taking an up-or-down vote on this very clear, common sense, fair proposition that I put forth, this Senate, so far, at least for today, is avoiding it. I think that is wrong. I think most people in the country think it is wrong. I think it is why so many of them are frustrated with Washington.

One reason I feel confident that this step, in due course, sooner rather than later, is going to be taken by us is because it will be so difficult to look our constituents in the eye and with a straight face say that we are insisting upon our employer, the taxpayers, to contribute to most of our health insurance premiums while we are not willing to come together across party lines and work out a practical, common sense way to do that for the American people.

So I will return with my amendment next week, and I urge all of my colleagues across party lines to support it.

Thank you, Mr. President.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Pennsylvania yields the floor and suggests the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. LEVIN. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESTRICTING IMPORTATION OF OUT-OF-STATE SOLID WASTE

Mr. LEVIN. Mr. President, the Senate today is passing Senate bill 2345, which is a bill to authorize local governments and Governors to restrict the importation of out-of-State solid waste. I am pleased to be a cosponsor of this bill.

The Senate has passed a similar measure twice in the past. Now, because the House has passed H.R. 4779, a bill on the same subject, we finally have a real opportunity to resolve this matter. I am hopeful that the differences between the two Houses can be worked out and that we can send a bill to the President before we adjourn.

A flow of municipal solid waste across State lines to the lowest bidder, without consideration of other factors, is not in the public's interest. Such a system creates public health and environmental concerns, jeopardizes resource recovery efforts, and challenges unnecessarily a reliable and traditional local governmental responsibility.

As I have indicated during consideration of the previously passed Senate bills, the State of Michigan has had an excellent planning process for many years which recognizes these difficulties and empowers local governments to responsibly manage their waste. Local governments should be free to develop enforceable long-term plans to provide sufficient disposal capacity for local waste. It should be their option, after considering cost, environmental protection, land-use concerns and other factors, to limit the impact of out-of-State waste on their jurisdiction.

Local governments need Congress to act decisively to reduce the uncertainty which has been injected into their planning and budgeting processes by recent Supreme Court decisions. If a good compromise can be reached on the issue of flow control, and I understand that the Senate environment committee is seeking to develop such a compromise, this matter should also be included. I have been contacted by many local governments in Michigan that strongly support enacting flow control legislation in this Congress.

So, Mr. President, I encourage my colleagues to support the swift passage of legislation that will put municipal solid waste disposal decisions back into the hands of the people most directly affected by them and best suited to make them: The taxpayers of the municipalities that generated the waste and to their States.

LOBBYING DISCLOSURE ACT OF 1994

Mr. LEVIN. Mr. President, the Senate will soon consider the conference report on S. 349, the Lobbying Disclosure Act of 1994. The Lobbying Disclosure Act would close loopholes in existing lobbying registration laws. It would, for the first time, cover lobbying of top executive branch officials. It would streamline reporting requirements and reduce paperwork. It will provide effective administration and enforcement, and it will also—and this is very important—establish tough congressional gift rules.

The bill passed the House on Thursday by a bipartisan vote of 306 to 112.

I would like to make four points here to correct some inaccurate statements which have been made about the bill.

First, only paid, professional lobbyists—paid, professional lobbyists—are required to register under this bill, as is intended under current law. But current law is so full of loopholes that most paid, professional lobbyists do not register. Our conference report closes those loopholes.

Like the bill that passed the Senate, the conference report specifically defines a lobbyist as an individual who is "employed or retained by a client for financial or other compensation" to make lobbying contacts—subject, of course, to de minimis exclusions in the bill. And I have just quoted from section 103(12). No one who lobbies on their own behalf, or on behalf of someone else in a volunteer capacity, is required to register.

Second, if a paid, professional lobbyist who is otherwise required to register spends money on grassroots lobbying—that is, an effort to get individuals to call or write Congress or the executive branch—that paid, professional lobbyist must estimate the amount of money spent by that lobbyist and its paid employees in that effort and must also disclose the name of any person or entity that was paid by them to conduct such a grassroots lobbying campaign. These are the only disclosure requirements in the bill relative to grassroots lobbying. I am there referring to section 105(b)(6) and section 104(b)(5).

Now, some have suggested that section 104(b)(5) would require paid, professional lobbyists to disclose the names of unpaid individuals or volunteers involved in grassroots lobbying whom they contact as part of a lobbying campaign. That is incorrect. Section 104(b)(5), by its terms, requires the disclosure only of a person who is hired by the lobbyist to conduct grassroots lobbying communications. Grassroots lobbying communications are defined to include communications made to the public by paid, professional lobbyists, not communications made from members of the public to the Government. And there I have referred to section 103(8). No requirements at all are placed on any person who contacts the Government to express his or her own personal views.

Third, a suggestion has been made that section 105(b)(5) would require organizations employing lobbyists to disclose their membership lists. This is untrue. This provision, which was added on the Senate floor, requires paid professional lobbyists to disclose the name of any person or entity other than the client who paid the registrant to lobby on behalf of the client. I explained when this provision was adopted by the Senate that it would require only that if a lobbyist's bills are paid by someone other than a client, the identity of the person who pays the bills would have to be disclosed. And I refer to the CONGRESSIONAL RECORD of May 5, 1993, page S5492.

Indeed, the Senate report on the bill specifically states that "the Committee believes that a broad requirement to disclose all coalition members would have serious first amendment implications." And there I refer to the Senate Report 103-37, page 31. The conference amendment contains the same provisions as the Senate bill in this regard.

Fourth, the bill explicitly exempts religious organizations such as churches and associations of churches from having to register. Those sections are 103(9)(B) and 103(10)(B).

This exemption was worked out with the major religious denominations prior to its incorporation in the bill. As the Baptist Joint Committee explained in a September 29, 1994 letter to Representative JOHN BRYANT, the chief sponsor of the legislation on the House side,

> We think that section 103(9)(B) and 103(10)(B) adequately protect the free exercise rights of churches and religious organizations.

I am quoting from the letter from the Baptist Joint Committee of just a few days ago, and the letter goes on:

> This language has been examined and approved by a number of religious organizations and their church/State experts including the Jewish Community, main line Protestants and the United States Catholic Conference. I am, therefore, puzzled by those who question this legislation on the basis of the effect it would have on religious organizations.

In other words, Mr. President, even if a religious organization has a paid, professional lobbyist on its staff, it is not required to register.

I put this information in the RECORD this evening to address questions which some have raised, and hopefully I have succeeded in answering those questions. Of course, I would be happy to answer any questions any of our colleagues might have before this matter reaches the floor or during that time.

I thank the Chair. I yield the floor.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The Senator from Michigan yields the floor and suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to Executive session to consider Executive Calendar No. 692, Ricki Rhodarmer Tigert, of Tennessee, to be a member of the Board of Directors of the Federal Deposit Insurance Corporation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the nomination.

The legislative clerk read as follows:

> Nomination, Ricki Rhodarmer Tigert, of Tennessee, to be a Member of the Federal Deposit Insurance Corporation.

The PRESIDING OFFICER. Is there objection to the consideration of the nomination?

There being no objection, the Senate proceeded to consider the nomination.

CLOTURE MOTION

Mr. LEVIN. I now send a cloture motion to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the motion.

CLOTURE MOTION

> We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the nomination of Ricki Rhodarmer Tigert to be a member of the Board of Directors of the Federal Deposit Insurance Corporation:
>
> Byron L. Dorgan, J. Lieberman, Patty Murray, Wendell Ford, Daniel Patrick Moynihan, Pat Leahy, George Mitchell, Paul Sarbanes, Harry Reid, Don Riegle, Harlan Mathews, John F. Kerry, Frank R. Lautenberg, John Glenn, Dennis DeConcini, Christopher Dodd.

NOMINATION OF RICKI TIGERT, OF TENNESSEE, TO BE CHAIRPERSON OF THE BOARD OF DIRECTORS OF THE FDIC

Mr. LEVIN. Mr. President, I now ask unanimous consent that the Senate proceed to consider Executive Calendar No. 693, Ricki Tigert, to be Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

Nomination, Ricki Rhodarmer Tigert, of Tennessee, to be Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation.

The PRESIDING OFFICER. Is there objection to the consideration of the nomination?

There being no objection, the Senate proceeded to consider the nomination.

CLOTURE MOTION

Mr. LEVIN. I send a cloture motion to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the motion.

CLOTURE MOTION

> We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the nomination of Ricki Rhodarmer Tigert to be Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation:
>
> Byron L. Dorgan, J. Lieberman, Patty Murray, Wendell Ford, Daniel Patrick Moynihan, Pat Leahy, George Mitchell, Paul Sarbanes, Harry Reid, Don Riegle, Harlan Mathews, John F. Kerry, Frank R. Lautenberg, John Glenn, Dennis DeConcini, Christopher Dodd.

Mr. LEVIN. Mr. President, I ask unanimous consent that Saturday, October 1, count as the intervening day for purposes of rule XXII for both cloture motions.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE JUDICIARY

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to consider Executive Calendar No. 1126, H. Lee Sarokin to be U.S. circuit judge for the third circuit.

The PRESIDING OFFICER. The nomination will be stated.

The assistant legislative clerk read the nomination of H. Lee Sarokin, of New Jersey, to be U.S. circuit judge for the third circuit.

CLOTURE MOTION

Mr. LEVIN. Mr. President, I send a cloture motion to the desk and ask that it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Executive Calendar No. 1126, the nomination of H. Lee Sarokin to be United States Circuit Judge for the Third Circuit:

Frank R. Lautenberg, George Mitchell, Byron L. Dorgan, D.K. Inouye, Kent Conrad, Carl Levin, John F. Kerry, Pat Leahy, J. Lieberman, Bill Bradley, Ben Nighthorse Campbell, Paul Simon, John Glenn, Harry Reid, Charles S. Robb, Don Riegle, Joe Biden.

LEGISLATIVE SESSION

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LEVIN. Mr. President, I now ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 1160, 1190, 1227, 1264, 1271, 1275, and 1276.

And I further ask unanimous consent that the nominees be confirmed en bloc, any statements appear in the RECORD as if read; that upon confirmation the motions to reconsider be laid upon the table en bloc, and the President be immediately notified of the Senate action.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF THE INTERIOR

Harold A. Monteau, of Montana, to be Chairman of the National Indian Gaming Commission for the term of three years.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Marc Lincoln Marks, of Pennsylvania, to be a Member of the Federal Mine Safety and Health Review Commission for a term of six years expiring August 30, 2000.

DEPARTMENT OF DEFENSE

Paul G. Kaminski, of Virginia, to be Under Secretary of Defense for Acquisition and Technology.

NAVY

The following named officer to be placed on the retired list in the grade indicated under the provisions of Title 10, United States Code, Section 1370:

To be admiral

Adm. Stanley R. Arthur, U.S. Navy, 278-30-9765.

INTERSTATE COMMERCE COMMISSION

Gus A. Owen, of California, to be a Member of the Interstate Commerce Commission for the remainder of the term expiring December 31, 1997, vice Gregory Stewart Walden.

DEPARTMENT OF TRANSPORTATION

Anthony S. Earl, of Wisconsin, to be a Member of the Advisory Board of the Saint Lawrence Seaway Development Corporation.

Vincent J. Sorrentino, of New York, to be a Member of the Advisory Board of the Saint Lawrence Seaway Development Corporation.

NATIONAL TRANSPORTATION SAFETY BOARD

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be discharged from further consideration of the following nomination and that the Senate proceed to immediate consideration: James E. Hall, to be chairman of the National Transportation Safety Board for a term of 2 years.

I further ask unanimous consent that the nominee be confirmed, that any statements appear in the RECORD as if read, that the motion to reconsider be laid upon the table, that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the nomination was considered and confirmed, as follows:

NATIONAL TRANSPORTATION SAFETY BOARD

James E. Hall, of Tennessee, to be Chairman of the National Transportation Safety Board for a term of two years.

U.S. COAST GUARD

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be discharged from further consideration of the following nominations and that the Senate proceed to their immediate consideration: All Officers of the U.S. Coast Guard nominated for promotion to the grade of lieutenant commander in the Coast Guard.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the nominations considered and confirmed en bloc are as follows:

IN THE COAST GUARD

Coast Guard nominations beginning Michael S. Swegles, and ending James B. Donovan, which nominations were received by the Senate and appeared in the Congressional Record on September 26, 1994.

THE CALENDAR

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed en bloc to the immediate consideration of Calendar Order No. 661, which is S. 2395, which designates the "Theodore Levin Federal Building and Courthouse" in Detroit, MI; and Calendar Order No. 662, H.R. 4543, which designates the "Matthew J. Perry U.S. Courthouse" in Columbia, SC; that the committee amendments, where appropriate, be agreed to, the bills be read three times, passed, and the motions to reconsider be laid upon the table, en bloc; that the title amendment be agreed to; further, that consideration of these items appear individually in the RECORD and that any statements relative to these calendar items appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

THEODORE LEVIN FEDERAL BUILDING AND COURTHOUSE

The Senate proceeded to the consideration of the bill (S. 2395) to designate the United States Federal building and courthouse in Detroit, MI, as the "Theodore Levin Federal Building and Courthouse," and for other purposes, which had been reported from the Committee on Environment and Public Works, with amendments as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. THEODORE LEVIN FEDERAL BUILDING AND COURTHOUSE.

(a) REDESIGNATION.—The courthouse facility located at 231 West Lafayette, in Detroit, Michigan, shall be known and designated as the "Theodore Levin **[**Federal Building and**]** Courthouse".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the courthouse facility referred to in subsection (a) shall be deemed to be a reference to the "Theodore Levin **[**Federal Building and**]** Courthouse".

So the committee amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title of the bill was amended so as to read: "To designate the United States Courthouse in Detroit, Michigan, as the Theodore Levin Courthouse, and for other purposes."

MATTHEW J. PERRY, JR. COURTHOUSE

The bill (H.R. 4543) to designate the United States courthouse to be constructed at 907 Richland Street in Columbia, SC, as the "Matthew J. Perry, Jr. United States Courthouse" was considered, ordered to a third reading, read the third time, and passed.

CHILD ABUSE ACCOUNTABILITY ACT

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3694, the Child Abuse Accountability Act, just received from the House; and that bill be deemed read three times, passed, and a motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 3694) was deemed read three times, and passed.

ALZHEIMER'S HOME AND COMMUNITY CARE PROJECT ACT

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 680, S. 1422, relating to claims court jurisdiction with respect to land claims of the Pueblo of Isleta Indian Tribe; that the committee substitute be agreed to; that the bill be read a third time, passed, the motion to reconsider laid upon the table; that the amendments to the title be agreed to; and that any statement appear at the appropriate place in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill (S. 1422), a bill to amend the provisions of the Public Health Service Act regarding grants to States for projects relating to Alzheimer's disease, and for other purposes, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. JURISDICTION.

Notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Act of August 13, 1946 (60 Stat. 1052), or any other law which would interpose or support a defense of untimeliness, jurisdiction is hereby conferred upon the United States Court of Federal Claims to hear, determine, and render judgment on any claim by Pueblo of Isleta Indian Tribe of New Mexico against the United States with respect to any lands or interests therein the State of New Mexico or any adjoining State held by aboriginal title or otherwise which were acquired from the tribe without payment of adequate compensation by the United States. As a matter of adequate compensation, the United States Court of Federal Claims may award interest at a rate of 5 percent per year to accrue from the date on which such lands or interests therein were acquired from the tribe by the United States. Such jurisdiction is conferred only with respect to claims accruing on or before August 13, 1946, and all such claims must be filed within three years after the date of enactment of this Act. Such jurisdiction is conferred notwithstanding any failure of the tribe to exhaust any available administrative remedy.

SEC. 2. CERTAIN DEFENSES NOT APPLICABLE.

Any award made to any Indian tribe other than the Pueblo of Isleta Indian Tribe of New Mexico before, on, or after the date of the enactment of this Act, under any judgment of the Indian Claims Commission or any other authority, with respect to any lands that are the subject of a claim submitted by the tribe under section 1 shall not be considered a defense, estoppel, or set-off to such claim, and shall not otherwise affect the entitlement to, or amount of, any relief with respect to such claim.

So the substitute amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to confer jurisdiction on the United States Court of Federal Claims with respect to land claims of Pueblo of Isleta Indian Tribe."

Mr. BINGAMAN. Mr. President, I rise with my distinguished colleague, Senator DOMENICI, to present to the Senate S. 1422, a modest measure of great importance to our constituents, the people of the Pueblo of Isleta in New Mexico. Our distinguished colleagues from New Mexico in the House, Representatives SKEEN and SCHIFF, have introduced companion legislation to S. 1422 and are awaiting the Senate's action today.

I want to thank the distinguished chairman of the Judiciary Committee, Senator BIDEN, and the chairman of the Subcommittee on Courts and Administrative Practices, Senator HEFLIN, for their support of this measure and their help in getting us to this point.

This legislation provides authority for New Mexico's Pueblo of Isleta to file an aboriginal land claim in the U.S. Court of Federal Claims under the Indian Claims Act. The bill does not pass judgment on the claim or give the Pueblo priority on the court's docket. If, however, the Pueblo of Isleta proves to the court that it does indeed have a valid claim of aboriginal land use and occupancy, then appropriate monetary compensation would be determined by the court.

Mr. President, S. 1422 is identical to a bill we, along with Congressmen SCHIFF and SKEEN, sponsored the 102d Congress. In the previous Congress, a hearing was held on the House bill, and it passed to the House late in the session. Unfortunately, the Senate was unable to act before adjournment. I am pleased that the bill will not suffer a similar fate in the 103d Congress.

During the previous Congress, in April 1992, testimony before the House Judiciary Subcommittee on Administrative Law and Governmental Relations made clear that the Pueblo of Isleta—like all the Pueblo tribes in New Mexico—had standing to pursue land claims under the Indian Claims Act of 1946. Under the Act, claims could be based either on title to the land or aboriginal use, but all claims must have been by 1951.

Unfortunately, due to incomplete or improper advice from counsel, the Pueblo of Isleta filed only a limited claim based on a Spanish Land Grant, to which it had a written record, before the 1951 deadline. The Pueblo apparently was not informed by counsel that it could file a claim based on aboriginal land use. Significantly, the Pueblo's counsel was a Bureau of Indian Affairs official who was later found by the court to have given erroneous advice on a similar matter to the Pueblo of Zuni. The Pueblo, like many other tribes, was dependent on the Bureau of Indian Affairs for advice and assistance regarding land claims in the 1940s and 1950s.

Mr. President, S. 1422, would simply allow the Pueblo of Isleta to pursue a claim today, much like legislation Congress approved a few years ago for the Pueblo of Zuni. Again, the bill does not give the Pueblo priority on the court's docket, and it does not pass judgment on the claim itself.

The people of the Pueblo of Isleta are entitled to their day in court. This bill assures them of that right, and I urge its swift passage.

TO APPROVE THE LOCATION OF A THOMAS PAINE MEMORIAL

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Joint Resolution 227, introduced earlier today by Senators FORD and STEVENS, to approve the placement of a monument in area II of the District of Columbia, to honor Thomas Paine; that the resolution be deemed read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to passage of this item be printed at the appropriate place in the CONGRESSIONAL RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolution (S.J. Res. 227) was passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 227), with its preamble, reads as follows:

Whereas section 6(a) of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes," approved

November 14, 1986 (Public Law 99-652; 100 Stat. 3650) provides that the location of a commemorative work in the area described as Area I shall be deemed disapproved unless the location is approved by law not later than 150 days after notification of Congress that the commemorative work may be located in Area I; and

Whereas Public Law 102-407 as amended by P.L. 102-459 authorized the Thomas Paine National Historical Association U.S.A. Memorial Foundation to establish a memorial on Federal land in the District of Columbia to Thomas Paine; and

Whereas the Secretary of the Interior has notified the Congress of his determination that the memorial may be located in Area I: Now therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the location of a Thomas Paine Memorial authorized by Ruble Law 102-407 as amended by P.L. 102-459 and within Area I as described in Public Law 99-652, is approved.

Mr. FORD. Mr. President, this joint resolution will approve the placement of a memorial to Thomas Paine in the District of Columbia. I am pleased to be joined in this effort by the distinguished Senator from Alaska and ranking member of the Committee on Rules and Administration, Senator STEVENS.

Two years ago the Senate adopted H.R. 1628. This bill authorized the construction of a memorial in the District of Columbia to honor Thomas Paine. The concept of a Thomas Paine memorial began with our former colleague, Senator Symms. At the time he first introduced legislation pertaining to the Paine memorial, it had the support of 77 cosponsors in the Senate.

This law, Public Law 102-407, authorized the Thomas Paine National Historical Association U.S.A., Memorial Foundation to establish the memorial to Thomas Paine. The proponents of this memorial wish to obtain a site in area I of the District of Columbia. Area I roughly comprises the areas of the District of Columbia and the environs within The National Mall, the monumental core, and along the banks of the Potomac River in the monumental core of the city.

The Secretary of the Interior must approve the location of a commemorative work in area I, in consultation with the National Capital Memorial Commission. On April 12, 1994, that Commission recommended the placement of the Thomas Paine Memorial in area I. And in a letter dated September 28, 1994, the Secretary of the Interior concurred with that recommendation.

Under the law, the Congress must now approve the Secretary's recommendations within 150 days, by a separate legislative authority. Accordingly, this joint resolution will approve the placement of the Thomas Paine Memorial in area I or II of the District of Columbia.

I urge my colleagues to support this resolution. I ask unanimous consent that there be printed in the RECORD a letter from the Secretary of the Interior, notifying the Senate of his support for the placement of the memorial.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE INTERIOR,
Washington, September 28, 1994.

Hon. ALBERT GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is enclosed a draft joint resolution, "Approving the location of a Thomas Paine Memorial." We recommend that the joint resolution be introduced, referred to the appropriate committee for consideration, and enacted.

The draft joint resolution would grant authority to consider location of the Thomas Paine Memorial in Area I. Upon receiving legislative authority to erect a memorial, proponents begin the process of site selection. However, in cases where proponents wish to obtain a site in Area I as defined by Public Law 99-652 (100 Stat. 3650), a separate legislative authority to place the memorial within Area I is necessary. Roughly, Area I comprises areas of the District of Columbia and environs within the National Mall, the Monumental Core, and along the banks of the Potomac River in the Monumental Core area of the city.

Public Law 102-407 (October 13, 1992, 106 Stat. 1991) authorized the Thomas Paine National Historical Association U.S.A. Memorial Foundation to establish a memorial to honor the United States patriot, Thomas Paine. Thomas Paine was a Revolutionary War Era political philosopher who, through his widely-reproduced essays such as "Common Sense" and the "Crises" papers, kept the cause of independence alive and actively supported by the colonial citizenry.

The Thomas Paine National Historical Association U.S.A. Memorial Foundation has made this request so that all sites within Area I and Area II as defined by the Act may be available for consideration as the site for the Thomas Paine Memorial. Section 6(a) of the Act provides that the Secretary of the Interior (the Secretary) may approve the location of a commemorative work in Area I only if he finds that the subject of the work is of preeminent historical and lasting significance to the Nation. That section further provides that the Secretary, after consultation with the National Capital Memorial Commission, shall notify the Congress of his determination that a commemorative work may be located in Area I. Further, the Act provides that an Area I location shall be deemed disapproved unless within 150 days of the notification it is approved by law by the Congress.

On April 12, 1994, the National Capital Memorial Commission recommended that the Thomas Paine Memorial is eligible for location within Area I. I agree with this determination, and find the subject to be of preeminent historical and lasting significance to the Nation. I recommend that the Thomas Paine Memorial may be located within Area I.

In accordance with section 6(a) of the Act approved November 14, 1986 (100 Stat. 3650), notice is hereby given that I recommend the potential location of this authorized memorial in Area I, that through my designee, I have consulted with the National Capital Memorial Commission, and that I have determined that the Thomas Paine Memorial may be located in Area I. Under section 6(a) of the Act, the recommendation for Area I location shall be deemed disapproved unless, if not less than 150 days after this notification, this recommendation is approved by law. Therefore, we urge prompt action on this joint resolution.

The Office of Management and Budget had advised that there is no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,
BRUCE BABBITT.

AMENDING THE ENERGY POLICY AND CONSERVATION ACT

Mr. LEVIN. Mr. President, I ask unanimous consent that the Energy Committee be discharged from S. 2466, a bill related to the Energy Policy and Conservation Act; that the Senate proceed to its immediate consideration; that the bill be read a third time, passed, and the motion to reconsider be laid upon the table; and that any statement appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 2466) was passed, as follows:

S. 2466

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Policy and Conservation Act Amendments Act of 1994".

SEC. 101. SHORT TITLE.

This title may be cited as the "Energy Policy and Conservation Act Amendments of 1994".

SEC. 102. TITLE I AMENDMENTS.

Part D of title I of the Energy Policy and Conservation Act is amended in section 181 (42 U.S.C. 6251), by striking "September 30, 1994" each time it appears and inserting "June 30, 1996".

SEC. 103. TITLE II AMENDMENTS.

Part D of title II of the Energy Policy and Conservation Act is amended in section 281 (42 U.S.C. 6285), by striking "September 30, 1994" each time it appears and inserting "June 30, 1996".

EARTHQUAKE HAZARDS REDUCTION ACT AUTHORIZATION

Mr. LEVIN. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 596, H.R. 3485, the Earthquake Hazards Reduction Act authorization, that the committee amendment be agreed to, the bill as amended be deemed read three times, passed, and the motion to reconsider be laid upon the table, that the title amendment be agreed to; further, that any statements appear in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, today, the Senate reaffirms the Nation's investment in important Federal technologies designed to mitigate the terrible damage that can be caused by earthquakes. As chairman of the Subcommittee on Science, Technology, and Space, I am pleased to have the Senate consider H.R. 3485, a bill which reauthorizes the mitigation activities of the four Federal agencies participating in the National Earthquake Hazards Reduction Program.

The reauthorization of the National Earthquake Hazards Reduction Program will support ongoing interagency efforts to develop and apply technologies that reduce the loss of life and property due to earthquakes. The January 17, 1994, earthquake centered in Northridge, CA, serves as an important reminder that catastrophic earthquakes are inevitable in the United States. However, compelling evidence demonstrates that the lessons learned from the 1989 earthquake in Loma Prieta, CA, enabled the program agencies to prepare structures in southern California to withstand better the Northridge earthquake.

The small investment in research and development that we have made over the past 17 years in the National Earthquake Hazards Reduction Program has yielded tremendous benefits for the 38 States and 3 territories with significant seismic risks. While California is likely to experience major earthquakes, other States such as Alaska, Montana, and even West Virginia benefit from the technologies developed under the National Earthquake Hazards Reduction Program to retrofit existing structures or construct new ones which will better withstand earthquakes.

H.R. 3485 was passed by the House of Representatives and referred to the Senate Commerce Committee on November 16, 1993. The Subcommittee on Science, Technology, and Space held a hearing on May 17, 1994, on the legislation and the success of technologies developed and transferred to localities and the construction industry. On August 11, 1994, the Commerce Committee approved a substitute to H.R. 3485.

H.R. 3485 reauthorizes the earthquake program activities of four Federal agencies: the Federal Emergency Management Agency [FEMA], U.S. Geological Survey [USGS], National Science Foundation [NSF], and National Institute of Standards and Technology [NIST]. As approved, the bill authorizes the program at the President's request for fiscal year 1995 at $103.2 million and for fiscal year 1996, $106.3 million.

This bill also requires as assessment of current earthquake engineering research and testing capabilities in the United States. These shake table facilities have helped engineers develop ways to strengthen buildings and other structures during an earthquake. It has been 10 years since the last facilities assessment was conducted, and great strides have been made during this period in determining the type of force generated by different earthquake faults in the United States as well as in other countries.

Technologies developed under the National Earthquake Hazards Reduction Program were demonstrated successfully in the Northridge earthquake earlier this year. Still, $6 billion was paid out by private insurers in addition to $9 billion in Federal assistance. Due to the high costs of earthquake damage, it is in all our interests to continue supporting national research and technology efforts to mitigate losses.

I would like to commend Representative GEORGE BROWN, chairman of the Science, Space, and Technology Committee for his leadership in the area of earthquake research and his commitment to the National Earthquake Hazards Reduction Program. I urge my colleagues in the Senate to join me and pass H.R. 3485. I ask that H.R. 3485 be reprinted in its entirety and accompany my statement for the RECORD.

The bill (H.R. 3484) was deemed read three times and passed.

The title amendment was amended so as to read: "To authorize appropriations for carrying out the Earthquake Hazards Reduction Act of 1977 for fiscal years 1995 and 1996."

ENERGY POLICY AND CONSERVATION AMENDMENTS ACT

Mr. LEVIN. Mr. President, I ask unanimous consent the Senate proceeded to the immediate consideration of Calendar No. 569, Senate bill 2251, a bill to amend the Energy Policy and Conservation Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2251) to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported to the Committee on Energy and Natural Resources, with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

TITLE I—AMENDMENTS TO ENERGY POLICY AND CONSERVATION ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "Energy Policy and Conservation Act Amendments of 1994".

SEC. 102. TITLE I AMENDMENTS.

(a) Part B of title I of the Energy Policy and Conservation Act is amended—

(1) in section 160 (42 U.S.C. 6240), by striking subsection (d); and

(2) by amending section 165 (42 U.S.C. 6245) to read as follows:

"SEC. 165. The Secretary shall report annually to the President and the Congress on actions to implement this part. This report shall include—

"(1) a detailed statement of the status of the Strategic Petroleum Reserve, including—

"(A) the capacity of the Reserve and the scheduled annual fill rate for achieving this capacity;

"(B) the types and quality of crude oil to be acquired for the Reserve, including the method of procurement, under the schedule described in subparagraph (A);

"(C) any conditions affecting the physical integrity of any Reserve facility, or the petroleum products stored in any Reserve facility, that would impair the maintenance or operation of the Reserve, including any proposed remedial actions, their estimated costs, and schedules for their execution;

"(D) plans for the construction of new Reserve facilities or the enhancement or improvement of existing Reserve facilities, including their estimated costs and schedules for completion;

"(E) specific actions being taken or anticipated to complete and maintain a 750 million barrel Reserve;

"(F) specific actions being taken to complete preparations of plans for expansion of the Reserve to a capacity of 1 billion barrels;

"(G) a description of the current method of drawdown and distribution to be utilized; and

"(H) an explanation of any changes made in the matters described in subparagraphs (A) through (G) since the transmittal of the previous report under this section;

"(2) a summary of the actions being taken to develop, operate, or maintain the Strategic Petroleum Reserve;

"(3) a summary of any actions taken or proposed to achieve the petroleum product storage objectives for the Reserve through the acquisition of petroleum products by the acquisition of leasing of petroleum products, or by other means;

"(4) a review of any proposal received from a person, including a State or local governmental entity, that would further the objectives of the Reserve, including the financing or leasing of Reserve storage facilities or petroleum products, or both, and any anticipated actions on such a proposal;

"(5) a description of current United States and International Energy Agency policies and practices applicable to the drawdown and distribution of the Reserve, including any changes in such policies and the rationale for such changes;

"(6) a summary of the financial transactions in the Strategic Petroleum Reserve and SPR Petroleum Account;

"(7) a summary of existing problems with respect to operation or maintenance of the Strategic Petroleum Reserve; and

"(8) any recommendations for supplemental legislation the Secretary considers necessary or appropriate to implement this part.".

(b) Part C of title I of the Energy Policy and Conservation Act is amended by striking section 173 (42 U.S.C. 6249b).

(c) Part D of title I of the Energy Policy and Conservation Act is amended in section 181 (42 U.S.C. 6251) by striking "1994" each time it appears and inserting "1999".

(d) CONFORMING AMENDMENT.—The table of contents of the Energy Policy and Conservation Act is amended by striking out the item relating to section 173 of part C of title I.

SEC. 103. TITLE II AMENDMENTS.

Part D of title II of the Energy Policy and Conservation Act is amended in section 281 (42 U.S.C. 6285) by striking "1994" each time it appears and inserting "1999".

TITLE II—AMENDMENTS TO DEPARTMENT OF ENERGY ORGANIZATION ACT

SEC. 201. STANDARDIZATION OF REQUIREMENTS AFFECTING DEPARTMENT OF ENERGY EMPLOYEES.

(a) REPEAL.—Part A of title VI of the Department of Energy Organization Act and its catchline (42 U.S.C. 7211, 7212, and 7218) are repealed.

(b) CONFORMING AMENDMENT.—The table of contents of the Department of Energy Organization Act is amended by striking out the matter relating to part A of title VI.

TITLE III—INITIATIVES PERTAINING TO THE LOWER MISSISSIPPI DELTA REGION

SEC. 301. FINDINGS.

(a) The Congress finds that—

(1) in 1988, Congress enacted Public Law 100–460, establishing the Lower Mississippi Delta Development Commission, to assess the needs, problems, and opportunities of people living in the Lower Mississippi Delta Region that includes 219 counties and parishes within the States of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee;

(2) the Commission conducted a thorough investigation to assess these needs, problems, and opportunities, and held several public hearings throughout the Delta Region;

(3) on the basis of these investigations, the Commission issued the Delta Initiatives Report, which included recommendations on natural resource protection, historic preservation, and the enhancement of educational and other opportunities for Delta Region residents; and

(4) the Delta Initiatives Report recommended—

(A) the implementation of precollege education programs in mathematics and science as well as other initiatives to enhance the educational and technical capabilities of the Delta work force;

(B) that States and local systems seek ways to expand the pool of qualified educators in mathematics and the sciences;

(C) that institutions in the Delta Region work with local school districts to promote mathematics and science education;

(D) that Federal agencies target more research and development monies in selected areas to institutions of higher education in the Delta Region, especially Historically Black Colleges and Universities;

(E) that institutions of higher education establish a regional consortium to provide technical assistance and training to increase international trade between businesses in the Delta Region and foreign countries;

(F) that the Federal government should create economic incentives to encourage the location of value-added facilities for processing agricultural products within the Delta Region; and

(G) that Congress provide practical incentives to encourage the construction of alternative fuel production facilities in the Delta Region.

SEC. 302. DEFINITIONS.

As used in this title, the term—

(1) "Center" means the Delta Energy Technology and Business Development Center established under section 303 of this Act;

(2) "Commission" means the Lower Mississippi Delta Development Commission established pursuant to Public Law 100–460;

(3) "Delta Initiatives Report" means the May 14, 1990 Final Report of the Commission entitled "The Delta Initiatives: Realizing the Dream. . . Fulfilling the Potential";

(4) "Delta Region" means the Lower Mississippi Delta Region including the 219 counties and parishes within the States of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee, as defined in the Delta Initiatives Report, except that, for any State for which the Delta Region as defined in such report comprises more than half of the geographic area of such State, the entire State shall be considered part of the Delta Region for purposes of this Act;

(5) "Department" means the United States Department of Energy, unless otherwise specifically stated;

(6) "departmental laboratory" means a facility operated by or on behalf of the Department of Energy that would be considered a laboratory as that term is defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(d)(2)) or other laboratory or facility the Secretary designates;

(7) "Historically Black College or University" means a college or university that would be considered a "part B institution" by section 322(2) of the Higher Education act of 1965 (20 U.S.C. 1061(2));

(8) "minority college or University" means a Historically Black College or University that would be considered a "part B institution" by section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)) or a "minority institution" as that term is defined in section 1046 of the Higher Education Act of 1965 (20 U.S.C. 1135d–5(3));

(9) "persons in the Delta Region" means an entity primarily located in the Delta Region, the controlling interest (as defined by the Secretary) of which is held by persons of the United States, including—

(A) a for-profit entity;

(B) a private foundation or corporation exempt under section 501(c)(3) of the Internal Revenue Code;

(C) a nonprofit organization such as a public trust;

(D) a trade or professional society;

(E) a tribal government;

(F) institutions of higher education; or

(G) a unit of State or local government; and

(10) "Secretary" means the Secretary of Energy, unless otherwise specifically stated.

SEC. 303. DELTA ENERGY TECHNOLOGY AND BUSINESS DEVELOPMENT CENTER.

(a) ESTABLISHMENT.—The Secretary shall enter into an agreement with Louisiana State University in partnership with Southern University in Baton Rouge, Louisiana, to establish the Delta Energy Technology and Business Development Center. The agreement shall provide for cooperative agreements with the University of Arkansas at Pine Bluff, Arkansas, and Alcorn State University in Lorman, Mississippi, and other universities and institutions in the Delta Region, to carry out affiliated programs and coordinate program activities at such universities and institutions.

(b) PURPOSE.—The purpose of the Center shall be to—

(1) foster the creation and retention of energy resource and manufacturing and related energy service jobs in the Delta Region;

(2) encourage the export of energy resources and technologies, including services related thereto, from the Delta Region;

(3) develop markets for energy resources and technologies manufactured in the Delta Region for use in meeting the energy resource and technology needs of foreign countries;

(4) encourage the successful, long-term market penetration of energy resources and technologies manufactured in the Delta Region into foreign countries;

(5) encourage participation in energy-related projects in foreign countries by persons in the Delta Region as well as the utilization in such projects of energy resources and technologies significantly developed, demonstrated, or manufactured in the Delta Region; and

(6) assist in the establishment of technology transfer programs in cooperation with Federal laboratories to create businesses in energy resources and technology in the Delta Region.

(c) GENERAL.—The Center, in cooperation with participating universities and institutions in the Delta Region, shall—

(1) identify and foster the establishment of flexible manufacturing networks in consultation with the States of the Delta Region to promote the development of energy resources and technologies that have the potential to expand technology development and manufacturing in, and exports from, the Delta Region;

(2) provide technical, business, training, marketing, and other assistance to persons in the Delta Region;

(3) develop a comprehensive database and information dissemination system, that will provide detailed information on the specific energy resources and technologies of the Delta Region itself, as well as domestic and international market opportunities for businesses in the Delta Region, and electronically link the Center with other institutions of higher education in the Delta Region;

(4) establish a network of business and technology incubators to promote the design, manufacture, and sale of energy resources and technologies from the Delta Region;

(5) enter into contracts, cooperative agreements, and other arrangements with the Federal government, international development agencies, or persons in the Delta Region to carry out these objectives; and

(6) coordinate existing Department and other Federal programs having comparable goals and purposes.

(d) ASSISTANCE FROM THE SECRETARY.—The Secretary is authorized to provide the Center assistance in obtaining such personnel, equipment, and facilities as may be needed by the Center and affiliated participating universities and institutions to carry out its activities under this section.

(e) GRANTS.—The Secretary is authorized to provide grants and other forms of financial assistance to the Center for the Center and participating universities and institutions to (1) support the creation of flexible manufacturing networks as identified in subsection (c)(1); and (2) develop the comprehensive database described in paragraph (c)(3); and (3) support the training, marketing, and other related activities of the Center.

(f) ACCEPTANCE OF GRANTS AND TRANSFERS.—The Center may accept—

(A) grants and donations from private individuals, groups, organizations, corporations, foundations, State and local governments, and other entities; and

(B) transfers of funds from other Federal agencies.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the programs under this section and for the establishment, operation, construction, and maintenance of the Center and facilities of participating universities and institutions.

SEC. 304. INSTITUTIONAL CONSERVATION PROGRAM FOR THE DELTA REGION.

Title III of the Energy Policy and Conservation Act (42 U.S.C. 6371, et seq.) is amended by adding a new section 400K as follows:

"INSTITUTIONAL CONSERVATION PROGRAM FOR THE DELTA REGION

"SEC. 400K. (a) PURPOSE.—The purpose of this section is to encourage the use of energy conservation measures in the schools and hospitals of the Delta Region.

"(b) GRANTS FOR ESTABLISHMENT OF PROGRAM.—Not later than 12 months after the date of the enactment of the Lower Mississippi Delta Initiatives Act of 1993, the Secretary is authorized to provide grants to schools or hospitals, or to consortiums consisting of a school or hospital and one or more of the following: State or unit of local government; local education agency; State hospital facilities agency; or State school facilities agency. Such grants shall be for purposes of conducting innovative energy conservation projects and providing Federal financing for energy conservation projects at schools and hospitals in the Delta Region.

"(c) APPLICATIONS.—(1) Applications of schools or hospitals for grants under this section

shall be made not more than once for any fiscal year. Such applications shall be submitted to the State energy agency, in consultation with the Planning and Development Districts in the Delta Region, and the State energy agency shall make a single submittal to the Secretary containing all applications which comply with subsection (e).

"(2) Applications for grants shall contain, or be accompanied by, such information as the Secretary may reasonably require in accordance with regulations governing institutional conservation programs under this part; provided, however, that the Secretary shall encourage flexible and innovative approaches consistent with this Act.

"(d) SELECTION OF APPLICATIONS.—(1) Not later than six months after the receipt of applications under subsection (c), the Secretary shall select at least seven, but not more than 21, proposals from States to receive grants under subsection (b).

"(2) The Secretary may select more than 21 applications under this subsection, if the Secretary determines that the total amount of available funds is not likely to be otherwise utilized.

"(3) No one State shall receive less than one, or more than four, grants under subsection (b).

"(4) Such grants shall be in addition to such grants as would otherwise be provided under part G of this Act.

"(5) No one grant recipient under this section shall receive Federal funds in excess of $2,000,000.

"(e) SELECTION CRITERIA.—The Secretary shall select recipients of grants under this section on the basis of the following criteria:

"(1) The location of the grant recipient in the Delta Region.

"(2) The demonstrated or potential resources available to the grant applicant for carrying out the purposes of this section.

"(3) The demonstrated or potential ability of the grant applicant to improve energy conservation measures in the designated school or hospital.

"(4) Such other criteria as the Secretary deems appropriate for carrying out the purposes of this section.

"(f) DEFINITION.—For purposes of this section, the term 'Delta Region' means the Lower Mississippi Delta Region including the 219 counties and parishes within the States of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee, as defined in the May 14, 1990, Final Report of the Lower Mississippi Delta Development Commission entitled 'The Delta Initiatives: Realizing the Dream . . . Fulfilling the Potential.'

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out this section, to remain available until expended, not more than $20,000,000 for each of fiscal years 1996, and 1997, and 1998.".

SEC. 305. ENERGY RELATED EDUCATIONAL INITIATIVES.

(a) MINORITY COLLEGE OR UNIVERSITY INITIATIVE.—(1) Within one year after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and to the United States House of Representatives a report identifying opportunities for minority colleges and universities to participate in programs and activities carried out by the Department or the departmental laboratories. The Secretary shall consult with representatives of minority colleges or universities in preparing the report. Such report shall—

(A) describe ongoing education and training programs carried out by the Department or the departmental laboratories with respect to, or in conjunction with, minority colleges or universities in the areas of mathematics, science, and engineering;

(B) describe ongoing research, development, demonstration, or commercial application activities involving the Department or the departmental laboratories and minority colleges or universities;

(C) describe funding levels for the programs referred to in subparagraphs (A) and (B);

(D) identify ways for the Department or the departmental laboratories to assist minority colleges or universities in providing education and training in the fields of mathematics, the sciences, and engineering;

(E) identify ways for the Department or the departmental laboratories to assist minority colleges and universities in entering into partnerships;

(F) address the need for, and potential role of, the Department or the departmental laboratories in providing minority colleges or universities with—

(i) increased research opportunities for faculty and students;

(ii) assistance in faculty development and recruitment;

(iii) curriculum enhancement and development; and

(iv) improved laboratory instrumentation and equipment, including computer equipment, through purchase, loan, or other transfer mechanisms;

(G) address the need for, and potential role of, the Department or departmental laboratories in providing financial and technical assistance for the development of infrastructure facilities, including buildings and laboratory facilities, at minority colleges and universities; and

(H) make specific proposals and recommendations, together with estimates of necessary funding levels, for initiatives to be carried out by the Department or the departmental laboratories in order to assist minority colleges or universities in providing education and training in the areas of mathematics, the sciences, and engineering, and in entering into partnerships with the Department or departmental laboratories.

(2) The Secretary shall encourage memoranda of understanding and other appropriate forms of agreement between the Department and minority colleges and universities directed at jointly planning and developing programs to foster greater involvement of minority colleges and universities in research, education, training, and recruitment activities of the Department.

(b) MINORITY COLLEGE AND UNIVERSITY SCHOLARSHIP PROGRAMS FOR THE DELTA REGION.—The Secretary shall establish a scholarship program for students pursuing undergraduate or graduate degrees in energy-related scientific, mathematical, engineering, and technical disciplines at minority colleges and universities in the Delta Region. The scholarship program shall include tuition assistance. Recipients of such scholarships shall be students deemed by the Secretary to have demonstrated (1) a need for such assistance and (2) academic potential in the particular area of study.

(c) PRE-COLLEGE EDUCATION.—The Secretary shall undertake activities to encourage pre-college education programs in energy-related scientific, mathematical, engineering, and technical disciplines for students in the Delta Region. Such activities shall include, but not be limited to the following:

(1) Cooperation with, and assistance to, State departments of education and local school districts in the Delta Region to develop and carry out after school and summer education programs for elementary, middle, and secondary school students in energy-related scientific, mathematical, engineering and technical disciplines.

(2) Cooperation with, and assistance to, institutions of higher education in the Delta Region to develop and carry out pre-college education programs in energy-related scientific, mathematical, engineering, and technical disciplines for middle and secondary school students.

(3) Cooperation with, and assistance to, State departments of education and local school districts in the development and use of curriculum and educational materials in energy-related scientific, mathematical, engineering, and technical disciplines for middle and secondary school students.

(4) The establishment of education programs in subjects relating to energy-related scientific, mathematical, engineering, and technical disciplines for elementary, middle, and secondary school teachers in the Delta Region.

(d) VOLUNTEER PROGRAM.—The Secretary shall carry out a program to encourage the involvement on a voluntary basis of qualified employees of the Department in education programs relating to energy-related scientific, mathematical, engineering, and technical disciplines, in cooperation with State departments of education and local school districts in the Delta Region.

(e) WOMEN AND MINORITIES IN THE SCIENCES.—The Secretary shall establish a Center for Excellence in the Sciences at Alcorn State in Lorman, Mississippi, in cooperation with Southern University in Baton Rouge, Louisiana, and the University of Arkansas at Pine Bluff, Arkansas, and other minority colleges or universities for purposes of encouraging women and minority students in the Delta Region to study and pursue careers in the sciences, mathematics, engineering and technical disciplines. The Center shall enter into cooperative agreements with Southern University in Baton Rouge, Louisiana, and the University of Arkansas at Pine Bluff, Arkansas, and other minority colleges and universities in the Delta Region, to carry out affiliated programs and coordinate programs activities at such colleges and universities. The Secretary is authorized to provide grants and other forms of financial assistance to the Center.

(f) COORDINATION WITH OTHER FEDERAL AGENCIES.—The Secretary shall ensure that the programs authorized in this section are coordinated with, and complimentary to, education assistance programs administered by the Department and by other Federal agencies in the Delta Region. These agencies include, but are not limited to, the Department of the Interior, the Department of Agriculture, the Department of Education, the National Science Foundation, and the National Aeronautics and Space Administration.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 306. INTEGRATED BIOMASS ENERGY SYSTEMS.

(a) PROGRAM DIRECTION.—The Secretary, in consultation with the Secretary of Agriculture, shall conduct a research, development and demonstration program to determine the economic viability of integrated biomass energy systems within the Delta Region.

(b) PROGRAM PLAN.—Not later than six months after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a program plan to guide the activities under this section.

(c) SOLICITATION OF PROPOSALS.—Not later than one year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities consistent with the program plan. Such activities shall include at least three demonstrations of integrated biomass energy systems that—

(1) involve the production of dedicated energy crops of not less than 25,000 acres per demonstration;

(2) include predominately herbaceous energy crops;

(3) include predominately short-rotation woody crops;

(4) demonstrate cost-effective methods of growing, harvesting, storing, transporting, and preparing energy crops for conversion to electricity or transportation fuel; and

(5) result in the conversion of such crops to electricity or transportation fuel by a non-Federal energy producer or the Tennessee Valley Authority.

(d) COST SHARING.—(1) For research, development, and demonstration programs carried out under this section, the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project.

(2) The Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration or commercial application project under this section to be provided from non-Federal sources. The Secretary may reduce the non-Federal requirement under this section if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(3) In calculating the amount of the non-Federal commitment under paragraph (1) or (2), the Secretary shall include cash, personnel, services, equipment, and other resources.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out this section, to remain available until expended, not more than $10,000,000 for each of fiscal years 1996, 1997, and 1998.

SEC. 307. WEATHERIZATION ASSISTANCE PROGRAM FOR THE DELTA REGION.

Title IV of the Energy Conservation and Production Act (42 U.S.C. 6851, 6861–6846) is further amended by adding a new section 423 as follows:

"WEATHERIZATION ASSISTANCE PROGRAM FOR THE DELTA REGION

"SEC. 423. (a) PURPOSE.—The purpose of this section is to encourage the weatherization of low-income dwelling units in the Delta Region.

"(b) GRANTS FOR ESTABLISHMENT OF PROGRAM.—Not later than 12 months after the date of the enactment of the Lower Mississippi Delta Initiatives Act of 1993, the Secretary shall make grants to (1) States, and (2) in accordance with the provisions of subsection (413)(d), to Indian tribal organizations to serve Native Americans in the Delta Region. Such grants shall be made for the purposes of providing financial assistance for the weatherization of low-income dwelling units.

"(c) APPLICATIONS.—(1) Applications of States or Indian tribal organizations for grants under this section shall be made not more than once for any fiscal year. Such applications shall be submitted to the State weatherization agency, in consultation with Community Action Agencies and Planning and Development Districts in the Delta Region, and the State weatherization agency shall make a single submittal to the Secretary containing all applications which comply with subsection (e).

"(2) Applications for grants for energy conservation projects shall contain, or be accompanied by, such information as the Secretary may reasonably require in accordance with regulations governing weatherization assistance programs under this Part.

"(d) SELECTION OF APPLICATIONS.—(1) The Secretary shall select applications from States to receive grants under subsection (b).

"(2) Such grants shall be in addition to such grants as would otherwise be provided under section 414 of this Act.

"(3) No one grant recipient under this section shall receive Federal funds in excess of $2,000,000.

"(e) SELECTION CRITERIA.—The Secretary shall select recipients of grants under this section in accordance with the requirements of sections 414(b) and 415 of this Act, and on the basis of the following criteria:

"(1) The location of the grant applicant in the Delta Region.

"(2) The demonstrated or potential resources available to the grant applicant for carrying out the purposes of this section.

"(3) The demonstrated or potential ability of the grant applicant to improve energy efficiency in low-income dwelling units.

"(f) COORDINATION WITH OTHER WEATHERIZATION ASSISTANCE PROGRAMS.—The Secretary shall ensure that the programs authorized in this section are coordinated with, and complimentary to, Department weatherization assistance programs under section 413, 414A and 414B of this title.

"(g) DEFINITION.—For purposes of this section, the term 'Delta Region' means the Lower Mississippi Delta Region including the 219 counties and parishes within the States of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee, as defined in the May 14, 1990 Final Report of the Lower Mississippi Delta Development Commission entitled 'The Delta Initiatives: Realizing the Dream . . . Fulfilling the Potential.'

"(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out this section, to remain available until expended, not more than $20,000,000 for each of fiscal years 1996, 1997, and 1998.".

SEC. 308. RENEWABLE ENERGY PRODUCTION INCENTIVES.

Section 1212 of the Energy Policy Act of 1992 (42 U.S.C. 13317) is amended by inserting immediately after "foregoing," the following: "by the Tennessee Valley Authority,".

TITLE IV—PURCHASES FROM THE STRATEGIC PETROLEUM RESERVE BY THE STATE OF HAWAII

SEC. 401. (a) GENERAL PROVISIONS.—Section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241) is amended by adding at the end the following new subsection:

"(j)(1) With respect to each offering of a quantity of petroleum product during a drawdown of the Strategic Petroleum Reserve—

"(A) the State of Hawaii, in addition to having the opportunity to submit a competitive bid, may—

"(i) submit a binding offer, and shall on submission of the bid, be entitled to purchase a category of petroleum product specified in a notice of sale at a price equal to the volumetrically weighted average of the successful bids made for the remaining quantity of petroleum product within the category that is the subject of the offering; and

"(ii) submit one or more alternative offers, for other categories of petroleum product, that will be binding in the event that no price competitive contract is awarded for the category of petroleum product on which a binding offer is submitted under clause (i); and

"(B) at the request of the Governor of the State of Hawaii, petroleum product purchased by the State of Hawaii at a competitive sale or through a binding offer shall have first preference in scheduling for lifting.

"(2)(A) In administering this subsection, and with respect to each offering, the Secretary may impose the limitation described in subparagraph (B) or (C) that results in the purchase of the lesser quantity of petroleum product.

"(B) The Secretary may limit the quantity of petroleum product that the State of Hawaii may purchase through a binding offer at any one offering to 1-1/2 of the total quantity of imports of petroleum product brought into the State during the previous year (or other period determined by the Secretary to be representative).

"(C) The Secretary may limit the quantity that may be purchased through binding offers at any one offering to 3 percent of the offering.

"(3) Notwithstanding any limitation imposed under paragraph (2), in administering this subsection, and with respect to each offering, the Secretary shall, at the request of the Governor of the State of Hawaii, adjust the quantity to be sold to the State of Hawaii or an eligible entity certified under paragraph (6), as follows:

"(A) The Secretary shall adjust upward to the next whole number increment of a full tanker load if the quantity to be sold is—

"(i) less than one full tanker load; or

"(ii) greater than or equal to 50 percent of a full tanker load more than a whole number increment of a full tanker load.

"(B) The Secretary shall adjust downward to the next whole number increment of a full tanker load if the quantity to be sold is less than 50 percent of a full tanker load more than a whole number increment of a full tanker load.

"(4) The State of Hawaii or an eligible entity may enter into an exchange or a processing agreement that requires delivery to other locations, so long as petroleum product of similar value or quantity is delivered to the State of Hawaii.

"(5) Except as otherwise provided in this Act, the Secretary may require the State of Hawaii and any eligible entity that purchases petroleum product under this subsection to comply with the standard sales provisions applicable to purchasers of petroleum product at competitive sales.

"(6)(A) Notwithstanding the foregoing, and subject to subparagraphs (B) and (C), if the Governor of the State of Hawaii certifies to the Secretary that the State has entered into an agreement with an eligible entity to effectuate the purposes of this Act, such eligible entity may submit a binding offer and receive first preference in scheduling for lifting in accordance with this subsection.

"(B) The Governor of the State of Hawaii shall not certify more than one eligible entity under this paragraph for each notice of sale.

"(C) If the Secretary has notified the Governor of the State of Hawaii that a company has been barred from bidding (either prior to, or at the time that a notice of sale is issued), the Governor shall not certify such company under the paragraph.

"(7) As used in this subsection—

"(A) the term 'binding offer' means a bid submitted by the State of Hawaii or an eligible entity for an assured award of a specific quantity of petroleum product, with a price to be calculated pursuant to this Act, that obligates the offeror to take title to the petroleum product without further negotiation or recourse to withdraw the offer;

"(B) the term 'category of petroleum' means the master line items within a notice of sale;

"(C) the term 'eligible entity' means an entity that owns or controls a refinery that is located within the State of Hawaii;

"(D) the term 'full tanker load' means a tanker of approximately 700,000 barrels of capacity, or such lesser tanker capacity as may be designated by the State of Hawaii or the eligible entity submitting the binding offer;

"(E) the term 'offering' means a solicitation for bids for a quantity or quantities of petroleum product from the Strategic Petroleum Reserve as specified in the notice of sale; and

"(F) the term 'notice of sale' means the document that announces—

"(i) the sale of strategic petroleum reserve products;

"(ii) the quantity, characteristics, and location of the petroleum product being sold;

"(iii) the delivery period for the sale; and

"(iv) the procedures for submitting offers.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is 180 days after the date of enactment of this Act or the date that final regulations are promulgated pursuant to section 3, whichever is sooner.

SEC. 402. REGULATIONS.

(a) IN GENERAL.—The Secretary shall promulgate such regulations as are necessary to carry out section 2.

(b) PLAN AMENDMENTS.—No amendment of the Strategic Petroleum Reserve Plan or the Distribution Plan contained in the Strategic Petroleum Reserve Plan is required for any action taken under this Act if the Secretary determines that an amendment to the plan is necessary to carry out this section.

(c) ADMINISTRATIVE PROCEDURE.—Regulations issued to carry out this Act shall not be subject to—

(1) section 523 of the Energy Policy and Conservation Act (42 U.S.C. 6393); or

(2) section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).

AMENDMENT NO. 2604

(Purpose: Substitute for title I—Energy Policy and Conservation Act)

Mr. LEVIN. Mr. President, I send an amendment to the desk for Mr. WALLOP and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] for Mr. WALLOP, proposes an amendment numbered 2604.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

TITLE I—AMENDMENTS TO ENERGY POLICY AND CONSERVATION ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "Energy Policy and Conservation Act Amendments of 1994.

SEC. 102. TABLE OF CONTENTS AMENDMENTS.

Amend the table of contents of the Energy Policy and Conservation Act by,

(1) striking the items relating to sections 153, 155, 158, 164, and 173:

(2) amending the item relating to section 159 to read as follows:

"SEC. 159. Development, operations, and maintenance of the Reserve."; and

(3) striking the items relating to part A of title II.

SEC. 103. AMENDMENTS TO STATEMENT OF PURPOSES.

Section 2 of the Energy Policy and Conservation Act is amended—

(1) in paragraph (1) by striking "standby" and ", subject to congressional review, and to impose rationing, to reduce demand for energy through the implementation of energy conservation plans, and";

(2) by amending paragraph (3) to read as follows:

"(3) to increase the domestic supply of fossil energy during severe energy supply interruptions."; and

(3) by amending paragraph (6) to read as follows:

"(6) to reduce the demand for petroleum products during severe energy supply interruptions."

SEC. 102. TITLE I AMENDMENTS.

(a) Part B of Title I of the Energy Policy and Conservation Act (42 U.S.C. 6231) is amended—

(1) in section 151 (42 U.S.C. 6231)—

(A) in subsection (a) by striking "limited" and "short term"; and

(B) by amending subsection (b) to read as follows:

"(b) It is the policy of the United States to provide for the creation of a Strategic Petroleum Reserve for the storage of up to one billion barrels of petroleum products to reduce the impact of disruptions in supplies of petroleum products or to carry out obligations of the United States under the international energy program.";

(2) in section 152 (42 U.S.C. 6232)—

(A) by striking paragraph (1), and

(B) in paragraph (11) by striking ", the Early Storage Reserve";

(3) by striking section 153 (42 U.S.C. 6233);

(4) in section 154 (42 U.S.C. 6234)—

(A) by amending subsection (a)(1) to read as follows:

"(a)(1) A Strategic Petroleum Reserve for the storage of up to one billion barrels of petroleum products shall be created pursuant to this part.";

(B) by amending subsection (b) to read as follows:

"(b) The Secretary, acting through the Strategic Petroleum Reserve Office and in accordance with this part, shall exercise authority over the development, operation, and maintenance of the Reserve.";

(C) by striking subsections (c) and (d); and

(D) by amending subsection (e) to read as follows:

"(e)(1) The Secretary shall prepare, and update biennially, a plan for the operation, maintenance and proposed expansion of the Reserve (hereinafter referred to as the SPR Plan). The SPR Plan shall include—

"(A) a description of the facilities that compose the Strategic Petroleum Reserve, including the type and location of each storage facility (other than storage facilities of the Industrial Petroleum Reserve);

"(B) an estimate of the volumes and types of petroleum products stored in each storage facility, including any special characteristics of such petroleum products; and

"(C) an identification of the ownership of the petroleum products stored in the Reserve in any case where such products are not owned by the United States; and

"(D) a description of any changes that have occurred, or are anticipated, in the operation and maintenance of the Reserve, including any plans under consideration or proposed for the upgrading or replacement of existing facilities or the construction of new storage facilities.

"(2) The Secretary shall, by rule, also prepare a Strategic Petroleum Reserve Drawdown and Distribution Plan (hereinafter referred to as the SPR Drawdown Plan). The SPR Drawdown Plan shall set forth policy options applicable to the drawdown and distribution of the Reserve, including the strategy or alternative strategies of drawdown and distribution that will be considered and the criteria that will be employed to select among such strategies. Until such SPR Drawdown Plan is finalized the December 1, 1992 Strategic Petroleum Reserve Drawdown (Amendment Number 4) shall remain in force and effect."

(5) by striking section 155 (42 U.S.C. 6235);

(6) in section 156(b) (42 U.S.C. 6236(b)) by striking "To implement the Early Storage Reserve Plan or the Strategic Petroleum Reserve Plan which has taken effect pursuant to section 159(a), the" and inserting "The";

(7) by amending section 157 (42 U.S.C. 6237)—

(A) in subsection (a), by striking "The Strategic Petroleum Reserve Plan shall provide for the establishment and maintenance of" and insert "The Secretary shall establish and maintain as part of the Strategic Petroleum Reserve", and

(B) in subsection (b), by striking "To implement the Strategic Petroleum Reserve Plan, the Secretary shall accumulate and maintain" and inserting "The Secretary may establish and maintain as part of the Strategic Petroleum Reserve";

(8) by striking section 158 (42 U.S.C. 6238);

(9) in section 159 (42 U.S.C. 6239)—

(A) by striking subsections (a), (b), (c), (d), and (e);

(B) by amending subsection (f) to read as follows:

"(f) In order to develop, operate, or maintain the Strategic Petroleum Reserve, the Secretary may:

"(1) issue rules, regulation, or orders;

"(2) acquire by purchase, condemnation, or otherwise, land or interests in land for the location of storage and related facilities;

"(3) construct, purchase, lease, or otherwise acquire storage and related facilities;

"(4) use, lease, maintain, sell, or otherwise dispose of storage and related facilities acquired under this part, under such terms and conditions as the Secretary may deem necessary or appropriate;

"(5) acquire by purchase, exchange, or otherwise, petroleum products for storage in the Strategic Petroleum Reserve;

"(6) store petroleum products in storage facilities owned and controlled by the United States or in storage facilities owned by others if those facilities are subject to audit by the United States;

"(7) execute any contracts necessary to develop, operate, or maintain the Strategic Petroleum Reserve;

"(8) require an importer of petroleum products or refiner to acquire and to store and maintain, in readily available inventories, petroleum products in the Industrial Petroleum Reserve, under section 156;

"(9) require the storage of petroleum products in the Industrial Petroleum Reserve, under section 156, on terms that the Secretary specifies in storage facilities owned and controlled by the United States or in storage facilities other than those owned by the United States if those facilities are subject to audit by the United States;

"(10) require the maintenance of the Industrial Petroleum Reserve; and

"(11) bring an action, when the Secretary considers it necessary, in any court having jurisdiction over the proceedings, to acquire by condemnation any real or personal property, including facilities, temporary use of facilities, or other interests in land, together with any personal property located on or used with the land.";

(C) in subsection (g)—

(i) by striking "implementation" and inserting "development"; and

(ii) by striking "Plan";

(D) by striking subsections (h) and (i); and

(E) by striking subsection (j) from "No later than" through "Amendments of 1990" and inserting in lieu thereof: "When the Secretary determines that, within five years, the Reserve can reasonably be expected to contain an inventory of 750,000,000 barrels,"; and

(F) by amending subsection (1) to read as follows:

"(1) During any period in which drawdown and distribution are being implemented, the Secretary may issue rules, regulations, or orders to implement the drawdown and distribution of the Strategic Petroleum Reserve in accordance with section 523 of this Act, without regard to the requirements of section 553 of title 5, United States Code, and section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).";

(10) in section 160 (42 U.S.C. 6240)—

(A) in subsection (a), by striking all before the dash and inserting the following—

"(a) For the purpose of implementing the Strategic Petroleum Reserve, the Secretary may acquire, place in storage, transport, or exchange";

(B) in subsection (b), by striking the third comma and "including the Early Storage Reserve" and paragraph (2);

(C) by striking subsections (c), (d) and (e);

(11) in section 161 (42 U.S.C. 6241)—

(A) by amending subsection (b) to read as follows:

"(b) Except as provided in subsection (f) and (g), no drawdown and distribution of the Reserve may be made except in accordance with the provisions of the Distribution Plan prepared pursuant to section 154(e)."

(B) by striking subsection (c).

(C) by amending subsection (d)(1) to read as follows:

"(d)(1) No drawdown and distribution of the Strategic Petroleum Reserve may be made unless the President has found drawdown and distribution is required by a severe energy supply interruption or by obligations of the United States under the international energy program."

(D) by amending subsection (e) to read as follows:

"(e)(1) The Secretary shall sell any petroleum product withdrawn from the Strategic Petroleum Reserve at public sale to the highest qualified bidder in the amounts, for the period, and after a notice of sale the Secretary considers proper, and without regard to Federal, State, or local regulations controlling sales of petroleum products.

"(2) The Secretary may cancel in whole or in part any offer to sell petroleum products as part of any drawdown and distribution under this section."; and

(E) in paragraph (g)—

"(i) in paragraph (1), by striking "Distribution Plan" and inserting "distribution procedures", and

(ii) by striking paragraphs (2) and (6);

(12) by striking section 164 (42 U.S.C. 6244);

(13) by amending section 165 (42 U.S.C. 6245) to read as follows—

"Sec. 165. The Secretary shall report annually to the President and the Congress on actions to implement this part. This report shall include—

"(1) a detailed statement of the status of the Strategic Petroleum Reserve, including—

"(A) the capacity of the Reserve and the scheduled annual fill rate for achieving this capacity:

"(B) the types and quality of crude oil to be acquired for the Reserve, including the method of procurement, under the schedule described in subparagraph (A);

"(C) any conditions affecting physical integrity of any Reserve facility or the petroleum products stored in any Reserve facility, that would impair the maintenance or operation of the Reserve, including any proposed remedial actions, their estimated costs, and schedules for their execution;

"(D) plans for the construction of new Reserve facilities or the enhancement or improvement of existing Reserve facilities, including their estimated costs and schedules for completion;

"(E) specific actions being taken or anticipated to complete and maintain a Reserve, a 750 million barrel Reserve;

"(F) specific actions being taken to complete preparations of plans for expansion of the Reserve to a capacity of one billion barrels; and

"(G) a description of the current methods of drawdown and distribution to be utilized; and

"(H) an explanation of any changes made in the matters described in subparagraphs (A) and (G) since the transmittal of the previous report under this section;

"(2) a summary of the action being taken to develop, operate, or maintain the Strategic Petroleum Reserve;

"(3) a summary of any actions taken or proposed to achieve the petroleum product storage objectives for the Reserve through the acquisition of petroleum products by the acquisition of leasing of petroleum products, or by other means;

"(4) a review of any proposal received from a person, including a State or local governmental entity, that would further the objectives of the Reserve, including the financing or leasing of Reserve storage facilities or petroleum products, or both, and any anticipated actions on such a proposal;

"(5) a description of current United States and International Energy Agency policies and practices applicable to the drawdown and distribution of the Reserve, including any changes in such policies and the rationale for such changes;

"(6) a summary of the financial transactions in the Strategic Petroleum reserve and SPR Petroleum Account;

"(7) a summary of the existing problems with respect to operation or maintenance of the Strategic Petroleum Reserve; and

"(8) any recommendations for supplemental legislation the Secretary considers necessary or appropriate to implement this part, including any proposal under paragraphs (3) and (4).".

"(14) in section 166 (42 U.S.C. 6246) by striking all after "appropriated" and inserting "such funds as may be necessary to implement this part.";

(15) in section 167 (42 U.S.C. 6247)—

(A) in subsection (b)—

(i) by inserting "test sales of petroleum products from the Reserve," after "Strategic Petroleum Reserve,".

(ii) by striking paragraph (1);

(iii) in paragraph (2), by striking "after fiscal year 1982"; and

(B) by amending subsection (e) to read as follows:

"(e) The Impoundment Control Act of 1974 (2 U.S.C. 681–688) applies to funds made available under subsection (b).";

(c) Part C of Title I of the Energy Policy and Conservation Act (42 U.S.C. 6249, et seq.) is amended—

(1) in section 172 (42 U.S.C. 6249a) by striking subsections (a) and (b); and

(2) by striking section 173 (42 U.S.C. 6249b); and

(d) Part D of Title I of the Energy Policy and Conservation Act is amended in section 181 (42 U.S.C. 6251), by striking "1994" each time is appears and inserting "1999".

"SEC. 103 TITLE II AMENDMENTS.

(a) Title II of the Energy Policy and Conservation Act is amended by striking Part A (42 U.S.C. 201 through 204).

(b) Part B of Title II of the Energy Policy and Conservation Act is amended by adding at the end of section 256(h), "There are authorized to be appropriated for fiscal years 1996 through 1999, such sums as may be necessary.".

(c) Part D of Title II of the Energy Policy and Conservation Act is amended in section 281 (42 U.S.C. 6285), by striking "1994" each time it appears and inserting "1999".

SEC. 104. TITLE III AMENDMENTS.

(a) Part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6291–6327, 6361–6374d) is amended in section 365(f)) (42 U.S.C. 6325(f)) by amending paragraph (1) to read as follows:

"(1) Except as provided in paragraph (2), for the purpose of carrying out this part, there are authorized to be appropriated for fiscal years 1995 through 1999, such sums as may be necessary."

(b) Part G of title III of the Energy Policy and Conservation Act (42 U.S.C. 6371, et seq.) is amended in section 397 (42 U.S.C. 6371f) is amended to read as follows:

"SEC. 397. For the purpose of carrying out this part, there are authorized to be appropriated for fiscal years 1995 through 1999, such sums as may be necessary.".

Mr. JOHNSTON. Mr. President, on July 20, the Committee on Energy and Natural Resources unanimously ordered reported S. 2251, the principal purpose of which is to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively and extend the President's basic authorities for dealing with energy emergencies. The authority of the President to maintain, manage and withdraw oil from our Strategic Petroleum Reserve expires on September 30, 1994. In addition, key authorities essential for the United States to meet its obligations under programs of the International Energy Agency also expire on September 30, 1994. We need to extend all of these authorities before Congress adjourns in October. This legislation provides such an extension for a 5-year period.

Congress passed the Energy Policy and Conservation Act [EPCA] in 1975 among other things to establish the Strategic Petroleum Reserve [SPR] and to provide for participation of the United States in the programs of the International Energy Agency [IEA] to mitigate the impact of severe oil supply disruptions on the U.S. economy. The SPR provides a stockpile of oil to protect American consumers against the shock to the economy resulting from a crisis that disrupts foreign oil supplies. There are approximately 580 million barrels of oil currently stored in the SPR, which represents about 20 percent of our projected total imports of petroleum for 1994 and a national investment worth almost $12 billion at current oil prices.

Coordinated efforts with other major petroleum consuming countries through the IEA leverage our investment in the SPR. Continuation of the SPR and IEA programs is in the national economic and security interest.

The committee-reported bill extends the authorization through fiscal year 1999 for the SPR and the U.S. participation in the IEA. The committee also adopted several administration-proposed amendments to EPCA: To eliminate the linkage between purchases of oil for the SPR and production of oil from the federally owned Elk Hills Naval Petroleum Reserve; to change from a quarterly to annual reporting requirement for the SPR program; and to repeal the requirements that a contract to lease oil for the SPR lie before Congress for 30 days before it becomes effective.

A more complete description of these amendments may be found in the Committee Report (S. Rept. 103-334).

The committee-reported bill also includes an amendment to guarantee the State of Hawaii access to oil from the SPR in the event of a drawdown. This provision, essentially the same as legislation which passed the Senate in 1991, is intended to mitigate the increased vulnerability of Hawaii to supply disruption due to its remote location.

The committee also reported amendments that the Senate has previously adopted to conform the Department of Energy's conflict of interest rules with those of the rest of the Federal Government. Finally, the committee adopted the provisions of S. 991 that would establish programs to be managed by the Department of Energy in the seven-State Lower Mississippi Delta Region as new title III of S. 2251. S. 991 passed the Senate unanimously earlier this year.

The managers of the bill will propose on behalf of the committee that the Senate add to the bill before passage certain amendments affecting programs of the Department of Energy from the bill originally proposed by the administration. These administration amendments extend authorizations for appropriations through fiscal year 1999 for the activities of the interagency working group and working subgroups of the Committee on Renewable Energy, Commerce and Trade [CORECT] and the Committee on Energy Efficiency, Commerce and Trade [COEECT]. CORECT and COEECT are interagency cooperative groups established by section 256 of EPCA to promote exports of renewable energy and energy efficiency products and services.

The managers amendment will also provide for extension through 1999 of the authorization for appropriations for the Department of Energy's State Energy Conservation programs and the Energy Conservation Program for Schools and Hospitals.

Finally, the managers amendment to S. 2251 includes the text of S. 473, the Department of Energy National Competitiveness Technology Partnership Act, which passed the Senate unanimously on November 20, 1993.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2604) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2605

(Purpose: To promote the industrial competitiveness and economic growth of the United States by strengthening the linkages between the laboratories of the Department of Energy and the private sector and by supporting the development and application of technologies critical to the economic, scientific and technological competitiveness of the United States, and for other purposes)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. JOHNSTON, proposes an amendment numbered 2605.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2605) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (S. 2251), as amended, was passed as follows:

The text of the bill will be printed in a future edition of the RECORD.

OPIC AMENDMENTS ACT

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 617, S. 2438, the OPIC Amendments Act; that the bill be read a third time; that the Foreign Relations Committee be discharged from further consideration of the House companion H.R. 4950, that all after the enacting clause be stricken and the text of S. 2438 be inserted in lieu thereof; the bill read a third time and passed; the motion to reconsider laid on the table; that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4950) was ordered to a third reading, was read the third time, and passed.

The Presiding Officer (Mr. AKAKA) appointed Mr. PELL, Mr. SARBANES, and Mr. HELMS conferees on the part of the Senate.

MEASURE INDEFINITELY POSTPONED—S. 2438

Mr. LEVIN. Mr. President, I now ask unanimous consent that S. 2438 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR—H.R. 5123

Mr. LEVIN. Mr. President, I ask unanimous consent H.R. 5123, the Intrastate Tow and Wrecker Truck Transportation Technical Correction Act of 1994 just received from the House be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995—CONFERENCE REPORT

Mr. LEVIN. Mr. President, I submit a report of the committee of conference on (H.R. 4299) and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4299) to authorize appropriations for fiscal year 1995 for intelligence and intelligence-related activities of the United States Government, the Community management account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 27, 1994.)

Mr. LEVIN. Mr. President, I ask unanimous consent the conference report be adopted, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONFERENCE REPORT ON THE INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995

Mr. DECONCINI. Mr. President, it is indeed a pleasure to present this conference report to the Senate. Since this will be the last official act that Senator WARNER and I undertake as Chairman and vice chairman of the Select Committee on Intelligence, it is with a great deal of pride that we are able to bring back to the Senate what I believe is a significant and consequential piece of legislation.

In this regard, I want to take this opportunity to salute our colleagues on the House Permanent Select Committee on Intelligence, particularly Chairman DAN GLICKMAN and the ranking minority member, LARRY COMBEST, for their cooperation and willingness to work with us to produce this far-reaching bill. And I might say, since these two Congressmen also happen to be leaving their leadership positions on the House committee at the end of this Congress, how much I appreciate the fine working relationship we have had with them over the course of the 103d Congress. They have approached their duties with seriousness and enthusiasm, and as a result, have had a very productive tenure.

I also want to take this opportunity to express my appreciation to the senior Senator from Virginia, my friend and colleague, JOHN WARNER, whose good sense and steadying influence has been invaluable to me and the committee over the last 2 years. He has made an enormous and lasting contribution during his 8 years on the Intelligence Committee, and, indeed, his proposal to establish a presidential commission on intelligence, which is included as part of this bill, constitutes, I believe, a lasting legacy from his service here.

In this regard, I also want to mention the part that Senator BOB GRAHAM made in terms of developing the commission proposal and bringing it to fruition. He has been a serious and active member of the Intelligence Committee, and believes, as many of us do, that it is time for a fundamental reassessment of the roles and capabilities of the U.S. intelligence community in the wake of the cold war.

This conference report mandates just such a review, putting everything—organizations, budgets, missions, capabilities, strategies—on the table. It calls for a 17-member commission with 9 members appointed by the President, and 8 members appointed by the congressional leadership in both Houses on both sides of the aisle. It mandates a report to the President and the Congress by March 1, 1996.

The conference report also contains far-reaching provisions to improve the coordination of counterintelligence activities and to enhance the investigative authorities of investigative agencies. My colleagues should appreciate this is in effect the committees' response to the defects we've identified in the handling of the Ames case. While no one would contend that they will put an end to spying, I do believe they will improve our chances of detecting it and prosecuting it successfully.

I also want to mention specifically the provisions of this conference report that bring physical searches done for intelligence purposes within the United States under the court order procedures of the Foreign Intelligence Surveillance Act of 1978. Until now, such searches have been carried out without a warrant pursuant to the approval of the Attorney General. Indeed, such a search was carried out in the Ames case. The committee believed that the constitutionality of these searches was subject to question, and believed from the standpoint of civil liberties that it was preferable to have a Federal judge approve such searches as opposed to the Attorney General. I am delighted to say the Clinton administration strongly supported this legislation and that the Attorney General and Deputy Attorney General played key roles in terms of ensuring its acceptance by the conference committee.

This bill, needless to say, authorizes funding for the intelligence activities of the U.S. Government. While the precise levels are classified and are incorporated in a classified annex to the conference report, suffice it to say, the conference report funds these activities somewhat below last year's levels and below the level requested by the administration. Nonetheless, we believe it will provide an intelligence capability adequate to meet the national security needs of the country.

Finally, Mr. President, I wish simply to acknowledge the work of our fine staff in putting this legislation together: Norman Bradley, staff director; Tim Carlsgaard, deputy staff director; Judy Ansley, minority staff director; Chris Mellon, deputy minority staff director; Kathleen McGee, chief clerk; Britt Snider, general counsel; Mary Sturtevant, budget director; Charlie Battaglia; Steve Cortese; Al Cumming; Pete Dorn; Melvin Dubee; Art Grant; Pat Hanback; Mike Hathaway; Judy Hodgson; Sarah Holmes; Ed Levine; Karen Lydon; Don Mitchell; Ken Myers; Joan Piermarini; Vera Redding; Gary Reese; Randy Schieber; Chris Straub; Tawanda Sullivan; Tracey Summers; Eric Thoemmes; Jim Van Cook; Chip Walgren; Fred Ward; Grayson Winterling; Jim Wolfe; and Sheryl Wood. I know of no other committee which has as talented or as dedicated a staff.

In conclusion, Mr. President, it has been a distinct privilege for me to chair the Select Committee on Intelligence for the last 2 years. I leave with the feeling that while we have accomplished a lot over the last 2 years, there is still much to be done. But I am leaving behind a very capable group of members and staff who I am confident will carry on the important work of this committee.

Mr. D'AMATO. Mr. President, I rise today in support of adoption of the report of the committee of conference on H.R. 4299, the Intelligence Authorization Act for Fiscal Year 1995. This act marks a very significant step forward for this Nation and for the intelligence community, primarily because of its provisions establishing a Commission on the Roles and Capabilities of the United States Intelligence Community and because of the improvements it makes in our counterintelligence structure and statutes.

I want to take this opportunity to speak in support of this bill, which authorizes appropriations for the intelligence community for the coming fiscal year, because I want to make clear my wholehearted support for the professionals who do the work that makes our national intelligence system the best in the world. While budgets are declining, I believe that this bill provides adequate funds to meet this Nation's intelligence needs in the coming year.

I have spoken out concerning what I believe are very important flaws in the way the community is run. I will continue my efforts to correct those flaws. However, I do not want the many thousands of people who labor in necessary anonymity and sometimes in dangerous and difficult circumstances to collect, report, analyze, and disseminate intelligence that is critical to our national security to think that their efforts are not appreciated or will not be supported.

The problems revealed by the Select Committee on Intelligence's public hearing on the National Reconnaissance Office's headquarters complex and in the continued revelations concerning the Aldrich Hazen Ames case are simply indicative of larger problems we are working to fix. While relations between the committee and the Director of Central Intelligence, Mr. R. James Woolsey, have become strained, the problems are not problems of personality conflicts nor do they originate with Director Woolsey's tenure in office.

It would be a mistake for observers to conclude that Director Woolsey is the problem. But by his actions—and inactions—he had become a part of the problem, instead of a part of the solution. I regret that this is the case.

In fact, a member of the committee has publicly called upon Director Woolsey to resign, and upon the President to call for his resignation. I have not gone that far, but I believe that the President should consult with everyone who has to work with Mr. Woolsey and make a judgment about his future, because I think that very few retain confidence in his leadership.

Mr. Woolsey has a big job to do. If he can do it, he may be able to regain enough confidence to allow him to continue in office. If not, the President should evaluate the impact of his continuation in office upon the national security, the intelligence community, and the Central Intelligence Agency, reach his own conclusions, and act accordingly.

Mr. President, one of the major elements in the present situation is the aftermath of the Ames case. The Inspector General of the Central Intelligence Agency, Mr. Frederick P. Hitz, produced a long, classified report on the case. He also made a statement describing the Ames case and his findings. This statement is unclassified. I ask unanimous consent that his statement be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks, along with two articles from the Friday, September 30, 1994 edition of The New York Times. These articles, both by Tim Weiner, are respectively entitled "C.I.A. Official Tells of Botching of Ames Case," and "Agencies Admit Failure To Tell Senate Enough on Spy Building," both of which were printed on page A24 of the paper.

Taken together, the Hitz statement and the articles will provide anyone reading the CONGRESSIONAL RECORD with a good summary of the public part of the situation that leads me and many of my colleagues to such dramatic conclusions regarding Mr. Woolsey.

Beyond these matters, there is the case involving Jane Doe Thompson, a female case officer who claims she was the subject of gender-based discrimination by the CIA. It is my understanding that she is far from unique among female career employees at the Agency. I look forward to working to resolve the problems of fairness and equality that her case has highlighted.

Finally, I want to praise my colleagues and especially our distinguished chairman and vice chairman for their dedication to making substantial improvements in this Nation's counterintelligence posture. Their efforts have resulted in a truly substantial improvement over the present state of affairs.

As a member of the Select Committee on Intelligence, I am proud to have been a cosponsor of S. 2056, the Counterintelligence and Security Enhancements Act of 1994. Among other things, this bill: First, required creation of a simplified and uniform system to govern access to classified information; second, placed in law the new counterintelligence structure created by Presidential Decision Directive 24, but importantly strengthened this structure by requiring that "the head of each department or agency within the executive branch of Government shall ensure that * * * the Federal Bureau of Investigation is advised immediately of any information, regardless of its source, which indicates that classified information is being, or may have been disclosed in an unauthorized manner to a foreign power of an agent of a foreign power;" third, permitted disclosure of consumer credit reports to the FBI in espionage investigations, but only where "* * * there are specific and articulable facts giving reason to believe that the consumer whose consumer report is sought * * *" is a spy; fourth, created authority for the Attorney General to pay rewards for information concerning espionage; fifth, provided for criminal forfeiture of property received for or used to commit espionage; sixth, denied annuities or retired pay to persons convicted in foreign courts of espionage involving U.S. classified information; seventh, provided for a warrant process under the Foreign Intelligence Surveillance Court to govern physical searches within the United States for the purpose of collecting foreign intelligence information; and eighth, made unauthorized removal and retention of classified material a Federal criminal offense.

These provisions were substantially included in H.R. 4299, the Intelligence Authorization Act for Fiscal 1995. I believe they will make a very positive difference in our ability to deter espionage against us and to detect persons committing espionage at the earliest possible stage so that damage to this country can be minimized.

In addition, the Violent Crime Control and Law Enforcement Act of 1994, H.R. 3355, contained a provision, section 60003(a)(2), that reinstated the death penalty for espionage provided for in 18 U.S.C. section 794(a). It amended that section, making the death penalty available in cases where a spy's actions resulted in "the identification by a foreign power * * * of an individual acting as an agent of the United States and consequently in the death of that individual, or directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information, or any other major weapons system or major element of defense strategy." This bill became Public Law 103-322.

Mr. President, the Commission on the Roles and Capabilities of the United States Intelligence Community is also important for the future. It will hopefully produce the equivalent of the Defense Department's Bottom-Up Review for the intelligence community. It will help us make certain that the community is going in the right direction in the future—no matter who is leading it. It will also allow us to make smarter policy and budget choices as we try to shape the community to better meet this Nation's future intelligence needs.

Again, in closing, I urge my colleagues to support this bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 30, 1994]

C.I.A. OFFICIAL TELLS OF BOTCHING OF AMES CASE

(By Tim Weiner)

WASHINGTON, September 29.—Adding new details to the Central Intelligence Agency's self-portrait of ineffectiveness in the case of Aldrich H. Ames, the agency's inspector general testified today that Mr. Ames's drunkenness, rule-flouting and laziness had not been "considered unusual" by his superiors.

The inspector general, Frederick P. Hitz, told a closed session of the Senate Intelligence Committee that for two years the agency all but gave up searching for the traitor it suspected was in its ranks and that it did not focus on Mr. Ames for nearly seven years after be began his betrayals on behalf of Moscow in 1985. Mr. Hitz's remarks were made public today by the C.I.A.

The agency's investigation began in 1986, when the C.I.A.'s spies inside the Soviet Union began disappearing and dying. The secrets that Mr. Ames had sold to the Soviets for more than $2 million led directly to the death of 10 secret agents.

The Federal Bureau of Investigation, whose own agents had seen Mr. Ames visiting the Soviet Embassy in Washington, asked the C.I.A. to investigate in 1986. But the intelligence agency failed to do so, the inspector general said, and the matter was soon forgotten.

"The mole hunt virtually ceased" from 1988 to 1990, and the C.I.A. did not draw up a formal list of suspects until 1991, Mr. Hitz said. "Factors that contributed to this delay," he said, "included the agency's reluctance to believe that one of its own could betray it and a continuing general distaste for the counterespionage function of investigating agency employees."

The C.I.A. missed many opportunities to catch Mr. Ames, Mr. Hitz testified. Those breakdowns, he said, included two botched lie-detector tests, failure for nearly four years to complete a financial inquiry into Mr. Ames's affluence, and a near-total collapse in communications among C.I.A. officers when they did begin to focus on him in 1991.

But the most profound failure was that of the C.I.A.'s top managers, the inspector general concluded.

Mr. Ames had a long history of "no enthusiasm, little regard for rules and requirements, little self-discipline, little security consciousness, little respect for management or the mission, few good work habits, few friends and a bad reputation in terms of integrity, dependability and discretion," Mr. Hitz said. "Yet his managers were content to tolerate his low productivity, clean up after him when he failed, find well-chosen words to praise him and pass him on with accolades to the next manager."

His laziness and frequent drunkenness "were observed by Ames's colleagues and supervisors and were tolerated by many," Mr. Hitz said. That tolerance permitted the C.I.A. to award Mr. Ames a series of promotions to positions "where he was perfectly placed to betray almost all of C.I.A.'s most sensitive Soviet assets." In retrospect, this managerial indifference is "difficult to justify," the inspector general testified.

Mr. Hitz said suspicions about Mr. Ames finally crystallized at the C.I.A. in August 1992, seven years after his spying for Moscow had begun. Still, the agency did nothing to act upon those suspicions until the F.B.I.'s formal criminal investigation of the case began eight months later.

Operations against the Soviet Union were the C.I.A.'s highest priority in the 1980's, Mr. Hitz testified. The destruction of the agency's network of Soviet spies "should have had a profound effect on the thinking and actions of the leaders of the C.I.A."

But there was no such effect, he concluded. In his final report on the matter, issued this week, Mr. Hitz declined to say why that might have been or who might be to blame.

AGENCIES ADMIT FAILURE TO TELL SENATE ENOUGH ON SPY BUILDING

(By Tim Weiner)

WASHINGTON, September 29.—The National Reconnaissance Office, the secretive Government agency that builds spy satellites, did not intentionally mislead Congress about the cost of its new headquarters, but failed to provide detailed and straightforward information about the building, the Pentagon and the Central Intelligence Agency said today.

The new headquarters, a complex of four buildings outside Washington, was to have cost up to $347 million, according to figures that the Reconnaissance Office provided after protests by the Senate Intelligence Committee this summer. The committee this month ordered that no more than $310 million be spent.

In addition, the statement by the Pentagon and C.I.A. said, the headquarters has room for up to 3,900 people, 1,000 more than originally planned, and its costs could be cut to about $300 million. The statement said a final report on the project will be completed in October.

Roger Marsh, the project manager for the new headquarters, apologized to the Senate committee in August, saying the Reconnaissance Office had been "negligent, clearly negligent, for not showing the budget breakout for this project."

The money for the building was broken up into different secret accounts in the Reconnaissance Office's operating budget, its officials said at the August hearing. Today's statement, while finding no intent to deceive Congress, said the office failed to follow guidelines for presenting secret budgets to the Congressional intelligence committees.

Almost everything about the Reconnaissance Office, whose existence was not officially acknowledged until 1992, is classified more secret than Top Secret. The agency spends, by some estimates, more than $6 billion a year building highly sophisticated spy satellites.

The chairman of the Senate Intelligence Committee, Dennis DeConcini, Democrat of Arizona, and the vice-chairman, John W. Warner, Republican of Virginia, said today that they remain convinced that they were not fully informed about the project, which Senator Warner called "a 'Taj Mahal.' "

Mr. DeConcini said he attributed the Senate's lack of knowledge about the headquarters' cost to "clandestine bookkeeping" by the Reconnaissance Office. "As the smoke continues to clear, I believe the numbers will show that the N.R.O. spent an extra $100 million of taxpayer dollars to insure this complex was a Rolls-Royce and not a Chevrolet," he said.

STATEMENT OF FREDERICK P. HITZ

Mr. Chairman, Mr. Vice-Chairman, Members of the Committee and Staff:

Thank you for the opportunity to discuss our investigation of issues relating to the Agency's handling of the Ames case. The investigation has been an unusual one for the CIA Office of Inspector General. First, our inquiry was requested directly by the Chairman and Vice-Chairman of this Committee in late February 1994—shortly after Aldrich H. Ames and his wife were arrested. Normally, the intelligence oversight committees of the Congress ask the Director of Central Intelligence to request an IG investigation, but on this occasion your request was directed to me. The request underscored the oversight committee's intense interest in this particular investigation.

Second, DCI Woolsey asked us not to delve fully into the Ames matter until some time had passed after Ames's arrest for fear of disrupting the Ames prosecution. Based on the DCI's concern and also that of the Department of Justice and the United States Attorney for the Eastern District of Virginia that we do nothing which would potentially complicate any trial of Ames, we confined ourselves to background file reviews and interviews of non-witnesses until the Ameses pled guilty in April 1994. The consequence was, however, that we had to cover a great deal of ground in a much shorter time in order to have our Report ready for the DCI and our Congressional oversight committees by September 1994. I am extremely proud of our 12-person investigative team. Their efforts are evident in the depth and breadth of the Report.

A third unusual feature was that in March 1994, the DCI asked us to seek to determine whether individuals in Ames's supervisory chain discharged their responsibilities in the manner expected of them. In this regard, the DCI directed the Executive Director of CIA to prepare a list of Ames's supervisors during the relevant periods. The DCI also directed that awards and promotions for the individuals on the Executive Director's list be held in escrow pending the outcome of our investigation. Neither I nor any member of the team investigating the Ames case has viewed the DCI's escrow list. We wanted to be as completely unaffected by the names on the list as we could be in order to discharge our responsibility to advise the DCI objectively of possible disciplinary recommendations. As a precautionary measure, I did ask my Deputy for Inspections, who was otherwise uninvolved in the Ames investigation, to compare our interview list and the escrow list and determine whether any individuals on the escrow list had not been afforded the opportunity to comment on their actions with respect to Ames. That has been our only involvement with the escrow list.

In addition to the unusual circumstances that attended this investigation, it was clear from the outset that the Ames case presented several major substantive issues of the most serious concern to the DCI, our oversight committees and the American people. Thus, we chose not to tell the story in the normal chronological way. Instead, we focused on themes: Ames's life, his career, his vulnerabilities, how he was handled from a management standpoint, and how the system dealt with him. We have also discussed in the context of this particular case how counterespionage investigations have been conducted in CIA since the Edward Lee Howard betrayal and the 1985 Year of the Spy.

At this point, I would like to summarize for the Committee the major findings and conclusions of our investigation. These findings and conclusions were developed after the review of almost forty-five thousand pages of documents, ten years of prior studies, thousands of hours of interviews with over 300 employees and other individuals, painstaking analysis, and countless hours of planning, deliberation and vigorous debate.

The key, inescapable conclusion of our investigation is that the effort to identify the reasons for the loss of virtually all of CIA's human sources reporting on its primary target in the 1980s, the Soviet Union, did not receive the attention that it rightfully deserved. In view of the scope and nature of the losses the Agency suffered, the Agency should have expended every effort and resource necessary to identify the cause. If it had, Ames might have been apprehended sooner and subsequent losses avoided.

Although the damage assessment is still underway, the estimate at this time of the damage attributable to Ames are truly staggering. As stated in our Report, we now know that he provided the Soviets with information on 36 cases in June 1985. Based on his debriefings, Ames now acknowledges providing the Soviets with information on a large number of additional Soviet and East European cases. In addition, Ames disclosed the identities of many Agency employees and non-official cover officers, as well as technical operations, finished intelligence, and Agency planning and policy documents.

PROBLEMS WITH MANAGERIAL ATTENTION AND TIMELINESS OF THE INVESTIGATION

The effort to find the source of the losses, which we have referred to as the molehunt, began in 1986. However, that effort was plagued after 1987 by senior management inattention and failure to apply an appropriate level of resources to the effort until 1991. For an extensive period of time between 1988 and 1990, the molehunt virtually ceased despite information obtained from several Agency components in 1989 that should have focused attention directly on Ames. Factors that contributed to this delay included the Agency's reluctance to believe that one of its own could betray it and a continuing general distaste for the counterespionage function of investigating Agency employees. In 1991, the molehunt effort was rejuvenated, the FBI offered to participate, and the investigation gradually began to show results.

SOVIET CONTACTS

Ames was authorized to engage in contacts with Soviet Embassy officials in Washington in 1984, 1985 and 1986. Agency management failed to monitor his contacts with these officials more closely in 1985 and failed to pursue them adequately after they were requested by the FBI in 1986. This provided Ames with the opportunity to consummate the espionage he contemplated based upon his financial situation and the influence on his thinking that resulted from his prior contacts with Soviet officials in New York. If his failure to submit timely contact reports had been questioned vigorously at the time, Ames might have been told to break off the contacts or been caught in a lie regarding their nature and extent. Ames, albeit not the most trustworthy of witnesses, has said that he would have had a hard time explaining these contacts had questions been raised. If the contacts had been pursued as they should have, appropriate attention might have been drawn to Ames in 1985 or 1986 rather than years later. As it was, Ames ignored the request to report on the contacts and it was soon forgotten.

FINANCIAL INQUIRIES

The inquiry into the Ameses' finances should have been completed much sooner by

CIC than the more than three and one-half years that the inquiry consumed. After it was discovered in 1989 by CIC that Ames had paid for his house in cash and moved large sums of money from abroad to domestic bank accounts, a full financial inquiry should have been undertaken by CIC and the Office of Security on a priority basis. This effort languished despite a December 1990 memorandum from CIC to the Office of Security requesting a reinvestigation of Ames on the basis of his finances and noting his potential link to the 1985-86 compromises. In addition, other available information was not correlated with the financial information.

POLYGRAPHS

The 1986 polygraph of Ames was deficient because the examiner failed to establish the proper relationship with Ames and did not detect Ames's reactions even though Ames says he had great apprehension at the time that he would be found out. The 1991 polygraph sessions were not properly coordinated by CIC with the Office of Security after they were requested. The polygraph examiners in 1991 were not given complete access to the information that had been provided to the Office of Security by CIC in December 1990 regarding Ames's finances and they did not have the benefit of the thorough background investigation that had been completed on Ames on the very day of the first examination session. Once they had developed suspicions about Ames, the responsible CIC officers, especially with their Office of Security backgrounds, should have participated more aggressively and directly in Ames's polygraph. Since the polygraph was handled in a routine fashion, no CI emphasis was placed on formulating the questions or selecting examiners with the appropriate levels of experience. The was no strategy for the questioning and no planning how to handle any admissions he might have made. The result of the 1991 polygraph was to divert attention from him for a time.

PERSONNEL RESOURCES

In view of the number of Soviet sources that were compromised, insufficient personnel resources were devoted to the molehunt effort virtually from the beginning. The failure to request additional resources has been acknowledged by several of the key officials involved. Additional resources could have been used to systematically develop and narrow a list of potential suspects based upon employee access to the compromised cases. Prior to 1991, no formal lists of suspects based on access were created or reviewed. This was partly because access or "bigot" lists for the individual cases did not exist or were inaccurate. Although the investigation clearly had to be conducted with discretion, concerns about compartmentation must be balanced at some point against the overriding need to resolve the serious problems the compromises created. There clearly were more than three trustworthy and capable officers available in the Agency with the necessary expertise to assist in the molehunt effort. With more focused involvement by senior Agency management, additional personnel could have been added to pursue the financial inquiries and create a better mix of analytical and investigative skills.

DIVISION OF RESPONSIBILITY FOR COUNTERINTELLIGENCE

The ambiguous division of responsibility for counterintelligence between CIC and the Office of Security and excessive compartmentation contributed to a breakdown in communication between the two offices, despite the fact that CIC was created in part to overcome such coordination problems. This breakdown in communication had a highly adverse impact on the Ames counterespionage investigation. There was a general absence of collaboration and sharing of information by CIC with the Office of Security at critical points in the reinvestigation of Ames in 1991. Office of Security officers who were assigned to CIC minimized the contribution that could be expected to be received from the Office of Security and their resulting failure to collaborate in fact produced the minimal contribution they expected. These problems and others persisted despite the fact that prior Inspector General inspection reports on Counterintelligence, the Office of Security and Command and Control in the Agency pointed out the jurisdictional and communication ambiguities in counterintelligence matters.

SECURITY REINVESTIGATIONS

The lack of an effective and timely reinvestigation polygraph program in 1985, when Ames began his espionage activities, enhanced the breakdown of inhibitions that Ames had experienced and led him to believe that he would not be required to undergo a reinvestigation polygraph before his contemplated retirement in 1990. By 1985 the Office of Security reinvestigation polygraph program had fallen seriously behind its targeted five-year schedule and Ames had not been polygraphed for almost ten years. Although the Agency gave the program increased attention in 1985 and made a commitment to provide the resources necessary to maintain a five-year reinvestigation schedule, the hiring of new polygraph examiners created other problems, such as the need for increased management and supervision of inexperienced examiners. These problems were compounded by an exaggerated concern about the reaction of Agency officers and managers to adverse results from polygraph examinations. Employee, management and congressional concerns regarding the intrusiveness of the polygraph led Office of Security management to soften the polygraph program and cater to "customer satisfaction," which seems to have meant not offending employees. These developments reduced the effectiveness and reliability of the polygraph program, which must be based upon an apprehension of the consequences of untruths, and encouraged employees and managers to resist the program.

DEFICIENCIES IN PERSONNEL MANAGEMENT

No evidence has been found that any Agency manager or employee knowingly and willfully aided Ames in his espionage activities. Allegations in the so-called "poison fax," sent to the SSCI earlier this year, that the Chief of CE Division from 1989 to 1992 warned Ames regarding Agency suspicions about him appear to be without foundation. Many of the other statements made in the fax also appear to have been unfounded. That said, it is clear from comparing Ames's personnel file with the knowledge about him that was shared orally by employees and managers, that Agency managers consistently failed after 1981 to come to grips with marginal performer who had substantial flaws both personally and professionally. His few contributions to the work of the Agency were exaggerated while his deficiencies and cost to the organization were minimized and not officially documented or formally addressed. He had little focus, few recruitments, no enthusiasm, little regard for rules and requirements, little self-discipline, little security consciousness, little respect for management or the mission, few good work habits, few friends, and a bad reputation in terms of integrity, dependability, and discretion. Yet his managers were content to tolerate his non-productivity, clean up after him when he failed, find well chosen words to praise him, and pass him on with accolades to the next manager.

SUITABILITY FOR ASSIGNMENTS

Despite his deficiencies in performances, Ames continued to be selected for positions that gave him considerable access to highly sensitive information. In the face of the strong and persistent evidence of performance and suitability problems that was available, this access is difficult to justify. Our report reviews most of these assignments in detail. While Ames's poor performance would probably not have led to termination of his employment, it did not justify permitting him to fill positions where he was perfectly placed to betray almost all of CIA's sensitive Soviet assets. Despite doubts about his performance and suitability among officials who previously supervised him, he was placed in positions that gave him access to the most sensitive Soviet sources. After a disastrous tour in Mexico, Ames was placed in charge of a counterintelligence unit that was responsible for Soviet operations, and it was there that he acquired much of the information he turned over to the KGB in 1985.

Ames was selectied to participate in debriefings of Vitaliy Yurchenko, described by the Associate Deputy Director for Operations at the time as the most important defector in CIA's history. Little in his previous performance merited that selection and the task should have been reserved for the very best SE Division had to offer. His assignment to a sensitive position in SE Division after his return to Headquarters in the Fall of 1989 from Rome is inexplicable in light of the reservations about him that were held by the departing Chief of SE Division who had considered Ames's Rome assignment as a means of getting rid of a problem employee.

Ames's selection in October 1990 to serve in CIC is hard to explain given the knowledge that was then available to SE Division's management and CIC regarding the 1985-86 compromises, Ames's work habits, his unexplained affluence, and the nature and scope of the access to information that he would have. His CIC managers had been warned that there was reason to watch him closely and certainly could have sought more specific information from their superiors in CIC. Once suspicions concerning Ames had crystallized in August 1992 when his bank deposits and contacts with the Soviets had been correlated and Agency management had been advised, he should have been place in a position where his access would have been limited and his activities closely managed. No evidence was found that senior Agency managers were fully advised or that such alternatives were ever discussed by Agency management, and neither CIC nor the Office of Security played any role in decisions regarding his assignments until after the FBI investigation began in the spring of 1993.

Necessarily, we have made analytical judgments about what we have learned—some of them quite harsh. We believe this is our job—not just to present the facts, but to tell the DCI, our oversight committees and other readers how our findings strike us. We have the confidence to do this because we have lived with the guts of Ames's betrayal for countless hours, we know the information we have developed better than anyone else at this point, and it is our responsibility to make these judgments. In this sense, our 12 investigators are like a jury—they find the facts and make recommendations to the DCI for his final determination. And the investigative team and I, like a jury, represent the peers of the intelligence professionals from whose ranks we are drawn. We have been sometimes shocked and dismayed at what we have learned, intrigued by the complexity of the Ames story and appreciative of the individual acts of competence and courage, of which there are many outlined in our Report.

In this latter regard, several individuals deserve special praise: the Deputy Chief, CIC for his persistent efforts to get to the bottom of the matter despite the passage of time; three CIC members for their work that paved the way for identifying Ames as a spy; four employees and managers who made known their concerns about aspects of Ames's wealth, suitability and performance; and finally, the officer who conducted a timely and thorough background investigation of Ames in 1991 and the Deputy Chief, Counternarcotics Center and another officer who provided substantial assistance to the FBI in the FBI phase of the investigation.

In the end, however, the Ames case is about accountability, both individual and managerial. The DCI and our oversight committees have made this the issue, but if they had not, we would have. In this regard, let me note that we had already assembled a small team to look into the Ames case on our own prior to any request from the SSCI or the DCI. We did so because we believed that the statute setting up our office required it. The issue of managerial accountability has been one of my office's principal points of focus since its inception in 1990—and we have enjoyed mixed success in our efforts to assist in bringing it about.

Fixing managerial accountability in the Ames case has not been an easy task. On the individual level, we have uncovered a vast quantity of information about Ames' professional sloppiness, his failure to file accountings, contact reports, and requests for foreign travel. Ames was oblivious to issues of personal security—he carried incriminating documents in his checked airline luggage; he left classified files on a subway train; he openly walked into a Soviet compound in Rome and the Soviet Embassy in Washington. We have noted that Ames's abuse of alcohol, while not constant throughout his career, was chronic and interfered with the performance of his duties. By and large, these deficiencies were observed by Ames's colleagues and supervisors and were tolerated by many who did not consider them highly unusual for Directorate of Operations officers on the "not going anywhere" promotion track. That an officer with these observed vulnerabilities should have been placed in positions involving counterintelligence and Soviet operations where he was in a prime position to contact Soviet officials and thus massively betray his trust is difficult to justify. The IG investigative team has found fault with management's tolerant view of Ames's professional deficiencies and the random indifference given to his assignments, and our recommendations reflect that view. We have not made these recommendations, which are primarily systemic and institutional in nature, a formal part of our Report, but have given them to the DCI in an advisory capacity.

In inclusion, on the grander scale of how the Agency's reaction to the unprecedented loss of Soviet cases in 1985-86 was managed, our team has been strict and demanding. The pivotal point of our logic is that, if Soviet operations—the effort to achieve human penetrations of the USSR for foreign intelligence and counterintelligence information—were the priority mission of the clandestine service of CIA in 1985-86, then the rapid loss of most of our assets in this crucial area should have had a profound effect on the thinking and actions of the leaders of the Directorate of Operations and CIA. The effort to probe the reasons for these losses should have been of the most vital importance to U.S. intelligence and should have been pursued with the utmost vigor and all necessary resources until an explanation—a technical or human penetration—was found. In this investigation we have concluded that the intelligence losses of 1985-86 were not pursued to the fullest extent of CIA's capabilities, and our findings, analytical judgments and recommendations reflect that conclusion.

Thank you Mr. Chairman. I will be glad to try to answer any questions you or other Members of the Committee may have.

Mr. WARNER. Mr. President, I join the chairman of the Intelligence Committee in strongly recommending that the Senate adopt the conference report on the fiscal year 1995 Intelligence authorization bill.

While I would have preferred, and supported, a higher funding level for intelligence activities, I believe that the conference report dollar amount strikes a responsible compromise. The conference agreement contains a reduction of only $340 million from the administration's request; but it provides funding, in excess of the request, in four key areas for which I sought higher funding:

First and foremost, intelligence support to U.S. military operations;

Second, efforts to improve our counterintelligence capabilities;

Third, activities to reduce the critical problem of proliferation of weapons of mass destruction; and

Finally, advanced R&D initiatives which will help keep our intelligence capabilities on the cutting edge.

Several months ago, General Clapper appeared before the Senate Intelligence Committee and revealed that there are currently 64 hot spots in the world today—areas where there exists extensive fighting, human rights violations, and tragic death. That is double the number from just 7 years ago. We are today confronted with a world that is rife with ethnic, religious, and racial conflict—witness the problems in Haiti, Bosnia, Somalia, and Rwanda.

Such a world presents the intelligence community with new diverse, and complex challenges. Maintaining a viable intelligence capability in a rapidly changing world is not an easy—or inexpensive—task. And it is a time-honored principle that intelligence is a force multipler, especially as defense expenditures decline. Therefore, I will continue to resist further reductions in the intelligence budget until I am convinced that efficiencies can be achieved that will not harm U.S. National security.

In addition to authorizing the resources and activities of the intelligence agencies, this measure contains landmark legislation that will enhance the security of the United States for many years to come.

Every Senator, indeed all Americans, are shocked by the tragic case of Aldrich Ames. We are shocked not only by the magnitude of Ames' treachery, which cost many lives, but also by the fact that it took so long for the CIA to catch a sloppy spy, who made little effort to conceal his ill-gotten gains. That he went undetected for 9 years, despite the fact that there were numerous warning signs pointing to Ames' betrayal, indicates that we need more than minor counterintelligence reforms at the CIA, we need new attitudes and procedures—in effect, cultural changes.

Unfortunately, many of the problems that the Ames case has uncovered do not lend themselves to legislative solutions. They require strong leadership and internal reforms at the CIA. However, a number of critical problems were revealed by the Ames case that do require legislative remedies.

Shortly after the Ames case came to light in February, I joined with Chairman DECONCINI, who, to his credit, has worked relentlessly on this legislation against considerable opposition from the administration, in introducing legislation to improve the counterintelligence and security posture of the U.S. intelligence community. Our legislation—which was incorporated in the pending conference report—provides valuable tools for deterring espionage activities and detecting violations when deterrence fails.

Unlike the spies of the 1940's, 1950's, and 1960's who were primarily motivated by ideology, today's turncoats betray this great Nation for money. With this in mind, the DeConcini-Warner bill focuses on the financial activities of employees with access to classified information.

The legislation requires all employees who are granted a security clearance to consent—in writing—to Government access to their financial and travel records. In addition, those employees with access to particularly sensitive information would be required to file financial disclosure reports. We leave it to the President's discretion to determine which categories of employees would be required to file such financial disclosure forms, and how often those forms would have to be filed.

I know some have voiced concern about this legislation due to concerns about the right to privacy of the Government employees who would be affected. I believe that Government employees who are trusted with the Nation's most vital intelligence information must be willing to accept certain personal disclosures as a condition of employment. It is an issue that balances national security interests against one's rights to personal privacy.

In an area as sensitive and critical as the Nation's security, the scales must tip in favor of protecting our Nation's secrets. Our legislation achieves that goal.

Another issue we addressed in our counterintelligence legislation was the long-standing—and clearly documented—problem of lack of cooperation, over many years, between the CIA and the FBI in espionage cases. Our solutions engendered a great deal of controversy in the Senate, and outright opposition from the administration. Understandably, the executive branch believed the general doctrine of executive prerogative should control.

The lack of effective cooperation between the CIA and FBI is not a new problem. This is an issue that has come before the Intelligence Committee in years past, and it is one that the CIA, for example, assured the committee—in 1986—had been resolved. Unfortunately, we find now that that was not the case then or now. This lack of cooperation has continued to lessen the effectiveness of espionage investigation, and contributed to delays of several years in making a legal case against Aldrich Ames.

The administration believed that they could fix this problem with a new executive order—despite the fact that there have been no less than 10 such good faith attempts since 1947 to find a solution. We believed that legislation was necessary, convinced the conference, and now this will go to the President.

Our bill establishes a mandatory requirement for all agencies and departments to immediately notify the FBI when they have reason to believe that classified information has been compromised. In turn, we place a reciprocal requirement on the FBI to consult with affected departments and agencies during the course of espionage investigations. While Director Woolsey vigorously opposed a legislative solution, he did make important suggestions, as did Senator WARNER, in the final draft.

From this point forward we expect the FBI to be alerted to possible espionage cases at the very outset so that their investigative expertise can be brought to bear at the earliest opportunity.

The Ames case prompted me to pursue the need for an independent, objective, top to bottom review of the roles and capabilities of the intelligence community in the post-cold-war world.

As far back as May, I sent a letter to President Clinton proposing such a Presidential commission to examine the roles and missions of our intelligence agencies, particularly the CIA. At the time I first raised the idea of a commission, there was widespread opposition, both from the administration and my Senate colleagues.

It has been a long uphill struggle, but gradually the idea of a commission for the intelligence community gained support in the Congress. When the Intelligence authorization bill came to the Senate floor in August, my commission amendment passed 99-0. I am pleased to report that despite continuing administration opposition, the conference report before you does indeed contain the Warner amendment on a Presidential commission. I want to acknowledge the strong support I received from Senator GRAHAM, who made valuable additions, and to Chairman DECONCINI.

The commission established by this measure will consist of 17 members—9 appointed by the President and 8 by the congressional leadership. In order to ensure objectivity, the staff of the commission will be drawn almost entirely from outside of the intelligence community.

The commission will have a broad mandate to examine the activities and capabilities of the intelligence community—the legislation lists 19 specific areas for review. The commission is to make its final report to the Congress no later than March 1, 1996. I believe that a truly independent and objective assessment by this commission will validate the need for intelligence activities to support senior policymakers and the U.S. military. At the same time, the commission may well recommend changes in priorities, organization, or the allocation of resources. It is my hope, however, that at the end of the process, the public will have renewed confidence that the activities and funding levels of the intelligence community merit this support in this ever changing world. It is not becoming a safer place.

In closing, I would like to pay tribute to my co-chairman, Senator DECONCINI, who has made an important contribution to the security of this country with this legislation. He and I have worked together from the beginning, and never once did partisanship interfere. We consulted closely, as two Americans with the best interests of their country at heart, and I am very proud of the result.

I would also like to thank our excellent professional staff, Judy Ansley, Chris Mellon, Norm Bradley, Tim Carlsgaard, Britt Snider, Mary Sturtevant, Pat Hanback, and others, for their tireless work on this legislation. They made vital contributions to this process and we are fortunate to have them on the committee staff.

The conference report was agreed to.

UNITED STATES-MEXICO BORDER HEALTH COMMISSION ACT

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 616, S. 1225, a bill to authorize and encourage the President to conclude an agreement with Mexico to establish a United States-Mexico Border Health Commission.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1225) to authorize and encourage the President to conclude an agreement with Mexico to establish a United States-Mexico Boarder Health Commission.

The Senate proceeded to consider the bill.

AMENDMENT NO. 2606

(Purpose: To provide for a substitute amendment)

Mr. LEVIN. Mr. President, I send a substitute amendment to the desk on behalf of Senator BINGAMAN.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN), for Mr. BINGAMAN, for himself, Mr. MCCAIN, Mr. SIMON, and Mrs. HUTCHISON, proposes an amendment numbered 2606.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Mexico Border Health Commission Act".

SEC. 2. ESTABLISHMENT OF BORDER HEALTH COMMISSION.

The President is authorized and encouraged to conclude an agreement with Mexico to establish a binational commission to be known as the United States-Mexico Border Health Commission.

SEC. 3. DUTIES.

It should be the duty of the Commission—

(1) to conduct a comprehensive needs assessment in the United States-Mexico Border Area for the purposes of identifying, evaluating, preventing, and resolving health problems and potential health problems that affect the general population of the area;

(2) to implement the actions recommended by the needs assessment through—

(A) assisting in the coordination and implementation of the efforts of public and private entities to prevent and resolve such health problems, and

(B) assisting in the coordination and implementation of efforts of public and private entities to educate such population, in a culturally competent manner, concerning such health problems; and

(3) to formulate recommendations to the Governments of the United States and Mexico concerning a fair and reasonable method by which the government of one country could reimburse a public or private entity in the other country for the cost of a health care service that the entity furnishes to a citizen of the first country who is unable, through insurance or otherwise, to pay for the service.

SEC. 4. OTHER AUTHORIZED FUNCTIONS.

In addition to the duties described in section 3, the Commission should be authorized to perform the following functions as the Commission determines to be appropriate—

(1) to conduct or support investigations, research, or studies designed to identify, study, and monitor, on an on-going basis, health problems that affect the general population in the United States-Mexico Border Area;

(2) to conduct or support a binational, public-private effort to establish a comprehensive and coordinated system, which uses advanced technologies to the maximum extent possible, for gathering health-related data and monitoring health problems in the United States-Mexico Border Area; and

(3) to provide financial, technical, or administrative assistance to public or private nonprofit entities who act to prevent or resolve such problems or who educate the population concerning such health problems.

SEC. 5. MEMBERSHIP.

(a) Number and Appointment of United States Section.—The United States section of the Commission should be composed of 13 members. The section should consist of the following members:

(1) The Secretary of Health and Human Services or the Secretary's delegate.

(2) The commissioners of health or chief health officer from the States of Texas, New Mexico, Arizona, and California or such commissioners' delegates.

(3) Two individuals residing in United States-Mexico Border Area in each of the States of Texas, New Mexico, Arizona, and California who are nominated by the chief executive officer of the respective States and appointed by the President from among individual who have demonstrated ties to community-based organizations and have demonstrated interest and expertise in health issues of the United States-Mexico Border Area.

(b) Commissioner.—The Commissioner of the United States section of the Commission should be the Secretary of Health and Human Services or such individual's delegate to the Commission. The Commissioner should be the leader of the section.

(c) Compensation.—Members of the United States section of the Commission who are not employees of the United States or any State—

(1) shall each receive compensation at a rate of not to exceed the daily equivalent of the annual rate of basic pay payable for positions at GS-15 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the actual performance of the duties of the Commission; and

(2) shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services of the Commission.

SEC. 6. REGIONAL OFFICES.

The Commission may designate or establish one border health office in each of the States of Texas, New Mexico, Arizona, and California. Such office should be located within the United States-Mexico Border Area, and should be coordinated with—

(1) State border health offices; and

(2) local nonprofit organizations designated by the State's chief executive officer and directly involved in border health issues. If feasible to avoid duplicative efforts, the Commission offices should be located in existing State or local nonprofit offices. The Commission should provide adequate compensation for cooperative efforts and resources.

SEC. 7. REPORTS.

Not later than February 1 of each year that occurs more than 1 year after the date of the establishment of the Commission, the Commission should submit an annual report to both the United States Government and the Government of Mexico regarding all activities of the Commission during the preceding calendar year.

SEC. 8. DEFINITIONS.

As used in this Act:

(1) Commission.—The term "Commission" means the United States-Mexico Border Health Commission.

(2) Health problem.—The term "health problem" means a disease or medical ailment or an environmental condition that poses the risk of disease or medical ailment. The term includes diseases, ailments, or risks of disease or ailment caused by or related to environmental factors, control of animals and rabies, control of insect and rodent vectors, disposal of solid and hazardous waste, and control and monitoring of air quality.

(3) Secretary.—The term "Secretary" means the Secretary of Health and Human Services.

(4) United States-Mexico border area.—The term "United States-Mexico Border Area" means the area located in the United States and Mexico within 100 kilometers of the border between the United States and Mexico.

Mr. BINGAMAN. Mr. President, I am pleased that the Senate is taking action on S. 1225, the United States-Mexico Border Health Commission Act, which I introduced last year. Joining me as cosponsors of this bipartisan effort are the distinguished Senators from Arizona, Illinois, and Texas, Senators McCain, Simon, and Hutchison. We have had the pleasure of working on this initiative with our colleagues in the House, the chairman of the House Border Caucus, Representative Coleman, and the members of the House Border Caucus.

Through this legislation, we can begin to lay the foundation for effectively addressing the serious and far-reaching border health challenges that face our Nation and the Republic of Mexico. Although this issue is particularly important to those of us living in the border region, it is an issue that should be of tremendous concern to all of us. Developing solutions will require that we work together, in a bipartisan and binational manner, toward common goals.

Before discussing this legislation, I first want to commend the House Border Caucus, the American Medical Association, and the Texas Medical Association in particular for their efforts to increase awareness nationally about border health issues. Their commitment to develop long-term solutions to the many border health problems we face has been the key to our legislative success.

Mr. President, I was born a short distance from the United States-Mexico border, and I grew up in a small New Mexico town less than 90 miles north of the border. My father still lives there—in Silver City—today. Over the years, I have seen the border area change and grow. I have seen the problems firsthand, and I know we face an enormous task. I also know that our task will grow in urgency and importance as the United States and Mexico continue to open their borders and increase international trade and development. That is why I have been committed to the enactment of the United States-Mexico Border Health Commission Act.

In October 1991, the Texas Medical Association hosted a Border Health Conference in McAllen, TX, which members of my staff attended. The idea for the legislation being acted upon today was born at that conference. In McAllen, a commitment was made by the medical societies of the border States—Texas, New Mexico, Arizona, and California—to draft legislation that would lay the groundwork for a high-level, binational Commission which would encourage coordination to protect the health and well-being of the residents of both countries. The Commission's key duty would be to develop a comprehensive, long-term plan of action. The plan would include goals, priorities, and methods for measuring and reaching those goals.

My home State of New Mexico was still in its infancy with respect to border health problems and border awareness in 1991, but we knew it was time for action. We knew we needed to develop strategies for dealing with the future. We knew that if we acted quickly and rationally, our State could avoid many of the environmental and health problems that already threatened our neighboring border States.

New Mexico—like the other border States—has grown and changed since the McAllen conference. Today, the need for this legislation and the binational Commission is greater than ever.

In New Mexico, the border region is one of the State's fastest growing areas. Dona Ana County, which is our State's most populous border county, grew by 40 percent between 1980 and 1990. It is projected to grow by another 30 percent before the year 2000. But despite this rapid growth, or perhaps because of it, New Mexico's border region is one of the poorest areas of the United States. Dona Ana County has been ranked as the 10th poorest county in the Nation, in terms of per capita income. Of the county's total population, 56 percent are Hispanic. More than one-third of them live below the poverty line.

Las Cruces, the county's largest city and the State's third largest, ranks as the fifth poorest city in the Nation in terms of per capita income. The average per capita income is less than $9,500 in Las Cruces, with children under the age of 18 making up 30 percent of the population.

These statistics alone would force tremendous stress on the health care infrastructure of any region. But the residents of Las Cruces, Dona Ana County, and the rest of New Mexico face another serious challenge: They, along with the people of Texas, Arizona, and California, are on the frontline of our country's environmental and health problems.

Already, the over-developed environments of the Texas, Arizona, and California borders have been seriously degraded by water and air pollution from unregulated industries, widespread lack of sanitation facilities, toxic waste and other ground contaminants, and rapidly growing populations. Today, the threats these hazards pose are spreading. No longer are these problems exclusive to a geographic region or a State. Disease and death do not know political boundaries. They threaten all of us, Americans and Mexicans alike.

With this legislation, we have the opportunity to assess our border problems in the proper framework. We also have the opportunity in New Mexico to create a model for developing comprehensive solutions to these serious binational problems.

The Commission we are advocating, composed of officials and experts from the United States and Mexico, will develop a workable binational plan of action. It should be a long-term plan, with clear goals and mechanisms for measuring progress. To further explain the Commission and its duties to my colleagues, I ask that a summary of the bill be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. BINGAMAN. We have a lot of work ahead of us, Mr. President, but together, with a common plan and common goals, I am confident we can improve the quality of life for our border residents and for all the people of the United States and Mexico.

EXHIBIT 1

SUMMARY: UNITED STATES-MEXICO BORDER HEALTH COMMISSION ACT

The bill authorizes and encourages the President to enter into an agreement with Mexico to establish a Binational Commission on Border health. The Commission will:

(1) conduct a needs assessment to identify, evaluate, prevent, and resolve health problems affecting the border population of both countries;

(2) develop and implement an "action plan" for carrying out the activities recommended by the needs assessment, through:

(a) helping to coordinate and implement public-private efforts to prevent and resolve border health problems;

(b) helping to coordinate and implement public-private, culturally-competent border health education efforts; and

(3) develop a reasonable method, to be recommended to the governments of both countries, by which one government could reimburse a provider (public or private) for providing health care to a resident of the other country.

The Commission would be authorized to:

(1) conduct and support investigations, research, and studies that will identify, study, and monitor border health problems;

(2) conduct and support a binational, public-private health data collection and monitoring system for the U.S.-Mexico border area; and

(3) provide financial and technical assistance to public and private efforts aimed at addressing border health problems.

Details of the U.S. section of the Commission are:

(1) 13 members: including the Secretary of Health and Human Services; the four commissioners of health for the U.S.-Mexico border states; two individuals residing in the border area in each of the four border states who have demonstrated interest or expertise in border health issues.

(2) Regional offices: the Commission should designate or establish one border health office in each of the four border states to facilitate its work. These offices should be coordinated with state border health offices and local nonprofit organizations.

(3) Annual Reports: the Commission will report annually on its activities to the governments of both countries.

(4) For purposes of the Commission, the border area will be defined as the areas located in the U.S. and Mexico within 100 kilometers of the U.S.-Mexico border.

Mrs. HUTCHISON. Mr. President, I rise today in support of the Border Health Commission Act. I join my colleagues along the border to emphasize the growing health concerns along the United States-Mexico border. The Border Health Commission Act will address these problems in cooperation with our neighbors in Mexico.

The president of the American Medical Association has called public health conditions along the United States-Mexico border a "ticking time bomb." A binational effort to combat what have been termed "biblical plagues" which flourish there is long overdue.

In terms of public health, the border region is a Third World country. According to the Texas Medical Association, its residents suffer from a higher rate of deadly, infectious diseases than anywhere else in the Nation—diseases such as tuberculosis, hepatitis, gastrointestinal ailments, typhus, and cholera.

According to Dr. Miguel Escobedo of the El Paso County Health District, the incidence of tuberculosis in border cities is twice the national average. In El Paso, the TB rate is 20 persons per 100,000 residents; in communities such as Denver and Cincinnati, it is 7 per 100,000. Moreover, Dr. Escobedo says, we are importing drug-resitant strains of the disease from Mexico—which has a direct impact on a border community's ability to provide treatment to all of those entitled to it.

Public health organizations spend $1,200 to treat an uncomplicated case of TB. The complications involved in treating drug-resistant strains drives up that cost to $200,000, he says.

Several other common border diseases are directly attributable to the lack of amenities most people in this country take for granted—clean water, sewage disposal, and electricity. A burgeoning population on both sides of the border has caused what Dr. Laurance Nickey, director of the El Paso County Health District, has called an infrastructure breakdown.

In the El Paso area alone, nearly 200,000 people live in 300 colonias built on often illegally subdivided land. Their residents live amid uncontrolled sewage disposal and shallow wells, a source of contaminated drinking water. As a result, 30 percent of residents tested show evidence of hepatitis A infection.

Public health officials have long been aware that these conditions—in a setting which straddles two sovereign nations—must be addressed through a binational effort. Among the United States and Mexico, alone, there are 400 million border crossings annually. Establishing the United States-Mexico Border Commission would allow health officials of both countries to cooperate in tracking, preventing, and working to cure communicable diseases—as well as cope with other health issues unique to their border setting.

The commission would also serve as an early warning system for the rest of the country, detecting and perhaps preventing major outbreaks of infectious disease—such as cholera and salmonella—which already are spreading beyond the border.

As an international authority, this commission will be equipped as no other to devise a coordinated strategy to implement badly needed public health care solutions. Communicable diseases don't recognize international boundaries. The need for this legislation is immediate and imminent. Dr. Nickey recently expressed to our colleagues that if we do not address these issues soon, they may escalate to a point such that we cannot capture them.

Mr. LEVIN. Mr. President, I ask unanimous consent that the amendment be agreed to; that the bill be read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 1225) was deemed read the third time and passed, as amended.

(The text of the bill will be printed in a future edition of the RECORD.)

CIVIL RIGHTS COMMISSION REAUTHORIZATION ACT

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of calendar No. 683, S. 2372, a bill to reauthorize for 3 years the Commission on Civil Rights.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2372) to reauthorize for 3 years the Commission on Civil Rights, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 2607

(Purpose: To strike the matter relating to investigatory and other duties)

Mr. LEVIN. Mr. President, on behalf of Senator SIMON, I now send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. SIMON, proposes an amendment numbered 2607.

Mr. LEVIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, strike line 6 and all that follows through page 2, line 15.

On page 2, line 16, strike "3" and insert "2".

On page 3, line 1, strike "4" and insert "3".

Mr. LEVIN. Mr. President, I ask unanimous consent that the amendment be agreed to; that the bill be read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements appear at the appropriate place in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 2372) was deemed read the third time and passed, as amended.

(The text of the bill will be printed in a future edition of the RECORD.)

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1994—CONFERENCE REPORT

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the conference report accompanying H.R. 6.

The PRESIDING OFFICER. Without objection, it is so ordered. The report will be stated.

The assistant legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6) to extend for 6 years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965 and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 28, 1994.)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE EXECUTIVE ORDER TO RESTRICT THE PARTICIPATION BY U.S. PERSONS IN WEAPONS PROLIFERATION ACTIVITIES—MESSAGE FROM THE PRESIDENT—PM 148

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Pursuant to section 204(b) of the International Emergency Economic Powers Act (50 U.S.C. 1703(b)) and section 301 of the National Emergencies Act (50 U.S.C. 1631), I hereby report to the Congress that I have exercised my statutory authority to declare a national emergency and to issue an Executive order, which authorizes and directs the Secretary of Commerce, in consultation with the Secretary of State, to take such actions, including the promulgation of rules, regulations, and amendments thereto, and to employ such powers granted to the President by the International Emergency Economic Powers Act, as may be necessary to continue to regulate the activities of United States persons in order to prevent their participation in activities which could contribute to the proliferation of nuclear, chemical, and biological weapons, and the means of their delivery.

These actions are necessary in view of the danger posed to the national security, foreign policy, and economy of the United States by the continued proliferation of nuclear, biological, and chemical weapons, and of the means of delivering such weapons, and in view of the need for more effective controls on activities sustaining such proliferation. In the absence of these actions, the participation of United States persons in activities contrary to U.S. nonproliferation objectives and policies, and which may not be adequately controlled, could take place without effective control, posing an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States.

The countries and regions affected by this action would include those currently identified in Supplements to Part 778 of Title 15 of the Code of Federal Regulations, concerning nonproliferation controls, as well as such other countries as may be of concern from time to time due to their involvement in the proliferation of weapons of mass destruction, or due to the risk of their being points of diversion to proliferation activities.

It is my intention to review the appropriateness of proposing legislation to provide standing authority for these controls, and thereafter to terminate the Executive order.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 29, 1994.*

REPORT OF THE CONTINUATION OF THE NATIONAL EMERGENCY WITH HAITI—MESSAGE FROM THE PRESIDENT—PM 149

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Haitian emergency is to continue in effect beyond October 4, 1994, to the *Federal Register* for publication.

Resolution of the crisis between the United States and Haiti is in sight as a result of the September 18 agreement reached in Port-au-Prince by the delegation led by former President Carter. Pursuant to that agreement I have announced that all unilateral United States sanctions against Haiti will be suspended with the exception of the blocking of the assets of any persons subject to the blocking provisions of Executive Orders Nos. 12775, 12779, 12853, 12872, or 12914 and Haitian citizens who are members of the immediate family of any such person as identified by the Secretary of the Treasury.

At the same time, the United Nations Security Council, with our support, has decided that the sanctions established in Resolutions 841 and 917 should remain in force, consistent with the provisions of Resolutions 917 and 940, until the military leaders in Haiti relinquish power and President Aristide returns to Haiti. That may well not occur before October 4, 1994. Therefore, I have determined that it is necessary to retain the authority to apply economic sanctions to ensure the restoration and security of the democratically elected Government of Haiti.

While the United Nations Security Council sanctions remain in force and in order to enable the multinational forces to carry out their mission and to promote the betterment of the Haitian people in the interval until President Aristide's return, I have directed that steps be taken in accordance with Resolutions 917 and 940 to permit supplies and services to flow to Haiti to restore health care, water and electrical services, to provide construction materials for humanitarian programs, and to allow the shipment of communications, agricultural, and educational materials. This will allow the Haitian people to begin the process of reconciliation and rebuilding without delay.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 30, 1994.*

MESSAGES FROM THE HOUSE

At 10:59 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4196. An act to ensure that timber-dependent communities adversely affected by the Forest Plan for a Sustainable Economy and a Sustainable Environment qualify for loans and grants from the Rural Development Administration.

H.R. 4379. An act to amend the Farm Credit Act of 1971 to enhance the ability of the banks for cooperatives to finance agricultural exports, and for other purposes.

H.R. 4683. An act to amend the Solid Waste Disposal Act to provide congressional authorization of State control over transportation of municipal solid waste, and for other purposes.

H.R. 5065. An act to amend the Consolidated Farm and Rural Development Act to make technical corrections to certain provisions relating to beginning farmers and ranchers.

H.R. 5123. An act to make a technical correction to an Act preempting State economic regulation of motor carriers.

The message also announced that the House insists upon its amendment to the bill (S. 1887) to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes, and asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. MINETA, Mr. OBERSTAR, Mr. RAHALL, Mr. SHUSTER, and Mr. PETRI as the managers of the conference on the part of the House.

ENROLLED BILL SIGNED

At 1:42 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4556. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1995, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. BYRD).

At 3:40 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6) to extend for 6 years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965 and for other purposes.

At 5:41 p.m. a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolutions, each without amendment:

S.J. Res. 157. Joint resolution to designate 1994 as "The Year of Gospel Music."

S.J. Res. 185. Joint resolution to designate October 1994 as "National Breast Cancer Awareness Month."

S.J. Res. 198. Joint resolution designating 1995 as the "Year of the Grandparent."

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 995. An act to amend title 38, United States Code, to improve reemployment rights and benefits of veterans and other benefits of employment of certain members of the uniformed services, and for other purposes.

H.R. 4649. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1995, and for other purposes.

S. 1587. An act to revise and streamline the acquisition laws of the Federal Government, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. BYRD).

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4299) to authorize appropriations for fiscal year 1995 for intelligence and intelligence-related activities of the U.S. Government, the community management account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The message also announced that the House has passed the following bill and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 4926. An act to require the Secretary of the Treasury to identify foreign countries which may be denying national treatment to U.S. banking organizations and to assess whether any such denial may be having a significant adverse effect on such organizations, and to require Federal banking agencies to take such assessments into account in considering certain applications and notices by foreign banks and other persons of a foreign country.

H.J. Res. 326. Joint resolution designating January 16, 1995, as "National Good Teen Day."

H.J. Res. 389. Joint resolution to designate the second Sunday in October of 1994 as "National Children's Day."

H.J. Res. 398. Joint resolution to establish the fourth Sunday of July as "Parents' Day."

H.J. Res. 401. Joint resolution designating the months of March 1995 and March 1996 as "Irish-American Heritage Month."

H.J. Res. 415. Joint resolution designating the week beginning October 16, 1994, as "National Penny Charity Week."

At 6:12 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolution, with amendments, in which it requests the concurrence of the Senate:

S. Res. 135. Joint resolution designating the week beginning October 25, 1993, as "World Population Awareness Day."

ENROLLED BILLS SIGNED

The following enrolled bills, previously signed by the Speaker of the House, were signed by the President pro tempore (Mr. BYRD):

H.R. 4230. An act to amend the American Indian Religious Freedom Act to provide for the traditional use of peyote by Indians for religious purposes, and for other purposes.

H.R. 4539. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1995, and for other purposes.

H.R. 4602. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1995, and for other purposes.

H.R. 4650. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following bill was read twice and ordered placed on the calendar:

H.R. 5123. An act to make a technical correction to an act preempting State economic regulation of motor carriers.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–3369. A communication from the Deputy Assistant Secretary of the Air Force (Communications, Computers and Support Systems), transmitting, pursuant to law, notice relative to the Altus Air Force Base, Oklahoma; to the Committee on Armed Services.

EC–3370. A communication from the Deputy Assistant Secretary of the Air Force (Communications, Computers and Support Systems), transmitting, pursuant to law, notice relative to the Randolph Air Force Base, Texas; to the Committee on Armed Services.

EC–3371. A communication from the Office of Technology Assessment, transmitting, pursuant to law, the report entitled "Civilian Satellite Remote Sensing: A Strategic Approach"; to the Committee on Commerce, Science, and Transportation.

EC–3372. A communication from the Office of Technology Assessment, transmitting, pursuant to law, the report entitled "Remotely Sensed Data: Technology, Management, and Markets"; to the Committee on Commerce, Science, and Transportation.

EC–3373. A communication from the Deputy Associate Director for Compliance, Minerals Management Service (Royalty Management Program), Department of the Interior, transmitting, pursuant to law, a report relative to refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC–3374. A communication from the Secretary of the Interior, transmitting, a draft of proposed legislation approving the location of a Thomas Paine Memorial; to the Committee on Energy and Natural Resources.

EC–3375. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a report of informational copies of lease prospectuses; to the Committee on Environment and Public Works.

EC–3376. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a report of informational copies of lease prospectuses; to the Committee on Environment and Public Works.

EC–3377. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the report on the taxation of Social Security and Railroad Retirement Benefits for calendar year 1991; to the Committee on Finance.

EC–3378. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, notice of a determination relative to the United Nations Voluntary Fund for Victims of Torture; to the Committee on Foreign Relations.

EC–3379. A communication from the Assistant Legal Adviser (Treaty Affairs), Department of State, transmitting, pursuant to law, a report of the texts of international agreements and background statements, other than treaties; to the Committee on Foreign Relations.

EC–3380. A communication from the Secretary of Education, transmitting, pursuant to law, the report on vocational education data; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2297. A bill to facilitate obtaining foreign-located antitrust evidence by authorizing the Attorney General of the United States and the Federal Trade Commission to provide, in accordance with antitrust mutual assistance agreements, antitrust evidence to foreign antitrust authorities on a reciprocal basis; and for other purposes (Rept. No. 103–388).

By Mr. MOYNIHAN, from the Committee on Finance, with an amendment:

S. 1834. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes (Rept. No. 103–389).

By Mr. DECONCINI, from the Select Committee on Intelligence:

Special Report entitled: "U.S. Capability To Monitor Compliance With the Chemical Weapons Convention (Rept. No. 103–390).

By Mr. BAUCUS, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 2257. A bill to amend the Public Works and Economic Development Act of 1965 to reauthorize economic development programs, and for other purposes (Rept. No. 103–391).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 560. A bill to further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes (Rept. No. 103–392).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2174. A bill to provide for the administration of the Hawaiian Homes Commission Act, 1920, and for other purposes (Rept. No. 103–393).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 855. A bill to authorize the Secretary of the Interior to consolidate the surface and substance estates of certain lands within 3 conservation system units on the Alaska Peninsula, and for other purposes.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 2424. A bill to expand the boundaries of the Stones River National Battlefield in Tennessee, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GLENN, from the Committee on Governmental Affairs:

Harvey G. Ryland, of Florida, to be Deputy Director of the Federal Emergency Management Agency.

Alice M. Rivlin, of the District of Columbia, to be Director of the Office of Management and Budget.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

Treaty Doc. 102–40 Headquarters Agreement with the Organization of American States (Exec. Rept. 103–37)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. FORD:

S. 2481. A bill to provide for the appointment of one additional Federal district judge for the western district of Kentucky, and for other purposes; to the Committee on the Judiciary.

By Mr. WOFFORD:

S. 2482. A bill to provide for the restoration of Washington Square in Philadelphia, PA, and for the inclusion of Washington Square within Independence National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. HUTCHISON (for herself and Mr. HEFLIN):

S. 2483. A bill to amend the Small Business Act, and for other purposes; to the Committee on Small Business.

By Mr. ROBB:

S. 2484. A bill to authorize the award of the Purple Heart to persons who were prisoners of war on or before April 25, 1962; to the Committee on Armed Services.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 2485. A bill to amend the Federal Aviation Administration Authorization Act of 1994 to delay the effective date of trucking deregulation for 1 year; to the Committee on Commerce, Science, and Transportation.

By Mr. KOHL (for himself and Mr. CHAFEE):

S. 2486. A bill to amend the Internal Revenue Code of 1986 to extend the deduction for health insurance costs of self-employed individuals, to increase the taxes on tobacco products, and for other purposes; to the Committee on Finance.

By Mr. CAMPBELL (for himself, Mr. INOUYE, and Mr. MCCAIN) (by request):

S. 2487. A bill to improve the economic conditions and supply of housing in Native American communities by creating the Native American Financial Services Organization, and for other purposes; to the Committee on Indian Affairs.

By Mr. DECONCINI:

S. 2488. To amend chapter 11 of title 35, United States Code, to provide for early publication of patent applications, to amend chapter 14 of such title to provide provisional rights for the period of time between early publication and patent grant, and to amend chapter 10 of such title to provide a prior art effect for published applications; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. HATCH, Mr. AKAKA, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BRADLEY, Mr. BREAUX, Mr. BRYAN, Mr. BUMPERS, Mr. CAMPBELL, Mr. CHAFEE, Mr. D'AMATO, Mr. DASCHLE, Mr. DECONCINI, Mr. DODD, Mr. DURENBERGER, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GLENN, Mr. GRAHAM, Mr. HARKIN, Mr. HATFIELD, Mr. INOUYE, Mr. JEFFORDS, Mr. KERRY, Mr. KOHL, Mr. LEAHY, Mr. LIEBERMAN, Mr. MACK, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MITCHELL, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mrs. MURRAY, Mr. PACKWOOD, Mr. PELL, Mr. PRYOR, Mr. REID, Mr. RIEGLE, Mr. ROBB, Mr. SARBANES, Mr. SIMON, Mr. SPECTER, Mr. WELLSTONE, and Mr. WOFFORD):

S. 2489. A bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. PRESSLER:

S. 2490. A bill to amend the Federal Water Pollution Control Act to establish a comprehensive program for conserving and managing wetlands and waters of the United States, and for other purposes; to the Committee on Environment and Public Works.

By Mrs. FEINSTEIN:

S. 2491. A bill to amend the Defense Authorization Amendments and Defense Base Closure and Realignment Act and the Defense Base Closure and Realignment Act of 1990 to improve the base closure process, and for other purposes; to the Committee on Armed Services.

By Mr. CONRAD (for himself, Mr. SIMON, Mr. FEINGOLD, Mr. HARKIN, and Mr. DORGAN):

S.J. Res. 226. A joint resolution providing for the temporary extension of the application of the final paragraph of section 10 of the Railway Labor Act with respect to the dispute between the Soo Line Railroad Company and certain of its employees; to the Committee on Labor and Human Resources.

By Mr. FORD (for himself and Mr. STEVENS):

S.J. Res. 227. A joint resolution to approve the location of a Thomas Paine Memorial; considered and passed.

By Mr. SARBANES (for himself and Mr. BRYAN):

S.J. Res. 228. A joint resolution designating October 29, 1994, as "National Firefighters Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SIMON:

S. Con. Res. 75. A concurrent resolution expressing the sense of the Congress regarding the commonwealth option presented in the Puerto Rican plebiscite of November 14, 1993; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FORD:

S. 2481. A bill to provide for the appointment of one additional Federal district judge for the western district of Kentucky, and for other purposes; to the Committee on the Judiciary.

THE KENTUCKY JUDGESHIP ACT OF 1994

Mr. FORD. Mr. President, I rise today to introduce legislation to correct a longstanding problem in my State of Kentucky. There is an old expression that goes, "justice delayed is justice denied." Well many in Kentucky are being denied justice and if it weren't for an extremely hardworking and dedicated judiciary, many more would feel the same.

The situation is nothing short of critical. For several reasons Kentucky is in a unique situation. It has what is known as a swing judgeship. That means a judge is shared between two districts. In this case it is the eastern and western districts. Being largely a rural State, the communities that hold court are usually a long way from each other and the only means of travel is by car over bad roads that wind through the mountains.

This situation is far more troubling than many of my colleagues from other areas of the country may realize. Long trips by judges after hours or before court take up a significant amount of time—time a judge would normally spend hearing cases. In fact, without the difficult travel requirements, I probably wouldn't be introducing this legislation today.

Juries also travel great distances. This results in jurors who would rather deliberate late into the evening—sometimes into the early morning—in order to avoid travel home and back for additional days of deliberations. This poses still further hardships on the judges who are then forced to stay up late and then travel to court in the next jurisdiction the very next day.

New gun control legislation has dramatically affected cases in Kentucky. Many times a more routine drug bust or other arrest turns into a time-consuming and difficult case because of the presence of the firearm. The practical effect of this has been a large increase in long cases that tie up the judges keeping them from getting to other matters on their dockets. Civil cases in many instances have been held to a stand still.

The swing judgeship adds just that much more to the problem. Swing judgeships are a thing of the past and as well they should be. Many of my colleagues may not be familiar with them, only two other States, Oklahoma and Missouri, have swing judgeships. In Kentucky's case, the judge must commute between a far eastern part of the State to courthouses well into the western half of the State. Unfortunately, the closest western courthouse is 3 hours from the base eastern court, with the farthest 6 hours away. As you can imagine, this is a major hardship. We can help. The legislation that I am introducing today will increase each district in Kentucky by one half judgeship. It does this by making the swing judgeship into a full-time eastern judgeship and by granting the western district a new permanent judgeship.

I say to my colleagues, Kentucky needs this help. It is supported by Kentucky's judiciary and by the facts. I ask for your support and I thank you for your time.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL FEDERAL DISTRICT JUDGE FOR THE WESTERN DISTRICT OF KENTUCKY.

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the western district of Kentucky.

(b) EASTERN DISTRICT.—The district judgeship for the eastern and western districts of Kentucky (as in effect before the date of the enactment of this Act) shall be a district judgeship for the eastern district of Kentucky only, and the incumbent of such judgeship shall hold his office under section 133 of title 28, United States Code, as amended by this section."

(c) TABLES.—In order that the table contained in section 133 of title 28, United States Code, shall reflect the change in the total number of permanent district judgeships authorized under this section, such table is amended by amending the item relating to Kentucky to read as follows:

"Kentucky:
"Eastern 5
"Western .... 5".

By Mr. WOFFORD:

S. 2482. A bill to provide for the restoration of Washington Square in Philadelphia, PA, and for the inclusion of Washington Square within Independence National Historical park, and for other purposes; to the Committee on Energy and Natural Resources.

THE RESTORATION OF WASHINGTON SQUARE ACT OF 1994

• Mr. WOFFORD. Mr. President, over 218 years ago, our Founding Fathers inscribed the principles of liberty, justice, and equality in our society at Independence Hall in Philadelphia. And since that time, Independence Hall has been a symbol of not only the birth of our country, but its survival and prosperity. In 1948, Congress recognized the historical significance of the hall with an act "to preserve for the benefit of the American people * * * certain historical structures and properties of outstanding significance * * * associated with the American Revolution and the founding and growth of the United States."

And Americans have benefited from Independence National Historical Park. Millions of us, and visitors from around the world, have visited the park's buildings and historical sites to see the physical reminders of the beginnings of our Nation and to get a glimpse of what it might have been like had we been in Philadelphia on July 4, 1776.

However, the glory of the Revolutionary War is only half the story. Thousands of American soldiers and citizens lost their lives during the fierce battles. Washington Square, across from 6th Street and the park, is a testament to some who died during this first tumultuous period in our history. The square is the final resting place of over 2,000 war dead and home to the Tomb of the Unknown Soldier of the Revolutionary War.

Although both Independence Park and Washington Square have a rich history to tell, they are presented in different ways. Visitors to Independence Park stroll down finely groomed walkways—the same visitors walk across the street to Washington Square and must traverse dangerous and broken flagstone paths. Furthermore, just before this year's July 4th celebration at the park, the eternal flame honoring the lost soldiers stopped functioning because the aging system designed to support it failed.

Arlington National Cemetery in Washington is home to the Tombs of the Unknown Soldier for every major American war, except the Revolutionary War. I am very concerned that the brave soldiers buried at Washington Square do not receive the same treatment as those at Arlington. For these reasons, I am introducing a bill today to provide for the restoration of Washington Square and for the inclusion of the historic square within the Independence National Historic park.

I hope this bill, and the bill Representative FOGLIETTA has introduced in the House of Representatives, will preserve Washington Square and give millions more visitors an opportunity to understand and appreciate what these American patriots did for our country. They deserve no less.•

By Mrs. HUTCHISON (for herself and Mr. HEFLIN):

S. 2483. A bill to amend the Small Business Act, and for other purposes; to the Committee on Small Business.

THE MINORITY SMALL BUSINESS PRESERVATION ACT OF 1994

• Mrs. HUTCHISON. Mr. President, I am pleased to introduce the Minority Small Business Preservation Act of 1994, legislation to assist minority small business owners who benefit from the Small Business Act, section 8(a) program, in developing to their fullest potential.

One of the many benefits of our great society is the opportunity to own and operate a private business. As a former small business owner, I know firsthand the challenges and rewards of business ownership and I strongly applaud the entrepreneurial spirit.

The 8(a) program was established to assist small disadvantaged businesses in overcoming the effects of discrimination and developing the ability to compete in the marketplace. In one important way, the program has fallen short in meeting its purpose.

A number of studies conducted by the Senate, the General Accounting Office, the U.S. Commission on Minority Business Development and the Small Business Administration have made it clear that one of the most compelling problems with the 8(a) program, and the area most in need of improvement, is its inordinately high business failure rate among graduated 8(a) program firms. If businesses fail after leaving the program, the program has failed to accomplish its mission. These studies suggest that different kinds of businesses need varying lengths of participation in the 8(a) program in order to maintain viability. The program currently has a maximum participation of 9 years, without regard to the development or capital requirements of a particular type of business or industry. In other words, it is a one-size-fits-all limit that does not work.

One of the purposes of the 8(a) program is to help ensure that graduate firms continue as viable minority businesses, functioning and contributing as constructive parts of a diversified U.S. economy.

One way to accomplish this goal is to make the program fit the participants. Since the Small Business Administration uses a system based on the Standard Industrial Classification [SIC] codes to determine if a business is small, it stands to reason that the SIC codes should not be used to determine the length of program participation.

Therefore, it makes sense to suspend graduations from the program until a more suitable participation limit can be identified and applied to the different kinds of enterprises enrolled in the program.

In its 1992 final report, the U.S. Commission on Minority Business Development sums it up very well:

> The Commission finds it questionable to conclude that all firms, in all industries, under all circumstances need exactly nine years of nurturing to counteract the perils of the marketplace and the effects of ethnic and racial discrimination. There is presently no method to determine length of participation in the 8(a) Program that is based on the developmental needs of individual firms.

It is my intent to secure congressional support for a temporary suspension of graduation from the 8(a) program so that highly technical and capital-intensive businesses are not forced out, while reasonable participation periods are being established to reflect specific objective business needs.

Minority business development programs are not social programs; they are investments in America's economic system and in its future. This bill is a step toward protecting that investment and I urge my colleagues to cosponsor and support it.•

• Mr. HEFLIN. Mr. President, the Small Business Administration's 8(a) program has a maximum participation period of 9 years, regardless of whether a particular type of business may require extensive startup time or is capital intensive. If the objective of the program is to assist a minority-owned company to develop to the point where it has the skills and infrastructure necessary to thrive in the mainstream economy, then it is essential that we consider suspending graduations from the program while participation periods for capital intensive industries are redetermined. Too many capital intensive 8(a) companies are graduating after 9 years into oblivion.

In 1988, Congress enacted the Business Opportunity Development Act (P.L. 100–656) which increased the 8(a) participation period from 7 to 9 years. Congress also established the U.S. Commission on Minority Business Development and directed it to:

> * * *review and assess * * * the appropriate maximum term for program participation; such evaluation shall take into account relevant industry data, the development cycles of particular industries, and the financial, managerial and technological needs of such concerns to become competitive; a study shall be conducted relating to the fixed program term allowed under statute and the advisability of adopting alternative terms based on Standard Industrial Codes or other economic indices. Reform Act, Section 505(b).

In 1992, the Commission on Minority Business Development, established under Public Law 100–656, determined that businesses in capital intensive industries need up to 14 years, not 9 to properly develop under the 8(a) program. The Commission spoke emphatically and at length on this issue.

> Based on all the evidence we have received, the Commission recommends that program participation terms be approved on the basis of four-digit SIC Codes. We believe that such terms can vary from as low as seven years to a maximum of fourteen years, depending upon the industry in which the firm is engaged. Preliminarily, the Commission views manufacturing firms, and concerns engaged in high-tech or capital intensive industries, as generally requiring more time to develop because of the economic concentration in such areas and other significant market entrance barriers.
>
> * * * For example, it should take no longer than seven years to determine whether a specialty contractor * * * has the potential to succeed, while a developer/heavy construction general contractor may take nearly twice as long.
>
> The Commission realizes that the recommendation presents an extremely difficult challenge. However, we have concluded that such an effort is essential if the program is to be true to its stated purpose of economic development. In no event, however, do we condone the practice of setting a fixed term based on an exchange of political volleys or the search for simplistic administrative solutions.

Therefore, it is my belief that Congress should implement the Commission's recommendations by enacting legislation directing the SBA to issue regulations that would establish participation periods based on an industry's specific requirements. Congress should also temporarily suspend graduation from the 8(a) program pending the establishment of these specific participation periods for individual industries. The suspension is critical for capital intensive firms that are now in the 8(a) program but need the additional time to build their capital base. I urge my colleagues to join with me in passing S. 2483 before the end of this legislative session.●

By Mr. ROBB:

S. 2484. A bill to authorize the award of the Purple Heart to persons who were prisoners of war on or before April 25, 1962; to the Committee on Armed Services.

THE PURPLE HEART ACT OF 1994

● Mr. ROBB. Mr. President, I introduce legislation which will correct an inequity that unfairly denies due recognition to some of America's worthiest veterans.

Specifically, this bill would entitle prisoners of war from World War I, World War II, and Korea to receive the Purple Heart Medal for wounds which were sustained while being captured or while in captivity. Under current law these veterans are denied this award despite the fact that veterans of subsequent wars and engagements are entitled to the medal.

I'd like to share a story which will help to dramatize this oversight.

Fifty years ago this past July, on a warm summer afternoon 25,000 feet above a rural village near Budapest, Hungary, a 20-year-old Army Air Corps gunner by the name of John Vecchiola, on his 44th mission in the ball turret of a B-17, endured one of the most terrifying experiences any of us could imagine.

While involved in a bombing run on an enemy airbase, his B-17 sustained a direct hit by anti-aircraft guns which peppered the plane and crew with fragments of bomb and sheet metal. Within seconds, the entire tail section had separated from the plane and sent the aircraft and surviving crewmembers plummeting to Earth.

Miraculously, five members of the 10-man crew—including a wounded John Vecchiola—survived the ordeal, parachuting into the newly plowed cornfields along the Danube River.

Hobbling to safety, John managed to elude the enemy search party which was combing the area for the fallen Americans.

Using this time to dress his wounds and gather his thoughts, John had hopes of making his way to a Budapest hotel known as a safehouse for the Hungarian underground. From there he would be smuggled out of the country and back to Allied forces; unfortunately, John was captured before he could find that underground contact.

It was as much rumor, as it was commonly understood among Allied forces, that those prisoners who were physically unable to make the long march back to local prison camps, were shot on site. While reports varied widely depending on the source, John Vecchiola was taking no chances. He had hopes of seeing his family and fellow soldiers again. Perhaps, he thought, he'd be healthy enough to escape within a few weeks. Rather than risk being shot to death on the spot, John sought no medical attention from his captors, and did his best to ignore his pain.

He and other allied prisoners were marched several miles and then placed upon railcars and transferred to permanent prison camps in Poland. Once in prison camp, John was assisted by an allied physician who helped him clean and dress his wound. Within several months, John's wounds were well on the way to being fully healed.

Some 337 days later, on April 15, 1945, while his captors were marching the prisoners away from an advancing allied line, a starved and feeble John Vecciola—at the time weighing only 92 pounds—escaped from the column and was subsequently rescued by British troops with the 11th Armored Division.

In recognition of the pain, suffering, and hardships like those suffered by John Vecciola, President John F. Kennedy, by Executive order on April 25, 1962, authorized the award of the Purple Heart to POW's for wounds and injuries received during capture or while in captivity.

However, despite years of urging by various veterans organizations and Members of Congress, the Department of Defense has declined to apply the 1962 criteria to prisoners of war held prior to the date the Executive order was signed.

Therefore, despite the wounds he suffered, the starvation and maltreatment he endured, and despite the fact that veterans from Vietnam, Grenada, Beirut, Kuwait, and Somalia would all have been entitled to a Purple Heart Medal for similar action, John Vecciola is not. This is wrong.

Mr. President, as a Vietnam veteran who has had the privilege of leading marines in combat, and as a member of the Senate's Select Committee on POW/MIA Affairs, I am acutely aware of the hardships endured by service personnel who have been captured by hostile military forces. All of these servicemen have suffered mental and physical abuse, and many were tortured, beaten, and starved while in confinement.

While we might debate how best to recognize their sacrifice and hardship, one thing is abundantly clear: We should not differentiate between prisoners of war based solely on the date of the war in which they were captured.

Mr. President, our prisoners of war from World War I, World War II, and Korea suffered various wounds and innumerable atrocities at the hands of their captors. Many continue to suffer from physical difficulties associated with their capture and confinement. The Purple Heart Medal would serve to put their service and sacrifice on par with the veterans of other wars, and will remind Americans of their sacrifices. It seems a fitting and overdue recognition.

Mr. President, I ask unanimous consent that the text of the bill and the supporting letters and resolutions of the Military Order of the Purple Heart, the Disabled American Veterans, the Jewish War Veterans of the United States, AmVets, and the Vietnam Veterans of America be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2484

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO AWARD PURPLE HEART.

(a) AUTHORITY TO MAKE AWARD.—(1) Subject to paragraph (2), the President may award the Purple Heart to a person described in subsection (b) who was taken prisoner and held captive before April 25, 1962.

(2)(A) Except as provided in subparagraph (B), an award of the Purple Heart under paragraph (1) may be made only in accordance with the standards in effect on the date of the enactment of this Act for the award of the Purple Heart to a person described in subsection (b) who has been taken prisoner and held captive on or after April 25, 1962.

(B) An award of a Purple Heart may not be made under paragraph (1) to any person convicted by a court of competent jurisdiction of rendering assistance to any enemy of the United States

(b) ELIGIBLE PERSONS.—(1) A person referred to in subsection (a) is an individual—

(A) who is a member of the Armed Forces of the United States; and

(B) who is wounded while being taken prisoner or held captive—

(i) in an action against an enemy of the United States;

(ii) in military operations involving conflict with an opposing foreign force;

(iii) during service with friendly forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party;

(iv) as the result of an action of any such enemy or opposing armed force; or

(v) as the result of an act of any foreign hostile force.

(2) Any wound of a person referred to in paragraph (1)(A) that is determined by the Secretary of Veterans Affairs to be a service-connected injury arising from being taken prisoner or held captive under a circumstance referred to in paragraph (1)(B) shall also meet the requirement set forth in paragraph (1)(B).

(c) RELATIONSHIP TO OTHER AUTHORITY TO AWARD THE PURPLE HEART.—The authority under this Act is in addition to any other authority of the President to award the Purple Heart.

MILITARY ORDER OF THE PURPLE HEART

RESOLUTION NO. 94-038

Committee: Legislative Service.

Committee action: Approve: By Resolutions Committee, August 10, 1994.

Re: To authorize the award of the Purple Heart to persons who were prisoners of war on or before April 25, 1962.

Whereas: Current law provides for the award of the Purple Heart Medal to POW's under certain circumstances, who were captured on or after April 25, 1962; and

Whereas: Senator Robb of Virginia has proposed a bill to award the Purple Heart Medal to POWs captured prior to April 25, 1962; and

Whereas: Presidents Kennedy and Reagan have issued Executive Orders allowing for the award of the Purple Heart Medal to civilians wounded under certain circumstances to include terrorists attacks; now, therefore be it

Resolved: That the Military Order of the Purple Heart support legislation proposed by Senator Robb, which is attached to this resolution; and be it further

Resolved: That the Military Order of the Purple Heart of the United States of America seek legislation, to negate the award of the Purple Heart Medal to any civilian under any circumstances; and finally be it

Resolved: That copies of this resolution be forwarded to the 62nd National Convention of the Military Order of the Purple Heart of the United States of America, for adoption by the delegates in assembly at Des Moines, Iowa, August 8th thru August 13th, 1994.

—Submitted by Edmund E. Janiszewski, National Legislative Director, July 14, 1994.

Convention action: Approved by Convention Delegates August 11, 1994.

DISABLED AMERICAN VETERANS NATIONAL SERVICE AND LEGISLATIVE HEADQUARTERS,
Washington, DC., September 6, 1994.

Hon. CHARLES S. ROBB,
Richmond, VA.

DEAR SENATOR ROBB: Thank you for providing us with a copy of your draft bill to authorize the award of the Purple Heart to persons who were prisoners of war on or before April 25, 1962.

This measure has the support of the Disabled American Veterans. The delegates to our 1994 annual National Convention adopted a resolution (copy enclosed) supporting legislation for this purpose, and your draft bill is consistent with that resolution.

We appreciate the changes you made to address our concerns, and we appreciate your efforts on behalf of this deserving group of veterans.

Sincerely,

RICHARD F. SCHULTZ,
National Legislative Director.

NATIONAL INTERIM LEGISLATIVE COMMITTEE RESOLUTION

AUTHORIZE THE PURPLE HEART MEDAL TO FORMER POW'S OF WORLD WAR I, WORLD WAR II, AND THE KOREAN WAR FOR INJURIES RECEIVED DURING CAPTIVITY

Whereas, Title 32, U.S. Code, effective April 25, 1962, authorizes the award of the Purple Heart to prisoners of war for wounds or injuries sustained as a result of beatings and other forms of physical torture while in captivity; and

Whereas, prior to April 25, 1962, the Purple Heart Medal for former prisoners of war was only awarded to those who were wounded or injured in action prior to or at the time of capture or in an attempted or successful escape; and

Whereas, former prisoners of war of World War I, World War II and the Korean War were physically abused, beaten, tortured and placed on forced work details, without concern for their health by enemy guards and hostile civilians; and

Whereas, many of these servicemen, while in captivity, suffered from physical abuse, malnutrition and exhaustion, as well as received wounds and injuries as a result of direct and indirect action at the hands of their captors; now

Therefore, be it resolved that the Disabled American Veterans in National Convention assembled in Chicago, Illinois, August 20–25, 1994, supports the enactment of legislation to provide the same consideration to the award of the Purple Heart Medal to former prisoners of war held captive prior to April 25, 1962, as afforded those captured after that date.

JEWISH WAR VETERANS OF THE UNITED STATES OF AMERICA, INC.,
Washington, DC, August 31, 1994.

Hon. CHARLES S. ROBB,
U.S. Senate,
Washington, DC.

DEAR SENATOR ROBB: I am happy to inform you that JWV supports the bill you recently introduced that authorizes "the award of the Purple Heart to wounded persons who were prisoners of war on or before April 25, 1962."

Given the many physical and psychological injuries that result from being a prisoner of war, the Jewish War Veterans of the United States of America (JWV) feels that wounded US servicemen/women held captive during wartime rightfully deserve to be awarded the Purple Heart.

I remain,

DAVID H. HYMES,
National Commander.

AMVETS,
Lanham, MD, August 25, 1994.

Hon. CHARLES S. ROBB,
U.S. Senate,
Washington, DC.

DEAR SENATOR ROBB: I am writing to express AMVETS' support for your bill to award the Purple Heart to certain military personnel who were taken prisoner before April 25, 1962.

We are pleased that your bill will recognize the sacrifices made by those who suffered at the hands of the enemy, whatever the period of conflict.

I would also like to express AMVETS' opposition to awarding the Purple Heart to civilians who suffer injuries because of terrorist action. While we in no way minimize anyone's suffering, there is a fundamental difference between the responsibilities incumbent upon each service member and their civilian counterparts. That alone justifies the limitation on the eligibility for the award.

Thank you again for working for America's veterans, and we look forward to working with you in the future.

Sincerely,

DONALD M. HEARON,
National Commander.•

By Mr. KOHL (for himself and Mr. CHAFEE):

S. 2486. A bill to amend the Internal Revenue Code of 1986 to extend the deduction for health insurance costs of self-employed individuals, to increase the taxes on tobacco products, and for other purposes; to the Committee on Finance.

INCREASED HEALTH INSURANCE THROUGH THE INCREASE OF TAXES ON TOBACCO

• Mr. KOHL. Mr. President, today I am introducing a bill that is sorely needed by the many hard-working Americans who are self-employed, many of whom are farmers. This bill, which I have developed with my good friend JOHN CHAFEE, extends the 25-percent Federal tax deduction for health insurance that expired last year. Since this deduction cannot be extended without an offset, this bill pays for the deduction with a five-cent increase in the Federal tax on tobacco products.

We have all been working hard to enact health care reform this year, and until this week we held out hope that significant reforms could be enacted this year. We now know that partisan gridlock has stymied the possibility of passing health reform. We therefore need to take the responsible steps necessary to ensure that those who have insurance are not penalized by Congress' failure to act.

Do we want farmers and self-employed people to pay the price for the death of health reform? Of course not. An estimated 12 million Americans are self-employed for part or all of their livelihood, and almost 3 million have no health insurance. Many have a hard enough time affording their coverage. If we don't do the right thing and extend this provision, we will have added to the number of Americans without health insurance, rather than reduced it. Not a good record for a Congress that vowed to bring that number down.

For these reasons, Senator CHAFEE and I have developed this legislation to extend the existing 25 percent deductibility of health insurance for the self-employed for 2 years. While my ultimate goal is raising the deduction to 100 percent, we must first act to maintain the deduction people can use today. When we address comprehensive health care reform, self-employed small business people and farmers should get the same deduction that major corporations receive.

As for the offset we have included in this bill, we are reluctant to make this slight increase in tobacco taxes, but believe that extending this important deduction upon which so many Americans rely is important enough that we can make this change. If we are to extend this deduction, we must pay for it, and this is the most responsible way to do so.

Mr. President, I ask unanimous consent that the full text of the measure be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2486

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. 2-YEAR EXTENSION OF DEDUCTION OF HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(2) EXTENSION.—Section 162(l)(6) of the Internal Revenue Code of 1986 is amended by striking "1993" and inserting "1995".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 2. INCREASE IN TAXES ON TOBACCO PRODUCTS.

(a) IN GENERAL.—

(1) CIGARS.—Subsection (a) of section 5701 of the Internal Revenue Code of 1986 (relating to rate of tax on cigars) is amended—

(A) by striking "$1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 and 1992)" in paragraph (1) and inserting "$1.359 per thousand"; and

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2) LARGE CIGARS.—On cigars weighing more than 3 pounds per thousand, a tax equal to 15.41 percent of the price for which sold but not more than $36.25 per thousand."

(2) CIGARETTES.—Subsection (b) of section 5701 of such Code (relating to rate of tax on cigarettes) is amended—

(A) by striking "$12 per thousand ($10 per thousand on cigarettes removed during 1991 and 1992)" in paragraph (1) and inserting "$14.50 per thousand"; and

(B) by striking "$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 and 1992)" in paragraph (2) and inserting "$30.45 per thousand".

(3) CIGARETTE PAPERS.—Subsection (c) of section 5701 of such Code (relating to rate of tax on cigarette papers) is amended by striking "0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)" and inserting "0.91 cent".

(4) CIGARETTE TUBES.—Subseciton (d) of section 5701 of such Code (relating to rate of tax on cigarette tubes) is amended by striking "1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)" and inserting "1.81 cents".

(5) SNUFF.—Paragraph (1) of section 5701(e) of such Code (relating to rate of tax on smokeless tobacco) is amended by striking "36 cents (30 cents on snuff removed during 1991 or 1992)" and inserting "43.50 cents".

(6) CHEWING TOBACCO.—Paragraph (2) of section 5701(e) of such Code is amended by striking "12 cents (10 cents on chewing tobacco removed during 1991 or 1992)" and inserting "14.5 cents".

(7) PIPE TOBACCO.—Subsection (f) of section 5701 of such Code (relating to rate of tax on pipe tobacco) is amended by striking "67.5 cents (56.25 cents on chewing tobacco removed during 1991 or 1992)" and inserting "81.6 cents".

(b) FLOOR STOCKS.—

(1) IMPOSITION OF TAX.—On cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco manufactured in or imported into the United States which is removed before January 1, 1995, and held on such date for sale by any person, there shall be imposed the following taxes:

(A) SMALL CIGARS.—On cigars, weighing not more than 3 pounds per thousand, 23.4 cents per thousand.

(B) LARGE CIGARS.—On cigars, weighing more than 3 pounds per thousand, a tax equal to 2.66 percent of the price for which sold, but not more than $6.25 per thousand.

(C) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, $2.50 per thousand.

(D) LARGE CIGARETTES.—On cigarettes, weighing more than 3 pounds per thousand, $5.25 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(E) CIGARETTE PAPERS.—On cigarette papers, 0.16 cent for each 50 papers or fractional part thereof; except that, if cigarette papers measure more than 6½ inches in length, they shall be taxable at the rate prescribed, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette paper.

(F) CIGARETTE TUBES.—On cigarette tubes, 0.31 cent for each 50 tubes or fractional part thereof; except that, if cigarette tubes measure more than 6½ inches in length, they shall be taxable at the rate prescribed, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette tube.

(G) SNUFF.—On snuff, 7.5 cents per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(H) CHEWING TOBACCO.—On chewing tobacco, 2.5 cents per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(I) PIPE TOBACCO.—On pipe tobacco, 14.1 cents per pound and a proportionate tax at the like rate on all fractional parts of a pound.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco on January 1, 1995, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be treated as a tax imposed under section 5701 of the Internal Revenue Code of 1986 and shall be due and payable on February 15, 1995, in the same manner as the tax imposed under such section is payable with respect to cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco removed on January 1, 1995.

(3) CIGARS, CIGARETTES, CIGARETTE PAPER, CIGARETTE TUBES, SNUFF, CHEWING TOBACCO, AND PIPE TOBACCO.—For purposes of this subsection, the terms "cigar", "cigarette", "cigarette paper", "cigarette tubes", "snuff", "chewing tobacco", and "pipe tobacco" shall have the meaning given to such terms by subsections (a), (b), (e), and (g), paragraphs (2) and (3) of subsection (n), and subsection (o) of section 5702 of the Internal Revenue Code of 1986, respectively.

(4) EXCEPTION FOR RETAIL STOCKS.—The taxes imposed by paragraph (1) shall not apply to cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco in retail stocks held on January 1, 1995, at the place where intended to be sold at retail.

(5) FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (19 U.S.C. 81a et seq.) or any other provision of law—

(A) cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco—

(i) on which taxes imposed by Federal law are determined, or customs duties are liquidated, by a customs officer pursuant to a request made under the first proviso of section 3(a) of the Act of June 18, 1934 (19 U.S.C. 81c(a)) before January 1, 1995, and

(ii) which are entered into the customs territory of the United States on or after January 1, 1995, from a foreign trade zone, and

(B) cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco which—

(i) are placed under the supervision of a customs officer pursuant to the provisions of the second proviso of section 3(a) of the Act of June 18, 1934 (19 U.S.C. 81c(a)) before January 1, 1995, and

(ii) are entered into the customs territory of the United States on or after January 1, 1995, from a foreign trade zone,

shall be subject to the tax imposed by paragraph (1) and such cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco shall, for purposes of paragraph (1), be treated as being held on January 1, 1995, for sale.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to cigars, cigarettes, cigarette paper, cigarette tubes, snuff, chewing tobacco, and pipe tobacco removed after December 31, 1994.●

● Mr. CHAFEE. Mr. President, I am pleased to join my colleague from Wisconsin today to introduce legislation extending, for 2 years, the 25-percent deduction for health insurance of self-employed individuals. While time is getting late, it is our hope that this legislation can be enacted before the end of the session thereby preserving this provision which is extremely important to the thousands of small business men and women in our country.

This proposal has overwhelming backing in Congress. It was allowed to expire last year only because it was widely anticipated that it would be included as part of this year's health care reform. Indeed, the health care reform proposals put forth by the President, the majority leader, the Republican leader, the Finance Committee, and the mainstream coalition, not only extended this deduction but increased it as well.

Mr. President, one of the goals of reform was to bring the spiraling cost of health care insurance under control. America's small businesses face some of the highest health insurance costs in the Nation, yet unlike large corporations, they receive little assistance from the Federal Government.

Large businesses are able to deduct the full cost of health care provided to their workers. In addition, employees receive a substantial tax break, because this benefit is not included in their taxable income. Yet, unless we enact this bill before the end of this session, small business men and women will receive no such benefit.

This bill is a small step towards addressing this inequity. It continues the 25 percent deduction for the cost of health insurance for self-employed individuals for 2 years. Like the tax treatment of large businesses and their employees, it maintains the status quo with respect to the tax treatment of health care costs.

Mr. President, the country's small business men and women cannot wait until next year. By failing to act now, we are imposing a substantial tax increase on them. If left to next year, it is unlikely that we will be able to act before the due date for filing 1994 returns. Action now is essential, and I urge my colleagues to support this legislation.●

By Mr. CAMPBELL (for himself, Mr. INOUYE, and Mr. MCCAIN) (by request):

S. 2487. A bill to improve the economic conditions and supply of housing in Native American communities by creating the Native American Financial Services Organization, and for other purposes; to the Committee on Indian Affairs.

THE NATIVE AMERICAN FINANCIAL SERVICES ORGANIZATION ACT OF 1994

● Mr. CAMPBELL. Mr. President, today I am introducing the Native

American Financial Services Organization Act of 1994 [NAFSO]. The distinguished Chairman and Vice Chairman of the Indian Affairs Committee, Senators INOUYE and MCCAIN, join me as original cosponsors of the legislation.

While I know that it may be too late to enact this legislation this Congress, it is my hope that we can begin discussion on the measure with the hope that the Congress can act on it early next year.

Mr. President, there is a continued need for assistance to improve Native American, Alaska Native, and Native Hawaiian housing throughout the country. The Bureau of Indian Affairs [BIA] estimated in 1993 that as many as 90,000 Native American families were in need of improved housing. Nearly 50,000 families need new homes, while 40,000 need their homes substantially renovated.

The problems that exist in Indian housing stem from several factors.

First, there is currently little, if any, conventional lending available to Native people seeking to purchase a home. A system for providing mortgages or loans for development is virtually non-existent in Indian country.

Second, many housing authorities lack the expertise to manage, coordinate and maintain a successful program. Currently, there is little guidance to assist housing authorities and Native American governing bodies through the complicated process in bringing together the relevant parties to coordinate the many funding programs throughout the government.

Finally, tribal governments have had to rely on Federal Government grant and loan programs to build streets and roads, to provide water and sewer and other utilities, and to provide basic service facilities. There is no income, commercial, or real estate tax base from which the tribal governments obtain revenue.

Mr. President, based upon the findings of the Commission on American Indian, Alaska Native, and Native Hawaiian Housing, the Native American Financial Services Organization Act of 1994 is an attempt to address the need for private financing of home ownership and economic development on and near reservation lands.

Under the legislation, the Native American Financial Services Organization would establish a limited government-chartered corporation. A Federal grant would capitalize the federally-chartered organization, which would cease to exist upon a designated date. At this point, the charter would become a private corporation.

More specifically, the legislation is designed to:

Help serve the mortgage and other lending needs of Native Americans by providing technical assistance to establish and organize Native American community lending institutions that would be called Native American Financial Institutions [NAFIs]. These lending institutions could be any type of financial institution, including community banks, credit unions, and savings banks, and therefore could provide a wide range of financial services;

Develop and provide financial expertise and technical assistance to the Native American Financial Institutions, including methods of underwriting, securing, servicing, packaging, and selling mortgage and small commercial and consumer loans;

Develop and provide specialized technical assistance on how to overcome barriers to primary mortgage lending on Native American lands, including issues related to trust lands, discrimination, and inapplicability of standard underwriting criteria;

Assist in providing mortgage underwriting assistance (but not originate loans) under contract to the lending institutions; and

Work with Fannie Mae and Freddie Mac, and other participants in the secondary market for residential mortgages in identifying and eliminating barriers to purchase Native American loans.

In short, the Native American Financial Service Organization would help provide financial independence to the Native American community and would begin to address the housing deficiencies by working to attract private capital into the Indian housing market.

Mr. President, I ask that the text of the bill, along with a letter from Secretary Cisneros supporting the legislation, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2487

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Native American Financial Services Organization Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.

TITLE I—STATEMENT OF POLICY; DEFINITIONS

Sec. 101. Policy.
Sec. 102. Statement of purposes.
Sec. 103. Definitions.

TITLE II—NATIVE AMERICAN FINANCIAL SERVICES ORGANIZATION

Sec. 201. Establishment of the organization.
Sec. 202. Authorized assistance and service functions.
Sec. 203. Native american lending services grant.
Sec. 204. Audits.
Sec. 205. Annual housing and economic development reports.
Sec. 206. Advisory council.

TITLE III—CAPITALIZATION OF ORGANIZATION

Sec. 301. Capitalization of the organization.
Sec. 302. Obligations and securities of the organization.
Sec. 303. Limit on total assets and liabilities.

TITLE IV—REGULATION, EXAMINATION, AND REPORTS

Sec. 401. Regulation, examination, and reports—ofheo.
Sec. 402. Regulation of the secretary of hud.

TITLE V—FORMATION OF NEW CORPORATION

Sec. 501. Formation of new corporation.
Sec. 502. Adoption and approval of merger plan.
Sec. 503. Consummation of merger.
Sec. 504. Transition.
Sec. 505. Effect of merger.

TITLE VI—AUTHORIZATIONS OF APPROPRIATIONS

Sec. 601. Authorization of appropriations for native american financial institutions.
Sec. 602. Authorization of appropriations for organization.

TITLE I—STATEMENT OF POLICY; DEFINITIONS

SEC. 101. POLICY.

Based upon the findings and recommendations by the Commission on American Indian, Alaska Native and Native Hawaiian Housing established by Public Law 101-235, the Congress has determined that housing shortages and deplorable living conditions are at crisis proportions in Native American communities throughout the United States. The lack of private capital to finance housing and economic development for Native Americans and Native American communities seriously exacerbates this problem. To begin to address this crisis, it is the policy of the United States to improve the economic conditions and supply of housing in Native American communities throughout the United States by creating the Native American Financial Services Organization. It is anticipated that when the Native American Financial Services Organization is no longer a Congressionally chartered body corporate, it will function as a tribal, state or District of Columbia corporation.

SEC. 102. STATEMENT OF PURPOSES.

The purposes of this Act are—

(1) to help serve the mortgage and other lending needs of Native Americans by assisting in the establishment and organization of Native American Financial Institutions, developing and providing financial expertise and technical assistance to Native American Financial Institutions, including assistance on how to overcome barriers to lending on Native American lands, and the past and present impact of discrimination;

(2) to promote access to mortgage credit in Native American communities in the Nation by increasing the liquidity of financing for housing and improving the distribution of investment capital available for such financing, primarily through Native American Financial Institutions;

(3) to promote the infusion of public capital into Native American communities throughout the United States and to direct sources of public and private capital into housing and economic development for Native American individuals and families, primarily through Native American Financial Institutions; and

(4) to provide ongoing assistance to the secondary market for residential mortgages and economic development loans for Native American individuals and families, Native American Financial Institutions, and other

borrowers by increasing the liquidity of such investments and improving the distribution of investment capital available for such financing.

SEC. 103. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) The term "Alaska Native" means any person recognized as an Alaska Native by the Federal Government.

(2) The term "Board of Directors" means the board of directors of the Organization.

(3) The term "Chairperson" means the chairperson of the Board of Directors.

(4) The term "designated merger date" means the specific calendar date and time of day designated by the Board of Directors under section 502(b).

(5) The term "Fund" means the Community Development Financial Institutions Fund established by the Community Development Banking and Financial Institutions Act of 1994.

(6) The term "Indian Tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(7) The term "merger plan" means the plan of merger adopted by the Board of Directors according the section 502(a).

(8) The term "Native American" means any member of an Indian Tribe.(i) The term "Native American Financial Institution" means a person (other than an individual) that—

(A) qualifies as a "community development financial institution" under the Community Development Banking and Financial Institutions Act of 1994;

(B) satisfies the requirements established by the Community Development Banking and Financial Institutions Act of 1994 and the Fund for applicants for assistance from the Fund;

(C) demonstrates a special interest and expertise in serving the primary economic development and mortgage lending needs of the Native American community; and

(D) demonstrates that it has the endorsement of the Native American community it intends to serve.

(9) The term "Native American lender" means a Native American Financial Institution, Native American governing body, Native American housing authority or other Native American financial institution which acts as a primary mortgage or economic development lender in a Native American community.

(10) The term "new corporation" means the corporation formed according to section 501.

(11) The term "nonqualifying mortgage loan" means a mortgage loan deemed by the Organization to be of such quality, type, class or principal amount as to not meet the purchase standards of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation in effect on September 30, 1994.

(12) The term "Organization" means the Native American Financial Services Organization.

(13) The term "qualifying mortgage loan" means a mortgage loan deemed by the Organization to be of such quality, type, class or principal amount as to meet the purchase standards of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation in effect on September 30, 1994.

(14) The term "transition period" means the period of time between the approval of the merger plan by both the Secretary of Housing and Urban Development and the Secretary of the Treasury and the designated merger date.

TITLE II—NATIVE AMERICAN FINANCIAL SERVICES ORGANIZATION

SEC. 201. ESTABLISHMENT OF THE ORGANIZATION.

(a) CREATION; BOARD OF DIRECTORS; POLICIES; PRINCIPAL OFFICE; MEMBERSHIP; VACANCIES.—

(1) There is established and chartered a body corporate to be known as the Native American Financial Services Organization ("Organization"). The Organization shall have existence as a Congressionally chartered body corporate until the designated merger date, at which time its charter shall terminate, unless such charter is earlier surrendered by the Organization. The right to revise, amend or modify the Organization charter is specifically and exclusively reserved to the Congress.

(2) The powers of the Organization shall be vested in a Board of Directors. The Board of Directors shall determine the policies that govern the operations and management of the Organization. The principal office of the Organization shall be in the District of Columbia. For purposes of venue, Organization shall be considered a resident of the District of Columbia.

(3)(A) The Board of Directors of the Organization shall consist of nine persons, three of whom shall be appointed by the President of the United States to serve at the President's pleasure and six of whom shall be elected by the class A stockholders, all in accordance with the bylaws of the Organization. If class B stock is issued under section 301(b), the Board of Directors shall consist of 13 persons, and the four additional members shall be elected by the class B stockholders in accordance with the bylaws of the Organization. Each member of the Board of Directors shall be elected or appointed for a term of four years, except that the members of the initial Board of Directors shall have the following terms: of the three members appointed by the President, one will have a two-year term, one will have a three-year term, and one will have a four-year term, all as designated by the President at the time of their appointments; of the six members elected by the class A stockholders, two will have two-year terms, two will have three-year terms, and the remaining two will have four- year terms; and if class B stock is issued and four additional members are elected by the class B stockholders, one will have a two-year term, one will have a three-year term, and the remaining two will have four-year terms. All members appointed by the President shall have expertise in one or more of the following areas: Native American housing and economic development programs, financing in Native American communities, Native American governing bodies and court systems, restricted and trust land issues, economic development, and small consumer loans.

(B) The Board of Directors shall select a Chairperson from among its members, except that the initial Chairperson shall be selected from among the members of the initial Board of Directors who have been appointed or elected to four-year terms.

(C)(i) Any appointed directorship that becomes vacant shall be filled by appointment by the President of the United States, but only for the unexpired portion of the term.

(ii) Any elected directorship that becomes vacant shall be filled by appointment by the Board of Directors, but only for the unexpired portion of the term.

(D) Any member of the Board of Directors may continue to serve after the expiration of the term of office to which the director was appointed or elected until a successor has been appointed or elected, and qualified.

(b) POWERS OF THE ORGANIZATION.—The Organization shall have power—

(1) to adopt, alter, and use a corporate seal;

(2) to adopt bylaws, consistent with this Act, regulating, among other things, the manner in which—

(A) the business of the Organization shall be conducted;

(B) the elected directors of the Organization shall be elected;

(C) the stock of the Organization shall be issued, held, and disposed of;

(D) the property of the Organization shall be disposed of; and,

(E) the powers and privileges granted to the Organization by this Act and other law shall be exercised and enjoyed;

(3) to make and perform contracts, agreements, and commitments, including entering into a cooperative agreement with the Fund;

(4) to prescribe and impose fees and charges for services provided by the Organization;

(5) to settle, adjust, and compromise, and with or without consideration or benefit to the Organization to release or waive in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the Organization, provided that such settlement, adjustment, compromise, release or waiver shall not be adverse to the interests of the United States;

(6) to sue and be sued, complain and defend, in any tribal, State, Federal, or other court;

(7) to acquire, take, hold, and own, and to deal with and dispose of any property;

(8) to determine its necessary expenditures and the manner in which the same shall be incurred, allowed, and paid, and appoint, employ, and fix and provide for the compensation and benefits of officers, employees, attorneys, and agents as the Board of Directors determines reasonable and not inconsistent with the provisions this section;

(9) to incorporate a new corporation under State, District of Columbia or tribal law, as provided in section 501;

(10) to adopt a plan of merger, as provided in section 502;

(11) to consummate the merger of the Organization into the new corporation, as provided in section 503; and

(12) to have succession until the designated merger date or any earlier date on which the Organization surrenders its Federal charter.

(c) INVESTMENT OF FUNDS; DESIGNATION AS DEPOSITARY, CUSTODIAN, OR AGENT FOR ORGANIZATION OF ANY FEDERAL RESERVE BANK, FEDERAL HOME LOAN BANK, OR ANY BANK DESIGNATED AS DEPOSITARY OF PUBLIC MONEY.—Moneys of the Organization not required to meet current operating expenses shall be invested in obligations of, or obligations guaranteed by, the United States or any agency thereof, or in obligations, participations or other instruments that are lawful investments for fiduciary, trust or public funds. Any Federal Reserve bank or Federal home loan bank, or any bank as to which at the time of its designation by the Organization there is outstanding a designation by the Secretary of the Treasury as a general or other depositary of public money, may be designated by the Organization as a depositary or custodian or as a fiscal or other agent of the Organization, and is hereby authorized to act as such depositary, custodian, or agent.

(d) Actions By and Against the Organization; Jurisdiction; Removal of Actions; Attachment or Execution Issued Against the Organization.—Notwithstanding section 1349 of title 28 of the United States Code or any other provision of law—

(1) the Organization shall be deemed to be an agency included in sections 1345 and 1442 of such title 28;

(2) all civil actions to which the Organization is a party shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of all such actions, without regard to amount or value; and

(3) any civil or other action, case or controversy in a tribal court, court of a State, or in any court other than a district court of the United States, to which the Organization is a party may at any time before the trial thereof be removed by the Organization, without the giving of any bond or security, to the district court of the United States for the district and division embracing the place where the same is pending, or, if there is no such district court, to the district court of the United States for the District of Columbia, by following any procedure for removal of causes in effect at the time of that removal.

SEC. 202. AUTHORIZED ASSISTANCE AND SERVICE FUNCTIONS.

(a) Technical Assistance and Services.—The Organization is authorized to—

(1) assist the Fund in the establishment and organization of Native American Financial Institutions;

(2) assist the Fund in developing and providing financial expertise and technical assistance to Native American Financial Institutions, including methods of underwriting, securing, servicing, packaging, and selling mortgage and small commercial and consumer loans;

(3) develop and provide specialized technical assistance on how to overcome barriers to primary mortgage lending on Native American lands, including issues related to trust lands, discrimination, high operating costs, and inapplicability of standard underwriting criteria;

(4) assist the Fund in providing mortgage underwriting assistance (but not originate loans) under contract to Native American Financial Institutions;

(5) work with the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and other participants in the secondary market for home mortgage instruments in identifying and eliminating barriers to their purchase of Native American mortgage loans originated by Native American Financial Institutions and other lenders in Native American communities;

(6) obtain capital investments in the Organization from Indian tribes, Native American organizations, and others ;

(7) assist the Fund in its operation as an information clearinghouse, providing information on financial practices to Native American Financial Institutions; and

(8) assist the Fund in monitoring and reporting to the Congress on the performance of Native American Financial Institutions in meeting the economic development and housing credit needs of Native Americans.

(b) Purchases and Sales of Mortgages and Mortgage-Backed Securities.—In the event that the Secretary of Housing and Urban Development determines that the combined purchases by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation of residential one to four family Native American nonqualifying mortgage loans originated by Native American Financial Institutions and other lenders—

(1) in the second year following the establishment of the Organization total less than $20,000,000, unless it can be demonstrated to the Secretary of Housing and Urban Development that such purchase goal could not be met; or

(2) in any succeeding year, total less than that amount which the Secretary of Housing and Urban Development has determined and published as a reasonable Native American mortgage purchase goal for such combined purchases by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation in such year; the Organization shall thereafter be permitted to make such purchases. In determining such goal, the Secretary shall take into account the Fund's study of Native American lending and investment required by the Community Development Banking and Financial Institutions Act of 1994. The Organization, upon receiving written confirmation from the Secretary of Housing and Urban Development, is thereafter authorized, without restriction as to time, to—

(A) with respect to residential mortgage loans originated by Native American Financial Institutions which are qualifying mortgage loans—

(i) purchase such qualifying mortgage loans;

(ii) hold such qualifying mortgage loans for a period of time not to exceed 12 months; and

(iii) resell such qualifying mortgage loans to the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or other secondary market participants, as provided in section 303(b);

(B) with respect to residential mortgage loans originated by the Native American Financial Institutions which are nonqualifying mortgage loans—

(i) purchase such nonqualifying mortgage loans from the Native American Financial Institutions for such term as the Organization deems appropriate including the life of the mortgage loan, provided that—

(I) the Organization has reasonable assurance that the loan will be repaid within the time agreed;

(II) the Native American Financial Institution selling the loan retains a participation of not less than 10 per centum in the mortgage;

(III) the Native American Financial Institution selling the loan agrees for such period of time and under such circumstances as the Organization may require, to repurchase or replace the mortgage upon demand of the Organization in the event that the loan is in default; or

(IV) that portion of the outstanding principal balance of the loan which exceeds 80 per centum of the value of the property securing such loan is guaranteed or insured by a qualified insurer as determined by the Organization;

(ii) issue mortgage-backed securities or other forms of participations based on pools of such nonqualifying mortgage loans, as provided in section 303(c);

(C) to purchase, service, sell, lend on the security of, and otherwise deal in—

(i) residential mortgages that are secured by a subordinate lien against a one- or four-family residence that is the principal residence of the mortgagor; and

(ii) residential mortgages that are secured by a subordinate lien against a property comprising five or more family dwelling units; and

(D) Rights and remedies of the Organization, including without limitation on the generality of the foregoing any rights and remedies of the Organization on, under, or with respect to any mortgage or any obligation secured thereby, shall be immune from impairment, limitation, or restriction by or under—

(i) any law (except laws enacted by the Congress expressly in limitation of this sentence) which becomes effective after the acquisition by the Organization of the subject or property on, under, or with respect to which such right or remedy arises or exists or would so arise or exist in the absence of such law; or

(ii) any administrative or other action which becomes effective after such acquisition. The Organization is authorized to conduct its business without regard to any qualification or similar statute in the District of Columbia, or any State or tribal jurisdiction.

SEC. 203. NATIVE AMERICAN LENDING SERVICES GRANT.

To the extent funds are available as provided in section 602, and the Fund and the Organization enter into a cooperative agreement for the Organization to provide technical assistance and other services to Native American Financial Institutions, such agreement shall provide that the initial grant payment, anticipated to be $5,000,000, shall be made when the initial Organization Board of Directors takes office. The payment of the balance of $5,000,000 shall be made to the Organization not later than one year from the date of the initial grant payment.

SEC. 204. AUDITS.

(a) Independent Audits.—

(1) The Organization shall have an annual independent audit made of its financial statements by an independent public accountant in accordance with generally accepted auditing standards.

(2) In conducting an audit under this subsection, the independent public accountant shall determine and report on whether the financial statements of the Organization—

(A) are presented fairly in accordance with generally accepted accounting principles; and

(B) to the extent determined necessary by the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development, comply with any disclosure requirements imposed under section 401.

(b) GAO Audits.—

(1) Beginning after the first two years of the Organization's operation, unless earlier required by any other statute, grant or agreement, the programs, activities, receipts, expenditures, and financial transactions of the Organization shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General.

(2) To carry out this subsection, the representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files and all other papers, things, or property belonging to or in use by the Organization and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with

the balances or securities held by depositaries, fiscal agents, and custodians. The representatives of the General Accounting Office shall also have access, upon request to the Organization or any auditor for an audit of the Organization under subsection (a), to any books, accounts, financial records, reports, files, or other papers, things, or property belonging to or in use by the Organization and used in any such audit and to any papers, records, files, and reports of the auditor used in such an audit.

(3) A report on each such audit shall be made by the Comptroller General to the Congress.

(4) The Organization shall reimburse the General Accounting Office for the full cost of any such audit as billed therefor by the Comptroller General.

SEC. 205. ANNUAL HOUSING AND ECONOMIC DEVELOPMENT REPORTS.

The Organization shall collect, maintain, and provide to the Secretary of Housing and Urban Development, in a form determined by the Secretary, such data relating to its mortgages on housing consisting of one to four dwelling units and of more than four dwelling units and to its activities relating to economic development as the Secretary deems appropriate.

SEC. 206. ADVISORY COUNCIL.

(a) ESTABLISHMENT.—The Board of Directors shall establish an Advisory Council.

(b) MEMBERSHIP.—The Advisory Council shall consist of 13 members, 1 representative from each of the 12 districts established by the Bureau of Indian Affairs and one from Hawaii. Each member shall be appointed by the Board of Directors. No fewer than six of the members of the Advisory Council shall have financial expertise. No fewer than nine of the Advisory Council shall be Native Americans. Each member shall be appointed for a term of four years; except that the initial council shall be appointed as follows: four members will have a two-year term, four members will have a three-year term, and the remaining five members will have a four-year term, all as designated by the Board of Directors at the time of their appointments.

(c) DUTIES.—The Advisory Council shall advise the Board of Directors on all policy matters of the Organization. Through the regional representation of its members, the Council shall provide information to the Board from all sectors of the Native American community.

TITLE III—CAPITALIZATION OF ORGANIZATION

SEC. 301. CAPITALIZATION OF THE ORGANIZATION.

(a) CLASS A STOCK.—The class A stock of the Organization shall be issued to Indian Tribes. The allocation shall be by population as determined by the Secretary of Housing and Urban Development in consultation with the Secretary of the Interior. The class A stock shall have such par value and other characteristics as the Organization provides. The class A stock shall be vested with voting rights, each share being entitled to 1 vote. The class A stock is nontransferable only and it shall be surrendered to the Organization in the event the holder is no longer recognized as an Indian Tribe under this Act.

(b) CLASS B STOCK.—The Organization is authorized to issue class B stock evidencing capital contributions in the manner and amount, and subject to any limitations on concentration of ownership, as may be established by the Organization. When authorized to be issued, the class B stock shall be available for purchase by investors, and shall be entitled to such dividends as may be declared by the Board of Directors in accordance with subsection (c). The class B stock shall have such par value and other characteristics as the Organization provides. The class B stock shall be vested with voting rights, each share being entitled to 1 vote. The class B stock is transferable only on the books of the Organization.

(c) CHARGES AND FEES; EARNINGS.—

(1) The Organization may impose charges or fees, which may be regarded as elements of pricing, with the objective that all costs and expenses of the operations of the Organization should be within its income derived from such operations and that such operations would be fully self-supporting.

(2) All earnings from the operations of the Organization shall be annually transferred to the general surplus account of the Organization. At any time, funds in the general surplus account may, in the discretion of the Board of Directors, be transferred to reserves.

(d) CAPITAL DISTRIBUTIONS.—

(1) Except as provided in paragraph (2), the Organization may make such capital distributions (as such term is defined in section 1303 of the Federal Housing Financial Safety and Soundness Act of 1992) as may be declared by the Board of Directors. All capital distributions shall be charged against the general surplus account of the Organization.

(2) The Organization may not make any capital distribution that would decrease the total capital (as such term is defined in section 1303 of the Federal Housing Financial Safety and Soundness Act of 1992) of the Organization to an amount less than the capital level for the Organization established under section 401, without prior written approval of the distribution by the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development.

SEC. 302. OBLIGATIONS AND SECURITIES OF THE ORGANIZATION.

(a) OBLIGATIONS.—The Organization is authorized to borrow money, to give security, to pay interest or other return, and to issue upon the approval of the Secretary of the Treasury, notes, debentures, bonds, or other obligations having maturities and bearing such rate or rates of interest as may be determined by the Organization with the approval of the Secretary of the Treasury, provided that such borrowing and issuing of obligations qualifies as a transaction by an issuer not involving any public offering under section 4(2) of the Securities Act of 1933. Obligations issued by the Organization under this section shall not be obligations of, nor shall payment of the principal of or interest on such obligations be guaranteed by, the United States or any agency thereof, and the obligations shall so plainly state.

(b) RESALES OF QUALIFYING MORTGAGE LOANS.—The sale or other disposition by the Organization of qualifying mortgage loans under section 202(b)(1) shall be upon such terms and conditions relating to resale, repurchase, substitution, replacement or otherwise as the Organization may prescribe, except that the Organization may not guarantee or insure the payment of any mortgage loan sold under section 202(b)(1).

(c) SECURITIES BACKED BY NONQUALIFYING MORTGAGE LOANS.—Securities in the form of debt obligations or trust certificates of beneficial interest, or both, and based upon nonqualifying mortgage loans held and set aside by the Organization under section 202(b)(2), may be issued upon the approval of the Secretary of the Treasury and shall have such maturities and shall bear such rate or rates of interest as may be determined by the Organization with the approval of the Secretary of the Treasury provided that such issuing of securities qualifies as a transaction by an issuer not involving any public offering under section 4(2) of the Securities Act of 1933.

(d) PROHIBITIONS AND RESTRICTIONS; CREATION OF LIENS AND CHARGES; RANK AND PRIORITY; CAUSES OF ACTION TO ENFORCE; JURISDICTION; SERVICE OF PROCESS.—The Organization may, by regulation or by writing executed by the Organization, establish prohibitions or restrictions upon the creation of indebtedness or obligations of the Organization or of liens or charges upon property of the Organization, including after-acquired property, and create liens and charges, which may be floating liens or charges, upon all or any part or parts of the property of the Organization, including after-acquired property. Such prohibitions, restrictions, liens, and charges shall have such effect, including without limitation on the generality of the foregoing such rank and priority, as may be provided by regulations of the Organization or by writings executed by the Organization, and shall create causes of action which may be enforced by action in the United States District Court for the District of Columbia or in the United States district court for any judicial district in which any of the property affected is located. Process in any such action may run to and be served in any judicial district or any place subject to the jurisdiction of the United States.

(e) VALIDITY OF PROVISIONS; VALIDITY OF RESTRICTIONS, PROHIBITIONS, LIENS, OR CHARGES.—The provisions of this section and of any restriction, prohibition, lien, or charge referred to in subsection (b) shall be fully effective notwithstanding any other law, including without limitation on the generality of the foregoing any law of or relating to sovereign immunity or priority.

SEC. 303. LIMIT ON TOTAL ASSETS AND LIABILITIES.

The aggregate of—

(1) the total equity of the Organization, including all capital from any issuance of class B stock; and

(2) the total liabilities of the Organization, including all obligations issued or incurred by the Organization,

shall not at any time exceed $20,000,000.

TITLE IV—REGULATION, EXAMINATION, AND REPORTS

SEC. 401. REGULATION, EXAMINATION, AND REPORTS—OFHEO.

(a) EFFECTIVE DATE OF SECTION.—The provisions of this section shall be effective on the date the Secretary of Housing and Urban Development makes the determination in accordance with the provisions of section 202(b), that the Organization is authorized to purchase and sell mortgages and mortgage backed securities.

(b) IN GENERAL.—The Organization shall be subject to the regulatory authority of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development with respect to all matters relating to the financial safety and soundness of the Organization.

(c) DUTY OF DIRECTOR OF OFHEO.—The duty of the Director of the Office of Federal Housing Enterprise Oversight shall be to ensure that the Organization is adequately capitalized and operating safely as a Congressionally chartered body corporate.

(d) POWERS OF DIRECTOR OF OFHEO.—The Director of the Office of Federal Housing Enterprise Oversight shall have all of the exclusive powers granted the Director under section 1313 (b), (d), and (e) of the Housing and

Community Development Act of 1992, as determined by the Director to be necessary or appropriate to regulate the operations of the Organization.

(e) REPORTS TO DIRECTOR OF OFHEO.—

(1) The Organization shall submit to the Director of the Office of Federal Housing Enterprise Oversight annual reports of the financial condition and operations of the Organization which shall be in such form, contain such information, and be submitted on such dates as the Director shall require.

(2) The Organization shall also submit to the Director any other reports required by the Director pursuant to section 1314 of the Housing and Community Development Act of 1992.

(3) Each report shall contain a declaration by the president, vice president, treasurer, or any other officer designated by the Board of Directors of the Organization to make such declaration, that the report is true and correct to the best of such officer's knowledge and belief.

(f) FUNDING OFHEO OVERSIGHT.—

(1) The Director of the Office of Federal Housing Enterprise Oversight shall assess and collect from the Organization such amounts as are necessary to reimburse the Office for the reasonable costs and expenses of the activities undertaken by the Office to carry out the duty of the Director under paragraph (2), including the costs of examinations and overhead expenses.

(2) Annual assessments imposed by the Director shall be—

(A) imposed prior to October 1 of each year;

(B) collected at such time or times during each assessment year as determined necessary or appropriate by the Director;

(C) deposited into the Federal Housing Enterprises Oversight Fund established by section 1316(f) of the Housing and Community Development Act of 1992; and

(D) available, to the extent provided in appropriations Acts, for carrying out the Director's responsibilities under this section.

SEC. 402. REGULATION OF THE SECRETARY OF HUD.

Except for the authority of the Director of the Office of Federal Housing Enterprise Oversight as provided in section 401, the Secretary of Housing and Urban Development shall have general regulatory power over the Organization and shall make such rules and regulations applicable to the Organization as determined necessary or appropriate by the Secretary of Housing and Urban Development to ensure that the purposes of this Act are accomplished.

TITLE V—FORMATION OF NEW CORPORATION

SEC. 501. FORMATION OF NEW CORPORATION.

(a) IN GENERAL.—In order to continue the accomplishment of the purposes of this Act beyond the terms of the Federal charter of the Organization, the Board of Directors shall, not later than 10 years after the date of enactment of this Act, cause the formation of a new corporation under the laws of any Tribe, any State of the United States, or the District of Columbia.

(b) POWERS OF NEW CORPORATION NOT PRESCRIBED.—Except as provided in this section, the new corporation may have whatever corporate powers and attributes permitted under the laws of the jurisdiction of its incorporation which the Board of Directors shall determine, in its business judgment, to be appropriate.

(c) USE OF NAFSO NAME PROHIBITED..—The new corporation may not use in any manner the names "Native American Financial Services Organization", "NAFSO" or any variation of either thereof.

SEC. 502. ADOPTION AND APPROVAL OF MERGER PLAN.

(a) IN GENERAL.—Not later than [10] years after the date of enactment of this Act, the Board of Directors shall prepare, adopt, and submit to the Secretary of Housing and Urban Development and the Secretary of the Treasury for approval, a plan for merging the Congressionally chartered Organization into the nonfederally chartered new corporation.

(b) DESIGNATED MERGER DATE.—

(1) The Board of Directors shall establish the designated merger date in the merger plan as a specific calendar date and time of day at which the merger of the Organization into the new corporation shall be effective.

(2) The Board of Directors may change the designated merger date in the merger plan by adopting an amended plan of merger.

(3) Except as provided in paragraph (4), the designated merger date in the merger plan or any amended merger plan shall be not later than 11 years after the date of enactment of this Act.

(4) The Board of Directors may adopt an amended plan of merger that designates a date later than 11 years after the date of enactment of this Act if the Board of Directors submits to both the Secretary of Housing and Urban Development and the Secretary of the Treasury a report—

(A) stating that an orderly merger of the Organization into the new corporation is not feasible before the last date designated by the Board of Directors;

(B) explaining why an orderly merger of the Organization into the new corporation is not feasible before the last date designated by the Board of Directors;

(C) describing the steps that have been taken to consummate an orderly merger of the Organization into the new corporation not later than 11 years after the date of enactment of this Act; and

(D) describing the steps that will be taken to consummate an orderly and timely merger of the Organization into the new corporation.

(5) In no case shall any date designated by the Board of Directors in an amended merger plan be later than 12 years after the date of enactment of this Act.

(6) In no case shall the consummation of an orderly and timely merger of the Organization into the new corporation occur later than 13 years after the date of enactment of this Act.

(c) GOVERNMENTAL APPROVALS OF MERGER PLAN REQUIRED.—The merger plan or any amended merger plan shall not be effective until it has been approved by both the Secretary of Housing and Urban Development and the Secretary of the Treasury.

(d) REVISION OF DISAPPROVED MERGER PLAN REQUIRED.—If either the Secretary of Housing and Urban Development or the Secretary of the Treasury, or both, disapprove the merger plan or any amended merger plan, the disapproving Secretary or Secretaries shall so notify the Organization and indicate the reasons for that disapproval, and the Organization shall submit to the Secretary or Secretaries an amended merger plan responsive to such reasons within 30 days from the date of notification of disapproval.

(e) NO STOCKHOLDER APPROVAL OF MERGER PLAN REQUIRED.—No approval or consent of the stockholders of the Organization shall be required to accomplish the merger of the Organization into the new corporation.

SEC. 503. CONSUMMATION OF MERGER.

The Board of Directors shall cause the merger of the Organization into the new corporation to be accomplished according to the merger plan approved by the Secretary of Housing and Urban Development and the Secretary of the Treasury and all applicable requirements of the law of the jurisdiction of incorporation of the new corporation.

SEC. 504. TRANSITION.

(a) CONTINUATION OF RIGHTS, DUTIES, AND RESTRICTIONS.—Except as provided in this section, the Organization shall, during the transition period, continue to have all of the rights, privileges, duties, and obligations, and be subject to all of the limitations and restrictions, set forth in this Act.

(b) COLLATERALIZATION OF OUTSTANDING OBLIGATIONS.—The Organization shall provide for all debt obligations of the Organization which are outstanding on the day before the designated merger date to be secured as to principal and interest by obligations of the United States held in trust for the holders of such obligations. The collateralization and the trust shall be subject to such requirements, terms and conditions as the Secretary of the Treasury deems necessary or appropriate.

(c) ISSUANCE OF NEW OBLIGATIONS DURING TRANSITION PERIOD.—As needed to carry out the purposes for which it was formed, the Organization may, during the transition period, continue to issue obligations under section 303, provided that any new obligation issued during the transition period shall mature before the designated merger date.

SEC. 505. EFFECT OF MERGER.

(a) TRANSFER OF ASSETS AND LIABILITIES.—

(1) At the designated merger date, all property, real, personal, and mixed, and all debts due on whatever account, and all other courses of action and all and every other interest of or belonging to or due to the Organization shall be transferred to and vested in the new corporation without further act or deed, and title to any property, whether real, personal, or mixed, shall not in any way be impaired by reason of the merger.

(2) At the designated merger date, the new corporation shall be responsible and liable for all obligations and liabilities of the Organization and neither the rights of creditors nor any liens upon the property of the Organization shall be impaired by the merger.

(b) TERMINATION OF THE ORGANIZATION AND ITS FEDERAL CHARTER.—At the designated merger date, the surviving corporation of the merger shall be the new corporation, the Federal charter of the Organization shall terminate, and the separate existence of the Organization shall terminate.

(c) REFERENCES TO THE ORGANIZATION IN ACTS OF CONGRESS.—From and after the designated merger date, any reference to the Organization in any Act of Congress [or in any rule or regulation promulgated under any Act of Congress] shall not be deemed to refer to the new corporation.

(d) SAVINGS CLAUSE.—

(1) The merger of the Organization into the new corporation shall not abate any proceeding commenced by or against the Organization before the designated merger date, except that the new corporation shall be substituted for the Organization as a party to any such proceeding as of the designated merger date.

(2) All contracts and agreements to which the Organization is a party and which are in effect on the day before the designated merger date shall continue in effect according to their terms, except that the new corporation shall be substituted for the Organization as a

party to those contracts and agreements as of the designated merger date.

TITLE VI—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 601. AUTHORIZATION OF APPROPRIATIONS FOR NATIVE AMERICAN FINANCIAL INSTITUTIONS.

There is authorized to be appropriated, without fiscal year limitation, to the Fund $20,000,000 to provide financial assistance to Native American Financial Institutions. To the extent that a Native American Financial Institution receives a portion of such appropriation, such monies shall not be considered as matching funds required of the Native American Financial Institution under the Community Development Banking and Financial Institutions Act.

SEC. 602. AUTHORIZATION OF APPROPRIATIONS FOR ORGANIZATION.

The Secretary of Housing and Urban Development is authorized, to the extent and in the amounts provided in advance in appropriation Acts, to provide up to $10,000,000 to the Fund for the funding of a cooperative agreement to be entered into by the Fund and the Organization for technical assistance and other services to be provided by the Organization to the Native American Financial Institutions.

THE SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
Washington, DC, September 22, 1994.

Hon. ALBERT GORE, Jr.,
President U.S. Senate,
Washington, DC.

DEAR MR. PRESIDENT: I am pleased to transmit to you the "Native American Financial Services Organization Act of 1994." For the past several months, the Department of Housing and Urban Development has been working with the Departments of the Treasury, the Interior, Agriculture and Veterans' Affairs, in consultation with the Native American Community to develop this bill.

Based upon the findings and recommendations of the Commission on American Indian, Alaska Native and Native Hawaiian Housing, established by Public Law 101–235, HUD believes that housing shortages and deplorable living conditions have reached crisis proportions in Native American communities throughout the United States.

Historically, financing for most Native American housing and economic development has been provided through government programs. These federal programs, however, do not fully meet the needs of Native American communities. Furthermore, there are few financial institutions that provide financial services to these communities.

To begin to address this crisis, the Department is proposing this legislation to improve the conditions and supply of housing in Native American communities by creating the Native American Financial Services Organization. This legislation would establish a limited government-chartered corporation to be known as the Native American Financial Services Organization (NAFSO). A Federal grant would capitalize the federally-chartered, for-profit NAFSO through a cooperative agreement. Under the agreement, NAFSO could assist Native Americans in creating local financial institutions to address their capital needs. The Federal NAFSO charter would cease to exist upon a designated date, by which time it would be merged into a private corporation. The legislation also provides for an "asset cap" that is designed to limit the size of the NAFSO to $20 million. It is anticipated that the NAFSO will be privatized in order to grow beyond this limit. It also is anticipated that tribal contributions would assist the NAFSO in becoming self-sufficient over time.

The governance of the NAFSO would be vested in a Board of Directors that would be representative of the Native American community. Shares would be equitably distributed among federally-recognized tribes; the Board could elect to distribute additional shares on an investment basis.

It is the purpose of this Act—

(1) To help serve the mortgage, economic development, and other lending needs of Native Americans by assisting in the establishment and organization of Native American community lending institutions that would be called Native American Financial Institutions (NAFIs); NAFIs would be any type of financial institution, including community banks, credit unions and savings banks, and therefore could provide a wide range of financial services;

(2) To develop and provide financial expertise and technical assistance to NAFIs, including assistance on how to overcome barriers to lending on Native American lands, and the past and present impact of discrimination;

(3) To promote access to mortgage and economic development credit throughout Native American communities by increasing the liquidity of financing for housing and improving the distribution of investment capital available for such financing, primarily through NAFIs;

(4) To direct sources of public and private capital into housing and economic development for Native American individuals and families, primarily through NAFIs; and,

(5) To provide ongoing assistance to the secondary market for residential mortgages and economic development loans for Native American individuals and families, NAFIs, and other borrowers by increasing the liquidity of such mortgage investments and improving the distribution of investment capital available for such residential mortgage financing.

At the outset, it is contemplated that the NAFSO itself will not purchase and sell Native American mortgages originated by the NAFIs, but rather will work with the existing secondary market for residential mortgages to increase the liquidity for such investment. However, if it is later determined that the secondary market is not meeting reasonable mortgage purchase goals established by this department, the NAFSO will be authorized to purchase and sell such mortgages.

The Secretary of Housing and Urban Development would be authorized to provide up to $10 million, subject to appropriations, for the funding of a cooperative agreement for technical assistance and other services to be provided by the NAFSO to NAFIs. In addition, there would be authorized, without fiscal year limitation, $20 million to provide financial assistance through the NAFSO to NAFIs. Funding would be made available from the Community Development Financial Institution (CDFI) fund. NAFIs are not eligible for additional funding under the CDFI fund if the NAFI elects to receive funding under this Act.

This legislation further provides that the Office of Federal Housing Enterprise Oversight would regulate matters pertaining to the financial safety and soundness of the NAFSO in the event that the NAFSO is authorized to purchase and sell Native American mortgages and the Department of Housing and Urban Development would have general regulatory authority.

The "Native American Financial Services Act of 1994" would provide financial independence to the Native American community that has never been enjoyed before. It provides the structure to marry private financial resources with Federal and tribal resources in a way that benefits all parties. The creation of the NAFSO would have the ripple effect of opening avenues to economic development and housing that have not been available heretofore.

The Office of Management and Budget has advised that it has no objection to the transmittal of this legislation to Congress.

I request that the bill be referred to the appropriate committee and urge its early consideration. I am sending a similar letter to the Speaker of the House of Representatives, Thomas S. Foley.

Sincerely,

HENRY G. CISNEROS.●

By Mr. DECONCINI:

S. 2488. To amend chapter 11 of title 35, United States Code, to provide for early publication of patent applications, to amend chapter 14 of such title to provide provisional rights for the period of time between early publication and patent grant, and to amend chapter 10 of such title to provide a prior art effect for published applications; to the Committee on the Judiciary.

PATENT APPLICATION PUBLICATION ACT

● Mr. DECONCINI. Mr. President, at the request of the administration, today I am introducing the Patent Application Publication Act of 1994. This bill provides for the publication of patent applications that are pending 18 months after their filing.

Under current U.S. law, all applications for patents are kept in confidence by the Patent Trademark Office. Publication does not occur until the patent is actually granted. This can result in the situation where inventors commit substantial resources to develop an invention based on an incomplete, erroneous assessment of its patentability. In turn, this leads to disruptions in the marketplace because technology that is regarded as commonplace is actually the subject of a pending patent, and users of such technology must either negotiate a license with the patentee or stop using the technology altogether.

All of the major patent system throughout the world, with the exception of the United States, publish applications 18 months from the earliest effective filing date. Thus, in an age where worldwide patent protection is becoming increasingly important, the current system places U.S. inventors at a clear disadvantage. For example, an invention that is the subject of a patent application in Japan will be published at 18 months. Inventors reviewing the Japanese patent filings will have the benefit of the early disclosure in Japan. Meanwhile, in the United States, domestic inventors will not have the benefit of an English language publication of the technology disclosed in an application for a patent, until the patent is actually issued. This situation provides foreign inventors with a clear advantage.

An 18 month publication law will provide American inventors with access to leading technology of all types. In addition, this law will save resources by preventing the duplication of research, signaling promising areas of research, and indicating which fields or research topics are begin pursued by others.

Under this bill, inventors will be given provisional rights to obtain compensation for any use of the invention disclosed in the application for patent for the time period from publication to grant. Once the patent is issued, the patentee will have the right to obtain a reasonable royalty from any person who uses, makes, sells or imports an invention or process in the United States that was claimed in a published patent application.

Mr. President, I am concerned about the costs associated with this legislation. It is my understanding that the annual cost of early publication will be approximately $12.6 million. Since the PTO is totally user fee funded and receives no taxpayer dollars, these costs will be borne by users of the PTO. I am hopeful the PTO will work closely with the patent community to identify the best way to cover these costs. Furthermore, it is incumbent upon the Congress to ensure that the PTO only raises fees in an amount necessary to pay for publication.

It has been a great pleasure to serve as chairman of the Patents, Copyrights and Trademarks Subcommittee for the last 8 years. Strong intellectual property protection is paramount for America to maintain its leadership role in world markets. I urge the PTO to continue to serve the interests of its users and to look out for the best interests of America's inventors.

Mr. President, I ask unanimous consent that the full text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2488

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Patent Application Publication Act of 1994".

SEC. 2. PRIOR ART EFFECT OF PUBLISHED APPLICATIONS.

Section 102(e) of title 35, United States Code, is amended to read as follows:

"(e) the invention was described in—

"(1) an application for patent, published under section 122(b), by another filed in the United States before the invention thereof by the applicant for patent; or

"(2) a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by applicant for patent, or".

SEC. 3. TIME FOR CLAIMING BENEFIT OF EARLIER FILING DATE.

(a) IN A FOREIGN COUNTRY.—The second paragraph of section 119 of title 35, United States Code, is amended to read as follows:

"No application for patent shall be entitled to this right of priority unless a claim therefor and a certified copy of the original foreign application, specification and drawings upon which it is based are filed in the Patent and Trademark Office at such time during the pendency of the application as required by the Commissioner. The Commissioner may consider the failure of the applicant to file a timely claim for priority as a waiver of any such claim. The certification of the original foreign application, specification and drawings shall be made by the patent office of the foreign country in which filed and show the date of the application and of the filing of the specification and other papers. The Commissioner may require a translation of the papers filed if not in the English language and such other information as he deems necessary.

(b) IN THE UNITED STATES.—Section 120 of title 35, United States Code, is amended by adding at the end thereof the following: "The Commissioner may determine the time period within which an amendment containing the specific reference to the earlier filed application shall be submitted.".

SEC. 4. EARLY PUBLICATION.

(a) IN GENERAL.—Section 122 of title 35, United States Code, is amended to read as follows:

"§ 122. Confidential status of applications; publication of patent applications

"(a) Except as provided in subsection (b), applications for patents shall be kept in confidence by the Patent and Trademark Office and no information concerning the same given without authority of the applicant or owner unless necessary to carry out the provisions of any Act of Congress or in such special circumstances as may be determined by the Commissioner.

"(b) Each application for patent shall be published, in accordance with procedures as determined by the Commissioner, as soon as possible after the expiration of a period of 18 months from the earliest filing date for which a benefit is sought under this title, except that an application that is no longer pending shall not be published and an application subject to a secrecy order under section 181 of this title shall not be published. An application not subject to a secrecy order under section 181 of this title may be published earlier than the expiration date described in the preceding sentence at the request of the applicant. No information concerning published patent applications shall be made available to the public except as the Commissioner shall determine. Notwithstanding any other provision of law, a determination by the Commissioner to release or not to release information concerning a published patent application shall be final and nonreviewable.".

(b) COST RECOVERY FOR PUBLICATION.—The Commissioner shall recover the cost of early publication required by the amendment made under subsection (a) by adjusting the filing, issue and maintenance fees, by charging a separate publication fee, or by any combination of these methods.

SEC. 5. PROVISIONAL RIGHTS.

Section 154 of title 35, United States Code, is amended—

(1) by inserting "(a)" before "Every patent"; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) In addition to other rights provided by this section, a patent shall include the right to obtain a reasonable royalty from any person who, during the period from publication of the application for such patent under subsection 122(b) of this title until issue of that patent—

"(A)(i) makes, uses, or sells in the United States the invention as claimed in the published patent application or imports such an invention into the United States; or

"(ii) if the invention as claimed in the published patent application is a process, uses or sells in the United States or imports into the United States products made by that process as claimed in the published patent application; and

"(B) had actual notice or knowledge of the published patent application.

"(2) The right to obtain a reasonable royalty shall not be available under this subsection unless the invention claimed in the patent is substantially identical to the invention as claimed in the published patent application.".

SEC. 6. TECHNICAL AND CONFORMING AMENDMENTS.

(1) Section 12 of title 35, United States Code, is amended by inserting "published applications and" before "patents".

(2) Section 13 of title 35, United States Code, is amended by inserting "published applications and" before "patents".

(3) The table of sections for chapter 11 of title 35, United States Code, is amended in the item relating to section 122 by inserting "; publication of patent applications" after "applications".

(4) The table of sections for chapter 14 of title 35, United States Code, is amended in the item relating to section 154 by inserting "; provisional rights" after "patent".

(5) Section 181 of title 35, United States Code, is amended—

(A) in the first paragraph—

(i) by inserting "by the publication of an application or" after "disclosure"; and

(ii) by inserting "the publication of an application or" after "withhold";

(B) in the second paragraph by inserting "by the publication of an application or" after "disclosure of an invention";

(C) in the third paragraph—

(i) by inserting "by the publication of the application or" after "disclosure of the invention"; and

(ii) by inserting "the publication of the application or" after "withhold"; and

(D) in the fourth paragraph of the first sentence by inserting "the publication of an application or" after "kept secret and".

SEC. 7. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b), sections 2 through 6 shall take effect on January 1, 1996 and shall apply to all national applications filed in the United States on or after such date.

(b) PROVISIONAL RIGHTS.—The amendment made by section 5 of this Act shall only apply to applications subject to a term beginning on the date on which the patent issues and ending—

(1) 20 years after the date on which the application for patent was filed in the United States; or

(2) if the application contains a specific reference to an earlier filed application or applications under sections 120, 121 or 365(c) of title 35, United States Code, 20 years after the date on which the earliest such application was filed.•

By Mr. KENNEDY (for himself, Mr. HATCH, Mr. AKAKA, Mr.

BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BRADLEY, Mr. BREAUX, Mr. BRYAN, Mr. BUMPERS, Mr. CAMPBELL, Mr. CHAFEE, Mr. D'AMATO, Mr. DASCHLE, Mr. DECONCINI, Mr. DODD, Mr. DURENBERGER, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GLENN, Mr. GRAHAM, Mr. HARKIN, Mr. HATFIELD, Mr. INOUYE, Mr. JEFFORDS, Mr. KERRY, Mr. KOHL, Mr. LEAHY, Mr. LIEBERMAN, Mr. MACK, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MITCHELL, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mrs. MURRAY, Mr. PACKWOOD, Mr. PELL, Mr. PRYOR, Mr. REID, Mr. RIEGLE, Mr. ROBB, Mr. SARBANES, Mr. SIMON, Mr. SPECTER, Mr. WELLSTONE, and Mr. WOFFORD):

S. 2489. A bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes; to the Committee on Labor and Human Resources.

THE RYAN WHITE CARE REAUTHORIZATION ACT OF 1994

Mr. KENNEDY. Mr. President, I am pleased to once again join my colleague Senator HATCH, and a bipartisan coalition of 47 Senators in introducing the Ryan White CARE Reauthorization Act of 1994.

The CARE Act has been a lifeline of hope and care to individuals and families with HIV disease. The Act has helped to develop and operate community-based systems of health care and support services in urban and rural communities across this country.

This reauthorization will extend this vitally important program for an additional 5 years, and take what is good and make it better. Today the House of Representatives introduced an identical bill, and I hope my colleagues will support its swift enactment.

I ask unanimous consent that the bill and supporting materials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2489

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ryan White CARE Reauthorization Act of 1994".

SEC. 2. REFERENCES.

Whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title XXVI of the Public Health Service Act (42 U.S.C. 300ff et seq.).

SEC. 3. AMENDMENTS.

(a) ESTABLISHMENT OF GRANT PROGRAM.—Section 2601 (42 U.S.C. 300ff-11) is amended by adding at the end thereof the following new subsection:

"(c) POPULATION OF ELIGIBLE AREAS.—The Secretary may not make a grant to an eligible area under subsection (a) after the date of enactment of this subsection unless the area has a population of at least 500,000 individuals, except that this subsection shall not apply to areas that are eligible as of March 31, 1994. For purposes of eligibility under this title, the boundaries of each metropolitan area shall be those in effect in fiscal year 1994.".

(b) EMERGENCY RELIEF FOR AREAS WITH SUBSTANTIAL NEED FOR SERVICES.—

(1) HEALTH SERVICES PLANNING COUNCIL.—Subsection (b) of section 2602 (42 U.S.C. 300ff-12(b)) is amended—

(A) in paragraph (1), by striking "include" and all that follows through the end thereof, and inserting "be reflective of the demographics of the HIV epidemic in the eligible area involved, with particular consideration given to disproportionately affected and historically underserved groups.";

(B) in paragraph (2), by adding at the end thereof the following new subparagraph:

"(C) CHAIRPERSON.—A planning council may not be chaired solely by an employee of the grantee.";

(C) in paragraph (3)—

(i) by striking "and" at the end of subparagraph (B);

(ii) by striking the period at the end of subparagraph (C) and inserting ", and at the discretion of the planning council, assess the effectiveness, either directly or through contractual arrangements, of the services offered in meeting the identified needs; and"; and

(iii) by adding at the end thereof the following new subparagraph:

"(D) participate in the development of the Statewide coordinated statement of need initiated by the State health department.";

(D) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(E) by inserting after paragraph (1), the following new paragraph:

"(2) REPRESENTATION.—The HIV health services planning council shall include representatives of—

"(A) health care providers, including federally qualified health centers;

"(B) community-based organizations serving affected populations and AIDS service organizations;

"(C) social service providers;

"(D) mental health and substance abuse providers;

"(E) local public health agencies;

"(F) hospital planning agencies or health care planning agencies;

"(G) affected communities, including people of color, women, and gay and bisexual men;

"(H) individuals with HIV or AIDS;

"(I) nonelected community leaders;

"(J) State government (including the State medicaid agency);

"(K) grantees under subpart II of part C;

"(L) grantees under section 2671, or, if none are operating in the area, pediatric, youth, and women's service organizations operating in the area; and

"(M) grantees under other Federal HIV programs.".

(2) DISTRIBUTION OF GRANTS.—Section 2603 (42 U.S.C. 300ff-13) is amended—

(A) in subsection (a)—

(i) in paragraph (2)—

(I) by striking "Not later than—" and all that follows through "the Secretary shall" and inserting the following: "Not later than 60 days after an appropriation becomes available to carry out this part for each of the fiscal years 1996 through 2000, the Secretary shall"; and

(II) by inserting "or the provisions of subsection (a)(3)(D)" after "section 2605(c)";

(ii) in paragraph (3)(A)(ii)—

(I) by striking "product of 3" in subclause (I), and inserting "product of 9"; and

(II) by striking "equal to the product" in subclause (II), and inserting "amount equal to twice the product";

(iii) in paragraph (3)(B)(i), by striking "cumulative number of cases" and inserting "for the 10 years prior to the fiscal year in question";

(iv) in paragraph (3)(C)—

(I) by striking "cumulative cases" in clause (i), and inserting "the number of cases reported and confirmed for the 10 years prior to the fiscal year in question"; and

(II) by striking "cumulative such cases" in clause (ii), and inserting "the number of cases reported and confirmed for the 10 years prior to the fiscal year in question"; and

(v) by adding at the end of paragraph (3), the following new subparagraph:

"(D) MINIMUM AMOUNT.—No eligible area shall receive an amount less than that awarded under subsection (a) to such area in fiscal year 1995, except for cause, as determined by the Secretary based on a finding of fraud or an egregious violation by the grantee of the provisions of this Act."; and

(B) in subsection (b)(1)—

(i) by striking "and" at the end of subparagraph (D);

(ii) by striking the period at the end of subparagraph (E) and inserting a semicolon; and

(iii) by adding at the end thereof the following new subparagraphs:

"(F) demonstrates the inclusiveness of the planning council membership, with particular emphasis on affected communities and individuals with HIV disease;

"(G) demonstrates the manner in which the proposed services are consistent with the Statewide coordinated statement of need.".

(3) USE OF AMOUNTS.—Section 2604 (42 U.S.C. 300ff-14) is amended—

(A) in subsection (b)(1)(A), by inserting "treatment education and prophylactic treatment for opportunistic infections," after "treatment services,"; and

(B) in subsection (e) by striking "reporting, and program oversight functions" and inserting "reporting, and the assessment of program effectiveness".

(4) APPLICATION.—Section 2605(a) (42 U.S.C. 300ff-15(a)) is amended—

(A) in paragraph (1)(B), by striking "1-year period" and all that follows through "eligible area" and inserting "preceding fiscal year";

(B) in paragraph (4), by striking "and" at the end thereof;

(C) in paragraph (5), by striking the period at the end thereof and inserting "; and"; and

(D) by adding at the end thereof the following new paragraph:

"(6) that the applicant has participated, or will agree to participate, in the Statewide coordinated statement of need process where it has been initiated by the State, and ensure that the services provided under the comprehensive plan are consistent with the Statewide coordinated statement of need.".

(5) TECHNICAL ASSISTANCE.—Section 2606 (42 U.S.C. 300ff-16) is amended—

(A) by striking "may" and inserting "shall";

(B) by inserting after "technical assistance" the following: ", including peer based assistance to assist newly eligible metropolitan areas in the establishment of HIV health services planning councils and,"; and

(C) by adding at the end thereof the following new sentences: "The Administrator may make planning grants available to metropolitan areas projected to be eligible for funding under section 2601 in the following fiscal year. Not to exceed 1 percent of the amount appropriated for a fiscal year under section 2608 may be used to carry out this section.".

(6) AUTHORIZATION OF APPROPRIATIONS.—Section 2608 (42 U.S.C. 300ff-18) is amended by striking "$275,000,000" and all that follows through the end of the section, and inserting "such sums as may be necessary in each of the fiscal years 1996, 1997, 1998, 1999, and 2000.".

(b) CARE GRANT PROGRAM.—

(1) INFANTS AND WOMEN.—Subsection (b) of section 2612 (42 U.S.C. 300ff-22) is amended to read as follows:

"(b) INFANTS AND WOMEN.—For each State in which the infants, children, adolescents, and women comprise greater than 10 percent of the AIDS cases reported to and confirmed by the Centers for Disease Control and Prevention for the 2 most recent fiscal years in such State, not less than 15 percent of funds allocated under this part shall be used to provide health and support services to infants, children, women, and families with HIV disease. With respect to a State in which infants, children, youth, and women comprise less than 10 percent of AIDS cases reported to and confirmed by the Centers for Disease Control and Prevention for the 2 most recent fiscal years in such State, planning activities under part B in such State shall assess unmet needs and address the service needs of such populations in their applications.".

(2) HIV CARE CONSORTIA.—Section 2613 (42 U.S.C. 300ff-23) is amended—

(A) in subsection (a)(2)(A), by inserting "prophylactic treatment for opportunistic infections, treatment education," after "monitoring,";

(B) in subsection (c)—

(i) in subparagraph (C) of paragraph (1), by inserting before "care" "and youth centered"; and

(ii) in paragraph (2)—

(I) in clause (ii) of subparagraph (A), by striking "served; and" and inserting "served;";

(II) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(III) by adding after subparagraph (B), the following new subparagraph:

"(C) representatives of organizations with a history of serving children, youth, and women and operating in the community to be served."; and

(C) in subsection (d) to read as follows:

"(d) DEFINITION.—As used in this part, the terms 'family centered care' and 'youth centered care' mean the system of services described in this section that is targeted specifically to the special needs of infants, children (including those orphaned by the AIDS epidemic), youth, women, and families. Family centered and youth centered care shall be based on a partnership among parents, extended family members, children and youth, professionals, and the community designed to ensure an integrated, coordinated, culturally sensitive, and community-based continuum of care.".

(3) PROVISION OF TREATMENTS.—Section 2616 (42 U.S.C. 300ff-26) is amended by striking subsection (c) and inserting the following new subsections:

"(c) STANDARDS FOR TREATMENT PROGRAMS.—In carrying out this section, the Secretary shall—

"(1) review the current status of State drug reimbursement programs and assess barriers to the expended availability of prophylactic treatments for opportunistic infections (including active tuberculosis); and

"(2) establish, in consultation with States, providers, and affected communities, a recommended minimum formulary.

In carrying out paragraph (2), the Secretary shall identify those treatments in the recommended minimum formulary that are for the prevention of opportunistic infections (including the prevention of active tuberculosis).

"(d) STATE DUTIES.—

"(1) IN GENERAL.—In implementing subsection (a), States shall document the progress made in making treatments described in subsection (c)(2) available to individuals eligible for assistance under this section, and to develop plans to implement fully the recommended minimum formulary.

"(2) OTHER MECHANISMS FOR PROVIDING TREATMENTS.—In meeting the standards of the recommended minimum formulary developed under subsection (c), a State may identify other mechanisms such as consortia and public programs for providing such treatments to individuals with HIV.";

(4) STATE APPLICATION.—Section 2617(b) (42 U.S.C. 300ff-27(b)) is amended—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking "and" at the end thereof; and

(ii) by adding at the end thereof the following new subparagraph:

"(C) a description of how the allocation and utilization of resources are consistent with the Statewide coordinated statement of need (including the needs of children, adolescents, and women) developed in partnership with other grantees in the State that receive funding under this title;";

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2), the following new paragraph:

"(3) the public health agency administering the grant for the State shall convene a meeting at least annually of representatives of grantees funded under this title (including HIV health services planning councils, early intervention programs, children, youth and family service projects, special projects of national significance, and HIV care consortia) and other providers (including federally qualified health centers) and public agency representatives within the State currently delivering HIV services to affected communities for the purpose of developing a Statewide coordinated statement of need. The State shall not be required to finance attendance at such meetings.".

(5) DISTRIBUTION OF FUNDS.—Section 2618 (42 U.S.C. 300ff-28) is amended—

(A) by striking subsection (a);

(B) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d), respectively;

(C) by amending subsection (a), as so redesignated, to read as follows:

"(a) AMOUNT OF GRANT.—

"(1) MINIMUM ALLOTMENT.—

"(A) IN GENERAL.—Subject to the amount made available pursuant to section 2620, the amount of a grant to be made under this part for each of the 50 States, the District of Columbia, and Puerto Rico, shall be the greater of—

"(i) $250,000; and

"(ii) an amount determined under paragraph (2).

"(B) VIRGIN ISLANDS.—The United States Virgin Islands shall be eligible for an allotment under subparagraph (A) if the Secretary certifies that the Virgin Islands has a program in place to effectively utilize additional resources provided under such allotment.

"(C) SUPPLEMENTAL ENHANCEMENT GRANTS.—

"(i) IN GENERAL.—The Secretary shall award supplemental grants to eligible entities to enhance community-based care, treatment, and supportive services through the development and operation of consortia and innovative approaches.

"(ii) ELIGIBILITY.—A State shall be eligible for—

"(I) a tier I supplemental grant in the amount of $500,000 if the number of AIDS cases (in the State) reported to and confirmed by the Centers for Disease Control and Prevention total not less than 1500 cases for the 10 years prior to the fiscal year for which the grant is to be awarded and the State does not contain a metropolitan area whose chief elected official is a grantee for funding under part A; or

"(II) a tier II supplemental grant in the amount of $250,000 if the number of AIDS cases (in the State) reported to and confirmed by the Centers for Disease Control and Prevention total less than 1500 cases for the 10 years prior to the fiscal year for which the grant is to be awarded and the State does not contain a metropolitan area whose chief elected official is a grantee under part A and whose formula grant exceeds the minimum allotment described in subparagraph (A)(i).

"(iii) REDUCTION.—A State that receives a grant under clause (ii)(I), or which would have been eligible to receive such a grant in fiscal year 1995, that subsequently contains a metropolitan area that becomes eligible for funding under part A, shall be subject to a 2-year phased reduction in the amount of the grant under clause (ii)(I) as follows:

"(I) With respect to the first year in which the metropolitan area receives funds under part A, the State would receive $500,000 under clause (ii)(I).

"(II) With respect to the second year in which the metropolitan area receives funds under part A, the State would receive $250,000 under clause (ii)(I).

"(III) The State would not be eligible for funds under this subparagraph in years subsequent to the year described in subclause (II).

"(iv) TERMS.—All terms and conditions contained under subsections (b) and (c) of section 2617 shall apply to funds received under this subsection.

"(2) DETERMINATION.—

"(A) FORMULA.—The amount referred to in paragraph (1)(A) shall be the product of—

"(i) an amount equal to the amount appropriated under section 2620 for the fiscal year involved less the amount needed to carry out subparagraph (B); and

"(ii) the ratio of the distribution factor for the State or territory to the sum of the distribution factors for all the States or territories.

"(B) DISTRIBUTION FACTOR.—As used in subparagraph (A), the term 'distribution factor' means the product of—

"(i) the number of cases of acquired immune deficiency syndrome in the State or territory, as indicated by the number of cases reported to and confirmed by the Centers for Disease Control and Prevention for the 2 most recent fiscal years for which such data are available; and

"(ii) the cube root of the ratio (based on the most recent available data) of—

"(I) the average per capita income of individuals in the United States (including territories); to

"(II) the average per capita income of individuals in the State or territory.";

(D) in subsection (b), as so redesignated—

(i) by amending paragraphs (3) and (4) to read as follows:

"(3) PLANNING AND EVALUATIONS.—Subject to paragraph (5), a State may not use more than 10 percent of amounts received under a grant awarded under this part for planning and evaluation activities.

"(4) ADMINISTRATION.—Subject to paragraph (5), a State may not use more than 10 percent of amounts received under a grant awarded under this part for administration, accounting, reporting, and program oversight functions.";

(ii) by redesignating paragraph (5) as paragraph (6); and

(iii) by inserting after paragraph (4), the following new paragraph (5):

"(5) LIMITATION ON USE OF FUNDS.—A State may not use more than a total of 15 percent of amounts received under a grant awarded under this part for the purposes described in paragraphs (3) and (4)."

(6) TECHNICAL ASSISTANCE.—Section 2619 (42 U.S.C. 300ff–29) is amended—

(A) by striking "may" and inserting "shall"; and

(B) by inserting before the period the following: ", including technical assistance for the development and implementation of Statewide coordinated statements of need".

(7) AUTHORIZATION OF APPROPRIATIONS.—Section 2620 (42 U.S.C. 300ff–30), by striking "$275,000,000" and all that follows through the end of the section, and inserting "such sums as may be necessary in each of the fiscal years 1996, 1997, 1998, 1999, and 2000.".

(8) GRIEVANCE PROCEDURES AND COORDINATION.—Part B of title XXVI (42 U.S.C. 300ff-21) is amended by adding at the end thereof the following new sections:

"SEC. 2621. GRIEVANCE PROCEDURES.

"Not later than 90 days after the date of enactment of this section, the Administration, in consultation with affected parties, shall establish grievance procedures, specific to each part of this title, to address allegations of egregious violations of each such part or the intent of the provisions of each such part. Such procedures shall include an appropriate enforcement mechanism.

"SEC. 2622. COORDINATION.

"The Secretary shall ensure that the Health Resources and Services Administration, the Centers for Disease Control and Prevention, and the Substance Abuse and Mental Health Services Administration coordinate the planning and implementation of Federal HIV programs in order to facilitate the development of a complete continuum of HIV-related services for individuals with HIV disease and those at risk of such disease. The Secretary shall periodically prepare and submit to the relevant committees of Congress a report concerning such coordination efforts at the Federal, State, and local levels as well as the existence of Federal barriers to HIV program integration.".

(c) EARLY INTERVENTION SERVICES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 2655 (42 U.S.C. 300ff–55) is amended by striking "$75,000,000" and all that follows through the end of the section, and inserting "such sums as may be necessary in each of the fiscal years 1996, 1997, 1998, 1999, and 2000.".

(2) REQUIRED AGREEMENTS.—Section 2664(g) (42 U.S.C. 300ff–64(g)) is amended—

(A) in paragraph (2), by striking "and" at the end thereof;

(B) in paragraph (3)—

(i) by striking "5 percent" and inserting "10 percent including planning, evaluation and technical assistance"; and

(ii) by striking the period and inserting "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(4) the applicant will submit evidence that the proposed program is consistent with the Statewide coordinated statement of need and agree to participate in the ongoing revision of such statement of need.".

(d) GENERAL PROVISIONS.—Section 2671 (42 U.S.C. 300ff–71) is amended—

(1) by amending the title to read as follows:

"SEC. 2671. GRANTS FOR COORDINATED SERVICES AND ACCESS TO RESEARCH FOR CHILDREN, YOUTH, WOMEN, AND FAMILIES.";

(2) in subsection (a)—

(i) by striking "demonstration";

(ii) by striking "and the Director" and inserting ", in coordination with the Director";

(iii) by striking paragraph (1), and inserting the following new paragraph:

"(1) supporting, at the health facilities of such entities, access to and linkages with clinical research on therapies for pediatric patients, youth, and women with HIV disease, and special initiatives related to clinical research and care findings;"; and

(iv) by amending paragraph (2) to read as follows:

"(2) providing and coordinating outpatient health care services and systems of care, directly or through contractual arrangements, to children, youth, and women and their families.";

(3) in subsection (c)—

(A) in paragraph (1), to read as follows:

"(1) LINKAGES TO RESEARCH.—The Secretary may not make a grant to an applicant under subsection (a) unless the applicant enters into an agreement with an appropriately qualified entity with expertise in biomedical or behavioral research to enhance voluntary access to research."; and

(B) in paragraph (2)—

(i) by inserting after "through the" the following: "Director of the Administrator of the Health Resources and Services Administration, and in coordination with the";

(ii) in subparagraph (A), by striking "; and" and inserting a semicolon;

(iii) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(iv) by inserting after subparagraph (B), the following new subparagraph:

"(C) may provide training and technical assistance including peer-based assistance through the Health Resources and Services Administration.";

(4) in subsections (d), (e), and (f), by striking "pediatric patient" each place such term appears and inserting "children and youth";

(5) in subsection (f), by inserting before the period the following: ", including coordination and access to child welfare services, support services, kinship care services, and other appropriate services for orphans of the AIDS epidemic.";

(6) in subsection (h), to read as follows:

"(h) COORDINATION.—The Secretary may not make a grant under subsection (c) unless the applicant submits evidence that the proposed program is consistent with the Statewide coordinated statement of need and the applicant agrees to annually participate in the ongoing revision process of such statement of need."; and

(7) in subsection (j), by striking "$20,000,000" and all that follows through the end of the section, and inserting "such sums as may be necessary in each of the fiscal years 1996, 1997, 1998, 1999, and 2000.".

(e) SPECIAL PROJECTS OF NATIONAL SIGNIFICANCE.—Title XXVI is amended by adding at the end, the following new part:

"PART F—SPECIAL PROJECTS OF NATIONAL SIGNIFICANCE

"SEC. 2701. SPECIAL PROJECTS OF NATIONAL SIGNIFICANCE.

"(a) IN GENERAL.—Of the amount appropriated under each of parts A, B, and C of this title for each fiscal year, the Secretary shall use the greater of $20,000,000 or 3 percent of such amount appropriated under each such part, but not to exceed $25,000,000, to administer a special projects of national significance program to award direct grants to public and nonprofit private entities including community-based organizations to fund special programs for the care and treatment of individuals with HIV disease.

"(b) GRANTS.—The Secretary shall award grants under subsection (a) based on—

"(1) the need to assess the effectiveness of a particular model for the care and treatment of individuals with HIV disease;

"(2) the innovative nature of the proposed activity; and

"(3) the potential replicability of the proposed activity in other similar localities or nationally.

"(c) SPECIAL PROJECTS.—Special projects of national significance may include the development and assessment of innovative service delivery models that are designed to—

"(1) address the needs of special populations; and

"(2) assist in the development of essential community-based service delivery infrastructure.

"(d) SPECIAL POPULATIONS.—Special projects of national significance may include the delivery of HIV health care and support services to traditionally underserved populations including—

"(1) individuals and families with HIV disease living in rural communities;

"(2) adolescents with HIV disease;

"(3) Indian individuals and families with HIV disease;

"(4) homeless individuals and families with HIV disease;

"(5) hemophiliacs with HIV disease; and

"(6) incarcerated individuals with HIV disease.

"(e) SERVICE DEVELOPMENT GRANTS.—Special projects of national significance may include the development of model approaches to delivering HIV care and support services including—

"(1) programs that support family-based care networks critical to the delivery of care in minority communities;

"(2) programs that build organizational capacity in disenfranchised communities;

"(3) programs designed to prepare AIDS service organizations and grantees under this title for operation within the changing health care environment; and

"(4) programs designed to integrate the delivery of mental health and substance abuse treatment with HIV services.

"(f) DISTRIBUTION OF FUNDS.—Fifty percent of the funds made available under this section shall be provided to geographic areas that are not eligible for funds under section 2603 except that existing grantees shall continue to receive funding for the length of the project period.

"(g) COORDINATION.—The Secretary may not make a grant under this section unless the applicant submits evidence that the proposed program is consistent with the Statewide coordinated statement of need, and the applicant agrees to participate in the ongoing revision process of such statement of need.

"(h) REPLICATION.—The Secretary shall make information concerning successful models developed under this part available to grantees under this title for the purpose of coordination, replication, and integration. To facilitate efforts under this subsection, the Secretary may provide for peer-based technical assistance from grantees funded under this part.".

SEC. 4. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this Act, and the amendments made by this Act, shall become effective on October 1, 1995.

(b) ELIGIBLE AREAS.—The amendments made by subsections (a) and (b)(4)(A) of section 3 become effective on the date of enactment of this Act.

THE RYAN WHITE FOUNDATION,
TEENS AND HIV/AIDS,
Indianapolis, IN, September 26, 1994.

Hon. EDWARD KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: The Ryan White CARE Act was named for my son whose battle against AIDS taught Americans valuable lessons about this horrible disease and about courage in general. His brave legacy lives on in the programs funded by this legislation—programs which provide care to increasing numbers of people from all walks of life living with HIV/AIDS across America.

Since Ryan's death, I have travelled across the United States educating people about AIDS. I have been so touched by the many people living with HIV/AIDS and their loved ones who have told me that without the Ryan White care services they would not survive. They are just a fraction of the ten of thousands of Americans depending on the Ryan White CARE Act for medicines, medical care, housing and a myriad of support services to keep them alive and well. Without the programs funded under the Ryan White CARE Act, many Americans would be forced into expensive and unnecessary hospitalizations and a diminished quality of life.

In the coming few days, the Congress has the opportunity to honor my son Ryan's legacy—and continue its commitment to fighting the AIDS epidemic—by reauthorizing the Ryan White CARE Act before adjournment. Failure to reauthorize the CARE Act now could jeopardize the fragile lives of people living with HIV/AIDS and the network of services which provide for their care.

I ask for your leadership. I urge you to renew your commitment to my son, Ryan, and to reauthorize the CARE Act now.

With gratitude and respect,

Sincerely,

Jeanne White.

FAMILY AIDS NETWORK, INC.,
Washington, DC, September 30, 1994.

Hon. EDWARD KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: In the upcoming few days you and your colleagues have an opportunity to reauthorize funding for the Ryan White Comprehensive AIDS Resource Emergency (CARE) Act. Please act swiftly and approve reauthorization before adjournment.

During the past few months communities most affected by the AIDS epidemic have suffered not only the physical consequences of the virus, but also a withering emotional loss. Hope—which soared a few years ago when funds were increased and leadership appeared to be growing stronger—has disintegrated. Expectations for support and commitment from either the government or the private sector have faded. With no promise of a cure, and no belief that a vaccine is on the horizon, the growing sentiment is one of helplessness.

While the numbers of those infected continues to mount, our national resolve to attack this epidemic must be rekindled. And I believe you have an opportunity to do just that.

Please let all your colleagues know that—for those of us who need to explain this epidemic not only on the public stage but also in private, to our children, and sometimes in the night to ourselves—a symbol of hope is desperately needed. Prompt reauthorization would signal that, while we may still be pilgrims on the road to AIDS, we are not walking alone. And it would provide tangible benefits for those most in need.

I salute your efforts on behalf of all who are HIV-infected, and all who love us. Since we are unable to conquer the virus, we are grateful when others give us reason for hope.

Sincerely,

Mary D. Fisher.

PEDIATRIC AIDS COALITION, ADVOCATES FOR CHILDREN, ADOLESCENTS AND THEIR FAMILIES,
Washington, DC, September 29, 1994.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY: The Pediatric AIDS Coalition, comprised of 33 national organizations advocating on behalf of children, adolescents, women and their families affected by HIV and AIDS, is committed to ensuring that the unique needs of these populations are addressed through federal legislation. The Coalition supports the accelerated reauthorization of the Ryan White AIDS C.A.R.E. Act, and commends your leadership in seeking passage of this bill this year.

The Ryan White C.A.R.E. Act provides funding for programs and services that positively affect women, children, and adolescents. Language in your bill which creates more opportunities for organizations representing women, infants, children, and adolescents to participate in the Title II consortia, and increases the reporting requirements regarding the 15% set-aside, are improvements over existing law. We are also pleased with the addition of language which encourages cooperation and collaboration among grantees from all four titles, as well as among care providers outside of Ryan White.

On behalf of the Coalition, we offer our assistance in working together to reauthorize the Ryan White AIDS C.A.R.E. Act this year in order to better serve women, infants, children, adolescents, and their families affected by HIV/AIDS.

Sincerely,

DAMIAN THORMAN,
American Academy of Pediatrics.

LAURA FELDMAN,
National Association of Children's Hospitals and Related Institutions.

DAVID HARVEY,
AIDS Policy Center for Children, Youth & Families.

CITIES ADVOCATING
EMERGENCY AIDS RELIEF,
September 30, 1994.

Hon. EDWARD M. KENNEDY,
Chairman, Senate Committee on Labor and Human Resources, Washington, DC.

DEAR MR. CHAIRMAN: Cities Advocating Emergency AIDS Relief is a nationwide coalition representing the needs of community HIV service planning councils established under Title I of the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990. Our planning council members include community AIDS organizations, people living with HIV disease, civic leaders, business leaders, religious organizations, mayoral representatives, local public health officials, drug treatment providers, mental health providers and representatives from diverse communities of color. Our coalition members are directly involved in the frontline battle against AIDS in their communities across the nation.

We write to you to express our wholehearted support for the Kennedy-Hatch Ryan White CARE Reauthorization Act of 1994. We are extremely grateful to you for the leadership you have demonstrated on a number of HIV and health care issues, and for the ongoing support you have shown this program. The CAEAR Coalition is eager to work with you to ensure passage of this crucial piece of legislation before the end of the 103rd Congress.

Since 1990, the CARE Act has served as a lifeline for thousands of men, women and children living with HIV disease and AIDS in urban, suburban and rural areas of the country. While in 1990 just 16 U.S. cities were eligible for emergency relief through Title I, unfortunately, just four years later the number of eligible communities is thirty-four, and growing. We firmly believe that passage of this legislation before the end of the 103rd Congress is vital to our communities' efforts to successfully fight this growing epidemic.

Sincerely,

Atlanta HIV Planning Council—State Representative James Martin, Chairperson; State Representative LaNett Stanley, Co-Chairperson; Sandra Thurman, Director, Advocacy Programs, The Task Force for Child Survival and Development; Jeff Cheek, Director, Public Policy, AID Atlanta.

Baltimore HIV Planning Council—John Bartlett, M.D., Co-Chair, Johns Hopkins Medical Center; Carla Alexander, M.D., Chase Brexton Clinic.

Boston HIV Planning Council—Brian Felt, Chair; Denise McWilliams, Esq., Vice-Chair, Director, AIDS Law Project, Justice Resource Institute.

Chicago HIV Planning Council—Judith Johns, Co-Chair, Assistant Commissioner, Chicago Department of Health; Mark Ishaug, AIDS Foundation of Chicago.

Dallas HIV Planning Council—Don Maison, Executive Director, AIDS Services of Dallas.

Denver HIV Planning Council—Vic Dukay, Executive Director, The Lundy Foundation.

Detroit HIV Planning Council—Victor L. Marsh, Chair, Southeast Michigan AIDS Council (SEMHAC); Earl Schipper, Michigan AIDS Fund, Greystone Group.

Ft. Lauderdale HIV Planning Council—Jim Jordan, Chair.

Houston HIV Planning Council—Sue Cooper, Houston Department of Public Health.

Kansas City HIV Planning Council—Judy Moore-Nichols, Co-Chair; Mike Baker, Co-Chair.

Los Angeles HIV Planning Council—Phillip Wilson, Co-Chair, AIDS Project Los Angeles; Marcy Kaplan, Co-Chair, Los Angeles Pediatric AIDS Network.

Metro-Dade HIV Services Planning Council—James H. Cullither, PLWA, Chair.

Nassau-Suffolk HIV Planning Council—Theadore Jospe, Chair.

Newark HIV Planning Council—Nick Macchione, Executive Director.

New Haven HIV Planning Council—David Mensah, Member.

New Orleans HIV Planning Council—Judy Montz, Director of Health Policy and AIDS Funding, Office of the Mayor.

New York HIV Planning Council—Keith Cylar, Housing Works; Ronald Johnson, Chair, Coordinator of Citywide AIDS Policy; Joanna Omi, New York City Health and Hospitals Corp.

Oakland HIV Planning Council—Dr. Robert Scott, Chair.

Orange County HIV Planning Advisory Council—Pearl Jemison-Smith, Chair; Ronald Taylor, Orange County Health Care Agency.

Orlando HIV Planning Council—John Lawler, PLWA, Chair, Treasurer, Ryan White II.

Philadelphia HIV Planning Council—Richard H. Scott, Philadelphia Department of Public Health.

Phoenix HIV Planning Council—David Graham, Chairman, Maricopa County Community AIDS Partnership; Wayne Tormala, Executive Director, Maricopa County Community AIDS Partnership.

Ponce HIV Planning Council—Dr. Pedro Castang, Ponce Regency Hospital—Pediatric Center.

Riverside-San Bernardino HIV Planning Council—Bradley Gilbert, M.D., MPP, Chair, Director of Public Health, County of Riverside.

San Diego HIV Planning Council—Carol Nottley, Executive Director, AIDS Foundation San Diego.

San Francisco HIV Planning Council—Estela Garcia, Instituto Familiar de la Raza; Mitch Katz, Co-Chair, Director, AIDS Office, San Francisco Dept. of Public Health; Michael Shriver, Co-Chair, Mobilization Against AIDS.

San Juan HIV Planning Council—Debra Medina, AIDS Task Force; Sonia Torres, AIDS Task Force.

Seattle HIV Planning Council—Gregg Johnson, Co-Chair; Bob Wood, M.D., Co-Chair, Director, AIDS Control Program, Seattle-King County Department of Public Health.

St. Louis HIV Planning Council—Rudy Nickens, Co-Chair; Woody BeBout, Esq.

Tampa/St. Petersburg HIV Planning Council—Chuck Kuehn, Executive Director, Tampa AIDS Network.

Washington, D.C. HIV Planning Council—Ernest C. Hopkins, Chair; A. Cornelius Baker, Vice-Chair, Director of Public Policy and Education for the National Association of People With AIDS.

West Palm Beach HIV Planning Council—Peter Cruise, Chair; Shauna Dunn, Executive Director, Comprehensive AIDS Program of PBC.

ASSOCIATION OF STATE AND
TERRITORIAL HEALTH OFFICIALS,
Washington, DC, September 15, 1994.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the Association of State and Territorial Health Officials (ASTHO), which represents the chief health officers in the 50 states, the District of Columbia, and the U.S. territories, I am writing to indicate ASTHO's support for of early reauthorization of the Ryan White CARE Act.

ASTHO firmly believes that the Ryan White CARE Act has been instrumental in providing persons living with HIV/AIDS the necessary support and health care services that are crucial to prolonging and improving the quality of their lives.

ASTHO recognizes and applauds the efforts of the Ryan White CARE Act Reauthorization Coalition and, in particular, those of our affiliate the National Alliance of State and Territorial AIDS Directors, in bringing forth state perspectives.

We look forward to the introduction of this legislation and to working with you and your staff in enhancing state capacity to meet the health care needs of persons living with HIV/AIDS. Thank you for your efforts and your commitment to improving the quality of life for persons living with HIV/AIDS.

Sincerely,

PATRICIA A. NOLAN,
Chairwoman.

NATIONAL ALLIANCE OF STATE AND
TERRITORIAL AIDS DIRECTORS,
Washington, DC, September 29, 1994.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: The National Alliance of State and Territorial AIDS Directors (NASTAD) strongly supports the reauthorization of the Ryan White CARE Act before the end of the 103rd Congress.

Ryan White CARE Act programs have served as a lifeline for people living with HIV/AIDS throughout the United States. Through the provision of comprehensive HIV health and social services, people with HIV/AIDS have gained access to medical and social services that have helped to prolong and improve the quality of their lives.

As the organization representing the state health department HIV/AIDS program managers, NASTAD was deeply involved in the development of provisions to strengthen Title II of the CARE Act, which provides critical funding for comprehensive continuum of care programs in all U.S. states, the District of Columbia, Puerto Rico and the Virgin Islands. We believe that the reauthorization proposals included in the Kennedy-Hatch legislation will enhance Title II, increase access to life-prolonging medications, and help ensure an equitable distribution of resources required to enable all states to respond to the increasing need for HIV care services in urban, suburban, and rural areas.

Thank you for your extraordinary leadership on behalf of people with HIV/AIDS We look forward to working closely with you in the days ahead.

Sincerely,

ROBERT O. MCALISTER,
Chair.
JULIE M. SCOFIELD,
Executive Director.

AIDS POLICY CENTER,
FOR CHILDREN, YOUTH & FAMILIES,
Washington, DC, September 29, 1994.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the pediatric, adolescent and family AIDS community and Ryan White CARE Act Title IV grantees, I applaud your efforts to seek expedited passage of the Ryan White CARE Reauthorization Act of 1994 before the end of the 103rd Congress. This legislation is vital to the lives of children, youth, women, men and families affected by AIDS who depend on comprehensive services and access to life-savings drugs that are provided through CARE Act programs.

During the past year, The AIDS Policy Center has joined together in coalition with other national and local AIDS organizations as well as members of the Ryan White CARE Act Reauthorization Coalition for an unprecedented level of commitment and unity in seeking early reauthorization of this legislation. Through in-depth policy analysis and debate, recommendations were developed for technical amendments that take into account the geographic shift in the AIDS epidemic as well as enhanced representation of the pediatric, youth and women's community in CARE Act service planning procedures. In addition, technical amendments related to Title IV have greatly strengthened the ability to provide resources for services and access to clinical research programs in communities hardest hit by the HIV epidemic among children, youth, women, and families.

We look forward to working with you to secure passage of the Ryan White CARE Reauthorization Act of 1994 before the end of next week.

Sincerely,

SHERI SALTZBERG,
President, Board of Directors.

NATIONAL RYAN WHITE
TITLE III(B) COALITION,
Washington, DC, September 29, 1994.

Hon. EDWARD M. KENNEDY,
Chairman, Senate Committee on Labor and Human Resources, Washington, DC.

DEAR SENATOR KENNEDY: The Ryan White Title (III)(B) Coalition is a national coalition that includes representatives from community and migrant health centers, city and county health departments and diverse community-based organizations, including providers specifically targeting communities of color, hospitals, health care for the homeless centers, family planning agencies and comprehensive hemophilia centers specifically targeting communities of color and other historically underserved populations.

On behalf of the Coalition I wish to express our ardent support for the Ryan White CARE Reauthorization Act of 1994. We join with our partners in the AIDS community to testify that the CARE Act has been—and must continue to be—a vital part of our national response to the AIDS epidemic. The four titles of the CARE Act provide a continuum of HIV services across all states, territories, cities and neighborhoods in the United States.

The Coalition is deeply grateful for your unwavering commitment to Americans living with HIV/AIDS. Because of your leadership, hundreds of thousands of people have been served by Title III(B) programs. It is our profound hope that the CARE Act will continue to serve as a lifeline to those affected and infected with HIV disease for another five years. The Coalition stands ready to support your efforts to reauthorize the CARE Act.

Respectfully,

C. MICHAEL SAVAGE,
Chair.

Mr. SPECTER. Mr. President, as a strong supporter and cosponsor of the Ryan White CARE Act of 1990, I am pleased to join my colleagues as an original cosponsor of the Ryan White CARE Reauthorization Act of 1994. When the Act of 1990 was first introduced, I fought, along with several dedicated individuals representing women and children with HIV/AIDS, to ensure that funding provided under the act would support services and comprehensive care projects for children, youth, and families affected by the disease.

Over the last several years, I have worked to secure a smooth transition and integration of the previously funded pediatric AIDS demonstration projects with the pediatric AIDS demonstrations authorized under title IV of the act. I am, therefore, pleased that the reauthorization legislation strengthens both the provision of title IV, and the emphasis in the act on providing care to women and children infected with HIV/AIDS. The legislation also makes improvements in the allocation formulas and funding eligibility criteria to ensure that individuals and communities most in need receive assistance under the act.

The Ryan White CARE Act has been instrumental in providing necessary care and services to the nearly 1 million men, women, and children infected with HIV/AIDS. I am proud to be a cosponsor of this bill today. As ranking member of the Labor, Health and Human Services, and Education Appropriations Subcommittee, however, I must remind my colleagues that we face a freeze on discretionary spending over the next 4 years. Increases in funding for the programs under the act will be difficult to obtain. Having just completed work on the Labor, HHS, and Education Appropriations bill for fiscal year 1995, I know how difficult it is to balance the competing requirements for increased funding before the subcommittee. This will be no different next year.

Mr. FEINGOLD. Mr. President, I am pleased to join as an original cosponsor of the Ryan White Comprehensive AIDS Resource Emergency Act reauthorization package and would like to express my full and enthusiastic support for this measure. I commend Senator KENNEDY and members of his staff for their excellent stewardship in crafting this legislation, and for working hard to ensure that it receives attention this session.

For several months, Wisconsin AIDS groups and my office have worked in coalition with national AIDS organizations to develop a new formula for greater equity in the distribution of CARE Act funds and to move forward with an expedited reauthorization measure. The bill introduced in the Senate today represents a sincere effort to support equitable national funding for people with AIDS through changes in the funding formulas, while maintaining the integrity of each of the four titles of the CARE Act. It is a victory for people living with AIDS and HIV who are entitled to quality care regardless of where in this country they reside.

The CARE Act provides comprehensive medical and support services for thousands of Americans living with HIV/AIDS in cities, States, and communities across the United States. There is no question that these programs are necessary. One American becomes infected with HIV every 15 minutes, and in Wisconsin alone cumulative cases of AIDS and HIV infection as reported between 1982 and June 30, 1994 exceed 6,700. In 1993, 395 people in my State were diagnosed with AIDS, and 456 people learned that they were infected with HIV. HIV infection and AIDS cases are no longer striking Wisconsin's largest urban areas, the number of AIDS cases reported outside of the cities of Milwaukee and Madison are increasing rapidly, and now represent 39 percent of State's total cases.

Our experience with Ryan White programs to date reflect a profound reality—the dollars we spend through the CARE Act make a dramatic and positive difference in the lives of people living with AIDS. This reauthorization package goes a long way to make certain that those benefits are felt nationwide. It creates a supplemental grant system for the 32 States, like Wisconsin, that historically have not received emergency priority cities title I funding from the CARE Act. A minimum $250,000 allotment will be given to each State, regardless of the number of AIDS cases within their border. Supplemental grants will then be awarded on the basis of reported cases in each State. For States like Wisconsin, with AIDS caseloads greater than 1,500, an additional $500,000 supplemental grant will be provided. In total these changes should result in significant new funding for States with growing populations of AIDS and HIV survivors living in rural areas.

A reauthorized CARE Act that provides for equitable national funding per AIDS case to both high incidence cities and the states will strengthen the national response to AIDS, and should not result in financial harm to any community or State. The AIDS service providers in my State and I believe it would continue to direct more resources to higher incidence communities and would also assure that all regions of the country have resources to manage the AIDS epidemic commensurate to their incidence of AIDS. I respectfully urge my colleagues to support Ryan White CARE Act reauthorization.

By Mr. PRESSLER:

S. 2490. A bill to amend the Federal Water Pollution Control Act to establish a comprehensive program of conserving and managing wetlands and waters of the United States, and for other purposes; to the Committee on Environment and Public Works.

COMPREHENSIVE WETLANDS CONSERVATION AND MANAGEMENT ACT

Mr. PRESSLER. Mr. President, today I am introducing legislation that addresses a major concern of land owners and businesses not only in South Dakota but throughout the United States. The concern is wetlands.

Traveling throughout South Dakota and listening to the people, it is clear that wetlands are an issue on everyone's mind. More often than not, current wetlands policy is a burden on our farmers, ranchers, and business people. Problems with current wetlands policies have affected farmers and ranchers predominantly. However, current policies also are now affecting those who live in our cities and small towns. The bill I am introducing today would go far in establishing a policy that neither is burdensome nor imposes unwarranted costs and regulations.

And what are these wetlands concerns? The right to own private property is one. Compensation to property owners when land is taken away or when use of the land is restricted is another. Government-forced changes in farming and ranching operations are on everyone's mind. Current excessive penalties and fines could force young farmers and ranchers of the land. Obstacles to business expansion are another current concern.

Mr. President, the list of concerns goes on. These concerns are not imagined. They are real. In just one county in South Dakota—Kingsbury—nearly 20 percent of that county's farmland contains Government wildlife easement wetlands. However, Government officials have not notified farmers of those easements. Seven possible wetlands violations were reported in Kingsbury County earlier this year. Yet four of the seven operators charged had no idea there were wetlands easements on their farms.

In these cases, local officials quickly identified the problem, and notified the affected farmers. The farmers then quickly repaired the disruption of their wetlands. Now these farmers are waiting for a ruling from Washington, DC bureaucrats on what their penalty will be.

The penalties will not be light. They could reach $35,000. Mr. President, I do not know any small farmer or rancher who can afford to lose $35,000. Efforts must be taken to ensure that any fine or penalty is in line with violations. Many violations are incidental and quickly repaired. Penalties should fit the crime.

The concerns go well beyond farms and ranches. In Watertown, SD, a new elementary school is under construction. This month it was discovered that the 25-acre lot where the school is being built contains a wetland. All construction has ceased and builders are trying to determine what Federal permits are needed to resume construction. The process will take months. There is the possibility that fines may be levied.

Thousands of South Dakotans have written, called, or visited with me about the definition of wetlands and the rules and regulations designed to protect wetlands. Farmers, ranchers, business men and women, and individual South Dakotans have clearly identified one of the most important issues affecting their lives. They are concerned about the definition of wetlands and what guidelines should be adopted to ensure their protection.

After listening to South Dakotans, I cosponsored legislation last year, S. 1463, which would create much-needed guidelines for identifying and delineating wetlands and creating a balance between growth and the protection of private property. I have revised that bill and I am introducing it today in order to begin discussions on this crucial issue prior to the 104th Congress.

Next year, the Senate will consider changes in the Clean Water Act. Section 404 of that act is designed to protect wetlands. It is quite controversial. Current law is too broad, and it is causing too many problems throughout the country. The bill I am introducing today brings needed reform to section 404 and provides realistic wetlands definitions.

Congress has never passed a comprehensive law defining wetlands. Without that definition, Federal agencies have been aggressively pursuing control over private property in the name of saving wetlands. What the Government should or should not be doing in this area needs to be defined clearly. My bill does that. It provides definitions that protect true wetlands area and protects the rights of private property owners.

My bill requires certain criteria to be met and verified before an area can be regulated as a wetland. Such an approach is more reliable in identifying true wetlands. It prevents field inspectors from mistakenly classifying dry, upland areas that are drained effectively as wetlands, and also eliminates a major source of confusion and abuse caused by current regulations.

Mr. President, I ask that an explanation of the bill be printed in the RECORD at this point.

Mr. President, I applaud my friend and colleague Senator BREAUX for being the leader on this issue during last Congress. While the issue was not addressed on the floor during the 103d Congress, I wanted to introduce this bill to begin the debate for the next Congress.

The 104th Congress must address this issue. Whether it becomes part of the 1995 farm bill or whether it is adopted as a provision during the Clean Water Act reauthorization, this issue will be addressed. My bill establishes a common sense and balanced approach to defining and protecting wetlands.

The bill I am introducing today has strong support in my State. I will be introducing this bill again at the beginning of the 104th Congress and I will work for its adoption. I urge my colleagues to take a close look at this bill, and join me in sponsoring this bill next year.

The bill has wide support. The American Farm Bureau, National Farmers Union, National Cattlemen's Association, National Association of Home Builders, and the Alliance for America, among others, all support this bill.

Only through the kind of common sense and balanced approach proposed in my bill can the Nation's agricultural, business, environmental, and individual interests be addressed properly.

Mr. President, I ask unanimous consent that a copy of my bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2490

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Wetlands Conservation and Management Act of 1994".

SEC. 2. FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) wetlands play an integral role in maintaining high quality of life through material contributions to the national economy, food supply, water supply and quality, flood control, and fish, wildlife, and plant resources, and to the health, safety, recreation, and economic well-being of citizens throughout the United States;

(2) wetlands serve important ecological and natural resource functions, such as providing essential nesting and feeding habitat for waterfowl, other wildlife, and many rare and endangered species, fisheries habitat, the enhancement of water quality, and natural flood control;

(3) much of the wetlands resource of the United States has sustained significant loss or degradation, resulting in the need for effective programs to limit the loss and degradation of ecologically significant wetlands and to provide for long-term restoration and enhancement of the wetlands resource base;

(4) because 75 percent of the wetlands in the lower 48 States is privately owned and because the majority of the population of the United States lives in or near wetlands, an effective wetlands conservation and management program must reflect a balanced approach that conserves and enhances important wetlands functions and values while observing private property rights, recognizing the need for essential public infrastructure, such as highways, ports, airports, sewer systems, and public water supply systems, and providing the opportunity for sustained economic growth; and

(5) the Federal permit program established under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) was not originally conceived as a wetlands regulatory program and is insufficient to ensure that the wetlands resource base of the United States will be conserved and managed in a fair and environmentally sound manner.

(b) PURPOSE.—The purpose of this Act is to establish a new Federal regulatory program for activities in wetlands and waters of the United States to—

(1) assert Federal regulatory jurisdiction over a broad category of specifically identified activities that result in the loss or degradation of wetlands and waters of the United States;

(2) account for variations in wetlands functions or values in determining the character and extent of regulation of activities occurring in wetlands;

(3) provide sufficient regulatory incentives for conservation, restoration, or enhancement activities;

(4) encourage conservation of resources on an ecosystem basis to the fullest extent practicable; and

(5) balance public and private interests in determining the conditions under which activity in wetlands and waters of the United States may occur.

SEC. 3. WETLANDS CONSERVATION AND MANAGEMENT.

Title IV of the Federal Water Pollution Control Act (33 U.S.C. 1341 et seq.) is amended by striking section 404 and inserting the following new section:

"SEC. 404. PERMITS FOR ACTIVITIES IN WETLANDS OR WATERS OF THE UNITED STATES.

"(a) DEFINITIONS.—As used in this section:

"(1) ACTIVITY IN WETLANDS OR WATERS OF THE UNITED STATES.—The term 'activity in wetlands or waters of the United States' means—

"(A) the discharge of dredged or fill material into waters of the United States, including wetlands at a specific disposal site; or

"(B) the draining, channelization, or excavation of wetlands.

"(2) CREATION.—The term 'creation', used with respect to wetlands, means an activity that brings wetlands into existence, at a site where the wetlands did not formerly occur, for the purpose of compensation.

"(3) DIRECTOR.—The term 'Director', used without further modification, means the Director of the United States Fish and Wildlife Service.

"(4) ENHANCEMENT.—The term 'enhancement', used with respect to wetlands or waters of the United States, means an activity that increases the value of a function in wetlands or waters of the United States.

"(5) FASTLANDS.—The term 'fastlands' means lands located behind permitted manmade structures, such as lands located behind a levee to permit utilization of the lands for commercial, industrial, or residential purposes consistent with each local land use planning requirement.

"(6) GROWING SEASON.—The term 'growing season' means, for each plant hardiness zone, the period between the average date of last frost in spring and the average date of first frost in autumn.

"(7) INCIDENTALLY CREATED.—The term 'incidentally created', used with respect to wetlands, means lands that otherwise meet the standards for delineation of wetlands described in paragraphs (1) and (2) of subsection (g), if a characteristic of the wetlands is the unintended result of a human induced alteration of hydrology.

"(8) MAINTENANCE.—The term 'maintenance' means an activity undertaken to ensure continuation of wetlands or the accomplishment of a project goal after a wetlands restoration or wetlands creation project has been technically completed, including water level manipulation and control of any nonnative plant species.

"(9) MITIGATION BANKING.—The term 'mitigation banking' means wetlands restoration, enhancement, preservation, or creation for the purpose of providing compensation for wetlands loss or degradation.

"(10) NORMAL FARMING, SILVICULTURE, AQUACULTURE, OR RANCHING ACTIVITY.—The term 'normal farming, silviculture, aquaculture, or ranching activity' means a normal ongoing practice identified as a normal ongoing activity by the Secretary of Agriculture (in consultation with the Cooperative Extension Service for each State, the land-grant university system, and the agricultural colleges of the State), taking into account any existing practice (as of the date of the identification) and any other practice that may be identified in consultation with the affected industry or community.

"(11) PRIOR CONVERTED CROPLAND.—The term 'prior converted cropland' means lands that were both manipulated (by drainage or other physical alteration to remove excess water from the land) and cropped before December 23, 1985, to the extent that the lands no longer exhibit significant wetlands functions or values.

"(12) RESTORATION.—The term 'restoration', used with respect to wetlands, means an activity undertaken to return wetlands from a disturbed or altered condition with lesser wetlands acreage or fewer wetlands functions or values to a previous condition with greater wetlands acreage or more wetlands functions or values.

"(13) SECRETARY.—The term 'Secretary', used without further modification, means the Secretary of the Army.

"(14) TEMPORARY.—The term 'temporary', used with respect to an impact, means the disturbance or alteration of wetlands or waters of the United States caused by an activity under a circumstance in which, not later than 3 years following the commencement of the activity, the wetlands or waters—

"(A) are returned to the condition in existence prior to the commencement of the activity; or

"(B) display a condition sufficient to ensure that without further human action the wetlands or waters will return to the condition in existence prior to the commencement of the activity.

"(15) WETLANDS.—The term 'wetlands' means lands that meet the standards for delineation of lands as wetlands set forth in paragraphs (1) and (2) of subsection (g).

"(16) WETLANDS FUNCTIONS.—The term 'wetlands functions' means the roles wetlands serve that are of value, including flood water storage, flood water conveyance, ground water discharge, erosion control, wave attenuation, water quality protection, scenic and aesthetic use, food chain support, fishery support, wetlands plant habitat support, aquatic habitat support, and habitat for wetlands-dependent wildlife support.

"(b) AUTHORIZED ACTIVITIES.—

"(1) PERMIT REQUIREMENT.—No person shall undertake an activity in wetlands or waters of the United States unless the activity is undertaken pursuant to a permit issued by the Secretary, except as provided in paragraph (3).

"(2) ISSUANCE OF PERMITS.—The Secretary may issue permits authorizing activities in wetlands or waters of the United States in accordance with the requirements of this section.

"(3) ACTIVITIES NOT REQUIRING PERMITS.—An activity in wetlands or waters of the United States may be undertaken without a permit described in paragraph (2) from the Secretary if the activity is authorized under paragraph (5) or (6) of subsection (e), is exempt under subsection (f), or is otherwise exempt under another provision of this section.

"(4) APPLICATION.—Any person seeking to undertake an activity in wetlands or waters of the United States shall submit an application to the Secretary identifying the site of the activity. The applicant shall also provide such additional information regarding the proposed activity as may be necessary or appropriate for purposes of determining whether and under what conditions the proposed activity may be permitted to occur.

"(c) WETLANDS CLASSIFICATION.—

"(1) APPLICATION.—In submitting an application under subsection (b), any person seeking to undertake an activity in wetlands for which a permit is required under subsection (b) shall request that the Secretary determine, in accordance with paragraph (3), the classification of the wetlands in which the activity is proposed to occur. The applicant shall also provide such information as may be necessary or appropriate for determining the classification of wetlands.

"(2) NOTICE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 90 days after the receipt of an application described in paragraph (1) relating to an activity in wetlands, the Secretary shall provide notice to the applicant of the classification of the wetlands that are the subject of the application and shall state in writing the basis for the classification. The classification of the wetlands that are the subject of the application shall be determined by the Secretary in accordance with the requirements for classification of wetlands under paragraphs (3), (4), and (5).

"(B) NOTICE REGARDING ADVANCE CLASSIFICATION.—In the case of an application proposing an activity located in wetlands that are the subject of an advance classification under subsection (h), the Secretary shall provide notice to the applicant of the classification within 30 days following the receipt of the application, and shall provide an opportunity for review of the classification under paragraphs (4) and (5).

"(3) CLASSIFICATION.—On receipt of an application under this subsection with respect to wetlands, the Secretary shall, in accordance with the standards and procedures established by regulation issued under subsection (i)—

"(A) classify as type A wetlands the wetlands that are of critical significance to the long-term conservation of the ecosystem of which the wetlands are a part if—

"(i) the wetlands serve critical wetlands functions and values, including the provision of critical habitat for a concentration of avian, aquatic, or wetlands-dependent wildlife;

"(ii)(I) the wetlands consist of or are a portion of 10 or more contiguous acres and have an inlet or outlet for relief of water flow; or

"(II) the wetlands contain a prairie pothole feature, playa lake, or vernal pool;

"(iii) there exists a scarcity within the watershed or aquatic ecosystem of identified ecological functions served by the wetlands such that the use of the wetlands for an activity in wetlands or waters of the United States would seriously jeopardize the availability of the identified functions;

"(iv) there is no overriding public interest in the use of the wetlands for purposes other than conservation; and

"(v) the nature and scope of the wetlands functions and values of the wetlands are such that minimization and compensation are not feasible means for conserving the wetlands functions and values;

"(B) classify as type B wetlands the wetlands that provide habitat for a significant population of avian, aquatic, or wetlands-dependent wildlife, or provide other significant wetlands functions and values, including significant enhancement or protection of water quality in waters of the United States, or significant natural flood control; and

"(C) classify as type C wetlands the wetlands that—

"(i) serve limited wetlands functions and values;

"(ii) serve marginal wetlands functions and values but that exist in such abundance that regulation of activities in the wetlands is not necessary for conserving important wetlands functions and values;

"(iii) are prior converted cropland;

"(iv) are fastlands; or

"(v) are wetlands within industrial complexes or other intensely developed areas that do not serve significant wetlands functions and values as a result of the location.

"(4) DE NOVO DETERMINATION.—Not later than 30 days after receipt of notice of an advance classification by the Secretary under paragraph (2)(B), an applicant may request that the Secretary make a de novo determination of the classification of wetlands that are the subject of the notice. The de novo determination shall be made by the Secretary in consultation with the Director. The Secretary may sustain the advance classification made by the Director. The Secretary may modify the classification if the Secretary determines, on examination of all relevant information submitted by the applicant or otherwise available to the Secretary (including, if appropriate, an on-the-ground examination) that—

"(A) the lands involved do not meet the standards for delineating wetlands set forth in paragraph (1) or (2) of subsection (g);

"(B) the weight of relevant information does not support the determination of the advance classification with respect to the specific wetlands involved;

"(C) the factual basis for the advance classification is no longer valid; or

"(D) the limitations on uses of the specific wetlands involved that would be imposed by the Secretary under this section would effectively preclude reasonable economic use of the wetlands.

"(5) APPEALS.—In the event that the Secretary delegates authority to determine the classification of wetlands under paragraphs (3) and (4), the Secretary shall, by regulation, provide for a right of appeal to the Secretary or the designee of the Secretary of the classification of wetlands under paragraph (3) or the de novo determination of an advance classification in accordance with paragraph (4).

"(6) MAXIMUM PERCENT OF LANDS CLASSIFIED AS TYPE A WETLANDS.—No more than 20 percent of any county, parish, or borough shall be classified as type A wetlands. For purposes of this paragraph, a county, parish, or borough includes any land in the county, parish, or borough that is owned by the United States or by a State, including land in a unit of the National Wildlife Refuge System, land in the National Park System, and land in a conservation easement.

"(d) COMPENSATION FOR LANDOWNERS.—

"(1) ELECTION TO SEEK COMPENSATION.—Any person (including a State or political subdivision of a State) who owns an interest in lands that have been classified as type A wetlands by the Secretary under subsection (c)(3)(A) or by the Director under subsection (h) may, not later than 2 years after receipt of actual notice of the classification (or not later than 2 years after a de novo determination of the classification under subsection (c)(4)), notify the Secretary and the Director that the person is electing to seek compensation for the fair market value of the interest in lands at the time of the classification, in accordance with the requirements of this section. The fair market value may include reasonable attorney's fees and shall be calculated without regard to any diminution in value resulting from the applicability of this section.

"(2) NEGOTIATIONS.—Immediately on receipt by the Secretary and the Director of notification of election to seek compensation under paragraph (1), the Director shall enter into good faith negotiations with the owner for purposes of determining the value of the interest in lands that have been classified as type A wetlands. Not later than 90 days after receipt of the notification of election by the owner under paragraph (1), the Director shall make an offer of reasonable compensation to the owner.

"(3) ACTION OF OWNER.—

"(A) IN GENERAL.—Not later than 6 years after the date the Director makes an offer of compensation under paragraph (2), the owner shall provide notice that the owner, in the discretion of the owner—

"(i) accepts the offer of compensation;

"(ii) has filed a claim for determination of the value of the compensation described in paragraph (1) with the United States Court of Federal Claims; or

"(iii) advises the Director and the Secretary that the owner elects to retain title to the wetlands and elects not to receive compensation for the taking of land under this subsection.

"(B) FAILURE TO PROVIDE NOTICE.—Failure to provide notice in accordance with this paragraph shall be deemed an election to retain title to the wetlands and not to receive compensation under this subsection.

"(4) EFFECT OF ACCEPTANCE OF OFFER OR FILING OF CLAIM.—On acceptance of an offer of compensation, or the filing of a claim for determination of the value of compensation, under paragraph (3), the classification as type A wetlands of the wetlands that are the subject of the offer or claim shall be binding on the owner and any successor in interest, and the title to the lands shall pass to the United States. The classification of the lands as type A wetlands under this paragraph shall constitute a taking by the United States of the interests in the lands of the owner and shall be compensable under this subsection.

"(5) EXTENT OF TAKING.—A taking under this subsection shall be deemed to be a taking of surface interests in lands only, with the following exceptions:

"(A) EXPLORATION OR DEVELOPMENT NOT COMPATIBLE WITH CONSERVATION.—If the Secretary determines that the exploration for or development of oil and gas or mineral interests is not compatible with conservation of the surface interests in lands that have been classified as type A wetlands located above the oil and gas or mineral interests (or located adjacent to the oil and gas or mineral interests where the adjacent lands are necessary to provide reasonable access to the interests), the Secretary may classify the oil and gas or mineral interests as type A wetlands and notify the owner of the interests that the owner may elect to receive compensation for the interests under paragraph (1).

"(B) FAILURE TO PROVIDE REASONABLE ACCESS.—The failure of the Secretary to provide reasonable access to oil and gas or mineral interests located beneath or adjacent to surface interests of type A wetlands shall be deemed a taking of the oil and gas or mineral interests. The Secretary shall classify the oil and gas or mineral interests as type A wetlands and notify the owner of the interests that the owner may elect to receive compensation for the interests under paragraph (1).

"(6) JURISDICTION.—The United States Court of Federal Claims shall have jurisdiction—

"(A) to determine the value of interests taken and the fair compensation required under this subsection and the Constitution;

"(B) in the case of oil and gas or mineral interests, to require the United States to provide reasonable access in, across, or through lands that may be the subject of a taking under this subsection solely for the purpose of undertaking activity necessary to determine the value of the interests taken; and

"(C) to provide other equitable remedies determined to be appropriate.

"(7) EXECUTION OF JUDGMENT.—Any judgment rendered under paragraph (6) may be executed, at the election of the owner. Any owner seeking to execute such a judgment shall execute the judgment not later than 2 years after the date the judgment is rendered. The owner may, prior to the execution of the judgment, enter into an agreement with the United States for satisfaction of the judgment through a crediting of a tax benefit, acquisition of an interest in oil and gas or minerals, an exchange of interests in lands with the United States, or other means of compensation.

"(8) CONSTRUCTION.—

"(A) AVAILABILITY OF OTHER REMEDIES.—The remedy for a taking of an interest in lands under this subsection shall not be construed to preempt, alter, or limit the availability of other remedies for the taking of the interest in lands under the Constitution or under State law, including the taking of rights to the use of water allocated under State law or the taking of the interest in lands by denial of a permit under this section.

"(B) TAKING BY DENIAL OF A PERMIT.—Any award of compensation for the taking of an interest in lands by denial of a permit under this section shall be based on the fair market value of the interest in lands at the time of the taking. The fair market value may include reasonable attorney's fees and shall be calculated without regard to any diminution in value resulting from the applicability of this section.

"(9) MANAGEMENT.—Interests in lands acquired by the United States under this subsection shall be managed by the United States Fish and Wildlife Service as a part of the National Wildlife Refuge System unless the Secretary of the Interior, acting through the Director, makes a determination otherwise, or unless otherwise provided by law.

"(10) REQUIREMENTS GOVERNING USE OF WATER.—No action taken under this subsection shall be construed to alter or supersede requirements governing use of water applicable under State law.

"(e) REQUIREMENTS APPLICABLE TO PERMITTED ACTIVITY.—

"(1) ISSUANCE OR DENIAL OF PERMITS.—Following the provision of notice of wetlands classification pursuant to subsection (c) if applicable, and after compliance with the requirements of subsection (d) if applicable, the Secretary may issue or deny a permit for authorization to undertake an activity in wetlands or waters of the United States, in accordance with the requirements of this subsection.

"(2) TYPE A WETLANDS.—

"(A) IN GENERAL.—The Secretary shall deny a permit authorizing an activity in type A wetlands unless the Secretary determines that—

"(i) the activity can be undertaken with minimal alteration or surface disturbance of the wetlands; or

"(ii) the proposed use of the land, taking into account all proposed mitigation, will result in overall environmental benefits, including the prevention of wetlands loss or degradation.

"(B) TERMS AND CONDITIONS CONCERNING MITIGATION.—Any permit issued authorizing activities in type A wetlands may contain such terms and conditions concerning mitigation (including terms and conditions applicable under paragraph (3) for type B wetlands) as the Secretary determines to be appropriate to prevent the unacceptable loss or degradation of type A wetlands.

"(3) TYPE B WETLANDS.—

"(A) CONSIDERATIONS.—The Secretary may issue a permit authorizing an activity in type B wetlands subject to such terms and conditions as the Secretary finds are necessary to ensure that the watershed or aquatic ecosystem of which the wetlands are a part does not suffer significant loss or degradation of wetlands functions and values. In determining whether specific terms and conditions are necessary to avoid a significant loss or degradation of wetlands functions and values, the Secretary shall consider the following:

"(i) The quality and quantity of ecologically significant functions and values served by the areas to be affected.

"(ii) The opportunities to reduce impacts through cost-effective design to avoid or minimize use of wetlands.

"(iii) The costs of mitigation requirements and the social, recreational, and economic benefits associated with the proposed activity, including local, regional, or national needs for improved or expanded infrastructure.

"(iv) The ability of the applicant for the permit to mitigate wetlands loss or degradation as measured by wetlands functions and values.

"(v) The environmental benefit, measured by wetlands functions and values, that may occur through mitigation efforts, including restoration, preservation, enhancement, or creation of wetlands functions and values.

"(vi) The marginal impact of the proposed activity on the watershed or aquatic ecosystem of which the wetlands are a part.

"(B) ALTERNATIVE SITE ANALYSES AND PROJECT PURPOSES.—In considering applications for permits with respect to activities on type B wetlands, the Secretary may require alternative site analyses for individual permit applications involving the alteration or permanent surface disturbance of 10 or more contiguous acres of wetlands. In the case of such an application, there shall be a rebuttable presumption that the project purpose for the activities as defined by the applicant shall be binding on the Secretary. In the case of such an application, the definition of project purpose for the activities sponsored by a public agency shall be binding on the Secretary, subject to the authority of the Secretary to impose mitigation requirements to minimize impacts on wetlands functions and values, including cost-effective redesign of the project to avoid wetlands.

"(C) REQUIREMENTS FOR MITIGATION.—Except as otherwise provided in this section, requirements for mitigation shall be imposed if the Secretary finds that activities undertaken under this section will result in the loss or degradation of type B wetlands functions and values where the loss or degradation is not an incidental or a temporary impact. When determining the mitigation requirements in any specific case, the Secretary shall take into consideration the characteristics of the wetlands affected, the character of the impact on ecological functions, whether any adverse effects on wetlands are of a permanent or temporary nature, and the cost-effectiveness of the mitigation and shall seek to minimize the costs of the mitigation.

"(D) REGULATIONS GOVERNING REQUIREMENTS FOR MITIGATION.—The Secretary shall issue regulations under subsection (i) governing requirements for compensatory mitigation, for activities occurring in type B wetlands, that allow for—

"(i) minimization of impacts through project design for the activities, including avoidance of specific wetlands impacts where economically practicable and consistent with the project purpose, provisions for compensatory mitigation, if any, and other terms and conditions necessary and appropriate in the public interest;

"(ii) preservation or donation of type A wetlands or type B wetlands (if title has not been acquired by the United States and no compensation for the taking of the wetlands has been provided) as mitigation for activities that result in loss or degradation of wetlands;

"(iii) enhancement or restoration of lost or degraded wetlands as compensation for wetlands lost or degraded through permitted activity;

"(iv) compensation through contribution to a mitigation banking program established for a State pursuant to subparagraph (F);

"(v) offsite compensatory mitigation with respect to an activity in a wetlands, if the mitigation contributes to the restoration, enhancement, or creation of significant wetlands functions and values on a watershed or ecosystem-wide basis and is balanced with the effects that an activity proposed to be carried out under a permit will have on the specific site (except that offsite compensatory mitigation, if any, shall be required only in the State in which the proposed activity is to occur, and shall, to the extent practicable, be within the watershed or aquatic ecosystem within which the proposed activity is to occur, unless otherwise consistent with a State wetlands management plan);

"(vi) contribution of in-kind value acceptable to the Secretary and otherwise authorized by law;

"(vii) in areas subject to wetlands loss or degradation, construction of coastal protection and enhancement projects;

"(viii) contribution of resources of more than 1 permit recipient toward a single mitigation project; and

"(ix) other mitigation measures determined by the Secretary to be appropriate, in the public interest, and consistent with the requirements and purposes of this Act.

"(E) COMPENSATORY MITIGATION.—Notwithstanding subparagraph (C), the Secretary may determine not to impose requirements for compensatory mitigation, with respect to an activity in a wetlands, if the Secretary finds that—

"(i) the adverse impacts of an activity proposed to be carried out under a permit are limited;

"(ii) the failure to impose compensatory mitigation requirements is compatible with maintaining wetlands functions and values and no practicable and reasonable means of compensatory mitigation is available;

"(iii) there is an abundance of similar significant wetlands functions and values in or near the area in which the proposed activity is to occur that will continue to serve the functions and values lost or degraded as a result of the activity, taking into account the impacts of the activity and the cumulative impacts of similar activity in the area;

"(iv) the temporary character of the impacts and the use of minimization techniques make compensatory mitigation unnecessary to protect significant wetlands functions and values; or

"(v) a waiver from requirements for compensatory mitigation is necessary to prevent special hardship.

"(F) MITIGATION BANKING PROGRAM.—

"(i) ESTABLISHMENT.—The Secretary, in consultation with the Director, shall establish a mitigation banking program in each State. The mitigation banking program shall be developed in consultation with the Director and the Governor of the State in which the wetlands covered by the mitigation banking program is located. After approval of the program by the Secretary, the Secretary may require contributions to the program as a means for ensuring compensation for loss and degradation of wetlands functions and values in the State in accordance with the requirements of this paragraph.

"(ii) PRIMARY OBJECTIVE.—The primary objective of the programs shall be to provide for the restoration, enhancement, or, where feasible, creation of ecologically significant wetlands on an ecosystem basis.

"(iii) FUNCTIONS AND VALUES.—Each program described in clause (i) shall—

"(I) provide a preference for large-scale projects for conservation, enhancement, or restoration of wetlands, unless the Secretary (or the Governor of a State that is administering a State permit program under subsection (l)) determines that a smaller project will contribute substantially to the conservation, enhancement, or restoration of ecologically significant wetlands functions and values or that the restoration of indigenous wetlands resources cannot be accomplished through large-scale projects;

"(II) authorize mitigation banks sponsored by private entities or public entities;

"(III) provide for the crediting to a State or privately maintained mitigation bank of contributions in land or cash, or in-kind contributions, so that persons unable to sponsor specific mitigation projects can contribute to the mitigation bank;

"(IV) have sufficient requirements to ensure completion, maintenance, and supervision of wetlands projects for at least a 25-year period, including requirements for bonds or other evidence of financial responsibility;

"(V) authorize the imposition of bonding requirements on private entities operating the banks;

"(VI) limit activities in or on wetlands that are part of a mitigation bank to uses that are consistent with maintaining or gaining significant wetlands functions and values; and

"(VII) authorize a credit to be provided on an acre-for-acre or value-for-value basis for type A and B wetlands that are permanently protected in national conservation units in any State that has converted less than 10 percent of the historic wetlands base of the State to other uses.

"(4) ACTION ON APPLICATIONS.—

"(A) TIMING.—In the case of any application for authorization to undertake activities in wetlands or waters of the United States that are not type C wetlands, final action by the Secretary shall occur not later than 180 days after the date the application is filed, unless—

"(i) the Secretary and the applicant agree that the final action shall occur within a shorter or longer period of time;

"(ii) the Secretary determines that an additional, specified period of time is necessary to permit the Secretary to comply with other applicable Federal law; or

"(iii) the Secretary, not later than 15 days after the date the application is received, notifies the applicant that the application does not contain all information necessary to allow the Secretary to consider the application and identifies any necessary additional information, in which case the provisions of subparagraph (B) shall apply.

"(B) ADDITIONAL INFORMATION.—On the receipt of a request for additional information under subparagraph (A)(iii), the applicant shall supply the additional information and shall provide notice to the Secretary that the application contains all requested additional information and is therefore complete. The Secretary may—

"(i) not later than 30 days after the receipt of notice from the applicant that the application is complete, determine that the application does not contain all requested additional information and, on the basis of the determination, deny the application without prejudice with respect to resubmission; or

"(ii) not later than 180 days after the receipt of notice from the applicant that the application is complete, review the application and take final action on the application.

"(C) FAILURE TO ACT ON APPLICATION.—If the Secretary fails to take final action on an application as provided in subparagraph (B)(ii), on the 180th day described in such subparagraph a permit shall be presumed to be granted authorizing the activities proposed in the application under such terms and conditions as are stated in the completed application.

"(D) APPEALS.—Not later than 60 days after the date of a decision of the Secretary denying a permit requested in an application under this paragraph, the applicant may appeal the decision to the Secretary of Defense or the designee of the Secretary of Defense. On such an appeal, the Secretary of Defense or the designee shall uphold the decision of the Secretary of the Army if the Secretary of the Army proves by clear and convincing evidence that granting the permit requested in the application would be inconsistent with this section.

"(5) TYPE C WETLANDS.—

"(A) PERMIT NOT REQUIRED.—Activities in wetlands that have been classified as type C wetlands under subsection (c)(3)(C) by the Secretary or under subsection (h) by the Director may be undertaken without a permit referred to in subsection (b).

"(B) REPORTING REQUIREMENTS.—The Secretary may establish requirements for reporting activities undertaken in type C wetlands.

"(C) ALTERNATIVE SITE ANALYSIS AND MITIGATION NOT REQUIRED.—No requirements for alternative site analyses or mitigation of environmental impacts shall apply for activities undertaken in type C wetlands.

"(6) NATIONAL, REGIONAL, OR STATEWIDE GENERAL PERMITS.—

"(A) IN GENERAL.—The Secretary may, in accordance with a regulation issued under subsection (i), issue general permits on a national, regional, or statewide basis for any category of activities in wetlands or waters of the United States for which a permit would otherwise be required under subsection (b), if the Secretary determines that the activities in the category are similar in nature and that the activities, whether performed separately or cumulatively, will not result in a significant loss or degradation of ecologically significant wetlands functions and values or of ecologically significant waters of the United States. Permits issued under this paragraph shall include procedures for expedited review of eligibility for the permits (if the review is required) and may include requirements for reporting and mitigation. The Secretary may impose requirements for compensatory mitigation for the permits if necessary to avoid or minimize the significant loss or degradation of significant wetlands functions and values where the loss or degradation is not an incidental or a temporary impact.

"(B) EXISTING GENERAL PERMITS.—General permits issued on a national or regional basis for a activities in the wetlands or waters of the United States and in effect on the date of enactment of the Comprehensive Wetlands Conservation and Management Act of 1994 shall remain in effect until otherwise modified by the Secretary.

"(f) ACTIVITIES NOT REQUIRING PERMIT.—

"(1) ACTIVITIES.—Except as provided in paragraph (3), activities in wetlands or waters of the United States shall be exempt from the requirements of this section and shall not be prohibited by or otherwise subject to regulation under this section or section 301 or 402 (except to the extent such sections relate to compliance with effluent standards or prohibitions under section 307), if the activities—

"(A) result from normal farming, silviculture, aquaculture, or ranching activities and practices, such as plowing, seeding, cultivating, minor drainage, burning of vegetation in connection with the activities and practices, harvesting for the production of food, fiber, or forest products, or upland soil and water conservation practices;

"(B) are for the purpose of maintenance, including emergency reconstruction of recently damaged parts of currently (as of the date of the maintenance) serviceable structures such as dikes, dams, levees, water control structures, groins, riprap, breakwaters, causeways, and bridge abutments or approaches, and transportation structures;

"(C) are for the purpose of construction or maintenance of farm, stock, or aquaculture ponds or irrigation canals and ditches, or the maintenance of drainage ditches;

"(D) are for the purpose of construction of temporary sedimentation basins on a construction site that does not include placement of fill material into navigable waters;

"(E) are for the purpose of construction or maintenance of farm roads or forest roads, or temporary roads for moving mining equipment, if the roads are constructed and maintained, in accordance with best management practices, to ensure that flow and circulation patterns and chemical and biological characteristics of the waters involved are not impaired, that the reach of the waters is not reduced, and that any adverse effect on the aquatic environment will be otherwise minimized;

"(F) are undertaken on farmed wetlands, except that any change in use of the wetlands for the purpose of undertaking activities that are not exempt from regulation under this subsection shall be subject to this section;

"(G) result from any activity with respect to which a State has an approved program for which an application was submitted under section 208(b)(4) that meets the requirements of subparagraphs (B) and (C) of such section;

"(H) are consistent with a State or local land management plan submitted to the Secretary and approved pursuant to paragraph (2);

"(I) are undertaken in connection with a marsh management and conservation program in a coastal parish in Louisiana if the program has been approved by the Governor of the State or the designee of the Governor;

"(J) are undertaken on lands or involve activities within a coastal zone of a State that are excluded from regulation under the State coastal zone management program approved under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

"(K) are undertaken in incidentally created wetlands, unless the incidentally created wetlands have exhibited wetlands functions and values for more than 5 years (in which case activities undertaken in the wetlands shall be subject to the requirements of this section);

"(L) are part of expanding an ongoing farming operation involving the water dependent, obligate crop, Vaccinium macrocarpin, if—

"(i) the expansion does not occur in type A wetlands;

"(ii) the expansion does not result in the conversion of more than 10 acres of wetlands or waters of the United States per operator per year; and

"(iii) the converted wetlands or waters of the United States (other than in locations where dikes and other necessary facilities are placed) remain as wetlands or other waters of the United States; or

"(M) result from aggregate or clay mining activities in wetlands or waters of the United States conducted pursuant to a State or Federal permit that requires the reclamation of the wetlands or waters of the United States, if the reclamation meets conditions for reclamation, including conditions that—

"(i) the reclamation shall be completed within 5 years of the commencement of activities in the wetlands or waters; and

"(ii) on completion of the reclamation, the wetlands or waters shall support functions (including wetlands functions, as appropriate) and values equivalent to the functions and values supported by the wetlands or waters at the time of commencement of the activities.

"(2) STATE AND LOCAL LAND MANAGEMENT PLANS.—

"(A) DEVELOPMENT AND SUBMISSION OF PLAN.—Any State or political subdivision of a State acting pursuant to State authorization may develop a land management plan with respect to lands that include wetlands. A State or local government agency, acting on behalf of the State or political subdivision, may submit the plan to the Secretary for review and approval. The Secretary shall, not later than 60 days after receipt of the plan, notify a designated State or local official in writing of approval or disapproval of the plan.

"(B) APPROVAL.—The Secretary shall approve any plan described in subparagraph (A) that is consistent with the objectives of this section. No person shall be entitled to judicial review of the decision of the Secretary to approve or disapprove a land management plan under this paragraph.

"(C) CONSTRUCTION.—Nothing in this paragraph shall be construed to alter, limit, or supersede the authority of a State or political subdivision of a State to establish a land management plan for purposes other than the objectives of this subsection.

"(g) STANDARDS FOR DELINEATING WETLANDS.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT OF STANDARDS.—The Secretary shall establish standards, by regulation issued under subsection (i), that shall govern the delineation of lands as wetlands for purposes of this section.

"(B) CONSULTATION.—Before establishing standards as described in subparagraph (A), the Secretary shall consult with the heads of other departments and agencies of the United States, including the Director, the Administrator of the Environmental Protection Agency, and the Chief of the Soil Conservation Service of the Department of Agriculture.

"(C) STANDARDS BINDING ON FEDERAL AGENCIES.—The standards established as described in subparagraph (A) shall bind all Federal agencies in connection with the administration or implementation of this section.

"(2) DELINEATION OF WETLANDS.—

"(A) IN GENERAL.—The standards established as described in paragraph (1)(A) shall be issued in accordance with this paragraph, and any decision of the Secretary, the Director, or any other Federal officer or employee made in connection with the administration of the standards, shall be made in accordance with this paragraph.

"(B) REQUIREMENTS FOR DELINEATION OF WETLANDS.—For purposes of this section, lands shall be delineated as wetlands only if—

"(i) the lands are wetlands, as defined in section 502;

"(ii) the Secretary finds clear evidence of wetlands hydrology, hydrophytic vegetation, and hydric soil during the period in which the delineation (to be conducted during the growing season unless otherwise requested by the applicant) is made;

"(iii) the delineation does not result in the classification of vegetation as hydrophytic if the vegetation is equally adapted to dry or wet soil conditions or is more typically adapted to dry soil conditions than to wet soil conditions;

"(iv) the Secretary finds some obligate wetlands vegetation present during the period of delineation (except that if the vegetation is removed for the purpose of evading a requirement of this section, this clause shall not apply);

"(v) the delineation does not result in the conclusion that conditions of wetlands hydrology are present unless the Secretary finds water present at the surface of the lands for at least 21 consecutive days during the growing season (or period requested by the applicant) in which such delineation is made and for 21 consecutive days in the growing seasons in a majority of the years for which records are available; and

"(vi) the lands were not temporarily or incidentally created as a result of adjacent development activity.

"(C) NORMAL CIRCUMSTANCES.—For the purpose of delineating wetlands under this section, a normal circumstance shall be determined on the basis of the factual circumstance in existence on the date a classification is made under subsection (h), or on the date of application under subsection (b), whichever is applicable, if the circumstance has not been altered by an activity prohibited under this section.

"(h) UNITED STATES FISH AND WILDLIFE SERVICE WETLANDS IDENTIFICATION AND CLASSIFICATION PROJECT.—

"(1) IN GENERAL.—The Director, after receiving the concurrence of the Chief of the Soil Conservation Service, shall conduct a project to identify and classify wetlands in the United States. The Director shall complete the project not later than 10 years after the date of enactment of the Comprehensive Wetlands Conservation and Management Act of 1994.

"(2) STANDARDS FOR CLASSIFYING WETLANDS.—In conducting the project, the Director shall identify and classify wetlands in accordance with the standards for delineation of wetlands established by the Secretary as described in paragraphs (1) and (2) of subsection (g).

"(3) NOTICE AND HEARING.—Before completion of identification and classification of wetlands under paragraph (1), the Director shall provide notice and an opportunity for a public hearing in each county, parish, or borough that includes lands subject to identification and classification.

"(4) PUBLICATION.—Promptly after completion of identification and classification of wetlands under paragraph (1), the Director shall publish information concerning the identification and classification in the Federal Register and in publications of wide circulation and take other steps reasonably necessary to ensure that information concerning the identification and classification is made available to the public.

"(5) RECORDING.—The Director shall, to the fullest extent practicable, record any classification of lands as wetlands under paragraph (1) on the property records in the county, parish, or borough in which the wetlands are located.

"(6) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of the Comprehensive Wetlands Conservation and Management Act of 1994, and annually thereafter, the Secretary of the Interior shall prepare and submit to the appropriate committees of Congress a report on implementation of the project conducted under this subsection.

"(i) ADMINISTRATIVE PROVISIONS.—

"(1) PROMULGATION OF FINAL REGULATIONS.—Not later than 1 year after the date of enactment of the Comprehensive Wetlands Conservation and Management Act of 1994, the Secretary shall, after notice and opportunity for public comment, issue 1 or more final regulations for the issuance of permits under this section. The regulations shall—

"(A) establish standards and procedures for—

"(i) the classification and delineation of wetlands, and procedures for administrative review of the classification or delineation of wetlands;

"(ii) the review of State or local land management plans and State programs for the regulation of wetlands and waters of the United States;

"(iii) the issuance of general permits on a national, regional, or statewide basis under this section;

"(iv) the issuance of individual permit applications under this section;

"(v) enforcement of this section;

"(vi) administrative appeal of an action by the Secretary denying an application for a permit referred to in subsection (b), or issuing a permit referred to in subsection (b) subject to 1 or more conditions; and

"(vii) any other related area that the Secretary determines necessary or appropriate to implement the requirements of this section; and

"(B) establish requirements governing the establishment of a mitigation bank.

"(2) JUDICIAL REVIEW OF A FINAL REGULATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any judicial review of a final regulation issued pursuant to paragraph (1), and any denial by the Secretary of a petition for the issuance or repeal of a regulation under paragraph (1), shall be conducted in accordance with sections 701 through 706 of title 5, United States Code.

"(B) JURISDICTION OF COURT.—A petition for review of the action of the Secretary in issuing a regulation under paragraph (1), or denying a petition for the issuance or repeal of a regulation under paragraph (1), may be filed only in the United States Court of Appeals for the District of Columbia. The petition for review may only be filed—

"(i) not later than 90 days after the date of issuance or denial; or

"(ii) if the petition for review is based solely on grounds arising after the date of issuance or denial, not later than 90 days after the date the grounds arise.

Action by the Secretary with respect to which review could have been obtained under this paragraph shall not be subject to judicial review in civil or criminal proceedings for enforcement.

"(3) INTERIM REGULATIONS.—

"(A) PROMULGATION OF INTERIM REGULATIONS.—Not later than 90 days after the date of enactment of the Comprehensive Wetlands Conservation and Management Act of 1994, the Secretary shall issue interim regulations consistent with paragraph (1). The interim regulations shall become effective on the date of issuance. Notice of the interim regulations shall be published in the Federal Register. Except as provided in subparagraph (B), the interim regulations shall apply until the issuance of final regulations under paragraph (1).

"(B) WAIVER OF INTERIM REGULATIONS.—The Secretary shall provide a procedure for waiving a provision of an interim regulation—

"(i) in a case in which the applicant demonstrates special hardship, inequity, or unfair distribution of burdens; or

"(ii) in a case in which the Secretary determines that a waiver under this subparagraph would advance the purposes of this section.

"(4) AUTHORITY TO CARRY OUT REGULATIONS.—Except as otherwise expressly provided in this section, the Secretary shall be responsible for carrying out this subsection. The Secretary or any other Federal officer or employee in whom any function under this section is vested or to whom any such function is delegated may perform any and all acts (including appropriate enforcement activity), and may prescribe, issue, amend, or rescind any regulation or order the officer or employee may find necessary or appropriate to prescribe, issue, amend, or rescind under this section, subject to the requirements of this section.

"(j) VIOLATIONS.—

"(1) ENFORCEMENT BY SECRETARY.—Whenever the Secretary finds, on the basis of reliable and substantial information and after reasonable inquiry, that a person is or may be in violation of this section or a condition or limitation set forth in a permit issued by the Secretary under subsection (b) the Secretary shall—

"(A) issue an order requiring the person to comply with this section or with the condition or limitation in the permit; or

"(B) bring a civil action in accordance with paragraph (3).

"(2) ORDERS ISSUED BY SECRETARY.—

"(A) COPY OF ORDER SENT TO STATES.—A copy of each order issued under paragraph (1) shall be sent immediately by the Secretary to the Governor of the State in which the violation occurred and the Governor of any other affected State.

"(B) SERVICE.—Except as provided in subparagraph (C), any order issued under paragraph (1) shall—

"(i) be issued by personal service to the appropriate person or corporate officer;

"(ii) state with reasonable specificity the nature of the asserted violation; and

"(iii) specify a period for compliance, not to exceed 30 days, that the Secretary determines is reasonable (taking into account the seriousness of the asserted violation and any good faith efforts to comply with applicable requirements).

"(C) TIME LIMIT ON ORDER.—

"(i) IN GENERAL.—Not later than 150 days after the date of service under subparagraph (B), the Secretary shall—

"(I) take such action as is necessary for the prosecution of a civil action in accordance with paragraph (3); or

"(II) rescind the order issued under paragraph (1) and be estopped from any further enforcement proceeding for the same asserted violation.

"(ii) DISPUTED ORDERS.—If a person receiving service under subparagraph (B) disputes the finding described in paragraph (1) and notifies the Secretary in writing not later than 90 days after the service, the Secretary shall, not later than 60 days after receiving the notification of the dispute—

"(I) take such action as is necessary for the prosecution of a civil action in accordance with paragraph (3); or

"(II) rescind the order and be estopped from any further enforcement proceeding for the same asserted violation.

"(3) CIVIL ACTIONS.—The Secretary may commence a civil action for appropriate relief, including a permanent or temporary injunction, for any violation for which the Secretary may issue an order under paragraph (1). An action commenced under this paragraph may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and the court shall have jurisdiction to restrain the violation and to require compliance. Notice of the commencement of the action shall be given immediately to the Governor of any affected State.

"(4) PENALTIES.—Any person who violates this section or a condition or limitation in a permit issued by the Secretary under subsection (b), or who violates an order issued by the Secretary under paragraph (1), shall be subject to a civil penalty not to exceed $25,000 per day for each violation involved, commencing on the day following expiration of the period allowed for compliance. The amount of the penalty imposed per day shall be in proportion to the scale or scope of the project that results in the violation. In determining the amount of a civil penalty under this paragraph, the Secretary or the Court, as appropriate, shall consider the seriousness of the violation, the economic benefit (if any) resulting from the violation, any history of a previous violation, any good-faith effort to comply with applicable requirements, the economic impact of the penalty on the violator, and any other matter that justice may require.

"(k) STATE AUTHORITY TO CONTROL DISCHARGES.—Nothing in this section shall affect or impair the right of a State or interstate agency to control activity, including activity of a Federal agency, in waters of the United States within the jurisdiction of the State or interstate agency. Each Federal agency shall comply with a State or interstate requirement, whether substantive or procedural, to the same extent that a person is subject to the requirement. This section shall not affect or impair the authority of the Secretary to maintain navigation.

"(l) STATE REGULATION OF WETLANDS AND WATERS.—

"(l) APPLICATION FOR STATE REGULATION.—The Governor of a State desiring to administer an individual and general permit program for an activity in wetlands or waters of the United States within the jurisdiction of the State shall submit to the Secretary—

"(A) a description of the program proposed to be established and administered under State law; and

"(B) a statement from the chief legal officer of the State that the State law provides adequate authority to carry out the described program.

"(2) DETERMINATION BY SECRETARY.—Not later than 1 year after the date of receipt by the Secretary of a program description and statement under paragraph (1), the Secretary shall determine whether the State has the authority to—

"(A) issue permits that—

"(i) apply, and ensure compliance with, each applicable requirement of this section; and

"(ii) can be terminated or modified for cause, including—

"(I) a violation of any condition or limitation in the permit;

"(II) evidence that the permit was obtained by misrepresentation or failure to disclose fully all relevant facts; or

"(III) a change in any condition that requires either a temporary or permanent reduction or elimination of the permitted activity;

"(B)(i) issue permits that apply, and ensure compliance with, all applicable requirements of section 308; or

"(ii) inspect, monitor, enter, and require reports to at least the same extent as required under section 308;

"(C) ensure that the public, and any other State in which the wetlands or waters of the United States may be affected by the issuance of a permit under this subsection, receive notice of each application for a permit under this subsection and provide an opportunity for a public hearing before a ruling on the application;

"(D) ensure that the Secretary receives notice of each application for a permit under this subsection and, prior to any action by the State, ensure that both the applicant for the permit and the State receive from the Secretary information with respect to any advance classification applicable to wetlands or waters of the United States that are the subject of the application;

"(E) ensure that each State (other than the State seeking to issue permits under this subsection) in which the wetlands or waters of the United States may be affected by the issuance of a permit under this subsection may submit a written recommendation to the permitting State with respect to any permit application and, if any part of the written recommendation is not accepted by the permitting State, ensure that the permitting State will notify the affected State (and the Secretary) in writing of the failure by the permitting State to accept the recommendation together with the reason for the failure by the permitting State to accept the recommendation of the affected State; and

"(F) abate a violation of the permit or the permit program, through a civil or criminal penalty or other means of enforcement.

"(3) APPROVAL OR MODIFICATION OF PROGRAM.—

"(A) APPROVAL OF PROGRAM.—If, with respect to a proposed State program for which a description and statement were submitted under paragraph (1), the Secretary determines that the State has the authority set forth in paragraph (2), the Secretary shall approve the program, notify the State, and suspend the issuance of permits under subsection (b) for each activity with respect to which a permit may be issued pursuant to the State program.

"(B) MODIFICATION OF PROGRAM.—If, with respect to a proposed State program for which a description and statement were submitted under paragraph (1), the Secretary determines that the State does not have the authority set forth in paragraph (2), the Secretary shall notify the State and provide a description of any revision or modification necessary so that the State may resubmit the program for another determination by the Secretary under this subsection.

"(4) FAILURE OF SECRETARY TO MAKE DETERMINATION.—If, with respect to a proposed State program for which a description and statement were submitted under paragraph (1), the Secretary fails to make a determination within 1 year after the date of receipt of the description and statement, the proposed program shall be deemed to be approved pursuant to paragraph (3)(A) on the day that is 1 year after such date, the Secretary shall notify the State of the approval, and the Secretary shall suspend the issuance of permits under subsection (b) for each activity with respect to which a permit may be issued pursuant to the State program.

"(5) TRANSFER OF APPLICATIONS.—After approval of a State permit program under this subsection, the Secretary shall transfer to the State for appropriate action any application for a permit pending before the Secretary for an activity with respect to which a permit may be issued pursuant to the State program.

"(6) SUSPENSION OF ENFORCEMENT.—If the Secretary is notified that a State with a permit program approved under this subsection intends to administer and enforce the terms and conditions of a general permit issued by the Secretary under subsection (e)(6), the Secretary shall, with respect to each activity in the State to which the general permit applies, suspend the administration and enforcement of the general permit.

"(7) CORRECTIVE ACTION.—If the Secretary determines after a public hearing that a State administering a program approved under this subsection is not administering the program in accordance with this section, the Secretary shall notify the State and, if appropriate corrective action is not taken within a reasonable time (not to exceed 90 days after the date of the receipt of the notification), the Secretary shall—

"(A) withdraw approval of the program until the Secretary determines appropriate corrective action has been taken; and

"(B) resume the program for the issuance of permits under subsections (b) and (e)(6) for all activities with respect to which the State was issuing permits, until such time as the Secretary makes the determination described in paragraph (2) and approves the State program again.

"(8) REGULATION BY AN INTERSTATE AGENCY.—For purposes of this subsection:

"(A) GOVERNOR.—The term "Governor" includes the head of an interstate agency.

"(B) STATE.—The term "State" includes an interstate agency.

"(C) STATE LAW.—The term "State law" includes an interstate compact.

"(m) COPIES AVAILABLE TO PUBLIC.—A copy of each permit application submitted, and each permit issued, under this section shall be available to the public. Each permit application or portion of a permit application shall also be available on request for the purpose of reproduction.

"(n) COMPLIANCE WITH PERMIT SATISFIES REQUIREMENTS.—Compliance with a permit issued pursuant to this section, including carrying out an activity pursuant to a general permit issued under this section, shall be deemed, for purposes of sections 309 and 505, to be compliance with sections 301, 307, and 403.

"(o) EFFECTIVE DATE FOR PERMIT PROVISIONS.—After the 90th day after the date of enactment of the Comprehensive Wetlands Conservation and Management Act of 1994, no permit for an activity in wetlands or waters of the United States may be issued except in accordance with this section. Any permit for an activity in wetlands or waters of the United States issued prior to the 90th day shall be deemed to be a permit under this section and shall continue in force and effect for the term of the permit unless revoked, modified, or suspended in accordance with this section. An application for a permit pending under this section on the 90th day shall be deemed to be an application for a permit under this section.

"(p) LIMIT ON FEES.—Any fee charged in connection with—

"(1) the delineation or classification of wetlands;

"(2) an application for a permit authorizing an activity in wetlands or waters of the United States; or

"(3) any other action taken in compliance with the requirements of this section (other than a penalty for a violation under subsection (j));

shall not exceed the amount of the fee in effect on January 1, 1990.".

SEC. 4. DEFINITIONS.

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following new paragraph:

"(21) WETLANDS.—The term 'wetlands' means lands, such as swamps, marshes, bogs, and similar areas, that have a predominance of hydric soils and that are inundated by surface water at a frequency and duration sufficient to support, and that under normal circumstances support, a prevalence of vegetation typically adapted for life in saturated soil conditions.".

SEC. 5. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 119(c)(2)(E) of the Federal Water Pollution Control Act (33 U.S.C. 1269(c)(2)(E)) is amended by striking "wetland" and inserting "wetlands".

(b) Section 208(b)(4)(B)(iii) of the Federal Water Pollution Control Act (33 U.S.C. 1288(b)(4)(B)(iii)) is amended by striking "the guidelines established under section 404(b)(1), and" and inserting "section 404, and with the guidelines established under".

(c) Section 309 of such Act (33 U.S.C. 1319) is amended—

(1) in subsection (a)—

(A) in the first sentence of paragraph (1), by striking "or 404"; and

(B) in paragraph (3), by striking "or in a permit issued under section 404 of this Act by a State";

(2) in subsection (c)—

(A) in paragraph (1)(A), by striking "or in a permit issued under section 404 of this Act by the Secretary of the Army or by a State";

(B) in paragraph (2)(A), by striking "or in a permit issued under section 404 of this Act by the Secretary of the Army or by a State"; and

(C) in the first sentence of paragraph (3)(A), by striking "or in a permit issued under section 404 of this Act by the Secretary of the Army or by a State,";

(3) in the first sentence of subsection (d), by striking "or in a permit issued under section 404 of this Act by a State,"; and

(4) in subsection (g)—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) VIOLATIONS.—If the Administrator finds, on the basis of any information available, that a person has violated section 301, 302, 306, 307, 308, 318, or 405, or has violated any permit condition or limitation implementing any of such sections in a permit issued under section 402 by the Administrator or by a State, the Administrator may, after consultation with the State in which the violation occurred, assess a class I civil penalty or a class II civil penalty under this subsection.";

(B) in the third sentence of paragraph (2)(B), by striking "and the Secretary";

(C) in paragraph (6)(A)(iii), by striking ", the Secretary,";

(D) by striking "or Secretary, as the case may be," and "or the Secretary, as the case may be," each place they appear; and

(E) by striking "or Secretary", "or the Secretary", and "or Secretary's" each place they appear.

SEC. 6. EFFECTIVE DATE.

The amendments made by this Act shall become effective 90 days after the date of enactment of this Act.

The Comprehensive Wetlands Conservation and Management Act of 1994

The protection of America's wetlands is a crucial public issue that deserves significant national priority. The Pressler bill is designed to conserve true wetlands and balances wetlands protection with protection of private property rights. More important the bill contains provisions that would require fair and just compensation to the owners for the loss of or use of land classified as wetlands.

The Pressler bill would:

Assure that functionally important wetlands are protected.

Classify wetlands by value and function. Certain wetlands would be classified as wetlands with critical significance to the long-term conservation of the ecosystem of which they are a part of. Other would be classified as providing habitat for significant wildlife populations, protection water quality or significant natural flood control, and others as marginal wetlands.

Provide safeguards so that large amounts of land with little or no true wetland characteristics will be classified as wetland.

Require compensation be provided to landowners for the loss of economic use of private lands.

Clarify and reinforce current law that provides an exemption from individual permit requirements for normal farming and ranching activities on farmed wetlands.

Exempt from regulation all prior converted agricultural land since this land no longer exhibits any wetland characteristics.

Establish three criteria in designating wetlands. Criteria to be met and verified would be presence of water, hydric soils and hydrophytic vegetation.

Prairie potholes and playa lakes would be treated and regulated as other areas as possible wetland areas. Under the Pressler bill, prairie potholes would receive same treatment as all wetlands and not be kept under stricter rules and regulations.

Exclude man-made or artificial wetlands such as farm ponds and irrigation ditches.

Will Your Wetland Determinations Cause Any Problems?

FEARFUL OF FUTURE IMPACT

(By Gene Stehly)

Wetland determinations have just been completed on Gene Stehly's farm near Mitchell, S.D. While they haven't affected the way he farms, he's concerned about what the future may hold.

"A surprisingly large amount of our land is involved. Many of the areas that have been declared wetlands we don't think have ever been wet," says Stehly, who farms with his brother Craig and father Don. "I think they got a little carried away. They even designated wetlands in fields that we irrigate with center-pivot systems. Those areas wouldn't be wet if we didn't irrigate."

The Stehlys pride themselves on being environmentally concerned. They use no-till extensively and keep chemical use to a minimum. "We feel we already do a good job protecting the environment. It will be really disturbing if the government comes in and tells us we're not able to continue farming that way on these areas. We're basically in a wait-and-see mode," says Stehly.

Wetlands Regulations Often Confuse, Anger Many Farmers—Landowners, Environmentalists Debate Proper Use of Land

(By Carson Walker)

LAKE PRESTON.—When Brian Odden plowed a field near here last October he thought he was merely turning under weeds that accumulated after heavy rains in 1993.

When he finished plowing, he made one last furrow across the field to keep water from building up on the black soil.

In the spring, federal officials told him that furrow violated federal wetlands regulations because it allowed water to drain from the nearby wetland. The violation could cost him thousands of dollars in fines. The fines are paid through reduced federal farm payments, including crop insurance and disaster payments.

For Odden, 42, the payment cuts could drive him off the farm.

"When I first learned of the violations, I thought it was a joke. They can call my FHA loans, take away disaster and crop deficiency payments and fine me on top of that," he said.

The laws are designed to protect ground water, waterfowl and to provide flood control, said Carl Madsen, private lands coordinator for the U.S. Fish and Wildlife Service in Brookings.

The problem is that today's wetlands regulations are a reversal of what the government has encouraged in the past. Farmers don't understand or agree with those changes.

"We're going against the grain of nearly 100 years of tradition in the Midwest. The homesteaders were encouraged to drain the land and make it productive and took much pride in doing that. Here we are in 1994, and we have a lot more information than in 1894 on these wetlands," Madsen said.

Odden—who rents the 25-acre field in question—said he didn't know the furrow violated a law. When he was notified, he filled it.

Local conservation officials determined that the furrow Odden plowed had a minimal effect on the wetlands and recommended the issues be dropped.

But state officials disagreed. Odden appealed to the Soil Conservation Service in Washington and is awaiting a final ruling.

Odden is caught up in a nationwide debate that has pitted farmers and landowners against environmental laws over what is the proper use for their land.

Last week, farmers and conservation officials gathered in Sioux Falls to study proposed changes in conservation rules.

Wayne Burkhart of Dell Rapids was one of the 125 who attended.

"The people involved with wetlands just don't use any common sense," Burkhart told a panel.

PURPOSE OF WETLANDS LAWS

But Madsen of the U.S. Fish and Wildlife Service in Brookings, said the national policy is necessary to protect the remaining wetlands.

"In all of this it's a clear expression of the people of this nation through Congress in legislation that these wetland values are of great enough value that we will impose these restrictions on people who choose to drain wetlands," he said.

His advice for any landowner is to check with the local soil conservation office before moving soil that could pose a drainage problem.

Irving Wessel, 66, of Huron doesn't participate in federal farm programs. He said he doesn't take the payments because he doesn't want the government telling him what he can do with his hand.

But he must comply with the Clean Water Act and ask the U.S. Army Corps of Engineers for permission before draining a wetland.

"If you've got erodible lands, you have to get permission before you can disc it," he said. "This is getting far out. We've got more to do than run back and forth to town to talk to them people."

Madsen understands the farmers' concerns.

"I can understand a guy's reluctance to ask the government's permission on what they can do with their own land. But it's been around nearly 10 years and it's time we get used to it," Madsen said.

STRESS ON FAMILIES

Odden said the threat of penalties worries his whole family.

His 8-year-old son, Adam, has picked up on the issue by overhearing telephone calls.

"On a daily basis we're living and breathing this thing because it could break us," Odden said. "The other day he said, 'Daddy are you going to prison?' I said, 'No I'm not going to prison.'"

Even the people who enforce the regulations say it's sometimes painful.

Gary Coplan, area conservationist with the Soil Conservation Service in Brookings, said conservation officials get along well with most farmers and understand their frustration.

"Our people would like to help farmers," Coplan said. "It's kind of a stress level on both sides."

PENALTIES DON'T FIT CRIME

Part of the swamp-buster regulation in the Farm Bill allows federal officials to multiply penalties by the number of owners.

For Odden, that means the fines could be worse because he and his family farm as a corporation. Any penalty could be multiplied by five—to include himself, his brother, parents and the corporation itself.

Even some of the officials who enforce the regulations wonder if they are too rigid.

Once the Soil Conservation Service determines a wetland has been drained, the Agricultural Stabilization and Conservation Service enforces the penalty.

ASCS uses a formula that does take into consideration whether the action was intentional or accidental, whether it is the farmer's first offense or whether they agree or disagree with the farmer's guilt.

"It's straightforward," said Larry Somsen, ASCS executive director for Kingsbury County. "They either lose all their benefits or if they can demonstrate (to the Soil Conservation Service) it was done in good faith, they are penalized based on the size of wetland," Somsen said. "It is a severe penalty and it's probably more than what it should be, but we follow what's in our procedure. At the local level we have very little discretion what we can do."

Even if the farmer takes care of the problem, the penalty could still reach $10,000.

In addition to losing their own property rights, farmers say the federal rules take control away from local agencies.

In the last several years, the movement has been away from local control and toward strict review of the law by the federal government, they say.

Odden's lawyer and Kingsbury County State's Attorney Todd Wilkinson of DeSmet said most farmers direct their anger not toward the local officials enforcing the rules, but the law itself.

"When you start seeing the local offices lose the ability to judge a situation and they're there firsthand, it would appear the regulations are being interpreted strictly," Wilkinson said.

But John Davidson, a University of south Dakota law professor and Clay county conservationist, said the goal of the laws is clear.

South Dakota is part of the last viable nesting area for waterfowl in the northern United States, he said. Davidson equates wetland destruction to filling in the Missouri River or flattening the Black Hills because they all are valuable natural resources.

Swamp-buster rules are set up to penalize farmers who threaten that resource, he said.

He said most people who drain wetlands do so knowingly and most cases are not accidental.

"What that says to farmers is you're free to drain, but you can't drain and get federal handouts," Davidson said. "These people want it both ways. They want the honey tree of federal money and they want to drain their wetlands."

Wetland Regulations Take Merciless Hold After Mishap in Field

(By Carson Walker)

OLDHAM.—A tire track left by a field sprayer introduced Greg Duffy to the world of wetlands regulations.

Last summer, when the field was still wet from heavy rains, a chemical applicator got stuck in his field between two wetland areas. The large ruts it left behind blocked the natural flow of water between the two wetlands.

After heavy rains in July water ran from the upstream wetland, around the ridges created by the tire tracks, causing soil erosion on the farmland, Duffy said.

In the fall, Duffy plowed a furrow across the ridges, from one wetland to another so the water would drain along its natural path.

Local conservation officials decided the furrow had minimal effect on the water flow. State officials, however, determined that the water loss was substantial.

Duffy disagrees and has appealed the case to the Soil Conservation Service in Washington, D.C.

"It was making two washouts instead of going where the water originally went. I had no intention of farming that wetland," he said. "This was done in the stewardship of the soil."

Even though he fixed the problem within two hours of being notified of the violation, Duffy still faces penalties that could be as high as $35,000.

"There are some in Kingsbury County that are flagrant violations. Mine isn't," he said.

Conservation officials would not discuss the specifics of the case.

Wetlands laws apply not just to farmers, but to property owners in the city as well.

The regulations extended by two years the opening of the Randall's Food Store in Huron, said Kevin Scheel, store manager.

Store owners had to get a permit to fill in a wetland area so the store could be built. At the time the area was a field on the edge of town. They acquired the permit, but it took time.

"I think it was fairly handled," Scheel said. "The process is what takes the most time."

David Ridenour of Washington, D.C., vice president of the National Center for Public Policy Research, said wetlands laws now do more harm than good.

"We have lost sight of what the real goal is," he said. "Environmental regulation is there to enhance the lives of people and when you cause people to suffer because of excessive regulations, you've lost sight of what your goal was to begin with."

KINGSBURY CONSERVATION DISTRICT,
De Smet, SD, June 8, 1994.

DAVE GILBERT,
Refuge Manager, U.S. Fish and Wildlife Service, Madison, SD.

DEAR DAVE: This letter is in response to the rash of converted wetlands (CW's) that we have had in Kingsbury County in the spring of 1994. As a local unit of Government, we as members of the Kingsbury Conservation District (CD) have received many calls from landowners, operators and others concerning these CW's. In checking with the De Smet SCS office, we have found that a total of 7 possible wetland violations were reported this spring. Of that total, 5 possible violations occurred on land containing US Fish & Wildlife Service Easement Wetlands. Of the four operators involved, none of these operators had knowledge of operating land where US Fish & Wildlife Easement Wetlands existed. In our opinion, that represents a lack of communication between US Fish & Wildlife and the operators of those particular tracts of land.

USDA (ASCS-SCS) and the conservation district also has a controversial program to administer, Highly Erodible Land Compliance. In calender year 1994, Kingsbury County had 24 conservation compliance (CC) plans scheduled for implementation. SCS notified, by letter, all operators of any tract of land that was to be implemented in 1994. The operators were also sent a map delineating each HEL field by Tract, Section, Twp., Range. All but 2 or 3 of those operators came into the SCS office to discuss cropping and residue options on those HEL fields. The notification by mail represents a 100% attempt to inform all operators of HEL fields that they must have an approved C–C plan if they participate in USDA Programs.

The CD Board is formally requesting that the FWS seriously consider making a yearly contact with all new landowners/or new operators of tracts of land that contain US Fish and Wildlife easement wetlands. During that contact, FWS could tell those operators how those wetlands can be used.

To help illustrate the enormous potential for uninformed operators farming US Fish and Wildlife Easement Wetlands, please consider the following: According to SCS and ASCS records Kingsbury County has 864 sections; of that total 371 (43%) have at least 1 US Fish and Wildlife Wetland Easement. 864 sections equates to roughly 552,960 acres. SCS records show 94,940 acres of US Fish and Wildlife Wetland Easement acres. Roads, large bodies of water, federal land, railroad and land occupied by cities equals approximately 62,280 acres. 552,9600 − 62,280 = 490,680 acres of land that is farmed, hayed or pastured. The 94,940 acres of easement land then represents roughly 20% of land farmed or controlled by a farming interest in Kingsbury County.

ASCS records show that Kingsbury County has 1150 active farms and they have an average of 120 recons per year (tract divisions, operator changes, owner changes, farms combined or divided, etc.,) those 120 recons affect about 200 farms per year, (roughly 17% of all ASCS farms), using this equation 20% or 95,000 acres of all Kingsbury farmed land (crop and pasture) is under easement. With 17% of all ASCS farms having some change in ownership, new operator or division etc. There is a potential for 16,000 acres of U.S. Fish and Wildlife easement acres with some farm operation change in any given year. We are not saying that this does happen but it could happen.

As a board, we have also requested that ASCS look into the possibility of adding a U.S. Fish and Wildlife Wetland Easement flag to their sign-up procedure. When the operator signs up for the farm program, the easement flag is triggered. A list of names and addresses could then be forwarded to FWS in Madison or Huron, so they could inform producers that FWS has a perpetual wetland easement and it does exist on a tract of land that the operator will be farming in any given crop year.

We are not saying or implying that converted wetlands only occur on FWS easement wetlands but that the probability exists for more potential violations as the U.S. Fish and Wildlife easements are checked annually. Just for information, SCS statewide has a 5% random spot check of HEL tracts where Scope and Effect wetlands data from the office and from the field is checked. ASCS also has a spot-check process with its wheat and feed grain programs.

The CD with SCS and ASCS will devote 1 page annually to the ASCS newsletter in an attempt to inform producers about wetlands and their use for production that relates to USDA benefits.

In the past, our CD board and FWS has successfully co-operated on 2 joint ventures; (1) use of grass drills enroute to a grass drill purchased by Kingsbury County CD and (2) a much appreciated contribution with the Spirit Lake Grassland project. We sincerely hope that this co-operation would continue, with an effort to build a successful information/education program with landowners/operators participating in USDA programs and farming U.S. Fish and Wildlife perpetual easement wetlands.

We await your response.

Sincerely,

ALAN J. VEDVEI,
Chairman.
OTTO F. SCKERL,
Secretary.

Wetland Slows Work on School—Builders Don't Have Permits To Drain Site

WATERTOWN.—A wetland near a new $2.9 million elementary school could delay construction on the project, officials said.

Workers building the new school have removed about 7,000 cubic yards of soggy earth and dug two trenches to drain water from the wetland, on one corner of the 25-acre parcel.

But the school's builder has not gotten the necessary state and federal permits.

State and federal officials say construction of the school could be delayed until those permits are granted.

"We will do whatever we have to do to comply," said Watertown School Superintendent Ernie Edwards. "It appears (some) people are doing everything they can to sabotage this project."

Architect Jim Pope, who designed the school, said building contractor Meide and Sons Inc. of Wahpeton, N.D., discussed the problem Monday with state officials.

"We were told we need a . . . permit that would cover what we have to do at this point," Pope said. "Meide should have made contact for this permit before the trench was cut. That's hindsight."

Pope said he did not know whether the school's contractors planned to apply for a permit from the U.S. Army Corps of Engineers.

Corps official Jim Oehlerking said the project probably needs a federal permit, too.

"There appears to be a potential . . . violation," Oehlerking said. "We may have to investigate the circumstances to see if this has occurred."

If the U.S. Environmental protection Agency finds that rules were broken, the project's contractor probably would be asked to help restore the wetland rather than pay a fine.

By Mrs. FEINSTEIN:

S. 2491. A bill to amend the Defense Authorization Amendments and Defense Base Closure and Realignment Act and the Defense Base Closure and Realignment Act of 1990 to improve the base closure process, and for other purposes; to the Committee on Armed Services.

BASE CLOSURE COMMUNITY REDEVELOPMENT ACT

• Mrs. FEINSTEIN. Mr. President, today I am introducing the Base Closure Community Redevelopment Act of 1994—legislation designed to improve the military base closure and reuse process by, among other things, reducing Government bureaucracy and empowering local communities.

In particular, this legislation would place base reuse decisions in the hands of local officials and balance economic redevelopment interests with the needs of the homeless in a commonsense manner.

As many of my colleagues know, since 1988, nearly 250 military bases have been closed or realigned under the BRAC process. While painful for States and regions, base closures can be devastating for local communities. A closing military base not only means job loss, but also translates into reduced local tax revenues, higher housing vacancy rates, and increased business failures.

Base closures, though, also create economic opportunities for localities that can expedite reuse through effective redevelopment. But, conversion of military bases has proven to be anything but quick or simple. Communities across the country have struggled to make sense of complex Federal laws and regulations that were never designed to deal with military base closures. The current process is cumbersome and conflicting, and poses difficulties for local, State, and Federal authorities trying to make decisions and dispose of base property in a timely manner. Increasingly, opportunities for job creation and economic redevelopment are lost.

In order to respond to this problem, President Clinton developed a five-part base community reinvestment program early last year. The Pryor amendment to the fiscal year 1994 Defense Authorization Act followed—it was designed to basically implement the President's program for accelerating the base reuse process and make it easier for communities with closing military bases to transition to a commercial economy. Under the Pryor amendment, local communities are empowered in the reuse process with the goal to reduce the time it takes to turn closing base property over to communities and foster job creation and economic development.

The President's five part program and the Pryor amendment are certainly steps in the right direction, and I strongly support both. However, because the base reuse problem is so difficult, the President's program and the Pryor amendment have only partially improved the process; obstacles to rapid base reuse remain. Additional action is needed to further improve the process and remove or mitigate some of the remaining obstacles to rapid base reuse.

This legislation—much of which is based on recommendations contained in the "California Military Base Reuse Task Force" report—builds on last year's Pryor amendment to further improve the base reuse process. A local redevelopment authority would develop a reuse plan on the local level, balancing the needs of all community and economic development interests.

Under current law, potential homeless assistance providers apply for base property under the McKinney Homeless Assistance Act; the Department of Health and Human Services then denies or approves each request. The McKinney Act—which was enacted before the BRAC process began—has worked relatively well for small parcels of excess Federal property, but was never intended for large military bases.

This bill exempts military bases from the McKinney Act; instead, homeless assistance providers and other community groups would be given a voice in the new reuse planning process. A local development plan, developed in consultation with homeless assistance planning boards, would weigh the needs of economic redevelopment and job creation with homeless assistance. The Secretary of Housing and Urban Development would review the local redevelopment plan to ensure that it reasonably addresses the needs of the homeless, but eccnomic redevelopment priorities would also be considered in a process that balances competing interests.

In addition to the section relating to homeless use of military bases, this bill contains several other provisions. First, it requires the Secretary of Defense to submit yearly reports to the President, the Congress, and the Governors of States with closing military bases. The reports will detail the costs of environmental cleanup at closing military bases incurred during the previous year and estimate the funds needed to fund environmental cleanup at the bases the following year. This estimate would give us our best estimate yet of environmental cleanup costs and could serve as a basis for congressional decisions on the amount of funds that should be appropriated for cleanup each year.

Second, this bill allows for the designation of 20 additional Enterprise Communities nationwide. In order to be eligible, the additional communities must all be in areas affected by base closure or realignment. The Enterprise Communities shall be nominated by the Secretary of Defense and will be eligible for tax-exempt bond financing and other benefits for which Enterprise Communities are currently eligible. The Enterprise Communities should serve as an incentive for businesses to locate in the area and will stimulate economic growth in areas that badly need it. The Joint Committee on Taxation has estimated that the cost of the additional enterprise zones will be $31 million over 5 years, which can be paid for through reductions in other spending.

Third, a provision requires the Secretary of Defense to consult with the redevelopment authority over the procedures used for the appraisal of property at closed military bases. If the Defense Department and the redevelopment authority have different estimates of the value of the property, a third party jointly selected by the Defense Department and the redevelopment authority—that is, an independent appraiser—shall determine the value of the property. This provision will compel the Defense Department to work with the redevelopment authority when the value of property at closing bases is being appraised. When the value is in dispute, and the redevelopment authority believes the Defense Department has overvalued the property, this provision creates a mechanism that will help solve the conflict.

Fourth, the legislation requires the Secretary of Defense, in consultation with local officials, to determine the reduction in emissions resulting from a base closure, following procedures laid forth by the Clean Air Act. If not needed by another installation in the air quality control region as an offsetting emission reduction, the reduction shall be made available to the entities redeveloping the installation.

If the emissions from the base are not quantified as credits and subsequently made available to new businesses locating at the base, the businesses will be constrained from emitting any pollution whatsoever. In effect, the base closure community will singlehandedly help the air quality control region meet its pollution goals. This will place a heavy burden on that community and severely hamper its redevelopment efforts. My legislation will allow for economic development of the closing base property while it either holds pollution at a constant level or decreases it.

Fifth, a provision allows the Secretary of Defense to use a single entity to carry out all—or any part—of the environmental cleanup at closing military bases. This procedure is also known as cradle-to-grave contracting. Cradle-to-grave contracting can simplify the cleanup process and make it easier to assign responsibility for any problems that may arise. Currently, most cleanup efforts involve numerous contractors in different stages of the cleanup effort. This leads to duplication of effort—which wastes time and money—and makes it difficult to assign responsibility and liability if problems arise. Cradle-to-grave contracting can solve these problems.

Sixth, the legislation directs the Secretary of Defense to reimburse businesses locating at closed military bases for economic losses caused by environmental hazards inadvertently or negligently left behind by the Defense Department. Many businesses are understandably worried about what will happen to them if they locate on supposedly clean property at a closed military base, and toxic waste is subsequently found. Obviously, their business would suffer. By providing for reimbursement of business losses, this provision will remove some of the risk that businesses are faced with when they consider locating on a closed base.

Finally, this legislation will extend the eligibility for Federal Community Reinvestment Act credit to private lenders who provide loans to base closure communities. Currently, Federal financial supervisory agencies examine a lending institution's record of meeting the credit needs of low- and moderate-income neighborhoods. This provision will extend the examination in base closure communities to include the institution's record of meeting the credit needs of the entire community affected by base closure or realignment. This provision will provide lenders with an incentive to provide loans to businesses in areas affected by base closures, which will stimulate economic growth.

My staff has worked very closely with Governor Wilson's office and other interested parties, on a bipartisan basis, in developing and drafting the Base Closure Community Redevelopment Act of 1994. In particular, section 2 of the bill, relating with the homeless use of military bases, was drafted in consultation with an administration interagency working group consisting of representatives from DOD, HUD, HHS, GSA, and the Council on the Homeless, as well as staff from the Armed Services, Banking and Housing, and Governmental Affairs Committees in both the House and Senate.

Another base closure round is fast approaching that could be larger than the first three BRAC rounds combined; it will affect communities across the country. This timely legislation will improve the reuse process for those bases already slated for closure, as well as for bases yet to close. It will also help accomplish a very important objective—the acceleration of the economic redevelopment process for communities suffering from the closure or realignment of military bases. This is important legislation that is badly needed in base closure communities throughout the country. I urge all of my colleagues to support the Base Closure Community Redevelopment Act of 1994.

I ask unanimous consent that a summary of the entire legislation, a concept paper of section, and the full text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2491

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Base Closure Community Redevelopment Act of 1994".

SEC. 2. DISPOSAL OF BUILDINGS AND PROPERTY AT MILITARY INSTALLATIONS APPROVED FOR CLOSURE.

(a) IN GENERAL.—Section 2905(b) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following new paragraph (7):

"(7)(A) Determinations of the use to assist the homeless of buildings and property located at installations approved for closure under this part after the date of the enactment of this paragraph shall be determined under this paragraph rather than paragraph (6).

"(B)(i) Not later than the date on which the Secretary of Defense completes the final determination referred to in paragraph (5) relating to the use or transferability of any portion of an installation covered by this paragraph, the Secretary shall—

"(I) identify the buildings and property at the installation for which the Department of Defense has a use, for which another department or agency of the Federal Government has identified a use, or of which another department or agency will accept a transfer;

"(II) take such actions as are necessary to identify any building or property at the installation not identified under subclause (I) that is excess property or surplus property;

"(III) submit to the Secretary of Housing and Urban Development and to the redevelopment authority for the installation (or the chief executive officer of the State in which the installation is located if there is no redevelopment authority for the installation at the completion of the determination) information on any building or property that is identified under subclause (II); and

"(IV) publish in the Federal Register and in a newspaper of general circulation in the communities in the vicinity of the installation information on the buildings and property identified under subclause (II).

"(ii) Upon the recognition of a redevelopment authority for an installation covered by this paragraph, the Secretary of Defense shall publish in the Federal Register and in a newspaper of general circulation in the communities in the vicinity of the installation information on the redevelopment authority.

"(C)(i) State and local governments, representatives of the homeless, and other interested parties located in the communities in the vicinity of an installation covered by this paragraph shall submit to the redevelopment authority for the installation a notice of the interest, if any, of such governments, representatives, and parties in the buildings or property, or any portion thereof, at the installation that are identified under subparagraph (B)(i)(II). A notice of interest under this clause shall describe the need of the government, representative, or party concerned for the buildings or property covered by the notice.

"(ii) The redevelopment authority for an installation shall assist the governments, representatives, and parties referred to in clause (i) in evaluating buildings and property at the installation for purposes of this subparagraph.

"(iii) In providing assistance under clause (ii), a redevelopment authority shall—

"(I) consult with representatives of the homeless in the communities in the vicinity of the installation concerned; and

"(II) undertake outreach efforts to provide information on the buildings and property to representatives of the homeless, and to other persons or entities interested in assisting the homeless, in such communities.

"(iv) It is the sense of Congress that redevelopment authorities should begin to conduct outreach efforts under clause (iii)(II) with respect to an installation as soon as is practicable after the date of approval of closure of the installation.

"(D)(i) State and local governments, representatives of the homeless, and other interested parties shall submit a notice of interest to a redevelopment authority under subparagraph (C) not later than the date specified for such notice by the redevelopment authority.

"(ii) The date specified under clause (i) shall be—

"(I) in the case of an installation for which a redevelopment authority has been established as of the date of the completion of the determinations referred to in paragraph (5), not earlier than 3 months and not later than 6 months after that date; and

"(II) in the case of an installation for which a redevelopment authority is not established as of such date, not earlier than 3 months and not later than 6 months after the date of the establishment of a redevelopment authority for the installation.

"(iii) Upon specifying a date for an installation under this subparagraph, the redevelopment authority for the installation shall—

"(I) publish the date specified in a newspaper of general circulation in the communities in the vicinity of the installation concerned; and

"(II) notify the Secretary of Defense of the date.

"(E)(i) In submitting to a redevelopment authority under subparagraph (C) a notice of interest in the use of buildings or property at an installation to assist the homeless, a representative of the homeless shall submit the following:

"(I) A description of the homeless assistance program that the representative proposes to carry out at the installation.

"(II) An assessment of the need for the program.

"(III) An assessment of the extent to which the program is or will be coordinated with other homeless assistance programs in the communities in the vicinity of the installation.

"(IV) A description of the buildings and property at the installation that are necessary in order to carry out the program.

"(V) A description of the financial plan and the organizational capacity of the representative to carry out the program.

"(VI) An assessment of the time required in order to commence carrying out the program.

"(ii) A redevelopment authority may not release to the public any information submitted to the redevelopment authority under clause (i)(V) without the consent of the representative of the homeless concerned unless such release is authorized under Federal law and under the law of the State and communities in which the installation concerned is located.

"(F)(i) The redevelopment authority for each installation covered by this paragraph shall prepare a redevelopment plan for the installation. The redevelopment authority shall, in preparing the plan, consider the interests in the use to assist the homeless of the buildings and property at the installation that are expressed in the notices submitted to the redevelopment authority under subparagraph (C).

"(ii)(I) In preparing a redevelopment plan for an installation, a redevelopment authority and representatives of the homeless shall prepare legally binding agreements that provide for the use to assist the homeless of buildings and property, resources, and assistance on or off the installation. The implementation of such agreements shall be contingent upon the approval of the redevelopment plan by the Secretary of Housing and Urban Development under subparagraph (H) or (J).

"(II) Agreements under this clause shall provide for the reversion to the redevelopment authority concerned, or to such other entity or entities as the agreements shall provide, of buildings and property that are made available under this paragraph for use to assist the homeless in the event that such buildings and property cease being used for that purpose.

"(iii) A redevelopment authority shall provide opportunity for public comment on a redevelopment plan before submission of the plan to the Secretary of Defense and the Secretary of Housing and Urban Development under subparagraph (G).

"(iv) A redevelopment authority shall complete preparation of a redevelopment plan for an installation and submit the plan under subparagraph (G) not later than 1 year after the date specified by the redevelopment authority for the installation under subparagraph (D).

"(G)(i) Upon completion of a redevelopment plan under subparagraph (F), a redevelopment authority shall submit an application containing the plan to the Secretary of Defense and to the Secretary of Housing and Urban Development.

"(ii) A redevelopment authority shall include in an application under clause (i) the following:

"(I) A copy of the redevelopment plan, including a summary of any public comments on the plan received by the redevelopment authority under subparagraph (F)(iii).

"(II) A copy of each notice of interest of use of buildings and property to assist the homeless that was submitted to the redevelopment authority under subparagraph (C), together with a description of the manner, if any, in which the plan addresses the interest expressed in each such notice and, if the plan does not address such an interest, an explanation why the plan does not address the interest.

"(III) A summary of the outreach undertaken by the redevelopment authority under subparagraph (C)(iii)(II) in preparing the plan.

"(IV) A statement identifying the representatives of the homeless and the homeless assistance planning boards, if any, with which the redevelopment authority consulted in preparing the plan, and the results of such consultations.

"(V) An assessment of the manner in which the redevelopment plan balances the expressed needs of the homeless and the need of the communities in the vicinity of the installation for economic redevelopment and other development.

"(VI) Copies of the agreements that the redevelopment authority proposes to enter into under subparagraph (F)(ii).

"(H)(i) Not later than 60 days after receiving a redevelopment plan under subparagraph (G), the Secretary of Housing and Urban Development shall complete a review of the plan. The purpose of the review is to determine whether the plan—

"(I) takes into consideration the size and nature of the homeless population in the communities in the vicinity of the installation, the availability of existing services in such communities to meet the needs of the homeless in such communities, and the suitability of the buildings and property covered by the plan to meet the needs of the homeless in such communities;

"(II) takes into consideration, in regards to the expressed interest and requests of representatives of the homeless, the needs of the communities in the vicinity of the installation for economic redevelopment and other development with the needs of the homeless in such communities;

"(III) includes copies of the agreements that the redevelopment authority proposes to enter into under subparagraph (F)(ii);

"(IV) was developed in consultation with representatives of the homeless and the homeless assistance planning boards, if any, in the communities in the vicinity of the installation; and

"(V) specifies the manner in which buildings and property, resources, and assistance on or off the installation will be made available for homeless assistance purposes.

"(ii) The Secretary of Housing and Urban Development may engage in negotiations and consultations with a redevelopment authority before or during the course of a review under clause (i) with a view toward resolving any preliminary determination of the Secretary that a redevelopment plan does not meet a requirement set forth in that clause. The redevelopment authority may modify the redevelopment plan as a result of such negotiations and consultations.

"(iii) Upon completion of a review of a redevelopment plan under clause (i), the Secretary of Housing and Urban Development shall notify the Secretary of Defense and the redevelopment authority concerned of the determination of the Secretary of Housing and Urban Development under that clause.

"(iv) If the Secretary of Housing and Urban Development determines as a result of such a review that a redevelopment plan does not meet the requirements set forth in clause (i), a notice under clause (iii) shall include—

"(I) an explanation of that determination; and

"(II) a statement of the actions that the redevelopment authority must undertake in order to address that determination.

"(I)(i) Upon receipt of a notice under subparagraph (H)(iv) of a determination that a redevelopment plan does not meet a requirement set forth in subparagraph (H)(i), a redevelopment authority shall have the opportunity to—

"(I) revise the plan in order to address the determination; and

"(II) submit the revised plan to the Secretary of Housing and Urban Development.

"(ii) A redevelopment authority shall submit a revised plan under this subparagraph to the Secretary of Housing and Urban Development, if at all, not later than 90 days after the date on which the redevelopment authority receives the notice referred to in clause (i).

"(J)(i) Not later than 30 days after receiving a revised redevelopment plan under subparagraph (I), the Secretary of Housing and Urban Development shall review the revised plan for purposes of determining if the plan meets the requirements set forth in subparagraph (H)(i).

"(ii) The Secretary of Housing and Urban Development shall notify the Secretary of Defense and the redevelopment authority concerned of the determination of the Secretary of Housing and Urban Development under this subparagraph.

"(K) Upon receipt of a notice under subparagraph (H)(iii) or (J)(ii) of the determination of the Secretary of Housing and Urban Development that a redevelopment plan for an installation meets the requirements set forth in subparagraph (H)(i), the Secretary of Defense shall dispose of the buildings and property located at the installation that are identified in the plan as available for use to assist the homeless in accordance with the provisions of the plan. The Secretary of Defense may dispose of such buildings or property directly to the representatives of the homeless concerned or to the redevelopment authority concerned.

"(L)(i) If the Secretary of Housing and Urban Development determines under subparagraph (J) that a revised redevelopment plan for an installation does not meet the requirements set forth in subparagraph (H)(i), or if not revised plan is so submitted, that Secretary shall—

"(I) review the original redevelopment plan submitted to that Secretary under subparagraph (G), including the notice or notices of representatives of the homeless referred to in clause (ii)(II) of that subparagraph;

"(II) consult with the representatives referred to in subclause (I), if any, for purposes of evaluating the continuing interest of such representatives in the use of buildings or property at the installation to assist the homeless;

"(III) request that each such representative submit to that Secretary the items described in clause (ii); and

"(IV) based on the actions of that Secretary under subclauses (I) and (II), and on any information obtained by that Secretary as a result of such actions, indicate to the Secretary of Defense the buildings and property at the installation that meets the requirements set forth in subparagraph (H)(i).

"(ii) The Secretary of Housing and Urban Development may request under clause (i)(III) that a representative of the homeless submit to that Secretary the following:

"(I) A description of the program of such representative to assist the homeless.

"(II) A description of the manner in which the buildings and property that the representative proposes to use for such purpose will assist the homeless.

"(III) Such information as that Secretary requires in order to determine the financial capacity of the representative to carry out the program and to ensure that the program will be carried out in compliance with Federal environmental law and Federal law against discrimination.

"(IV) A certification that police services, fire protection services, and water and sewer services available in the communities in the vicinity of the installation concerned are adequate for the program.

"(iii) The Secretary of Housing and Urban Development shall indicate to the Secretary of Defense and to the redevelopment authority concerned the buildings and property at an installation under clause (i)(IV) to be disposed of not later than 90 days after the date of a receipt of a revised plan for the installation under subparagraph (J).

"(iv) The Secretary of Defense shall dispose of the buildings and property at an installation referred to in clause (iii) to entities indicated by the Secretary of Housing and Urban Development or by transfer to the redevelopment authority concerned for sale, exchange, lease, permit, or transfer to such entities. Such disposal shall be in accordance with the indications of the Secretary of Housing and Urban Development under clause (i)(IV).

"(M)(i) In the event of the disposal of buildings and property of an installation pursuant to subparagraph (K), the redevelopment authority for the installation shall be responsible for the implementation of agreements under the redevelopment plan described in that subparagraph for the installation.

"(ii) If a building or property reverts to a redevelopment authority under such an agreement, the redevelopment authority shall take appropriate actions to secure, to the maximum extent practicable, the utilization of the building or property by other homeless representatives to assist the homeless. A redevelopment authority may not be required to utilize the building or property to assist the homeless.

"(N) The Secretary of Defense with respect to activities under this paragraph that are under the jurisdiction of that Secretary and the Secretary of Housing and Urban Development with respect to activities under this paragraph that are under the jurisdiction of that Secretary may, in consultation with the redevelopment authority concerned, postpone or extend any deadline provided for under this paragraph in the case of an installation covered by this paragraph for such period as the Secretary considers appropriate if the Secretary determines that such postponement is in the interests of the communities affected by the closure of the installation.".

(b) DEFINITIONS.—Section 2910 of such Act is amended by adding at the end the following:

"(10) The term 'representative of the homeless' has the meaning given such term in section 501(h)(4) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411(h)(4).".

(c) CONFORMING AMENDMENT.—Section 2905(b)(6)(A) of such Act is amended by adding at the end the following: "For procedures relating to the use to assist the homeless of buildings and property at installations closed under this part after the date of the enactment of this sentence, see paragraph (7).".

(d) APPLICABILITY TO INSTALLATIONS APPROVED FOR CLOSURE BEFORE ENACTMENT OF ACT.—(1)(A) Notwithstanding any provision of the 1988 base closure Act or the 1990 base closure Act, as such provision was in effect on the day before the date of the enactment of this Act, and subject to subparagraphs (B) and (C), the use to assist the homeless of building and property at military installations approved for closure under the 1988 base closure Act or the 1990 base closure Act, as the case may be, before such date shall be determined in accordance with the provisions of paragraph (7) of section 2905(b) of the 1990 base closure Act, as amended by subsection (a), in lieu of the provisions of the 1988 base closure Act or the 1990 base closure Act that would otherwise apply to the installations.

(B)(i) The provisions of such paragraph (7) shall apply to an installation referred to in subparagraph (A) only if the redevelopment authority for the installation submits a request to the Secretary of Defense not later than 60 days after the date of the enactment of this Act.

(ii) In the case of an installation for which no redevelopment authority exists on the date of the enactment of this Act, the chief executive officer of the State in which the installation is located shall submit the request referred to in clause (i) and act as the redevelopment authority for the installation.

(C) The provisions of such paragraph (7) shall not apply to any buildings or property at an installation referred to in subparagraph (A) for which the redevelopment authority submits a request referred to in subparagraph (B) within the time specified in such subparagraph (B) if the buildings or property, as the case may be, have been transferred or leased for use to assist the homeless under the 1988 base closure Act or the 1990 base closure Act, as the case may be, before the date of the enactment of this Act.

(2) For purposes of the application of such paragraph (7) to the buildings and property at an installation, the date on which the Secretary receives a request with respect to the installation under paragraph (1) shall be treated as the date on which the Secretary of Defense completes the final determination referred to in subparagraph (B) of such paragraph (7).

(3) Upon receipt under paragraph (1)(B) of a timely request with respect to an installation, the Secretary of Defense shall publish in the Federal Register and in a newspaper of general circulation in the communities in the vicinity of the installation information describing the redevelopment authority for the installation.

(4)(A) The Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall not, during the 60-day period beginning on the date of the enactment of this Act, carry out with respect to any military installation approved for closure under the 1988 base closure Act or the 1990 base closure Act before such date any action required of such Secretaries under the 1988 base closure Act or the 1990 base closure Act, as the case may be, or under section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411).

(B)(i) Upon receipt under paragraph (1)(A) of a timely request with respect to an installation, the Secretary of Defense shall notify the Secretary of Housing and Urban Development and the Secretary of Health and Human Services that the disposal of buildings and property at the installation shall be determined under such paragraph (7) in accordance with this subsection.

(ii) Upon receipt of a notice with respect to an installation under this subparagraph, the requirements, if any, of the Secretary of Housing and Urban Development and the Secretary of Health and Human Services with respect to the installation under the provisions of law referred to in subparagraph (A) shall terminate.

(iii) Upon receipt of a notice with respect to an installation under this subparagraph, the Secretary of Health and Human Services shall notify each representative of the homeless that submitted to that Secretary an application to use buildings or property at the installation to assist the homeless under the 1988 base closure Act or the 1990 base closure Act, as the case may be, that the use of buildings and property at the installation to assist the homeless shall be determined under such paragraph (7) in accordance with this subsection.

(5)(A) In preparing a redevelopment plan for buildings and property at an installation covered by such paragraph (7) by reason of this subsection, the redevelopment authority concerned shall—

(A) consider and address specifically any applications for use of such buildings and property to assist the homeless that were received by the Secretary of Health and Human Services under the 1988 base closure Act or the 1990 base closure Act, as the case may be, before the date of the enactment of this Act and are pending with that Secretary on that date; and

(B) incorporate in the plan an accommodation of the needs of the homeless on or off the installation that is at least substantially equivalent to the accommodations of the needs of the homeless that were provided for in any such applications that were so received before such date and were approved by that Secretary before that date.

(6) In the case of an installation to which the provisions of such paragraph (7) apply by reason of this subsection, the date specified by the redevelopment authority for the installation under subparagraph (D) of such paragraph (7) shall be not less than 1 month and not more than 6 months after the date of the submittal of the request with respect to the installation under paragraph (1)(B).

(7) For purposes of this subsection:

(A) The term "1988 base closure Act" means the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(B) The term "1990 base closure Act" means the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(e) CLARIFYING AMENDMENTS TO BASE CLOSURE ACTS.—(1) Section 204(b)(6)(F)(i) of the Defense Authorization Amendments and Base Closure Act and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended by inserting "and buildings and property referred to in subparagraph (B)(ii) which are not identified as suitable for use to assist the homeless under subparagraph (C)," after "subparagraph (D),".

(2) Section 2905(b)(6)(F)(i) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by inserting "and buildings and property referred to in subparagraph (B)(ii) which are not identified as suitable for use to assist the homeless under subparagraph (C)," after "subparagraph (D),".

SEC. 3. REPORTS ON COSTS OF ENVIRONMENTAL REMEDIATION AT INSTALLATIONS TO BE CLOSED OR REALIGNED.

(a) REPORTS REQUIRED.—(1) Not later than January 30 of each year in which the Secretary of Defense will undertake activities relating to the closure or realignment of a military installation approved for closure or realignment under a base closure law, the Secretary shall submit to the President, Congress, and the chief executive officer of each State in which such an installation is located the report referred to in paragraph (2).

(2) The report referred to in paragraph (1) shall—

(A) describe the costs, if any, incurred by the Secretary during the previous year in carrying out environmental restoration, waste management, and environmental compliance activities at the installation; and

(B) include an estimate of the amounts required by the Secretary during the year in which the report is submitted in order to carry out environmental restoration, waste management, and environmental compliance activities at the installation in accordance with the base realignment and closure cleanup plan for the installation.

(b) DEFINITIONS.—In this section:

(1) The term "base closure law" means the following:

(A) The provisions of title II of the Defense Authorization Amendments and Defense Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(B) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(2) The term "base realignment and closure cleanup plan", with respect to a military installation, means the plan for the expeditious environmental cleanup necessary to facilitate conveyance of the property of the installation to communities for economic redevelopment.

SEC. 4. DESIGNATION OF AREAS AFFECTED BY BASE CLOSURES AND REALIGNMENTS AS ENTERPRISE COMMUNITIES.

(a) DESIGNATION.—Section 1391(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(3) ADDITIONAL ENTERPRISE COMMUNITIES FROM BASE CLOSURE AREAS.—

"(A) IN GENERAL.—The appropriate Secretaries may, in addition to any designations under paragraph (1), designate 20 nominated areas as enterprise communities but only if the nominated areas are areas affected by the closure or realignment of a military installation under a base closure law.

"(B) DEFINITION.—In this paragraph, the term 'base closure law' means the following:

"(i) The provisions of title II of the Defense Authorization Amendments and Defense Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

"(ii) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).".

(b) CRITERIA.—Section 1392 of such Code is amended by adding at the end the following new subsection:

"(d) SPECIAL RULE FOR BASE CLOSURE AREAS.—In the case of a designation under section 1391(b)(3), subsection (a) shall not apply."

(c) APPROPRIATE SECRETARY.—Section 1393(a)(1) of such Code is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by adding at the end the following new subparagraph:

"(C) the Secretary of Defense in the case of a designation of a nominated area under section 1391(b)(3).".

SEC. 5. APPRAISAL OF PROPERTY AT INSTALLATIONS TO BE CLOSED OR REALIGNED.

(a) UNDER 1988 ACT.—Section 204(b)(4) of the Defense Authorization Amendments and Defense Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraph (D):

"(D)(i) Before determining the estimated fair market value of any real property or personal property to be transferred under this paragraph, the Secretary shall—

"(I) notify the redevelopment authority concerned of the guidelines and procedures to be used by the Secretary in determining such fair market value; and

"(II) incorporate into such guidelines and procedures any recommendations of the redevelopment authority that the Secretary considers appropriate.

"(ii) In the case of transfer of any real property or personal property referred to in clause (iii), the fair market value of the property upon transfer shall be—

"(I) the amount jointly determined by the Secretary and the redevelopment authority concerned; or

"(II) if the Secretary and the redevelopment authority cannot agree upon an amount under subclause (I), the amount determined by an appropriate third party jointly selected by the Secretary and the redevelopment authority for the purpose of such determination.

"(iii) Clause (ii) applies any to real property or personal property that may be transferred under this paragraph if the estimated fair market value of such property, as determined by the Secretary, exceeds the estimated fair market value of such property, as determined by the redevelopment authority concerned, by the greater of—

"(I) the amount equal to 25 percent of the fair market value of such property as determined by the redevelopment authority; or

"(II) $500,000.".

(b) UNDER 1990 ACT.—Section 2905(b)(4) of the Defense Base Closure and Realignment Act of 1990 (Public Law 100–526; 10 U.S.C. 2687 note) is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraph (D):

"(D)(i) Before determining the estimated fair market value of any real property or personal property to be transferred under this paragraph, the Secretary shall—

"(I) notify the redevelopment authority concerned of the guidelines and procedures to be used by the Secretary in determining such fair market value; and

"(II) incorporate into such guidelines and procedures any recommendations of the redevelopment authority that the Secretary considers appropriate.

"(ii) In the case of transfer of any real property or personal property referred to in clause (iii), the fair market value of the property upon transfer shall be—

"(I) the amount jointly determined by the Secretary and the redevelopment authority concerned; or

"(II) if the Secretary and the redevelopment authority cannot agree upon an amount under subclause (I), the amount determined by an appropriate third party jointly selected by the Secretary and the redevelopment authority for the purpose of such determination.

"(iii) Clause (ii) applies any to real property or personal property that may be transferred under this paragraph if the estimated fair market value of such property, as determined by the Secretary, exceeds the estimated fair market value of such property, as determined by the redevelopment authority concerned, by the greater of—

"(I) the amount equal to 25 percent of the fair market value of such property as determined by the redevelopment authority; or

"(II) $500,000.".

SEC. 6. CREDIT FOR REDUCTION IN EMISSIONS OF AIR POLLUTANTS AS A RESULT OF THE CLOSURE OF MILITARY INSTALLATIONS.

(a) UNDER 1988 ACT.—Section 204 of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended by adding at the end the following:

"(e) CREDITS FOR EMISSIONS OF AIR POLLUTANTS.—(1)(A) The Secretary of Defense shall determine the amount of the reduction in the emission of air pollutants that will result from the cessation of activities of the Department of Defense at a military installation approved for closure under this title. The Secretary shall determine such amount with respect to each air pollutant emitted by the installation.

"(B) The Secretary shall determine the amount of the reduction in the emission of an air pollutant under subparagraph (A) with respect to an installation in a manner consistent with the determination of rates of emission of the air pollutant under the plan established under title I of the Clean Air Act (42 U.S.C. 7401 et seq.) for a reduction in or limit on the emission of the air pollutant in the air quality control region in which the installation is located.

"(2) Notwithstanding any other provision of law, the Secretary, in consultation with the redevelopment authority concerned, shall—

"(A) use the amount of the reduction in the emission of an air pollutant under paragraph (1) as an offsetting emission reduction against the emission of the air pollutant by the Department of Defense at another installation within the same air quality control region as the installation achieving the reduction; or

"(B) if the Secretary determines that such use is not desirable or necessary, by making the amount of the reduction available to a person or entity in accordance with paragraph (3).

"(3)(A) Notwithstanding any other provision of law, a person or entity referred to in subparagraph (B) may use the amount of an air pollutant emission reduction referred to in subparagraph (C) as an offsetting emission reduction against the emission of the air pollutant by the person or entity as a result of the operations of the person or entity at the installation referred to in subparagraph (B) for purposes of compliance with a plan established under title I of the Clean Air Act for a reduction in or limit on the emission of the air pollutant in the air quality control region in which the installation is located.

"(B) Subparagraph (A) applies to any person or entity—

"(i) who is the transferee from the Secretary of Defense under this section of any real property or facility located at a military installation approved for closure under this title; and

"(ii) who owns or operates a major stationary source (as used under section 182 of the Clean Air Act (42 U.S.C. 7511a)) at the property or facility.

"(C) The amount of the offsetting air pollutant emission reduction available to a person or entity under subparagraph (A) as the result of the closure of a military installation is the lesser of—

"(i) the amount of the air pollutant that the air quality planning agency for the air quality control region in which the installation is located determines will be emitted by the major stationary source owned or operated by the person or entity at the property or facility; or

"(ii) the amount of the reduction in the emission of the air pollutant for the installation as determined under paragraph (1).

"(4) For purposes of this subsection, the term 'air pollutant' shall include each air pollutant required to be offset under part D of title I of the Clean Air Act (42 U.S.C. 7501 et seq.) or under applicable State law.".

(b) UNDER 1990 ACT.—Section 2905 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended by adding at the end the following:

"(f) CREDITS FOR EMISSIONS OF AIR POLLUTANTS.—(1)(A) The Secretary of Defense shall determine the amount of the reduction in the emission of air pollutants that will result from the cessation of activities of the Department of Defense at a military installation approved for closure under this part. The Secretary shall determine such amount with respect to each air pollutant emitted by the installation.

"(B) The Secretary shall determine the amount of the reduction in the emission of an air pollutant under subparagraph (A) with respect to an installation in a manner consistent with the determination of rates of emission of the air pollutant under the plan established under title I of the Clean Air Act (42 U.S.C. 7401 et seq.) for a reduction in or limit on the emission of the air pollutant in the air quality control region in which the installation is located.

"(2) Notwithstanding any other provision of law, the Secretary, in consultation with the redevelopment authority concerned, shall—

"(A) use the amount of the reduction in the emission of an air pollutant under paragraph (1) as an offsetting emission reduction against the emission of the air pollutant by the Department of Defense at another installation within the same air quality control region as the installation achieving the reduction; or

"(B) if the Secretary determines that such use is not desirable or necessary, by making the amount of the reduction available to a person or entity in accordance with paragraph (3).

"(3)(A) Notwithstanding any other provision of law, a person or entity referred to in subparagraph (B) may use the amount of an air pollutant emission reduction referred to in subparagraph (C) as an offsetting emission reduction against the emission of the air pollutant by the person or entity as a result of the operations of the person or entity at the installation referred to in subparagraph (B) for purposes of compliance with a plan established under title I of the Clean Air Act for a reduction in or limit on the emission of the air pollutant in the air quality control region in which the installation is located.

"(B) Subparagraph (A) applies to any person or entity—

"(i) who is the transferee from the Secretary of Defense under this section of any real property or facility located at a military installation approved for closure under this title; and

"(ii) who owns or operates a major stationary source (as used under section 182 of the Clean Air Act (42 U.S.C. 7511a)) at the property or facility.

"(C) The amount of the offsetting air pollutant emission reduction available to a person or entity under subparagraph (A) as the result of the closure of a military installation is the lesser of—

"(i) the amount of the air pollutant that the air quality planning agency for the air quality control region in which the installation is located determines will be emitted by the major stationary source owned or operated by the person or entity at the property or facility; or

"(ii) the amount of the reduction in the emission of the air pollutant for the installation as determined under paragraph (1).

"(4) For purposes of this subsection, the term 'air pollutant' shall include each air pollutant required to be offset under part D of title I of the Clean Air Act (42 U.S.C. 7501 et seq.) or under applicable State law.".

SEC. 7. SENSE OF CONGRESS ON USE OF SINGLE ENTITY FOR ENVIRONMENTAL REMEDIATION AT INSTALLATIONS TO BE CLOSED OR REALIGNED.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should consider carrying out all environmental restoration, waste management, and environmental compliance activities, or any of a related series of such activities, at a military installation approved for closure or realignment under a base closure law through a single entity.

(b) AUTHORITY TO USE SINGLE ENTITY.—Notwithstanding any other provision of law, the Secretary of Defense may carry out all environmental restoration, waste management, and environmental compliance activities, or any of a related series of such activities, at a military installation approved for closure or realignment under a base closure law through a single entity if the Secretary determines that carrying out such activities through such an entity is feasible and appropriate.

(c) DEFINITION.—In this section, the term "base closure law" means the following:

(1) The provisions of title II of the Defense Authorization Amendments and Defense Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(2) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

SEC. 8. REIMBURSEMENT OF CERTAIN TRANSFEREES OF DEPARTMENT OF DEFENSE FOR BUSINESS LOSS DUE TO ENVIRONMENTAL HAZARDS ON TRANSFERRED PROPERTY.

(a) IN GENERAL.—(1) Except as provided in paragraph (3) and subject to subsection (b), the Secretary of Defense may reimburse in full the persons and entities referred to in paragraph (2) for any economic loss suffered by the persons or entities as a result of the release or threatened release of any hazardous substance, pollutant or contaminant, or petroleum or petroleum derivative as a result of Department of Defense activities at any military installation (or portion thereof) that is closed pursuant to a base closure law.

(2) The persons and entities referred to in paragraph (1) are the following:

(A) Any person or entity (other than an entity of a State government or political subdivision thereof) that acquires ownership or control of any facility at a military installation (or any portion thereof) described in paragraph (1) for the purposes (as determined by the Secretary of Defense) of carrying out for-profit business activities at the facility.

(B) Any successor, assignee, transferee, or lessee of a person or entity referred to in subparagraph (A) if the Secretary determines that such successor, assignee, transferee, or lessee carries out for-profit business activities at the facility.

(C) Any lender of a person or entity referred to in subparagraph (A) or (B).

(3) Paragraph (1) shall not apply to a person or entity referred to in paragraph (2) to the extent that the person or entity contributed to any release or threatened release referred to in paragraph (1).

(b) CONDITIONS.—No reimbursement may be provided under this section unless the person or entity making a claim for reimbursement—

(1) notifies the Department of Defense in writing within 2 years after the claim accrues;

(2) furnishes to the Department of Defense copies of pertinent documents the person or entity receives;

(3) furnishes evidence or proof of any claim, loss, or damage covered by this section; and

(4) provides, upon request of the Secretary of Defense, access to the records and personnel of the person or entity for purposes of settling the claim.

(c) SCOPE OF AUTHORITY OF SECRETARY OF DEFENSE.—In any case in which the Secretary of Defense determines that a person or entity referred to in paragraph (2) of subsection (a) may be entitled to reimbursement under this section for economic loss suffered by the person or entity as a result of a release or threatened release referred to in paragraph (1) of that subsection, the Secretary may, at the discretion of the Secretary—

(1) pay the person or entity—

(A) an amount equal to the amount of the economic loss (as determined by the Secretary); and

(B) an amount determined by the Secretary to be appropriate in order to permit the person or entity to maintain on-going for-profit business activities at the facility while the Secretary carries out remediation of the release or threatened release; or

(2) purchase the facility from the person or entity at a price jointly agreed upon by the Secretary and the person or entity.

(d) RELATIONSHIP TO OTHER LAW.—Nothing in this section shall be construed as affecting or modifying in any way section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)).

(e) DEFINITIONS.—In this section:

(1) The terms "facility", "hazardous substance", "release", and "pollutant or contaminant" have the meanings given such terms in paragraphs (9), (14), (22), and (33) of section 101 the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(9), (14), (22), and (33)), respectively.

(2) The term "base closure law" means the following:

(A) The provisions of title II of the Defense Authorization Amendments and Defense Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(B) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

SEC. 9. TREATMENT UNDER COMMUNITY REINVESTMENT ACT OF COMMUNITIES AFFECTED BY THE CLOSURE OR REALIGNMENT OF MILITARY INSTALLATIONS.

Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2), by striking "(2) take such record" and inserting "(3) take the records referred to in paragraphs (1) and (2)"; and

(C) by inserting after paragraph (1) the following new paragraph:

"(2) if the institution serves a community affected by the closure or realignment of a military installation under a base closure law, assess the institution's record of meeting the credit needs of that entire community, consistent with the safe and sound operation of the institution; and"; and

(2) by adding at the end the following new subsection:

"(c) DEFINITION.—For purposes of subsection (a)(2), the term 'base closure law' means the following:

"(1) The provisions of title II of the Defense Authorization Amendments and Defense Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

"(2) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).".

THE BASE CLOSURE COMMUNITY REDEVELOPMENT ACT OF 1994—SUMMARY

Section 1: Title of bill—the "Base Closure Community Redevelopment Act of 1994".

Section 2: Exempts closing military bases from the homeless assistance provisions of the McKinney Act; instead, gives homeless assistance providers and other community groups a voice in the local reuse planning process. A local redevelopment authority creates one comprehensive redevelopment plan based on expressions of interest for property by federal agencies, state and local entities, homeless assistance providers and other community groups. The final redevelopment plan, developed on the local level and in consultation with homeless assistance planning boards, would balance the needs of the homeless with economic redevelopment and job creation interests. The local redevelopment plan would be reviewed by the Secretary of HUD to ensure that a reasonable amount of homeless assistance is provided either on or off the base. All closing military bases slated for closure after date of enactment would be covered under this new provision. In addition, those bases that are already slated for closure request consideration under this new provision.

Section 3: Requires the Secretary of Defense to submit yearly, updated reports on the costs of environmental cleanup at closing military bases.

Section 4: Allows for the designation of 20 additional Enterprise Communities (eligible for tax-exempt bond financing) nationwide. In order to be eligible, the additional communities must be in areas affected by base closure or major realignment.

Section 5: Requires the Secretary of Defense to consult with the redevelopment authority over the procedures used for the appraisal of property at closed military bases. If DoD and the redevelopment authority have different estimates of the value of the property, a third party jointly selected by DoD and the redevelopment authority (i.e. an independent appraiser) shall determine the value.

Section 6: Requires the Secretary of Defense, in consultation with local officials, to determine the reduction in emissions resulting from a base closure (following procedures laid forth by the Clean Air Act). If not needed by another military installation in the air quality control region as an offsetting emission reduction, the reduction shall be made available to the entities redeveloping the installation.

Section 7: Allows the Secretary of Defense to use a single entity to carry out all (or any part) of the environmental cleanup at closing military bases. This procedure is also known as "cradle-to-grave" contracting.

Section 8: Directs the Secretary of Defense to indemnify businesses locating at closed military bases for economic losses caused by environmental hazards inadvertently or negligently left behind by DoD.

Section 9: Extends the eligibility for the Federal Community Reinvestment Act credits to private lenders who provide loans to base closure communities. Currently, these credits are only available for low- and moderate-income communities.

SECTION 2: USE OF CLOSING MILITARY BASES FOR ECONOMIC REDEVELOPMENT AND HOMELESS ASSISTANCE

(Developed in consultation with Congressional staff and an interagency working group consisting of representatives from DOD, HUD, HHS, GSA and the Interagency Council on the Homeless).

1. Base Closure and Realignment property shall be exempted from the current provisions of Title V of the McKinney Homeless Assistance Act. Instead, homeless assistance providers, homeless persons and their representatives will have a voice in the reuse planning process for closing military installations. The Local Redevelopment Authority (LRA) will be used to request property on a portion of the base or to request other assistance related to the development of the base. Accordingly, homeless assistance providers will no longer be able to make requests directly to the Federal government for all or part of an entire installation. The redevelopment plan developed by the LRA will be required to be based on local needs as well as balance all community and economic development interests, including those of the homeless.

2. DOD and Federal agencies will screen available properties and participate in the local planning process by submitting an expression of interest and a statement on need to DOD, with a copy to the LRA. (Federal agencies may obtain property either directly from DOD or through the LRA under economic development conveyances.)

3. Following the DOD/Federal agency screening, DOD shall publish in the Federal Register information about excess and available property on a base. DOD shall also publish the name of the LRA and LRA contacts as soon as an LRA is established. The Interagency Council on the Homeless will assist in disseminating this information to organizations serving the homeless. The LRA will be responsible for publicizing its planning and public input process in local publications.

State and local interests, including community-based homeless-related interests, and all other parties shall express their interest and statement of need for base property to the LRA. A submission from a homeless assistance provider to the LRA shall include a statement describing: (1) its proposed homeless assistance program; (2) the need for the program; (3) the linkages of the proposed program to other programs available in the community; (4) the specific properties, facilities or other resources needed to carry out the proposed program; and (6) the amount of time necessary for the proposed program to become operational.

4. All statements of interest from state and local interests, homeless assistance providers and other parties shall be submitted to the LRA within a time frame set by the LRA and made public (but not less than three months and not later than six months after completion of DOD/Federal screening). [For those bases already slated for closure that have already completed the screening process, the time frame shall be not less than one month and not later than six months.]

5. The local Homeless Assistance Planning Board (HAPB) established under (proposed) Section 411(b) of Title IV of the McKinney Act (as provided for in Section 811 of H.R. 3838) (if one exists) is expected to take the lead in coordinating and reviewing requests from homeless providers and making recommendations to the LRA on those requests. If no HAPB exists, a committee with representatives from the local government and broad representation from locally based government and non-government homeless providers may be established to coordinate these efforts.

6. The LRA will have not more than one year from completion of the screening period to complete and submit a redevelopment plan [note: this is not more than 24 months from approval of closure]. DOD may negotiate and enter into interim leases for use of available properties (consistent with the redevelopment plan) prior to permanent transfer or disposal.

7. The LRA will submit a redevelopment plan and application for certification to DOD and HUD. (The plan discussed in this proposal is the "redevelopment plan" defined in Title 29 of the Defense Authorization Act of 1994.)

The LRA's application shall be appropriately documented and include:

(a) A copy of the redevelopment plan.

(b) Copies of all expressions of interest from homeless assistance providers and a discussion of how these and all other requests for property, including those from Federal agencies, state and local interests, etc., are being addressed;

(c) A summary of the LRA's outreach to homeless providers and publicly efforts, as well as a summary of any public comments.

(d) A summary of the LRA's consultations with other organizations in developing the plan (including consultations with local Homeless Assistance Planning Boards and homeless providers who have expressed interest);

(e) A statement from the LRA of how the plan balances the expressed needs of the homeless (either on- or off-base) and other community and economic development needs; and,

(f) Copies of proposed legally binding and enforceable agreement(s) that the LRA has entered into to fulfill its commitment(s) to homeless assistance providers. The agreement(s) must set forth the LRA's policies and procedures for determining the future use of properties, transfers for homeless assistance resources provided in accordance with the plan, in the event that local needs or circumstances change. In this case, any property which has been transferred for homeless assistance use shall revert to the LRA or its authorized local designee for a use consistent with its legally binding agreement with the homeless provider, and not revert to DoD.

The redevelopment plan shall be site-specific to the extent practicable. (The LRA may submit a more specific plan at a later date if the plan involves a base which is scheduled for closure more than 24 months following DoD's Federal Register announcement). DoD may begin to review the LRA's redevelopment plan and incorporate it into the environmental analysis required for NEPA.

8. HUD will review the entire submission to certify that the plan adequately addresses the needs of the homeless and that it balances those needs with the need for community and economic development. The reuse plan must:

(a) include commitments to enter into legally binding agreements to provide assistance to the homeless within the community, and copies of such agreements;

(b) balance the need for providing property and assistance to the homeless with the overall reuse plan for the military installation;

(c) have been developed in consultation with local representatives of the homeless, including representatives of applicable local homeless assistance planning boards and representatives of local nongovernmental homeless providers;

(d) specify the manner in which property or assistance will be made available for homeless assistance.

In making the determination, HUD will consider the population of the homeless in the community involved, the extent of current services to assist the homeless within the community, the extent of the commitment of resources by local governments in the community to assist the homeless, the need for additional services to assist the homeless within the community, and the suitability of the property for serving the needs of the homeless.

Formal adoption of the redevelopment plan must be made in a public forum and in accordance with applicable state and local laws. In addition, the redevelopment plan submitted should include a summary of comments from community groups and other interested parties as expressed during a public comment period.

9. HUD will have 60 days to complete its review of the plan, certify that the plan either does or does not reasonably address the needs of the homeless (either on- or off-base) and balance those needs with the need for community and economic development, and notify the redevelopment authority. During this period, HUD may work with the LRA to identify inadequacies and may negotiate changes to the plan. DoD will not convey any properties to the LRA unless and until HUD certifies that the LRA's submission is acceptable.

(a) If HUD certifies that the plan balances homeless assistance needs with community and economic needs, HUD will notify DoD and the LRA. DoD will then work with the LRA to fulfill the approved commitments for homeless use.

(b) If HUD determines that the plan fails to reasonably address the needs of the homeless and balance the need for community and economic development, then HUD will state the specific reasons for its conclusions and specify actions needed to make the plan acceptable. HUD's report will be sent both to DoD and the LRA.

10. If the redevelopment plan is not approved by HUD, the LRA, will have 90 days following the receipt of HUD's report to submit a revised plan to HUD and DoD that addresses HUD's concerns. HUD will review the revised plan and either certify that it is either acceptable or unacceptable within 30 days of receipt. If HUD certifies that the revised plan is unacceptable, HUD will, within 90 days, administer the following process:

(a) HUD will review the original expressions of interest from homeless assistance providers for property on the base that were included in the LRA's submission (see paragraph 7(b) above).

(b) HUD will consult with these providers to determine if they are still interested in property on the base for homeless assistance purposes and obtain additional information necessary to prepare leases, deeds or other conveyance documents.

(c) HUD will request that these providers submit a detailed proposal containing information related to its proposed program which is similar to that currently submitted to HHS as part of the current McKinney Title V process (e.g., financial capacity, environmental issues, and compliance with Federal non-discrimination laws). The applicant will also be asked to certify and document the availability of appropriate sewer, water, police and fire services.

(d) HUD will review these proposals and make a recommendation to DoD consistent with its previous report to DoD and the LRA on the redevelopment plan. In making this recommendation, HUD will address the suitability of the identified properties for homeless use in consultation with DoD and in accordance with the current HUD checklist for McKinney properties.

11. If HUD approves the redevelopment plan, DoD will, after reviewing recommendations from the appropriate federal agencies, ordinarily convey properties to an LRA or to other entities approved for public benefit uses under the Federal Property Act. DoD may, when necessary, transfer properties directly to providers identified by the LRA (or approved by HUD if HUD finds the LRA's plan unacceptable) to meet the needs of the homeless.

12. In those limited cases in which DoD conveys property directly to homeless providers, HUD will work with DoD and the providers in preparing the necessary deed.

13. DoD, in consultation with the LRA, may extend any of the time lines mentioned above if doing so is in public interest.

14. The new process identified above shall apply to any installation approved for closure after the date of enactment.

15. In the case of property on an installation already approved for closure, the LRA may, within 60 days of enactment of this proposal, submit a request to DoD for consideration under the new procedures instead of the current McKinney Title V process.

If a homeless assistance provider has a pending McKinney Act application but not yet approved, that homeless assistance provider shall be given preferential status by the LRA when determining homeless needs in the redevelopment plan. If a McKinney Act application has already been approved by HHS but property has not yet been transferred, the LRA must demonstrate in the redevelopment plan how it will accommodate, at a minimum, the approved program(s) and activities on or off the base in a substantially equivalent manner.

16. For those 60 calendar days immediately following enactment of this proposal, HHS will suspend processing of all expressions of interest and applications for base closure properties under the current McKinney process which have been published by HUD but not approved. At the end of this 60 days period, HHS will resume processing applications in accordance with applicable law and regulations.

17. In the event a request is filed in connection with the process described in paragraphs 13 or 14 above, HHS and HUD will suspended the McKinney application process for the applicable properties. DoD will notify HHS and HUD (who will notify any affected homeless providers) that a LRA wishes to proceed under this new section.

18. The LRA will be responsible for monitoring the implementation of the redevelopment plan.•

By Mr. SARBANES (for himself and Mr. BRYAN):

S.J. Res. 228. A joint resolution designating October 29, 1994, as "National Firefighters Day"; to the Committee on the Judiciary.

NATIONAL FIREFIGHTERS DAY

• Mr. SARBANES. Mr. President, today I am introducing a Joint Resolution to designate October 29, 1994 as "National Firefighters Day."

As a co-chairman of the Congressional Fire Services Caucus and a longtime supporter of our Nation's fire service, I am honored to again sponsor a resolution that sets aside 1 day to thank firefighters for their dedication and service to all of us. As my colleagues will recall, we previously designated October 29, 1993, as "National Firefighters Day" and it is my hope that we can make this an annual tradition.

Twenty-four hours a day, 365 days each year, firefighters are on standby—ready to come to our aid. These well-trained men and women are our first line of defense against fire and a host of other natural disasters. And while each of us hopes that we will never need their assistance, we take comfort in knowing that they are there.

At a time when so many bemoan the lack of role models for our youth, I contend that we need look only to the nearest firehall for heroes who day-to-day put their lives on the line in selfless service to others. Mr. President, all of the volunteer and career firefighters around our country truly deserve a day of recognition.

An identical resolution was introduced in the House last week by the distinguished chairman of the Congressional Fire Services Caucus, Representative HOYER from Maryland. I am pleased to be joined today by one of my fellow Senate co-chairmen, Senator BRYAN, in introducing the Senate companion. Mr. President, I urge all of my colleagues to join us in sponsoring this joint resolution.

There being no objection, the joint resolution ordered to be printed in the RECORD, as follows:

S.J. RES. 228

Whereas there are over 2,000,000 firefighters in the United States;

Whereas firefighters respond to more than 2,300,000 fires and 8,700,000 emergencies other than fires each year;

Whereas fires annually cause nearly 6,000 deaths and $10,000,000,000 in property damages;

Whereas firefighters have given their lives and risked injury to preserve the lives and protect the property of others;

Whereas the contributions and sacrifices of valiant firefighters often go unreported and are inadequately recognized by the public; and

Whereas the work of firefighters deserves the attention and gratitude of all individuals in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 29, 1994, is designated as "National Firefighters Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.•

ADDITIONAL COSPONSORS

S. 571

At the request of Mr. ROTH, his name was added as a cosponsor of S. 571, a bill to amend the Internal Revenue Code of 1986 to permanently increase the deductible health insurance costs for self-employed individuals.

S. 916

At the request of Mr. CRAIG, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 916, a bill to amend the Davis-Bacon Act and the Copeland Act to provide new job opportunities, effect significant cost savings by increasing efficiency and economy in Federal procurement, promote small and minority business participation in Federal contracting, increase competition for Federal construction contracts, reduce unnecessary paperwork and reporting requirements, clarify the definition of prevailing wage, and for other purposes.

S. 1288

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of S. 1288, a bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture commercialization research program, and for other purposes.

S. 1598

At the request of Mr. ROTH, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 1598, a bill to amend title 10, United States Code, to modernize Department of Defense acquisition procedures, and for other purposes.

S. 1727

At the request of Mr. COHEN, the names of the Senator from Rhode Island [Mr. PELL] and the Senator from Ohio [Mr. GLENN] were added as cosponsors of S. 1727, a bill to establish a National Maritime Heritage Program to make grants available for educational programs and the restoration of America's cultural resources for the purpose of preserving America's endangered maritime heritage.

S. 1976

At the request of Mr. DOMENICI, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 1976, a bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the act.

S. 2140

At the request of Mr. DASCHLE, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 2140, a bill to permit an individual to be treated by a health care practitioner with any method of medical treatment such individual requests, and for other purposes.

S. 2257

At the request of Mr. BAUCUS, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Kentucky [Mr. FORD] were added as cosponsors of S. 2257, a bill to amend the Public Works and Economic Development Act of 1965 to reauthorize economic development programs, and for other purposes.

S. 2378

At the request of Mr. DOLE, the names of the Senator from Arizona [Mr. MCCAIN], the Senator from Oklahoma [Mr. NICKLES], the Senator from Virginia [Mr. ROBB], and the Senator from California [Mrs. FEINSTEIN] were added as cosponsors of S. 2378, a bill to prohibit United States assistance to countries that prohibit or restrict the transport or delivery of United States humanitarian assistance.

S. 2412

At the request of Mrs. KASSEBAUM, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 2412, a bill to provide for the establishment of the Tallgrass Prairie National Preserve in Kansas, and for other purposes.

SENATE JOINT RESOLUTION 189

At the request of Mr. ROTH, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of Senate Joint Resolution 189, a joint resolution designating October 1994 as "National Decorative Painting Month."

SENATE JOINT RESOLUTION 208

At the request of Mr. WOFFORD, the names of the Senator from South Carolina [Mr. THURMOND], the Senator from Virginia [Mr. ROBB], the Senator from Washington [Mr. GORTON], the Senator from California [Mrs. FEINSTEIN], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Montana [Mr. BURNS], the Senator from Florida [Mr. MACK], the Senator from Missouri [Mr. DANFORTH], the Senator from Wyoming [Mr. SIMPSON], the Senator from Maine [Mr. COHEN], and the Senator from Texas [Mrs. HUTCHISON] were added as cosponsors of Senate Joint Resolution 208, a joint resolution designating the week of November 6, 1994, through November 12, 1994, "National Health Information Management Week."

SENATE JOINT RESOLUTION 218

At the request of Mr. WARNER, the names of the Senator from Missouri [Mr. BOND], the Senator from Wisconsin [Mr. FEINGOLD], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of Senate Joint Resolution 218, a joint resolution designating January 16, 1995, as "Religious Freedom Day."

SENATE JOINT RESOLUTION 220

At the request of Mr. BIDEN, the names of the Senator from Idaho [Mr. CRAIG], the Senator from Wisconsin [Mr. FEINGOLD], the Senator from New Hampshire [Mr. GREGG], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Joint Resolution 220, a joint resolution to designate October 19, 1994, as "National Mammography Day."

SENATE CONCURRENT RESOLUTION 66

At the request of Ms. MIKULSKI, the names of the Senator from Texas [Mrs. HUTCHISON], the Senator from Rhode Island [Mr. PELL], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Concurrent Resolution 66, a concurrent resolution to recognize and encourage the convening of a National Silver Haired Congress.

SENATE RESOLUTION 264

At the request of Mr. MCCAIN, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of Senate Resolution 264, a resolution expressing the sense of the Senate that the President should issue an Executive order to promote and expand Federal assistance for Indian institutions of higher education and foster the advancement of the National Education Goals for Indians.

At the request of Mr. MCCAIN, the name of the Senator from Massachusetts [Mr. KERRY] was withdrawn as a cosponsor of Senate Resolution 264, supra.

AMENDMENT NO. 2595

At the request of Mr. WOFFORD the names of the Senator from Iowa [Mr. HARKIN] and the Senator from West

Virginia [Mr. ROCKEFELLER] were added as cosponsors of Amendment No. 2595 proposed to H.R. 4649, a bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1995, and for other purposes.

SENATE CONCURRENT RESOLUTION 75—RELATING TO THE COMMONWEALTH OPTION IN PUERTO RICO

Mr. SIMON submitted the following concurrent resolution; which was referred to the Committee on Energy and Natural Resources:

S. CON. RES. 75

Whereas the Government of the Commonwealth of Puerto Rico enacted legislation to allow the people of Puerto Rico to express, through a plebiscite, their preference regarding the nature of the future relationship between Puerto Rico and the United States;

Whereas the plebiscite ballot contained the status options of statehood, commonwealth, and independence, as defined by the three principal political parties of Puerto Rico;

Whereas, in the plebiscite of November 14, 1993, 48.6 percent of the people of Puerto Rico voted for commonwealth status, 46.3 percent voted for statehood status, and 4.4 percent voted for independence;

Whereas the commonwealth status option presented to the Puerto Rico electorate on November 14, 1993, proposed significant changes to the current relationship between Puerto Rico and the United States, including—

(1) the execution of a bilateral pact between Puerto Rico and the United States that would be unalterable, except by mutual consent;

(2) permanent union between Puerto Rico and the United States;

(3) the extension of supplemental security income (SSI) under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) to citizens of Puerto Rico; and

(4) equality between Puerto Rico and the States regarding food stamp allocations under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

Whereas the commonwealth status option presented to the Puerto Rico electorate on November 14, 1993, stated that commonwealth status would guarantee—

(1) irrevocable United States citizenship;

(2) Puerto Rico fiscal autonomy; and

(3) a common market, common currency, and common defense with the United States;

Whereas the legislature of Puerto Rico passed a concurrent resolution asking that the Congress make a statement concerning the viability of the commonwealth ballot formula presented to the people of Puerto Rico in the plebiscite of November 14, 1993;

Whereas the Congress holds great respect for Puerto Ricans as citizens of the United States; and

Whereas it is incumbent upon the Congress to express the sense of the Congress concerning the viability of the elements of the commonwealth formula proposed in the November 14, 1993, plebiscite: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the changes to the political relationship between Puerto Rico and the United States that are described in the option of the Puerto Rico plebiscite of November 14, 1993, known as the commonwealth option would provide to United States citizens who are residents of Puerto Rico the Federal benefits of United States citizens living in the States without the concomitant responsibilities;

(2) the commonwealth formula presented in the Puerto Rican plebiscite of November 14, 1993, is not an economically or politically viable alternative to the current self-governing, unincorporated territorial status of the Commonwealth of Puerto Rico; and

(3) the unalterable bilateral pact that such commonwealth formula proposes as the vehicle for the permanent union of Puerto Rico with the United States is not a constitutionally viable alternative to the current self-governing, unincorporated territorial status of the Commonwealth of Puerto Rico.

• Mr. SIMON. Mr. President, on July 4, 1994, the legislative assembly enacted a concurrent resolution asking the U.S. Congress to address the viability of the commonwealth option voted on by the people of Puerto Rico during the November 14, 1993, plebiscite. I am pleased to join my friend Congressman DON YOUNG of Alaska in a bipartisan, bicameral effort to respond to the request of the Puerto Rican legislature. Along with Congressman YOUNG, I am submitting a concurrent resolution of the U.S. Congress regarding the commonwealth option presented in November 14, 1994 plebiscite.

The need for such a concurrent resolution must be considered in the context of the procedures governing the Puerto Rican plebiscite. In the interests of comity, the Legislative Assembly of Puerto Rico permitted each of the three political parties represented in the plebiscite—the Statehood Party, the Commonwealth Party, and the Independence Party—to draw up its own definition of its status option for inclusion on the plebiscite ballot. This attempt to be fair, however, led to the formulation and appearance of completely unrealistic status options on the November 14 ballot.

The Commonwealth Party in Puerto Rico presented Puerto Rico's citizens with a series of vain promises regarding the island's future relationship with the United States. The Commonwealth Party promised, among other things, that future Puerto Rico-U.S. relations would be governed by a bilateral pact that would be unalterable except by mutual consent; that supplemental security income benefits and food stamps would be made available to Puerto Ricans on a par with citizens of the 50 states; that Puerto Rican fiscal autonomy would be preserved; and that Puerto Rico would be guaranteed a common market, defense, and currency with the United States. In short, the Commonwealth Party promised Puerto Ricans many of the benefits of full incorporation with the United States without any of the concomitant responsibilities, and proposed a form of association with the United States that is inconsistent with Constitutional principles.

Not surprisingly, a plurality of Puerto Ricans—48.6 percent—voted for the Commonwealth package of benefits, although to the credit of the Puerto Rican people, a combined majority of pro-statehood and pro-independence voters expressed approval for packages that combined benefits and responsibilities equally. Indeed, it is important to note that, for the first time since its establishment in 1952, the commonwealth status option failed to receive a majority of support from the Puerto Rican electorate.

In light of the continued uncertainty regarding the Puerto Rican plebiscite and what it means for the future, it is incumbent on the U.S. Congress to heed the call of the Puerto Rican Legislature and express its opinion regarding the viability of the commonwealth plebiscite formula. If, as I believe, this formula was neither politically, economically, nor constitutionally viable, the people of Puerto Rico must be given this signal, so that they may promptly choose a path of association that is both realistic and consistent with constitutional principles.

While it is unfortunate that the voters of Puerto Rico faced inflated and unrealistic expectations in the November 14, 1993 plebiscite, the Congress of the United States can now set the record straight, so that Puerto Rico may continue without undue delay to find a viable constitutional option to its current self-governing, unincorporated territorial status.•

AMENDMENTS SUBMITTED

DISTRICT OF COLUMBIA APPROPRIATIONS ACT FOR FISCAL YEAR 1995

METZENBAUM (AND HATCH) AMENDMENT NO. 2601

Mr. METZENBAUM (for himself and Mr. HATCH) proposed an amendment to the House amendment to the Senate amendment No. 12 to the bill (H.R. 4649) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1995, and for other purposes; as follows:

At the end of the amendment add:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Baseball Fans Protection Act of 1994".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to encourage serious negotiations between the major league baseball players and the owners of major league baseball;

(2) to prevent continued economic loss to individuals not involved in the negotiations whose livelihoods depend on baseball's being played;

(3) to prevent continued losses to communities that host major league baseball; and

(4) to preserve the remainder of the 1994 regular season, the 1994 playoffs and World Series, and the 1995 spring training season for the fans of baseball.

SEC. 3. APPLICATIONS OF THE ANTITRUST LAWS TO MAJOR LEAGUE BASEBALL IN EXCEPTIONAL AND EXTRAORDINARY CIRCUMSTANCES.

The Clayton Act (15 U.S.C. 12 et seq.) is amended by adding at the end the following new section:

"SEC. 27. (a) IN GENERAL.—In the event that a unilateral term or condition is imposed by any party that has been subject to an agreement between the owners of major league baseball and the labor organization representing the players of major league baseball, the antitrust laws shall apply to that term or condition, and that term or condition may be challenged by any party to such agreement in any United States district court in a district in which one of the parties is doing business.

"(b) STAY OF CERTAIN TERMS AND CONDITIONS.—If, prior to the mutual adoption of agreements between the owners of major league baseball and the labor organization representing the players of major league baseball that replaces the agreements between the parties that expired on or after December 31, 1993, unilateral terms and conditions are imposed by any party to the prior agreement, and those terms and conditions are challenged in a court action in accordance with the provisions of subsection (a), the application of such unilaterally imposed terms and conditions shall be stayed until any such action is final, including any appellate review thereof, and the parties shall be bound by the terms and conditions of the agreements between the parties in effect on December 30, 1993 until such stay has expired.

"(c) DEFINITION.—In this section, 'term or condition' does not include a strike or a lockout.".

DURENBERGER (AND OTHERS) AMENDMENT NO. 2602

Mr. DURENBERGER (for himself, Mr. CONRAD, Mr. CHAFEE, Mrs. FEINSTEIN, Mr. BOND, Mr. HEFLIN, Mrs. HUTCHISON, Mr. DANFORTH, Mr. DECONCINI, Mr. KOHL, Mr. DORGAN, and Mr. ROCKEFELLER) proposed an amendment to the House amendment to Senate amendment No. 12 to the bill H.R. 4649, supra; as follows:

SEC. . MEDICARE SELECT.

Section 4358(c) of the Omnibus Budget Reconciliation Act of 1990 is amended by striking "3-year period".

AUBURN INDIAN RESTORATION ACT

INOUYE AMENDMENT NO. 2603

Mr. COATS (for Mr. INOUYE) proposed an amendment to the bill (H.R. 4228) to extend Federal recognition to the United Auburn Indian Community of the Auburn Rancheria of California; as follows:

On page 9, between lines 9 and 10, insert the following:

TITLE I—AUBURN INDIAN RESTORATION

On page 9, line 10, strike "SECTION 1" and insert "SEC. 101".

On page 9, lines 11 and 20, strike "Act" each place it appears and insert "title".

On page 9, line 13, strike "2" and insert "102".

On page 10, lines 16 and 24, strike "Act" each place it appears and insert "title".

On page 11, line 3, strike "3" and insert "103".

On page 11, line 11, strike "7" and insert "107".

On page 11, lines 19 and 20, strike "4" each place it appears and insert "104".

On page 12, line 23, strike "5" and insert "105".

On page 13, lines 4 and 24, strike "7" each place it appears and insert "107".

On page 14, line 14, strike "6" and insert "106".

On page 14, line 16, strike "7" and insert "107".

On page 15, line 1, strike "5(b)" and insert "105(b)".

On page 15, line 4, strike "7" and insert "107".

On page 15, line 6, strike "5(a)" and insert "105(a)".

On page 15, line 22, strike "8" and insert "108".

On page 15, line 23, strike "Act" and insert "title".

On page 16, line 7, strike "6" and insert "106".

On page 16, line 9, strike "5(b)" and insert "105(b)".

On page 16, line 14, strike "4" and insert "104".

On page 16, line 18, strike "9" and insert "109".

On page 16, after line 20, add the following new title:

TITLE II—CHOCTAW INDIANS RECOGNITION

SEC. 201. SHORT TITLE.

This title may be cited as the "Mowa Band of Choctaw Indians Recognition Act".

SEC. 202. FEDERAL RECOGNITION.

Federal recognition is hereby extended to the Mowa Band of Choctaw Indians of Alabama. All Federal laws of general application to Indians and Indian tribes shall apply with respect to the Mowa Band of Choctaw Indians of Alabama.

SEC. 203. RESTORATION OF RIGHTS.

(a) IN GENERAL.—All rights and privileges of the Mowa Band of Choctaw Indians which may have been abrogated or diminished before the date of enactment of this Act by reason of any provision of Federal law that terminated Federal recognition of the Mowa Band of Choctaw Indians of Alabama are hereby restored and such Federal law shall no longer apply with respect to the Band or the members of the Band.

(b) CONGRESSIONAL APPROVAL.—(1) Congress finds that under the treaties entered into by the ancestors of the Mowa Band of the Choctaw Indians all historical tribal lands were ceded to the United States.

(2) Congress hereby approve and ratifies such cession effective as of the date of the such cession and such cession shall be regarded as an extinguishment of all interest of the Mowa Band of Choctaw Indians, if any, in such lands as of the date of the cession.

(3) By virtue of the approval and ratification of the cession of such lands, all claims against the United States, any State or subdivision thereof, or any other person or entity, by the Mowa Band of Choctaw Indians, including claims for trespass damages or claims for use and occupancy, arising subsequent to the cession that are based upon any interest in or right involving such land, shall be considered as extinguished as of the date of the cession.

(c) CLAIMS.—(1) The Mowa Band of Choctaw Indians may not be considered to have a historical land claim.

(2) The Mowa Band of Chowtaw Indians may not use the Federal recognition provided to the Mowa Band of Choctaw Indians under this Act to assert any historical land claim.

(3) As used in this subsection the term "historical land claim" means a claim to land based upon—

(A) a contention that the Mowa Band of Choctaw Indians, or its ancestors, were the native inhabitants of such land;

(B) the status of Mowa Band of Choctaw Indians as native Americans; or

(C) the Federal recognition of the Mowa Band of Choctaw Indians, as provided by this title.

(d) STATUTORY CONSTRUCTION.—Except as otherwise specifically provided in section 204 or any other provision of this title, nothing in this title may be construed as altering or affecting—

(1) any rights or obligations with respect to property;

(2) any rights or obligations under any contract; or

(3) any obligation to pay a tax levied before the date of enactment of this Act.

SEC. 204. LANDS.

(a) IN GENERAL.—All legal rights, title, and interests in lands that are held by the Mowa Band of Choctaw Indians of Alabama on the date of enactment of this Act are hereby transferred to the United States to be held in trust for the use and benefit of the Mowa Band of Choctaw Indians of Alabama.

(b) INTERESTS.—(1)(A) Notwithstanding any other provision of law, the Mowa Band of Choctaw Indians of Alabama shall transfer to the Secretary of the Interior, and the Secretary of the Interior shall accept on behalf of the United States, any interest in lands acquired by such Band after the date of enactment of this Act.

(B) Such lands shall be held by the United States in trust for the benefit of the Mowa Band of Choctaw Indians of Alabama.

(2) Notwithstanding any other provision of law, the Attorney General of the United States shall approve any deed or other instrument used to make a conveyance under paragraph (1).

(c) RESERVATION.—Any lands held in trust by the United States for the benefit of the Mowa Band of Choctaw Indians of Alabama by reason of this section shall constitute the reservation of the Mowa Band of Choctaw Indians of Alabama.

(d) FINDINGS.—Congress finds that the provisions of this section—

(1) are enacted at the request of the Mowa Band of Choctaw Indians of Alabama; and

(2) are in the best interest of such Band.

SEC. 205. SERVICES.

The Mowa Band of Choctaw Indians of Alabama, and the members of such Band, shall be eligible for all services and benefits that are provided by the Federal Government to Indians because of their status as federally recognized Indians. Notwithstanding any other provision of law, such services and benefits shall be provided after the date of enactment of this Act to the Band, and to the members of the Band, without regard to the existence of a reservation for the Band or the location of the residence of any member of the Band on or near any Indian reservation.

SEC. 206. CONSTITUTION AND BYLAWS.

(a) IN GENERAL.—The Mowa Band of Choctaw Indians of Alabama may organize for the common welfare of the Band and adopt a constitution and bylaws in accordance with regulations prescribed by the Secretary of the Interior. The Secretary of the Interior shall offer to assist the Band in drafting a constitution and bylaws for the Band.

(b) FILING.—Any constitution, bylaws, or amendments to the constitution or bylaws that are adopted by the Mowa Band of Choctaw Indians of Alabama shall take effect only after such constitution, bylaws, or amendments are filed with the Secretary of the Interior. SEC. 207. MEMBERSHIP.

(a) IN GENERAL.—Until a constitution for the Mowa Band of Choctaw Indians of Alabama is adopted, the membership of the Band shall consist of each individual who—

(1) is named in the tribal membership roll that is in effect on the date of enactment of this Act, or

(2) is a descendant of any individual described in paragraph (1).

(b) AFTER THE ADOPTION OF A CONSTITUTION.—After the adoption of a constitution by the Mowa Band of Choctaw Indians of Alabama, the membership of the Band shall be determined in accordance with the terms of such constitution or any bylaws adopted under such constitution.

SEC. 208. REGULATIONS.

The Secretary of the Interior shall prescribe such regulations as may be necessary to carry out the purposes of this title.

ENERGY POLICY AND CONSERVATION ACT AMENDMENTS OF 1994

JOHNSTON (AND WALLOP) AMENDMENT NO. 2604

Mr. LEVIN (for Mr. JOHNSTON, for himself and Mr. WALLOP) proposed an amendment to the bill (S. 2251) to amend the Energy Policy and Conservation Act to manage the strategic petroleum reserve more effectively, and for other purposes; as follows:

TITLE I—AMENDMENTS TO ENERGY POLICY AND CONSERVATION ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "Energy Policy and Conservation Act Amendment of 1994.

SEC. 102. TABLE OF CONTENTS AMENDMENTS.

Amend the table of contents of the Energy Policy and Conservation Act by,

(1) striking the items relating to section 153, 155, 158, 164, and 173:

(2) amending the item relating to section 159 to read as follows:

"Sec. 159. Development, operations, and maintenance of the Reserve."; and

(3) striking the items relating to part A of title II.

SEC. 103. AMENDMENTS TO STATEMENT OF PURPOSES.

Section 2 of the Energy Policy and Conservation Act is amended—

(1) in paragraph (1) by striking "standby" and ", subject to congressional review, and to impose rationing, to reduce demand for energy through the implementation of energy conservation plans, and";

(2) by amending paragraph (3) to read as follows:

"(3) to increase the domestic supply of fossil energy during severe energy supply interruption."; and

(3) by amending paragraph (6) to read as follows:

"(6) to reduce the demand for petroleum products during severe energy supply interruptions"

SEC. 102. TITLE I AMENDMENTS.

(a) Part B of Title I of the Energy Policy and Conservation Act (42 U.S.C. 6231) is amended—

(1) in section 151 (42 U.S.C. 6231)—

(A) in subsection (a) by striking "limited" and "short term"; and

(B) by amending subsection (b) to read as follows:

"(b) It is the policy of the United States to provide for the creation of a Strategic Petroleum Reserve for the storage of up to one billion barrels of petroleum products to reduce the impact of disruptions in supplies of petroleum products or to carry out obligations of the United States under the international energy program.";

(2) in section 152 (42 U.S.C. 6232)—

(A) by striking paragraph (1), and

(B) in paragraph (11) by striking ", the Early Storage Reserve",

(3) by striking section 153 (42 U.S.C. 6233);

(4) in section 154 (42 U.S.C. 6234)—

(A) by amending subsection (a)(1) to read as follows:

"(a)(1) A Strategic Petroleum Reserve for the storage of up to one billion barrels of petroleum products shall be created pursuant to this part";

(B) by amending subsection (b) to read as follows:

"(b) The Secretary, acting through the Strategic Petroleum Reserve Office and in accordance with this part, shall exercise authority over the development, operation, and maintenance of the Reserve.";

(C) by striking subsection (c) and (d); and

(D) by amending subsection (e) to read as follows:

"(e)(1) The Secretary shall prepare, and update biennially, a plan for the operation, maintenance and proposed expansion of the Reserve (hereinafter referred to as the SPR Plan). The SPR Plan shall include—

"(A) a description of the facilities that compose the Strategic Petroleum Reserve, including the type and location of each storage facility (other than storage facilities of the Industrial Petroleum Reserve);

"(B) an estimate of the volumes and types of petroleum products stored in each storage facility, including any special characteristics of such petroleum products; and

"(C) an identification of the ownership of the petroleum products stored in the Reserve in any case where such products are not owned by the United States; and

"(D) a description of any changes that have occurred, or are anticipated, in the operation and maintenance of the Reserve, including any plans under consideration or proposed for the upgrading or replacement of existing facilities or the construction of new storage facilities.

"(2) The Secretary shall, by rule, also prepare a Strategic Petroleum Reserve Drawdown and Distribution Plan (hereinafter referred to as the SPR Drawdown Plan). The SPR Drawdown Plan shall set forth policy options applicable to the drawdown and distribution of the Reserve, including the strategy or alternative strategies of drawdown and distribution that will be considered and the criteria that will be employed to select among such strategies. Until such SPR Drawdown Plan is finalized the December 1, 1992 Strategic Petroleum Reserve Drawdown (Amendment Number 4) shall remain in force and effect.".

(5) by striking section 155 (42 U.S.C. 6235);

(6) in section 156(b) (42 U.S.C. 6236(b)) by striking "To implement the Early Storage Reserve Plan or the Strategic Petroleum Reserve Plan which has taken effect pursuant to section 159(a), the" and inserting "The";

(7) by amending section 157 (42 U.S.C. 6237)—

(A) in subsection (a), by striking "The Strategic Petroleum Reserve Plan shall provide for the establishment and maintenance of" and insert "the Secretary shall establish and maintain as part of the Strategic Petroleum Reserve", and

(B) in subsection (b), by striking "To implement the Strategic Petroleum Reserve Plan, the Secretary shall accumulate and maintain" and inserting "The Secretary may establish and maintain as part of the Strategic Petroleum Reserve";

(8) by striking section 158 (42 U.S.C. 6238);

(9) in section 159 (42 U.S.C. 6239)—

(A) by striking subsections (a), (b), (c), (d), and (e);

(B) by amending subsection (f) to read as follows:

"(f) In order to develop, operate, or maintain the Strategic Petroleum Reserve, the Secretary may:

"(1) issue rules, regulation, or orders;

"(2) acquire by purchase, condemnation, or otherwise, land or interests in land for the location of storage and related facilities;

"(3) construct, purchase, lease, or otherwise acquire storage and related facilities;

"(4) use, lease, maintain, sell, or otherwise dispose of storage and related facilities acquired under this part, under such terms and conditions as the Secretary may deem necessary or appropriate;

"(5) acquire by purchase, exchange, or otherwise, petroleum products for storage in the Strategic Petroleum Reserve;

"(6) store petroleum products in storage facilities owned and controlled by the United States or in storage facilities owned by others if those facilities are subject to audit by the United States;

"(7) execute any contracts necessary to develop, operate, or maintain the Strategic Petroleum Reserve;

"(8) require an importer of petroleum products or refiner to acquire and to store and maintain, in readily available inventories, petroleum products in the Industrial Petroleum Reserve, under section 156;

"(9) require the storage of petroleum products in the Industrial Petroleum Reserve, under section 156, on terms that the Secretary specifies in storage facilities owned and controlled by the United States or in storage facilities other than those owned by the United States if those facilities are subject to audit by the United States;

"(10) require the maintenance of the Industrial Petroleum Reserve; and

"(11) bring an action, when the Secretary considers it necessary, in any court having jurisdiction over the proceedings, to acquire by condemnation any real or personal property, including facilities, temporary use of facilities, or other interests in land, together with any personal property located on or used with the land";

(C) in subsection (g)—

(i) by striking "implementation" and inserting "development"; and

(ii) by striking "Plan";

(D) by striking subsections (h) and (i); and

(E) by striking in subsection (j) from "No later than" through "Amendments of 1990" and inserting in lieu thereof: "When the Secretary determines that, within five years, the Reserve can reasonably be expected to contain an inventory of 750,000,000 barrels,"; and

(F) by amending subsection (l) to read as follows:

(l) During any period in which drawdown and distribution are being implemented, the Secretary may issue rules, regulations, or orders to implement the drawdown and distribution of the Strategic Petroleum Reserve in accordance with section 523 of this Act, without regard to the requirements of section 553 of title 5, United States Code, and section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).";

(10) in section 160 (42 U.S.C. 6240)—

(A) in subsection (a), by striking all before the dash and inserting the following—

"(a) For the purposes of implementing the Strategic Petroleum Reserve, the Secretary may acquire, place in storage, transport, or exchange";

(B) in subsection (b), by striking the third comma and "including the Early Storage Reserve" and paragraph (2).

(C) by striking subsections (c), (d) and (e);

(11) in section 161 (42 U.S.C. 6241)—

(A) by amending subsection (b) to read as follows:

"(b) Except as provided in subsections (f) and (g), no drawdown and distribution of the Reserve may be made except in accordance with the provisions of the Distribution Plan prepared pursuant to section 154(e)."

(B) by striking subsection (c);

(C) by amending subsection (d)(1) to read as follows:

"(d)(1) No drawdown and distribution of the Strategic Petroleum Reserve may be made unless the President has found drawdown and distribution is required by a severe energy supply interruption or by obligations of the United States under the international energy program.";

(D) by amending subsection (e) to read as follows:

"(e)(1) The Secretary shall sell any petroleum product withdrawn from the Strategic Petroleum Reserve at public sale to the highest qualified bidder in the amounts, for the period, and after a notice of sale the Secretary considers proper, and without regard to Federal, State, or local regulations controlling sales of petroleum products.

"(2) The Secretary may cancel in whole or in part any offer to sell petroleum products as part of any drawdown and distribution under this section."; and

(E) in subsection (g)—

(i) in paragraph (1), by striking "Distribution Plan" and inserting "distribution procedures", and

(ii) by striking paragraphs (2) and (6);

(12) by striking section 164 (42 U.S.C. 6244);

(13) by amending section 165 (42 U.S.C. 6245) to read as follows—

"SEC. 165. The Secretary shall report annually to the President and the Congress on actions to implement this part. This report shall include—

"(1) a detailed statement of the status of the Strategic Petroleum Reserve, including—

"(A) the capacity of the Reserve and the scheduled annual fill rate for achieving this capacity:

"(B) The types and quality of crude oil to be acquired for the Reserve, including the method of procurement, under the schedule described in subparagraph (A);

"(C) any condition affecting physical integrity of any Reserve facility or the petroleum products stored in any Reserve facility, that would impair the maintenance or operation of the Reserve, including any proposed remedial actions, their estimated costs, and schedules for their execution;

"(D) plans for the construction of new Reserve facilities or the enhancement or improvement of existing Reserve facilities, including their estimated costs and schedules for completion;

"(E) specific actions being taken or anticipated to complete and maintain a Reserve a 750 million barrel Reserve;

"(F) specific actions being taken to complete preparations of plans for expansion of the Reserve to a capacity of one billion barrels; and

"(G) a description of the current method of drawdown and distribution to be utilized, and

"(H) an explanation of any changes made in the mattes described in subparagraphs (A) through (G) since the transmittal of the previous report under this section;

"(2) a summary of the actions being taken to develop, operate, or maintain the Strategic Petroleum Reserve;

"(3) a summary of any actions taken or proposed to achieve the petroleum product storage objectives for the Reserve through the acquisition of petroleum products by the acquisition of leasing of petroleum products, or by other means;

"(4) A review of any proposal received from a person, including a State of local governmental entity, that would further the objectives of the Reserve, including the financing or leasing of Reserve storage facilities or petroleum products, or both, and any anticipated actions on such a proposal

"(5) a description of current United States and International Energy Agency policies and practices applicable to the drawdown and distribution of the Reserve, including any changes in such policies and the rationale for such changes;

"(6) a summary of the financial transactions in the Strategic Petroleum reserve and SPR Petroleum Account;

"(7) a summary of existing problems with respect to operation or maintenance of the Strategic Petroleum Reserve; and

"(8) any recommendations for supplemental legislation the Secretary considers necessary or appropriate to implement this part, including any proposal under paragraphs (3) and (4)."

(14) in section 166 (42 U.S.C. 6246) by striking all after "appropriated" and inserting "such funds as may be necessary to implement this part.";

(15) in section 167 (42 U.S.C. 6247)—

(A) in subsection (b)

(i) by inserting "test sales of petroleum products from the Reserve," after "Strategic Petroleum Reserve,";

(ii) by striking paragraph (1);

(iii) in paragraph (2), by striking "after fiscal year 1982"; and

(B) by amending subsection (e) to read as follows:

"(e) The Impoundment Control Act of 1974 (2 U.S.C. 681–688) applies to funds made available under subsection (b).";

(c) Part C of Title I of the Energy Policy and Conservation Act (42 U.S.C. 6249, et seq.) is amended—

(1) in section 172 (42 U.S.C. 6249a) by striking subsections (a) and (b); and

(2) by striking section 173 (42 U.S.C. 6249b); and

(d) Part D of Title I of the Energy Policy and Conservation Act is amended in section 181 (42 U.S.C. 6251), by striking "1994" each time it appears and inserting "1999".

SEC. 103. TITLE II AMENDMENTS.

(a) Title II of the Energy Policy and Conservation Act is amended by striking Part A (42 U.S.C. 201 through 204).

(b) Part B of Title II of the Energy Policy and Conservation Act is amended by adding at the end of section 2156(h), "There are authorized to be appropriated for fiscal years 1996 through 1999, such sums as may be necessary.".

(c) Part D of Title II of the Energy Policy and Conservation Act is amended in section 281 (42 U.S.C. 6285), by striking "1994" each time it appears and inserting "1999".

SEC. 104. TITLE III AMENDMENTS.

(a) Part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6291–6327, 6361–6374d) is amended in section 365(f) (42 U.S.C. 6325(f)) by amending paragraph (1) to read as follows:

"(1) Except as provided in paragraph (2), for the purpose of carrying out this part, there are authorized to be appropriated for fiscal years 1995 through 1999, such sums as may be necessary."

(b) Part G of title III of the Energy Policy and Conservation Act (42 U.S.C. 6371, et. seq.) is amended in section 397 (42 U.S.C. 6371f) is amended to read as follows:

"SEC. 397. For the purpose of carrying out this part, there are authorized to be appropriated for fiscal years 1995 through 1999, such sums as may be necessary.".

JOHNSTON AMENDMENT NO. 2605

Mr. LEVIN (for Mr. JOHNSTON) proposed an amendment to the bill S. 2251, supra; as follows:

On page —, after SEC. 402(c)(2) add the following title:

TITLE V—DEPARTMENT OF ENERGY TECHNOLOGY PARTNERSHIPS

SECTION 501. SHORT TITLE.

This title may be cited as the "Department of Energy National Competitiveness Technology Partnership Act of 1994".

SEC. 502. DEFINITIONS.

For purposed of this title, the term—

(a) "Department" means the United States Department of Energy; and

(b) "Secretary" means the Secretary of the United States Department of Energy.

SEC. 503. COMPETITIVENESS AMENDMENT TO THE DEPARTMENT OF ENERGY ORGANIZATION ACT.

(a) The Department of Energy Organization Act is amended by adding the following new title (42 U.S.C. 7101 et seq.):

TITLE XI—TECHNOLOGY PARTNERSHIPS

SEC. 1101. FINDINGS, PURPOSES AND DEFINITIONS.

(a) FINDINGS.—For purposes of this title, Congress finds that—

(1) the Department has scientific and technical resources within the departmental laboratories in many areas of importance to the economic, scientific and technological competitiveness of United States industry;

(2) the extensive scientific and technical investment in people, facilities and equipment in the departmental laboratories can contribute to the achievement of national technology goals in areas such as the environment, health, space, and transportation;

(3) the Department has pursued aggressively the transfer of technology from departmental laboratories to the private sector; however, the capabilities of the laboratories could be made more fully accessible to United States industry and to other Federal agencies;

(4) technology development has been increasingly driven by the commercial marketplace, and the private sector has research and development capabilities in a broad range of generic technologies;

(5) the Department and the departmental laboratories would benefit, in carrying out

their missions, from collaboration and partnership with United States industry and other Federal agencies; and

(6) partnerships between the departmental laboratories and United States industry can provide significant benefits to the Nation as a whole, including creation of jobs for United States workers and improvement of the competitive position of the United States in key sectors of the economy such as aerospace, automotive, chemical and electronics.

(b) PURPOSES.—The purposes of this title are—

(1) to promote partnerships among the Department, the departmental laboratories and the private sector;

(2) to establish a goal for the amount of departmental laboratory resources to be committed to partnerships;

(3) to ensure that the Department and the departmental laboratories play an appropriate role, consistent with the core competencies of the laboratories, in implementing the President's critical technology strategies;

(4) to provide additional authority to the Secretary to enter into partnerships with the private sector to carry out research, development, demonstration and commercial application activities;

(5) to streamline the approval process for cooperative research and development agreements proposed by the departmental laboratories; and

(6) to facilitate greater cooperation between the Department and other federal agencies as part of an integrated national effort to improve United States competitiveness.

(c) DEFINITIONS.—For purposes of this title, the term—

(1) "cooperative research and development agreement" has the meaning given that term in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1));

(2) "core competency" means an area in which the Secretary determines a departmental laboratory has developed expertise and demonstrated capabilities;

(3) "critical technology" means a technology identified in the Report of the National Critical Technologies Panel;

(4) "departmental laboratory" means a facility operated by or on behalf of the Department that would be considered a laboratory as that term is defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(2)) or any other laboratory or facility designated by the Secretary;

(5) "disadvantaged" has the same meaning as that term has in section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6));

(6) "dual-use technology" means a technology that has military and commercial applications;

(7) "educational institution" means a college, university, or elementary or secondary school, including any not-for-profit organization dedicated to education that would be exempt under section 501(a) of the Internal Revenue Code of 1986;

(8) "minority college or university" means a historically Black college or university that would be considered a "part B institution" by section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)) or a "minority institution" as that term is defined in section 1046 of the Higher Education Act of 1965 (20 U.S.C. 1135d–5(3)).

(9) "multi-program departmental laboratory" means any of the following: Argonne National Laboratory, Brookhaven National Laboratory, Idaho National Engineering Laboratory, Lawrence Berkeley Laboratory, Lawrence Livermore National Laboratory, Los Alamos National Laboratory, National Renewable Energy Laboratory, Oak Ridge National Laboratory, Pacific Northwest Laboratory, and Sandia National Laboratories;

(10) "partnership" means any arrangement under which the Secretary or one or more departmental laboratories undertakes research, development, demonstration, commercial application or technical assistance activities in cooperation with one or more non-Federal partners and which may include partners from other Federal agencies;

(11) "Report of the National Critical Technologies Panel" means the biennial report on national critical technologies submitted to Congress by the President pursuant to section 603(d) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683(d)); and

(12) "small business" means a business concern that meets the applicable standards prescribed pursuant to section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

SEC. 1102. GENERAL AUTHORITY.

(a)(1) In carrying out the missions of the Department, the Secretary and the departmental laboratories may conduct research, development, demonstration or commercial application activities that build on the core competencies of the departmental laboratories.

(2) In addition to missions established pursuant to other laws, the Secretary may assign to departmental laboratories any of the following missions:

(A) National security, including the—

(i) advancement of the military application of atomic energy;

(ii) support of the production of atomic weapons, or atomic weapons parts, including special nuclear materials;

(iii) support of naval nuclear propulsion programs;

(iv) support for the dismantlement of atomic weapons and the safe storage, transportation and disposal of special nuclear materials;

(v) development of technologies and techniques for the safe storage, processing, treatment, transportation, and disposal of hazardous waste (including radioactive waste) resulting from nuclear materials production, weapons production and surveillance programs, and naval nuclear propulsion programs and of technologies and techniques for the reduction of environmental hazards and contamination due to such waste and the environmental restoration of sites affected by such waste;

(vi) development of technologies and techniques needed for the effective negotiation and verification of international arms control agreements and for the containment of the proliferation of nuclear, chemical, and biological weapons and delivery vehicles of such weapons; and

(vii) protection of health and promotion of safety in carrying out other national security missions.

(B) Energy-related science and technology, including the—

(i) enhancement of the nation's understanding of all forms of energy production and use;

(ii) support of basic and applied research on the fundamental nature of matter and energy, including construction and operation of unique scientific instruments;

(iii) development of energy resources, including solar, geothermal, fossil, and nuclear energy resources, and related fuel cycles;

(iv) pursuit of a comprehensive program of research and development on the environmental effects of energy technologies and programs;

(v) development of technologies and processes to reduce the generation of waste or pollution or the consumption of energy or materials;

(vi) development of technologies and techniques for the safe storage, processing, treatment, management, transportation and disposal of nuclear waste resulting from commercial nuclear activities; and

(vii) improvement of the quality of education in science, mathematics, and engineering.

(C) Technology transfer.

(3)(A) In addition to the missions identified in subsection (a)(2), the Departmental laboratories may pursue supporting missions to the extent that these supporting missions—

(i) support the technology policies of the President;

(ii) are developed in consultation with and coordinated with any other Federal agency or agencies that carry out such mission activities;

(iii) are built upon the competencies developed in carrying out the primary missions identified in subsection (a)(2) and do not interfere with the pursuit of the missions identified in subsection (a)(2); and

(iv) are carried out through a process that solicits the views of United States industry and other appropriate parties.

(B) These supporting missions shall include activities in the following areas:

(i) developing and operating high-performance computing and communications systems, with the goals of contributing to a national information infrastructure and addressing complex scientific and industrial challenges which require large-scale computational capabilities;

(ii) conducting research on and development of advanced manufacturing systems and technologies, with the goal of assisting the private sector in improving the productivity, quality, energy efficiency, and control of manufacturing processes;

(iii) conducting research on and development of advanced materials, with the goals of increasing energy efficiency, environmental protection, and improved industrial performance.

(4) In carrying out the Department's missions, the Secretary, and the directors of the departmental laboratories, shall, to the maximum extent practicable, make use of partnerships. Such partnerships shall be for purposes of the following:

(A) to lead to the development of technologies that the private sector can commercialize in areas of technology with broad application important to U.S. technological and economic competitiveness;

(B) to provide Federal support in areas of technology where the cost or risk is too high for the private sector to support alone but that offer a potentially high payoff to the United States;

(C) to contribute to the education and training of scientists and engineers;

(D) to provide university and private researchers access to departmental laboratory facilities; or

(E) to provide technical expertise to universities, industry or other Federal agencies.".

(b) The Secretary, in carrying out partnerships, may enter into agreements using instruments authorized under applicable laws, including but not limited to contracts, cooperative research and development agreements, work for other agreements, user-facility agreements, cooperative agreements, grants, personnel exchange agreements and patent and software licenses with any person, any agency or instrumentality of the United States, any State or local governmental entity, any educational institution, and any other entity, private sector or otherwise.

(c) The Secretary, and the directors of the departmental laboratories, shall utilize partnerships with United States industry, to the maximum extent practicable, to ensure that technologies developed in pursuit of the Department's missions are applied and commercialized in a timely manner.

(d) The Secretary shall work with other federal agencies to carry out research, development, demonstration or commercial application activities where the core competencies of the departmental laboratories could conribute to the missions of such other agencies.

SEC. 1103. ESTABLISHMENT OF GOAL FOR PARTNERSHIPS BETWEEN DEPARTMENTAL LABORATORIES AND UNITED STATES INDUSTRY.

(a) Beginning in fiscal year 1994, the Secretary shall establish a goal to allocate to cost-shared partnerships with United States industry not less than 20 percent of the annual funds provided by the Secretary to each multi-program departmental laboratory for research, development, demonstration and commercial application activities.

(b) Beginning in fiscal year 1994, the Secretary shall establish an appropriate goal for the amount of resources to be committed to cost-shared partnerships with United States industry at other departmental laboratories.

SEC. 1104. ROLE OF THE DEPARTMENT IN THE DEVELOPMENT OF CRITICAL TECHNOLOGY STRATEGIES.

(a) The Secretary shall develop a multiyear critical technology strategy for research, development, demonstration and commercial application activities supported by the Department for the critical technologies listed in the Report of the National Critical Technologies Panel.

(b) In developing such strategy, the Secretary shall—

(1) identify the core competencies of each departmental laboratory;

(2) develop goals and objectives for the appropriate role of the Department in each of the critical technologies listed in the report, taking into consideration the core competencies of the departmental laboratories;

(3) consult with appropriate representatives of United States industry, including members of industry associations and representatives of labor organizations; and

(4) participate in the executive branch process to develop critical technology strategies.

SEC. 1105. PARTNERSHIP PREFERENCES.

(a) The Secretary shall ensure that the principal economic benefits of any partnership accrue to the United States economy.

(b) Any partnership that would be given preference under section 12(c)(4) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. §3710a (c)(4)) if it were a cooperative research and development agreement shall be given preference under this title.

(c) The Secretary shall issue guidelines, after consultation with the Laboratory Partnership Advisory Board established in section 1109, for application of section 12(c)(4) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a (c)(4)) and application of subsection (a) of this section to partnerships.

(d) The Secretary shall encourage partnerships that involve minority colleges or universities or private sector entities owned or controlled by disadvantaged individuals.

SEC. 1106. EVALUATION OF PARTNERSHIP PROGRAMS.

(a) The Secretary, in consultation with the Laboratory Partnership Advisory Board established in section 1109, shall develop mechanisms for independent evaluation of the ongoing partnership activities of the Department and the departmental laboratories.

(b)(1) The Secretary and the director of each departmental laboratory shall develop mechanisms for assessing the progress of each partnership.

“(2) The Secretary and the director of each departmental laboratory shall utilize the mechanisms developed under paragraph (1) to evaluate the accomplishments of each ongoing multi-year partnership and shall condition continued federal participation in each partnership on demonstrated progress.

SEC. 1107. ANNUAL REPORT.

(a) The Secretary shall submit an annual report to Congress describing the ongoing partnership activities of the Secretary and each departmental laboratory and, to the extent practicable, the activities planned by the Secretary and by each departmental laboratory for the coming fiscal year. In developing the report, the Secretary shall seek the advice of the Laboratory Partnership Advisory Board established in section 1109.

(b) The Secretary shall submit the report under subsection (a) to the Committees on Appropriations and Energy and Natural Resources of the Senate and to the appropriate Committees of the House of Representatives. No later than March 1, 1994, and no later than the first of March of each subsequent year, the Secretary shall submit the report under subsection (a) that covers the fiscal year beginning on the first of October of such year.

(c) Each director of a departmental laboratory shall provide annually to the Secretary a report on ongoing partnership activities and a plan and such other information as the Secretary may reasonably require describing the partnership activities the director plans to carry out in the coming fiscal year. The director shall provide such report and plan in a timely manner as prescribed by the Secretary to permit preparation of the report under subsection (a).

(d) The Secretary's description of planned activities under subsection (a) shall include, to the extent such information is available, appropriate information on—

(1) the total funds to be allocated to partnership activities by the Secretary and by the director of each departmental laboratory;

(2) a breakdown of funds to be allocated by the Secretary and by the director of each departmental laboratory for partnership activities by areas of technology;

(3) any plans for additional funds not described in paragraph (2) to be set aside for partnerships during the coming fiscal year;

(4) any partnership that involves a federal contribution in excess of $500,000 the Secretary or the director of each departmental laboratory expects to enter into in the coming fiscal year;

(5) the technologies that will be advanced by each partnership that involves a federal contribution in excess of $500,000;

(6) the types of entities that will be eligible for participation in partnerships;

(7) the nature of the partnership arrangements, including the anticipated level of financial and in-kind contribution from participants and any repayment terms;

(8) the extent of use of competitive procedures in selecting partnerships; and

(9) such other information that the Secretary finds relevant to the determination of the appropriate level of Federal support for such partnerships.

(e) The Secretary shall provide appropriate notice in advance to Congress of any partnership, which has not been described previously in the report required by subsection (a), that involves a federal contribution in excess of $500,000.

SEC. 1108. PARTNERSHIP PAYMENTS.

(a)(1) Partnership agreements entered into by the Secretary may require a person or other entity to make payments to the Department, or any other Federal agency, as a condition for receiving support under the agreement.

(2) The amount of any payment received by the Federal Government pursuant to a requirement imposed under paragraph (1) may be credited, to the extent authorized by the Secretary, to the account established under paragraph (3). Amounts so credited shall be available, subject to appropriations, for partnerships.

(3) There is hereby established in the United States Treasury an account to be known as the “Department of Energy Partnership Fund”. Funds in such account shall be available to the Secretary for the support of partnerships.

(b) The Secretary may advance funds under any partnership without regard to section 3324 of title 31 of the United States Code to—

(1) small businesses;

(2) not-for-profit organizations that would be exempt under section 501(a) of the Internal Revenue Code of 1986; or

(3) State or local governmental entities.

SEC. 1109. LABORATORY PARTNERSHIP ADVISORY BOARD AND INDUSTRIAL ADVISORY GROUPS AT MULTI-PROGRAM DEPARTMENTAL LABORATORIES.

(a)(1) The Secretary shall establish within the Department an advisory board to be known as the “Laboratory Partnership Advisory Board,” to provide the Secretary with advice on the implementation of this title.

(2) The membership of the Laboratory Partnership Advisory Board shall consist of persons who are qualified to provide the Secretary with advice on the implementation of this title. Members of the Board shall include representatives primarily from United States industry but shall also include representatives from the following:

(A) small businesses;

(B) private sector entities owned or controlled by disadvantaged persons;

(C) educational institutions, including representatives from minority colleges or universities;

(D) laboratories of other federal agencies; and

(E) professional and technical societies in the United States.

“(3) The Laboratory Partnership Advisory Board shall request comment and suggestions from departmental laboratories to assist the Board in providing advice to the Secretary on the implementation of this title.

“(b) The director of each multi-program departmental laboratory shall establish an advisory group consisting of persons from United States industry to—

“(1) evaluate new initiatives proposed by the departmental laboratory;

“(2) identify opportunities for partnerships with United States industry; and

“(3) evaluate ongoing programs at the departmental laboratory from the perspective of United States industry.

“(c) Nothing in this section is intended to preclude the Secretary or the director of a departmental laboratory from utilizing existing advisory boards to achieve the purposes of this section.

"SEC. 1110. FELLOWSHIP PROGRAM.

"The Secretary shall encourage scientists, engineers and technical staff from departmental laboratories to serve as visiting fellows in research and manufacturing facilities of industrial organizations, State and local governments, and educational institutions in the United States and foreign countries. The Secretary may establish a formal fellowship program for this purpose or may authorize such activities on a case-by-case basis. The Secretary shall also encourage scientists and engineers from United States industry to serve as visiting scientists and engineers in the departmental laboratories.

"SECTION 1111. COOPERATION WITH STATE AND LOCAL PROGRAMS FOR TECHNOLOGY DEVELOPMENT AND DISSEMINATION.

"The Secretary and the director of each departmental laboratory shall seek opportunities to coordinate their activities with programs of state and local governments for technology development and dissemination, including programs funded in part by the Secretary of Defense pursuant to section 2523 of title 10 of the United States Code and section 2513 of title 10 of the United States Code and programs funded in part by the Secretary of Commerce pursuant to sections 25 and 26 of the Act of March 3, 1901 (15 U.S.C. 278k and 27811) and section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 2781 note).

"SEC. 1112. AVAILABILITY OF FUNDS FOR PARTNERSHIPS.

"(a) All of the funds authorized to be appropriated to the Secretary for research, development, demonstration or commercial application activities, other than atomic energy defense programs, shall be available for partnerships to the extent such partnerships are consistent with the goals and objectives of such activities.

"(b) All of the funds authorized to be appropriated to the Secretary for research, development, demonstration or commercial application of dual-use technologies within the Department's atomic energy defense activities shall be available for partnerships to the extent such partnerships are consistent with the goals and objectives of such activities.

"(c) Funds authorized to be appropriated to the Secretary and made available for departmental laboratory-directed research and development shall be available for any partnership.

"SEC. 1113. PROTECTION OF INFORMATION.

"Section 12(c)(7) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(7)), relating to the protection of information, shall apply to the partnership activities undertaken by the Secretary and by the directors of the departmental laboratories.

"SEC. 1114. FAIRNESS OF OPPORTUNITY.

"(a) The Secretary and the director of each departmental laboratory shall institute procedures to ensure that information on laboratory capabilities and arrangements for participating in partnerships with the Secretary or the departmental laboratories is publicly disseminated.

"(b) Prior to entering into any partnership having a federal contribution in excess of $5,000,000, the Secretary or director of a departmental laboratory shall ensure that the opportunity to participate in such partnership has been publicly announced to potential participants.

"(c) In cases where the Secretary or the director of a departmental laboratory believes a potential partnership activity would benefit from broad participation from the private sector, the Secretary or the director of such departmental laboratory may take such steps as may be necessary to facilitate formation of an United States industry consortium to pursue the partnership activity.

"SEC. 1115. PRODUCT LIABILITY.

"The Secretary, after consultation with the Laboratory Partnership Advisory Board established in section 1109, and the Attorney General shall enter into a memorandum of understanding establishing a consistent policy and standards regarding the liability of the United States, of the non-Federal entity operating a departmental laboratory and of any other party to a partnership for product liability claims arising from partnership activities. The Secretary and the director of each departmental laboratory shall, to the maximum extent practicable, incorporate into any partnership the policy and standards established in the memorandum of understanding.

"SEC. 1116. INTELLECTUAL PROPERTY.

"The Secretary shall, after consultation with the Laboratory Partnership Advisory Board established in section 1109, develop guidelines governing the application of intellectual property laws by the Secretary and by the director of each departmental laboratory in partnership arrangements.

"SEC. 1117. SMALL BUSINESS.

"(a) The Secretary shall develop simplified procedures and guidelines for partnerships involving small businesses to facilitate access to the resources and capabilities of the departmental laboratories.

"(b) Notwithstanding any other law, the Secretary may waive, in whole or in part, any cost-sharing requirement for a small business involved in a partnership if the Secretary determines that the cost-sharing requirement would impose an undue hardship on the small business and would prevent the formation of the partnership.

"(c) Notwithstanding Section 12(d) of the Stevenson-Wydler Innovation Act of 1980 (15 U.S.C. 3710a(d)(1)), the Secretary may provide funds as part of a cooperative research and development agreement to a small business if the Secretary determines that the funds are necessary to prevent imposing an undue hardship on the small business and necessary for the formation of the cooperative research and development agreement.

"SEC. 1118. MINORITY COLLEGE AND UNIVERSITY REPORT.

"Within one year after the date of enactment of this title, and annually thereafter, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and to the United States House of Representatives a report identifying opportunities for minority colleges and universities to participate in programs and activities being carried out by the Department or the departmental laboratories. The Secretary shall consult with representatives of minority colleges and universities in preparing the report. Such report shall—

"(a) describe ongoing education and training programs being carried out by the Department or the departmental laboratories with respect to or in conjunction with minority colleges and universities in the areas of mathematics, science, and engineering;

"(b) describe ongoing research, development demonstration or commercial application activities involving the Department or the departmental laboratories and minority colleges and universities;

"(c) describe funding levels for the programs and activities described in subsections (a) and (b);

"(d) identify ways for the Department or the departmental laboratories to assist minority colleges and universities in providing education and training in the fields of mathematics, science, and engineering;

"(e) identify ways for the Department or the departmental laboratories to assist minority colleges and universities in entering into partnerships;

"(f) address the need for and potential role of the Department or the departmental laboratories in providing to minority colleges and universities the following:

"(1) increased research opportunities for faculty and students;

"(2) assistance in faculty development and recruitment and curriculum enhancement and development; and

"(3) laboratory instrumentation and equipment, including computer equipment, through purchase, loan, or other transfer;

"(g) address the need for and potential role of the Department or departmental laboratories in providing funding and technical assistance for the development of infrastructure facilities, including buildings and laboratory facilities at minority colleges and universities; and

"(h) make specific proposals and recommendations, together with estimates of necessary funding levels, for initiatives to be carried out by the Department or the department laboratories to assist minority colleges and universities in providing education and training in the areas of mathematics, science, and engineering, and in entering into partnerships with the Department or departmental laboratories.

"SEC. 1119. MINORITY COLLEGE AND UNIVERSITY SCHOLARSHIP PROGRAM.

"The Secretary shall establish a scholarship program for students attending minority colleges or universities and pursuing a degree in energy-related scientific, mathematical, engineering, and technical disciplines. The program shall include tuition assistance. The program shall provide an opportunity for the scholarship recipient to participate in an applied work experience in a departmental laboratory. Recipients of such scholarships shall be students deemed by the Secretary to have demonstrated (1) a need for such assistance and (2) academic potential in the particular area of study. Scholarships awarded under this program shall be known as Secretary of Energy Scholarships.".

"(b) CONFORMING AMENDMENT.—The table of contents of the Department of Energy Organization Act (42 U.S.C. 7101 et. seq.) is amended by adding at the end thereof the following items—

"TITLE XI—TECHNOLOGY PARTNERSHIPS

"Sec. 1101. Finding, Purposes and Definitions.
"Sec. 1102. General Authority.
"Sec. 1103. Establishment of Goal for Partnerships Between Departmental Laboratories and United States Industry.
"Sec. 1104. Role of the Department in the Development of Critical Technology Strategies.
"Sec. 1105. Partnership Preferences.
"Sec. 1106. Evaluation of Partnership Programs.
"Sec. 1107. Annual Report.
"Sec. 1108. Partnership Payments.
"Sec. 1109. Laboratory Partnership Advisory Board and Industrial Advisory Groups at Multi-Program Departmental Laboratories.
"Sec. 1110. Fellowship Program.
"Sec. 1111. Cooperation with State and Local Programs for Technology Development And Dissemination.

"Sec. 1112. Availability of Funds for Partnerships.
"Sec. 1113. Protection of Information.
"Sec. 1114. Fairness of Opportunity.
"Sec. 1115. Product Liability.
"Sec. 1116. Intellectual Property.
"Sec. 1117. Small Business.
"Sec. 1118. Minority College and University Report.
"Sec. 111. Minority College and University Scholarship program.".

SEC. 504. NATIONAL ADVANCED MANUFACTURING TECHNOLOGIES PROGRAM.

The Secretary is encouraged to use partnerships to expedite the private sector deployment of advanced manufacturing technologies as required by Section 2202(a) of the Energy Policy Act of 1992 (42 U.S.C. 13502).

SEC. 505. NOT-FOR-PROFIT ORGANIZATIONS.

The Secretary shall encourage the establishment of not-for-profit organizations, such as the Center for Applied Development of Environmental Technology (CADET), that will facilitate the transfer of technologies from the departmental laboratories to the private sector.

SEC. 506. CAREER PATH PROGRAM.

(a) The Secretary, utilizing authority under other applicable law and the authority of this section, shall establish a career path program to recruit employees of the national laboratories to serve in positions in the Department.

(b) Section 207 to title 18, United States Code, is amended by inserting after subsection (j)(6) the following:

"(7) NATIONAL LABORATORIES.—(A) The restrictions contained in subsections (a), (b), (c), and (d) shall not apply to an appearance or communication made, or advice or aid rendered by a person employed at a facility described in subparagraph (B), if the appearance or communication is made on behalf of the facility or the advice or aid is provided to the contractor of the facility.

"(B) This paragraph applies to the following: Argonne National Laboratory, Brookhaven National Laboratory, Idaho National Engineering Laboratory, Lawrence Berkeley Laboratory, Lawrence Livermore National Laboratory, Los Alamos National Laboratory, National Renewable Energy Laboratory, Oak Ridge National Laboratory, Pacific Northwest Laboratory, and Sandia National Laboratories."

(c) Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. section 423) is amended by inserting the following new subsection:

"(q) NATIONAL LABORATORIES.—(1) The restrictions on obtaining a recusal contained in paragraph (c)(2) and (c)(3) shall not apply to discussions of future employment or business opportunity between a procurement official and a competing contractor managing and operating a facility described in paragraph (3): Provided, That such discussions concern the employment of the procurement official at such facility.

"(2) The restrictions contained in paragraph (f)(1) shall not apply to activities performed on behalf of a facility described in paragraph (3).

"(3) This subsection applies to the following: Argonne National Laboratory, Brookhaven National Laboratory, Idaho National Engineering Laboratory, Lawrence Berkeley Laboratory, Lawrence Livermore National Laboratory, Los Alamos National Laboratory, National Renewable Energy Laboratory, Oak Ridge National Laboratory, Pacific Northwest Laboratory, and Sandia National Laboratories.".

SEC. 507. DOE MANAGEMENT.

(a) Section 202(a) of the Department of Energy Organization Act (42 U.S.C. 7132(a)) is amended by striking "Under Secretary" and inserting in its place "Under Secretaries".

(b) Section 202(b) of the Department of Energy Organization Act (42 U.S.C. 7132(b)) is amended to read as follows—

"(b) There shall be in the Department three Under Secretaries and a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform functions and duties the Secretary prescribes. The Under Secretaries shall be compensated at the rate for level III of the Executive Schedule under section 5314 of title 5, United States Code, and the General Counsel shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.".

SEC. 508. AMENDMENTS TO STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT.

(a) Section 12(a) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(a)) is amended by striking ", to the extent provided in any agency-approved joint work statement,".

(b) Section 12(b) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(b)) is amended by striking ", to the extent provided in any agency-approved joint work statement,".

(c) Section 12(c)(5) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(5)) is amended—

(1) by amending subparagraph (C)(i) to read as follows:

"(C)(i) Any agency that has contracted with a non-Federal entity to operate a laboratory shall review and approve, request specified modifications to, or disapprove a cooperative research and development agreement that is submitted by the director of such laboratory within thirty days after such submission. If an agency has requested specific modifications to a cooperative research and development agreement, the agency shall approve or disapprove any resubmission of such cooperative research and development agreement within fifteen days after such resubmission. Except as provided in subparagraph (D), no agreement may be entered into by a Government-owned, contractor-operated laboratory under this section before approval of the cooperative research and development agreement.";

(2) by amending subparagraph (C)(ii) to read as follows:

"(i) If an agency that has contracted with a non-Federal entity to operate a laboratory disapproves or requests the modification of a cooperative research and development agreement submitted under clause (i), the agency shall promptly transmit a written explanation of such disapproval or modification to the director of the laboratory concerned.";

(3) by amending subparagraph (C)(iii) to read as follows:

"(iii) Any agency that has contracted with a non-Federal entity to operate a laboratory shall develop and provide to such laboratory a model cooperative research and development agreement, and guidelines for using such an agreement, for the purposes of standardizing practices and procedures, resolving common legal issues, and enabling negotiation and review of a cooperative research and development agreement to be carried out in a routine and prompt manner.";

(4) by striking subparagraph (C)(iv);

(5) by amending subparagraph (C)(v) to read as follows:

"(iv) If an agency fails to complete a review under clause (i) within any of the specified time-periods, the agency shall submit to the Congress, within 10 days after the failure to complete the review, a report on the reasons for such failure. The agency shall, at the end of each successive 15-day period thereafter during which such failure continues, submit to Congress another report on the reasons for the continued failure.";

(6) by striking subparagraph (c)(vi); and

(7) by amending subparagraph (D) to read as follows:

"(D)(i) Any agency that has contracted with a non-Federal entity to operate a laboratory may permit the director of a laboratory to enter into a cooperative research and development agreement without the submission, review, and approval of the agreement under subparagraph (C)(i) if: the Federal share under the agreement does not exceed $500,000 per year, or any amount the head of the agency may prescribe; the text of the cooperative research and development agreement is consistent with a model agreement under subparagraph (C)(iii); the agreement is entered into in accord with the agency's guidelines under paragraph (C)(iii); and the agreement is consistent with and furthers an assigned laboratory mission.

"(ii) The director of a laboratory shall notify the head of the agency of the purpose and scope of an agreement entered into under this subparagraph. The agency shall include in its annual report required by section 11(f) of this Act (15 U.S.C. 3710(f)) an assessment of the implementation of this subparagraph including a summary of agreements entered into by laboratory directors under this subparagraph.".

(d) Section 12(d) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)) is amended—

(1) in paragraph (1) by inserting "and" after the second semicolon;

(2) in paragraph (2)—

(A) by striking "substantial" before "purpose" in subparagraph (B);

(B) by striking "the primary purpose" and inserting "one of the purposes" in subparagraph (C); and

(C) by striking "; and " the second time it appears and inserting a period; and

(3) by striking paragraph (3).

SEC. 509. GUIDELINES.

The implementation of the provisions of this Act shall not be delayed pending the issuance of guidelines, policies or standards required by sections 1105, 1115 and 1116 of the Department of Energy Organization Act (42 U.S.C. 7101 et. seq.) as added by section 3 of this Act.

SEC. 510. AUTHORIZATION.

(a) In addition to funds made available for partnerships under section 1112 of the Department of Energy Organization Act (42 U.S.C. 7101 et. seq.) as added by section 3 of this Act, there is authorized to be appropriated from funds otherwise available to the Secretary:

(1) for partnership activities with industry in areas other than atomic energy defense activities $100,000,000 for fiscal year 1994, $140,000,000 for fiscal year 1995, $180,000,000 for fiscal year 1996 and 220,000,000 for fiscal year 1997; and

(2) for partnership activities with industry involving dual-use technologies within the Department's atomic energy defense activities $240,000,000 for fiscal year 1994, $290,000,000 for fiscal year 1995, $350,000,000 for fiscal year 1996 and $400,000,000 for fiscal year 1997.

(b) There is authorized to be appropriated to the Secretary for the Minority College and University Scholarship Program established in section 1119 of the Department of Energy Organization Act (42 U.S.C. 7101 et.

seq.) as added by section 3 of this Act $1,000,000 for fiscal year 1994, $2,000,000 for fiscal year 1995 and $3,000,000 for fiscal year 1996.

(c) There is authorized to be appropriated to the Secretary for research or educational programs, carried out through partnerships or otherwise, and for related facilities and equipment that involve minority colleges or universities such sums as may be necessary.

UNITED STATES-MEXICO BORDER HEALTH COMMISSION ACT

BINGAMAN (AND OTHERS) AMENDMENT NO. 2606

Mr. LEVIN (for Mr. BINGAMAN, for himself, Mr. MCCAIN, Mr. SIMON, and Mrs. HUTCHISON) proposed an amendment to the bill (S. 1225) to authorize and encourage the President to conclude an agreement with Mexico to establish a United States-Mexico Border Health Commission; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Mexico Border Health Commission Act".

SEC. 2. ESTABLISHMENT OF BORDER HEALTH COMMISSION.

The President is authorized and encouraged to conclude an agreement with Mexico to establish a binational commission to be known as the United States-Mexico Border Health Commission.

SEC. 3. DUTIES.

It should be the duty of the Commission—

(1) to conduct a comprehensive needs assessment in the United States-Border Area for the purposes of identifying, evaluating, preventing, and resolving health problems and potential health problems that affect the general population of the area;

(2) to implement the actions recommended by the needs assessment through—

(A) assisting in the coordination and implementation of the efforts of public and private entities to prevent and resolve such health problems, and

(B) assisting in the coordination and implementation of efforts of public and private entities to educate such population, in a culturally competent manner, concerning such health problems; and

(3) to formulate recommendations to the Governments of the United States and Mexico concerning a fair and reasonable method by which the government of one country could reimburse a public or private entity in the other country for the cost of a health care service that the entity furnishes to a citizen of the first country who is unable, through insurance or otherwise, to pay for the service.

SEC. 4. OTHER AUTHORIZED FUNCTIONS.

In addition to the duties described in section 3, the Commission should be authorized to perform the following functions as the Commission determines to be appropriate—

(1) to conduct or support investigations, research, or studies designed to identify, study, and monitor, on an on-going basis, health problems that affect the general population in the United States-Mexico Border Area;

(2) to conduct or support a binational, public-private effort to establish a comprehensive and coordinated system, which uses advanced technologies to the maximum extent possible, for gathering health-related data and monitoring health problems in the United States-Mexico Border Area; and

(3) to provide financial, technical, or administrative assistance to pubic or private nonprofit entities who act to prevent or resolve such problems of who educate the population concerning such health problems.

SEC. 5. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT OF UNITED STATES SECTION.—The United States section of the Commission should be composed of 13 members. The section should consist of the following members:

(1) The Secretary of Health and Human Services or the Secretary's delegate.

(2) The commissioners of health or chief health officer from the States of Texas, New Mexico, Arizona, and California or such commissioners' delegates.

(3) Two individuals residing in United States-Mexico Border Area in each of the States of Texas, New Mexico, Arizona, and California who are nominated by the chief executive officer of the respective States and appointed by the President from among individual who have demonstrated ties to community-based organizations and have demonstrated interest and expertise in health issues of the United States-Mexico Border Area.

(b) COMMISSIONER.—The Commissioner of the United States section of the Commission should be the Secretary of Health and Human Services or such individual's delegate to the Commission. The Commissioner should be the leader of the section.

(c) COMPENSATION.—Members of the United States section of the Commission who are not employees of the United States or any State—

(1) shall each receive compensation at a rate of not to exceed the daily equivalent of the annual rate of basic pay payable for positions at GS-15 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the actual performance of the duties of the Commission; and

(2) shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services of the Commission.

SEC. 6. REGIONAL OFFICES.

The Commission may designate or establish one border health office in each of the States of Texas, New Mexico, Arizona, and California. Such office should be located within the United States-Mexico Border Area, and should be coordinated with—

(1) State border health offices; and

(2) local nonprofit organizations designated by the State's chief executive officer and directly involved in border health issues. If feasible to avoid duplicative efforts, the Commission offices should be located in existing State or local nonprofit offices. The Commission should provide adequate compensation for cooperative efforts and resources.

SEC. 7. REPORTS.

Not later than February 1 of each year that occurs more than 1 year after the date of the establishment of the Commission, the Commission should submit an annual report to both the United States Government and the Government of Mexico regarding all activities of the Commission during the preceding calendar year.

SEC. 8. DEFINITIONS.

As used in this Act:

(1) COMMISSION.—The term "Commission" means the United States-Mexico Border Health Commission.

(2) HEALTH PROBLEM.—The term "health problem" means a disease or medical ailment or an environmental condition that poses the risk of disease or medical ailment. The term includes diseases, ailments, or risks of disease or ailment caused by or related to environmental factors, control of animals and rabies, control of insect and rodent vectors, disposal of solid and hazardous waste, and control and monitoring of air quality.

(3) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(4) UNITED STATES-MEXICO BORDER AREA.—The term "United States-Mexico Border Area" means the area located in the United States and Mexico within 100 kilometers of the border between the United States and Mexico.

CIVIL RIGHTS COMMISSION REAUTHORIZATION ACT OF 1994

SIMON AMENDMENT NO. 2607

Mr. LEVIN (for Mr. SIMON) proposed an amendment to the bill (S. 2372) to reauthorize for 3 years the Commission on Civil Rights, and for other purposes; as follows:

On page 1, strike line 6 and all that follows through page 2, line 15.

On page 2, line 16, strike "3" and insert "2".

On page 3, line 1, strike "4" and insert "3".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Friday, September 30, 1994, to conduct a nominations hearing for: Bruce Morrison, to be Director of the Federal Housing Finance Board; Timothy O'Neill, to be a member of the Federal Housing Finance Board; and James Clifford Hudson, to be Director of the Securities Investor Protection Corporation

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Friday, September 30, at 1:30 p.m. to hold a nomination hearing on Lori Esposito Murray, to be an assistant Director of the U.S. Arms Control and Disarmament Agency.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. LEVIN. Mr. President, I ask unanimous consent on behalf of the

Governmental Affairs Committee for authority to meet on Friday, September 30, 1994, for a markup on the nominations of Alice Rivlin, Director, OMB, and Harvey Ryland, Deputy Director, FEMA.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

DISSOLUTION OF THE NORTHERN FOREST LANDS COUNCIL

• Mr. LEAHY. Mr. President, I rise today to mark the final day of the Northern Forest Lands Council which will officially dissolve at 5 p.m. this afternoon.

I bring this before my colleagues today because I believe that the council's work will touch not only the northern forest, but the Nation. I am proud of what the council has done for the north country, but I am also hopeful for rural America. The council's effort provides a national model for managing natural resources.

The Northern Forest Lands Council was created in 1990 to avoid a crisis, not to react to one. Too often we wait until the timber resource is depleted, the streams are choked, property values have fallen, families are suffering, and communities are divided before we act. We should work to sculpt a future, rather than reconstruct broken pieces.

If one drives through New England today, things look fine. The fall foliage in the northern forest is at peak brilliance, green farms dot the landscape, and smoke curls from chimneys in the crisp autumn air. Today's northern Vermont is almost the epitome of peace and contentment. And yet people chose to act.

It is easy to ignore the problems at the doorstep of the northern forest. Seventy million people, a quarter of the United States, can be at the forest within an 8 hour drive, but only a few have come so far. Regressive tax policies, global trade, urban influences, environmental degradation, and other pressures exist but they are not unbearable—yet.

You can see how it would be easy to become complacent and let chance and circumstance infiltrate the forest. If you read the council's report, you can also see the tremendous advantage for taking local control—and for choosing a future instead of accepting one.

Choosing a future means raising children in a safe community, retiring with security, and working a sustainable job. Choosing a future means choosing lifestyle and realizing goals. Those of us lucky enough to choose our future know the satisfaction of realizing it. This is what the council was all about.

Taking control is not only a good investment for local people, it is prudent for the country. We know too well that taxpayers now bear the brunt of ecological collapse in the Pacific Northwest. Tens of millions of dollars have been spent to clean up mistakes in resource management. No amount of money can compensate for the social pain that has been endured.

Taxpayers may soon pay the price of ecological collapse of the North Atlantic fishery where some stocks of fish are 95 percent below their historic levels. While the region performs triage on this disaster, many fishermen are bound to lose their livelihoods and lifestyles. Water shortages in the South and in California, flooding in the bottomlands of the midwest, fire in the forests of the Rocky Mountains—all of these disasters have ripped the rug out from underneath the lives of some hard-working Americans.

Hard-working Americans have suffered from a fate they neither chose nor wanted. In the late 1980's, the people of the northern forest recognized that the power to choose still existed. The Northern Forest Land Council's 1994 report describes their choice. It serves the goals of the northern forest communities and it serves the Nation.

I urge my northern forest colleagues in New York, Vermont, New Hampshire, and Maine to study the council's process and consider carefully the recommendations. There are a number of recommendations that require our direct leadership and dedication. Divergent viewpoints have converged on common themes. The people have produced comprehensive consensus requests that range from tax law reform to biodiversity protection. Together we can bring home the future that our constituents have chosen. The time to act is now, and I welcome my colleagues' active interest.

For the rest of my colleagues, I hope that you find our process useful to the issues that perplex your people and threaten the resources. The council members know that they have done more than protect the northern forest. They have set up a model of community participation, productive dialog, and consensus decisionmaking that could serve other parts of the country very well.

Finally, I want to commend once again the men and women who I believe have set a standard for natural resource management in our country. The Citizen Advisory Committees and in Vermont the Citizen's Network provided thoughtfulness and leadership from the moment they were convened several years ago to the final meeting of the council a week ago today.

The volunteer council members dedicated many weekends, weeknights, and vacation days to serving the northern forest communities. Their dedication outstrips all of my expectations and I am very grateful. They can resume their family lives knowing that their families will inherit a future that the north country chose, rather than a fate that was delivered.•

FACES OF THE HEALTH CARE CRISIS

• Mr. RIEGLE. Mr. President, I rise this afternoon in my continuing effort to put a face on the health care crisis in our country. Today, I would like to share the story of Robert and Carol Athey and their two boys, Clare and Brent, of Owosso, MI.

Forty-four year old Robert has been a member of the Michigan National Guard for 24 years and is a veteran of both Vietnam and the Persian Gulf war. In November 1991, Robert injured his knee during a weekend drill with the Guard. This injury was so disabling that he lost his job assembling door panels in an auto parts factory. Along with losing his job, Robert and his family lost their employer provided Blue Cross/Blue Shield health insurance. Since the National Guard does not provide health insurance coverage of any kind, the Atheys have been paying for their family's medical expenses on their own for the past 3 years.

Robert is unable to stand up for any significant period of time so his job prospects are poor in Owosso, which is largely a factory town. When he was an active member of the National Guard, Robert had received $285 per month. Without a job, this income source became crucial to support the family, and Robert struggled to return to active participation in Guard activities. Unfortunately, his knee was reinjured on duty this year, causing him to drop out completely. Robert has been trying to work out an agreement with the Guard about treatment and disability compensation for his injuries. Meanwhile, his family no longer receives this supplemental income, and Robert cannot afford to pay for the corrective surgery he needs for his leg.

Carol, age 40, is a self-employed taxidermist and now provides the family's only source of income. Carol's earnings vary, but average about $1,000 per month. As a self-employed businesswoman, she does not have access to affordable health insurance through her work, and her income is just $100 too high for her children to qualify for Medicaid coverage. Understandably, this leaves Carol with the feeling that she's being punished for working.

The house payment, light and phone bills, minimal car insurance and food take nearly all of the Athey's current income, leaving them unable to afford even the most limited health insurance. It is not uncommon for them to miss a payment on their light or phone bills to cover medical expenses, and they have received many cut off notices for these services. Robert and Carol have resorted to borrowing money from family.

The Atheys have met with several insurance agents, but cannot find any health coverage that they can afford. The least expensive policy offered to the Athey's has a premium of $207 per month. That amount alone represents over 20 percent of their income, and copayments would also be required. They simply do not earn enough money to purchase health insurance for themselves and their children.

Carol herself has a thyroid condition that requires medication as well as an office visit and lab tests every 6 months. These services, which total $450 every visit, would not be covered under the policies they considered because of preexisting condition exclusions. Because she cannot afford it on her own, Carol has not had a full medical checkup for her condition in 6 years.

The Atheys' tell me that they have had more medical problems since Robert's return from the Persian Gulf, many of which they attribute to his service. He experiences back pain, aching joints, fatigue, headaches, sleeplessness, gastrointestinal problems, and night sweats. Robert is also in critical need of dental work, which has been estimated at $2,600. On top of all these problems, Robert's vision has deteriorated to the point that he now uses a magnifying glass and his glasses when he reads. But Robert and his family cannot afford to take care of these physical problems.

Four-year-old Clare and 8-year-old Brent experience chronic sore throats, ear infections, digestive difficulties, and upper respiratory problems in much greater frequency than before their father left for the Gulf war. Clare currently has strep throat, which is costing the Athey's approximately $90 to treat.

Robert can receive some care through the Department of Veterans Affairs, but the rest of his family is not eligible for any services. And the VA has already told Robert to expect a 2-year wait for the knee surgery he desperately needs.

The Athey's greatest fear is that they may not ever have health insurance. Like so many others, the Athey family has served our country both in times of peace and times of war and conflict. Yet they cannot count on the most basic of health services back here at home. Unless we reform our country's current health care system, this family may never be able to purchase the comprehensive health insurance they need.

Mr. President, since August 1992 when I came to the Senate floor to tell the story of the Robert Miller family, I have presented the cases of 67 Michigan families and individuals who have suffered severely because of the health care crisis in this country. When I started reading these weekly stories, I vowed to continue until my colleagues and I passed meaningful health care reform legislation in the 103d Congress. This week's announcement by the majority leader makes clear that all hope of accomplishing this has vanished.

I am deeply disappointed at the direction health care reform negotiations took this year—disappointed at the lack of cooperation and consensus—disappointed in the tens of millions of dollars the wealthy special interest groups spent fighting against even the most modest reforms and improvements. But more than that, I am saddened that the lives of hardworking Americans like the Atheys are getting harder, and that thousands more families will have to face a similar hardship. President Clinton and the First Lady have dedicated themselves to improving the health care system in our Nation, and I urge my colleagues to make health care reform the first order of business in the 104th Congress.•

ORDERS FOR MONDAY, OCTOBER 3, 1994

Mr. LEVIN. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 5 p.m., Monday, October 3; that following the prayer, the Journal of proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that the time until 6 p.m. be equally divided and controlled between the majority leader and the minority leader, or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL MONDAY, OCTOBER 3, 1994, AT 5 P.M.

Mr. LEVIN. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 7:06 p.m., recessed until Monday, October 3, 1994, at 5 p.m.

NOMINATIONS

Executive nominations received by the Senate September 30, 1994:

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

JAMES H. ATKINS, OF ARKANSAS, TO BE A MEMBER OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR A TERM EXPIRING SEPTEMBER 25, 1996, VICE ROGER W. MEHLE, RESIGNED.

SCOTT B. LUKINS, OF WASHINGTON, TO BE A MEMBER OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR A TERM EXPIRING OCTOBER 11, 1995, VICE JOHN DAVID DAVENPORT, TERM EXPIRED.

DEPARTMENT OF TRANSPORTATION

JAY C. EHLE, OF OHIO, TO BE A MEMBER OF THE ADVISORY BOARD OF THE SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION, VICE CONRAD FREDIN.

NATIONAL INSTITUTE OF BUILDING SCIENCES

STEVE M. HAYS, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 1997, VICE DIANNE E. INGELS, TERM EXPIRED.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

CHARLES HUMMEL, OF DELAWARE, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 1994, VICE MARILYN LOGSDON MENNELLO, TERM EXPIRED.

CHARLES HUMMEL, OF DELAWARE, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 1999. (REAPPOINTMENT.)

CONFIRMATIONS

Executive nominations confirmed by the Senate September 30, 1994:

INTERSTATE COMMERCE COMMISSION

GUS A. OWEN, OF CALIFORNIA, TO BE A MEMBER OF THE INTERSTATE COMMERCE COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 31, 1997.

DEPARTMENT OF TRANSPORTATION

ANTHONY S. EARL, OF WISCONSIN, TO BE A MEMBER OF THE ADVISORY BOARD OF THE SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION.

VINCENT J. SORRENTINO, OF NEW YORK, TO BE A MEMBER OF THE ADVISORY BOARD OF THE SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION.

DEPARTMENT OF DEFENSE

PAUL G. KAMINSKI, OF VIRGINIA, TO BE UNDER SECRETARY OF DEFENSE FOR ACQUISITION AND TECHNOLOGY.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

MARC LINCOLN MARKS, OF PENNSYLVANIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM OF 6 YEARS EXPIRING AUGUST 30, 2000.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF THE INTERIOR

HAROLD A. MONTEAU, OF MONTANA, TO BE CHAIRMAN OF THE NATIONAL INDIAN GAMING COMMISSION FOR THE TERM OF 3 YEARS.

NATIONAL TRANSPORTATION SAFETY BOARD

JAMES E. HALL, OF TENNESSEE, TO BE CHAIRMAN OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM OF 2 YEARS.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be admiral

ADM. STANLEY R. ARTHUR, 278-30-9765

IN THE COAST GUARD

COAST GUARD NOMINATIONS BEGINNING MICHAEL S. SWEGLES, AND ENDING JAMES B. DONOVAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 26, 1994.

EXTENSIONS OF REMARKS

THE OSHA PLAGUE

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. HEFLEY. Mr. Speaker, here is the lead from an article in The Chieftain, the leading newspaper in Pueblo, CO:

> Pueblo's construction boom came to a halt this week but not because of the weather, economic, or labor problems. What shut down many of the new home-building projects in the city and county was word that the Occupational Safety and Health Administration was in town * * *. One stucco contractor said he visited a number of sites in the city and in Pueblo West and found no one working. "It was like a plague," he said, "really spooky."

The OSHA plague. Employers across the country are protesting the activities of the Occupational Safety and Health Administration. They believe OSHA's increased activity is driven by revenues rather than safety and they are asking Congress to review the administration.

Last spring, the House Labor Committee moved in the opposite direction and adopted a bill seeking to dramatically expand the jurisdiction of OSHA at a price tag to the American economy of $20 to $60 billion dollars.

Fortunately for the economy, the Ford bill is dead. The House is unlikely to bring it up before, we adjourn and similar legislation is stalled in the Senate. Unfortunately, the Labor Department has elected to move forward with the more costly items in the bill.

Before the President does administratively what couldn't be accomplished democratically, I believe it's time Congress had a real debate on OSHA. Does OSHA promote worker safety, or does it just raise money for Uncle Sam?

With that in mind, I am introducing legislation which would provide the first real reform of OSHA in 24 years. This bill would promote worker safety by emphasizing cooperation and education between OSHA and employers.

My bill, No. 1, repeals OSHA's authority to inspect, investigate, and issue citations regarding workplace safety, No. 2, require OSHA's health and safety standards to consider economic effects; No. 3, creates a small business consulting program; and No. 4, clarifies that employee participation committees are not labor organizations under the National Labor Relations Act or the Railway Labor Act.

The debate surrounding OSHA has been misdirected. Instead of debating how to expand OSHA's mission, we should debate the mission itself. After 24 years and billions of dollars invested, it's time to ask OSHA for an honest accounting.

IMPERIAL FOOD

Let me give you an example of what is wrong. We have all heard about the fire at the Imperial Food Products chicken processing plant in Hamlet, NC, that killed 25 employees and injured an additional 55.

The owner of Imperial Food is currently serving a 20-year sentence for manslaughter. He's bankrupt and is facing millions in corporate lawsuits. Meanwhile, $16 million in worker's compensation has been distributed to the victims and their survivors.

In trying the owner, the prosecutor chose not to use OSHA's criminal penalties because they were too "weak." The State manslaughter was chosen instead.

And OSHA itself is being sued by the survivors under North Carolina law. Before the fire, OSHA ignored a series of red flags raised by previous contacts with the owners of the Imperial Food plant and allowed the dangerous conditions at the plant to continue.

According to the Education and Labor Committee, "Those who administer the Occupational Safety and Health Act of 1970 share the blame; they failed utterly to protect the workers at Imperial Food." The Federal government set itself up as the big "Safety Sheriff" in town, and now it's being sued for talking too loud.

On top of this landslide, OSHA has imposed $800,000 in fines which it will never collect.

The Imperial Food tragedy is a perfect illustration of the fallacy of OSHA. OSHA failed to take action at a time when it might have done some good, and it piled on when its actions had little impact.

As an OSHA official from North Carolina pointed out, the whole purpose of OSHA is to prevent this type of tragedy from happening. But somewhere along the way, OSHA's mission of prevention took a backseat to its enforcement activities. In the process, safety has suffered.

OSHA'S SAFETY RECORD

The first thing I noticed regarding OSHA's safety record is that nobody defends it. There's lots of lip-service to the concept of OSHA, to the good intentions of its authors and the number of inspections and fines it imposes on employers. But I have yet to hear anyone say "OSHA works."

To the contrary, trashing OSHA's record is not just the sport of the construction industry of my district. Even OSHA supporters recognize the prudence of distancing themselves from the agency's record.

During markup of his very pro-OSHA reform legislation, WILLIAM FORD, chairman of the House Education and Labor Committee, scoffed that the average business could expect a visit from OSHA "once every 87 years."

Earlier in the meeting, he listed the growth of workplace injuries and continued presence of workplace deaths and stated, "More than 20 years after OSHA, these figures are totally unacceptable."

The AFL-CIO complains that "The Occupational Safety and Health Act has not lived up to its promise of a safe job for every American worker." While Al Gore's "Reinventing Government" report recommends that OSHA privatize its inspection duties to increase efficiency.

Even pro-OSHA rhetoric is strained. Labor Secretary Robert Reich recently patted the agency on the head by saying, "According to the Bureau of Labor Statistics, fatality rates have declined since 1971."

Talk about damning somebody with faint praise. Yes, death rates have been falling since 1971—they've been falling since 1934—and they fell faster before OSHA than they did after. That's not a recommendation, though, and Mr. Reich didn't mention it.

As this dearth of praise indicates, there is no way to measure OSHA success in saving worker's lives. Nevertheless, a little common sense will show that even if OSHA were effective in preventing deaths, its prospects are limited.

WHAT'S THE FRONTIER?

Let's say that OSHA was 100 percent effective at ending preventable workplace deaths. How many lives could it save?

According to the Department of Labor's Census of Fatal Occupational Injuries, there were 6,083 workplace deaths in 1992.

Of those deaths, 2,441 were caused by transportation accidents, including highway, farm, aircraft, and other transportation deaths. Another 1,216 deaths were the result of homicides and suicides. Finally, 76 workers died by drowning. Unless OSHA teaches employees how to drive, fly, swim, and cope better, it's not going to have any impact on these deaths.

Then there is the presence of drug and alcohol abuse. Random drug testing has proven to reduce drug-related deaths, but OSHA doesn't supervise these programs.

Employee recklessness is another hurdle. You can train some people all you want, they are still going to go out and endanger themselves and others.

Finally, you have the self-employed. OSHA rules may apply to a self-employed person, but if they are not willing to protect their own health, why would they respond to OSHA?

That leaves a generous guess of 1,500 deaths each year that OSHA could prevent, if it worked perfectly. To put that in perspective, Congress could prevent more deaths each year just by abandoning current CAFE standards.

As Imperial Chicken demonstrates, OSHA isn't anywhere near 100 percent effective.

INJURY RATES

The other measure of OSHA's effectiveness is workplace injury rates. Again, there's no credible measure of how effective OSHA has been at making the workplace injury free. Injury rates fluctuate with innumerable variables, and it is impossible to isolate the impact of OSHA. So instead of citing success, OSHA proponent instead emphasize the problem. As you might expect, it's getting worse.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

In the markup of his reform legislation, WILLIAM FORD noted that American workers suffer 3.3 million injuries every year. Not 10 minutes later, Representative MATTHEW MARTINEZ claimed that 6.3 million workplace injuries occurred every year. Meanwhile, the AFL–CIO claims that 7 million workers are killed, injured, or made sick on the job each year.

In Secretary Reich's earlier testimony before the same committee, he pointed out that injury rates have risen in the last 20 years, from 3.5 per 100 workers in 1974 to 3.9 today. Reich revealed that repetitive motion disorder cases, the "occupational disease of the information age," rose from 27,000 recorded cases in 1983 to 224,000 in 1991. From Secretary Reich's perspective, OSHA is facing new workplace risks that require new laws and regulations to combat.

From my way of looking at it, we've had 20 years of OSHA and injury rates are exploding. Labor statistics like these remind me of our success with government-sponsored birth control and low-income housing. Inevitably, the more time and money we invest in the solution, the bigger the problem becomes.

A closer examination of the workplace injury problem reveals that it's over-stated. Not only are most workplace injuries minor in nature, the Bureau of Labor Statistics reports that two-thirds of them don't result in any lost time at all.

Other more serious injuries are not work related, but are reported as such so that the employee can take advantage of worker's compensation and other employer-provided benefits.

That's not to say that workers don't get seriously hurt at the job. Its just that, as Secretary Reich admits, most workplace risk aren't addressed by OSHA.

WHAT OSHA DOES BEST

OK, so OSHA is ineffective at saving lives, and its impact on injuries is suspect. What does it do well?

Raise money. OSHA is so proficient at levying fines that employers in my district are convinced that the OSHA gets to keep all the money it raises. They can't believe a Federal agency could be so energetic without a direct incentive.

While this fear is unfounded, unless Chairman FORD's reform bill becomes law, the reality is not much better. Congress, under the guise of public safety, is using OSHA to balance the budget.

In the 1990 Budget Reconciliation Act, Congress Explicitly called on OSHA to increase it's collections by $900 million over 5 years. To help it accomplish that goal, OSHA fines were increased seven-fold and mandatory minimums are established for serious violations.

The conference report to the reconciliation act gives lip-service to increasing safety, but the true motion is transparent enough: changes in OSHA Act civil penalties will produce nearly $900 million in new Federal revenues over 5 years. The conferees expect OSHA to assess significantly higher penalty across-the-board given the seven-fold increase in the maximum allowable penalty. All revenues collected will be deposited in the U.S. treasury for purposes of Federal deficit reduction.

OSHA responded to Congress' mandate with gusto. In October 1992, Builder magazine noted:

> OSHA's 1,200 inspectors are making fewer visits to housing sites than they did during the last housing boom, but their inspections are more thorough and more likely to result in fines. OSHA fines against builders have soared from $29,000 a month in fiscal year 1987 to $114,163 a month in fiscal year 1991. Since fiscal year 1992 began on October 1, 1991, OSHA has been handing out fines to builders at the rate of $117,750.

In my State of Colorado, OSHA penalties have risen from $298,000 in 1990 to $803,093 in 1992, an increase of 170 percent in 2 years.

I think it's obvious that Colorado's workplaces aren't three times as dangerous today as they were in 1990. But then, it is also evident that the increased number of fines have little to do with safety.

According to the Association of General Contractors, of the top 20 most frequently cited violations, paperwork violations make up the top 7, followed by positions 9, 11, 12, and 16. Almost 70 percent of OSHA citations are paperwork violations.

So instead of working to ensure the safety of their employees, employers are forced to spend their time filling out forms and posting signs. I'm tempted to say that's what happens when you put bureaucrats in charge of safety. You get safety on paper.

LET THE MARKET WORK

While OSHA is busy collecting fines for missing files and warning labels, the market is busy making the workplace safer. Remember what happened to owners of Imperial Food? Imprisoned for 20 years, sued, and fined into bankruptcy. OSHA had nothing to do with those penalties.

Market economics and criminal laws work to punish employers who recklessly endanger the lives of their employees. Once again, let's listen to Secretary Reich:

> In addition to human suffering, accidents, and illnesses on the job also exact a substantial economic toll on society. Employees are directly saddled with much of this bill, as exemplified by workers' compensation payments of $52 billion in 1992, the last year for which such data are available. Total employee benefits paid on an annual basis, such as wage replacement and medical costs, increased from $3 billion in 1970 to $38 billion in 1990. Compensation per covered employee increased from $51 to $402 during that period.

Chairman FORD sounds the same refrain when he points out that all those injuries result in 1.5 million lost workdays or $116 billion per year in lost productivity. Add those two numbers up and you get $198 billion lost by employers every year due to workplace deaths and injuries.

Do you think America's employers have noticed?

What Secretary Reich and Chairman FORD are telling us, apparently without being aware of it, is that the market of economics and existing labor laws—exclusive of OSHA—already work to protect employees.

To make the point clearer, in 1990, the market fined employers $198 billion for the injuries and illnesses of their employees. That same year, OSHA proposed $72 million in penalties. Which has a bigger impact?

OSHA'S COSTS

On the other hand, OSHA's costs are much greater than just adding the cost of operating the administration with the amount of penalties it assesses.

First, there's the compliance cost to employers. How many millions of hours do American employers spend researching OSHA's requirements and filling out OSHA paperwork?

Second, and perhaps more importantly, is the loss in productivity that regulatory agencies like OSHA cause. OSHA regulations have resulted in a significantly reduced productivity growth in the United States. This lower productivity has resulted in billions in lost income per year.

These numbers are peanuts compared to the costs of OSHA if the Ford OSHA bill becomes law. The nonpartisan Employment Policy Foundation estimates that the compliance costs alone of the Ford bill will be $58 billion per year. Lost productivity will add billions more.

Obviously, the costs of these OSHA regulations can't be ignored. The paperwork, the surprise inspections, the excessive penalties all combine to force employers to jump through federally-mandated hoops and hurdles when they could be concentrating on their jobs.

CONCLUSION

WILLIAM FORD is right; we need to reform OSHA. Not expand it, mind you, but refocus its efforts into more profitable channels. If OSHA is supposed to prevent accidents from occurring, then let's allow OSHA officials to concentrate their efforts on prevention.

That means taking away OSHA's enforcement powers and expanding its consulting responsibilities. If Congress thinks it's necessary for the Federal government to preach safety to employers, we can do it without the bully-boy mentality.

Once again, the bottom line was summed up nicely, if unconsciously, by Secretary Reich when he noted that "work accidents make up only 20 percent of all accidents." All things being equal, you're safer on the job.

HONORING THE RECIPIENTS OF THE ITALIAN TRIBUNE'S COLUMBUS DAY AWARDS

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to Dr. James M. Orsini, Nat Rosasco, Sr., Anita Roselle, Joseph Buttafuoco, Nancy Emiliani, and Mary Iarossi. All of these people have been chosen to receive awards by the Italian Tribune at their Columbus Day Awards Banquet on October 2. All of the recipients are hardworking individuals who deserve to be recognized for their efforts to help their fellow man.

Dr. Orsini, who will be receiving the Man of the Year Award, is a medical oncologist who specializes in the treatment of cancer. Dr. Orsini has had a distinguished career. In addition to maintaining a private practice, he is a staff physician at a number of hospitals and serves as a clinical instructor at Mount Sinai Hospital's Department of Neoplastic Disease and at the University of Medicine and Dentistry in Newark. Due to his outstanding record, former Governor Jim Florio appointed him to the Commission of Cancer Research, where he and other oncologists devote countless hours to fighting the war against cancer.

Nat Rosasco will be receiving the Italian Heritage Award. Mr. Rosasco is chairman of the board of Northwestern Golf, a family-owned business based in Chicago. Northwestern is one of the most widely recognized names in the golf industry. Mr. Rosasco took over the company after his father's death. Under his direction, Northwestern has flourished.

Anita Roselle has been named Humanitarian of the Year for her work in the community. Mrs. Roselle is the first woman to receive this prestigious award in the 24-year history of the Italian Tribune's Columbus Day celebration. Mrs. Roselle works hard to raise money for the Association for Retarded Citizens, and also helps raise funds for the Muscular Dystrophy Association. In addition, she is a member of the Board of Directors and the Board of Governors of the Jersey Shore Medical Center. Mrs. Roselle has clearly dedicated herself to a variety of social causes.

Joseph Buttafuoco is the recipient of the Christopher Columbus Achievement Award. Mr. Buttafuoco, has had a long and distinguished career. After receiving his law degree from Notre Dame in 1953, he volunteered for the military service. He served in the European Command as a special agent for the U.S. Counterintelligence Corps. During his service, he was assigned to the most sensitive projects in the area of security and counter espionage. In 1970, Mr. Buttafuoco began his own practice and still practices law today.

Nancy Emiliani has been named Queen of the 1994 Columbus Day Parade. She is a graduate of Fairleigh Dickinson University, where she received a degree in marketing. She has played an active role in Emiliani Beauty Supply Co., Inc., a family-owned business throughout her life. Currently, she is the sales manager for the company.

Mary Iarossi is the recipient of the Woman of the Year Award. When Ms. Iarossi was 16 years old, she joined the Sons of Italy and took senior citizens on trips. She has been the coordinator of the senior citizens program at Sacred Heart Church in Newark for over 10 years. Ms. Iarossi is the founder and president of the Damiano Nittoli Association, a group well-known in the State for their community service.

All of the award recipients are truly deserving of the honor being bestowed upon them. They have done so much for their fellow human beings; more than I can, and have, mentioned today. Please join me in paying tribute to these award recipients for their outstanding work in their community.

TRIBUTE TO COL. THOMAS F. ELLZEY, JR., COMMANDING OFFICER, FORT ORD, CA

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. FARR of California. Mr. Speaker, I rise today to pay tribute to Col. Thomas F. Ellzey, Jr., one of the finest officers serving the U.S. Army, and our Nation, on his extraordinary achievement of receiving the Distinguished Service Medal.

His additional military awards and decorations include the Legion of Merit, Distinguished Flying Cross, Bronze Star, Meritorious Service Medal, Air Medal, Purple Heart, Combat Infantryman's Badge, and Senior Aviator Badge.

Colonel Ellzey began his Army career as a draftee inducted into the Army during the Vietnam conflict in 1967, and was commissioned an infantry officer upon graduating from Officer Candidate School in February 1969. As a lieutenant, he served as a platoon leader and executive officer of a training company at Fort Jackson, SC. Upon arrival in Vietnam in June 1970, he served with the 101st Airborne Division as a UH–1 section leader and later as an infantry platoon leader. Subsequently he moved up to become a company commander and a battalion executive officer of various training units at Fort Jackson. While with the 82d Airborne Division, Fort Bragg, NC his service included time as a flight standardization officer, division aviation officer and battalion executive officer. While with the 269th Combat Aviation Regiment, he commanded the battalion's 18th Aviation Company. In addition to his tour of Vietnam, Colonel Ellzey's overseas duty include time serving as the liaison officer to the Japanese Military Academy while stationed at Camp Zama, Japan, and as the Army Forces Commander for Operation Sea Angel in Bangladesh.

In August 1993, Colonel Ellzey became the U.S. Army garrison commander at Fort Ord, and later that year was designated as the commanding officer of the base, upon the inactivation of the legendary 7th Light Infantry Division, whose battalions relocated to Fort Lewis, WA.

Perhaps one of the most diverse assignments of his career. Commander Ellzey quickly demonstrated his strong and innovative Army leadership by providing stability to the soldiers and their families, along with the civilian workers of Fort Ord during the base closure process. At the same time he provided support and assistance to the fragmented local community which was devastated by the closure of the largest military installation in the country. His open communication policy with community officials contributed significantly to the success of a new era at Fort Ord for civilian reuse. His extraordinary leadership enabled both the Army and the Fort Ord community to overcome some of the most difficult obstacles which threatened the initial phases of civilian reuse, which resulted among other things as the historic transfer of Army property to the State of California for the purposes of developing a California State university at the site of Fort Ord and a University of California Science, Technology, Research and Policy Center which will be the centerpiece to the economic revitalization to the California central coast economy.

Colonel Ellzey's commitment to excellence is exemplified through his innovative leadership and work to enrich the quality of life in the Fort Ord community during a turbulent transition from military to civilian use of a historic institution. His dedicated service to our country, the soldiers under his command and their families, as well as to the civilian employees of Fort Ord, have earned him tremendous respect and admiration by the community, and reflect great credit on him and the U.S. Army.

I commend him on his extraordinary career, and on behalf of the Monterey-Fort Ord community I convey our deepest appreciation for a job well done on the historic occasion of the closing of Fort Ord.

HUMAN RIGHTS ABUSES IN IRAN

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. BURTON of Indiana. Mr. Speaker, the government of Iran continues to grossly violate human rights and to promote terrorism around the world. Their reprehensible conduct is a perversion of the noble ideals of Islam.

Last week, several of my colleagues held a press conference to call upon the State Department to hold a dialog with the People's Mujahedin of Iran. Such a dialog very clearly represents the will of the Congress. It makes no sense at all to ignore a very important opposition movement in Iran which is fighting against a tyrannical, evil regime.

I commend to my colleagues this excellent editorial from the New York Times of September 26, 1994, which expresses the views of many Members of Congress on this important matter.

[From the New York Times, Sept. 26, 1994]

LISTEN TO ALL IRANIAN VOICES

In dealing with a dictatorship, it is simple prudence to listen to its critics. This has not been U.S. policy in dealing with Iran's clerical tyranny. The State Department has shunned all contact with a key opposition group, the People's Mujahedeen, which also happens to be the group most loudly denounced by Iran. Bothered by this boycott, Congress last year instructed the Administration to prepare an objective written report on all the Iranian opposition groups.

Yet the State Department still refuses any contact with the People's Mujahedeen, a stance protested the other day by a flock of U.S. senators and nearly a hundred representatives. Indeed, it is hard to see how any study can be complete as long as the State Department studiously ignores one important component of the Iranian opposition.

More specifically, the State Department should at least give the group a chance to answer the charges that have made it so controversial and, apparently, so unpopular among U.S. foreign policymakers. Among these charges are that, in years past, the group was responsible for killing Americans, and that today it obtains help and protection from Saddam Hussein's Iraqi dictatorship.

Some facts are not in dispute. The People's Majahedeen and its leader, Massoud Rajavi, were part of the radical coalition that ousted the Shah of Iran in 1979; only later did these generally secular revolutionaries break with the ayatollahs. It is also a fact that this group has resorted to armed rebellion; its insurgents have struck across frontiers from bases in northern Iraq. But its ubiquitous representatives claim their movement is democratic, that it long ago shed its anti-Americanism and that it has helped to galvanize a global campaign against human rights offenses within Iran.

One can doubt any or all of these claims and still be troubled by the State Department's closed ears. It is especially distasteful that this boycott is treated as a victory by Iranian mullahs, who urge other states to have no contacts with Mr. Rajavi's "terrorists." This comes with special impudence from clergymen who clamor for the death of the novelist Salman Rushdie, who are plausibly linked with the murder of Iranian dissidents in France, Switzerland, Turkey and elsewhere, and whose agents are believed to have assailed Mr. Rushdie's translators and publishers in Japan, Italy and Norway.

Speaking in Chicago last month to the annual convention of B'nai B'rith, President Clinton called the Iranian regime "the world's leading sponsor of state-sponsored terrorism." So long as Teheran continues to export death squads, and exhorts its followers to kill a foreigner for writing a book, it cannot in decency ask Washington to avoid contacts with "terrorists." Iran's own record needs to be taken into account if the Administration is to be truly objective in judging the Iranian opposition.

TRIBUTE TO CARL W. RICHTER

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to Carl W. Richter who is being honored by the Macomb Oakland Chapter of the Coalition of Labor Union Women on Wednesday, October 12.

I have known Carl for many years and have had the fortunate opportunity to work with him on numerous occasions. Carl worked for Ameritech for 25 years and is currently serving as president of the Communications Workers of America Local 4008 where he represents 900 members.

Carl has devoted his time and talents to serving the needs of the membership for many years. His work to ensure that working men and women in the communications industry are treated fairly so that they might provide for their family has rightly earned Carl recognition from his peers.

I applaud the Coalition of Labor Union Women for recognizing Carl. He has provided outstanding leadership to the CWA and I know he is proud to be honored by the Coalition.

On behalf of the Coalition of Labor Union Women, I urge my colleagues to join me in saluting Carl Richter for his commitment to working men and women everywhere.

EXPRESSING THE SENSE OF CONGRESS REGARDING THE COMMONWEALTH OPTION PRESENTED IN THE PUERTO RICAN PLEBISCITE

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. YOUNG of Alaska. Mr. Speaker, the Legislative Assembly of Puerto Rico enacted a concurrent resolution asking the United States Congress to respond regarding the viability of the commonwealth option of the November 14, 1993 political status plebiscite, which received a slim plurality of the votes cast. I am pleased to join Senator PAUL SIMON in a bipartisan and bicameral response to the legislature's request, which is appropriate given the Congress' constitutional responsibilities for matters affecting the territories.

We are introducing a concurrent resolution of the United States Congress regarding the commonwealth option presented in the plebiscite with utmost respect of the people of Puerto Rico, their elected leaders, and the self-determination process. The resolution is made in good faith and with the best of intentions for the people of Puerto Rico, who have been staunch loyal United States citizens for over three-fourths of this century. Any proposed change to the existing fundamental relationship with our fellow United States citizens in Puerto Rico is very important and is not to be treated lightly.

Of the total votes cast in the plebiscite, 48.6 percent voted for the commonwealth option, 46.3 percent voted for statehood, and 4.4 percent voted for independence. While a plurality of the voters supported commonwealth as defined on the ballot, the majority voted for other status options. Consistent with the plebiscite law, the Legislative Assembly of Puerto Rico petitioned the Congress to express itself concerning the principles of the commonwealth formula.

In analyzing the substance of the commonwealth option it is necessary to also consider the process which led to the November 14, 1993 plebiscite. In the interest of political comity, the Legislative Assembly of Puerto Rico permitted each of the three political parties advocating one of the three status options of statehood, commonwealth, and independence to provide the status definitions to appear on the plebiscite ballot. The plebiscite law also provided each option equal public education funding, a mutually agreed limitation on total media expenditures by each party, a freeze on government-agency media expenditures 60 days prior to the plebiscite, and independent oversight of the voting process. However, the law's genuine intent to be fair unintentionally fostered a weakness by permitting historically unprecedented hypothetical status definitions on the ballot.

The people were presented a mythical commonwealth option which proposed significant changes to the current relationship between Puerto Rico and the United States, including the execution of a bilateral pact between Puerto Rico and the United States that would be unalterable except by mutual consent, permanent union, the extension of Supplemental Security Income, and equality of food stamps equal to the States without equal fiscal responsibilities. Furthermore, the commonwealth status would guarantee irrevocable United States citizenship, Puerto Rican fiscal autonomy, and a common market, currency, and defense with the United States.

It should not be surprising, given human nature, that a plurality of the people voted for a guarantee of virtually all of the benefits and assistance of U.S. citizenship without the corresponding duties and obligations. Notwithstanding the option of "all-the-goodies-without-the-price," and to the grand credit of the people of Puerto Rico, a combined majority chose status options offering additional rights and responsibilities. A near plurality of voters chose statehood with the same rights, benefits, and responsibilities of the 50 States; a small fraction voted for independence with the inherent rights, powers, and obligations of separate sovereignty.

It is essential to a meaningful self-determination process for the United States House and Senate to provide the people of Puerto Rico a sense of the Congress concerning the viability of the elements of the commonwealth formula proposed in the November 14, 1993 plebiscite. Therefore, after extensive examinations and scrutiny and based on bipartisan and bicameral deliberations considering the U.S. Constitution and Federal laws as they relate to the commonwealth formula, a concurrent resolution of the United States' House and Senate is being introduced. The commonwealth formula is clearly not an economically or politically viable alternative to the current self-governing, unincorporated territorial status of the Commonwealth of Puerto Rico; and the unalterable bilateral pact that such commonwealth formula proposes as the vehicle for permanent union of Puerto Rico with the United States is not a constitutionally viable alternative to the current self-governing, unincorporated territorial status of the Commonwealth of Puerto Rico.

It is unfortunate that the voters have faced unrealistic and inflated expectations of a supposed commonwealth relationship with the United States. However, this has become an opportunity to set the record straight; to quell the commonwealth fantasy status which continues to be promoted to the detriment of the society it is purported to help. While it is true that the United States–Puerto Rico relationship shares many things in common, no permanent union secured by an unalterable bilateral pact with irrevocable American citizenship is possible under any variation of the proposed commonwealth formula. Our U.S. Constitution provides the only avenue for irrevocable U.S. citizenship, total equality, and permanent union.

I want to commend the people of Puerto Rico for their steadfast faith in our constitutional democracy and for adhering to local and Federal laws during the plebiscite process. Last year's act of self-determination is a model for other communities, as it was peaceful while appropriately exuberant. In contrast to the political and civil turmoil in other areas. Puerto Rico truly merits the motto of "The Shining Star of the Caribbean."

Although the plebiscite has not resolved Puerto Rico's status, hopefully the achievement is real progress in self-determination toward realistic and substantiated status options. I will continue to monitor the self-determination aspirations of our fellow citizens in Puerto Rico, as well as the other United States territories, as a solemn obligation of the Congress.

Following is the full text of the concurrent resolution responding to the Puerto Rico political status plebiscite of November 14, 1993:

H. CON RES. 300

Whereas the Government of the Commonwealth of Puerto Rico enacted legislation to allow the people of Puerto Rico to express, through a plebiscite, their preference regarding the nature of the future relationship between Puerto Rico and the United States;

Whereas the plebiscite ballot contained the status options of statehood, commonwealth, and independence, as defined by the three principal political parties of Puerto Rico;

Whereas, in the plebiscite of November 14, 1993, 48.6 percent of the people of Puerto Rico voted for commonwealth status, 46.3 percent voted for statehood status, and 4.4 percent voted for independence;

Whereas the commonwealth status option presented to the Puerto Rican electorate on November 14, 1993, proposed significant changes to the current relationship between Puerto Rico and the United States, including—

(1) the execution of a bilateral pact between Puerto Rico and the United States that would be unalterable, except by mutual consent;

(2) permanent union between Puerto Rico and the United States;

(3) the extension of supplemental security income (SSI) under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) to citizens of Puerto Rico; and

(4) equality between Puerto Rico and the States regarding food stamp allocations under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

Whereas the commonwealth status option presented to the Puerto Rican electorate on November 14, 1993, stated that commonwealth status would guarantee—

(1) irrevocable United States citizenship;

(2) Puerto Rican fiscal autonomy; and

(3) a common market, common currency, and common defense with the United States;

Whereas the legislature of Puerto Rico passed a concurrent resolution asking that the Congress make a statement concerning the viability of the commonwealth ballot formula presented to the people of Puerto Rico in the plebiscite of November 14, 1993;

Whereas the Congress holds great respect to Puerto Ricans as citizens of the United States; and

Whereas it is incumbent upon the Congress to express the sense of the Congress concerning the viability of the elements of the commonwealth formula proposed in the November 14, 1993, plebiscite: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the changes to the political relationship between Puerto Rico and the United States that are described in the option of the Puerto Rico plebiscite of November 14, 1993, known as the commonwealth option would provide to United States citizens who are residents of Puerto Rico the Federal benefits of United States citizens living in the States without the concomitant responsibilities;

(2) the commonwealth formula presented in the Puerto Rican plebiscite of November 14, 1993, is not an economically or politically viable alternative to the current self-governing, unincorporated territorial status of the Commonwealth of Puerto Rico; and

(3) the unalterable bilateral pact that such commonwealth formula proposes as the vehicle for the permanent union of Puerto Rico with the United States is not a constitutionally viable alternative to the current self-governing, unincorporated territorial status of the Commonwealth of Puerto Rico.

TRIBUTE TO REV. D. KEITH OWENS, PASTOR OF THE SALEM BAPTIST CHURCH

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. MENENDEZ. Mr. Speaker, I rise today before the House of Representatives to pay tribute to Rev. D. Keith Owens, Salem Baptist Church of Jersey City's new pastor.

The Salem Baptist Church was founded in 1870 and was born the Second Baptist Mission, when the congregation worshiped in the home of Joseph and Mary Bailey. In 1871, Reverend Hutchingson, the mission's second leader, secured the larger Carr's Hall for worship. In 1875 the mission was organized as the Salem Baptist Church and Reverend Hutchingson was ordained pastor. In 1877 Rev. Richard A. Motley accepted the pastorate and served until 1904. During this time a building was purchased and Joseph Bailey and Matthew Brown were ordained Salem's first deacons. From 1929 to 1934 the church was under the leadership of Rev. Furman W. Means. During these 14 years the Sunday school flourished, the auxiliaries expanded, and the church gained the national recognition of Baptists. The years to follow saw the church negotiate and pay for the present site of Salem at the corner of Clinton and Madison Avenues.

Rev. D. Keith Owens, born in Dillon, SC and raised in Newark, NJ, comes to Salem by way of Kaighn Avenue Baptist Church in Camden, NJ, where he was senior pastor for 5 years. Emphasizing the importance of youth and education, Reverend Owens established a scholarship and endowment fund to help students in poor communities in Camden to afford college educations.

Living by the creeds of the greats who preceded him, including his parents, and other family members who were ministers, Reverend Owens' own achievements speak for themselves. At 32 years of age, he has written a weekly column on religion and current events for a local Camden area newspaper, taught speaking and English at a county college, directed public relations for the National Ministries, lectured throughout the United States and Africa, and made numerous television appearances in addition to pastoring. The list of accolades, memberships, and activities is endless.

I'm proud to have the opportunity to recognize Rev. D. Keith Owens and the Salem Baptist Church before the House, and I ask my colleagues to join me in thanking them for their service to the community and commending their achievements.

ENTITLEMENT DAY

HON. BILL ORTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. ORTON. Mr. Speaker, today I am introducing a concurrent resolution expressing the sense of the Congress that we should take action to rein in entitlement growth and to ensure that the burden of such spending does not fall disproportionately on future generations. This resolution is being offered as the base text for consideration of entitlement day, scheduled for House consideration next week.

Entitlement day is another in a series of promises fulfilled by House leadership pursuant to my A to Z agreement with Majority Leader GEPHARDT announced in June. I believe it has become very clear that this agreement has achieved far more than A to Z could ever have hoped to achieve, with respect to legislative actions to reduce the deficit.

As a result of open rules on appropriations bills this summer, the House had the opportunity to vote on 74 amendments to cut spending, many of which passed. The House has brought to the floor and passed four major budget process reforms, including line-item rescission authority, reform of emergency spending, reform of baseline budgeting, and entitlement controls.

As significant as these actions were, we still face the greatest challenge of all—dealing with the tremendous growth of entitlement spending. Proof of the enormity of this challenge can be found everywhere. In July, I joined a number of Members in offering an amendment to provide for a reasonable growth ceiling for entitlements. It allowed for increases in inflation, plus population, plus an additional 1 percent growth over a 3-year period. This amendment lost by a substantial margin.

Over the last several months, the bipartisan Commission on Entitlement and Tax Reform has held hearings and issued preliminary findings on the growth of entitlements. This process has been tremendously contentious. Finding a consensus on actions needed to control entitlement spending will not be an easy task for the commission.

Entitlement day is a further effort to continue this critical public dialog. The base text of the resolution I am introducing today contains the following language: "Resolved, That it is the sense of the Congress that current trends in entitlement spending are not sustainable and Congress must act to resolve the long-term imbalance of the entitlement promises and available funds to ensure that today's debt does not fall unfairly on America's children."

I hope that the debate over this resolution will address the need of Congress to actively confront the tremendous growth of entitlement spending, the effect it has on our budget deficit, and the deleterious effect this continued growth has on future generations. In the short run, continued deficits caused by exploding entitlement costs raise interest rates, crowd out private borrowing, and become a drag on the economy. In the long run, unchecked by action now, entitlement spending will overwhelm our budget, causing either severe cutbacks in important Federal programs or massive tax increases.

I believe and hope that we can reach consensus on this resolution. However, the next question is how to address this problem. Debate this Congress over health care reform gives little comfort that health care reform will be the answer. This year's debate has generally demonstrated that even if we can enact health care reform, we will probably be lucky to even keep it revenue neutral.

For this reason, when I pushed for entitlement day, I asked for public debate on the three entitlement reform measures which would generate the greatest savings, according to CBO's recent publication "Spending and Revenue Options." These are means testing, raising the retirement age, and limitations on COLA's. I recognize that these are controversial, that they affect popular programs. But, as virtually every budget expert acknowledges, we have no chance of significantly reducing entitlement spending without making tough choices, without dealing with popular programs.

Therefore, my understanding is that at least three amendments will be offered to the base text of my resolution. The first, dealing with means testing, states: "that it is the sense of the Congress that payments through Federal Government entitlement programs, except for benefits from programs into which an individual contribution has been made by the recipient, should be means tested so that benefits would be reduced or eliminated dependent upon the income of the recipient."

Quite simply, this resolution raises the policy question of whether currently non-means-tested Federal entitlements should be means-tested—that is, be reduced for individuals with higher levels of income. It excludes from means-testing consideration "benefits from programs into which an individual contribution has been made by the recipient"—that is, Social Security and Civil Service retirement benefits. A vote in favor of this resolution affirms the principle that we should means-test the remaining non-means-tested programs at some income level. A vote against this resolution means that no matter how high one's income is, that individual should be entitled to unlimited Federal entitlement benefits.

The second amendment is a resolution dealing with the qualification age for entitlement benefits. It states: "that it is the sense of Congress that the age of qualification for age-dependent Federal benefits should be increased." This resolution would apply to all age-dependent retirement benefits, including potentially Civil Service retirement benefits, Social Security, and Medicare. A vote for this resolution is a vote that Congress should consider an increase in the age of qualification of one or all of these programs. In all likelihood, any such changes would be phased in over an appropriate period of time, so that those who are approaching this age in the next few years would not be unnecessarily affected. A vote against this resolution is a vote that we should not even consider changing the age qualification for these programs, even into the next century.

The third amendment is a resolution dealing with automatic cost-of-living increases, or COLA's. The resolution states: "that it is the sense of the Congress that payments of annual cost-of-living adjustments [COLA's] should be reduced or deferred, except for beneficiaries with annual income below 200 percent of the poverty level." A vote for this resolution is a vote to revise the formula for determining COLA's or to limit automatic COLA's in some fashion, except for those individuals falling below 200 percent of the poverty level. A vote against this resolution is a vote not to consider this source of automatic entitlement growth as a possible area of deficit reduction.

I recognize that these are tough, emotional issues. However, I believe it is imperative that we debate them. The simple truth is that we cannot realistically balance the budget—or even keep it from growing dramatically in the next few years—without making tough decisions on these issues. The American public deserves no less than a thorough public debate.

REMARKS ON THE CLOSING OF FORT ORD

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. FARR of California. Mr. Speaker, there are perhaps few events in my district's history as momentous as the passing of Fort Ord. Not only does its closure today represent the end of a proud military era, but more importantly, it demonstrates a major economic shift on the central coast of California. From a military-based economy, this area is now well on its way to becoming an economy with education as its central theme.

Of course, for many, this change has not come easy. And while there has been tremendous hardship, I am convinced that this hardship will yield tremendous opportunity. Already, we have seen the signs. The new California State University, Monterey Bay, for example, will usher in a major economic revival with hundreds of new jobs as well as heavy student and faculty spending. I am also confident that surrounding development will provide an enormous boost to the entire area.

In fact, I am more certain than ever that upcoming activity at the Fort Ord site will quickly return our area to the prosperity it once knew. In so doing, it will also set the national standard for other communities around the country suffering a base closure.

Already, many have taken notice. In Washington, the Federal Government has quickly seen that the changes at Fort Ord just make good fiscal sense. Designating the base as a national model for conversion, it has also shown its higher regard by committing $29 million to CSU's efforts in converting former barracks into dormitories and classrooms.

I know this commitment will continue. It has been and will continue to be my pleasure to see that it does.

TRIBUTE TO BARBARA BERGER-HILL

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to Barbara Berger-Hill who is being honored by the Macomb Oakland Chapter of the Coalition of Labor Union Women on Wednesday, October 12.

Barbara was a founding member of the Coalition of Labor Union Women and remains active in the Michigan Macomb Oakland Chapter as an alternate delegate to the United Automobile Workers.

For years, Barbara Berger-Hill has devoted her expertise to serving the members of the UAW, the CLUW, and the NAACP. She has continuously worked on the behalf of those who punch a clock and pack a lunch. In addition to her many responsibilities as a union representative, she has served as a labor liaison to Middlesex and Essex Community College.

I applaud the Coalition of Labor Union Women for recognizing one of their own founding members. She continues to serve the working men and women she represents with respect and dignity and I am sure she is proud to be honored by the Coalition.

On behalf of the Coalition of Labor Union Women, I urge my colleagues to join me in saluting Barbara Berger-Hill for her commitment to working men and women everywhere.

MOST FAVORED NATION TRADE STATUS FOR RUSSIA

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. HOYER. Mr. Speaker, President Clinton has announced that Russia is in compliance with pertinent sections of the Trade Act of 1974, and that the United States will extend most-favored-nation [MFN] trade status to Russia without the previously required annual review. As required by title IV of the Trade Act, however, the President will continue to provide Congress with periodic reports regarding Russia's compliance with the emigration standards envisioned in the Trade Act.

Mr. Speaker, I view this change in United States trade policy with Russia as a positive step, one that recognizes the progress that Russia has made in allowing its citizens to emigrate and travel abroad.

In June 1993, I testified before the Ways and Means Committee on behalf of myself and Senator DECONCINI as cochairman of the Commission on Security and Cooperation in Europe that with respect to Russia, the United States should grant MFN with a yearly renewable waiver, which up until now has been the policy. Since that time, the mechanism established by the Russian Government to resolve secrecy denials, adjucation by the Lavrov Committee of the Foreign Ministry, has been working well. Over 100 refusals have been overturned by the Lavrov Committee.

Meanwhile, Russian courts are beginning to hear the so-called poor relatives cases, in which a potential emigrant is prevented from leaving by financial claims of a relative.

Altogether, approximately 100,000 Soviet Jews and others are leaving Russia yearly, most for Israel, but also to the United States and other countries.

Mr. Speaker, I do not want to conclude my remarks by giving the impression that emigration from Russia is totally unhindered. This is still not the case, unfortunately. While I was in St. Petersburg last spring with the majority leader, I had several meetings with human rights activists. I met Mrs. Evgeniya Kunina, who had been told that she would not be able to leave Russia to join her son in New York until 1999 because of her previous employment at a classified facility. The Lavrov Committee recently ruled that she would have to wait until 1996, the 5 years required by Russian law after leaving her job in 1991. While this is a step forward—insofar as the law is being followed—the fact is that free emigration does not yet exist. And this is why the Congress will be closely examining the President's periodic reports on Russia's compliance with the Trade Act.

TRIBUTE TO ALBERT BLAUSTEIN

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. BURTON of Indiana. Mr. Speaker, on August 22, 1994, America lost one of its foremost constitutional scholars, Prof. Albert Blaustein of Rutger's University School of Law. Al Blaustein was a scholar of international repute, editor of the well-known "Compendium of World Constitutions," and author of numerous books and scholarly articles. He was famous for his authorship and contribution to national constitutions all over the world, including Russia, Fiji, and Liberia.

His monumental role in the legal evolution of mankind will long be recognized. To his last day, he was working hard on promoting democracy and the rule of law around the world. His friends will sorely miss his delightful personality and I am sure they all send their sincerest condolences to Al's wife Phyllis and their children.

I commend to the attention of my colleagues the New York Times and Philadelphia Inquirer obituaries of Albert Blaustein.

[From the Philadelphia Inquirer, Aug. 22, 1994]

ALBERT BLAUSTEIN, CONSTITUTION EXPERT

(By Reid Kanaley)

Albert Paul Blaustein, 72, one of a handful of U.S. legal scholars who have helped rewrite the national constitutions of Eastern Europe since the fall of communism, died of a heart attack yesterday.

Mr. Blaustein lived in Cherry Hill. He was professor emeritus at Rutgers University School of Law, Camden, where he had taught the Constitution since 1954. At the time of his death, he was in Durham, N.C., nearing the end of a three-week vacation of exercise, rest and dieting.

The scholar and human-rights advocate had traveled the globe since the 1960s, advising dozens of countries—from Brazil to Fiji to Poland to Russia to South Vietnam and Zimbabwe—on how to write new constitutions.

"My son calls me a Jewish James Madison," Mr. Blaustein said in a 1991 interview in Moscow, where he had been summoned to help draft the constitution for the new Russian Republic.

"His knowledge of the constitutions of the world was the most significant thing about him, but he was also a great teacher," said Roy Mersky, a professor of law at the University of Texas-Austin and a frequent collaborator of Mr. Blaustein's.

The two men were in the process of revising a book of biographical sketches and statistics on the 108 justices to sit on the U.S. Supreme Court.

A son, Eric Blaustein of Cary, N.C., said Mr. Blaustein had appointments today in Washington, D.C., where he had hoped to press government officials to support human-rights issues in Haiti and Latin America, and was due in Tokyo on Oct. 2 to lecture on constitutional law.

But, perhaps sensing that his life's work was nearing its end, Mr. Blaustein told his son on Wednesday evening, "Eric, I have no regrets," the younger Blaustein said yesterday.

"He was not afraid to die," said his son. "He said nobody lived a better life than he did. He'd traveled. The work he did made a difference. He leaves a legacy both in print and in family."

As a constitution writer-for-hire, whose workload grew immense with the fall of communism and the breakup of the Soviet Union, Mr. Blaustein had said the job title he preferred was "custom framer."

In 28 years of helping countries draft new constitutions, Mr. Bloustein consistently refrained from imposing the United States' legal system on other nations. His tact was seen as particularly useful in a nation such as Russia, where many leaders are sensitive to accusations of aping the West.

"A constitution has to spring from native soil, to meet the basic needs and wants of a given people," Mr. Bloustein had said in the Moscow interview. "I am not here to tell them what to do. These people need a Russian constitution. I am basically here to answer questions."

He was born in Brooklyn Oct. 12, 1921. He received his undergraduate degree from the University of Michigan in 1941.

A one-time Chicago police reporter, he relished the murder stories of 50 years past and was noted for wearing gangland-era leather braces. The GI Bill enabled him to attend Columbia University's law school after World War II, and he developed an interest in constitutions while working as a law librarian, first at New York Law School and then at Rutgers.

His first overseas assignment was to help write a constitution for South Vietnam in 1966. Since then he had traveled to more than 80 countries to help draft blueprints for governing.

He personally wrote the constitutions of Bangladesh, Liberia, Zimbabwe and Fuji. He had drafted the latter on the same computer he played video games on during brief moments of leisure at his Rutgers office.

For Mr. Bloustein, the hallmarks of a good constitution were clauses protecting the rights of minority groups and ensuring separation of powers, freedom of speech and a multiparty system. He disliked constitutions that imposed an overly centralized bureaucracy and those that confused fundamental rights—such as freedom of speech—with policy (a guaranteed job for example).

While working that first job in South Vietnam, he found there was no easy reference work and decided to put one together himself. The result was "Constitutions of the Countries of the World," which was first published in 1971. Updated regularly, the collection has grown to 22 volumes. It includes every nation's constitution and critical essays on the history of each.

Mr. Blaustein was a nearly compulsive collector. Several years ago, his collection of more than 2,500 bars of soap from every hotel in which he had ever stayed, all labeled, dated and indexed, was purchased for a figure placed by the family yesterday at about $1,500 by Ripley's Believe It or Not Museum in Irving, Texas.

A year later, Eric Blaustein said, his father sent him back to the museum with a large sachel of new soaps. The collection was piled in a large antique bathtub, with a picture of Mr. Blaustein on a nearby tripod.

Mr. Blaustein also had collected more than 500 ballpoint pens from around the world and he had thousands of airline luggage tags stacked on an antique grocer's scale in his cluttered corner office at Rutgers.

At the time of his death, he was under contract with Princeton Press to write his autobiography. "I don't know that he even started it," Eric Blaustein said yesterday.

In addition to his son Eric Mr. Blaustein is survived by his wife, Phyllis; son, Mark of Fort Lee, N.J.; a daughter Dana Litke of Northfield, N.J.; a sister, Marjorie Simon of Purchase, N.Y.; and four grandchildren.

Funeral services will be held tomorrow at noon at Platt Memorial Chapels, 2001 Berlin Rd., Cherry Hill. Interment will be at Crescent Burial Park, Pennsauken.

[From the New York Times, Aug. 23, 1994]

ALBERT P. BLAUSTEIN, A DRAFTER OF CONSTITUTIONS, DIES AT 72

(By Richard Perez-Pena)

Albert Blaustein, a law professor who dedicated nearly three decades of his life to drafting constitutions for national transition, died on Sunday at Duke University Hospital in Durham N.C. after suffering a heart attack. He was 72.

A fervent believer that a constitution could help a nation define its legal, political and moral identity, Mr. Blaustein wrote the constitutions now in use in Liberia and Fiji, contributed large parts of the constitutions of Zimbabwe, Bangladesh and Peru and had a hand in the drafting of about 40 others, including those of Nicaragua, Romania and post-Soviet Russia.

From his home in Cherry Hill N.J., Mr. Blaustein, who taught at the Rutgers University School of Law in Camden, was frequently summoned by dissident groups as disparate as the Inkatha Freedom Party in South Africa and a coalition of lawyers in Nepal to help them stake out their positions in drafting new constitutions. Those calls became frequent in recent years as areas of the world, from Central America to Eastern Europe underwent wrenching change.

In a 1983 interview, Mr. Blaustein said: "A constitution is more than a structure and framework for government. It is in many senses a nation's frontispiece. It should be used as a rallying point for the people's ideals and aspirations, as well as a message to the outside world as to what the country stands for."

Mr. Blaustein would try to interject Western liberal notions into the constitutions he drafted; in the 1970's he tried, unsuccessfully, to persuade the leaders of the new majority-rule government of Zimbabwe to grant equal rights to women. But he acknowledged that for a constitution to work, it must reflect a country's culture and history. "We cannot put constitutions together like prefabricated henhouses," he said in the 1983 interview.

While he praised the United States Constitution as a document that had worked well, even in crisis—he noted that "when Mr. Nixon left power, the only person with a gun was a policeman directing traffic"—he said that if he were asked to revise it, he would make the right to privacy and freedom of travel explicit provisions.

Mr. Blaustein's contributions to nation-building began in 1966, when, at the request of the United States Government, he traveled to South Vietnam to advise that country in drafting a constitution.

By that time, he had established a formidable reputation as a legal scholar and as the author and editor of many books. "Desegregation and the Law," (Rutgers University Press, 1957), of which he was co-author with Clarence Clyde Ferguson Jr., was a critical and commercial success. His other works include "The American Lawyer: A Summary of the Survey of the Legal Profession," (University of Chicago, 1954), which he wrote with Charles O. Porter.

He taught at New York Law School in the mid-1950's and at Rutgers from 1955 until his retirement in 1992.

Born on Oct. 12, 1921, in Brooklyn, Mr. Blaustein graduated from Boys High School at age 16. He graduated from the University of Michigan at 19 and became a reporter with The Chicago Tribune.

He served in the Army during World War II and again in the Korean War, attaining the rank of major. Between the wars, he went to law school at Columbia University and practiced law in Manhattan at his father's firm.

He is survived by his wife, the former Phyllis Migden; a daughter, Dana Litke of Northfield, N.J.; two sons, Mark Blaustein of Fort Lee, N.J., and Eric Blaustein of Cary, N.C.; a sister, Marjory Simon of Purchase, N.Y., and four grandchildren.

NATIONAL MAMMOGRAPHY DAY

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mrs. LLOYD. Mr. Speaker, I rise today to introduce legislation that designates October 19, 1994, as "National Mammography Day." Last year the President signed this measure into law.

While efforts to enact a comprehensive health care reform have fallen by the wayside, there are still legislative initiatives, such as National Mammography Day, that address important steps toward reform. For example, early detection and treatment are critical steps in holding down medical costs and saving lives—particularly with breast cancer.

According to the American Cancer Society, 182,000 women will be diagnosed with breast cancer in 1994, and 46,000 women will die from the disease. This disease affects 80 percent of women that have no prior family history of breast cancer. There is no known cure for breast cancer. Until we find a cure, early detection and treatment are the best chances that we have against its early stages.

Mammograms can reveal the presence of small cancer up to 2 years before regular clinical breast examinations, or breast self-examinations [BSE]—saving as many as a third more lives.

No women can be considered immune from this disease. As a breast cancer survivor myself, I realize the importance of mammography detection. Greater awareness of this technology is a key element in combating breast cancer.

Mr. Speaker, every year for the past 5 years, National Mammography Day has received greater participation and interest. Mammography screening awareness is one of many fundamental steps in educating the public about the importance of early detection and treatment of disease.

I am pleased to introduce this resolution and I hope that my colleagues will join me in the fight against breast cancer.

NORTHERN FOREST LANDS COUNCIL

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. SWETT. Mr. Speaker, I rise today to pay tribute to the work of the Northern Forest Lands Council [NFLC], which ceases to exist today after completing its 4-year effort to develop long-term conservation recommendations for the Northern Forest.

The Northern Forest is a 26-million-acre expanse of forest which extends from New York to Maine. This vast area, which is mostly privately owned, is home to more than 1 million people, along with moose, osprey, bear, loon, and hundreds of other species of wildlife.

The Northern Forest provides the Northeast and the Nation with forest products, opportunities for outdoor recreation and tourism, and billions of dollars of direct and secondary economic benefits. As a recreational destination, the Northern Forest hosts millions of visitors annually—offering some of the most spectacular scenery in America. The region is characterized by clear mountain rivers and lakes, magnificent mountain peaks, and peaceful New England villages.

The Northern Forest region is currently facing strong forces for change. Intensified forest practices, land speculation, and subdivision threaten to permanently damage the character of the region.

The NFLC was created in 1990 in response to these threats. Through 4 years of effort, the NFLC developed a series of recommendations to help preserve the Northern Forest.

One of the most remarkable things about the work of the NFLC has been the process. The consensus recommendations were developed after countless hours of discussions, with input from all concerned parties.

Unlike forest communities in other parts of the country which have been plagued by polarization, Northern Forest communities have shown that opposing interests can find common ground and work together in developing conservation strategies.

Continuing with this spirit of constructive cooperation, I look forward to working with the rest of the Northern Forest delegation to implement the recommendations of the Northern Forest Lands Council.

LOWRY AIR FORCE BASE: CURTAIN DOWN, CURTAIN UP

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mrs. SCHROEDER. Mr. Speaker, today is an historic day in Denver, CO, one that I wish to reflect upon for a moment.

Lowry Air Force Base, first opened in the 1930's, closes today. A victim of the 1991 base closure cycle, Lowry's technical training missions have already relocated to other bases. But today is the day when the flag comes down for the last time.

Today is a day to reflect on the contribution Lowry has made to our national security. Training is always of highest military priority and Lowry shined in its ability to produce ready and reliable munitions loaders, mechanics, photographers, and a host of other specialties. I wish to extend a national thank you for that service.

Today is also a day to encourage and commend the redevelopment effort underway to turn Lowry into a residential, commercial, and recreational asset for the community. Two cities overcame past differences to organize a neighborhood-based planning and now implementation authority to fill up the vacated base.

There's great success already. A community college is moving into classroom and dormitory space. The President's new National Community Conservation Corps has set up a regional campus there. The Air Force museum has become a civilian-run Wings Over The Rockies Museum, the Defense Finance and Accounting center maintains a large presence and has space to grow. And the delicate and contentious issue of providing available housing to the homeless has been settled.

I met today with Air Force Assistant Secretary Rodney Coleman to review the redevelopment's progress. He said that Lowry has been one of the Air Force's success stories because of the community's ability to move forward. He pledged continued support and assistance to keep that momentum up. I'll hold him to that.

I, too, pledge my continued assistance to this effort. When Lowry's fate was first sealed, I quickly convened a local forum to plan the way. I scouted for Federal opportunities, resources, and obstacles. I troubleshot when potential conflicts with the Air Force arose and I carefully listened to the concerns of the neighbors and blended them into the redevelopment planning mix.

Mr. Speaker, the conversion of closed military bases is not an easy trick but with the right resources, talent, and attitude, it can be done. Lowry Air Force Base is living proof.

TRIBUTE TO DADE COUNTY COMMISSIONER ALEX PENELAS

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mrs. MEEK of Florida. Mr. Speaker, for the past 14 years, South Florida Food Recovery has been providing food to the poor, the needy, and the homeless in the State of Florida.

Created through the loving commitment and tireless efforts of my good friend Jule Littman, vice mayor of the city of North Miami Beach, South Florida Food Recovery has become the largest food distribution program in the State of Florida and one of the largest in the United States. It takes food declared surplus from farmers, food brokers, and distributors and provides it to some 273 service organizations with 2,600 volunteers in five Florida counties. Altogether, South Florida Food Recovery distributes enough food for 188,000 supplemental meals a week.

On October 7, South Florida Food Recovery will host its Homeless Holiday Luncheon to benefit 50,000 needy persons during the upcoming holiday season. Dade County Commissioner Alex Penelas will be honored at this event for his dedication and leadership in providing alternatives to homeless persons in Dade County.

Mr. Speaker, this recognition is well-deserved. Alex Penelas is the youngest person ever elected to the Dade County Commission, and he is one of the most active and effective. Commissioner Penelas has become a true champion of the homeless and needy in our community. The Dade County community homeless plan, which Commissioner Penelas coauthored, has attracted national recognition as a model for other communities. Under his leadership, Dade County has put new emphasis on housing for low-income persons. In addition, Commissioner Penelas is also chairman of the Dade County Homeless Trust.

Mr. Speaker, it is my honor to join with South Florida Food Recovery and the rest of our community in honoring Alex Penelas for a job well done.

TRIBUTE TO I.A. BASSETT, JR.

HON. LESLIE L. BYRNE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mrs. BYRNE. Mr. Speaker, it is my privilege to bring to the attention of the House of Representatives one of my constituents, I.A. Bassett, Jr., the deputy inspector general for the Department of Labor. Mr. Bassett is retiring after dedicating more than 28 years to public service. As the deputy inspector general, Mr. Bassett has been responsible for the nationwide operations of the Office of Inspector General in its role as the independent investigative and audit function for the Department of Labor.

Just prior to his current appointment, Mr. Bassett served 3 years as the assistant inspector general for investigations for the DOL where he was in charge of investigations involving employee and program integrity.

Following 4½ years as a commissioned officer in the Marine Corps, including decorated service as a combat aviator in Vietnam, Mr. Bassett's law enforcement career began in 1970 with the Federal Bureau of Investigation [FBI] in Kansas City, MO, where he worked fighting organized crime. He transferred to the Detroit Office of the FBI in 1972 where he worked on a variety of matters, including bank and government fraud, bank robberies, kidnapings, and extortions. During his last 2 years in Detroit, Mr. Bassett supervised the labor racketeering and public corruption squad.

Mr. Bassett's final transfer for the FBI was in 1979 when he was assigned to FBI Headquarters with supervisory responsibilities in the Congressional Affairs Unit. Subsequent assignments included 4 years on the Director's staff, 2 years as the program manager for background investigations of nominees for Presidential appointments and time as an inspector's aide. Prior to accepting the position with DOL, Mr. Bassett was an Assistant Section Chief in the Identification Division.

Public service has long been a tradition in Mr. Bassett's family. His great-great-great-great grandfather Isaac Bassett served in the Revolutionary War. His great-great-great grandfather Simeon Bassett worked as a stone mason to help repair the U.S. Capitol Building following the War of 1812 and was later hired as the U.S. Senate messenger. Mr. Bassett's great-great grandfather Isaac Bassett was appointed by Senator Daniel Webster as the second page of the U.S. Senate. He worked his way to messenger and later became assistant doorkeeper, earning the reputation as an indispensable Senate employee. Mr. Bassett's great grandfather Isaac Albertson was a life-long employee of the post office. His grandfather Isaac Albertson also served as U.S. Senate page followed by a 46-year career as a private investigator for the Navy Yard. Mr. Bassett's father served with the U.S. Army during World War II, and Mr. Bassett's brother has recently retired after a distinguished 26-year career in the U.S. Navy; 2 years ago, Mr. Bassett's daughter followed the family tradition of service to their country when she became an auditor with DOL.

I am extremely pleased to recognize the contributions I.A. Bassett, Jr., has made to our country and to the Federal law enforcement community. I offer my best wishes to Al Bassett as his career in public service comes to an end.

HONORING CARMEN MESSANO

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to one of the finest law enforcement officers in the country, Carmen Messano, the prosecutor for Hudson County, NJ.

This Saturday, Mr. Messano will be honored by the Dante Aligheri Society, a charitable organization made up of professionals and business owners who make donations to meritorious community programs. It is most fitting that the society has chosen to honor the prosecutor, because he too has generously donated his time and efforts to a wide range of community activities.

As a prosecutor he has been a tireless crime fighter and an outstanding role model for our community. I live in Hudson County, so I can personally attest to his fine efforts on behalf of our residents. Through his office, the second largest in the State, Mr. Messano has worked with seniors to ensure their safety in their golden years. He has worked with juveniles to guide them away from crime and encourage them to lead productive lives. He has worked with local community watch groups striving to make their neighborhoods a safer place.

Throughout his life, Mr. Messano has consistently distinguished himself. He graduated magna cum laude from Lafayette College in 1974. Three years later he received a juris doctor degree from Boston College Law School. The prosecutor has worked as an adjunct professor at St. Peter's College in Jersey City.

In the past, Mr. Messano has served on numerous nonprofit agencies, including the Jersey City Museum and at the St. Joseph's Home. He currently serves on the board of directors of D.A.R.E. New Jersey. He resides in Jersey City with his wife, Maria Maio-Messano, deputy director of the Housing Authority of Jersey City.

Given his accomplishments, I think it is very appropriate that we take a few moments today to honor Mr. Messano, a model of public service and a fine law enforcement official.

THE EDWARDS-BONILLA ESA MORATORIUM AMENDMENTS

HON. HENRY BONILLA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. BONILLA. Mr. Speaker, today, Congressman CHET EDWARDS and I are introducing the Endangered Species Act Moratorium Amendments. This bi-partisan legislation will help put a stop to the current abuses of the Endangered Species Act [ESA]. In its current form the Endangered Species Act—though well intentioned—works contrary to, and often against, one particular species—the human being.

Many hardworking ranchers, farmers, and homeowners in Texas have a greater fear of the golden cheeked warbler than they do of tax hikes and tornadoes. In my own hometown of San Antonio, TX, the entire source of water has been held hostage by Federal agencies and courts over a small fish called the fountain darter. This bill is an important first step to allay some of those fears and bring common sense to the ESA process. We in Congress must act and insure that human beings no longer play second fiddle to spiders and snakes.

Specifically, this legislation will suspend the future listing of endangered or threatened species and the designation of new critical habitat until the Endangered Species Act is reauthorized by Congress. The ESA's authorization expired in 1992. This bill is a realistic vehicle toward reforming the ESA. Passage of this bill compels Congress to consider human factors and bring balance of the ESA when it considers the reauthorization. ESA must be reconstructed with amendments which not only protect the environment, but respect property rights.

Protecting property rights does not mean that threatened species cannot be protected. It simply means that human costs should be considered when the ESA is imposed. It also means that Government agencies, such as the Fish and Wildlife Service, should be creative in finding ways to balance these goals, rather than slamming the heavy fist of the Federal bureaucracy down on landowners. The Federal Government should work in concert with the true stewards of the land, instead of threatening them with fines without warning.

Please join me in cosponsoring this important legislation. It is long since past the time that we brought sanity and common sense to the ESA process. This legislation will stop current abuses and make possible real reform of the ESA. Thank you.

HOUSE RESOLUTION COMMENDING THE POLICE ATHLETIC LEAGUE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. MILLER of California. Mr. Speaker, it is with great pleasure that I introduce today, on behalf of myself and Representatives MARTINEZ, SCHUMER, STEARNS, and WASHINGTON, a House Resolution commending all the Police Athletic Leagues—otherwise known as PAL—across America for their excellent work on behalf of our Nation's youth.

PAL was created over 50 years ago in New York City by Lt. Ed Flynn, who, faced with persistent gang violence, organized a baseball league to give kids an alternative to crime. PAL now has 246 local chapters in cities nationwide, including Jacksonville, De Moines, New York, Denver, Houston, San Francisco, and Seattle. Three million kids participate in PAL's recreational and educational programs, such as athletic tournaments, police cadet clubs, and computer training. Fifty years after its inception, the principal mission of PAL remains the same: police officers volunteer their free time to work with youths in promoting trust and understanding in an atmosphere of cooperation. The kids benefit by receiving positive role models and learning life skills. The officers benefit by getting an opportunity to make a real, positive difference in kids' lives.

The story of Ben Hansberger, the 1993 PAL Boy of the Year Award recipient in California, is a shining example of the effectiveness of PAL. Ben thanked PAL in a letter. I quote:

> DEAR CALIFORNIA PAL: I thank you for picking me as "Boy of The Year." It really means a lot to me to go to college. I'm the first Hansberger in 3 generations to make something of themselves.
>
> It was not me who won the award alone. If it weren't for a lot of help from Rozee Bird, Joe Bird, Glen Gregory, Greg Atherton and all the little "Mighty-Mites" (the Tae Kwon Do peewees, ages 5–8) for giving me someone to touch and to teach, I would have been into drugs or probably fighting for money which, as you know if you have seen my record at tournaments, I am very good at.
>
> I really appreciate how you took the time to come up with such a great awards dinner. The hotel was the most beautiful hotel I have ever seen and the hot tub was nice too. I truly thank you with all of my heart for the money for college. I am going to repay you by making somebody out of myself. Thank you for caring!

Mr. Speaker, in my own district, the effects of PAL's programs are clear. Julie Roberts of Vallejo, CA, was named the 1993 PAL Girl of the Year for all of California for her efforts as a volunteer in PAL and at her school. Julie has been a member of PAL since 1983, when she was 8 years old. Through PAL, Julie learned team work, discipline, and diligence—the hallmarks of a productive future. Indeed, Julie maintains a 3.65 grade point average while working at a day car center. Across this country, there are many more kids like Julie who are being helped by PAL.

As we all know, juvenile crime in America is on the rise. While PAL is no substitute for tough crime fighting strategies and policies, Police Athletic Leagues, acting in concert with these policies, are out in the field everyday attempting to turn back the rising tide of crime by providing constructive activities for kids. PAL's police officers deserve our support. I urge my colleagues to join me in supporting this resolution.

ST. PAUL'S EVANGELICAL LUTHERAN CHURCH CELEBRATES 100 YEARS IN SARATOGA SPRINGS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. SOLOMON. Mr. Speaker, it was first known as the German Evangelical Church, and it met in various locations until buying its first house of worship in 1900.

And now, Mr. Speaker, Saint Paul's Evangelical Lutheran Church of Saratoga Springs, NY, is getting ready to celebrate 100 years of serving the spiritual needs of its members.

Like many of the fine, old churches in our 22d Congressional District, Saint Paul's Evangelical Lutheran Church has been not only an important center of worship, but a virtual museum of local history.

It moved from its first building to its present location at 149 Lake Avenue in 1960. Today, the church has more than 650 baptized members.

Mr. Speaker, in the last century a Frenchman by the name of Alexis de Toqueville visited the young United States. One of the things that stood out among his impressions was the religious fervor of Americans. He remarked that America would be great as long as she was good, and America's natural goodness he attributed to the numerous churches that formed the core of the Nation's community life.

I mention this story, Mr. Speaker, because Saint Paul's Evangelical Lutheran church has been exactly the kind of church Mr. de Toqueville had in mind.

From the beginning, the church has been a center of faith and social life for generations of area Evangelical Lutherans, and an enduring monument to the legacy of religious freedom our forefathers fought and died to preserve.

Mr. Speaker, America is still great because she is still good, and she is good because in communities across this Nation, churches like St. Paul's Evangelical Lutheran Church play such important roles.

Mr. Speaker, on October 14, this venerable church will celebrate it's 100th anniversary. I ask all members to join me in congratulating Saint Paul's Evangelical Lutheran Church and in recognizing its years of service.

IN RECOGNITION OF THE HARBOR/UCLA MEDICAL CENTER'S WOMEN'S HEALTH CLINIC

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Ms. HARMAN. Mr. Speaker, I rise today to commend the work of the Harbor/UCLA Medical Center's Women's Health Clinic. This clinic was founded in 1969, and was one of the first outpatient clinics in the Nation dedicated exclusively to the health needs of women. Over the past 25 years the clinic has pioneered the development of innovative models for delivering quality, cost-effective health care to women. Its education programs include the Nation's largest Nurse Practitioner Training Program and an extensive health outreach program which provides classes for all age groups, both onsite and in the community.

This clinic has achieved an exemplary reputation as a competent, compassionate health care provider for low-income and indigent women, serving approximately 15,000 women annually. It is supported by client fees, donations, and Federal, State and local funds, and its staff is constantly striving to find better and more efficient ways to provide services.

Because it is housed on the grounds of the Harbor-UCLA Medical Center, the Women's Health Care Clinic is able to offer comprehensive sequential medical care to its patients, so that testing, referrals and followup can be provided. With a commitment to women of all ages, the clinic is actively involved with outreach to teenage girls, through schools, churches, and other clients. Its teen retention and outreach program targets those at high risk for pregnancy and provides them with an array of services aimed at reducing teen pregnancy. The clinic also provides a critical service to elderly women who have specific health needs not generally addressed by other services.

The clinic has always been poised on the cutting edge of new technology, pharmacology, and other medical innovations, often participating in pilot programs or research projects to test or evaluate emerging medical theory and methodology. With a focus on keeping people well, it is continually striving to improve the quality of care it provides.

I am proud to be part of changing attitudes toward the importance of women's health issues, and I wish to recognize the significant contribution made to the women of my congressional district by the Women's Health Care Clinic at Harbor-UCLA Medical Center.

THE EQUITY IN REMEDIES ACT

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. GOODLING. Mr. Speaker, the purpose of the bill that I am introducing today, the Equity in Remedies Act, is quite simple. Congress should abide by the same rules and be subject to the same damages as it chooses to impose on private-sector employers. If congressional employers are not subject to punitive damages, private-sector employers should not be subject to punitive damages. The Equity in Remedies Act would achieve that goal.

Under title VII of the 1964 Civil Rights Act and the 1990 Americans with Disabilities Act [ADA], only private-sector employers are subject to awards of punitive damages. Executive branch employers and State and local government employers are not subject to punitive damages. Under the Congressional Accountability Act—H.R. 4822—passed by the House on August 10, 1994, by a vote of 427–4, Members of Congress are also not subject to punitive damages. Some version of congressional coverage legislation may soon be passed by the Senate, but none of those under serious consideration include punitive damages.

The Equity in Remedies Act will subject private-sector employers to the same damages as proposed under H.R. 4822, and those applicable to executive branch and State and local government, by eliminating punitive damages under title VII and the ADA. Unfortunately, the amendment that I submitted to the Rules Committee to provide for punitive damages under H.R. 4822 was not made in order, even though an earlier bill—H.R. 2721—reported by the Education and Labor Committee on congressional coverage allowed for such damages. Since the House was precluded from debating this important issue and the bill excludes punitive damages, it is only appropriate that legislation be introduced to bring private-sector laws concerning punitive damages in line with the bill passed by the House.

Hopefully, this vehicle will engender a useful debate—a debate denied by the Rules Committee—as to the appropriateness of exempting Congress from the same damages as imposed on the private sector.

We take this step with some hesitancy, as we recognize the controversial nature of eliminating punitive damages under title VII and the ADA. However, if the Congress wishes to exempt itself from these damages, its seems only appropriate that it should similarly exempt the private sector.

Mr. Speaker, I realize that time is now short in the session, but I hope we will revisit the issue in the next Congress.

CONGRATULATIONS ON CH2M HILL'S AWARD

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Ms. FURSE. Mr. Speaker, it is my pleasure today to congratulate the international consulting engineering firm of CH2M HILL, whose many offices include long-time presences in Corvallis and Portland, for winning a significant award this year from the American Consulting Engineers Council [ACEC]. CH2M HILL won an ACEC Honor Award for designing a novel solution to a problem at a landfill in McMinnville, OR, a city in my district.

Like many landfills, the Riverbend Landfill had a problem with leachate and dissolved water. The traditional solution involves expensive weekly truck hauling to a wastewater treatment plan, a solution that also contributes further pollution to our air. CH2M HILL's idea was to plant some 40,000 fast-growing poplar trees to convert the leachate into wood fiber. The wood will be harvested at a profit on a renewable 10-year cycle. In addition, the trees will actually reduce air pollution by consuming as much carbon dioxide as is produced by 800 automobiles each year.

CH2M HILL, an employee-owned family of companies involved in the domestic and international consulting engineering business, has nearly 6,000 employees working in more than 70 offices nation- and world-wide. CH2M HILL is a world leader in engineering service that helps clients apply technology, safeguard the environment, and develop infrastructure. Their work involves planning, design, and program management for clients engaged in hazardous waste remediation, water, wastewater and waste managemnet, transportation, and related environmental fields.

I congratulate CH2M HILL for this important award.

IDEA DISCIPLINE POLICIES

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. BALLENGER. Mr. Speaker, I would like to address the agreement that was adopted by the Elementary and Secondary Education Act conference regarding students with disabilities that bring weapons to school or engage in violent behavior.

As everyone in this Congress knows, for effective learning to happen in America's schools, classrooms must be free from violence and the threat of danger to students and their teachers. Unfortunately, in certain circumstances, the Individuals with Disabilities Education Act [IDEA] seems to work at cross-purposes in creating a safe learning environment.

I want to make it clear that I support the important procedural safeguards in the IDEA that protect the educational rights of a disabled student. These safeguards require that each disabled student receive an individualized education program that defines the educational setting in which the student will be taught. The law, and its subsequent interpretations, allow a disabled student to be suspended according to regular school discipline policies when the student's behavior is not related to his disability. However, if the student's behavior is not related to his disability, the law provides that he may be removed from the educational setting for a maximum of 10 days. And if the parent objects to the school's proposed permanent change in placement, once the 10 day suspension is completed, the student must be returned to the current educational placement until the completion of due process proceedings.

In general, I believe the so-called stay-put provision correctly protects a disabled student from being randomly removed from the educational setting called for by his individualized education program. However, we must also admit, that when the stay-put provision was written, no one envisioned a disabled student bringing a gun to school or violently attacking another student. Although rare, some disabled students have engaged in this type of behavior. Because of the uncertainty of the law, especially when it is unknown if the student's behavior is related to the disability, school administrators have been forced to keep students in the classroom they fear may be dangerous

I believe that it is high time to update the stay-put provision.

Of the two provisions in the Senate bill, I generally preferred the Gorton amendment, because it not only dealt with students bringing weapons to school, but also with those students engaging in life threatening behavior.

During Senate floor debate, some Senators argued that the term "life threatening behavior" was unclear and could be easily abused by teachers and school administrators to remove disabled students from the regular classroom. But in my reading of the Gorton amendment, the definition clearly indicates that it means violent, life-endangering attacks by one student against another. There is no way that this carefully written definition could be construed to apply to minor occurrences like hitting or shoving or looking at another student in a threatening manner. Opponents also argued that this term could have been applied to accidental self-inflicted injuries, but a simple change could have clarified that it only means violent behavior against another person.

The Jeffords amendment, which dropped all reference to life threatening behavior, clearly did not go far enough in addressing the issue of violence. Something more than the Jeffords amendment was needed.

The compromise reached is not as decisive as the Gorton amendment, but I believe it moves us in the direction of serious action on this issue. I'd like to review the important elements of the compromise.

First, the compromise requires the Secretary of Education to widely disseminate the IDEA's policy on discipline of students with disabilities. I believe that some of the furor over this issue is the result of the Education Department's unresponsiveness in issuing clear guidance to schools on ways to deal with disabled students who are violent. Lacking concise rules, school administrators have been reluctant to do anything with a disabled student who is violent, fearing they will violate the IDEA and incur some sort of Federal sanction. Clear communication from the Department of Education will help relieve some of the confusion that has built up.

Next, the Department must issue a report to Congress by January 31, 1995 on the prevalence of students with disabilities engaging in life threatening behavior and bringing weapons to school. The opponents of action on this issue complain that there is no hard evidence substantiating a problem of violence by students who are disabled. Yet, if opponents had their way and Congress had taken no action on the stay-put issue, during next year's reauthorization, Congress would still have no real information about the issue. This report will give Congress vital information it needs to make a informed decision on the issue during next year's reauthorization. It is crucial that the Department move expeditiously on this issue to meet the January 31 deadline.

The compromise also retains the Jeffords language allowing an extended removal from the current educational placement for a student that brings a weapon to school, and cross-references the definition in the Gun Free Schools Act so the term "weapon" means a firearm. There was a concern that the term "weapon" was not well defined, and since this amendment is only a 1-year provision, conferees felt it would be better to narrow the applicability of this provision to firearms. During the reauthorization process, I intend to work toward a workable definition of weapon because we know that a great deal of violence in school has to do with knives and other objects used in a dangerous manner.

The compromise allows, but does not require, up to a 45-day placement in an alternative educational setting for the student, and could extend that alternative placement until the completion of due process proceedings. This ensures that, as long as there is a dispute among the parties about the permanent educational placement for the student, the student will remain in the alternative placement and not be returned to the previous setting, as current law requires. I believe that 45 days, or nine school weeks, provides an adequate time frame for the student's emergency removal from the classroom.

I believe the arguments against the Gorton amendment were overstated and that the Gorton amendment should have been adopted by the conference. Short of that, however, I believe the compromise on this provision addresses the serious problem of a student bringing a gun to school, and also moves us further along to finding the correct approach to deal with disabled students that engage in life threatening behavior and bring other types of weapons to schools.

I would like to thank Congressman CLIFF STEARNS for his active involvement and helpful advice to me on this issue, and I look forward to working with him when Congress reauthorizes the IDEA in 1995. I would also like to commend Senator GORTON for his tireless efforts on this provision, and hope he knows that, because of his work, Congress is dealing with the issue of violence by disabled students in a much more comprehensive fashion than would have otherwise been the case.

CONGRATULATIONS ON A JOB WELL DONE: TRIBUTE TO THE MAPLE SCHOOL

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. THOMAS of California. Mr. Speaker, in Congress, Members of the House of Representatives talk about 1 million rather casually, but have any of us taken the time to really think about how much 1 million is? Too many Members only see it as a number or word on a page. But I do know of someone, in fact, I know of lots of people who know how much 1 million is—the students of the Maple School in Tulare, CA. As part of both an educational and fundraising project, the students, over a 2-year period, collected 1,000,000 pennies.

Sitting in the principals office are over 40 five-gallon water bottles filled with over 28,000 pennies each. This could be an impressive achievement under any circumstances, but the Maple School's achievement is even more impressive because the neighborhood that surrounds the school is not, as you might expect upon hearing about this achievement, an affluent upper-middle-class community. The parents who send their kids to the Maple School are typical families of modest means who work hard for every dollar they earn.

In addition to the straightforward benefit of knowing what 1 million looks like, the students at the Maple School had to use a great many other skills. Many of the pennies were collected from groups such as the Tulare City Police Department and the city council. Therefore, the kids had to write thank you notes. They also wrote letters to the editor updating the city about their progress. Above all they had to use their math skills to keep track of how many pennies they had collected. And by all accounts they had fun, though the fun has not stopped. The principal will soon pay off a wager she made with her students back in July. Today, September 30, Principal Pam Canby will don a Rudolph the Red Nosed Reindeer costume and spend all day on the roof of the school. The proceeds of their efforts will go to the PTA, library, and the student body.

Mr. Speaker, for their tremendous effort and dedication, I salute the students, teachers, and parents of the Maple School. Their example of hard work is something that we should all aspire to achieve. They should be proud.

JAPAN'S TRADING PRACTICES SHOULD BE SUBJECT TO A SUPER 301 INVESTIGATION

HON. L.F. PAYNE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. PAYNE of Virginia. Mr. Speaker, today the President will decide whether or not to initiate a Super 301 Investigation of Japan's trading practices.

Two years ago, the Japanese Government committed to substantially increase market access for competitive foreign firms. Despite this pledge and ensuing negotiators, figures released last week show the U.S. trade deficit with Japan jumping 20 percent.

Japan's flat glass market, mostly closed to United States manufacturers, provides an ideal case for a Super 301 Investigation. For the last 20 years, a cartel of three Japanese flat glass makers have divided the market between themselves and kept foreign competition out. Even Japan's own fair trade commission recognizes the monopoly created by collusion between these three companies.

American flat glass makers complete successfully in open markets around the world. In 1992, American flat glass makers exported $722 million in flat glass products. Yet, the United States share of the Japanese market continues to decline.

It is time for Japanese leaders to recognize that trade with the United States must be nondiscriminatory and fair. I urge the President to name Japan's practices in the flat glass market as a priority for a Super 301 Investigation.

HISPANIC HERITAGE MONTH AND NATIONAL HISPANIC BUSINESS WEEK

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. KLEIN. Mr. Speaker, I rise today to make special note of Hispanic Heritage Month and National Hispanic Business Week. I am delighted that this Monday, October 3d, I will be hosting a reception in my Paterson district office to pay tribute to these events.

I am a proud cosponsor of legislation honoring the week of September 12, 1994 and National Hispanic Business Week in an effort to increase the awareness and recognition of the remarkable contributions made by Hispanic-owned businesses to the U.S. economy. Let me give you a few statistics: Hispanic-owned businesses in the United States have increased by 150 percent since 1982 and are expected to account for over $27 billion this year alone. Moreover, Hispanic businesses are reported to employ over 375,000 Americans each year.

Not only have Hispanic-Americans contributed economically, but they have also made significant accomplishments in the fields of culture, sports, entertainment, science, and politics. Therefore, Hispanic Heritage Month is celebrated every year from September 15th through October 15th and is a month-long celebration of these achievements.

I call these events "un gran empuje," or a great push forward for the country and the Hispanic people. My colleagues, I am grateful for this opportunity to honor the wonderful history of Hispanic-Americans.

CONGRATULATIONS TO THE TANAY CLUB IN AMERICA FOR 70 YEARS OF PRESERVING A UNIQUE HERITAGE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. STARK. Mr. Speaker, I take pride in offering congratulations to the members of the Tanay Club in America on their 70th anniversary. Since 1924, this group of Filipino-Americans has sought to preserve cultural ties to their native rural town of Tanay in the Province of Rizal in the Philippines. It is the oldest such group from the area.

The Tanay Club in America is relatively small, less than 150 families, but promotes the mutual interest of residents of Tanay and those in America. They maintain a high communal standard of Filipino heritage and culture among members.

Mr. Speaker, the Tanay Club in America represents the best of America as the melting pot of cultures it has always been. Through monthly meetings and close contact, the Tanay Club helps keep alive important elements and traditions of culture that make its members unique.

I ask my colleagues to join me in wishing them 70 more years of success in keeping those with ties to Tanay close together.

HONORING PHILIP COHEN

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. MANN. Mr. Speaker, I rise today to join The American Jewish Committee in honoring Philip T. Cohen, a tireless leader in my community.

On October 5, 1994, Philip Cohen will be honored at The American Jewish Committee's 50th Anniversary Jubilee, with the AJC's Community Service Award. A devoted husband, father of three, and grandfather of seven, Mr. Cohen has been a dedicated community servant for nearly half a century.

Philip Cohen is past president of Rockdale Temple, the Jewish Federation, the United Jewish Cemetery, Camp Livingston, and Losantiville Country Club. He has generously served on the Board of Jewish Federation for more than 40 years. He has served on both boards and the campaign cabinet of the United Way and Community Chest, a national, community service organization.

Currently, he is chairman of the board of Beacon Construction Company. He also belongs to the boards of the American Jewish Committee Cincinnati Chapter, Jewish Hospital, and Cedar Village.

I congratulate Philip Cohen on his award, and thank him for his efforts to make the city of Cincinnati a better place to live.

THE FORBES COMMISSION'S REPORT OF MARCH 30, 1930

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. PETRI. Mr. Speaker, nearly 65 years ago, on February 7, 1930, President Hoover named a Commission under the chairmanship of W. Cameron Forbes of Massachusetts, to study and review conditions in Haiti. The Commission reviewed our 15 years of occupation of Haiti, and made a series of recommendations it hoped would contribute towards the Haitianization of Haiti.

I submit the Forbes Commission's report of March 30, 1930, for the RECORD in hopes its greater availability will assist students and policymakers in understanding the history of our involvement in Haiti and in assessing the prospects for the success of our current adventure there.

REPORT OF THE PRESIDENT'S COMMISSION FOR THE STUDY AND REVIEW OF CONDITIONS IN THE REPUBLIC OF HAITI

On February 7, 1930, the President named the following members of the Commission for the Study and Review of Conditions in Haiti:

W. Cameron Forbes, of Massachusetts, Chairman.
Henry P. Fletcher, of Pennsylvania.
Elie Vezina, of Rhode Island.
James Kerney, of New Jersey.
William Allen White, of Kansas.

On February 4 the President had set forth the purpose and powers of this special Commission as follows:

The primary question which is to be investigated is when and how we are to withdraw from Haiti. The second question is what we shall do in the meantime. Certainly we shall withdraw our Marines and officials sometime. There are some people who wish for us to scuttle overnight. I am informed that every group in Haiti considers that such action would result in disaster to the Haitian people. On the other hand, our treaty of 1915, under which our forces are present in that country, in the main expires in 1936, or six years hence. We have no mandate to continue the present relationship after that date.

We have an obligation to the people of Haiti, and we need to plan how we will discharge that obligation. There is need to build up a certainty of efficient and stable government, in order that life and property may be protected after we withdraw. We need to know, therefore, what sequent steps should be taken in cooperation with the Haitian people to bring about this result.

The answers to these questions must be worked out in broad vision after careful investigation of the entire subject by men of unbiased minds. It is for this reason that I have proposed to send a commission to Haiti to determine the facts, to study and survey the whole problem in the light of our experience in the past 15 years and the social and political background of the Haitian people, to confer with all sides, to recommend the sequent and positive steps which will lead to the liquidation of our responsibilities and at the same time assure stable government in Haiti.

As I have stated before, I have no desire for representation of the American Government abroad through our military forces. We entered Haiti in 1915 for reasons arising from chaotic and distressing conditions, the consequence of a long period of civil war and disorganization. We assumed by treaty the obligation to assist the Republic of Haiti in the restoration of order; the organization of an efficient police force; the rehabilitation of its finances; and the development of its natural resources. We have the implied obligation of assisting in building up of a stable self-government. Peace and order have been restored, finances have been largely rehabilitated, a police force is functioning under the leadership of Marine officers. The economic development of Haiti has shown extraordinary improvement under this regime. It is marked by highway systems, vocational schools, and public-health measures. General Russell deserves great credit for these accomplishments.

We need now a new and definite policy looking forward to the expiration of our treaties.

The President announced on February 7 that after consultation with the chairman of the commission, he had requested Dr. R.E. Moton, president of the Tuskegee Institute, on behalf of the Institute and such other educational affiliations as he might suggest, to undertake an exhaustive investigation into the educational system of Haiti with a view to recommendations for the future.[24] Doctor Moton selected the following members of his committee:

Dr. Mordecai Johnson, President of Howard University.

Prof. Leo M. Favrot, Field Secretary of the General Education Board.

Prof. Benjamin F. Hubert, President of Georgia State Industrial College.

Dr. W.T.B. Williams, Dean of the College, Tuskegee Institute, and Field Agent of the Jeanes and Slater Funds.

The commission extended an invitation to Doctor Moton to accompany them on the U.S.S. *Rochester*, but in view of the fact that Doctor Moton had not had time to complete his plans, it was announced that he would proceed at a later date. Pending the receipt of Doctor Moton's report the commission has dealt only incidentally with educational matters.

The President's commission assembled at Palm Beach, Fla., February 20–24, 1930, preparatory to its departure for Haiti.

On February 25, 1930, the commission embarked at Key West, Fla., on the U.S.S. *Rochester*, which had been placed at its disposal. It arrived at Port authority Prince on February 28 at 3 o'clock in the afternoon and immediately called upon the American High Commissioner, General John H. Russell, and His Excellency Louis Borno, the President of the Republic. The commission then issued the following statement:

In order to be readily accessible the commission will reside at the Excelsior Hotel, where the offices of the commission are likewise to be located. Beginning tomorrow (Saturday) morning, the commission will hold open sessions every day, except Sunday, from 9 a.m. until 12 o'clock noon, to which all citizens are invited. The offices of the commission will be open daily from 9 a.m. to 5 p.m. for receiving information and for the making of appointments with those who care to appear in person before the commission. It is the desire of the commission that all elements of the Haitian people shall be heard freely and frankly. Citizens who for any reason may desire to have private interviews will be welcome, and their communications will be treated as confidential. Following our meetings in Port au Prince the commission will visit other important points in the Republic and pursue the same course as to hearings and interviews. The purpose of our mission is to gather as completely as is humanly possible all facts concerning the situation.

The commission took up its residence in the Excelsior Hotel, where it established offices the following day and was in session daily from 9 a.m. to 6 p.m. It gave public or private audience, as desired by those who appeared before it. Briefs were also filed. No one was deprived of the opportunity of presenting his views.

The opposition to the Borno administration had manifested itself in the formation of eight groups or political leagues, the names of which were:

L'Union Patriotique
La Ligue des Droits del'Homme et du Citoyen
La Ligue d'Action Sociale Haitienne
La Ligue Nationale d'Action Constitutionnelle
La Ligue de Defense Nationale
La Ligue de la Jeunesse Patriote
Le Parti National Travailliste
L'Union Nationaliste

The presidents of these leagues had set up a committee which they called "The Federated Committee of the Associated Groups of the Opposition." this committee was the central organization directing the movement against the American Occupation and the Borno administration, and took charge of the presentation of the opposition case before the commission. The Federated Committee had selected George N. Leger, a prominent Haitian, to assist in the presentation of their case. Mr. Leger attended all of the public sessions held by the commission at Port authority Prince and acted as counsel for all those who appeared before the commission for the purpose of presenting the claims of the opposition.

Many plans were submitted both verbally and in writing, most of which related to the withdrawal of the American Occupation, the reestablishment of a representative government by the election of the Legislative Assembly and the abolition of the Council of State. Various courses were suggested, some very extreme and one going so far as to advocate that the affairs of the Republic of Haiti should be managed by the President's commission until such time as the legislative body could convene. Another plan would replace the Council of State with a legislative body composed of 51 members, of which 26 members were to be appointed by the President of the Republic.

After holding sessions at Port au Prince from the 1st of March until Saturday evening, the 8th of March, the commission left on March 9, by automobile, for a trip through the northern half of the Republic, stopping at Pont Beudet, Mirebelais, Las Cohobas, and Thomonde and spending that night at Hinche. At each of the towns gatherings of citizens met the commission to present complaints and petitions.

On Monday the 10th the commission proceeded to Cape Haitien by motor, stopping at Maissade, St. Michel, Ennery, Plaisance, and Limbe. Large crowds greeted the commission, and speeches were made by the opposition leaders. At Cape Haitien the town had turned out in very large numbers, and throngs of people lined the road, displaying signs and banners. That night the commission attended a reception given by the members of the Union Club, a Haitian social organization.

The following morning hearings were held by the commission at the American Consulate and briefs were presented. A visit was also made to the sisal plantation of the Haitian Corporation of America.

The commission embarked that night on the Rochester for Gonaïves, which they reached the following morning at 8 o'clock. A large crowd with banners met them at the dock and followed them to the Hotel de Ville, where hearings were held.

The commission left Gonaïves on the Rochester at noon and arrived at Port au Prince that evening. Hearings were resumed there on the 13th and continued until the evening of Saturday the 15th. The commission sailed on the Rochester the morning of the 16th, arriving at Miami Thursday, March 20.

POLITICAL AGITATION

Announcement that President Hoover had appointed a commission of inquiry and review to proceed to Haiti was enough to excite a volatile population. When President Borno, a few days before the arrival of the commission, removed four members of the Council of State, agitators spread the rumor that this was done to afford President Borno a pliable majority in the council through which he might execute a coup d'état, electing a new president for a six-year term. The night before the commission arrived in Port au Prince, crowds thronged the streets and masses gathered in the "Champ de Mars," which might easily have become a dangerous mob. The Haitian Garde used their clubs in breaking up the crowd. The entrance of the commissioners to Port au Prince the next day was dramatic. People thronged the streets from the wharf to the hotel and remained cheering while the commission made its ceremonial calls. The crowd paraded before the hotel of the commission and displayed flags and banners calling for legislative elections and the end of the American Occupation. They were variously worded but all of one tenor: Opposition to the Borno government and the Occupation.

These banners and the crowds were clearly the work of organization. In a country with a low rate of literacy the mob is a form of political expression, and revolution, which is the mob in action, seems to be a part of the evolutionary process. Wherever the commission went in Haiti, evidence of this technique was conspicuous. The same banners—scarcely varying a word from Port au Prince to Cape Haitien—waved everywhere. Women, singing the same songs, thronged the rural highways. The same paper flags, darkened with black paper bars to indicate a state of mourning for lost liberties, greeted the commission in a dozen widely separated parts of the Republic. The same agitators were often seen in the crowds in distant parts of the Republic. Having said this, it is only just to say that the politicians of the opposition did their work so thoroughly that no counter demonstration was attempted by citizens favorable to the Borno government. It is fair to assume that public sentiment in Haiti was more responsive to the opposition than to the government.

THE ELECTORAL CRISIS

The commission found the situation in regard to the election of a new president critical. The evidence submitted to it, not only by the witnesses who appeared in the public and private hearings, but also in the reports of American officers charged with the maintenance of order, was so complete that the commission was convinced that the election of a new president by the means practiced in the last two elections, namely, by the Council of State, would not be accepted quietly by the populace. Conditions became so tense that, after discussing the matter with General Russell, the commission called in the leaders of the opposition, representing the so-called patriotic groups. After persuading these leaders to issue a note asking the public to be calm and await with patience its report, the commission suggested the possibility of the selection of some neutral, nonpolitical candidate for the presidency who would be acceptable both to President Borno and his party and also to the opposition. Serious objection was raised by the opposition leaders to any election by the Council of State which, they declared, would not be acceptable to the people. They finally assented to a compromise by which delegates elected by the patriotic groups should select a neutral candidate who would later be elected President by the Council of State.

After protracted negotiations carried on by members of the commission with the opposition, and, through General Russell, with President Borno, a definite plan was drawn up which was approved by President Hoover.

This plan provided that as soon as possible after assuming office on May 15, the temporary president would call an election of the Legislative Assembly consisting of two chambers which, when convened, would proceed to elect a permanent president of the Republic for a full term of six years, the temporary president having agreed to present his resignation at that time and not to be a candidate for election.

Five names were submitted by the opposition, of which that of Eugene Roy was accepted by President Borno. On the day preceding the departure of the commission from Port au Prince it had the satisfaction of announcing to the public and, by wireless, to Washington, that the plan providing for the election of Mr. Roy as temporary president had been accepted by both sides.

AMERICAN INTERVENTION

The reasons which impelled the United States to enter Haiti in 1915[25] are so well known that they need not be set forth in this report.

Conditions were chaotic; means of communication were largely nonexistent; the peasant class was impoverished; disease was general; property was menaced; and the debt of the government, indeterminate in amount, had risen—at least on paper—to staggering proportions.

Having landed a force of Marines, thus restoring public order and protecting the citizens of the United States and other countries from violence, the United States by treaty obtained control of a variety of governmental agencies with a view to assisting in the reestablishment of a stable government. There was not and there never has been on the part of the United States any desire to impair Haitian sovereignty.

There is no room for doubt that Haiti, under the control of the American Occupation, has made great material progress in the past fifteen years.

Indeed, the greater part of what has been done has been accomplished in the past eight years, because it was not until the disastrous and involved financial situation could be straightened out by the flotation of the loan of 1922[26] that a constructive policy could be carried out.

Peace and order were restored by the Marines by 1920 and road building was begun under Marine auspices. The essential primary steps for the reform of the administration were taken as soon as peace was restored by the elimination of banditry, but the American officials were working at cross purposes and progress was hampered. It was therefore decided to entrust General Russell, of the United States Marine Corps, who had served in Haiti almost from the beginning of the Occupation, with the duty of coordinating and directing the efforts of the treaty officials. In order that he might also have the highest civilian rank it was decided not to appoint an American Minister, and he was given the title of High Commissioner.[27] As such he is the representative of the United States near the Haitian Government.

The commission desires to record its high praise of General Russell's whole-hearted and single-minded devotion to the interests of Haiti as he conceived them, his unremitting labor, and his patient and painstaking efforts to bring order out of chaos and to reconstruct a governmental machine which had been largely destroyed by years of abuse, incapacity, and anarchy. Since the Occupation the Haitian Government, especially under President Borno, with the guidance and assistance of the American officials in its service, has a fine record of accomplishment. Eight hundred miles of highways have been built. Before the intervention the road between Port au Prince and Cape Haitien, the two principal ports and cities of the Republic, was practically impassable except on horseback. The journey of 180 miles took three days. Now it is done in six hours by automobile. A most involved financial situation has been liquidated and the entire fiscal system renovated and modernized. In a word, order has been created where there was only disorder in the collection and disbursement of the Government funds. An efficient constabulary has been organized and trained and has maintained peace and order. Few are the instances where the assistance of the United States Marines had to be called upon in the past eight years. A Public Health and Sanitary Service, which is a model of devotion and efficiency, has been organized and maintained.

Under the treaty of 1915 the assistance of the United States was not provided for in the matter of education, and it has been only recently and indirectly that the American Occupation has interested itself in this field. Since the Occupation an efficient Coast Guard has been organized, lighthouses have been built and navigation rendered much safer, agriculture has been encouraged, and hospitals, public buildings, and parks have been constructed.

Figures indicative of progress have been submitted showing an increase in the registration of automobiles in seven years from 400 to 2,800. The number of linear feet of bridges built has been multiplied by three. There has been a notable increase in the number of permits issued for private building construction and a wholesome increase in the gross trade as measured by the value of exports and imports. The automatic lighthouses have been increased from 4 to 15; telephone subscribers have increased from about 400 to nearly 1,200 and the number of telephone calls a year from about 1,000,000 to over 5,000,000.

There is attached to this report as an appendix, a series of graphs which makes it easy to visualize the notable material progress achieved.[28]

The commission was disappointed at the evidence it received by the lack of appreciation on the part of the educated and cultured. Haitians of the services rendered them by the Occupation and their own Government. Out of many dozen witnesses only one or two made favorable mention of the achievements of their administration.

It is to be hoped that the Haitian people will come in the course of the next six years to realize that an enlightened self-interest will require that this rate of progress be maintained, particularly in the matter of public health and public works, especially roads.

POLITICAL ASPECTS

Under the American Occupation—and with its consent—the legislative chambers were dissolved in 1981, and by an interpretation of a new constitution, adopted under its egis,[29] they have not since been reassembled. The country has been ruled by a President and Council of State exercising, under the direction of American officials, the legislative authority. Local self-government has also largely disappeared. The important municipalities and communes are ruled by commissioners appointed by the President. The members of the Council of State itself have been appointed and removed by him. The Council of State under the legislative authority vested in it by the 1918 constitution has exercised the powers of a National Assembly in electing the President.[30]

The people of Haiti, since the dissolution of the National Assembly by President Dartignave, have had no popularly elected representatives in control of their Government. The American Occupation has accepted—if not indeed encouraged—this state of affairs. Certainly reforms could be instituted, and governmental measures carried through more easily in these circumstances, and were.

The acts and attitude of the treaty officials gave your commission the impression that they had been based upon the assumption that the Occupation would continue indefinitely. In other words, their plans and projects did not seem to take into account that their work should be completed by 1936, and the commission was disappointed to find that the preparation for the political and administrative training if Haitians for the responsibilities of government had been inadequate.

The commission is under no delusions as to what may happen in Haiti after the convocation of the elected legislative assembly and, to a greater extent, after the complete withdrawal of the United States forces. The Government of Haiti before American intervention was, so far as the commission could learn, more democratic and representative in name than in fact. The Deputies and Senators were, the commission was informed, more often chosen by the President than elected by the people.

The commission is not convinced that the foundations for democratic and representative government are now broad enough in Haiti. The educated public opinion and literate minority are so small that any government formed in these circumstances is liable to become an oligarchy. The literate few too often look to public office as a means of livelihood. Until the basis of political structure is broadened by education—a matter of years—the Government must necessarily be more or less unstable and in constant danger of political upheavals.

TREATY RELATIONS

The commission is of the opinion that the progressive steps looking toward the withdrawal of the assistance now being given by the American Occupation should be taken on the theory and understanding that the present treaty will remain in force until 1936, it being understood that such modifications as circumstances require and the two Governments agree upon may be made at any time. It is too early to suggest in what form the American Occupation should be liquidated upon the expiration of the treaty or in what form such further aid and assistance as the Haitian Government might desire from the United States should be provided. This can be more wisely decided in the light of the experience of the next few years.

The question of the withdrawal of the marine Brigade which acts as a stabilizing and supporting force in the preservation of order, is one which the commission has carefully considered. Very little complaint was heard of the presence of the Marines except as they formed part of the American Occupation. They are not much in evidence. All except about one hundred and fifty are stationed in Port au Prince; the rest are at Cape Haitian. The commission considered the question of removing the Marines from these two centers and putting them in barracks a short distance from these cities, but concluded that this was impracticable and unwise. The commission recommends the gradual reduction of the Marine Brigade if and as in the judgment of the two Governments, the political situation warrants. No reduction of the Marine Brigade should be made without consultation with the commandant of the Garde. It should also be remembered that in case of riots and uprisings this force might be necessary to protect the lives of American families, both private and official, and of foreigners residing in Port au Prince and other cities.

The money spent in Haiti by the Marine Brigade, consisting, as it now does, of about eight hundred officers and men, is an important factor in the economic life of the country, especially in the present depression of trade. The expense of the Marine Occupation is borne entirely by the United States Government.

LAW AND ORDER

By article 10 of the treaty the Haitian Government is obligated to create a constabulary, composed of native Haitians and organized and offered by Americans, for the preservation of domestic peace, the security of individual rights, and the full observance of the treaty.

It is also further provided that these American officers will be replaced by Haitians as they are found qualified by examination conducted by a board to be selected by the senior American officer of the Constabulary (Garde) and in the presence of a representative of the Haitian Government.

These treaty provisions have been supplemented by agreements between the two Governments (known as the Gerdarmerie Agreements) fixing salaries, duties, etc. In addition to their police duties, district and subdistrict commanders of the Garde have also been charged with the duty of communal advisers in connection with the collection and disbursing of the communal revenues and have charge of the Coast Guard and lighthouses.

It is obvious that after the withdrawal of the American forces, the orderly functioning of the Haitian Government will depend in large measure upon the efficiency and discipline of the Garde.

The primary and principal duty of the Garde—the maintenance of law and order—has been well and conscientiously performed. The replacement of American officers of the Garde by Haitians, contemplated by the treaty, has not been carried out, however, as rapidly as, in the opinion of the commission, it should have been done. There is not now and there never has been a Haitian officer of the Garde above the grade of captain. There are now but 2 Haitian captains on duty with troops out of a total of 23, 17 Haitian first lieutenants out of a total of 58, 19 Haitian second lieutenants out of a total of 57, and 28 aspirant officers (cadets), all of whom are Haitians.

At the request of the commission the commandant of the Garde has submitted tables (see Appendix, Tables Nos. 1 and 2) showing the program now proposed by the High Command for the progressive Haitianization of the Garde over the period from 1930 until 1936. It should be noted that these plans have not yet been approved and ordered to be put into operation.

The commission believes that no change in the treaty or the Gendarmerie Agreement nor increase in the funds voted for the Garde, is necessary to effect a more rapid Haitianization. The commandant of the Garde testified that American officers serving with the Garde could be transferred back to the Marine Corps at any time to make room for the promotion of Haitians, and this should be done where vacancies occurring in the ordinary course are not sufficient to give the opportunity for a faster promotion of Haitians.

Notwithstanding the fact that there are a number of American noncommissioned officers serving as company officers in the Garde who have rendered fine service for from eight to fourteen and one-half years, not one of them has ever been promoted above the grade of captain in the Haitian Garde. The commission believes that some of these men are at least as well fitted by training and experience to be promoted to field rank as Marine officers who have not had their experience in Haiti.

The Haitianization program rests with the Navy Department and Marine Corps headquarters in Washington, which can, by recalling the Navy and Marine officers on service with the Haitian Garde, make room for the promotion of Haitians. The selection of the officers recalled and promoted should be left to the commandant of the Garde in Haiti. Even if discipline and efficiency suffer temporarily, the commission feels that they will undoubtedly suffer more by delaying this reform.

The Ecole Militaire, temporarily closed at the end of last year, is an important factor in the training of Haitian officers, and it should be immediately reopened and should receive support from now through the period of American control.

The commission believes that when the Garde is Haitianized it would be advisable that some provision be made for orderly promotion and retirement and for protection against promotion by political influence.

THE FINANCIAL SITUATION

The financial achievement of the American administration is noteworthy. A modern and up-to-date budgetary system has been established with preaudit, which is one of the latest and most effective devices for accurate, economical, and expeditious management of accounts.

Some witnesses who appeared before your commission criticized the financial management of the Government and even went so far as to charge improprieties in connection with it. Many complained that they were kept in ignorance as to how their money was collected and how spent. This shows that they had not read the careful reports issued by the Financial Adviser in both English and French. Nor did any of the witnesses mention the fact that six auditors from the United States Comptroller's Office had made a thorough analysis of all accounts of the Government, which were found correct except for certain very minor errors and adjustments, since rectified.

The revenues and expenses have been carefully balanced with a conservative margin of revenues in excess of expenditures, resulting in a steadily increasing treasury surplus. (See Appendix.)

The Service of the Public Debt has been cared for and several million dollars of the principal thereof paid off out of revenues in excess of the amount called for by the amortization plan. The wisdom of this course is open to question; it might have been better to have reduced the taxation, especially the export tax, and left the debt to work itself out during its normal term, thus keeping more money in the country where experiences has shown it was badly needed.

Little by little the American Occupation has extended its intervention in the financial operation of Haiti, until 50 per cent of the revenues are now expended under American supervision, including the Service of the Public Debt.

The commission believes that the 5 per cent maximum allowed out of the Government revenues to cover the cost of the General Receivership should not be considered a flat allowance, but a limitation within which the receiver must operate. The commission recommends that appropriations disbursed by the twenty services in Haiti should be budgeted with the same detail as are the appropriations for the regular public services of the Haitian Government.

HEALTH AND MEDICAL RELIEF

At the time of the American Occupation in 1915, it has been estimated, fully 70 per cent of the people of Haiti were afflicted with dangerous and incapacitating diseases; yaws and syphilis were prevalent. Except for a little aid in a few of the towns no relief was available. In the country districts the population suffered without knowing that remedies could be had. The doctors of the country showed no willingness to bring relief to remote places. To-day, thanks to an efficient United States [Navy] Medical Service, there are 153 rural clinics to which 1,341,596 visits were made in 1929. The few inefficient hospitals were rebuilt and new ones established so that there are now 11 modern hospitals with a capacity of over a thousand beds, where before there were only a few hundred of the alms-house type.

In Haiti practically the entire burden for medical care falls upon the Government. Private hospitals and volunteer aid are almost entirely lacking.

LACK OF CENSUS

It is greatly to be regretted that no census was available in 1915 which would have made possible an accurate measurement of benefits that have been conferred by the American Occupation. There are, however, census figures for small groups made by the Rockefeller Foundation in 1924 which justify the belief that an unquestioned benefit has resulted to the health and well-being of the people of Haiti.

MALARIA

Malaria has sapped the vitality of the population for several centuries and has had an important influence in retarding agricultural development. With the advent of the American Occupation modern measures for the control of the diseases are being invoked as rapidly as the resources permit. Much progress has resulted. Port au Prince and other large towns are now practically free of the disease, and there is little likelihood of controlling it. In many rural areas malaria is being brought under control, but much remains to be done which will probably have to wait until the economic conditions improve.

OTHER DISEASES

There are not sufficient data to judge of the importance of tuberculosis. The records of the Gendarmerie show that the incidence of the disease is very high. In 700 autopsies at the General Hospital of Port au Prince 26 per cent of the deaths were due to tuberculosis. On the other hand, hospital experience in many places shows a small admission rate.

Typhoid fever, which has a high rate in Port au Prince, has been nearly eliminated by chlorinating the water supply. According to recent records there is a remarkable relative freedom from many diseases. The great waves of dysentery that sweep over tropical countries and are responsible for so many deaths have not occurred in Haiti for many years.

Hookworm causes very little serious disability. Diabetes and stones of the gall bladder, kidney, and urinary bladder are rare. Heart disease and pneumonia are relatively unimportant,.

MALNUTRITION

No one need go hungry in Haiti. Mangoes, yams, rice, beans and other products of the soil occur in abundance and can be had with a minimum of effort

There is a however much reason to believe that the diet is deficient in proteins. In other words there is a great lack of eggs, milk, meat, and other food that contain substances that are essential to a balanced ration

In the past there have been serious outbreaks of disease due to improper nourishment. Owing to the dense ignorance which prevails, public-health education is difficult.

PROFESSIONAL TRAINING

After the Occupation it soon became obvious that if health and medical effort were to be successfully continued by Haitians, means must be provided for adequate training. A nurses' training school was started at the Port au Prince General Hospital which has produced nearly one hundred graduates, many of whom are already rendering excellent service throughout the country. Practical courses are in operation for training laboratory technicians. Hospital-corps men for the Gendarmeric are trained by its medical officers and the General Hospital.

Upon the recommendation of the Navy Medical Service the antiquated inefficient medical school was transferred to the National Public Health Service and appropriations secured for proper buildings and maintenance of essential services. A philanthropic organization of the United States donated equipment and provided fellowship to train Haitian doctors to become teachers of modern medicine.

In 1929 a modern health center was started in Port au Prince. This not only demonstrates the benefits of health measures but also serves as a training base for health workers. A Haitian graduate nurse is now at Columbia University, N.Y., for special training in public health and is soon to return to open classes for nurses in the same subject at Port au Prince.

The direct and indirect effect of these measures is everywhere apparent. Four of the 10 health districts are now in charge of Haitians, and others are to follow as rapidly as trained personnel becomes available. Briefly, there are 2,225 persons employed in the National Public Health Service, of which 2,120 are Haitians. The balance is made up of 20 Naval medical officers, 14 Navy hospital-corps men whose salaries are paid by the United States, 63 French Nuns, 2 French Priests, 4 American Red Cross Nurses, 1

French librarian, and 1 Jamaican plumber. Of the 159 Haitian doctors in the country 40 percent are employed in the Government service.

GENERAL DEDUCTIONS

There is abundant evidence that great improvement has taken place in the health of the people since the Occupation. The National Public Health Service enjoys the confidence and approval of the public to an unusual degree. The streets of the towns are well swept; garbage and refuse are removed; slaughter houses are inspected; and an earnest effort made to control soil pollution and to provide safe drinking-water. The Gendarmerie has a good medical service. The jails are clean and sanitary, and the average health of the prisoners has been greatly improved. The hospitals are well administered, and high-grade medical and surgical skill is provided. Machinery is available for the control of epidemics and to prevent the introduction of disease from abroad. Medical relief through the vast rural clinic system can be had by everyone, even in the most remote sections of the country. Diagnosis based on laboratory findings is available for all necessary cases. The health and medical work has been directed and largely done by the United States Naval medical officers, ably assisted by Haitians and the French nuns.

Steps have been taken to provide training to enable Haitians to take over the entire National Public Health Service. In view of the importance of building up the disease-weakened Haitian people, it is recommended that it be made possible for the Government of Haiti to avail itself of United States Naval medical officers to serve as advisers after the present treaty expires. It might also be desirable to employ a few American medical men other than naval officers to insure longer tenure and continuity of service. In the meantime the assignments of the United States Naval medical officers and hospital-corps men should be lengthened, so that the experience gained in language, customs and conditions may be available to the people of Haiti for the greatest possible period.

Unless these steps are taken, it is feared that the Medical Service may deteriorate and that ground will be lost which has been won with so much sacrifice and effort.

THE STATE CHURCH IN HAITI

The relations between the Roman Catholic Church and the Government of Haiti since 1860 are governed by a concordat. Two additional conventions entered into respectively in 1861 and 1862 and a statute referred to as the "Loi des Fabriques" provide for the carrying out of its terms.[31] There is no confusion of civil with ecclesiastical authority; there is no union of church and state, as the term is generally understood. The Government of Haiti, believing that the church and religion are essential to the well-being of the Haitian people, agrees to cooperate with the clergy and makes provisions to subsidize the church; and the church undertakes to establish parishes and missions throughout Haiti and to establish, in the words of the concordat, "those orders and institutions which are approved by the Catholic Church," including schools, hospitals, asylums, orphanages, etc.

The clergy, which came to Haiti in 1864, consisting of an Archbishop, a band of 40 Priests, and a small group of Brothers and Sisters, found religion in a lamentable condition; everything still had to be done. With but one exception, every church building in Haiti has been constructed since 1860.

Now, at the beginning of 1930, the organization of the church is as follows:

There are one archdiocese and four dioceses corresponding to the five departments which constitute the political subdivisions of Haiti. These dioceses with their respective populations as furnished by the church authorities, are as follows:

	population
Archdiocese of Port au Prince	942,700
Diocese of Cape Haitien	453,000
Diocese of Aux Cayes	628,000
Diocese of Gonaïves	475,000
Diocese of Port de Paix	153,400

These population statistics are based on the statistics of births covering more than fifty years and are probably the most accurate estimate available.

At the head of each diocese there is either an Archbishop or a Bishop.

There are in all 205 Priests in Haiti; of these 156 are secular Priests engaged in active mission work, and in charge of parishes. All parishes in the diocese of Port de Paix and two in Port au Prince are in charge of regular clergy. The others are doing educational work or are engaged in other special services connected with the dioceses. Eight of the Priests are Haitians.

There are 105 Brothers of Christian instruction (83 French, 10 French-Canadian, 9 Spanish, and 3 Haitian).

There are three congregations of Sisters as follows:

St Joseph de Cluny, with 146 Sisters.

Les Filles de la Sagesse, with 198 Sisters.

Les Filles de Marie, with 22 Sisters.

The Priests, and especially the Brothers and Sisters, have devoted themselves, with such inadequate resources as they have had, not only to the spreading of religion, but to the founding of schools, parish churches, and mission chapels. The Brothers at present conduct seventeen boys' schools in the larger centers and rural districts and the Sisters have an even greater number of girls' schools and primary schools for both boys and girls.

By a law of 1913 the Priests were authorized to establish rural schools usually referred to as "presbyteral schools." The Filles de Marie are especially devoted to vocational and industrial education and to the preparation of teachers for the presbyteral schools.

The church institutions in Haiti are as follows:

112 parishes, usually one in each commune and several in the larger centers.

465 mission chapels

153 presbyteral schools, with 10,623 pupils. These schools are all taught by lay teachers, generally women who receive a salary of about $6 United States currency per month. They are the foundation of the educational system of Haiti and deserve more generous support.

17 Brothers' schools with 6,731 students; the instructors are about half Brothers and half laymen and receive salaries from the Government averaging considerably less than $40 per month. The Brother Superintendent, who is responsible for the supervision of these schools, receives a monthly salary of $100.

4 colleges with a total attendance of about 2,500.

36 Sisters' schools.

1 girls industrial school conducted by the Belgian Sisters and under the Service Technique of the Department of Agriculture.

The Haitian Government subsidizes a seminary in France for the special training of missionaries for Haiti. At Port au Prince there is a seminary for the training of Haitian Priests.

JUDICIAL PROCEDURE

Friction between the Haitian courts and the American treaty officials has arisen at various times because, on the one hand, the courts have refused to enforce or have obstructed the execution of certain administrative measures and because, on the other, the treaty officials have refused to obey the order of the court on the ground that the treaty is the law of the land and its observance and the agencies set up by it can not be obstructed or interfered with by the judiciary. The question raised is delicate but goes to the heart of our treaty relations with Haiti, and the commission recommends that in case of future conflict of authority on this score the matter be settle by direct and friendly negotiations between the two Governments.

The unsatisfactory administration of Haitian justice and the necessity of reform of the system with more adequate salaries and more modern methods, was pointed out to the commission but as this is a matter for the Haitian people themselves to decide, the commission feels it is without its province to express any opinion. If a stable government is to be assured after the withdrawal of the Occupation, the question of the judiciary should receive careful consideration.

CONSTITUTION

Much complaint was made to the commission of the manner (by plebiscite) in which the present constitution of Haiti was adopted in 1918 and amended in 1928[32]—and especially of the manner in which the present Government of Haiti interpreted its provisions relating to the powers of the Council of State.

One accusation persistently brought against the American intervention concerns the inserting in the constitution of 1918 of an article granting to foreigners the right to take title to Haitian land. It is evident that the change has produced much irritation and suspicion. From the inception of the Republic in 1804, the Haitian had consistently excluded foreigners from owning real property, and in the face of such a tradition it was unfortunate to have had the land policy altered under American auspices. The commission recommends, in case the Haitian people desire to amend this provision, that our Government make no objection thereto, merely limiting itself to seeing that rights and titles acquired under the present constitution—which are comparatively few—be respected. The commission found no instance of undue advantage having been taken by Americans of the clause enabling foreigners, under certain restrictions, to acquire real estate.

RACE PREJUDICE

Race antipathies lie behind many of the difficulties which the United States military and civil forces have met in Haiti. The race situation there is unique; the Negro race after more than a century of freedom has developed a highly cultured, highly sophisticated, race-conscious leadership. This group, which is proud to be known as the "Elite," forms the governing class. It is an urban group, comprising a very small proportion of the population, probably less than 5 per cent, generally mulatto but shading from octoroon to black, and because it is educated, comparatively wealthy and highly privileged with leadership, this class is as careful in maintaining its caste distinction as any other ruling class. Their language is French. Their Catholicism is French. The masses of Haiti are poor and ignorant. Generally speaking, they are of pure African descent. Illiteracy keeps the peasant masses politically inarticulate, except in case of mobs or bandit gangs, which formerly infested the countryside and often furnished the forces of revolution. These bandit gangs have been broken up and have disappeared under American rule, but the social forces that created them still remain—poverty, ignorance, and the lack of a tradition or desire for orderly, free government. It has been the aim of the American Occupation to try to broaden the base of the articulate proletariat and thus make for a sounder democracy and ultimately provide for a more representative government in Haiti. Hence its work in education, in sanitation, in agencies of communication such as roads, telephones, telegraph lines, and regular mail routes. These things naturally are deemed of secondary importance by the Elite, who see in the rise of a middle class a threat to the continuation of their own leadership.

The failure of the Occupation to understand the social problems of Haiti, its brusque attempt to plant democracy there by drill and harrow, its determination to set up a middle class—however wise and necessary it may seem to Americans—all these explain why, in part, the high hopes of our good works in this land have not been realized.

RECOMMENDATIONS

The personnel of some of the services are officers selected from the Navy and the Marine Corps. The commission finds certain inherent difficulties in this connection. Naval officers are detailed for a period of three years; it takes two years to learn the language and to become familiar with conditions, and it is obvious that men subject to such short details could not, in the nature of things, be the most efficient.

The commission recommends:

(1) That the detail of Naval and Marine officers for all Haitian services be made for a minimum of four years and that an effort be made to secure Americans who will agree to continue employment in these services, so that upon the expiration of the treaty a force of American doctors, engineers, and police officers will be available for continued assistance to the Haitian Government, should it then desire it;

(2) That, if possible, some form of continuing appropriation for roads be urged for expenditure by the Haitian Government, with a policy that will provide enough funds to keep all existing roads in suitable repair before any new construction is undertaken; also, in regard to further construction, that only roads most urgently needed to develop regions now settled and under cultivation be undertaken until the present economic depression has passed;

(3) That the United States interpose no objections to a moderate reduction of the customs duties, internal revenue taxes, especially those imposed upon alcohol and tobacco, or to a reduction or elimination of the export tax on coffee, if the condition of the Treasury so warrants;

(4) That it be suggested to the Haitian Government that it employ one American adviser in each administrative department of the Government to perform such work as the respective Cabinet Minister may delegate to him, these officers to give expert advice and assistance to the Haitian Government, similar to that given by American officers in China, Siam, and Nicaragua, for naval matters in Brazil, and for educational matters in Peru;

(5) That, as an act of graciousness on the part of the United States, a moderate appropriation be made available during the continuance of the treaty to defray the cost of American civil officials in the Haitian Government service;

(6) That an appointment of a military attaché be made to the Legation when the time shall arrive for a Minister to replace the High Commissioner, as the question of the preservation of order is of first importance and the Minister should have the advantage of his advice on military and police matters;

(7) That an adequate Legation building be constructed immediately by the Government of the United States in the city of Port-au-Prince to provide a suitable residence for the American Minister and appropriate offices.

SEQUENT STEPS

Complying with your instructions to suggest sequent steps to be taken with respect to the Haitian situation your commission offers the following:

(1) That the President declare that the United States will approve a policy, the details of which all the United States officials in Haiti are directed to assist in working out, providing for an increasingly rapid Haitianization of the services, with the object of having Haitians experienced in every department of the Government ready to take over full responsibility at the expiration of the existing treaty;

(2) That in retaining officers now in the Haitian service, or selecting new Americans for employment therein, the utmost care be taken that only those free from strong racial antipathies should be preferred;

(3) That the United States recognize the temporary President when elected, provided the election is in accordance with the agreement reached by your commission with President Borno and the leaders representing the opposition;

(4) That the United States recognize the President elected by the new legislature, acting as a National Assembly, provided that neither force nor fraud have been used in the elections;

(5) That at the expiration of General Russell's tour of duty in Haiti, and in any such event [not?] before the inauguration of the permanent President, the office of High Commissioner be abolished and a non-military Minister appointed to take over his duties as well as those of diplomatic representative;

(6) That whether or not a certain loss of efficiency is entailed, the new Minister to Haiti be charged with the duty of carrying out the early Haitianization of the services called for in the Declaration of the President of the United States above recommended;

(7) That, as the commission found the immediate withdrawal of the Marines inadvisable, it recommends their gradual withdrawal in accordance with arrangements to be made in future agreement between the two Governments;

(8) That the United States limit its intervention in Haitian affairs definitely to those activities for which provision is made for American assistance by treaty, or by specific agreement between the two Governments;

(9) That the new Minister be charged with the duty of negotiating with the Haitian Government further modifications of the existing treaty and agreements providing for less intervention in Haitian domestic affairs and defining the conditions under which the United States would lend its assistance in the restoration of order or maintenance of credit.

Respectfully submitted,

W. CAMERON FORBES.
HENRY P. FLETCHER.
ELIE VEZINA.
JAMES KERNEY.
W.A. WHITE.

FOOTNOTES

[24] See Department of State, Latin American Series No. 5; *Report of the United States Commission on Education in Haiti* (Washington, Government Printing Office, 1931).

[25] See *Foreign Relations*, 1915, pp. 461 ff.

[26] See *ibid.*, 1922, vol. II, pp. 472, 515.

[27] See *ibid.*, pp. 461 ff.

[28] For the appendix, see Department of State, Latin American Series No. 2, *Report of the President's Commission for the Study and Review of Conditions in the Republic of Haiti* (Washington, Government Printing Office, 1930).

[29] Constitution of 1918, *Foreign Relations*, 1918, p. 487; amendments, *ibid.*, 1927, vol. III, p. 48.

[30] See article D of title VIII, transitory provisions, Constitution of 1918, *ibid.*, 1918, p. 502.

[31] See Hannibal Price, *Dictionnaire de Législation Administrative Haitienne (deuxième édition)* (Port-au-Prince, Haiti, Imprimerie Chéraquit, 1923), pp. 441–447 and pp. 152–160.

[32] See *Foreign Relations*, 1927, vol. III, pp. 48–77, especially footnote 20, p. 77.

USA ANNUAL SHAREHOLDERS' REPORT

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. HORN. Mr. Speaker, today the Citizens for Budget Reform, based in Rockville, MD, has released its annual "Shareholders' Report" to all citizens of our country. Some very useful questions have been raised by Dr. Harrison W. Fox, Jr., the president of Citizens for Budget Reform. As with any analysis of our $1.5 trillion budget, reasonable people—myself included—might disagree with a recommendation here or there. But important questions are raised and should be carefully considered by the relevant authorization and appropriations committees as well as the Committee on Government Operations in the 104th Congress.

Mr. Speaker, I submit an abridged version of the Annual Shareholders' Report prepared by Dr. Fox for the RECORD.

CITIZENS FOR BUDGET REFORM'S USA ANNUAL SHAREHOLDERS' REPORT: ABRIDGED VERSION

As most United States citizens already know, the Federal Government is not well.

The symptoms include an ever increasing national debt, runaway promises (liabilities), unfunded mandates and widespread program failures. Our US debt is increasing at hundreds of billions of dollars per year. Federal promises are increasing ten (10) times faster than the debt—at more than $3 trillion per year. Citizens are not getting full value for the $1.5 trillion spent, each year, as hundreds of programs have failed. And Federal mandates are costing State and local governments, individuals, companies over $600,000,000,000 ($600 billion) per year. Federal spending and mandates consumed over $2,000,000,000,000 ($2 trillion) in 1994—a third of GDP.

The Prescription—Are there solutions? Yes! First, each Federal government program must be reviewed. Those that are not performing well should be abolished or modified. All Federal promises (liabilities) should be reconsidered annually. Many promises will not be met without massive tax increases and/or sale of "excess" Federal assets.

Federal mandates should be evaluated on a cost/benefit basis. Only those improving our quality of life should be maintained. Finally, the Federal budget and management toolbox must be filled.

This Report is divided into seven parts: the balance sheet, the USA Federal budget, Federal mandates, the Federal $ Chain, Road Map/Tool Box, Options, and auditor's opinion.

BALANCE SHEET

Balance sheets give snapshots of a person or corporation's financial status. They are expected to show the balance between assets (things of value) and liabilities (promises made).

Federal assets include cash and monetary assets; gold; accounts receivable; inventories; loans receivable; property, plant, and equipment; International organization investments; deferred retirement costs; financial assets; and the largest asset by far—the power to tax.

Federal government liabilities are the national debt and yearly deficit; national debt interest; entitlements; insurance; loan and credit guarantees; Government Sponsored Enterprises; medical programs; needed infrastructure repairs; facilities/resources future costs; Federal bill for environmental cleanup; claims against the Federal government; long-term contracts; and other contingencies.

If the Federal government were a business, it would be bankrupt? Whether it is or not, a change in Federal financial management must begin soon. Corrective legislation must be designed by Congress and signed by the President. Then rules and regulations must be implemented by appointed and career government managers. This will only occur after citizens demand that it happen, removing those that stand in the way.

Assets of the Federal government include hard assets and other assets. The power to tax is the most vital Federal government asset. The power to tax is only as good as citizens' willingness to pay Federal taxes. The Power to Create Dollars value is attributed to seigniorage and US dollars circulating in foreign lands. The Power to Borrow has resulted in a $4.6 trillion national debt.

Federal governments hard assets plus (+) power to tax plus (+) power to create money plus (+) power to borrow equal (=) Total Assets $17,429,506,666,667 ($17.4 trillion).

Federal government liabilities include fourteen categories of promises that must be met by the taxpayers. Since 1991 Federal government recognized liabilities have increased by over one hundred percent (100%). This translates into $20 trillion in additional Federal "promises" to pay. Total Federal liabilities include $36,195,322,759,998 ($36.2 trillion) in promises.

USA FEDERAL BUDGET

Today's Federal budget is created by four (4) processes—the House and Senate budgets, authorizations, appropriations; and the President's budget.

If you are confused how the Federal budget process works, you are not alone, members of Congress and high level executive officials are sometimes confused, too.

Put yourself in a newly elected Congressperson's shoes. You are called on to make hundreds of Federal spending votes each year. Would you be comfortable not knowing: how many programs there are; how each program is performing; the legislative details (most members never have access to or the time to read bills or reports before being asked to vote); the program's mission, goals, and objectives; what the benchmarks for the future are; how the program will increase or decrease promises (liabilities); and if the program increases individual, corporate, and/or State and local government regulatory costs or creates unfunded mandates.

Of course you would not be very happy having to make spending and income votes not knowing the basic facts and money involved. The complex budget process combined with little systematic information is a sure formula for Federal spending disaster.

The Federal government's has 31 ways to spend money—divided into six major categories.

The President's and Congressional budgets are virtually identical twins—differing by less than a few percent. The differences are a billion here and billion there but pretty soon it adds up to real dollars.

Federal budget expenses (outlays) priorities have changed over the last 14 years. The big gainers have been interest payments, Social Security, and Medicare. The losers are domestic programs, required (mandatory) spending other than Social Security and Medicare, and defense.

Changing budget priorities in the 1980s and 1990s have highlighted increasing medical, Social Security, and interest costs. Other major spending challenges, for the rest of the 1990s, include controlling Medicare and Medicaid while at the same time stabilizing interest costs.

The Federal spending process is like a four color marble cake. The Congressional authorization, appropriations, and budget processes swirl around the President's budget. The complexity and lack of openness make for a barely understandable Federal budget.

Little sunshine penetrates the spending process in the Congress and the Executive branch. Autocratic senior appropriators in the Congress and the historically closed Presidential budget building procedures both mitigate against an open substantive debate.

The President builds his budget within the closed confines of the Office of Management and Budget (OMB). Departments and agencies submit their spending requests to OMB and by January 1 the President's budget is all but complete. The President's budget is released in early February for the fiscal year beginning the next October. The Congress takes over with the Budget Committees developing a Congressional Budget which should be approved by April 15. Throughout the year authorization committees approve legislation establishing spending ceiling for specific programs. By early summer, the 13 Appropriations subcommittees begin developing spending legislation. These spending bills should be approved and signed by the President before October 1. For all appropriations bills not approved by October 1, a continuing resolution must be completed and signed by the President.

Federal programs are the heart of the United States' budget. But no one knows how many programs there really are! Citizens for Budget Reform estimates that there are 2,500 Federal programs including 200 housing programs, 81 means tested welfare programs, over 145 education programs, at least 135 jobs and training programs, dozens of health programs, and many small business, rural, and economic development programs.

For many Federal programs a mission statement, goals, objectives, and benchmarks are nonexistent or ill defined. Few have in place performance and evaluation measures. Just getting information about a program is often a gigantic chore. Those questions go unanswered—how well are the 2,500 Federal program is often a gigantic chore. These questions go unanswered—how well are the 2,500 Federal programs performing?; where do overlaps occur?; how productive are Federal managers?; and how effectively are taxpayers dollars being spent? The technology—management information systems; performance, evaluation and quality measures; and financial and performance audits—is available to answer these questions.

The system is at fault. The Congress and the Presidency have not sought to use the many new technologies. Well meaning Federal managers, lacking a full tool box, have little hope of running a successful program. What is urgently needed?—the application of modern management, accounting, finance, and economic technologies. The "currency of government"—federal managers and workers—must be given more control of day-to-day operations. The Congressional and executive branch focus needs to be on outcomes and results not program micromanagement.

Good tax law should be simple, efficient, neutral, and equitable. Current tax law is rife with complexity, inequities, inefficiencies, bias, and unjustified burdens.

Even tax attorneys, who often spend a career studying the tax code, admit that they know little about most of the tax law.

Over 81 percent of Federal revenues comes from individuals. Individuals pay income taxes (44 percent) and social insurance taxes/contributions (37 percent). Corporations pay more than 10 percent. The remaining 9 percent is collected through excise taxes, duties, and other receipts.

As the Federal Tax system has grown more complex and inequitable, tax avoidance (both conscious and unknowing) has risen. One of the major reasons for a complete overhaul of the tax system is to take the guesswork out of paying taxes. A tax system that is fair, efficient, neutral, and easy to comply with is a tax system that will collect more taxes. Increasing collections, with spending restraint, should reduce the effective rate that individuals and corporations pay.

The federal government is empowered to tax, thus generating income. The power to tax was greatly enhanced by the passage, in 1913, of the 16th amendment to the Constitution. This amendment allowed progressive taxation of personal and corporate income.

Only the very rich were taxed originally. A rate of 1 percent was imposed on those earning over $3,000. This captured just 2 percent of wage earners. During World War I, income taxes became mass not class taxes. Tax rates have ebbed and flowed over the years with significant tax decreases occurring during the Coolidge, Kennedy, and Reagan administrations.

Today, the United States is at a tax system crossroads. Will the path of least resistance be taken? Maintaining failed programs, protected by special interests, is the easy path. With increased spending demands, this easy path leads to tax increases. The more difficult path includes both program and tax system review. Our tax system reflect the goals of society. Review of these goals will serve as a guide to the "higher" road.

Tax expenditures are really decisions to spend money. They are akin to entitlement (mandatory) spending in that they are generally permanent. This means they are rarely reviewed by Congress and the President.

Lobbyists love tax expenditures. Once "on the books", they don't have to worry about yearly budget approval. In fact, many think that tax expenditures are better than Federal spending because "you don't have to wait for a government check."

FEDERAL MANDATES

Unfunded Federal mandates are Congress' way of legislating for "needs" that they don't want to pay for. Federal mandates include both regulatory and paperwork costs.

Most mandates are legislated in an attempt to resolve a problem. Few would question the need for clean water and pure air. Unfortunately, the Federal government, in seeking to meet needs, often places the financial burden on other governments, citizens, and business.

State and local governments are subject to nearly 200 Federal mandate laws. These include requirements that States match Federal Medicaid funds, (over $60 billion), and that cities' conform to the Clean Water Act ($3.6 billion).

THE FEDERAL $ CHAIN

The Federal $ Chain is seventy-five years long. It begins with the today's taxes paid by each citizen and ends with the Social Security promise to the 18 year old just entering the workforce who will live to be 93 years old.

Federal $ Chain links are critical to each other. Weak links limit the capability of the Federal government to meet needs, pay for promises, and perform at peak efficiency.

Today, the Federal government's elected representatives, mangers, and the President focus almost exclusively on this years' income (revenues) and expenses (outlays). Little consideration is given to long term promises and how they will be paid for.

Promises have been made to fund entitlements (mandatory spending) such as Social Security; government workers pensions; and welfare benefits. These promises total nearly $15,000,000,000,000 ($15 trillion). This is 41 percent of the Federal government's long term liability.

The national debt is the direct link between long term promises (liabilities) and income and expenses. Since 1969, Federal expenses have exceeded income. Thus each year for the last quarter century the national debt has increased.

ROAD MAP

Where are we headed? Without a road map the Federal government is destined to end up in the ditch. Our Federal government needs a new map and the tools to fix problems and fine tune successful programs.

The USA Federal government's road map should be simple, equitable, as well as efficient and effective.

Citizens deserve equitable Federal action. Legislation and regulations, today, are often unfair. Taxpayers, welfare recipients, veterans using Federal health facilities, and small businesspersons all feel the burn of unequal treatment. This must change.

The Federal government's road map must direct us to "the right kind of law and the right kind of administration of the law."

"Right laws" must be founded on the values of the American people. And to make sure that laws give the right directions, goals, objectives, and benchmarks must be laid out on a priority basis.

The "right kind of administration of the law" will help each Federal government program "arrive" with the right results. Today, most Americans know that much of what the Federal government does is inefficient and ineffective.

The course must be corrected by utilizing the latest in Asset/Liability management tools, budgeting and accounting procedures, evaluation and measurement.

THE TOOL BOX

Federal government programs can be fixed with the right tools. The top 10 tools are identified. A sample of these include Government Asset/Liability Management; Capital Budgeting, and Financial and Performance Audits. Furthermore, the tool box that accompanies the road map must be filled with the instruments that will promote Federal program efficiency and effectiveness.

OPTIONS

The future solvency of the Federal government is dependent on the actions that will correct today's problems. This Report has identified four major problems too many promises, program failure, budget and tax system inadequacy, and unfunded mandates.

Too many promises has lead to an over $36 trillion Federal liability and myriad program failures. The Federal budget and tax systems contribute to the growing federal debt. And unfunded mandates reduce the tax base.

Our Federal government needs a total overhaul. Little changes will not solve the many problems that we are faced with. Congress and the President must change the way they do business. The taxpayers must become more informed and give support to a higher level of debate and more efficient and effective Federal government.

Seventeen (17) Options are presented in three categories—Information and Management; Tools, Strategy and Programs; and Institution and Process Reform. These Options include: Federal government assets and liabilities should be in balance by 2004, Federal managers should be given more control over program decisions and allocation of resources, Federal programs should be consolidated and reduced by at least 50 percent, The Federal budget process needs to be simplified, and Congress should reform itself.

Your support, along with other citizens, for a more efficient and effective government is greatly appreciated.

Tables, graphics, definitions, footnotes, and the detailed Federal Balance Sheet—with over 100 lines—are included in the unabridged USA Annual Shareholders' Report.

Citizens for Budget Reform is working to arm Citizens with knowledge weapons to attack government program failure. The Federal government's increasing promises and debt, as well as program failures, led a group of taxpayers to establish Citizens for Budget Reform (CBR) in December 1992. CBR's major goal is to encourage informed debate about government performance and appropriate Citizen action. CBR is developing and distributing tools that enhance the ability of Citizens and their representatives to make changes in the way Federal, state, and local governments budget, measure performance and productivity, execute program review and evaluation, make expenditure decisions, develop tax policy; and account for and manage programs.

CBR plans to grow steadily by: Producing the USA Shareholders' Annual Report (First release, Fall 1994); presenting a Productivity Report for Federal government (First release, Spring 1995); constructing a Federal Budget Information System (First release, Fall 1995); and providing Citizens and their representatives access to econometric and tax models, program review and evaluation tools, debt and deficit statistics, policy analysis, regulatory mandates, and paperwork burdens (Phased, 1995 to 1998).

TRIBUTE TO JOHN GIANAROS

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. BILIRAKIS. Mr. Speaker, I rise today to congratulate and pay tribute to Mr. John Gianaros, a resident in my district, for receiving the Florida Folk Life Award. For over 60 years, with his 50-pound accordion, John has put to music the rich heritage and the day-to-day experiences of all Greek-Americans.

In an August 8, 1994, article published in the St. Petersburg Times, John was quoted as saying, "I fell in love with first my music, then my wife." John is now 90 years old and has been married for 62 years—and although he now only takes the 50-pound accordion out of its case on special occasions, he still plays it just as he did on the day he first went on the road in the 1930's.

His wife, Helen, says, "Hearing John play brings back memories of many years gone by." Although Helen was left behind when John went on the road to play his accordion, she never resented her husband's first love—his music. "Well, I figure he's going out to make a dollar so God bless him," she said.

In closing, once again, I would like to congratulate you, John for filling our hearts with your beautiful music for so many years.

TRIBUTE TO DR. C. ERIC LINCOLN AND THE CLARK ATLANTA LECTURE SERIES

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. FORD of Tennessee. Mr. Speaker, on Thursday, October 6, Dr. Jacqueline L. Burton of the Eli Lilly Endowment will deliver the Twelfth Annual C. Eric Lincoln Lecture at Clark Atlanta University. This historic lecture series is distinctive in that it is the oldest continuing series honoring a living black scholar. The Lincoln lectures were conceived, founded and initially financed by graduates of Clark Atlanta, who in their college days had been taught and motivated by this young professor, who began his scholarly career at Clark in 1954 and stayed for a decade. His room in the men's dormitory quickly became a sort of intellectual "watering hole" for students from every discipline. His fledgling personal library was available to any student, any hour of the day or night and the ideological interchange which occurred there often lasted until the wee hours of the morning. The young scholars who attended these sessions proudly called themselves "Mr. Lincoln's Boys."

Twelve years ago, 25 or 30 of "Mr. Lincoln's Boys" gathered in Atlanta with some "Girls" he had also taught to do something that would pass on to a new generation of college students some part of what they had gotten from Professor Lincoln's presence at Clark. Now that they had become doctors, ministers, professors, scientists, lawyers and other professionals, they wanted to institutionalize some part of what they learned from a man who was hired to teach them religion and philosophy, but who also taught them how to take hold of life and make it pay dividends for every honest effort. They had take to heart Dr. Lincoln's daily reminder: "You can be better than you are. You can excel." They had indeed excelled and they wanted to share with their successors, a critical source of that excellence. So they founded the C. Eric Lincoln Lectures, which have brought to the Clark Atlanta campus Alex Haley, John Hope Franklin, Charles H. Long, Cornel West and others of similar eminence to share the perspectives which had shaped their lives.

Who is C. Eric Lincoln? He is a living legend. Up from abject poverty in the cotton fields of North Alabama, C. Eric Lincoln retired a year ago at 70 from the faculty at Duke University, where he was the William Rank Kenan, Jr. Professor of Religion. Now "Emeritus" at Duke, he holds five earned degrees, a dozen honorary degrees and numerous other honors. He is the author of more than 20 books, the first being the celebrated "The Black Machine in America," which was hailed by critics as "one of the best technical case studies in the whole literature of social science." The book is still the recognized authority on black Islam after 35 years, and is still selling briskly in a revised edition. His most recent book, "The Black Church in the African American Experience" with Lawrence H. Mamiya—one of his former students—earned for him the distinguished title of "Dean of Black Scholars" from Time Magazine when the book was published in 1991. Interspersed among his numerous scholarly works is a book of poetry, "This Road Serves Freedom" chronicling the African American odyssey and dramatized by a troupe of actors led by Ossie Davis and Ruby Dee in Symphony Hall in Boston. He is also the author of a novel, "The Avenue, Clayton City," which won the Lillian Smith Award as the Best Piece of Fiction about the South in 1988. His "Race, Religion and the Continuing American Dilemma" is the standard college text in race relations.

Dr. Lincoln has lectured at many of the great universities of the world, in France, Scotland, England, Scandinavia, Iran, Africa, Iceland, and the United States. However, most gratifying to him has been his one-on-one relationship with youth, irrespective of race or station. In a professional career that spans 50 years, he remembers best the satisfactions that came with inspiring young people to "struggle against any convention that claims to have predetermined your capacity to be what you want to be." Under that rubric, over the years, inside and outside the classroom, he nurtured more than 200 aspiring scholars through their frustrations of self-doubt to the fulfillment of publication and scholarly recognition, reading and critiquing their manuscripts, guiding their revisions, placing their best work with publishers who trusted his judgment because they respected his work. To see his young scholars in print and to rejoice with them in proving to themselves what they could do, was the only payment he ever asked or received.

C. Eric Lincoln is the father of a whole generation of scholars currently interpreting the black experience in religion. Few would deny the impact of his work and influence on their careers. His writing and teaching continues in retirement, except that now Dr. Lincoln's "boys" are for the most part young black men in prison. They see my name in books or in the press, he explains, and they write to me. He has never failed to answer a letter from a prisoner, and at any given time, he may be in correspondence with as many as 25 or 30 men he will probably never see. Some are Muslims. Some aspire for the Christian ministry. Some just need someone to talk to and to care about them. But practically all of them want books, he says. When he was teaching, Professor Lincoln set aside a percentage of his income from outside lectures to buy books for his growing prison clientele. When he retired, he reserved 200 paperbacks (no hardcovers are permitted prisoners) to have some on hand as the requests continue to come in. The rest of his scholarly books and papers were added to the C. Eric Lincoln Special Collection already housed at the library at Clark Atlanta University.

Dr. Lincoln has a very interesting hobby—it is writing hymns as a means of expressing his religious convictions in context. In recent years, his hymn, "How Like a Gentle Spirit" in the New United Methodist Hymnal, has been widely acclaimed for its illuminating view of God without sexist overtones. Another popular hymn, "Lord, Let Me Love," is a United Methodist supplemental hymnal, "Songs of Zion." Two other hymns appear in the new Episcopal Hymnal, "Lift Every Voice." On October 6, the students at Clark Atlanta will be singing a different kind of hymn to open the Twelfth Annual Lincoln Lectures. It will be their new Alma Mater occasioned by the merger of historic Clark College and Atlanta University. The Alma Mater, "Reign Clark Atlanta!" was written by C. Eric Lincoln, who though not an alumnus of the institution, gave it his formative years, and perhaps his most impressive years as a teacher and a friend to the students who institutionalized that effort in the C. Eric Lincoln Lectures.

So, Reign Clark Atlanta! and a salute to Dr. Jacqueline Burton and the Eli Lilly Endowment, which funded much of the research which made C. Eric Lincoln the "Dean of Black Scholars" but more than that, a friend and inspirer, a challenge and a role model for black youth everywhere.

TRIBUTE TO THE MATHENEY FAMILY

HON. JAY DICKEY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. DICKEY. Mr. Speaker, I rise today to share with my colleagues a truly remarkable family in the Fourth Congressional District of Arkansas. Roy Eason Matheney, Sr., his wife, Verleen, and their seven children are all striking examples of the spiritual, moral, and hardworking fiber on which our Nation was founded.

Roy Eason Matheney, Sr., has been a spiritual leader for nearly four decades. He has met the needs of thousands of people throughout his life-long work as a pastor/evangelist. This Sunday, October 2, he and his wife will be honored for their years of service to the south Arkansas community.

Following in their footsteps are their seven children: Roy Jr., Robert, Ronald, Rickey, Ralph, Rodney and Roslyn Matheney-Williams—two medical doctors, two educators, one pastor, and two associate pastors who are all college educated. The Matheney children are beacons of hope for today's youth.

Because of his accomplishments, Roy Eason Matheney, Sr., was inaugurated on May 7, 1994, into the office of bishop of the Third Ecclesiastical Jurisdiction of Arkansas in The Churches of God in Christ, by that organizations' national bishop, Bishop L.H. Ford. It's a position that oversees over 60 churches in south Arkansas.

It is with great pleasure that I take this time to honor this great American family and to join with them on Sunday, October 2, 1994. He will celebrate the 33 years Bishop Matheney and his wife have devoted to the Davis Memorial Church of God in Christ in Crossett, AR, and their service to the people of south Arkansas. The Matheney name and their deeds will be long remembered by the people of the Fourth Congressional District.

Thank you.

THE RYAN WHITE COMPREHENSIVE AIDS RESOURCES EMERGENCY ACT

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. WAXMAN. Mr. Speaker, I join with many of my colleagues today in introducing legislation to reauthorize programs to provide assistance for health care services to people with HIV and AIDS. This legislation, known as the Ryan White Act, was originally enacted in 1990 with strong bipartisan support. Since that time it has provided vital assistance to those cities that have been hardest hit by the epidemic, to all States since all States have now been struck by the epidemic, to those poverty health clinics that are seeing the poorest and most vulnerable Americans with AIDS, and to pediatric research and care sites that serve women and children with AIDS.

The Ryan White Act has worked wonders in many places. Cities where emergency rooms were once the only source of AIDS care now have a more compassionate and more cost-effective system of outpatient services. States in which Medicaid was once the only source of life-sustaining prescription drug now provide treatment to many people who may thereby stay employed and productive. Clinics that once had to choose between cutting basic primary care services or adding newly necessary AIDS services can now provide comprehensive early intervention care to their patients along with other health needs. And pediatric research and treatment programs have grown to bring frontline clinical trials to community setting for women and children.

This bill reauthorizes the programs of the Act through the year 2000 at a level of such sums as may be necessary. In doing so, it makes a number of minor changes to the substance of the legislation. It also makes adjustments to the formulas of the programs. In brief, the formula for assistance to cities is amended to include within the formula base only the cases that were reported within the last 10 years. Cities that might lose money under this new formula are held harmless at their fiscal year 1995 funding level. The formula for assistance to States is amended to add supplementary funding to those lower incidences, usually rural States that do not contain a city that receives direct funding.

This bill is a companion measure to one being introduced in the Senate by Mr. KENNEDY and Mr. HATCH, as well as a large number of their colleagues. If the measure passes the Senate in the remainder of this session, we will seek to have the House do so as well.

The AIDS epidemic has been a national tragedy. The Ryan White Act has been one part of a national response. We have the opportunity with his legislation to renew that program, and I urge my colleagues to support that effort.

THE RYAN WHITE COMPREHENSIVE AIDS RESOURCES EMERGENCY [CARE] ACT OF 1990

HON. JAMES C. GREENWOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. GREENWOOD. Mr. Speaker, I am pleased to join Chairman WAXMAN and DINGELL in introducing the Ryan White CARE Reauthorization Act of 1994. The act has served as an integral component of comprehensive medical and support services for thousands of individuals afflicted with human immunodeficiency virus [HIV] and acquired immune deficiency syndrome [AIDS] across the United States. this four part Federal grant program provides assistance for the treatment and treatment-related services for individuals and families with HIV disease.

The number of men, women and children affected with AIDS/HIV has reached epidemic proportions. It is estimated that between 800,000 to 1.2 million individuals in the United States are infected with HIV. The HIV virus has become the leading cause of death among males aged 25 to 44 and the fourth leading cause among women of the same age group. One American becomes infected with HIV every 15 minutes. The most staggering figure is that over 45,600 children will be orphaned as a result of the HIV/AIDs epidemic by 1995, with this figure rising to more than 80,000 by the year 2000. Truly, we need to reach out to the communities and the families whose entire lives are being consumed by this disease.

Ryan White programs have offered much needed hope and care to these afflicted communities. The act has enabled a wide variety of organizations to provide long-term security and services to the individuals facing this devastating illness. Clearly, the Ryan White CARE Act has raised the level of care given to individuals and communities living with HIV and AIDS throughout America. I join my colleagues in reaffirming our support for this important program.

CONGRATULATING ANN AND ELDON RUDD ON THEIR 50TH WEDDING ANNIVERSARY

HON. JON KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. KYL. Mr. Speaker, I hope that Members of the House will join me today in extending congratulations to a former House colleague and his wife, Eldon and Ann Rudd, on the occasion of their 50th wedding anniversary. They celebrated that special event on August 2.

Few couples ever achieve that very extraordinary milestone, and those who do deserve special praise, particularly when most of those 50 years were spent in public service in the House of Representatives, on the Maricopa County Board of Supervisors in Arizona, and on diplomatic assignment for the FBI abroad.

It is a tribute to their spirit and care for one another that they have made it this far, and I am confident, knowing how close they are that they will make it many more.

Mr. Speaker, I ask my colleagues to join me in extending best wishes to Eldon and Ann on this special event. I also ask that a very thoughtful column from the Scottsdale Progress appear in the RECORD at this point:

[From the Scottsdale Progress Tribune, Sept. 9, 1994]

RUDD SPENT CAREER KEEPING AMERICA SAFE

(By Lois McFarland)

During World War II, getting married and being separated from one's spouse was an accepted wartime fact. In 1944, Ann Merritt, 22, was managing a Western Union station in Beeville, Texas, when hotshot Marine pilot Eldon Rudd, 24, stationed at Chase Field, asked her to send a telegram to a girlfriend.

Neither Ann, 72, nor Eldon, 74, can recall what the telegram said nor the name of the former girlfriend.

He does say, "I think she (Ann) fell in love with my uniform."

"We really got acquainted at a country club dance," Ann adds in her quiet manner. She also recalls their first date was on St. Patrick's Day, March 17, 50 years ago.

Their romance blossomed. Nearly five months later they said their vows Aug. 2, 1944, and set up housekeeping with several other newlywed pilots and their wives in an auto court in Kingsville, Texas. Eldon had been transferred to the nearby Naval Air Station.

When he left for Jacksonville, Fla., and carrier assignment before being sent to El Toro in California, Ann went to live with her parents in Cuero, Texas. "I was pregnant with our first child and I stayed with my parents until Carolyn was a year old," she said. "He came home for a visit when she was just a few weeks old and then was assigned to a carrier in Guadalcanal for a year."

DROVE 19 HOURS

The veteran pilot recalls purchasing a 1942 Chevy in El Toro and driving 19 hours without stopping to Texas just to see his wife and infant daughter for a few hours. "That was idiocy," he adds. "As I recall, time was pretty limited. I also stopped in Cottonwood to see my parents."

The squadron Eldon trained with at El Toro had been scheduled to fly low-level bombing raids over the Japanese mainland, but he was spared. "There would have been no survivors," he said. "When they dropped the (atomic) bomb—two of them—we were pretty much out of a job."

The war's end brought Ann and Eldon to Phoenix where he finished his undergraduate work at ASU before entering the University of Arizona law school.

Two men influenced Eldon's future: Ronald Reagan and a former Marine pilot. He met Reagan while attending a University of Southern California conference where, as president of the Screen Actors Guild, he talked to the collegians about his encounters with communist infiltrators. Meanwhile his Marine friend joined the FBI and kept telling Eldon what a great "outfit it was."

"When I was in law school, the agent in Phoenix came and talked to us," he relates. "He zeroed in on me and I agreed to come up to Phoenix and take the exam. I began practicing law in Tucson and was about to decide on what firm to join when the FBI letter arrived and told me to report for duty Jan. 9, 1950."

Once again, Ann found herself going home to Texas while Eldon underwent FBI training and soon began a 20-year FBI career in Washington, D.C., Phoenix, Mexico City, Guatemala, El Salvador, Honduras, Nicaragua, Costa Rica and Argentina.

CONFRONTED KGB AGENTS

In his intelligence work, he came face to face with KGB agents and witnessed the cruelties of Communism firsthand. He made a pledge to make Americans aware of communism's threat to their freedom and did so by writing World Communism—Threat to Freedom in 1987.

Fidel Castro identified Eldon in a national magazine as a "hostile espionage agent." But "I wasn't an espionage agent," he counters. (He was an assistant legal attache attached to the U.S. Embassy in Mexico City.)

He played a role in both the identifications of revolutionary Che Guevera and Lee Harvey Oswald.

When President Kennedy was assassinated, and Lee Harvey Oswald killed, "all hell broke loose," Eldon recalled. "Through my sources, we were able to find out where Lee Harvey Oswald had stayed in Mexico City. We even had some photographs showing that he had visited the Cuban and Russian embassies."

Ann never knew just how dangerous her husband's assignments were because families were kept out of the information loop. Their two daughters, Carolyn and Katherine, attended American schools on foreign shores while Ann took part in activities and events planned for the diplomatic corps wives.

"It was a great experience," she said. "It brought home to me very forcefully how lucky we are to be Americans."

Eldon's military and public service career spanned nine presidents. He served in the military under Franklin Roosevelt and Harry Truman and in the FBI under presidents Eisenhower, Kennedy, Johnson and Nixon. He became a Maricopa County Supervisor in 1972 and was elected to Congress in 1976 and served five terms before retiring to private law practice in 1987.

In their comfortable Scottsdale home, the Rudds are surrounded by photographs and memorabilia from world travels. Custom shelves and niches display a miniature locomotive, a gift of the Southern Pacific Transportation Co. for Eldon's service on the board of directors; vases from Taiwan, pitchers from Madrid, a collection of elephants from around the world, models of the fighter planes he flew, and a giant gavel presented to him by campaign workers when he won his first congressional race.

"I'm the retired one," Ann says, alluding to the fact her husband retired from practicing law this year and now heads up Eldon Rudd Consultancy Inc. (political, foreign, industrial and personal security group) and serves on the Salt River Project board of directors. "When we came back, I decided to seek the quiet life." (In 1985, Ann underwent five-way by-pass heart surgery)

Although nomads a good portion of their married life, both still enjoy traveling. For their 50th wedding anniversary, they took a family cruise down the California and Mexican coasts.

DID TEXACO FAIL TO COMPLY?

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. TOWNS. Mr. Speaker, I strongly supported United States and U.N. sanctions against the government of Haiti. I believe these sanctions in fact, contributed to forcing the defacto government to finally yield to the latest round of negotiations for a peaceful intervention. Because of the manner in which they complied with these sanctions, one of our major oil companies, Texaco, now is being accused of noncompliance. If one examines Texaco's unique presence in Haiti, their actions are completely understandable.

When President Clinton told the American people recently about the brutality and violence of the military regime in Haiti, Texaco knew only too well how true his words were. During 1991 and 1992, the Cedras regime used coercion and violence to intimidate Texaco Caribbean employees there from complying with U.S. sanctions against the de facto government.

Throughout the violent and threatening period following the imposition of U.S. sanctions, Texaco sought to act in a legally and morally correct manner. Texaco Caribbean did not import any petroleum products into Haiti once the United States sanctions were imposed. It acted only as a distributor of products purchased by the Haitian Government, and then only under threat of military force.

Texaco Caribbean was one of three petroleum distributors in Haiti at the time of the coup. The other two were subsidiaries of Exxon and Shell. However, Texaco Caribbean was the only company subject to the U.S. sanctions, being incorporated in the United States, while the other two companies are not.

As a result, when the military regime, anxious to obtain fuel and money, imported petroleum products and ordered the three companies to accept shipments at their terminals, to distribute them and then to pay the regime for the shipments, the other two companies did so. But Texaco's Caribbean employees, in compliance with the U.S. embargo, resisted the regime's orders—and immediately became the targets of intense pressure from the de facto government.

For example:

Ten soldiers entered the home of Texaco Haiti's superintendent to demand that he release petroleum from Texaco's terminals. They unholstered their guns and one soldier hit the superintendent's child on the head with a rifle butt.

Two Haitians associated with Texaco Caribbean, one a contract security guard and the other the recently retired marketing manager, were murdered.

Armed men in a jeep plowed through the flower garden at the home of Texaco Caribbean's chief accountant, and then burst into his home, demanding payments for the regime. They threatened him with harm in front of his wife and children if he did not arrange payment by noon the following day. A senior official of the de facto government also told the chief accountant that the head of the regime himself was demanding payment for the product. He reminded the Texaco Caribbean employee that the government was prepared to take harsh measures against anyone who resisted its wishes. The chief accountant was also warned that, if Texaco delayed distribution of petroleum, the government would deal with him personally. "I have overheard certain conversations that have scared me," the chief accountant was told, "and I am sure if you heard them, you would be scared to death."

The brother of General Cedras—himself a former member of the infamous Tonton Macoute—called a Texaco Caribbean manager to bully him about Texaco's refusal to accept shipments of petroleum from the government for distribution. The refusal was seen as evidence of a "pro-Aristide attitude"—a chilling statement coming from a member of the violently anti-Aristide regime.

Throughout this time, Texaco Caribbean's managers were repeatedly summoned by senior government officials who demanded greater cooperation. Even Haiti's notorious chief of police, Colonel Michel Francois, personally expressed his displeasure with the Texaco Caribbean's managers—a serious threat to a Haitian.

Texaco Caribbean employees were clearly caught on the horns of a terrible dilemma, one not of their own making but a result of their efforts to comply with the U.S. sanctions. The dilemma was taking a personal toll. "When I leave this office," one Haitian employee told his Texaco Caribbean supervisor in a phone call, "I am not sure I am going to reach home."

Throughout this ordeal, Texaco had three goals: To comply with United States sanctions, to protect its employees, and to ensure that its physical assets in Haiti did not fall in the hands of the military regime, which could then generate profits directly from the distribution of fuel. Texaco Caribbean management in the United States constantly urged its Haitian employees to resist the regime's demands while becoming increasingly concerned about the untenable situation which had developed.

Texaco Caribbean, in numerous discussions with the Treasury Department's Office of Foreign Assets Control [OFAC] and the State Department, told officials of the danger facing its employees. In those discussions, the only advice offered by U.S. Government officials was to comply with the sanctions, but to not risk the safety of Texaco Caribbean employees.

Given the circumstances, Texaco Caribbean believed the only viable option to protect its employees and keep the operation out of the regime's hands was to create a trust, which would hold all Texaco Caribbean's Haitian assets until such time as United States sanctions were fully lifted.

On a number of occasions prior to creating the trust, Texaco Caribbean presented the proposal to OFAC and to other members of the U.S. Government for review. When Texaco Caribbean received no response, it alerted OFAC and other officials in the State and Treasury Departments that time was short—that, in light of the daily threats to its employees, Texaco Caribbean had to act quickly. When Texaco Caribbean again received no response, it decided that the danger to its employees was so grave that it could no longer wait to take action.

On June 4, 1992, Texaco Caribbean transferred its Haitian operations into a Bermuda trust. During the time it is in existence, the trust holds and operates Texaco Caribbean's former distribution system in Haiti. Texaco Caribbean has had no control over its former distribution business in Haiti. It is not entitled to any profits from its former operations—and has received none. All proceeds are to be used for humanitarian and educational purposes benefitting Texaco Caribbean's former Haitian employees, retirees and their families. The trust is also expressly forbidden from importing any petroleum products into Haiti.

The U.S. Government was well aware that the trust was subject to immediate dissolution by the U.S. Secretary of Treasury at any time or whenever U.S. sanctions are fully lifted. This provision, designed by Texaco, was available to secretaries Brady and Bentsen any time they believed it was acceptable for the United States to allow the Cedras junta to expropriate Texaco's assets in Haiti, which that regime would have done the moment Texaco's Haitian employees refused to distribute product.

When U.N. sanctions were imposed in 1993, also affecting, for the first time, the Shell and Exxon subsidiaries, Texaco assumed that all distribution of product would cease. In fact, a Haitian court ordered that all three companies continue to operate. The court order was backed up by threats of violence and insinuations of treason, against the Trust's employees, by the Haitian military. At this point, the pressure on the Haitian employees was relieved when the United States Naval Blockade stopped the regime from importing petroleum products by tanker.

Under the circumstances and in light of the advice Texaco Caribbean received from legal counsel and U.S. Government officials, Texaco believes that Texaco Caribbean acted prudently and appropriately. Texaco took action to protect its employees—none have been injured since the Trust was created—to comply with United States sanctions, to keep the United States Government fully informed of its activities, and to keep its physical assets from benefitting the Haitian junta.

In light of the dangers faced by their employees, I believe that Texaco acted prudently and within the spirit of the sanctions. Hopefully, in reviewing whether Texaco complied with the sanctions, others will also recognize the difficult dilemma faced by the company in their efforts to protect their employees.

DEPARTMENT OF COMMERCE, THE
DEPUTY UNDER SECRETARY FOR
INTERNATIONAL TRADE WASHINGTON, DC.

March 7, 1994.

Hon. RONALD K. NOBLE,
Assistant Secretary for Enforcement, Department of Treasury.

DEAR MR. NOBLE: I am writing regarding a problem that Texaco has brought to our attention concerning Treasury's Office of Foreign Assets Control (OFAC). I would appreciate your reviewing this issue in light of the mitigating circumstances of this case.

Texaco operates a marketing and distribution business in Haiti. On September 16, 1993, OFAC issued a pre-penalty notice to the company indicating a proposed fine of $1.6 million of alleged violations of Haiti embargo.

Texaco told us that its Haitian employees had been under severe pressure since the October 1991 coup. While Texaco instructed its employees to obey the sanctions, the Haitian military directed them to distribute petroleum products imported by the *de facto* government and to make payments to the government. The employees were operating under fear of physical violence. Two former employees had been killed and family members had been threatened and beaten.

In June 1992, Texaco transferred its Haitian assets to a Bermuda trust, an action which it believed would permit lawful operations in Haiti and would be in the best interests of its Haitian employees. Texaco prohibited the trust to import any petroleum products. Texaco informed OFAC of this action and requested a license, if it was necessary to have one. Eleven mouths later (May 1993), OFAC advised Texaco that it would not grant a license and four months after that, issued the pre-penalty notice.

Texaco makes a compelling argument, and it appears to us that they were between a rock and a hard place. Any attempt to shut down the Haiti operation would have endangered the lives of its employees. If Texaco had attempted a closure, it would have been easy for the Haitian *de facto* government to seize control of Texaco's terminals and to run the operation. This would have maintained the availability of petroleum in Haiti's distribution network and the goals of the embargo would not have been advanced. Moreover, the *de facto* government would have pocketed the profits. Instead, Texaco provided that the trust will use any profits for humanitarian and educational purposes in Haiti.

Texaco has asked for our help in this matter. While we realize it is a Treasury concern we indicated we would bring the matter to your attention to see whether further review is possible. I'd appreciate any advice you could provide.

Sincerely,

TIMOTHY J. HAUSER.

RETIREMENT OF HON. PHILIP T. COLE

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 30, 1994

Mr. COLEMAN. Mr. Speaker, I wish to pay tribute to the Honorable Philip T. Cole on the occasion of his retirement. I am especially indebted to this individual because he has dedicated the past 14 years of his life as a U.S. magistrate judge in the Western District of Texas, El Paso Division. Judge Cole's retirement will be effective today, September 30, 1994.

In September of 1994, Judge Cole entered the University of Texas School of Law. While a law student, he worked as a student attorney for the Legal Aid Clinic, a cooperative project with the Travis County Bar Association, providing legal services to the poor. He was employed part-time in the Texas House of Representatives and later as clerk with the Austin law firm of Clark, Thomas, Harris, Denius & Winters. He also served as an associated editor of the Texas Law Review from 1960 to 1962. He graduated with honors on January 7, 1962.

After graduating from law school, Judge Cole returned to his hometown of El Paso. He was licensed to practice on April 23, 1962, and immediately thereafter was appointed assistant county attorney in El Paso. He left the County Attorney's Office to enter private practice in 1964. On March 21, 1980, he was appointed U.S. magistrate in El Paso.

Judge Cole is a member of the American Bar Association and the American Judicature Society, and a former director of the El Paso Bar Association.

Judge Cole's success as a magistrate is based on a combination of profound insight and a prodigious awareness of the law and its place in our society. He is greatly respected by his peers in the legal profession. He is a man of great intellect and wit, and also of great compassion. Judge Cole is to be commended for the exemplary wisdom and dispassionate judgement that he has exercised from his position as Federal magistrate to this Nation.

I ask my colleagues to join me in congratulating Judge Cole on the occasion of his retirement and wish him well in all of his future endeavors.

SENATE—*Monday, October 3, 1994*

(Legislative day of Monday, September 12, 1994)

The Senate met at 5 p.m., on the expiration of the recess, and was called to order by the Honorable BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

For there is no power but of God: the powers that be are ordained of God.

Eternal God, Lord of history, Ruler of all nature, sovereign Governor of the nations, help us contemplate the words of Abraham Lincoln, written in a private meditation, September 30, 1862:

> "The will of God prevails. In great contests each party claims to act in accordance with the will of God. Both may be, and one must be, wrong. God cannot be for and against the same thing at the same time. In the present civil war, it is quite possible that God's purpose is something different from the purpose of either party; and yet the human instrumentalities, working just as they do, are the best adaptation to effect His purpose."

Thou who ordainest all power, we are unspeakably grateful for Senators GEORGE MITCHELL and BOB DOLE. Thank You for their strength and inspiration in the leadership they give their parties, the Nation, and the world. Thank You for their fairness and patience, their calmness at times of tension, and their restraint in disagreement.

Thank You for Senators FORD and SIMPSON, their support to the leaders and their parties, and for their strong influence in the Senate and the Nation.

Gracious Father in Heaven, bless Thy servants and their families in all their ways, in all their future. May they live in the confidence of God's love and provision.

In His name who is the Giver of Life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 3, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CAMPBELL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1994—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of the conference report accompanying H.R. 6, which the clerk will report.

The assistant legislative clerk read as follows:

Conference report accompanying H.R. 6, an act to extend for 6 years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965, and for other purposes.

The Senate resumed consideration of the conference report.

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, the measure now before the Senate is the conference report on the Elementary and Secondary Education Act. It has passed both the Senate and House in its original form and then the conference agreement between the two bodies has been passed in the House. The measure is now back before the Senate for the final action necessary before it goes to the President for his signature to become law.

At a meeting I had with the distinguished Republican leader earlier today, I inquired of the Republican leader whether the Senate would be permitted to proceed to consideration of that matter and a vote on that matter or whether our Republican colleagues would filibuster so as to prevent a vote from occurring and so as to require the filing of a motion to invoke cloture and end the filibuster.

If that is to occur, I notified the distinguished Republican leader that my intention would be to file such a cloture motion today so that a vote on that motion, that is to say, a vote to end the filibuster, would occur under the Senate rules on Wednesday morning.

I was advised by the Republican leader that a response to my question would be made shortly after the Senate convened on that and one other matter, which I will take up for discussion after this.

I note the presence of the distinguished Senator from North Carolina in the Chamber, I assume acting on behalf of the distinguished Republican leader, and I therefore inquire through the Chair of the distinguished Senator from North Carolina whether it will be possible for us to proceed and have a vote on the Education Act or whether it will be necessary to file cloture as I have previously requested.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, it will be necessary for the Senator to file the cloture motion.

Mr. MITCHELL. Mr. President, I thank my colleague for his response. I regret the response very much. But I appreciate at least knowing the situation.

Mr. President, a similar conversation occurred between myself and the distinguished Republican leader at the same meeting on the bill S. 349, the Lobbying Disclosure Act and gift reform legislation.

As with respect to the education bill, this measure passed both the House and Senate in original form, then went to a conference of the two bodies. The conference reached agreement. That conference agreement has now been passed by the House and is to come before the Senate for final action prior to going to the President for his signature and enactment into law.

I inquired of the distinguished Republican leader at our meeting a short time ago whether our Republican colleagues would permit us to proceed to that measure and to vote on it or whether that, too, would be the subject of a Republican filibuster, which seeks to prevent the Senate from voting on the measure and which, therefore, would require us to file a motion to invoke cloture and end the filibuster.

I note the presence in the Chamber of the distinguished Senator from Georgia. I assume he is here acting on behalf of the Republican leader. Therefore, through the Chair, I inquire of the distinguished Senator from Georgia whether our Republican colleagues will permit us to proceed to vote on the Lobbying Disclosure and Gift Reform Act or whether there will be a filibuster, which will require us to file cloture?

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The ACTING PRESIDENT pro tempore. The Senator from Georgia [Mr. COVERDELL], is recognized.

Mr. COVERDELL. My response to the majority leader is that from colleagues on our side of the aisle, in reference to the changes that were made in conference, it will be necessary for the majority leader to file the cloture motion.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. MITCHELL. Mr. President, I thank my colleague. I regret that answer as well, but I appreciate receiving it.

I just say to the Members of the Senate we now have pending a Republican filibuster on a nomination to head the Federal Deposit Insurance Corporation. We have pending a Republican filibuster on the nomination of a judge to serve on the U.S. Circuit Court of Appeals.

We now have pending before us a Republican filibuster on the California Desert Protection Act. We now have before us a Republican filibuster on the Education Act, and a Republican filibuster on the Lobbying Disclosure and Gift Reform Act.

I have been here 15 years, and I cannot recall a time when we have had five measures and five different matters, one nomination to an executive position, one nomination to a Federal court, one environmental measure like the Desert Protection Act, one education bill, and one Lobbying and Gift Reform Act, all of which are subject to filibusters at the same time. I regret these actions. But I will simply say to the Senator that we hope very much to complete this session of the Congress as soon as possible. But we are not going to leave until we get action on these measures. One way or the other the measures will have to be disposed of, whatever time it takes in that regard.

Mr. President, I yield the floor.

Mr. HELMS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from North Carolina, [Mr. HELMS].

Mr. HELMS. Mr. President, I listened with fascination and admiration to the comments of the Senator from Maine because he always attempts to put his side in the best light. He does not disclose the other side of what he is talking about. I have been here 22 years. He has been here less than that, and he is amazed by the number of filibusters.

What I am amazed about is the reckless way in which the conferees have destroyed the effect of bill after bill after bill that have passed the Senate. In the case of the Education Act, if the conferees to the Goals 2000 Act had not destroyed a Senate provision approved by an overwhelming vote with reference to school prayer I would not be here today.

But in House and Senate conferences conducted today, little slick deals are made to a degree I have never seen before in my 22 years in the Senate, and, of course, those of us unfairly victimized by those deals are going to object to them.

If the distinguished majority leader wants to rush this bill through, I will make a proposition to him. Let us put in the prayer amendment approved 75–22 by the Senate last February 3 and send it back to the conferees. And when they have done that, the bill can pass, I am sure. But I do not want to hear a whole lot about a filibuster on this and a filibuster on that because a lot of high jinks have gone on that have precipitated the filibusters, as he calls them. I call it extended debate, and that is one of the fundamental underpinnings of the U.S. Senate.

I yield the floor.

Mr. MITCHELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, just so there can be no misunderstanding by any member of the American public, the Constitution requires any bill before becoming law to pass both the House and the Senate in identical form. It is a commonplace event. Indeed, it happens on almost every bill that the House and Senate pass a bill not in identical form. Some provisions in the Senate are included that are not in the House bill and vice versa.

So the mechanism which is set up to reconcile them and meet the requirements of the Constitution is to have a conference between the House and Senate in which the differences are resolved and a single bill is agreed upon.

I have been in the Senate 15 years, and for 6 of those years the Republicans were in control. It was a regular event then that a bill would pass the Senate, and then it went to conference and the conference report came back in a form different from the Senate bill. Indeed, common sense tells you that if both Houses insisted that a bill never be changed after once being adopted in that body, then no legislation would ever be enacted.

So my colleague used the phrase high jinks to suggest some impropriety or something underhanded about the fact that a conference report coming back to the Senate for final action is not identical to the bill which passed the Senate. But as he well knows, as we all well know, that happens with respect to almost every bill, and I daresay it happened on many, many bills which were passed when Republicans were in control of the Senate, and, if we check the record close enough, probably some bills that the Senator from North Carolina introduced.

Obviously, every Senator has a right to insist that his or her provision be included in the bill, and, if it is not, vote against the bill, speak against the bill, and do what is possible to defeat the bill. And the Senator from North Carolina is exercising that right.

But no one should be under the illusion or the misimpression that there is something unusual about that or different about that or underhanded about that. That is the common procedure. The two bodies pass bills, and almost always they are not identical. They go to a conference. Each side makes compromises. That is the only way you are ever going to get agreement. And the bill comes back from conference in a form usually different from that which passed either House, which is in the nature of a compromise.

So what we have here is an education bill. Some Senators. Do not like some provisions in it. They have a perfect right to oppose it. And if they want to filibuster, they have a perfect right to do that. That is what is happening. We have been told that this bill is not going to get to a vote in the Senate unless we can get 60 votes to end the filibuster, and we will find out on Wednesday morning whether or not there are 60 votes to end the filibuster.

But I just want to make it clear before we get to the other filibuster that is now pending before us that no one should think there is anything happening here that is unusual. A provision which one Senator wants and another Senator does not want may or may not be. That is the normal practice.

Mr. HELMS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina [Mr. HELMS].

Mr. HELMS. Nor should anyone be under the illusion that there is no high jinks going on. We will debate this thing fully in the hours and days to come. But I am sure the majority leader may remember that this prayer amendment dispute occurred early this year, and it culminated on March 25, just after midnight March 25, when the majority leader in collaboration and in coordination with the Senator from Massachusetts dropped a prayer amendment that had been overwhelmingly approved by the Senate, and which had also been overwhelmingly approved by the House. However, despite the 75–22 vote in the Senate and the 367–45 vote in the House, the conferees wrote entirely new language—not voted on by either body—and put it in the Goals 2000 conference report.

That is the argument, and I reject the majority leader's suggestion that I do not know anything about the rules and this is all commonplace and happens all the time. When I first came to the Senate, conferees did not ignore the will of overwhelming majorities in both Houses very often. It is now commonplace. I will say again that if the majority leader is willing to put the prayer amendment as adopted by the U.S. Senate back in, and send it back to the House, which has already voted for it overwhelmingly—not once, but twice—he has a deal. But I do not want to be lectured by the majority leader in terms of what the Senate has done and what the Senate should do. Senators have a perfect right. But we have more than that. We have an obligation to stand up for what we think is the proper way to legislate.

Mr. MITCHELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. MITCHELL. Mr. President, I do not think we need prolong this discussion any further. But I surely did not state or suggest that the Senator from North Carolina does not know anything about the rules. In fact, I believe just the opposite. He knows the rules very well, and has used them very skillfully to delay and obstruct legislation over a long period of time. [Laughter.]

Mr. HELMS. There he goes again.

Mr. MITCHELL. So I certainly do not believe that.

Finally, just so the record is clear and the fact is not omitted from this discussion, as the Senator in North Carolina knows, the provision that was passed in the House was not passed as part of this legislation as the Senator well knows.

One could infer from his comments—and I know, of course, he would not intend to say anything that would create that impression—that both parties acted on the same measure in the same legislation. My understanding is that that was not the case. It was acted on separately in the House and included as part of the legislation in the Senate, and the conferees agreed to something different. He has a right to filibuster, as he is doing. We will have the vote, and if 60 or more Senators think we ought to pass education, we will; if 41 or more think we ought not to pass it, then we will not.

Mr. HELMS. Mr. President, I am perfectly willing to let the majority leader have the last word, but we will have the last word Wednesday, one way or the other.

Mr. SIMON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, If I can make a couple of comments in connection with the dialog. First, it should be pointed out that the prayer amendment offered by my friend from North Carolina—and he is my friend—was defeated in this body 53 to 47, so that there is no misunderstanding on that. That is what my staff advises me, and I see the Senator from North Carolina shaking his head.

Mr. HELMS. Will the Senator yield?

Mr. SIMON. I am pleased to yield.

Mr. HELMS. The House never approved the Kassebaum language, did they?

Mr. SIMON. To my knowledge, the House did not.

Mr. HELMS. That is correct. They did not, and that is the point.

Mr. SIMON. We are not in disagreement as to what has happened. Second, I say to my colleagues in the Senate that any right and privilege that is abused is eventually going to be lost. And we are, in my opinion, abusing the right of the filibuster.

The filibuster ought to be used rarely, in extreme cases, and then we ought to stand up and fight. I reserve the right to use that on some occasion. I have been here now since 1985, and I have never used it. But I reserve the right to use it. But real candidly, if we faced a vote right now that you only need 55 votes to stop debate instead of 60, I believe I would support it, because I have seen so much abuse of the filibuster.

The filibuster should be an occasional tool that is used to protect the public when sometimes, in a rush of judgment—this body and the other body moved to impose an answer on the railroad strike, like Harry Truman once wanted us to do, and Robert Taft, to his great credit, stood up and said you should not do this, and he started a filibuster. It should be rarely used.

I think we are headed, with overuse of the filibuster, of eventually losing this particular privilege in the U.S. Senate.

Mr. HELMS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, let me reiterate that I was referring to the Senate-passed prayer language to the Goals 2000 Act when I made the remark I did, which Senator KENNEDY, the distinguished Senator from Massachusetts, arranged to have dropped prior to Easter. That is the reason we stayed in until midnight on the evening of March 25. That language was passed by the Senate by a 75-to-22 vote. The House passed a motion to instruct their conferees to the Goals 2000 bill to accept the Senate prayer amendment by a vote of 367 to 45. But Senator KENNEDY, with a wink and a nod, arranged to have it dropped in conference.

School prayer, I would remind the Chair, and anybody else who may be listening, is approved of by 75 to 80 percent of the American people, by every poll that I have seen. So I agree with my friend from Illinois that we ought to protect the interest of the people. That is precisely what I am doing here. School prayer should be a matter of law right now but for the act of one Senator, the Senator from Massachusetts.

Again, the Senate voted 75 to 22 for the amendment offered by the distinguished Senator from Mississippi [Mr. LOTT], and the Senator from North Carolina. The House vote on the motion to instruct the House conferees to accept the Helms-Lott language on the Goals 2000 bill was 367 to 45. The House then followed up by voting 345 to 64 to attach the same amendment to this bill. And the conferees on this bill dropped it again.

I do not want to hear any more about a minority tying up the Senate or the House. Speak to the conferees and speak to Senator KENNEDY, who is the one who obstructed a piece of legislation—not once, but twice—that ought to be in this bill. Had he not acted as he did, it would be in the bill and the bill would already be passed.

I yield the floor.

Mr. RIEGLE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

Mr. RIEGLE. Mr. President, we are facing a cloture vote at 6 o'clock tonight on the Tigert nomination to the FDIC. I rise now to put that issue before the Senate and make an opening statement. I know Senator MURRAY wishes to speak on our side, and I hope we can be recognized in an alternating manner once I have completed.

I know the Senator from Alabama needs a moment or two because he has had a former colleague pass away. So I will yield for the purpose of his statement, without losing my right to the floor.

Before I do that, I yield to the Senator from New York.

Mr. D'AMATO. Mr. President, if I might make a suggestion to the manager, if we could, after the completion of my good friend's statement, agree that we would divide equally the time between now and 6 o'clock and, therefore, have that vote at 6 o'clock. I ask unanimous consent that we agree to that format.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. RIEGLE. That sounds reasonable to me. I ask the floor staff to check with the majority leader to see if there is any reason that it is not acceptable. There has been no time used yet.

I do not object. I think it is a worthwhile suggestion. I ask that the clock start the minute the Senator from Alabama has had the chance to make his comment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRIBUTE TO FORMER CONGRESSMAN CLAUDE HARRIS

Mr. HEFLIN. Mr. President, it is with great sadness and a tremendous sense of loss that I rise today to announce the untimely death of former Alabama Congressman Claude Harris. He died yesterday after a battle with lung cancer.

My State has lost one of its greatest public servants and I have lost a close and personal friend. Claude Harris was a superb Congressman and an outstanding U.S. attorney. His service to Alabama as a circuit judge was extraordinary.

Claude was one of those rare individuals who at all times displayed the highest degree of integrity, industry, and intelligence. But perhaps his greatest attribute was the down-to-earth spirit that allowed him to always stay close to the people he served.

Although his tenure in Congress was relatively brief, Claude Harris emerged as one of the most hardworking and dedicated Members I have ever seen. He was a principled leader who always saw that the interests of his diverse district came first. He was highly driven to serve and had a sincere desire to serve, setting a new standard by which those who follow him are measured.

Claude Harris, Jr., was born in Bessemer, AL, attended the University of Alabama, and became assistant district attorney for Tuscaloosa County at the young age of 25. He later served as a circuit judge and was presiding judge of Alabama's Sixth Circuit for 1980–83. He was a practicing attorney from 1985 through 1987, when he began his first term in Congress. When he died, he was serving as the U.S. attorney for the Northern District of Alabama. He was also a colonel in the Alabama Army National Guard, of which he was an active member beginning in 1967.

Congressman Claude Harris retired in January 1993, after serving in the House of Representatives for 6 years. During his three terms, he accomplished a great deal for his district and the Nation's veterans, who knew Congressman Harris as a true friend. As an outspoken member of the House Veterans' Affairs Committee and the third ranking Democrat on its Hospitals and Health Care Subcommittee, his work was instrumental in preserving the funding and enhancing the quality of veterans' health care facilities nationwide. He also served on the House Energy and Commerce Committee.

Because of these years of outstanding public service, my colleague Senator SHELBY and I introduced a bill in August to have a new building at the Tuscaloosa Veterans Center in Claude's former district named in his honor. This will be a fitting tribute to a great man, leader, and friend who will be sorely missed by those of us fortunate enough to have known him. I extend my sincerest condolences to his wife and their entire family in the wake of this painful loss.

I ask unanimous consent that a copy of an article from the Birmingham Post-Herald on the death of Claude Harris be printed in the RECORD immediately following my remarks. This article describes the traits which made Claude the special kind of public servant that he was for so many years.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CLAUDE HARRIS DIES AT AGE 54

(By Deborah Solomon)

It was January 1987 and a huge snowstorm had paralyzed Washington; offices in town were closed and the city had come to a standstill.

But Bessemer native Claude Harris, then a Democratic congressman from Tuscaloosa, fought his way to his Capitol Hill office and spent the day answering telephones and attending to duties usually performed by those who had been stranded by the weather.

It was this fierce commitment to his job that separated Harris from other politicians and branded him as unique, according to friends and colleagues who knew him.

Harris, a U.S. Attorney for the Northern District of Alabama, died early yesterday of lung cancer. He was 54.

After nearly three decades in government at the local, state and federal levels, the Tuscaloosa Democrat is remembered by those who knew him as a model politician, someone who cared not about his own interests, but about serving others.

"He never changed the type of person that he was," said Walter Braswell, who climbed up the political ladder alongside Harris. "As he achieved higher office and became more widely know, he remained the same friendly, genuine person he had always been."

Braswell, who is currently deputy U.S. attorney, will serve as interim U.S. attorney until a successor is named by President Clinton and U.S. Sens. Richard Shelby and Howell Heflin, both Alabama Democrats.

Harris, a former prosecutor and judge, died at his sister's home in Birmingham, where he had been receiving care for several weeks. He had undergone a series of treatments for cancer at University Hospital.

His funeral is scheduled for 2 p.m. Wednesday at Forest Lake Baptist Church in Tuscaloosa.

Harris was appointed U.S. attorney in Birmingham by President Clinton and confirmed by the Senate in late 1993.

Braswell said Harris was so committed to his job that he continued to work until he was finally too weak. "Last week he was in the office because he felt that he was getting paid to do a job and so long as he was physically able, he would continue to work."

Acquaintances said Harris was an honest and amiable man who never took his political accomplishments for granted.

Former U.S. Rep. Ben Erdreich, D-Birmingham, who met Harris shortly before he was elected to Congress, said in a time of increased cynicism among voters, Harris managed to reinstill faith in politics.

"Claude Harris exemplified what is good about America and what is right about America," Erdreich said. "He brought what I believe to be the best to public service. He was a unique person; there are not many I've seen of such good character."

NOMINATION OF RICKI RHODARMER TIGERT TO THE FDIC

Mr. RIEGLE. It looks to me as if we have about 32 minutes, 16 minutes apiece. I will start with my statement, and I assume we will rotate back and forth. It would be my intention to call on the Senator from Washington [Mrs. MURRAY] on our side.

I rise to strongly support the nomination and confirmation of Ricki Tigert to be Chairman of the Board of Directors of the Federal Deposit Insurance Corporation. The Banking Committee voted 17 to 1 in favor of her confirmation back on February 10 of this year. That is many months ago, and I think she deserves today that same overwhelming vote of support.

The Federal Deposit Insurance Corporation is one of the most important independent agencies in our Government. It is the primary Federal regulator for over 8,800 State-chartered banks, and it has been without a confirmed chairperson since the tragic death of Bill Taylor back in August of 1992. This kind of delay and stretching on year after year is really inexcusable, and the steps today that the Senate should take are to immediately confirm Ms. Tigert to this position.

The FDIC also has the responsibility for insuring the safety of more than $2.5 trillion of deposits in thrifts and banks, $2½ trillion of outstanding insurance in that form. To perform that particular role, the FDIC has more than 12,000 employees and an operating budget of about $2 billion a year. In fact, the agency's task will increase next year when it takes over the responsibility for resolving failed thrifts from the Resolution Trust Corporation.

Ms. Tigert is extremely well qualified to take over these responsibilities and provide the necessary strong leadership that is called for now at the FDIC.

Ms. Tigert graduated magna cum laude from Vanderbilt University and is an honors graduate of the University of Chicago Law School where she served also as a member of the law review. She served from 1985 to 1992 as a senior official for international banking at the Federal Reserve Board. She also served as a senior counsel for international finance at the Treasury Department from 1983 to 1985.

Most recently, Ms. Tigert has been a partner at the law firm of Gibson, Dunn & Crutcher, a well-known firm highly respected. She has also taught international finance at Georgetown University Law Center and taught comparative international banking regulation as a visiting professor in Germany. In addition, she has published a number of articles relating to international banking and other financial services topics. Ms. Tigert has devoted the vast majority of her professional career to public service and financial services and has also been active in various civic and professional organizations.

She enjoys very broad support from numerous banking organizations and individuals. For example, Ms. Tigert has the overwhelming support of—among others—the Independent Bankers Association of America, the Conference of State Bank Supervisors, and the Coalition for Women's Appointments and Women in Housing and Finance.

Ken Guenther, who serves as the executive vice president of the International Bankers Association writes about her that Ms. Tigert:

> * * * is clearly an experienced, independent professional with previous high-level regulatory experience. She understands the workings of government and her confirmation would restore much-needed balance to the banking regulatory agencies.

Gerald Lewis, who serves as chairman of the Conference of State Bank Supervisors writes:

> * * * the timely confirmation of Ms. Tigert as Chair of the FDIC is necessary for the future stability of the banking system.

The Coalition for Women's Appointments and Women in Housing and Finance write to us as follows:

> As professionals in the financial services industry, we strongly urge you to act before adjournment of the 103d Congress on the nomination of Ricki Tigert to chair the Federal Deposit Insurance Corporation.

They go on:

> Ms. Tigert's educational and professional experiences, including many years of dedicated public service, make her an excellent choice to be the next Chair of the FDIC.

The letter goes on as follows, and I quote again:

> We note that never before in our Nation's history has a woman been nominated to head one of the four principal banking agencies. The United States Senate now has the historic opportunity to approve the nomination of this exceptionally well-qualified and capable woman to chair the FDIC. In the best interest of our banking system, we respectfully request your support.

Now listen to a distinguished Republican. That is Beryl Sprinkle, former chairman and Council of Economic Advisors member in the Reagan administration, and Peter Wallison, former counsel to President Reagan, and S. Linn Williams, former Deputy U.S. Trade Representative in the Bush administration who together on Monday wrote a letter to the Wall Street Journal—the three of them together—and what they said is:

> We have all known Ms. Tigert for at least a decade and have worked with her closely in her government service and private law practice. Two of us worked with her in the Reagan administration. She has had a distinguished career and is held in high esteem as an internationally-recognized expert in banking law and regulation. She is committed to the complete independence and integrity of the bank regulatory process.

Now why would these three distinguished Republican persons come forward with that statement? It is because she is such an exceptionally qualified candidate to have the former chairman of the Council of Economic Advisors for Ronald Reagan come forward now with a letter to the Wall Street Journal supporting this candidate. It shows you the kind of broad support that she has.

And the letter went on to say:

> She deserves to have her nomination considered by the full Senate and she deserves to be confirmed.

As I say, that is signed by three high-ranking Reagan and Bush appointees, and I fully agree with them. They are dead on the mark. And that is just a sampling of some of the support that Ms. Tigert has received.

She has the knowledge, experience, and character to be a superb chair of the FDIC, and she deserves that opportunity. As I have previously noted in hearings that we had before our committee and the vote taken in the committee, she was reported out of the Senate Banking Committee by a vote of 17 to 1. That was back on February 10 of this year.

I believe the FDIC has been without a permanent Chair now far too long. It is high time that the full Senate voted to confirm Ms. Tigert, and I support her nomination without reservation.

I yield the floor and reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from New York [Mr. D'AMATO].

Mr. D'AMATO. I yield 10 minutes to my distinguished colleague from North Carolina, Senator FAIRCLOTH.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina [Mr. FAIRCLOTH], is recognized for 10 minutes.

Mr. FAIRCLOTH. Mr. President, I oppose the nomination of Ricki Tigert to head the Federal Deposit Insurance Corporation. I have met with Ms. Tigert, and found her to be bright and capable. However I believe that she is the wrong person for this job, and I will explain why.

Mr. President, over the next 2 years the American people will hear more and more about Whitewater. The term Whitewater has come to encompass a web of interconnected scandals in which personal and political friends of the Clintons have attempted to enrich themselves at public expense.

One of the vehicles for that enrichment was the failed Madison Guaranty Savings & Loan. As JIM LEACH put it, Madison Guaranty Savings & Loan was used as a piggy bank to divert money to the Clinton for Governor campaign, and to the Whitewater land development. The Whitewater development was, in turn, one of the Clintons' business partnerships.

That diversion of money helped cause Madison Guaranty to fail, ultimately costing the U.S. taxpayers some $60 million.

The recently concluded first round of Whitewater hearings was not about what went on at Madison Guaranty Savings & Loan. It was about efforts by members of the Clinton administration to stop an investigation before it even started.

Those hearings were about an effort by highly placed friends of Bill to bury criminal referrals which named the Clintons as possible beneficiaries of criminal activity. They were about an effort to keep a friend of Bill, Roger Altman, as head of a bank regulatory agency, so that he could be in a position to let the statute of limitations on the Madison Guaranty civil cases run out.

Mr. President, there is a pattern of doing whatever it takes to stop the investigation that Hillary Clinton has said she does not want—the investigation into 20 years of public life in Arkansas. Because of this pattern, people are understandably concerned about personal acquaintances of the Clintons who would be in a position to stop the investigation into the Whitewater scandal.

The RTC has been headed by a friend of Bill, Roger Altman, with disastrous results. The Office of the Comptroller of the Currency is headed by another friend of Bill, Eugene Ludwig. Now, the Clinton's want to put Ricki Tigert, another friend of bill, in charge of the FDIC.

Mr. President, the FDIC is intimately involved with the investigation into Whitewater, Madison Guaranty Savings & Loan, Hillary Clinton's old firm—the Rose law firm, and others.

At a minimum, until the Senate commits to fully examine those interconnected scandals, then it is wrong to put a personal friend of the Clintons in charge of the FDIC.

At her confirmation hearing, Ricki Tigert testified that she had known the President and Mrs. Clinton for 8 years. She goes to Renaissance weekends with them. Yet today, with her confirmation in trouble, she contends that she barely knows them.

According to her handlers, she is not only not a close personal friend of the Clintons, she is now not even a personal friend of any description. She has been transformed from the person who testified that she had known the Clintons for 8 years, into one who has allegedly only been with them in large groups, and then only been by shear coincidence.

But whatever her relationship with them, given what we know about the Whitewater scandal and the role of the FDIC in resolving that scandal, Ricki Tigert is the wrong person for the job.

Ricki Tigert says she has recused herself from Whitewater matters. But in the very letter in which she recused herself, Ricki Tigert uses her personal recusal as an excuse to effect agency policy.

In effect, she uses her recusal as a dodge to prevent Senator D'AMATO and Representative LEACH from getting documents that the FDIC does not want them to have.

Her legalistic recusal is not a trivial matter, and at a minimum needs to be further examined by the Banking Committee in light of what we have learned regarding Roger Altman's recusal. The decision about Ricki Tigert's recusal was mentioned by no fewer than 12 different witnesses at those Whitewater hearings, raising further questions.

Yet instead of answers, we get half-truths and falsehoods. Just last week, Deputy White House legal counsel Joel Klein told the Wall Street Journal that he had the only White House conversation with Ricki Tigert about the recusal issue. Yet we know from the Whitewater hearing documents that this is simply not the truth.

Mr. President, I have right here a March 7, 1994, White House memo from David Gergen. In this memo David Gergen says—and I quote—"I received a call at home from Ricki Tigert, a friend, who wanted to discuss her pending appointment to the chairmanship of the FDIC." He went on to say that—and again I quote—"She asked if I would discuss her interest in a recusal with others in the White House and I said I would."

Mr. President, who did David Gergen discuss Ricki Tigert with in the White House? Who else besides David Gergen and Joel Klein did she have discussions with? Why did Joel Klein tell one thing to the Wall Street Journal, when something else is obviously true—especially after all we have learned during the Whitewater hearings?

Mr. President, these are questions that Ricki Tigert has had months to answer. Instead of answering them, she has chose to spend her time networking with her friends from Renaissance weekends, getting them to lobby and call Senators' offices to tell them that they should just ignore all of the questions that keep being raised.

Mr. President, we do not need an FDIC nominee who must recuse herself from a laundry list of individuals and firms in order to try to make people believe that she would not stonewall the investigation. Rather, we need an FDIC Chairman with the independence to go after wrongdoing wherever he or she finds it.

Ricki Tigert is the wrong person, for the wrong job, at the wrong time. Her nomination should be rejected, and a nominee with no ties to the Clintons, Madison Guaranty, or the Rose law firm should be submitted.

Mr. President, before I conclude, I would just like to tell my friend from Michigan how much I have enjoyed getting to know him and serving with him in the Senate. I will miss the leadership that he has given to the Banking Committee.

I yield the floor.

STATEMENT ON THE NOMINATION OF RICKI TIGERT

Mr. DURENBERGER. Mr. President, I rise in support of the confirmation of Ricki Tigert, nominee to serve as Chairperson and member of the Board of Directors of the Federal Deposit Insurance Corporation.

The FDIC is the Federal regulator of about 7,800 State-chartered banks which are not members of the Federal Reserve System. The FDIC regulates these nonmember banks with the States. Strong leadership at the FDIC is necessary for maintaining the future stability of the banking system.

We are now into the third year the FDIC has been administered by an Acting Chairman of a Board of only two other members, both of whom report to the Treasury Department. The fact that Treasury appears to be running the show does not give me confidence that the FDIC is being run in an independent manner. There is also a serious morale problem in the agency exacerbated by the lack of permanent leadership, also compounded by the need to reorganize the FDIC to absorb the operations of the RTC. The Acting Chairman is currently awaiting his own confirmation as Vice Chairman. That nomination is tied to that of Ms. Tigert.

Ms. Tigert's nomination is supported by the Conference of State Bank Supervisors and by the Independent Bankers Association of America, including my own constituent Al Olson, an independent banker who took some of his own valuable time to campaign for Ms. Tigert last week.

What really concerns me is the quality of Government—in this case the FDIC—and the seeming willingness of the Congress to disregard the importance of providing leadership for Government agencies. The confirmation process, which GAO is currently examining, has played a role in discouraging good people from seeking public service. There simply is no way we can ensure the quality of our Government by denying it the best leadership possible.

I understand that the nominee for another open Board position has withdrawn her name, because her nomination was tied with Ms. Tigert's, and she simply was not willing to wait any longer. This is not the best way to ensure the appointment of quality candidates.

Ms. Tigert had every reason to believe that her nomination would not be controversial. She has an excellent background for the position. She has served 2 years at Treasury and 7 years at the Federal Reserve Board. She has had 16 years of experience on banking-related issues. Since nominated a year ago, she has given up 95 percent of her practice in her law firm at great personal sacrifice. The nomination process has been a painful experience for her—and, again, there is absolutely no evidence that she does not possess all of the qualifications and attributes needed to serve effectively.

In fact, in February the Banking Committee voted 18 to 1 to recommend Ms. Tigert's confirmation. Her nomination was sent up last November. Here we are nearly 1 year later finally debating the nomination on the floor, but only after a cloture vote was necessary to close off the debate.

Ms. Tigert's nomination was held up initially to express congressional concern about the Whitewater-Madison issue. As a result, this body did hold limited hearings on Whitewater. However, my friend and colleague from New York, and others, remain strongly opposed to her nomination until Congress fully examines all of the issues related to Whitewater. Ms. Tigert was the target because the FDIC supervises the Resolution Trust Corporation, the agency which investigated the failed Madison Guaranty Savings & Loan. While Ms. Tigert had no involvement with any of the Whitewater-Madison related issues, she recused herself from any FDIC action that might involve the Clintons. This action apparently caused some Senators to question her involvement in White House discussions of these matters as well as her relationship to the Clintons.

In my review of this nominee, I have found no reason to believe that she has any kind of conflict of interest or that her relationship to the Clintons would be a cause of concern.

In my judgment, Ms. Tigert's nomination is a vehicle for expressing the minority's concern about the need for further investigation into Whitewater-Madison issues. I share some of my colleagues' concerns. But, I strongly disagree that the FDIC should be the victim of this battle.

Mr. President, all of us hope and expect the President to appoint the best people he can to all top administration positions. Ms. Tigert was a good choice. I am pleased that she decided to fight the opposition—many would not. We should expect a lot of people who take these positions which serve the public—but we should not expect them to be pawns in this kind of political game playing.

Ms. Tigert is the kind of nominee I would like to see in all of the President's appointments. Let's limit the debate and find other fora for our concerns about Whitewater-Madison.

I appeal to all of my Republican colleagues to vote with me to confirm her nomination today.

STATEMENT ON NOMINATION OF RICKI TIGERT

Mr. MATHEWS. Mr. President, I join my colleagues who praise the high abilities of my fellow Tennessean, Ms. Ricki Tigert, and urge her confirmation as Chairman of the Federal Deposit Insurance Commission.

Rarely, Mr. President, have I seen a candidate for public service so amply qualified to hold the post for which she has been nominated.

Her credentials speak for themselves: Service with the Federal Reserve as associate general counsel for international banking, senior counsel for international finance at the Treasury Department, private sector law practice concentrating on financial regulation and compliance, a distinguished record as university lecturer and writer, service in the nonprofit sector and professional associations, and her own distinguished academic history.

She has shown a career-long progression of competence that has earned her not only successively higher responsibilities but also successively greater recognition and regard. That regard, as our colleagues have already noted, includes Republicans and Democrats, regulators and the regulated, academics and practitioners alike.

As the distinguished members of the Senate Banking Committee have observed, the post of FDIC Chair is one that must inspire high trust among the millions of Americans who have deposits and loans with institutions regulated by the FDIC. As Ms. Tigert herself has noted, the FDIC is in the early stages of a major transition from assuring the banking system's survival to assuring its growth. Ms. Tigert has the integrity, the experience, and the knowledge to serve this post at the time when those qualities are most in demand.

I urge her speedy confirmation and thank the Chair.

Ms. MOSELEY-BRAUN. Mr. President, the Senate has a responsibility to see that Federal regulatory agencies have the kind of strong leadership necessary to meet their responsibilities. In the case of the Federal Deposit Insurance Corporation, the Senate has been prevented from meeting that responsibility.

The FDIC has been left with an Acting Chairman for over 2 years now. That fact, it seems to me, is a travesty. We need to get a Chair who has been named by the President and confirmed by the Senate, into place.

We have a very well-qualified candidate that the Senate Banking Committee acted on a long time age, one who was recommended to the administration by the distinguished Chairman of the Federal Reserve Board, Alan Greenspan, and by Beryl Sprinkel, the Chairman of the Council of Economic Advisers in the Reagan administration. That candidate, Ricki Tigert, has the experience, the expertise, and the ability to lead the FDIC. In fact, I am not aware of any reason that goes to her qualifications or her abilities that would suggest that she is not fit to serve as the head of the FDIC. However, she is still not confirmed. Despite the broad support she demonstrated before the Senate Banking Committee, the Senate has been blocked from acting on her nomination.

Ricki Tigert has sacrificed a lot to go into public service. She has given up all her banking work at her law firm, which has been the overwhelming bulk of her practice. She has gone on salary, even though she is a partner at the firm, in order to prevent even any hint of a suggestion that she would benefit from any increased work her firm might be doing in the financial services area. Frankly, it seems to me, that, in human terms, the continuing hold on her nomination for reasons that have absolutely nothing to do with her or her unquestioned ability to make a first-rate Chair of the FDIC, is unfair and unconscionable.

There was an initial reluctance by some to act on Ricki Tigert's nomination because of a controversy totally unrelated to her qualifications; she became a hostage to the Whitewater controversy. But the conditions set out in the letter sent by some of my colleagues outlining this issue have been met. The Senate Banking Committee has held 6 very long days of hearings on aspects of the Whitewater-Madison Guaranty matter, and the only reason that additional hearings have not yet been held is because the independent counsel conducting the investigation into these matters, Mr. Fiske, was replaced by the court of appeals, and the new independent counsel, Mr. Starr, has not yet concluded his investigation of the Washington aspects of the Whitewater-Madison matter.

Just last week, Senator RIEGLE, the chairman of the Banking Committee, and Senator D'AMATO, the ranking Republican member of the committee, issued a joint press release stating. "As required by Senate Resolution 229, the committee will not schedule further public hearings until we believe such hearings will not impede his, Mr. Starr's investigation."

That leaves only one issue for the opponents of her nonmination—that she happens to know the President and the First Lady. Now, if she knew them well enough, a friendship with the President and the First Lady might be disqualifying for some very few positions in Government. But Ricki Tigert isn't being appointed to be the special counsel investigating the President. She is not being appointed to the court overseeing the special counsel. She is nominated to head the FDIC.

The FDIC is not a key agency in the investigation of Whitewater-Madison—the independent counsel, and the RTC are the leads. Moreover, Ms. Tigert has recused herself from any potential FDIC involvement in that matter.

Mr. President, if we do not act on the Tigert nomination before this Congress adjourns for the year, it will likely be at least 6 more months before we will be able to act on her confirmation next year. That would be nothing short of a disgrace. The FDIC is at the heart of our system of bank regulation. It is the guardian of the life savings of millions and millions of Americans. It is the guardian of the taxpayers' interest in seeing that we never, have a repetition of the kind of insurance fund debacle we saw in the 1980's.

The FDIC needs permanent leadership. It needs a head who has been confirmed by this Senate to head that organization. We need to act on the nomination of Ricki Tigert to be the new Chair of the FDIC now—before we adjourn. That is our responsibility and that is our obligation. I strongly urge my colleagues to join me in supporting the nomination of Ricki Tigert to head the FDIC.

Mr. MITCHELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk and ask that it be stated.

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report to accompany H.R. 6, the elementary and secondary education bill:

George J. Mitchell, Daniel K. Akaka, Max Baucus, Harris Wofford, Carl Levin, Claiborne Pell, J. James Exon, Barbara Boxer, Jay Rockefeller, Daniel K. Inouye, Byron L. Dorgan, Howell Heflin, Harry Reid, Joseph I. Lieberman, Patty Murray, Diane Feinstein, Russell D. Feingold.

NOMINATION OF RICKI RHODARMER TIGERT TO THE FDIC

Mr. RIEGLE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. RIEGLE. Mr. President, how much time is remaining on this side?

The ACTING PRESIDENT pro tempore. The Senator from Michigan has 9 minutes. The Senator from New York has 7 minutes and 10 seconds.

Mr. RIEGLE. Mr. President, let me thank the Senator from North Carolina for his gracious personal comments. I am touched by it and I appreciate it. I am going to miss his friendship and serving with him.

I yield 8 of the 9 minutes to the Senator from Washington.

The ACTING PRESIDENT pro tempore. The Senator from Washington [Mrs. MURRAY] is recognized for 8 minutes.

Mrs. MURRAY. Thank you, Mr. President.

Mr. President, I rise today to support the nomination of Ricki Tigert to Chair the Federal Deposit Insurance Corporation, and to urge our colleagues to invoke cloture today and finally allow this nomination to move forward.

Mr. President, the FDIC maintains the safety and soundness of our financial institutions. The FDIC promotes and preserves public confidence in banks. It protects the money supply by providing insurance coverage for depositors.

The FDIC oversees nearly three and one-half trillion dollars' worth of deposits.

But this is not an issue for Wall Street, it is an issue for Main Street. My parents, my brothers and sisters, and my friends and neighbors all save their money in federally insured accounts. They depend on this System being overseen by a qualified and competent regulator. In my home State of Washington, the FDIC insures more than 52 billion dollars' worth of deposits.

I cannot stand by and allow average Americans to be put at risk while this nomination is being held up.

The Chair of the FDIC is one of the most important positions in our Government to average Americans.

Yet, for the past 2 years, Mr. President, we have not had a Chair of the FDIC.

This confirmation process should not be the time to score debating points. I know there are decent Senators on both sides of the aisle who draw the same line I do here in the Chamber: Some things are just not worth the risk.

Mr. President, I am not a personal friend of Ricki Tigert. I have not known her for years. In fact, I met her first this last February, when she came to my office prior to her confirmation hearing in the Banking Committee.

So, I would like to enter into the RECORD a statement by those who have worked with her and who know her well.

The Wall Street Journal published a letter from Beryl Sprinkel, President Reagan's Chairman of the Council of Economic Advisers; Peter Wallison, President Reagan's counsel; and Linn Williams, President Bush's Deputy Trade Representative. All Republicans.

They say about Ricki Tigert: "She has had a distinguished career and is held in high esteem as an internationally recognized expert in banking law and regulation. She is committed to the complete independence and integrity of the bank regulatory process."

I ask unanimous consent that the full text of their letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Aug. 22, 1994]

[Letters to the Editor]

RICKI TIGERT: NO CLINTON CRONY

In his Aug. 5 column, "On Whitewater: Clinton Team Doesn't Inhale," Paul Gigot left the impression that Ricki Tigert, the Clinton administration's nominee to chair the Federal Deposit Insurance Corporation (FDIC), has not agreed to recuse herself from Whitewater matters if she were confirmed by the Senate.

In his column Mr. Gigot wrote: "On Feb. 1 Ms. Tigert told the Senate she wouldn't recuse herself from Whitewater matters; we now know that was the same week the White House leaned on Mr. Altman not to recuse." This is a clever juxtaposition of unrelated events, but it leaves the false impression that Ms. Tigert's position and Mr. Altman's were somehow connected.

In reality, a few days after her confirmation hearing and prior to the Senate Banking Committee's vote, Ms. Tigert advised the Senate Banking Committee in writing that she would recuse herself from any investigation, inquiry, or determination concerning President or Mrs. Clinton. The committee then approved her nomination, 18 to 1.

We know from our discussions with Ms. Tigert during the confirmation process that she never sought or received advice from any White House official on the decision to recuse herself. Instead, she followed her own counsel and advised the Deputy White House Counsel that this was her decision. There was no effort to dissuade her. And she was unaware at the time of any controversy within the White House concerning Roger Altman.

Further, we strongly disagree with the suggestion in your editorial. "The Meese Test," of July 20, that Ms. Tigert would be a "bank regulator/crony." We have all known Ms. Tigert for at least a decade, and have worked with her closely in her government service and private law practice. Two of us worked with her in the Reagan administration. She has had a distinguished career and is held in high esteem as an internationally recognized expert in banking law and regulation. She is committed to the complete independence and integrity of the bank regulatory process, as she testified in her confirmation hearing. The notion that she is a Clinton "crony" is a canard.

She has met the Clintons, but only in public. She has never spent time alone with either of them.

We believe the Senate and House should diligently pursue Whitewater, but Ms. Tigert's nomination to chair the FDIC is a completely unrelated matter. Continuing to hold up a vote on her nomination does nobody any good—least of all the banking industry. She deserves to have her nomination considered by the full Senate, and she deserves to be confirmed.

BERYL W. SPRINKEL,
Former Chairman, Council of Economic Advisers in the Reagan Administration.
PETER J. WALLISON,
Former Counsel to President Reagan.
S. LINN WILLIAMS,
Former Deputy U.S. Trade Representative in the Bush Administration.

Mrs. MURRAY. Ricki Tigert's former colleagues at the Federal Reserve during Republican administrations have strongly supported her nomination, including former Chairman Paul Volcker and former Gov. Wayne Angell.

Former FDIC Chairmen William Isaac, a Republican, and John Heimann, a Democrat, have urged her confirmation in a letter to my good friend, the majority leader.

They wrote: "She has an established record as an independent bank regulator. Her judgment and her strong record at the Federal Reserve underscore our conviction that she will be an outstanding Chairman of the FDIC and deserves immediate confirmation."

Mr. President, I ask unanimous consent that the full text of their letter be printed in the RECORD.

There being no objection the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 28, 1994.

Hon. GEORGE J. MITCHELL,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR MITCHELL: As former chairmen of the Federal Deposit Insurance Corporation (FDIC) we are writing to ask for your help in assuring the immediate confirmations of Ricki R. Tigert and Andrew C. Hove as Chairman and Vice-Chairman, respectively, of the FDIC prior to the end of the 103rd Congress.

The FDIC has awaited a permanent chairman for more than two years since the untimely death of William Taylor in August 1992. Andrew Hove has done an exceptional job as Acting Chairman of the FDIC, but only a permanent chairman can undertake significant initiatives to address the critical issues facing the agency.

Ricki Tigert was nominated last November to chair the FDIC. She was approved by the Senate Banking Committee in February by a vote of 18 to 1. Like William Taylor she has an established track record as an independent bank regulator at the Federal Reserve. She emphasized in her confirmation hearing that safety and soundness is her starting point in analyzing and responding to all issues that face the agency. We think she is absolutely correct. Her judgment and her strong record at the Federal Reserve underscore our conviction that she will be an outstanding chairman of the FDIC and deserves immediate confirmation.

In our view Ricki Tigert and Andrew Hove will make an excellent team to lead the agency through difficult issues that require immediate attention. Two of the most important of these issues are the potential premium differential between the Bank Insurance Fund and the Savings Association Insurance Fund and the ongoing evaluation of the effectiveness of risk-based insurance premiums for encouraging safe and sound management of financial institutions.

In the final weeks of the 103rd Congress we urge you not to forget the FDIC, which for more than sixty years has protected American savings. The agency needs and deserves strong, permanent leadership. Ricki Tigert and Andrew Hove should be confirmed as soon as possible.

Very truly yours,
WILLIAM M. ISAAC.
JOHN G. HEIMANN.

Mrs. MURRAY. Even the business community she will be overseeing has been lobbying heavily for her confirmation. How often do we see that here in the Senate? I ask unanimous consent that a letter from Ken Guenther of the Independent Bankers Association of America be printed in the RECORD, as well as a letter from James Watt, president and CEO of the Conference of State Bank Supervisors.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

INDEPENDENT BANKERS
ASSOCIATION OF AMERICA,
Washington, DC, September 9, 1994.

Hon. DONALD W. RIEGLE,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR RIEGLE: The Federal Deposit Insurance Corporation (FDIC), the primary federal regulator for some 8,800 state-chartered banks, has been without a confirmed chairman since the tragic death of Chairman Bill Taylor in August 1992. The confirmation of Ricki Tigert, the very well-qualified and capable individual who has been nominated as FDIC chairperson, has been delayed for months. The Independent Bankers Association of America (IBAA) requests your assistance to have the Senate act on the nomination of Ricki Tigert as chairperson, as well as on the nominations of Andrew Hove as vice chairman and Anne Hall as FDIC director.

By statute, the FDIC is required to have a five-member board that consists of a chairman, vice chairman, and three directors, including the Comptroller of the Currency and the director of the Office of Thrift Supervision. Acting FDIC Chairman Andrew Hove is chairing a board of just three members, where the only confirmed member is the Comptroller of the Currency. The IBAA believes that acting FDIC Chairman Hove has done a highly credible job under trying circumstances. However, it is impossible for an individual in an "acting" capacity, who is awaiting his own confirmation, to bring the necessary independent political clout to the agency. And since two of the three FDIC board seats are filled by individuals directly responsible to the political leadership of the Treasury Department, this important agency is effectively under Treasury control.

This is a matter of considerable concern to the banking industry and runs contrary to the clear intent of the Congress in setting up the FDIC. Issues of great importance are pending.

The FDIC–BIF is moving towards the important 1.25 reserve ratio, which should trigger substantially lower bank premiums. Earlier in the Clinton Administration, thought was given to channeling deposit insurance premiums to affordable housing programs. A fully functioning FDIC board could play a crucial role in this issue.

It is further expected that the Treasury proposal to consolidate the regulatory agencies will resurface early in the next Congress. In recent days, Treasury Under Secretary Frank Newman, who has been named by Secretary Bentsen to succeed Roger Altman as deputy secretary, has told the press this. Since the FDIC would be a major loser under the original Treasury plan and under the rumored Treasury-Fed apparent agreement, an independent FDIC board could play a crucial role in the upcoming debate.

The President's CRA reform initiative is pending. Again, this has largely been negotiated out by the Fed and the OCC, with President Clinton having assigned Comptroller Ludwig the lead role. The FDIC's voice should be heard when the proposal is put out for comment this month.

Fourth, the RTC is winding down and major staff integration and money decisions will have to be made early in 1995.

Finally, a personal note. I did not know Ricki Tigert when her name surfaced. Since the FDIC chairperson regulates more community banks than any other federal regular, I did due diligence on her, checking sources who worked with her at both the Fed and the Treasury. I checked at the political level and the career staff level. Ms. Tigert checks out, and has impressive bi-partisan policy level and career staff support.

She is clearly an experienced, independent professional with previous high-level regulatory experience. She understands the workings of government and her confirmation would restore much-needed balance to the banking regulatory agencies.

It is time that the FDIC returned to the status intended by the Congress—an independent regulatory agency.

The IBAA is hopeful that the Senate will be able to promptly confirm Ms. Tigert and Skip Hove at this cruical time and ensure the continued independence of the FDIC. As you may know, the confirmation impasse has already claimed one victim. Anne Hall, a banker and the daughter of a former Democratic congressman from Ohio, who was slotted for the open FDIC directorship—and who also has been waiting all this year for confirmation—has asked that her name be withdrawn.

Sincerely,

KENNETH A. GUENTHER,
Executive Vice President.

CONFERENCE OF
STATE BANK SUPERVISORS,
Washington, DC, September 19, 1994.

Re Tigert nomination to Chair the FDIC.

Hon. PATTY MURRAY,
U.S. Senate,
Washington, DC.

DEAR SENATOR MURRAY: The Conference of State Bank Supervisors (CSBS) strongly urges you to act on the nominations of Ricki Tigert to chair the Federal Deposit Insurance Corporation (FDIC) and Andrew Hove as Vice Chairman of the FDIC.

Over two years ago, FDIC Chairman William Taylor died unexpectedly. Since then, the FDIC has been headed by acting-Chairman Andrew Hove. Acting-Chairman Hove has done an outstanding job in leading the FDIC under very difficult circumstances. However, the FDIC needs and deserves an appropriately appointed and confirmed Chair and Board of Directors to take on the challenges that currently face the FDIC and the banking industry.

CSBS is comprised of the state officials that charter and supervise banks in the fifty states and the four possessions. There are over 8,800 state banks that hold more than $1.79 trillion in assets. Of this number, over 7,800 state banks are not members of the Federal Reserve System. These so-called state nonmember banks are regulated in close cooperation by the states and the FDIC. This gives state bank supervisors both a unique perspective on the workings of the FDIC and a critical interest in the effectiveness of the FDIC.

The absence of a confirmed Chair and Board of Directors is a serious and growing problem for the FDIC. Over two years without permanent leadership has resulted in a dramatic fall in the morale at the FDIC. The FDIC is faced with numerous and varied new challenges to the soundness of the deposit insurance funds including the likely disparity in deposit insurance assessments between the Bank Insurance Fund and the Savings Association Insurance Fund and the regulation of bank derivative activities. In addition, the FDIC is faced with significant administrative challenges, including the need to substantially reduce the work force at the FDIC in light of the reduction in bank failures.

What the FDIC needs is strong, permanent leadership, and it needs it now. Ms. Tigert is without question extremely well qualified and capable to fill the void at the FDIC. She has an established record as an independent bank regulator. As in the case of William Taylor, her years of experience at the Federal Reserve Board have given her a strong understanding of the critical role that banking regulation plays in assuring the safety and soundness of financial institutions. Ms. Tigert will provide the agency, the banking industry, and the country with a regulator who is dedicated to protecting the taxpayers' guarantee of the federal deposit insurance system and to confronting aggressively the challenges before the banking industry.

Without a Chair and functional Board, the FDIC cannot play its critical role as deposit insurer in the bank regulatory system. Once Ms. Tigert and her fellow FDIC Board nominee Andrew Hove are confirmed by the Senate, we can all rest assured that balance and independence will be restored to bank regulation.

CSBS respectfully requests that you confirm the nominations of Ms. Tigert and Mr. Hove. We recognize that there are many crucial issues awaiting floor action. We would not raise the issue of a nomination at this time but for our absolute conviction that the timely confirmation of Ms. Tigert and Mr. Hove is necessary for the future stability of the banking system.

CSBS appreciates your attention to this matter. We look forward to working with you toward a stronger, safe banking system.

Sincerely,

JAMES B. WATT,
President and CEO.

Mrs. MURRAY. I also ask for unanimous consent that a letter of support for the Tigert confirmation from the Independent Insurance Agents of America be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

INDEPENDENT INSURANCE
AGENTS OF AMERICA INC.,
Washington, DC, September 29, 1994.

Hon. PATTY MURRAY,
Senate Hart Building, Washington, DC.

DEAR SENATOR MURRAY: We are writing to request your support in confirming Ricki Tigert as chairperson of the Federal Deposit Insurance Corporation (FDIC).

She is an experienced, independent professional with significant regulatory experience.

The FDIC is too important an agency to have a leadership vacuum. The time has come for the Senate to act favorably on this nomination. A failure to act before adjournment will almost certainly mean that the FDIC will drift until next spring.

The Independent Insurance Agents of America believes that an independent board of directors at the FDIC is important for both business and consumers in this country. Ms. Tigert's background has prepared her well to be the chairperson of the FDIC.

Sincerely,

ROBERT RUSBULDT,
Vice President Federal Affairs.

Mrs. MURRAY. The Insurance Agents wrote:

> The FDIC is too important an agency to have a leadership vacuum. The time has come for the Senate to act favorably on this nomination. A failure to act before adjournment will almost certainly mean that the FDIC will drift until next spring.

Mr. President, the FDIC is a corporation with an operating budget of nearly $2 billion. It has more than 13,000 employees, and reserves of $13 billion.

Its shareholders are the American people—average Americans who depend on the safety and soundness of our financial institutions. And, it has gone rudderless for 2 years.

Can you think of any other $13 billion corporation whose shareholders would allow it to operate without a board, and with an acting CEO, for 2 years?

Mr. President, we have an outstanding nominee. Ricki Tigert passed out of the Senate Banking Committee by a vote of 18 to 1. She has had broad-ranged experience in the U.S. Government spanning the executive branch, the U.S. Congress, and the Federal Reserve.

She has worked for more than 15 years on a range of banking and financial issues that has gained her respect and admiration from all her former colleagues, many of whom are Republicans.

Ricki Tigert's confirmation is not being opposed for any substantive reason. It is all politics. And, the American people will not stand for this body jeopardizing the safety and soundness of our banking system.

This is exactly what Americans hate about politics. It sends a terrible message about public service. It takes the honor and the sense of duty out of serving the American people.

And, it is dangerous to average American depositors.

The objections that have been raised are red herrings—that she knows Bill and Hillary Clinton. Those arguments have been debunked.

That the recusal did not come soon enough—those arguments have been debunked. And now that there are too many recusals out there.

Mr. President, this reminds me of a child in preschool who threw all the toys on the floor and turned around and said, "It's too messy for me to play in here."

Mr. President, I urge the swift confirmation of Ricki Tigert, and urge all of our colleagues to vote for this cloture motion.

I reserve the remainder of our time.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from New York [Mr. D'AMATO] is recognized.

Mr. D'AMATO. May I inquire how much time we have?

The ACTING PRESIDENT pro tempore. The Senator has 7 minutes and 9 seconds.

Mr. D'AMATO. Mr. President, let me first say that I voted for Ms. Tigert. There is no doubt that she is qualified. But Ms. Tigert was less than candid with the committee, less than candid as it related to the issue of recusal, less than candid thereafter—her spokesperson saying one thing and the record indicating quite clearly something else.

I have a memo here. I ask unanimous consent the memo be printed in the RECORD as if read in its entirety.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. D'AMATO. Mr. President, this document is a memo from the files of David Gergen, entitled "Contacts with the RTC/FDIC." I only have 7 minutes, but let me say this memo raises more questions than were raised by Roger Altman.

I do not think we want a FDIC chairperson who is going to be called before the Banking Committee to explain how many contacts she had with the White House on the issue of recusal. I suggested to the White House we not go forward with this so I would not even have to make this brief statement. I have not issued press releases. I find it rather disingenuous to have a former Deputy Secretary of the Treasury, Peter Wallison, who was Ms. Tigert's law partner, lobbying on her behalf as if there was no contact; making statements that she only had one contact with the White House when indeed we know of at least one other. That comes from Mr. Gergen himself.

We have gone through enough problems—problems with the issues of White House contacts and attempts to manipulate and oversee who is placed in control of independent agencies, who controls decisions on matters that are very sensitive and affect the White House. When are we going to learn? I went to the chairman of the committee, I went to others. I said we should avoid this. This is not the time to bring this nomination forward.

I have extensive remarks that, if we lose this cloture vote, I will put into the RECORD. There are questions that have to be raised. The committee should be able to ask her these questions.

I find it incredible that as it relates to her contacts with the White House she says on one hand, through her spokesperson: I only had one. Yet Mr. Gergen's memo indicates that there was at least one other, and that she herself called him to make that contact with the White House.

Is that the kind of situation we want to have develop, as it relates to the chairperson of this important agency? Is it important? Yes. Has she had highly placed people lobbying on her behalf? Yes. What is their relationship? Either law partners or former associates. I do not think that they are independent. I think they comprise an insider network which is working to help one of their own there.

Remember, this comes from a Senator who advised her before her hearing that she would be asked about recusal. I thought that she should be candid. And she was less than candid. I supported her initially, not withstanding the question that was raised by one of the members of the committee as it relates to this. Did she give us candor thereafter? No. Do her representatives give us candor thereafter? No.

I find it incredible that Mr. Wallison, who was himself a distinguished counsel and Deputy Secretary of the Treasury, comes forward and says there was only one contact when indeed we know of at least another one, as a result of the memo that we have received and that I put into the RECORD.

Mr. President, I do not believe—I can ask the chairman here—that I have opposed one nomination that has come through the Banking Committee. I have gone out of my way to be helpful, even where there have been somewhat controversial nominations. I have not used my status as ranking member to come to the floor to oppose nominations. This is the first time. These are unusual circumstances.

Roberta Achtenberg, Assistant Secretary of Housing was very controversial. I said, "As far as I am concerned, she has the qualifications, she promises to do the job according to the law." And she has proven to be even more controversial in the job than suspected. I did not try to oppose her.

I have not attempted to second guess the President. I ask the chairman if he is aware of any of the nominations that have come before our committee, and there must have been close to 30 of them, that I have held up or that I have voted against? If I have, I would vote and let it go.

I oppose this nomination for good cause and with good reason, unless we just choose to say, "Oh, we need somebody, plunge ahead." If we want to get into the merits, I will put it into the RECORD. Indeed, if we lose cloture I will do exactly that. We will provide the facts we have now. But that will not preclude us from asking her to come before the committee for detailed, comprehensive hearings on the Whitewater matter, and asking about her contacts with the White House, and the statements that her representatives have put that are not accurate.

I do not think it makes sense to go forward. I advised the administration through the chairman that it is not the time nor the place, and there are questions that need to be asked. I did not go to anyone off the record or on the record with the statement. I did not feed this out to the press, to say these were going to be questions that are being raised. But by going forward in this manner, I at least have to put this into the RECORD, as to why this Senator opposes the nomination.

EXHIBIT 1

THE WHITE HOUSE,
Washington, March 7, 1994.

From David Gergen.
Subject Contacts with RTC/FDIC.

To the best of my memory, I have not had any conversations—direct or indirect—with officials representing RTC about the content of subjects under investigation. My files also do not show any phone calls or contain papers which suggest contacts.

For purposes of the record, I wish to take note of the following:

Last Monday, February 28, I placed a call to Roger Altman to congratulate him on recusing himself with regard to Madison Guaranty. I thought he had voluntarily taken the proper step and I wanted to be sure he knew of my support.

This past Saturday morning, March 5, Roger Altman called me to discuss a public letter he had sent to Senator Riegle explaining aspects of his earlier meeting with White House officials, including the fact that his office had obtained prior clearance from the Office of Ethics at Treasury. He wished to ensure that White House officials and members of the press were more fully apprised of the letter, and I assured him we would make an effort to make sure people knew of its contents. At the end of the conversation, I raised the subject of his coming testimony to Congress and I emphasized how strongly the President wished that in all such matters, his people be forthcoming and honest.

This past Sunday evening, March 6, my wife and I had dinner at Mr. Altman's home. It was largely a social occasion. He and I did talk about the controversies that were in the press re: Whitewater but we did not talk about anything which might have been untoward (e.g., we specifically avoided discussion of his forthcoming testimony at the request of Special Counsel Fiske). (I have previously attended one other dinner at Roger Altman's home but I believe the subject of the RTC never came up, nor can I recall any other conversations with Mr. Altman about it.)

On another front: about three Sundays ago (I may be off by a week or so), I received a call at home from Ricki Tigert, a friend, who wanted to discuss her pending appointment to the chairmanship of the FDIC and the question of whether she should recuse herself from matters relating to Whitewater. She expressed a preference for recusal, and I encouraged her to seek such recusal. She asked if I would discuss her interest in a recusal with others at the White House, and I promised her that I would. Thereafter, I spoke with Joel Klein, who also supported a recusal. Joel notified me that Monday (possibly Tuesday) that Ricki would indeed be recusing herself.

My memory is a little hazy, but I believe these conversations represent my contacts with regulators in the Madison matter.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. RIEGLE. Mr. President, how much time remains on this side?

The ACTING PRESIDENT pro tempore. The Senator from Michigan has 3 minutes and 22 seconds.

Mr. RIEGLE. I am going to reserve time for the Senator from Tennessee. We have 3 minutes remaining. Let me yield a minute now to the Senator from Maryland.

The ACTING PRESIDENT pro tempore. The Senator from Maryland [Mr. SARBANES] is recognized for 1 minute.

Mr. SARBANES. Mr. President, I rise in support of the nomination of Ricki Tigert to be Chairman of the Federal Deposit Insurance Corporation [FDIC].

The FDIC has been without a confirmed chairman since August 1992, when the able William Taylor tragically died. Andrew Hove, a member of the board of the FDIC, has been serving as acting chairman since that time. Although by all accounts Mr. Hove has done creditable job, most observers agree that the FDIC is in need of the permanent leadership and direction that only a duly appointed and confirmed chairman can provide.

Mr. President, the Senate Banking Committee held a hearing on Ms. Tigert's nomination on February 1, and on February 10 the committee favorably reported out her nomination by a vote of 17 to 1.

A brief review of the responsibilities of the FDIC makes clear why it is important that a duly appointed and confirmed chairman assume its leadership.

The FDIC has a budget of $2 billion and approximately 12,000 employees. It has responsibility for managing both the Bank Insurance Fund [BIF] and the Savings Association Insurance Fund [SAIF], which insure deposits up to $100,000 in commercial banks and thrift institutions in the United States.

The FDIC is also the primary Federal regulator for over 6900 State chartered banks with $862 billion in assets. The FDIC is the primary Federal supervisor for nearly 400 State chartered savings banks with assets of $192 billion.

In addition, the FDIC has authority to regulate activities of state-chartered banks and thrifts that pose a serious threat to the Bank Insurance Fund or the Savings Association Insurance Fund, as well as to conduct examinations and bring enforcement actions relating to its responsibility to protect the insurance funds.

Beginning in 1995, the FDIC will not only have responsibility to resolve failed banks but it will also take over the responsibility to resolve failed thrifts from the Reduction Trust Corporation [RTC]. Further, when the RTC goes out of business at the end of 1995, the FDIC will become responsible for disposing of its remaining asset inventory.

Ms. Tigert is well qualified nominee, who brings a distinguished record of experience and achievement in the public and private sectors to this nomination.

She is an honors graduate of Vanderbilt University and the University of Chicago Law School. She had the honor of clerking for one of our country's most distinguished jurists, the Honorable John Minor Wisdom of the U.S. Court of Appeals for the Fifth Circuit.

After working for 2 years on the staff of the Senate Judiciary Committee and practicing law for 4 years with a Washington law firm, Ms. Tigert went to work for the Treasury Department as Senior Counsel for International Finance for 3 years.

She followed that with 7 years of service with the Federal Reserve Board as their Associate General Counsel for International Banking. Since 1992 she has been a partner in the Washington law firm of Gibson, Dunn, and Crutcher, providing legal advice on domestic and international banking issues.

She has served as adjunct professor of law at the Georgetown University Law Center, and as chair of the American Bar Association's Committee on International Banking and Finance.

Ms. Tigert brings a great depth of experience and expertise in financial regulation to this nomination. She is well prepared and I believe she will be an able chairman of the FDIC.

I urge my colleagues to vote in favor of the cloture motion so that debate can be limited and the Senate can have the opportunity to vote on this important nomination.

Mr. DOLE. Mr. President, on March 2, 43 Republican Senators signed a letter to the distinguished majority leader, Senator MITCHELL. This letter stated that we would:

> * * * object to any agreement * * * to proceed to the nomination of Ricki Tigert * * * until the Senate Banking Committee has an opportunity to thoroughly examine the Resolution Trust Corporation's handling of its civil investigation into Madison Guaranty Savings and loan.

Seven months later, this condition has not been met. The Banking Committee has not thoroughly examined the RTC's handling of its investigation into Madison. The Senate has not gotten to the bottom of Whitewater. We do not know whether RTC officials in Washington tried to muzzle the activities of the field investigators in Kansas City. Nor do we know why the Justice Department failed to act upon the RTC criminal referrals in an orderly and prompt fashion.

Quite simply, there are far more Whitewater questions today than there are answers.

In fact, the Senate has not even completed the very limited hearings called for by Senate Resolution 229, adopted last June after much debate. At the urging of Robert Riske, the Banking Committee has refrained from investigating one of the narrow subjects that we already agreed ought to be investigated—the removal of Whitewater documents from the office of the late Vincent Foster.

Mr. President, I intend to vote against cloture on this nomination. I signed a letter on March 2, and I intend to stick by it.

Let me just say that I have no reason to doubt Ms. Tigert's competence and integrity. Nor do I have any inside information as to whether she is, or is not, a close personal friend of the Clinton's as some have claimed. I know that my distinguished colleague from New York, Senator D'AMATO, has raised some troubling questions concerning whether White House officials improperly sought to dissuade Ms. Tigert from recusing herself from the Madison-Guaranty investigation. This issue of alleged White House pressure needs to be very closely examined.

The bottom line is that, if my colleagues on the other side of the aisle really wanted to see Ms. Tigert confirmed, they would have already allowed the Senate to proceed with full and unabridged hearings. No matter how hard they may try and no matter how much they may hope, Whitewater is not going to go away anytime soon.

The American people deserve a full accounting of Whitewater, and they will get it; maybe not this year, but perhaps in 1995.

Unfortunately, we witnessed a new phenomenon this past session: It's called taking the Fiske.

Taking the Fiske means abdicating our own oversight responsibilities by following the orders of an unelected bureaucrat. The American people have lost out as a result, and so, apparently, has Ricki Tigert.

Mr. President, I ask unanimous consent that the March 2 letter be reprinted in the RECORD immediately after my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, March 2, 1994.

Hon. GEORGE J. MITCHELL,
U.S. Senate, Washington, DC.

DEAR MR. LEADER: We are writing to inform you that we will object to any agreement seeking consent to proceed to the nomination of Ricki R. Tigert, President Clinton's nominee to chair the Federal Deposit Insurance Corporation, until the Senate Banking Committee has an opportunity to thoroughly examine the Resolution Trust Corporation's handling of its civil investigation into Madison Guaranty Savings and Loan.

As you know, the Acting Chief Executive Officer of the RTC, Roger Altman, recently disclosed that he sought a meeting with White House officials to give them a "heads-up" on the RTC's investigation. Needless to say such a meeting is highly improper and raises very real questions about Mr. Altman's impartiality and the alleged independence of the investigation. Specifically, why were Harold Ickes and Margaret Williams present, in addition White House Counsel Bernard Nussbaum? According to the Washington Post, Mr. Ickes the Deputy Chief of Staff, is responsible for Whitewater "damage control". Ms. Williams, Chief of Staff for Mrs. Clinton, had previously participated with Mr. Nussbaum in searching Vincent Foster's office and sending all or some of the materials to David Kendall of Williams and Connally who is representing the President and Mrs. Clinton.

We believe public hearings are required to explore these and other questions involving the attendance of political operatives at the White House in briefings by the head of a supposedly independent agency on matters that have nothing to do with the Executive Office of the President.

We regret having to delay the Senate's consideration of Ms. Tigert's nomination. Nevertheless, the American people deserve to have confidence that the RTC conducts its important business in an independent and impartial fashion. A Congressional hearing is an appropriate forum in which to examine the important ethical and regulatory issues raised by the Altman-White House meeting.

Sincerely,

Alfonse D'Amato; Bob Dole; Malcom Wallop; Phil Gramm; Judd Gregg; Larry E. Craig; Trent Lott; Dan Coats; Connie Mack; Conrad Burns; John McCain; Robert F. Bennett; Kit Bond; Ted Stevens; Lauch Faircloth; Bob Packwood; Arlen Specter; John H. Chafee; Jim Jeffords; Al Simpson; Jesse Helms; Don Nickles; Mitch McConnell; Orrin Hatch; Strom Thurmond; Thad Cochran; Pete V. Domenici; Hank Brown; Frank H. Murkowski; Larry Pressler; Bill Roth; John Danforth; Chuck Grassley; Bill Cohen; Dave Durenberger; Slade Gorton; Richard G. Lugar; Bob Smith; Nancy Landon Kassebaum; John Warner; Dirk Kempthorne; Kay Bailey Hutchison.

Mr. RIEGLE. Mr. President, I yield the remaining time to the Senator from Tennessee [Mr. SASSER].

Mr. SASSER. Mr. President, Ricki Tigert is from my home State of Tennessee. She has compiled a distinguished career and will be a very able chairperson with the FDIC. She has bipartisan support.

Mr. President, the Federal Deposit Insurance Corporation is one of the most important agencies within the U.S. Government. It is charged with protecting the deposits of the millions of hardworking people of this country.

Despite this most important of missions, the FDIC has been without permanent leadership for 2 years now.

A year ago, the President nominated Ricki Tigert, of my home State of Tennessee, to be Chairwoman of the FDIC. I strongly urge my colleagues to support Ms. Tigert's nomination.

Ricki Tigert is extremely qualified to chair the FDIC. Ms. Tigert has a broad background in Government, having worked for both the executive and legislative branches. She is an internationally recognized expert on bank regulatory issues. She served 7 years as the chief international lawyer for the Federal Reserve Board.

In early February, Ms. Tigert's nomination was reported favorably by the Senate Banking Committee by a nearly unanimous vote of 18 to 1. I repeat the vote was 18 to 1.

Following the overwhelming committee vote, partisan politics took over. Ms. Tigert's nomination has been held up ever since, leaving the FDIC essentially in limbo.

The time has come to set partisan politics aside and to confirm Ms. Tigert. And Mr. President, I am not alone in this judgment.

Many distinguished Republicans outside this body have voiced their strong support for Ms. Tigert.

Beryl Sprinkel, the former head of Ronald Reagan's Council of Economic Advisers, has written in strong support of Ms. Tigert.

Along with other top Republican executive branch officials, Dr. Sprinkel wrote:

> She has had a distinguished career and is held in high esteem as an internationally recognized expert in banking law and regulation. She is committed to the complete independence and integrity of the bank regulatory process. Further, continuing to hold up a vote on her nomination does nobody any good, least of all the banking industry.

And the list of Ms. Tigert's supporters does not end there. Federal Reserve Board Chairman Alan Greenspan supports Ms. Tigert's nomination. Dr. Greenspan and I do not always agree but we both know that Ricki Tigert will make an excellent FDIC Chairwoman.

Why do all these past and present Republican officials support Ms. Tigert to head the FDIC? The answer is simple—because she is qualified.

It is in the best interests of the U.S. banking system to have a fully operational FDIC.

The banking industry realizes this. The Independent Bankers Association has strongly endorsed Ms. Tigert and expressed the importance it places on her confirmation.

Many leading bankers from my home State have written me personally to recommend swift confirmation.

It is time for the Senate to act. I urge my follow Senators on both sides of the aisle to put aside unrelated partisan issues and join me in supporting Ricki Tigert to be Chairwoman and board member of the Federal Deposit Insurance Corporation.

Mr. D'AMATO. Mr. President, I urge my colleagues to vote against cloture on the nomination of Ms. Ricki Tigert to chair the FDIC.

Mr. President, I had originally supported Ms. Tigert's nomination when it came out of the Banking Committee last spring. I had all intentions of supporting her on the floor, but recent developments have raised questions concerning her ability to chair the FDIC in an independent manner. Until these doubts are resolved, I cannot, in good conscience, support her nomination. Moreover, until she answers some questions about her independence and candor before the committee, I believe it is imprudent for the Senate to vote on the nomination.

Mr. President, the President needs to nominate, and the Senate needs to confirm, qualified candidates for these vital financial regulatory agencies—candidates in whom Congress and the American people can have total confidence. And the administration needs to restrain its penchant for attempting to interfere with the work and the decisions of supposedly independent agencies.

During the Whitewater hearings, the Banking Committee heard first-hand testimony under oath about improper communications between the White House and agency staff designed to influence ongoing law enforcement activities and investigations at independent agencies, and to interfere with agency decisions involving the private affairs of the Clintons. We have direct testimony, diaries and documents that provide incontrovertible evidence of unethical, if not illegal, conduct by overzealous political associates and friends of the Clinton's to control and influence the actions of agencies that Congress intended to be beyond the White House's political control and influence.

Mr. President, especially in light of the Banking Committee's recent Whitewater hearings and the shocking testimony and documentation of numerous improper meetings between Treasury officials and the White House, I am now skeptical that the FDIC could be independently headed by Ricki Tigert any more than the RTC was independently headed by Roger Altman. We learned from these hearings that she had contacts with White House and Treasury officials. But we have not had a chance to question her about these contacts and the committee should before the Senate is asked to vote on confirmation.

Mr. President, spokesman on her behalf have said there were no contacts or one contact, but she has said little publicly about the meetings. A member of the White House Counsel's Office said in a recent Wall Street Journal article that he had the one and only contact with Ms. Tigert. I doubt that this is the full extent of the contacts between the White House and Ms. Tigert; I believe there is evidence to the contrary. Roger Altman only admitted to one meeting until the committee pressed him for the truth.

Mr. President, with Ricki Tigert, we should have a chance to question her and she should have a chance to explain herself. Until then, I cannot support her. There are just too many doubts about whether or not she could carry out her duties and responsibilities as Chair of the FDIC independently and free of White House or Treasury interference.

Mr. President, I want to have confidence that the regulators will exercise independent judgment. I want to have confidence that issues will not be decided based on politics or personal relationships. I want every issue decided on the facts and the merits. We can not afford to have regulators who are, or even appear to be, susceptible to undue political influence. And this is a standard that I want followed by every regulator and in every administration, no matter which party controls the White House or the Congress.

Mr. President, for these reasons, I have changed my position on the nomination of Ms. Tigert to Chair the FDIC. I voted for confirmation in February. But I strenuously oppose her confirmation today. If confirmed as FDIC Chair, Ms. Tigert would preside over an agency that is already investigating Madison and the Rose Law Firm. At our recent Whitewater hearings, the former White House Counsel and others referenced her name in discussing Roger Altman's recusal. At a minimum the committee needs to investigate these references further before her nomination is considered.

Mr. President, I am forced to conclude that it would be imprudent for the Senate to consider Ms. Tigert's nomination. Despite her considerable qualifications, I do not believe she should be confirmed by the Senate for this position. I have a much more extensive statement detailing and documenting the reasons for my opposition to Ms. Tigert's confirmation.

A vote on cloture is scheduled for 6 o'clock so I will not read the statement. If cloture is invoked, I will use all of the time I am allowed to review the record for my colleagues.

Mr. DODD. Mr. President, on November 16, 1993—almost 1 year ago—Ricki Tigert was nominated by the President for Chairwoman of the Federal Deposit Insurance Corporation. The Senate Banking Committee held her nomination hearing on February 1, 1994. The hearing was basically pro forma. It lasted just over 2 hours and included two other FDIC nominees. On February 10, 1994, by a vote of 17 to 1, the Senate Banking Committee voted to confirm her.

That was 8 months ago. But today, Ricki Tigert has yet to be confirmed. The Nation's main bank regulator and insurer, the FDIC, remains a leaderless agency. Why?

Because, Mr. President, Ricki Tigert's confirmation has been blocked. It has been held up for almost 8 months. It has been obstructed for one reason and one reason alone.

It has nothing to do with her qualifications—she has extraordinary experience and impressive credentials. It has nothing to do with her views on matters of substance. It has nothing to do with ongoing disputes over policy. Ricki Tigert's confirmation is being blocked simply so some can attempt to score political points hashing and rehashing tired issues related to the Whitewater matter.

The delay of Ricki Tigert's nomination is all about unvarnished partisan politics. According to some of my colleagues, Ricki Tigert is not a suitable candidate for the FDIC because she knows President Clinton. Their rationale is that because the FDIC is probing issues related to the Whitewater/Madison Guarantee, she would, as Chairwoman, somehow attempt to use the power of her office to influence matters to benefit the Clintons. This is simply preposterous.

Mr. Chairman, this is a troubling new standard to which Ricki Tigert is being held. This standard would preclude anyone who has a preexisting relationship with a President or First Lady from serving in an appointed position. By itself, Ricki Tigert's relationship with the Clintons, whether close or distant, should not disqualify her from serving on the FDIC Board or in any other position for that matter.

Just because she is acquainted with the President and the First Lady, does not mean she is unable to serve impartially as FDIC Chairwoman. But just to be absolutely certain, Ricki Tigert recused herself in February from "participation in any * * * investigation, inquiry, or determination" involving the Clintons.

Mr. President, this partisan delay has gone on long enough. There is absolutely no rational reason why Ricki Tigert should not be confirmed. I strongly urge my colleagues to invoke cloture and vote to confirm Ricki Tigert as the next Chairperson of the FDIC.

Mrs. BOXER. Mr. President, it is time to move this nomination forward. No more partisan delays. No more gridlock. Ricki Tigert—the first woman ever nominated to head a major U.S. bank regulatory agency—is smart, she is independent, and she is qualified. It is time for the Senate to approve her nomination to head the FDIC.

Ricki Tigert graduated magna cum laude from Vanderbilt University and is an honor's graduate from University of Chicago Law School, where she was a member of the law review.

Ricki Tigert worked on banking and finance issues in the public sector for over 10 years: first, as Senior Counsel for International Finance at the Department of Treasury, and more recently as Associate General Counsel for International Banking at the Federal Reserve.

Ricki Tigert taught international finance at Georgetown University Law Center and has published numerous articles on international banking and finance issues. Since October 1992, Tigert has been a partner at a major Washington, DC, law firm.

Ricki Tigert is without question qualified to head the FDIC. She has gone through an exhaustive confirmation process—in fact, the Banking Committee voted 18 to 1 to recommend her confirmation. Senator D'AMATO said during Tigert's confirmation hearing that:

> I had an opportunity to speak with the nominee. I met with her. I think we're indeed fortunate that she's someone who has the experience. She indicates to me that, notwithstanding any personal relations she may have with people in the Administration she feels and has indicated that she will be independent. That is very, very important. I'm impressed by her sincerity. So I intend to support the nominee.

But, let me say: This debate is not about Ricki Tigert's qualifications. No, this debate is about whether Ms. Tigert is or is not a friend of the Clintons.

So, let's look at the facts: Ricki Tigert has never met privately with either the President or the First Lady. She has never talked on the phone with either the President or the First Lady. Her only real contact with them has been in large public gatherings—in fact, she has never been with either of the Clintons with fewer than 200 other people!

In a letter to the Wall Street Journal, three well respected Republicans who held positions in the Reagan and Bush administrations, said that Tigert is "committed to the complete independence and integrity of the bank regulatory process * * *. The notion that she is a Clinton 'crony' is a canard."

And, in case there was any question, Ms. Tigert has recused herself from any investigation, inquiry, or determination concerning the President or the First Lady.

So, I say: It is time to stop this partisan effort to stop this nomination. The FDIC has been without a permanent Chairperson since August 1992—over 2 years! Americans who have placed their hard-earned savings in banks across this country rely on the FDIC to insure their deposits. Those who are playing politics with the Tigert nomination are playing politics with the safety of the savings of the American people.

In the last week of this Congress, let us set aside partisan politics for a moment. Let us vote to confirm a woman who is extremely qualified and ready to serve. It is in the best interest of our banking industry and it is in the best interest of the American people.

The PRESIDING OFFICER. All time has expired.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 6 p.m. having arrived, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the nomination of Ricki Rhodarmer Tigert to be a member of the Board of Directors of the Federal Deposit Insurance Corporation:

Byron L. Dorgan, J. Lieberman, Patty Murray, Wendell Ford, Daniel Patrick Moynihan, Pat Leahy, George Mitchell, Paul Sarbanes, Harry Reid, Don Riegle, Harlan Mathews, John F. Kerry, Frank R. Lautenberg, John Glenn, Dennis DeConcini, Christopher Dodd.

CALL OF THE ROLL

The ACTING PRESIDENT pro tempore. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 6]

Bennett
Bradley
Campbell
Chafee
Cochran
Cohen
Coverdell
D'Amato
Daschle
Dole
Domenici
Faircloth
Feingold
Ford
Gramm, Texas
Helms
Kassebaum
Mack
Mitchell
Murray
Pressler
Riegle
Sarbanes
Sasser
Simon
Wellstone

The PRESIDING OFFICER (Mr. FEINGOLD). A quorum is not present.

Mr. MITCHELL. Mr. President, I move to instruct the Sergeant at Arms to request the presence of absent Senators.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The clerk will call the roll.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], the Senator from Delaware [Mr. ROTH], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Alaska [Mr. STEVENS], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

The result was announced—yeas 76, nays 19, as follows:

[Rollcall Vote No. 315 Ex.]

YEAS—76

Akaka
Baucus
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Campbell
Chafee
Cochran
Cohen
Conrad
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gregg
Harkin
Hatch
Hatfield
Heflin
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Simpson
Thurmond
Warner
Wellstone
Wofford

NAYS—19

Bennett
Brown
Burns
Coats
Coverdell
Craig
D'Amato
Faircloth
Gramm
Grassley
Helms
Lott
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Smith

NOT VOTING—5

Bond
Roth
Specter
Stevens
Wallop

So the motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the nomination of Ricki Rhodarmer Tigert, of Tennessee, to be a member of the Board of Directors of the Federal Deposit Insurance Corporation, for a term of 6 years, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll:

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND], the Senator from Delaware [Mr. ROTH], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Alaska [Mr. STEVENS], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 63, nays 32, as follows:

[Rollcall Vote No. 316 Ex.]

YEAS—63

Akaka
Baucus
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Cohen
Conrad
Danforth
Daschle
DeConcini
Dodd
Dorgan
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Wellstone
Wofford

NAYS—32

Bennett
Brown
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
Dole
Domenici
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Helms
Hutchison
Kassebaum
Kempthorne
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Simpson
Smith
Thurmond
Warner

NOT VOTING—5

Bond
Roth
Specter
Stevens
Wallop

The PRESIDING OFFICER. On this vote, the yeas are 63, the nays are 32. Three-fifths of the Senators duly chosen and sworn having voted in affirmative, the motion is agreed to.

EXECUTIVE SESSION

The PRESIDING OFFICER. The nomination will be stated.

FEDERAL DEPOSIT INSURANCE CORPORATION

The bill clerk read the nomination of Ricki Rhodarmer Tigert, of Tennessee, to be a member of the Board of Directors.

Mr. RIEGLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MATHEWS). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that, notwithstanding the provisions of rule XXII, the Senate proceed to consideration of Executive Calendar No. 1126, H. Lee Sarokin to be a U. S. circuit judge, at 9 a.m. on Tuesday, October 4; that there be 1 hour for debate equally divided between the chairman and ranking member of the Committee on the Judiciary, or their designees; that at 10 a.m., the Senate vote on Executive Calendar No. 692, the nomination of Ricki Tigert to be a member of the Federal Deposit Insurance Corporation, notwithstanding rule 12, paragraph 4. I further request that if the nomination is confirmed, the motion to reconsider be tabled, the President be notified of the Senate's action, the Senate proceed to the immediate consideration of the following nominations en bloc: Ricki Tigert to be Chairperson of the FDIC, (Ex. Cal. 693); Andrew Hove to be a Member of the FDIC, (Ex. Cal. 694), and Andrew Hove to be Vice Chairperson of the FDIC (Ex. Cal. 695); that they be considered as having been confirmed, en bloc, that the motions to reconsider be tabled, en bloc, and that the President be notified of the Senate's action; further, that the cloture vote on the nomination of Ricki Tigert to be Chairperson of the FDIC be vitiated; and further, that following disposition of the FDIC nominations, the Senate vote without any intervening action, on cloture on the nomination of H. Lee Sarokin, with the live quorum waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MITCHELL. Mr. President, I thank my colleagues for their cooperation, beginning, of course, with the distinguished Republican leader and all of those Senators who have an interest in both of these matters.

Pursuant to the agreement just approved, the Senate will vote at 10 a.m. tomorrow on the nomination of Ricki Tigert to be a Member of the FDIC. If the nomination is confirmed, the Senate will approve, pursuant to this order, the nominations of Ricki Tigert to be Chairperson, Andrew Hove to be a Member and Vice Chairperson of the FDIC; and then, immediately following that, the Senate will vote on cloture on the nomination of H. Lee Sarokin to be a U. S. circuit judge.

In light of this agreement, there will be no further rollcall votes this evening.

There will be two votes tomorrow morning, the first to occur at 10 a.m. and the second to occur shortly after completion of the first vote.

LEGISLATIVE SESSION

Mr. MITCHELL. Mr. President, I ask unanimous consent the Senate return to legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent there be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

JERRY TINKER—A MAN WHO MADE A DIFFERENCE

Mr. KENNEDY. Mr. President, all of us in Congress who knew Jerry Tinker and worked with him over the years continue to be saddened by his sudden and untimely death last month. As staff director for many years for the Senate Judiciary Committee's Subcommittee on Immigration and Refugee Affairs, Jerry dedicated his life to helping the world's refugees. Wherever tragedy and disaster struck, Jerry was not far behind, and his efforts and leadership brought help and hope to literally millions of people throughout the world.

One of the most eloquent tributes to Jerry's unusual life and extraordinary career appeared in the Boston Globe on September 25. This tribute, by Eileen McNarama, captures the essence of Jerry's commitment and his many achievements. I know it will be of interest to all of us who knew Jerry and to many others in Congress as well, and I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the tribute was ordered to be printed in the RECORD, as follows:

[From the Boston Globe, Sept. 25, 1994]

"A MAN WHO MADE A DIFFERENCE—OUT OF THE LIMELIGHT, JERRY TINKER HELPED SAVE PEOPLE'S LIVES"

(By Eileen McNamara)

Among the week's bold and urgent headlines about Haitian juntas and American off-year elections, one might easily have missed the brief item in The New York Times, noting the death Sept. 16 of "Jerry M. Tinker, 55, Senate Staff Official."

It was sadly apt that his passing should occur as the nation again wrestled with the nature and extent of its obligation to refugees pouring off yet another strife-torn patch of Earth. It was of such desperate dilemmas that Jerry Tinker's life was made.

The obituary's short summary of his public biography—staff director of the Subcommittee on Immigration and Refugee Affairs, aide to Sen. Edward M. Kennedy—suggests the lot of a political functionary, a career spent in the warrens of Capitol Hill, in anonymous service to a more famous man.

But the larger truth was that in the quarter-century Jerry Tinker toiled for the United States Congress, he worked, however anonymously, less for the senior senator from Massachusetts than for the dispossessed of the world.

His conscience, as much as his job, took him to Vietnam and Cambodia, to Managua and San Salvador, to the border of Pakistan and Afghanistan, to Mozambique and South Africa, to Dhaka and Port-au-Prince. The stamps on his passport were signposts to some of the world's most desolate corners, where the refuse was human and the suffering relentless.

It is fashionable in this cynical era to portray those in government as venal, self-serving leeches on the public dole. Certainly, no-show jobs and patronage appointments are real enough on Capitol Hill. And not a few of the 3,620 staffers assigned to those ever-expanding congressional committees are as devoted to serving their careers as their country.

"Some staffers on the Hill have as their whole purpose in life keeping things stirred up," Sen. Alan Simpson (R-Wyo.) said. "They get up in the morning to screw Democrats or screw Republicans. I know enough of them on both sides. They are a blight on the body politic. But Jerry was another breed."

Tinker found his mission early, as a graduate student in India. Once he had seen the misery in the slums of Clacutta, his colleagues said, he insisted the rest of the world see it, too.

"He believed so strongly in our actually seeking these places," recalled Dick Day, who came to Washington "for a year" 16 years ago to help out Simpson, his old Cody, Wyo., law buddy. He stayed on as Tinker's Republican counterpart on the subcommittee staff. "Jerry's feeling was that we couldn't effectively make the case for aid to these places without being there and bringing that sense of urgency back to the Hill.

Simpson himself remembered Tinker and Day heading off to Bangladesh or Thailand while "other people around here only wanted to go to Geneva."

In his eulogy Tuesday in a suburban Washington church packed with the nameless congressional staffers who do the spade work of this democracy, Kennedy reminded the crowd of the tan safari suit that constituted Tinker's entire traveling wardrobe. "The suit could stand up to day after day of rugged wear in the Horn of Africa or the remotest areas in Indochina," he said. "Jerry liked to joke that NASA had once approached him in search of a new fabric for spacesuits for shuttle astronauts. The safari suit, like Jerry, was comfortable in the most destitute refugee camps in the world, and equally at home in the highest corridors of power in Washington."

As the chairmanship of the subcommittee shifted from Kennedy to Simpson and back again, Tinker and Day forged a friendship and helped foster an increasingly rare spirit of bipartisanship on immigration and refugee matters, issues potentially as divisive as crime and health care.

"Democrats often thought I was eating out of Al Simpson's hand, and Republicans felt that Al was eating out of mine. But both of us knew that Jerry was the master chef," Kennedy said.

"He was not a zealot. He could bend. I trusted him implicitly," Simpson said. "How many Democratic staffers do you think I say that about?"

Though his loyalty to Kennedy was fierce—he neither told nor tolerated jokes at his boss' expense, according to friends—Tinker was following a deeper imperative than politics.

When a British television crew broadcast the first reports out of Ethiopia of mass starvation in 1984, Tinker packed and urged Kennedy to do so, too. Other Kennedy staffers exploited the obvious public relations value of their boss being photographed feeding starving children on Christmas morning; Tinker harbored a broader policy goal. The United States was not yet engaged in the famine crisis; Kennedy's presence could make a difference.

On the outskirts of the refugee camp in Mekelle, the air was acrid with the smoke of a thousand small campfires and the stench of death. A shaken Tinker described the scene as "vintage fifth century," but he did not indulge his emotions. He took notes, instead. The vaccine for measles, a disease claiming the lives of those children who managed somehow to survive starvation, was arriving unrefrigerated and therefore useless. Instead of fortified and processed grain, donor nations were shipping whole grain, indigestible for a population so weakened by famine conditions. Antibiotics shipped ahead of food were of no use to infants whose muscles were so wasted by malnutrition that there was no tissue sufficient to receive an injection.

It was Tinker who led Kennedy away from network news crews north to the border with Sudan, where his notebook again recorded the failures of the relief effort. The first US transport plane had carried water containers but no water, tents but no food. At what he took to be a feeding center, Tinker watched incredulously as relief workers distributed 6,000 pairs of purple trousers to the famished. And at an especially desperate encampment at the base of the Tukl Baab Mountains, Tinker found that some shortages were almost too poignant to bear. As he watched the skeletal figures of starving refugees scratching shallow graves for their loved ones in the desert sand, he made a note: There were no shovels to bury the dead.

The need is nothing if not more pressing than it was when Jerry Tinker began his work 25 years ago. In the aftermath of the Cold War, it sometimes seems the world is hemorrhaging refugees. The International Rescue Committee, a voluntary agency assisting the displaced worldwide, estimates that the refugee population now exceeds 18 million.

In the Balkans, in Africa, in the former Soviet Union, in Central America, in the Caribbean, hundreds of thousands of anonymous victims of war and natural disaster cannot know how much they will miss the anonymous man from Capitol Hill in the drip-dry safari suit.

INTELLIGENCE AUTHORIZATION ACT

Mr. LEAHY. Mr. President, I commend Senator DECONCINI and Congressman GLICKMAN for the outstanding work they have done in connection with the Intelligence authorization bill and all of their duties as the respective chairs of the Senate and House Intelligence Committees. As always, they have been resourceful and diligent in crafting a bill that contains many authorizing and remedial measures that are needed to improve our Government's intelligence activities.

Having reviewed the conference report, however, I believe that we will need to reexamine the provisions in section 807 of the bill establishing a court order process for physical searches undertaken for foreign intelligence purposes. We are being called upon to establish such procedures for the first time in order to regularize what has often been referred to in the past as "black bag jobs."

While I support the effort to subject physical searches to legal standards and judicial review, I remain concerned that we have not created the set of rules and procedures we need to protect our own constitutional rights and privileges. When the Senate first considered this measure I noted my concern. It appears to me that the conference both improved and created new problems with these important provisions for physical searches.

I appreciate the efforts Senator BIDEN and Senator DECONCINI have made and the modifications we have worked on that are included in the bill to tighten the minimization requirements. These are important steps in the right direction. I am most encouraged by the additions to the procedures that allow a court to disclose some matters or to require summaries of key materials for aggrieved parties. But I think we can do better still. We must find better ways to limit secrecy to that necessary while providing the notice and fair opportunity for hearing that fundamental fairness requires for U. S. persons. We need to build in more accountability and better judicial and congressional review. We should not risk the constitutional rights that this country stands for and that our intelligence activities are intended to protect.

I understand that Senator DECONCINI noted in the course of the conference that the procedures established by this bill should be reexamined by the Judiciary Committee next year. I hope that we do that because this year there was no opportunity for it.

I look forward to working with my colleagues in the days ahead to reexamine the procedures being established to govern physical searches in an effort to improve them and build upon them.

GATT

Mr. LEAHY. Mr. President, after careful review, I have concluded that the legislation implementing the Uruguay round of the General Agreement on Tariffs and Trade [GATT] is fatally flawed, It is flawed not for what it does, but for what it fails to do. It fails to provide fair rules for our dairy exports. It fails to protect U.S. intellectual property rights around the world. And it fails to safeguard America's standard of living by supporting our absolute right to a clean environment, a safe food supply, and sound labor practices.

I believe in free trade. Last November, I voted for the North American Free-Trade Agreement [NAFTA]. And NAFTA has been an overwhelming success across the country and in my home State of Vermont. In the first 3 months since NAFTA went into effect, United States exports to Mexico jumped 15 percent and Vermont exports to Mexico skyrocketed 83 percent from a year ago. NAFTA has been an economic boon to Vermonters, opening up markets and spurring Vermont exporters to add more high-quality jobs to their payrolls.

But GATT is not NAFTA. These two agreements are completely different animals. NAFTA proves that we can do better than GATT. NAFTA included intellectual property rights for U.S. products. And NAFTA included side agreements on labor and environmental issues. GATT fails to include any of these provisions.

Overall, GATT is not good for dairy. We will export fewer dairy products and import more subsidized dairy products under this agreement. I am unwilling to expose Vermont dairy farms to these risks. Senator JEFFORDS and I tried to work with the administration to provide U.S. milk producers with the tools they need to be successful in a post-GATT world. For whatever reason, the administration was unwilling to work with us and the dairy industry. An agreement that does not provide increased access to foreign markets for Vermont dairy farmers is not free trade for Vermont.

When United States officials went to Geneva to finish GATT negotiations last year, we had every reason to believe that the final agreement would eliminate many trade barriers that confront America's intellectual property creators and industries. But the U.S. negotiators were out-maneuvered. The European Union resisted free trade in the name of culture and succeeded in keeping their protectionist barriers for movies, TV shows, and other entertainment products. Although GATT does provide much-needed relief for our creators of computer software, its failure to include national treatment leaves other with precious little.

This agreement, unlike NAFTA, does not adequately address labor, environmental and food safety concerns. In today's global economy, the interaction between trade and these issues cannot be ignored. We can never ask U.S. citizens to jeopardize their standard of living in the name of free trade. Unfortunately, GATT moves away from the crucial link between trade and the labor, environment and food safety issues that we fought so hard to forge in NAFTA. I cannot support this trend.

I have supported President Clinton on many important issues since his election. I hailed his leadership on issues like NAFTA, health care reform and the crime bill. But I cannot support the President's position in favor of GATT. We can do better than this agreement.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the constitutional duty and responsibility of Congress to control Federal spending. Congress has failed miserably in that task for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,692,749,910,013.32 as of the close of business Friday, September 30. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is $17,999.82.

THE FEDERAL GOVERNMENT AND OSHA

Mr. FORD. Mr. President, the Occupational Safety and Health Act of 1970 (29 United States Code 655–59) was intended to protect employees from personal injury and illness resulting from work situations. One section (29 United States Code 652(5)) exempts the Federal Government but makes it the responsibility of each Federal agency to establish and maintain an effective and comprehensive occupational and health program which is consistent with the national standards established by the Secretary of Labor.

Pursuant to this provision in the act, an Executive order (E.O. 12,196 1–102) directs the Secretary of Labor to consult with all agency heads in the legislative and judicial branches to assist them in developing a safety and health program consistent with the above standards.

The Rules Committee, on June 18, 1993, directed the Architect of the Capitol to consult with the Secretary of Labor and develop a safety and health program, consistent with the national standards, for implementation in the Senate wing of the Capitol and Senate office buildings. The Architect has completed that task and has submitted a plan for compliance with OSHA to the Rules Committee.

That action was taken without a new bureaucracy. Without fanfare. Without unnecessary cost, and without extra burden on Member offices.

Mr. President, I simply want this body to know that this committee has been active in this area for some time.

And, finally, Mr. President, we are complying with the same statute as the private sector.

I ask unanimous consent that the correspondence on this subject be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON
RULES AND ADMINISTRATION,
Washington, DC, June 18, 1993.

Hon. GEORGE WHITE,
Architect of the Capitol,
Washington, DC.

DEAR GEORGE: The Occupational Safety and Health Act of 1970 (29 USC 655–59) was intended to protect employees from personal injury and illness resulting from work situations. One section (29 USC 652(5)) exempts the Federal government but makes it "the responsibility of each Federal agency to establish and maintain an effective and comprehensive occupational and health program which is consistent" with the national standards established by the Secretary of Labor.

Pursuant to this provision in the Act, an Executive Order (E.O. 12,196 1–102) directs the Secretary of Labor to consult with all agency heads in the legislative and judicial branches to assist them in developing a safety and health program consistent with the above standards.

Under these provisions, we are directing you to consult with the Secretary of Labor and develop a safety and health program, consistent with the national standards, for implementation in the Senate wing of the Capitol and Senate office buildings. Please keep this Committee apprised of your progress on this project.

The program, when fully developed, should be submitted to the Committee on Rules and Administration for approval.

Sincerely,

TED STEVENS,
Ranking Member.
WENDELL H. FORD,
Chairman.

Washington, DC, September 29, 1994.

Hon. WENDELL H. FORD,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: In accordance with the directive in your letter of June 30, 1993 to develop a safety and health program for implementation in the Senate Office Buildings and the Senate wing of the Capitol, we consulted with Mr. John Plummer, Director of OSHA Federal Programs in the Office of the Assistant Secretary for Occupational Safety and Health, beginning on June 20, 1994. As represented by the letter of September 7, from Assistant Secretary Joseph A. Dear, their staff has provided assistance to our staff in preparing a program specifically tailored for office occupancy.

Attached is a draft of an Occupational Safety and Health Program (OSHP) that establishes goals and responsibilities of the various entities involved. The Architect of the Capitol will serve as lead in this endeavor but it shall be the responsibility of each office to implement and oversight the Program for the members of their work force. The various support agencies in the Legislative Branch will respond to requests by each office to modify, correct, or improve the work environment in each office, as required.

The attached pamphlet titled "Office Safety Program" is an integral part of the Program statement and serves to identify specific hazards that relate to office occupancies. Most of these are common sense items and will assist the office manager in preventing accidents and improve safety in the office environment.

I shall of course, be happy to discuss the implementation of this Program in further detail as you may deem desirable.

Cordially.

GEORGE M. WHITE, FAIA,
Architect of the Capitol.

OCCUPATIONAL SAFETY AND HEALTH PROGRAM FOR CONGRESSIONAL EMPLOYEES

PURPOSE

The purpose of this Occupational Safety and Health Program (OSHP) is to insure that Members, Officers and employees of the House and Senate, employees of the Office of the Architect of the Capitol and legislative support offices in the Capitol Complex, and the visiting public are provided with a safe environment in which to work or visit that is free from recognized hazards that may cause serious physical harm.

The physical features of the Legislative group of buildings and facilities that affect safety of occupants are the responsibility of the Architect of the Capitol (AOC). The Director of Engineering (AOC) has the day to day responsibility for supervising the Fire Protection Engineering and the Safety Engineering Divisions in carrying out the fire protection and safety programs. The Director of Engineering serves as the Designated Agency Safety and Health Officer (DASHO) for the Architect of the Capitol. The Director of Engineering provides the Architect of the Capitol with recommendations relative to meeting or exceeding typical occupational safety and health requirements. Recommendations are drawn from nationally recognized sources such as the Occupational Safety and Health Administration; the Environmental Protection Agency; the National Fire Protection Association's standards; consensus model building, mechanical electrical, plumbing and fire prevention codes; and from other available occupational safety and health rules, regulations, and standards.

DIRECTION

The goals of the OSHP are to effectively and comprehensively:

1. Reduce potential exposure to unsafe acts and unsafe conditions.
2. Reduce the numbers and severity of Lost-Time and No-Lost-Time occupational illnesses and injuries.
3. Conduct routine, periodic inspections with multi-level administrative reviews.
4. Assure prompt abatement of identified hazards.
5. Assure that workers should not fear reprisal for the reporting of unsafe acts or conditions in the workplace.
6. Provide related training.
7. Minimize the disruption of on-going activities within the Capitol Complex.

The top priority of this program is to reduce or eliminate life-threatening situations. The basic tenets of the OSHP are built into the design, renovation and construction of all physical assets, are considered in all operations and processes, and are utilized at all other points of intervention were unsafe acts and unsafe conditions increase the potential for unacceptable risk. Wherever and whenever possible, personnel are provided with the proper tools, equipment and training in order to accomplish their organizational goals and objectives without undue risk. Safety shall take precedence over expediency and short cuts at all times.

RESPONSIBILITIES

It shall be the responsibility of the Architect of the Capitol, through the Director of

Engineering (the DASHO) and the Fire Protection Engineering and Safety Engineering Divisions, to research, develop, and publish safety standards and guidelines, and monitor compliance with the OSHP.

It shall be the responsibility of Members, Officers of the Congress, Building Superintendent Supervising Engineers and other personnel of similar responsibility to provide overall guidance and direction to their work forces. Each office should delegate oversight responsibility to a specific individual to maintain awareness on matters relating to health and safety.

It shall be the responsibility of the first-line supervisors to implement the OSHP for the members of their work force. It is also the responsibility of the first-line supervisors to provide feedback concerning the OSHP to the administrators having jurisdiction.

It shall be the responsibility of each worker to follow the OSHP, to be aware of unsafe acts and unsafe conditions, to report same to their first-line supervisor, and to be responsible for their own actions and conduct.

PROGRAMMATIC ELEMENTS

The following details the elements of the program that are currently in effect:

1. An on-going "spot" inspection program of high hazard work areas.

2. Posting of occupational injury and illness data on the OSHA 200 Log in order to meet the intent of regulations and serve as basis for statistical analysis.

3. Accident investigations based upon accident severity and operational impact.

4 An on-going inspection program of all construction being done by either in-house or contractor personnel.

5. A Hazardous Waste disposal program.

6. An on-going program for the monitoring of asbestos abatement activities, including the proper disposal of the waste by-products, the operation of a laboratory for analyzing samples, and the monitoring of asbestos in good physical condition that is prioritized to be left-in place.

7. The installation of state-of-the-art fire detection and alarm systems and fire sprinkler systems.

8. The training of new U.S. Capitol Police officers in their operational responsibilities during fire and medical emergencies, in the fire department's basic operational procedures, in basic first-aid fire fighting techniques, in basic building fire protection concepts and in building emergency evacuation techniques.

9. The operation of a Medical Surveillance Program for those workers in high hazard occupations.

10. The publishing of a monthly safety newsletter.

11. A program of maintaining the job proficiency of safety personnel through the use of current and topical trade periodicals.

12. An Indoor Air Quality program.

13. A Lead in Drinking Water control program.

The attached pamphlet provides guidance in how to improve safety in the office environment.

U.S. DEPARTMENT OF LABOR, ASSISTANT SECRETARY FOR OCCUPATIONAL SAFETY AND HEALTH,
WASHINGTON, DC,
September 7, 1994.

Hon. GEORGE M. WHITE,
Architect of the Capitol, U.S. Capitol Building, Washington, DC.

DEAR MR. WHITE: At your request, staff from the Office of Federal Agency Programs in the Occupational Safety and Health Administration (OSHA) have met frequently with your staff over the past months. The purpose of these meetings was to provide guidance and assistance in the development of the occupational safety and health program you are implementing in the Senate wing of the Capitol and Senate office buildings.

The following assistance was provided:

1. Training on safety and health hazards in the office was given by a Federal Agency Program staff member to the head and two staff members of your Safety Division.

2. Information on sources of training was given to the head of the Safety Division. This information included the OSHA Training Institute schedule as well as information from the National Safety Council and the American Society of Safety Engineers.

3. An annotated safety and health program was provided to the head of the Safety Division. Annotations were made to indicate those facets of the model safety and health program which should be implemented first. (The other facets of the model program should, of course, also be implemented.)

4. OSHA also provided a "baseline questionnaire," an instrument to use as a self-assessment of the state of development of your occupational safety and health program. This was given to J. Raymond Carroll, your Director of Engineering.

5. The option of a walk-through of the offices of the Senate wing of the Capitol and the Senate office buildings was given to the head of the Safety Division. It was decided that a walk-through would not be done at this time.

We are pleased that we were able to respond to your request.

Sincerely,

JOSEPH A. DEAR,
Assistant Secretary.

UNITED STATES-MEXICO BORDER HEALTH COMMISSION ACT

The text of the bill (S. 1225) to authorize and encourage the President to conclude an agreement with Mexico to establish a United States-Mexico Border Health Commission, as passed by the Senate on September 30, 1994, is as follows:

S. 1225

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Mexico Border Health Commission Act".

SEC. 2. ESTABLISHMENT OF BORDER HEALTH COMMISSION.

The President is authorized and encouraged to conclude an agreement with Mexico to establish a binational commission to be known as the United States-Mexico Border Health Commission.

SEC. 3. DUTIES.

It should be the duty of the Commission—

(1) to conduct a comprehensive needs assessment in the United States-Mexico Border Area for the purposes of identifying, evaluating, preventing, and resolving health problems and potential health problems that affect the general population of the area;

(2) to implement the actions recommended by the needs assessment through—

(A) assisting in the coordination and implementation of the efforts of public and private entities to prevent and resolve such health problems, and

(B) assisting in the coordination and implementation of efforts of public and private entities to educate such population, in a culturally competent manner, concerning such health problems; and

(3) to formulate recommendations to the Governments of the United States and Mexico concerning a fair and reasonable method by which the government of one country could reimburse a public or private entity in the other country for the cost of a health care service that the entity furnishes to a citizen of the first country who is unable, through insurance or otherwise, to pay for the service.

SEC. 4. OTHER AUTHORIZED FUNCTIONS.

In addition to the duties sescribed in section 3, the Commission should be authorized to perform the following functions as the Commission determines to be appropriate—

(1) to conduct or support investigations, research, or studies designed to identify, study, and monitor, on an on-going basis, health problems that affect the general population in the United States-Mexico Border Area;

(2) to conduct or support a binational, public-private effort to establish a comprehensive and coordinated system, which uses advanced technologies to the maximum extent possible, for gathering health-related data and monitoring health problems in the United States-Mexico Border Area; and

(3) to provide financial, technical, or administrative assistance to public or private nonprofit entities who act to prevent or resolve such problems or who educate the population concerning such health problems.

SEC. 5. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT OF UNITED STATES SECTION.—The United States section of the Commission should be composed of 13 members. The section should consist of the following members:

(1) The Secretary of Health and Human Services or the Secretary's delegate.

(2) The commissioners of health or chief health officer from the States of Texas, New Mexico, Arizona, and California or such commissioners' delegates.

(3) Two individuals residing in United States-Mexico Border Area in each of the States of Texas, New Mexico, Arizona, and California who are nominated by the chief executive officer of the respective States and appointed by the President from among individual who have demonstrated ties to community-based organizations and have demonstrated interest and expertise in health issues of the United States-Mexico Border Area.

(b) COMMISSIONER.—The Commissioner of the United States section of the Commission should be the Secretary of Health and Human Services or such individual's delegate to the Commission. The Commissioner should be the leader of the section.

(c) COMPENSATION.—Members of the United States section of the Commission who are not employees of the United States or any State—

(1) shall each receive compensation at a rate of not to exceed the daily equivalent of the annual rate of basic pay payable for positions at GS-15 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the actual performance of the duties of the Commission; and

(2) shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under

subchapter of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services of the Commission.

SEC. 6. REGIONAL OFFICES.

The Commission may designate or establish one border health office in each of the States of Texas, New Mexico, Arizona, and California. Such office should be located within the United States-Mexico Border Area, and should be coordinated with—

(1) State border health offices; and

(2) local nonprofit organizations designated by the State's chief executive officer and directly involved in border health issues.

If feasible to avoid duplicative efforts, the Commission offices should be located in existing State or local nonprofit offices. The Commission should provide adequate compensation for cooperative efforts and resources.

SEC. 7. REPORTS.

Not later than February 1 of each year that occurs more than 1 year after the date of the establishment of the Commission, the Commission should submit an annual report to both the United States Government and the Government of Mexico regarding all activities of the Commission during the preceding calendar year.

SEC. 8. DEFINITIONS.

As used in this Act:

(1) COMMISSION.—The term "Commission" means the United States-Mexico Border Health Commission.

(2) HEALTH PROBLEM.—The term "health problem" means a disease or medical ailment or an environmental condition that poses the risk of disease or medical ailment. The term includes diseases, ailments, or risks of disease or ailment caused by or related to environmental factors, control of animals and rabies, control of insect and rodent vectors, disposal of solid and hazardous waste, and control and monitoring of air quality.

(3) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(4) UNITED STATES-MEXICO BORDER AREA.—The term "United States-Mexico Border Area" means the area located in the United States and Mexico within 100 kilometers of the border between the United States and Mexico.

PUEBLO OF ISLETA INDIAN LAND CLAIMS

The text of the bill (S. 1422) to confer jurisdiction on the U.S. Claims Court with respect to land claims of Pueblo of Isleta Indian Tribe, as passed by the Senate on September 30, 1994, is as follows:

S. 1422

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JURISDICTION.

Notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Act of August 13, 1946 (60 Stat. 1052), or any other law which would interpose or support a defense of untimeliness, jurisdiction is hereby conferred upon the United States Court of Federal Claims to hear, determine, and render judgment on any claim by Pueblo of Isleta Indian Tribe of New Mexico against the United States with respect to any lands or interests therein the State of New Mexico or any adjoining State held by aboriginal title or otherwise which were acquired from the tribe without payment of adequate compensation by the United States. As a matter of adequate compensation, the United States Court of Federal Claims may award interest at a rate of 5 percent per year to accrue from the date on which such lands or interests therein were acquired from the tribe by the United States. Such jurisdiction is conferred only with respect to claims accruing on or before August 13, 1946, and all such claims must be filed within three years after the date of enactment of this Act. Such jurisdiction is conferred notwithstanding any failure of the tribe to exhaust any available administrative remedy.

SEC. 2. CERTAIN DEFENSES NOT APPLICABLE.

Any award made to any Indian tribe other than the Pueblo of Isleta Indian Tribe of New Mexico before, on, or after the date of the enactment of this Act, under any judgment of the Indian Claims Commission or any other authority, with respect to any lands that are the subject of a claim submitted by the tribe under section 1 shall not be considered a defense, estoppel, or set-off to such claim, and shall not otherwise affect the entitlement to, or amount of, any relief with respect to such claim.

CIVIL RIGHTS COMMISSION REAUTHORIZATION ACT

The text of the bill (S. 2372) to reauthorize for 3 years the Commission on Civil Rights, and for other purposes, as passed by the Senate on September 30, 1994, is as follows:

S. 2372

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Commission Reauthorization Act of 1994".

SEC. 2. REAUTHORIZATION.

Section 7 of the United States Commission on Civil Rights Act (42 U.S.C. 1975e) is amended to read as follows:

"SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this Act $9,500,000 for fiscal year 1995.".

SEC. 3. TERMINATION.

Section 8 of the United States Commission on Civil Rights Act (42 U.S.C. 1975f) is amended by striking "1994" and inserting "1997".

THEODORE LEVIN FEDERAL BUILDING AND COURTHOUSE

The text of the bill (S. 2395) to designate the U.S. Federal Building and Courthouse in Detroit, MI, as the "Theodore Levin Federal Building and Courthouse," and for other purposes; as passed by the Senate on September 30, 1994, is as follows:

S. 2395

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. THEODORE LEVIN FEDERAL BUILDING AND COURTHOUSE.

(a) REDESIGNATION.—The courthouse facility located at 231 West Lafayette, in Detroit, MI, shall be known and designated as the "Theodore Levin Courthouse".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the courthouse facility referred to in subsection (a) shall be deemed to be a reference to the "Theodore Levin Courthouse".

AMENDING THE ENERGY POLICY AND CONSERVATION ACT

The text of the bill (S. 2466) to amend the Energy Policy and Conservation Act to manage the strategic petroleum reserve more effectively, and for other purposes, as passed by the Senate on September 30, 1994, is as follows:

S. 2466

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Policy and Conservation Act Amendments Act of 1994".

TITLE I—ENERGY POLICY AND CONSERVATION

SEC. 101. SHORT TITLE.

This title may be cited as the "Energy Policy and Conservation Act Amendments of 1994".

SEC. 102. TITLE I AMENDMENTS.

Part D of title I of the Energy Policy and Conservation Act is amended in section 181 (42 U.S.C. 6251,), by striking "September 30, 1994" each time it appears and inserting "June 30, 1996".

SEC. 103. TITLE II AMENDMENTS.

Part D of title II of the Energy Policy and Conservation Act is amended in section 281 (42 U.S.C. 6285), by striking "September 30, 1994" each time it appears and inserting "June 30, 1996".

TO APPROVE THE LOCATION OF A THOMAS PAINE MEMORIAL

The text of the joint resolution (S. J. Res. 227) to approve the location of a Thomas Paine Memorial, as passed by the Senate on September 30, 1994, is as follows:

S.J. RES. 227

Whereas section 6(a) of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes," approved November 14, 1986 (Public Law 99-652; 100 Stat. 3650) provides that the location of a commemorative work in the area described as Area I shall be deemed disapproved unless the location is approved by law not later than 150 days after notification of Congress that the commemorative work may be located in Area I; and

Whereas Public Law 102-407, as amended by Public Law 102-459, authorized the Thomas Paine National Historical Association U.S.A. Memorial Foundation to establish a memorial on Federal land in the District of Columbia to Thomas Paine; and

Whereas the Secretary of the Interior has notified the Congress of his determination that the memorial may be located in Area I: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the location of Thomas Paine Memorial, authorized by Public Law 102-407, as amended by Public Law 102-459, and within Area I as described in Public Law 99-652, is approved.

ENERGY POLICY AND CONSERVATION ACT AMENDMENTS.

The text of the bill (S. 2251) to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively, and for other purposes, as passed by the Senate on September 30, 1994, is as follows:

S. 2251

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AMENDMENTS TO ENERGY POLICY AND CONSERVATION ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "Energy Policy and Conservation Act Amendments of 1994.

SEC. 102. TABLE OF CONTENTS AMENDMENTS.

Amend the table of contents of the Energy Policy and Conservation Act by—

(1) striking the items relating to sections 153, 155, 158, 164, and 173;

(2) amending the item relating to section 159 to read as follows:

"SEC. 159. Development, operations, and maintenance of the Reserve.";

and

(3) striking the items relating to part A of title II.

SEC. 103. AMENDMENTS TO STATEMENT OF PURPOSES.

Section 2 of the Energy Policy and Conservation Act is amended—

(1) in paragraph (1) by striking "standby" and ", subject to congressional review, and to impose rationing, to reduce demand for energy through the implementation of energy conservation plans, and";

(2) by amending paragraph (3) to read as follows:

"(3) to increase the domestic supply of fossil energy during severe energy supply interruptions."; and

(3) by amending paragraph (6) to read as follows:

"(6) to reduce the demand for petroleum products during severe energy supply interruptions.".

SEC. 104. TITLE I AMENDMENTS.

(a) Part B of Title I of the Energy Policy and Conservation Act (42 U.S.C. 6231) is amended—

(1) in section 151 (42 U.S.C. 6231)—

(A) in subsection (a) by striking "limited" and "short term"; and

(B) by amending subsection (b) to read as follows:

"(b) It is the policy of the United States to provide for the creation of a Strategic Petroleum Reserve for the storage of up to one billion barrels of petroleum products to reduce the impact of disruptions in supplies of petroleum products or to carry out obligations of the United States under the international energy program.";

(2) in section 152 (42 U.S.C. 6232)—

(A) by striking paragraph (1), and

(B) in paragraph (11) by striking ", the Early Storage Reserve";

(3) by striking section 153 (42 U.S.C. 6233);

(4) in section 154 (42 U.S.C. 6234)—

(A) by amending subsection (a)(1) to read as follows:

"(a)(1) A Strategic Petroleum Reserve for the storage of up to one billion barrels of petroleum products shall be created pursuant to this part.";

(B) by amending subsection (b) to read as follows:

"(b) The Secretary, acting through the Strategic Petroleum Reserve Office and in accordance with this part, shall exercise authority over the development, operation, and maintenance of the Reserve.";

(C) by striking subsections (c) and (d); and

(D) by amending subsection (e) to read as follows:

"(e)(1) The Secretary shall prepare, and update biennially, a plan for the operation, maintenance and proposed expansion of the Reserve (hereinafter referred to as the SPR Plan). The SPR Plan shall include—

"(A) a description of the facilities that compose the Strategic Petroleum Reserve, including the type and location of each storage facility (other than storage facilities of the Industrial Petroleum Reserve);

"(B) an estimate of the volumes and types of petroleum products stored in each storage facility, including any special characteristics of such petroleum products; and

"(C) an identification of the ownership of the petroleum products stored in the Reserve in any case where such products are not owned by the United States; and

"(D) a description of any changes that have occurred, or are anticipated, in the operation and maintenance of the Reserve, including any plans under consideration or proposed for the upgrading or replacement of existing facilities or the construction of new storage facilities.

"(2) The Secretary shall, by rule, also prepare a Strategic Petroleum Reserve Drawdown and Distribution Plan (hereinafter referred to as the SPR Drawdown Plan). The SPR Drawdown Plan shall set forth policy options applicable to the drawdown and distribution of the Reserve, including the strategy or alternative strategies of drawdown and distribution that will be considered and the criteria that will be employed to select among such strategies. Until such SPR Drawdown Plan is finalized the December 1, 1992 Strategic Petroleum Reserve Drawdown (Amendment Number 4) shall remain in force and effect.".

(5) by striking section 155 (42 U.S.C. 6235);

(6) in section 156(b) (42 U.S.C. 6236(b)) by striking "To implement the Early Storage Reserve Plan or the Strategic Petroleum Reserve Plan which has taken effect pursuant to section 159(a), the" and inserting "The";

(7) by amending section 157 (42 U.S.C. 6237)—

(A) in subsection (a), by striking "The Strategic Petroleum Reserve Plan shall provide for the establishment and maintenance of" and insert "The Secretary shall establish and maintain as part of the Strategic Petroleum Reserve", and

(B) in subsection (b), by striking "To implement the Strategic Petroleum Reserve Plan, the Secretary shall accumulate and maintain" and inserting "The Secretary may establish and maintain as part of the Strategic Petroleum Reserve";

(8) by striking section 158 (42 U.S.C. 6238);

(9) in section 159 (42 U.S.C. 6239)—

(A) by striking subsections (a), (b), (c), (d), and (e);

(B) by amending subsection (f) to read as follows:

"(f) In order to develop, operate, or maintain the Strategic Petroleum Reserve, the Secretary may:

"(1) issue rules, regulation, or orders;

"(2) acquire by purchase, condemnation, or otherwise, land or interests in land for the location of storage and related facilities;

"(3) construct, purchase, lease, or otherwise acquire storage and related facilities;

"(4) use, lease, maintain, sell, or otherwise dispose of storage and related facilities acquired under this part, under such terms and conditions as the Secretary may deem necessary or appropriate;

"(5) acquire by purchase, exchange, or otherwise, petroleum products for storage in the Strategic Petroleum Reserve;

"(6) store petroleum products in storage facilities owned and controlled by the United States or in storage facilities owned by others if those facilities are subject to audit by the United States;

"(7) execute any contracts necessary to develop, operate, or maintain the Strategic Petroleum Reserve;

"(8) require an importer of petroleum products or refiner to acquire and to store and maintain, in readily available inventories, petroleum products in the Industrial Petroleum Reserve, under section 156;

"(9) require the storage of petroleum products in the Industrial Petroleum Reserve, under section 156, on terms that the Secretary specifies in storage facilities owned and controlled by the United States or in storage facilities other than those owned by the United States if those facilities are subject to audit by the United States;

"(10) require the maintenance of the Industrial Petroleum Reserve; and

"(11) bring an action, when the Secretary considers it necessary, in any court having jurisdiction over the proceedings, to acquire by condemnation any real or personal property, including facilities, temporary use of facilities, or other interests in land, together with any personal property located on or used with the land.";

(C) in subsection (g)—

(i) by striking "implementation" and inserting "development"; and

(ii) by striking "Plan";

(D) by striking subsections (h) and (i); and

(E) by striking in subsection (j) from "No later than" through "Amendments of 1990" and inserting in lieu thereof: "When the Secretary determines that, within five years, the Reserve can reasonably be expected to contain an inventory of 750,000,000 barrels,"; and

(F) by amending subsection (l) to read as follows:

"(l) During any period in which drawdown and distribution are being implemented, the Secretary may issue rules, regulations, or orders to implement the drawdown and distribution of the Strategic Petroleum Reserve in accordance with section 523 of this Act, without regard to the requirements of section 553 of title 5, United States Code, and section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).";

(10) in section 160 (42 U.S.C. 6240)—

(A) in subsection (a), by striking all before the dash and inserting the following—

"(a) For the purpose of implementing the Strategic Petroleum Reserve, the Secretary may acquire, place in storage, transport, or exchange";

(B) in subsection (b), by striking the third comma and "including the Early Storage Reserve" and paragraph (2);

(C) by striking subsections (c), (d) and (e);

(11) in section 161 (42 U.S.C. 6241)—

(A) by amending subsection (b) to read as follows:

"(b) Except as provided in subsection (f) and (g), no drawdown and distribution of the Reserve may be made except in accordance with the provisions of the Distribution Plan prepared pursuant to section 154(e).".

(B) by striking subsection (c).

(C) by amending subsection (d)(1) to read as follows:

"(d)(1) No drawdown and distribution of the Strategic Petroleum Reserve may be made unless the President has found drawdown and distribution is required by a severe energy supply interruption or by obligations of the United States under the international energy program.".

(D) by amending subsection (e) to read as follows:

"(e)(1) The Secretary shall sell any petroleum product withdrawn from the Strategic Petroleum Reserve at public sale to the highest qualified bidder in the amounts, for the period, and after a notice of sale the Secretary considers proper, and without regard to Federal, State, or local regulations controlling sales of petroleum products.

"(2) The Secretary may cancel in whole or in part any offer to sell petroleum products as part of any drawdown and distribution under this section."; and

(E) in subsection (g)—

(i) in paragraph (1), by striking "Distribution Plan" and inserting "distribution procedures", and

(ii) by striking paragraphs (2) and (6);

(12) by striking section 164 (42 U.S.C. 6244);

(13) by amending section 165 (42 U.S.C. 6245) to read as follows—

"Sec. 165. The Secretary shall report annually to the President and the Congress on actions to implement this part. This report shall include—

"(1) a detailed statement of the status of the Strategic Petroleum Reserve, including—

"(A) the capacity of the Reserve and the scheduled annual fill rate for achieving this capacity;

"(B) the types and quality of crude oil to be acquired for the Reserve, including the method of procurement, under the schedule described in subparagraph (A);

"(C) any conditions affecting physical integrity of any Reserve facility or the petroleum products stored in any Reserve facility, that would impair the maintenance or operation of the Reserve, including any proposed remedial actions, their estimated costs, and schedules for their execution;

"(D) plans for the construction of new Reserve facilities or the enhancement or improvement of existing Reserve facilities, including their estimated costs and schedules for completion;

"(E) specific actions being taken or anticipated to complete and maintain a Reserve, a 750,000,000 barrel Reserve;

"(F) specific actions being taken to complete preparations of plans for expansion of the Reserve to a capacity of one billion barrels; and

"(G) a description of the current method of drawdown and distribution to be utilized; and

"(H) an explanation of any changes made in the matters described in subparagraphs (A) through (G) since the transmittal of the previous report under this section;

"(2) a summary of the actions being taken to develop, operate, or maintain the Strategic Petroleum Reserve;

"(3) a summary of any actions taken or proposed to achieve the petroleum product storage objectives for the Reserve through the acquisition of petroleum products by the acquisition of leasing of petroleum products, or by other means;

"(4) a review of any proposal received from a person, including a State or local governmental entity, that would further the objectives of the Reserve, including the financing or leasing of Reserve storage facilities or petroleum products, or both, and any anticipated actions on such a proposal;

"(5) a description of current United States and International Energy Agency policies and practices applicable to the drawdown and distribution of the Reserve, including any changes in such policies and the rationale for such changes;

"(6) a summary of the financial transactions in the Strategic Petroleum Reserve and SPR Petroleum Account;

"(7) a summary of the existing problems with respect to operation or maintenance of the Strategic Petroleum Reserve; and

"(8) any recommendations for supplemental legislation the Secretary considers necessary or appropriate to implement this part, including any proposal under paragraphs (3) and (4).".

(14) in section 166 (42 U.S.C. 6246) by striking all after "appropriated" and inserting "such funds as may be necessary to implement this part.";

(15) in section 167 (42 U.S.C. 6247)—

(A) in subsection (b)—

(i) by inserting "test sales of petroleum products from the Reserve," after "Strategic Petroleum Reserve,";

(ii) by striking paragraph (1);

(iii) in paragraph (2), by striking "after fiscal year 1982"; and

(B) by amending subsection (e) to read as follows:

"(e) The Impoundment Control Act of 1974 (2 U.S.C. 681–688) applies to funds made available under subsection (b).".

(c) Part C of Title I of the Energy Policy and Conservation Act (42 U.S.C. 6249, et seq.) is amended—

(1) in section 172 (42 U.S.C. 6249a) by striking subsections (a) and (b); and

(2) by striking section 173 (42 U.S.C. 6249b).

(d) Part D of Title I of the Energy Policy and Conservation Act is amended in section 181 (42 U.S.C. 6251), by striking "1994" each time is appears and inserting "1999".

SEC. 105. TITLE II AMENDMENTS.

(a) Title II of the Energy Policy and Conservation Act is amended by striking Part A (42 U.S.C. 201 through 204).

(b) Part B of Title II of the Energy Policy and Conservation Act is amended by adding at the end of section 256(h), "There are authorized to be appropriated for fiscal years 1996 through 1999, such sums as may be necessary.".

(c) Part D of Title II of the Energy Policy and Conservation Act is amended in section 281 (42 U.S.C. 6285), by striking "1994" each time it appears and inserting "1999".

SEC. 106. TITLE III AMENDMENTS.

(a) Part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6291–6327, 6361–6374d) is amended in section 365(f)) (42 U.S.C. 6325(f)) by amending paragraph (1) to read as follows:

"(1) Except as provided in paragraph (2), for the purpose of carrying out this part, there are authorized to be appropriated for fiscal years 1995 through 1999, such sums as may be necessary.".

(b) Part G of title III of the Energy Policy and Conservation Act (42 U.S.C. 6371, et seq.) is amended in section 397 (42 U.S.C. 6371f) is amended to read as follows:

"SEC. 397. For the purpose of carrying out this part, there are authorized to be appropriated for fiscal years 1995 through 1999, such sums as may be necessary.".

TITLE II—AMENDMENTS TO DEPARTMENT OF ENERGY ORGANIZATION ACT

SEC. 201. STANDARDIZATION OF REQUIREMENTS AFFECTING DEPARTMENT OF ENERGY EMPLOYEES.

(a) REPEAL.—Part A of title VI of the Department of Energy Organization Act and its catchline (42 U.S.C. 7211, 7212, and 7218) are repealed.

(b) CONFORMING AMENDMENT.—The table of contents of the Department of Energy Organization Act is amended by striking out the matter relating to part A of title VI.

TITLE III—INITIATIVES PERTAINING TO THE LOWER MISSISSIPPI DELTA REGION

SEC. 301. FINDINGS.

(a) The Congress finds that—

(1) in 1988, Congress enacted Public Law 100–460, establishing the Lower Mississippi Delta Development Commission, to assess the needs, problems, and opportunities of people living in the Lower Mississippi Delta Region that includes 219 counties and parishes within the States of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee;

(2) the Commission conducted a thorough investigation to assess these needs, problems, and opportunities, and held several public hearings throughout the Delta Region;

(3) on the basis of these investigations, the Commission issued the Delta Initiatives Report, which included recommendations on natural resource protection, historic preservation, and the enhancement of educational and other opportunities for Delta Region residents; and

(4) the Delta Initiatives Report recommended—

(A) the implementation of precollege education programs in mathematics and science as well as other initiatives to enhance the educational and technical capabilities of the Delta work force;

(B) that States and local systems seek ways to expand the pool of qualified educators in mathematics and the sciences;

(C) that institutions in the Delta Region work with local school districts to promote mathematics and science education;

(D) that Federal agencies target more research and development monies in selected areas to institutions of higher education in the Delta Region, especially Historically Black Colleges and Universities;

(E) that institutions of higher education establish a regional consortium to provide technical assistance and training to increase international trade between businesses in the Delta Region and foreign countries;

(F) that the Federal government should create economic incentives to encourage the location of value-added facilities for processing agricultural products within the Delta Region; and

(G) that Congress provide practical incentives to encourage the construction of alternative fuel production facilities in the Delta Region.

SEC. 302. DEFINITIONS.

As used in this title, the term—

(1) "Center" means the Delta Energy Technology and Business Development Center established under section 303 of this Act;

(2) "Commission" means the Lower Mississippi Delta Development Commission established pursuant to Public Law 100–460;

(3) "Delta Initiatives Report" means the May 14, 1990 Final Report of the Commission entitled "The Delta Initiatives: Realizing the Dream. . . Fulfilling the Potential";

(4) "Delta Region" means the Lower Mississippi Delta Region including the 219 counties and parishes within the States of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee, as defined in the Delta Initiatives Report, except that, for any State for which the Delta Region as defined in such report comprises more than half of the geographic area of such State, the entire State shall be considered part of the Delta Region for purposes of this Act;

(5) "Department" means the United States Department of Energy, unless otherwise specifically stated;

(6) "departmental laboratory" means a facility operated by or on behalf of the Department of Energy that would be considered a laboratory as that term is defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(d)(2)) or other laboratory or facility the Secretary designates;

(7) "Historically Black College or University" means a college or university that would be considered a "part B institution" by section 322(2) of the Higher Education act of 1965 (20 U.S.C. 1061(2));

(8) "minority college or University" means a Historically Black College or University that would be considered a "part B institution" by section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)) or a "minority institution" as that term is defined in section 1046 of the Higher Education Act of 1965 (20 U.S.C. 1135d-5(3));

(9) "persons in the Delta Region" means an entity primarily located in the Delta Region, the controlling interest (as defined by the Secretary) of which is held by persons of the United States, including—

(A) a for-profit entity;

(B) a private foundation or corporation exempt under section 501(c)(3) of the Internal Revenue Code;

(C) a nonprofit organization such as a public trust;

(D) a trade or professional society;

(E) a tribal government;

(F) institutions of higher education; or

(G) a unit of State or local government; and

(10) "Secretary" means the Secretary of Energy, unless otherwise specifically stated.

SEC. 303. DELTA ENERGY TECHNOLOGY AND BUSINESS DEVELOPMENT CENTER.

(a) ESTABLISHMENT.—The Secretary shall enter into an agreement with Louisiana State University in partnership with Southern University in Baton Rouge, Louisiana, to establish the Delta Energy Technology and Business Development Center. The agreement shall provide for cooperative agreements with the University of Arkansas at Pine Bluff, Arkansas, and Alcorn State University in Lorman, Mississippi, and other universities and institutions in the Delta Region, to carry out affiliated programs and coordinate program activities at such universities and institutions.

(b) PURPOSE.—The purpose of the Center shall be to—

(1) foster the creation and retention of energy resource and manufacturing and related energy service jobs in the Delta Region;

(2) encourage the export of energy resources and technologies, including services related thereto, from the Delta Region;

(3) develop markets for energy resources and technologies manufactured in the Delta Region for use in meeting the energy resource and technology needs of foreign countries;

(4) encourage the successful, long-term market penetration of energy resources and technologies manufactured in the Delta Region into foreign countries;

(5) encourage participation in energy-related projects in foreign countries by persons in the Delta Region as well as the utilization in such projects of energy resources and technologies significantly developed, demonstrated, or manufactured in the Delta Region; and

(6) assist in the establishment of technology transfer programs in cooperation with Federal laboratories to create businesses in energy resources and technology in the Delta Region.

(c) GENERAL.—The Center, in cooperation with participating universities and institutions in the Delta Region, shall—

(1) identify and foster the establishment of flexible manufacturing networks in consultation with the States of the Delta Region to promote the development of energy resources and technologies that have the potential to expand technology development and manufacturing in, and exports from, the Delta Region;

(2) provide technical, business, training, marketing, and other assistance to persons in the Delta Region;

(3) develop a comprehensive database and information dissemination system, that will provide detailed information on the specific energy resources and technologies of the Delta Region itself, as well as domestic and international market opportunities for businesses in the Delta Region, and electronically link the Center with other institutions of higher education in the Delta Region;

(4) establish a network of business and technology incubators to promote the design, manufacture, and sale of energy resources and technologies from the Delta Region;

(5) enter into contracts, cooperative agreements, and other arrangements with the Federal government, international development agencies, or persons in the Delta Region to carry out these objectives; and

(6) coordinate existing Department and other Federal programs having comparable goals and purposes.

(d) ASSISTANCE FROM THE SECRETARY.—The Secretary is authorized to provide the Center assistance in obtaining such personnel, equipment, and facilities as may be needed by the Center and affiliated participating universities and institutions to carry out its activities under this section.

(e) GRANTS.—The Secretary is authorized to provide grants and other forms of financial assistance to the Center for the Center and participating universities and institutions to (1) support the creation of flexible manufacturing networks as identified in subsection (c)(1); and (2) develop the comprehensive database described in paragraph (c)(3); and (3) support the training, marketing, and other related activities of the Center.

(f) ACCEPTANCE OF GRANTS AND TRANSFERS.—The Center may accept—

(A) grants and donations from private individuals, groups, organizations, corporations, foundations, State and local governments, and other entities; and

(B) transfers of funds from other Federal agencies.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the programs under this section and for the establishment, operation, construction, and maintenance of the Center and facilities of participating universities and institutions.

SEC. 304. INSTITUTIONAL CONSERVATION PROGRAM FOR THE DELTA REGION.

Title III of the Energy Policy and Conservation Act (42 U.S.C. 6371, et seq.) is amended by adding a new section 400K as follows:

"INSTITUTIONAL CONSERVATION PROGRAM FOR THE DELTA REGION

"SEC. 400K. (a) PURPOSE.—The purpose of this section is to encourage the use of energy conservation measures in the schools and hospitals of the Delta Region.

"(b) GRANTS FOR ESTABLISHMENT OF PROGRAM.—Not later than 12 months after the date of the enactment of the Lower Mississippi Delta Initiatives Act of 1993, the Secretary is authorized to provide grants to schools or hospitals, or to consortiums consisting of a school or hospital and one or more of the following: State or unit of local government; local education agency; State hospital facilities agency; or State school facilities agency. Such grants shall be for purposes of conducting innovative energy conservation projects and providing Federal financing for energy conservation projects at schools and hospitals in the Delta Region.

"(c) APPLICATIONS.—(1) Applications of schools or hospitals for grants under this section shall be made not more than once for any fiscal year. Such applications shall be submitted to the State energy agency, in consultation with the Planning and Development Districts in the Delta Region, and the State energy agency shall make a single submittal to the Secretary containing all applications which comply with subsection (e).

"(2) Applications for grants shall contain, or be accompanied by, such information as the Secretary may reasonably require in accordance with regulations governing institutional conservation programs under this part; provided, however, that the Secretary shall encourage flexible and innovative approaches consistent with this Act.

"(d) SELECTION OF APPLICATIONS.—(1) Not later than six months after the receipt of applications under subsection (c), the Secretary shall select at least seven, but not more than 21, proposals from States to receive grants under subsection (b).

"(2) The Secretary may select more than 21 applications under this subsection, if the Secretary determines that the total amount of available funds is not likely to be otherwise utilized.

"(3) No one State shall receive less than one, or more than four, grants under subsection (b).

"(4) Such grants shall be in addition to such grants as would otherwise be provided under part G of this Act.

"(5) No one grant recipient under this section shall receive Federal funds in excess of $2,000,000.

"(e) SELECTION CRITERIA.—The Secretary shall select recipients of grants under this section on the basis of the following criteria:

"(1) The location of the grant recipient in the Delta Region.

"(2) The demonstrated or potential resources available to the grant applicant for carrying out the purposes of this section.

"(3) The demonstrated or potential ability of the grant applicant to improve energy conservation measures in the designated school or hospital.

"(4) Such other criteria as the Secretary deems appropriate for carrying out the purposes of this section.

"(f) DEFINITION.—For purposes of this section, the term 'Delta Region' means the Lower Mississippi Delta Region including the 219 counties and parishes within the States of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee, as defined in the May 14, 1990, Final Report of the Lower Mississippi Delta Development Commission entitled 'The Delta Initiatives: Realizing the Dream . . . Fulfilling the Potential.'

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out this section, to remain available until expended, not more than $20,000,000 for each of fiscal years 1996, and 1997, and 1998.".

SEC. 305. ENERGY RELATED EDUCATIONAL INITIATIVES.

(a) Minority College or University Initiative.—(1) Within one year after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and to the United States House of Representatives a report identifying opportunities for minority colleges and universities to participate in programs and activities carried out by the Department or the departmental laboratories. The Secretary shall consult with representatives of minority colleges or universities in preparing the report. Such report shall—

(A) describe ongoing education and training programs carried out by the Department or the departmental laboratories with respect to, or in conjunction with, minority colleges or universities in the areas of mathematics, science, and engineering;

(B) describe ongoing research, development, demonstration, or commercial application activities involving the Department or the departmental laboratories and minority colleges or universities;

(C) describe funding levels for the programs referred to in subparagraphs (A) and (B);

(D) identify ways for the Department or the departmental laboratories to assist minority colleges or universities in providing education and training in the fields of mathematics, the sciences, and engineering;

(E) identify ways for the Department or the departmental laboratories to assist minority colleges and universities in entering into partnerships;

(F) address the need for, and potential role of, the Department or the departmental laboratories in providing minority colleges or universities with—

(i) increased research opportunities for faculty and students;

(ii) assistance in faculty development and recruitment;

(iii) curriculum enhancement and development; and

(iv) improved laboratory instrumentation and equipment, including computer equipment, through purchase, loan, or other transfer mechanisms;

(G) address the need for, and potential role of, the Department or departmental laboratories in providing financial and technical assistance for the development of infrastructure facilities, including buildings and laboratory facilities, at minority colleges and universities; and

(H) make specific proposals and recommendations, together with estimates of necessary funding levels, for initiatives to be carried out by the Department or the departmental laboratories in order to assist minority colleges or universities in providing education and training in the areas of mathematics, the sciences, and engineering, and in entering into partnerships with the Department or departmental laboratories.

(2) The Secretary shall encourage memoranda of understanding and other appropriate forms of agreement between the Department and minority colleges and universities directed at jointly planning and developing programs to foster greater involvement of minority colleges and universities in research, education, training, and recruitment activities of the Department.

(b) Minority College and University Scholarship Programs for the Delta Region.—The Secretary shall establish a scholarship program for students pursuing undergraduate or graduate degrees in energy-related scientific, mathematical, engineering, and technical disciplines at minority colleges and universities in the Delta Region. The scholarship program shall include tuition assistance. Recipients of such scholarships shall be students deemed by the Secretary to have demonstrated (1) a need for such assistance and (2) academic potential in the particular area of study.

(c) Pre-College Education.—The Secretary shall undertake activities to encourage pre-college education programs in energy-related scientific, mathematical, engineering, and technical disciplines for students in the Delta Region. Such activities shall include, but not be limited to the following:

(1) Cooperation with, and assistance to, State departments of education and local school districts in the Delta Region to develop and carry out after school and summer education programs for elementary, middle, and secondary school students in energy-related scientific, mathematical, engineering and technical disciplines.

(2) Cooperation with, and assistance to, institutions of higher education in the Delta Region to develop and carry out pre-college education programs in energy-related scientific, mathematical, engineering, and technical disciplines for middle and secondary school students.

(3) Cooperation with, and assistance to, State departments of education and local school districts in the development and use of curriculum and educational materials in energy-related scientific, mathematical, engineering, and technical disciplines for middle and secondary students.

(4) The establishment of education programs in subjects relating to energy-related scientific, mathematical, engineering, and technical disciplines for elementary, middle, and secondary school teachers in the Delta Region.

(d) Volunteer Program.—The Secretary shall carry out a program to encourage the involvement on a voluntary basis of qualified employees of the Department in education programs relating to energy-related scientific, mathematical, engineering, and technical disciplines, in cooperation with State departments of education and local school districts in the Delta Region.

(e) Women and Minorities in the Sciences.—The Secretary shall establish a Center for Excellence in the Sciences at Alcorn State in Lorman, Mississippi, in cooperation with Southern University in Baton Rouge, Louisiana, and the University of Arkansas at Pine Bluff, Arkansas, and other minority colleges or universities for purposes of encouraging women and minority students in the Delta Region to study and pursue careers in the sciences, mathematics, engineering and technical disciplines. The Center shall enter into cooperative agreements with Southern University in Baton Rouge, Louisiana, and the University of Arkansas at Pine Bluff, Arkansas, and other minority colleges and universities in the Delta Region, to carry out affiliated programs and coordinate programs activities at such colleges and universities. The Secretary is authorized to provide grants and other forms of financial assistance to the Center.

(f) Coordination With Other Federal Agencies.—The Secretary shall ensure that the programs authorized in this section are coordinated with, and complimentary to, education assistance programs administered by the Department and by other Federal agencies in the Delta Region. These agencies include, but are not limited to, the Department of the Interior, the Department of Agriculture, the Department of Education, the National Science Foundation, and the National Aeronautics and Space Administration.

(g) Authorization of Appropriations.—There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 306. INTEGRATED BIOMASS ENERGY SYSTEMS.

(a) Program Direction.—The Secretary, in consultation with the Secretary of Agriculture, shall conduct a research, development and demonstration program to determine the economic viability of integrated biomass energy systems within the Delta Region.

(b) Program Plan.—Not later than six months after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a program plan to guide the activities under this section.

(c) Solicitation of Proposals.—Not later than one year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities consistent with the program plan. Such activities shall include at least three demonstrations of integrated biomass energy systems that—

(1) involve the production of dedicated energy crops of not less than 25,000 acres per demonstration;

(2) include predominately herbaceous energy crops;

(3) include predominately short-rotation woody crops;

(4) demonstrate cost-effective methods of growing, harvesting, storing, transporting, and preparing energy crops for conversion to electricity or transportation fuel; and

(5) result in the conversion of such crops to electricity or transportation fuel by a non-Federal energy producer or the Tennessee Valley Authority.

(d) Cost Sharing.—(1) For research, development, and demonstration programs carried out under this section, the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project.

(2) The Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration or commercial application project under this section to be provided from non-Federal sources. The Secretary may reduce the non-Federal requirement under this section if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this section.

(3) In calculating the amount of the non-Federal commitment under paragraph (1) or (2), the Secretary shall include cash, personnel, services, equipment, and other resources.

(e) Authorization of Appropriations.—There is authorized to be appropriated for purposes of carrying out this section, to remain available until expended, not more than $10,000,000 for each of fiscal years 1996, 1997, and 1998.

SEC. 307. WEATHERIZATION ASSISTANCE PROGRAM FOR THE DELTA REGION.

Title IV of the Energy Conservation and Production Act (42 U.S.C. 6851, 6861–6846) is further amended by adding a new section 423 as follows:

"WEATHERIZATION ASSISTANCE PROGRAM FOR THE DELTA REGION

"Sec. 423. (a) Purpose.—The purpose of this section is to encourage the weatherization of low-income dwelling units in the Delta Region.

"(b) Grants for Establishment of Program.—Not later than 12 months after the date of the enactment of the Lower Mississippi Delta Initiatives Act of 1993, the Secretary shall make grants to (1) States, and (2) in accordance with the provisions of subsection (413)(d), to Indian tribal organizations to serve Native Americans in the Delta Region. Such grants shall be made for the purposes of providing financial assistance for the weatherization of low-income dwelling units.

"(c) Applications.—(1) Applications of States or Indian tribal organizations for grants under this section shall be made not more than once for any fiscal year. Such applications shall be submitted to the State weatherization agency, in consultation with Community Action Agencies and Planning and Development Districts in the Delta Region, and the State weatherization agency shall make a single submittal to the Secretary containing all applications which comply with subsection (e).

"(2) Applications for grants for energy conservation projects shall contain, or be accompanied by, such information as the Secretary may reasonably require in accordance with regulations governing weatherization assistance programs under this Part.

"(d) Selection of Applications.—(1) The Secretary shall select applications from States to receive grants under subsection (b).

"(2) Such grants shall be in addition to such grants as would otherwise be provided under section 414 of this Act.

"(3) No one grant recipient under this section shall receive Federal funds in excess of $2,000,000.

"(e) Selection Criteria.—The Secretary shall select recipients of grants under this section in accordance with the requirements of sections 414(b) and 415 of this Act, and on the basis of the following criteria:

"(1) The location of the grant applicant in the Delta Region.

"(2) The demonstrated or potential resources available to the grant applicant for carrying out the purposes of this section.

"(3) The demonstrated or potential ability of the grant applicant to improve energy efficiency in low-income dwelling units.

"(f) Coordination With Other Weatherization Assistance Programs.—The Secretary shall ensure that the programs authorized in this section are coordinated with, and complimentary to, Department weatherization assistance programs under section 413, 414A and 414B of this title.

"(g) Definition.—For purposes of this section, the term 'Delta Region' means the Lower Mississippi Delta Region including the 219 counties and parishes within the States of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee, as defined in the May 14, 1990 Final Report of the Lower Mississippi Delta Development Commission entitled 'The Delta Initiatives: Realizing the Dream . . . Fulfilling the Potential.'

"(h) Authorization of Appropriations.—There is authorized to be appropriated for purposes of carrying out this section, to remain available until expended, not more than $20,000,000 for each of fiscal years 1996, 1997, and 1998.".

SEC. 308. RENEWABLE ENERGY PRODUCTION INCENTIVES.

Section 1212 of the Energy Policy Act of 1992 (42 U.S.C. 13317) is amended by inserting immediately after "foregoing," the following: "by the Tennessee Valley Authority,".

TITLE IV—PURCHASES FROM THE STRATEGIC PETROLEUM RESERVE BY THE STATE OF HAWAII.

Sec. 401. (a) General Provisions.—Section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241) is amended by adding at the end the following new subsection:

"(j)(1) With respect to each offering of a quantity of petroleum product during a drawdown of the Strategic Petroleum Reserve—

"(A) the State of Hawaii, in addition to having the opportunity to submit a competitive bid, may—

"(i) submit a binding offer, and shall on submission of the bid, be entitled to purchase a category of petroleum product specified in a notice of sale at a price equal to the volumetrically weighted average of the successful bids made for the remaining quantity of petroleum product within the category that is the subject of the offering; and

"(ii) submit one or more alternative offers, for other categories of petroleum product, that will be binding in the event that no price competitive contract is awarded for the category of petroleum product on which a binding offer is submitted under clause (i); and

"(B) at the request of the Governor of the State of Hawaii, petroleum product purchased by the State of Hawaii at a competitive sale or through a binding offer shall have first preference in scheduling for lifting.

"(2)(A) In administering this subsection, and with respect to each offering, the Secretary may impose the limitation described in subparagraph (B) or (C) that results in the purchase of the lesser quantity of petroleum product.

"(B) The Secretary may limit the quantity of petroleum product that the State of Hawaii may purchase through a binding offer at any one offering to 1-1/2 of the total quantity of imports of petroleum product brought into the State during the previous year (or other period determined by the Secretary to be representative).

"(C) The Secretary may limit the quantity that may be purchased through binding offers at any one offering to 3 percent of the offering.

"(3) Notwithstanding any limitation imposed under paragraph (2), in administering this subsection, and with respect to each offering, the Secretary shall, at the request of the Governor of the State of Hawaii, adjust the quantity to be sold to the State of Hawaii or an eligible entity certified under paragraph (6), as follows:

"(A) The Secretary shall adjust upward to the next whole number increment of a full tanker load if the quantity to be sold is—

"(i) less than one full tanker load; or

"(ii) greater than or equal to 50 percent of a full tanker load more than a whole number increment of a full tanker load.

"(B) The Secretary shall adjust downward to the next whole number increment of a full tanker load if the quantity to be sold is less than 50 percent of a full tanker load more than a whole number increment of a full tanker load.

"(4) The State of Hawaii or an eligible entity may enter into an exchange or a processing agreement that requires delivery to other locations, so long as petroleum product of similar value or quantity is delivered to the State of Hawaii.

"(5) Except as otherwise provided in this Act, the Secretary may require the State of Hawaii and any eligible entity that purchases petroleum product under this subsection to comply with the standard sales provisions applicable to purchasers of petroleum product at competitive sales.

"(6)(A) Notwithstanding the foregoing, and subject to subparagraphs (B) and (C), if the Governor of the State of Hawaii certifies to the Secretary that the State has entered into an agreement with an eligible entity to effectuate the purposes of this Act, such eligible entity may submit a binding offer and receive first preference in scheduling for lifting in accordance with this subsection.

"(B) The Governor of the State of Hawaii shall not certify more than one eligible entity under this paragraph for each notice of sale.

"(C) If the Secretary has notified the Governor of the State of Hawaii that a company has been barred from bidding (either prior to, or at the time that a notice of sale is issued), the Governor shall not certify such company under the paragraph.

"(7) As used in this subsection—

"(A) the term 'binding offer' means a bid submitted by the State of Hawaii or an eligible entity for an assured award of a specific quantity of petroleum product, with a price to be calculated pursuant to this Act, that obligates the offeror to take title to the petroleum product without further negotiation or recourse to withdraw the offer;

"(B) the term 'category of petroleum' means the master line items within a notice of sale;

"(C) the term 'eligible entity' means an entity that owns or controls a refinery that is located within the State of Hawaii;

"(D) the term 'full tanker load' means a tanker of approximately 700,000 barrels of capacity, or such lesser tanker capacity as may be designated by the State of Hawaii or the eligible entity submitting the binding offer;

"(E) the term 'offering' means a solicitation for bids for a quantity or quantities of petroleum product from the Strategic Petroleum Reserve as specified in the notice of sale; and

"(F) the term 'notice of sale' means the document that announces—

"(i) the sale of strategic petroleum reserve products;

"(ii) the quantity, characteristics, and location of the petroleum product being sold;

"(iii) the delivery period for the sale; and

"(iv) the procedures for submitting offers.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date that is 180 days after the date of enactment of this Act or the date that final regulations are promulgated pursuant to section 3, whichever is sooner.

SEC. 402. REGULATIONS.

(a) In General.—The Secretary shall promulgate such regulations as are necessary to carry out section 2.

(b) Plan Amendments.—No amendment of the Strategic Petroleum Reserve Plan or the Distribution Plan contained in the Strategic Petroleum Reserve Plan is required for any action taken under this Act if the Secretary determines that an amendment to the plan is necessary to carry out this section.

(c) Administrative Procedure.—Regulations issued to carry out this Act shall not be subject to—

(1) section 523 of the Energy Policy and Conservation Act (42 U.S.C. 6393); or

(2) section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).

TITLE V—DEPARTMENT OF ENERGY TECHNOLOGY PARTNERSHIPS

SEC. 501. SHORT TITLE.

This title may be cited as the "Department of Energy National Competitiveness Technology Partnership Act of 1994".

SEC. 502. DEFINITIONS.

For purposed of this title, the term—

(a) "Department" means the United States Department of Energy; and

(b) "Secretary" means the Secretary of the United States Department of Energy.

SEC. 503. COMPETITIVENESS AMENDMENT TO THE DEPARTMENT OF ENERGY ORGANIZATION ACT.

(a) The Department of Energy Organization Act is amended by adding the following new title (42 U.S.C. 7101 et seq.):

"TITLE XI—TECHNOLOGY PARTNERSHIPS

"SEC. 1101. FINDINGS, PURPOSES AND DEFINITIONS.

"(a) FINDINGS.—For purposes of this title, Congress finds that—

"(1) the Department has scientific and technical resources within the departmental laboratories in many areas of importance to the economic, scientific and technological competitiveness of United States industry;

"(2) the extensive scientific and technical investment in people, facilities and equipment in the departmental laboratories can contribute to the achievement of national technology goals in areas such as the environment, health, space, and transportation;

"(3) the Department has pursued aggressively the transfer of technology from departmental laboratories to the private sector; however, the capabilities of the laboratories could be made more fully accessible to United States industry and to other Federal agencies;

"(4) technology development has been increasingly driven by the commercial marketplace, and the private sector has research and development capabilities in a broad range of generic technologies;

"(5) the Department and the departmental laboratories would benefit, in carrying out their missions, from collaboration and partnership with United States industry and other Federal agencies; and

"(6) partnerships between the departmental laboratories and United States industry can provide significant benefits to the Nation as a whole, including creation of jobs for United States workers and improvement of the competitive position of the United States in key sectors of the economy such as aerospace, automotive, chemical and electronics.

"(b) PURPOSES.—The purposes of this title are—

"(1) to promote partnerships among the Department, the departmental laboratories and the private sector;

"(2) to establish a goal for the amount of departmental laboratory resources to be committed to partnerships;

"(3) to ensure that the Department and the departmental laboratories play an appropriate role, consistent with the core competencies of the laboratories, in implementing the President's critical technology strategies;

"(4) to provide additional authority to the Secretary to enter into partnerships with the private sector to carry out research, development, demonstration and commercial application activities;

"(5) to streamline the approval process for cooperative research and development agreements proposed by the departmental laboratories; and

"(6) to facilitate greater cooperation between the Department and other Federal agencies as part of an integrated national effort to improve United States competitiveness.

"(c) DEFINITIONS.—For purposes of this title, the term—

"(1) 'cooperative research and development agreement' has the meaning given that term in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1));

"(2) 'core competency' means an area in which the Secretary determines a departmental laboratory has developed expertise and demonstrated capabilities;

"(3) 'critical technology' means a technology identified in the Report of the National Critical Technologies Panel;

"(4) 'departmental laboratory' means a facility operated by or on behalf of the Department that would be considered a laboratory as that term is defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(2)) or any other laboratory or facility designated by the Secretary;

"(5) 'disadvantaged' has the same meaning as that term has in section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6));

"(6) 'dual-use technology' means a technology that has military and commercial applications;

"(7) 'educational institution' means a college, university, or elementary or secondary school, including any not-for-profit organization dedicated to education that would be exempt under section 501(a) of the Internal Revenue Code of 1986;

"(8) 'minority college or university' means a historically Black college or university that would be considered a 'part B institution' by section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)) or a 'minority institution' as that term is defined in section 1046 of the Higher Education Act of 1965 (20 U.S.C. 1135d-5(3)).

"(9) 'multi-program departmental laboratory' means any of the following: Argonne National Laboratory, Brookhaven National Laboratory, Idaho National Engineering Laboratory, Lawrence Berkeley Laboratory, Lawrence Livermore National Laboratory, Los Alamos National Laboratory, National Renewable Energy Laboratory, Oak Ridge National Laboratory, Pacific Northwest Laboratory, and Sandia National Laboratories;

"(10) 'partnership' means any arrangement under which the Secretary or one or more departmental laboratories undertakes research, development, demonstration, commercial application or technical assistance activities in cooperation with one or more non-Federal partners and which may include partners from other Federal agencies;

"(11) 'Report of the National Critical Technologies Panel' means the biennial report on national critical technologies submitted to Congress by the President pursuant to section 603(d) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683(d)); and

"(12) 'small business' means a business concern that meets the applicable standards prescribed pursuant to section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

"SEC. 1102. GENERAL AUTHORITY.

"(a)(1) In carrying out the missions of the Department, the Secretary and the departmental laboratories may conduct research, development, demonstration or commercial application activities that build on the core competencies of the departmental laboratories.

"(2) In addition to missions established pursuant to other laws, the Secretary may assign to departmental laboratories any of the following missions:

"(A) National security, including the—

"(i) advancement of the military application of atomic energy;

"(ii) support of the production of atomic weapons, or atomic weapons parts, including special nuclear materials;

"(iii) support of naval nuclear propulsion programs;

"(iv) support for the dismantlement of atomic weapons and the safe storage, transportation and disposal of special nuclear materials;

"(v) development of technologies and techniques for the safe storage, processing, treatment, transportation, and disposal of hazardous waste (including radioactive waste) resulting from nuclear materials production, weapons production and surveillance programs, and naval nuclear propulsion programs and of technologies and techniques for the reduction of environmental hazards and contamination due to such waste and the environmental restoration of sites affected by such waste;

"(vi) development of technologies and techniques needed for the effective negotiation and verification of international arms control agreements and for the containment of the proliferation of nuclear, chemical, and biological weapons and delivery vehicles of such weapons; and

"(vii) protection of health and promotion of safety in carrying out other national security missions.

"(B) Energy-related science and technology, including the—

"(i) enhancement of the Nation's understanding of all forms of energy production and use;

"(ii) support of basic and applied research on the fundamental nature of matter and energy, including construction and operation of unique scientific instruments;

"(iii) development of energy resources, including solar, geothermal, fossil, and nuclear energy resources, and related fuel cycles;

"(iv) pursuit of a comprehensive program of research and development on the environmental effects of energy technologies and programs;

"(v) development of technologies and processes to reduce the generation of waste or pollution or the consumption of energy or materials;

"(vi) development of technologies and techniques for the safe storage, processing, treatment, management, transportation and disposal of nuclear waste resulting from commercial nuclear activities; and

"(vii) improvement of the quality of education in science, mathematics, and engineering.

"(C) Technology transfer.

"(3)(A) In addition to the missions identified in subsection (a)(2), the Departmental laboratories may pursue supporting missions to the extent that these supporting missions—

"(i) support the technology policies of the President;

"(ii) are developed in consultation with and coordinated with any other Federal agency or agencies that carry out such mission activities;

"(iii) are built upon the competencies developed in carrying out the primary missions identified in subsection (a)(2) and do not interfere with the pursuit of the missions identified in subsection (a)(2); and "(iv) are carried out through a process that solicits the views of United States industry and other appropriate parties.

"(B) These supporting missions shall include activities in the following areas:

"(i) developing and operating high-performance computing and communications systems, with the goals of contributing to a national information infrastructure and addressing complex scientific and industrial challenges which require large-scale computational capabilities;

"(ii) conducting research on and development of advanced manufacturing systems and technologies, with the goal of assisting the private sector in improving the productivity, quality, energy efficiency, and control of manufacturing processes;

"(iii) conducting research on and development of advanced materials, with the goals of increasing energy efficiency, environmental protection, and improved industrial performance.

"(4) In carrying out the Department's missions, the Secretary, and the directors of the departmental laboratories, shall, to the maximum extent practicable, make use of partnerships. Such partnerships shall be for purposes of the following:

"(A) to lead to the development of technologies that the private sector can commercialize in areas of technology with broad application important to United States technological and economic competitiveness;

"(B) to provide Federal support in areas of technology where the cost or risk is too high for the private sector to support alone but that offer a potentially high payoff to the United States;

"(C) to contribute to the education and training of scientists and engineers;

"(D) to provide university and private researchers access to departmental laboratory facilities; or

"(E) to provide technical expertise to universities, industry or other Federal agencies.

"(b) The Secretary, in carrying out partnerships, may enter into agreements using instruments authorized under applicable laws, including but not limited to contracts, cooperative research and development agreements, work for other agreements, user-facility agreements, cooperative agreements, grants, personnel exchange agreements and patent and software licenses with any person, any agency or instrumentality of the United States, any State or local governmental entity, any educational institution, and any other entity, private sector or otherwise.

"(c) The Secretary, and the directors of the departmental laboratories, shall utilize partnerships with United States industry, to the maximum extent practicable, to ensure that technologies developed in pursuit of the Department's missions are applied and commercialized in a timely manner.

"(d) The Secretary shall work with other Federal agencies to carry out research, development, demonstration or commercial application activities where the core competencies of the departmental laboratories could contribute to the missions of such other agencies.

"SEC. 1103. ESTABLISHMENT OF GOAL FOR PARTNERSHIPS BETWEEN DEPARTMENTAL LABORATORIES AND UNITED STATES INDUSTRY.

"(a) Beginning in fiscal year 1994, the Secretary shall establish a goal to allocate to cost-shared partnerships with United States industry not less than 20 percent of the annual funds provided by the Secretary to each multi-program departmental laboratory for research, development, demonstration and commercial application activities.

"(b) Beginning in fiscal year 1994, the Secretary shall establish an appropriate goal for the amount of resources to be committed to cost-shared partnerships with United States industry at other departmental laboratories.

"SEC. 1104. ROLE OF THE DEPARTMENT IN THE DEVELOPMENT OF CRITICAL TECHNOLOGY STRATEGIES.

"(a) The Secretary shall develop a multi-year critical technology strategy for research, development, demonstration and commercial application activities supported by the Department for the critical technologies listed in the Report of the National Critical Technologies Panel.

"(b) In developing such strategy, the Secretary shall—

"(1) identify the core competencies of each departmental laboratory;

"(2) develop goals and objectives for the appropriate role of the Department in each of the critical technologies listed in the report, taking into consideration the core competencies of the departmental laboratories;

"(3) consult with appropriate representatives of United States industry, including members of industry associations and representatives of labor organizations; and

"(4) participate in the executive branch process to develop critical technology strategies.

"SEC. 1105. PARTNERSHIP PREFERENCES.

"(a) The Secretary shall ensure that the principal economic benefits of any partnership accrue to the United States economy.

"(b) Any partnership that would be given preference under section 12(c)(4) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(4)) if it were a cooperative research and development agreement shall be given preference under this title.

"(c) The Secretary shall issue guidelines, after consultation with the Laboratory Partnership Advisory Board established in section 1109, for application of section 12(c)(4) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(4)) and application of subsection (a) of this section to partnerships.

"(d) The Secretary shall encourage partnerships that involve minority colleges or universities or private sector entities owned or controlled by disadvantaged individuals.

"SEC. 1106. EVALUATION OF PARTNERSHIP PROGRAMS.

"(a) The Secretary, in consultation with the Laboratory Partnership Advisory Board established in section 1109, shall develop mechanisms for independent evaluation of the ongoing partnership activities of the Department and the departmental laboratories.

"(b)(1) The Secretary and the director of each departmental laboratory shall develop mechanisms for assessing the progress of each partnership.

"(2) The Secretary and the director of each departmental laboratory shall utilize the mechanisms developed under paragraph (1) to evaluate the accomplishments of each ongoing multi-year partnership and shall condition continued Federal participation in each partnership on demonstrated progress.

"SEC. 1107. ANNUAL REPORT.

"(a) The Secretary shall submit an annual report to Congress describing the ongoing partnership activities of the Secretary and each departmental laboratory and, to the extent practicable, the activities planned by the Secretary and by each departmental laboratory for the coming fiscal year. In developing the report, the Secretary shall seek the advice of the Laboratory Partnership Advisory Board established in section 1109.

"(b) The Secretary shall submit the report under subsection (a) to the Committees on Appropriations and Energy and Natural Resources of the Senate and to the appropriate committees of the House of Representatives. No later than March 1, 1994, and no later than the first of March of each subsequent year, the Secretary shall submit the report under subsection (a) that covers the fiscal year beginning on the first of October of such year.

"(c) Each director of a departmental laboratory shall provide annually to the Secretary a report on ongoing partnership activities and a plan and such other information as the Secretary may reasonably require describing the partnership activities the director plans to carry out in the coming fiscal year. The director shall provide such report and plan in a timely manner as prescribed by the Secretary to permit preparation of the report under subsection (a).

"(d) The Secretary's description of planned activities under subsection (a) shall include, to the extent such information is available, appropriate information on—

"(1) the total funds to be allocated to partnership activities by the Secretary and by the director of each departmental laboratory;

"(2) a breakdown of funds to be allocated by the Secretary and by the director of each departmental laboratory for partnership activities by areas of technology;

"(3) any plans for additional funds not described in paragraph (2) to be set aside for partnerships during the coming fiscal year;

"(4) any partnership that involves a Federal contribution in excess of $500,000 the Secretary or the director of each departmental laboratory expects to enter into in the coming fiscal year;

"(5) the technologies that will be advanced by each partnership that involves a Federal contribution in excess of $500,000;

"(6) the types of entities that will be eligible for participation in partnerships;

"(7) the nature of the partnership arrangements, including the anticipated level of financial and in-kind contribution from participants and any repayment terms;

"(8) the extent of use of competitive procedures in selecting partnerships; and

"(9) such other information that the Secretary finds relevant to the determination of the appropriate level of Federal support for such partnerships.

"(e) The Secretary shall provide appropriate notice in advance to Congress of any partnership, which has not been described previously in the report required by subsection (a), that involves a Federal contribution in excess of $500,000.

"SEC. 1108. PARTNERSHIP PAYMENTS.

"(a)(1) Partnership agreements entered into by the Secretary may require a person or other entity to make payments to the Department, or any other Federal agency, as a condition for receiving support under the agreement.

"(2) The amount of any payment received by the Federal Government pursuant to a requirement imposed under paragraph (1) may be credited, to the extent authorized by the Secretary, to the account established under paragraph (3). Amounts so credited shall be available, subject to appropriations, for partnerships.

"(3) There is hereby established in the United States Treasury an account to be known as the 'Department of Energy Partnership Fund'. Funds in such account shall be available to the Secretary for the support of partnerships.

"(b) The Secretary may advance funds under any partnership without regard to section 3324 of title 31 of the United States Code to—

"(1) small businesses;

"(2) not-for-profit organizations that would be exempt under section 501(a) of the Internal Revenue Code of 1986; or

"(3) State or local governmental entities.

"SEC. 1109. LABORATORY PARTNERSHIP ADVISORY BOARD AND INDUSTRIAL ADVISORY GROUPS AT MULTI-PROGRAM DEPARTMENTAL LABORATORIES.

"(a)(1) The Secretary shall establish within the Department an advisory board to be known as the 'Laboratory Partnership Advisory Board,' to provide the Secretary with advice on the implementation of this title.

"(2) The membership of the Laboratory Partnership Advisory Board shall consist of persons who are qualified to provide the Secretary with advice on the implementation of this title. Members of the Board shall include representatives primarily from United States industry but shall also include representatives from the following:

"(A) small businesses;

"(B) private sector entities owned or controlled by disadvantaged persons;

"(C) educational institutions, including representatives from minority colleges or universities;

"(D) laboratories of other Federal agencies; and

"(E) professional and technical societies in the United States.

"(3) The Laboratory Partnership Advisory Board shall request comment and suggestions from departmental laboratories to assist the Board in providing advice to the Secretary on the implementation of this title.

"(b) The director of each multi-program departmental laboratory shall establish an advisory group consisting of persons from United States industry to—

"(1) evaluate new initiatives proposed by the departmental laboratory;

"(2) identify opportunities for partnerships with United States industry; and

"(3) evaluate ongoing programs at the departmental laboratory from the perspective of United States industry.

"(c) Nothing in this section is intended to preclude the Secretary or the director of a departmental laboratory from utilizing existing advisory boards to achieve the purposes of this section.

"SEC. 1110. FELLOWSHIP PROGRAM.

"The Secretary shall encourage scientists, engineers and technical staff from departmental laboratories to serve as visiting fellows in research and manufacturing facilities of industrial organizations, State and local governments, and educational institutions in the United States and foreign countries. The Secretary may establish a formal fellowship program for this purpose or may authorize such activities on a case-by-case basis. The Secretary shall also encourage scientists and engineers from United States industry to serve as visiting scientists and engineers in the departmental laboratories.

"SEC. 1111. COOPERATION WITH STATE AND LOCAL PROGRAMS FOR TECHNOLOGY DEVELOPMENT AND DISSEMINATION.

"The Secretary and the director of each departmental laboratory shall seek opportunities to coordinate their activities with programs of State and local governments for technology development and dissemination, including programs funded in part by the Secretary of Defense pursuant to section 2523 of title 10 of the United States Code and section 2513 of title 10 of the United States Code and programs funded in part by the Secretary of Commerce pursuant to sections 25 and 26 of the Act of March 3, 1901 (15 U.S.C. 278k and 2781) and section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 2781 note).

"SEC. 1112. AVAILABILITY OF FUNDS FOR PARTNERSHIPS.

"(a) All of the funds authorized to be appropriated to the Secretary for research, development, demonstration or commercial application activities, other than atomic energy defense programs, shall be available for partnerships to the extent such partnerships are consistent with the goals and objectives of such activities.

"(b) All of the funds authorized to be appropriated to the Secretary for research, development, demonstration or commercial application of dual-use technologies within the Department's atomic energy defense activities shall be available for partnerships to the extent such partnerships are consistent with the goals and objectives of such activities.

"(c) Funds authorized to be appropriated to the Secretary and made available for departmental laboratory-directed research and development shall be available for any partnership.

"SEC. 1113. PROTECTION OF INFORMATION.

"Section 12(c)(7) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(7)), relating to the protection of information, shall apply to the partnership activities undertaken by the Secretary and by the directors of the departmental laboratories.

"SEC. 1114. FAIRNESS OF OPPORTUNITY.

"(a) The Secretary and the director of each departmental laboratory shall institute procedures to ensure that information on laboratory capabilities and arrangements for participating in partnerships with the Secretary or the departmental laboratories is publicly disseminated.

"(b) Prior to entering into any partnership having a Federal contribution in excess of $5,000,000, the Secretary or director of a departmental laboratory shall ensure that the opportunity to participate in such partnership has been publicly announced to potential participants.

"(c) In cases where the Secretary or the director of a departmental laboratory believes a potential partnership activity would benefit from broad participation from the private sector, the Secretary or the director of such departmental laboratory may take such steps as may be necessary to facilitate formation of a United States industry consortium to pursue the partnership activity.

"SEC. 1115. PRODUCT LIABILITY.

"The Secretary, after consultation with the Laboratory Partnership Advisory Board established in section 1109, and the Attorney General shall enter into a memorandum of understanding establishing a consistent policy and standards regarding the liability of the United States, of the non-Federal entity operating a departmental laboratory and of any other party to a partnership for product liability claims arising from partnership activities. The Secretary and the director of each departmental laboratory shall, to the maximum extent practicable, incorporate into any partnership the policy and standards established in the memorandum of understanding.

"SEC. 1116. INTELLECTUAL PROPERTY.

"The Secretary shall, after consultation with the Laboratory Partnership Advisory Board established in section 1109, develop guidelines governing the application of intellectual property laws by the Secretary and by the director of each departmental laboratory in partnership arrangements.

"SEC. 1117. SMALL BUSINESS.

"(a) The Secretary shall develop simplified procedures and guidelines for partnerships involving small businesses to facilitate access to the resources and capabilities of the departmental laboratories.

"(b) Notwithstanding any other law, the Secretary may waive, in whole or in part, any cost-sharing requirement for a small business involved in a partnership if the Secretary determines that the cost-sharing requirement would impose an undue hardship on the small business and would prevent the formation of the partnership.

"(c) Notwithstanding Section 12(d) of the Stevenson-Wydler Innovation Act of 1980 (15 U.S.C. 3710a(d)(1)), the Secretary may provide funds as part of a cooperative research and development agreement to a small business if the Secretary determines that the funds are necessary to prevent imposing an undue hardship on the small business and necessary for the formation of the cooperative research and development agreement.

"SEC. 1118. MINORITY COLLEGE AND UNIVERSITY REPORT.

"Within one year after the date of enactment of this title, and annually thereafter, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and to the United States House of Representatives a report identifying opportunities for minority colleges and universities to participate in programs and activities being carried out by the Department or the departmental laboratories. The Secretary shall consult with representatives of minority colleges and universities in preparing the report. Such report shall—

"(a) describe ongoing education and training programs being carried out by the Department or the departmental laboratories with respect to or in conjunction with minority colleges and universities in the areas of mathematics, science, and engineering;

"(b) describe ongoing research, development demonstration or commercial application activities involving the Department or the departmental laboratories and minority colleges and universities;

"(c) describe funding levels for the programs and activities described in subsections (a) and (b);

"(d) identify ways for the Department or the departmental laboratories to assist minority colleges and universities in providing education and training in the fields of mathematics, science, and engineering;

"(e) identify ways for the Department or the departmental laboratories to assist minority colleges and universities in entering into partnerships;

"(f) address the need for and potential role of the Department or the departmental laboratories in providing to minority colleges and universities the following:

"(1) increased research opportunities for faculty and students;

"(2) assistance in faculty development and recruitment and curriculum enhancement and development; and

"(3) laboratory instrumentation and equipment, including computer equipment, through purchase, loan, or other transfer;

"(g) address the need for and potential role of the Department or departmental laboratories in providing funding and technical assistance for the development of infrastructure facilities, including buildings and laboratory facilities at minority colleges and universities; and

"(h) make specific proposals and recommendations, together with estimates of necessary funding levels, for initiatives to be carried out by the Department or the departmental laboratories to assist minority colleges and universities in providing education and training in the areas of mathematics, science, and engineering, and in entering into partnerships with the Department or departmental laboratories.

"SEC. 1119. MINORITY COLLEGE AND UNIVERSITY SCHOLARSHIP PROGRAM.

"The Secretary shall establish a scholarship program for students attending minority colleges or universities and pursuing a degree in energy-related scientific, mathematical, engineering, and technical disciplines. The program shall include tuition assistance. The program shall provide an opportunity for the scholarship recipient to participate in an applied work experience in a departmental laboratory. Recipients of such scholarships shall be students deemed by the Secretary to have demonstrated (1) a need for such assistance and (2) academic potential in the particular area of study. Scholarships awarded under this program shall be known as Secretary of Energy Scholarships.".

(b) CONFORMING AMENDMENT.—The table of contents of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) is amended by adding at the end thereof the following items—

"TITLE XI—TECHNOLOGY PARTNERSHIPS

"Sec. 1101. Finding, Purposes and Definitions.
"Sec. 1102. General Authority.
"Sec. 1103. Establishment of Goal for Partnerships Between Departmental Laboratories and United States Industry.
"Sec. 1104. Role of the Department in the Development of Critical Technology Strategies.
"Sec. 1105. Partnership Preferences.
"Sec. 1106. Evaluation of Partnership Programs.
"Sec. 1107. Annual Report.
"Sec. 1108. Partnership Payments.
"Sec. 1109. Laboratory Partnership Advisory Board and Industrial Advisory Groups at Multi-Program Departmental Laboratories.
"Sec. 1110. Fellowship Program.
"Sec. 1111. Cooperation with State and Local Programs for Technology Development And Dissemination.
"Sec. 1112. Availability of Funds for Partnerships.
"Sec. 1113. Protection of Information.
"Sec. 1114. Fairness of Opportunity.
"Sec. 1115. Product Liability.
"Sec. 1116. Intellectual Property.
"Sec. 1117. Small Business.
"Sec. 1118. Minority College and University Report.
"Sec. 1119. Minority College and University Scholarship program.".

SEC. 504. NATIONAL ADVANCED MANUFACTURING TECHNOLOGIES PROGRAM.

The Secretary is encouraged to use partnerships to expedite the private sector deployment of advanced manufacturing technologies as required by section 2202(a) of the Energy Policy Act of 1992 (42 U.S.C. 13502).

SEC. 505. NOT-FOR-PROFIT ORGANIZATIONS.

The Secretary shall encourage the establishment of not-for-profit organizations, such as the Center for Applied Development of Environmental Technology (CADET), that will facilitate the transfer of technologies from the departmental laboratories to the private sector.

SEC. 506. CAREER PATH PROGRAM.

(a) The Secretary, utilizing authority under other applicable law and the authority of this section, shall establish a career path program to recruit employees of the national laboratories to serve in positions in the Department.

(b) Section 207 to title 18, United States Code, is amended by inserting after subsection (j)(6) the following:

"(7) NATIONAL LABORATORIES.—(A) The restrictions contained in subsections (a), (b), (c), and (d) shall not apply to an appearance or communication made, or advice or aid rendered by a person employed at a facility described in subparagraph (B), if the appearance or communication is made on behalf of the facility or the advice or aid is provided to the contractor of the facility.

"(B) This paragraph applies to the following: Argonne National Laboratory, Brookhaven National Laboratory, Idaho National Engineering Laboratory, Lawrence Berkeley Laboratory, Lawrence Livermore National Laboratory, Los Alamos National Laboratory, National Renewable Energy Laboratory, Oak Ridge National Laboratory, Pacific Northwest Laboratory, and Sandia National Laboratories.".

(c) Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended by inserting the following new subsection:

"(q) NATIONAL LABORATORIES.—(1) The restrictions on obtaining a recusal contained in paragraphs (c)(2) and (c)(3) shall not apply to discussions of future employment or business opportunity between a procurement official and a competing contractor managing and operating a facility described in paragraph (3): *Provided*, That such discussions concern the employment of the procurement official at such facility.

"(2) The restrictions contained in paragraph (f)(1) shall not apply to activities performed on behalf of a facility described in paragraph (3).

"(3) This subsection applies to the following: Argonne National Laboratory, Brookhaven National Laboratory, Idaho National Engineering Laboratory, Lawrence Berkeley Laboratory, Lawrence Livermore National Laboratory, Los Alamos National Laboratory, National Renewable Energy Laboratory, Oak Ridge National Laboratory, Pacific Northwest Laboratory, and Sandia National Laboratories.".

SEC. 507. DOE MANAGEMENT.

(a) Section 202(a) of the Department of Energy Organization Act (42 U.S.C. 7132(a)) is amended by striking "Under Secretary" and inserting in its place "Under Secretaries".

(b) Section 202(b) of the Department of Energy Organization Act (42 U.S.C. 7132(b)) is amended to read as follows—

"(b) There shall be in the Department three Under Secretaries and a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform functions and duties the Secretary prescribes. The Under Secretaries shall be compensated at the rate for level III of the Executive Schedule under section 5314 of title 5, United States Code, and the General Counsel shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.".

SEC. 508. AMENDMENTS TO STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT.

(a) Section 12(a) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(a)) is amended by striking ", to the extent provided in any agency-approved joint work statement,".

(b) Section 12(b) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(b)) is amended by striking ", to the extent provided in any agency-approved joint work statement,".

(c) Section 12(c)(5) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(5)) is amended—

(1) by amending subparagraph (C)(i) to read as follows:

"(C)(i) Any agency that has contracted with a non-Federal entity to operate a laboratory shall review and approve, request specified modifications to, or disapprove a cooperative research and development agreement that is submitted by the director of such laboratory within thirty days after such submission. If an agency has requested specific modifications to a cooperative research and development agreement, the agency shall approve or disapprove any resubmission of such cooperative research and development agreement within fifteen days after such resubmission. Except as provided in subparagraph (D), no agreement may be entered into by a Government-owned, contractor-operated laboratory under this section before approval of the cooperative research and development agreement.";

(2) by amending subparagraph (C)(ii) to read as follows:

"(ii) If an agency that has contracted with a non-Federal entity to operate a laboratory disapproves or requests the modification of a cooperative research and development agreement submitted under clause (i), the agency shall promptly transmit a written explanation of such disapproval or modification to the director of the laboratory concerned.";

(3) by amending subparagraph (C)(iii) to read as follows:

"(iii) Any agency that has contracted with a non-Federal entity to operate a laboratory shall develop and provide to such laboratory a model cooperative research and development agreement, and guidelines for using such an agreement, for the purposes of standardizing practices and procedures, resolving common legal issues, and enabling negotiation and review of a cooperative research and development agreement to be carried out in a routine and prompt manner.";

(4) by striking subparagraph (C)(iv);

(5) by amending subparagraph (C)(v) to read as follows:

"(iv) If an agency fails to complete a review under clause (i) within any of the specified time-periods, the agency shall submit to the Congress, within 10 days after the failure to complete the review, a report on the reasons for such failure. The agency shall, at the end of each successive 15-day period thereafter during which such failure continues, submit to Congress another report on the reasons for the continued failure.";

(6) by striking subparagraph (c)(vi); and

(7) by amending subparagraph (D) to read as follows:

"(D)(i) Any agency that has contracted with a non-Federal entity to operate a laboratory may permit the director of a laboratory to enter into a cooperative research and development agreement without the submission, review, and approval of the agreement under subparagraph (C)(i) if: the Federal share under the agreement does not exceed $500,000 per year, or any amount the head of the agency may prescribe; the text of the cooperative research and development agreement is consistent with a model agreement under subparagraph (C)(iii); the agreement is entered into in accord with the agency's guidelines under paragraph (C)(iii); and the agreement is consistent with and furthers an assigned laboratory mission.

"(ii) The director of a laboratory shall notify the head of the agency of the purpose and scope of an agreement entered into under this subparagraph. The agency shall include in its annual report required by section 11(f) of this Act (15 U.S.C. 3710(f)) an assessment of the implementation of this subparagraph including a summary of agreements entered into by laboratory directors under this subparagraph.".

(d) Section 12(d) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C., 3710a(d)) is amended—

(1) in paragraph (1) by inserting "and" after the second semicolon;

(2) in paragraph (2)—

(A) by striking "substantial" before "purpose" in subparagraph (B);

(B) by striking "the primary purpose" and inserting "one of the purposes" in subparagraph (C); and

(C) by striking "; and" the second time it appears and inserting a period; and

(3) by striking paragraph (3).

SEC. 509. GUIDELINES.

The implementation of the provisions of this Act shall not be delayed pending the issuance of guidelines, policies or standards required by sections 1105, 1115 and 1116 of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) as added by section 3 of this Act.

SEC. 510. AUTHORIZATION.

(a) In addition to funds made available for partnerships under section 1112 of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) as added by section 3 of this Act, there is authorized to be appropriated from funds otherwise available to the Secretary:

(1) for partnership activities with industry in areas other than atomic energy defense activities $100,000,000 for fiscal year 1994, $140,000,000 for fiscal year 1995, $180,000,000 for fiscal year 1996 and 220,000,000 for fiscal year 1997; and

(2) for partnership activities with industry involving dual-use technologies within the Department's atomic energy defense activities $240,000,000 for fiscal year 1994, $290,000,000 for fiscal year 1995, $350,000,000 for fiscal year 1996 and $400,000,000 for fiscal year 1997.

(b) There is authorized to be appropriated to the Secretary for the Minority College and University Scholarship Program established in section 1119 of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) as added by section 3 of this Act $1,000,000 for fiscal year 1994, $2,000,000 for fiscal year 1995 and $3,000,000 for fiscal year 1996.

(c) There is authorized to be appropriated to the Secretary for research or educational programs, carried out through partnerships or otherwise, and for related facilities and equipment that involve minority colleges or universities such sums as may be necessary.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

TERMINATION OF THE BLOCKING OF PANAMANIAN GOVERNMENT ASSETS—MESSAGE FROM THE PRESIDENT—PM 150

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which were referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

1. I hereby report to the Congress on developments since the last Presidential report on November 9, 1993, which have resulted in the termination of the continued blocking of Panamanian government assets. This is the final report with respect to Panama pursuant to section 207(d) of the International Emergency Economic Powers Act, 50 U.S.C. 1706(d).

2. On April 5, 1990, President Bush issued Executive Order No. 12710, terminating the national emergency declared on April 8, 1988, with respect to Panama. While this order terminated the sanctions imposed pursuant to that declaration, the blocking of Panamanian government assets in the United States was continued in order to permit completion of the orderly unblocking and transfer of funds that the President directed on December 20, 1989, and to foster the resolution of claims of U.S. creditors involving Panama, pursuant to 50 U.S.C. 1706(a). The termination of the national emergency did not affect the continuation of compliance audits and enforcement actions with respect to activities taking place during the sanctions period, pursuant to 50 U.S.C. 1622(a).

3. The Panamanian Transactions Regulations, 31 CFR Part 565 (the "Regulations"), were amended effective May 9, 1994, to foster the resolution of U.S. persons' claims against the Government of Panama arising prior to the April 5, 1990, termination date. (59 Federal Register 24643, May 12, 1994.) A copy of the amendment is attached. The amendment, new section 565.512, includes a statement of licensing policy indicating that the Department of the Treasury's Office of Foreign Assets Control ("FAC") would issue specific licenses authorizing the release of blocked Government of Panama funds at the request of that government to satisfy settlements, final judgments, and arbitral awards with respect to claims of U.S. persons arising prior to April 5, 1990. In addition, FAC stated that it would accept license applications from U.S. persons seeking judicial orders of attachment against blocked Government of Panama assets in satisfaction of final judgments entered against the Government of Panama, provided such applications are submitted no later than June 15, 1994.

4. No applications were received pursuant to this amendment for the purpose of obtaining judicial orders of attachment against blocked Government of Panama assets. Since the last report, however, specific licenses were issued at the request of the Government of Panama to unblock about $4.4 million to satisfy settlements reached with the vast majority of U.S. creditors by the Government of Panama. On September 9, 1994, the FAC gave notice to the public that the remaining blocked Government of Panama assets, approximately $2.1 million, would be unblocked effective September 16, 1994. (50 Federal Register 46720, September 9, 1994.) A copy of the notice is attached. Half of the $2.1 million had been held at the Federal Reserve Bank of New York at the request of the Government of Panama. The remaining amounts were held in blocked commercial bank accounts or in blocked reserved accounts established under section 565.509 of the Panamanian Transactions Regulations, 31 CFR 565.509. The remaining known claimants were informed that, prior to the unblocking, the Government of Panama and Air Panama had directed the transfer of $400,000 into a trust account administered by counsel to the Republic of Panama and Air Panama, as escrow agent, to be utilized toward resolution of the few remaining U.S. claims. This sum exceeds the face amount of the total of the known remaining claims.

5. With the unblocking on September 16, 1994, of Government of Panama funds that had been subject to the continued blocking, the sanctions program initiated to deal with the threat once posed by the Noriega regime in Panama is completed. However, enforcement action for past violations may still be pursued within the applicable statute of limitations.

6. The expenses incurred by the Federal Government during the period of the national emergency with respect to Panama from April 8, 1988, through April 5, 1990, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Panama are estimated to total about $2.225 million, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Under Secretary for Enforcement, and the Office of the General Counsel), and the Department of State (particularly the Bureau of Economic and Business Affairs and the Office of the Legal Adviser).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 3, 1994.*

1993 DEPARTMENT OF TRANSPORTATION REPORT ON ACTIVITIES UNDER THE HIGHWAY SAFETY ACT AND THE MOTOR VEHICLE SAFETY ACT OF 1966—MESSAGE FROM THE PRESIDENT—PM 151

The PRESIDING OFFICER laid before the Senate a message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science and Transportation:

To the Congress of the United States:

I transmit herewith the 1993 calendar year reports as prepared by the Department of Transportation on activities under the Highway Safety Act and the National Traffic and Motor Vehicle Safety Act of 1966, as amended (23 U.S.C. 401 note and 15 U.S.C. 1408).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 3, 1994.*

ANNUAL REPORT OF THE FEDERAL LABOR RELATIONS AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 152

The PRESIDING OFFICER laid before the Senate a message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

In accordance with section 701 of the Civil Service Reform Act of 1978 (Public Law 95-454; 5 U.S.C. 7104(e)), I have the pleasure of transmitting to you the Fifteenth Annual Report of the Federal Labor Relations Authority for Fiscal Year 1993.

The report includes information on the cases heard and decisions rendered by the Federal Labor Relations Authority, the General Counsel of the Authority, and the Federal Service Impasses Panel.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 3, 1994.*

MESSAGES FROM THE HOUSE

At 5:07 p.m., a message from the House of Representatives announced that the House has passed the following bills; in which it requests the concurrence of the Senate:

H.R. 546. An act to limit State taxation of certain pension income, and for other purposes;

H.R. 2902. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to revise and make permanent the use of a formula based on adjusted District General Fund revenues as the basis for determining the amount of the annual Federal payment to the District of Columbia, and for other purposes; and

H.R. 4781. An act to facilitate obtaining foreign-located antitrust evidence by authorizing the Attorney General of the United States and the Federal Trade Commission to provide, in accordance with antitrust mutual assistance agreements, antitrust evidence to foreign antitrust authorities on a reciprocal basis; and for other purposes.

At 6:19 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 3678. An act to authorize the Secretary of the Interior to negotiate agreements for the use of Outer Continental Shelf sand, gravel, and shell resources;

H.R. 4180. An act to prohibit the withdrawal of acknowledgment or recognition of an Indian tribe or Alaska Native group or of the leaders of an Indian tribe or Alaska Native group, absent an Act of Congress;

H.R. 4394. An act to provide for the establishment of mandatory State-operated comprehensive one-call systems to protect natural gas and hazardous liquid pipelines and all other underground facilities from being damaged by any excavations, and for other purposes;

H.R. 4460. An act to provide for conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes;

H.R. 5102. An act to amend title 18, United States Code, with respect to certain crimes relating to Congressional medals of honor; and

H.J. Res. 417. Joint resolution providing for temporary extension of the application of the final paragraph of section 10 of the Railway Labor Act with respect to the dispute between the Soo Line Railroad Company and certain of its employees.

The message also announced that the House has agreed to the following concurrent resolution; in which it requests the concurrence of the Senate:

H. Con. Res. 257. Concurrent resolution commending the work of the United States Labor Attaché Corps, and for other purposes.

The message further announced that the House has passed the following bill, with amendments; in which it requests the concurrence of the Senate:

S. 2372. An act to reauthorize for three years the Commission on Civil Rights, and for other purposes.

The message also announced that the House agreed to the amendment of the Senate to the bill (H.R. 734) to amend the Act entitled "An Act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes."

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 4217) to reform Federal crop insurance program and for other purposes, with an amendment; in which it requests the concurrence of the Senate.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

Mr. PELL, from the Committee on Foreign Relations, submitted the following report (No. 103-38) Convention on the Elimination of All forms of Discrimination Against Women to accompany Executive Report 96-2:

The Committee on Foreign Relations to which was referred the Convention on the Elimination of All Forms of Discrimination Against Women, adopted by the United Nations General Assembly on December 18, 1979, and signed on behalf of the United States of America on July 17, 1980, having considered the same, reports favorably thereon and recommends that the Senate give its advice and consent to ratification thereof subject to 4 reservations, 4 understandings, and 2 declarations as wet forth in this report and the accompanying resolution of ratification.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention on the Elimination of All Forms of Discrimination Against Women, adopted by the United Nations General Assembly on December 18, 1979, and signed on behalf of the United States of America on July 17, 1980, (Executive R), subject to the following Reservations, Understandings and Declarations:

I. The Senate's advice and consent is subject to the following reservations:

(1) That the Constitution and laws of the United States establish extensive protections against discrimination, reaching all forms of governmental activity as well as significant areas of non-governmental activity. However, individual privacy and freedom from governmental interference in private conduct are also recognized as among the fundamental values of our free and democratic society. The United States understands that by its terms the Convention requires broad regulation of private conduct, in particular under Articles 2, 3 and 5. The United States does not accept any obligation under the Convention to enact legislation or to take any other action with respect to private conduct except as mandated by the Constitution and laws of the United States.

(2) That under current U.S. law and practice, women are permitted to volunteer for military service without restriction, and women in fact serve in all U.S. armed services, including in combat positions. However, the United States does not accept an obligation under the Convention to assign women to all military units and positions which may require engagement in direct combat.

(3) That U.S. law provides strong protections against gender discrimination in the area of remuneration, including the right to equal pay for equal work in jobs that are substantially similar. However, the United States does not accept any obligation under this Convention to enact legislation establishing the doctrine of comparable worth as that term is understood in U.S. practice.

(4) That current U.S. law contains substantial provisions for maternity leave in many employment situations but does not require paid maternity leave. Therefore, the United States does not accept an obligation under Article 11(2)(b) to introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances.

II. The Senate's advice and consent is subject to the following understandings:

(1) That the United States understands that this Convention shall be implemented by the Federal Government to the extent that it exercises jurisdiction over the matters covered therein, and otherwise by the state and local governments. To the extent

that state and local governments exercise jurisdiction over such matters, the Federal Government shall, as necessary, take appropriate measures to ensure the fulfillment of this Convention.

(2) That the Constitution and laws of the United States contain extensive protections of individual freedom of speech, expression and association. Accordingly, the United States does not accept any obligation under this Convention, in particular under Articles 5, 7, 8 and 13, to restrict those rights, through the adoption of legislation or any other measures, to the extent that they are protected by the Constitution and laws of the United States.

(3) That the United States understands that Article 12 permits States Parties to determine which health care services are appropriate in connection with family planning, pregnancy, confinement and the postnatal period, as well as when the provision of free services is necessary, and does not mandate the provision of particular services on a cost-free basis.

(4) That nothing in this Convention shall be construed to reflect or create any right to abortion and in no case should abortion be promoted as a method of family planning.

III. The Senate's advice and consent is subject to the following declarations:

(1) That the United States declares that, for purposes of its domestic law, the provisions of the Convention are nonselfexecuting.

(2) That with reference to Article 29(2), the United States declares that it does not consider itself bound by the provisions of Article 29(1). The specific consent of the United States to the jurisdiction of the International Court of Justice concerning disputes over the interpretation or application of this Convention is required on a case-by-case basis.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2075. A bill to amend the Indian Child Protection and Family Violence Prevention Act to reauthorize and improve programs under the Act (Rept. No. 103–394).

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment and an amendment to the title:

H.R. 512. A bill to amend chapter 87 of title 5, United States Code, to provide that group life insurance benefits under such chapter may, upon application, be paid out to an insured individual who is terminally ill, and for other purposes (Rept. No. 103–395).

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

H.R. 3499. A bill to amend the Defense Department Overseas Teachers Pay and Personnel Practices Act (Rept. No. 103–396).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 4822. A bill to make certain laws applicable to the legislative branch of the Federal Government (Rept. No. 103–397).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mrs. MURRAY:

S. 2492. A bill to ensure that all timber-dependent communities qualify for loans and grants from the Rural Development Administration; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GREGG:

S. 2493. A bill to improve senior citizen housing safety; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. PRESSLER:

S. 2494. A bill to amend title 18 of the United States Code regarding false identification documents; to the Committee on the Judiciary.

By Mr. MURKOWSKI (for himself, Mr. BOND, Mr. CHAFEE, Mr. COCHRAN, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DECONCINI, Mr. DORGAN, Mr. DURENBERGER, Mr. FEINGOLD, Mr. GORTON, Mr. INOUYE, Mr. HATCH, Mr. HELMS, Mr. JEFFORDS, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Ms. MOSELEY-BRAUN, Mr. ROBB, Mr. ROCKEFELLER, Mr. SHELBY, Mr. SIMON, Mr. SPECTER, Mr. STEVENS, Mr. THURMOND, and Mr. WOFFORD):

S. 2495. A bill to establish a congressional commemorative medal for organ and tissue donors and their families; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BOND (for himself, Mr. D'AMATO, and Mr. GORTON):

S. Con. Res. 76. A concurrent resolution expressing the sense of the Congress that the Department of Housing and Urban Development should not interfere with the exercise of the right of free speech, the right of free association, or the right to petition the Government for a redress of grievances; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. MURRAY:

S. 2492. A bill to ensure that all timber-dependent communities qualify for loans and grants from the Rural Development Administration; to the Committee on Agriculture, Nutrition, and Forestry.

RURAL DEVELOPMENT AMENDMENTS

Mrs. MURRAY. Mr. President, I rise today to introduce legislation that will put in place an important piece of the Northwest Economic Adjustment Initiative. This bill is important to my State and region because it makes an existing program work better for people working to transition historically timber-dependent economies.

One of the centerpieces of the Northwest Economic Adjustment Initiative is the Rural Development administration. This agency administers many programs tailored specifically to foster small business growth and community development in small town America. There are three programs in particular—essential community facilities loans, business enterprise loans, and business enterprise grants—that have been targeted on the Pacific Northwest. Unfortunately, these programs are tailored in such a way that some communities fall through the cracks. Some towns, such as Aberdeen and Pt. Angeles on the Olympic Peninsula, are not eligible for funds under these programs because of arbitrary population standards.

This bill repairs this flaw in the law. It does this by requiring special consideration of communities having populations of not more than 25,000. If this bill is enacted into law, Pt. Angeles and Aberdeen, as well as other towns in the region, will be eligible for grants and loans under the programs I mentioned above.

The Clinton administration has been working diligently since last year with the governors of Washington, Oregon, and California to identify existing programs, improvements to such programs, and other initiatives that communities can use to help chart an economic course for the future. As part of his economic diversification program, he proposed, and the Senate has approved, significant increases in RDA appropriations. But the joint Federal-State working group also identified changes that could make the program work better. Today we propose to make such a change.

Under these amendments to the Rural Development Act, towns and counties in rural areas adjacent to national forests, and people within them, will have access to needed resources. These programs makes sense: it puts resources in the hands of people who know what to do with them; it minimizes overhead; and focuses narrowly on the problems without a lot of red tape.

Mr. President, I would like to commend the excellent work of Senator LEAHY of Vermont, the chairman of the Agriculture Committee, and his staff in helping put this bill together. This is a good bill, and I urge all my colleagues to support its passage.

By Mr. GREGG:

S. 2493. A bill to improve senior citizen housing safety; to the Committee on Banking, Housing, and Urban Affairs.

SENIOR CITIZENS HOUSING SAFETY ACT

• Mr. GREGG. Mr. President, today I am introducing the Senior Citizens Housing Safety Act, a bill that will end the terror that unfortunately runs rampant throughout many housing projects specifically designated for elderly and disabled residents. In my home State of New Hampshire, most people are still afforded the luxury of not having to lock their front door before turning in for the evening. However, many elderly residents of public housing facilities in my State and across America have been forced to not only lock their front doors, but are literally being held prisoner in their own homes. I believe this is outrageous. I have received numerous complaints from residents of elderly housing facilities throughout New Hampshire who are worried about their personal safety in housing specifically reserved for them.

Under current housing laws nonelderly persons considered disabled, because of past drug and alcohol abuse problems, are eligible to live in section 8 housing designated for the elderly. This mixing of populations may have filled up the housing projects across the country, but it has opened a Pandora's Box of trouble. Simply put, young, recovering alcoholics and drug addicts are not compatible with elderly persons. Many of these young people hold all night, loud parties, shake down many of the elderly residents for money, sell drugs within the housing facility, and generally disturb the right to the peaceful enjoyment of the premises by other tenants.

This problem has occurred because the definition of handicapped under the Fair Housing Act was amended in 1988 to include recovering alcoholics and drug addicts. Under the mixed population rules of 1992, Congress determined that the elderly and disable should be housed together. Historically, disabled individuals have lived in complexes for the elderly because the apartments there—one-bedroom units equipped with such features as handrails—best fit their needs. However, drug addicts and alcoholics who are considered disabled do not have the same needs. Many elderly persons hope to retire in a community surrounded by persons their won age, elderly people who choose to live a peaceful existence in the company of their peers. I want to restore that hope and this legislation will attack this problem with a two-tier approach.

First, my legislation will institute a front-end screening process. This will prevent nonelderly individuals, classified as disabled because they are recovering from alcoholism and drug addiction, from becoming eligible for housing that is designated for the elderly. It simply says they cannot live in housing designated for the elderly. Additionally, it will prevent the further mixing of two groups that are obviously incompatible. This will not, however, exclude these nonelderly, disabled individuals from the housing I believe they need and deserve.

Second, my legislation will force local public housing agencies to evict nonelderly individuals occupying the facility who engage on three separate documented occasions in activities that threaten the health, safety, or right to peaceful enjoyment of the premises by other tenants and involves the use of drugs or alcohol.

This process, by no means circumvents the current housing eviction procedure. Under current law the public housing agency could evict these persons after one infraction if deemed necessary. It simply mandates that these nonelderly individuals be evicted after three incidents which threaten the health, safety, or right to peaceful enjoyment of the premises by other tenants.

This is a simple bill that prevents the mixing of two populations who have proved incompatible.

This bill will restore order in housing projects designated for elderly and disabled tenants by screening out nonelderly alcoholics and drug addicts, as well as evicting those nonelderly persons who continuously raise havoc within the housing project. I urge my colleagues to support this important bill. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2493

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Senior Citizen Housing Safety Act".

SEC. 2. SENIOR CITIZEN HOUSING SAFETY.

(a) LIMITATION ON OCCUPANCY IN PUBLIC HOUSING DESIGNATED FOR ELDERLY FAMILIES.—

(1) IN GENERAL.—Section 7(a) of the United States Housing Act of 1937 (42 U.S.C. 1437e(a)) is amended—

(A) in paragraph (1), by striking "Notwithstanding any other provision of law" and inserting "Subject only to the provisions of this subsection";

(B) in paragraph (4), by inserting ", except as provided in paragraph (5)" before the period at the end; and

(C) by adding at the end the following new paragraph:

"(5) LIMITATION ON OCCUPANCY IN PROJECTS FOR ELDERLY FAMILIES.—

"(A) OCCUPANCY LIMITATION.—Notwithstanding any other provision of law, a dwelling unit in a project (or portion of a project) that is designated under paragraph (1) for occupancy by only elderly families or by only elderly and disabled families shall not be occupied by—

"(i) any person with disabilities who is not an elderly person and whose history of use of alcohol or drugs constitutes a disability; or

"(ii) any person who is not an elderly person and whose history of use of alcohol or drugs provides reasonable cause for the public housing agency to believe that the occupancy by such person may interfere with the health, safety, or right to peaceful enjoyment of the premises by other tenants.

"(B) REQUIRED STATEMENT.—A public housing agency may not make a dwelling unit in such a project available for occupancy to any person or family who is not an elderly family, unless the agency acquires from the person or family a signed statement that no person who will be occupying the unit—

"(i) uses (or has a history of use of) alcohol; or

"(ii) uses (or has a history of use of) drugs; that would interfere with the health, safety, or right to peaceful enjoyment of the premises by other tenants.".

(2) LEASE PROVISIONS.—Section 6(l) of the United States Housing Act of 1937 (42 U.S.C. 1437d(l)) is amended—

(A) in paragraph (5), by striking "and" at the end;

(B) by redesignating paragraph (6) as paragraph (7); and

(C) by inserting after paragraph (5) the following new paragraph:

"(6) provide that any occupancy in violation of the provisions of section 7(a)(5)(A) or the furnishing of any false or misleading information pursuant to section 7(a)(5)(B) shall be cause for termination of tenancy; and".

(b) EVICTION OF NONELDERLY TENANTS HAVING DRUG OR ALCOHOL USE PROBLEMS FROM PUBLIC HOUSING DESIGNATED FOR ELDERLY FAMILIES.—Section 7(c) of the United States Housing Act of 1937 (42 U.S.C. 1437e(c)) is amended to read as follows:

"(c) STANDARDS REGARDING EVICTIONS.—

"(1) LIMITATION.—Any tenant who is lawfully residing in a dwelling unit in a public housing project may not be evicted or otherwise required to vacate such unit because of the designation of the project (or a portion of the project) pursuant to this section or because of any action taken by the Secretary or any public housing agency pursuant to this section.

"(2) REQUIREMENT TO EVICT NONELDERLY TENANTS FOR 3 INSTANCES OF PROHIBITED ACTIVITY INVOLVING DRUGS OR ALCOHOL.—With respect to a project (or portion of a project) described in subsection (a)(5)(A), the public housing agency administering the project shall evict any person who is not an elderly person and who, during occupancy in the project (or portion thereof), engages on 3 separate occasions (occurring after the date of the enactment of the Housing and Community Development Act of 1994) in any activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants and involves the use of alcohol or drugs.

"(3) RULE OR CONSTRUCTION.—The provisions of paragraph (2) requiring eviction of a person may not be construed to require a public housing agency to evict any other persons who occupy the same dwelling unit as the person required to be evicted.".•

By Mr. PRESSLER:

S. 2494. A bill to amend title 18 of the United States Code regarding false identification documents; to the Committee on the Judiciary.

FALSE IDENTIFICATION ACT

Mr. PRESSLER. Mr. President, I am pleased to introduce legislation designed to attack a growing problem: the use of false identification documents [IDs] by young people under 21 years of age.

Several years ago, Congress conditioned Federal highway funding on the requirement that States have a minimum drinking age of at least 21 years. Since then, all 50 States have come into compliance. One consequence has been a dramatic increase in the use of false ID's by young people under 21 years of age to illegally purchase alcoholic beverages. An underground black market supplying cheap documents has developed to satisfy this demand. The prevalence of counterfeit ID's poses a growing menace to the licensed beverage industry. It is time for Congress to act on this problem.

The bill I am introducing today attacks this problem in three ways. First, it reduces, from five to three, the number of false identification documents that must be in an individual's possession before a prison sentence, a fine, or both, can be imposed under Federal law. Second, it requires a prison sentence, a fine, or both for anyone convicted of using the mail to send a false ID to someone under 21 years of age. Third, the bill directs the U.S. Attorney General to establish a temporary pilot program for States to adopt an ID that is resistant to counterfeiting and tampering.

Mr. President, let me explain each of these provisions in more detail. The first provision tightens current Federal law which provides penalties for knowingly possessing or transferring unlawfully five or more false identification documents. The number of false IDs necessary to trigger this law would be reduced from five to three. Someone convicted under this provision would face a fine of up to $15,000, imprisonment of up to 3 years, or both.

This bill is not directed at someone under 21 years of age who possesses one or two false ID's. These days, it is far too easy and cheap to buy a fake ID. A recent report by the U.S. Department of Health and Human Services stated that minors can get State driver's license in Times Square in New York City for $10 to $15 each. Young people always have attempted to buy alcohol at an early age. I doubt Congress can do anything to stop this practice.

But Congress can make false documents more difficult to obtain by cracking down on those in the business of illegally producing and transferring false ID's. By stiffening federal penalties, high-volume production and distribution of false ID's should be deterred.

The second provision of this bill creates a new penalty for using the mails to distribute false ID's. Under this provision, anyone who knowingly sends an identification document showing an individual to be 21 years old or older through the mails—without first verifying the individual's actual age—can be imprisoned for up to 1 year, be fined, or both. Verification can be satisfied by viewing a certification or other written communication confirming the age of the individual being identified.

This provision attempts to stem the interstate distribution of false ID's. Forty-six States currently have laws prohibiting youths from misrepresenting their age in order to purchase alcohol. But nothing prohibits minors from obtaining false ID's from other States through the mail. Tough Federal action is necessary. This provision will affect businesses specializing in mail-order false ID's.

The final provision of this bill directs the U.S. Attorney General to establish a pilot program in three States to develop and study identification documents which are resistant to counterfeiting and tampering. Five million dollars over 3 fiscal years is authorized for this purpose. After 3 years, the Attorney General shall report to Congress on the performance of the pilot program and recommend whether to extend the program to all States on a voluntary or mandatory basis.

This last provision is critical to solving the problems presented by false identification documents. With modern computer graphic programs, counterfeiting a driver's license is child's play for a sophisticated computer user. Today's Washington Times contains a front-page article entitled "Fake ID's Surmount High-Tech Obstacles: Underage Drinkers Flock To Buy Them". The article describes how easily falsified identification documents can be created by computers and the steps various States are taking in response. Maryland driver's licenses now include a hologram, two separate pictures and a magnetic strip in an effort to make counterfeiting more difficult. However, even these measures are being duplicated with relative ease.

Newer techniques must be explored and developed if this homegrown industry is going to be defeated. Creating an identification card which is difficult to counterfeit and virtually tamperproof would have far-reaching implications in other areas as well. Illegal immigrants no longer would be able to defraud Federal and State governments of untold amounts per year. Welfare fraud could be reduced substantially. This modest investment has the potential to save taxpayers billions of dollars each year.

To conclude, Mr. President, let me say this legislation has the support of the National Licensed Beverage Association and the South Dakota Retail Liquor Dealers Association. I urge my colleagues to join them in supporting this legislation.

I further ask that an article from the Washington Times be included in the RECORD at this point. I also ask consent that the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2494

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "False Identification Act of 1994".

SEC. 2. MINIMUM NUMBER OF DOCUMENTS FOR CERTAIN OFFENSE.

Section 1028 of title 18, United States Code, is amended—

(1) in subsection (a)(3), by striking "five" and inserting "3"; and

(2) in subsection (b)(1)(B), by striking "five" and inserting "3".

SEC. 3. REQUIRED VERIFICATION OF MAILED IDENTIFICATION DOCUMENTS.

(a) IN GENERAL.—Chapter 83 of title 18, United States Code, is amended by adding at the end the following:

"§ 1739. Verification of identification documents

"(a) Whoever knowingly sends through the mails any unverified identification document which bears a birth date—

"(1) purporting to be that of the individual named in the document; and

"(2) showing that individual to be 21 years of age or older;

when in fact that individual has not attained the age of 21 years, shall be fined under this title or imprisoned not more than one year, or both.

"(b) As used in this section—

"(1) the term 'unverified', with respect to an identification document, means that the sender has not personally viewed a certification or other written communication confirming the age of the individual to be identified in the document from—

"(A) a governmental entity within the United States or any of its territories or possessions; or

"(B) a duly licensed physician, hospital, medical clinic within the United States; and

"(2) the term "identification document" means a card, certificate, or paper intended to be used primarily to identify an individual.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 83 of title 18, United States Code, is amended by adding at the end the following new item:

"1739. Verification of identification documents.".

(c) CONFORMING AMENDMENT.—Section 3001(a) of title 39, United States Code, is amended by striking "or 1738" and inserting "1738, or 1739".

SEC. 4. PILOT PROGRAM ON USE OF CERTAIN DRIVERS' LICENSES AS DOCUMENTS ESTABLISHING BOTH EMPLOYMENT AUTHORIZATION AND IDENTITY.

(a) IN GENERAL.—The Attorney General shall establish a pilot program under which, in the case of up to three States which provide for the issuance of drivers' licenses (and related identification documents) in accordance with a system described in subsection (b), a driver's license or similar identification document issued by the States in accordance with subsection (b) shall be treated, for purposes of section 274A(b) of the Immigration and Nationality Act, as a document described in paragraph (1)(B) of such section.

(b) SYSTEM REQUIREMENTS.—The system for the issuance of licenses or documents must—

(1) be in a form which is resistant to counterfeiting and tampering, such as tamperproof laminates and photographs, holograms, or magnetic stripes containing such data as physical characteristics;

(2) include on the driver's license or other form of identification the applicant's social security account number, which number the State has confirmed with the Social Security Administration as being the number issued to the applicant; and

(3) require that an applicant for a driver's license or other form of identification be issued a temporary driver's license or other form of identification upon demonstrating qualification therefore, and that the driver's license or other form of identification be mailed to the residence address of the applicant after a waiting period of no more than 30 days in which the State has used reasonable means to confirm the identification information presented by the applicant.

(c) REPORT.— Not later than 3 years after the date of the enactment of this Act, the Attorney General shall submit a report to the Congress on the performance of the pilot program under this section and on whether such program should be extended (on a voluntary or mandatory basis) to all States.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 to carry out the purposes of this section for each of fiscal years 1995, 1996, and 1997.

[From the Washington Times, Oct. 3, 1994]

Fake IDs Surmount High-tech Obstacles—Underage Drinkers Flock to Buy Them

(By Matt Neufeld)

The high-tech revolution has helped boost one local cottage industry with a potentially lethal product: fake identification cards for underaged drinkers.

Illegal, falsified ID cards are prevalent among underage drinkers, especially college students, and their production flourishes no matter how many steps authorities take to make them difficult to copy, police and government officials say.

"Fake IDs are rampant," said Trina Leonard, an aide to Montgomery County Council member Gail Ewig, who is also chairwoman of the Maryland Underage Drinking Prevention Coalition. "Fake IDs are an enormous problem among teen-agers because they frequently are a passport to death and injury for kids."

The use and manufacture of fake IDs has been a concern of parents, police and state motor vehicle authorities for decades. The problem surfaced again after Friday's announcement that three of the four Walt Whitman High School girls involved in the Sept. 6 double-fatal car crash in Potomac were carrying fake IDs.

The girls did not use their IDs that night, Montgomery County police said, but relied instead on another way in which teens procure alcohol: They had an adult buy 2½ cases of beer for them from a liquor store in Georgetown the night of the crash.

One mother of a boy who knew the girls later found four different phony IDs in her own son's wallet, she told friends.

Even as states take dozens of precautions in preparing high-technology licenses designated to be difficult to copy, technology-savvy students and underground counterfeiters match the authorities' steps in meticulous and frustrating ways.

"It continues to be a problem, because, as police say, no matter how tough they get, kids are smart and they always find a way to get them," said Tim Kime, a spokesman for the Washington Regional Alcohol Program, a private advocacy group.

"We live in the age of computers, and you can do wonderful things with a computer. You get the right background [cloth], the picture, the laminator, and you've got a pretty good ID," said Sgt. David Dennison, who heads the Prince George's County police collision analysis and reconstruction unit. The unit's responsibilities include drunken driving and underage drinking.

"You bet there's some computer geniuses out there at these colleges who find it very easy to do," Sgt. Dennison said. "If they can print money with computers, driver's licenses aren't that hard."

In the Potomac crash, driver Elizabeth Clark, 16, and a front seat passenger, Katherine Zirkle, 16, were killed when Elizabeth's 1987 BMW hit a tree along River Road at 12:55 a.m.

Two friends riding in the back seat, Elinor "Nori" Andres, 15, and Gretchen Sparrow, 16, were hospitalized with serious injuries but were released last week.

Police said Elizabeth had a blood-alcohol level of .17 percent, nearly double the .10 percent level that state law defines as driving while intoxicated. Katherine's blood-alcohol level as .03 percent, police said.

In Maryland, minors with a blood-alcohol level of .02 percent can have their licenses taken on the spot.

Detecting homegrown phony IDs isn't always easy, authorities say.

"In fact, some police officers on the street couldn't tell the different unless they thoroughly examine them. You can be fooled," said Sgt. John Daly of the Metropolitan Police check and fraud division.

Earlier this year, Maryland introduced driver's licenses with holograms, two separate pictures and a magnetic strip in an effort to counter the counterfeiters.

"But the kids are duplication those," said Ms. Leonard, the Montgomery council aide. "A police officer told me that [soon] after those came out, a kid took electrical tape and put it on fake ID."

Although many high school students have fake IDs, police find that most of them are manufactured, distributed and used by college students. The IDs are bought, sold and distributed through an underground black market spread by word of mouth.

Area students often make or procure fake IDs in the form of licenses from far-away states such as Iowa or Kansas, thinking local businesses won't know the difference. A widely known legal guidebook available to businesses shows up-to-date pictures of licenses from every state, but police say that many merchants are too lazy to consult it.

Three Charged in Fake-ID Scam

CHARLOTTESVILLE.—Three former University of Virginia students have been charged in what police said was a scheme to pass stolen student identification cards and fraudulent checks.

Police at the University of North Carolina at Chapel Hill said the ring operated in two states. Based in Charlottesville, it included several former members of Alpha Phi Alpha, a service fraternity at the University of Virginia that was suspended in 1992 after a hazing incident.

Investigators believe the students stole about 400 UNC–Chapel Hill ID cards in January to pass stolen or counterfeited checks and to get state ID cards in North Carolina and Virginia.

North Carolina authorities last week charged Canu C. DiBona, 21, of Durham, N.C., with one count of felony financial transaction card theft. Marcus A. Tucker, 23, of Charlottesville was arrested Sept. 15 on several charges, including felony financial transaction card theft and two counts of forgery.

Authorities said Phillipe Zamore, 21, also of Charlottesville also was implicated in the scheme. He was arrested in April and charged with felony larceny after attempting to use an illegally obtained credit card at a University of Virginia bookstore.

Authorities said more arrests are expected.

Investigators said the cards reportedly have turned up as far away as New York and Florida. Near the UNC-Chapel Hill campus alone, the ring has used up to $20,000 in bad checks, Lt. Clay Williams of the campus police said.

Police said members of the alleged ring used sophisticated equipment to read information on magnetic tape on the backs of the IDs, and even printed their own checks with a laser printer.

"All these kids are smart—that's what's striking about this," Lt. Williams said. "We have very intelligent young men—extremely computer literate, highly articulate—that could be upstanding professionals in the community, but instead they chose the lure of fast money."

By Mr. MURKOWSKI (for himself, Mr. BOND, Mr. CHAFEE, Mr. COCHRAN, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DECONCINI, Mr. DORGAN, Mr. DURENBERGER, Mr. FEINGOLD, Mr. GORTON, Mr. INOUYE, Mr. HATCH, Mr. HELMS, Mr. JEFFORDS, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Ms. MOSELEY-BRAUN, Mr. ROBB, Mr. ROCKEFELLER, Mr. SHELBY, Mr. SIMON, Mr. SPECTER, Mr. STEVENS, Mr. THURMOND, and Mr. WOFFORD):

S. 2495. A bill to establish a congressional commemorative medal for organ and tissue donors and their families; to the Committee on Banking, Housing, and Urban Affairs.

GIFT OF LIFE CONGRESSIONAL MEDAL

• Mr. MURKOWSKI. Mr. President, I introduce legislation to create a Gift of Life Congressional Medal. I am pleased that Senator ROCKEFELLER and 29 of my colleagues are cosponsoring this bill. This medal will recognize the compassion and courage of organ and tissue donating families and encourage others to make a similar sacrifice. Each day eight Americans on organ transplant lists will die. In addition, every 20 minutes another name is added to the list of those awaiting transplants. The need for organ and tissue donors is serious and becoming more desperate with each passing day.

Many of us ask; how much can one person matter? A single organ and tissue donor can touch the lives of 50 or more people. Donated kidneys can spare two recipients a lifetime of dialysis. The heart, liver, and lungs can save the lives of four more people. Donated corneas can give two people the gift of sight. Donated bone allows surgeons to repair injured joints or limbs threatened by cancer or trauma. Skin grafts will save burn victim's lives and speed their healing.

This bill will authorize the Treasury to strike a medal to be presented to the families of organ and tissue donors. Each family of an organ or tissue donor would be offered the medal and would have the option of accepting or declining it. Documentation of eligibility would be submitted to the Secretary of the Treasury by the individual, family or procurement agency, on behalf of the donating family. The Gift of Life medal would be fully funded by private donations and recognize donors and their families at no cost to the Treasury.

By recognizing the generosity of donating families, a Gift of Life commemorative medal could increase the number of organ and tissue donations and save lives as well as money. Thousands of beneficiaries have been removed from Medicare's End Stage Renal Disease Program after successful kidney transplants. Yet, 20,000 patients remain on dialysis at the cost of $390 million per year in Federal Medicare dollars.

This bill is the brainchild of Donmichael Taube, of Chicago, IL, the recipient of a kidney transplant. Because of organ transplant network rules all organ and tissue donations are made anonymously. Donmichael has sought a way for transplant recipients to thank those who have been so generous. The Gift of Life commemorative medal would be one way that our country can express our gratitude to the donors and their families on behalf of the recipients. In addition, by creating and awarding this medal, Congress can draw attention to the desperate need for organ and tissue donors.

This proposal is similar to H.R. 1012 proposed by Representative PETE STARK, with one important difference. My bill, at the recommendation of Jens Saakvitne and David McGuire, medical doctors of Life Alaska, Inc., would expand the scope of Representative STARK's bill to include tissue donors. As they stated in a letter to me:

> it seems inappropriate to treat donor families differently in thanking them when the family has no control over the manner of death that decides what donation options can be presented. Each family gave all they could in order to save the life or livelihood of another human being.

Life Alaska, Inc., based in Anchorage, is Alaska's only nonprofit tissue donation agency.

I would also like to submit for the RECORD an article published in Encore Magazine detailing the story of just one organ donor family. One of my staff members had the opportunity to speak with the author of this article, Susan Warwick. Since the death of her son and the subsequent decision to donate his organs, Susan has become a staunch advocate for organ donation. She stated that in her experience too often donating families receive little or no feedback about the success and progress of the organ recipients. In her opinion the Gift of Life Congressional Medal would be an excellent way for the country to convey our gratitude and respect to the donating families.

I would also like to submit for the RECORD just three of the many letters that my office has received supporting this legislation.

There are many pieces to the transplantation puzzle: Procurement police, organ and tissue procurement networks, immunosuppressive drugs, and gifted medical teams, but they mean nothing without the most important piece of the transplantation puzzle—the organ or tissue donors and their families. These brave people, in their time of greatest need, reach out to complete strangers and offer the ultimate gift—the gift of life. The Gift of Life Congressional Medal will encourage that final piece of the puzzle to fall into place by recognizing the contribution of donors to their fellow Americans and to our country. I urge my colleagues to join me as original cosponsors to the Gift of Life Congressional Medal Act.

I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ANDY'S STORY

(By Susan B. Warwick)

It was 1992, and one of those cloudy, humid days in July that linger in the midwest. My "almost 18-year-old" son, Andy, was getting ready for work—a construction job that he loved because it was working for his girlfriend's father. Andy was going to take his new motorcycle to Lisa's house and follow her dad to the site. Fate intervened tragically.

The police arrived at my work around 8 a.m. to tell me that my son had been in an accident. The doctors at Terre Haute (Indiana) Union Hospital needed me immediately.

Andy had been riding motorcycles and scooters for several years. He was a safe motorcycle driver. He took the local motorcycle safety course and always wore his helmet. I never worried about him on his cycle; behind the wheel of my car, he was dangerous! So, although I knew it must be serious, I did not dream that on this day I would live through every parent's nightmare.

I rushed into the emergency ward and was ushered to a private room. There, waiting, was a nurse, doctor, and police officer. The medical staff explained what happened to Andy and let me be with him. As soon as I saw him I knew that my first born son would not make it through the day. I suppose a mother knows these things. The young doctor said Andy's condition was critical. "There's always hope. But, if the worst happens, would you consider organ donation?" I don't think I let him finish his question.

"Of course! Take anything you can! Andy and I have always talked about organ donation. It's what we both would want."

That was the easiest thing I had to think about that day. I didn't realize until later how lucky I was simply because Andy and I did talk about it; I didn't have to make an unprepared decision. It was a "given."

As he progressed, Andy was transferred to the intensive care unit. Andy's father, stepmother, and my 16-year-old son, Scott, lived in Birmingham, Alabama. They rushed to the airport and arrived in Terre Haute by late afternoon. Unfortunately, Lisa was vacationing in Mexico and couldn't come home immediately.

Nurses gave us a special room close to my son. They explained the procedures for organ donation and the system that the Indiana Organ Procurement Organization (IOPO) followed. I gratefully signed the papers that allowed the (IOPO) to take all organs, bones, eyes and skin. I found out that the IOPO pays for all bills after the declaration of brain death. I learned the hospital's procedure for determining brain death and was allowed to watch the testing. Ice water was injected in my son's ear while the medical staff looked for any reaction in the eyes. Believe me, if Andy was alive, he would have reacted. Scott had his own way of knowing Andy was brain dead. It had to do with your pretty blonde nurse bending close to Andy's face.

"Andy would have reacted to her, Mom, if he was alive." This, of course, we didn't tell Lisa.

A LONG DAY ENDS

Other tests to determine brain death were done late in the afternoon. One checked if Andy could breathe without a ventilator. He could. This meant there was still enough blood getting to his brain stem to keep his body going. I had mixed emotions. I didn't want to see my son die, but life without movement, without being able to hold his girlfriend or hug his mom, would not be the kind of life my very intense son would want.

At 11:30 that night, the problem was resolved. Andy did not breathe when removed from the respirator. My son, Michael Andrew Rawlings, lover of the sea, all animals (including the slithery kind); the theater, and life was dead.

We were encouraged to say our "goodbyes," and we wearily left. The nursing staff kept me posted throughout the next day. In the middle of the night, IOPO came and started the long process of matching Andy's organs to recipients. The next evening, it was all over. The burial was two days later, allowing Lisa to come home.

At least it was over for Andy. The story would continue at the Indiana transplant centers where the recipients of his organs underwent long surgeries that would offer them a chance for life.

Andy donated his heart, both lungs, both kidney's, leg bones, bone marrow, every other rib, skin and corneas. We still were able to have an open casket.

Nine days later, I received a letter from IOPO. Andy's heart went to a young mother of two boys. She got heart disease when she was pregnant with her youngest. In the last year, since her transplant, she received her college degree. His lungs went to two older women who were both on oxygen. Unfortunately, they died in December—not from organ rejection—but from other complications. At least they were given five more months of life. One of my son's kidneys went to a man who lived to race cars. He has now been approved to return to work and, I'm sure, is looking forward to going to the racetrack.

Andy's other kidney went to a 15-year-old boy who had been on dialysis for five years. Our hearts went out to this young man. At first, doctors feared it would be rejected. My November letter from IOPO said he made it through! That news brightened what was still a dreary period. The bones went to orthopedic centers and skin to burn centers across Indiana. I was sorry Andy could not donate his liver or pancreas for whatever reason, but I concentrated on the "gift of life" that he gave to so many others.

You see, as a scuba diver, Andy wanted to go into the Coast Guard either in drug enforcement (every mother's dream!) or search and rescue. He always wanted to save people's lives.

Yes, my son is dead. But I feel this is a fitting end for him. He saved three lives, gave additional time to two others, gave sight to some who could not see, helped broken bones heal, and eliminated some pain and disfigurement in burn patients.

STAYING FOCUSED

That's Andy's story. How did I handle all of this? Naturally, I wouldn't wish this on my worst enemy, but the entire process of organ donation kept me focused on a more acceptable horizon than my son's death. On that terrible day, I learned there had been only four organ donors in the city in two years. I expected thousands—well at least, hundreds! Organ donation became my banner.

I was directed to a group, Organ Donation Awareness Council, that included mostly transplant recipients and medical staff. I became, I hope, the first of many Donor Moms. The Council's purpose is awareness and education. Perfect! I was more than ready to start what later would become my life.

Five weeks after the accident, I started speaking to community and professional groups. The first program was very difficult. My eyes were watery, nose dripping, I couldn't swallow, and my voice was three octaves higher than usual. However, I could feel Andy in the background applauding my efforts. The cause he initiated, I continued gratefully.

LIFE ALASKA, INC.,
TISSUE PROCUREMENT SERVICES,
Anchorage, AK, April 5, 1994.

Hon. FRANK MURKOWSKI,
U.S. Senate,
Washington, DC.

DEAR SENATOR MURKOWSKI: Life Alaska, Inc., Alaska's only non-profit tissue donation agency has now been in operation for two years and has supplied over 250 transplant grafts in Alaska. We have had over 130 tissue donors from all over the State, and will continue to provide this precious tissue with priority to the Alaskan community. Thank you for your early support of this worthwhile endeavor.

Life Alaska was just made aware of H.R. 1012 introduced in the House in Feb. of 1993 by Mr. Stark. This Bill is to establish a congressional medal for organ donors and their families. On behalf of Life Alaska, Inc., and as a member of the Public and Professional Donation Committee of the American Association of Tissue Banks (AATB), we request you to help expand this bill to include families of tissue donors as well.

The current Bill was drafted without input from any organ or tissue donation agency that we are aware of on a local or national basis. While the purpose of the Bill is altruistic and commendable, it does not address the majority of donor families. Every year, there are approximately twice as many tissue donors, and four times as many eye donors as there are organ donors. All of these families have made a compassionate and courageous decision at a tragic time. It seems inappropriate to treat donor families differently in thanking them when the family has no control over the manner of death that decides what donation options can be presented. Each family gave all they could in order to help save the life or livelihood of another human being. A medal of thanks would be a way of honoring these wonderful gifts.

Life Alaska, Inc. would be very willing to pay the expenses related to issuance of the medals we request for Alaska's tissue donor families. I believe that other tissue banks would also be willing to purchase the commemorative medals. The responsibility for obtaining and presenting the medal is also best handled by the involved procurement agency.

POSSIBLE AMENDMENT

Insert "organ and tissue" wherever the word "organ" appears.

SEC. 3. ELIGIBILITY REQUIREMENTS.

(a) IN GENERAL.—Any organ *or tissue* donor, or the family of any organ *or tissue* donor, shall be eligible for a bronze medal referred to in section 2.

(b) DOCUMENTATION.—The Secretary of Health and Human Services shall establish an application procedure requiring an individual or family, or an organ or tissue procurement agency on the family's behalf, to submit to the Secretary documentation to support the eligibility . . .

SEC. 9. ORGANS AND TISSUES DEFINED.

For purposes of this Act, the term "organ" means the human kidney, liver, heart, lung, pancreas, and any other human organ (other than corneas and eyes) specified by the Secretary of Human Services by regulation. The term "tissue" refers to human tissues including corneas, eyes, bone, tendons, vein, skin, and heart-valves.

The inclusion of tissue donor families to this Bill will give well deserved thanks to the 50,000 cornea and tissue donor families not currently mentioned. An added benefit is that inclusion would be a major step in informing the donor family friends and communities about the donation option. The end result is sure to be an increase in the number of families that are willing to give the special gift of organ and tissue donation.

H.R. 1012 is currently stalled in the House Banking, Finance & Urban Affairs Subcommittee on Consumer Credit and Insurance. Another 68 co-sponsors are needed before the subcommittee will take action. Any efforts to move this Bill ahead and include tissues would be greatly appreciated. Thank you for your time and efforts.

Sincerely,

JENS SAAKVITNE,
Director.
DAVID A. MCGUIRE, MD,
Medical Director.

COMMONWEALTH OF PENNSYLVANIA,
OFFICE OF THE GOVERNOR,
Harrisburg, July 18, 1994.

Mr. STEPHEN MCCARTHY,
Office of Senator Murkowski,
U.S. Senate, Washington, DC.

DEAR MR. MCCARTHY: Thank you for your recent letter requesting support for Senator Murkowski's legislation regarding a congressional commemorative medal for organ and tissue donors and their families. Any proposal that increases public awareness of the importance of organ donation is worthy of my endorsement.

More than 34,000 people are waiting for organ transplants in the United States today. Tragically, seven people die each day without receiving a transplant since the donor shortage is so severe. To address this crisis we have dramatically increased our outreach efforts. We have distributed organ donor cards in the paycheck of every state employee, placed organ donor brochures in every welcome center along Pennsylvania highways and provided organ donor information and stickers with each driver's license renewal form. In addition, I have supported legislation that is pending before our General Assembly that will encourage greater voluntary consent for organ donations and increase educational programs for high school students throughout the state.

Senator Murkowski's efforts are commendable and I am honored to be asked to support his legislation. My family and I have personally experienced the miracle of organ donation and we will never forget the organ donor and his family who granted me a second chance at life. A commemorative medal would be a tremendous expression of appreciation for their sacrifice.

Sincerely,

ROBERT P. CASEY,
Governor.

JOHNS HOPKINS MEDICAL INSTITUTIONS,
Baltimore, MD, July 14, 1994.

Re Gift of Life Congressional Medal.

Hon. FRANK H. MURKOWSKI,
U.S. Senate,
Washington, DC.

DEAR SENATOR MURKOWSKI: It is my pleasure to write to you in support of your proposed bill establishing a "Gift of Life Congressional Medal" to be awarded to families of organ and tissue donors. In this country we are presently experiencing a critical shortage of organs and tissues for transplantation. As the chief of transplantation at Johns Hopkins and director of our liver transplant program, I am painfully aware of the fact that 15-20% of patients awaiting a potentially life-saving liver transplant will die because a replacement liver cannot be identified for them. This is especially upsetting when we realize that, had we been able to find an organ for them, 80% of these people would recover fully and return to active and productive lives. I enthusiastically support the efforts of people such as yourself who are obviously committed to promoting organ and tissue donation in the United States. I believe that the "Gift of Life Congressional Medal" which recognizes the generosity and compassion of families who have suffered the loss of a loved one will be an effective means of heightening donor awareness. I wholeheartedly endorse your efforts in this area.

Very sincerely,

ANDREW S. KLEIN, M.D.●

ADDITIONAL COSPONSORS

S. 1208

At the request of Mr. WOFFORD, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1208, a bill to authorize the minting of coins to commemorate the historic buildings in which the Constitution of the United States was written.

S. 2071

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. 2071, a bill to provide for the application of certain employment protection and information laws to the Congress and for other purposes.

S. 2289

At the request of Mr. D'AMATO, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 2289, a bill to authorize the Export-Import Bank of the United States to provide financing for the export of nonlethal defense articles and defense services the primary end use of which will be for civilian purposes.

S. 2411

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of S. 2411, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 2460

At the request of Mr. CHAFEE, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of S. 2460, a bill to extend for an additional two years the period during which medicare select policies may be issued.

S. 2489

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 2489, a bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes.

At the request of Mr. KENNEDY, the names of the Senator from Tennessee [Mr. SASSER], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 2489, supra.

S. 2491

At the request of Mrs. FEINSTEIN, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 2491, a bill to amend the Defense Authorization Amendments and Defense Base Closure and Realignment Act and the Defense Base Closure and Realignment Act of 1990 to improve the base closure process, and for other purposes.

SENATE JOINT RESOLUTION 186

At the request of Mr. PACKWOOD, the names of the Senator from Minnesota [Mr. WELLSTONE], the Senator from Delaware [Mr. ROTH], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Joint Resolution 186, a joint resolution to designate February 2, 1995, and February 1, 1996, as "National Women and Girls in Sports Day."

SENATE JOINT RESOLUTION 208

At the request of Mr. WOFFORD, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of Senate Joint Resolution 208, a joint resolution designating the week of November 6, 1994, through November 12, 1994, "National Health Information Management Week."

SENATE JOINT RESOLUTION 219

At the request of Mr. LEAHY, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of Senate Joint Resolution 219, a joint resolution to commend the United States rice industry, and for other purposes.

SENATE JOINT RESOLUTION 226

At the request of Mr. SIMON, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Joint Resolution 226, a joint resolution providing for the temporary extension of the application of the final paragraph of section 10 of the Railway Labor Act with respect to the dispute between the Soo Line Railroad Company and certain of its employees.

SENATE CONCURRENT RESOLUTION 66

At the request of Ms. MIKULSKI, the names of the Senator from Nebraska [Mr. KERREY], the Senator from Maine [Mr. COHEN], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of Senate Concurrent Resolution 66, a concurrent resolution to recognize and encourage the convening of a National Silver Haired Congress.

SENATE CONCURRENT RESOLUTION 76—RELATING TO THE INTERFERENCE WITH FIRST AMENDMENT BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mr. BOND (for himself, Mr. D'AMATO, and Mr. GORTON) submitted the following concurrent resolution; which was referred to the Committee on Banking, Housing and Urban Affairs:

S. CON. RES. 76

Resolved by the Senate and House of Representatives concurring), That it is the sense of the Congress that—

(1) freedom of speech under the first amendment to the Constitution of the United States is one of the guiding principles of this Nation; and

(2) the Department of Housing and Urban Development should not enforce the Fair Housing Act or any other provision of law in any manner, or take any other action, that in any way compromises, suppresses, or interferes with the exercise by any individual of the right of free speech, right of free association, or the right to petition the Government for a redress of grievances through the legislative, executive, or judicial process.

Mr. BOND. Mr. President, I am submitting today with a number of my concerned colleagues a concurrent resolution that emphasizes the overwhelming need for our Federal Government, at a minimum, to every so often pause, reflect on our history and give thoughtful re-examination to the importance of free speech under the first amendment as one of the guiding principles of this Nation. To some degree, every important development in the evolution of our free society has been underlined by the free exchange of ideas and the ability to state our beliefs and opinions.

To my great concern, there have been numerous articles over the last several months that raise serious concerns that the Department of Housing and Urban Development has been implementing the Fair Housing Act in a manner designed to discourage individuals from exercising their right of free speech under the first amendment. In particular, a recent article in the Wall Street Journal on August 8, 1994 describes HUD litigation under the Fair Housing Act against individuals in Berkeley, CA for objecting to the location of a homeless shelter in their neighborhood. At that time, as many as 34 similar cases were being investigated by HUD.

In response to my concerns and those of my colleagues, HUD issued guidelines on September 2, 1994, designed to safeguard free speech under the Fair Housing Act. Nevertheless, additional articles, including a recent Wall Street Journal article dated September 14, 1994 and a Washington Post article on September 14, 1994, continue to question HUD's resolve and deference to the right of free speech.

Therefore, the purpose of my concurrent resolution is to re-emphasize the commitment of this body and the Congress to the principles of the first amendment and to remind the Department of Housing and Urban Development that the Department must not interfere with the exercise of the right of free speech, the right of free association, or the right to petition the Government for redress of grievances.

I have included several of the recent articles from the Wall Street Journal and the Washington Post which reflect the need for this body to continue to emphasize the importance of free speech both to this Nation and the actions of this Government.

Congressman LEACH has submitted an identical resolution in the House of Representatives. It is my hope that both bodies will have an opportunity to act on this concurrent resolution before the end of the session.

I ask unanimous consent that the articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

[From the Wall Street Journal, Aug. 8, 1994]

FREE HOUSING YES, FREE SPEECH NO

(By Heather Mac Donald)

Upset about the new program for homeless drug addicts moving in next door? Thinking of protesting to your local zoning board? Try kicking the dog instead. Objecting to the project could bring a knock on the door from the Feds and threats of punishment. The government has decided that when it comes to a conflict between the First Amendment and the rights of addicts and alcoholics to be housed wherever they please, the addicts win hands down.

For the past 10 months, three residents of Berkeley, Calif.—Joseph Deringer, his wife Alexandra White and their neighbor Richard Graham—have been under investigation by the Department of Housing and Urban Development for having opposed a planned homeless housing project near their homes. HUD has threatened each with fines of $100,000 and a year in jail unless they turn over everything they have ever written about the project, all their files, the minutes of all meetings of their neighborhood coalition and the coalition's membership lists. Should the documents prove damning, thousands of dollars in penalties may lie ahead.

NO PROTECTION

According to HUD officials, organized opposition to homeless shelters and other social-service facilities—if it is based on the attributes of the people involved—enjoys no First Amendment protection. Such opposition, says HUD, violates the Fair Housing Act Amendments of 1988, which are supposed to safeguard the housing rights of the disabled. HUD and the federal courts have defined addiction and alcoholism, as well as AIDS and mental illness, as federal protected disabilities.

It remains possible to oppose, for example, siting a home for recovering drug addicts with AIDS next to a school—if you argue that its storage space for medical waste is inadequate. But to argue that the residents themselves may pose a threat to the students runs afoul of the law and fails outside constitutional guarantees, in HUD's view.

Some HUD officials do not appear to see even a potential First Amendment problem with the Berkeley investigation. E. Herman Wilson, director of the compliance and enforcement division of HUD's San Francisco office, says: "If we had received allegations regarding free speech [in the original complaint against Mr. Deringer et al.], we wouldn't have accepted it. We received a complaint regarding the Fair Housing Act."

Yet the only actions the complaint refers to are textbook examples of petitioning the government for a redress of grievances.

For the past 16 years, Mr. Deringer, Ms. White and Mr. Graham watched as crime and squalor engulfed their Berkeley neighborhood. Nearby University Ave.—the main artery into the city and the University of California—had become the site of choice for the city's numerous homeless shelters, drug programs and subsidized housing units. Juvenile offenders from a local halfway house formed a gang with kids from a neighboring Section 8 housing project. A children's park next to a women's shelter was commandeered by the women's boyfriends for drug-dealing.

So in July 1992, when word leaked that the city was erecting yet another homeless program in the run-down Bel Air hotel across from their homes, the three residents didn't hesitate to organize their neighbors against the project. They argued in newsletters and public petitions that the site chosen for the new homeless facility—next to two liquor stores and nightclub—was grossly imprudent, given the high prevalence of addiction and alcoholism among the homeless. Equally dangerous, they charged, was the failure to provide on-site services for addiction and mental illness. Finally, they brought an unsuccessful conflict of interest action against Berkeley's zoning board, demanding a reconsideration of the new facility's permit. For these offenses. If found guilty, they face statutory penalties of $50,000 apiece, as well as compensatory and potential punitive damages.

Clearly free speech isn't what it used to be in the erstwhile home of the Free Speech Movement—or anyplace else, for that matter. HUD is currently questioning a community group that opposed a home for the homeless mentally ill near Gramercy Park in Manhattan. The Justice Department has had a suit pending for a year and a half against a group of neighbors in New Haven, Conn., who sued to prevent a foster home on their street. In Seattle, a neighborhood coalition that opposed a home for female ex-convicts was investigated by HUD in 1991; another local group has been under investigation since last August for filing a zoning suit. Residents in Kansas have been fined for trying to block a group home. And the cases are legion in who cities have been held liable for political statements against group homes made by their citizens—a form of indirect censorship.

In every city in which HUD has pursued investigations against individuals and community groups, opposition to planned social—service facilities has been severely chilled—just as intended. The attorney for Mr. Deringer, Ms. White and Mr. Graham has received calls from people across the Bay Area, terrified by prospective liability should they speak out against local homeless shelters and drug-treatment facilities. The Berkeley city attorney wrote a letter in May 1994 to a group of North Berkeley residents warning them that questions they were asking about a planned AIDS facility for the "mentally disabled"—i.e., addicts—in their neighborhood could subject both them and the city to prosecution under federal and state anti-discrimination laws.

HUD's investigations can only be expected to increase in the future, especially in light of HUD's own growing involvement in the homelessness services industry. The 1988 amendments gave the agency the authority to sue on behalf of alleged victims at the government's expense. As word of this free legal representation has gotten out, the number of discrimination complaints has risen. Housing Secretary Henry Cisneros and Assistant Secretary of Fair Housing and Equal Opportunity, Roberta Achtenberg have both stated that enforcement of the act is a top priority.

Agency accountability, it seems, is not. Says Mr. Deringer: "It feels like Kafka. We don't know who's involved at HUD; we don't know who's responsible. There's no one who will talk to us about the case." The three residents did receive a call from a HUD investigator on behalf of the complainant, however, saying that she would drop charges if they agreed never to write or speak on housing issues again.

The immediate concern raised by the Berkeley case and others like it is obviously HUD's blatant censorship. But underlying the case are two other troubling issues.

The 1988 Federal Housing Act Amendments rest on the myth that facilities for socially dysfunctional individuals have no more consequences for neighborhoods than family residences. In her letter to the North Berkeley neighbors, the Berkeley city attorney chastised them for implying that the city should treat a home for addicts with AIDS any differently from any other home. But while some group homes, if meticulously run, may indeed integrate into their surroundings, others, especially in excessive numbers, impose enormous burdens on communities. Prohibiting speech about those consequences will not make them disappear.

SERIOUS MORAL MISTAKE

An even greater fallacy underlying the FHAA investigations is the notion that drug addiction and alcoholism are involuntary "disabilities." To ignore the individual responsibility at the origin of such conditions is a serious moral mistake with enormous financial repercussions. As Roger Leed, a Seattle attorney who defended community groups against HUD, puts it: Defining drug abuse as a disability makes "every panhandler on the street with a cup a member of a protected class."

For the moment, one hope of stopping the Bel Air project in Berkeley lies in just this unwarranted extension of rights. However, the developer has discovered a group of squatters in the Bel air hotel. When it tries to evict them, it could find itself under investigation for discriminating against the housing rights of the disabled.

[From the Wall Street Journal, Sept. 14, 1994]

HUD CONTINUES ITS ASSAULT ON FREE SPEECH

(By Heather Mac Donald)

The Department of Housing and Urban Development still doesn't get it. This summer, a national outcry erupted over the agency's investigation of three Berkeley, Calif., residents who had peacefully protested the siting of homeless housing in their neighborhood. Now HUD has issued a set of guidelines intended to avoid such flagrant violations of the First Amendment. Though the new rules correct some of the agency's policies, they contain a loophole large enough to drive a homeless shelter through, as well as other exceptions that suggest that HUD's reign of terror is not over yet.

As reported on the Journal's editorial page on Aug. 8 and Aug. 23, HUD has been investigating individuals and community groups under the Fair Housing Act Amendments of 1988. Organized opposition to homeless shelters, drug-treatment centers and residences for the mentally ill—the theory went—constitutes "housing discrimination" against the disabled. The FHAA defines disability to include recovering addicts, alcoholics, the mentally ill and AIDS patients—in other words, most of the homeless population.

HUD's new guidelines prohibit the investigation of all "public activities that are directed toward achieving action by a governmental entity or official." Such activities include distributing pamphlets, holding open community meetings and testifying at public hearings. If an FHAA complaint alleges only such activities, HUD will not accept it for filing.

HUD will continue to investigate, however, groups or individuals who have taken their protest to court. This loophole eviscerates citizens' last line of defense against local governments that have been captured by the social-service industry. Under pressure from homeless advocates, cities routinely violate their own zoning rules regarding the siting of group homes for alcoholics, addicts and the mentally ill. Citizen challenges to such violations have been a mainstay of HUD's FHAA investigations to date.

For example, Seattle until recently prohibited the placement of social-service facilities within a quarter-mile of each other. Yet in 1992 the city approved the construction of five group homes for addicts and the mentally ill within a single city block. A local neighborhood group sued, charging a violation of the city's dispersion criteria. As a result, HUD has been investigating the group for the last year and could continue to do so under the new guidelines.

Richmond, VA., requires that medical facilities be located in areas zoned for apartment buildings and duplexes. Nevertheless, the city approved the siting of two medical hospices for AIDS patients—funded with a $2 million grant from HUD—in a single-family zone. Neighbors tried to enjoin construction of the hospices. The individuals are now under investigation by Virginia's Office of Fair Housing. HUD's new guidelines would allow the complaining organization to go directly to the federal government for relief.

Ironically, the investigation that caused HUD's recent public-relations fiasco and led to the current guidelines was itself predicated on a zoning suit. The three Berkeley residents argued in court that their local zoning board's approval of a homeless housing project in their neighborhood was marred by an egregious conflict of interest: The developer's director sat on the zoning board, and though she abstained from the project decision, she argued in its favor before her colleagues. HUD dropped its investigation of the Berkeley residents under public pressure. The next group of litigants may not be so lucky.

Incestuous relations between nonprofit developers and their government overseers have become the norm in cities across the country. And as local governments—often under pressure from HUD—embrace the philosophy of "mainstreaming" dysfunctional individuals into middle-class communities, violations of zoning rules will become more common. HUD's legal-action exception will continue to discourage challenges to municipalities that bend or break the law.

HUD's new guidelines carve out another exception to protected speech: Should citizens carry their activities beyond public agencies, they risk liability under the Fair Housing Act. In New York City, HUD investigated a group of neighbors in Manhattan's Gramercy Park who had allegedly tried to outbid a homeless-housing developer for a private property. The developer recently dropped his complaint against the neighbors, but the theory that free-market competition may violate the Fair Housing Act Amendments remains viable under HUD's new rules.

Third, HUD will continue to investigate individuals and organizations who protest housing decisions if "the facts available to the Department do not reasonably indicate the precise applicability of the First Amendment." In other words, if an advocacy group writes a muddy enough complaint, it can continue to tap into the government's vast coercive power until the "precise applicability of the First Amendment" is determined. HUD's assurance that it will "carefully tailor" such investigations so as to "not unduly chill the exercise of free speech" is ludicrous. The very existence of such investigations, no matter how "tailored," can scare citizens into silence.

Finally, even if HUD formally ceases investigating individuals, it retains a potent tool of indirect censorship: holding a city liable for statements made by its residents. Though HUD has dropped its investigation of the Berkeley Three, it continues to investigate the city itself for their housing protest. Says Joseph Derlinger, one of the three protesters: "We can now speak, but they city can't listen to us."

Shortly before HUD released its new guidelines, Roberta Achtenberg, assistant secretary for fair housing and equal employment, published an article declaring the agency's respect for the First Amendment. She concluded, however, with the prediction that "we can expect more cases" in the future like the investigation in Berkeley. Ms. Achtenberg's assumption that free speech remains in potential conflict with "fair housing" dashes any hope that HUD interpret its guidelines broadly. Indeed, the new rules have resulted in dismissals of only 11 of HUD's 34 pending investigations against individuals and community groups. HUD Secretary Henry Cisneros should close all loopholes in the guidelines immediately and declare that all neighborhood political activity remains safe from government penalty.

[From the Washington Post, Sept. 14, 1994]

HUD'S ATTACK ON THE FIRST AMENDMENT

(By Nat Hentoff)

I am grateful to Housing and Urban Development Secretary Henry Cisneros and Roberta Achtenberg, his assistant secretary for fair housing and equal opportunity. Every fall, preparing for talks with school kids about the Bill of Rights, I look for a fresh, powerful example of James Madison's legacy to the nation:

"The censorial power is in the people over the Government, and not in the Government over the people."

From time to time in our history, the government has forgotten its place in our constitutional scheme of things, but never in recent years has an agency of the government—HUD—actually canceled the First Amendment right "to petition the Government for a redress of grievances" as well as other forms of free speech.

HUD's purpose was noble, just as Cisneros' motivation was well-intentioned when he proposed last spring that public housing tenants include in their leases a clause allowing the police to break into their apartments without a warrant in search for guns and hoodlums. The Secretary did not understand how anyone could oppose strengthened security in a trade for that technicality, the Fourth Amendment.

This time, he and Achtenberg wanted to make sure that the Fair Housing Act was firmly implemented—over any dissent. Accordingly, when, for example, federally subsidized housing projects for people with histories of substance abuse or mental disorders were proposed for various neighborhoods, HUD rode shotgun on those projects. If some neighbors objected and filed court actions, or wrote letters to public officials, they were rigorously investigated by HUD for discrimination. Membership lists of their organizations were seized, as were copies of correspondence, and all other notes concerning their conspiracy against the government and the Sermon on the Mount.

HUD made clear that the First Amendment would not be allowed to stand in the way of government good deeds in New York, Seattle, New Haven and other cities.

When talking to students, I shall point out that it doesn't matter whether an administration is Republican or Democratic. The urge to keep the people in their place can seize a public official at any time. Also, however, the end of all this—if it has ended—may give the school kids a more bracing view of the free press than they have been getting from adults. If the press has not covered HUD's attempt to revoke the First Amendment, I expect that protesting neighborhood groups would still be having their records subpoenaed—and would still be threatened with heavy fines simply for trying to get a hearing.

I also have a surprise for the students. In Richmond, Va., a neighborhood association objected to the placement of two facilities for AIDS patients in the middle of their neighborhood. The association questioned the legality of the zoning of those facilities. That led to an extensive investigation of that association by the Fair Housing Office of HUD.

The surprise is that—as Mary Ann Hirtz, president of the targeted neighborhood association notes—"the local ACLU, acting in behalf of the Richmond AIDS Ministry, filed a discrimination complaint demanding the investigation."

I have a copy of the complaint to HUD by Stephen Pershing, legal director of the Virginia affiliate of the ACLU. The complaint is that the neighborhood association had the unlawful temerity to file suit in state court to block construction of the residence.

The Virginia affilate of the ACLU was also exercised over the fact that the opponents of the project "had made public statements designed to foster opposition to the . . . home . . . based on irrational prejudice, fear and animus toward who who will reside there."

Only benign speech has the imprimatur of the Virginia ACLU.

Worse yet, says the ACLU, opponents of the residence "have made statements to the press."

The lesson for the school kids is that not even an ACLU affiliate can be depended on to defend the First Amendment in the face of higher purposes. The national ACLU did, to be sure, tell Cisneros that he had lost his constitional bearings. But so had the Virginia ACLU.

One large question remains. How did Cisneros and Achtenberg go so dangerously astry for so long? Did no one else in government slip them a copy of the First Amendment? This was more than a minor attack on the Bill of Rights. Yet Cisneros and Achtenberg acted without public objection from anyone in the entire Clinton administration—including the White House and the Justice Department.

AMENDMENTS SUBMITTED

SOCIAL SECURITY ACT AMENDMENTS

MOYNIHAN (AND PACKWOOD) AMENDMENT NO. 2608

Mr. MOYNIHAN (for himself and Mr. PACKWOOD) submitted an amendment intended to be proposed by him to the bill (S. 1668) an original bill to amend the Social Security Act and related acts to make miscellaneous and technical amendments, and for other purposes; as follows:

On page 1, line 5, strike "1993" and insert "1994".

Strike line 16 on page 9 and all that follows through line 18.

On page 19, line 4, strike "1995" and insert "1997".

On page 19, line 20, strike "1993" and insert "1994".

On page 24, line 12, strike "1994" and insert "1995".

On page 25, line 14, strike "1994" and insert "1995".

Strike line 12 on page 29 and all that follows through line 14 and insert the following:

(d) CLERICAL CORRECTIONS.—(1) Section 1814(i)(1)(C)(i) (42 U.S.C. 1395f(i)(1)(C)(i)) is amended by striking "September 30, 1990.," and inserting "September 30, 1990,".

On page 30, line 3, strike "1997" and insert "1998".

On page 30, line 10, strike "1995" and insert "1996".

On page 30, line 21, strike "1997" and insert "1998".

On page 31, line 1, strike "1997" and insert "1998".

On page 31, line 7, strike "1997" and insert "1998".

On page 32, strike line 7 and all that follows through line 17.

On page 41, line 25, strike "1994" and insert "1995".

On page 42, lines 3, 6, 9, and 12, strike "1994" and insert "1995".

On page 42, lines 15 and 16, strike "October 1, 1994" and insert "July 1, 1995".

Strike line 12 on page 49 and all that follows through line 18.

On page 52, line 18, strike "May 1, 1994," and insert "the date of the enactment of the Social Security Act Amendments of 1994,".

On page 53, line 2, strike "May 1, 1994," and insert "the date of the enactment of the Social Security Act Amendments of 1994,".

Strike line 19 on page 54 and all that follows through line 2 on page 55.

On page 55, line 3, strike "(B)" and insert "(A)".

On page 55, lines 6 and 7, strike "May 1, 1994," and insert "60 days after the date of the enactment of the Social Security Act Amendments of 1994,".

On page 57, line 3, strike "(C)" and insert "(B)".

Strike line 11 on page 57 and all that follows through line 2 on page 59 and insert the following:

"(3) COVERAGE AND REVIEW CRITERIA.—The Secretary shall annually review the coverage and utilization of items of medical equipment and supplies to determine whether such items should be made subject to coverage and utilization review criteria, and if appropriate, shall develop and apply such criteria to such items.

On page 60, lines 6 and 7, strike "October 1, 1994" and insert "60 days after the date of enactment of this Act".

Strike line 18 on page 61 and all that follows through line 6 on page 63.

Strike line 17 on page 67 and all that follows through line 9 on page 68.

On page 70, line 25, strike "October 1, 1994" and insert "January 1, 1995".

On page 75, line 18, strike "January" and insert "July".

Strike line 17 on page 77 and all that follows through line 11 on page 78.

On page 84, line 13, strike "1995" and insert "1996".

Strike line 1 on page 86 and all that follows through line 6 on page 87.

On page 90, line 10, strike "1 month" and insert "9 months".

On page 90, lines 20 and 21, strike "a speech-language pathologist" and insert "audiologist".

On page 90, line 25, strike "speech-language pathologists" and insert "audiologists".

On page 91, line 4, strike "1 month" and insert "9 months".

On page 91, line 5, strike "speech-language pathology" and insert "audiology".

On page 91, lines 6 and 7, strike "speech-language pathologist" and insert "audiology".

On page 91, line 9, strike "speech-language pathology" and insert "audiology".

On page 92, line 15, strike "1994" and insert "1995".

On page 102, line 16, strike "July 1, 1994," and insert "60 days after the date of the enactment of the Social Security Act Amendments of 1994".

On page 104, line 15, strike "January 1, 1994" and insert "the expiration of the 120-day period beginning on the date of the enactment of this Act".

On page 107, lines 20 and 21, strike "years beginning with 1994" and inserting "contract years beginning with 1995".

On page 120, lines 13 and 20, strike "1995" and insert "1996".

Strike line 12 on page 126 and all that follows through line 7 on page 127.

On page 127, line 13, strike "1994" and insert "1995".

On page 127, line 17, strike "1996" and insert "1997".

Strike line 8 on page 132 and all that follows through line 20 and insert the following:

(c) TECHNICAL CORRECTION TO REVISIONS OF COVERAGE FOR IMMUNOSUPPRESSIVE DRUG THERAPY.—The Secretary of Health and Human Services may administer section 1861(s)(2)(J) of the Social Security Act (42 U.S.C. 1395x(s)(2)(J)) in a manner such that the months of coverage of drugs described in such section are provided consecutively, so long as the total number of months of coverage provided is the same as the number of months described in such section.

On page 146, line 24, strike "1993" and insert "1994".

On page 147, line 17, strike "1993" and insert "1994".

On page 149, line 12, strike "1994" and insert "1995".

On page 154, lines 16, 21, 22, and 24, strike "July 1, 1994" and insert "January 1, 1995".

On page 156, line 24, strike "1994" and insert "1996".

On page 157, line 7, strike "1994" and insert "1996".

On page 160, line 2, strike "1994" and insert "1995".

On page 161, line 4, strike "1994" and insert "1995".

On page 162, line 6, strike "1994" and insert "1995".

On page 163, line 3, strike "1994" and insert "1995".

On page 163, line 13, strike "1995" and insert "1996".

On page 164, line 13, strike "1994" and insert "1995".

On page 164, strike line 14 and all that follows through line 18.

On page 167, line 17, strike "1994" and insert "1995".

On page 168, line 18, strike "1994" and insert "1995".

On page 171, line 6, strike "1994" and insert "1995".

On page 175, line 10, strike "1994" and insert "1995".

On page 178, line 25, strike "1994" and insert "1995".

On page 179, line 23, strike "1994" and insert "1995".

On page 215, line 21, strike "1994" and insert "1995".

On page 225, line 3, strike "October 1, 1995" and insert "April 1, 1996".

On page 229, lines 5 and 6, strike "Except as provided in paragraph (2), the" and inserting "The".

On page 229, line 15, strike "January" and insert "July".

On page 229, line 16, strike "October 1, 1995" and insert "April 1, 1996".

On page 230, line 12, strike "1994" and insert "1995".

On page 232, line 24, strike "1994" and insert "1995".

On page 233, line 10, strike "1994" and insert "1995".

On page 233, strike lines 25 and 26, and insert the following:

(2) by redesignating subsections (d) and (e) as subsections (b) and (c), respectively.

On page 234, line 21, strike "October 1, 1995" and insert "April 1, 1996".

On page 239, line 11, strike "1994" and insert "1995".

On page 241, line 25, strike "residing" and all that follows through "State" on page 242, line 1.

On page 242, strike "unless" on line 3 and all that follows through "tion" on line 5.

On page 244, line 19, strike "1994" and insert "1995".

Strike line 17 on page 245 and all that follows through line 12 on page 250.

On page 258, line 5, strike "1993" and insert "1994".

Strike line 14 on page 261 and all that follows through line 2 on page 262.

On page 262, lines 18 and 20, strike "1993" and insert "1994".

On page 263, line 6, strike "1994" and insert "1995".

Strike line 19 on page 263 and all that follows through line 25 on page 264.

On page 265, line 8, strike "5-year" and insert "6-year".

On page 265, lines 12 and 13, strike "1994, and 1995" and insert "1994, 1995, and 1996".

On page 265, line 23, strike "1994 through 1998" and insert "1995 through 1999".

Strike line 1 on page 269 and all that follows through line 2 on page 270.

Strike line 22 on page 270 and all that follows through line 9 on page 271.

Redesignate subtitles and sections accordingly.

Mr. MOYNIHAN. Mr. President, although there are few remaining days in this 103d Congress, I urge Senators to support enactment of S. 1668, the "Social Security Act Amendments of 1994," which was reported by the Finance Committee on November 17 of last year.

This bill contains a number of important technical corrections and miscellaneous Social Security Act provisions that enjoy bipartisan support in both the Senate and the House. These provisions could not be included in the Omnibus Reconciliation Act of 1993 because they had no budgetary impact; under the strict rules of budget reconciliation in the Senate, any provision that has no impact on Federal spending is subject to a point of order. While the Finance Committee excluded these provisions from its budget package, the House of Representatives passed many of these provisions as part of its 1993 budget package. In conference, the chairman of the Ways and Means Committee and I agreed to develop a separate bill to include all the budget-neutral, noncontroversial provisions that could not be included in the 1993 budget reconciliation legislation. The result is S. 1668.

Today, the ranking minority member of the Finance Committee, Senator PACKWOOD, and I are submitting an amendment to S. 1668 which makes minor modifications to the bill that have become necessary due to the passage of time since the bill was approved by the Finance Committee last November. These modifications include updated effective dates and deletion of some provisions that are no longer necessary. I ask unanimous consent that these amendments to the bill be inserted in the RECORD. The original text of S. 1668, along with a section-by-section analysis, was printed in the CONGRESSIONAL RECORD for November 17, 1993. I emphasize again that S. 1668, as reported by the Finance Committee and as modified by this amendment, will not increase the deficit but will, in fact, provide a modest reduction in the Federal deficit of $2 million over the next 5 years.

MISSING IN CYPRUS ACT

D'AMATO (AND SIMON) AMENDMENT NO. 2609

Mr. DOLE (for Mr. D'AMATO, for himself and Mr. SIMON) proposed an amendment to the bill (S. 1329) to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974; as follows:

S. 1329

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. UNITED STATES CITIZENS MISSING FROM CYPRUS.

(a) INVESTIGATION.—As soon as is practicable, the President shall undertake, in cooperation with appropriate international organizations or nongovernmental organizations, a thorough investigation of the whereabouts of the United States citizens who have been missing from Cyprus since 1974. Any information on others missing from Cyprus that is learned or * * *. The investigation shall focus on the countries and communities which were combatants in Cyprus in 1974, all of which currently receive United States foreign assistance.

(b) REPORT TO THE FAMILIES.—The President shall report the findings of this investigation of the missing Americans to the family of each of the United States citizens. Such reports shall include the whereabouts of the missing.

(c) REPORT TO THE CONGRESS.—The information learned or discovered during this investigation, shall be reported to the Congress.

(d) RETURNING THE MISSING.—The President, in cooperation with appropriate international organizations or nongovernmental organizations shall do everything possible to return to their families, as soon as is practicable, the United States citizens who have been missing from Cyprus since 1974, and others who have been missing, including returning the remains of those who are no longer alive.

AUTHORIZATION OF APPROPRIATIONS TO THE OFFICE OF SPECIAL COUNSEL AND THE MERIT SYSTEMS PROTECTION BOARD

PRYOR (AND LEVIN) AMENDMENT NO. 2610

Mr. FORD (for Mr. PRYOR and Mr. LEVIN) proposed an amendment to the bill (S. 622) to authorize appropriations for the United States Office of Special Counsel, the Merit Systems Protection Board, and for other purposes; as follows:

On page 12, beginning with line 24, strike out all through line 4 on page 13 and insert in lieu thereof the following:

"(E) A determination by the Special Counsel under this paragraph shall not be cited or referred to in any proceeding under this paragraph or any other administrative or judicial proceeding for any purpose, without the consent of the person submitting the allegation of a prohibited personnel practice.".

On page 14, line 10, insert "contributing" before "factor".

On page 14, beginning with line 22, strike out all through line 8 on page 15.

On page 15, strike out lines 14 through 17 and insert in lieu thereof the following:

(2) by striking out clause (x) and inserting in lieu thereof the following:

"(x) a decision to order psychiatric testing or examination; and

"(ix) any other significant change in duties, responsibilities, or working conditions;"; and

On page 15, line 19, strike out "redesignated" and insert in lieu thereof "added".

On page 16, strike out lines 21 through 24.

On page 17, line 1, strike out "(e)" and insert in lieu thereof "(d)".

On page 19, insert between lines 6 and 7 the following new section:

SEC. 9. EXPENSES RELATED TO FEDERAL RETIREMENT APPEALS.

Section 8348(a) of title 5, United States Code, is amended—

(1) in paragraph (1)(B) by striking out "and" at the end thereof;

(2) in paragraph (2) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) is made available, subject to such annual limitation as the Congress may prescribe, for any expenses incurred by the Merit Systems Protection Board in the administration of appeals authorized under sections 8347(d) and 8461(e) of this title.".

SEC. 10. ELECTION OF APPLICATION OF LAWS BY EMPLOYEES OF THE RESOLUTION TRUST CORPORATION AND THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

(a) ELECTION OF PROVISIONS OF TITLE 5, UNITED STATES CODE.—If an individual who believes he has been discharged or discriminated against in violation of section 21a(q)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(q)(1)) seeks an administrative corrective action or judicial remedy for such violation under the provisions of chapters 12 and 23 of title 5, United Steates Code, the provisions of section 21a(q) of such Act shall not apply to such alleged violation.

(b) ELECTION OF PROVISIONS OF FEDERAL HOME LOAN BANK ACT.—If an individual files a civil action under section 21a(q)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(q)(2)), the provisions of chapters 12 and 23 of title 5, United States Code, shall not apply to any alleged violation of section 21a(q)(1) of such Act.

On page 19, line 7, strike out "**SEC. 9.**" and insert in lieu thereof "**SEC. 11.**".

On page 20, line 8, strike out "**SEC. 10.**" and insert in lieu thereof "**SEC. 12.**".

On page 21, line 1, strike out "**SEC. 11.**" and insert in lieu thereof "**SEC. 13.**".

DORGAN AMENDMENT NO. 2611

Mr. FORD (for Mr. DORGAN) proposed an amendment to the bill S. 622, supra; as follows:

On page 11, insert between lines 21 and 22 the following new subsection:

(c) STATUS REPORT BEFORE TERMINATION OF INVESTIGATION.—Section 1214(a) of title 5, United States Code, is amended—

(1) in paragraph (1)—

(A) by adding at the end thereof the following new subparagraph:

"(D) No later than 10 days before the Special Counsel terminates any investigation of a prohibited personnel practice, the Special Counsel shall provide a written status report to the person who made the allegation of the proposed findings of fact and legal conclusions. The person may submit written comments about the report to the Special Counsel."; and

(2) in paragraph (2)(A)—

(A) in clause (ii) by striking out "and" after the semicolon;

(B) in clause (iii) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(C) by adding at the end thereof the following new clause:

"(iv) a response to any comments submitted under paragraph (1)(D).".

On page 11, line 22, strike out "(c)" and insert in lieu thereof "(d)".

On page 13, line 5, strike out "(d)" and insert in lieu thereof "(e)".

On page 16, line 15 strike out the first period and insert in lieu thereof a semicolon and "and".

ADDITIONAL STATEMENTS

FAILURE, BY THE NUMBERS

• Mr. SIMON. Mr. President, the New York Times of September 24, 1994, had an article by Paul Spector, president of the Institute for International Research, which my colleagues should read.

It included some statistical comparisons of the United States with other countries.

Let me mention just a few of those statistics:

In Canada, seventh among the wealthy nations in life expectancy, the average life span is 77.2; in the United States, 18th among the nations, it is 75.6. These are all 1992 figures based on a United Nations 1994 Human Development Report.

The total expenditure on health care as a percentage of the gross domestic product [GDP]: Canada, 9.9 percent; United States, 13.3 percent.

Expenditure on health per capita: Canada, $1,847; United States, $2,932—1991 figures.

In 1989, 14.1 percent of the Canadian population was admitted to a hospital, at one point or another; and in the United States, 13.7 percent. This suggests that the image created of many Canadians being unable to get into hospitals is simply incorrect. And the next statistic is even more meaningful.

In 1989, the median stay in hospitals in Canada was 11.4 days, and in the United States 6.5 days.

In Canada, there is one physician for each 450 people; and in the United States, there is 1 physician for each 420 people.

In addition to these figures, two other observations should be made.

One is that the most recent poll I have seen shows only 3 percent of the people in Canada are willing to have a health care system like the United States. The second is that not a single Member of the Canadian Parliament has introduced a bill to repeal the Canadian health care system. If it were such a terrible system, I can assure you that politicians would be running over each other in Canada or any other democracy to try to repeal the system.

I ask that the article be placed into the RECORD at this point together with the tables.

The article follows:

[From the New York Times, Sept. 24, 1994]

FAILURE, BY THE NUMBERS

(The United States is the world's richest nation, and it spends far more of its income on health care than any other. Yet people in other countries live longer and get more care. Here is a partial listing of nations where babies born in 1992 could expect to live 75 years or more, according to the United Nations' 1994 Human Development Report)

(By Paul Spector)

ARLINGTON, VA.—Congress's dismal failure to approve even a modest health care reform program cannot change one fact: in every industrial nation but ours, universal health care has become an inherent right. In the United States, 38 million people lack health insurance, and health care for all but the most privileged may be deteriorating.

Americans fervently believe that the U.S. has the best health care in the world. But we all need to be aware of the data in the accompanying tables, which show that in fact we have a lot of catching up to do with other nations.

If Americans get the best health care in the world, that is not reflected in our average life expectancy, which ranks behind 17 other nations. Life expectancy is not solely a function of health care, of course; factors like diet and highway fatalities push a nation's average up or down. But it is widely accepted as the best proxy.

Table I—a partial list of the 22 countries with a life expectancy of 75 years or better for people born in 1992—shows that even though the U.S. is the world's richest nation in terms of real gross domestic product per person, we can expect shorter lives than nations with a total population of 450 million.

And Table II shows that other industrial countries deliver more health care than we do. From 1972 to 1989, for example, hospital use went up in 19 of the 22 nations. It went down in only three: Canada, Italy (not shown) and the United States. In 1989, the average stay in countries for which data were available was twice as long as in ours: 12.9 days compared to 6.5 days. Hospitalization is not necessarily an index of the quality of care. Still, the numbers make it clear other nations provide more care than we do.

LIFE SPAN, HEALTH AND WEALTH

Countries in order of life expectancy	Life expectancy at birth, 1992, in years	Population in millions, 1992	Real G.D.P. per capita, 1991	Total expenditure on health, % of G.D.P.	Expenditure on health per capita, 1991
1 Japan	78.6	124.5	$19,390	6.8	$1,771
4 Sweden	77.7	8.6	17,490	8.8	2,372
5 Spain	77.4	39.1	12,670	6.5	877
6 Greece	77.3	10.2	7,680	4.8	274
7 Canada	77.2	27.4	19,320	9.9	1,847
8 Netherlands	77.2	15.2	16,820	8.7	1,664
11 Australia	76.7	17.6	16,680	8.6	1,466
12 France	76.6	57.1	18,430	9.1	1,912
13 Israel	76.2	5.1	13,460	4.2	509
14 U.K	75.8	57.7	16,340	6.6	1,003
17 Germany	75.6	80.2	19,770	9.1	1,782
18 U.S	75.6	255.2	22,330	13.3	2,932
22 Ireland	75.0	3.5	11,430	8.0	886

GIVING CARE, AND GETTING IT

	1972 hospital admissions *	1989 hospital admissions *	1989 mean stay in days	1960 psychiatric beds	1989 psychiatric beds	1989 nursing home beds	1990 population per doctor
Japan	5.6	8.1	44.9	95,067	355,743	NA	610
Sweden	18.1	19.6	NA	18,588	15,539	74,400	370
Spain	7.7	9.7	12.7	32,741	29,634	47,916	280
Greece	10.9	12.6	10.0	7,930	11,371	3,100	580
Canada	16.8	14.1	11.4	NA	NA	232,520	450
Netherlands	10.8	11.0	NA	NA	24,466	51,110	410
Australia	21.8	23.0	5.4	NA	9,822	74,779	440
France	14.9	22.8	NA	NA	99,942	NA	350
Israel	NA	NA	NA	NA	NA	65,941	350
U.K	12.0	15.9	NA	NA	85,695	78,300	710
Germany	15.9	21.5	NA	51,209	103,987	587,226	370
U.S	15.8	13.7	6.5	722,000	161,000	456,000	420
Ireland	13.7	15.2	6.9	NA	9,041	17,952	681

Not shown: Iceland (No. 2), Switzerland (3), Italy (9), Norway (10), Austria (15), Belgium (16), Finland (19), Denmark (20), New Zealand (21).

*People admitted as a percentage of population.

Sources: U.N. Development Program; Organization for Economic Cooperation and Development.

From 1960 to 1989, the number of psychiatric beds in the U.S. fell from 722,000 to 161,000. The rationale was that most mental patients did not belong in costly and restrictive state hospitals, that they could get better care in community mental health centers and group homes. But in too many cases, these promised alternatives never materialized, and mental patients ended up on the street. Other countries have taken a different path: Japan, for instance, increased its capacity 274 percent in the same period, from 95,000 beds to more than 355,000; Germany doubled its capacity. And homelessness in those countries is negligible.

Another telling indicator is care of the elderly. Canada, with one-ninth of our population, has fully half as many nursing home beds as we do. Germany, with one-third of our population, has 29 percent more. Israel has one bed for every 77 people; we have one for every 560.

Yet all these countries manage to spend considerably less on health care than we do. The average health expenditure per person in the 21 other nations was $1,603 a year in 1991; in the U.S. it was $2,932. Multiply the difference, $1,329, by our population of 250 million, and the total comes to $330 billion a year—a third of our total health care bill.

Why do we spend so much for less service and shorter life expectancy? A big part of the explanation is overhead, inefficiency, waste and even outright fraud. The insurance industry dominates health care in the U.S. as it does in no other country. The administrative cost of health care in this country is about 25 percent; in Canada it is about 10 percent. Average U.S. insurance company overhead is 14 percent—more than three times the overhead for Medicare and Medicaid, our much-maligned Government health programs for the elderly, poor and disabled.

We can't install a Canadian-style Government plan immediately without disrupting the entire health care industry. But future administrations and Congresses will have no choice but to move in that direction.

The failure to write the insurance industry out of our health care system is not just a matter of saving money. It is leading to inferior care and shortened lives. Our predicament is as clear as the numbers in these two charts. Our people feel it, and eventually they will come to know it.●

FISCAL YEAR 1995 TRANSPORTATION APPROPRIATIONS

● Mr. DURENBERGER. Mr. President, I rise to compliment my colleagues on the Transportation Appropriations Committee on the splendid work that has been done over the last 16 years, and particularly the last 4 years as we work to implement and fund the Intermodal Surface Transportation Efficiency Act of 1991 [ISTEA].

In particular, I would like to thank Senator LAUTENBERG and Senator D'AMATO, as chairman and ranking member of this esteemed subcommittee, for the courtesy they have shown me over the years. It has been a pleasure to work with both of them. I'd also like to extend my appreciation to my friend and colleague from Minnesota, Congressman MARTIN SABO, who, as a member of the House Transportation Appropriations Subcommittee has worked closely with me to secure funding for the State of Minnesota.

Reflecting on the many requests I have made of my colleagues on the Transportation Subcommittee, it is hard not to be impressed with the subcommittee's willingness to come to the aid of Minnesota. Equally impressive is the fact that this assistance was not weighted to any one mode of transportation.

For example, one of the first matters I was confronted with in 1979 was the bankruptcy filings of two of Minnesota's principal rail carriers—the Milwaukee Railroad and the Rock Island Railroad. Thanks in large part to the subcommittee, sufficient funding was made available to salvage a core system of the Milwaukee Railroad and to rehabilitate the Rock Island trackage most needed by Minnesota shippers. Without that assistance, many of the small towns and communities located along those rail lines would have lost their grain elevators, coops, and other industry essential to rural America.

In 1982, during the midst of a severe recession which decimated the Rust Belt communities dotting the Great Lakes, the subcommittee once again came to the rescue by eliminating the original construction debt for the St. Lawrence Seaway. This debt was fast becoming a millstone which undermined the competitiveness of Great Lake ports. Combined with my efforts in 1986 to institute rebates on seaway tolls, we have been able to stave off the demise of the Great Lakes shipping community. The elimination of the collection of those tolls, contained in the bill pending before us today, is yet another step forward in the effort to restore the Great Lake port system to the position it held in the mid-1970's.

The Transportation appropriations bill has always been an important one for highways in the State of Minnesota. Under ISTEA, approximately 23 percent of the total road mileage in the State is eligible for Federal aid, allowing construction and restoration of much needed arterials as well as secondary and urban roadways. As a mostly rural State with only a few major urban areas, the safe construction and upkeep of our highways is extremely important for movement about the State.

ISTEA was especially important for the State of Minnesota as it authorized funding for 17 special highway projects. I am proud that, as a member of the Environment and Public Works Committee, I worked to secure this authorization, and since then, have worked to ensure that these projects have received funding through the Transportation appropriations process each year.

One such project was the design and construction of Trunk Highway 610—or the Crosstown—connecting I-94 with Trunk Highway 10. Not only does this highway provide a necessary east-west route, it also has three unique features distinguishing it from the many other highway projects authorized in ISTEA. First, it is intermodal, integrating the Crosstown with the proposed Twin Cities Light Rail Transit line. The construction project also made use of new research on pavement design to reduce deterioration caused by cold weather—perfect for helping the road survive those infamous Minnesota winters. Finally, the Crosstown Highway project is also a coordinated water resource project, utilizing storm water runoff to recharge the nearby aquifer. Thanks to the support of this esteemed subcommittee, Trunk Highway 610 is now in the final stages of its construction.

The Bloomington Ferry Bridge is one of the most comprehensive projects I have worked on during my time as Senator. This project involved building a replacement for the existing temporary bridge, which will expand the bridge's capacity from two to six lanes to accommodate the increased traffic associated with the growing population of the area. A metropolitan task force considered this the highest priority river crossing in the Twin Cities area. My colleagues have ensured that this project has continued to receive the necessary funding over the years and I'm pleased to state that this project is now in its final stages of construction.

ISTEA also authorized funding for the Avenue of the Saints, a four-lane highway connecting St. Louis, MO, and St. Paul, MN, running through Iowa. Prior to ISTEA, this corridor of 18.4 million people had extremely poor north-south arteries but our three States did not have sufficient funds to resolve the corridor's transportation deficiencies. This corridor has brought new economic advantages to the predominantly agricultural area set between the major metropolitan areas at each end of the highway. Once again, my colleagues have recognized the importance of this project and the Minnesota segment of the corridor—interstate 35W—is completed.

During consideration of ISTEA, I offered an amendment on the Senate floor to ensure the necessary foundation to maintain the existing interstate system that we have been building since 1806 when Thomas Jefferson signed the first Federal highway program into law. With a little urging, my Senate colleagues approved my amendment directing the administration to work with the States to design a National Highway System.

This year, the Senate approved a map, compiled by Secretary Peña, of the new and greatly expanded National Highway System. It builds on the existing Interstate System, covering almost 4,000 miles in my State—159,000 nationwide. This will serve to increase the number of highway miles eligible for investing funds, thus retaining greater flexibility in the program. I'm pleased to say that the appropriations bill before us today includes funding for several projects to become part of this new National Highway System.

ISTEA also included provisions to set a standard to define where pavement markings are necessary and to establish a minimum maintenance level of retroreflectivity—level of brightness reflected back to the driver when a light hits it—for pavement markings and signs. This provides a safer driving environment and be especially beneficial to older drivers. Over the years, the subcommittee has often recognized the importance of such safety features by granting States the necessary funding to facilitate improvements.

But highway improvements aren't the only focus of Minnesotans. My State recognizes the importance of looking to the future and increasing emphasis on other modes of transportation. I am pleased that the Intelligent Vehicle-Highway Systems Act development by myself and FRANK LAUTENBERG was incorporated into ISTEA in 1991. IVHS has four important benefits. It optimizes our transportation resources by moving more people per road and tax dollar. Our roads will be safer because congestion and accidents can and will be prevented. We will be more productive because workers will spend less of their workday on the freeway. And finally, a more efficient highway system means fewer gallons of gasoline burned and fewer tons of air pollutants to deal with. This puts technology to work for the people.

Minnesota is already a national leader in highway technology through its GuideStar Program, which includes advanced traveler management, traveler information systems, and other congestion management strategies. This system, which is now ready for real life demonstration, has received appropriated funds every year since the year we authorized it.

Under criteria which we established in ISTEA, Minnesota has since been chosen as one of only five high-speed rail corridors. The proposed Minnesota high-speed rail line would run through Minneapolis, St. Paul and Rochester, in Minnesota, to Lacrosse, Madison, and Milwaukee, in Wisconsin, to Chicago, IL. Funding for feasibility studies has been appropriated in the past and the project is moving forward. In my retirement, I am certainly looking forward to being able to travel more easily between these three States.

Throughout my term in Congress, I have been a strong supporter of extending Essential Air Service [EAS] to smaller rural communities. In 1987, I sponsored legislation which extended this program which is so vital to the economy of rural communities. This year, there was again a battle to eliminate this program, but my colleagues and I held firm. And in the end, this subcommittee recognized the value of ensuring air transit to communities distant from the larger metropolitan hubs. I am proud to state once again, that four Minnesota rural airports will receive EAS funding during the next fiscal year.

Some people may believe these types of funding projects are political pork projects, but ask my Minnesotans and they will tell you how much their lives have improved by not having to sit in traffic waiting to cross the Bloomington Ferry Bridge, or how much more efficiently people will be able to travel to nearby States—either via the Avenue of the Saints, or the future high-speed rail link. They will tell you that these projects are necessary to the economic viability of our State, as well as the quality of life of each Minnesotan. I am proud to have been able to facilitate these improvement projects for the State of Minnesota, and I once again give my thanks to my colleagues on the Transportation Appropriations Subcommittee for all the assistance they have given, both me and my State, during my 16 years in office.●

"THE SYSTEM DOESN'T WORK. THIS MIGHT"

• Mr. SIMON. Mr. President, I am catching up on some old magazines that accumulated and came across Business Week of June 13, 1994.

Among the articles are several on welfare, including one titled, "The System Doesn't Work. This Might."

It is a series of suggestions about what can be done to improve opportunities for those on welfare, and at the same time, ultimately, reduce cost.

While I do not agree with everything in the article, the basic idea, that we have to have jobs to have real welfare reform, is absolutely sound.

Other suggestions are that we improve job training, provide child care, adopt policies that encourage family collegian rather than discourage it and that we let states have flexibility.

The basic suggestion that we stress jobs is critical, but we have to recognize there are many people who cannot find the jobs and who cannot read about them because they cannot read and write, or they cannot read or write the English language.

We need to combine a jobs program, with government the employer of last resort but encourage private sector employment. Some modification of the old WPA is desirable, with people working 4 days a week for the minimum wage, and the fifth day, they should be required to look for jobs in the private sector. And in the process, they can learn the basics, like showing up for work on time. That sounds like progress. Then those who apply for these jobs must be screened, and if they cannot read and write, we have to get them into a program. If they have no marketable skills, you have to do the same.

I ask to insert the Business Week article, written by Howard Gleckman and Paul Magnusson, into the RECORD at this point.

The article follows:

[From the Business Week, June 13, 1994]

THE SYSTEM DOESN'T WORK—THIS MIGHT

(By Howard Gleckman and Paul Magnusson)

After three decades of bitter debate, the political system now seems on the verge of a remarkable consensus: Welfare as we know it must end. Changing a system so obviously flawed is a worthy goal, but the challenges are enormous. How can the typical welfare family—an unwed mother with two kids, little education, and few job skills—become self-sufficient? "Never in history," says Douglas J. Besharov of the American Enterprise Institute, "have poorly educated single mothers with children been an economically viable family."

But it is not hopeless. Emerging alternatives to welfare, although still small-scale and local, show promise. Business Week endorses a set of proposals that would slash welfare rolls by at least half—moving 2.5 million moms and nearly 5 million kids into mainstream society within two years. These proposals are based on a simple concept: Work is better than welfare. They would focus on getting welfare moms—and 90% of adults on welfare are mothers—into the private sector. Public-service jobs would be available but only as a limited, last resort. Fathers would have to provide financial support to their children.

Any reform plan must help those on welfare without sending the wrong signals to those already working. Business Week would continue benefits for the disabled and those with very young or ill children. Those able to work, who choose not to, would receive no cash benefits, but food stamps and medical care would still be available to kids. Working mothers would receive child and medical care, though only until they could support themselves.

Welfare reform would work best combined with a health-reform plan that gives equal access to medical benefits. Added child care may give welfare mothers an advantage over the working poor, but that may be a necessary price to pay to move moms into the workforce.

New hope. Business Week's proposals are not punitive. Instead, they seek to provide the poor with the same incentives as the rest of society: Those with intelligence and ambition will use their newfound jobs as stepping stones to more rewarding work. A majority may never get beyond low-paying jobs. But life will change because they—not government—would be responsible for their lives and those of their children. "We need to be saying it's good to work," says top Clinton welfare adviser David T. Ellwood.

Fixing welfare in this way could cost upwards of $4 billion a year—at least double what Clinton says his plan will cost. That figures a $4,000 annual tab for a child's day care, vs. Clinton's estimate of $1,700, plus $5,000 a year for each public-service job. Make no mistake; it would be cheaper to keep sending welfare checks. But consider the social costs: White women, for example, are six times more likely to go on welfare as adults if they come from a welfare family. Young black men who grow up on welfare are three times more likely to go to jail than those who do not.

Many newly working mothers will pay taxes and that will help offset the cost—perhaps $1 billion. The rest would come from spending cuts. Eliminating operating subsidies for Amtrak and setting user fees for the air-traffic-control system would save more than $2 billion annually. Trimming agriculture subsidies could save $2 billion more. Paying the bill will be tough, but the real challenge will be getting people working, restoring families, and giving kids some hope. Here's how Business Week would do it:

JOBS, JOBS, JOBS. There is widespread agreement among experts that up to two-thirds of the adults on welfare are employable. And most say they want to work. To help them, the system must be retooled to focus on skill training, job search help, and developing close ties to local businesses that can provide the jobs. These positions will be mostly entry-level and won't pay much to start. But with child care and medical benefits, they'll be a start on the road to economic independence.

That's what's happening at The New Hope Project in Milwaukee. Begun in 1990, it provides a wage subsidy, child care, and health benefits, but only for those who are working. Participants must look for private-sector jobs, though some take temporary community-service jobs. Early results: 60% of the 52 volunteers work in local companies.

One success story is 36-year-old Dora Young. A high-school dropout, the Milwaukee mother of five had been on and off welfare for 12 years. But a year ago she landed a full-time job with Marriott Contract Service Inc., cooking lunches for students at Marquette University. Young makes $6.17 an hour, so she's still getting an income supplement, plus food stamps and Medicaid. Her goal: "To get experience to get a better-paying job."

Not everyone will find work right away, so new public-service jobs will be needed. But real reform will succeed only if there are enough private-sector jobs to absorb the 2 million or so new workers. Recent studies suggest that work is out there—especially in an expanding economy that is creating about 250,000 positions a month. "It is realistic to think they can find jobs," says Labor Secretary Robert Reich.

Still, many jobs are in the suburbs and would require long commutes. Others just don't pay enough to pull a mother and two kids above the poverty line of $11,000. Says former Commissioner of Labor Statistics Janet L. Norword: "There are a lot of jobs for unskilled workers willing to accept minimum wage or just slightly above it."

Provide training. Welfare recipients can survive on such entry-level jobs, but good job training is critical if they are to do better than that. Most of the government's 50-plus training programs for welfare recipients have been well-intentioned but ineffective. To succeed, training must address the basics—arriving on time and taking orders—as well as job skills. And it must be tailored to the needs of individuals and the local market. Ideally, training ought to be tied to specific jobs. Such training won't necessarily cost much: We can retool existing programs, get rid of failed ones, and focus on what works.

Denver's Family Opportunity Partnership shows the promise of targeted training. The program works closely with a local temporary agency, Sunny Side Inc./Temp Side. It teaches word processing, computer programming, and receptionist skills and provides placement in clerical and secretarial jobs. Of the 20 participants hired by Sunny Side, 13 have either gotten a permanent job or are temping full-time.

Child care. Giving up a welfare check—and the related package of food stamps, child care, and the rest—doesn't make sense if the payoff is a low-wage job with fewer benefits. "Mothers on welfare would love to work," says Massachusetts Governor William F. Weld, "if they had health care and child care." He wants to abolish welfare but use the savings to provide those benefits.

Training and financial support helped Cynthia Hayes, a 31-year-old divorced mother of three who has been on welfare for three years. The Denver program led her through a word-processing and job-search course, then helped her land a $7-an-hour job. But Hayes says she couldn't have done it without adequate—and state-financed—child care. "There was no way," she says. "Child care would have cost me $900 a month.

Rebuild the family. Nearly 7 million children from one-parent families live in poverty. To help them, the economic and emotional links between fathers and children must be restored. Paternity should be disclosed at birth. Dads who are able should contribute child support. Others should be given training and, if needed, made to perform a public-sector job. Finally, family planning must be taught early to reduce the number of unwanted pregnancies.

Let states lead the way. All too often, federal rules stifle state welfare initiatives. Welfare programs ought to be turned over to the states so that they are free to experiment, within guidelines set by Congress. The problems leading to welfare dependence are ultimately local, and state officials have been most successful in crafting solutions.

Today, the adults and children on welfare suffer daily from a well-intentioned but misguided system. It will take years to retool welfare into a job-creating machine. But until that is done, too many citizens will be denied a stake in the future. By focusing on jobs, the process can at least begin.•

JOHN YEHALL CHIN

• Mrs. FEINSTEIN. Mr. President, like many modest men, who say little about themselves but do a great deal for their fellowman, John Yehall Chin seldom if ever made headlines, but he will reside always in the hearts of all who knew him.

Born in Canton, China in 1908, he came to San Francisco in 1924 and instantly devoted himself to public service in the community at large and for the Catholic Church he loved.

From the outset, he was active in the Chinese-American Citizens Alliance and, in what became a life long association, for him, with St. Mary's Language School. Becoming a teacher in 1931, he became principal in 1956, a post he held until his untimely death this past July.

One of his lasting contributions was the organization in 1940 of the St. Mary's Girls Drum Corps, whose colorful uniforms and thunderous rhythms have highlighted parades from San Francisco to inaugural ceremonies in Washington, DC.

He was active in many organizations—Planning and Development Board for Little Sisters of the Poor Senior Citizens Center, Community Board of St. Mary's Hospital and Medical Center, Chinese for Affirmative Action, Chinese Chamber of Commerce, Chinese Newcomers Service Center and many others. Four times he served as president of the Chinese Six Companies, made up of major family associations in San Francisco's Chinatown.

In 1964, then Mayor John F. Shelley appointed John Yehall Chin to the newly organized Human Rights Commission, and he was reappointed four years later by then Mayor Joseph L. Alioto.

In 1972, he was elected to the Board of Governors of the San Francisco Community College District, the first Chinese American to win a citywide election. He was re-elected in 1976.

A trained accountant, he also had a successful business career and was vice president and manager of the Chinatown Branch of the Bank of the Orient.

For his many activities in the Catholic Church, he received many honors and was knighted by Pope John Paul II in 1981.

His only prolonged absence from San Francisco came during World War II when he served as a translator for the Army and an instructor for the Chinese Air Force.

For 47 years, he was married to Sybil Lum Chin, and he is survived by a son. Terrence, a lawyer in New York.

A modest man, yet a person of remarkable achievement whose legacy of service and selflessness shall never be forgotten.•

WHEN A CITIZENRY LOSES TRUST

• Mr. SIMON. Mr. President, recently, the Peoria Journal Star had an eight-point list of suggestions for citizens on how they can do a better and more responsible job.

I've never seen an editorial like this, and it deserves wide dissemination.

Their suggestions are everything from not asking for more than you can pay for to putting the Nation's interest above our own individual interest.

This is a superb editorial, and I ask to insert it into the RECORD at this point.

The editorial follows:

[From the Peoria Journal Star, Sept. 12, 1994]

WHEN A CITIZENRY LOSES TRUST

U.S. Sen. Paul Simon tells the story of the constituent who approached him at a town meeting and enumerated a dozen additional services he wanted from government. Simon told the man he'd see what he could do.

"And one more thing," the constituent said.

"What might that be?" Simon asked.

"Cut my taxes."

Yesterday we reflected on the obligations of government to the citizenry—specifically, the obligations of Congress and the president. We suggested eight steps elected officials might take to restore the trust Americans say they have lost in Washington. Today, we offer eight steps American citizens might themselves take. In a democracy, government is not a "they" but a "we."

1. We begin by suggesting—you guessed it—that Americans not ask more of government than they are willing to pay for. Funny, isn't it, how we expect to pay a hefty price to feed the family, more if the family grows, and we acknowledge that housing is expensive, more so if the house grows. But when it comes to paying for new roads or schools, to keeping the water clean and the parks open another year, we scream that we'd be able to afford everything we want next year on last year's taxes, if it weren't for the waste, fraud and abuse. The result, on the federal level, is a $4.7 trillion debt.

2. Educate yourself. Not just to get a good job but to be a good citizen. Pay attention to what's going on. Read all sides of an argument before making up your mind. Subscribe to a newspaper—more than one, if you can afford it. Benjamin Rush, an 18th-century Philadelphia doctor and freedom fighter, was so convinced of the essential nature of newspapers to a democracy that he proposed they travel the mail, postage-free. (He also suggested that one-fourth of the revenue being spent on the nation's capital be set aside for a federal university and that only its graduates be permitted to hold office.) We won't go quite as far as Rush, but we do admire this sentiment: "Let every man exert himself in promoting virtue and knowledge in our country, and we shall soon become good republicans."

3. Don't leave government to others. The genius of self-government is in the first half of the word. Join the League of Women Voters. Go to a party meeting. Support candidates. Run for office yourself. Be constructive; criticism comes far too easy. Understand that our form of government does not succeed untended, like a pine in the woods. It requires participation, like a rose in a garden.

4. Applaud leaders who listen to you, study an issue, give it their best judgment—then do what they believe is right. Support not just those legislators who always seem to agree with you, but those who disagree wisely. Do not send a puppet or a poll-reader to Congress. Do not be a one-issue voter.

5. Celebrate and defend what Americans have in common. Listen to what someone who disagrees with you has to say. He might have a point; you could change your mind—of his. Heed Thomas Jefferson's words: "Every difference of opinion is not a difference of principle."

6. Resist the separation of America into dueling interest groups. Guard against the impulse to make other Americans scapegoats for the nation's problems. Still appropriate is the warning George Washington issued in his farewell address about those who would "make the public administration the mirror of the ill-concerted and incongruous projects of faction rather than the organ of consistent and wholesome plans digested by common councils and modified by mutual interests." Otherwise, he said, "cunning, ambitious and unprincipled men will be enabled to subvert the power of the people and to usurp for themselves the reins of government."

7. Put the country's interests above your own, and the future above the present. Your leaders need your encouragement to do likewise.

8. The next time you lose faith in those you elect to office, ask yourself if you'd have more faith in the leaders of France or Italy or Russia or Canada or * * * you name the country. Remember that Americans have been despairing over their government since they first experimented with it.

The answer, Jefferson said in 1801, was not to be found in abandonment but in reaffirmation of "our own federal and republican principles, our attachment to union and representative government." Jefferson begged "the honest patriot" to recommit himself to a government that he believed was still "the world's best hope." That's still pretty good advice.•

GERMANTOWN FRIENDS SCHOOL

• Mr. WOFFORD. Mr. President, this year the Germantown Friends School celebrates its sesquicentennial anniversary. I ask my colleagues to join me in congratulating the students, teachers, parents, and alumni of the Germantown Friends School on this important milestone.

Since its founding in 1845, the Germantown Friends School has evolved from a one-room schoolhouse to an educational community of 850 students and 180 staff members. The school has provided quality kindergarten through twelfth grade education based on the Quaker principles of truthfulness, simplicity, self-discipline, respect for diverse heritages and experiences, peaceful resolution of conflict, and responsibility to the community.

Through its curriculum and activities, Germantown Friends School instills in its students the values that education, respect for others, and service to the community are part of a lifelong process. The school takes pride in its national reputation for providing students with valuable tools they can use as they pursue new dreams and goals.

As a former educator, I would like to commemorate the achievements of the Germantown Friends School and salute them on their contributions and achievements during the last 150 years.•

SENATOR COHEN'S HEALTH CARE FRAUD AND ABUSE AMENDMENT

• Mr. DURENBERGER. Mr. President, I rise today in support of the amendment offered last week by the Senator from Maine to combat fraud and abuse in our health care system.

Mr. President, the scope of health care fraud and abuse and its cost to our economy is staggering.

In July of this year, Senator COHEN released a report detailing the findings of a yearlong study undertaken by his minority staff on the Special Committee on Aging.

In his report, Senator COHEN pointed out that health care fraud and abuse accounts for as much as 10 percent of all health care spending. That means that, in 1994 alone, health care fraud and abuse will cost the citizens of this country over $100 billion. That's roughly $280 million in losses each day, $11.5 million each hour.

Mr. President, those figures are so overwhelming, they defy comprehension. By way of comparison, over the last 5 years, estimated losses from these fraudulent activities totaled roughly $418 billion—almost four times as much as the cost of the entire savings and loan crisis to date.

We should act—now—to stop this financial hemorrhage. We cannot afford, and must not tolerate, such larceny on a massive scale.

Mr. President, Senator COHEN has for years lead the fight within this body against health care fraud and abuse. He has worked extremely hard both to expose the fraud rampant throughout our health care system and to craft the legislative means to attach that fraud.

Characteristically, Senator COHEN has approached this issue in a deliberate and thoughtful manner. His recent report on health care fraud, which I strongly urge my colleagues to read, presents a detailed analysis of the factors which permit health care fraud to fester, and, based on that analysis, proposes a specific set of recommendations to reduce the pervasive fraud and abuse.

The amendment before us builds on those recommendations, together with the insights and comments offered by a broad range of parties engaged in the debate over how best to fight health care fraud and abuse. Indeed, I am gratified to note that, throughout the drafting process, Senator COHEN has solicited and—to the extent he could responsibly do so—incorporated comments from all interested parties, be they in Congress, the executive branch, or the private sector.

Mr. President, as Senator COHEN explained in detail in his recent report on health care fraud and abuse, current law is flawed in two fundamental ways.

First, and most importantly, current law fails to provide sufficient means to root out health care fraud.

Senator COHEN's amendment addresses this failing by establishing a new health care fraud statute in title 18 of the United States Code and expanding the capacity of the Secretary of Health and Human Services, and the Attorney General to fight fraud and abuse through the creation of an all-payer national health care fraud program. Law enforcement efforts would be further aided by more thorough data collection, a wider range of penalties, and additional funding through the health care fraud and abuse control account.

Second, current law fails to provide honest citizens who seek to abide by the law with sufficient guidance to delineate the scope of permitted conduct.

Senator COHEN's amendment remedies this by establishing procedures for regulators to solicit and adopt modifications to the current safe harbors to the antifraud statutes which are proposed by the public. Furthermore, the Inspector General, in consultation with the Attorney General, would be directed to issue appropriate interpretive rulings regarding the application of the antifraud laws.

Mr. President, that additional guidance is a key reform. Ironically, though current law does not effectively curtail billions of dollars worth of fraudulent activity, its uncertain application does impeded certain transactions among law-abiding parties which may be entirely proper. In particular, the current safe harbors are of little use to even the most conscientious parties. Senator COHEN's amendment would provide a means for persons acting in good faith who want to ensure that their conduct is entirely legal to seek specific guidance from the persons responsible for enforcing the law.

In closing, Mr. President, I once again wish to point out that the amendment presented by Senator COHEN is the culmination of many years of effort. I commend Senator COHEN for that effort. I was proud to support this amendment when it was incorporated in the mainstream coalition's health care reform proposal, and I am proud to support it. I regret the fact that Senator COHEN withdrew his amendment and hope this will be a priority for the 104th Congress as it continues health care reform debate.•

OUR ECONOMY NEEDS GLOBAL ATTENTION

• Mr. SIMON. Mr. President, the Chicago Tribune on Sunday, September 25, 1994, carried an op-ed piece by Ambassador Pamela Harriman outlining the trade decisions that we have to make and why we should make those decisions affirmatively.

I appreciate this contribution by Ambassador Harriman, and I ask that it be inserted into the RECORD at this point.

The article follows:

[From the Chicago Tribune, Sept. 25, 1994]

OUR ECONOMY NEEDS GLOBAL ATTENTION

(By Pamela Harriman)

Within the next two weeks, Congress will vote on a matter of great importance, one which will shape the economy of the United States and the world far into the future. Yet the issue—approval of the global trade agreement known as the Uruguay Round—has received relatively little attention in these tumultuous months in Washington.

It took seven years of negotiations to bring the Round to a close. During long, hard bargaining, particularly during the concluding weeks, our national interests were pressed strongly and successfully. From my vantage point, representing the United States in France—a crucial player in the world trading system—the very difficulty of the last months of negotiations demonstrates how finely wrought the agreement is, in order to advance both our own economic interests and the interests we share with our trading partners. In the end, we were able to forge an accord because they came to agree with us on three fundamental points:

Growth in international trade is essential for national economic health.

The trading system needs rules for areas such as agriculture, services and intellectual property.

And disagreements over trade will not disappear, even in free trade areas; it is better to have in place a set of principles and a mechanism to resolve disputes.

Any agreement negotiated among 128 nations involves compromise: each of the parties can find things in the package to criticize. But the benefits of the Uruguay Round far outweigh any problems. Congressional approval is critical for two reasons: our economy needs it for future growth and our leadership in the world demands it.

The accord provides a stronger, more reliable trading system that plays to American strengths. It cuts foreign tariffs on manufactured products by more than one third, the largest reduction in history. It greatly expands export opportunities for our farmers by eliminating all non-tariff barriers, including quotas, and significantly reducing tariffs. Firms and workers who make pharmaceutical, entertainment, software and other products gain new protection for their intellectual property. American exporters of services, such as accounting, advertising, computer services, tourism, engineering and construction are guaranteed more open foreign markets as well. Finally, the agreement streamlines the process for dealing with trade disputes, ensuring that all countries live by the same rules—a major objective set for U.S. negotiators by the Congress.

The U.S. recently emerged from a deep recession. Our companies and workers went through a painful restructuring, but they are now the most efficient and competitive in the world.

Predictability, much has been made of the possibility that the World Trade Organization might decide against us in a trade dispute. Some claim will diminish our sovereignty. That is a caricature that membership in the World Trade Organization raised every so often against international advances from the League of Nations to the International Monetary Fund to the UN. In fact, the World Trade Organization rulings will set guidelines for our practices, but will not dictate specific action on our part.

Even more important, a loss of nerve now whether a defeat this year or a delay until next year while the rest of the world moves ahead—would deal a body blow to markets worldwide. Negative repercussions would be felt across the American economy and, indeed, around the world.

Such failure or hesitation would also be read as a retreat from our historical commitment to free trade. The current global trading system arose from the trade liberalization treaties that the United States began negotiating even before World War II, as we recovered from the isolationist disaster of the Smoot-Hawley tariff. We have been at the center of every round of trade negotiations since then because it has been in our nation's interest—and in the world's interest—that we lead.

The trading system of the past was not up to the challenges of an expanding global economy. In the Uruguay Round, sectors that caused the most difficulty, including trade in agriculture, textiles, services and investment, will be dealt with realistically for the first time. We are committed to deal with the remaining challenges, such as aircraft, financial services, steel and audiovisual products.

Many of these are issues of particular difficulty here in France, where some fear their economic system may not have the flexibility necessary to compete on an equal footing in the kind of global market that is emerging. But France has accepted the Uruguay Round accord. It would be much more difficult, if not impossible, to make progress on these and other important issues with the French and with our other trading partners if Congress were to reject it, or treat it as partisan issue. Other great accomplishments—winning WWII, rebuilding Western Europe, staying the course in the Cold War, even NAFTA—were accomplished by Democrats and Republicans working together. History will judge harshly those who would turn our nation's place in the global economy into a political football.

In France this summer, we celebrated the 50th anniversary of a liberation largely won by the blood and sweat of a generation of Americans convinced that their country needed to play a positive role in global affairs, and optimistic that they could make a real difference. They were right then, and the same principles are true today. The future of the international economy will be molded by our decisions now. Our industry and our agriculture are the world's most efficient. We will prosper in the world, or fall behind. But we cannot opt out. It is time for decision, not delay.●

THE RICKI TIGERT NOMINATION

Mr. RIEGLE. Mr. President, I want to commend the Senator from Washington [Mrs. MURRAY] for the outstanding effort she has made with respect to the Ricki Tigert nomination, and I think that was obvious when the votes were taken.

I also want to say to our colleagues on the Republican side, both those who voted for the nomination and those who have agreed, albeit in some cases reluctantly, to the unanimous-consent request just entered into to enable this nomination to come to a conclusion tomorrow, I am very grateful for that decision, for that degree of bipartisan effort, to bring this matter to a close and to give Ricki Tigert a fair chance to assume this important position. I think she will be confirmed tomorrow, as she should be.

But, again, I want to congratulate the Senator from Washington.

Mrs. MURRAY. Let me also thank the chairman of the Banking Committee, the Senator from Michigan, who has done an outstanding job pushing much legislation through in my 1½-year tenure here, and also for his getting the Tigert nomination through. I appreciate all his help.

Mr. RIEGLE. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

SENATE PILOT TEST OF ON-DEMAND PRINTING

Mr. FORD. Mr. President, I am pleased to announce that the Senate will begin a pilot test of on-demand printing this fall and through the first session of the 104th Congress. This program has been put together with the full cooperation and assistance of the Secretary of the Senate, the Senate Sergeant at Arms, the Government Printing Office, the Joint Committee on Printing, and the Senate Rules Committee.

Let me briefly explain the problem that hopefully we are going to fix. Title 44 of the United States Code, which deals with public printing, requires the Senate to print a specified number of bills and resolutions, usually several hundred copies. These numbers were established to ensure full public access to legislative proposals long before we had today's new communications, printing, and computing technologies. Consequently, we are printing large numbers of documents that we never use.

To give you an idea of the magnitude of this problem; at the end of the two sessions of the last Congress the Senate Document Room staff disposed of over 40 million pages of documents that were not used. Mr. President, I say to friends, that required almost 225 cords of wood—or 3,370 trees—covering 9½ acres. That is enough wood to build 11 single family homes.

Hopefully, here is how the program will work. The Government Printing Office will place a copy machine in the Senate Document Room which will be linked by a fiber optic communication line to the central GPO building. When additional copies of a bill, resolution, or other official documents are requested, the text of that document will be communicated electronically from the GPO building to this copy machine and the exact number of needed copies will be produced on the spot. This will eliminate the need to stock large quantities which end up in a recycle bin.

Under section 707 of title 44, the Joint Committee on Printing can limit the number of copies printed in the interest of economy and efficiency. Therefore, I have asked the Secretary of the Senate to examine the required print volumes and provide lower limits to meet known requirements, and to use the on-demand printing facility to supply additional copies when requested.

Next year when we examine the results of the pilot, I am confident that we will have produced a win-win situation. That is, we will give users the documents they need when they need them—we will have had a favorable impact on the environment—and we will have saved the taxpayers a large quantity of money.

Mr. President, I look forward to putting this into effect. I thank the Chair and yield the floor.

Mrs. HUTCHISON addressed the Chair.

LESSONS LEARNED FROM SOMALIA

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. President, today there was a ceremony at Arlington National Cemetery. It was the first anniversary of the 18 rangers that were killed in Somalia and there was a ceremony that commemorated that event. There was a wonderful article in the Wall Street Journal this morning by Larry Joyce whose son was killed on that mission 1 year ago.

I want to take this opportunity, because I think it is very important, to say that we should have learned some lessons from Somalia; and for Larry Joyce to feel that the loss of his son, Casey, was worth something, I think we are going to have to show Larry Joyce and the parents of those rangers that were killed that, in fact, their deaths will save the lives of others.

I think we need to look at the lesson because we are in a situation that is very similar right now, and we have American troops in harm's way in Haiti. I think we need to make sure that the mission is clear. They have been sent over there on a U.N. resolution to try to bring democracy to Haiti. I want to help the people of Haiti, but I think we must determine if there is a United States security interest that would put our troops in harm's way that is a mission that we have accepted in this country that would allow for the spilling of American blood in Haiti.

I have asked this question. I have asked it on the floor of the United States Senate, and I have asked it many times: What is the mission in Haiti? I think it is time for the President to define the mission.

We were told in briefings that our troops would not get between Haitian-on-Haitian violence, and yet we are seeing on television that there is much violence in Haiti, and we see our soldiers with their bayonets or their guns standing in the middle of this.

I am very concerned about the safety of our troops. I know everyone is. I know all Americans are concerned, and I know that every Member of the U.S. Senate is concerned.

So I just want to say that I think this day, the 1-year anniversary of what happened in Somalia when we lost 18 of our rangers, is an appropriate time to say, "Mr. President, define the mission, tell us what your timetable is and when will we begin to see our troops come home and when will we be finished with this phase of this mission?"

I think it is a very important question, and I want to say that I honor the 18 rangers who were killed in Somalia. I know all Americans do, and I think we should have a moment to say thank you and to say that we want the loss of life in Somalia to make a difference so that our troops are brought home from Haiti so that we will not again send our American troops into harm's way unless there is a United States security interest, unless there is a clear United States mission, and unless we know what our plan is, how our troops go in, what they are going to do when they get there, and how we are going to get them out.

I ask unanimous consent that the article written by Larry Joyce be printed in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Oct. 3, 1994]

REMEMBER THE LOSSES—AND LESSONS—OF SOMALIA

(By Larry E. Joyce)

On this day in 1906 my father was born in dusty Segeville, Texas. And on the same day in 1993, my son, Army Ranger Sgt. James Casey Joyce, was killed on a dusty street in Mogadishu, Somalia, at the age of 24. Today, I'll call my dad and wish him well on his 88th birthday. And, at a ceremony at Arlington National Cemetery, I'll observe the first anniversary of my family's most tragic loss.

The ceremony was arranged by No Greater Love, a nonprofit group that was formed to honor the memory of those who gave their lives in defense of this nation or who were victims of terrorism. Today, they will remember the 44 members of the armed forces who died in Somalia during Operation Restore Hope. My family will be there, along with the families of the other American casualties of Somalia.

It will be the first time that most of us have met, even though we share an unenviable bond. While we haven't had a chance to discuss it yet, I'm sure we share something else too—the hope that this day of remembrance will remind the nation of the terrible price we pay when our brave young men and women in uniform are sent to enforce an invalid foreign policy.

As we dedicate the tree and the stone monument in Arlington to those 44 young lives, I'll also be reflecting on another memorial two miles away—the one that carries the names of 58,191 of my old comrades. I always hoped that the terrible price my generation paid in Vietnam would not have to be paid by my children or my grandchildren. But that hope was dashed last Oct. 3. Now, I simply hope that the sacrifices of those 44 brave young men are not forgotten.

That is why the No Greater Love ceremony today is so important. Already the media's memory of Somalia is beginning to fade. Reporters and columnists continually refer to President Clinton's foreign policy misadventures and few mention Somalia. Three days before American troops were sent into Haiti, the New York Times reported that the anticipated invasion would be the first time Mr. Clinton had ordered American soldiers into ground combat.

What about Somalia? President Bush sent the first contingent of 25,000 troops to ensure starving Somalis were fed. By the spring of 1993, all but 4,500 troops had been withdrawn and the mission was turned over to the United Nations. The responsibility for what happened to American troops in Somalia after that lies at the feet of the current White House resident.

Our policy in Somalia changed dramatically when President Clinton let the U.N. secretary-general talk him into switching a U.N. humanitarian mission into a unilateral U.S. manhunt. In August 1993, Mr. Clinton ordered a 400-man Ranger Task Force to capture Somali warlord Mohammed Farah Aidid.

Like our first naive foray into Vietnam three decades earlier, this new mission was ill-conceived. The task force was too small. The Rangers were denied their normal air support. Tanks and armored personnel carriers that could have reinforced or extracted them were also denied. And on Oct. 3, when they were outnumbered 30 to 1, the Rangers desperately needed all those resources.

Within 30 days, President Clinton realized what most military professionals knew from the outset: It was virtually impossible to track down an urban guerrilla warfare expert in the back alleys of Mogadishu, where he was once the police chief.

Ironically, it was former President Carter who had told President Clinton that a military solution woundn't work, but a diplomatic one would. Because of a previous relationship with Gen. Aidid, President Carter had made contact with him and reported to President Clinton—in the middle of last September—that Gen. Aidid was ready to negotiate.

If we had already decided in mid to late September to negotiate with Gen. Aidid, why was the Oct. 3 raid launched that resulted in the deaths of 18 more Americans? I got the chance to ask President Clinton that question face-to-face on May 12. The answer was, "I don't know." He told me he didn't want to micromanage the military and had intentionally remained disengaged from military matters in Somalia.

Tragically, no one told the Rangers that the rules had changed and to "back off" on capturing Gen. Aidid so a diplomatic solution could be put in place. And Robert Oakley, President Clinton's former special envoy to Somalia, is the only one close to the administration who has publicly acknowledged that there was a breakdown in communications between the White House and the military. He made that admission to "Dateline NBC" this July.

I hope President Clinton and future commanders in chief learn this from the foreign relations debacle in Somalia: When American troops are in a combat environment, they become the number one priority. Domestic agendas should be put on the back burner until the troops are out of the line of fire. The president must constantly stay abreast of the military situation to ensure that military actions are consistent with current foreign policy.

Had President Clinton taken these simple steps, there would be at least 18 fewer young men for us to mourn and remember in Arlington today.

Mrs. HUTCHISON. Mr. President, I would just like to say that I commend Larry Joyce for not letting the memory of his son go unheeded. He is saying, as I am saying, let us learn the lessons of Somalia and let us apply them in Haiti and let us apply them in a foreign policy that will stand for all the future missions that we take; and that is, we must make sure that our troops who sign up to defend the freedom of this country go only when there is a clear U.S. security interest.

Thank you, Mr. President. I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

LOBBYING DISCLOSURE ACT OF 1994—CONFERENCE REPORT

MOTION TO PROCEED

Mr. MITCHELL. Mr. President, I move to proceed to the conference report accompanying S. 349, the Lobbying Disclosure Act, and ask that the clerk report.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will report the conference report.

The bill clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 349) to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceeding of the RECORD of September 26, 1994.)

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk, and I ask that it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to close the debate on the conference report to accompany S. 349, the Lobbying Disclosure Act:

Carl Levin, Daniel K. Akaka, Daniel Inouye, Byron L. Dorgan, Harry Reid, J. Lieberman, Patty Murray, Dianne Feinstein, Frank R. Lautenberg, Russell D. Feingold, Tom Harkin, Paul Simon, Paul Wellstone, Howard Metzenbaum, Claiborne Pell, Christohpher Dodd, Herb Kohl.

VISIT TO THE SENATE BY VICE PREMIER OF THE PEOPLE'S REPUBLIC OF CHINA

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, it is with a great deal of pleasure that I introduce to my colleagues the Vice Premier of the People's Republic of China, who is also the Foreign Minister of China, Minister Chen, who is with us in the Chamber at this time.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

LOBBYING DISCLOSURE CONFERENCE REPORT

Mr. LEVIN. Mr. President, I am terribly disappointed that it was necessary to file a cloture motion on this lobbying disclosure conference report. I hope it will not get caught in the grip of filibuster politics. It contains the toughest disclosure requirements for paid professional lobbyists in the history of this country. The bill would close the loopholes in existing lobbying registration laws. It would streamline reporting requirements. It would reduce paperwork and provide effective administration and enforcement.

Senator COHEN and I introduced this bill on a bipartisan basis in the Senate with Senators GLENN, ROTH, BOREN, CAMPBELL, STEVENS, MCCAIN, DECONCINI, and BRYAN as cosponsors. The Senate approved the bill a year ago by a near unanimous vote of 95 to 2. The conference report was signed by all Senate conferees from both parties and passed the House last Thursday by a bipartisan vote of 306 to 112.

A few inaccurate statements have been made about this conference report in the last few days. Contrary to some reports, the bill would not require citizens who call Congress or come to Washington to express their own views to register as lobbyists. It would not place a gag rule on grassroots lobbying or limit grassroots lobbying in any way. It would not require grassroots organizations to disclose their membership lists or their contributors. It would not require churches to register as lobbyists.

Now, let me just set the record straight. First—and I am going to repeat this a few times because there are some people who have spread a statement to the contrary which is inaccurate—only paid, professional lobbyists would be required to register under this bill, just as in current law. Only paid, professional lobbyists would be required to register under this bill just as it is with current law. Current law, however, is filled with such loopholes that maybe three-quarters of the professional lobbyists in this town escape registering so that we had this bipartisan bill introduced. And so for the third time, so there is no mistake, only paid, professional lobbyists are required to register under this bill.

Just as with the bill that passed the Senate, the conference report specifically defines a lobbyist as an individual who is "employed or retained by a client for financial or other compensation" to make those lobbying contacts. And, of course, there are de minimis exclusions in the bill, but no one has raised an issue about the de minimis exclusion. There has been a suggestion that somehow or other people who are not paid, professional lobbyists might be required to register, and that is not true.

The Senate report on the bill made the same statement:

> The bill focuses on paid, professional lobbyists because it is the element of pay that justifies the disclosure requirements. For this reason [that element of pay] the registration requirements of the bill apply only to paid lobbyists.

That is from the Senate report. Nobody who lobbies on his or her own behalf or on behalf of anyone else in a volunteer capacity would be required to register. You do not have to register if you call your Member of Congress. You do not have to register if you write your Member of Congress. You do not have to register if you come to Washington and meet with Members of Congress. You do not have to register if you join an organization that lobbies Congress. You do not have to register if you contribute to an organization that lobbies Congress. You do not have to register if you sign a petition, join a picket line, or march in a parade. You do not have to register if you call a talk show. You only have to register, just as under current law, if you are paid by a client to lobby on behalf of the client to express the client's views—not your own, the client's views. Only paid, professional lobbyists have to register.

Second, the bill would not place any limitations or disclosure requirements on grassroots lobbying by citizens who organize to present their own views to the Congress. What the bill does do is require paid, professional lobbyists to estimate how much money they pay on behalf of a special interest they represent to stimulate the lobbying at the grassroots to Congress. It is only the paid, professional lobbyists who are required to register, who are required to estimate how much they paid out.

Only if a lobbyist who is otherwise required to register spends money to conduct that kind of a campaign, that paid, professional lobbyist then must estimate the amount of money the lobbyist and its employees spend in that effort in the name of the person that they hire to implement that effort.

Now, the reason for that provision is best seen from recent press articles on these so-called rent-a-firestorm lobbying campaigns by paid, professional lobbyists. And the description of those rent-a-firestorm lobbying campaigns, sometimes called astroturf lobbying, because it is artificially created, is set forth in a number of press clippings, which I ask unanimous consent be inserted in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. LEVIN. Mr. President, the point is this, that the Lobbying Disclosure Act—and again I emphasize because it is so important, a bipartisan act, and it is important to be kept that way—does not require ordinary citizens to register in connection with grassroots lobbying efforts. It does not require anybody to register or disclose anything unless that person is a paid, professional lobbyist.

Now, some opponents of the bill have suggested that section 104(b)(5) would require paid, professional lobbyists to disclose the names of unpaid individuals or volunteers that they contact as part of a lobbying campaign, and that is incorrect. The bill expressly states in section 103(6) that the employees who must be disclosed do not include volunteers who receive no financial or other financial compensation for their work.

Section 104(b)(5) by its terms requires the disclosure of a person only who is hired by a lobbyist to conduct that astroturf lobbying campaign, and nobody who is called as part of that campaign or who calls Congress as part of that campaign would be required to register as a lobbyist or have their name disclosed in any way.

The provision was added to the bill at a House subcommittee markup on November 22, 1993—about a year ago—where the bill was approved by a unanimous vote, no dissenters from either party, and when the bill passed the House on March 24, 1994, no member of either party raised any concern about the astroturf lobbying provision. Staff for our conferees were briefed on this provision in June where every word of the proposed lobbying disclosure language was gone over. A number of changes were made to the proposed language as a result of concerns that were raised by staff but no concern about this provision.

Mr. President, the suggestion has also been made that section 105(b)(5) would require organizations employing lobbyists to disclose their membership or contributors' lists. This is also untrue. Section 105(b)(5), which was added on the Senate floor, requires paid, professional lobbyists to disclose the name of "any person or entity other than the client who paid the registrant to lobby on behalf of the client." It is only if the bills are paid by somebody else that the identity of the person paying the bills has to be disclosed. Indeed, it was a Republican staff member of the House Judiciary Committee who pointed out that unless you had that language that you would have a major loophole.

As I explained when this provision was adopted by the Senate, it would require only that "if a lobbist's bills are paid by somebody other than a client, the identity of the person who pays the bills would have to be disclosed." (CONGRESSIONAL RECORD, May 5, 1993, page 9278).

The type of case covered by this provision is one that I understand was first raised by the Republican staff for the House Judiciary Committee: What if a lobbying organization could not afford to pay its lobbyists, and a trade association stepped in and paid their bills? Shouldn't that be disclosed? I am not sure how likely that scenario is, but this provision would require such disclosure. In any case, the conference amendment contains the same provision as the Senate bill on this point.

The subject of membership and contributors' lists was discussed extensively in the Governmental Affairs Committee hearings on this bill, and the decision was made that so much disclosure should be required.

The subject of membership and contributors' list was discussed extensively in the Governmental Affairs Committee. At hearings on this bill a decision was made that no such disclosure would be required. As a matter of fact, we went beyond that. It was not just that we were not going to require it. It is that we should not require it because of the first amendment implications if there were such a suggestion. It is our Governmental Affairs Committee language which says that "the Committee believes that a broad requirement to disclose all coalition members would have serious first amendment implications." (S. Rep. 103-37, p. 31.)

So there is no such requirement because we were aware of those implications and acted on them.

Finally, Mr. President, the bill contains express exemptions from registration by religious organizations, media organizations, and yes, even talk-show hosts.

Mr. President, this bill contains express exemptions from registration by religious organizations, even those organizations that have paid professional lobbyists on their staff.

Section 103(9)(B) and 103(10)(B)(xviii) expressly exempt religious organizations, such as churches and associations of churches, from having to register. This exemption was worked out with the major religious denominations prior to its incorporation into the bill. As the Baptist joint committee explained in a September 29, 1994, letter to Representative JOHN BRYANT, the chief sponsor of the legislation on the House side:

> We think that Section 103(9)(B) and 103(10)(B) adequately protect the free exercise rights of churches and religious organizations.
>
> This language has been examined and approved by a number of religious organizations and their church-state experts, including from the Jewish community, mainline protestants and the United States Catholic Conference.

So that letter which we received from the Baptist joint committee sets forth the assurance that we had gotten and that we gave to the major religious organizations and churches that there was no way that, even if they had a paid professional lobbyist on board, they have to register. There is an exemption. That is why this letter was received saying that the free exercise rights of churches and religious organizations is adequately protected.

In other words, even if a religious organization has a paid, professional lobbyist, it is not required to register.

Mr. President, I ask unanimous consent that the text of the letter from the Baptist joint committee, and of similar letters from the Religious Action Center of Reform Judaism and the U.S. Catholic Conference appear in the RECORD immediately following my remarks.

Ther PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1).

Mr. LEVIN. Finally, the bill covers only persons paid to contact Government officials on behalf of clients. Persons expressing their own views, not those of paying clients, are not covered by the bill.

Mr. President, last Friday, the citizens' group Public Citizen put out a factsheet addressing some of the many misstatements that have been made about this bill. The Public Citizen statement concludes, correctly, that only paid, professional lobbyists would be required to register under the bill. I ask unanimous consent that the full text of Public Citizen's factsheet be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Public Citizen]

NEWT GINGRICH AND RUSH LIMBAUGH ARE MISINFORMING THE AMERICAN PEOPLE MYTHS AND FACTS ON THE LOBBYING DISCLOSURE ACT OF 1994

On September 29, 1994, Newt Gingrich and other Members took to the floor of the House to denounce lobbying disclosure legislation. In their statements, they horribly distorted both the intent and effect of this bill. Rush Limbaugh took to the airwaves on the same day, spreading the same misinformation and needlessly alarming religious organizations and average citizens. Here are the facts.

Myth—The bill includes a "grass roots gag rule" that will require ordinary citizens who communicate with members of Congress to register as lobbyists. For example, a staff member of the "California Desert Association" who stays for two nights in a Washington hotel and visits Members of the California delegation will have to register. (Newt Gingrich, R-GA, Cong. Rec. H 10277).

Fact—The only people the legislation defines as lobbyists are those who are paid to make "lobbying contacts"—namely, communications with a member of Congress or his or her staff or an executive branch official. In addition, persons paid to make lobbying contacts who spend less than 10 percent of their time on lobbying activities are not considered lobbyists. Thus, volunteers or private citizens speaking their minds will never have to register, nor will an organization that uses only volunteers or members to contact Congress. A paid staff member of a state organization who makes a few trips to Washington each year to visit Members of Congress is not a lobbyist unless 10 percent of her time (more than a month a year) is spent on lobbying activities. Furthermore, an organization that employs a lobbyist, but spends less than $5,000 in a six month period on lobbying activities, need not register at all.

Myth—The bill will require people who give $10 to the Christian Coalition to be listed on the lobbying registration and reports filed with the Government. (Dan Burton, R-IN, Cong. Rec. H 10275.)

Fact—If the Christian Coalition employs a paid lobbyist, it will register as an organization just like any other organization that lobbies. It will identify the person it employs as a lobbyist. It will not have to list its members or financial supporters. The bill specifically provides that the "client" of the paid lobbyist is the Christian Coalition as an organization, not the Coalition's members. The provision referred to by Rep. Burton only applies to individual lobbyists who register on behalf of a paying client and who are also paid by other entities to lobby on behalf of that client.

Myth—Organizations must report when they communicate with their own constituents. "That is crippling the right of the citizen to be involved." (Newt Gingrich, R-GA, Cong. Rec. H 10278)

Fact—Organizations that urge their members to contact Congress on an issue are engaged in grassroots lobbying communications under the bill. However, only if they have a paid lobbyist on their staff do they have to register. And if they register, all they have to do is make a good faith estimates (within ranges) of expenses of their grassroots communications. Organizations that have no lobbyist do not even have to register. Organizations never have to report on when they communicate with their members or the content of the communications.

Myth—"The bill authorizes fines up to $200,000 against private citizens for failing to register with the new lobbying bureaucracy created by the act. Yet a Member of Congress will not even have his or her name disclosed if he or she breaks the law." (John Doolittle, R–CA, Cong. Rec. H10291)

Fact—The bill subjects lobbyists to fines of $10,000 to $200,000 for "major violations" of the Act. Minor violations are subject to a fine not to exceed $10,000. There is a $200 per week fine for late filing of a registration or report required under the act. The act specifically provides that no penalty shall be assessed until the Director of the Office of Lobbying Registration finds that the person "knew or should have known" that they were acting in violation of the Act. Members have no obligations under the lobbying registration provisions. They are subject to sanctions from the House or Senate Ethics Committees for violation of the new gift rules. Those sanctions include the possibility of fines and even expulsion from the Congress.

Myth—If a religious group "sees a moral issue before the country, they must hire a lobbyist who must divulge lots of things about the religious group involved in our political discourse." (Bob Dornan, R–CA, Cong. Rec. H10275.) The bill allows a government bureaucrat to define "religious freedom." (Newt Gingrich, R–GA, Cong. Rec. H10278.)

Fact—The bill contains two exemptions that are relevant to religious organizations. First, any communication made by a church, an association of churches, or a religious order that constitutes the free exercise of religion or is for the purpose of protecting the right to the free exercise of religion is not a "lobbying contact." Therefore, even if a church has a staff member who is paid to communicate with Congress on such issues, it need not register. The final arbiter of the meaning and application of this provision, as with the entire statute, will be the federal courts, not the Director of the Office of Lobbying Disclosure. Second, even if a church is required to register, when it estimates its expenses incurred in lobbying activities, expenses for grassroots lobbying communications conducted by its own staff are exempt. The religious exemption provisions were approved by the United States Catholic Conference, the Baptist Joint Committee, and the Religious Action Center of Reform Judaism.

The only thing that a lobbyist or lobbying firm hired by a religious organization must disclose about that organization is its address and how much it has been paid for its services.

Myth—The conference inserted the grassroots lobbying provisions into the bill at the last minute. (Rush Limbaugh, 9/29/94.)

Fact—Virtually these exact provisions have been in the bill since the subcommittee markup on November 22, 1993. No one mentioned them when the bill passed the House on March 24, 1994. Newt Gingrich did not even speak on the bill in March.

Myth—Radio talk show hosts could be considered lobbyists under this bill. (Rush Limbaugh, 9/29/94.)

Fact—The bill's definition of lobbying contact specifically excludes any communication made through radio, TV, cable TV, or other medium of mass communication. Even if it didn't, Limbaugh expresses his views on behalf of himself, not his employer, so he would not be considered a lobbyist.

Mr. LEVIN. Mr. President, I hope that this sets the record straight, and we can move forward to pass this bill and ensure that paid, professional lobbyists can no longer ignore the law and avoid public disclosure of their activities.

EXHIBIT 1

[From the Chicago Tribune, Dec. 6, 1992]

MORE AND MORE, LOBBYISTS CALL SHOTS IN DC

(By: Christopher Drew and Michael Tackett)

Soon after the U.S. Senate passed an amendment last year that would have forced banks to lower the interest rate on credit cards, Jack Bonner's phone was ringing.

Banking industry officials, fearful of losing billions in profits, urgently needed Bonner's help. They wanted his "grass-roots" lobbying firm to create the appearance of a spontaneous uprising against the measure.

The amendment had enormous appeal. What consumer wouldn't want to pay less interest? And why should banks be able to charge 19 percent interest on credit card purchases, more than 10 percentage points above the prime lending rate?

The Senate had approved the amendment by an overwhelming vote, 79–14. Sen. Alfonse D'Amato (R-N.Y.), the amendment's sponsor, bounced all over television, delighting in the role of the little guy's champion. House Speaker Tom Foley (D-Wash.) voiced initial support. And President Bush had started the push by calling for lower rates in a speech.

The issue had gale-force Washington wind behind it.

"It came out of the blue," said Philip Corwin, a lobbyist for the American Bankers Association. "Everybody concerned was panicked."

The banking industry wanted Bonner to fan opposition among influential people in the congressional districts of 10 carefully selected members of the House Banking Committee. With the support of these members, along with those considered reliable allies, the bankers believed they could kill the amendment to a broader banking bill.

Bonner sells instant democracy. He offers clients help in winning a legislative fight "predicated on the belief" that the best way to sway elected officials to vote in a particular way is to prove "that a broad cross section of their constituency understands the issue and supports a certain legislative outcome."

What are public officials responsive to? "One is, of course, good public policy as they see it," said Bonner, a one-time aide to the late Sen. John Heinz (R-Pa.). "And two is what gets in their face."

To fight the credit card amendment, hundreds of Bonner's people, schooled in guerrilla tactics of persuasion, made more than 10,000 phone calls over a four-day period, including a weekend, urging voters to call or write their lawmakers.

His people are not standard telemarketers who speak in monotones. He calls them "unemployed policy junkies," available only in Washington's unique labor pool. Many had worked in politics and government; they knew how to construct an argument and fervently pitched the banking industry position.

The callers' argument was that if the amendment became law, millions of people might have to give up their credit cards. (The bankers association now concedes it had no firm evidence to support the claim.) They also argued that small businesses would suffer because the number of credit buyers would drop.

"They want to scare the hell out of people," said a staff member of the House Banking Committee. "There's no hard evidence."

If the telephone pitch worked, Bonner's people immediately patched the voters through to their representative's office or persuaded them to write a personalized letter.

Bonner claims a high success rate, and the reception area of his downtown office is lined with framed letters of praise from his well-heeled clients. His fees may support his claim. The American Bankers Association paid Bonner & Associates at least $400,000 to fight the effort to lower credit card interest rates. Collectively, Bonner and other bank lobbyists created a fog so thick that Congress did what it usually does when faced with enormous pressure: preserve the status quo. The amendment died in a House-Senate conference committee.

Curtis Prins, staff director of a House banking subcommittee, said an operation like Bonner's "prostitutes the legislative process" by spreading questionable information.

Bonner disagrees, saying, "We are in a democracy, in case anybody has forgotten. A democracy is a symphony of noise, oboes to kettle drums. The more competition there is from the Right, the Left, the center, the healthier democracy is."

"Everyone spins," he said. "Civil rights groups, environmentalists, the business groups, every group on God's green acre spins."

Bonner's business is a niche market in the influence game, a growing segment of Washington's burgeoning fog industry that significantly affects daily public policy decisions.

"Creating a situation," "creating an environment" and "allowing the other side to be heard" are catch phrases of Washington's fog merchants, those who take facts, craft them into a politically salable message and attempt to influence government policy.

Few people realize just how huge the influence industry has grown, how much it has insinuated itself into the core of the governmental decision-making process and how much it drowns out other voices in a national debate.

This vast army of lobbyists, consultant groups, political law firms, public relations wizards and special interest groups has become a virtual fourth branch of government—one that remains powerful no matter which party is in the White House.

Many in public affairs believe the industry's spectacular growth also is tilting the balance of power in America and corrupting the basic character of its democracy.

In his book "Keeping Faith," Jimmy Carter, the last president to work with a Congress led by his own party, warned that the influence-peddlers were "a growing menace to our democratic system of government."

Since Carter left office in 1981, the situation has worsened considerably. The number of lawyers, lobbyists and public relations consultants in Washington trying to influence government has tripled, to perhaps 20,000—or about 37 for every member of Congress.

And their hold over public policy has become so tight that it practically takes a political or economic crisis for leaders to break through it.

From midway in President Ronald Reagan's first term through the Bush administration, the national government has seemed paralyzed in the face of critical domestic issues.

This was partly because of the incessant bickering between the Republican White House and the Democratic Congress. But the paralysis also reflects the growing power of the special interest groups.

Many of them have a virtual veto over legislation in their fields and can rip apart proposals they dislike. When their interests diverge, they often clash so ferociously that political leaders are unable to forge enough of a consensus to make bold descisions of any kind.

On Nov. 3, voters elected Bill Clinton, and sent 120 new members to Congress, partly out of hope for breaking through the gridlock. But to fulfill his promises for sweeping changes in economic and health policy, Clinton will have to steer his programs through hundreds of groups interested in preserving the status quo.

"The bottom line is that we have to change the way business is done in Washington if we are going to achieve change in the country," said Fred Wertheimer, president of Common Cause, the citizens lobby that has long pressed for reform of the campaign-finance system.

No presidential candidate recognized this more than Ross Perot. If he were elected president, the Texas industrialist said, "All these fellows with the thousand-dollar suits and alligator shoes running up and down the halls of Congress . . . they'll be over there in the Smithsonian, you know, because we're going to get rid of them."

The influence consultants don't spend tax dollars, at least not directly. Yet their actions affect nearly every aspect of citizens' lives, from the price of medicine to the quality of food, the safety of a car and the very security of American jobs.

The $400 billion bailout of the savings and loan industry, the graft and corruption at the Department of Housing and Urban Development, the theft and abuse by dozens of Pentagon contractors who traded on inside information all grew from the mercenary culture as it tried to manipulate government regulation or procurement for profit.

It was chemical companies, computer groups and agribusiness firms interested in export sales that pushed President Bush to dismiss worries about Saddam Hussein's erratic behavior right up until the Iraqi leader invaded Kuwait. When Bush indicated he was ready to go to war to liberate Kuwait, Kuwait spent nearly $20 million on public relations and lobbying to make sure that Congress and the American public would support the president.

Some say the actions of lobbyists also have damaged the United States' competitive standing in the world economy. As international trade expands, well-connected American lobbyists often represent Japanese and other foreign corporations in their battles with Washington, sometimes at a direct cost in American jobs.

Economist Mancur Olson of the University of Maryland contends that as business groups win government subsidies or restraints on their competitors, they reduce the efficiency and the flexibility of the economy and slow America's economic growth. Olson says that the defeat suffered by Germany and Japan in World War II shook up their power structures and made it easier for innovative economic strategies to prevail.

To be sure, no one disputes the right of any group to petition the government or to seek a guide through its bureaucratic maze. And everyone knows that a well-placed bit of pressure long has been a part of life in Washington.

James Madison, for example, called some of Washington's earliest special interest groups the "mischiefs of faction." When Ulysses Grant saw influence-peddlers in the lobby of the Willard Hotel, he coined a phrase lobbyists. Franklin D. Roosevelt called them parasites.

But the lobbying community generally operated on the fringe of Washington power until the late 1960s and the early 1970s, when an explosion of federal regulations greatly extended the reach of government and convinced many corporations that they should be represented in the nation's capital.

Post-Watergate reforms in campaign financing made the under-the-table cash payment nearly extinct but created a whole gamut of legal devices, such as political action committees, to pay for influence. The 1970s also brought changes to reduce the power of the congressional leadership, fragmenting discipline in Congress and giving lobbyists more levers to appeal.

During the Reagan and Bush administrations, the demand for lobbyists soared even more, as the tension between regulation and deregulation made the executive branch an increasingly important place to do business.

The new pressure points are the Food and Drug Administration, the Commerce Department and the U.S. Trade Representative's office, all places where influence is harder to track than in Congress.

Nowadays, the influence industry has some widely known players, including nearly 2,000 business and trade groups, from the National Association of Home Builders to the Independent Insurance Agents of America. Defense contractors, automakers, computer companies and other big firms have "governmental affairs" offices to oversee their interests in Washington.

The trade groups and corporations usually square off against labor unions and consumer and environmental organizations ranging from the Sierra Club to dozens of groups linked to Ralph Nader. But sometimes they battle among themselves. The American Newspaper Publishers Association, for instance, is lobbying Congress to keep the regional Bell telephone companies from offering classified advertising and stock quotations over their phone lines.

Then there are several thousand influence consultants, whose law, lobby and public relations firms line Washington's K Street and nearby avenues.

Most of them work for corporations and trade groups, and their calling card is normally the strength of their political connections.

In many ways, lobbying, like politics, is the most human of endeavors. The lobbyist's job is to get in to see the chief decision-maker and win him or her over—through friendship, blandishments or political ties. But in other ways, the influence business has become as complex and arcane as science and as nasty as political campaigning.

From lavish offices close to the White House or the Capitol, Republican and Democratic lobbyists alike sell their Rolodexes full of contacts and an intimate knowledge of how government works with little allegiance to anything but their own clout.

"They're courtiers," said William von Raab, who served for eight years as U.S. Customs Service commissioner in the Reagan administration and now does some lobbying himself.

"It's Louis XIV all over again," he added. "In that era, if you were a courtier, you made your money by selling access, and these people do the same thing except they don't live in the palace."

Every day, lobbyists and government officials share lunch table at expensive Washington restaurants, such as 21 Federal and the Jockey Club at the Ritz-Carlton Hotel. Lobbyists buy up blocks of tickets to Washington Redskins games and Kennedy Center shows to entertain officials. They play host to the most lavish parties in town. They put together golf outings, Potomac River cruises and duck shoots on nearby Chesapeake Bay. Some are said to be willing losers in poker games with somebody they want to influence.

All of this has created a cocoon-like atmosphere in Washington. Indeed, the governing circles have become so inbred that harried members of Congress often turn to friendly lobbyists for advice on how to give—or even let them draft bills.

But if quiet persuasion fails, today's lobbyists do not hesitate to launch high-tech "grass-roots" campaigns—using advertisements, phone banks, a flood of computer-generated letters and hastily formed coalitions of citizen groups—to place their own spin on an issue and create the appearance of enormous public pressure. Some of the top lobbyists also work as political campaign strategists and they know that controlling the perception of an issue in the media is crucial.

In many ways, information has become as important a form of political currency as campaign contributions. But critics ask: What happens if the only voice a decision-maker hears is distorted or one that is simply the loudest or best connected that money can buy?

Essential Information, a self-described public interest research group, studied front groups and concluded, "Every day, groups with deceptive-sounding names, groups that represent major American corporate powers, are seeking to convince journalists and the American people that the groups represent something more than the usual corporate interests.

"The reason is simple—it's easier to believe disinformation when disinformation is coming from an apparently disinterested party."

One example is the National Wetlands Coalition. It sounds like an environmental protection group, but it actually is comprised of real estate developers and oil companies that wants to reduce the amount of wetlands protection by federal law.

None of this comes cheaply, and the lobbyists don't always succeed. The most powerful can charge each client monthly retainers of anywhere from $10,000 to more than $100,000, depending on the amount of work. A number of the best personally earn anywhere from $500,000 to several million a year.

But if a company can earn an extra $5 million by preventing a regulation or by winning a contract, 10 percent is a cheap price for influence.

And such results are visible across the spectrum of the government every day.

Banking lobbyists recently persuaded regulators, for instance, to slash a proposed increase in premiums for deposit insurance, even though experts warn that a banking crisis could be looming.

Lobbying has "stalled a lot of what the ordinary American would care about and facilitated a lot of what the average American wouldn't like," said Kevin Phillips, a Republican political strategist.

Phillips said that on a wide range of little-publicized issues, lobbyists routinely "take advantage of the process. They can preempt it, tailor it sometimes with a little amendment that doesn't affect very many people, just the Glotz Corp."

But on the bigger issues, where there is a wide public interest and greater scrutiny, Phillips said that often the net effect of all the lobbying is to "paralyze the process. Sometimes it means you wind up with the status quo. Often what it means is it is impossible to achieve any innovative breakthrough."

The revolving door between the government and the private sector is spinning faster than ever, and people who enter government often must confront lobbyists who once held their jobs and who know the rivalries and minefields within their agencies better than they do.

Indeed, some critics say government positions have become little more than a training camp for high-paying jobs in the influence industry.

For example, John Sununu became a lobbyist for a Fortune 500 company after he got bounced as White House chief of staff. Craig Fuller, who was Bush's chief of staff when he was vice president, pulls down $500,000 a year as the top lobbyist for Philip Morris Co., one of the biggest tobacco companies. One-time Senate Republican leader Howard Baker has a contract, also for $500,000 a year, to help the nation of Jordan hold on to its foreign aid.

"One of the tragedies is that there is an insider deferred-compensation syndrome that is in many instances very unseemly," said Rep. Jim Leach (R-Iowa).

Leach's point is not that former officials are taking payments from companies for which they did specific favors but that they are selling the knowledge and expertise that they gained at taxpayer expense to interests that want to manipulate government policy.

"There are very few Dean Rusks who served in Cabinet-level jobs in Washington recently," Leach said. Rusk, who was the secretary of state under Presidents John Kennedy and Lyndon Johnson, "went back to the University of Georgia, which I consider a decent and thoughtful retirement," the congressman said.

Leach said his criticism also applies to Congress, where a number of the departing members have been intensely recruited by influence firms.

One of them, Rep. Marty Russo (D-Ill.), agreed to join the lobbying firm of Cassidy & Associates, which promptly issued a news release trumpeting his former standing on the powerful House Ways and Means Committee, where all tax legislation originates. More important perhaps is that Russo is a golfing buddy of Rep. Dan Rostenkowski (D-Ill.), the Ways and Means Chairman, and shares a house in Washington with three other legislators, including Rep. Leon Panetta (D-Calif.), chairman of the House Budget Committee.

The critics also are concerned about the lengths to which many special interests will go to try to overwhelm officials who disagree with them.

The drug industry, for example, has repeated blocked efforts by Sen. David Pryor (D-Ark.) to impose cost controls or trim its special tax breaks.

But the incident that upset Pryor the most happened in 1990, when he suggested that the Medicaid program could save $300 million a year by adopting the same discount drug-buying strategies used at a number of hospitals and national health maintenance organizations.

Pryor wanted Medicaid programs in each state to pick one drug out of each class of similar medicines and require physicians to prescribe it whenever possible. But to make sure that no one's health suffered, the doctors still would have been free to substitute any other drug by simply scrawling "medically necessary" on the prescription.

Besides pulling together a coalition of medical groups to oppose the plan, the drug lobby hired Vernon Jordan, the civil rights leader who is now chairman of Clinton's transition team, to help recruit black and Hispanic groups will to denounce the idea.

Jordan, who also is a lawyer-lobbyist, sent a letter telling minority groups that Pryor's bill "may result in inadequate treatment" for minorities. Jordan also maintained that "while the prescribing physician is given discretion to overrule these restrictions, the process will be both cumbersome and time-consuming."

The leaders of one black organization then sent out their own letters claiming that Pryor's plan represented the kind of approach used whenever "mean-sprited bigots want to strike at the black underclass."

Pryor said he thought the racial thrust of that lobbying campaign was "one of the cheaper shots I've seen." A spokesman for Pharmaceutical Manufacturers Association denied that his group was "exploiting any racial aspect" of the issue; Jordan did not return repeated calls for comment.

But the lobbying created enough controversy among Pryor's colleagues in Congress to force him to drop the proposal and substitute something else. It also convinced Pryor, who is close to Clinton as well, that the president-elect must reform the influence system.

Some lobbyists also recognize this. Many enter the business with enthusiasm, then burn out and quit in disgust.

"I think the whole system should be stood on its head right now," said Stephen Gabbert, who was the top lobbyist for the nation's rice millers for 17 years before shifting to business consulting. "It's the way, the mindset, the attitude of the hidden government that has operated for a period of time.

"And we've reached the point where it's unable to deliver to the needs of the country, he said. "So all of these people who have been sucking their livelihoods off it, there's going to have to be some changes made."

[From Newsday, Mar. 8, 1993]

Stirring Up the Grass Roots for Industry

(By Martin Kasindorf)

When President Bill Clinton warned that "the special interests will be out in force" to warp his economic package, his plea for grassroots loyalty was instantly countered by Jack Bonner's full-page ad courting the business lobbyists who read Congressional Quarterly.

"Do you have a tough tax battle ahead?" Bonner & Associates asked. If so, the Washington-based consulting "boutique" said, it could supply "quality grassroots support to help you win."

Bonner got a dozen inquiries for his rent-a-firestorm service, signing up several energy-industry clients paying him to drum up grassroots opposition to Clinton's energy tax in Congress—in the form of mail, phone calls and visits from home—district influentials.

"Our time has come," chortled Bonner, who likes to argue that "some guy in a pinstripe suit telling a senator this bill is going to hurt Pennsylvania doesn't have the impact of someone in Pennsylvania saying it."

Critics have compared the grassroots content of money-nurtured "spontaneous" popular uprisings to Astroturf. But Bonner has demonstrated since 1984 that industry can match presidents, labor unions, environmentalists and Ralph Nader in whipping up voter pressure on Congress.

Representing Detroit automakers, it was Bonner, a 44-year-old former Senate aide, who organized high-profile complaints from the disabled and the Boy Scouts that higher gas-mileage standards would do away with "safe" big cars. "Call off the dogs," one member of Congress pleaded.

The 1990 clean-air amendment was killed.

Bonner scored a splashy coup in 1991 when 200 temporary workers in what he calls his "yuppie sweatshop" helped bankers kill in the House the populist amendment rammed through the Senate by Sen. Alfonse D'Amato (R-N.Y.) that would have forced banks to lower credit-card interest rates.

The Bonner brigade made 10,000 phone calls in four days, persuading constituents of House Banking Committee members to protest that banks would cancel "millions of credit cards" if rates were lowered.

The Chicago Tribune's resulting name for operations like Bonner's: "Fog merchants." Whatever it's called, Bonner's specialty can be lucrative. His fees, based on the number of proven contacts he generates with public officials, have topped $400,000.

"There's no gee-whiz to it," said Bonner. "It's just old-fashioned, roll-up-your-sleeves political work. But it works."

Groups that often oppose business interests in Washington sneer at Bonner's method. "That is damaging," said Nancy Waitzman, a policy analyst for Ralph Nader's Public Citizen, "because it's the moneyed interests that really are fomenting this; it's not genuine citizen involvement."

It's unimportant, Bonner asserts, that the public reaction isn't as spontaneous as in, say, the Zoe Baird flap. "The issue is whether people understand the issue or not," he said. "Is it spontaneous when the Sierra Club does a mailing? It's wonderful that industry as well as the environmental movement takes its message to the people outside the Beltway."

[From the Los Angeles Times, Mar. 16, 1993]

Phone Frenzy in the Capitol—Special Interest Groups Are Using Sophisticated Electronic Networks To Generate an Astonishing Volume of Calls to Congress.

(By Paul Houston)

Almost without letup, the phone calls pour into Ilisa Halpern's headset as she sits in the office of Sen. Dianne Feinstein (D-Calif.), typing the caller's name, address and comments onto a computer screen.

From a Sonoma woman upset about President Clinton's economic plan: "Very definitely not support it. President is pathological liar. Can't fool all of the people. Tired of listening to all of the rhetoric. Feinstein also a radical."

From a Los Angeles man with mixed feelings about Clinton initiatives: "Encourage you to pass the plan. Don't get carried away with weakening defense. Health care is important but don't lessen the consumer's choice of M.D.'s."

After each call, Halpern sends the message to the computer's memory bank. At the end of the day, the messages—as many as 1,000, which are recorded by up to 10 of Feinstein's 60 aides—are automatically sorted by issue, printed out and placed on the senator's desk.

Accompanying the phone calls are a flood of letters, postcards and Mailgrams. In a recent week, Feinstein received 9,000 letters and 50,000 postcards and Mailgrams—far more than her predecessor, John Seymour, ever got in a week.

The outpouring is being duplicated all over Capitol Hill. Senate and House offices are being hit with twice as many calls this year as last—4.2 million vs. 1.9 million in the first month alone, officials say. And mail to lawmakers has soared past 400 million pieces a year.

The surge is fed by several forces, including radio and television talk shows and a general upswing in citizen interest in government, stimulated in the 1992 presidential election by the direct-voter-participation efforts of candidates Bill Clinton, Jerry Brown and Ross Perot.

But the principal cause, one that concerns many scholars and lawmakers because of its potential for manipulation, is the "grass-roots" lobbying done by special interests. In contrast with the not-so-distant past, when members of Congress identified hot issues from a handful of constituent letters, numerous interest groups have built sophisticated electronic networks that can generate an astonishing volume of calls and letters from folks in the hinterlands.

Some of the most technologically slick grass roots organizing is being mounted by groups ranging from the National Rifle Assn. to the National Abortion Rights Action League.

The U.S. Chamber of Commerce, for instance, is about to begin a phone bank that will call the chamber's 215,000 members about issues of interest to the organization. Those answering the phone will be able to press 1 to have a Mailgram or letter sent in their name to their representative, press 2 to record a voice-mail message for the lawmakers or press 3 to have a computer connect them immediately with the lawmaker's office.

Last week, the Phillip Morris tobacco company got smokers to flood the offices of members of the House Ways and Means Committee with phone calls protesting President Clinton's proposal for a huge increase in cigarette taxes. Incensed aides to several committee members retaliated by sending dozens of "junk" documents to Phillip Morris' Washington fax machine.

Many special-interest groups hire private businesses to carry out the direct-mail and phone-bank aspects of their grass-roots lobbying. One of the most successful is Jack Bonner and Associates, a Washington-based firm that assists only corporate interests.

Millions of cards and letters generated by the Bonner firm helped keep Northrop Corp.'s B-2 Stealth bomber alive, helped auto makers fight off tougher fuel-economy standards and helped banks defeat a forced reduction in credit-card interest rates.

The Stealth campaign in 1991 and 1992 involved getting 5,000 groups—including farm, senior citizens, minority, even religious groups—in more than 100 congressional districts to write their representatives, supporting the radar-evading bomber.

It was a tough sell—the Cold War was ending and the $800-million per copy bomber was under heavy fire as wasteful. But Bonner's phone bank operators won over the groups' leaders by arguing that the plane would save lives; they noted that the stealthy F-117 fighter built by Lockheed Corp. in Burbank had flown 3,200 missions in the Persian Gulf War without a loss.

In turn, the groups' letters to Congress sounded precisely that theme, helping keep Los Angeles-area production lines going on a projected 20 planes.

"We chose groups in the congressional districts that we thought lawmakers would be most politically responsive to," says Bonner, a former aide to the late Sen. John Heinz (R-Pa.).

His firm also alerted lawmakers that the campaign was coming, so that they would be ready to respond to the outpouring.

"We never try to fool the Hill," he says.

Bonner employs about 200 phone bank operators who have worked in government or in campaigns are accustomed to discussing issues. When they call citizens seeking to generate phone calls and letters to legislators, they make clear what client they are representing, Bonner says.

Now, he says, his business is booming because defense, insurance, drug and other firms feel threatened by President Clinton's proposed tax increases, spending cuts and health care reforms. These interests hope that orchestrated groundswells from the grass roots will help bend lawmakers to their causes.

"Corporate America has seen more and more that grass roots works," Bonner says.

Which is why the U.S. Chamber of Commerce is setting up one of the most elaborate phone banks of all. The chamber hopes to form a huge base of activist members—grouped by business type and location—who will agree to be contacted by a computer-driven phone bank when a hot issue arises in Congress.

Chamber members will be mailed materials in advance that will background them on such issues as health reform. Then when a key vote looms, a computer will start dialing their numbers and a recorded message will give them the choices of sending a letter or voice-mail message, or being immediately plugged into their congressional representative's office.

Later, the computer will print out the member's choice so that chamber officials can gauge the size of their efforts and the cooperation of members.

"We think we are really making a quantum leap here," says Don Kroes, who runs the chamber's grass-roots activities.

The NRA, the powerful gun owners' lobby, has made extensive use of a 900 number to enable its 3 million members and allies in 10,000 affiliated clubs to send an NRA-drafted letter to their representative or to be patched directly into the lawmaker's office. The technique helped block congressional enactment of a waiting period for gun purchases and a ban on the sale of semiautomatic "assault weapons."

"Constituents' personal visits are the most effective on an issue, but after that it's phone calls and letters," says James Baker, the NRA's chief lobbyist. "Postcards and petitions are the least effective."

The success of such campaigns has not escaped the notice of the media-savvy Clinton Administration. Although the White House has decried the influence of special interests, it doesn't shun their techniques.

The Democratic National Committee, in an unprecedented move, is helping to sell Clinton's economic plan through phone-bank and direct-mail contacts with more than 1 million party activists. They are being urged to call lawmakers and talk shows, make speeches and write letters to newspaper editors.

Though many grass-roots efforts succeed, some fail miserably. Last year, cable TV owners, in ads and bill stuffers, got thousands of customers to protest a bill in Congress that the owners claimed would force cable rates up, not down as intended. Despite the torrent of calls and cards, Congress enacted the bill over the veto of then-President George Bush.

"We generated calls like mad. But the calls didn't generate that many votes," a cable lobbyist says ruefully.

While Washington phone lines have been heating up over the last decade because of such campaigns, they began to sizzle over the last year with outpourings of genuine citizen expression.

As Zoe Baird's nomination for attorney general cruised toward Senate approval in late January, for example, Capitol offices suddenly were deluged with calls assailing her employment of two illegal aliens as domestic help. Senators swiftly abandoned their support of the corporate lawyer, and her nomination was withdrawn.

That stunning demonstration of grass-roots power was a potent catalyst, encouraging many citizens and groups to speak out as Clinton made controversial moves on gays in the military, spending, taxes and health care.

At the same time, the continuing proliferation of talk show hosts—especially the rabble-rousing variety—is helping to stimulate the cascade of calls and letters.

For example, on a daily talkfest, Herb Nero of KUTY in Palmdale constantly urges his 45,000 listeners to get in touch with their elected representatives. When he brings a member of Congress on the show, the phones ring off the hook, he says—and so do the phones in the lawmaker's office.

Many lawmakers and scholars applaud the rising decibels of vox populi, saying it's just what the architects of democracy ordered.

"Participatory democracy can produce an informed constituency, which is our best ally. An uninformed constituency is our worst enemy," says Rep. Mike Synar (D-Okla.), chairman of a group of liberal House Democrats.

"It's clearly healthy for representative democracy," agrees Tony Blankley, an aide to conservative Rep. Newt Gingrich (R-Ga.), the House minority whip.

But others fear that the rising tide of citizen voices is so fraught with manipulation that the decision-making process is in danger of being twisted, especially if most of the expressions on an issue conflict with true public opinion.

For instance, many lawmakers report that, while calls to their offices are running heavily against Clinton's economic proposals, sentiment on the streets back home matches the strong support in national polls.

"Politicians are hypersensitive to public preferences, and artificial stimulation of responses by interest groups simply intensifies the problem," says Thomas E. Mann, a political scientist with the Brookings Institution. "It is one thing to vote after thoughtful deliberation. It is another to act on the basis of constituents' spleens."

Synar contends that "any politician worth his salt does not weigh his mail or count the number of phone calls in making a responsible decision." But Rep. David R. Obey (D-Wis.) fears that far too many colleagues do just that.

"This is a corruption of participatory democracy," he grumps, referring to the efforts of interest groups to whip up calls and letters to lawmakers. "It means that those who are well-organized with special axes to grind will have an advantage over persons genuinely interested in the issues."

Obey recalls that, when he entered Congress 24 years ago, "most of the mail was from people's gut—simple letters they scratched out when something was bugging them. Now, the overwhelming majority of mail is ginned up by some Washington interest group trying to keep themselves in business by scaring the hell out of people—frothing them up to write or call their congressman."

He concludes: "We have to elect people tough enough to discount the baloney."

There are signs that hyped popular uprisings are beginning to backfire as lawmakers and their aides learn to distinguish scripted voices from truly spontaneous ones. For example, while Feinstein answers most letters, she ignores a closetful of printed postcards that have been sent in by members of anti-abortion and other groups.

But aides have a tougher time determining whether phone calls are organized or spontaneous.

Feinstein's aides merely take down comments from callers without asking questions. But Sen. Bill Bradley's office cross-examines many callers, attempting "to have people tell us why they feel a certain way," says Anita Dunn, an aide to the New Jersey Democrat. "That gives us clues about what they are thinking."

Interest groups assert that their grassroots efforts are a healthy means of getting people in touch with their government. Some groups argue that the calls and letters they generate add important balance to debates.

For years, says Kate Michelman, president of the National Abortion Rights Action League, anti-abortion priests and preachers have passed out fliers in church pews, spurring floods of parishioner mail to government officials. Not until recently, she says, did her abortion rights group assemble a huge, computer-assisted network of activists that can spawn rivers of countervailing mail and calls.

In 1991, NARAL phone banks helped launch barrages of calls against the Supreme Court nomination of Clarence Thomas, a federal judge accused by law professor Anita Faye Hill of sexual harassment. More than 100,000 messages swamped Senate offices during hearings on the charges.

"Senators begged us to call off the troops," Michelman says. Thomas was confirmed by only a two-vote margin—and the uproar helped elect record numbers of women to office in 1992.

But the lobbying groups' phone-jamming activity can be a double-edged sword. A lobbyist groaned recently that it took him three hours to get through the barrier of citizen calls to make an appointment with Sen. Bradley.

[From the Dallas Morning News, Mar. 18, 1993]

SPECIAL-INTEREST LOBBYING INCREASES MAIL TO CONGRESS

(By Paul Houston)

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[From the Atlanta Journal and Constitution, Mar. 17, 1993]

HIGH-TECH LOBBYING TAKES OFF SLICK NETWORKS TAP PUBLIC OUTRAGE

WASHINGTON.—From a distance, it looks like the boiler room of any telephone sales company, with fresh-faced young men and women in narrow cubicles reading intently from typed scripts.

But these operators are not pitching Veg-O-Matics or life insurance. Here at Bonner Associates, they prospect by phone for that most elusive of Washington commodities: outbursts of public outrage.

It is a business ideally suited to the age of electronic vox pop, when radio talk show hosts can stir up a populist frenzy that brings down a prospective attorney general.

On behalf of its clients, generally trade associations and corporations, the company, one of a new breed of Washington lobbying concerns, specializes in stirring up the sort of hometown pressure that state and federal legislators are loath to resist.

Unlike old-fashioned letter-writing campaigns, which rained easily identifiable form letters on lawmakers, the new campaigns are sometimes indeed to appear spontaneous. Jack Bonner, who founded Bonner & Associates in 1984, says he always lets his targets know of his activities. But the rise of this industry has made it hard to tell the difference between manufactured public opinion and genuine explosion of popular sentiment.

As they put it in the lobbying industry: Is it grass roots or Astroturf? Bonner Associates specializes in marshaling local interests groups and can, on a few days' notice, rain cloudbursts of faxes, phone calls and letters on Congress or the White House. Some competitors rely more on a retail approach. They phone potentially irate citizens, deliver detailed briefings, and then transfer the newly aggravated callers directly to the office of the relevant senator or representative.

"The golden age of grass roots has arrived," Mr. Bonner said. He has mobilized public opinion against limits on credit card interest rates when he was working for the banks, against tougher fuel-efficiency standards when he was on the side of the hired automakers, and against triple-trailer trucks when he was hired by a railroad.

Mr. Bonner reports a surge in potential clients in the last two to three months. "In the past," he said, "a lot of businesses wouldn't go to the grass roots because they thought they could contain their problems in D.C., either by lobbying or by George Bush vetoing anti-business legislation. Well, that veto isn't there anymore."

Through the early 1980s, environmental groups and others on the fringes of the Washington establishment relied on letters, petitions and other manpower-intensive methods to counter the power and connections of big corporations.

But by the end of the decade, specialists such as Mr. Bonner, as well as several Washington political consultants and lobbyists, had begun to co-opt the strategy, a trend that gathered more momentum when Ross Perot and Bill Clinton tapped into the electronic babble of dissent that is talk radio and television.

[From the Plain Dealer, Apr. 11, 1993]

THE CULTIVATION OF GRASS ROOTS

(By Peter H. Stone)

When President Bill Clinton unveiled an energy tax proposal in his speech to Congress in February, shock waves rolled through the offices of Washington's energy lobbyists. But the announcement didn't surprise Jack Bonner, owner of Bonner & Associates, a Washington firm that specializes in orchestrating telephone and mail lobbying blitzes from the hinterlands to Capitol Hill.

Several days before Clinton's speech, Bonner had been contacted by a new group, the Energy Tax Policy Alliance, that was gearing up to fight such taxes. The alliance is raising money to hire Bonner & Associates for a grass-roots campaign: It has already secured about $50,000 in commitments, primarily from utilities.

Meanwhile, Bonner has made sales pitches to several other energy trade groups and utilities, some of which have expressed interest in joining a lobbying drive against the tax.

Though the effort is still taking shape, Bonner thinks it's likely that he'll get the go-ahead. An energy tax is a "perfect (issue) for grass roots because it hits so many people unfairly," he said. Bonner is already showing prospective clients a sample telephone script that he proposes to use in stirring public opposition to the tax. "Tax the rich, tax foreign companies, but don't tax those who can least afford it,' the script says.

It's hardly surprising that energy companies are turning to Bonner for help. In recent years he and other grass-roots specialists have won kudos from an array of corporate and trade association clients for rapidly turning up grass-roots pressure on Congress.

The Washington lobbying landscape is dotted with big and small firms promising to deliver the support that will make a critical difference in federal, state and local lobbying fights. For hefty fees, sometimes running more than $1 million per project, these firms use phone banks to drum up constituent support in key congressional districts or find a small group of community leaders who can put the arm on a member of Congress.

For their clients, these grass-roots consultants are often the last line of defense, called in when other lobbying, advertising and public relations efforts have been exhausted.

The success of boutiques such as Bonner & Associates has prompted bigger firms to expand into the field. Last December, for example, the public relations giant Burson-Marsteller announced that it was setting up a Washington-based division, the Advocacy Communications Team, to handle grass-roots work.

The industry's growth is being fueled by changes in the political world. Grass-roots firms say their business has received a fillip from the rising influence of talk radio and from the volunteer network put together by Ross Perot. Growing criticism of K Street lobbyists—including attacks by the president—is forcing companies and trade groups to look for ways to exert pressure from outside the Beltway. And grass-roots practitioners say that the unusually large number of congressional freshmen, who tend to be more susceptible to home-state pressure, present a special opportunity.

What's more, Clinton has demonstrated consummate skill as a grass-roots lobbyist and has targeted some industries that may well turn to grass-roots firms for help. The tobacco and pharmaceutical industries, for instance, are developing multipronged public relations, advertising and lobbying campaigns to fight new taxes on cigarettes and controls on drug prices.

As the grass-roots business has expanded, it has also become more sophisticated. A few years ago, for instance, the industry started pitching "grass tops" lobbying.

Rather than generating letters and phone calls from ordinary Joe Sixpacks, they promise to round up local business and civic leaders who have clout with members of Congress. The Washington-based RTC Group Inc., a major grass-roots firm, boasts that it has databases enabling it to pinpoint such leaders in every congressional district, "based on a variety of demographic and psychographic characteristics."

Lobbyists say that grass-roots campaigns must constantly change, lest they appear manufactured and lose their clout. "This is a business where you've got to be selling this year's refinement and improved version," said James E. McAvoy, who runs Burson-Marsteller's grass-roots unit. "If you keep doing the same thing over and over again, they see the pattern and it's not good."

But some members of Congress say the patterns are easy to discern. "You can tell after three letters or three phone calls," Rep. Mike Synar D-Okla., said. "We're moved more by individual letters than by orchestrated campaigns. . . . It just doesn't work. They're under this delusion that we weigh our mail and phone calls.

The sheer volume of congressional mail, which is more than 300 million pieces per year—double what it was 10 years ago—has forced aides to look more critically at what they receive. Many have become expert at detecting what Treasury Secretary Lloyd Bentsen likes to describe as the difference between grass roots and AstroTurf.

"There's nothing new about grass roots," said Bonner, a former aide to the late Sen. John Heinz, R-Pa. "It's what started this country 200 years ago. What's new is that people are going back to it."

The technique may go back that far, but it has come a long way. Bonner's firm, dubbed a "yuppie sweatshop" by Newsweek magazine, between old-fashioned letter writing and the latest high-tech industry wizardry used in political campaigns.

When Bonner opened his shop in 1984, his forte was generating large mailings to Congress. But his expertise has broadened considerably since then; he now offers a wide menu of services.

Bonner says he eschews retainers and charges only by results; the firm carefully logs the numbers of calls and letters it generates and bills clients accordingly. One of Bonner's specialties is finding what he calls "community leaders"—people who speak on behalf of a group and who may know a Congress member personally. Bonner charges $350–$500 for each letter or call generated by a community leader. He also offers to set up meetings between community leaders and members for fees ranging from $5,000 to $9,000.

The hot house where Bonner cultivates his grass roots is a downtown Washington office dominated by a computerized telecommunications operation. The equipment enables his staff to make telephone calls to targeted congressional districts and patch constituents through directly to their member's office.

Bonner says that his biggest sales tool is his success rate with major corporations and trade groups. His office walls are studded with framed letters testifying to his efforts for the American Bankers Association, the Pharmaceutical Manufacturers Association, the Smokeless Tobacco Council, U.S. Tobacco Co. and others.

"Nothing succeeds like success in this town," he bragged. "People don't come to us with easy issues." Bonner's grass-roots work now is divided almost evenly between efforts aimed at Congress and at state governments. The latter have become fertile ground because of the more activist roles that state legislatures have played on such issues as health care.

One of Bonner's biggest successes in recent years was his battle for the ABA against lowering interest rates on credit cards. In late 1991, after the Senate passed an amendment that would have forced banks to lower their rates, the ABA hired Bonner to develop a popular revolt against the measure—or at least the appearance of one.

During a four-day period, he generated about 10,000 calls from voters, including community leaders, in 10 districts represented by members of the House Banking, Finance and Urban Affairs Committee. The amendment died in a House-Senate conference committee, and the ABA paid Bonner an estimated $400,000.

Some recent endeavors have not been so successful. Bonner was retained by McDonald's Corp. in 1988 to fight a ban on polystyrene food packaging in Suffolk County, N.Y., which the fast-food chain saw as a testing ground for its efforts to block similar laws elsewhere. According to some former Bonner executives, the firm had a tough time finding community leaders to go to bat for McDonald's. After a two-year drive costing roughly $800,000—about half of which went to Bonner—McDonald's abruptly switched its position and agreed to use paper packaging.

The Bonner staff had carefully cultivated a network of local supporters for McDonald's, and some former Bonner executives said with egg on their faces. "We spent a lot of time couching an issue a certain way and then the client said maybe we were wrong," an executive recalled. "The process lost credibility. These community leaders were led down a path and then we had to leave them because the client had changed their mind."

Sometimes, the Bonner firm has to dig in its own yard for grass roots. A former employee recalled that the firm had tried in vain to locate people in an affluent St. Louis suburb who would support the Smokeless Tobacco Council on an excise tax issue. The employee, a St. Louis native, called his sister, who was editor of her high school newspaper, and his mother, who taught at a local junior college: They were soon listed as "community leaders" opposing the tax.

Training people to be grass-roots advocates isn't easy. The Bonner firm often provides "talking points" to constituents to help them write letters. But that can backfire if the letter writer doesn't fully understand the issue. A former Bonner executive recalled that sometimes "Senators would call people and we'd patch through a call and our people wouldn't hold up well."

For all their high-tech wizardry, grass-roots lobbying firms still have a big problem: Many lawmakers say they don't buy what the firms are selling.

"When some of these grass-roots campaigns got started, they were reasonably effective because they were new," said Rep. Henry A. Waxman, D-Calif. "I think the effectiveness has worn off. Members and their staffs get their letters and know they're ginned up."

Even the more-sophisticated "grass-tops" techniques are relatively easy to detect, Synar added. "I don't think they can get around the problem of (obvious) orchestration," he said. "Everything still comes within a 10-day period."

Bonner bristles at such criticisms and says he makes no effort to hide his role in grass-roots campaigns. He says that his staff always tell constituents what client the firm is representing. And he says he recommends that clients inform congressional offices that they're using his firm to drum up pressure. "The difference between grass roots and Astroturf is whether the person knows what he's talking about and has a legitimate reason to be involved," Bonner said.

Bonner argues that critics have two sets of standards—one for public-interest groups and another for business. "Have we come to a point in our democracy where it's legitimate for environmentalists to take their message to the people but not for industry to do the same?" he asked.

But some observers say there's an important difference between the two types of lobbying. Fred Wertheimer, the president of Common Cause, notes that business, which already has plenty of financial clout, could gain an unfair advantage with the new grass-roots technologies in shaping public policy and legislation. "If you combine the institutions with unlimited resources with those that have new technologies, it could give new meaning to the phrase 'reach out and touch someone.'"

[From the San Diego Union-Tribune, Nov. 1, 1993]

MANUFACTURING OPINION PUBLIC RELATIONS AGENCIES CALL THE TUNE

(By John Jacobs)

In his book, "Who Will Tell the People: The Betrayal of American Democracy," Washington author William Greider describes how most people are cut out of government decisions that affect their lives.

He describes the "democracy for hire" business, in which public relations and lobbying firms, think tanks, polling organizations and direct-mail groups manufacture and organize expert and even "grass roots" opinion for decision-makers. In his opening chapter, called "Mock Democracy," Greider writes of these organizations:

"Most are financed by corporate interests and wealthy benefactors. The work of lobbyists and lawyers involves delivering the material to the appropriate legislators and administrators. Only those who have accumulated lots of money are free to play in this version of democracy. Only those with a strong, immediate financial stake in the political outcomes can afford to invest this kind of money in manipulating the government decisions."

Greider describes the case of Jack Bonner, a young public relations consultant in Washington with his own "boiler room" operation that has 300 phone lines, a sophisticated computer system and eager young adults calling around the country to identify what Greider calls "white hat" groups and then persuade them to adopt corporate-friendly advocacy positions.

Bonner manufactures public opinion for big corporations for large fees. In the 1990 debate over clean-air legislation, for example, Bonner identified six states where senators were wavering. He then got various groups, such as the Easter Seal Society of South Dakota, the 1.2-million-member Georgia Baptist Convention, and the Delaware paralyzed Veterans Association, to lobby their respective senators to vote against regulations that would toughen auto emission standards.

"These citizen organizations," Greider writes, "were persuaded to take a stand by Bonner & Associates, which informed them, consistent with the auto industry's political propaganda, that tougher fuel standards would make it impossible to manufacture any vehicles larger than a Ford Escort or a Honda Civic."

A more grotesque example of manufacturing opinion happened during the weeks leading up to the Persian Gulf War, when a young Kuwaiti girl testified to Congress that barbaric Iraqi soldiers yanked hundreds of Kuwaiti babies off incubators, leaving them to die on hospital floors. The sensational testimony galvanized American opinion against Iraq, and seven senators cited it as a factor in their vote to go to war.

It later came out that the girl's testimony was organized by the Washington public relations firm of Hill and Knowlton, which represented the Kuwaiti government-financed Citizens for a Free Kuwait; that the girl was in fact the daughter of the Kuwaiti ambassador to the United States, and that the alleged atrocities probably did not happen.

There is nothing illegal about such practices; American government is organized around the clash of competing interest groups. That competition, however, should at least take place on a level playing field, where the players are known and identified and the opinions legitimate, rather than fabricated or simply purchased.

If anything, the kind of groups Greider was writing about have become even more adept in the past few years. And nowhere is this more evident than in the corporate-sponsored opposition to President Clinton's health reform proposals.

The Health Insurance Association of America, which opposes the reforms, has already prepared its battle plan or campaign action kit. It includes organizing "SWAT" teams to show up and oppose the reforms at open meetings that members of Congress conduct with their constituents.

The coalition of insurance groups opposes the health plan because it could limit earnings by capping health insurance premiums. And it isn't stopping with SWAT teams. As part of its multimillion-dollar campaign against the reforms, the trade group is also sponsoring 30-second TV ads, complete with a fictional couple, Harry and Louise, describing over the breakfast table what's wrong with Clinton's plan.

It's bad enough that TV spots have almost entirely debased elections in this country. Candidates spend most of their time hitting up rich people and corporate/labor political action committees for campaign money to pay for air time, which they then use to oversimplify their own positions or sharply distort those of their opponents.

The idea that this kind of deliberate distortion should now extend to public policy—especially policy as complicated and directly relevant to people's lives as health care—is a little frightening.

Clinton, to be sure, is not without his own resources. No one can saturate the media with a particular message like the president of the United States can.

Even so, the fact that the nation's wealthiest corporate interests are now busier than ever manipulating and manufacturing public opinion reaffirms Greider's original point and raises troubling questions about how ordinary citizens without such resources can be heard.

[From the New York Times, Nov. 1, 1993]

Cultivating the Grass Roots To Reap Legislative Benefits

(By Joel Brinkley)

At first glance, the letters looked innocent enough, just a few dozen pieces of mail among the 1,000 or more that most members of Congress receive every week. But as Sean Cavanaugh, a Congressional aide, read through them, it almost seemed as if vipers were slithering out of the envelopes.

Most of the letters were handwritten, some with the trembling script of the elderly, and they cried out with fear and despair: If Congress approved an obscure proposed change in Medicare policy, "then my husband will die."

The aide said he was sickened. After he had read several of the letters, realized that all were the same.

LOBBYISTS AT WORK

"They were just rote language," he said. It was as if someone had advised the writers just what to say. That convinced Mr. Cavanaugh that his boss, Representative Benjamin L. Cardin, was the target of an industry-driven lobbying campaign. And when Mr. Cardin, a Maryland Democrat, had a look, he decided "it was a really nasty, terribly misguided campaign," because the proposed change would actually have little effect on patients.

But the most striking thing about the letters, the Congressman said, was that "I never heard from the people who were really behind them."

His experience is not at all unusual because these days that is how lobbyists work. Gone is the time when back-slapping, cigar-chomping influence peddlers were the main instruments of Washington lobbying:

"The high-profile access merchant has virtually disappeared," said Mark Cowan, who until last month was head of the Jefferson Group, a prominent lobbying firm.

Over the last several years, lobbyists have been turning away from the direct approach in favor of "grass roots" strategies. The goal is to persuade ordinary voters to serve as their advocates, and the letters that arrived in Mr. Cardin's office last summer were one example.

Using the technologies of this electronic age, lobbyists can now quickly reach and recruit thousands of Americans. Many lawmakers say lobbyists have grown so skillful that their tactics have changed the way Congress works.

"Unfortunately it has caused Congress to govern more by fear and an intense desire for simple, easy answers," said Representative Steve Gunderson, Republican of Wisconsin. "Once that grass-roots constituency has been activated, it's impossible ever to explain how proposals might have been changed," or to correct incorrect perceptions. "So we are forced to take complicated issues and simplify them so we can defend our positions."

Not every member thinks it is fair to blame the lobbyists for this. Senator Carl Levin, Democrat of Michigan, calls that "a cop-out."

"Congress has the responsibility to stand up to that," he says. Blaming lobbyists "is an excuse for a lack of political will."

TECHNOLOGY—QUICK SATELLITES, REAMS OF FAXES

No matter who is correct, most everyone agrees that the rudimentary grass-roots campaigns of just a few years ago—fill-in-the-blank post cards, and forms torn out of the newspaper—have grown far more sophisticated and effective.

"The genie is really out of the bottle now," said Richard Viguerie, whose direct-mail campaigns for conservative causes started the grass-roots movement in 1965. "It's out, and it ain't ever going back—no matter how hard Congress tries."

To mobilize their members, many trade groups have installed banks of computerized fax machines that can send faxes automatically around the country overnight, instructing each member to ask his employees, customers or others to write or call their congressmen.

The National Association of Manufacturers started a campaign like that last summer that virtually smothered Congress in letters and phone calls opposing President Clinton's proposed energy tax, and as a result the plan was withdrawn.

Other lobbyists now run carefully targeted television advertisements pitching one side of an argument. That approach was used only rarely before now because of the tremendous cost. But once one industry decides it is willing to spend the money, others find they have little choice.

Many of these advertisements end with a toll-free phone number that viewers can call if they find the pitch convincing. New telemarketing companies answer these calls, and transfer the callers directly to the offices of the appropriate congressmen.

TELEVISION APPEALS

The American Trucking Association's approach has jumped beyond the fax machine. Until now, the truckers have mobilized their members by sending out hundreds of faxes. The problem was, "some of our members were inundated with so many faxes that they didn't always read them," said Sandy Lynch, an association official.

So this month the truckers began using a new satellite network connecting the Washington headquarters to affiliates in every state. Now, with little notice, Thomas Donohue, president of the association, can appear on television monitors in affiliate offices nationwide and rally his members to action.

To be sure, direct lobbying is not extinct. Washington still has its share of lobbyists from the old school. And many lobbyists still effectively lubricate the system with campaign donations, speaking fees, expense-paid trips and other gifts for lawmakers or their aides.

But even some of the old-style lobbyists are being drawn into the grass-roots movement—like it or not. Thomas H. Boggs, Jr. is considered one of Washington's most influential lobbyists. When lawmakers and others talk about lobbyists of the old school, his name comes up first.

He notes that most Washington lobbying involves issues that are small and technical, though lots of money might be involved. For that, Mr. Boggs says, direct lobbying continues to be effective.

"Where these grass-roots campaigns have been used a lot are the big public policy debates," he said. Even then, Mr. Boggs said he still prefers not to use grass-roots strategies "because the costs are really high."

Nonetheless, more and more often now, he finds he has little choice. "In many cases we do it as a defensive measure, " because the other side starts it first.

TACTICS NEBULIZERS: A STRATEGY EVOLVES

Even with the change in strategy, many of the fundamental concerns about lobbyists remain the same. Speaking of his profession, one of the city's senior lobbyists, Jerry Jasinowski of the National Association of Manufacturers, warned of one problem: "Look out for companies or individuals or trade associations that get a small provision into law to serve the interests of a narrow group. That is dangerous."

There could hardly be a more striking illustration than the six-year legislative history of Medicare payment policies for two obscure pieces of medical equipment, nebulizers and aspirators. Together they cost the Federal Government about $120 million last year—much of it wasted, in the Government's view.

This was the equipment the patients were writing about in the letters to Mr. Cardin. And the story behind them also illustrates the evolution of lobbying strategy, from direct lobbying to grass-roots campaigns.

Nebulizers administer medicine in aerosal form, usually through a mask. Aspirators are small pumps that suck out the fluid that accumulates in the lungs of patients on respirators. And for more than 20 years, Medicare offered indefinite reimbursement for patients who rented them. The problem was that many patients used them for years, so the Government ended up spending so much on rent that the devices could have been purchased many times over.

In 1987, Congress tried to solve this by establishing a list of equipment that could be rented for only 12 months, after which it had to be purchased. At the time, Thomas Antone was president of the National Association of Medical Equipment Suppliers, the trade group representing the companies that rent and maintain the equipment.

"Senators and congressmen don't know much about this," Mr. Antone observed. And as he recalled, he and the Congressional aides agreed that the new regulation ought to include an exception for equipment that needed frequent or substantial service. That equipment would continue to be rented.

When the bill went to a Senate-House conference committee, Mr. Antone recalls, some conferees decided they wanted the bill's language to include a couple of specific examples of equipment that might require frequent service. And when the bill left the committee, the conferees had cited nebulizers and aspirators.

Mr. Antone says he does not know how that happened. But Charles Spalding, chief of the Medical Services Payments branch at the Health Care Finance Administration, said, "The industry proposed it."

Since that time, however, the Government has learned that the devices generally need little if any significant service. And yet, Mr. Spalding said, "some folks with chronic conditions have to pay $30 or $40 a month more or less indefinitely" in copayments to rent a nebulizer or aspirator, even through "a common purchase price for one is $200 to $250."

Last year the Government spent $120 million reimbursing Medicare patients for the rental of just these two devices. But this summer, Congress set out to remove both of them from the frequent servicing category.

"CONSTANT STREAM" OF FAXES

While the change was still being debated, Deobrah Harnsberger, a lobbyist with the equipment suppliers group, said the industry's position was that aspirators should not be removed from the rental list. Some nebulizers could be moved, she added, while some others should not.

And to make that point, she said, "we are using grass roots as part and parcel of what we are doing. A constant stream of faxes and phone calls is going from here to our members."

In the end, the trade group won a partial victory. Congress left it up to the Health and

Human Resources Department to decide whether nebulizers and aspirators should be rented or purchased—giving the industry another opportunity to make its case.

At the same time, Corine Parver, president of the lobbying group, disavows the letters to Mr. Cardin.

"We don't engage in that kind of lobbying" using patients, she said, suggesting that it was probably the work of an overzealous affiliate of the trade group who took grass-roots lobbying to an unethical extreme.

THE CHANGE—"SUPER-LOBBYISTS" ON THE BANDWAGON

Some lobbyists can point to the moment when their profession began taking its new path: March 3, 1986. That's the day Time magazine published a photo on its cover of the lobbyist and former Reagan aide Michael Deaver in the backseat of his limousine talking on the phone. The headline asked: "Who's this man calling?"

Right away the photo sparked new convulsions of concern about high-power "super-lobbyists."

"That was the line of demarcation," Mr. Cowan says now.

Unfavorable publicity along with changing social and political attitudes and stricter conflict-of-interest laws began making it more difficult for high-profile lobbyists like Mr. Deaver to be effective. And at about the same time, lobbyists began to notice that labor unions and so-called public interest groups, like Ralph Nader's Public Citizen, were using a different approach.

These groups generally did not have super-lobbyists. So when they wanted to influence policy, they used what they called their "grass-roots" networks. This meant getting their members around the country to tell Washington how they felt.

In the mid-1980's, one lobbyist, Jack Bonner, said he and others in his field began to see "that certain groups were doing this very well—unions, environmental groups, consumer groups—while business was doing it rather poorly." Fewer than 5 percent of the Fortune 500 companies were using grass-roots lobbying, Mr. Bonner found. So he and others adopted the practice and began trying to improve on it.

The difference was that corporate lobbyists had more money to throw behind the effort. And with the added resources, they were able to take advantage of the latest technology. As their strategies grow ever more elaborate, some of the original grass-roots lobbyists worry that they can no longer keep up.

"These developing technologies—like computerized grass roots—combined with enormous resources, are overwhelming the system," complained Fred Wertheimer, head of Common Cause, one of the first organizations to use modern grass-roots lobbying. "It gives these organizations special advantage. And it's gotten to the point where the Government is no longer capable of dealing with it."

DEFENSE LOBBYISTS' VERSION OF A WHITE KNIGHT

Most lobbyists will quickly acknowledge that their profession still has an unsavory reputation. The public "thinks we are a small group, in Gucci shoes, somehow controlling issues in a way that is at variance with the public interest," Mr. Jasinowki said.

Most lobbyists are not likely to describe themselves as altruistic servants of the public good. But they say the public is unfairly disdainful of them.

"The average person forgets that they have lobbyists too," said Richard H. Kimberly, president of the American League of Lobbyists church. Well, churches lobby. Maybe they are retired. Well, the retired people have a lobby. But instead, when people think of lobbyists they think of organizations like the N.R.A.," the National Rifle Association.

Fair enough, but do any of the corporate and commercial lobbyists that are so often the target of complaint actually perform work they are proud of? Mr. Kimberly said he would try to find a lobbyist who was working on a campaign that the public might admire.

Ten days later, he said he was having a hard time finding anyone willing to step forward. But he did point to Casey Dinges, the lobbyist for the American Society of Civil Engineers.

Mr. Dinges said his organization discovered last fall that the Department of Housing and Urban Development was about to propose a new standard for the construction of mobile homes. After Hurricane Andrew destroyed thousands of trailers in South Florida in August 1992, the Government decided the building standards were inadequate. So Mr. Dinges's organization drafted a detailed new standard and lobbied the Government to adopt it.

"Just because someone lives in a mobile home, why can't they be safe?" Mr. Dinges asked. Besides, he said, when inadequate building standards cause problems, "our members are the ones who have to clean the stuff up."

HUD decided to adopt the engineers' standard; a senior Federal official said the department considered it "rigorous and complete." But as soon as HUD announced its decision, one lobbyist's proud victory became another's desperate battle.

And so the grassroots came into play. The Manufactured Housing Institute, representing mobile home manufacturers, unleashed a furious lobbying campaign to defeat the engineers' proposal. The lobby argued that the engineers' standard would raise trailer prices in some areas by as much as 36 percent. Bruce Savage, spokesman for the group, said: "It may be nice to have a 'safe' home. But if no one is buying the, what's the point?"

When the department asked for public comment on the proposed new standard this summer, the manufacturers "contacted all our members on our grassroots network," Mr. Savage said. HUD was flooded with a thousand letters of complaints.

The department will not make its final ruling until later this autumn, and so the lobbying continues. But for now, the engineers' proposal is still on the table.

PRESIDENTS ON LOBBYISTS: NO LOVE LOST

"There are two methods of curing the mischiefs of faction, one by removing its causes, two by controlling its effects. By a faction, I understand a number of citizens, whether amounting to a majority or a minority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community."—James Madison, in the Federalist Papers of the 1780's.

"The host of contractors, speculators, stockjobbers and lobby members which haunt the halls of Congress, all deserious to get their arm into the public treasury, are sufficient to alarm every friend of his country. Their progress must be stopped."—James Buchanan, writing to Franklin Pierce in 1852, before either man had served as President.

"I think that the public ought to know the extraordinary exertions being made by the lobby in Washington" for a pending tariff bill. Washington is so full of lobbyists that "a brick couldn't be thrown without hitting one. It is of serious interest to the country that the people at large should have no lobby and be voiceless in these matters, while great bodies of astute men seek to create an artificial opinion and to overcome the interests of the public for their private profit. It is thoroughly worth the while of the people of this country to take knowledge of this matter. Only public opinion can check and destroy it."—Woodrow Wilson, speaking at a news conference in 1913.

"By virtue of their wealth and freedom from regulation, some lobbies can threaten to or actually unleash almost unlimited television and direct-mail assaults on uncooperative legislators. At the same time they can legally reward those who do their bidding.The lobbies are a growing menace to our system of government."—Jimmy Carter, from his memoir, "Keeping Faith."

"Within minutes of the time I conclude my address to Congress Wednesday night, the special interests will be out in force. Those who profited from the status quo will oppose changes we seek—the budget cuts, the revenue increases, the new investment priorities. Every step of the way they'll oppose it. Many have already lined the corridors of power with high-priced lobbyists."

[From the Washington Post, Aug. 23, 1994]

CAPITAL NOTEBOOK: A MAN WHO FERTILIZES THE GRASS ROOTS

(By Guy Gugliotta)

Most people think grass-roots politics is terminally wholesome, with regular folks down on the farm uniting around a common goal and making their wishes known to elected officials: "Either you support nerve gas for gophers, lunkhead, or you can kiss your political career goodbye!"

Nerve gas doesn't have a large base of support, but if it did, the experts could find it, or at least work something up. Some people these days don't even know they're part of a "grass-roots political movement" until somebody tells them.

One of the best "somebodys" in the business is Bonner & Associates, which bills itself as "the premier grass-roots organizing firm in Washington" and has 10 years of experience to prove it.

Bonner has 200 "temporary grass-roots organizers" right now and they're hiring, because health care is on the floor of Congress and there is no more important grass-roots issue in America.

Here's how it works. Interest groups hire Bonner to drum up grass-roots support for their views and help make them known to members of the Senate and House when a critical vote is coming up.

Bonner locates key local leaders and organizations around the country, explains the issue to them, and, if their views coincide with those of Bonner's clients, asks people to call their representatives in Washington and tell them what they think.

"But only in their own words," said Bonner & Associates founder Jack Bonner. Unlike some competitors, Bonner does not write a script and does not monitor the calls. Often, however, Bonner's clients will provide an 800 number for the new grass-roots supporters to telephone, and Bonner reroutes the calls to the relevant congressional office.

The technique works on the principle that nothing can make lawmakers quake like outraged constituents, even carefully chosen ones. A few dozen well-timed calls on the day of an important vote could tip fence-sitters in the right direction.

But you have to be good at it, because Congress has become hip to such ploys. Thus, when 2,000 nasty telegrams arrive with the same message, it's usually because lobbyists are paying the freight and writing the words. And when 200 callers suddenly bombard a radio talk show host gave them the number.

Then there are the grotesque gaffes, like the one last week when a voter called a senator's office and asked the receptionist: "Do you know what I'm supposed to tell you? It was something to do with voting."

Polite inquiries established that the call was about health care. Did the caller have an opinion?

"Not really. I don't know how I feel yet," the caller confessed. "I told that lady that when she called, but she said she was going to transfer me anyway, and you answered the phone."

Oops.

There are those who might think that all this is the ultimate in Washington smoke and mirrors, a clever way for lobbyists and special interests to insert themselves between the public and their elected officials. Congress, which already bears a close resemblance to Oz, drifts further from reality.

Bonner acknowledged that his "organizers" are fishing for grass-roots views compatible with those of the lobbying groups, but he likened his firm to a lawyer or doctor: "You have a patient, you cure them," he said. "Each issue presents us with a new situation."

Right now, he said, Bonner & Associates has about 12 clients, including a coalition of insurance companies interested in health care, and a group of pharmaceutical firms and health management organizations. Fees, Bonner said, are "modest" and based on how difficult or complicated the issue is.

Bonner & Associates does not have any "ideological or political bent," Bonner said, but the company doesn't do political campaigns or fund-raising. In short, if you've got the money and need some "regular people" to flog your issue, Bonner will find them for you.

But, as Bonner points out, his organizers aren't talking to voters who couldn't care less about something. Retired people, farmers, small businessmen and countless other groups have a vested interest in health care and need to know what the debate is about.

"I see it as the triumph of democracy," Bonner said. "In a democracy, the more groups taking their message to the people outside the Beltway, and the more people taking their message to Congress, the better off the system is."

But is he getting the grass roots, or just the grass? The answer, as Bob Dylan put it, could be "blowin' in the wind."

[From the Los Angeles Times, Sept. 18, 1994]

HEADLINE: HIGH-TECH LOBBYING DIALS WRONG NUMBER

(By Jim Drinkard)

Steve Raby, Sen. Howell Heflin's top aide, was surprised when a letter signed with his own name arrived in the office strongly objecting to President Clinton's health care plan.

The letter—and a nearly identical one a week later—was generated by the Health Care Leadership Council, a business coalition that aired radio spots urging listeners to call a toll-free number to be put in touch with their members of Congress on health care.

Raby had called the number, but had not given permission for any letter to be sent to his boss, and Alabama Democrat. "I said, 'I disagree with your message,'" he recalled telling the operator.

Jack Bonner, whose lobbying firm ran the campaign for the council, said such incidents are rare. "You're going to have a few mistakes happen. It's not intentional, and it's against all written and oral policies," he said.

But the episode raises questions about the dangers inherent in high-tech lobbying and its opportunities for abuse.

"It's a way for special interests to appear to be coming from the grass-roots," said Sen. Byron Dorgan (D-N.D.), who said his office has also received technology-generated mail misrepresenting constituent's feelings. The discrepancy was discovered when his office wrote back to North Dakotans acknowledging their letters. "We've had letters back from people unaware of the fact that something has been sent in their name, and saying, 'In fact, I don't feel that way,'" Dorgan said.

One danger, said Dorgan, is that the advertising or phone call that prompts people to contact their lawmakers may not fully disclose who is paying for the lobbying effort.

"The person probably has no idea, (for example) that they're calling on behalf of a pharmaceutical manufacturer," he said. "The economic interest is not disclosed. It could be a way for a big pharmaceutical company to use a low-income senior citizen to do (its) bidding in an unwitting way."

Bonner disagrees, saying his services only facilitate democracy.

"Democracy, lawmaking, politicking is never a clear-cut, clean, pristine process," he said. "But it is infinitely better than any group that has a legislative interest . . . take their message outside the Beltway to the people."

His job, Bonner said, is to make it easier for those who agree with his clients to communicate their support to Washington.

Those who answer the phones at the Capitol say many callers know little more than what they have just seen or heard in a television or radio spot, words chosen less to educate than to fan the flames of fear or anger.

"We like to flesh out some reasons so we can tell the congressman, to know what people are thinking," said Trish Riley, an aide to Rep. Tim Holden (D-Pa.). But when asked why they hold their opinions the callers often say, '"I'm not sure. I just don't want you to vote for it,'" she said. "People are real confused. They don't want to leave their name and number. They just want to get off the phone."

Dorgan told of one caller to his office who began the conversation, "Do you know what I'm supposed to tell you? It has something to do with voting." The North Dakota small businessman then added, "Something to do with the health plan, I think."

Asked if he wanted to voice an opinion on health care to Dorgan, the man replied, "Not really. I don't know how I feel yet. I told that lady that when she called, but she said she was going to transfer me anyway."

The practice of selectivity putting through only the callers who agree with the lobbying client angered at least one lawmaker, Rep. Ike Skelton (D-Mo.). "I want people to call and give me their honest-to-goodness thoughts," Skelton said. "These people are blocking out some and letting others go through." Bonner said it would be absurd for a lobbying group to pay to deliver their opponents' views. "I know of no 800 line used for an advocacy purpose where people are put through on the other side" of the issue, he said.

BAPTIST JOINT COMMITTEE,
Washington, DC, September 29, 1994.

Hon. JOHN BRYANT,
House of Representatives,
Washington, DC.

DEAR MR. BRYANT: The Baptist Joint Committee serves the below-listed Baptist bodies on public policy issues surrounding religious liberty and the separation of church and state.

We have reviewed the church-state ramifications of H.R. 823, the Lobby Disclosure Act of 1994. I understand that the statutory exemptions are those reflected in my March 23, 1994 letter to you. We think that Section 103(9)(B) and Section 103(10)(B) adequately protect the free exercise rights of churches and religious organizations.

This language has been examined and approved by a number of religious organizations and their church-state experts, including from the Jewish community, mainline Protestants and the United States Catholic Conference.

I am, therefore, puzzled by Mr. Gingrich's letter questioning this legislation on the basis of the effect that it would have on religious organizations. I think he is plainly wrong.

We very much appreciate your willingness to accommodate religious liberty concerns in this legislation and appreciate the cooperation of your staff.

Yours very truly,

J. BRENT WALKER,
General Counsel

RELIGIOUS ACTION CENTER
OF REFORM JUDAISM
Washington, DC, Sept. 28, 1994.

Hon. JOHN BRYANT,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE BRYANT: On behalf of the Union of American Hebrew Congregations, representing the largest segment of American Jewry, I want to express my appreciation, once again, for your efforts in securing provisions within the Lobby Disclosure Act of 1994 that protect religious freedom for all Americans. The exemption of religious organizations from "lobbying activities" (section 103(9)(B)) and from "lobbying contacts" (section 103(10)(B)) appropriately protects the religious activities of religious institutions in America at both the local and national level. These exemptions were supported by the broadest range of religious denominations and faith groups, including the Jewish community, mainline protestant denominations, the Baptist Joint Public Affairs Committee, and the United States Catholic Conference.

It is therefore with astonishment that I read today Representative Newt Gingrich's letter attacking the Lobby Disclosure bill on the basis that religious organizations would have to register and report their expenditures. As the senior Jewish representative in Washington, and as an attorney who teaches church-state law at Georgetown University Law School, let me assure you that nothing could be further from the truth. The commitment that the House and Senate have shown to protecting religious freedom in this bill represents the highest values enshrined in the Constitution, and is deeply appreciated by the entire religious community.

Sincerely,

RABBI DAVID SAPERSTEIN.

U.S. CATHOLIC CONFERENCE,
OFFICE OF GOVERNMENT LIAISON,
Washington, DC, September 29, 1994.
Hon. JOHN BRYANT,
House of Representatives,
Washington, DC.

DEAR MR. CHAIRMAN: I am writing concerning provisions in S. 349, the "Lobbying Disclosure Act of 1994", that address how certain church institutions would be affected by the lobbying registration and reporting requirements of this legislation. The United States Catholic Conference ("USCC") staff, together with our colleagues in other denominations, were given opportunities to review and discuss these provisions during consideration of this bill in your Committee.

It is our understanding that those church organizations which fit the definition contained in Sections 103(9)(B) and 103(10)(B)(xviii) of the Act will be exempt from registering and reporting any legislative activities involving communications with their own membership. Furthermore, any lobbying contacts with government officials implicating the free exercise of religion would also be exempt from these requirements. We understand that Congress intends these provisions to create broad exemptions from the registration and reporting requirements of the Act for qualified church institutions.

We appreciate the opportunity to share our views with you on this important legislation.

Sincerely,

FRANK J. MONAHAN,
Director.

Mr. LEVIN. I thank the Chair. I yield the floor.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATION TO PROVIDE FOR THE INVESTIGATION OF PERSONS MISSING FROM CYPRUS

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 580, S. 1329, a bill to provide for an investigation of the whereabouts of certain United States citizens who have been missing in Cyprus since 1974.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1329) to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2609

Mr. DOLE. Mr. President, I send a substitute amendment to the desk on behalf of Senators D'AMATO and SIMON.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE for D'AMATO for himself and Mr. SIMON proposes an amendment numbered 2609.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

S. 1329

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. UNITED STATES CITIZENS MISSING FROM CYPRUS.

(a) INVESTIGATION.—As soon as is practicable, the President shall undertake, in cooperation with appropriate international organizations or nongovernmental organizations, a thorough investigation of the whereabouts of the United States citizens who have been missing from Cyprus since 1974. Any information on others missing from Cyprus that is learned or * * *. The investigation shall focus on the countries and communities which were combatants in Cyprus in 1974, all of which currently receive United States foreign assistance.

(b) REPORT TO THE FAMILIES.—The President shall report the findings of this investigation of the missing Americans to the family of each of the United States citizens. Such reports shall include the whereabouts of the missing.

(c) REPORT TO THE CONGRESS.—The information learned or discovered during this investigation, shall be reported to the Congress.

(d) RETURNING THE MISSING.—The President, in cooperation with appropriate international organizations or nongovernmental organizations shall do everything possible to return to their families, as soon as is practicable, the United States citizens who have been missing from Cyprus since 1974, and others who have been missing, including returning the remains of those who are no longer alive.

Mr. D'AMATO. Mr. President, I rise today to comment on the passage of S. 1329, the missing in Cyprus bill.

What this bill will do is to create an investigation into the whereabouts of 5 Americans and over 1,600 Greek-Cypriots missing in Cyprus during the Turkish invasion of that island. This has been a very delicate subject in Greek-Turkish relations for all these years, but these missing must be found. Information on their location must be discovered so that their families can finally go on with their lives.

I am glad that this legislation has passed the Senate and I thank Senator PAUL SIMON, as well as Congressman ELIOT ENGEL for their help in getting this legislation through both houses.

While a peaceful settlement of the Cyprus question has yet to be accomplished, this legislation will go some distance toward resolving some of the outstanding questions from this complicated dispute.

I ask unanimous consent that the final version of the bill be printed in the record and that my remarks be included in the RECORD following the bill.

Mr. DOLE. Mr. President, I ask that the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

So the amendment (No. 2609) was agreed to.

AMERICANS MISSING IN CYPRUS

Mr. BYRD. Mr. President, S. 1329, as amended, calls for an investigation that will, I hope, finally resolve the fates of five United States citizens missing in Cyprus since 1974. I sympathize deeply with the families of those five individuals. The loss of a family member is an inconsolable pain that does not lessen over the years.

Many other families, of Turkish and Greek Cypriots, have suffered the loss of family members in Cyprus over the last 30 years. This bill requires that any information concerning the fates of these missing people discovered or learned during the course of the United States investigation be reported to the appropriate international or nongovernmental organization, so that other ongoing investigations concerning fates of all those missing in Cyprus, including those missing prior to 1974, may be resolved.

While it is important for the eventual resolution of the Cyprus issue that the fates of these missing individuals be resolved, there are appropriate international bodies suitable for any further inquiries—rather than the U.S. Department of State. We do have a special responsibility to determine the whereabouts of missing U.S. citizens, however, so that is the focus of this bill.

MISSING IN CYPRUS

Mr. SIMON. Mr. President, today the Senate will pass s. 1329, a bill to provide for the investigation of the whereabouts of the United States citizens who have been missing from Cyprus since 1974. I am very pleased to be an original cosponsor of this bill and to have worked to ensure its passage.

In the summer of 1974, five American citizens disappeared in Cyprus during the turmoil following the Turkish invasion of Cyprus. This bill will direct the U.S. State Department to undertake an investigation of these cases to determine the fate of these Americans. In addition, thousands of Greek and hundreds of Turkish Cypriots also disappeared in Cyprus in wake of the Turkish invasion. The fate of the Americans is inextricably linked to the fate of many of these Cypriots. During the course of its investigation, the State Department, in conjunction with other international organizations, will uncover information about many missing Cypriots. S. 1329 also directs the State Department to release the information it uncovers on the missing Cypriots to the U.S. Congress and appropriate international organizations. This action will provide the families of the missing with answers and help the people of Cyprus heal the wounds that have divided this country for more than 20 years.

While the United Nations has formed a commission to look into this same issue, this commission has been bogged down by political infighting for over 10 years. After investigating over 500 cases of missing Cypriots, the U.N. Commission on the Missing in Cyprus has not yet reached a conclusion in any of these cases. No one expects the United States to solve all of these cases, but we should be able to learn the fate of the missing Americans and provide ample information to uncover the fate of many Cypriots. While the truth that is uncovered may not be pleasant for both the Greek and Turkish Cypriots, it will be a positive step in bringing about an end to the division of Cyprus.

Cyprus' history for the past twenty years has been tragic. S. 1329 may not magically reunify Cyprus, but it is a confidence building measure that will lead all Cypriots toward cooperation and understanding.

Mr. DOLE. Mr. President, I ask unanimous consent that the bill be read a third time; that the Foreign Relations Committee be discharged from further consideration of the House companion H.R. 2826; that all after the enacting clause be stricken and the text of S. 1329, as amended, be inserted in lieu thereof, the bill be read a third time and passed; the motion to reconsider be laid on the table; that S. 1329 be indefinitely postponed and any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 2826) was deemed read a third time and passed.

Mr. DOLE. Mr. President, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CROW SETTLEMENT ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of S. 1216, the Crow Settlement Act, that the Senate then proceed to the immediate consideration of the bill, that the bill be read three times, passed, and the motion to reconsider be laid upon the table; further that any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 1216) was deemed read three times and passed, as follows:

[The bill was not available for printing. It will appear in a future issue of the RECORD.]

OFFICE OF SPECIAL COUNSEL AND MERIT SYSTEMS PROTECTION BOARD AUTHORIZATION ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 599, S. 622, a bill to reauthorize the Office of Special Counsel and the Merit Systems Protection Board.

The PRESIDING OFFICER. The bill will be stated by title.

The bill clerk read as follows:

A bill (S. 622) to authorize appropriations for the U.S. Office of Special Counsel, the Merit Systems Protection Board, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs, with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

(a) MERIT SYSTEMS PROTECTION BOARD.—Section 8(a)(1) of the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note; Public Law 101–12; 103 Stat. 34) is amended by striking out "1989, 1990, 1991, 1992, 1993, and 1994" and inserting in lieu thereof "1993, 1994, and 1995".

(b) OFFICE OF SPECIAL COUNSEL.—Section 8(a)(2) of the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note; Public Law 101–12; 103 Stat. 34) is amended by striking out "1989, 1990, 1991, and 1992" and inserting in lieu thereof "1993, 1994, and 1995".

SEC. 2. REASONABLE ATTORNEY FEES IN CERTAIN CASES.

Section 1204 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(m)(1) Except as provided in paragraph (2) of this subsection, the Board, or an administrative law judge or other employee of the Board designated to hear a case arising under section 1215, may require payment by the agency involved of reasonable attorney fees incurred by an employee or applicant for employment if the employee or applicant is the prevailing party and the Board, administrative law judge, or other employee (as the case may be) determines that payment by the agency is warranted in the interest of justice, including any case in which a prohibited personnel practice was engaged in by the agency or any case in which the agency's action was clearly without merit.

"(2) If an employee or applicant for employment is the prevailing party of a case arising under section 1215 and the decision is based on a finding of discrimination prohibited under section 2302(b)(1) of this title, the payment of attorney fees shall be in accordance with the standards prescribed under section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(k)).".

SEC. 3. OFFICE OF SPECIAL COUNSEL.

(a) SUCCESSION.—Section 1211(b) of title 5, United States Code, is amended by inserting after the first sentence: "The Special Counsel may continue to serve beyond the expiration of the term until a successor is appointed and has qualified, except that the Special Counsel may not continue to serve for more than one year after the date on which the term of the Special Counsel would otherwise expire under this subsection.".

(b) LIMITATIONS ON DISCLOSURES.—Section 1212(g) of title 5, United States Code, is amended—

(1) in paragraph (1), by striking out "provide information concerning" and inserting in lieu thereof "disclose any information from or about"; and

(2) in paragraph (2), by striking out "a matter described in subparagraph (A) or (B) of section 2302(b)(2) in connection with a" and inserting in lieu thereof "an evaluation of the work performance, ability, aptitude, general qualifications, character, loyalty, or suitability for any personnel action of any".

(c) DETERMINATIONS.—Section 1214(b)(2) of title 5, United States Code, is amended—

(1) by redesignating subparagraphs (A), (B) and (C) as subparagraphs (B), (C) and (D), respectively;

(2) by inserting before subparagraph (B) (as redesignated by paragraph (1) of this subsection) the following:

"(A)(i) Except as provided under clause (ii), no later than 240 days after the date of receiving an allegation of a prohibited personnel practice under paragraph (1), the Special Counsel shall make a determination whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken.

"(ii) If the Special Counsel is unable to make the required determination within the 240-day period specified under clause (i) and the person submitting the allegation of a prohibited personnel practice agrees to an extension of time, the determination shall be made within such additional period of time as shall be agreed upon between the Special Counsel and the person submitting the allegation."; and

(3) by inserting after subparagraph (D) (as redesignated by paragraph (1) of this subsection) the following new subparagraph:

"(E) A determination by the Special Counsel under this paragraph may not be admissible as evidence in any judicial or administrative proceeding, without the consent of the person submitting the allegation of a prohibited personnel practice.".

(d) REPORTS.—Section 1218 of title 5, United States Code, is amended by inserting "cases in which it did not make a determination whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken within the 240-day period specified in section 1214(b)(2)(A)(i)," after "investigations conducted by it,".

SEC. 4. INDEPENDENT RIGHT OF ACTION.

(a) SUBPOENAS.—Section 1221(d) of title 5, United States Code, is amended by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) At the request of an employee, former employee, or applicant for employment seeking corrective action under subsection (a), the Board shall issue a subpoena for the attendance and testimony of any person or the production of documentary or other evidence from any person if the Board finds that the testimony or production requested is not unduly burdensome and appears reasonably calculated to lead to the discovery of admissible evidence.".

(b) CORRECTIVE ACTIONS.—Section 1221(e)(1) is amended by adding after the last sentence: "The employee may demonstrate that the disclosure was a contributing factor in the personnel action through circumstantial evidence, such as evidence that—

"(A) the official taking the personnel action knew of the disclosure; and

"(B) the personnel action occurred within a period of time such that a reasonable person could conclude that the disclosure was a factor in the personnel action.".

(c) REFERRALS.—Section 1221(f) of title 5, United States Code, is amended by adding after paragraph (2) the following new paragraph:

"(3) If, based on evidence presented to it under this section, the Merit Systems Protection Board determines that there is reason to believe that a current employee may have committed a prohibited personnel practice, the Board shall refer the matter to the Special Counsel to investigate and take appropriate action under section 1215.".

(d) ATTORNEYS' FEES.—Section 1221(g) of title 5, United States Code, is amended—

(1) in paragraph (1), by striking out "and any other reasonable costs incurred" and inserting in lieu thereof "and any other reasonable costs incurred directly or indirectly by the employee, former employee, or applicant."; and

(2) in paragraph (2), by striking out "and any other reasonable costs incurred," and inserting in lieu thereof "and any other reasonable costs incurred directly or indirectly by the employee, former employee, or applicant,".

SEC. 5. PROHIBITED PERSONNEL PRACTICES.

(a) PERSONNEL ACTIONS.—Section 2302(a)(2)(A) of title 5, United States Code, is amended—

(1) in clause (ix) by striking out "and" after the semicolon;

(2) by redesignating clause (x) as clause (xi) and inserting before such clause the following:

"(x) a decision to order psychiatric testing or examination; and"; and

(3) in the matter following designated clause (xi) (as redesignated by paragraph (2) of this subsection) by inserting before the semicolon the following: ", and in the case of an alleged prohibited personnel practice described in subsection (b)(8), an employee or applicant for employment in a Government corporation as defined in section 9101 of title 31".

(b) COVERED POSITIONS.—Section 2302(a)(2)(B) of title 5, United States Code, is amended to read as follows:

"(B) 'covered position' means, with respect to any personnel action, any position in the competitive service, a career appointee position in the Senior Executive Service, or a position in the excepted service, but does not include any position which is, prior to the personnel action—

"(i) excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; or

"(ii) excluded from the coverage of this section by the President based on a determination by the President that it is necessary and warranted by conditions of good administration.".

(c) AGENCIES.—Section 2302(a)(2)(C) of title 5, United States Code, is amended in clause (i) by inserting before the semicolon: ", except in the case of an alleged prohibited personnel practice described under subsection (b)(8)".

(d) DISCRIMINATION AND RETALIATION.—Section 2302(b)(8) of title 5, United States Code, is amended by inserting "or otherwise discriminate or retaliate against," after "a personnel action".

(e) INFORMATIONAL PROGRAM.—Section 2302(c) of title 5, United States Code, is amended in the first sentence by inserting before the period ", and for ensuring (in consultation with the Office of Special Counsel) that agency employees are informed of the rights and remedies available to them under this chapter and chapter 12 of this title".

SEC. 6. PERFORMANCE APPRAISALS.

Section 4313(5) of title 5, United States Code, is amended to read as follows:

"(5) meeting affirmative action goals, achievement of equal employment opportunity requirements, and compliance with the merit systems principles set forth under section 2301 of this title.".

SEC. 7. MERIT SYSTEMS APPLICATION TO CERTAIN VETERANS AFFAIRS PERSONNEL.

Section 2105 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) For purposes of sections 1212, 1213, 1214, 1215, 1216, 1221, 1222, 2302, and 7701, employees appointed under chapter 73 or 74 of title 38 shall be employees.".

SEC. 8. CORRECTIVE ACTIONS ORDERED BY THE MERIT SYSTEMS PROTECTION BOARD.

(a) IN GENERAL.—Section 1214 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) If the Board orders corrective action under this section, such corrective action may include—

"(1) that the individual be placed, as nearly as possible, in the position the individual would have been in had the prohibited personnel practice not occurred; and

"(2) reimbursement for attorney's fees, back pay and related benefits, medical costs incurred, travel expenses, and any other reasonable and foreseeable consequential damages.".

(b) CERTAIN REPRISAL CASES.—Section 1221(g) of title 5, United States Code (as amended by section 4(d) of this Act) is further amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(2) by inserting before paragraph (2) (as redesignated by paragraph (1) of this subsection) the following new paragraph:

"(1)(A) If the Board orders corrective action under this section, such corrective action may include—

"(i) that the individual be placed, as nearly as possible, in the position the individual would have been in had the prohibited personnel practice not occurred; and

"(ii) back pay and related benefits, medical costs incurred, travel expenses, and any other reasonable and foreseeable consequential changes.

"(B) Corrective action shall include attorney's fees and costs as provided for under paragraphs (2) and (3).".

SEC. 9. IMPLEMENTATION.

(a) POLICY STATEMENT.—No later than 6 months after the date of enactment of this Act, the Special Counsel shall issue a policy statement regarding the implementation of the Whistleblower Protection Act of 1989. Such policy statement shall be made available to each person alleging a prohibited personnel practice described under section 2302(b)(8) of title 5, United States Code, and shall include detailed guidelines identifying specific categories of information that may (or may not) be communicated to agency officials for an investigative purpose, or for the purpose of obtaining corrective action under section 1214 of title 5, United States Code, or disciplinary action under section 1215 of such title, the circumstances under which such information is likely to be disclosed, and whether or not the consent of any person is required in advance of any such communication.

(b) TERMINATION STATEMENT.—The Special Counsel shall include in any letter terminating an investigation under section 1214(a)(2) of title 5, United States Code, the name and telephone number of an employee of the Special Counsel who is available to respond to reasonable questions from the person regarding the investigation or review conducted by the Special Counsel, the relevant facts ascertained by the Special Counsel, and the law applicable to the person's allegations.

SEC. 10. ANNUAL SURVEY OF INDIVIDUALS SEEKING ASSISTANCE.

(a) IN GENERAL.—The Office of Special Counsel shall, after consulting with the Office of Policy and Evaluation of the Merit Systems Protection Board, conduct an annual survey of all individuals who contact the Office of Special Counsel for assistance. The survey shall—

(1) determine if the individual seeking assistance was fully apprised of their rights;

(2) determine whether the individual was successful either at the Office of Special Counsel or the Merit Systems Protection Board; and

(3) determine if the individual, whether successful or not, was satisfied with the treatment received from the Office of Special Counsel.

(b) REPORT.—The results of the survey conducted under subsection (a) shall be published in the annual report of the Office of Special Counsel.

SEC. 11. EFFECTIVE DATE.

The provisions of this Act and the amendments made by this Act shall be effective on and after the date of the enactment of this Act.

AMENDMENT NO. 2610

(Purpose: To clarify certain provisions relating to prohibited personnel practices, Merit Systems Protection Board proceedings, and for other purposes)

Mr. FORD. Mr. President, on behalf of Senators PRYOR and LEVIN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment by number.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD] for Mr. PRYOR, for himself, and Mr. LEVIN, proposes an amendment numbered 2610.

Mr. FORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, beginning with line 24, strike out all through line 4 on page 13 and insert in lieu thereof the following:

"(E) A determination by the Special Counsel under this paragraph shall not be cited or referred to in any proceeding under this paragraph or any other administrative or judicial proceeding for any purpose, without the consent of the person submitting the allegation of a prohibited personnel practice.".

On page 14, line 10, insert "contributing" before "factor".

On page 14, beginning with line 22, strike out all through line 8 on page 15.

On page 15, strike out lines 14 through 17 and insert in lieu thereof the following:

(2) by striking out clause (x) and inserting in lieu thereof the following:

"(x) a decision to order psychiatric testing or examination; and

"(xi) any other significant change in duties, responsibilities, or working conditions;"; and

On page 15, line 19, strike out "redesignated" and insert in lieu thereof "added".

On page 16, strike out lines 21 through 24.

On page 17, line 1, strike out "(e)" and insert in lieu thereof "(d)".

On page 19, insert between lines 6 and 7 the following new section:

SEC. 9. EXPENSES RELATED TO FEDERAL RETIREMENT APPEALS.

Section 8348(a) of title 5, United States Code, is amended—

(1) in paragraph (1)(B) by striking out "and" at the end thereof;

(2) in paragraph (2) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(8) in made available, subject to such annual limitation as the Congress may prescribe, for any expenses incurred by the Merit Systems Protection Board in the administration of appeals authorized under section 8347(d) and 8461(e) of this title.".

SEC. 10. ELECTION OF APPLICATION OF LAWS BY EMPLOYEES OF THE RESOLUTION TRUST CORPORATION AND THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

(a) ELECTION OF PROVISIONS OF TITLE 5, UNITED STATES CODE.—If an individual who believes he has been discharged or discriminated against in violation of section 21a(q)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(q)(1)) seeks an administrative corrective action or judicial remedy for such violation under the provisions of chapters 12 and 23 of title 5, United States Code, the provisions of section 21a(q) of such Act shall not apply to such alleged violation.

(b) ELECTION OF PROVISIONS OF FEDERAL HOME LOAN BANK ACT.—If an individual files a civil action under section 21a(q)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(q)(2)), the provisions of chapters 12 and 23 of title 5, United States Code, shall not apply to any alleged violation of section 21a(q)(1) of such Act.

On page 19, line 7, strike out "SEC. 9." and insert in lieu thereof "SEC. 11.".

Page 20, line 8, strike out "SEC. 10." and insert in lieu thereof "SEC. 12.".

On page 21, line 1, strike out "SEC. 11." and insert in lieu thereof "SEC. 13.".

Mr. PRYOR. Mr. President, the amendment that I am offering, along with Senator LEVIN, makes minor changes to S. 622, a bill to reauthorize the Office of Special Counsel [OSC] and the Merit Systems Protection Board [MSPB].

The amendment does the following:

Clarifies vague statutory language; this new language bars the submission of OSC's determinations in support of motions or in any proceeding other than a trial, in addition to use as evidence in a trial, at the discretion of the whistleblower. This language was suggested by the Department of Justice [DOJ]. It is used in DOJ settlement memoranda.

Eliminates section 4(d). The MSPB has already overturned the case this section addressed.

Eliminates section 5(d) and replaces the language with "any other significant change in duties, responsibilities, or working conditions." This change is intended to clarify the purpose of section 5(d).

Gives the MSPB statutory authorization to receive reimbursement, subject to congressional limitations, from the Civil Service Retirement and Disability Fund. Congress has been appropriating funds to MSPB for this purpose, however, there has never been authorization for such appropriations. This language addresses that situation.

Requires RTC employees who have whistleblower protection available to them under title 12 and title 5 to choose one route at the time such employee chooses to exercise his/her rights.

Mr. President, I am pleased to be a cosponsor, along with Senators LEVIN and COHEN, of S. 622. The Senate passed similar legislation last Congress; however, the House did not act on the bill. The Office of Special Counsel [OSC], therefore, has been operating without authorization since 1993.

S. 622 would authorize OSC for 3 years. It puts the OSC and the Merit Systems Protection Board on the same authorization schedule. It clarifies the rules governing OSC's disclosure of information about whistleblowers, requires the OSC to provide detailed information to employees when their cases are terminated, establishes a 240-day time limit for OSC to make a determination regarding whistleblower cases, and requires agencies to inform Federal employees of the rights and remedies available to them under the Whistleblower Protection Act.

Mr. President, as you well know, Congress relies on whistleblowers to bring to our attention information on problems within the Government that otherwise we would never find. Whistleblowers often act at their peril and we should do all that we can to ensure that whistleblowers are not punished for their actions. This bill makes some improvements to the Whistleblower Protection Act to make their situation somewhat easier. I urge the Senate to approve S. 622.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2610) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDEMENT NO. 2611

(Purpose: To provide that the Special Counsel shall provide a status report of an allegation before terminating an investigation, and for other purposes)

Mr. FORD. Mr. President, on behalf of Senator DORGAN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment by number.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD] for Mr. DORGAN proposes an amendment numbered 2611.

Mr. FORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, insert between lines 21 and 22 the following new subsection;

(c) Status Report Before Termination of Investigation.—Section 1214(a) of title 5, United States Code, is amended—

(1) in paragraph (1)—

(A) by adding at the end thereof the following new subparagraph:

"(D) No later than 10 days before the Special Counsel terminates any investigation of a prohibited personnel practice, the Special Counsel shall provide a written status report to the person who made the allegation of the proposed findings of fact and legal conclusions. The person may submit written comments about the report to the Special Counsel,"; and

(2) in paragraph (2)(A)—

(A) in clause (ii) by striking out "and" after the semicolon;

(B) in clause (iii) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(C) by adding at the end thereof the following new clause:

"(iv) a response to any comments submitted under paragraph (1)(D).".

On page 11, line 22, strike out "(c)" and insert in lieu thereof "(d)".

On page 13, line 5, strike out "(d)" and insert in lieu thereof "(e)".

On page 16, line 15, strike out the first period and insert in lieu thereof a semicolon and "and".

Mr. FORD. Mr. President, I ask that the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2611) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Without objection, the committee substitute, as amended, is agreed to.

If there is no objection, the bill will be deemed read three times and passed.

So the bill (S. 622), as amended, was deemed read three times and passed, as follows:

S. 622

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

(a) MERIT SYSTEMS PROTECTION BOARD.—Section 8(a)(1) of the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note; Public Law 101–12; 103 Stat. 34) is amended by striking out "1989, 1990, 1991, 1992, 1993, and 1994" and inserting in lieu thereof "1993, 1994, and 1995".

(b) OFFICE OF SPECIAL COUNSEL.—Section 8(a)(2) of the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note; Public Law 101–12; 103 Stat. 34) is amended by striking out "1989, 1990, 1991, and 1992" and inserting in lieu thereof "1993, 1994, and 1995".

SEC. 2. REASONABLE ATTORNEY FEES IN CERTAIN CASES.

Section 1204 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(m)(1) Except as provided in paragraph (2) of this subsection, the Board, or an administrative law judge or other employee of the Board designated to hear a case arising under section 1215, may require payment by the agency involved of reasonable attorney fees incurred by an employee or applicant for employment if the employee or applicant is the prevailing party and the Board, administrative law judge, or other employee (as the case may be) determines that payment by the agency is warranted in the interest of justice, including any case in which a prohibited personnel practice was engaged in by the agency or any case in which the agency's action was clearly without merit.

"(2) If an employee or applicant for employment is the prevailing party of a case arising under section 1215 and the decision is based on a finding of discrimination prohibited under section 2302(b)(1) of this title, the payment of attorney fees shall be in accordance with the standards prescribed under section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(k)).".

SEC. 3. OFFICE OF SPECIAL COUNSEL.

(a) SUCCESSION.—Section 1211(b) of title 5, United States Code, is amended by inserting after the first sentence: "The Special Counsel may continue to serve beyond the expiration of the term until a successor is appointed and has qualified, except that the Special Counsel may not continue to serve for more than one year after the date on which the term of the Special Counsel would otherwise expire under this subsection.".

(b) LIMITATIONS ON DISCLOSURES.—Section 1212(g) of title 5, United States Code, is amended—

(1) in paragraph (1), by striking out "provide information concerning" and inserting in lieu thereof "disclose any information from or about"; and

(2) in paragraph (2), by striking out "a matter described in subparagraph (A) or (B) of section 2302(b)(2) in connection with a" and inserting in lieu thereof "an evaluation of the work performance, ability, aptitude, general qualifications, character, loyalty, or suitability for any personnel action of any".

(c) STATUS REPORT BEFORE TERMINATION OF INVESTIGATION.—Section 1214(a) of title 5, United States Code, is amended—

(1) in paragraph (1)—

(A) by adding at the end thereof the following new subparagraph:

"(D) No later than 10 days before the Special Counsel terminates any investigation of a prohibited personnel practice, the Special Counsel shall provide a written status report to the person who made the allegation of the proposed findings of fact and legal conclusions. The person may submit written comments about the report to the Special Counsel."; and

(2) in paragraph (2)(A)—

(A) in clause (ii) by striking out "and" after the semicolon;

(B) in clause (iii) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(C) by adding at the end thereof the following new clause:

"(iv) a response to any comments submitted under paragraph (1)(D).".

(d) DETERMINATIONS.—Section 1214(b)(2) of title 5, United States Code, is amended—

(1) by redesignating subparagraphs (A), (B) and (C) as subparagraphs (B), (C) and (D), respectively;

(2) by inserting before subparagraph (B) (as redesignated by paragraph (1) of this subsection) the following:

"(A)(i) Except as provided under clause (ii), no later than 240 days after the date of receiving an allegation of a prohibited personnel practice under paragraph (1), the Special Counsel shall make a determination whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken.

"(ii) If the Special Counsel is unable to make the required determination within the 240-day period specified under clause (i) and the person submitting the allegation of a prohibited personnel practice agrees to an extension of time, the determination shall be made within such additional period of time as shall be agreed upon between the Special Counsel and the person submitting the allegation."; and

(3) by inserting after subparagraph (D) (as redesignated by paragraph (1) of this subsection) the following new subparagraph:

"(E) A determination by the Special Counsel under this paragraph shall not be cited or referred to in any proceeding under this paragraph or any other administrative or judicial proceeding for any purpose, without the consent of the person submitting the allegation of a prohibited personnel practice.".

(e) REPORTS.—Section 1218 of title 5, United States Code, is amended by inserting "cases in which it did not make a determination whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken within the 240-day period specified in section 1214(b)(2)(A)(i)," after "investigations conducted by it,".

SEC. 4. INDEPENDENT RIGHT OF ACTION.

(a) SUBPOENAS.—Section 1221(d) of title 5, United States Code, is amended by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) At the request of an employee, former employee, or applicant for employment seeking corrective action under subsection (a), the Board shall issue a subpoena for the attendance and testimony of any person or the production of documentary or other evidence from any person if the Board finds that the testimony or production requested is not unduly burdensome and appears reasonably calculated to lead to the discovery of admissible evidence.".

(b) CORRECTIVE ACTIONS.—Section 1221(e)(1) is amended by adding after the last sentence: "The employee may demonstrate that the disclosure was a contributing factor in the personnel action through circumstantial evidence, such as evidence that—

"(A) the official taking the personnel action knew of the disclosure; and

"(B) the personnel action occurred within a period of time such that a reasonable person could conclude that the disclosure was a contributing factor in the personnel action.".

(c) REFERRALS.—Section 1221(f) of title 5, United States Code, is amended by adding after paragraph (2) the following new paragraph:

"(3) If, based on evidence presented to it under this section, the Merit Systems Protection Board determines that there is reason to believe that a current employee may have committed a prohibited personnel practice, the Board shall refer the matter to the Special Counsel to investigate and take appropriate action under section 1215.".

SEC. 5. PROHIBITED PERSONNEL PRACTICES.

(a) PERSONNEL ACTIONS.—Section 2302(a)(2)(A) of title 5, United States Code, is amended—

(1) in clause (ix) by striking out "and" after the semicolon;

(2) by striking out clause (x) and inserting in lieu thereof the following:

"(x) a decision to order psychiatric testing or examination; and

"(xi) any other significant change in duties, responsibilities, or working conditions;"; and

(3) in the matter following designated clause (xi) (as added by paragraph (2) of this subsection) by inserting before the semicolon the following: ", and in the case of an alleged prohibited personnel practice described in subsection (b)(8), an employee or applicant for employment in a Government corporation as defined in section 9101 of title 31".

(b) COVERED POSITIONS.—Section 2302(a)(2)(B) of title 5, United States Code, is amended to read as follows:

"(B) 'covered position' means, with respect to any personnel action, any position in the competitive service, a career appointee position in the Senior Executive Service, or a position in the excepted service, but does not include any position which is, prior to the personnel action—

"(i) excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; or

"(ii) excluded from the coverage of this section by the President based on a determination by the President that it is necessary and warranted by conditions of good administration; and".

(c) AGENCIES.—Section 2302(a)(2)(C) of title 5, United States Code, is amended in clause (i) by inserting before the semicolon: ", except in the case of an alleged prohibited personnel practice described under subsection (b)(8)".

(d) INFORMATIONAL PROGRAM.—Section 2302(c) of title 5, United States Code, is amended in the first sentence by inserting before the period ", and for ensuring (in consultation with the Office of Special Counsel) that agency employees are informed of the rights and remedies available to them under this chapter and chapter 12 of this title".

SEC. 6. PERFORMANCE APPRAISALS.

Section 4313(5) of title 5, United States Code, is amended to read as follows:

"(5) meeting affirmative action goals, achievement of equal employment opportunity requirements, and compliance with the merit systems principles set forth under section 2301 of this title.".

SEC. 7. MERIT SYSTEMS APPLICATION TO CERTAIN VETERANS AFFAIRS PERSONNEL.

Section 2105 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) For purposes of sections 1212, 1213, 1214, 1215, 1216, 1221, 1222, 2302, and 7701, employees appointed under chapter 73 or 74 of title 38 shall be employees.".

SEC. 8. CORRECTIVE ACTIONS ORDERED BY THE MERIT SYSTEMS PROTECTION BOARD.

(a) IN GENERAL.—Section 1214 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) If the Board orders corrective action under this section, such corrective action may include—

"(1) that the individual be placed, as nearly as possible, in the position the individual would have been in had the prohibited personnel practice not occurred; and

"(2) reimbursement for attorney's fees, back pay and related benefits, medical costs incurred, travel expenses, and any other reasonable and foreseeable consequential damages.".

(b) CERTAIN REPRISAL CASES.—Section 1221(g) of title 5, United States Code (as amended by section 4(d) of this Act) is further amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(2) by inserting before paragraph (2) (as redesignated by paragraph (1) of this subsection) the following new paragraph:

"(1)(A) If the Board orders corrective action under this section, such corrective action may include—

"(i) that the individual be placed, as nearly as possible, in the position the individual would have been in had the prohibited personnel practice not occurred; and

"(ii) back pay and related benefits, medical costs incurred, travel expenses, and any other reasonable and foreseeable consequential changes.

"(B) Corrective action shall include attorney's fees and costs as provided for under paragraphs (2) and (3).".

SEC. 9. EXPENSES RELATED TO FEDERAL RETIREMENT APPEALS.

Section 8348(a) of title 5, United States Code, is amended—

(1) in paragraph (1)(B) by striking out "and" at the end thereof;

(2) in paragraph (2) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) is made available, subject to such annual limitation as the Congress may prescribe, for any expenses incurred by the Merit Systems Protection Board in the administration of appeals authorized under sections 8347(d) and 8461(e) of this title.".

SEC. 10. ELECTION OF APPLICATION OF LAWS BY EMPLOYEES OF THE RESOLUTION TRUST CORPORATION AND THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

(a) ELECTION OF PROVISIONS OF TITLE 5, UNITED STATES CODE.—If an individual who believes he has been discharged or discriminated against in violation of section 21a(q)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(q)(1)) seeks an administrative corrective action or judicial remedy for such violation under the provisions of chapters 12 and 23 of title 5, United States Code, the provisions of section 21a(q) of such Act shall not apply to such alleged violation.

(b) ELECTION OF PROVISIONS OF FEDERAL HOME LOAN BANK ACT.—If an individual files a civil action under section 21a(q)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(q)(2)), the provisions of chapters 12 and 23 of title 5, United States Code, shall not apply to any alleged violation of section 21a(q)(1) of such Act.

SEC. 11. IMPLEMENTATION.

(a) POLICY STATEMENT.—No later than 6 months after the date of enactment of this Act, the Special Counsel shall issue a policy statement regarding the implementation of the Whistleblower Protection Act of 1989. Such policy statement shall be made available to each person alleging a prohibited personnel practice described under section 2302(b)(8) of title 5, United States Code, and shall include detailed guidelines identifying specific categories of information that may (or may not) be communicated to agency officials for an investigative purpose, or for the purpose of obtaining corrective action under section 1214 of title 5, United States Code, or disciplinary action under section 1215 of such title, the circumstances under which such information is likely to be disclosed, and whether or not the consent of any person is required in advance of any such communication.

(b) TERMINATION STATEMENT.—The Special Counsel shall include in any letter terminating an investigation under section 1214(a)(2) of title 5, United States Code, the name and telephone number of an employee of the Special Counsel who is available to respond to reasonable questions from the person regarding the investigation or review conducted by the Special Counsel, the relevant facts ascertained by the Special Counsel, and the law applicable to the person's allegations.

SEC. 12. ANNUAL SURVEY OF INDIVIDUALS SEEKING ASSISTANCE.

(a) IN GENERAL.—The Office of Special Counsel shall, after consulting with the Office of Policy and Evaluation of the Merit Systems Protection Board, conduct an annual survey of all individuals who contact the Office of Special Counsel for assistance. The survey shall—

(1) determine if the individual seeking assistance was fully apprised of their rights;

(2) determine whether the individual was successful either at the Office of Special Counsel or the Merit Systems Protection Board; and

(3) determine if the individual, whether successful or not, was satisfied with the treatment received from the Office of Special Counsel.

(b) REPORT.—The results of the survey conducted under subsection (a) shall be published in the annual report of the Office of Special Counsel.

SEC. 13. EFFECTIVE DATE.

The provisions of this Act and the amendments made by this Act shall be effective on and after the date of the enactment of this Act.

Mr. FORD. Mr. President, I move to reconsider and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MOHEGAN NATION OF CONNECTICUT LAND CLAIMS SETTLEMENT ACT OF 1994

Mr. FORD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar Order No. 576, S. 2329, a bill to settle certain Indian land claims within the State of Connecticut; that the committee substitute be agreed to and the bill read a third time; that the Senate proceed to the consideration of House companion, H.R. 4653, Calendar Order No. 553; that all after the enacting clause be stricken and the text of S. 2329, as amended, be inserted in lieu thereof, the bill read a third time, and passed, the motion to reconsider laid on the table; that S. 2329 then be indefinitely postponed, and any statement thereon appear in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 4653), as amended, was passed, as follows:

H.R. 4653

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mohegan Nation of Connecticut Land Claims Settlement Act of 1994".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The Mohegan Tribe of Indians of Connecticut received recognition by the United States pursuant to the administrative process under part 83 of title 25 of the Code of Federal Regulations.

(2) The Mohegan Tribe of Indians of Connecticut is the successor in interest to the aboriginal entity known as the Mohegan Indian Tribe.

(3) The Mohegan Tribe has existed in the geographic area that is currently the State of Connecticut for a long period preceding the colonial period of the history of the United States.

(4) Certain lands were sequestered as tribal lands by the Colony of Connecticut and subsequently by the State of Connecticut.

(5) The Mohegan Tribe of Indians of Connecticut v. State of Connecticut, et al. (Civil Action No. H-77-434, pending before the United States District Court for the Southern District of Connecticut) relates to the ownership of certain lands within the State of Connecticut.

(6) Such action will likely result in economic hardships for residents of the State of Connecticut, including residents of the town of Montville, Connecticut, by encumbering the title to lands in the State, including lands that are not currently the subject of the action.

(7) The State of Connecticut and the Mohegan Tribe have executed agreements for the purposes of resolving all disputes between the State of Connecticut and the Mohegan Tribe and providing a settlement for the action referred to in paragraph (5).

(8) In order to implement the agreements referred to in paragraphs (5) and (6) of section 3 that address matters of jurisdiction with respect to certain offenses committed by and against members of the Mohegan Tribe and other Indians in Indian country and matters of gaming-related development, it is necessary for the Congress to enact legislation.

(9) The town of Montville, Connecticut, will—

(A) be affected by the loss of a tax base from, and jurisdiction over, lands that will be held in trust by the United States on behalf of the Mohegan Tribe; and

(B) serve as the host community for the gaming operations of the Mohegan Tribe.

(10) The town of Montville and the Mohegan Tribe have entered into an agreement to resolve issues extant between them and to establish the basis for a cooperative government-to-government relationship.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To facilitate the settlement of claims against the State of Connecticut by the Mohegan Tribe.

(2) To facilitate the removal of any encumbrance to any title to land in the State of Connecticut that would have resulted from the action referred to in subsection (a).

SEC. 3. DEFINITIONS.

As used in this Act:

(1) LANDS OR NATURAL RESOURCES.—The term "lands or natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resources, including any right or interest in minerals, timber, or water, and any hunting or fishing rights.

(2) MOHEGAN TRIBE.—The term "Mohegan Tribe" means the Mohegan Tribe of Indians of Connecticut, a tribe of American Indians recognized by the United States pursuant to part 83 of title 25, Code of Federal Regulations, and the State of Connecticut pursuant to section 47-59a(b) of the Connecticut General Statutes.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) STATE.—The term "State" means the State of Connecticut.

(5) STATE AGREEMENT.—The term "State Agreement" means the Agreement between the Mohegan Tribe and the State of Connecticut, executed on May 17, 1994, by the Governor of the State of Connecticut and the Chief of the Mohegan Tribe, that was filed with the Secretary of State of the State of Connecticut.

(6) TOWN AGREEMENT.—The term "Town Agreement" means the agreement executed on June 16, 1994, by the Mayor of the town of Montville and the Chief of the Mohegan Tribe.

(7) TRANSFER.—The term "transfer" includes any sale, grant, lease, allotment, partition, or conveyance, any transaction the purpose of which is to effect a sale, grant, lease, allotment, partition, or conveyance, or any event that results in a change of possession or control of land or natural resources.

SEC. 4. ACTION BY SECRETARY.

(a) IN GENERAL.—The Secretary is authorized to carry out the duties specified in subsection (b) at such time as the Secretary makes a determination that—

(1) in accordance with the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.), the State of Connecticut has entered into a binding compact with the Mohegan Tribe providing for class III tribal gaming operations (as defined in section 4(8) of such Act (25 U.S.C. 2703(8)));

(2) the compact has been approved by the Secretary pursuant to section 11(d)(8) of such Act (25 U.S.C. 2710(d)(8)); and

(3) pursuant to transfers carried out pursuant to the State Agreement, the United States holds title to lands described in exhibit B of the State Agreement in trust for the Mohegan Tribe to be used as the initial Indian reservation of the Mohegan Tribe.

(b) PUBLICATION BY SECRETARY.—If the Secretary makes a determination under subsection (a) that the conditions specified in paragraphs (1) through (3) of that subsection have been met, the Secretary shall publish the determination, together with the State Agreement, in the Federal Register.

(c) EFFECT OF PUBLICATION.—

(1) IN GENERAL.—Upon the publication of the determination and the State Agreement in the Federal Register pursuant to subsection (b), a transfer, waiver, release, relinquishment, or other commitment made by the Mohegan Tribe in accordance with the terms and conditions of the State Agreement shall be in full force and effect.

(2) APPROVAL BY THE UNITED STATES.—(A) The United States hereby approves any transfer, waiver, release, relinquishment, or other commitment carried out pursuant to paragraph (1).

(B) A transfer made pursuant to paragraph (1) shall be deemed to have been made in accordance with all provisions of Federal law that specifically apply to transfers of lands or natural resources from, by, or on behalf of an Indian, Indian nation, or tribe of Indians (including the Act popularly known as the "Trade and Intercourse Act of 1790"; section 4 of the Act of July 22, 1790 (1 Stat. 137, chapter 33)). The approval of the United States made pursuant to subparagraph (A) shall apply to the transfer beginning on the date of the transfer.

(d) EXTINGUISHMENT OF CLAIMS.—

(1) IN GENERAL.—Subject to subsections (f)(2) and (g), the following claims are hereby extinguished:

(A) Any claim to land within the State of Connecticut based upon aboriginal title by the Mohegan Tribe.

(B) Any other claim that the Mohegan Tribe may have with respect to any public or private lands or natural resources in Connecticut, including any claim or right based on recognized title, including—

(i) any claim that the Mohegan Tribe may have to the tribal sequestered lands bounded out to the Tribe in 1684, consisting of some 20,480 acres lying between the Thames River, New London bounds, Norwich bounds, and Colchester bounds;

(ii) any claim that the Mohegan Tribe may have based on a survey conducted under the authority of the Connecticut General Assembly in 1736 of lands reserved and sequestered by the General Assembly for the sole use and improvement of the Mohegan Indian Tribe; and

(iii) any claim that the Mohegan Tribe may have based on any action by the State carried out in 1860 or 1861 or otherwise made by the State to allot, reallot, or confirm any lands of the Mohegan Tribe to individual Indians or other persons.

(2) APPROVAL BY THE UNITED STATES.—An extinguishment made pursuant to this subsection shall be deemed to have been made in accordance with all provisions of Federal law that specifically apply to transfers of lands or natural resources from, by, or on behalf of an Indian, Indian nation, or tribe of Indians (including the Act popularly known as the "Trade and Intercourse Act of 1790"; section 4 of the Act of July 22, 1790 (1 Stat. 137, chapter 33)).

(e) TRANSFERS.—Subject to subsection (g), any transfer of lands or natural resources located within the State of Connecticut, including any such transfer made pursuant to any applicable Federal or State law (including any applicable treaty), made by, from, or on behalf of the Mohegan Tribe or any predecessor or successor in interest of the Mohegan Tribe shall be deemed to be in full force and effect, as provided in subsection (c)(1).

(f) LIMITATION.—

(1) IN GENERAL.—Except as provided in paragraph (2) and subject to subsection (g), by virtue of the approval by the United States under this section of a transfer of land or the extinguishment of aboriginal title, any claim by the Mohegan Tribe against the United States, any State or political subdivision of a State, or any other person or entity, by the Mohegan Tribe, that—

(A) arises after the transfer or extinguishment is carried out; and

(B) is based on any interest in or right involving any claim to lands or natural resources described in this section, including claims for trespass damages or claims for use and occupancy, shall, beginning on the date of the transfer of land or the extinguishment of aboriginal title, be considered an extinguished claim.

(2) EXCEPTION.—The limitation under paragraph (1) shall not apply to any interest in lands or natural resources that is lawfully acquired by the Mohegan Tribe or a member of the Mohegan Tribe after the applicable date specified in paragraph (1).

(g) STATUTORY CONSTRUCTION.—

(1) ABORIGINAL INTERESTS.—Nothing in this section may be construed to extinguish any aboriginal right, title, interest, or claim to lands or natural resources, to the extent that such right, title, interest, or claim is an excepted interest, as defined under section 1(a) of the State Agreement.

(2) PERSONAL CLAIMS.—Nothing in this section may be construed to offset or eliminate the personal claim of any individual Indian if the individual Indian pursues such claim under any law of general applicability.

SEC. 5. CONVEYANCE OF LANDS TO THE UNITED STATES TO BE HELD IN TRUST FOR THE MOHEGAN TRIBE.

(a) IN GENERAL.—Subject to the environmental requirements that apply to land acquisitions covered under part 151 of title 25, Code of Federal Regulations (or any subsequent similar regulation), the Secretary shall take such action as may be necessary to facilitate the conveyance to the United States of title to lands described in exhibits A and B of the State Agreement. Such lands shall be held by the United States in trust for the use and benefit of the Mohegan Tribe as the initial Indian reservation of the Mohegan Tribe.

(b) CONSULTATION.—

(1) IN GENERAL.—The Secretary shall consult with the appropriate official of the town of Montville concerning any tract of land subject to exhibit B of the State Agreement but not specifically identified in such exhibit with respect to the impact on the town resulting from—

(A) the removal of the land from taxation by the town;

(B) problems concerning the determination of jurisdiction; and

(C) potential land use conflicts.

(2) STATUTORY CONSTRUCTION.—Nothing in this Act may affect the right of the town of Montville to participate, under any applicable law, in decisionmaking processes concerning the acquisition of any lands by the Federal Government to be held in trust for the Mohegan Tribe.

SEC. 6. CONSENT OF UNITED STATES TO STATE ASSUMPTION OF CRIMINAL JURISDICTION.

(a) IN GENERAL.—Subject to subsection (b), the consent of the United States is hereby given to the assumption of jurisdiction by the State of Connecticut over criminal offenses committed by or against Indians on the reservation of the Mohegan Tribe. The State shall have such jurisdiction to the same extent as the State has jurisdiction over such offenses committed elsewhere within the State. The criminal laws of the State shall have the same force within such reservation and Indian country as such laws have elsewhere within the State.

(b) STATUTORY CONSTRUCTION.—

(1) EFFECT ON CONCURRENT JURISDICTION OF THE MOHEGAN TRIBE.—The assumption of criminal jurisdiction by the State pursuant to subsection (a) shall not affect the concurrent jurisdiction of the Mohegan Tribe over matters concerning such criminal offenses.

(2) STATUTORY CONSTRUCTION.—The assumption of criminal jurisdiction by the State pursuant to subsection (a) shall not be construed as a waiver of the jurisdiction of the United States under section 1153 of title 18, United States Code.

SEC. 7. RATIFICATION OF TOWN AGREEMENT.

(a) IN GENERAL.—Notwithstanding any other provision of law, the consent of the United States is hereby given to the Town Agreement and the Town Agreement shall be in full force and effect.

(b) APPROVAL OF TOWN AGREEMENT.—The Secretary shall approve any subsequent amendments made to the Town Agreement after the date of enactment of this Act that are—

(1) mutually agreed on by the parties to the Town Agreement; and

(2) consistent with applicable law.

SEC. 8. GENERAL DISCHARGE AND RELEASE OF OBLIGATIONS OF STATE OF CONNECTICUT.

Except as expressly provided in this Act, the State Agreement, or the Town Agreement, this Act shall constitute a general discharge and release of all obligations of the State of Connecticut and the political subdivisions, agencies, departments, officers, or employees of the State of Connecticut arising from any treaty or agreement with, or on behalf of, the Mohegan Tribe or the United States as trustee for the Mohegan Tribe.

SEC. 9. EFFECT OF REVOCATION OF STATE AGREEMENT.

(a) IN GENERAL.—If, during the 15-year period beginning on the date on which the Secretary *publishes a determination pursuant to section 4(b), the State Agreement is invalidated by a court of competent jurisdiction, or if the gaming compact described in section 4(a)(1) or any agreement between the State of Connecticut and the Mohegan Tribe to implement the compact is invalidated by a court of competent jurisdiction—*

(1) the transfers, waivers, releases, relinquishments, and other commitments made by the Mohegan Tribe under section 1(a) of the State Agreement shall cease to be of any force or effect;

(2) section 4 of this Act shall not apply to the lands or interests in lands or natural resources of the Mohegan Tribe or any of its members, and the title to the lands or interests in lands or natural resources shall be determined as if such section were never enacted; and

(3) the approval by the United States of prior transfers and the extinguishment of claims and aboriginal title of the Mohegan Tribe otherwise made under section 4 shall be void.

(b) RIGHT OF MOHEGAN TRIBE TO REINSTATE CLAIM.—

(1) IN GENERAL.—If a State Agreement or compact or agreement described in subsection (a) is invalidated by a court of competent jurisdiction, the Mohegan Tribe or its members shall have the right to reinstate a claim to lands or interests in lands or natural resources to which the Tribe or members are entitled as a result of the invalidation, within a reasonable time, but not later than the later of—

(A) 180 days after the Mohegan Tribe receives written notice of such determination of an invalidation described in subsection (a); or

(B) if the determination of the invalidation is subject to an appeal, 180 days after the court of last resort enters a judgment.

(2) DEFENSES.—Notwithstanding any other provision of law, if a party to an action described in paragraph (1) reinstates the action during the period described in paragraph (1)(B)—

(A) no defense, such as laches, statute of limitations, law of the case, res judicata, or prior disposition may be asserted based on the withdrawal of the action and reinstatement of the action; and

(B) the substance of any discussions leading to the State Agreement may not be admissible in any subsequent litigation, except that, if any such action is reinstated, any defense that would have been available to the State of Connecticut at the time the action was withdrawn—

(i) may be asserted; and

(ii) is not waived by anything in the State Agreement or by subsequent events occurring between the withdrawal action and commencement of the reinstated action.

SEC. 10. JUDICIAL REVIEW.

(a) JURISDICTION.—Notwithstanding any other provision of law, during the period beginning on the date of enactment of this Act and ending on the date that is 180 days after such date, the United States District Court for the Southern District of Connecticut shall have exclusive jurisdiction over any action to contest the constitutionality of this Act or the validity of any agreement entered into under the authority of this Act or approved by this Act.

(b) DEADLINE FOR FILING.—Effective with the termination of the period specified in subsection (a), no court shall have jurisdiction over any action to contest the constitutionality of this Act or the validity of any agreement entered into under the authority of this Act or approved by this Act, unless such action was filed prior to the date of termination of the period specified in subsection (a).

AUTHORITY FOR FINANCE COMMITTEE TO REPORT

Mr. FORD. Mr. President, I ask unanimous consent that the Finance Committee have until 12 noon on November 22, 1994, to compile the committee reports on either S. 2467, the GATT implementation legislation, or its House companion, and that the Finance Committee have until 3 p.m. on November 22, 1994, to report either S. 2467 or the House companion.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL CONFEREES—H.R. 4950

Mr. FORD. Mr. President, I ask unanimous consent that the conferees for H.R. 4950, the OPIC amendments, be modified to include Senators RIEGLE, SARBANES, and D'AMATO from the Committee on Banking, to be conferees solely for the matters contained in titles III and IV.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Tuesday October 4; that following the prayer, the Journal of proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that immediately thereafter, the Senate proceed into executive session to consider the nomination of H. Lee Sarokin; and that on Tuesday, the Senate stand in recess from 12:30 p.m. to 2:15 p.m. in order to accommodate the respective party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess, as previously ordered.

There being no objection, the Senate, at 7:58 p.m., recessed until Tuesday, October 4, 1994, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 3, 1994:

ENVIRONMENTAL PROTECTION AGENCY

FREDERIC JAMES HANSEN, OF OREGON, TO BE DEPUTY ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE ROBERT M. SUSSMAN, RESIGNED.

FEDERAL TRADE COMMISSION

CHRISTINE A. VARNEY, OF THE DISTRICT OF COLUMBIA, TO BE A FEDERAL TRADE COMMISSIONER FOR THE UNEXPIRED TERM OF 7 YEARS FROM SEPTEMBER 26, 1989, VICE DENNIS A. YAO, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 593 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATE CODE. (EFFECTIVE DATE FOLLOWS SERIAL NUMBER.)

LINE OF THE AIR FORCE

To be lieutenant colonel

MAJ. FRANCES M. AUCLAIR, [redacted] 5/2/94
MAJ. WILLIAM L. BORDSON, [redacted] 5/17/94
MAJ. JAMES W. BRADSHAW, [redacted] 4/10/94
MAJ. GLENN P. HUTH, [redacted] 5/15/94
MAJ. JIMMY C. ROBERTS, [redacted] 5/13/94
MAJ. CHARLES J. SIMMONS, [redacted] 5/12/94
MAJ. JAMES R. WILSON, [redacted] 4/10/94

JUDGE ADVOCATE GENERALS DEPARTMENT

To be lieutenant colonel

MAJ. ROBERT B. BURNS, [redacted] 3/20/94

CHAPLAIN CORPS

To be lieutenant colonel

MAJ. RONALD L. BRACY, [redacted] 5/14/94
MAJ. DENNIS A. WILKINSON, [redacted] 5/14/94

BIOMEDICAL SERVICES CORPS

To be lieutenant colonel

MAJ. JEFFREY C. MINOR [redacted] 5/15/94

MEDICAL CORPS

To be lieutenant colonel

MAJ. VINCENT P. DANG, [redacted] 5/26/94
MAJ. MARTIN E. SELLBERG, [redacted] 5/6/94

DENTAL CORPS

To be lieutenant colonel

MAJ. MICHAEL HAJATIAN, JR. [redacted] 4/16/94
MAJ. LESLIE KARNS, [redacted] 5/3/94

IN THE ARMY

THE FOLLOWING-NAMED OFFICER, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE.

To be lieutenant colonel

MICHAEL D. FURLONG, [redacted]

THE FOLLOWING–NAMED OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A) AND 3370:

ARMY NURSE CORPS

To be colonel

KRISTINE CAMPBELL, [redacted]
CHRISTINE M. MAHON, [redacted]

DENTAL CORPS

To be colonel

CHRIS S. CARTWRIGHT, [redacted]
FRANK H. JONES, [redacted]
DICK D. LEWALLEN, [redacted]

MEDICAL CORPS

To be colonel

RALPH S. AMATO, [redacted]
JOHN C. BAILEY, [redacted]
BEN P. BINGCANG, [redacted]
LARRY R. BOEHME, [redacted]
JASPER L. BOOKER, [redacted]
EVA M. BUCH, [redacted]
BYRON P. CROKER, [redacted]
WILHELM G. DOOS, [redacted]
GERALD F. DREHER, [redacted]
CHARLES D. ESKRIDGE, [redacted]
RICHARD S. FIELD, [redacted]
JAMES K. FORTSON, [redacted]
CHARLES M. GLASIER, [redacted]
JAMES B. HANSARD, [redacted]
HOWARD T. HARCKE, [redacted]
JAMES A. HASBARGEN, [redacted]
CHARLES N. HEGGEN, [redacted]
JOHN G. JAEGER, [redacted]
CHARLES J. JOHNSON, [redacted]
YOUNG W. KAHN, [redacted]
DANNY P. KAUP, [redacted]
THOMAS N. KIAS, [redacted]
MICHAEL KILHAM, [redacted]
ARTHUR M. KUNATH, [redacted]
GEORGE S. LAKNER, [redacted]
ROGELIO F. LUCAS, [redacted]
RONALD C. MARTIN, [redacted]
RONALD A. MARTINO, [redacted]
JOHN T. MC CARTHY, [redacted]
JAMES S. MC HONE, [redacted]
HOWARD D. MELVIN, [redacted]
BROOKS A. MICK, [redacted]
ERIC I. MITCHELL, [redacted]
MARJORIE A. MOSIER, [redacted]
SIMON K. MYINT, [redacted]

WILLIAM C. NASH, [redacted]
CHARLES E. PROBST [redacted]
GREGORY L. QUICK, [redacted]
RICHARD H. REED, [redacted]
JAMES F. REYNOLDS [redacted]
LYNNETT RINGENBERG [redacted]
RAMON M. RUBIO, [redacted]
WILLIAM P. SCHERER [redacted]
TIMOTHY J. SHAW [redacted]
RONALD K. STAIB [redacted]
RICHARDS J. THOMAS, [redacted]
DAVID G. VANSICKLE, [redacted]
NANCY M. WELCH, [redacted]
LEWIS WESTMORELAND, [redacted]
THOMAS A. WOODWARD, [redacted]

MEDICAL SERVICE CORPS

To be colonel

JAMES E. ADEE [redacted]
KENNETH J. BACH, [redacted]
ROGER A. BARENTINE, [redacted]
JAMES J. BECKER [redacted]
ANTHONY BENEDETTO, [redacted]
KEVIN J. BISHOP [redacted]
JACK T. CARPENTER [redacted]
GUILLERMO CISNEROS, [redacted]
GARY F. CLIFTON [redacted]
WILLIAM L. CONOLE, [redacted]
FRANK R. COTTEN [redacted]
DAVID N. GANS, [redacted]
MICHAEL J. GLYNN [redacted]
DANA H. GRAU, [redacted]
RICHARD GUSTAFSON, [redacted]
SAMUEL Y. HARRIS [redacted]
JAMES L. HESLOP [redacted]
DENNIS F. KIMBERLIN [redacted]
MICHAEL KINMARTIN, [redacted]
THOMAS B. LEECOST [redacted]
ALVIN L. LIEVSAY [redacted]
WARREN R. LONGLEY, [redacted]
MICHAEL F. LYONS, [redacted]
ERVIN M. NORGREN, [redacted]
JAMES G. PERLMUTTER [redacted]
AARON A. SMITH, [redacted]
JAMES R. VALENTINE [redacted]
WILLIAM J. VOGT [redacted]

ARMY MEDICAL SPECIALIST CORPS

To be colonel

SUE E. CUNNINGHAM, [redacted]

VETERINARY CORPS

To be colonel

SIDNEY E. MCDANIEL, [redacted]

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A) AND 3366:

ARMY NURSE CORPS

To be lieutenant colonel

PETER M. ALLEN [redacted]
SYLVIA ALVAREZ, [redacted]
LINDA D. ANDERSON, [redacted]
CATHERINE AUCKLAND, [redacted]
KAREN E. AUVENSHINE, [redacted]
PATRICIA M. BALLER [redacted]
KATHLEEN BARNHART, [redacted]
PATRICIA F. BELINC [redacted]
BARBARA C. BERG, [redacted]
CATHY M. BINDER, [redacted]
RICHARD D. BOGGAN, [redacted]
LESLIE D. BOONE [redacted]
NANCY BRANA, [redacted]
SHARON K. BRESSLER [redacted]
ANNA J. BREWSTER, [redacted]
KIM A. BRINN, [redacted]
DAVID G. BROWN, [redacted]
THOMAS J. BROWNE, [redacted]
MARGARET A. BURKE, [redacted]
MARY J. CAMPBELL [redacted]
STEPHANIE CARLETON [redacted]
NANCY W. CAUSEY, [redacted]
SUSAN CHESHIRE, [redacted]
DAVID B. CHILES, [redacted]
LISA D. CHINLUND, [redacted]
KATIE I. CHISOLM [redacted]
DANIEL P. CLARK [redacted]
LYNN A. CLARK, [redacted]
RONALD L. COCHRAN, [redacted]
JAYNE H. COOLEY, [redacted]
VELMA M. COOPER, [redacted]
EILEEN M. CORRIGAN, [redacted]
LARAINE F. CRANE [redacted]
DAVID CRUZ, [redacted]
EDMUND A. CRUZ, [redacted]
RICHARD D. CULBERT, [redacted]
SALLY L. CULP, [redacted]
EDWARD O. CYR, [redacted]
MICHAEL G. DAVIS, [redacted]
ETHELYN D. DAWSON, [redacted]
GAIL M. DEASON, [redacted]
CAROLYN A. DEVERELL, [redacted]
MICHAEL DOMARACKI, [redacted]
JANE G. DURR, [redacted]
JOANNE ELDERMAN, [redacted]
PAUL T. ELLIOTT [redacted]
FAYE A. ELLIS [redacted]
LINDA J. EPPELE [redacted]
CARROLL A. ERWIN, [redacted]
LARRY E. EVERSON [redacted]
NEDLA J. EWEN, [redacted]
BETTY FEATHERSTONE [redacted]
JEANNE S. FINDLAY [redacted]
ROBERT E. FISHER [redacted]
WILLIAM C. FLOYD, [redacted]
SHIRLEY J. FONG [redacted]
BONNIE C. FRIED, [redacted]
LORETTA J. GARCIA [redacted]
LANA L. GEIER, [redacted]
JOSHEPH T. GIACCHI [redacted]
JOHN H. GILLENWATER [redacted]
CHARLOTTE GORMLEY, [redacted]
MARCIA L. GRACE, [redacted]
MARY C. GRECO, [redacted]
RUSSELL J. GROGAN [redacted]
IRIS GUARDARRAMAS, [redacted]
MICHAEL W. HAGLEY, [redacted]
JUDY A. HARGER, [redacted]
DAVID L. HARMS, [redacted]
MARILYN A. HARTMAN, [redacted]
HIDEYO HAYWORTH, [redacted]
TEDDY M. HENDERSON [redacted]
CAROLE J. HICKMAN, [redacted]
ELENA HILL, [redacted]
AUDREY L. HINDS, [redacted]
CHRISTINE A. HOWARD [redacted]
PATRICIA C. HOWELL, [redacted]
JONATHAN T. HURWITZ [redacted]
KAREN L. INSCOE, [redacted]
LUCILLE T. IRBY [redacted]
LINDA D. JACKSON, [redacted]
JOSEPH J. JAHRLING [redacted]
ELLEN R. JOHNS [redacted]
LINDA K. JONES, [redacted]
JUDITH A. JOY [redacted]
MARY V. KAOUGH, [redacted]
JUDY L. KELOW [redacted]
RAYMOND A. KING, [redacted]
SHEILA KOWALEWSKI, [redacted]
EDWARD J. KUCINSKI, [redacted]
JACQUELYN KUNES, [redacted]
DONNA H. LAFANTASIE, [redacted]
DON L. LEEPER, [redacted]
VIRGINIA LEM, [redacted]
WORTHEN E. LOVETT, [redacted]
MICHAEL MANANSALA, [redacted]
VERDELL MARSH, [redacted]
JERRY D. MARTIN [redacted]
MARLENE R. MATTHEWS, [redacted]
MARILYN O. MAUS, [redacted]
MARY J. MINTER, [redacted]

NICKY J. MOORMAN, [redacted]
THOMAS C. MORGAN, [redacted]
ADDIE M. MORRIS, [redacted]
JAMES A. MULLEN [redacted]
EUGENE J. MURDOCK, [redacted]
JEARLINE MURRAY [redacted]
FRANK M. NASH, [redacted]
PEGGY L. NELSON, [redacted]
KARI L. NEWMAN, [redacted]
THOMAS B. NORCROSS, [redacted]
MARLENE A. OCONNELL [redacted]
AGUSTINA OJEDA, [redacted]
DARIA M. OLARTE, [redacted]
SANDRA K. OLSON, [redacted]
KYLE W. ORTEN, [redacted]
MARY K. OSHEA, [redacted]
BEVERLY L. PAGE, [redacted]
TERESA G. PARKER [redacted]
ALFRED J. PAYNTER [redacted]
EDNA D. PIEHLER [redacted]
ROBERT A. PLASS [redacted]
SUSAN M. PONTIUS, [redacted]
ALBERTO R. PORAZZI [redacted]
CATHLEEN M. PRICE [redacted]
MARGARET E. REYES [redacted]
LYNN M. RILEY, [redacted]
ELLEN P. RINEHART [redacted]
SUSAN M. RIOJAS, [redacted]
CAROL A. ROCHELEAU, [redacted]
KENNETH M. RUDES, [redacted]
JOHN K. RYAN, [redacted]
WENGER N. RYAN, [redacted]
CHRISTINE SAUTTER [redacted]
ALBERT F. SEALE [redacted]
DONNA F. SILVER, [redacted]
ERIKA M. SINHA, [redacted]
SHARON B. SKOLD, [redacted]
DANIEL E. STAAB, [redacted]
PHYLLIS K. STAFFORD [redacted]
OLIVIA J. STONE [redacted]
TODD M. STUMPF [redacted]
PATRICIA SWEETING, [redacted]
ADELE M. SYBY, [redacted]
CAROL L. TAFF, [redacted]
J. TORRES FRATICELLI [redacted]
JOHN P. TUOHEY, [redacted]
THERESE A. VIRGONA, [redacted]
CORWYN R. VOKOUN, [redacted]
JEAN T. WALKER, [redacted]
BEVERLY J. WALLACE [redacted]
SUSAN L. WALSH, [redacted]
SANDRA L. WEEKS, [redacted]
CAROLYN D. WEST, [redacted]
RITA A. WILLIAMS, [redacted]
MARGARET C. WILMOTH, [redacted]
JANET S. WYATT, [redacted]
RUTH A. YERARDI, [redacted]
DONALD R. YOUNG, [redacted]
JAI YUDHISHTHU, [redacted]
FRANKETTA ZALAZNIK, [redacted]
ROSEMARY T. ZEMLO, [redacted]
LLOYD R. ZERJAV, [redacted]

DENTAL CORPS

To be lieutenant colonel

ALAMOCARRASQUILLO, [redacted]
DAVID S. ALLEMAN, [redacted]
GAILYA L. AXAM, [redacted]
LIONEL BAKER, [redacted]
ALJERNON J. BOLDEN [redacted]
EDWARD R. BOOTHROYD, [redacted]
JOHN F. BOWLEY, [redacted]
LAWRENCE S. BRANNON, [redacted]
DARWIN R. BRENDEN, [redacted]
JESSE A. BREWER [redacted]
ALKA V. COHEN, [redacted]
CAROL I. DENNISON, [redacted]
FRED DIORIO, [redacted]
JOHN D. FRAZEE [redacted]
JAMES T. GIMBEL [redacted]
RICHARD M. GONDEK, [redacted]
GARTH R. GRIFFITHS [redacted]
JAMES C. HOVE, [redacted]
JOHN P. HOWARD, [redacted]
LANNIS E. HUCKABEE, [redacted]
SCOTT W. HUDELSON, [redacted]
ARNOLD K. KAPLAN, [redacted]
JOHNNIE L. KNIGHT [redacted]
NORBERT G. KOLLER, [redacted]
MICHAEL G. LABOUBE, [redacted]
PAUL B. LAVINE, [redacted]
RONALD A. LEPIANKA, [redacted]
BROCKTON A. LIVICK, [redacted]
JONATHAN MAHAFFEY, [redacted]
ROBERT A. MASON, [redacted]
RUSSELL P. MAYER [redacted]
ROBERT F. MCARDLE, [redacted]
JAMES P. MCCARTHY [redacted]
BRUCE R. MEYER, [redacted]
DAVID H. MILLIGAN, [redacted]
JOHN D. MORGAN, [redacted]
ELIZABETH S. MORRIS [redacted]
ROBERT L. MORROW, [redacted]
GATES W. PARKER, [redacted]
SIDNEY H. PENKA, [redacted]
LANCE C. RAMP, [redacted]
DONALD W. ROBERTS, [redacted]
JAMES R. ROBERTS [redacted]
RICKY J. RODGERS, [redacted]
ROBERT E. SCHELL, [redacted]
DALE S. SHARPLES [redacted]
JAMES P. SIKORSKI [redacted]
PAUL D. SILVER [redacted]
JOHN A. SMITH, [redacted]
JOE W. SNAVELY, [redacted]
GREGORY R. SOPEL, [redacted]
MICHAEL S. THOMAS, [redacted]
JOHN J. VONARB, [redacted]
IRIS J. WATKINS [redacted]
STEPHEN R. WENDT, [redacted]
DAVID J. WHITNEY, [redacted]
DANIEL S. WILLIAMS, [redacted]
RICHARD B. YOUNG, [redacted]

MEDICAL CORPS

To be lieutenant colonel

JAMES A. ATKISON [redacted]
JOHNNIE AYERS, [redacted]
BEDFORD F. BOYLSTON, [redacted]
JOHN D. BROOKE, [redacted]
WILLIAM E. BUCHANAN, [redacted]
JOHN R. BUCHOLTZ, [redacted]
RUFUS H. CAIN, [redacted]
JAIME T. CALAGUAS, [redacted]
ROGELIO L. CARRERA, [redacted]
PATRICK CAULFIELD, [redacted]
YOUNG H. CHOI, [redacted]
GEORGE L. CHOLAK, [redacted]
WILLIAM E. CLYMER, [redacted]
AMRAM J. COHEN, [redacted]
JOSE COLLADOMARCIAL, [redacted]
ESTEL COOKESAMPSON [redacted]
BRIAN W. COOPER, [redacted]
VIRAF R. COOPER, [redacted]
CHRISTOPHER COWAN, [redacted]
BERNADETTE D'SOUZA, [redacted]
ARTHUR B. DALTON, [redacted]
JOSE C. DANCEL, [redacted]
RODNEY DAVIS, [redacted]
LARRY S. DEUTSCH, [redacted]
JAMES A. DIRENNA, [redacted]
LENO EVANSGONZALEZ, [redacted]
BENJAMIN S. FAIL, [redacted]
JACK F. FENNEL, [redacted]
RALPH P. FERENCHAK [redacted]
NANCY W. FINNERTY, [redacted]
GARY E. FORD, [redacted]
JOHN G. FOZARD, [redacted]
BRUCE D. FRIED, [redacted]
MICHAEL L. FRIEDMAN [redacted]
ROBERT S. FRIEDMAN [redacted]
CHARLES GARBARINO, [redacted]
PAUL E. GAUSE, [redacted]
VANITA GILBERTSON, [redacted]
JOHN L. GILILLAND, [redacted]
NEAL M. GOLDBERGER, [redacted]
WILLIAM T. GRANGER, [redacted]

VYBERT P. GREENE [redacted]
CAROLA M. GUERRA, [redacted]
JOSEPH GUILEYARDO [redacted]
ANDRE F. HENRY, [redacted]
WAVELL C. HODGE, [redacted]
MARK A. HOFFMAN, [redacted]
WILLIAM ICENHOWER, [redacted]
TIMOTHY J. JUDGE [redacted]
MITCHELL L. KAPHAN, [redacted]
KEVIN J. KELLY [redacted]
VICTOR Y. KIM, [redacted]
BENJAMIN J. KULPER [redacted]
CARL G. LAUER, [redacted]
ELIZABETH P. LEE [redacted]
WILLIAM E. LEROY, [redacted]
DONALD H. LOEBL, [redacted]
RICHARD A. LUTZ, [redacted]
DAVID M. MACCINI, [redacted]
MICHAEL I. MAGGIO, [redacted]
WALTER J. MAGUIRE [redacted]
CRAIG R. MARTIN, [redacted]
KENNETH L. MARTIN, [redacted]
CLAUDIA MC ALLASTER, [redacted]
ELLEN L. MC CORMICK, [redacted]
LARRY G. MOBLY, [redacted]
ELISABETH MONTAGUE, [redacted]
BARBARA J. MURPHY, [redacted]
GORDON W. NG, [redacted]
WILLIAM J. NICHOLAS [redacted]
KENT A. NICKELL, [redacted]
RON D. NUTTING, [redacted]
JOHN C. OTTENBACHER, [redacted]
KEARY P. OVERTON, [redacted]
WESLEY E. PARKHURST [redacted]
CLYDE W. PARSONS, [redacted]
PAUL M. PAUSTIAN, [redacted]
JAMES J. PERRY [redacted]
ANDREW C. PETERSON, [redacted]
DAVID P. PETROS [redacted]
ROSALIND K. PIERCE [redacted]
DENNIS E. PLATT [redacted]
JAMES J. PRESLEY [redacted]
MICHAEL R. PRIDDY, [redacted]
DENNIS E. REILLY [redacted]
RANDY C. RICHTER, [redacted]
JAMES D. ROGERS [redacted]
TIMOTHY R. ROY, [redacted]
JOHN D. ROZICH, [redacted]
WIL SANTIAGOBUTLER, [redacted]
JOSEPH A. SARNELLE [redacted]
CHANDAN SHARMA, [redacted]
STEPHEN K. SIEGRIST [redacted]
LILLIAM SIERRA [redacted]
ROGER J. SIMPSON [redacted]
DAVID C. SLAGLE, [redacted]
DICK D. SLATER, [redacted]
PETER J. SPEICHER [redacted]
THOMAS M. STEIN, [redacted]
JONATHAN G. STOCK, [redacted]
HERBERT A. STONE [redacted]
DAVID W. TOWLE, [redacted]
JAMES R. UHL [redacted]
CARLOS R. VILLALTA [redacted]
LUIS L. VILLARRUEL [redacted]
JAMES G. WALL [redacted]
JAMES D. WELLS [redacted]
ROBERT B. WHITMORE, [redacted]
ROBERT E. WILKINS [redacted]
EDWARD WILLIAMS, JR [redacted]
CYNTHIA WOODSONMAYO, [redacted]
DANE K. WUKICH, [redacted]
JAMES M. YEASH [redacted]
JACK W. ZIMMERLY, [redacted]

MEDICAL SERVICE CORPS

To be lieutenant colonel

MICHAEL R. ALESCH, [redacted]
GARY L. ALLEN, [redacted]
MARY E. ANCKER, [redacted]
JOHN S. BASINGER [redacted]
EVERETTE T. BEERS [redacted]
GORDON BENNETT, JR. [redacted]
JOEL J. BERTRAND [redacted]
WILLIAM L. BIGSBY, [redacted]
MICHAEL S. BILLS [redacted]
LEWIS R. BOOBAR, [redacted]
JAMES L. BRAXMEIER [redacted]
ADAM T. BROGOWSKI, [redacted]
KAREN M. BROOKS, [redacted]
JAMES F. BROWER [redacted]
GORDON E. BROWN, [redacted]
WILLIAM S. BROWNELL, [redacted]
GARY M. BRYANT, [redacted]
ANN M. CAMPBELL, [redacted]
ALFRED CARLOMAGNO, [redacted]
DONALD L. CARTER, [redacted]
ANDREW K. CHUNG, [redacted]
JOHN L. CLARK, [redacted]
TERRENCE T. CLARK [redacted]
WILLIAM D. CLAUD, [redacted]
RONALD E. COLEMAN, [redacted]
LARRY E. COMIN, [redacted]
DEBRA A. COOK, [redacted]
DAVID N. COWAN, [redacted]
WILLIAM COX, [redacted]
DONALD E. CRAVENS, [redacted]
RONNIE W. CROMER, [redacted]
BLAINE E. CRUMP, [redacted]
WILLIAM F. DALTON, [redacted]
RICHARD L. DAVIS, [redacted]
MARIET DAWSONWHITE, [redacted]
MOSES DEESE, [redacted]
DEBORAH P. DONOHUE, [redacted]
EDWIN C. DUDLEY, [redacted]
WILLIAM D. DUDLEY, [redacted]
DANIEL J. DUNN, [redacted]
MARLIN J. EBERT [redacted]
CHRISTOPHER ELHARDT [redacted]
FRANK P. ENG, [redacted]
HENRY E. ERICKSON, [redacted]
JAMES L. FAVRET [redacted]
DAVID A. FEIL, [redacted]
CHARLES F. FERRIS [redacted]
MARK J. FRATONI, [redacted]
WILLIE L. FRAZIER [redacted]
ROBERT R. FREEMAN [redacted]
ANTHONY D. GADDIS, [redacted]
LLOYD W. GADDIS, [redacted]
ROBERT GARBER, [redacted]
JOHN M. GARTLAND, [redacted]
BERNARD W. GEORGE, [redacted]
JESSE O. GIDDENS [redacted]
RICHARD V. GRAHAM, [redacted]
DONALD L. GRINNELL, [redacted]
ROBERT G. GROSS, [redacted]
J.M. HAMILTON, [redacted]
JAY C. HANS, [redacted]
RALPH E. HARBACH, [redacted]
WILLIAM J. HARDY, [redacted]
ROBERT C. HEIMMEL, [redacted]
ROBERT G. HOLMES, [redacted]
RODNEY R. HUEBNER, [redacted]
JOHN L. HUTCHISON, [redacted]
STANLEY J. ILLICH [redacted]
JAMES W. JABARA [redacted]
CHRISTEN JANKOWSKI, [redacted]
BRUCE L. JENTZ, [redacted]
JOHN JEZIORSKI [redacted]
DALE A. JOHNSON, [redacted]
HEYWARD L. JOHNSON, [redacted]
JAY E. JOHNSON [redacted]
JOHN D. JOHNSON, [redacted]
WILLIAM F. JOHNSTON, [redacted]
CHRISTINE F. JONES [redacted]
TIMOTHY J. JORDAN [redacted]
LOUIS J. KATZ, [redacted]
LYNN W. KAUFMAN, [redacted]
RICHARD A. KAUFMAN, [redacted]
GREGORY J. KIRMEYER [redacted]
LOIS J. KNAFLER [redacted]
MICHAEL D. KOPLIN, [redacted]
DAVID A. KUHLMANN, [redacted]
LINDA L. LADO [redacted]
RICHARD B. LAKES, [redacted]
BRYAN LARSEN, [redacted]
HAROLD E. LAUBACH, [redacted]
KENNETH M. LEE, [redacted]
RONALD R. LINDQUIST, [redacted]
GAIL E. LOCKHART, [redacted]
DANIEL E. LONNQUIST, [redacted]
GUY E. LUND, [redacted]
JAMES F. LUNDY [redacted]
WILLIAM H. LYERLY, [redacted]
MICHAEL P. MALONE, [redacted]
JOSEPH F. MARANTO [redacted]
KATHLEEN S. MAYERS [redacted]
EDGAR A. MCAVOY, [redacted]
BRENT A. MCKELL, [redacted]
KENNETH D. MCRAE, [redacted]
JERRY W. MELCHER, [redacted]
MARLEY A. MENCER, [redacted]
GERALD A. MERRILL, [redacted]
WILLIAMS R. MIMS, [redacted]
MARTIN P. MOSKOWITZ, [redacted]
STEPHEN R. MUZA, [redacted]
BRUCE J. NATHANSON, [redacted]
DAVID R. NEWKIRK, [redacted]
PATRICK F. ODONNELL, [redacted]
MICHAEL J. OLDHAM, [redacted]
STEVEN G. OLSON, [redacted]
LORIN B. PARK, [redacted]
STEVEN C. PARKISON, [redacted]
EDGAR A. PARROTT, [redacted]
THOMAS F. PEACOCK, [redacted]
JAIME PENASANCHEZ, [redacted]
BERT M. PETERSON [redacted]
GARY R. PETERSON [redacted]
LARRY D. PIERSON [redacted]
STEVEN G. PINARD [redacted]
CHURCHILL B. PITTS [redacted]
SYLVIA T. QUEZADA, [redacted]
JOEL A. RABB, [redacted]
LAUREEN M. RAMIREZ, [redacted]
JULIAN E. RITTER [redacted]
LUIS RIVERALLERAS [redacted]
RICHARD A. ROPER, JR [redacted]
HARRY G. RUBIN, [redacted]
JOHN A. RUCKER, [redacted]
PAUL A. SAIA, [redacted]
MICHAEL W. SALMONS, [redacted]
ROBERT B. SAPAUGH, [redacted]
MURTY SAVITALA, [redacted]
ELMAR T. SCHMEISSER, [redacted]
ALLEN C. SCHMIDT, [redacted]
KEITH H. SCHWENN, [redacted]
DAVID W. SEATON, [redacted]
HAROLD J. SEILING [redacted]
LAWRENCE C. SELLIN [redacted]
DOUGLAS L. SHAMES, [redacted]
RUSSELL F. SHEARER [redacted]
JAMES E. SHEPHERD [redacted]
WILLIAM L. SIZEMORE [redacted]
HOLLY B. SMITH, [redacted]
STUART W. SMYTHE, [redacted]
FREDERICK STALLONE, [redacted]
PAUL M. STICKEL, [redacted]
JAMES L. STINGLEY [redacted]
CHARLES E. STUTTS [redacted]
LAWRENCE SUDDENDORF, [redacted]
ROBERT F. SWEENEY, [redacted]
TERRY L. SWISHER, [redacted]
JOHN W. TIERNEY, [redacted]
PHILLIP TOLBERT [redacted]
MICHAEL M. TONER, [redacted]
MARK S. VAJCOVEC, [redacted]
JOHN A. VIERCINSKI, [redacted]
RICHARD A. VOLTZKE, [redacted]
JOHN D. WALDROP, [redacted]
JAMES P. WALKER [redacted]
TIMOTHY J. WALKER, [redacted]
MICHAEL W. WALTON, [redacted]
LAURA L. WARD, [redacted]
SHARON S. WEESE, [redacted]
GORDON P. WESLEY, [redacted]
ROBERT L. WHETSTONE, [redacted]
JAMES R. WILSON, [redacted]
JOHN R. WOODALL, [redacted]
PATRICIA M. YOUNG, [redacted]

ARMY MEDICAL SPECIALIST CORPS

To be lieutenant colonel

DENISE P. AVERY, [redacted]
PRISCILLI BECKWITH, [redacted]
STEVEN C. BLACK, [redacted]
KATHLEEN W. BROWN, [redacted]
NANCY S. CAMPBELL, [redacted]
CATHERINE DIGILIO, [redacted]
SUSAN E. GUILMAIN, [redacted]
CHERYL A. HOWARD, [redacted]
ALBERT R. JACOBS, [redacted]
MARGARET C. JOHNSON, [redacted]
LUVERNE M. MC DONALD, [redacted]
PAULA J. RAEVSKY [redacted]
ELIZABETH A. RAMOS, [redacted]
ANGELA M. REYNOLDS, [redacted]
HELEN A. SANDAGER, [redacted]
THOMAS O. SMITH, [redacted]
KATHLEEN YASUMURA, [redacted]
JOHN P. ZELENKA, [redacted]

VETERINARY CORPS

To be lieutenant colonel

JAMES R. ANDREASEN, [redacted]
ALVIN L. BAUMWART, [redacted]
LELAND DOCHTERMAN, [redacted]
JOHN A. DWYER, [redacted]
HUGH E. HODGES, [redacted]
CHARLES A. JOHNSON, [redacted]
KENNETH W. KIRSTEIN, [redacted]
VIRGINIA W. KOCH, [redacted]
MICHAEL B. LENNON, [redacted]
IRVING W. MC CONNELL, [redacted]
KIM D. SCHILLER, [redacted]
GEORGE R. SILVER, [redacted]
JIMMY D. THURMAN, [redacted]
EARL S. WOOD, [redacted]

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

LINE OF THE AIR FORCE

To be colonel

ABATI, DAVID W., [redacted]
ADANG, THOMAS C., [redacted]
ADOCCHIO, VITO A., [redacted]
ADRIANCE, BRUCE E., [redacted]
AKERS, ROBERT L., [redacted]
AKERS, THOMAS D., [redacted]
ALBERT, JOHN G., [redacted]
ALDERMAN, STEPHEN D. [redacted]
ALLEN, RICHARD K., [redacted]
ALLEN, ROBERT H., [redacted]
ANDERSEN, STEPHEN J. [redacted]
ANDREN, GEORGE W., [redacted]
ANEN, RICHARD J., [redacted]
ANZALONE, CHRIS T., [redacted]
ARMSTRONG, WILLIAM C., [redacted]
ARNETT, JAMES M. [redacted]
ARRINGTON, STEVEN A. [redacted]
ATKINS, DANA T., [redacted]
ATKINS, ROBERT L., JR. [redacted]
AWTREY, ROBERT M., [redacted]
AYERS, FRANCIS H., JR. [redacted]
BAILEY, JAMES A., [redacted]
BAILEY, TIMOTHY C. [redacted]
BAKER, BRADLEY S. [redacted]
BAKER, DEBORAH A., [redacted]
BALLARD, DANIEL P. [redacted]
BARKER, WILLIAM H., JR. [redacted]
BARNES, DIETER, [redacted]
BARNES, JACK R., [redacted]
BARTELS, KLAUS B. [redacted]
BARTHOLD, BRUCE R., [redacted]
BAYLESS, PATRICIA M. [redacted]
BEARD, JOHN H., [redacted]
BEAUCHAMP, WALLACE A., III, [redacted]
BECKWITH, DOUGLAS C., [redacted]
BEDFORD, JOHN C., [redacted]

BEESLEY, MARK G. [redacted]
BELL, FREDERICK J. [redacted]
BELLE, DONALD G. [redacted]
BENDA, MARK F., [redacted]
BENDICK, GORDON L. [redacted]
BENJAMIN, PHILIP G., II [redacted]
BENNETT, BRUCE G. [redacted]
BENOIT, MARK E. [redacted]
BERGER, DALE K. [redacted]
BERGMAN, CHARLES K. [redacted]
BIBLE, DALE F. [redacted]
BJORING, FRANKLIN O. [redacted]
BLANCHETTE, JEFFREY G. [redacted]
BLECHER, JOHN R. [redacted]
BLEDSOE, WILLIAM L. [redacted]
BLYTHE, JOHN M. [redacted]
BOCK, KURT F. [redacted]
BODENHEIMER, MICHAEL W. [redacted]
BOEHM, JAMES G. [redacted]
BOLTON, JOSE [redacted]
BONDZELESKE, EDWARD A. [redacted]
BONNER, ALAN L. [redacted]
BOOTH, THOMAS E. [redacted]
BOOTH, WILLIAM H. [redacted]
BORCHARDT, WILLIAM E. [redacted]
BOSCHERT, KERMIT V. [redacted]
BOVENIZER, JOHN C. [redacted]
BOWLDS, TED F. [redacted]
BOYLE, JAMES M. [redacted]
BOZARTH, STEPHEN E. [redacted]
BRADSHAW, CARL W. [redacted]
BRADY, WILLIAM A., JR. [redacted]
BRAMLITT, LARRY T. [redacted]
BREJWO, JOSEPH S. [redacted]
BRENNAN, JOHN T. [redacted]
BROOKS, JAMES M. [redacted]
BROOKS, TERRY L. [redacted]
BROTCHIE, CRAIG F. [redacted]
BROWN, STEPHEN D. [redacted]
BROWN, STEPHEN R. [redacted]
BROWN, STEPHEN V. [redacted]
BROWNYARD, LEO A. [redacted]
BRUGER, STEVEN J. [redacted]
BRYANT, CHARLES E. [redacted]
BRYCHCY, RICHARD, [redacted]
BRYLSKI, RAYMOND J. [redacted]
BUNN, ROBERT S. [redacted]
BURDA, BRUCE E. [redacted]
BURG, JEROME W. [redacted]
BURG, ROGER W. [redacted]
BUSCH, BRADLEY R. [redacted]
BUTLER, BRADLEY L. [redacted]
BUTLER, BRADLEY W. [redacted]
BUTLER, LARRY W. [redacted]
BUTTON, MICHAEL A. [redacted]
BUZZELL, WILLIAM A. [redacted]
CAGLE, RANDOLPH L. [redacted]
CAIN, JEFF [redacted]
CALLICUTT, KENNETH S. [redacted]
CALVERT, JOHN M. [redacted]
CANNON, LARRY D. [redacted]
CANTRELL, RANDALL R. [redacted]
CANTWELL, MICHAEL T. [redacted]
CARBON, RONALD D. [redacted]
CARDINAL, MICHAEL R. [redacted]
CARLISLE, ALEXANDER, [redacted]
CARMICHAEL, BRUCE W. [redacted]
CARNDUFF, JOHN L., JR. [redacted]
CARPENTER, DENNIS M. [redacted]
CARPENTER, WILLIAM D. [redacted]
CARR, ROBERT E., JR. [redacted]
CARTER, JOE N., JR. [redacted]
CASAUBON, LEON R. [redacted]
CASE, JAMES E. [redacted]
CAUGHMAN, BRUCE E. [redacted]
CECIL, THOMAS H. [redacted]
CERVENY, THELMA J. [redacted]
CHAMBERLIN, EMILY E. [redacted]
CHANDLER, LARRY S. [redacted]
CHARLES, JEFFREY R. [redacted]
CHARLTON, JOHN E. [redacted]
CHRISTENSEN, JOHN L. [redacted]
CHRISTIAN, JAMES N. [redacted]
CICHOWSKI, KURT A. [redacted]
CLAWSON, FRANK W. [redacted]
CLEARLY, MICHAEL S. [redacted]
CLIFTON, DANNY K. [redacted]
CLINES, JOHN T. [redacted]
COHOON, CHARLES R. [redacted]
CONDIT, ROGER B., III [redacted]
CONNER, CARL W. [redacted]
CONNORS, DAVID L. [redacted]
CORNELL, CHARLES O. [redacted]
CORRIGAN, JAMES M. [redacted]
COUNTS, LAURA C. [redacted]
COX, WILLIAM H., JR. [redacted]
CRAIG, ROBERT G. [redacted]
CRAIN, CHARLES E., III [redacted]
CREEK, HOWARD E. [redacted]
CRIPE, ROBERT C. [redacted]
CROOK, JOHN S. [redacted]
CROPPER, JAMES W. [redacted]
CROUCH, JETT, [redacted]
CROWLEY, PHILIP J. [redacted]
CRUIT, JERRY W. [redacted]
CUADROS, RICARDO G. [redacted]
CUMMINS, GREGORY W. [redacted]
DAGGITT, WILLIAM M. [redacted]
DAISLEY, RUSSELL L. [redacted]
DALEY, JUDSON D. [redacted]
DALSON, WILLIAM A. [redacted]
DANIELS, TONY G. [redacted]
DANIELSON, DENNIS L. [redacted]
DAVIS, MARK L. [redacted]
DAVIS, NANCY F. P. [redacted]
DAVIS, PHILIP R. [redacted]
DAY, JOSEPH G. [redacted]
DECKER, ALLEN B. [redacted]
DEDRICK, GRAIG R. [redacted]
DEFOLIART, DAVID W. [redacted]
DEHNERT, ROBERT E. JR. [redacted]
DEMING, RUSSELL A. [redacted]
DEMITRY, LEE F. [redacted]
DICHTER, ANDREW S. [redacted]
DICKERSON, MARK C. [redacted]
DILL, JAMES E. [redacted]
DIMARCHI, DAVID O. [redacted]
DIXON, ROBERT JR. [redacted]
DOW, RYAN S. [redacted]
DOWDY, JOSEPH E. [redacted]
DOWNEY, DANA S. [redacted]
DUGAN, OWEN L. [redacted]
DUNBAR, MARTIN JR. [redacted]
DUNLAP, ALDEN L. JR. [redacted]
DUNLAP, ROBERT M. [redacted]
DUPONT, MARTIN E. [redacted]
DURYEA, ROBERT A. [redacted]
DUTTRY, STEVEN R. [redacted]
EAREHART, RODNEY B. [redacted]
EASTMAN, JOHN W. [redacted]
EDGE, SANDY, [redacted]
EGGERS, DAVID L. [redacted]
EHRLICH, STUART M. [redacted]
EILERS, RICHARD L. [redacted]
ELBOW, VALERIE A. [redacted]
ELLIOTT, DALE A. [redacted]
ELLIS, DONALD B. [redacted]
ELY, NEAL M. [redacted]
EMERY, STEVEN R. [redacted]
ENG, WILLIAM F. [redacted]
ESTILL, DAVID J. [redacted]
ETTENSON, GORDON M. [redacted]
FARINELLI, MAURO N. [redacted]
FARIS, DAVID S. [redacted]
FAYE, PHILIP A. [redacted]
FEENEY, EDWARD J. JR. [redacted]
FENTON, STEPHEN T. [redacted]
FERGUSON, DAVID W. [redacted]
FINNEGAN, JAMES F. [redacted]
FISHER, RICHARD K. [redacted]
FITZPATRICK, JOSEPH H. [redacted]
FLEET, STEPHEN A. [redacted]
FOLKERTS, JERALD L. [redacted]
FOLLEY, JOHN A. [redacted]
FOSSUM, CHESTER G. JR. [redacted]
FRAZEE, PHILIP J. [redacted]
FREDERICK, SANDRA L.B. [redacted]
FREER, HARRISON C. [redacted]
FRIESE, WILLIAM R. [redacted]
FRYE, STEPHEN B. [redacted]
FUNDAREK, DAVID L. [redacted]
GABLE, DEBORAH L. [redacted]
GARCIA, DAMASO, [redacted]
GAST, STEPHEN R. [redacted]
GECELOSKY, ANDREW M., II [redacted]
GELLA, SARAH, [redacted]
GERVAIS, BOBBIE S. [redacted]
GIACOBE, ANTHONY J., JR. [redacted]
GIBLIN, MICHAEL S. [redacted]
GIBSON, RICHARD B. [redacted]
GIFT, WILLIAM J. JR. [redacted]
GILBERT, SILVANUS T. III [redacted]
GILKES, HENRY B. [redacted]
GILKEY, THOMAS A. [redacted]
GRANT, DOUGLAS A. [redacted]
GRAY, DAVID S. [redacted]
GRECO, ROSANNE M. [redacted]
GREEN, ROBERT C. [redacted]
GREER, DARREL R. [redacted]
GROENINGER, EDWARD J. [redacted]
GUSTKE, CARL W. [redacted]
HAGENEY, IRIS M. [redacted]
HALL, THOMAS M., II [redacted]
HALTER, IRVING L., JR. [redacted]
HAMMELL, SCOTT A. [redacted]
HANKINS, DAVID R. [redacted]
HANSEN, DONALD H. [redacted]
HANSEN, KEVIN P. [redacted]
HANSEN, STEVEN L. [redacted]
HANSON, DAVID T. [redacted]
HARDIN, IRVIN M. [redacted]
HARMON, MICHAEL P. [redacted]
HARRISON, JOE F. [redacted]
HARTINGER, JAMES V., JR. [redacted]
HARWOOD, JEFFREY W. [redacted]
HAUPT, STUART L. [redacted]
HAWKINS, EDWIN P., JR. [redacted]
HEALD, CHARLES R. [redacted]
HEALD, JAMES R. [redacted]
HEINEMANN, KEITH C. [redacted]
HENDERSON, JERRY L. [redacted]
HENDRICKS, RICHARD J. [redacted]
HENLEY, GARY E. [redacted]
HEVEY, BRUCE G.P. [redacted]
HEYDEN, RONALD H. [redacted]
HICKS, ALFRED B., JR. [redacted]
HIGGINS, KEVIN S. [redacted]
HOBBS, ROBERT A., JR. [redacted]
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HODGES, MARK W. [redacted]
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HOLUM, WAYNE K. [redacted]
HOOD, ROBERT C. [redacted]
HOOD, WILLIAM C. [redacted]
HOOTEN, ROBERT L. [redacted]
HORAN, JOHN J. [redacted]
HORGAN, THOMAS G. [redacted]
HOUSE, TAMZY J. [redacted]
HOWEY, ALLAN W. [redacted]
HUBERT, MICHAEL J. [redacted]
HUDSON, JOSEPH M. [redacted]
HUGHES, NICHOLAS E., JR. [redacted]
HUGHES, RICHARD C. [redacted]
HULSEY, DOUGLAS M., JR. [redacted]
HULSEY, JON A. [redacted]
HUMES, THOMAS M. [redacted]
HUMPHREY, ROBERT L. [redacted]
HUMPHREY, STEPHEN A. [redacted]
HURST, JOSEPH L. [redacted]
IMONDI, ANTHONY A. [redacted]
JACKSON, COLLINS M. [redacted]
JACKSON, TERRY V. [redacted]
JACKSON, WILLIAM H. [redacted]
JACZINSKI, JOHN S. [redacted]
JAGODNIK, WARREN L. [redacted]
JAKOWATZ, LOUIS G., III [redacted]
JAREMKO, JOSEPH E. [redacted]
JARMAN, LEONARD L. [redacted]
JEANES, GERALD M. [redacted]
JENSEN, LARRY L. [redacted]
JENSEN, TERRY W. [redacted]
JOHNSON, CHARLES R., JR. [redacted]
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JOHNSON, FERDINAND B., III [redacted]
JOHNSON, MARK R. [redacted]
JOHNSON, RICI V. [redacted]
JOHNSTON, BRUCE B. [redacted]
JONES, CECIL W., JR. [redacted]
JONES, DAVE P. [redacted]
JONES, MARY K. [redacted]
JONES, RONALD D. [redacted]
JONES, STEPHEN M. [redacted]
JUBELT, MARTIN P. [redacted]
JUDKINS, JAMES E. [redacted]
JUNGE, RONALD G. [redacted]
KALKMAN, JAMES R., JR. [redacted]
KAROGLOU, THEODORE N., II [redacted]
KATZ, JEFFREY W. [redacted]
KEESEE, JOHN E. [redacted]
KEETHLER, GREGORY A. [redacted]
KELLY, TIMOTHY J. [redacted]
KELLY, TOM R. [redacted]
KEMP, HERBERT. [redacted]
KEMP, MICHAEL J. [redacted]
KENNEDY, RONALD J. [redacted]
KERR, RAYMOND D. [redacted]
KERSHAW, ROBERT W., III [redacted]
KING, MICHAEL J. [redacted]
KING, RICHARD P. [redacted]
KIRLIN, DENNIS W. [redacted]
KLINE, TIMOTHY H. [redacted]
KLOEBER, PETER K. [redacted]
KNOWLES, FREDERICK S., JR. [redacted]
KNUTSEN, DOUGLAS W. [redacted]
KOCHEL, KARL M. [redacted]
KONDURIS, ANA C. [redacted]
KOZIOL, JOHN C. [redacted]
KRAFFT, GREGORY W. [redacted]
KREBS, JOHN S. [redacted]
KREMBEL, DENNIS G. [redacted]
KRINGER, LEO E., JR [redacted]
KUKUK, STEVEN D. [redacted]
LADWIG, DAVID S. [redacted]
LAND, THOMAS J. [redacted]
LANNING, RANDALL L. [redacted]
LARSEN, RANDALL J. [redacted]
LAUDERDALE, EARLE C. [redacted]
LAUTEN, JOHN J. [redacted]
LAWHORN, PAUL K. [redacted]
LAYCOCK, JAMES W. [redacted]
LAYMAN, ARCH H., JR. [redacted]
LEASE, BOYD B. [redacted]
LEFFORGE, DAVID R. [redacted]
LEMONS, JAMES L. [redacted]
LESTER, RICK W. [redacted]
LEWANDOWSKI, KARL F. [redacted]
LEWANDOWSKI, KENNETH M. [redacted]
LEWIS, GREGORY M. [redacted]
LILEVJEN, MARK T. [redacted]
LINDSLEY, MARC H. [redacted]
LINEBERGER, VANCE E. [redacted]
LITTLE, CRAIG M. [redacted]
LLOYD, CONNEE, [redacted]
LOCKLEAR, GLEN D. [redacted]
LONDON, GEORGE G., JR. [redacted]
LOOS, MARK F. [redacted]
LORD, WILLIAM T. [redacted]
LOVE, FRANCIS E. [redacted]
LOVERRO, DOUGLAS L. [redacted]
LYNCH, JAMES M. [redacted]
MACHOVINA, GEORGE S. [redacted]
MACPHERSON, CRAIG K. [redacted]
MAEL, RICHARD D. [redacted]
MAHAN, EDWARD L., JR. [redacted]
MAHER, STEVE M. [redacted]
MALUTICH, STEPHEN M. [redacted]
MANUEL, KENT L. [redacted]
MARKER, JAMES A., JR. [redacted]
MARKS, EDWARD E. [redacted]
MARTIN, DANE R. [redacted]
MARTIN, GLYN D. [redacted]
MARTINEZ, RANDY J. [redacted]
MARYESKI, JOSEPH P. [redacted]
MASCOT, THOMAS K. [redacted]

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MASON, DIXIE J. [redacted]
MATHENY, JAMES D. [redacted]
MAY, ROBERT C., [redacted]
MAYBERRY, THOMAS L., [redacted]
MAYHEW, MARK E.S., [redacted]
MAZUROWSKI, JOHN E., [redacted]
MC CARTHY, MICHAEL F., [redacted]
MC CARTHY, ROBERT M., [redacted]
MC COY, GARY T., [redacted]
MC CRABB, MARIS, [redacted]
MC DANIEL, DAVID C., JR. [redacted]
MC DANIEL, ROBERT L., [redacted]
MC DERMOTT, EDWIN P., [redacted]
MC DONALD, JAMES R. [redacted]
MC DONALD, THOMAS J., [redacted]
MC HUGH, KEVIN E., [redacted]
MC KILLOP, GREGORY W., [redacted]
MC LEAN, JOHN N., JR. [redacted]
MC MAHON, ROBERT H., [redacted]
MC MONAGLE, DONALD R., [redacted]
MC MURTRY, WALTER P., [redacted]
MEADOR, LEE A., [redacted]
MEINHART, RICHARD M., [redacted]
MILLER, JAMES N. [redacted]
MILLER, WILLIAM H., [redacted]
MINTO, PAUL E., [redacted]
MITCHELL, HUBERT G., [redacted]
MITCHELL, ROBERT E. [redacted]
MONDL, MARK C., [redacted]
MOORE, JERRY J. [redacted]
MOOY, PETER R., [redacted]
MOSIER, MICHAEL L., [redacted]
MOSS, KEVIN A., [redacted]
MUDGE, WAYNE I., [redacted]
MULLANEY, PATRICK C., [redacted]
MUMAUGH, DANIEL J., [redacted]
MURPHY, TIMOTHY G., [redacted]
MYERS, JAMES A. [redacted]
NACKE, ALAN T., [redacted]
NEIFERT, MARC J. [redacted]
NELSEN, CLARK K., [redacted]
NEW, LARRY D., [redacted]
NEWMAN, ROBERT W., [redacted]
NEWTON, RICHARD Y., III [redacted]
NOBLE, EDWIN E., [redacted]
NOTO, VINCENT C., JR., [redacted]
O BERBILLIG, RONALD M. [redacted]
O BRIEN, GEORGE R., [redacted]
O CONNOR, GERALD T., [redacted]
OESER, JAMES L. [redacted]
OGAN, ANDREW J., [redacted]
O MEALLY, JOHN M., [redacted]
ORTON BRADLEY, [redacted]
OSBORN, BILLY K., [redacted]
OTTINGER, DONALD M., JR. [redacted]
OWEN, THOMAS J., [redacted]
PADULA, GREGORY F., [redacted]
PALING, ROBERT F. [redacted]
PALMER, STERLING K. [redacted]
PARK, JOHN T., [redacted]
PARKER, DAVID S., [redacted]
PARKER, ELAINE M. [redacted]
PARKER, SCOTT D., [redacted]
PARKS, SCOTT E., [redacted]
PARSONS, WILLIAM E. [redacted]
PATNEAUD, EDWARD L., [redacted]
PATRICK, MICHAEL, R. [redacted]
PATTERSON, LEONARD E. [redacted]
PAWLIKOWSKI, ELLEN M., [redacted]
PAYNE, ALAN H., [redacted]
PAYNE, MARTIN A., [redacted]
PEARSON, DOUGLAS C., [redacted]
PEARSON, WILLIAM R., [redacted]
PECK, ALLEN G., [redacted]
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PENNINGTON, WILLIAM A., [redacted]
PEPIN, MICHAEL, R. [redacted]
PERCIVAL, WILHELM F. [redacted]
PEREGOY, DONALD G., [redacted]
PERRAUT, RICHARD E., JR. [redacted]
PERRIE, ALFRED H., III [redacted]
PERRY, RICKY A., [redacted]
PETERSON DOUGLAS B. [redacted]
PETERSON, STEPHEN M. [redacted]
PEYER, POLLY A. [redacted]
PHIPPS, MELVIN L. [redacted]
PIERRE, DANIEL J. [redacted]
PILLING, RICHARD A. [redacted]
PITCHER, BARRY W., [redacted]
PLETCHER, DENVER L. [redacted]
PLUMMER, JOHN F., JR. [redacted]
POBURKA, HENRY W., JR. [redacted]
POMPA, KENNETH W., [redacted]
POTERE, THOMAS P. [redacted]
POUNDS, PHILLIP B. [redacted]
PRAESEL, GARY A. [redacted]
PRATT, CAROLYN L., [redacted]
PRECOURT, CHARLES J. [redacted]
PRICE, DAVID E., [redacted]
PRILL, MARK E. [redacted]
PULCHER, LARRY J. [redacted]
PUTZ, RANDALL, [redacted]
QUICK, STEPHEN R. [redacted]
RABINS, JOHN M., [redacted]
RAKE, WILLIAM F., [redacted]
RAKIP, RUSSELL E., JR. [redacted]
RAUSCH, EDWARD W., [redacted]
RAY, HARLAN W., [redacted]
READIX, CHARLOTTE L. [redacted]
REED, GEORGE A., [redacted]
REED, NORMAN C., [redacted]
REED, SAMUEL M., JR. [redacted]
REHER, RAYMOND W., [redacted]
REMINGTON, JEFFREY A. [redacted]
REMKES, ROBERTUS C.N. [redacted]
RENSEL, DENNIS J. [redacted]
REVER, LOUIS K., [redacted]
REYNOLDS, CHARLES M., JR. [redacted]
RICHARDS, JON R. [redacted]
RICHARDSON, FREDRICK C., [redacted]
RIEMER, JEFFREY R. [redacted]
RISI, MARK L., [redacted]
RITCHHART, KENNETH M., [redacted]
RIVERS, JOHN R. [redacted]
ROBB, LAWRENCE K., [redacted]
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ROGACKI, JOHN R., [redacted]
ROHLMAN, WILLIAM H., [redacted]
ROLSEN, JOHN F. [redacted]
ROODHOUSE, DAVID A., [redacted]
ROSA, DONNA G., [redacted]
ROSBORG, ERIC J. [redacted]
ROSS, DONALD O., JR. [redacted]
ROUNCE, SCOTT C., [redacted]
RUSSELL, JAMES H. [redacted]
SAVAGE, RICHARD M., [redacted]
SAXMAN, JOHN B., [redacted]
SAYERS, RICHARD M., JR. [redacted]
SCAPEROTTO, CHARLES S. [redacted]
SCHAEFER, CHARLES P. [redacted]
SCHANTZ, EDWARD T., [redacted]
SCHERER, JOHN C., [redacted]
SCHIEFER, MICHAEL A. [redacted]
SCHINDELE, KENNETH H. [redacted]
SCHOOLCRAFT, ALAN W., [redacted]
SCONYERS, JAMES C. [redacted]
SCOTT, MICHAEL E., [redacted]
SCOTT, WINFIELD W., III [redacted]
SEIP, NORMAN R. [redacted]
SEWARD, JAY E., II [redacted]
SHAKA, GREGORY M., [redacted]
SHEEHAN, JAMES S. [redacted]
SHELOR, DANIEL W., [redacted]
SHERBO, ANDREW J., [redacted]
SHERIDAN, JOHN T [redacted]
SHORT, WILLIAM R., [redacted]
SHUGART, GARY W., [redacted]
SIMPSON, TERRY L. [redacted]
SINGLETON, THOMAS M., [redacted]
SINISCALCHI, JOSEPH W., JR. [redacted]
SLAWTER, BRUCE D., [redacted]
SMITH, BOBBY G., [redacted]
SMITH, DOUGLAS B., [redacted]
SMITH, KEVIN W., [redacted]
SMITH, LIONEL G., [redacted]
SMITH, MARK E., [redacted]
SMITH, RICHARD V., [redacted]
SMITH, SCOTT L., [redacted]
SMITH, YOSHIO, [redacted]
SNEDEKER, MICHAEL J. [redacted]
SNOW, WILLIAM T., [redacted]
SOBIN, IVAN D., [redacted]
SOTAK, MICHAEL V., [redacted]
SPARROW, DENNIS L., [redacted]
SPEARS, GLENN F. [redacted]
STAFFORD, KENNETH A. [redacted]
STALLWORTH, CHARLES E. [redacted]
STANLEY, KENNETH C., JR. [redacted]
STEVENER, DAVID E. [redacted]
STOLL, HANS G., [redacted]
STORCK, DENNIS D., [redacted]
STRAW, JERALD L. [redacted]
STROM, RICHARD C., [redacted]
SULLIVAN, KARL S., JR. [redacted]
SURMAN, RICHARD D., [redacted]
SUTLIFF, THOMAS O. [redacted]
SUTTERFIELD, STANLEY J. [redacted]
SUTTON, ROBERT L., [redacted]
SVETZ, DAVID P., [redacted]
SWANN, RALPH L., [redacted]
SWEENEY, MICHAEL A., [redacted]
SWERTFAGER, THOMAS A. [redacted]
SWICKARD, JAN M., [redacted]
TALLON, WILLIAM B., [redacted]
TAYLOR, DONNA M., [redacted]
TAYLOR, MARK A., [redacted]
TEAGUE, KENNETH E. [redacted]
TESKE, STEVEN J. [redacted]
THOMPSON, ALAN E., [redacted]
THOMPSON, JOHN A., JR. [redacted]
THONN, ROBERT R., [redacted]
THORN, WILLIAM F., [redacted]
TITUS, NATHAN T., [redacted]
TODD, DAVID F., [redacted]
TORANGO, PHILIP E. [redacted]
TREVETT, WESLEY E. [redacted]
TRIPLETT, GARY M. [redacted]
TRIPP, MARY M. [redacted]
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TUCKER, JESSE R. [redacted]
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TURNER, TIMOTHY T., [redacted]
UTERMOEHLEN, CLIFFORD M. [redacted]
VANDENDRIES, JOHN E., JR. [redacted]
VANDERMAN, GUY R., [redacted]
VANHEESWYK, LESLIE R., [redacted]
VANZANDT, PAUL H., [redacted]
VARN, GEORGE L.E.D., [redacted]
VELDMAN, FRANCIS E., II [redacted]
VERBECK, THOMAS J. [redacted]
VERLING, JOHN O. [redacted]
VERSCHAEVE, DOUGLAS D., [redacted]
VIDRINE, GEORGE A., JR. [redacted]
VOIGT, ROBERT E., [redacted]
VRBA, JOHN C., [redacted]
VROSH, MICHAEL E., [redacted]
WADE, THOMAS L., [redacted]
WAGNER, CLARENCE H., JR. [redacted]
WAKEFIELD, LYNN W., [redacted]
WALKER, MICHAEL A., [redacted]
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WALLETT, ROBERT M. [redacted]
WALMSLEY, ALBERT E., JR. [redacted]
WALTERS, JOHN J. [redacted]
WARD, JOHN R., [redacted]
WARDEN, MICHAEL L., [redacted]
WATSON, NORMAN L., [redacted]
WATSON, THOMAS J., [redacted]
WAUCHOP, JOHNNIE H., [redacted]
WEIDA, JOHNNY A., [redacted]
WEIFORD, WILLIAM L., JR. [redacted]
WELLS, MARK K., [redacted]
WELTEROTH, JAMES R. [redacted]
WENZEL, JEFFREY H. [redacted]
WESSLER, JAMES D. [redacted]
WHEELER, JOHN E. [redacted]
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WHITLER, DONALD H., [redacted]
WHITLEY, ALFRED H. [redacted]
WILBER, BRIAN H., [redacted]
WILD, MICHAEL J., [redacted]
WILES, CARL J.R. [redacted]
WILLFORD, TURNER JR. [redacted]
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WILLIAMS, LAFORREST V. [redacted]
WILLIAMS, THEODORE, [redacted]
WILLISON, DANIEL P. [redacted]
WILSON, JAMES L., JR. [redacted]
WINSTEAD, CHARLES L.R. [redacted]
WINTERS, CHARLES M. [redacted]
WOIDA, SUSAN L., [redacted]
WOMACK, KENNETH W., [redacted]
WORDEN, ROY M., [redacted]
WORTH, JAMES N., [redacted]
WRIGHT, ROBERT M., [redacted]
WRIGHT, SUSAN M.H., [redacted]
WRIGHT, THOMAS B., [redacted]
WURSTER, DONALD C., [redacted]
WYNN, THOMAS F., JR. [redacted]
WYSOCKI, JOSEPH [redacted]
YATES, LARRY L. [redacted]
YAVORSKY, PHILIP G., [redacted]
YOUNG, PETER W., [redacted]
YOUNG, VICKIE A., [redacted]
ZAMZOW, MARK R., [redacted]
ZIMMERMAN, RICHARD M. [redacted]
ZOERB, DANIEL R., [redacted]
ZUBER, RICHARD, [redacted]

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE U.S. AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE, AND THE OFFICER IDENTIFIED BY AN ASTERISK FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES INDICATED PROVIDED THAT IN NO CASE SHALL THE OFFICER BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

CHAPLAIN CROPS

To be colonel

BERNSTEIN, JOHN I. [redacted]
CHAVIANO, EMILIO A., [redacted]
GLATTS, JOSEPH M. [redacted]
GRIFFIN, HARRY E. [redacted]
HARRIS, HOWARD E., [redacted]
RICHARDSON, CECIL R., [redacted]
ROBERTS, ALEXANDER B. [redacted]
SCHUELLER, LAVERNE L. [redacted]
SUPA, JOSEPH [redacted]
SWANSON, LORNE E., [redacted]
ZOSHAK, WILLIAM H., [redacted]

JUDGE ADVOCATE

To be colonel

DAUGHERTY, KEVIN L., [redacted]
DONNELLY, STEPHEN C. [redacted]
DONOVAN, VICTOR R., [redacted]
EHRHART, DAVID G., [redacted]
ESPOSITO, FRANCIS H., JR. [redacted]
HOLLIS, BRENDA J. [redacted]
JACKSON, DAVID E., [redacted]
POWERS, JOHN J. [redacted]
ROLLINGER, MICHAEL J. [redacted]
SCHNEIDERMAN, DAVID M., [redacted]
SCHROER, KENNETH W., [redacted]
SCHWARTZ, ROBERT S., [redacted]
STALLS, FELIX J., III [redacted]

NURSE CORPS

To be colonel

BJERKE, NANCY B., [redacted]
CARDINALI, MANY A.E., [redacted]
DUFFANY, LYNN E. [redacted]
EGAN, CONSTANCE M., [redacted]
KELLEY, JAMES W., JR. [redacted]*

MADSEN, JULIA W., [redacted]
SHEPARD, SUSAN J. [redacted]
SWANEGAN, ALBERT M., II [redacted]
VALENTINE, JANE L. [redacted]
WIGGIN, SANDRA D. [redacted]
WILLIAMS, CALVIN W. [redacted]
YAWN, JULIA K. [redacted]

MEDICAL SERVICE CORPS

To be colonel

BANNICK, RICHARD R. [redacted]
COOPER, JEFFREY W. [redacted]
DAVIES, DONALD T. [redacted]
GREENBERG, HERMAN R. [redacted]
HARPER, MARTIN L. [redacted]
KENNEDY, JOHN W. [redacted]
KLEEFISCH, WILLIAM B. [redacted]
LEE, JOHN A. [redacted]
LUBY, JEROME P. [redacted]
MADDOX, RICHARD D. [redacted]
ONGSTED, LANE A. [redacted]
PRIBYL, STEPHEN J. [redacted]
TAYLOR, WORTH R. [redacted]

BIOMEDICAL SCIENCES CORPS

To be colonel

BERGER, JAMES J. [redacted]
COSTA, KENNETH A. [redacted]
DRAWBAUGH, RICHARD B. [redacted]
FERGUSON, ROBERT A. [redacted]
FINK, PATRICK T. [redacted]
HOBBS, PATRICIA A. [redacted]
LUBOZYNSKI, FRANK T. [redacted]
MAGNUSSON, KENT E. [redacted]
MOE, KARL O. [redacted]
NEW, GEORGE R. [redacted]
OLSEN, FRED W., JR. [redacted]
ROBILLARD, THOMAS A. [redacted]
RUSSELL, SHERRELL L. [redacted]
SMITHERMAN, RICHARD E. [redacted]
SWINDLING, WILLIAM S. [redacted]
WARD, MICHAEL J. [redacted]

HOUSE OF REPRESENTATIVES—*Monday, October 3 , 1991*

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore [Mr. HASTINGS].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 3, 1994.

I hereby designate the Honorable ALCEE L. HASTINGS to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of February 11, 1994 and June 10, 1994, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leaders limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Colorado [Mr. HEFLEY] for 5 minutes.

THE OSHA PLAGUE

Mr. HEFLEY. Mr. Speaker, here is the lead from an article in The Chieftain, the leading newspaper in Pueblo, CO:

> Pueblo's construction boom came to a halt this week but not because of the weather, economics, or labor problems. What shut down many of the new homebuilding projects in the city and county was word that the Occupational Safety and Health Administration was in town. * * * One stucco contractor said he visited a number of sites in the city and in Pueblo West and found no one working. "It was like a plague," he said, "Really spooky."

The OSHA plague. Employers across the country are protesting the activities of the Occupational Safety and Health Administration, and with good reason.

OSHA fines have quadrupled in recent years, even as onsight inspections have declined. Worse, the Clinton administration is proposing regulations covering indoor air—price, $8 billion; ergonomic regulations, $10 billion; and mandatory workplace safety committees, $25 billion.

Before these regulations become final, I believe it's time Congress had a real debate on OSHA. Instead of debating how to expand OSHA's mission, we should debate the mission itself.

After 24 years and billions of dollars, it's time to ask OSHA for an honest accounting.

IMPERIAL FOOD

Let me give you an example of what is wrong. We have all heard about the fire at Imperial Food Products chicken processing plant. That fire killed 25 employees and injured an additional 55.

Imperial Food's owners is currently serving a 20-year-sentence for manslaughter. He's bankrupt and facing millions in lawsuits.

Meanwhile, $16 million in workers compensation has been distributed to the victims and survivors.

What did OSHA have to do with any of this? Nothing.

OSHA failed to prevent the fire or the injuries. The law used to convict the owner was a State manslaughter law not the OSHA law. Finally, OSHA itself was sued by the victims for failing its mission.

As an OSHA official from North Carolina pointed out, the whole purpose of OSHA is to prevent this type of tragedy from happening. But somewhere along the way, OSHA's mission of prevention took a backseat to its enforcement activities.

In the process, safety has been shortchanged.

WHAT OSHA DOES BEST

How did OSHA lose sight of its mission? Through Congress, of course.

Consider the 1990 Budget Reconciliation Act. That act called on OSHA to increase its collections by $900 million over 5 years.

After some lipservice to safety, the conference report states:

> Changes in OSHA Act civil penalties will produce nearly $900 million in new Federal revenues over 5 years. The conferees expect OSHA to assess significantly higher penalties across the board given the sevenfold increase in the maximum allowable penalty. All revenues collected will be deposited in the U.S. Treasury for purposes of Federal deficit reduction.

OSHA has responded to this mandate with gusto. In 1992, Builder magazine noted that fines of homebuilders almost quadrupled in 2 years.

In my State of Colorado, OSHA penalties rose from $298,000 in 1990 to $803,000 in 1992, an increase of 170 percent.

I think it is obvious that Colorado's workplaces weren't three times as dangerous in 1992 as they were in 1990—but then, it is also obvious these fines have little to do with safety.

Consider that of the top 10 most frequently cited fines, paperwork violations make up the top 7. Almost 70 percent of OSHA citations are paperwork violations.

So instead of working to ensure the safety of their employees, employers are forced to spend their time filling out forms and posting signs.

But then, that is what you get when you put bureaucrats in charge of safety—safety on paper.

LET THE MARKET WORK

While OSHA is busy collecting fines for missing files and warning labels, the market is busy making the workplace safer.

Market economics and criminal laws combine to punish employers who recklessly endanger the lives of their employees. Consider the following:

According to Robert Reich, employers in 1992 paid out $52 billion in workers compensation. Wage replacement and medical costs add an additional $38 billion. Finally, William Ford points out that injuries cost employers $116 billion in lost production.

Add those numbers up, and you get $206 billion lost by employers in 1992 due to workplace deaths and injuries.

That same year, OSHA proposed $72 million in penalties for workplace safety violations.

Which has a bigger impact?

CONCLUSION

We need to reform OSHA. Not expand it—refocus its efforts into more profitable channels. If OSHA is supposed to prevent accidents, then let's allow OSHA officials to concentrate their efforts on prevention.

That means taking away OSHA's enforcement powers and expanding its consulting responsibilities. If Congress thinks it is necessary for the Federal Government to preach safety to employers, we can do it without the bullyboy mentality.

The bottom line was summed up nicely by Robert Reich when he noted that "work accidents make up only 20 percent of all accidents." All things being equal, you're safer on the job.

I'm introducing legislation to reform OSHA, and focus it on prevention, which was what it was supposed to do in the first place.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12, rule I, the Chair declares the House in recess until 12 noon.

Accordingly (at 10 o'clock and 36 minutes p.m.) the House stood in recess until 12 noon.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 12 noon.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We remember with gratitude the affection, our former colleague and friend, Claude Harris of Alabama, who died yesterday. We recall his great service to this institution and his dedication to the values of justice and integrity. May Your blessing, O God, be with his family and assure them of Your peace that passes all human understanding.

Our petition this day is for a vision to see great opportunities of service in our lives. We pray, gracious God, that we will not be content with the ordinary things that only meet the least of our expectations, but open our eyes to the grandeur of our world and the promises of a better day. Give us, we pray, the gifts of faith, hope and love—a faith that gives renewed confidence, a hope that lifts us to new courage, and a love that never lets us go. Bless us this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from the District of Columbia [Ms. NORTON] please come forward and lead the House in the Pledge of Allegiance.

Ms. NORTON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 3694. An act to amend title 5, United States Code, to permit the garnishment of an annuity under the Civil Service Retirement System or the Federal Employees' Retirement System, if necessary to satisfy a judgment against an annuitant for physically, sexually, or emotionally abusing a child; and

H.R. 4543. An act to designate the United States courthouse to be constructed at 907 Richland Street in Columbia, South Carolina, as the "Matthew J. Perry, Jr. United States Courthouse."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3485. An act to authorize appropriations for carrying out the Earthquake Hazards Reduction Act of 1977 for fiscal years 1994, 1995, and 1996;

H.R. 4228. An act to extend Federal recognition to the United Auburn Indian Community of the Auburn Rancheria of California, and

H.R. 4950. An act to extend the authorities of the Overseas Private Investment Corporation, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4950) "An Act to extend the authorities of the Overseas Private Investment Corporation, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PELL, Mr. SARBANES, and Mr. HELMS to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4299) "An Act to authorize appropriations for fiscal year 1995 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes."

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 1225. An act to authorize and encourage the President to conclude an agreement with Mexico to establish a United States-Mexico Border Health Commission;

S. 1422. An act to confer jurisdiction on the United States Court of Federal Claims with respect to land claims of Pueblo of Isleta Indian Tribe;

S. 2345. An act to amend the Solid Waste Disposal Act to provide authority for States to limit the interstate transportation of municipal solid waste, and for other purposes;

S. 2372. An act to authorize for three years the Commission on Civil Rights, and for other purposes;

S. 2395. An act to designate the United States Courthouse in Detroit, Michigan, as the "Theodore Levin Courthouse", and for other purposes;

S. 2466. An act to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively, and for other purposes; and

S.J. Res. 227. Joint resolution to approve the location of a Thomas Paine Memorial.

DECISION UPHELD IN JOHN DEMJANJUK MATTER

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, there still may be some hope for the Constitution. The U.S. Supreme Court upheld the decision of the Sixth Circuit Court in the matter of John Demjanjuk, accused of being Ivan the Terrible. They upheld the fact that the Justice Department knowingly and willingly withheld key evidence that sentenced this man to the hangman's noose, and they did it deliberately, with knowledge, full scope, that perpetrated a fraud on the courts. Thank God.

Ladies and gentlemen, no one has suffered more sharp attacks than I have in this case, but let me say this: After reviewing documents and after uncovering certain documents, it was evident that Demjanjuk was not Ivan the Terrible.

Let me say this, Congress: When we allow the rights of one American to be violated, we allow the rights of all Americans to subsequently be endangered. Shame when the word "Nazi" can waive the Constitution. No one around here supports Nazis. Neither do I. I am tired of the accusation. I am proud of the fact that someone at least in this Congress intervened. Now it is time for Attorney General Janet Reno to do her job and investigate fully this matter. The rights of the American people deserve that investigation.

THE DEMOCRATS' NEAR PANIC

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, the New York Times recently described the Democrats as being in a "near panic over how they are perceived by the public." Everyone saw the Democrats on the floor last week. The only thing they can do is attack the Republicans' contract with America—they have no platform of their own to stand on because their President and his administration has failed to deliver on their promises.

People in a near panic try to distort their opponent's platform to cover up the fact that they have no platform—that is exactly what the Democrats are doing. People in a near panic make wild accusations about their opponent's issues because they have no issues of their own to talk about—that is exactly what the Democrats are doing. People in a near panic try to paint their opponent as the bad guy because they cannot portray themselves as the good guy based on their own merits—that is exactly what the Democrats are doing. Mr. Speaker, the Democrats are in a near panic, and it is showing.

REPUBLICAN LEADERSHIP WILL END POLITICS AS USUAL

(Ms. DUNN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DUNN. Mr. Speaker, if the American people decide to elect a Republican majority in the House this November, we will end politics as usual.

On the very first day of the new Congress, the Republican majority would immediately pass the following reforms and write them into the rules of the House of Representatives that determine how it conducts its business for the whole 2 years.

One, require all laws that apply to the rest of the country to apply equally to the Congress.

Two, select a major independent auditing firm to conduct a comprehensive audit of Congress' own finances for waste, for fraud, and for abuse.

Three, cut the number of House committees and cut committee staffs by one-third.

Four, limit the terms of all committee chairmen.

Five, ban the casting of proxy or ghost voting in committees.

Six, require all committee meetings and hearings to be open to the public, the Sunshine Act.

Seven, require a three-fifths majority vote to pass any tax increase.

Eight, require zero-based budgeting which means no more accounting gimmicks to call a special increase a spending increase.

Mr. Speaker, give us a chance to govern this House of Representatives. We will change the way business is done in the U.S. Congress.

COLUMBUS DAY

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, a week from now the Nation celebrates Columbus Day.

We recognize him of course, for discovering America over 500 years ago. Amazingly, that is a feat the President and his party have yet to accomplish.

I say this because they continue to oppose the only document in Washington today that encompasses America's demand for change: Republican's contract with America.

By opposing a balanced budget amendment, term limits, a line-item veto, and help for America's families, Democrats have missed the boat. The President and his party insist on mimicking the flat-earthers of yesterday who could not see beyond the horizon.

Five hundred years ago, they would have remained in Spain, firmly attached to the Old World rather than attempting to find the New.

They would have waved good-bye at the docks, full of reasons why it could not, should not, or would not be done. And when the ships returned, they would have been just as full of doubts that America had been found.

Republicans are reenacting Columbus' voyage because like him, we have discovered America and we have the contract to prove it.

□ 1210

GATT IS BAD FOR AMERICA

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, I voted for NAFTA, I voted for fast track, and now I feel totally betrayed by what is in GATT and the dishonest way it is being handled here in the Congress. I voted for fast track because it gave Congress 90 days to look at and discuss this very important trade treaty.

Instead of open and adequate discussion, we have secrecy, and not just fast track but grease track. The President has broken faith with all of us by putting secret provisions into GATT in the first place, and then instead of giving us 90 days to look at GATT, he put it before us and gives us only 1 or 2 days here at the last part of the session to look at GATT, further breaking faith in that there are provisions in GATT or in the implementing legislation that are not even required by GATT.

I would ask my friends who believe in free trade, and do I believe this free trade, my voting record demonstrates this, let us not get hustled. GATT is horrible for the American people. Let us take out the rip-off provisions for our inventors, for example, that slipped into GATT, and let us spend some time looking at this treaty rather than just pushing it on through. It is going to hurt America otherwise.

FEDERAL PAYMENT FORMULA REVISION ACT OF 1993

Mr. STARK. Mr. Speaker, I call up the bill (H.R. 2902) to amend the District of Columbia Self-Government and Governmental Reorganization Act to revise and make permanent the use of a formula based on adjusted District General Fund revenues as the basis for determining the amount of the annual Federal payment to the District of Columbia, and for other purposes, and I ask unanimous consent for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from California?

Mr. BLILEY. Mr. Speaker, reserving the right to object, under my reservation I yield to the chairman of the committee, the gentleman from California [Mr. STARK], for an explanation of the bill.

Mr. STARK. Mr. Speaker, I thank the distinguished gentleman for yielding. I would like to thank the committee ranking member, the gentleman from Virginia [Mr. BLILEY], for his efforts on behalf of this legislation, and I thank the delegate from the District of Columbia.

Mr. Speaker, the purpose of H.R. 2902 is to reauthorize the Federal payment to the District of Columbia for fiscal year 1996. Last week, the House District Committee adopted a bipartisan substitute which maintains the 1996 Federal payment authorization at the 1995 appropriation level; namely, $660 million. This is an interim approach, and I will continue to advocate use of a formula in future years.

The bill as reported, Mr. Speaker, also includes a framework for performance and accountability standards, which the District must begin to implement almost immediately.

Micromanagement of the District of Columbia is not the role of the Congress. Nevertheless, we must receive accurate details about the city's financial and management practices in order to carry out our responsibilities.

It is important that the Congress complete action on this bill now so that the city and OMB can better plan for fiscal year 1996. I urge its adoption.

Mr. BLILEY. Mr. Speaker, further reserving the right to object, I am pleased to support the bipartisan compromise we have crafted together as the committee substitute to H.R. 2902. It has been a pleasure working with Chairman STARK and the gentlewoman from the District, Ms. NORTON.

With only a few hours left in the 103d Congress, this is no time to abandon the road we have taken together this year. It would have been easy to put off reauthorization of the Federal payment until next year, but that would not have been fair to the people of the District of Columbia. We cannot realistically expect the District government to prepare its budget without this authorization. We cannot ask someone else to do our job for us next year.

This compromise merits the support of all Members on both sides of the aisle. It contains important changes to the Home Rule Act which will assist the District in its planning, setting priorities, and budgeting. It will greatly assist us in discharging our constitutional duties by helping us measure the local government's performance. We have delegated authority to the local government. But we cannot abdicate our responsibilities. These changes will benefit the District and Congress alike.

The Federal payment to the government of the District of Columbia is an important connection between Americans and their capital city. Since the city's first home rule charter was signed during Jefferson's Presidency, the historical record consistently shows that the Federal interest in building, safeguarding, maintaining, and improving the Nation's Capital could never be dependent solely upon the financial welfare of the local economy. An 1835 Senate report concluded that:

> In the investigation of the subject committed to them, and of the relief to be proposed, the committee have [sic] been unable to separate the interests of the District from the interests of the United States. They regard it as the child of the Union, as the creation of the Union for its own purposes.[1]
>
> If this had not been the design, a temporary or permanent seat of Government would have been selected in some populous city, or some territory, subject to State jurisdiction; and if this was the design it is not easy to comprehend either the principle which would prevent the Government from a liberal appropriation of the national resources to accomplish the object, or the policy which could confine the city to the means possessed by the inhabitants for its improvement.[2]

Thus, it has always been apparent that the cost of building and maintaining the Nation's Capital could never be shouldered by only those who reside here. This cost includes the burden of having the Federal Government as the largest landowner in the District. The Federal payment itself can be traced back at least to the 1840's when annual appropriations were made by Congress to the local government. A June 1, 1874, committee report from the House Committee on the Judiciary, "Legal Relations of the District of Columbia and the United States" (the Poland Report), affirmed that the obligations of the Federal Government to the city are rooted firmly by the founders:

> The Federal city was to be a temple erected to liberty, toward which the wishes and expectations of all true friends of every country would necessarily be directed; and, considered under such important points of view as evidently controlled the minds of the founders, it could not be calculated on a small scale. Everything about it was to correspond with the magnitude of the object for which it was intended. It foresaw a far distant future when it was to be the center of a continent under one form of government looking to it for its laws and for its protection. *It was to be a city where all improvements made and expenses incurred were to be for the benefit of the whole people* (emphasis added).[3]
>
> As to the mutual obligations of the Federal Government and the citizens to defray these expenses, the committee find little difficulty. It is clear, if this national capital was founded for the use of the United States, and was placed under its exclusive government and control, and upon a scale of magnificence appropriate only for a national capital, it could never have been contemplated that the burden of expenditures should fall upon those citizens of the United States who might temporarily or permanently take up residence at the capital.[4]
>
> Nor, indeed, would it have been just to impose this burden upon them; for, upon the theory upon which the capital was founded, all these expenditures would ultimately be for the benefit of the whole people, and justice would dictate that the burden should fall upon the whole people.[5]

Despite the rhetoric however, ever since George Washington himself appealed to the Maryland Legislature for an emergency loan to continue building, cash shortages and mismanagement have plagued the local government. In many respects, the problems of the District government so well documented this year are a familiar repeat of history.

In 1991, it was clear that the local government had again reached a crisis point. Revenues had been overestimated by at least $176 million the local government faced a deficit of more than $300 million.

In response, Republicans and Democrats forged a series of bipartisan agreements to rescue the Nation's Capital from the brink of fiscal collapse. A $100 million emergency supplemental appropriation was passed. Whereas the Federal payment to the District had been flat for 4 straight years at $430.5 million from 1987 to 1991, we increased the payment by $200 million for fiscal year 1992. Despite great uncertainty, the mayor, the council, and Congress agreed on a controversial $331 million bond obligation which would straighten out the District's cash flow roller coaster and even allow for a rainy day fund. Perhaps most importantly, we passed an authorization bill which for the first time established a formula for the Federal payment—Public Law 102-102.

Together, we enacted a program which would provide a cash infusion of more than $1 billion to the District between 1991 and today. Between 1990 and 1994, Federal assistance to the District has increased by nearly 30 percent compared to a 9-percent increase in general fund local revenues. In 1990, the Federal Government provided for 49 cents for every dollar raised in local revenues. The Federal Government now provides 58 cents for every dollar. The Federal Government will provide more than $1.5 billion to the District this year.

In spite of these efforts, however, the financial condition of the District in January 1995 will closely resemble the situation we witnessed in January 1991. To adequately prepare its new budget, the District must know what the Federal payment will be. But, the District must also know that we have asked enough of the American taxpayers. Accordingly, H.R. 2902, as amended, freezes the fiscal year 1996 Federal payment at this year's level. I believe that a majority of Members want to be assured that the District government is changing for the better in how it conducts its affairs before higher levels of Federal resources are committed. A freeze is a fair deal for the District and the national taxpayers.

In terms of managing these resources, our work is far from over. The Federal financial assistance to the city was never designed to be a one-way street. There has always been, and should continue to be, a linkage between the payment and performance. Appropriate Federal oversight has always been a part of the equation. The Home Rule Act does not sever the District from its obligations as the Federal city.

We recognize that the problems facing the District extend at least to the end of the century. We cannot merely wish for better management, we must demand accountability. We have a fiduciary responsibility to the American taxpayers to ensure that these and future funds are spent wisely. This legislation contains a number of important permanent changes to the Home Rule Act. It requires the District government to design and implement a series of performance reviews. These programs will help the government evaluate both strengths and weaknesses in government service and personnel performance. Over time, these evaluations and scorecards can be used to improve service delivery and to right size its labor force. Both the programs and their annual reviews will be reviewed by the General Accounting Office and presented to Congress.

This legislation protects the requirements of this year's appropriation bill that the District government send to Congress a series of financial reports. No longer will Congress be blindsided by inadequate information about the District's true financial condition. But H.R. 2902 goes even further by requiring the District prospectively to report what it intends to do to ensure that its 5-year financial program stays in balance. The District will also have to evaluate its performance over the past year and explain any deviation from its previously announced plans. Together with quarterly cash flow statements required to be sent to Congress, these reports will allow Congress not only to examine each year's plan in advance but to track performance over time to ensure that the District government sticks to a steady course toward financial responsibility.

The quarterly reports will also include appropriate information about the personnel levels in the District government. Many Members have raised concerns about the size of the District government. With this legislation, we will have the information we need to separate fact from fiction.

Some Members have expressed concern about the timing of this reauthorization. Let me assure my colleagues that this is wholly consistent with the fiscal year 1995 appropriations bill and builds upon the action we took on a bipartisan basis. If we do not pass H.R. 2902 before the end of the 103d Congress, we will have taken a giant step backward.

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[1] Footnotes at end of article.

Without this bill, the District government will not properly be able to prepare its budget for our review next year. Our demands of fiscal responsibility would be hollow. We will not have established the important plans we need to evaluate the District's performance. Waiting until next year will only lead to confusion and possibly misguided action by the next city administration. Little, if any, additional useful information will be available before the middle of next year on which to base a more informed decision than we have at present. We will have missed the opportunity to shape the relationship between the American people and their capital city.

Nearly 200 years ago when much of Washington, DC was nothing but a swamp, Thomas Johnson, one of the first Federal city commissioners appointed by President George Washington wrote to Washington, "the success of the City has now become important to your reputation." How Congress deals with the fiscal distress of the Nation's Capital today and over the next few years is important to all of our individual and collective reputations. There is nothing good to be gained by declining this opportunity to act and allowing the District to slide back into the fiscal swamp.

I am pleased that this legislation is offered on a bipartisan basis and has the support of the membership on both sides of the committee. I thank my Republican colleagues for their cooperation and support. Let me also thank Mr. McDADE, the ranking Republican on the Appropriations Committee, and Mr. WALSH, the ranking Republican on the D.C. Appropriations Subcommittee, for their assistance. Many of their ideas have been incorporated into this legislation.

This legislation appropriately balances the interests of the District of Columbia with the Federal interest. I strongly support H.R. 2902 as amended.

FOOTNOTES

[1] House of Representatives. Committee on the Judiciary. *Legal Relations of the District of Columbia and the United States*. 43rd Congress. Report No. 627. Reprinted in House of Representatives. Committee on the District of Columbia. 96th Congress. August 14, 1979. Serial No. S-1. (U.S. Government Printing Office, Washington: 1979) p. 201.

[2] Ibid. p. 202.

[3] Ibid. p. 198.

[4] Ibid. p. 199.

[5] Ibid. p. 199.

Ms. NORTON. Mr. Speaker, will the gentleman yield?

Mr. BLILEY. Mr. Speaker, further reserving the right to object, I yield to the gentlewoman from the District of Columbia.

Ms. NORTON. Mr. Speaker, I want to thank the ranking member and Chairman STARK for working to get this early authorization through so that the District can begin on its budget, which virtually is beginning now.

I want to thank Chairman Pete STARK and ranking member TOM BLILEY, for their hard work in fashioning an early reauthorization for the 1996 Federal payment in light of the District's severe financial crisis. The District will begin work on its fiscal year 1996 budget in November after Congress has adjourned. Since Congress will not return until January, the District would be left to take substantial steps in drawing its budget with no guidance on what figure the officials have to work with as to the amount of the Federal payment.

Even if the District were in normal financial condition, it would always be important for District officials to know the amount of the Federal payment at the time they are preparing the budget. That is why we enacted a formula for the Federal payment in 1991. Despite the best efforts of Congress and the District, however, actual practice demonstrated that the formula was flawed. With no experience in developing a formula, unforeseen and arcane factors related to the District's budget process have arisen.

It will take additional time and effort to fashion a trouble-free formula for the Federal payment. It is important to design a workable formula that will not produce new uncertainties or create more problems than it solves. In the past, for example, the District and the Congress have arrived at good faith differences in their calculations of the formula amount.

Yet the predictability afforded by a formula is more necessary now then ever before. The District must engage in serious and accurate multiyear planning if the city's finances are to be stabilized and the new congressional requirements that have been imposed this year are to be met. Guessing at the Federal payment would make stabilizing the District's finances virtually impossible.

Pending a new formula, there must be no room for error or miscalculation, considering the present crisis surrounding the District's finances. The District is undergoing an extremely difficult congressionally mandated budget cutting process unprecedented in the city's existence under home rule. The required $140 million in savings will be difficult enough to achieve, and to meet other expenses and the terms of the appropriations bill, it now seems clear that considerably more savings than Congress has specifically required will be necessary.

H.R. 2902 authorizes a flat $660 million figure for fiscal year 1996, the same amount that the District received in fiscal year 1995. Thus the District is assured of at least as much money as it received from the Federal Government last year without the possibility that this amount might be precipitously lowered and worsen the city's financial condition. At the same time the amount is frozen and therefore there will be no additional burden on the Federal budget.

In order to achieve what H.R. 4649, the District of Columbia appropriations bill requires, the District will need all the help it can get, including additional funds from the Congress. For the time being, however, the House has required cuts necessary to forestall the possibility of insolvency. It appears that achieving the mandated savings has become a threshold for the additional Federal money the District will surely require. I very much appreciate this early authorization, which will facilitate the budgeting and planning necessary to allow the District to get through the difficult year ahead.

Mr. BLILEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 2902

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Payment for Formula Revision Act of 1993".

SEC. 2. PERMANENT USE AND REVISION OF FORMULA TO DETERMINE AMOUNT OF ANNUAL FEDERAL PAYMENT TO DISTRICT OF COLUMBIA.

(a) IN GENERAL.—Section 503 of the District of Columbia Self-Government and Governmental Reorganization Act (sec. 47–3406.1, D.C. Code) is amended to read as follows:

"FEDERAL PAYMENT FORMULA

"SEC. 503. (a) Subject to subsection (b), there is authorized to be appropriated as the annual Federal payment to the District of Columbia for a fiscal year (beginning with fiscal year 1995) an amount equal to the applicable percentage of the adjusted District General Fund revenues for the second fiscal year preceding such fiscal year, as such revenues are reported in the independent audit of the financial operations of the government of the District of Columbia conducted under section 4(a) of Public Law 94–399 and as reviewed by the Comptroller General under section 715(e) of title 31, United States Code.

"(b) Notwithstanding subsection (a), the amount authorized to be appropriated under such subsection for a fiscal year may not be less than an amount equal to the average of the annual Federal payments made to the District of Columbia pursuant to this title during the 3 fiscal years immediately preceding such fiscal year.

"(c) In this section, the following definitions shall apply:

"(1) The term 'applicable percentage' means—

"(A) with respect to fiscal year 1995, 25 percent; and

"(B) with respect to each succeeding fiscal year, the lesser of—

"(i) the applicable percentage determined under this paragraph for the preceding fiscal year increased by 1.0, or

"(ii) 30 percent.

"(2) The term 'adjusted District General Fund revenues' means all revenues of the General Fund of the government of the District of Columbia, adjusted to include operating transfers from the Lottery and Games Fund to such General Fund (but no other payments or transfers to such fund from any other intragovernmental source), and not including—

"(A) revenues that are required to be accounted for in a fund other than such General Fund; and

"(B) revenues from Federal sources.

"(3) The term 'revenues from Federal sources' means revenues derived from payments made by the Federal Government to the District of Columbia, including fees or charges for products or services, grants, payments in lieu of taxes, and direct appropriations.".

SEC. 3. REPORTING REQUIREMENTS.

(a) INDEPENDENT ANNUAL AUDIT OF DISTRICT FINANCIAL OPERATIONS.—The first sentence of section 4(a) of Public Law 94–399 (sec. 47–119(a), D.C. Code) is amended by striking "a report of the revenues" and all that follows and inserting the following: "a report of the adjusted District General Fund revenues for the fiscal year (as described in section 503(c)(2) of the District of Columbia Self-Government and Governmental Reorganization Act).".

(b) REVIEW BY COMPTROLLER GENERAL.—Section 715(e) of title 31, United States Code, is amended by striking "report of the breakdown" and all that follows and inserting the following: "report of the adjusted District General Fund revenues for the preceding fiscal year that is included in the independent annual audit of the financial operations of the government of the District of Columbia conducted for such fiscal year under section 4(a) of Public Law 94–399.".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply to fiscal years beginning with fiscal year 1995.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Payment Reauthorization Act of 1994".

SEC. 2. AUTHORIZATION OF ANNUAL FEDERAL PAYMENT TO DISTRICT OF COLUMBIA FOR FISCAL YEAR 1996.

Section 503 of the District of Columbia Self-Government and Governmental Reorganization Act (sec. 47-3406.1, D.C. Code) is amended by adding at the end the following new subsection:

"(c) There is authorized to be appropriated as the annual Federal payment to the District of Columbia for fiscal year 1996 $660,000,000.".

SEC. 3. PERFORMANCE AND FINANCIAL ACCOUNTABILITY REQUIREMENTS FOR DISTRICT GOVERNMENT.

(a) IN GENERAL.—Subpart 2 of part D of title IV of the District of Columbia Self-Government and Governmental Reorganization Act is amended—

(1) in the heading for such subpart, by striking "Audit" and inserting "Audits and Accountability Requirements"; and

(2) by adding at the end the following new section:

"PERFORMANCE AND FINANCIAL ACCOUNTABILITY

"SEC. 456. (a) PERFORMANCE ACCOUNTABILITY PLAN.—

"(1) SUBMISSION OF ANNUAL PLAN.—Not later than March 1 of each year (beginning with 1995), the Mayor shall develop and submit to the Committee on the District of Columbia of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committees on Appropriations of the House of Representatives and the Senate, and the Comptroller General a performance accountability plan for all departments, agencies, and programs of the government of the District of Columbia for the subsequent fiscal year.

"(2) CONTENTS OF PLAN.—The performance accountability plan for a fiscal year shall contain the following:

"(A) A statement of measurable, objective performance goals established for all significant activities of the government of the District of Columbia during the fiscal year (including activities funded in whole or in part by the District but performed in whole or in part by some other public or private entity) that describe an acceptable level of performance by the government and a superior level of performance by the government.

"(B) A description of the measures of performance to be used in determining whether the government has met the goals established under subparagraph (A) with respect to an activity for a fiscal year. Such measures shall analyze the quantity and quality of the activities involved, and shall include measures of program outcomes and results.

"(C) The title of the District of Columbia management employee most directly responsible for the achievement of each goal and the title of such employee's immediate supervisor or superior.

"(3) DESCRIPTION OF ACTIVITIES SUBJECT TO COURT ORDER.—In addition to the material included in the performance accountability plan for a fiscal year under paragraph (2), the plan shall include a description of the activities of the government of the District of Columbia that are subject to a court order during the fiscal year and the requirements placed on such activities by the court order.

"(b) PERFORMANCE ACCOUNTABILITY REPORT.—

"(1) SUBMISSION OF REPORT.—Not later than March 1 of each year (beginning with 1997), the Mayor shall develop and submit to the Committee on the District of Columbia of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committees on Appropriations of the House of Representatives and the Senate, and the Comptroller General a performance accountability report on activities of the government of the District of Columbia during the fiscal year ending on the previous September 30.

"(2) CONTENTS OF REPORT.—The performance accountability report for a fiscal year shall contain the following:

"(A) For each goal of the performance accountability plan submitted under subsection (a) for the year, a statement of the actual level of performance achieved compared to the stated goal for an acceptable level of performance and the goal for a superior level of performance.

"(B) The title of the District of Columbia management employee most directly responsible for the achievement of each goal and the title of such employee's immediate supervisor or superior.

"(C) A statement of the status of any court orders applicable to the government of the District of Columbia during the year and the steps taken by the government to comply with such orders.

"(3) EVALUATION OF REPORT.—The Comptroller General, in consultation with the Director of the Office of Management and Budget, shall review and evaluate each performance accountability report submitted under this subsection and not later than April 15 of each year shall submit comments on such report to the Committee on the District of Columbia of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate.

"(c) FINANCIAL ACCOUNTABILITY PLAN AND REPORT.—

"(1) DEVELOPMENT AND SUBMISSION.—Not later than March 1, of each year (beginning with 1995) the Mayor shall develop and submit to the Committee on the District of Columbia of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committees on Appropriations of the House of Representatives and the Senate, and the Comptroller General a 5-year financial plan for the government of the District of Columbia that contains a description of the steps the government will take to eliminate any differences between expenditures from, and revenues attributable to, each fund of the District of Columbia during the first 5 fiscal years beginning after the submission of the plan.

"(2) REPORT ON COMPLIANCE.—

"(A) SUBMISSION OF REPORT.—Not later than March 1 of every year (beginning with 1997), the Mayor shall submit a report to the Committee on the District of Columbia of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committees on Appropriations of the House of Representatives and the Senate, the Comptroller General, and the Director of the Congressional Budget Office on the extent to which the government of the District of Columbia was in compliance during the preceding fiscal year with the applicable requirements of the financial accountability plan submitted for such fiscal year under this subsection.

"(B) EVALUATION OF REPORT.—The Comptroller General, in consultation with the Director of the Congressional Budget Office, shall review and evaluate the financial accountability compliance report submitted under subparagraph (A) and not later than April 15 of each year shall submit comments on such report to the Committee on the District of Columbia of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate.

"(d) QUARTERLY FINANCIAL REPORTS.—

"(1) SUBMISSION OF QUARTERLY FINANCIAL REPORTS.—Not later than fifteen days after the end of every calendar quarter (beginning with a report for the quarter beginning October 1, 1994), the Mayor shall submit to the Committee on the District of Columbia of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Subcommittees on the District of Columbia of the Committees on Appropriations of the House of Representatives and the Senate, a report on the financial and budgetary status of the government of the District of Columbia for the previous quarter.

"(2) CONTENTS OF REPORT.—Each quarterly financial report submitted under paragraph (1) shall include the following information:

"(A) A comparison of actual to forecasted cash receipts and disbursements for each month of the quarter, as presented in the District's fiscal year consolidated cash forecast which shall be supported and accompanied by cash forecasts for the general fund and each of the District government's other funds other than the capital projects fund and trust and agency funds.

"(B) A projection of the remaining months cash forecast for that fiscal year.

"(C) Explanations of (i) the differences between actual and forecasted cash amounts for each of the months in the quarter, and (ii) any changes in the remaining months forecast as compared to the original forecast for such months of that fiscal year.

"(D) The effect of such changes, actual and projected, on the total cash balance of the remaining months and for the fiscal year.

"(E) Explanations of the impact on meeting the budget, how the results may be reflected in a supplemental budget request, or how other policy decisions may be necessary which may require the agencies to reduce expenditures in other areas.

"(F) An aging of the outstanding receivables and payables, with an explanation of how they are reflected in the forecast of cash receipts and disbursements.

"(G) For each department or agency, the actual number of full-time equivalent positions, the actual number of full-time employees, the actual number of part-time employees, and the actual number of temporary employees, together with the source of funding for each such category of positions and employees.".

(b) CLERICAL AMENDMENTS.—The table of contents of the District of Columbia Self-Government and Governmental Reorganization Act is amended—

(1) in the item relating to subpart 2 of part D of title IV, by striking "Audit" and inserting "Audits and Accountability Requirements"; and

(2) by inserting after the item relating to section 455 the following new item:

"Sec. 456. Performance and financial accountability.".

Mr. STARK (during the reading) Mr. Speaker, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to reauthorize the annual Federal payment to the District of Columbia for fiscal year 1996, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STARK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 2902, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules, but not before 5 p.m. today.

RECESS

The SPEAKER pro tempore. The Chair declares a recess for 5 minutes.

Accordingly (at 12 o'clock and 18 minutes p.m.), the House stood in recess for 5 minutes.

□ 1221

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. MONTGOMERY] at 12 o'clock and 21 minutes p.m.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on those bills which will be called up on today by the Committee on the Judiciary.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

INTERNATIONAL ANTITRUST ENFORCEMENT ASSISTANCE ACT OF 1994

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4781) to facilitate obtaining foreign-located antitrust evidence by authorizing the Attorney General of the United States and the Federal Trade Commission to provide, in accordance with antitrust mutual assistance agreements, antitrust evidence to foreign antitrust authorities on a reciprocal basis; and for other purposes, as amended.

The Clerk read as follows:

H.R. 4781

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Antitrust Enforcement Assistance Act of 1994".

SEC. 2. DISCLOSURE TO A FOREIGN ANTITRUST AUTHORITY OF ANTITRUST EVIDENCE.

In accordance with an antitrust mutual assistance agreement in effect under this Act, subject to section 8, and except as provided in section 5, the Attorney General of the United States and the Federal Trade Commission may provide to a foreign antitrust authority with respect to which such agreement is in effect under this Act, antitrust evidence to assist the foreign antitrust authority—

(1) in determining whether a person has violated or is about to violate any of the foreign antitrust laws administered or enforced by the foreign antitrust authority, or

(2) in enforcing any of such foreign antitrust laws.

SEC. 3. INVESTIGATIONS TO ASSIST A FOREIGN ANTITRUST AUTHORITY IN OBTAINING ANTITRUST EVIDENCE.

(a) REQUEST FOR INVESTIGATIVE ASSISTANCE.—A request by a foreign antitrust authority for investigative assistance under this section shall be made to the Attorney General, who may deny the request in whole or in part. No further action shall be taken under this section with respect to any part of a request that has been denied by the Attorney General.

(b) AUTHORITY TO INVESTIGATE.—In accordance with an antitrust mutual assistance agreement in effect under this Act, subject to section 8, and except as provided in section 5, the Attorney General and the Commission may, using their respective authority to investigate possible violations of the Federal antitrust laws, conduct investigations to obtain antitrust evidence relating to a possible violation of the foreign antitrust laws administered or enforced by the foreign antitrust authority with respect to which such agreement is in effect under this Act, and may provide such antitrust evidence to the foreign antitrust authority, to assist the foreign antitrust authority—

(1) in determining whether a person has violated or is about to violate any of such foreign antitrust laws, or

(2) in enforcing any of such foreign antitrust laws.

(c) SPECIAL SCOPE OF AUTHORITY.—An investigation may be conducted under subsection (b), and antitrust evidence obtained through such investigation may be provided, without regard to whether the conduct investigated violates any of the Federal antitrust laws.

(d) RIGHTS AND PRIVILEGES PRESERVED.—A person may not be compelled in connection with an investigation under this section to give testimony or a statement, or to produce a document or other thing, in violation of any legally applicable right or privilege.

(e) CONFORMING AMENDMENTS.—

(1) ANTITRUST CIVIL PROCESS ACT.—The Antitrust Civil Process Act (15 U.S.C. 1311 et seq.) is amended—

(A) in section 2—

(i) in subsection (d)—

(I) by striking "or any" and inserting ", any", and

(II) by inserting before the semicolon "or, with respect to the International Antitrust Enforcement Assistance Act of 1994, any of the foreign antitrust laws", and

(ii) by adding at the end the following:

"(k) The term 'foreign antitrust laws' has the meaning given such term in section 12 of the International Antitrust Enforcement Assistance Act of 1994.", and

(B) in the first sentence of section 3(a)—

(i) by inserting "or, with respect to the International Antitrust Enforcement Assistance Act of 1994, an investigation authorized by section 3 of such Act" after "investigation", and

(ii) by inserting "by the United States" after "proceeding".

(2) FEDERAL TRADE COMMISSION ACT.—The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended—

(A) in section 6 by inserting after subsection (h) the following:

"(i) With respect to the International Antitrust Enforcement Assistance Act of 1994, to conduct investigations of possible violations of foreign antitrust laws (as defined in section 12 of such Act).";

(B) in section 20(a) by amending paragraph (8) to read as follows:

"(8) The term 'antitrust violation' means—

"(A) any unfair method of competition (within the meaning of section 5(a)(1));

"(B) any violation of the Clayton Act or of any other Federal statute that prohibits, or makes available to the Commission a civil remedy with respect to, any restraint upon or monopolization of interstate or foreign trade or commerce;

"(C) with respect to the International Antitrust Enforcement Assistance Act of 1994, any violation of any of the foreign antitrust laws (as defined in section 12 of such Act) with respect to which a request is made under section 3 of such Act; or

"(D) any activity in preparation for a merger, acquisition, joint venture, or similar transaction, which if consummated, may result in any such unfair method of competition or in any such violation.".

SEC. 4. JURISDICTION OF THE DISTRICT COURTS OF THE UNITED STATES.

(a) AUTHORITY OF THE DISTRICT COURTS.—On the application of the Attorney General made in accordance with an antitrust mutual assistance agreement in effect under this Act, the United States district court for the district in which a person resides, is found, or transacts business may order such person to give testimony or a statement, or to produce a document or other thing, to the Attorney General to assist a foreign antitrust authority with respect to which such agreement is in effect under this Act—

(1) in determining whether a person has violated or is about to violate any of the foreign antitrust laws administered or enforced by the foreign antitrust authority, or

(2) in enforcing any of such foreign antitrust laws.

(b) CONTENTS OF ORDER.—

(1) USE OF APPOINTEE TO RECEIVE EVIDENCE.—(A) An order issued under subsection (a) may direct that testimony or a statement be given, or a document or other thing be produced, to a person who shall be recommended by the Attorney General and appointed by the court.

(B) A person appointed under subparagraph (A) shall have power to administer any necessary oath and to take such testimony or such statement.

(2) PRACTICE AND PROCEDURE.—(A) An order issued under subsection (a) may prescribe the practice and procedure for taking testimony and statements and for producing documents and other things.

(B) Such practice and procedure may be in whole or in part the practice and procedure of the foreign state, or the regional economic integration organization, represented by the foreign antitrust authority with respect to which the Attorney General requests such order.

(C) To the extent such order does not prescribe otherwise, any testimony and statements required to be taken shall be taken, and any documents and other things required to be produced shall be produced, in accordance with the Federal Rules of Civil Procedure.

(c) RIGHTS AND PRIVILEGES PRESERVED.—A person may not be compelled under an order issued under subsection (a) to give testimony or a statement, or to produce a document or other thing, in violation of any legally applicable right or privilege.

(d) VOLUNTARY CONDUCT.—This section does not preclude a person in the United States from voluntarily giving testimony or a statement, or producing a document or other thing, in any manner acceptable to such person for use in an investigation by a foreign antitrust authority.

SEC. 5. LIMITATIONS ON AUTHORITY.

Sections 2, 3, and 4 shall not apply with respect to the following antitrust evidence:

(1) Antitrust evidence that is received by the Attorney General or the Commission under section 7A of the Clayton Act (15 U.S.C. 18a), as added by title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976. Nothing in this paragraph shall affect the ability of the Attorney General or the Commission to disclose to a foreign antitrust authority antitrust evidence that is obtained otherwise than under such section 7A.

(2) Antitrust evidence that is matter occurring before a grand jury and with respect to which disclosure is prevented by Federal law, except that for the purpose of applying Rule 6(e)(3)(C)(iv) of the Federal Rules of Criminal Procedure with respect to this section—

(A) a foreign antitrust authority with respect to which a particularized need for such antitrust evidence is shown shall be considered to be an appropriate official of any of the several States, and

(B) a foreign antitrust law administered or enforced by the foreign antitrust authority shall be considered to be a State criminal law.

(3) Antitrust evidence that is specifically authorized under criteria established by Executive Order 12356, or any successor to such order, to be kept secret in the interest of national defense or foreign policy, and—

(A) that is classified pursuant to such order or such successor, or

(B) with respect to which a determination of classification is pending under such order or such successor.

(4) Antitrust evidence that is classified under section 142 of the Atomic Energy Act of 1954 (42 U.S.C. 2162).

SEC. 6. EXCEPTION TO CERTAIN DISCLOSURE RESTRICTIONS.

Section 4 of the Antitrust Civil Process Act (15 U.S.C. 1313), and sections 6(f) and 21 of the Federal Trade Commission Act (15 U.S.C. 46, 57b-2), shall not apply to prevent the Attorney General or the Commission from providing to a foreign antitrust authority antitrust evidence in accordance with an antitrust mutual assistance agreement in effect under this Act and in accordance with the other requirements of this Act.

SEC. 7. PUBLICATION REQUIREMENTS APPLICABLE TO ANTITRUST MUTUAL ASSISTANCE AGREEMENTS.

(a) PUBLICATION OF PROPOSED ANTITRUST MUTUAL ASSISTANCE AGREEMENTS.—Not less than 45 days before an antitrust mutual assistance agreement is entered into, the Attorney General, with the concurrence of the Commission, shall publish in the Federal Register—

(1) the proposed text of such agreement and any modification to such proposed text, and

(2) a request for public comment with respect to such text or such modification, as the case may be.

(b) PUBLICATION OF PROPOSED AMENDMENTS TO ANTITRUST MUTUAL ASSISTANCE AGREEMENTS IN EFFECT.—Not less than 45 days before an agreement is entered into that makes an amendment to an antitrust mutual assistance agreement, the Attorney General, with the concurrence of the Commission, shall publish in the Federal Register—

(1) the proposed text of such amendment, and

(2) a request for public comment with respect to such amendment.

(c) PUBLICATION OF ANTITRUST MUTUAL ASSISTANCE AGREEMENTS, AMENDMENTS, AND TERMINATIONS.—Not later than 45 days after an antitrust mutual assistance agreement is entered into or terminated, or an agreement that makes an amendment to an antitrust mutual assistance agreement is entered into, the Attorney General, with the concurrence of the Commission, shall publish in the Federal Register—

(1) the text of the antitrust mutual assistance agreement or amendment, or the terms of the termination, as the case may be, and

(2) in the case of an agreement that makes an amendment to an antitrust mutual assistance agreement, a notice containing—

(A) citations to the locations in the Federal Register at which the text of the antitrust mutual assistance agreement that is so amended, and of any previous amendments to such agreement, are published, and

(B) a description of the manner in which a copy of the antitrust mutual assistance agreement, as so amended, may be obtained from the Attorney General and the Commission.

(d) CONDITION FOR VALIDITY.—An antitrust mutual assistance agreement, or an agreement that makes an amendment to an antitrust mutual assistance agreement, with respect to which publication does not occur in accordance with subsections (a), (b), and (c) shall not be considered to be in effect under this Act.

SEC. 8. CONDITIONS ON USE OF ANTITRUST MUTUAL ASSISTANCE AGREEMENTS.

(a) DETERMINATIONS.—Neither the Attorney General nor the Commission may conduct an investigation under section 3, apply for an order under section 4, or provide antitrust evidence to a foreign antitrust authority under an antitrust mutual assistance agreement, unless the Attorney General or the Commission, as the case may be, determines in the particular instance in which the investigation, application, or antitrust evidence is requested that—

(1) the foreign antitrust authority—

(A) will satisfy the assurances, terms, and conditions described in subparagraphs (A), (B), and (E) of section 12(2), and

(B) is capable of complying with and will comply with the confidentiality requirements applicable under such agreement to the requested antitrust evidence,

(2) providing the requested antitrust evidence will not violate section 5, and

(3) conducting such investigation, applying for such order, or providing the requested antitrust evidence, as the case may be, is consistent with the public interest of the United States, taking into consideration, among other factors, whether the foreign state or regional economic integration organization represented by the foreign antitrust authority holds any proprietary interest that could benefit or otherwise be affected by such investigation, by the granting of such order, or by the provision of such antitrust evidence.

(b) LIMITATION ON DISCLOSURE OF CERTAIN ANTITRUST EVIDENCE.—Neither the Attorney General nor the Commission may disclose in violation of an antitrust mutual assistance agreement any antitrust evidence received under such agreement, except that such agreement may not prevent the disclosure of such antitrust evidence to a defendant in an action or proceeding brought by the Attorney General or the Commission for a violation of any of the Federal laws if such disclosure would otherwise be required by Federal law.

(c) REQUIRED DISCLOSURE OF NOTICE RECEIVED.—If the Attorney General or the Commission receives a notice described in section 12(2)(H), the Attorney General or the Commission, as the case may be, shall transmit such notice to the person that provided the evidence with respect to which such notice is received.

SEC. 9. LIMITATIONS ON JUDICIAL REVIEW.

(a) DETERMINATIONS.—Determinations made under paragraphs (1) and (3) of section 8(a) shall not be subject to judicial review.

(b) CITATIONS TO AND DESCRIPTIONS OF CONFIDENTIALITY LAWS.—Whether an antitrust mutual assistance agreement satisfies section 12(2)(C) shall not be subject to judicial review.

(c) RULES OF CONSTRUCTION.—

(1) ADMINISTRATIVE PROCEDURE ACT.—The requirements in section 7 with respect to publication and request for public comment shall not be construed to create any availability of judicial review under chapter 7 of title 5 of the United States Code.

(2) LAWS REFERENCED IN SECTION 5.—Nothing in this section shall be construed to affect the availability of judicial review under laws referred to in section 5.

SEC. 10. PRESERVATION OF EXISTING AUTHORITY.

(a) IN GENERAL.—The authority provided by this Act is in addition to, and not in lieu of, any other authority vested in the Attorney General, the Commission, or any other officer of the United States.

(b) ATTORNEY GENERAL AND COMMISSION.—This Act shall not be construed to modify or affect the allocation of responsibility between the Attorney General and the Commission for the enforcement of the Federal antitrust laws.

SEC. 11. REPORT TO THE CONGRESS.

In the 30-day period beginning 3 years after the date of the enactment of this Act and with the concurrence of the Commission, the Attorney General shall submit, to the Speaker of the

House of Representatives and the President pro tempore of the Senate, a report—

(1) describing how the operation of this Act has affected the enforcement of the Federal antitrust laws,

(2) describing the extent to which foreign antitrust authorities have complied with the confidentiality requirements applicable under antitrust mutual assistance agreements in effect under this Act,

(3) specifying separately the identities of the foreign states, regional economic integration organizations, and foreign antitrust authorities that have entered into such agreements and the identities of the foreign antitrust authorities with respect to which such foreign states and such organizations have entered into such agreements,

(4) specifying the identity of each foreign state, and each regional economic integration organization, that has in effect a law similar to this Act,

(5) giving the approximate number of requests made by the Attorney General and the Commission under such agreements to foreign antitrust authorities for antitrust investigations and for antitrust evidence,

(6) giving the approximate number of requests made by foreign antitrust authorities under such agreements to the Attorney General and the Commission for investigations under section 3, for orders under section 4, and for antitrust evidence, and

(7) describing any significant problems or concerns of which the Attorney General is aware with respect to the operation of this Act.

SEC. 12. DEFINITIONS.

For purposes of this Act:

(1) The term "antitrust evidence" means information, testimony, statements, documents, or other things that are obtained in anticipation of, or during the course of, an investigation or proceeding under any of the Federal antitrust laws or any of the foreign antitrust laws.

(2) The term "antitrust mutual assistance agreement" means a written agreement, or written memorandum of understanding, that is entered into by the United States and a foreign state or regional economic integration organization (with respect to the foreign antitrust authorities of such foreign state or such organization, and such other governmental entities of such foreign state or such organization as the Attorney General and the Commission jointly determine may be necessary in order to provide the assistance described in subparagraph (A)), or jointly by the Attorney General and the Commission and a foreign antitrust authority, for the purpose of conducting investigations under section 3, applying for orders under section 4, or providing antitrust evidence, on a reciprocal basis and that includes the following:

(A) An assurance that the foreign antitrust authority will provide to the Attorney General and the Commission assistance that is comparable in scope to the assistance the Attorney General and the Commission provide under such agreement or such memorandum.

(B) An assurance that the foreign antitrust authority is subject to laws and procedures that are adequate to maintain securely the confidentiality of antitrust evidence that may be received under section 2, 3, or 4 and will give protection to antitrust evidence received under such section that is not less than the protection provided under the laws of the United States to such antitrust evidence.

(C) Citations to and brief descriptions of the laws of the United States, and the laws of the foreign state or regional economic integration organization represented by the foreign antitrust authority, that protect the confidentiality of antitrust evidence that may be provided under such agreement or such memorandum. Such citations and such descriptions shall include the enforcement mechanisms and penalties applicable under such laws and, with respect to a regional economic integration organization, the applicability of such laws, enforcement mechanisms, and penalties to the foreign states composing such organization.

(D) Citations to the Federal antitrust laws, and the foreign antitrust laws, with respect to which such agreement or such memorandum applies.

(E) Terms and conditions that specifically require using, disclosing, or permitting the use or disclosure of, antitrust evidence received under such agreement or such memorandum only—

(i) for the purpose of administering or enforcing the foreign antitrust laws involved, or

(ii) with respect to a specified disclosure or use requested by a foreign antitrust authority and essential to a significant law enforcement objective, in accordance with the prior written consent that the Attorney General or the Commission, as the case may be, gives after—

(I) determining that such antitrust evidence is not otherwise readily available with respect to such objective,

(II) making the determinations described in paragraphs (2) and (3) of section 8(a), with respect to such disclosure or use, and

(III) making the determinations applicable to a foreign antitrust authority under section 8(a)(1) (other than the determination regarding the assurance described in subparagraph (A) of this paragraph), with respect to each additional governmental entity, if any, to be provided such antitrust evidence in the course of such disclosure or use, after having received adequate written assurances applicable to each such governmental entity.

(F) An assurance that antitrust evidence received under section 2, 3, or 4 from the Attorney General or the Commission, and all copies of such evidence, in the possession or control of the foreign antitrust authority will be returned to the Attorney General or the Commission, respectively, at the conclusion of the foreign investigation or proceeding with respect to which such evidence was so received.

(G) Terms and conditions that specifically provide that such agreement or such memorandum will be terminated if—

(i) the confidentiality required under such agreement or such memorandum is violated with respect to antitrust evidence, and

(ii) adequate action is not taken both to minimize any harm resulting from the violation and to ensure that the confidentiality required under such agreement or such memorandum is not violated again.

(H) Terms and conditions that specifically provide that if the confidentiality required under such agreement or such memorandum is violated with respect to antitrust evidence, notice of the violation will be given—

(i) by the foreign antitrust authority promptly to the Attorney General or the Commission with respect to antitrust evidence provided by the Attorney General or the Commission, respectively, and

(ii) by the Attorney General or the Commission to the person (if any) that provided such evidence to the Attorney General or the Commission.

(3) The term "Attorney General" means the Attorney General of the United States.

(4) The term "Commission" means the Federal Trade Commission.

(5) The term "Federal antitrust laws" has the meaning given the term "antitrust laws" in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)) but also includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

(6) The term "foreign antitrust authority" means a governmental entity of a foreign state or of a regional economic integration organization that is vested by such state or such organization with authority to enforce the foreign antitrust laws of such state or such organization.

(7) The term "foreign antitrust laws" means the laws of a foreign state, or of a regional economic integration organization, that are substantially similar to any of the Federal antitrust laws and that prohibit conduct similar to conduct prohibited under the Federal antitrust laws.

(8) The term "person" has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)).

(9) The term "regional economic integration organization" means an organization that is constituted by, and composed of, foreign states, and on which such foreign states have conferred sovereign authority to make decisions that are binding on such foreign states, and that are directly applicable to and binding on persons within such foreign states, including the decisions with respect to—

(A) administering or enforcing the foreign antitrust laws of such organization, and

(B) prohibiting and regulating disclosure of information that is obtained by such organization in the course of administering or enforcing such laws.

SEC. 13. AUTHORITY TO RECEIVE REIMBURSEMENT.

The Attorney General and the Commission are authorized to receive from a foreign antitrust authority, or from the foreign state or regional economic integration organization represented by such foreign antitrust authority, reimbursement for the costs incurred by the Attorney General or the Commission, respectively, in conducting an investigation under section 3 requested by such foreign antitrust authority, applying for an order under section 4 to assist such foreign antitrust authority, or providing antitrust evidence to such foreign antitrust authority under an antitrust mutual assistance agreement in effect under this Act with respect to such foreign antitrust authority.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4781, the International Antitrust Enforcement Assistance Act of 1994, which authorizes the Department of Justice and the Federal Trade Commission to enter into reciprocal written agreements with foreign antitrust authorities to cooperate in international antitrust investigations.

H.R. 4781 sets out the required contents for such agreements, under which the Department and the FTC will be able to share antitrust information in their possession on a confidential basis, as well as assist the foreign antitrust authority in obtaining antitrust evidence located in the United States in turn, the foreign antitrust authority must agree to provided reciprocal assistance.

The Antitrust Division reportedly has 30 international investigations underway. Yet, it is often exceedingly difficult for U.S. antitrust enforcers to obtain evidence located abroad without the assistance of a foreign government. H.R. 4781 helps to rectify that enforcement situation.

By taking this needed procedural step to enhance antitrust enforcement activity between the United States and its economic partners, we will be in a strong position next Congress to move on to considering how to harmonize substantive doctrines that currently place this country at a competitive disadvantage in the international marketplace.

I want to commend our ever-vigilant Assistant Attorney General for Antitrust, Anne Bingaman, for her very strong advocacy of this measure. I also want to heartily commend my cosponsor, Mr. FISH, for his important leadership in helping craft the product before us.

H.R. 4781 enjoys bipartisan support both here and in the Senate, as well as broad support within the business community and the antitrust bar. I urge its approval by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this measure authored by Chairman Brooks and myself is about effective international antitrust enforcement. The enactment of the International Antitrust Enforcement Assistant Act of 1994 (H.R. 4781) will greatly strengthen the ability of the Attorney General and the Federal Trade Commission to obtain evidence located abroad, for use in U.S. antitrust investigations and prosecutions.

Specifically, H.R. 4781 would establish a statutory framework for the Attorney General to enter into mutual assistance agreements with foreign antitrust authorities. These agreements will provide for international cooperation in antitrust investigations and provide for sharing evidence to assist in antitrust enforcement.

As we all know, Mr. Speaker, the United States is now part of a global economy. Export and import trade now account for nearly one-quarter of our gross domestic product. The development of a global marketplace means that U.S. businesses and American consumers have a much greater risk of being harmed by anticompetitive conduct arising from abroad or occurring abroad.

Enforcing our antitrust laws is always a complicated, fact-based business—and the limitations on discovery procedures with respect to foreign nationals and foreign companies pose basic evidentiary problems. Because we are in a global marketplace, evidence in antitrust investigations is increasingly located abroad. No company that does business in the United States should be permitted to escape U.S. antitrust liability simply by maintaining its business records in a foreign jurisdiction.

Today, the United States antitrust enforcement agencies—the Antitrust Division of the Department of Justice and the Federal Trade Commission—routinely deal with international antitrust enforcement. For example, the Antitrust Division currently has some 30 active antitrust investigations that have major international aspects. This is nearly double the number that were ongoing just a year ago. The FTC has also encountered an increase in the instances of foreign conduct that has anticompetitive impact in the United States. The Antitrust Division and the Commission also frequently review mergers that involve foreign firms or have other important international aspects.

The Antitrust Division has testified that foreign individuals or firms with information and documents relevant or essential to its investigations are frequently beyond the reach of U.S. process, either because those individuals or entities cannot be served or because process cannot be enforced for lack of personal jurisdiction. This bill would enable both the Department of Justice and the Federal Trade Commission to gain access to important evidence by offering reciprocal investigative opportunities to foreign antitrust enforcement agencies.

Given the increasingly international scope of the antitrust agencies' work, it is crucial that they have sufficient legal authority to obtain information located abroad that would help them protect American consumers and businesses from antitrust abuses.

During our hearing on August 8, witnesses representing the business community expressed concerns about certain aspects of this legislation. First of all, questions were raised with respect to the provisions of the bill that authorize the Antitrust Division to obtain a court order to turn over grand jury information to a foreign government in furtherance of an antitrust mutual assistance agreement. These concerns focus on a situation where the United States has granted immunity to a witness testifying in a grand jury proceeding and whether the foreign government requesting that evidence should be required to grant that individual the same scope of immunity, as a prior condition for receiving this evidence. Unless a criminal investigation would be compromised, the Attorney General should seek an arrangement with the foreign antitrust authority which provides that individual with the same grant of immunity he or she received under U.S. law.

Another concern is whether or not affected companies should be routinely notified when a foreign antitrust authority requests documents or other evidence relating to their activities and those documents or evidence are in the custody of the Antitrust Division or the FTC. Here again, it would be my view that American companies should be notified unless the Attorney General believes that such notice would not be "consistent with the public interest".

Finally, the legislation does contain language that protects the confidentiality of materials submitted under the pre-merger notification statute, known as the Hart-Scott-Rodino Act. Most importantly, here, the Antitrust Division and the FTC should make every effort to ensure that a company's future business plans or product plans are not turned over to a foreign government. Rarely is this type of information significant for law enforcement purposes and its disclosure could be extremely harmful to a company's competitive position.

These examples are the reasons why section 9(a)(3) of the bill gives the Attorney General and the Federal Trade Commission the discretion to not conduct a particular investigation or to not provide the evidence requested, unless it is deemed "consistent with the public interest of the United States." The legislative history of H.R. 4781 reflects the fact that Congress believes that both the Attorney General and the Federal Trade Commission should be particularly careful to avoid unnecessary or unwarranted disclosure of sensitive and proprietary information to foreign governments.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill (H.R. 4781), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

LIMITING STATE TAXATION OF CERTAIN PENSION INCOME

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 546) to limit State taxation of certain pension income, and for other purposes, as amended.

The Clerk read as follows:

H.R. 546

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATION ON STATE INCOME TAXATION OF CERTAIN PENSION INCOME.

(a) AMENDMENT.—Chapter 4 of title 4, United States Code, is amended by adding at the end the following:

§114. Limitation on State income taxation of certain pension income

"(a) Except as provided in subsection (b), no State may impose an income tax on any qualified pension income of an individual who is not a resident or domiciliary of such State (as determined under the laws of such State).

"(b)(1) Subsection (a) shall not apply to the extent that the aggregate amount of qualified pension income of an individual for any calendar year exceeds $30,000. There shall not be taken into account under the preceding sentence any amount which is exempt from State taxation by reason of other Federal law.

"(2) If more than 1 State would (but for this section) impose an income tax on qualified pension income received by an individual during a calendar year, the dollar amount otherwise applicable under paragraph (1) for such calendar year shall be allocated among such States in such amounts as such individual may determine.

"(3) If more than 1 individual receives qualified pension income during a calendar year which is attributable to services performed by 1 individual—

"(A) all such individual receiving such income shall be treated as 1 individual, and

"(B) the dollar amount applicable under paragraph (1) shall be allocated among such individuals in proportion to their respective shares of such income received during such calendar year.

"(c) For purposes of this section—

"(1) The term 'qualified pension income' means any income from—

"(A) a qualified trust under section 401(a) of the Internal Revenue Code that is exempt under section 501(a) from taxation;

"(B) a simplified employee pension as defined in section 408(k) of such Code;

"(C) an annuity plan described in section 403(a) of such Code;

"(D) an annuity contract described in section 403(b) of such Code;

"(E) an individual retirement plan described in section 7701(a)(37) of such Code;

"(F) an eligible deferred compensation plan (as defined in section 457 of such Code);

"(G) a governmental plan (as defined in section 414(d) of such Code); or

"(H) a trust described in section 501(d)(18) of such Code.

Such term includes any retired or retainer pay of a member or former member of a uniform service computed under chapter 71 of title 10, United States Code.

"(2) The term 'income tax' has the meaning given such term by section 110(c).

"(3) The term 'State' includes any political subdivision of a State, the District of Columbia, and the possessions of the United States.

"(d) In the case of any calendar year after 1995, the dollar amount contained in subsection (b) shall be increased by the amount determined by the Secretary of the Treasury to be equal to such dollar amount, multiplied by the cost-of-living adjustment determined under section 1(f)(3) of such Code by substituting 'calendar year 1994' for 'calendar year 1992' in subparagraph (B) thereof. If any increase determined under the preceding sentence is not a multiple of $1,000, such increase shall be rounded to the nearest multiple of $1,000. Not later than December 1 of each calendar year, the Secretary of the Treasury shall publish in the Federal Register the amount determined under this subsection which is applicable to the following calendar year.

"(e) Nothing in this section shall be construed as having any effect on the application of section 514 of the Employee Retirement Income Security Act of 1974."

"(b) CONFORMING AMENDMENT.—The table of sections for chapter 4 of title 4, United States Code, is amended by adding at the end the following:

"114. Limitation on State income taxation of certain pension income.".

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 1994.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 546 which restricts the authority of States to tax the pension income of nonresidents. The bill was introduced and tirelessly advocated by the gentlelady from Washington [Mrs. UNSOELD]. She deserves great credit in this body and from retirees all across the Nation for her good work on the issue.

The Supreme Court has upheld the right of States to tax income earned within their borders by those who live in other States. A number of States, relying on this source-based theory of taxation, presently tax the pension income of former residents—individuals who have retired and moved to other States. Unfortunately, these pension source taxes frequently saddle lower income retirees with unreasonable burdens.

As reported by the Judiciary Committee, H.R. 546 addresses the source tax issue in a manner that preserves vital State taxing interests while providing much-needed relief to thousands of our Nation's retirees.

It would prohibit States from taxing the first $30,000 in annual qualified pension income received by any former resident—whether in the form of a monthly pension check or a lump-sum payment. The exemption would be adjusted annually to account for inflation.

Mr. Speaker, on three separate occasions in the past two Congresses, the Senate has approved source tax restrictions. The substitute before us was adopted by the Judiciary Committee with board bipartisan support. I urge its adoption by the full House.

Mr. Speaker, I reserve the balance of my time.

□ 1230

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, our consideration today of H.R. 546 is the culmination of many years of hard work by my colleague from Nevada, Mrs. VUCANOVICH and the sponsor of this bill, Mrs. UNSOELD. I have been a supporter and cosponsor of this legislation for the past several Congresses, and I am pleased that the House is finally voting on this measure today.

Mr. Speaker, since the mid-1980's, some States have attempted to collect taxes on the pension income of individuals who are no longer residents of those States. This practice affected so many retirees that, in 1988, the organization, Retirees to Eliminate State Income Source Tax [RESIST], was formed to fight it. That organization now has thousands of members nationwide, and the support of other national organizations including the National Association of Retired Federal Employees and the National Taxpayers Union.

These citizens argue that it is unfair for a State to tax the retirement income of individuals who have moved to a different State, and who no longer benefit from services of the taxing State. Some States, like California, have been particularly aggressive in attempting to collect taxes on the pension income of retirees who once worked in California but have since moved to other States to live out their retirement years. These States consider pension income to be deferred compensation, upon which taxes were withheld to encourage participation in retirement plans. They argue that they should not be deprived of this revenue simply because they chose to tax it at a later time.

H.R. 546 strikes a compromise between nonresident pensioners and State taxing authorities by imposing a ceiling of $30,000 below which nonresident retiree's pension income may not be taxed. The legislation does not distinguish between single lump-sum payouts or equally distributed payouts, it simply imposes a $30,000 ceiling across-the-board. This limitation is the result of a substitute amendment adopted in the Judiciary Committee and represents a compromise which is supported by the sponsors of the legislation and by citizens' organizations which initiated this legislative effort.

Mr. Speaker, H.R. 546 ensures that nonresident pensioners are treated fairly, and that has been the goal of this legislation from the beginning. I support H.R. 546 and urge my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, I thank the chairman for yielding. I rise today in support of H.R. 546, my legislation to relieve our Nation's retirees from onerous out-of-State taxes on their pensions.

My thanks to Representative SYNAR, Representative VUCANOVICH, and Senator REID for their hard work on this legislation.

But most of all, I thank Chairman BROOKS. With 10,000 more important bigger pieces of legislation all clamoring for his attention, he did not forget these people who worked hard all their lives and earned their pensions and a right to retire with peace of mind and security.

I am also particularly grateful for the spirit of cooperation and compromise that produced this final version of the bill and allowed it to come to the floor today.

The American Revolution was fought some 200 years ago in large part to end the injustice of taxation without representation. But because of source taxes, hundreds of thousands of retired Americans are still fighting that battle.

For these people it is blatantly unfair that several States assess so-called source taxes on retirees who once worked within their borders but now live in other States. These taxes are an injustice because the retirees forced to pay them are not allowed to vote in the States levying the income taxes, nor do they benefit from those States' police or roads or other services.

The source tax relief legislation on the floor today is a strong expression of the American tradition that people should be able to live where they want and enjoy the pension incomes they have earned over a lifetime of work.

Once again, I thank Chairman BROOKS for his leadership in coming to the help of these freedom-loving Americans and I urge this House to support this effort to restore the rights of our Nation's retirees.

Mr. FISH. Mr. Speaker, I forget how many years ago it was, certainly two or three Congresses ago, that the gentlewoman from Nevada [Mrs. VUCANOVICH] approached our committee and asked for a hearing on this subject. Largely through her tenacity and interest in this legislation, we are here today finally as a House of Representatives to deal with this issue.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. I thank the gentleman for yielding this time to me.

Mr. Speaker, I am pleased to lend my strong support to H.R. 546, a measure that curtails the source tax. Source taxing States levy taxes on the pension income of retirees who no longer reside in the taxing State.

Just as I have in every Congress since 1988, at the beginning of the 103d Congress I introduced H.R. 702, legislation that would prohibit States from collecting the source tax. My bill has 179 bipartisan cosponsors. Other similar measures that have been introduced in this Congress also share widespread support from both sides of the aisle.

I have heard from countless retirees, not only in my own State of Nevada, but also from other parts of the country, who are understandably irate at having to pay taxes to a State they do not live in—and in many cases these people moved from the taxing State years ago.

The legislation we are considering this afternoon goes a long way in protecting retirees from this unjust tax, and I commend the chairman and ranking member of the Judiciary Committee for moving it forward.

The only substantive difference between my bill, H.R. 702, and the measure we are considering today, is that H.R. 546 includes a $30,000 annual ceiling on the amount of pension income exempted from the source tax. While my bill includes no such ceiling, I fully and strongly support H.R. 546.

Even with the ceiling, it is estimated that more than 80 percent of all those subject to the source tax will no longer have to pay these taxes to a State in which they no longer live.

Moreover, the $300,000 ceiling is indexed for inflation. Since many, if not most, pensions do not receive a full inflation adjustment each year, the net effect of the inflation adjustment in the compromise amendment will be to gradually increase the real value of the ceiling.

Finally, Mr. Speaker, I would like to thank Bill Hoffman of Carson City, the president of Retirees to Eliminate State Income Source Tax [RESIST] of America. RESIST has done more than any other organization to see this bill pass, and I want Bill to know how much I appreciate his tireless efforts to put an end to the source tax.

Mr. Speaker, I want to again thank the gentleman from Texas [Mr. BROOKS], the chairman of the committee, and the ranking member, the gentleman from New York [Mr. FISH].

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from Nevada [Mr. BILBRAY] who has worked tirelessly trying to draft this legislation. He is a stalwart leader.

Mr. BILBRAY. I thank the chairman for yielding this time to me.

Mr. Speaker, I rise today in strong support of H.R. 546, a bill which prohibits States from levying source taxes or taxes on the pension income of retirees who no longer reside in the taxing State or, in some cases, have never actually lived in the State but their pension funds are based in that State.

It often comes as a shock to retirees who left the State where they were employed to come to a State like Nevada, with no income taxes, and receive a notice in the mail that former State of residence expects them to continue paying taxes. Also in some cases, they actually have a tax bill based on their entire income, even that part which is not part of the retirement fund. With penalties and interest and so forth, it is far in excess of the amount paid. These people come to my office constantly in dire shape, some with very limited pensions. The fact is it was unfair from the very beginning.

As I stated before, you do not even have to have lived in that State at sometime in your life. You could just have your pension fund based in that State and they would turn around and tax you as if you had been a resident all along.

I know Senator BRYAN, Senator REID, and I met with the chairman of the committee, the gentleman from Texas, Mr. BROOKS, just a few months ago asking for his help in moving this legislation. I commend my colleague, the gentlewoman from Nevada [Mrs. VUCANOVICH], for the work she has done, and the gentleman from New York [Mr. FISH], for his cooperation. We will sorely miss him in this House, but hope we will have another Fish taking his place. I again would like to thank, gratefully, our chairman for the help he has given us in this. I know he will be glad now that I will not be constantly grabbing him every time he comes to the floor asking where the bill on source tax was and what can we do about it.

□ 1240

Mr. Speaker, I thank the committee for their work on this, and, Mr. Speaker, I yield back the balance of my time.

Mr. SYNAR. Mr. Speaker, the subject of State source taxation is an issue that has long been before this Congress and it is an issue that will continue to hound us until we pass into law a reasonable compromise solution.

As my colleagues know, the right of States to raise tax revenues in a manner of their own choosing is essential to preserving a strong and vibrant Federal system in this Nation. However, there are times when State taxing policies may impose unreasonable burdens on taxpayers. I believe taxing the pension income of former residents is one of those times. Therefore, I feel this is one of those infrequent situations where commonsense Federal action is necessary.

But any action we take here in Washington must be reasonable and balanced so as to preserve the legitimate interests States have in this issue. I believe the compromise bill we have before us today passes these two tests.

As most of my colleagues know, Mrs. UNSOELD, Mrs. VUCANOVICH, and Senator REID from the other body have led the efforts to reform State source tax practices. Their efforts have been tireless and I am heartened that they have agreed to support the compromise version of the legislation before us today.

The approach which they originally championed would allow retirees who elect to receive their pension income in the form of periodic payments to exempt all of that income from any State income tax applied by a State in which they formerly resided. Additionally, their approach mandates that those retirees who elect to take a one-time lump-sum payment or an irregular series of payments over the years would only enjoy a one-time exemption of $25,000 and all amounts in excess of this exemption would be subject to tax.

While I understand the motivations behind this approach, I have some serious concerns about an approach that hinges source tax protection on the form and the timing of pension payments. I also think that relatively high-income retirees should be subject to some tax.

Therefore the amendment I offered during the Judiciary Committee's consideration of this legislation, which is before us today provides an annual exemption of $30,000 that would apply to both periodic payments and lump sum distributions. In other words, the first $30,000 in qualified pension income received by an individual would be exempt from source taxes by a State of former residence. Amounts in excess of this exemption would remain taxable. Additionally this exemption amount would be adjusted periodically to account for increases in costs of living.

I believe this is a fair and balanced approach to the source tax conundrum facing Congress. I urge all Members to support this bill.

Mrs. MINK of Hawaii. Mr. Speaker, I rise in support of H.R. 546 not only because it limits the ability of any State to tax the pensions of nonresidents but because it ensures that all States treat the pension incomes of nonresidents similarly.

Under current law, a State may, in addition to taxing the personal income of its residents, tax any income whose source is also in the State. As such, the pension benefits of a person who once worked and contributed to a pension in one State can have his or her benefits taxed by that State although he or she is no longer residing there.

Most States with a personal income tax provide a credit to any resident who pays income taxes to another State. As such, most individuals whose pensions are taxed by the State in which they once worked are not also taxed by the State in which they not reside. For those individuals who now reside in a State without a personal income tax, however, no such credit is provided for income taxes paid to another State.

H.R. 546 would, by prohibiting States from taxing the first $30,000 per year in pension benefits of those who are not residents of the State ensure that the States treat the pension benefits of all nonresidents equitably.

I urge the House to pass H.R. 546.

Mr. KYL. Mr. Speaker, I rise in support of H.R. 546, which will go a long way toward resolving the problem of so-called source taxes.

Mr. Speaker, in recent years, some State governments, desperate for new sources of revenue, have increasingly turned to former residents to supplement their coffers. After all, nonresidents are easy targets: they no longer have a say or a vote in how tax dollars are spent by those States. Moreover, since they don't require any additional services, like police protection, new roads or the like, the taxes they pay represent a pure windfall.

Source taxes may be a boon to some States, but they are inherently unfair to retirees who worked long and hard for their retirement benefits. People should not be penalized simply because they choose to retire to different parts of the country, whether to be with friends or family, to enjoy a better climate, or just to explore new parts of the country.

Retirees can find themselves double-taxed, once by the State in which they currently reside and again by the source-taxing State, unless their home State allows a deduction for amounts paid to other States. But, even if they are allowed a deduction, there is still a problem. Source-taxing States are denying other States revenues to which they are rightly entitled, revenues needed to provide services for their own residents, including source-taxed retirees.

Last year, I cosponsored a bill, H.R. 702, with Representative BARBARA VUCANOVICH of Nevada, to repeal source taxes outright. While I still prefer that measure, the version before us today represents a compromise that largely resolves the problem.

As amended by the Judiciary Committee, H.R. 546 exempts the first $30,000 of annual retirement income from the source tax. That will provide relief to an estimated 85 to 90 percent of all those subject to the tax. Moreover, the $30,000 threshold will be indexed so that inflation does not ultimately push more retirees back under the source tax.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. FISH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I, too, yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 546, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CIVIL RIGHTS COMMISSION AMENDMENTS ACT OF 1994

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4999) to amend the United States Commission on Civil Rights Act of 1983, as amended.

The Clerk read as follows:

H.R. 4999

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Commission Amendments Act of 1994".

SEC. 2. AMENDMENT OF 1983 ACT.

That the portion of the United States Commission on Civil Rights Act of 1983 which follows the enacting clause is amended to read as follows:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Civil Rights Commission Act of 1983'.

"SEC. 2. ESTABLISHMENT OF COMMISSION.

"(a) GENERALLY.—There is established the United States Commission on Civil Rights (hereinafter in this Act referred to as the 'Commission').

"(b) MEMBERSHIP.—The Commission shall be composed of 8 members. Not more than 4 of the members shall at any one time be of the same political party. The initial membership of the Commission shall be the members of the United States Commission on Civil Rights on September 30, 1994. Thereafter vacancies in the membership of the Commission shall continue to be appointed as follows:

"(1) 4 members of the Commission shall be appointed by the President.

"(2) 2 members of the Commission shall be appointed by the President pro tempore of the Senate, upon the recommendations of the majority leader and the minority leader, and of the members appointed not more than one shall be appointed from the same political party.

"(3) 2 members of the Commission shall be appointed by the Speaker of the House of Representatives upon the recommendations of the majority leader and the minority leader, and of the members appointed not more than one shall be appointed from the same political party.

"(c) TERMS.—The term of office of each member of the Commission shall be 6 years. The term of each member of the Commission in the initial membership of the Commission shall expire on the date such term would have expired as of September 30, 1994.

"(d) CHAIRPERSON.—(1) Except as provided in paragraphs (2) and (3), the individuals serving as Chairperson and Vice Chairperson of the United States Commission on Civil Rights on September 30, 1994 shall initially fill those roles on the Commission.

"(2) Thereafter the President may, with the concurrence of a majority of the Commission's members, designate a Chairperson or Vice Chairperson, as the case may be, from among the Commission's members.

"(3) The President shall, with the concurrence of a majority of the Commission's members, fill a vacancy by designating a Chairperson or Vice Chairperson, as the case may be, from among the Commission's members.

"(4) The Vice Chairperson shall act in place of the Chairperson in the absence of the Chairperson.

"(e) REMOVAL OF MEMBERS.—The President may remove a member of the Commission only for neglect of duty or malfeasance in office.

"(f) QUORUM.—5 members of the Commission constitute a quorum of the Commission.

"SEC. 3. DUTIES OF THE COMMISSION.

"(a) GENERALLY.—The Commission—

"(1) shall investigate allegations in writing under oath or affirmation relating to deprivations—

"(A) because of color, race, religion, sex, age, disability, or national origin; or

"(B) as a result of any pattern or practice of fraud;

of the right of citizens of the United States to vote and have votes counted; and

"(2) shall—

"(A) study and collect information relating to;

"(B) make appraisals of the laws and policies of the Federal Government with respect to;

"(C) serve as a national clearinghouse for information relating to; and

"(D) prepare public service announcements and advertising campaigns to discourage;

discrimination or denials of equal protection of the laws under the Constitution of the United States because of color, race, religion, sex, age, disability, or national origin, or in the administration of justice.

"(b) Limitations on Investigatory Duties.—Nothing in this or any other Act shall be construed as authorizing the Commission, its advisory committees, or any person under its supervision or control, to inquire into or investigate any membership practices or internal operations of any fraternal organization, any college or university fraternity or sorority, any private club, or any religious organization.

"(c) Reports.—

"(1) Annual report.—The Commission shall submit to the President and Congress at least one report annually that monitors Federal civil rights enforcement efforts in the United States.

"(2) Other reports generally.—The Commission shall submit such other reports to the President and the Congress as the Commission, the Congress, or the President shall deem appropriate.

"(d) Advisory Committees.—The Commission may constitute such advisory committees as it deems advisable. The Commission shall establish at least one such committee in each State and the District of Columbia composed of citizens of that State or District.

"(e) Hearings and Ancillary Matters.—

"(1) Power to hold hearings.—The Commission, or on the authorization of the Commission, any subcommittee of two or more members of the Commission, at least one of whom shall be of each major political party, may, for the purpose of carrying out this Act, hold such hearings and act at such times and places as the Commission or such authorized subcommittee deems advisable. Each member of the Commission shall have the power to administer oaths and affirmations in connection with the proceedings of the Commission. The holding of a hearing by the Commission or the appointment of a subcommittee to hold a hearing pursuant to this paragraph must be approved by a majority of the Commission, or by a majority of the members present at a meeting when a quorum is present.

"(2) Power to issue subpoenas.—The Commission may issue subpoenas for the attendance of witnesses and the production of written or other matter. Such a subpoena may not require the presence of a witness more than 100 miles outside the place wherein the witness is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process. In case of contumacy or refusal to obey a subpoena, the Attorney General may in a Federal court of appropriate jurisdiction obtain an appropriate order to enforce the subpoena.

"(3) Witness fees.—A witness attending any proceeding of the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(4) Depositions and interrogatories.—The Commission may use depositions and written interrogatories to obtain information and testimony about matters that are the subject of a Commission hearing or report.

"(f) Limitation Relating to Abortion.—Nothing in this or any other Act shall be construed as authorizing the Commission, its advisory committees, or any other person under its supervision or control to study and collect, make appraisals of, or serve as a clearinghouse for any information about laws and policies of the Federal Government or any other governmental authority in the United States, with respect to abortion.

"SEC. 4. ADMINISTRATIVE PROVISIONS.

"(a) Staff.—

"(1) Director.—There shall be a full-time staff director for the Commission who shall—

"(A) serve as the administrative head of the Commission; and

"(B) be appointed by the President with the concurrence of a majority of the Commission.

"(2) Other personnel.—Within the limitation of its appropriations, the Commission may—

"(A) appoint such other personnel as it deems advisable, under the civil service and classification laws; and

"(B) procure services, as authorized in section 3109 of title 5, United States Code, but at rates for individuals not in excess of the daily equivalent paid for positions at the maximum rate for GS-15 of the General Schedule under section 5332 of title 5, United States Code.

"(b) Compensation of Members.—

"(1) Generally.—Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive a sum equivalent to the compensation paid at level IV of the Executive Schedule under section 5315 of title 5, United States Code, prorated on a daily basis for time spent in the work of the Commission.

"(2) Persons otherwise in government service.—Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be paid actual travel expenses and per diem in lieu of subsistence expenses when away from such member's usual place of residence, under subchapter I of chapter 57 of title 5, United States Code.

"(c) Voluntary or Uncompensated Personnel.—The Commission shall not accept or use the services of voluntary or uncompensated persons. This limitation shall apply with respect to services of members of the Commission as it does with respect to services by other persons.

"(d) Rules.—

"(1) Generally.—The Commission may make such rules as are necessary to carry out the purposes of this Act.

"(2) Continuation of old rules.—Except as inconsistent with this Act, and until modified by the Commission, the rules of the Commission on Civil Rights in effect on September 30, 1994 shall be the initial rules of the Commission.

"(e) Cooperation.—All Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

"SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated, to carry out this Act $9,500,000 for fiscal year 1995. None of the sums authorized to be appropriated for fiscal year 1995 may be used to create additional regional offices.

"SEC. 6. TERMINATION.

"This Act shall terminate on September 30, 1995."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. Brooks] will be recognized for 20 minutes, and the gentleman from Illinois [Mr. Hyde] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. Brooks].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4999 authorizes $9.5 million for the activities of the U.S. Civil Rights Commission for fiscal year 1995. It authorizes the Commission to conduct antidiscrimination campaigns, and maintains the prohibition against new regional offices. It also clarifies the restrictions on uncompensated services by Commissioners. This language is necessary because of a recent GAO report which found some questionable travel expenditures by some Commissioners.

I wish to thank the gentleman from California [Mr. Edwards], chairman of the Subcommittee on Civil and Constitutional Rights, for his leadership on this and every other civil rights issue over the last 30 years, and the gentleman from Illinois [Mr. Hyde], the ranking member, also deserves praise for bringing this legislation forward.

I urge the Members to support this bill.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say at the outset that the gentleman from California [Mr. Edwards] will indeed be missed. I would like to think that he is such a part of this place though that, to reprise a term, I believe, of Oliver Wendell Holmes, he will be a brooding omnipresence over this body rather than someone who is retired and left us. He has been a great person to work with and made so many solid contributions to the jurisprudence, to the civil rights of this country, that his mark is established, and I have been proud to work with him.

The same thing is true with the gentleman from Texas [Mr. Brooks] who is, among other things, fun to work with. He has a great sense of humor, and he gets things done, and it has been a real pleasure working with him.

And lest this turn into a homecoming celebration, Mr. Speaker, let me say this legislation, as approved by the Committee on the Judiciary, will extend the life of the U.S. Commission on Civil Rights for 1 year. This legislation maintains the current structure of the Commission, eight Commissioners appointed by the President and Congress, and gives the Commission new authority to make public service announcements within the scope of its statutory mandate. The bill, as reported by the Committee on the Judiciary, incorporates several changes requested by the minority which were consistent with the 1983 act. The bill also authorizes appropriation of $9.5 million, which is consistent with the amount appropriated for fiscal year 1995.

Mr. Speaker, I believe the Commission is compromised of men and women of good will who can work together to speak out against discrimination and in favor of equality under the law, and so I enthusiastically support this legislation.

I do want to thank the chairman of the committee, the gentleman from California [Mr. EDWARDS], for his cooperation on moving this bill, and the gentleman from Texas [Mr. BROOKS] for bringing this bill forward, as well as to the staffs, without whose indispensable help we could not have brought this bill forward.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Subcommittee on Civil and Constitutional Rights, the gentleman from California [Mr. EDWARDS], a longtime supporter of civil rights.

Mr. EDWARDS of California. Mr. Speaker, I thank my chairman, the gentleman from Texas [Mr. BROOKS], for bringing this bill promptly to the floor, and I thank him for his gracious personal remarks, as I thank my colleague, the gentleman from Illinois [Mr. HYDE], the ranking minority member of the subcommittee. It has been just an honor and a privilege to serve with Mr. HYDE for many years on this subcommittee. We have done some good things, and we worked together very hard.

Mr. Speaker, this bill, ably and accurately described by both the gentleman from Texas [Mr. BROOKS] and the gentleman from Illinois [Mr. HYDE] does extend the life of the Commission for a year and was approved unanimously by the subcommittee and by the full committee. I urge its passage.

Mr. Speaker, in 1957, creating a U.S. Commission on Civil Rights was a radical idea. It is the only bipartisan, independent Federal factfinding agency reviewing discrimination on the basis of race, color, religion, sex, age, handicap, and national origin or in the administration of justice.

Perhaps it is a temporary agency because we want to believe that some day our racially and culturally diverse Nation will become more unified. I believe it is a good thing that our national will embraces such unity.

For most of its almost 40 years existence the Commission has been our Nation's conscience on civil rights—reminding us of where we have been and where we need to go.

Since it has no enforcement authority, its influence comes from its scholarly reports.

Sadly, we all remember that period, beginning in 1980, when the Commission turned away from its factfinding mission, Congress seriously considered abolishing the agency. However, a compromise bill reconstituting the Commission was enacted in 1983. Commission membership was expanded and the method for appointing Commissioners and selecting the chairperson, vice chairperson and staff director was changed.

The Commission still has not fully resumed its statutory mandate. Those who have followed Commission meetings and hearings for the past 2 years notice an absence of scholarly debate and a penchant for bickering over administrative rather than policy matters.

From 1957 to 1983, the Commissioners and staff director were appointed by the President with the advice and consent of the Senate. I believe there is a direct connection between the Commission's past reputation for scholarly work and the rigors of Senate confirmation. And if, after this reauthorization, the Commission fails to fully resume its factfinding mandate, I hope the next Congress will consider returning to Senate confirmation.

H.R. 4999 rewrites more concisely the 1983 Civil Rights Commission Act. For example, it eliminates provisions of the 1983 act regarding the conduct of Commission hearings. The provisions are unnecessary because the Commission's hearings are subject to the Sunshine in Government Act.

The bill restates the Commission's longstanding factfinding duties with respect to discrimination and denials of equal protection of the laws because of color, race, religion, sex, age, disability, or national origin or in the administration of justice.

New authority is granted to the Commission to prepare public service announcements and advertising campaigns to discourage discrimination. The Commission is also authorized to use depositions and written interrogatories to obtain information and testimony about matters that are the subject of a Commission hearing or report.

Following publication of a report by the General Accounting Office in August 1994, entitled "Commissioners' Travel Activities", the bill clarifies that the longstanding provision prohibiting the Commission from accepting or using the services of voluntary or uncompensated persons applies to the Commissioners.

The Commission's life is extended for 1-year and $9,500,000 is authorized for appropriations in fiscal year 1995. The committee expects that the modest increase in appropriations authorized by this bill will enhance the Commission's ability to return to its factfinding mandate.

Since 1957, when the Commission was created, civil rights issues and solutions have become more complex. I have no doubt that our Nation will benefit greatly from the advice and counsel of a Civil Rights Commission that is committed to vigorously carrying out its statutory mandate. I urge this Commission to meet that challenge and I urge your support of H.R. 4999.

Mr. HYDE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. FISH], the ranking Republican on the Committee on the Judiciary.

Mr. FISH. Mr. Speaker, although this Nation has taken monumental steps toward eradicating discrimination and achieving equality for men and women of all races and creeds, there is still much work to be done. The U.S. Commission on Civil Rights plays a pivotal role in helping to point out where we have fallen short and what steps we can take to insure that our civil rights laws are fairly and effectively enforced.

Our experience over the past 3 years, since we last authorized the Commission, is that it has taken steps to becoming more focused and more productive in carrying out its congressional mandate.

H.R. 4999, as reported by the Committee on the Judiciary, authorizes the Commission for 1 year and grants explicit authority to the Commission to make public service announcements. Otherwise, the bill maintains the current structure of the Commission.

I support this legislation and urge my colleagues to do so as well.

Mr. Speaker, I am glad to have the opportunity to speak on this bill. My friend, the gentleman from California [Mr. EDWARDS] is leaving the Congress after 3 decades as the congressional watchdog of civil rights abuses and discrimination and shaping our responses. I have learned from DON EDWARDS and appreciate having worked with him on every civil rights bill considered in the last 25 years. I say to the gentleman, "The Congress and country will miss you DON EDWARDS."

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the majority party has chairmen, and they get courthouses named after them, and the minority party sometimes is tolerated and retires with kind of in-house glory. I do not want to let this moment pass without saying that the gentleman from New York [Mr. FISH] is the nicest person I have ever met. I have had more sheer joy, pleasure, and professional satisfaction from working with him over these years, and, as he leaves, he will be painfully missed, a gentleman in the fullest sense of the word, and I tried to think of a way to encapsulate him in his chosen profession, and I would refer to him as a diamond in a sea of zircons. He will be sorely missed.

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Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like at this time to endorse the comments of my very erudite colleague, the gentleman from Illinois [Mr. HYDE].

Mr. Speaker, I yield to our colleague, the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I am filled with humility and a sense of sadness about leaving colleagues such as those who have spoken this morning. We have worked together in ways that we thought were for the best interests of our country. The gentleman from New York [Mr. FISH] and the gentleman from Illinois [Mr. HYDE] were amongst the authors of the very important 1982 rewriting of the Voting Rights Act that made it really effective throughout the country.

The gentleman from Illinois [Mr. HYDE] and I traveled throughout the South and other States and found to our dismay that even 17 years after the Voting Rights Act first had been passed, voting privileges were being denied wholesale to Americans because of their race. We worked together, and the gentleman from New York [Mr. FISH], as usual, manfully assisted us as he has done on civil rights and constitutional rights throughout his entire career.

Indeed, Mr. Speaker, I am just honored by this. When I go into retirement in a few months, I am going to look back with nostalgia at the hours and days and months and years I have worked with these finest of public servants.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I thank the chairman of the Committee on the Judiciary for yielding this time to me, and I rise in very strong support of H.R. 4999, the Civil Rights Commission Reauthorization Act.

I take this time just to offer my sincerest congratulations and very best wishes to Congressman DON EDWARDS, the distinguished chairman of the subcommittee, not just for this bill but for really all his years of service. He has indeed been the guardian of the Constitution for about eight decades. Nobody has worked harder for civil rights and constitutional rights than has DON EDWARDS over the years.

And the gentleman from New York, Mr. HAMILTON FISH, is also leaving the Congress at the end of this session. HAM FISH is unquestionably one of the experts on immigration as well as civil rights, one of the earliest supporters of civil rights legislation in this Congress.

This body is going to sadly miss DON EDWARDS and HAMILTON FISH. They have been great Members of this body. They are the epitome of what is right about this institution. There are a lot of things right. We hear about all the things that are wrong about Congress and the country, but these are examples of what is right about this institution, and I wish them every success in the years ahead.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 4999, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2372) to reauthorize for 3 years the Commission on Civil Rights, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2372

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Commission Reauthorization Act of 1994".

SEC. 2. REAUTHORIZATION.

Section 7 of the United States Commission on Civil Rights Act (42 U.S.C. 1975e) is amended to read as follows:

"SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this Act $9,500,000 for fiscal year 1995.".

SEC. 3. TERMINATION.

Section 8 of the United States Commission on Civil Rights Act (42 U.S.C. 1975f) is amended by striking "1994" and inserting "1997".

MOTION OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BROOKS moves to strike all after the enacting clause of S. 2372 and insert in lieu thereof the provisions of H.R. 4999, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend the United States Commission on Civil Rights Act of 1983."

A motion to reconsider was laid on the table.

A similar bill (H.R. 4999) was laid on the table.

MADRID PROTOCOL IMPLEMENTATION ACT

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2129) to amend the Trademark Act of 1946 to provide for the registration and protection of trademarks used in commerce, in order to carry out provisions of certain international conventions, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Madrid Protocol Implementation Act".

SEC. 2. PROVISIONS TO IMPLEMENT THE PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS.

The Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946, as amended (15 U.S.C. 1051 and following) (commonly referred to as the "Trademark Act of 1946") is amended by adding after section 51 the following new title:

"TITLE XII—THE MADRID PROTOCOL

"SEC. 60. DEFINITIONS.

"For purposes of this title:

"(1) MADRID PROTOCOL.—The term 'Madrid Protocol' means the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, adopted at Madrid, Spain, on June 27, 1989.

"(2) BASIC APPLICATION.—The term 'basic application' means the application for the registration of a mark that has been filed with an Office of a Contracting Party and that constitutes the basis for an application for the international registration of that mark.

"(3) BASIC REGISTRATION.—The term 'basic registration' means the registration of a mark that has been granted by an Office of a Contracting Party and that constitutes the basis for an application for the international registration of that mark.

"(4) CONTRACTING PARTY.—The term 'Contracting Party' means any country or intergovernmental organization that is a party to the Madrid Protocol.

"(5) DATE OF RECORDAL.—The term 'date of recordal' means the date on which a request for extension of protection that is filed after an international registration is granted is recorded on the International Register.

"(6) DECLARATION OF BONA FIDE INTENTION TO USE THE MARK IN COMMERCE.—The term 'declaration of bona fide intention to use the mark in commerce' means a declaration that is signed by the applicant for, or holder of, an international registration who is seeking extension of protection of a mark to the United States and that contains a statement that—

"(A) the applicant or holder has a bona fide intention to use the mark in commerce,

"(B) the person making the declaration believes himself or herself, or the firm, corporation, or association in whose behalf he or she makes the declaration, to be entitled to use the mark in commerce, and

"(C) no other person, firm, corporation, or association, to the best of his or her knowledge and belief, has the right to use such mark in commerce either in the identical form of the mark or in such near resemblance to the mark as to be likely, when used on or in connection with the goods of such other person, firm, corporation, or association, to cause confusion, or to cause mistake, or to deceive.

"(7) EXTENSION OF PROTECTION.—The term 'extension of protection' means the protection resulting from an international registration that extends to a Contracting Party at the request of the holder of the international registration, in accordance with the Madrid Protocol.

"(8) HOLDER OF AN INTERNATIONAL REGISTRATION.—A 'holder' of an international registration is the natural or juristic person in whose name the international registration is recorded on the International Register.

"(9) INTERNATIONAL APPLICATION.—The term 'international application' means an application for international registration that is filed under the Madrid Protocol.

"(10) INTERNATIONAL BUREAU.—The term 'International Bureau' means the International Bureau of the World Intellectual Property Organization.

"(11) INTERNATIONAL REGISTER.—The term 'International Register' means the official collection of such data concerning international registrations maintained by the International Bureau that the Madrid Protocol or its implementing regulations require or permit to be recorded, regardless of the medium which contains such data.

"(12) INTERNATIONAL REGISTRATION.—The term 'international registration' means the registration of a mark granted under the Madrid Protocol.

"(13) INTERNATIONAL REGISTRATION DATE.—The term 'international registration date' means the date assigned to the international registration by the International Bureau.

"(14) NOTIFICATION OF REFUSAL.—The term 'notification of refusal' means the notice sent by an Office of a Contracting Party to the International Bureau declaring that an extension of protection cannot be granted.

"(15) OFFICE OF A CONTRACTING PARTY.—The term 'Office of a Contracting Party' means—

"(A) the office, or governmental entity, of a Contracting Party that is responsible for the registration of marks, or

"(B) the common office, or governmental entity, of more than 1 Contracting Party that is responsible for the registration of marks and is so recognized by the International Bureau.

"(16) OFFICE OF ORIGIN.—The term 'office of origin' means the Office of a Contracting Party with which a basic application was filed or by which a basic registration was granted.

"(17) OPPOSITION PERIOD.—The term 'opposition period' means the time allowed for filing an opposition in the Patent and Trademark Office, including any extension of time granted under section 13.

"SEC. 61. INTERNATIONAL APPLICATIONS BASED ON UNITED STATES APPLICATIONS OR REGISTRATIONS.

"The owner of a basic application pending before the Patent and Trademark Office, or the owner of a basic registration granted by the Patent and Trademark Office, who—

"(1) is a national of the United States,

"(2) is domiciled in the United States, or

"(3) has a real and effective industrial or commercial establishment in the United States,

may file an international application by submitting to the Patent and Trademark Office a written application in such form, together with such fees, as may be prescribed by the Commissioner.

"SEC. 62. CERTIFICATION OF THE INTERNATIONAL APPLICATION.

"Upon the filing of an application for international registration and payment of the prescribed fees, the Commissioner shall examine the international application for the purpose of certifying that the information contained in the international application corresponds to the information contained in the basic application or basic registration at the time of the certification. Upon examination and certification of the international application, the Commissioner shall transmit the international application to the International Bureau.

"SEC. 63. RESTRICTION, ABANDONMENT, CANCELLATION, OR EXPIRATION OF A BASIC APPLICATION OR BASIC REGISTRATION.

"With respect to an international application transmitted to the International Bureau under section 62, the Commissioner shall notify the International Bureau whenever the basic application or basic registration which is the basis for the international application has been restricted, abandoned, or cancelled, or has expired, with respect to some or all of the goods and services listed in the international registration—

"(1) within 5 years after the international registration date; or

"(2) more than 5 years after the international registration date if the restriction, abandonment, or cancellation of the basic application or basic registration resulted from an action that began before the end of that 5-year period.

"SEC. 64. REQUEST FOR EXTENSION OF PROTECTION SUBSEQUENT TO INTERNATIONAL REGISTRATION.

"The holder of an international registration that is based upon a basic application filed with the Patent and Trademark Office or a basic registration granted by the Patent and Trademark Office may request an extension of protection of its international registration by filing such a request—

"(1) directly with the International Bureau, or

"(2) with the Patent and Trademark Office for transmittal to the International Bureau, if the request is in such form, and contains such transmittal fee, as may be prescribed by the Commissioner.

"SEC. 65. EXTENSION OF PROTECTION OF AN INTERNATIONAL REGISTRATION TO THE UNITED STATES UNDER THE MADRID PROTOCOL.

"(a) IN GENERAL.—Subject to the provisions of section 68, the holder of an international registration shall be entitled to the benefits of extension of protection of that international registration to the United States to the extent necessary to give effect to any provision of the Madrid Protocol.

"(b) IF UNITED STATES IS OFFICE OF ORIGIN.—An extension of protection resulting from an international registration of a mark shall not apply to the United States if the Patent and Trademark Office is the office of origin with respect to that mark.

"SEC. 66. EFFECT OF FILING A REQUEST FOR EXTENSION OF PROTECTION OF AN INTERNATIONAL REGISTRATION TO THE UNITED STATES.

"(a) REQUIREMENT FOR REQUEST FOR EXTENSION OF PROTECTION.—A request for extension of protection of an international registration to the United States that the International Bureau transmits to the Patent and Trademark Office shall be deemed to be properly filed in the United States if such request, when received by the International Bureau, has attached to it a declaration of bona fide intention to use the mark in commerce that is verified by the applicant for, or holder of, the international registration.

"(b) EFFECT OF PROPER FILING.—Unless extension of protection is refused under section 68, the proper filing of the request for extension of protection under subsection (a) shall constitute constructive use of the mark, conferring the same rights as those specified in section 7(c), as of the earliest of the following:

"(1) The international registration date, if the request for extension of protection was filed in the international application.

"(2) The date of recordal of the request for extension of protection, if the request for extension of protection was made after the international registration date.

"(3) The date of priority claimed pursuant to section 67.

"SEC. 67. RIGHT OF PRIORITY FOR REQUEST FOR EXTENSION OF PROTECTION TO THE UNITED STATES.

"The holder of an international registration with an extension of protection to the United States shall be entitled to claim a date of priority based on the right of priority within the meaning of Article 4 of the Paris Convention for the Protection of Industrial Property if—

"(1) the international registration contained a claim of such priority; and

"(2)(A) the international application contained a request for extension of protection to the United States, or

"(B) the date of recordal of the request for extension of protection to the United States is not later than 6 months after the date of the first regular national filing (within the meaning of Article 4(A)(3) of the Paris Convention for the Protection of Industrial Property) or a subsequent application (within the meaning of Article 4(C)(4) of the Paris Convention).

"SEC. 68. EXAMINATION OF AND OPPOSITION TO REQUEST FOR EXTENSION OF PROTECTION; NOTIFICATION OF REFUSAL.

"(a) EXAMINATION AND OPPOSITION.—(1) A request for extension of protection described in section 66(a) shall be examined as an application for registration on the Principal Register under this Act, and if on such examination it appears that the applicant is entitled to extension of protection under this title, the Commissioner shall cause the mark to be published in the Official Gazette of the Patent and Trademark Office.

"(2) Subject to the provisions of subsection (c), a request for extension of protection under this title shall be subject to opposition under section 13. Unless successfully opposed, the request for extension of protection shall not be refused.

"(3) Extension of protection shall not be refused under this section on the ground that the mark has not been used in commerce.

"(4) Extension of protection shall be refused under this section to any mark not registrable on the Principal Register.

"(b) NOTIFICATION OF REFUSAL.—If, a request for extension of protection is refused under subsection (a), the Commissioner shall declare in a notification of refusal (as provided in subsection (c)) that the extension of protection cannot be granted, together with a statement of all grounds on which the refusal was based.

"(c) NOTICE TO INTERNATIONAL BUREAU.—(1) Within 18 months after the date on which the International Bureau transmits to the Patent and Trademark Office a notification of a request for extension of protection, the Commissioner shall transmit to the International Bureau any of the following that applies to such request:

"(A) A notification of refusal based on an examination of the request for extension of protection.

"(B) A notification of refusal based on the filing of an opposition to the request.

"(C) A notification of the possibility that an opposition to the request may be filed after the end of that 18-month period.

"(2) If the Commissioner has sent a notification of the possibility of opposition under paragraph (1)(C), the Commissioner shall, if applicable, transmit to the International Bureau a notification of refusal on the basis of the opposition, together with a statement of all the grounds for the opposition, within 7 months after the beginning of the opposition period or within 1 month after the end of the opposition period, whichever is earlier.

"(3) If a notification of refusal of a request for extension of protection is transmitted under paragraph (1) or (2), no grounds for refusal of such request other than those set forth in such notification may be transmitted to the International Bureau by the Commissioner after the expiration of the time periods set forth in paragraph (1) or (2), as the case may be.

"(4) If a notification specified in paragraph (1) or (2) is not sent to the International Bureau within the time period set forth in such paragraph, with respect to a request for extension of protection, the request for extension of protection shall not be refused and the Commissioner shall issue a certificate of extension of protection pursuant to the request.

"(d) DESIGNATION OF AGENT FOR SERVICE OF PROCESS.—In responding to a notification of refusal with respect to a mark, the holder of the international registration of the mark shall designate, by a written document filed in the Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person, or mailing to that person, a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, such notice or process may be served upon the Commissioner.

"SEC. 69. EFFECT OF EXTENSION OF PROTECTION.

"(a) ISSUANCE OF EXTENSION OF PROTECTION.—Unless a request for extension of protection is refused under section 68, the Commissioner shall issue a certificate of extension of protection pursuant to the request and shall cause notice of such certificate of extension of protection to be published in the Official Gazette of the Patent and Trademark Office.

"(b) EFFECT OF EXTENSION OF PROTECTION.—From the date on which a certificate of extension of protection is issued under subsection (a)—

"(1) such extension of protection shall have the same effect and validity as a registration on the Principal Register, and

"(2) the holder of the international registration shall have the same rights and remedies as the owner of a registration on the Principal Register.

"SEC. 70. DEPENDENCE OF EXTENSION OF PROTECTION TO THE UNITED STATES ON THE UNDERLYING INTERNATIONAL REGISTRATION.

"(a) EFFECT OF CANCELLATION OF INTERNATIONAL REGISTRATION.—If the International Bureau notifies the Patent and Trademark Office of the cancellation of an international registration with respect to some or all of the goods and services listed in the international registration, the Commissioner shall cancel any extension of protection to the United States with respect to such goods and services as of the date on which the international registration was cancelled.

"(b) EFFECT OF FAILURE TO RENEW INTERNATIONAL REGISTRATION.—If the International Bureau does not renew an international registration, the corresponding extension of protection to the United States shall cease to be valid as of the date of the expiration of the international registration.

"(c) TRANSFORMATION OF AN EXTENSION OF PROTECTION INTO A UNITED STATES APPLICATION.—The holder of an international registration cancelled in whole or in part by the International Bureau at the request of the office of origin, under Article 6(4) of the Madrid Protocol, may file an application, under section 1 or 44 of this Act, for the registration of the same mark for any of the goods and services to which the cancellation applies that were covered by an extension of protection to the United States based on that international registration. Such an application shall be treated as if it had been filed on the international registration date or the date of recordal of the request for extension of protection with the International Bureau, whichever date applies, and, if the extension of protection enjoyed priority under section 67 of this title, shall enjoy the same priority. Such an application shall be entitled to the benefits conferred by this subsection only if the application is filed not later than 3 months after the date on which the international registration was canceled, in whole or in part, and only if the application complies with all the requirements of this Act which apply to any application filed pursuant to section 1 or 44.

"SEC. 71. AFFIDAVITS AND FEES.

"(a) REQUIRED AFFIDAVITS AND FEES.—An extension of protection for which a certificate of extension of protection has been issued under section 69 shall remain in force for the term of the international registration upon which it is based, except that the extension of protection of any mark shall be cancelled by the Commissioner—

"(1) at the end of the 6-year period beginning on the date on which the certificate of extension of protection was issued by the Commissioner, unless within the 1-year period preceding the expiration of that 6-year period the holder of the international registration files in the Patent and Trademark Office an affidavit under subsection (b) together with a fee prescribed by the Commissioner; and

"(2) at the end of the 10-year period beginning on the date on which the certificate of extension of protection was issued by the Commissioner, and at the end of each 10-year period thereafter, unless—

"(A) within the 6-month period preceding the expiration of such 10-year period the holder of the international registration files in the Patent and Trademark Office an affidavit under subsection (b) together with a fee prescribed by the Commissioner; or

"(B) within 3 months after the expiration of such 10-year period, the holder of the international registration files in the Patent and Trademark Office an affidavit under subsection (b) together with the fee described in subparagraph (A) and an additional fee prescribed by the Commissioner.

"(b) CONTENTS OF AFFIDAVIT.—The affidavit referred to in subsection (a) shall set forth those goods or services recited in the extension of protection on or in connection with which the mark is in use in commerce and the holder of the international registration shall attach to the affidavit a specimen or facsimile showing the current use of the mark in commerce, or shall set forth that any nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark. Special notice of the requirement for such affidavit shall be attached to each certificate of extension of protection.

"SEC. 72. ASSIGNMENT OF AN EXTENSION OF PROTECTION.

"An extension of protection may be assigned, together with the goodwill associated with the mark, only to a person who is a national of, is domiciled in, or has a bona fide and effective industrial or commercial establishment either in a country that is a Contracting Party or in a country that is a member of an intergovernmental organization that is a Contracting Party.

"SEC. 73. INCONTESTABILITY.

"The period of continuous use prescribed under section 15 for a mark covered by an extension of protection issued under this title may begin no earlier than the date on which the Commissioner issues the certificate of the extension of protection under section 69, except as provided in section 74.

"SEC. 74. RIGHTS OF EXTENSION OF PROTECTION.

"An extension of protection shall convey the same rights as an existing registration for the same mark, if—

"(1) the extension of protection and the existing registration are owned by the same person;

"(2) the goods and services listed in the existing registration are also listed in the extension of protection; and

"(3) the certificate of extension of protection is issued after the date of the existing registration.".

SEC. 3. EFFECTIVE DATE.

Subject to the satisfactory resolution of the issues relating to voting rights of member nations under the Madrid Protocol, this Act shall take effect on the date on which the Madrid Protocol enters into force with respect to the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2129 provides for procedural changes in United States law which are necessary to implement the Madrid protocol which provides for the international registration of trademarks. Participation in the Madrid protocol by the United States will present United States patent owners with a greatly simplified means of obtaining patent protection in foreign countries. Foreign recognition of U.S. intellectual property will further enhance the global competitiveness of U.S. businesses. Equally important, this expedited protection can be obtained without any substantive change in U.S. patent law.

U.S. participation in the protocol has been held up by a dispute over the voting rights of member parties. The European Union has thus far insisted on having a separate vote from the votes given to its member countries. There is no sound justification for such a double vote requirement, and the United States has understandably opposed this position as posing a very bad precedent for other international agreements. This legislation cannot take effect until the voting rights issue is favorably resolved.

I wish to thank Congressman BILL HUGHES, chairman of the Subcommittee on Intellectual Property and Judicial Administration, for his commitment to advancing the protections available to U.S. trademark owners, and Congressman CARLOS MOORHEAD, the ranking member, for his support of this legislation.

I urge the Members to support passage of this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2129.

Mr. Speaker, I yield 2 minutes to the ranking minority member of the Committee on the Judiciary, the gentleman from New York [Mr. FISH], whom we are going to miss very, very much on his retirement.

Mr. FISH. Mr. Speaker, I thank my colleague for yielding the time to me.

Mr. Speaker, this is important legislation and I want to congratulate the subcommittee chairman, BILL HUGHES, and the ranking Republican, CARLOS MOORHEAD, for pushing it forward even though the State Department would like to put this legislation on hold. If that happens it will be years before the Congress ever sees any legislation on this issue.

In late August early September of last year I met in Geneva with Dr. Arpad Bogsch, Director of the World Intellectual Property Organization [WIPO] and we spent a good deal of time discussing this legislation. After that meeting I was more convinced than ever that we should enact it.

Our business community will benefit substantially from the enactment of this legislation. International registration of trademarks is a simple, inexpensive, and effective way of obtaining legal protection for trademarks in a large number of countries. WIPO will be implementing and administering the protocol. It will be sharing its computer records of international applications and registrations with our Patent and Trademark Office. A U.S. company will be able to file with the U.S. Patent and Trademark Office and then have its application transmitted to WIPO where it will be registered and made available to other countries avoiding separate and expensive country-by-country registration.

This legislation has been endorsed by the American Bar Association, the U.S. business community, and the U.S. Trademark Association. I hope the other body will act promptly on H.R. 2129.

I urge a favorable vote.

□ 1140

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I thank the distinguished chairman of the Committee on the Judiciary for yielding time to me.

Mr. Speaker, I rise in support of H.R. 2129, the Madrid Protocol Implementation Act. The purpose of H.R. 2129 is to implement the Madrid Protocol agreement which provides for an international registration system for trademarks.

The implementation of an international trademark registration system operated under the auspices of the International Bureau of the World International Intellectual Property Organization will benefit U.S. trademark owners. Products produced by U.S. companies are recognized and sold throughout the world. In order to ensure that the trademarks identifying these products are protected, registration in foreign countries is essential. The ability to accomplish this registration in the quickest and simplest manner will be advantageous to U.S. Trademark owners.

Although there is still an outstanding issue to resolve relating to the voting rights of member countries in the Madrid protocol, the resolution of the voting rights issue will ensure its approval by the Senate and will move the international trademark registration system closer to implementation.

I urge adoption of H.R. 2129.

Mr. Speaker, I want to thank the distinguished chairman of the full committee, the gentleman from Texas [Mr. BROOKS], and the ranking Republican, the gentleman from New York [Mr. FISH], for their help in moving this legislation. And I particularly want to thank the distinguished gentleman from California [Mr. MOORHEAD], my ranking Republican on the Subcommittee on Intellectual Property and Judicial Administration, for his work in this and on many other measures.

It is a good bill, and I urge the adoption of H.R. 2129.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the implementation of the Madrid protocol is legislation we introduced at the close of the last Congress. We did that because it was important to send a signal to the international community that the United States was serious about becoming part of a system for the international registration of trademarks. We have an international system for copyright as members of the Berne Convention—.We have an international system for patents as members of the Paris Convention, but we have nothing on the international scene for trademarks.

There is no opposition to this legislation. Having a system of international registration is so important to our business community it substantially outweighs any procedural difficulty we may have with the European Economic Community.

I think we are doing the right thing in spending this legislation to the other body.

I urge a favorable vote.

Mr. Speaker, I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 2129, as amended.

The question was taken.

Mr. ROHRABACHER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

PATENT AND TRADEMARK OFFICE AUTHORIZATION ACT OF 1994

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4608) to authorize appropriations for the Patent and Trademark Office in the Department of Commerce for fiscal year 1995, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4608

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Patent and Trademark Office Authorization Act of 1994".

SEC. 2. AUTHORIZATION OF AMOUNTS AVAILABLE TO THE PATENT AND TRADEMARK OFFICE.

There is authorized to be appropriated to the Patent and Trademark Office for Salaries and necessary expenses the sum of $107,000,000 for fiscal year 1995, to be derived from deposits in the Patent and Trademark Office Fee Surcharge Fund established under section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. note).

SEC. 3. AMOUNTS AUTHORIZED TO BE CARRIED OVER.

Amounts appropriated or made available pursuant to this Act shall remain available until expended.

SEC. 4. EMPLOYMENT LEVEL IN PATENT AND TRADEMARK OFFICE.

Section 3 of title 35, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) During the 5-year period beginning on October 1, 1994, no reductions may be made in the number of full-time equivalent employees of the Patent and Trademark Office, except to the extent that—

"(A) a law is enacted that requires reductions in personnel or positions specifically in the Patent and Trademark Office, or

"(B) the Commissioner determines that a reduction in the number of full-time equivalents is in the best interests of the Patent and Trademark Office and the public.

"(2) During the 5-year period referred to in paragraph (1), any law imposing a restriction on hiring by executive agencies, or requiring reductions in force in executive agencies, for the purpose of achieving reductions in the Federal work force shall not apply to the Patent and Trademark Office.

"(3) A law may not be construed as suspending or modifying this subsection, except to the extent such law specifically refers to or amends this subsection.".

SEC. 5. COMPENSATION OF COMMISSIONER.

Section 3(d) of title 35, United States Code, is amended by striking "Assistant" each place it appears and inserting "Under".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. BROOKS], the distinguished chairman of the full committee.

Mr. BROOKS. Mr. Speaker, H.R. 4608 authorizes $107 million for the activities of the Patent and Trademark Office for fiscal year 1995. This money is generated by patent and trademark fees, and from amounts deposited in the Patent and Trademark Office fee surcharge fund created by the 1990 Budget Act.

I share the concern of many Members that patent users must pay a patent user fee surcharge that is not being fully used to support the Patent Office. I hope in the next Congress to work with the appropriate administration officials and congressional committees to rectify this situation.

I congratulate Congressman BILL HUGHES, chairman of the Subcommittee on Intellectual Property and Judicial Administration, for his careful oversight of the Patent Office. Congressman CARLOS MOORHEAD, the ranking member, also deserves credit for his efforts in this regard.

I urge the Members to support this bill.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume, and I rise in strong support of H.R. 4608, the PTO authorization bill.

Mr. Speaker, I would like to commend the subcommittee chairman, BILL HUGHES, for all the good work he has done over the years in the area of patents, trademarks and copyrights. It can be a complicated area of the law and he mastered it quickly and provided the leadership necessary to resolve some very difficult intellectual property issues. I also would like to commend our chairman, the gentleman from Texas, JACK BROOKS, for all of his work in this area and I would like to commend my good friend and ranking minority member from New York, HAM FISH. He and BILL HUGHES will be very much missed next Congress.

I remember in 1990 when we had to increase the Patent and Trademark Office fees by almost 70 percent and converted the PTO into an agency which is now 100 percent user fee funded. It now receives no taxpayer funds. At that time, we promised the patent community that the money collected would go toward the making of a better and more efficient office. That office is better today than it was in 1990. However, to date, the Appropriations Committee has withheld over $50 million dollars in user fees. The chairman and I have written letters every year to the Appropriations Committee objecting to this process. We have tried, in this legislation, to make clear that the money collected in user fees is to go for the running and maintenance of the Patent and Trademark Office. The Budget Reconciliation Act of 1990 was supposed to expire next year but it has been extended to 1998. We cannot continue to permit this financial drain on this important agency because if we do we are going to see the quality and value of an issued patent substantially reduced. I believe this legislation is a step in the right direction. I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4608, the Patent and Trademark Office Authorization Act of 1994. The purpose of H.R. 4608 is to authorize appropriations for fiscal year 1995 for the Patent and Trademark Office [PTO]. H.R. 4608 also provides for the PTO to be exempt from Federal workforce reductions and changes the status of the PTO commissioner from an Assistant Secretary of Commerce to an Under Secretary of Commerce.

H.R. 4608 authorizes the full amount of funds, $107,000,000, collected by the PTO as surcharge fees. It is the hope of the committee that during fiscal year 1995, the surcharge fees will be redesignated in order to permit the PTO to fully utilize these funds.

H.R. 4608 exempts the PTO from any Federal workforce reductions unless specifically authorized in legislation requiring reductions in the PTO. The PTO must be able to carry out its responsibilities.

The title of the Commissioner of the PTO will be redesignated to an Under Secretary of Commerce. This redesignation is appropriate given the duties and responsibilities of the office. There are 6 positions in the Department of Commerce that presently carry the title of Under Secretary. Of these, only two Departments have more employees and a larger budget than the Patent and Trademark Office.

I urge adoption of H.R. 4608.

I might say, Mr. Speaker, that since this is perhaps the last bill that I will be moving to the floor, I want to thank again the ranking Republican, the gentleman from California [Mr. MOORHEAD] for his work over the years. I have been very fortunate to have had ranking Republicans who are goal oriented, that wanted to get things done. I could not have a better partner than I do in the gentleman from California [Mr. MOORHEAD] in a very complicated area of the law, as he has indicated, intellectual property and another very important area, judicial administration. I want to thank him for the years that he has worked together with me on many things. We have accomplished a great deal, much to his credit.

□ 1310

Also, Mr. Speaker, I thank the staffs of the committee. We have an excellent professional staff, beginning with our general counsel, Hayden Gregory, to my left, and Jarilyn Dupont, Ed O'Connell and Bill Patry, who have worked on a myriad of issues before our committee and have done yeoman's work.

I also thank Tom Mooney and Joe Wolfe, who serve as ranking minority staff of the committee, for their professional expertise. I also thank the chairmen of the subcommittee and the full committee for their work over the years. It has been a wonderful working relationship, and I thank the gentlemen for that.

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I am happy to yield to the gentleman from Texas, the distinguished chairman of the committee.

Mr. BROOKS. Mr. Speaker, I am delighted to say that the gentleman from New Jersey, BILL HUGHES, has one of the finest legal minds that has ever served on the Committee on the Judiciary. He worked in antitrust, he did his homework, he became very competent at it. He did the same thing in administrative law, criminal law, and intellectual property.

I would just say, Mr. Speaker, that he has contributed 20 years of unexcelled legal excellence to this Congress. I am proud of him, and glad to know his as a friend. I think we should accord him the highest honors for this.

Mr. Speaker, I hope as captain of the S.S. *Hughes*, homeported in St. Thomas, he will devote as much time to navigation and seamanship.

Mr. HUGHES. Mr. Speaker, I thank the distinguished chairman for those remarks. I will certainly take that into consideration, I will say to the gentleman. I again thank him for those kind words.

Mr. MOORHEAD. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, today by passing this bill we are acknowledging the vital role played by patent protection to the economic well-being of our people and our economic competitiveness of our country's businesses in this new era of global enterprise.

Mr. Speaker, over the decade our guarantee of 17 years of patent protection for new inventions has ensured the investment of private research dollars into the development of cutting-edge technology.

Mr. Speaker, I would like to take this opportunity to warn my colleagues about the insidious attempt now being made to directly reduce the patent protection that is now enjoyed by Americans. Although not required by GATT, snuck into the implementation legislation to be voted on this week is a provision that, once implemented, will cut deep into the time our new inventions are protected by patent law.

Mr. Speaker, every inventors' organization in the country has sounded the alarm. Nevertheless, no one seems to hear, because powerful interest groups are engaged in a stealth power play, a power play where billions of dollars in royalties now being paid to American inventors is at stake. Foreign corporations will be able, if these people succeed, to use American technology against us without having to pay royalties to us for using it.

This ripoff, hidden in the GATT implementation legislation, Mr. Speaker, is more than an insult. It is a threat to America's competitive edge. It is a major threat to our future economic well-being, the economic well-being of all Americans.

Later this week, Mr. Speaker, when this body votes on the GATT implementation legislation, I hope this ripoff of American patent rights is understood and this underhanded attack voted down. H.R. 5110 should be defeated.

Mr. Speaker, I say that as a free trader, as someone who has supported NAFTA. I say we should vote down the GATT implementation legislation until this attack on patent rights is taken out. The legislation we vote on right now is meaningless and irrelevant if GATT implementation legislation guts the patent rights of Americans.

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to say to the gentleman from California that as he knows, GATT is not in this bill. This is a reauthorization. I understand the gentleman's concern about the 20-year term. I understand there is some opposition to that. While we are on different sides of that issue, because I think the 20-year term is in our national interest, that really has no relevance to this particular piece of legislation, which in no way involves GATT, I might say to my colleagues.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 4608, as amended.

The question was taken.

Mr. ROHRABACHER. Mr. Speaker, I object to the vote on the grounds that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4608, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

TRIBUTE TO THE LATE HONORABLE CLAUDE HARRIS

(Mr. BEVILL asked and was given permission to address the House for 1 minute.)

Mr. BEVILL. Mr. Speaker, it is with great sadness that rise today to pay tribute to my good friend and former colleague, Claude Harris, who died Sunday in Alabama.

Claude was one of the finest people I have ever known. He was extremely sincere, he worked hard at everything he did and he cared a great deal about people. As a public servant, Claude had a most outstanding record and his career sets an excellent example for people everywhere.

His untimely death is a very sad loss not only for his family and friends, but also for our State and our Nation.

Before he came to Congress in 1987, Claude Harris already had made a name for himself in the legal field. He had served as a prosecutor in Tuscaloosa County and was elected as a circuit court judge in 1976. He served in that capacity until 1985 and practiced law briefly before being elected to Congress in 1986.

Claude came to Congress with a strong law-and-order background. Not only had he served on the bench, but he also was a colonel in the Alabama Army National Guard.

Claude Harris commanded a great deal of respect for being a no-nonsense, practical, and hard-working Member of Congress. His great potential was recognized early by the House leadership and Claude won a prestigious seat on the House Energy and Commerce Committee.

Throughout the 6 years in Congress, he remained true to his constituents and to the people of Alabama, whom he served with the utmost integrity.

Because of his experience and expertise, Claude Harris was appointed by President Clinton to be the U.S. attorney for north Alabama. He was confirmed by the U.S. Senate in late 1993 and served in that post until his death.

I am deeply saddened to lose a good friend like Claude Harris, especially in the prime of his life. His accomplishments were many and he will long be remembered for his tireless and unselfish service at the State and Federal level.

GRANTING CONSENT OF CONGRESS TO THE KANSAS AND MISSOURI METROPOLITAN CULTURE DISTRICT COMPACT

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4896) to grant the consent of the Congress to the Kansas and Missouri Metropolitan Culture District Compact.

The Clerk read as follows:

H.R. 4896

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSENT TO COMPACT.

The Congress consents to the Kansas and Missouri Metropolitan Culture District Compact entered into between the State of Kansas and the State of Missouri. The compact reads substantially as follows:

"KANSAS AND MISSOURI METROPOLITAN CULTURE DISTRICT COMPACT

"ARTICLE I. AGREEMENT AND PLEDGE

"The states of Kansas and Missouri agree to and pledge, each to the other, faithful cooperation in the future planning and development of the metropolitan culture district, holding in high trust for the benefit of this people and of the nation, the special blessings and natural advantages thereof.

"ARTICLE II. POLICY AND PURPOSE

"The party states, desiring by common action to fully utilize and improve their cultural facilities, coordinate the services of their cultural organizations, enhance the cultural activities of their citizens, and achieve solid financial support for such cultural facilities, organizations and activities, declare that it is the policy of each state to realize such desires on a basis of cooperation with one another, thereby serving the best interests of their citizenry and effecting economies in capital expenditures and operational costs. The purpose of this compact is to provide for the creation of a metropolitan culture district as the means to implementation of the policy herein declared with the most beneficial and economical use of human and material resources.

"ARTICLE III. DEFINITIONS

"As used in this compact, unless the context clearly requires otherwise:

"(a) 'Metropolitan culture district' means a political subdivision of the states of Kansas and Missouri which is created under and pursuant to the provisions of this compact and which is composed of the counties in the states of Kansas and Missouri which act to create or to become a part of the district in accordance with the provisions of Article IV.

"(b) 'Commission' means the governing body of the metropolitan culture district.

"(c) 'Cultural activities' means activities which contribute to or enhance the aesthetic, artistic, historical, intellectual or social development or appreciation of members of the general public.

"(d) 'Cultural organizations' means nonprofit and tax exempt social, civic or community organizations and associations which are dedicated to the development, provision, operation, supervision, promotion or support of cultural activities in which members of the general public may engage or participate.

"(e) 'Cultural facilities' means facilities operated or used for participation or engagement in cultural activities by members of the general public.

"ARTICLE IV. THE DISTRICT

"(a) The counties in Kansas and Missouri eligible to create and initially compose the metropolitan culture district shall be those counties which meet one or more of the following criteria:

"(1) The county has a population in excess of 300,000, and is adjacent to the state line;

"(2) The country contains a part of a city with a population according to the most recent federal census of at least 400,000; or

"(3) The county is contiguous to any county described in provisions (1) or (2) of this subpart (a). The counties of Johnson in Kansas and Jackson in Missouri shall be sine qua non to the creation and initial composition of the district. Additional counties in Kansas and Missouri shall be eligible to become a part of the metropolitan culture district if such counties are contiguous to any one or more of the counties which compose the district and within 60 miles of the counties that are required by this article to establish the district;

"(b)(1) Whenever the governing body of any county which is eligible to create or become a part of the metropolitan culture district shall determine that creation of or participation in the district is in the best interests of the citizens of the county and that the levy of a tax to provide on a cooperative basis with another county or other counties for financial support of the district would be economically practical and cost beneficial to the citizens of the county, the governing body may adopt by majority vote a resolution authorizing the same.

"(2) Wherever a petition, signed by not less than the number of qualified electors of an eligible county equal to 5% of the number of ballots cast and counted at the last preceding gubernatorial election held in the county and requesting adoption of a resolution authorizing creation of or participation in the metropolitan culture district and the levy of a tax for the purpose of contributing to the financial support of the district, is filed with the governing body of the county, the governing body shall adopt such a resolution.

"(3) Implementation of a resolution adopted under this subpart (b) shall be conditioned upon approval of the resolution by a majority of the qualified electors of the county voting at an election conducted for such purpose.

"(c)(1) Upon adoption of a resolution pursuant to subpart (b)(1) or subpart (b)(2), the governing body of the county shall request, within 36 months after adoption of the resolution, the county election officer to submit to the qualified electors of the county the question of whether the governing body shall be authorized to implement the resolution. The resolution shall be printed on the ballot and in the notice of election. The question shall be submitted to the electors of the county at the primary or general election next following the date of the request filed with the county election officer. If a majority of the qualified electors are opposed to implementation of the resolution authorizing creation of, or participation in, the district and the levy of a tax for financial support thereof, the same shall not be implemented. The governing body of the county may review procedures for authorization to create or become a part of the district and to levy a tax for financial support thereof at any time following rejection of the question.

"(2) The ballot for the proposition in any county shall be in substantially the following form:

"Shall a retail sales tax of ______ (insert amount, not to exceed ¼ cent) be levied and collected in Kansas and Missouri metropolitan culture district consisting of the county(ies) of ______ (insert name of counties) for the support of cultural facilities and organizations within the district?

YES NO

The governing body of the county may place additional language on the ballot to describe the use or allocation of the funds.

"(d)(1) the metropolitan culture district shall be created when implementation of a resolution authorizing the creation of the district and the levy of a tax for contribution to the financial support thereof is approved by respective majorities of the qualified electors of at least Johnson County, Kansas, and Jackson County, Missouri.

"(2) When implementation of a resolution authorizing participation in the metropolitan culture district and the levy of a tax for contribution to the financial support thereof is approved by a majority of the qualified electors of any county eligible to become a part of the district, the governing body of the county shall proceed with the performance of all things necessary and incidental to participation in the district.

"(e) Any of the counties composing the metropolitan culture district may withdraw from the district by adoption of a resolution and approval of the resolution by a majority of the qualified electors of the county, all in the same manner provided in this Article IV for creating or becoming a part of the metropolitan culture district. The governing body of a withdrawing county shall provide for the sending of formal written notice of withdrawal from the district to the governing body of the other county or each of the other counties comprising the district. Actual withdrawal shall not take effect until 90 days after notice has been sent. A withdrawing county shall not be relieved from any obligation which such county may have assumed or incurred by reason of being a part of the district, including, but not limited to, the retirement of any outstanding bonded indebtedness of the district.

"ARTICLE V. THE COMMISSION

"(a) The metropolitan culture district shall be governed by the metropolitan culture commission which shall be a body corporate and politic and which shall be composed of resident electors of the states of Kansas and Missouri, respectively, as follows:

"(1) A member of the governing body of each county which is a part of the district, who shall be appointed by majority vote of such governing body;

"(2) A member of the governing body of each city, with a population according to the most recent federal census of at least 50,000, located in whole or in part within each county which is a part of the district, who shall be appointed by majority vote of such governing body;

"(3) A member of the arts commission of Kansas or the Kansas commission for the humanities, who shall be appointed by the governor of Kansas; and

"(4) A member of the arts commission of Missouri or the Missouri humanities council, who shall be appointed by the governor of Missouri.

To the extent possible, the gubernatorial appointees to the commission shall be residents of the district. The term of each commissioner initially appointed by a county governing body shall expire concurrently with such commissioner's tenure as a county officer or three years after the date of appointment as a commissioner, whichever occurs sooner. The term of each commissioner succeeding a commissioner initially appointed by a county governing body shall expire concurrently with such successor commissioner's tenure as a county officer or four years after the date of appointment as a commissioner, whichever occurs sooner. The term of each commissioner initially appointed by a city governing body shall expire concurrently with such commissioner's tenure as a city officer or two years after the date of appointment as a commissioner, whichever occurs sooner. The term of each commissioner succeeding a commissioner initially appointed by a city governing body shall expire concurrently with such successor commissioner's tenure as a city officer or four years after the date of appointment as a commissioner, whichever occurs sooner. The term of each commissioner appointed by the governor of Kansas or the governor of Missouri shall expire concurrently with the term of the appointing governor, the commissioner's tenure as a state officer, or four years after the date of appointment as a commissioner of the district, whichever occurs sooner. Any vacancy occurring in a commissioner position for reasons other than expiration of terms of office shall be filled for the unexpired term by appointment in the same manner that the original appointment was made. Any commissioner may be removed for cause by the appointing authority of the commissioner.

"(b) The commission shall select annually, from its membership, a chairperson, a vice chairperson, and a treasurer. The treasurer shall be bonded in such amounts as the commission may require.

"(c) The commission may appoint such officers, agents and employees as it may require for the performance of its duties, and shall determine the qualifications and duties and fix the compensation of such officers, agents and employees.

"(d) The commission shall fix the time and place at which its meetings shall be held. Meetings shall be held within the district and shall be open to the public. Public notice shall be given of all meetings.

"(e) A majority of the commissioners from each state shall constitute, in the aggregate, a quorum for the transaction of business. No action of the commission shall be binding unless taken at a meeting at which at least a quorum is present, and unless a majority of the commissioners from each state, present at such meeting, shall vote in favor thereof. No action of the commission taken at a meeting thereof shall be binding unless the subject of such action is included in a written agenda for such meeting, the agenda and notice of meeting having been mailed to each commissioner by postage paid first-class mail at least 14 calendar days prior to the meeting.

"(f) The commissioners from each state shall be subject to the provisions of the laws of the states of Kansas and Missouri, respectively, which relate to conflicts of interest of public officers and employees. If any commissioner has a direct or indirect financial interest in any cultural facility, organization or activity supported by the district or commission or in any other business transaction of the district or commission, the commissioner shall disclose such interest in writing to the other commissioners and shall abstain from voting on any matter relating to such facility, organization or activity or to such business transaction.

"(g) If any action at law or equity, or other legal proceeding, shall be brought against any commissioner for any act or omission arising out of the performance of duties as a commissioner, the commissioner shall be indemnified in whole and held harmless by the commission for any judgment or decree entered against the commissioner and, further, shall be defended at the cost and expense of the commission in any such proceeding.

"ARTICLE VI. POWERS AND DUTIES OF THE COMMISSION

"(a) The commission shall adopt a seal and suitable bylaws governing its management and procedure.

"(b) The commission has the power to contract and to be contracted with, and to sue and to be sued.

"(c) The commission may receive for any of its purposes and functions any contributions or moneys appropriated by counties or cities and may solicit and receive any and all donations, and grants of money, equipment, supplies, materials and services from any state or the United States or any agency thereof, or from any institution, foundation, organization, person, firm or corporation, and may utilize and dispose of the same.

"(d) Upon receipt of recommendations from the advisory committee provided in subsection (g), the commission may provide donations, contributions and grants or other support, financial or otherwise, or in aid of cultural organizations, facilities or activities in counties which are part of the district. In determining whether to provide any such support the commission shall consider the following factors:

"(1) economic impact upon the district;

"(2) cultural benefit to citizens of the district and to the general public;

"(3) contribution to the quality of life and popular image of the district;

"(4) contribution to the geographical balance of cultural facilities and activities within and outside the district;

"(5) the breadth of popular appeal within and outside the district;

"(6) the needs of the community as identified in an objective cultural needs assessment study of the metropolitan area; and

"(7) any other factor deemed appropriate by the commission.

"(e) The commission may own and acquire by gift, purchase, lease or devise cultural facilities within the territory of the district. The commission may plan, construct, operate and maintain and contract for the operation and maintenance of cultural facilities within the territory of the district. The commission may sell, lease, or otherwise dispose of cultural facilities within the territory of the district.

"(f) At any time following five years from and after the creation of the metropolitan cultural district as provided in paragraph (1) of subsection (d) of article IV, the commission may borrow moneys for the planning, construction, equipping, operation, maintenance, repair, extension, expansion, or improvement of any cultural facility and, in that regard, the commission at such time may:

"(1) issue notes, bonds or other instruments in writing of the commission in evidence of the sum or sums to be borrowed. No notes, bonds or other instruments in writing shall be issued pursuant to this subsection until the issuance of such notes, bonds or instruments has been submitted to and approved by a majority of the qualified electors of the district voting at an election called and held thereon. Such election shall be called and held in the manner provided by law;

"(2) issue refunding notes, bonds or other instruments in writing for the purpose of refunding, extending or unifying the whole or any part of its outstanding indebtedness from time to time whether evidenced by notes, bonds or other instruments in writing. Such refunding notes, bonds or other instruments in writing shall not exceed in amount the principal of the outstanding indebtedness to be refunded and the accrued interest thereon to the date of such refunding;

"(3) provide that all notes, bonds and other instruments in writing issued hereunder shall or may be payable, both as to principal and interest, from sales tax revenues authorized under this compact and disbursed to the district by counties comprising the district, admissions and other revenues collected from the use of any cultural facility or facilities constructed hereunder, or from any other resources of the commission, and further may be secured by a mortgage or deed of trust upon any property interest of the commission; and

"(4) prescribe the details of all notes, bonds or other instruments in writing, and of the issuance and sale thereof. The commission shall have the power to enter into covenants with the holders of such notes, bonds or other instruments in writing, not inconsistent with the powers granted herein, without further legislative authority.

"(g) The commission shall appoint an advisory committee composed of members of the general public consisting of an equal number of persons from both the states of Kansas and Missouri who have demonstrated interest, expertise, knowledge or experience in cultural organizations or activities. The advisory committee shall make recommendations annually to the commission regarding donations, contributions and grants or other support, financial or otherwise, for or in aid of cultural organizations, facilities and activities in counties which are part of the district.

"(h) The commission may provide for actual and necessary expenses of commissioners and advisory committee members incurred in the performance of their official duties.

"(i) The commission shall cause to be prepared annually a report on the operations and transactions conducted by the commission during the preceding year. The report shall be submitted to the legislatures and governors of the compacting states, to the governing bodies of the counties comprising the district, and to the governing body of each city that appoints a commissioner. The commission shall publish the annual report in the official county newspaper of each of the counties comprising the district.

"(j) The commission has the power to apply to the congress of the United States for its consent and approval of the compact. In the absence of the consent of congress and until consent is secured, the compact is binding upon the states of Kansas and Missouri in all respects permitted by law for the two states, without the consent of congress, for the purposes enumerated and in the manner provided in the compact.

"(k) The commission has the power to perform all other necessary and incidental functions and duties and to exercise all other necessary and appropriate powers not inconsistent with the constitution or laws of the United States or of either of the states of Kansas or Missouri to effectuate the same.

"ARTICLE VII. FINANCE

"(a) The moneys necessary to finance the operation of the metropolitan culture district and the execution of the powers, duties and responsibilities of the commission shall be appropriated to the commission by the counties comprising the district. The moneys to be appropriated to the commission shall be raised by the governing bodies of the respective counties by the levy of taxes as authorized by the legislatures of the respective party states.

"(b) The commission shall not incur any indebtedness or obligation of any kind; nor shall the commission pledge the credit of either or any of the counties comprising the district or either of the states party to this compact, except as authorized in article VI. The budget of the district shall be prepared, adopted and published as provided by law for other political subdivisions of the party states. No budget shall be adopted by the commission until it has been submitted to and reviewed by the governing bodies of the counties comprising the district and the governing body of each city represented on the commission.

"(c) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become a part of the annual report of the commission.

"(d) The accounts of the commission shall be open at any reasonable time for inspection by duly authorized representatives of the compacting states, the counties comprising the district, the cities that appoint a commissioner, and other persons authorized by the commission.

"ARTICLE VIII. ENTRY INTO FORCE

"(a) This compact shall enter into force and become effective and binding upon the states of Kansas and Missouri when it has been entered into law by the legislatures of the respective states.

"(b) Amendments to the compact shall become effective upon enactment by the legislatures of the respective states.

"ARTICLE IX. TERMINATION

"This compact shall continue in force and remain binding upon a party state until its legislature shall have enacted a statute repealing the same and providing for the sending of formal written notice of enactment of such statute to the legislature of the other party state. Upon enactment of such a statute by the legislature of either party state, the sending of notice thereof to the other party state, and payment of any obligations which the metropolitan culture district commission may have incurred prior to the effective date of such statute, including, but not limited to, the retirement of any outstanding bonded indebtedness of the district, the agreement of the party states embodied in the compact shall be deemed fully executed, the compact shall be null and void and of no further force or effect, the metropolitan culture district shall be dissolved, and the metropolitan culture district commission shall be abolished.

"ARTICLE X. CONSTRUCTION AND SEVERABILITY

"The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of either of the party states or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of either of the states party thereto, the compact shall thereby be nullified and voided and of no further force or effect.

"(a) The board of county commissioners of any county which has been authorized by a majority of the electors of the county to create or to become a part of the metropolitan culture district and to levy and collect a tax for the purpose of contributing to the financial support of the district shall adopt a resolution imposing a countywide retailers' sales tax and pledging the revenues received therefrom for such purpose. The rate of such tax shall be fixed in an amount of not more than .25%. Any county levying a retailers' sales tax under authority of this section is hereby prohibited from administering or collecting such tax locally, but shall utilize the services of the state department of revenue to administer, enforce and collect such tax. The sales tax shall be administered, enforced and collected in the same manner and by the same procedure as other countywide retailers' sales taxes are levied and collected and shall be in addition to any other sales tax authorized by law. Upon receipt of a certified copy of a resolution authorizing the levy of a countywide retailers' sales tax pursuant to this section, the state director of taxation shall cause such tax to be collected within and outside the boundaries of such county at the same time and in the same manner provided for the collection of the state retailers' sales tax. All moneys collected by the director of taxation under the provisions of this section shall be credited to the metropolitan culture district retailers' sales tax fund which fund is hereby established in the state treasury. Any refund due on any countywide retailers' sales tax collected pursuant to this section shall be paid out of the sales tax refund fund and reimbursed by the director of taxation from retailers' sales tax revenue collected pursuant to this section. All countywide retailers' sales tax revenue collected within any county pursuant to this section shall be remitted at least quarterly by the state treasurer, on instruction from the director of taxation, to the treasurer of such county.

"(b) All revenue received by any county treasurer from a countywide retailers' sales tax imposed pursuant to this section shall be appropriated by the county to the metropolitan culture district commission within 60 days of receipt of the funds by the county for expenditure by the commission pursuant to and in accordance with the provisions of the Kansas and Missouri metropolitan culture district compact. If any such revenue remains upon nullification and voidance of the Kansas and Missouri metropolitan culture district compact, the county treasurer shall deposit such revenue to the credit of the general fund of the county.

"(c) Any countywide retailers' sales tax imposed pursuant to this section shall expire upon the date of actual withdrawal of the county from the metropolitan culture district or at any time the Kansas and Missouri metropolitan culture district compact becomes null and void and of no further force or effect. If any moneys remain in the metropolitan culture district retailers' sales tax fund upon nullification and voidance of the Kansas and Missouri metropolitan culture district compact, the state treasurer shall transfer such moneys to the county and city retailers' sales tax fund to be apportioned and remitted at the same time and in the same manner as other countywide retailers' sales tax revenues are apportioned and remitted.".

SEC. 2. RESERVATION OF RIGHTS.

The Congress expressly deserves the right to alter, amend, or repeal this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4896, a bill to grant the consent of the Congress to the Kansas and Missouri Metropolitan Culture District Compact.

H.R. 4896 authorizes the formation of a special taxing district to provide financial support for cultural programs and facilities in a metropolitan culture district composed of counties in the States of Kansas and Missouri. Both Kansas and Missouri have enacted identical compact language, and the bill was introduced by our colleagues, the gentleman from Missouri [Mr. WHEAT] and the gentlewoman from Kansas [Mrs. MEYERS].

Mr. Speaker, I urge Members to cast an "aye" vote for this bill.

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Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of H.R. 4896.

Mr. Speaker, this is a noncontroversial bill which merely gives congressional approval, as required under the Constitution, to a compact between Kansas and Missouri establishing the Kansas and Missouri culture district compact.

The district that would be established pursuant to the compact would be a special taxing unit composed of counties on either side of their border that would support cultural programs and facilities.

Mr. Speaker, this compact would not adversely affect other States and should be consented to by the Congress.

I urge support for the measure.

Mr. WHEAT. Mr. Speaker, I rise today in support of H.R. 4896, a bill to grant the consent of Congress to the Missouri and Kansas metropolitan culture district compact. I sponsored this legislation along with Representative MEYERS of Kansas. This proposal has the overwhelming support of the region's elected officials, civic organizations, and cultural groups on both sides of the State line.

Simply put, this compact will allow the voters in five Missouri and Kansas counties to join together as one entity to support cultural activities that benefit the entire region. Let us be clear that this is not a tax increase, nor a mandate for one. It will instead allow taxpayers on both sides of the Missouri-Kansas State line to decide jointly whether to approved increased revenues to improve the quality of life in the region.

The district will be governed by a commission composed of private citizens, public officeholders, and officials of cultural organizations from both States. The commission will encourage a wide variety of museums, art galleries, music festivals, street fairs, and community theater groups to apply for funding.

Missouri and Kansas taxpayers will decide the scope, size, and financing of the district, and they will directly benefit from the increased range of cultural activity in communities large and small across the bistate region. This compact is the fulfillment of a dream to enlist the ideas and support of the people to enhance Kansas City's role as a cultural gem in the "heart of America."

The people of our bistate metropolis have long shared interests, values, and experiences. Nevertheless, the State line between them can still hamper the best intentions of communities in either State. Difficult legal requirements and jurisdictional complications have delayed submission of this compact to the voters of Missouri and Kansas for too long. Enactment of this measure will allow the States to avoid the conflicting laws that have defeated past efforts to establish the culture district.

I thank the chairman of the Judiciary Committee, Mr. BROOKS, and the chairman of the Subcommittee on Administrative Law, Mr. BRYANT, for working so tirelessly to assure passage of H.R. 4896 in this session of Congress. Congressional consent to this unique blueprint for cooperation will allow the people of the Kansas City metro area to decide, in the best tradition of American democracy, how they will improve the life of their community.

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I have no further requests for time, and I yield the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] the House suspend the rules and pass the bill, H.R. 4896.

The question was taken.

Mr. ROHRABACHER. Mr. Speaker, I object to the vote on the grounds that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

ARIZONA WILDERNESS LAND TITLE RESOLUTION ACT OF 1994

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1233) to resolve the status of certain lands in Arizona that are subject to a claim as a grant of public lands for railroad purposes, and for other purposes.

The Clerk read as follows:

S. 1233

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arizona Wilderness Land Title Resolution Act of 1994".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Act entitled "An Act granting Lands to aid in the Construction of a Railroad and Telegraph Line from the States of Missouri and Arkansas to the Pacific Coast", approved July 27, 1866 (14 Stat. 292), granted a right-of-way in Arizona to the Atlantic and Pacific Railroad Company, together with certain alternate sections of public lands on both sides of the right-of-way;

(2) patents were not issued to some of the lands in the grant described in paragraph (1);

(3) as successors in interest to the Atlantic and Pacific Railroad Company, the Santa Fe Pacific Railroad, and Perrin Properties, Inc., a California corporation—

(A) claim rights to approximately 14,632.72 acres of the lands described in paragraph (1); and

(B) applied to the Secretary of the Interior for a patent to the lands;

(4) the Secretary of the Interior denied the application for the patent, which was filed in the name of the Santa Fe Railroad Company for the benefit of Perrin Properties, Inc., on the ground that the claim had been extinguished by failure to record the claim in accordance with the Act entitled "An Act to require the recordation of scrip, lieu selection, and similar rights", approved August 5, 1955 (69 Stat. 534; 43 U.S.C. 274 note) (commonly known as the "Recordation Act");

(5) on appeal, the United States Court of Appeals for the District of Columbia Circuit ruled in Santa Fe Pacific Railroad Company, et al. v. Secretary of the Interior, 830 F.2d 1168 (D.C. Cir. 1987), that such Act was not applicable and did not bar the issuance of a patent;

(6) ultimate resolution of the question of the title to the 14,632.72 acres may require years of additional litigation;

(7) the Arizona Wilderness Act of 1984 (Public Law 98-406) designated certain lands in the Prescott National Forest in Arizona as components of the National Wilderness Preservation System established by the Wilderness Act (16 U.S.C. 1131 et seq.), including the Apache Creek Wilderness and the Juniper Mesa Wilderness;

(8) the 14,632.72 acres are in the Prescott National Forest and comprise large portions of the Apache Creek and Juniper Mesa Wilderness areas; and

(9) if the 14,632.72 acres are patented to private owners, the creation of a checkerboard ownership pattern over the wilderness areas will effectively preclude management of the areas as wilderness.

(b) PURPOSES.—The purposes of this Act are—

(1) to resolve the status of the title to the approximately 14,632.72 acres in the Prescott National Forest described in section 3(c);

(2) to ensure that the lands are permanently retained in Federal ownership; and

(3) to preserve the integrity of the Apache Creek and Juniper Mesa Wilderness areas consistent with the Arizona Wilderness Act of 1984 (Public Law 98-406).

SEC. 3. RESOLUTION OF STATUS OF LANDS.

(a) PAYMENT BY THE SECRETARY OF THE TREASURY.—

(1) PAYMENT.—Subject to subsection (b), the Secretary of the Treasury shall pay to Perrin Properties, Inc., the sum of $3,854,000 from the permanent judgment appropriation established pursuant to section 1304 of title 31, United States Code.

(2) INTEREST.—No funds shall be made available for the payment of interest on the amounts payable under paragraph (1).

(b) CONDITIONS OF PAYMENT.—The Secretary of the Treasury shall make the payment described in subsection (a) if the Attorney General of the United States notifies the Secretary of the Treasury that the appellants in Santa Fe Pacific Railroad Company, et al. v. Secretary of the Interior, 830 F.2d 1168 (1987), and Perrin Properties, Inc., have executed in forms satisfactory to the Attorney General all documents necessary—

(1) to dismiss with prejudice all litigation involving the title to the lands described in subsection (c); and

(2) to release and quitclaim to the United States all right, title, and interest of the appellants and of Perrin Properties, Inc., arising out of the Act entitled "An Act granting Lands to aid in the Construction of a Railroad and Telegraph Line from the States of Missouri and Arkansas to the Pacific Coast", approved July 27, 1866 (14 Stat. 292), in and to lands in the Prescott National Forest.

(c) DESCRIPTION OF LANDS.—The lands described in this subsection are the approximately 14,632.72 acres of land in the Prescott National Forest in Arizona described in the decision by the Interior Board of Land Appeals, Santa Fe Pacific Railroad Co., No. 82-449, 72 IBLA 197 (April 19, 1983).

(d) MANAGEMENT OF LANDS.—Upon the execution of documents and dismissal of the litigation as described in subsection (b), the lands described in subsection (c) shall be managed in accordance with the laws, rules, and regulations pertaining to the National Forest System. Lands described in subsection (c) that lie within the boundaries of a wilderness area, as designated on or before the date of enactment of this Act, shall also be managed in accordance with the applicable provisions of the Wilderness Act (16 U.S.C. 1131 et seq.).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1233, to resolve the status of certain lands in Arizona that are subject to a claim as a grant of public lands for railroad purposes.

S. 1233 directs the Secretary of the Treasury to pay to Perrin Properties the sum of $3.84 million from the permanent judgment fund established under 31 United States Code 1304 as a final settlement of its claims to approximately 14,633 acres of land located in the Prescott National Forest in Arizona.

The measure has already passed the Senate and I urge an "aye" vote.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself as much time as I may consume, and I rise in support of S. 1233.

Mr. Speaker, this bill, which has passed the Senate, will settle the title dispute that has surrounded more than 14,000 acres of land in Arizona as a result of the Congress' grant of a railroad right of way in 1966.

The Federal Government has sought reversion of the land to the United States since they comprise a checkerboard of portions within land designated under the Arizona Wilderness Act of 1984.

The most recent court decision concerning the ownership of the land has returned it to a family to which the Santa Fe Pacific Railroad had transferred it in 1896. This legislation would effect a purchase of the lands for the Forest Service for $3.84 million to be paid from the judgment fund.

I urge support of the legislation.

Mr. FAZIO. Mr. Speaker, I rise in strong support of S. 1233, the Arizona Wilderness Land Title Resolution Act. This important legislation will put to rest a longstanding dispute between certain Arizona landowners and the Federal Government. Simply put, this legislation implements a settlement agreement between the landowners and the Federal Government. The settlement requires the U.S. Government to pay the landowners in question $3.84 million to acquire property within the Prescott National Forest. In return, the landowners will drop litigation which is currently pending in the Federal court system.

S. 1233 and the settlement agreement are supported by the U.S. Forest Service, the Department of the Interior, the Department of Justice, and the landowners. Both the House and Senate committees of jurisdiction reviewed this bill and determined that it has significant merit. This is a noncontroversial bill and I am pleased that the House has been able to act on it so swiftly.

Mr. Speaker, I want to take a moment to thank Mr. VENTO, chairman of the Subcommittee on National Parks, Forests and Public Lands; Mr. MILLER, chairman of the Committee on Natural Resources; Mr. BRYANT, chairman of the Subcommittee on Administrative Law and Government Relations; and Mr. BROOKS, chairman of the Committee on the Judiciary, for their efforts in bringing this bill to the floor in an expeditious manner.

Again, Mr. Speaker, I strongly support S. 1233 and urge my colleagues to vote in favor of this important measure.

Mr. VENTO. Mr. Speaker, S. 1233 is a Senate-passed bill that would ratify and implement a settlement of litigation about ownership of about 14,600 acres of land in the Prescott National Forest, in Arizona, including parts of two existing wilderness areas.

These lands were part of an 1866 land-grant from the United States to a railroad company. In subsequent years, the railroad company and its successors in interest got patents for some of the grant lands, but not for the lands covered by this bill.

When the Prescott National Forest was established by Presidential proclamation in 1907, the forest's boundaries encompassed these previously granted lands.

In 1977, an application was submitted for a patent for the lands involved here. The application was rejected by the Secretary of the Interior, a rejection that was challenged in court.

In 1984, Congress passed the Arizona Wilderness Act. Some of the grant lands are within the boundaries of two of the wilderness areas designated by that act.

In 1987, the Federal Court of Appeals for the District of Columbia Circuit reversed on technical grounds the Secretary's denial of the patent application for the grant lands.

The Forest Service and the claimants then started negotiations toward a settlement, and finally agreed that the claimants would relinquish all their interests in the lands upon payment by the United States of $3.854 million.

According to the Forest Service, if the claimants finally won in court the price for acquisition of the lands might be as much as $10 million, not to mention litigation costs.

After this settlement was reached, the Forest Service and the Department of Justice sought approval to pay the agreed amount from the permanent judgment fund. However, this was denied on the grounds that the judgment fund could only be used for settlement of monetary claims, not land title claims.

The bill would direct payment of the settlement from the judgment fund when the claimants have taken all steps necessary to end the litigation and to relinquish all claims on the lands.

Enactment of the bill will thus remove a serious cloud from the title to these national forest lands, including the two wilderness areas, along lines agreed to by the Forest Service, the Department of Justice, and the private claimants.

The administration strongly supports the measure because it could mean significant cost savings. I know of no controversy about the bill, which was approved without amendment by the Natural Resources Committee and the Judiciary Committee. I urge its passage by the House.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the Senate bill, S. 1233.

The question was taken.

Mr. ROHRABACHER. Mr. Speaker, I object to the vote on the grounds that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceeding on this motion will be postponed.

The point of no quorum is considered withdrawn.

UPDATING UNITED STATES CODE REFERENCES TO CONGRESSIONAL COMMITTEES

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4777) to make technical improvement in the United States Code by amending provisions to reflect the current names of congressional committees, as amended.

The Clerk read as follows:

H.R. 4777

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TITLE 1, UNITED STATES CODE.

Section 112b(a) of title 1, United States Code, is amended by striking "Committee on International Relations" and substituting "Committee on Foreign Affairs".

SEC. 2. TITLE 2, UNITED STATES CODE.

(a) Section 314(e) of the Postal Revenue and Federal Salary of 1967 (2 U.S.C. 74a–2) is amended by striking "Internal Revenue".

(b) Section 1(b) of House Resolution 1047, approved April 4, 1978, and enacted into law by section 111 of the Legislative Branch Appropriation Act, 1979 (2 U.S.C. 130–1(b)), is amended by striking "Committee on International Relations" and substituting "Committee on Foreign Affairs".

SEC. 3. TITLE 5, UNITED STATES CODE.

(a) Section 1304(e)(6) of title 5, United States Code, is amended by striking "Committees on Post Office and Civil Service of the Senate and House" and substituting "Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House".

(b) Section 2954 of title 5, United States Code, is amended by striking "Committee on Government Operations of the Senate" and substituting "Committee on Governmental Affairs of the Senate".

SEC. 4. TITLE 7, UNITED STATES CODE.

(a) The following provisions are amended by striking "Committee on Agriculture and Forestry" and substituting "Committee on Agriculture, Nutrition, and Forestry":

(1) section 11(b)(5) of the United States Grain Standards Act (7 U.S.C. 87(b)(5)).

(2) section 407(d) of the Packers and Stockyards Act, 1921 (7 U.S.C. 228(d)).

(3) section 6 of the Act of May 20, 1936 (7 U.S.C. 906).

(4) section 32(e) of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011(e)).

(5) section 317(i)(2) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c(i)(2)).

(6) section 104(c) of the Agricultural Act of 1949 (7 U.S.C. 1444a(c)).

(7) section 345 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1993).

(8) section 6 of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3005).

(b) Section 202 of the Agricultural Act of 1949 (7 U.S.C. 1446a) is amended as follows:

(1) In subsection (a), strike "Committees on Agriculture of the Senate and House" and substitute "Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House".

(2) In subsection (b), strike "Committees on Agriculture of the Senate and House" and substitute "Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House".

SEC. 5. TITLE 15, UNITED STATES CODE.

(a) Sections 6 (paragraphs after subsection (h)) and 18(b)(2) of the Federal Trade Commission Act (15 U.S.C. 46 (paragraphs after subsection (h)), 57a(b)(2)) are amended by striking "Committee on Interstate and Foreign Commerce" each place it appears and substituting "Committee on Energy and Commerce".

(b) The following provisions are amended by striking "Committee on Science and Technology" and substituting "Committee on Science, Space, and Technology":

(1) section 202(1) of the Act of July 15, 1983 (15 U.S.C. 1517(note)).

(2) section 201(d) of the Act of October 15, 1982 (15 U.S.C. 1517(note)).

(3) section 6083 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (15 U.S.C. 1530).

(4) section 304(f)(3) of the Automotive Propulsion Research and Development Act of 1976 (15 U.S.C. 2703(f)(3)).

(5) section 4(d)(3) of the Methane Transportation Research, Development, and Demonstration Act of 1980 (15 U.S.C. 3803(d)(3)).

(6) section 3151(b)(b) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (15 U.S.C. 4631(b)(2)).

(c) The Consumer Product Safety Act is amended as follows:

(1) In section 32(b)(1) (15 U.S.C. 2081(b)(1)), strike "Committee on Interstate and Foreign Commerce of the House of Representatives, and by the Committee on Commerce of the Senate" and substitute "Committee on Energy and Commerce of the House of Representatives, and by the Committee on Commerce, Science, and Transportation of the Senate".

(2) In section 35(c)(2)(D)(iii) and (e)(1) (15 U.S.C. 2082(c)(2)(D)(iii), (e)(1)), strike "Committee on Interstate and Foreign Commerce" and substitute "Committee on Energy and Commerce."

(d) The Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2501 et seq.) is amended as follows:

(1) In section 7(b)(4) (15 U.S.C. 2506(b)(4)), strike "Committee on Science and Technology" and substitute "Committee on Science, Space, and Technology".

(2) In section 10(e)(1) (15 U.S.C. 2509(e)(1))—

(A) strike "Committee on Science and Technology" and substitute "Committee on Science, Space, and Technology"; and

(B) strike "Committee on Commerce" and substitute "Committee on Commerce, Science, and Transportation".

SEC. 6. TITLE 16, UNITED STATES CODE.

(a) The following provisions are amended by striking "Committees on Interior and Insular Affairs of the United States Congress" each place it appears and substituting "Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives":

(1) section 6 of the Act of August 18, 1970 (16 U.S.C. 1a–3).

(2) section 10(b)(4) of the Grand Canyon National Park Enlargement Act (16 U.S.C. 228i(b)(4)).

(3) section 2(a) and 4(b) Act of July 4, 1976 (16 U.S.C. 410aa–1(a), 410aa–3(b)).

(4) section 1 of the Act of January 3, 1975 (16 U.S.C. 459j).

(5) section 2(a) of the Act of December 27, 1974 (16 U.S.C. 460ff–1(a)).

(6) section 1(c) of the Act of October 11, 1974 (16 U.S.C. 698(c)).

(7) section 1(b)(i) of the Wild and Scenic Rivers Act (16 U.S.C. 1278(b)(i)).

(b) Section 8 of the Act of August 18, 1970 (16 U.S.C. 1a–5) is amended as follows:

(1) In subsection (a), strike "Interior and Insular Affairs" and substitute "Natural Resources".

(2) In subsection (b), strike "Within six months of the date of enactment of this subsection, the Secretary shall submit to the Committee on Interior and Insular Affairs" and substitute "The Secretary shall submit to the Committee on Natural Resources".

(c) Section 12 (a) and (c) of the Act of August 18, 1970 (16 U.S.C. 1a–7(a), (c)), is amended by striking "Committees on Interior and Insular Affairs" and substituting "Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives".

(d) The following provisions are amended by striking "Interior and Insular Affairs" and substituting "Natural Resources".

(1) section 4(b) of the Act of October 24, 1984 (16 U.S.C. 1a–8(b)).

(2) section 1213 of the Civil War Sites Study Act of 1990 (16 U.S.C. 1a–9).

(3) section 4(d) of the Act of July 27, 1990 (16 U.S.C. 19jj–3(d)).

(4) section 2 of the Joint Resolution of June 19, 1986 (16 U.S.C. 45a–1(note)).

(5) sections 314(b)(1) and 507(c)(1) of the National Parks and Recreation Act of 1978 (16 U.S.C. 45f(b)(1), 460kk(c)(1)).

(6) section 4 of the Act of July 21, 1968 (16 U.S.C. 47–5).

(7) section 2(c) of the Act of October 2, 1968 (16 U.S.C. 79b(c))

(8) sections 4(b)(3) and 9 of the Wolf Trap Farm Park Act (16 U.S.C. 284c(b)(3), 284h).

(9) section 104(a)(2) and (j) of the Everglades National Park Protection and Expansion Act of 1989 (16 U.S.C. 410r–8(a)(2), (j)).

(10) section 101 of the Act of June 28, 1980 (16 U.S.C. 410gg).

(11) sections 2(b) and 4(d)(1) of the San Francisco Maritime National Historical Park Act of 1988 (16 U.S.C. 410mm(b), 410nn–2(d)(1)).

(12) section 205 of the Act of June 27, 1990 (16 U.S.C. 410rr–4).

(13) section 105(c)(1) of the Omnibus Insular Areas Act of 1992 (16 U.S.C. 410tt–3(c)(1)).

(14) section 9 of the Marsh-Billings National Historical Park Establishment Act (16 U.S.C. 410vv–7).

(15) sections 1(b)(2)(A) and 3(d) of the Act of December 23, 1987 (16 U.S.C. 426n(b)(2)(A), 426o–1(d)).

(16) section 2(a) of the Act of September 13, 1962 (16 U.S.C. 459c–1(a)).

(17) section 12(e)(4)(B) of the Act of October 21, 1970 (16 U.S.C. 460x–11(e)(4)(B)).

(18) sections 101, 104(b), 302(c), 303(b), and 304(b)(2) of the Act of August 15, 1978 (16 U.S.C. 460ii, 460ii–3(b), 2302(c), 2303(b), 2304(b)(2)).

(19) section 507(c) of the Act of December 31, 1987 (16 U.S.C. 460uu–47(c)).

(20) section 13 of the Winding Stair Mountain National Recreation and Wilderness Area Act (16 U.S.C. 460vv–11).

(21) section 201(c) of West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww(c)).

(22) section 106 of the Arizona-Idaho Conservation Act of 1988 (16 U.S.C. 460xx–5).

(23) section 5(a)(1) of the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc–3(a)(1)).

(24) sections 201(c) and (k) and 503(d) of the Act of November 28, 1990 (16 U.S.C. 460ddd(c), (k), 460eee–1(d)).

(25) section 5 of the Chattahoochee National Forest Protection Act of 1991 (16 U.S.C. 460ggg–3).

(26) section 120(b) of the Act of March 5, 1980 (16 U.S.C. 467b(b)).

(27) section 5(c) of the Act of June 27, 1960 (16 U.S.C. 469a–3(c)).

(28) sections 208(3) and 401(b) of the National Historic Preservation Act Amendments of 1980 (16 U.S.C. 469c–2(3), 470a–1(b)).

(29) sections 101(a)(1)(B), 212(b), and 307 (a) and (b) of the National Historic Preservation Act (16 U.S.C. 470a(a)(1)(B), 470t(b), 470w–6(a), (b)).

(30) section 10 (a) and (c) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470ii(a), (c)).

(31) sections 706(a) and 1315(d) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539e(a), 3203(d)).

(32) section 205(c) of the Act of December 19, 1980 (16 U.S.C. 542d(c)).

(33) section 301 of the California Wilderness Act of 1984 (16 U.S.C. 543).

(34) section 4(c) of the Columbia River Gorge National Scenic Area Act (16 U.S.C. 544b(c)).

(35) section 498(b) of the Customs and Trade Act of 1990 (16 U.S.C. 620i(b)).

(36) section 4(b)(2)(B) of the Little River Canyon National Preserve Act of 1992 (16 U.S.C. 698s(b)(2)(B)).

(37) section 2404(a) of the Energy Policy Act of 1992 (16 U.S.C. 797(note)).

(38) section 5 (e) and (f) and 10(a)(2) of the National Trails System Act (16 U.S.C. 1244(e), (f), 1249(a)(2)).

(39) section 2 of the Act of August 3, 1992 (16 U.S.C. 1244(note)).

(40) section 3(a)(19) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(19)).

(41) section 3(1) of the Emergency Wetlands Resources Act of 1986 (16 U.S.C. 3902(1)).

(42) section 605(b)(1) of the International Forestry Cooperation Act of 1990 (16 U.S.C. 4503a(b)(1)).

(43) section 7 of the Pacific Yew Act (16 U.S.C. 4806).

(e) Section 603(a) of the Act of October 2, 1968 (16 U.S.C. 90e–2(a)) is amended by striking "Interior and Insular Affairs Committees of the United States Senate and House of Representatives" and substituting "Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives".

(f) Section 101 of the Act of January 8, 1971 (16 U.S.C. 160a), is amended by striking "Committees on Interior and Insular Affairs of both the Senate and the House of Representatives" and substituting "Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives".

(g) Section 3(a)(3) of the Chesapeake and Ohio Canal Development Act (16 U.S.C. 410y–1(a)(3)) is amended by striking "Committees on Interior and Insular Affairs of the United States House of Representatives and Senate" and substituting "Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives".

(h) The following provisions are amended by striking "Committees on Interior and Insular Affairs of the Congress of the United States" and substituting "Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House Representatives":

(1) section 1(a) of the Act of June 30, 1976 (16 U.S.C. 410bb(a)).

(2) section 1 of the Act of June 30, 1944 (16 U.S.C. 450bb).

(i) Section 6 of the Act of August 18, 1978 (16 U.S.C. 410dd) is amended as follows:

(1) In subsection (b), strike "Interior and Insular Affairs" and substitute "Natural Resources".

(2) Subsection (h) is repealed.

(j) Section 201 of the Act of November 10, 1978 (16 U.S.C. 410ee) is amended as follows:

(1) In subsection (a), strike "Interior and Insular Affairs" and substitute "Natural Resources".

(2) In subsection (f)(2), strike the last sentence.

(k) Sections 3(c) and (d), 7(a), and 8 of the Zuni-Cibola National Historical Park Establishment Act of 1988 (16 U.S.C. 410pp–1(c), (d), 410pp–5(a), 410pp–6) are amended by—

(1) striking "Interior and Insular Affairs" and substituting "Natural Resources"; and

(2) striking "Select".

(*l*) Section 1 of the Act of October 23, 1972 (16 U.S.C. 459i), is amended by striking "Committees on Interior and Insular Affairs of the United States House of Representatives and United States Senate" and substituting "Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives".

(m) Section 9 of the Act of January 3, 1975 (16 U.S.C. 459j–8) is amended as follows:

(1) In subsection (a), strike "Committees on Interior and Insular Affairs of the United States Congress" and substitute "Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives".

(2) In subsection (b), strike the last sentence.

(n) The following provisions are amended by striking "Committees on Interior and Insular Affairs of the United States House of Representatives and the United States Senate" and substituting "Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate";

(1) sections 1 and 4 of the Act of March 1, 1972 (16 U.S.C. 460m–8, 460m–11).

(2) section 2(b) of the Act of October 27, 1972 (16 U.S.C. 460bb–1(b)).

(3) section 1(b) of the Act of October 27, 1972 (16 U.S.C. 460cc(b)).

(*o*) Section 2 of the Act of January 3, 1975 (16 U.S.C. 459j–1), is amended by striking "Interior and Insular Affairs of the congress and to the Committee on Science and Astronautics of the House of Representatives and to the Committee on Aeronautical and Space Sciences of the Senate" and substituting "Natural Resources and Science, Space, and Technology of the House of Representatives and to the Committees on Energy and Natural Resources and on Commerce, Science, and the Transportation of the Senate".

(p) The Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.) is amended as follows:

(1) In section 4(h) (16 U.S.C. 460*l*–6a(h)), strike "Committees on Interior and Insular Affairs of the United States House of Representatives and United States Senate" and substitute "Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate".

(2) In section 6(f)(7) (16 U.S.C. 460*l*–8(f)(7)), strike "Committees on Interior and Insular Affairs of the United States Congress" and substitute "Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate".

(3) In section 7(a)(3) and (c) (16 U.S.C. 460*l*–9(a)(3), (c)), strike "Interior and Insular Affairs" and substitute "Natural Resources".

(q) Section 1(c) of the Act of October 12, 1993 (16 U.S.C. 460jjj(c)), is amended by striking "Select".

(r) Section 17(b) of the National Food Management Act of 1976 (16 U.S.C. 521b) is amended by striking "Agriculture and Forestry" and substituting "Agriculture, Nutrition, and Forestry".

(s) Section 16(e)(6) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p(e)(6)) is amended by striking "Agriculture and Forestry" and substituting "Agriculture, Nutrition, and Forestry".

(t) Section 1(2)(C) of the Act of March 3, 1885 (16 U.S.C. 743a(c)), is amended by striking "Committee on Commerce" and substituting "Committee on Commerce, Science, and Transportation".

(u) Section 4(h)(12)(A) of the Pacific Northwest Electric Planning and Conservation Act (16 U.S.C. 839b(h)(12)(A)) is amended by striking "Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs" and substituting "Committees on Energy and Commerce and on Natural Resources".

(v) Section 2 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1002) is amended by—

(1) striking "Committee on Agriculture and Forestry" and substituting "Committee on Agriculture, Nutrition, and Forestry"; and

(2) striking "Committee on Public Works of the Senate and the Committee on Public Works of the House" and substituting "Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House".

(w) Section 1 of the Act of September 5, 1962 (16 U.S.C. 1009), is amended by striking "Committee on Public Works of the Senate or the Committee on Public Works of the House" and substituting "Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House".

(x) Section 203 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1823) is amended as follows:

(1) In subsection (b), strike "Commerce and" and substitute "Commerce, Science, and Transportation and on".

(2) In subsection (d)(2)(B), strike "Commerce" and substitute "Commerce, Science, and Transportation".

(y) Section 806 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3116) is amended by striking "Committee on Interior and Insular Affairs" and substituting "the Committees on Natural Resources".

SEC. 7. TITLE 20, UNITED STATES CODE.

(a) The General Education Provisions Act is amended as follows:

(1) In sections 406(e)(1) and (2)(A), 406A(b), 431(b)(2)(B), (d)(2), and (g), and 448(a) (20 U.S.C. 1221e-1(e)(1), (2)(A), 1221e-1a(b), 1232(b)(2)(B), (d)(2), (g), 1233g(a)), strike "Labor and Public Welfare" and substitute "Labor and Human Resources".

(2) In section 417(a) (20 U.S.C. 1226c(a)), strike "Human Resources" and substitute "Labor and Human Resources".

(b) Section 1523 of the Education Amendments of 1978 (20 U.S.C. 1226c-1) is amended by striking "Human Resources" and substituting "Labor and Human Resources".

(c) Section 107 of The Equal Access Act (20 U.S.C. 3917) is amended by striking "Science and Technology" and substituting "Science, Space, and Technology".

SEC. 8. TITLE 21, UNITED STATES CODE.

The following provisions are amended by striking "Agriculture and Forestry" and substituting "Agriculture, Nutrition, and Forestry":

(1) sections 5(c)(4) and 27 of the Poultry Products Inspection Act (21 U.S.C. 454(c)(4), 470).

(2) sections 20(e) and 301(c)(4) of the Federal Meat Inspection Act (21 U.S.C. 620(e), 661(c)(4)).

(3) section 17 of the Wholesome Meat Act (21 U.S.C. 691).

(4) section 26 of the Egg Products Inspection Act (21 U.S.C. 1054).

SEC. 9. TITLE 22, UNITED STATES CODE.

(a) The following provisions are amended by striking "International Relations" each place it appears and substituting "Foreign Affairs":

(1) section 3 of the Act of June 28, 1935 (22 U.S.C. 276a-1).

(2) section 105(b) of the Legislative Branch Appropriation Act, 1961 (22 U.S.C. 276c-1).

(3) section 1 of the Joint Resolution of June 11, 1959 (22 U.S.C. 276(d).

(4) section 1 of the Joint Resolution of April 9, 1960 (22 U.S.C. 276h).

(5) section 1 of the Joint Resolution of July 11, 1956 (22 U.S.C. 1928a).

(6) sections 116, 502B(c)(1), 505(g)(4)(A), and 634A(a) of The Foreign Assistance Act of 1961 (22 U.S.C. 215l, 2304(c)(1), 2314(g)(4)(A), 2394-1(a)).

(7) sections 5(d)(1), 26(c), and 36(b)(1) and (c)(1) of the Arms Export Control Act (22 U.S.C. 2755(d)(1), 2766(c), 2776(b)(1), (c)(1)).

(8) section 602(c) and (d) of the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3282(c), (d)).

(b) Section 3 of the International Atomic Energy Agency Participation Act of 1957 (22 U.S.C. 2022) is amended by striking "Joint Committee on Atomic Energy, the House Committee on Foreign Affairs, and the Senate Committee on Foreign Relations" and substituting "Committees on Energy and Commerce and on Foreign Affairs of the House of Representatives and the Committees on Energy and Natural Resources and on Foreign Relations of the Senate".

(c) Section 107 of the Department of Energy Act of 1978—Civilian Applications (22 U.S.C. 3224a) is amended by striking "Science and Technology" and substituting "Science, Space, and Technology".

SEC. 10. TITLE 25, UNITED STATES CODE.

(a) The Act of September 22, 1961 (25 U.S.C. 15), is amended by striking "Committees on Interior and Insular Affairs of the Senate and the House of Respresentatives" and substituting "Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives".

(b) Section 2 of the Act of September 22, 1961 (25 U.S.C. 165), is amended by striking "Committees on Interior and Insular Affairs of the Senate and House of Representatives" and substituting "Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives".

(c) The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) in amended as follows:

(1) In section 303(a)(9) (25 U.S.C. 450f(note))—

(A) strike "Select"; and

(B) strike "Interior and Insular Affairs" and substitute "Natural Resources".

(2) In section 107 (25 U.S.C. 450k)—

(A) subsection (b) is repealed; and

(B) in subsection (c), strike "Committees on Interior and Insular Affairs of the United States Senate and House of Representatives" and substitute "Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives".

(d) Section 204(b) of the Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act (25 U.S.C. 734(b)) is amended by striking "Interior and Insular Affairs" and substituting "Natural Resources of the House of Representatives".

(e)(1) The provisions specified in paragraph (2) of this subsection are amended by—

(A) striking "Select"; and

(B) striking "Interior and Insular Affairs" and substituting "Natural Resources".

(2) Paragraph (1) of this subsection applies to the following provisions:

(A) section 2(e) of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1402(e)).

(B) section 218(d)(4) of the Indian Health Care Improvement Act (25 U.S.C. 1621q(d)(4)).

(C) sections 16 and 17(b) of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3415, 3416(b)).

(D) section 2605(m)(1) of the Energy Policy Act of 1992 (25 U.S.C. 3505(m)(1)).

(f) Section 312 of the National Indian Forest Resources Management Act (25 U.S.C. 3111) is amended as follows:

(1) In subsection (a)(4) and (c)—

(A) strike "Select"; and

(B) strike "Interior and Insular Affairs" and substitute "Natural Resources".

(2) In subsection (c), insert "the" after "report to".

SEC. 11. TITLE 30, UNITED STATES CODE.

(a) The following provisions are amended by striking "Interior and Insular Affairs" and substituting "Natural Resources":

(1) sections 17(b)(1)(B), 28(w)(1) and (2), and 31(e) of the Mineral Leasing Act (30 U.S.C. 185(w)(1), (2), 188(e), 226(b)(1)(B)).

(2) section 302(a) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1752(a)).

(b) Section 201(e) of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1141(e)) is amended by striking "Science and Technology" and substituting "Science, Space, and Technology".

SEC. 12. TITLE 33, UNITED STATES CODE.

(a) Section 3 of the Act of June 13, 1902 (33 U.S.C. 541), is amended by striking "Committee on Rivers and Harbors of the House of Representatives, or the Committee on Commerce of the Senate" and substituting "Committee on Public Works and Transportation of the House of Representatives, or the Committee on Environment and Public Works of the Senate".

(b) Section 4 of the Act of March 4, 1913 (33 U.S.C. 542), is amended by striking "Committee on Commerce of the Senate or the Committee on Rivers and Harbors of the House of Representatives" and substituting "Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives".

(c) The last paragraph of section 3 of the Act of March 1, 1917 (33 U.S.C. 701(last par.)), is repealed.

(d) Section 2 of the Act of January 19, 1948 (33 U.S.C. 701b-7), is amended by striking "Committee on Public Works of the House of Representatives or the Committee on Public Works of the Senate" and substituting "Committee on Public Works and Transportation of the House of Representatives or the Committee on Environment and Public Works of the Senate".

SEC. 13. TITLE 39, UNITED STATES CODE.

Section 2401(e) of tile 39, United States Code, is amended by—

(1) striking, in the matter before clause (1), "Committees on Post Office and Civil Service" and substituting "Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives"; and

(2) striking, in the matter after clause (4), "Committee on Post Office and Civil Service of the Senate and the House of Representatives" and substituting "Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives".

SEC. 14. TITLE 40, UNITED STATES CODE.

(a) Section 5(a) of the Public Buildings Amendments of 1972 (40 U.S.C. 602a(a)) is amended by striking "Committee on Public Works of the Senate and House of Representatives" and substituting "Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives".

(b) The Public Buildings Act of 1959 (40 U.S.C. 602 et seq.) is amended as follows:

(1) In section 7 (40 U.S.C. 606)—

(A) in subsection (a), strike "Committee on Public Works of the Senate and House of Representatives, respectively" each place it appears and substitute "Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives"; and

(B) in subsection (c)—

(i) strike "Committees on Public Works of the Senate and of the House of Representatives, respectively" and substitute "Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives"; and

(ii) strike "the Committee on Public Works of the Senate or the Committee on Public Works of the House of Representatives," and substitute "of those Committees".

(2) In section 11(b) (40 U.S.C. 610(b)), strike "Committee on Public Works of the Senate or the Committee on Public Works of the House of Representatives" and substitute "Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives".

(c) Section 6 of the Alaska Federal-Civilian Energy Efficiency Swap Act of 1980 (40 U.S.C. 795d) is amended as follows:

(1) In subsection (a)—

(A) strike the subsection designation; and

(B) strike "Senate Committee on Energy and Natural Resources and the Committee on Interstate and Foreign Commerce and the Committee on Interior and Insular Affairs" and substitute "Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce and on Natural Resources".

(2) Subsection (b) is repealed.

(d) Section 5(e)(3) of the Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 874(e)(3)) is amended by striking "Interior and Insular Affairs" and substituting "Natural Resources".

(e) Section 403 of the Appalachian Regional Development Act of 1965 (40 App. U.S.C. 403) is amended by striking "Committee on Public Works of the Senate or the House of Representatives" and substituting "Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives".

SEC. 15. TITLE 40, UNITED STATES CODE.

(a) The Public Health Service Act is amended as follows:

(1) In section 1122(b)(1) and (c) (42 U.S.C. 300c-12(b)(1), (c)), strike "Interstate and Foreign Commerce" and substitute "Energy and Commerce".

(2) In section 1450(h) (42 U.S.C. 300j-9(h)), strike "Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House" and substitute "Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House".

(b) Section 4360 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b-4) is amended as follows:

(1) In the first subsection (f), strike "the Committee on Energy and Commerce of the House of Representatives, and the Select Committee on Aging" and substitute "and the Committee on Energy and Commerce".

(2) Redesignate the 2d subsection (f) as subsection (g).

(c) The following provisions are amended by striking "Science and Technology" and substituting "Science, Space, and Technology":

(1) section 5(e)(2) of the National Science Foundation Act of 1950 (42 U.S.C. 1864(e)(2)).

(2) section 9 of the National Science Foundation Authorization Act for Fiscal Year 1980 (42 U.S.C. 1882).

(3) section 6 of the National Aeronautics and Space Administration Authorization Act, 1978 (42 U.S.C. 2463).

(4) section 110 of the Act of July 15, 1983 (42 U.S.C. 2565).

(5) section 204(b) and (c)(1) of the National Aeronautics and Space Administration Authorization Act of 1986 (42 U.S.C. 2466c(b), (c)(1)).

(6) section 5(a) and (b) of the Environmental Research, Development, and Demonstration Authorization Act of 1979 (42 U.S.C. 4369(a), (b)).

(7) section 111(b)(1) of the Energy Reorganization Act of 1974 (42 U.S.C. 5821(b)(1)).

(8) section 106 of the Act of June 3, 1977 (42 U.S.C. 5903c).

(9) sections 19(l)(3) and (m) and 20(d)(1) and (3) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5919(l)(3), (m), 5920(d)(1), (3)).

(10) section 218(e)(1) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10198(e)(1)).

(d) Section 201(a) of the Flood Control Act of 1965 (42 U.S.C. 1962d-5(a)) is amended by striking "Committees on Public Works of the Senate and House" and substituting "Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House".

(e) The Water Resources Development Act of 1976 is amended as follows:

(1) In section 167(b) (42 U.S.C. 1962d-5g(b)), strike "Committee on Public Works of the Senate" and substitute "Committee on Environment and Public Works of the Senate".

(2) In section 203(g)(1) (42 U.S.C. 1962d-14a(g)(1)), strike "Committees on Public Works and Appropriations of the Senate and House" and substitute "Committees on Environment and Public Works and on Appropriations of the Senate and the Committees on Public Works and Transportation and on Appropriations of the House".

(f) The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended as follows:

(1) In section 11 o. (42 U.S.C. 2014(o)), strike "'Joint Committee' means the Joint Committee on Atomic Energy" and substitute "'Energy Committees' means the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives".

(2) In section 51 (42 U.S.C. 2071), strike "Joint Committee" each place it appears and substitute "Energy Committees".

(3) In section 54 a. (42 U.S.C. 2074(a))—

(A) strike "Joint Committee" the first time it appears and substitute "Energy Committees"; and

(B) strike "Joint Committee shall submit a report to the Congress of its views" and substitute "Energy Committees shall submit to their respective houses reports of their views".

(4) In sections 58 and 61 (42 U.S.C. 2078, 2091), strike "Joint Committee" each place it appears and substitute "Energy Committees".

(5) In sections 123, 126, and 128-130 (42 U.S.C. 2153, 2155, 2157-2159), strike "International Relations" each place it appears and substitute "Foreign Affairs".

(6) In section 131 (42 U.S.C. 2160)—

(A) strike "International Relations" each place it appears and substitute "Foreign Affairs"; and

(B) in subsection f. (2), strike "Science and Technology" and substitute "Science, Space, and Technology".

(7) In section 164 (42 U.S.C. 2204), strike "Joint Committee" each place it appears and substitute "Energy Committees".

(8) In section 192 b. (42 U.S.C. 2242(b)), strike "Interior and Insular Affairs and" and substitute "Natural Resources and on".

(g) Section 404(d) of the Nuclear Non-Proliferation Act of 1978 (42 U.S.C. 2153c(d)) is amended by striking "International Relations" and substituting "Foreign Affairs".

(h) Section 107(c) of the Act of June 30, 1964 (42 U.S.C. 2204a(c)), is amended by—

(1) striking "Joint Committee" the first time it appears and substituting "Energy Committees (as defined by section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014))"; and

(2) striking "Joint Committee" the 2d time it appears and substituting "Energy Committees".

(i) Section 120 of the Atomic Energy Community Act of 1955 (42 U.S.C. 2349) is amended by—

(1) striking "the Joint Committee on Atomic Energy" the first time it appears and substituting "the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives"; and

(2) striking "the Joint Committee on Atomic Energy" the 2d time it appears and substituting "those Committee".

(j) Section 207 of the national Aeronautics and Space Act of 1958 (42 U.S.C. 2476a) is amended by—

(1) striking "Committee on Science and Astronautics" and substituting "Committee on Science, Space, and Technology"; and

(2) striking "Committee on Aeronautical and Space Sciences" and substituting "Committee on Commerce, Science, and Transportation".

(k) Section 806(c) of the Native American Programs Act of 1974 (42 U.S.C. 2991d-1(c)) is amended by striking "Select Committee on Indian Affairs" and substituting "Committee on Indian Affairs".

(l) Section 207(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3018(b)(2)) is amended by striking clause (A) and redesignating clauses (B)-(D) as clauses (A)-(C).

(m) Section 1200(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (42 U.S.C. 3509(a)) is amended by—

(1) striking "Labor and Public Welfare" and substituting "Labor and Human Resources"; and

(2) striking "interstate and Foreign Commerce" and substituting "Energy and Commerce".

(n) Section 7(b) of the Act of August 12, 1968 (known as the Architectural Barriers Act of 1968) (42 U.S.C. 4157(b)), is amended by striking "Public Works Committee" and substituting "Environment and Public Works Committee".

(o) Section 8 of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (42 U.S.C. 4365) is amended as follows:

(1) In subsection (a), strike "Committees on Science and Technology, Interstate and Foreign Commerce, or" and substitute "Committee on Science, Space, and Technology, on Energy and Commerce, or on".

(2) Subsection (d) is repealed.

(p) Section 203(b) of the Omnibus Insular Areas Act of 1992 (42 U.S.C. 5204b(b)) is amended by striking "Interior and Insular Affairs" and substituting "Natural Resources".

(q) Section 104 (c)(2) and (d) (2) and (3) of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6504(c)(2), (d) (2), (3)) is amended by striking "Committees on Interior and Insular Affairs of the Senate and the House" and substituting "Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House".

(r) Section 1008(b) of the Solid Waste Disposal Act (42 U.S.C. 6907(b)) is amended by striking "Committee on Public Works of the Senate and the Committee on Interstate and Foreign Commerce of the House" and substituting "Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House".

(s) Section 325(a)(2) of the Clean Air Act (42 U.S.C. 7625–1(a)(2)), is amended by striking "Interior and Insular Affairs" and substituting "Natural Resources".

SEC. 16 TITLE 43, UNITED STATES CODE

(a) The following provisions are amended by striking "Interior and Insular Affairs" each place it appears and substituting "natural Resources":

(1) sections 4(b)(1) and 8 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31c(b)(1), 31g).

(2) sections 1606(c), 1608(c), 1609(c), 1610(c), 1611(c), 1616(c), 3003(a), and 3004(b)(2) of the Reclamation projects Authorization and Adjustment Act of 1992 (43 U.S.C. 371(note), 390h–4(c), 390h–6(c), 390h–7(c), 390h–8(c), 390h–9(c), 390h–14(c)).

(3) section 224(g) of the Reclamation Reform Act of 1982 (43 U.S.C. 390ww(g)).

(4) section 3(a) of the Colorado River Floodway Protection Act (43 U.S.C. 1600a(a)).

(5) section 34(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1629(j)).

(6) section 103 of the Reclamation States Emergency Drought Relief Act of 1991 (43 U.S.C. 2213).

(b) Section 4(e) of the Small Reclamation Projects Act of 1956 (43 U.S.C. 422d(e)) is amended by striking "House nor the Senate Interior and Insular Affairs Committee" and substituting "Committee on Natural Resources of the House of Representatives nor the Committee on Energy and Natural Resources of the Senate".

(c) Section 1 of the Act of October 7, 1949 (known as the Rehabilitation and Betterment Act of 1949) (43 U.S.C. 504), is amended by striking "Committee on Interior and Insular Affairs of the Senate and the Committee on Public Lands of the House" and substituting "Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House".

(d) The Federal land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) is amended as follows:

(1) In section 204 (43 U.S.C. 1714)—

(A) in subsection (e)—

(i) strike "Committee on Interior and Insular Affairs of either the House of Representatives or the Senate" and substitute "Committee on Natural Resources of the House of Representatives or the Committee on Energy and Natural Resources of the Senate"; and

(ii) strike "the Committees on Interior and Insular Affairs of the Senate and the House of Representatives" and substitute "both of those Committees"; and

(B) in subsection (f), strike "Committees on Interior and Insular Affairs of the House of Representatives and the Senate" and substitute "Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate".

(2) In section 215(b)(5) (43 U.S.C. 1723(b)(5)), strike "Interior and Insular Affairs" and substitute "Natural Resources".

(3) In section 311(b) (43 U.S.C. 1741(b)), strike "Committees on Interior and Insular Affairs of the House and Senate" and substitute "Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate".

SEC. 17. TITLE 48, UNITED STATES CODE.

(a) The following provisions are amended by striking "Interior and Insular Affairs" each place it appears and substituting "Natural Resources":

(1) section 22B of the Organic Act of Guam (48 U.S.C. 1424–2).

(2) section 601(c) of the Act of December 24, 1980 (48 U.S.C. 1469d(c)).

(3) section 5003(b) of the Anti-Drug Abuse Act of 1986 (48 U.S.C. 1494a(b)).

(4) section 23 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1613).

(b) Section 1(c) of the Act of October 5, 1974 (48 U.S.C. 1705(c)), is amended by striking "Committees on Interior and Insular Affairs of the House of Representatives and the Senate" and substituting "Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate".

SEC. 18. TITLE 49, UNITED STATES CODE.

Section 10309(a) of title 49, United States Code, is amended by striking "Interstate and Foreign Commerce" and substituting "Energy and Commerce".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4777 makes technical improvements in the United States Code by amending provisions to reflect the current names of congressional committees. The bill was prepared for the House Judiciary Committee by the Office of the Law Revision Counsel under its authority under section 285b of title 2, United States Code.

The Law Revision Counsel assures me that H.R. 4777 makes no change in existing law. Therefore, no additional cost to the Government would be incurred as a result of enactment of H.R. 4777. Enactment of H.R. 4777 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures do not apply.

I urge my colleagues to support H.R. 4777.

Mr. Speaker, I reserve the balance of my time.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill makes technical improvements in the United States Code by amending several hundred provisions to reflect the current names of congressional committees. The Committee on Natural Resources is substituted for the House Committee on Interior and Insular Affairs, for instance, and the Committee on Energy and Commerce for the House Committee on Interstate and Foreign Commerce.

These amendments are necessary because of the change of name, abolition, or change of jurisdiction of various committees. The bill does not itself change the name or jurisdiction of any committee. It merely makes appropriate amendments to the Code to reflect changes that have already been made.

This bill was prepared and submitted to the Judiciary Committee by the Office of the Law Revision Counsel.

I ask for a "yea" vote on this measure.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 4777, as amended.

The question was taken.

Mr. FISH. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point no quorum is considered withdrawn.

CRIME BILL TECHNICAL CORRECTIONS RELATING TO CONGRESSIONAL MEDALS OF HONOR

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5102) to amend title 18, United States Code, with respect to certain crimes relating to Congressional Medals of Honor.

The Clerk read as follows:

H.R. 5102

Be it enacted by the Senate and House of Representatives of the United States of America in

Congress assembled, That section 704(b)(2)(B) of title 18, United States Code, is amended by inserting ", 6241, or 8741" after "3741".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5102, with respect to certain crimes relating to Congressional Medals of Honor.

The conference report on H.R. 3355, the omnibus crime bill recently signed into law, included language offered by our colleague from California, Mr. McCANDLESS, to create a separate category in existing law to increase the penalties for the illegal sale of Congressional Medals of Honor in order to prevent further fraud and theft relating to these medals.

Mr. McCANDLESS' original intent was to cover all Medals of Honor; however, the effect of the language was to cover only those medals awarded by the Department of the Army. This bill expands the existing law to achieve Mr. McCANDLESS' original goal of covering the Medals of Honor awarded by all of the armed services.

I urge an "aye" vote on H.R. 5102.

□ 1330

Mr. Speaker, I reserve the balance of my time.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, 4 years ago our colleague, Congressman AL McCANDLESS, introduced legislation to increase penalties for the illegal sale of Congressional Medals of Honor. This initiative was directed at preventing further medal fraud and theft. This McCandless language was included in the 1990 crime bill; however, that bill was not enacted in the 102d Congress.

This year, language was included in section 320109 of the Violent Crime Control and Law Enforcement Act of 1994 which, of course, has become law (Public Law 103-322). Unfortunately, the section mistakenly defined the Congressional Medal of Honor as only that awarded by the Army. As a result, the Navy and Air Force Congressional Medals of Honor were inadvertently omitted. The purpose of H.R. 5102 is to make a technical correction in the crime bill to rectify this oversight. So, there will be an increase in the penalties for the illegal sale of Congressional Medals of Honor that are awarded by all of the armed services—Army, Navy, and Air Force. The gentleman from California [Mr. McCANDLESS] is to be commended for his efforts regarding this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. McCANDLESS].

Mr. McCANDLESS. Mr. Speaker, I thank the gentleman from New York for yielding me the time.

We, Mr. Speaker, have a situation here that has been very beautifully described by both the committee chairman and ranking minority member as to the history of this process. I think it would be appropriate at this time, in view of the subject matter, that I share with my colleagues some thoughts relative to how this came about.

A very close friend of mine and constituent, Mitchell Paige, is a recipient of the Congressional Medal of Honor for his action on Guadalcanal. I also have another constituent by the name of Lewis Millett who is a Congressional Medal of Honor winner from the Korean period of our history. Both of these gentlemen have been very active over the years in the Medal of Honor Society, and Mitchell Paige has acted as a member of its board of directors and spends a great deal of time on the road.

Mitch, as we call him, has been subjected to some situations where he has attended a swap meet, and could buy a Medal of Honor for $650. When asked where this Medal of Honor came from, a lot of obvious dialog on his part took place without response from the seller.

We also found that in a number of cases, Medals of Honor have been stolen from exhibits, both public and private, and ultimately end up being sold on the market.

To further complicate the situation, a number of Medals of Honor were actually stolen from a depository of the United States in Louisville, KY.

The penalty prior to this legislation was a $350 fine maximum and a misdemeanor. It is not fitting that this practice continue, and I am appreciative that we were able to include that upgrade in the bill.

As has been said before, a technical error is the reason we are here. The current legislation as it was written refers only to the Army, through an oversight of the Government codes section and, therefore, this bill simply addresses the entire armed services, including the Army, obviously, and changes nothing else in the bill or the language of the bill in which it appears.

I thank the gentlemen very much.

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. McCANDLESS. I am happy to yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, the gentleman from California [Mr. McCANDLESS] has been dedicated to getting this done, and he is due considerable credit. He worked on it in the last session and introduced the amendment on the floor. His heart has been in the right place, and now it is going to be just exactly like he wants it.

Mr. McCANDLESS. I appreciate that and appreciate the work of the chairman and the ranking minority's work, and also the fine staff that was so able in putting this together so we could bring it to the floor.

Mr. FISH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 5102.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CONCURRING IN SENATE AMENDMENT TO H.R. 734, EXTENDING FEDERAL BENEFITS, SERVICES, AND ASSISTANCE TO PASCUA YAQUI INDIANS OF ARIZONA

Mr. RICHARDSON. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 734) to amend the act entitled "An act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes.

The Clerk read as follows:

Senate amendment: Page 3, after line 2, insert:

SEC. 2. STUDY.

The Act entitled "An act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes" (25 U.S.C. 1300f et seq.) is amended by adding at the end the following new section:

"SEC. 4. STUDY.

"(a) IN GENERAL.—The Secretary of the Interior shall conduct one or more studies to determine—

"(1) whether the lands held in trust on the date of enactment of this section by the United States for the Pascua Yaqui Tribe are adequate for the needs of the tribe for the foreseeable future;

"(2) if such lands are not adequate—

"(A) whether suitable additional lands are available for acquisition by exchange or purchase; and

"(B) the cost and location of the suitable additional lands;

"(3) whether the Pascua Yaqui Tribe has sufficient water rights and allocations to meet the needs of the tribe for the foreseeable future;

"(4) if such water rights and allocations are not adequate—

"(A) whether additional water can be acquired: and

"(B) the potential sources and associated costs of such additional water;

"(5) whether the Bureau of Indian Affairs and the Indian Health Service have limited funding to the Pascua Yaqui Tribe based on a determination of the tribal enrollment in 1978, rather than the current enrollment;

"(6) if funding has been based on 1978 enrollment, how the funding levels can be adjusted to ensure that the Pascua Yaqui Tribe receives a fair and equitable portion of Bureau of Indian Affairs and Indian Health Service funding;

"(7) the genealogy of the Pascua Yaqui Tribe; and

"(8) the economic development opportunities available to the tribe as a result of the North American Free Trade Agreement.

"(b) TRIBAL PARTICIPATION.—The Secretary shall provide for the participation of members of the Pascua Yaqui tribe to carry out subsection (a).

"(c) REPORT.—Not later than 2 years after the date on which funds are made available to carry out this section, the Secretary of the Interior shall submit a report to Congress that contains the results of each study conducted pursuant to subsection (a).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico [Mr. RICHARDSON] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. RICHARDSON].

GENERAL LEAVE

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the Senate amendment to H.R. 734 presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in Public Law 103-263 the Congress clarified that the Department of Interior is not to make distinctions among tribes. Specifically, the Department is not to categorize certain tribes as "historic" and others as "created."

This issue was brought to the committee's attention by the Pascua Yaqui Tribe in Arizona. Today, we pass a bill for the Pascua Yaqui which reaffirms their specific status as a historic tribe and extends their enrollment date for membership. In addition we are concurring in a Senate amendment which provides that the Secretary is to conduct studies of the tribe's land base, water rights, and service delivery, as well as, the tribe's economic development opportunities as a result of NAFTA.

Mr. Speaker, we agree with the Senate amendment and urge our colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 734, a bill to clarify the status of the Pascua Yaqui Indians of Arizona.

We discussed this issue in detail when the House passed H.R. 734 last year, and the gentleman from New Mexico [Mr. RICHARDSON] has adequately explained the provisions of the bill, so I will be brief.

I disagree with the opinion of the BIA solicitor, and with the BIA's convoluted created versus historic dichotomy, which underlie this case and which we effectively overturned when S. 1654 was enacted into law in May of this year.

Given the plenary authority of Congress over all facets of Indian affairs, it seems to me that on those rare occasions when we legislatively recognize a tribe—as we did with the Pascua Yaqui—we mean that acknowledgment to be full recognition unless we explicitly provide otherwise. I hope that the Solicitor's Office at the BIA will keep that in mind in the future.

Mr. Speaker, I have no requests for time, and I yield back the remainder of my time.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, once again this issue is one that allows us to do the right thing in several instances.

First, it allows us to correct the distinction amongst tribes. The Department of the Interior should not categorize certain tribes as historic and others as created. What we are doing here is righting a wrong that was caused to the Pascua Yaqui Tribe in Arizona.

The gentleman from Arizona [Mr. PASTOR] was the initial member of the delegation who brought this to our attention, and it was supported by the gentlewoman from Arizona [Ms. ENGLISH] of our subcommittee and the minority members both from the House and Senate.

□ 1340

So what we are doing today is passing a bill for the Pascua Yaqui which basically reaffirms their basic status as native Americans, as a historic tribe, and what it also does is extends their enrollment date for membership. We are also concurring basically in a constructive suggestion by the other body, by the Senate, which provides that the Secretary is to conduct studies of the tribe's land base, water rights, and service delivery as well as the tribe's economic development opportunities as a result of the North American Free-Trade Agreement.

Mr. Speaker, the State of Arizona has probably been one of the most active beneficiaries of the North American Free-Trade Agreement. Their trade has expanded enormously because of NAFTA, and it has to be extremely clear that the Native Americans of Arizona also partake in this outstanding benefit. This is why I think individuals like the gentleman from Arizona [Mr. PASTOR] and the gentleman from Arizona [Mr. KOLBE], who, of course, was enormously active in this Pascua Yaqui issue, were pushing this legislation; Senator MCCAIN and Senator DECONCINI also were active in ensuring that this Senate amendment improved the bill.

Mr. Speaker, I yield 4 minutes to the gentleman from Arizona [Mr. PASTOR].

Mr. PASTOR. Mr. Speaker, I want to first thank the distinguished chairman of the subcommittee on Native American Affairs for his efforts on behalf of this bill and his tireless support for Native American peoples throughout this Nation. My gratitude also extends to the ranking member, Mr. THOMAS, for his longtime support of this measure and other issues of importance to the American Indian peoples.

An eloquent and compelling case has already been made on behalf of this bill when the House passed the measure by voice vote on August 1 of this year. The Senate amendments to the bill merely call for the Secretary of the Interior to conduct a number of important studies to determine the land, water, and health needs of the Pascua Yaqui Tribe. In addition, the amendments call for studies on this historic tribe's genealogy and the potential for economic development on the tribal reservation as a result of the passage of the North American Free Trade Agreement.

Mr. Speaker, the powers of self-governance which Indian Tribes exercise is derived from their inherent sovereignty and not from a bureaucratic decree or delegation of authority from the Federal Government. Congress has recognized the Pascua Yaqui Tribe thereby acknowledging this inherent sovereignty. It is unfortunate that we must spend time and energy to further clarify what should have been readily apparent—tribal recognition is an acknowledgment of the intrinsic sovereignty of a people and affords such people the full powers of self-governance under the law.

I will not take up any more of the Chamber's time other than to urge my colleagues to help right a wrong and establish the Pascua Yaqui Tribe as an historic tribe. With this vote, the years of injustice to which the Pascua Yaqui people have been subjected will finally come to an end.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Arizona [Mr. PASTOR] needs to be thoroughly commended for this legislation which he brought to the attention of our subcommittee. He spearheaded this effort, and now he sees justice being rendered, and, Mr. Speaker, our hats are off to him and again to the gentleman from Wyoming, who has been enormously helpful on all of our native American bills.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico [Mr.

RICHARDSON] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 734.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

INDIAN FEDERAL RECOGNITION ADMINISTRATIVE PROCEDURES ACT OF 1994

Mr. RICHARDSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4462) to provide for administrative procedures to extend Federal recognition to certain Indian groups, and for other purposes as amended.

The Clerk read as follows:

H.R. 4462

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Federal Recognition Administrative Procedures Act of 1994".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to establish an administrative procedure to extend Federal recognition to certain Indian groups;

(2) to extend to Indian groups which are determined to be Indian tribes the protection, services, and benefits available from the Federal Government pursuant to the Federal trust responsibility;

(3) to extend to Indian groups which are determined to be Indian tribes the immunities and privileges available to other federally-acknowledged Indian tribes by virtue of their status as Indian tribes with a government-to-government relationship with the United States;

(4) to ensure that when the Federal government extends acknowledgment to an Indian tribe, it does so with a consistent legal, factual and historical basis;

(5) to establish a commission which will act in a supporting role to petitioning groups applying for recognition;

(6) to provide clear and consistent standards of administrative review of documented petitions for Federal acknowledgment;

(7) to clarify evidentiary standards and expedite the administrative review process by providing adequate resources to process petitions; and

(8) to remove the Federal acknowledgment process from the Bureau of Indian Affairs and invest it in an independent Commission on Indian Recognition.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) The term "aboriginal group" means any Indian group or tribe that is presently located in Canada or the United States of Mexico and consists of individuals who are descendants of the people who inhabited the area now constituting those two countries prior to their first sustained contact with Euro-Americans.

(2) The term "acknowledgment" or "acknowledged" means a determination by the Commission on Indian Recognition that an Indian group constitutes an Indian tribe with a government-to-government relationship with the United States, and whose members are recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(3) The term "autonomous" means the exercise of political influence or authority independent of the control of any other Indian governing entity. Autonomous must be understood in the context of the history, geography, culture and social organization of the petitioner.

(4) The term "Bureau" means the Bureau of Indian Affairs.

(5) The term "Commission" means the Commission on Indian Recognition established pursuant to section 4.

(6) The term "community" means any group of people, living within a reasonable territorial propinquity, which can demonstrate that consistent interactions and significant social relationships exist within its membership and that its members are differentiated from and identified as distinct from nonmembers. "Community" must be understood in the context of the history, culture and social organization of the group, taking into account the geography of the region in which they reside.

(7) The term "continuously" or "continuous" means extending from the first sustained contact with Euro-Americans throughout the group's history to the present substantially without interruption.

(8) The term "Department" means the Department of the Interior.

(9) The term "documented petition" means the detailed, factual exposition and arguments, including all documentary evidence, necessary to demonstrate that these arguments specifically address the mandatory criteria established in section 5.

(10) The term "historically", "historical" or "history" means dating from the first sustained contact with Euro-Americans.

(11) The term "Indian group" or "group" means any Indian, Alaska Native, or Native Hawaiian tribe, band, pueblo, village or community within the United States that the Secretary of the Interior does not acknowledge to be an Indian tribe.

(12) The term "Indian tribe" or "tribe" means any Indian, Alaska Native, or Native Hawaiian tribe, band, pueblo, village or community within the United States that the Secretary of the Interior presently acknowledges to be an Indian tribe.

(13) The term "indigenous" means native to the United States in that at least part of the petitioner's traditional territory at the time of first sustained contact with Euro-Americans extended into what is now the United States.

(14) The term "letter of intent" means an undocumented letter or resolution which is dated and signed by the governing body of an Indian group and submitted to the Commission and indicates the group's intent to submit a petition for Federal acknowledgment as an Indian tribe.

(15) The term "member of an Indian group" means an individual who is recognized by an Indian group as meeting its membership criteria and who consents in writing to being listed as a member of that group.

(16) The term "member of an Indian tribe" means an individual who meets the membership requirements of the tribe as set forth in its governing document or, in the absence of a governing document which sets out these requirements, has been recognized as a member collectively by those persons comprising the tribal governing body; and has consistently maintained tribal relations with the tribe or is listed on the tribal membership rolls as a member, if such rolls are kept.

(17) The term "petition" means a petition for acknowledgment submitted or transferred to the Commission pursuant to section 5 of this Act.

(18) The term "petitioner" means any group which has submitted a letter of intent to the Commission requesting acknowledgment that it is an Indian tribe.

(19) The term "political influence or authority" means a tribal council, leadership, internal process or other mechanism which the group has used as a means of influencing or controlling the behavior of its members in significant respects, or making decisions for the group which substantially affect its members, or representing the group in dealing with non-members in matters of consequence to the group. "Political influence or authority" is to be understood in the context of the history, culture and social organization of the group.

(20) The term "previous Federal acknowledgment" means any action by the Federal government the character of which is clearly premised on identification of a tribal political entity and clearly indicates the recognition of a government-to-government relationship between that entity and the Federal government.

(21) The term "restoration" means the reextension of acknowledgment to any previously acknowledged tribe which may have had its acknowledged status abrogated or diminished by reason of congressional legislation expressly terminating that status.

(22) The term "Secretary" means the Secretary of the Interior.

(23) The term "sustained contact" means the period of earliest sustained Euro-American settlement or governmental presence in the local area in which the tribe or tribes from which the petitioner claims descent was located historically.

(24) The term "treaty" means any treaty—

(A) negotiated and ratified by the United States on or before March 3, 1871, with, or on behalf of, any Indian group or tribe;

(B) made by any government with, or on behalf of, any Indian group or tribe, from which government the United States subsequently acquired territory by purchase, conquest, annexation, or cession; or

(C) negotiated by the United States with, or on behalf of, any Indian group in California, whether or not the treaty was subsequently ratified.

(25) The term "tribal relations" means participation by an individual in a political and social relationship with an Indian tribe.

(26) The term "tribal roll" means a list exclusively of those individuals who have been determined by the tribe to meet the tribe's membership requirements as set forth in its governing document or, in the absence of a governing document setting forth those requirements, have been recognized as members by the tribe's governing body. In either case, those individuals on a tribal roll must have affirmatively demonstrated consent to being listed as members.

(27) The term "United States" means the 48 contiguous states, Alaska and Hawaii; and does not include territories or possessions.

SEC. 4. COMMISSION ON INDIAN RECOGNITION.

(a) ESTABLISHMENT.—There is established, as an independent commission, the Commission on Indian Recognition.

(b) MEMBERSHIP.—(1)(A) The Commission shall consist of three members appointed by the President, by and with the advice and consent of the Senate.

(B) In making appointments to the Commission, the President shall give careful consideration to—

(i) recommendations received from Indian tribes;

(ii) individuals who have a background in Indian law or policy, anthropology, genealogy, or history; *and*

(iii) individuals who, at the time of nomination, are employed by the United States Government and would be eligible to participate through the Intergovernmental Personnel Exchange Act.

(2) No more than two members of the Commission may be members of the same political party.

(3)(A) Each member of the Commission shall be appointed for a term of four years, except as provided in subparagraph (B).

(B) As designated by the President at the time of appointment, of the members first appointed—

(i) one shall be appointed for a term of two years;

(ii) one shall be appointed for a term of three years; and

(iii) one shall be appointed for a term of four years.

(4) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office.

(5)(A) Each member of the Commission not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day, including traveltime, such member is engaged in the actual performance of duties authorized by the Commission.

(B) Except as provided in subparagraph (C), a member of the Commission who is otherwise an officer or employee of the United States Government shall serve on the Commission without additional compensation, but such service shall be without interruption or loss of civil service status or privilege.

(C) All members of the Commission shall be reimbursed for travel and per diem in lieu of subsistence expenses during the performance of duties of the Commission while away from home or their regular place of business, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(6) At the time appointments are made under paragraph (1), the President shall designate one of such appointees as Chairman of the Commission.

(c) MEETINGS AND PROCEDURES.—(1) The Commission shall hold its first meeting no later than 30 days after the date on which all members of the Commission have been appointed and confirmed by the Senate.

(2) Two members of the Commission shall constitute a quorum for the transaction of business.

(3) The Commission may adopt such rules (consistent with the provisions of this Act) as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel.

(4) The principal office of the Commission shall be in the District of Columbia.

(d) DUTIES.—The Commission shall carry out the duties assigned to the Commission by this Act, and shall meet the requirements imposed on the Commission by this Act.

(e) POWERS AND AUTHORITIES.—(1) Subject to such rules and regulations as may be adopted by the Commission, the Chairman of the Commission is authorized to—

(A) appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director of the Commission and of such other personnel as the Chairman deems advisable to assist in the performance of the duties of the Commission, at a rate not to exceed a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code; and

(B) procure, as authorized by section 3109(b) of title 5, United States Code, temporary and intermittent services to the same extent as is authorized by law for agencies in the executive branch, but at rates not to exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(2) The Commission is authorized to—

(A) hold such hearings and sit and act at such times;

(B) take such testimony;

(C) have such printing and binding done;

(D) enter into such contracts and other arrangements, subject to the availability of funds;

(E) make such expenditures; and

(F) take such other actions,

as the Commission may deem advisable. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(3)(A) The Commission is authorized to secure directly from any officer, department, agency, establishment, or instrumentality of the Federal Government such information as the Commission may require for the purpose of this Act, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman of the Commission.

(B) Upon the request of the Chairman of the Commission, the head of any Federal department, agency, or instrumentality is authorized to make any of the facilities and services of such department, agency, or instrumentality available to the Commission and detail any of the personnel of such department, agency, or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out its duties under this section.

(C) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act shall not apply to the Commission.

SEC. 5. PETITIONS FOR RECOGNITION.

(a) IN GENERAL.—(1) Any Indian group may submit to the Commission a petition requesting that the Commission recognize that the Indian group is an Indian tribe.

(2) The provisions of this Act do not apply to the following groups or entities, which shall not be eligible for recognition under this Act—

(A) Indian tribes, organized bands, pueblos, communities, and Alaska Native entities which are recognized by the Secretary as of the date of enactment of this Act as eligible to receive services from the Bureau;

(B) splinter groups, political factions, communities, or groups of any character which separate from the main body of an Indian tribe that, at the time of such separation, is recognized as being an Indian tribe by the Secretary, unless it can be clearly established that the group, faction, or community has functioned throughout history until the date of such petition as an autonomous Indian tribal entity;

(C) groups, or successors in interest of groups, that prior to the date of enactment of this Act, have petitioned for and been denied or refused recognition as an Indian tribe under regulations prescribed by the Secretary;

(D) any Indian group whose relationship with the Federal Government was expressly terminated by an Act of Congress*; and*

(E) any Indian group that, in any action in a United States court to which the group was a party, has previously attempted to establish its status as an Indian tribe or a successor-in-interest to an Indian tribe that was a party to a treaty with the United States, and—

(i) was determined by such court not to be an Indian tribe; or

(ii) was determined by such court not to be a successor-in-interest to an Indian tribe that was a party to a treaty with the United States; or

(iii) was the subject of findings of fact by such court which, if made by the Commission, would show that the group was incapable of establishing one or more of the criteria set forth in this section.

(3)*(A)* No later than 30 days after the date on which all of the members of the Commission have been appointed and confirmed by the Senate, the Secretary shall transfer to the Commission all petitions pending before the Department *and not then under active consideration* that request the Secretary, or the Federal Government, to recognize or acknowledge an Indian group as an *Indian tribe, except those groups whose petitions are under active consideration at the time of the transfer.*

(B) On the date of such transfer, the Secretary and the Department shall cease to have any authority to recognize or acknowledge, on behalf of the Federal government, any Indian group as an Indian tribe, except those groups under active consideration whose petitions have been retained by the Department pursuant to subparagraph (A) of this paragraph.

(C) Petitions transferred to the Commission under subparagraph (A) of this paragraph shall, for purposes of this Act, be considered as having been submitted to the Commission in the same order as they were submitted to the Department.

(b) PETITION FORM AND CONTENT.—Except as provided in subsection (c), any petition submitted under subsection (a) by an Indian group shall be in *any readable* form which clearly indicates that it is a petition requesting the Commission to recognize that the Indian group is an Indian tribe and *which contains detailed, specific evidence as to each of the following:*

(1) A statement of facts establishing that the petitioner has been identified as an American Indian entity on a substantially continuous basis since 1871. Evidence that the group's character as an Indian entity has from time to time been denied shall not be considered to be conclusive evidence that this criterion has not been met. Evidence to be relied upon in determining a group's Indian identity may include one or a combination of the following, as well as other evidence of identification by other than the petitioner itself or its members:

(A) *Identification* of the petitioner as an Indian entity by Federal authorities.

(B) *Relationships* of the petitioner with State governments based on identification of the petitioner as an Indian entity.

(C) *Dealings* of the petitioner with a county, parish, or other local government in a relationship based on the Indian identity of the petitioner.

(D) *Identification* of the petitioner as an Indian entity by records in private or public archives, courthouses, churches, or schools.

(E) *Identification* of the petitioner as an Indian entity by anthropologists, historians, or other scholars.

(F) *Identification* of the petitioner as an Indian entity in newspapers, books, or similar media.

(G) Identification of the petitioner as an Indian entity by other Indian tribes or by national, regional, or state Indian organizations.

(H) Identification of the petitioner as an Indian entity by foreign governments or international organizations.

(2)(A) A statement of facts establishing that a predominant portion of the membership of the petitioner comprises a community distinct from those surrounding it and has existed as a community from historical times to the present. Evidence to be relied upon in determining that the petitioner meets this criterion may include one or a combination of the following:

(i) Significant rates of marriage within the group, or, as may be culturally required, patterned out-marriages with other Indian populations.

(ii) Significant social relationships connecting individual members.

(iii) Significant rates of informal social interaction which exist broadly among the members of a group.

(iv) A significant degree of shared or cooperative labor or other economic activity among the membership.

(v) Evidence of strong patterns of discrimination or other social distinctions by non-members.

(vi) Shared sacred or secular ritual activity encompassing most of the group.

(vii) Cultural patterns shared among a significant portion of the group that are different from those of the non-Indian populations with whom it interacts. These patterns must function as more than a symbolic identification of the group as Indian, and may include, but are not limited to, language, kinship or religious organizations, or religious beliefs and practices.

(viii) The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes in name.

(ix) A demonstration of historical political influence pursuant to the criterion set forth in paragraph (3).

(B) A petitioner shall be considered to have provided sufficient evidence of community at a given point in time if evidence is provided demonstrating any one of the following:

(i) More than 50 percent of the members reside in a particular geographical area exclusively or almost exclusively composed of members of the group, and the balance of the group maintains consistent social interaction with some members of the community;

(ii) At least 50 percent of the marriages of the group are between members of the group;

(iii) At least 50 percent of the group members maintain distinct cultural patterns such as, but not limited to, language, kinship or religious organizations, or religious beliefs or practices;

(iv) There are distinct community social institutions encompassing a substantial portion of the members, such as kinship organizations, formal or informal economic cooperation, or religious organizations; or

(v) The group has met the criterion in paragraph (3) using evidence described in paragraph (3)(B).

(3)(A) A statement of facts establishing that the petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the present. Evidence to be relied upon in determining that the petitioner meets this criterion may include one or a combination of the following:

(i) The group is able to mobilize significant numbers of members and significant resources from its members for group purposes.

(ii) Most of the membership considers issues acted upon or taken by group leaders or governing bodies to be of personal importance.

(iii) There is a widespread knowledge, communication and involvement in political processes by most of the group's members.

(iv) The group meets the criterion in paragraph (2) at more than a minimal level.

(v) There are intragroup conflicts which show controversy over valued group goals, properties, policies, processes or decisions.

(B) A petitioner shall be considered to have provided sufficient evidence to demonstrate the exercise of political influence or authority at a given point in time by demonstrating that group leaders or other mechanisms exist or existed which:

(i) Allocate group resources such as land, residence rights or the like on a consistent basis.

(ii) Settle disputes between members or subgroups such as clans or moieties by mediation or other means on a regular basis.

(iii) Exert strong influence on the behavior of individual members, such as the establishment or maintenance of norms and the enforcement of sanctions to direct or control behavior.

(iv) Organize or influence economic subsistence activities among the members, including shared or cooperative labor.

(C) A group that has met the requirements in paragraph (2)(B) at a given point in time shall be considered to have provided sufficient evidence to meet this criterion at that same point in time.

(4) A copy of the petitioner's present governing document including its membership criteria. In the absence of a written document, the petitioner must provide a statement describing in full its membership criteria and current governing procedures.

(5) A list of all current members of the petitioner, *including each member's full name (and maiden name, if any), date and place of birth, and current residential address, as well as* a copy of each available former list of members based on the petitioner's own defined criteria, *and a statement describing the methods used in preparing those lists.* The membership must consist of individuals who have established descendancy from an Indian group which existed historically or from historical Indian groups which combined and functioned as a single autonomous entity. Evidence of tribal membership required by the Commission includes (but is not limited to)—

(A) descendancy rolls prepared by the Secretary for the petitioner for purposes of distributing claims money, providing allotments, or other purposes;

(B) State, Federal, or other official records or evidence identifying present members of the petitioner, or ancestors of present members of *the petitioner, as being descendants of a historic tribe or historic tribes that combined and functioned as a single autonomous political entity;*

(C) church, school, and other similar *enrollment records identifying present members or ancestors of present members as being descendants of a historic tribe or historic tribes that combined and functioned as a single autonomous political entity;*

(D) affidavits of recognition by tribal elders, leaders, or the tribal governing body *identifying present members or ancestors of present members as being descendants of a historic tribe or historic tribes that combined and functioned as a single autonomous political entity; and*

(E) other records or evidence identifying *present members or ancestors of present members as being descendants of a historic tribe or historic tribes that combined and functioned as a single autonomous political entity.*

(c) *EXCEPTIONS.*—A petition from an Indian group which can demonstrate by a preponderance of the evidence that it was, or is the successor in interest to, *a*—

(1) party to a treaty or treaties;

(2) group acknowledged by any agency of the Federal Government as eligible to participate in the Indian Reorganization Act of 1934 (25 U.S.C. 461 *et seq.*);

(3) group for the benefit of which the United States took into trust land or lands, or which the Federal government has treated as having collective rights in tribal lands or funds; or

(4) group has been denominated a tribe by Act of Congress or Executive Order,

shall be required to establish the criteria set forth in this section only from the date of that Federal action to the present.

SEC. 6. NOTICE OF RECEIPT OF PETITION.

(a) PETITIONER.—Within 30 days after a petition is submitted or transferred to the Commission under section 5(a), the Commission shall send an acknowledgement of receipt in writing to the petitioner and shall have published in the Federal Register a notice of such receipt, including the name, location, and mailing address of the petitioner and such other information that will identify the entity who submitted the petition and the date the petition was received by the Commission. The notice shall also indicate where a copy of the petition may be examined.

(b) OTHERS.—The Commission shall also notify, in writing, the Governor and attorney general of, and each recognized Indian tribe within, any State in which a petitioner resides.

(c) PUBLICATION; OPPORTUNITY FOR SUPPORTING OR OPPOSING SUBMISSIONS.—The Commission shall publish the notice of receipt of the petition in a major newspaper of general circulation in the town or city nearest the location of the petitioner. The notice shall include, in addition to the information described in subsection (a), notice of opportunity for other parties to submit factual or legal arguments in support of or in opposition to, the petition. Such submissions shall be provided to the petitioner upon receipt by the Commission. The petitioner shall be provided an opportunity to respond to such submissions prior to a determination on the petition by the Commission.

SEC. 7. PROCESSING THE PETITION.

(a) REVIEW.—(1) Upon receipt of a *documented* petition, the Commission shall conduct a review to determine whether the petitioner is entitled to be recognized as an Indian tribe.

(2) The review conducted under paragraph (1) shall include consideration of the petition, supporting evidence, and the factual statements contained in the petition.

(3) The Commission may also initiate other research for any purpose relative to analyzing the petition and obtaining additional information about the petitioner's status and may consider any evidence which may be submitted by other parties.

(4) Upon request by the petitioner, the Library of Congress and the National Archives shall each allow access to the petitioner to its resources, records, and documents, for the purpose of conducting research and preparing evidence concerning the status of the petitioner.

(b) CONSIDERATION.—(1) Except as otherwise provided in this subsection, petitions shall be considered on a first come, first served basis, determined by the date of the original filing of the petition with the Commission, or the Department if the petition is one transferred to the Commission pursuant

to section 5(a). The Commission shall establish a priority register including those petitions pending before the Department on the date of enactment of this Act.

(2) Petitions that are submitted to the Commission by Indian groups that meet one or more of the requirements set forth in section 5(c) shall receive priority consideration over petitions submitted by any other Indian group.

SEC. 8. PRELIMINARY HEARING.

(a) In General.—Within 60 days after the receipt of a petition by the Commission, the Commission shall set a date for a preliminary hearing. At the preliminary hearing, the petitioner and any other concerned party may provide evidence concerning the status of the petitioner.

(b) Determination.—(1) Within 30 days after the conclusion of the preliminary hearing under subsection (a), the Commission shall make a determination either—

(A) to extend Federal acknowledgement to the petitioner; or

(B) that the petitioner proceed to an adjudicatory hearing.

(2) The Commission shall publish the determination in the Federal Register.

(c) Information to be Provided Preparatory to an Adjudicatory Hearing.—(1) If the Commission determines under subsection (b) that the petitioner proceed to an adjudicatory hearing, the Commission shall—

(A) make available its appropriate evidentiary records to the petitioner to assist the petitioner in preparing for the adjudicatory hearing, and shall also include such guidance as the Commission considers necessary or appropriate to assist the petitioner in preparing for the hearing; and

(B) within 30 days after the conclusion of the preliminary hearing under subsection (a), notify the petitioner in writing, which notice shall include a list of any deficiencies or omissions on which the Commission relied in making its determination.

(2) The list of deficiencies and omissions provided under paragraph (1)(B) shall be the subject of the adjudicatory hearing. The Commission may not add to this list once it is issued.

SEC. 9. ADJUDICATORY HEARING.

(a) In General.—Within 180 days after the conclusion of the preliminary hearing, the Commission shall afford the petitioner described in section 8(b)(1)(B) an adjudicatory hearing. The hearing shall be on the list of deficiencies and omissions provided under section 8(c)(1)(B) and shall be conducted pursuant to section 554 of title 5, United States Code.

(b) Testimony From Staff of Commission.—The Commission may require testimony from its acknowledgement and research staff or other witnesses. Any such testimony shall be subject to cross-examination by the petitioner.

(c) Evidence by Petitioner.—The petitioner may provide such evidence as the petitioner deems appropriate.

(d) Decision by Commission.—Within 60 days after the end of the hearing held under subsection (a), the Commission shall—

(1) make a determination as to the extension or denial of Federal acknowledgment to the petitioner;

(2) publish its determination under paragraph (1) in the Federal Register; and

(3) deliver a copy of the determination to the petitioner, and to every other interested party.

SEC. 10. APPEALS.

(a) In General.—Within 60 days after the date the Commission's decision is published under section 9(d), the petitioner may appeal the determination to the United States District Court for the District of Columbia.

(b) Attorney Fees.—If the petitioner prevails in the appeal described in subsection (a), it shall be eligible for an award of reasonable attorney fees and costs under the provisions of section 504 of title 5, United States Code, or section 2412 of title 28 of such Code, as the case may be.

SEC. 11. EFFECT OF DETERMINATIONS.

A determination by the Commission that an Indian group is recognized by the Federal Government as an Indian tribe shall not have the effect of—

(1) depriving or diminishing the right of any other Indian tribe to govern its reservation as such reservation existed prior to the recognition of such Indian group, or as the same may exist thereafter;

(2) depriving or diminishing any property right held in trust or recognized by the United States for such other Indian tribe as it existed prior to the recognition of such Indian group; or

(3) depriving or diminishing any previously or independently existing claim by a petitioner to any such property right held in trust by the United States for such other Indian tribe prior to the recognition of such Indian group.

SEC. 12. IMPLEMENTATION OF DECISIONS.

(a) Eligibility for Services and Benefits.—(1) Subject to paragraph (2), upon recognition by the Commission that the petitioner is an Indian tribe, the Indian tribe shall be eligible for the services and benefits from the Federal Government that are available to other federally recognized Indian tribes by virtue of their status as Indian tribes with a government-to-government relationship with the United States, as well as having the responsibilities and obligations of such Indian tribes. Such recognition shall subject the Indian tribes to the same authority of Congress and the United States to which other federally recognized tribes are subject.

(2) Recognition of the Indian tribe under this Act does not create an immediate entitlement to existing programs of the Bureau. Such programs shall become available upon appropriation of funds by law. Requests for appropriations shall follow a determination under subsection (b) of the needs of the newly recognized Indian tribe.

(b) Needs Determination.—Within 6 months after an Indian tribe is recognized under this Act, the appropriate area offices of the Bureau and the Indian Health Service shall consult and develop in cooperation with the Indian tribe, and forward to the respective Secretary, a determination of the needs of the Indian tribe and a recommended budget required to serve the newly recognized Indian tribe. The recommended budget shall be considered along with recommendations by the appropriate Secretary in the budget-request process.

SEC. 13. ANNUAL REPORT CONCERNING COMMISSION'S ACTIVITIES.

(a) List of Recognized Tribes.—Not later than 90 days after the date of the enactment of this Act, and annually on or before every January 30 thereafter, the Commission shall publish in the Federal Register a list of all Indian tribes which are recognized by the Federal Government and receiving services from the Bureau of Indian Affairs.

(b) Annual Report.—Beginning one year after the date of the enactment of this Act, and annually thereafter, the Commission shall submit a report to the Committee on Natural Resources of the House of Representatives and to the Committee on Indian Affairs of the Senate a report on its activities, which shall include at a minimum the following:

(1) The number of petitions pending at the beginning of the year and the names of the petitioners.

(2) The number of petitions received during the year and the names of the petitioners.

(3) The number of petitions the Commission approved for acknowledgment and the names of the acknowledged petitioners.

(4) The number of petitions the Commission denied for acknowledgement and the names of the petitioners.

(5) The status of all pending petitions and the names of the petitioners.

SEC. 14. ACTIONS BY PETITIONERS FOR ENFORCEMENT.

Any petitioner may bring an action in the district court of the United States for the district in which the petitioner resides, or the United States District Court for the District of Columbia, to enforce the provisions of this Act, including any time limitations within which actions are required to be taken, or decisions made, under this Act and the district court shall issue such orders (including writs of mandamus) as may be necessary to enforce the provisions of this Act.

SEC. 15. REGULATIONS.

The Commission is authorized to prescribe such regulations as may be necessary to carry out the provisions and purposes of this Act. All such regulations must be published in accordance with the provisions of title 5, United States Code.

SEC. 16. GUIDELINES AND ADVICE.

(a) Guidelines.—No later than 90 days after the date of enactment of this Act, the Commission shall make available suggested guidelines for the format of petitions, including general suggestions and guidelines on where and how to research required information, but such examples shall not preclude the use of any other format.

(b) Research Advice.—The Commission, upon request, is authorized to provide suggestions and advise to any petitioner for his research into the petitioner's historical background and Indian identity. The Commission shall not be responsible for the actual research on behalf of the petitioner.

SEC. 17. ASSISTANCE TO PETITIONERS.

(a) Grants.—(1) The Secretary of Health and Human Services may award grants to Indian groups seeking Federal recognition to enable the Indian groups to—

(A) conduct the research necessary to substantiate petitions under this Act; and

(B) prepare documentation necessary for the submission of a petition under this Act.

(2) The grants made under this subsection shall be in addition to any other grants the Secretary of Health and Human Services is authorized to provide under any other provision of law.

(b) Competitive Award.—Grants provided under subsection (a) shall be awarded competitively based on objective criteria prescribed in regulations promulgated by the Secretary of Health and Human Services.

SEC. 18. AUTHORIZATION OF APPROPRIATIONS.

(a) Commission.—There are authorized to be appropriated for the Commission for the purpose of carrying out the provisions of this Act (other than section 15 *17*), $1,500,000 for fiscal year 1995 and $1,500,000 for each of the 12 succeeding fiscal years.

(b) Secretary of HHS.—There are authorized to be appropriated for the Administration for Native Americans of the Department of Health and Human Services for the purpose of carrying out the provisions of section *17, $3,000,000 for each fiscal year.*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico [Mr. Richardson] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. Thomas] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. Richardson].

GENERAL LEAVE

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4462, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4462 would solve one of the most pervasive and divisive problems in Indian affairs—the recognition of tribes.

Through a series of hearings, we have learned that the Bureau of Indian Affairs is not good at recognizing Indian tribes. There are 150 petitions at the BIA and in 16 years only 9 tribes have been acknowledged. Some tribes have been in this process for over a decade and some have spent up to $1 million to get recognized. The average cost to Indian groups runs from $300,000 to $500,000.

Inherent problems persist in the BIA's acknowledgement system. The same people conducting the research make the determination as to whether a tribe gets recognized—there is no independent finder of fact. Nor is there an opportunity for petitioners to cross-examine evidence.

Mr. THOMAS, Mr. FALEOMAVAEGA, Mr. ABERCROMBIE, and all the members of the subcommittee came to the conclusion that we need an independent commission to carry out the task of recognizing tribes. Committee amendments provided that the commission will hold trial-type hearings for petitioners who request them. The bill provides tough but fair standards for recognizing tribes.

Mr. Speaker, this bill would provide groups petitioning for acknowledgement with their due process rights. I urge my colleagues to support his bill.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4462, a bill to overhaul the BIA recognition process.

I have long awaited the day that we would take up this legislation. Regardless of whether the problems with the recognition process are real or perceived, it is clear that something needs to be done. While the alleged backlog of petitions at the BIA is not nearly as great as many would have us believe, the perception is that the process is overly cumbersome, political, and ineffective. We are faced with an ever-growing number of tribes which seek to circumvent the process and pursue congressional recognition as a result.

As the chairman knows, I strongly believe that pursuing that course is disastrous. It can only lead to the recognition of some groups based not on any Indian ancestry but solely on the power and party affiliation of their sponsor—the Lumbee and Mowa groups come to mind.

This is a very complex issue, and I know our staffs have worked hard to craft legislation that is both workable and effective. Let me comment briefly on some of the more important changes we propose to make. First, I believe that removing the process from the BIA is an important step. Although I feel that the BIA has done the best job it can with the resources available to it, placing the process with an independent commission will insulate it from changes of antirecognition bias. I have long been troubled by the appearance—and I stress the word appearance—of impropriety involved in allowing the same agency responsible for providing services to the tribes making decisions on recognition that would increase their service population, in some cases by many thousands.

Second, we have made some significant changes in the criteria used to determine tribality. This should help cut down on a substantial amount of paperwork and research for many groups—and eliminate one of the more prominent complaints about the present system.

Mr. Speaker, while I realize that it is not likely that the bill will clear the other body before adjournment, I think that it is tremendously important that we pass it today. This is the closest Congress has ever come to correcting the system, and I think passage will send a clear signal to both the BIA and the tribes that we are serious about this reform.

Mr. Speaker, I reserve the balance of my time.

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Mr. RICHARDSON. Mr. Speaker, once again I urge all my colleagues to support this measure. This is a bill that will deal with the Federal recognition process that will conclude all the aggravation that has been caused by the BIA, and all the members of those tribes that have had difficulty getting into the acknowledgement process.

If we pass this bill, I think it would be a significant improvement in an orderly procedure to recognize native American tribes and preclude us, hopefully, from having these long debates on each recognition of tribes operating within our States.

Mr. Speaker, I urge support for this legislation.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MCCANDLESS].

Mr. MCCANDLESS. I thank the gentleman for yielding this time to me.

Mr. Speaker, there are a number of issues here on the suspension calendar dealing with Indian affairs. I certainly have no objection to these being on the suspension calendar. However, I have a concern that I wish to express, and I feel this should be the time, in view of the fact that we have written many letters, I do not know how many; and we have had many conferences, I do not know how many conferences, relative to the BIA, its relationship to Indian tribes and that relationship to the community in which the tribes and its land exist.

We have run up against some very serious problems. I wanted to share these with the subcommittee chairman, the gentleman from New Mexico [Mr. RICHARDSON], because I will be leaving at the end of this term, and I think it is essential that at least these concerns get into the RECORD in some shape or form relative to this problem. I can be very specific. There is a current potential health problem that would exemplify what I am talking about.

An allottee in one of the 13 tribes in my district signed a contract with a disposal company for human sewage waste to become composted on that allotment. That contract was executed without the proper approval of the BIA. Three companies became a part of that particular operation, composting sewage sludge, much of which was hauled in 120 miles from the San Diego metropolitan area.

Two of the three are still doing that. One of the three went bankrupt and left hundreds of thousands of tons of uncomposted human waste on the allotted Indian land, to the detriment of not only the Indian allottee lands adjacent to it, tribal lands and also private land, but it has created a real nuisance in that there are private enterprises nearby, such as a fish farm, that receive the negative aspects of this.

We have worked and worked and worked to try to bring BIA's attention to bear on this so this situation will not happen again elsewhere. BIA did not approve this contract to begin with. But the operation took place anyhow. It is our understanding that it should have been approved prior to beginning the operation.

Now we have a problem here; not only do we have the community in an uproar but we also have the rest of the tribe in an uproar. That very thing, sovereignty, which created the ability for the gentlemen in question to begin this operation, is now being exercised by members of that tribe, which are saying we want this taken care of, and we want the Federal Government, or somebody, to do this, to take care of this problem, this potential health problem.

I think as we move forward here, we must understand that, yes, sovereignty is an important point. But whatever we have in the way of a relationship between the Federal Government and Indian tribes and the community, there needs to be some kind of an enforceable check and balance relative to the environmental or other aspects of what a tribe or allottee is able to do or not do, as it relates to the laws that go beyond the boundaries of the allottee's land or the tribal land. In this case, it has become a severe nuisance. And there is no clear recourse to handle the cleaning up of this problem. EPA is working on it, other agencies are working on it, but a year or so has gone by and these and other important questions remain unanswered.

So I wish to bring this to the attention of those involved in Indian affairs, to ask that a review of this kind of a BIA relationship be undertaken. Why did the BIA not exercise the proper oversight when the contract was discussed, or whatever authority they have to do this? Now we have the people doing the actual composting and selling the compost, who are saying, okay, if you give us a contract or a lease on this property for a certain period of time, we will assume the responsibility of disposing of this huge pile of waste. Of course, those who are opposed to the composting, are saying we want everybody off and the site shut down. There is a cease and desist order which has been ignored by those who have continued composting. So you begin to see all of these things coming together, all of which add to what I am trying to say: The BIA I consider to be substandard in the management of their relations with Indian affairs.

I thank the gentleman for yielding. I now have this off my chest. I thank the subcommittee chairman for his indulgence.

Mr. RICHARDSON. Let me say I will take the gentleman's comments very seriously. He is a very serious Member of this body. He will be missed.

I am aware of that problem and we have legislation to get rid of the redtape and bureaucracy that are part of the BIA system.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in strong support of H.R. 4462, a bill to provide for administrative procedures to extend Federal recognition to certain groups of American Indians.

We all know that a change in the Federal acknowledgement procedures is long overdue. Every time we hold a hearing on recognizing an Indian tribe, or hold a hearing on the process itself, we hear more horror stories resulting from the present process. I am pleased that the members of the Subcommittee on Native American Affairs were able to reach a bipartisan agreement on how to proceed, and I want to thank Chairman RICHARDSON, Congressman THOMAS, amd their staffs for the time they have given this bill. The end of the Congress is a very busy time for all of us, and I am appreciative that everyone involved was willing to give this bill careful consideration.

Mr. Speaker, H.R. 4462 will make the following changes to the process by which Indian tribes receive Federal recognition. The bill: First, creates a nonpartisan, Presidentially appointed Commission, independent from the Department of the Interior, which will review petitions for recognition; second, ensures that the Commission will work to assist petitioning groups in understanding the process and in obtaining appropriate, relevant documentation; third, sets firm time limits on each step within a new acknowledgement process; fourth, creates a process in which each petition group will know quickly of any deficiencies and omissions in their petition, based on a list which cannot be expanded; fifth, provides for annual publication of a single, composite list of tribes recognized by the Federal Government, and annual reports on the Commission's activity' and sixth, sets forth new, more objective criteria upon which the final determination of applicant will be based.

Mr. Speaker, I know we are in the waning days of the 103d Congress, but given the similarities between this bill and the Senate bill on this issue, I remain hopeful that an agreement can be reached, and that we can see new law in this area later this year.

Mr. RICHARDSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PASTOR). The question is on the motion offered by the gentleman from New Mexico [Mr. RICHARDSON] that the House suspend the rules and pass the bill, H.R. 4462, as amended.

The question was taken.

Mr. McCANDLESS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

AMERICAN INDIAN TRUST FUND MANAGEMENT REFORM ACT OF 1994

Mr. RICHARDSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4833), to reform the management of Indian Trust Funds, and for other purposes as amended.

The Clerk read as follows:

H.R. 4833

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "American Indian Trust Fund Management Reform Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—RECOGNITION OF TRUST RESPONSIBILITY

Sec. 101. Affirmative action required.
Sec. 102. Responsibility of Secretary to account for the daily and annual balances of Indian trust funds.
Sec. 103. Payment of interest on individual Indian money accounts.
Sec. 104. Authority for payment of claims for interest owed.

TITLE II—INDIAN TRUST FUND MANAGEMENT PROGRAM

Sec. 201. Purpose.
Sec. 202. Voluntary withdrawal from trust funds program.
Sec. 203. Judgment funds.
Sec. 204. Technical assistance.
Sec. 205. Grant program.
Sec. 206. Return of withdrawn funds.
Sec. 207. Savings provision.
Sec. 208. Report to Congress.
Sec. 209. Regulations.

TITLE III—SPECIAL TRUSTEE FOR AMERICAN INDIANS

Sec. 301. Purposes.
Sec. 302. Office of Special Trustee for American Indians.
Sec. 303. Authorities and functions of the special trustee.
Sec. 304. Reconciliation report.
Sec. 305. Staff and consultants.
Sec. 306. Advisory board.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

Sec. 401. Authorization of appropriations.

SEC. 2. DEFINITIONS.

For the purposes of this Act:

(1) The term "Special Trustee" means the Special Trustee for American Indians appointed under section 302.

(2) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(3) The term "Secretary" means the Secretary of the Interior.

(4) The term "Office" means the Office of Special Trustee for American Indians established by section 302.

(5) The term "Bureau" means the Bureau of Indian Affairs within the Department of the Interior.

(6) The term "Department" means the Department of the Interior.

TITLE I—RECOGNITION OF TRUST RESPONSIBILITY

SEC. 101. AFFIRMATIVE ACTION REQUIRED.

The first section of the Act of June 24, 1938 (25 U.S.C. 162a), is amended by adding at the end the following new subsection:

"(d) The Secretary's proper discharge of the trust responsibilities of the United States shall include (but are not limited to) the following:

"(1) Providing adequate systems for accounting for and reporting trust fund balances.

"(2) Providing adequate controls over receipts and disbursements.

"(3) Providing periodic, timely reconciliations to assure the accuracy of accounts.

"(4) Determining accurate cash balances.

"(5) Preparing and supplying account holders with periodic statements of their account performance and with balances of their account which shall be available on a daily basis.

"(6) Establishing consistent, written policies and procedures for trust fund management and accounting.

"(7) Providing adequate staffing, supervision, and training for trust fund management and accounting.

"(8) Appropriately managing the natural resources located within the boundaries of Indian reservations and trust lands.".

SEC. 102. RESPONSIBILITY OF SECRETARY TO ACCOUNT FOR THE DAILY AND ANNUAL BALANCES OF INDIAN TRUST FUNDS.

(a) REQUIREMENT TO ACCOUNT.—The Secretary shall account for the daily and annual balance of all funds held in trust by the United States for the benefit of an Indian tribe or an individual Indian which are deposited or invested pursuant to the Act of June 24, 1938 (25 U.S.C. 162a).

(b) PERIODIC STATEMENT OF PERFORMANCE.—Not later than 20 business days after the close of a calendar quarter, the Secretary shall provide a statement of performance to each Indian tribe and individual with respect to whom funds are deposited or invested pursuant to the Act of June 24, 1938 (25 U.S.C. 162a). The statement, for the period concerned, shall identify—

(1) the source, type, and status of the funds;

(2) the beginning balance;

(3) the gains and losses;

(4) receipts and disbursements; and

(5) the ending balance.

(c) ANNUAL AUDIT.—The Secretary shall cause to be conducted an annual audit on a fiscal year basis of all funds held in trust by the United States for the benefit of an Indian tribe or an individual Indian which are deposited or invested pursuant to the Act of June 24, 1938 (25 U.S.C. 162a), and shall include a letter relating to the audit in the first statement of performance provided under subsection (b) after the completion of the audit.

SEC. 103. PAYMENT OF INTEREST ON INDIVIDUAL INDIAN MONEY ACCOUNTS.

(a) PAYMENT OF INTEREST.—The first section of the Act of February 12, 1929 (25 U.S.C. 161a), is amended—

(1) by striking out "That all" and inserting in lieu thereof "That (a) all"; and

(2) by adding after subsection (a) (as designated by paragraph (1) of this subsection) the following:

"(b) All funds held in trust by the United States and carried in principal accounts on the books of the United States Treasury to the credit of individual Indians shall be invested by the Secretary of the Treasury, at the request of the Secretary of the Interior, in public debt securities with maturities suitable to the needs of the fund involved, as determined by the Secretary of the Interior, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable securities.".

(b) WITHDRAWAL AUTHORITY.—The second sentence of subsection (a) of the first section of the Act of June 24, 1938 (25 U.S.C. 162a) is amended by inserting "to withdraw from the United States Treasury and" after "prescribe,".

(c) TECHNICAL CORRECTION.—The second subsection (b) of the first section of the Act of June 24, 1938 (25 U.S.C. 162a), as added by section 302 of Public Law 101-644 (104 Stat. 4667), is hereby redesignated as subsection (c).

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to interest earned on amounts deposited or invested on or after the date of the enactment of this Act.

SEC. 104. AUTHORITY FOR PAYMENT OF CLAIMS FOR INTEREST OWED.

The Secretary shall make payments to an individual Indian in full satisfaction of any claim of such individual for interest on amounts deposited or invested on behalf of such individual before the date of enactment of this Act retroactive to the date that the Secretary began investing individual Indian monies on a regular basis, to the extent that the claim is identified—

(1) by a reconciliation process of individual Indian money accounts, or

(2) by the individual and presented to the Secretary with supporting documentation, and is verified by the Secretary pursuant to the Department's policy for addressing accountholder losses.

TITLE II—INDIAN TRUST FUND MANAGEMENT PROGRAM

SEC. 201. PURPOSE.

The purpose of this title is to allow tribes an opportunity to manage tribal funds currently held in trust by the United States and managed by the Secretary through the Bureau, that, consistent with the trust responsibility of the United States and the principles of self-determination, will—

(1) give Indian tribal governments greater control over the management of such trust funds; or

(2) otherwise demonstrate how the principles of self-determination can work with respect to the management of such trust funds, in a manner consistent with the trust responsibility of the United States.

SEC. 202. VOLUNTARY WITHDRAWAL FROM TRUST FUNDS PROGRAM.

(a) IN GENERAL.—An Indian tribe may, in accordance with this section, submit a plan to withdraw some or all funds held in trust for such tribe by the United States and managed by the Secretary through the Bureau.

(b) APPROVAL OF PLAN.—The Secretary shall approve such plan within 90 days of receipt and when approving the plan, the Secretary shall obtain the advice of the Special Trustee or prior to the appointment of such Special Trustee, the Director of the Office of Trust Fund Management within the Bureau. Such plan shall meet the following conditions:

(1) Such plan has been approved by the appropriate Indian tribe and is accompanied by a resolution from the tribal governing body approving the plan.

(2) The Secretary determines such plan to be reasonable after considering all appropriate factors, including (but not limited to) the following:

(A) The capability and experience of the individuals or institutions that will be managing the trust funds.

(B) The protection against substantial loss of principal.

(c) DISSOLUTION OF TRUST RESPONSIBILITY.—Beginning on the date funds are withdrawn pursuant to this section, any trust responsibility or liability of the United States with respect to such funds shall cease except as provided for in section 207 of this title.

SEC. 203. JUDGMENT FUNDS.

(a) IN GENERAL.—The Secretary is authorized to approve plans under section 202 of this title for the withdrawal of judgment funds held by the Secretary.

(b) LIMITATION.—Only such funds held by the Secretary under the terms of the Indian Judgment Funds Use or Distribution Act (25 U.S.C. 1401) or an Act of Congress which provides for the secretarial management of such judgment funds shall be included in such plans.

(c) SECRETARIAL DUTIES.—In approving such plans, the Secretary shall ensure—

(1) that the purpose and use of the judgment funds identified in the previously approved judgment fund plan will continue to be followed by the Indian tribe in the management of the judgment funds; and

(2) that only funds held for Indian tribes may be withdrawn and that any funds held for individual tribal members are not to be included in the plan.

SEC. 204. TECHNICAL ASSISTANCE.

The Secretary shall—

(1) directly or by contract, provide Indian tribes with technical assistance in developing, implementing, and managing Indian trust fund investment plans; and

(2) among other things, ensure that legal, financial, and other expertise of the Department of the Interior has been made fully available in an advisory capacity to the Indian tribes to assist in the development, implementation, and management of investment plans.

SEC. 205. GRANT PROGRAM.

(a) GENERAL AUTHORITY.—The Secretary is authorized to award grants to Indian tribes for the purpose of developing and implementing plans for the investment of Indian tribal trust funds.

(b) USE OF FUNDS.—The purposes for which funds provided under this section may be used include (but are not limited to)—

(1) the training and education of employees responsible for monitoring the investment of trust funds;

(2) the building of tribal capacity for the investment and management of trust funds;

(3) the development of a comprehensive tribal investment plan;

(4) the implementation and management of tribal trust fund investment plans; and

(5) such other purposes related to this title that the Secretary deems appropriate.

SEC. 206. RETURN OF WITHDRAWN FUNDS.

Subject to such conditions as the Secretary may prescribe, any Indian tribe which has withdrawn trust funds may choose to return any or all of the trust funds such tribe has withdrawn by notifying the Secretary in writing of its intention to return the funds to the control and management of the Secretary.

SEC. 207. SAVINGS PROVISION.

By submitting or approving a plan under this title, neither the tribe nor the Secretary shall be deemed to have accepted the account balance as accurate or to have waived any rights regarding such balance and to seek compensation.

SEC. 208. REPORT TO CONGRESS.

The Secretary shall, beginning one year after the date of the enactment of this Act, submit an annual report to the Committee on Natural Resources of the House of Representatives and the Committee on Indian Affairs of the Senate on the implementation of programs under this title. Such report shall include recommendations (if any) for changes necessary to better implement the purpose of this title.

SEC. 209. REGULATIONS.

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this title, the Secretary shall promulgate final regulations for the implementation of this title. All regulations promulgated pursuant to this title shall be developed by the Secretary with the full and active participation of the Indian tribes with trust funds held by the Secretary and other affected Indian tribes.

(b) EFFECT.—The lack of promulgated regulations shall not limit the effect of this title.

TITLE III—SPECIAL TRUSTEE FOR AMERICAN INDIANS

SEC. 301. PURPOSES.

The purposes of this title are—

(1) to provide for more effective management of, and accountability for the proper discharge of, the Secretary's trust responsibilities to Indian tribes and individual Indians by establishing in the Department of the Interior an Office of Special Trustee for American Indians to oversee and coordinate reforms within the Department of practices relating to the management and discharge of such responsibilities;

(2) to ensure that reform of such practices in the Department is carried out in a unified manner and that reforms of the policies, practices, procedures and systems of the Bureau, Minerals Management Service, and Bureau of Land Management, which carry out such trust responsibilities, are effective, consistent, and integrated; and

(3) to ensure the implementation of all reforms necessary for the proper discharge of the Secretary's trust responsibilities to Indian tribes and individual Indians.

SEC. 302. OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS.

(a) ESTABLISHMENT.—There is hereby established within the Department of the Interior the Office of Special Trustee for American Indians. The Office shall be headed by the Special Trustee who shall report directly to the Secretary.

(b) SPECIAL TRUSTEE.—

(1) APPOINTMENT.—The Special Trustee shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who possess demonstrated ability in general management of large governmental or business entities and particular knowledge of trust fund management, management of financial institutions, and the investment of large sums of money.

(2) COMPENSATION.—The Special Trustee shall be paid at a rate determined by the Secretary to be appropriate for the position, but not less than the rate of basic pay payable at Level II of the Executive Schedule under section 5313 of title 5, United States Code.

(c) TERMINATION OF OFFICE.—

(1) CONDITIONED UPON IMPLEMENTATION OF REFORMS.—The Special Trustee, in proposing a termination date under section 303(a)(2)(C), shall ensure continuation of the Office until all reforms identified in the strategic plan have been implemented to the satisfaction of the Special Trustee.

(2) 30-DAY NOTICE.—Thirty days prior to the termination date proposed in the plan submitted under this section, the Special Trustee shall notify the Secretary and the Congress in writing of the progress in implementing the reforms identified in the plan. The Special Trustee, at that time, may recommend the continuation, or the permanent establishment, of the Office if the Special Trustee concludes that continuation or permanent establishment is necessary for the efficient discharge of the Secretary's trust responsibilities.

(3) TERMINATION DATE.—The Office shall terminate 180 legislative days after the date on which the notice to the Congress under paragraph (2) is provided, unless the Congress extends the authorities of the Special Trustee. For the purposes of this session, a legislative day is a day on which either House of the Congress is in session.

SEC. 303. AUTHORITIES AND FUNCTIONS OF THE SPECIAL TRUSTEE.

(a) COMPREHENSIVE STRATEGIC PLAN.—

(1) IN GENERAL.—The Special Trustee shall prepare and, after consultation with Indian tribes and appropriate Indian organizations, submit to the Secretary and the Committee on Natural Resources of the House of Representatives and the Committee on Indian Affairs of the Senate, within one year after the initial appointment is made under section 302(b), a comprehensive strategic plan for all phases of the trust management business cycle that will ensure proper and efficient discharge of the Secretary's trust responsibilities to Indian tribes and individual Indians in compliance with this Act.

(2) PLAN REQUIREMENTS.—The plan prepared under paragraph (1) shall include the following:

(A) Identification of all reforms to the policies, procedures, practices and systems of the Department, the Bureau, the Bureau of Land Management, and the Minerals Management Service necessary to ensure the proper and efficient discharge of the Secretary's trust responsibilities in compliance with this Act.

(B) Provisions for opportunities for Indian tribes to assist in the management of their trust accounts and to identify for the Secretary options for the investment of their trust accounts, in a manner consistent with the trust responsibilities of the Secretary, in ways that will help promote economic development in their communities.

(C) A timetable for implementing the reforms identified in the plan, including a date for the proposed termination of the Office.

(b) DUTIES.—

(1) GENERAL OVERSIGHT OF REFORM EFFORTS.—The Special Trustee shall oversee all reform efforts within the Bureau, the Bureau of Land Management, and the Minerals Management Service relating to the trust responsibilities of the Secretary to ensure the establishment of policies, procedures, systems and practices to allow the Secretary to discharge his trust responsibilities in compliance with this Act.

(2) BUREAU OF INDIAN AFFAIRS.—

(A) MONITOR RECONCILIATION OF TRUST ACCOUNTS.—The Special Trustee shall monitor the reconciliation of tribal and Individual Indian Money trust accounts to ensure that the Bureau provides the account holders, with a fair and accurate accounting of all trust accounts.

(B) INVESTMENTS.—The Special Trustee shall ensure that the Bureau establishes appropriate policies and procedures, and develops necessary systems, that will allow it—

(i) properly to account for and invest, as well as maximize, in a manner consistent with the statutory restrictions imposed on the Secretary's investment options, the return on the investment of all trust fund monies, and

(ii) to prepare accurate and timely reports to account holders (and others, as required) on a periodic basis regarding all collections, disbursements, investments, and return on investments related to their accounts.

(C) OWNERSHIP AND LEASE DATA.—The Special Trustee shall ensure that the Bureau establishes policies and practices to maintain complete, accurate, and timely data regarding the ownership and lease of Indian lands.

(3) BUREAU OF LAND MANAGEMENT.—The Special Trustee shall ensure that the Bureau of Land Management establishes policies and practices adequate to enforce compliance with Federal requirements for drilling, production, accountability, environmental protection, and safety with respect to the lease of Indian lands.

(4) MINERALS MANAGEMENT SERVICE.—The Special Trustee shall ensure that the Minerals Management Service establishes policies and practices to enforce compliance by lessees of Indian lands with all requirements for timely and accurate reporting of production and payment of lease royalties and other revenues, including the audit of leases to ensure that lessees are accurately reporting production levels and calculating royalty payments.

(c) COORDINATION OF POLICIES.—

(1) IN GENERAL.—The Special Trustee shall ensure that—

(A) the policies, procedures, practices, and systems of the Bureau, the Bureau of Land Management, and the Minerals Management Service related to the discharge of the Secretary's trust responsibilities are coordinated, consistent, and integrated, and

(B) the Department prepares comprehensive and coordinated written policies and procedures for each phase of the trust management business cycle.

(2) STANDARDIZED PROCEDURES.—The Special Trustee shall ensure that the Bureau imposes standardized trust fund accounting procedures throughout the Bureau.

(3) INTEGRATION OF LEDGER WITH INVESTMENT SYSTEM.—The Special Trustee shall ensure that the trust fund investment, general ledger, and subsidiary accounting systems of the Bureau are integrated and that they are adequate to support the trust fund investment needs of the Bureau.

(4) INTEGRATION OF LAND RECORDS, TRUST FUNDS ACCOUNTING, AND ASSET MANAGEMENT SYSTEMS AMONG AGENCIES.—The Special Trustee shall ensure that—

(A) the land records system of the Bureau interfaces with the trust fund accounting system, and

(B) the asset management systems of the Minerals Management Service and the Bureau of Land Management interface with the appropriate asset management and accounting systems of the Bureau, including ensuring that—

(i) the Minerals Management Service establishes policies and procedures that will allow it to properly collect, account for, and disburse to the Bureau all royalties and other revenues generated by production from leases on Indian lands; and

(ii) the Bureau of Land Management and the Bureau provide Indian landholders with accurate and timely reports on a periodic basis that cover all transactions related to leases of Indian resources.

(5) TRUST MANAGEMENT PROGRAM BUDGET.—

(A) DEVELOPMENT AND SUBMISSION.—The Special Trustee shall develop for each fiscal year, with the advice of program managers of each office within the Bureau of Indian Affairs, Bureau of Land Management and Minerals Management Service that participates in trust management, including the management of trust funds or natural resources, or which is charged with any responsibility under the comprehensive strategic plan prepared under subsection (a) of this section, a consolidated Trust Management program budget proposal that would enable the Secretary to efficiently and effectively discharge his trust responsibilities and to implement the comprehensive strategic plan, and shall submit such budget proposal to the Secretary, the Director of the Office of Management and Budget, and to the Congress.

(B) DUTY OF CERTAIN PROGRAM MANAGERS.—Each program manager participating in trust management or charged with responsibilities under the comprehensive strategic plans shall transmit his office's budget request to the Special Trustee at the same time as such request is submitted to his superiors (and before submission to the Office of Management and Budget) in the preparation of the budget of the President submitted to the Congress under section 1105(a) of title 31, United States Code.

(C) CERTIFICATION OF ADEQUACY OF BUDGET REQUEST.—The Special Trustee shall—

(i) review each budget request submitted under subparagraph (B);

(ii) certify in writing as to the adequacy of such request to discharge, effectively and efficiently, the Secretary's trust responsibilities and to implement the comprehensive strategic plan; and

(iii) notify the program manager of the Special Trustee's certification under clause (ii).

(D) MAINTENANCE OF RECORDS.—The Special Trustee shall maintain records of certifications made under paragraph (3)(B).

(E) LIMITATION ON REPROGRAMMING OR TRANSFER.—No program manager shall submit, and no official of the Department of the Interior may approve or otherwise authorize, a reprogramming or transfer request with respect to any funds appropriated for trust management which is included in the Trust Management Program Budget unless such request has been approved by the Special Trustee.

(d) PROBLEM RESOLUTION.—The Special Trustee shall provide such guidance as necessary to assist Department personnel in identifying problems and options for resolving problems, and in implementing reforms to Department, Bureau, Bureau of Land Management, and Minerals Management Service policies, procedures, systems and practices.

(e) SPECIAL TRUSTEE ACCESS.—The Special Trustee, and his staff, shall have access to all records, reports, audits, reviews, documents, papers, recommendations, files and other material, as well as to any officer and employee, of the Department and any office or bureau thereof, as the Special Trustee deems necessary for the accomplishment of his duties under this Act.

(f) ANNUAL REPORT.—The Special Trustee shall report to the Secretary and the Committee on Natural Resources of the House of Representatives and the Committee on Indian Affairs of the Senate each year on the progress of the Department, the Bureau, the Bureau of Land Management, and the Minerals Management Service in implementing the reforms identified in the comprehensive strategic plan under subsection (a)(1) and in meeting the timetable established in the strategic plan under subsection (a)(2)(C).

SEC. 304. RECONCILIATION REPORT.

The Secretary shall transmit to the Committee on Natural Resources of the House of Representatives and the Committee on Indian Affairs of the Senate, by May 31, 1996, a report identifying for each tribal trust fund account for which the Secretary is responsible a balance reconciled as of September 30, 1995. In carrying out this section, the Secretary shall consult with the Special Trustee. The report shall include—

(1) a description of the Secretary's methodology in reconciling trust fund accounts;

(2) attestations by each account holder that—

(A) the Secretary has provided the account holder with as full and complete accounting as possible of the account holder's funds to the earliest possible date, and that the account holder accepts the balance as reconciled by the Secretary; or

(B) the account holder disputes the balance of the account holder's account as reconciled by the Secretary and statement explaining why the account holder disputes the Secretary's reconciled balance; and

(3) a statement by the Secretary with regard to each account balance disputed by the account holder outlining efforts the Secretary will undertake to resolve the dispute.

SEC. 305. STAFF AND CONSULTANTS.

(a) STAFF.—The Special Trustee may employ such staff as the Special Trustee deems necessary. The Special Trustee may request staff assistance from within the Department and any office or Bureau thereof as the Special Trustee deems necessary.

(b) CONTRACTS.—To the extent and in such amounts as may be provided in advance by appropriations Acts, the Special Trustee may enter into contracts and other arrangements with public agencies and with private persons and organizations for consulting services and make such payments as necessary to carry out the provisions of this title.

SEC. 306. ADVISORY BOARD.

(a) ESTABLISHMENT AND MEMBERSHIP.—Notwithstanding any other provision of law, the Special Trustee shall establish an advisory board to provide advice on all matters within the jurisdiction of the Special Trustee. The advisory board shall consist of nine members, appointed by the Special Trustee after consultation with Indian tribes and appropriate Indian organizations, of which—

(1) five members shall represent trust fund account holders, including both tribal and Individual Indian Money accounts;

(2) two members shall have practical experience in trust fund and financial management;

(3) one member shall have practical experience in fiduciary investment management; and

(4) one member, from academia, shall have knowledge of general management of large organizations.

(b) TERM.—Each member shall serve a term of two years.

(c) FACA.—The advisory board shall not be subject to the Federal Advisory Committee Act.

(d) TERMINATION.—The Advisory Board shall terminate upon termination of the Office of Special Trustee.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico [Mr. RICHARDSON] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The chair recognizes the gentleman from New Mexico [Mr. RICHARDSON].

GENERAL LEAVE

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in the RECORD on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Department of the Interior is responsible for managing and investing over $2.1 billion in Indian trust funds. These funds are made up mostly of receipts from leases for timber stumpage, oil and gas royalties, and agricultural uses. The Department currently is unable to give an accurate balance for these accounts and tribes have very little say in how their funds are managed. H.R. 4833 is the culmination of 5 years of oversight and 3 years of seeking specific legislative resolution. This bill will allow tribes to directly manage their funds and receive periodic statements on the accounts which remain with the Department. Further, this bill will establish a special trustee for Indian trust funds. This person will develop an overall strategic plan to reform the current process of handling Indian allotted lands and the proceeds from them. I want to thank my good friend and ranking Republican on the Native American Affairs Subcommittee, Mr. THOMAS of Wyoming, for all his work and efforts on this bill. I make note that he served on the Government Operations Subcommittee with Mr. SYNAR and worked on the original investigation that brought many of these issues to light.

I further want to thank Mr. SYNAR, for it was his Subcommittee on Environment, Energy and Natural Resources that provided most of the background material which made the need for this legislation so obvious. I doubt we would be here today had it not been for his work.

In 1834 the House Committee on Indian Affairs issued a report depicting the administration of Indian Affairs as being "expensive, inefficient, and irresponsible." Although it is 160 years later, I share the concerns of my predecessor committee. This legislation is a first step toward making trust fund management more efficient and more responsible. I urge my colleagues to support it.

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Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4833, the Indian Trust Fund Management Act. I believe that I have made my views on this subject clear over the years that we have been holding hearings on the Department's mismanagement of Indian trust funds. Because of our busy schedule today, then, I will simply urge my colleagues to support this bill and I submit for the RECORD a copy of my statement before the Subcommittee on Environment, Energy and Natural Resources on September 26, 1994, on this same topic.

STATEMENT OF CONGRESSMAN CRAIG THOMAS BEFORE THE SUBCOMMITTEE ON ENVIRONMENT, ENERGY, AND NATURAL RESOURCES, SEPTEMBER 26, 1994

I appreciate Chairman Synar enabling me to submit a statement this morning. As a member of the Committee on Government Operations, and as the ranking Republican on the Subcommittee on Native American Affairs, I am keenly interested in the issue of Indian Trust Funds and the galling failure of the Department and the BIA to live up to their responsibilities. Unfortunately, previous commitments back in Wyoming prevent me from appearing in person today.

I have participated in a number of hearings over the last several years on this subject. We have had two hearings on trust fund management—or, more properly, mismanagement—in the Native American Affairs Subcommittee this Congress, and I was a member of Chairman Synar's subcommittee in the last Congress. Then, as now, I fully support efforts to untangle this mess.

Since the Government Operations Committee released its report, "Misplaced Trust: The Bureau of Indian Affairs' Mismanagement of the Indian Trust Fund", I have seen precious little change in this sad state of affairs. Instead, I have seen promised deadlines come and go; I have seen promises to reform go unfulfilled. Despite statements made in the early days of the Clinton administration, two years later neither the Department nor the BIA has brought us one step closer to resolving the trust fund problem. All we have seen is a continuation of the BIA's one unchallenged specialty: *inertia*.

We have seen the pattern repeated over and over. The Department and BIA promise to act, fail to, we are forced to introduce legislation to deal with the issue, and then when passage of the legislation seems imminent they come to us and ask for more time, quote, "because we're working on the problem, really we are," unquote, or they offer their own, watered-down, legislative proposal in the hope of heading ours off.

We have seen this happen with FAP and 638 reform, and with the trust fund issue we consider today. The gentleman from Oklahoma introduced his trust fund bill—H.R. 1846—on April 22, 1993. The BIA had until September 27—when my subcommittee held an oversight hearing focused on the bill—to fully review it and provide us with its comments on it. Instead, at that hearing the BIA provided only superficial comments and indicated in written testimony that it would, quote, "supplement [its] comments on a fuller report to be submitted in the future," unquote. In fact, Assistant Secretary Deer stated that the Bureau had reviewed both S. 925 and H.R. 1846, and would provide us with detail comments, quote, "in a matter of days," unquote.

Well, the subcommittee held a hearing on August 11, 1994, to consider both H.R. 1846 and H.R. 4833, *318* days after we were promised some action by the Bureau, later, and those promised comments had yet to arrive. Moreover, once Chairman Richardson introduced his bill and scheduled the August hearing, true to form the BIA suddenly had an alternative to the two bills.

Once again, in my opinion, they offered us far too little far too late. I urged the subcommittee to reject more delay and more stonewalling, to reject the BIA alternative, and move forward in the very near future with either of the bills. Last Friday I joined with Congressmen Richardson, Williams, and others in signing a letter to Chairman Miller of the Natural Resources Committee strongly urging him to take up one of the bills in full committee so that we can pass a bill out of the House this session.

I am sure that this morning we will hear more of the same excuses and promises, more requests to just give it a little more time, from the Department that we have been hearing for the last six years. But, Mr. Chairman, shame on us, shame on this Congress, if we delay any further.

The Department told us in August, and I am sure will repeat this morning, that they have everything under control. Well, Mr. Chairman, my response to that is an explicative which decorum prevents me from using here but which I will paraphrase: cow manure! I have read the GAO's September 1994 draft report (GAO/AIMD-94-185) on this subject, and would like to quote several of the passages from that agency's conclusion:

"[M]any of the [Department's] initiatives are in the early stages and a number of them will not be completed for several years. Further, the Secretary's 6-Point Trust Funds and Trust Asset Management Reform Plan, issued in June 1994, does *not* provide the comprehensive approach needed to address the full range of trust fund and asset management problems that Interior continues to face.

"A sustained commitment will be needed to carry through on needed improvements. In the past, Interior has not demonstrated the leadership or management commitment needed and many previous corrective action efforts have failed outright or resulted in only incremental improvements. Interior must comprehensively examine its mission and the way it does business to determine how and by whom Indian trust funds can best be managed * * *."

I couldn't have said it better myself.

Mr. Chairman, the Department needs to pull itself out of denial, pull itself out of its fantasy world, and come to grips with realty. It is clear that they are incapable of doing it themselves. I sincerely hope that we can do it for them, and will do everything I can to move a bill before Congress adjourns.

Mr. RICHARDSON. Mr. Speaker, I yield 4 minutes to the gentleman from Oklahoma [Mr. SYNAR], the pioneer of this effort and one who deserves enormous praise for the work we have done. Because of him we are here today.

Mr. SYNAR. Mr. Speaker, if ever the words, "It is the right thing to do," meant anything, they mean everything with respect to the legislation we consider today. It is very unfortunate that we stand here today and are forced to take this action to statutorily reform the Department of the Interior's management of the $2.1 billion trust fund for the tribes and individual Indians. But make no mistake. We must take this step because the Department itself refuses to adequately address the serious accounting and management problems which have plagued the trust fund program for decades.

Over the years, Congress, the General Accounting Office, the Interior Department's inspector general, and the President's Office of Management all have issued directives to the Department to develop a comprehensive plan for cleaning up this mess. In many cases, those directives have simply been ignored. At other times, the Department has responded with simplistic, isolated and often ill-conceived initiatives which, even taken together, will never solve the trust fund problems repeatedly found in three separate bureaus of the Department.

This legislation is the only way we are going to force the Department to give sustained high-level attention to this issue, and to develop the kind of comprehensive strategic plan that is essential to correcting these serious trust fund problems. And it is the only way Congress and the trust fund account holders will ever have assurance that the Secretary of the Interior is taking the steps necessary to meet his fiduciary obligations to those for whom we are holding these funds in trust.

H.R. 4833, as reported, would statutorily establish within the Department a special trustee who would be charged with developing, in close consultation with account holders, a comprehensive strategic plan for correcting the widespread management and accounting problems throughout the Department and with ensuring that those corrective actions are effectively carried out. The bill establishes an advisory board, composed of account holder representatives and persons with trust fund, investment and management expertise, to advise the trustee in carrying out his obligations. The legislation also includes key elements of legislation I previously introduced—H.R. 1846—to reform trust funds management. These include provisions which specify the Secretary's fiduciary duties to account holders, which facilitate greater tribal management of their trust funds, and which require the Secretary to invest and pay interest on individual Indian money trust funds, consistent with current law for tribal trust funds. Each of these provisions is vital.

Mr. Speaker, my Subcommittee on Environment, Energy and Natural Resources, has held five separate oversight hearings on this subject since 1989. Mr. RICHARDSON'S subcommittee has also held several hearings in the last two years. Regrettably, year after year we get the same worn-out response from the Interior Department. They tell us they're really on top of this now. They tell us they're really going to move on needed reforms now. Year after year, on and on with the same commitments. Year after year, those commitments are largely forgotten when the hearings are over.

I understand the Interior Department opposes this legislation. That is too bad; we have tried to work in good faith with the Department on correcting these problems and, failing that, on crafting an appropriate legislative measure. I want to assure my colleagues that the Department's vague last-minute arguments over the bill have no merit whatsoever. And, sadly, their promises of reform are no different, and no better, than those of their predecessors.

It is time for Congress to take matters into its own hands, and to require by statute that the Secretary and the Department do what needs to be done to fix these problems and meet the Government's trust responsibilities to the account holders.

H.R. 4833 is the right answer at the right time, and I ask my colleagues to support it.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to enter into a colloquy with the gentleman from Oklahoma [Mr. SYNAR], and he just said something that is manifestly clear. He has been working on the BIA to reform itself on this issue. We have in this subcommittee anywhere from self-governance issues to self-determination grants, and all we get from the Bureau of Indian Affairs is, "We need more time." The bureaucracy seems to get a stronger foothold, and in fact we have a commission that is looking at BIA operations, and, instead of issuing a report to the Congress on how the BIA should change, they have told us that they need another year of study.

Mr. Speaker, this is incredible, and I would like to ask my colleague to give us his parting words on the BIA issue. I know he will be very active in the future on native American affairs, but I wondered if the gentleman could educate this body on some of the problems that we have with the Bureau of Indian Affairs.

Mr. SYNAR. Mr. Speaker, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Oklahoma.

Mr. SYNAR. Well, very clearly, Mr. Speaker, the gentleman from New Mexico [Mr. RICHARDSON] summarized, I think, what all of us have faced over the years, and I say to my colleague,

There is an understanding that, after the five sets of hearings which the gentleman from Wyoming and I held through our Committee on Environment, and Energy, and Natural Resources, and the two sets of hearings you have held under your jurisdiction, we have been unable to get the responsiveness that we need out of the BIA to perform the basic fiduciary responsibilities which we expect out of any trustee. If this was done in the Social Security system, my colleagues, we would have had a war.

The fact is that literally over 300,000 individual holders, over 300 tribes, literally cannot get a basic accounting of what is owed to them, and that is a disgrace for this Federal Government, and to continue to allow this to exist is an admission on our part that we cannot provide for the basic things that we need in our trustee responsibility. We have through the years, through the help of the gentleman from New Mexico, and the gentleman from Wyoming and others, tried to work with the BIA to get them to respond. It is very clear they will not, and this legislation gives us the only alternative which we do have, and without it we will continue to have the same problems with our tribes and individual account holders, that we cannot give them the basic accounting which they basically need for their funds.

Mr. RICHARDSON. Mr. Speaker, I thank the gentleman from Oklahoma [Mr. SYNAR].

Mr. MCCANDLESS. Mr. Speaker, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from California.

Mr. MCCANDLESS. Mr. Speaker, I appreciate the gentleman from New Mexico [Mr. RICHARDSON] yielding to me.

With respect to experience, if there is any need for anyone to have particular time, date, and place of problems, I have been involved with the BIA now for 12 years as a Member of Congress and almost 12 years prior to that at another level of government where I was involved with the same BIA in the same geographical locations. I would be happy to share with anyone in the committee, or anyone who is interested, my 24 years of experience, line item, with the BIA, and I appreciate this being brought before the body today.

Mr. RICHARDSON. Mr. Speaker, I thank the gentleman from California [Mr. MCCANDLESS], and we appreciate his comments and his contributions to this effort now and, I know, in the future.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I, too, have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PASTOR). The question is on the motion offered by the gentleman from New Mexico [Mr. RICHARDSON] that the House suspend the rules and pass the bill, H.R. 4833, as amended.

The question was taken.

Mr. MCCANDLESS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

FEDERALLY RECOGNIZED INDIAN TRIBE LIST ACT OF 1994

Mr. RICHARDSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4180) to prohibit the withdrawal of acknowledgement or recognition of an Indian tribe or Alaska Native group or of the leaders of an Indian tribe or Alaska Native group, absent an Act of Congress, as amended.

The Clerk read as follows:

H.R. 4180

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—WITHDRAWAL OF ACKNOWLEDGEMENT OR RECOGNITION

SEC. 101. SHORT TITLE.

This title may be cited as the "Federally Recognized Indian Tribe List Act of 1994".

SEC. 102. DEFINITIONS.

For the purposes of this title:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "Indian tribe" means any Indian or Alaska Native tribe, band, nation, pueblo, village or community that the Secretary of the Interior acknowledges to exist as an Indian tribe.

(3) The term "list" means the list of recognized tribes published by the Secretary pursuant to section 104 of this title.

SEC. 103. FINDINGS.

The Congress finds that—

(1) the Constitution, as interpreted by Federal case law, invests Congress with plenary authority over Indian Affairs;

(2) ancillary to that authority, the United States has a trust responsibility to recognized Indian tribes, maintains a government-to-government relationship with those tribes, and recognizes the sovereignty of those tribes;

(3) Indian tribes presently may be recognized by Act of Congress; by the administrative procedures set forth in part 83 of the Code of Federal Regulations denominated "Procedures for Establishing that an American Indian Group Exists as an Indian Tribe;" or by a decision of a United States court;

(4) a tribe which has been recognized in one of these manners may not be terminated except by an Act of Congress;

(5) Congress has expressly repudiated the policy of terminating recognized Indian tribes, and has actively sought to restore recognition to tribes that previously have been terminated;

(6) the Secretary of the Interior is charged with the responsibility of keeping a list of all federally recognized tribes;

(7) the list published by the Secretary should be accurate, regularly updated, and regularly published, since it is used by the various departments and agencies of the United States to determine the eligibility of certain groups to receive services from the United States; and

(8) the list of federally recognized tribes which the Secretary publishes should reflect all of the federally recognized Indian tribes in the United States which are eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

SEC. 104. PUBLICATION OF LIST OF RECOGNIZED TRIBES.

(a) PUBLICATION OF THE LIST.—The Secretary shall publish in the Federal Register a list of all Indian tribes which the Secretary recognizes to be eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(b) FREQUENCY OF PUBLICATION.—The list shall be published within 60 days of enactment of this Act, and annually on or before every January 30 thereafter.

TITLE II—CENTRAL COUNCIL OF TLINGIT AND HAIDA INDIAN TRIBES OF ALASKA

SEC. 201. SHORT TITLE.

This title may be cited as the "Tlingit and Haida Status Clarification Act".

SEC. 202. FINDINGS.

The Congress finds and declares that—

(1) the United States has acknowledged the Central Council of Tlingit and Haida Indian

Tribes of Alaska pursuant to the Act of June 19, 1935 (49 Stat. 388, as amended, commonly referred to as the "Jurisdiction Act"), as a federally recognized Indian tribe;

(2) on October 21, 1993, the Secretary of the Interior published a list of federally recognized Indian tribes pursuant to part 83 of title 25 of the Code of Federal Regulations which omitted the Central Council of Tlingit and Haida Indian Tribes of Alaska;

(3) the Secretary does not have the authority to terminate the federally recognized status of an Indian tribe as determined by Congress;

(4) the Secretary may not administratively diminish the privileges and immunities of federally recognized Indian tribes without the consent of Congress; and

(5) the Central Council of Tlingit and Haida Indian Tribes of Alaska continues to be a federally recognized Indian tribe.

SEC. 203. REAFFIRMATION OF TRIBAL STATUS.

The Congress reaffirms and acknowledges that the Central Council of Tlingit and Haida Indian Tribes of Alaska is a federally recognized Indian tribe.

SEC. 204. DISCLAIMER.

(a) IN GENERAL.—Nothing in this title shall be interpreted to diminish or interfere with the government-to-government relationship between the United States and other federally recognized Alaska Native tribes, nor to vest any power, authority, or jurisdiction in the Central Council of Tlingit and Haida Indian Tribes of Alaska over other federally recognized Alaska Native tribes.

(b) CONSTITUTION OF CENTRAL COUNCIL OF THE TLINGIT AND HAIDA INDIAN TRIBES OF ALASKA.—Nothing in this title shall be construed as codifying the Constitution of the Central Council of the Tlingit and Haida Indian Tribes of Alaska into Federal law.

SEC. 205. PROHIBITION AGAINST DUPLICATIVE SERVICES.

Other federally recognized tribes in Southeast Alaska shall have precedence over the Central Council of Tlingit and Haida Indian Tribes of Alaska in the award of a Federal compact, contract or grant to the extent that their service population overlaps with that of the Central Council of Tlingit and Haida Indian tribes of Alaska. In no event shall dually enrolled members result in duplication of Federal service funding.

TITLE III—PASKENTA BAND OF NOMLAKI INDIANS OF CALIFORNIA

SEC. 301. SHORT TITLE.

This title may be cited as the "Paskenta Band Restoration Act".

SEC. 302. DEFINITIONS.

For purposes of this title:

(1) The term "Tribe" means the Paskenta Band of Nomlaki Indians of the Paskenta Rancheria of California.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Interim Council" means the governing body of the Tribe specified in section 307.

(4) The term "member" means an individual who meets the membership criteria under section 306(b).

(5) The term "State" means the State of California.

(6) The term "reservation" means those lands acquired and held in trust by the Secretary for the benefit of the Tribe pursuant to section 305.

(7) The term "service area" means the counties of Tehama and Glenn, in the State of California.

SEC. 303. RESTORATION OF FEDERAL RECOGNITION, RIGHTS, AND PRIVILEGES.

(a) FEDERAL RECOGNITION.—Federal recognition is hereby extended to the Tribe. Except as otherwise provided in this title, all laws and regulations of general application to Indians and nations, tribes, or bands of Indians that are not inconsistent with any specific provision of this title shall be applicable to the Tribe and its members.

(b) RESTORATION OF RIGHTS AND PRIVILEGES.—Except as provided in subsection (d), all rights and privileges of the Tribe and its members under any Federal treaty, Executive order, agreement, or statute, or under any other authority which were diminished or lost under the Act of August 18, 1958 (Public Law 85-671; 72 Stat. 619), are hereby restored and the provisions of such Act shall be inapplicable to the Tribe and its members after the date of enactment of this Act.

(c) FEDERAL SERVICES AND BENEFITS.—Without regard to the existence of a reservation, the Tribe and its members shall be eligible, on and after the date of enactment of this Act, for all Federal services and benefits furnished to federally recognized Indian tribes or their members. In the case of Federal services available to members of federally recognized Indian tribes residing on a reservation, members of the Tribe residing in the Tribe's service area shall be deemed to be residing on a reservation.

(d) HUNTING, FISHING, TRAPPING, AND WATER RIGHTS.—Nothing in this title shall expand, reduce, or affect in any manner any hunting, fishing, trapping, gathering, or water right of the Tribe and its members.

(e) INDIAN REORGANIZATION ACT APPLICABILITY.—The Act of June 18, 1934 (25 U.S.C. 461 et seq.), shall be applicable to the Tribe and its members.

(f) CERTAIN RIGHTS NOT ALTERED.—Except as specifically provided in this title, nothing in this title shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes levied.

SEC. 304. ECONOMIC DEVELOPMENT.

(a) PLAN FOR ECONOMIC DEVELOPMENT.—The Secretary shall—

(1) enter into negotiations with the governing body of the Tribe with respect to establishing a plan for economic development for the Tribe;

(2) in accordance with this section and not later than two years after the adoption of a tribal constitution as provided in section 308, develop such a plan; and

(3) upon the approval of such plan by the governing body of the Tribe, submit such plan to the Congress.

(b) RESTRICTIONS.—Any proposed transfer of real property contained in the plan developed by the Secretary under subsection (a) shall be consistent with the requirements of section 305.

SEC. 305. TRANSFER OF LAND TO BE HELD IN TRUST.

(a) LANDS TO BE TAKEN IN TRUST.—The Secretary shall accept any real property located in Tehama County, California, for the benefit of the Tribe if conveyed or otherwise transferred to the Secretary if, at the time of such conveyance or transfer, there are no adverse legal claims to such property, including outstanding liens, mortgages, or taxes owned. The Secretary may accept any additional acreage in the Tribe's service area pursuant to the authority of the Secretary under the Act of June 18, 1934 (25 U.S.C. 461 et seq.).

(b) LANDS TO BE PART OF THE RESERVATION.—Subject to the conditions imposed by this section, any real property conveyed or transferred under this section shall be taken in the name of the United States in trust for the Tribe and shall be part of the Tribe's reservation.

SEC. 306. MEMBERSHIP ROLLS.

(a) COMPILATION OF TRIBAL MEMBERSHIP ROLL.—Within one year after the date of the enactment of this Act, the Secretary shall, after consultation with the Tribe, compile a membership roll of the Tribe.

(b) CRITERIA FOR MEMBERSHIP.—(1) Until a tribal constitution is adopted pursuant to section 308, an individual shall be placed on the membership roll if such individual is living, is not an enrolled member of another federally recognized Indian tribe, is of Nomlaki Indian ancestry, and if—

(A) such individual's name was listed on the Paskenta Indian Rancheria distribution roll compiled on February 26, 1959, by the Bureau of Indian Affairs and approved by the Secretary of the Interior on July 7, 1959, pursuant to Public Law 85-671;

(B) such individual was not listed on the Paskenta Indian Rancheria distribution list, but met the requirements that had to be met to be listed on the Paskenta Indian Rancheria list;

(C) such individual is identified as an Indian from Paskenta in any of the official or unofficial rolls of Indians prepared by the Bureau of Indian Affairs; or

(D) such individual is a lineal descendant of an individual, living or dead, identified in subparagraph (A), (B), or (C).

(2) After adoption of a tribal constitution pursuant to section 308, such tribal constitution shall govern membership in the Tribe.

(c) CONCLUSIVE PROOF OF PASKENTA INDIAN ANCESTRY.—For the purpose of subsection (b), the Secretary shall accept any available evidence establishing Paskenta Indian ancestry. The Secretary shall accept as conclusive evidence of Paskenta Indian ancestry, information contained in the census of the Indians in and near Paskenta, prepared by Special Indian Agent John J. Terrell, in any other roll or census of Paskenta Indians prepared by the Bureau of Indian Affairs, and in the Paskenta Indian Rancheria distribution list, compiled by the Bureau of Indian Affairs on February 26, 1959.

SEC. 307. INTERIM GOVERNMENT.

Until a new tribal constitution and bylaws are adopted and become effective under section 308, the Tribe's governing body shall be an Interim Council. The initial membership of the Interim Council shall consist of the members of the Tribal Council of the Tribe on the date of the enactment of this Act, and the Interim Council shall continue to operate in the manner prescribed for the Tribal Council under the tribal constitution adopted December 18, 1993. Any new members filling vacancies on the Interim Council shall meet the membership criteria set forth in section 306(b) and be elected in the same manner as are Tribal Council members under the tribal constitution adopted December 18, 1993.

SEC. 308. TRIBAL CONSTITUTION.

(a) ELECTION; TIME AND PROCEDURE.—Upon the completion of the tribal membership roll under section 306(a) and upon the written request of the Interim Council, the Secretary shall conduct, by secret ballot, an election for the purpose of adopting a constitution and bylaws for the Tribe. The election shall be held according to section 16 of the Act of June 18, 1934 (25 U.S.C. 476), except that absentee balloting shall be permitted regardless of voter residence.

(b) ELECTION OF TRIBAL OFFICIALS; PROCEDURES.—Not later than 120 days after the

Tribe adopts a constitution and bylaws under subsection (a), the Secretary shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in such tribal constitution. Such election shall be conducted according to the procedures specified in subsection (a) except to the extent that such procedures conflict with the tribal constitution.

SEC. 309. GENERAL PROVISION.

The Secretary may promulgate such regulations as may be necessary to carry out the provisions of this title.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Mexico [Mr. RICHARDSON] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. RICHARDSON].

GENERAL LEAVE

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4180 is a bill with three titles. The first title simply requires the Secretary of the Interior to promulgate an annual list of federally recognized Indian tribes. The second title restores the Central Council of Tlingit and Haida Indian Tribe to the list of federally acknowledged Indian tribes. The committee notes that the villages within the central council retain their autonomy under the committee amendment. Finally, the third title restores the Paskenta Bank of Nomlaki Indian of California. This tribe was terminated in 1958 and the BIA supports their restoration.

Mr. Speaker, this bill has bipartisan support and I urge my colleagues to support it.

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Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the sponsor of H.R. 4180 I rise to urge my colleagues to support it.

Title I would require the Secretary to publish an annual list of all the recognized tribes. Although departmental regulations presently require the same every 3 years, the Department does not adhere to those regulations; lists are published sporadically, or not at all.

This is problematic for several reasons. First, inclusion on the list is a prerequisite to receipt of the services provided to tribes by the BIA. Second, all other Federal agencies which deal with the tribes use the list to determine their service populations. Without a current or accurate list benefits can be held up, services withheld, and the status of tribal governments called into question.

Unfortunately, Mr. Speaker, this title falls far short of what I had envisioned. I had hoped that we could pass a bill that, in addition to the listing requirement, would forbid the Secretary from withdrawing recognition for an Indian tribe, especially since it appears that the BIA erroneously believes it has that authority. Sadly, although favored by the subcommittee, that substitute was unacceptable to the chairman of the full committee and was scuttled.

Mr. Speaker, I predict that our lack of action today will come back to haunt us. Although the findings section of the title makes clear that only Congress has the authority to derecognize a tribe, findings are not legally binding. Until we make the prohibition unequivocal and give it the force of law, we will continue to be faced with the prospect of the BIA usurping our authority.

Finally, Mr. Speaker, I fully support both the second and third titles providing for the restoration of recognition to the Grand Council of Tlingit-Haida Indians and the Paskenta Rancheria. The grand council was improperly removed from the BIA's list of recognized tribes—which in part prompted me to introduce H.R. 4180—and this could return them to the status quo ante. The Paskenta were subject to our ill-advised termination policies of the 1950's and will have their pre-1958 status restored.

Unlike bills such as H.R. 3605 and S. 282, I support these both because they are not recognition, but rather restoration, provisions. There is a clear legal distinction between recognition and restoration. Both these groups were previously unequivocally recognized by the Federal Government, but had that status terminated.

Mr. Speaker, I urge my colleagues to support this measure.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me also conclude by paying tribute to the gentleman from Wyoming [Mr. THOMAS], who has been a great fighter for native American tribes in his State and around the country. I feel good about the excellent work we have done together on our subcommittee. I know the entire membership of the subcommittee, majority and minority alike, appreciate the fairness which he and the staff have brought forth on all these issues, and I am pleased to acknowledge the great work the gentleman has done.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in strong support of H.R. 4180, which also incorporates S. 1784, a bill to restore the Central Council of Tlingit and Haida Indian Tribes of Alaska to the Department of the Interior Bureau of Indian Affairs list of recognized tribes.

In order to provide a short history, on April 20, 1993, the Bureau of Indian Affairs published a new list of Indian entities recognized and eligible to receive services from the U.S. Bureau of Indian Affairs. Tlingit and Haida Central Council was not on the list, despite the fact that they have been recognized by Congress several times. After this list was published, S. 1784 was introduced by Senators MURKOWSKI and STEVENS on November 11, 1993, and adopted by unanimous consent on November 24, 1993. This is a good bill and would restore the Central Council of Tlingit and Haida Tribes to the list published by the Department of the Interior, Bureau of Indian Affairs. I urge my colleagues to support H.R. 4180 and support the restoration of Tlingit and Haida Central Council to the list recognizing all the tribes eligible for services for BIA. I thank the gentleman for allowing me to speak on behalf of the Tlingit and Haida Tribes of Alaska.

Mr. RICHARDSON. Mr. Speaker, I yield back the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PASTOR). The question is on the motion offered by the gentleman from New Mexico [Mr. RICHARDSON] that the House suspend the rules and pass the bill, H.R. 4180, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to provide for the annual publication of a list of federally recognized Indian tribes, and for other purposes."

A motion to reconsider was laid on the table.

MINOR CROP PROTECTION ACT OF 1994

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 967), to amend the Federal Insecticide, Fungicide, and Rodenticide Act with respect to minor use pesticides, as amended.

The Clerk read as follows:

H.R. 967

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Minor Crop Protection Act of 1994".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Insecticide, Fungicide, and Rodenticide Act.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; reference; table of contents.

TITLE I—MINOR CROP PROTECTION
Sec. 101. Minor crop protection.
TITLE II—PUBLIC HEALTH PESTICIDES
Sec. 201. Definitions.
Sec. 202. Registration.
Sec. 203. Reregistration.
Sec. 204. Cancellation.
Sec. 205. Views of the Secretary of Health and Human Services.
Sec. 206. Authority of Administrator.
Sec. 207. Identification of pests.
Sec. 208. Authorization of appropriations.
TITLE III—ANTIMICROBIAL PESTICIDES
Sec. 301. Antimicrobial pesticides.
Sec. 302. Pesticide labeling.
TITLE IV—EXPEDITED REVIEW OF CERTAIN PESTICIDE REGISTRATIONS
Sec. 401. Office of accelerated review.
Sec. 402. Expedited review of certain pesticide registrations.
Sec. 403. Conditional registration for certain pesticides.
Sec. 404. Integrated pest management.
Sec. 405. Resistance management.

TITLE I—MINOR CROP PROTECTION

SEC. 101. MINOR CROP PROTECTION.

(a) DEFINITION.—Section 2 (7 U.S.C. 136) is amended by adding at the end the following:

"(hh) MINOR USE.—The term 'minor use' means the use of a pesticide on an animal, on a commercial agricultural crop or site, or for the protection of public health where—

"(1) the Administrator, in consultation with the Secretary of Agriculture, determines that, based on information provided by an applicant, the use does not provide sufficient economic incentive to support the initial registration or continuing registration of a pesticide for such use; and

"(2) the Administrator has not determined that, based on existing data, such use presents a risk of an unreasonable adverse effect on the environment.".

(b) EXCLUSIVE USE OF MINOR USE PESTICIDES.—Section 3(c)(1)(F) (7 U.S.C. 136a(c)(1)(F)) is amended by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and by inserting after clause (i) the following:

"(ii) The period of exclusive data use for data submitted to support the application for the original registration of a pesticide under clause (i) shall be granted an additional 3 years if, after the date of enactment of this clause, the Administrator approves at least 3 minor uses of the pesticide before the expiration of the period of exclusive use under this clause. Any additional exclusive use period under this clause shall terminate if the original data submitter voluntarily cancels all registrations of the pesticide containing such minor uses.".

(c) TIME EXTENSIONS FOR DEVELOPMENT OF MINOR USE DATA.—

(1) DATA CALL-IN.—Subparagraph (B) of section 3(c)(2) (7 U.S.C. 136a(c)(2)(B)) is amended by adding at the end the following:

"(vi) Upon the request of a registrant, the Administrator shall, in the case of a minor use, extend the deadline for the production of residue chemistry data under this subsection for data required solely to support that minor use until the final deadline for submission of data under section 4 for the other uses of the pesticide if—

"(I) the data to support other uses of the pesticide are being provided;

"(II) the registrant, in submitting a request for such an extension, provides a schedule, including dates to measure progress, to assure that the data production will be completed before the expiration of the extension period;

"(III) the Administrator has determined that such extension will not significantly delay the Administrator's schedule for issuing a reregistration eligibility determination required under section 4; and

"(IV) the Administrator has determined in writing that based on existing data, such extension would not significantly increase the risk of any unreasonable adverse effect on the environment.

If the Administrator grants an extension under this clause, the Administrator shall monitor the development of the data and shall ensure that the registrant is meeting the schedule for the production of the data. If the Administrator determines that the registrant is not meeting the schedule for the production of such data, the Administrator may proceed in accordance with clause (iv) regarding the continued registration of the minor use and shall inform the public of such action. If, during the extension period, the Administrator is furnished data which are sufficient to determine that an unreasonable adverse effect exists involving the minor use of the pesticide, the Administrator shall provide, in writing, to the registrant, a notice revoking the extension of time for submission of data. Such data shall instead be due within 30 days of receipt of such notice by the registrant. Nothing in this clause shall preclude the Administrator from proceeding in accordance with the provisions of section 6.".

(2) REREGISTRATION.—Sections 4(d)(4)(B), 4(e)(2)(B), and 4(f)(2)(B) (7 U.S.C. 136a-1(d)(4)(B), (e)(2)(B), and (f)(2)(B)) are each amended by adding at the end the following: "Upon the request of a registrant, the Administrator shall, in the case of a minor use, extend the deadline for the production of residue chemistry data under this subsection for data required solely to support that minor use until the final deadline for submission of data under section 4 for the other uses of the pesticide if—

"(i) the data to support other uses of the pesticide are being provided;

"(ii) the registrant, in submitting a request for such an extension provides a schedule, including interim dates to measure progress, to assure that the data production will be completed before the expiration of the extension period;

"(iii) the Administrator has determined that such extension will not significantly delay the Administrator's schedule for issuing a reregistration eligibility determination required under this section; and

"(iv) the Administrator has determined in writing that based on existing data, such extension would not significantly increase the risk of any unreasonable adverse effect on the environment.

If the Administrator determines that the registrant is not meeting the schedule for the production of such data, the Administrator may proceed in accordance with section 3(c)(2)(B)(iv) regarding the continued registration of the minor use and shall inform the public of such action. If, during the extension period, the Administrator is furnished data which are sufficient to determine that an unreasonable adverse effect exists involving the minor use of the pesticide, the Administrator shall provide in writing, to the registrant, a notice revoking the extension of time for submission of data. Such data shall instead be due within 30 days of receipt of such notice by the registrant. Nothing in this subparagraph shall preclude the Administrator from proceeding in accordance with the provisions of section 6.".

(d) MINOR USE WAIVER.—Section 3(c)(2) (7 U.S.C. 136a(c)(2)) is amended—

(1) by inserting "IN GENERAL" after "(A)", by inserting "ADDITIONAL DATA" after "(B)", and by inserting "SIMPLIFIED PROCEDURES" after "(C)", and

(2) by adding at the end the following:

"(E) MINOR USE WAIVER.—In handling the registration of a pesticide for a minor use, the Administrator may waive otherwise applicable data requirements if the Administrator determines that the absence of such data will not prevent the Administrator from determining—

"(i) the incremental risk presented by the minor use of the pesticide, and

"(ii) that such risk, if any, would not be an unreasonable adverse effect on the environment.".

(e) EXPEDITING MINOR USE REGISTRATIONS.—Section 3(c)(3) (7 U.S.C. 136a(c)(3)) is amended—

(1) by inserting after "(A)" the following: "IN GENERAL.—,

(2) by inserting after "(B)" the following: "IDENTICAL OR SUBSTANTIALLY SIMILAR".—, and

(3) by adding at the end the following:

"(C) MINOR USE REGISTRATION.—

"(i) The Administrator shall, as expeditiously as possible, review and act on any application (I) that proposes the initial registration of a new pesticide active ingredient if the active ingredient is proposed to be registered solely for minor uses or for nonminor uses and significant minor uses, or (II) for a registration or a registration amendment that proposes a new minor use.

"(ii) For the purposes of clause (i)—

"(I) the term 'as expeditiously as possible' means that the Administrator shall complete a review and evaluation of all data submitted with the application, to the greatest extent practicable, no later than 6 months after the submission of the application, and

"(II) the term 'significant minor uses' means 3 or more minor uses proposed for every non-minor use, a minor use that would, in the judgment of the Administrator, serve as a replacement for any use which has been canceled in the 5 years preceding the receipt of the application, or a minor use that in the opinion of the Administrator would avoid the reissuance of an emergency exemption under section 18 for that minor use.

"(D) ADEQUATE TIME FOR SUBMISSION OF MINOR USE DATA.—If a registrant makes a good faith request for a minor use waiver regarding data required by the Administrator pursuant to paragraph (2)(B), and if the Administrator denies in whole or in part such data waiver request, the registrant shall have a full time period for providing such data. Such full time period extension shall not be available if the Administrator determines that the data waiver request was not made in good faith. Any determination by the Administrator that a data waiver request was not submitted in good faith shall be made in writing to the registrant and shall be subject to judicial review under the procedures prescribed by section 16(b).".

(f) TEMPORARY EXTENSION OF REGISTRATION FOR UNSUPPORTED MINOR USES.—

(1) REREGISTRATION.—

(A) Sections 4(d)(6) and 4(f)(3) (7 U.S.C. 136a–1(d)(6) and (f)(3)) are each amended by adding at the end the following: "If the registrant is not supporting a specific minor use of the pesticide, but is supporting and providing data in a timely fashion to support other food uses the Administrator, at the written request of the registrant, shall not take any action pursuant to this paragraph in regard to such unsupported minor use until the final deadline for the submission of data under section 4 for the supported uses under this paragraph. Upon receipt of the request from the registrant, the Administrator shall publish in the Federal Register a notice of the receipt of the request and the effective date upon which the uses not being supported will be voluntarily deleted from the registration. Notwithstanding the provisions of this paragraph, the Administrator may take action to cancel or suspend such minor use, pursuant to section 6, if the Administrator determines that the continuation of the minor use may cause an unreasonable adverse effect on the environment.".

(B) Section 4(e)(3)(A) (7 U.S.C. 136a-1(e)(3)(A)) is amended by adding at the end the following: "If the registrant is not supporting a specific minor use of the pesticide, but is supporting and providing data in a timely fashion to support other food uses, the Administrator, at the written request of the registrant, shall not take any action pursuant to this subparagraph in regard to such unsupported minor use until the final deadline for the submission of data for the supported uses under this subparagraph. Upon receipt of the request from the registrant, the Administrator shall publish in the Federal Register a notice of the receipt of the request and the effective date upon which the uses not being supported will be voluntarily deleted from the registration. Notwithstanding the provisions of this subparagraph, the Administrator may take action to cancel or suspend such minor use, pursuant to section 6, if the Administrator determines that the continuation of the minor use may cause an unreasonable adverse effect on the environment .".

(2) DATA.—Section 3(c)(2)(B) (7 U.S.C. 136a(c)(2)(B)), as amended by subsection (c), is further amended by adding at the end the following:

"(vii) If the registrant is not supporting a specific minor use of the pesticide, but is supporting and providing data in a timely fashion to support other food uses, the Administrator, at the written request of the registrant, shall not take any action pursuant to this subparagraph in regard to such unsupported minor use until the final deadline for the submission of data under section 4 for the supported uses under this paragraph. Upon receipt of the request from the registrant, the Administrator shall publish in the Federal Register a notice of the receipt of the request and the effective date upon which the uses not being supported will be voluntarily deleted from the registration. Notwithstanding the provisions of this subparagraph, the Administrator may take action to cancel or suspend such minor use, pursuant to section 6, if the Administrator determines that the continuation of the minor use would violate the criteria contained in section 6.".

(g) UTILIZATION OF DATA FOR VOLUNTARILY CANCELED CHEMICALS.—Section 6(f) (7 U.S.C. 136d) is amended by adding at the end the following:

"(4) UTILIZATION OF DATA FOR VOLUNTARILY CANCELED CHEMICALS.—When an application is filed with the Administrator for the registration of a pesticide for a minor use not later than 2 years after another registrant voluntarily cancels its registration for an identical or substantially similar pesticide for an identical or substantially similar use, the Administrator shall process, review, and evaluate the pending application as if the voluntary cancellation had not yet taken place for purposes of the use of data from such registration, except that the Administrator may not take such action if the Administrator has evidence that such minor use presents a risk of an unreasonable adverse effect on the environment.".

(h) ENVIRONMENTAL PROTECTION AGENCY MINOR USE PROGRAM.—The Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 121 et seq.) is amended by redesignating sections 30 and 31 as sections 32 and 33, respectively and adding after section 29 the following:

"SEC. 30. ENVIRONMENTAL PROTECTION AGENCY MINOR USE PROGRAM.

"The Environmental Protection Agency shall assure coordination of minor use issues through the establishment of a minor use program within the Office of Pesticide Programs. Such office shall be responsible for coordinating the development of minor use programs and policies, consulting with growers regarding minor use issues and registrations, and tracking and expediting minor use registrations and amendments which are submitted to the Environmental Protection Agency.".

(i) DEPARTMENT OF AGRICULTURE MINOR USE PROGRAM.—The Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 121 et seq.), as amended by subsection (h), is amended by adding at the end the following:

"SEC. 31. DEPARTMENT OF AGRICULTURE MINOR USE PROGRAM.

"(a) IN GENERAL.—The Secretary of Agriculture (hereinafter in this section referred to as the 'Secretary') shall ensure the coordination of the responsibilities of the Department of Agriculture related to minor uses of pesticides, including—

"(1) carrying out the Inter-Regional Research Project Number 4 (IR-4) as described in section 2(e) of the Act entitled 'An Act to facilitate the work of the Department of Agriculture, and for other purposes' (7 U.S.C. 4501(e)) and the national pesticide resistance monitoring program established under section 1651 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5882);

"(2) supporting integrated pest management research;

"(3) consulting with growers to develop data for minor uses; and

"(4) providing assistance for minor use registrations, tolerances, and reregistrations with the Environmental Protection Agency.

"(b) MATCHING FUND PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary of Agriculture shall establish a minor use matching fund program. The matching fund program shall be utilized to ensure the continued availability of minor use crop protection chemicals, including the development of data to support minor use pesticide registrations and reregistrations. Access to the matching fund program shall be available to any entity which desires to develop data to support minor use registrations. Access to the fund shall be given only those entities that do not directly receive funds from the sale of products registered on minor uses. Any entity that seeks such funding under this paragraph shall be required to match such funds with an equal amount of its own funds. Any data developed through the matching fund program shall be jointly owned by the Department of Agriculture and by the entity that receives such funding. All fees received by the Department of Agriculture in return for the use of such data under the matching fund program shall be returned to a revolving fund which will support the matching fund program.

"(2) AUTHORIZATION.— There is authorized to be appropriated for the revolving fund for the matching fund program an annual sum not to exceed $10,000,000.".

TITLE II—PUBLIC HEALTH PESTICIDES

SEC. 201. DEFINITIONS.

(a) ADVERSE EFFECTS.—Section 2(bb) (7 U.S.C. 136(bb)) is amended by adding at the end the following: "The Administrator shall consider the risks and benefits of public health pesticides separate from the risks and benefits of other pesticides. In weighing any regulatory action concerning a public health pesticide under this Act, the Administrator shall weigh any risks of the pesticide against the health risks such as the diseases transmitted by the vector to be controlled by the pesticide.".

(b) NEW DEFINITIONS.—Section 2 (7 U.S.C. 136), as amended by section 101, is amended by adding at the end the following:

"(ii) PUBLIC HEALTH PESTICIDE.—The term 'public health pesticide' means any minor use pesticide product registered for use and used predominantly in public health programs for vector control or for other recognized health protection uses, including the prevention or mitigation of viruses, bacteria, or other microorganisms (other than viruses, bacteria, or other microorganisms on or in living man or other living animal) that pose a threat to public health.

"(jj) VECTOR.—The term 'vector' means any organism capable of transmitting the causative agent of human disease or capable of producing human discomfort or injury, including mosquitoes, flies, fleas, cockroaches, or other insects and ticks, mites, or rats.".

SEC. 202. REGISTRATION.

Section 3(c)(2)(A) (7 U.S.C 136a(c)(2)(A)) is amended—

(1) by inserting after "pattern of use," the following: "the public health and agricultural need for such minor use,", and

(2) by striking out "potential exposure of man and the environment to the pesticide" and inserting in lieu thereof "potential beneficial or adverse effects on man and the environment".

SEC. 203. REREGISTRATION.

Section 4 (7 U.S.C. 136a-1) is amended—

(1) in subsection (i)(4), by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively and by adding after subparagraph (A) the following:

"(B) The Administrator shall exempt any public health pesticide from the payment of the fee prescribed under paragraph (3) if, in consultation with the Secretary of Health and Human Services, the Administrator determines, based on information supplied by the registrant, that the economic return to the registrant from sales of the pesticide does not support the registration or reregistration of the pesticide.";

(2) in subsection (i)(5), by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively, and by adding after subparagraph (E) the following:

"(F) The Administrator shall exempt any public health pesticide from the payment of the fee prescribed under paragraph (3) if, in consultation with the Secretary of Health and Human Services, the Administrator determines, based on information supplied by the registrant, that the economic return to the registrant from sales of the pesticide does not support the registration or reregistration of the pesticide.";

(3) in subsection (i)(7)(B), by striking out "or to determine" and inserting in lieu thereof ", to determine" and by inserting before the period the following: ", or to determine the volume usage for public health pesticides"; and

(4) in subsection (k)(3)(A), by striking out "or" at the end of clause (i), by striking the period at the end of clause (ii) and inserting in lieu thereof "; or", and by inserting after clause (ii) the following:

"(iii) proposes the initial or amended registration of an end use pesticide that, if registered as proposed, would be used for a public health pesticide.".

SEC. 204. CANCELLATION.

Section 6(b) is amended by striking out "or" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or", and by adding after paragraph (2) the following:

"(3) if a pesticide is registered or proposed for registration for public health uses, to send the notice specified in this subsection to the Secretary of Health and Human Services for review.

The Secretary of Health and Human Services shall comment under this subsection in accordance with the procedures followed and subject to the same conditions as comments by the Secretary of Agriculture in the case of agricultural pesticides.".

SEC. 205. VIEWS OF THE SECRETARY OF HEALTH AND HUMAN SERVICES.

Section 21 (7 U.S.C. 136s) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by adding after subsection (a) the following:

"(b) SECRETARY OF HEALTH AND HUMAN SERVICES.—The Administrator, before publishing regulations under this Act for any public health pesticide, shall solicit the views of the Secretary of Health and Human Services in the same manner as the views of the Secretary of Agriculture are solicited under section 25(a).".

SEC. 206. AUTHORITY OF ADMINISTRATOR.

Section 25(a)(1) (7 U.S.C 136w(a)(1)) is amended—

(1) by inserting after "various classes of pesticides" the following: ", including public health pesticides,", and

(2) by striking out "and nonagricultural pesticides" and inserting in lieu thereof ", nonagricultural, and public health pesticides".

SEC. 207. IDENTIFICATION OF PESTS.

Section 28 (7 U.S.C. 136w-3) is amended by adding at the end the following:

"(d) PUBLIC HEALTH PESTS.—The Administrator, in coordination with the Secretary of Health and Human Services, shall identify pests of significant public health importance and, in coordination with the Public Health Service, develop and implement programs to improve and facilitate the safe and necessary use of chemical, biological, and other methods to combat and control such pests of public health importance.".

SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out the purposes of this title $12,000,000 for fiscal year 1995 and such sums as may be necessary for succeeding fiscal years.

TITLE III—ANTIMICROBIAL PESTICIDES

SEC. 301. ANTIMICROBIAL PESTICIDES.

(a) DEFINITIONS.—Section 2 (7 U.S.C. 136), as amended by sections 101 and 201, is amended by adding at the end the following:

"(kk) ANTIMICROBIAL PESTICIDE.—The term 'antimicrobial pesticide' means a pesticide which—

"(1) is intended to sterilize, disinfect, sanitize, mitigate growth and development, or protect inanimate objects, industrial processes or systems, surfaces, or chemical substances from contamination, degradation, fouling, inefficiency, or deterioration caused by microbiological organisms (including bacteria, viruses, fungi, algae, or composite slime); and

"(2) in the intended use is exempt from, or otherwise not subject to, a tolerance under sections 408 or 409 of the Federal Food, Drug, and Cosmetic Act.".

(b) REQUIREMENTS FOR REGISTRATION.—Section 3 (7 U.S.C. 136a) is amended by adding at the end the following:

"(g) REGISTRATION REQUIREMENTS FOR ANTIMICROBIAL PESTICIDES.—Within 1 year of the date of the enactment of the Minor Crop Protection Act of 1994, the Administrator shall propose regulations establishing requirements for the registration of antimicrobial pesticides, including guidelines specifying the information and data required for registration. Such guidelines shall provide applicants for registration with information sufficient to determine each scientific study that must be submitted as part of a registration application, specify required methods for data developed or submitted in support of a registration, and describe registration application format requirements and any objective criteria for evaluating the completeness of the application.

"(h) STUDY OF ANTIMICROBIAL REGISTRATION PROCEDURES.—Not later than 2 years after the date of the enactment of this subsection, the Administrator shall prepare a report for Congress that evaluates the process for registering antimicrobial pesticides. The Administrator shall submit the report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. The report shall include the following:

"(1) An evaluation of different ways to accelerate the review of pesticides which meet the criteria of paragraph (3)(B)(i) and an estimate of the resources the Administrator would need to implement such changes.

"(2) An estimate of the resources needed to make a decision—

"(A) within 90 days of receipt of an application to register a pesticide that meets the criteria of paragraph (3)(B)(i), whether to approve the application;

"(B) within 300 days of receipt of an application to register an antimicrobial pesticide that contains a new active ingredient, whether to approve the application;

"(C) within 200 days of receipt of an application to add a new use to the registration of an antimicrobial pesticide, whether to approve the application.

"(3) A calculation of the amount of fees paid under section 4(i)(5) that are paid for antimicrobial pesticides.

"(4) A calculation of the amount of appropriated funds involving the registration and reregistration of antimicrobial pesticides.".

SEC. 302. PESTICIDE LABELING.

For pesticides that are or may be diluted for use, the label or labeling required under the Federal Insecticide, Fungicide, and Rodenticide Act may have a different statement of caution or protective measures for use of recommended diluted solutions of the pesticide than for use of concentrates of the pesticide. Such a precautionary statement shall provide adequate protection for exposure to the dilute solution of the pesticide.

TITLE IV—EXPEDITED REVIEW OF CERTAIN PESTICIDE REGISTRATIONS

SEC. 401. OFFICE OF ACCELERATED REVIEW.

The Administrator shall establish within the Office of Pesticide Programs an office to oversee and expedite the evaluation of applications for the registration of pesticides that meet the criteria of paragraph (9) of section 3(c) of the Federal Insecticide, Fungicide, and Rodenticide Act.

SEC. 402. EXPEDITED REVIEW OF CERTAIN PESTICIDE REGISTRATIONS.

Section 3(c) (7 U.S.C. 136a(c)) is amended—

(1) in paragraph (1) by adding at the end the following:

"(G) If the applicant is requesting the expedited registration, or amendment to the registration, of a pesticide, an explanation of the basis for the request, in accordance with paragraph (9) of this subsection."; and

(2) by adding at the end the following:

"(9) EXPEDITED REGISTRATION OF CERTAIN PESTICIDES.—

"(A)(i) Not later than 1 year after the date of the enactment of this paragraph and after opportunity for public comment, the Administrator shall develop regulations and guidelines for the expedited review of applications for the registration of pesticides that meet the criteria of this subparagraph.

"(ii) The Administrator shall expedite the review of an application for registration of a pesticide or an amendment to a registration that satisfies the guidelines developed under this subparagraph. Biological pesticides will be presumed to qualify for expedited review under this paragraph. In developing guidelines for the expedited review of a pesticide under this paragraph, the Administrator shall consider the extent to which a pesticide may reasonably be expected to—

"(I) reduce the risks of pesticides to human health;

"(II) exhibit a high degree of specificity for the target pest and pose a low risk for nontarget organisms;

"(III) facilitate the management of pests while conserving existing natural controls; or

"(IV) minimize the potential for ground water or surface water contamination, or other valued environmental resources.

"(B)(i) The Administrator, not later than 30 days after receipt of an application for expedited review, shall notify the applicant whether the application is complete. If it is found to be incomplete, the Administrator shall reject the request for an expedited review.

"(ii) If the application is complete, the Administrator shall notify the applicant whether the application qualifies for expedited review within 60 days.

"(iii) If an application for registration or an amendment qualifies for expedited review under this paragraph, the Administrator shall, not later than 6 months after accepting such application, notify the registrant if the application has been granted or denied. If the application is denied, the Administrator shall comply with the procedure under section 3(c)(6).

"(C) If at any time after the expedited registration of a pesticide, the registrant has additional information bearing on the pesticide's ability to meet the guidelines established under subparagraph (A), the registrant shall immediately submit a report containing such information to the Administrator.".

SEC. 403. CONDITIONAL REGISTRATION FOR CERTAIN PESTICIDES.

Section 3(c)(7) (7 U.S.C. 136a(c)(7)) is amended by adding at the end the following:

"(D)(i) The Administrator may conditionally register or amend the registration of a pesticide that meets the criteria of paragraph (9) if—

"(I) the applicant agrees to generate any additional data that the Administrator deems appropriate to evaluate the pesticide; and

"(II) the applicant agrees to submit periodic reports as the Administrator may require.

A conditional registration under this subparagraph shall be granted only if the Administrator determines, based on available information, that use of the pesticide during such period will not cause any unreasonable adverse effect on the environment and that use of the pesticide is in the public interest.

"(ii) If at any time after a conditional registration is approved under this subparagraph, and before a complete set of data has been submitted in support of the registration, the Administrator determines that a pesticide does not meet the criteria specified in clause (i), the Administrator may by order suspend the registration until such time as the registrant demonstrates that the criteria for conditional registration are met. Such order shall be sent to the registrant and published in the Federal Register. The order shall include the bases for suspension together with a description of the types of information the Administrator believes must be submitted to determine whether the pesticide meets the criteria for conditional registration.

"(iii) A registrant, or any other interested person with the concurrence of the registrant, may, within 30 days of publication of the suspension order in the Federal Register, petition the Administrator to reconsider the issuance of the suspension order. A petitioner must include in the petition specific bases supporting the petition. The Administrator shall, within 90 days of receipt of the last of such petitions, issue an order granting or denying petitions timely received. Such order shall be sent to the petitioner and published in the Federal Register, and shall include the factual and legal bases for the Administrator's determination of the petition.

"(iv) If the Administrator receives information or a petition with respect to any adverse effects of a pesticide for which a conditional registration has been granted under this subparagraph, the Administrator may refer the matter to a Scientific Advisory Panel for review.".

SEC. 404. INTEGRATED PEST MANAGEMENT.

(a) INTEGRATED PEST MANAGEMENT PROJECTS.—The Secretary of Agriculture, in consultation with the Administrator of the Environmental Protection Agency, shall encourage integrated pest management projects to be organized around specific pests and specific environmental problems faced by growers and others in partnership with scientists from local research organizations, including land-grant or other universities and the Department, or growers, and funded by a competitive, peer review grants program.

(b) GOALS AND OBJECTIVES.—The goals and objectives of integrated pest management projects shall be area-specific and commodity or crop-specific in manner that allows the projects to be qualitatively and quantitatively evaluated. The Environmental Protection Agency and the Department of Agriculture shall evaluate the implementation and effectiveness of integrated pest management projects based on the following criteria:

(1) Risks to growers from crop losses and drastic yield variations.

(2) Effectiveness of the utilization of alternative pesticides, including resistant hosts, biological control agents, and cultural controls.

(3) Use of practices that avoid or minimize the development of genetic resistance in pests to chemicals or other tactics used to control them.

SEC. 405. RESISTANCE MANAGEMENT.

Section 3(c) (7 U.S.C. 136a(c)), as amended by section 402, is amended by adding at the end the following:

"(10) EVIDENCE OF PEST RESISTANCE.—If the Secretary of Agriculture, in consultation with the Administrator, determines that pest resistance to a pesticide is detected and is likely to diminish the efficacy of the product or threatens to accelerate the evolution of resistance to other registrations of the same or similar products, the Administrator shall require the applicant or registrant to—

"(A) develop a plan to minimize the potential for development of resistance that includes amended labeling directions for resistance strategies; and

"(B) conduct monitoring and submit reports as the Administrator may deem necessary to evaluate the effectiveness of the resistance plan.

The plan developed under subparagraph (A) should also address the potential for resistance development in other geographical areas of the United States.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes, and the gentleman from Kansas [Mr. ROBERTS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, many of us on the Committee on Agriculture had hoped we could bring to the House this year a major and much-needed rewrite of FIFRA, the Federal Insecticide, Fungicide and Rodenticide Act. And we had hoped that this could be done in conjunction with a rewrite of the pesticide-related areas of the FFDCA, the Federal Food, Drug and Cosmetic Act. Unfortunately, that has not happened for multiplicity of reasons.

That is why we now bring to the floor H.R. 967. The Minor Use Pesticides Act seeks to address one of the few—if not only area of pesticide policy on which there is consensus—and that is the need to provide some Federal regulatory relief for users of so-called minor use pesticides and incentives for development of improved pesticides.

Minor use pesticides are those pesticides which are primarily used in controlling pests associated with the production of our Nation's smaller acreage crops, such as fruits, vegetables, nuts and ornamental plants. While small in acreage, this is a vital and vibrant segment of our Nation's agricultural economy. And, of course, its production constitutes a vital and necessary part of health human diet.

The research and development of any pesticide, coupled with the health and safety data needed to register a pesticide with EPA for commercial use, is very expensive these days.

Because of that rising cost and the relatively small volume of sales involved, some chemical manufacturers have allowed or announced their intentions to allow the voluntary cancellation of registered minor uses for certain pesticides.

Minor use pesticides are vital to agricultural production in all 50 States. There is a consensus on our committee on the need to encourage chemical manufacturers to maintain current minor use registrations as well as label the next generation of improved products for minor crops.

H.R. 967, in a very limited way, seeks to provide farmers and public health agencies with continued access to these important tools in ways that do not compromise human health or environmental quality. The bill has basically four elements:

First, it creates several incentives for chemical manufacturers to maintain existing minor use registrations and apply for new registrations as new generations of pesticides are developed. These incentives include:

An additional 3 years of exclusive use of data;

A time extension for submission of certain data;

Waiver of certain data requirements as long as the absence of this data does not prevent a determination of the pesticide's risk; and

Expedited review by EPA of new minor use registrations.

Second, H.R. 967 seeks to ensure the availability of pesticides used to protect public health. The bill provides for a separate analysis for public health pesticides that takes into account the risks of potential disease that are controlled by the use of the pesticides. This provision is taken from H.R. 1867, the Public Health Pesticides Protection Act, that was introduced by our colleague from California, Representative DOOLEY.

Third, H.R. 967 provides additional guidance to EPA in the area of antimicrobial pesticide regulation and the registration process for antimicrobial pesticides. These are the products used in household, hospital, and institutional cleaning.

Fourth, the bill establishes an expedited review procedure for pesticides that meet certain criteria which reflect a reduced risk to man and the environment. The bill also promotes cooperation between EPA and USDA in the area of integrated pest management.

Mr. Speaker, this is a bare bones bill that address only the items that I have outlined. The bill does not address any of the other controversial areas of FIFRA that have prevented us from moving a more comprehensive bill. This legislation offers the House the opportunity to solve at least one small part of the overall pesticides policy dilemma in a manner that is agreeable to all parties. I strongly urge the House to pass this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this bill, and I want to commend my chairman for his leadership in authoring this legislation to address a serious problem for farmers. Though we all refer to a minor use pesticide problem, it is a major crisis for hundreds of thousands of agricultural producers around the country.

The issue arises as an unintended side effect of EPA's reregistration of crop protective chemicals. The very expensive laboratory testing required by this process has caused manufacturers to voluntarily withdraw thousands of chemical formulations that were used to control pests on smaller crops. Since smaller crops in this context means most fruits and vegetables, many producers face the prospect of having no way to control pests that could devastate their crops. Consumers also are at risk because preventable insect and disease damage means significantly higher prices for apples and lettuce at the grocery store.

This bill attempts to alleviate the problem by providing economic incentives for manufacturers to invest the necessary money to register chemicals for minor uses. We should emphasize that this bill in no way diminishes the safety standards that EPA imposes on pesticides. It merely attempts to address the economic barriers that have resulted from the reregistration process.

This is a serious and difficult problem for both farmers and consumers, and we believe that Chairman DE LA GARZA's bill is an important first step in resolving it. There are many other pesticide issues outstanding, including modernizing the Delaney clause and streamlining the pesticide cancellation process. I hope that next year Congress can move legislation on these larger issues. But for today, I urge my colleagues to support H.R. 967.

□ 1420

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I unfortunately have to rise to oppose this legislation. The bill should not be on the suspension calendar because it is quite controversial. It was just reported out by the Committee on Agriculture last Friday, and it is now on the suspension calendar. But it is, as I understand it, a controversial piece of legislation, because it authorizes the continued use of potentially dangerous pesticides on the food that the public will eat, and may be especially harmful to children.

In 1988, Congress passed legislation requiring EPA to review the health and safety of pesticides used on food. The legislation requires the pesticide manufacturers to submit health and safety data to EPA demonstrating the safety of the pesticide. If the data is not submitted, eventually the permission to use the pesticide may be withdrawn. In fact, it must be withdrawn.

This bill carves a big loophole in that statutory scheme. It allows the pesticide for so-called minor use to remain on the market beyond the statutory deadline set by law in 1988.

Minor uses are not so minor. They include products such as tomatoes and lettuce and many fruits and vegetables, and under this bill pesticides could be used for these products for years after these uses should be prohibited. Fruits and vegetables are the foods that kids eat the most.

H.R. 967 provides that the manufacturers do not have to prove these pesticides to be safe. Instead, if the bill passes, the Congress will be unilaterally authorizing the continued use of these pesticides without the health or safety data.

Now, the National Academy of Sciences last year found that children are not being protected from pesticides in the food. They are susceptible particularly to some of these pesticides that may be in the food, and I fear this bill would make the situation worse by allowing the continued use of pesticides that have not been proven safe.

Mr. Speaker, I do not believe that this legislation has been fully considered, and for that reason I would urge opposition to it.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, I rise in opposition to the legislation.

Mr. Speaker, I am concerned about the approach being taken here today for two reasons: First, Congress is ducking its responsibility to address a complex issue of great importance to the American public—food safety—in a comprehensive manner; and second, by extending the life of old technologies destined to be removed from the market anyway because they are minor use, we are ignoring the findings of the National Academy of Sciences that use of such pesticides may be putting our kids at greater health risks.

Let me give you a couple of facts. Fruits and vegetables are categorized as minor crops by USDA. Children eat a lot of fruits and vegetables, and according to the 1993 National Academy of Sciences report, current pesticide tolerances are not safe enough for children. The pesticides at issue in this bill are admittedly dinosaurs. There is nothing in this bill to encourage development of newer, safer pesticides or—God forbid—to encourage farmers to decrease their use of dangerous pesticides.

Food safety issues are also the jurisdiction of the Energy and Commerce Committee, which has not had a chance to weigh in on this bill. The concerns of farmers who apply these pesticides should be addressed simultaneously with the concerns of the American public over unreasonable levels of dangerous pesticides in our children's food. I urge my colleagues to oppose addressing this bill on suspension.

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, our colleague, the gentleman from California [Mr. WAXMAN] has read a statement that I would disagree with. This bill does not change criteria for safety and for risk. I quote from where I read before:

> Waiver of certain data requirements, as long as the absence of this data does not prevent a determination of the pesticide's risk.

Just an expedited review. And this thing about children and amounts, that is in another area. That is the FIFRA. That is in the full pesticide area. We were very careful to see that we did not do any of that. All we are trying to do is say that these chemicals that are used, which EPA will not allow them to be used unless they are safe, to animals, to people, and the ecosystem. All of that has been done.

What is happening is because of the delay, because of the cost, nothing to do with data, nothing to do with safety, the companies were not manufacturing or were trying to stop manufacturing these items.

If the gentleman wants to stop manufacturing, that is another area. That has nothing to do with this. This is trying to have healthy people eating clean and safe food, and nothing to do with children, nothing to do with grownups, nothing to do with the areas, the gray areas, that people speak negatively about chemicals.

So I would hope that the Members understand that and support this bill.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Kansas.

Mr. ROBERTS. Mr. Speaker, I thank the chairman for yielding, and wish to associate myself with his remarks.

Mr. Speaker, I regret the chairman of the Subcommittee on Health and the Environment of the Committee on Energy and Commerce has raised this concern. I do not think it is a real concern.

As the chairman has indicated, this bill deals with economic incentives. We are not lowering standards. Nothing in the bill even refers to that.

Let me point out to the gentleman and to my colleagues that on page 8 of the bill, specifically, if the Administrator determines that the registrant is not meeting the schedule for the production of such data, the Administrator may proceed in accordance with the appropriate section regarding the continued registration of the minor use and shall inform the public of such action. If during the extension period the

Administrator has been furnished data which is sufficient to determine that an unreasonable adverse effect exists involving a minor use of a pesticide, the Administrator shall provide in writing to the registrant a notice of revoking the extension of time for submission of the data.

There is a time limit of 30 days. We stress that this is not a safety concern, this is an economic incentive, so we can continue the production of fresh fruit and vegetables. That is all it is. Next year, when we get to the Delaney clause and FIFRA and streamlining the cancellation process, we will be happy to work with the chairman of the subcommittee, and we look forward to doing that. But this bill is simply not what the chairman has indicated.

Mr. DE LA GARZA. Mr. Speaker, let me add further that this bill seeks to ensure the availability of pesticide use to protect public health. It takes into account the risks of potential diseases that are controlled by the use of pesticides. We could be overrun by plagues of every kind, and some of these chemicals are used to do that. This bill takes that from another bill.

So I wanted to assure my colleague, the gentleman from California [Mr. WAXMAN] that we have as cautiously, as studiously, and as positively as we can, tried to protect all of the areas he is interested in, that we are interested in. That has nothing to do with the areas he mentioned with the National Academy of Science. All this is, is a few items of incentives to the companies to continue to manufacture these items that are needed.

We are the best fed people in the history of the world for the least amount of disposable income per family, and we want to keep it that way. We are the healthiest people in the world also.

I am a little frustrated that they would say that we in the Committee on Agriculture, with out best intentions, are not looking at the public health. That is not so.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, as I understand the law, the manufacturers of pesticides for major uses and minor uses have to submit data so it can be reviewed to determine whether these pesticides are a health problem. As I understand this legislation, and I have not had a full opportunity to look at it because it just got out of the committee Friday, it is on the floor here on Monday.

□ 1430

As I understand it, it would give additional time for some of these manufacturers to submit this data. It also gives them no incentive to submit the data if they do not have to do it under the deadlines and under the expectations of the existing 1988 law. That is disturbing to me, because if we do not have this data, the determination as to whether there is a health problem cannot be made.

Meanwhile, the pesticide would stay on the market. I appreciate the gentleman feels very strongly otherwise. I understand his concern, but I hope he understands our concern.

We have been hearing from environmental groups all day that this bill is on suspension. They do not feel it ought to be on suspension. They do not feel it is a bill that ought to be padded as if it were a noncontroversial bill.

I still have to express these concerns.

Mr. DE LA GARZA. Mr. Speaker, reclaiming my time, I have not given the gentleman time that he could have as much as he needed.

Mr. Speaker, we do not change that part. They started calling today. Somebody may not like this bill. We have had hearings. We have been debating this. I have been saying my views for 1 year, 2 years, basically.

This was the most expeditious way.

But I want to ensure the gentleman, FIFRA legislation will come, hopefully next session. We will have ample debate. In the meantime, I can assure the gentleman and I assure my colleague and the general public that this in no way is intended to be negative to public health, to be negative to anyone.

If they do not understand it, OK. I can understand that. If they feel that we have moved too fast, this is the time that we are caught in the web here. But there is no intention in any way whatsoever to go around the FIFRA, to go around the National Academy of Sciences, to go around anywhere.

What we do here, I stand behind it, that it is for the public health, that it is for the benefit of the producers of America without any intention at all to go around the basic legislation that the gentleman will have an opportunity to work with us in the next session. And hopefully, we will do so as he has always done.

We agree in our intention. We are not on opposite ends. We agree. His desire and my desire are identical. We may go about it in a different way. We may have different constituencies. But the desire and the end result are the same.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PASTOR). The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 967, as amended.

The question was taken.

Mr. WAXMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GOVERNMENT MANAGEMENT REFORM ACT OF 1994

Mr. SYNAR. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2170) to provide a more effective, efficient, and responsive Government.

The Clerk read as follows:

S. 2170

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Government Management Reform Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—LIMITATION ON PAY

Sec. 101. Limitation on certain annual pay adjustments.

TITLE II—HUMAN RESOURCE MANAGEMENT

Sec. 201. SES annual leave accumulation.

TITLE III—STREAMLINING MANAGEMENT CONTROL

Sec. 301. Authority to increase efficiency in reporting to Congress.

TITLE IV—FINANCIAL MANAGEMENT

Sec. 401. Short title.
Sec. 402. Electronic payments.
Sec. 403. Franchise fund pilot programs.
Sec. 404. Simplification of management reporting process.
Sec. 405. Annual financial reports.

TITLE I—LIMITATION ON PAY

SEC. 101. LIMITATION ON CERTAIN ANNUAL PAY ADJUSTMENTS.

Effective as of December 31, 1994—

(1) section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) is amended—

(A) by striking out "(2) Effective" and inserting in lieu thereof "(2)(A) Subject to subparagraph (B), effective"; and

(B) by adding at the end thereof the following:

"(B) In no event shall the percentage adjustment taking effect under subparagraph (A) in any calendar year (before rounding), in any rate of pay, exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5, United States Code, in the rates of pay under the General Schedule.";

(2) section 104 of title 3, United States Code, is amended—

(A) in the first sentence by inserting "(a)" before "The";

(B) in the second sentence by striking out "Effective" and inserting in lieu thereof "Subject to subsection (b), effective"; and

(C) by adding at the end thereof the following:

"(b) In no event shall the percentage adjustment taking effect under the second and third sentences of subsection (a) in any calendar year (before rounding) exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5 in the rates of pay under the General Schedule.";

(3) section 5318 of title 5, United States Code, is amended—

(A) in the first sentence by striking out "Effective" and inserting in lieu thereof "(a) Subject to subsection (b), effective"; and

(B) by adding at the end thereof the following:

"(b) In no event shall the percentage adjustment taking effect under subsection (a) in any calendar year (before rounding), in any rate of pay, exceed the percentage adjustment taking effect in such calendar year under section 5303 in the rates of pay under the General Schedule."; and

(4) section 461(a) of title 28, United States Code, is amended—

(A) by striking out "(a) Effective" and inserting in lieu thereof "(a)(1) Subject to paragraph (2), effective"; and

(B) by adding at the end thereof the following:

"(2) In no event shall the percentage adjustment taking effect under paragraph (1) in any calendar year (before rounding), in any salary rate, exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5 in the rates of pay under the General Schedule.".

TITLE II—HUMAN RESOURCE MANAGEMENT

SEC. 201. SES ANNUAL LEAVE ACCUMULATION.

(a) IN GENERAL.—Effective on the first day of the first applicable pay period beginning after the date of the enactment of this Act, subsection (f) of section 6304 of title 5, United States Code, is amended to read as follows:

"(f)(1) This subsection applies with respect to annual leave accrued by an individual while serving in a position in—

"(A) the Senior Executive Service;

"(B) the Senior Foreign Service;

"(C) the Defense Intelligence Senior Executive Service;

"(D) the Senior Cryptologic Executive Service; or

"(E) the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.

"(2) For purposes of applying any limitation on accumulation under this section with respect to any annual leave described in paragraph (1)—

"(A) '30 days' in subsection (a) shall be deemed to read '90 days'; and

"(B) '45 days' in subsection (b) shall be deemed to read '90 days'.".

(b) USE OF EXCESS LEAVE.—Notwithstanding the amendment made by subsection (a), in the case of an employee who, on the effective date of subsection (a), is subject to subsection (f) of section 6304 of title 5, United States Code, and who has to such employee's credit annual leave in excess of the maximum accumulation otherwise permitted by subsection (a) or (b) of section 6304 (determined applying the amendment made by subsection (a)), such excess annual leave shall remain to the credit of the employee and be subject to reduction, in the same manner as provided in subsection (c) of section 6304.

TITLE III—STREAMLINING MANAGEMENT CONTROL

SEC. 301. AUTHORITY TO INCREASE EFFICIENCY IN REPORTING TO CONGRESS.

(a) PURPOSE.—The purpose of this title is to improve the efficiency of executive branch performance in implementing statutory requirements for reports to Congress and committees of Congress such as the elimination or consolidation of duplicative or obsolete reporting requirements and adjustments to deadlines that shall provide for more efficient workload distribution or improve the quality of reports.

(b) AUTHORITY OF THE DIRECTOR.—The Director of the Office of Management and Budget may publish annually in the budget submitted by the President to the Congress, recommendations for consolidation, elimination, or adjustments in frequency and due dates of statutorily required periodic reports to the Congress or committees of Congress. For each recommendation, the Director shall provide an individualized statement of the reasons that support the recommendation. In addition, for each report for which a recommendation is made, the Director shall state with specificity the exact consolidation, elimination, or adjustment in frequency or due date that is recommended.

(c) RECOMMENDATIONS.—The Director's recommendations shall be consistent with the purpose stated in subsection (a).

(d) CONSULTATION.—Before the publication of the recommendations under subsection (b), the Director or his designee shall consult with the appropriate congressional committees concerning the recommendations.

TITLE IV—FINANCIAL MANAGEMENT

SEC. 401. SHORT TITLE.

This title may be cited as the "Federal Financial Management Act of 1994".

SEC. 402. ELECTRONIC PAYMENTS.

(a) IN GENERAL.—Section 3332 of title 31, United States Code, is amended to read as follows:

"§ 3332. Required direct deposit

"(a)(1) Notwithstanding any other provision of law, all Federal wage, salary, and retirement payments shall be paid to recipients of such payments by electronic funds transfer, unless another method has been determined by the Secretary of the Treasury to be appropriate.

"(2) Each recipient of Federal wage, salary, or retirement payments shall designate one or more financial institutions or other authorized payment agents and provide the payment certifying or authorizing agency information necessary for the recipient to receive electronic funds transfer payments through each institution so designated.

"(b)(1) The head of each agency shall waive the requirements of subsection (a) of this section for a recipient of Federal wage, salary, or retirement payments authorized or certified by the agency upon written request by such recipient.

"(2) Federal wage, salary, or retirement payments shall be paid to any recipient granted a waiver under paragraph (1) of this subsection by any method determined appropriate by the Secretary of the Treasury.

"(c)(1) The Secretary of the Treasury may waive the requirements of subsection (a) of this section for any group of recipients upon request by the head of an agency under standards prescribed by the Secretary of the Treasury.

"(2) Federal wage, salary, or retirement payments shall be paid to any member of a group granted a waiver under paragraph (1) of this subsection by any method determined appropriate by the Secretary of the Treasury.

"(d) This section shall apply only to recipients of Federal wage or salary payments who begin to receive such payments on or after January 1, 1995, and recipients of Federal retirement payments who begin to receive such payments on or after January 1, 1995.

"(e) The crediting of the amount of a payment to the appropriate account on the books of a financial institution or other authorized payment agent designated by a payment recipient under this section shall constitute a full acquittance to the United States for the amount of the payment.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 33 of title 31, United States Code, is amended by amending the item for section 3332 to read:

"3332. Required direct deposit.".

SEC. 403. FRANCHISE FUND PILOT PROGRAMS.

(a) ESTABLISHMENT.—There is authorized to be established on a pilot program basis in each of six executive agencies a franchise fund. The Director of the Office of Management and Budget, after consultation with the chairman and ranking members of the Committees on Appropriations and Governmental Affairs of the Senate, and the Committees on Appropriations and Government Operations of the House of Representatives, shall designate the agencies.

(b) USES.—Each such fund may provide, consistent with guidelines established by the Director of the Office of Management and Budget, such common administrative support services to the agency and to other agencies as the head of such agency, with the concurrence of the Director, determines can be provided more efficiently through such a fund than by other means. To provide such services, each such fund is authorized to acquire the capital equipment, automated data processing systems, and financial management and management information systems needed. Services shall be provided by such funds on a competitive basis.

(c) FUNDING.—(1) There are authorized to be appropriated to the franchise fund of each agency designated under subsection (a) such funds as are necessary to carry out the purposes of the fund, to remain available until expended. To the extent that unexpended balances remain available in other accounts for the purposes to be carried out by the fund, the head of the agency may transfer such balances to the fund.

(2) Fees for services shall be established by the head of the agency at a level to cover the total estimated costs of providing such services. Such fees shall be deposited in the agency's fund to remain available until expended, and may be used to carry out the purposes of the fund.

(3) Existing inventories, including inventories on order, equipment, and other assets or liabilities pertaining to the purposes of the fund may be transferred to the fund.

(d) REPORT ON PILOT PROGRAMS.—Within 6 months after the end of fiscal year 1997, the Director of the Office of Management and Budget shall forward a report on the results of the pilot programs to the Committees on Appropriations of the Senate and of the House of Representatives, and to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives. The report shall contain the financial and program performance results of the pilot programs, including recommendations for—

(1) the structure of the fund;

(2) the composition of the funding mechanism;

(3) the capacity of the fund to promote competition; and

(4) the desirability of extending the application and implementation of franchise funds to other Federal agencies.

(e) PROCUREMENT.—Nothing in this section shall be construed as relieving any agency of any duty under applicable procurement laws.

(f) TERMINATION.—The provisions of this section shall expire on October 1, 1999.

SEC. 404. SIMPLIFICATION OF MANAGEMENT REPORTING PROCESS.

(a) IN GENERAL.—To improve the efficiency of executive branch performance in implementing statutory requirements for financial management reporting to the Congress and its committees, the Director of the Office of Management and Budget may adjust the frequency and due dates of or consolidate any statutorily required reports of agencies to the Office of Management and Budget or the President and of agencies or the Office of Management and Budget to the Congress under any laws for which the Office of Management and Budget has financial management responsibility, including—

(1) chapters 5, 9, 11, 33, 35, 37, 39, 75, and 91 of title 31, United States Code;

(2) the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note; Public Law 101–410; 104 Stat. 890).

(b) APPLICATION.—The authority provided in subsection (a) shall apply only to reports of agencies to the Office of Management and Budget or the President and of agencies or the Office of Management and Budget to the Congress required by statute to be submitted between January 1, 1995, and September 30, 1997.

(c) ADJUSTMENTS IN REPORTING.—The Director may consolidate or adjust the frequency and due dates of any statutorily required reports under subsections (a) and (b) only after—

(1) consultation with the Chairman of the Senate Committee on Governmental Affairs and the Chairman of the House of Representatives Committee on Government Operations; and

(2) written notification to the Congress, no later than February 8 of each fiscal year covered under subsection (b) for those reports required to be submitted during that fiscal year.

SEC. 405. ANNUAL FINANCIAL REPORTS.

(a) FINANCIAL STATEMENTS.—Section 3515 of title 31, United States Code, is amended to read as follows:

"§ 3515. Financial statements of agencies

"(a) Not later than March 1 of 1997 and each year thereafter, the head of each executive agency identified in section 901(b) of this title shall prepare and submit to the Director of the Office of Management and Budget an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of each office, bureau, and activity of the agency.

"(b) Each audited financial statement of an executive agency under this section shall reflect—

"(1) the overall financial position of the offices, bureaus, and activities covered by the statement, including assets and liabilities thereof; and

"(2) results of operations of those offices, bureaus, and activities.

"(c) The Director of the Office of Management and Budget shall identify components of executive agencies that shall be required to have audited financial statements meeting the requirements of subsection (b).

"(d) The Director of the Office of Management and Budget shall prescribe the form and content of the financial statements of executive agencies under this section, consistent with applicable accounting and financial reporting principles, standards, and requirements.

"(e) The Director of the Office of Management and Budget may waive the application of all or part of subsection (a) for financial statements required for fiscal years 1996 and 1997.

"(f) Not later than March 1 of 1995 and 1996, the head of each executive agency identified in section 901(b) of this title and designated by the Director of the Office of Management and Budget shall prepare and submit to the Director of the Office of Management and Budget an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of each office, bureau, and activity of the agency.

"(g) Not later than March 31 of 1995 and 1996, for executive agencies not designated by the Director of the Office of Management and Budget under subsection (f), the head of each executive agency identified in section 901(b) of this title shall prepare and submit to the Director of the Office of Management and Budget a financial statement for the preceding fiscal year, covering—

"(1) each revolving fund and trust fund of the agency; and

"(2) to the extent practicable, the accounts of each office, bureau, and activity of the agency which performed substantial commercial functions during the preceding fiscal year.

"(h) For purposes of subsection (g), the term 'commercial functions' includes buying and leasing of real estate, providing insurance, making loans and loan guarantees, and other credit programs and any activity involving the provision of a service or thing for which a fee, royalty, rent, or other charge is imposed by an agency for services and things of value it provides.".

(b) AUDITS BY AGENCIES.—Subsection 3521(f) of title 31, United States Code, is amended to read as follows:

"(f)(1) For each audited financial statement required under subsections (a) and (f) of section 3515 of this title, the person who audits the statement for purpose of subsection (e) of this section shall submit a report on the audit to the head of the agency. A report under this subsection shall be prepared in accordance with generally accepted government auditing standards.

"(2) Not later than June 30 following the fiscal year for which a financial statement is submitted under subsection (g) of section 3515 of this title, the person who audits the statement for purpose of subsection (e) of this section shall submit a report on the audit to the head of the agency. A report under this subsection shall be prepared in accordance with generally accepted government auditing standards.".

(c) GOVERNMENTWIDE FINANCIAL STATEMENT.—Section 331 of title 31, United States Code, is amended by adding the following new subsection:

"(e)(1) Not later than March 31 of 1998 and each year thereafter, the Secretary of the Treasury, in coordination with the Director of the Office of Management and Budget, shall annually prepare and submit to the President and the Congress an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of the executive branch of the United States Government. The financial statement shall reflect the overall financial position, including assets and liabilities, and results of operations of the executive branch of the United States Government, and shall be prepared in accordance with the form and content requirements set forth by the Director of the Office of Management and Budget.

"(2) The Comptroller General of the United States shall audit the financial statement required by this section.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Oklahoma [Mr. SYNAR] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. CLINGER], will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2170 enacts financial management reforms and brings the Federal Government one-step closer to realizing the goals of National Performance Review. The reforms in this legislation were recommended by the Vice President's Review, and bring common sense and good government management to Federal programs. They enjoy bipartisan support, and closely resemble those passed by the House last year in H.R. 3400.

Let me briefly summarize the legislation:

First, the bill authorizes agencies to recommend to Congress reporting requirements that should be either eliminated or consolidated. Every year, thousands of reports are sent to Congress by the executive branch, many of them outdated and ineffective. These reports continue to place an enormous paperwork burden on executive branch departments and agencies. This provision is the first step towards relieving that unnecessary burden.

Second, beginning in 1995, this legislation will require all new Federal employees and retirees to move into the high-technology era by receiving their checks electronically. Millions of dollars can be saved by the Federal Government by requiring electronic payments. However, if an employee or retiree does not want direct deposit, or does not have access to a bank, the requirement can be waived.

Third, the bill creates six pilot programs for what are known as franchise funds. These will allow agencies to share common administrative support services. These franchise funds would be similar to the National Finance Center, which provides payroll services for several Federal agencies. This service eliminates duplicative efforts and thus saves taxpayer dollars.

Next, the act expands the Chief Financial Officers Act, passed in 1990, to require all agencies to prepare and submit audited financial statements. The CFO Act limited that requirement 4 years ago pending the success of its pilot programs. Now, with support from the General Accounting Office, the Office of Management and Budget, the Federal agencies, and CFO oversight committees in the Senate and House, all agencies will have to meet these requirements.

The legislation also requires a Government-wide financial statement. Beginning in 1998, OMB will prepare and submit to the President and Congress an audited financial statement covering all accounts and associated activities of the executive branch of the U.S.

Government. For the first time, the American people will have a document that will reflect the overall financial position of their Government.

Finally, this act requires that any annual automatic adjustments, or COLA's, to the salaries of Members of Congress, the executive schedule, or the judiciary not exceed those given to General Schedule Federal employees. Furthermore, it establishes a limitation for members of the Senior Executive Service [SES] to accrue up to 90 days of annual leave. These personnel reforms bring fairness to the Federal pay and leave scale, and have been cleared by the chairman of the Post Office and Civil Service Committee, Mr. CLAY.

I want to thank the administration for its leadership in this reform legislation, and Mr. CLINGER, for his bi-partisan support and efforts in helping us to get this legislation to the floor. I urge my colleagues to pass this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. CLINGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise with subcommittee Chairman SYNAR in support of S. 2170, the Government Management Reform Act of 1994. Designed to implement some of the good reform ideas that have been around for the last several years, this bill takes the Government a few steps further toward the goal of reliable and efficient management.

Subcommittee Chairman SYNAR provided the House with a good summary of this bill so I will limit my remarks to a couple of the more important issues.

First, S. 2170 includes the requirement for agencywide audited financial statements for the Government's 23 CFO Act agencies beginning in 1997. By the next year, in 1998, we go one step further and require an audited governmentwide financial report that provides a consolidated picture of the entire Federal Government's financial condition.

In recent testimony before the Government Operations Committee, the General Accounting Office reminded us that the Federal Government is the world's largest financial operation. Yet, it operates without ever knowing its total financial picture. This is a situation that would be short-lived in either the State and local government environment or in the private sector.

We first heard the call for agencywide audited financial statements when Congress enacted the Chief Financial Officers' Act in 1990. At that time, however, we mandated annual financial statements only for trust funds and commercial operations of the 23 covered agencies. In addition, we established a pilot program to test the viability of preparing and auditing financial statements for the entire operations of a few organizations.

The results of these pilot projects are in and the benefits are simply outstanding. From throughout Government, CFO's, inspectors general, GAO auditors, and agency heads have all sung the praises of audited financial statements. Now that the pilot projects have expired and the benefits are clear, it is time that we expand the requirements for financial statements to all Government activities. This bill does just that.

I also want to speak in support of the provision to require the use of electronic funds transfer for all new Government employee and retiree payments. EFT payments are more regularly known as direct deposit—a practice that the private sector has championed for years. Whether you call them EFT payments or direct deposit, the result is the same—savings to the Government.

According to the Department of Treasury, it costs the Federal Government 6 times more to produce a check payment as compared with an EFT disbursement. That's 36 cents for a check payment versus only 6 cents for direct deposit. Considering that about 400 million check payments are made each year, complete conversion to EFT would result in annual savings of roughly $130 million.

In fiscal year 1993, only 49 percent of the 962 million Federal disbursements were made electronically. That percentage is expected to grow at a sluggish rate over the coming years without enactment of this legislation. While I would support legislation to mandate direct deposit for all Government payments, I believe that this bill represents another good step into the age of information technology. Presumed EFT payments are important because they help both payment recipients and U.S. taxpayers.

One other important step that the Clinton administration could take to further strengthen the Federal Government's financial management practices is to nominate an appointee for the position of controller as required in the CFO's Act. Unfortunately, that position has been vacant for well over a year and for over one-half of President Clinton's administration. That vital position has been vacant for far too long and must be filled now.

The CFO's Act, as strengthened by our actions today and coupled with the more recent Government performance and results act, provide the legislative foundation for developing accurate and reliable cost information and performance data. Such information is essential if the executive branch and the Congress are to make informed decisions and move successfully toward a smaller more efficient Government that focuses on accountability and managing for results. Such a goal was merely a pipe dream as recently as a decade ago. Yet today, we are on the verge of making that goal a reality.

I am pleased to be part of that process and pleased to support the Government Management Reform Act.

Mr. Speaker, I reserve the balance of my time.

GENERAL LEAVE

Mr. SYNAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on S. 2170, the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. SYNAR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma [Mr. SYNAR] that the House suspend the rules and pass the Senate bill, S. 2170.

The question was taken.

Mr. CLINGER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

□ 1440

CONCURRING IN THE SENATE AMENDMENT TO H.R. 4217, FEDERAL CROP INSURANCE REFORM AND DEPARTMENT OF AGRICULTURE REORGANIZATION ACT OF 1994, WITH AN AMENDMENT

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 559) concurring in the Senate Amendment to H.R. 4217 with an amendment.

The Clerk read as follows:

House amendment to Senate amendment: That upon adoption of this resolution, the House shall be considered to have taken from the Speaker's table the bill (H.R. 4217) to reform the Federal Crop Insurance Program, and for other purposes, with the Senate amendment thereto, and to have concurred in the Senate amendment with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

H. RES. 559

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—FEDERAL CROP INSURANCE REFORM

Sec. 101. Short title; references.

Sec. 102. Definitions.
Sec. 103. Members of Board of Directors of Corporation.
Sec. 104. General powers.
Sec. 105. Personnel.
Sec. 106. Crop insurance.
Sec. 107. Crop insurance yield coverage.
Sec. 108. Preemption.
Sec. 109. Advisory Committee.
Sec. 110. Funding.
Sec. 111. Noninsured crop disaster assistance.
Sec. 112. Payment and income limitations.
Sec. 113. Producer eligibility.
Sec. 114. Ineligibility for catastrophic risk and noninsured assistance payments.
Sec. 115. Elimination of gender references.
Sec. 116. Prevented planting.
Sec. 117. Report on improving dissemination of crop insurance information.
Sec. 118. Crop insurance provider evaluation.
Sec. 119. Conforming amendments.
Sec. 120. Effective date.

TITLE II—DEPARTMENT OF AGRICULTURE REORGANIZATION

Sec. 201. Short title.
Sec. 202. Purpose.
Sec. 203. Definitions.

Subtitle A—General Reorganization Authorities

Sec. 211. Transfer of Department functions to Secretary of Agriculture.
Sec. 212. Authority of Secretary to delegate transferred functions.
Sec. 213. Reductions in number of department personnel.
Sec. 214. Consolidation of headquarters offices.
Sec. 215. Combination of field offices.
Sec. 216. Improvement of information sharing.
Sec. 217. Reports by the Secretary.
Sec. 218. Assistant Secretaries of Agriculture.
Sec. 219. Pay increases prohibited.

Subtitle B—Farm and Foreign Agricultural Services

Sec. 225. Under Secretary of Agriculture for Farm and Foreign Agricultural Services.
Sec. 226. Consolidated Farm Service Agency.
Sec. 227. State, county, and area committees.

Subtitle C—Rural Economic and Community Development

Sec. 231. Under Secretary of Agriculture for Rural Economic and Community Development.
Sec. 232. Rural Utilities Service.
Sec. 233. Rural Housing and Community Development Service.
Sec. 234. Rural Business and Cooperative Development Service.
Sec. 235. Conforming amendments regarding Rural Electrification Administration.

Subtitle D—Food, Nutrition, and Consumer Services

Sec. 241. Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.

Subtitle E—Natural Resources and Environment

Sec. 245. Under Secretary of Agriculture for Natural Resources and Environment.
Sec. 246. Natural Resources Conservation Service.
Sec. 247. Reorganization of Forest Service.

Subtitle F—Research, Education, and Economics

Sec. 251. Under Secretary of Agriculture for Research, Education, and Economics.
Sec. 252. Program staff.

Subtitle G—Food Safety

Sec. 261. Under Secretary of Agriculture for Food Safety.
Sec. 262. Conditions for implementation of alterations in the level of additives allowed in animal diets.

Subtitle H—National Appeals Division

Sec. 271. Definitions.
Sec. 272. National Appeals Division and Director.
Sec. 273. Transfer of functions.
Sec. 274. Notice and opportunity for hearing.
Sec. 275. Informal hearings.
Sec. 276. Right of participants to Division hearing.
Sec. 277. Division hearings.
Sec. 278. Director review of determinations of hearing officers.
Sec. 279. Judicial review.
Sec. 280. Implementation of final determinations of Division.
Sec. 281. Conforming amendments relating to National Appeals Division.
Sec. 282. Expansion of issues covered by State mediation programs.
Sec. 283. Authorization of appropriations.

Subtitle I—Miscellaneous Reorganization Provisions

Sec. 291. Successorship provisions relating to bargaining units and exclusive representatives.
Sec. 292. Purchase of American-made equipment and products.
Sec. 293. Miscellaneous conforming amendments.
Sec. 294. Removal of obsolete administrative provisions.
Sec. 295. Proposed conforming amendments.
Sec. 296. Termination of authority.

TITLE III—MISCELLANEOUS

Sec. 301. Poultry labeling.
Sec. 302. First Amendment rights of employees of the United States Department of Agriculture.
Sec. 303. Adjusted cost of thrifty food plan.
Sec. 304. Office of Risk Assessment and Cost-Benefit Analysis.
Sec. 305. Fair and equitable treatment of socially disadvantaged producers.
Sec. 306. Aviation inspections.

TITLE I—FEDERAL CROP INSURANCE REFORM

SEC. 101. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This title may be cited as the "Federal Crop Insurance Reform Act of 1994".

(b) REFERENCES TO FEDERAL CROP INSURANCE ACT.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

SEC. 102. DEFINITIONS.

(a) IN GENERAL.—Section 502 (7 U.S.C. 1502) is amended—

(1) by striking the section heading and "SEC. 502." and inserting the following:

"SEC. 502. PURPOSE AND DEFINITIONS.

"(a) PURPOSE.—"; and

(2) by adding at the end the following new subsection:

"(b) DEFINITIONS.—As used in this title:

"(1) ADDITIONAL COVERAGE.—The term 'additional coverage' means a plan of crop insurance coverage providing a level of coverage greater than the level available under catastrophic risk protection.

"(2) APPROVED INSURANCE PROVIDER.—The term 'approved insurance provider' means a private insurance provider that has been approved by the Corporation to provide insurance coverage to producers participating in the Federal crop insurance program established under this title.

"(3) BOARD.—The term 'Board' means the Board of Directors of the Corporation established under section 505(a).

"(4) CORPORATION.—The term 'Corporation' means the Federal Crop Insurance Corporation established under section 503.

"(5) DEPARTMENT.—The term 'Department' means the United States Department of Agriculture.

"(6) LOSS RATIO.—The term 'loss ratio' means the ratio of all sums paid by the Corporation as indemnities under any eligible crop insurance policy to that portion of the premium designated for anticipated losses and a reasonable reserve, other than that portion of the premium designated for operating and administrative expenses.

"(7) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(8) TRANSITIONAL YIELD.—The term 'transitional yield' means the maximum average production per acre or equivalent measure that is assigned to acreage for a crop year by the Corporation in accordance with the regulations of the Corporation whenever the producer fails—

"(A) to certify that acceptable documentation of production and acreage for the crop year is in the possession of the producer; or

"(B) to present the acceptable documentation on the demand of the Corporation or an insurance company reinsured by the Corporation.".

(b) CONFORMING AMENDMENTS.—

(1) The first sentence of section 503 (7 U.S.C. 1503) is amended by striking "(herein called the Corporation)".

(2) Section 504 (7 U.S.C. 1504) is amended—

(A) in subsection (a), by striking "Board of Directors of the Corporation" and inserting "Board"; and

(B) in subsection (d), by striking "Federal Crop Insurance Corporation" and inserting "Corporation".

(3) The first sentence of section 505(a) (7 U.S.C. 1505(a)) is amended by striking "(hereinafter called the 'Board')".

(4) Except in section 502, the Act is amended—

(A) by striking "Board of Directors" each place it appears and inserting "Board";

(B) by striking "Department of Agriculture" each place it appears and inserting "Department"; and

(C) by striking "Secretary of Agriculture" each place it appears and inserting "Secretary".

SEC. 103. MEMBERS OF BOARD OF DIRECTORS OF CORPORATION.

The second sentence of section 505(a) (7 U.S.C. 1505(a)) is amended—

(1) by striking "or Assistant Secretary" the first place it appears; and

(2) by striking "the Under Secretary or Assistant Secretary of Agriculture responsible for the farm credit programs of the Department of Agriculture" and inserting "one additional Under Secretary of Agriculture (as designated by the Secretary of Agriculture)".

SEC. 104. GENERAL POWERS.

Section 506 (7 U.S.C. 1506) is amended—

(1) by redesignating subsections (j) through (n) as subsections (k) through (o), respectively;

(2) by inserting after subsection (i) the following new subsection:

"(j) SETTLING CLAIMS.—The Corporation shall have the authority to make final and conclusive settlement and adjustment of any claim by or against the Corporation or a fiscal officer of the Corporation.";

(3) in subsection (l) (as so redesignated)—

(A) in the first sentence, by inserting ", and issue regulations," after "agreements"; and

(B) in the second sentence, by striking "contracts or agreements" each place it appears and inserting "contracts, agreements, or regulations";

(4) in subsection (n)(1) (as so redesignated), by striking subparagraph (B) and inserting the following new subparagraph:

"(B) disqualify the person from purchasing catastrophic risk protection or receiving noninsured assistance for a period of not to exceed 2 years, or from receiving any other benefit under this title for a period of not to exceed 10 years.";

(5) in subsection (o) (as so redesignated)—

(A) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D) and aligning the margins of each subparagraph with the margins of subparagraph (A) of subsection (n)(1) (as redesignated by paragraph (1));

(B) by striking "(o) ACTUARIAL SOUNDNESS.—The Corporation" and inserting the following:

"(o) ACTUARIAL SOUNDNESS.—

"(1) PROJECTED LOSS RATIO AS OF OCTOBER 1, 1995.—The Corporation";

(C) in subparagraph (A) (as redesignated by subparagraph (A)), by striking "from obtaining adequate Federal crop insurance, as determined by the Corporation" and inserting "(as defined by the Secretary) from obtaining Federal crop insurance";

(D) in subparagraph (C) (as so redesignated)—

(i) by inserting ", agents, and loss adjusters" after "participating producers"; and

(ii) by inserting ", agents, and loss adjusters" after "identify insured producers"; and

(E) by adding at the end the following new paragraphs:

"(2) PROJECTED LOSS RATIO AS OF OCTOBER 1, 1998.—The Corporation shall take such actions, including the establishment of adequate premiums, as are necessary to improve the actuarial soundness of Federal multiperil crop insurance made available under this title to achieve, on and after October 1, 1998, an overall projected loss ratio of not greater than 1.075.

"(3) NONSTANDARD CLASSIFICATION SYSTEM.—To the extent that the Corporation uses the nonstandard classification system, the Corporation shall apply the system to all insured producers in a fair and consistent manner."; and

(6) by adding at the end the following new subsections:

"(p) REGULATIONS.—The Secretary and the Corporation are each authorized to issue such regulations as are necessary to carry out this title.

"(q) PROGRAM COMPLIANCE.—

"(1) TIMELINESS.—The Corporation shall work actively with approved insurance providers to address program compliance and integrity issues as the issues develop.

"(2) NOTIFICATION OF COMPLIANCE PROBLEMS.—The Corporation shall notify in writing any approved insurance provider with whom the Corporation has an agreement under this title of any error, omission, or failure to follow Corporation regulations or procedures for which the approved insurance provider may be responsible and which may result in a debt owed the Corporation. The notice shall be given within 3 years of the end of the insurance period during which the error, omission, or failure is alleged to have occurred, except that this time limit shall not apply with respect to errors, omissions, or procedural violations that are willful or intentional. The failure to timely provide the notice required under this subsection shall relieve the approved insurance provider from the debt owed the Corporation.

"(r) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—

"(1) SENSE OF CONGRESS.—It is the sense of Congress that, to the greatest extent practicable, all equipment and products purchased by the Corporation using funds made available to the Corporation should be American-made.

"(2) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity for the purchase of equipment and products to carry out this title, the Corporation, to the greatest extent practicable, shall provide to the entity a notice describing the statement made in paragraph (1).".

SEC. 105. PERSONNEL.

Section 507 (7 U.S.C. 1507) is amended—

(1) in subsection (a), by striking ", and county crop insurance committeemen";

(2) in subsection (d), by striking "of this Act," and all that follows through "agency"; and

(3) by adding at the end the following new subsection:

"(g)(1) The Corporation shall establish a management-level position to be known as the Specialty Crops Coordinator.

"(2) The Specialty Crops Coordinator shall have primary responsibility for addressing the needs of specialty crop producers, and for providing information and advice, in connection with the activities of the Corporation to improve and expand the insurance program for specialty crops. In carrying out this paragraph, the Specialty Crops Coordinator shall act as the liaison of the Corporation with representatives of specialty crop producers and assist the Corporation with the knowledge, expertise, and familiarity of the producers with risk management and production issues pertaining to specialty crops.

"(3) The Specialty Crops Coordinator shall use information collected from Corporation field office directors in States in which specialty crops have a significant economic effect and from other sources, including the extension service and colleges and universities.".

SEC. 106. CROP INSURANCE.

Section 508 (7 U.S.C. 1508) is amended to read as follows:

"SEC. 508. CROP INSURANCE.

"(a) AUTHORITY TO OFFER INSURANCE.—

"(1) IN GENERAL.—If sufficient actuarial data are available (as determined by the Corporation), the Corporation may insure, or provide reinsurance for insurers of, producers of agricultural commodities grown in the United States under 1 or more plans of insurance determined by the Corporation to be adapted to the agricultural commodity concerned. To qualify for coverage under a plan of insurance, the losses of the insured commodity must be due to drought, flood, or other natural disaster (as determined by the Secretary).

"(2) PERIOD.—Except in the cases of tobacco and potatoes, insurance shall not extend beyond the period during which the insured commodity is in the field. As used in the preceding sentence, in the case of an aquacultural species, the term 'field' means the environment in which the commodity is produced.

"(3) EXCLUSIONS.—Insurance provided under this subsection shall not cover losses due to—

"(A) the neglect or malfeasance of the producer;

"(B) the failure of the producer to reseed to the same crop in such areas and under such circumstances as it is customary to reseed; or

"(C) the failure of the producer to follow good farming practices (as determined by the Secretary).

"(4) EXPANSION TO OTHER AREAS OR SINGLE PRODUCERS.—

"(A) AREA EXPANSION.—The Corporation may offer plans of insurance or reinsurance for production of agricultural commodities in the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau in the same manner as provided in this section for production of agricultural commodities in the United States.

"(B) PRODUCER EXPANSION.—In an area in the United States or specified in subparagraph (A) where crop insurance is not available for a particular agricultural commodity, the Corporation may offer to enter into a written agreement with an individual producer operating in the area for insurance coverage under this title if the producer has actuarially sound data relating to the production by the producer of the commodity and the data is acceptable to the Corporation.

"(5) DISSEMINATION OF CROP INSURANCE INFORMATION.—The Corporation shall make available to producers through local offices of the Department—

"(A) current and complete information on all aspects of Federal crop insurance; and

"(B) a listing of insurance agents and companies offering to sell crop insurance in the area of the producers.

"(6) ADDITION OF NEW AND SPECIALTY CROPS.—

"(A) DATA COLLECTION.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall issue guidelines for publication in the Federal Register for data collection to assist the Corporation in formulating crop insurance policies for new and specialty crops.

"(B) ADDITION OF NEW CROPS.—Not later than 1 year after the date of enactment of this paragraph, and annually thereafter, the Corporation shall report to Congress on the progress and expected timetable for expanding crop insurance coverage under this title to new and specialty crops.

"(C) ADDITION OF DIRECT SALE PERISHABLE CROPS.—Not later than 1 year after the date of enactment of this paragraph, the Corporation shall report to Congress on the feasibility of offering a crop insurance program designed to meet the needs of specialized producers of vegetables and other perishable crops who market through direct marketing channels.

"(b) CATASTROPHIC RISK PROTECTION.—

"(1) IN GENERAL.—The Corporation shall offer a catastrophic risk protection plan to indemnify producers for crop loss due to loss of yield or prevented planting, if provided by the Corporation, when the producer is unable, because of drought, flood, or other natural disaster (as determined by the Secretary), to plant other crops for harvest on the acreage for the crop year.

"(2) AMOUNT OF COVERAGE.—

"(A) IN GENERAL.—Subject to subparagraph (B)—

"(i) in the case of each of the 1995 through 1998 crop years, catastrophic risk protection shall offer a producer coverage for a 50 percent loss in yield, on an individual yield or area yield basis, indemnified at 60 percent of the expected market price, or a comparable coverage (as determined by the Corporation); and

"(ii) in the case of each of the 1999 and subsequent crop years, catastrophic risk protection shall offer a producer coverage for a 50 percent loss in yield, on an individual yield or area yield basis, indemnified at 55 percent of the expected market price, or a comparable coverage (as determined by the Corporation).

"(B) REDUCTION IN ACTUAL PAYMENT.—The amount paid to a producer on a claim under catastrophic risk protection may reflect a reduction that is proportional to the out-of-pocket expenses that are not incurred by the producer as a result of not planting, growing, or harvesting the crop for which the claim is made, as determined by the Corporation.

"(3) YIELD AND LOSS BASIS.—A producer shall have the option of basing the catastrophic coverage of the producer on an individual yield and loss basis or on an area yield and loss basis, if both options are offered by the Corporation.

"(4) SALE OF CATASTROPHIC RISK COVERAGE.—

"(A) IN GENERAL.—Catastrophic risk coverage may be offered by—

"(i) approved insurance providers, if available in an area; and

"(ii) at the option of the Secretary that is based on considerations of need, local offices of the Department.

"(B) NEED.—For purposes of considering need under subparagraph (A)(ii), the Secretary may take into account the most efficient and cost-effective use of resources, the availability of personnel, fairness to local producers, the needs and convenience of local producers, and the availability of private insurance carriers.

"(5) ADMINISTRATIVE FEE.—

"(A) FEE REQUIRED.—Producers shall pay an administrative fee for catastrophic risk protection. The administrative fee for each producer shall be $50 per crop per county, but not to exceed $200 per producer per county up to a maximum of $600 per producer for all counties in which a producer has insured crops. The administrative fee shall be paid by the producer at the time the producer applies for catastrophic risk protection.

"(B) USE OF FEES.—

"(i) FEES UP TO $100.—

"(I) FEES COLLECTED BY USDA OFFICES.—Not more than $100 of the administrative fees paid by a producer for catastrophic risk coverage that are collected by an office of the Department shall be credited to the appropriations account providing funds for the payment of operating and administrative expenses incurred for the delivery of catastrophic risk protection under this section. The fees shall be collected in accordance with appropriation Acts and shall be available until expended without fiscal year limitation for the payment of the expenses.

"(II) FEES COLLECTED BY APPROVED INSURANCE PROVIDERS.—Not more than $100 of the administrative fees paid by a producer for catastrophic risk coverage that are collected by an approved insurance provider shall be retained by the provider as payment for operating and administrative expenses incurred for the delivery of catastrophic risk protection.

"(ii) FEES IN EXCESS OF $100.—Notwithstanding the authority granted to the Secretary under the Federal Crop Insurance Corporation account provisions of the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1995, all fees collected under this subsection in excess of $100 per producer per county shall be deposited in the crop insurance fund established under section 516(c), to be available for the programs and activities of the Corporation.

"(C) WAIVER OF FEE.—The Corporation shall waive the administrative fee for limited resource farmers, as defined by the Corporation.

"(6) PARTICIPATION REQUIREMENT.—A producer may obtain catastrophic risk coverage for a crop of the producer on land in the county only if the producer obtains the coverage for the crop on all insurable land of the producer in the county.

"(7) ELIGIBILITY FOR DEPARTMENT PROGRAMS.—

"(A) IN GENERAL.—To be eligible for any price support or production adjustment program, the conservation reserve program, or any benefit described in section 371 of the Consolidated Farm and Rural Development Act, the producer must obtain at least the catastrophic level of insurance for each crop of economic significance grown on each farm in the county in which the producer has an interest, if insurance is available in the county for the crop.

"(B) DEFINITION OF CROP OF ECONOMIC SIGNIFICANCE.—As used in this paragraph, the term 'crop of economic significance' means a crop that has contributed, or is expected to contribute, 10 percent or more of the total expected value of all crops grown by the producer.

"(8) LIMITATION DUE TO RISK.—The Corporation may limit catastrophic risk coverage in any county or area, or on any farm, on the basis of the insurance risk concerned.

"(9) TRANSITIONAL COVERAGE FOR 1995 CROPS.—Effective only for a 1995 crop planted or for which insurance attached prior to January 1, 1995, the Corporation shall allow producers of the crops until not later than the end of the 180-day period beginning on the date of enactment of the Federal Crop Insurance Reform Act of 1994 to obtain catastrophic risk protection for the crop. On enactment of such Act, a producer who made timely purchases of a crop insurance policy before the date of enactment of such Act, under the provisions of this title then in effect, shall be eligible for the same benefits to which a producer would be entitled under comparable additional coverage under subsection (c).

"(10) SIMPLIFICATION.—

"(A) CATASTROPHIC RISK PROTECTION PLANS.—In developing and carrying out the policies and procedures for a catastrophic risk protection plan under this title, the Corporation shall, to the maximum extent practicable, minimize the paperwork required and the complexity and costs of procedures governing applications for, processing, and servicing of the plan for all parties involved.

"(B) OTHER PLANS.—To the extent that the policies and procedures developed under subparagraph (A) may be applied to other plans of insurance offered under this title without jeopardizing the actuarial soundness or integrity of the crop insurance program, the Corporation shall apply the policies and procedures to the other plans of insurance within a reasonable period of time (as determined by the Corporation) after the effective date of this paragraph.

"(c) GENERAL COVERAGE LEVELS.—

"(1) ADDITIONAL COVERAGE GENERALLY.—

"(A) IN GENERAL.—The Corporation shall offer to producers of agricultural commodities grown in the United States plans of crop insurance that provide additional coverage.

"(B) PURCHASE.—To be eligible for additional coverage, a producer must apply to an approved insurance provider for purchase of additional coverage if the coverage is available from an approved insurance provider. If additional coverage is unavailable privately, the Corporation may offer additional coverage plans of insurance directly to producers.

"(2) TRANSFER OF RELEVANT INFORMATION.—If a producer has already applied for catastrophic risk protection at the local office of the Department and elects to purchase additional coverage, the relevant information for the crop of the producer shall be transferred to the approved insurance provider servicing the additional coverage crop policy.

"(3) YIELD AND LOSS BASIS.—A producer shall have the option of purchasing additional coverage based on an individual yield and loss basis or on an area yield and loss basis, if both options are offered by the Corporation.

"(4) LEVEL OF COVERAGE.—The level of coverage shall be dollar denominated and may be purchased at any level not to exceed 85 percent of the individual yield or 95 percent of the area yield (as determined by the Corporation). Not later than the beginning of the 1996 crop year, the Corporation shall provide producers with information on catastrophic risk and additional coverage in terms of dollar coverage (within the allowable limits of coverage provided in this paragraph).

"(5) PRICE LEVEL.—The Corporation shall establish a price level for each commodity on which insurance is offered that—

"(A) shall not be less than the projected market price for the commodity (as determined by the Corporation); or

"(B) at the discretion of the Corporation, may be based on the actual market price at the time of harvest (as determined by the Corporation).

"(6) PRICE ELECTIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), insurance coverage shall be made available to a producer on the basis of any price election that equals or is less than the price election established by the Corporation. The coverage shall be quoted in terms of dollars per acre.

"(B) MINIMUM PRICE ELECTIONS.—The Corporation may establish minimum price elections below which levels of insurance shall not be offered.

"(C) WHEAT CLASSES AND MALTING BARLEY.—The Corporation shall, as the Corporation determines practicable, offer producers different price elections for classes of wheat and malting barley (including contract prices in the case of malting barley), in addition to the standard price election, that reflect different market prices, as determined by the Corporation. The Corporation shall, as the Corporation determines practicable, offer additional coverage for each class determined under this subparagraph and charge a premium for each class that is actuarially sound.

"(7) Fire and Hail Coverage.—For levels of additional coverage equal to 65 percent or more of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, a producer may elect to delete from the additional coverage any coverage against damage caused by fire and hail if the producer obtains an equivalent or greater dollar amount of coverage for damage caused by fire and hail from an approved insurance provider. On written notice of the election to the company issuing the policy providing additional coverage and submission of evidence of substitute coverage on the commodity insured, the premium of the producer shall be reduced by an amount determined by the Corporation to be actuarially appropriate, taking into account the actuarial value of the remaining coverage provided by the Corporation. In no event shall the producer be given credit for an amount of premium determined to be greater than the actuarial value of the protection against losses caused by fire and hail that is included in the additional coverage for the crop.

"(8) State Premium Subsidies.—The Corporation may enter into an agreement with any State or agency of a State under which the State or agency may pay to the approved insurance provider an additional premium subsidy to further reduce the portion of the premium paid by producers in the State.

"(9) Limitations on Additional Coverage.—The Board may limit the availability of additional coverage under this subsection in any county or area, or on any farm, on the basis of the insurance risk involved. The Board shall not offer additional coverage equal to less than 50 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage.

"(10) Administrative Fee.—

"(A) Fee Required.—Except as otherwise provided in this paragraph, if a producer elects to purchase additional coverage for a crop at a level that is less than 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the producer shall pay an administrative fee for the additional coverage. Subsection (b)(5) shall apply in determining the amount and use of the administrative fee or in determining whether to waive the administrative fee.

"(B) Exception.—If a producer elects to purchase additional coverage for a crop equal to 65 percent or more of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the producer shall not be subject to the administrative fee required by this paragraph or subsection (b)(5). If the producer has already paid the administrative fee for a lower level of coverage for the crop, the administrative fee shall be refunded to the producer unless the refund would reduce to less than $200 the total amount of the administrative fees paid by the producer for 2 or more crops in the same county for which a lower level of coverage is obtained.

"(C) Additional Fee.—If a producer elects to purchase additional coverage for a crop equal to or exceeding 65 percent of the recorded or appraised average yield and 100 percent of the expected market price or an equivalent coverage, the producer shall pay an administrative fee of $10 for the coverage. If a producer has already paid an administrative fee for lesser coverage for the crop, the fee for lesser coverage shall be refunded to the producer unless the producer has paid the maximum fee for lesser coverage and refund of the fee will not reduce the amount to be paid below the maximum amount.

"(D) Deposit of Fees.—Notwithstanding the authority granted to the Secretary under the Federal Crop Insurance Corporation account programs of the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1995, administrative fees collected under subparagraph (B) in excess of $100 per producer per county and under subparagraph (C) shall be deposited in the insurance fund established under section 516(c) to be available for the programs and activities of the Corporation.

"(d) Premiums.—

"(1) Premiums Required.—The Corporation shall fix adequate premiums for all the plans of insurance of the Corporation at such rates as the Board determines are actuarially sufficient to attain an expected loss ratio of not greater than 1.1 through September 30, 1998, and not greater than 1.075 after October 1, 1998.

"(2) Premium Amounts.—The premium amounts for catastrophic risk protection under subsection (b) and additional coverage under subsection (c) shall be fixed as follows:

"(A) In the case of catastrophic risk protection, the amount of the premium shall be sufficient to cover anticipated losses and a reasonable reserve.

"(B) In the case of additional coverage below 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, but greater than 50 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the amount of the premium shall—

"(i) be sufficient to cover anticipated losses and a reasonable reserve; and

"(ii) include an amount for operating and administrative expenses, as determined by the Corporation.

"(C) In the case of additional coverage equal to or greater than 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the amount of the premium shall—

"(i) be sufficient to cover anticipated losses and a reasonable reserve; and

"(ii) include an amount for operating and administrative expenses, as determined by the Corporation, on an industry-wide basis as a percentage of the amount of the premium used to define loss ratio.

"(e) Payment of Portion of Premium by Corporation.—

"(1) In General.—For the purpose of encouraging the broadest possible participation of producers in the catastrophic risk protection provided under subsection (b) and the additional coverage provided under subsection (c), the Corporation shall pay a part of the premium in the amounts provided in accordance with this subsection.

"(2) Amount of Payment.—The amount of the premium to be paid by the Corporation shall be as follows:

"(A) In the case of catastrophic risk protection, the amount shall be equivalent to the premium established for catastrophic risk protection under subsection (d)(2)(A).

"(B) In the case of coverage below 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, but greater than 50 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the amount shall be equivalent to the amount of premium established for catastrophic risk protection coverage and the amount of operating and administrative expenses established under subsection (d)(2)(B).

"(C) In the case of coverage equal to or greater than 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, on an individual or area basis, the amount shall be equivalent to an amount equal to the premium established for 50 percent loss in yield indemnified at 75 percent of the expected market price and the amount of operating and administrative expenses established under subsection (d)(2)(C).

"(3) Premium Reduction.—If an approved insurance provider determines that the provider may provide insurance more efficiently than the expense reimbursement amount established by the Corporation, the approved insurance provider may reduce, subject to the approval of the Corporation, the premium charged the insured by an amount corresponding to the efficiency. The approved insurance provider shall apply to the Corporation for authority to reduce the premium before making such a reduction, and the reduction shall be subject to the rules, limitations, and procedures established by the Corporation.

"(4) Individual and Area Crop Insurance Coverage.—The Corporation shall allow approved insurance providers to offer a plan of insurance to producers that combines both individual yield coverage and area yield coverage at a premium rate determined by the provider under the following conditions:

"(A) The individual yield coverage shall be equal to or greater than catastrophic risk protection as described in subsection (b).

"(B) The combined policy shall include area yield coverage that is offered by the Corporation or similar area coverage, as determined by the Corporation.

"(C) The Corporation shall provide reinsurance on the area yield portion of the combined policy at the request of the provider, except that the provider shall agree to pay to the producer any portion of the area yield and loss indemnity payment received from the Corporation or a commercial reinsurer that exceeds the individual indemnity payment made by the provider to the producer.

"(D) The Corporation shall pay a part of the premium equivalent to—

"(i) the amount authorized under paragraph (2) (except provisions regarding operating and administrative expenses); and

"(ii) the amount of operating and administrative expenses authorized by the Corporation for the area yield coverage portion of the combined policy.

"(E) The provider shall provide all underwriting services for the combined policy, including the determination of individual yield coverage premium rates, the terms and conditions of the policy, and the acceptance and classification of applicants into risk categories, subject to subparagraph (F).

"(F) The Corporation shall approve the combined policy unless the Corporation determines that the policy is not actuarially sound or that the interests of producers are not adequately protected.

"(f) Eligibility.—

"(1) In General.—To participate in catastrophic risk protection coverage under this section, a producer shall submit an application at the local office of the Department or to an approved insurance provider.

"(2) Sales Closing Date.—For coverage under this title, each producer shall purchase crop insurance on or before the sales closing date for the crop by providing the required information and executing the required documents. Subject to the goal of ensuring actuarial soundness for the crop insurance program, the sales closing date shall be established by the Corporation to maximize convenience to producers in obtaining benefits under price and production adjustment programs of the Department. Beginning with the 1995 crop year, the Corporation shall establish, for an insurance policy for each insurable crop that is planted in the spring, a sales closing date that is 30 days earlier than the corresponding sales closing date that was established for the 1994 crop year.

“(3) RECORDS AND REPORTING.—To obtain catastrophic risk protection under subsection (b) or additional coverage under subsection (c), a producer shall—

“(A) provide, to the extent required by the Corporation, records acceptable to the Corporation of historical acreage and production of the crops for which the insurance is sought or accept a yield determined by the Corporation; and

“(B) report acreage planted and prevented from planting by the designated acreage reporting date for the crop and location as established by the Corporation.

“(g) YIELD DETERMINATIONS.—

“(1) IN GENERAL.—Subject to paragraph (2), the Corporation shall establish crop insurance underwriting rules that ensure that yield coverage, as specified in this subsection, is provided to eligible producers obtaining catastrophic risk protection under subsection (b) or additional coverage under subsection (c).

“(2) YIELD COVERAGE PLANS.—

“(A) ACTUAL PRODUCTION HISTORY.—Subject to subparagraph (B), the yield for a crop shall be based on the actual production history for the crop, if the crop was produced on the farm without penalty during each of the 4 crop years immediately preceding the crop year for which actual production history is being established, building up to a production data base for each of the 10 consecutive crop years preceding the crop year for which actual production history is being established.

“(B) ASSIGNED YIELD.—If the producer does not provide satisfactory evidence of the yield of a commodity under subparagraph (A), the producer shall be assigned a yield that is not less than 65 percent of the transitional yield of the producer (adjusted to reflect actual production reflected in the records acceptable to the Corporation for continuous years), as specified in regulations issued by the Corporation based on production history requirements.

“(C) AREA YIELD.—The Corporation may offer a crop insurance plan based on an area yield that allows an insured producer to qualify for an indemnity if a loss has occurred in an area (as specified by the Corporation) in which the farm of the producer is located. Under an area yield plan, an insured producer shall be allowed to select the level of area production at which an indemnity will be paid consistent with such terms and conditions as are established by the Corporation.

“(D) COMMODITY-BY-COMMODITY BASIS.—A producer may choose between individual yield or area yield coverage or combined coverage (as provided in subsection (e)(4)), if available, on a commodity-by-commodity basis.

“(3) TRANSITIONAL YIELDS FOR PRODUCERS OF FEED OR FORAGE.—

“(A) IN GENERAL.—If a producer does not provide satisfactory evidence of a yield under paragraph (2)(A), the producer shall be assigned a yield that is at least 80 percent of the transitional yield established by the Corporation (adjusted to reflect the actual production history of the producer) if the Secretary determines that—

“(i) the producer grows feed or forage primarily for on-farm use in a livestock, dairy, or poultry operation; and

“(ii) over 50 percent of the net farm income of the producer is derived from the operation.

“(B) YIELD CALCULATION.—The Corporation shall—

“(i) for the first year of participation of a producer, provide the assigned yield under this paragraph to the producer of feed or forage; and

“(ii) for the second year of participation of the producer, apply the actual production history or assigned yield requirement, as provided in this subsection.

“(C) TERMINATION OF AUTHORITY.—The authority provided by this paragraph shall terminate on the date that is 3 years after the effective date of this paragraph.

“(h) SUBMISSION OF POLICIES AND MATERIALS TO BOARD.—

“(1) IN GENERAL.—In addition to any standard forms or policies that the Board may require be made available to producers under subsection (c), a person may prepare for submission or propose to the Board—

“(A) other crop insurance policies and provisions of policies; and

“(B) rates of premiums for multiple peril crop insurance pertaining to wheat, soybeans, field corn, and any other crops determined by the Secretary.

“(2) SUBMISSION OF POLICIES.—A policy or other material submitted to the Board under this subsection may be prepared without regard to the limitations contained in this title, including the requirements concerning the levels of coverage and rates and the requirement that a price level for each commodity insured must equal the expected market price for the commodity as established by the Board. In the case of such a policy, the payment by the Corporation of a portion of the premium of the policy may not exceed the amount that would otherwise be authorized under subsection (e).

“(3) REVIEW AND APPROVAL BY THE BOARD.—A policy or other material submitted to the Board under this subsection shall be reviewed by the Board and, if the Board finds that the interests of producers are adequately protected and that any premiums charged to the producers are actuarially appropriate, shall be approved by the Board for reinsurance and for sale to producers as an additional choice at actuarially appropriate rates and under appropriate terms and conditions. The Corporation may enter into more than 1 reinsurance agreement with the approved insurance provider simultaneously to facilitate the offering of the new policies.

“(4) GUIDELINES FOR SUBMISSION AND REVIEW.—The Corporation shall issue regulations to establish guidelines for the submission, and Board review, of policies or other material submitted to the Board under this subsection. At a minimum, the guidelines shall ensure the following:

“(A) A proposal submitted to the Board under this subsection shall be considered as confidential commercial or financial information for purposes of section 552(b)(4) of title 5, United States Code, until approved by the Board. A proposal disapproved by the Board shall remain confidential commercial or financial information.

“(B) The Board shall provide an applicant with the opportunity to present the proposal to the Board in person if the applicant so desires.

“(C) The Board shall provide an applicant with notification of intent to disapprove a proposal not later than 30 days prior to making the disapproval. An applicant that receives the notification may modify the application of the applicant. Any modification shall be considered an original application for purposes of this paragraph.

“(D) Specific guidelines shall prescribe the timing of submission of proposals under this subsection and timely consideration by the Board so that any approved proposal may be made available to all persons reinsured by the Corporation in a manner permitting the persons to participate, if the persons so desire, in offering such a proposal in the first crop year in which the proposal is approved by the Board for reinsurance, premium subsidy, or other support offered by this title.

“(5) REQUIRED PUBLICATION.—Any policy, provision of a policy, or rate approved under this subsection shall be published as a notice in the Federal Register and made available to all persons contracting with or reinsured by the Corporation under the terms and conditions of the contract between the Corporation and the person originally submitting the policy or other material.

“(6) PILOT COST OF PRODUCTION RISK PROTECTION PLAN.—

“(A) IN GENERAL.—The Corporation shall offer, to the extent practicable, a cost of production risk protection plan of insurance that indemnifies producers (including new producers) for insurable losses as provided in this paragraph.

“(B) PILOT BASIS.—The cost of production risk protection plan shall—

“(i) be established as a pilot project for each of the 1996 and 1997 crop years; and

“(ii) be carried out in a number of counties that is determined by the Corporation to be adequate to provide a comprehensive evaluation of the feasibility, effectiveness, and demand among producers for the plan.

“(C) INSURABLE LOSS.—An insurable loss shall be incurred by a producer if the gross income of the producer (as determined by the Corporation) is less than an amount determined by the Corporation, as a result of a reduction in yield or price resulting from an insured cause.

“(D) DEFINITION OF NEW PRODUCER.—As used in this paragraph, the term ‘new producer’ means a person that has not been actively engaged in farming for a share of the production of the insured crop for more than 2 crop years, as determined by the Secretary.

“(7) ADDITIONAL PREVENTED PLANTING POLICY COVERAGE.—

“(A) IN GENERAL.—Beginning with the 1995 crop year, the Corporation shall offer to producers additional prevented planting coverage that insures producers against losses in accordance with this paragraph.

“(B) APPROVED INSURANCE PROVIDERS.—Additional prevented planting coverage shall be offered by the Corporation through approved insurance providers.

“(C) TIMING OF LOSS.—A crop loss shall be covered by the additional prevented planting coverage if—

“(i) crop insurance policies were obtained for—

“(I) the crop year the loss was experienced; and

“(II) the crop year immediately preceding the year of the prevented planting loss; and

“(ii) the cause of the loss occurred—

“(I) after the sales closing date for the crop in the crop year immediately preceding the loss; and

"(II) before the sales closing date for the crop in the year in which the loss is experienced.

"(8) PILOT PROGRAM OF ASSIGNED YIELDS FOR NEW PRODUCERS.—

"(A) PROGRAM REQUIRED.—For each of the 1995 and 1996 crop years, the Corporation shall carry out a pilot program to assign to eligible new producers higher assigned yields than would otherwise be assigned to the producers under subsection (g). The Corporation shall include in the pilot program 30 counties that are determined by the Corporation to be adequate to provide a comprehensive evaluation of the feasibility, effectiveness, and demand among new producers for increased assigned yields.

"(B) INCREASED ASSIGNED YIELDS.—In the case of an eligible new producer participating in the pilot program, the Corporation shall assign to the new producer a yield that is equal to not less than 110 percent of the transitional yield otherwise established by the Corporation.

"(C) ELIGIBLE NEW PRODUCER.—The Secretary shall establish a definition of new producer for purposes of determining eligibility to participate in the pilot program.

"(i) ADOPTION OF RATES AND COVERAGES.—The Corporation shall adopt, as soon as practicable, rates and coverages that will improve the actuarial soundness of the insurance operations of the Corporation for those crops that are determined to be insured at rates that are not actuarially sound, except that no rate may be increased by an amount of more than 20 percent over the comparable rate of the preceding crop year.

"(j) CLAIMS FOR LOSSES.—

"(1) IN GENERAL.—Under rules prescribed by the Corporation, the Corporation may provide for adjustment and payment of claims for losses. The rules prescribed by the Corporation shall establish standards to ensure that all claims for losses are adjusted, to the extent practicable, in a uniform and timely manner.

"(2) DENIAL OF CLAIMS.—

"(A) IN GENERAL.—Subject to subparagraph (B), if a claim for indemnity is denied by the Corporation or an approved provider, an action on the claim may be brought against the Corporation or Secretary only in the United States district court for the district in which the insured farm is located.

"(B) STATUTE OF LIMITATIONS.—A suit on the claim may be brought not later than 1 year after the date on which final notice of denial of the claim is provided to the claimant.

"(3) INDEMNIFICATION.—The Corporation shall provide approved insurance providers with indemnification, including costs and reasonable attorney fees incurred by the approved insurance provider, due to errors or omissions on the part of the Corporation.

"(k) REINSURANCE.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, the Corporation shall, to the maximum extent practicable, provide reinsurance to insurers approved by the Corporation that insure producers of any agricultural commodity under 1 or more plans acceptable to the Corporation.

"(2) TERMS AND CONDITIONS.—The reinsurance shall be provided on such terms and conditions as the Board may determine to be consistent with subsections (b) and (c) and sound reinsurance principles.

"(3) SHARE OF RISK.—The reinsurance agreements of the Corporation with the reinsured companies shall require the reinsured companies to bear a sufficient share of any potential loss under the agreement so as to ensure that the reinsured company will sell and service policies of insurance in a sound and prudent manner, taking into consideration the financial condition of the reinsured companies and the availability of private reinsurance.

"(4) RATE.—The rate established by the Board to reimburse approved insurance providers and agents for the administrative and operating costs of the providers and agents shall not exceed—

"(A) for the 1997 reinsurance year, 29 percent of the premium used to define loss ratio;

"(B) for the 1998 reinsurance year, 28 percent of the premium used to define loss ratio; and

"(C) for the 1999 reinsurance year, 27.5 percent of the premium used to define loss ratio.

"(5) COST AND REGULATORY REDUCTION.—Consistent with section 118 of the Federal Crop Insurance Reform Act of 1994, and consistent with maintenance of program integrity, prevention of fraud and abuse, the need for program expansion, and improvement of quality of service to customers, the Board shall alter program procedures and administrative requirements in order to reduce the administrative and operating costs of approved insurance providers and agents in an amount that corresponds to any reduction in the reimbursement rate required under paragraph (4) during the 5-year period beginning on the date of enactment of this paragraph.

"(6) AGENCY DISCRETION.—The determination of whether the Corporation is achieving, or has achieved, corresponding administrative cost savings shall not be subject to administrative review, and is wholly committed to agency discretion within the meaning of section 701(a)(2) of title 5, United States Code.

"(7) PLAN.—The Corporation shall submit to Congress a plan outlining the measures that will be used to achieve the reduction required under paragraph (5). If the Corporation can identify additional cost reduction measures, the Corporation shall describe the measures in the plan.

"(l) OPTIONAL COVERAGES.—The Corporation may offer specific risk protection programs, including protection against prevented planting, wildlife depredation, tree damage and disease, and insect infestation, under such terms and conditions as the Board may determine, except that no program may be undertaken if insurance for the specific risk involved is generally available from private companies.

"(m) RESEARCH.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Corporation may conduct research, surveys, pilot programs, and investigations relating to crop insurance and agriculture-related risks and losses including insurance on losses involving reduced forage on rangeland caused by drought and by insect infestation, livestock poisoning and disease, destruction of bees due to the use of pesticides, and other unique special risks related to fruits, nuts, vegetables, aquacultural species, forest industry needs (including appreciation), and other agricultural products as determined by the Board.

"(2) EXCEPTION.—No action may be undertaken with respect to a risk under paragraph (1) if insurance protection against the risk is generally available from private companies.

"(3) EVALUATION.—After the completion of any pilot program under this subsection, the Corporation shall evaluate the pilot program and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report of the operations of the pilot program, including the evaluation by the Corporation of the pilot program and the recommendations of the Corporation with respect to implementing the program on a national basis.".

SEC. 107. CROP INSURANCE YIELD COVERAGE.

Section 508A (7 U.S.C. 1508a) is repealed.

SEC. 108. PREEMPTION.

Section 511 (7 U.S.C. 1511) is amended by adding at the end the following sentence: "A contract of insurance of the Corporation, and a contract of insurance reinsured by the Corporation, shall be exempt from taxation imposed by any State, municipality, or local taxing authority.".

SEC. 109. ADVISORY COMMITTEE.

The Act is amended by inserting after section 514 (7 U.S.C. 1514) the following new section:

"SEC. 515. ADVISORY COMMITTEE FOR FEDERAL CROP INSURANCE.

"(a) ESTABLISHMENT.—The Secretary may establish within the Department an advisory committee to be known as the 'Advisory Committee for Federal Crop Insurance'.

"(b) PRIMARY RESPONSIBILITY.—The primary responsibility of the Advisory Committee shall be to advise the Secretary on the implementation of this title and on other issues related to crop insurance, as determined by the Manager of the Corporation.

"(c) MEMBERSHIP.—The Advisory Committee shall be composed of the Manager of the Corporation, the Secretary (or a designee of the Secretary), and not fewer than 12 members representing organizations and agencies involved in the provision of crop insurance under this title. Not fewer than 3 of the members of the Advisory Committee shall be representatives of the specialty crops industry. The organizations or agencies represented by members on the Advisory Committee may include insurance companies, insurance agents, farm producer organizations, experts on agronomic practices, and banking and lending institutions.

"(d) ADMINISTRATIVE PROVISIONS.—

"(1) TERMS.—Members of the Advisory Committee (other than the Manager of the Corporation and the Secretary) shall be appointed by the Secretary for a term of up to 2 years from nominations made by the organizations and agencies specified in subsection (c). The terms of the members (other than the Manager of the Corporation and the Secretary) shall be staggered.

"(2) CHAIRPERSON.—The Advisory Committee shall be chaired by the Manager of the Corporation.

"(3) MEETINGS.—The Advisory Committee shall meet at least annually. The meetings of the Advisory Committee shall be publicly announced in advance and shall be open to the public. Appropriate records of the activities of the Advisory Committee shall be kept and made available to the public on request.

"(e) REPORTS.—Not later than June 30 of each year, the Advisory Committee shall submit to the Secretary a report specifying the conclusions and recommendations of the Advisory Committee regarding—

"(1) the progress toward implementation of this title;

"(2) the actuarial soundness of the Federal crop insurance program;

"(3) the rate of producer participation in both catastrophic risk protection under section 508(b) and additional coverage under section 508(c); and

"(4) the progress toward improved crop insurance coverage for new and specialty crops.

"(f) TERMINATION OF AUTHORITY.—The authority provided by this section shall terminate on September 30, 1998.".

SEC. 110. FUNDING.

Section 516 (7 U.S.C. 1516) is amended to read as follows:

"SEC. 516. FUNDING.

"(a) AUTHORIZATION OF APPROPRIATIONS.—

"(1) DISCRETIONARY EXPENSES.—There are authorized to be appropriated for each of fiscal years 1995 through 2001 such sums as are necessary to cover—

"(A) the salaries and expenses of the Corporation; and

"(B) the administrative and operating expenses of the Corporation for the sales commissions of agents.

"(2) MANDATORY EXPENSES.—There are authorized to be appropriated such sums as are necessary to cover—

"(A) in the case of each of the 1995 through 1997 reinsurance years, the administrative and operating expenses of the Corporation for the sales commissions of agents, consistent with subsection (b)(1);

"(B) premium subsidies, including the administrative and operating expenses of an approved insurance provider for the delivery of policies with additional coverage; and

"(C) payments for noninsured assistance losses under section 519.

"(b) PAYMENT OF EXPENSES.—

"(1) ADMINISTRATIVE AND OPERATING EXPENSES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of each of the 1995 through 1997 reinsurance years, the Corporation is authorized to pay from the insurance fund established under subsection (c), the administrative and operating expenses of an approved insurance provider, including expenses covered by subsection (a)(1)(B).

"(B) SALES COMMISSIONS FOR 1997 REINSURANCE YEAR.—In the case of the 1997 reinsurance year, the amount of the payments from the insurance fund established under subsection (c) for the expenses of the Corporation for the sales commissions of agents may not exceed 8.5 percent of the total amount of premiums paid for additional coverage for the 1997 reinsurance year.

"(2) OTHER EXPENSES.—The Corporation is authorized to pay from the insurance fund established under subsection (c)—

"(A) all other expenses of the Corporation (other than expenses covered by subsection (a)(1)), including all premium subsidies, noninsured assistance benefits, and indemnities;

"(B) subject to paragraph (1)(B), in the case of each of the 1995 through 1997 reinsurance years, all administrative and expense reimbursements due under a reinsurance agreement with an approved insurance provider; and

"(C) to the extent necessary, expenses incurred by the Corporation to carry out research and development.

"(c) INSURANCE FUND.—

"(1) IN GENERAL.—There is established an insurance fund, for the deposit of premium income and amounts made available under subsection (a)(2), to be available without fiscal year limitation.

"(2) COMMODITY CREDIT CORPORATION FUNDS.—If at any time the amounts in the insurance fund are insufficient to enable the Corporation to carry out subsection (b), to the extent the funds of the Commodity Credit Corporation are available—

"(A) the Corporation may request the Secretary to use the funds of the Commodity Credit Corporation to carry out subsection (b); and

"(B) the Secretary may use the funds of the Commodity Credit Corporation to carry out subsection (b).".

SEC. 111. NONINSURED CROP DISASTER ASSISTANCE.

Section 519 (7 U.S.C. 1519) is amended to read as follows:

"SEC. 519. NONINSURED CROP DISASTER ASSISTANCE PROGRAM.

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) ESTABLISHMENT.—In the case of an eligible crop described in paragraph (2), the Corporation shall establish a noninsured crop disaster assistance program to provide coverage equivalent to the catastrophic risk protection otherwise available under section 508(b).

"(2) ELIGIBLE CROPS.—

"(A) IN GENERAL.—As used in this section, the term 'eligible crop' means each commercial crop or other agricultural commodity (except livestock)—

"(i) for which catastrophic risk protection under section 508(b) is not available; and

"(ii) that is produced for food or fiber.

"(B) CROPS SPECIFICALLY INCLUDED.—The term 'eligible crop' shall include floricultural, ornamental nursery, and Christmas tree crops, turfgrass sod, and industrial crops.

"(3) CAUSE OF LOSS.—To qualify for assistance under this section, the losses of the noninsured commodity shall be due to drought, flood, or other natural disaster, as determined by the Secretary.

"(b) APPLICATION FOR NONINSURED CROP DISASTER ASSISTANCE.—

"(1) TIMELY APPLICATION.—To be eligible for assistance under this section, a producer shall submit an application for noninsured crop disaster assistance at a local office of the Department. The application shall be in such form, contain such information, and be submitted at such time as the Corporation may require.

"(2) RECORDS.—A producer shall annually provide records, as required by the Corporation, of previous crop acreage, acreage yields, and production, or the producer shall accept a yield under subsection (e)(3) determined by the Corporation.

"(3) ACREAGE REPORTS.—A producer shall provide reports on acreage planted or prevented from being planted, as required by the Corporation, by the designated acreage reporting date for the crop and location as established by the Corporation.

"(c) LOSS REQUIREMENTS.—

"(1) REQUIRED AREA LOSS.—A producer of an eligible crop shall not receive noninsured crop disaster assistance unless the average yield for that crop, or an equivalent measure in the event yield data are not available, in an area falls below 65 percent of the expected area yield, as established by the Corporation.

"(2) PREVENTED PLANTING.—Subject to paragraph (1), the Corporation shall make a prevented planting noninsured crop disaster assistance payment if the producer is prevented from planting more than 35 percent of the acreage intended for the eligible crop because of drought, flood, or other natural disaster, as determined by the Secretary.

"(3) REDUCED YIELDS.—Subject to paragraph (1), the Corporation shall make a reduced yield noninsured crop disaster assistance payment to a producer if the total quantity of the eligible crop that the producer is able to harvest on any farm is, because of drought, flood, or other natural disaster as determined by the Secretary, less than 50 percent of the expected individual yield for the crop, as determined by the Corporation, factored for the interest of the producer for the crop.

"(d) PAYMENT.—The Corporation shall make available to a producer eligible for noninsured assistance under this section a payment computed by multiplying—

"(1) the quantity that is less than 50 percent of the established yield for the crop; by

"(2)(A) in the case of each of the 1995 through 1998 crop years, 60 percent of the average market price for the crop (or any comparable coverage determined by the Corporation); or

"(B) in the case of each of the 1999 and subsequent crop years, 55 percent of the average market price for the crop (or any comparable coverage determined by the Corporation); by

"(3) a payment rate for the type of crop (as determined by the Corporation) that—

"(A) in the case of a crop that is produced with a significant and variable harvesting expense, reflects the decreasing cost incurred in the production cycle for the crop that is—

"(i) harvested;

"(ii) planted but not harvested; and

"(iii) prevented from being planted because of drought, flood, or other natural disaster (as determined by the Secretary); and

"(B) in the case of a crop that is not produced with a significant and variable harvesting expense, is determined by the Corporation.

"(e) YIELD DETERMINATIONS.—

"(1) ESTABLISHMENT.—The Corporation shall establish farm yields for purposes of providing noninsured crop disaster assistance under this section.

"(2) ACTUAL PRODUCTION HISTORY.—The Corporation shall determine yield coverage using the actual production history of the producer over a period of not less than the 4 previous consecutive crop years and not more than 10 consecutive crop years. Subject to paragraph (3), the yield for the year in which noninsured crop disaster assistance is sought shall be equal to the average of the actual production history of the producer during the period considered.

"(3) ASSIGNMENT OF YIELD.—If a producer does not submit adequate documentation of production history to determine a crop yield under paragraph (2), the Corporation shall assign to the producer a yield equal to not less than 65 percent of the transitional yield of the producer (adjusted to reflect actual production reflected in the records acceptable to the Corporation for continuous years), as specified in regulations issued by the Corporation based on production history requirements.

"(4) PROHIBITION ON ASSIGNED YIELDS IN CERTAIN COUNTIES.—

"(A) IN GENERAL.—

"(i) DOCUMENTATION.—If sufficient data are available to demonstrate that the acreage of a crop in a county for the crop year has increased by more than 100 percent over any year in the preceding 7 crop years or, if data are not available, if the acreage of the crop in the county has increased significantly from the previous crop years, a producer must provide such detailed documentation of production costs, acres planted, and yield for the crop year for which benefits are being claimed as is required by the Corporation. If the Corporation determines that the documentation provided is not sufficient, the Corporation may require documenting proof that the crop, had the crop been harvested, could have been marketed at a reasonable price.

"(ii) PROHIBITION.—Except as provided in subparagraph (B), a producer who produces a crop on a farm located in a county described in clause (i) may not obtain an assigned yield.

"(B) EXCEPTION.—A crop or a producer shall not be subject to this subsection if—

"(i) the planted acreage of the producer for the crop has been inspected by a third party acceptable to the Secretary; or

"(ii)(I) the County Executive Director and the State Executive Director recommend an exemption from the requirement to the Deputy Administrator for State and County Operations of the Agricultural Stabilization and Conservation Service; and

"(II) the Deputy Administrator approves the recommendation.

"(5) LIMITATION ON RECEIPT OF SUBSEQUENT ASSIGNED YIELD.—A producer who receives an assigned yield for the current year of a natural disaster because required production records were not submitted to the local office of the Department shall not be eligible for an assigned yield for the year of the next natural disaster unless the required production records of the previous 1 or more years (as applicable) are provided to the local office.

"(6) YIELD VARIATIONS DUE TO DIFFERENT FARMING PRACTICES.—The Corporation shall ensure that noninsured crop disaster assistance accurately reflects significant yield variations due to different farming practices, such as between irrigated and nonirrigated acreage.

"(f) CONTRACT PAYMENTS.—A producer who has received a guaranteed payment for production, as opposed to delivery, of a crop pursuant to a contract shall have the production of the producer adjusted upward by the amount of the production equal to the amount of the contract payment received.

"(g) PAYMENT OF LOSSES.—Payments for noninsured crop disaster assistance losses under this section shall be made from the insurance fund established under section 516. The losses shall not be included in calculating the premiums charged to producers for insurance under section 508.

"(h) EXCLUSIONS.—Noninsured crop disaster assistance under this section shall not cover losses due to—

"(A) the neglect or malfeasance of the producer;

"(B) the failure of the producer to reseed to the same crop in those areas and under such circumstances where it is customary to reseed; or

"(C) the failure of the producer to follow good farming practices, as determined by the Corporation.".

SEC. 112. PAYMENT AND INCOME LIMITATIONS.

Section 519 (7 U.S.C. 1519) (as amended by section 111) is further amended by adding at the end the following new subsection:

"(h) PAYMENT AND INCOME LIMITATIONS.—

"(1) DEFINITIONS.—As used in this subsection:

"(A) PERSON.—The term 'person' has the meaning provided the term in regulations issued by the Secretary. The regulations shall conform, to the extent practicable, to the regulations defining the term 'person' issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308).

"(B) QUALIFYING GROSS REVENUES.—The term 'qualifying gross revenues' means—

"(i) if a majority of the gross revenue of the person is received from farming, ranching, and forestry operations, the gross revenue from the farming, ranching, and forestry operations of the person; and

"(ii) if less than a majority of the gross revenue of the person is received from farming, ranching, and forestry operations, the gross revenue of the person from all sources.

"(2) PAYMENT LIMITATION.—The total amount of payments that a person shall be entitled to receive annually under this title may not exceed $100,000.

"(3) LIMITATION ON MULTIPLE BENEFITS FOR SAME LOSS.—If a producer who is eligible to receive benefits under catastrophic risk protection under section 508(b) or noninsured crop disaster assistance under this section is also eligible to receive assistance for the same loss under any other program administered by the Secretary, the producer shall be required to elect whether to receive benefits under this title or under the other program, but not both. A producer who purchases additional coverage under section 508(c) may also receive assistance for the same loss under other programs administered by the Secretary, except that the amount received for the loss under the additional coverage together with the amount received under the other programs may not exceed the amount of the actual loss of the producer.

"(4) INCOME LIMITATION.—A person who has qualifying gross revenues in excess of the amount specified in section 2266(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) (as in effect on November 28, 1990) during the taxable year (as determined by the Secretary) shall not be eligible to receive any noninsured assistance payment under this section.

"(5) REGULATIONS.—The Secretary shall issue regulations prescribing such rules as the Secretary determines necessary to ensure a fair and equitable application of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308), the general payment limitation regulations of the Secretary, and the limitations established under this subsection.".

SEC. 113. PRODUCER ELIGIBILITY.

Section 520 (7 U.S.C. 1520) is amended to read as follows:

"SEC. 520. PRODUCER ELIGIBILITY.

"Except as otherwise provided in this title, a producer shall not be denied insurance under this title if—

"(1) for purposes of catastrophic risk protection coverage, the producer is a 'person' (as defined by the Secretary); and

"(2) for purposes of any other plan of insurance, the producer is 18 years of age and has a bona fide insurable interest in a crop as an owner-operator, landlord, tenant, or sharecropper.".

SEC. 114. INELIGIBILITY FOR CATASTROPHIC RISK AND NONINSURED ASSISTANCE PAYMENTS.

The Act (7 U.S.C. 1501 et seq.) is amended by adding at the end the following new section:

"SEC. 521. INELIGIBILITY FOR CATASTROPHIC RISK AND NONINSURED ASSISTANCE PAYMENTS.

"If the Secretary determines that a person has knowingly adopted a material scheme or device to obtain catastrophic risk, additional coverage, or noninsured assistance benefits under this title to which the person is not entitled, has evaded this title, or has acted with the purposes of evading this title, the person shall be ineligible to receive all benefits applicable to the crop year for which the scheme or device was adopted. The authority provided by this section shall be in addition to, and shall not supplant, the authority provided by section 506(n).".

SEC. 115. ELIMINATION OF GENDER REFERENCES.

(a) MANAGEMENT OF CORPORATION.—Section 505 (7 U.S.C. 1505) is amended—

(1) in subsection (a), by striking the third sentence and inserting "The Board shall be appointed by, and hold office at the pleasure of, the Secretary. The Secretary shall not be a member of the Board."; and

(2) in subsection (d)—

(A) by striking "upon him"; and

(B) by striking "He shall be appointed by," and inserting "The manager shall be appointed by,".

(b) PERSONNEL.—Section 507 (7 U.S.C. 1507) is amended—

(1) in subsection (a), by striking "as he may determine: *Provided*, That" and inserting "as the Secretary may determine appropriate. However,"; and

(2) in subsection (d), by striking "as he may request" and inserting "that the Secretary requests".

(c) INDEMNITIES EXEMPT FROM LEVY.—Section 509 (7 U.S.C. 1509) is amended by striking "or his estate" and inserting "or the estate of the insured".

SEC. 116. PREVENTED PLANTING.

(a) IN GENERAL.—Effective for the 1994 crop year, a producer described in subsection (b) shall receive compensation under the prevented planting coverage policy provision described in subsection (b)(1) by—

(1) obtaining from the Secretary of Agriculture the applicable amount that is payable under the conserving use program described in subsection (b)(4); and

(2) obtaining from the Federal Crop Insurance Corporation the amount that is equal to the difference between—

(A) the amount that is payable under the conserving use program; and

(B) the amount that is payable under the prevented planting coverage policy.

(b) ELIGIBLE PRODUCERS.—Subsection (a) shall apply to a producer who—

(1) purchased a prevented planting policy for the 1994 crop year from the Federal Crop Insurance Corporation prior to the spring sales closing date for the 1994 crop year;

(2) is unable to plant a crop due to major, widespread flooding in the Midwest, or excessive ground moisture, that occurred prior to the spring sales closing date for the 1994 crop year;

(3) had a reasonable expectation of planting a crop on the prevented planting acreage for the 1994 crop year; and

(4) participates in a conserving use program established for the 1994 crop of wheat, feed grains, upland cotton, or rice established under section 107B(c)(1)(E), 105B(c)(1)(E), 103B(c)(1)(D), or 101B(c)(1)(D), respectively, of the Agricultural Act of 1949 (7 U.S.C. 1445b–3a(c)(1)(E), 1444f(c)(1)(E), 1444–2(c)(1)(D), or 1441–2(c)(1)(D)).

(c) OILSEED PREVENTED PLANTING PAYMENTS.—

(1) IN GENERAL.—Effective for the 1994 crop year, a producer of a crop of oilseeds (as defined in section 205(a) of the Agricultural Act of 1949 (7 U.S.C. 1446f(a))) shall receive a prevented planting payment for the crop if the requirements of paragraphs (1), (2), and (3) of subsection (b) are satisfied.

(2) SOURCE OF PAYMENT.—The total amount of payments required under this subsection shall be made by the Federal Crop Insurance Corporation.

(d) PAYMENT.—A payment under this section may not be made before October 1, 1994.

SEC. 117. REPORT ON IMPROVING DISSEMINATION OF CROP INSURANCE INFORMATION.

Not later than 180 days after the date of enactment of this Act and at the end of each of the 2 1-year periods thereafter, the Federal Crop Insurance Corporation shall submit a report to Congress containing a plan to implement a sound program for producer education regarding the crop insurance program and for the dissemination of crop insurance information to producers, as required by section 508(a)(5) of the Federal Crop Insurance Act (as amended by section 106).

SEC. 118. CROP INSURANCE PROVIDER EVALUATION.

(a) In General.—The Comptroller General of the United States and the Federal Crop Insurance Corporation (referred to in this section as the "Corporation") shall jointly evaluate the financial arrangement between the Corporation and approved insurance providers to determine the quality, costs, and efficiencies of providing the benefits of multiple peril crop insurance to producers of agricultural commodities covered under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(b) Collection of Information and Proposals.—The Corporation shall require private insurance providers and agents to supply, and the private insurance providers and agents shall supply, records and information necessary to make the determinations and evaluations required under this section. The Corporation shall solicit from the approved insurance providers and agents proposals for modifying or altering the requirements, regulations, procedures, and processes related to implementing the Federal Crop Insurance Act to reduce the operating and administrative costs of the providers and agents.

(c) Initial Report.—Not later than 180 days after receipt of information and cost-reduction proposals under subsection (b), the Corporation shall evaluate the information and proposals obtained and report the results of the evaluation to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(d) Final Report.—Not later than 2 years after the date of enactment of this Act, the Comptroller General and the Corporation shall submit a final report that provides the evaluation required under subsection (a) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. In making the evaluation, the Comptroller General and the Corporation shall—

(1) consider the changes made by the Corporation in response to increased program participation resulting from the enactment of this Act;

(2) include an evaluation and opinion of the accuracy and reasonableness of—

(A) the average actual costs for approved insurance providers to deliver multiple peril crop insurance;

(B) the cost per policy of complying with the requirements, regulations, procedures, and processes of the Federal Crop Insurance Act;

(C) the cost differences for various provider firm sizes and any business delivered by the Federal Government;

(D) the adequacy of the standard reimbursement for potential new providers; and

(E) the identification of any new costs related to the enactment of this Act not previously identified in the information reported by the providers;

(3) compare delivery costs of multiple peril crop insurance to other insurance coverages that the provider may sell and determine the extent, if any, to which any funds provided to carry out the Federal Crop Insurance Act are being used to fund any other business enterprise operated by the provider;

(4)(A) assess alternative methods for reimbursing providers for reasonable and necessary expenses associated with delivery of multiple peril crop insurance;

(B) recommend changes under this paragraph that reasonably demonstrate the need to achieve the greatest operating efficiencies on the part of the provider and the Corporation has been recognized; and

(C) identify areas for improved operating efficiencies, if any, in the requirements made by the Corporation for compliance and program integrity;

(5) assess the potential for alternative forms of reinsurance arrangements for providers of different firm sizes, taking into consideration—

(A) the need to achieve a reasonable return on the capital of the provider compared to other lines of insurance;

(B) the relative risk borne by the provider for the different lines of insurance;

(C) the availability and price of commercial reinsurance; and

(D) any additional costs that may be incurred by the Federal Government in carrying out the Federal Crop Insurance Act; and

(6) include an analysis of the effect of the current or proposed reinsurance arrangements on providers having different business levels.

(e) Information.—

(1) Privacy.—In conducting the evaluation required by this section, the Comptroller General and the Corporation shall maintain the privacy of proprietary information.

(2) Subpoenas.—The Comptroller General shall have the power to subpoena information relevant to the evaluation required by this section from any private insurance provider. The Comptroller General shall allow the Corporation access to the information subpoenaed taking into consideration the necessity of preserving the privacy of proprietary information.

SEC. 119. CONFORMING AMENDMENTS.

(a) Price Support Programs.—

(1) In general.—Title IV of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended by adding at the end the following new section:

"SEC. 427. CROP INSURANCE REQUIREMENT.

"As a condition of receiving any benefit (including payments) under title I or II for each of the 1995 and subsequent crops of tobacco, rice, extra long staple cotton, upland cotton, feed grains, wheat, peanuts, oilseeds, and sugar, a producer must obtain at least catastrophic risk protection insurance coverage under section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) for the crop and crop year for which the benefit is sought, if the coverage is offered by the Corporation.".

(2) Rice.—Section 101B(c) of such Act (7 U.S.C. 1441–2(c)) is amended—

(A) in paragraph (1), by striking subparagraph (F); and

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2) Crop insurance requirement.—A producer shall obtain catastrophic risk protection insurance coverage in accordance with section 427.".

(3) Upland cotton.—Section 103B(c) of such Act (7 U.S.C. 1444–2(c)) is amended—

(A) in paragraph (1), by striking subparagraph (F); and

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2) Crop insurance requirement.—A producer shall obtain catastrophic risk protection insurance coverage in accordance with section 427.".

(4) Feed grains.—Section 105B(c) of such Act (7 U.S.C. 1444f(c)) is amended—

(A) in paragraph (1), by striking subparagraph (G); and

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2) Crop insurance requirement.—A producer shall obtain catastrophic risk protection insurance coverage in accordance with section 427.".

(5) Wheat.—Section 107B(c) of such Act (7 U.S.C. 1445b–3a(c)) is amended—

(A) in paragraph (1), by striking subparagraph (G); and

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2) Crop insurance requirement.—A producer shall obtain catastrophic risk protection insurance coverage in accordance with section 427.".

(6) Disaster payments.—Section 208 of such Act (7 U.S.C. 1446l) is repealed.

(b) Farmers Home Administration Programs.—The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by adding at the end the following new section:

"SEC. 371. CROP INSURANCE REQUIREMENT.

"(a) In General.—As a condition of obtaining any benefit (including a direct loan, loan guarantee, or payment) described in subsection (b), a borrower must obtain at least catastrophic risk protection insurance coverage under section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) for the crop and crop year for which the benefit is sought, if the coverage is offered by the Corporation.

"(b) Applicable Benefits.—Subsection (a) shall apply to—

"(1) a farm ownership loan (FO) under section 303;

"(2) an operating loan (OL) under section 312; and

"(3) an emergency loan (EM) under section 321.".

(c) Disaster Assistance.—Subtitle B of title XXII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) is amended by striking chapter 3.

(d) Emergency Appropriations.—

(1) In general.—Effective January 1, 1995, section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(D)(i)) is amended by adding at the end the following new sentence: "This subparagraph shall not apply to appropriations to cover agricultural crop disaster assistance.".

(2) Emergency legislation.—Effective January 1, 1995, section 252(e) of such Act (2 U.S.C. 902(e)) is amended by adding at the end the following new sentence: "This subsection shall not apply to direct spending provisions to cover agricultural crop disaster assistance.".

(e) False Statements.—Section 1014 of title 18, United States Code, is amended by inserting "or a company the Corporation reinsures" after "Federal Crop Insurance Corporation".

(f) Technical Amendments.—

(1) The first sentence of section 506(d) (7 U.S.C. 1506(d)) is amended by striking "508(f)" and inserting "508(j)".

(2) The last sentence of section 507(c) (7 U.S.C. 1507(c)) is amended by striking "508(b)" and inserting "508(h)".

(3) Section 518 (7 U.S.C. 1518) is amended by striking "(k)" and inserting "(m)".

SEC. 120. EFFECTIVE DATE.

Except as otherwise provided in this title, this title and the amendments made by this title shall become effective on the date of enactment of this Act and shall apply to the provision of crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with the 1995 crop year. With respect to the 1994 crop year, the Federal Crop Insurance Act (as in effect on the day before the date of enactment of this Act) shall continue to apply.

TITLE II—DEPARTMENT OF AGRICULTURE REORGANIZATION

SEC. 201. SHORT TITLE.

(a) SHORT TITLE.—This title may be cited as the "Department of Agriculture Reorganization Act of 1994".

SEC. 202. PURPOSE.

The purpose of this title is to provide the Secretary of Agriculture with the necessary authority to streamline and reorganize the Department of Agriculture to achieve greater efficiency, effectiveness, and economies in the organization and management of the programs and activities carried out by the Department.

SEC. 203. DEFINITIONS.

Except where the context requires otherwise, for purposes of this title:

(1) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(2) NATIONAL APPEALS DIVISION.—The term "National Appeals Division" means the National Appeals Division of the Department established under section 272.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(4) FUNCTION.—The term "function" means an administrative, financial, or regulatory activity of an agency, office, officer, or employee of the Department.

Subtitle A—General Reorganization Authorities

SEC. 211. TRANSFER OF DEPARTMENT FUNCTIONS TO SECRETARY OF AGRICULTURE.

(a) TRANSFER OF FUNCTIONS.—Except as provided in subsection (b), there are transferred to the Secretary of Agriculture all functions of all agencies, offices, officers, and employees of the Department that are not already vested in the Secretary on the date of the enactment of this Act.

(b) EXCEPTIONS.—Subsection (a) shall not apply to the following functions:

(1) Functions vested by subchapter II of chapter 5 of title 5, United States Code, in administrative law judges employed by the Department.

(2) Functions vested by the Inspector General Act of 1978 (5 U.S.C. App.) in the Inspector General of the Department.

(3) Functions vested by chapter 9 of title 31, United States Code, in the Chief Financial Officer of the Department.

(4) Functions vested in the corporations of the Department or the boards of directors and officers of such corporations.

(5) Functions vested in the Alternative Agricultural Research and Commercialization Board by the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5901 et seq.).

SEC. 212. AUTHORITY OF SECRETARY TO DELEGATE TRANSFERRED FUNCTIONS.

(a) DELEGATION OF AUTHORITY.—

(1) DELEGATION AUTHORIZED.—Subject to paragraph (2), the Secretary may delegate to any agency, office, officer, or employee of the Department the authority to perform any function transferred to the Secretary under section 211(a) or any other function vested in the Secretary as of the date of the enactment of this Act. The authority provided in the preceding sentence includes the authority to establish, consolidate, alter, or discontinue any agency, office, or other administrative unit of the Department.

(2) CONDITION ON AUTHORITY.—The delegation authority provided by paragraph (1) shall be subject to—

(A) sections 232, 251(d), 273, and 304 and subsections (a) and (b)(1) of section 261;

(B) sections 502 and 503 of the Agricultural Trade Act of 1978 (7 U.S.C. 5692 and 5693); and

(C) section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)).

(b) COST-BENEFIT ANALYSIS REQUIRED FOR NAME CHANGE.—

(1) ANALYSIS REQUIRED.—Except as provided in paragraph (2), the Secretary shall conduct a cost-benefit analysis before changing the name of any agency, office, division, or other unit of the Department to ensure that the benefits to be derived from changing the name of the agency, office, division, or other unit outweigh the expense of executing the name change.

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to any name change required or authorized by this title.

(c) PUBLIC COMMENT ON PROPOSED REORGANIZATION.—To the extent that the implementation of the authority provided to the Secretary by this title to reorganize the Department involves the creation of new agencies or offices within the Department or the delegation of major functions or major groups of functions to any agency or office of the Department (or the officers or employees of such agency or office), the Secretary shall, to the extent considered practicable by the Secretary—

(1) give appropriate advance public notice of the proposed reorganization action or delegation; and

(2) afford appropriate opportunity for interested parties to comment on the proposed reorganization action or delegation.

(d) INTERAGENCY TRANSFER OF RECORDS, PROPERTY, PERSONNEL, AND FUNDS.—

(1) RELATED TRANSFERS.—Subject to paragraph (2), as part of the transfer or delegation of a function of the Department made or authorized by this title, the Secretary may transfer within the Department—

(A) any of the records, property, or personnel affected by the transfer or delegation of the function; and

(B) unexpended balances (available or to be made available for use in connection with the transferred or delegated function) of appropriations, allocations, or other funds of the Department.

(2) APPLICABLE LAW RELATING TO FUNDS TRANSFER.—Section 1531 of title 31, United States Code, shall apply to any transfer of funds under paragraph (1).

(e) EXHAUSTION OF ADMINISTRATIVE APPEALS.—Notwithstanding any other provision of law, a person shall exhaust all administrative appeal procedures established by the Secretary or required by law before the person may bring an action in a court of competent jurisdiction against—

(1) the Secretary;

(2) the Department; or

(3) an agency, office, officer, or employee of the Department.

SEC. 213. REDUCTIONS IN NUMBER OF DEPARTMENT PERSONNEL.

(a) DEFINITIONS.—For purposes of this section:

(1) HEADQUARTERS OFFICES.—The term "headquarters offices", with respect to agencies, offices, or other administrative units of the Department, means the offices, functions, and employee positions that are located or performed—

(A) in Washington, District of Columbia; or

(B) in such other locations as are identified by the Secretary for purposes of this section.

(2) FIELD STRUCTURE.—The term "field structure" means the offices, functions, and employee positions of all agencies, offices, or other administrative units of the Department, other than the headquarters offices, except that the term does not include State, county, or area committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)). The term includes the physical and geographic locations of such agencies, offices, or other administrative units.

(b) NUMBER OF REDUCTIONS REQUIRED.—The Secretary shall achieve Federal employee reductions of at least 7,500 staff years within the Department by the end of fiscal year 1999. Reductions in the number of full-time equivalent positions within the Department achieved under section 5 of the Federal Workforce Restructuring Act of 1994 (Public Law 103-226; 108 Stat. 115; 5 U.S.C. 3101 note) shall be counted toward the employee reductions required under this section.

(c) EMPHASIS ON HEADQUARTERS OFFICES REDUCTIONS.—In achieving the employee reductions required by subsection (b), the Secretary shall pursue a goal so that the percentage of the total number of employee staff years reduced in headquarters offices is at least twice the percentage of the total number of employee staff years reduced in the field structure.

(d) SCHEDULE.—The personnel reductions in headquarters offices and in the field structure should be accomplished concurrently in a manner determined by the Secretary.

SEC. 214. CONSOLIDATION OF HEADQUARTERS OFFICES.

Subject to the availability of appropriated funds for this purpose, the Secretary shall develop and carry out a plan to consolidate offices located in Washington, District of Columbia, of agencies, offices, and other administrative units of the Department.

SEC. 215. COMBINATION OF FIELD OFFICES.

(a) COMBINATION OF OFFICES REQUIRED.—Where practicable and to the extent consistent with efficient, effective, and improved service, the Secretary shall combine field offices of agencies within the Department to reduce personnel and duplicative overhead expenses.

(b) JOINT USE OF RESOURCES AND OFFICES REQUIRED.—When two or more agencies of the Department share a common field office, the Secretary shall require the agencies to jointly use office space, equipment, office supplies, administrative personnel, and clerical personnel associated with that field office.

SEC. 216. IMPROVEMENT OF INFORMATION SHARING.

Whenever the Secretary procures or uses computer systems, as may be provided for in advance in appropriations Acts, the Secretary shall do so in a manner that enhances efficiency, productivity, and client services and is consistent with the goal of promoting computer information sharing among agencies of the Department.

SEC. 217. REPORTS BY THE SECRETARY.

(a) IN GENERAL.—Subject to subsection (b), notwithstanding any other provision of law, the Secretary may, but shall not be required to, prepare and submit any report solely to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(b) LIMITATION.—For each fiscal year, the Secretary may not prepare and submit more than 30 reports referred to in subsection (a).

(c) SELECTION OF REPORTS.—In consultation with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Secretary shall determine which reports, if any, the Secretary will prepare and submit in accordance with subsection (b).

SEC. 218. ASSISTANT SECRETARIES OF AGRICULTURE.

(a) AUTHORIZATION.—The Secretary is authorized to establish in the Department the positions of—

(1) Assistant Secretary of Agriculture for Congressional Relations;

(2) Assistant Secretary of Agriculture for Administration; and

(3) Assistant Secretary of Agriculture for Marketing and Regulatory Programs.

(b) CONFIRMATION REQUIRED.—If the Secretary establishes any position of Assistant Secretary authorized under subsection (a), the Assistant Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) SUCCESSION.—Any official who is serving as Assistant Secretary of Agriculture for Administration or Assistant Secretary of Agriculture for Congressional Relations on the date of the enactment of this Act and who was appointed as such Assistant Secretary by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (b) to the successor position authorized under subsection (a) if the Secretary establishes the position, and the official occupies the new position, within 180 days after the date of the enactment of this Act (or such later date set by the Secretary if litigation delays rapid succession).

(d) EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by striking "Assistant Secretaries of Agriculture (7)." and inserting "Assistant Secretaries of Agriculture (3).".

(e) REPEAL OF SUPERSEDED PROVISIONS REGARDING ASSISTANT SECRETARIES.—The following provisions of law are repealed:

(1) Section 2 of Reorganization Plan No. 2 of 1953 (5 U.S.C. App; 7 U.S.C. 2201 note).

(2) Section 2 of the Act entitled "An Act to enlarge the powers and duties of the Department of Agriculture and to create an Executive Department to be known as the Department of Agriculture.", approved February 9, 1889 (7 U.S.C. 2212).

(3) The first paragraph designated "OFFICE OF THE SECRETARY:" under the heading "DEPARTMENT OF AGRICULTURE" of the Act entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and seven.", approved June 30, 1906 (34 Stat. 670; 7 U.S.C. 2212).

(4) Section 604(a) of the Rural Development Act of 1972 (7 U.S.C. 2212a).

(5) Section 2 of Public Law 94-561 (7 U.S.C. 2212b).

(6) Section 8(a) of Public Law 97-325 (7 U.S.C. 2212c).

(7) Section 1413(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3128(d)).

SEC. 219. PAY INCREASES PROHIBITED.

The compensation of any officer or employee of the Department on the date of the enactment of this Act shall not be increased as a result of the enactment of this title.

Subtitle B—Farm and Foreign Agricultural Services

SEC. 225. UNDER SECRETARY OF AGRICULTURE FOR FARM AND FOREIGN AGRICULTURAL SERVICES.

(a) AUTHORIZATION.—The Secretary is authorized to establish in the Department the position of Under Secretary of Agriculture for Farm and Foreign Agricultural Services.

(b) CONFIRMATION REQUIRED.—If the Secretary establishes the position of Under Secretary of Agriculture for Farm and Foreign Agricultural Services authorized under subsection (a), the Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—Upon establishment, the Secretary shall delegate to the Under Secretary of Agriculture for Farm and Foreign Agricultural Services those functions under the jurisdiction of the Department that are related to farm and foreign agricultural services.

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Farm and Foreign Agricultural Services shall perform such other functions as may be required by law or prescribed by the Secretary.

(d) SUCCESSION.—Any official who is serving as Under Secretary of Agriculture for International Affairs and Commodity Programs on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (b) to the successor position authorized under subsection (a) if the Secretary establishes the position, and the official occupies the new position, within 180 days after the date of the enactment of this Act (or such later date set by the Secretary if litigation delays rapid succession).

(e) CONFORMING AMENDMENTS.—

(1) EXISTING POSITION.—Section 501 of the Agricultural Trade Act of 1978 (7 U.S.C. 5691), relating to the Under Secretary of Agriculture for International Affairs and Commodity Programs, is repealed.

(2) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by striking "Under Secretary of Agriculture for International Affairs and Commodity Programs." and inserting "Under Secretary of Agriculture for Farm and Foreign Agricultural Services.".

SEC. 226. CONSOLIDATED FARM SERVICE AGENCY.

(a) ESTABLISHMENT.—The Secretary is authorized to establish and maintain in the Department a Consolidated Farm Service Agency.

(b) FUNCTIONS OF CONSOLIDATED FARM SERVICE AGENCY.—If the Secretary establishes the Consolidated Farm Service Agency under subsection (a), the Secretary is authorized to assign to the Agency jurisdiction over the following functions:

(1) Agricultural price and income support programs, production adjustment programs, and related programs.

(2) General supervision of the Federal Crop Insurance Corporation.

(3) Agricultural credit programs assigned before the date of the enactment of this Act by law to the Farmers Home Administration (including farm ownership and operating, emergency, and disaster loan programs) and other lending programs for agricultural producers and others engaged in the production of agricultural commodities.

(4) Subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831-3836) and the agricultural conservation program under the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g et seq.).

(5) Such other functions as the Secretary considers appropriate, except for those programs assigned by the Secretary to the Natural Resources Conservation Service or another agency of the Department under section 246(b).

(c) SPECIAL CONCURRENCE REQUIREMENTS FOR CERTAIN FUNCTIONS.—In carrying out the programs specified in subsection (b)(4), the Secretary shall—

(1) acting on the recommendations of the Consolidated Farm Service Agency, with the concurrence of the Natural Resources Conservation Service, issue regulations to carry out such programs;

(2) ensure that the Consolidated Farm Service Agency, in establishing policies, priorities, and guidelines for such programs, does so with the concurrence of the Natural Resources Conservation Service at national, State, and local levels;

(3) ensure that, in reaching such concurrence at the local level, the Natural Resources Conservation Service works in cooperation with Soil and Water Conservation Districts or similar organizations established under State law;

(4) ensure that officials of county and area committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) meet annually with officials of such Districts or similar organizations to consider local conservation priorities and guidelines; and

(5) take steps to ensure that the concurrence process does not interfere with the effective delivery of such programs.

(d) JURISDICTION OVER CONSERVATION PROGRAM APPEALS.—

(1) IN GENERAL.—Until such time as an adverse decision described in this paragraph is referred to the National Appeals Division for consideration, the Consolidated Farm Service Agency shall have initial jurisdiction over any administrative appeal resulting from an adverse decision made under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), including an adverse decision involving technical determinations made by the Natural Resources Conservation Service.

(2) TREATMENT OF TECHNICAL DETERMINATION.—With respect to administrative appeals involving a technical determination made by the Natural Resources Conservation Service, the Consolidated Farm Service Agency, by rule with the concurrence of the Natural Resources Conservation Service, shall establish procedures for obtaining review by the Natural Resources Conservation Service of the technical determinations involved. Such rules shall ensure that technical criteria established by the Natural Resources Conservation Service shall be used by the Consolidated Farm Service Agency as the basis for any decisions regarding technical determinations. If no review is requested, the technical determination of the Natural Resources Conservation Service shall be the technical basis for any decision rendered by a county or area committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)). If the committee requests a review by the Natural Resources Conservation Service of a wetlands determination of the Service, the Consolidated Farm Service Agency shall consult with other Federal agencies whenever required by law or under a memorandum of agreement in existence on the date of the enactment of this Act.

(3) REINSTATEMENT OF PROGRAM BENEFITS.—Rules issued to carry out this subsection shall provide for the prompt reinstatement of benefits to a producer who is determined in an administrative appeal to meet the requirements of title XII of the Food Security Act of 1985 applicable to the producer.

(e) USE OF FEDERAL AND NON-FEDERAL EMPLOYEES.—

(1) USE AUTHORIZED.—In the implementation of programs and activities assigned to the Consolidated Farm Service Agency, the

Secretary may use interchangeably in local offices of the Agency both Federal employees of the Department and non-Federal employees of county and area committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)).

(2) EXCEPTION.—Notwithstanding paragraph (1), no personnel action (as defined in section 2302(a)(2)(A) of title 5, United States Code) may be taken with respect to a Federal employee unless such action is taken by another Federal employee.

(f) COLLOCATION.—To the maximum extent practicable, the Secretary shall collocate county offices of the Consolidated Farm Service Agency with county offices of the Natural Resources Conservation Service in order to—

(1) maximize savings from shared equipment, office space, and administrative support;

(2) simplify paperwork and regulatory requirements;

(3) provide improved services to agricultural producers and landowners affected by programs administered by the Agency and the Service; and

(4) achieve computer compatibility between the Agency and the Service to maximize efficiency and savings.

(g) SAVINGS PROVISION.—For purposes of subsections (c) through (f) of this section:

(1) A reference to the "Consolidated Farm Service Agency" includes any other office, agency, or administrative unit of the Department assigned the functions authorized for the Consolidated Farm Service Agency under this section.

(2) A reference to the "Natural Resources Conservation Service" includes any other office, agency, or administrative unit of the Department assigned the functions authorized for the Natural Resources Conservation Service under section 246(b).

(h) CONFORMING AMENDMENT.—Section 331(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981(a)) is amended by striking "assets to the Farmers Home Administration" and all that follows through the period at the end of the subsection and inserting "assets to such officers or agencies of the Department of Agriculture as the Secretary considers appropriate.".

SEC. 227. STATE, COUNTY, AND AREA COMMITTEES.

(a) COMMITTEES UNDER THE SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT.—Section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) is amended—

(1) by inserting "(1)" after "(b)";

(2) by designating the second through eighth undesignated paragraphs as paragraphs (2) through (8), respectively; and

(3) by striking paragraph (5) (as so designated) and inserting the following new paragraph:

"(5) STATE, COUNTY, AND AREA COMMITTEES.—

"(A) APPOINTMENT OF STATE COMMITTEES.—The Secretary shall appoint in each State a State committee composed of not fewer than 3 nor more than 5 members who are fairly representative of the farmers in the State. The members of a State committee shall serve at the pleasure of the Secretary for such term as the Secretary may establish.

"(B) ESTABLISHMENT OF COUNTY, AREA, OR LOCAL COMMITTEES.—(i) In each county or area in which activities are carried out under this section, the Secretary shall establish a county or area committee.

"(ii) Any such committee shall consist of not fewer than 3 nor more than 5 members who are fairly representative of the agricultural producers in the county or area and who shall be elected by the agricultural producers in such county or area under such procedures as the Secretary may prescribe.

"(iii) The Secretary may designate local administrative areas within the county or larger area covered by a committee established under clause (i). Only agricultural producers within a local administrative area who participate or cooperate in programs administered within their area shall be eligible for nomination and election to the local committee for that area, under such regulations as the Secretary may prescribe.

"(iv) The Secretary shall solicit and accept nominations from organizations representing the interests of socially disadvantaged groups (as defined in section 355(e)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)(1)).

"(v) Members of each county, area, or local committee shall serve for terms not to exceed 3 years.

"(C) TERMINATION OR COMBINATION OF COMMITTEES.—The Secretary may not terminate a county or area committee or combine or consolidate two or more county or area committees unless—

"(i) the Secretary first notifies the committee or committees involved of the proposed action; and

"(ii) the State committee of the State in which the affected counties are located approves of such action in a vote taken after the end of the 60-day period beginning on the date the notification is received.

"(D) USE OF COMMITTEES.—The Secretary shall use the services of such committees in carrying out programs under this section and the agricultural credit programs under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) and in considering administrative appeals as provided by section 226(d) of the Department of Agriculture Reorganization Act of 1994. The Secretary may use the services of such committees in carrying out programs under other authorities administered by the Secretary .

"(E) REGULATIONS.—The Secretary shall issue such regulations as the Secretary considers necessary relating to the selection and exercise of the functions of the respective committees, and to the administration through such committees of the programs described in subparagraph (D). Pursuant to such regulations, each county and area committee shall select an executive director for the area or county. Such selection shall be made in the same manner as provided for the selection of the county executive director under section 7.21(b)(2) of title 7, Code of Federal Regulations, as in effect on January 1, 1994. Regulations governing payments or grants under this subsection shall be as simple and direct as possible, and, whenever practicable, they shall be classified on the following two bases:

"(i) Soil-depleting practices.

"(ii) Soil-building practices.

"(F) MANDATORY DUTIES OF SECRETARY.—In carrying out this section, the Secretary shall—

"(i) insofar as practicable, protect the interests of tenants and sharecroppers;

"(ii) accord such encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in Federal laws and as will tend to promote efficient methods of marketing and distribution;

"(iii) in every practicable manner, protect the interests of small producers; and

"(iv) in every practical way, encourage and provide for soil-conserving and soil-rebuilding practices.

"(G) DISCRETIONARY AUTHORITIES OF SECRETARY.—In carrying out this section, the Secretary may use other approved agencies.

"(H) LIMITATIONS.—In carrying out this section, the Secretary shall not have the authority to acquire any land or any right or interest in land.".

(b) ELIMINATION OF FMHA COUNTY COMMITTEES.—The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended—

(1) by striking section 332 (7 U.S.C. 1982); and

(2) in section 333 (7 U.S.C. 1983)—

(A) by striking paragraph (2); and

(B) redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

Subtitle C—Rural Economic and Community Development

SEC. 231. UNDER SECRETARY OF AGRICULTURE FOR RURAL ECONOMIC AND COMMUNITY DEVELOPMENT.

(a) AUTHORIZATION.—The Secretary is authorized to establish in the Department the position of Under Secretary of Agriculture for Rural Economic and Community Development.

(b) CONFIRMATION REQUIRED.—If the Secretary establishes the position of Under Secretary of Agriculture for Rural Economic and Community Development authorized under subsection (a), the Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—Upon establishment, the Secretary shall delegate to the Under Secretary of Agriculture for Rural Economic and Community Development those functions under the jurisdiction of the Department that are related to rural economic and community development.

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Rural Economic and Community Development shall perform such other functions as may be required by law or prescribed by the Secretary.

(d) SUCCESSION.—Any official who is serving as Under Secretary of Agriculture for Small Community and Rural Development on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (b) to the successor position authorized under subsection (a) if the Secretary establishes the position, and the official occupies the new position, within 180 days after the date of the enactment of this Act (or such later date set by the Secretary if litigation delays rapid succession).

(e) LOAN APPROVAL AUTHORITY.—Approval authority for loans and loan guarantees in connection with the electric and telephone loan and loan guarantee programs authorized by the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) shall not be transferred to, or conditioned on review of, a State director or other employee whose primary duty is not the review and approval of such loans or the provision of assistance to such borrowers.

(f) CONFORMING AMENDMENTS.—

(1) EXISTING POSITION.—Section 3 of the Rural Development Policy Act of 1980 (7 U.S.C. 2211b) is amended by striking subsection (a).

(2) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by striking "Under Secretary of Agriculture for

Small Community and Rural Development." and inserting "Under Secretary of Agriculture for Rural Economic and Community Development.".

(3) REPEAL OF RURAL DEVELOPMENT ADMINISTRATION.—Section 364 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006f) is repealed.

SEC. 232. RURAL UTILITIES SERVICE.

(a) ESTABLISHMENT REQUIRED.—The Secretary shall establish and maintain within the Department the Rural Utilities Service and assign to the Service such functions as the Secretary considers appropriate.

(b) ADMINISTRATOR.—

(1) APPOINTMENT.—The Rural Utilities Service shall be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) SUCCESSION.—Any official who is serving as Administrator of the Rural Electrification Administration on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate—

(A) may be considered to be serving in the successor position established under paragraph (1); and

(B) shall not be required to be reappointed to that position by reason of the enactment of this Act.

(3) EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Administrator, Rural Utilities Service, Department of Agriculture.".

(c) FUNCTIONS.—The Secretary shall carry out through the Rural Utilities Service the following functions that are under the jurisdiction of the Department:

(1) Electric and telephone loan programs and water and waste facility activities authorized by law, including—

(A) the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.); and

(B) section 2322 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1926–1); and

(2) Water and waste facility programs and activities authorized by law, including—

(A) sections 306, 306A, 306B, and 306C, the provisions of sections 309 and 309A relating to assets, terms, and conditions of water and sewer programs, section 310B(b)(2), and the amendment made by section 342 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926, 1926a, 1926b, 1926c, 1929, 1929a, 1932(b)(2), and 1013a); and

(B) section 2324 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1926 note).

SEC. 233. RURAL HOUSING AND COMMUNITY DEVELOPMENT SERVICE.

(a) ESTABLISHMENT AUTHORIZED.—Notwithstanding any other provision of law, the Secretary is authorized to establish and maintain within the Department the Rural Housing and Community Development Service and to assign to the Service such functions as the Secretary considers appropriate.

(b) FUNCTIONS.—If the Secretary establishes the Rural Housing and Community Development Service under subsection (a), the Secretary is authorized to assign to the Service jurisdiction over the following:

(1) Programs and activities under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.).

(2) Programs and activities authorized under section 310B(i) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(i)) and related provisions of law.

(3) Programs and activities that relate to rural community lending programs, including programs authorized by sections 365 through 369 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008–2008d).

SEC. 234. RURAL BUSINESS AND COOPERATIVE DEVELOPMENT SERVICE.

(a) ESTABLISHMENT AUTHORIZED.—Notwithstanding any other provision of law, the Secretary is authorized to establish and maintain within the Department the Rural Business and Cooperative Development Service and to assign to the Service such functions as the Secretary considers appropriate.

(b) FUNCTIONS.—If the Secretary establishes the Rural Business and Cooperative Development Service under subsection (a), the Secretary is authorized to assign to the Service jurisdiction over the following:

(1) Section 313 and title V of the Rural Electrification Act of 1936 (7 U.S.C. 940c and 950aa et seq.).

(2) subtitle G of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5901 et seq.).

(3) Sections 306(a)(1) and 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1) and 1932).

(4) Section 1323 of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1932 note).

(5) The Act of July 2, 1926 (44 Stat. 802, chapter 725; 7 U.S.C. 451 et seq.).

SEC. 235. CONFORMING AMENDMENTS REGARDING RURAL ELECTRIFICATION ADMINISTRATION.

(a) AMENDMENTS TO RURAL ELECTRIFICATION ACT OF 1936.—The Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) is amended—

(1) by striking the first section (7 U.S.C. 901) and inserting the following:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Rural Electrification Act of 1936'.";

(2) in section 2(a) (7 U.S.C. 902(a)), by striking "Administrator" and inserting "Secretary of Agriculture";

(3) in section 3(a) (7 U.S.C. 903(a))—

(A) by striking "Administrator, upon the request and approval of the Secretary of Agriculture," and inserting "Secretary"; and

(B) by striking "Administrator appointed pursuant to the provisions of this Act or from the Administrator of the Rural Electrification Administration established by Executive Order Numbered 7037" and inserting "Secretary";

(4) in section 8 (7 U.S.C. 908)—

(A) by striking "Administrator authorized to be appointed by this Act" and inserting "Secretary"; and

(B) by striking "Rural Electrification Administration created by this Act" and inserting "Secretary";

(5) by striking section 11A (7 U.S.C. 911a);

(6) in section 13 (7 U.S.C. 913), by inserting before the period at the end the following: "; and the term 'Secretary' shall be deemed to mean the Secretary of Agriculture";

(7) in sections 206(b)(2), 306A(b), 311, and 405(b)(1)(A) (7 U.S.C. 927(b)(2), 936a(b), 940a, and 945(b)(1)(A)), by striking "Rural Electrification Administration" each place it appears and inserting "Secretary";

(8) in sections 305(c)(2)(C)(ii)(II) and 306E(d) (7 U.S.C. 935(c)(2)(C)(ii)(II) and 936e(d)), by striking "ADMINISTRATOR" and inserting "SECRETARY";

(9) in section 403(b) (7 U.S.C. 943(b)), by striking "Rural Electrification Administration or of any other agency of the Department of Agriculture," and inserting "Secretary,";

(10) in section 404 (7 U.S.C. 944), by striking "the Administrator of the Rural Electrification Administration" and inserting "the Secretary shall designate an official of the Department of Agriculture who";

(11) in sections 406(c) and 410 (7 U.S.C. 946(c) and 950), by striking "Administrator of the Rural Electrification Administration" each place it appears and inserting "Secretary";

(12) in the heading of section 501 (7 U.S.C. 950aa), by striking "**of rea administrator**"; and

(13) except as otherwise provided in this subsection, by striking "Administrator" each place it appears in such Act and inserting "Secretary".

(b) MISCELLANEOUS AMENDMENTS.—(1) Section 236(a) of the Disaster Relief Act of 1970 (7 U.S.C. 912a) is amended by striking "Rural Electrification Administration" and inserting "Secretary under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.)".

(2) Section 505 of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 915) is amended—

(A) by striking "Rural Electrification Administration" and inserting "Secretary of Agriculture"; and

(B) by striking "its" and inserting "the Secretary's".

(3) Section 401 of the Rural Electrification Act of 1938 (7 U.S.C. 903 note) is amended in the second paragraph by striking "Administrator of the Rural Electrification Administration" and inserting "Secretary of Agriculture".

(4) Chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa et seq.), relating to Distance Learning and Medical Link Programs, is amended—

(A) in section 2333—

(i) by striking paragraph (1); and

(ii) by redesignating paragraphs (2) through (11) as paragraphs (1) through (10), respectively;

(B) in section 2334(h)(2), by striking "section 2333(3)(F)" and inserting "section 2333(2)(F)"; and

(C) by striking "Administrator" each place it appears and inserting "Secretary".

(5) Section 306(a)(15) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(15)) is amended—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraph (D) as subparagraph (C).

(6) Section 2322(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1926–1(d)) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraph (3) as paragraph (2).

Subtitle D—Food, Nutrition, and Consumer Services

SEC. 241. UNDER SECRETARY OF AGRICULTURE FOR FOOD, NUTRITION, AND CONSUMER SERVICES.

(a) AUTHORIZATION.—The Secretary is authorized to establish in the Department the position of Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.

(b) CONFIRMATION REQUIRED.—If the Secretary establishes the position of Under Secretary of Agriculture for Food, Nutrition, and Consumer Services authorized under subsection (a), the Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—Upon establishment, the Secretary shall delegate to the Under Secretary of Agriculture for Food, Nutrition, and Consumer Services those functions under the jurisdiction of the Department that are related to food, nutrition, and consumer services (except as provided in section 261(b)(1)).

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Food, Nutrition, and Consumer Services shall perform such other functions as may be required by law or prescribed by the Secretary.

(d) SUCCESSION.—Any official who is serving as Assistant Secretary of Agriculture for Food and Consumer Services on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (b) to the successor position authorized under subsection (a) if the Secretary establishes the position, and the official occupies the new position, within 180 days after the date of the enactment of this Act (or such later date set by the Secretary if litigation delays rapid succession).

(e) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Under Secretary of Agriculture for Farm and Foreign Agricultural Services (as added by section 225(e)(2)) the following:

"Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.".

Subtitle E—Natural Resources and Environment

SEC. 245. UNDER SECRETARY OF AGRICULTURE FOR NATURAL RESOURCES AND ENVIRONMENT.

(a) AUTHORIZATION.—The Secretary is authorized to establish in the Department the position of Under Secretary of Agriculture for Natural Resources and Environment.

(b) CONFIRMATION REQUIRED.—If the Secretary establishes the position of Under Secretary of Agriculture for Natural Resources and Environment authorized under subsection (a), the Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—Upon establishment, the Secretary shall delegate to the Under Secretary of Agriculture for Natural Resources and Environment those functions under the jurisdiction of the Department that are related to natural resources and environment (except to the extent those functions are delegated under section 226).

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Natural Resources and Environment shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(d) SUCCESSION.—Any official who is serving as Assistant Secretary of Agriculture for Natural Resources and Environment on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (b) to the successor position authorized under subsection (a) if the Secretary establishes the position, and the official occupies the new position, within 180 days after the date of the enactment of this Act (or such later date set by the Secretary if litigation delays rapid succession).

(e) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Under Secretary of Agriculture for Food, Nutrition, and Consumer Services (as added by section 241(e)) the following:

"Under Secretary of Agriculture for Natural Resources and Environment.".

SEC. 246. NATURAL RESOURCES CONSERVATION SERVICE.

(a) ESTABLISHMENT.—The Secretary is authorized to establish and maintain within the Department a Natural Resources Conservation Service.

(b) FUNCTIONS.—If the Secretary establishes the Natural Resources Conservation Service under subsection (a), the Secretary is authorized to assign to the Service jurisdiction over the following:

(1) The rural environmental conservation program under title X of the Agricultural Act of 1970 (16 U.S.C. 1501 et seq.).

(2) The Great Plains Conservation Program under section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p(b)).

(3) The Water Bank Act (16 U.S.C. 1301 et seq.);

(4) The forestry incentive program under section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103).

(5) Title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), except subchapter B of chapter 1 of subtitle D of such title.

(6) Salinity control program under section 202(c) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592(c)).

(7) The Farms for the Future Act of 1990 (7 U.S.C. 4201 note).

(8) Such other functions as the Secretary considers appropriate, except functions under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831–3836) and the agricultural conservation program under the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g et seq.).

(c) SPECIAL CONCURRENCE REQUIREMENTS FOR CERTAIN FUNCTIONS.—In carrying out the programs specified in paragraphs (2), (3), (4), and (6) of subsection (b) and the program under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837–3837f), the Secretary shall—

(1) acting on the recommendations of the Natural Resources Conservation Service, with the concurrence of the Consolidated Farm Service Agency, issue regulations to carry out such programs;

(2) ensure that the Natural Resources Conservation Service, in establishing policies, priorities, and guidelines for each such program, does so with the concurrence of the Consolidated Farm Service Agency at national, State, and local levels;

(3) ensure that, in reaching such concurrence at the local level, the Natural Resources Conservation Service works in cooperation with Soil and Water Conservation Districts or similar organizations established under State law;

(4) ensure that officials of county and area committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) meet annually with officials of such Districts or similar organizations to consider local conservation priorities and guidelines; and

(5) take steps to ensure that the concurrence process does not interfere with the effective delivery of such programs.

(d) USE OF FEDERAL AND NON-FEDERAL EMPLOYEES.—

(1) USE AUTHORIZED.—In the implementation of functions assigned to the Natural Resources Conservation Service, the Secretary may use interchangeably in local offices of the Service both Federal employees of the Department and non-Federal employees of county and area committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)).

(2) EXCEPTION.—Notwithstanding paragraph (1), no personnel action (as defined in section 2302(a)(2)(A) of title 5, United States Code) may be taken with respect to a Federal employee unless such action is taken by another Federal employee.

(e) SAVINGS PROVISION.—For purposes of subsections (c) and (d) of this section:

(1) A reference to the "Natural Resources Conservation Service" includes any other office, agency, or administrative unit of the Department assigned the functions authorized for the Natural Resources Conservation Service under this section.

(2) A reference to the "Consolidated Farm Service Agency" includes any other office, agency, or administrative unit of the Department assigned the functions authorized for the Consolidated Farm Service Agency under section 226.

(f) CONFORMING AMENDMENTS.—

(1) SOIL CONSERVATION SERVICE.—Section 5 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590e) is repealed.

(2) SOIL AND WATER RESOURCES CONSERVATION.—The Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2001) is amended—

(A) in section 2(2) (16 U.S.C. 2001(2))—

(i) by striking "created the Soil Conservation Service"; and

(ii) by striking "Department of Agriculture which" and inserting ", has ensured that the Department of Agriculture";

(B) in section 3(2) (16 U.S.C. 2002(2)), by striking "through the Soil Conservation Service"; and

(C) in section 6(a) (16 U.S.C. 2005(a)), by striking "Soil Conservation Service" and inserting "Secretary".

(3) STATE TECHNICAL COMMITTEES.—Section 1262 of the Food Security Act of 1985 (16 U.S.C. 3862) is amended by adding at the end the following new subsection:

"(e) FACA REQUIREMENTS.—The committees established under section 1261 shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).".

SEC. 247. REORGANIZATION OF FOREST SERVICE.

(a) REQUIRED ELEMENTS OF REORGANIZATION PROPOSALS.—Reorganization proposals that are developed by the Secretary to carry out the designation by the President of the Forest Service as a Reinvention Lab pursuant to the National Performance Review, dated September 1993, shall include proposals for—

(1) reorganizing the Service in a manner that is consistent with the principles of interdisciplinary planning;

(2) redefining and consolidating the mission and roles of, and research conducted by, employees of the Service in connection with the National Forest System and State and private forestry to facilitate interdisciplinary planning and to eliminate functionalism;

(3) reforming the budget structure of the Service to support interdisciplinary planning, including reducing the number of budget line items;

(4) defining new measures of accountability so that Congress may meet the constitutional obligation of Congress to oversee the Service;

(5) achieving structural and organizational consolidations;

(6) to the extent practicable, sharing office space, equipment, vehicles, and electronic systems with other administrative units of the Department and other Federal field offices, including proposals for using an on-line system by all administrative units of the Department to maximize administrative efficiency; and

(7) reorganizing the Service in a manner that will result in a larger percentage of employees of the Service being retained at organizational levels below regional offices, research stations, and the area office of the Service.

(b) REPORT.—Not later than March 31, 1995, the Secretary shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that describes actions taken to carry out subsection (a), identifies any disparities in regional funding patterns, and contains the rationale behind the disparities.

Subtitle F—Research, Education, and Economics

SEC. 251. UNDER SECRETARY OF AGRICULTURE FOR RESEARCH, EDUCATION, AND ECONOMICS.

(a) AUTHORIZATION.—The Secretary is authorized to establish in the Department the position of Under Secretary of Agriculture for Research, Education, and Economics.

(b) CONFIRMATION REQUIRED.—If the Secretary establishes the position of Under Secretary of Agriculture for Research, Education, and Economics authorized under subsection (a), the Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—Upon establishment, the Secretary shall delegate to the Under Secretary of Agriculture for Research, Education, and Economics those functions and duties under the jurisdiction of the Department that are related to research, education, and economics.

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Research, Education, and Economics shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(d) COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE.—

(1) ESTABLISHMENT.—There is established in the Department a Cooperative State Research, Education, and Extension Service.

(2) FUNCTIONS.—The Secretary shall delegate to the Cooperative State Research, Education, and Extension Service functions related to cooperative State research programs and cooperative extension and education programs that are under the jurisdiction of the Department.

(3) OFFICER-IN-CHARGE.—If the Secretary establishes the position of Under Secretary of Agriculture for Research, Education, and Economics, the officer in charge of the Cooperative State Research, Education, and Extension Service shall report directly to the Under Secretary.

(e) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Under Secretary of Agriculture for Natural Resources and Environment (as added by section 245(e)) the following:

"Under Secretary of Agriculture for Research, Education, and Economics.".

SEC. 252. PROGRAM STAFF.

In making the personnel reductions required under section 213, the Secretary shall reduce the number of Federal research and education personnel of the Department by a percentage equal to at least the percentage of overall Department personnel reductions. The Secretary shall achieve such reduction in research and education personnel in a manner that minimizes duplication and maximizes coordination between Federal and State research and extension activities.

Subtitle G—Food Safety

SEC. 261. UNDER SECRETARY OF AGRICULTURE FOR FOOD SAFETY.

(a) ESTABLISHMENT.—There is established in the Department of Agriculture the position of Under Secretary of Agriculture for Food Safety. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals with specialized training or significant experience in food safety or public health programs.

(b) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Under Secretary of Agriculture for Food Safety those functions and duties under the jurisdiction of the Department that are primarily related to food safety.

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Food Safety shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(c) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Under Secretary of Agriculture for Research, Education, and Economics (as added by section 251(e)) the following:

"Under Secretary of Agriculture for Food Safety.".

(d) TECHNICAL AND SCIENTIFIC REVIEW GROUPS.—The Secretary, acting through the Under Secretary for Research, Education, and Economics, may, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates—

(1) establish such technical and scientific review groups as are needed to carry out the functions of the Department; and

(2) appoint and pay the members of the groups, except that officers and employees of the United States shall not receive additional compensation for service as a member of a group.

SEC. 262. CONDITIONS FOR IMPLEMENTATION OF ALTERATIONS IN THE LEVEL OF ADDITIVES ALLOWED IN ANIMAL DIETS.

(a) CONDITIONS.—The Food and Drug Administration shall not implement or enforce the final rule described in subsection (b) to alter the level of selenium allowed to be used as a supplement in animal diets unless the Commissioner of the Food and Drug Administration makes a determination that—

(1) selenium additives are not essential, at levels authorized in the absence of such final rule, to maintain animal nutrition and protect animal health;

(2) selenium at such levels is not safe to the animals consuming the additive;

(3) selenium at such levels is not safe to individuals consuming edible portions of animals that receive the additive;

(4) selenium at such levels does not achieve its intended effect of promoting normal growth and reproduction of livestock and poultry; and

(5) the manufacture and use of selenium at such levels cannot reasonably be controlled by adherence to current good manufacturing practice requirements.

(b) FINAL RULE DESCRIBED.—The final rule referred to in subsection (a) is the final rule issued by the Food and Drug Administration and published in the Federal Register on September 13, 1993 (58 Fed. Reg. 47962), in which the Administration stayed 1987 amendments to the selenium food additive regulations, and any modification of such rule issued after the date of the enactment of this Act.

Subtitle H—National Appeals Division

SEC. 271. DEFINITIONS.

For purposes of this subtitle:

(1) ADVERSE DECISION.—The term "adverse decision" means an administrative decision made by an officer, employee, or committee of an agency that is adverse to a participant. The term includes a denial of equitable relief by an agency or the failure of an agency to issue a decision or otherwise act on the request or right of the participant. The term does not include a decision over which the Board of Contract Appeals has jurisdiction.

(2) AGENCY.—The term "agency" means any agency of the Department designated by the Secretary or a successor agency of the Department, except that the term shall include the following (and any successor to the following):

(A) The Consolidated Farm Service Agency (or other office, agency, or administrative unit of the Department assigned the functions authorized for the Consolidated Farm Service Agency under section 226).

(B) The Commodity Credit Corporation, with respect to domestic programs.

(C) The Farmers Home Administration.

(D) The Federal Crop Insurance Corporation.

(E) The Rural Development Administration.

(F) The Natural Resources Conservation Service (or other office, agency, or administrative unit of the Department assigned the functions authorized for the Natural Resources Conservation Service under section 246(b)).

(G) A State, county, or area committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)).

(3) APPELLANT.—The term "appellant" means a participant who appeals an adverse decision in accordance with this subtitle.

(4) CASE RECORD.—The term "case record" means all the materials maintained by the Secretary related to an adverse decision.

(5) DIRECTOR.—The term "Director" means the Director of the Division.

(6) DIVISION.—The term "Division" means the National Appeals Division established by this title.

(7) HEARING OFFICER.—The term "hearing officer" means an individual employed by the Division who hears and determines appeals of adverse decisions by any agency.

(8) IMPLEMENT.—The term "implement" refers to those actions necessary to effectuate fully and promptly a final determination of the Division not later than 30 calendar days after the effective date of the final determination.

(9) PARTICIPANT.—The term "participant" shall have the meaning given that term by the Secretary by regulation.

SEC. 272. NATIONAL APPEALS DIVISION AND DIRECTOR.

(a) ESTABLISHMENT OF DIVISION.—The Secretary shall establish and maintain an independent National Appeals Division within the Department to carry out this subtitle.

(b) DIRECTOR.—

(1) APPOINTMENT.—The Division shall be headed by a Director, appointed by the Secretary from among persons who have substantial experience in practicing administrative law. In considering applicants for the position of Director, the Secretary shall consider persons currently employed outside

Government as well as Government employees.

(2) Term and Removal.—The Director shall serve for a 6-year term of office, and shall be eligible for reappointment. The Director shall not be subject to removal during the term of office, except for cause established in accordance with law.

(3) Position Classification.—The position of the Director may not be a position in the excepted service or filled by a noncareer appointee.

(c) Direction, Control, and Support.—The Director shall be free from the direction and control of any person other than the Secretary. The Division shall not receive administrative support (except on a reimbursable basis) from any agency other than the Office of the Secretary. The Secretary may not delegate to any other officer or employee of the Department, other than the Director, the authority of the Secretary with respect to the Division.

(d) Determination of Appealability of Agency Decisions.—If an officer, employee, or committee of an agency determines that a decision is not appealable and a participant appeals the decision to the Director, the Director shall determine whether the decision is adverse to the individual participant and thus appealable or is a matter of general applicability and thus not subject to appeal. The determination of the Director as to whether a decision is appealable shall be administratively final.

(e) Division Personnel.—The Director shall appoint such hearing officers and other employees as are necessary for the administration of the Division. A hearing officer or other employee of the Division shall have no duties other than those that are necessary to carry out this subtitle.

SEC. 273. TRANSFER OF FUNCTIONS.

There are transferred to the Division all functions exercised and all administrative appeals pending before the effective date of this subtitle (including all related functions of any officer or employee) of or relating to—

(1) the National Appeals Division established by section 426(c) of the Agricultural Act of 1949 (7 U.S.C. 1433e(c)) (as in effect on the day before the date of the enactment of this Act);

(2) the National Appeals Division established by subsections (d) through (g) of section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b) (as in effect on the day before the date of the enactment of this Act);

(3) appeals of decisions made by the Federal Crop Insurance Corporation; and

(4) appeals of decisions made by the Soil Conservation Service (as in effect on the day before the date of the enactment of this Act).

SEC. 274. NOTICE AND OPPORTUNITY FOR HEARING.

Not later than 10 working days after an adverse decision is made that affects the participant, the Secretary shall provide the participant with written notice of such adverse decision and the rights available to the participant under this subtitle or other law for the review of such adverse decision.

SEC. 275. INFORMAL HEARINGS.

If an officer, employee, or committee of an agency makes an adverse decision, the agency shall hold, at the request of the participant, an informal hearing on the decision. With respect to programs carried out through the Consolidated Farm Service Agency (or other office, agency, or administrative unit of the Department assigned to carry out the programs authorized for the Consolidated Farm Service Agency under section 226), the Secretary shall maintain the informal appeals process applicable to such programs, as in effect on the date of the enactment of the subtitle. If a mediation program is available under title V of the Agricultural Credit Act of 1987 (7 U.S.C. 5101 et seq.) as a part of the informal hearing process, the participant shall be offered the right to choose such mediation.

SEC. 276. RIGHT OF PARTICIPANTS TO DIVISION HEARING.

(a) Appeal to Division for Hearing.—Subject to subsection (b), a participant shall have the right to appeal an adverse decision to the Division for an evidentiary hearing by a hearing officer consistent with section 277.

(b) Time for Appeal.—To be entitled to a hearing under section 277, a participant shall request the hearing not later than 30 days after the date on which the participant first received notice of the adverse decision.

SEC. 277. DIVISION HEARINGS.

(a) General Powers of Director and Hearing Officers.—

(1) Access to case record.—The Director and hearing officer shall have access to the case record of any adverse decision appealed to the Division for a hearing.

(2) Administrative procedures.—The Director and hearing officer shall have the authority to require the attendance of witnesses, and the production of evidence, by subpoena and to administer oaths and affirmations. Except to the extent required for the disposition of ex parte matters as authorized by law—

(A) an interested person outside the Division shall not make or knowingly cause to be made to the Director or a hearing officer who is or may reasonably be expected to be involved in the evidentiary hearing or review of an adverse decision, an ex parte communication (as defined in section 551(14) of title 5, United States Code) relevant to the merits of the proceeding;

(B) the Director and such hearing officer shall not make or knowingly cause to be made to any interested person outside the Division an ex parte communication relevant to the merits of the proceeding.

(b) Time for Hearing.—Upon a timely request for a hearing under section 276(b), an appellant shall have the right to have a hearing by the Division on the adverse decision within 45 days after the date of the receipt of the request for the hearing.

(c) Location and Elements of Hearing.—

(1) Location.—A hearing on an adverse decision shall be held in the State of residence of the appellant or at a location that is otherwise convenient to the appellant and the Division.

(2) Evidentiary hearing.—The evidentiary hearing before a hearing officer shall be in person, unless the appellant agrees to a hearing by telephone or by a review of the case record. The hearing officer shall not be bound by previous findings of fact by the agency in making a determination.

(3) Information at hearing.—The hearing officer shall consider information presented at the hearing without regard to whether the evidence was known to the agency officer, employee, or committee making the adverse decision at the time the adverse decision was made. The hearing officer shall leave the record open after the hearing for a reasonable period of time to allow the submission of information by the appellant or the agency after the hearing to the extent necessary to respond to new facts, information, arguments, or evidence presented or raised by the agency or appellant.

(4) Burden of proof.—The appellant shall bear the burden of proving that the adverse decision of the agency was erroneous.

(d) Determination Notice.—The hearing officer shall issue a notice of the determination on the appeal not later than 30 days after a hearing or after receipt of the request of the appellant to waive a hearing, except that the Director may establish an earlier or later deadline. If the determination is not appealed to the Director for review under section 278, the notice provided by the hearing officer shall be considered to be a notice of an administratively final determination.

(e) Effective Date.—The final determination shall be effective as of the date of filing of an application, the date of the transaction or event in question, or the date of the original adverse decision, whichever is applicable.

SEC. 278. DIRECTOR REVIEW OF DETERMINATIONS OF HEARING OFFICERS.

(a) Requests for Director Review.—

(1) Time for request by appellant.—Not later than 30 days after the date on which an appellant receives the determination of a hearing officer under section 277, the appellant shall submit a written request to the Director for review of the determination in order to be entitled to a review by the Director of the determination.

(2) Time for request by agency head.—Not later 15 business days after the date on which an agency receives the determination of a hearing officer under section 277, the head of the agency may make a written request that the Director review the determination.

(b) Determination of Director.—The Director shall conduct a review of the determination of the hearing officer using the case record, the record from the evidentiary hearing under section 277, the request for review, and such other arguments or information as may be accepted by the Director. Based on such review, the Director shall issue a final determination notice that upholds, reverses, or modifies the determination of the hearing officer. However, if the Director determines that the hearing record is inadequate, the Director may remand all or a portion of the determination for further proceedings to complete the hearing record or, at the option of the Director, to hold a new hearing. The Director shall complete the review and either issue a final determination or remand the determination not later than—

(1) 10 business days after receipt of the request for review, in the case of a request by the head of an agency for review; or

(2) 30 business days after receipt of the request for review, in the case of a request by an appellant for review.

(c) Basis for Determination.—The determination of the hearing officer and the Director shall be based on information from the case record, laws applicable to the matter at issue, and applicable regulations published in the Federal Register and in effect on the date of the adverse decision or the date on which the acts that gave rise to the adverse decision occurred, whichever date is appropriate.

(d) Equitable Relief.—Subject to regulations issued by the Secretary, the Director shall have the authority to grant equitable relief under this section in the same manner and to the same extent as such authority is provided to the Secretary under section 326 of the Food and Agriculture Act of 1962 (7 U.S.C. 1339a) and other laws. Notwithstanding the administrative finality of a final determination of an appeal by the Division, the Secretary shall have the authority to grant equitable or other types of relief to the appellant after an administratively final determination is issued by the Division.

(e) Effective Date.—A final determination issued by the Director shall be effective as of the date of filing of an application, the date of the transaction or event in question, or the date of the original adverse decision, whichever is applicable.

SEC. 279. JUDICIAL REVIEW.

A final determination of the Division shall be reviewable and enforceable by any United States district court of competent jurisdiction in accordance with chapter 7 of title 5, United States Code.

SEC. 280. IMPLEMENTATION OF FINAL DETERMINATIONS OF DIVISION.

On the return of a case to an agency pursuant to the final determination of the Division, the head of the agency shall implement the final determination not later than 30 days after the effective date of the notice of the final determination.

SEC. 281. CONFORMING AMENDMENTS RELATING TO NATIONAL APPEALS DIVISION.

(a) Decisions of State, County, and Area Committees.—

(1) Application of subsection.—This subsection shall apply only with respect to functions of the Consolidated Farm Service Agency or the Commodity Credit Corporation that are under the jurisdiction of a State, county, or area committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) or an employee of such a committee.

(2) Finality.—Each decision of a State, county, or area committee (or an employee of such a committee) covered by paragraph (1) that is made in good faith in the absence of misrepresentation, false statement, fraud, or willful misconduct shall be final not later than 90 days after the date of filing of the application for benefits, unless the decision is—

(A) appealed under this subtitle; or

(B) modified by the Administrator of the Consolidated Farm Service Agency or the Executive Vice President of the Commodity Credit Corporation.

(3) Recovery of amounts.—If the decision of the State, county, or area committee has become final under paragraph (2), no action may be taken by the Consolidated Farm Service Agency, the Commodity Credit Corporation, or a State, county, or area committee to recover amounts found to have been disbursed as a result of a decision in error unless the participant had reason to believe that the decision was erroneous.

(4) Savings provision.—For purposes of this subsection, a reference to the "Consolidated Farm Service Agency" includes any other office, agency, or administrative unit of the Department assigned the functions authorized for the Consolidated Farm Service Agency under section 226.

(b) Agricultural Stabilization and Conservation Service.—Section 426 of the Agricultural Act of 1949 (7 U.S.C. 1433e) is repealed.

(c) Farmers Home Administration.—Section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b) is repealed.

SEC. 282. EXPANSION OF ISSUES COVERED BY STATE MEDIATION PROGRAMS.

(a) Expansion of Mediation Programs.—Section 501 of the Agricultural Credit Act of 1987 (7 U.S.C. 5101) is amended—

(1) in subsection (a), by striking "an agricultural loan mediation program" and inserting "a mediation program";

(2) in subsection (b), by striking "agricultural loan"; and

(3) by striking subsection (c) and inserting the following new subsection:

"(c) Requirements of State Mediation Programs.—

"(1) Issues covered.—To be certified as a qualifying State, the mediation program of the State must provide mediation services for the persons described in paragraph (2) who are involved in agricultural loans or agricultural loans and one or more of the following issues under the jurisdiction of the Department of Agriculture:

"(A) Wetlands determinations.

"(B) Compliance with farm programs, including conservation programs.

"(C) Agricultural credit.

"(D) Rural water loan programs.

"(E) Grazing on National Forest System lands.

"(F) Pesticides.

"(G) Such other issues as the Secretary considers appropriate.

"(2) Persons eligible for mediation.—The persons referred to in paragraph (1) are producers, their creditors (if applicable), and other persons directly affected by actions of the Department of Agriculture.

"(3) Certification conditions.—The Secretary shall certify a State as a qualifying State with respect to the issues proposed to be covered by the mediation program of the State if the mediation program—

"(A) provides for mediation services that, if decisions are reached, result in mediated, mutually agreeable decisions between the parties to the mediation;

"(B) is authorized or administered by an agency of the State government or by the Governor of the State;

"(C) provides for the training of mediators;

"(D) provides that the mediation sessions shall be confidential;

"(E) ensures, in the case of agricultural loans, that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program; and

"(F) ensures, in the case of other issues covered by the mediation program, that persons directly affected by actions of the Department of Agriculture receive adequate notification of the mediation program.".

(b) Participation of Department.—Section 503 of such Act (7 U.S.C. 5103) is amended—

(1) by striking "agricultural loan" each place it appears;

(2) in the matter preceding subparagraph (A) of subsection (a)(1)—

(A) by inserting "or agency" after "program"; and

(B) by striking "that makes, guarantees, or insures agricultural loans";

(3) in subsection (a)(1)(A)—

(A) by inserting "or agency" after "such program"; and

(B) by inserting "certified under section 501" after "mediation program";

(4) in subsection (a)(1)(B)—

(A) by striking ", effective beginning on the date of the enactment of this Act,"; and

(B) by inserting "certified under section 501" after "mediation programs"; and

(5) in subsection (a)(1)(C)—

(A) in clause (i), by striking "described in" and inserting "certified under"; and

(B) in clause (ii), by inserting "if applicable," before "present".

(c) Regulations.—Section 504 of such Act (7 U.S.C. 5104) is amended—

(1) by striking "Within 150 days after the date of the enactment of this Act, the" and inserting "The"; and

(2) by adding at the end the following new sentence: "The regulations prescribed by the Secretary shall require qualifying States to adequately train mediators to address all of the issues covered by the mediation program of the State.".

(d) Report.—Section 505 of such Act (7 U.S.C. 5105) is amended by striking "1990" and inserting "1998".

(e) Authorization of Appropriations.—Section 506 of such Act (7 U.S.C. 5106) is amended by striking "1995" and inserting "2000".

(f) Conforming Amendments.—

(1) References to agricultural loans.—Subtitle A of title V of such Act is amended—

(A) in sections 502 and 505(1) (7 U.S.C. 5102, 5105(1)), by striking "agricultural loan" each place it appears; and

(B) in section 505(3) (7 U.S.C. 5105(3)), by striking "an agricultural loan mediation" and inserting "a mediation".

(2) Waiver of farm credit system mediation rights by borrowers.—Section 4.14E of the Farm Credit Act of 1971 (12 U.S.C. 2202e) is amended by striking "agricultural loan".

(3) Waiver of FmHA mediation rights by borrowers.—Section 358 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006) is amended by striking "agricultural loan".

SEC. 283. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the activities of the Division.

Subtitle I—Miscellaneous Reorganization Provisions

SEC. 291. SUCCESSORSHIP PROVISIONS RELATING TO BARGAINING UNITS AND EXCLUSIVE REPRESENTATIVES.

(a) Voluntary Agreement.—

(1) In general.—If the exercise of the Secretary's authority under this title results in changes to an existing bargaining unit that has been certified under chapter 71 of title 5, United States Code, the affected parties shall attempt to reach a voluntary agreement on a new bargaining unit and an exclusive representative for such unit.

(2) Criteria.—In carrying out the requirements of this subsection, the affected parties shall use criteria set forth in—

(A) sections 7103(a)(4), 7111(e), 7111(f)(1), and 7120 of title 5, United States Code, relating to determining an exclusive representative; and

(B) section 7112 of title 5, United States Code (disregarding subsections (b)(5) and (d) thereof), relating to determining appropriate units.

(b) Effect of an Agreement.—

(1) In general.—If the affected parties reach agreement on the appropriate unit and the exclusive representative for such unit under subsection (a), the Federal Labor Relations Authority shall certify the terms of such agreement, subject to paragraph (2)(A). Nothing in this subsection shall be considered to require the holding of any hearing or election as a condition for certification.

(2) Restrictions.—

(A) Conditions requiring noncertification.—The Federal Labor Relations Authority may not certify the terms of an agreement under paragraph (1) if—

(i) it determines that any of the criteria referred to in subsection (a)(2) (disregarding section 7112(a) of title 5, United States Code) have not been met; or

(ii) after the Secretary's exercise of authority and before certification under this section, a valid election under section 7111(b) of title 5, United States Code, is held covering any employees who would be included in the unit proposed for certification.

(B) TEMPORARY WAIVER OF PROVISION THAT WOULD BAR AN ELECTION AFTER A COLLECTIVE BARGAINING AGREEMENT IS REACHED.—Nothing in section 7111(f)(3) of title 5, United States Code, shall prevent the holding of an election under section 7111(b) of such title that covers employees within a unit certified under paragraph (1), or giving effect to the results of such an election (including a decision not to be represented by any labor organization), if the election is held before the end of the 12-month period beginning on the date such unit is so certified.

(C) CLARIFICATION.—The certification of a unit under paragraph (1) shall not, for purposes of the last sentence of section 7111(b) of title 5, United States Code, or section 7111(f)(4) of such title, be treated as if it had occurred pursuant to an election.

(3) DELEGATION.—

(A) IN GENERAL.—The Federal Labor Relations Authority may delegate to any regional director (as referred to in section 7105(e) of title 5, United States Code) its authority under the preceding provisions of this subsection.

(B) REVIEW.—Any action taken by a regional director under subparagraph (A) shall be subject to review under the provisions of section 7105(f) of title 5, United States Code, in the same manner as if such action had been taken under section 7105(e) of such title, except that in the case of a decision not to certify, such review shall be required if application therefor is filed by an affected party within the time specified in such provisions.

(c) DEFINITION.—For purposes of this section, the term "affected party" means—

(1) with respect to an exercise of authority by the Secretary under this title, any labor organization affected thereby; and

(2) the Department of Agriculture.

SEC. 292. PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased using funds made available pursuant to this title should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available pursuant to this title, the Secretary, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 293. MISCELLANEOUS CONFORMING AMENDMENTS.

(a) UNITED STATES GRAIN STANDARDS ACT.—The United States Grain Standards Act (7 U.S.C. 71 et seq.) is amended—

(1) in section 3 (7 U.S.C. 75)—

(A) by inserting "and" at the end of subsection (y);

(B) by striking subsections (z) and (aa); and

(C) by redesignating subsection (bb) as subsection (z);

(2) by striking section 3A (7 U.S.C. 75a);

(3) in section 5(b) (7 U.S.C. 77(b)), by striking "Service employees" and inserting "employees of the Secretary";

(4) in sections 7(j)(2) and 7A(*l*)(2) (7 U.S.C. 79(j)(2) and 79a(*l*)(2)), by striking "supervision by Service personnel of its field office personnel" in the first sentence of both sections and inserting "supervision by the Secretary of the Secretary's field office personnel";

(5) in section 12(c) (7 U.S.C. 87a(c)), by striking "or Administrator";

(6) in section 12(d) (7 U.S.C. 87a(d)), by striking "or the Administrator";

(7) except as otherwise provided in this subsection, by striking "Administrator" each place it appears and inserting "Secretary"; and

(8) except as otherwise provided in this subsection, by striking "Service" each place it appears and inserting "Secretary".

(b) PACKERS AND STOCKYARDS ACT, 1921.—Section 407 of the Packers and Stockyards Act, 1921 (7 U.S.C. 228), is amended—

(1) by striking subsection (b);

(2) by redesignating subsections (c), (d), (e), and (f), as subsections (b), (c), (d), and (e), respectively; and

(3) in subsection (e) (as so redesignated), by striking "subsection (e)" and inserting "subsection (d)".

SEC. 294. REMOVAL OF OBSOLETE ADMINISTRATIVE PROVISIONS.

Section 5316 of title 5, United States Code, is amended—

(1) by striking "Administrator, Agricultural Marketing Service, Department of Agriculture.";

(2) by striking "Administrator, Agricultural Research Service, Department of Agriculture.";

(3) by striking "Administrator, Agricultural Stabilization and Conservation Service, Department of Agriculture.";

(4) by striking "Administrator, Farmers Home Administration.";

(5) by striking "Administrator, Foreign Agricultural Service, Department of Agriculture.";

(6) by striking "Administrator, Rural Electrification Administration, Department of Agriculture.";

(7) by striking "Administrator, Soil Conservation Service, Department of Agriculture.";

(8) by striking "Chief Forester of the Forest Service, Department of Agriculture.";

(9) by striking "Director of Science and Education, Department of Agriculture.";

(10) by striking "Administrator, Animal and Plant Health Inspection Service, Department of Agriculture."; and

(11) by striking "Administrator, Federal Grain Inspection Service, Department of Agriculture.".

SEC. 295. PROPOSED CONFORMING AMENDMENTS.

Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress recommended legislation containing additional technical and conforming amendments to Federal laws that are required as a result of the enactment of this title.

SEC. 296. TERMINATION OF AUTHORITY.

(a) IN GENERAL.—Subject to subsection (b), the authority delegated to the Secretary by this title to reorganize the Department shall terminate on the date that is 2 years after the date of enactment of this Act.

(b) FUNCTIONS.—Subsection (a) shall not affect—

(1) the authority of the Secretary to continue to carry out a function that the Secretary performs on the date that is 2 years after the date of enactment of this Act;

(2) the authority delegated to the Secretary under Reorganization Plan No. 2 of 1953 (5 U.S.C. App; 7 U.S.C. 2201 note); or

(3) the authority of an agency, office, officer, or employee of the Department to continue to perform all functions delegated or assigned to the entity or person as of that termination date.

TITLE III—MISCELLANEOUS

SEC. 301. POULTRY LABELING.

It is the sense of Congress that—

(1) the United States Department of Agriculture should—

(A) carry out the plans of the Department to hold public hearings for the purpose of receiving public input on issues related to the conditions under which poultry sold in the United States may be labeled "fresh"; and

(B) finalize and publish a decision on the issues as expeditiously as possible after holding the hearings; and

(2) no person serving on the expert advisory committee established to advise the Secretary of Agriculture on the issues should stand to profit, or represent any interest that would stand to profit, from the decision of the Department on the issues.

SEC. 302. FIRST AMENDMENT RIGHTS OF EMPLOYEES OF THE UNITED STATES DEPARTMENT OF AGRICULTURE.

Notwithstanding any other provision of law, no employee of the United States Department of Agriculture shall be peremptorily removed, on or after February 15, 1994, from the position of the employee without an opportunity for a public or nonpublic hearing, at the option of the employee, because of remarks made during personal time in opposition to policies, or proposed policies, of the Department, including policies or proposed policies regarding homosexuals. Any employee removed on or after February 15, 1994, without the opportunity for such a hearing shall be reinstated to the position of the employee pending such a hearing.

SEC. 303. ADJUSTED COST OF THRIFTY FOOD PLAN.

(a) IN GENERAL.—Section 3(o)(11) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)(11)) is amended by inserting "and (in the case of households residing in Alaska) on October 1, 1994," after "1992,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective beginning on September 30, 1994.

SEC. 304. OFFICE OF RISK ASSESSMENT AND COST-BENEFIT ANALYSIS.

(a) OFFICE OF RISK ASSESSMENT AND COST-BENEFIT ANALYSIS.—The Secretary of Agriculture shall establish in the Department of Agriculture an Office of Risk Assessment and Cost-Benefit Analysis, which shall be under the direction of a Director appointed by the Secretary.

(b) FUNCTIONS.—The Director shall ensure that any regulatory analysis that is conducted under this section includes a risk assessment and cost-benefit analysis that is performed consistently and uses reasonably obtainable and sound scientific, technical, economic, and other data.

(1) IN GENERAL.—Effective six months after the date of enactment of this Act, the Secretary of Agriculture shall publish in the Federal Register, for each proposed major regulation the primary purpose of which is to regulate issues of human health, human safety, or the environment that is promulgated by the Department after the enactment of this Act, an analysis with as much specificity as practicable, of—

(A) the risk, including the effect of the risk, to human health, human safety, or the environment, and any combination thereof, addressed by the regulation, including, where applicable and practicable, the health and safety risks to persons who are disproportionately exposed or particularly sensitive;

(B) the costs associated with the implementation of, and compliance with, the regulation;

(C) where appropriate and meaningful, a comparison of that risk relative to other similar risks regulated by the Department or other Federal Agency, resulting from comparable activities and exposure pathways (such comparisons should consider relevant distinctions among risks, such as the voluntary or involuntary nature of risks and the preventability or nonpreventability of risks); and

(D) the quantitative and qualitative benefits of the regulation, including the reduction or prevention of risk expected from the regulation.

Where such a regulatory analysis is not practicable because of compelling circumstances, the Director shall provide an explanation in lieu of conducting an analysis under this section.

(2) EVALUATION.—The regulatory analysis referred to in paragraph (1) should also contain a statement that the Secretary of Agriculture evaluated—

(A) whether the regulation will advance the purpose of protecting against the risk referred to in paragraph (1)(A); and

(B) whether the regulation will produce benefits and reduce risks to human health, human safety, or the environment, and any combination thereof, in a cost-effective manner as a result of the implementation of and compliance with the regulation, by local, State, and Federal Government and other public and private entities, as estimated in paragraph (1)(B).

(3) This section shall not be construed to amend, modify, or alter any statute and shall not be subject to judicial review. This section shall not be construed to grant a cause of action to any person. The Secretary of Agriculture shall perform the analyses required in this section in such a manner that does not delay the promulgation or implementation of regulations mandated by statute or judicial order.

(c) DEFINITION.—As used in this section, the term "major regulation" means any regulation that the Secretary of Agriculture estimates is likely to have an annual impact on the economy of the United States of $100,000,000 in 1994 dollars.

SEC. 305. FAIR AND EQUITABLE TREATMENT OF SOCIALLY DISADVANTAGED PRODUCERS.

(a) FAIR CROP ACREAGE BASES AND FARM PROGRAM PAYMENT YIELDS.—If the Secretary of Agriculture determines that crop acreage bases or farm program payment yields established for farms owned or operated by socially disadvantaged producers are not established in accordance with title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.), the Secretary shall adjust the bases and yields to conform to the requirements of such title and make available any appropriate commodity program benefits.

(b) FAIR APPLICATION OF CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—If the Secretary of Agriculture determines that application of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) with respect to socially disadvantaged producers is not consistent with the requirements of such Act, the Secretary shall make such changes in the administration of such Act as the Secretary considers necessary to provide for the fair and equitable treatment of socially disadvantaged producers under such Act.

(c) REPORT ON TREATMENT OF SOCIALLY DISADVANTAGED PRODUCERS.—

(1) REPORT REQUIRED.—The Comptroller General of the United States shall prepare a report to determine—

(A) whether socially disadvantaged producers are underrepresented on State, county, area, or local committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) or local review committees established under section 363 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1363) because of racial, ethnic, or gender prejudice; and

(B) if such underrepresentation exists, whether it inhibits or interferes with the participation of socially disadvantaged producers in programs of the Department of Agriculture.

(2) SUBMISSION OF REPORT.—Not later than February 1, 1995, the Comptroller General shall submit the report required by this subsection to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(d) DEFINITION.—For purposes of this section, the term "socially disadvantaged producer" means a producer who is a member of a group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities.

SEC. 306. AVIATION INSPECTIONS.

(a) STUDY REGARDING ACCEPTANCE OF FEDERAL AVIATION ADMINISTRATION AIRCRAFT INSPECTIONS.—

(1) INTENT OF STUDY.—The intent of the study required by this subsection is to examine the cost efficiencies of conducting inspections of aircraft and pilots by one Federal agency without reducing aircraft, passenger, or pilot safety standards or lowering mission preparedness.

(2) STUDY REQUIRED.—The Secretary of Agriculture and the Secretary of Transportation shall jointly conduct a study of the inspection specifications and procedures by which aircraft and pilots contracted by the Department are certified to determine the cost efficiencies of eliminating duplicative Department inspection requirements and transferring some or all inspection requirements to the Federal Aviation Administration, while ensuring that neither aircraft, passenger, nor pilot safety is reduced and that mission preparedness is maintained.

(3) SPECIAL CONSIDERATIONS.—In conducting the study, the Secretaries shall evaluate current inspection specifications and procedures mandated by the Department and the Forest Service, taking into consideration the unique requirements and risks of particular Department and Forest Service missions that may require special inspection specifications and procedures to ensure the safety of Department and Forest Service personnel and their contractees.

(4) MAINTENANCE OF STANDARDS AND PREPAREDNESS.—In making recommendations to transfer inspection authority or otherwise change Department inspection specifications and procedures, the Secretaries shall ensure that the implementation of any such recommendations does not lower aircraft or pilot standards or preparedness for Department or Forest Service missions.

(5) SUBMISSION OF RESULTS.—Not later than 180 days after the date of the enactment of this Act, the Secretaries shall submit to Congress the results of the study, including any recommendations to transfer inspection authority or otherwise change Department inspection specifications and procedures and a cost-benefit analysis of such recommendations.

(b) REVIEW OF RECENTLY ADOPTED AIRCRAFT POLICY.—

(1) REVIEW REQUIRED.—The Secretary of Agriculture shall review the policy initiated by the Secretary on July 1, 1994, to accept Federal Aviation Administration inspections on aircraft and pilots that provide "airport to airport" service for the Forest Service. The policy is currently being cooperatively developed by the Department and the Federal Aviation Administration and is intended to reduce duplicative inspections and to reduce Government costs, while maintaining aircraft, passenger, and pilot safety standards, specifications and procedures currently required by the Department and the Forest Service.

(2) EXPANSION OF POLICY.—As part of the review, the Secretary of Agriculture shall examine the feasibility and desirability of applying this policy on a Government-wide basis.

(3) SUBMISSION OF RESULTS.—Not later than one year after the date of the implementation of the policy, the Secretary of Agriculture shall submit to Congress the results of the review, including any recommendations that the Secretary considers appropriate.

The SPEAKER pro tempore (Mr. PASTOR). Pursuant to the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes, and the gentleman from Kansas [Mr. ROBERTS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the amendment that I am offering to H.R. 4217 is comprised of an agreement we have informally reached with the Senate on two major pieces of agricultural legislation that have passed both bodies—reform of the Federal Crop Insurance Program and the reorganization of the Department of Agriculture.

TITLE I—FEDERAL CROP INSURANCE REFORM

Title I, the Federal Crop Insurance Reform Act, resolves the budgetary differences between the otherwise similar bills that were separately approved by the House and Senate.

The purpose of the crop insurance reform effort is to make the Federal policy as it relates to agricultural disasters more effective, less contradictory, and hopefully, less costly.

Both farmers and taxpayers need and will benefit from this legislation. Many of you probably saw the article in the New York Times of today which reports about abuses that have occurred in the crop disaster aid program in recent years.

There have been abuses under the ad hoc crop disaster program. What bothers me is that the article makes it seem like all farmers are to blame. That's simply not the case. There are a few bad apples. There are some who do abuse and defraud what is intended to be a program to help farmers cope with natural disasters.

USDA is working to minimize these abuses. This legislation goes several steps further. This legislation will basically end ad hoc crop disaster aid payments. And this legislation replaces ad hoc crop disaster payments with a workable risk management insurance program that will provide farmers with a legitimate safety net to help them cope with natural disasters.

This legislation will provide our Nation's taxpayers relief from having to foot the bill for both the current crop insurance program and almost annual ad hoc disaster payments. And this legislation will put in place stronger safeguards to prevent abuse and to better monitor insurance payments to minimize fraud.

TITLE II—DEPARTMENT OF AGRICULTURE REORGANIZATION

Title II is comprised of a House-Senate agreement we have reached on the USDA reorganization legislation. This legislation provides the Secretary of Agriculture with broad authority to undertake one of the Federal Government's most ambitious and comprehensive reorganization attempts ever. The streamlining and downsizing of USDA is estimated to achieve nearly $1 billion in budget savings of the next 5 years.

The USDA reorganization bill covers nearly all aspects of the Department's administrative functions. However, I would point out that both the House and the Senate have carefully avoided including any language that might be construed as program policy changes. We believe those sort of issues are best left for consideration in next year's farm bill debate.

I want to point out several key provisions of the agreement on USDA reorganization. They are:

It requires a reduction in total USDA employment of 7,500 staff years over the next 5 years.

It clears the way for the Secretary to proceed with announced intentions to close and/or consolidate more than 1,000 USDA field offices.

It streamlines USDA's national office structure based on six basic mission areas.

It consolidates farmer service agencies into a single consolidated farm service agency, and requires collocation of all USDA field offices to provide one-stop service.

It separates USDA meat and food safety activities from its farm marketing activities through the mandated establishment of an Under Secretary for Food Safety.

It maintains a separate USDA resource conservation agency.

It establishes an independent national appeals division to handle administrative appeals of agency decisions.

TITLE III—MISCELLANEOUS PROVISIONS

Title III contains several miscellaneous provisions including two provisions of major interest to many Members.

The bill establishes an Office of Risk Assessment and Cost-Benefit Analysis to evaluate the cost/benefits of major proposed regulations. The language that has been worked out on this issue requires a review of major proposed regulations dealing with human health, human safety or the environment. The language requires an evaluation of the nature of the risk, implementation and compliance costs, and the regulation's benefits. it will only apply to proposed regulations with a national economic impact of more than $100 million annually.

The bill also directs USDA to encourage a greater diversity in the makeup of nominees for election to local farmer committees, and it requires USDA to rectify any past decisions not made in compliance with law. In addition, it requires a GAO study to determine whether minorities are underrepresented on these local committees, and if such underrepresentation exists, whether it has led to unfair program administration.

Mr. Speaker, this is a brief summary of some of the key provisions in the compromise agreement we have reached with our Senate colleagues on crop insurance reform and USDA reorganization.

This language represents a fair and equitable compromise on the various points of difference between the two bodies on these two very important initiatives.

To my colleagues, let me stress that this legislation is merely a part of our ongoing efforts to reshape the Department of Agriculture. We want a Department of Agriculture that better serves farmers and all Americans who depend on USDA programs for legitimate assistance. And we want a Department of Agriculture that safeguards the interests of American taxpayers by operating in the most cost-effective manner possible and by preventing fraud and abuse.

This legislation gives USDA the authority, tools and guidance to restructure itself to better meet today's challenges for our Nation and for American agriculture. I urge my colleagues to support its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the path to comprehensive crop insurance reform and the reorganization of the U.S. Department of Agriculture has been a long and, at times, difficult course. I would like to thank Chairman DE LA GARZA for his hard work and his willingness to listen to the minority's ideas and concerns regarding the final shape of this legislative package.

First, crop insurance. When the House Agriculture Committee completed action on a comprehensive reform of the Federal multiple peril crop insurance program, we were hopeful this legislation:

Would establish a viable, reformed crop insurance program that provided agricultural producers an array of risk-management tools;

Would forcefully meet the challenge of preventing future costly ad hoc disaster assistance legislation;

Would save taxpayers roughly $400 million per year based on the annual average of recent ad hoc disaster assistance costs; and,

Would address the immediate concerns regarding shortfalls in discretionary funding relative to the current program.

We worked with Chairman DE LA GARZA in a bipartisan manner to amend this legislation to ensure that:

It is fully funded and within the budget rules of the House; and, it makes additional cuts in the program where reasonable and appropriate, and in such a manner as not to destroy the viability of the reform package to meet its goals of preventing future disaster programs and providing usable risk management tools to farmers.

We have worked with our colleagues in the other body, and have made the tough choices and necessary adjustments to the crop insurance reforms to meet these goals. Further, our committee has pledged to help devise the mechanisms to address future potential discretionary shortfalls, a pledge we have been very clear on from the beginning.

By approving this legislation, we are ensuring availability of the Federal multiple peril crop insurance program for coverage of 1995 crops. While the package certainly is not all we had hoped for, Kansas wheat farmers already are putting the seed for next year's crop in the ground. They need to know right now what tools will be available to manage the weather and other risks that too often threaten a crop's success.

USDA REORGANIZATION

The second part of this package are provisions aimed at reorganizing the Department of Agriculture, an effort that actually began during the Bush administration, and after many twists and turns, has resulted in the final package before us.

While I intend to support this combined crop insurance/USDA reorganization package, it is my view that little in this legislation is necessary to achieve the general administrative reorganization outlined earlier this year by Secretary Espy. The Secretary currently has sufficient discretionary authority to make the vast majority of these reforms, including field office closure and consolidation. Additionally, the budgetary savings that will be claimed by supporters of this legislation can and will be achieved whether we adopt reorganization legislation or not.

I would also like to express reservations that this legislation fails to include the renamed Soil Conservation Service—the Natural Resources Conservation Service—in the Consolidated Farm Services Agency. I continue to believe that exclusion of this agency from the organization working most closely with farmers raises the potential for escalating the adversarial relationship between SCS and farmers, which has developed over the last few years. This does not serve the long term interests of either farmers or taxpayers.

However, I am happy to report to my colleagues that this legislation simply authorizes—it does not mandate—the formation of the Consolidated Farm Service Agency, an important point to those of us worried about the interests of farmers and ranchers. During deliberations in the subcommittee, at full committee and on the House floor, I contended the formation of this superbureaucracy was of dubious value, especially if it did not include the Natural Resources Conservation Service.

While I am still concerned, I am more comfortable leaving its future to the discretion of present and future Secretaries of Agriculture. In any event, this is a topic that will doubtless be the subject of intensive oversight by the House Committee on Agriculture.

As a leader in the unfunded mandates caucus, I am concerned about government regulations promulgated by government agencies which purport to protect public health from the some imagined risk without any regard to cost. This bill establishes an Office of Risk Assessment within the USDA to analyze and compare the risk the regulations are addressing with the cost of those regulations.

The provision, while modest in scope, does represent a major accomplishment. For the first time Congress is establishing as a matter of policy that the Federal Government should utilize a science-based approach to risk/benefit analysis in writing regulations.

We, as a society, must come to realize we do not live in a risk free environment. Every activity we engage in our daily lives involves risk. We need to have a better understanding of the risk involved and what we are paying as a society to protect ourselves from that risk. This legislation will provide that information. Only when we have a scientific analysis of risk versus cost, can we efficiently and rationally manage that risk through sound policy decisions.

Mr. Speaker, I reserve the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to our distinguished colleague, the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I commend the chairman for the legislation we have here before us today, and I commend all of the members of the Committee on Agriculture. I especially wish to commend the gentleman from South Dakota [Mr. JOHNSON] for the work that he has done diligently as chairman of the subcommittee to bring this legislation in regard to Federal crop insurance to the floor. For the first time, I believe we now have a Federal crop insurance program that will work for our producers. I stand here strongly in support of it.

Mr. Speaker, I also wish to commend the gentleman from Texas [Mr. STENHOLM] for the reorganization legislation, because for the first time the Department of Agriculture is actually going to lead with a reduction of force of approximately 7,500 men and women over the next 5 years, and we are going to streamline the USDA through this legislation, and make it more efficient and better responsive to our producers.

Mr. Speaker, I wish to again thank the gentleman for yielding time to me.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the gentleman from South Dakota [Mr. JOHNSON], our distinguished colleague who is a major participant in the endeavor which we are about to finalize.

Mr. JOHNSON of South Dakota. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of South Dakota. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I think we should also recognize that there was a person who tried to bring us down the road of this catastrophic Federal crop insurance, and the person who started this is no longer with us, the gentleman from Oklahoma, Glenn English. I think we ought to give some tribute to him for leading us and starting us on this way. I thank the gentleman for yielding to me.

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise in support of H.R. 4217, the Federal Crop Insurance Reform Act of 1994, and USDA reorganization. I commend the chairman of the committee, the gentleman from Texas [Mr. DE LA GARZA], the gentleman from Kansas [Mr. ROBERTS], and the gentleman from Texas [Mr. COMBEST] for their contributions.

Mr. Speaker, I rise in support of H.R. 4217, the Federal Crop Insurance Reform Act of 1994 and USDA reorganization. I applaud my colleagues on the House and Senate Agriculture Committees for compromising on this legislation so that we will be able to pass it before the end of this Congress. The crop insurance portion of this bill makes fundamental changes to the way our farmers will manage financial risk due to crop shortfalls.

As chairman of the Agriculture Subcommittee with jurisdiction over crop insurance, I held four hearings on H.R. 4217. At each hearing there was a unanimous feeling that the present crop insurance program was not working. Two problems with the current program were immediately evident: First, participation was too limited to be a successful risk management tool for our nation's farmers and second, coverage was often inadequate when crop losses did occur to preclude calls for ad hoc disaster assistance passed by Congress.

It was realized that broadening participation and increasing benefits would increase the cost of the Federal crop insurance program. The administration requested that the average annual expenditures for ad hoc disaster payments for farmers of $1 billion be added to the budget baseline for crop insurance. I want to thank my colleagues on the Budget Committee for honoring this request.

I also want to emphasize to my colleagues that this is a fiscally responsible bill. We have repealed current authorities for disaster assistance and amended the Budget Enforcement Act to require that any spending for agricultural disasters would be on-budget and not declared as emergency spending. We also included provisions which should help to ensure that we do not see cases of fraud on disaster assistance as the inspector general has found in the program since 1988 by requiring producers to report their acreage in advance and certify losses within a reasonable amount of time. The $92 million in fraudulent claims over the last several years is part of over $10 billion paid out in the last 6 years. While I won't defend that ratio, I'm going to pledge to my colleagues that the Ag Committee will monitor the non-insured disaster assistance program to ensure that the new safeguards are working.

The bill provides two types of protection. For the 50 crops that are insured, catastrophic coverage is free, except for a $50 processing fee. Crops not covered by crop insurance are eligible for noninsured disaster assistance payments. Payments are made to a farmer under this program when they lose more than half their crop. For greater protection under the crop insurance program, higher levels of crop insurance coverage can be purchased with government subsidies averaging about 40 percent of the premium, in effect reducing a farmer's out-of-pocket costs by 8 to 17 percent from present levels. With increased levels of protection being offered and lowered costs, farmer participation is expected to increase from present levels of about 30 percent to about 80 percent of all insurable land.

I would also like to continue to express my support for provisions that were included in the House report on H.R. 4217. These include encouraging the Corporation to review the pricing structure for drilled soybeans for the 1995 crop year. The current practice costs producers 25 percent more to insure drilled soybeans than to insure conventional row-planted soybeans, even though drilled soybeans produce higher yields. Many producers plant soybeans with a drill to maintain residue and cover as required for conservation compliance. Another practice recommended to meet Soil Conservation Service residue and cover requirements is the solid seed planting or narrow row spacing of sunflowers. I would hope that the FCIC would also explore the development of coverage for this practice.

The final two areas that I would expect the Corporation to follow up on include the plans for making canola/rapeseed an insurable crop for the 1995 crop year and establishing an appropriate price selection distinction between the two types of sunflower seeds—confectionery and oil-based. I would also hope that the Corporation would consider basing the price available for confectionery sunflowers to the contract price.

While this product is not all that I would like it to be due to funding difficulties and the various changes we have had to make to meet the concerns of both the Appropriations and Budget Committees, as well as the Senate budget rules requiring a 10-year score, it is a program that will be there for producers.

In that way the bill does more than just help our farmers. Unlike ad hoc disaster payments, funding for crop insurance is guaranteed to be in place every year. This means that farmers can take crop insurance to the bank, and use the insurance as collateral for farm loans. With secure financing and income protection from crop losses due to natural disasters, consumers can be assured of a plentiful supply of food at reasonable prices and rural areas will benefit from producers being able to pay their bills and participate in their communities. For these reasons, I urge my colleagues to support H.R. 4127.

I also rise in support of the USDA reorganization bill which contains provisions establishing a National Appeals Division within the Department of Agriculture. Among all of the changes to be brought about by reorganization of the Department, the National Appeals Division will have the most direct impact on the lives of farmers and ranchers.

It will provide them with an appeals process clear of any undue influence from the agencies which are making the determinations, and it should help to bolster producers' confidence in their ability to receive a fair and impartial hearing. We have designed the appeals process so that producers will know what to expect and when to expect it.

Mr. ROBERTS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank our distinguished colleague, the gentleman from Kansas [Mr. ROBERTS], our distinguished colleague, the ranking member, and all of the Members who have worked so diligently in this effort, everyone who has cooperated in every way possible with us to bring this to this point in time.

Mr. Speaker, I would like to say I certainly would give strong commendation to our former colleague, Mr. English, as was mentioned, to the gentleman from Texas [Mr. STENHOLM], and to all who have worked with us.

□ 1450

I might add one more word: The leadership exercised by Secretary Espy has been very helpful to us. His personal participation in this endeavor has been exemplary and we thank him for allowing us to be able to reduce expenditures, to consolidate programs, and to be able to be a more efficient agency. We appreciate his very helpful cooperation.

Mr. SMITH of Oregon. Mr. Speaker, the legislation before us today has both good, and not so good, elements. While I support crop insurance reform, I have serious misgivings about the value of the USDA reorganization provisions.

Comprehensive crop insurance reform has been needed for many years. This Nation's farmers and ranchers have called out for a disaster policy that resolves the inherent conflicts between the Federal Government's role in crop insurance and disaster assistance programs. Until today, this goal has eluded Congress.

Today's package eliminates the disaster programs whose provisions, administration, and usefulness have become as irregular and unpredictable as disasters themselves. Farmers in Oregon have asserted time and again that the most important component in the crop insurance versus disaster assistance policy debate was certainty. They need a program they can count on from one year to the next so they are able to adopt sound risk management strategies.

I am less pleased about the other major element of this legislation, language to reorganize the U.S. Department of Agriculture, I stated from the very beginning that my primary criterion for judging any reorganization legislation was the improvement of service to farmers and ranchers. I believe that wasteful USDA activities should be eliminated for taxpayers and inefficient procedures reduced for farmers.

Unfortunately, the reality is that this legislation is largely ineffective on these two points. The service improvements and cost reductions which will be hailed as a result of this legislation could be achieved entirely through the actions of the Secretary of Agriculture. The Secretary currently has the authority to accomplish most of the provisions in this bill, which leads one to question why he hasn't done so already.

In one small example, Secretary Ed Madigan left a complete field office closure and consolidation plan for USDA when he left the Department in January 1993. That plan has been complete for nearly 2 years, yet no action has been taken by the Clinton administration. In another example, the legislation calls for personnel reductions of 7,500, but the press releases you see later will not mention that 3,500 in personnel cutbacks have already occurred.

At the same time, the reorganization legislation contains provisions which are adverse to the interests of farmers and ranchers. The authorization of a superagency, the so-called Consolidated Farm Service Agency, without including the former Soil Conservation Service is ill-advised and will severely undermine the intent of this legislation. Most of the contact a farmer has with USDA is either with the Agricultural Stabilization and Conservation Service or the Soil Conservation Service. If you are seeking to consolidate agencies in order to improve service to producers, you haven't really accomplished much if the new, blended agency does not include the Soil Conservation Service.

The administration argued that the Soil Conservation Service should remain separate to maintain its technical expertise and credibility with the environmentalists. In reality, if the environmental community wants to be where the action is with respect to farmers, it needs to be in the new Consolidated Farm Service Agency. The administration of farm programs, farm lending, and insurance underwriting are all being moved into the CFSA. These are three entirely different functions, all highly complex, yet nobody is questioning the ability of the USDA to administer these functions within the same agency.

Others have argued that moving the Soil Conservation Service to the CFSA will anger the environmental community. Do we honestly believe that keeping them separate will appease the environmental community? As long as the USDA exists, environmentalists will seek policies that threaten the profitability of producers.

As long as conservation compliance is the law, the Soil Conservation Service—to be renamed the Natural Resource Conservation Service—and the Agricultural Stabilization and Conservation Service will be bound together—at least for farmers and ranchers. In the interests of streamlining the Department these agencies should be together. Moving the Soil Conservation Service to the Consolidated Farm Service Agency would have brought this agency, and all of its programs, closer to the local policy input process provided by the time tested farmer-elected county/area committee. Failing to do so undermines the value of this legislation to production agriculture and the taxpayers.

Mr. Speaker, as a member of the House Committee on Agriculture, I believe it is my responsibility to represent the best interests of farmers and ranchers. For this reason, I believe it is important to caution my colleagues about the nature of its reorganization provisions.

Mr. EVERETT. Mr. Speaker, as a member of the House Agriculture Committee, I rise today to express my displeasure in the fact that the Federal Crop Insurance Reform Act, H.R. 4217, does not include language which would not only preclude waste, fraud, and abuse in the crop insurance and disaster program, thereby saving the Federal Government money, it would also enable many of the small producers in flooded areas to obtain much-needed relief.

Today's New York Times article entitled "Reports Describe Widespread Abuse in Farm Program" reveals that Federal investigators have uncovered far-reaching fraud and mismanagement in the Agriculture Department's disaster assistance program. The report found that farmers have collected excessive payments by inflating crop losses, misstating the acreage they planted, or failing to harvest crops when market prices fell below the amount paid in disaster assistance.

Mr. Speaker, as many of you know, I represent a rurally district that represents the third largest producer of peanuts in the United States. This matter of fraud first came to my attention during the flooding which occurred in my district in July as a result of heavy rains by Tropical Storm Alberto. Many producers under the present disaster formula are not only eligible for full compensation of the quota which they produce, but are also eligible for additional payments.

I am disappointed that we missed this opportunity to correct these problems in this conference report. Furthermore, this legislation was supported by USDA and the various producers. I am hopeful that the disaster assistance program will be addressed next year when Congress reauthorizes all the Department of Agriculture's farm programs in the

1995 farm bill. I will continue to work with other concerned members so that this mismanagement and abuse which apparently has been occurring in the disaster program will be curtailed.

Mr. COMBEST. Mr. Speaker, today the House takes a giant stride toward reforming how the Federal Government responds to weather-related disasters that harm American farmers.

Federal crop insurance for catastrophic weather events will be available to all producers who cultivate crops currently insured by the Federal Crop Insurance Corporation [FCIC]. In fact, with a few exceptions, all producers who receive USDA payments of one form or another must insure themselves against a catastrophic disaster. That insurance may be purchased through local USDA offices or from local, private insurance companies for a $50 processing fee. Producers whose crops are not now eligible for coverage from FCIC may receive disaster assistance when losses exceed 35 percent on an area-wide basis. This will usually be at the county level.

Producers who traditionally have purchased multi-peril crop insurance through private insurance companies still will have those options available to them. Premium costs are estimated to be about 17 percent lower than the current program. This should give many producers an incentive to insure their crops at 65 percent of their actual yields at 100 percent of the annual price election.

Mr. Speaker, the portion of this bill dealing with crop insurance is substantially the same as the legislation, H.R. 4217, that passed the House by voice vote last August 5. The changes it contains are the result of our work to incorporate portions of the Senate bill, S. 2095. Both bills, H.R. 4217 and S. 2095, worked off the administration's original proposal that was designed to stop ad hoc disaster assistance and provide a better insurance product. I believe we have succeeded under unusual circumstances to reform both the policy of assisting our farmers and the process of keeping that assistance within a strict budget.

A key change in law prohibits spending under the budget act by excluding agricultural disasters from those emergencies the President may declare off budget. This means an end to emergency spending for agricultural disasters. Substantial reforms are also included to crack down on the abuse that has existed in these programs in the past. You may have noticed a story on the front page of today's New York Times regarding this abuse. Provisions in H.R. 4217 should eliminate these abuses by requiring acreage reports and certification procedures to ensure producers are paid only on actual, verifiable losses.

As I noted in August, the Congress and USDA can no longer afford agricultural disaster assistance that has amounted to billions of dollars. Following the 1988 drought alone, the Federal Government provided more than $7 billion in crop insurance indemnities, disaster payments and Farmers Home Administration emergency loans.

Both agriculture committees of the Congress have worked diligently to finish this legislation so that FCIC may implement the program for the 1995 crop year. That means they must begin now so that producers of fall-seeded crops may enroll in the program. It will be a monumental task under the best of circumstances, and as the ranking Republican on the House subcommittee with legislative and oversight responsibility, I certainly pledge my support and assistance to USDA to get this important job done.

In addition to the farmer-assistance program, the bill also requires important regulatory reforms designed to reduce paperwork and cut delivery costs of private insurance providers. These reforms are equally important to the success of multiperil crop insurance since the bill substantially alters the current expense reimbursement mechanism. The committee needs to make certain these crucial reforms are carried out to the fullest extent within the boundaries of program integrity.

Mr. Speaker, I urge adoption of H.R. 4217.

Mr. STENHOLM. Mr. Speaker, after years of review, Congress is finally taking a bold and significant step in restructuring and streamlining the bureaucracy of the U.S. Department of Agriculture. For the first time in decades, USDA will undergo an unprecedented overhaul in its bureaucracy. Over $2 billion will be saved; 7,500 staff cuts will be made; Federal agencies and field offices will be consolidated or eliminated; computer systems will be modernized—efficiencies and services improved. The farmer and the taxpayer will enjoy the benefit of a more cost-effective and competent arm of government.

Regarding research and education activities within USDA, the Conference agreement specifically provides for the following:

First, in section 251 (a), the world "shall" is replaced by "is authorized." Thus, the Secretary is authorized, not required, to establish the position of Under Secretary for Research, Education and Economics.

Second, in section 251(d)(1), the word "Extension" was added to the title, thus creating the "Cooperative State Research, Education, and Extension Service."

Third, in section 252, the Program Planning and Budget Staff in section 804 of the Senate bill is replaced with language that addresses the reduction of "Program Staff" equal to that of the overall departmental reductions.

Fourth, given that there is no report language to accompany the conference agreement, the House report language for research and education prevails as the intent of Congress.

An extremely important aspect of this reorganization is the coordination of research and education activities. To ensure efficiencies regarding national research, education, and economic objectives and priorities, it is the House Agriculture Committee's intent that section 251 of subtitle F of the conference report specify that research activities of the Department be coordinated through the Under Secretary for Research, Education and Economics—to the maximum extent practicable. Given limited resources, all agencies are expected to cooperate and communicate with the Office of the Under Secretary for Research, Education and Economics in addressing appropriate issues, rather than duplicate such activities elsewhere in the Department.

To ensure such coordination, the committee expects the Secretary to establish a coordinating council within the Office of the Under Secretary for Research, Education, and Economics. This council will be composed of the heads of all agencies that report to the Under Secretary, including the head of the Cooperative State Research, Education and Extension Service, and will also have advisory members selected from the State agricultural experiment stations, the State extension system, and other agencies within the Department that the Secretary deems appropriate. The committee expects this council to provide a mechanism at the Under Secretary level: to coordinate all Department research, education, and economics activities; to avoid unnecessary duplication; to ensure accountability for research objectives and for the expenditure of taxpayer dollars; and to encourage a more interdisciplinary approach to problems that require solutions from the research, education, and economics branches of USDA.

The Cooperative State Research, Education and Extension Service established by this legislation would subsume the functions now performed by the Cooperative State Research Service and the Extension Service, aggregating into one agency the elements of the current Science and Education functions involving State-Federal partnerships, while separating them from the line agencies of USDA, which are managed in fundamentally different ways.

The head of the Service will report directly to the Under Secretary for Research, Education and Economics. The planning, budget development, and program activities relevant to the Cooperative State Research, Education and Extension Service will be kept within the Service, building on and incorporating the local and state priority setting and program development processes of the land-grant university system. Moreover, the committee expects the land-grant university system to have direct input into the design and program development of the new Cooperative State Research and Education Service. Any questions can be answered by referring to the House report language (103–714), as the House provisions addressing research and education prevailed in the conference.

The committee expects the Secretary to ensure that any reorganization of USDA enhance rather than impair the historical cooperation between the Federal, State, and local governmental levels with regard to research and extension. This relationship has been based upon mutual benefit and the sharing of expenses. It is noteworthy that, currently, State experiment stations receive, on average, only 15 percent of their funding, and State extension programs about 30 percent of their funding, from USDA. USDA's proposal would have created an organizational imbalance where Federal research officials, who provide only a fraction of the funds, would have unfair influence over research planning, budget development, and program management. The House bill, which was effectively endorsed by the House-Senate agreement on H.R. 4217, seeks to maintain the strengths of grass-roots participation in priority-setting and program development, while still providing the Secretary with the latitude he needs to downsize Department staffing activities to achieve efficiencies and cost savings.

Mrs. THURMAN. Mr. Speaker, I rise in support of the conference report on the reorganization of the Department of Agriculture. I especially want to express my unequivocal support for the newly created Office of Risk Assessment and Cost Benefit Analysis within USDA. I want to congratulate my friend and colleague from California, Mr. CONDIT, for his tireless efforts on this important issue.

This is a historic moment: for the first time, a Federal department will be utilizing the vital management tools of risk assessment and cost/benefit analyses in formulating sound public policy.

I believe that now is the time to expand the scope of risk assessment and cost benefit analysis beyond USDA to all Federal agencies and department. Risk assessment and cost/benefit analysis will help the Federal Government allocate scarce resources and create good public policy.

Under the current deficit climate in which we must allocate the taxpayers' money as wisely as possible, we must consider the economic impact of Federal regulations on State and local governments and industry while, at the same time, ensuring that human health, safety, and the environment are protected. This is an extremely daunting task. In a perfect fiscal world, we would have unlimited funds to eliminate the serious health and environmental threats facing our Nation today. However, reality dictates that we make due with the scarce resources available.

Like many Members of this body, I have a background in State and local government. I served as mayor of a small north-central Florida town and then in the Florida Senate. I have first-hand knowledge of the financial burden that Federal regulations place on our local and State governments. Risk assessment and cost/benefit analysis would prioritize the most serious threats to our citizens, and we here in the House can then appropriate the necessary money.

I will continue to fight to incorporate risk assessment and cost/benefit analysis throughout every Federal Agency and Department.

Mr. DE LA GARZA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MILLER of California). The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and agree to the resolution, House Resolution 559.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 559, the resolution just agreed to, and on the previous bill, H.R. 967.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

HOPEWELL TOWNSHIP INVESTMENT ACT OF 1994

Mr. TRAFICANT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4704) to provide for the conveyance of certain lands and improvements in Hopewell Township, Pennsylvania, to a nonprofit organization known as the "Beaver County Corporation for Economic Development" to provide a site for economic development, as amended.

The Clerk read as follows:

H.R. 4704

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hopewell Township Investment Act of 1994".

SEC. 2. CONVEYANCE OF LAND.

(a) ADMINISTRATOR OF GENERAL SERVICES.—The Administrator of General Services (hereinafter in this Act referred to as the "Administrator") is authorized to transfer, by negotiated sale at fair market value, to a nonprofit organization known as the "Beaver County Corporation for Economic Development" all right, title, and interest of the United States in and to those pieces or parcels of land in Hopewell Township, Pennsylvania, described in subsection (c), together with all improvements thereon and appurtenances thereto. The purpose of the conveyance is to provide a site for economic development in Hopewell Township.

(b) CONVEYANCE TERMS.—

(1) DATE OF CONVEYANCE.—The date of the conveyance of property under subsection (a) shall be not later than the 180th day following the date of the enactment of this Act.

(2) TERMS AND CONDITIONS.—The conveyance of property under subsection (a) shall be subject to such terms and conditions as may be determined by the Administrator to be necessary to safeguard the interests of the United States. Such terms and conditions shall be consistent with the terms and conditions set forth in this Act.

(3) QUITCLAIM DEED.—The conveyance of property under subsection (a) shall be by quitclaim deed.

(c) PROPERTY DESCRIPTION.—The land referred to in subsection (a) is the parcel of land in the township of Hopewell, county of Beaver, Pennsylvania, bounded and described as follows:

(1) Beginning at the southwest corner at a point common to Lot No. 1, same plan, lands now or formerly of Frank and Catherine Wutter, and the easterly right-of-way line of Pennsylvania Legislative Route No. 60 (Beaver Valley Expressway); thence proceeding by the easterly right-of-way of Pennsylvania Legislative Route No. 60 by the following three courses and distances:

(A) North 17 degrees, 14 minutes, 20 seconds West, 213.10 feet to a point.

(B) North 72 degrees, 45 minutes, 40 seconds East, 30.00 feet to a point.

(C) North 17 degrees, 14 minutes, 20 seconds West, 252.91 feet to a point; on a line dividing Lot No. 1 from the other part of Lot No. 1, said part now called Lot No. 5, same plan; tence by last mentioned dividing line, North 78 degrees, 00 minutes, 00 seconds East; 135.58 to a point, a cul-de-sac and the southerly side of Industrial Drive by the following course and distances:

(i) By a curve to the right having a radius of 100.00 feet for an arc distance of 243.401 feet to a point.

(ii) Thence by a curve to the right having a radius of 100.00 feet for an arc distance of 86.321 feet to a point.

(iii) Thence by 78 degrees, 00 minutes, 00 seconds East, 777.78 feet to a point.

(iv) Thence, North 12 degrees, 00 minutes, 00 seconds West, 74.71 feet to a point.

(v) Thence by a curve to the right, having a radius of 50.00 feet for an arc distance of 78.54 feet to a point.

(vi) Thence North 78 degrees, 00 minutes, 00 seconds East, 81.24 feet to a point.

(vii) Thence by a curve to the right, having a radius of 415.00 feet for an arc distance of 140.64 feet to a point.

(viii) Thence, South 82 degrees, 35 minutes, 01 second East, 125.00 feet to a point.

(ix) Thence, South 7 degrees, 24 minutes, 59 seconds West, 5.00 feet to a point.

(x) Thence by a curve to the right, having a radius of 320.00 feet for an arc distance of 256.85 feet to a point.

(xi) Thence by a curve to the right having a radius of 50.00 feet for an arc distance of 44.18 feet to a point on the northerly side of Airport Road.

(2) Thence by the northerly side thereof by the following:

(A) South 14 degrees, 01 minute, 54 seconds West, 56.94 feet to a point.

(B) Thence by a curve to the right having a radius of 225.00 feet for an arc distance of 207.989 feet to a point.

(C) Thence South 66 degrees, 59 minutes, 45 seconds West, 192.08 feet to a point on the southern boundary of Lot No. 1, which line is also the line dividing Lot No. 1 from lands now or formerly, Frank and Catherine Wutter.

(3) Thence by the same, South 75 degrees, 01 minutes, 00 seconds West, 1,351.23 feet to a point at the place of beginning.

SEC. 3. ALTERNATIVE CONVEYANCE.

In the event that the conveyance under section 2(a) is not completed on or before the 180th day following the date of the enactment of this Act, the Administrator is authorized to dispose of the land referred to in section 2(a) to Hopewell Township, Pennsylvania, in accordance with section 203(k)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)(2)).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. TRAFICANT] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. PETRI] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Pennsylvania [Mr. KLINK], the sponsor of the bill.

Mr. KLINK. Mr. Speaker, today I wish to express my thanks to Chairman NORM MINETA and the ranking member, BUD SHUSTER, my fellow Pennsylvanian, and the other members of the Committee on Public Works and Transportation for their assistance with my bill, the Hopewell Township Investment Act of 1994 (H.R. 4704).

The purpose of my bill is to promote economic development and to create jobs in Hopewell Township at a site near Aliquippa, PA.

Specifically, H.R. 4704 accomplishes this goal by directing negotiations between the Administrator of the General Services Administration and the Beaver County Corporation for Economic Development [CED] for the sale of the former Mine Safety and Health Administration site.

Under the amended bill, when the GSA sells the land to the corporation the property will only be used for economic development purposes.

If the GSA and the corporation cannot agree on a sale price 6 months after the bill's enactment date, then the land will be transferred at no cost to Hopewell Township to be used for parkland and for recreational purposes.

The Beaver County Corporation for Economic Development is a non-profit corporation that has the responsibility for spurring economic development and bringing new businesses in a portion of my congressional district in western Pennsylvania.

The corporation has pledged its resources to preparing the property for new industry once its ownership changes hands. The corporation has envisioned two types of development that could occur on this property—either an incubator facility for a variety of new businesses or a single large employer such as an engineering or a research and development firm.

In 1987, the Mine Safety and Health Administration announced plans to consolidate its activities by locating additional operations at this site and creating 200 new jobs. At that time, this site served as the staging area for the Federal Government's response to mine disasters in the Eastern United States.

In anticipation of attracting a larger Federal presence, Hopewell Township spent $250,000 to upgrade the site with sewer and road improvements.

Bowing to pressure from a Member of the other body, the Mine Safety and Health Administration moved its consolidation to Beckley, WV and in the process transferred its Hopewell operation there. Rather than gaining 200 new Federal jobs, our area lost 20 Federal employees in the Consolidation.

So as you can see this was a situation where the glass started out half-full, the locality poured its resources into topping off the glass. Unfortunately, the glass in now empty.

Currently, the property includes a 44,000-square-foot, one-story block building that is vacant and it is situated on a plot of nearly 16 acres that is accessed by a gravel road. Since the Mine Safety and Health Administration's move to West Virginia, the site has been under the jurisdiction of the General Services Administration.

Site development would require the widening and the paving of the road, substantial renovation to the building and the extension of sewer and water services. To complete the job, the corporation has pledged as much as $1 million in infrastructure improvements.

Once the corporation takes over the property it will use local and State funding only and no Federal money for the building renovation, landscaping, and the required improvements to ready the property for an industrial client or industrial clients.

My bill clears the deck so Beaver County can use this site to recruit industry, create jobs and put it back on the tax rolls. This legislation will enable the affected localities, rather than the Federal Government, to determine their own destiny.

I would add that I have worked with the Committee on Government Operations and the GSA to incorporate their suggestions into H.R. 4704.

I want to express my sincere thanks to my friends, Chairman JIM TRAFICANT and ranking member JOHN DUNCAN, of the Subcommittee on Public Buildings and Grounds as well as their staff members, Susan Brita and Richard Barnett, for their guidance and stalwart support during the bill's markup and our discussions with the GSA and the Committee on Government Operations.

Mr. Speaker, I urge the prompt consideration of this legislation.

Mr. PETRI. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. SHUSTER], the ranking Republican on the committee.

Mr. SHUSTER. Mr. Speaker, I rise simply to say that the gentleman from Pennsylvania [Mr. KLINK] has done an absolutely outstanding job in moving this legislation. This is badly needed. He is the one who pushed it through our committee, and I salute him for his efforts.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4704 was introduced for the worthwhile purpose of making certain property available for use for economic development purposes. The General Services is authorized to transfer the property to a nonprofit organization through negotiated sale at fair market value. The Beaver County Corporation for Economic Development is a nonprofit corporation certified by the Commonwealth of Pennsylvania. This corporation is responsible for the economic development of Beaver County and Hopewell Township. The goal of this particular development opportunity is to utilize this property as the centerpiece of the Hopewell Aliquippa Airport Industrial Park, and thereby create much needed jobs for western Pennsylvania.

This bill has bipartisan support, and we are pleased to support congressman RON KLINK in his efforts to create jobs for his community.

Mr. Speaker, I urge adoption of H.R. 4704, with amendments.

Mr. Speaker, I reserve the balance of my time.

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4704, the Hopewell Township Investment Act of 1994. This bill, introduced by the gentleman from Pennsylvania, RON KLINK, received a hearing on August 10, by the Subcommittee on Public Buildings and Grounds, and local officials made a compelling case for this transfer.

H.R. 4704 would transfer, through negotiated sale, approximately 16 acres of land, plus a 45,000-square foot building, from the Federal property inventory to the Beaver County Corporation for Economic Development. The corporation would be responsible for pursuing job creating and economic development initiatives with this property. If this does not come to pass, the land will revert to the Federal Government.

This property, near the Aliquippa Airport, was originally purchased by the Federal Government in 1981 to establish an emergency response center for the Mine Safety and Health Administration of the Department of Labor. The prospect of the facility prompted the township to invest in infrastructure improvements to serve this facility. However, this facility was never occupied, and in 1993 the Federal Government declared it surplus.

This bill allows Hopewell Township to negotiate with GSA for the sale of this property. Congress recognizes a local community's efforts to provide basic services to help support a proposed Federal facility. Passage of this legislation helps meet the objectives of the community in job creating activities.

I support this bill and I urge my colleagues to support the measure.

Mr. Speaker, I yield back the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. TRAFICANT] that the House suspend the rules and pass the bill, H.R. 4704, as amended.

The question was taken.

Mr. PETRI. Mr. Speaker, I object to the vote on the grounds that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further provisions on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4704, as amended, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

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WATER RESOURCES DEVELOPMENT ACT OF 1994

Mr. APPLEGATE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4460) to provide for conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4460

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Water Resources Development Act of 1994".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—WATER RESOURCES PROJECTS

Sec. 101. Project authorizations.
Sec. 102. Project modifications.
Sec. 103. Small flood control projects.
Sec. 104. Small bank stabilization projects.
Sec. 105. Small navigation projects.
Sec. 106. Small shoreline protection projects.
Sec. 107. Small bank stabilization and beach erosion control project, Watson Island Park, Miami, Florida.
Sec. 108. Small snagging and sediment removal project, Mississippi River, Little Falls, Minnesota.
Sec. 109. Upper Truckee River, El Dorado County, California.
Sec. 110. Muskingum River, Ohio.
Sec. 111. Project reauthorizations.
Sec. 112. Continuation of authorization of certain projects.
Sec. 113. Reuse of waste water.
Sec. 114. Studies.
Sec. 115. Project deauthorizations.
Sec. 116. Namings.

TITLE II—GENERALLY APPLICABLE PROVISIONS

Sec. 201. Recreation policy and user fees.
Sec. 202. Recovery of costs.
Sec. 203. Cost sharing of environmental projects.
Sec. 204. Construction of flood control projects by non-Federal interests.
Sec. 205. Collaborative research and development.
Sec. 206. National inventory of dams.
Sec. 207. Maintenance, rehabilitation, and modernization of facilities.
Sec. 208. Federal lump-sum payments for Federal operation and maintenance costs.
Sec. 209. Long-term sediment management strategies.
Sec. 210. Emergency response.
Sec. 211. Obstruction removal requirement.
Sec. 212. Small project authorizations.
Sec. 213. Aquatic plant control.
Sec. 214. Beneficial uses of dredged material.
Sec. 215. Sediments decontamination technology.
Sec. 216. Project deauthorizations.
Sec. 217. Foreign travel.
Sec. 218. Support of Army civil works program.
Sec. 219. Hopper dredge fleet.
Sec. 220. Restoration of environmental quality.
Sec. 221. Cost sharing for creation of dredged material disposal areas.
Sec. 222. Loss of life prevention.
Sec. 223. Sense of Congress; requirement regarding notice.
Sec. 224. Reservoir Management Technical Advisory Committee.
Sec. 225. Technical corrections.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Watershed management, restoration, and development.
Sec. 302. Lakes program.
Sec. 303. Environmental infrastructure.
Sec. 304. Environmental dredging.
Sec. 305. Chesapeake Bay restoration and protection program.
Sec. 306. Saint Lawrence Seaway collection of tolls.
Sec. 307. River basin plan for lower Mississippi.
Sec. 308. Extension of jurisdiction of Mississippi River Commission.
Sec. 309. Great Lakes dredged material testing and evaluation manual.
Sec. 310. Great Lakes sediment reduction.
Sec. 311. Confined disposal facilities.
Sec. 312. Alternative to annual passes.
Sec. 313. Recreation partnership initiative.
Sec. 314. Water quality projects.
Sec. 315. New England Division headquarters facility.
Sec. 316. Quarantine facility.
Sec. 317. Benton and Washington Counties, Arkansas.
Sec. 318. Calaveras County, California.
Sec. 319. Lake Elsinore, California.
Sec. 320. Beneficial use of dredged material, Montezuma, California.
Sec. 321. Prado Dam safety improvements.
Sec. 322. San Jose, California.
Sec. 323. Tampa, Florida.
Sec. 324. Kankakee River Basin, Illinois.
Sec. 325. Watershed management plan for Deep River Basin, Indiana.
Sec. 326. Restoration projects for Maryland, West Virginia, and Kentucky.
Sec. 327. Beneficial use of dredged material, Poplar Island, Maryland.
Sec. 328. Erosion control measures, Smith Island, Maryland.
Sec. 329. Beneficial use of dredged material, Worton Point, Kent County, Maryland.
Sec. 330. Massachusetts coastal saltmarsh restoration authorization.
Sec. 331. Boston, Massachusetts, alternative technology project.
Sec. 332. Lake St. Claire, Michigan.
Sec. 333. Duluth, Minnesota.
Sec. 334. St. John's Bayou—New Madrid Floodway.
Sec. 335. Durham, New Hampshire.
Sec. 336. New York Bight and Harbor study.
Sec. 337. New York State canal system.
Sec. 338. New York City watershed.
Sec. 339. Northeastern Ohio.
Sec. 340. Ohio River.
Sec. 341. Removal or remediation of contaminated sediments, Mahoning River, Ohio and Pennsylvania.
Sec. 342. Columbia River Basin, Oregon.
Sec. 343. South central Pennsylvania.
Sec. 344. Broad top region of Pennsylvania.
Sec. 345. Hopper dredge McFarland.
Sec. 346. Seven Points Visitors Center, Raystown Lake, Pennsylvania.
Sec. 347. Blackstone River Valley, Rhode Island, and Massachusetts.
Sec. 348. Earthquake Preparedness Center of Expertise extension.
Sec. 349. Murfreesboro, Tennessee.
Sec. 350. Repeal of termination date for construction of Virgin Islands projects by the Secretary.
Sec. 351. Huntington, West Virginia.
Sec. 352. Southern West Virginia.
Sec. 353. Removal or remediation of contaminated sediments, Lower Fox River, Wisconsin.
Sec. 354. Savings clause.

SEC. 2. DEFINITIONS.

For purposes of this Act, the term "Secretary" means the Secretary of the Army.

TITLE I—WATER RESOURCES PROJECTS

SEC. 101. PROJECT AUTHORIZATIONS.

Except as provided in this section, the following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, recommended in the respective reports designated in this section:

(1) SANTA BARBARA HARBOR, CALIFORNIA.—The project for navigation, Santa Barbara Harbor, California: Report of the Chief of Engineers, dated April 26, 1994, at a total cost of $5,530,000, with an estimated Federal cost of $4,420,000 and an estimated non-Federal cost of $1,110,000.

(2) SAN LORENZO RIVER, SANTA CRUZ, CALIFORNIA.—The project for flood control, San Lorenzo River, Santa Cruz, California: Report of the Chief of Engineers, dated June 30, 1994, at a total cost of $15,670,000, with an estimated Federal cost of $7,910,000 and an estimated non-Federal cost of $7,760,000.

(3) MARIN COUNTY SHORELINE, SAN RAFAEL, CALIFORNIA.—The project for storm damage reduction, Marin County shoreline, San Rafael, California: Report of the Chief of Engineers, dated January 28, 1994, at a total cost of $26,300,000, with an estimated Federal cost of $17,100,000 and an estimated non-Federal cost of $9,200,000.

(4) ANACOSTIA RIVER AND TRIBUTARIES, DISTRICT OF COLUMBIA AND MARYLAND.—The project for environmental restoration, Anacostia River and Tributaries, District of Columbia and Maryland: Report of the Chief of Engineers, dated October 1994, at a total cost of $18,820,000, with an estimated Federal cost of $14,120,000 and an estimated non-Federal cost of $4,700,000.

(5) ATLANTIC INTRACOASTAL WATERWAY, ST. JOHNS COUNTY, FLORIDA.—The project for navigation, Atlantic intracoastal waterway, St. Johns County, Florida: Report of the Chief of Engineers, dated June 24, 1994, at a total Federal cost of $15,083,000. Operation, maintenance, repair, replacement, and rehabilitation shall be a local responsibility and the local interest must assume ownership of the bridge.

(6) LAKE MICHIGAN, ILLINOIS.—The project for storm damage reduction and shoreline erosion protection, Lake Michigan, Illinois, from Wilmette, Illinois, to the Illinois-Indiana State line: Report of the Chief of Engineers, dated April 14, 1994, at a total cost of $192,251,000, with an estimated Federal cost of $104,435,000 and an estimated non-Federal cost of $87,816,000. The project shall include the breakwater near the South Water Filtration Plant described in the report as a separate element of the project, at a total cost of

$8,169,000, with an estimated Federal cost of $5,310,000 and an estimated non-Federal cost of $2,859,000.

(7) WHITE RIVER, INDIANAPOLIS, INDIANA.—The project for flood control and recreation, White River, Indianapolis, Indiana, at a total cost of $52,700,000, with an estimated first Federal cost of $32,425,000 and an estimated first non-Federal cost of $20,275,000, is authorized to be prosecuted by the Secretary in accordance with a final report of the Chief of Engineers and with such modifications as are recommended by the Secretary. No construction on the project may be initiated until such a report of the Chief of Engineers is issued and approved by the Secretary.

(8) KENTUCKY LOCK AND DAM, TENNESSEE RIVER, KENTUCKY.—The project for navigation, Kentucky Lock and Dam, Tennessee River, Kentucky: Report of the Chief of Engineers, dated June 4, 1992, at a total cost of $490,000,000. The costs of construction of the project are to be paid ½ from amounts appropriated from the general fund of the Treasury and ½ from amounts appropriated from the Inland Waterways Trust Fund.

(9) POND CREEK, JEFFERSON COUNTY, KENTUCKY.—The project for flood control, Pond Creek, Jefferson County, Kentucky: Report of the Chief of Engineers, dated June 28, 1994, at a total cost of $16,374,000, with an estimated Federal cost of $11,039,000 and an estimated non-Federal cost of $5,335,000.

(10) WOLF CREEK DAM AND LAKE CUMBERLAND, KENTUCKY.—The project for hydropower, Wolf Creek Dam and Lake Cumberland, Kentucky: Report of the Chief of Engineers, dated June 28, 1994, at a total cost of $49,200,000, with an estimated non-Federal cost of $49,200,000. Funds derived by the Tennessee Valley Authority from its power program and funds derived from any private or public entity designated by the Southeastern Power Administration may be used for all or part of any cost sharing requirements for the project.

(11) PORT FOURCHON, LAFOURCHE PARISH, LOUISIANA.—A project for navigation, Belle Pass and Bayou Lafourche, Louisiana: Report of the Chief of Engineers, dated December 1994, at a total cost of $3,313,000, with an estimated Federal cost of $2,211,000 and an estimated non-Federal cost of $1,102,000.

(12) WOOD RIVER, GRAND ISLAND, NEBRASKA.—The project for flood control, Wood River, Grand Island, Nebraska: Report of the Chief of Engineers, dated May 3, 1994, at a total cost of $10,200,000, with an estimated Federal cost of $5,100,000 and an estimated non-Federal cost of $5,100,000.

(13) WILMINGTON HARBOR, CAPE FEAR RIVER, NORTH CAROLINA.—The project for navigation, Wilmington Harbor, Cape Fear and Northeast Cape Fear Rivers, North Carolina: Report of the Chief of Engineers, dated June 24, 1994, at a total cost of $22,000,000, with an estimated Federal cost of $14,700,000 and an estimated non-Federal cost of $7,300,000.

(14) DUCK CREEK, CINCINNATI, OHIO.—The project for flood control, Duck Creek, Cincinnati, Ohio: Report of the Chief of Engineers, dated July 28, 1994, at a total cost of $14,817,000, with an estimated Federal cost of $11,113,000 and an estimated non-Federal cost of $3,704,000.

(15) COOS BAY, OREGON.—The project for deep draft navigation, Coos Bay, Oregon: Report of the Chief of Engineers, dated June 30, 1994, at a total cost of $13,700,000, with an estimated Federal cost of $8,800,000 and an estimated non-Federal cost of $4,900,000.

(16) RIO GRANDE DE ARECIBO, PUERTO RICO.—The project for flood control, Rio Grande de Arecibo, Puerto Rico: Report of the Chief of Engineers, dated April 5, 1994, at a total cost of $18,857,000, with an estimated Federal cost of $9,913,000 and an estimated non-Federal cost of $8,944,000.

(17) BIG SIOUX RIVER AND SKUNK CREEK, SIOUX FALLS, SOUTH DAKOTA.—The project for flood control, Big Sioux River and Skunk Creek, Sioux Falls, South Dakota: Report of the Chief of Engineers, dated June 30, 1994, at a total cost of $30,700,000, with an estimated Federal cost of $22,900,000 and an estimated non-Federal cost of $7,800,000.

(18) WATERTOWN, SOUTH DAKOTA.—The project for flood control, Watertown and Vicinity, South Dakota: Report of the Chief of Engineers, dated August 31, 1994, at a total cost of $16,092,000, with an estimated Federal cost of $11,835,000 and an estimated non-Federal cost of $4,257,000.

(19) ATLANTIC INTRACOASTAL WATERWAY, CHESAPEAKE, VIRGINIA.—The project for navigation, Atlantic intracoastal waterway, Great Bridge, Chesapeake, Virginia: Report of the Chief of Engineers, dated July 1, 1994, at a total cost of $23,007,000, with an estimated Federal cost of $19,771,000 and an estimated non-Federal cost of $3,236,000.

(20) MARMET LOCK, KANAWHA RIVER, WEST VIRGINIA.—The project for navigation, Marmet Lock, Kanawha River, West Virginia: Report of the Chief of Engineers, dated June 24, 1994, at a total cost of $261,000,000. The costs of construction of the project are to be paid ½ from amounts appropriated from the general fund of the Treasury and ½ from amounts appropriated from the Inland Waterways Trust Fund. In conducting any real estate acquisition activities, the Secretary shall give priority consideration to those individuals who would be directly affected by any physical displacement due to project design and shall consider the financial circumstances of such individuals. The Secretary shall proceed with real estate acquisition in connection with the project expeditiously.

SEC. 102. PROJECT MODIFICATIONS.

(a) NOGALES WASH AND TRIBUTARIES, ARIZONA.—The project for flood control, Nogales Wash and tributaries, Arizona, authorized by section 101(a)(4) of the Water Resources Development Act of 1990 (104 Stat. 4606), is modified to direct the Secretary to permit the non-Federal contribution for the project to be determined in accordance with sections 103(k) and 103(m) of the Water Resources Development Act of 1986 and to direct the Secretary to enter into negotiations with non-Federal interests pursuant to section 103(l) of such Act concerning the timing of the initial payment of the non-Federal contribution.

(b) OAKLAND INNER HARBOR, CALIFORNIA.—The project for deep-draft navigation, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4092), is modified to authorize the Secretary to construct the project at a total cost of $57,000,000, with an estimated Federal cost of $35,900,000, and an estimated non-Federal cost of $21,100,000.

(c) POTOMAC RIVER, WASHINGTON, DISTRICT OF COLUMBIA.—The project for flood protection, Potomac River, Washington, District of Columbia, authorized by section 5 of the Flood Control Act of June 22, 1936 (74 Stat. 1574), is modified to provide for completion of the project substantially in accordance with the General Design Memorandum dated May 1992, the General Design Memorandum Supplement dated May 1994, and a letter report dated August 9, 1994, at a Federal cost of $1,800,000.

(d) CENTRAL AND SOUTHERN FLORIDA, CANAL 51 (C–51).—The project for flood protection of West Palm Beach, Florida (C–51), authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1183), is modified to provide for the construction of an enlarged stormwater detention area, Storm Water Treatment Area 1 East, generally in accordance with the plan of improvements described in the February 15, 1994, report entitled "Everglades Protection Project, Palm Beach County, Florida, Conceptual Design", with such modifications as are approved by the Secretary. The additional work authorized by this subsection shall be accomplished at Federal expense. Operation and maintenance of the stormwater detention area shall be consistent with regulations prescribed by the Secretary for the Central and Southern Florida project, and all costs of such operation and maintenance shall be provided by non-Federal interests.

(e) CENTRAL AND SOUTHERN FLORIDA, CANAL 111 (C–111).—

(1) IN GENERAL.—The project for Central and Southern Florida, authorized by the Flood Control Act of June 30, 1948, and modified by section 203 of the Flood Control Act of 1968 (82 Stat. 740–741), is modified to authorize the Secretary to implement the recommended plan of improvement contained in a report entitled "Central and Southern Florida Project, Final Integrated General Reevaluation Report and Environmental Impact Statement, Canal 111 (C–111), South Dade County, Florida", dated May 1994, including acquisition of such portions of the Frog Pond and Rocky Glades areas as are needed for the project.

(2) COST SHARING.—

(A) FEDERAL SHARE.—The Federal share of the cost of implementing the plan of improvement shall be 50 percent.

(B) DEPARTMENT OF INTERIOR RESPONSIBILITY.—The Department of the Interior shall pay 25 percent of the cost of acquiring such portions of the Frog Pond and Rocky Glades areas as are needed for the project. The amount paid by the Department of the Interior shall be included as part of the Federal share of the cost of implementing the plan.

(C) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs of the improvements undertaken pursuant to this subsection shall be 100 percent; except that the Federal Government shall reimburse the non-Federal project sponsor 60 percent of the costs of operating and maintaining pump stations that pump water into Taylor Slough in the Everglades National Park.

(f) TYBEE ISLAND, GEORGIA.—The project for beach erosion control, Tybee Island, Georgia, authorized pursuant to section 201 of the Flood Control Act of 1965 (42 U.S.C. 1962d–5), is modified to include as part of the project the portion of the ocean shore of Tybee Island located south of the extension of 9th Street.

(g) CHICAGO, ILLINOIS.—The project for flood control, Chicagoland Underflow Plan, Illinois, authorized by section 3(a)(5) of the Water Resources Development Act of 1988 (102 Stat. 4013), is modified to limit the capacity of the reservoir project not to exceed 11,000,000,000 gallons or 32,000 acre-feet, to provide that the reservoir project may not be located north of 55th Street or west of East Avenue in the vicinity of McCook, Illinois, and to provide that the reservoir project may only be constructed on the basis of a specific plan that has been evaluated by the Secretary under the provisions of the National Environmental Policy Act of 1969.

(h) NORTH BRANCH OF CHICAGO RIVER, ILLINOIS.—The project for flood protection, North Branch of the Chicago River, Illinois, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4115), is modified to authorize the Secretary to carry out the project in accordance with the Report of the Chief of Engineers dated March 1994, at a total cost of $34,800,000, with an estimated Federal cost of $20,774,000 and an estimated non-Federal cost of $14,026,000.

(i) REND LAKE, ILLINOIS.—The project for flood control, Rend Lake, Illinois, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1189), is modified to direct the Secretary to correct the design deficiency in the Rend Lake Subimpoundment, Benton, Jefferson County, Illinois, at full Federal expense, with an estimated cost of $5,300,000.

(j) ARKANSAS CITY, KANSAS.—The project for flood control, Arkansas City, Kansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4116), is modified to authorize the Secretary to construct the project at a total cost of $35,700,000, with an estimated Federal cost of $26,600,000 and an estimated non-Federal cost of $9,100,000.

(k) HALSTEAD, KANSAS.—The project for flood control, Halstead, Kansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4116), is modified to authorize the Secretary to carry out the project in accordance with the Report of the Chief of Engineers dated March 19, 1993, at a total cost of $11,100,000, with an estimated Federal cost of $8,325,000 and an estimated non-Federal cost of $2,775,000.

(l) LEVISA AND TUG FORKS OF THE BIG SANDY RIVER AND CUMBERLAND RIVER, KENTUCKY, WEST VIRGINIA, AND VIRGINIA.—The project for flood control, Levisa and Tug Forks of the Big Sandy River and Cumberland River, Kentucky, West Virginia, and Virginia, authorized by section 202(a) of the Energy and Water Development Appropriation Act, 1981 (94 Stat. 1339), is modified to provide that the minimum level of flood protection to be afforded by the project shall be the level required to provide protection from a 100-year flood or from the flood of April 1977, whichever level of protection is greater.

(m) WEST BANK HURRICANE PROTECTION LEVEE, JEFFERSON PARISH, LOUISIANA.—The project for hurricane protection, West Bank Hurricane Protection Levee, Jefferson Parish, Louisiana, authorized by section 401(b) of the Water Resources Development Act of 1986 (100 Stat. 4128), is modified to authorize the Secretary to carry out the project in accordance with the Report of the Chief of Engineers dated November 1994, at a total cost of $119,700,000, with an estimated Federal cost of $77,800,000 and an estimated non-Federal cost of $41,900,000.

(n) MISSISSIPPI RIVER OUTLETS, VENICE, LOUISIANA.—The project for navigation, Mississippi River Outlets, Venice, Louisiana, authorized by section 101 of the River and Harbor Act of 1968 (82 Stat. 731), is modified to provide for the extension of the 16-foot deep by 250-foot wide Baptiste Collette Bayou entrance channel to approximately Mile 8 of the Mississippi River-Gulf Outlet navigation channel, at a total estimated Federal cost of $80,000.

(o) BONNEVILLE LOCK AND DAM, COLUMBIA RIVER, OREGON AND WASHINGTON.—

(1) IN GENERAL.—The project for Bonneville Lock and Dam, Columbia River, Oregon and Washington, authorized by the Act of August 20, 1937 (50 Stat. 731), and modified by section 83 of the Water Resources Development Act of 1974 (88 Stat. 35), is further modified to authorize the Secretary to convey to the city of North Bonneville, Washington, at no further cost to the city, all right, title and interest of the United States in and to the following:

(A) Any municipal facilities, utilities fixtures, and equipment for the relocated city, and any remaining lands designated as open spaces or municipal lots not previously conveyed to the city, specifically, Lots M1 through M15, M16 (the "community center lot"), M18, M19, M22, M24, S42 through S45, and S52 through S60.

(B) The "school lot" described as Lot 2, block 5, on the plat of relocated North Bonneville.

(C) Parcels 2 and C, but only upon the completion of any environmental response actions required under applicable law.

(D) That portion of Parcel B lying south of the existing city boundary, west of the sewage treatment plant, and north of the drainage ditch that is located adjacent to the northerly limit of the Hamilton Island landfill, provided the Secretary determines, at the time of the proposed conveyance, that the Army has taken all action necessary to protect human health and the environment.

(E) Such portions of Parcel H which can be conveyed without a requirement for further investigation, inventory or other action by the Department of the Army under the provisions of the National Historic Preservation Act.

(F) Such easements as the Secretary deems necessary for—

(i) sewer and water line crossings of relocated Washington State Highway 14; and

(ii) reasonable public access to the Columbia River across those portions of Hamilton Island that remain under the ownership of the United States.

(2) TIME PERIOD FOR CONVEYANCES.—The conveyances referred to in paragraphs (1)(A), (1)(B), (1)(E), and (1)(F)(i) shall be completed within 180 days after the United States receives the release referred to in paragraph (4). All other conveyances shall be completed expeditiously, subject to any conditions specified in the applicable subsection.

(3) PURPOSE.—The purpose of the conveyances authorized by paragraph (1) is to resolve all outstanding issues between the United States and the city of North Bonneville.

(4) ACKNOWLEDGEMENT OF PAYMENT; RELEASE OF CLAIMS RELATING TO RELOCATION OF CITY.—As a prerequisite to such conveyances, the city of North Bonneville shall execute an acknowledgement of payment of just compensation and shall execute a release of any and all claims for relief of any kind against the United States growing out of the relocation of the city of North Bonneville, or any prior Federal legislation relating thereto, and shall dismiss, with prejudice, any pending litigation, if any, involving such matters.

(5) RELEASE BY ATTORNEY GENERAL.—Upon receipt of the city's acknowledgment and release referred to in paragraph (4), the Attorney General of the United States shall dismiss any pending litigation, if any, arising out of the relocation of the city of North Bonneville, and execute a release of any and all rights to damages of any kind under the February 20, 1987, judgment of the United States Claims Court, including any interest thereon.

(6) ACKNOWLEDGMENT OF ENTITLEMENTS; RELEASE BY CITY OF CLAIMS UNDER THIS SUBSECTION.—Within 60 days after the conveyances authorized by paragraph (1) (other than subparagraph (F)(ii)) have been completed, the city shall execute an acknowledgement that all entitlements under such paragraph have been completed and shall execute a release of any and all claims for relief of any kind against the United States arising out of this subsection.

(7) EFFECTS ON CITY.—Beginning on the date of the enactment of this Act, the city of North Bonneville, or any successor in interest thereto, shall—

(A) be precluded from exercising any jurisdiction over any lands owned in whole or in part by the United States and administered by the United States Army Corps of Engineers in connection with the Bonneville project; and

(B) be authorized to change the zoning designations of, sell, or resell Parcels S35 and S56, which are presently designated as open spaces.

(p) FALL RIVER HARBOR, MASSACHUSETTS AND RHODE ISLAND.—The project for navigation, Fall River Harbor, Massachusetts and Rhode Island, authorized by section 101 of the River and Harbor Act of 1968 (82 Stat. 731), is modified to provide that alteration of the drawspan of the Brightman Street Bridge to provide a channel width of 300 feet shall not be required after the date of the enactment of this Act.

(q) MANISTIQUE HARBOR, SCHOOLCRAFT COUNTY, MICHIGAN.—The project for navigation, Manistique Harbor, Schoolcraft County, Michigan, authorized by the Rivers and Harbors Appropriations Act of March 3, 1905 (33 Stat. 1136), is modified to provide for an authorized project depth of 12 feet.

(r) SAGINAW RIVER, MICHIGAN.—The project for flood protection, Saginaw River, Michigan, authorized by section 203 of the Flood Control Act of 1958 (72 Stat. 311) is modified to include as part of the project the design and construction of an inflatable dam on the Flint River, Michigan, at a total cost of $800,000.

(s) SAULT SAINTE MARIE, CHIPPEWA COUNTY, MICHIGAN.—

(1) IN GENERAL.—The project for navigation, Sault Sainte Marie, Chippewa County, Michigan, authorized by section 1149 of the Water Resources Development Act of 1986 (100 Stat. 4254-4255), is modified as provided by this subsection.

(2) PAYMENT OF NON-FEDERAL SHARE.—The non-Federal share of the cost of the project referred to in paragraph (1) shall be paid as follows:

(A) That portion of the non-Federal share which the Secretary determines is attributable to use of the lock by vessels calling at Canadian ports shall be paid by the United States.

(B) The remaining portion of the non-Federal share shall be paid by the Great Lakes States pursuant to an agreement entered into by such States.

(3) PAYMENT TERM OF ADDITIONAL PERCENTAGE.—The amount to be paid by non-Federal interests pursuant to section 101(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2211(a)) and this subsection with respect to the project referred to in paragraph (1) may be paid over a period of 50 years or the expected life of the project, whichever is shorter.

(4) GREAT LAKES STATES DEFINED.—For the purposes of this subsection, the term "Great Lakes States" means the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin.

(t) NEW MADRID HARBOR, MISSOURI.—The project for navigation, New Madrid Harbor, Missouri, authorized pursuant to section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) and modified by section 102(n) of the Water Resources Development Act of 1992

(106 Stat. 4807), is further modified to direct the Secretary to assume responsibility for maintenance of the existing Federal channel referred to in such section 102(n) in addition to maintaining New Madrid County Harbor.

(u) Cape Girardeau, Missouri.—The project for flood control, Cape Girardeau, Jackson Metropolitan Area, Missouri, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118–4119), is modified to authorize the Secretary to construct the project, including implementation of nonstructural measures, at a total cost of $44,200,000, with an estimated Federal cost of $32,300,000 and an estimated non-Federal cost of $11,900,000.

(v) Jones Inlet, New York.—The project for navigation, Jones Inlet, New York, authorized by section 2 of the Rivers and Harbors Act of March 2, 1945 (59 Stat. 13), is modified to direct the Secretary to place uncontaminated dredged material on beach areas downdrift from the federally maintained channel for the purpose of mitigating the interruption of littoral system natural processes caused by the jetty and continued dredging of the federally maintained channel.

(w) Ramapo and Mahwah Rivers, New Jersey and New York.—The project for flood control, Ramapo and Mahwah Rivers, New Jersey and New York, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4120), is modified to authorize the Secretary to carry out the project in accordance with the Report of the Chief of Engineers dated May 1994, at a total cost of $10,800,000, with an estimated Federal cost of $8,120,000 and an estimated non-Federal cost of $2,680,000.

(x) Wilmington Harbor-Northeast Cape Fear River, North Carolina.—The project for navigation, Wilmington Harbor-Northeast Cape Fear River, North Carolina, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4095), is modified to authorize the Secretary to construct the project substantially in accordance with the General Design Memorandum dated April 1990 and the General Design Memorandum Supplement dated February 1994, at a total cost of $43,900,000, with an estimated Federal cost of $20,100,000 and an estimated non-Federal cost of $23,800,000.

(y) Garrison Dam, North Dakota.—The project for flood control, Garrison Dam, North Dakota, authorized by section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 891), is modified to authorize the Secretary to acquire permanent flowage and saturation easements over the lands in Williams County, North Dakota, extending from the riverward margin of the Buford-Trenton Irrigation District main canal to the north bank of the Missouri River, beginning at the Buford-Trenton Irrigation District pumping station located in the northeast quarter of section 17, township 152 north, range 104 west, and continuing northeasterly downstream to the land referred to as the East Bottom, and any other lands outside of the boundaries of the Buford-Trenton Irrigation District which have been adversely affected by rising ground water and surface flooding. Any easement acquired by the Secretary pursuant to this subsection shall include the right, power, and privilege of the Government to submerge, overflow, percolate, and saturate the surface and subsurface of the land. The cost of acquiring such easements shall not exceed 90 percent, or be less than 75 percent, of the unaffected fee value of the lands. The project is further modified to authorize the Secretary to provide a lump sum payment of $60,000 to the Buford-Trenton Irrigation District for power requirements associated with operation of the drainage pumps and to relinquish all right, title, and interest of the United States to the drainage pumps located within the boundaries of the Irrigation District.

(z) Wister Lake, Oklahoma.—The flood control project for Wister Lake, LeFlore County, Oklahoma, authorized by section 4 of the Flood Control Act of June 28, 1938 (52 Stat. 1218), is modified to increase the level of the conservation pool by 1 foot and to adjust the seasonal pool operation to accommodate the change in the conservation pool elevation.

(aa) Saw Mill Run, Pennsylvania.—The project for flood control, Saw Mill Run, Pittsburgh, Pennsylvania, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4124), is modified to authorize the Secretary to carry out the project in accordance with the Report of the Chief of Engineers dated January 31, 1994, at a total cost of $12,140,000, with an estimated Federal cost of $9,105,000 and an estimated non-Federal cost of $3,035,000.

(bb) San Juan Harbor, Puerto Rico.—The project for navigation, San Juan Harbor, Puerto Rico, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4097), is modified to authorize the Secretary to deepen the bar channel to depths varying from 49 feet to 56 feet below mean low water with other modifications to authorized interior channels as generally described in the General Reevaluation Report and Environmental Assessment, dated March 1994, at a total cost of $43,993,000, with an estimated Federal cost of $27,341,000 and an estimated non-Federal cost of $16,652,000.

(cc) India Point Railroad Bridge, Seekonk River, Providence, Rhode Island.—The project for the removal and demolition of the India Point Railroad Bridge, Seekonk River, Providence, Rhode Island, authorized by section 1166(c) of the Water Resources Development Act of 1986 (100 Stat. 4258), is modified to authorize the Secretary to demolish and remove the center span of the bridge, at a total cost of $1,300,000, with an estimated Federal cost of $650,000 and an estimated non-Federal cost of $650,000.

(dd) Dallas Floodway Extension, Dallas, Texas.—

(1) In general.—The project for flood control, Dallas Floodway Extension, Dallas, Texas, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1091), is modified to provide that, notwithstanding the last sentence of subsection (c) of section 104 of the Water Resources Development Act of 1986, non-Federal interests may apply for crediting under such section 104, against the non-Federal share of the cost of the project, the cost of work performed by the non-Federal interests in constructing flood protection works for Rochester Park and the north section of the Central Wastewater Treatment Plant.

(2) Determination of amount.—The amount to be credited under paragraph (1) shall be determined by the Secretary. In determining such amount, the Secretary may permit crediting only for that portion of the work performed by the non-Federal interests which is compatible with the project referred to in paragraph (1), including any modification thereof, and which is required for construction of such project.

(3) Cash contribution.—Nothing in this subsection shall be construed to limit the applicability of the requirement contained in section 103(a)(1)(A) of the Water Resources Development Act of 1986 to the project referred to in paragraph (1).

(ee) Little Dell Dam and Reservoir, Salt Lake City Streams, Utah.—The project for flood control, Little Dell Dam and Reservoir, Salt Lake City Streams, Utah, authorized by section 203 of the Flood Control Act of 1968 (82 Stat. 744) and modified by section 170 of the Water Resources Development Act of 1976 (90 Stat. 2936), is further modified to allocate the flood control and water supply costs in accordance with the percentages set forth in item 6h of table 16 of the Corps of Engineers Sacramento District Reexamination Report, dated February 1984, and to provide that cost-sharing be in accordance with section 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2213).

(ff) Upper Jordan River, Utah.—The project for flood control, Upper Jordan River, Utah, authorized by section 101(a)(23) of the Water Resources Development Act of 1990 (104 Stat. 4610), is modified to authorize the Secretary to construct the project at a total cost of $12,100,000, with an estimated Federal cost of $8,000,000 and an estimated non-Federal cost of $4,100,000.

(gg) Haysi Lake, Virginia.—The Haysi Lake, Virginia, feature of the project for flood control, Tug Fork of the Big Sandy River, Kentucky, West Virginia, and Virginia, authorized by section 202(a) of the Energy and Water Development Appropriation Act, 1981 (94 Stat. 1339), is modified to add recreation as a project purpose.

(hh) Rudee Inlet, Virginia Beach, Virginia.—The project for navigation and shoreline protection, Rudee Inlet, Virginia Beach, Virginia, authorized by section 501(a) of the Water Resources Development Act of 1986 (100 Stat. 4148), is modified to authorize the Secretary to continue maintenance of the project for the life of the project. The Federal share of the cost of such maintenance shall be determined in accordance with title I of the Water Resources Development Act of 1986.

(ii) Bluestone Lake, West Virginia.—Section 102(ff) of the Water Resources Development Act of 1992 (106 Stat. 4810) is amended by inserting "except for that organic matter necessary to maintain and enhance the biological resources of such waters," after "project," the first place it appears.

(jj) Kickapoo River, Wisconsin.—

(1) In general.—The project for flood control and allied purposes, Kickapoo River, Wisconsin, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1190) and modified by section 814 of the Water Resources Development Act of 1986 (100 Stat. 4169), is further modified as provided by this subsection.

(2) Transfer of property.—

(A) In general.—Subject to the requirements of this subsection, the Secretary shall transfer to the State of Wisconsin, without consideration, all right, title, and interest of the United States to the lands described in subparagraph (B), including all works, structures, and other improvements to such lands.

(B) Land description.—The lands to be transferred pursuant to subparagraph (A) are the approximately 8,569 acres of land associated with the LaFarge Dam and Lake portion of the project referred to in paragraph (1) in Vernon County, Wisconsin, in the following sections:

(i) Section 31, Township 14 North, Range 1 West of the 4th Principal Meridian.

(ii) Sections 2 through 11, and 16, 17, 20, and 21, Township 13 North, Range 2 West of the 4th Principal Meridian.

(iii) Sections 15, 16, 21 through 24, 26, 27, 31, and 33 through 36, Township 14 North, Range 2 West of the 4th Principal Meridian.

(C) TERMS AND CONDITIONS.—The transfer under subparagraph (A) shall be made on the condition that the State of Wisconsin enters into a written agreement with the Secretary to hold the United States harmless from all claims arising from or through the operation of the lands and improvements subject to the transfer. If title to the lands described in subparagraph (B) is sold or transferred by the State, then the State shall reimburse the United States for the price originally paid by the United States for purchasing such lands.

(D) DEADLINES.—Not later than July 1, 1995, the Secretary shall transmit to the State of Wisconsin an offer to make the transfer under this paragraph. Such offer shall provide for the transfer to be made in the period beginning on November 1, 1995, and ending on December 31, 1995.

(E) DEAUTHORIZATION.—The LaFarge Dam and Lake portion of the project referred to in paragraph (1) is not authorized after the date of the transfer under this paragraph.

(F) INTERIM MANAGEMENT AND MAINTENANCE.—The Secretary shall continue to manage and maintain the LaFarge Dam and Lake portion of the project referred to in paragraph (1) until the date of the transfer under this subsection.

(3) COMPLETION OF PROJECT FEATURES.—

(A) REQUIREMENT.—The Secretary shall undertake the completion of the following features of the project referred to in paragraph (1):

(i) The continued relocation of State highway route 131 and county highway routes P and F substantially in accordance with plans contained in Design Memorandum No. 6, Relocation-LaFarge Reservoir, dated June 1970; except that the relocation shall generally follow the existing road rights-of-way through the Kickapoo Valley.

(ii) Environmental cleanup and site restoration of abandoned wells, farm sites, and safety modifications to the water control structures.

(iii) Cultural resource activities to meet the requirements of Federal law.

(B) PARTICIPATION BY STATE OF WISCONSIN.—In undertaking the completion of the features described in subparagraph (A), the Secretary shall determine the requirements of the State of Wisconsin on the location and design of each such feature.

(4) FUNDING.—There is authorized to be appropriated to carry out this subsection for fiscal years beginning after September 30, 1994, $17,000,000.

SEC. 103. SMALL FLOOD CONTROL PROJECTS.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that the project is feasible, shall carry out the project under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s):

(1) ST. LOUIS, MISSOURI.—A project for flood control in Carondelet and Germania neighborhoods in St. Louis, Missouri.

(2) FULMER CREEK, VILLAGE OF MOHAWK, NEW YORK.—A project for flood control, Fulmer Creek, Village of Mohawk, New York.

(3) MOYER CREEK, VILLAGE OF FRANKFORT, NEW YORK.—A project for flood control, Moyer Creek, Village of Frankfort, New York.

(4) SAUQUOIT CREEK, WHITESBORO, NEW YORK.—A project for flood control, Sauquoit Creek, Whitesboro, New York.

(5) STEELE CREEK, VILLAGE OF ILION, NEW YORK.—A project for flood control, Steele Creek, Village of Ilion, New York.

(6) SUNBURY, PENNSYLVANIA.—A project for flood control, Susquehanna River, at Sunbury, Pennsylvania, to rehabilitate existing flood control structures.

SEC. 104. SMALL BANK STABILIZATION PROJECTS.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that the project is feasible, shall carry out the project under section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r):

(1) WABASH RIVER, NEW HARMONY, INDIANA.—A project for bank stabilization to prevent further erosion of the east bank of the Wabash River in the vicinity of New Harmony, Indiana.

(2) HICKMAN BLUFF, HICKMAN, KENTUCKY.—A project for bank stabilization, Hickman Bluff, Hickman, Kentucky.

(3) WICKLIFFE, BALLARD COUNTY, KENTUCKY.—A project for bank stabilization, Wickliffe, Ballard County, Kentucky, on the Mississippi River between the existing Wickliffe and Mayfield revetments.

(4) ALLEGHENY RIVER AT OIL CITY, PENNSYLVANIA.—A project for bank stabilization to address erosion problems affecting the pipeline crossing the Allegheny River at Oil City, Pennsylvania, including measures to address erosion affecting the pipeline in the bed of the Allegheny River and its adjacent banks.

SEC. 105. SMALL NAVIGATION PROJECTS.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that the project is feasible, shall carry out the project under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577):

(1) AKUTAN, ALASKA.—A navigation project for Akutan, Alaska, consisting of a bulkhead and a wave barrier.

(2) KING COVE, ALASKA.—A navigation project for King Cove, Alaska, consisting of a small rubble mound structure and a vertical wave screen.

(3) TACONITE, MINNESOTA.—A navigation project for Taconite, Minnesota.

(4) TWO HARBORS, MINNESOTA.—A navigation project for Two Harbors, Minnesota.

(5) BROOKLYN, NEW YORK.—A project for navigation, Brooklyn, New York, including restoration of the pier and related navigation support structures, at the Sixty-Ninth Street Pier.

SEC. 106. SMALL SHORELINE PROTECTION PROJECTS.

(a) PROJECT AUTHORIZATIONS.—The Secretary shall conduct a study for each of the following projects, and if the Secretary determines that the project is feasible, shall carry out the project under section 3 of the Shoreline Protection Act of August 13, 1946 (33 U.S.C. 426g):

(1) FAULKNER'S ISLAND, CONNECTICUT.—A project for shoreline protection, Faulkner's Island, Connecticut.

(2) SYLVAN BEACH BREAKWATER, TOWN OF VERONA, ONEIDA COUNTY, NEW YORK.—A project for shoreline protection, Sylvan Beach Breakwater, town of Verona, Oneida County, New York.

(b) COST SHARING AGREEMENT.—In carrying out the project authorized by subsection (a)(1), the Secretary shall enter into an agreement with the property owner of the project to determine allocation of the project costs.

SEC. 107. SMALL BANK STABILIZATION AND BEACH EROSION CONTROL PROJECT, WATSON ISLAND PARK, MIAMI, FLORIDA.

The Secretary shall conduct a study for a project for bank stabilization and beach erosion control, Watson Island Park, Miami, Florida, and, if the Secretary determines that the project is feasible, shall carry out the project under section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r) and section 103 of the River and Harbor Act of 1962 (33 U.S.C. 426g).

SEC. 108. SMALL SNAGGING AND SEDIMENT REMOVAL PROJECT, MISSISSIPPI RIVER, LITTLE FALLS, MINNESOTA.

The Secretary shall conduct a study for a project for snagging and sediment removal, Mississippi River, Little Falls, Minnesota, and, if the Secretary determines that the project is feasible, shall carry out the project under section 3 of the River and Harbor Act of March 2, 1945 (33 U.S.C. 603a; 59 Stat. 23).

SEC. 109. UPPER TRUCKEE RIVER, EL DORADO COUNTY, CALIFORNIA.

The Secretary shall conduct a study for a project for environmental restoration, Upper Truckee River, El Dorado County, California, including measures for restoration of degraded wetlands and wildlife enhancement, and, if the Secretary determines that the project is feasible, shall carry out the project under section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a).

SEC. 110. MUSKINGUM RIVER, OHIO.

The Secretary shall conduct a study of the feasibility of carrying out a major rehabilitation project for the locks on the Muskingum River, Ohio, constructed under the National Industrial Recovery Act and, if the Secretary determines that project is feasible, carry out the project.

SEC. 111. PROJECT REAUTHORIZATIONS.

(a) GRAND PRAIRIE REGION AND BAYOU METO BASIN, ARKANSAS.—The project for flood control, Grand Prairie Region and Bayou Meto Basin, Arkansas, authorized by section 204 of the Flood Control Act of 1950 (64 Stat. 174) and deauthorized pursuant to section 1001(b)(1) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)(1)), is authorized to be carried out by the Secretary.

(b) WHITE RIVER, ARKANSAS.—The project for navigation, White River Navigation to Batesville, Arkansas, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4139) and deauthorized by section 52(b) of the Water Resources Development Act of 1988 (102 Stat. 4045), is authorized to be carried out by the Secretary.

SEC. 112. CONTINUATION OF AUTHORIZATION OF CERTAIN PROJECTS.

(a) GENERAL RULE.—Notwithstanding section 1001 of the Water Resources Development Act of 1986 (33 U.S.C. 579a), the following projects shall remain authorized to be carried out by the Secretary:

(1) ONTONAGON HARBOR, ONTONAGON COUNTY, MICHIGAN.—The project for navigation, Ontonagon Harbor, Ontonagon County, Michigan, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1176).

(2) ALPENA HARBOR, MICHIGAN.—The project for navigation, Alpena Harbor, Michigan, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1090).

(3) CEDAR RIVER HARBOR, MICHIGAN.—The project for navigation, Cedar River Harbor, Michigan, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1090).

(4) CROSS VILLAGE HARBOR, MICHIGAN.—The project for navigation, Cross Village Harbor, Michigan, authorized by section 101 of the River and Harbor Act of 1966 (80 Stat. 1405).

(5) KNIFE RIVER HARBOR, MINNESOTA.—The project for navigation, Knife River Harbor, Minnesota, authorized by section 100 of the Water Resources Development Act of 1974 (88 Stat. 41).

(b) LIMITATION.—A project described in subsection (a) shall not be authorized for construction after the last day of the 5-year period that begins on the date of the enactment of this Act unless, during such period, funds have been obligated for the construction (including planning and design) of the project.

SEC. 113. REUSE OF WASTE WATER.

(a) IN GENERAL.—The Secretary is authorized to provide assistance to non-Federal interests for carrying out projects described in subsection (c) for the beneficial reuse of waste water. Such assistance may be in the form of technical, planning, design, and construction assistance. If the Secretary is to provide any design or engineering assistance to carry out a project under this section, the Secretary shall obtain by procurement from private sources all services necessary for the Secretary to provide such assistance, unless the Secretary finds that—

(1) the service would require the use of a new technology unavailable in the private sector; or

(2) a solicitation or request for proposal has failed to attract 2 or more bids or proposals.

(b) FEDERAL SHARE.—The Federal share of the cost of assistance provided under this section shall be 55 percent. The non-Federal share shall be subject to the ability of the non-Federal interest to pay, including the procedures and regulations relating to ability to pay established under section 103(m) of the Water Resources Development Act of 1986.

(c) PROJECT DESCRIPTIONS.—The projects for which the Secretary is authorized to provide assistance under subsection (a) are as follows:

(1) WEST DADE REGIONAL REUSE FACILITY, FLORIDA.—The West Dade Regional reuse facility, Florida, to increase water supply to the Everglades National Park and associated natural systems.

(2) CHARLOTTE COUNTY, FLORIDA.—Charlotte County, Florida, for aquifer storage and recovery of reclaimed water.

(3) ALAMEDA COUNTY, CALIFORNIA.—Alameda County Phase I waste water reclamation project serving the cities of Fremont, Union City, and Newark, California.

(4) SUNNYVALE, CALIFORNIA.—The city of Sunnyvale, California, Phase II water reclamation project.

(5) PALO ALTO, CALIFORNIA.—The city of Palo Alto, Phase I water reclamation project.

(6) SOUTH BAYSIDE, CALIFORNIA.—The South Bayside System Authority for Phase I of the Redwood City-South Bayside System Authority water reclamation program serving Redwood City, Menlo Park, and San Carlos, California.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $39,000,000. Such sums shall remain available until expended.

SEC. 114. STUDIES.

(a) GILA RIVER, GILLESPIE DAM TO YUMA, ARIZONA.—The Secretary shall conduct a study of the feasibility of implementing water conservation measures at the Gila River, Gillespie Dam to Yuma, Arizona, including an evaluation of the reoperation of Painted Rock Reservoir as well as other structural and nonstructural features.

(b) NOGALES WASH AND TRIBUTARIES, ARIZONA.—

(1) STUDY.—The Secretary shall conduct a study of the relationship of flooding in Nogales, Arizona, and floodflows emanating from Mexico.

(2) REPORT.—The Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1), together with recommendations concerning the appropriate level of non-Federal participation in the project for flood control, Nogales Wash and tributaries, Arizona, authorized by section 101(a)(4) of the Water Resources Development Act of 1990 (104 Stat. 4606).

(c) LAKE ELSINORE, RIVERSIDE COUNTY, CALIFORNIA.—The Secretary shall conduct a study of the advisability of modifying the project for flood control, Lake Elsinore, Riverside County, California, authorized pursuant to section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), in order to provide for water conservation storage up to 1249 feet mean sea level.

(d) SANTA MONICA BREAKWATER, CALIFORNIA.—The Secretary shall complete the feasibility study for the breakwater project, Santa Monica, California, and shall consider as commercial benefits for purposes of section 119 of the River and Harbor Act of 1970 benefits from reestablishment of past charter fishing vessel accommodation activities which existed in the area prior to damage of the breakwater structure.

(e) YOLO BYPASS, SACRAMENTO-SAN JOAQUIN DELTA, CALIFORNIA.—The Secretary shall study the advisability of acquiring land in the vicinity of the Yolo Bypass in the Sacramento-San Joaquin Delta, California, for the purpose of environmental mitigation for the flood control project for Sacramento, California, and other water resources projects in the area.

(f) CHICAGO LOCK AND THOMAS J. O'BRIEN LOCK, ILLINOIS.—The Secretary shall conduct a study to determine the feasibility of making such structural repairs as are necessary to prevent leakage through the Chicago Lock and the Thomas J. O'Brien Lock, Illinois, and to determine the need for installing permanent flow measurement equipment at such locks to measure any leakage.

(g) BEAUTY CREEK WATERSHED, VALPARAISO CITY, PORTER COUNTY, INDIANA.—The Secretary shall conduct a study to assess the feasibility of implementing streambank erosion control measures and flood control measures within the Beauty Creek watershed, Valparaiso City, Porter County, Indiana.

(h) INDIANA HARBOR CANAL, EAST CHICAGO, LAKE COUNTY, INDIANA.—The Secretary shall conduct a study of the feasibility of including environmental and recreational features, including a vegetation buffer, as part of the project for navigation, Indiana Harbor Canal, East Chicago, Lake County, Indiana, authorized by the Rivers and Harbors Appropriations Act of June 25, 1910 (36 Stat. 658).

(i) JEFFERSONVILLE, INDIANA.—

(1) STUDY.—The Secretary shall conduct a study of the feasibility of carrying out major rehabilitation of the levee at Jeffersonville, Indiana, authorized pursuant to section 4 of the Rivers and Harbors Act of June 28, 1938 (52 Stat. 1217).

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1).

(j) KNIGHT TOWNSHIP LEVEE, EVANSVILLE, INDIANA.—

(1) STUDY.—The Secretary shall conduct a study of the feasibility of carrying out major rehabilitation of the Knight Township levee at Evansville, Indiana, authorized pursuant to section 4 of the Rivers and Harbors Act of June 28, 1938 (52 Stat. 1217).

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1).

(k) KOONTZ LAKE, INDIANA.—The Secretary shall conduct a study of the feasibility of implementing measures to restore Koontz Lake, Indiana, including measures to remove silt, sediment, nutrients, aquatic growth, and other noxious materials from Koontz Lake, measures to improve public access facilities to Koontz Lake, and measures to prevent or abate the deposit of sediments and nutrients in Koontz Lake.

(l) LITTLE CALUMET RIVER, INDIANA.—

(1) STUDY.—The Secretary shall conduct a study of the impact of the project for flood control, Little Calumet River, Indiana, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4115), on flooding and water quality in the vicinity of the Black Oak area of Gary, Indiana.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1), together with recommendations for cost-effective remediation of impacts described in paragraph (1).

(3) FEDERAL SHARE.—The Federal share of the cost of the study to be conducted under paragraph (1) shall be 100 percent.

(m) CALCASIEU PARISH, LOUISIANA.—The Secretary shall conduct a study of the economic, engineering, and environmental feasibility of providing additional water supply for Calcasieu Parish and vicinity in southwest Louisiana, with a view toward providing for future regional increases in municipal and industrial water demand and for increasing agricultural production.

(n) CALCASIEU SHIP CHANNEL, HACKBERRY, LOUISIANA.—The Secretary shall conduct a study to determine the need for improved navigation and related support service structures in the vicinity of the Calcasieu Ship Channel, Hackberry, Louisiana.

(o) CROWLEY, LOUISIANA.—The Secretary shall conduct a study of the feasibility of implementing measures for controlling erosion on Bayou Blanc immediately downstream from the Louisiana State Highway Route 13 bridge crossing.

(p) RIVER DES PERES, SAINT LOUIS COUNTY, MISSOURI.—In conducting the feasibility study of potential flood control measures for the River Des Peres, Saint Louis County, Missouri, the Secretary shall include potential storm water runoff and related improvements and shall cooperate with the Metropolitan Saint Louis Sewer District.

(q) PORT OF NEW YORK-NEW JERSEY.—

(1) STUDY OF MEASURES TO REDUCE SEDIMENT DEPOSITION.—The Secretary shall conduct a study of measures that could be used to reduce sediment deposition in the vicinity of the Port of New York-New Jersey for the purpose of reducing the volumes to be dredged for navigation projects in the Port.

(2) DREDGED MATERIAL DISPOSAL STUDY.—The Secretary shall conduct a study to determine the feasibility of constructing and operating an underwater confined dredged material disposal site in the Port of New York-New Jersey which could accommodate as much as 250,000 cubic yards of dredged materials for the purpose of demonstrating the feasibility of underwater confined disposal pit as an environmentally suitable method of containing certain sediments.

(3) REPORT.—The Secretary shall transmit to Congress a report on the results of the

studies conducted under this subsection, together with any recommendations of the Secretary concerning reduction of sediment deposition referred to in paragraph (1).

(r) MAUMEE RIVER, OHIO.—The Secretary shall study the feasibility of realigning and extending the Federal channel, Maumee River, Lucas County, Ohio.

(s) SNAKE AND COLUMBIA RIVERS, OREGON, WASHINGTON, AND IDAHO.—

(1) STUDY.—The Secretary shall conduct a study to assess the authority of the Secretary to implement salmon protection measures in operating dams on the Snake and Columbia Rivers, Oregon, Washington, and Idaho.

(2) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1), including recommendations for any additional authority needed to implement such protection measures.

(t) CUMBERLAND RIVER, DAVIDSON COUNTY, TENNESSEE.—

(1) STUDY.—The Secretary shall conduct a study of the benefits of establishing a greenway along the Cumberland River, Davidson County, Tennessee.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1).

(u) JOHN H. KERR AND PHILPOTT RESERVOIRS, VIRGINIA AND NORTH CAROLINA.—The Secretary shall conduct a study of the advisability of modifying the multi-purpose project for the John H. Kerr and Philpott Reservoirs, Virginia and North Carolina, authorized by section 10 of the Flood Control Act of December 22, 1944 (58 Stat. 894)—

(1) to include environmental enhancement, public recreational opportunities, regional economic development, and increased public participation in shoreline management as management goals of the project; and

(2) to authorize the use of power sale revenues for operation, maintenance, and capital improvements for the project.

SEC. 115. PROJECT DEAUTHORIZATIONS.

(a) IN GENERAL.—The following projects are not authorized after the date of the enactment of this Act:

(1) BRIDGEPORT HARBOR, CONNECTICUT.—The following portion of the project for navigation, Bridgeport Harbor, Connecticut, authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 297): A 2-acre anchorage area with a depth of 6 feet at the head of Johnsons River between the existing Federal channel and Hollisters Dam.

(2) JOHNSONS RIVER CHANNEL, BRIDGEPORT HARBOR, CONNECTICUT.—The following portion of the project for navigation, Johnsons River Channel, Bridgeport Harbor, Connecticut, authorized by the first section of the Rivers and Harbors Act of July 24, 1946 (60 Stat. 634): Northerly of a line across the Federal channel. The coordinates of such line are N 123318.35, E 486301.68 and N 123257.15, E 486380.77.

(3) SOUTHPORT HARBOR, CONNECTICUT.—

(A) DEAUTHORIZATION PORTION OF PROJECT.—The following portions of the project for navigation, Southport Harbor, Connecticut, authorized by the first section of the Rivers and Harbors Act of August 30, 1935 (49 Stat. 1029):

(i) The 6-foot deep anchorage located at the head of the project.

(ii) The portion of the 9-foot deep channel beginning at a bend in the channel whose coordinates are north 109131.16, east 452653.32 running thence in a northeasterly direction about 943.01 feet to a point whose coordinates are north 109635.22, east 453450.31 running thence in a southeasterly direction about 22.66 feet to a point whose coordinates are north 109617.15, east 453463.98 running thence in a southwesterly direction about 945.18 feet to the point of beginning.

(B) REMAINDER.—The remaining portion of the project referred to in subparagraph (A) northerly of a line whose coordinates are north 108699.15, east 452768.36 and north 108655.66, east 452858.73 shall be redesignated as an anchorage.

(4) FALMOUTH, MASSACHUSETTS.—The following portions of the project for navigation, Falmouth Harbor, Massachusetts, authorized by section 101 of the River and Harbor Act of 1948 (62 Stat. 1172):

(A) The portion commencing at a point north 199286.37 east 844394.81 a line running north 73 degrees 09 minutes 24.6 seconds east 440.44 feet to a point north 199413.99 east 844816.36, thence turning and running north 43 degrees 09 minutes 34.5 seconds east 119.99 feet to a point north 199501.52 east 844898.44, thence turning and running south 66 degrees 52 minutes 04.4 seconds east 547.66 feet returning to a point north 199286.37 east 844394.81.

(B) The portion commencing at a point north 199647.42 east 845035.25 a line running north 43 degrees 09 minutes 35.0 seconds east 767.14 feet to a point north 200207.01 east 845560.00, thence turning and running north 11 degrees 04 minutes 24.3 seconds west 380.08 feet to a point north 200580.01 east 845487.00, thence turning and running north 22 degrees 05 minutes 50.8 seconds east 1332.36 feet to a point north 201814.50 east 845988.21, thence turning and running north 02 degrees 54 minutes 15.7 seconds east 15.0 feet to a point north 201829.48 east 845988.97, thence turning and running south 23 degrees 36 minutes 31.9 seconds west 2381.38 feet returning to the point north 199647.42 east 845035.25.

(5) OSWEGATCHIE RIVER, OGDENSBURG, NEW YORK.—The portion of the Federal channel of the project for navigation, Ogdensburg Harbor, New York, authorized by the first section of the Rivers and Harbors Appropriations Act of June 25, 1910 (36 Stat. 635), as modified by the first section of the Rivers and Harbors Act of August 30, 1935 (49 Stat. 1037), which is in the Oswegatchie River in Ogdensburg, New York, from the southernmost alignment of the Route 68 bridge upstream to the northernmost alignment of the Lake Street bridge.

(b) REDESIGNATION.—The portion of the project for navigation Falmouth, Massachusetts, referred to in subsection (a)(4) upstream of a line designated by the 2 points north 199463.18 east 844496.40 and north 199350.36 east 844544.60 is redesignated as an anchorage area.

SEC. 116. NAMINGS.

(a) MILT BRANDT VISITORS CENTER, CALIFORNIA.—

(1) DESIGNATION.—The visitors center at Warm Springs Dam, California, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1192), shall be known and designated as the "Milt Brandt Visitors Center".

(2) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the visitors center referred to in paragraph (1) shall be deemed to be a reference to the "Milt Brandt Visitors Center".

(b) WILLIAM H. NATCHER BRIDGE, MACEO, KENTUCKY, AND ROCKPORT, INDIANA.—

(1) DESIGNATION.—The bridge on United States Route 231 which crosses the Ohio River between Maceo, Kentucky, and Rockport, Indiana, shall be known and designated as the "William H. Natcher Bridge".

(2) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the bridge referred to in paragraph (1) shall be deemed to be a reference to the "William H. Natcher Bridge".

(c) J. EDWARD ROUSH LAKE, INDIANA.—

(1) REDESIGNATION.—The lake on the Wabash River in Huntington and Wells Counties, Indiana, authorized by section 203 of the Flood Control Act of 1958 (72 Stat. 312), and known as Huntington Lake, shall be known and designated as the "J. Edward Roush Lake".

(2) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the lake referred to in paragraph (1) shall be deemed to be a reference to the "J. Edward Roush Lake".

(d) LOCK AND DAM 4, Red River Waterway, Louisiana.—

(1) DESIGNATION.—Lock and Dam 4 of the Red River Waterway, Louisiana, shall be known and designated as the "Russell B. Long Lock and Dam".

(2) LEGAL REFERENCES.—A reference in any law, map, regulation, document, paper, or other record of the United States to the lock and dam referred to in paragraph (1) shall be deemed to be a reference to the "Russell B. Long Lock and Dam".

(e) LOCK AND DAM 3, RED RIVER WATERWAY, LOUISIANA.—

(1) DESIGNATION.—Lock and Dam 3 of the Red River Waterway, Louisiana, shall be known and designated the "Edwin W. Edwards Lock and Dam".

(2) LEGAL REFERENCES.—A reference in any law, map, regulation, document, paper, or other record of the United States to the lock and dam referred to in paragraph (1) shall be deemed to be a reference to the "Edwin W. Edwards Lock and Dam".

TITLE II—GENERALLY APPLICABLE PROVISIONS

SEC. 201. RECREATION POLICY AND USER FEES.

(a) RECREATION POLICIES.—

(1) IN GENERAL.—The Secretary shall provide increased emphasis on and opportunities for recreation at water resources projects operated, maintained, or constructed by the Corps of Engineers.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on specific measures taken to implement this subsection.

(b) RECREATION USER FEES.—Section 210(b) of the Flood Control Act of 1968 (16 U.S.C. 460d-3(b)) is amended by adding at the end the following:

"(5) USE OF FEES COLLECTED AT FACILITY.—The Secretary of the Army shall ensure that at least an amount equal to the total amount of fees collected at any project under this subsection in a fiscal year beginning after September 30, 1994, are expended in the succeeding fiscal year at such project for operation and maintenance of recreational facilities at such project.".

SEC. 202. RECOVERY OF COSTS.

Amounts recovered under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) for any response action taken by the Secretary in support of the Army Civil Works program shall be credited to the appropriate trust fund account from which the cost of such response action has been paid or will be charged.

SEC. 203. COST SHARING OF ENVIRONMENTAL PROJECTS.

Section 103(c) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(c)) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by inserting after paragraph (6) the following new paragraph:

"(7) subject to section 906 of this Act, environmental protection and restoration: 25 percent.".

SEC. 204. CONSTRUCTION OF FLOOD CONTROL PROJECTS BY NON-FEDERAL INTERESTS.

(a) AUTHORITY.—Non-Federal interests are authorized to undertake flood control projects in the United States, subject to obtaining any permits required pursuant to Federal and State laws, in advance of actual construction.

(b) STUDIES AND ENGINEERING.—

(1) BY NON-FEDERAL INTERESTS.—A non-Federal interest may prepare, for review and approval by the Secretary, the necessary studies and engineering for any construction to be undertaken pursuant to subsection (a).

(2) BY SECRETARY.—Upon request of an appropriate non-Federal interest, the Secretary may undertake all necessary studies and engineering for any construction to be undertaken pursuant to subsection (a) and provide technical assistance in obtaining all necessary permits for such construction if the non-Federal interest contracts with the Secretary to furnish the United States funds for the studies and engineering during the period that the studies and engineering will be conducted.

(c) COMPLETION OF STUDIES.—The Secretary is authorized to complete and transmit to the appropriate non-Federal interests any study for flood control which was initiated before the date of the enactment of this Act or, upon the request of such non-Federal interests, to terminate the study and transmit the partially completed study to such non-Federal interests for completion. Studies subject to this subsection shall be completed without regard to the requirements of subsection (b).

(d) AUTHORITY TO CARRY OUT IMPROVEMENT.—

(1) IN GENERAL.—Any non-Federal interest which has received from the Secretary pursuant to subsection (b) or (c) a favorable recommendation to carry out a flood control project or separable element thereof based on the results of completed studies and engineering for the project or element, may carry out the project or element if a final environmental impact statement has been filed for the project or element.

(2) PERMITS.—Any plan of improvement proposed to be implemented in accordance with this subsection shall be deemed to satisfy the requirements for obtaining the appropriate permits required under the Secretary's authority and such permits shall be granted subject to the non-Federal interest's acceptance of the terms and conditions of such permits if the Secretary determines that the applicable regulatory criteria and procedures have been satisfied.

(3) MONITORING.—The Secretary shall monitor any project for which a permit is granted under this subsection in order to ensure that such project is constructed (and, in those cases where such activities will not be the responsibility of the Secretary, operated and maintained) in accordance with the terms and conditions of such permit.

(e) REIMBURSEMENT.—

(1) GENERAL RULE.—Subject to appropriation Acts, the Secretary is authorized to reimburse any non-Federal interest an amount equal to the estimate of the Federal share, without interest, of the cost of any authorized flood control project, or separable element thereof, constructed pursuant to this section—

(A) if, after authorization and before initiation of construction of the project or separable element, the Secretary approves the plans for construction of such project by the non-Federal interest; and

(B) if the Secretary finds, after a review of studies and engineering prepared pursuant to this section, that construction of the project or separable element is economically justified and environmentally acceptable.

(2) MATTERS TO BE CONSIDERED IN REVIEWING PLANS.—In reviewing plans under this subsection, the Secretary shall consider budgetary and programmatic priorities and other factors that the Secretary deems appropriate.

(3) MONITORING.—The Secretary shall regularly monitor and audit any project for flood control constructed under this section by a non-Federal interest in order to ensure that such construction is in compliance with the plans approved by the Secretary and that the costs are reasonable.

(4) LIMITATION ON REIMBURSEMENTS.—No reimbursement shall be made under this section unless and until the Secretary has certified that the work for which reimbursement is requested has been performed in accordance with applicable permits and approved plans.

(f) TREATMENT OF FLOOD DAMAGE PREVENTION MEASURES.—For the purposes of this section, flood damage prevention measures at or in the vicinity of Morgan City and Berwick, Louisiana, shall be treated as an authorized element of the Atchafalaya Basin feature of the project for flood control, Mississippi River and Tributaries.

SEC. 205. COLLABORATIVE RESEARCH AND DEVELOPMENT.

Section 7 of the Water Resources Development Act of 1988 (102 Stat. 4022–4023) is amended—

(1) in subsection (a) by inserting "civil works" before "mission";

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively;

(3) in subsection (d), as so redesignated, by striking "(b)" and inserting "(c)";

(4) by striking subsection (f), as so redesignated; and

(5) by inserting after subsection (a) the following new subsection:

"(b) PRE-AGREEMENT TEMPORARY PROTECTION OF TECHNOLOGY.—If the Secretary determines that information developed as a result of research and development activities conducted by the Corps of Engineers is likely to be subject to a cooperative research and development agreement within 2 years of its development and that such information would be a trade secret or commercial or financial information that would be privileged or confidential if the information had been obtained from a non-Federal party participating in a cooperative research and development agreement under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980, the Secretary may provide appropriate protection against the dissemination of such information, including exemption from subchapter II of chapter 5 of title 5, United States Code, until the earlier of the date the Secretary enters into such an agreement with respect to such technology or the last day of the 2-year period beginning on the date of such determination. Any technology covered by this section which becomes the subject of a cooperative research and development agreement shall be accorded the protection provided under section 12(c)(7)(B) of such Act (15 U.S.C. 3710a(c)(7)(B)) as if such technology had been developed under a cooperative research and development agreement.".

SEC. 206. NATIONAL INVENTORY OF DAMS.

Section 13 of Public Law 92-367 (33 U.S.C. 467l), is amended by striking the second sentence and inserting the following: "There is authorized to be appropriated $500,000 for each fiscal year for the purpose of carrying out this section.".

SEC. 207. MAINTENANCE, REHABILITATION, AND MODERNIZATION OF FACILITIES.

(a) IN GENERAL.—In accomplishing the maintenance, rehabilitation, and modernization of hydroelectric power generating facilities at water resources projects under the jurisdiction of the Department of the Army, the Secretary is authorized to increase the efficiency of energy production and the capacity of these facilities if, after consulting with other appropriate Federal and State agencies, the Secretary determines that such uprating—

(1) is economically justified and financially feasible;

(2) will not result in significant adverse effects on the other purposes for which the project is authorized;

(3) will not result in significant adverse environmental impacts; and

(4) will not involve major structural or operation changes in the project.

(b) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in subsection (a) shall be construed as affecting the authority of the Secretary and the Administrator of the Bonneville Power Administration under section 2406 of the Energy Policy Act of 1992 (16 U.S.C. 839d–1).

SEC. 208. FEDERAL LUMP-SUM PAYMENTS FOR FEDERAL OPERATION AND MAINTENANCE COSTS.

(a) IN GENERAL.—At a water resources project where the non-Federal interest is responsible for performing the operation, maintenance, replacement, and rehabilitation of the project and the Federal Government is responsible for paying a portion of the operation, maintenance, replacement, and rehabilitation costs, the Secretary may provide, under terms and conditions acceptable to the Secretary and the non-Federal interest, a payment of the estimated total Federal share of such costs to the non-Federal interest after completion of construction of the project or a separable element thereof.

(b) DETERMINATION OF AMOUNT.—The amount to be paid shall be equal to the present value of the Federal payments over the life of the project, as agreed by the Federal Government and the non-Federal interest, and shall be computed using an interest rate determined by the Secretary of the Treasury taking into consideration current market yields on outstanding marketable obligations of the United States with maturities comparable to the remaining life of the project.

(c) AGREEMENT.—The Secretary may make a payment under this section only if the non-Federal interest has entered into a binding agreement with the Secretary to perform the operation, maintenance, replacement, and rehabilitation of the project or separable element. The agreement must be in accordance with the requirements of section 221 of the Flood Control Act of 1970 (84 Stat. 1831) and must contain provisions specifying the terms and conditions under which a payment may be made under this section and the rights of, and remedies available to, the Federal Government to recover all or a portion of a payment made under this section in the event the non-Federal interest suspends or terminates its performance of operation, maintenance, replacement, and rehabilitation of the project or separable element or fails to perform such activities in a manner consistent with the agreement between the Secretary and the non-Federal interest.

(d) Relief From Future Obligations.—Except as provided in subsection (c), a payment provided to the non-Federal interest under this section shall relieve the Government of any future obligations for paying any of the operation, maintenance, replacement, and rehabilitation costs for the project or separable element.

SEC. 209. LONG-TERM SEDIMENT MANAGEMENT STRATEGIES.

(a) Development.—The Secretary shall enter into cooperative agreements with non-Federal sponsors of navigation projects for development of long-term management strategies for controlling sediments in such projects.

(b) Contents of Strategies.—Each strategy developed under this section for a navigation project—

(1) shall include assessments of the following with respect to the project: sediment rates and composition, sediment reduction options, dredging practices, long-term management of any dredged material disposal facilities, remediation of such facilities, and alternative disposal and reuse options;

(2) shall include a timetable for implementation of the strategy; and

(3) shall incorporate, as much as possible, relevant ongoing planning efforts, including remedial action planning, dredged material management planning, harbor and waterfront development planning, and watershed management planning.

(c) Consultation.—In developing strategies under this section, the Secretary shall consult with interested Federal agencies, States, and Indian tribes and the public.

SEC. 210. EMERGENCY RESPONSE.

Section 5(a)(1) of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved August 18, 1941 (33 U.S.C. 701n(a)(1)), is amended by inserting before the first semicolon the following: ", or in implementation of nonstructural alternatives to the repair or restoration of such flood control work if requested by the non-Federal sponsor".

SEC. 211. OBSTRUCTION REMOVAL REQUIREMENT.

(a) Penalty.—Section 16 of the Act of March 3, 1899 (30 Stat. 1153; 33 U.S.C. 411), is amended—

(1) by striking "thirteen, fourteen, and fifteen" and inserting "13, 14, 15, 19, and 20"; and

(2) by striking "not exceeding twenty-five hundred dollars nor less than five hundred dollars" and inserting "of up to $25,000 per day".

(b) General Authority.—Section 20 of the Act of March 3, 1899 (30 Stat. 1154; 33 U.S.C. 415), is amended—

(1) by striking "expense" the first place it appears in subsection (a) and inserting "actual expense, including administrative expenses,";

(2) in subsection (b) by striking "cost" and inserting "actual cost, including administrative costs,";

(3) by redesignating subsection (b) as subsection (c); and

(4) by inserting after subsection (a) the following new subsection:

"(b) Removal Requirement.—Within 24 hours after the Secretary of the Department in which the Coast Guard is operating issues an order to stop or delay navigation in any navigable waters of the United States because of conditions related to the sinking or grounding of a vessel, the owner or operator of the vessel, with the approval of the Secretary of the Army, shall begin removal of the vessel using the most expeditious removal method available or, if appropriate, secure the vessel pending removal to allow navigation to resume. If the owner or operator fails to begin removal or to secure the vessel pending removal or fails to complete removal as soon as possible, the Secretary of the Army shall remove or destroy the vessel using the summary removal procedures under subsection (a) of this section.".

SEC. 212. SMALL PROJECT AUTHORIZATIONS.

Section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r) is amended—

(1) by striking "$12,500,000" and inserting "$15,000,000"; and

(2) by striking "$500,000" and inserting "$1,500,000".

SEC. 213. AQUATIC PLANT CONTROL.

Section 104(b) of the River and Harbor Act of 1958 (33 U.S.C. 610(b)) is amended by striking "$12,000,000" and inserting "$25,000,000".

SEC. 214. BENEFICIAL USES OF DREDGED MATERIAL.

Section 204(e) of the Water Resources Development Act of 1992 (33 U.S.C. 2326) is amended by striking "$15,000,000" and inserting "$50,000,000".

SEC. 215. SEDIMENTS DECONTAMINATION TECHNOLOGY.

(a) Project Purpose.—Section 405(a) of the Water Resources Development Act of 1992 (106 Stat. 4863; 33 U.S.C. 2239 note) is amended by adding at the end the following:

"(3) Project purpose.—The purpose of the project to be carried out under this section is to provide for the development of 1 or more sediment decontamination technologies on a pilot scale demonstrating a capacity of at least 400 cubic yards per day.".

(b) Authorization of Appropriations.—The first sentence of section 405(c) of such Act is amended to read as follows: "There is authorized to be appropriated to carry out this section $5,000,000 for fiscal years 1993 and 1994 and $10,000,000 for fiscal years beginning after September 30, 1994.".

(c) Reports.—Section 405 of such Act is amended by adding at the end the following:

"(d) Reports.—Not later than September 30, 1996, and periodically thereafter, the Administrator and the Secretary shall transmit to Congress a report on the results of the project to be carried out under this section, including an assessment of the progress made in achieving the intent of the program set forth in subsection (a)(3).".

SEC. 216. PROJECT DEAUTHORIZATIONS.

(a) In General.—Section 1001(b)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)(2)) is amended—

(1) by striking "Before" at the beginning of the second sentence and inserting "Upon"; and

(2) by inserting "planning, designing, or" before "construction" in the last sentence.

(b) Technical Amendment.—Section 52 of the Water Resources Development Act of 1988 (33 U.S.C. 579a note; 102 Stat. 4044) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d), respectively.

SEC. 217. FOREIGN TRAVEL.

Section 211 of the Flood Control Act of 1950 (64 Stat. 183) is repealed.

SEC. 218. SUPPORT OF ARMY CIVIL WORKS PROGRAM.

(a) General Authority.—In carrying out research and development in support of the civil works program of the Department of the Army, the Secretary may utilize contracts, cooperative research and development agreements, cooperative agreements, and grants with non-Federal entities, including State and local governments, colleges and universities, consortia, professional and technical societies, public and private scientific and technical foundations, research institutions, educational organizations, and non-profit organizations.

(b) Special Rules.—With respect to contracts for research and development, the Secretary may include requirements that have potential commercial application and may also use such potential application as an evaluation factor where appropriate.

SEC. 219. HOPPER DREDGE FLEET.

(a) In General.—In order to more effectively manage and protect the commercial viability of the Nation's vital deep draft seaports, the Secretary—

(1) shall conduct advanced maintenance sufficient to ensure that authorized deep draft channel dimensions are continuously maintained;

(2) may conduct analysis and demonstration of experimental maintenance dredging techniques or improved environmental techniques in federally authorized deep draft navigation channels in order to evaluate the ability of such techniques to increase the reliability of channel dimensions; except that any dredging undertaken pursuant to this paragraph shall be limited and shall not replace or be substituted for routine maintenance dredging;

(3) shall, to the maximum extent practicable, utilize sediments dredged under paragraphs (1) and (2) for beneficial purposes; and

(4) shall contract for private dredging services to perform priority-expedited dredging work unless the appropriate District Engineer of Corps of Engineers determines that a Federal dredge can be brought on scene more quickly or is operationally better suited to undertake the work than any available non-Federal dredge.

With respect to priority-expedited dredging work undertaken under paragraph (4), the District Engineer shall employ innovative, expedited contracting procedures to ensure a timely response. In the case of contract disputes, the District Engineer is authorized to employ whatever measures are necessary to accomplish the priority-expedited dredging work.

(b) Hopper Dredge Fleet Requirements.—In order to ensure the continued viability of the Federal hopper dredge fleet and private industry hopper dredge fleet, the Secretary—

(1) shall, except as provided in section 342 of this Act, relating to the hopper dredge, *McFarland*, maintain the Federal minimum hopper dredge fleet for at least 4 years or more beginning in fiscal year 1995 in a fully operational and active status;

(2) may undertake measures to maintain or improve the efficiency, operation, and design of the Federal hopper dredge fleet; and

(3) shall, for fiscal years beginning in fiscal year 1995 and ending in fiscal year 1998, advertise for competitive bid at least 7,500,000

cubic yards of hopper dredge work formerly accomplished by the Government fleet in years preceding fiscal year 1992 consistent with the policies developed by the Secretary to implement the requirements of section 106 of the Energy and Water Development Appropriations Act, 1993 (106 Stat. 1326) and section 106 of the Energy and Water Development Appropriations Act, 1994 (107 Stat. 1320); except that (A) hopper dredge work which results from activities undertaken in accordance with subsection (a)(1) or (a)(2) shall be advertised for competitive bid and shall not be counted toward the 7,500,000 cubic yards required to be advertised by this paragraph; and (B) operation of the Corps of Engineers hopper dredge fleet resulting from activities undertaken in accordance with subsections (a)(2) and (a)(4) shall not be used to determine days of operation of the Corps of Engineers hopper dredge fleet necessary to achieve the 7,500,000 cubic yards required to be advertised by this paragraph.

(c) PRIORITY-EXPEDITED DREDGING WORK DEFINED.—For purposes of this section, the term "priority-expedited dredging work" means work necessary to maintain a federally authorized deep draft navigation channel at project dimensions whenever the appropriate District Engineer of the Corps of Engineers determines that siltation, sedimentation, or other events altering channel dimensions has caused, or is anticipated to cause, imminent impairment of ongoing commercial navigation.

(d) USE OF CORPS DREDGE FLEET.—Notwithstanding the provisions of this section, the Secretary is authorized to use the dredge fleet of the Corps of Engineers to undertake projects when industry does not perform as required by the contract specifications or when the bids are more than 25 percent in excess of what the Secretary determines to be a fair and reasonable estimated cost of a well-equipped contractor doing the work or to respond to emergency requirements.

SEC. 220. RESTORATION OF ENVIRONMENTAL QUALITY.

Section 1135 of the Water Resources Development Act of 1986 (100 Stat. 4251–4252; 33 U.S.C. 2309a) is amended—

(1) by striking the period at the end of subsection (a) and inserting the following: "and to determine if the operation of such projects has contributed to the degradation of the quality of the environment.";

(2) by striking the last 2 sentences of subsection (b);

(3) by redesignating subsections (c), (d), and (e) as subsections (e), (f), and (g), respectively; and

(4) by inserting after subsection (b) the following new subsections:

"(c) RESTORATION OF ENVIRONMENTAL QUALITY.—If the Secretary determines that operation of a water resources project constructed by the Secretary has contributed to the degradation of the quality of the environment, the Secretary may undertake measures for restoration of environmental quality if such measures are feasible and consistent with the authorized project purposes.

"(d) NON-FEDERAL SHARE; LIMITATION ON MAXIMUM FEDERAL EXPENDITURE.—The non-Federal share of the cost of any modifications or measures carried out or undertaken pursuant to subsection (b) or (c) of this section shall be 25 percent. Not more than 80 percent of the non-Federal share may be in kind, including a facility, supply, or service that is necessary to carry out the modification. No more than $5,000,000 in Federal funds may be expended on any single modification or measure carried out or undertaken pursuant to this section.".

SEC. 221. COST SHARING FOR CREATION OF DREDGED MATERIAL DISPOSAL AREAS.

(a) FEDERAL SHARE.—Section 101(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2211(b)) is amended—

(1) by inserting "(1) IN GENERAL.—" before "The Federal share";

(2) by indenting and moving paragraph (1), as so designated, 2 ems to the right; and

(3) by adding at the end the following:

"(2) CONFINED DISPOSAL FACILITIES.—The Federal share of the cost of project features that are necessary for the creation of dredged material disposal areas, including capping, retaining dikes, bulkheads, embankments, and associated structures, shall be determined in accordance with subsection (a)(1).".

(b) CONFORMING AMENDMENTS.—Section 101 of such Act (33 U.S.C. 2211) is amended—

(1) in the second sentence of subsection (a)(2)—

(A) by inserting "and" after "rights-of-way,"; and

(B) by striking ", and dredged material disposal areas";

(2) in subsection (a)(3)—

(A) by inserting "and" after "rights-of-way,"; and

(B) by striking ", and dredged material disposal areas" and inserting ", including those required for dredged material disposal areas,"; and

(3) in subsection (e)(1) by striking ", and to provide dredged material disposal areas".

(c) APPLICABILITY.—The amendments made by subsections (a) and (b) shall apply to construction of dredged material disposal areas for which a contract for construction has not been awarded before the date of the enactment of this Act. The Secretary may amend any cooperation agreement entered into before such date of enactment that does not provide for a Federal share of project costs of dredged material disposal areas as determined in accordance with such amendments if the non-Federal interest agrees to the amendment of the contract.

SEC. 222. LOSS OF LIFE PREVENTION.

Section 904 of the Water Resources Development Act of 1986 (33 U.S.C. 2281) is amended by inserting "including the loss of life which may be associated with flooding and coastal storm events," after "costs,".

SEC. 223. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary, to the greatest extent practicable, shall provide to each recipient of the assistance a notice describing the statement made in subsection (a).

SEC. 224. RESERVOIR MANAGEMENT TECHNICAL ADVISORY COMMITTEE.

Section 310 of the Water Resources Development Act of 1990 (33 U.S.C. 2319; 104 Stat. 4639) is amended—

(1) by striking subsection (a); and

(2) by striking "(b) PUBLIC PARTICIPATION.—".

SEC. 225. TECHNICAL CORRECTIONS.

(a) SECTION 203 OF 1992 ACT.—Section 203(b) of the Water Resources Development Act of 1992 (106 Stat. 4826) is amended by striking "(8662)" and inserting "(8862)".

(b) SECTION 225 OF 1992 ACT.—Section 225(c) of the Water Resources Development Act of 1992 (106 Stat. 4838) is amended by striking "(8662)" in the second sentence and inserting "(8862)".

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. WATERSHED MANAGEMENT, RESTORATION, AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary is authorized to provide technical, planning, and design assistance to non-Federal interests for carrying out watershed management, restoration, and development projects at the locations described in subsection (d).

(b) SPECIFIC MEASURES.—Projects carried out pursuant to subsection (a) may include the following purposes:

(1) Management and restoration of water quality.

(2) Control and remediation of toxic sediments.

(3) Restoration of degraded streams, rivers, wetlands, and other waterbodies to their natural state as a means to control flooding, excessive erosion, and sedimentation.

(4) Protection and restoration of watersheds, including urban watersheds.

(c) NON-FEDERAL SHARE.—The non-Federal share of the cost of a project for which assistance is provided under this section shall be 50 percent. The non-Federal share shall be subject to the ability of the non-Federal interest to pay, including application of the procedures and regulations relating to ability to pay established under section 103(m) of the Water Resources Development Act of 1986.

(d) PROJECT LOCATIONS.—The Secretary may provide assistance under subsection (a) for projects at the following locations:

(1) Colusa basin, California.

(2) Los Angeles River basin, California.

(3) Russian River watershed, California.

(4) Sacramento River watershed, California.

(5) Nancy Creek, Utoy Creek, and North Peachtree Creek and South Peachtree Creek basin, Georgia.

(6) Morgan, Floyd, Pulaski, Wayne, Laurel, Knox, Pike, Menifee, Perry, Harlan, Breathitt, Martin, Jackson, Wolfe, Clay, Magoffin, Owsley, Johnson, Leslie, Lawrence, Knott, Bell, McCreary, Rockcastle, Whitley, Lee, and Letcher Counties, Kentucky.

(7) Lower Platte River watershed, Nebraska.

(8) Upper Potomac River watershed, Grant and Mineral Counties, West Virginia.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for fiscal years beginning after September 30, 1994. Such sums shall remain available until expended.

SEC. 302. LAKES PROGRAM.

Section 602(a) of the Water Resources Development Act of 1986 (100 Stat. 4148–4149) is amended—

(1) by striking "and" at the end of paragraph (10);

(2) by striking the period at the end of paragraph (11) and inserting a semicolon; and

(3) by adding at the end the following:

"(12) Oneida Lake, Oneida County, New York, removal of silt and aquatic growth;

"(13) Skaneateles and Owasco Lakes, New York, removal of silt and aquatic growth and prevention of sediment deposit; and

"(14) Twin Lakes, Paris, Illinois, removal of silt and excess aquatic vegetation, including measures to address excessive sedimentation, high nutrient concentration, and shoreline erosion.".

SEC. 303. ENVIRONMENTAL INFRASTRUCTURE.

Section 219(d) of the Water Resources Development Act of 1992 (106 Stat. 4836) is amended by striking "$5,000,000" and inserting "$50,000,000".

SEC. 304. ENVIRONMENTAL DREDGING.

Section 312 of the Water Resources Development Act of 1990 (104 Stat. 4639-4640) is amended—

(1) in each of subsections (a), (b), and (c) by inserting "and remediate" after "remove" each place it appears;

(2) in subsection (b)(1) by inserting "and remediation" after "removal" each place it appears;

(3) in subsection (b)(2) by striking "$10,000,000" and inserting "$50,000,000"; and

(4) by striking subsection (f).

SEC. 305. CHESAPEAKE BAY RESTORATION AND PROTECTION PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a pilot program to provide assistance to non-Federal interests in the Chesapeake Bay watershed.

(2) FORM.—The assistance shall be in the form of technical, planning, and design assistance for water-related environmental infrastructure and resource protection and development projects affecting the Chesapeake Bay, including projects for sediment and erosion control, protection of eroding shorelines, protection of essential public works, waste water treatment and related facilities, water supply and related facilities, and beneficial uses of dredged material, and other related projects.

(b) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned, and will be publicly operated and maintained.

(c) LOCAL COOPERATION AGREEMENT.—

(1) IN GENERAL.—Before providing assistance under this section, the Secretary shall enter into a local cooperation agreement pursuant to section 221 of the Flood Control Act of 1970 (84 Stat. 1818) with a non-Federal interest to provide for technical, planning, and design assistance for the project.

(2) REQUIREMENTS.—Each local cooperation agreement entered into under this subsection shall provide for the following:

(A) PLAN.—Development by the Secretary, in consultation with appropriate Federal, State, and local officials, of a plan, including appropriate engineering plans and specifications and an estimate of expected benefits.

(B) LEGAL AND INSTITUTIONAL STRUCTURES.—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation and maintenance of the project by the non-Federal interest.

(d) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS AND AGREEMENTS.—

(1) IN GENERAL.—Nothing in this section waives, limits, or otherwise affects the applicability of any provision of Federal or State law that would otherwise apply to a project carried out with assistance provided under this section.

(2) COOPERATION.—In carrying out this section, the Secretary shall cooperate with the heads of appropriate Federal agencies.

(e) REPORT.—Not later than December 31, 1998, the Secretary shall transmit to Congress a report on the results of the program carried out under this section, together with a recommendation concerning whether or not the program should be implemented on a national basis.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1995. Such sums shall remain available until expended.

SEC. 306. SAINT LAWRENCE SEAWAY COLLECTION OF TOLLS.

Section 13 of the Act of May 13, 1954 (33 U.S.C. 988a) is amended to read as follows:

"SEC. 13. WAIVER OF COLLECTION OF CHARGES AND TOLLS.

"(a) WAIVER.—Notwithstanding section 12 or any other provision of law, the Corporation shall not collect any charge or toll established pursuant to section 12 with respect to a commercial vessel (as defined by section 4462(a)(4) of the Internal Revenue Code of 1986).

"(b) RECORD.—The Corporation shall maintain a record of the annual amount of each charge or toll that would have been collected with respect to a commercial vessel described in subsection (a) but for the requirement of subsection (a).".

SEC. 307. RIVER BASIN PLAN FOR LOWER MISSISSIPPI.

(a) DEVELOPMENT.—The Secretary shall develop a comprehensive river basin management plan that addresses the long-term ecological, economic, and flood control needs of the basin of the Lower Mississippi River system.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for fiscal years beginning after September 30, 1994. Such sums shall remain available until expended.

SEC. 308. EXTENSION OF JURISDICTION OF MISSISSIPPI RIVER COMMISSION.

The jurisdiction of the Mississippi River Commission, established by the Act of June 29, 1879 (33 U.S.C. 641), is extended to include all of the area between the eastern side of the Bayou Lafourche Ridge from Donaldsonville, Louisiana, to the Gulf of Mexico and the west guide levee of the Mississippi River from Donaldsonville, Louisiana, to the Gulf of Mexico.

SEC. 309. GREAT LAKES DREDGED MATERIAL TESTING AND EVALUATION MANUAL.

The Secretary, in cooperation with the Administrator of the Environmental Protection Agency, shall provide technical assistance to non-Federal interests on testing procedures contained in the Great Lakes Dredged Material Testing and Evaluation Manual developed pursuant to section 230.2(c) of title 40, Code of Federal Regulations.

SEC. 310. GREAT LAKES SEDIMENT REDUCTION.

(a) GREAT LAKES TRIBUTARY SEDIMENT TRANSPORT MODEL.—For each major river system or set of major river systems depositing sediment into a Great Lakes federally authorized commercial harbor, channel maintenance project site, or Area of Concern, the Secretary, in consultation and coordination with the Great Lakes States, shall develop a tributary sediment transport model.

(b) REQUIREMENTS FOR MODELS.—In developing a tributary sediment transport model under this section, the Secretary shall—

(1) build upon data and monitoring infrastructure generated in earlier studies and programs of the Great Lakes and their tributaries; and

(2) complete models for 30 major river systems within the 5-year period beginning on the date of the enactment of this Act.

SEC. 311. CONFINED DISPOSAL FACILITIES.

(a) ASSESSMENT.—The Secretary shall conduct an assessment of the general conditions of confined disposal facilities in the Great Lakes.

(b) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the assessment conducted under subsection (a), including the following:

(1) A description of the cumulative effects of confined disposal facilities in the Great Lakes.

(2) Recommendations for specific remediation actions for each confined disposal facility in the Great Lakes.

(3) An evaluation of, and recommendations for, confined disposal facility management practices and technologies to conserve capacity at such facilities and to minimize adverse environmental effects at such facilities throughout the Great Lakes system.

SEC. 312. ALTERNATIVE TO ANNUAL PASSES.

(a) IN GENERAL.—The Secretary shall carry out a project to evaluate the feasibility of implementing an alternative to the $25 annual pass that the Secretary currently offers to users of recreation facilities at water resources projects of the Corps of Engineers.

(b) ANNUAL PASS.—The project to be carried out under this section shall include the establishment of an annual pass which costs $10 or less for the use of recreation facilities at Raystown Lake, Pennsylvania.

(c) REPORT.—Not later than December 31, 1997, the Secretary shall transmit to Congress a report on the results of the project carried out under this section, together with recommendations concerning whether annual passes for individual projects should be offered on a nationwide basis.

SEC. 313. RECREATION PARTNERSHIP INITIATIVE.

(a) IN GENERAL.—The Secretary shall promote Federal, non-Federal, and private sector cooperation in creating public recreation opportunities and developing the necessary supporting infrastructure at water resources projects of the Corps of Engineers.

(b) INFRASTRUCTURE IMPROVEMENTS.—

(1) RECREATION INFRASTRUCTURE IMPROVEMENTS.—In demonstrating the feasibility of the public-private cooperative, the Secretary shall provide, at Federal expense, such infrastructure improvements as are necessary to support a potential private recreational development at the Raystown Lake Project, Pennsylvania, generally in accordance with the Master Plan Update (1994) for the project.

(2) AGREEMENT.—The Secretary shall enter into an agreement with an appropriate non-Federal public entity to ensure that the infrastructure improvements constructed by the Secretary on non-project lands pursuant to paragraph (1) are transferred to and operated and maintained by the non-Federal public entity.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $4,500,000 for fiscal years beginning after September 30, 1994. Such sums shall remain available until expended.

(c) REPORT.—Not later than December 31, 1997, the Secretary shall transmit to Congress a report on the results of the cooperative efforts carried out under this section, including the improvements required by subsection (b).

SEC. 314. WATER QUALITY PROJECTS.

Section 307(d) of the Water Resources Development Act of 1992 (106 Stat. 4841) is amended by striking "$70,000,000" and inserting "$100,000,000".

SEC. 315. NEW ENGLAND DIVISION HEADQUARTERS FACILITY.

(a) General Authority.—The Secretary may use Plant Replacement and Improvement Program funds to design and construct a new headquarters facility for the New England Division of the United States Army Corps of Engineers.

(b) Authorization of Appropriations.—There is authorized to be appropriated for fiscal years beginning after September 30, 1994, $30,000,000 to carry out this section.

SEC. 316. QUARANTINE FACILITY.

Section 108(c) of the Water Resources Development Act of 1992 (106 Stat. 4816) is amended by striking "$1,000,000" and inserting "$4,000,000".

SEC. 317. BENTON AND WASHINGTON COUNTIES, ARKANSAS.

Section 220 of the Water Resources Development Act of 1992 (106 Stat. 4836–4837) is amended by adding at the end the following new subsection:

"(c) Use of Federal Funds.—The Secretary may make available to the non-Federal interests funds not to exceed an amount equal to the Federal share of the total project cost to be used by the non-Federal interests to undertake the work directly or by contract.".

SEC. 318. CALAVERAS COUNTY, CALIFORNIA.

The Secretary, in cooperation with Federal, State, and local agencies, is authorized—

(1) to conduct investigations and surveys of the watershed of the Lower Mokelume River in Calaveras County, California; and

(2) to provide technical, planning, and design assistance for abatement and mitigation of degradation caused by abandoned mines and mining activity in the vicinity of such river.

SEC. 319. LAKE ELSINORE, CALIFORNIA.

(a) Maximum Allotment.—The maximum amount which may be allotted under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) for the project for flood control, Lake Elsinore, Riverside County, California, shall be $7,500,000 instead of $5,000,000.

(b) Revision of Local Cooperation Agreement.—The Secretary shall revise the local cooperation agreement for the project referred to in subsection (a) in order to take into account the increase in the Federal participation in such project pursuant to subsection (a).

(c) Cost Sharing.—Nothing in this section shall be construed to affect any cost-sharing requirement applicable to the project referred to in subsection (a) under the Water Resources Development Act of 1986.

SEC. 320. BENEFICIAL USE OF DREDGED MATERIAL, MONTEZUMA, CALIFORNIA.

The Secretary shall carry out a project for the beneficial use of dredged material at Montezuma, California, pursuant to section 204 of the Water Resources Development Act of 1992.

SEC. 321. PRADO DAM SAFETY IMPROVEMENTS.

The Secretary, in coordination with the State of California, shall provide technical assistance to Orange County, California, in developing appropriate public safety and access improvements associated with that portion of California State Route 71 being relocated for the Prado Dam feature of the project authorized as part of the project for flood control, Santa Ana River Mainstem, California, by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4113).

SEC. 322. SAN JOSE, CALIFORNIA.

(a) In General.—The Secretary shall transfer funds appropriated to carry out this section to the Administrator of the Environmental Protection Agency for making grants to the city of San Jose, California, and the Santa Clara Valley Water District, San Jose, California, to promote and implement the use of treated waste water for critical water supply purposes and for the protection of San Francisco Bay.

(b) Purposes of Assistance.—Assistance may be provided under this section for projects for the planning, design, and construction of facilities to reuse waste water in the San Jose area, including necessary distribution facilities. Design and construction of such projects shall be carried out by non-Federal interests.

(c) Approval of Plans.—Upon approval of necessary plans and specifications, the Administrator is authorized to make grants under this section in accordance with the existing grant procedures of the Environmental Protection Agency.

(d) Transfer of Funds.—The transfer of funds under subsection (a) shall occur pursuant to a memorandum of agreement between the Secretary and the Administrator. Such memorandum of agreement shall be entered into on or before the 60th day after the date upon which funds are made available to the Secretary to carry out this section.

(e) Cost Sharing.—The Federal share of the cost of a project carried out under this section shall be 55 percent. Other Federal funds may be contributed to the project, and the non-Federal sponsors shall receive credit for lands, easements, rights-of-way, and relocations toward its share of project costs. Operation and maintenance costs shall be 100 percent non-Federal.

(f) Authorization of Appropriations.—There is authorized to be appropriated to the Secretary to carry out this section $71,500,000. Such sums shall remain available until expended and shall be in addition to and not in lieu of any other amounts authorized to be appropriated under any other Act, including title II of the Federal Water Pollution Control Act.

SEC. 323. TAMPA, FLORIDA.

The Secretary may enter into a cooperative agreement under section 218 of this Act with the Museum of Science and Industry, Tampa, Florida, to provide technical, planning, and design assistance to demonstrate the water quality functions found in wetlands, at an estimated total Federal cost of $500,000.

SEC. 324. KANKAKEE RIVER BASIN, ILLINOIS.

(a) Master Plan.—Not later than 1 year after the date of the enactment of this Act, the Secretary, in cooperation with other interested Federal, State, and local agencies and private citizens, shall study, and prepare a comprehensive master plan for the management of, the Kankakee River Basin, Illinois. The study shall focus primarily on basinwide management methods for flood damage reduction, environmental enhancement, and erosion control and may evaluate water quality, land use management, and other related topics.

(b) Feasibility Report.—Not later than 30 months after the date of completion of the study and plan under subsection (a), the Secretary shall prepare, in accordance with section 905 of the Water Resources Development Act of 1986 (33 U.S.C. 2282), a feasibility report concerning the measures described in the plan.

(c) Authorization of Appropriations.—There are authorized to be appropriated $500,000 for the study and preparation of the plan required under subsection (a) and such sums as may be necessary to prepare the feasibility report required under subsection (b).

SEC. 325. WATERSHED MANAGEMENT PLAN FOR DEEP RIVER BASIN, INDIANA.

(a) Development.—The Secretary, in consultation with the Soil Conservation Service of the Department of Agriculture, shall develop a watershed management plan for the Deep River Basin, Indiana, which includes Deep River, Lake George, Turkey Creek, and other related tributaries in Indiana.

(b) Contents.—The plan to be developed by the Secretary under subsection (a) shall address specific concerns related to the Deep River Basin area, including sediment flow into Deep River, Turkey Creek, and other tributaries; control of sediment quality in Lake George; flooding problems; the safety of the Lake George Dam; and watershed management.

SEC. 326. RESTORATION PROJECTS FOR MARYLAND, PENNSYLVANIA, WEST VIRGINIA, AND KENTUCKY.

The Secretary, in cooperation with Federal, State, and local agencies, is authorized—

(1) to conduct investigations and surveys of the watersheds of the North Branch of the Potomac River, Maryland, Pennsylvania, and West Virginia; New River, West Virginia; and Pond Creek, Kentucky; and

(2) to provide technical, planning, and design assistance for abatement and mitigation of surface water quality degradation caused by abandoned mines and mining activity in the vicinity of such rivers and creek.

SEC. 327. BENEFICIAL USE OF DREDGED MATERIAL, POPLAR ISLAND, MARYLAND.

The Secretary shall carry out a project for the beneficial use of dredged material at Poplar Island, Maryland, pursuant to section 204 of the Water Resources Development Act of 1992.

SEC. 328. EROSION CONTROL MEASURES, SMITH ISLAND, MARYLAND.

(a) In General.—The Secretary shall implement erosion control measures in the vicinity of Rhodes Point, Smith Island, Maryland, at an estimated total Federal cost of $450,000.

(b) Implementation on Emergency Basis.—The project under subsection (a) shall be carried out on an emergency basis in view of the national, historic, and cultural value of the island and in order to protect the Federal investment in infrastructure facilities.

(c) Cost Sharing.—Cost sharing applicable to hurricane and storm damage reduction shall be applicable to the project to be carried out under subsection (a).

SEC. 329. BENEFICIAL USE OF DREDGED MATERIAL, WORTON POINT, KENT COUNTY, MARYLAND.

The Secretary shall carry out a project for the beneficial use of dredged material at Worton Point, Kent County, Maryland, pursuant to section 204 of the Water Resources Development Act of 1992.

SEC. 330. MASSACHUSETTS COASTAL SALTMARSH RESTORATION AUTHORIZATION.

Subject to the cost sharing provisions of the Water Resources Development Act of 1986, the Secretary shall, as part of the long-term goal of Corps of Engineers water resources development program of increasing the quality and quantity of the Nation's wetlands, investigate and carry out saltmarsh restoration projects along the coastline of Massachusetts.

SEC. 331. BOSTON, MASSACHUSETTS, ALTERNATIVE TECHNOLOGY PROJECT.

(a) Project Authorization.—The Secretary shall develop and implement alternative methods for disposal of contaminated dredged material at the Port of Boston, Boston, Massachusetts, using innovative and environmental technologies, including thermal remediation.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years beginning after September 30, 1994, to carry out this section $2,000,000. Such sums shall remain available until expended.

SEC. 332. LAKE ST. CLAIRE, MICHIGAN.

The Secretary shall carry out a program to control aquatic plants in Lake St. Claire, Michigan, under section 104(b) of the River and Harbor Act of 1958 (33 U.S.C. 610(b)).

SEC. 333. DULUTH, MINNESOTA, ALTERNATIVE TECHNOLOGY PROJECT.

(a) PROJECT AUTHORIZATION.—The Secretary shall develop and implement alternative methods for decontamination and disposal of contaminated dredged material at the Port of Duluth, Minnesota.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years beginning after September 30, 1994, to carry out this section $1,000,000. Such sums shall remain available until expended.

SEC. 334. ST. JOHN'S BAYOU—NEW MADRID FLOODWAY.

The Secretary is directed to review the project for flood control, St. John's Bayou and New Madrid Floodway, Missouri, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118), to determine the ability of the non-Federal interests to pay the project costs, including operation and maintenance costs, in accordance with section 103(m) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(m)) and in light of locally prevailing conditions which would limit the ability of local interests to participate as non-Federal project sponsors in accordance with established cost-sharing formulas.

SEC. 335. DURHAM, NEW HAMPSHIRE.

The Secretary may enter into a cooperative agreement under section 218 of this Act with the University of New Hampshire to provide technical assistance for a water treatment technology center addressing the needs of small communities.

SEC. 336. NEW YORK BIGHT AND HARBOR STUDY.

Section 326(f) of the Water Resources Development Act of 1992 (106 Stat. 4851) is amended by striking "$1,000,000" and inserting "$10,000,000".

SEC. 337. NEW YORK STATE CANAL SYSTEM.

(a) IN GENERAL.—The Secretary is authorized to make capital improvements to the New York State Canal System.

(b) AGREEMENTS.—The Secretary shall, with the consent of appropriate local and State entities, enter into such arrangements, contracts, and leases with public and private entities as may be necessary for the purposes of rehabilitation, renovation, preservation, and maintenance of the New York State Canal System and its related facilities, including trailside facilities and other recreational projects along the waterways of the canal system.

(c) NEW YORK STATE CANAL SYSTEM DEFINED.—In this section, the term "New York State Canal System" means the Erie, Oswego, Champlain, and Cayuga-Seneca Canals.

(d) FEDERAL SHARE.—The Federal share of the cost of capital improvements under this section shall be 50 percent.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for fiscal years beginning after September 30, 1994. Such sums shall remain available until expended.

SEC. 338. NEW YORK CITY WATERSHED.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a program for providing environmental assistance to non-Federal interests in the New York City Watershed.

(2) FORM.—Assistance provided under this section may be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects in the New York City Watershed, including projects for water supply, storage, treatment, and distribution facilities, and surface water resource protection and development.

(b) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(c) ELIGIBLE PROJECTS.—

(1) CERTIFICATION.—A project shall be eligible for financial assistance under this section only if the State director for the project certifies to the Secretary that the project will contribute to the protection and enhancement of the quality or quantity of the New York City water supply.

(2) SPECIAL CONSIDERATION.—In certifying projects to the Secretary, the State director shall give special consideration to those projects implementing plans, agreements, and measures which preserve and enhance the economic and social character of the watershed communities.

(3) PROJECT DESCRIPTIONS.—Projects eligible for assistance under this section shall include the following:

(A) Implementation of intergovernmental agreements for coordinating regulatory and management responsibilities.

(B) Acceleration of whole farm planning to implement best management practices to maintain or enhance water quality and to promote agricultural land use.

(C) Acceleration of whole community planning to promote intergovernmental cooperation in the regulation and management of activities consistent with the goal of maintaining or enhancing water quality.

(D) Natural resources stewardship on public and private lands to promote land uses that preserve and enhance the economic and social character of the watershed communities and protect and enhance water quality.

(d) LOCAL COOPERATION AGREEMENTS.—Before providing assistance under this section, the Secretary shall enter into a cooperative agreement with the State director for the project to be carried out with such assistance.

(e) COST SHARING.—

(1) IN GENERAL.—Total project costs under each local cooperation agreement entered into under this section shall be shared at 75 percent Federal and 25 percent non-Federal. The non-Federal interest shall receive credit for the reasonable costs of design work completed by such interest prior to entering into a local cooperation agreement with the Secretary for a project. The Federal share may be in the form of grants or reimbursements of project costs.

(2) INTEREST.—In the event of delays in the reimbursement of the non-Federal share of a project, the non-Federal interest shall receive credit for reasonable interest to provide the non-Federal share of a project's cost.

(3) LANDS, EASEMENTS, AND RIGHTS-OF-WAY CREDIT.—The non-Federal interest shall receive credit for lands, easements, rights-of-way, and relocations toward its share of project costs, including direct costs associated with obtaining permits necessary for the placement of such project on public owned or controlled lands, but not to exceed 25 percent of total project costs.

(4) OPERATION AND MAINTENANCE.—Operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent non-Federal.

(f) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section shall be construed to waive, limit, or otherwise affect the applicability of any provision of Federal or State law that would otherwise apply to a project carried out with assistance provided under this section.

(g) REPORT.—Not later than December 31, 2000, the Secretary shall transmit to Congress a report on the results of the program carried out under this section, together with recommendations concerning whether such program should be implemented on a national basis.

(h) NEW YORK CITY WATERSHED DEFINED.—For purposes of this section, the term "New York City Watershed" means the land area within the counties of Delaware, Greene, Schoharie, Ulster, Sullivan, Westchester, Putnam, and Duchess which contributes water to the water supply system of New York City.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for fiscal years beginning after September 30, 1994.

SEC. 339. NORTHEASTERN OHIO.

The Secretary is authorized to provide technical assistance to local interests for planning the establishment of a regional water authority in northeastern Ohio to address the water problems of the region. The Federal share of the costs of such planning shall not exceed 75 percent.

SEC. 340. OHIO RIVER.

(a) CENTER FOR ENVIRONMENTAL STUDIES FOR LARGE RIVERS.—The Secretary shall establish a Center for Environmental Studies of Large Rivers at Jefferson Technical College, Ohio.

(b) STUDY.—

(1) COOPERATIVE AGREEMENT.—The Secretary shall enter into a cooperative agreement with the Ohio River Valley Water Sanitation Commission to develop the necessary methodologies to make improvements in, and assess the environmental health of, the Ohio River.

(2) REPORT.—Not later than December 31, 1996, the Secretary shall submit a report to Congress on the results of the study conducted under paragraph (1), together with recommendations on reducing and eliminating pollution in the Ohio River.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years beginning after September 30, 1994, $2,000,000 to carry out subsection (a) and $1,000,000 to carry out subsection (b).

SEC. 341. REMOVAL OR REMEDIATION OF CONTAMINATED SEDIMENTS, MAHONING RIVER, OHIO AND PENNSYLVANIA.

The Secretary shall remove or remediate contaminated sediments from the Mahoning River, Northeast Ohio and Western Pennsylvania, pursuant to section 312 of the Water Resources Development Act of 1990 (33 U.S.C. 1252 note).

SEC. 342. COLUMBIA RIVER BASIN, OREGON.

The costs of measures undertaken to mitigate the adverse effects on fish and wildlife of water resources projects constructed by the Secretary within the McKenzie River Sub-Basin within the Columbia River Basin, Oregon, shall be allocated as provided in section 906 of the Water Resources Development Act of 1986 (33 U.S.C. 2283).

SEC. 343. SOUTH CENTRAL PENNSYLVANIA.

(a) IN GENERAL.—Section 313 of the Water Resources Development Act of 1992 (106 Stat. 4845–4847) is amended—

(1) in the heading to subsection (c) by striking "WITH SARCD COUNCIL";

(2) in subsection (c) by inserting "with State, regional, and local officials, including, where applicable," after "consult";

(3) in subsection (d)(2)(A) by inserting ", where applicable," after "Council";

(4) in subsection (g)(1) by striking "$17,000,000" and inserting "$50,000,000"; and

(5) in subsection (h)(2) by striking "Bedford, Blair, Cambria, Fulton, Huntingdon, and Somerset" and inserting "Armstrong, Bedford, Blair, Cambria, Clearfield, Fayette, Franklin, Fulton, Huntingdon, Indiana, Juniata, Mifflin, Somerset, Snyder, and Westmoreland".

(b) COST SHARING.—Section 313(d)(3) of the Water Resources Development Act of 1992 (106 Stat. 4846) is amended to read as follows:

"(3) COST SHARING.—

"(A) IN GENERAL.—Total project costs under each local cooperation agreement entered into under this subsection shall be shared at 75 percent Federal and 25 percent non-Federal. The non-Federal interest shall receive credit for the reasonable costs of design work completed by such interest prior to entering into a local cooperation agreement with the Secretary for a project. The Federal share may be in the form of grants or reimbursements of project costs.

"(B) INTEREST.—In the event of delays in the reimbursement of the non-Federal share of a project, the non-Federal interest shall receive credit for reasonable interest to provide the non-Federal share of a project's cost.

"(C) LANDS, EASEMENTS, AND RIGHTS-OF-WAY CREDIT.—The non-Federal interest shall receive credit for lands, easements, rights-of-way, and relocations toward its share of project costs, including direct costs associated with obtaining permits necessary for the placement of such project on public owned or controlled lands, but not to exceed 25 percent of total project costs.

"(D) OPERATION AND MAINTENANCE CREDIT.—Operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent non-Federal.".

SEC. 344. BROAD TOP REGION OF PENNSYLVANIA.

Section 304(c) of the Water Resources Development Act of 1992 (106 Stat. 4840) is amended by striking "$5,500,000" and inserting "$11,000,000".

SEC. 345. HOPPER DREDGE MCFARLAND.

(a) PROJECT AUTHORIZATION.—The Secretary shall carry out a project at the Philadelphia Naval Shipyard, Pennsylvania, to make modernization and efficiency improvements to the hopper dredge McFarland.

(b) REQUIREMENTS.—In carrying out the project under subsection (a), the Secretary shall—

(1) determine whether the McFarland should be returned to active service or the reserve fleet after the project is completed; and

(2) establish minimum standards of dredging service to be met in areas served by the McFarland while the drydocking is taking place.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $20,000,000 for fiscal years beginning after September 30, 1994.

SEC. 346. SEVEN POINTS VISITORS CENTER, RAYSTOWN LAKE, PENNSYLVANIA.

(a) IN GENERAL.—The Secretary shall construct a visitors center and related public use facilities at the Seven Points Recreation Area at Raystown Lake, Pennsylvania, generally in accordance with the Master Plan Update (1994) for the Raystown Lake Project.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000. Such sums shall remain available until expended.

SEC. 347. BLACKSTONE RIVER VALLEY, RHODE ISLAND, AND MASSACHUSETTS.

(a) IN GENERAL.—The Secretary, in coordination with Federal, State, and local interests, shall provide technical, planning, and design assistance in the development and restoration of the Blackstone River Valley National Heritage Corridor, Rhode Island, and Massachusetts.

(b) FEDERAL SHARE.—Funds made available under this section for planning and design of a project may not exceed 75 percent of the total cost of such planning and design.

SEC. 348. EARTHQUAKE PREPAREDNESS CENTER OF EXPERTISE EXTENSION.

The Secretary shall establish an extension of the Earthquake Preparedness Center of Expertise for the central United States at an existing district office of the Corps of Engineers near the New Madrid fault.

SEC. 349. MURFREESBORO, TENNESSEE.

The Secretary shall carry out a project for environmental enhancement, Murfreesboro, Tennessee, in accordance with the Report and Environmental Assessment, Black Fox, Murfree and Oaklands Spring Wetlands, Murfreesboro, Rutherford County, Tennessee, dated August 1994.

SEC. 350. REPEAL OF TERMINATION DATE FOR CONSTRUCTION OF VIRGIN ISLANDS PROJECTS BY THE SECRETARY.

Section 406 of the Water Resources Development Act of 1990 (48 U.S.C. 1405c note) is amended by striking subsection (c).

SEC. 351. HUNTINGTON, WEST VIRGINIA.

The Secretary may enter into a cooperative agreement under section 218 of this Act with Marshall University, Huntington, West Virginia, to provide technical assistance to the Center for Environmental, Geotechnical and Applied Sciences.

SEC. 352. SOUTHERN WEST VIRGINIA.

(a) COST SHARING.—Section 340(c)(3) of the Water Resources Development Act of 1992 (106 Stat. 4856) is amended to read as follows:

"(3) COST SHARING.—

"(A) IN GENERAL.—Total project costs under each local cooperation agreement entered into under this subsection shall be shared at 75 percent Federal and 25 percent non-Federal. The non-Federal interest shall receive credit for the reasonable costs of design work completed by such interest prior to entering into a local cooperation agreement with the Secretary for a project. The Federal share may be in the form of grants or reimbursements of project costs.

"(B) INTEREST.—In the event of delays in the reimbursement of the non-Federal share of a project, the non-Federal interest shall receive credit for reasonable interest to provide the non-Federal share of a project's cost.

"(C) LANDS, EASEMENTS, AND RIGHTS-OF-WAY CREDIT.—The non-Federal interest shall receive credit for lands, easements, rights-of-way, and relocations toward its share of project costs, including direct costs associated with obtaining permits necessary for the placement of such project on public owned or controlled lands, but not to exceed 25 percent of total project costs.

"(D) OPERATION AND MAINTENANCE.—Operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent non-Federal.".

(b) FUNDING.—Section 340(g) of the Water Resources Development Act of 1992 (106 Stat. 4856) is amended by striking "$5,000,000" and inserting "$10,000,000".

SEC. 353. REMOVAL OR REMEDIATION OF CONTAMINATED SEDIMENTS, LOWER FOX RIVER, WISCONSIN.

The Secretary shall remove or remediate contaminated sediments from the Lower Fox River, Lake Winnebago to Green Bay, Wisconsin, pursuant to section 312 of the Water Resources Development Act of 1990 (33 U.S.C. 1252 note).

SEC. 353. SAVINGS CLAUSE.

Nothing in section 204, section 207, or any other provision of this Act or any amendment made by this Act shall be construed to authorize the construction, operation, or maintenance of any dam, water conduit, reservoir, power house, transmission line, or other project works for which a license or exemption is required under the Federal Power Act. Nothing in such sections or any other provision of this Act or any amendment made by this Act shall by construed to affect the authority or jurisdiction of the Federal Energy Regulatory Commission under the Federal Power Act or under any other provision of law.

The SPEAKER pro tempore (Mr. MILLER of California). Pursuant to the rule, the gentleman from Ohio [Mr. APPLEGATE] will be recognized for 20 minutes, and the gentleman from New York [Mr. BOEHLERT] will be recognized for 20 minutes.

The Chair recognizes the gentlemen from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4460.

Mr. Speaker, today we bring before the House the Water Resources Development Act of 1994. The Subcommittee on Water Resources held hearings on June 22, July 19, and July 26, 1994. In those hearings we heard from the administration and numerous Members of Congress and public witnesses. Our action on this bill demonstrates a commitment to continue the biennial authorization cycle for the Water Resources Development Program of the U.S. Army Corps of Engineers.

The bill before us continues the Nation's progress in preserving, developing, and restoring our water resources through responsible projects and studies for navigation, flood control and environmental restoration and protection. Mr. Speaker, the bill represents an excellent effort to draft a workable, signable bill while fulfilling the requests of Members to the greatest extent possible.

This doesn't mean we were able to give every Member everything which they requested, but we did try to give Members something if it was feasible.

This year, we have worked with the administration and our minority to develop a bill which the administration could support. Because of the short time remaining in the session, and the uncertainty of the Senate, I believe that this bill represents the best way for the House to proceed.

For projects which had completed reports, the bill authorizes construction. For projects without reports, the bill authorizes studies of the projects so construction can be authorized in subsequent bills. Additionally, the bill modifies a number of existing projects to make them more responsive to local needs, changed circumstances or environmental concerns.

As we have done in previous years, we have reviewed the recommendations of the administration and adopted several of them. These include enhanced authorities to conduct research in support of the corps' mission, the establishment of environmental cost-sharing, and several technical improvements to the operation of the corps civil works program.

We have avoided controversial recommendations such as any increase in corps regulatory fees.

Title I of the bill relates to water Resources projects. Section 101 authorizes projects recommended by the Chief of Engineers for construction by the Corps of Engineers. Section 102 contains modifications to 33 previously authorized water resources projects. These modifications relate to such things as increases in cost limitations, changes in the structure and configuration of projects, additional recreation or environmental features, crediting of non-Federal interests for work done which is compatible with the project, and incorporation of new project features.

The title also includes project reauthorizations, continuation of authorization of certain projects, project deauthorizations and projects and project modifications that the corps should study.

Title II of the bill contains generally applicable provisions relating to the corps Water Resources Development Program. Among the highlights is cost-sharing changes concerning dredged material disposal areas. These dredged disposal areas will no longer be a 100 percent local responsibility. Instead, they will be cost-shared as other construction costs are shared.

Other changes include: Requiring that an amount equal to 100 percent of the recreational user fees collected at a site be used for operation and maintenance at that facility.

Allowing the Secretary to use emergency levee rebuilding funds for nonstructural alternatives.

Title III includes miscellaneous provisions. Among the highlights of title III are:

Authority for a new watershed management restoration and development program.

A restoration protection program for the Chesapeake Bay.

Extension of jurisdiction of the Mississippi River Commission.

Several projects for the beneficial use of dredge material.

Repeal of collection of tolls on the St. Lawrence Seaway.

I urge all my House colleagues to support this very worthwhile legislation.

Mr. Speaker, I include for the RECORD an exchange of letters between the chairman of the Committee on Merchant Marine and Fisheries and the chairman of the Committee on Energy and Commerce.

The letters referred to are as follows:

COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, DC, October 3, 1994.

Hon. NORMAN Y. MINETA,
Chairman, Committee on Public Works and Transportation, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I am pleased to see that the Committee on Public Works has reported H.R. 4460, the Water Resources Development Act of 1994.

As reported by your Committee, this bill contains numerous provisions which are within the jurisdiction of the Committee on Merchant Marine and Fisheries pursuant to Rule X, Clause (1)(n), of the Rules of the House of Representatives. My Committee has received sequential referral of past water resources bills based on similar provisions.

I support prompt consideration of this bill in the House. Therefore, I agree to waive a sequential referral request in return for your acknowledgement of my Committee's jurisdiction.

Sincerely,

GERRY E. STUDDS,
Chairman.

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, DC, October 3, 1994.

Hon. GERRY E. STUDDS,
Chairman, Committee on Merchant Marine and Fisheries, Longworth HOB, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter and for your cooperation in moving H.R. 4460, the Water Resources Development Act of 1994.

I agree that certain provisions in this bill are within the jurisdiction of the Committee on Merchant Marine and Fisheries and that your Committee would have received a sequential referral had you chosen to request one.

I will continue to work for enactment of this legislation prior to adjournment. Thank you again for your cooperation.

Sincerely,

NORMAN Y. MINETA,
Chairman.

COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, October 3, 1994.

Hon. NORMAN Y. MINETA,
Chairman, Committee on Public Works and Transportation, House of Representatives Washington, DC.

DEAR MR. CHAIRMAN: Our staffs have discussed H.R. 4460, the "Water Resources Development Act of 1994" which includes provisions that do not recognize the licensing and exemption authority of the Federal Energy Regulatory Commission under the Federal Power Act. This is particularly a concern in sections 204 and 207.

I understand that is not the intention of your Committee and I recognize that you are anxious to have this bill considered on the suspension calendar today. Our Committee wishes to cooperate and will have no objections to such consideration so long as the enclosed provision is included in the bill as passed by the House. Of course, if there is a conference with the Senate, we will expect to request to be represented on matters in the bill, such as these sections. Our Committee would also expect to be consulted should the Senate seek to resist the enclosed provision or otherwise include matters within our jurisdiction. Just as we worked out similar concerns of your Committee regarding H.R. 3392, the Safe Drinking Water Act Amendments Act of 1994, I assume that these undertakings are acceptable and that your floor comments will include this letter and your acknowledgment.

With every good wish.

Sincerely,

JOHN D. DINGELL
Chairman.

We appreciate very much the fine way our two committees have been working.

Enclosure.

Insert at the end of section 204:

( ) SAVINGS CLAUSE.—Nothing in this section, in section 207, or in any other provision of this Act or in any amendment made by this Act shall be construed to authorize the construction, operation, maintenance of any dam, water conduit, reservoir, power house, transmission line, or other project works for which a license or exemption is required under the Federal Power Act, and nothing in such sections or in any other provision of this Act or in any amendment made by this Act shall by construed to affect the authority or jurisdiction of the Federal Energy Regulatory Commission under the Federal Power Act or under any other provision of law.

Mr. Speaker, I reserve the balance of my time.

Mr. BOEHLERT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the legislation.

Mr. Speaker, I rise today in strong support of the Water Resources Development Act of 1994. This legislation continues a long standing tradition of authorizing Army Corps of Engineer's navigation, flood control, and environmental infrastructure projects on a biennial basis.

WRDA 1994 provides critically needed improvements to our Nation's water infrastructure. Water remains the most efficient way to transport many of the products and commodities produced in our country. The legislation before us today will ensure that the harbors, rivers, and locks which we all directly or indirectly depend on, continue to serve our transportation interests.

The legislation before us has been the subject of extensive hearings in which interests ranging from the Corps of Engineers to American Rivers testified before the Water Resources and Environment Subcommittee.

The provisions contained in WRDA 1994 were considered in a thorough and bipartisan manner. Chairman APPLEGATE must be complimented on the open and inclusive manner in which WRDA 1994 has been considered. Chairman APPLEGATE's leadership on the

Water Resources and Environment Subcommittee will be missed. I would like to take this opportunity to wish Chairman APPLEGATE continued success and health upon leaving this body.

This legislation also makes good fiscal sense. WRDA 1994 comes in at a lower price tag than WRDA 1992, which this body successfully passed on suspension.

WRDA 1994 is critically important to the maintenance and improvement of America's water infrastructure. I urge all of my colleagues to support the passage of this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. SHUSTER], the ranking member of the full committee.

Mr. SHUSTER. Mr. Speaker, I thank the gentleman for yielding me the time and I rise in strong support of this legislation. It is the routine biannual reauthorization of the Corps of Engineer projects. The minority has been treated very fairly in this and I urge its support.

Mr. MINETA. Mr. Speaker, first, I want to pay special recognition to our subcommittee chair, the distinguished gentleman from Ohio, who, as we all know, is retiring. I want to take this opportunity to say how much I personally have enjoyed working with him not only in his capacity as chair of our Water Resources Subcommittee, but also as a very active and very important member of our committee on a wide range of issues. The gentleman from Ohio will be missed and on behalf of our committee and the House, we wish him many happy and prosperous years on his retirement from Congress.

Mr. Speaker, H.R. 4460, the Water Resources Development Act of 1994 is a product deserving of House approval.

We have worked diligently, on a bipartisan basis and with the administration, to create a bill which this Congress and the administration can support.

This bill is modest in size and scope. We have preserved the cost-sharing principles agreed to over the past decade. We have authorized projects within the traditional role and the increasingly environmental role of the Corps of Engineers. We have avoided projects and provisions more suitably included in the Clean Water Act bill. And we have kept the dollar total well below the bill President Bush signed 2 years ago.

In short, this bill continues the present Corps of Engineers programs and trends without any significant expansion.

It continues the Nation's progress in preserving, developing, and restoring our water resources through responsible projects and studies for navigation, flood control, and environmental restoration and protection.

Over the past several years, the Corps of Engineers—at congressional direction—has changed its emphasis from traditional flood control and navigation to become more sensitive to environmental protection as an equal concern for the agency. This bill is consistent with that progression.

First, the cost sharing for environmental restoration projects is established at 75 percent Federal, 25 percent local. In addition, to encourage the implementation of these projects, non-federal costs of such projects can be paid through in-kind services of the local sponsors.

The bill also expands the program for the beneficial use of dredge spoils as well as providing Federal assistance for non-structural replacement of flood control structures that have been damaged but only with the concurrence of the local interest.

The bill is a good, workable product which gives us the best possible shot at enacting legislation this year. I think it is worthy of the committee's support and urge its approval.

Mr. FAZIO. Mr. Speaker, I rise in strong support of H.R. 4460, the Water Resources Development Act of 1994.

Mr. Speaker, this is an important piece of legislation, authorizing conservation and development of water and water-related resources and providing for the construction of much needed improvements to rivers and harbors of the United States.

I want to begin by congratulating the chairman of the full committee, Mr. MINETA and the ranking member, Mr. SHUSTER for their yeoman's effort in bringing this bill to the House floor. The lives and livelihoods of many of our constituents depend upon the projects in this bill. The chairman and the ranking member still have a daunting task before them to get this legislation through the process before adjournment, but I am grateful to have their leadership and offer to help in any way I can.

The bill contains many much needed environmental restoration projects. Those of us who represent California know the impact of listing of species as threatened or endangered, so we appreciate the proactive environmental initiatives in this bill. For example, the bill provides for several important projects to make beneficial use of dredged materials.

The Montezuma Slough project in northern California is a good example of an environmentally sound project to create wetlands. The President, during one of his recent trips to California, spoke about the importance of developing international trade by maximizing our investment in our ports. Unfortunately, the San Francisco Bay Area has a serious problem in disposing of dredged materials. In-bay disposal is effectively prohibited and ocean disposal gives rise to some significant environmental concerns.

A very sensible, environmentally attractive, and fiscally responsible alternative is the upland disposal at Montezuma Slough—a site that would be turned into wetlands and dedicated to the public. This type of forward looking program will ensure the continued economic growth associated with trade goods moving through our ports while actually creating wetlands for migrating waterfowl and other aquatic wildlife.

In addition, the bill recognizes the value of properly managing our water resource to protect water quality. One good example of these projects can be seen in the Colusa Basin Drainage District's proposal to put in place an integrated resource management plan, which seeks to develop flood control, water quality, water supply, environmental restoration solutions for an entire watershed on a voluntary basis.

This is the kind of voluntary program that needs the support of the Corps of Engineers as well as other resource agencies, if it is to succeed. The corps must become a partner in helping local farmers, water managers, State and other Federal agencies, environmentalists and the citizens of affected towns to identify projects that will benefit the basin. A similar project is planned for the Sacramento River to deal with toxic issues.

I appreciate the committee direction to study the acquisition of delta island in the San Francisco Bay Delta system. Authorizing the Corps of Engineers to make land acquisitions in the Sacramento-San Joaquin Delta for hydraulic and environmental mitigation in association with the Sacramento River Flood Control Project and other projects and potential projects will positively impact the stages of the Sacramento and American rivers.

Mr. Speaker, this is a good bill that is much needed. I urge my colleagues to vote "aye."

Mr. UNSOELD. Mr. Speaker, I rise in support of H.R. 4460.

I want to thank the chairman of the Water Resources and Environment Subcommittee, Representative APPLEGATE, as well as the chairman of the full committee, Representative MINETA, for including within this bill language I developed to resolve a long-standing problem involving the small town of North Bonneville and the U.S. Army Corps of Engineers. It has been a problem that has for so long defied a solution—until now.

The story began some 20 years ago when the town of North Bonneville on the Washington State side of the Columbia River was condemned to make room for the second powerhouse at Bonneville Dam. As part of this process, Congress, in section 83 of Public Law 93–251, required the corps to relocate the town.

Although a detailed relocation agreement between the corps and the town was executed in 1975, the relocation effort became mired in contentious litigation and is still not complete.

The trouble started when the town, having lost its revenue base during the relocation period, subjected corps contractors to a business and occupation [B&O] tax which was challenged by the corps and the Justice Department. Although the town prevailed in court on this issue, additional litigation led to an increasingly hostile relationship between the parties and the collapse of cooperation.

The town refused to accept unfinished and defective municipal improvements, including water, sewer, and storm drain systems, for the initial town. Some optimum town lands identified in the agreement as necessary for the town's growth and economic viability have since been dedicated to wildlife mitigation by the corps or contaminated with construction wastes. For example, Hamilton Island, which includes much of the optimum town lands, was placed on the Superfund national priority list in October 1992.

In addition, claims and counterclaims resulted in a judgment against the town in the amount of $365,181 for operation and maintenance of town utilities by the corps. The town filed for bankruptcy in 1991.

With half a dozen lawsuits pending and the promise of another 20 years of bitter litigation without a just resolution, I could not remain uninvolved—although I received plenty of warnings to do so.

Last Congress we devised a legislative solution that I thought was a fair and balanced framework for completing the North Bonneville relocation. In essence, section 9147 of Public Law 102–396 called for the timely transfer of town lands and canceled the town's debt to the corps in exchange for the town dropping its claims against the corps.

More specifically, section 9147 required the corps to: First, complete the relocation by conveying to the city: (a) lands and facilities identified in the plats of the relocated town, as required by the relocation act—at no cost to the city—and (b) lands identified in the plats as "optimum" town lands—parcels 2, B, C, and H—at a cost to the city of $597,804; second, forgive O&M debt owed to the corps for facilities—about $365,000; and third, clean up its hazardous waste site on Hamilton Island—one of the optimum town lands.

In return, the town was required to: First, relinquish its right to sue the corps under the Relocation Act-Agreement for failure to perform; and second, agree to accept lands and facilities identified in plats of "original" town in "as is" condition and pay for optimum town lands.

Regrettably, the Justice Department and the corps refused to settle the North Bonneville controversy in this manner, primarily because of concerns over the Government's long-term liability associated with transferring Parcel B, Hamilton Island, which was listed as a Superfund site by EPA. With additional litigation appearing inevitable, I initiated a settlement process—involving the town, the corps, and the Justice Department—that ultimately led a solution to resolve this matter once and for all.

This solution is legislated in the bill before us today. Specifically, it amends section 9147 of Public Law 102–396 to require that parcel be used to meet part of the corps' wildlife mitigation requirements—after clean up to open space standards. In exchange, the remaining optimum town lands would be conveyed to the town at no cost.

I urge my colleagues to support this bill and, specifically, its provisions to bring the North Bonneville saga to an equitable and long-overdue conclusion.

Mr. GOSS. Mr. Speaker, I would like to thank the Chairman, Mr. MINETA, and SHERRY BOEHLERT, and BUD SHUSTER for their leadership in bringing this Corps of Engineers authorization to the floor. Included are solid examples of local-Federal partnerships that will further Federal environmental goals while providing some cost-sharing assistance to local governments. In southwest Florida, for instance, Charlotte County is launching a major wastewater construction program to correct significant public health and environmental threats. The first phase of this product includes an advanced water recovery and reuse program, which will result in significant water conservation and pollution-prevention. This re-use facility will allow the county to both reduce pollution flowing into Charlotte harbor, and address the problem of salt water intrusion into the drinking water supply. While the county will pay the majority of the costs associated with the overall program, the cost-sharing assistance provided under this bill will help ease the economic burden on the Charlotte community, while providing a boost for environmental protection and restoration. This is a good arrangement that will yield positive benefits.

Mr. BORSKI. Mr. Speaker, I wish to compliment the leadership of the Public Works and Transportation Committee for presenting the House with an outstanding Water Resources Development Act.

Our Committee Chairman, the gentleman from California, Mr. MINETA, our Ranking Republican Member, the gentleman from Pennsylvania, Mr. SHUSTER, and the Ranking Republican on the Subcommittee on Water Resources and Environment, the gentleman from New York, Mr. BOEHLERT, have done an excellent job on this bill.

I especially want to pay tribute to the Chairman of the Subcommittee on Water Resources and Environment, the gentleman from Ohio, Mr. APPLEGATE, who has been a leader in the House on these issues and many other water resources issues.

It was a sad moment for the Public Works and Transportation Committee and for the House when Chairman APPLEGATE announced his decision to retire from Congress at the end of this year. He has been one of the guiding lights on the Committee for 18 years and he will be missed.

It has truly been a pleasure to work with the gentleman from Ohio during my six terms in Congress and I wish him all the best as he leaves Congress. He has been a credit to the institution.

Passage of H.R. 4460 will be a fitting tribute to the gentleman from Ohio's tenure as Chairman of the Subcommittee on Water Resources and Environment.

H.R. 4460 is a bill that makes an important contribution to our Nation's infrastructure investment program. This bill will continue our biannual tradition of moving the Corps of Engineers program for development of ports and inland waterways forward.

There has been a long-standing consensus that the Corps of Engineers program—which benefits all parts of our country—should receive an authorization in every Congress. We should continue that tradition with H.R. 4460.

It is important to note that there are several other issues involving the Corps of Engineers program that should be addressed in the future. Such issues as the role of the Corps in environmental restoration and urban infrastructure, flood plain management and dredging policy must be considered. However, that should be done as part of a more comprehensive review of these policies, not as part of H.R. 4460.

I also want to note that H.R. 4460 authorizes the overhaul of the Corps of Engineers hopper dredge McFarland at the Philadelphia Naval Shipyard. This work will be performed under private contract and is not intended to extend the closing date for the Naval Shipyard.

The overhaul of the McFarland will accomplish two important goals. First, the McFarland, an outdated and inefficient dredge, will be made more efficient and cost-effective to perform the needed dredging work on the East Coast.

Second, the private dredging industry will be given the opportunity during the time the McFarland is in the drydock to demonstrate that it can provide the flexibility, emergency services and specialized services that the customers of the McFarland have come to expect.

This provision should result in better dredging services available for the ports and channels of the East Coast. It will mean improved access to ports, which is the goal of this bill and this program.

H.R. 4460 is important infrastructure legislation and I urge its support in the House.

Mr. ROGERS. Mr. Speaker, I rise today in strong support of H.R. 4460, the Water Resources Development Act of 1994, and urge its adoption.

I would like to congratulate the chairman from California, Mr. MINETA, and the ranking member from Pennsylvania, Mr. SHUSTER for the fine work that they have accomplished in this bill. I also would salute the gentleman from Ohio, Mr. APPLEGATE and the gentleman from New York, Mr. BOEHLERT for their leadership on this legislation.

The Water Resources Development Act is one of the most important laws that Congress must approve. It authorizes a range of much-needed projects for flood control, navigation, and other water-related infrastructure. These projects are vital for safety and protection in our flood-prone areas.

This bill improves a critical floor control project—the section 202 program—by providing a greater level of flood protection to communities in the Appalachian regions of Kentucky, West Virginia, and Virginia. This change will afford citizens greater safety and more opportunity for economic development and I am pleased the committee included this in the bill.

This bill, however, achieves much more by granting additional technical assistance and expertise to communities which need it the most. In my district in southern and eastern Kentucky, many families still lack basic plumbing, large portions of our rivers are off limits because of pollution, and safe drinking water is not available to everyone. This bill begins to address these problems and I thank the committee for their foresight.

Again, I salute the chairman and ranking member of the full committee and the chairman and ranking member of the subcommittee for bringing this bill to the floor. I am thankful for what is in this bill, and look forward to future discussions on these critical issues.

Mr. CLINGER. Mr. Chairman, I rise in support of the bill. Other speakers have described the provisions of the bill so I will take this time to elaborate further.

From a parochial standpoint, however, I would like to point out that the conference report includes language concerning the performance of the Corps of Engineers in issuing wetlands permits for flood prevention initiatives in north-central Pennsylvania.

In mid-August north-central Pennsylvania, which is represented in this Chamber by JOE MCDADE and myself, was deluged with rain by tropical storm Beryl. Streams carrying the run-off were unable to handle the quantity of rain because gravel bars, built up over the years, diverted the water flow. Consequently, stream banks eroded and flooding occurred in several areas. Damage has been estimated in the tens of millions of dollars.

A few days after these storms hit, I met with about 500 constituents in Wellsboro, PA. At this meeting it was revealed that residents had been trying to remove the very gravel bars that had been the root cause of the flooding, but the Corps of Engineers had been slow in issuing the permits necessary to do so. This delay left many residents of Tioga County with the impression that the government was exacerbating the problem rather than helping them find a solution or even staying out of the process altogether.

It had been my hope that the Corps permitting process would have been addressed legislatively before this Congress adjourned. Obviously that will not come to pass, but, until such time, it is inevitable that extraordinary situations will arise which makes it incumbent upon the Corps to act as quickly as possible under the law.

In conclusion, I would like to thank the subcommittee staff for their help in drafting the language and the committee leadership for agreeing to include this language in the bill.

Mr. FRANKS of New Jersey. Mr. Speaker, today I rise in strong support of H.R. 4460, the Water Resources Development Act of 1994 [WRDA]. Although there are many elements in this bill I support, I would like to bring to my colleagues' attention the two provisions of particular interest to my constituents.

The first provision is similar to a bill I introduced last year (H.R. 2310) that would direct the Army Corps of Engineers to fully consider the prevention of the loss of human life when planning water resources projects. My legislation, which was originally conceived by our former colleague, Millicent Fenwick, garnered 13 cosponsors.

Currently, the prevention of the loss of life is not one of the principal criteria used in deciding whether to proceed with a particular water resources project. For example, the Corps considers the loss of livestock when deciding whether to build a flood-control project, yet it does not quantify human life in the same terms. In this century alone, tens of thousands of Americans have lost their lives due to flooding. Most recently, 26 people died in the flooding of the Mississippi River last year, and 31 victims perished in the Georgia floods this past summer. Clearly, if the Corps considers the loss of animals when determining the viability of a water resources project, they should be attaching even greater significance to the saving of human lives.

I believe the policy of weighing economic and environmental factors more heavily than the consideration of how many lives a flood control project could potentially save is flawed and unfair. In practice, this means affluent communities are more likely to qualify for a flood control project than poor neighborhoods whose residents are at greater risk of losing their lives. Elevating the criteria of saving human life would simply help eliminate this disparity when the Corps conducts its cost/benefit analysis of a water resources project.

As a member of the House Public Works and Transportation Committee, I am pleased that I was able to include the provisions of H.R. 2310 as Section 221 of H.R. 4460. I thank the lead Democratic cosponsor of H.R. 2310, who also serves on the House Public Works and Transportation Committee, Ms. SHEPHERD, and the other 12 cosponsors of my bill for their support.

The second important provision of H.R. 4460 concerns the Green Brook Flood Control Project, which Congress authorized in 1986 and has funded every year since. Unfortunately, the New York district of the Army Corps of Engineers has allowed this project to languish. I, and many of my constituents are growing increasingly impatient with the lack of urgency accorded this project by the Corps. Therefore, I suggested that the Committee include report language admonishing the Corps for the slow pace of this project, and requested that the New York district form a Task Force to expedite this project. I am gratified that the Committee agreed with my position, and included suitable report language directing the Corps to form a Green Brook task force. Because I hold the Army Corps of Engineers in high regard, I am confident that this project will be far along when Congress considers the WRDA again in 1996.

Mr. Speaker, the House Public Works and Transportation Committee has again crafted a fine water resources bill. I am proud to have played a part in shaping this legislation, which will benefit my country and my constituents. I urge my colleagues to vote "yea" on H.R. 4460.

Mr. BOEHLERT. Mr. Speaker, on October 3, the House passed H.R. 4460, the Water Resources Development Act of 1994. During debate of the bill, I included language in my Floor statement regarding the Public Works and Transportation Committee's intent behind provisions on cost sharing of dredged material disposal areas. Unfortunately, the language was inadvertently omitted from the October 3 CONGRESSIONAL RECORD. Therefore, I'm including the language and clarification of our Committee's intent as an extension of remarks in today's CONGRESSIONAL RECORD.

Section 221 of the bill amends section 101(b) of WRDA 1986 to clarify that the Federal Government will share in the cost of project features that are necessary for the creation of dredged material disposal areas, including capping, retaining dikes, bulkheads, embankments, and associated structures. This amendment applies to the construction of new projects under section 101(a), as well as maintenance projects under 101(b). There has been some confusion over this and I wish to have the record made clear. This amendment is very important to Massport, because when Congress authorized funding in 1990 for the Boston Harbor Dredging Project, the U.S. Army Corps of Engineers assumed the use of ocean disposal, but it now appears this may not be acceptable. Instead, Massport may need to use in-channel, near-shore, or upland sites. Under current interpretations of WRDA, the Corps would not share in the cost of disposal at these sites.

This amendment applies to both new construction projects and maintenance projects. Accordingly, Massport's project would be covered by the amendment.

Finally, Mr. Speaker, I would like to thank the gentleman from Massachusetts [Mr. BLUTE] for his leadership in helping to clarify this provision. I appreciate his efforts, both in the Public Works and Transportation Committee and on the House Floor, to improve the bill.

Mr. MINETA. Mr. Speaker, the Committee on Public Works and Transportation and the House recently completed work on the Water Resources Development Act of 1994 (H.R. 4460). I wish to offer some additional explanatory comments concerning two provisions in the bill as it passed the House. These comments will aid the public in understanding the bill, and will aid the Secretary of the Army and the Corps of Engineers in implementing the bill.

The first provision is section 345, Hopper dredge *McFarland*. This section directs the Secretary of the Army to make modernization and efficiency improvements to the *McFarland* at the Philadelphia Naval Shipyard.

This section is not intended to delay the closing date of the Philadelphia Naval Shipyard. Instead, the improvements to the *McFarland* would be performed by private companies under contract.

The Secretary is also directed to establish minimum standards of dredging service to be met during the period in which the *McFarland* is undergoing repairs. At the conclusion of the repairs, the Secretary shall determine whether the *McFarland* should be returned to active service or should be placed in ready-reserve status.

At the conclusion of the repairs, the Secretary may return the *McFarland* to full active service as long as necessary to determine the efficacy of the repairs. Any determination to maintain the *McFarland* in full active operation should include not only cost and efficiency data on the *McFarland* itself but the following performance criteria to measure the effectiveness of the private dredging industry:

1. A demonstration that private industry has sufficient capacity to perform the required dredging operations and that there is effective and full competition within the industry. Sufficient capacity could be demonstrated through the submission of at least three responsive bids by responsible bidders per solicitation of hopper dredge work.

2. A demonstration that the private industry has the capability and flexibility to respond to emergency and routine dredging requirements in a timely manner. A timely manner for routine dredging could be demonstrated by commencing work at the site within 10 days after Notice to Proceed is given. Timely response for shoaling and other priority-expedited or emergency work could be demonstrated by commencing work in 72 hours or less.

3. A review of the instances of delays in awarding or commencement of dredging contracts, including the following: Contractor protests of contract plans and specifications which delay the opening of bids; Contractor protests of government estimates; No bids or no responsive bids being received; Excessively high bids being received which result in the need for rejection of the bids and readvertisement of the work; The low responsive bidder experiencing significant delays in acquiring the bonds required for contract notice to proceed; The willingness of the private dredging industry to divert equipment from other, more productive operations to respond to priority-expedited or emergency conditions; The ability of the industry to perform unique, specialized dredging tasks which it has not traditionally undertaken; The impact that the presence of an active *McFarland* would have on the competitiveness of the market as compared to the competitiveness when no government hopper dredge is available.

Any determination by the Secretary should be made in comparison to the efficiency, resources and flexibility provided by a modernized *McFarland*.

I also want to clarify the Committee's intent in Section 221 of the bill, regarding changes to cost sharing for dredged material disposal areas for navigation projects.

Section 221 of the bill amends section 101(b) of Water Resources Development Act of 1986 to clarify that the Federal Government will share in the cost of project features that are necessary for the creation of dredged material disposal areas, including capping, retaining dikes, bulkheads, embankments, and associated structures. This amendment applies to cost-sharing for the construction of new projects as provided in section 101(a), as well as cost-sharing for maintenance of projects as provided in section 101(b). There has been some confusion over this and I wish to have the record made clear. This amendment is very important to previously authorized projects such as Boston Harbor. When Congress authorized funding in 1990 for the Boston Harbor dredging project, the Corps of Engineers assumed the use of ocean disposal for dredged material, but it now appears this option may not be acceptable. Instead, the Corps and the non-Federal sponsor may need to use in-channel, near-shore, or upland sites. Under current law, the Corps would not share in the cost of providing disposal areas at these sites. This amendment would make such costs of construction associated with dredged material disposal subject to Federal participation.

Mr. BOEHLERT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. APPLEGATE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. APPLEGATE] that the House suspend the rules and pass the bill, H.R. 4460, as amended.

The question was taken; and two-thirds having voted in favor thereof the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. APPLEGATE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4460, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

FREDERICK S. GREEN UNITED STATES COURTHOUSE

Mr. TRAFICANT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4939) to designate the U.S. courthouse located at 201 South Vine Street in Urbana, IL, as the "Frederick S. Green United States Courthouse."

The Clerk read as follows:

H.R. 4939

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse located at 201 South Vine Street in Urbana, Illinois, shall be known and designated as the "Frederick S. Green United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "Frederick S. Green United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. PETRI] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICIANT].

Mr. TRAFICIANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the gentleman from Illinois, Mr. BOB EWING, for his effort in the naming of this courthouse.

Mr. Speaker, Frederick S. Green of Illinois, is a distinguished State Judge. He has held a number of important judicial positions during his long legal career.

In 1956, Green became county judge for Champaign County and held this position until 1964. From 1964 to 1974, he served as circuit judge for the sixth district of Illinois.

Throughout his career, Green has dedicated himself to serving his community of Urbana and the State of Illinois and they have been enriched by his contributions.

Consequently, it is fitting and proper to honor him by having this U.S. Courthouse in Urbana, IL, named after him. This bill has my strong support, and the bipartisan support of the committee. I urge adoption of H.R. 4939.

Mr. Speaker, I reserve the balance of my time.

Mr. PETRI. Mr. speaker, I yield myself such time as I may consume and rise in support of the bill.

Mr. Speaker, I rise in support of H.R. 4939, a bill to designate the U.S. courthouse in Urbana, IL, as the Frederick S. Green United States Courthouse. I wish to congratulate my friend and colleague, Congressman TOM EWING from the great State of Illinois, who sponsored this bill to designate this Federal building in Judge Green's honor.

Frederick Green has been a lifelong resident of Urbana. He was born in Urbana on November 23, 1923 and attended local schools. During World War II, Judge Green served in the U.S. Army in the Pacific. He returned to Urbana where he attended the University of Illinois, and was a member of the varsity basketball squad, which placed third in the NCAA championships in 1949. Judge Green received an undergraduate degree in 1949, and a law degree in 1951, both from the University of Illinois.

In 1956, Judge Green was elected County Judge for Champaign County, where he served until 1964, when he was elected Circuit Judge in Illinois' Sixth Circuit. In 1974, Judge Green was elected to the Fourth Judicial District, where he serves today.

This legislation has the support of the local chamber of commerce, and I urge my colleagues to support this measure.

Mr. EWING. Mr. Speaker, I rise in strong support of H.R. 4939, a bill to designate the recently completed U.S. courthouse in Urbana, IL, in Illinois' 15th Congressional District, as the "Frederick S. Green United States Courthouse."

Judge Green was born in Urbana, IL, November 23, 1923, and has lived there all of his life.

A star athlete in both football and basketball, he helped lead Urbana High School to second place in the 1941 Illinois State High School basketball Tournament.

Following high school, Judge Green entered the U.S. Army serving his country in the field artillery unit of the Army's 37th Division in the South Pacific in world War II.

After the war, he entered the University of Illinois in Urbana and starred on the varsity basketball team which won the Big 10 title and placed third in the NCAA Tournament in 1949.

Upon receiving his undergraduate degree, Judge Green continued his education at the University of Illinois obtaining a law degree and being admitted to the Illinois Bar in 1951.

He practiced law in Urbana for 5 years before being elected Champaign County Judge in 1956 where he served until 1964.

In 1964, Judge Green became a circuit judge in Illinois' Sixth Circuit serving there until 1974.

In 1974, he was elected to serve on the bench in Illinois' Fourth Judicial District where he continues to serve.

Over the years, Judge Green has been an original charter member of the Champaign County Urban League, chairman of the Illinois Judicial Conference, member of the executive committee of the National Conference of State Trial Judges, and was appointed by then Illinois Governor Stratton to serve a 2-year term on the Illinois Commission on Human Relations.

He is married to the former Carolyn Wildman and has three sons.

I cannot think of anyone better suited to have the new federal courthouse in Urbana named after. Support for this action arises from the community where this outstanding citizen and jurist has lived and served for his entire life. I think all of us should aspire to be so loved and respected by the citizens we serve and live among to have a groundswell of support emerge for the naming of a new courthouse after us. I have received numerous letters and cards in support of this effort, including a letter from the Champaign County Chamber of Commerce which I would like to have entered into the RECORD.

I would like to thank Public Buildings and Grounds Subcommittee Chairman JIM TRAFICANT and ranking member, Congressman JOHN DUNCAN for their support and assistance in bringing this legislation to the floor.

Again, I strongly support this bill and encourage my fellow colleagues to do the same.

CHAMPAIGN COUNTY CHAMBER OF COMMERCE,
Champaign, IL, August 4, 1994.

Representative THOMAS EWING,
Urbana, IL.

DEAR CONGRESSMAN EWING, the Champaign County Chamber of Commerce hereby endorses the community wide effort to name the new federal courthouse in Urbana after the Honorable Frederick S. Green. Judge Green's long, respected career as a jurist and practicing attorney qualifies him as an appropriate candidate for such a distinction. Please give this recommendation all due consideration.

Sincerely,

MICHAEL J. HENNEMAN,
Chairman, Board of Directors.

Mr. PETRI. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I urge an aye vote on this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. TRAFICANT] that the House suspend the rules and pass the bill, H.R. 4939.

The question was taken.

Mr. PETRI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4939, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

THURGOOD MARSHALL UNITED STATES COURTHOUSE

Mr. TRAFICANT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4910) to designate the U.S. courthouse under construction in White Plains, NY, as the Thurgood Marshall United States Courthouse.

The Clerk read as follows:

H.R. 4910

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse under construction at 300 Quarropas Street in White Plains, New York, shall be known and designated as the "Thurgood Marshall United States Courthouse".

SEC. 2. REFERENCES.

Any references in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be reference to the "Thurgood Marshall United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. PETRI] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California, [Mr. MINETA], chairman of the full Committee on Public Works and Transportation.

Mr. MINETA. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, first of all, I want to commend both the gentlemen from Ohio and Tennessee for their hard work and leadership on all these important public buildings and grounds measures. I do want to note in particular my support for H.R. 4910, a bill to name the U.S. courthouse in New York after Thurgood Marshall.

This is a fitting tribute to a great jurist who was a relentless voice for minorities and whose six-decade legal career was emblematic of the civil rights revolution.

Thurgood Marshall's roots were unlike those of any Justice before him.

He was born in Baltimore, MD, on July 2, 1908. The son of an elementary school teacher and yacht club steward, and the great-grandson of a slave brought to America from Africa's Congo region, Marshall was named after his paternal grandfather, who had chose the name "through good" for himself when enlisting in the Union Army during the Civil War.

In his youth, Marshall attended Douglas High School in Baltimore, and worked as a delivery boy for a women's store. He also attended the all-black Lincoln University in Pennsylvania and earned money for tuition by waiting tables.

He obtained his law degree from Howard University in 1933, graduating first in his class.

Before he joined the Supreme Court, Marshall distinguished himself as our country's first black Solicitor General. He served in that post from 1965 to 1967 and took the lead in promoting the Johnson administration's civil and constitutional rights agenda.

He came to national prominence as the chief lawyer for the NAACP legal defense and educational fund when he argued a series of 1954 school desegregation cases known collectively as *Brown* v. *Board of Education*. The Supreme Court ruled in those cases that segregation in public schools was unconstitutional.

Marshall also spearheaded litigation that ended white-only primary elections and explicit racial discrimination in housing contracts.

In 1967, President Johnson appointed Thurgood Marshall to the Supreme Court. During his 24-year tenure, he was the only black Justice.

Marshall's record on the Supreme Court was consistent: he defended individual rights, he sided with minorities and the underprivileged, he favored affirmative action, and he always opposed the death penalty.

A genuine, sincere individual, Marshall said he wanted to be remembered this way: "That he did what he could with what he had."

Naming the U.S. courthouse in White Plains, NY, after Thurgood Marshall will serve as a lasting memory to one whose commitment to and reverence for the American justice system were second to none.

I urge support for the bill, and again thank the gentleman for yielding to me.

Mr. PETRI. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York, Mr. HAMILTON FISH, the ranking Republican on the Committee on the Judiciary.

Mr. FISH. Mr. Speaker, I thank my colleague from Wisconsin for yielding me this time and the committee for bringing this measure before us.

Mr. Speaker, several New Yorkers are cosponsors of this legislation, Mrs. LOWEY and Congressman ENGEL, one of the driving forces bringing this legislation to the House and Congressman GILMAN and myself. Some of us represent White Plains, some of us represent areas immediately adjacent to White Plains.

This is very much in response to the wishes of the city council of the city of White Plains which encouraged us to name the courthouse after the Justice as well as several other authorities, Afro-American groups in the county of Westchester which were very much in favor of taking this step, and the bar association.

It was your Committee on the Judiciary which authorized in the late 1970's the siting of the Federal court in White Plains, and it is only now, as was mentioned by the chairman of the full committee, that we are in the position of building a Federal courthouse. We look forward very much to this courthouse being named after Thurgood Marshall. It is very appropriate that after a 17-year effort to build a courthouse in White Plains it is coming to fruition. We had the groundbreaking a couple of years ago.

I commend the committee for the expeditious manner in which the courthouse is being named this year.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

I want to commend the sponsors of the bill, the gentleman from New York, Mr. ELIOT ENGEL, and the gentleman who has just spoken, who has a distinguished record, the Honorable HAMILTON FISH, ranking member of the Committee on the Judiciary, who played an important role in this as well.

Mr. Speaker, Thurgood Marshall of New York was a towering figure in American jurisprudence. He had a lifelong commitment to bringing about equal treatment before the law for African-Americans and all others in this country.

One of the most important cases he won was the famous 1954 Brown versus The Board of Education case which ended "separate but equal" school systems and would lead to integration of schools across the Nation.

In 1961, President Kennedy appointed Marshall to the U.S. Court of Appeals for the Second District. In 1965, President Johnson appointed him to the prestigious position of Solicitor General of the United States. In this capacity, he was able to win Supreme Court approval of the Voting Rights Act of 1965.

In 1967, President Johnson named Marshall to the Supreme Court making him the first African-American to serve on the venerated Court. He served on the Court for 24 years.

Thurgood Marshall will be remembered not only as a brilliant civil rights leader, but more importantly, as a great American. It is fitting and proper to name this courthouse in White Plains, NY, after him to honor his remarkable achievements.

This bill has my strong support, and the bipartisan support of the committee. I urge adoption of H.R. 4910.

□ 1510

Mr. Speaker, I yield back the balance of my time.

Mr. PETRI. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], the coauthor of the bill before us.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in strong support of H.R. 4910, legislation designating the U.S. Courthouse in White Plains, NY, as the Thurgood Marshall U.S. Courthouse. As a cosponsor of this legislation, I am pleased that the House is discussing this measure today.

As the first African-American to serve on the Supreme Court, I can think of no more fitting manner in which to honor Thurgood Marshall.

In the struggle for equality and justice, Thurgood Marshall was a natural leader. With his keen intellect, and his instinctive gift for the law, Thurgood Marshall worked his way through Lincoln University; later graduating first in his class from the Howard University Law School in 1933.

As Thurgood Marshall's fine reputation spread, he continued to champion the rights of all. He worked, first, as an assistant, and then as the chief legal counsel to the National Association for the Advancement of Colored People. Thurgood Marshall went on to create the NAACP Legal Defense and Education Fund. Until his untimely death in 1993, he continued to be one of the most outspoken advocates of equality.

Perhaps one of Thurgood Marshall's finest moments came in 1954, when he successfully argued, Brown versus the Topeka Board of Education, before the U.S. Supreme Court. His concise arguments, which continue to serve as the foundation for modern students of law, awakened first the Court, and finally all Americans, to the simple fact that segregation based on the color of one's skin is inherently wrong. In 1967, President Lyndon B. Johnson appointed Marshall to the Supreme Court. During his tenure, Thurgood Marshall worked on behalf of all Americans. As the conscience of the Court, Justice Marshall reminded us that the law exists to protect the individual. Whether part of the majority, or part of the minority, Justice Marshall dedicated himself to protecting the liberties that we, as Americans, are fortunate to enjoy.

It is extremely fitting to honor Thurgood Marshall, and his legacy, with the dedication of the U.S. Courthouse in White Plains, NY. I urge my colleagues to join me in paying this special tribute to a fine American.

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this bill, and I urge my colleagues to support the bill.

Mr. Speaker, I rise in support of H.R. 4910, a bill to designate the U.S. courthouse under construction in White Plains, NY, as the "Thurgood Marshall United States Courthouse.". I commend my colleagues on this side of the aisle, BEN GILMAN, and HAM FISH, for cosponsoring this bill, and I congratulate them for taking this action to name this courthouse under construction in Justice Marshall's honor.

Justice Marshall was a titan of civil rights law. Born the grandson of a slave, he achieved academic excellence, by graduating No. 1 in his class in 1933 from Howard Law School. He commenced a legal practice, where he founded the NAACP Legal Defense and Education Fund. For the next 21 years, Marshall successfully defended the civil rights cases, and in 1954 successfully argued the landmark case, Brown versus the Board of Education, which had the effect of striking down the concept of separate but equal education.

In 1961, President Kennedy appointed Marshall to the U.S. Court of Appeals for the Second District, and in 1965, Marshall was appointed Solicitor General of the United States. In 1967, President Johnson nominated Marshall to be an Associate Justice of the Supreme Court, where he served with distinction until his retirement in 1991. He died in 1993.

I support this bill and I urge my colleagues to support this measure.

Mrs. LOWEY. Mr. Speaker, I rise today in strong support of H.R. 4910, to designate the courthouse in White Plains, NY, the "Thurgood Marshall United States courthouse." This action implements the consensus recommendation of leaders of Westchester County who have suggested the designation for Justice Marshall.

White Plains City Councilman William Brown deserves special credit for his work in spearheading the effort to secure this designation. He worked Tirelessly to coordinate the broad support throughout Westchester County. The White Plains City Council unanimously endorsed his resolution of support. Similar resolutions were approved by the Westchester County Board of Legislators, the White Plains Council on Human Rights, the Pan-Hellenic Council of Westchester, both the Black Democrats and Republicans of Westchester, and a number of other community organizations. Without a doubt, this legislation has the support of a cross section of the Westchester community.

Indeed, leaders of our community understand the immense contributions made to our society by Justice Marshall throughout his life—on the Supreme Court and before. His arguments in the case of Brown versus Board of Education literally reshaped our society in the second half of this century. His commitment to principle and reason were a compelling force in shaping jurisprudence in America during his years on the Nation's highest Court. And, most importantly, Justice Marshall's presence on the American scene brought a new day to the cause of justice and equality. His life was a testament to the true meaning of justice, and his name on this courthouse will serve as a constant reminder of the standards of justice to which we should all aspire.

This legislation honors this exceptional individual in a most fitting and appropriate manner, and I am proud to say that it reflects the commitment of the Westchester community to recognize the importance of Justice Marshall.

I have been pleased to work closely with my colleagues who also represent parts of Westchester County: Congressmen ENGEL, FISH, and GILMAN, in introducing this legislation and moving it to the House floor. I encourage each and every Member of this House to join us in giving H.R. 4910 unanimous approval.

Mr. ENGEL. Mr. Speaker, in conjunction with my colleagues NITA LOWEY, BEN GILMAN, and HAM FISH, I'm proud to rise in support of H.R. 4910 a bill which would designate the U.S. Courthouse in White Plains, NY as Thurgood Marshall United States Courthouse. Since its introduction H.R. 4910 has enjoyed support from many government and citizen groups in Westchester County. These groups, as well as my colleagues and I, all believe this to be a modest tribute to an extraordinary defender of civil rights.

Mr. Marshall's career was a distinguished and historic one. Beginning in the early thirties as a lawyer for the NAACP he argued numerous civil rights cases before the Supreme Court in support of fair voting rights, and desegregation. As chief counsel for the NAACP Legal Defense and Education Fund, Mr. Marshall successfully argued the historic Brown versus Board of Education case which declared racially segregated public schools as unconstitutional.

In 1961, Mr. Marshall accepted and appointment from President John F. Kennedy to the U.S. Court of Appeals for the Second Circuit, which includes New York, Vermont, and Connecticut. President Johnson appointed Marshall to the position of Solicitor General and in 1967 to the Supreme Court—the first African-American to hold that position. During his tenure on the Supreme Court he vigilantly continued to defend individual rights, protecting minorities and the underprivileged, and supporting affirmative action, and abortion rights, while opposing the death penalty.

I would like to thank Ms. Yvonne Jones, the president of the White Plains-Greenburgh branch of the National Association of the Advancement of Colored People, the board of directors of the Westchester County Bar Association, Mr. Fred Campbell, chairman of the African-American Federation of Westchester, Mr. Greg Smith, president and CEO of the ADF, Mr. William Brown, Jr., member of White Plains Common Council, Mr. Leroy Wilson Jr., of White Plains, and all those who have given support to this important project.

This courthouse in White Plains will serve a meaningful purpose to the residents of Westchester. To name this building in honor of Thurgood Marshall is to recognize the importance of his role in one of the most historic movements of this country as well as his role as the defender of the rights for which he fought as a Justice of the Supreme Court.

Mr. PETRI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. TRAFICANT] that the House suspend the rules and pass the bill, H.R. 4910.

The question was taken.

Mr. PETRI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore (Mr. MILLER of California). Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4910, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

THEODORE LEVIN FEDERAL BUILDING AND UNITED STATES COURTHOUSE

Mr. TRAFICANT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4967) to designate the Federal building and U.S. courthouse in Detroit, MI, as the "Theodore Levin Federal Building and United States Courthouse," as amended.

The Clerk read as follows:

H.R. 4967

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. THEODORE LEVIN UNITED STATES COURTHOUSE.

(a) DESIGNATION.—The United States courthouse located at 231 West Lafayette Street in Detroit, Michigan, shall be known and designated at the "Theodore Levin United States Courthouse".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in subsection (a) shall be deemed to be a reference to the "Theodore Levin United States Courthouse".

SEC. 2. GEORGE W. YOUNG POST OFFICE.

(a) DESIGNATION.—The postal facility located at 1401 West Fort Street, in Detroit, Michigan, shall be known and designated as the "George W. Young Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the postal facility referred to in subsection (a) shall be deemed to be a reference to the "George W. Young Post Office".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. PETRI] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the author of the bill, the gentlewoman from Michigan [Miss COLLINS] who has distinguished herself here in her first term, and also the gentleman from Michigan [Mr. DINGELL], a very powerful chairman of the House, for their contributions.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Michigan [Miss COLLINS].

Miss COLLINS of Michigan. Mr. Speaker, I rise in support of H.R. 4967 as amended. This bill designates the Federal building and U.S. courthouse as the "Theodore Levin Federal Building & United States Courthouse." It also designates the Postal facility at 1401 West Fort Street, Detroit, MI as the "George W. Young Post Office."

Mr. Speaker, both Judge Levin and George Young were institutions in Detroit, and it is with great pleasure and privilege that we honor these men by the naming of these buildings.

Judge Theodore Levin served the people of the eastern district of Michigan as U.S. district judge from the time of his appointment by President Harry S. Truman in 1946 until his death in 1970. He served as chief judge from 1959 until 1967. Judge Levin exemplified the hallmarks of a good judge, including attributes of fairness, compassion, public service, and humility, and inspires lawyers throughout this country to be committed to and love the practice of law.

He also served his community outside of his work on the bench. It was his belief in the power of the community that initially attracted him to the practice of law. He believed that society would be a much better place if we contributed our time and energy to our respective communities.

I am pleased to join the countless others who support the naming of this Federal building and U.S. courthouse as the "Theodore Levin Federal Building and United States Courthouse."

George W. Young also was a stellar Detroiter. He diligently served as a dedicated employee of the Detroit Postal Service for more than 20 years. He began his employment with the Postal Service as a window clerk, before moving up to become assistant personnel director, then assistant postmaster for the Detroit Regional Post Office, in the 1960's and 1970's.

As a former Postal employee, I had the pleasure of serving under Mr. Young when he was the assistant postmaster for Detroit. George Young had a special way of listening to Postal employees. His responsiveness and attentiveness to employees concerns helped ease the stress and boost morale. He was a great and caring man.

He graduated magna cum laude from the University of Detroit in 1961. In addition, he graduated from the U.S. Army's Officer Candidate School, achieving the school's second highest test score, just below his brother, the Honorable Coleman A. Young, former mayor of the city of Detroit. Mr. Young was drafted in World War II and served in the Army Signal Corps, achieving the rank of captain. His widow, Mrs. Elizabeth Robinson, with whom he had one son, Ronald Young, still reside in my district in Detroit.

I am pleased to join the entire Young family, as well as the citizens of Detroit, in their desire to rename the Postal facility at 1401 West Fort Street the "George W. Young Post Office."

I urge my colleagues to support H.R. 4967 as amended.

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support this bill. I urge my colleagues to support the measure.

Mr. Speaker, I rise in support of H.R. 4967, a bill to designate the U.S. courthouse in Detroit, MI, as the "Theodore Levin United States Courthouse." Judge Levin's family is well represented in Congress, as his nephews, Senator CARL LEVIN, and Congressman SANDY LEVIN, serve with distinction in the 103d Congress.

Judge Levin was born in Chicago, IL on February 18, 1897, and attended the University of Detroit, where he received a master of laws degree in 1924. He commenced the practice of law in Detroit, and in 1933 was appointed special assistant attorney general for the State of Michigan, where he conducted proceedings concerning bank closings in Michigan.

In 1946, Levin was nominated by President Truman to be a U.S. district judge for the eastern district of Michigan. Judge Levin served with distinction until shortly before his death in 1970. During his tenure on the Federal bench, Judge Levin promoted uniform sentencing for prisoners, and his efforts were well received by other judicial districts.

Judge Levin was active in civil, religious, and charitable activities, and was so recognized for his efforts.

I support this bill and urge my colleagues to support the measure.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Theodore Levin of Michigan had a distinguished career, as has been cited by the beautiful testament here of the gentlewoman from Michigan [Miss COLLINS].

Mr. Speaker, this is a piece of legislation that has bipartisan support. I urge the adoption of the legislation.

Mr. Speaker, Theodore Levin of Michigan, had a distinguished career as an attorney and as a Federal judge. In his private practice, he became renowned in the Detroit community for his defense of the poor and forsaken.

In 1946 President Truman appointed Levin to be a U.S. district judge for the Eastern District of Michigan. His performance in this capacity was outstanding. This was especially true of his courageous innovations to achieve equal justice before the law for prisoners. In 1959 Levin became the chief judge of the court. He held that position until 1967 when he reached the age of 70. He remained on the bench until shortly before his death 3 years later.

This compassionate jurist deserves to be honored by having this U.S. courthouse named after him. This bill has my strong support, and the bipartisan support of the committee.

Mr. Speaker, the amendment to H.R. 4967 would designate the postal facility located at 1401 West Fort Street in Detroit, MI, as the George W. Young Post Office. Mr. Young served the Postal Service with distinction for over 20 years. He was revered for his caring and devotion to his fellow employees. He was a magna cum laude Graduate from the University of Detroit, and served in World War II in the Army Signal Corps.

I am pleased to join Ms. COLLINS in support of this effort.

I urge adoption of H.R. 4967, as amended, with an amendment.

Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I want to thank my colleagues on the Committee on Public Works and Transportation for the fine job they have done on this legislation.

I want to commend my dear friend, the gentlewoman from Michigan [Miss COLLINS].

Judge Levin was a distinguished jurist, a great American, a patriot, a man of great dignity and gentleness and goodness. He was a Federal judge who personified not only the dignity of the bench but the goodness of humanity. He is a man who is much respected and admired yet in Michigan. It is a wonderful thing that he is to receive this honor.

I want to thank my colleagues for the expeditious way in which they have handled it and commend the gentlewoman from Michigan for her leadership in this matter.

Mr. TRAFICANT. Mr. Speaker, I want to commend all who worked on the bill, the gentleman from Tennessee [Mr. DUNCAN], and all the staff, and I urge an "aye" vote.

Mr. Speaker, I yield back the balance of my time.

Mr. DINGELL. Mr. Speaker, I rise in support of the legislation offered by my esteemed colleague, BARBARA-ROSE COLLINS. I commend the gentlelady for her hard work on this legislation, and commend the subcommittee chairman, Mr. TRAFICANT, and the subcommittee ranking minority member, Mr. DUNCAN, for their leadership in bringing this bill to the floor.

H.R. 4967 would pay a high tribute to one of the finest public servants I ever have known, Judge Theodore Levin.

I was fortunate to have known Judge Levin. Having served as his law clerk in the earliest days of my career, he taught me many lessons about the law as well as the meaning of dedicted public service.

Many Michiganians remember how Judge Levin's contributions epitomized the spirit which made Detroit a great city. During his lifetime, Detroit became known as the Motor City, and then the Arsenal of Democracy. People from across the Nation, and around the world, came to the Detroit of Judge Levin's day because of abundant opportunity in a prospering city.

Judge Levin served the eastern district of Michigan during Detroit's golden years, a time when this city was known as an example of the American dream. It is fitting that we place the name of Theodore Levin on this prominent building, at the center of a city rebuilding itself. By doing so, it reminds us that Detroit possesses a historical foundation which strongly supports its renaissance.

Judge Levin's appointment as a Federal judge was just one high point in a very distinguished career. Long before this appointment to the Federal bench by President Harry Truman in 1946, Judge Levin served as a progressive advocate of fairness in our rapidly changing society. One unpopular cause undertaken by Judge Levin was his fight against the Michgan Alien Registration and Fingerprinting Act of 1931. This act contained cruel requirements directed against immigrants, singling them out for humiliation. In response, then-attorney Theodore Levin joined others who fought the constitutionality of this legislation in Federal court—and won.

Taking the bench after the Second World War, Judge Levin quickly gained a reputation as an astute jurist, one who could discern the relevant issues in remarkably short order to arrive at a just decision. The judge earned a nationwide reputation for his advocacy of enlightened sentencing practices, and pioneered the use of sentencing councils in the eastern district of Michigan.

In addition, Judge Levin was an active and dedicated member of his community, serving in leadership positions for many local charities and foundations. His contributions during this era were indicative of the can-do spirit which moved Detroit to great heights in the middle of this century.

After Judge Levin died in 1970, a memorial tribute stated the following:

> He exercised the awesome power of a federal judge with compassion. While demanding perfection of himself, he was constantly aware of the frailties of human nature. He died as he had lived, with a deep sense of responsibility and an attitude of humility. He was a great judge.

Mr. Speaker, the verity of this statement has only strengthened over time. Early this past summer, when I was contacted by another of Michigan's most respected Federal jurists, Judge John Feikens, I instantly accepted his proposal that I support the naming of our courthouse for Judge Levin. It must be said that Judge Feikens has worked tirelessly on behalf of the legislation before this subcommittee today. The citizens of Michigan owe him a debt of gratitude for his efforts.

With the solid support of Michigan's legal community, I urge House adoption of H.R. 4967, and look forward to the bill's enactment.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. TRAFICANT] that the House suspend the rules and pass the bill, H.R. 4967, as amended.

The question was taken.

Mr. PETRI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule 1 and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4967, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

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AIRLINER CABIN AIR QUALITY ACT OF 1994

Mr. OBERSTAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4495) to amend the Federal Aviation Act of 1958 to prohibit smoking on all scheduled airline flight segments in air transportation or intrastate air transportation as amended.

The Clerk read as follows:

H.R. 4495

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Airliner Cabin Air Quality Act of 1994".

SEC. 2. PROHIBITIONS AGAINST SMOKING ON SCHEDULED FLIGHTS.

(A) IN GENERAL.—SECTION 41706 OF TITLE 49, UNITED STATES CODE, IS AMENDED TO READ AS FOLLOWS:

"§ 41706. Prohibitions against smoking on scheduled flights.

"(a) SMOKING PROHIBITION IN INTRASTATE AND INTERSTATE AIR TRANSPORTATION.—An individual may not smoke in an aircraft on a scheduled airline flight segment in interstate air transportation or intrastate air transportation.

"(b) SMOKING PROHIBITION IN FOREIGN AIR TRANSPORTATION.—The Secretary of Transportation shall require all air carriers and foreign air carriers to prohibit, on and after the 120th day following the date of the enactment of the Airliner Cabin Air Quality Act of 1994, smoking in any aircraft on a scheduled airline flight segment within the United States or between a place in the United States and a place outside the United States.

"(c) LIMITATION ON APPLICABILITY.—The smoking prohibitions contained in subsection (a) and (b) shall apply only to the passenger cabin and lavatory of an aircraft operated by a foreign air carrier.

"(d) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out this section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 60th day following the date of the enactment of this Act.

The SPEAKER pro tempore (Mr. MILLER of California). Pursuant to the rule, the gentleman from Minnesota [Mr. OBERSTAR] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4495 would provide smoke-free flights on all U.S. domestic flights and ban smoking on U.S. and foreign carriers on the last leg to and the first leg from foreign points. As promised during discussion in full committee markup on this bill, H.R. 4495 also bans smoking in the cockpits of U.S. carriers.

In 1990 Congress banned smoking on all domestic flights of 6 hours or less except those to Alaska or Hawaii. Smoking is still permitted on international flights. H.R. 4495 would clear the air, to speak, on domestic flights and on many international flights as well.

The Subcommittee on Aviation held a hearing on airliner cabin air quality last May 18. At that hearing, nonsmoking flight attendants testified to suffering from lung diseases common to smokers including lung cancer, respiratory ailments, chronic bronchitis, sinus diseases, dizziness, headaches. Why should flight attendants not enjoy the smoke-free workplace that employees do in many office buildings, in Federal agencies, in this very Capitol Building, in all other House office buildings?

Flight attendants in their workplace cannot simply step outside for a breath of fresh air. They cannot do that 5 miles or 6 miles in the air. They cannot open a window and let the air in. They are stuck in smoke-filled galleys.

Equally awful is the fate of passengers. The flight attendants described the suffering of their passengers. Smoke penetrates the cabin even if smoking is confined to a few rows in the back. People seated near that section simply cannot escape the smoke surging forward from the smoking section. It is almost too distant in the memory of those of us who travel on domestic flights what it was like when smoking started up in the rear of the aircraft and surged forward. Well, that happens still on international flights.

Passengers allergic to smoke suffer wherever they are seated in the aircraft. Most pitiful of all are the children seated with smoking parents in the smoking section.

Mr. Speaker, this is not an afterthought. Its sponsors have plenty of company in seeking smoke-free skies. Many countries have banned smoking on their domestic flights, and a goodly number of our competitors in aviation have banned smoking on international flights on their carriers as well.

Three of domestic carriers offer or will shortly offer smoke-free flights overseas. Northwest Airlines the first domestic carrier to go smoke-free, this week announced a new nonsmoking route to go with its first-class nonsmoking flights worldwide. As of last Saturday, American Airlines has added new nonsmoking service abroad. Delta will go nonsmoking on its transatlantic, intra-Europe, and New York to Mexico City flights as of next January 1, 1995.

The international civil aviation, ICAO, in 1992 approved a resolution urging member nations to "take necessary measures as soon as possible to restrict smoking progressively on all international passenger flights, with the objective of implementing smoking bans by July 1, 1996.

The emphasis on "as soon as possible." July 1, 1996, is the outside date, not the only date, not just the most desirable date. But it is as far out as the participant nations in ICAO said nations should allow aircraft to go smoking. That resolution would provide relief to flight attendants and passengers as of the date envisioned in the ICAO bill. Out bill would provide relief for flight attendants, passengers, cockpit crews within 120 days of enactment, not 2 years from now, but as soon as possible.

We ought not to wait for another 2 years.

Mr. Speaker, this legislation will provide a level playing field for our carriers and foreign carriers by imposing the same regulations on foreign carriers serving the United States as I have already described on the last point of departure from or first point of arrival at the foreign countries.

So we take a significant step forward, not a complete action that is needed to improve the quality of air for the airliners. We will do that in the next Congress. The subcommittee will continue its inquiry to review all aspects of the quality of air aboard aircraft. With the continued participation and splendid support of my colleague, the gentleman from Pennsylvania [Mr. CLINGER], the subcommittee will continue to pursue the broader issues of quality of air on aircraft.

I want to thank the gentleman for his participation as always, for his thoughtful suggestions in crafting an effective and far-reaching and important piece of legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. CLINGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the subcommittee chairman has already described, H.R. 4495 would prohibit smoking on all commercial passenger flights that serve a U.S. airport. This includes foreign air carriers flying into or out of the United States. The legislation would protect nonsmoking passengers and flight crews from the effects of secondhand smoke which the chairman has already described.

Large commercial aircraft recirculate a portion of the cabin air. Depending on the model of the airplane and the pilot's use of recirculation equipment, the amount of recirculated air can vary, but the point is that smokers in the back of the cabin can easily pollute the entire cabin environment, however subtle. And in some cases smoking is permitted on one side of the aircraft and not on the other, and I think that makes an even worse situation.

Current law prohibits smoking on all flights within the 48 States and on flights traveling to or from Alaska and Hawaii which are less than 6 hours' duration. There are no smoking restrictions presently on international flights, although several carriers are beginning, as Chairman OBERSTAR said, to voluntarily impose smoking bans on some international flights. I think it is clear, Mr. Speaker, that this is the trend of the future. I think more and more airlines are recognizing that this is something that is in their best interest, and as a marketing tool, frankly, to provide a cleaner atmosphere in their cabins.

So I support H.R. 4495. The bill was reported by unanimous voice vote during consideration before our committee.

The aircraft carrier industry has no objection to the bill, as I understand, since the smoking ban would apply equally to domestic and foreign carriers and thus nobody would either receive a benefit or be disadvantaged by the legislation. Most importantly, most important, flight attendants and a silent majority of, I think, millions of airline passengers very strongly favor enactment of the legislation. Flight attendants working international flights today are one of the few segments in our workforce who must continue to endure exposure to secondhand smoke. As the chairman has said, they simply cannot step outside if somebody is smoking in the cabin.

Given the long flight times common to international travel, sometimes 14 or 16 hours, attendants could be exposed to cigarette smoke for long, long periods of time.

So I would encourage all Members to support the bill. It does represent the wave of the future. It is something that we need to be doing. We can accelerate the issue of cabin air quality which has come under very great scrutiny lately. One of the easiest and most effective steps we can take to improve cabin air is to ban smoking on all flights serving U.S. airports.

Mr. Speaker, I want to commend Chairman OBERSTAR in particular for his diligence in pursuing this issue.

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He has been a champion of this issue for some time and brings it to the floor today. I think it represents the fruition of his very long and effective labor on this behalf.

Mr. Speaker, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MINETA] who has been a long, hard and effective advocate of clean air aboard aircraft and who has been a spokesman for it all along.

Mr. MINETA. Mr. Speaker, I want to commend Congressman OBERSTAR, as chair of our Subcommittee on Aviation, and Congressman CLINGER, for their leadership not only on this issue but on the numerous important issues the subcommittee addressed this Congress.

Mr. Speaker, I want to express my support for H.R. 4495, the "Airliner Cabin Air Quality Act of 1994." This bill would improve the air quality on board commercial aircraft by expanding the current prohibition on smoking on most flight segments in the United States, to prohibit smoking on international segments that operate into or out of the United States.

As the adverse effects of secondhand smoke have become more well documented, Congressional pressure has increased on both the public and private sectors to protect the nonsmoking public. The effects of secondhand smoke are very pronounced on board commercial aircraft, where passengers are in a very confined space. While smoking on domestic flights of less than 6 hours has been prohibited for several years, smoking is permitted on longer domestic flights and international flights. This distinction does not make sense. It presumes passengers will be less affected or bothered by secondhand smoke on long flights than on short ones; clearly an erroneous assumption.

Any nonsmoker will attest that merely sitting in the nonsmoking section of an aircraft in no way assures passengers of a smoke free environment. Smoke drifts throughout the aircraft cabin without regard for the distinctions designated by the airline.

In addition to passenger discomfort, the cabin crew is presently forced to work in a smoke filled environment. This would clearly be an unacceptable work environment in almost any other profession. At recent hearings before the Subcommittee on Aviation, witnesses testified to the significant adverse health effects they suffered as a result of years of working in a smoke filled environment. The flight attendant work force in this country deserves some mesaure of protection against long term exposure to secondhand smoke. This bill affords them that protection.

Finally, this bill would assume that U.S. carriers are not disadvantaged with respect to foreign air carriers. All commercial air carriers that operate within or to the United States will be required to prohibit smoking on flight segments within, into or out of the United States. This will not place U.S. carriers at a competitive disadvantage with their foreign counterparts. I consider this to be an important component of this legislation.

For all of the reasons I have articulated, I urge my colleagues to support H.R. 4495, and expand the smoking ban to improve the air quality in aircraft serving the United States.

Again, I thank the gentleman for yielding.

Mrs. MINK of Hawaii. Mr. Speaker, I rise in strong support of H.R. 4495, the Airliner Cabin Air Quality Act of 1994, which would prohibit smoking on all international airline flights to and from the United States, as well as on any airline flight between two points in the United States, including Hawaii.

This legislation would expand the present smoking ban on domestic flights to include Hawaii and Alaska, which are exempted from the 1989 airline smoking ban law (Public Law 101–164). This 1989 law banned smoking on all foreign and domestic airline flights between any two points in the United States, except for flights to or from Hawaii and Alaska that last for 6 hours or more. Indeed, this is a major health concern for tourists and Hawaii residents, and the airline's flight crew, traveling more than 6 hours to and from my State for leisure or business from such distant points as Washington, DC, New York, or Chicago.

The serious health implications of smoke being recirculated—even with the use of filters—in these long haul, transoceanic flights are of tremendous concern to me and many other frequent travelers to Hawaii. The exposure to cancer-causing agents, both primary and secondhand smoke in the airplane, have resulted in many respiratory ailments. There have been many medical and scientific studies which have concluded this fact.

Recently, the Centers for Disease Control [CDC] announced that secondhand smoke kills an estimated 3,000 adult nonsmokers through lung cancer, and causes other respiratory problems like severe coughing and chest discomfort, and reduced lung functions. Moreover, it is reported that of the 4,000 chemicals present in tobacco smoke, at least 43 are known to cause cancer in humans or animals.

In addition, I support the legislation's smoking ban on international flights for both U.S. and foreign airline carriers traveling to and from Hawaii. This bill would certainly complement the International Civil Aviation Organization's [ICAO] proposal to completely end smoking on all airline flights by July 1, 1996. While I am concerned about the economic impact of H.R. 4495's ban on smoking on flights to and from Hawaii from countries like Asia—especially Japan and China—and Europe, the bill in no way impedes the global competitiveness of our United States airline industry. As drafted, H.R. 4495 will apply to all domestic and foreign carriers. There are no exceptions to this rule.

I am also alarmed by the frequent in-flight spraying of toxic pesticides on international flights with air passengers and crew aboard. This common practice by foreign carriers has caused serious health problems for flight attendants exposed to pesticide spray often used on these international flights.

I was recently informed by a constituent, a former flight attendant of a major carrier, that as a result of pesticide spraying on these routes she suffered a debilitating illness called multiple chemical sensitivity [MCS] that forced her to retire early from the airline industry. She is now totally disabled and almost confined to her home due to the inhalation, for several years, of active chemicals in the pesticides during her years of service in the airline's international route.

Finally, I applaud Transportation Secretary Peña's aggressive efforts to inform other countries of the serious health risks posed by in-flight pesticide spraying and to suggest other alternative practices. However, this may not be enough to curb this practice. In light of this, I encourage my colleagues to support initiatives to eradicate pesticide use and smoking on all international flights.

I respectfully urge my colleagues to support H.R. 4495, the Airliner Cabin Air Quality Act of 1994, to prohibit smoking on domestic and international flights to and from the United States.

Mr. MEEHAN. Mr. Speaker, I rise in support of H.R. 4495, Mr. OBERSTAR's bill to expand the domestic airline smoking ban to international flights flown to and from the United States. H.R. 4495 essentially codifies a resolution adopted by the International Civil Aviation Organization [ICAO] and agreed to by the United States, which calls on ICAO's member nations to disallow smoking on all airline flights by July 1996. By applying equally to domestic and foreign carriers, the measure will level the playing field by eliminating any putative advantage now enjoyed by some foreign carriers as a consequence of the voluntary smoke-free international flights already established by some forward-thinking U.S. airlines.

Most importantly, this measure will safeguard the health of millions of air travelers and workers. I concur in the judgment of the Nation's flight attendants unions, including the Association of Flight Attendants, which represents 35,000 American flight attendants at 22 airlines, and the American Cancer Society and numerous other health and civic organizations who believe that workers and passengers on international flights must be protected against lung disease, asthma, and other health problems caused by forced inhalation of environmental tobacco smoke. These groups, representing millions of Americans, have toiled long and hard in support of this needed and sensible proposal, and I commend them for their ongoing commitment.

The message that people have a right to live, breathe, and work in smoke-free environs is finally being heard on Capitol Hill. I would observe that it is a good sign for the health of our citizens and our neighbors abroad that, in contrast with the fight over the domestic airline smoking ban measure adopted by Congress 4 years ago, the current measure virtually sailed through the Committee on Public Works and Transportation and its Aviation Subcommittee.

I urge my colleagues to vote for passage of H.R. 4495, both to usher in a new day of smoke-free skies worldwide and to reaffirm America's role as a leader in promoting a healthier and safer world.

Mr. ROGERS. Mr. Speaker, I rise in strong opposition to H.R. 4495, the Airliner Cabin Air Quality Act of 1994. This bill would ban smoking on any flight to or from the United States.

I am continually dismayed and shocked by my colleagues willingness to trample all over the First Amendment. That is what this bill is about—freedom of choice—nothing more, and nothing less.

Our forefathers drafted the First Amendment to prevent the tyranny of government from intruding into the personal freedoms of the individual.

For Congress to attempt to restrict the personal choice of any American to engage in the commerce or use of a legal product is a complete abrogation of the Constitution.

I am outraged, and my constituents are outraged. The 67,000 hard-working family farmers in Kentucky are outraged that many in Congress have launched an all-out assault to drive them out of business.

My constituents believe in the right of the individual over the right of the government. And, many are outraged that Congress continues to try to dictate their personal choices.

The issue here today is not whether or not you choose to smoke, or whether you agree with those who choose to smoke. This issue, is simple—should one group of individuals be able to restrict the rights of another group just because they disagree. The answer should be no. Sadly, today, this Congress has said yes, and sanctioned discrimination against hundreds of thousand of law-abiding citizens.

Today, it is tobacco. Who knows who will be next.

Mr. CLINGER. Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I, too, have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MILLER of California). The question is on the motion offered by the gentleman from Minnesota [Mr. OBERSTAR] that the House suspend the rules and pass the bill, H.R. 4495, as amended.

The question was taken.

Mr. CLINGER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

CONCURRING IN HOUSE AMENDMENT TO SENATE AMENDMENT TO H.R. 2440, INDEPENDENT SAFETY BOARD ACT AMENDMENTS OF 1994

Mr. OBERSTAR. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 558) providing for the concurrence by the House with an amendment in the amendment of the Senate to H.R. 2440.

The Clerk read as follows:

H. RES. 558

Resolved, That upon the adoption of this resolution the bill (H.R. 2440) to amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal year 1994, 1995, and 1996, and for other purposes, with the Senate amendment thereto, shall be considered to have been taken from the Speaker's table to the end that the Senate amendment thereto be, and the same is hereby, agreed to with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the Senate, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent Safety Board Act Amendments of 1994".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 1118(a) of title 49, United States Code, is amended to read as follows:

"(a) IN GENERAL.—There is authorized to be appropriated for the purposes of this chapter $37,580,000 for fiscal year 1994, $44,000,000 for fiscal year 1995, and $45,100,000 for fiscal year 1996. Such sums shall remain available until expended.".

SEC. 3. APPLICABILITY OF CERTAIN REGULATIONS AND REQUIREMENTS TO THE OPERATION OF PUBLIC AIRCRAFT.

(a) DEFINITION OF PUBLIC AIRCRAFT.—Section 40102(a)(37) of title 49, United States Code, is amended by striking subparagraph (B) and inserting the following:

"(B) does not include a government-owned aircraft—

"(i) transporting property for commercial purposes; or

"(ii) transporting passengers other than—

"(I) transporting (for other than commercial purposes) crewmembers or other persons aboard the aircraft whose presence is required to perform, or is associated with the performance of, a governmental function such as firefighting, search and rescue, law enforcement, aeronautical research, or biological or geological resource management; or

"(II) transporting (for other than commercial purposes) persons abroad the aircraft if the aircraft is operated by the Armed Forces or an intelligence agency of the United States.

An aircraft described in the preceding sentence shall, notwithstanding any limitation relating to use of the aircraft for commercial purposes, be considered to be a public aircraft for the purposes of this part without regard to whether the aircraft is operated by a unit of government on behalf of another unit of government, pursuant to a cost reimbursement agreement between such units of government, if the unit of government on whose behalf the operation is conducted certifies to the Administrator of the Federal Aviation Administration that the operation was necessary to respond to a significant and imminent threat to life or property (including natural resources) and that no service by a private operator was reasonably available to meet the threat.".

(b) AUTHORITY TO GRANT EXEMPTIONS.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may grant an exemption to any unit of Federal, State, or local government from any requirement of part A of subtitle VII of title 49, United States Code, that would otherwise be applicable to current or future aircraft of such unit of government as a result of the amendment made by subsection (a) of this section.

(2) REQUIREMENTS.—The Administrator may grant an exemption under paragraph (1) only if—

(A) the Administrator finds that granting the exemption is necessary to prevent an undue economic burden on the unit of government; and

(B) the Administrator certifies that the aviation safety program of the unit of government is effective and appropriate to ensure safe operations of the type of aircraft operated by the unit of government.

(c) INVESTIGATIVE AUTHORITY OF BOARD.—

(1) ACCIDENTS INVOLVING PUBLIC AIRCRAFT.—Section 1131(a)(1)(A) of title 49, United States Code, is amended by inserting before the semicolon at the end the following: "or an aircraft accident involving a public aircraft as defined by section 40102(a)(37) of this title other than an aircraft operated by the Armed Forces or by an intelligence agency of the United States".

(2) DUTIES AND POWERS.—Section 1131 of title 49, United States Code, is amended—

(A) by redesignating subsection (d) as subsection (e); and

(B) by inserting after subsection (c) the following:

"(d) ACCIDENTS INVOLVING PUBLIC AIRCRAFT.—The Board, in furtherance of its investigative duties with respect to public aircraft accidents under subsection (a)(1)(A) of this section, shall have the same duties and powers as are specified for civil aircraft accidents under sections 1132(a), 1132(b), and 1134(b)(2) of this title.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall take effect on the 180th day following the date of the enactment of this Act.

SEC. 4. RELEASE OF RESERVATIONS AND RESTRICTIONS ON CERTAIN PROPERTY LOCATED IN RAPIDES PARISH, LOUISIANA.

(a) RELEASE.—Notwithstanding any other provision of law, and except as provided in subsections (b) and (d), the United States releases without consideration all reservations, restrictions, conditions, and limitations on the use, encumbrance, or conveyance of certain real property (together with any improvements thereon and easements appurtenant thereto) consisting of approximately 1,991.53 acres of land and located in Rapides Parish, Louisiana, the location of Esler Field, as identified in the deed of conveyance from the United States to the Parish of Rapides, Louisiana, dated January 23, 1958, to the extent such reservations, restrictions, conditions, and limitations are enforceable by the United States.

(b) EXCEPTIONS.—The United States reserves the right of reentry upon or use of the property described in subsection (a) for national defense purposes in time of war or other national emergency without charge. The release provided by subsection (a) does not apply to any conditions or assurances associated with (1) the continued nonexclusive use without charge of the airport and use of space at the airport, without charge, by the Louisiana National Guard, (2) the nonexclusive use of the airport by transient military aircraft without charge, or (3) the nonexclusive use of the airport by transient military aircraft without charge during periods of maneuvers.

(c) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect the disposition or ownership of oil, gas, or other mineral resources either in or under the surface of the real property described in subsection (a).

(d) FEDERAL AVIATION ADMINISTRATION.—

(1) NONAPPLICABILITY OF RELEASE TO GRANT AGREEMENTS.—The release described in subsection (a) does not apply to any conditions and assurances associated with existing airport grant agreements between the Rapides Parish Airport Authority/Esler Field and the Federal Aviation Administration.

(2) AGREEMENT.—Notwithstanding any other provisions of law, the Administrator of the Federal Aviation Administration shall enter into an agreement with the Airport Authority of Rapides Parish, Louisiana, to provide for the terms and conditions under which the real property described in subsection (a) may be used, leased, sold, or otherwise disposed. The agreement shall be concluded not later than 180 days after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—This section shall take effect on the 180th day following the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. OBERSTAR] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill first passed the House on November 8, 1993, and has gone through a long review in the other body from which it was most recently reported, and we now consider slight adjustments and amendments to that bill.

There has been a compromise between the House and the Senate versions of the NTSB reauthorization bill. The compromise does include the funding levels provided in the bill originally passed in the House, funding levels that will allow the NTSB to cover their automatic cost increases, acquire badly needed equipment, add three employees to cover new responsibilities, to handle appeals of the FAA, civil penalties against pilots' actions, that authority we gave to the NTSB a year ago, and funding levels that will enable the board to continue its vital work of investigating accidents involving all modes of transportation, and making recommendations for changes needed to promote safety.

Mr. Speaker, I consider the NTSB to be the premier watchdog oversight in all modes of transportation in the United States. Their actions have saved countless thousands of lives, millions of dollars, made our airways, roadways, bridges, pipelines safer. The gentleman from Pennsylvania and I worked together in the Subcommittee on Investigations and Oversight several years ago on aspects of safety in which the NTSB was regularly involved, and we found their work to be detailed, factual, thorough, responsible, defensible, and also preventive, and what I would only urge the NTSB to do is a little more of their work of looking ahead, gathering all the information they have put together through their various investigations of accidents and to develop a concept of safety that can be preventive rather than simply reactive.

SUMMARY OF HOUSE AMENDMENTS TO NTSB REAUTHORIZATION

Section 1. Short Title: Independent Safety Board Act Amendments of 1994.

Section 2. Authorizes appropriations for NTSB of $37,580,000 for fiscal year 1994, $44,000,000 for fiscal year 1995, and $45,100,000 for fiscal year 1996.

Section 3. Amends the provisions of existing law which provide that the aircraft operated by federal, state, or local governments for non-commercial purposes (defined as "public aircraft") are not subject to most FAA regulations.

The amendments in this bill provide that:

(a) An aircraft is no longer a "public aircraft", and therefore is subject to FAA regulation, if the aircraft is used for transporting passengers. However, the aircraft remains a public aircraft if the crew members or other persons transported are performing a governmental function such as fire fighting or search and rescue, or if the aircraft is operated for noncommercial purposes by the Armed Forces or an intelligence agency of the United States.

(b) Authorizes the FAA to grant an exemption from any legal requirements to an aircraft which has lost its status as a public aircraft as a result of this bill, if the Administrator finds that granting the exemption is necessary to prevent an undue burden on the unit of government involved, and if the Administration certifies that the unit of government has an aviation safety program effective and appropriate to ensure safe operations of the type of aircraft operated.

(c) Provides that an aircraft does not lose its status as a public aircraft because one unit of government reimburses another for use of the aircraft. (FAA had ruled that in these circumstances the aircraft would be operated for a commercial purpose and would meet the requirements for a public aircraft.) To remain a public aircraft, the unit of government on whose behalf the operation is conducted must certify to the Administrator that the operation is necessary to respond to a significant or imminent threat to life or property, and that no service by a private operator was reasonably available to meet the threat.

(d) Requires NTSB to investigate accidents involving public aircraft, other than those operated by the Armed Forces or an intelligence agency of the United States.

Section 4. Releases Esler Field in Rapides Parish, Louisiana from restrictions in a deed of conveyance of the Field from the United States to the Parish. The provision limits the releases to protect the interests of the United States in use of the field for military purposes, and to ensure that there are no changes in mineral rights in the property. The Administrator of the Federal Aviation Administration is directed to enter into an agreement with the Airport Authority of Rapides Parish to permit the field to be used, leased, sold, or otherwise disposed of.

Mr. Speaker, I reserve the balance of my time.

Mr. CLINGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House passed this bill reauthorizing the National Transportation Safety Board last year. At the time, the bill was a simple 3-year reauthorization. Since then, it has passed the Senate and gone through several changes. These changes require this body to consider the legislation once again. Despite the changes, I still support this bill.

The most significant change involves public aircraft. These are aircraft owned by government agencies and used for official purposes. The Senate bill changed the definition of public aircraft to exclude those carrying passengers. The effect could be the imposition of expensive FAA regulatory requirements on local governments.

In order to prevent this provision from turning into another unfunded Federal mandate, I suggested the addition of an exemption provision. That provision permits FAA to exempt public aircraft from FAA regulations if necessary to avoid an undue economic burden on local governments and if the FAA certifies that the government has an effective safety program. I appreciate the willingness of the chairman, Mr. OBERSTAR, to work with me on this.

This legislation also contains another provision on public aircraft that will enable government-owned aircraft to be used for fighting fires and other emergencies without having to comply with the full panoply of FAA regulations.

Mr. Speaker, the public aircraft matter is the issue in this bill that has gotten the most attention in the aviation community. However, my focus on it should not take away from the importance of the original purpose of this bill—to reauthorize the NTSB. Despite its small size, that agency does a good job of investigating accidents and being a safety watch-dog.

Therefore, I am pleased to join with the chairman in urging support for this 3-year reauthorization of the NTSB.

Mr. OBERSTAR. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MINETA], chairman of the Committee on Public Works and Transportation.

□ 1540

Mr. MINETA. Mr. Speaker, I rise in strong support of H.R. 2440, the independent safety board act amendments of 1994. I want to commend the chair of our subcommittee on Aviation, the gentleman from Minnesota [Mr. OBERSTAR], as well as the gentleman from Pennsylvania [Mr. CLINGER], the ranking Republican on the Subcommittee on Aviation. They have worked very hard and very diligently over a long period of time through hearings, as well as in writing this legislation.

Mr. Speaker, This bill, which reauthorizes appropriations for the National Transportation Safety Board for fiscal years 1994–1996, has full bipartisan support. The House passed this bill on November 8, 1993, by a vote of 353 to 49.

The National Transportation Safety Board is unique within the Federal Government. The importance of its safety mandate transcends politics. The highly skilled NTSB work force investigates accidents to determine the probable cause in five transportation modes: aviation, highways, rail, pipeline, and marine. The safety recommendations made by the Board directly translate into lives saved. Every person in this room and in this country has benefited from the fine work done by the Board. It is a tribute to the reputation of the Board that more than 80 percent of their recommendations are accepted voluntarily.

This bill would enable the Board to continue its vital work at current staff levels. It is important that we ensure that fair funding levels are established in order to prevent any deterioration in the invaluable services provided by the National Transportation Safety Board. This bill establishes fair funding levels that have received bipartisan support in both the Committee on Public Works and Transportation, and the Committee on Energy and Commerce.

The Senate amended the bill to include a provision that addresses the issue of public use aircraft. This provision was included as a result of the tragic accident that took the life of the Governor of South Dakota. It is intended to require, for the first time, that the Federal Aviation Administration regulations apply to aircraft operated by government entities. This requirement does not apply to certain governmental functions, such as firefighting, search and rescue, and law enforcement. Rather, it is intended to apply to all operations in which government officials or other individuals are transported on government-owned aircraft. It is expected that if public use aircraft are required to adhere to the Federal Aviation regulations, the safety of these operations will be enhanced.

On a separate issue affecting public use aircraft, the House has added an amendment to the bill to address the narrow issue of public use aircraft used in emergency situations. This amendment permits cost reimbursement for the operation of public use aircraft between government entities if the aircraft is needed to address a significant and imminent threat to life or property, including natural resources, and no service by a private operator is reasonably available to meet that threat. This amendment merely permits government entities to take advantage of available government-owned aircraft in emergency situations when aircraft owned by private operators are not available. As the language of the amendment makes clear, government entities should not be competing with private companies to provide commercial services. However, in the event that private aircraft are not available in an emergency situation, and government-owned aircraft are, the issue of cost reimbursement should not prevent the utilization of available aircraft.

Finally, the bill includes a noncontroversial land transfer authorization in Rapides Parish, LA.

I urge my colleagues to support this important legislation.

Mr. OBERSTAR. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. SWIFT] who speaks for the Committee on Energy and Commerce in their joint jurisdiction over this issue.

Mr. SWIFT. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I am pleased to be able to support this reauthorization of the National Transportation Safety Board. The Safety Board is an independent agency that comes under the joint oversight of the Energy and Commerce Committee and the Public Works Committee. H.R. 2440 was passed out on a voice vote by the Energy and Commerce Committee in October of last year.

The mandate of the Safety Board is to investigate transportation accidents, including those involving railroads. The Board must determine probable cause and make recommendations designed to prevent such accidents from recurring. Since its inception 26 years ago, the Board has undertaken over 50,000 accident investigations and has issued more than 9,000 safety recommendations covering a wide range of transportation safety issues.

The Transportation and Hazardous Materials Subcommittee has oversight responsibilities for the Safety Board's investigations and recommendations in rail accidents. The Safety Board has also undertaken a number of rail-related special studies, including studies on tank car and locomotive fuel tank integrity, collision avoidance and work/rest cycles on train crews. The Safety Board is held in high esteem by those who know of its work, and the bill before us ensures that such work will not be impaired.

I urge Members to pass this bill, H.R. 2440.

Mr. MOORHEAD. Mr. Speaker, I want to commend our committee chairman [Mr. DINGELL], our subcommittee chairman [Mr. SWIFT], and the subcommittee's ranking member [Mr. OXLEY] for their bipartisan efforts to reauthorize the very important activities of the National Transportation Safety Board. Until recently, the NTSB was identified in the public's eye almost exclusively with aircraft accident investigations. However, in the wake of the unfortunate Amtrak accident last September near Mobile, AL, I believe many more Americans now realize that the NTSB's safety investigations cover virtually every form of transportation. This is a highly respected and expert agency, and as such deserves to be reauthorized under the authorization ceilings provided in this bill. I strongly support this bipartisan bill and urge its prompt approval by the House.

Mr. OXLEY. Mr. Speaker, I want to commend our subcommittee chairman, the gentleman from Washington, for his very diligent and constructive efforts to enact this reauthorization of the National Transportation Safety Board. I also want to recognize the efforts of our committee chairman, the gentleman from Michigan, and our ranking committee member, the gentleman from California, as well as the efforts of the leadership of the Public Works Committee, with whom we share jurisdiction over the National Transportation Safety Board.

The NTSB performs an important safety function: it is capable of conducting an expert investigation of virtually any type of transportation accident. After such an investigation, the agency can then make recommendations aimed at avoiding similar accidents in the future. Because NTSB is not an enforcement or regulatory agency, it often can call the shots as it sees them, without some of the inhibitions that might apply within the Department of Transportation.

I strongly support this bipartisan reauthorization bill and urge its prompt approval by the House.

Mr. DINGELL. Mr. Speaker, I commend the chairman of the Subcommittee on Transportation and Hazardous Materials, Mr. SWIFT, for his leadership regarding this legislation. I also want to thank the ranking Republican member, Mr. MOORHEAD, and the ranking Republican member of the subcommittee, Mr. OXLEY, for their help in this matter.

This legislation authorizes appropriations for the National Transportation Safety Board. The NTSB was created by the Department of Transportation Act of 1966 and was established as an independent Federal agency by the Independent Safety Board Act of 1974. The NTSB is a small but important agency. It is responsible for investigating and determining the probable cause of accidents in five transportation areas: rail, aviation, highways, pipeline, and marine. Following its investigations, the Board makes recommendations to Federal, State, and local agencies to prevent the recurrence of accidents. The Board also conducts special studies and investigations on transportation safety and reviews and evaluates the performance of other transportation agencies in achieving safety.

Our committee is well acquainted with the NTSB. Officials from the Board have testified on a variety of transportation legislation considered by our committee. For example, the NTSB recently testified on rail safety issues and specifically track safety. I believe that our committee, the Congress, and the American public benefit from the Board's technical expertise in addressing railroad transportation safety issues. However, there is one troubling issue which I would like to mention at this time. A recent General Accounting Office report which I requested has brought to light the possibility of some abusive training practices and contracting violations. On September 19, 1994, I wrote James Hall, the NTSB Acting Board Chairman, to investigate whether these charges are true and to respond within 45 days. I consider this a serious matter and I will include my letter for the RECORD.

By passing this legislation today, we can ensure that the Board has adequate funding and authority to continue its work. I urge my colleagues to support H.R. 2440.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, Sept. 19, 1994.

Hon. JAMES HALL,
Acting Chairman, National Transportation Safety Board, Washington, DC.

DEAR CHAIRMAN HALL: Enclosed is a July 26, 1994 General Accounting Office (GAO) letter provided to the Subcommittee on Oversight and Investigations pursuant to Rules X and XI of the Rules of the House of Representatives. The letter concerns a series of training courses provided to employees of the National Transportation Safety Board (NTSB) by a firm called "Miller and Friends" during fiscal years 1990 through 1993. The GAO found:

The Director of one of NTSB's major offices, Mr. Timothy Forte, decided in fiscal year 1990 to initiate a series of leadership and management courses using the services of Miller and Friends.

That firm was selected without competition on the suggestion of Mr. Forte because he "was personally familiar with Mr. Miller's abilities" and had attended other courses taught by Mr. Miller. The GAO states that Mr. Forte's prior experience with the firm did not constitute a valid basis for a sole source selection.

The cost of the courses always exceeded $2,500.

Federal procurement regulations require, in the case of procurements over $2,500, but less than $25,000, a reasonable number of bids or quotations from qualified vendors, unless there is appropriate, documented justification for a sole source selection. The GAO found none in this case.

With regard to a 3-day team building course conducted in February 1993, the NTSB issued an $8,000 purchase order to the firm for the course, a $3,000 order to Miller's wife, Ms. Athena Kaye for implementing a pre-course self-assessment, and a $2,489 purchase order to Mr. Richard Brungraber who is a "management training associate" of the firm. The NTSB ultimately realized that such separate billing was not proper, but apparently has not done anything about recovering the improper payment.

In reviewing the qualifications for this firm, the GAO found that the experience and education referenced in the firm's brochure for Mr. Miller could not be verified and that the NTSB failed to pursue questions about the firm's qualifications. In fact, the University of California Medical Center at Davis had no record of Mr. Miller as a clinical instructor and the GAO never located the education facility where Mr. Miller allegedly was completing his doctorate.

In addition, the GAO report indicates that despite Mr. Forte's assertions to the contrary, the course appeared to be mandatory for employees of his office, and Mr. Forte told GAO that it was his "goal to have everyone at NTSB attend Miller's training classes" (emphasis added). The allegations of "abusive" tactics, says GAO, also appeared to be valid.

The Subcommittee is unclear as to the nature and purpose of expensive training courses of this kind. Please provide a detailed description of each course, including a copy of all questionnaires, syllabi, training materials, and other documents used in each course, and their cost. Why were the courses established? What need were they intended to serve?

I am concerned about allegations of abusive tactics. I consider them serious and request that the Board determine if they are true, in light of the GAO comments, and provide a report to the Subcommittee. If true, I request that you explain what actions the Board will take to apologize to the offended employees or take other appropriate action.

The GAO report states that the NTSB had a $760,000 training budget for fiscal year 1993. What is that budget for fiscal years 1994, 1995, and 1996? What training is provided annually? To what extent is the training mandatory as opposed to voluntary? Why were Miller and Friends' courses mandatory or made to seem to employees to be mandatory? Is all such training provided by contractual arrangements? Are all contracts subject to federal procurement regulations? What was the role of the contracting officer in the Miller and Friends contract? Did that person approve a sole source award? If not, who did? What was the justification for such award, taking into account the GAO's findings? Did the person approving the award have the authority to make the award? Finally, what actions has the Board taken to investigate whether Mr. Forte has or had any business, professional, or personal association with Mr. Miller or Ms. Kaye that would account for his efforts to have NTSB pay for their services?

Please review the information provided to the NTSB by Miller and Friends about the firm's qualifications. Was that information accurate and truthful? If not, did the firm violate 18 U.S.C. 1001 or any other applicable provision of law?

Also enclosed is a questionnaire which is entitled "Men's Awareness Workshop Questionnaire" by Arola Enterprises, as well as related correspondence which also refers to Mr. Richard Brungraber. The questionnaire provided to us by the GAO is obviously also used for women. One document calls the course an "education seminar." Please provide the details of this course. What is the role of Arola Enterprises in the training for NTSB employees? What is the NTSB's need for such a questionnaire, which appears to ask rather personal information of federal employees? Is it a violation of the Privacy Act? Who has the responses to these questionnaires?

I request your response to the above matters within 45 days after receipt of this letter.

With every good wish.

Sincerely,

JOHN D. DINGELL,
Chairman.

Mr. CLINGER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MILLER of California). The question is on the motion offered by the gentleman from Minnesota [Mr. OBERSTAR] that the House suspend the rules and agree to the resolution, House Resolution 558.

The question was taken.

Mr. CLINGER. Mr. Speaker, I object to the vote on the grounds that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I and the Chair's prior announcement, further proceedings on this resolution will be postponed.

The point of no quorum is considered withdrawn.

COMPREHENSIVE ONE-CALL NOTIFICATION ACT OF 1994

Mr. SHARP. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4394) to provide for the establishment of mandatory State-operated comprehensive one-call systems to protect natural gas and hazardous liquid pipelines and all other underground facilities from being damaged by any excavations, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4394

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive One-Call Notification Act of 1994".

SEC. 2. DEFINITIONS.

For purposes of this Act, the following definitions apply:

(1) DAMAGE.—The term "damage" means any impact or contact with an underground facility, its appurtenances, or its protective coating, or weakening of the support for the facility or protective housing, which requires repair.

(2) EXCAVATION.—The term "excavation" means any operation in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means of any mechanized tools or equipment, or any explosive, but shall not include—

(A) any generally accepted normal agricultural practices and activities taken in support thereof, as determined by each State, including tilling of the soil for agricultural purposes to a depth of 18 inches or less;

(B) generally accepted normal lawn and garden activities, as determined by each State;

(C) the excavation of a gravesite in a cemetery; and

(D) routine railroad maintenance as long as such maintenance would disturb the ground to a depth of no more than 18 inches as measured from the surface of the ground and the railroad has rules requiring underground facilities other than its own to be buried 3 feet or lower on its property or along its right-of-way.

When a facility operator believes that its underground facility is not buried 3 feet or lower on railroad property or right-of-way, the facility operator may request permission to enter the railroad property or right-of-way for the purpose of assessing the depth of such underground facility and report its finding to the railroad.

(3) EXCAVATOR.—The term "excavator" means a person who conducts excavation.

(4) FACILITY OPERATOR.—The term "facility operator" means any person who operates an underground facility.

(5) HAZARDOUS LIQUID.—The term "hazardous liquid" has the meaning given such term in section 60101(a)(4) of title 49, United States Code.

(6) NATURAL GAS.—The term "natural gas" has the meaning given the term "gas" in section 60101(a)(2) of title 49, United States Code.

(7) PERSON.—The term "person" includes any agency of Federal, State, or local government.

(8) ROUTINE RAILROAD MAINTENANCE.—The term "routine railroad maintenance" includes such activities as ballast cleaning, general ballast work, track lining and surfacing, signal maintenance, and the replacement of crossties.

(9) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(10) STATE.—The term "State" has the meaning given such term in section 60101(a)(20) of title 49, United States Code.

(11) STATE PROGRAM.—The term "State program" means the program of a State to establish or maintain a one-call notification system.

(12) UNDERGROUND FACILITY.—The term "underground facility" means any underground line, system, or structure used for gathering, storing, transmitting, or distributing oil, petroleum products, other hazardous liquids, natural gas, communication, electricity, water, steam, sewerage, or any other commodities the Secretary determines should be included under the requirements of this Act, but such term does not include a portion of a line, system, or structure if the person who owns or leases, or holds an oil or gas mineral leasehold interest in, the real property in which such portion is located also operates, or has authorized the operation of, the line, system, or structure only for the purpose of furnishing services or materials to such person, except to the extent that such portion contains predominantly natural gas or hazardous liquids and—

(A) is located within an easement for a public road (as defined under section 101(a) of title 23, United States Code), or a toll highway, bridge, or tunnel (as described in section 129(a)(2) of such title); or

(B) is located on a mineral lease and is within the boundaries of a city, town, or village.

SEC. 3. NATIONWIDE TOLL-FREE NUMBER SYSTEM.

Within 1 year after the date of enactment of this Act, the Secretary shall, in consultation with the Federal Communications Commission, facility operators, excavators, and one-call notification system operators, provide for the establishment of a nationwide toll-free telephone number system to be used by State one-call notification systems.

SEC. 4. STATE PROGRAMS.

(a) CONSIDERATION.—Each State shall consider whether to adopt a comprehensive statewide one-call notification program with each element described in section 5, to protect all underground facilities from damage due to any excavation. Such State program may be provided for through the establishment of a new program, or through modification or improvement of an existing program, and may be implemented by a nongovernmental organization.

(b) PROCEDURES.—State consideration under subsection (a) shall be undertaken after public notice and hearing, and shall be completed within 3 years after the date of enactment of this Act. Such consideration may be undertaken as part of any proceeding of a State with respect to the safety of pipelines or other underground facilities.

(c) COMPLIANCE.—If a State fails to comply with the requirements of subsection (a), the Secretary or any person aggrieved by such failure may in a civil action obtain appropriate relief against any appropriate officer or entity of the State, including the State itself, to compel such compliance.

(d) APPROPRIATENESS.—Nothing in this Act prohibits a State from making a determination that it is not appropriate to adopt a State program described in section 5, pursuant to its authority under otherwise applicable State law.

SEC. 5. ELEMENTS OF STATE PROGRAM.

(a) IN GENERAL.—Each State's consideration under section 4(a) shall include consideration of program elements that—

(1) provide for a one-call notification system or systems which shall—

(A) apply to all excavators and to all facility operators;

(B) operate in all areas of the State and not duplicate the geographical coverage of other one-call notification systems;

(C) receive and record appropriate information from excavators about intended excavations;

(D) inform facility operators of any intended excavations that may be in the vicinity of their underground facilities; and

(E) inform excavators of the identity of facility operators who will be notified of the intended excavation;

(2) provide for 24-hour coverage for emergency excavation, with the manner and scope of coverage determined by the State;

(3) employ mechanisms to ensure that the general public, and in particular all excavators, are aware of the one-call telephone number and the requirements, penalties, and benefits of the State program relating to excavations;

(4) inform excavators of any procedures that the State has determined must be followed when excavating;

(5) require that any excavator must contact the one-call notification system in accordance with State specifications, which may vary depending on whether the excavation is short term, long term, routine, continuous, or emergency;

(6) require facility operators to provide for locating and marking or otherwise identifying their facilities at an excavation site, in accordance with State specifications, which may vary depending on whether the excavation is short term, long term, routine, continuous, or emergency;

(7) provide effective mechanisms for penalties and enforcement as described in section 6;

(8) provide for a fair and appropriate schedule of fees to cover the costs of providing for, maintaining, and operating the State program;

(9) provide an opportunity for citizen suits to enforce the State program; and

(10) require railroads to report any accidents that occur during or as a result of routine railroad maintenance to the Secretary and the appropriate local officials.

(b) EXCEPTION.—Where excavation is undertaken by or for a person, on real property owned or leased, or in which an oil or gas mineral leasehold interest is held, by that person, and the same person operates all underground facilities located at the site of the excavation, a State program may elect not to require that such person contact the one-call notification system before excavating.

SEC. 6. PENALTIES AND ENFORCEMENT.

(a) GENERAL PENALTIES.—Each State's consideration under section 4(a) shall include consideration of a requirement that any excavator or facility operator who violates the requirements of the State program shall be liable for an appropriate administrative or civil penalty.

(b) INCREASED PENALTIES.—If a violation results in damage to an underground facility resulting in death, serious bodily harm, or actual damage to property exceeding $50,000, or damage to a hazardous liquid underground facility resulting in the release of more than 50 barrels of product, the penalties shall be increased, and an additional penalty of imprisonment may be assessed for a knowing and willful violation.

(c) DECREASED PENALTIES.—Each State's consideration under section 4(a) shall include consideration of reduced penalties for a violation, that results in or could result in damage, that is promptly reported by the violator.

(d) EQUITABLE RELIEF AND MANDAMUS ACTIONS.—Each State's consideration under section 4(a) shall include consideration of provisions for appropriate equitable relief and mandamus actions.

(e) IMMEDIATE CITATION OF VIOLATIONS.—Each State's consideration under section 4(a) shall include consideration of procedures for issuing a citation of violation at the site and time of the violation.

SEC. 7. GRANTS TO STATES.

(a) AUTHORITY.—Using $4,000,000 of the amounts previously collected under section 7005 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (previously codified as 49 U.S.C. App. 1682a) or section 60301 of title 49, United States Code, for each of the fiscal years 1996, 1997, and 1998, to the extent provided in advance in appropriations Acts, the Secretary shall make grants to States, or to operators of one-call notification systems in such States, which have elected to adopt a State program described in section 5, or to establish and maintain a State program pursuant to subsection (b) of this section. Such grants may be used in establishing one-call notification systems, modifying existing systems to conform to standards established under this Act, and improving systems to exceed such standards. Such grants may be used to—

(1) improve communications systems linking one-call notification systems;

(2) improve location capabilities, including training personnel and developing and using location technology;

(3) improve record retention and recording capabilities;

(4) enhance public information and education campaigns;

(5) increase and improve enforcement mechanisms, including administrative processing of violations; and

(6) otherwise further the purposes of this Act.

(b) ALTERNATE FORM OF STATE PROGRAM.—The Secretary may make a grant under subsection (a) to a State that establishes or maintains a State program that differs from a State program described in section 5 if such State program is at least as protective of the public health and safety and the environment as a State program described in section 5.

SEC. 8. DEPARTMENT OF TRANSPORTATION.

(a) COORDINATION WITH OTHER RESPONSIBILITIES.—

(1) COORDINATION.—The Secretary shall coordinate the implementation of this Act with the implementation of chapter 601 of title 49, United States Code.

(2) REVIEW OF PROGRAMS.—Within 18 months after the date of enactment of this Act, the Secretary shall review, and report to Congress on, the extent to which any policies, programs, and procedures of the Department of Transportation could be used to achieve the purposes of this Act.

(b) MODEL PROGRAM.—

(1) DEVELOPMENT.—Within 1 year after the date of enactment of this Act, the Secretary, in consultation with facility operators, excavators, one-call notification system operators, and State and local governments, shall develop and make available to States a model State program, including a model enforcement program. Such model program may be amended by the Secretary on the Secretary's initiative or in response to reports submitted by the States pursuant to section 9, or as a result of workshops conducted under paragraph (3) of this subsection.

(2) SUGGESTED ELEMENTS.—The model program developed under paragraph (1) shall include all elements of a State program described in section 5. The Secretary shall consider incorporating the following elements into the model program:

(A) The one-call notification system or systems shall—

(i) receive and record appropriate information from excavators about intended excavations, including—

(I) the name of the person contacting the one-call notification system;

(II) the name, address, and telephone number of the excavator;

(III) the specific location of the intended excavation, along with the starting date thereof and a description of the intended excavation activity; and

(IV) the name, address, and telephone number of the person for whom the work is being performed; and

(ii) maintain records on each notice of intent to excavate for the period of time necessary to ensure that such records remain available for use in the adjudication of any claims relating to the excavation.

(B) The provision of information on excavation requirements at the time of issuance of excavation or building permits, or other specific mechanisms for ensuring excavator awareness.

(C) A requirement that any excavator must contact the one-call notification system at least 2 business days, and not more than 10 business days, before excavation begins.

(D) Alternative notification procedures for excavation activities conducted as a normal part of ongoing operations within specific geographic locations over an extended period of time.

(E) A requirement that facility operators—

(i) provide for locating and marking, in accordance with the American Public Works Association Uniform Color Code for Utilities, or otherwise identifying, in accordance with standards established by the State or the American National Standards Institute, their underground facilities at the site of an intended excavation within no more than 2 business days after notification of such intended excavation; and

(ii) monitor such excavation as appropriate.

(F) Provision for notification of excavators if no underground facilities are located at the excavation site.

(G) Provision for the approval of a State program under this Act with time limitations longer than those required under subparagraphs (C) and (E) of this paragraph where special circumstances, such as severe weather conditions or remoteness of location, pertain.

(H) Procedures for excavators and facility operators to follow when the location of underground facilities is unknown.

(I) Procedures to improve underground facility location capabilities, including compiling and notifying excavators, facility operators, and one-call centers of any information about previously unknown underground facility locations when such information is discovered.

(J) Alternative rules for timely compliance with State program requirements in emergency circumstances.

(K) If a State has procedures for licensing or permitting entities to do business, procedures for the revocation of the license or permit to do business of any excavator determined to be a habitual violator of the requirements of the State program.

(3) WORKSHOPS.—Within 6 months after the date of enactment of this Act, and annually thereafter, the Secretary shall conduct workshops with facility operators, excavators, one-call notification system operators, and State and local governments in order to develop, amend, and promote the model program, and to provide an opportunity to share information among such parties and to recognize State programs that exemplify the goals of this Act.

(c) PUBLIC EDUCATION.—The Secretary shall develop, in conjunction with facility operators, excavators, one-call notification system operators, and State and local governments, public service announcements and other educational materials and programs to be broadcast or published to educate the public about one-call notification systems, including the national phone number.

SEC. 9. STATE REPORTS.

(a) REQUIREMENT.—

(1) INITIAL REPORT.—Within 3 years after the date of enactment of this Act, each State shall submit to the Secretary a report on progress made in implementing this Act.

(2) STATUS REPORTS.—Within 4½ years after the date of enactment of this Act, and annually thereafter, each State shall report to the Secretary on the status of its State program, if any, and its requirements, and any other information the Secretary requires.

(b) SIMPLIFIED REPORTING FORM.—Within 3 years after the date of enactment of this Act, the Secretary shall develop and distribute to the States a simplified form for complying with the reporting requirements of subsection (a)(2).

SEC. 10. FEDERAL REPORT.

The Secretary shall report annually to Congress on the number and circumstances surrounding accidents caused by routine railroad maintenance.

SEC. 11. MORE PROTECTIVE SYSTEMS.

Nothing in this Act prohibits a State from implementing a one-call notification system that provides greater protection for underground facilities from damage due to excavation than a system established pursuant to this Act.

SEC. 12. USE OF TECHNOLOGIES FOR REMOTE AND ABOVE-GROUND PIPELINE LOCATION.

The Secretary shall consult with other agencies as to the availability and affordability of technologies which will help relocate pipelines from above-ground and remote locations.

SEC. 13. VISION WAIVER STUDY PROGRAM.

Pursuant to section 31136(e) of title 49, United States Code, and in order to further substantiate research carried out by the Secretary in fiscal year 1992 under the vision waiver study program, the Secretary shall carry out a follow-up study to such program to include drivers who otherwise would have qualified to participate in the initial vision waiver study but for the time limits on applications and the failure to learn of the program in a timely manner.

SEC. 14. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Administrator of the Research and Special Programs Administration of the Department of Transportation, to the greatest extent practicable, shall provide to each recipient of the assistance a notice describing the statement made in subsection (a).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. SHARP] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4394, the Comprehensive One-Call Notification Act of 1994. This bill addresses the need for nationwide minimum standards for one-call notification systems. The purpose of these systems is to enable excavators to make one phone call to determine the location of any underground facilities. The one-call center then notifies any underground facility operators, who are responsible for locating and marking their facilities, thereby greatly reducing the risk of damaging an underground facility.

The natural gas pipeline explosion that occurred in Edison, NY, last March, was caused by excavation damage, often referred to as third-party damage, and it demonstrates the need for Federal attention to this matter.

Forty-nine States currently have some sort of one-call system in place although the scope of coverage and level of participation varies from State to State. It is the goal of H.R. 4394 to improve and enhance each State's program to provide the greatest amount of protection to underground facilities including natural gas and hazardous liquid pipelines, fiber optic cables, electric cables, etc. Digging near such underground facilities can result in injury or death to the excavator and destruction of property surrounding the excavation site. By reducing the risk of excavation damage that occurs as a result of not knowing where underground facilities are buried, this legislation will not only help protect those facilities, but will also help save the lives of excavators and those living in the vicinity of the excavation site.

H.R. 4394 takes as a step closer to ensuring the safety and reliability of underground facilities, excavators, and the public in general. All that is required of States is that they formally consider the Federal program that is outlined in the bill and make a determination as to whether or not it is an appropriate system for their State. This legislation does nothing to undermine the efforts of the 49 States with existing one-call programs. Instead, it encourages improvement and gives the States the needed flexibility to develop programs that are consistent with the individual needs of each State. The Secretary is authorized to award grants to States that either adopt the Federal program or certify that their program is at least as protective of public health and safety as the Federal program. The bill also directs the Secretary to develop a model program that will be used for education and promotion of the one-call system. This model will be developed and amended at yearly DOT workshops and will include participation by underground facility operators, excavators, Federal, State, and local governments, one-call system representatives, and industry.

Mr. Speaker, I would like to thank my colleagues Mr. PALLONE and Senator BRADLEY from New Jersey for leading on this legislation and working to make it a reality. This bill has enjoyed widespread support from its onset. We have worked closely over the past 6 months with representatives from industry, Federal, State, and local government, utilities, and one-call systems as well as the majority and minority members of the House Energy and Commerce Committee, the House Public Works Committee, and the Senate Commerce Committee to ensure the development of a consensus on this important piece of legislation. Consensus would not have been possible had it not been for the dedication and hard work of everyone involved.

In conclusion, Mr. Speaker, I just want to emphasize that this is a good piece of legislation that has been long awaited. I am happy to see that we have developed a consensus and can proceed forward on passage of H.R. 4394.

Mr. Speaker, I am very pleased to say that we have very broad based support for this legislation. It comes out of the Committee on Energy and Commerce and out of the Committee on Public Works and Transportation where the gentleman from California [Mr. MINETA], the gentleman from West Virginia [Mr. RAHALL] the gentleman from Pennsylvania [Mr. SHUSTER], and the gentleman from Wisconsin [Mr. PETRI], have worked very hard on this, and from our committee, the gentleman from Michigan [Mr. DINGELL], myself, the gentleman from California [Mr. MOORHEAD], and the gentleman from Florida [Mr. BILIRAKIS], have been engaged, and, in particular, one of our colleagues from New Jersey, whose district the accident occurred in [Mr. PALLONE], has been very effective in trying to move the House and Senate forward on this legislation.

We bring it to Members of the House after having worked out many of the details and many of the controversies, with essentially a broad-based consensus approach here and no real controversy at this point.

Mr. RAHALL. Mr. Chairman, will the gentleman yield?

Mr. SHARP. I am happy to yield to the gentleman from West Virginia [Mr. RAHALL], the distinguished chairman of the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation, and a key member in bringing this legislation forward.

Mr. RAHALL. Mr. Speaker, I do express our deep appreciation to the gentleman from Indiana [Mr. SHARP], for his leadership on pipeline issues. It is leadership we will miss in the next session of Congress with the imminent retirement of Mr. SHARP, our friend and colleague, but we do appreciate his work on this and a number of other issues before the Congress.

The pending measure, as the gentleman adequately explained, is a product of both of our committee's deliberations. I would simply urge it be adopted.

Mr. SHARP. Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4394, the Comprehensive One-Call Notification Act of 1994. The recent natural gas pipeline accidents have emphasized a need for the comprehensive approach his bill takes towards reducing the risk of third party damage to buried facilities.

Since most damage to pipelines and other types of underground facilities are caused by third-parties, this bill minimizes this risk by requiring States to consider creating one-call notification systems.

One-call notification systems are mechanisms by which excavators communicate with buried facility owners and operators. Establishing these systems makes good sense because they reduce the hazard posed by underground facilities to workers and the general public when excavation is done and because they save the cost of repairing underground facilities damaged by excavation.

The most important feature of this bill is the fact that it gives States the flexibility to tailor one-call systems to meet their own specific situations. Each State has different needs. By setting minimum standards, this bill does not take a one-size-fits-all approach, but preserves the ability of the States to design their own programs. In fact, it specifically allows a State to do more if a State believes it needs more protection.

When this bill was first introduced I had questions about some of its provisions. I was especially concerned about unnecessary Federal intervention in already existing State programs, the impact it would have on oil and gas producers who owned their own pipelines, and the harsh civil and criminal penalties for violations of the act. I appreciate the efforts of everyone involved, to work out these issues and reach the bipartisan bill which is before us today.

The one-call initiative contained in this bill will help reduce the risk to human health and the environment and will save all underground facility owners millions of dollars in costly repairs from third-party damage. Thus, I support this legislation and encourage my fellow Members to support it.

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Mr. SHARP. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. MINETA], the distinguished chairman of the Committee on Public Works and Transportation, who really worked at a critical stage in consideration to help us get this through despite an extremely heavy workload.

Mr. MINETA. Mr. Speaker, first of all, I want to thank both Congressman RAHALL and Congressman PETRI for the expeditious manner in which they have moved H.R. 4394. I also want to commend them for all their efforts this session on a wide range of surface transportation issues. In addition, I'd like to personally thank my colleagues from New Jersey, Congressmen PALLONE and FRANKS, for their support of this bill. H.R. 4394, as many of you know, was introduced by Congressman PALLONE in the wake of the devastating pipeline accident that occurred in his New Jersey district on March 24, 1994.

As I stated in a recent hearing held by our subcommittee on this issue, this committee has long supported the worthiness of the concept for one-call notification programs. In fact, we mandated in the 1988 Pipeline Safety Reauthorization Act that the Secretary establish minimum Federal requirements for State one-call programs. The requirements are applicable to excavations in the vicinity of pipelines. That legislation, however, was limited to pipelines only, and did not apply to other underground facilities.

It has long been known that third party damage is the primary cause of pipeline failures. The legislation before us today appears to make a significant inroad into rectifying this situation, which should certainly enhance the safety of all underground facilities and their operation.

I urge support for the bill and also want to recognize the efforts of the leadership of the Committee on Energy and Commerce who worked with us cooperatively to fashion a good bill. I thank them and the gentleman from Indiana for yielding. I also wish Chairman SHARP many happy days as a retiree.

Mr. MOORHEAD. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Speaker, third party damage is the leading cause of accidents to pipelines and underground facilities. This bill will encourage States to set up or improve one-call systems so that before any digging is begun, underground facilities can be located and marked and accidental hits prevented.

It is important to note that H.R. 4394 requires States only to consider whether to adopt a comprehensive one-call system containing certain elements outlined in the bill. There is no mandate that each State establish a specific program as prescribed by the Federal Government and there are no penalties if it determines not to do so.

In addition, exemptions are provided for certain agriculture, railroad maintenance and lawn and gardening activities which do not pose a serious risk.

Finally, H.R. 4394 also contains a provision to allow the Department of Transportation to conduct a follow-up study to the Vision Waiver Study under the Commercial Drivers License Program.

Mr. Speaker, most States already have some type of system in place and they have been proven to be effective in preventing costly accidents and saving lives and property. This relatively simple bill can accomplish a lot in encouraging States to adopt more comprehensive one-call systems.

In closing, I want to commend my colleagues on the Public Works and Transportation Committee and the Energy and Commerce Committee for working together in a cooperative spirit to move this bill forward.

I urge the House to pass H.R. 4394 today.

Mr. Speaker, I would like to particularly note the efforts of the gentleman from Indiana [Mr. SHARP] on this and numerous other legislation during his years in this Congress. He, as much as any, is the father of natural gas deregulation, which has been a tremendous success in our country and has paved the way for similar efforts in a number of other areas that have benefited our economy and the people of this country. We hear a lot about failures around here. I think sometimes we do not adequately recognize success. He can leave with his head high. He has done a tremendous job as a Member of this body.

Mr. FRANKS of New Jersey. Mr. Speaker, today I rise in strong support of H.R. 4394, the Comprehensive One-Call Notification Act of 1994. As the lead Republican sponsor of this legislation, I commend my colleague from New Jersey, Mr. PALLONE, for his diligent efforts to bring this bill to the floor today.

As my colleagues are aware, on March 24, 1994, a 36–inch interstate natural gas transmission pipeline, operated by the Texas Eastern Gas Pipeline Co., exploded in Edison, NJ. Miraculously, only one person died, and 29 people were injured due to the explosion. One hundred twenty-eight units of the nearby Durham Woods condominium complex, eight apartment buildings, were destroyed. The residents of Durham Woods literally had to run for their lives in the middle of the night in order to escape the approaching inferno. When those who could return did so the next day, they found their possessions either charred or incinerated. The blast, whose flames reached heights above 500 feet, was so intense that many residents thought they were witnessing a nuclear explosion.

Clearly, the residents of Durham Woods were extremely fortunate to have escaped with their lives. However, the more than 500 people who have died due to natural gas pipeline accidents since 1970 have not been as lucky. I believe that greater precautions must be taken to prevent another Durham Woods-type disaster. One important step Congress can take right now is to pass this legislation. I believe that H.R. 4394, as amended by the House Public Works and Transportation Committee, presents a reasonable framework to ensure that before digging is commenced, the excavator knows what lies below the ground. Since half of all accidents are attributable to third-party damage, a national one-call law could avert many preventable disasters.

Mr. Speaker, it is clear that legislative changes must be made in order to better protect the millions of Americans who live and work near natural gas pipelines. In my home State, mandatory one-call legislation is expected to be signed into law by Governor Christine Todd Whitman sometime this week. One-call notification legislation, however, needs to be made national to ensure uniform protection for all Americans. Therefore, I urge all my colleagues to vote "yea" on H.R. 4394.

Mr. FIELDS of Texas. Mr. Speaker, during the course of consideration of this legislation, I believe that it is vitally important that you and your colleagues have a clear understanding of what "routine railroad maintenance" as defined in H.R. 4394, means.

According to the proposed language, "routine railroad maintenance" includes such activities as ballast cleaning, general ballast work, track lining and surfacing, signal maintenance, and the replacement crossties.

This definition specifically excludes ditch cleaning. Evidence shows that a significant number of incidents have occurred where ditch cleaning by railroads have resulted in damage to underground telecommunications facilities. In particular, the major long-distance carriers alone report over 20 activities. There are another 20 or so incidents of near misses where the railroads came within inches of damaging the fiber optic networks.

Mr. Speaker, in light of our increasing reliance on the much-touted information superhighway, the railroad exemption must be narrowly construed in order to provide security to our buried telecommunications facilities. Thank you.

Mr. SHARP. Mr. Speaker, I yield back the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

The SPEAKER (Mr. MILLER of California). The question is on the motion offered by the gentleman from Indiana [Mr. SHARP] that the House suspend the rules and pass the bill, H.R. 4394, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to require States to consider adopting mandatory, comprehensive, Statewide one-call notification systems to protect natural gas and hazardous liquid pipelines and all other underground facilities from being damaged by any excavations, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SHARP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

EXTENDING STATUS QUO IN SOO LINE RAIL DISPUTE

Mr. SWIFT. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 417) providing for temporary extension of the application of the final paragraph of section 10 of the Railway Labor Act with respect to the dispute between the Soo Line Railroad Co. and certain of its employees.

The Clerk read as follows:

H.J. RES. 417

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF TEMPORARY PROHIBITION.

The final paragraph of section 10 of the Railway Labor Act (45 U.S.C. 160) shall apply and be extended through February 28, 1995, with respect to the dispute referred to in Executive Order No. 12925 of August 29, 1994. During this extension period no change, except by agreement, shall be made by the rail carrier, the Soo Line Railroad Company, or by the employees of such carrier represented by the United Transportation Union, in the conditions out of which the dispute arose as such conditions existed before July 14, 1994.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Washington [Mr. SWIFT] will be recognized for 20 minutes, and the gentleman from Ohio [Mr. OXLEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. SWIFT. Mr. Speaker, I yield myself such time as I may consume.

Mr. SWIFT. Mr. Speaker, I will be brief. This resolution simply extends the cooling off period required by the Railway Labor Act for labor/management disputes in the railroad industry until February 28, 1995, when the 104th Congress has been convened and organized.

On July 14 of this year the Soo Line Railroad—the ninth largest railroad in the country—imposed new labor contract conditions—as is its right. Consequently, the United Transportation Union commenced a strike—as is its right. On the recommendation of the National Mediation Board that the dispute "threatens substantially to interrupt interstate commerce to a degree that would deprive a section of the country of essential transportation service", the President created Presidential Emergency Board 225 on August 29. By agreement of the parties, the Board will submit its report and recommendations on October 14, that is, on Friday of next week. Under the Railway Labor Act, a final 30-day cooling off period follows the submission of the Board's report, and if no agreement is reached in that time, the strike is likely to resume.

It is certainly the strong desire of every Member that the parties reach a voluntary agreement. And this resolution encourages voluntary agreement by giving them sufficient additional time to consider the report of the Board to be released next week, and to negotiate a final resolution of all outstanding issues.

Due to the potential ramifications to interstate commerce and to the economy as a whole that could occur if an agreement is not reached, it is essential that this cooling off period be extended until the convening of the 104th Congress. Such action is consistent with prior actions, as in the case of the 1988 Chicago Northwestern strike, when Congress extended the cooling off period past the period of the August recess.

This resolution passed on voice vote last week in the Energy and Commerce Committee, and has the bipartisan support of the leadership of the committee on both sides of the aisle. I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of House Joint Resolution 417. I want to note, however, that only the high economic stakes of the potential transportation emergency involved here that persuade me that this is the proper way to proceed in the present circumstances.

Those high stakes include—if a strike spreads through secondary picketing across the national rail system—damage of up to $1 billion a day. What makes the potential risk this high is the legal ability of rail labor unions under current law to involve any and every rail carrier in a dispute between one union and one railroad.

This anomalous situation results from congressional failure to bring the Railway Labor Act into harmony with all other Federal labor laws. They forbid secondary picketing and provide injunctive and other legal remedies against those who illegally use secondary picketing.

But under the Railway Labor Act, anything goes. And that is how we get into situations like this one, where the strike was not even considered worthy of Presidential intervention until secondary picketing was threatened. To show you how far afield things can go, some Members may recall that there was even a threat at one time to picket Amtrak during the 1989 Eastern Air Lines strike.

Whatever the deficiencies of the Railway Labor Act, I am particularly conscious of the economic stakes here, because many of my constituents work at a Honda manufacturing facility. Like most modern factories, it operates on the just-in-time system of inventory, where deliveries are made as needed, and the transportation system in effect is a rolling warehouse. We saw the vulnerability of this system during the massive 1993 Midwest floods, which washed out many major rail lines. Only through almost superhuman efforts by the railroad carriers and their employees—particularly Southern Pacific—was our Honda plant able to avoid shutting down completely.

That Honda plant is only one small part of our national industrial structure that depends for its very existence on timely rail transportation. So a national—or even a large regional—strike represents a national economic emergency in the making.

We would not be facing an emergency of such dimensions except for the threatened use of secondary picketing in the current dispute. Since the Railway Labor Act allows such activity, we have to deal with the situation that actually confronts us, not as we would like to have it. Therefore, I support this resolution. I hope, however, that this is the last time Congress will have to intervene in a situation created solely by secondary picketing.

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Mr. Speaker, I reserve the balance of my time.

Mr. SWIFT. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. DINGELL], chairman of the full committee.

Mr. DINGELL. Mr. Speaker, first I would like to pay tribute to the distinguished gentleman from Washington [Mr. SWIFT]. This may be the last time he manages legislation on the floor of the House. He has served as subcommittee chairman on the Committee on Energy and Commerce for a number of years with great distinction and ability, has processed enormously difficult and complex legislation with remarkable goodwill and good humor, and has presented it to the House to be considered in an extraordinary spirit of bipartisanship. That distinguished record is continued today, and for that reason, we will miss the distinguished gentleman from Washington State to an even greater degree as he leaves us at the end of this term. Our remarks to him and about him are well done.

We will miss him and we wish him well. His departure leaves us with a great sense of loss and a great difficulty in replacing the quality of leadership that he has given both in the House and in the committee.

Mr. Speaker, this legislation is bipartisan. It came out of the committee unanimously, without any objection. It does not disrupt the normal process specified under the Railway Labor Act in any significant fashion. The legislation is designed to encourage the parties to reach a voluntary agreement during the extended cooling-off period. The legislation also prevents the possibility of a national rail strike occurring during the time that the House and Senate are not in session, which could have very significant economic, social, and other consequences to the United States and to industries all across the United States.

Mr. Speaker, the legislation assures that the parties will have ample time to review the recommendations of PEB 225. This would assist them in reaching a settlement. This legislation is consistent with prior precedent, most recently in 1988, when Congress enacted the same type of legislation to avoid a shutdown of the Chicago Northwestern Railroad during a congressional recess.

Mr. Speaker, we have been informed that all major railroads support the enactment of this legislation. Both parties, and I reiterate, both parties to the dispute support this action. The administration supports the action we are taking today. An identical resolution has been introduced in the other body. I urge my colleagues to support this legislation.

Mr. Speaker, I want to commend the distinguished gentleman from Washington [Mr. SWIFT], chairman of the subcommittee, the gentleman from California [Mr. MOORHEAD], the distinguished ranking minority member, our good friend and colleague, the gentleman from Ohio [Mr. OXLEY], the ranking minority member of the subcommittee, and all the members of the committee and the subcommittee for bringing this legislation to the floor in the fashion in which we see it. I hope the other body will adopt this legislation promptly.

Mr. Speaker, the Soo Line Railroad and the United Transportation Union have been in contract negotiations since 1988. All efforts to reach agreement have failed to date, including attempts to mediate the dispute by the National Mediation Board. In June, the NMB's proffer of arbitration was rejected by the parties, triggering a 30-day cooling off period. At the end of this period, on July 14, 1994, the parties engaged in so-called "self-help"— the railroad unilaterally imposed new contract terms and the union struck. This situation persisted for 47 days, until the NMB informed the President that the dispute threatened "to interrupt interstate commerce to a degree that would deprive a section of the country of essential transportation service." The President, by Executive Order 12925, established Presidential Emergency Board No. 225 on August 29, 1994.

The Railway Labor Act requires the PEB to report to the President "within thirty days from the date of its creation." After such time, the law requires a final "cooling off" period of 30 days. Upon expiration of the final cooling off period, the parties again may resort to self-help. As in numerous other cases, PEB 225, with the consent of both parties, informed the President on September 21 that it will issue its report no later than October 14, 1994—with the 30-day cooling off period to follow.

The problem is that this means that a very serious situation could arise during a time when Congress has adjourned. Because of the potential adverse ramifications of this situation, the Energy and Commerce Committee last week adopted a motion authorizing the introduction and prompt consideration of the resolution before us. This motion was the result of bipartisan discussions and was adopted by unanimous voice vote. H.J. Res. 417 is simple and straightforward—it merely extends the final cooling off period to February 28, 1995—after the 104th Congress has convened and has been organized.

This legislation does not disrupt the normal process specified under the Railroad Labor Act in any significant way. The legislation is designed to encourage the parties to reach a voluntary agreement during the extended cooling off period. The legislation ensures that the parties will have ample time to review the recommendations of PEB 225. This should assist them in reaching a settlement. This legislation is consistent with prior precedent, most recently in 1988 when Congress enacted the same type of legislation to avoid a shutdown of the Chicago Northwestern Railroad during a congressional recess. We have been informed that all major railroads support enactment of the resolution. Both parties to the dispute support this action. The administration supports the action we are taking today. The same resolution has been introduced in the other body.

I urge my colleagues to support this legislation. I appreciate the efforts of Chairman SWIFT, Representative MOORHEAD, Representative OXLEY, and all members of our committee for bring this legislation to the floor. I hope the other body will adopt this legislation promptly and yield back the balance of my time.

Mr. OXLEY. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MOORHEAD], ranking Republican on the full committee.

Mr. MOORHEAD. Mr. Speaker, I rise in support of House Joint Resolution 417. Given the circumstances in which we find ourselves, I believe that legislation of this type is in the best interests of the country, of our transportation system, and of the millions of Americans who depend upon it. Unfortunately, this whole exercise would be unnecessary if Congress had addressed a key anomaly in the Railway Labor Act—the legal authority to picket and thus involve in a labor dispute companies that are in no way involved in that dispute.

This secondary picketing weapon is one that is at odds with all of our other Federal labor laws. In the current dispute, the National Mediation Board did not even recommend any Federal intervention to President Clinton until the United Transportation Union threatened to picket other railroads. Thus we have a virtually unique situation where Congress has been dragged into this solely because of secondary picketing.

Although Congress should have fixed this problem with the Railway Labor Act long ago, the fact is, it has not. We, therefore, must deal with the situation as we find it. On balance, I believe that the best interests of the country are served by extending the Railway Labor Act cooling-off period until Congress has returned next year.

Under current law, the only alternative is to risk having the Soo dispute become a potential national strike after the next cooling-off period expires during the congressional recess. It is not worth the risk to the rest of the railroad industry and their many customers to allow the possibility of a national stoppage.

Mr. Speaker, I want to congratulate our chairman, the gentleman from Washington, Mr. AL SWIFT, for his work on this legislation, and for his entire career here in the Congress, where he has done an outstanding job. We have enjoyed working with you, AL.

Mr. Speaker, I also want to congratulate the gentleman from Ohio, MIKE OXLEY, our ranking Republican member of the subcommittee, for his great work on this piece of legislation.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would take this opportunity to congratulate and thank the gentleman from Washington [Mr. SWIFT], the chairman of the subcommittee. Hopefully this will not be the last bill that he will be marshaling on the floor, but in case it is, I want to express to him my gratitude for his leadership, his friendship, and his abilities. He has been an outstanding legislator for this Congress, and many Congresses before that. We will miss his good will, his good humor, and his legislative ability.

Mr. Speaker, with that praise and paean to the gentleman from Washington, I yield back the balance of my time.

Mr. SWIFT. Mr. Speaker, with thanks for the kind remarks of all three gentlemen, who I hold in an enormous amount of affection, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MILLER of California). The question is on the motion offered by the gentleman from Washington [Mr. SWIFT] that the House suspend the rules and pass the joint resolution, House Joint Resolution 417.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

PETROLEUM MARKETING PRACTICES ACT AMENDMENTS OF 1994

Mr. SHARP. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1520), to amend the Petroleum Marketing Practices Act, as amended.

The Clerk read as follows:

H.R. 1520

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Petroleum Marketing Practices Act Amendments of 1994".

SEC. 2. CONVERSION TO COMPANY OPERATION.

Section 102(b)(3)(A)(ii) of the Petroleum Marketing Practices Act (15 U.S.C. 2802(b)(3)(A)(ii)) is amended by inserting after "purpose of" the following: "converting the leased marketing premises to operation by employees or agents of the franchisor for the benefit of the franchisor or otherwise".

SEC. 3. UNDERLYING LEASES.

Section 102(c)(4) of the Petroleum Marketing Practices Act (15 U.S.C. 2802(c)(4)) is amended—

(1) by striking "lease, if" and all that follows through "(B) of" and inserting the following: "lease, if—

"(A) the franchisee was notified in writing, prior to the commencement of the term of the then existing franchise—

"(i) of the duration of the underlying lease; and

"(ii) of"; and

(2) by adding at the end the following new subparagraphs:

"(B) during the 90-day period after notification was given pursuant to section 104, the franchisor offers to assign to the franchisee any option to extend the underlying lease or option to purchase the marketing premises that is held by the franchisor, except that the franchisor may condition the assignment upon receipt by the franchisor of—

"(i) an unconditional release executed by both the landowner and the franchisee releasing the franchisor from any and all liability accruing after the date of the assignment for—

"(I) financial obligations under the option (or the resulting extend lease or purchase agreement);

"(II) environmental contamination to (or originating from) the marketing premises; or

"(III) the operation of condition of the marketing premises; and

"(ii) an instrument executed by both the landowner and the franchisee that ensures the franchisor and the contractors of the franchisor reasonable access to the marketing premises for the purpose of testing for and remediating any environmental contamination that may be present at the premises; and

"(C) in a situation in which the franchisee acquires possession of the leased marketing premises effective immediately after the loss of the right of the franchisor to grant possession (through an assignment pursuant to subparagraph (B) or by obtaining a new lease or purchasing the marketing premises from the landowner), the franchisor (if requested in writing by the franchisee not later than 30 days after notification was given pursuant to section 104), during the 90-day period after notification was given pursuant to section 104—

"(i) made a bona fide offer to sell, transfer, or assign to the franchisee the interest of the franchisor in any improvements or equipment located on the premises; or

"(ii) if applicable, offered the franchisee a right of first refusal (for at least 45 days) of an offer, made by another person, to purchase the interest of the franchisor in the improvements and equipment.".

SEC. 4. WAIVER OF RIGHTS.

Section 105 of the Petroleum Marketing Practices Act (15 U.S.C. 2805) is amended by adding at the end the following new subsection:

"(f)(1) No franchisor shall require, as a condition of entering into or renewing the franchise relationship, a franchisee to release or waive—

"(A) any right that the franchisee has under this title or other Federal law; or

"(B) any right that the franchisee may have under any valid and applicable State law.

"(2) No provision of any franchise shall be valid or enforceable if the provision specifies that the interpretation or enforcement of the franchise shall be governed by the law of any State other than the State in which the franchisee has the principal place of business of the franchisee.".

SEC. 5. PREEMPTION.

Section 106 of the Petroleum Marketing Practices Act (15 U.S.C. 2806) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end the following new paragraph:

"(2) No State or political subdivision of a State may adopt, enforce, or continue in effect any provision of law (including a regulation) that requires a payment for the goodwill of a franchisee on the termination of a franchise or nonrenewal of a franchise relationship authorized by this title."; and

(2) in subsection (b)—

(A) by adding at the end the following new paragraph:

"(2) Nothing in this title shall prohibit any State from specifying the terms and conditions under which any franchise or franchise relationship may be transferred to the designated successor of a franchisee upon the death of the franchisee.".

SEC. 6. DEFINITION OF FAILURE.

Section 101(13) of the Petroleum Marketing Practices Act (15 U.S.C. 2801(13)) is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph:

"(C) any failure based on a provision of the franchise which is illegal or unenforceable under the law of any State (or subdivision thereof).".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. SHARP] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1520 makes several clarifying changes to the gasoline franchising provisions of title I of the Petroleum Marketing Practices Act of 1978, known as the PMPA.

These changes have all been negotiated and agreed to by the major segments of the gasoline and diesel fuel industries, including the refiners, the marketers and jobbers, and the retail service station dealers.

It has taken them over 5 years to reach this agreement, and I strongly urge my colleagues to support it now.

Mr. Speaker, the amendment proposed to the bill passed by the committee deletes the committee's amendment to section 106 of the Petroleum Marketing Practices Act. That change to section 106 would have made clear the ability of a State to regulate any specific provision of a franchise agreement. Instead, the bill passed by the committee would be amended by changing the failure definition in section 101(13) by stating that "failure" does not include any failure based on a provision of the franchise which is illegal and unenforceable under the law of the relevant State.

Some had expressed a concern, not shared by the sponsor of the bill, that amending section 106 would significantly weaken or even eliminate PMPA preemption. Amending the "failure" definition is an alternative way of addressing the same concerns about the interplay of State law and the PMPA. Despite differences of interpretation among us, I am pleased that we all agree on the plain language of the bill as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1520, the Petroleum Marketing Practices Act Amendments of 1994. H.R. 1520 is a balanced bill which I believe will be good for the entire motor fuel industry.

Nearly 4 years ago, 25 members of the Energy and Commerce Committee sent a letter to the parties in the petroleum marketing industry urging them to reach a compromise on title 1 PMPA issues. As of May of last year, when the Energy and Commerce Committee marked up this bill, not all affected parties were on board with the compromise language. Since then, these parties have worked hard to reach a compromise to which everyone can agree.

The amended version of H.R. 1520 which is before us today, is the result of years of negotiations and it is now supported by nearly everyone in the motor fuel industry including: The American Petroleum Institute, Service Station Dealers of America, Petroleum Marketers Association of America and the Society of Independent Gasoline Marketers of America.

H.R. 1520 amends the Petroleum Marketing Practices Act to clarify the relationships between motor fuel franchisors and franchisees. It prohibits a refiner from terminating a dealer in order to turn a location into a company-operated station; defines dealer and supplier rights and obligations in third party situations: prohibits dealers from being forced to waive their rights under Federal Law in order to obtain or renew a lease; and with the new language clarifies that States may legislate regarding some aspects of the franchise agreement.

I believe that H.R. 1520 represents a fair compromise and I want to commend everyone who worked so hard in reaching this agreement. I would also like to thank Chairman DINGELL for all his hard work on this bill. I believe everyone who is involved in the motor fuel industry will benefit from these amendments.

Mr. Speaker, I would also like to thank the gentleman from Michigan [Mr. DINGELL], the committee chairman, for his hard work on this bill. I believe everyone involved in the motor fuel industry will benefit from these amendments.

Mr. Speaker, I want to say that we will certainly miss our friend, the gentleman from Indiana [Mr. SHARP] when he leaves to go back to Indiana. He has done an outstanding job as he has worked in the committee and in their particular field for many years, so we will miss him.

Mr. SHARP. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Oregon [Mr. WYDEN], who has been a key participant in these negotiations for many years.

Mr. WYDEN. Mr. Speaker, I, too, want to thank the gentleman from Indiana [Mr. SHARP] for all his years of hard work. The gentleman is right, we have been at this I guess almost 5 years. I want to thank him for all his patience, and also thank our friend, the gentleman from California [Mr. MOORHEAD], who has also worked with me and others in terms of trying to fashion this legislation.

Mr. Speaker, the reason this legislation is so important is that our small gas stations in our country are literally an endangered species. All over our country we are seeing rural communities in particular lose these small gas stations. What we have seen is that very often this is due to the fact that some oil companies, not all of them but some of them, have set in place crippling conditions on these small service stations, who simply want to renew their franchises.

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As the gentleman from California [Mr. MOORHEAD] has stated, this legislation outlines a number of provisions to strike a balance that is fair to both sides, the small service stations and the oil companies. I think it is critical that we pass this bill.

Mr. Chairman, today, the House takes up H.R. 1520, legislation I sponsored which makes a number of important changes to the Petroleum Marketing Practices Act [PMPA]. The PMPA was enacted in 1978 in order to preserve competition in the petroleum marketing industry by regulating the circumstances surrounding the termination or nonrenewal of service station franchises.

The PMPA was passed in recognition that there may often be unequal bargaining power between major oil companies and service station dealers who operate stations under franchises from the oil companies. Because of their unequal power, franchise agreements between dealers and oil companies contained clauses which would not have been agreed to by the dealers if the parties had equal power. Specifically, Congress adopted a set of procedural protections so that a dealer could have his day in court if the dealer were to be terminated by a major oil company. Congress restricted the scope of the PMPA to procedures and grounds for termination and nonrenewal. It did not address other issues in franchise relationships or disclosures to be made to a prospective dealer.

Since the PMPA was enacted, some courts have limited the law's protections for dealers and expanded the scope of the PMPA beyond what Congress intended. H.R. 1520 clarifies the intent of Congress in enacting the PMPA and corrects the problems that have arisen from judicial interpretations of the law.

This legislation is the result of extensive discussions between the service station dealers, jobbers, and major oil companies, discussions held under the auspices of Chairman DINGELL and his staff. It is a true compromise bill. H.R. 1520 has been endorsed by all major petroleum marketing groups, the Service Station Dealers of America, the American Petroleum Institute, the Petroleum Marketers Association of America, and the Society of Independent Gasoline Marketers of America. It has also been endorsed by the administration.

H.R. 1520 addresses several serious problems which exist in the current version of the PMPA. As the PMPA is written today, oil companies can enforce financially crippling conditions on service station dealers in a franchise agreement, such as 24-hour operating requirements and minimum staffing requirements, when business demand does not justify such expenses. As a result, dealers are left with the Hobson's choice of operating their businesses in an unprofitable manner or risk being terminated for failure to comply with the onerous franchise requirement. Another problem arises in situations where the service station operators are not parties to the lease agreements for the properties where their stations are located. Some oil companies are taking advantage of this, and, by refusing to renew the lease for the property, are forcing dealers to be evicted. Finally, under the current PMPA, oil companies are able to circumvent State laws which protect service station dealers. These are just a few examples of why the current PMPA must be amended.

Hearings before the Small Business Committee in the last Congress revealed that thousands of hard-working service station dealers have lost their businesses because of deficiencies in the current law. Further evidence of the need to strengthen and clarify the PMPA was also provided during a series of hearings held by the Energy and Power Subcommittee over the past three Congresses.

H.R. 1520 remedies the problems which exist under the current PMPA. Specifically, this legislation does five things.

First, it prevents a franchisor from insisting upon changes or additions to a franchise agreement for the purpose of converting a franchise-operated station to one operated by the employees or agents of the franchisor. This will reduce the number of independent service station dealers and jobbers who are unjustly forced out of business.

Second, H.R. 1520 addresses situations where the franchisor leases the service station property from a third party and the station operator is not a party to the lease. In these circumstances, the station operator typically has no right to extend the lease or to purchase the property from the landlord; the franchisor has the sole right to exercise any options to renew the lease or buy the service station. As a result, franchisors can in effect terminate their franchisees and put the station operators out of business simply by failing to exercise these options.

To protect dealers against terminations in these situations, franchisors will now be required to give their franchisees the opportunity to assume the underlying leases for the station properties when those leases expire. Oil companies, which are typically the parties to the lease agreements, will now be required to offer to assign to the service station operators any options they hold either to purchase the property or to extend the lease. The oil companies would be able to condition assignment of their options upon receiving unconditional releases from liability executed by the landlord and the service station operator.

In addition, if a dealer acquires property rights to the service station by purchase or lease, the franchisor would have to make a bona fide offer to sell to the dealer the buildings and other improvements made at the site.

Third, the legislation provides that the rights of station operators under the law may not be waived as a condition of entering into or renewing a franchise agreement. Oil companies would also be prohibited from insisting upon so-called choice of law provisions which provide that the law of a State other than the dealer's home State will govern the franchise agreement. By including these choice of law provisions in the franchise agreement, service station dealers from States like Oregon that are protective of the rights of dealers can lose their rights because the franchise agreement says the law of another State that is less protective should govern the franchise.

Fourth, H.R. 1520 also makes clear that the State laws which allow a dealer or jobber to pass on his or her business to a surviving family member upon death were never intended to be preempted by Federal law.

Finally, this legislation prohibits terminations or nonrenewals in situations where the franchise provision upon which termination or nonrenewal is based are illegal or unenforceable under the governing State law. Oregon and a number of other States have adopted statutes to safeguard the rights of service station dealers, such as prohibiting forced 24-hour operation where such operation is unprofitable or unsafe. Because a franchise provision requiring 24-hour operation in a State that has a law prohibiting such a requirement would be illegal or unenforceable under that State's law, a dealer in that State could not be terminated for noncompliance with a 24-hour operation requirement in the dealer's franchise agreement. The legislation makes clear that noncompliance with illegal or unenforceable franchise requirements does not constitute a failure justifying termination or nonrenewal of the franchise.

This legislation makes clear that the PMPA applies only to the issues of termination and nonrenewal. Historically, the regulation of franchises has addressed three aspects of the franchise relationship: First, disclosure prior to the establishment of the franchise; second, standards during the operation of the franchise; and third, procedures and grounds for termination. The PMPA does not preempt the States' rights to regulate the ongoing relationship of the parties. Also, to the extent that States regulate matters such as hours or closing times, then an oil company may not use dealer conduct in following State law as a reason to terminate or nonrenew.

These changes to H.R. 1520 clarify the original congressional intent of the PMPA and in effect level the playing field between oil companies and dealers. I urge my colleagues to support this important, procompetition and prosmall business legislation.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SHARP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DE LA GARZA). The question is on the motion offered by the gentleman from Indiana [Mr. SHARP] that the House suspend the rules and pass the bill, H.R. 1520, as amended.

The question was taken.

Mr. LEWIS of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, proceedings on this motion will be postponed.

EXPORT ADMINISTRATION ACT EXTENSION

Mr. MENENDEZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5108) to extend the Export Administration Act of 1979.

The Clerk read as follows:

EXPORT ADMINISTRATION ACT EXTENSION

Mr. MENENDEZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5108) to extend the Export Administration Act of 1979.

The Clerk read as follows:

H.R. 5108

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 20 of the Export Administration Act of 1979 (50 U.S.C. App. 2419) is amended by striking "August 20, 1994" and inserting "September 30, 1995".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. MENENDEZ] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. SMITH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as Members are aware, the Export Administration Act of 1979 is the statutory basis for the U.S. dual-use export control system.

The Committee on Foreign Affairs had been working this session to enact a comprehensive reform of the Export Administration Act, but we were unable to resolve several differences.

The last Export Administration Act extension expired August 20.

Since that time, the executive branch has maintained export controls under an Executive order issued pursuant to the authority of the International Emergency Economic Powers Act.

The policy and legal problems associated with the use of IEEPA make it prudent for us to extend the Export Administration Act authority until the end of the next fiscal year. This extension will provide Congress sufficient time to pass the reform legislation.

I urge my colleagues to support H.R. 5108.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this simple and straightforward bill, H.R. 5108, which extends the Export Administration Act through September 30 of 1995.

Enactment of this measure ensures that the administration no longer has to rely on the authorities of the International Emergency Economic Powers Act to administer our export control system.

I join with Chairman HAMILTON, Mr. GILMAN, and the chairman of the International Economic Policy Subcommittee, Mr. GEJDENSON, and the ranking member, Mr. ROTH, in supporting this measure that should provide sufficient time for the completion of a bill streamlining and updating our export control system.

Several challenges and questions as to the extent of the Department of Commerce's authority under IEEPA have been raised, including a possible challenge to its use to continue the anti-boycott regulations.

So far, the Department of Commerce has successfully defended its authority, but there have been no definitive rulings on these issues. A continuing lapse of EAA is likely to promote a renewal of these challenges and a diversion of governmental resources to counter them.

I ask my colleagues to join with me in supporting this bill.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I think that it is a mark of achievement by this House that we have not passed the package that was initially put together and offered by the Committee on Foreign Affairs. I say this as a member of the House Committee on Armed Services which unanimously endorsed a number of changes that we thought were important to protect American security.

Let me just say that the lesson of the gulf war was that it does not make a lot of sense to sell Winchesters to the hostiles, to engage in the sale of technology that ultimately may come back against you on the battlefield and result in death of Americans.

Rather than tightening up technology flow, especially militarily critical technology, in my estimation, the way the House started to move early in this session was to liberalize that flow and make it easier for some of the rogue nations in the Middle East to gain high technology that ultimately could damage Americans in the battlefield.

I am glad we have not passed the package that was initially put together. I think this Congress should go back and make some real evaluations with such smart people as Dick Cheney, Colin Powell, and others who understand the effect that high technology play in wars and on the battlefield and come back with a much more conservative bill than we initially offered this year.

I thank the gentlemen on both sides of the aisle for basically extending what we have not passing the package that the House initially was putting together. I think it is important that we have a vote on this bill incidentally on the extension because I think the extension is far better than the substitute that we would otherwise have.

Mr. SMITH of New Jersey. Mr. Speaker, reclaiming my time, I do thank the gentleman from California [Mr. HUNTER] for that very important statement. I think especially in this increasingly volatile world, we need to be very careful about dual-use technology and the fact that again what we might sell with one intent ends up being used against us in a military capacity or capability. I think the time between now and next year gives us that opportunity to revisit this issue in a way that more eyes will look at it and hopefully come up with a better bill.

Mr. BEREUTER. Mr. Speaker, this Member reluctantly supports this legislation which extends the Export Administration Act of 1979 to September 30, 1995.

Mr. Speaker, this Member would like to express his sincere disappointment and deep regret that this body is again considering legislation which merely puts a band aid on an outdated set of export control laws badly in need of reform. Unfortunately, with the fast approaching adjournment of Congress, this Member believes a 1-year extension is necessary.

Mr. Speaker, this legislation does not in any way amend the Export Administration Act of 1979 except to extend its authority for 1 year. Nevertheless, in passing this simple extension, Mr. Speaker, we will maintain our authority to administer the export control laws of the United States.

Currently and in the past, Mr. Speaker, Congress has failed to extend the Export Administration Act and our Presidents have been forced to administer our export control system by executive order and under the authority of the International Emergency Economic Powers Act [IEEPA].

Unfortunately, however, this residual authority has proven woefully inadequate and legal challenges to the use of emergency authority have seriously jeopardized the President's ability to effectively administer these export control laws.

Mr. Speaker, the seriousness of this potential problem cannot be overstated. If the legal challenges to the President's emergency authority are upheld, the U.S. Government would not be able to enforce its export control laws and proliferators could violate them without penalty. Most importantly, Mr. Speaker, countries like North Korea, Iran, and Libya could obtain extremely sensitive technology from U.S. exporters and the Federal Government would be without recourse.

Additionally, Mr. Speaker even if the President's emergency authority were upheld, significant differences exist between the preferred Export Administration Act and the President's emergency authority under IEEPA. For example, emergency authority severely limits civil and criminal penalties for those found in violation of U.S. export control laws, and the investigative powers of the Department of Commerce's special agents are eroded. Finally, and most importantly, the confidentiality of information received from U.S. businesses who are cooperating with the U.S. Government on export control laws is endangered by the lapsing of section 12(c) of the Export Administration Act.

Mr. Speaker, in March of this year, COCOM, the international agency which coordinates national export control laws, disintegrated and its member countries resorted to policies of "national discretion" for approving export licenses for sensitive technologies. Meanwhile, the United States, outdated export control laws cost U.S. businesses $20 billion annually while disproportionately penalizing our Nation's most promising high-technology goods and service exports.

Clearly, Mr. Speaker, with the demise of COCOM and the United States' woefully outdated export control system, we must reach the fundamental conclusion that the United States cannot afford to attempt to unilaterally restrict exports that it cannot control.

Mr. Speaker, this Member consequently supports passage of H.R. 5180 to extend the Export Administration Act of 1979 for another year. Nevertheless, this Member would like to express his severe disappointment with the failure to pass significant export control reform legislation during the 103d Congress. Clearly, U.S. high-technology industries and high paying jobs for American citizens are the casualties of our inability to arrive at a compromise on this important issue.

Mr. MANZULLO. Mr. Speaker, I regret that we are at this point today. I strongly supported the export control reform bill that passed the Foreign Affairs Committee earlier this year. I wish we were at a signing ceremony today instead of passing a simple extension of the old, cold war-based Export Administration Act.

But we need this extension today so that legal threats to our export control system do not emerge. I certainly do not want those who export sensitive technology to banned countries to escape scott-free because of our inaction in Congress.

Plus, in some respects, the current export control system is better than some of the changes proposed by the House Armed Services Committee [HASC]. For example, the current Export Administration Act [EAA] allows for free export and reexport privileges among our most trusted trading partners—for example, Canada, Europe, Japan. You don't need specific approval from the U.S. Government for every time a company may wish to export a high technology good to our allies.

However, the HASC amendments to the EAA rewrite would remove provisions for license-free zones and recontrols any item presently controlled to a rough regime across the board to every country. In other words, the HASC amendment would place the same restrictions that now apply only to terrorist countries such as Libya, Iran, Iraq, and Syria unilaterally even on our most trusted trading partners such as Great Britain and Japan.

I urge my colleagues to support this simple extension of the EAA so that we can work on this issue next year.

Mr. COPPERSMITH. Mr. Speaker, I rise in reluctant support of extending the Export Administration Act temporarily. This year, Congress had a chance to rewrite our out-of-date and arcane trade laws and remove a burden faced by American businesses. Unfortunately, Congress dropped the ball.

This year, the House Foreign Affairs Committee rewrote the Export Administration Act. That bill, H.R. 3937, removed many obstacles to trade and lightened the heavy burden many outdated regulations and procedures place on America's high-technology industries. Unfortunately, opposition more concerned with preserving turf than creating jobs killed action on these vitally needed reforms.

This stalemate resulted from a disagreement over proposed amendments to H.R. 3937 from the House Armed Services Committee. These amendments would have made the reforms in H.R. 3937 essentially worthless, retaining ridiculous roadblocks to exports of routine commercial technology.

Our export control laws must reflect recent dramatic changes in technology, in the world, and in the global economy. Our laws also must recognize the importance of international trade in domestic job creation. Equipment that American consumers, or foreign tourists for that matter, can purchase at a department or specialty store should not be subject to outdated bureaucratic export control regulations. Under the proposed Armed Services Committee amendment, the Department of Defense could hold up sales of the Macintosh portable computer I use in my office to France, the United Kingdom, or Germany.

Making the current export control regime more restrictive, more bureaucratic, and more time-consuming would hurt our businesses and workers. Make no mistake about it, the Armed Services Committee amendment would have cost Arizona jobs.

In light of the legislative stalemate, I urge my colleagues to support this temporary extension at this time, but not to forget the pressing need to reach a compromise that liberalizes the current restrictive control regime. To do otherwise handicaps American industry, hurts American exports, and does a grave disservice to American workers.

Mr. SMITH of New Jersey. Mr. Speaker, I yield back the balance of my time.

Mr. MENENDEZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. MENENDEZ] that the House suspend the rules and pass the bill, H.R. 5108.

The question was taken.

Mr. SMITH of New Jersey. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

CONDEMNING SINKING OF TUGBOAT "13TH OF MARCH" BY CUBA

Mr. MENENDEZ. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 279) condemning the July 13, 1994, sinking of the *13th of March*, a tugboat carrying 72 unarmed Cuban citizens, by vessels of the Cuban Government, as amended.

The clerk read as follows:

H. CON. RES. 279

Whereas there are credible reports that on July 13, 1994, vessels of the Cuban Government fired high-pressure water hoses, repeatedly rammed, and deliberately sank the "13th of March", a tugboat carrying 72 unarmed Cuban citizens;

Whereas approximately 40 of the men, women, and children passengers on the "13th of March" drowned as a result of the actions of the Cuban Government, including over 20 children aboard;

Whereas President Clinton deplored the sinking of the "13th of March" as "another example of the brutal nature of the Cuban regime";

Whereas on August 20, 1994, the President pledged that "The United States will continue to bring before the United Nations and other international organizations evidence of human rights abuses, such as the sinking of the tugboat '13th of March.' Meanwhile, we will pursue this matter with vigor and determination.";

Whereas all of the male survivors of the "13th of March" have been imprisoned by the Cuban Government;

Whereas the freedom to emigrate is an internationally recognized human right and freedom's fundamental guarantor of last resort; and

Whereas the Cuban Government, by prohibiting the existence of a free press and by jamming TV and Radio Marti, denies the Cuban people for the right of free access to information, including information about this tragedy: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) condemns the Cuban Government for deliberately sinking on July 13, 1994, the "13th of March", a tugboat carrying 72 unarmed Cuban citizens, causing the death of approximately 40 Cuban citizens, including over 20 children;

(2) urges the President to direct the United States Representative to the United Nations to urge the United Nations Security Council to adopt a resolution that—

(A) condemns the sinking of the "13th of March"; and

(B) provides for a full internationally supervised investigation of the incident;

(3) urges the President to direct the United States Representative to the United Nations to urge the United Nations High Commissioner for Human Rights to investigate the sinking of the "13th of March"; and

(4) urges the Cuban Government—

(A) to release from prison and cease intimidation measures against all survivors of the sinking of the "13th of March";

(B) to identify all individuals missing from such sinking;

(C) to recover the bodies of the dead from such sinking; and

(D) to return such bodies to their families so that these men, women, and children may have appropriate burial services.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. MENENDEZ] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. SMITH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today all people of conscience, join in condemning the outrageous act of brutality committed on July 13 off the coast of Havana, Cuba by the Government of Cuban dictator Fidel Castro.

My colleagues, this vote is about Fidel Castro's Tiananmen Square. In the early morning hours of July 13, Cuban Government boats chased and deliberately killed up to 40 Cuban citizens, on a tugboat named the *13th of March*, fleeing the horror of Castro's Cuba.

A group of 72 unarmed and innocent civilians were fired upon by Castro's thugs with water cannons. They were hosed down so hard that many flew off the boat and drowned! Women and children were among those killed. Desperate mothers held up children in plain view of the authorities. They believed that the savagery would stop, if only their pursuers saw that there were children on board. But they were wrong. The fierce thrust of pressure hoses continued unabated. Children ages 10 and under slipped from their mothers' arms and into the sea to die! Even a 4 month-old baby was among them! A 4 month-old baby.

Eventually, after being rammed by Cuban Government tugboats, the *13th of March* capsized amidst a whirlpool, throwing the rest of those aboard off. I denounced this act on the House floor as soon as it became clear that it was an act of cold-blooded murder perpetrated by Fidel Castro's henchman.

In acts of officially sanctioned terror, there are often courageous survivors. One woman, Ms. Maria Victoria Garcia Suarez, survived to tell about the horror that took place that morning on the high seas. In an incredible display of courage, she defied the regime and told foreign reporters in detail—including a reporter from Radio Marti from whom the world received other vital information—how she lost her husband, her 10 year-old son, three uncles, and two brothers. She and her son used the floating cadaver of a woman to remain afloat. But her son could not hold on; he lost his grip, and he drowned.

The cynicism and utter cruelty of this act is highlighted by the method that the Cuban Government chose for this death chase. Rather than stopping those who fled at the coast, Castro's thugs allowed them to go 7 miles offshore—45 minutes from the coast. Then they went for the kill. In the words of Janet Hernandez Gutierrez, 19, another survivor, quote:

"They simply let us exit the bay and they attack us at 7 miles, where there would be no witnesses. You know that in the open sea there are no witnesses."

But, much to Castro's dismay, there were survivors on the open seas that morning. They have told the world about this act of murder. President Clinton and Secretary Christopher have called it an "example of the brutal nature of Castro's regime." The House Foreign Affairs Committee last week voted unanimously to condemn the Cuban Government for this massacre. And the resolution now comes before the full House. It puts Congress on record as a voice of conscience on this matter:

First, it condemns the Cuban Government for its deliberate sinking of the *13th of March* tugboat.

Second, it urges the President to direct the U.S. Representative to the United Nations to urge the U.N. Security Council to adopt a resolution that condemns the sinking of the tugboat; and that provides for an internationally-supervised investigation of the incident. It also urges the Cuban Government to do the following: release from prison, and cease to intimidate, all survivors of the sinking; identify all individuals from the sinking; and, recover and return the bodies of the dead to their families so that these men, women, and children may have appropriate burial services.

Finally, the resolution urges the President to direct the U.S. Representative to the United Nations to urge the U.N. High Commissioner for Human Rights to investigate the sinking of the *13th of March*.

It is very distressing that any government, including Fidel Castro's, can get away with such cold-blooded murder. That is why I introduced this resolution.

So far, the Cuban dictatorship has responded in several ways to the incident:

First, it stated the day after the incident—only after the brave survivors had spoken up—that the massacre was the fault of a group of "anti-social individuals." And incredibly, the Castro regime declared the massacre an accident, and even congratulated itself for not killing the 31 survivors! To this day, they have expressed no regret for the loss of life.

Fortunately, the conscience of the Archbishop of Havana, Jaime Ortega, compelled him to state that the sinking of the tugboat was "in no way accidental." The Archbishop also stated that, quote:

"The violent and tragic events that produced the sinking of a boat where so many of our brothers and sisters lost their lives are, according to accounts given by survivors, of a roughness that can scarcely be imagined."

As some of us know, nothing ever goes wrong in Cuba without Castro and his puppets blaming the United States. Predictably, Castro blamed the United States for the massacre.

Raul Castro called this an American "anti-Cuba campaign," and "interference by the United States in Cuba's internal affairs." Yes, you heard correctly: it is America's fault that Castro and his henchmen committed a massacre of 40 innocent men, women, and children on the high seas.

The Castro dictatorship claims that it, quote: "thoroughly investigated the event and exhaustively informed its public of how the tragic events occurred." If this were not the tragedy that it was, that claim would be laughable. The fact of the matter is that no one outside of the Castro regime has seen any report. The human rights group Human Rights Watch/Americas states that, quote:

"Cuba continues to deny Human Rights Watch/Americas' request to see the official results of the government's official investigation."

Finally, the Castro dictatorship has also clearly demonstrated that it fears the wrath of its own people by refusing to list who was killed in the massacre or to recover the bodies of those who died on the ocean floor. No one outside the dictatorship knows exactly who was on the boat. That it is why in the resolution we ask that the government release a list of the victims and recover and return to the families the bodies of the dead.

My colleagues, the cold war has indeed ended. But it is still winter in Havana. The miserable and oppressive climate in tropical Cuba will persist as long as we are silent on atrocities such as this. Let us stop turning a blind eye to that fact. I ask you to join with the Archbishop of Havana and freedom-loving people throughout the world in taking the Castro government to task for this act of murder.

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Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. DIAZ-BALART] who has been an outspoken advocate for human rights worldwide, but has been effective and particularly tenacious when it comes to the abuses being committed by the Castro regime.

Mr. DIAZ-BALART. Mr. Speaker, I thank the gentleman from New Jersey for yielding me the time.

Mr. Speaker, I rise in support of the resolution submitted to the Congress by the distinguished gentleman from New Jersey [Mr. MENENDEZ] and join, in addition to the gentleman from New Jersey [Mr. MENENDEZ] and the gentleman from New Jersey [Mr. SMITH] the gentlewoman from Florida [Ms. ROS-LEHTINEN] the gentleman from Florida, Mr. PORTER GOSS, the gentleman from New Jersey [Mr. TORRICELLI] and so many others who have spoken out with so much vigor and decency and compassion on this tragic incident which I think illustrates perhaps more than any other incident can the nature of the brutal regime that is in power in that island only 90 miles from our coast.

This incident that this resolution condemns and the Congress will condemn today was one of the truly brutal massacres in this century. Certainly I recall very few more extraordinarily brutal massacres in the history of this hemisphere and, of course, it was accomplished, it was committed by a regime that is characterized by many crimes, a regime that is characterized by drug trafficking, a regime, many high officials of which have been indicted by U.S. attorneys. There is a draft indictment of the brother of the dictator, of Raul Castro, a draft indictment by the U.S. attorney for the southern district of Florida. There are indictments of other high officials of that dictatorship, a dictatorship what has been renowned and continues to train terrorists for evil acts throughout the world, a dictatorship that just weeks ago engaged in overt and obvious emigration blackmail to force our Government to sit at the table with it and to enter into a negotiated settlement by which we asked the dictator to do what we go to condemn it years after year in Geneva for, and that is violating article 13 of the charter of the universal declaration of human rights that does not permit nations to prohbit citizens for leaving their own countries.

It is a regime that harbors fugitives from U.S. law and justice, beginning with the de facto minister of crime of the Castro dictatorship, fugitive from U.S. law, a renowned criminal named Robert Vesco, a regime that engages in environmental recklessness, that is drilling like madmen, they are drilling like madmen 90 miles from our shores for oil to desperately keep alive an economy that has been utterly destroyed by the dictatorship.

It is a regime that threatens us with Chernobyl-style nuclear powerplants that it continues to build despite the urging, repeated urging of members of the international community, and more than anything else, it is a regime characterized by murder, and this murder is perhaps the murder that has shocked the conscience most not only of the people of Cuba but of those who are allies of freedom and democracy for the people of Cuba, the murder of over 40 innocent men, women, and children.

□ 1630

This weekend when I was at home, I was reading a series of articles by a Pulitzer Prize winner, in Miami, and she just visited the base, the naval base in Guantanamo, and there she talked; you know, there are 30,000 refugees there, Mr. Speaker, that were caught up and had become pawns in this tragedy between the Castro government and our Government as a consequence of the immigration crisis of this last summer, and they are there, and they wait and wait and wait. They are told they have to wait indefinitely there, and they are not even given the right to seek political asylum as is required by the convention on refugees for every human being. Every human being has the right to seek political asylum.

The 30,000 Cuban refugees languishing in the base in Guantanamo are not even being given the right to seek political asylum.

This Pulitzer Prize winner, Liz Balmaseda, interviewed a 7-year-old boy named Sergio Perodin, Jr. This 7-year-old boy is a survivor of the massacre of July 13. His mother, Pilar Alamanza Romero, and his 11-year-old brother, Yasser Perodin, they went down. They sunk with the *13th of March* on July 13. They drowned. And so Sergio today is at Camp Mike in Guantanamo after his mother and his brother drowned with the 40 others who were massacred by the Castro regime.

Liz Balmaseda writes the boy speaks little; he keeps the tragic sequences of July 13 inside, letting them loose only in fitful sleep. Like everybody else, he waits.

Well, the Congress cannot wait any longer to condemn the massacre of July 13. As the gentleman from New Jersey [Mr. MENENDEZ] stated, the Catholic Church, in a courageous manner within Cuba, stated and described the nature of the brutality, and it has been condemned, but it has not been condemned enough by the international community.

Hopefully today a positive and very important step, a just and proper and important step will be taken by this Congress in condemning the massacre, the brutality committed by the Castro regime on July 13 when it sank the tugboat named the *13th of March* with 40 innocent men, women, and children.

Mr. MENENDEZ. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York [Mr. ENGEL] who has often and strongly been a voice in behalf of human rights and democracy in Cuba.

Mr. ENGEL. Mr. Speaker, I thank the gentleman who has really led the fight against dictatorship and repression on the island of Cuba.

Mr. Speaker, once again Castro has shown his stripes in one of the most brutal assaults on innocent civilians in this hemisphere; a boatload of 72 Cuban refugees was sunk on July 13 when

Cuban Government ships rammed their vessel and fired high-pressure water cannons at them.

Shortly after it happened, I remember discussing this with the gentleman from New Jersey [Mr. MENENDEZ], the gentleman from Florida [Mr. DIAZ-BALART], and the gentlewoman from Florida [Ms. ROS-LEHTINEN], who could not believe there was such lack of reporting of this horrific incident in the American press and, indeed, the world press. One would really wonder as to why there would be an attempt to try to hush this up.

There was a report in the Miami Herald which said 7 miles from shore the boat was met by Cuban firefighting vessels, and reports indicated that people were sent flying overboard and slamming against walls and railings as powerful hoses shot their water against the tugboat.

In the end, more than 30 people died before the survivors were rescued.

Mr. Speaker, 1 month Mr. Castro kills dozens of refugees escaping his authoritarian government, and the next month he sends thousands of boat people on a dangerous voyage to the shores of the United States. These incidents should dispel any notion that Castro has any sense of decency or any ounce of compassion for his people.

To those who would say that we ought to normalize relations with this brutal, Stalinist regime, I would say that not until the political pluralism comes to Cuba should we even think about it.

It is really amazing to me that the governments of Eastern Europe, the Communist governments of Eastern Europe, have long ago fallen by the wayside. There are very, very few Stalinist repressionist regimes in the world, but Castro is still there; the aging dictator is still there in Havana. It seems to me he has to go and get out of the way and let democracy return to Cuba.

I am, therefore, proud to add my voice in support of House Concurrent Resolution 279, which condemns Cuba for the killings of July 13, and I would like to once again thank my friend and colleague, the gentleman from New Jersey [Mr. MENENDEZ], for offering this resolution and for his leadership on this issue.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I rise in support of House Concurrent Resolution 279, and I thank the distinguished gentleman from New Jersey for yielding me this time.

I also want to commend the Committee on Foreign Affairs for this resolution. It condemns the brutal and deadly incident in Castro's Cuba this summer we have been hearing about. It also remembers those who were deliberately murdered. Those are strong words, but that is what happened on the tugboat the 13th of March by Fidel Castro's goons.

While many individual Americans, I know, have mourned this particular tragic incident and the deaths involved, and some are in my communities in south Florida, some of the kinfolk, the July incident involving the shooting of the Cuban tugboat carrying refugees was actually pretty much unnoticed. It was largely unremarked by the national press and by the Clinton administration.

It has been puzzling to understand why that went on for so long. It was not actually until we had to go to the bargaining tables with Fidel Castro to seek an end to what we euphemistically called irregular departures of Cuban citizens that we started to hear more about this, regrettably, under that agreement we came away with after the Clinton administration bargained with Castro in New York. I am afraid the administration has come up one more time with a short-term quick fix rather than the long-term policy for the genuine change we all know we need.

The agreement actually took the immigration pressure off the State of Florida for a minute, and we in Florida are thankful for that in terms of the disorder that was going on. But it does not get to the root of the problem, and the root of the problem is Castro himself, and everybody knows it.

With each day that passes, Cuba's economy is closer to tumbling down around Fidel. We all know that, too.

I think at this time a stepped-up embargo and a commitment from our allies to cut off Castro's economic lifeblood would solve the refugee problem for good. I do not think Castro has ever hesitated to exploit American weakness. On the other hand, I think we have hesitated far too long to snap the weak link of Castro's regime, and that is his faltering economy, as any observer knows today.

We here are urging that we condemn an act of repression and remember those Cubans who died seeking a better life in America, and as has been so poignantly pointed out by the gentleman from New Jersey [Mr. MENENDEZ] and the gentleman from Florida [Mr. DIAZ-BALART] and all others who are involved, we are talking about women, children, and innocent victims just trying to get away from the problems of a gone-wrong experiment in Marxist Fidel-land.

I think we have got to start thinking about how we are going to avoid these in the future. These are going to happen again sadly enough, and the bottom line I think for anybody who has looked at this program is that it is time for Castro to go.

We can pass this resolution here in the United States Congress, but it is not going to mean very much unless the President of the United States follows through with some get-tough action, and I hope this will be the trigger that causes that to happen.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this resolution.

I want to thank my good friend, the gentleman from New Jersey [Mr. MENENDEZ], for offering this. I am very proud to be a cosponsor.

It is a very important resolution. I hope it will have the full support of the House of Representatives.

Mr. Speaker, this summer the waters around the island of Cuba, which have often been the setting of tragedy, but a March day was the setting for an unspeakable crime; the July 13 massacre and premeditated drowning of approximately 40 Cubans was yet another example of the brutality of the Cuban thugs.

For over 30 years the lives of freedom-loving Cubans have been snuffed out by Fidel Castro and the people who work for him in every sort of manner. This time the water cannon was the weapon of choice.

Castro's abominable human rights record is replete with massacres, torture, imprisonment, and terror. Tens of thousands risk their lives to escape with unseaworthy vessels. They often commandeer airplanes to the Florida Keys. They often defy authorities with the power to imprison them when they come forward to tell the truth about Castro.

□ 1640

I remember reading and being moved to tears by the book "Against all Hope," by Armando Valladarres, who served as our ambassador to the United Nations Human Rights Commission which met in Switzerland.

That book clearly demonstrated and showed the kind of repression that is commonplace in Cuba.

Mr. Speaker, in the early hours of July 13, about 70 men, women, and children aboard the wooden vessel which became known as the *13th of March* tug boat steamed out of Havana harbor into international waters. This departure had been detected by Cuban port authorities.

Mr. Speaker, the pursuing tugs knocked the passengers overboard with high-pressure water cannons and then rammed the wooden vessel until it broke apart and sank. Many passengers went down with the tug boat. The death toll, as we all know now, was about 40, including about 20 children.

Today we pay honor and respect to those lives which were lost and extend condolences to the surviving family members. The House of Representatives is poised today to go down on record against this terrible and heinous act committed by the Cuban government.

We also seek action by our President to pursue a United Nations-supervised investigation into this terrible incident.

Mr. Speaker, this is a very important resolution, and again I hope it has the full support of the U.S. House of Representatives.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MENENDEZ. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, one would think that people of conscience everywhere would respond with outrage to this heinous act.

One would think that the editorial boards of our national media would have immediately responded with horror and put it in print with the same conviction that they ask for a lifting of the unilateral U.S. trade embargo on Castro, as if removing that measure would transform this brutal dictator.

One would think that the international community would uniformly respond with indignation.

One would think that those countries such as Mexico, Spain, and Canada, who are so eager to make a quick, cheap buck in Castro's Cuba would express their indignation by withdrawing their bloodied investment money from Castro's coffers.

One would think so. But sadly, tragically, their response has been silence. Deafening Silence.

I ask: What will it take?

What will it take for the United States Government to act as forcefully with the Castro dictatorship as it has with the regimes of Haiti or racist South Africa?

What will it take for the international community to remove the rose-colored glasses through which it incredibly still views Castro's dictatorship?

What will it take for the world to acknowledge that in Cuba the fundamental problem at hand is not U.S. policy, but the simple fact that there remains in power the Stalin, the Kim II-Song, the Ceaucescu of the Caribbean?

What will it take to get the lives of 40 men, women, and children remembered? How much more cruelty will have to come out of Fidel Castro before the world responds with outrage? How much? I sincerely hope that it does not take another brutal act such as this.

Let me take just a moment to talk about America's perspective toward the Castro dictatorship. Mr. Speaker, no country on this planet has been so supportive of democracy and human rights throughout the world than has the United States of America. No country on this planet has been a stronger opponent of tyranny and oppression worldwide than has the United States of America. No people have embraced the cause of those who have been victimized by Communist dictatorships than have the American people. No people have been as supportive of the oppressed people of Cuba than have the American people. The American people should be proud of that. As an American of Cuban descent, I certainly am.

But it is a shame, a terrible shame and disgrace, that some of our own allies throughout the world have not stood in solidarity with the people of Cuba at the time of their most critical need and terrible suffering. History will record this.

There are over one million Cuban-Americans in this country. Each and every one of them will never forget that in their time of desperation, the American people were there. Each and every one of them will never forget that when it came time to denounce the brutal Castro dictatorship, when it came time to say no to Fidel Castro, America was there—and always has been.

Mr. Speaker, today, once again, the American people, through their elected representatives are there: they are there to speak out loudly in behalf of freedom and boldly against the continuing brutality of the dictatorship of Fidel Castro. Fidel Castro may not like it; Fidel Castro's allies may not like it; and Fidel Castro's friends may not like it: but that has never stopped the American people from standing up for what is right, and it won't stop them now.

One of the survivors of the tugboat sinking, Janet Hernandez Gutierrez, asked the following of Castro's thugs at Villa Marista, state security headquarters, when she was taken in for questioning, quote.

> I asked them in Villa Marista that what will become of those responsible for sinking us, the murderers of our children and relatives. Because there are children who lost their mothers. My nephew, for example. He knows he lost her, because that is the saddest part, that he knows he lost her. And he asks me in a childlike manner—I wish he were here because he is a much better witness than I because a child is worth so much—he asks why the frogmen who dive to put fish in the aquarium—why can't they recover his mother and his little brother.

Sadly, we cannot tell Ms. Hernandez what will become of the murderers. We cannot return her nephews' mother and sister to him. But we can condemn this massacre and let the world know about it. That is the purpose of this resolution. Let us all, as citizens of the greatest nation in the world, denounce the brutal massacre of 40 men, women, and children by the dictatorship of Fidel Castro. Let us never cease to condemn human rights violations whenever and wherever they occur.

Mr. Speaker, I submit the following documents for the RECORD:

STATEMENT BY CHRISTINE SHELLY, ACTING SPOKESMAN, DEPARTMENT OF STATE

CUBA: SINKING OF TUGBOAT

Cuban government vessels fired high-pressure water hoses at the tugboat "13th of March" in an attempt to stop those aboard the vessel from fleeing Cuba on July 13. These vessels are also reported to have rammed the "13th of March" in an attempt to stop it. An official Cuban government statement admitted that there was a collision as these pursuing vessels maneuvered to intercept the "13th of March," causing it to sink. Thirty-one people were reported rescued, [with perhaps forty others—including many children—having drowned in the incident.] There have now been reports that mourners are being harassed or detained by authorities.

We continue to receive information from survivors and next of kin that this was not an accident. We support the plea of the Archbishop of Havana for a full investigation of the tragedy, and call on the Cuban government to cease such violent acts against its own citizens.

DEPARTMENT OF STATE,
Washington, DC, September 20, 1994.
Hon. LEE HAMILTON,
Chairman, Committee on Foreign Affairs,
House of Representatives.

DEAR MR. CHAIRMAN: This letter is to express our support for H. Con. Res. 279, which condemns the July 13, 1994, sinking of the "13th of March", a tugboat carrying Cuban citizens.

We fully share the sense of outrage expressed in that resolution over the incident, the loss of life and the conditions within Cuba that provoked the refugees to flee their homeland. In addition to President Clinton's condemnation referred to in the document, the State Department issued a strong statement on July 22. At Secretary Christopher's request, our Permanent Representative to the United Nations wrote to Secretary General Boutros-Ghali to advise him of the tragedy and to ask him to join in the call for an investigation. We also informed the United Nations High Commissioner for Human Rights, Jose Ayala Lasso, of the incident and suggested that he give it his attention. We shall continue to work closely with the Secretary General and High Commissioner in this matter.

Subsequent to the drafting of H. Con. Res. 279, Fidel Castro relaxed restrictions on the departure of Cubans with the implicit threat of launching another Mariel exodus, and the number of Cubans leaving on rafts and other unseaworthy vessels with a U.S. destination climbed markedly. In the course of responding to this challenge, the President stressed on August 20 that we would continue to bring before the United Nations and other international organizations evidence of Cuban human rights abuses, such as the sinking of the tugboat "13th of March."

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to submission of this report.

I hope this information is useful to you. Please do not hesitate to call if we can be of further assistance.

Sincerely,
WENDY R. SHERMAN,
Assistant Secretary, Legislative Affairs.

DEPARTMENT OF STATE,
Washington, DC, September, 26, 1994.
Hon. ROBERT MENENDEZ,
House of Representatives.

DEAR MR. MENENDEZ: Secretary Christopher has asked me to respond to the letter that Rep. Ros-Lehtinen, Rep. Diaz Balart and you sent him on July 28, 1994, regarding the "13th of March" tragedy. We regret the delay in responding to your letter, which arrived just as the recent Cuban migration crisis began.

We fully share your sense of outrage over the incident, the loss of life and the conditions within Cuba that provoked the refugees to flee their homeland. In addition to President Clinton's condemnation on July 18, the State Department issued a strong statement on July 22. Ours has not been the only voice of international outrage. The Archbishop of Havana called upon the Cuban government to investigate the tragedy; the governments of Spain and the Czech Republic have made similar demands.

At Secretary Christopher's request, our Permanent Representative to the United Nations wrote to Secretary General Boutros-Ghali to advise him of the tragedy and to ask him to join in the call for an investigation. We also informed the United Nations High Commissioner for Human Rights, Jose Ayala Lasso, of the incident and suggested that he give it his attention. We shall continue to work closely with the Secretary General and the High Commissioner in this matter.

Furthermore, in the course of responding to Castro's migration challenge, the President stressed on August 20 that we would continue to bring before the United Nations and other international organizations evidence of Cuban human rights abuses, such as the sinking of the tugboat "13th of March."

We hope this information is useful to you. Please do not hesitate to call if we can be of further assistance.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary, Legislative Affairs.

STATEMENT BY THE PRESIDENT

Over the past two weeks, the government of Cuba has taken actions to provoke a mass exodus to the United States. These actions have placed thousands of Cuban citizens at risk in small boats and rafts, and have had a direct impact on our national interest.

I want to thank the Cuban American community for their courageous restraint in not taking their own boats to Cuba to fuel the exodus, and thank the officials of Florida—Governor Chiles, the congressional delegation, the people from Dade County and others—who have worked so closely with us.

Yesterday, I announced steps to counter Castro's efforts to export his problems by provoking an exodus. Today, I'm announcing additional actions consistent with the Cuban Democracy Act to limit the ability of the Cuban government to accumulate foreign exchange and to enable us to expand the flow of information to the Cuban people.

Specifically, cash remittances to Cuba will no longer be permitted. Family gift packages will be limited to medicine, food and strictly humanitarian items; and transfer of funds for humanitarian purposes will require specific authorization of the Treasury Department. Second, the only charter flights permitted between Miami and Havana will be those clearly designed to accommodate legal immigrants and travel consistent with the purposes of the Cuban Democracy Act. Third, the United States will use all appropriate means to increase and amplify its international broadcasts to Cuba.

The solution to Cuba's many problems is not an uncontrolled exodus, it is freedom and democracy for Cuba.

The United States will continue to bring before the United Nations and other international organizations evidence of human rights abuses, such as the sinking of the tugboat "13th of March." Meanwhile we will pursue this course with vigor and determination.

STATEMENT OF CONGRESSMAN ROBERT MENENDEZ

I join my colleagues from Florida and New Jersey in calling upon the Cuban-American community to continue showing restraint in the fact of taunts by Fidel Castro to create another exodus like we had in 1980. Castro continues to inflict pain upon the Cuban community both in Cuba and in exile, by seeking to exploit the strong yearning for family reunification.

However, we all know that the only reason that Castro seeks to create another Mariel-type exodus is to release the pressure valve building within Cuba. Castro cannot sustain the public demonstrations that have taken place in unprecedented numbers, and the constant civil disobedience that human rights activists, and average Cubans exhibit by taking to the seas in search of freedom. He seeks to divert attention from his own abuse of human rights and acts of murder, such as the deliberate killing by the Cuban Government of 40 innocent men, women, and children on the high seas.

I believe that at long last we are witnessing the beginning of the end for the Castro dictatorship. Last Friday's demonstrations represent a watershed event in totalitarian Cuba, as similar demonstrations did throughout Eastern Europe. The Cuban people are saying loud and clear that they no longer fear Fidel. Ladies and gentlemen, the Castro regime has begun to unravel.

In my view the disturbances will continue. Castro's headaches will not go away. His grip on power will continue to loosen as Cuba's failed economy continues to go down the drain; and, as the Cuban people make clear to Castro: "Mr. Dictator, we have absolutely no fear of you."

However, I call upon the Clinton administration not to play into Castro's hand by treating this latest threat as simply an immigration problem. If we do so, we will once again have let him set the agenda and divert the attention from the real problem; namely, the lack of economic and political reform.

The real solution to the problem is not the exodus of 100,000 or 200,000 people, but the departure of one tyrant.

The present situation is not only a challenge but an opportunity. Now is the time to use our technology to make sure that both radio and television Marti fully penetrates Cuba so that we can communicate with the Cuban people. We have the ability to make sure T.V. Marti's signal reaches a greater part of the population by transmissions from ship to shore, air to shore, satellite transmissions, or by raising the level of T.V. Marti's present signal technology. The powerful images that the average Cuban would see, the risks of dying at sea, the funerals that have taken place, how we debate these issues in Congress, as well as the images of fellow Cubans demonstrating against the dictatorship would stem the tide of immigration, show how democracy works, and foster hope for democratic change in Cuba.

The administration must have the will that others have lacked to give the people of Cuba, who live in a closed society, an open window on the world. Fidel Castro has challenged our national security at a time that we find ourselves busy in both humanitarian missions in Rwanda and the restoration of democracy in Haiti. It is in the national interests to respond by providing free and unfettered information to the Cuban people.

This is also the time to respond to my singular call to prepare for a post-Castro Cuba. Immediate support for my Free and Independent Cuba Assistance Act would send a message to the Cuban people and the international community that we are in solidarity with the Cuban people, that we want to assist them, but that we oppose the dictator that enslaves them and keeps them hungry. Finally, we must break Castro's stranglehold in making this a problem between Castro and Washington, or Castro and the exile community in Miami. Since there are no Democratic elections in Cuba, the Cuban people are voting with their feet, by risking their lives and fleeing Cuba. They have also voiced their discontent by massive demonstrations, funeral observances in defiance of government admonitions, and other acts of civil disobedience.

It is time for the Clinton administration to seek a resolution in the United Nations condemning the Castro Government for the murder of the 40 innocent men, women, and children aboard the vessel, *13 De Marzo*.

It is time for the administration to get other member countries, especially within the Western Hemisphere, to call for U.N. human rights observers to be sent to Cuba. They could observe the admitted actions of the rapid response brigades' brutality of average Cubans, whom Fidel Castro calls private citizens not government thugs. Civil society in Cuba is disintegrating and human rights abuses are at an all time high.

It is time to internationalize the concern for the rights of Cuban citizens and break the myth that this is strictly a Castro versus Washington problem. This is a problem of hemispheric proportions which those countries who call themselves democracies cannot ignore as they seek greater hemispheric integration.

It is time to be proactive, not reactive. It is time to stop dancing to Castro's tune, and time to change the music. History will do justice to the Castro dictatorship. Once Castro wrote, "History will absolve me." Instead, history will condemn him. Let us not absolve Castro by blaming the U.S.: The blame rests squarely with Fidel Castro.

TRANSCRIPT OF PHONE INTERVIEW WITH SURVIVORS—RADIO MARTI

Last Wednesday, July 13, 1994, a group of approximately 72 people tried to escape from Cuba on the tugboat "13 de Marzo" (Thirteenth of March). Just after sailing from dock 06 at the Port of Havana, they were discovered and chased by the Castro regime's coast guard. About seven miles from the port, they were sunk by the regime's forces. What follows are details concerning this event in which over 20 children died, among others.

From Havana, translation of testimony of Maritza Exposito Torres, Vice-President of the Pro Human Rights Party of Cuba:

"We have obtained the direct testimonies of some of the survivors of the catastrophe perpetrated by the Cuban government on over 70 Cubans that were escaping on board a tugboat from the Port of Havana.

"At dawn on July 13, a tugboat with 72 people on board left Havana Bay with the intent of clandestinely leaving the country.

This group was comprised of about 30 women, 20 children, ranging in age from four months old to 3, 8 and 10 years of age, and several young people nearing their teen-age years. The remainder were men.

"The boat left at 3:00 a.m. About 45 minutes later, having advanced nearly seven miles out to sea, they were intercepted by another tugboat, this one Japanese-built, which tried to overturn those aboard in order to throw them into the sea. Another tugboat soon joined the first one with the same objective. The refugees were trapped between these two boats, which then began to spray them with high-pressure water hoses. These tore the clothes off the women, knocked them down, and shot the children out of their arms.

"The mothers screamed and implored the attackers to stop shooting the high-pressure water because they could drown the young ones and damage the eyes of those on board. The Castro officials continued using the hoses, trying to asphyxiate the refugees, including the children. Many of the men, women and children on board were injured by the water pressure and thrown violently against the bulwarks of the boat. Seconds later, a third tugboat appeared and attacked from behind, splitting in two the refugee's boat, which was an older model from the World War II era.

"The attackers, upon seeing that the refugees were struggling to save their lives, continued to try to sink them by striking their boat and using the water pressure. After nearly an hour of battling in the open sea, they circled their ships round the survivors, creating a whirlpool so that they would drown. Many disappeared into the sea and lost their lives.

"A 'Griffin' then arrived at the scene, picked up the survivors and took them to Jaimanitas, where they were detained until 4:00 p.m. that day and later taken to secret police headquarters at Villa Marista. There, they brought in personnel to pick up those children that were left without parents, mothers without their children, wives without their husbands and so on. The men were all detained, among them the owner of the boat, Raul by name, who is in Villa Marista.

"As of this moment, the exact number of victims is unknown, but according to the testimonies of the survivors Mayda Tacoronte Vega and Maria Garcia Suares, half of the 72 people on board died.

"Among the survivors are: Mayda Tacoronte Vega, 28-years-old; Milena Labrada Tacoronte, 3-years-old; Ramon Lugo Martinez, 29-years-old; Daisy, 27-years-old; Darney, 3-years-old; Susana, 8-years-old; Raul Muniz, 22-years-old; and Janetta, 18-years-old.

"Among those missing are: Leonardo Notario Gongora, 27-years-old; Marta Caridad Tacoronte Vega, 36-years-old; Caridad Leyva Tacoronte, 4-years-old; Yousel Eugenio Perez Tacoronte, 10-years-old; Magalys Mendez Tacoronte, 16-years-old; Odalys Muniz Garcia. All are residents of the municipality of El Cotorro.

"The survivor from the municipality of Guanabacca is named Maria Luisa Garcia Suarez. Those who have disappeared from Guanabacoa are: Joel Garcia Suarez, 24-years-old; Mario Gutierrez, 35-years-old; and the younger son of Maria Luisa Garcia, 9-years-old.

"The homes of the survivors as well as those of the dead in this tragedy caused by the government are under the strict vigilance of the regime's repressive machinery.

"The facts narrated here were verified by Nelson Torres Pulido, Secretary General of the Pro Human Rights Party of Cuba (PPDH), Ramon Ferreiro, Municipal Delegate of the PPDH in El Cotorro, and Leonardo Lauret, activist from the Municipality of Guanabacoa."

TESTIMONY OF JANET HERNANDEZ GUTIERREZ, 19 YEARS OF AGE, SURVIVOR OF THE INTENTIONAL SINKING OF THE TUGBOAT "13 DE MARZO"

The massacre took place before dawn on July 13, 1994.

When we set sail everything was going very well. There was no one, nothing in our way, no obstacle. When we were coming out of the bay we saw two tugboats at the mouth of the bay, where we were exiting. They let us through. But when we were outside the bay they started throwing cannons of water at us. Constantly. They did not take them off of us, knowing there were children * * *

When we reached the seven miles the cannons of water were high pressure, a terrible force. We were holding the children, fearful that they would fall. The men were with us, fearful that we would fall. But so that they would see what there were women and children aboard, we had to come out on deck, so that they would be certain of that and would not commit murder.

When we were at 7 miles, we see that they speed up and they pull up alongside of us. And then we could not see the Cuban coast, because we could see nothing; not the lights of the Malecon [Havana seawall] or of the lighthouse, nothing. They start hitting our boat, the tugboat "13 de Marzo". We were afraid, not for ourselves, but for the children, Because if it were just ourselves it would not matter, but there were children. Children from 5 months of age and up.

When we lifted the children, they saw them—because they did see them—we started to scream, "please, please don't do this", but they did not listen. Even a young man who was with us, Roman, who is currently in prison, yelled at one of the ones in the other tugboat, "Chino, don't do that. Look, we have children", and he showed his three-year-old step-daughter. If he does not lower the child at that moment the little girl would have been killed with the cannon of water. They did not fire weapons at us but they never said "stop" with their loudspeaker or nothing. They simply let us exit the bay and they attacked us at seven miles where there would be no witnesses. You know that in the open sea there are no witnesses.

When they continue to hit our boat, a second tugboat comes up from behind. The biggest one of the tugboats. It was green with a red stripe, a red line. He hits us and breaks half of our boat from behind. Then, at the moment, two of the men almost fall overboard, among them my husband and Roman, the young man who had yelled that there were children onboard.

When this happens, the boat is unmanned because the captain, Fidelsio Ramel, is thrown overboard with the cannons of water. They throw him to the water. He disappeared. He disappeared just like that. And when Raul, the one who is now being blamed, realizes that the boat is unmanned, he takes charge. He had an idea as to how to sail the tugboat because he had been first-mate of another vessel, not really related to a tugboat, they were different craft. Then, with his general idea of sailing, he tries to help, to save us, because already the boat had taken so much water from the cannons, because they aimed right to the hold of the boat, straight for it, in the faces of the children. The children even had to lower their faces because they were breathing in the water, swallowing it.

By then we knew we were going to sink, because it was something I just knew, I had a feeling they were going to kill us. Because otherwise, they would have stopped. Rual stopped the tugboat. And when they see that Rual stops it, they did not forgive that nor respect that Rual did that. They just sank us * * * in the following manner.

The tugboat that breaks our stern comes around the front. In other words, there was no way that boat was going to stay afloat. It was sinking, with all of its weight in the middle from all those people who were in the hold. There were around 72 people, most of them women and children. Men made up the least fatalities. But those men [survivors] did what they could to save us. When we sink, many people float. But the tugboats reversed and moved back some meters. But they did not throw us lifesavers not did they offer any type of assistance. One of the tugboats threw a lifesaver far from us, so that we would not be able to reach it

When the tugboat broke our stern, a wooden box from our boat falls to the water, several meters away. When you are in the water, those meters are far. We could see the box far away from us and many people were unable to reach it. Then the whirlpool created by the tugboats swallowed them up. My sister-in-law, Pilar Almanza Romero and her son Yasel Perodin Almanza were there. Uncle Gayol, Manuel Gayol, was in the hold of the boat. Those are three of my family that I lost.

When my husband saw this, you can imagine, he went mad. My brother-in-law to, but he was trying to save the other boy. Then we both tried to reach the other boy. But when I tried to move I feel that my nephew, the one who drowned, is holding me by the foot. When I reach for him, he was clinging to my tennis shoe and he was swept away. I could not reach him. It was terrible.

Then when I see that my brother-in-law emerged with Sergito, the youngest of my nephews, I felt tremendous relief because at least I still had one of them, do you understand? Then I took him, we kept him.

Then a "grifin" arrived [coastguard vessel]. Later a small speedboat arrived and picked up six or seven people, including a little girl who looked like a toad, swollen with all the water. But her mother had managed to save her. The little girl of three years of age survived. When we saw this * * *

We stayed until dawn in the "grifin". When I boarded the "grifin" I insulted them. I told them they were murderers. I told them everything I could think of. I told them they have no mercy with children, because here in Cuba they say that there are many privileges for children and the old. But they even let old people drown there. And many children. Nearly 23 children dead there.

The town is in an uproar. People are desperate for a bit of information, anything that is known about the corpses that remain captive in the hold of that boat. Roberto Robaina [Cuba's Minister of Foreign Relations who lied to the world press about this tragedy], he says that we knew the boat had a malfunction when we left port. Do you really think that we would have risked the lives of children and women knowing there was a malfunction? Knowing that there is so much sea to cross? Because when you look in a map there does not seem to be much distance but in real life there are 90 miles, do you understand? Then they say that that tugboat was a relic of World War II. That is true. It was very old. Made of wood. But it had just been repaired. (Some of the victims/survivors had access to information and to the port itself. They had knowledge that the boat was in working order.)

When I went to Villa Marista [national headquarters of State Security or political police] to take my husband and brother-in-law some personal toiletries, I asked them [Villa Marista] why did the newspaper report that the boat capsized, that it sank because of our negligence? I told them that was not so, asked why they lied. They became extremely agitated. They asked me what I was inferring. They called me every kind of name * * * "worm, counterrevolutionary". And I accepted that because I am against this government. And I will say that anywhere. I know that I will be persecuted, because all of the survivors are under intense surveillance * * *

But I asked them in Villa Marista that what will become of those responsible for sinking us, the murderers of our children and relatives. Because there are children who lost their mothers. My nephew, for example. He knows he lost her, because that is the saddest part, that he knows he lost her. And he asks me in his childlike manner—I wish he were here because he would be a better witness than I because a child is worth so much—he asks why the frogmen who dive to put fish in the aquariums, why can't they recover his mother and his little brother. (The Cuban government claims they do not have frogmen available to recover the bodies. Yet they have an ongoing underwater program to, among other activities, stock aquariums which are used for the entertainment of tourists.)

This section mentions events after the massacre took place:

The "Polargo 5": "The captain of this tugboat is Jesusito (Jesus Martinez). He was the one who rammed into us from behind and cracked the boat, then came to the front and sank us. This man, coming with this horror, this cynicism, with that murder he committed, that he provoked, they call him the hero now at this time, in his company, they are calling him the hero at his company, the "Navegación Caribe". Then this "Polargo 5", they want to take it to Nuevitas, to wait for everything to calm down, but what they don't know is that this isn't going to calm down.

Funeral Rally at Fidel Castro's Mission Tomorrow

Today, on the anniversary of the beginning of the Cuban revolution, the Cuban American community will hold a funeral rally at Fidel Castro's mission in Washington. The event will take place in memory of 43 Cuban men, women and children who were massacred by the Cuban regime last July 13, when their attempt to escape the island was thwarted by government forces. The Cuban Catholic bishops in a message to "all Catholics and all Cubans" have called for an investigation, and his Holiness Pope John Paul II sent a message to the families of the victims expressing his "condolences."

In the early hours of July 13, 1994, an old tugboat sailed from Havana harbor with 74 persons aboard. Seven miles off the Cuban coast four government fireboats intercepted them, opening their power hoses on them. The water barrage knocked some of the would-be refugees into the ocean. The fireboats then rammed the tugboat and split it in two, sinking it. 31 people (6 children, 5 women, and 20 men) were rescued by Cuba's Frontier Guards; 41 people including 14 children drowned.

According to survivors, those aboard the tugboat had offered no resistance. The Miami Herald in an editorial also reprinted in the editorial page of The Washington Post reported that "the escapees even held up some of the small children for the attackers to see, screaming that more than 20 children were on board." One of the survivors, Mrs. María Victoria García Suárez, whose ten-year-old son slipped from her hands while in the water, was interviewed by Miami's TV Channel 51. She also lost seven other members of her family.

The bishops' statement and the foreign media coverage forced the Castro government to change its initial explanation that the tugboat sank due to a leak caused by an accidental collision. Mrs. Garcia Suarez, who was detained by State Security police after her TV interview, was released after her neighbors protested. Others remain in custody. The Cuban government has tried to prevent memorial services for the victims, fearing a public demonstration in Havana. The regime also has refused to recover the bodies of those who remain inside the sunken tugboat. The Cuban government's response to the bishops' statement and to international outrage over the incident has been to increase repression against the dissidents who protested this massacre, and the friends and relatives of the victims.

Havana has stepped up its interference with Radio Martí. We call on the Organization of American States, the United Nations, and the press, to call Castro to account for this crime.

Of Human Rights and Casa Cuba urge all people of good will to join the Cuban American community in a funeral procession in front of the Cuban Interests Section on 16th St., NW at noon on July 26, 1994.

We will pay our respects to the memory of these most recent victims of Fidel Castro on this July 26. The Cuban Revolution which started on July 26, 1953 is over. While the eyes of the world focus elsewhere in the Caribbean, Castro's regime now in its 35th year remains in power through the use of terror.

Cuba Sí, Castro No!

[From the Miami Herald, July 19, 1994]

Sinking of Tugboat Off Cuba "Brutal," Clinton Says—Symbolic Wakes Staged in Havana, Sources Report

(By Cynthia Corzo)

The sinking of a refugee-laden tugboat by four Cuban fireboats Wednesday—an incident in which about 40 people were reported missing or dead—has aroused the anger of Cubans on the island and a strong condemnation from President Clinton.

"It's a human tragedy," said Clinton, who was in Miami on Monday to attend the opening of the National Council of LaRaza's annual convention. "I deplore it as . . . another example of the brutal nature of the Cuban regime."

According to sources in Cuba, symbolic wakes to honor the dead have been staged in the Havana suburbs of El Cotorro and Guanabacoa.

"They're sowing the seeds of the people's wrath," David Buzzi, a human rights activist, said in a phone call from Havana. "It's a criminal act and the people cry for justice."

A Mass for the dead will be said today at 2 p.m. at the Havana Cathedral, according to information received Monday by the Cuban American National Foundation.

Traditionally, public demonstrations in Cuba have been quashed by the authorities, and demonstrators are often imprisoned.

"The people have taken to the streets," said Mercedes Marrero, 46, a Miami resident with relatives in Cuatro Caminos, a Havana neighborhood. Six of those relatives were in the tugboat; three are missing and presumed dead; three survived. The tugboat reportedly carried 72 people when it was rammed and sunk by fireboats. The crews of the fireboats "committed murder," Marrero said. "Those poor innocent people [on the tugboat] were seeking freedom."

A nephew in Cuba told Marrero in a phone call that, after knocking refugees overboard using high-pressure hoses, the fireboats made eddies to drag the people underwater.

Most of the people died inside the tugboat, Marrero said, when the fireboat crews aimed their hoses at the hole and filled it with water.

Cuban officials in Washington rejected the accounts of the survivors and their relatives, calling them "lies."

"This is all part of the campaign against the Cuban revolution," said Rafael Dausa, a special envoy at the Cuban Interests Section.

Dausa said the Cuban government "is doing everything possible to bring this unpleasant incident to an end."

Murder at Sea

Has our hemisphere grown so used to the Cuban regime's savagery that it cannot summon a cry of outrage for the nearly 40 Cuban refugees sent to their watery deaths by Fidel Castro's government? The "prudent" silence over Cuba's murderous sinking of a tugboat loaded with escapees is without justification.

Would this complicitous silence greet the murder of innocent men, women, and children fleeing other places? The murdered refugees' only crime was to make a desperate attempt to flee Cuba. Soon after the group of 72 began their escape aboard a decrepit tug, Cuban fire fighting boats attacked them. According to eyewitnesses, the refugees signaled their readiness to surrender and to return to port. The escapees even held up some of the small children for the attackers to see, screaming that more than 20 children were on board.

Such pleas did not deter Castro's men, who turned potent fire hoses on the refugee vessel, sweeping passengers overboard. The pursuit craft then rammed the tugboat repeatedly, capsizing it. Tragically, all of the children hiding in the tug's hold apparently died. The adult survivors are in jail. Where on earth is a mute world's conscience?

Countries with substantial investments in Cuba—Spain, Mexico, and a few others—have a special obligation to denounce this crime perpetrated by Cuba's government against the unarmed refugees. Like investors in the South Africa of apartheid. Cuba's foreign business partners ought to feel particularly ashamed of the actions of the regime that their capital is helping to sustain.

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CHURCH ASSAILS TUGBOAT TRAGEDY

HAVANA.—Cuba's Roman Catholic Church Tuesday condemned the sinking of a tugboat stolen by a group of Cubans trying to leave the island, calling it "in no way accidental," and demanded that those responsible be held accountable.

Archbishop Jaime Ortega, the head of the church in Cuba, condemned the tragedy in a forceful statement on the sinking, allegedly after the tugboat was rammed by a government vessel trying to intercept it, and delays in rescue efforts.

Some 40 refuge seekers, including women and children, are reported to have drowned in the sinking.

"This adds to the pain, a sense of astonishment and a demand for the facts to be cleared up and for responsibilities to be cleansed," Ortega said in his statement.

"The violent and tragic events that produced the sinking of a boat where so many of our brothers lost their lives are, according to the accounts given by survivors, of a roughness that can scarcely be imagined."

Cuban authorities have said that 31 people were rescued and an unstated number of people were missing after the tug sank before dawn last Wednesday, north of Havana.

One survivor, however, told foreign reporters last Friday that the stolen tugboat was sprayed for some time with pressure hoses by pursuing vessels. She said it sank after being hit on one side.

Ortega's statement said it was known that the church did not condone people trying to leave the island in fragile vessels, sometimes with small children on board. "But the magnitude and the causes of this tragedy give it different characteristics," he said.

An Interior Ministry statement, over the weekend, said that the tugboat used by the group, a Transport Ministry Maritime Services vessel, was leaking before it was stolen.

CUBA BLAMES U.S. POLICY IN TUGBOAT DEATHS

(By Mimi Whitefield)

Cuban Armed Forces Minister Raul Castro chastised the United States for whipping up "anti-Cuba hysteria" Tuesday and blamed U.S. policy toward Cuba for the recent deaths at sea of more than 30 Cubans fleeing their homeland.

In a rare turn of events, President Fidel Castro ceded delivery of the traditional July 26 speech that commemorates the beginning of the Cuban revolution to his brother, the second secretary of Cuba's Communist Party.

However, the Cuban leader was seated in the first row during the 45-minute speech delivered on the Isle of Youth off Cuba's southwestern coast.

"For the lives lost in the depths of the ocean, the U.S. administration must stand in first place among the accused for its permanent aggressive attitude against our country, including the immigration policy toward Cuban citizens," Raul Castro said.

U.S. policy, he said, encourages Cubans to leave the island in flimsy rafts and hijacked boats and planes because they are treated as heroes when they arrive by such means, while at the same time they are blocked from migrating legally because the United States issues so few visas.

"The gates of our country are open to those who want to emigrate legally," said Castro. Despite his claims, Havana has held up exit visas for years in some politically sensitive cases.

Castro criticized the organizers of all ill-fated July 13 expedition to the United States that ended when a Cuban government vessel rammed a hijacked tugboat, causing it to sink. Havana says it was an accident; some survivors say otherwise.

Thirty-one people were rescued, but 32 others apparently drowned when the tug went down seven miles out to sea after being pursued by government vessels.

Castro said the wooden tugboat was 115 years old, seaworthy only inside the port of Havana and was meant to carry only four people.

The pursuing Cuban boats, he said, tried to prevent the tugboat from making a "death trip" because it was "destined to sink well before it would reach port." He did not acknowledge any role the pursuing Cuban boats may have played in causing the tragedy.

And Castro said that neither the U.S. State Department nor the Senate nor President Clinton "had any right to meddle in an event that is under the exclusive jurisdiction" of Cuba. The United States has been highly critical of Cuba's role in the tragedy.

"We reject with all our energy the anti-Cuba campaign and the interference in our affairs by the United States," he said.

The fact that the armed forces minister devoted so much of his speech to the tugboat incident is an indication of the consternation that incident has provoked inside Cuba. This week the two main topics of conversation in Havana were the sinking of the tugboat and the food shortage.

Still, the fact that Raul Castro gave the July 26 speech nearly overshadowed what he had to say.

Cuba officials said Fidel Castro didn't give the speech as he traditionally does because it followed so closely on the heels of his two-day visit to Colombia for the signing of the document creating the Association of Caribbean states.

"There's nothing mysterious about this. He [Raul] has given the speech a few times in the past. It's because Fidel was out of the country," said Rafael Dausa, a spokesman at the Cuban Interests Section in Washington.

But the Cuban head of state was back on the island Monday evening—in plenty of time to make the ceremony marking the 41st anniversary of the assault on Moncada Barracks, the failed attack that is regarded as the first battle in the Cuban revolution.

Among diplomats there were two other schools of thought on why Raul gave this year's speech. One was that with the Cuban economy in such dismal shape, there would be little good news to report and Fidel Castro preferred to keep his distance.

Another was that by allowing Raul to give the speech it would strengthen his image and showcase him as a potential Cuban leader. Raul, 63, is the heir apparent to his older brother, who will be 68 in August.

"This may be an attempt to bring Raul out of the shadows as well as to try to give the impression that Fidel is taking something of a back seat, that he's not the only one running the show," said Wayne Smith, who headed the U.S. Interests Section in Havana from 1979 to 1982.

Party leaders say the Isle of Youth was chosen as the center of this year's national holiday in homage to Cuba's youth—a numerically important group that has become increasingly disenchanted with the revolution.

Some 45 percent of the Cuban population is 30 years or younger, and thousands of Cuban and foreign students attend boarding schools on the Isle of Youth and help cultivate its citrus crop.

Since the Communist Party Congress in 1991, a process has been under way to bring a younger generation of Cubans into leadership positions.

"There have always been people for whom the concepts of homeland and independence don't signify anything . . . but the immense majority of our people profoundly love their homeland and its history," Raul Castro said.

DEMONSTRATORS AT CUBAN MISSION IN WASHINGTON PROTEST TUGBOAT SINKING

WASHINGTON.—More than 100 people rallied outside Cuba's diplomatic mission Tuesday to protest an incident in which about 40 Cubans reportedly drowned after their tugboat was rammed by government fireboats during an escape attempt.

According to reports, this tugboat was intercepted seven miles at sea on July 13 by four fireboats, which sprayed the vessel with power hoses before ramming it.

Thirty-one of those aboard were rescued.

A call by the archbishop of Havana for a full investigation has received support from the State Department.

Several of the demonstrators involved in the Tuesday protest were detained after chaining themselves to a fence at the Cuban mission. Among them was Armando Valladares, former U.S. ambassador to the U.N. Commission on Human Rights.

The protest occurred on the 1st anniversary of President Fidel Castro's debut as a guerrilla fighter.

CALLING CUBA TO ACCOUNT

Did we need yet another example of how brutally inhumane the Castro government is? Should further proof be needed, none could be more graphic than the deliberate sinking by Cuban government vessels of a boatload of refugees July 13. Bad as they are, not even the generals in Haiti have resorted to such means.

More than 70 people were packed on an ancient tugboat from Havana when the ship was intercepted at sea, seven miles from Cuba's shores en route to Florida. Despite the fact that the refugees immediately surrendered, they were sprayed with waterguns from one ship, which knocked them over and knocked children out of their mother's arms. Many were swept off the deck and into the sea. Two other government ships rammed the hull of the tugboat, which split in two and sank.

Some 40 people perished in the tumultuous waters, as well as an uncertain number of children seeking protection from the waterguns in the hull of the ship. One survivor, interviewed on video by a group of foreign journalists in Havana, told of finding herself in the water trying to save her young son, holding on even after the child had drowned, but finally having to let go from sheer exhaustion. Eventually, a Cuban coast guard vessel appeared and picked up survivors, about 31 people. The men were sent to prison. The women and children were released, but continue to be under surveillance.

President Clinton, during his trip to Miami July 18, denounced the act as an "example of Cuban brutality," and so it certainly is. Many others have protested as well. On Friday, the Senate passed an amendment to the State, Commerce, Justice Appropriations Bill condemning the action and requesting U.N. Ambassador Madeleine Albright to urge an investigation of the incident as well as to demand the release of the survivors. That would seem the least we can do. And most visibly, of course, a group of Cuban-American protesters on Tuesday blocked the entrance to the Cuban Interests Section on 16th Street NW in protest. They asked that the Cuban government hand over the bodies of the dead retrieved from the hull of the ship, which Havana has refused to do, as it has refused to open an investigation.

As might be expected, the Cuban government has rather a different story. It goes something like this: The ship was old and unseaworthy; it sank by an accidental collision with one of the other ships; the survivors were only rescued by the unselfish efforts of Cuban sailors. Furthermore, it's all the fault of the nasty American government. The refugees wouldn't have been at sea at all, were it not for the dastardly U.S. policy of enticing them to Florida with promises of asylum—so Cuba's first deputy president, Raul Castro, brother of Fidel, ranted in a speech on Tuesday.

Perhaps you could turn Mr. Castro's argument around. These people wouldn't have been at sea in the first place had they not lived in a country governed by a regime so awful that the use of terror is the only way to make its people stay.

Story of Tug's Sinking Incited Cubans—Drownings That Launched Exodus of Rafters May Be Portent

(By Tod Robberson)

Guanabacoa, Cuba, Sept. 10—An aging tugboat crumbled beneath its terrorized passengers on the high seas. By the survivors' account, water pounded against them as weary men, women and children gasped for air and tried to keep afloat. Mothers desperately tried to tread water with one hand while clutching infants, then finally lost their grips and condemned their babies to death by drowning. Help was at hand on other boats, but they turned away.

The story is not among those of the 20,000 Cuban raft people who set out to sea over the last month after President Fidel Castro opened the doors to emigration, Rather, it is the survivors' version of what happened earlier, when Castro's Communist government attempted to crack down on those attempting to flee.

After Friday's accord with the United States calling on Cuba to halt the exodus of raft people, the story of 68 passengers aboard the tugboat 13th of March looms as a precedent for what might happen now that Castro has pledged to close the door once again.

During the predawn hours of July 13, three tugboats were dispatched from the port authority of Havana to follow the commandeered 13th of March out to sea. By the account of interviewed survivors—disputed by Castro and the official press—when the tug was seven miles offshore the authority's boats pummeled passengers on its deck with water cannon, then systematically sank the boat by ramming it in unison until it broke apart. Crew members refused to help survivors out of the water. Two Cuban military gunboats stood a few hundred yards away while the demolition was underway.

At least 37 passengers from the 13th of March drowned, while 31 survivors lived to retell a story that circulated throughout this island nation and prompted the Cuban migration crisis of 1994.

Over the succeeding three weeks, three other passenger boats, a military craft and an airplane were commandeered. Street demonstration erupted, culminating Aug. 5 in a Havana riot in which civilians killed two policemen and gravely injured a third. On Aug. 6, Castro announced a new policy lifting all restrictions on emigration by sea. Many here are calling the tugboat saga "Cuba's version of Tiananmen Square."

Six survivors from the 13th of March recounted their ordeal during interviews this week here and in the neighboring town of La Magdalena, near Havana.

"It all started with us," said Maria Victoria Garcia, 28, who until 4 a.m. on July 13 was the mother of a 10-year-old boy, Juan Mario. "What happened that morning was premeditated murder. It was a massacre."

The 13th of March was a wooden 115-year-old tug that was docked in Havana. Two tugboat captains from Guanabocoa who worked at the port, Fidencio Ramel Prieto, 51, and Raul Munoz Garcia, 22, met secretly in early July and agreed to organize a small group of family members, sneak them aboard the recently renovated boat and, under cover of darkness, set out for Florida. By the time the group entered Havana port at 3 a.m., it had swollen to an unwieldy 68 people, varying in age from less than 12 months to 60 years.

Ramel was deputy director of the port as well as secretary in the labor division of Cuba's Communist Party, and among the nation's most experienced mariners. He had been chosen to fly to the Netherlands in 1987 to take possession of five new tugboats purchased by Cuba to replace its aging fleet. Three of the tugs he guided across the Atlantic in 1987 were used to hunt him down on July 13, and crush his 51-foot craft into splinters.

Ramel and Garcia both knew that security at the port was minimal from midnight to dawn and they would have few problems sneaking onto the 13th of March.

"Nobody tried to stop us," said Jorge Cuba Suarez, 24, a neighbor of Ramel's family here. "After we got out of the port, another tugboat started following us. They could have turned us back at any time but they didn't." He said Ramel ordered everyone to remain in the hold until they had reached international waters.

"We spent about an hour down below and then Raul yelled for all women and children to come to the deck," said Matia Tacornte Vega, 36, of La Magdalena. "I went up and could see that two tugboats were right next to us. Ramel wanted us on deck to show them we were just a bunch of women and children."

Tacoronte said the tugboats began "shooting water at us" from water cannon mounted atop their helms, and Ramel shut down his boat's engine.

Then, without warning, one tugboat rammed the 13th of March from behind. "I was standing right there when it happened," recalled Maria Victoria, who is Ramel's daughter. "The force knocked everybody down. We had to grab anything we could just to keep from falling into the water.

Another tug punched a hole in the hull of the 13th of March, the survivors said, and a third joined in the ramming.

"The entire deck buckled. It separated completely from the hull. I started sliding into the water and I remember thinking, "We're all going to die,'" Maria Victoria said.

"Most of the men were still down below," said Daysi Martinez Fundora, 26, "we all started screaming, 'Please, mother of God! We're all Cubans. At least save our children!' But the crew members on the other boats just stared at us."

In less than five minutes the 13th of March had sunk, with more than two dozen people still hiding in its hold. Tacoronte said she and other mothers clutched their children while grabbing anything afloat to keep their heads above water.

"I don't know why, but they kept shooting water at us. I couldn't open my mouth to breathe." Tacoronte said she refused to let go of her 3-year-old.

Interviews have been difficult because many of the male survivors were kept in jail after their rescue. Raul Munoz remains in prison. Garcia said he was jailed for 12 days. Maria Victoria's brother, Ivan Suarez, said he was held for 22 days. Women and children were allowed to go home after a few hours of questioning.

Official accounts of the incident printed in the government newspaper Granma said the 13th of March sank after an "accident" in which one of the government tugboats collided with it while attempting to rescue the passengers.

"If they had tried to rescue us my boy would be alive today," Maria Victoria said.

Granma confirmed the water cannons were used but said they were directed at the boat's smokestack and helm in an attempt to shut down its engine. Granma blamed the accident on Ramel and Munoz while quoting Munoz from prison as saying that Ramel "knew the boat was unseaworthy" but had deliberately risked setting out to sea.

Granma also said the rescue attempts were made difficult by rough seas that morning. All survivors interviewed said the sea was calm. Maria Victoria's parents compiled a scrapbook to chronicle the deaths of more than a dozen family members who were passengers. Pasted onto one page are the official weather reports from July 13 as well as the day before and day after. All described clear weather and calm seas.

In an Aug. 24 speech, Castro called the disaster the first incident in the current migration crisis but said "it remains proven that the authorities had absolutely nothing to do with this accident."

Ester Suarez, Ramel's wife, disputed government assertions that her husband was a "counterrevolutionary" and a traitor. "He was a senior member of the Communist Party. He was devoted," she said, pulling out Ramel's party membership booklet. "Look, Fidel signed his booklet personally."

"I think Fidel really believes this was an accident. They have lied to him," Maria Victoria said. "He needs to know the truth, that this was murder." She said Communist Party officials had offered to give her a new house, fully furnished, if she would agree to keep quiet about the incident, but she refused.

On Aug. 3, two days after Ivan Suarez was released from jail, he and his mother were returning to Guanabacoa from a shopping trip to Havana. They boarded a 194-passenger ferry, La Coubre, that would carry them past the dock where the 13th of March had been moored.

Suddenly the ferry's engines surged and the boat lurched toward the sea. La Coubre had been hijacked. Two hours later, Ivan and Ester Suarez were in international waters. A U.S. Coast Guard ship pulled alongside and an announcement was made that anyone aboard who wanted to seek asylum would be allowed to travel to a detention center near Miami.

"Ivan looked at me and I told him I could not go. My family needed me at home," Ester Suarez said. "He decided to come back with me."

Seventy-six passengers chose to return to Cuba, where they received a hero's welcome and personal expressions of gratitude from Castro. "In two days, Ivan went from being a prisoner and an example of national disgrace to being a national hero," Ester Suarez said. "This is Cuba."

Maria Victoria said she kept one arm wrapped around 10-year-old Juan Mario for about 30 minutes, while holding onto a large wooden box floating in the water and while 10 other people flailed about trying to maintain their grip on it.

Someone's foot hit Maria Victoria's arm, causing her to lose her grip on Juan Mario. "He disappeared. Someone screamed. 'Grab Juan Mario. He's going down!' But he was gone. I never saw my little boy again," Maria Victoria said, adding that she now is taking prescription tranquilizers and receiving psychiatric treatment.

Jorge Luis Garcia said the survivors pleaded with crew members on the three tugboats to rescue them, "but they just stared at us. One man stood on the deck with his arms crossed. I couldn't believe it. They were trying to make us drown."

At about 5 a.m., two Cuban navy gunboats moved in and fished 31 people from the waters. They circled for six hours without finding any other survivors, then headed back to Havana. Capt. Ramel and at least 15 other men perished, along with four boys, three girls and 13 women.

Cuban human rights workers say they are still trying to interview survivors to compile a full list of everyone on the boat. "There might be more dead but we won't know until we've visited every survivor's home," said Elizardo Sanchez Santa Cruz, president of the Cuban Commission of Human Rights and National Reconciliation.

[From the Miami Herald, July 7, 1993]

U.S. RIPS CUBA'S "EXTREME CRUELTY"—PROTESTS THREE KILLINGS NEAR BASE

(By Christopher Marquis and David Hancock)

WASHINGTON.—Cuban marine patrols, determined to stop refugees from reaching the U.S. Naval Base at Guantanamo Bay, have repeatedly tossed grenades and shot at fleeing swimmers and recovered some bodies with gaff hooks, U.S. officials charged Tuesday.

At least three Cubans have been killed in the past month as Cuban patrol boats attacked swimmers within sight of U.S. Navy personnel at Guantanamo.

The killings are the latest sign that Cuba is resorting to violent means to stop a torrent of desperate people from fleeing the impoverished island.

"This is the most savage kind of behavior I've ever heard of," said Robert Gelbard, deputy assistant secretary of state for Latin America. The United States has no previous record of such activity in Cuba, he added, calling the practice "even worse than what happened at the Berlin Wall."

The Clinton administration filed a formal protest Monday with the government of President Fidel Castro, calling on Havana to "immediately cease these barbaric practices," said a State Department aide.

News of the attacks at Guantanamo comes amid a fierce crackdown by Cuban authorities on residents who try to leave the country.

On Thursday, Cuban patrols killed three people who tried to swim to a U.S.-registered speedboat near the town of Cojimar. The captain, a U.S. citizen and Florida Keys resident, was injured in a hail of bullets. A fifth man, also from South Florida, escaped.

In separate incidents Friday and Monday, authorities seized boats near Havana and Santa Cruz del Norte, arresting seven U.S. residents as they sought to help scores of relatives flee the island.

The men captured Monday were Cuban rafters who had spent only two months in this country.

"My brother did not want to live without his wife and two children," said Camilo Bourzac, 28, whose brother Ernesto, 31, is now in jail on the island.

U.S. CHARGES "EXTREME CRUELTY"

The attacks on swimmers in Guantanamo Bay drew especially sharp criticism because the refugees might easily have been detained without violence, U.S. officials said. "The idea of blowing people up when they are vulnerable underwater is appalling," Gelbard said.

A State Department aide called the use of gaffs, usually used to pull gamefish into boats, to pull bodies from the water "an act of extreme cruelty."

According to the U.S. protest, U.S. military guards surveying the bay have witnessed five separate incidents:

On June 19 at 2 p.m., U.S. guards, startled by the sounds of detonations, saw Cuban troops aboard patrol boats dropping grenades in the paths of several swimmers headed for the U.S. base.

On June 20 at 1:30 p.m., Cuban troops repeated the action, then strafed the water with machine-gun fire.

On June 26 at 11 a.m., three patrol boats surrounded a group of swimmers, lobbing grenades and spraying them with automatic weapons fire. At least three corpses were lifted out of the water with gaffs.

On June 27 at 11:30 a.m., guards aboard patrol boats lobbed two grenades into the water.

On the same day, just before 3 p.m., a patrol boat opened automatic fire on a group of swimmers, who were later seen being pulled from the water. The swimmers' status was unknown.

U.S. officials said they did not know how many people had been killed in the recent Guantanamo incidents, but said at least three could not have survived the attacks.

The number of Cubans seeking to reach Guantanamo, where they can apply for political asylum, has surged this year.

The base, which remains the last Western outpost in a Communist nation, reports that 195 Cubans have reached the facility this year, more than the total of 152 for all of 1992.

The statistic stands in even greater contrast to the years prior to the end of the Cold War: in 1988, 21 Cubans reached the Guantanamo base; in 1989, there were only 12.

About 90 percent of the refugees come by sea, crossing the bay waters in small craft or by swimming. Fences, guard posts and several strips of minefields deter those attempting to enter the base by land.

U.S. diplomats who presented the protest note to the Foreign Ministry in Havana warned that the use of explosives so close to the U.S. base could be considered a "provocative act."

BOAT INCIDENT ALSO PROTESTED

The diplomats also lodged a separate protest Monday of last Thursday's shooting against the Key West-registered speedboat, the Midnight Express.

A Washington source said Tuesday that the boat's pilot, Ricky Hoddinott, who suffered gunshot wounds to the legs, told a U.S. diplomat that he and Hugo Portilla, a Cuban exile living in Miami, had traveled to Cuba to pick up five or six people.

However, when the Midnight Express approached Cojimar, between 50 and 100 people were waiting on the beach. About 30 jumped aboard and the boat began pulling away. At that point, Cuban Frontier Guards opened fire.

Hoddinott told the official that he raised his hands in surrender but the guards continued firing. Cuban officials said the troops were firing at the engines to disable the boat.

The State Department has not determined whether any of the others jailed in Cuba over the weekend are U.S. citizens.

Cuban officials in Washington defended the crackdown on illegal entries into Cuban territory.

"We are going to continue picking up all boats that keep arriving in Cuban waters with the goal of smuggling people," said Jose Luis Ponce, spokesman for the Cuban Interests Section in Washington. "We are not going to allow them to continue violating our sovereignty."

ARREST MAY SIGNAL NEW CUBAN PUSH AGAINST DISSIDENTS

(By Mimi Whitefield)

Human rights monitors say they fear the detention of Francisco Chaviano, a leading advocate for rafters who was compiling a list of Cubans who have disappeared at sea, could mark an escalation of repression against leaders of Cuban dissident groups.

Chaviano is being held at Villa Marista state security headquarters and apparently will be charged with revealing state secrets. He was arrested May 7, shortly after a man he didn't know visited his home and left documents that allegedly detailed human rights problems.

Family members said Chaviano hadn't even had time to read the papers when state security agents arrived and took him to Villa Marista.

"He has never worked with state secrets" and has been very public about his work in defense of human rights. Chaviano's wife, Ana Aguililla, told the Spanish news agency EFE.

Aguililla also told diplomats in Havana that at first the government was considering charging Chaviano with illicit enrichment, but now he is being accused of the more serious charge, which carries a penalty of four to 10 years, or eight to 15 years if the accused learned of the secrets through illegal means.

"It looks like a provocation," said Ricardo Bofill, president of the Cuban Committee for Human Rights.

Moises Rodriguez Quesada, spokesman for the Coordinating Council of Human Rights Organizations in Cuba, issued a statement, denouncing the government's action. Chaviano is co-president of the umbrella group and also is president of the National Council of Civil Rights in Cuba.

ESCALATION OF REPRESSION

"In my opinion the detention of Professor Chaviano, an honest and peaceful defender of human rights, could mark the beginning of a true escalation of repression, intolerance and covert actions of the repressive apparatus to break up the small militant opposition and try to discredit its leaders," the statement said.

Bofill said there is a developing trend in Cuba of charging leading dissidents—especially those involved in collecting denunciations of human rights abuses—with more serious crimes and sentencing them to longer prison terms.

"One hypothesis is that the government is trying to diminish the flow of denunciations abroad," he said.

For the past three years Chaviano's group has been investigating Cubans who have lost their lives trying to make the treacherous ocean crossing to Florida.

State security agents seized all the documents related to rafters' disappearances, as well as other papers, when they searched Chaviano's home in the seaside town of Jaimanitas. The homes of four other members of Chaviano's group were also searched.

DOCUMENTED RAFTER EPIDEMIC

Chaviano, a former mathematics teacher, was trying to document as precisely as possible the names, ages, addresses, dates of departure and circumstances under which rafters disappeared.

"It's like an epidemic—like alcoholism. It's claiming so many lives," said Chaviano in 1991 when he began making the list.

"Inside the island, Chaviano was really the key player in this investigation," Bofill said. "It's very difficult work."

Bofill said it was unclear whether any copies are available of Chaviano's work on rafters.

Chaviano, who spent a year in prison after he was caught trying to leave Cuba in a leaky boat in March, 1989, was one of the founders of the Cuban Rafters Council, a group that tried to defend the rights of Cubans imprisoned for "illegal flight."

His interests later evolved to include a more general defense of human rights, but he still took a special interest in the plight of rafters.

Chaviano's detention came shortly before a new report by the Organization of American States' Inter-American Human Rights Commission began circulating among OAS member nations. It contains a 20-page section on Cuba that expresses concern that respect for human rights in Cuba is on the verge of a further decline.

"The accentuated repression of independent organizations by the Cuban government, and the very grave economic difficulties that the Cuban people face, have provoked situations whose evolution foresees a marked deterioration of Cuban society in general and the human rights situation in particular," noted the report, which will be formally released in June.

CUBA CITED FOR OTHER ABUSES

The OAS report also faults Cuba for the high number of Cubans imprisoned for long periods before trial, the use of psychiatry as a form of intimidation against those disaffected with the regime, and stiff sentences meted out to Cubans accused of trying to destroy the political system and those convicted under the catch-all crime of dangerousness.

Bofill said a growing number of dissidents have been arrested in recent years after being approached by people who said they had inside knowledge of human rights abuses.

Among them are Yndamiro Restano and his assistant Maria Elena Aparicio, who were sentenced to 10 years and seven years, respectively, in 1992. Their arrests came a short time after Restano was approached by military men who said they wanted to talk about human rights abuses within the armed forces, Bofill said.

Also in 1992, Omar del Pozo was accused for revealing state secrets. He is now serving a 15-year sentence. The chief witness against him was a police agent who had infiltrated del Pozo's human rights group.

Despite the tendency toward longer prison terms, Bofill said Havana's strategy has only been partially successful.

"There is more repression; there are more people in prison now, but the number of denunciations [of abuses presented by human rights activists] hasn't decreased at all." Bofill said.

Mr. GILMAN. Mr. Speaker, I would like to commend the sponsor of this resolution, the gentleman from New Jersey [Mr. MENENDEZ], and others joining in this debate today, for focusing our attention on this brutal and deliberate violation of human rights.

The 40 innocent people who lost their lives at sea on July 13, 1994, will not have died in vain if the world holds Fidel Castro and his repressive security apparatus accountable for this ruthless act.

Mr. Speaker, the United States is often accused of being obsessed with Cuba, particularly Castro's human rights record. I would submit that if ours were the last government on earth willing to press this issue, we should continue to do so.

Moreover, we should stand our ground with other countries and organizations that appear far too willing to react to the rhetoric about U.S. policy toward Cuba and then ignore the cold, hard facts about Castro's repression. Too often, these cases are met with silence.

For those who wonder what drives our tough Cuba policy, ask Maria Victoria Garcia, a survivor who lost her husband, her 10-year-old son, her brother, three uncles, and two cousins who died in this deliberate attack on a doomed Cuban tugboat.

I support the resolution and commend its sponsor, Mr. MENENDEZ. I understand that in the course of drafting this language some concrete assurances were made by the Administration and our representatives at the O.A.S. and U.N. that they will press the Cuba human rights issue with new vigor. We will monitor their efforts and hold them to that pledge.

Thank you, Mr. Speaker.

Mrs. MEEK of Florida. Mr. Speaker, it is my privilege in joining with Congressman ROBERT MENENDEZ and 13 of my colleagues as a sponsor of H. Con. Res. 279, which condemns the government of Cuba for the deliberate sinking of a tugboat called the "13th of March" and for the Cuban government's callous disregard for the lives of its 72 passengers. I strongly urge my colleagues to support passage of this resolution.

The sinking of the "13th of March" was completely avoidable. Still, 37 people, including women, infants and children, drowned as a result of this murderous act—yet another example of the Cuban government's officially-sanctioned policy of terror toward its own citizens.

According to survivors, the "13th of March" set sail from Havana but was soon followed by three tugboats from the port authority of Havana.

These government vessels could have stopped the "13th of March" at any time. Instead, in the pre-dawn hours of July 13, 1994, when the "13th of March" was 7 miles off the Cuban shore, the authority's tugs pounded the passengers with water cannon and then rammed the helpless tugboat until it sunk only 5 minutes later. Two Cuban military gunboats were positioned a few hundred yards away observing while the ramming was underway.

As the helpless victims struggled in the water to hold onto life, the crews of the authority's tugs stood by and watched dozens drown. Finally, the Cuban gunboats moved in to fish out of the water the remaining survivors—fewer than half of the passengers.

Mr. Speaker, with this resolution today we go on record condemning this criminal act, an act which horrifies all civilized people. The helpless victims of the "13th of March" will not be forgotten.

Let there be no mistake in anyone's mind of the true nature of Castro's own cruel brand of repression of the people of Cuba. And also let there be no doubt that, despite this completely avoidable tragedy, the valiant people of Cuba will never give up.

The days are numbered for Castro's brutal dictatorship. It will not prevail, and the people of Cuba will one day live in their proud land in peace and freedom.

Mr. MENENDEZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DE LA GARZA). The question is on the motion offered by the gentleman from New Jersey [Mr. MENENDEZ] that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 279, as amended.

The question was taken.

Mr. SMITH of New Jersey. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule 1, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PERMISSION TO FILE CONFERENCE REPORT ON S. 2060, SMALL BUSINESS ADMINISTRATION REAUTHORIZATION AND AMENDMENT ACT OF 1994

Mr. LAFALCE. Mr. Speaker, I ask unanimous consent that the managers have until midnight tonight to file a conference report on the bill (S. 2060) to amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

COMMENDING THE WORK OF THE UNITED STATES LABOR ATTACHÉ CORPS

Mr. MENENDEZ. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 257) commending the work of the United States Labor Attaché Corps, and for other purposes, as amended.

The Clerk read as follows:

H. CON. RES. 257

Whereas the integration of the global economy is accelerating;

Whereas capital and technology are now easily transferred across national borders and throughout the world, while labor policies remain comparatively bound by national policies and allegiances;

Whereas the importance of promoting international respect for fundamental worker rights and labor standards is crucial to building broader support for balanced, equitable, and sustainable growth in an expanding global economy;

Whereas there exists a growing body of international law and international trade agreements, some of which originated in the early 1900s, that firmly establish the free exercise of fundamental worker rights, improved working conditions, and rising living standards as essential requirements of fair competition in a healthy, open, growing global economy;

Whereas in 1941 President Franklin Roosevelt, as part of the Atlantic Charter, committed the United States to "the fullest collaboration between all nations in the economic field with the object of securing, for all, improved labor standards, economic advancement, and social security";

Whereas the United States Government during World War II recognized the crucial importance of the needs, interests, and aspirations of all working people in general and the role that trade unions in particular would play in the reconstruction of Europe and the future development of newly independent nations;

Whereas the United States Labor Attaché Corps was established within the United States Government in 1943 and individual labor attachés ever since have been posted to United States embassies in scores of foreign countries to study and encourage the concurrent development of professional labor ministries within foreign governments and strong, independent, indigenous trade unions among working people in foreign countries;

Whereas the United States Labor Attaché Corps throughout the cold war played a crucial role in the struggle against Communism and in building support for freedom and democratic values and institutions throughout the world;

Whereas there is an increasing need for the American people and their policymakers in the post-cold war era to better understand the needs, interests, and aspiration of working people abroad and the concerns that they share in common with working people in the United States;

Whereas the United States Labor Attaché Corps continues to reach beyond the traditional focus of the United States Foreign Service upon senior foreign government officials to attain a broader, in-depth understanding of grassroots concerns and developments among working people in foreign countries and the wider significance those concerns hold for political processes and socioeconomic developments within foreign countries;

Whereas the United States Labor Attaché Corps for 50 years has demonstrated repeatedly the crucial importance of free, independent, and democratic trade unions to the development of free, independent, and democratic societies, thus advancing the profound national interest of the United States in promoting the further development of democratic values, processes, and institutions throughout the world;

Whereas the United States Labor Attaché Corps facilitates many useful international exchanges between organized and unorganized United States and foreign workers and assists with a wide range of the international activities of several United States executive agencies, including the Department of State, the Department of Labor, and the Office of the United States Trade Representative;

Whereas the national labor policies and standards of foreign countries, and the extent to which the governments of foreign countries are meeting and enforcing their legal obligations in this regard, are increasingly important factors in fair trade, particularly in determining whether consumer markets with broad-based purchasing power will emerge in those countries and whether most foreign workers in those countries will ever be able to buy United States exports, thus making the monitoring and reporting functions of the United States Labor Attaché Corps of growing importance; and

Whereas President Clinton during his official visit to Europe in January 1994 reaffirmed the United States commitment to promoting respect for the fundamental rights of workers everywhere and to pursuing policies that will enable working people in the United States and abroad to share more fully in the benefits of expanding international trade and investment in the global economy: Now, therefore, be it

Resolved by House of Representatives (the Senate concurring), That—

(1) the Congress commends the United States Labor Attaché Corps for the historic role it has played throughout the past 50 years in nurturing freedom and assisting in the development of democratic values and processes throughout the world; and

(2) the Secretary of State and the Secretary of Labor should jointly—

(A) review the mission and organization of the United States Labor Attache Corps, and determine what reforms are necessary to redesign and assure continued relevance of the work of the Corps in the post-cold war era;

(B) implement such reforms to the extent possible under existing law, and consistent with existing resources;

(C) design and implement an interagency recruitment and training program to assure sufficient qualified personnel for the Corps, and to enhance the professional development of existing personnel, consistent with the continuing need for monitoring and reporting on the needs, interests and aspirations of working people in foreign countries;

(D) develop a plan to assure that a labor counselor, attache or reporting officer is assigned to every United States Embassy abroad by January 1, 1997, and determine what additional resources are necessary to achieve this goal; and

(E) not later than October 31, 1994 *January 1, 1995*, submit a report to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations, detailing the outcome of the review conducted and the steps undertaken pursuant to this section, and recommending such changes in law and such additional resources as may be necessary to implement needed further reforms.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. MENENDEZ] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. SMITH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from new Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution recognizes the contributions made by the Labor Attache Corps over the past fifty years. Labor attaches have played an important role around the world in bringing attention to the need for international workers' rights. They have also played a role in helping to establish strong and independent labor unions around the world.

This resolution recognizes that the role of the Labor Attaché Corps is changing.

H. Con. Res. 257 notes that national labor policies and standards of foreign governments inevitably have an impact on fair trade and on decisions by the United States regarding trade issues. Monitoring and reporting on these issues, as well as the protection of workers rights around the world, has become an increasingly important part of the work of the Corps.

As a result, the resolution requests that the Secretary of State and the Secretary of Labor report to Congress on the future mission and organization of the corps and develop a plan to assure that a labor counselor, attache, or reporting officer is assigned to every U.S. embassy abroad by the year 1997. I want to commend the original sponsor of this resolution [Mr. BROWN of California] for bringing this to our attention. He has been a tireless champion of the rights of workers both in this country and abroad for many years and should be commended for his efforts. I also want to thank the chairman and ranking member of the Committee on Education and Labor for their cooperation with the committee on this resolution. I urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I recommend the adoption of House Concurrent Resolution 257, a resolution commending the work of the Labor Attachés Corps. This resolution acknowledges the contribution the labor corps has and continues to make to the U.S. mission overseas.

The labor attaches, who are part of the U.S. diplomatic service, spearhead efforts abroad to promote respect for the rights of the worker and fair labor practices. They are the advocates for important democratic values that support political and economic stability abroad, and in so doing advance U.S. interests.

This measure endorses fundamental principles that I believe are, and should continue to be, an important part of our diplomatic mission. These include understanding the needs of the working people and encouraging the development of public institutions or ministries of labor to facilitate consideration of labor issues.

The resolution also encourages the State and Labor Departments to try to enhance the labor corps program within the limitation of available resources. This is a timely recommendation as our foreign missions pursue both a greater emphasis on economic activities and the promotion of democratic ideals through the development of institutions and organizations around the world.

Mr. Speaker, I support the adoption of this resolution.

Mr. BROWN of California. Mr. Speaker, I rise to urge passage of this timely and important legislation which affirms strong congressional support for the retention and expansion of the U.S. Labor Attaché Corps.

The time has come to recognize and applaud the tremendous contributions that the U.S. Labor Attaché Corps has made since its establishment in 1943. Furthermore, I firmly believe that the corps is needed now more than ever given the accelerating integration of the global economy.

Why?

First, these dedicated Foreign Service officers will provide better understanding of the domestic political processes in their host foreign country.

Probably the most compelling justification for the Labor Attache Corps is that the labor attache can provide the U.S. Embassy with a broader, more in-depth understanding of the political processes of the house foreign country. Upon the founding of the Labor Attache Corps in 1943, President Roosevelt, the First Lady, and the U.S. State Department specifically recognized that in a complex, interdependent, and often dangerous world, U.S. diplomacy needed to go beyond the traditional focus of the U.S. Foreign Service on senior governmental and foreign ministry officials. It needed to factor in broader understanding of the political processes at work, especially in friendly democratic societies.

This logic remains persuasive today. The Labor Attache cannot replace U.S. Embassy contacts with senior government officials and traditional elites, but the labor attache can supplement those contacts in very unique and important ways and, in so doing, enhance the development of the U.S. Embassy's collective understanding and analysis of the host country. He or she can provide a crucial reality check or second opinion for those U.S. Embassy officials who are either unaware or would otherwise choose to ignore political currents at the grassroots.

Second, the U.S. Labor Attache corps is a vital instrument for democratic institution-building. The U.S. has a stated national interest in promoting democratic institutions around the world. We believe we are safer in a world which shares our democratic values regarding the rights of all people to physical security, a decent standard of living, and equal justice for all. Free, independent, and democratic trade unions are clearly an essential part of free, independent, and democratic societies.

The U.S. spent trillions of dollars on the cold war. In the post-cold war era we must continue to work to build a more democratic world. The U.S. Labor Attache Corps can play a critical role in supporting and complementing the efforts of the four AFL–CIO institutes, and others who are committed to building international respect for the fundamental rights of working people everywhere, but especially in developing countries and the successor countries of the former Soviet Union and Eastern Europe.

The stakes are high. The challenges are many. The costs of failure are unpredictable. The real question is: Do we have the vision and will to give it our best shot?

Third, the U.S. labor attache is invaluable in responding to the needs and interests of the U.S. community who are committed to promoting respect for internationally recognized worker rights at home and abroad. Just as commercial attaches support and promote the interests of the business community and agricultural attaches do the same for the farm community, so, too, labor attaches serve the equally important interests of all working people. This includes developing contacts and exchange activities with the host country's organized and unorganized workers, supporting the work of indigenous labor rights activists, and cross-checking the findings of non-governmental organizations such as the International Labor Rights Education and Research Fund, the National Labor Committee, the U.S.-Guatemala Labor Education Project, and Human Rights Watch. They can also provide critical input and assistance to the international activities of the U.S. Departments of State and Labor and to the enforcement activities of the Office of the U.S. Trade Representative.

This important work also includes economic analysis of the host foreign country's labor market and its potential impact on American workers and political analysis of the disparate elements of the indigenous labor movement in the host country and their roles in that country's political processes.

A revitalized U.S. Labor Attache Corps with a newly-revised mandate will provide great insights and practical guidance in the post-cold war era to government, business, and labor leaders everywhere on how to better manage global economic integration to the benefit of working people.

I hope this legislation can be enacted in the remaining days of the 103d Congress.

Mr. SMITH of New Jersey. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MENENDEZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. MENENDEZ] that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 257, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

□ 1650

RECOGNIZING CONTRIBUTION OF PRESIDENT ALFREDO CRISTIANI TO ACHIEVE PEACE IN EL SALVADOR

Mr. MENENDEZ. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 286) recognizing the contribution of President Alfredo Cristiani of El Salvador to achieve peace and national reconciliation in El Salvador.

The Clerk read as follows:

H. CON. RES. 286

Whereas President Alfredo Cristiani decisively led the Government of El Salvador in successful negotiations which ended that country's 12-year civil war;

Whereas President Cristiani initiated and oversaw the implementation of the important initial stages of the 1992 Peace Agreement, overcoming numerous obstacles in the process;

Whereas the people of the United States and El Salvador recognize President Cristiani's historic achievement and the central role he has played in promoting genuine national reconciliation in El Salvador;

Whereas President Cristiani ended his term of office on June 1, 1994, transferring the powers of the presidency to his democratically elected successor; and

Whereas this smooth and unprecedented democratic transition could not have taken place had it not been for the efforts of President Cristiani to achieve peace in El Salvador: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) expresses its admiration for President Cristiani for his unflagging service to the cause of peace and democracy in El Salvador;

(2) applauds the statesmanlike manner in which President Cristiani worked closely with the Friends of the Peace Process, the United States, the United Nations, and the rest of the international community to achieve peace in El Salvador;

(3) applauds the efforts of President Cristiani to lay a foundation of dignity and hope for the future of the Salvadoran people; and

(4) expresses its hope that President Cristiani will enjoy success in his future endeavors and remain engaged in public service on behalf of his country and on behalf of efforts to advance peace, justice, and democracy throughout the Western Hemisphere.

The SPEAKER pro tempore (Mr. DE LA GARZA). Pursuant to the rule, the gentleman from New Jersey [Mr. MENENDEZ] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. SMITH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly support this resolution commending former president Cristiani for his leadership in bringing peace to El Salvador. The 1992 peace accords would not have been possible without the courage and commitment of this man.

I first met President Cristiani when I was the mayor of Union City, NJ. I was struck not only by his character as a statesman but by the respect he commanded among the Salvadorian community in my own city.

Today we are commemorating a man who graduated from the American School in El Salvador and went on to study business administration here in Washington, DC. He personifies the close relations between our two countries.

It is sometimes difficult for us to remember the bloodshed and turmoil that characterized El Salvador during its 12-year civil war. Killings, kidnappings, torture and arbitrary arrest were rampant. I personally heard of the atrocities from many Salvadorians who came to this country with tragic stories of families torn apart by war. Over 75,000 people died.

President Cristiani's inauguration on June 1, 1989, marked the first time in decades power passed peacefully from one elected president to another. President Cristiani used his political momentum to call for direct negotiations between the guerrillas and the government. This was the first step to real peace.

In July 1990, the Cristiani government and the FMLN agreed to respect human rights and to end kidnapping, wrongful detention and unlawful arrests. Both sides promised to honor free speech and to permit free association. They agreed to bring the United Nations in to monitor the implementation of the peace accords once a successful cease-fire was in place.

The United States was a partner in this process with technical assistance, moral support and funding. Our support for the process and commitment—together with the Salvadorian leadership—to peace, is bearing fruit.

There is still much to be done. President Cristiani's successor, Armando Calderon Sol, is faced with demands to live up to the peace agreements and to complete the reconstruction process. However, he can build on initiatives begun by the statesman we are commending today.

President Cristiani played an essential role in setting up important institutions such as the National Academy of Public Safety, the Civilian National Police Force, the Office of the Ombudsman for Human Rights, and the National Juridicial Council.

Through his actions, President Cristiani proved to the people of El Salvador, the United States and to the world that he is not only a peacemaker but a builder of democracy in his nation.

I encourage my colleagues to support this resolution and to welcome President Cristiani into the ranks of former presidents who did—and will continue—to fight for peace.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. BALLENGER], the prime sponsor of this resolution and a tremendous friend of Central America.

Mr. BALLENGER. Mr. Speaker, I thank the gentleman from New Jersey for yielding me time. Mr. Speaker, I rise today to honor El Salvador's former president, Alfredo Cristiani and urge the passage of my bill, H. Con. Res. 286.

As a strong proponent of the democratic efforts of many Latin American nations, I had the unique opportunity to meet and forge a friendship with Mr. Alfredo Cristiani.

As witnessed, El Salvador's 12-year civil war left the country in shambles. However, it was the strong leadership and guidance coupled with the courage demonstrated by Mr. Cristiani that rescued the country. Breaking from the ARENA party's original inflexible right-wing philosophy, Cristiani created a direct dialogue with the FMLN during his campaign and presidency, bringing opposing military and political rivals to the negotiating table. It was here that Mr. Cristiani began to lay the first cornerstones for peace in a war torn country. He promised to end the civil war, improve the country's human rights record, and rejuvenate the economy. These promises are on their way to becoming realities.

One of Mr. Cristiani's first steps was the negotiation of electoral reforms and the successful implementation of voter registration efforts and a limit of campaign expenditures. However, further progress was reached with the signing of the Mexico Accords which created a cease-fire. It was under these Accords that the Salvadoran army was reduced by 50 percent, a National Civilian Police force organized from all the warring factions and all guerrilla forces were demobilized. Peace had been achieved.

After turning the military over to civilian control and reforming the judicial system, Mr. Cristiani turned his focus to the economy. With the country in shambles, Mr. Cristiani instituted policies for fostering free market enterprises and privatization of certain industries to improve the economic situation.

Mr. Cristiani ended his term of office on June 1, 1994, with a peaceful transition of power. Although he will be missed, he will not be forgotten. His achievements are a part of history. We can not let this man's endeavors to restore democracy to El Salvador go unnoticed. Please join me in commemorating the role of Alfredo Cristiani in rebuilding El Salvador.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to support this important resolution offered by my friend and colleague, a member of the Subcommittee on Western Hemisphere Affairs, the gentleman from North Carolina [Mr. BALLENGER]. This resolution recognizes the pivotal role of El Salvador's President Alfredo Cristiani who completed his 5-year term on June 1. Mr. Cristiani, a businessman turned president, served his country with honor and dignity.

It is clear to all, Mr. Speaker, that the tireless efforts of President Cristiani, often known as the peacemaker, helped to bring about the new era of hope and reconciliation that is now very much in evidence in El Salvador. As he had committed in his inaugural speech, Mr. Cristiani's preeminent goal was to end the bloody, 12-year-old civil war through negotiations and dialogue. He won the confidence of both sides of the conflict, and, having mediated a fragile peace accord, he was the first to extend a hand of reconciliation to his bitter enemies. Before the nation Mr. Cristiani acknowledged that the war was one rooted in repression and past injustice.

As part of the negotiated peace process, Mr. Speaker, President Cristiani accomplished the unthinkable. He committed the Salvadoran military to a United Nations civilian Truth Commission, and he set his country on a course of reform—reform of the judiciary, the electoral process, land ownership and the economy. The Salvadoran government's record on compliance with the Accords is remarkable, and the FMLN's participation in governance is undeniable.

Let this be clear, Mr. Speaker, that Mr. Cristiani set in motion a series of reforms which have allowed the Salvadoran economy to not only stabilize, but to boom. Significantly, Mr. Speaker, the political stability and the economic trends have encouraged foreign investments to put money into El Salvador, and the Salvadorans themselves have been very much a part of that renaissance. Mr. Cristiani handed over the reins of government with a multiyear growing economy whose GDP had grown about 5 percent for 2 years in a row, marked by an inflation which had plummeted.

Mr. Speaker, the course of history in El Salvador and Central America itself was very positively transformed by this great statesman. It is fitting that the House of Representatives will stand today in honor of this remarkable man whose legacy is enormous, and I urge strong support for this resolution.

Mr. GILMAN. Mr. Speaker, I commend our friend and colleague, the gentleman from North Carolina [Mr. BALLENGER], for his initiative in recognizing the historic contributions made by former President Alfredo Cristiani to the cause of peace in his native El Salvador.

President Cristiani did what every politician aims to do: confound the skeptics. But, President Cristiani is more than a politician: The diplomatic skills and courageous leadership he displayed in bridging the chasm between extreme right and extreme left in El Salvador earns him great credit.

His friends in this Congress—including the one-time skeptics—are justified in acknowledging his singular contribution to peace and reconciliation.

Mr. Speaker, the greatest tribute we can pay to President Cristiani is to provide the maximum possible support for El Salvador. It is my hope that the Administration will continue to give special priority to private sector development and resettlement programs in El Salvador, which are critical to securing economic growth and a lasting peace.

The greatest tribute that President Cristiani's compatriots can pay is to redouble their efforts to complete the work for national reconciliation and recovery begun by him and other courageous democrats.

Again, I thank the gentleman from North Carolina [Mr. BALLENGER], for this initiative and for his tireless work in advancing U.S. interests by supporting the democratic aspirations of the people of Central America.

Mr. SMITH of New Jersey. Mr. Speaker, I yield back the balance of my time.

Mr. MENENDEZ. Mr. Speaker, I, too, yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. MENENDEZ] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 286.

The question was taken.

Mr. SMITH of New Jersey. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. MENENDEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5108, House Concurrent Resolution 257, House Concurrent Resolution 286, and House Concurrent Resolution 279.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

OUTER CONTINENTAL SHELF SAND AND GRAVEL RESOURCES

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3678) to authorize the Secretary of the Interior to negotiate agreements for the use of Outer Continental Shelf sand, gravel, and shell resources, as amended.

The Clerk read as follows:

H.R. 3678

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS.

(a) SECTION 8 AMENDMENTS.—Section 8(k) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(k)) is amended—

(1) by inserting "(1)" after "(k)"; and

(2) by adding at the end the following new paragraph:

"(2)(A) Notwithstanding paragraph (1), the Secretary may negotiate with any person an agreement for the use of outer Continental Shelf sand, gravel and shell resources—

"(i) for use in a program of, or project for, shore protection, beach restoration, or coastal wetlands restoration undertaken by a Federal, State, or local government agency; or

"(ii) for use in a construction project, other than a project described in clause (i), that is funded in whole or in part by or authorized by the Federal Government.

"(B) In carrying out a negotiation under this paragraph, the Secretary may assess a fee based on an assessment of the value of the resources and the public interest served by promoting development of the resources. No fee shall be assessed directly or indirectly under this subparagraph against an agency of the Federal Government.

"(C) The Secretary may, through this paragraph and in consultation with the Secretary of Commerce, seek to facilitate projects in the coastal zone, as such term is defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453), that promote the policy set forth in section 303 of that Act (16 U.S.C. 1452).

"(D) Any federal agency which proposes to make use of sand, gravel and shell resources subject to the provisions of this Act shall enter into a Memorandum of Agreement with the Secretary concerning the potential use of those resources. The Secretary shall notify the Committee on Merchant Marine and Fisheries and the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on any proposed project for the use of those resources prior to the use of those resources.".

(b) SECTION 20 AMENDMENTS.—Section 20(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1346(a)) is amended—

(1) in paragraph (1)—

(A) by inserting "or other lease" after "any oil and gas lease sale"; and

(B) by inserting "or other mineral" after "affected by oil and gas"; and

(2) in paragraph (2), by inserting "In the case of an agreement under section 8(k)(2), each study required by paragraph (1) of this subsection shall be commenced not later than 6 months prior to commencing negotiations for such agreement or the entering into the memorandum of agreement, as the case may be." after "scheduled before such date of enactment.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. WELDON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, H.R. 3678 authorizes the Secretary of the Interior to negotiate agreements for the use of Outer Continental Shelf sand, gravel, and shell resources when those resources are to be used for coastal restoration, shore protection, and other authorized public projects.

The bill accomplishes two important things. First, it makes OCS hard minerals available for public projects without requiring that the State, local, or Federal agency seeking use of the resource participate in a competitive lease sale. Under current law, these resources could only be made available to State and local governments through such a lease sale, which is too costly and too cumbersome.

However, the minerals are not to be given away. The bill authorizes a fee to be charged based on the value of the resources and the public interest served in developing them. This allows a tradeoff between fair market value of the resources and the public benefit of the project for which they will be used.

Second, the bill clarifies the jurisdiction of the Department of the Interior over OCS hard minerals, as was contemplated by Congress in 1953. However, Federal agencies are not to be assessed a fee for the use of these resources.

Although the bill facilitates access to OCS sand and gravel, full compliance with the established process for environmental review, including the requirements of the National Environmental Policy Act, the OCS Lands Act, and the Coastal Zone Management Act is not, in any way, abrogated by this legislation.

H.R. 3678 is sound public policy. The administration supports the bill and I urge my colleagues to support its adoption.

Mr. Speaker, I reserve the balance of my time.

□ 1700

Mr. WELDON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the lead Republican cosponsor of this bill and ranking member of the Oceanography Subcommittee, I rise in strong support of H.R. 3678, a bill to authorize the Secretary of the Interior to negotiate agreements for the use of Outer Continental Shelf [OCS] sand, gravel, and shell resources. I would like to congratulate the bill's author, Chairman ORTIZ of the Oceanography Subcommittee, and the chairman and ranking member of the Merchant Marine and Fisheries Committee, GERRY STUDDS and JACK FIELDS, and of the Natural Resources Committee, GEORGE MILLER and DON YOUNG, as well as Energy and Mineral Resources Subcommittee Chairman RICHARD LEHMAN and ranking member BARBARA VUCANOVICH, for their efforts to ensure the timely passage of this important measure.

Currently, procedural obstacles block the use of Federal OCS sand and gravel resources for beach restoration projects. As a result, coastal States and the Army Corps of Engineers have had to rely on supplies of sand and gravel from State waters.

As coastal populations grow, demand for sand and gravel for coastal construction projects has exploded. This explosion threatens to eliminate affordable sources of sand and gravel for important public works projects such as beach replenishment and coastal wetlands restoration H.R. 3678 remedies this situation by allowing the Secretary of the Interior to enter into agreements to provide OCS sand and gravel to Federal, State, or local government projects which protect the shoreline, restore beaches or coastal wetlands.

In cases where projects are funded by the Federal Government, H.R. 3678 waives all fees for the resource. This stipulation will prevent the Federal Government from being forced to pay itself for resources it controls.

Mr. Speaker, with beach erosion a major problem in most coastal states, H.R. 3678 will help facilitate the restoration of this important natural and economic resource. I encourage all my colleagues to support its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. ORTIZ].

Mr. ORTIZ. Mr. Speaker, as chairman of the Oceanography Subcommittee and sponsor of H.R. 3678, I rise in strong support of the bill before the House today.

H.R. 3678 authorizes the Secretary of the Interior to negotiate agreements for the use of Federal sand, gravel, and shell resources located on the Outer Continental Shelf.

As the annual national demand for these resources continues to rise, due to the repair and expansion of the Nation's transportation infrastructure, there is expected to be shortage of materials available from traditional sources, such as nearshore and onshore deposits, for coastal protection and restoration.

This bill will help to make federally controlled, commercial-grade quality sand and gravel on the Outer Continental Shelf [OCS] available to State and local governments in a cost-effective manner for beach restoration, beach protection, and wetlands restoration.

Under current law, the only way a State or local government can access suitable sand or gravel from Federal waters is to enter into a competitive leasing process and offer the highest bid. This process is costly and time consuming; it also puts local communities in the position of having to compete with private interests for these resources.

This process is not compatible with the needs and budgets of our coastal communities, which explains why a lease sale for OCS sand and gravel resources has never occurred. Under the expanded authority of this bill, the Secretary can negotiate an agreement for the provision of these resources and assess a fee based on the value of these resources and the public interest served by promoting their development.

The expanded authority for conveying resources, as proposed under this bill, is consistent with Government practice onshore where Federal resources can be conveyed under free use permits for public works projects.

Mr. Speaker, this bill will help to benefit our coastal environment. With new mining technology and effective controls, marine mining for sand and gravel should prove to be an environmentally preferable alternative to shallow-water dredging or further development of large quarries onshore.

Finally, Mr. Speaker, let me make it clear that this bill only amends the financial aspects of the process by which OCS sand and gravel mineral rights are conveyed. It does not amend the process with respect to all the environmental policies and regulations required by a host of Federal laws pertaining of the OCS.

This bill will simply help to ensure that coastal communities around the country will be able to continue to protect and restore their coastal environments in the future, which is crucial to maintaining our quality of life and protecting our shorelines and coastal wetlands.

I would like to take this opportunity to thank Chairman STUDDS and the ranking member, Mr. FIELDS, and the ranking member on the Oceanography Subcommittee, Mr. WELDON, for their efforts in bringing this bill to the House floor. I would also like to thank Chairman MILLER of the Natural Resources Committee and Chairman LEHMAN of the Energy and Mineral Resources Subcommittee for all their help and cooperation on this legislation.

Mr. WELDON. Mr. Speaker, I yield such time as he may consume to a good friend and colleague, the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to express my congratulations to the appropriate chairmen and ranking members on this committee for a very fine piece of work. There is little doubt that there is a great need for this kind of resource where beaches are being deteriorated because of ocean action and other kinds of environmental problems. It is an important piece of legislation, and not automatically as easy as it might seem. I appreciate their work.

Mr. FIELDS of Texas. Mr. Speaker, I rise in strong support of H.R. 3678, a bill authorizing the Secretary of the Interior to negotiate agreements for the use of Outer Continental Shelf sand, gravel, and shell resources.

Based on the testimony submitted on this legislation, it is clear that there is overwhelming support for H.R. 3678. The Minerals Management Service (MMS) and the Army Corps of Engineers were particularly enthusiastic in their endorsement of these changes to P.L. 95–372.

Under section 8(k) of the Outer Continental Shelf Lands Act (OCSLA), the MMS is authorized to grant leases for nonfuel minerals on the U.S. continental shelf beyond the seaward limit of State boundaries. This authority has not been used for sand and gravel, although eight other lease sales have been held since 1954. Sand and gravel is used for building and other construction activities, as well as coastal restoration and shoreline protection. The Army Corps of Engineers conducts all the Federally-funded navigation projects in U.S. navigable waters, including beach restoration and shoreline protection, and issues permits for private parties to conduct these activities. Existing law and policies discourage use of sand and gravel mined offshore for coastal restoration projects.

This bill would amend section 8(k) of the OCSLA to allow the Secretary of the Interior to enter into non-lease sales agreements for the use of OCS sand and gravel resources in connection with beach restoration and construction projects. Under normal conditions, the Secretary would assess fees for these resources, except if the project is primarily Federally funded.

Because the demand for clean sand and gravel for construction activities and coastal restoration projects is increasing, this measure would address some of the deficiencies under OCSLA by allowing the effective use of Federal offshore sand and gravel. Certainly, projects such as the proposed widening of the Houston Ship Channel would produce vast quantities of sand and gravel. I can think of no better public use of this material than to help restore eroding shorelines in places like the State of Texas.

Mr. Speaker, I urge adoption of this legislation. I compliment Chairman ORTIZ for his leadership in proposing H.R. 3678 and I hope the other body will act on it in the near future.

Thank you, Mr. Speaker.

Mr. WELDON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I want to echo the statement of the gentleman from California [Mr. LEWIS].

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 3678, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3678, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

INDOOR AIR ACT OF 1994

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2919) to amend the Public Health Service Act to authorize a national program to reduce the threat to human health posed by exposure to contaminants in the air indoors, as amended.

The Clerk read as follows:

H.R. 2919

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indoor Air Act of 1994".

SEC. 2. COORDINATION.

The Administrator shall consult and coordinate with the Secretary of Labor, the Secretary of Energy, the Director of the National Institute for Occupational Safety and Health, the Consumer Product Safety Commission, and other appropriate agencies in implementing this Act.

SEC. 3. GUIDELINES FOR IDENTIFYING, REDUCING, AND PREVENTING SIGNIFICANT INDOOR AIR HEALTH RISKS.

(a) LIST.—Not later than 4 years after the enactment of this Act, the Administrator shall, after notice and opportunity of at least 90 days for public comment, publish a list of common significant indoor air health risks. In identifying a common significant indoor air health risk, the Administrator shall use the best reasonably available scientific data.

(b) GUIDELINES.—Concurrently with the listing of each common significant indoor air health risk under subsection (a), the Administrator shall, after notice and opportunity of at least 90 days for public comment, publish voluntary guidelines for identifying, reducing, and preventing the common significant indoor air health risk. Such guidelines may include information and a range of recommendations for operation and maintenance of existing buildings, the design and construction of new buildings, building renovation, and such other activities as necessary to identify and reduce or prevent the common significant indoor air health risks listed under subsection (a). The guidelines shall achieve significant risk reduction, be technologically achievable and readily implementable, take into consideration safety, energy, and other relevant factors, include an assessment of their effectiveness and cost, and be based on available research and expertise and the study priorities established by the Administrator pursuant to subsection (e).

(c) REVIEW AND REVISION.—The Administrator shall periodically review and, as necessary, after notice and opportunity of at least 90 days for public comment, revise the list of common significant indoor air health risks and the guidelines published under this section. At a minimum, a review and revision shall be completed not later than 4 years after the initial publication of the list and guidelines.

(d) CONSISTENCY WITH INDOOR AIR REGULATIONS OF OTHER FEDERAL AGENCIES.—The Administrator shall, after consultation with the Secretary of Labor, insure that the guidelines under this section are fully consistent with any Federal workplace regulations addressing indoor air quality risks. The guidelines may recommend such additional voluntary actions as may be necessary to protect persons other than workers covered by such regulations from common significant indoor air health risks listed under subsection (a). The Administrator shall, after consultation with the Secretary of Energy, insure that the guidelines under this section are consistent with applicable energy conservation and efficiency laws and regulations administered by the Secretary.

(e) PRIORITY FOR INDOOR AIR HEALTH STUDIES.—The Administrator shall, subject to the availability of appropriations and using existing authorities, give priority to conducting and providing financial or other assistance to studies concerning indoor air quality, including the following:

(1) Human exposure to indoor air pollutants, including baseline levels of exposure in various types of buildings.

(2) The sources of indoor air pollutants.

(3) The effects on human health of indoor air pollutants, including additive, cumulative, and synergistic effects on the general population and subpopulations particularly at risk.

(4) Methods for identifying, reducing, and preventing common significant indoor air health risks.

Appropriate studies, such as those under paragraph (1) and (3), shall be subject to peer review.

SEC. 4. INDOOR AIR CONTRACTORS.

(a) REPORT.—Not later than 2 years after the commencement of fiscal year 1996, and after notice and opportunity of at least 90 days for public comment, the Administrator shall submit a report to Congress on persons operating contractor businesses engaged in the identification, reduction, and prevention of significant indoor air health risks. Such report shall identify the types or classes of contractors regularly engaged in identifying and reducing or preventing significant indoor air health risks and shall determine the need for a program to certify contractors engaged in 1 or more activities relating to the identification and reduction or prevention of significant indoor air health risks, taking into account costs, benefits, the availability of persons with adequate training, experience, and expertise, the funds needed for such a program, and other relevant factors. The report shall also consider whether such a program should be carried out by the Administrator directly or by contract, or by another Federal agency or by State or local government.

(b) CERTIFICATION.—(1) Based on the report under subsection (a), not later than 2 years after the report required by subsection (a) is submitted to Congress, and after notice and opportunity of at least 90 days for public comment, the Administrator shall establish a program to provide for the certification of contractors engaged on a regular basis in the identification of common significant indoor air health risks. Based on the report under subsection (a), and after notice and opportunity of at least 90 days for public comment, the Administrator may also establish a program to certify appropriate contractors engaged in the reduction or prevention of common significant indoor air health risks.

(2) No person may be certified under any program established under paragraph (1) unless, at a minimum—

(A) such person demonstrates an ability to comply with the guidelines established under section 3; and

(B) individuals engaged in the identification, reduction, or prevention of common significant indoor air health risks on behalf of such person complete an appropriate course of training, as defined by the Administrator.

Persons certified under this subsection shall comply with the guidelines under section 3 when engaged in the identification, reduction, or prevention of common significant indoor air health risks.

(c) FEES.—A reasonable nondiscriminatory annual fee for the certification of persons under this section shall be imposed by the Administrator or by such other agency or contractor that operates the program. The fee shall be periodically established at such level as is necessary to cover all costs of the certification program under this section. Such fees shall be structured such that a person's liability for such fees is reasonably based on the proportion of the program's operating costs that relate to such person, and such person's liability for such fees shall not be based on the income of such person. Such fees, if collected by the Administrator, shall be available, subject to appropriations, to the Administrator to pay for such costs or to reimburse another Federal agency or a State or local government. The collection and use of fees shall be audited by the Administrator.

(d) SUSPENSION OR REVOCATION.—The Administrator may suspend or revoke any certification issued under this section whenever the Administrator determines, after notice of at least 60 days to such person, that the holder of the certification has violated any requirement of this section or condition of such certification. Any person whose certification is proposed to be suspended or revoked, or whose certification is denied, by the Administrator shall be entitled to an administrative hearing.

(e) PARTICIPATION.—Participation in the certification program under this section shall be voluntary.

SEC. 5. PUBLIC AWARENESS.

(a) INFORMATION.—The Administrator shall publish and disseminate—

(1) the list of common significant indoor air health risks under section 3,

(2) the guidelines under section 3 for identifying, reducing, and preventing common significant indoor air health risks, and

(3) the indoor air health advisories under subsection (b).

(b) INDOOR AIR HEALTH ADVISORIES.—The Administrator shall, after notice and opportunity of at least 90 days for public comment, and after review and comment by the Science Advisory Board, publish health advisories addressing the health effects of common significant indoor air health risks. Each health advisory shall, at a minimum—

(1) describe the adverse human health effects of a common significant indoor air health risk, including the risk to vulnerable subpopulations;

(2) characterize the causes of the significant indoor air health risk; and

(3) summarize the guidelines under section 3 for identifying, reducing, and preventing the significant indoor air health risk.

The Administrator shall publish a health advisory for a common significant indoor air health risk at the same time that the Administrator publishes guidelines for such health risk under section 3.

SEC. 6. HEALTHY BUILDINGS PROGRAM.

The Administrator shall, after notice and opportunity of at least 90 days for public comment, develop a voluntary program to provide Federal recognition to buildings that are operated and maintained, taking into consideration all uses of the building, to prevent or minimize common significant indoor air health risks in an exemplary manner while at the same time providing significant energy efficiency benefits and for which there are no outstanding indoor air quality citations by other agencies. Such recognition shall be based on objective, nondiscriminatory criteria.

SEC. 7. STATE AND LOCAL INDOOR AIR HEALTH GRANTS.

(a) In General.—The Administrator may provide grants to States and to local governments to develop and implement programs proposed by any such State or local government to identify, reduce , and prevent common significant indoor air health risks.

(b) Federal Share of Funding.—The Federal share of grants under this section shall not exceed 75 percent of the costs incurred in developing and implementing such programs. Such share shall be based on the availability of funds appropriated annually and shall supplement State funds for this purpose. The Administrator, in making such grants, shall seek to treat all States equitably.

SEC. 8. BUILDING HEALTH ASSESSMENT PROGRAM.

(a) Authority.—The Director of the National Institute for Occupational Safety and Health shall implement a Building Assessment Program to provide assistance and guidance to employers and employees on measures to reduce significant indoor air health risks.

(b) Selection of Buildings for Assessment.—An assessment may be initiated in response to a request from any employer or employee (including an authorized representative of the employee) submitted to the Director for a building assessment. In making such voluntary assessment, the Director shall have the authority, pursuant to such request, to conduct on-site assessments of individual buildings, including Federal, State, and municipal buildings. In selecting a building for assessment pursuant to such request, the Director shall consider (1) the seriousness and extent of significant indoor air health risks, and (2) the potential for the building assessment to expand knowledge of building assessment methods and response measures.

(c) Assessment Elements.—Assessments shall include, at a minimum, identification of (1) probable significant indoor air health risks, (2) probable sources and health effects of identified significant indoor air health risks, and (3) in cases where a probable health risk has been identified, measures for eliminating, controlling, or reducing significant indoor air health risks. If there are applicable guidelines under section 3, the measures included in the assessment shall be consistent with the guidelines, unless the Director adequately explains otherwise.

(d) Reports.—The Director shall prepare and provide a report to the employer, employees (and the authorized representative of the employees), and the building owner or representative as promptly as possible.

SEC. 9. DISCLAIMER.

Nothing in this Act shall affect the Administrator's authority under other provisions of law to conduct research, development, or demonstration projects relating to indoor air quality or be construed as providing new authority to conduct research, development, or demonstrations. Nothing in this Act shall be construed as applying to motor vehicles of any kind.

SEC. 10. RELATION TO OTHER LAW.

(a) State and Local Authority.—Nothing in this Act shall preempt any Federal, State, or local law or rule of law which is more protective of human health than this Act.

(b) Occupational Safety and Health.—In exercising any authority under this Act, the Administrator shall not, for purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970, be deemed to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

(c) Relationship to Other EPA Authorities.—The Administrator shall insure that any action under this Act is consistent with, and does not duplicate, actions of the Administrator under other authority of law addressing indoor air quality. Except as provided in section 4, nothing in this Act shall be construed as authorizing the Administrator to exercise any authority to prescribe or enforce any standards or regulations regarding common significant indoor air health risks.

SEC. 11. REPORTS.

Not later than 2 years after the commencement of fiscal year 1996 and every 2 years thereafter, the Administrator shall submit to the Congress a report on the activities carried out by the Administrator pursuant to this Act.

SEC. 12. RISK ANALYSIS AND PRESENTATION.

(a) Goal.—It is the intent of Congress that risk assessments conducted under this Act be conducted in accordance with sound, unbiased, and objective scientific practices.

(b) Public Documents.—The Administrator, in carrying out the Administrator's responsibilities under this Act, shall ensure that the presentation of information on significant indoor air health risks is unbiased and informative. To the extent feasible, documents made available to the general public which describe the degree of risk from exposure shall, at a minimum, characterize the population or populations addressed by any risk estimates; state the expected risk for the specific population; and state the reasonable range of uncertainty.

SEC. 13. DEFINITIONS.

For the purposes of this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "significant indoor air health risk" means a level of indoor air pollutants, or a condition that may result in a level of indoor air pollutants, that, based on adequate scientific and technical evidence and measurement, is reasonably anticipated to adversely affect human health.

(3) The term "indoor air pollutant" means any substance or biological organism which is emitted into, or otherwise enters, air of any kind in a building, structure, or facility.

(4) The term "person" includes an individual, a corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the executive, legislative or judicial branch of the Government of the United States or of any State and any officer, agent or employee thereof.

(5) The term "State" includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Maraiana Islands.

SEC. 14. AUTHORIZATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. Waxman] will be recognized for 20 minutes, and the gentleman from Virginia [Mr. Bliley] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. Waxman].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2919.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today, we are considering an important environmental issue—the quality of indoor air, the air people breathe 90 percent of the time.

Experts tell us that some of the greatest—and most neglected—environmental threats to health occur in the indoor environment. In recent years, Congress has tried hard to focus attention on these threats.

Indoor air quality is an important part of this agenda. Some experts say that there are hundreds of thousands of buildings with indoor air problems in the United States.

H.R. 2919 protects the public from significant indoor air health risks through a variety of measures designed to encourage the identification and mitigation of these risks. Important provisions in the legislation direct EPA, one, to issue guidelines for identifying and preventing indoor air problems; two, to establish a program to certify contractors regularly engaged in identifying indoor air problems; and three, to publish health advisories to warn the public about indoor air problems.

The legislation also provides statutory recognition to a number of valuable programs currently underway at EPA, including the healthy building baseline assessment and the building air quality alliance to promote good indoor air quality practices.

I am pleased to report that H.R. 2919 is endorsed by the Clinton administration and a broad coalition of industry, labor, health, and public interest organizations, including:

American Lung Association.

Building Owners and Managers Association [BOMA].

Carpet and Rug Institute.

Consumer Federation of America.

Council of American Building Officials [CABO].

Institute of Real Estate Management.

International Council of Shopping Centers.

NAIOP [the Association for Commercial Real Estate].

National Association of Home Builders.

National Association of Realtors.

National Multi Housing Council.

National Realty Committee.

Sheet Metal Workers International Association.

In closing, I especially want to commend the leaders of indoor air in the Congress—JOE KENNEDY and GEORGE MITCHELL. For years, Congressman KENNEDY and Senator MITCHELL have worked to raise public awareness about indoor air hazards and to achieve enactment of new indoor air legislation. It's time for their vision to become a reality.

Mr. Speaker, I reserve the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the chairman of the subcommittee, Mr. WAXMAN, has already explained, this legislation has been substantially modified since it was first introduced. I opposed the bill in its original form because it gave EPA new and extensive authority to regulate indoor air quality. I was concerned that we do not have sufficient scientific information to justify such regulation. I was also concerned that the bill would interfere with OSHA's current efforts to develop comprehensive standards for indoor air quality in workplaces.

The bill before us today is substantially improved over the original version. The bill, as amended, does not give EPA new authority to regulate indoor air quality. Instead, the bill authorizes EPA to provide information to the public on "significant indoor air health risks," including "guidelines" for addressing such risks and "health advisories" for understanding the health effects of various contaminants.

The bill also ensures that EPA will not prevent OSHA from going forward with its rulemaking on indoor air quality in the workplace.

In addition, the legislation has been amended to include several provisions to ensure that EPA uses the best available scientific information when it develops information for the public on indoor air hazards. These provisions include specific language directing EPA to conduct risk assessments that are based on sound, unbiased, and objective scientific principles, and language requiring EPA to ensure that the presentation of risk information on indoor air contaminants is unbiased and informative.

In conclusion, I want to commend the work of Chairman WAXMAN and Chairman DINGELL, and their staffs, for improving this legislation, and I look forward to working with them to make further improvements in the bill.

Mr. Speaker, I reserve the balance of my time.

□ 1710

Mr. WAXMAN. Mr. Speaker, I insert in the RECORD a letter that the gentleman from Michigan [Mr. DINGELL] the chairman of the Committee on Energy and Commerce, has received from the gentleman from California [Mr. GEORGE BROWN] the chairman of the Committee on Science, Space, and Technology. The gentleman from Michigan [Mr. DINGELL] has informed us that he concurs with the views expressed in the letter. The text of the letter is as follows:

COMMITTEE ON SCIENCE,
SPACE AND TECHNOLOGY
Washington, DC, October 2, 1994.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, Rayburn HOB, Washington, DC. 20515

DEAR MR. CHAIRMAN: Recently, the Energy and Commerce Committee reported H.R. 2919, the Indoor Air Act of 1994, which is listed on the suspension calendar for consideration this week. I understand that it is your intention to link this bill up with the Senate companion bill, S. 656, which is being held at the desk. As you know, the virtually identical predecessor of S. 656 in the 102nd Congress, S. 455, was jointly referred to the Committees on Energy and Commerce, Education and Labor, and Science, Space, and Technology.

We understand that your Committee agrees that, should a conference occur, our Committee would be represented on the Conference concerning provisions within our Committee's jurisdiction. We would also request that a copy of this letter be included in the floor debate on the provision.

Sincerely,

GEORGE E. BROWN, Jr.
Chairman.

Mr. WAXMAN. Mr. Speaker, I yield 6 minutes to the gentleman from Massachusetts [Mr. KENNEDY] the lead author of this legislation.

Mr. KENNEDY. Mr. Speaker, first and foremost, I want to thank my good friend, the gentleman from California [Mr. WAXMAN] for the hard and diligent work he has done on this bill over the period of the last several years. Without the continued efforts of the gentleman from California [Mr. WAXMAN] we would never have seen this legislation come to the floor.

I say with great sincerity, of all the hard work he does on behalf of keeping Americans healthy, this piece of legislation will help millions of Americans with the quality of the air they are breathing.

I want to thank the gentleman from Virginia [Mr. BLILEY] for his spirit of compromise and willingness to make this bill happen. I hope I have not lost him too many votes by telling him that he does a good job. I wanted to thank him for his efforts.

If we would all just take a deep breath, the air we just breathed in could contain a whole range of different air contaminants, from benzene to formaldehyde, from all sorts of molds to carcinogens. Yet, this country does not have one single health standard for the quality of the air we breathe indoors.

We spend as a nation hundreds of millions of dollars cleaning up outdoor air. We spend billions of dollars cleaning up hazardous waste. Yet, the EPA and its independent Science Advisory Board—under the Reagan, Bush, and Clinton Administrations—have consistently ranked indoor air pollution as one of the top five unaddressed environmental risks to health, ahead of hazardous waste and outdoor air pollution.

Indoor air pollution is a serious national problem. Poor indoor air quality silently robs our public health and economy. It endangers our citizens' health, worker productivity, and increases health care expenditures.

Traditionally, air pollution has been considered a problem limited to the outdoors. Indoor environments were considered the safe havens—seen as actual barriers protecting us from the contaminated world outside.

Today, we know the other half of the story. Americans spend 90 percent of their time indoors in some of our dirtiest air. The fact is that the air indoors can be up to 1000 times more polluted than outdoor air.

The right to breathe clean air should not end the moment we walk indoors.

Ignoring indoor air pollution has major costs to society. The human health toll is significant. Nine out of ten Americans are inhaling contaminants that have been identified by the EPA and the scientific community as serious health risks. Long-term health effects, including respiratory diseases and cancer, can be debilitating or even fatal.

These contaminants may cause as many as 30,000 radon-related deaths in addition to 6,000 deaths from cancer each year. The threat of spreading serious diseases, like Legionnaire's Disease and tuberculosis, is paramount. In addition, inhalation of contaminants accounts for hundreds of thousands, if not millions, of complaints of immediate sick building symptoms such as asthma, bronchitis, headaches, fatigue, and dizziness, and nausea.

The costs are also economic. In its 1989 Report to Congress, EPA estimated that indoor air pollution costs tens of billions of dollars a year in direct medical costs; lost worker productivity; decreased efficiency while on the job; and equipment damages due to indoor contaminant exposure. This translates into enormous costs to our businesses that cannot be tolerated.

The Indoor Air Act embodies a responsible, non-regulatory approach to help protect the public from indoor air health risks and equip building owners with information to do the right thing in order to prevent indoor air problems.

The EPA, in coordination with and consistent with other Federal agencies, will identify common and significant indoor health risks and issue voluntary guidelines to identify, reduce and prevent them. The EPA, after review and report to Congress, will also establish a voluntary program to certify indoor air contractors to ensure that those in the field are appropriately trained.

The bill gets the information out to the community through a public awareness program that includes the publication of health advisories that describe adverse health effects, the causes of those health risks, and guidelines for addressing them.

The EPA will be given authority to conduct indoor air quality studies that focus on human exposure to indoor air pollutants, the source of those pollutants, the effects on human health, and technologies to deal with and prevent indoor health threats.

The bill authorizes a grant program to state and local governments to confront indoor air pollution at the local level. And it establishes a program to provide Federal recognition of healthy buildings that have effective indoor air programs in place.

Another important aspect of the bill is a building assessment program, whereby the National Institute of Occupational Safety and Health is authorized to inspect buildings and to make recommendations on indoor air health risks at the request of an employer or an employee.

I want to point out that this bill contains provisions at every juncture to ensure that indoor air information is based on sound science and subject to adequate public notice and comment.

This is consensus legislation. It has the broad support of a coalition of industry, health, labor and consumer organizations, including: AFL–CIO, American Lung Association, Building Owners and Managers Association, Carpet and Rug Institute, Consumer Federation of America, Council of American Building Officials, Institute of Real Estate Management, International Council of Shopping Centers, NAIOP, the Association of Commercial Real Estate, National Apartment Association, National Association of Home Builders, National Association of Realtors, National Multi Housing Council, National Realty Committee, and Sheet Metal Workers' International Association.

I would like to thank these organizations for the constructive role they played in crafting this legislation.

H.R. 2919 is endorsed by the Administration, with the support of both EPA Administrator Carol Browner and Secretary of Labor Robert Reich. And as I indicated earlier, previous Republican Administrations have underscored that indoor air pollution is a key unaddressed health risk.

I would like to take this opportunity to thank the gentleman from Michigan [Mr. DINGELL]. Most particularly, I would like to acknowledge the efforts of Senator MITCHELL, the author of the Senate bill, who has worked closely with me over the course of the last 8 years in trying to get this legislation passed.

Again, I want to thank the gentleman from California [Mr. WAXMAN] for all the hard work he has done.

Mr. Speaker, in conclusion, the Congress has a landmark opportunity to take decisive steps to confront this major public health threat. I look forward to working with the members of the other body to take swift action to enact indoor air legislation this year. Once again, I urge my colleagues to support this bill and better indoor air quality.

Mr. BLILEY. Mr. Speaker, I yield myself such time as I may consume, just merely to thank the gentleman from Massachusetts for his kind words.

I do not think they will be critical of this, but I do thank the gentleman and look forward to working with him in the future.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MOORHEAD] the ranking Republican on the full committee.

Mr. MOORHEAD. Mr. Speaker, as the previous speakers have indicated, this legislation has been substantially modified—and I would say substantially improved—since it was first introduced. The bill before us today requires EPA to identify certain indoor air hazards and develop guidelines for identifying and preventing those hazards. However, the bill does not give EPA any authority to regulate indoor air quality or interfere with the efforts of other Federal agencies to develop indoor air quality standards for workplaces.

While we all recognize that poor indoor air quality can be the source of serious health problems, there is much we still do not know about what contaminants are in the indoor air and how they affect our health. One of my concerns with this legislation as it was originally introduced was that it did not give enough emphasis to identifying problems using sound, scientific information.

I am pleased that the bill has been amended to include several provisions to ensure that the information that EPA uses to identify indoor air hazards is peer-reviewed and that it is objective and unbiased information. I am also pleased that this legislation now requires EPA to explain to the public the assumptions it makes concerning which populations are at risk and how significant those risks are. This is a provision from a bill that I introduced with Congressman GEORGE BROWN earlier this year, the Risk Communications Act, and I am confident that it will improve the quality and the reliability of the information EPA is required to develop on indoor air quality.

I appreciate the efforts of congressman JOE KENNEDY, ranking member of the subcommittee TOM BLILEY, Chairman DINGELL, and Chairman WAXMAN to improve this legislation, and I look forward to working with them as this bill moves forward.

Mr. KENNEDY. Mr. Speaker, will the gentleman yield?

Mr. BLILEY. I yield to the gentleman from Massachusetts.

Mr. KENNEDY. I want to just thank members of the staff that worked very hard on trying to get this legislation passed, most especially Phil Barnett, Greg Wetstone, Donna Fox from my staff and Charles Ingebretson from the minority staff who worked very hard on trying to work this compromise out.

Mr. ROGERS. Mr. Speaker, I rise today in opposition to the bill H.R. 2919 and urge my colleagues to vote no on final passage. The Indoor Air Act of 1994 is simply the wrong approach to a perceived problem. It is premature, duplicative, and confusing.

First, it is premature. Before considering solutions to this perceived problem, we should have comprehensive scientific data on indoor air and the alleged health effects associated with it. Passing laws without proper information on these questionable threats to human health is unwise. We need hard facts to see what the problem is, then assess possible fixes.

Second, if we think this is a real problem—which I would question—the solution in this bill is unacceptable. We have heard a lot of talk about streamlining government and making it more user friendly. This bill does just the opposite by adding another bureaucratic layer to the indoor air regulatory regime. As we all know, the Occupational Safety and Health Administration [OSHA] is already implementing regulations on indoor air—which I also oppose.

Finally, if the Environmental Protection Agency is added to the regulatory mix, the resulting chaos and confusion on who is doing what would be unthinkable. Even supporters of this bill should think twice before making two Federal agencies responsible for the same problem. History has taught us that this is not the best approach.

For all these reasons, I oppose H.R. 2919 and urge its defeat.

□ 1720

Mr. BLILEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DE LA GARZA). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 2919, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to authorize a national program to reduce the threat to human health posed by exposure to contaminants in the air indoors.".

A motion to reconsider was laid on the table.

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 656) to provide for indoor air pollution abatement, including indoor radon abatement, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 656

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Indoor Air Quality Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Findings.
Sec. 3. Purposes.
Sec. 4. Definitions.
Sec. 5. Indoor air quality research.
Sec. 6. Management practices, voluntary partnership programs, and ventilation standards.
Sec. 7. Indoor air contaminant health advisories.
Sec. 8. National indoor air quality response plan.
Sec. 9. Federal building response plan and demonstration program.
Sec. 10. State and local indoor air quality programs.
Sec. 11. Office of Radiation and Indoor Air.
Sec. 12. Council on Indoor Air Quality.
Sec. 13. Indoor air quality information clearinghouse.
Sec. 14. Building assessment demonstration.
Sec. 15. State and Federal authority.
Sec. 16. Authorization of appropriations.

SEC. 2. FINDINGS.

Congress finds that—

(1) Americans spend up to 90 percent of a day indoors and, as a result, have a significant potential for exposure to contaminants in the air indoors;

(2) exposure to indoor air contamination occurs in workplaces, schools, public buildings, residences, and transportation vehicles;

(3) recent scientific studies indicate that pollutants in the indoor air include radon, asbestos, volatile organic chemicals (including formaldehyde and benzene), combustion byproducts (including carbon monoxide and nitrogen oxides), metals and gases (including lead, chlorine, and ozone), respirable particles, biological contaminants, microorganisms, and other contaminants;

(4) a number of contaminants found in both ambient air and indoor air may occur at higher concentrations in indoor air than in outdoor air;

(5) indoor air pollutants pose serious threats to public health (including cancer, respiratory illness, multiple chemical sensitivities, skin and eye irritation, and related effects);

(6) up to 15 percent of the population of the United States may have heightened sensitivity to chemicals and related substances found in the air indoors;

(7) radon is among the most harmful indoor air pollutants and is estimated to cause between 5,000 and 20,000 lung cancer deaths each year;

(8) other selected indoor air pollutants are estimated to cause between 3,500 and 6,500 additional cancer cases per year;

(9) indoor air contamination is estimated to cause significant increases in medical costs and declines in work productivity;

(10) as many as 20 percent of office workers may be exposed to environmental conditions manifested as "sick building syndrome";

(11) sources of indoor air pollution include conventional ambient air pollution sources, building materials, consumer and commercial products, combustion appliances, indoor application of pesticides, and other sources;

(12) there is not an adequate effort by Federal agencies to conduct research on the seriousness and extent of indoor air contamination, to identify the health effects of indoor air contamination, and to develop control technologies, education programs, and other methods of reducing human exposure to the contamination;

(13) there is not an adequate effort by Federal agencies to develop response plans to reduce human exposure to indoor air contaminants and there is a need for improved coordination of the activities of these agencies;

(14) there is not an adequate effort by Federal agencies to develop methods, techniques, and protocols for assessment of indoor air contamination in non-residential, non-industrial buildings and to provide guidance on measures to respond to contamination; and

(15) State governments can make significant contributions to the effective reduction of human exposure to indoor air contaminants and the Federal Government should assist States in development of programs to reduce exposures to the contaminants.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) develop and coordinate through the Environmental Protection Agency and at other departments and agencies of the United States a comprehensive program of research and development that addresses the seriousness and extent of indoor air contamination, the human health effects of indoor air contaminants, and the technological and other methods of reducing human exposure to the contaminants;

(2) establish a process under which the existing authorities of Federal laws will be directed and focused to ensure the full and effective application of the authorities to reduce human exposure to indoor air contaminants where appropriate;

(3) provide support to State governments to demonstrate and develop indoor air quality management strategies, assessments, and response programs; and

(4) authorize activities to ensure the general coordination of indoor air quality-related activity, provide for reports on indoor air quality to Congress, provide for assessments of indoor air contamination in specific buildings by the National Institute for Occupational Safety and Health, ensure that data and information on indoor air quality issues is available to interested parties, provide training, education, information, and technical assistance to the public and private sector, and for other purposes.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) ADMINISTRATION.—The term "Administration" means the Occupational Safety and Health Administration.

(3) AGENCY.—The term "Agency" means the Environmental Protection Agency.

(4) DIRECTOR.—The term "Director" means the Director of the National Institute of Occupational Safety and Health.

(5) FEDERAL AGENCY.—The term "Federal agency" or "agency of the United States" means any department, agency or other instrumentality of the Federal Government, including any independent agency or establishment of the Federal Government or government corporation.

(6) FEDERAL BUILDING.—The term "Federal building" means any building that is used primarily as an office building, school, hospital, or residence that is owned, leased, or operated by any Federal agency and is over 10,000 square feet in area, any building occupied by the Library of Congress, the White House, or the Vice Presidential residence, and any building that is included in the definition of Capitol Buildings under section 193m(1) of title 40, United States Code.

(7) INDOOR.—The term "indoor" means the enclosed portions of buildings, including nonindustrial workplaces, public buildings, Federal buildings, schools, commercial buildings, and residences, and the occupied portions of vehicles.

(8) INDOOR AIR CONTAMINANT.—The term "indoor air contaminant" means any solid, liquid, semisolid, dissolved solid, biological organism, aerosol, or gaseous material, including combinations or mixtures of substances, known to occur in indoor air that may reasonably be anticipated to have an adverse effect on human health.

(9) LOCAL AIR POLLUTION CONTROL AGENCY.—The term "local air pollution control agency" means any city, county, or other local government authority charged with the responsibility for implementing programs or enforcing laws or ordinances relating to the prevention and control of air pollution, including indoor air pollution.

(10) LOCAL EDUCATION AGENCY.—The term "local education agency" means any educational agency as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381).

SEC. 5. INDOOR AIR QUALITY RESEARCH.

(a) AUTHORITY.—

(1) IN GENERAL.—The Administrator shall, in coordination with other appropriate Federal agencies, establish a national research, development, and demonstration program to ensure the quality of air indoors. As part of the program, the Administrator shall promote the coordination and acceleration of research, investigations, experiments, demonstrations, surveys, and studies relating to the causes, sources, effects, extent, prevention, detection, and correction of contamination of indoor air.

(2) DUTIES OF ADMINISTRATOR.—In carrying out this section, the Administrator is authorized, subject to the availability of appropriations, to—

(A) collect and make available to the public, through publications and other appropriate means, the results of research, development, and demonstration activities conducted pursuant to this section;

(B) conduct research, development, and demonstration activities and cooperate with other Federal agencies, State and local government entities, interstate and regional agencies, other public agencies and authorities, nonprofit institutions and organizations, and other persons in the preparation and conduct of the research, development, and demonstration activities;

(C) make grants to States or local government entities, other public agencies and authorities, nonprofit institutions and organizations, and other persons;

(D) enter into contracts or cooperative agreements with public agencies and authorities, nonprofit institutions and organizations, and other persons;

(E) conduct studies, including epidemiological studies, of the effects of indoor air contaminants or potential contaminants on mortality and morbidity and clinical and laboratory studies on the immunologic, biochemical, physiological, and toxicological effects (including the carcinogenic, teratogenic, mutagenic, cardiovascular, and neurotoxic effects) of indoor air contaminants or potential contaminants;

(F) develop and disseminate information documents on indoor air contaminants describing the nature and characteristics of the contaminants in various concentrations;

(G) develop effective and practical processes, protocols, methods, and techniques for the prevention, detection, and correction of indoor air contamination and work with the private sector, other governmental entities, and schools and universities to encourage the development of innovative techniques to improve indoor air quality;

(H) construct such facilities, employ such staff, and provide such equipment as are necessary to carry out this section;

(I) call conferences concerning the potential or actual contamination of indoor air giving opportunity for interested persons to be heard and present papers at the conferences;

(J) utilize, on a reimbursable basis, facilities and personnel of existing Federal scientific laboratories and research centers;

(K) acquire secret processes, technical data, inventions, patent applications, patents, licenses, and an interest in lands, plants, equipment and facilities, and other property rights, by purchase, license, lease, or donation, and if the Administrator expects or intends that research conducted pursuant to this subsection will primarily affect worker safety and health, the Administrator shall consult with the Assistant Secretary of Occupational Safety and Health and the Director; and

(L) conduct research, development, and demonstration activities through nonprofit institutions on the use of indoor foliage as a method to reduce indoor air pollution.

(b) PROGRAM REQUIREMENTS.—The Administrator, in coordination with other appropriate Federal agencies, shall conduct, assist, or facilitate research, investigations, studies, surveys, or demonstrations with respect to the following:

(1) The effects on human health of contaminants or combinations of contaminants (whether natural or anthropogenic) at various levels including additive, cumulative, and synergistic effects on populations both with and without heightened sensitivity that are found or are likely to be found in indoor air.

(2) The exposure of persons to contaminants that are found in indoor air (including exposure to the substances from sources other than indoor air contamination, including drinking water, diet, or other exposures).

(3) The identification of populations at increased risk of illness from exposure to indoor air contaminants and assessment of the extent and characteristics of the exposure.

(4) The exposure of persons to contaminants in buildings of different classes or types, and in vehicles, and assessment of the association of particular contaminants and particular building classes or types and vehicles.

(5) The identification of building classes or types and design features or characteristics that increase the likelihood of exposure to indoor air contaminants.

(6) The identification of the sources of indoor air contaminants, including association of contaminants with outdoor sources, building or vehicle design, classes or types of products, building management practices, equipment operation practices, building materials, and related factors.

(7) The assessment of relationships between contaminant concentration levels in ambient air and the contaminant concentration levels in the indoor air.

(8) The development of methods and techniques for characterizing and modeling indoor air movement and flow within buildings or vehicles, including the transport and dispersion of contaminants in the indoor air.

(9) The assessment of the fate, including degradation and transformation, of particular contaminants in indoor air.

(10) The development of methods and techniques to characterize the association of contaminants, the levels of contaminants, and the potential for contamination of new construction with climate, building location, seasonal change, soil and geologic formations, and related factors.

(11) The assessment of indoor air quality in facilities of local education agencies and buildings used as child care facilities and development of measures and techniques for control of indoor air contamination in the buildings.

(12) The development of protocols, methods, techniques, and instruments for sampling indoor air to determine the presence and level of contaminants, including sample collection and the storage of samples before analysis and development of methods to improve the efficiency and reduce the cost of analysis.

(13) The development of air quality sampling methods and instruments that are inexpensive and easy to use and may be used by the general public.

(14) The development of control technologies, building design criteria, and management practices to prevent the entrance of contaminants into buildings or vehicles (such as air intake protection, sealing, and related measures) and to reduce the concentrations of contaminants indoor (such as control of emissions from internal sources of contamination, improved air exchange and ventilation, filtration, and related measures).

(15) The development of materials and products that may be used as alternatives to materials or products that are now in use and that contribute to indoor air contamination.

(16) Research, to be carried out principally by the Occupational Safety and Health Administration and the National Institute for Occupational Safety and Health, for the purpose of assessing—

(A) the exposure of workers to indoor air contaminants, including an assessment of resulting health effects; and

(B) the costs of declines in productivity, sick time use, increased use of employer-paid health insurance, and worker compensation claims.

(17) Research, to be carried out in conjunction with the Secretary of Housing and Urban Development, and the Secretary of the Department of Energy for the purpose of developing methods for assessing the potential for indoor air contamination of new construction and design measures to avoid indoor air contamination.

(18) Research, to be carried out in conjunction with the Secretary of Transportation, for the purposes of—

(A) assessing the potential for indoor air contamination in public and private transportation; and

(B) designing measures to avoid the indoor air contamination.

(19) Research, to be carried out in consultation with the Administrator for the National Aeronautics and Space Administration, for the purpose of assessing the use of indoor foliage as a means to reduce indoor air contamination, including demonstration projects to determine the level of pollutants reduced by indoor plants in buildings.

(c) TECHNOLOGY DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—The Administrator may enter into cooperative agreements or contracts with, or provide financial assistance in the form of grants to, public agencies and authorities, nonprofit institutions and organizations, employee advocate organizations, local educational institutions, or other appropriate entities or persons to demonstrate practices, methods, technologies, or processes that may be effective in controlling sources or potential sources of indoor air contamination, preventing the occurrence of indoor air contamination, and reducing exposures to indoor air contamination.

(2) REQUIREMENTS FOR ASSISTANCE.—The Administrator may assist a demonstration activity under paragraph (1) only if—

(A) the demonstration activity will serve to demonstrate a new or significantly improved practice, method, technology, or process or the feasibility and cost effectiveness of an existing, but unproven, practice, method, technology, or process and will not duplicate other Federal, State, local, or commercial efforts to demonstrate the practice, method, technology, or process;

(B) the demonstration activity meets the requirements of this section and serves the purposes of this Act;

(C) the demonstration of the practice, technology, or process will comply with all other laws and regulations for the protection of human health, welfare, and the environment; and

(D) in the case of a contract or cooperative agreement, the practice, method, technology, or process—

(i) would not be adequately demonstrated by State, local, or private persons, or in the case of an application for financial assistance, by a grant; and

(ii) is not likely to receive adequate financial assistance from other sources.

(3) SOLICITATIONS.—The demonstration program established by this subsection shall include solicitations for demonstration projects, selection of suitable demonstration projects from among the proposed demonstration projects, supervision of the demonstration projects, evaluation and publication of the results of demonstration projects, and dissemination of information on the effectiveness and feasibility of the practices, methods, technologies, and processes that are proven to be effective.

(4) PUBLISHED SOLICITATIONS.—Not later than 180 days after the date of enactment of this Act, and not less often than every 12 months thereafter, the Administrator shall publish a solicitation for proposals to demonstrate, prototype or at full-scale, practices, methods, technologies, and processes that are (or may be) effective in controlling sources or potential sources of indoor air contaminants. The solicitation notice shall prescribe the information to be included in the proposal, including technical and economic information derived from the research and development efforts of the applicant, and

other information sufficient to permit the Administrator to assess the potential effectiveness and feasibility of the practice, method, technology, or process proposed to be demonstrated.

(5) APPLICATIONS.—Any person and any public or private nonprofit entity may submit an application to the Administrator in response to the solicitations required by paragraph (4). The application shall contain a proposed demonstration plan setting forth how and when the project is to be carried out and such other information as the Administrator may require.

(6) REVIEW.—In selecting practices, methods, technologies, or processes to be demonstrated, the Administrator shall fully review the applications submitted and shall evaluate each project according to the following criteria:

(A) The potential for the proposed practice, method, technology, or process to effectively control sources or potential sources of contaminants that present risks to human health.

(B) The consistency of the proposal with the recommendations provided pursuant to section 8(d)(8).

(C) The capability of the person or persons proposing the project to successfully complete the demonstration as described in the application.

(D) The likelihood that the demonstrated practice, method, technique, or process could be applied in other locations and circumstances to control sources or potential sources of contaminants, including considerations of cost, effectiveness, and technological feasibility.

(E) The extent of financial support from other persons to accomplish the demonstration as described in the application.

(F) The capability of the person or persons proposing the project to disseminate the results of the demonstration or otherwise make the benefits of the practice, method, or technology widely available to the public in a timely manner.

(7) SELECTION OF PROJECTS.—The Administrator shall select or refuse to select a project for demonstration under this subsection in an expeditious manner. In the case of a refusal to select a project, the Administrator shall notify the applicant of the reasons for the refusal.

(8) PERFORMANCE OF PROJECTS.—Each demonstration project under this section shall be performed by the applicant, or by a person satisfactory to the applicant, under the supervision of the Administrator. The Administrator shall enter into a written agreement with each applicant granting the Administrator the responsibility and authority for testing procedures, quality control, monitoring, and other measurements necessary to determine and evaluate the results of the demonstration project.

(9) AGREEMENTS.—The Administrator shall enter into agreements, if practicable and desirable, to provide for monitoring testing procedures, quality control, and such other measurements as are necessary to evaluate the results of demonstration projects or facilities intended to control sources or potential sources of contaminants.

(10) SCHEDULES.—Each demonstration project under this section shall be completed within such time as is established in the demonstration plan. The Administrator may extend any deadline established under this subsection by mutual agreement with the applicant concerned.

(11) FEDERAL FUNDS.—The total amount of Federal funds for any demonstration project under this section shall not exceed 75 percent of the total cost of the project. If the Administrator determines that research under this section is of a basic nature that would not otherwise be undertaken, or the applicant is a local educational agency, the Administrator may approve a grant under this section with a matching requirement other than that specified in this subsection, including full Federal funding.

(12) REPORTS.—The Administrator shall, from time to time, publish general reports describing the findings of demonstration projects conducted pursuant to this section. The reports shall be provided to the indoor air quality information clearinghouse provided for in section 13.

(d) STUDY OF SCHOOLS AND CHILD CARE FACILITIES.—

(1) IN GENERAL.—The Administrator shall conduct a national study of the seriousness and extent of indoor air contamination in buildings owned by local educational agencies and child care facilities.

(2) ADVISORY GROUP.—The Administrator shall establish an advisory group composed of representatives of school administrators, teachers, child care organizations, parents and service employees and other interested parties, including scientific and technical experts familiar with indoor air pollution exposures, effects, and controls, to provide guidance and direction in the development of the national study.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Administrator shall provide a report to Congress of the results of the national study. The report required by this paragraph shall provide such recommendations for activities or programs to reduce and avoid indoor air contamination in buildings owned by local educational agencies and in child care facilities as the Administrator determines appropriate.

(e) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Administrator shall prepare and submit to Congress a report reviewing and assessing issues related to chemical sensitivity disorders, including multiple chemical sensitivities. The Advisory Committee established pursuant to section 7(c) shall review and comment on the report prior to submittal to Congress.

(f) HEALTHY BUILDINGS BASELINE ASSESSMENT.—

(1) IN GENERAL.—The Administrator and the Director shall conduct research on indoor air quality in commercial buildings to develop baseline information on indoor air quality in the buildings.

(2) REQUIREMENTS OF RESEARCH.—Research carried out under this subsection shall comply with generally accepted principles of the proper design, maintenance, and operation of ventilation, filtration, and other building systems.

(3) PERSONS THAT MAY CONDUCT RESEARCH.—The Administrator and the Director may arrange to have all or a portion of the research to be carried out by appropriate private persons and academic institutions.

(4) CONTENTS OF STUDY.—The study shall include—

(A) monitoring of respirable particulate matter, volatile compounds, biological contaminants, and other contaminants of interest; and

(B) identification of the sources of indoor air contaminants.

(g) CLARIFICATION OF AUTHORITY.—Title IV of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 7401 note) is repealed.

SEC. 6. MANAGEMENT PRACTICES, VOLUNTARY PARTNERSHIP PROGRAMS, AND VENTILATION STANDARDS.

(a) TECHNOLOGY AND MANAGEMENT PRACTICE ASSESSMENT BULLETINS.—

(1) IN GENERAL.—The Administrator shall publish bulletins providing an assessment of technologies and management practices for the control and measurement of contaminants in the air indoors.

(2) BULLETINS.—The bulletins published pursuant to this subsection shall, at a minimum—

(A) describe the control or measurement technology or practice;

(B) describe the effectiveness of the technology or practice in control or measurement of indoor air contaminants and, to the extent feasible, the resulting reduction in risk to human health;

(C) assess the feasibility of the application of the technology or practice in buildings of different types, sizes, ages, and designs;

(D) assess the cost of the application of the technology or practice in buildings of different types, sizes, ages, and designs, including capital and operational costs; and

(E) assess any risks to human health that the technology or practice may create.

(3) FORMAT.—The Administrator shall establish and utilize a standard format for presentation of the technology and management practice assessment bulletins. The format shall be designed to facilitate assessment of technologies or practices by interested parties, including homeowners and building owners and managers.

(4) SCHEDULE OF PUBLICATION.—The Administrator shall provide that, to the extent practicable, bulletins published pursuant to this subsection shall be published on a schedule consistent with the publication of health advisories pursuant to section 7(b).

(5) PUBLIC REVIEW.—In developing bulletins pursuant to this subsection, the Administrator shall provide for public review and shall consider public comment prior to the publication of bulletins. If the technology or management practice is expected to have significant implications for worker safety or health, the Administrator shall consult with the Director prior to seeking review and comment.

(6) DISTRIBUTION.—The bulletins published pursuant to this subsection shall be provided to the indoor air quality information clearinghouse established under section 13 and, to the extent practicable, shall be made available to architecture, design, and engineering firms, building owners and managers, and organizations representing the parties.

(b) VOLUNTARY PARTNERSHIP PROGRAMS.—

(1) IN GENERAL.—The Administrator shall develop a voluntary partnership program in cooperation with corporations and other entities that own, operate, or occupy buildings.

(2) PARTNERSHIPS.—The Administrator shall enter into the voluntary partnerships as an incentive to promote the implementation of pollution prevention, problem mitigation, and energy-wise technology strategies in exchange for indoor air quality technical support and recognition of the Agency.

(3) RECOGNITION.—The Administrator may award recognition to corporations or other persons that comply with management practices that are necessary to improve air quality.

(c) MODEL BUILDING MANAGEMENT PRACTICES TRAINING.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Director of the National Institute of Occupational Safety and Health, in cooperation with the

Administrator of the General Services Administration and the Administrator, shall develop an indoor air training course providing training with respect to—

(A) principles, methods, and techniques related to ventilation system operation and maintenance, including applicable ventilation guidelines and standards;

(B) the maintenance of records concerning indoor air quality, including maintenance of ventilation systems, complaints of indoor air quality, and actions taken to address indoor air quality problems;

(C) health threats posed by indoor air contaminants, including a knowledge of health advisories published pursuant to this Act and other information concerning contaminant levels;

(D) identification of potential indoor air contaminant sources and options for reducing exposures to contaminants;

(E) special measures that may be necessary to reduce indoor air contaminant exposures in new buildings and in portions of buildings that have been renovated or substantially refurbished within the 6-month period preceding the measures; and

(F) special measures that may be necessary to reduce exposures to contaminants associated with pesticide applications, installation of products, furnishings, or equipment, and cleaning operations.

(2) TRAINING COURSES.—Not later than 2 years after the date of enactment of this Act, the Director of the National Institute for Occupational Safety and Health shall provide, or contract for the provision of, training courses pursuant to paragraph (1) sufficient, at a minimum, to ensure training on a schedule consistent with the requirements of section 9(f)(2).

(3) FEES.—The Director of the National Institute of Occupational Safety and Health, or firms or organizations operating under contract with the Administrator of the General Services Administration, are authorized to establish a fee for training pursuant to this subsection. The fees shall be in an amount not to exceed the amount necessary to defray the costs of the training program.

(4) REPORT.—Not later than 4 years after the date of enactment of this Act, the Director of the National Institute of Occupational Safety and Health, in consultation with the Administrator of the General Services Administration, and the Administrator, shall prepare a report to Congress assessing the training program under this subsection and making recommendations concerning the application of training requirements to classes and types of buildings not covered under this subsection.

(d) VENTILATION PROGRAM.—

(1) IN GENERAL.—The Administrator, in coordination with other Federal agencies, shall conduct a program to analyze the adequacy of ventilation standards and guidelines to protect the public and workers from indoor air contaminants.

(2) DUTIES OF ADMINISTRATOR.—The Administrator shall—

(A) identify and describe ventilation standards adopted by State and local governments and professional organizations, including the American Society of Heating, Refrigerating and Air Conditioning Engineers;

(B) determine the adequacy of the standards for protecting public health and promoting worker productivity;

(C) assess the costs of compliance with the standards;

(D) determine the degree to which the standards are being adopted and enforced;

(E) identify the extent to which buildings are being operated in a manner that achieves the standards; and

(F) assess the potential for the standards to complement controls over specific sources of contaminants in reducing indoor air contamination.

SEC. 7. INDOOR AIR CONTAMINANT HEALTH ADVISORIES.

(a) LIST OF CONTAMINANTS.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Administrator shall prepare and publish in the Federal Register a list of indoor air contaminants (referred to in this section as "listed contaminants"). The list may include combinations or mixtures of contaminants and may refer to the combinations or mixtures by a common name.

(2) REVIEW OF LIST.—The Administrator shall from time to time and as necessary to carry out this Act, but not less often than biennially, review and revise the list by adding other contaminants pursuant to this Act.

(3) CONTENTS OF LIST.—The list provided for in paragraph (1) shall include, at a minimum, benzene, biological contaminants, carbon monoxide, formaldehyde, lead, methylene chloride, nitrogen oxide, particulate matter, asbestos, polycyclic aromatic hydrocarbons (PAHs), and radon.

(4) CONSULTATION AND PUBLIC REVIEW.—In developing the list provided for in paragraph (1) or in revising the list pursuant to paragraph (2), the Administrator shall consult with the advisory panel provided for in subsection (c), provide for public review, and consider public comment prior to the issuance of a final list.

(b) CONTAMINANT HEALTH ADVISORIES.—

(1) IN GENERAL.—The Administrator shall, in consultation with the advisory panel, provided for in subsection (c), and after providing for public review and comment pursuant to paragraph (6), publish advisory materials addressing the adverse human health effects of listed contaminants.

(2) CONTENTS OF MATERIALS.—The advisory materials shall, at a minimum, describe—

(A) the physical, chemical, biological, and radiological properties of the contaminant;

(B) the adverse human health effects of the contaminant in various indoor environments and in various concentrations, including the health threat to subpopulations that may be especially sensitive to exposure to the contaminant;

(C) the extent to which the contaminant, or a mixture of contaminants, is associated with a particular substance of material and emissions rates that are expected to result in varying levels of contaminant concentration in indoor air;

(D) any Technology and Management Practice Assessment Bulletin that is applicable to the contaminant and any actions that are identified for the contaminant in the National Indoor Air Quality Response Plan prepared pursuant to this Act; and

(E) any indoor air contaminant standards or related action levels that are in effect under any authority of a Federal law or regulation, the authority of State laws or regulations, the authority of any local government, or the authority of another country, including standards or action levels suggested by appropriate international organizations.

(3) STATUTORY CONSTRUCTION.—Health advisories published pursuant to this section shall in no way limit or restrict the application of requirements or standards established under any other Federal law.

(4) FORMAT.—The Administrator shall establish and utilize a standard format of presentation of indoor air contaminant health advisories. The format shall be designed to facilitate public understanding of the range of risks of exposure to indoor air contaminants and shall include a summary of the research and information concerning the contaminant that is understandable to public health professionals and to individuals who lack training in toxicology.

(5) SCHEDULE OF PUBLICATION.—The Administrator shall publish health advisories for listed contaminants as expeditiously as practicable. At a minimum, the Administrator shall publish not less than 6 advisories not later than 24 months after the date of enactment of this Act and shall publish an additional 6 advisories not later than 36 months after the date of enactment of this Act.

(6) SCIENTIFIC INFORMATION.—Health advisories shall be based on sound scientific information that has undergone peer review.

(7) REVIEW AND REVISION.—Health advisories shall be reviewed, revised, and republished to reflect new scientific information on a periodic basis but not less frequently than every 5 years.

(8) REVIEW AND COMMENT.—In developing and revising health advisories pursuant to this subsection, the Administrator shall provide for public review and comment, including providing notice in the Federal Register of the intent to publish a health advisory not later than 90 days prior to publication, and shall consider public comment prior to issuance of an advisory.

(c) ADVISORY PANEL.—The Indoor Air Quality and Total Human Exposure Committee of the Environmental Protection Agency Science Advisory Board shall advise the Administrator with respect to the implementation of this section, including the listing of contaminants, the contaminants for which advisories should be published, the order in which advisories should be published, the content, quality, and format of advisory documents, and the revision of the documents. The Administrator shall provide that a representative of each of the Agency for Toxic Substances and Disease Registry, the Office of Health and Environmental Research of the Department of Energy, the National Institute for Occupational Safety and Health, and the National Institute for Environmental Health Sciences shall participate in the work of the Advisory Panel as ex officio members.

SEC. 8. NATIONAL INDOOR AIR QUALITY RESPONSE PLAN.

(a) AUTHORITY.—The Administrator shall, in coordination with other appropriate Federal agencies, develop and publish a national indoor air quality response plan. The response plan shall provide for the implementation of a range of response actions identified in subsections (b) and (c) that will result in the reduction of human exposure to indoor air contaminants listed pursuant to section 7(a) and the attainment, to the fullest extent practicable, of indoor air contaminant levels that are protective of human health.

(b) EXISTING AUTHORITY.—The Administrator, in coordination with other appropriate Federal agencies, shall include in the plans provided for in subsection (a) a description of specific response actions to be implemented based on existing authorities provided in—

(1) the Clean Air Act (42 U.S.C. 7401 et seq.);

(2) the Toxic Substances Control Act (15 U.S.C. 201 et seq.);

(3) the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.);

(4) title XIV of the Public Health Service Act (commonly known as the "Safe Drinking Water Act") (42 U.S.C. 300f et seq.);

(5) the authorities of the Consumer Product Safety Commission;

(6) the authorities of the Occupational Safety and Health Administration and the National Institute for Occupational Safety and Health; and

(7) other regulatory and related authorities provided under any other Federal law.

In implementing response actions pursuant to paragraph (6), the Assistant Secretary for Occupational Safety and Health shall consult with representatives and employees of State and local governments with respect to States over which the Occupational Safety and Health Administration lacks jurisdiction over State and local employees.

(c) SUPPORTING ACTIONS.—The Administrator, in coordination with the heads of other appropriate Federal agencies, shall include in the plans provided for in subsection (a) a description of specific supporting actions, including, but not limited to—

(1) programs to disseminate technical information to public health, design, and construction professionals concerning the risks of exposure to indoor air contaminants and methods and programs for reducing exposure to the contaminants;

(2) the development of guidance documents addressing individual contaminants, groups of contaminants, sources of contaminants, or types of buildings or structures and providing information on measures to reduce exposure to contaminants, including—

(A) the estimated cost of the measures;

(B) the technologic feasibility of the measures; and

(C) the effectiveness and efficiency of the measures;

(3) education programs for the general public concerning the health threats posed by indoor air contaminants and appropriate individual response actions;

(4) technical assistance, including the design and implementation of training seminars for State and local officials, private and professional firms, and labor organizations dealing with indoor air pollution and addressing topics such as monitoring, analysis, mitigation, building management practices, ventilation, health effects, public information, and program design;

(5) the development of model building codes, including ventilation rates, for various types of buildings designed to reduce levels of indoor air contaminants;

(6) the identification of contaminants, or circumstances of contamination for which immediate action to protect public and worker health is necessary and appropriate and a description of the actions needed;

(7) the identification of contaminants, or circumstances of contamination, in cases in which regulatory or statutory authority is not adequate to address an identified contaminant or circumstance of contamination and recommendation of legislation to provide needed authority;

(8) the identification of contaminants, or circumstances of contamination, in cases in which the continued reduction of contamination requires development of technology or technological mechanisms; and

(9) the identification of remedies to the "sick building syndrome", including proper design and maintenance of ventilation systems, building construction and remodeling practices, and safe practices for the application of pesticides, herbicides, and disinfectants, and a standardized protocol for investigating and solving indoor air quality problems in sick buildings.

(d) CONTENTS OF PLAN.—In describing specific actions to be taken under subsections (b) and (c), the Administrator, in coordination with the heads of other appropriate Federal agencies, shall—

(1) identify the health effects, and any contaminant or contaminants thought to cause health effects to be addressed by a particular action and to the fullest extent feasible, the relative contribution to indoor air contamination from all sources of contamination;

(2) identify the statutory basis for the action;

(3) identify the schedule and process for implementation of the action;

(4) identify the Federal agency with jurisdiction for the specific action that will implement the action; and

(5) identify the financial resources needed to implement the specific action and the source of the resources.

(e) SCHEDULE.—Response plans provided for in subsection (a) shall be submitted to Congress not later than 2 years after the date of enactment of this Act, and biennially thereafter.

(f) REVIEW.—

(1) IN GENERAL.—The Administrator shall provide for public review and comment on the response plan provided for in this section, including provision of notice in the Federal Register for public review and comment not later than 90 days prior to submission to Congress. The Administrator shall include in the response plan a summary of public comments.

(2) REVIEW BY COUNCIL.—The Administrator shall provide for the review and comment on the response plan by the Council on Indoor Air Quality provided for under section 12.

(g) REPORTS IN PLAN.—

(1) MONITORING AND MITIGATION SERVICES.—In the first plan published pursuant to this section shall include an assessment and report on indoor air monitoring and mitigation services provided by private firms and other organizations, including the range of the services, the reliability and accuracy of the services, and the relative costs of the services. The assessment shall include a review and analysis of options for oversight of indoor air monitoring and mitigation firms and organizations, including registration, licensing, and certification of the firms and organizations and options for imposing a user fee on the firms and organizations.

(2) VENTILATION PROGRAM.—The first plan published pursuant to this section shall include an assessment and report on the ventilation program carried out under this Act, including recommendations concerning—

(A) the establishment of ventilation standards that protect public health and worker health and take into account comfort and energy conservation goals; and

(B) ensuring that adequate ventilation standards are being adopted and that buildings are being operated in a manner that achieves standards.

(3) INDOOR PLANTS.—The first plan published pursuant to this section shall include an assessment and report on the research program authorized under section 5(b)(20). In preparing the report, the Administrator shall consult with the Administrator of the National Aeronautics and Space Administration.

SEC. 9. FEDERAL BUILDING RESPONSE PLAN AND DEMONSTRATION PROGRAM.

(a) AUTHORITY.—The Administrator and the Administrator of the General Services Administration shall develop and implement a program to respond to and reduce indoor air contamination in Federal buildings and to demonstrate methods of reducing indoor air contamination in new Federal buildings.

(b) FEDERAL BUILDING RESPONSE PLAN.—

(1) IN GENERAL.—The Administrator of the General Services Administration, in consultation with the Administrator, the Assistant Secretary for Occupational Safety and Health Administration, the Director, and the heads of affected Federal departments or agencies shall prepare response plans addressing indoor air quality in Federal buildings. The plans shall, to the fullest extent practicable, be developed in conjunction with response plans developed pursuant to section 8.

(2) CONTENTS OF RESPONSE PLAN.—The response plan shall provide for the implementation of a range of response actions that will result in the reduction of human exposure to indoor air contaminants listed pursuant to section 7(a), and the attainment, to the fullest extent practicable, of indoor air contaminant concentration levels that are protective of public and worker health.

(3) REQUIREMENTS FOR RESPONSE PLAN.—Each Federal building response plan provided for in paragraph (1) shall include—

(A) a list of all Federal buildings;

(B) a description and schedule of general response actions, including general building management practices, product purchase guidelines, air quality problem identification practices and methods, personnel training programs, and other actions to be implemented to reduce exposures to indoor air contaminants in the buildings listed pursuant to subparagraph (A);

(C) a list of individual Federal buildings listed pursuant to subparagraph (A) for which there is sufficient evidence of indoor air contamination or related employee health effects to warrant assessment of the building pursuant to section 14 and a schedule for the development and submittal of building assessment proposals pursuant to section 14(d);

(D) a description and schedule of specific response actions to be implemented in each specific building identified in subparagraph (C) and assessed pursuant to section 14;

(E) an identification of the Federal agency responsible for the funding and implementation of each response action identified in subparagraphs (B) and (D); and

(F) an identification of the estimated costs of each response action identified in subparagraphs (B) and (D) and the source of resources to cover the costs.

(4) REQUIREMENT FOR RESPONSE PLAN.—The response plan provided for in this subsection shall address each Federal building identified in paragraph (3)(A), except that a specific building may be exempted from coverage under this subsection. A building may be exempted on the grounds of—

(A) national security;

(B) the anticipated demolition or termination of Federal ownership not later than 3 years after the exemption; and

(C) a specialized use of a building that precludes necessary actions to reduce indoor air contamination.

(5) SUBMISSION TO CONGRESS.—The plan provided for in this subsection shall be submitted to Congress not later than 2 years after the date of enactment of this Act, and biennially thereafter.

(6) PUBLIC REVIEW AND COMMENT.—The Administrator of the General Services Administration shall provide for public review and comment on the response plan provided for in this section, including the provision of notice in the Federal Register, not later than 90 days prior to the submission to Congress of the plan.

(7) PUBLIC COMMENTS.—The response plan shall include a summary of public comments. The Council on Indoor Air Quality provided for under section 12 shall review and comment on the plan.

(c) INDOOR AIR QUALITY RESERVE.—

(1) IN GENERAL.—The Administrator of the General Services Administration shall reserve 0.5 percent of any funds used for the construction of new Federal buildings for the design and construction of measures to reduce indoor air contaminant concentrations within the buildings.

(2) MEASURES THAT MAY BE FUNDED.—The measures that may be funded with the reserve provided for in this subsection include—

(A) the development and implementation of general design principles intended to avoid or prevent contamination of indoor air;

(B) the design and construction of improved ventilation techniques or equipment;

(C) the development and implementation of product purchasing guidelines;

(D) the design and construction of contaminant detection and response systems;

(E) the development of building management guidelines and practices; and

(F) training in building and systems operations for building management and maintenance personnel.

(3) REPORT.—On completion of construction of each Federal building covered by this section, the Administrator of the General Services Administration shall file with the Administrator, the clearinghouse established under section 13, and the Council established under section 12, a report describing the uses made of the reserve provided for in this subsection. The report shall be in sufficient detail to provide design and construction professionals with models and general plans of various indoor air contaminant reduction measures adequate to assess the appropriateness of the measures for application in other buildings.

(4) EXEMPTIONS.—The Administrator of the General Services Administration, with the concurrence of the Administrator, may exempt a planned Federal building from the requirements of this subsection if the Administrator of the General Services Administration finds that the exemption is required on the grounds of national security or that the intended use of the building is not compatible with this section.

(d) NEW ENVIRONMENTAL PROTECTION AGENCY BUILDINGS.—Any new building constructed for use by the Agency as headquarters shall be designed, constructed, maintained, and operated as a model to demonstrate principles and practices for the protection of indoor air quality.

(e) BUILDING COMMENTS.—

(1) IN GENERAL.—The Administrator of the General Services Administration, in consultation with the Administrator, the Assistant Secretary for Occupational Safety and Health Administration, and the Director, shall provide, by regulation, a method and format for filing and responding to comments and complaints concerning indoor air quality in Federal buildings by workers in the buildings and by the public. The procedure for filing and responding to worker complaints shall supplement and not diminish or supplant existing practices or procedures established under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) and executive orders pertaining to health and safety for Federal employees.

(2) LISTING OF FILINGS.—A listing of each filing and an analysis of the filing shall be included in each response plan prepared pursuant to this section. The listing shall preserve the confidentiality of individuals making filings under this section.

(3) REGULATIONS.—The regulations implementing this subsection shall be issued at the earliest practicable date, but not later than 2 years after the date of enactment of this Act.

(f) BUILDING VENTILATION AND MANAGEMENT TRAINING.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator of the General Services Administration shall designate, or require that a lessee designate, an Indoor Air Quality Coordinator for each Federal building that is owned or leased by the General Services Administration.

(2) SCHEDULE FOR COMPLETION OF TRAINING COURSES.—Not later than 4 years after the date of enactment of this Act, each Indoor Air Quality Coordinator shall complete the indoor air training course operated pursuant to section 6(b). Beginning on the date that is 3 years after the date of enactment of this Act, each newly designated Indoor Air Quality Coordinator shall complete the indoor air training course not later than 1 year after designation.

(3) FAILURE TO DESIGNATE AN INDOOR AIR QUALITY COORDINATOR.—If the Administrator of the General Services Administration finds that a lessee has failed to designate and train an Indoor Air Quality Coordinator pursuant to the requirements of this Act, the Administrator of the General Services Administration may not reestablish a lease for the building.

SEC. 10. STATE AND LOCAL INDOOR AIR QUALITY PROGRAMS.

(a) MANAGEMENT AND ASSESSMENT STRATEGY DEMONSTRATION.—

(1) IN GENERAL.—The Governor of a State may apply to the Administrator for a grant to support demonstration of the development and implementation of a management strategy and assessment with respect to indoor air quality within the State.

(2) STRATEGIES.—Each State indoor air quality management strategy shall—

(A) identify a lead agency and provide an institutional framework for protection of indoor air quality;

(B) identify and describe existing programs, controls, or related activities concerning indoor air quality within State agencies, including regulations, educational programs, assessment programs, or other activities;

(C) identify and describe existing programs, controls, or related activities concerning indoor air quality of local and other sub-State agencies and ensure coordination among local, State, and Federal agencies involved in indoor air quality activities in the State; and

(D) ensure the coordination of indoor air quality programs with ambient air quality programs and related activities.

(3) ASSESSMENT PROGRAMS.—Each State indoor air quality assessment program shall—

(A) identify indoor air contaminants of concern and, to the extent practicable, assess the seriousness and the extent of indoor air contamination by contaminants listed in section 7(a);

(B) identify the classes or types of buildings or other indoor environments in which indoor air contaminants pose the most serious threat to human health;

(C) if applicable, identify geographic areas in the State where there is a reasonable likelihood of indoor air contamination as a result of the presence of contaminants in the ambient air or the existence of sources of a contaminant;

(D) identify methods and procedures for indoor air contaminant assessment and monitoring;

(E) provide for periodic assessments of indoor air quality and identification of indoor air quality changes and trends; and

(F) establish methods to provide information concerning indoor air contamination to the public and to educate the public and interested groups, including building owners and design and engineering professionals, about indoor air contamination.

(4) STATE AUTHORITY.—As part of a management strategy and assessment under this subsection, the applicant may develop contaminant action levels, guidance, or standards and may draw on health advisories developed pursuant to section 7.

(5) REQUIREMENTS FOR STATES.—Each State that is selected to demonstrate the development of management and assessment strategies shall provide to the Administrator a management strategy and assessment pursuant to paragraphs (2) and (3) not later than 3 years after the date of selection and shall certify to the Administrator that the strategy and assessment meet the requirements of this Act.

(6) PUBLIC REVIEW AND COMMENT.—Each State referred to in paragraph (5) shall provide for public review and comment on the management strategy and assessment prior to submission of the strategy and assessment to the Administrator.

(b) RESPONSE PROGRAMS.—

(1) IN GENERAL.—A Governor of a State or the executive officer of a local air pollution control agency may apply to the Administrator for grant assistance to develop a response program designed to reduce human exposure to an indoor air contaminant or contaminants in the State, a specific class or type of building in that State, or a specific geographic area of that State.

(2) REQUIREMENTS FOR RESPONSE PROGRAM.—A response program shall—

(A) address a contaminant or contaminants listed pursuant to section 7(a);

(B) identify existing data and information concerning the contaminant or contaminants to be addressed, the class or type of building to be addressed, and the specific geographic area to be addressed;

(C) describe and schedule the specific actions to be taken to reduce human exposure to the identified contaminant or contaminants, including the adoption and enforcement of any ventilation standards;

(D) identify the State or local agency or public organization that will implement the response actions;

(E) identify the Federal, State, and local financial resources to be used to implement the response program; and

(F) provide for the assessment of the effectiveness of the response program.

(3) STATE AUTHORITY.—As part of a response program pursuant to this subsection, an applicant may develop contaminant action levels, guidance, or standards based on health advisories developed pursuant to section 7.

(4) VENTILATION RATES.—As part of a response program established pursuant to this subsection, an applicant may develop a standard establishing 1 or more ventilation rates for a class or classes of buildings. The standard shall include development of the assessment and compliance programs needed to implement the standard.

(5) RESPONSE PLANS.—As part of a response program established pursuant to this subsection, an applicant may develop a response plan addressing indoor air quality in State and local government buildings. The plan shall, to the fullest extent practicable, be consistent with response plans developed pursuant to section 9.

(c) GRANT MANAGEMENT.—

(1) AMOUNT.—The amount of each grant made under subsection (a)(1) shall not be less than $75,000 for each fiscal year.

(2) SELECTION CRITERIA.—In selecting States for the demonstration and implementation of management strategies and assessments under subsection (a)(1), the Administrator shall consider—

(A) the previous experience of a State in addressing indoor air quality issues;

(B) the seriousness of the indoor air quality issues identified by the State; and

(C) the potential for demonstration of innovative management or assessment measures that may be of use to other States.

(3) FOCUS OF RESOURCES.—In selecting States for the demonstration of management strategies and assessments under subsection (a)(1), the Administrator shall focus resources to ensure that sufficient funds are available to selected States to provide for the development of comprehensive and thorough management strategies and assessments in each selected State and to adequately demonstrate the implementation of the strategies and assessments.

(4) AMOUNT.—The amount of each grant made under subsection (b)(1) shall not exceed $250,000 for each fiscal year and shall be available to the State for a period of not to exceed 3 years.

(5) SELECTION CRITERIA.—In selecting response programs developed under subsection (b) for grant assistance, the Administrator shall consider—

(A) the potential for the response program to bring about reductions in indoor air contaminant levels;

(B) the contaminants to be addressed, giving priority to contaminants for which health advisories have been developed pursuant to section 207;

(C) the type of building to be addressed, giving priority to building types in which substantial human exposures to indoor air contaminants occur;

(D) the potential for development of innovative response measures or methods that may be of use to other States or local air pollution control agencies; and

(E) the State indoor air quality management strategy and assessment, giving priority to States with complete indoor air management strategies and assessments.

(6) FEDERAL SHARE.—The Federal share of each grant made under subsections (a) and (b) shall not exceed 75 per cent of the costs incurred in the demonstration and implementation of the activities and shall be made on the condition that the non-Federal share is provided from non-Federal funds.

(7) AVAILABILITY OF FUNDS.—Funds awarded as a grant pursuant to subsections (a) and (b) for a fiscal year shall remain available for obligation for the next fiscal year following the fiscal year in which the funds are obligated and for the next following fiscal year.

(8) RESTRICTION.—No grant shall be made under this section for any fiscal year to a State or local air pollution control agency that in the preceding year received a grant under this section unless the Administrator determines that the agency satisfactorily implemented the grant activities in the preceding fiscal year.

(9) INFORMATION.—States and air pollution control agencies shall provide such information in applications for grant assistance and pertaining to grant funded activities as the Administrator requires.

SEC. 11. OFFICE OF RADIATION AND INDOOR AIR.

(a) ESTABLISHMENT.—The Administrator shall establish an Office of Radiation and Indoor Air within the Office of Air and Radiation of the Agency.

(b) RESPONSIBILITIES.—The Office of Radiation and Indoor Air shall—

(1) list indoor air contaminants and develop health advisories pursuant to section 7;

(2) develop national indoor air quality response plans as provided for in section 8;

(3) manage Federal grant assistance provided to air pollution control agencies under section 10;

(4) ensure the coordination of Federal laws and programs administered by the Agency relating to indoor air quality and reduce duplication or inconsistencies among the programs;

(5) work with other Federal agencies, including the Occupational Safety and Health Administration and the National Institute for Occupational Safety and Health, to ensure the effective coordination of programs related to indoor air quality; and

(6) work with public interest groups, labor organizations, and the private sector in development of information related to indoor air quality, including the health threats of human exposure to indoor air contaminants, the development of technologies and methods to control the contaminants, and the development of programs to reduce contaminant concentrations.

SEC. 12. COUNCIL ON INDOOR AIR QUALITY.

(a) AUTHORITY.—There is established a Council on Indoor Air Quality.

(b) RESPONSIBILITIES.—The Council on Indoor Air Quality shall—

(1) provide for the full and effective coordination of Federal agency activities relating to indoor air quality;

(2) provide a forum for the resolution of conflicts or inconsistencies in policies or programs related to indoor air quality;

(3) review and comment on the national indoor air quality response program developed pursuant to section 8 and the Federal building response plans developed pursuant to section 9(b); and

(4) prepare a report to Congress pursuant to subsection (d).

(c) ORGANIZATION.—

(1) IN GENERAL.—The Council on Indoor Air Quality shall include a senior representative of each Federal agency involved in indoor air quality programs, including—

(A) the Agency;

(B) the Occupational Safety and Health Administration;

(C) the National Institute of Occupational Safety and Health;

(D) the Department of Health and Human Services;

(E) the Department of Housing and Urban Development;

(F) the Department of Energy;

(G) the Department of Transportation;

(H) the Consumer Product Safety Commission; and

(I) the General Services Administration.

(2) CHAIRPERSON.—The representative of the Agency shall serve as the Chairperson of the Council.

(3) STAFF.—The Council shall be served by a staff that shall include an Executive Director and not less than 3 full-time equivalent employees who shall be employees of the Agency.

SEC. 13. INDOOR AIR QUALITY INFORMATION CLEARINGHOUSE.

(a) NATIONAL INDOOR AIR QUALITY CLEARINGHOUSE.—The Administrator shall establish a national indoor air quality clearinghouse to be used to disseminate indoor air quality information to other Federal agencies, State, and local governments, and private organizations and individuals.

(b) FUNCTIONS.—The clearinghouse shall be a repository for reliable indoor air quality related information to be collected from and made available to government agencies and private organizations and individuals. At a minimum, the clearinghouse established by this section shall make available reports, programs, and materials developed pursuant to this Act.

(c) HOTLINE.—The clearinghouse shall operate a toll-free hotline on indoor air quality that shall be available to provide to the public general information about indoor air quality and general guidance concerning response to indoor air quality problems.

(d) CONTRACTUAL AGREEMENT.—The Administrator may provide for the design, development, and implementation of the clearinghouse through a contractual agreement.

SEC. 14. BUILDING ASSESSMENT DEMONSTRATION.

(a) AUTHORITY.—

(1) IN GENERAL.—The Director of the National Institute for Occupational Safety and Health shall, in consultation with the Administrator, implement a Building Assessment Demonstration Program to support the development of methods, techniques, and protocols for the assessment of indoor air quality in nonresidential, nonindustrial buildings and to provide assistance and guidance to building owners and occupants on measures to improve air quality.

(2) ONSITE ASSESSMENTS.—In implementing this section, the Director shall have the authority to conduct onsite assessments of individual buildings, including Federal, State, and municipal buildings.

(3) STATUTORY CONSTRUCTION.—Nothing in this section shall in any way limit or constrain existing authorities under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(b) ASSESSMENT ELEMENTS.—Assessments of individuals buildings conducted pursuant to this section shall, at a minimum, provide—

(1) an identification of suspected building conditions or contaminants (or both) and the magnitude of the conditions or contaminants;

(2) an assessment of the probable sources of contaminants in the air in the building;

(3) a review of the nature and extent of health concerns and symptoms identified by building occupants;

(4) an assessment of the probable association of indoor air contaminants with the health and related concerns of building occupants, including an assessment of occupational and environmental factors that may relate to the health concerns;

(5) an identification of appropriate measures to control contaminants in the air in the building, to reduce the concentration levels of contaminants, and to reduce exposure to contaminants; and

(6) an evaluation of the effectiveness of response measures in the control and reduction of contaminants and contaminant levels, the change in occupant health concerns and symptoms, the approximate costs of the measures, and any additional response measures that may reduce health concerns of occupants.

(c) ASSESSMENT REPORTS.—

(1) IN GENERAL.—The Director shall prepare—

(A) a preliminary report of each building assessment that shall document findings concerning assessment elements in paragraphs (1) through (5) of subsection (b); and

(B) a final report that shall provide an overall summary of the building assessment, including information on the effectiveness and cost of response measures, and the potential for application of response measures to other buildings.

(2) SCHEDULE OF REPORTS.—Each preliminary assessment report shall be prepared not later than 180 days after the selection of a building for assessment. A final assessment report shall be prepared not later than 180 days after completion of a preliminary report.

(3) AVAILABILITY OF REPORTS.—Preliminary and final reports shall be made available to building owners, occupants, and the authorized representatives of occupants.

(d) BUILDING ASSESSMENT PROPOSAL.—

(1) IN GENERAL.—The Director shall consider individual buildings for assessment under this section in response to a proposal identifying a building and the building owner and providing preliminary, background information about the nature of the indoor air contamination, previous response to air contamination problems, and the characteristics, occupancy, and uses of the building.

(2) BUILDING ASSESSMENT PROPOSALS.—A Building assessment proposal may be submitted by a building owner or occupants or the authorized representatives of building occupants, including the authorized representatives of employees working in a building.

(e) BUILDING ASSESSMENT SELECTION.—

(1) IN GENERAL.—In selecting buildings to be assessed under this section, the Director shall consider—

(A) the seriousness and extent of apparent indoor air contamination and human health effects of the contamination;

(B) the proposal for a building assessment submitted pursuant to subsection (d);

(C) the views and comments of the building owners;

(D) the potential for the building assessment to expand knowledge of building assessment methods, including identification of contaminants and other relevant building conditions, assessment of sources, and development of response measures; and

(E) the listing of a building pursuant to section 9(b)(3)(C).

(2) PRELIMINARY RESPONSE.—The Director shall provide a preliminary response and review of building assessment proposals to applicants and the applicable building owner not later than 60 days after receipt of a proposal and, to the extent practicable, shall provide a final decision concerning selection of a proposal not later than 120 days after the submittal of the proposal.

(f) BUILDING ASSESSMENT SUPPORT.—

(1) IN GENERAL.—The Director may enter into agreements with private individuals, firms, State and local governments, or academic institutions for services and related assistance in conduct of assessments under this section.

(2) OTHER FEDERAL AGENCIES.—The Director may enter into agreements with any other Federal agency for the assignment of Federal employees to a specific building assessment project for a period of not to exceed 180 days.

(g) SUMMARY REPORT.—

(1) IN GENERAL.—The Director shall provide, on an annual basis, a report on the implementation of this section to the Administrator and to the Council on Indoor Air Quality established pursuant to section 12.

(2) GENERAL REPORTS.—The Director shall, from time to time and in consultation with the Administrator, publish general reports containing materials, information, and general conclusions concerning assessments conducted pursuant to this section. The reports may address concerns related to the remediation of indoor air contamination problems, the assessment of health related concerns and the prevention of the problems through improved design, materials, product specifications, and management practices.

(3) AVAILABILITY OF REPORTS.—The reports prepared pursuant to this subsection and subsection (c) shall be provided to the indoor air quality information clearinghouse provided for in section 13 and, to the extent practicable, the reports shall be made available to architectural, design, and engineering firms and to organizations representing the firms.

SEC. 15. STATE AND FEDERAL AUTHORITY.

(a) GENERAL AUTHORITY.—Nothing in this Act shall be construed, interpreted, or applied to preempt, displace, or supplant any other State or Federal law, whether statutory or common law, or any local ordinance.

(b) OCCUPATIONAL SAFETY AND HEALTH.—In exercising any authority under this title, the Administrator shall not, for purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), be considered to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

SEC. 16. AUTHORIZATION OF APPROPRIATIONS.

(a) SECTIONS 5 THROUGH 7.—There are authorized to be appropriated $20,000,000 for each of fiscal years 1994 through 1998. Of such sums as are appropriated pursuant to this subsection, for each of fiscal years 1994 through 1998, ⅛ shall be reserved for the implementation of section 7, ¼ shall be reserved for the implementation of section 5(c), and $1,000,000 shall be reserved for the implementation of section 6(c).

(b) SECTIONS 8, 9, 11, AND 13.—There are authorized to be appropriated $10,000,000 for each for fiscal years 1994 through 1998, to carry out sections 8, 9, 11, and 13. Of such sums as are appropriated pursuant to this subsection, ⅛ shall be reserved for implementation of section 9 and ⅛ shall be reserved for implementation of section 13.

(c) SECTION 10.—There are authorized to be appropriated $12,000,000 for each of fiscal years 1994 through 1998, to carry out section 10. Of such sums that are appropriated pursuant to this section, ⅓ shall be reserved for the purpose of carrying out section 10(b).

(d) SECTION 12.—There are authorized to be appropriated $1,500,000 for each of fiscal years 1994 through 1998, to carry out section 12.

(e) SECTION 14.—There are authorized to be appropriated $5,000,000 for each of fiscal years 1994 through 1998 to carry out section 14.

MOTION OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WAXMAN moves to strike all after the enactment clause of S. 656 and insert in lieu thereof the text of H.R. 2919 as passed by the House.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN].

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to authorize a national program to reduce the threat to human health posed by exposure to contaminants in the air indoors.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 2919) was laid on the table.

UNITED STATES-MEXICO BORDER HEALTH COMMISSION ACT

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1225) to authorize and encourage the President to conclude an agreement with Mexico to establish a United States-Mexico Border Health Commission.

The Clerk read as follows:

S. 1225

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Mexico Border Health Commission Act".

SEC. 2. ESTABLISHMENT OF BORDER HEALTH COMMISSION.

The President is authorized and encouraged to conclude an agreement with Mexico to establish a binational commission to be known as the United States-Mexico Border Health Commission.

SEC. 3. DUTIES.

It should be the duty of the Commission—

(1) to conduct a comprehensive needs assessment in the United States-Mexico Border Area for the purposes of identifying, evaluating, preventing, and resolving health problems and potential health problems that affect the general population of the area;

(2) to implement the actions recommended by the needs assessment through—

(A) assisting in the coordination and implementation of the efforts of public and private entities to prevent and resolve such health problems, and

(B) assisting in the coordination and implementation of efforts of public and private entities to educate such population, in a culturally competent manner, concerning such health problems; and

(3) to formulate recommendations to the Governments of the United States and Mexico concerning a fair and reasonable method by which the government of one country could reimburse a public or private entity in the other country for the cost of a health care service that the entity furnishes to a citizen of the first country who is unable, through insurance or otherwise, to pay for the service.

SEC. 4 OTHER AUTHORIZED FUNCTIONS.

In addition to the duties described in section 3, the Commission should be authorized to perform the following functions as the Commission determines to be appropriate—

(1) to conduct or support investigations, research, or studies designed to identify,

study, and monitor, on an on-going basis, health problems that affect the general population in the United States-Mexico Border Area;

(2) to conduct or support a binational, public-private effort to establish a comprehensive and coordinated system, which uses advanced technologies to the maximum extent possible, for gathering health-related data and monitoring health problems in the United States-Mexico Border Area; and

(3) to provide financial, technical, or administrative assistance to public or private nonprofit entities who act to prevent or resolve such problems or who educate the population concerning such health problems.

SEC. 5. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT OF UNITED STATES SECTION.—The United States section of the Commission should be composed of 13 members. The section should consist of the following members:

(1) The Secretary of Health and Human Services or the Secretary's delegate.

(2) The commissioners of health or chief health officer from the States of Texas, New Mexico, Arizona, and California or such commissioners' delegates.

(3) Two individuals residing in United States-Mexico Border Area in each of the States of Texas, New Mexico, Arizona, and California who are nominated by the chief executive officer of the respective States and appointed by the President from among individuals who have demonstrated ties to community-based organizations and have demonstrated interest and expertise in health issues of the United States-Mexico Border Area.

(b) COMMISSIONER.—The Commissioner of the United States section of the Commission should be the Secretary of Health and Human Services or such individual's delegate to the Commission. The Commissioner should be the leader of the section.

(c) COMPENSATION.—Members of the United States section of the Commission who are not employees of the United States or any State—

(1) shall each receive compensation at a rate of not to exceed the daily equivalent of the annual rate of basic pay payable for positions at GS-15 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the actual performance of the duties of the Commission; and

(2) shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services of the Commission.

SEC. 6. REGIONAL OFFICES.

The Commission may designate or establish one border health office in each of the States of Texas, New Mexico, Arizona, and California. Such office should be located within the United States-Mexico Border Area, and should be coordinated with—

(1) State border health offices; and

(2) local nonprofit organizations designated by the State's chief executive officer and directly involved in border health issues.

If feasible to avoid duplicative efforts, the Commission offices should be located in existing State or local nonprofit offices. The Commission should provide adequate compensation for cooperative efforts and resources.

SEC. 7. REPORTS.

Not later than February 1 of each year that occurs more than 1 year after the date of the establishment of the Commission, the Commission should submit an annual report to both the United States Government and the Government of Mexico regarding all activities of the Commission during the preceding calendar year.

SEC. 8. DEFINITIONS.

As used in this Act:

(1) COMMISSION.—The term "Commission" means the United States-Mexico Border Health Commission.

(2) HEALTH PROBLEM.—The term "health problem" means a disease or medical ailment or an environmental condition that poses the risk of disease or medical ailment. The term includes diseases, ailments, or risks of disease or ailment caused by or related to environmental factors, control of animals and rabies, control of insect and rodent vectors, disposal of solid and hazardous waste, and control and monitoring of air quality.

(3) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(4) UNITED STATES-MEXICO BORDER AREA.—The term "United States-Mexico Border Area" means the area located in the United States and Mexico within 100 kilometers of the border between the United States and Mexico.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to present to the House S. 1225, legislation authorizing the President to establish a United States-Mexico Border Health Commission. The legislation is similar to H.R. 2305, a bill authored by the distinguished gentleman from Texas [Mr. COLEMAN] and reported by the Committee on Energy and Commerce on August 19.

In order to expedite consideration of this matter prior to adjournment, our colleagues in the other body have made changes in their original bill to more closely reflect the original House legislation.

Mr. Speaker, the 2,000-mile border shared by the United States and Mexico is an area with great economic potential. Unfortunately, the dangers posed by unaddressed health and environmental problems threaten to undermine our progress in the development of this region: Sanitation and waste disposal facilities are inadequate or nonexistent; communicable diseases originating in this area frequently spread to other parts of the country; and access to health services is comparable to that of many third-world countries.

Mr. Speaker, the demographic issues facing the United States-Mexico border are unlike those found in any other part of the United States. The border communities are generally very poor, with more than a third living at or below the poverty line in the United States alone, and an unemployment rate over 2.5 times higher than the rest of the country. The sanitary infrastructure deficiencies of the border area are enormous, contributing to high rates of morbidity and mortality from communicable disease and chemical exposure.

While there have been a number of State and locally sponsored projects to address border health problems, the longterm impact of such efforts has been limited by the lack of significant participation by both State and Federal representatives from both countries.

These problems can only be addressed through the cooperative effort of both countries.

The legislation before us would authorize the President to establish a binational commission to investigate and coordinate solutions to these serious problems. The commission would conduct an assessment of the border area, and develop appropriate interventions and educational strategies.

Mr. Speaker, S. 1225 enjoys broad bipartisan support. Like H.R. 2305, the Senate bill is strongly supported by the Governors of the border States Texas, Arizona, New Mexico, and California.

Passage of S. 1225 will establish a meaningful framework for addressing the serious health and environmental problems which confront this vital region of our country. I urge support for the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1225. The unique demographics of the border region warrant the establishment of this commission to study the problems and make recommendations for solutions.

I do want to point out, however, that establishment of the commission should not preclude a continuing discussion on who should be responsible for paying the cost of providing emergency care services, as mandated by OBRA 86, to undocumented aliens. As we all know, many States are being overwhelmed by the expenses of providing care to undocumented aliens. I feel very strongly that the congressional debate on this issue must continue.

I am very pleased, however, that the chairman of the subcommittee and I have the same understanding of the legislation. At the subcommittee markup we engaged in a colloquy and agreed about the interpretation of the provision which refers to citizens who are, "Unable, through insurance or otherwise, to pay for the service." Under Medicaid law, the State and Federal Governments, through Medicaid, pay hospitals for emergency services delivered to illegal aliens who are otherwise eligible for Medicaid. We clarified that it is the committee's intent that illegal aliens who receive emergency care and who have that care paid for by Medicaid are not to be considered able to pay through insurance or otherwise. We would therefore expect the commission to make recommendations for the reimbursement of the United States by Mexico for the costs of emergency services provided to citizens of Mexico in cases where those services are currently paid for by Medicaid, as well as in cases where services are not paid for by Medicaid.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I think it is important to have a vote on this particular piece of legislation. Mr. Speaker, I like the idea of the commission, except wherein it might be misinterpreted that somehow it is an implicit endorsement of illegal immigrants receiving medical services, and I know the gentleman has had a colloquy with the chairman, and that that was established, apparently, in the committee through the colloquy that that is not the intent of this legislation.

Nonetheless, Mr. Speaker, I think it is important that having the commission will not in any way implicitly say that we do not need to have a strong border, a strong international border; that we do not have a right as a nation to deny welfare benefits, including health benefits, to those people who enter the country illegally. That is a strong message that we are sending out right now.

Mr. Speaker, Operation Gatekeeper is taking place in San Diego, CA. The El Paso blockage is presently in effect. Incidentally, there are some very good things happening as a result of having increased strength on the border. One thing I notice is that the rate of auto thefts went down 50 percent in 1 night in El Paso, because they now have strengthened the border with more Border Patrolmen. I think we are going to have other salutary effects of the same nature in San Diego.

Mr. Speaker, I just do not want to be sending the message by a vote from this Congress that somehow we disagree with the idea that we need to have a strong border, and that we have a right to deny welfare benefits paid for by American taxpayers to illegal immigrants.

If this commission is being put forth in that light, Mr. Speaker, that is, that it is not an implicit endorsement of illegal immigration or some desire to marry the populations on both sides of the border and pay for them out of the same Uncle Sam's taxpayer dollars, then I think it is important to have that message, and I think we can pass this legislation.

Mr. Speaker, I do think we should have a vote on this.

Mr. MOORHEAD. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. WAXMAN] to respond.

Mr. WAXMAN. Mr. Speaker, I am happy to respond to the gentleman. His question does not deal with the questions of immigration, legal or illegal. It simply deals with the health problems of border areas, and asks for a convening of those people involved in health matters to look at the problems in that region.

However, it would not in any way seek to address those immigration questions that the gentleman has raised.

Mr. HUNTER. Mr. Speaker, if the gentleman would continue to yield, I know the gentleman from California [Mr. PACKARD] may have a question, too. Those of us who have districts on the border, the message to citizens of Mexico who live south of the border often is that health care is available in the United States. Everybody knows about that. Thousands of people come to the United States side to have their babies and to get operations. Whenever they have a more severe medical procedure, one that taxes the abilities of the doctors in Mexico, they feel that the United States is a place to go.

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I do not think the people are going to look at this commission and have no opinion on it. One message that I initially got was that the impression would be that somehow we are going to set up a border health commission that is going to deal naturally with the expenditures generally of American taxpayer dollars and that somehow we are going to be providing services for people who want to come across to avail themselves of those services.

The gentleman has had a colloquy with the gentleman from California [Mr. MOORHEAD] in subcommittee, that is not the case, and I appreciate him saying that on the House floor.

Mr. MOORHEAD. Was my statement of our colloquy correct?

Mr. WAXMAN. If the gentleman will yield, yes, the gentleman is correct. We did have a colloquy in committee. We have clarified this matter. We can allay the gentleman's concerns.

Mr. HUNTER. If the gentleman would continue to yield, the reason I have asked this question is simply this. We are expending a ton of taxpayer dollars now with roads, lights, fences, and more border patrolmen on the border. We are trying to send a strong message to those who would enter the country illegally: "We have a right to protect our border and we have a right to ask you to use the front door to enter legally if you want to come into the United States."

I just do not want to have this commission be a contrary message that says somehow if you do come across, we are going to put together another tier of health care that will be available for you. We have been sending inconsistent messages to people for years: "Don't come across the border but if you do, we'll hire you when you get up here." I do not want that to be replaced with a message that says, "Don't come across the border but we're going to have a new health care plan in effect when you get here."

I know it is not the gentleman's intent to send that message, but I think it is important to lay that out on the House floor so nobody gets the wrong impression of what we are doing here.

Mr. WAXMAN. Mr. Speaker, if the gentleman from California who has the time would yield to me further, I do not think this bill gives any incentive to come across the border for anything other than to participate in this particular conference or council. Certainly whatever incentives there are now for them to come across for services are there and that is an issue we need to deal with in another context.

Mr. MOORHEAD. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Speaker, if I could enter into a colloquy if I may with the chairman.

The gentleman indicates that there is no intent for the commission to participate in providing health care for either illegal or legal residents, is that correct?

Mr. COLEMAN. Mr. Speaker, if the gentleman will yield, that is correct.

Mr. PACKARD. Mr. Speaker, I yield to the gentleman from California.

Mr. WAXMAN. They are simply to study the health problems. There is nothing they will do other than to study it and to give recommendations to look at the health problems in these border areas, some of which are primarily due to the communicable disease rates in these communities and the poverty of the populations on both sides of the border.

Mr. PACKARD. How is the commission to be funded and how much is the cost to the taxpayers do you estimate.

Mr. COLEMAN. Mr. Speaker, let me read if I might for my colleague, the gentleman from California [Mr. PACKARD] the duties of the commission, first, is to conduct a comprehensive needs assessment in the United States-Mexico border area for the purpose of identifying, evaluating, preventing health problems and potential health problems that affect the general population of the area; second, to implement the actions recommended by the needs assessments through assisting in the coordination and implementation of the efforts of public and private entities to prevent and resolve such health problems and, B, assisting in the coordination and implementations of efforts of public and private entities to educate such population concerning such health problems; and third, formulate recommendations to the governments of the United States and Mexico concerning a fair and reasonable method by which the government of one country could reimburse a public or private entity in the other country for the cost of a health care service that the entity furnishes to a citizen of the first country who is unable through insurance or otherwise to pay for the service.

The point being that what we would do with this commission is help resolve the very problems that the gentleman from San Diego as is the gentleman from El Paso is concerned about. This is exactly the way we are going to begin attacking the problem of not utilizing U.S. taxpayer money to provide health care.

The legislation passed by the Senate which is the bill we are considering, S. 1225, speaks to those issues very clearly and I would urge my colleagues to get a copy and read exactly what this is all about.

The legislation passed by the Senate which is the bill we are considering, S. 1225, speaks to those issues very clearly and I would urge my colleagues to get a copy and read exactly what this is all about.

The gentleman and I know that disease does not recognize a border and since it does not, we know that we are not going to resolve health care problems in Chicago, Illinois; or Los Angeles, or New York, or Kansas City or anywhere else in America if we do not have a plan of action to deal with the high rates of tuberculosis and typhoid, the high rates of hepatitis along the United States-Mexico border.

What we are trying to do here is what all of the state public health officials have said from California, Arizona, New Mexico and Texas, is we need to be able to quantify the problem so that we know best how to deal with it from a public sector health care point of view. That is what this commission is all about.

It will be very similar, I think, to the kind of cooperative effort that we have utilized in the International Boundary and Water Commission. That is the real goal of this legislation.

I hope that people are not fearful that we are going to be sending signals because that is not what we are going to do with this bill. What we are going to do with this bill is begin to attack a very real problem that affects the school districts in the gentleman from San Diego's district as well as mine.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in response to a question that was asked earlier, there is an authorized expenditure in this bill and the CBO estimates there will be no cost.

Mr. WAXMAN. Mr. Speaker, if the gentleman will yield to me, that is a correct statement.

Mr. Speaker, I yield myself such time as I may consume. We appreciate the cooperation of our colleagues on the Committee on Foreign Affairs which had joint jurisdiction with us over this legislation. The gentleman from Indiana [Mr. HAMILTON], the chairman; and the gentleman from New York [Mr. GILMAN], the ranking Republican member, graciously agreed to expedite consideration of this bill on the floor without requiring action in their committee.

Mr. Speaker, this legislation is the product of years of work by our colleague, the gentleman from Texas [Mr. COLEMAN]. He has worked diligently on this matter to allay all the concerns that have been raised and to introduce this highly constructure proposal which will lead us to a way to deal with sanitation and public health problems in the border regions.

Mr. Speaker, I yield whatever time he may consume to the gentleman from Texas [Mr. COLEMAN], the author of the legislation which our committee has voted unanimously to present to the House for its consideration.

Mr. COLEMAN. Mr. Speaker, I want to thank the gentleman from Texas [Mr. DE LA GARZA] for his coauthorship of this legislation at its inception.

Mr. Speaker, I rise in strong support of S. 1225, the United States-Mexico Border Health Commission.

I also would like to thank my colleagues on the Energy and Commerce Committee for reporting this legislation. I appreciate the leadership shown by Chairman DINGELL and ranking minority member, Mr. MOORHEAD, as well as the Health subcommittee chairman, HENRY WAXMAN and ranking member, THOMAS BLILEY. I would also like to thank their very able staffs for all of their assistance, I understand that they have been extremely helpful during this process. I would be remiss if I were not to mention the assistance we received from the Foreign Affairs full committee members and staff in bringing this legislation to the floor. Chairman LEE HAMILTON and ranking member BENJAMIN GILMAN, as well as the Western Hemisphere Affairs Subcommittee chairman ROBERT TORRICELLI and ranking member CHRIS SMITH were all very supportive of our efforts and I thank them for their cooperation.

This legislation has been a high priority of mine for the entire 12 years that I have been in Congress. This landmark legislation will not only create a binational commission specifically focused on all public health issues of concern to the United States-Mexico border, but it will be given the authority to formulate and implement ways in which to address the problems in existence along our southwestern border. These are public health problems that do not remain at the border. In 1991, for example, there was a multistate outbreak of Salmonella infections in Illinois, Michigan, Minnesota, New Jersey, Ontario, Newfoundland, Quebec, and Saskatchewan. This outbreak was traced to the consumption of produce from the Lower Rio Grande Valley in South Texas. Another example of an illness making its way north took place in 1988–90, when mosquito-transmitted malaria cases in California and Florida were traced to parasitemic migrant farm workers from Mexico and Central America that were bitten by the same mosquitoes.

During the course of our discussions on health care reform, the issue of providing health care services to undocumented immigrants has been quite contentious. This legislation would include among the issues to be addressed by the commission, ways to pay for uncompensated care provided on both sides of the border. This would be an important step forward in addressing some of the concerns that have resulted in the States' frustrated attempts to sue the Federal Government to reimburse them for uncompensated care provided to undocumented persons.

These issues directly affect my district in El Paso, TX. We all realize the need for this legislation. In fact, S. 1225 enjoys broad support from the border state governments, medical associations and health officials, along with strong bipartisan support. I urge its speedy passage.

Mr. BONILLA. Mr. Speaker, I rise today in strong support of H.R. 2305, the United States-Mexico Border Health Commission. This bill is vital for addressing the rapidly deteriorating health conditions which have transformed the 2,000 mile border region into an environment conducive to the spread of disease.

This bill would ask President Clinton to reach an agreement with President Zedillo of Mexico to establish a binational commission on border health. This would bring together Mexican and American officials from various agencies to coordinate disease-prevention and immunization efforts on both sides of the border.

This health commission will help disseminate advice on treatment as well as provide early warning of outbreaks. The commission should come up with a plan to cut through much of the redtape that hamstrings joint efforts.

We must not forget that the mission of public health entities is to protect and promote health, and prevent disease and injury. Public health services are population based—that is services which are focused on improving the health status of entire communities, rather than the treatment of individuals. We recognize that the people on both sides of the border are all in this together and a unilateral approach is not an effective approach to these health problems.

This commission will take a comprehensive approach to a wide array of border health issues. The commission will put together a specific workable action plan based on the needs of border residents.

To understand why this commission is long overdue you need to only look at the facts:

More than 9.2 million people are crowded into cities and towns on either side of the invisible line dividing the United States and Mexico.

The border population represents about 9 percent of Texas residents and they earn the lowest income in the State. Four of the poorest cities in America are along the Texas-Mexico border. Both sides of the border are under serious strain to provide potable water, sewage, disposal, electricity, and health facilities.

The Rio Grande is one of the top ten most polluted rivers in the U.S. In fact, health officials warn residents in El Paso and Laredo not to swim in the river. At some places in the river, the fecal bacteria count is 22,000 per milliliter. Unfortunately, this year two children who swam in the Rio Grande contracted an amoeba and died.

From early spring to late fall each year, farmworkers from the Rio Grande area travel to States like California, Oregon, Florida, and Michigan. They return to the region late each fall. As a result, health problems spread beyond the border as farmworkers and regional produce make their way northward.

Recent health epidemics linked to the Rio Grande region include: salmonella in 23 States and Canada; a measles epidemic in Washington State; and a malaria outbreak in Florida.

Added to the problem is the living conditions in the colonias which are harsh enough to be considered life threatening: there is contaminated water, and no electricity, sewer systems, garbage collection or waterlines. These colonias are a perfect breeding ground for infectious diseases not seen in other parts of the United States.

I am optimistic that this commission will lead to the establishment of a border laboratory to protect the public health of communities on the United States-Mexico border by analyzing human, wildlife, air, water, and soil samples, and to serve as a resource to border State public health agencies.

A United States-Mexico border health laboratory would aid border areas that have a high incidence of infectious and communicable diseases. Health conditions are often linked to environmental conditions. By addressing environmental concerns along the border, this laboratory could provide analysis beneficial to public health on an international scope.

Four States: California, Arizona, New Mexico, and Texas, face increased demands for expanded disease and environmental surveillance, monitoring, and regulation, an infrastructure breakdown along the border has resulted in a disproportionate higher incidence of many infectious and communicable diseases. The border region has had outbreaks of dysentery, cholera, hepatitis, tuberculosis, malaria, leprosy, and rabies. In fact, U.S. cities along the 2,000 mile border from Brownsville to San Diego have twice the number of hepatitis A cases as those reported in the other cities nationwide.

It is essential that these four States have state-of-the-art facilities to successfully intervene and diagnose the severe health problems along our country's border with Mexico.

Unfortunately, along the United States-Mexico border, the supply of laboratories capable of providing sophisticated, highly complex laboratory analyses of air, water, and soil, as well as human and animal biologic samples, is very limited and far from capable of meeting the current and anticipated demand.

With appropriate resources, these labs will be able to create a line of evidence on how environmental pollution affects human health, thereby reducing or eliminating future health risks.

It is envisioned that this border environmental laboratory will be funded jointly by the Centers for Disease Control [CDC], the Environmental Protection Agency [EPA], and the Food and Drug Administration [FDA] to assist in supplying the critically needed analytical services.

As a member on the Appropriations Committee and a member of the subcommittee that controls CDC's budget, I pledge to provide the necessary funds to create this lab and hopefully expand the program to include a fleet of highly sophisticated mobile environmental laboratories stationed at strategic locations along the United States-Mexico border.

I wish I could give Congress credit for the idea of this border lab. However, this idea came from Texas to Congress. I would like to applaud the hard work and determination of Dr. David Smith, Commissioner of Health, from the Texas Department of Health and Dr. Laurance Nickey, El Paso health director, for developing these ideas and educating policymakers on their importance. Senator KAY HUTCHISON has worked hard to include a similar provision in the Senate version of the bill, S. 1569. I would also like to thank Congressmen RICHARDSON, ORTIZ, SERRANO, PASTOR, and COLEMAN for working with Chairman WAXMAN to educate the Congress on the specific needs in the Hispanic community and I pledge to work with them on the Appropriations Committee to adequately fund research and education programs for our border communities.

Ms. SCHENK. Mr. Speaker, I rise as an original cosponsor of H.R. 2305 to urge my colleagues to support its passage.

H.R. 2305 authorizes the President to conclude an agreement with the Government of Mexico to establish a binational border health commission. This legislation is entirely consistent with the spirit of cooperation between our two nations in the implementation of NAFTA.

Mr. Speaker, the United States shares a 2,000 mile border with Mexico, but in San Diego we know that disease knows no borders. Frequent crossborder migration—both legal and illegal—means that Mexico's health problems are our health problems.

The border areas in Texas, Arizona, New Mexico, and California are notorious for high incidences of infections and communicable disease, including tuberculosis, hepatitis and typhus. These health problems are exacerbated, and in some instances created by environmental hazards—severe air and groundwater pollution, open landfills, and raw sewage which flows north from Tijuana to the beaches of my district.

To this point, however, we have paid scant attention to this public health crisis. With the passage of NAFTA, however, it is my hope that we can begin to build a real public health infrastructure at the border. Prevention at the border would save lives and help reduce the enormous burden of uncompensated care on U.S. hospitals.

A United States-Mexico Border Health Commission will help focus the scarce public health resources of both nations on preventing disease at the border. I urge strong support for this legislation, and I yield back the balance of my time.

□ 1740

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DE LA GARZA). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the Senate bill, S. 1225.

The question was taken.

Mr. MOORHEAD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The Speaker pro tempore debate has concluded on all motions to suspend the rules, for the time being.

Pursuant to clause 5, rule 1, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 2129, de novo;
H.R. 4608, de novo;
H.R. 4896, de novo;
S. 1233, de novo;
H.R. 4777, de novo;
H.R. 4462, de novo;
H.R. 4833, de novo;
H.R. 967, de novo;

S. 2170, de novo;
H.R. 4704, de novo;
H.R. 4939, de novo;
H.R. 4910, de novo;
H.R. 4967, de novo;
H.R. 4495, de novo;
House Resolution 558, de novo; and
H.R. 1520, by the yeas and nays;
H.R. 5108, by the yeas and nays;
House Congressional Resolution 279, by the yeas and nays;
House Congressional Resolution 286, by the yeas and nays; and
S. 1225, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

MADRID PROTOCOL IMPLEMENTATION ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2129, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 2129, as amended.

The question was taken.

Mr. LEWIS of California. Mr. Speaker, I object to the vote on the grounds that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 387, nays 3, not voting 44, as follows:

[Roll No. 457]

YEAS—387

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Camp
Canady
Cantwell
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Hastert
Hastings
Hefley
Hefner
Herger
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hutchinson
Hutto
Hyde
Inglis
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
LaRocco
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lucas
Machtley
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCrery
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Reynolds
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Towns
Traficant
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—3

Bentley
Hunter
Kaptur

NOT VOTING—44

Bacchus (FL)
Baker (LA)
Berman
Blackwell
Borski
Callahan
Calvert
Carr
Cox
Darden
Ford (TN)
Gallo
Grams
Grandy
Green
Harman
Hayes
Hilliard
Inhofe
Johnston
Kyl
Lantos
Laughlin
Lowey
Maloney
McCollum
McCurdy
McDade
McMillan
Neal (MA)
Owens
Pastor
Rangel
Richardson
Rostenkowski
Roth
Slattery
Sundquist
Taylor (NC)
Torricelli
Tucker
Washington
Wheat
Whitten

□ 1810

Mrs. BENTLEY, Mr. HUNTER, and Ms. KAPTUR changed their vote from "yea" to "nay."

Mr. OXLEY and Mr. STUMP changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DE LA GARZA). Pursuant to the provisions of clause 5 of rule I the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which votes by electronic device may be taken on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

PATENT AND TRADEMARK AUTHORIZATION ACT OF 1994

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4608, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 4608, as amended.

The question was taken.

RECORDED VOTE

Mr. POMBO. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 146, noes 251, not voting 37, as follows:

[Roll No. 458]

AYES—146

Abercrombie
Andrews (NJ)
Applegate
Bacchus (FL)
Ballenger
Barrett (NE)
Bartlett
Becerra
Bereuter
Bonilla
Bonior
Boucher
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bunning
Castle

Clayton
Clinger
Clyburn
Collins (MI)
Conyers
Coyne
Dellums
Derrick
Diaz-Balart
Dickey
Dingell
Edwards (CA)
Ehlers
Engel
Evans
Farr
Fazio
Fields (LA)
Filner
Fish
Foglietta
Ford (MI)
Frank (MA)
Gallegly
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gonzalez
Hamburg
Hansen
Hastert
Herger
Hinchey
Hochbrueckner
Hoke
Horn
Houghton
Huffington
Hughes
Hunter
Hyde

Jefferson
Johnson (CT)
Johnson, E. B.
Kanjorski
Kennedy
Kennelly
Klink
Knollenberg
Kopetski
Kreidler
Leach
Levy
Lewis (KY)
Lightfoot
Lucas
Manton
Markey
Martinez
Mazzoli
McCandless
McCrery
McDermott
McInnis
McKeon
McKinney
Meek
Menendez
Michel
Mineta
Moakley
Montgomery
Moorhead
Moran
Murphy
Murtha
Myers
Nadler
Nussle
Oberstar
Oxley
Parker
Payne (NJ)
Pelosi

Petri
Pickett
Pickle
Porter
Pryce (OH)
Quillen
Quinn
Ravenel
Reynolds
Rogers
Rose
Roukema
Roybal-Allard
Sanders
Sangmeister
Sawyer
Schiff
Schumer
Scott
Serrano
Shuster
Slaughter
Smith (IA)
Smith (NJ)
Smith (OR)
Studds
Swift
Tauzin
Thompson
Thornton
Torres
Towns
Velazquez
Vento
Walker
Walsh
Watt
Weldon
Williams
Woolsey
Wynn
Young (AK)

NOES—251

Ackerman
Allard
Andrews (ME)
Andrews (TX)
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Barca
Barcia
Barlow
Barrett (WI)
Barton
Bateman
Beilenson
Bentley
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Brewster
Browder
Bryant
Burton
Buyer
Byrne
Camp
Canady
Cantwell
Cardin
Chapman
Clay
Clement
Coble
Coleman
Collins (GA)
Collins (IL)
Combest
Condit
Cooper
Coppersmith
Costello
Cox
Cramer
Crane

Crapo
Cunningham
Danner
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Dicks
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Emerson
English
Eshoo
Everett
Ewing
Fawell
Fields (TX)
Fingerhut
Flake
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Geren
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hancock

Hastings
Hefley
Hefner
Hoagland
Hobson
Hoekstra
Holden
Hoyer
Hutchinson
Hutto
Inglis
Inslee
Istook
Jacobs
Johnson (GA)
Johnson (SD)
Johnson, Sam
Kaptur
Kasich
Kildee
Kim
King
Kingston
Kleczka
Klein
Klug
Kolbe
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lazio
Lehman
Levin
Lewis (CA)
Lewis (FL)
Lewis (GA)
Linder
Lipinski
Livingston
Lloyd
Long
Machtley
Mann
Manzullo
Margolies-Mezvinsky
Matsui
McCloskey

McCollum
McHale
McHugh
McNulty
Meehan
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Molinari
Mollohan
Morella
Neal (NC)
Obey
Olver
Ortiz
Orton
Packard
Pallone
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Pombo
Pomeroy
Portman
Poshard
Price (NC)
Rahall
Ramstad

Reed
Regula
Ridge
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Rowland
Royce
Rush
Sabo
Santorum
Sarpalius
Saxton
Schaefer
Schenk
Schroeder
Sensenbrenner
Sharp
Shaw
Shays
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark

Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Swett
Synar
Talent
Tanner
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thurman
Torkildsen
Traficant
Unsoeld
Upton
Valentine
Visclosky
Volkmer
Vucanovich
Waters
Waxman
Wilson
Wise
Wolf
Wyden
Yates
Young (FL)
Zeliff
Zimmer

NOT VOTING—37

Baker (LA)
Berman
Blackwell
Borski
Callahan
Calvert
Carr
Darden
Ford (TN)
Gallo
Grandy
Green
Harman

Hayes
Hilliard
Inhofe
Johnston
Kyl
Laughlin
Lowey
Maloney
McCurdy
McDade
McMillan
Neal (MA)
Owens

Pastor
Rangel
Richardson
Rostenkowski
Slattery
Sundquist
Torricelli
Tucker
Washington
Wheat
Whitten

☐ 1854

Messrs. CARDIN, SOLOMON, CRANE, DEFAZIO, DURBIN, BARCIA of Michigan, Ms. LAMBERT, Messrs. WYDEN, PETERSON of Minnesota, CONDIT, COPPERSMITH, LEHMAN, SABO, SHARP, LEVIN, MINGE, DOOLEY, VISCLOSKY, BEILENSON, and SYNAR, Mrs. SCHROEDER, Messrs. KLINE, KASICH, POMEROY, DE LA GARZA, VALENTINE, RAMSTAD, MEEHAN, PAYNE of Virginia, VOLKMER, SHAYS, BILBRAY, DICKS, HAMILTON, ROWLAND, HOLDEN, ROEMER, CAMP, SARPAULIUS, SANTORUM, GUNDERSON, UPTON, DEUTSCH, HALL of Texas, WOLF, HOBSON, BAESLER, and ROBERTS, Mrs. VUCANOVICH, Messrs. SISISKY, ANDREWS of Texas, BLUTE, TORKILDSEN, EMERSON, and CHAPMAN, Ms. DANNER, Messrs. DEAL, FROST, and LAROCCO, Ms. DUNN, Ms. FURSE, Mr. LAZIO, Ms. LONG, Mrs. LLOYD, Ms. MOLINARI, Messrs. REGULA, SKELTON, and TEJEDA, Mrs. THURMAN, Mr. YATES, Mrs. UNSOELD, Mr. WILSON, Mrs. BENTLEY, Messrs. BISHOP, CLAY, GORDON, and FRANKS of New Jersey, Ms. KAPTUR, Mr. HUTTO, Ms. MARGOLIES-MEVINSKY, Mr. RAHALL, Mrs. MEYERS of Kansas, Mr. STOKES, Mr. ZELIFF, Ms. ENGLISH of Arizona, Messrs. GUTIERREZ, ISTOOK, LINDER, REED, and GOODLING, Ms. SHEPHERD, Mr. KILDEE, Ms. DELAURO, Messrs. GLICKMAN, INGLIS of South Carolina, JOHNSON of South Dakota, LANCASTER, and MANN, Mrs. MORELLA, Mr. SMITH of Texas, Ms. SNOWE, Messrs. BARLOW, BREWSTER, BROWDER, CRAMER, KOLBE, ORTON, PACKARD, MACHTLEY, and RIDGE, Ms. WATERS, Mr. BEVILL, Mr. BUYER, Mrs. COLLINS of Illinois, Messrs. FLAKE, HASTINGS, LEWIS of California, MFUME, RUSH, WAXMAN, DIXON, FINGERHUT, GINGRICH, INSLEE, MCCLOSKEY, PETERSON of Florida, MILLER of California, MOLLOHAN, PRICE of North Carolina, TRAFICANT, PALLONE, STRICKLAND, SKAGGS, GREENWOOD, HALL of Ohio, MCHALE, GILMAN, EDWARDS of Texas, CRAPO, THOMAS of Wyoming, ORTIZ, BRYANT, FAWELL, FRANKS of Connecticut, SAXTON, BURTON of Indiana, WISE, KLECZKA, STARK, LAFALCE, KIM, CLEMENT, COOPER, PORTMAN, and KING, Mrs. BYRNE, Mr. HEFNER, Ms. CANTWELL, Messrs. COLEMAN, SWETT, OLVER, ACKERMAN, BARTON of Texas, JOHNSON of Georgia, THORNTON, THOMAS of California, MATSUI, POMBO, MCHUGH, Mrs. MINK of Hawaii, Messrs. ANDREWS of Maine, BOEHLERT, GILLMOR, HOAGLAND, CUNNINGHAM, NEAL of North Carolina, and BAKER of California and Ms. SCHENK changed their vote from "aye" to "no."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DE LA GARZA). The Chair advises the Members that under the regular order, Members have the right to change their votes in the well by card. The Chair will advise the Members of the previously announced policy of January 4, 1977, that the machine on 5-minute votes only allows changes on a vote to be electronically recorded until voting stations are closed. The Chair further announces that he will attempt to comply as closely as possible to the remaining 5-minute votes.

GRANTING CONSENT OF CONGRESS TO THE KANSAS AND MISSOURI METROPOLITAN CULTURE DISTRICT COMPACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4896.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 4896.

The question was taken.

RECORDED VOTE

Mr. ROHRABACHER. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ARIZONA WILDERNESS LAND TITLE RESOLUTION ACT OF 1994

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 1233.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the Senate bill, S. 1233.

The question was taken.

RECORDED VOTE

Mr. McKEON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 381, noes 15, not voting 38, as follows:

[Roll No. 459]

AYES—381

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonior
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Camp
Canady
Cantwell
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodlatte
Goodling
Gordon
Goss
Grams
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Hastert
Hastings
Hefley
Hefner
Herger
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hutchinson
Hutto
Hyde
Inglis
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lazio
Leach
Lehman
Levin
Levy
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Lloyd
Long
Lucas
Machtley
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickle
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Reynolds
Ridge
Roberts
Roemer
Rogers
Ros-Lehtinen
Rose
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Swett
Swift
Synar
Talent
Tauzin
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Towns
Traficant
Unsoeld
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—15

Bonilla
Collins (GA)
Dicks
Duncan
Gonzalez
Hunter
Lewis (CA)
Livingston
Pickett
Poshard
Rohrabacher
Shuster
Tanner
Taylor (MS)
Valentine

NOT VOTING—38

Baker (LA)
Berman
Blackwell
Borski
Callahan
Calvert
Carr
Darden
Ford (TN)
Gallo
Grandy
Green
Harman
Hayes
Hilliard
Inhofe
Johnston
Kaptur
Kyl
Laughlin
Lowey
Maloney
McCurdy
McDade
McMillan
Neal (MA)
Owens
Pastor
Rangel
Richardson
Rostenkowski
Slattery
Sundquist
Torricelli
Tucker
Washington
Wheat
Whitten

□ 1905

Mr. ROHRABACHER changed his vote from "aye" to "no."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

UPDATING U.S. CODE REFERENCES TO CONGRESSIONAL COMMITTEES

The SPEAKER pro tempore. (Mr. DE LA GARZA). The pending business is the question of suspending the rules and passing the bill, H.R. 4777, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 4777, as amended.

The question was taken.

RECORDED VOTE

Mr. SKEEN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5 minute vote.

The vote was taken by electronic device, and there were—ayes 391, noes 3, not voting 40, as follows:

[Roll No. 460]

AYES—391

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Ballenger
Barca
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Bonilla
Bonior
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Camp
Canady
Cantwell
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut

Fish
Flake
Foglietta
Ford (MI)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Gordon
Goss
Grams
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Hastert
Hastings
Hefley
Hefner
Herger
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lucas
Machtley
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Reynolds
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stokes
Strickland
Studds
Stump
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Towns
Traficant
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—3

Deal
Penny
Stenholm

NOT VOTING—40

Baker (LA)
Barcia
Berman
Blackwell
Boehner
Borski
Callahan
Calvert
Carr
Darden
Ford (TN)
Gallo
Goodling
Grandy
Green
Harman
Hayes
Hilliard
Inhofe
Johnston
Kyl
Laughlin
Lowey
Maloney
McCurdy
McDade
McMillan
Neal (MA)
Owens
Pastor
Rangel
Richardson
Rostenkowski
Slattery
Sundquist
Torricelli
Tucker
Washington
Wheat
Whitten

☐ 1913

So (two-thirds having voted in favor thereof) the rules were suspended and the bill as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

INDIAN FEDERAL RECOGNITION ADMINISTRATIVE PROCEDURES ACT OF 1994

The SPEAKER pro tempore (Mr. DE LA GARZA). Pursuant to the provisions of clause 5, rule I, the pending business is the question de novo of suspending the rules and passing the bill, H.R. 4462, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico [Mr. RICHARDSON] that the House suspend the rules and pass the bill, H.R. 4462, as amended.

The question was taken.

RECORDED VOTE

Mr. McCANDLESS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 337, noes 54, answered present, not voting 43, as follows:

[Roll No. 461]

AYES—337

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Bonilla
Bonior
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Camp
Cantwell
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Combest
Conyers
Cooper
Coppersmith
Coyne
Cramer
Crapo
Cunningham
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Goss
Grams
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hastert
Hastings
Hefley
Hefner
Herger
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lucas
Machtley
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDermott
McHale
McInnis
McKeon
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Oxley
Packard
Pallone
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Reed
Reynolds
Ridge
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Slaughter
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Spence
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torres
Towns
Traficant
Unsoeld
Upton
Valentine
Velazquez
Vento
Vucanovich
Walker
Waters
Watt
Waxman
Weldon
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)

NOES—54

Allard
Armey
Ballenger
Canady
Coble
Collins (GA)
Condit
Costello
Cox
Crane
Danner
Deal
DeLay
Duncan
Emerson
Fawell
Fingerhut
Fowler
Geren
Goodlatte
Hancock

Hansen
Johnson, Sam
Kingston
Manzullo
McHugh
McNulty
Orton
Parker
Paxon
Penny
Petri
Poshard
Regula
Roberts
Roemer
Roukema
Royce
Schaefer
Sensenbrenner
Skelton
Smith (MI)
Solomon
Stearns
Stenholm
Stump
Taylor (MS)
Taylor (NC)
Visclosky
Volkmer
Walsh
Young (FL)
Zeliff
Zimmer

NOT VOTING—43

Baker (LA)
Berman
Blackwell
Boehner
Borski
Callahan
Calvert
Carr
Darden
Fish
Ford (TN)
Gallo
Goodling
Grandy
Green
Harman
Hayes
Hilliard
Inhofe
Johnston
Kyl
Laughlin
Lowey
Maloney
Matsui
McCurdy
McDade
McMillan
Neal (MA)
Owens
Pastor
Rangel
Richardson
Rostenkowski
Saxton
Slattery
Sundquist
Torkildsen
Torricelli
Tucker
Washington
Wheat
Whitten

□ 1933

Mr. ROBERTS and Mr. ARMEY changed their vote from "aye" to "no."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMERICAN INDIAN TRUST FUND MANAGEMENT REFORM ACT OF 1994

The SPEAKER pro tempore (Mr. DE LA GARZA). The pending business is the question of suspending the rules and passing the bill, H.R. 4833, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico [Mr. RICHARDSON] that the House suspend the rules and pass the bill, H.R. 4833, as amended.

The question was taken.

RECORDED VOTE

Mr. LINDER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 353, noes 39, not voting 42, as follows:

[Roll No. 462]

AYES—353

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Bateman
Becerra
Beilenson
Bentley
Bereuter
Bevill
Bilbray
Bishop
Bliley
Blute
Boehlert
Bonilla
Bonior
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Buyer
Camp
Canady
Cantwell
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
English
Eshoo
Evans
Ewing
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Gordon
Goss
Grams
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hastings
Hefner
Herger
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kleczka
Klein
Klink
Knollenberg
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lucas
Machtley
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Reynolds
Ridge
Roberts
Roemer
Ros-Lehtinen
Rose
Roth
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Towns
Traficant
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Waters
Watt
Waxman
Weldon
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Zeliff
Zimmer

NOES—39

Allard
Archer
Armey
Ballenger
Barton
Bilirakis
Bunning
Burton
Collins (GA)
Danner
DeLay
Dickey
Duncan
Emerson
Everett
Fields (TX)
Hancock
Hansen
Hastert
Hefley
Johnson, Sam
Kingston
Klug
Lazio
Lewis (FL)
Lewis (KY)
Parker
Pickett
Rogers
Rohrabacher
Royce
Schaefer
Sensenbrenner
Stearns
Stump
Talent
Taylor (NC)
Walsh
Young (FL)

NOT VOTING—42

Baker (LA)
Berman
Blackwell
Boehner
Borski
Byrne
Callahan
Calvert
Carr
Darden
Fish
Ford (TN)
Gallo
Goodling
Grandy
Green
Harman
Hayes
Hilliard
Inhofe
Johnston
Kyl
Laughlin
Lowey
Maloney
McCurdy
McDade
McMillan
Neal (MA)
Owens
Pastor
Penny
Rangel
Richardson
Rostenkowski
Slattery
Sundquist
Torricelli
Tucker
Washington
Wheat
Whitten

□ 1929

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GENE GREEN of Texas. Mr. speaker, I was unavoidably detained due to meetings with constituents in my district and I was unable to register my votes on rollcall numbers 457, 458, 459, 460, 461 and 462. Had I been present I would have voted: "Yes" on rollcall No. 457, "No" on rollcall No. 458, "Yes" on rollcall No. 459, "Yes" on rollcall No. 460, "Yes" on rollcall No. 461, "Yes" on rollcall No. 462.

PERSONAL EXPLANATION

Mr. PASTOR. Mr. Speaker, I was unavoidably not present for rollcall votes 457, 459, 460, 461, and 462 on October 3, 1994. Had I been present, I would have voted "aye" on each vote.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DE LA GARZA). Pursuant to the provisions of clause 5 of rule 1, the Chair announces that he will further postpone proceedings today on the remaining motions to suspend the rules on which a recorded vote or the years and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, October 4, 1994, to follow the remaining votes already postponed.

PROVIDING FOR AN EXECUTIVE DIRECTOR OF THE GAO PERSONNEL APPEALS BOARD

Mr. McCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5103) to amend title 31, United States Code, to provide for an Executive Director of the General Accounting Office Personnel Appeals Board, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5103

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXECUTIVE DIRECTOR.

(a) POSITION.—Section 752 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) *(1) The Comptroller General shall appoint as Executive Director of the Board an individual the Chairman selects. The Executive Director serves at the pleasure of the Chairman.*

"(2) The Chairman shall fix the pay of the Executive Director. The rate of basic pay of the Executive Director shall be not less than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule and not greater than the rate of basic pay payable for level IV of the Executive Schedule.

"(3) The Executive Director is the chief administrative officer for the Board and performs such tasks as the Chair assigns.".

(b) CONFORMING AMENDMENTS.—(1) The heading for section 752 of such title is amended to read as follows:

"§ 752. Chairman, General Counsel, and Executive Director".

(2) The table of sections for chapter 7 of such title is amended by amending the item relating to section 752 to read as follows:

"752. Chairman, General Counsel, and Executive Director.".

SEC. 2. PAY RATE FOR GENERAL COUNSEL.

The second sentence of section 752(b)(2) of title 31, United States Code, is amended to read as follows: "The rate of basic pay of the General Counsel shall be not less than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule and not greater than the rate of basic pay payable for level IV of the Executive Schedule.".

SEC. 3. PARTICIPATION IN THE DEPARTMENT OF STATE HEALTH CARE PROGRAM.

Section 732 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Comptroller General may enter into interagency agreements with the Department of State and other executive agencies to permit the General Accounting Office to participate in programs for the provision of health care to government employees stationed abroad or performing temporary duty abroad.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. McCLOSKEY] will be recognized for 20 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. McCLOSKEY].

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, recently, the chairman of the General Accounting Office Personnel Appeals Board [PAB] contacted the subcommittee and requested that we consider a proposal to provide the Executive Director of the PAB a senior executive service position. Due to increased responsibilities as required under P.L. 103-283, which allows employees of the Architect of the Capitol to appeal adverse actions to the PAB, the chairman of the personnel appeals board believes that the executive director should be compensated at a higher rate than the individual is currently being compensated.

After reviewing the executive director's job description and responsibilities, it certainly seems reasonable. However, subcommittee staff felt it was too complicated in the short time period we had to draft a bill to give the executive director a senior executive service position. Therefore, section one of this bill provides that the executive director be compensated at the senior level which is equivalent to SES pay.

My amendment contains a technical correction which was added to clarify that the Comptroller General shall appoint as the executive director an individual whom the chairman of personnel appeals board selects. The executive director serves at the pleasure of the chairman. This is consistent with current practice.

Section 2 of the bill is a conforming amendment to reflect the changes made under the Federal Employees Pay Comparability Act of 1990.

Section 3 of the bill will permit the Comptroller General to enter into agreements with the Department of State which would allow GAO employees stationed or on temporary duty abroad to participate in the health care programs of the Department of State and other executive agencies. Currently GAO employees abroad have been able to obtain medical services on an ad hoc basis for emergencies and hospitalization through U.S. Government facilities. However, the current scheme does not provide the protection or benefits for GAO employees that are obtained by all other Federal employees participating in the Department of State's medical health program.

Unlike other Federal employees stationed abroad, GAO employees utilizing medical facilities of the U.S. Government are responsible for paying the costs of those services. Under State's program, all participants are required to maintain their own health insurance. When services are rendered, claims are made against the employee's health insurance carrier, but the employing agency, not the employee, pays any remaining balance.

When emergencies or unforeseen circumstances occur, U.S. Government facilities are not always available and GAO employees must then obtain medical services from local sources, which can cause extreme financial hardship. GAO is the only agency that does not have authority to participate in the State Department's health program. It is a simple matter of equity to allow GAO employees access to the State Department's medical health program. It is my understanding that the State Department has no objections to this provision.

In regard to the costs of this provision, GAO states that approximately 40 employees would be covered and the estimated cost would be $30,000 to $40,000 per year.

□ 1930

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join my colleague, the gentleman from Indiana, [Mr. McCLOSKEY], in supporting passage of H.R. 5103, a bill providing for an Executive Director of the General Accounting Office Personnel Appeals Board. This legislation is pending pursuant to a request by the General Accounting Office to create a senior level position for the Executive Director of the Personnel Appeals Board due to increases in its workload. The measure also provides for health insurance coverage for certain GAO employees stationed overseas. The minority has no objection to consideration of this measure under suspension of the rules. Accordingly, Mr. Speaker, I urge House approval of H.R. 5103.

Mr. Speaker, I yield back the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DEFAZIO). The question is on the motion offered by the gentleman from Indiana [Mr. McCLOSKEY] that the House suspend the rules and pass the bill, H.R. 5103, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

REAUTHORIZING THE OFFICE OF SPECIAL COUNSEL

Mr. McCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2970) to reauthorize the Office of Special Counsel, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2970

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REAUTHORIZATIONS.

Section 8(a) of the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note) is amended by striking "fiscal years" through "such sums" each place it appears and inserting "fiscal years 1993–1997, such sums".

SEC. 2. OFFICE OF SPECIAL COUNSEL.

(a) AUTHORITY TO CONTINUE SERVING PENDING THE APPOINTMENT OF A SUCCESSOR.—Section 1211(b) of title 5, United States Code, is amended by inserting after the third sentence the following: "The Special Counsel may continue to serve after the expiration of the Special Counsel's term until a successor has qualified, but for not longer than 1 year.".

(b) LIMITATIONS ON DISCLOSURES.—

(1) IN GENERAL.—Section 1212(g) of title 5, United States Code, is amended to read as follows:

"(g)(1) The Special Counsel may not respond to any inquiry or provide information concerning either any person making an allegation under section 1214(a) or any allegation so made, except in accordance with the provisions of section 552a or as required by any other applicable law.

"(2) If, or to the extent that, the allegation involves a prohibited personnel practice described in paragraph (2), (8), or (9) of section 2302(b), no disclosure described in paragraph (1) may be made unless—

"(A) either of the exceptions permitting disclosure under paragraph (1) is met; and

"(B)(i) the consent of the person who made such allegation is obtained in advance; or

"(ii) the information is being sought by an agency which requires such information in order to make a determination concerning access, for the person referred to in paragraph (1), to information the unauthorized disclosure of which could be expected to cause exceptionally grave damage to national security.".

(2) CONFORMING AMENDMENTS.—Section 7121(a)(1) of title 5, United States Code, is amended—

(A) by inserting "administrative" after "exclusive"; and

(B) by striking "(d) and (e)" and inserting "(d), (e), and (g)".

(c) STANDARD APPLICABLE WITH RESPECT TO CERTAIN AGENCY FINDINGS.—Section 1213(e)(2)(A) of title 5, United States Code, is amended to read as follows:

"(A) the findings of the agency head are supported by clear and convincing evidence; and".

(d) TECHNICAL CLARIFICATION.—The first sentence of section 1213(g)(1) of title 5, United States Code, is amended to read as follows: "If the Special Counsel receives information from an individual other than an individual described in subparagraph (A) or (B) of subsection (c)(2) which, if such individual were an individual described in either of such subparagraphs, would be considered information of a type described in subsection (a), the Special Counsel may transmit the information to the head of the agency which the information concerns.".

(e) INVESTIGATIONS.—Section 1214(a)(1) of title 5, United States Code, is amended—

(1) in subparagraph (B) by striking "practice under paragraph (1)," and inserting "practice,"; and

(2) by striking subparagraph (C) and inserting the following:

"(C) Unless an investigation under this section is terminated, the Special Counsel shall, within 60 days after notice is provided under subparagraph (B) with respect to a particular allegation, and at least every 60 days thereafter, notify the person who made such allegation as to the status of the investigation and any action which has been taken by the Office of Special Counsel since notice was last given under this subsection.

"(D)(i) Except as provided in clause (ii), no later than 120 days after the date of receiving an allegation of a prohibited personnel practice, the Special Counsel shall determine whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken.

"(ii) The deadline under clause (i) may be extended by written agreement between the Special Counsel and the person who made the allegation involved.

"(E) A determination by the Special Counsel under this paragraph shall not be admissible in any judicial or administrative proceeding except in the same circumstances as would apply under paragraph (2)(B) with respect to a written statement under paragraph (2)(A).".

(f) CLARIFICATION RELATING TO BURDEN OF PROOF.—Sections 1214(b)(4)(B)(i) and 1221(e)(1) (as amended by section 3(b)) are further amended by striking the period at the end and inserting ", notwithstanding the provisions of section 7701(c)(1).".

(g) ADDITIONAL INFORMATION TO BE INCLUDED IN ANNUAL REPORTS.—Section 1218 of title 5, United States Code, is amended by inserting "the number of instances in which it did not make a timely determination under section 1214(a)(1)," after "investigations conducted by it,".

(h) EFFECTIVE DATE.—The amendments made by subsection (e) shall apply with respect to any allegation first received by the Office of Special Counsel on or after the effective date of this Act.

SEC. 3. INDIVIDUAL RIGHT OF ACTION RELATING TO THE MERIT SYSTEMS PROTECTION BOARD.

(a) SUBPOENAS.—Section 1221(d)(1) of title 5, United States Code, is amended to read as follows:

"(d)(1) At the request of an employee, former employee, or applicant for employment seeking corrective action under subsection (a), the Board shall issue a subpoena for the attendance and testimony of any person or the production of documentary or other evidence from any person if the Board finds that the matter requested—

"(A) is not unduly burdensome;

"(B) is not privileged or otherwise protected from disclosure by law, rule, or regulation; and

"(C) is relevant to the subject matter involved in the pending action or appears reasonably calculated to lead to the discovery of admissible evidence.".

(b) BURDEN OF PROOF.—

(1) IN GENERAL.—Section 1221(e) of title 5, United States Code, is amended to read as follows:

"(e)(1) Subject to paragraph (2), in any case involving an alleged prohibited personnel practice as described in paragraph (8) or (9) of section 2302(b), the Board shall order such corrective action as the Board considers appropriate if the employee, former employee, or applicant for employment has demonstrated that protected conduct under such paragraph (8) or (9) (as defined in paragraph (3)(A) or (B), as applicable) was a contributing factor in the personnel action which was taken or is to be taken against such employee, former employee, or applicant.

"(2) Corrective action under paragraph (1) may not be ordered if the agency demonstrates by clear and convincing evidence that it would have taken the same personnel action in the absence of the protected conduct involved.

"(3) For the purpose of this subsection, the term 'protected conduct' means—

"(A) with respect to paragraph (8) of section 2302(b), any disclosure described in subparagraph (A) or (B) of such paragraph; and

"(B) with respect to paragraph (9) of section 2302(b), any conduct described in subparagraph (A), (B), (C), or (D) of such paragraph.".

(2) SAME STANDARD IF RELIEF IS SOUGHT THROUGH OFFICE OF SPECIAL COUNSEL.—

(A) IN GENERAL.—Subparagraph (B) of section 1214(b)(4) of title 5, United States Code, is amended to read as follows:

"(B)(i) Subject to the provisions of clause (ii), in any case involving an alleged prohibited personnel practice as described in paragraph (8) or (9) of section 2302(b), the Board shall order such corrective action as the Board considers appropriate if the employee, former employee, or applicant for employment has demonstrated that protected conduct under such paragraph (8) or (9) (as defined in clause (iii)(I) or (II), as applicable) was a contributing factor in the personnel action which was taken or is to be taken against such employee, former employee, or applicant.

"(ii) Corrective action under clause (i) may not be ordered if the agency demonstrates by clear and convincing evidence that it would have taken the same personnel action in the absence of the protected conduct involved.

"(iii) For the purpose of this subparagraph, the term 'protected conduct' means—

"(I) with respect to paragraph (8) of section 2302(b), any disclosure described in subparagraph (A) or (B) of such paragraph; and

"(II) with respect to paragraph (9) of section 2302(b), any conduct described in subparagraph (A), (B), (C), or (D) of such paragraph.".

(B) CONFORMING AMENDMENT.—Section 1214(b)(4)(A) is amended by striking "section 2302(b)(8)," and inserting "paragraph (8) or (9) of section 2302(b),".

(3) SAME STANDARD IF RELIEF IS SOUGHT THROUGH BINDING ARBITRATION.—Section 7121(b) of title 5, United States Code, as amended by section 5(d), is further amended by adding at the end the following:

"(3) The provisions of a negotiated grievance procedure providing for binding arbitration in accordance with paragraph (1)(C)(iii) shall, if or to the extent that an alleged prohibited personnel practice described in paragraph (8) or (9) of section 2302(b) is involved, require that the arbitrator apply the same standard as would apply under section 1221(e).".

(4) SAME STANDARD IF RELIEF IS SOUGHT BY AN APPEAL UNDER SECTION 7701.—Section 7701(c) of title 5, United States Code, is amended—

(A) in paragraph (1) by striking "Subject to paragraph (2)" and inserting "Subject to paragraphs (2) and (3)"; and

(B) by adding at the end the following:

"(3) To the extent that an appeal involves an alleged prohibited personnel practice described in paragraph (8) or (9) of section 2302(b), the standard under section 1221(e) shall be applied.".

(c) REFERRALS FOR POSSIBLE DISCIPLINARY ACTION.—Section 1221(f) of title 5, United States Code, is amended by adding after paragraph (2) the following:

"(3) If, based on evidence presented to it under this section, the Merit Systems Protection Board determines that there is reason to believe that a current employee may have committed a prohibited personnel practice, the Board shall refer the matter to the Special Counsel for investigation and appropriate action under section 1215.".

SEC. 4. PROHIBITED PERSONNEL PRACTICES.

(a) Personnel Actions.—

(1) In general.—Section 2302(a)(2)(A) of title 5, United States Code, is amended—

(A) in clause (ix) by striking "and" after the semicolon; and

(B) by redesignating clause (x) as clause (xii) and inserting before such clause the following:

"(x) a decision to require psychiatric testing or examination;

"(xi) a denial, revocation, or other determination relating to a security clearance; and".

(2) Conforming amendment.—Section 2303(a) of title 5, United States Code, is amended by striking "clauses (i) through (x)" and inserting "clauses (i) through (xii)".

(b) Covered Positions.—Section 2302(a)(2)(B) of title 5, United States Code, is amended to read as follows:

"(B) 'covered position', as used with respect to an employee or applicant for employment, means any position in the competitive service, a career appointee position in the Senior Executive Service, a position in the excepted service, or a position covered by chapter 74 of title 38, but does not include any position which, as of the date on which the employee began serving in the position or the applicant applied for such position (as the case may be), was—

"(i) excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; or

"(ii) excluded from the coverage of this section by the President based on a determination by the President that it is necessary and warranted by conditions of good administration.".

(c) Agencies.—

(1) In general.—Section 2302(a)(2)(C) of title 5, United States Code, is amended—

(A) by striking clause (i); and

(B) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.

(2) Coordination with certain other provisions of law.—Section 2305 of title 5, United States Code, is amended—

(A) by striking "No" and inserting "(a) No"; and

(B) by adding at the end the following:

"(b)(1) This subsection applies with respect to a prohibited personnel practice described in section 2302(b)(8) for which a remedy is also available under section 33 of the Federal Deposit Insurance Act or section 21A(q) of the Federal Home Loan Bank Act.

"(2) An employee or former employee affected by a prohibited personnel practice described in paragraph (1) may raise the matter under (A) section 33 of the Federal Deposit Insurance Act or section 21A(q) of the Federal Home Loan Bank Act, as the case may be, or (B) a procedure available under this title, but not both.

"(3) A determination as to if or when an employee or former employee has made a choice under this subsection shall be made in a manner similar to that set forth in section 7121(g).".

(d) Information.—Section 2302(c) of title 5, United States Code, is amended in the first sentence by striking "management." and inserting "management, and for ensuring (in consultation with the Office of Special Counsel) that employees of such agency are informed of the rights and remedies available to them under this chapter and chapter 12.".

SEC. 5. ADDITIONAL AMENDMENTS RELATING TO PROCEDURES UNDER WHICH INDIVIDUALS MAY SEEK RELIEF FROM PROHIBITED PERSONNEL PRACTICES.

(a) Individual Right of Action Before MSPB Available for Prohibited Personnel Practices Generally.—

(1) In general.—Section 1221(a) of title 5, United States Code, is amended by striking "practice described in section 2302(b)(8)," and inserting "practice,".

(2) Exception.—Subsection (b) of section 1221 of title 5, United States Code, is amended by redesignating such subsection as subsection (b)(1), and by adding at the end the following:

"(2) Nothing in this subchapter shall be considered to create any right to seek corrective action with respect to a prohibited personnel practice described in section 2302(b)(1).

"(3) For purposes of subsection (a), the term 'personnel action', if taken or proposed to be taken as a result of a prohibited personnel practice other than one described in paragraph (1) or (8) of section 2302(b), means—

"(A) an action under subchapter II of chapter 75;

"(B) a detail, transfer, or reassignment; and

"(C) a reduction in grade or removal under section 4303.".

(3) Technical correction.—Section 1221(a) is amended by striking "subsection 1214(a)(3)" and inserting "section 1214(a)(3)".

(b) Amendments Relating to the "Pass-Through" Requirement.—Section 1214(a)(3) of title 5, United States Code, is amended—

(1) by adding at the end the following: "This paragraph shall not apply with respect to a prohibited personnel practice described in section 2302(b)(8).";

(2) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(3) by striking the matter before subparagraph (B) (as so redesignated by paragraph (2)) and inserting the following:

"(3) Except as provided in the last sentence of this paragraph, an employee, former employee, or applicant for employment may not seek corrective action from the Board under section 1221 unless—

"(A) such employee, former employee, or applicant has sought corrective action from the Special Counsel under this subchapter;".

(c) Choice of Remedies Provision Involving Judicial Review.—

(1) In general.—Chapter 12 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER IV—JUDICIAL REVIEW

"§ 1231. Judicial review

"(a) Subject to subsection (b) and section 1232, an employee, former employee, or applicant for employment may, with respect to a personnel action taken, or proposed to be taken, against such employee, former employee, or applicant for employment, as a result of a prohibited personnel practice described in section 2302(b)(8), bring a civil action in the appropriate district court of the United States for relief. For purposes of the preceding sentence, the term 'personnel action' means—

"(1) an action under subchapter II of chapter 75;

"(2) a detail, transfer, or reassignment; and

"(3) a reduction in grade or removal under section 4303.

"(b) An action under this section—

"(1) shall be brought in the district court of the United States for the judicial district in which the prohibited personnel practice is alleged to have been committed, in which the employment records relevant to such practice are maintained and administered, or in which the aggrieved person works or would have worked but for the alleged prohibited personnel practice; and

"(2) shall be brought within 120 days after the prohibited personnel practice is alleged to have occurred.

"(c) Standard of Review.—In any action brought under this section, the court—

"(1) shall review the matter de novo; and

"(2) shall apply the same standard as would the Merit Systems Protection Board under section 1214(b)(4)(B) or 1221(e).

"§ 1232. Choice of remedies

"(a) An action under section 1231—

"(1) if brought, shall be in lieu of any remedy described in subsection (b); but

"(2) may not be brought if the aggrieved person has elected to raise the same matter under any of the remedies described in subsection (b).

"(b) The remedies described in this subsection are as follows:

"(1) An appeal to the Merit Systems Protection Board under section 7701.

"(2) A negotiated grievance procedure under section 7121.

"(3) Procedures for seeking corrective action under subchapters II and III.

"(c) For the purpose of this section, a person shall be considered to have elected—

"(1) the remedy described in subsection (b)(1) if such person has timely filed a notice of appeal under the applicable appellate procedures;

"(2) the remedy described in subsection (b)(2) if such person has timely filed a grievance in writing, in accordance with the provisions of the parties' negotiated procedure; or

"(3) the remedy described in subsection (b)(3) if such person has sought corrective action from the Office of Special Counsel by making an allegation under section 1214(a)(1).

"(d) For purposes of subsection (a)(1), a person shall be considered to have elected the remedy under section 1231 if such person has timely commenced an action in an appropriate court, in accordance with applicable procedures.

"§ 1233. Appeals

"Any party aggrieved by a final decision under section 1231 may appeal such decision only to the United States Court of Appeals for the Federal Circuit.".

(2) Chapter analysis.—The analysis for chapter 12 of title 5, United States Code, is amended by striking "Sec." each place it appears, by inserting "Sec." as a flush left item after the item relating to subchapter I, and by adding at the end the following:

"SUBCHAPTER IV—JUDICIAL REVIEW

"1231. Judicial review.
"1232. Choice of remedies.
"1233. Appeals.".

(d) Authorities Which May Be Extended To Arbitrators.—Section 7121(b) of title 5, United States Code, is amended—

(1) by redesignating subparagraphs (A) through (C) of paragraph (3) as clauses (i) through (iii), respectively;

(2) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(3) by striking "(b)" and inserting "(b)(1)"; and

(4) by adding at the end the following:

"(2)(A) The provisions of a negotiated grievance procedure providing for binding arbitration in accordance with paragraph

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(1)(C)(iii) shall, if or to the extent that an alleged prohibited personnel practice is involved, allow the arbitrator to order—

"(i) a stay of any personnel action in a manner similar to the manner described in section 1221(c) with respect to the Merit Systems Protection Board; and

"(ii) the taking, by an agency, of any disciplinary action identified under section 1215(a)(3) that is otherwise within the authority of such agency to take.

"(B) Any employee who is the subject of any disciplinary action ordered under subparagraph (A)(ii) may appeal such action to the same extent and in the same manner as if the agency had taken the disciplinary action absent arbitration.".

(e) CHOICE OF REMEDIES PROVISION NOT INVOLVING JUDICIAL REVIEW.—Section 7121 of title 5, United States Code, is amended by adding at the end the following:

"(g)(1) This subsection applies with respect to a prohibited personnel practice other than a prohibited personnel practice to which subsection (d) applies.

"(2) An aggrieved employee affected by a prohibited personnel practice described in paragraph (1) may elect not more than one of the remedies described in paragraph (3) with respect thereto. For purposes of the preceding sentence, a determination as to whether a particular remedy has been elected shall be made in the same way as set forth in section 1232(c).

"(3) The remedies described in this paragraph are as follows:

"(A) An appeal to the Merit Systems Protection Board under section 7701.

"(B) A negotiated grievance procedure under this section.

"(C) Procedures for seeking corrective action under subchapters II and III of chapter 12.".

SEC. 6. PERFORMANCE APPRAISALS.

Paragraph (5) of section 4313 of title 5, United States Code, is amended to read as follows:

"(5) meeting affirmative action goals, achievement of equal employment opportunity requirements, and compliance with the merit systems principles set forth in section 2301.".

SEC. 7. IMPLEMENTATION.

(a) POLICY STATEMENT.—No later than 6 months after the date of the enactment of this Act, the Special Counsel shall issue a policy statement regarding the implementation of the amendments made by the Whistleblower Protection Act of 1989. Such policy statement shall be made available to each person alleging a prohibited personnel practice described in section 2302(b) of title 5, United States Code, and shall include detailed guidelines identifying specific categories of information that may (or may not) be communicated to agency officials for an investigative purpose, or for the purpose of obtaining corrective action under section 1214 of title 5, United States Code, or disciplinary action under section 1215 of such title, the circumstances under which such information is likely to be disclosed, and whether or not the consent of any person is required in advance of any such communication.

(b) TERMINATION STATEMENT.—The Special Counsel shall include in any written statement under section 1214(a)(2)(A) of title 5, United States Code, the name and telephone number of an employee of the Office of Special Counsel who shall be available to respond to reasonable questions from the person regarding the investigation involved, the relevant facts ascertained by the Special Counsel, and the law applicable to the person's allegations.

SEC. 8. AMENDMENTS RELATING TO ATTORNEY'S FEES.

(a) CHAPTER 12.—Section 1221(g) of title 5, United States Code, is amended by striking "attorney's fees" each place it appears and inserting "fees for legal representation".

(b) CHAPTER 77.—Section 7701(g) of title 5, United States Code, is amended—

(1) by striking "attorney fees" each place it appears and inserting "fees for legal representation"; and

(2) in paragraph (1)—

(A) by inserting "substantially" before "prevailing"; and

(B) by striking "agency or any case in which the agency's action was clearly without merit." and inserting "agency, in which the agency's action was clearly without merit, or which is settled or otherwise similarly resolved.".

SEC. 9. MSPB RETIREMENT APPEALS EXPENSE AUTHORIZATION.

(a) IN GENERAL.—Section 8348(a) of title 5, United States Code, is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting "; and", and by adding at the end the following:

"(3) is made available, subject to such annual limitation as the Congress may prescribe, for any expenses incurred by the Merit Systems Protection Board in connection with the administration of appeals authorized under section 8347(d) or 8461(e).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1995.

SEC. 10. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in section 9, this Act and the amendments made by this Act shall take effect 120 days after the date of the enactment of this Act.

(b) SAVINGS PROVISION.—No provision of this Act shall affect any administrative proceeding pending at the time such provision takes effect. Orders shall be issued in such proceedings and appeals shall be taken therefrom as if this Act had not been enacted.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. MCCLOSKEY] will be recognized for 20 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. McCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the history and rationale for the OSC is quite simple: to provide legal protections for Federal employees who blow the whistle on fraud, waste, abuse, or criminal activity in the workplace and to investigate prohibited personnel practices.

Prohibited personnel practices are serious career-threatening or career ending moves like demotion, removal, reassignment, or other significant change in duties on prohibited grounds such as racial discrimination, political coercion, reprisal against whistle blowing, or in response to the employee's valid exercise of legal rights.

The Subcommittee on Civil Service has had several hearings on this issue, and has heard testimony from the office of special counsel on two occasions, from Ben Erdreich, the Chairman of the Merit Systems Protections Board [MSPB], Federal employee unions, Government Accountability Project [GAP], and individual whistleblowers.

Our findings have generally tracked the conclusions of the MSPB and the GAO in reports released last year: Agencies still need to improve their attitudes when it comes to whistleblowers.

Clearly agencies must do a better job of educating their employees of their rights and remedies under the WPA, but they must also communicate to managers and supervisors that retaliation against whistleblowers is not acceptable and will not be tolerated.

Considerable consultation has been done with the administration, other committees, and virtually all interested parties.

I have an amendment in the nature of a substitute which closely tracks the original structure of H.R. 2970 while seeking to address the concerns of the Banking Committee and the Judiciary Committee.

The amendment reauthorizes the Office of Special Counsel and the MSPB for 4 years, and makes amendments to the Whistleblower Protection Act of 1989 which add further protection to Federal employees who blow the whistle.

The bill also expands the choices Federal employees would have when seeking corrective action for any reprisal taken against them.

The bill requires agencies to educate and inform their employees of their rights and remedies under the WPA, expands coverage to hundreds of thousands of Federal employees who are not currently covered, expands the definition of personnel actions to include several practices that are not currently covered, but that can have a debilitating effect on an employee's career, and attempts to level the playing field for employees in these always difficult cases.

In response to concerns raised by the Judiciary Committee, the amendment deletes the provision of H.R. 2970 which expanded appellate jurisdiction from the Federal circuit and gave the employee the option of choosing the circuit in which the employee resides.

The amendment also provides that employees of the FDIC and RTC who have separate whistleblower protection provisions as a result of the savings and local bailout legislation must choose to either follow those procedures in title 39 or the ones established in title 5.

I urge all of my colleagues to support this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of H.R. 2970, a bill introduced by the distinguished gentleman from Indiana [Mr. MCCLOSKEY] reauthorizing the Office of Special Counsel and the Merit Systems Protection Board through 1997. The legislation also expands upon the 1989 Whistleblower Protection Act by providing additional safeguards for Federal employees who expose waste, fraud, or abuse within the Federal Government.

The legislation was the subject of three Civil Service subcommittee hearings and was reported out of the Committee on Post Office and Civil Service by voice vote. Mr. Speaker, the minority has no objections to consideration of this measure under suspension of the rules. Accordingly, I urge my colleagues to support passage of this measure.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. Mr. Speaker, I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, we had an issue on the floor earlier that related to the reauthorization of an agency, and the question was raised relative to those provisions that would have prevented the downsizing of these agencies. Are those provisions a part of this measure?

Mr. MCCLOSKEY. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Indiana.

Mr. MCCLOSKEY. Mr. Speaker, I say to the gentleman, "There are no provisions related to downsizing in this legislation.

Mr. LEWIS of California. Mr. Speaker, I thank the gentleman from Indiana.

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Mr. MCCLOSKEY. Mr. Speaker, I thank the distinguished gentleman from New York for his cooperation and leadership on this and numerous other items of legislation.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DEFAZIO). The question is on the motion offered by the gentleman from Indiana [Mr. MCCLOSKEY] that the House suspend the rules and pass the bill, H.R. 2970, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MCCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2970 and H.R. 5103.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

CENSUS ADDRESS LIST IMPROVEMENT ACT OF 1994

Mr. SAWYER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5084) to amend title 13, United States Code, to improve the accuracy of census address lists, and for other purposes, as amended.

The clerk read as follows:

H.R. 5084

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Census Address List Improvement Act of 1994".

SEC. 2. ADDRESS INFORMATION REVIEWED BY LOCAL GOVERNMENTS.

(a) IN GENERAL.—Chapter 1 of title 13, United States Code, is amended by adding after section 15 the following new section:

"§ 16. Address information reviewed by States and local governments

"(a) The Secretary, to assist efforts to ensure the accuracy of censuses and surveys under this title, shall—

"(1) publish standards defining the content and structure of address information which States and local units of general purpose government may submit to the Secretary to be used in developing a national address list;

"(2)(A) develop and publish a timetable for the Bureau to receive, review, and respond to submissions of information under paragraph (1) before the decennial census date; and

"(B) provide for a response by the Bureau with respect to such submissions in which the Bureau specifies its determinations regarding such information and the reasons for such determinations; and

"(3) be subject to the review process developed under section 3 of the Census Address List Improvement Act of 1994 relating to responses pursuant to paragraph (2).

"(b)(1) The Secretary—

"(A) *shall* provide officials who are designated as census liaisons by a local unit of general purpose government with access to census address information for the purpose of verifying the accuracy of the address information of the Bureau of census and survey purposes; and

"(B) together with such access, should provide an explanation of duties and obligations under this title.

"(2) Access under paragraph (1) shall be limited to address information concerning addresses within the local unit of general purpose government represented by the census liaison or an adjacent local unit of general purpose government.

"(3) The Bureau should respond to each recommendation made by a census liaison concerning the accuracy of address information, including the determination (and reasons therefor) of the Bureau regarding each such recommendation.

"(4) For the purposes of paragraph (1), in a case in which a local unit of general purpose government is within another local unit of general purpose government and is not independent of the enclosing unit, the census liaison shall be designated by the local unit of general purpose government which is within the enclosing local unit of general purpose government.

"(5) A census liaison may not use information made available under paragraph (1) for any purpose other than the purpose specified in paragraph (1).

"(c) For the purposes of this section—

"(1) the term 'local unit of general purpose government' has the meaning given such term by section 184(1) of this title; and

"(2) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and any other territory or possession of the United States.".

(b) CONFIDENTIALITY.—Section 9(a) of such title is amended—

(1) by inserting "or local government census liaison," after "thereof,"; and

(2) by inserting "or 16" after "section 8".

(c) PENALTY.—Section 214 of such title is amended by inserting "or whoever, being or having been a census liaison within the meaning of section 16 of this title, after "title," the second place it appears.

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of such title is amended by inserting after the item relating to section 15 the following:

"16. Address information reviewed by local governments.".

SEC. 3. DEVELOPMENT OF APPEALS PROCESS BY ADMINISTRATOR OF THE OFFICE OF INFORMATION AND REGULATORY AFFAIRS.

The Administrator of the Office of Information and Regulatory Affairs, acting through the Chief Statistician and in consultation with the Bureau of the Census, shall develop an appeals process for those States and local units of general purpose government which desire to appeal determinations of the Bureau of the Census pursuant to section 16(a)(2) or (b)(3) of title 13, United States Code. Appeals under such process shall be resolved before the decennial census date. The Chief Statistician shall publish the proposed appeals process for a period of public comment before finalizing such process.

SEC. 4. AUTHORITY OF UNITED STATES POSTAL SERVICE TO SHARE ADDRESS LISTS.

Section 412 of title 39, United States Code, is amended—

(1) by striking out "Except" and all that follows through "law," and inserting in lieu thereof;

"(a) Except as specifically provided by subsection (b) or other law,"; and

(2) by adding at the end the following:

"(b) The Postal Service shall provide to the Secretary of Commerce for use by the Bureau of the Census such address information, address-related information, and point of postal delivery information, including postal delivery codes, as may be determined by the Secretary to be appropriate for any census or survey being conducted by the Bureau of the Census. The provision of such information under this subsection shall be in accordance with such mutually agreeable terms and conditions, including reimbursability, as the Postal Service and the Secretary of Commerce shall deem appropriate.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. SAWYER] will be recognized for 20 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. SAWYER].

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous material, on H.R. 5084.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may consume

Mr. Speaker, I am pleased that today the House is considering the Census Address List Improvement Act of 1994. This legislation is an important step forward in preparing the Census Bureau to take an accurate census in the year 2000.

I am pleased to have drafted the bill in cooperation with the subcommittee's ranking minority member, Representative THOMAS E. PETRI. The legislation was considered by the Subcommittee on Census, Statistics and Postal Personnel, which I chair, at a hearing on July 21, and at a markup on September 28, where it passed unanimously.

The legislation is designed to meet two primary goals: to improve the accuracy of the Census Bureau's address list (which directly affects the accuracy of the population count), and to reduce the cost of compiling a national address list.

An important related goal is to strengthen the relationship between local governments and the Census Bureau.

The 1990 census was the first in modern history that was less accurate than the one before it. The difference between the undercount of minorities and the White population was the highest ever recorded. And the price tag more than doubled from the census before it. States and cities spent their own money to promote the census and to gather evidence of houses and people they thought the Bureau had missed. By the conclusion of the census, many of those officials believed that their efforts were wasted. The frustration level was very high indeed.

Census Bureau research showed that approximately ⅓ of the undercount was attributable to missed housing units. Millions of housing units were never included in the Bureau's address list, and millions of others were, in fact, nonexistent or placed in the wrong area. The compilation and verification of addresses for the 1990 census cost almost $300 million dollars. Linking those addresses to a geographic mapping system cost millions more.

Because the committee did not file a report, let me take a moment to explain some of the provisions and our intent. The subcommittee discussed at some length with the Census Bureau its plan to develop a program for ongoing interaction with the Postal Service and local officials to ensure that high-quality address lists and associated maps are ready prior to the census. The legislation is consistent with the subcommittee's understanding of the Bureau's intended program, and is designed to facilitate its success by allowing for appropriate access to information.

H.R. 5084 will achieve the three goals by providing the Bureau with ready access to two important information sources—Postal Service and local government address lists—and by providing an opportunity for local verification of the Bureau's information.

Fortunately, discussions about potential cooperative ventures between the Census Bureau and local governments are underway. The purpose of this bill is to build upon and strengthen those discussions.

Collection and verification of address information in primarily electronic format will greatly reduce the amount of precensus field canvassing. In previous censuses, those efforts were expensive and often inaccurate. The new methods authorized in H.R. 5084 will save money and improve the accuracy of the census address lists.

An obvious starting point for the development of a comprehensive address list is the U.S. Postal Service. The bill provides for monetary compensation or any reasonable exchange of services as part of the terms under which the Postal Service will provide address information to the Bureau. While the Postal Service should seek to minimize the cost of providing information to the Bureau, it should be compensated fairly.

Obviously, the Postal Service would only be required to provide to the Census Bureau addresses that are already available from the Postal Service's existing information systems. The Postal Service should not be required to collect information at the Secretary of Commerce's request that would not otherwise be collected for its own purposes. Nothing in the legislation would preclude the Postal Service from voluntarily adapting its data collection to meet the Census Bureau's needs more fully, however.

This legislation does not specify whether the Bureau should spend appropriated funds to receive local address information. Clearly, it is in a local government's best interest to ensure an accurate census count. That implies at least a limited expenditure of local dollars during the course of census planning and execution. However, the Bureau is already authorized under section 6 of title 13, United States Code, to pay for local information to further the goals of the census.

H.R. 5084 also requires the Census Bureau to develop standards under which local governments may submit their own address information to the Bureau. These standards will help ensure that the Bureau does not receive address lists in thousands of different formats. They also should define clearly the types of addresses the Bureau needs. The legislation should not be construed to mean that the Bureau should refuse information submitted in non-standard format. The Bureau may choose to provide preferential treatment (faster response time, for example) in cases where information is standardized. However, every local government should be afforded the opportunity to participate in ensuring an accurate census.

In addition, the Bureau will have more time to resolve address discrepancies with local governments that participate in the Bureau's entire address program. Incentives for local governments to get involved early in the process will help the Bureau to develop an accurate final address list before Census Day.

The bill, as amended, also requires the Census Bureau to provide address information to individuals designated by a local government as census liaisons. In some cases, it may be easier for a local government to submit its own list to the Bureau. In other cases, where there is no readily available local list, the local officials may choose to designate a liaison and review the Bureau's preliminary list.

In cases where a jurisdiction, such as a town or city, exists within a county, the bill provides that the census liaison is designated by the town or city. In cases where an area within a county is unincorporated, the county could designate a liaison for that area. The designated person does not have to be employed by the jurisdiction he or she represents. A town, for example, could designate someone employed by the county or the state. We envision that collaborative efforts by different levels of government would be very efficient and useful.

If a local government submits and reviews addresses, the Census Bureau must inform that jurisdiction about the disposition of any discrepancies that arise. If a jurisdiction disputes the Census Bureau's final address list, it may appeal under procedures set up by the Office of Management and Budget's Statistical Policy Office. Our intent was to allow the process for disputes to be developed by a party independent of the Census Bureau. OMB would determine in advance the parties who would resolve disagreements concerning the address lists. However, the administration and funding of that process is the Census Bureau's responsibility.

The authority in H.R. 5084 to appoint local census liaisons is distinct from existing authority to hire local officials as temporary employees. With regard to its existing authority the Bureau has developed a practice of "swearing in" temporary employees in person. That procedure might be time-consuming and expensive to carry out for individuals who are, by definition, located throughout the country. Therefore, the Secretary should provide census liaisons with an explanation of duties and responsibilities. There is no requirement to administer an oath in person.

The subcommittee is well aware of, and sensitive to, concerns about personal privacy. It's probably true that most people do not view an address, without related names, as private information. Frankly, address information is widely available in today's society from public and private sources. However, for two reasons, the legislation allows for only limited access to this most benign piece of census information.

The first reason is that it may be difficult to communicate clearly to the American public that the information in question does not contain names or any other identifying information besides the physical location of a housing unit. Given the special trust that must exist between the Census Bureau and much of the American public, we did not want to jeopardize the Bureau's ability to garner cooperation in future censuses.

The second reason for limiting access is that the Bureau's definition of a housing unit is necessarily broad and may include information not generally known. For example, that definition includes illegally occupied garages, offices, basement apartments, and other structures not normally inhabited. But while the effort to include every structure where a person lives is essential for an accurate count, the Bureau might inadvertently have information on its address lists that indicates the existence of a structure not properly zoned for residential dwelling. If the census address information were misused, an individual might face some adverse result.

In trying to protect privacy, H.R. 5084 also limits the geographic scope of addresses to which a census liaison is allowed access. Access is limited to information concerning addresses within the liaison's jurisdiction or an adjacent jurisdiction. (It is necessary to include adjacent jurisdictions because addresses that appear to be missing may, in fact, be allocated across a jurisdictional boundary.) In the past, many local governments disputed the Bureau's housing unit counts, in part, based on the grounds that those units were allocated to the wrong area. Correcting those errors is an important part of the pre-census address listing process. The Bureau should cooperate with the Postal Service and local governments on the geographic aspects of address listing, as well as the addresses themselves.

H.R. 5084 tries to balance two competing priorities of local governments. First, local governments want to ensure that the Census Bureau has an accurate address list for the census. Second, they are interested in using any available source of high-quality information to update their own local records. But while promoting accurate records for a wide range of purposes for local governments is important, the subcommittee believed that this broader purpose was outside the scope of this legislation.

As a further protection, census addresses can only be provided to a local official who is designated as a "census liaison" and is aware of his or her responsibilities under this act. One express limitation is that information received can only be used for the purpose of verifying the accuracy of the Bureau's information. A local official may not use the information to update local files or for any other purpose not expressly authorized, including law enforcement. Any liaison who violates the requirements of the Act would be subject to strict penalties.

In addition, any information furnished to the Census Bureau by Postal Service under section 4 of H.R. 5084 would be subject to the confidentiality provisions of section 9 of title 13, United States Code. The Census Bureau should treat address information obtained from the Postal Service with the same degree of confidentiality that is required for other address information furnished to the Bureau.

While the subcommittee is concerned about housing units missed entirely by the Census Bureau, it does recognize a competing concern. In recent censuses, the Bureau was criticized for making it extremely difficult to remove an address once it appeared on the list. Enumerators were required to make several in-person inspections to determine that a house was actually nonexistent. This exercise was costly and time-consuming.

Local government representatives demonstrated aptly to the subcommittee that local address information can be of high quality. The trends indicate that the quality and availability of local information should be even better by 2000. Nonetheless, there will be a temptation by the Bureau to accept even questionable addresses in the spirit of cooperation. The effort required to verify those addresses (if subsequent attempts to collect information from residents are unsuccessful) could be costly.

Therefore, the subcommittee encourages the Bureau to continue research to determine the most accurate and cost-effective methods for including or deleting addresses from its master files. The subcommittee also encourages the Bureau to develop standards that define clearly how local information would be most useful in promoting an accurate census.

In closing, H.R. 5084 provides the Census Bureau with new tools to improve the conduct of the census in an accurate and cost-effective manner. I am pleased that the measure enjoys the support of the entire subcommittee, as well as a wide range of outside organizations. I believe it is an important contribution to preparations for the 2000 census.

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 3, 1994.

Hon. WILLIAM CLAY,
Chairman, Committee on Post Office and Civil Service, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter responds to your letter dated September 28, 1994, requesting the Congressional Budget Office to review H.R. 5084, the Census Address List Improvement Act of 1994, as ordered reported by the Subcommittee on Census, Statistics and Postal Personnel of the House Committee on Post Office and Civil Service on September 28, 1994. CBO estimates that implementation of H.R. 5084 would save the federal government approximately $33 million over the next five years. Enactment of H.R. 5084 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

H.R. 5084 would require the Bureau of the Census to permit officials from local governments to examine its address lists that cover their jurisdictions. The bill would direct the Census Bureau to perform various tasks that would ease comparisons between its address lists and those of local governments. It also would require the Office of Information and Regulatory Affairs (OIRA) to establish a process for states and local governments to appeal certain Census Bureau determinations. Finally, it would require the Postal Service to provide certain address information to the Census Bureau.

The process of making federal address lists available to local governments would initially increase costs of the Census Bureau. In addition, permitting local governments to examine Census Bureau address lists would likely encourage more local governments to share their address lists with the Census Bureau. Reviewing those lists would add to Census Bureau costs. Additional costs would be $5 million to $6 million a year from 1995 through 1998.

Over the long run, however, increased access to state and local government address lists would result in savings to the Census Bureau because the bureau would not require as much effort to field-check its address lists or to review address lists with state and local governments immediately before and after the 2000 census. Based on information from the Census Bureau, CBO estimates that implementation of H.R. 5084 would result in savings of $55 million from 1998 through 1999, for a net savings to the federal government of $33 million over the five-year period.

Based on information from OIRA, CBO estimates that developing an appeals process would have no significant cost. Requiring the Postal Service to exchange address lists with the Census Bureau would not result in significant costs because the costs to the Postal Service of exchanging the lists would be roughly offset by savings derived from access to the Census Bureau lists.

Many state and local governments already share their address lists with the Census Bureau, and this bill would not require any to do so. The costs to those governmental bodies that would choose to share their address lists as a result of this bill are not likely to be significant.

If you wish further details on this estimate, we will be pleased to provide them.

The CBO staff contacts are John Webb, James Hearn, and Mary Maginniss, who can be reached at 226-2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the gentleman from Ohio, [Mr. SAWYER], the distinguished chairman of the Subcommittee on Census, Statistics and Personnel and the gentleman from Wisconsin [Mr. PETRI], the ranking Republican member and their staffs for all of their diligent work on this bill. The product we have before us is something we can all be pleased with. It was developed in consultation with representatives of State and local governments with a stake in improving the accuracy of the Census Bureau's address list.

And regardless of how various Census stakeholders may feel about the Census adjustment issue, we all agree that we still need the best possible enumeration we can get. Our hope is that this bill will prove to be an important step in that direction.

In addition, preliminary CBO estimates suggest that this bill will save the Census Bureau $33 million over the next 5 years—Further evidence that we can get better government at less cost.

Finally, since there was no opportunity to file a committee report, I want to acknowledge that the chairman has submitted a longer statement for the RECORD explaining the Committee's intentions and concerns in drafting this legislation. I accordingly, urge my colleagues to support this measure.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SAWYER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. SAWYER] that the House suspend the rules and pass the bill, H.R. 5084, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MODIFICATION OF MOTION TO SUSPEND RULES AND PASS H.R. 967, AS AMENDED, MINOR CROP USE ACT OF 1994

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the motion to suspend the rules and pass the bill H.R. 967, as amended, be modified as follows: On page 34, line 4, strike "require" and insert in lieu thereof "provide technical assistance to".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PENSION ANNUITANTS PROTECTION ACT OF 1993

Mr. WILLIAMS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1312) to amend the Employee Retirement Income Security Act of 1974 in order to provide for the availability of remedies for certain former pension plan participants and beneficiaries.

The Clerk read as follows:

S. 1312

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pension Annuitants Protection Act of 1993".

SEC. 2. CIVIL ENFORCEMENT OF ERISA.

Section 502(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)) is amended—

(1) by striking the "or" after the semicolon at the end of paragraph (5),

(2) by striking the period at the end of paragraph (6) and inserting "; or", and

(3) by adding at the end the following new paragraph:

"(7) in the event that the purchase of an insurance contract or insurance annuity in connection with termination of an individual's status as a participant covered under a pension plan with respect to all or any portion of the participant's pension benefit under such plan constitutes a violation of part 4 of this title or the terms of the plan, by the Secretary, by any individual who was a participant or beneficiary at the time of the alleged violation, or by a fiduciary, to obtain appropriate relief, including the posting of security if necessary, to assure receipt by the participant or beneficiary of the amounts provided or to be provided by such insurance contract or annuity, plus reasonable prejudgment interest on such amounts.".

SEC. 3. WAIVER OR REDUCTION OF CIVIL PENALTY.

Section 502(l)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(l)(3)(B)) is amended by inserting "(or to provide the relief ordered pursuant to subsection (a)(7))" after "to restore all losses to the plan".

SEC. 4. EFFECT ON OTHER PROVISIONS.

Nothing in this Act shall be construed to limit the legal standing of individuals to bring a civil action as participants or beneficiaries under section 502(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)), and nothing in this Act shall affect the responsibilities, obligations, or duties imposed upon fiduciaries by title I of the Employee Retirement Income Security Act of 1974.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Montana [Mr. WILLIAMS] will be recognized for 20 minutes, and the gentleman from Nebraska [Mr. BARRETT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1312 is designed to help workers and retirees whose pension plans were terminated and turned over to insurance companies that later went insolvent.

The Employee Retirement Income Security Act of 1974 (ERISA) has always authorized participants and beneficiaries under employee benefit plans to bring suit in Federal court against plan fiduciaries who have breached their duties under the plan or who have violated the terms of the plan or the statute.

This bill, which passed the Senate by unanimous consent, is a bipartisan approach to resolve a specific problem that has arisen from the termination of hundreds of well-funded, federally insured pension plans during the 1980s. The pensions earned by the workers and retirees in those plans were often paid in the form of monthly annuities purchased from a variety of insurance companies, including the Executive Life Insurance Company of California.

In April of 1991, state regulators in California took control over Executive Life after it failed to make good on its obligations to more than 44,000 pension annuitants across the country. The pensions of retirees were reduced and today, more than three and half years later, many of those individuals have still not been made whole.

In some cases, the fiduciaries of the pension plans may have purchased the Executive Life annuities without giving adequate attention to the financial safety of the annuities. Instead of choosing a safer, more expensive annuity, buying an annuity from Executive Life allowed some employers to receive a substantially larger reversion of excess assets from the plan, thus freeing up a greater amount of money to be used for other corporate purposes.

When some retirees and the Secretary of Labor sued certain fiduciaries under ERISA to recover the losses, some of the fiduciaries argued that the retirees were no longer participants of the plan because the plan had terminated and, therefore, had no standing to sue them. These fiduciaries also argued, based on a 1993 Supreme Court decision, *Mertens* v. *Hewitt Associates*, that ERISA provides no effective remedy to make people whole for the losses incurred.

Unfortunately, a few lower courts have narrowly and mistakenly given favorable consideration to these arguments. These courts have denied standing to sue to individuals who were participants and beneficiaries under the plan at the time the alleged breach of fiduciary duty (or violation of the terms of the plan or of ERISA) occurred, but, because of the intervening plan termination, were not literally participants under the plan at the time the lawsuit was brought.

S. 1312 clarifies that in litigation to recover these lost benefits, individuals who were participants and beneficiaries at the time the alleged violation of

ERISA occurred may sue and recover money damages from their employers or other fiduciaries. Under S. 1312, they can at least receive the amounts that were promised by the insurance contract or annuity, plus reasonable interest. S. 1312 also clarifies that when the Department of Labor sues on behalf of such a participant and beneficiary, any appropriate relief, including money damages, may be granted.

S. 1312 does not represent a change from current law, but rather a clarification made necessary because of recent court decisions. The courts have wrongly held that annuitants are not plan participants and therefore lack standing under ERISA to challenge the decision of the plan fiduciary to dispose of plan assets by purchasing annuities.

Because S. 1312 is designed to overturn this line of specific court cases, no limiting inference should be drawn with respect to standing questions for annuitants under any other section of any title of ERISA. To the contrary, other standing issues should be guided by the broad remedial policy reflected in today's legislative clarification, not by the incorrect court holdings that we reject today.

In addition, because the bill merely clarifies the standing of pension annuitants and specifies remedies available for fiduciary breaches that occur in the purchase of their annuities, the bill is retroactive to May 31, 1993, the day before the *Mertens* decision was issued.

The Mertens decision, which was decided by a 5 to 4 majority of the Court, raises other important issues regarding the nature of relief available under ERISA for breaches of fiduciary duty. Because there is disagreement about how these other problems should be addressed, the bill before us today does not attempt to solve all of the problems raised by Mertens.

Instead S. 1312, as shown by its unanimous approval by the Senate, is a first step toward correcting several erroneous interpretations of ERISA which have unfortunately narrowed the rights and remedies that Congress made available to participants and beneficiaries under ERISA. The bill is narrowly targeted to give pension annuitants who suffered as a result a plan fiduciary's action in purchasing their annuities, and the Secretary of Labor bringing suit on their behalf, a fair chance to have their cases determined in court on the merits and, if successful, to obtain an appropriate remedy.

Mr. Speaker, I ask unanimous consent to include in the RECORD the letter of support that Chairman FORD received from Secretary of Labor Robert Reich on behalf of the administration.

The Secretary notes in his letter that while passage of the legislation before us today is an important first step, further legislation is needed to fully protect workers and retirees who have suffered losses due to breaches of fiduciary duty. I agree. In the next Congress, I intend to work with my colleagues on the other side of the aisle and with the administration to enact such additional legislation.

But today we must pass S. 1312 to restore the previous right of workers to sue for monetary damages in cases where pension benefits have been lost because of an ERISA violation in the purchase of annuities. I urge support for S. 1312.

U.S. DEPARTMENT OF LABOR,
Washington, DC, September 30, 1994.

Hon. WILLIAM D. FORD,
Chairman, Committee on Education and Labor House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to provide you with the views of the Administration on S. 1312, the "Pension Annuitants Protection Act of 1993," as passed by the Senate. I understand that this measure is about to be considered by the House of Representatives.

The Administration views this legislation as an important effort in ensuring that the interests of plan participants are protected against violations of fiduciary responsibility when they receive their pension benefits through the purchase of insurance annuities. We share the strong concern of Senator Metzenbaum and Senator Kassebaum, the authors of S. 1312, that retirees should have adequate remedies to enforce the retirement promises made to them and, in particular, the obligations of plan fiduciaries when insurance annuities are purchased to guarantee such promises.

S. 1312 helps respond to the Supreme Court's decision in *Mertens* v. *Hewitt Associates* and to a U.S. district court decision in *Kayes* v. *Pacific Lumber*. In *Mertens*, the Supreme Court held that participants and beneficiaries of an employee benefit plan could not receive monetary damages under the Employee Retirement Income Security Act (ERISA) for losses resulting from a non-fiduciary's knowing participation in a fiduciary breach. In *Kayes*, the court ruled that former participants and beneficiaries lack standing to bring a suit alleging fiduciary breaches in connection with the purchase of their pension distribution annuities.

S. 1312 would make it clear that an adequate monetary remedy is available to, among others, former participants and beneficiaries who received insurance annuities from Executive Life Insurance Company of California in violation of the fiduciary responsibility requirements of ERISA, and also expressly provide that such individuals have standing to seek such remedies. This is an important step in overcoming the problems created by *Mertens* and *Kayes*. We therefore support prompt passage of S. 1312. At the same time, in the wake of these decisions, we continue to believe that further legislation is needed to fully protect former participants and beneficiaries who have suffered losses due to breaches of fiduciary duties. We look forward to working with the next Congress toward this end.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

Robert B. Reich.

□ 1950

Mr. Speaker, I reserve the balance of my time.

Mr. BARRETT of Nebraska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will speak in support of the bill, S. 1312, as passed by the Senate on October 28, 1993. The legislation is bipartisan and noncontroversial.

The bill addresses a problem under the current pension law, wherein former pension plan participants may be denied appropriate relief to remedy certain fiduciary breaches. In particular, S. 1312 would amend the Employee Retirement Income Security Act of 1974 [ERISA] to allow the Secretary of Labor and former pension participants to seek appropriate relief, when ERISA violations involving the purchase of annuities occur in connection with the termination of a pension plan, or an individual's status as a participant.

In July of 1993, the Subcommittee on Labor-Management Relations held an oversight hearing on this annuity issue, among other ERISA enforcement issues. During the hearing, concern was raised that, after the decision by the Supreme Court in Mertens versus Hewitt, current law could be read as narrowing the remedies under ERISA upon which participants and beneficiaries have previously relied, to fully restore denied pension plan benefits. Specifically, there was concern that the case could undermine the efforts of the Department of Labor to recover the reduction of annuity payments for former pension plan participants. In the case of Kayes versus Pacific Lumber, which was cited in the Mertens case, the U.S. District Court for the Northern District of California held that former participants and beneficiaries who were given executive life annuities, do not have standing to sue under Title I of ERISA.

S. 1312 would clarify that ERISA does give standing to former participants and beneficiaries, if they seek relief in connection with a fiduciary breach involving the purchase of insurance contracts or annuities. Under S. 1312, this standing would be retroactive in connection with legal proceedings pending, or brought, on or after May 31, 1993.

My understanding is that there are a number of cases wherein the pension rights of former participants could be in jeopardy. Therefore, I urge my colleagues to expedite the passage of this bill clarifying the extent of ERISA civil remedies for pension plan participants.

Mr. GOODLING. Mr. Speaker, I rise in support of the bill, S. 1312, as passed by the Senate on October 28, 1993. The bill is noncontroversial.

On August 2, 1993 the Senate held a hearing before the Subcommittee on Labor on S. 1312. The bill passed the Senate by unanimous consent on October 28, 1993. Senators KASSEBAUM and METZENBAUM have asserted their commitment to the passage of the bill. This bipartisan bill would provide for the availability of remedies for former pension plan participants and beneficiaries who could be denied pension protections under ERISA. More specifically, S. 1312 would grant appropriate relief when ERISA violations concerning the purchase of annuities occurs as a result of the termination of a pension plan. I agree with Senator KASSEBAUM that it is important that we move this clarifying legislation forward because as she said "recent court decisions [have called] into question whether [persons receiving] pension distribution annuities have standing to sue for relief under ERISA and whether, assuming a violation is found, a court can order relief for their lost benefits and help safeguard them against loss of benefits in the future."

The need for S. 1312 arose out of the U.S. Supreme Court case, Mertens versus Hewitt. This case effectively narrowed the legal protections available to retirees. During the August 2, 1993 Senate hearing, Ms. Olena Berg, Assistant Secretary for Pension and Welfare Benefits Administration for the Department of Labor stated, "under Mertens courts may conclude that they cannot reward retirees the difference between their promised benefit and the actual annuity payment even where a fiduciary admits to violating ERISA." Ms. Berg further stated that "in the case of Kayes versus Pacific Lumber, a U.S. district court held that workers and retirees did not have the right to sue under ERISA for violations in the annuity purchase."

Because participants may not have the ability to seek relief, I feel it is necessary to pass S.1312 in order to protect their pension benefits. Under the bill, former participants and beneficiaries would be given standing to seek appropriate relief to restore pension reductions resulting from fiduciary breaches. Since the bill is bipartisan and noncontroversial, I ask that my colleagues support the bill.

Mr. BARRETT of Nebraska. Mr. Speaker, I yield back the balance of my time.

Mr. WILLIAMS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DEFAZIO). The question is on the motion offered by the gentleman from Montana [Mr. WILLIAMS], that the House suspend the rules and pass the Senate bill, S. 1312.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on S. 1312, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

CORRECTING ENROLLMENT OF S. 1312, PENSION ANNUITANTS PROTECTION ACT OF 1993

Mr. WILLIAMS. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 304) directing the Secretary of the Senate to make corrections in the enrollment of the bill S. 1312, and I ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 304

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill (S. 1312) to amend the Employee Retirement Income Security Act of 1974 in order to provide for the availability of remedies for certain former pension plan participants and beneficiaries, the Secretary of the Senate shall make the following corrections:

(1) In Section 1, strike "1993" and insert "1994".

(2) In section 2(1) strike "paragraph (5)" and insert "paragraph (7)".

(3) In section 2(2), strike "paragraph (6)" and insert "paragraph (8)".

(4) In section 2(3), in the new paragraph (7) to be added thereby, strike "(7)" and insert "(9)".

(5) In section 3, strike "subsection (a)(7)" and insert "subsection (a)(9)".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CENTRAL MIDWEST INTERSTATE LOW-LEVEL RADIOACTIVE WASTE COMPACT AMENDMENTS CONSENT ACT OF 1994

Mr. LEHMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4814) to grant the consent of the Congress to amendments to the Central Midwest Interstate Low-Level Radioactive Waste Compact, as amended.

The Clerk read as follows:

H.R. 4814

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Central Midwest Interstate Low-Level Radioactive Waste Compact Amendments Consent Act of 1994".

SEC. 2. CONDITIONS OF CONSENT TO COMPACT AMENDMENTS.

The consent of the Congress to the compact amendments set forth in section 3—

(1) shall become effective on the date of the enactment of this Act;

(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b et seq.); and

(3) is granted only for so long as the regional commission established in the amended compact complies with all of the provisions of such Act.

SEC. 3. CONSENT OF CONGRESS TO COMPACT AMENDMENTS.

In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(a)(2)), the consent of the Congress is hereby given to amendments made by the States of Illinois and Kentucky to the Central Midwest Interstate Low-Level Radioactive Waste Compact, which compact was consented to by the Congress in section 224 of the Omnibus Low-Level Radioactive Waste Interstate Compact Consent Act (Pub. L. 99-240; 42 U.S.C. 2021 note). The amendments to which such consent is given are substantially as follows:

(1) The 2d undesignated paragraph of article I of the compact is amended to read as follows:

"The states party to this compact recognize that the Congress of the United States, by enacting the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021), has provided for and encouraged the development of low-level radioactive waste compacts as a tool for managing such waste. The party states also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis; and, that the safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to manage such waste be properly provided.".

(2) Section (k) of article II of the compact is amended to read as follows:

"k) 'Low-level radioactive waste' or 'waste' means radioactive waste not classified as (1) high-level radioactive waste, (2) transuranic waste, (3) spent nuclear fuel, or (4) by-product material as defined in Section 11e. (2) of the Atomic Energy Act of 1954. This definition shall apply notwithstanding any declaration by the federal government, a state or any regulatory agency that any radioactive material is exempt from any regulatory control.".

(3) Section (q) of article II of the compact is amended to read as follows:

"q) 'Regional facility' means any facility as defined in Article II(f) that is (1) located within the region, and (2) established by a party state pursuant to designation of that state as a host state by the Commission.".

(4) Sections (a) and (b) of article III of the compact are amended to read as follows:

"a) There is created the Central Midwest Interstate Low-Level Radioactive Waste Commission. Upon the eligible states becoming party states, the Commission shall consist of two voting Commissioners from each state eligible to be designated a host state under Article VI(b), one voting Commissioner from any other party state, and for each regional facility, one non-voting Commissioner who is an elected official of local government and a resident of the county where that regional facility is located. The Governor of each party state shall notify the Commission in writing of its Commissioners and any alternates.

"b) Each voting Commissioner is entitled to one vote. No action of the Commission is binding unless a majority of the voting membership casts its vote in the affirmative. In addition, no agreement by the Commission under Article III(i)(1), Article III(i)(2), or Article III(i)(3) is valid unless all voting Commissioners from the party state in which the facility where waste would be sent is located cast their votes in the affirmative.".

(5) Sections (d) and (e) of article III of the compact are amended to read as follows:

"d) The Commission shall meet at least once annually and shall also meet upon the call of any voting Commissioner.

"e) All meetings of the Commission and its designated committees shall be open to the public with reasonable advance notice. The

Commission may, by majority vote, close a meeting to the public for the purpose of considering sensitive personnel or legal strategy matters. However, all Commission actions and decisions shall be made in open meetings and appropriately recorded. A roll call may be required upon request of any voting Commissioner.".

(6) Section (g) of article III of the compact is amended to read as follows:

"g) The Office of the Commission shall be in Illinois. The Commission may appoint or contract for and compensate such staff necessary to carry out its duties and functions. The staff shall serve at the Commission's pleasure with the exception that staff hired as the result of securing federal funds shall be hired and governed under applicable federal statutes and regulations. In selecting any staff, the Commission shall assure that the staff has adequate experience and formal training to carry out the functions assigned to it by the Commission.".

(7) Sections (i) and (j) of article III of the compact are amended to read as follows:

"i) The Commission may:

"1) Enter into an agreement with any person to allow waste from outside the region to be disposed of at facilities in the region. However, no such agreement shall be effective unless and until ratified by a law enacted by the party state to which the waste would be sent for disposal.

"2) Enter into an agreement with any person to allow waste described in Article VII(a)(6) to be treated, stored, or disposed of at regional facilities. However, no such agreement shall be effective unless and until ratified by a law enacted by the host state of the regional facility to which the waste would be sent for treatment, storage, or disposal.

"3) Enter into an agreement with any person to allow waste from outside the region to be treated or stored at facilities in the region. However, any such agreement shall be revoked as a matter of law if, within one year of the effective date of the agreement, a law is enacted ordering such revocation by the party state to which the waste would be sent for treatment or storage.

"4) Approve, or enter into an agreement with any person for, the export of waste from the region.

"5) Approve the disposal of waste generated within the region at a facility in the region other than a regional facility, subject to the limitations of Articles V(f) and VII(a)(6).

"6) Require that waste generated within the region be treated or stored at available regional facilities, subject to the limitations of Articles V(f), VII(a)(3) and VII(a)(6).

"7) Appear as an intervenor or party in interest before any court of law or any federal, state or local agency, board or commission in any matter related to waste management. In order to represent its views, the Commission may arrange for any expert testimony, reports, evidence or other participation.

"8) Review the emergency closure of a regional facility, determine the appropriateness of that closure, and take whatever actions are necessary to ensure that the interests of the region are protected, provided that a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year that is less than 10 percent of the total volume recorded on such manifests for the region during the same year shall not be designated a host state or be required to store the region's waste. In determining the 10 percent exclusion, there shall not be included waste recorded on low-level radioactive waste manifests by a person whose principal business is providing a service by arranging for the collection, transportation, treatment, storage or disposal of such waste.

"9) Take any action which is appropriate and necessary to perform its duties and functions as provided in this compact.

"10) Suspend the privileges or revoke the membership of a party state.

"j) The Commission shall:

"1) Submit within 10 days of its execution to the governor and the appropriate officers of the legislative body of the party state in which any affected facility is located a copy of any agreement entered into by the Commission under Article III(i)(1), Article III(i)(2) or Article III(i)(3).

"2) Submit an annual report to, and otherwise communicate with, the governors and the appropriate officers of the legislative bodies of the party states regarding the activities of the Commission. The annual report shall include a description of the status of the activities taken pursuant to any agreement entered into by the Commission under Article III(i)(1), Article III(i)(2) or Article III(i)(3) and any violation of any provision thereof, and a description of the source, volume, activity, and current status of any waste from outside the region or waste described under Article VII(a)(6) that was treated, stored, or disposed of in the region in the previous year.

"3) Hear, negotiate, and, as necessary, resolve by final decision disputes which may arise between the party states regarding this compact.

"4) Adopt and amend, as appropriate, a regional management plan that plans for the establishment of needed regional facilities.

"5) Adopt an annual budget.".

(8) Sections (o) and (p) of article III of the compact are amended to read as follows:

"o) The Commission is a legal entity separate and distinct from the party states and is liable for its actions as a separate and distinct legal entity. Commissioners are not personally liable for actions taken by them in their official capacity.

"p) Except as provided under Article III(n), Article III(o), Article VI(p) and Article VI(q), nothing in this compact alters liability for any action, omission, course of conduct or liability resulting from any causal or other relationships.".

(9) Sections (b) and (c) of article V of the compact are amended to read as follows:

"b) Other than the provisions of Article V(f) and VII(a)(6), each party state has the right to have all wastes generated within borders managed at regional facilities. This right shall be subject to the provisions of this Compact. All party states have an equal right of access to any facility outside the region made available to the region by any agreement entered into by the Commission pursuant to Article III(i)(4).

"c) Party states or generators may negotiate for the right of access to a facility outside the region and may export waste outside the region subject to Commission approval under Article III(i)(4).".

(10) Section (f) of article V of the compact is amended to read as follows:

"f) Waste originating from the Maxey Flats nuclear waste disposal site in Fleming County, Kentucky shall not be shipped to any facility in Illinois for storage, treatment or disposal. Disposition of these wastes shall be the sole responsibility of the Commonwealth of Kentucky and such waste shall not be subject to the provisions of Articles IX(b)(3) and (4) of this compact.".

(11) Section (b) of article VI of the compact is amended to read as follows:

"b) If all regional facilities required by the regional management plan are not developed pursuant to Article VI(a), or upon notification that an existing regional facility will be closed, the Commission may designate a party state as a host state. A party state shall not be designated as a host state for any regional facility under this Article VI(b) unless that state's total volume of waste recorded on low-level radioactive waste manifests for any year is more than 10% of the total volume recorded on such manifests for the region during the same year. In determining the 10% exclusion, there shall not be included waste recorded on low-level radioactive waste manifests by a person whose principal business is providing a service by arranging for the collection, transportation, treatment, storage or disposal of such waste, or waste described in Article VII(a)(6).".

(12) Section (c) of article VI of the compact is repealed.

(13) Section (e) of article VI of the compact is amended to read as follows:

"e) Any party state designated as a host state may request the Commission to relieve that state of the responsibility to serve as a host state. The Commission may relieve a party state of this responsibility upon a showing by the requesting party state that no feasible potential regional facility site of the type it is designated to host exists within its borders or for other good cause shown and consistent with the purposes of this Compact.".

(14) Sections (l) and (m) of article VI of the compact are amended to read as follows:

"l) A host state intending to close a regional facility located within its borders shall notify the Commission in writing of its intention and the reasons. Notification shall be given to the Commission at least five years prior to the intended date of closure. This Section shall not prevent an emergency closing of a regional facility by a host state to protect its air, land and water resources and the health and safety of its citizens. However, a host state which has an emergency closing of a regional facility shall notify the Commission in writing within 3 working days of its action and shall, within 30 working days of its action, demonstrate justification for the closing.

"m) If a regional facility closes before an additional or new facility becomes operational, waste generated within the region may be shipped temporarily to any location agreed on by the Commission until a regional facility is operational, provided that the region's waste shall not be stored in a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year which is less than 10% of the total volume recorded on the manifests for the region during the same year. In determining the 10% exclusion, there shall not be included waste recorded on low-level radioactive waste manifests by a person whose principal business is providing a service by arranging for the collection, transportation, treatment, storage or disposal of such waste, or waste described in Article VII(a)(6).".

(15) Sections (o) through (q) of article VI of the compact are amended to read as follows:

"o) The host state shall create an 'Extended Care and Long-Term Liability Fund' and shall allocate sufficient fee revenues, received pursuant to Article VI(i), to provide for the costs of:

"1) decommissioning and other procedures required for the proper closure of a regional facility;

"2) monitoring, inspection and other procedures required for the proper extended care of a regional facility;

"3) undertaking any corrective action or clean-up necessary to protect human health and the environment from radioactive releases from a regional facility; and

"4) compensating any person for medical and other expenses incurred from damages to human health, personal injuries suffered from damages to human health and damages or losses to real or personal property, and accomplishing any necessary corrective action or clean-up on real or personal property caused by radioactive releases from a regional facility; the host state may allocate monies in this Fund in amounts as it deems appropriate to purchase insurance or to make other similar financial protection arrangements consistent with the purposes of this Fund; this Article VI(n) shall in no manner limit the financial responsibilities of the site operator under Article VI(o), the party states under Article VI(p), or any person who sends waste to a regional facility, under Article VI(q).

"p) The operator of a regional facility shall purchase an amount of property and third-party liability insurance deemed appropriate by the host state, pay the necessary periodic premiums at all times and make periodic payments to the Extended Care and Long-Term Liability Fund as set forth in Article VI(n) for such amounts as the host state reasonably determines is necessary to provide for future premiums to continue such insurance coverage, in order to pay the costs of compensating any person for medical and other expenses incurred from damages to human health, personal injuries suffered from damages to human health and damages or losses to real or personal property, and accomplishing any necessary corrective action or clean-up on real or personal property caused by radioactive releases from a regional facility. In the event of such costs resulting from radioactive releases from a regional facility, the host state should, to the maximum extent possible, seek to obtain monies from such insurance prior to using monies from the Extended Care and Long-Term Liability Fund.

"q) All party states shall be liable for the cost of extended care and long-term liability in excess of monies available from the Extended Care and Long-Term Liability Fund, as set forth in Article VI(n) and from the property and third-party liability insurance as set forth in Article VI(o). A party state may meet such liability for costs by levying surcharges upon generators located in the party state. The extent of such liability shall be based on the proportionate share of the total volume of waste placed in the regional facility by generators located in each such party state. Such liability shall be joint and several among the party states with a right of contribution between the party states. However, this Section shall not apply to a party state with a total volume of waste recorded on low-level radioactive waste manifests for any year that is less than 10% of the total volume recorded on such manifests for the region during the same year.".

(16) Sections (d) through (q) of article VI of the compact are redesignated as sections (c) through (p), respectively.

(17) Article VI of the compact is amended by adding at the end the following new section:

"q) Any person who sends waste from outside the region or waste described in Article VII(a)(6) for treatment, storage or disposal at a regional facility shall be liable for the cost of extended care and long-term liability of that regional facility in excess of the monies available from the Extended Care and Long-Term Liability Fund as set forth in Article VI(n) and from the property and third-party liability insurance as set forth in Article VI(o). The extent of the liability for the person shall be based on the proportionate share of the total volume of waste sent by that person to the regional facility.".

(18) Section (a)(6) of article VII of the compact is amended to read as follows:

"6) establishes any right to the treatment, storage or disposal at any facility in the region or provides any authority to prohibit export from the region of waste that is owned or generated by the United States Department of Energy, owned or generated by the United States Navy as a result of the decommissioning of vessels of the United States Navy, or owned or generated as the result of any research, development, testing or production of any atomic weapon; or".

(19) Section (d) of article VII of the compact is amended to read as follows:

"d) No person who provides a service by arranging for collection, transportation, treatment, storage or disposal of waste from outside the region shall be allowed to dispose of any waste, regardless of origin, in the region unless specifically permitted under an agreement entered into by the Commission in accordance with the requirements of Article III(i)(1).".

(20) Section (c) of article VIII of the compact is amended to read as follows:

"c) The Commission is formed upon the appointment of the Commissioners and the tender of the membership fee payable to the Commission by the eligible states. The Governor of Illinois shall convene the initial meeting of the Commission. The Commission shall cause legislation to be introduced in the Congress which grants the consent of the Congress to this compact, and shall take action necessary to organize the Commission and implement the provisions of this compact.".

(21) Section (e) of article VIII of the compact is amended to read as follows:

"e) This compact becomes effective July 1, 1984, or at any date subsequent to July 1, 1984, upon enactment by the eligible states. However, Article IX(b) shall not take effect until the Congress has by law consented to this compact. The Congress shall have an opportunity to withdraw such consent every 5 years. Failure of the Congress affirmatively to withdraw its consent has the effect of renewing consent for an additional 5 year period. The consent given to this compact by the Congress shall extend to the power of the region to ban the shipment of waste into the region pursuant to Article III(i)(1) and to prohibit exportation of waste generated within the region under Article III(i)(4).".

(22) Section (b) of article IX of the compact is amended to read as follows:

"b) Unless authorized by the Commission pursuant to Article III(i), or otherwise provided in this compact, after January 1, 1986 it is a violation of this compact:

"1) for any person to deposit at a facility in the region waste from outside the region;

"2) for any facility in the region to accept waste from outside the region;

"3) for any person to export from the region waste that is generated within the region;

"4) for any person to dispose of waste at a facility other than a regional facility;

"5) for any person to deposit at a regional facility waste described in Article VII(a)(6); or

"6) for any regional facility to accept waste described in Article VII(a)(6).".

(23) Article IX of the compact is amended by redesignating sections (c) and (d) as sections (d) and (e), respectively, and by inserting after section (b) the following new section:

"c) It is a violation of this compact for any person to treat or store waste at a facility other than a regional facility if such treatment or storage is prohibited by the Commission under Article III(i)(6).".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. LEHMAN] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. LEHMAN].

GENERAL LEAVE

Mr. LEHMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LEHMAN. Mr. Speaker, I yield myself such time as I may consume. The purpose of H.R. 4814 is to grant the consent of Congress to amendments to the central midwest interstate low-level radioactive waste compact. These amendments have been approved by the legislatures of Illinois and Kentucky pursuant to the Low Level Radioactive Waste Policy Act.

The act makes States responsible for disposal of low-level radioactive wastes generated within their borders, and encourages them to form interstate compacts to discharge their responsibilities on a regional basis. The central midwest compact between Illinois and Kentucky was initially consented to by Congress in 1985.

The States are seeking these changes to comport with the 1985 amendments to the Low-Level Waste Act, and to address other issues that have arisen in their implementation of the program over the years.

The committee adopted an amendment that made three technical changes to the enacting provisions of the bill. The important change added a new section to the bill that adds to the implementing language of the bill the same conditions of congressional consent which were included in the initial grant of congressional consent to the compact, and to each of the other eight compacts that have been approved since 1985.

These conditions provide that the consent of Congress becomes effective on the date of enactment, is granted subject to the provisions of the Low Level Waste Act, and is granted only for so long as the compact commission complies with all of the provisions of the act.

This change is not substantive, as the conditions from the original consent should be considered to apply to these amendments, as well. The language is added simply to give some comfort to NRC and industry observers who have expressed concerns that the compact is asserting authorities over waste treatment and storage that go beyond those contemplated in the Low-Level Waste Act. On their face, we don't think the questioned provisions go too far, but we want to make it clear that their application can be judged by courts for their consistency with the act.

Progress in developing new disposal facilities under the low-level waste program has been disappointing. No new disposal facilities were opened by January 1, 1993, as the act required. Currently, due to the authority the act gives compacts to exclude waste from outside their regions, low-level waste generators in 31 States have no access to any disposal facilities.

However, some States and compacts—including the central midwest compact—have worked diligently to develop new facilities, and are making slow progress. It is hoped that several new facilities will be opened in the next few years.

Unfortunately, there are also some States that are not seriously seeking to discharge their responsibilities under the act. Some apparently hope that Congress will reopen the act and get them off the hook. Enactment of H.R. 4814 will send an important message to the States and compacts that Congress remains committed to this program.

As amended, this bill is not controversial. I urge its passage.

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Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a good bill and an important one. Adoption of it shows that the Congress is serious in its continuing effort to ensure that the process started by the 1985 Low Level Waste Policy Act will continue. In particular, it highlights the right way for Congress to deal with the issue of radioactive waste disposal: Allowing the States to control how that waste should be disposed of. I would also like to commend Mrs. VUCANOVICH for her efforts on this bill.

Mr. SHARP. Mr. Speaker, I am happy to support H.R. 4814, the Central Midwest interstate low-Level Radioactive Waste Compact Amendments Consent Act of 1993, on behalf of the Committee on Natural Resources. I also ask that the statement of Mr. Lehman, who shepherded the bill through that committee, be included in the RECORD.

Pursuant to the Low-Level Radioactive Waste Policy Act, States are responsible for disposal of low-level radioactive waste generated within their borders. In order to encourage States to take responsibility for their own waste, the act provided that States which joined interstate compacts could seek the approval of Congress to exclude waste generated outside their borders.

To date, Congress has given its approval to nine low-level waste compacts. While progress under the act has been slower than many of us would have liked, it nonetheless is significant that the 42 States belonging to these compacts are making progress toward developing new disposal sites. One State has already received a license to begin construction, and several other intend to submit license applications soon.

Since Congress first approved the Central Midwest Compact in 1985, the legislatures of the two member States, Illinois and Kentucky, have ratified several amendments designed to resolve implementation problems that have since arisen. H.R. 4814 gives congressional approval to these compact amendments, and thereby allows the member States to go forward.

I am aware that, at the State level, there has been considerable controversy and delay in the process of identifying appropriate sites for new disposal facilities. Without exception, these controversies fall within the authorities reserved under the act to States and compacts. Thus, while I appreciate that there are many important questions about where to site new disposal facilities, and how to make them economical, I note that under the act, these are matters for the various States and compacts to resolve.

By the same token, however, when States have fulfilled their responsibilities under the Low-Level Radioactive Waste Policy Act, I believe that it is important that Congress act promptly to approve the resulting compact agreements.

In that spirit, I am pleased to offer my support for passage of H.R. 4814, and urge my colleagues to support it as well.

Mr. MOORHEAD. Mr. Speaker, I rise in strong support of H.R. 4814, the Central Midwest Interstate Low-Level Radioactive Waste Compact Amendments Consent Act of 1993.

When the Low-Level Radioactive Waste Policy Act was passed, the States requested, and received, responsibility for disposing of low-level waste generated within their borders. In that act, Congress encouraged States to enter into compacts with other States to site and build joint disposal facilities. I would like to commend the States of Illinois and Kentucky for working together under the central midwest compact to undertake this difficult task.

We are all aware that the siting and operation of facilities such as these is never easy. However, under the act, these are issues for the States to resolve. Our responsibility is to ensure that the process established in the act works as smoothly as possible. To do this, Congress must address only the issues before it and avoid interfering with matters that have been placed within State authority.

The States of Illinois and Kentucky are doing their part to comply with the requirements of the Low-Level Radioactive Waste Policy Act. I urge my fellow Members to reward these States with prompt approval of the amendments to their compact. Thank you, Mr. Speaker.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield back the balance of my time.

Mr. LEHMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DEFAZIO) The question is on the motion offered by the gentleman from California [Mr. LEHMAN] that the House suspend the rules and pass the bill, H.R. 4814, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CONFEDERATED TRIBES OF THE COLVILLE RESERVATION GRAND COULEE DAM SETTLEMENT ACT

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4757) to provide for the settlement of the claims of the Confederated Tribes of the Colville Reservation concerning their contribution to the production of hydropower by the Grand Coulee Dam, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4757

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act".

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) The term "Administrator" means the Administrator of the Bonneville Power Administration.

(2) The term "Bonneville Power Administration" means the Bonneville Power Administration of the Department of Energy or any successor Agency, Corporation, or entity that markets power produced at the Dam.

(3) The term "Dam" means the Grand Coulee Dam operated by the Bureau of Reclamation of the Department of the Interior, the power from which is marketed by the Bonneville Power Administration of the Department of Energy.

(4) The term "Settlement Agreement" means the Settlement Agreement entered into between the United States and the Tribe, signed by the United States on April 21, 1994, and by the Tribe on April 16, 1994, to settle the claims of the Tribe in Docket 181-D of the Indian Claims Commission, which docket has been transferred to the United States Court of Federal Claims.

(5) The term "Tribe" means the Confederated Tribes of the Colville Reservation, a federally recognized Indian tribe.

SEC. 3. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there is pending before the United States Court of Federal Claims, a suit by the Confederated Tribes of the Colville Reservation against the United States, in which the Tribe seeks to recover damages under the "Fair and Honorable Dealings" clause of the Indian Claims Commission Act, (Act of August 13, 1946, 60 Stat. 1049), and in which, although the matter is in dispute, the potential liability of the United States is substantial;

(2) the claim alleges that the United States has since the construction of Grand Coulee Dam used Colville Reservation land in the generation of electric power, and will continue to use such reservation land for as long as Grand Coulee Dam produces power; and that the United States has promised and undertaken to pay the Tribe for such use and has not done so;

(3) the United States, after years of litigation, has negotiated a Settlement Agreement with the Tribe, signed by the Department of Justice, the Bonneville Power Administration and the Department of the Interior. The Settlement Agreement is contingent on the enactment of the enabling legislation; and

(4) the Settlement Agreement, approved in this Act, will provide mutually agreeable compensation for the past use of reservation land in connection with the generation of electric power at Grand Coulee Dam, and will establish a method to ensure that the Tribe will be compensated for the future use of reservation land in the generation of electric power at Grand Coulee Dam, and will settle the claims of the Tribe against the United States brought under the Indian Claims Commission Act.

(b) PURPOSES.—It is the purpose of this Act—

(1) to approve and ratify the Settlement Agreement entered into by the United States and the Tribe; and

(2) to direct the Bonneville Power Administration to carry out its obligations under the Settlement Agreement.

SEC. 4. APPROVAL, RATIFICATION, AND IMPLEMENTATION OF SETTLEMENT AGREEMENT.

(a) APPROVAL AND RATIFICATION.—The Settlement Agreement is approved and ratified.

(b) ANNUAL PAYMENTS.—The Bonneville Power Administration shall make annual payments to the Tribe as set forth in the Settlement Agreement and shall carry out its other obligations under the Settlement Agreement.

(c) SETTLEMENT.—Consistent with the negotiated terms of the Settlement Agreement, the United States shall join in the motion that the Tribe has agreed to file in Confederated Tribes v. United States, Indian Claims Commission Docket 181–D, for the entry of a compromise final judgment in the amount of $53,000,000. The judgment shall be paid from funds appropriated pursuant to section 1304 of title 31, United States Code and is not reimbursable by the Bonneville Power Administration.

SEC. 5. DISTRIBUTION OF THE SETTLEMENT FUNDS.

(a) LUMP-SUM PAYMENT.—The judgment of $53,000,000, when paid, shall be deposited in the Treasury of the United States and the principal amount and interest on the judgment, shall be credited to the account of the Tribe. These funds may be advanced or expended for any purpose by the tribal governing body of the Confederated Tribes of the Colville Reservation, pursuant to a distribution plan developed by the Tribe and approved by the Secretary of the Interior pursuant to section 3 of Public Law 93–134 (25 U.S.C. 1403): *Provided*, That any payment to a minor under the distribution plan shall be held in trust by the United States for the minor until the minor reaches the age of 18, or until the minor's class is scheduled to graduate from high school, whichever is later: *Provided further*, That emergency use of trust funds may be authorized for the benefit of the minor pursuant to regulations of the Bureau of Indian Affairs.

(b) ANNUAL PAYMENTS.—In addition to the lump-sum payment, annual payments shall be made directly to the Tribe in accordance with the Settlement Agreement, and may be used in the same manner as any other income received by the tribe from the lease or sale of natural resources.

SEC. 6. REPAYMENT CREDIT.

Beginning with fiscal year 2000 and continuing for so long as annual payments are made under this Act, the Administrator shall deduct from the interest payable to the Secretary of the Treasury from net proceeds as defined in section 13 of the Federal Columbia River Transmission System Act, an amount equal to 26 percent of the payment made to the Tribe for the prior fiscal year. Each deduction made under this section shall be a credit to the interest payments otherwise payable by the Administrator to the Secretary of the Treasury during the fiscal year in which the deduction is made, and shall be allocated pro rata to all interest payments on debt associated with the generation function of the Federal Columbia River Power System that are due during that fiscal year; except that, if the deduction in any fiscal year is greater than the interest due on debt associated with the generation function for that fiscal year, then the amount of the deduction that exceeds the interest due on debt associated with the generation function shall be allocated pro rata to all other interest payments due during that fiscal year. *To the extent that the deduction exceeds the total amount of any such interest, the deduction shall be applied as a credit against any other payments that the Administrator makes to the Secretary.*

SEC. 7. MISCELLANEOUS PROVISIONS,

(a) LIENS AND FORFEITURES, ETC.—Funds paid or deposited to the credit of the Tribe pursuant to the Settlement Agreement or this Act, the interest or investment income earned or received on those funds, and any payment authorized by the Tribe or the Secretary of the Interior to be made from those funds to tribal members, and the interest or investment income on those payments earned or received while the payments are held in trust for the member, are not subject to levy, execution, forfeiture, garnishment, lien, encumbrance, seizure, or Federal, State or local taxation.

(b) ELIGIBILITY FOR FEDERAL AND FEDERALLY FUNDED PROGRAMS.—Funds paid or deposited to the credit of the Tribe pursuant to the Settlement Agreement or this Act, the interest or investment income earned or received on such funds, and any payment authorized by the Tribe or the Secretary of the Interior to be made from those funds to tribal members, and the interest or investment income on those payments earned or received while the payments are held in trust for the member, may not be treated as income or resources nor otherwise utilized as the basis for denying or reducing the financial assistance or other benefit to which the Tribe, a tribal member, or household would otherwise be entitled under the Social Security Act or any Federal or federally assisted program.

(c) TRUST RESPONSIBILITY.—This Act and the Settlement Agreement do not affect the trust responsibility of the United States and its agencies to the Tribe and the members of the Tribe.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I am very pleased to rise in support of H.R. 4757, a bill to settle the Colville Tribes' claim against the United States for the use of their lands by the Grand Coulee Dam. I commend the Tribes and the Federal agencies for working together to reach this long overdue settlement of the Tribes' claim. H.R. 4757 is supported by three Federal agencies, the Interior Department, the Justice Department, and the Bonneville Power Administration; the Colville Tribes, and a bipartisan group of members of the Washington State delegation.

When Grand Coulee Dam was being built over 50 years ago by the Bureau of Reclamation the Secretary of Interior, Harold Ickes, endorsed a series of letters directing Federal officials to develop a mechanism to provide the Colville Tribes annual payments from power revenues. Grand Coulee was completed in 1942 but Interior did not live up to the commitments made to the Tribes. Instead, the Department paid the Colvilles about $63,000 for their flooded lands and did not provide the promised annual payments for the use of their land for power purposes.

The Tribes sued the United States in 1951. Over the years many of the Tribes claims relating to Grand Coulee have been settled, including the loss of their fishery and their land. However, their claim for the use of their land for power purposes was not ruled on until 1990 when the U.S. Claims Court dismissed the claim on the grounds that the United States' navigational servitude in the Columbia River insulated the United States from any liability to the Tribes. In April 1992 the U.S. Court of Appeals for the Federal Circuit reversed the trial court in a unanimous decision. The Court of Appeals held that the Government's navigational servitude did extinguish the Tribes legal claims but was not a defense to the Tribes' claim that the "fair and honorable dealing" clause of the Indian Claims Commission Act had been violated. The case was remanded back to the trial court for consideration consistent with this ruling. Settlement discussions between the Tribes, the Justice Department and Bonneville followed and in early 1994 agreement was reached. The settlement ratified by H.R. 4757 provides for a one-time payment from Justice Department settlement funds of $53 million, along with annual payments of about $15 million to be made by the Bonneville Power Administration for the life of the Grand Coulee facility.

Mr. Speaker, when the Federal Government built water and power projects in the West two critical interests were often not considered, the rights and welfare of Native Americans and the need to protect environmental values. These two neglected interests often overlapped, as they did at Grand Coulee where the prolific salmon fishery that the Colvilee Tribes depended upon was destroyed.

The tragic story of the Colville Tribes and the Grand Coulee Dam is only one chapter in a very long book of injustices committed as our Nation worked to make the great rivers of the West engines of economic development. As a Nation we now have an obligation to right these wrongs so that dams such as Grand Coulee serve the interests of all citizens, including Native Americans. H.R. 4757 is a small but important acknowledgment of our nation's responsibilities. I urge Members to support this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4757, which provides for the settlement of the Colville Tribe's claim against the United States for the inundation of the tribe's land when the United States built Grand Coulee Dam.

The minority on the Natural Resource Committee endorses the notion of keeping our commitments to the Colville Tribe, particularly when the Federal Government broke their promises years ago.

Despite the injustice that has occurred, this bill is going to be an expensive proposition. After enactment the tribe will receive a lump sum payment of $53 million from the Justice Department resettlement fund. The Bonneville Power Administration will also be obligated to make annual payments to the tribe.

Nevertheless, this measure appears to have strong support among the Northwest delegation and I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, this legislation, the Colville Settlement Act, is a fair settlement for the Colville Tribes after many years of injustice, a fair deal for the U.S. taxpayer, and a fair deal for the Northwest ratepayers. I urge my colleagues to support its passage.

Mr. THOMAS of Wyoming. Mr. speaker, I urge passage of the bill, and I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am in the unusual position to commend the gentleman from Washington [Mr. INSLEE], who is now in the chair, for all the work he put in on this legislation to work out an agreement between all of the interests that were involved in this legislation, and I want to thank him very much for all of his work.

Mr. Speaker, I also want to thank the staff of our Committee on the Interior, Mr. Adamson, who spent a great deal of time out in the district, along with Steve Lanich, working with the irrigators and all of the rest of the people to deal with this issue.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. INSLEE). The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the bill, H.R. 4757, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

WATER DESALINATION ACT OF 1994

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4944) to authorize the Secretary of the Interior to conduct studies regarding the desalination of water and water reuse, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4944

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Water Desalination Act of 1994".

SEC. 2. DECLARATION OF POLICY.

In view of the increasing shortage of usable surface and ground water in the United States and the world and the importance of finding new sources of supply to meet present and future water needs and to further the goals of the Colorado River Basin Salinity Control Act of 1974, the Water Resources Research Act of 1984, Public Law 95–84 (as amended), and Public Law 102–575, it is the policy of the United States to conduct and sponsor research to develop low-cost alternatives for the desalination and reuse of water or biologically impaired water and to provide for the development of practicable low-cost means of producing water of a quality suitable for environmental enhancement, agricultural, industrial, municipal, and other beneficial consumptive or nonconsumptive uses from saline or biologically impaired waters on a scale sufficient to determine the feasibility of the development of such water production and distribution on a large scale for the purpose of conserving and increasing water resources.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) DESALINATION OR DESALTING.—The terms "desalination" or "desalting" mean the use of any process or technique for the removal and, when feasible, adaptation to beneficial use, of organic and inorganic elements and compounds from saline or biologically impaired waters, by itself or in conjunction with other processes.

(2) SALINE WATER.—The term "saline water" means sea water, brackish water, and other mineralized or chemically impaired water.

(3) UNITED STATES.—The term "United States" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(4) USABLE WATER.—The term "usable water" means water of a high quality suitable for environmental enhancement, agricultural, industrial, municipal, and other beneficial consumptive or nonconsumptive uses.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 4. AUTHORIZATION OF RESEARCH AND STUDIES.

(a) IN GENERAL.—In order to determine the most cost-effective and technologically efficient means by which usable water can be produced from saline water or water otherwise impaired or contaminated, the Secretary is authorized to award grants and to enter into contracts, to the extent provided in advance in appropriation Acts, to conduct, encourage, and assist in the financing of research to develop processes for converting saline water or water otherwise impaired or contaminated into water suitable for beneficial uses. Awards of research grants and contracts under this section shall be made on the basis of a competitive, merit-reviewed process. Research and study topics authorized by this section include—

(1) investigating desalination processes;

(2) ascertaining the optimum mix of investment and operating costs;

(3) determining the best designs for different conditions of operation;

(4) investigating methods of increasing the economic efficiency of desalination processes through dual-purpose co-facilities with other processes involving the use of water;

(5) conducting or contracting for technical work, including the design, construction, and testing of pilot systems and test beds, to develop desalting processes and concepts; and

(6) studying methods for the recovery of byproducts resulting from the desalination of water to offset the costs of treatment and to reduce environmental impacts from those byproducts.

(b) PROJECT RECOMMENDATIONS AND REPORTS TO THE CONGRESS.—As soon as practicable and within three years after the date of enactment of this Act, the Secretary shall recommend to Congress desalination demonstration projects or full-scale desalination projects to carry out the purposes of this Act and to further evaluate and implement the results of research and studies conducted under the authority of this section. Recommendations for projects shall be accompanied by reports on the engineering and economic feasibility of proposed projects and their environmental impacts.

(c) AUTHORITY TO ENGAGE OTHERS.—In carrying out research and studies authorized in this section, the Secretary may engage the necessary personnel, industrial or engineering firms, Federal laboratories, water resources research and technology institutes, other facilities, and educational institutions suitable to conduct investigations and studies authorized under this section.

(d) DESALINATION CONFERENCE.—Within 12 months following the date of enactment of this Act, the Secretary, in coordination with the United States Agency for International Development, will plan and host a desalination conference, to include officials and desalination experts from academia, private industry, financial institutions, and government in the United States and other nations that use or conduct research on desalination. The conference shall explore promising technologies and methods for near-term development of affordable desalination and shall propose a research agenda and a plan of action to guide longer-term desalination development activities.

SEC. 5. DESALINATION DEMONSTRATION AND DEVELOPMENT.

(a) IN GENERAL.—In order to further demonstrate the feasibility of desalination processes

investigated either independently or in research conducted pursuant to section 4, the Secretary shall administer and conduct a demonstration and development program for water desalination and related activities, including the following:

(1) DESALINATION PLANTS AND MODULES.—Conduct or contract for technical work, including the design, construction, and testing of plants and modules to develop desalination processes and concepts.

(2) BYPRODUCTS.—Study methods for the marketing of byproducts resulting from the desalting of water to offset the costs of treatment and to reduce environmental impacts of those byproducts.

(3) ECONOMIC SURVEYS.—Conduct economic studies and surveys to determine present and prospective costs of producing water for beneficial purposes in various locations by desalination processes compared to other methods.

(b) COOPERATIVE AGREEMENTS.—Federal participation in desalination activities may be conducted through cooperative agreements, including cost-sharing agreements, with non-Federal public utilities and State and local governmental agencies and other entities, in order to develop recommendations for Federal participation in processes and plants utilizing desalting technologies for the production of water.

SEC. 6. PARTICIPATION BY AGENCIES AND INTERESTED PERSONS.

(a) COORDINATION WITH OTHER AGENCIES.—Activities undertaken by the Secretary pursuant to this Act may be coordinated or conducted jointly, as appropriate, with the National Science Foundation, Department of Defense, United States Army Corps of Engineers, National Aeronautics and Space Administration, and Environmental Protection Agency, and other Federal agencies, States, local government agencies, water resources research and technology institutes, and private entities.

(b) AVAILABILITY OF INFORMATION.—All information from studies sponsored or funded under authority of this Act shall be considered public information.

SEC. 7. TECHNICAL AND ADMINISTRATIVE ASSISTANCE.

The Secretary may—

(1) accept technical and administrative assistance from States and public or private agencies in connection with studies, surveys, location, construction, operation, and other work relating to the desalting of water, and

(2) enter into contracts or agreements stating the purposes for which the assistance is contributed and providing for the sharing of costs between the Secretary and any such agency.

SEC. 8. COST SHARING.

The Federal share of the cost of a research, study, or demonstration project or a desalination development project or activity carried out under this Act shall not exceed 50 percent of the total cost of the project or research or study activity. The Secretary shall prescribe appropriate procedures to implement the provisions of this section. Costs of operation, maintenance, repair, and rehabilitation of facilities funded under the authority of this Act shall be non-Federal responsibilities.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) SECTION 4.—There are authorized to be appropriated to carry out section 4 of this Act $5,000,000 for fiscal year 1995 and $10,000,000 per year for fiscal years 1996 through 1999. Of these amounts, up to $1,000,000 in each fiscal year may be awarded to institutions of higher education for research grants without any cost-sharing requirement.

(b) SECTION 5.—There are authorized to be appropriated to carry out section 5 of this Act $50,000,000 for fiscal years 1996 through 1999.

SEC. 10. DROUGHT RELIEF FOR MADERA-CHOWCHILLA POWER AUTHORITY HYDROELECTRIC PROJECTS.

Section 103 of the Reclamation States Emergency Drought Relief Act of 1991 (106 Stat. 55; 43 U.S.C. 2213) is amended—

(1) by inserting in the first sentence after "resulting from drought conditions." the following: "The Secretary is further authorized to make a loan to the Madera-Chowchilla Power Authority to assist in the repayment of financial obligations associated with hydroelectric facilities that have been adversely affected by drought conditions."; and

(2) by striking "loan." at the end of the second proviso and inserting "loan, except that loans specifically for the Madera-Chowchilla Power Authority associated with hydroelectric facilities impacted by drought shall be under such terms and conditions as the Secretary deems appropriate.".

SEC. 11. AMENDMENT TO THE RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1992.

Title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h et seq.) is amended by adding the following section:

"SEC. 1618. ORANGE COUNTY REGIONAL WATER RECLAMATION PROJECT.

"(a) The Secretary is authorized to participate with the Orange County Water District in the State of California, and other appropriate authorities, in the planning, design and construction of water reclamation projects to treat up to 100,000 acre feet per year of wastewater effluent from the county of Orange, in order to provide new water supplies for ground water replenishment, industrial applications and other beneficial purposes, to reduce the demand for imported water, and to reduce sewage effluent discharged into the ocean near Huntington Beach.

"(b) The Secretary's share of costs associated with the project described in section (a) shall not exceed 25 percent of the total. The Secretary shall not provide funds for operation or maintenance of the project.

"(c) There are authorized to be appropriated not more than $250,000 for the design of projects under this section.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I man consume.

Mr. Speaker, the purpose of H.R. 4944, as amended, is to authorize a Federal program of financial assistance to encourage new research and development of methods and techniques for water desalination. The bill would authorize the Secretary of the Interior, in cooperation with other agencies, to award and oversee contracts for studies regarding the desalination of water and water reuse. Demonstration projects for desalination facilities are also authorized. H.R. 4494 also authorizes the Secretary of the Interior to make a loan to the Madera-Chowchilla Power Authority for the purpose of assisting in the repayment of financial obligations associated with hydroelectric power facilities that have been adversely affected by drought conditions. Finally, studies for desalination projects in Orange County, CA are authorized by this legislation.

As many of my colleagues know, we often must rely on advanced technology to solve problems of water shortages and contamination. For example, desalting of chemically and biologically impaired water can often be useful in solving problems of drought, contamination, and over-appropriation of supplies.

The United States was once the leader in desalination technology. But severe budget cuts since 1981 have all but eliminated funds for desalination research.

H.R. 4944 is intended to renew the leadership of the United States in desalination research and development. The bill authorizes the Secretary of the Interior to conduct studies to determine the best and most economical processes for converting saline water into water suitable for beneficial uses, and authorizes demonstration projects and construction of facilities for desalination, in cooperation with Federal, State, and local governments.

H.R. 4944 was referred jointly to the Committee on Natural Resources and the Committee on Science, Space and Technology. I would like to thank Chairman GEORGE BROWN of the Science Committee for his cooperation and for the assistance of his staff, in agreeing to consider this bill today. At the conclusion of my statement I will include a letter from Chairman BROWN for the RECORD.

I would also like to thank the ranking minority Member of the Committee on Natural Resources, Mr. YOUNG, for his cooperation and the assistance of his staff.

Enactment of H.R. 4944 will once again allow the United States to pursue water desalination as a means of reducing stress on our limited water supplies. I urge my colleagues to join me in support of this legislation.

Mr. Speaker, I include for the RECORD a letter from the chairman of the Committee on Science, Space, and Technology:

COMMITTEE ON SCIENCE,
SPACE, AND TECHNOLOGY,
Washington, DC, September 30, 1994.

Hon. GEORGE MILLER,
Chairman, Committee on Natural Resources, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing concerning H.R. 4944, the Water Desalination Act of 1994, which has been referred to the Committees on Natural Resources and Science, Space, and Technology.

I have reviewed the bill, which authorizes a program of scientific research into desalination processes and the recovery of byproducts resulting from the desalination of water. To expedite consideration of H.R. 4944 by the whole House, the Committee on Science, Space, and Technology will waive its right to consideration of this legislation, without prejudice to its jurisdiction on these matters.

I would appreciate your including this letter as a part of the Floor debate on H.R. 4944, and I deeply appreciate the cooperation and courtesy that you and your committee have extended to the Committee on Science, Space, and Technology. I look forward to working with you in the future on matters of mutual concern.

Sincerely,

GEORGE E. BROWN, Jr.
Chairman.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I rise in support of H.R. 4944, Congressman MILLER's legislation to authorize studies of the desalination of water.

For decades, desalting ocean water has been the dream solution for the lack of water, particularly in California. However, many believe it is still too expensive to be a viable alternative.

H.R. 4944 will authorize a grant program for desalination projects in the United States. Some Members on this side of the aisle believe that as water from other sources gets increasingly scarce and expensive, desalting is expected to become more attractive, even hundreds of miles from the sea.

Perhaps this legislation will allow us to speed up the technology needed to have a cost-effective desalination program in the United States.

I urge adoption of this measure.

Mr. KIM. Mr. Speaker, I rise in support of this legislation which will benefit not only California, but all of our country by studying new ways to desalinate water.

As a former environmental engineer, I recognize the importance of this task and therefore strongly believe that the United States should develop desalination technology to help reduce critical water shortages that many parts of our Nation face.

For example, southern California's fast growing population is overwhelming our natural groundwater resources and outstripping our capability to import water. Thus, we must look for new sources of water, such as from the sea or through recycling.

Given the high costs associated with imported water, I believe that these new sources will not only be cost competitive, but will help protect our Nation's wetlands by preserving more water for environmental purposes.

I urge adoption of H.R. 4944 by the full House.

Mr. BROWN of California. Mr. Speaker, I rise in support of H.R. 4944, the Water Desalination Act of 1994. This legislation addresses a pressing need to find new, cost-effective ways to purify water for drinking and industrial purposes by establishing a program for desalination research and demonstration projects in the Department of the Interior.

I want to congratulate the chairman of the Committee on Natural Resources, Mr. MILLER, for his leadership in bringing this bill to the Floor.

The need to develop new cost-effective methods for water treatment to meet ever-increasing demands on our Nation's water supply is well established. Hearings held before the Committee on Science, Space, and Technology and in the Senate in recent years have documented increased demands on our water supply in virtually all regions of this country.

Over the past two decades, water usage has outstripped limited freshwater supplies, leading municipalities and industries to search for new sources of water. The 1992 drought in the southwestern United States put even more stress on traditional water resources, emphasizing the need to develop new sources of water. Brackish groundwater, and even seawater, are being considered as supplements for traditional freshwater supplies. Treatment of brackish and saline water supplies is most effectively accomplished through desalination.

In 1992, the Science Committee reported legislation, which was enacted into law, to authorize a program of desalination research in the National Science Foundation. That program funds research aimed at improving membrance-based desalination processes, and next year the Foundation plans to leverage it own funds through a jointly funded desalination research program with the National Water Resources Board, a private nonprofit foundation based in California.

While I am pleased that the National Science Foundation plans to expand its support of research on desalination, there is still a considerable unmet need for research and development, as well as for small-scale project to demonstrate the technical and commercial viability of improved desalination processes. The legislation before us will help to address these issues.

Mr. Speaker, H.R. 4944 addresses a long-neglected, but nonetheless pressing need to develop cost-effective new sources of water to meet new demands, and to find means to return that water safely to the environment. I urge my colleagues to support this legislation.

Mr. THOMAS of Wyoming. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the bill, H.R. 4944, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

YAVAPAI-PRESCOTT INDIAN TRIBE WATER RIGHTS SETTLEMENT ACT OF 1994

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1146) to provide for the settlement of the water rights claims of the Yavapai-Prescott Indian Tribe in Yavapai County, Arizona, and for other purposes as amended.

The Clerk read as follows:

S. 1146

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—YAVAPAI-PRESCOTT INDIAN TRIBE WATER RIGHTS SETTLEMENT

SEC. 101. SHORT TITLE.

This title may be cited as the "Yavapai-Prescott Indian Tribe Water Rights Settlement Act of 1994".

SEC. 102. CONGRESSIONAL FINDINGS AND DECLARATIONS.

(a) FINDINGS.—The Congress finds that—

(1) it is the policy of the United States, in fulfillment of its trust responsibility to the Indian tribes, to promote Indian self-determination and economic self-sufficiency, and to settle, wherever possible, the water rights claims of Indian tribes without lengthy and costly litigation;

(2) meaningful Indian self-determination and economic self-sufficiency depend on the development of viable Indian reservation economies;

(3) quantification of rights to water and development of facilities needed to utilize tribal water supplies effectively is essential to the development of viable Indian reservation economies, particularly in arid western States;

(4) on June 7, 1935, and by actions subsequent thereto, the United States established a reservation for the Yavapai-Prescott Indian Tribe in Arizona adjacent to the city of Prescott;

(5) proceedings to determine the full extent of Yavapai-Prescott Tribe's water rights are currently pending before the Superior Court of the State of Arizona in and for Maricopa County, as part of the general adjudication of the Gila River system and source;

(6) recognizing that final resolution of the general adjudication will take many years and entail great expense to all parties, prolong uncertainty as to the full extent of the Yavapai-Prescott Tribe's entitlement to water and the availability of water supplies to fulfill that entitlement, and impair orderly planning and development by the Tribe and the city of Prescott; the Tribe, the city of Prescott, the Chino Valley Irrigation District, the State of Arizona and the United States have sought to settle all claims to water between and among them;

(7) representatives of the Yavapai-Prescott Tribe, the city of Prescott, the Chino Valley Irrigation District, the State of Arizona and the United States have negotiated a Settlement Agreement to resolve all water rights claims between and among them, and to provide the Tribe with long term, reliable water supplies for the orderly development and maintenance of the Tribe's reservation;

(8) pursuant to the Settlement Agreement and the Water Service Agreement, the quantity of water made available to the Yavapai-Prescott Tribe by the city of Prescott and the Chino Valley Irrigation District will be secured, such Agreements will be continued in perpetuity, and the Tribe's continued on-reservation use of water for municipal and industrial, recreational and agricultural purposes will be provided for;

(9) to advance the goals of Federal Indian policy and to fulfill the trust responsibility of the United States to the Tribe, it is appropriate that the United States participate in the implementation of the Settlement Agreement and assist in firming up the long-term water supplies of the city of Prescott and the Yavapai-Prescott Tribe so as to enable the Tribe to utilize fully its water entitlements in developing a diverse, efficient reservation economy; and

(10) the assignment of the CAP contract of the Yavapai-Prescott Tribe and the CAP subcontract of the city of Prescott is a cost-effective means to ensure reliable, long-term water supplies for the Yavapai-Prescott Tribe and to promote efficient, environmentally sound use of available water supplies in the Verde River basin.

(b) DECLARATION OF PURPOSES.—The Congress declares that the purposes of this title are—

(1) to approve, ratify and confirm the Settlement Agreement among the Yavapai-Prescott Tribe, the city of Prescott, the Chino Valley Irrigation District, the State of Arizona and the United States;

(2) to authorize and direct the Secretary of the Interior to execute and perform the Settlement Agreement;

(3) to authorize the actions and appropriations necessary for the United States to fulfill its legal and trust obligations to the Yavapai-Prescott Tribe as provided in the Settlement Agreement and this title;

(4) to require that expenditures of funds obtained through the assignment of CAP contract entitlements by the Yavapai-Prescott Tribe and Prescott for the acquisition or development of replacement water supplies in the Verde River basin shall not be inconsistent with the goals of the Prescott Active Management Area, preservation of riparian habitat, flows and biota of the Verde River and its tributaries; and

(5) to repeal section 406(k) of Public Law 101-628 which authorizes $30,000,000 in appropriations for the acquisition of land and water resources in the Verde River basin and for the development thereof as an alternative source of water for the Fort McDowell Indian Community.

SEC. 103. DEFINITIONS.

For purposes of this title:

(1) The term "CAP" means the Central Arizona Project, a reclamation project authorized under title III of the Colorado River Basin Project Act of 1968 (43 U.S.C. 1521 et seq.).

(2) The term "CAWCD" means the Central Arizona Water Conservation District, organized under the laws of the State of Arizona, which is the contractor under a contract with the United States, dated December 1, 1988, for the delivery of water and repayment of costs of the Central Arizona Project.

(3) The term "CVID" means the Chino Valley Irrigation District, an irrigation district organized under the laws of the State of Arizona.

(4) The term "Prescott AMA" means the Active Management Area, established pursuant to Arizona law and encompassing the Prescott ground water basin, wherein the primary goal is to achieve balance between annual ground water withdrawals and natural and artificial recharge by the year 2025.

(5) The term "Prescott" means the city of Prescott, an Arizona municipal corporation.

(6) The term "Reservation" means the reservation established by the Act of June 7, 1935 (49 Stat. 332) and the Act of May 18, 1956 (70 Stat. 157) for the Yavapai-Prescott Tribe of Indians.

(7) The term "Secretary" means the Secretary of the United States Department of the Interior.

(8) The term "Settlement Agreement" means that agreement entered into by the city of Prescott, the Chino Valley Irrigation District, the Yavapai-Prescott Indian Tribe, the State of Arizona, and the United States, providing for the settlement of all water claims between and among them.

(9) The term "Tribe" means the Yavapai-Prescott Indian Tribe, a tribe of Yavapai Indians duly recognized by the Secretary.

(10) The term "Water Service Agreement" means that agreement between the Yavapai-Prescott Indian Tribe and the city of Prescott, as approved by the Secretary, providing for water, sewer, and effluent service from the city of Prescott to the Yavapai-Prescott Tribe.

SEC. 104. RATIFICATION OF SETTLEMENT AGREEMENT.

(a) APPROVAL OF SETTLEMENT AGREEMENT.—To the extent the Settlement Agreement does not conflict with the provisions of this title, such Agreement is approved, ratified and confirmed. The Secretary shall execute and perform such Agreement, and shall execute any amendments to the Agreement and perform any action required by any amendments to the Agreement which may be mutually agreed upon by the parties.

(b) PERPETUITY.—The Settlement Agreement and Water Service Agreement shall include provisions which will ensure that the benefits to the Tribe thereunder shall be secure in perpetuity. Notwithstanding the provisions of section 2103 of the Revised Statutes of the United States (25 U.S.C. 81) relating to the term of the Agreement, the Secretary is authorized and directed to approve the Water Service Agreement with a perpetual term.

SEC. 105. ASSIGNMENT OF CAP WATER.

The Secretary is authorized and directed to arrange for the assignment of, or to purchase, the CAP contract of the Tribe and the CAP subcontract of the city of Prescott to provide funds for deposit into the Verde River Basin Water Fund established pursuant to section 106.

SEC. 106. REPLACEMENT WATER FUND; CONTRACTS.

(a) FUND.—The Secretary shall establish a fund to be known as the "Verde River Basin Water Fund" (hereinafter called the "Fund") to provide replacement water for the CAP water relinquished by the Tribe and by Prescott. Moneys in the Fund shall be available without fiscal year limitations.

(b) CONTENT OF FUND.—The Fund shall consist of moneys obtained through the assignment or purchase of the contract and subcontract referenced in section 105, appropriations as authorized in section 109, and any moneys returned to the Fund pursuant to subsection (d) of this section.

(c) PAYMENTS FROM FUND.—The Secretary shall, subsequent to the publication of a statement of findings as provided in section 112(a), promptly cause to be paid from the Fund to the Tribe the amounts deposited to the Fund from the assignment or purchase of the Tribe's CAP contract, and, to the city of Prescott, the amounts deposited to the Fund from the assignment or purchase of the city's CAP subcontract.

(d) CONTRACTS.—The Secretary shall require, as a condition precedent to the payment of any moneys pursuant to subsection (c), that the Tribe and Prescott agree, by contract with the Secretary, to establish trust accounts into which the payments would be deposited and administered, to use such moneys consistent with the purpose and intent of section 107, to provide for audits of such accounts, and for the repayment to the Fund, with interest, any amount determined by the Secretary not to have been used within the purpose and intent of section 107.

SEC. 107. EXPENDITURES OF FUNDS.

(a) BY THE CITY.—All moneys paid to Prescott for relinquishing its CAP subcontract and deposited into a trust account pursuant to section 106(d), shall be used for the purposes of defraying expenses associated with the investigation, acquisition or development of alternative sources of water to replace the CAP water relinquished under this title. Alternative sources shall be understood to include, but not be limited to, retirement of agricultural land and acquisition of associated water rights, development of ground water resources outside the Prescott Active Management Area established pursuant to the laws of the State of Arizona, and artificial recharge; except that none of the moneys paid to Prescott may be used for construction or renovation of the city's existing waterworks or water delivery system.

(b) BY THE TRIBE.—All funds paid to the Tribe for relinquishing its CAP contract and deposited into a trust account pursuant to section 106(d), shall be used to defray its water service costs under the Water Service Agreement or to develop and maintain facilities for on-reservation water or effluent use.

(c) NO PER CAPITA PAYMENTS.—No amount of the Tribe's portion of the Fund may be used to make per capita payments to any member of the Tribe, nor may any amount of any payment made pursuant to section 106(c) be distributed as a dividend or per capita payment to any constituent, member, shareholder, director or employee of Prescott.

(d) DISCLAIMER.—Effective with the payment of funds pursuant to section 106(c), the United States shall not be liable for any claim or cause of action arising from the use of such funds by the Tribe or by Prescott.

SEC. 108. ENVIRONMENTAL COMPLIANCE.

The Secretary, the Tribe and Prescott shall comply with all applicable Federal environmental and State environmental and water laws in developing alternative water sources pursuant to section 107(a). Development of such alternative water sources shall not be inconsistent with the goals of the Prescott Active Management Area, preservation of the riparian habitat, flows and biota of the Verde River and its tributaries.

SEC. 109. APPROPRIATIONS AUTHORIZATION AND REPEAL.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Fund established pursuant to section 106(a):

(1) Such sums as may be necessary, but not to exceed $200,000, to the Secretary for the Tribe's costs associated with judicial confirmation of the settlement.

(2) Such sums as may be necessary to establish, maintain and operate the gauging station required under section 111(e).

(b) STATE CONTRIBUTION.—The State of Arizona shall contribute $200,000 to the trust account established by the Tribe pursuant to the Settlement Agreement and section 106(d) for uses consistent with section 107(b).

(c) REPEAL.—Subsection 406(k) of the Act of November 28, 1990 (Public Law 101-628; 104 Stat. 4487) is repealed.

SEC. 110. SATISFACTION OF CLAIMS.

(a) WAIVER.—The benefits realized by the Tribe or any of its members under the Settlement Agreement and this title shall constitute full and complete satisfaction of all claims by the Tribe and all members' claims for water rights or injuries to water rights under Federal and State laws (including claims for water rights in ground water, surface water and effluent) from time immemorial to the effective date of this title, and for any and all future claims of water rights (including claims for water rights in ground water, surface water, and effluent) from and after the effective date of this title. Nothing in this title shall be deemed to recognize or establish any right of a member of the Tribe to water on the Tribe's reservation.

(b) WAIVER AND RELEASE.—The Tribe, on behalf of itself and its members, and the Secretary on behalf of the United States, are authorized and required, as a condition to the implementation of this title, to execute a waiver and release, except as provided in subsection (d) and the Settlement Agreement, of all claims of water rights or injuries to water rights (including water rights in ground water, surface water and effluent), from and after the effective date of this title, which the Tribe and its members may have, against the United States, the State of Arizona or any agency or political subdivision thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States or the State of Arizona.

(c) WAIVER BY UNITED STATES.—Except as provided in subsection (d) and the Settlement Agreement, the United States, in its own right or on behalf of the Tribe, shall not assert any claim against the State of Arizona or any political subdivision thereof, or against any other person, corporation, or municipal corporation, arising under the laws of the United States or the State of Arizona based upon water rights or injuries to water rights of the Tribe and its members or based upon water rights or injuries to water rights held by the United States on behalf of the Tribe and its members.

(d) RIGHTS RETAINED.—In the event the waivers of claims authorized in subsection (b) of this section do not become effective pursuant to section 112(a), the Tribe, and the United States on behalf of the Tribe, shall retain the right to assert past and future water rights claims as to all reservation lands.

(e) JURISDICTION.—The United States District Court for the District of Arizona shall have original jurisdiction of all actions arising under this title, the Settlement Agreement and the Water Service Agreement, including review pursuant to title 9, United States Code, of any arbitration and award under the Water Service Agreement.

(f) CLAIMS.—Nothing in this title shall be deemed to prohibit the Tribe, or the United States on behalf of the Tribe, from asserting or maintaining any claims for the breach or enforcement of the Settlement Agreement or the Water Service Agreement.

(g) DISCLAIMER.—Nothing in this title shall affect the water rights or claims related to any trust allotment located outside the exterior boundaries of the reservation of any member of the Tribe.

(h) FULL SATISFACTION OF CLAIMS.—Payments made to Prescott under this title shall be in full satisfaction for any claim that Prescott might have against the Secretary or the United States related to the allocation, reallocation, relinquishment or delivery of CAP water.

SEC. 111. MISCELLANEOUS PROVISIONS.

(a) JOINING OF PARTIES.—In the event any party to the Settlement Agreement should file a lawsuit in any United States district court relating only and directly to the interpretation or enforcement of the Settlement Agreement or this title, naming the United States of America or the Tribe as parties, authorization is hereby granted to join the United States of America or the Tribe, or both, in any such litigation, and any claim by the United States of America or the Tribe to sovereign immunity from such suit is hereby waived. In the event Prescott submits a dispute under the Water Service Agreement to arbitration or seeks review by the United States District Court for the District of Arizona of an arbitration award under the Water Service Agreement, any claim by the Tribe to sovereign immunity from such arbitration or review is hereby waived.

(b) NO REIMBURSEMENT.—The United States of America shall make no claims for reimbursement of costs arising out of the implementation of the Settlement Agreement or this title against any lands within the Yavapai-Prescott Indian Reservation, and no assessment shall be made with regard to such costs against such lands.

(c) WATER MANAGEMENT.—The Tribe shall establish a ground water management plan for the Reservation which, except to be consistent with the Water Service Agreement, the Settlement Agreement and this title, will be compatible with the ground water management plan in effect for the Prescott Active Management Area and will include an annual information exchange with the Arizona Department of Water Resources. In establishing a ground water management plan pursuant to this section, the Tribe may enter into a Memorandum of Understanding with the Arizona Department of Water Resources for consultation. Notwithstanding any other law, the Tribe may establish a tribal water code, consistent with the above-described water management plan, under which the Tribe will manage, regulate, and control the water resources granted it in the Settlement Act, the Settlement Agreement, and the Water Service Agreement, except that such management, regulation and control shall not authorize any action inconsistent with the trust ownership of the Tribe's water resources.

(d) GAUGING STATION.—The Secretary, acting through the Geological Survey, shall establish, maintain and operate a gauging station at the State Highway 89 bridge across Granite Creek adjacent to the reservation to assist the Tribe and the CVID in allocating the surface flows from Granite Creek as provided in the Settlement Agreement.

SEC. 112. EFFECTIVE DATE.

(a) WAIVERS AND RELEASES.—The waivers and releases required by section 110(b) of this title shall become effective as of the date the Secretary causes to be published in the Federal Register a statement of findings that—

(1)(A) the Secretary has determined that an acceptable party, or parties, have executed contracts for the assignments of the Tribe's CAP contract and the city of Prescott's CAP subcontract, and the proceeds from the assignments have been deposited into the Fund as provided in section 106(d); or,

(B) the Secretary has executed contracts for the acquisition of the Tribe's CAP contract and the city of Prescott's CAP subcontract as provided in section 106(d);

(2) the stipulation which is attached to the Settlement Agreement as exhibit 9.5, has been approved in substantially the form of such exhibit no later than December 31, 1995;

(3) the Settlement Agreement has been modified to the extent it is in conflict with this title and has been executed by the Secretary; and

(4) the State of Arizona has appropriated and deposited into the Tribe's trust account $200,000 as required by the Settlement Agreement.

(b) DEADLINE.—If the actions described in paragraphs (1), (2), (3), and (4) of subsection (a) have not occurred by December 31, 1995, any contract between Prescott and the United States entered into pursuant to section 106(d) shall not thereafter be effective, and any funds appropriated by the State of Arizona pursuant to the Settlement Agreement shall be returned by the Tribe to the State of Arizona.

SEC. 113. OTHER CLAIMS.

(a) OTHER TRIBES.—Nothing in the Settlement Agreement or this title shall be construed in any way to quantify or otherwise adversely affect the land and water rights, claims or entitlements to water of any Arizona Indian tribe, band or community, other than the Tribe.

(b) FEDERAL AGENCIES.—Nothing in this title shall be construed to affect the water rights or the water rights claims of any Federal agency, other than the Bureau of Indian Affairs on behalf of the Tribe.

TITLE II—AUBURN INDIAN RESORATION

SEC. 201. SHORT TITLE.

This title may be cited as the "Auburn Indian Restoration Act".

SEC. 202. RESTORATION OF FEDERAL RECOGNITION, RIGHTS, AND PRIVILEGES.

(a) FEDERAL RECOGNITION.—Notwithstanding any other provision of law, Federal recognition is hereby extended to the Tribe. Except as otherwise provided in this title, all laws and regulations of general application to Indians or nations, tribes, or bands of Indians that are not inconsistent with any specific provision of this title shall be applicable to the Tribe and its members.

(b) RESTORATION OF RIGHTS AND PRIVILEGES.—Except as provided in subsection (d), all rights and privileges of the Tribe and its members under any Federal treaty, Executive order, agreement, or statute, or under any other authority which were diminished or lost under the Act of August 18, 1958 (Public Law 85-671), are hereby restored and the provisions of such Act shall be inapplicable to the Tribe and its members after the date of enactment of this title.

(c) FEDERAL SERVICES AND BENEFITS.—Notwithstanding any other provision of law and without regard to the existence of a reservation, the Tribe and its members shall be eligible, on and after the date of enactment of this title, for all Federal services and benefits furnished to federally recognized Indian tribes or their members. In the case of Federal services available to members of federally recognized Indian tribes residing on a reservation, members of the Tribe residing in the Tribe's service area shall be deemed to be residing on a reservation.

(d) HUNTING, FISHING, TRAPPING, AND WATER RIGHTS.—Nothing in this title shall expand, reduce, or affect in any manner any hunting, fishing, trapping, gathering, or water right of the Tribe and its members.

(e) INDIAN REORGANIZATION ACT APPLICABILITY.—The Act of June 18, 1934 (25 U.S.C. 461 et seq.), shall be applicable to the Tribe and its members.

(f) CERTAIN RIGHTS NOT ALTERED.—Except as specifically provided in this title, nothing in this title shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes levied.

SEC. 203. ECONOMIC DEVELOPMENT.

(a) PLAN FOR ECONOMIC DEVELOPMENT.—The Secretary shall—

(1) enter into negotiations with the governing body of the Tribe with respect to establishing a plan for economic development for the Tribe;

(2) in accordance with this section and not later than 2 years after the adoption of a tribal constitution as provided in section 107, develop such a plan; and

(3) upon the approval of such plan by the governing body of the Tribe, submit such plan to the Congress.

(b) RESTRICTIONS.—Any proposed transfer of real property contained in the plan developed by the Secretary under subsection (a) shall be consistent with the requirements of section 104.

SEC. 204. TRANSFER OF LAND TO BE HELD IN TRUST.

(a) LANDS TO BE TAKEN IN TRUST.—The Secretary shall accept any real property located in Placer County, California, for the benefit of the Tribe if conveyed or otherwise transferred to the Secretary if, at the time of such conveyance or transfer, there are no adverse legal claims on such property, including outstanding liens, mortgages, or taxes owed. The Secretary may accept any additional acreage in the Tribe's service area pursuant to the authority of the Secretary under the Act of June 18, 1934 (25 U.S.C. 461 et seq.).

(b) FORMER TRUST LANDS OF THE AUBURN RANCHERIA.—Subject to the conditions specified in this section, real property eligible for trust status under this section shall include fee land held by the White Oak Ridge Association, Indian owned fee land held communally pursuant to the distribution plan prepared and approved by the Bureau of Indian Affairs on August 13, 1959, and Indian owned fee land held by persons listed as distributees or dependent members in such distribution plan or such distributees' or dependent members' Indian heirs or successors in interest.

(c) LANDS TO BE PART OF THE RESERVATION.—Subject to the conditions imposed by this section, any real property conveyed or transferred under this section shall be taken in the name of the United States in trust for the Tribe or, as applicable, an individual member of the Tribe, and shall be part of the Tribe's reservation.

SEC. 205. MEMBERSHIP ROLLS.

(a) COMPILATION OF TRIBAL MEMBERSHIP ROLL.—Within 1 year after the date of the enactment of this title, the Secretary shall, after consultation with the Tribe, compile a membership roll of the Tribe.

(b) CRITERIA FOR ENROLLMENTS.—(1) Until a tribal constitution is adopted pursuant to section 207, an individual shall be placed on the membership roll if the individual is living, is not an enrolled member of another federally recognized Indian tribe, is of United Auburn Indian Community ancestry, possesses at least one-eighth or more of Indian blood quantum, and if—

(A) the individual's name was listed on the Auburn Indian Rancheria distribution roll compiled and approved by the Bureau of Indian Affairs on August 13, 1959, pursuant to Public Law 85-671;

(B) the individual was not listed on, but met the requirements that had to be met to be listed on, the Auburn Indian Rancheria distribution list compiled and approved by the Bureau of Indian Affairs on August 13, 1959, pursuant to Public Law 85-671; or

(C) the individual is a lineal descendant of an individual, living or dead, identified in subparagraph (A) or (B).

(2) After adoption of a tribal constitution pursuant to section 207, such tribal constitution shall govern membership in the Tribe, except that in addition to meeting any other criteria imposed in such tribal constitution, any person added to the membership roll shall be of United Auburn Indian Community ancestry and shall not be an enrolled member of another federally recognized Indian tribe.

(c) CONCLUSIVE PROOF OF UNITED AUBURN INDIAN COMMUNITY ANCESTRY.—For the purpose of subsection (b), the Secretary shall accept any available evidence establishing United Auburn Indian Community ancestry. The Secretary shall accept as conclusive evidence of United Auburn Indian Community ancestry information contained in the Auburn Indian Rancheria distribution list compiled by the Bureau of Indian Affairs on August 13, 1959.

SEC. 206. INTERIM GOVERNMENT.

Until a new tribal constitution and bylaws are adopted and become effective under section 207, the Tribe's governing body shall be an Interim Council. The initial membership of the Interim Council shall consist of the members of the Executive Council of the Tribe on the date of the enactment of this title, and the Interim Council shall continue to operate in the manner prescribed for the Executive Council under the tribal constitution adopted July 20, 1991, as long as such constitution is not contrary to Federal law. Any new members filling vacancies on the Interim council shall meet the enrollment criteria set forth in section 205(b) and be elected in the same manner as are Executive Council members under the tribal constitution adopted July 20, 1991.

SEC. 207. TRIBAL CONSTITUTION.

(a) ELECTION; TIME AND PROCEDURE.—Upon the completion of the tribal membership roll under section 205(a) and upon the written request of the Interim Council, the Secretary shall conduct, by secret ballot, an election for the purpose of adopting a constitution and bylaws for the Tribe. The election shall be held according to section 16 of the Act of June 18, 1934 (25 U.S.C. 476), except that absentee balloting shall be permitted regardless of voter residence.

(b) ELECTION OF TRIBAL OFFICIALS; PROCEDURES.—Not later than 120 days after the Tribe adopts a constitution and bylaws under subsection (a), the Secretary shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in such tribal constitution. Such election shall be conducted according to the procedures specified in subsection (a) except to the extent that such procedures conflict with the tribal constitution.

SEC. 208. DEFINITIONS.

For purposes of this title:

(1) The term "Tribe" means the United Auburn Indian Community of the Auburn Rancheria of California.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Interim Council" means the governing body of the Tribe specified in section 206.

(4) The term "member" means those persons meeting the enrollment criteria under section 205(b).

(5) The term "State" means the State of California.

(6) The term "reservation" means those lands acquired and held in trust by the Secretary for the benefit of the Tribe pursuant to section 204.

(7) The term "service area" means the counties of Placer, Nevada, Yuba, Sutter, El Dorado, and Sacramento, in the State of California.

SEC. 209. REGULATIONS.

The Secretary may promulgate such regulations as may be necessary to carry out the provisions of this title.

TITLE III—CENTRAL UTAH PROJECT

SEC. 301. APPLICATION OF THE WARREN ACT.

(a) AUTHORITY.—The Secretary of the Interior may—

(1) enter into contracts with private entities pursuant to the Act of February 21, 1911 (commonly known as the "Warren Act") (36 Stat. 925 et seq., chapter 141; 43 U.S.C. 523 et seq.), for the impounding, storage, and carriage of nonproject water for domestic, municipal, fish and wildlife, industrial, and other beneficial purposes, using any facilities associated with the Central Utah Project, Utah; and

(2) enter into agreements, under terms and conditions authorized for contracts under such Act, with appropriate officials of other Federal agencies, municipalities, public water districts and agencies, and States for impounding, storage, and carriage of nonproject water for purposes described in paragraph (1) using facilities referred to in such paragraph.

(b) NONPROJECT WATER DEFINED.—In subsection (a), the term "nonproject water" means water that is not from a Federal Reclamation project.

SEC. 302. UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION.

Section 301(d) of Public Law 102-575 (106 Stat. 4626) is amended by adding the following new paragraph at the end:

"(8) Any employee of the District or member of the Board of Directors of the District may serve as a member of the Commission.".

TITLE IV—MOUNTAIN PARK PROJECT

SEC. 401. SHORT TITLE.

This title may be cited as the "Mountain Park Project Act of 1994".

SEC. 402. MODIFICATION OF MOUNTAIN PARK PROJECT.

(a) IN GENERAL.—The first section of the Act entitled "An Act to authorize the Secretary of the Interior to construct, operate, and maintain the Mountain Park reclamation project, Oklahoma, and for other purposes" (Public Law 90-503; 82 Stat. 853) is amended by striking out "and controlling floods." and inserting in lieu thereof "controlling floods, and environmental quality activities. As used in this Act, the term 'environmental quality activity' means any activity that primarily benefits the quality of natural environmental resources.".

(b) REALLOCATION OF PROJECT COSTS.—Such Act is further amended by adding at the end the following new section:

"SEC. 7. (a)(1) Not later than 180 days after the date of enactment of the Mountain Park Project Act of 1994, the Secretary of the Interior (referred to in this section as the 'Secretary') shall—

"(A) conduct appropriate investigations to determine environmental quality activities that could be carried out for the Mountain Park project; and

"(B) on the basis of the determination made under subparagraph (A), make an appropriate reallocation of the costs of the project under sections 2 and 3 (referred to in this section as 'project costs') to accommodate the environmental quality activities that the Secretary authorizes pursuant to this subsection.

"(2) In conducting investigations under this subsection, the Secretary shall examine the benefits to natural environmental resources achievable from an environmental quality activity that requires reallocating water or using facilities or land of the Mountain Park project, including any of the following activities:

"(A) Developing in-stream flows.

"(B) Developing wetland habitat.

"(C) Any other environmental quality activity that the Secretary determines to be appropriate to benefit the overall quality of the environment.

"(b)(1) Upon completion of the investigations under subsection (a)(2), the Secretary shall carry out the following:

"(A) The preparation of a proposed reallocation of project costs in conformance with subsection (a)(1)(B).

"(B) Negotiations with the Mountain Park Master Conservancy District (referred to in this section as the 'District') to amend the contract executed by the District pursuant to this Act to adjust the obligation of the District to repay project costs, as described in section 2, to reflect the reallocation of nonreimbursable project costs.

"(2) For the purposes of paragraph (1), project costs associated with an environmental quality activity specified by the Secretary pursuant to subsection (a)(2) shall be nonreimbursable project costs.

"(c)(1) Notwithstanding any other provision of this Act, the Secretary is authorized to accept prepayment of the repayment obligation of the District for the reimbursable construction costs of the project allocated to municipal and industrial water supply for the city of Altus, Oklahoma, the city of Frederick, Oklahoma, or the city of Snyder, Oklahoma (or any combination thereof), and, upon receipt of such prepayment, the District's obligation to the United States shall be reduced by the amount of such costs, and any security held therefor, shall be released by the Secretary.

"(2) Any prepayment made pursuant to subsection (c)(1) shall realize to the United States an amount calculated by discounting the remaining repayment obligation by the interest rate determined in accordance with subsection (d).

"(d)(1) The Secretary of the Treasury shall determine the interest rate in accordance with the guidelines set forth in Circular A-129 issued by the Office of Management and Budget and the Department of Treasury Financial Manual. In determining the interest rate, the Secretary shall consider the price of the District's obligation if it were to be sold on the open market to a third party.

"(2) If the District uses tax-exempt financing to finance a prepayment under subsection (c)(1), then the interest rate by which the Secretary discounts the remaining payments due on the District's obligation shall be adjusted by an amount that compensates the United States for the direct or indirect loss of future tax revenues.

"(e) Notwithstanding any payment made by the District pursuant to this section or pursuant to any contract with the Secretary, title to the project facilities shall remain with the United States.".

(c) REPEAL.—Section 3101 of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4698) is repealed.

TITLE V—SAN ANGELO FEDERAL RECLAMATION PROJECT

SEC. 501. INCREASE IN IRRIGABLE ACREAGE.

(a) IN GENERAL.—The first section of the Act entitled "An Act to provide for the construction by the Secretary of the Interior of the San Angelo Federal reclamation project, Texas, and for other purposes", approved August 16, 1957 (71 Stat. 372), is amended by striking "ten thousand acres" and inserting "fifteen thousand acres".

(b) AMENDMENT TO CONTRACT.—The Secretary of the Interior is authorized to amend contract numbered 14–06–500–369 to reflect the amendment made by subsection (a), except that such amendment shall not be construed to require a change in the proportionate amount of all remaining payments due and payable to the United States by Tom Green County Water Control Improvement District No. 1.

TITLE VI—SHOSHONE FEDERAL RECLAMATION PROJECT

SEC. 601. CONVEYANCE TO THE BIG HORN COUNTY SCHOOL DISTRICT.

The Secretary of the Interior shall convey, by quit claim deed, to the Big Horn County School District, Wyoming, all right, title, and interest of the United States in and to the following described lands in Big Horn County, Wyoming: Lot 18 of Block 22, Lots 1–6 of Block 25, all of Block 21, and all within the town of Frannie, Wyoming, in the S½NW¼NW¼ and N½SW¼NW¼ of T. 58N., R. 97 W., Big Horn County.

TITLE VII—LAKE POWELL

SEC. 701. ELIMINATION OF 24-HOUR RESTRICTION.

The second sentence of section 104(c) of the Reclamation Development Act of 1974 (Public Law 93–493; 88 Stat. 1488) is amended by striking "or three million gallons of water in any twenty-four-hour period,".

TITLE VIII—MNI WICONI RURAL WATER SUPPLY PROJECT

SEC. 801. SHORT TITLE.

This title may be cited as the "Mni Wiconi Act Amendments of 1994".

SEC. 802. REFERENCE.

Whenever in this title a section or other provision is amended or repealed, such amendment or repeal shall be considered to be made to that section or other provision of the Mni Wiconi Project Act of 1988 (102 Stat. 2566).

SEC. 803. FINDINGS AND PURPOSES.

(a) FINDINGS.—Subsection (a) of section 2 (102 Stat. 2566) is amended—

(1) in paragraph (1), by striking "Reservation" and inserting "Reservation, Rosebud Indian Reservation, and Lower Brule Indian Reservation";

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) the lack of water supplies on the Rosebud Reservation and Lower Brule Reservation restrict efforts to promote economic development on those reservations;";

(3) in paragraph (5), as redesignated by paragraph (2) of this subsection, by striking "Reservation;" and inserting "Reservation, Rosebud Indian Reservation, and Lower Brule Indian Reservation;"; and

(4) in paragraph (6), as redesignated by paragraph (2) of this subsection, by inserting "Rosebud Indian Reservation and Lower Brule Indian Reservation," after "Reservation,".

(b) PURPOSE.—Subsection (b) of section 2 (102 Stat. 2566) is amended by inserting ", Rosebud Indian Reservation, and Lower Brule Indian Reservation" after "Reservation" each place it appears.

SEC. 804. OGLALA SIOUX RURAL WATER SUPPLY SYSTEM.

(a) AUTHORIZATION.—Subsection (a) of section 3 (102 Stat. 2567) is amended—

(1) in the matter preceding paragraph (1), by striking "1988." and inserting "1988, and as more specifically described in the Final Engineering Report dated May, 1993."; and

(2) by amending paragraph (3) to read as follows:

"(3) facilities to allow for interconnections with the West River Rural Water System, Lyman-Jones Rural Water System, Rosebud Sioux Rural Water System, and Lower Brule Sioux Rural Water System;".

(b) CONSTRUCTION REQUIREMENTS.—Subsection (d) of such section (102 Stat. 2568) is amended—

(1) by striking "West River Rural Water System, and the Lyman-Jones Rural Water System,"; and by inserting "West River Rural Water System, the Lyman-Jones Rural Water System, the Rosebud Sioux Rural Water System, and the Lower Brule Sioux Rural Water System,"; and

(2) by striking "three systems" and inserting "five systems authorized under this Act".

(c) TITLE TO SYSTEM.—Subsection (e) of such section (102 Stat. 2568) is amended by inserting "or encumbered" after "transferred".

SEC. 805. WEST RIVER RURAL WATER SYSTEM AND LYMAN-JONES RURAL WATER SYSTEM.

Section 4(a) of the Act is amended—

(1) in paragraph (2), by striking out "65 per centum" and inserting in lieu thereof "80 percent"; and

(2) in paragraph (3), by striking out "35 per centum" and inserting in lieu thereof "20 percent".

SEC. 806. ROSEBUD SIOUX RURAL WATER SYSTEM AND LOWER BRULE SIOUX RURAL WATER SYSTEM.

The Act is amended by inserting after section 3 the following:

"SEC. 3A. ROSEBUD SIOUX RURAL WATER SYSTEM.

"(a) AUTHORIZATION.—The Secretary is authorized and directed to plan, design, construct, operate, maintain, and replace a municipal, rural, and industrial water system, to be known as the Rosebud Sioux Rural Water System, as generally described in the Rosebud Sioux Tribe Municipal, Rural and Industrial Water Needs Assessment, dated July 1993, and the Final Engineering Report for the Mni Wiconi Rural Water Supply Project dated May, 1993. The Rosebud Sioux Rural Water system shall consist of—

"(1) necessary pumping and treatment facilities;

"(2) pipelines extending from the points of interconnections with the Oglala Sioux Rural Water System to the Rosebud Indian Reservation;

"(3) facilities to allow for interconnections with the Lyman-Jones Rural Water Supply System;

"(4) distribution and treatment facilities to serve the needs of the Rosebud Indian Reservation, and other areas described in the Rosebud Sioux Tribe Municipal, Rural and Industrial Water Needs Assessment, dated July 1993, including (but not limited to) the purchase, improvement and repair of existing water systems, including systems owned by individual tribal members and other residents of the Rosebud Indian Reservation;

"(5) appurtenant buildings and property rights;

"(6) necessary property and property rights;

"(7) electrical power transmission and distribution facilities necessary for services to water systems facilities; and

"(8) such other pipelines, pumping plants, and facilities as the Secretary deems necessary and appropriate to meet the water supply, economic, public health, and environmental needs of the reservation, including (but not limited to) water storage tanks, water lines, and other facilities for the Rosebud Sioux Tribe and reservation villages, towns, and municipalities.

"(b) AGREEMENT WITH NON-FEDERAL ENTITY TO PLAN, DESIGN, CONSTRUCT, OPERATE AND MAINTAIN THE ROSEBUD SIOUX RURAL WATER SUPPLY SYSTEM.—

"(1) In carrying out subsection (a), the Secretary, with the concurrence of the Rosebud

Sioux Tribal Council, shall enter into cooperative agreements with the appropriate non-Federal entity or entities for planning, designing, constructing, operating, maintaining, and replacing the Rosebud Sioux Rural Water System.

"(2) Such cooperative agreements shall set forth, in a manner acceptable to the Secretary—

"(A) the responsibilities of the parties for needs assessment, feasibility, and environmental studies; engineering and design; construction; water conservation measures; and administration of any contracts with respect to this subparagraph;

"(B) the procedures and requirements for approval and acceptance of such design and construction; and

"(C) the rights, responsibilities, and liabilities of each party to the agreement.

"(3) Such cooperative agreements may include purchase, improvement, and repair of existing water systems, including systems owned by individual tribal members and other residents located on the Rosebud Indian Reservation.

"(4) The Secretary may unilaterally terminate any cooperative agreement entered into pursuant to this section if the Secretary determines that the quality of construction does not meet all standards established for similar facilities constructed by the Secretary or that the operation and maintenance of the system does not meet conditions acceptable to the Secretary for fulfilling the obligations of the United States to the Rosebud Sioux Tribe.

"(5) Upon execution of any cooperative agreement authorized under this section, the Secretary is authorized to transfer to the appropriate non-Federal entity, on a nonreimbursable basis, the funds authorized to be appropriated by section 10(a) for the Rosebud Sioux Rural Water System.

"(c) SERVICE AREA.—The service area of the Rosebud Sioux Rural Water System shall extend to all of Todd County, South Dakota, and to all other territory and lands generally described in the Rosebud Sioux Tribe Municipal, Rural and Industrial Water Needs Assessment, dated July 1993 and the Final Engineering Report for the Mni Wiconi Rural Water Supply Project dated May 1993.

"(d) CONSTRUCTION REQUIREMENTS.—The pumping plants, pipelines, treatment facilities, and other appurtenant facilities for the Rosebud Sioux Rural Water System shall be planned and constructed to a size sufficient to meet the municipal, rural and industrial water supply requirements of the Rosebud Sioux Tribe and the Lyman-Jones Rural Water System, as generally described in the Rosebud Sioux Tribe Municipal, Rural and Industrial Water Needs Assessment, dated July 1993, and the Final Engineering Report for the Mni Wiconi Rural Water Supply Project dated May, 1993, taking into account the effects of the conservation plans described in section 5. The Rosebud Rural Water System and Lyman-Jones Rural Water System may be interconnected and provided with water service from common facilities. Any joint costs associated with common facilities shall be allocated to the Rosebud Sioux Rural Water System.

"(e) TITLE TO SYSTEM.—Title to the Rosebud Sioux Rural Water System shall be held in trust for the Rosebud Sioux Tribe by the United States and shall not be transferred or encumbered without a subsequent Act of Congress.

"(f) TECHNICAL ASSISTANCE.—The Secretary is authorized and directed to provide such technical assistance as may be necessary to the Rosebud Sioux Tribe to plan, develop, construct, operate, maintain, and replace the Rosebud Sioux Rural Water System, including (but not limited to) operation and management training.

"(g) APPLICATION OF THE INDIAN SELF-DETERMINATION ACT.—Planning, design, construction, and operation of the Rosebud Sioux Rural Water System shall be subject to the provisions of the Indian Self-Determination Act (Public Law 93-638, 25 U.S.C. 450).

"SEC. 3B. LOWER BRULE SIOUX RURAL WATER SYSTEM.

"(a) AUTHORIZATION.—The Secretary is authorized and directed to plan, design, construct, operate, maintain, and replace a municipal, rural, and industrial water system, to be known as the Lower Brule Sioux Rural Water System, as generally described in the Final Engineering Report for the Mni Wiconi Rural Water Supply Project, dated May 1993. The Lower Brule Sioux Rural Water System shall consist of—

"(1) necessary pumping and treatment facilities;

"(2) pipelines extending from the points of interconnections with the Oglala Sioux Rural Water Supply System to the Lower Brule Indian Reservation;

"(3) facilities to allow for interconnections with the Lyman-Jones Rural Water Supply System;

"(4) distribution and treatment facilities to serve the needs of the Lower Brule Indian Reservation, including (but not limited to) the purchase, improvement and repair of existing water systems, including systems owned by individual tribal members and other residents of the Lower Brule Indian Reservation;

"(5) appurtenant buildings and property rights;

"(6) necessary property and property rights;

"(7) electrical power transmission and distribution facilities necessary for services to water systems facilities; and

"(8) such other pipelines, pumping plants, and facilities as the Secretary deems necessary and appropriate to meet the water supply, economic, public health, and environmental needs of the reservation, including (but not limited to) water storage tanks, water lines, and other facilities for the Lower Brule Sioux Tribe and reservation villages, towns and municipalities.

"(b) AGREEMENT WITH NON-FEDERAL ENTITY TO PLAN, DESIGN, CONSTRUCT, OPERATE AND MAINTAIN THE LOWER BRULE SIOUX RURAL WATER SUPPLY SYSTEM.—

"(1) In carrying out subsection (a), the Secretary, with the concurrence of the Lower Brule Sioux Tribal Council, shall enter into cooperative agreements with the appropriate non-Federal entity or entities for planning, designing, constructing, operating, maintaining, and replacing the Lower Brule Sioux Rural Water System.

"(2) Such cooperative agreements shall set forth, in a manner acceptable to the Secretary—

"(A) the responsibilities of the parties for needs assessment, feasibility, and environmental studies; engineering and design, construction; water conservation measures; and administration of any contracts with respect to this subparagraph;

"(B) the procedures and requirements for approval and acceptance of such design and construction; and

"(C) the rights, responsibilities, and liabilities of each party to the agreement.

"(3) Such cooperative agreements may include purchase, improvement, and repair of existing water systems, including systems owned by individual tribal members and other residents located on the Lower Brule Indian Reservation.

"(4) The Secretary may unilaterally terminate any cooperative agreement entered into pursuant to this section if the Secretary determines that the quality of construction does not meet all standards established for similar facilities constructed by the Secretary or that the operation and maintenance of the system does not meet conditions acceptable to the Secretary for fulfilling the obligations of the United States to the Lower Brule Sioux Tribe.

"(5) Upon execution of any cooperative agreement authorized under this section, the Secretary is authorized to transfer to the appropriate non-Federal entity, on a nonreimbursable basis, the funds authorized to be appropriated by section 10(a) for the Lower Brule Sioux Rural Water System.

"(c) SERVICE AREA.—The service area of the Lower Brule Sioux Rural Water System shall be the boundaries of the Lower Brule Indian Reservation.

"(d) CONSTRUCTION REQUIREMENTS.—The pumping plants, pipelines, treatment facilities, and other appurtenant facilities for the Lower Brule Sioux Rural Water System shall be planned and constructed to a size sufficient to meet the municipal, rural, and industrial water supply requirements of the Lower Brule Sioux Tribe and the Lyman-Jones Rural Water System, as generally described in the Final Engineering Report of the Mni Wiconi Rural Water Supply Project, dated May 1993, taking into account the effects of the conservation plans described in section 5. The Lower Brule Sioux Rural Water System and Lyman-Jones Rural Water System may be interconnected and provided with water service from common facilities. Any joint costs associated with common facilities shall be allocated to the Lower Brule Sioux Rural Water System.

"(e) TITLE TO SYSTEM.—Title to the Lower Brule Sioux Rural Water System shall be held in trust for the Lower Brule Sioux Tribe by the United States and shall not be transferred or encumbered without a subsequent Act of Congress.

"(f) TECHNICAL ASSISTANCE.—The Secretary is authorized and directed to provide such technical assistance as may be necessary to the Lower Brule Sioux Tribe to plan, develop, construct, operate, maintain, and replace the Lower Brule Sioux Rural Water System, including (but not limited to) operation and management training.

"(g) APPLICATION OF THE INDIAN SELF-DETERMINATION ACT.—Planning, design, construction, and operation of the Lower Brule Sioux Rural Water System shall be subject to the provisions of the Indian Self-Determination Act (Public Law 93-638, 25 U.S.C. 450).".

SEC. 807. WEST RIVER RURAL WATER SYSTEM AND LYMAN-JONES RURAL WATER SYSTEM.

(a) SERVICE AREA.—Subsection (d) of section 4 (102 Stat. 2569) is amended by striking the period at the end thereof and inserting ", and Final Engineering Report dated May 1993.".

(b) INTERCONNECTION OF FACILITIES AND WAIVER OF CHARGES.—Section 4 of the Act (102 Stat. 2568) is amended by redesignating subsection (f) as subsection (g) and inserting after subsection (e) the following new subsection:

"(f) INTERCONNECTION OF FACILITIES AND WAIVER OF CHARGES.—The Secretary is authorized to interconnect the Lyman-Jones

Rural Water System, and the West River Rural Water System, with each of the other systems authorized under this Act, and to provide for the delivery of water to the West River Rural Water System, and Lyman-Jones Rural Water System, without charge or cost, from the Missouri River and through common facilities of the Oglala Sioux Rural Water Supply System, Rosebud Rural Water System and Lower Brule Rural Water System.".

SEC. 808. WATER CONSERVATION.

Section 5 of the Act (102 Stat. 2570) is amended by striking "The non-Federal parties (including the Oglala Sioux Tribe)" and inserting "Each non-Federal party (including the Oglala Sioux Tribe, Rosebud Sioux Tribe, and Lower Brule Sioux Tribe)".

SEC. 809. MITIGATION OF FISH AND WILDLIFE LOSSES.

Section 6 of the Act (102 Stat. 2570) is amended—

(1) in subsection (a)—

(A) by inserting ", ROSEBUD SIOUX RURAL WATER SUPPLY SYSTEM, LOWER BRULE SIOUX RURAL WATER SUPPLY SYSTEM," after "SUPPLY SYSTEM"; and

(B) by inserting "Rosebud Sioux Rural Water Supply System, Lower Brule Sioux Rural Water Supply System," after "Supply System,"; and

(2) in subsection (b)—

(A) by inserting ", all Indian tribes residing on reservations within the State of South Dakota," after "South Dakota";

(B) by inserting "and terrestrial" after "wildlife";

(C) by striking "Such plans" and inserting "Such recommendations"; and

(D) by adding at the end the following: "The Indian tribes shall be afforded an opportunity to review and concur within any recommendations affecting their reservations before they are submitted to Congress.".

SEC. 810. PROHIBITION OF USE OF FUNDS FOR IRRIGATION PURPOSES.

Section 7 of the Act (102 Stat. 2570) is amended by striking "Supply System," and inserting "Supply System, the Rosebud Sioux Rural Water Supply System, the Lower Brule Rural Water Supply System,".

SEC. 811. RULE OF CONSTRUCTION.

Section 8 of the Act (102 Stat. 2570) is amended—

(1) by inserting ", Rosebud Sioux Tribe, and Lower Brule Sioux Tribe" after "Tribe"; and

(2) by striking "or construct" and inserting "construct, maintain, or replace".

SEC. 812. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—Subsection (a) of section 9 (102 Stat. 2570) is amended by striking "sections 3" and inserting "sections 3, 3A, 3B,".

(b) DEFINITIONS.—Subsection (e)(1) of section 9 (102 Stat. 2571) is amended by striking "Supply System," and inserting "Supply System, the Rosebud Sioux Rural Water Supply System, the Lower Brule Sioux Rural Water Supply System,".

SEC. 813. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the Act (102 Stat. 2571) is amended to read as follows:

"SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

"(a) PLANNING, DESIGN, AND CONSTRUCTION.—There are authorized to be appropriated $263,241,000 for the planning, design, and construction of the Oglala Sioux Rural Water Supply System, the Rosebud Sioux Rural Water Supply System, the Lower Brule Sioux Rural Water Supply System, the West River Rural Water Supply System, and the Lyman-Jones Rural Water Supply System described in sections 3, 3A, 3B, and 4. Such funds are authorized to be appropriated only through the end of the year 2003. The funds authorized to be appropriated by the first sentence of this section, less any amounts previously obligated for the Systems, may be increased or decreased by such amounts as may be justified by reason of ordinary fluctuations in development costs incurred after October 1, 1992, as indicated by engineering costs indices applicable for the type of construction involved.

"(b) OPERATION AND MAINTENANCE OF OGLALA SIOUX RURAL WATER SUPPLY SYSTEM, ROSEBUD SIOUX RURAL WATER SUPPLY SYSTEM AND LOWER BRULE SIOUX RURAL WATER SUPPLY SYSTEM.—There are authorized to be appropriated such sums as may be necessary for the operation and maintenance of the Oglala Sioux Rural Water Supply System, Rosebud Sioux Rural Water Supply System and Lower Brule Sioux Rural Water Supply System. The operation and maintenance expenses associated with water deliveries to the West River and Lyman-Jones Rural Water Systems are a non-Federal responsibility and for such deliveries the Secretary shall enter into a contract with the West River and Lyman-Jones Systems for the payment of an annual operation and maintenance fee. Such fee shall be based on the incremental operation and maintenance costs for water actually delivered each year to the West River and Lyman-Jones Rural Water Systems. Such operation and maintenance payments shall be increased or decreased by such amounts as may be justified by reason of ordinary fluctuations as indicated by indices applicable to comparable regional rural water supply systems for the type of operation and maintenance involved.

"(c) WASTE WATER DISPOSAL SYSTEMS FEASIBILITY STUDIES.—There is authorized to be appropriated such sums as may be necessary to complete the feasibility studies authorized by section 15(c).".

SEC. 814. WATER RIGHTS.

Paragraph (5) of section 11 (102 Stat. 2571) is amended—

(1) by inserting "rights, benefits, privileges or claims, including" after "affect any";

(2) by inserting "Rosebud Sioux Tribe and Lower Brule Sioux Tribe," after "Tribe," the first place it appears;

(3) by striking "the Pine Ridge Indian Reservation" and inserting "their respective reservations"; and

(4) by striking "Tribe," the second place it appears and inserting "Tribe, Rosebud Sioux Tribe, Lower Brule Sioux Tribe,".

SEC. 815. FEASIBILITY STUDIES.

(a) ALTERNATE USES.—Section 3 of Public Law 97-273, as amended by section 12(b) of Public Law 100-516 (102 Stat. 2572), is amended by striking "Dakota," and inserting "Dakota and all Indian tribes residing on reservations within the State of South Dakota,".

(b) WASTE WATER DISPOSAL SYSTEMS.—Section 12 of the Act (102 Stat. 2572) is amended by adding at the end the following:

"(c) WASTE WATER DISPOSAL SYSTEMS.—(1) The Secretary is authorized and directed, in consultation with the Oglala Sioux Tribe, Rosebud Sioux Tribe and Lower Brule Sioux Tribe, to conduct feasibility studies on the need to develop waste water disposal facilities and systems, and rehabilitate existing waste water disposal facilities and systems, on the Pine Ridge Indian Reservation, Rosebud Indian Reservation and Lower Brule Indian Reservation, and to report to the Congress the findings of such studies along with his recommendations.

"(2) The feasibility studies authorized under this subsection shall be completed and presented to Congress within one year after the date that funds are first made available by the Secretary to complete the studies.".

TITLE IX—BELLE FOURCHE IRRIGATION PROJECT

SEC. 901. EXPANSION OF BELLE FOURCHE IRRIGATION PROJECT.

(a) AUTHORIZATION OF ADDITIONAL ACTIVITIES.—The Act entitled "An Act to authorize rehabilitation of the Belle Fourche irrigation project, and for other purposes." (Public Law 98-157, 97 Stat. 989) is amended in the first section—

(1) by striking "That the general" and inserting in lieu thereof, so as to appear immediately after and below the enacting clause, the following:

"SECTION 1. (a) The general plan for"; and

(2) by adding at the end the following:

"(b)(1) In addition to the activities authorized under subsection (a), the general plan for the Belle Fourche project is modified to include the following:

"(A) Rehabilitation of the following major water control structures:

"(i) The Whitewood Siphon.

"(ii) 2 Belle Fourche dam outlets.

"(B) Lining at South Canal and rehabilitation of Johnson Lateral for water conservation.

"(C) Replacement or rehabilitation of deteriorated canal bridges.

"(D) Provision of minor lateral rehabilitation and contract support work by the Belle Fourche irrigation district.

"(E) Conduct of a detailed study of project-wide water use management and implementation of improved management practices for the purpose of achieving optimal conservation of water supplies.

"(2) The Federal share of the cost of activities under this subsection may not exceed $10,500,000. The State share of those costs may not exceed $4,000,000, and shall be paid concurrently with Federal expenditures for activities under this subsection.".

(b) EXTENSION OF REPAYMENT PERIOD.—Section 2(b) of that Act is amended by striking "the year in which such amendatory repayment contract is executed" and inserting "July 1, 1995".

(c) APPLICABLE RATES OF CHARGE AND ASSESSABLE ACREAGE.—Section 2(c) of that Act is amended to read as follows:

"(c)(1) Before July 1, 1995, the rates of charge to land class in the unit shall continue to be as established in the November 29, 1949, repayment contract with the district, as subsequently amended and supplemented. On and after July 1, 1995, such rates of charge and assessable acreage shall, subject to subsection (d), be in accordance with the amortization capacity and classification of unit lands as then determined by the Secretary.

"(2) After final completion of the rehabilitation and betterment program authorized by this Act, and at intervals agreed to by the Secretary and the Belle Fourche irrigation district, the rates of charge and assessable acreage may be amended as determined necessary by the Secretary.".

(d) AUTHORIZATION OF APPROPRIATION.—Section 7 of that Act is amended—

(1) by inserting "(a)" after "SEC. 7."; and

(2) by adding at the end the following:

"(b) In addition to amounts authorized under subsection (a), for activities under section 1(b) there are authorized to be appropriated $10,500,000, plus or minus such amounts (if any) as may be justified by reason of ordinary fluctuations in construction cost indexes applicable to types of construction conducted under that section.".

(e) AMENDMENT OF CONTRACT.—The Secretary of the Interior and the Belle Fourche irrigation district shall amend the contract numbered 5-07-60-WR170 to reflect the amendments made by this section.

TITLE X—UPPER YAMPA WATER CONSERVANCY PROJECT

SEC. 1001. SHORT TITLE.

This title may be cited as the "Stagecoach Reservoir Project Act of 1994".

SEC. 1002. SALE OF THE STAGECOACH RESERVOIR PROJECT LOAN.

(a) AGREEMENT.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall conduct appropriate investigations regarding, and is authorized to sell, or accept prepayment on, the loan contract described in paragraph (2) to the Upper Yampa Water Conservancy District in Colorado (referred to in this title as the "District") for the Stagecoach Reservoir Project.

(2) LOAN CONTRACT.—The loan contract described in paragraph (1) is numbered 7-07-40-R0480 and was entered into pursuant to the Small Reclamation Projects Act of 1956 (43 U.S.C. 422a et seq.).

(b) PAYMENT.—Any agreement negotiated pursuant to subsection (a) shall realize an amount to the Federal Government calculated by discounting the remaining payments due on the loans by the interest rate determined pursuant to subsection (c).

(c) INTEREST RATE.—

(1) IN GENERAL.—The Secretary shall determine the interest rate in accordance with the guidelines set forth in Circular A-129 issued by the Office of Management and Budget concerning loan sales and prepayment of loans.

(2) DETERMINATION.—In determining the interest rate, the Secretary—

(A) shall not equate an appropriate amount of prepayment with the price of the loan if it were to be sold on the open market to a third party; and

(B) shall, in following the guidelines set forth in Circular A-129 regarding an allowance for administrative expenses and possible losses, make such an allowance from the perspective of the Federal Government as lender and not from the perspective of a third party purchasing the loan on the open market.

(3) ADJUSTMENT.—If the borrower or purchaser of the loan has access to tax-exempt financing, including tax-exempt bonds, tax-exempt cash reserves, and cash and loans of any kind from any tax-exempt entity, to finance the transaction, and if the Office of Management and Budget grants the Secretary the right to conduct such a transaction, then the interest rate by which the Secretary discounts the remaining payments due on the loan shall be adjusted by an amount that compensates the Federal Government for the direct or indirect loss of future tax revenues.

(4) LIMITATION.—Notwithstanding any other provision of law, the interest rate shall not exceed a composite interest rate consisting of the current market yield on Treasury securities of comparable maturities.

(5) APPROVAL.—The Secretary shall obtain approval from the Secretary of the Treasury and the Director of the Office of Management and Budget of the final terms of any loan sale or prepayment made pursuant to this title.

SEC. 1003. TERMINATION AND CONVEYANCE OF RIGHTS.

Upon receipt of the payment specified in section 1002(b)—

(1) the obligation of the District under the loan contract described in section 1002(a)(2) shall terminate;

(2) the Secretary of the Interior shall convey all right and interest of the United States in the Stagecoach Reservoir Project to the District; and

(3) the District shall absolve the United States, and its officers and agents, of any liability associated with the Stagecoach Reservoir Project.

SEC. 1004. TERMINATION OF AUTHORITY.

(a) IN GENERAL.—Subject to subsection (b), the authority granted by this title to sell loans shall terminate 2 years after the date of enactment of this Act.

(b) TIME TO RESPOND TO OFFER.—The borrower shall have not less than 60 days to respond to any prepayment offer made by the Secretary.

TITLE XI—MANCOS PROJECT

SEC. 1101. SHORT TITLE.

This title may be cited as the "Mancos Project Private Power Development Authorization Act of 1994".

SEC. 1102. FINDINGS.

Congress finds that—

(a) development of hydroelectric power at the Mancos Project consistent with the Feasibility Report and Engineering and Construction Report for the Jackson Gulch Reservoir Hydroelectric Project dated April 19, 1991, and revised on May 13, 1992, and February 10, 1993, by the Mancos Water Conservancy District—

(1) will be without cost to the United States;

(2) will not impair the efficiency of the project for irrigation purposes;

(3) will not alter the volume, timing or temperatures of flows from the reservoir; and

(4) is not likely to cause any new or increased adverse impacts to any federally listed or candidate species;

(b) That the Mancos Water Conservancy District is currently operating and maintaining facilities at the Mancos Project and that the development of hydroelectric power at the Mancos Project consistent with the Feasibility Report and Engineering and Construction Report for the Jackson Gulch Reservoir Hydroelectric Project dated April 19, 1991, revised on May 13, 1992, and February 10, 1993, by the Mancos Water Conservancy District will not increase operation and maintenance costs of the Federal Government; and

(c) That any lease of power privileges issued by the Secretary pursuant to this title does not constitute a "contract" under section 202(1) of Public Law 97-293 (96 Stat. 1261; 43 U.S.C. section 390bb) and that nothing in this title is intended to make applicable any section of Public Law 97-293 (96 Stat. 1261; 43 U.S.C. section 390aa et. seq.) that would not previously apply.

SEC. 1103. AUTHORIZATION TO LEASE POWER PRIVILEGES.

Notwithstanding the provisions of the Water Conservation and Utilization Act (16 U.S.C. sections 590y-590z-11) or any relevant provision of the repayment contract Ilr-384, dated July 20, 1942, as amended December 22, 1947, the Secretary is authorized to enter into a lease of power privileges at the Mancos Project, Colorado, with the Mancos Water Conservancy District.

SEC. 1104. LEASE CONDITIONS.

Any such lease of power privileges issued pursuant to section 1103 of this title shall not exceed a period of forty years and shall be consistent with rates charged by the Federal Energy Regulatory Commission for comparable sized projects. Moneys derived from such lease shall be covered into the reclamation fund in accordance with relevant parts of Federal reclamation law, the Act of June 17, 1902, and Acts supplementary thereto and amendatory thereof (43 U.S.C. 371).

SEC. 1105. REVENUES DERIVED FROM POWER DEVELOPMENT.

Notwithstanding the provisions of the Water Conservation and Utilization Act (16 U.S.C. sections 590y-590z-11) or any relevant provision of the repayment contract Ilr-384, dated July 20, 1942, as amended December 22, 1947, the Mancos Water Conservancy District may receive revenues from the sale of the power generated pursuant to such lease of power privilege.

TITLE XII—YAKIMA RIVER BASIN WATER ENHANCEMENT PROJECT

SEC. 1201. PURPOSES.

The purposes of this title are—

(1) to protect, mitigate, and enhance fish and wildlife through improved water management; improved instream flows; improved water quality; protection, creation and enhancement of wetlands; and by other appropriate means of habitat improvement;

(2) to improve the reliability of water supply for irrigation;

(3) to authorize a Yakima River basin water conservation program that will improve the efficiency of water delivery and use; enhance basin water supplies; improve water quality; protect, create and enhance wetlands; and determine the amount of basin water needs that can be met by water conservation measures;

(4) to realize sufficient water savings from the Yakima River Basin Water Conservation Program so that not less than 40,000 acre-feet of water savings per year are achieved by the end of the fourth year of the Basin Conservation Program, and not less than 110,000 acre-feet of water savings per year are achieved by the end of the eighth year of the program, to protect and enhance fish and wildlife resources; and not less than 55,000 acre feet of water savings per year are achieved by the end of the eighth year of the program for availability for irrigation;

(5) to encourage voluntary transactions among public and private entities which result in the implementation of water conservation measures, practices, and facilities; and

(6) to provide for the implementation by the Yakama Indian Nation at its sole discretion of (A) an irrigation demonstration project on the Yakama Indian Reservation using water savings from system improvements to the Wapato Irrigation Project, and (B) a Toppenish Creek corridor enhancement project integrating agricultural, fish, wildlife, and cultural resources.

SEC. 1202. DEFINITIONS.

As used in this title:

(1) The term "Basin Conservation Plan" means a plan for implementing water conservation measures found in the various water conservation plans developed under the Basin Conservation Program.

(2) The term "Basin Conservation Program" means the Yakima River Basin Water Conservation Program established under section 1203(a).

(3) The term "comprehensive basin operating plan" means a plan that will provide guidance to the Yakima Project Superintendent for operation of the existing Yakima Project as modified by actions taken pursuant to this title.

(4) The term "Conservation Advisory Group" means the Yakima River Basin Conservation Advisory Group established under section 1203(c).

(5) The term "conserved water" means water saved and attributable to the program established under the Basin Conservation Program.

(6) The term "Irrigation Demonstration Project" means the Yakama Indian Reservation Irrigation Demonstration Project authorized in section 1204(b).

(7) The term "nonproratable water" means that portion of the total water supply available under provisions of sections 18 and 19 of Civil Action No. 21 (Federal District Court Judgment of January 31, 1945) that is not subject to proration in times of water shortage.

(8) The term "on-district storage" means small water storage facilities located within the boundaries of an irrigation entity, including reregulating reservoirs, holding ponds, or other new storage methods which allow for efficient water use.

(9) The term "proratable water" means that portion of the total water supply available under provisions of sections 18 and 19 of Civil Action No. 21 (Federal District Court Judgment of January 31, 1945) that is subject to proration in times of water shortage.

(10) The term "Secretary" means the Secretary of the Interior.

(11) The term "System Operations Advisory Committee" means a group of fishery biologists—

(A) created by the Yakima Project Superintendent in response to the supplemental instructions entitled "Supplementary Instructions to the Water Master", and dated November 28, 1980, in the case of Kittitass Reclamation District, et al. vs. the Sunnyside Valley Irrigation District, et al. (E.D. Wash., Civil No. 21.);

(B) who advise the Yakima Project Superintendent on operations of the Yakima Project for fish and wildlife purposes; and

(C) who, together with others, were identified for consultation on November 29, 1990, in the amended partial summary judgment entered in the basin adjudication (Yakima County Superior Court No. 77-2-01484-5).

(12) The term "Toppenish Enhancement Project" means the Toppenish Creek corridor enhancement project authorized by section 1204(c).

(13) The term "Yakama Indian Nation" means the Confederated Tribes and Bands of the Yakama Indian Nation as redesignated under section 1204(g).

(14) The term "Yakima Project Superintendent" means the individual designated by the Regional Director, Pacific Northwest Region, Bureau of Reclamation, to be responsible for the operation and management of the Yakima Federal Reclamation Project, Washington.

SEC. 1203. YAKIMA RIVER BASIN WATER CONSERVATION PROGRAM.

(a) ESTABLISHMENT.—(1) The Secretary, in consultation with the State of Washington, the Yakama Indian Nation, Yakima River basin irrigators, and other interested parties, shall establish and administer a Yakima River Basin Water Conservation Program for the purpose of evaluating and implementing measures to improve the availability of water supplies for irrigation and the protection and enhancement of fish and wildlife resources, including wetlands, while improving the quality of water in the Yakima Basin. The Secretary may make grants to eligible entities for the purposes of carrying out this title under such terms and conditions as the Secretary may require. Such terms and conditions shall include a requirement that all water districts, irrigation districts, individuals, or other entities eligible to participate in the Basin Conservation Program must equip all surface water delivery systems within their boundaries with volumetric water meters or equally effective water measuring methods within 5 years of the date of enactment of this Act.

(2) Conserved water resulting in whole or in part from the expenditure of Federal funds shall not be used to expand irrigation in the Yakima Basin, except as specifically provided in section 1204(a)(3) on the Yakama Indian Reservation.

(3) The provisions of this section shall not apply to the Yakama Indian Nation except as to any funds specifically applied for from the Basin Conservation Program.

(b) FOUR PHASES OF PROGRAM.—The Basin Conservation Program shall encourage and provide funding assistance for four phases of water conservation, which shall consist of the following:

(1) The development of water conservation plans, consistent with applicable water conservation guidelines of the Secretary, by irrigation districts, conservation districts, water purveyors, other areawide entities, and individuals not included within an areawide entity.

(2) The investigation of the feasibility of specific potential water conservation measures identified in conservation plans.

(3) The implementation of measures that have been identified in conservation plans and have been determined to be feasible.

(4) Post implementation monitoring and evaluation of implemented measures.

(c) CONSERVATION ADVISORY GROUP.—(1) Not later than 12 months after the date of enactment of this Act, the Secretary, in consultation with the State of Washington, the Yakama Indian Nation, Yakima River basin irrigators, and other interested and related parties, shall establish the Yakima River Basin Conservation Advisory Group.

(2) Members of the Conservation Advisory Group shall be appointed by the Secretary and shall be comprised of—

(A) one representative of the Yakima River basin nonproratable irrigators,

(B) one representative of the Yakima River basin proratable irrigators,

(C) one representative of the Yakama Indian Nation,

(D) one representative of environmental interests,

(E) one representative of the Washington State University Agricultural Extension Service,

(F) one representative of the Department of Wildlife of the State of Washington, and

(G) one individual who shall serve as the facilitator.

(3) The Conservation Advisory Group shall—

(A) provide recommendations to the Secretary and to the State of Washington regarding the structure and implementation of the Basin Conservation Program,

(B) provide recommendations to the Secretary and to the State of Washington regarding the establishment of a permanent program for the measurement and reporting of all natural flow and contract diversions within the basin.

(C) structure a process to prepare a basin conservation plan as specified in subsection (f),

(D) provide annual review of the implementation of the applicable water conservation guidelines of the Secretary, and

(E) provide recommendations consistent with statutes of the State of Washington on rules, regulations, and administration of a process to facilitate the voluntary sale or lease of water.

(4) The facilitator shall arrange for meetings of the Conservation Advisory Group, provide logistical support, and serve as moderator for the meetings.

(5) The Conservation Advisory Group shall consult an irrigation district when considering actions specifically affecting that district. For the purposes of this paragraph, an irrigation district includes the Yakima Reservation Irrigation District.

(6) The Conservation Advisory Group shall be nonvoting, seeking consensus whenever possible. If disagreement occurs, any member may submit independent comments to the Secretary. The Conservation Advisory Group shall terminate 5 years after the date of its establishment unless extended by the Secretary.

(d) COST SHARING.—(1) Except as otherwise provided by this title, costs incurred in the four phases of the Basin Conservation Program shall be shared as follows:

Program Phase	Non-Federal		Federal Grant
	State Grant	Local	
1. Development of water conservation plans	50% but not more than $200,000 per recipient	(Residual amount if any)	50%
2. Investigation of specific water conservation measures	50% but sum of 1 and 2 not greater than $200,000 per recipient	20% after deducting State funds for Item 2	Residual amount after deducting State and local funds for Item 2
3 and 4. Implementation and post implementation monitoring and evaluation	17.5%	17.5%	65.0%

(2) The Yakima River Basin Water Enhancement Project is a Federal action to improve streamflow and fish passage conditions and shall be considered part of a comprehensive program to restore the Yakima River basin anadromous fishery resource. Related fishery resource improvement facilities which utilize funding sources under the Pacific Northwest Electric Power Planning and Conservation Act of 1989 (94 Stat. 2697) and independent water-related improvements of the State of Washington and other public and private entities to improve irrigation water use, water supply, and water quality, shall be treated as non-Federal cost share expenditures and shall be consolidated in any final calculation of required cost sharing. Within one year of the date of enactment of this Act, the Secretary shall enter into a binding cost sharing agreement with the State of Washington. The agreement shall describe the terms and conditions of specific contributions and other activities that may,

subject to approval by the Secretary, qualify as non-Federal cost share expenditures.

(3) Costs of the Basin Conservation Program related to projects on the Yakama Indian Reservation are a Federal responsibility and shall be nonreimbursable and not subject to the cost-sharing provisions of this subsection.

(e) ENTITY WATER CONSERVATION PLANS.—To participate in the Conservation Basin Program an entity must submit a proposed water conservation plan to the Secretary. The Secretary shall approve a water conservation plan submitted under this subsection if the Secretary determines that the plan meets the applicable water conservation guidelines of the Secretary.

(f) BASIN CONSERVATION PLAN.—The Conservation Advisory Group shall, within 2½ years after the date of enactment of this Act, submit a draft basin conservation plan to the Secretary.

(g) PUBLIC COMMENT.—The Secretary shall distribute the draft basin conservation plan and the entity water conservation plans submitted under subsections (e) and (f), respectively, for public comment for a 60-day period.

(h) PUBLICATION OF BASIN CONSERVATION PLAN.—Within 60 days after the close of the comment period under subsection (g), the Secretary shall publish the Basin Conservation Plan which plan will provide the basis—

(1) for prioritizing and allocating funds to implement conservation measures under this title; and

(2) for preparing an interim comprehensive basin operating plan under section 1210 of this title as provided for in Public Law 96-162 (93 Stat. 1241).

(i) CONSERVATION MEASURES.—(1) Measures considered for implementation in the Basin Conservation Program may include, among others, conveyance and distribution system monitoring, automation of water conveyance systems, water measuring or metering devices and equipment, lining and piping of water conveyance and distribution systems, on-district storage, electrification of hydraulic turbines, tail-water recycling, consolidation of irrigation systems, irrigation scheduling, and improvement of on-farm water application systems. Basin Conservation Program funds may also be used throughout all four phases of the Basin Conservation Program to mitigate for adverse impacts of program measures.

(2) In addition to implementing existing technologies, the Secretary shall encourage the testing of innovative water conservation measures. The Secretary shall, to the maximum extent possible under applicable Federal, State, and tribal law, cooperate with the State of Washington to facilitate water and water right transfers, water banking, dry year options, the sale and leasing of water, and other innovative allocation tools used to maximize the utility of existing Yakima River basin water supplies.

(3) The Secretary may, consistent with applicable law, use funds appropriated to carry out this section for the purchase or lease of land, water, or water rights from any entity or individual willing to limit or forego water use on a temporary or permanent basis. Funds used for purchase or lease under this paragraph are not subject to the cost sharing provisions of subsection (d). Efforts to acquire water should be made immediately upon availability of funds to meet the three-year goal specified in section 1205(a)(4) to provide water to be used by the Yakima Project Superintendent under the advisement of the System Operations Advisory Committee for instream flow purposes. The use of Basin Conservation Program funds under this paragraph are in addition to those specifically authorized to be appropriated by subsection (j)(4).

(4) On-farm water management improvements shall be coordinated with programs administered by the Secretary of Agriculture and State conservation districts.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated to the Secretary, at September 1990 prices, plus or minus such amounts as may be justified by reason of ordinary fluctuations of applicable cost indexes, the following amounts for the Basin Conservation Program:

(1) $1,000,000 for the development of water conservation plans.

(2) $4,000,000 for investigation of specific potential water conservation measures identified in conservation plans for consideration for implementing through the Basin Conservation Program.

(3) Up to $67,500,000 for design, implementation, post-implementation monitoring and evaluation of measures, and addressing environmental impacts.

(4) Up to $10,000,000 for the initial acquisition of water from willing sellers or lessors specifically to provide instream flows for interim periods to facilitate the outward migration of anadromous fish flushing flows. Such funds shall not be subject to the cost sharing provisions of subsection (d).

(5) $100,000 annually for the establishment and support of the Conservation Advisory Group during its duration. Such funds shall be available for travel and per diem, rental of meeting rooms, typing, printing and mailing, and associated administrative needs. The Secretary and the State of Washington shall provide appropriate staff support to the Conservation Advisory Group.

SEC. 1204. YAKAMA INDIAN NATION.

(a) WAPATO IRRIGATION PROJECT IMPROVEMENTS AND APPROPRIATIONS.—(1) The Yakama Indian Nation's proposed system improvements to the Wapato Irrigation Project, as well as the design, construction, operation, and maintenance of the Irrigation Demonstration Project and the Toppenish Creek corridor enhancement project, pursuant to this title shall be coordinated with the Bureau of Indian Affairs.

(2) There is authorized to be appropriated to the Secretary not more than $23,000,000 for the preparation of plans, investigation of measures, and following the Secretary's certification that such measures are consistent with the water conservation objectives of this title, the implementation of system improvements to the Wapato Irrigation Project. Funding for further improvements within the Wapato Irrigation Project may be acquired under the Basin Conservation Program or other sources identified by the Yakama Indian Nation.

(3) Water savings resulting from irrigation system improvements shall be available for the use of the Yakama Indian Nation for irrigation and other purposes on the reservation and for protection and enhancement of fish and wildlife within the Yakima River basin. The conveyance of such water through irrigation facilities other than the Wapato Irrigation Project shall be on a voluntary basis and shall not further diminish the amount of water that otherwise would have been delivered by an entity to its water users in years of water proration.

(b) IRRIGATION DEMONSTRATION PROJECT APPROPRIATIONS.—(1)(A) There is hereby authorized to be appropriated to the Secretary—

(i) at September 1990 prices, plus or minus such amounts as may be justified by reason of ordinary fluctuations of applicable cost indexes, $8,500,000 for the design and construction of the Yakama Indian Reservation Irrigation Demonstration Project; and

(ii) such sums as may be necessary for the operation and maintenance of the Irrigation Demonstration Project, including funds for administration, training, equipment, materials, and supplies for the period specified by the Secretary, which sums are in addition to operation and maintenance funds for wildlife and cultural purposes appropriated to the Secretary under other authorization.

(B) Funds may not be made available under this subsection until the Yakama Indian Nation obtains the concurrence of the Secretary in the construction, management, and administrative aspects of the Irrigation Demonstration Project.

(C) After the end of the period specified under subparagraph (A)(ii), costs for the operation and maintenance of the Irrigation Demonstration Project, including funds for administration, training, equipment, materials, and supplies referred to in that subparagraph, shall be borne exclusively by the lands directly benefitting from the Irrigation Demonstration Project.

(2) The Irrigation Demonstration Project shall provide for the construction of distribution and on-farm irrigation facilities to use all or a portion of the water savings, as determined by the Yakama Indian Nation, resulting from the Wapato Irrigation Project system improvements for—

(A) demonstrating cost-effective state of the art irrigation water management and conservation,

(B) the training of tribal members in irrigation methods, operation, and management, and

(C) upgrading existing hydroelectric facilities and construction of additional hydroelectric facilities on the reservation to meet irrigation pumping power needs.

(c) TOPPENISH CREEK CORRIDOR ENHANCEMENT PROJECT APPROPRIATIONS.—There is hereby authorized to be appropriated to the Secretary $1,500,000 for the further investigation by the Yakama Indian Nation of measures to develop a Toppenish Creek corridor enhancement project to demonstrate integration of management of agricultural, fish, wildlife, and cultural resources to meet tribal objectives and such amount as the Secretary subsequently determines is necessary for implementation. There is also authorized to be appropriated to the Secretary such sums as may be necessary for the operation and maintenance of the Toppenish Enhancement Project.

(d) REPORT.—Within 5 years of the implementation of the Irrigation Demonstration Project and the Toppenish Enhancement Project, the Secretary, in consultation with the Yakama Indian Nation, shall report to the Committee on Energy and Natural Resources of the Senate, the Committee on Natural Resources of the House of Representatives, and the Governor of the State of Washington on the effectiveness of the conservation, training, mitigation, and other measures implemented.

(e) STATUS OF IMPROVEMENTS AND FACILITIES.—The Wapato Irrigation Project system improvements and any specific irrigation facility of the Irrigation Demonstration Project (excluding on-farm irrigation facilities) and the Toppenish Enhancement Project shall become features of the Wapato Irrigation Project.

(f) TREATMENT OF CERTAIN COSTS.—Costs related to Wapato Irrigation Project improvements, the Irrigation Demonstration

Project, and the Toppenish Enhancement Project shall be a Federal responsibility and are nonreimbursable and nonreturnable.

(g) REDESIGNATION OF YAKIMA INDIAN NATION TO YAKAMA INDIAN NATION.—

(1) REDESIGNATION.—The Confederated Tribes and Bands of the Yakima Indian Nation shall be known and designated as the "Confederated Tribes and Bands of the Yakama Indian Nation".

(2) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Confederated Tribes and Bands of the Yakima Indian Nation referred to in subsection (a) shall be deemed to be a reference to the "Confederated Tribes and Bands of the Yakama Indian Nation".

SEC. 1205. OPERATION OF YAKIMA BASIN PROJECTS.

(a) WATER SAVINGS FROM BASIN CONSERVATION PROGRAM.—(1) The Basin Conservation Program is intended to result in reductions in water diversions allowing for changes in the present operation of the Yakima Project to improve stream flow conditions in the Yakima River basin. Except as provided by paragraph (5) of this subsection and section 1209, commencing with the enactment of this title, and notwithstanding that anticipated water savings are yet to be realized, the Secretary, upon the enactment of this title and acting through the Yakima Project Superintendent, shall (A) continue to estimate the water supply which is anticipated to be available to meet water entitlements; and (B) provide instream flows in accordance with the following criteria:

Water Supply Estimate for Period (million acre feet):				Target Flow from Date of Estimate thru October Downstream of (cubic feet per second):	
April thru September	May thru September	June thru September	July thru September	Sunnyside Diversion Dam	Prosser Diversion Dam
(1) 3.2	2.9	2.4	1.9	600	600
(2) 2.9	2.65	2.2	1.7	500	500
(3) 2.65	2.4	2.0	1.5	400	400
Less than line 3 water supply				300	300

(2) The initial target flows represent target flows at the respective points. Reasonable fluctuations from these target flows are anticipated in the operation of the Yakima Project, except that for any period exceeding 24 hours—

(A) actual flows at the Sunnyside Diversion Dam may not decrease to less than 65 percent of the target flow at the Sunnyside Diversion Dam; and

(B) actual flows at the Prosser Diversion Dam may not decrease by more than 50 cubic feet per second from the target flow.

(3) The instream flows shall be increased for interim periods during any month of April through October to facilitate when necessary the outward migration of anadromous fish. Increased instream flows for such interim periods shall be obtained through voluntary sale and leasing of water or water rights or from conservation measures taken under this title.

(4)(A)(i) Within the three-year period beginning when appropriations are first provided to carry out the Basin Conservation Program, the instream flow goal in the Yakima River is as follows: to secure water which is to be used for instream flows to facilitate meeting recommendations of the System Operations Advisory Committee for flushing flows or other instream uses.

(ii) In addition to any other authority of the Secretary to provide water for flushing flows, the water required to meet the goal specified in clause (i) shall be acquired through the voluntary purchase or lease of land, water, or water rights and from the development of additional storage capability at Lake Cle Elum provided for in section 1206(a).

(iii) In addition to water required to meet the instream flow goal specified in clause (i), the System Operations Advisory Committee may recommend additional water to meet instream flow goals pursuant to judicial actions.

(B) After the period referred to in subparagraph (A), such instream flow goal is modified as follows:

(i) The goal increases so that the instream target flows specified in the table in paragraph (1) increase by 50 cubic feet per second for each 27,000 acre-feet of reduced annual water diversions achieved through implementation of measures under the Basin Conservation Program. Such increases do not apply to actions taken pursuant to section 1204. Such increases shall not further diminish the amount of water that otherwise would have been delivered by an entity to its water users in years of water proration.

(ii) The goal changes directly with the availability of water resulting from Federal expenditures under this title for purchase or lease of water under this title.

(C) The Yakima Project Superintendent shall maintain an account of funded and completed conservation measures taken under the Basin Conservation Program.

(D) No later than March 31 of each calendar year, the Yakima Project Superintendent shall meet with the State of Washington, Yakama Indian Nation, and Yakima River basin irrigators to mutually determine total diversion reductions and respective adjustments to the target flows referred to in this subsection. The Yakima Project Superintendent shall announce such adjustments with the announcements of Total Water Supply Available. For the purposes of this subparagraph, conserved water will be considered available for adjusting target flows in the first year following completion of a measure or following a result from the post implementation monitoring and evaluation program, as the case may be.

(5) Operational procedures and processes in the Yakima River basin which have or may be implemented through judicial actions shall not be impacted by this title.

(6)(A) Within three years after the date of enactment of this Act, the Secretary shall conduct a study and submit a report with recommendations to the appropriate committees of the Congress on whether the water supply available for irrigation is adequate to sustain the agricultural economy of the Yakima River basin.

(B) The target flows provided for under this subsection shall be evaluated within three years after the date of enactment of this Act by the Systems Operations Advisory Committee for the purpose of making a report with recommendations to the Secretary and the Congress evaluating what is necessary to have biologically-based target flows.

(C) The recommendations and reports under subparagraphs (A) and (B) shall provide a basis for the third phase of the Yakima River Basin Water Enhancement Project.

(b) WATER FROM LAKE CLE ELUM.—Water accruing from the development of additional storage capacity at Lake Cle Elum, made available pursuant to the modifications authorized in section 1206(a), shall not be part of the Yakima River basin's water supply as provided in subsection (a)(1). Water obtained from such development is exclusively dedicated to instream flows for use by the Yakima Project Superintendent as flushing flows or as otherwise advised by the System Operations Advisory Committee. Water may be carried over from year-to-year in the additional capacity to the extent that there is space available. Releases may be made from other Yakima Project storage facilities to most effectively utilize this additional water, except that water deliveries to holders of existing water rights shall not be impaired.

(c) STATUS OF BASIN CONSERVATION PROGRAM FACILITIES.—Measures of the Basin Conservation Program which are implemented on facilities currently under the administrative jurisdiction of the Secretary, except as provided in section 1204, shall be considered features of the Yakima River Basin Water Enhancement Project, and their operation and maintenance shall be integrated and coordinated with other features of the existing Yakima Project. The responsibility for operation and maintenance and the related costs shall remain with the current operating entity. As appropriate, the Secretary shall incorporate the operation and maintenance of such facilities into existing agreements. The Secretary shall assure that such facilities are operated in a manner consistent with Federal and State law and in accordance with water rights recognized pursuant to State and Federal law.

(d) WATER ACQUIRED BY PURCHASE AND LEASE.—Water acquired from voluntary sellers and lessors shall be administered as a block of water separate from the Total Water Supply Available, in accordance with applicable Federal and State law.

(e) YAKIMA PROJECT PURPOSE.—(1) An additional purpose of the Yakima Project shall be for fish, wildlife, and recreation.

(2) The existing storage rights of the Yakima Project shall include storage for the purposes of fish, wildlife, and recreation.

(3) The purposes specified in paragraphs (1) and (2) shall not impair the operation of the Yakima Project to provide water for irrigation purposes nor impact existing contracts.

SEC. 1206. LAKE CLE ELUM AUTHORIZATION OF APPROPRIATIONS.

(a) MODIFICATIONS AND IMPROVEMENTS.—There is hereby authorized to be appropriated to the Secretary—

(1) at September 1990 prices, plus or minus such amounts as may be justified by reason of ordinary fluctuation of applicable indexes, $2,934,000 to—

(A) modify the radial gates at Cle Elum Dam to provide an additional 14,600 acre-feet of storage capacity in Lake Cle Elum,

(B) provide for shoreline protection of Lake Cle Elum, and

(C) construct juvenile fish passage facilities at Cle Elum Dam, plus

(2) such additional amounts as may be necessary which may be required for environmental mitigation.

(b) OPERATION AND MAINTENANCE APPROPRIATIONS.—There is hereby authorized to be appropriated to the Secretary such sums as may be necessary for that portion of the operation and maintenance of Cle Elum Dam determined by the Secretary to be a Federal responsibility.

SEC. 1207. ENHANCEMENT OF WATER SUPPLIES FOR YAKIMA BASIN TRIBUTARIES.

(a) GENERAL PROVISIONS.—The following shall be applicable to the investigation and implementation of measures to enhance water supplies for fish and wildlife and irrigation purposes on tributaries of the Yakima River basin:

(1) An enhancement program authorized by this section undertaken in any tributary shall be contingent upon the agreement of appropriate water right owners to participate.

(2) The enhancement program authorized by this section shall not be construed to affect (A) the water rights of any water right owners in the tributary or other water delivering entities; (B) the capability of tributary water users to divert, convey, and apply water; and (C) existing water and land uses within the tributary area.

(3) The water supply for tributary enhancement shall be administered in accordance with applicable State and Federal laws.

(4) Any enhancement program authorized by this section shall be predicated upon the availability of a dependable water supply.

(b) STUDY.—(1) The Secretary, following consultation with the State of Washington, the tributary water right owners, and the Yakama Indian Nation, and agreement of appropriate water right owners to participate, shall conduct a study concerning the measures that can be implemented to enhance water supplies for fish and wildlife and irrigation purposes on Taneum Creek, including (but not limited to)—

(A) water use efficiency improvements;

(B) the conveyance of water from the Yakima Project through the facilities of any irrigation entity willing to contract with the Secretary without adverse impact to water users;

(C) the construction, operation, and maintenance of ground water withdrawal facilities;

(D) contracting with any entity that is willing to voluntarily limit or forego present water use through lease or sale of water or water rights on a temporary or permanent basis;

(E) purchase of water rights from willing sellers; and

(F) other measures compatible with the purposes of this title, including restoration of stream habitats.

(2) In conducting the Taneum Creek study, the Secretary shall consider—

(A) the hydrologic and environmental characteristics;

(B) the engineering and economic factors relating to each measure; and

(C) the potential impacts upon the operations of present water users in the tributary and measures to alleviate such impacts.

(3) The Secretary shall make available to the public for a 45-day comment period a draft report describing in detail the findings, conclusions, and recommendations of the study. The Secretary shall consider and include any comment made in developing a final report. The Secretary's final report shall be submitted to the Committee on Energy and Natural Resources of the Senate, the Committee on Natural Resources of the House of Representatives, and the Governor of the State of Washington, and made available to the public.

(c) IMPLEMENTATION OF NONSTORAGE MEASURES.—After securing the necessary permits the Secretary may, in cooperation with the Department of Ecology of the State of Washington and in accordance with the laws of the State of Washington, implement nonstorage measures identified in the final report under subsection (b) upon fulfillment of the following conditions:

(1) The Secretary shall enter into an agreement with the appropriate water right owners who are willing to participate, the State of Washington, and the Yakama Indian Nation, for the use and management of the water supply to be provided by proposed tributary measures pursuant to this section.

(2) The Secretary and the State of Washington find that the implementation of the proposed tributary measures will not impair the water rights of any person or entity in the affected tributary.

(d) OTHER YAKIMA RIVER BASIN TRIBUTARIES.—Enhancement programs similar to the enhancement program authorized by this section may be investigated and implemented by the Secretary in other tributaries contingent upon the agreement of the appropriate tributary water right owners to participate. The provisions set forth in this section shall be applicable to such programs.

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) There is hereby authorized to be appropriated to the Secretary $500,000 for the study of the Taneum Creek Project and such amount as the Secretary subsequently determines is necessary for implementation of tributary measures pursuant to this section.

(2) There is also authorized to be appropriated to the Secretary such funds as are necessary for the investigation of enhancement programs similar to the enhancement program authorized by this section in other Yakima River basin tributaries contingent upon the agreement of the appropriate water right owners to participate. Funds for the implementation of any such similar enhancement program may not be appropriated until after the Secretary submits an investigation report to the appropriate congressional committees.

SEC. 1208. CHANDLER PUMPING PLANT AND POWERPLANT-OPERATIONS AT PROSSER DIVERSION DAM.

(a) AUTHORIZATION OF APPROPRIATIONS FOR ELECTRIFICATION.—In order to provide for electrification to enhance instream flows by eliminating the need to divert water to operate the hydraulic turbines which pump water to the Kennewick Irrigation District, there is authorized to be appropriated—

(1) $50,000 to conduct an assessment of opportunities for alternative pumping plant locations;

(2) $4,000,000 for construction; and

(3) such sums as may be necessary for the prorata share of the operation and maintenance allocated to fish and wildlife as determined by the Secretary.

(b) POWER FOR PROJECT PUMPING.—(1) The Administrator of the Bonneville Power Administration shall provide for project power needed to effect the electrification as provided in subsection (a).

(2)(A) There is authorized to be appropriated for the Bureau of Reclamation for each fiscal year in which the Administrator provides power under this subsection an amount equal to the cost to the Bonneville Power Administration of providing power under this subsection during such fiscal year. The rate to be utilized by the Administrator in determining the cost of power under this paragraph in a fiscal year shall be the rate for priority firm power charged by the Bonneville Power Administration in that fiscal year under section 7(b) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839e(b)).

(B) The Bureau of Reclamation shall, using funds appropriated pursuant to the authorization of appropriations in subparagraph (A), reimburse the Bonneville Power Administration for the costs of the project power provided under this subsection. Such funds shall be available for such purpose without fiscal year limitation.

(c) SUBORDINATION.—Any diversions for hydropower generation at the Chandler Powerplant shall be subordinated to meet the flow targets determined under subsection (f).

(d) WATER SUPPLY FOR KENNEWICK IRRIGATION DISTRICT.—The Secretary shall ensure that the irrigation water supply for the Kennewick Irrigation District shall not be affected by conservation, electrification, or subordination pursuant to this title and any reduction in its irrigation water supply resulting from conservation measures adopted or implemented by other entities pursuant to this title shall be replaced by water developed through subordination, electrification, or a combination of the two.

(e) TREATMENT OF CERTAIN FUNDS.—Funds appropriated and project power provided pursuant to this section shall be nonreimbursable since such funds are used for fish and wildlife purposes and such funds are not subject to cost share under section 1203(d).

(f) TARGET FLOWS.—Target flows measured at appropriate biological and hydrological location or locations shall be determined by the Yakima Project Superintendent in consultation with the System Operations Advisory Committee.

SEC. 1209. AUGMENTATION OF KACHESS RESERVOIR STORED WATER.

(a) AUTHORIZATION OF APPROPRIATIONS.—In order to augment Kachess Reservoir stored water supplies from flows of Cabin Creek and Silver Creek which are excess to system demands, there is authorized to be appropriated—

(1) such sums as may be necessary to carry out a feasibility study, including the benefits, costs, and environmental aspects, of the facility described in paragraph (2);

(2) for the construction of facilities to convey such flows to Kachess Reservoir, $20,000,000; and

(3) such sums as may be necessary for the pro rata share of the operation and maintenance allocated to fish and wildlife determined by the Secretary.

(b) LIMITATION.—Construction of the facilities described in subsection (a)(1) is contingent on the completion of the feasibility study referred to in subsection (a)(2).

(c) USE OF ADDITIONAL WATER.—The stored water supply resulting from the construction of facilities under this section shall be used by the Secretary to—

(1) enhance the water supply available to the Kittitas Reclamation District and the Roza Irrigation District in years of proration; and

(2) facilitate reservoir operations in the Easton Dam to Keechelus Dam reach of the Yakima River for the propagation of anadromous fish.

(d) Treatment of Costs.—The construction and operation and maintenance costs of the facilities under this section shall be allocated to irrigation and fishery enhancement, as follows:

(1) The portion of such costs allocated to irrigation is reimbursable, with the construction costs to be paid prior to initiation of construction by the Kittitas Reclamation District and the Roza Irrigation District.

(2) The portion of such costs allocated to fishery enhancement is nonreimbursable.

(e) Kachess Dam Modifications.—There is authorized to be appropriated $2,000,000 for the modification of the discharge facilities of Kachess Dam to improve reservoir operations for anadromous fish enhancement. Amounts appropriated under this subsection are nonreimbursable.

SEC. 1210. INTERIM COMPREHENSIVE BASIN OPERATING PLAN.

(a) Development.—The Secretary shall, in consultation with the State of Washington, Yakama Indian Nation, Yakima River Basin irrigation districts, Bonneville Power Administration, and other entities as determined by the Secretary, develop an interim comprehensive operating plan for providing a general framework within which the Yakima Project Superintendent operates the Yakima Project, including measures implemented under the Yakima River Basin Water Enhancement Project, including (but not limited to)—

(1) operating capability and constraints of the system;

(2) information on water supply calculations an water needs;

(3) system operations and stream flow objectives; and

(4) the System Operations Advisory Committee activities.

(b) Process Requirements.—A draft of the interim comprehensive basin operating plan shall be completed within 18 months after the completion of the Basin Conservation Plan under section 1203(f) and, upon completion, published for a 90-day public review period. The Secretary shall complete and publish the final interim comprehensive operating plan within 90 days after the close of the public review period. The Secretary shall update the plan as needed to respond to decisions from water adjudications relating to the Yakima River basin.

(c) Authorization of Appropriations.—There is authorized to be appropriated $100,000 to carry out this section.

SEC. 1211. ENVIRONMENTAL COMPLIANCE.

There are hereby authorized to be appropriated to the Secretary $2,000,000 for environmental compliance activities including the conduct, in cooperation with the State of Washington, of an inventory of wildlife and wetland resources in the Yakima River basin and an investigation of measures, including "wetland banking", which could be implemented to address potential impacts which could result from the activities taken under this title.

SEC. 1212. SAVINGS AND CONTINGENCIES.

(a) In General.—Nothing in this title shall be construed to—

(1) affect or modify any treaty or other right of the Yakama Indian Nation;

(2) authorize the appropriation or use of water by any Federal, State, or local agency, the Yakama Indian Nation, or any other entity or individual;

(3) impair the rights or jurisdictions of the United States, the States, the Yakama Indian Nation, or other entities over waters of any river or stream or over any ground water resource;

(4) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States;

(5) alter, establish, or impair the respective rights of States, the United States, the Yakama Indian Nation, or any other entity or individual with respect to any water or water-related right;

(6) alter, diminish, or abridge the rights and obligations of any Federal, State, or local agency, the Yakama Indian Nation, or other entity, public or private;

(7) affect or modify the rights of the Yakama Indian Nation or its successors in interest to, and management and regulation of, those water resources arising or used, within the external boundaries of the Yakama Indian Reservation;

(8) affect or modify the settlement agreement between the United States and the State of Washington filed in Yakima County Superior Court with regard to Federal reserved water rights other than those rights reserved by the United States for the benefit of the Yakama Indian Nation and its members;

(9) affect or modify the rights of any Federal, State, or local agency, the Yakama Indian Nation, or any other entity, public or private with respect to any unresolved and unsettled claims in any water right adjudications, or court decisions, including State against Acquavella, or constitute evidence in any such proceeding in which any water or water related right is adjudicated; or

(10) preclude other planning studies and projects to accomplish the purposes of this title by other means: funded publicly, privately, or by a combination of public and private funding.

(b) Contingency Based on Appropriations.—The performance of any activity under this title which requires accomplishment within a specified period that may require appropriation of money by Congress or the allotment of funds shall be contingent upon such appropriation or allotment being made.

TITLE XIII. LIMITATION ON APPLICATION OF REQUIREMENT FOR ACQUISITIONS BY UNITED STATES UNDER MIGRATORY BIRD CONSERVATION ACT.

Section 7 of the Migratory Bird Conservation Act (16 U.S.C. 715f) is amended by inserting "in fee" after "conveyance".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. Miller] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. Thomas] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. Miller].

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1146 incorporates a number of important provisions affecting water resource allocation and water development in the Western United States.

The bill is in 11 titles.

Title 1 provides for the settlement of the water rights claims of the Yavapai-Prescott Indian Tribe, Arizona, by ratifying and otherwise providing for the implementation of a settlement agreement negotiated by the Tribe, the city of Prescott, the Chino Valley Irrigation District, the State of Arizona and the United States.

Title 2 extends Federal recognition to the United Auburn Indian Community of the Auburn Rancheria of California.

Title 3 authorizes the Central Utah Water Conservancy District to enter into water storage and carriage agreements to move non-project water through Central Utah Project [CUP] facilities under the provisions of the Warren Act, and to clarify the qualifications of individuals that may be nominated to serve as members of the Utah Reclamation Mitigation and Conservation Commission.

Title 4 amends Public Law 102–575 to allow the Secretary of the Interior to accept a prepayment equal to the fair market value of the Mountain Park Master Conservancy District's (District) obligation. In addition, the bill authorizes investigations and the reallocation of project water, facilities, and land for environental purposes, such as instream flows, in exchange for adjusting the project's cost.

Title 5 increases the amount of land that legally can be irrigated with water from the San Angelo Project, from 10,000 acres to 15,000 acres. The bill also authorizes the Secretary of the Interior to negotiate an amendment to the repayment contract to reflect the increased acreage.

Title 6 provides for the transfer of certain lands of the Shoshone Federal reclamation project, Wyoming, to the Big Horn County School District, Wyoming.

Title 7 would eliminate a maximum daily diversion restriction with respect to the pumping of water from Lake Powell to serve municipal water needs in Page, AZ.

Title 8 will expand the Mni Wiconi Rural Water Supply System, South Dakota. The Mni Wiconi Project was originally authorized by the Mni Wiconi Project Act of 1988 (102 Stat. 2566). The expanded project would meet fully the water needs of people living within the Pine Ridge Indian Reservation and the Lyman-Jones/West River Service Areas, and would include systems to meet water needs of the Rosebud and Lower Brule Sioux Indian Tribes. H.R. 3954 also authorizes feasibility studies on the need to develop or rehabilitate waste water systems on the three Indian Reservations.

Title 9 authorizes an increase in the appropriations ceiling of $14,500,000 (indexed to 1981 prices) to allow the Belle Fourche Irrigation Project to continue making improvements in the Project for water reliability, water conservation, operational efficiency, safety, and fish and wildlife mitigation and enhancement.

Title 10 authorizes the Secretary of the Interior to negotiate pursuant to specific terms the prepayment of a Small Reclamation Projects Act loan held by the Upper Yampa Water Conservancy District, Colorado.

Title 11 would permit the Mancos Water Conservancy District to construct facilities to generate hydroelectric power at the Mancos Irrigation Project in southwestern Colorado and to receive the revenues from the sale of the power generated.

Title 12 would enhance the available water supply in the Yakima River Basin, Washington, by providing a funding source to implement a voluntary water conservation program in the basin. Improvements to existing irrigation systems and their operation will reduce the amount of water that needs to be diverted from the Yakima River to maintain full crop production. This will reduce demand on the total water supply available, and thereby improve the reliability of the water supply for streamflows and irrigation. Those participating in the basin water conservation program must agree to reduce diversions from present levels. Provisions are also included in the bill for improving operation of the Wapato Irrigation Project.

Mr. Speaker, S. 1146 will assist in resolving many critical issues of water supply and water use in the Western States served by Bureau of Reclamation Projects. I thank my colleagues on the committee for their cooperation in considering these measures, and I urge my colleagues to support S. 1146.

Mr. MILLER of California. Mr. Speaker, I reserve the balance of my time.

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Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker I rise in support of this legislation. The bill before us contains several important reclamation-related proposals that deserve our support. I will mention a few of them briefly.

This package includes my legislation directing the Interior Secretary to convey a small parcel of the Shoshone Reclamation Project to the Big Horn School District in Wyoming. The legislation was necessary because the school district owns a number of homes on reclamation land that they want to sell. I want to thank Chairman MILLER for considering this important proposal.

Mr. STUMP of Arizona has two bills in this package today. The first, S. 1146, ratifies the Yavapai-Prescott Indian water rights settlement. The second, H.R. 5025, will allow the city of Page, AZ, to meet water needs during peak use periods in the summer months by removing a pumping limitation. I have a statement from Congressman STUMP that I would like inserted in the RECORD.

Congressman MCINNIS of Colorado also has two proposals in this legislation. They include H.R. 4525, which authorizes the early payout of the Stagecoach Reservoir project and H.R. 4523, which will allow for private power development at the Mancos project. Mr. MCINNIS deserves credit for his hard work on both of these measures.

I also want to give credit to Congressman LAMAR SMITH for his hard work in passing H.R. 1474, which increases the acreage limitation at the San Angelo project in Texas.

Finally, I rise in strong support of H.R. 4615, which our friend, JIM HANSEN of Utah has worked hard to pass. This bill will enhance the ability of the Central Utah project to implement its water conservation programs throughout the 13 county area this project serves.

This will be done by authorizing the Central Utah Water Conservancy District to enter into water storage and carriage agreements to move nonproject water through CUP facilities.

The Utah delegation has also worked to clarify the original legislative intent of the CUP Completion Act. Under this act, employees and board members of the Central Utah Water Conservancy District were to serve as members of the Utah Reclamation Mitigation and Conservation Commission. The district has nominated its general manager to serve as its representative on the commission. Passage of this legislation would allow this to happen.

I would like to urge passage of this measure and thank the chairman for his assistance in moving this bill through the House.

Mr. STUMP. Mr. Speaker, I rise in strong support of S. 1146, the Yavapai-Prescott Indian water rights settlement. S. 1146, which ratifies a negotiated settlement to all claims to water between and among the Yavapai-Prescott Indian Tribe, the city of Prescott, AZ, the Chino Valley—Arizona—Irrigation District, the State of Arizona, and the United States, is a companion to H.R. 2514, which I introduced last year.

The agreement, which is both a noncontroversial and cost-effective settlement, fulfills the United States' trust obligation to secure long-term water supplies for the Yavapai-Prescott Indian Tribe. The key to the agreement is the city of Prescott's commitment to provide water to the tribe in perpetuity. The city enhances its ability to fulfill that commitment by acquiring additional water supplies with funds obtained from assigning its rights to water from the Central Arizona project—CAP—to third parties. The development of those additional water supplies cannot adversely affect the riparian habitat or species of the Verde River.

In anticipation of the enactment of the settlement this year, the administration requested the $300,000 cost of the settlement to taxpayers in the fiscal year 1995 budget request and the funds were included in the Interior Appropriations bill. For the settlement to become final, the State of Arizona must contribute $200,000 to a tribal trust fund and a State court will have to accept the settlement. The provisions of the bill do not involve the CAP issue currently under negotiations between the Interior Department and the Central Arizona Water Conservation District.

Many have worked long hours to reach what I believe to be a good settlement, and in particular, the tribe, the city of Prescott, the Chino Valley Irrigation District, my colleague in the Senate, Mr. MCCAIN, and his staff, are to all be commended for their efforts in reaching this settlement.

Mr. Chairman, I urge favorable consideration of S. 1146.

Mr. ORTON. Mr. Speaker, I rise today in support of H.R. 4615, a bill that I introduced earlier this year. H.R. 4615 is intended to allow private entities, in this case the city of Provo, UT, to contract for use of the Central Utah Project [CUP] for the delivery, storage and impounding of Provo City water through CUP facilities.

This legislation will allow the Central Utah Project to carry both its own water and nonproject water to maximize the CUP's efficiency. This legislation will also allow the city of Provo to avoid having to duplicate many of the same, and very expensive, kinds of storage and delivery facilities that the CUP has already constructed. It is rare indeed when a situation such as this comes along when it is an absolute win-win situation for everyone involved, from the city of Provo, to the Central Utah Water Conservancy District [CUWCD], to all of the taxpayers in Utah who would have contributed to separate and duplicative projects. In the long run, this legislation will also have the positive effect of improving the long-range health of the Provo River.

As the distinguished chairman knows, water from the city of Provo is already being distributed through the Central Utah Water Conservancy District system, but questions have arisen recently as to whether the district has the authority to move such non-project water. This legislation is clearly intended to clarify this technicality.

In addition, an amendment was added to this legislation designed to clarify original congressional intent that employees and board members of the Central Utah Water Conservancy District [CUWCD] are eligible to serve as members of the Utah Reclamation Mitigation and Conservation Commission if they are duly appointed by the President under the provisions of the act. The original statute specifically provides that the district may submit a nominee to serve as a member of the Commission. This provision placed no limitation on whom the district could nominate. The CUWCD's board has nominated its general manager to serve in this capacity but his appointment has been held up for over 2 years pending clarification that a district employee or board member is eligible to serve on the Commission. Attempts through correspondence from the committee chairman and ranking member have failed to resolve the issue therefore this amendment is offered to provide the necessary clarification.

In closing, I would just like to thank the distinguished chairman of the Natural Resources Committee for all of his and his staff's hard work on this much needed legislation that will end up saving the taxpayers money and allow the most efficient use of already established facilities.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. INSLEE). The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the Senate bill, S. 1146 as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5044, AMERICAN HERITAGE AREAS PARTNERSHIP PROGRAM ACT OF 1994

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–806) on the resolution (H. Res. 562) providing for consideration of the bill (H.R. 5044) to establish the American Heritage Areas Partnership Program, and for other purposes, which was referred to the House Calendar and ordered to be printed.

YAKIMA RIVER CONSERVATION ACT

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5148) to authorize certain elements of the Yakima River basin water enhancement project, and for other purposes.

The Clerk read as follows:

H.R. 5148

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PURPOSES.

The purposes of this Act are—

(1) to protect, mitigate, and enhance fish and wildlife through improved water management; improved instream flows; improved water quality; protection, creation and enhancement of wetlands; and by other appropriate means of habitat improvement;

(2) to improve the reliability of water supply for irrigation;

(3) to authorize a Yakima River basin water conservation program that will improve the efficiency of water delivery and use; enhance basin water supplies; improve water quality; protect, create and enhance wetlands; and determine the amount of basin water needs that can be met by water conservation measures;

(4) to realize sufficient water savings from the Yakima River Basin Water Conservation Program so that not less than 40,000 acre-feet of water savings per year are achieved by the end of the fourth year of the Basin Conservation Program, and not less than 110,000 acre-feet of water savings per year are achieved by the end of the eighth year of the program, to protect and enhance fish and wildlife resources; and not less than 55,000 acre feet of water savings per year are achieved by the end of the eighth year of the program for availability for irrigation;

(5) to encourage voluntary transactions among public and private entities which result in the implementation of water conservation measures, practices, and facilities; and

(6) to provide for the implementation by the Yakama Indian Nation at its sole discretion of (A) an irrigation demonstration project on the Yakama Indian Reservation using water savings from system improvements to the Wapato Irrigation Project, and (B) a Toppenish Creek corridor enhancement project integrating agricultural, fish, wildlife, and cultural resources.

SEC. 2. DEFINITIONS.

As used in this Act:

(1) The term "Basin Conservation Plan" means a plan for implementing water conservation measures found in the various water conservation plans developed under the Basin Conservation Program.

(2) The term "Basin Conservation Program" means the Yakima River Basin Water Conservation Program established under section 3(a).

(3) The term "comprehensive basin operating plan" means a plan that will provide guidance to the Yakima Project Superintendent for operation of the existing Yakima Project as modified by actions taken pursuant to this Act.

(4) The term "Conservation Advisory Group" means the Yakima River Basin Conservation Advisory Group established under section 3(c).

(5) The term "conserved water" means water saved and attributable to the program established under the Basin Conservation Program.

(6) The term "Irrigation Demonstration Project" means the Yakama Indian Reservation Irrigation Demonstration Project authorized in section 4(b).

(7) The term "nonproratable water" means that portion of the total water supply available under provisions of sections 18 and 19 of Civil Action No. 21 (Federal District Court Judgment of January 31, 1945) that is not subject to proration in times of water shortage.

(8) The term "on-district storage" means small water storage facilities located within the boundaries of an irrigation entity, including reregulating reservoirs, holding ponds, or other new storage methods which allow for efficient water use.

(9) The term "proratable water" means that portion of the total water supply available under provisions of sections 18 and 19 of Civil Action No. 21 (Federal District Court Judgment of January 31, 1945) that is subject to proration in times of water shortage.

(10) The term "Secretary" means the Secretary of the Interior.

(11) The term "System Operations Advisory Committee" means a group of fishery biologists—

(A) created by the Yakima Project Superintendent in response to the supplemental instructions entitled "Supplementary Instructions to the Water Master", and dated November 28, 1980, in the case of Kittitass Reclamation District, et al. vs. the Sunnyside Valley Irrigation District, et al. (E.D. Wash., Civil No. 21.);

(B) who advise the Yakima Project Superintendent on operations of the Yakima Project for fish and wildlife purposes; and

(C) who, together with others, were identified for consultation on November 29, 1990, in the amended partial summary judgment entered in the basin adjudication (Yakima County Superior Court No. 77–2–01484–5).

(12) The term "Toppenish Enhancement Project" means the Toppenish Creek corridor enhancement project authorized by section 4(c).

(13) The term "Yakama Indian Nation" means the Confederated Tribes and Bands of the Yakama Indian Nation as redesignated under section 4(g).

(14) The term "Yakima Project Superintendent" means the individual designated by the Regional Director, Pacific Northwest Region, Bureau of Reclamation, to be responsible for the operation and management of the Yakima Federal Reclamation Project, Washington.

SEC. 3. YAKIMA RIVER BASIN WATER CONSERVATION PROGRAM.

(a) ESTABLISHMENT.—(1) The Secretary, in consultation with the State of Washington, the Yakama Indian Nation, Yakima River basin irrigators, and other interested parties, shall establish and administer a Yakima River Basin Water Conservation Program for the purpose of evaluating and implementing measures to improve the availability of water supplies for irrigation and the protection and enhancement of fish and wildlife resources, including wetlands, while improving the quality of water in the Yakima Basin. The Secretary may make grants to eligible entities for the purposes of carrying out this Act under such terms and conditions as the Secretary may require. Such terms and conditions shall include a requirement that all water districts, irrigation districts, individuals, or other entities eligible to participate in the Basin Conservation Program must equip all surface water delivery systems within their boundaries with volumetric water meters or equally effective water measuring methods within 5 years of the date of enactment of this Act.

(2) Conserved water resulting in whole or in part from the expenditure of Federal funds shall not be used to expand irrigation in the Yakima Basin, except as specifically provided in section 4(a)(3) on the Yakama Indian Reservation.

(3) The provisions of this section shall not apply to the Yakama Indian Nation except as to any funds specifically applied for from the Basin Conservation Program.

(b) FOUR PHASES OF PROGRAM.—The Basin Conservation Program shall encourage and provide funding assistance for four phases of water conservation, which shall consist of the following:

(1) The development of water conservation plans, consistent with applicable water conservation guidelines of the Secretary, by irrigation districts, conservation districts, water purveyors, other areawide entities, and individuals not included within an areawide entity.

(2) The investigation of the feasibility of specific potential water conservation measures identified in conservation plans.

(3) The implementation of measures that have been identified in conservation plans and have been determined to be feasible.

(4) Post implementation monitoring and evaluation of implemented measures.

(c) CONSERVATION ADVISORY GROUP.—(1) Not later than 12 months after the date of enactment of this Act, the Secretary, in consultation with the State of Washington, the Yakama Indian Nation, Yakima River basin irrigators, and other interested and related parties, shall establish the Yakima River Basin Conservation Advisory Group.

(2) Members of the Conservation Advisory Group shall be appointed by the Secretary and shall be comprised of—

(A) one representative of the Yakima River basin nonproratable irrigators,

(B) one representative of the Yakima River basin proratable irrigators,

(C) one representative of the Yakama Indian Nation,

(D) one representative of environmental interests,

(E) one representative of the Washington State University Agricultural Extension Service,

(F) one representative of the Department of Wildlife of the State of Washington, and

(G) one individual who shall serve as the facilitator.

(3) The Conservation Advisory Group shall—

(A) provide recommendations to the Secretary and to the State of Washington regarding the structure and implementation of the Basin Conservation Program,

(B) provide recommendations to the Secretary and to the State of Washington regarding the establishment of a permanent program for the measurement and reporting of all natural flow and contract diversions within the basin.

(C) structure a process to prepare a basin conservation plan as specified in subsection (f),

(D) provide annual review of the implementation of the applicable water conservation guidelines of the Secretary, and

(E) provide recommendations consistent with statutes of the State of Washington on rules, regulations, and administration of a process to facilitate the voluntary sale or lease of water.

(4) The facilitator shall arrange for meetings of the Conservation Advisory Group, provide logistical support, and serve as moderator for the meetings.

(5) The Conservation Advisory Group shall consult an irrigation district when considering actions specifically affecting that district. For the purposes of this paragraph, an irrigation district includes the Yakima Reservation Irrigation District.

(6) The Conservation Advisory Group shall be nonvoting, seeking consensus whenever possible. If disagreement occurs, any member may submit independent comments to the Secretary. The Conservation Advisory Group shall terminate 5 years after the date of its establishment unless extended by the Secretary.

(d) COST SHARING.—(1) Except as otherwise provided by this Act, costs incurred in the four phases of the Basin Conservation Program shall be shared as follows:

Program Phase	Non-Federal		Federal Grant
	State Grant	Local	
1. Development of water conservation plans	50% but not more than $200,000 per recipient	(Residual amount if any)	50%
2. Investigation of specific water conservation measures	50% but sum of 1 and 2 not greater than $200,000 per recipient	20% after deducting State funds for Item 2	Residual amount after deducting State and local funds for Item 2
3 and 4. Implementation and post implementation monitoring and evaluation	17.5%	17.5%	65.0%

(2) The Yakima River Basin Water Enhancement Project is a Federal action to improve streamflow and fish passage conditions and shall be considered part of a comprehensive program to restore the Yakima River basin anadromous fishery resource. Related fishery resource improvement facilities which utilize funding sources under the Pacific Northwest Electric Power Planning and Conservation Act of 1989 (94 Stat. 2697) and independent water-related improvements of the State of Washington and other public and private entities to improve irrigation water use, water supply, and water quality, shall be treated as non-Federal cost share expenditures and shall be consolidated in any final calculation of required cost sharing. Within one year of the date of enactment of this Act, the Secretary shall enter into a binding cost sharing agreement with the State of Washington. The agreement shall describe the terms and conditions of specific contributions and other activities that may, subject to approval by the Secretary, qualify as non-Federal cost share expenditures.

(3) Costs of the Basin Conservation Program related to projects on the Yakama Indian Reservation are a Federal responsibility and shall be nonreimbursable and not subject to the cost-sharing provisions of this subsection.

(e) ENTITY WATER CONSERVATION PLANS.—To participate in the Conservation Basin Program an entity must submit a proposed water conservation plan to the Secretary. The Secretary shall approve a water conservation plan submitted under this subsection if the Secretary determines that the plan meets the applicable water conservation guidelines of the Secretary.

(f) BASIN CONSERVATION PLAN.—The Conservation Advisory Group shall, within 2½ years after the date of enactment of this Act, submit a draft basin conservation plan to the Secretary.

(g) PUBLIC COMMENT.—The Secretary shall distribute the draft basin conservation plan and the entity water conservation plans submitted under subsections (e) and (f), respectively, for public comment for a 60-day period.

(h) PUBLICATION OF BASIN CONSERVATION PLAN.—Within 60 days after the close of the comment period under subsection (g), the Secretary shall publish the Basin Conservation Plan which plan will provide the basis—

(1) for prioritizing and allocating funds to implement conservation measures under this Act; and

(2) for preparing an interim comprehensive basin operating plan under section 10 of this Act as provided for in Public Law 96–162 (93 Stat. 1241).

(i) CONSERVATION MEASURES.—(1) Measures considered for implementation in the Basin Conservation Program may include, among others, conveyance and distribution system monitoring, automation of water conveyance systems, water measuring or metering devices and equipment, lining and piping of water conveyance and distribution systems, on-district storage, electrification of hydraulic turbines, tail-water recycling, consolidation of irrigation systems, irrigation scheduling, and improvement of on-farm water application systems. Basin Conservation Program funds may also be used throughout all four phases of the Basin Conservation Program to mitigate for adverse impacts of program measures.

(2) In addition to implementing existing technologies, the Secretary shall encourage the testing of innovative water conservation measures. The Secretary shall, to the maximum extent possible under applicable Federal, State, and tribal law, cooperate with the State of Washington to facilitate water and water right transfers, water banking, dry year options, the sale and leasing of water, and other innovative allocation tools used to maximize the utility of existing Yakima River basin water supplies.

(3) The Secretary may, consistent with applicable law, use funds appropriated to carry out this section for the purchase or lease of land, water, or water rights from any entity or individual willing to limit or forego water use on a temporary or permanent basis. Funds used for purchase or lease under this paragraph are not subject to the cost sharing provisions of subsection (d). Efforts to acquire water should be made immediately upon availability of funds to meet the three-year goal specified in section 5(a)(4) to provide water to be used by the Yakima Project Superintendent under the advisement of the System Operations Advisory Committee for instream flow purposes. The use of Basin Conservation Program funds under this paragraph are in addition to those specifically authorized to be appropriated by subsection (j)(4).

(4) On-farm water management improvements shall be coordinated with programs administered by the Secretary of Agriculture and State conservation districts.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated to the Secretary, at September 1990 prices, plus or minus such amounts as may be justified by reason of ordinary fluctuations of applicable cost indexes, the following amounts for the Basin Conservation Program:

(1) $1,000,000 for the development of water conservation plans.

(2) $4,000,000 for investigation of specific potential water conservation measures identified in conservation plans for consideration for implementing through the Basin Conservation Program.

(3) Up to $67,500,000 for design, implementation, post-implementation monitoring and evaluation of measures, and addressing environmental impacts.

(4) Up to $10,000,000 for the initial acquisition of water from willing sellers or lessors specifically to provide instream flows for interim periods to facilitate the outward migration of anadromous fish flushing flows. Such funds shall not be subject to the cost sharing provisions of subsection (d).

(5) $100,000 annually for the establishment and support of the Conservation Advisory Group during its duration. Such funds shall be available for travel and per diem, rental of meeting rooms, typing, printing and mailing, and associated administrative needs. The Secretary and the State of Washington shall provide appropriate staff support to the Conservation Advisory Group.

SEC. 4. YAKAMA INDIAN NATION.

(a) WAPATO IRRIGATION PROJECT IMPROVEMENTS AND APPROPRIATIONS.—(1) The Yakama Indian Nation's proposed system improvements to the Wapato Irrigation Project, as well as the design, construction, operation, and maintenance of the Irrigation Demonstration Project and the Toppenish Creek corridor enhancement project, pursuant to this Act shall be coordinated with the Bureau of Indian Affairs.

(2) There is authorized to be appropriated to the Secretary not more than $23,000,000 for the preparation of plans, investigation of measures, and following the Secretary's certification that such measures are consistent with the water conservation objectives of this Act, the implementation of system improvements to the Wapato Irrigation Project. Funding for further improvements within the Wapato Irrigation Project may be acquired under the Basin Conservation Program or other sources identified by the Yakama Indian Nation.

(3) Water savings resulting from irrigation system improvements shall be available for the use of the Yakama Indian Nation for irrigation and other purposes on the reservation and for protection and enhancement of fish and wildlife within the Yakima River basin. The conveyance of such water through irrigation facilities other than the Wapato Irrigation Project shall be on a voluntary basis and shall not further diminish the amount of water that otherwise would have been delivered by an entity to its water users in years of water proration.

(b) IRRIGATION DEMONSTRATION PROJECT APPROPRIATIONS.—(1)(A) There is hereby authorized to be appropriated to the Secretary—

(i) at September 1990 prices, plus or minus such amounts as may be justified by reason of ordinary fluctuations of applicable cost indexes, $8,500,000 for the design and construction of the Yakama Indian Reservation Irrigation Demonstration Project; and

(ii) such sums as may be necessary for the operation and maintenance of the Irrigation Demonstration Project, including funds for administration, training, equipment, materials, and supplies for the period specified by the Secretary, which sums are in addition to operation and maintenance funds for wildlife and cultural purposes appropriated to the Secretary under other authorization.

(B) Funds may not be made available under this subsection until the Yakama Indian Nation obtains the concurrence of the Secretary in the construction, management, and administrative aspects of the Irrigation Demonstration Project.

(C) After the end of the period specified under subparagraph (A)(ii), costs for the operation and maintenance of the Irrigation Demonstration Project, including funds for administration, training, equipment, materials, and supplies referred to in that subparagraph, shall be borne exclusively by the lands directly benefitting from the Irrigation Demonstration Project.

(2) The Irrigation Demonstration Project shall provide for the construction of distribution and on-farm irrigation facilities to use all or a portion of the water savings, as determined by the Yakama Indian Nation, resulting from the Wapato Irrigation Project system improvements for—

(A) demonstrating cost-effective state of the art irrigation water management and conservation,

(B) the training of tribal members in irrigation methods, operation, and management, and

(C) upgrading existing hydroelectric facilities and construction of additional hydroelectric facilities on the reservation to meet irrigation pumping power needs.

(c) TOPPENISH CREEK CORRIDOR ENHANCEMENT PROJECT APPROPRIATIONS.—There is hereby authorized to be appropriated to the Secretary $1,500,000 for the further investigation by the Yakama Indian Nation of measures to develop a Toppenish Creek corridor enhancement project to demonstrate integration of management of agricultural, fish, wildlife, and cultural resources to meet tribal objectives and such amount as the Secretary subsequently determines is necessary for implementation. There is also authorized to be appropriated to the Secretary such sums as may be necessary for the operation and maintenance of the Toppenish Enhancement Project.

(d) REPORT.—Within 5 years of the implementation of the Irrigation Demonstration Project and the Toppenish Enhancement Project, the Secretary, in consultation with the Yakama Indian Nation, shall report to the Committee on Energy and Natural Resources of the Senate, the Committee on Natural Resources of the House of Representatives, and the Governor of the State of Washington on the effectiveness of the conservation, training, mitigation, and other measures implemented.

(e) STATUS OF IMPROVEMENTS AND FACILITIES.—The Wapato Irrigation Project system improvements and any specific irrigation facility of the Irrigation Demonstration Project (excluding on-farm irrigation facilities) and the Toppenish Enhancement Project shall become features of the Wapato Irrigation Project.

(f) TREATMENT OF CERTAIN COSTS.—Costs related to Wapato Irrigation Project improvements, the Irrigation Demonstration Project, and the Toppenish Enhancement Project shall be a Federal responsibility and are nonreimbursable and nonreturnable.

(g) REDESIGNATION OF YAKIMA INDIAN NATION TO YAKAMA INDIAN NATION.—

(1) REDESIGNATION.—The Confederated Tribes and Bands of the Yakima Indian Nation shall be known and designated as the "Confederated Tribes and Bands of the Yakama Indian Nation".

(2) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Confederated Tribes and Bands of the Yakima Indian Nation referred to in subsection (a) shall be deemed to be a reference to the "Confederated Tribes and Bands of the Yakama Indian Nation".

SEC. 5. OPERATION OF YAKIMA BASIN PROJECTS.

(a) WATER SAVINGS FROM BASIN CONSERVATION PROGRAM.—(1) The Basin Conservation Program is intended to result in reductions in water diversions allowing for changes in the present operation of the Yakima Project to improve stream flow conditions in the Yakima River basin. Except as provided by paragraph (5) of this subsection and section 9, commencing with the enactment of this Act, and notwithstanding that anticipated water savings are yet to be realized, the Secretary, upon the enactment of this Act and acting through the Yakima Project Superintendent, shall (A) continue to estimate the water supply which is anticipated to be available to meet water entitlements; and (B) provide instream flows in accordance with the following criteria:

Water Supply Estimate for Period (million acre feet):				Target Flow from Date of Estimate thru October Downstream of (cubic feet per second):	
April thru September	May thru September	June thru September	July thru September	Sunnyside Diversion Dam	Prosser Diversion Dam
(1) 3.2	2.9	2.4	1.9	600	600
(2) 2.9	2.65	2.2	1.7	500	500
(3) 2.65	2.4	2.0	1.5	400	400
Less than line 3 water supply				300	300

(2) The initial target flows represent target flows at the respective points. Reasonable fluctuations from these target flows are anticipated in the operation of the Yakima Project, except that for any period exceeding 24 hours—

(A) actual flows at the Sunnyside Diversion Dam may not decrease to less than 65 percent of the target flow at the Sunnyside Diversion Dam; and

(B) actual flows at the Prosser Diversion Dam may not decrease by more than 50 cubic feet per second from the target flow.

(3) The instream flows shall be increased for interim periods during any month of April through October to facilitate when necessary the outward migration of anadromous fish. Increased instream flows for such interim periods shall be obtained through voluntary sale and leasing of water or water rights or from conservation measures taken under this Act.

(4)(A)(i) Within the three-year period beginning when appropriations are first provided to carry out the Basin Conservation Program, the instream flow goal in the Yakima River is as follows: to secure water which is to be used for instream flows to facilitate meeting recommendations of the System Operations Advisory Committee for flushing flows or other instream uses.

(ii) In addition to any other authority of the Secretary to provide water for flushing flows, the water required to meet the goal specified in clause (i) shall be acquired through the voluntary purchase or lease of land, water, or water rights and from the development of additional storage capability at Lake Cle Elum provided for in section 6(a).

(iii) In addition to water required to meet the instream flow goal specified in clause (i), the System Operations Advisory Committee may recommend additional water to meet instream flow goals pursuant to judicial actions.

(B) After the period referred to in subparagraph (A), such instream flow goal is modified as follows:

(i) The goal increases so that the instream target flows specified in the table in paragraph (1) increase by 50 cubic feet per second for each 27,000 acre-feet of reduced annual water diversions achieved through implementation of measures under the Basin Conservation Program. Such increases do not apply to actions taken pursuant to section 4. Such increases shall not further diminish the amount of water that otherwise would have been delivered by an entity to its water users in years of water proration.

(ii) The goal changes directly with the availability of water resulting from Federal expenditures under this Act for purchase or lease of water under this Act.

(C) The Yakima Project Superintendent shall maintain an account of funded and completed conservation measures taken under the Basin Conservation Program.

(D) No later than March 31 of each calendar year, the Yakima Project Superintendent shall meet with the State of Washington, Yakama Indian Nation, and Yakima River basin irrigators to mutually determine total diversion reductions and respective adjustments to the target flows referred to in this subsection. The Yakima Project Superintendent shall announce such adjustments with the announcements of Total Water Supply Available. For the purposes of this subparagraph, conserved water will be considered available for adjusting target flows in the first year following completion of a measure or following a result from the post implementation monitoring and evaluation program, as the case may be.

(5) Operational procedures and processes in the Yakima River basin which have or may be implemented through judicial actions shall not be impacted by this Act.

(6)(A) Within three years after the date of enactment of this Act, the Secretary shall conduct a study and submit a report with recommendations to the appropriate committees of the Congress on whether the water supply available for irrigation is adequate to sustain the agricultural economy of the Yakima River basin.

(B) The target flows provided for under this subsection shall be evaluated within three years after the date of enactment of this Act by the Systems Operations Advisory Committee for the purpose of making a report with recommendations to the Secretary and the Congress evaluating what is necessary to have biologically-based target flows.

(C) The recommendations and reports under subparagraphs (A) and (B) shall provide a basis for the third phase of the Yakima River Basin Water Enhancement Project.

(b) WATER FROM LAKE CLE ELUM.—Water accruing from the development of additional storage capacity at Lake Cle Elum, made available pursuant to the modifications authorized in section 6(a), shall not be part of the Yakima River basin's water supply as provided in subsection (a)(1). Water obtained from such development is exclusively dedicated to instream flows for use by the Yakima Project Superintendent as flushing flows or as otherwise advised by the System Operations Advisory Committee. Water may be carried over from year-to-year in the additional capacity to the extent that there is space available. Releases may be made from other Yakima Project storage facilities to most effectively utilize this additional water, except that water deliveries to holders of existing water rights shall not be impaired.

(c) STATUS OF BASIN CONSERVATION PROGRAM FACILITIES.—Measures of the Basin Conservation Program which are implemented on facilities currently under the administrative jurisdiction of the Secretary, except as provided in section 4, shall be considered features of the Yakima River Basin Water Enhancement Project, and their operation and maintenance shall be integrated and coordinated with other features of the existing Yakima Project. The responsibility for operation and maintenance and the related costs shall remain with the current operating entity. As appropriate, the Secretary shall incorporate the operation and maintenance of such facilities into existing agreements. The Secretary shall assure that such facilities are operated in a manner consistent with Federal and State law and in accordance with water rights recognized pursuant to State and Federal law.

(d) WATER ACQUIRED BY PURCHASE AND LEASE.—Water acquired from voluntary sellers and lessors shall be administered as a block of water separate from the Total Water Supply Available, in accordance with applicable Federal and State law.

(e) YAKIMA PROJECT PURPOSE.—(1) An additional purpose of the Yakima Project shall be for fish, wildlife, and recreation.

(2) The existing storage rights of the Yakima Project shall include storage for the purposes of fish, wildlife, and recreation.

(3) The purposes specified in paragraphs (1) and (2) shall not impair the operation of the Yakima Project to provide water for irrigation purposes nor impact existing contracts.

SEC. 6. LAKE CLE ELUM AUTHORIZATION OF APPROPRIATIONS.

(a) MODIFICATIONS AND IMPROVEMENTS.—There is hereby authorized to be appropriated to the Secretary—

(1) at September 1990 prices, plus or minus such amounts as may be justified by reason of ordinary fluctuation of applicable indexes, $2,934,000 to—

(A) modify the radial gates at Cle Elum Dam to provide an additional 14,600 acre-feet of storage capacity in Lake Cle Elum,

(B) provide for shoreline protection of Lake Cle Elum, and

(C) construct juvenile fish passage facilities at Cle Elum Dam, plus

(2) such additional amounts as may be necessary which may be required for environmental mitigation.

(b) OPERATION AND MAINTENANCE APPROPRIATIONS.—There is hereby authorized to be appropriated to the Secretary such sums as may be necessary for that portion of the operation and maintenance of Cle Elum Dam determined by the Secretary to be a Federal responsibility.

SEC. 7. ENHANCEMENT OF WATER SUPPLIES FOR YAKIMA BASIN TRIBUTARIES.

(a) GENERAL PROVISIONS.—The following shall be applicable to the investigation and implementation of measures to enhance water supplies for fish and wildlife and irrigation purposes on tributaries of the Yakima River basin:

(1) An enhancement program authorized by this section undertaken in any tributary shall be contingent upon the agreement of appropriate water right owners to participate.

(2) The enhancement program authorized by this section shall not be construed to affect (A) the water rights of any water right owners in the tributary or other water delivering entities; (B) the capability of tributary water users to divert, convey, and apply water; and (C) existing water and land uses within the tributary area.

(3) The water supply for tributary enhancement shall be administered in accordance with applicable State and Federal laws.

(4) Any enhancement program authorized by this section shall be predicated upon the availability of a dependable water supply.

(b) STUDY.—(1) The Secretary, following consultation with the State of Washington, the tributary water right owners, and the Yakama Indian Nation, and agreement of appropriate water right owners to participate, shall conduct a study concerning the measures that can be implemented to enhance water supplies for fish and wildlife and irrigation purposes on Taneum Creek, including (but not limited to)—

(A) water use efficiency improvements;

(B) the conveyance of water from the Yakima Project through the facilities of any irrigation entity willing to contract with the Secretary without adverse impact to water users;

(C) the construction, operation, and maintenance of ground water withdrawal facilities;

(D) contracting with any entity that is willing to voluntarily limit or forego present water use through lease or sale of water or water rights on a temporary or permanent basis;

(E) purchase of water rights from willing sellers; and

(F) other measures compatible with the purposes of this Act, including restoration of stream habitats.

(2) In conducting the Taneum Creek study, the Secretary shall consider—

(A) the hydrologic and environmental characteristics;

(B) the engineering and economic factors relating to each measure; and

(C) the potential impacts upon the operations of present water users in the tributary and measures to alleviate such impacts.

(3) The Secretary shall make available to the public for a 45-day comment period a draft report describing in detail the findings, conclusions, and recommendations of the study. The Secretary shall consider and include any comment made in developing a final report. The Secretary's final report shall be submitted to the Committee on Energy and Natural Resources of the Senate, the Committee on Natural Resources of the House of Representatives, and the Governor of the State of Washington, and made available to the public.

(c) IMPLEMENTATION OF NONSTORAGE MEASURES.—After securing the necessary permits the Secretary may, in cooperation with the Department of Ecology of the State of Washington and in accordance with the laws of the State of Washington, implement nonstorage measures identified in the final report under subsection (b) upon fulfillment of the following conditions:

(1) The Secretary shall enter into an agreement with the appropriate water right owners who are willing to participate, the State of Washington, and the Yakama Indian Nation, for the use and management of the

water supply to be provided by proposed tributary measures pursuant to this section.

(2) The Secretary and the State of Washington find that the implementation of the proposed tributary measures will not impair the water rights of any person or entity in the affected tributary.

(d) OTHER YAKIMA RIVER BASIN TRIBUTARIES.—Enhancement programs similar to the enhancement program authorized by this section may be investigated and implemented by the Secretary in other tributaries contingent upon the agreement of the appropriate tributary water right owners to participate. The provisions set forth in this section shall be applicable to such programs.

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) There is hereby authorized to be appropriated to the Secretary $500,000 for the study of the Taneum Creek Project and such amount as the Secretary subsequently determines is necessary for implementation of tributary measures pursuant to this section.

(2) There is also authorized to be appropriated to the Secretary such funds as are necessary for the investigation of enhancement programs similar to the enhancement program authorized by this section in other Yakima River basin tributaries contingent upon the agreement of the appropriate water right owners to participate. Funds for the implementation of any such similar enhancement program may not be appropriated until after the Secretary submits an investigation report to the appropriate congressional committees.

SEC. 8. CHANDLER PUMPING PLANT AND POWERPLANT-OPERATIONS AT PROSSER DIVERSION DAM.

(a) AUTHORIZATION OF APPROPRIATIONS FOR ELECTRIFICATION.—In order to provide for electrification to enhance instream flows by eliminating the need to divert water to operate the hydraulic turbines which pump water to the Kennewick Irrigation District, there is authorized to be appropriated—

(1) $50,000 to conduct an assessment of opportunities for alternative pumping plant locations;

(2) $4,000,000 for construction; and

(3) such sums as may be necessary for the prorata share of the operation and maintenance allocated to fish and wildlife as determined by the Secretary.

(b) POWER FOR PROJECT PUMPING.—(1) The Administrator of the Bonneville Power Administration shall provide for project power needed to effect the electrification as provided in subsection (a).

(2)(A) There is authorized to be appropriated for the Bureau of Reclamation for each fiscal year in which the Administrator provides power under this subsection an amount equal to the cost to the Bonneville Power Administration of providing power under this subsection during such fiscal year. The rate to be utilized by the Administrator in determining the cost of power under this paragraph in a fiscal year shall be the rate for priority firm power charged by the Bonneville Power Administration in that fiscal year under section 7(b) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839e(b)).

(B) The Bureau of Reclamation shall, using funds appropriated pursuant to the authorization of appropriations in subparagraph (A), reimburse the Bonneville Power Administration for the costs of the project power provided under this subsection. Such funds shall be available for such purpose without fiscal year limitation.

(c) SUBORDINATION.—Any diversions for hydropower generation at the Chandler Powerplant shall be subordinated to meet the flow targets determined under subsection (f).

(d) WATER SUPPLY FOR KENNEWICK IRRIGATION DISTRICT.—The Secretary shall ensure that the irrigation water supply for the Kennewick Irrigation District shall not be affected by conservation, electrification, or subordination pursuant to this Act and any reduction in its irrigation water supply resulting from conservation measures adopted or implemented by other entities pursuant to this Act shall be replaced by water developed through subordination, electrification, or a combination of the two.

(e) TREATMENT OF CERTAIN FUNDS.—Funds appropriated and project power provided pursuant to this section shall be nonreimbursable since such funds are used for fish and wildlife purposes and such funds are not subject to cost share under section 3(d).

(f) TARGET FLOWS.—Target flows measured at appropriate biological and hydrological location or locations shall be determined by the Yakima Project Superintendent in consultation with the System Operations Advisory Committee.

SEC. 9. AUGMENTATION OF KACHESS RESERVOIR STORED WATER.

(a) AUTHORIZATION OF APPROPRIATIONS.—In order to augment Kachess Reservoir stored water supplies from flows of Cabin Creek and Silver Creek which are excess to system demands, there is authorized to be appropriated—

(1) such sums as may be necessary to carry out a feasibility study, including the benefits, costs, and environmental aspects, of the facility described in paragraph (2);

(2) for the construction of facilities to convey such flows to Kachess Reservoir, $20,000,000; and

(3) such sums as may be necessary for the pro rata share of the operation and maintenance allocated to fish and wildlife determined by the Secretary.

(b) LIMITATION.—Construction of the facilities described in subsection (a)(1) is contingent on the completion of the feasibility study referred to in subsection (a)(2).

(c) USE OF ADDITIONAL WATER.—The stored water supply resulting from the construction of facilities under this section shall be used by the Secretary to—

(1) enhance the water supply available to the Kittitas Reclamation District and the Roza Irrigation District in years of proration; and

(2) facilitate reservoir operations in the Easton Dam to Keechelus Dam reach of the Yakima River for the propagation of anadromous fish.

(d) TREATMENT OF COSTS.—The construction and operation and maintenance costs of the facilities under this section shall be allocated to irrigation and fishery enhancement, as follows:

(1) The portion of such costs allocated to irrigation is reimbursable, with the construction costs to be paid prior to initiation of construction by the Kittitas Reclamation District and the Roza Irrigation District.

(2) The portion of such costs allocated to fishery enhancement is nonreimbursable.

(e) KACHESS DAM MODIFICATIONS.—There is authorized to be appropriated $2,000,000 for the modification of the discharge facilities of Kachess Dam to improve reservoir operations for anadromous fish enhancement. Amounts appropriated under this subsection are nonreimbursable.

SEC. 10. INTERIM COMPREHENSIVE BASIN OPERATING PLAN.

(a) DEVELOPMENT.—The Secretary shall, in consultation with the State of Washington, Yakama Indian Nation, Yakima River Basin irrigation districts, Bonneville Power Administration, and other entities as determined by the Secretary, develop an interim comprehensive operating plan for providing a general framework within which the Yakima Project Superintendent operates the Yakima Project, including measures implemented under the Yakima River Basin Water Enhancement Project, including (but not limited to)—

(1) operating capability and constraints of the system;

(2) information on water supply calculations an water needs;

(3) system operations and stream flow objectives; and

(4) the System Operations Advisory Committee activities.

(b) PROCESS REQUIREMENTS.—A draft of the interim comprehensive basin operating plan shall be completed within 18 months after the completion of the Basin Conservation Plan under section 3(f) and, upon completion, published for a 90-day public review period. The Secretary shall complete and publish the final interim comprehensive operating plan within 90 days after the close of the public review period. The Secretary shall update the plan as needed to respond to decisions from water adjudications relating to the Yakima River basin.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $100,000 to carry out this section.

SEC. 11. ENVIRONMENTAL COMPLIANCE.

There are hereby authorized to be appropriated to the Secretary $2,000,000 for environmental compliance activities including the conduct, in cooperation with the State of Washington, of an inventory of wildlife and wetland resources in the Yakima River basin and an investigation of measures, including "wetland banking", which could be implemented to address potential impacts which could result from the activities taken under this Act.

SEC. 12. SAVINGS AND CONTINGENCIES.

(a) IN GENERAL.—Nothing in this Act shall be construed to—

(1) affect or modify any treaty or other right of the Yakama Indian Nation;

(2) authorize the appropriation or use of water by any Federal, State, or local agency, the Yakama Indian Nation, or any other entity or individual;

(3) impair the rights or jurisdictions of the United States, the States, the Yakama Indian Nation, or other entities over waters of any river or stream or over any ground water resource;

(4) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States;

(5) alter, establish, or impair the respective rights of States, the United States, the Yakama Indian Nation, or any other entity or individual with respect to any water or water-related right;

(6) alter, diminish, or abridge the rights and obligations of any Federal, State, or local agency, the Yakama Indian Nation, or other entity, public or private;

(7) affect or modify the rights of the Yakama Indian Nation or its successors in interest to, and management and regulation of, those water resources arising or used, within the external boundaries of the Yakama Indian Reservation;

(8) affect or modify the settlement agreement between the United States and the State of Washington filed in Yakima County Superior Court with regard to Federal reserved water rights other than those rights

reserved by the United States for the benefit of the Yakama Indian Nation and its members;

(9) affect or modify the rights of any Federal, State, or local agency, the Yakama Indian Nation, or any other entity, public or private with respect to any unresolved and unsettled claims in any water right adjudications, or court decisions, including State against Acquavella, or constitute evidence in any such proceeding in which any water or water related right is adjudicated; or

(10) preclude other planning studies and projects to accomplish the purposes of this Act by other means: funded publicly, privately, or by a combination of public and private funding.

(b) CONTINGENCY BASED ON APPROPRIATIONS.—The performance of any activity under this Act which requires accomplishment within a specified period that may require appropriation of money by Congress or the allotment of funds shall be contingent upon such appropriation or allotment being made.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5148 seeks to enhance the available water supply in the Yakima River basin, Washington, by providing a funding source to implement a voluntary water conservation program in the basin. Improvements to existing irrigation systems and their operation will reduce the amount of water that needs to be diverted from the Yakima River to maintain full crop production. This will reduce demand on the total water supply available, and thereby improve the reliability of the water supply for streamflows and irrigation. Those participating in the basin water conservation program must agree to reduce diversions from present levels. Provisions are also included in the bill for improving operation of the Wapato irrigation project.

Similar legislation was approved by the House in July as H.R. 1690.

H.R. 5148 incorporates many strict provisions that will reduce water use in the Yakima Basin. I believe the Yakima legislation offers practical solutions to water allocation problems in the basin, and I urge my colleagues to join me in support of H.R. 5148.

Mr. Speaker, again I would like to commend the gentleman from Washington [Mr. INSLEE], who happens to be in the chair at this very moment, for his untiring effort to bring a very diverse group of water users together along with the environmental community and the irrigation community and people concerned with the future of this basin to agree to this legislation. I want to thank him for all of that effort and all of the work on behalf of this legislation.

Mr. Speaker, again I also want to thank the Members of both sides of the aisle and the committee who have worked on this legislation and to Steve Lanich of our subcommittee on Oversight and Investigations for the time that he spent out in the basin working with the parties to this agreement.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, we have no objection on this side to this legislation, but we have already passed this legislation in August and it was also a part of S. 1146. So we are a little perplexed why we need to pass this bill three times.

The normal procedure is to pass the bill out of the House and then wait for the Senate to take action. Passing the bill out of the House three times is simply not a good use of our limited time.

I urge adoption of this measure, but we may not be as accommodating the fourth time around.

Mr. Speaker, I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the bill, H.R. 5148.

The question was taken; and (two-thirds) having voted in favor thereof, the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5148, YAKIMA RIVER CONSERVATION ACT

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that the clerk be authorized to make technical and conforming changes in the engrossment of H.R. 5148, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDING THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3612) to amend the Alaska Native Claims Settlement Act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3612

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RATIFICATION OF CERTAIN CASWELL AND MONTANA CREEK NATIVE ASSOCIATIONS CONVEYANCES.

The conveyance of approximately 11,520 acres to Montana Creek Native Association, Inc., and the conveyance of approximately 11,520 acres to Caswell Native Association, Inc., by Cook Inlet Region, Inc. in fulfillment of the agreement of February 3, 1976, and subsequent letter agreement of March 26, 1982, among the three parties are hereby adopted and ratified as a matter of Federal law. These conveyances shall be deemed to be conveyances pursuant to section 14(h)(2) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(2)). The group corporations for Montana Creek and Caswell are hereby declared to have received their full entitlement and shall not be entitled to the receipt of any additional lands under the Alaska Native Claims Settlement Act. The ratification of these conveyances shall not have any other effect upon section 14(h) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)) or upon the duties and obligations of the United States to any Alaska Native Corporation. This ratification shall not be the basis for any claim to land or money by Caswell or Montana Creek group corporations or any other Alaska Native Corporation against the State of Alaska, the United States, or Cook Inlet Region, Incorporated.

SEC. 2. MINING CLAIMS AFTER LANDS CONVEYED TO ALASKA REGIONAL CORPORATION.

Section 22(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(c)) is amended by adding at the end the following:

"(3) This section shall apply to lands conveyed by interim conveyance or patent to a regional corporation pursuant to this Act which are made subject to a mining claim or claims located under the general mining laws, including lands conveyed prior to enactment of this paragraph. Effective upon the date of the enactment of this paragraph, the Secretary, acting through the Bureau of Land Management and in a manner consistent with section 14(g) of this Act, shall transfer to the regional corporation administration of all mining claims determined to be entirely within lands conveyed to that corporation. Any person holding such mining claim or claims shall meet such requirements of the general mining laws and section 314 of the Federal Land Management and Policy Act of 1976 (43 U.S.C. 1744), except that any filings which would have been made with the Bureau of Land Management if the lands were within Federal ownership shall be timely made to the appropriate regional corporation. The validity of any such mining claim or claims may be contested by the regional corporation, in the place of the United States. All contest proceedings and appeals by the mining claimants of adverse decisions made by the regional corporation shall be brought in Federal District Court for the District of Alaska. Neither the United States nor any Federal agency or official shall be named or joined as a party in such proceedings or appeals. All revenues from such mining claims received after passage of this paragraph shall be remitted to the regional corporation subject to distribution pursuant to section 7(i) of this Act, except that in the event that the mining claim or claims are not totally within the lands conveyed to the regional corporation, the regional corporation shall be entitled only to that proportion of revenues, other than administrative fees, reasonably allocated to the portion of the mining claim or claims so conveyed.".

SEC. 3. SETTLEMENT OF CLAIMS ARISING FROM HAZARDOUS SUBSTANCE CONTAMINATION OF TRANSFERRED LANDS.

The Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) is amended by adding at the end the following:

"CLAIMS ARISING FROM CONTAMINATION OF TRANSFERRED LANDS

"SEC. 40. (a) As used in this section:

"(1) The term 'contaminant' means hazardous substances harmful to public health or the environment, including asbestos.

"(2) The term 'lands' means real property transferred to an Alaska Native Corporation pursuant to this Act.

"(b) Within 18 months of enactment of this section, and after consultation with the Secretary of Agriculture, State of Alaska, and appropriate Alaska Native corporations and organizations, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a report addressing issues presented by the presence of hazardous substances on lands conveyed or prioritized for conveyance to such corporations pursuant to this Act. Such report shall consist of—

"(1) existing information concerning the nature and types of contaminants present on such lands prior to conveyance to Alaska Native corporations;

"(2) existing information identifying the existence and availability of potentially responsible parties for the removal or amelioration of the effects of such contaminants;

"(3) identification of existing remedies; and

"(4) recommendations for any additional legislation that the Secretary concludes is necessary to remedy the problem of contaminants on such lands.".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS FOR THE PURPOSES OF IMPLEMENTING REQUIRED RECONVEYANCES.

Section 14(c) of Alaska Native Claims Settlement Act (43 U.S.C. 1613(c)) is amended by adding at the end the following:

"There is authorized to be appropriated such sums as may be necessary for the purpose of providing technical assistance to Village Corporations established pursuant to this Act in order that they may fulfill the reconveyance requirements of section 14(c) of this Act. The Secretary may make funds available as grants to ANCSA or nonprofit corporations that maintain in-house land planning and management capabilities.".

SEC. 5. NATIVE ALLOTMENTS.

Section 1431(o) of the Alaska National Interest Lands Conservation Act (94 Stat. 2542) is amended by adding at the end the following:

"(5) Following the exercise by Arctic Slope Regional Corporation of its option under paragraph (1) to acquire the subsurface estate beneath lands within the National Petroleum Reserve—Alaska selected by Kuukpik Corporation, where such subsurface estate entirely surrounds lands subject to a Native allotment application approved under section 905 of this Act, and the oil and gas in such lands have been reserved to the United States, Arctic Slope Regional Corporation, at its further option, shall be entitled to receive a conveyance of the reserved oil and gas, including all rights and privileges therein reserved to the United States, in such lands. Upon the receipt of a conveyance of such oil and gas interests, the entitlement of Arctic Slope Regional Corporation to in-lieu subsurface lands under section 12(a)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(a)(1)) shall be reduced by the amount of acreage determined by the Secretary to be conveyed to Arctic Slope Regional Corporation pursuant to this paragraph.".

SEC. 6. REPORT CONCERNING OPEN SEASON FOR CERTAIN NATIVE ALASKAN VETERANS FOR ALLOTMENTS.

(a) IN GENERAL.—No later than six months after the date of enactment of this Act, the Secretary of the Interior, in consultation with the Secretary of Agriculture, the State of Alaska and appropriate Native corporations and organizations, shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a report which shall include, but not be limited to, the following:

(1) The number of Vietnam era veterans, as defined in section 101 of title 38, United States Code, who were eligible for but did not apply for an allotment of not to exceed 160 acres under the Act of May 17, 1906 (Chapter 2469; 34 Stat. 197), as such Act was in effect before December 18, 1971;

(2) an assessment of the potential impacts of additional allotments on conservation system units as such term is defined in section 102(4) of the Alaska National Interest Lands Conservation Act (94 Stat. 2375); and

(3) recommendations for any additional legislation that the Secretary concludes is necessary.

(b) REQUIREMENT.—The Secretary of Veterans Affairs shall release to the Secretary of the Interior information relevant to the report required under subsection (a).

SEC. 7. TRANSFER OF WRANGELL INSTITUTE.

(a) PROPERTY TRANSFER.—Cook Inlet Region, Incorporated, is authorized to transfer to the United States and the General Services Administration shall accept an approximately 10-acre site of the Wrangell Institute in Wrangell, Alaska, and the structures contained thereon.

(b) RESTORATION OF PROPERTY CREDITS.—

(1) IN GENERAL.—In exchange for the land and structures transferred under subsection (a), property bidding credits in the total amount of $382,305, shall be restored to the Cook Inlet Region, Incorporated, property account in the Treasury established under section 12(b) of the Act of January 2, 1976 (Public Law 94–204; 43 U.S.C. 1611 note), referred to in such section as the "Cook Inlet Region, Incorporated, property account". Such property bidding credits shall be used in the same fiscal year as received by Cook Inlet Region, Incorporated.

(2) HOLD HARMLESS.—The United States shall defend and hold harmless Cook Inlet Region, Incorporated, and its subsidiaries in any and all claims arising from Federal or Cook Inlet Region, Incorporated, ownership of the land and structures prior to their return to the United States.

SEC. 8. SHISHMAREF AIRPORT AMENDMENT.

The Shishmaref Airport, conveyed to the State of Alaska on January 5, 1967, in Patent No. 1240529, is subject to reversion to the United States, pursuant to the terms of that patent for nonuse as an airport. The Secretary is authorized to reacquire the interests originally conveyed pursuant to Patent No. 1240529, and, notwithstanding any other provision of law, the Secretary shall immediately thereafter transfer all right, title, and interest of the United States in the subject lands to the Shismaref Native Corporation. Nothing in this section shall relieve the State, the United States, or any other potentially responsible party of liability, if any, under existing law for the clean up of hazardous or solid wastes on the property, nor shall the United States or Shismaref Native Corporation become liable for the clean up of the property solely by virtue of acquiring title from the State or from the United States.

SEC. 9. PURCHASE OF SETTLEMENT COMMON STOCK OF COOK INLET REGION.

(a) IN GENERAL.—Section 7(h) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(h)) is amended by adding at the end the following new paragraph:

"(4)(A) As used in this paragraph, the term 'Cook Inlet Regional Corporation' means Cook Inlet Region, Incorporated.

"(B) The Cook Inlet Regional Corporation may, by an amendment to its articles of incorporation made in accordance with the voting standards under section 36(d)(1), purchase Settlement Common Stock of the Cook Inlet Regional Corporation and all rights associated with the stock from the shareholders of Cook Inlet Regional Corporation in accordance with any provisions included in the amendment that relate to the terms, procedures, number of offers to purchase, and timing of offers to purchase.

"(C) Subject to subparagraph (D), and notwithstanding paragraph (1)(B), the shareholders of Cook Inlet Regional Corporation may, in accordance with an amendment made pursuant to subparagraph (B), sell the Settlement Common Stock of the Cook Inlet Regional Corporation to itself.

"(D) No sale or purchase may be made pursuant to this paragraph without the prior approval of the board of directors of Cook Inlet Regional Corporation. Except as provided in subparagraph (E), each sale and purchase made under this paragraph shall be made pursuant to an offer made on the same terms to all holders of Settlement Common Stock of the Cook Inlet Regional Corporation.

"(E) To recognize the different rights that accrue to any class or series of shares of Settlement Common Stock owned by stockholders who are not residents of a Native village (referred to in this paragraph as 'non-village shares'), an amendment made pursuant to subparagraph (B) shall authorize the board of directors (at the option of the board) to offer to purchase—

"(i) the non-village shares, including the right to share in distributions made to shareholders pursuant to subsections (j) and (m) (referred to in this paragraph as 'nonresident distribution rights'), at a price that includes a premium, in addition to the amount that is offered for the purchase of other village shares of Settlement Common Stock of the Cook Inlet Regional Corporation, that reflects the value of the nonresident distribution rights; or

"(ii) non-village shares without the nonresident distribution rights associated with the shares.

"(F) Any shareholder who accepts an offer made by the board of directors pursuant to subparagraph (E)(ii) shall receive, with respect to each non-village share sold by the shareholder to the Cook Inlet Regional Corporation—

"(i) the consideration for a share of Settlement Common Stock offered to shareholders of village shares; and

"(ii) a security for only the nonresident rights that attach to such share that does not have attached voting rights (referred to in this paragraph as 'non-voting security').

"(G) An amendment made pursuant to subparagraph (B) shall authorize the issuance of a non-voting security that—

"(i) shall, for purposes of subsections (j) and (m), be treated as a non-village share with respect to—

"(I) computing distributions under such subsections; and

"(I) entitling the holder of the share to the proportional share of the distributions made under such subsections;

"(ii) may be sold to Cook Inlet Region, Inc.; and

"(iii) shall otherwise be subject to the restrictions under paragraph (1)(B).

"(H) Any shares of Settlement Common Stock purchased pursuant to this paragraph shall be canceled on the conditions that—

"(i) non-village shares with the nonresident rights that attach to such shares that are purchased pursuant to this paragraph shall be considered to be—

"(I) outstanding shares; and

"(II) for the purposes of subsection (m), shares of stock registered on the books of the Cook Inlet Regional Corporation in the names of nonresidents of villages; and

"(ii) any amount of funds that would be distributable with respect to non-village shares or non-voting securities pursuant to subsection (j) or (m) shall be distributed by Cook Inlet Regional Corporation to itself; and

"(iii) village shares that are purchased pursuant to this paragraph shall be considered to be—

"(I) outstanding shares, and

"(II) for the purposes of subsection (k) shares of stock registered on the books of the Cook Inlet Regional Corporation in the names of the residents of villages.

"(I) Any offer to purchase Settlement Common Stock made pursuant to this paragraph shall exclude from the offer—

"(i) any share of Settlement Common Stock held, at the time the offer is made, by an officer (including a member of the board of directors) of Cook Inlet Regional Corporation or a member of the immediate family of the officer; and

"(ii) any share of Settlement Common Stock held by any custodian, guardian, trustee, or attorney representing a shareholder of Cook Inlet Regional Corporation in fact or law, or any other similar person, entity, or representative.

"(J)(i) The board of directors of Cook Inlet Regional Corporation, in determining the terms of an offer to purchase made under this paragraph, including the amount of any premium paid with respect to a non-village share, may rely upon the good faith opinion of a recognized firm of investment bankers or valuation experts.

"(ii) Notwithstanding any other provision of law, Cook Inlet Regional Corporation, a member of the board of directors of Cook Inlet Regional Corporation, and any firm or member of a firm of investment bankers or valuation experts who assists in a determination made under this subparagraph shall not be liable for damages resulting from terms made in an offer made in connection with any purchase of Settlement Common Stock if the offer was made—

"(I) in good faith;

"(II) in reliance on a determination made pursuant to clause (i); and

"(II) otherwise in accordance with this paragraph.

"(K) The consideration given for the purchase of Settlement Common Stock made pursuant to an offer to purchase that provides for such consideration may be in the form of cash, securities, or a combination of cash and securities, as determined by the board of directors of Cook Inlet Regional Corporation, in a manner consistent with an amendment made pursuant to subparagraph (B).

"(L) Sale of Settlement Common Stock in accordance with this paragraph shall not diminish a shareholder's status as an Alaska Native or descendant of a Native for the purpose of qualifying for those programs, benefits and services or other rights or privileges set out for the benefit of Alaska Natives and Native Americans. Proceeds from the sale of Settlement Common Stock shall not be excluded in determining eligibility for any needs-based programs that may be provided by Federal, State or local agencies.".

(b) CONFORMING AMENDMENT.—Section 8(c) of such Act (43 U.S.C. 1607(c)) is amended by striking "(h)" and inserting "(h) (other than paragraph (4))".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3612, a bill introduced by the gentleman from Alaska to resolve certain land management issues that have arisen in the implementation of the Alaska Native Claims Settlement Act. We have included an amendment to the bill adding the provisions of H.R. 4665 to provide an option for Cook Inlet Region, Inc. to offer a stock purchase plan to its shareholders.

H.R. 3612 contains eight land management provisions that were developed in close cooperation with the Alaska Native community, Administration, State of Alaska and other parties in Alaska. While the legislation makes primarily minor or technical changes to existing statutes, its provisions are significant for the affected individuals and entities, especially Alaska Natives.

Section 9 of the bill incorporates the text of H.R. 4665 to allow Cook Inlet Region, Inc. [CIRI], by amendment of its articles of incorporation, to offer a plan to its shareholders to purchase and cancel settlement common stock in the corporation.

This legislation was requested by CIRI with the support of the Alaska Federation of Natives and received no objection by the administration or the State of Alaska. It applies only to CIRI and to no other native corporation.

When Congress passed the 1987 amendments to ANCSA, it set out in section 2(7), the policy of granting shareholders of each corporation certain options to structure the further implementation of ANCSA. In doing so, Congress is not expressing an opinion on the manner in which shareholders in any corporation choose to balance individual rights and group rights.

Congress, in this legislation, offers an additional stock purchase option to CIRI. In order to exercise this option, the Board of Directors must put the amendment before the shareholders and it must be approved by a majority vote—50 percent plus one of all outstanding stock. There is nothing in this legislation which requires the CIRI Board to exercise this option if it is approved by the shareholders.

The sale of stock by a shareholder to the corporation would be strictly voluntary and could not be compelled by any party under any circumstances. The decision by a shareholder to sell stock can only be made after a fair valuation of CIRI assets and through consideration of the implications of terminating participation in the lands claims settlement. If a native shareholder sells stock to the corporation, it would not affect in any way the native status of that individual. Proceeds from the sale of stock, however, would be considered as an asset for any needs-based program.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 3612, a bill to amend the Alaska Native Claims Settlement Act. This bill is the result of a year and a half effort of the Alaska Federation of Natives [AFN], the State of Alaska, the administration, Chairman MILLER and the staff from both the majority and minority of the Natural Resources Committee.

I want to especially thank Julie Kitka and Nelson Angapak of AFN, Paul Kirton and Deborah Williams of the Interior Department, the State of Alaska, Mr. Miller and Committee staff for their efforts to bring forth a noncontroversial bill to amend the Alaska Native Claims Settlement Act.

H.R. 3612 makes a number of technical changes to the Alaska Native Claims Settlement Act of 1971 [ANCSA] and the Alaska National Interests Land Conservation Act [ANILCA]. This bill has nine provisions which would resolve some of the technical issues with regard to ANCSA and ANILCA not envisioned at time of passage. For instance, section 1 would ratify an agreement reached between the Cook Inlet Region, Incorporated and Caswell and Montana Creek Native Associations with regard to land conveyances.

Section 3 would direct the Secretary of Interior to submit a report, within 18 months of enactment, to the House Natural Resources Committee and the Senate Energy and Natural Resources Committee, addressing the issue of hazardous substances on lands conveyed to native corporations.

Another would authorize such sums as may be necessary to provide technical assistance to Alaska Native Village Corporations to fulfill the requirements of 14(c) of ANCSA.

Section 6 would direct the Secretary of Interior, in consultation with the Secretary of Agriculture, to submit a report to Congress within 6 months of enactment, of all those Vietnam era veterans who were eligible but did not receive an allotment under the Native Allotment Act of May 17, 1906 as such act was in effect before December 18, 1971. Mr. Speaker, I feel very strongly about this provision and hope that with this report, Congress will be able to enact additional legislation on behalf of these Alaska Native veterans affected and to allow them to apply for their native allotments. Many of these veterans were called to serve during the Vietnam war and I do not believe they should be penalized for fulfilling their patriotic duty. Many were unreachable, as you can well imagine, and could not submit an application for their native allotment. This section would start the process to correct a great injustice to my Alaska Native veterans.

H.R. 4665, as originally introduced, is now incorporated into this bill as section 9. This section would allow Cook Inlet Region, Incorporated [CIRI], by amendment to its articles of incorporation, to offer a plan to its shareholders to purchase and cancel settlement common stock in the corporation. This section was approved by CIRI after extensive survey of its shareholders. This section would authorize CIRI, and only CIRI, to purchase and cancel stock from its shareholders on a voluntary basis only.

Mr. Speaker, this bill is purely a noncontroversial technical bill which addresses some of the unresolved land issues which have arisen since the passage of the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act. I introduced this bill on November 21, 1993, the Subcommittee on Oversight and Investigation held a hearing on September 22, 1994 and the Committee on Natural Resources favorably ordered the bill reported with amendments on September 27, 1994 by a voice vote. This bill is noncontroversial and I urge this body vote for passage of H.R. 3612, with one technical amendment at the desk. I thank the gentleman for the time to clarify some of the major provisions of this bill, and I urge its adoption.

Mr. Speaker, I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the bill, H.R. 3612, as amended.

The question was taken; and—two-thirds having voted in favor thereof—the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

KENAI NATIVES ASSOCIATION EQUITY ACT OF 1994

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3613) entitled the "Kenai Natives Association Equity Act," as amended.

The Clerk read as follows:

H.R. 3613

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Kenai Natives Association Equity Act of 1994".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the United States Fish and Wildlife Service and Kenai Natives Association, Inc. (KNA), have agreed to an exchange and acquisition program pursuant to Public Law 102–458, of lands and interests in lands in and near the Kenai National Wildlife Refuge (Refuge);

(2) this acquisition of and exchange of lands will significantly enhance the ability of the Service to conserve fish and wildlife populations and habitats, fulfill migratory bird treaties, ensure water quality and quantity, provide opportunities for environmental research and education, improve access to fish and wildlife oriented recreation, and further enhance the Refuge management objectives;

(3) the amount to be paid for the Swanson River Road West Tract, the sole issue upon which the Service and KNA could not agree, is established by Congress at $7,500,000; and

(4) it is in the public interest to complete this exchange, and to provide for the economic and beneficial use of lands conveyed to KNA in fulfillment of the purpose of the Alaska Native Claims Settlement Act of 1971, as amended (43 U.S.C. 1601 et seq.) (Settlement Act).

(b) PURPOSE.—The purpose of this Act is to authorize and direct the Secretary to complete an exchange and acquisition as provided by Public Law 102–458 of lands owned by KNA that will provide for and enhance the management opportunities and objectives of the Refuge, and assist KNA in achieving economic viability and use of its retained lands in furtherance of the Settlement Act.

SEC. 3. DEFINITIONS.

For purposes of this Act, the term—

(1) "ANILCA" means the Alaska National Interest Lands Conservation Act, as amended (16 U.S.C. 3101 et seq.);

(2) "conservation system unit" has the same meaning as in ANILCA;

(3) "KNA" means the Kenai Natives Association, Inc., an urban corporation incorporated in the State of Alaska pursuant to the terms of the Settlement Act;

(4) "lands" means both the surface and subsurface estates or any interest therein whenever both estates are owned by the United States or KNA, as applicable;

(5) "property" has the same meaning given such term by section 12(b)(7) of the Settlement Act;

(6) "refuge" means the Kenai National Wildlife Refuge;

(7) "Secretary" means the Secretary of the Interior;

(8) "Service" means the United States Fish and Wildlife Service; and

(9) "Settlement Act" means the Alaska Native Claims Settlement Act of 1971, as amended (43 U.S.C. 1601 et seq.).

SEC. 4. EXCHANGE AND ACQUISITION OF LANDS.

(a) EXCHANGE OF LANDS; ACQUISITION AND EQUALIZATION PAYMENT.—

(1) IN GENERAL.—No later than June 1, 1995, the Secretary shall offer to convey to KNA, in accordance with the provisions of the report to Congress issued pursuant to Public Law 102–458 and subject to the provisions of paragraph (3) and valid existing rights, approximately 1,831 acres of land, portions of the Federal subsurface estate underlying the same, and portions of the Federal subsurface estate underlying another 3,238 acres, all as identified in subsection (b)(2), in exchange for approximately 14,338 acres of KNA land, and the relinquishment by KNA of its unpatented selections and all entitlement to selections under the Settlement Act, consisting of approximately 1,207 acres, all located within the Refuge and identified in subsection (b)(1). The Secretary shall develop the offer required by this section in consultation with KNA.

(2) LIMITATION.—The Secretary may not convey any lands or make any payment to KNA under this section unless title to the lands to be conveyed by KNA in exchange for such lands and payments is in accordance with the Department of Justice standards for preparation of title evidence in land acquisitions by the United States.

(3) SOURCES OF FUNDS.—The Secretary shall utilize any combination of Land and Water Conservation Act of 1965 funds, funds otherwise appropriated by the Congress, Exxon Valdez Oil Spill settlement funds, and lands or other Federal property within the Secretary's jurisdiction as payment to KNA to equalize the values in the exchange.

(4) INTEREST.—If a bonafide offer required by this section is not made by June 1, 1995, interest on the value of the property and interests to be conveyed to KNA shall accrue beginning October 1, 1993.

(b) EXCHANGE AND ACQUISITION LANDS.—

(1) KNA LANDS TO BE ACQUIRED.—The lands or interests to be conveyed by KNA to the United States, all situated within the existing authorized boundary of the Refuge, and identified on the map titled "Kenai Natives Association, Inc. and United States Fish and Wildlife Service Negotiated Exchange/Acquisition Package," dated October 1993, on file and available for inspection in the Office of the Secretary, generally include, subject to reservations of existing road easements—

(A) approximately 803 acres located along the Kenai River, known as the Stephanka Tract;

(B) approximately 1,243 acres located along the Moose River, known as the Moose River Patented Lands Tract;

(C) approximately 2,120 acres located along Marathon Road, known as the Beaver Creek Tract;

(D) approximately 10,172 acres located along the Swanson River Road and the Sunken Island Lake Road, known as the Swanson River Road West Tract;

(E) all of the remaining KNA selections under the Settlement Act, consisting of approximately 1,207 acres, are hereby relinquished and all remaining entitlement of KNA is hereby extinguished; and

(F) an easement for access to and use of less than one acre of land, located in the NE¼ NE¼ of section 24, T.6N., R.9W., Seward Meridian, within the Swanson River Road East Tract, for so long as the site is used by the Service as a radio communications repeater site.

(2) LANDS TO BE EXCHANGED.—The lands or interests to be conveyed by the United States to KNA, and identified (except for the parcel identified in subparagraph (A)) on the map titled "Kenai Natives Association, Inc. and United States Fish and Wildlife Service Negotiated Exchange/Acquisition package," dated October 1993, on file and available for inspection in the Office of the Secretary, generally include, subject to reservations of existing road easements—

(A) approximately five acres, located within the city of Kenai, Alaska, identified as United

States Survey 1435, and known as the old Fish and Wildlife Service Headquarters site;

(B) approximately 1,826 acres located along the Swanson River Road, known as the Swanson River Road East Tract; and

(C) the subsurface estate (less oil, coal, and gas) to approximately 5,064 acres, including approximately 1,826 acres underlying the Swanson River Road East Tract and approximately 3,238 adjacent acres underlying lands previously patented to KNA which are located east of the Swanson River Road.

(3) ACQUISITION AUTHORITY.—The lands identified for acquisition by the United States, specifically identified on the maps referenced in subsection (c) as the Stephanka Tract, the Beaver Creek Tract, and the Moose River Patented Lands Tract, collectively referred to as the "Kenai River Project", may be acquired by the United States pursuant to the Land and Water Conservation Fund Act of 1965.

(4) NATIONAL REGISTER OF HISTORIC PLACES.—Upon completion of the exchange authorized in subsection (a), the Secretary shall promptly undertake to nominate the Stephanka Tract to the National Register of Historic Places, in recognition of the archeological artifacts from the original Kenaitze Indian settlement.

(5) VALUATIONS.—This exchange and acquisition shall be accomplished utilizing the valuations established in the report to Congress issued pursuant to Public Law 102–458, with the exception of the Swanson River Road West Tract which value is established at $7,500,000.

(c) GENERAL PROVISIONS.—

(1) REMOVAL OF RESTRICTIONS.—(A) Those lands retained by KNA, and those parcels within the Refuge, including designated wilderness, conveyed to KNA pursuant to the terms of this Act, shall be removed in their entirety from inclusion within the boundaries of the Refuge by operation of this Act. Such removal from the boundaries of the Refuge shall terminate any application of Federal management and patent restrictions applicable to lands within the Refuge for which conveyance was made pursuant to the terms of the Settlement Act or any other law or regulation applicable solely to Federal lands.

(B) The Secretary shall execute and file such instruments as are necessary to convey lands and remove the restrictions referred to in this section at the time of the conveyances provided in subsection (a)(1).

(C) Any lands KNA shall receive from the United States pursuant to this Act shall be deemed to have been conveyed pursuant to the Settlement Act.

(2) MAPS AND LEGAL DESCRIPTIONS.—The maps described in this section and a legal description of the lands depicted on the maps shall be on file and available for public inspection in the appropriate offices of the United States Department of the Interior. Not later than 120 days after the day of enactment of this Act, the Secretary shall prepare a legal description of the lands depicted on the maps referred to in this section. Such maps and legal descriptions shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors.

(3) ACCEPTANCE.—KNA may accept the offer made pursuant to subsection (a) by notifying the Secretary in writing of its decision within 120 days of receipt of the offer. In the event the offer is rejected, the Secretary shall submit a report to Congress describing the reasons why agreement was not reached.

(4) FINAL MAPS.—Not later than 120 days after the conclusion of the exchange authorized by subsection (a), the Secretary shall transmit a final report and maps accurately depicting the lands transferred and conveyed pursuant to this Act and the acreage and legal descriptions of such lands to the Committee on Natural Resources and the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate.

SEC. 5. ADJUSTMENTS TO NATIONAL WILDLIFE REFUGE SYSTEM.

(a) ADDITION TO THE KENAI NATIONAL WILDLIFE REFUGE.—The Secretary shall add the lands conveyed to the United States pursuant to subsection (a)(1) to the Refuge. The Secretary shall manage such lands in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) and ANILCA.

(b) KENAI NATIONAL WILDLIFE REFUGE BOUNDARY ADJUSTMENT.—The boundaries of the Refuge as set forth in section 303(4)(A) of ANILCA are hereby adjusted to include those lands generally depicted on the map described in section 4(c)(4) entitled "Proposed Boundary Extension", dated October 1993.

(c) ADDITION TO WILDERNESS AREA.—Upon acquisition of lands by the United States pursuant to section 4(a)(1), that portion of the Stephanka Tract lying south and west of the Kenai River, consisting of approximately 592 acres and as generally depicted as "To be included in wilderness" on the map referenced in section 4(b)(1), shall be included in and managed as part of the Kenai Wilderness. Upon their inclusion into the Kenai Wilderness, such lands shall be managed in accordance with the applicable provisions of the Wilderness Act and ANILCA.

(d) REMOVAL OF CONVEYED LANDS FROM WILDERNESS AREA.—Upon conveyance to KNA of those lands under section 4(b)(2), a portion of which is currently designated wilderness, consisting of approximately 623.5 acres and identified as "To be removed from wilderness" on the map referenced in section 4(b)(2), such lands are removed from the Kenai Wilderness and the National Wilderness Preservation System.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

SEC. 7. LIMITATION ON APPLICATION OF REQUIREMENT FOR ACQUISITIONS BY UNITED STATES UNDER MIGRATORY BIRD CONSERVATION ACT.

Section 7 of the Migratory Bird Conservation Act (16 U.S.C. 715f) is amended by inserting "in fee" after "conveyance".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3613, the Kenai Natives Association Equity Act, which was sponsored by the gentleman from Alaska.

H.R. 3613, as amended by the committee, authorizes and directs the Secretary of the Interior to complete an exchange and acquisition as provided by Public Law 102–458 that will both enhance the management objectives of the Kenai Wildlife Refuge and assist the Kenai Natives Association in use of its retained lands.

KNA is an urban corporation created pursuant to the Alaska Native Claims Settlement Act [ANCSA] which was enacted in 1971 to settle the aboriginal land claims of Alaska Natives. KNA was entitled under ANCSA to receive 23,040 acres of land, most of which had to be selected from within the boundaries of the Kenai National Wildlife Refuge subject to a development restriction under section 22(g) of ANCSA. KNA, unlike most ANCSA corporations, received no cash payment under ANCSA.

This exchange strikes a reasonable balance between the property and economic interests of KNA and the public interest in enhancing the fish and wildlife values of the Kenai Wildlife Refuge. It addresses a unique situation faced by one of four urban corporations in Alaska and is not intended to set a precedent in the resolution of 22(g) issues faced by other ANCSA corporation.

Under the terms of the exchange, the USFWS would receive 15,545 acres of KNA lands within the Refuge and entitlements. The land returning to the Refuge contains high-value riparian habitat, wetlands and forested uplands and important Kenai River watersheds which support valuable sport and commercial fisheries. Upon completion of the exchange, the Secretary is directed to nominate one of the tracts to the National Register of Historic Places in recognition of the unique archaeological artifacts that remain from the orgial Kenaitze Indian settlement.

KNA would receive 1,826 acres of Refuge lands, a 5-acre site in the town of Kenai, known as the old USFWS headquarters site, and subsurface estate, less oil, gas and coal, to the 1,826 acres of Refuge lands and to 3,233 acres of surface DNA already owns within the refuge, subject to certain rights previously granted to Cook Inlet Region, Inc. All 5,064 acres owned by DNA would be removed from the Refuge and be available to KNA to develop for economic return to the corporation.

With adjustments and additional designations, the exchange results in a net gain of 330 wilderness acres within the Refuge.

The exchange has a difference in values of $10.9 million in favor of the USFWS. To fund the exchange, H.R. 3613 provides for an equalization payment be paid to KNA by the Secretary from any combination of funds from the Land and Water Conservation Fund or other funds appropriated by Congress, Exxon *Valdez* oil spill settlement funds, and lands or other Federal property within the Secretary's jurisdiction.

The Committee intends that the Exxon *Valdez* Oil Spill Trustee Council give serious consideration to funding the acquisition of the KNA lands as part of the effort to restore and protect important Kenai River watershed habitat. The Kenai Peninsula was one of three major areas affected by the

Exxon *Valdez* oil spill and the KNA lands would make an ideal restoration in this area.

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Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3613, and again thank the chairman of the full committee and the chairman of the subcommittee.

Mr. Speaker, I rise in strong support of H.R. 3613, the Kenai Natives Association Equity Act. The Kenai Natives Association [KNA] was one of four urban corporations formed pursuant to the Alaska Native Claims Settlement Act of 1971 [ANCSA]. As an ANCSA corporation, KNA was entitled to receive 23,040 acres of land, most of which had to be selected within the Kenai National Wildlife Refuge. The land selected within the refuge had a development restriction under section 22(g) of ANCSA.

Since 1982, KNA has sought to exchange the property within the boundaries of this refuge with the U.S. Fish and Wildlife. With the 22(g) development restriction on this property, KNA could not provide any economic opportunities for its shareholders.

Public Law 102–458, which was enacted last Congress, directed the Secretary of Interior to enter into accelerated negotiations with KNA and CIRI and submit to Congress within 6 months a settlement proposal that included land acquisitions or exchanges. Since that time, KNA has reached a tentative exchange agreement with the U.S. Fish and Wildlife on lands within this refuge. I believe that the Kenai Natives have waited long enough for ratification of the agreement reached, and believe they deserve to have this behind them. This Act will authorize and direct the Secretary to complete an exchange and acquisition of lands owned by KNA. I thank the gentleman for the time to explain this bill and I urge its adoption.

Mr. STUDDS. Mr. Speaker, H.R. 3613, the Kenai Natives Association Equity Act, promises to bring long overdue resolution to the interests of the Kenai Natives Association [KNA] in Alaska. This settlement is the product of several years of negotiation between the U.S. Fish and Wildlife Service and the Kenai Natives and is in keeping with the intent of the Alaska Native Claims Settlement Act of 1971.

Specifically, H.R. 3613 directs the Fish and Wildlife Service to acquire 14,300 acres from the KNA for inclusion in the Kenai National Wildlife Refuge, in exchange for conveying to the KNA 1,800 acres of federally owned land and an equalization payment of $7.5 million. In so doing, the land exchange will not only improve the economic viability of the Kenai Natives, but will also enhance the management and protection of fish and wildlife populations and habitat in the Kenai Refuge.

Mr. Speaker, this legislation has been reviewed by both the Committee on Merchant Marine and Fisheries and the Committee on Natural Resources. I encourage my colleagues to support the gentleman from Alaska, Mr. YOUNG, in his efforts to bring this matter to a mutually beneficial resolution.

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. INSLEE). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 3613, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

EXCHANGE OF LANDS WITHIN GATES OF THE ARCTIC NATIONAL PARK AND PRESERVE

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4746) to provide for the exchange of lands within Gates of the Arctic National Park and Preserve, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4746

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—ANAKTUVUK PASS LAND EXCHANGE AND WILDERNESS REDESIGNATION

SEC. 101. SHORT TITLE.

This title may be cited as the "Anaktuvuk Pass Land Exchange and Wilderness Redesignation Act of 1994".

SEC. 102. FINDINGS.

The Congress makes the following findings:

(1) The Alaska National Interest Lands Conservation Act (94 Stat. 2371), enacted on December 2, 1980, established Gates of the Arctic National Park and Preserve and Gates of the Arctic Wilderness. The village of Anaktuvuk Pass, located in the highlands of the central Brooks Range, is virtually surrounded by these national park and wilderness lands and is the only Native village located within the boundary of a National Park System unit in Alaska.

(2) Unlike most other Alaskan Native communities, the village of Anaktuvuk Pass is not located on a major river, lake, or coastline that can be used as a means of access. The residents of Anaktuvuk Pass have relied increasingly on snow machines in winter and all-terrain vehicles in summer as their primary means of access to pursue caribou and other subsistence resources.

(3) In a 1983 land exchange agreement, linear easements were reserved by the Inupiat Eskimo people for use of all-terrain vehicles across certain national park lands, mostly along stream and river banks. These linear easements proved unsatisfactory, because they provided inadequate access to subsistence resources while causing excessive environmental impact from concentrated use.

(4) The National Park Service and the Nunamiut Corporation initiated discussions in 1985 to address concerns over the use of all-terrain vehicles on park and wilderness land. These discussions resulted in an agreement, originally executed in 1992 and thereafter amended in 1993 and 1994, among the National Park Service, Nunamiut Corporation, the City of Anaktuvuk Pass, and Arctic Slope Regional Corporation. Full effectuation of this agreement, as amended, by its terms requires ratification by the Congress.

SEC. 103. RATIFICATION OF AGREEMENT.

(a) RATIFICATION.—

(1) IN GENERAL.—The terms, conditions, procedures, covenants, reservations and other provisions set forth in the document entitled "Donation, Exchange of Lands and Interests in Lands and Wilderness Redesignation Agreement Among Arctic Slope Regional Corporation, Nunamiut Corporation, City of Anaktuvuk Pass and the United States of America" (hereinafter referred to in this title as "the Agreement"), executed by the parties on December 17, 1992, as amended, are hereby incorporated in this title, are ratified and confirmed, and set forth the obligations and commitments of the United States, Arctic Slope Regional Corporation, Nunamiut Corporation and the City of Anaktuvuk Pass, as a matter of Federal law.

(2) LAND ACQUISITION.—Lands acquired by the United States pursuant to the Agreement shall be administered by the Secretary of the Interior (hereinafter referred to as the "Secretary") as part of Gates of the Arctic National Park and Preserve, subject to the laws and regulations applicable thereto.

(b) MAPS.—The maps set forth as Exhibits C1, C2, and D through I to the Agreement depict the lands subject to the conveyances, retention of surface access rights, access easements and all-terrain vehicle easements. These lands are depicted in greater detail on a map entitled "Land Exchange actions, Proposed Anaktuvuk Pass Land Exchange and Wilderness Redesignation, Gates of the Arctic National Park and Preserve", Map No. 185/80,039, dated April 1994, and on file at the Alaska Regional Office of the National Park Service and the offices of Gates of the Arctic National Park and Preserve in Fairbanks, Alaska. Written legal descriptions of these lands shall be prepared and made available in the above offices. In case of any discrepancies, Map No. 185/80,039 shall be controlling.

SEC. 104. NATIONAL PARK SYSTEM WILDERNESS.

(a) REDESIGNATION.—Section 701(2) of the Alaska National Interest Lands Conservation Act (94 Stat. 2371, 2417) establishing the Gates of the Arctic Wilderness is hereby amended with the addition of approximately 56,825 acres as wilderness and the rescission of approximately 73,993 acres as wilderness, thus revising the Gates of the Arctic Wilderness to approximately 7,034,832 acres.

(b) MAPS.—The lands redesignated in subsection (a) are depicted on a map entitled "Wilderness Actions, Proposed Anaktuvuk Pass Land Exchange and Wilderness Redesignation, Gates of the Arctic National Park and Preserve", Map No. 185/80,040, dated April 1994, and on file at the Alaska Regional Office of the National Park Service and the office of Gates of the Arctic National Park and Preserve in Fairbanks, Alaska.

SEC. 105. NATIONAL PARK SYSTEM WILDERNESS.

(a) REDESIGNATION.—Section 201(8)(a) of the Alaska National Interest Land Conservation Act is amended by—

(1) striking "approximately six million four hundred and sixty thousand acres" and

inserting in lieu thereof "approximately 6,477,168 acres"; and

(2) inserting "and the map entitled 'Noatak National Preserve and Noatak Wilderness Addition' dated September 1994" after "July 1980".

(b) SECTION 701.—Section 701(7) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 1132) is amended by striking "approximately five million eight hundred thousand acres" and inserting in lieu thereof "approximately 5,817,168 acres".

SEC. 106. CONFORMANCE WITH OTHER LAW.

(a) ALASKA NATIVE CLAIMS SETTLEMENT ACT.—All of the lands, or interests therein, conveyed to and received by Arctic Slope Regional Corporation or Nunamiut Corporation pursuant to the Agreement shall be deemed conveyed and received pursuant to exchanges under section 22(f) of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, 1621(f)). All of the lands or interests in lands conveyed pursuant to the Agreement shall be conveyed subject to valid existing rights.

(b) ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT.—Except to the extent specifically set forth in this title or the Agreement, nothing in this title or in the Agreement shall be construed to enlarge or diminish the rights, privileges, or obligations of any person, including specifically the preference for subsistence uses and access to subsistence resources provided under the Alaska National Interest Lands Conservation Act, as amended (16 U.S.C. 3101 et seq.).

TITLE II—WASHINGTON SQUARE

SEC. 201. RESTORATION OF WASHINGTON SQUARE.

(a) RESTORATION.—The Secretary of the Interior (acting through the Director of the National Park Service) is authorized to provide a grant to the City of Philadelphia to undertake the restoration of the area known as Washington Square, as depicted on the map numbered 391-80,016 and dated September 1994. Such grant may not be used to fund more than 66.6 percent of the costs of such restoration. The grant shall be conditioned on the conduct of such restoration in accordance with such standards as may be established by the Secretary in order to facilitate the inclusion of the square in Independence National Historical Park pursuant to section 202 of this title. Such standards shall provide for the use of the most cost-efficient design and materials that are both consistent with the historical values of the square and suitable for inclusion in Independence National Historical Park. The grant shall also be conditioned upon the entrance by the city into a memorandum of agreement (hereinafter in this title referred to as the "memorandum") with the Secretary with respect to the long-term lease and administration of the square. The terms and conditions of such memorandum of agreement shall be consistent with the terms and conditions of the document entitled "Memorandum of Agreement of July 14, 1950 Between the Department of the Interior and the City of Philadelphia Relating to the Establishment of the Independence National Historical Park at Philadelphia, Pennsylvania" (hereinafter in this title referred to as the "Memorandum of 1950").

(b) OFFSET OF FUNDING.—Any Federal funds, other than those authorized to be appropriated under this title, that are appropriated for the purpose of restoring Washington Square (as depicted on the map referred to in subsection (a)) shall be used to offset any funds made available to the National Park Service pursuant to this title.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the purposes of this section not more than $2,600,000.

SEC. 202. INCLUSION WITHIN INDEPENDENCE NATIONAL HISTORICAL PARK.

Upon completion of the restoration, pursuant to section 201, of Washington Square (as depicted on the map referred to in section 201), the Secretary of the Interior is authorized to do any of the following:

(1) Enter into a lease agreement with the city of Philadelphia for the lease of such area to the National Park Service under terms that are included in the memorandum and are commensurate with terms contained in the Memorandum of 1950.

(2) Acquire such area, or an interest in the area, by donation.

(3) Modify the boundaries of Independence National Historical Park to include such area within such boundaries.

(4) Provide for the administration of such area as part of such Park.

SEC. 203. ROLE OF CITY OF PHILADELPHIA.

In accordance with the terms set forth in the Memorandum of Understanding signed by the Department of the Interior, the city of Philadelphia, and the Fairmount Park Commission and dated November 25, 1991, and as a condition of receiving the grant referred to in section 201(a), the city of Philadelphia shall provide, without cost to the Federal Government, services for Washington Square (as depicted on the map referred to in section 201) with respect to electricity, natural gas, water and sewer, curbside garbage collection of bagged trash or receipt of hauled trash at a city collection point, and police services comparable to those provided in the surrounding community.

TITLE III—WALNUT CANYON NATIONAL MONUMENT BOUNDARY MODIFICATION

SEC. 301. SHORT TITLE.

This title may be cited as the "Walnut Canyon National Monument Boundary Modification Act of 1994".

SEC. 302. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that:

(1) Walnut Canyon National Monument was established for the preservation and interpretation of certain settlements and land use patterns associated with the prehistoric Sinaguan culture of northern Arizona.

(2) Major cultural resources associated with the purposes of Walnut Canyon National Monument are near the boundary and are currently managed under multiple-use objectives of the adjacent national forest. These concentrations of cultural resources, often referred to as "forts", would be more effectively managed as part of the National Park System.

(b) PURPOSE.—The purpose of this title is to modify the boundaries of the Walnut Canyon National Monument (hereafter in this title referred to as the "national monument") to improve management of the national monument and associated resources.

SEC. 303. BOUNDARY MODIFICATION.

Effective on the date of enactment of this Act, the boundaries of the national monument shall be modified as depicted on the map entitled "Boundary Proposal—Walnut Canyon National Monument, Coconino County, Arizona", numbered 360/80,011, and dated September 1994. Such map shall be on file and available for public inspection in the offices of the Director of the National Park Service, Department of the Interior.

SEC. 304. ACQUISITION AND TRANSFER OF PROPERTY.

The Secretary of the Interior is authorized to acquire lands and interest in lands within the national monument, by donation, purchase with donated or appropriated funds, or exchange. Federal property within the boundaries of the national monument (as modified by this title) is hereby transferred to the administrative jurisdiction of the Secretary of the Interior for management as part of the national monument. Federal property excluded from the monument pursuant to the boundary modification under section 303 is hereby transferred to the administrative jurisdiction of the Secretary of Agriculture to be managed as a part of the Coconino National Forest.

SEC. 305. ADMINISTRATION.

The Secretary of the Interior, acting through the Director of the National Park Service, shall manage the national monument in accordance with this title and the provisions of law generally applicable to units of the National Park Service, including "An Act to establish a National Park Service, and for other purposes" approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4).

SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the purpose of this title.

TITLE IV—NORTH FORK PAYETTE RIVER

SEC. 401. PROTECTION OF THE NORTH FORK PAYETTE RIVER.

In order to protect for present and future generations the outstanding scenic, natural, and recreational values of the North Fork of the Payette River between Cabarton Bridge and Banks in the State of Idaho, the protections afforded by section 7(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1278(a)) for rivers designated under section 3(a) of that Act shall apply to the 25-mile segment of such river downstream of Cabarton Bridge and upstream of the confluence of the river with the South Fork of the Payette at Banks.

SEC. 402. EFFECTIVE DATE.

The provisions of this title shall remain in effect so long as there remain in effect the laws of the State of Idaho that as of the date of enactment of this Act prohibited development of hydroelectric projects (including dams, water conduits, reservoirs, powerhouses and other project works) and other water resource projects on or directly affecting the segment of the North Fork of the Payette River identified in section 401 of this title.

TITLE V—LOWER SALMON RIVER

SEC. 501. SHORT TITLE.

This title may be cited as the "Lower Salmon River Recreational and Scenic Rivers Act of 1994".

SEC. 502. RECREATIONAL AND SCENIC RIVER DESIGNATIONS.

(a) IN GENERAL.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following new paragraph:

"( ) LOWER SALMON RIVER, IDAHO.—(A)(i) The 23.7 mile segment from Long Tom Bar in the southeast quarter of section 31, township 25 north, range 5 east to the line between range 1 east and range 2 east, to be administered by the Secretaries of Agriculture and the Interior as a recreational river.

"(ii) The 35.3 mile segment from the line between range 1 east and range 2 east to the mouth of Hammer Creek in the southwest quarter of section 15, township 28 north, range 1 east, to be administered by the Secretary of the Interior as a recreational river.

"(iii) The 53 mile segment from Hammer Creek to the confluence of the Snake River, to be administered by the Secretary of the Interior as a scenic river.

"(B) Notwithstanding subsection (b), the boundaries of the public lands of the segments described in subparagraph (A) shall be the boundaries of the public lands withdrawn by the Secretary of the Interior through Public Land Order 6629, effective November 13, 1986, and Public Land Order 6670, effective April 1, 1988, and for those lands not included in Public Land Orders 6629 and 6670, the boundaries shall be the legal subdivision line nearest one-quarter mile from the mean high water line of the river.".

(b) LIMITATION.—Nothing in this title, or in the amendment to the Wild and Scenic Rivers Act made by this title, shall be construed as authorizing any acquisition of any scenic easement that without the consent of the landowner would affect any regular use of relevant lands that was exercised prior to the acquisition of such easement. Nothing in this title, or in the amendments to the Wild and Scenic Rivers Act made by this title, shall affect any existing use of the Lower Salmon River, provided that such use occurs at levels consistent with the resource management plan.

SEC. 503. PERMANENT WITHDRAWAL.

The withdrawals made by the Secretary of the Interior through Public Land Order 6629, effective November 13, 1986, and Public Land Order 6670, effective April 1, 1988, are made permanent.

SEC. 504. STUDY OF ROCK CREEK

Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C.1271 and following) is amended by adding the following at the end thereof:

"( ) ROCK CREEK, MONTANA.—The segment downstream from its headwaters to its confluence with the Clark Fork, including its tributaries.".

TITLE VI—TARGHEE NATIONAL FOREST EXCHANGE

SEC. 601. AUTHORIZATION OF EXCHANGE.

(a) CONVEYANCE.—Notwithstanding the requirements in the Act entitled "An Act to Consolidate National Forest Lands", approved March 20, 1922 (16 U.S.C. 485), and section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)) that Federal and non-Federal lands exchanged for each other must be located within the same State, the Secretary of Agriculture may convey the Federal lands described in section 602(a) in exchange for the non-Federal lands described in section 602(b) in accordance with the provisions of this title.

(b) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Except as otherwise provided in this title, the land exchange required in this title shall be made under the existing authorities of the Secretary.

(c) ACCEPTABILITY OF TITLE AND MANNER OF CONVEYANCE.—The Secretary shall not carry out the exchange described in subsection (a) unless the title to the non-Federal lands to be conveyed to the United States, and the form and procedures of conveyance, are acceptable to the Secretary.

SEC. 602. DESCRIPTION OF LANDS TO BE EXCHANGED.

(a) FEDERAL LANDS.—The Federal lands referred to in this title are located in the Targhee National Forest in Idaho, are generally depicted on the map entitled "Targhee Exchange, Idaho-Wyoming—Proposed, Federal Land", dated September 1994, and are known as the North Fork Tract.

(b) NON-FEDERAL LANDS.—The non-Federal lands referred to in this title are located in the Targhee National Forest in Wyoming, are generally depicted on the map entitled "Non-Federal Land, Targhee Exchange, Idaho-Wyoming—Proposed", dated September 1994, and are known as the Squirrel Meadows Tract.

(c) MAPS.—The maps referred to in subsections (a) and (b) shall be on file and available for inspection in the office of the Supervisor of the Targhee National Forest in Idaho and in the office of the Chief of the Forest Service.

SEC. 603. EQUALIZATION OF VALUES.

Before the occurrence of the exchange authorized by section 601, the values of the Federal and non-Federal lands to be so exchanged shall be established by appraisals of fair market value that shall be subject to approval by the Secretary. The values either shall be equal or shall be equalized using the following methods:

(1) ADJUSTMENT OF LANDS.—

(A) PORTION OF FEDERAL LANDS.—If the Federal lands are greater in value than the non-Federal lands, the Secretary shall reduce the acreage of the Federal lands until the values of the Federal lands closely approximate the values of the non-Federal lands.

(B) ADDITIONAL FEDERALLY OWNED LANDS.—If the non-Federal lands are greater in value than the Federal lands, the Secretary may convey additional federally owned lands within the Targhee National Forest up to an amount necessary to equalize the values of the non-Federal lands and the lands to be transferred out of Federal ownership. However, such additional federally owned lands shall be adjacent to the lands identified on the map referred to in section 602(a).

(2) PAYMENT OF MONEY.—The values may be equalized by the payment of money as provided in section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

SEC. 604. ACQUISITION OF SQUIRREL MEADOWS TRACT.

The Secretary shall seek to acquire any portion of the non-Federal lands that is not acquired under this title.

SEC. 605. DEFINITIONS.

For purposes of this title:

(1) The term "Federal lands" means the Federal lands described in section 602(a).

(2) The term "non-Federal lands" means the non-Federal lands described in section 602(b).

(3) The term "Secretary" means the Secretary of Agriculture.

TITLE VII—TRANSFER TO TAOS PUEBLE

SEC. 701. LAND TRANSFER.

(a) TRANSFER.—The parcel of land described in subsection (b) is hereby transferred without consideration to the Secretary of the Interior to be held in trust for the Pueblo de Taos. Such parcel shall be a part of the Pueblo de Taos Reservation and shall be managed in accordance with section 4 of the Act of May 31, 1933 (48 Stat. 108) (as amended, including as amended by Public Law 91-550 (84 Stat. 1437)).

(b) LAND DESCRIPTION.—The parcel of land referred to in subsection (a) is the land that is generally depicted on the map entitled "Lands transferred to the Pueblo of Taos—proposed" and dated September 1994, comprises 764.33 acres, and is situated within sections 25, 26, 35, and 36, Township 27 North, Range 14 East, New Mexico Principal Meridian, within the Wheeler Peak Wilderness, Carson National Forest, Taos County, New Mexico.

(c) CONFORMING BOUNDARY ADJUSTMENTS.—The boundaries of the Carson National Forest and the Wheeler Peak Wilderness are hereby adjusted to reflect the transfer made by subsection (a).

(d) COMPLETION OF TRANSFER.—The Congress finds and declares that the lands to be held in trust and to become part of the Pueblo de Taos Reservation under this section complete the transfer effected by section 4 of the Act of May 31, 1933 (48 Stat. 108) (as amended, including as amended by Public Law 91-550 (84 Stat. 1437)).

TITLE VIII—WOMENS RIGHTS NATIONAL HISTORICAL PARK

SEC. 801. INCLUSION OF ADDITIONAL PROPERTIES.

Section 1601(c) of the Act of December 28, 1980 (16 U.S.C. 410 ll) is amended as follows:

(1) Strike "initially".

(2) Strike "and" at the end of paragraph (8).

(3) Strike the period at the end of paragraph (9) and insert a semicolon.

(4) Add the following at the end thereof:

"(10) not to exceed 1 acre, plus improvements, as determined by the Secretary, in Seneca Falls for development of a maintenance facility;

"(11) dwelling, 1 Seneca Street, Seneca Falls;

"(12) dwelling, 10 Seneca Street, Seneca Falls;

"(13) parcels adjacent to Wesleyan Chapel Block, including Clinton Street, Fall Street, and Mynderse Street, Seneca Falls; and

"(14) dwelling, 12 East Williams Street, Waterloo.".

SEC. 802. MISCELLANEOUS AMENDMENTS TO 1980 ACT.

Section 1601 of the Act of December 28, 1980 (16 U.S.C. 410 ll) is amended as follows:

(1) Insert "(1)" after "(i)" in subsection (i) and add at the end of such subsection (i) the following new paragraph:

"(2) In addition to those sums previously appropriated for land acquisition and development, there is hereby authorized to be appropriated for fiscal years after September 30, 1994, $2,000,000.".

(2) In subsection (c) delete paragraph (7) and renumber the remaining paragraphs accordingly.

TITLE IX—DAYTON AVIATION HERITAGE

Subtitle A—DAYTON AVIATION HERITAGE AMENDMENTS

SEC. 901. DAYTON AVIATION HERITAGE AMENDMENTS.

Section 201(b) of the Dayton Aviation Heritage Preservation Act of 1992 (16 U.S.C. 410ww-21(b)), is amended as follows:

(1) In paragraph (2), by striking "from recommendations" and inserting "after consideration of recommendations".

(2) In paragraph (4), by striking "from recommendations" and inserting "after consideration of recommendations".

(3) In paragraph (5), by striking "from recommendations" and inserting "after consideration of recommendations".

(4) In paragraph (6), by striking "from recommendations" and inserting "after consideration of recommendations".

(5) In paragraph (7), by striking "from recommendations" and inserting "after consideration of recommendations".

Subtitle B—MANASSAS NATIONAL BATTLEFIELD PARK AMENDMENTS

SEC 911. SHORT TITLE.

This title may be cited as the "Manassas National Battlefield Park Amendments of 1994".

SEC. 912. ORDERLY RESOLUTION.

Subsection (b)(2)(C) of the first section of the Act entitled "An Act to preserve within Manassas National Battlefield Park, Virginia, the most important historic properties relating to the battles of Manassas, and for other purposes", approved April 17, 1954 (16 U.S.C. 429b(b)(2)(C)), is amended by adding at the end the following new sentence: "If, pursuant to this paragraph, the United States takes property that is used for public utility purposes (including taking a property right by terminating an easement), the owner of the property or the grantee of the easement may, not later than 3 years after the date of the enactment of the Manassas National Battlefield Park Amendments of 1994, initiate a proceeding in a court of competent jurisdiction seeking a determination of just compensation with respect to the taking of the property.".

TITLE X—PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SEC. 1001. SHORT TITLE.

This title may be cited as the "Pennsylvania Avenue Development Corporation Reauthorization Act of 1994".

SEC. 1002. AUTHORIZATION OF APPROPRIATIONS.

Section 17(a) of the Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 885(a)) is amended by adding at the end the following new sentence: "There are further authorized to be appropriated for operating and administrative expenses of the Corporation $2,738,000 for fiscal year 1995.".

SEC. 1003. DISSOLUTION AND SUCCESSION PLAN.

(a) SUBMISSION OF PLAN.—The Board of Directors of the Pennsylvania Avenue Development Corporation shall prepare and submit to the Congress, not later than March 31, 1995, a dissolution and succession plan that provides for the timely dissolution of the Corporation and an orderly transition to such dissolution. The plan shall—

(1) set forth a proposed plan under which an existing Federal agency or agencies could meet all ongoing Federal responsibilities relating to the development plan referred to in section 5 of the Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 874);

(2) detail the incremental steps that will accomplish the dissolution of the Corporation; and

(3) specifically address the requirements of the Federal Triangle property (as defined in section 10(5) of the Federal Triangle Development Act (40 U.S.C. 1109(5))) and describe means that will ensure appropriate construction at and post-construction development of the property.

(b) FAILURE TO SUBMIT PLAN.—If the Board of Directors of the Pennsylvania Avenue Development Corporation does not submit the dissolution and succession plan required by subsection (a) to the Congress on or before March 31, 1995, the Corporation may not obligate or expend, after March 31, 1995, funds appropriated for fiscal year 1995 under section 17(a) of the Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 885(a)).

(c) APPLICATION NOTWITHSTANDING SECTION 3(b) OF PADC ACT OF 1972.—This section shall apply notwithstanding section 3(b) of the Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 872(b)).

TITLE XI—NEW BEDFORD WHALING NATIONAL HISTORICAL PARK

SEC. 1101. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the New Bedford National Historic Landmark District and associated historic sites as described in section 1103(b) of this title, including the Schooner Ernestina, are National Historic Landmarks and are listed on the National Register of Historic Places as historic sites associated with the history of whaling in the United States;

(2) the city of New Bedford was the 19th century capital of the world's whaling industry and retains significant architectural features, archival materials, and museum collections illustrative of this period;

(3) New Bedford's historic resources provide opportunities for illustrating and interpreting the whaling industry's contribution to the economic, social, and environmental history of the United States and provide opportunities for public use and enjoyment; and

(4) the National Park System presently contains no sites commemorating whaling and its contribution to American history.

(b) PURPOSES.—The purposes of this title are—

(1) to preserve, protect, and interpret the resources within the areas described in section 1103(b) of this title, including architecture, setting, and associated archival and museum collections;

(2) to collaborate with the city of New Bedford and with local historical, cultural, and preservation organizations to further the purposes of the park established under this title; and

(3) to provide opportunities for the inspirational benefit and education of the American people.

SEC. 1102. DEFINITIONS.

For the purposes of this title:

(1) The term "park" means the New Bedford Whaling National Historical Park established by section 1103.

(2) The term "Secretary" means the Secretary of the Interior.

SEC. 1103. NEW BEDFORD WHALING NATIONAL HISTORICAL PARK.

(a) ESTABLISHMENT.—In order to preserve for the benefit and inspiration of the people of the United States as a national historical park certain districts, structures, and relics located in New Bedford, Massachusetts, and associated with the history of whaling and related social and economic themes in America, there is established the New Bedford Whaling National Historical Park.

(b) BOUNDARIES.—(1) The boundaries of the park shall be those generally depicted on the map numbered NAR–P49–80000–4 and dated June 1994. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service. The park shall include the following:

(A) The area included within the New Bedford National Historic Landmark District, known as the Bedford Landing Waterfront Historic District, as listed within the National Register of Historic Places and in the Massachusetts State Register of Historic Places.

(B) The National Historic Landmark Schooner Ernestina, with its home port in New Bedford.

(C) The land along the eastern boundary of the New Bedford National Historic Landmark District over to the east side of MacArthur Drive from the Route 6 overpass on the north to an extension of School Street on the south.

(D) The land north of Elm Street in New Bedford, bounded by Acushnet Avenue on the west, Route 6 (ramps) on the north, MacArthur Drive on the east, and Elm Street on the south.

In case of any conflict between the descriptions set forth in subparagraphs (A) through (D) and the map referred to in this subsection, the map shall govern.

(2) In addition to the sites, areas and relics referred to in paragraph (1), the Secretary may assist in the interpretation and preservation of each of the following:

(A) The southwest corner of the State Pier.

(B) Waterfront Park, immediately south of land adjacent to the State Pier.

(C) The Rotch-Jones-Duff House and Garden Museum, located at 396 County Street.

(D) The Wharfinger Building, located on Piers 3 and 4.

(E) The Bourne Counting House, located on Merrill's Wharf.

SEC. 1104. ADMINISTRATION OF PARK.

(a) IN GENERAL.—The park shall be administered by the Secretary in accordance with this title and the provisions of law generally applicable to units of the national park system, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

(b) COOPERATIVE AGREEMENTS.—(1) The Secretary may consult and enter into cooperative agreements with interested entities and individuals to provide for the preservation, development, interpretation, and use of the park.

(2) Funds authorized to be appropriated to the Secretary for the purposes of this subsection shall be expended in the ratio of one dollar of Federal funds for each dollar of funds contributed by non-Federal sources. For the purposes of this subsection, the Secretary is authorized to accept from non-Federal sources, and to utilize for purposes of this title, any money so contributed. With the approval of the Secretary, any donation of land, services, or goods from a non-Federal source may be considered as a contribution of funds from a non-Federal source for the purposes of this subsection.

(3) Any payment made by the Secretary pursuant to a cooperative agreement under this subsection shall be subject to an agreement that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this title, as determined by the Secretary, shall result in a right of the United States to reimbursement of all funds made available to such project or the proportion of the increased value of the project attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

(c) LIMITATION ON FUNDS.—Funds authorized to be appropriated to the Secretary for operation and maintenance of the schooner Ernestina may not exceed 50 percent of the total costs of such operation and maintenance and may not exceed $300,000 annually.

(d) ACQUISITION OF REAL PROPERTY.—The Secretary may acquire, for the purposes of the park, by donation, exchange, lease or purchase with donated or appropriated funds, lands, interests in lands, and improvements thereon within the park except that (1) lands, and interests in lands, within the boundaries of the park which are owned by the State of Massachusetts or any political subdivision thereof, may be acquired only by donation, and (2) lands, and interests in lands, within the boundaries of the park which are not owned by the State of Massachusetts or any political subdivision thereof may be acquired only with the consent of the owner thereof unless the Secretary determines, after written notice to the owner and after opportunity for comment, that the property is being developed, or proposed to be developed, in a manner which is detrimental to the integrity of the park or which is otherwise incompatible with the purposes of this title.

(e) OTHER PROPERTY, FUNDS, AND SERVICES.—The Secretary may accept donated funds, property, and services to carry out this title.

SEC. 1105. GENERAL MANAGEMENT PLAN.

Not later than the end of the second fiscal year beginning after the date of enactment of this Act, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a general management plan for the park and shall implement such plan. The plan shall be prepared in accordance with section 12(b) of the Act of August 18, 1970 (16 U.S.C. 1a-7(b)) and other applicable law.

SEC. 1106. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title, but not more than $10,400,000 is authorized to be appropriated for construction, acquisition, restoration, and rehabilitation of visitor and interpretative facilities.

TITLE XII—QUINEBAUG AND SHETUCKET RIVERS VALLEY NATIONAL HERITAGE CORRIDOR.

SEC. 1201. SHORT TITLE.

This title may be cited as the "Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act of 1994".

SEC. 1202. FINDINGS.

Congress finds that:

(1) The Quinebaug and Shetucket Rivers Valley in the State of Connecticut is one of the last unspoiled and undeveloped areas in the Northeastern United States and has remained largely intact, including important aboriginal archaeological sites, excellent water quality, beautiful rural landscapes, architecturally significant mill structures and mill villages, and large acreage of parks and other permanent open space.

(2) The State of Connecticut ranks last among the 50 States in the amount of federally protected park and open space lands within its borders and lags far behind the other northeastern States in the amount of land set-aside for public recreation.

(3) The beautiful rural landscapes, scenic vistas and excellent water quality of the Quinebaug and Shetucket Rivers contain significant undeveloped recreational opportunities for people throughout the United States.

(4) The Quinebaug and Shetucket Rivers Valley is within a 2-hour drive of the major metropolitan areas of New York City, Hartford, Providence, Worcester, Springfield, and Boston. With the President's Commission on Americans Outdoors reporting that Americans are taking shorter "closer-to-home" vacations, the Quinebaug and Shetucket Rivers Valley represents important close-by recreational opportunities for significant population.

(5) The existing mill sites and other structures throughout the Quinebaug and Shetucket Rivers Valley were instrumental in the development of the industrial revolution.

(6) The Quinebaug and Shetucket Rivers Valley contains a vast number of discovered and unrecovered Native American and colonial archaeological sites significant to the history of North America and the United States.

(7) The Quinebaug and Shetucket Rivers Valley represents one of the last traditional upland farming and mill village communities in the northeastern United States.

(8) The Quinebaug and Shetucket Rivers Valley played a nationally significant role in the cultural evolution of the prewar colonial period. Leading the transformation from Puritan to Yankee, the "Great Awakening" religious revival and early political development leading up to and during the War of Independence.

(9) Many local, regional and State agencies, businesses, and private citizens and the New England Governors' Conference have expressed an overwhelming desire to combine forces: to work cooperatively to preserve and enhance resources region-wide and better plan for the future.

SEC. 1203. ESTABLISHMENT OF QUINEBAUG AND SHETUCKET RIVERS VALLEY NATIONAL HERITAGE CORRIDOR; PURPOSE.

(a) ESTABLISHMENT.—There is hereby established in the State of Connecticut the Quinebaug and Shetucket Rivers Valley National Heritage Corridor.

(b) PURPOSE.—It is the purpose of this title to provide a management framework to assist the State of Connecticut, its units of local and regional government and citizens in the development and implementation of integrated cultural, historical, and recreational land resource management programs in order to retain, enhance, and interpret the significant features of the lands, water, and structures of the Quinebaug and Shetucket Rivers Valley in the State of Connecticut.

SEC. 1204. BOUNDARIES AND ADMINISTRATION.

(a) BOUNDARIES.—The Boundaries of the Corridor shall include the towns of Ashford, Brooklyn, Canterbury, Chaplin, Coventry, Eastford, Franklin, Griswold, Hampton, Killingly, Lebanon, Lisbon, Mansfield, Norwich, Plainfield, Pomfret, Preston, Putnam, Scotland, Sprague, Sterling, Thompson, Voluntown, Windham, and Woodstock. As soon as practical after the date of enactment of this title, the Secretary of the Interior shall publish in the Federal Register a detailed description and map of boundaries established under this subsection.

(b) ADMINISTRATION.—The Corridor shall be administered in accordance with the provisions of this title.

SEC. 1205. QUINEBAUG AND SHETUCKET RIVERS VALLEY NATIONAL HERITAGE CORRIDOR COMMISSION.

(a) ESTABLISHMENT.—There is hereby established within the Department of the Interior the Quinebaug and Shetucket Rivers Valley National Heritage Corridor Commission (referred to in this title as the "Commission"). The Commission shall assist appropriate Federal, State, regional planning organizations, and local authorities in the development and implementation of an integrated resource management plan for the lands and water as specified in section 1203.

(b) MEMBERSHIP.—The Commission shall be comprised of 19 members appointed not later than 6 months after the date of enactment of this title as follows:

(1) The Director of the National Park Service ex officio (or his delegate).

(2) 3 individuals appointed by the Secretary after consultation with the governor, who shall represent the interests of—

(A) the Connecticut Department of Environmental Protection,

(B) the Connecticut Historical Commission, and

(C) the Connecticut Department of Economic Development;

(3) 6 individuals representing the interests of local government or regional planning organizations from Connecticut appointed by the Secretary after consultation with the Governor, of whom, 3 shall be representatives of the 3 regional planning organizations within the Corridor region and 3 shall be local elected officials from the region; and

(4) 9 individuals from the general public, who are citizens of the State of Connecticut, appointed by the Secretary, after consultation with the Governor, representing conservation, business, tourism, and recreational interests.

A vacancy in the Commission shall be filled in the manner in which the original appointments were made.

(c) TERMS.—(1) Members of the Commission shall be appointed for terms of 3 years and may be reappointed.

(2) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Any member of the Commission appointed for a definite term may serve after the expiration of his term until his successor has taken office.

(d) COMPENSATION.—Members of the Commission shall receive no pay on account of their service on the Commission but while away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United State Code.

(e) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the members of the Commission.

(f) QUORUM.—(1) 8 members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) The affirmative vote of not less than 10 members of the Commission shall be required to approve the budget of the Commission.

(g) MEETINGS.—The Commission shall hold its first meeting not later than 90 days after the date on which its members are appointed, and shall meet at least quarterly at the call of the chairperson or 10 of its members. Meetings of the Commission shall be subject to section 552(b) of title 5, United States Code (relating to open meetings).

(h) PROXY.—Any member of the Commission may vote by means of a signed proxy exercised by another member of the Commission, but any member so voting shall not be considered present for purposes of establishing a quorum.

SEC. 1206. STAFF OF THE COMMISSION.

(a) IN GENERAL.—(1) The Commission shall have the power to appoint and fix compensation of such staff as may be necessary to carry out its duties.

(2) Staff appointed by the Commission—

(A) shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(B) shall be paid in accordance with provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) EXPERTS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

(c) STAFF OF OTHER AGENCIES.—(1) Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out the Commission's duties.

(2) The Commission may accept the service of personnel detailed from the State, any political subdivision and regional planning organizations, and may reimburse the State, political subdivision, and regional planning organizations for those services.

SEC. 1207. POWERS OF COMMISSION.

(a) HEARINGS.—(1) The Commission may, for the purposes of carrying out this title, hold hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) The Commission may not issue subpoenas or exercise any subpoena authority.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission, if so authorized by the Commission, may take any action which the Commission is authorized to take by this title.

(c) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis, such administrative support services as the Commission may request.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and other agencies of the United States.

(e) USE OF FUNDS TO OBTAIN MONEY.—The Commission may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(f) GIFTS.—Except as provided in subsection (g)(2)(B), the Commission may, for purposes of carrying out its duties, seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services, received from any source: Provided, That such gifts are used for public purposes.

(g) ACQUISITION OF REAL PROPERTY.—(1) Except as provided in paragraph (2) and except with respect to any leasing of facilities under subsection (c), the Commission may not acquire any real property or interest in real property.

(2) Subject to paragraph (3), the Commission may acquire real property or interest in real property in the Corridor—

(A) by gift or devise; or

(B) by purchase from a willing seller with money that was given, appropriated, or bequeathed to the Commission on the condition that such money would be used to purchase real property, or interest in real property, in the Corridor.

(3) Any real property or interest in real property acquired by the Commission under paragraph (2) shall be conveyed by the Commission to an appropriate public or private land management agency, as determined by the Commission. Any such conveyance shall be made—

(A) as soon as practicable after such acquisition;

(B) without consideration; and

(C) on the condition that the real property or interest in real property so conveyed is used for public purposes.

(h) COOPERATIVE AGREEMENTS.—For purposes of carrying out the plan, the Commission may enter into cooperative agreements with the State of Connecticut, with any political subdivision, or with any person or organization. Any such cooperative agreement shall, at a minimum, establish procedures for providing notice to the Commission of any action proposed by the State, such political subdivision, or such person which may affect implementation of the plan referred to in section 1208.

SEC. 1208. DUTIES OF THE COMMISSION.

(a) PREPARATION OF PLAN.—Within 2 years after the Commission conducts its first meeting, it shall submit to the Secretary of the Interior and the Governor of Connecticut for review and approval of Cultural Heritage and Corridor Management Plan. The Plan shall be based on existing Federal, State, and local plans, but shall coordinate those plans and present a unified historic preservation, interpretation, and recreational plan for the Corridor. The plan shall—

(1) provide an inventory which includes any property in the Corridor which should be preserved, restored, managed, developed, maintained, or acquired because of its national historic or cultural or recreational significance;

(2) recommend advisory standards and criteria applicable to the construction, preservation, restoration, alteration, and use of all properties within the Corridor;

(3) develop an historic interpretation plan to interpret the history of the Corridor;

(4) develop an inventory which includes existing and potential recreational sites which are developed or which could be developed along the Quinebaug and Shetucket Rivers and their surrounding areas;

(5) recommend policies for resource management which consider and detail application of appropriate land and water management techniques, including but not limited to, the development of inter-governmental cooperative agreements to protect the Corridor's historical, cultural, recreational, scenic, and natural resources in a manner consistent with supporting appropriate and compatible economic revitalization efforts;

(6) detail ways in which local, State, and Federal programs may best be coordinated to promote the purposes of this title; and

(7) contain a program for implementation of the Plan by the State and its political subdivisions.

(b) IMPLEMENTATION OF PLAN.—After review and approval of the Plan by the Secretary and the Governor as provided in subsection (a), the Commission shall implement the Plan by taking appropriate steps to preserve and interpret the historic resources, develop the recreational resources of the Corridor and its surrounding area, and to support public and private efforts in economic revitalization, consistent with the goals of the Plan. These steps may include, but need not be limited to—

(1) assisting the State and local governmental entities or regional planning organizations, and non-profit organizations in preserving the Corridor and ensuring appropriate use of lands and structures throughout the Corridor;

(2) assisting the State and local governmental entities or regional planning organizations, and non-profit organizations in establishing, and maintaining visitor centers and other interpretive exhibits in the Corridor;

(3) assisting the State and local governmental entities or regional planning organizations, and non-profit organizations in developing recreational programs and resources in the Corridor;

(4) assisting the State and local governmental entities or regional planning organizations, and non-profit organizations in increasing public awareness of and appreciation for the historical and architectural resources and sites in the Corridor;

(5) assisting the State and local governmental or regional planning organizations and nonprofit organizations in the restoration of any historic building in the Corridor;

(6) encouraging by appropriate means enhanced economic and industrial development in the Corridor consistent with the goals of the Plan;

(7) encouraging local governments to adopt land use policies consistent with the management of the Corridor and the goals of the Plan, and to ensure appropriate use of lands and structures throughout the Corridor; and

(8) assisting the State and local governmental entities or regional planning organizations to ensure that clear, consistent signs identifying access points and sites of interest are put in place throughout the Corridor.

SEC. 1209. TERMINATION OF COMMISSION.

(a) TERMINATION.—Except as provided in subsection (b), the Commission shall terminate on the day occurring 5 years after the date of enactment of this title.

(b) EXTENSION.—The Commission may be extended for a period of not more than 5 years beginning on the day of termination referred to in subsection (a) if, not later than 180 days before such day—

(1) the Commission determines such extension is necessary in order to carry out the purposes of this title;

(2) the Commission submits such proposed extension to the Committee on Natural Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate; and

(3) the Secretary, in consultation with the Governor of Connecticut, approves such extension.

SEC. 12010. DUTIES OF THE SECRETARY.

(a) APPROVAL OF PLAN.—The Secretary of the Interior, in consultation with the Governor of Connecticut, shall approve or disapprove a Plan submitted under this title by the Commission not later than 60 days after receiving such Plan. The Secretary, in consultation with the Governor, shall approve a Plan submitted if—

(1) they find the Plan, if implemented, would adequately protect significant historical and cultural resources of the Corridor while providing adequate and appropriate outdoor recreational opportunities and economic activities within the Corridor;

(2) they determine that the Commission held public hearings and provided adequate opportunity for public and governmental involvement in the preparation of the Plan; and

(3) the Secretary receives adequate assurances from appropriate State officials that the recommended implementation program identified in the Plan will be initiated within a reasonable time after date of approval of the Plan, and that such implementation program will ensure effective implementation of the State and local aspects of the Plan.

(b) DISAPPROVAL OF PLAN.—If the Secretary disapproves a Plan submitted to him by the Commission, he shall advise the Commission in writing of the reasons therefor and shall make recommendations for revisions in the Plan. The Commission shall within 90 days of receipt of such notice of disapproval revise and resubmit the plan to the Secretary who shall approve or disapprove a proposed revision within 60 days after the date it is submitted to him.

(c) ASSISTANCE.—The Secretary of the Interior shall, upon request of the Commission, assist the Commission in the preparation and implementation of Plan.

SEC. 12011. DUTIES OF OTHER FEDERAL ENTITIES.

Any Federal entity conducting or supporting activities directly affecting the Corridor shall—

(1) consult with the Secretary and the Commission with respect to such activities;

(2) cooperate with the Secretary and the Commission with respect to such activities and, to the maximum extent practicable, coordinate such activities; and

(3) to the maximum extent practicable, conduct or support such activities in a manner which the Commission determines will not have an adverse effect on the Corridor.

SEC. 12012. AUTHORIZATION OF APPROPRIATIONS.

(a) COMMISSION.—There is authorized to be appropriated $200,000 for fiscal year 1994 and 250,000 annually to the Commission to carry out its duties under this title except that the Federal contributions to the Commission shall not exceed 50 percent of the annual costs to the Commission in carrying out those duties.

(b) SECRETARY.—There are authorized to be appropriated annually to the Secretary such sums as may be necessary to carry out his duties under this title.

SEC. 12013. DEFINITIONS.

For purposes of this title—

(1) The term "Commission" means the Quinebaug and Shetucket Rivers Valley National Heritage Corridor Commission established under section 1205.

(2) The term "State" means the State of Connecticut.

(3) The term "Corridor" means the Quinebaug and Shetucket Rivers Valley National Heritage Corridor established under section 1203.

(4) The term "Plan" means the Cultural Heritage and Corridor Management Plan to be prepared by the Commission pursuant to section 1208.

(5) The term "Governor" means the Governor of the State of Connecticut.

(6) The term "Secretary" means the Secretary of the Interior.

(7) The term "regional planning organization" means each of the 3 regional planning organizations established by Connecticut State statute chapter 127 and chapter 50 (the Northeast Council of Governments, the Windham Regional Planning Agency or its successor, and the Southeastern Connecticut Regional Planning Agency or its successor).

TITLE XIII—GREAT FALLS PRESERVATION AND REDEVELOPMENT.

SEC. 1301. SHORT TITLE.

This title may be cited as the "Great Falls Preservation and Redevelopment Act of 1994".

SEC. 1302. FINDINGS.

The Congress finds that—

(1) the Great Falls Historic District in the State of New Jersey is an area of historical significance as an early site of planned industrial development, and has remained largely intact, including architecturally significant structures;

(2) the Great Falls Historic District is listed on the National Register of Historic Places and has been designated a National Historic Landmark;

(3) the Great Falls Historic District is within a half hour drive of New York City, and within two hours of Philadelphia, Hartford, New Haven, and Wilmington;

(4) the District was originally established by the Society of Useful Manufactures, an organization whose leaders included a number of historically renowned individuals, including Alexander Hamilton; and

(5) the Great Falls Historic District has been the subject of a number of studies which have shown that the District possesses a combination of historic significance and natural beauty worthy of and uniquely situated for preservation and redevelopment.

SEC. 1303. PURPOSE.

The purpose of this title is to preserve and interpret for the educational and inspirational benefit of the public, the contribution to our national heritage of certain historic and cultural lands, waterways and edifices of the Great Falls Historic District with emphasis on harnessing this unique urban environment for its educational and recreational value, as well as to enhance economic and cultural redevelopment within the District.

SEC. 1304. GREAT FALLS HISTORIC DISTRICT.

(a) ESTABLISHMENT.—There is hereby established in the city of Paterson in the county of Passaic in the State of New Jersey the Great Falls Historic District.

(b) BOUNDARIES.—The boundaries of the District shall be the boundaries as specified for the Great Falls Historic District listed on the National Register of Historic Places.

SEC. 1305. ADMINISTRATION.

(a) IN GENERAL.—The Secretary is authorized to enter into cooperative agreements in accordance with this title. In expending moneys appropriated pursuant to this title, the Secretary may make grants to and enter into cooperative agreements with State or local government agencies or nonprofit entities for each of the following:

(1) The preparation of a plan for the development of historic, architectural, natural, cultural, and interpretive resources within the District. The plan shall include each of the following:

(A) An evaluation of—

(i) the existing condition of historic and architectural resources; and

(ii) the environmental and flood hazard conditions within the District.

(B) Recommendations for—

(i) rehabilitating, reconstructing, and adaptively reusing such historic and architectural resources;

(ii) preserving viewsheds, focal points, and streetscapes;

(iii) establishing gateways to the District;

(iv) establishing and maintaining parks and public spaces;

(v) restoring, improving, and developing raceways and adjacent areas;

(vi) developing public parking areas;

(vii) improving pedestrian and vehicular circulation within the District;

(viii) improving security within the District, with an emphasis on preserving historically significant structures from arson; and

(ix) establishing a visitor's center.

(2) Implementation of projects approved by the Secretary pursuant to the Plan.

(b) RESTORATION, MAINTENANCE, AND INTERPRETATION.—The Secretary may enter into cooperative agreements with the owners of properties within the District of historical or cultural significance as determined by the Secretary, pursuant to which the Secretary may mark, interpret, improve, restore, and provide technical assistance with respect to the preservation and interpretation of such properties. Such agreements shall contain, but need not be limited to, provisions that the Secretary shall have the right of access at reasonable times to public portions of the property for interpretive and other purposes, and that no changes or alterations shall be made in the property except by mutual agreement.

(c) CAPITAL PROJECTS.—(1) Application for funds for capital projects and improvements under this title shall be submitted to the Secretary and shall include a description of how the project proposed to be funded will further the purposes of the District.

(2) In making such funds available, the Secretary shall give consideration to projects which provide a greater leverage of Federal funds. Any payment made shall be subject to an agreement that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this title, as determined by the Secretary, shall result in a right of the United States of reimbursement of all funds made available to such project or the proportion of the increased value of the project attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

SEC. 1306. DEFINITIONS.

As used in this title—

(1) The term "District" means the Great Falls Historic District established by section 1304.

(2) The term "Secretary" means the Secretary of the Interior.

SEC. 1307. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary to carry out this title not more than—

(1) $3,000,000 for capital projects;

(2) $250,000 for planning; and

(3) $50,000 for technical assistance.

Funds made available pursuant to paragraphs (1) and (2) shall not exceed 50 percent of the total costs of the project to be funded. The authority to expend funds under this title shall expire 5 years from the date of enactment.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota.

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4746, as amended, combines several measures reported by the Committee on Natural Resources, including some that have already passed the House.

Title 1 deals with the gates of the Arctic National Park and Preserve, in Alaska. It is identical to H.R. 4746 as favorably reported by the Committee on Natural Resources, and is based on an administration legislative proposal.

The provisions of title 2 are the same as those reported by the committee in H.R. 4642, dealing with the restoration of Washington Square, in Philadelphia, and for its inclusion within Independence National Historical Park.

Title 3 is identical to H.R. 4697, a bill introduced by the gentlewoman from Arizona [Ms. ENGLISH], as reported by the Committee on Natural Resources. It would add certain lands to the Walnut Canyon National Monument, in Arizona.

Title 4 is identical to H.R. 233, introduced by the gentleman from Idaho [Mr. LAROCCO], as reported by the committee. It would provide Federal protection for a portion of the North Fork of the Payette River, in Idaho, to supplement the protection provided under State law.

Title 5 is identical to H.R. 4083, also introduced by Mr. LAROCCO, as reporter by the committee. It would designate three segments of the Lower Salmon River, in Idaho, for inclusion in the National Wild and Scenic Rivers System, and would provide for A study of Rock Creek, in Montana, for possible future designation. The Rock Creek provision was added in committee by an amendment offered by the gentleman from Montana [Mr. WILLIAMS].

Title 6 is identical to H.R. 3554, by the gentleman from Idaho, [Mr. CRAPO], as reported by the committee. It would facilitate a land exchange involving lands in the Targhee National Forest.

Title 7 is identical to H.R. 3204, by the gentleman from New Mexico [Mr. RICHARDSON], as reported by the committee. It would provide for the transfer of certain national forest lands to the Taos Pueblo.

Title 8 contains provisions of H.R. 359, introduced by the gentlewoman from New York [Ms. Slaughter], as reported from the committee. It would authorize the addition of several properties to the Women's Rights National Historical Park.

Title 9 contains provisions of H.R. 3559, by the gentleman from Ohio, [Mr. HALL], as reported by the committee, which would clarify the power of the Secretary of the Interior regarding appointments to the Dayton Aviation Historical Park Advisory Commission. This title also includes provisions that would allow for a cost-effective and cooperative resolution of the last claim resulting from the 1988 legislative taking of land for Manasssa National Battlefield Park, in Virginia.

Title 10 is identical to H.R. 5096, as reported by the committee. It would extend for 1 year only the Pennsylvania Avenue Development Corporation's [PADC] authorization for appropriations, and to require the development of a plan to phase out the corporation.

Title 11 is identical to H.R. 3898, which passed the House on August 1, 1994. It would establish the New Bedford Whaling National Historical Park in New Bedford, MA.

Title 12 is identical to H.R. 1348, by the gentleman from Connecticut [Mr. GEJDENSON], which was approved by the House of Representatives on September 13, 1993. It would establish the Quinebaug and Shetucket Rivers Valley National Heritage Corridor in the State of Connecticut.

Finally, Mr. Speaker, title 13, is identical to H.R. 3498, introduced by the gentleman from New Jersey [Mr. KLEIN], which was approved by the House of Representatives on April 13, 1994. This title would establish the Great Falls Historic District.

These bills are explained at length in the reports of the committee. In addition, I am including a brief discussion of each in my statement.

TITLE I

This title would ratify and implement an agreement among the National Park Service—on behalf of the United States—two Alaska Native Corporations, and the municipal government of the village of Anaktuvuk Pass, AK. Under the agreement, the United States would transfer to the native corporations certain Federal land that are now managed as part of the Gates of the Arctic National Park and as wilderness. In exchange, the native corporations and the municipal government would transfer to the United States certain lands and interests located within the National Park.

The National Park lands involved in the exchange are also designated as wilderness, so legislation is required if they are to be transferred. Under the bill as reported, ratification of the agreement and removal of national park lands from wilderness designation is accompanied by the designation as wilderness of other lands, including both lands within the Gates of the Arctic National Park and BLM-managed public lands in the Nigu River area that would be added to the adjacent Noatak National Preserve.

The administration proposed that these BLM-managed lands instead be part of a larger block of lands in the Nigu area that would be designated as wilderness without transfer of management to the National Park Service.

However, in committee the gentleman from Alaska proposed a smaller wilderness designation and transfer of the lands from BLM. While I would have preferred the administration's proposal, I joined in accepting the amendment because it would assure that the bill will not result in a net reduction of wilderness in the National Park System, and would leave the remainder of the BLM-managed lands in the Nigu area in their current wilderness-study status. It should be noted that while the provisions of the title are similar to those in a bill reported from committee in the Senate, the boundaries of the lands added to the Naotak preserve and wilderness are not identical, although the acreage involved is the same. The boundaries provided for in this title would emphasize protection of riparian areas along the Nigu River, and were drawn with the technical assistance of the Department of the Interior.

TITLE II

Title II contains the provisions of H.R. 4642, as reported by the Committee on Natural Resources. This title provides for the restoration of Washington Square in Philadelphia and for its inclusion within Independence National Historical Park, to which it is immediately adjacent, once it is restored to National Park Service standards.

Washington Square, which is listed on the National Register of Historic Places, is one of the five great public squares of Philadelphia laid out by William Penn's chief surveyor, Capt. Thomas Holmes in 1683. Established as Southeast Square, it was designated in 1706 as a "publick burying ground."

During the Revolutionary War, approximately 2,000 unknown soldiers were buried there, the greatest number in any location in the United States. Some of those interred in Washington Square died in battle, while others died as prisoners held by British troops in what is now Independence Hall. The cemetery was made into a park in 1815 and planted with trees planted by the noted botanist Francois Andre Michaus. In 1825 the city renamed it Washington Square. In the early 20th century, the landscape architecture firm, Olmsted Brothers & Co., executed a new design for the park. In 1957, a memorial to the unknown soldiers of the Revolutionary War was dedicated at the square.

The square has fallen into disrepair in recent years. In particular, the slate walkways require extensive and expensive repairs. The city of Philadelphia has been subject to personal injury claims due to the dilapidated state of the pedestrian paths. Further, the square's function as a site commemorating war dead has been compromised as the physical state of the square has declined. The estimated cost of repair is $3.8 million.

Beginning in the 98th Congress, legislation was introduced to add Washington Square to Independence National Historical Park. Since then, the House has twice passed such bills, but the Senate has not acted on them.

In 1991, the Department of the Interior and the city of Philadelphia entered into a memorandum of understanding that would add Washington Square to Independence National Historical Park following the completion of necessary restoration and repairs. In 1993, these parties signed a supplemental agreement with the American revolution agreement with the American Revolution Patriots Fund, a nonprofit organization, to raise and manage the funds needed for this project. Few funds have been raised to date, however.

This title would not only authorize $2.6 million in matching Federal funds for the repair, but allow for the square's inclusion in the Independence Historical Park following the restoration. It requires a favorable long-term land use agreement with the city of Philadelphia commensurate with the terms of the agreement regarding Independence Square, and stipulates that ongoing services be provided by the city.

TITLE III

This title contains the provisions of H.R. 4697, which provides for the expansion of Walnut Canyon National Monument. The bill was introduced by my colleague on the Committee, Representative ENGLISH, on June 30, 1994, and represents agreement reached among the National Park Service, the U.S. Forest Service, the residents of the Walnut Canyon area and other interested parties. Ms. ENGLISH has worked very hard to accommodate the interests of all involved while assuring the protection of a very fragile and important resource, and I commend her for the legislation we are considering today.

Walnut Canyon National Monument was established by presidential proclamation in 1915 to preserve and protect numerous sinaguan cliff dwellings and associated sites. The monument was expanded in 1938 and again in 1956, and consists of 2300 acres, approximately 238 of which are privately owned. Significant sinaguan resources remain outside the boundaries of the monument, some under private ownership and some within the boundaries of the surrounding Coconino National Forest.

Within the canyon are five areas where archeological sites are concentrated around natural promontories extending into the canyon; early archeologists referred to these as "forts". Three of the five forts are within the current boundaries; the two remaining are on forest service land adjacent to the monument. A 40-acre parcel adjacent to that land contains part of that fort as well as the Santa Fe Dam, which is listed on the National Register of Historic Places.

H.R. 4697, as introduced, modified the boundaries of Walnut Canyon National Monument pursuant to a referenced map. That boundary modification would have added approximately 1,292 aces, approximately 1,239 of which would be administratively transferred from the forest service, and 53 acres of which are privately owned. Approximately 54 acres would have been deleted from the monument and administratively transferred to the forest service. The Secretary of the Interior was authorized to acquire lands and interest in lands within the national monument, and was directed to manage the modified monument as a unit of the national park system. The legislation authorized such sums as may be necessary to carry out the purposes of the Act.

Since the hearing on this legislation on August 4, the private landowner whose property would have been included under the bill has asked to be excluded. Accordingly, Ms. ENGLISH offered an amendment in committee referencing a new map which deletes this property from the proposed boundary. While I believe the resources located on that land are significant and worthy of inclusion in the monument, I appreciate the effort Ms. ENGLISH has put forth in seeking agreement so that the boundary expansion which is so important in providing appropriate protection for other resources will not be jeopardized. Ms. ENGLISH's amendment was accepted during committee consideration of this legislation, and the legislation before us reflects that change.

Mr. Speaker, this legislation will provide for consistent and unified management of significant resources under an agency whose mission is to preserve, protect, and preserve them. The lands to be added by this legislation include important cultural resources directly related to the purpose of the monument. The protection of the monument and adjacent resources will be enhanced by this legislation.

TITLE IV

This title would apply the provisions of section 7(A) of the Wild and Scenic Rivers Act to a specified 25-mile segment of the north fork of the Payette River, in Idaho.

The north fork of the Payette River, originating in upper Payette Lake, flows south to join the main stream of the Payette River at the town of Banks, Idaho, about 40 miles north of Boise.

Much of the North fork's course is paralleled by State highway 55, which is identified on the State of Idaho's highway maps as the Payette River scenic route because of the notable scenic values of the area.

In 1992, the State of Idaho adopted a State water plan that restricts impoundments or other developments that could have an adverse impact on the free-flowing characteristics or other resource values of particular stream segments.

The north fork of the Payette River is one of the stream segments covered by the Idaho Water Plan, but State law cannot preclude the Federal Energy Regulatory Commission [FERC] from considering and acting on requests for project licensing involving this or any other stream covered by the Idaho River Protection Program.

At least one party in Idaho has indicated interest in developing a hydroelectric project on the lowest 25-mile portion of the north fork of the Payette River.

The bill would not designate any part of the Payette River as a part of the National Wild and Scenic Rivers System, but would apply to the specified 25-mile segment the protections afforded by section 7(A) of the wild and Scenic Rivers Act.

The effect would be to prohibit FERC from licensing the construction of any dam or other project facility on or directly affecting this river segment, and also to prohibit any federal agency from assisting the construction of any water-resources project that would have a direct and adverse effect on the values of the river segment.

The second section of the title provides that these Federal protections will become inoperative if the current protections afforded by Idaho State law cease to apply to this river segment.

While I do have some reservations about this approach to river protection, It is consistent with the Federal support for State decisions to protect river segments—especially in cases such as this where little Federal land is involved—that the committee and the House proposed in the last Congress in connection with the comprehensive energy legislation. I regret that those provisions were substantially weakened in conference.

TITLE V

This title would add three segments of the Lower Salmon River, in Idaho, totaling about 112 miles, to the National Wild and Scenic Rivers System. Title V encompasses the provisions of H.R. 4083, as reported by the Committee on Natural Resources.

The Salmon River, historically known as the "River of no return" because of swift currents and rough water that made upstream travel impossible, originates in the Sawtooth and Lemhi Valleys of central and eastern Idaho. It drops nearly 8,000 feet in elevation before it flows into the Snake River.

Portions of the Salmon River's middle fork and the main stem downstream from the town of North Fork to Long Tom Bar have already been included in the National Wild and Scenic Rivers System.

Most of the lands adjoining the river segments affected by H.R. 4083 are owned by the United States. They are primarily public lands managed by the Bureau of Land Management [BLM] but also include some lands managed by the Forest Service as part of the National Forest System.

A provision in the original Wild and Scenic Rivers Act required a study for possible future designation of the portion of the lower Salmon covered by this bill. In 1973, after completion of the study, this portion of the Lower Salmon was recommended for designation.

Title V would implement that recommendation by designating a segment of about 23.7 miles for cooperative management as a "recreational" river by the Bureau of Land Management [BLM], and the Forest Service. Two other segments would be designated for BLM management—a segment of about 35.3 miles as "recreational" and one of about 53 miles as "scenic."

In 1988, the BLM-managed lands adjoining the river segments covered by H.R. 4083 were withdrawn from mineral entry for 20 years by administrative action under the Federal Land Policy and Management Act [FLPMA]. Under the bill would make these withdrawals and would make the withdrawal boundaries the boundaries of the designated river segments.

Because more than 50 percent of the land adjacent to the affected river segments is in Federal ownership, under the Wild and Scenic Rivers Act designation of these segments would preclude any U.S. condemnation of the fee estate of any other lands within the segment boundaries.

The Natural Resources Committee adopted an amendment to H.R. 4083 proposed by the gentleman from Montana [Mr. WILLIAMS]. That amendment added to the bill a provision for study of Rock Creek, a stream located in the Lolo and Deerlodge National Forests, in Montana. The study would be to assess the eligibility and suitability of later action to include Rock Creek in the National Wild and Scenic Rivers System.

TITLE VI

Title VI contains the provisions of H.R. 3554 which authorizes a land exchange between the Targhee National Forest in Idaho and Wyoming and private inholders. In exchange for lands currently under permit as summer homes, the Forest Service would acquire a portion of an undeveloped inholding known as Squirrel Meadows. This is an area of great scenic beauty and is critical grizzly bear habitat. The exchange would be done on an equal value basis.

Legislation is needed because the lands are in two States, Idaho and Wyoming. The Forest Service's Land Exchange Authority applies only to exchanges within the same State.

Squirrel Meadows would be a very valuable addition to the Targhee National Forest. The environmental community has long supported its acquisition by the Forest Service. The lands which the Forest Service would give up have lost much of their national forest character. This is an exchange that makes sense and is noncontroversial.

TITLE VII

Title VII contains the provisions of H.R. 3204, reported by the Committee on Natural Resources and sponsored by Mr. RICHARDSON of New Mexico which would transfer 764 acres of the Wheeler Peak Wilderness in the Carson National Forest to the Taos pueblo. These lands are located in New Mexico and are known as the bottleneck tract. They are surrounded on three sides by lands already owned by the pueblo. The surrounding lands are managed by the pueblo as a tribal wilderness known as Blue Lake. The bottleneck would become part of the Pueblo's blue lake wilderness. The bottleneck and blue lake are considered by the Pueblo to be sacred lands and are used for religious purposes. A sacred trail known as the trail of life crosses the bottleneck.

Transferring these lands will ensure privacy for the practice of the Pueblo's religion. In the past, the general public has been able to observe religious ceremonies at blue lake from the bottleneck, and this has been disruptive. From the perspective of protecting Native American traditions and spiritual values, this is an important legislative initiative.

TITLE VIII

This title contains the provisions of H.R. 359 as reported by the Committee on Natural Resources. The bill, introduced by the gentlewoman from New York [Ms. SLAUGHTER] amends the act of December 31, 1980, which established the Women's Rights National Historical Park. The primary purpose of the bill is to authorize the addition of several properties to the park that are necessary to protect and preserve the historical scene and to enhance park operations and visitor enjoyment.

The history of the women's rights movement in the United States and the history of its founders are recognized at the women's rights National Historical Park in Seneca Falls, NY. The park includes the homes of Elizabeth Cady Stanton and Mary Ann McClintok, the founders of the women's rights movement, as well as the wesleyan chapel and grounds, the site of the movement's first convention. In addition to the Federal Government, State and local governments have invested in preserving the historical setting of Seneca Falls. In 1982, New York designated Seneca Falls as one of only thirteen urban cultural parks in the State.

Title VIII provides for the acquisition of four critical parcels, including three properties adjacent to existing park holdings, which are needed to protect the historic integrity of the park and to provide a visitor center. The fourth parcel would be used for development of a maintenance facility. The title also provides the authorization for additional funding to carry out the purposes of the act.

Mr. Speaker, let me again emphasize that the additional properties identified in this title are necessary to protect and preserve the historical scene and to enhance park operations and visitor services.

TITLE IX

Title IX of the bill contains the provisions of H.R. 3559, as reported by the Committee on Natural Resources. That legislation makes certain technical corrections to other statutes. First, it makes clear the Secretary of the Interior's power to make appointments to the Dayton Aviation Historical Park Advisory Commission. Second, it allows for a cost-effective and cooperative resolution of the last claim resulting from the 1998 legislative taking of land for Manassas National Battlefield Park.

The advisory commission appointment procedure described in the Dayton Aviation Heritage Preservation Act of 1992, while identical to that in legislation authorizing other such commissions, has drawn criticism from the administration. The concern is that it could undercut the Secretary's appointment authority carried out pursuant to the appointments clause of the Constitution. For this reason, Congressman TONY HALL introduced H.R. 3559 to preclude any conflicts or concerns about the appointments to the commission.

The 1988 legislative taking at Manassas included the taking of a Virginia Power Easement over six-tenths of a mile of land on Stuart's Hill, on which the Second Battle of Manassas was fought.

The National Park Service and Virginia Power have since been working cooperatively to reach an agreement by which the lines would be moved from the current prominent location to a more appropriate site along the periphery. The application to the State Corporation Commission, which must approve the plan, is pending. This is an excellent example of a cooperative partnership that will preserve a resource, save the government an expensive takings judgment, and protect affected business interests.

However, the Virginia Power Company, which has declined to file a takings claim in court while negotiating with the National Park Service, faces a statute of limitations on its right to bring such a claim within 6 years following the taking, which in this case is the enactment of the bill expanding Manassas in 1988. Thus, if Virginia Power does not file suit by November 10 of this year, it permanently gives up it's legal remedies.

Congressman FRANK WOLF sponsored H.R. 4435, the legislation included in this title, to address this situation. The language would simply add, in this case only, three years to Virginia Power's statute of limitations. It allows the completion of the State Corporation Commission's permitting process for the cooperative agreement to relocate the line at far less expense than would be a takings judgment. This language is endorsed by both the National Park Service and Virginia Power.

TITLE X

Title X incorporates the provisions of H.R. 5096 that I introduced to extend for 1 year only the Pennsylvania Avenue Development Corporation's [PADC] authorization for appropriations, and to require the development of a plan to phase out the corporation. Because of a history of difficulties in obtaining information from the corporation the bill would make the funding for the second half of fiscal year 1995 contingent on the delivery to Congress of a plan for the orderly shut down of the Corporation.

Since its inception, PADC has completed almost all of what was an ambitious and commendable plan. Today, Pennsylvania Avenue is a proud capital city corridor, brought to life by sensitive development and architectural masterpieces. On the list of PADC's accomplishments are the WILLARD HOTEL, the Canadian Embassy, Market Square, the Landsburgh Complex, Freedom Plaza, and the International Trade Center at Federal Triangle. Only one parcel on Pennsylvania Avenue remains undeveloped; three other parcels north of Pennsylvania Avenue by several blocks but included in the original master plan are also undeveloped.

At this time, with the majority of the work completed, the PADC should be moving toward a shutting down of its activities. as envisioned in the Corporation's Organic Act. Ongoing work, such as maintenance of street scapes, can be delegated to appropriate Federal and city agencies.

The intent of this title is an orderly shut-down of the corporation with no ill effects on any important work in progress. The language of this title requires the PADC to present to Congress no later than March 31, 1995, a plan that provides for such a transition. This provision reflects the fact that Congress has had to request repeatedly that PADC submit a plan for a successor entity and PADC has provided such a plan with maximum reluctance. The proposal received after lengthy delays this summer was entirely inadequate and would have, in effect, simply recreated PADC to continue on in perpetuity.

Clearly, the PADC and the administration require firm direction from Congress in order to move on to the next phase. For this reason, the legislation before the House today includes language to bring about the transition toward the shutting down of PADC.

TITLE XI

Title XI would establish the new Bedford Whaling National Historical Park in New Bedford, MA. The city of New Bedford became the center of the whaling industry at its peak between 1820 and 1860, and also represents associated whaling-related themes such as immigration, the expansion of trade and exploration as well as conservation of natural resources.

The provisions of title XI are identical to H.R. 3989, which the House of Representatives approved on August 1, 1994. The Senate has held a hearing on this legislation, but no further action has been taken. This is a new park which will preserve and interpret resources representing themes not addressed at current national park system units.

TITLE XII

Title XII would establish the Quinebaug and Shetucket Rivers Valley national heritage corridor in the State of Connecticut. The Quinebaug and Shetucket Rivers valley in northeastern Connecticut includes natural landscapes, parks, and other open spaces as well as mill villages, some native American and colonial archaeological sites, and sites associated with the "great awakening" religious revival in colonial New England.

Title XII includes the provisions of H.R. 1348, which was approved by the House of Representatives on September 13, 1993. This legislation provides for an appropriate and workable partnership between the National Park Service and State and local agencies and individuals to protect and preserve the resources in the valley corridor.

TITLE XIII

Title XIII would establish the Great Falls Historic District in Paterson, NJ. Because of the city's close proximity to the Great Falls of the Passaic River, it became one of the country's first manufacturing centers. Paterson became an early site of industrial development, generating such products as the Colt revolver, the Rogers steam locomotive, Wright aeronautic engines, and the first practical submarine.

Title XIII is identical to H.R. 3498 which was approved by the House of Representatives on April 12, 1994. In this instance, funds had already been appropriated and expended, and plans had already been drafted for further National Park Service involvement. This legislation establishes clear lines of authority and limits further funding for these areas so that the National Park Service budget does not become increasingly burdened by open-ended appropriations for areas which are not owned or operated by the National Park Service. This section provides for appropriate assistance to Paterson while limiting further National Park Service involvement.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4746.

I want to thank Mr. MILLER, chairman of the Full Committee, and the subcommittee chairman, Mr. VENTO, for their cooperation on this bill.

It is a true compromise and contains a no-net-gain of wilderness in Alaska.

The administration's bill contained 41,000 acres of wilderness and my bill contained zero, what we have agreed upon is just shy of 20,000 acres.

This bill settles a long-standing dispute between the residents of Anaktuvuk Pass and the Park Service whereby the residents can continue to use ATV's on certain park lands for subsistence purposes.

I urge support for this bill and I reserve the balance of time.

Mr. VENTO. Mr. Speaker, I yield 2 minutes to the gentleman from Idaho, Mr. LAROCCO.

Mr. LAROCCO. Mr. Speaker, I appreciate the gentleman's yielding time to me.

Mr. Speaker, I thank Chairman MILLER and Chairman VENTO for their able assistance in bringing to the floor this legislative package. H.R. 4746 includes measures I introduced to protect a 25-mile stretch of the North Fork of the Payette River from hydropower development and designate the Lower Salmon River as part of the Wild and Scenic Rivers System.

NORTH FORK OF THE PAYETTE

The North Fork is considered to be one of the finest stretches of whitewater in the United States. This class five river tumbles spectacularly for many miles along Idaho's main north-south highway, and many diverse Idaho groups have endorsed keeping the North Fork in its free-flowing state.

In 1991, this stretch of river was made off limits to dams in a State water plan adopted by Idaho's legislature. Months after the plan was approved, an interest group began the process to obtain a hydropower license from the Federal Energy Regulatory Commission.

In introducing the Payette legislation, it was my intention to reinforce the authority of the State over the management of Idaho's water, and remove this segment from the threat of the Federal Energy Regulatory Commission approval of a dam or diversion against the will of the State.

In committee, I was successful in winning an amendment to provide additional assurance that the State law prohibiting dams would prevail. My amendment simply states the provisions of the act would remain in effect so long as the State of Idaho prohibits development of hydroelectric projects on this stretch of the North Fork of the Payette.

LOWER SALMON

H.R. 4746 also contains a measure to protect 112 miles of the Lower Salmon River in Idaho as part of the National Wild and Scenic River System—59 miles as recreational, 53 miles as scenic and zero as wild. The Salmon River is the longest free-flowing river in the lower 48 States and flows through the second deepest gorge on the continent.

While other segments of the river had been protected when the Wild and Scenic Rivers Act was enacted in 1968, the act called for a study of the lower part of this river for possible further designation. Now it is time to designate that remaining stretch of the Lower Salmon to its confluence with the Snake River. The Lower Salmon legislation stalled last Congress with the search for acceptable compromise language on scenic easements. I continued to explore possible solutions and found promising language in legislation enacted last year to designate the Red River in Kentucky.

The language on scenic easements in the Red River legislation was unanimously accepted in both the House and Senate as a fair compromise. It states, "Nothing in this Act, or in the amendment to the Wild and Scenic Rivers Act made by this Act, shall be construed as authorizing any acquisition of any scenic easement that without the consent of such landowner would affect any regular use of relevant lands that was exercised prior to the acquisition of such easement."

In addition, I worked with the Northwest Powerboaters Association to include language to protect existing uses of the Lower Salmon River at levels consistent with the resource management plan.

I have also worked to assure inclusion of this part of the Lower Salmon in the National Wild and Scenic Rivers System will not restrict necessary maintenance and improvement on U.S. Highway 95, the only improved major highway between northern and southern Idaho.

As the committee report states, "because the portions of the Lower Salmon River covered by this bill were recommended for inclusion in the National Wild and Scenic Rivers System, the Bureau of Land Management and the Forest Service have been managing them in accordance with the Wild and Scenic Rivers Act for many years, and that such management has not resulted in such problems. The Committee is confident that the Federal land managers and the Idaho Department of Transportation will continue to work together in a cooperative manner to resolve any concerns on this point."

Mr. Speaker, these measures to protect Idaho's rivers are sound and enjoy wide support. Therefore, I urge my colleagues to support passage of H.R. 4746.

Mr. VENTO. Mr. Speaker, I yield 1 minute to the gentlewoman from Arizona [Ms. ENGLISH] who has a title in this bill, the Walnut Canyon National Monument, which she has worked long on and done an excellent job in terms of resolving this title.

Ms. ENGLISH of Arizona. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, just a quick word. An awful lot of support from a bipartisan group of people has worked a long time to resolve an issue that took about 7 or 8 years in finding realignment, and this bill has been a long way on the road. It basically includes two archaeological sites that were left out of the original park back in 1915, and I am proud to say that there is no money involved in it and everybody is in agreement. I request support, and am happy to answer any questions.

Mr. WOLF. Mr. Speaker, I rise in support of H.R. 4746, legislation making technical corrections to, among other things, the Manassas National Battlefield Park Amendments of 1988, the Dayton Aviation Heritage Preservation Act of 1992, and the Alaska National Interests Lands Conservation Act. My comments concern the title of the bill designated, the "Manassas National Battlefield Park Amendments of 1994."

The purpose of the Manassas National Battlefield Park Amendments of 1994 is to provide for the orderly termination of easements and property used for public utility purposes at the Manassas National Battlefield Park. This legislation is necessary to avert a costly and public lawsuit that Virginia Power will be forced to file should this clarification not become law.

Mr. Speaker, you may recall that in 1988 the Congress passed legislation saving the land where the Second Battle of Manassas occurred, thereby avoiding development of this historic Civil War battlefield site. In so doing, the National Park Service became the owners of an easement which Virginia Power previously owned and on which were constructed major electric power transmission lines. Because the general statute of limitations on condemnation claims expires in November, Virginia Power would be forced to file a $60 million lawsuit to compensate them for the condemned easement and transmission lines. This House is responding responsibly to this problem by extending the time for Virginia Power and the National Park Service to work together to craft an equitable, cost effective solution to this problem.

If this technical corrections bill is not passed, Virginia Power will be forced to file suit to preserve its fifth amendment takings claim. Such a costly suit would be a waste of both Federal and Virginia Power's resources. This legislation, which is similar to legislation I introduced in May (H.R. 4435), would merely clarify that proceedings seeking a determination of just compensation with respect to the taking of property used for public utility purposes must commence within 3 years after the date of enactment of the Manassas National Battlefield Park Amendments of 1994. This would allow Virginia Power and the National Park Service another 3 years to resolve Virginia Power's claim for compensation. This will save taxpayer money and save Virginia Power's ratepayers money because Virginia Power will not have to file a costly lawsuit in Federal district court.

Mr. Speaker, this House should know that passage of this legislation merely means that this body supports a 3-year extension in which Virginia Power and the Park Service can resolve this claim, thereby avoiding a costly lawsuit. I understand that the National Park Service has tentative plans to relocate the power lines and is considering three options for so doing. I would hope that the Park Service and Virginia Power will continue to work together to ensure any future relocation of the powerlines be at the lowest cost and inconvenience of the American taxpayer and Virginia Power's ratepayers as well as the neighbors of the Manassas National Battlefield Park.

Mr. Speaker, I would like to enter two letters into the record related to this matter. This first is from J.T. Rhodes, president and CEO of Virginia Power, and the second is from Robert Stanton, regional director of the National Capital Region of the National Park Service.

VIRGINIA POWER,
Richmond, VA, May 6, 1994.

Hon. FRANK R. WOLF,
House of Representatives
Washington, DC.

MANASSAS NATIONAL BATTLEFIELD PARK AMENDMENTS OF 1994

DEAR CONGRESSMAN WOLF: I would like to express Virginia Power's support for your bill to provide for the orderly termination of public utility easements within the Manassas National Battlefield Park. As you know, Virginia Power and the National Park Service have been working together since 1989 to relocate the existing electric overhead transmission lines on the Manassas National Battlefield Park.

Prior to the legislative taking of 1988 (Manassas National Battlefield Park Amendments of 1988), Virginia Power owned an easement on which were constructed one 500,000 volt transmission lines and two 230,000 volt transmission lines. These lines and towers were an integral part of Virginia Power's transmission system, serving customers in Northern Virginia and south into North Carolina and interconnecting with utilities in the northeast.

Virginia Power and the National Park Service staff have concentrated over the last 18 months on a suitable route to relocate the transmission lines. This has involved preparation of an Environmental Assessment by the National Park Service, preparation of a Virginia State Corporation Commission application by Virginia Power and meetings with the public. The next step in our process is for the National Park Service to submit their Environmental Assessment for public notice and comment and for Virginia Power to file our State Corporation Commission application for public notice and any necessary public hearings.

We support the passage of your bill because it will allow Virginia Power and the Park Service the necessary time to complete the required public reviews, which could take substantial time beyond November 1994. Should the statute of limitations not be extended, I am advised by our attorneys that it will be necessary for Virginia Power to prepare and file legal action before November 10, 1994 to preserve our rights, even though Virginia Power and the National Park Service are working together in a spirit of cooperation to find a solution that will be of least cost to the taxpayers and Virginia Power's ratepayers. Legal action would be a waste of Virginia Power and federal resources, and we would much rather see an extension of the statute of limitations which would allow us to complete this project in an orderly fashion through the federal and State processes. Thus, your bill, if enacted before the fall recess, should avoid costly litigation rather than precipitate it.

Again, Virginia Power supports this proposed legislation. If we can provide any assistance during the legislative process, please do not hesitate to call me at 804/771-3347.

Sincerely,

J. T. RHODES.
President and
Chief Executive Officer.

U.S. DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE, NATIONAL CAPITAL REGION,
Washington, DC, June 7, 1994.

L58(NCR–LUCE)

Hon FRANK R. WOLF,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN WOLF: This is to provide you with a technical review of a draft bill entitled the "Manassas National Battlefield Amendments of 1994." This bill is intended to address the orderly completion of land acquisition of the Stuart's Hill tract at Manassas National Battlefield Park (Park) as provided by the Manassas National Battlefield Park Amendments Act of 1988 (the Act), title X of P.L. 100-647 (16 U.S.C. §429b(b)).

The Act provided for the legislative taking of lands, including Virginia Power's easements, powerlines and towers on the Stuart's Hill tract at the Park. A concern has been expressed by Virginia Power that the six-year statute of limitations appearing in 28 U.S.C. §2501 may apply to the 1988 taking of its interests at the Park under the Act.

Your draft legislation would amend section 10002(b)(2)(C) of the Act to provide for a nine-year period for bringing actions for compensation with respect to the taking of private property under the Act. It appears that your proposed amendment would accomplish your purpose; that is, permit the National Park Service and Virginia Power to resolve this matter without resort to litigation.

Given the uniqueness of the legislative taking method of land acquisition, neither the National Park Service nor the Department of Justice has issued an opinion on the application of a statute of limitations to the Act. However, the Department of Justice, the National Park Service and Virginia Power have been working diligently to resolve compensation for the legislative taking in a cooperative and orderly way. A letter of agreement between the parties was executed on May 4, 1993, and each is fulfilling its commitments to the other.

The National Park Service has sought to define and analyze alternative alignments and has selected a preferred alternative which relocates the facilities to the westernmost edge of the Park. Virginia Power is amenable to utilizing the powerline routing as presented in our preferred alternative, and is also amenable to the method of compensation specified in our agreement.

The routing and method of compensation discussed above would permit relocation of lines so as to reduce their impact on the Stuart's Hill tract. The routing would also remove lines from the center of the Brawner Farm, thus enhancing that park tract, and would limit direct impacts to the community beyond the park boundary. It would also accomplish a completion of the Manassas legislative takings acquisition process. In our opinion, under this plan, this relocation would be affected at the least cost to the United States.

We have documented the impacts of the relocation of the power transmission lines, towers, and easements in an Environmental Assessment. This assessment will be released later this month for public comment. Public reaction to the proposal in our recent information workshops was supportive.

In May 1994, Virginia Power prepared and submitted to the Virginia State Corporation Commission an application to relocate the lines. Commission approval could take two years from the date of filing. The six-year statute of limitations, if applicable, runs out on November 10, 1994.

We understand that, in order to protect its rights under Federal law, if the period of time for filing an action for takings under the Act is not extended in a way such as would be provided by your draft bill, Virginia Power will file suit before the November deadline.

We believe the current negotiated course of action will resolve the relocation and compensation matter without resorting to litigation. Litigation could disrupt the cooperative efforts of the parties to settle the case, and would be an unnecessary expense to both the American taxpayers and Virginia Power's ratepayers. Amending the Act as contemplated by your draft bill would permit the parties sufficient time to close the acquisition process without the expense and distraction of litigation.

As you know, this draft legislation has not been reviewed within the Department of the Interior nor cleared by the Office of Management and Budget. We can, therefore, make no commitment at this time concerning the position of the Department on this matter.

We appreciate your interest and concern in this matter.

Sincerely,

ROBERT STANTON,
Regional Director,
National Capital Region.

Mr. RICHARDSON. Mr. Speaker, I am pleased to rise today in support of H.R. 3204, legislation I introduced to transfer a 765 care tract of land in the Wheeler Peak Wilderness to the Taos Pueblo for management as wilderness in the Blue Lake Wilderness in northern New Mexico.

This legislation completes a long and difficult struggle by the Taos Pueblo people to gain the return of one of their most sacred sites.

The 765 acre bottleneck tract has had religious significance for these people for thousands of years.

In fact, the entire Taos Pueblo was recognized by the United Nations as a World Heritage Site in 1992 in recognition of its status as one of the last remaining pre-Columbian civilizations in North America.

The transfer made possible by this legislation will restore the land to the Pueblo and enable the Pueblo to guard against the public instrusions that are presently occurring on surrounding Indian lands and sacred sites.

These intrusions have occurred during sacred religious activities and are wholly inappropriate for such an area. Unfortunately, the Pueblo is powerless to prevent such intrusions without the return of the land to their management.

Under the terms of the bill, the bottleneck lands would be used for traditional purposes only, such as religious ceremonies, hunting, fishing, and as a source of water, forage for domestic livestock, wood, timber and other natural resources.

H.R. 3204 is supported by the entire, bipartisan New Mexico congressional delegation and by a broad coalition of environmental organizations including the Wilderness Society, the Audobon Society and the Sierra Club at the local, state and national levels.

Identical legislation in the Senate has been introduced by our senior Senator, PETE DOMENICI, and cosponsored by Senator JEFF BINGAMAN of New Mexico and the Senate Minority Leader, BOB DOLE.

In conclusion, Mr. Chairman, let me say that the passage of H.R. 3204, and the other Native American bills on the schedule today should be seen as a statement by Congress that we will honor our commitments to Indian people and work cooperatively with them to address their concerns responsibly and effectively.

I would like to thank Chairman VENTO and Chairman MILLER for their cooperation in bringing this important legislation to the floor today.

I look forward to its adoption by the House and the Senate and its enactment into law as soon as possible.

Mr. WILLIAMS. Mr. Speaker, I want to thank the chairman of the subcommittee, Mr. VENTO, and the sponsor of the Salmon River bill, Mr. LAROCCO, for working with me on a provision requiring a study of Rock Creek, MT, for its suitability as a wild and scenic river, pursuant to section 5(a) of the Wild and Scenic Rivers Act.

Rock Creek runs approximately 55 miles from its headwaters in the Anaconda Pintler Wilderness to the confluence with the Clark Fork River about 15 miles southeast of Missoula. Rock Creek may have as many as 10 major tributaries which may meet the eligibility standard of the Wild and Scenic Rivers Act; the determination of which tributaries should be considered in the study is a discretionary decision for the Forest Service.

Mr. Speaker, were I, for a day, endowed with a cosmic ability to make a stream, I would use Rock Creek as the model; it is a perfect stream. I first fished Rock Creek when I was a student at the University of Montana in the 1950's, and I would say to my colleagues that those waters stay with you forever. The riffles, the deep pools, the rainbow, cutthroat, and bull trout, it all stays in your head.

Montanans have long treasured Rock Creek, one of Montana's blue ribbon trout streams. To the Montanans who regularly float and fish Rock Creek, it is simply one of our State's premier free flowing, pristine, and relatively undeveloped river systems.

Rock Creek was one of Montana's early conservation battlegrounds. In response to Forest Service plans for extensive logging in Rock Creek in the mid-1960's, local fishermen organized out of concern that roading and timber harvesting could adversely affect the water quality, and the fishery, of Rock Creek.

Out of that controversy emerged the Rock Creek Advisory Council, in which anglers and conservationists sat down with loggers, ranchers and agency people to find agreement on logging in Rock Creek. The first Rock Creek Advisory Council recommendations, adopted by the Forest Service, were for the careful design of National Forest projects to minimize damage to water quality, and to conduct careful before and after monitoring to verify that a project did not adversely affect water quality.

Since then, Montanans have greeted proposals for further mining and logging in the Rock Creek basin firmly, and consistently: The water quality of this blue ribbon trout stream is one of the Treasure State's treasures and must be protected, period.

Nonetheless, the threats to Rock Creek continue. There is renewed interest in gold mining among some of Rock Creek's historic mining districts. Modern technology enables miners to extract an ounce of gold from 100,000 tons of ore profitably, threatening broadly mineralized areas like Rock Creek. There is renewed interest in timber harvesting.

Threats of subdivision have energized local people to raise funds for conservation easements, in which landowners are compensated for committing their property to remain whole.

The Wild Scenic Rivers Act lends Federal protection and status to those free flowing rivers where outstanding natural qualities, recreational opportunities, ecological diversity, and clean water are paramount. Through the study process the U.S. Forest Service will review the public, private landowner, and local governmental concerns about Rock Creek, and make recommendations to the President and the Congress regarding its suitability for designation under the Wild and Scenic River System.

For the record, there is nothing in the study status that affects private property rights. Those who own land along Rock Creek should be assured that their prerogatives in the use of their land are unchanged as a result of this legislation.

This bill begins the process of deciding whether Rock Creek is an appropriate addition to the National Wild and Scenic River System. The National Wild and Scenic Rivers Act is, simply, the strongest statutory tool we have for the protection of natural, free flowing rivers.

Ms. ENGLISH of Arizona. Mr. Speaker, Walnut Canyon National Monument is located just outside the city of Flagstaff, AZ. It was established in 1915 to protect and preserve outstanding archeological resources.

Walnut Canyon contains over 400 archeological sites, including several cliff dwellings of the prehistoric Sinagua culture located in a spectacular, deep, narrow canyon. Some years ago, however, it was discovered that two of the most important sites lay just outside the boundaries of the monument. This bill would expand the monument to include these sites.

The expansion will complete the job begun in the early 1900's, when the ethnologic, scientific, and educational importance of these ruins was first recognized. It would simply transfer management responsibilities for 1279 acres from the U.S. Forest Service to the National Park Service. No private or State land is affected.

For the last several months, I have worked closely with area land manages, local and county officials, and community groups on this issue. This bill is the product of these extended consultations and I would like to offer a special thanks to all those who worked so hard to move this issue forward.

I'm very pleased with the strong bipartisan support this bill has received from my colleagues, both from the Arizona congressional delegation, and on the Committee of Natural Resources. The bill also enjoys broad local support and the support of both local NPS and Forest Service officials.

Finally, I would like to thank Chairman VENTO, of the Subcommittee on National Parks, Forests, and Public Lands, and Chairman MILLER of the full committee, for their help in moving forward on this bill in the waning days of this Congress.

Thank you, Mr. Speaker, and I urge my colleagues to support the Walnut Canyon National Monument Boundary Modification Act.

Ms. SLAUGHTER. Mr. Speaker, thank you for the opportunity to support legislation to reauthorize the Women's Rights National Park in Seneca Falls, NY.

A crucial chapter in the history of the American women's movement began in Seneca Falls, with the first Women's Rights Convention in 1848. More than 300 men and women gathered here to endorse a Declaration of Sentiments that espoused such radical principles as "all men and women are created equal." The declaration also called for the right of American women to vote, the right to equal education, wages and job opportunities. One hundred and forty-six years later, American women are still waiting to achieve many of these same equalities.

Today, in Seneca Falls, the Women's Rights National Historic Park stands as a testament to the struggle of the fledgling women's rights movement and its early organizers. The park was originally established by act of Congress in 1980; today it has grown to include:

The Wesleyan Methodists chapel, which opened to the public just last summer and was the site of the 1848 convention; the M'Clintock House, where the Declaration of Sentiments was written; and, the home of Elizabeth Cady Stanton.

H.R. 359 was originally introduced to improve the management of the Park's resources, and to make possible the preservation of important historic structures. In 1991 the Parks Service recommended the acquisition of four crucial parcels, including a maintenance building and three small properties adjacent to existing park land.

The legislation we are considering today would authorize the expansion of the park to include these properties. This expansion is necessary to protect the historic integrity of the park and provide a much-needed visitors center. The expansion of the Women's Rights Historical National Park has been a North Atlantic regional priority for the Parks Service for the past 3 years.

In addition to the historical exhibits, the park also offers important educational services for visitors, especially school children, who visit the park from around the country. At the Park's Women's History and Resource Center, teachers learn how to integrate women's history into their curricula. The center also provides opportunities for students to study social change, and how human rights are achieved, established and maintained. There is also a meeting center and a reference library on women's rights and history.

The story of this park is the story of a struggle for social change. The village of Seneca Falls has played an important role in the women's rights movement, as well as in the abolitionist movements of the pre-Civil War era. And Seneca Falls has continued to be a magnet for progressive movements, even into modern times. This legislation will ensure that the park can continue to play an important role in American history.

All of us who understand the value of the Women's Rights National Park want to see it continue to prosper. We must make sure the park remains as an important resource, reminding us of the ongoing struggle of American women for full civil rights and economic opportunity. I urge my colleagues to approve this authorizing legislation.

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4746, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

RIO PUERCO WATERSHED ACT OF 1994

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1919) to improve water quality within the Rio Puerco watershed and to help restore the ecological health of the Bio Grande though the cooperative identification and implementation of best management practices which are consistent with the ecological, geological, cultural, sociological, and economic conditions in the region, as amended.

The Clerk read as follows:

S. 1919

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rio Puerco Watershed Act of 1994".

SEC. 2. FINDINGS.

The Congress finds that—

(1) over time, extensive ecological changes have occurred in the *watershed of the Rio Puerco River, in New Mexico*, including—

(A) erosion of agricultural and range lands;

(B) impairment of waters due to heavy sedimentation;

(C) reduced productivity of renewable resources;

(D) loss of biological diversity;

(E) loss of functioning riparian areas; and

(F) loss of available surface water;

(2) damage to the *Rio Puerco* watershed has seriously affected the economic and cultural well-being of its inhabitants, including—

(A) loss of existing communities that were based on the land and were self-sustaining, and

(B) adverse effects on the traditions, customs, and cultures of the affected communities;

(3) a healthy and sustainable ecosystem *in the Rio Puerco watershed* is essential to the long-term economic and cultural viability of the region;

(4) the impairment of the Rio Puerco watershed has damaged the ecological and economic well-being of the area below the junction of the Rio Puerco with the Rio Grande including—

(A) disruption of ecological processes;

(B) water quality impairment;

(C) significant reduction in the water storage capacity and life expectancy of the Elephant Butte Dam and Reservoir system due to sedimentation;

(D) chronic problems of irrigation system channel maintenance; and

(E) increased risk of flooding caused by sediment accumulation;

(5) the Rio Puerco is a major tributary of the Rio Grande and the coordinated implementation of ecosystem-based best management practices for the Rio Puerco system could benefit the larger Rio Grande system;

(6) the Rio Puerco watershed has been stressed from the loss of native vegetation, introduction of exotic species, and alteration of riparian habitat which have disrupted the original dynamics of the river and disrupted natural ecological processes;

(7) the Rio Puerco watershed is a mosaic of private, Federal, tribal trust, and State land ownership with diverse, sometimes differing management objectives;

(8) development, implementation, and monitoring of an effective watershed management program for the Rio Puerco watershed is best achieved through cooperation among affected Federal, State, local, and tribal entities;

(9) the Secretary of the Interior, acting through the Director of the Bureau of Land Management, in consultation with the entities listed in paragraph (8), and in cooperation with the Rio Puerco Watershed Committee, is best suited to coordinate management efforts in the Rio Puerco watershed; and

(10) accelerating the pace of improvement in Rio Puerco watershed on a coordinated, cooperative basis will benefit persons living in the watershed as well as downstream users on the Rio Grande.

SEC. 3. MANAGEMENT PROGRAM.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Bureau of Land Management and in consultation with the Rio Puerco Management Committee established pursuant to section 4, shall—

(1) establish a clearinghouse for research and information on management within the area identified as the Rio Puerco Drainage Basin as depicted on the map entitled "The Rio Puerco Watershed" dated June 1994, as described in the attached map, including—

(A) current and historical natural resource conditions; and

(B) data concerning the extent and causes of watershed impairment;

(2) establish an inventory of best management practices and related monitoring activities that have been or may be implemented within the area identified as the Rio Puerco Watershed Project as depicted on the map entitled "The Rio Puerco Watershed" dated June 1994; and

(3) provide support to the Rio Puerco Management Committee to identify objectives, monitor results of ongoing projects, and develop alternative watershed management plans for the Rio Puerco Drainage Basin, based on best management practices.

(b) RIO PUERCO MANAGEMENT *REPORT*.—Not later than 2 years after the date of enactment of this Act, the Secretary, in consultation with the Rio Puerco Management Committee, shall prepare a report of appropriate alternatives for the improvement of watershed conditions in the Rio Puerco Drainage Basin. The alternatives shall—

(1) identify reasonable and appropriate goals and objectives for landowners and managers in the Rio Puerco watershed;

(2) describe potential alternative actions to meet the goals and objectives, including proven best management practices and costs associated with implementing the actions;

(3) recommend voluntary implementation of appropriate best management practices on both public and private lands;

(4) provide for cooperative development of management guidelines for maintaining and improving the ecological, cultural, and economic conditions on both public and private lands;

(5) provide for the development of public participation and community outreach programs that would include proposals for—

(A) cooperative efforts with private landowners to encourage implementation of best management practices within the watershed; and

(B) involving private citizens in restoring the watershed;

(6) provide for the development of proposals for voluntary cooperative programs among the Rio Puerco Management Committee membership to implement best management practices in a coordinated, consistent, and cost-effective manner;

(7) provide for the encouragement and support implementation of best management practices on private lands; and

(8) provide for the development of proposals for a monitoring system that—

(A) builds upon existing data available from private, Federal, and State sources;

(B) provides for the coordinated collection, evaluation, and interpretation of additional data as needed or collected; and

(C) will provide information to—

(i) assess existing resource and socioeconomic conditions;

(ii) identify priority implementation actions; and

(iii) assess the effectiveness of actions taken.

SEC. 4. RIO PUERCO MANAGEMENT COMMITTEE.

(a) ESTABLISHMENT.—There is established the Rio Puerco Management Committee (referred to in this section as the "Committee").

(b) MEMBERSHIP.—The Committee shall be convened by a representative of the Bureau of Land Management, and shall include representatives from—

(1) the Rio Puerco Watershed Committee;

(2) affected tribes and pueblos;

(3) the Forest Service of the Department of Agriculture;

(4) the Bureau of Reclamation;

(5) the Geological Survey;

(6) the Bureau of Indian Affairs;

(7) the Fish and Wildlife Service;

(8) the Army Corps of Engineers;

(9) the Soil Conservation Service of the Department of Agriculture;

(10) the State of New Mexico, including the New Mexico Environment Department and the State Engineer;

(11) affected local Soil and Water Conservation Districts;

(12) the Elephant Butte Irrigation District;

(13) private landowners; and

(14) other interested citizens.

(c) DUTIES.—The Rio Puerco Management Committee shall—

(1) advise the Secretary of the Interior, acting through the Director of the Bureau of Land Management, on the development and implementation of the Rio Puerco Management Program described in section 3; and

(2) serve as a forum for information about activities that may affect or further the development and implementation of the best management practices described in section 3.

(d) TERMINATION.—The Committee established by this subsection shall terminate on the date 10 years after the date of enactment of this Act.

SEC. 5. REPORT.

Two years after the date of enactment of this Act, and biennially thereafter, the Secretary of the Interior, in consultation with the Rio Puerco Management Committee, shall transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Natural Resources of the House of Representatives a report containing—

(1) a summary of accomplishments as outlined in section 3; and

(2) proposals for joint implementation efforts, including funding recommendations.

SEC. 6. LOWER RIO GRANDE HABITAT STUDY.

(a) IN GENERAL.—The Secretary of the Interior *shall, in cooperation with appropriate State agencies, conduct a study of the Rio Grande from Caballo Lake at least to* Sunland Park, New Mexico. The study shall include—

(1) a survey of the current habitat conditions of the river and its riparian environment;

(2) identification of the changes in vegetation and habitat over the past 400 years and the effect of the changes on the river and riparian area; and

(3) an assessment of the feasibility, benefits, and problems associated with activities to prevent further habitat loss and restoration of habitat through reintroduction or establishment of appropriate native plant species.

(b) TRANSMITTAL.—Not later than 3 years after the date on which funds are made available to carry out this Act, the Secretary shall transmit the study authorized by this section to the Committee on Energy and Natural Resources of the Senate and to the Committee on Natural Resources of the House of Representatives.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such funds not exceeding $7,500,000 as may be necessary to implement sections 1 through 5 of this Act during the first 10 full fiscal years after the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO]

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1919 is similar to a bill (H.R. 4010) introduced by our committee colleague from New Mexico [Mr. RICHARDSON]. It is intended to facilitate a cooperative effort to improve the management of lands in the Rio Puerco Watershed, in New Mexico.

The Rio Puerco is a major tributary of the Rio Grande, flowing into that river northwest of Albuquerque and draining a watershed of more than 7,000 square miles.

However, the Rio Puerco's contribution to the Rio Grande is primarily sediment.

Downstream, from the rivers' confluence, the Elephant Butte reservoir provides water storage for irrigated agriculture and municipalities in New Mexico and Texas. The reservoir's storage capacity and expected useful life have been significantly reduced by sedimentation. Half the sediment entering the reservoir, but less than 10 percent of the water, is from the Rio Puerco.

This condition is the result of accelerated, progressive soil erosion. Such erosion within the Rio Grande Basin, and particularly within the draining of the Rio Puerco, threatens the continued vitality of the Rio Grande's aquatic system and the productivity of lands within the entire basin.

The area drained by the Rio Puerco is a mosaic of land ownerships and Federal agency managements, with no single agency having watershed-wide responsibility or expertise.

The BLM is responsible for management of a significant part of the Federal lands involved, and since the 1960's has done work—under the so-called frail lands program that has had positive effects, but the Rio Puerco's condition remains unsatisfactory and in need of more coordinated management on an ecosystem basis.

Toward this end, this bill would direct BLM to establish a clearinghouse for research and information, and to develop a plan for restoration of the Rio Puerco watershed.

The bill would require identification of goals and objectives for landowners and land-managers and of various alternative actions to meet the goals and objectives.

The purpose of the bill is to promote cooperative efforts, including public participation and community outreach, to improve and maintain ecological, cultural, and economic conditions in the area, including a formal advisory role for committee made up of representatives of relevant Federal and State agencies, affected Indian tribes and pueblos, local soil and water conservation districts, the Elephant Butte irrigation district, private landowners, and other interested citizens.

The bill would also require the Fish and Wildlife Service, in cooperation with State agencies, to assess ways to stop habitat loss and possible reestablishment, or introduction of native plant species in the Rio Grande Valley.

While the BLM and other Federal agencies already have the authority to carry out the work envisioned in the bill, enactment of the bill is intended to give a higher profile of that work, and to encourage greater cooperation and coordination in carrying it out.

In committee, S. 1919 was amended to provide for "sunsetting" the bill's advisory committee, to make clear that the bill will not restrict the authority of the Fish and Wildlife Service to study additional parts of the Rio Grande Valley, and to place a cap on the bill's authorization of appropriations.

With these amendments, S. 1919 was approved by the committee without controversy. I urge its passage by the House.

□ 2030

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in committee there were concerns raised about the need for enacting S. 1919, which would establish a clearing house for research and information regarding the Rio Puerco River. The Bureau of Land Management testified that this bill does not give them any new authority and that the Bureau is already completing most of this work.

The siltation problem in the Rio Puerco River has existed for hundreds of years. This is not a man-made problem and the fear is that we are throwing money at a problem only mother nature can fix. I support the Chairman's amendment to sunset the program after 10 years and to cap the authorization limits.

Mr. RICHARDSON. Mr. Speaker, I rise today in strong support of S. 1919, the Rio Puerco Watershed Act of 1994. This legislation, which was introduced by Senator JEFF BINGAMAN of New Mexico, is identical to my bill, H.R. 4010.

I would like to thank Chairmen VENTO and MILLER for their willingness to move on this important legislation as quickly as possible.

In addition, Chairman STUDDS deserves special praise for allowing this bill to move forward from his committee as well.

The Rio Puerco watershed in northern New Mexico is severely threatened by a combination of factors such as loss of native vegetation, introduction of exotic species, alteration of riparian habitat, and excessive sedimentation in the river. Extensive ecological changes have occurred in the watershed including erosion of the agricultural and range lands and loss of biological diversity and available surface water.

Unfortunately, these problems have been complicated by the interlocking land ownership of the area which includes private, Federal, tribal trust, and State ownership.

To address the many conflicting issues affecting protection of the area, the bill establishes a Rio Puerco Management Committee to include representatives from the Rio Puerco Watershed Committee, affected tribes and pueblos, all relevant Federal agencies and private landowners.

In addition, the bill provides for the long-term protection of the river by requiring the Secretary of Interior to prepare a plan for restoration of the river within 2 years of enactment and to report to Congress on the Department's activities to fulfill the goals of this requirement.

This is significant natural resources legislation for New Mexico and I am thankful for its consideration by the full House today.

I look forward to its swift consideration in the Senate and its enactment into law later this month.

Mr. THOMAS of Wyoming. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. INSLEE). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 1919, as amended.

The question was taken.

Mr. HUNTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

SAGUARO NATIONAL PARK ESTABLISHMENT OF 1994

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 316) to establish the Saguaro National Park in the State of Arizona, and for other purposes.

S. 316

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Saguaro National Park Establishment Act of 1994".

SEC. 2. FINDINGS AND PURPOSE.

The Congress finds that—

(1) the Saguaro National Monument was established by Presidential Proclamation in 1933;

(2) the Tucson Mountain unit was established by Presidential Proclamation in 1961;

(3) in recognition of the need to provide increased protection for the monument, the boundaries of Tucson Mountain unit were expanded in 1976, and the boundaries of Rincon unit were expanded in 1991;

(4) the Tucson Mountain unit continues to face threats to the integrity of its natural resources, scenic beauty, and habitat protection for which the unit was established;

(5) these threats impeded opportunities for public enjoyment, education, and safety within the monument, as well as opportunities for solitude within he wilderness areas of the monument designated by Congress in 1976;

(6) the residential and commercial growth of the greater Tucson, Arizona metropolitan area is causing increasing threats to the monument's resources; and

(7) the Tucson Mountain unit should be enlarged by the addition of adjacent lands of National Park caliber and Saguaro National Monument should be afforded full recognition and statutory protection as a National Park.

SEC. 3. ESTABLISHMENT OF SAGUARO NATIONAL PARK.

There is hereby established the Saguaro National Park (hereinafter in this Act referred to as the "park") in the State of Arizona. The Saguaro National Monument is abolished as such, and all lands and interests therein are hereby incorporated within and made part of Saguaro National Park. Any reference to Saguaro National Monument shall be deemed a reference to Saguaro National Park, and any funds available for the purposes of the monument shall be available for purposes of the park.

SEC. 4. EXPANSION OF PARK BOUNDARIES.

(a) IN GENERAL.—The boundaries of the park are hereby modified to reflect the addition of approximately 3,460 acres of land and interests therein as generally depicted on the map entitled "Saguaro National Monument Additions" and dated April, 1994.

(b) LAND ACQUISITION.—(1) Within the lands added to the park pursuant to subsection (a), the Secretary is authorized to acquire lands and interests therein by donation, purchase with donated or appropriated funds, transfer, or exchange: *Provided*, That no such lands or interests therein may be acquired without the consent of the owner thereof unless the Secretary determines that the land is being developed, or is proposed to be developed in a manner which is determental to the integrity of the park.

(2) Lands or interests therein owned by the State of Arizona or a political subdivision thereof may only be acquired by donation or exchange.

(c) WITHDRAWAL.—Subject to valid existing rights, all Federal lands within the park are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, or patent under the United States mining laws, and from disposition under all laws relating to mineral and geothermal leasing, and mineral materials, and all amendments thereto.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 316, the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 316 would expand the Saguaro National Monument's Tucson Mountain unit to add 3,460 acres of land that contain significant but threatened resources. The bill would also redesignate the monument as a national park. This Senate-passed version is similar to House companion legislation (H.R. 1826) introduced by Congressman KOLBE.

The land included in S. 316 is half the amount identified as appropriate for inclusion in the monument by a National Park Service study. The Arizona delegation has worked closely with the local community and has limited the legislation to those lands recommended for inclusion by the Park Service study that are in the hands of willing sellers. Even so, the bill includes a provision limiting the ability of the Department of the Interior to condemn land. Thus, there are no controversies about the expansion of the monument to include the sites identified in the bill.

Mr. Speaker, Saguaro National Monument represents a fragile, nationally significant resource long recognized as deserving protection. The monument's namesake, the giant Saguaro cacti of the Sonoran Desert, can grow up to 50 feet, weigh up to 8 tons and live up to 150 years. On March 1, 1933, just 3 days before leaving office, President Herbert Hoover acknowledged the significance of this resource by issuing a proclamation creating Saguaro National Monument east of Tucson. President John Kennedy expanded the monument in 1961, adding a unit to the west of Tucson. Together, the monument's eastern section, or Rincon Mountain unit, and western section, or Tucson Mountain unit, total 87,500 acres. In addition to the spectacular cacti, the monument is also home to javelina, gila monsters, desert tortoises and the endangered long-nosed bat.

The monument is now subjected to development threats and urban encroachment. While the monument was over 15 miles from depression-era Tucson, a town of 35,000 people at the time the monument was established, its growth to a city of 675,000 has spawned urban development now in the process of enveloping both units. As a result the nonument's resources are compromised. The habitats of plant and wildlife populations are fragmented by this encroachment; off-road vehicles disturb the desert floor; target shooters take aim at the Saguaro cacti; and potential mining activities would compromise the character of the monument.

In 1991, the National Park Service undertook a comprehensive boundary study at the Tucson Mountain unit of the monument. The resulting report, completed in June 1993, was a boundary resource inventory that identified 6 areas totaling 7,360 acres adjacent to the boundaries that could be suitable for addition to the monument. The inventory documented degradation of the monument's resource values in the areas of biodiversity, viewshed integrity, traditional cultural uses, recreational access for hikers and horseback rides, and the wilderness experience.

S. 316, would expand the western unit of Saguaro by 3,460 acres and would establish the monument as Saguaro National Park. The bill would authorize the acquisition of land by purchase, donation, transfer or exchange, except that the consent of the owner is required for such acquisitions unless the Secretary determines that the land is or will be developed in a deterimental manner; authorizes the acquisition of lands from the State or local governments by donation or exchange only; subject to valid existing rights, the bill withdraws lands within the park from entry, appropriation, or disposal under public land laws and from location, entry and patent under mining, mineral leasing and geothermal steam laws. In addition it authorizes appropriations to carry out the Act.

Mr. Speaker, this is an important and worthy conservation measure and I urge by colleagues to support this legislation and vote to send the bill to the President.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I rise in support of S. 316, legislation to expand Saguaro National Monument by about 3,400 acres. While I continue to be concerned about perpetual expansion of a National Park System which is already severely underfunded, I note that lands added to Saguaro National Monument under this measure have been identified through a recent boundary study completed by the National Park Service and that these lands do have park qualities.

This bipartisan measure has already been passed by the Senate and our action today will permit it to go forward to the President for signature. I encourage my colleagues to support the legislation.

Mr. KOLBE. Mr. Speaker, this is a small bill by congressional standards. It doesn't appropriate billions of dollars; it doesn't establish a new program or agency; it's not health care reform, or welfare reform, or campaign finance reform.

Yet, in its own way, it is a very important bill. Without it, much of the surviving habitat of the giant Saguaro cactus and its surrounding world of fantastic flowers, plants and animals would be lost. Whatever mark one gives this session of Congress, one thing is clear: preserving the remarkable Saguaro and its habitat is a worthwhile achievement.

The Saguaro cactus is an ecological treasure. But it is also more. It stands, uniquely, as the symbol of the great deserts of North America. Like other symbols—the bald eagle, Niagara Falls, the Rockies—the Saguaro cactus inspires us.

The giant cactus can grow to more than 50 feet tall and weigh over 5 tons. Some of these plants have more than 50 arms or branches; others have been alive since Europeans first came to our shores. Beginning in May, flower buds from the tips of the cactus appear. The vibrant, white flowers grow up to 4 inches in diameter; its beauty has earned it the designation as the official State flower of Arizona.The flower and its fruit have providing sustenance for animals and people for centuries. Native Americans depended on the fruit of the big cactus hundreds of years ago and to this day some still harvest the fruit.

But survival of the Saguaro is in doubt today; its population is dwindling, its cause is a mystery. But this bill and its House counterpart, H.R. 1826, is our commitment to saving this great cactus. The bill adds 3,460 acres of vital saguaro habitat to the park to ensure protection. The majority of the land—about ⅔ds—is owned by public agencies and will be acquired at little or no cost to the Federal Government.

This land on the west side of Tucson is under tremendous development pressure. Since I first introduced legislation in April of 1993, over 100 acres of prestine sonoran desert habitat have been lost to bulldozers and roads and homes. To keep the remaining area intact for our children and for the remaining plant and animals that inhabitant the Saguaro kingdom, we must act now.

In 1933, when the monument was initially established, Tucson's entire population of 33,000 could easily fit into most any college football stadium. The nearest outpost of the old pueblo was a dozen miles away. Nearly 30 years later, in November, 1961, the Saguaro National Monument was expanded by President Kennedy by adding Tucson Mountain Park on the west side of the city. That effort proved farsighted as Tucson's population doubled and redoubled in the years since, now totalling three-quarters of a million people. Growth continues at a rapid pace, now pushing to the Monument's edge.

Besides protection for the giant saguaro cactus, this expansion measure will include some of the most ecologically valuable lands in the sonoran desert: unique topography, large Chollas and Paloverde plants and other unique desert flora, important public access points, scenic and recreation opportunities, and prime habitat for a host of desert creatures, including the desert tortoise, gila monster, javelina, coyote, muledeer, mountain lion, ringtail cat, resident and migratory songbirds.

The expansion lands will bring the monument's size to over 90,000 acres, most of which is free of commercial development. The size of this monument, coupled with its rich diversity of ecological, cultural and recreational resources, justifies elevating the monument to the status as a National Park. Only the most shining jewels in our park system deserve this lofty status and anyone who has ever glimpsed these remarkable lands on a full-bloom spring day or in the shadow of an orange splashed sunset will attest to their unprecedented beauty.

This legislation has had a long journey. But the trip would never have been undertaken—much less stand on the verge of passage—without tremendous grassroots support from southern Arizonans and people all over this great country. Countless citizens worked tirelessly to make this bill a reality. Groups like the Pima Trails Association and Tucson Mountain Association and its President, Helen Wilson, exemplify what volunteerism is all about.

I also want to thank my colleagues from Arizona for their support—in particular, ED PASTOR and KAREN ENGLISH. Congresswoman ENGLISH showed her skill and leadership ability in helping to steer this bill through the subcommittee she serves on.

Finally, Mr. Speaker, I would like to commend Chairman VENTO and ranking member HANSEN for their work in moving this bill to the floor. Chairman VENTO was instrumental in preserving vital buffer areas of the east unit in 1991. And now, in 1994, he is proving himself again to be a champion of southern Arizona's pride and joy, the Saguaro National Monument.

Mr. Speaker, I urge support of this measure. The majestic saguaro and its neighbors are depending on us.

Mr. THOMAS of Wyoming. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I want to thank the delegation for the effort the Members made on this.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 316.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table

NATIONAL PARK SERVICE ENTREPRENEURIAL MANAGEMENT REFORM ACT OF 1994

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4533) to promote entrepreneurial management of the National Park Service, and for other purposes, as amended.

The Clerk reads as follows:

H.R. 4533

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Park Service Entrepreneurial Management Reform Act of 1994".

SEC. 2. FEES.

(a) ADMISSION FEES.—Section 4(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-4 and following) is amended as follows:

(1) In the first sentence of paragraph (1)(A)(i), by striking "$25" and inserting "$40".

(2) By amending the second sentence of paragraph (1)(A)(i) to read as follows: "The permittee and the accompanying spouse, children, and parents of the permittee shall be entitled to general admission into any area designated pursuant to this section.".

(3) By modifying the margin of clause (ii) of paragraph (1)(A) to align with the margin of clause (i).

(4) By inserting at the end of clause (ii) of paragraph (1)(A) the following: "Such receipts shall be made available, subject to appropriation, for authorized resource protection, rehabilitation, and conservation projects as provided for by subsection (i), including projects to be carried out by the Public Land Corps or any other conservation corps pursuant to the Youth Conservation Corps Act of 1970 (16 U.S.C. 1701 and following), or other related programs or authorities, on lands administered by the Secretary of the Interior and the Secretary of Agriculture.".

(5) In paragraph (1)(B), by striking "$15" and inserting "$25" and by adding at the end the following new sentence: "Any amount by which the fee for such an annual permit exceeds $15 shall be credited to the appropriation account of the unit of the National Park System that collected the fee, shall be available to the unit without further appropriation, and shall remain available until expended.".

(6) In paragraph (2), by inserting "(A)" after "(2)", by striking the fifth and sixth sentences, by amending the fourth sentence to read as follows:"The fee for a single-visit permit at any designated area shall be not more than $6 per person for persons entering by any means, except that the fee shall not exceed $20 for all persons entering a designated area in a single noncommercial vehicle.", and by adding at the end the following new subparagraph:

"(B) The Secretary shall establish a pilot project at Yosemite National Park that utilizes incentives, including waiving or reducing admission fees, to encourage use of public transit which serves the purpose of reducing vehicular traffic within Yosemite National Park.".

(7) In paragraph (3), by striking the last sentence.

(8) In paragraph (4), by striking "No other free permits shall be issued to any person" and inserting "No other free permits shall be issued to any person, except as otherwise provided by this subsection".

(9) In paragraph (4), by amending the second sentence to read as follows: "Such permit shall be nontransferable, shall be issued for a one-time charge of $10, and shall entitle the permittee and the accompanying spouse of the permitee to general admission into any area designated pursuant to this subsection.".

(10) In paragraph (6) by striking "on Interior and Insular Affairs" and inserting "on Natural Resources".

(11) In paragraph (9), by striking "San Juan National Historic Site, and Canaveral National Seashore" and inserting "and San Juan National Historic Site" and by adding the following at the end thereof: "The Secretary of the Interior shall submit a report to the Congress within 6 months after the enactment of this sentence respecting the areas at which the Secretary determines admission fees would be appropriate but at which such fees are prohibited by law and respecting each area at which such fees are authorized but not being collected (including an explanation of the reasons that such fees are not being collected).".

(12) By amending paragraph (11) to read as follows:

"(11) In the case of Yellowstone and Grand Teton National Parks, a single-visit fee collected at one unit shall also admit the person who paid such fee for a single visit to the other unit.".

(b) PENALTY.—Section 4(e) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 and following) is amended by striking "$100" and inserting "$1,000".

(c) TECHNICAL AMENDMENTS.—(1) Section 4(h) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 and following) is amended by striking "on Interior and Insular Affairs of the United States House of Representatives and United States Senate" and inserting "on Natural Resources of the United States House of Representatives and on Energy and Natural Resources of the United States Senate", by striking "Bureau of Outdoor Recreation" and inserting "National Park Service", and by striking "Bureau" and inserting "National Park Service".

(2) Section 4(g) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 and following) is amended by striking "or charges for commercial or other activities not related to recreation".

(d) USE OF FEES.—Section 4(i) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 and following) is amended as follows:

(1) By inserting "USE OF FEES.—" after "(i)".

(2) In the first sentence of paragraph (1)(B), by striking "fee collection costs for that fiscal year" and inserting "fee collection costs for the immediately preceding fiscal year" and by striking "section in that fiscal year" and inserting

"section in such immediately preceding fiscal year".

(3) In the second sentence of paragraph (1)(B), by striking "in that fiscal year".

(4) In paragraph (1), by adding at the end the following new subparagraph:

"(C) Notwithstanding subparagraph (A) and notwithstanding any other provision of law, for fiscal years after fiscal year 1995, the amount by which the entrance fee receipts collected pursuant to this section by the National Park Service (except for the portion of fee receipts withheld as provided in subparagraph (B) for fee collection costs) exceeds the entrance fee receipts collected pursuant to this section by the National Park Service in fiscal year 1993 shall be covered into a special fund established in the Treasury of the United States to be known as the 'National Park Renewal Fund'. Amounts in such fund shall be available to the Secretary of the Interior, without further appropriation, for resource protection, research, interpretation, and maintenance activities related to resource protection and visitor enjoyment in areas managed by the National Park Service and shall be allocated among national park system units in accordance with subsection (j). Such amounts shall remain available until expended. The Secretary shall develop procedures for the use of amounts in the fund that ensure accountability and demonstrated results consistent with the purposes of this Act. Beginning after the first full fiscal year following enactment of this subparagraph, the Secretary shall submit an annual report to Congress, on a unit-by-unit basis, detailing the fees receipts collected pursuant to this section and the expenditures of such receipts.".

(e) TIME OF REIMBURSEMENT.—Section 4(k) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 and following) is amended by striking the last sentence.

(f) FEES FOR SPECIAL USES.—Section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 and following) is amended by adding the following new subsection at the end:

"(o) FEES FOR SPECIAL USES.—The Secretary of the Interior shall establish reasonable fees for nonrecreational uses of national park system units that require special arrangements, including permits. The fees shall be set at such level as the Secretary deems necessary to insure that the United States will receive fair market value for the use of the area concerned and shall, at a minimum, cover all costs of providing necessary services associated with such special uses, except that the Secretary may, in his discretion, waive or reduce such fees in the case of any nonprofit organization or any organization using an area within the national park system for educational or park-related purposes. Notwithstanding any other provision of law, the Secretary shall retain so much of the revenue from such fees as is equal to fee collection costs and the costs of providing the necessary services associated with such special uses. Such retained amounts shall be credited to the appropriation account for the national park system unit concerned and shall remain available until expended, beginning in the fiscal year in which the amounts are so credited.".

(g) ADMISSION OR RECREATION USE FEES.—Section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-4 and following) is amended by adding the following new subsection at the end:

"(p) ADMISSION OR RECREATION USE FEES.—Notwithstanding any other provision of law, no admission or recreation use fee of any kind shall be charged or imposed for entrance into, or use of, any federally owned area operated and maintained by a Federal agency and used for outdoor recreation purposes, except as provided for by this Act.".

SEC. 3. CHALLENGE COST-SHARE AGREEMENTS.

(a) AGREEMENTS.—The Secretary of the Interior is authorized to negotiate and enter into challenge cost-share agreements with cooperators. For purposes of this section—

(1) The term "challenge cost-share agreement" means any agreement entered into between the Secretary and any cooperator for the purpose of sharing costs or services in carrying out any authorized functions and responsibilities of the Secretary with respect to any unit of the national park system (as defined in section 2(a) of the Act of August 8, 1953 (16 U.S.C. 1b-1c)), any affiliated area, or any designated national scenic or historic trail.

(2) The term "cooperator" means any State or local government, public or private agency, organization, institution, corporation, individual, or other entity.

(b) USE OF FEDERAL FUNDS.—In carrying out challenge cost-share agreements, the Secretary is authorized, subject to appropriation, to provide the Federal funding share from any funds available to the National Park Service.

SEC. 4. COST RECOVERY FOR DAMAGE TO NATIONAL PARK RESOURCES.

Notwithstanding any other provision of law, any funds payable to United States as restitution on account of damage to national park resources or property shall be paid to the Secretary of the Interior. Any such funds, and any other funds received as a result of forfeiture, compromise, or settlement on account of damage to national park resources or property shall be credited to the appropriation account for the national park system unit concerned and shall be available, without further appropriation, for expenditure by the Secretary, without regard to fiscal year limitation, to improve, protect, or rehabilitate any park resources or property which have been damaged by the action of a permittee or any unauthorized person.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4533, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4533, The National Park Service Entrepreneurial Management Reform Act, is a bill I introduced at the request of the administration. The bill provides expanded authority for the collection of entrance and user fees at National Park System units and gives greater flexibility to the national park service to establish partnerships with State or local government, as-well-as with public or private agencies or organization under the National Park Service's challenge cost-share program.

H.R. 4533, as amended, contains a number of elements recommended in Vice President Gore's national performance review. The fee portion of the bill gives the Secretary of the Interior some considerable new discretion to set entrance, recreation and special use fees. The bill as amended removes the current caps on entrance fees, which, for the most part, limit entrance fees to $5 per vehicle or $3 per individual and replaces them with an overall cap of no more $6 per person. It retains the provisions in law prohibiting entrance fees for children age or 16 or younger, Current statutory prohibitions on entrance fee collection at urban parks with multiple entrance points would be eliminated. In addition, the bill contains a new special park use fee which allows the Park Service to charge nonpark event holders fair market value for the use of Federal land.

H.R. 4533 provides that beginning in fiscal year 1996, the Park Service would keep 100 percent of new recreations fees they collect over the 1993 base year. These moneys would go into a National Park renewal fund which will be available without further appropriation for infrastructure needs at National Park units. These would include facility repair and replacement, resource protection, interpretive exhibits and other projects.

In addition, H.R. 4533 authorizes the Secretary to recover restitution on account of damage to park resources or property resulting from vandalism or accidental damage. Settlement money would go to the National Park Service for park purposes. The bill also expands the current challenge cost-share program to allow any funds appropriated for the operation of the National Park Service to be used to carry out challenge cost-share agreements.

Mr. Speaker, a case can be made for increasing entrance fees if certain principles are upheld. The National Park Service like other agencies and programs of the Federal Government is operating under severe financial restraints. The American people own the National Parks and they are already paying for them through their taxes. They are willing to pay reasonable fees for entry to and use of these lands but only if there is a direct connection between the fees collected and the improvement of opportunities for enjoyment of park lands. In raising entrance fees, we must be careful not to raise them so high that they dissuade people from going to our National Parks. Finally, fee increases must be carried out in a context of mutual sacrifice by other users of parks and public lands, including commercial users such as telecommunications, pipelines, commercial tours and others. Enactment of this legislation will assure that a fair fee is paid by all users of our National Parks and that the money will be used to benefit park resources, therefore I urge my colleagues' support. Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4533, legislation to authorize an increase in park entrance fees and to return funds collected to the National Park Service.

Mr. Speaker, we spend a lot of time in this body discussing increases in grazing fees and timber receipts, but it may surprise many Members to learn that recreationists on Federal lands receive a larger subsidy than all other users of Federal lands combined. In 1994, recreationists on Federal lands received a total subsidy of about $1.2 billion. To put it another way, recreationists pay about 10 to 15 cents on the dollar for the services they receive. By comparison, the administration claims that the cost to administer the grazing program on Federal lands exceeds receipts by about $18 million annually.

When Vice President GORE announced the administration's program for entrepreneurial reform of the Park System as part of his reinventing government effort, and he claimed it would generate $993 million over the next 6 years. Those estimates turned out to be greatly exaggerated; in fact, the National Park Service today has no idea of how those figures were generated.

The bill we are presenting today will generate an estimated $30 million in additional funds annually for the park system. In light of the huge backlogs facing parks around the country, this amount of funding will do little to solve the financial problems facing our parks today.

I somewhat reluctantly support this measure today, not as a solution to the problems facing our parks, but as the smallest first step we can take to address the huge backlogs facing this agency.

□ 2040

Mr. Speaker, I yield back the balance of my time.

Mrs. MINK of Hawaii. Mr. Speaker, I cannot vote in favor of H.R. 4533 today, which includes an increase in entrance fees to our national parks. Our country's parks were established for the use and enjoyment of all people. To bar those less advantaged in our communities entrance to our national parks is a violation of the open-park policy. I realize that the National Park Service has to find funds to better meet its growing demands for park maintenance and operation; however, the fee changes which are before us today are unwise deterrents to public use. It converts our park policy to a user-fee base.

Notwithstanding the fee-per-vehicle cap of $20, the substitution of per vehicle fees for per person fees could increase entrance costs by three or four times. Especially in Hawaii, this is an abrogation of the intent of those who originally donated the land for the parks, which was that the public would be granted free and full enjoyment of the parks. The Park Service could consider Hawaii Volcanoes National Park in my district as a prime park, which may translate to fees of $6 per person or $20 per vehicle, where it now is $3 per person or $5 per vehicle, whichever is lower. For Haleakala National Park on the island of Maui, the legislation could increase park fees to $4 or $5 per person or $20 per vehicle; current fees are $2 per person or $4 per vehicle. Such fees are proscriptive and will discourage local residents from visiting the parks.

In addition, the legislation before us establishes a new fund in the Treasury into which our park fees will go. This National Park Renewal Fund is later purportedly to be returned by the Secretary of the Interior, without the appropriations process, to park units depending on how much these parks collected in a previous fiscal year. I question whether or not the new fund will really be able to do this. The Park Service already fails to account fully for its current distribution of user fees as mandated by current law—a simple formula of 10 percent by the Director based on need, 40 percent to all units for operating costs and 50 percent to collecting parks based on amounts collected. To return the amount of money over and above amounts collected in fiscal year 1993 to every single park seems a monumental burden based on the Service's current accountability problems.

Huge park entrance fee increases are not the answer to the needs of our parks. Every family of four wishing to enjoy our Nation's prime parks could be required to pay $20 in entrance fees. High fees will hurt concession operations. And the National Park Renewal Fund is plainly a bad idea.

I urge my colleagues to oppose this legislation today. Vote against H.R. 4533 because it could cut into the healthy streams of visitors into the parks in your district, and deprive many families of access as they currently enjoy.

Mr. VENTO. Mr. Speaker, I have no further requests for time, I urge passage, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. INSLEE). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4533, as amended.

The question was taken.

Mr. HUNTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

CORINTH, MS, BATTLEFIELD ACT OF 1994

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 986) to provide for an interpretive center at the Civil War Battlefield of Corinth, Mississippi, and for other purposes, as amended.

The Clerk read as follows:

S. 986

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—CIVIL WAR BATTLEFIELD OF CORINTH, MISSISSIPPI

SEC. 101. SHORT TITLE.

This title may be cited as the "Corinth, Mississippi, Battlefield Act of 1994".

SEC. 102. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the 14 sites located in the vicinity of Corinth, Mississippi, that were designated as a National Historic Landmark by the Secretary of the Interior in 1991 represent nationally significant events in the Siege and Battle of Corinth during the Civil War; and

(2) the Landmark sites should be preserved and interpreted for the benefit, inspiration, and education of the people of the United States.

(b) PURPOSE.—It is the purpose of this Act to provide for a center for the interpretation of the Siege and Battle of Corinth and other Civil War actions in the region and to enhance public understanding of the significance of the Corinth Campaign in the Civil War relative to the Western theater of operations, in cooperation with State or local governmental entities and private organizations and individuals.

SEC. 103. AUTHORIZATION FOR THE DEVELOPMENT OF AN INTERPRETIVE CENTER.

(A) AUTHORIZATION.—The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") is authorized to provide for an interpretive center (hereinafter in this title referred to as the "center") in the vicinity of the Corinth Battlefield in the State of Mississippi for the purpose of interpreting the 1862 Civil War Siege and Battle of Corinth.

(b) PLAN AND DESIGN.—(1) Within 18 months after the date of the enactment of this Act, the Secretary, after consultation with the Governor of Mississippi and in cooperation with such other public, municipal, and private entities as may be necessary and appropriate, shall complete a plan and design for the center, including the following:

(A) A detailed description of the design of the facility.

(B) A description of the site.

(C) The method of acquisition,

(D) The estimated cost of acquisition, construction, operation and maintenance.

(E) The manner and extent to which non-Federal entities shall participate in the acquisition, construction, operation, and maintenance of the center.

(2) In the development of the plan and design for the center the Secretary shall take into consideration the battlefield protection plan prepared for the city of Corinth, Mississippi and the Siege and Battle of Corinth Task Force, and shall provide an opportunity for public comment.

(3) Upon completion, the Secretary shall submit the plan to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(c) IMPLEMENTATION.—In order to implement the plan and design under subsection (b) of this section, the Secretary is authorized to acquire lands and interests in lands by donation, purchase with donated or appropriated funds, or exchange for the construction of the center, authorized in subsection (a), provided that such lands or interest therein shall only be acquired with the consent of the owner thereof. Federal funds to carry out this section may only be expended on two-for-one matching basis with non-Federal funds, services, materials, or lands, fairly valued as determined by the Secretary, or any combination thereof.

(d) AGREEMENT FOR THE OPERATION AND MAINTENANCE OF THE CENTER.—Before undertaking the construction of the center, the Secretary shall enter into a binding agreement with a qualified non-Federal entity for conveyance by deed or lease from the Secretary of any structure or property acquired and developed as provided for by this Act. Any such agreement shall provide that—

(1) the non-Federal entity agree to operate and maintain the center and make no major alteration of the structure or grounds without the express written authorization of the Secretary;

(2) a plan of operations shall be submitted that is satisfactory to the Secretary;

(3) the Secretary shall have access to documents relating to the operation and maintenance of the center;

(4) the Secretary shall have the right of access to the center; and

(5) the United States shall be held harmless from all events arising from the operation and maintenance of the center.

(e) COOPERATIVE AGREEMENT FOR TECHNICAL ASSISTANCE.—The Secretary may enter into cooperative agreements with the State of Mississippi, the city of Corinth, and other public or private entities to provide technical assistance with respect to the center.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated not more than $6,000,000 to carry out this title.

TITLE II—STONES RIVER NATIONAL BATTLEFIELD

SEC. 201. EXPANSION OF BATTLEFIELD.

Section 1(a) of the Act entitled "An Act to amend the boundaries of Stones River National Battlefield, Tennessee, and for other purposes," approved December 23, 1987 (101 Stat. 1433; U.S.C. 426n) is amended by striking "numbered 327/80,004B, and dated November 1991" and inserting ", numbered 327/80,011, and dated May 1994".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks in the RECORD on this measure now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 986 the Senate version of the Corinth, Mississippi Battlefield Act was approved in the Senate on November 17, 1993, and referred to the Committee on Natural Resources on November 18, 1993. The bill was introduced by Senator LOTT, and provides for an interpretive center at the Civil War Battlefield of Corinth, MS. Similar legislation, H.R. 3714, was introduced by our colleague in the House, Representative WHITTEN on November 22, 1993. Both bills were the subject of a hearing before the Subcommittee on National Parks, Forests and Public Lands on July 25, 1994.

Corinth, MS, near the Tennessee border, was the junction of the Confederacy's main North-South and East-West railroads. Following the Union victory at Shiloh, TN, in April 1862, the Confederate Army retreated to Corinth, pursued by the Union Army which secured Corinth in October of 1862. Subsequently, slaves from Mississippi, Tennessee, and Alabama sought refuge and freedom in Corinth. Known as contrabands of war, these freedmen were housed at a camp, but were later transferred to Memphis when the Union Army abandoned Corinth to join General Sherman's campaign in 1864.

The Siege and Battle of Corinth today includes a 485-acre national historic landmark comprised of 16 noncontiguous sites near Corinth, MS. The Civil War Sites Advisory Commission has identified the 1862 Battle Site as a priority 1 battlefield, one with "critical need for coordinated nationwide action by the year 2000." The Corinth battle site is rated as having good or fair integrity, with high or moderate threats from development. The Corinth siege site was rated a priority 4 battlefield, a fragmented battlefield with poor integrity, although the commission reported that the siege site represents a class A military battle, one that "has a decisive impact on a military campaign and a direct impact on the course of the war."

S. 986, as approved by the Senate authorized both the acquisition of property from a willing seller in Corinth, MS, and the construction of an interpretive center on such property. The interpretive center would also be operated as part of Shiloh National Military Park, and Federal funding for construction would be limited to $6 million.

The legislation before us, as amended by the Committee on Natural Resources, modifies the provisions of the Corinth Battlefield legislation and adds the Stones River legislation—H.R. 4266—as a second title.

While I appreciate the interest for an interpretive center at Corinth, I and other Members are concerned about authorizing scarce National Park Service resources for construction of facilities for resources outside park boundaries which have not been designated as units of the National Park System. The city of Corinth, the State of Mississippi and other interested groups have been working to plan and develop the Corinth Battlefield site. I believe it is appropriate that others provide at least some of the resources for construction of the interpretive center, and the bill, as amended, provides Federal funding which must be matched on a two-to-one basis.

The amended bill also provides that the facility will be operated and maintained by a non-Federal entity. While the National Park Service can have a role in assisting in the development of an interpretive center at this significant Civil War site, I do not believe the Park Service should be responsible for continued operations. My colleagues have, numerous times, correctly asserted that the national park system is suffering from inadequate operations funding. Authorizing the Park Service to operate such a facility would further dissipate the scarce dollars available for units of the national park system. The bill's language assures the center's continued operation while limiting the National Park Service's obligation.

Title II of the bill incorporates the provisions of H.R. 4266, introduced by Representative BART GORDON, which expands the boundaries of the Stones River National Battlefield in Tennessee by 800 acres. The Battle of Stones River was fought from December 31, 1862, through January 2, 1863. In all, more than 23,000 of the 83,000 combined forces were killed, injured, or missing in action.

The Greater Stones River Battlefield Area originally consisted of approximately 3,700 acres. Initially authorized in 1927, the battlefield and cemetery encompassed 350 acres. When established in 1927, the battlefield was located in a rural setting. Since the 1980's the area surrounding the battlefield has been witness to extreme population growth and accompanying development. The 1990 census shows that Rutherford County—where the battlefield is located—is the fastest growing county in the State of Tennessee and is one of the 50 fastest growing counties in the country.

In 1992, the Civil War Sites Advisory Commission noted that less than 10 percent of the 3700-acre greater battlefield was preserved and interpreted on park land in five separate units. While the commission ranked the Battle of Stones River as one of the significant battles in determining the outcome of the Civil War, it observed that development around park lands compromises the integrity and fragments the greater battlefield.

In a position paper the commission concluded that the 800 acres of land included in H.R. 4266 would, if added to the park, raise the integrity of the battlefield since the land represents a significant acreage on which important battle events occurred. Prior legislation approved by this committee and the Congress in 1987 and 1991, increased the original 350-acre battlefield by 53 acres and 280 acres respectively.

Mr. Speaker, this legislation is needed to assure the preservation and interpretation of significant Civil War resources, and I urge my colleagues' support.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to S. 986, a bill which among other things provides for an expansion of Stones River National Battlefield in Tennessee.

Mr. Speaker, this bill represents the third time in four sessions of Congress that we have considered legislation to expand this park. The last time we considered this measure, Congress directed the National Park Service to undertake a boundary study of that park. The National Park Service is in the middle of that study at this time; with the first public meeting on three different alternatives scheduled for the next week. The National Park Service has not even completed the environmental impact statement on their new plan for public review.

If we pass this bill now, before the National Park Service finishes its study, it will be a virtual guarantee that we will have to revisit the boundary at this park again next Congress. For this reason, I cannot support this measure.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I urge passage of the measure.

I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 986, as amended.

The question was taken.

Mr. VENTO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

FINAL REPORT WITH RESPECT TO PANAMA PURSUANT TO INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 103-321)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

1. I hereby report to the Congress on developments since the last Presidential report on November 9, 1993, which have resulted in the termination of the continued blocking of Panamanian government assets. This is the final report with respect to Panama pursuant to section 207(d) of the International Emergency Economic Powers Act, 50 U.S.C. 1706(d).

2. On April 5, 1990, President Bush issued Executive Order No. 12710, terminating the national emergency declared on April 8, 1988, with respect to Panama. While this order terminated the sanctions imposed pursuant to that declaration, the blocking of Panamanian government assets in the United States was continued in order to permit completion of the orderly unblocking and transfer of funds that the President directed on December 20, 1989, and to foster the resolution of claims of U.S. creditors involving Panama, pursuant to 50 U.S.C. 1706(a). The termination of the national emergency did not affect the continuation of compliance audits and enforcement actions with respect to activities taking place during the sanctions period, pursuant to 50 U.S.C. 1622(a).

3. The Panamanian Transactions Regulations, 31 CFR part 565 (the "Regulations"), were amended effective May 9, 1994, to foster the resolution of U.S. persons' claims against the Government of Panama arising prior to the April 5, 1990, termination date. (59 *Federal Register 24643*, May 12, 1994.) A copy of the amendment is attached. The amendment, new section 565.512, includes a statement of licensing policy indicating that the Department of the Treasury's Office of Foreign Assets Control ("FAC") would issue specific licenses authorizing the release of blocked Government of Panama funds at the request of that government to satisfy settlements, final judgments, and arbitral awards with respect to claims of U.S. persons arising prior to April 5, 1990. In addition, FAC stated that it would accept license applications from U.S. persons seeking judicial orders of attachment against blocked Government of Panama assets in satisfaction of final judgments entered against the Government of Panama, provided such applications are submitted no later than June 15, 1994.

4. No applications were received pursuant to this amendment for the purpose of obtaining judicial orders of attachment against blocked Government of Panama assets. Since the last report, however, specific licenses were issued at the request of the Government of Panama to unblock about $4.4 million to satisfy settlements reached with the vast majority of U.S. creditors by the Government of Panama. On September 9, 1994, the FAC gave notice to the public that the remaining blocked Government of Panama assets, approximately $2.1 million, would be unblocked effective September 16, 1994. (50 *Federal Register 46720*, September 9, 1994.) A copy of the notice is attached. Half of the $2.1 million had been held at the Federal Reserve Bank of New York at the request of the Government of Panama. The remaining amounts were held in blocked commercial bank accounts or in blocked reserved accounts established under section 565.509 of the Panamanian Transactions Regulations, 34 CFR 565.509. The remaining known claimants were informed that, prior to the unblocking, the Government of Panama and Air Panama had directed the transfer of $400,000 into a trust account administered by counsel to the Republic of Panama and Air Panama, as escrow agent, to be utilized toward resolution of the few remaining U.S. claims. This sum exceeds the face amount of the total of the known remaining claims.

5. With the unblocking on September 16, 1994, of Government of Panama funds that had been subject to the continued blocking, the sanctions program initiated to deal with the threat once posed by the Noriega regime in Panama is completed. However, enforcement action for past violations may still be pursued within the applicable statute of limitations.

6. The expenses incurred by the Federal Government during the period of the national emergency with respect to Panama from April 8, 1988, through April 5, 1990, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Panama are estimated to total about $2.225 million, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Under Secretary for Enforcement, and the Office of the General Counsel), and the Department of State (particularly the Bureau of Economic and Business Affairs and the Office of the Legal Adviser).

WILLIAM J. CLINTON.

THE WHITE HOUSE. *October 3, 1994.*

ANNUAL REPORT OF THE FEDERAL LABOR RELATIONS AUTHORITY FOR FISCAL YEAR 1993—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Post Office and Civil Service:

To the Congress of the United States:

In accordance with section 701 of the Civil Service Reform Act of 1978 (Public Law 95-454; 5 U.S.C. 7104(e)), I have the pleasure of transmitting to you the Fifteenth Annual Report of the Federal Labor Relations Authority for Fiscal Year 1993.

The report includes information on the cases heard and decisions rendered by the Federal Labor Relations Authority, the General Counsel of the Authority, and the Federal Service Impasses Panel.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 3, 1994.*

1993 REPORTS ON ACTIVITIES UNDER HIGHWAY SAFETY ACT AND NATIONAL TRAFFIC MOTOR VEHICLE SAFETY ACT OF 1966—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Public Works and Transportation, and the Committee on Energy and Commerce:

To the Congress of the United States:

I transmit herewith the 1993 calendar year reports as prepared by the Department of Transportation on activities under the Highway Safety Act and the National Traffic Motor Vehicle Safety Act of 1966, as amended (23 U.S.C. 401 note and 15 U.S.C. 1408).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 3, 1994.*

TRIBUTE TO DOYLE RAHJES, PRESIDENT OF KANSAS FARM BUREAU

(Mr. ROBERTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. ROBERTS. Mr. Speaker, I rise today to honor Doyle Rahjes, president of the Kansas Farm Bureau. After 11 years as president and over a quarter of a century of active leadership, Doyle has announced he will step down at the end of his current term.

During his service to the Kansas Farm Bureau, I have had the privilege of working with Doyle on countless occasions. He has been an outstanding leader, a loyal ally, trusted advisor and true friend to the entire Kansas department.

Doyle has also been a national leader in The American Farm Bureau Federation. His insights as a Kansas farmer/rancher have made him a popular and most effective witness before the House and Senate Agriculture Committees on behalf of the American Farm Bureau. He has served on the Farm Bureau board of directors and executive committee and has chaired the organization's International Trade Committee.

In addition to his Farm Bureau service, Doyle has served U.S. agriculture and rural America in many capacities. He is on the executive committee of the National Livestock and Meat Board, a board member for the Huck Boyd Rural Development Institute and a past member of the Kansas City Federal Reserve District Economic Advisory Committee. For his outstanding contributions to the agricultural community, Doyle has received numerous awards and citations.

But his most enduring legacy will be his service for the past 11 years as president of the Kansas Farm Bureau. Through one farm crisis, two farm bills, and many more farm challenges, Doyle has been the calm, clear voice of reason that has kept the Kansas Farm Bureau ship on course. His leadership and friendship will be sorely missed.

I wish Doyle, his wife Charlotte and their children and grandchildren all the best in the years to come as he now has more time to spend on his farm and with his family at his home in Agra, Kansas. President Rahjes's biography and the Kansas Farm Bureau press statement of his retirement follows.

Mr. Speaker, I include for the RECORD President Rahjes' biography and the Kansas Farm Bureau press statement of his retirement, as follows:

BIOGRAPHICAL OUTLINE OF DOYLE RAHJES

Doyle D. Rahjes is President of Kansas Farm Bureau. As President, he serves as Chairman of the Board of Directors of Kansas Farm Bureau and its Affiliated Companies and is chief spokesman for the organization.

He is a native of Agra, Kansas, in Phillips County and continues to farm there in partnership with his nephew. They raise wheat, milo and beef cattle.

After serving as county Farm Bureau president and a member of the Kansas Farm Bureau Resolutions Committee, Rahjes was elected to this Kansas Farm Bureau Board of Directors in 1971. He served as Vice President from 1973 until 1983 when he became President.

Prior to his election as President, he served on the Governor's Task Force on Water Resources and subsequently served for eight years on the Kansas Water Authority. In 1978, by invitation of President Carter and the Governor of Kansas, he represented Kansas at the White House Conference on National Balanced Growth and Economic Development.

Doyle is a member of the American Farm Bureau Federation Board of Directors and the AFBF Executive Committee. He is a past member of the Kansas City Federal Reserve 10th District Economic Advisory Committee and a member of the Executive Committee of the National Livestock and Meat Board.

As a person who is vitally interested in agriculture and rural America, he extends his advocacy by serving on the Board of Directors of the National Institute for Rural Development at Kansas State University. He is also a member of the Board of Directors of the Mid-States Port Authority that is providing oversight to a successful short line rail service in North Central and Northwest Kansas that extends into Colorado and Nebraska.

He is recipient of the Kansas Farm Bureau Leaders of the Year Award and received an Honorary State Farmer degree by the FFA. He is also recipient of the Kansas Banker's Soil Conservation Award and the Friend of Agriculture Award from Clay County Farm Bureau.

Appointed by the Secretary of Agriculture, he served as a member of the USDA Advisory Committee on Futures and Options and served as a member of the Commission for the Improvement of Federal Crop Insurance.

He and his wife, Charlotte, are natives of Phillips County, Kansas. They have two children: Lori Rahjes Ferguson, farm wife and school teacher, and Kenneth, who is involved in management of the family farm.

As President of the state's largest farm organization, Rahjes has gained wide acceptance throughout the nation as major farm leader and spokesman for agriculture.

[Kansas Farm Bureau News Release, Sept. 20, 1994]

RAHJES WILL NOT SEEK RE-ELECTION AS KFB PRESIDENT

MANHATTAN.—After more than a quarter century as a leader in Farm Bureau, Doyle Rahjes announced he will not seek re-election as president of the state's largest farm organization. The announcement was made in a letter to county Farm Bureau association presidents in Kansas.

"It has been a great honor for me to serve as president of Kansas Farm Bureau the past 11 years," Rahjes said in a statement from his Manhattan office. "It's time to return to the farm and our grandsons."

The Phillips County farmer/rancher who raises wheat, milo and beef cattle on his northwestern Kansas farm will continue to serve as president until the conclusion of the KFB annual meeting November 17–19, in Wichita. A new president will be elected at that time.

Rahjes has served as KFB president since November 1983. Prior to that he served as vice president for 10 years. Rahjes was elected to the KFB board of directors in 1971 and first served on the Phillips County FB board beginning in 1966.

In addition to his state leadership in agricultural issues, Rahjes has been a key leader with the American Farm Bureau Federation. Most recently he has served on the AFBF Executive Committee and also chaired the AFBF International Trade Committee.

Under his direction, Farm Bureau continued to be a strong agricultural voice representing farmers and ranchers in Kansas.

"Very few individuals have had an opportunity to work with an organization that is made up of such strong and devoted members as I have with Farm Bureau in Kansas," Rahjes said. "While I'm looking forward to a less stressful pace, I'm going to deeply miss my day-to-day contact with Farm Bureau members and other agricultural leaders.

"Farm Bureau is the farm organization where individual member concerns are heard and acted on through the democratic process at the county, state, national and international level," Rahjes said. "No other farm organization comes close to this kind of grass roots involvement. It has been a pleasure and a privilege to have served such an outstanding organization."

THANKS TO DR. GRACE MILGRAM

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and include extraneous material.)

Mr. GONZALEZ. Mr. Speaker, I rise today to commemorate the service of Dr. Grace Milgram. Since 1975, Dr. Milgram has worked as a specialist in housing within the Economics Division of the Congressional Research Service at the Library of Congress.

Let me say parenthetically to all of these cost-cutting fanatics: You have been cutting the Library of Congress consistently instead of doing what we ought to do. It is the one arm Congress has, like GAO, that is indispensable and has been since its founding. Dr. Grace Milgram personifies the professionalism and the great efficiency with which this Research Service serves us, the Congress.

Over the past years, her work has been of invaluable assistance to me as chairman of the Subcommittee on Housing and Community Development; before her, her superior, Dr. Morton Schussheim, who retired just last year. We should find some way to still avail ourselves of their dedicated service. I therefore want to enter into the RECORD my commendation to this tremendous service by Dr. Grace Milgram.

Mr. Speaker, I include for the RECORD my commendation of Dr. Milgram and her profile, as follows:

HOUSE OF REPRESENTATIVES
Washington, DC, September 22, 1994.

Dr. GRACE MILGRAM,
Specialist in Housing, Economics Division, Congressional Research Service (CRS), Library of Congress, Washington, DC.

DEAR DR. MILGRAM: I wish to take opportunity to express my deepest best wishes to you on the occasion of your forthcoming retirement as a Specialist in Housing matters within the Economics Division of the Congressional Research Service at the Library of Congress.

I also would like to communicate my personal appreciation for the generous amount of time which you graciously committed to a number of research projects in the areas of housing and community development. They greatly assisted me during the course of the conceptualization and development of legislative proposals. I shall always remain grateful to you for the patient attention which you accorded to these particular research requests.

I trust that you will encounter many new, exciting challenges or possibly profit from the available time to pursue ongoing personal interests or hobbies.

I will make every effort to try to join you and your distinguished colleagues at the celebration engagement scheduled next Friday, 30 September 1994, from 12:00 noon to 2:00 p.m., in Room LM-205 of the Madison Building.

Sincerely,
HENRY B. GONZALEZ,
Member of Congress.

PROFILE OF GRACE MILGRAM

EDUCATION

Grace prepared herself for an illustrious career in housing through her education received at Antioch College and the University of Pennsylvania. She majored in Economics, with an academic emphasis on city and regional planning, and graduated with honors. For her Doctorate degree, she specialized in housing, urban renewal, and land economics.

CAREER

1957–1958.—Economic Analyst for the Evaluation Project of the City of Philadelphia—evaluating a demonstration project on housing rehabilitation and neighborhood improvement.

1960–1964.—Housing economist, Research Associate, and Editor of City Planning Series of studies published by University of Pennsylvania Press.

1964–1967.—Research Assistant Professor for Institute of Environmental Studies, University of Pa. Directed research projects relating to land economics, mortgage finance, and other urban problems.

1967–1971.—Senior Research Associate and later, Assistant Director for Research, at the Institute of Urban Environment, Columbia University. Directed research on a number of projects concerned with housing and urban problems.

1971–1975.—Project Director, Division of Economics and Housing Finance, New York State Urban Development Corp. Analyzed individual sites and studies of metropolitan housing markets.

1975.—Hired on March 17, 1975 as a Specialist in Housing. Grace is an expert on HUD housing programs, as well as other housing. She was also coordinator of the Housing Section from 1975 to 1979.

PUBLICATIONS

Grace has been the author or co-author of numerous works in the Economics and Housing fields. The following are a few of them: A land Price Index for the San Juan Metropolitan Area; The City Expands—A Study for the Conversion of Land from Rural to Urban Use, Philadelphia, 1945–1962; A Framework for Center City Demonstration Projects, and Housing Desegregation in Central Cities and Suburbs, prepared for the Presidential Task Force on Urban Problems in 1965.

Since she has been with CRS Grace has written many valuable reports for Congress including Existing Housing Resources vs. Need; Housing Assistance in the United States; and, A Chronology of Housing Legislation and Selected Executive Actions, 1892–1992.

PROFESSIONAL ORGANIZATIONS

National Association of Housing and Redevelopment Officials;

American Real Estate and Urban Economics Associations;

American Institute of Planners;

Lambda Alpha (Land Economics Fraternity).

□ 2050

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. INSLEE). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

THE 1-YEAR ANNIVERSARY OF THE FIREFIGHT FROM HELL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, tonight is the year anniversary of a tragic, albeit heroic, day in the annals of the U.S. Army, in our military history. It was the night of October 3 and October 4 last year that 18 superbly trained, extremely heroic American men in the prime of their life died in what their surviving colleagues called the firefight from hell. It was the worst firefight since the Vietnam war. The men were six pilots and aircrew from what is the world's, the world's, greatest helicopter unit, the 160th Aviation Regiment Special Forces at Fort Campbell in Kentucky. There were six Rangers from the 3d Battalion, 75th Rangers, Fort Benning. Some of them were very young, 22 or 21 due to the unit, and then there were five of the best trained soldiers in the world, our Special Forces men from Fort Bragg who are trained to rescue us if we are ever taken hostage, and many of them are down in Haiti at this very moment.

Mr. Speaker, it is ironic that 1 year later to the day a young American lies in a hospital. We are told he will survive. He was close to death. He was shot in the stomach during the last 24 hours. We do not know who shot him; a sniper, could have been either side, the pro-Aristide mobs or the killer, attache, ninja death squads of the prevailing de facto government in Haiti.

But the same mission creep that brought about over 75 men stranded all night long—in Somalia right now it is dawn, and a year ago it was dawn, and men of the 10th Mountain Division, with the help of some UN forces, United Arab Emirates, Pakistan, were trying to fight their way through road blocks in that godforsaken town of Mogadishu to reach our men. They were holed up in rooms where the floor was covered with blood. They had held out all night long. Night vision scopes helped them survive. They had no air cover from the big AC–130 gun ships, but what they called the little birds, the Hughes 86 Cayuse; some of those pilots whom I met with shortly thereafter flew, Mr. Speaker, 17 uninterrupted hours of combat support, firing all night long with 10-minute refueling trips back to the base which was only a few minutes away at Mogadishu International Airport.

Mr. Speaker, we have now that mission creep in Haiti, and I yield to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, I thank the gentleman from California [Mr. DORNAN] for yielding, and I just wanted to thank him for this extraordinary service that he did for the House of Representatives and for the Committee on Armed Services as a Member who, after the Somalia tragedy, flew some 40 hours to Somalia and back while the rest of us were too busy or had other things that we could not leave. The gentleman from California [Mr. DORNAN] flew out there, and met with the troops, met with the wounded people, ultimately talked to every family of the troops who were killed in that particular tragedy.

I say to the gentleman, "I want to thank you, BOB, for what you did. I think it was a great service to the House and to the Armed Services Committee."

Mr. DORNAN. Mr. Speaker, I say to the gentleman, "DUNCAN, I don't know how much time I have left."

Mr. HUNTER. Well, I will take a little when the gentleman gets finished.

Mr. DORNAN. All right. Some of the fathers and mothers of these men, particularly Randy Shughart whose dad went to the White House last May 23, refused to shake the hand of the Commander in Chief of these men. I asked him how he could possibly have allowed Aidid to be flown by our military. They did not make the Army guard them, but it was an Army airplane, Marine guards, to fly him on December 3 down to a conference in Addis Ababa. He said, "How could you do that with the killer of my son?"

And he said, "Well, I didn't know about that, Mr. Shughart."

He said, "Well, do you claim you did not know about Operation Ranger either, that they were arresting them, but they were doing it on your orders?"

And he said, "That brings to mind that some of my dead son's friends say they could have killed Aidid at least three times."

Well, you may not be aware of this, Mr. Shughart, but our country doesn't have the policy of assassinating leaders in other nations."

And in his simple, farmer way Herb Shughart said, "Leader? I thought you called him a thug. I thought you said he was a warlord. I though you ordered him arrested. But it's O.K. for my son and 18 others to die, and a 19th 3 days later, on October 6?"

And I said, "What did he say?"

Herb, he turned as red as a tomato and tried to stare a hole through me.

"What did you do?"

He said, "I stared a hole right back through him and told him, 'I have nothing more to say to you, Mr. President.'"

Now, if this young man who is suffering intensely tonight with a stomach wound—looked for a while like he would die—I wonder what his father is thinking tonight with mission creep down there in Haiti, with no vital interest at stake, no goal, no timetables, and if we were to pull out precipitously, what a message that gives us to the world, as we looked weak when we pulled out of Somalia—although I was for pulling out.

The SPEAKER pro tempore. The time of the gentleman from California [Mr. DORNAN] has expired.

Mr. HUNTER. Mr. Speaker, I ask unanimous consent that I might be given 4 minutes so that I might yield some time.

Mr. DORNAN. Take 5. I want to read these names.

Mr. HUNTER. Five minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ORTON. Reserving the right to object, Mr. Speaker, is Mr. HUNTER listed on the list of special orders.

The SPEAKER pro tempore. The gentleman from California [Mr. HUNTER] was not listed. Mr. HUNTER retains the right to request unanimous consent at the end of the calendar. There are three more Members listed on the chart.

Mr. ORTON. Mr. Speaker, I will not object at this point. I would ask the Members to maybe please try to stick to the time.

The SPEAKER pro tempore. The Chair would seek to entertain a request for unanimous consent at the end of the calendar.

Mr. ORTON. Mr. Speaker, I withdraw my reservation of objection.

PARLIAMENTARY INQUIRY

Mr. DORNAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DORNAN. I ask, "Couldn't a courtesy request be made because we are speaking about deceased American heroes who died for us and their country?"

The SPEAKER pro tempore. Is there pending a unanimous-consent request?

Hearing none, the Chair intends to prevail with the outstanding schedule.

Mr. HUNTER. Mr. Speaker, I have made a unanimous-consent request that I might be given 5 minutes out of order and be allowed to yield that time to the gentleman from California [Mr. DORNAN].

Mr. SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Without objection, the gentleman from California [Mr. HUNTER] may proceed for 5 minutes at this point.

COMMEMORATING THE SERVICEMEN KILLED IN SOMALIA

Mr. HUNTER. Mr. Speaker, since I have that time, before I yield to the gentleman from California [Mr. DORNAN] I want to answer perhaps part of the question for that father whose son was killed in Somalia.

Mr. DORNAN. Or the son lying near death in the last few hours——

Mr. HUNTER. Or the young man who has been shot in Haiti, and I think the answer has to do with priorities, and I think we can look back at liberal administrations since Vietnam, during Vietnam and since, and we have seen a situation in which typically politics has prevailed over the safety of American service people, and let me just say that in Vietnam many times our political leaders had a chance to end that war early, to do tough things with North Vietnam, to do things that were not diplomatically acceptable to them, and because of that there was only one currency that they were willing to expend in South Vietnam, and that currency was American soldiers, and because of that many times soft bodies of American G.I.'s ended up taking the hits when American bombing, and strategic positions and places, while it would have been done to the criticism of the world, it would have been attended by the criticism of world diplomats, nonetheless would have saved Americans from dying.

In Somalia we had basically the same thing where the American commander on the ground asked for armor. He asked for armor because he knew you had to have armor to get through the streets in Somalia in the urban areas because the other side has RPG's, rocket propelled grenades, and the thin-skinned vehicles that we had could not stand up to that——

Mr. DORNAN. And the big specter gunships were not overhead.

Mr. HUNTER. And central command approved the request for armor, and it was briefed by Colin Powell to President Clinton's Secretary of Defense, Les Aspin, and it was turned down, and I am paraphrasing Mr. Aspin, "for political reasons." It is because it would have made our military look "too militaristic."

□ 2100

Mr. DORNAN. Too offensive.

Mr. HUNTER. So once again American soft bodies were sacrificed because the prevailing sentiment in Washington, DC, in a liberal administration, and the overwhelming sentiment was in favor of diplomacy, in favor of world image, in favor of politics, and not in the best interests of our fighting people.

Mr. DORNAN. I am going to just mention their last names, because we probably only have a couple minutes left, and their age. Helicopter pilot Wolcott, 36; Donovan Briley, 33; Tommy Field, 25; Ray Frank, 36 months in your war in Vietnam, 45; Sergeant Cleveland, 34; Private First Class Jimmy Martin, 23. He is from Fort Drum. The other Fort Drum young black sergeant, Cornell Houston, 31. The six rangers: Richard Kowalewski, 20; Sergeant James Joyce, 24. His father testified movingly, beautifully, at the Senate. James Cavaco, 26; Dominick Pilla, 21; Lorenzo Ruiz, 27; Jimmy Smith, his father was a Vietnam vet, 21. And then these top sergeants, Master Sergeant Tim Martin, 38; Sergeant First Class Earl Fillmore, 28; Staff Sergeant Danny Busch, 25. And then our two Medal of Honor winners, posthumously awarded, Sergeant First Class Randy Shugart, whose dad refused to shake Clinton's hand, 35; and Gary Gordon, 33, whose wife, Carmen, wrote one of the most beautiful letters I have ever seen in my life in Newsweek Magazine.

I went to mass last night at Saint Columbus Church in Garden Grove; 1,500 Vietnamese, men, women and children celebrating mass. And as Sally and I stood in the back of Saint Columbus, I notice a plaque on the wall. Seven men's names, from Garden Grove, who died in Vietnam, that those 1,500 people, 200 across the wall and every one of the 1,300 seats filled, could attend a religious service in this free country.

And on the way in from the airport, I stopped in at the Vietnam Wall, I didn't know you do this, to try and get their names out of a book. In the kiosk, a park guard said, "Give me their names." Within 2 minutes, I had all seven names. Five of them are born in the same year as President Clinton, 1946. one marine major in 1936, my brother's year, and one a year younger than Clinton. Six of them their birthdays are all within the same year and a half of Clinton's birthday, two of them in August, his birthday.

And I thought of these men and what they gave, so that those 1,500 people ended up in the United States in my Garden Grove going to a 7 o'clock mass. And I wondered, is there going to be a wall somewhere for the 19 men that died on the third and fourth last year, the 30 overall? And what about if somebody dies in Haiti? Where do we go to get their name and remember them? These are dangerous times with the poor leadership we have at the top.

A DESPICABLE DEMOCRATIC CAMPAIGN STRATEGY

The SPEAKER pro tempore (Mr. INSLEE). Under a previous order of the House, the gentleman from Georgia, Mr. GINGRICH, is recognized for 5 minutes.

Mr. GINGRICH. Mr. Speaker, I am going to talk tonight on a despicable Democratic campaign strategy. Today the White House Office of Media Affairs releases a so-called analysis of the House Republican contract that is a false, misleading, dishonest document. This Clinton Democratic strategy of frightening senior citizens is despicable, and it is totally false. Let's look at the facts.

House Republicans have proposed a balanced budget amendment to the Constitution. House Republicans know the Federal Government is too big and spends too much. House Republicans believe that over a 5 to 8-year period a transition to a balanced budget is possible. House Republicans believe that cutting spending, not raising taxes, is the right direction. Liberal Democrats and their liberal news media allies seem terrified at the idea the Republicans might actually cut Government spending, cut Democratic political pork, and work to balance the budget.

The Democrats have now come up with a totally phony analysis which suggests that Republicans would cut Social Security, rather than debate discretionary, rather than debate other entitlements, rather than debate changing the bureaucracy. The Democrats, at least in this White House release today, seem to have decided that only by scaring senior citizens do Democrats have a chance to survive.

This is a totally false accusation. Let me read the record. On Meet the Press yesterday I said the following. "We have to look at transforming virtually every area of the budget except Social Security. You take one part of that pie chart called Social Security, set it to one side as the contract that virtually all Americans agree on, I think you have got to look at every single aspect of the budget * * *.

"* * * The fact is Social Security is the widest accepted contract in the United States, it is one that I think should be off the table."

Now, that was on "Meet the Press" yesterday. Today the Clinton White House decides to lie about my position.

The gentleman from Texas, Congressman DICK ARMEY, on a C-SPAN viewer call-in show September 28, said the following about Social Security: "It is a paid annuity program. I can't be party to a process that says to the American people: One, we're going to take your aftertax dollars into this annuity and then tax you when you take your benefits out later—but that's what the Democrats want to do. I think that's unfair, it's unkind.

"Secondly, we can't break our contract, our responsibility, our fiduciary responsibility to those people who spent their entire working years paying into this contract."

Now, here are the No. 2 and No. 3 ranking House Republicans, the people who almost certainly will be the No. 1 and No. 2 House Republicans next year, and what we are saying to the American people is we are not going to touch Social Security. We have said publicly and on the record. The result is not an honest debate from the Clinton White House and the debate about how to get to a balanced budget, not an honest effort to understand what we are trying to do, but a deliberately distorted, deliberately false accusation that we are going to cut Social Security.

Let me carry this a step further. If you look at what Gov. Fife Symington has done, a Republican in Arizona, he has taken Medicaid, a very expensive program, and he has turned it into managed care. He no longer allows people to show up at the emergency room to get aspirin. He no longer allows people to simply waste dollars if they are on Medicaid.

The result is he is saving millions of dollars in Arizona and, applied nationwide, we could save billions of dollars. In New York State alone, there is one study that suggests that we could save $11,000 per welfare family in health care costs in New York State if we went to managed care, without in any way cutting off any care, but simply by turning it into an organized orderly process.

Gov. Tommy Thompson, Republican of Wisconsin, has gone to a learnfare and workfare program and has discovered that when you require people on welfare to work, fewer people show up for welfare and you change the whole program, and you dramatically both lower your costs and you improve the experience of the people on welfare. It is a program that will work. It is a program we ought to be trying.

I have been talking with Ross Perot, with corporate leaders around the country, looking at successful downsizing. What happens when Ford or General Motors or Chrysler or Xerox or IBM decides they have to shrink their middle managements? How do they go about doing that?

I believe we can save billions of dollars by downsizing the Federal bureaucracy and using effective systems. I believe with a thorough overhaul of our defense procurement system, we can get more weapons and better weapons faster for less money. That is the essence of the concept that Dr. Edwards Deming developed, which is quality, quality, but which is an approach to doing business in a way that is better and more effective and less expensive. The Democrats don't seem to get it. They think you have to keep the current welfare state and keep the budget unbalanced.

I simply ask them in closing, please don't lie to the American people about Social Security. It is off the table. It is not a topic. That is not going to be touched. Please debate us honestly about what really needs to be done to balance the budget.

ENTITLEMENT REFORM

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Utah [Mr. ORTON] is recognized for 60 minutes as the designee of the majority leader.

Mr. ORTON. Mr. Speaker, I have asked for time to address my colleagues and the American people this afternoon or this evening on a very important issue. It is the issue of entitlement reform.

□ 2110

Earlier this year, there was a great deal made in the press and in this body about the bill that was known as the A to Z spending cuts bill. A to Z proposed that there would be time set aside within the House, in the House legislative calendar, to propose cuts to discretionary spending programs. However, it only dealt with fiscal year 1994 and, in fact, proposed under the rule a specific amount of time, 1 week, during which Members could come to the floor of the House and present specific spending cuts. Again, this only would deal with discretionary spending cuts for 1994.

There was an argument that the rule could, in fact, be expanded to cuts of entitlements, but there is question whether that would be the case either. The main point is, this coming to the floor, very late in the session, late in the fiscal year 1994, and dealing with only fiscal year 1994, the practical reality is there would be very little impact on the Federal budget deficit through such a period of time here of proposing those specific cuts.

Several of us in the House who were sponsors of the original A to Z bill, rather than discharging the petitions, signing the discharge petition to bring that particular bill to the floor, which would only cut spending in 1994, 1994 was 11 months past, the actual spending cuts would be very minimal at best, if passed, we sought a way to actually accomplish the goals espoused by those of us who sponsored the bill, but doing so through a slightly different approach.

So we met with the leadership of the House. And rather than discharging this bill, bringing it to the floor for a 1-week debate, we reached an agreement wherein we could accomplish really three things:

First of all, the appropriation bills for fiscal year 1995, a year which has not yet begun, a year, if we cut spending from 1995, will actually result in lowered spending, that all of those appropriation bills would come to the floor under an open rule; thereby, any discretionary program under those appropriation bills would be eligible for any Member of the House to stand up and propose a cut.

Second, we would have several specific budget reform measures brought to the floor of the House for a vote.

And third, we would have time to come to the floor to debate specific entitlement reform so that we could in fact try to put this country back on track of fiscal responsibility.

We have accomplished much through that agreement. In fact, the appropriation bills did come to the floor under an open rule. There were 74 amendments proposed. Many of them passed, cutting billions and billions of dollars out of the 1995 fiscal year appropriations. It is also interesting to note that the prime sponsors of the A to Z bill did not come forward and propose one amendment out of any of those appropriation bills.

We also brought to this floor and debated and passed through this body four specific items which will have a direct impact on cutting the deficit: first of all, the enhanced rescission bill; second, the elimination of baseline budgeting; third, a limit on emergency spending so that you cannot just tack on nonrelated pork barrel spending bills and then pass an emergency bill not subject to the spending limits; and fourth, a cap on entitlement spending.

Each of those four bills came to this body. We voted on them. We passed them. If the other body would act on those before leaving this session, I believe that we could have very significant reduction in the deficit over the coming years.

The fifth budget reform that we have asked for that has not yet been voted on in the House, which I would urge the leadership to bring to the floor of the House this week before leaving, is what was called the lock box mechanism. What that was designed to do is say that when we vote here on the floor of the House to cut spending that that spending would actually have to reduce the deficit, rather than be freed up and be eligible to spend on some other program. So spending cuts voted here would actually reduce the deficit.

I favor all of those, voted in favor of all of those and would favor the lock box.

The final, third and final thing in the agreement with the leadership is to have an opportunity to debate entitlement reform. That is what we are going to be doing this week, most likely on Wednesday. A resolution which I have filed, House Concurrent Resolution 301, will be presented for debate. We will also present three specific amendments in that resolution.

The basic resolution is a generic statement about the need to deal with entitlement reform. Then the three specific amendments, which will be presented, would deal with means testing of entitlements, increase of the retirement age and reform of cost of living adjustments.

I want to take a little time this evening and explain the need for thorough debate on entitlements and the need for some action and what it is that we are attempting to accomplish.

This debate is not about cutting entitlements to beneficiaries. This debate is about ensuring that into the future those entitlement programs will be financially sound. They will be financially viable. There will be money to pay benefits to future beneficiaries.

That is what this debate is all about. And so I would like to explain House Concurrent Resolution 301 and the three specific amendments that we are going to propose to this resolution.

The basic resolution is fairly simple. I would like to read it to you:

> Resolved by the House of Representatives, the Senate concurring, that it is the sense of the Congress that current trends in entitlement spending are not sustainable and Congress must act to resolve the long-term imbalance of the entitlement promises and available funds to ensure that day's debt does not fall unfairly on a American's children.

That is the principal resolution, which generically states that we must do something about entitlements.

The whole discussion and debate about the budget deficit or the national debt is not just a technical or an academic exercise. Every citizen in America has a personal stake in our Nation's national debt.

I have several charts here which the Entitlement Commission, known as the Cary Commission, has prepared. I would like to thank them for the opportunity of using these charts. But these charts show graphically what is happening with the Federal debt, the national debt, and how it applies to each individual American.

"The National Debt is a Large and Growing Obligation for All Americans." This shows the net national debt in thousands of 1993 dollars. These are constant dollars, not inflated into the future, per individual, for every man, woman, and child in this country.

In 1970, each man, woman, and child owed about $25,000 toward the national debt; in 1980, it had not changed much. By 1990, it had doubled. By the year 2000, it goes up to approximately twelve and a half thousand. By the way this is astounding.

□ 2120

In 1990, it is astounding that every man, woman and child would owe proportionately $10,000 towards the national debt. Look what happens by the year 2030, just 35 years from now. Every man, woman, and child in America, their portion of the national debt will be almost $65,000 in 1993 dollars. That is absolutely astounding.

Mr. Speaker, we must do something.

We have been making progress, by the way, Mr. Speaker. Through hard work, the deficit has been falling. In 1992, fiscal year 1992, the deficit was $292 billion. In 1993 it dropped to $255 billion. In 1994 it dropped to $202 billion. In 1995, the coming fiscal year, the CBO projects it will be $162 billion.

This is an amazing 40 percent cut in the deficit in a period of three fiscal years. We are making a difference. We are having an impact. However, the problem is all of those reductions are a result of discretionary spending cuts.

The budget is divided, really, into three different sections. One section we call interest on the debt. That is the amount of money we owe to ourselves, by the way, who have loaned the Government money through our savings, through buying savings bonds, certificates, et cetera. That amount of the debt, or the budget, is about 13 cents to 14 cents out of every dollar.

The rest of the budget is divided into mandatory spending, called entitlements. Those are things that we in

Congress do not have any control over. They go up automatically year by year, because the benefit is based upon eligible criteria. If an individual meets the statutory requirements, they are eligible to receive the payment. That is mandatory spending.

The rest of the budget, Mr. Speaker, is discretionary spending. Right now it is sitting at only about 35 cents on the dollar that we in this body can control how much that spending is. The progress that we have made these past three years, Mr. Speaker, is coming from discretionary spending and increased revenues through the tax increase in the Clinton budget reconciliation bill of a year ago.

The reality, Mr. Speaker, is depicted by this chart that shows the growth the mandatory spending within the Federal budget in just four decades.

If we go to 1963, discretionary spending was 70.4 percent of the budget. Interest was 6.9 percent. Entitlements were 22.7 percent.

Look at what happened in ten years. Entitlements rose from 22 percent to 38 percent. In another ten years, they rose from 38 percent to 45 percent. In another ten years, they rose to 47 percent.

Mr. Speaker, by fiscal year 2003, just eight or nine years from now, entitlements will be 58.2 percent, interest at 13.8, and it gives us only 28 cents out of every dollar on discretionary spending, so we can see graphically what is happening with entitlement growth as a portion of our spending.

Mr. Speaker, the present trend of entitlement growth is not sustainable. This graph depicts revenue as the green line. By the way, it is interesting to note, revenues in 1970 were a little over 19 percent of the gross domestic product.

In 1981 and again in 1986, we lowered taxes, lowered revenues to the Government, and indexed those revenues to inflation, so that as the economy grows, revenues are indexed, taxes, deductions, et cetera, are indexed. Therefore, revenues are going to remain fairly constant, at around 18.5 to 19 percent of the gross domestic product.

Mr. Speaker, however, look at what has happened since 1970. Mandatory entitlement spending is there in red. Interest is the area in blue. Discretionary spending is the area in gray.

In 1970, we had just a very small deficit. By 1980, by 1990, by the year 2000, however, look what happens by the year 2020, or actually by the year 2010, just 15 years from now. Virtually all of our revenues will be used in mandatory entitlement spending and interest on the debt; nothing left for discretionary spending.

If we are to balance the budget, and 271 Members of this body have voted to balance the budget, if we are to balance the budget, that means if we do nothing about the increase in spending, right there we have no money to spend on discretionary programs. Right here we have gone into default. Our country is bankrupt and in default, because it could not pay even interest on its own obligation.

By 2030, Mr. Speaker, just entitlement spending consumes more than all of the revenue the Government brings in.

In conclusion, therefore, Mr. Speaker, I would like to quote the first line of the basic text of House Concurrent Resolution 301: "It is the sense of Congress that the current trends in entitlement spending are not sustainable." I think it is clear that in fact that is the case.

Why do we need to act? Unlike discretionary spending, entitlement spending is not based upon action by this body. In order for us to increase defense spending, in order for us to increase spending on highways, or increase spending on crime enforcement, education, in order for us to increase that spending, we have to come into this body and affirmatively vote to increase the spending through the appropriation bills.

We do not do that on the entitlement provisions. They automatically increase, based upon the number of people eligible to receive the benefit and the formula defining the benefit. They go up automatically.

Mr. Speaker, we have taken several strides in the Committee on the Budget and in Congress to try to slow or reduce that growth of the deficit. Some of them are working, by the way.

In 1986 or 1987, I was not here, this body passed the Gramm-Rudman-Hollings bill which required that we would get to a balanced budget. However, it only required that we would project a balanced budget, because there is no enforcement mechanism which would come back and test us to see if we made it. There was nothing that said what we had to do if we did not make it.

For the first couple of years under Gramm-Rudman, Congress projected that deficits would go down and that eventually, at the end of the 5-year period, we would have a balanced budget. Unfortunately, there was a vast difference between what was projected to be the deficit and what actually turned out to be the deficit. At the end of the 5-year period, deficits were higher than they were at the beginning of the 5-year period.

Therefore, this body in its wisdom determined that they had to do something in addition. They had to take real steps which would actually bring down the debt. What were they? Something called pay-as-you-go, a very novel idea to the Government, which most people in this country already have to live by.

You can only spend the money that comes in. If you want to increase your spending, you have to increase your revenues. You can do that either by raising taxes or cutting spending from some other source, just like you do in your household. If you want to go out and buy something else, you have to either lower spending on some other program or issue, or find additional revenue.

What we have been doing, Mr. Speaker, is going out and borrowing, borrowing from our children and grandchildren, into the future. That is what has created this debt.

Mr. Speaker, however, pay-as-you-go, while it has injected discipline into our process, only affects or applies to discretionary spending. It does not apply to mandatory entitlement spending.

We have taken other action to bring down the debt, action which, as I mentioned, is being successful. We are lowering it by 40 percent over 3 years.

However, those things, the 5-year freeze on discretionary spending, which I advocated—and we were successful in the Committee on the Budget and on the floor of the House and the Senate, we now have a 5-year hard freeze on discretionary spending. We cannot spend more in fiscal years 1994, 1995, 1996, 1997, and 1998 than we did in 1993.

☐ 2130

But again it only applies to discretionary spending.

Enhanced rescission, baseline budgeting, emergency spending. All of these things that we have passed in the House again only apply to discretionary spending. They do not apply to entitlements.

Other effort in attempting to limit entitlement spending has met with very limited success. For instance, in August I along with my colleagues the gentleman from Texas [Mr. STENHOLM], the gentleman from Minnesota [Mr. PENNY], and the gentleman from Ohio [Mr. KASICH] from the other side of the aisle proposed an entitlement cap. It would be a cap, a hard cap on the growth of entitlement spending. What it said was that over the next 5 years, entitlement spending could not increase greater than the increase in the inflation factor, the CPI, plus the increase in the population of the country, plus 1 percent in addition to the growth in the population and the increase in the CPI. It seemed like a reasonable amendment. It would have saved $150 billion over the next 5 years. Thirty-seven brave souls voted for that amendment.

Also the entitlement commission, the Kerry Commission that provided these charts, is finding it very difficult to identify specifically how to actually change or lower entitlement spending.

I submit that the budget deficit cannot be addressed without addressing entitlement spending. It is a simple exercise in math. Two hundred and seventy-one Members of this body voted for a balanced budget amendment. If you are not in budget, in balance, that means that you are spending more money than you are bringing in. There are only two ways to balance the budget. You either have to increase money coming in or you have to increase money going out. Let us look at the possibilities and the options.

Increase the money coming in. How do you do that? You do that by raising taxes. There is very little appetite in this body or around this country for raising taxes. That is not a feasible option.

Second, interest on the debt. Out of every dollar, 14 cents goes to pay interest on the national debt and it is growing. We cannot default on that, or the country is in technical bankruptcy, its assets are subject to foreclosure, the economy fails, you have hyperinflation. You cannot default on the debt. You have to pay the national debt.

What about defense? I along with I think a majority of my colleagues believe that we have cut defense about as far as you possibly can cut it. In fact, many believe that defense should be increased. So we are not going to get more out of defense.

If you do not look at entitlements, if you say, "We're going to do this without entitlement cuts," you would have to cut—we have got roughly a $160 to a $230 billion deficit over the next 5 years—you would have to cut $200 billion out of nondefense discretionary spending, which is under $300 billion. That means you would have to take virtually every other program, every other spending that this nation spends, and cut it by two-thirds. That is the Justice Department, that is the Department of Transportation, that is the Department of Education. You would literally decimate that spending. You would bring the Government to a close.

Without raising taxes, without cutting defense, and without cutting entitlements, I defy anyone to show how they can balance the budget. It cannot be done.

There is also another question, the question of some of the entitlement programs and the solvency. There is a serious concern about Social Security and Medicare. In the 1970's, there were programmatic changes made to Social Security in order to make it economically viable, safe and sound, for the next 75 years. The projections showed that by the huge tax increases, and, in fact, now many Americans, many working-class American citizens, pay more in Social Security taxes than they do in income taxes, or any other type of tax. If you do not believe it, go home and look at your pay stub. Pull it out, compare the amount going to State or Federal or other type of taxes and the amount going to Social Security. That now is the highest tax that we pay for many Americans, and it is a flat tax. It is a tax on the lowest amount of earned income, by the way.

The changes, the increases, when we radically increased in the 1970's and early 1980's those taxes, it was supposed to put it safe for 75 years, the trustees of Stoical Security now say that Social Security will run out of money in the next century. It is projected to be bankrupt within 35 years. Therefore, if we do nothing, we will not have the revenues to even pay Social Security benefits.

We must take definitive action. Therefore, the second part of House Concurrent Resolution 301 states, "Congress must act to resolve the long-term imbalance of the entitlement promises and available funds to ensure that today's debt does not fall unfairly on America's children."

Entitlements are popular programs. Almost all of these programs are Social Security and health care. More than 75 percent of entitlement programs are Social Security, Medicare, Medicaid, and Federal retirement. In dollar figures, these are all of the entitlement programs. If we say we have got to do something about it, we have got to cut entitlements, where do you cut?

Here are entitlement programs: $300 plus billion per year being spent on Social Security, $125 plus billion on Medicare, $75 plus billion on Medicaid, and approximately $40 billion on Federal retirement benefits. Those are the majority.

When you get down to unemployment compensation, food stamps, Supplemental Social Security, veterans, AFDC—those are welfare payments—agricultural price supports, earned income tax refunds, railroad retirement, child nutrition programs like the food programs in schools, then you get down to other, it is almost nothing compared to the bulk of the retirement programs.

Therefore, these popular programs of Social Security, Medicare, Medicaid, and Federal retirement are very difficult to cut. They are the programs that most Americans who receive entitlements are relying upon. But I have heard my colleagues in this body as well as my constituents at home say, "Yes, cut entitlements—don't cut my programs—cut entitlements, and do it by cutting welfare and food stamps. That is where you can cut entitlements. That is where you can eliminate the deficit."

Folks, here is welfare. Welfare is only $10 billion to $12 billion to $21 billion a year. You can completely eliminate welfare, food stamps, unemployment, everything else. You do not solve this problem without dealing with the popular programs of Social Security, Medicare, Medicaid, and Federal retirement programs.

Let us look at the growth of entitlement programs. People say, "Ah. Well, if you could just stop the growth of welfare, of food stamps, of agricultural price supports, that would solve the problems."

Where is the real growth of entitlements coming? From 1993 to 1999, in billions of 1993 dollars, here is where entitlement are growing or failing.

□ 2140

Social Security growing by an additional $40 billion per year. Medicare and Medicaid, $70 billion for Medicare, Medicaid by another $50-plus billion, Federal retirement only growing by $6 billion or $7. Look what is happening in unemployment compensation, it is actually dropping. Food stamps almost no growth whatsoever. SSI, that is the disability income, some growth. Veterans, dropping. AFDC, those are welfare payments, almost no growth at all. Agricultural price supports dropping. Earned income tax refunds, growing at a fairly low growth. Railroad retirement dropping. Child nutrition growing very slightly. Other entitlements dropping.

The growth over the next 6 years, the growth that is spurring this problem, the growth is coming in those popular programs, Social Security Medicare, Medicaid.

In summation or in conclusion there are several reasons for acting on entitlements. Deficit spending raises interest rates and threatens economic growth. Deficit spending places a huge burden on future generations of Americans. Deficit spending puts at risk the long-term solvency of Social Security and Medicare.

What this debate is really about is by making tough decisions, but reasonable reductions in entitlements today we can forestall massive cuts in the future years. If we are not willing to deal with it today, what would we propose we do by the year 2030 when we do not even have enough revenue to pay for those entitlement programs, let alone anything else? How would we cut that then if we do not look today at how to cut that?

Therefore, we will be proposing three very specific additional amendments to add to this concurrent resolution. First, we will propose an amendment which says it is the sense of the Congress that payments through Federal Government entitlement programs, except for benefits from programs into which an individual contribution has been made by the recipients, should be means tested so that benefits would be reduced or eliminated dependent upon the income of the recipient.

I want to explain for my colleagues and the American people what this amendment would or would not do. First of all, it is not specific as to how we would means test those programs, which programs which would be means tested, over what period of time we would means test them, at what income levels these things would be means tested, would they be means tested by reducing program benefits or by taxing benefits that are coming? All of those things. And by the way, what we did in trying to identify the three specific areas that we would present as specific amendment areas is we looked to the Congressional Budget Office. They put out a book every year on options of how to cut the national debt, the deficit. We looked at those options dealing with entitlements and we picked the three areas that has the most options and would generate the greatest savings over the period of 5 years.

Those three options are means testing, increasing the retirement age and changing COLA formulas. Those are the methods that can be used.

What we are attempting to do in this debate is take the temperature of Congress, the sense of the Congress. Do we want to, first of all in the general resolution, do we want to do something about entitlement spending? If yes, then we want to ask does Congress want to move on any of these three areas, general areas which the CBO has indicated there are a vast variety of options and it generates hundreds of billions of dollars of cuts.

In this area alone, means testing, the CBO indicated a list of over 57 different specific types of means testing which would save from a few billion to hundreds of billions of dollars over that 5-year period. None of those specific plans are in here, but if Congress says yes to this resolution, we want to look at means testing.

Then we can come back, specifically identifying which types of means testing Congress wants to adopt, which programs, who would it apply to, at what income level, how would we adopt it, would it be reducing benefits, taxing benefits, some other way, over what time period would it be phased in. All of those things would be yet to be determined if in fact this body says yes, it wants to move forward.

So essentially what means testing is it is very simple. It says that the amount of benefit received through the entitlement program would be reduced or eliminated dependent upon the income level of the recipient. If the recipient is very wealthy, the recipient who receive these will be taxed at a higher rate on those benefits. That is means testing.

However, there is an exclusion which I want to explain very carefully. Federal Government entitlement programs would be means tested except for those programs in which the individual receiving the benefit has made a contribution into the program. There are a number of reasons why this exception is in there. It is basically an equity issue. Benefits that are received are linked to contributions that are made, not simply the age of the individual, not simply the fact that the individual is alive at this age and, therefore, they are eligible for the benefit, but linked directly to the contribution made. To ensure economic viability of those programs, and there are essentially two, two major programs in which an individual contributes money, first Social Security and the second is Federal retirement benefits, the amount that I receive from Social Security or Federal retirement is dependent upon the length of time I worked, the amount of money I paid into the benefits.

The basic question of fairness comes into play. Is it fair to have someone pay into a program and then not get a benefit back that they have paid into, to ensure viability of these programs? And if Social Security is in fact as the trustees said within 35 years no longer economically viable and would be bankrupt, then it is incumbent upon us to make programmatic changes to that particular program, Social Security, so it is no longer inviable, so it is no longer going bankrupt.

I do not believe the way to do it is through a general means testing of specific benefit. That does mean that Social Security would not be subject to increase in retirement age or COLA reform, but the basic benefits themselves under this amendment, Social Security and Federal retirement benefits would be exempt from means testing the basic benefit because the individual has contributed into that and the money they receive is based upon their contributions into it.

I do believe that we should have a separate program budget, and I have voted to make Social Security a separate agency. I have a budget reform bill that I have submitted which would take Social Security off Federal budget, would have a separate Social Security budget. That budget would have to be in balance. The revenues generated would have to pay for the Social Security benefits.

But Social Security is currently actuarially sound into the 2000's, for another 30 years or so. There are several ways to deal with it if it becomes unsound and if in fact the projections are true. We could look at it by adjusting the retirement age, by changing the cost-of-living adjustments or means testing the cost-of-living adjustments, by adjusting the benefit formula. That is not unheard of. We have adjusted it twice in the 1970's and the 1980's.

Also, we could adjust the current means testing of Social Security. And by the way, for anyone who believes that Social Security is not means tested and should not be means tested, they need to look closely at the program, because we currently have two ways of means testing Social Security right now. One is an earned income test. If you are between 62 and 67, I believe, there is an earned income test where your Social Security benefits are reduced for the amount of income you earn.

□ 2150

Second, there is a taxation-of-benefits test that if you earn over a certain level of income those benefits, Social Security benefits, are taxed to you and, therefore, you pay back some of the Social Security that you had received, so they are currently means-tested.

We could take a look at those formulas, and I believe, for example, that I think is very unfair that we look to an individual 65 years old receiving Social Security, unable to make it; they may still have children in school that they are helping in college, they are no longer receiving a full-time work salary, they are on Social Security, and we are going to penalize them if they go out and work. If they go out and earn a dollar, we are going to take a third of it back if it is earned income, but unearned income is not penalized.

If you have got an individual, a multimillionaire who sits back and generates interest income from their savings or clips coupons in order to generate their income, they are still getting Social Security, and we do not reduce the amount of Social Security for unearned income, but we do for earned income. I think that is blatantly unfair. Also, we ought to be taking a look at how we generate Social Security tax, how we generate the revenue. Right now we are taxing the first $60,000 of income that a person earns, not unearned income. If you do not have to work for a living, if you are living off of mom and dad or your uncle's trust fund account, you can sit there and earn millions of dollars a year in interest and dividends, and you do not have to pay one dime to Social Security. But if you are a working guy out there or woman who has to go out and work for a living, the first $60,000 we are going to tax for Social Security. Everything over that, we do not tax at all.

So if you are earning $200,000, $300,000, $400,000, $500,000 a year, you only have to pay tax on the first $60,000. If you are earning $40,000 a year, a family of four or five kids, you are having a hard time putting everyone through school and putting food on the table, you pay on every penny that you earn. Yes, there are ways we could look to programmatic changes to Social Security to make it more fair, to make it more economically viable into the future to be sure those Social Security benefits are there available when we retire, when we need those benefits.

But I believe those changes we should make looking directly into the Social Security program, not doing it through a generic means-testing and, therefore, our amendment would exempt essentially Social Security and Federal retirement benefits from that means-testing of the basic benefit.

Let me just make a couple of other points on means-testing. CBO recently released their report "Reducing Entitlement Spending" which outlines ways to cut entitlements. It points out that there are only two ways to do it. The most direct way is to limit spending on individual programs, by cutting the amount of benefits or the number of beneficiaries eligible to receive the benefit. That is a very direct cut of individual benefits to members receiving the benefit.

The other way of reducing this is a more generic way through some form of means-testing either by reducing the benefit for higher-income individuals across various programs, not program by program, but across programs, or including those benefits in taxable income, thereby taking some of the benefit back from the very wealthy and then you place the level of income at which you are going to tax the person at the level you want to means-test.

The first way of cutting these programs is extremely difficult. As you have seen by this chart, entitlement spending on Social Security, Medicare, Medicaid, 75 percent of it is on retirement programs and health care. The growth of programs, you can see, the growth is in Social Security, Medicare, Medicaid. This is shown in one other chart. The dark blue amount is increases in Medicaid outlays which are means-tested. Medicaid is a means-tested benefit, and you can see Medicaid is going up dramatically from 1963, 1973, 1983, 1993, into 1999; it does go up dramatically. It is means-tested.

The light blue are all other means-tested entitlements including welfare, AFDC, food stamps; it includes unemployment. Well, unemployment is not means-tested. But it includes the other means-tested entitlements is the light blue. You can see they are going up, but not as rapidly.

The burgundy are non-means-tested entitlements. From 1963, 1973, 1983, 1993, to 2003, increasing outlays in billions, we are clear up over $800 billion by 1999. This is where the growth is coming is in non-means-tested entitlements.

If we are going to do anything about entitlements, it is in non-means-tested programs. One way to deal with it is by means-testing, but it is difficult to do it, as I have mentioned. It is difficult to make direct cuts, for example, in Social Security. We spent $320 billion in 1993. We will spend $408 billion in 1994.

Obviously there are many reasons why cuts in Social Security are unlikely. First, the system is currently self-sufficient. It is generating more revenue than it is spending right now. It does not make sense to cut back in basic benefits.

Second, it is a question of fairness. People have paid into it. They expect to get money back to them. Many seniors rely on Social Security to make ends meet, and referring back to the Stenholm-Orton-Penny amendment on entitlement caps, we can see demagogery on the issue of Social Security. Social Security in this town is viewed as the third rail. Touch it and you die politically, period. No one wants to touch it.

Across-the-board cuts in Social Security are extremely problematic. I do not support them personally. I have suggested ways that we could look to change the Social Security program, but not through this type of means-testing.

Next, Medicare and Medicaid, 1993, we spent $219 billion. By 1999, we spend $415 billion. That is almost a doubling in 6 years. Are we going to do anything about Medicare-Medicaid in this Congress or the next?

I would submit to you, if you think we are, take a look at what happened to the health care debate. We are going nowhere with health care reform. Even the health care proposals that were out there said, "We will exclude Medicare-Medicaid." At best, if we get health care reform, at best, it would be budget-neutral. I have not seen any of the health care reform proposals that actually reduce spending in those areas. So it is not likely that we can look to Medicare and Medicaid cuts. If you think that you can cut it through cutting food stamps, AFDC, etc., I mean, look, here is welfare, here are food stamps, here is unemployment going down. If you think we are going to balance this growth by cutting, and I agree that we need to amend welfare; I have a welfare reform proposal based upon a program operating in Utah right now which, in fact, has lowered costs of grants to the recipients by 25 percent. It is a self-sufficiency plan, over a period of 2 years or less these individuals working on self-sufficiency go out and get jobs, into the work force. It is working. We need to reform welfare. I am in agreement with that.

But if you look at the welfare reform proposals, you will find that very few of them cut money even in the long term, let alone in the short term. Most of them cost money in the short term. So that is likely not to change much. If we eliminated the entire thing, it would not make a dent on the other growth.

Therefore, I think this little exercise demonstrates that direct cuts in entitlement spending are very, very difficult. There is no big surprise. You are not going to cut it out of Social Security or Medicare. You cannot politically even change health care. At best, we would have a balance and would not increase the deficit as a result of health care reform or welfare reform.

Therefore, we have to look at other ways. Means-testing, I believe, is a realistic and fairer method which I have already explained the concept. There are several methods of means-testing that come really in three basic ways. You can eliminate the benefit. You can set a level of income and say anyone receiving over this amount of income, for instance, if you receive over $100,000 of income in the year, you are not eligible for means-tested entitlement programs, payments. That is one way. Another way is to tax entitlement benefits; simply say if you are over a certain level of income, these entitlement benefits become taxable to you. The third way is a more gradual approach which sets an income level and then gradually phases down those entitlement benefits as the income level goes up.

□ 2200

That is an approach which most people have supported. In fact, some groups have even spoken out on this. For example, CBO recently cited the proposal by the Concord Coalition, which is a bipartisan group created by former Senators Rudman and Tsongas, Republican and Democrat. They propose to cut up to 85 percent of benefits for individuals with annual income over $40,000. This, by the way, would cut spending by $200 billion over the next 5 years. That might be too severe. I do not know that this body, I do not know that I would vote for that particular level of means testing.

But, in summation, we must do something. If we vote against this amendment, if we vote "no, we should not look at means testing," we are essentially saying that no matter how wealthy the individual is, they should receive unlimited Federal entitlement benefits coming out of the general treasury, which is causing what we have just pointed out. Therefore I think it is necessary to direct the Congress to look at methods of means testing to lower entitlements.

Application by programs: The following programs are currently means tested: Medicaid, Aid to Families with Dependent Children or welfare, income maintenance programs such as food stamps SSI, income tax credits—all currently means tested. The following are not: Social Security, Medicare, agricultural subsidies, unemployment compensation, civilian and military retirement benefits and some veterans benefits.

The overwhelming majority of entitlement spending comes from these non-means tested programs.

Means testing is not a novel concept or idea. We already means test Social Security, as I have already pointed out. If you are over 65, between the ages of 65 and 69, and you earn income in addition to Social Security, you lose $1 in $3 for every dollar you earn over $11,160; you lose a dollar of it. We also tax individuals. Seniors: 85 percent of their Social Security benefits are taxable for individuals earning over $25,000 or couples also earning over $34,000. This is arbitrary, it does not deal with investment income, only earned income.

I mentioned why I think we need to look at those areas. Medicare, for example, just to show you another area where there are proposals also for means testing: The Mitchell health care bill and several of the Republican proposals, in fact, the Penny-Kasich budget, and I think the Solomon budget, voted on last spring for this fiscal year proposed means testing of Medicare. It would tax benefits under part B for individuals making over $90,000 and couples over $115,000.

So this is something which we need to look at and over the lifetime of an individual the average payments on Social Security and Medicare average upwards of $500,000 that the Federal Government is paying per beneficiary over the lifetime of that beneficiary.

We need to take a look at means testing. That is the first amendment.

The other two amendments are much shorter and will not take a great deal of time to describe. Let me just read the next one: It is the sense of the Congress that the age of qualification for age-dependent Federal benefits should be increased.

This simply says that the retirement age, if you are receiving a benefit that is dependent upon age, that program and the age level should be increased. It does not say at what level. It does not say which program specifically. It does not say how high it should be raised or over what period of time or how it would be phased in. No one here is in favor of going out and just saying to someone, "Sorry, you are 65, we are going to raise the age to 70 and you have got to wait another 5 years to get your Social Security," or other benefits and so on.

What it does say is that if we are going to have a balance, if in fact we are going to have enough revenue coming in to pay for the program, if the equation is going to be balanced, you have to look to 3 things:

You have to look at the formula under which the amount of the benefits are paid, you have to look at the period or the life expectancy that they are going to be paid and any increases such as cost-of-living increases, COLA's. Those three things.

Now, the formula determining the benefit, how long we are going to pay it and COLA, you determine how much money is going to be paid out.

The problem is if we are paying out more than we bring in, then that particular program is not financially stable. It is going bankrupt. It cannot be sustained in the long term.

Actuarial tables or the viability of that program look to the amount of contribution coming in multiplied by a return factor; that is, what can you get on that investing that into the market or whatever? And you equalize that with the amount of benefits paid times the period plus the cost-of-living adjustment.

Then you are in balance.

If anything in that formula is out of balance, if you missed on the actual formula for benefits or the life expectancy of the individual or the COLA, if you are out of balance, eventually you bankrupt the fund.

The Social Security trustees estimate the program will be insolvent in 35 years. Over the next 75 years the Social Security expenditures are projected to exceed its income by 16 percent. So even Social Security is not solvent.

Therefore, what do we do? By the way, this chart graphically depicts the problem. In 1935, right here, where Social Security was created, the average life expectancy of a male was about 59 years old. The average life expectancy of a female was 63 years old.

At what age do you receive Social Security benefits? 65 years old. Very few people would live to be 65 to receive the benefit. Those who did live to be 65 would not live much beyond that.

That was the life expectancy then.

Look what has happened to that life expectancy over the last 50 years. From 1935 to 1985, the life expectancy of that male has gone up from 59 years to 72 years. If the formula under which we determine the benefits that this individual is going to get or the length of time this individual is going to get those benefits, if that formula is out of whack, you go bankrupt. This is why Social Security, again, even though we just radically raised taxes, that is why these programs are going bankrupt.

Therefore, and just to show you one more graphic illustration: In 1950 we had 7.5 working individuals for every retired individual receiving these benefits, Social Security, retirement, Federal retiree benefits.

Right now, in 1994, we have about 4¾ workers for every 1 retired worker receiving benefits.

By the year 2030, we will have 2½ working individuals for every 1 retired beneficiary.

If we do not do something about these two charts, we cannot sustain the economic viability of the programs which we have paid into which we care about and from which we want to receive benefits.

Lastly, and finally, this amendment that we will be proposing is that it is the sense of the Congress that payments of annual cost-of-living adjustments, COLA's, should be reduced or deferred except for beneficiaries with annual income below 200 percent of the poverty level. There is a difference between a benefit payment and a cost-of-living adjustment. Cost-of-living adjustments were created, by the way, in the 1970's. That is, the COLA's, the cost-of-living adjustments, were not paid, they were not in the law. Social Security did not envision an annual cost-of-living adjustment. What was happening is every year at election time this body would pass an arbitrary increase in the benefit. You go home, you pat your voters on the back, you say, "Look what I did for you," you get reelected. It was costing a fortune.

□ 2210

So, in the 1970's, Mr. Speaker, Congress in its wisdom said, "So we don't have those uncontrolled, unchecked, continued increases in these programs, we will create a standard cost-of-living adjustment based upon the consumer price index." This was designed to save money.

Let me then just close with this last point; essentially it simply says that those individuals who are at or below the 200 percent of the poverty level would not have COLA adjustments. COLA's were designed to protect those individuals and protect their buying power so that they would not find themselves in destitution and poverty, which these programs were designed to help them avoid.

Mr. Speaker, I urge each Member to come and participate in this debate, and vote for or against the resolution, but we have to do something.

CONFERENCE REPORT ON S. 2060

Mr. LaFALCE submitted the following conference report and statement on the bill (S. 2060), to amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes:

CONFERENCE REPORT (H. REPT. 103-824)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2060), to amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Administration Reauthorization and Amendments Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—AUTHORIZATIONS

Sec. 101. Authorizations.

TITLE II—FINANCIAL ASSISTANCE PROGRAMS

Sec. 201. Microloan financing pilot.
Sec. 202. Eligibility of Native American Tribal Governments to be microloan intermediaries.
Sec. 203. Microloan program extension.
Sec. 204. Microloan program funding and State limitations.
Sec. 205. Distribution of intermediaries.
Sec. 206. Microloan intermediary loan limitation.

Sec. 207. Microloan technical assistance to nonborrowers.
Sec. 208. Microloan technical assistance grants for intermediaries serving economically distressed areas.
Sec. 209. Loans to exporters.
Sec. 210. Working capital international trade loans.
Sec. 211. Guarantees on international trade loans.
Sec. 212. Accredited lenders program.
Sec. 213. Interest rate on certified development company loans.
Sec. 214. Certifications of eligibility for SBIC and SSBIC financing.
Sec. 215. Participating securities for smaller SBICs.
Sec. 216. Report on SBIC program.
Sec. 217. Premier Certified Lenders Program.

TITLE III—SIZE STANDARDS AND BOND GUARANTEES

Sec. 301. Establishment of size standards.
Sec. 302. Pilot preferred surety bond guarantee program extension.
Sec. 303. Manufacturing contracts through manufacturing application and education centers.
Sec. 304. Pilot program for very small business concerns.
Sec. 305. Handicapped workshop participation in small business set aside contracts.

TITLE IV—BUSINESS DEVELOPMENT ASSISTANCE

Subtitle A—General Provisions

Sec. 401. Sunset on cosponsored training.
Sec. 402. Small business development center program level.
Sec. 403. Federal contracts with small business development centers.
Sec. 404. Small business development center program examination and certification.
Sec. 405. Central European small business development.
Sec. 406. Mobile resource center pilot program.
Sec. 407. Information concerning franchising.

Subtitle B—Development of Woman-Owned Businesses

Sec. 411. Extension of authority for demonstration projects.
Sec. 412. Establishment of Office of Women's Business Ownership.
Sec. 413. Development of women's business enterprise.
Sec. 414. Transition reimbursement.
Sec. 415. Gift authority.
Sec. 416. Conforming amendment.

TITLE V—RELIEF FROM DEBENTURE PREPAYMENT PENALTIES

Sec. 501. Short title.
Sec. 502. Intention of Congress.
Sec. 503. Prepayment of development company debentures.

TITLE VI—MISCELLANEOUS AMENDMENTS

Sec. 601. SBA interest payments to Treasury.
Sec. 602. Imposition of fees.
Sec. 603. Job creation and community benefit.
Sec. 604. Microloan program amendments.
Sec. 605. Technical clarification.
Sec. 606. Study and data base: guaranteed business loan program and development company program.
Sec. 607. SBIR vendors.
Sec. 608. Program extension.
Sec. 609. Prohibition on the use of funds for individuals not lawfully within the United States.
Sec. 610. Office of Advocacy employees.
Sec. 611. Prohibition on the provision of assistance.
Sec. 612. Certification of compliance with child support obligations.
Sec. 613. Advocacy study of paperwork and tax impact.

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by striking subsections (k) (as added by section 405(3) of the Small Business Credit and Business Opportunity Enhancement Act of 1992) through (p) and inserting the following:

"(l) The following program levels are authorized for fiscal year 1995:

"(1) For the programs authorized by this Act, the Administration is authorized to make—

"(A) $45,000,000 in technical assistance grants as provided in section 7(m); and

"(B) $130,000,000 in direct and immediate participation loans, and of such sum, the Administration is authorized to make—

"(i) not more than $10,000,000 in loans, as provided in section 7(a)(10); and

"(ii) not more than $120,000,000 in loans, as provided in section 7(m).

"(2) For the programs authorized by this Act, the Administration is authorized to make $13,420,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $9,150,000,000 in general business loans as provided in section 7(a);

"(B) $2,250,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958;

"(C) $2,000,000,000 in loans as provided in section 7(a)(21); and

"(D) $20,000,000 in loans as provided in section 7(m).

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(A) $23,000,000 in purchases of preferred securities;

"(B) $244,000,000 in guarantees of debentures, of which $44,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act; and

"(C) $400,000,000 in guarantees of participating securities.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,800,000,000, of which not more than $600,000,000 may be in bonds approved pursuant to the provisions of section 411(a)(3) of such Act.

"(5) The Administration is authorized to make grants or enter into cooperative agreements—

"(A) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $3,500,000;

"(B) for the Small Business Institute program authorized by section 8(b)(1), $3,000,000; and

"(C) for activities of small business development centers pursuant to section 21(c)(3)(G), $5,000,000, to remain available until expended.

"(m)(1) There are authorized to be appropriated to the Administration for fiscal year 1995 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

"(2) Notwithstanding paragraph (1), for fiscal year 1995—

"(A) no funds are authorized to be provided to carry out the loan program authorized by section 7(a)(21) except by transfer from another Federal department or agency to the Administration, unless the program level authorized for general business loans under subsection (l)(2)(A) is fully funded; and

"(B) the Administration may not approve loans on behalf of the Administration or on behalf of any other department or agency, by contract or otherwise, under terms and conditions other than those specifically authorized under this Act or the Small Business Investment Act of 1958, except that it may approve loans under section 7(a)(21) of this Act in gross amounts of not more than $1,250,000,000.

"(n) The following program levels are authorized for fiscal year 1996:

"(1) For the programs authorized by this Act, the Administration is authorized to make—

"(A) $65,000,000 in technical assistance grants as provided in section 7(m); and

"(B) $191,000,000 in direct and immediate participation loans, and of such sum, the Administration is authorized to make—

"(i) $11,000,000 in loans, as provided in section 7(a)(10); and

"(ii) $180,000,000 in loans, as provided in section 7(m).

"(2) For the programs authorized by this Act, the Administration is authorized to make $15,680,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $10,500,000,000 in general business loans as provided in section 7(a);

"(B) $2,650,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958;

"(C) $2,500,000,000 in loans as provided in section 7(a)(21); and

"(D) $30,000,000 in loans as provided in section 7(m).

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(A) $24,000,000 in purchases of preferred securities;

"(B) $256,000,000 in guarantees of debentures, of which $46,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act; and

"(C) $650,000,000 in guarantees of participating securities.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,900,000,000, of which not more than $625,000,000 may be in bonds approved pursuant to the provisions of section 411(a)(3) of such Act.

"(5) The Administration is authorized to make grants or enter cooperative agreements—

"(A) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $3,700,000;

"(B) for the Small Business Institute program authorized by section 8(b)(1), $3,200,000; and

"(C) for activities of small business development centers pursuant to section 21(c)(3)(G), not to exceed $10,000,000, to remain available until expended.

"(o)(1) There are authorized to be appropriated to the Administration for fiscal year 1996 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

"(2) Notwithstanding paragraph (1), for fiscal year 1996—

"(A) no funds are authorized to be provided to carry out the loan program authorized by section 7(a)(21) except by transfer from another Federal department or agency to the Administration, unless the program level authorized for general business loans under subsection (n)(2)(A) is fully funded; and

"(B) the Administration may not approve loans on behalf of the Administration or on behalf of any other department or agency, by contract or otherwise, under terms and conditions

other than those specifically authorized under this Act or the Small Business Investment Act of 1958, except that it may approve loans under section 7(a)(21) of this Act in gross amounts of not more than $1,250,000,000.

"(p) The following program levels are authorized for fiscal year 1997:

"(1) For the programs authorized by this Act, the Administration is authorized to make—

"(A) $98,000,000 in technical assistance grants as provided in section 7(m); and

"(B) $262,000,000 in direct and immediate participation loans, and of such sum, the Administration is authorized to make—

"(i) $12,000,000 in loans, as provided in section 7(a)(10); and

"(ii) $250,000,000 in loans, as provided in section 7(m).

"(2) For the programs authorized by this Act, the Administration is authorized to make $19,390,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $13,100,000,000 in general business loans as provided in section 7(a);

"(B) $3,250,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958;

"(C) $3,000,000,000 in loans as provided in section 7(a)(21); and

"(D) $40,000,000 in loans as provided in section 7(m).

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

"(A) $25,000,000 in purchases of preferred securities;

"(B) $268,000,000 in guarantees of debentures, of which $48,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act; and

"(C) $900,000,000 in guarantees of participating securities.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,000,000,000, of which not more than $650,000,000 may be in bonds approved pursuant to the provisions of section 411(a)(3) of such Act.

"(5) The Administration is authorized to make grants or enter cooperative agreements—

"(A) for the Service Corps of Retired Executives program authorized by section 8(b)(1), $3,900,000;

"(B) for the Small Business Institute program authorized by section 8(b)(1), $3,400,000; and

"(C) for activities of small business development centers pursuant to section 21(c)(3)(G), not to exceed $15,000,000, to remain available until expended.

"(q)(1) There are authorized to be appropriated to the Administration for fiscal year 1997 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

"(2) Notwithstanding paragraph (1), for fiscal year 1997—

"(A) no funds are authorized to be provided to carry out the loan program authorized by section 7(a)(21) except by transfer from another Federal department or agency to the Administration, unless the program level authorized for general business loans under subsection (p)(2)(A) is fully funded; and

"(B) the Administration may not approve loans on behalf of the Administration or on behalf of any other department or agency, by contract or otherwise, under terms and conditions other than those specifically authorized under this Act or the Small Business Investment Act of 1958, except that it may approve loans under section 7(a)(21) of this Act in gross amounts of not more than $1,250,000,000.".

TITLE II—FINANCIAL ASSISTANCE PROGRAMS

SEC. 201. MICROLOAN FINANCING PILOT.

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended by adding at the end the following new paragraph:

"(12) DEFERRED PARTICIPATION LOAN PILOT.—In lieu of making direct loans to intermediaries as authorized in paragraph (1)(B), during fiscal years 1995 through 1997, the Administration may, on a pilot program basis, participate on a deferred basis of not less than 90 percent and not more than 100 percent on loans made to intermediaries by a for-profit or nonprofit entity or by alliances of such entities, subject to the following conditions:

"(A) NUMBER OF LOANS.—In carrying out this paragraph, the Administration shall not participate in providing financing on a deferred basis to more than 10 intermediaries in urban areas or more than 10 intermediaries in rural areas.

"(B) TERM OF LOANS.—The term of each loan shall be 10 years. During the first year of the loan, the intermediary shall not be required to repay any interest or principal. During the second through fifth years of the loan, the intermediary shall be required to pay interest only. During the sixth through tenth years of the loan, the intermediary shall be required to make interest payments and fully amortize the principal.

"(C) INTEREST RATE.—The interest rate on each loan shall be the rate specified by paragraph (3)(F) for direct loans.".

SEC. 202. ELIGIBILITY OF NATIVE AMERICAN TRIBAL GOVERNMENTS TO BE MICROLOAN INTERMEDIARIES.

Section 7(m)(11)(A) of the Small Business Act (15 U.S.C. 636(m)(11)(A)) is amended—

(1) in clause (iii), by striking "or" at the end;

(2) in clause (iv), by striking the comma at the end and inserting "; or"; and

(3) by adding at the end the following new clause:

"(v) an agency of or nonprofit entity established by a Native American Tribal Government,".

SEC. 203. MICROLOAN PROGRAM EXTENSION.

Section 609(j) of Public Law 102–140 (105 Stat. 831) is amended by striking "5 years after the date of enactment of this Act", and inserting "on October 1, 1997".

SEC. 204. MICROLOAN PROGRAM FUNDING AND STATE LIMITATIONS.

Section 7(m)(7) of the Small Business Act (15 U.S.C. 636(m)(7)) is amended to read as follows:

"(7) PROGRAM FUNDING FOR MICROLOANS.—

"(A) NUMBER OF PARTICIPANTS.—During the demonstration program authorized by this subsection, the Administration may fund, on a competitive basis, not more than 200 microloan programs.

"(B) STATE LIMITATIONS.—During any fiscal year, a State shall not receive new loan funds from the Administration that exceed 125 percent of the State's pro rata share of the microloan program authorization during such fiscal year, such share to be based on the population of the State, as compared to the total population of the United States.".

SEC. 205. DISTRIBUTION OF INTERMEDIARIES.

Section 7(m)(8) of the Small Business Act (15 U.S.C. 636(m)(8)) is amended to read as follows:

"(8) EQUITABLE DISTRIBUTION OF INTERMEDIARIES.—In approving microloan program applicants under this subsection, the Administration shall select such intermediaries as will ensure appropriate availability of loans for small businesses in all industries located throughout each State, particularly those located in urban and in rural areas.".

SEC. 206. MICROLOAN INTERMEDIARY LOAN LIMITATION.

Section 7(m)(3)(C) of the Small Business Act (15 U.S.C. 636(m)(3)(C)) is amended by striking "$1,250,000" and inserting "$2, 500,000".

SEC. 207. MICROLOAN TECHNICAL ASSISTANCE TO NONBORROWERS.

Section 7(m)(4) of the Small Business Act (15 U.S.C. 636(m)(4)) is amended by adding at the end the following new subparagraph:

"(E) ASSISTANCE TO CERTAIN SMALL BUSINESS CONCERNS.—Each intermediary may expend an amount not to exceed 15 percent of the grant funds received under paragraph (1)(B)(ii) to provide information and technical assistance to small business concerns that are prospective borrowers under this subsection.".

SEC. 208. MICROLOAN TECHNICAL ASSISTANCE GRANTS FOR INTERMEDIARIES SERVING ECONOMICALLY DISTRESSED AREAS.

(a) GRANT ELIGIBILITY.—Section 7(m)(4) of the Small Business Act (15 U.S.C. 636(m)(4)) is amended—

(1) in subparagraph (B), by inserting "except for a grant made to an intermediary that provides not less than 50 percent of its loans to small business concerns located in or owned by one or more residents of an economically distressed area," after "under subparagraph (A),"; and

(2) in subparagraph (C), by striking clause (i) and inserting the following:

"(i) IN GENERAL.—In addition to grants made under subparagraph (A), each intermediary shall be eligible to receive a grant equal to 5 percent of the total outstanding balance of loans made to the intermediary under this subsection if—

"(I) the intermediary provides not less than 25 percent of its loans to small business concerns located in or owned by one or more residents of an economically distressed area; or

"(II) the intermediary has a portfolio of loans made under this subsection that averages not more than $7,500 during the period of the intermediary's participation in the program.".

(b) DEFINITION.—Section 7(m)(11) of the Small Business Act (15 U.S.C. 636(m)(11)) is amended—

(1) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(2) by adding at the end the following new subparagraph:

"(D) the term 'economically distressed area', as used in paragraph (4), means a county or equivalent division of local government of a State in which the small business concern is located, in which, according to the most recent data available from the Bureau of the Census, Department of Commerce, not less than 40 percent of residents have an annual income that is at or below the poverty level.".

(c) TERMINATION.—The amendments made by this section shall remain in effect during the period beginning on the date of enactment of this Act and ending on October 1, 1997.

SEC. 209. LOANS TO EXPORTERS.

Section 7(a)(14)(A) of the Small Business Act (15 U.S.C. 636(a)(14)(A)) is amended to read as follows:

"(14)(A) The Administration may provide extensions of credit, standby letters of credit, revolving lines of credit for export purposes, and other financing to enable small business concerns, including small business export trading companies and small business export management companies, to develop foreign markets. A bank or participating lending institution may establish the rate of interest on such financings as may be legal and reasonable.".

SEC. 210. WORKING CAPITAL INTERNATIONAL TRADE LOANS.

Section 7(a)(3)(B) of the Small Business Act (15 U.S.C. 636(a)(3)(B)) is amended to read as follows:

"(B) if the total amount outstanding and committed (on a deferred basis) solely for the purposes provided in paragraph (16) to the borrower from the business loan and investment fund established by this Act would exceed $1,250,000, of which not more than $750,000 may be used for working capital, supplies, or financings under section 7(a)(14) for export purposes; and".

SEC. 211. GUARANTEES ON INTERNATIONAL TRADE LOANS.

Section 7(a)(2)(B)(iv) of the Small Business Act (15 U.S.C. 636(a)(2)(B)(iv)) is amended to read as follows:

"(iv) not less than 85 percent nor more than 90 percent of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (14) or (16).".

SEC. 212. ACCREDITED LENDERS PROGRAM.

(a) ESTABLISHMENT.—Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is amended by adding at the end the following new section:

"SEC. 507. ACCREDITED LENDERS PROGRAM.

"(a) ESTABLISHMENT.—The Administration is authorized to establish an Accredited Lenders Program for qualified State and local development companies that meet the requirements of subsection (b).

"(b) REQUIREMENTS.—The Administration may designate a qualified State or local development company as an accredited lender if such company—

"(1) has been an active participant in the Development Company Program authorized by sections 502, 503, and 504 for not less than the preceding 12 months;

"(2) has well-trained, qualified personnel who are knowledgeable in the Administration's lending policies and procedures for such Development Company Program;

"(3) has the ability to process, close, and service financing for plant and equipment under such Development Company Program;

"(4) has a loss rate on the company's debentures that is reasonable and acceptable to the Administration;

"(5) has a history of submitting to the Administration complete and accurate debenture guaranty application packages; and

"(6) has demonstrated the ability to serve small business credit needs for financing plant and equipment through the Development Company Program.

"(c) EXPEDITED PROCESSING OF LOAN APPLICATIONS.—The Administration shall develop an expedited procedure for processing a loan application or servicing action submitted by a qualified State or local development company that has been designated as an accredited lender in accordance with subsection (b).

"(d) SUSPENSION OR REVOCATION OF DESIGNATION.—

"(1) IN GENERAL.—The designation of a qualified State or local development company as an accredited lender may be suspended or revoked if the Administration determines that—

"(A) the development company has not continued to meet the criteria for eligibility under subsection (b); or

"(B) the development company has failed to adhere to the Administration's rules and regulations or is violating any other applicable provision of law.

"(2) EFFECT.—A suspension or revocation under paragraph (1) shall not affect any outstanding debenture guarantee.

"(e) DEFINITION.—For purposes of this section, the term 'qualified State or local development company' has the same meaning as in section 503(e).".

(b) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Administration shall promulgate final regulations to carry out this section.

(c) REPORT.—Not later than 1 year after the effective date of regulations promulgated under subsection (b), and biennially thereafter, the Administration shall report to the Committees on Small Business of the Senate and the House of Representatives on the implementation of this section. Such report shall include data on the number of development companies designated as accredited lenders, their debenture guarantee volume, their loss rates, the average processing time on their guarantee applications, and such other information as the Administration deems appropriate.

SEC. 213. INTEREST RATE ON CERTIFIED DEVELOPMENT COMPANY LOANS.

Section 112(c) of the Small Business Administration Reauthorization and Amendment Act of 1988 (102 Stat. 2996) is amended—

(1) in paragraph (1), by striking "(1) IN GENERAL.—Section 503" and inserting "Section 503"; and

(2) by striking paragraph (2).

SEC. 214. CERTIFICATIONS OF ELIGIBILITY FOR SBIC AND SSBIC FINANCING.

Section 308 of the Small Business Investment Act of 1958 (15 U.S.C. 687) is amended by adding at the end the following new subsection:

"(h) CERTIFICATIONS OF ELIGIBILITY.—

"(1) CERTIFICATION BY SMALL BUSINESS CONCERN.—Prior to receiving financial assistance from a company licensed pursuant to subsection (c) or (d) of section 301, a small business concern shall certify in writing that it meets the eligibility requirements of the Small Business Investment Company Program or the Specialized Small Business Investment Company Program, as applicable.

"(2) CERTIFICATION BY COMPANY.—Prior to providing financial assistance to a small business concern under this Act, a company licensed pursuant to subsection (c) or (d) of section 301 shall certify in writing that it has reviewed the application for assistance of the small business concern and that all documentation and other information supports the eligibility of the applicant.

"(3) RETENTION OF CERTIFICATIONS.—Certificates made pursuant to paragraphs (1) and (2) shall be retained by the company licensed pursuant to subsection (c) or (d) of section 301 for the duration of the financial assistance.".

SEC. 215. PARTICIPATING SECURITIES FOR SMALLER SBICS.

Section 303(g) of the Small Business Investment Act of 1958 (15 U.S.C. 683(g)) is amended by adding at the end the following new paragraph:

"(13) PARTICIPATING SECURITIES FOR SMALLER SMALL BUSINESS INVESTMENT COMPANIES.—

"(A) IN GENERAL.—Subject to the provisions of subparagraph (B), of the amount of the annual program level of participating securities approved in appropriations Acts, 50 percent shall be reserved for funding small business investment companies with private capital of not more than $20,000,000.

"(B) EXCEPTION.—During the last quarter of each fiscal year, if the Administrator determines that there is a lack of qualified applicants with private capital of not more than $20,000,000, the Administrator may utilize all or any part of the program level for securities reserved under subparagraph (A) for qualified applicants with private capital of more than $20,000,000.".

SEC. 216. REPORT ON SBIC PROGRAM.

Not later than May 15, 1995, the Small Business Administration shall submit to the Committees on Small Business of the House of Representatives and the Senate a comprehensive report on—

(1) the status and disposition of all small business investment companies participating in the Small Business Investment Company Program under subsections (c) and (d) of section 301 of the Small Business Investment Act of 1958, whether active or in liquidation;

(2) a complete accounting of the assets in and the basis of the portfolios of such companies;

(3) the projected and actual loss rates for all portfolios in liquidation or active; and

(4) a detailed accounting of valuation of the Small Business Investment Company Program's investments.

SEC. 217. PREMIER CERTIFIED LENDERS PROGRAM.

(a) IN GENERAL.—Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is amended by adding at the end the following new section:

"SEC. 508. PREMIER CERTIFIED LENDERS PROGRAM.

"(a) ESTABLISHMENT.—On a pilot program basis, the Administration may establish a Premier Certified Lenders Program for not more than 15 certified development companies that meet the requirements of subsection (b).

"(b) REQUIREMENTS.—

"(1) APPLICATION.—To be eligible to participate in the Premier Certified Lenders Program established under subsection (a), a certified development company shall prepare and submit to the Administration an application at such time, in such manner, and containing such information as the Administration may require.

"(2) DESIGNATION.—The Administration may designate a certified development company as a premier certified lender if such company—

"(A) has been an active participant in the accredited lenders program during the 12-month period preceding the date on which the company submits an application under paragraph (1), except that, prior to January 1, 1996, the Administration may waive this requirement if the company is qualified to participate in the accredited lenders program;

"(B) has a history of submitting to the Administration adequately analyzed debenture guarantee application packages; and

"(C) agrees to assume and to reimburse the Administration for 10 percent of any loss sustained by the Administration as a result of default by the company in the payment of principal or interest on a debenture issued by such company and guaranteed by the Administration under this section.

"(c) LOSS RESERVE.—

"(1) ESTABLISHMENT.—A company designated as a premier certified lender shall establish a loss reserve for financings approved pursuant to this section.

"(2) AMOUNT.—The amount of the loss reserve shall be based upon the greater of—

"(A) the historic loss rate on debentures issued by such company; or

"(B) 10 percent of the amount of the company's exposure as determined under subsection (b)(2)(C).

"(3) ASSETS.—The loss reserve shall be comprised of segregated assets of the company which shall be securitized in favor of the Administration.

"(4) CONTRIBUTIONS.—The company shall make contributions to the loss reserve in the following amounts and at the following intervals:

"(A) 50 percent when a debenture is closed.

"(B) 25 percent not later than 1 year after a debenture is closed.

"(C) 25 percent not later than 2 years after a debenture is closed.

"(d) LOAN APPROVAL AUTHORITY.—

"(1) IN GENERAL.—Notwithstanding section 503(b)(6), and subject to such terms and conditions as the Administration may establish, the Administration may permit a company designated as a premier certified lender under this

section to approve loans that are funded with the proceeds of a debenture issued by such company and may authorize the guarantee of such debenture.

"(2) SCOPE OF REVIEW.—The approval of a loan by a premier certified lender shall be subject to final approval as to eligibility of any guarantee by the Administration pursuant to section 503(a), but such final approval shall not include review of decisions by the lender involving creditworthiness, loan closing, or compliance with legal requirements imposed by law or regulation.

"(e) REVIEW.—After the issuance and sale of debentures under this section, the Administration, at intervals not greater than 12 months, shall review the financings made by each premier certified lender. The review shall include the lender's credit decisions and general compliance with the eligibility requirements for each financing approved under the program authorized under this section. The Administration shall consider the findings of the review in carrying out its responsibilities under subsection (f), but such review shall not affect any outstanding debenture guarantee.

"(f) SUSPENSION OR REVOCATION.—The designation of a State or local development company as a premier certified lender may be suspended or revoked if the Administration determines that the company—

"(1) has not continued to meet the criteria for eligibility under subsection (b);

"(2) has not established or maintained the loss reserve required under subsection (c);

"(3) is failing to adhere to the Administration's rules and regulations; or

"(4) is violating any other applicable provision of law.

"(g) EFFECT OF SUSPENSION OR DESIGNATION.—A suspension or revocation under subsection (f) shall not affect any outstanding debenture guarantee.

"(h) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Administration shall promulgate regulations to carry out this section.

"(i) REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Administration shall report to the Committees on Small Business of the Senate and the House of Representatives on the implementation of this section. Each report shall include—

"(1) the number of certified development companies designated as premier certified lenders;

"(2) the debenture guarantee volume of such companies;

"(3) a comparison of the loss rate for premier certified lenders to the loss rate for accredited and other lenders; and

"(4) such other information as the Administration deems appropriate.".

(b) REPEAL.—Effective on October 1, 1997, section 508 of the Small Business Investment Act of 1958, as added by subsection (a), is repealed.

TITLE III—SIZE STANDARDS AND BOND GUARANTEES

SEC. 301. ESTABLISHMENT OF SIZE STANDARDS.

Section 3(a)(2) of the Small Business Act (15 U.S.C. 632(a)(2)) is amended to read as follows:

"(2) ESTABLISHMENT OF SIZE STANDARDS.—

"(A) IN GENERAL.—In addition to the criteria specified in paragraph (1), the Administrator may specify detailed definitions or standards by which a business concern may be determined to be a small business concern for the purposes of this Act or any other Act.

"(B) ADDITIONAL CRITERIA.—The standards described in paragraph (1) may utilize number of employees, dollar volume of business, net worth, net income, a combination thereof, or other appropriate factors.

"(C) REQUIREMENTS.—Unless specifically authorized by statute, no Federal department or agency may prescribe a size standard for categorizing a business concern as a small business concern, unless such proposed size standard—

"(i) is proposed after an opportunity for public notice and comment;

"(ii) provides for determining—

"(I) the size of a manufacturing concern as measured by the manufacturing concern's average employment based upon employment during each of the manufacturing concern's pay periods for the preceding 12 months;

"(II) the size of a business concern providing services on the basis of the annual average gross receipts of the business concern over a period of not less than 3 years;

"(III) the size of other business concerns on the basis of data over a period of not less than 3 years; or

"(IV) other appropriate factors; and

"(iii) is approved by the Administrator.".

SEC. 302. PILOT PREFERRED SURETY BOND GUARANTEE PROGRAM EXTENSION.

Section 207 of the Small Business Administration Reauthorization and Amendment Act of 1988 (15 U.S.C. 694b note) is amended by striking "September 30, 1994" and inserting "September 30, 1995".

SEC. 303. MANUFACTURING CONTRACTS THROUGH MANUFACTURING APPLICATION AND EDUCATION CENTERS.

(a) IN GENERAL.—The Small Business Administration shall promote the award of Federal manufacturing contracts to small business concerns that participate in manufacturing application and education centers by working with the Department of Commerce and other agencies to identify components and subsystems that are both critical and currently foreign-sourced.

(b) QUALIFICATIONS.—In order to qualify as a manufacturing application and education center under this section, an entity shall have the capacity to assist small business concerns in a shared-use production environment and to offer the following services:

(1) Technology demonstration.

(2) Technology education.

(3) Technology application support.

(4) Technology advancement support.

(c) INAPPLICABILITY OF CERTAIN REQUIREMENTS.—The requirements of section 15(o)(1)(B) of the Small Business Act shall not apply with respect to any manufacturing contract carried out by a small business concern in conjunction with a manufacturing application and education center under this section.

(d) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall promulgate final regulations to carry out this section.

(e) TERMINATION OF AUTHORITY.—The authority of the Small Business Administration under this section shall terminate on September 30, 1997.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Small Business Administration, such sums as may be necessary to carry out this section.

SEC. 304. PILOT PROGRAM FOR VERY SMALL BUSINESS CONCERNS.

(a) ESTABLISHMENT.—The Administrator shall establish and carry out a pilot program in accordance with the requirements of this section to provide improved access to Federal contract opportunities for very small business concerns.

(b) PROCUREMENT CONTRACTS.—

(1) IN GENERAL.—In carrying out subsection (a), the Administrator shall identify procurement contracts of Federal agencies for award under the program.

(2) CONTRACT AWARDS.—Under the program established pursuant to this section, the award of a procurement contract of a Federal agency identified by the Administration pursuant to paragraph (1) shall be made by the agency to an eligible program participant selected, and determined to be responsible, by the agency.

(3) COMPETITION.—All contract opportunities offered for award under the program shall be awarded on the basis of competition among eligible very small business concerns.

(c) ELIGIBILITY.—Only a very small business concern shall be eligible to compete for a contract to be awarded under the program. A contracting officer may rely in good faith on a written certification that a small business concern is a very small business concern.

(d) DELEGATION OF AUTHORITY.—The authority of the Administrator under subsections (b)(1) and (c) shall be delegated to not less than 5 and not more than 10 districts of the Administration to promote the award of contracts that can be performed by very small business concerns.

(e) FINANCIAL ASSISTANCE.—In order to assist very small business concerns receiving contract awards under the program, the Administrator shall establish a preauthorization program for such concerns for the purpose of receiving financial assistance under section 7(a) of the Small Business Act.

(f) ATTAINMENT OF CONTRACT GOALS.—All contract awards made under the program shall be counted toward the attainment of the goals specified in section 15(g) of the Small Business Act.

(g) REGULATIONS.—The Administrator shall—

(1) issue proposed regulations to carry out this section not later than 180 days after the date of enactment of this Act; and

(2) issue final regulations to carry out this section not later than 270 days after the date of enactment of this Act.

(h) REPORT TO CONGRESS.—Not later than April 30, 1997, the Administrator shall transmit to the Congress a report on the results of the program, together with such recommendations as the Administrator deems appropriate.

(i) PROGRAM TERM.—Implementation of the program shall begin not later than August 30, 1995. The program authorized by this section shall expire on September 30, 1998.

(j) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) ADMINISTRATION.—The term "Administration" means the Small Business Administration.

(2) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Small Business Administration.

(3) PROGRAM.—The term "program" means a program established pursuant to subsection (a).

(4) VERY SMALL BUSINESS CONCERN.—The term "very small business concern" means a small business concern that—

(A) has not more than 15 employees; and

(B) has average annual receipts that total not more than $1,000,000.

SEC. 305. HANDICAPPED WORKSHOP PARTICIPATION IN SMALL BUSINESS SET ASIDE CONTRACTS.

Section 15(c) of the Small Business Act (15 U.S.C. 644(c)) is amended—

(1) by amending paragraph (2)(A) to read as follows:

"(2)(A) During fiscal year 1995, public or private organizations for the handicapped shall be eligible to participate in programs authorized under this section in an aggregate amount not to exceed $40,000,000."; and

(2) by adding at the end the following new paragraph:

"(7) Agencies awarding one or more contracts to such an organization pursuant to the provisions of this subsection may use multiyear contracts, if appropriate.".

TITLE IV—BUSINESS DEVELOPMENT ASSISTANCE

Subtitle A—General Provisions

SEC. 401. SUNSET ON COSPONSORED TRAINING.

(a) IN GENERAL.—

(1) REPEAL.—The amendments made by section 5(a) of Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 note) are hereby repealed.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on September 30, 1997.

(b) CONFORMING AMENDMENT.—Section 7(b) of the Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 note) is amended in the second sentence by striking "and the amendments made to section 8(b)(1)(A) of the Small Business Act by section 5(a)(2) of this Act are" and inserting "is".

SEC. 402. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM LEVEL.

Section 21(a)(4) of the Small Business Act (15 U.S.C. 648(a)(4)) is amended to read as follows:

"(4) SMALL BUSINESS DEVELOPMENT CENTER PROGRAM LEVEL.—

"(A) IN GENERAL.—The Administration shall require as a condition of any grant (or amendment or modification thereof) made to an applicant under this section, that a matching amount (excluding any fees collected from recipients of such assistance) equal to the amount of such grant be provided from sources other than the Federal Government, to be comprised of not less than 50 percent cash and not more than 50 percent of indirect costs and in-kind contributions.

"(B) RESTRICTION.—The matching amount described in subparagraph (A) shall not include any indirect costs or in-kind contributions derived from any Federal program.

"(C) NATIONAL PROGRAM.—

"(i) IN GENERAL.—Except as provided in clause (ii), no State receiving funds under this section shall receive a grant that exceeds—

"(I) for fiscal year 1995, the sum of such State's pro rata share of a national program based upon the population of the State as compared to the total population in the United States, and $125,000; or

"(II) in each succeeding fiscal year, the sum of such State's pro rata share of a national program based upon the population of the State as compared to the total population in the United States, and $200,000.

"(ii) EXCEPTION.—Grants provided to a small business development center by the Administration or another agency to carry out the provisions of subsection (c)(3)(G) shall not be included in the calculation of maximum funding of a small business development center.

"(iii) AMOUNT.—The amount of the national program shall be—

"(I) $70,000,000 through September 30, 1996;

"(II) $77,500,000 from October 1, 1996 through September 30, 1997; and

"(III) $85,000,000 beginning October 1, 1997.

The amount for which a small business development center is eligible under this paragraph shall be based upon the amount of the national program in effect as of the date for commencement of performance of the small business development center's grant.".

SEC. 403. FEDERAL CONTRACTS WITH SMALL BUSINESS DEVELOPMENT CENTERS.

Section 21(a)(5) of the Small Business Act (15 U.S.C. 648(a)(5)) is amended to read as follows:

"(5) FEDERAL CONTRACTS WITH SMALL BUSINESS DEVELOPMENT CENTERS.—

"(A) IN GENERAL.—Subject to the conditions set forth in subparagraph (B), a small business development center may enter into a contract with a Federal department or agency to provide specific assistance to small business concerns.

"(B) CONTRACT PREREQUISITES.—Before bidding on a contract described in subparagraph (A), a small business development center shall receive approval from the Associate Administrator of the small business development center program of the subject and general scope of the contract. Each approval under subparagraph (A) shall be based upon a determination that the contract will provide assistance to small business concerns and that performance of the contract will not hinder the small business development center in carrying out the terms of the grant received by the small business development center from the Administration.

"(C) EXEMPTION FROM MATCHING REQUIREMENT.—A contract under this paragraph shall not be subject to the matching funds or eligibility requirements of paragraph (4).

"(D) ADDITIONAL PROVISION.—Notwithstanding any other provision of law, a contract for assistance under this paragraph shall not be applied to any Federal department or agency's small business, woman-owned business, or socially and economically disadvantaged business contracting goal under section 15(g).".

SEC. 404. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM EXAMINATION AND CERTIFICATION.

Section 21(k) of the Small Business Act (15 U.S.C. 648(k)) is amended to read as follows:

"(k) PROGRAM EXAMINATION AND CERTIFICATION.—

"(1) EXAMINATION.—Not later than 180 days after the date of enactment of this subsection, the Administration shall develop and implement a biennial programmatic and financial examination of each small business development center established pursuant to this section.

"(2) CERTIFICATION.—The Administration may provide financial support, by contract or otherwise, to the association authorized by subsection (a)(3)(A) for the purpose of developing a small business development center certification program.

"(3) EXTENSION OR RENEWAL OF COOPERATIVE AGREEMENTS.—In extending or renewing a cooperative agreement of a small business development center, the Administration shall consider the results of the examination and certification program conducted pursuant to paragraphs (1) and (2).".

SEC. 405. CENTRAL EUROPEAN SMALL BUSINESS DEVELOPMENT.

Section 25(i) of the Small Business Act (15 U.S.C. 652(i)) is amended by striking "and $2,000,000 for each of fiscal years 1993 and 1994" and inserting ", $2,000,000 for each of fiscal years 1993 and 1994, and $1,000,000 for fiscal year 1995".

SEC. 406. MOBILE RESOURCE CENTER PILOT PROGRAM.

(a) ESTABLISHMENT.—The Administrator of the Small Business Administration may establish and carry out in each of fiscal years 1995, 1996, and 1997 a mobile resource pilot program (hereafter in this section referred to as the "program") in accordance with the requirements of this section.

(b) MOBILE RESOURCE CENTER VEHICLES.—Under the program, the Administration may use mobile resource center vehicles to provide technical assistance, information, and other services available from the Small Business Administration to traditionally underserved populations. Two of such vehicles should be utilized in rural areas and 2 of such vehicles should be utilized in urban areas.

(c) REPORT TO CONGRESS.—If the Administrator conducts the program authorized in this section, the Administrator shall, not later than December 31, 1996, transmit to the Congress a report containing the results of such program, together with recommendations for appropriate legislative and administrative action.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $900,000 for each of fiscal years 1995, 1996, and 1997, such sums to remain available until expended. Of such sums—

(1) $800,000 may be made available for the purchase or lease of mobile resource center vehicles and operating expenses; and

(2) $100,000 may be made available for studies, startup expenses, and other administrative expenses.

SEC. 407. INFORMATION CONCERNING FRANCHISING.

Section 8(b)(1)(A) of the Small Business Act (15 U.S.C. 637(b)(1)(A)) is amended by inserting "including information on the benefits and risks of franchising," after "small-business enterprises,".

Subtitle B—Development of Woman-Owned Businesses

SEC. 411. EXTENSION OF AUTHORITY FOR DEMONSTRATION PROJECTS.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 28 (as added by section 2 of the Women's Business Development Act of 1991) as section 29; and

(2) in section 29(g), as redesignated, by striking "1995" and inserting "1997".

SEC. 412. ESTABLISHMENT OF OFFICE OF WOMEN'S BUSINESS OWNERSHIP.

Section 29 of the Small Business Act (15 U.S.C. 656), as redesignated by section 411 of this Act, is amended by adding at the end the following new subsection:

"(h) OFFICE OF WOMEN'S BUSINESS OWNERSHIP.—There is hereby established within the Administration an Office of Women's Business Ownership, which shall be responsible for the administration of the Administration's programs for the development of women's business enterprises, as such term is defined in section 408 of the Women's Business Ownership Act of 1988. The Office of Women's Business Ownership shall be administered by an Assistant Administrator, who shall be appointed by the Administrator.".

SEC. 413. DEVELOPMENT OF WOMEN'S BUSINESS ENTERPRISE.

Title IV of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"TITLE IV—DEVELOPMENT OF WOMEN'S BUSINESS ENTERPRISE

"SEC. 401. ESTABLISHMENT OF THE INTERAGENCY COMMITTEE.

"There is established an interagency committee to be known as the Interagency Committee on Women's Business Enterprise.

"SEC. 402. DUTIES OF THE INTERAGENCY COMMITTEE.

"(a) IN GENERAL.—The Interagency Committee shall—

"(1) monitor, coordinate, and promote the plans, programs, and operations of the departments and agencies of the Federal Government that may contribute to the establishment and growth of women's business enterprise;

"(2) develop and promote new public sector initiatives, policies, programs, and plans designed to foster women's business enterprise;

"(3) review, monitor, and coordinate plans and programs, developed in the public sector, which affect the ability of women-owned businesses to obtain capital and credit;

"(4) promote and assist, as appropriate, in the development of surveys of women-owned business; and

"(5) design a comprehensive plan for a joint public-private sector effort to facilitate growth and development of women's business enterprise, which plan shall, not later than 1 year after the effective date of the Small Business Administration Reauthorization and Amendments Act of 1994, be submitted to the President for review.

"(b) MEETINGS.—The Interagency Committee shall meet not less than biannually at such times as the Interagency Committee determines to be necessary to perform the duties under subsection (a). A majority of the members of the

Committee shall constitute a quorum for the approval of recommendations or reports issued pursuant to this section.

"(c) INTERACTION WITH COUNCIL.—In performing its duties under subsection (a), the Interagency Committee shall consult with the Council. The Interagency Committee may meet jointly with the Council at the discretion of the chairperson of the Interagency Committee and the chairperson of the Council, but not less frequently than twice annually. The chairperson of the Interagency Committee shall serve as chairperson of any joint meetings of the Interagency Committee and the Council.

"SEC. 403. MEMBERSHIP OF THE INTERAGENCY COMMITTEE.

"(a) IN GENERAL.—

"(1) PARTICIPANTS.—The Interagency Committee shall be composed of 1 representative from each of the following:

"(A) The Department of Commerce.

"(B) The Department of Defense.

"(C) The Department of Health and Human Services.

"(D) The Department of Labor.

"(E) The Small Business Administration.

"(F) The Department of Transportation.

"(G) The Department of the Treasury.

"(H) The General Services Administration.

"(I) The Board of Governors of the Federal Reserve.

"(J) The Executive staff of the President engaged in policymaking activities.

"(2) APPOINTMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the head of each department and agency listed in paragraph (1) shall, not later than 45 days after the date of enactment of the Small Business Administration Reauthorization and Amendments Act of 1994, designate a representative who shall be a policymaking official within the department or agency.

"(B) SMALL BUSINESS ADMINISTRATION.—With respect to the Small Business Administration, the representative shall be the Assistant Administrator of the Office of Women's Business Ownership, who also shall serve as the vice chairperson of the Interagency Committee.

"(3) OTHER PARTICIPATION.—Other representatives of the Federal Government not listed in paragraph (1) may participate in the meetings and functions of the Interagency Committee on a temporary basis as needed to carry out specific Interagency Committee goals.

"(b) APPOINTMENT OF CHAIRPERSON.—Not later than 45 days after enactment of the Small Business Administration Reauthorization and Amendments Act of 1994, the President, in consultation with the Administrator of the Small Business Administration, shall appoint 1 of the members of the Interagency Committee to serve as chairperson.

"(c) NONCOMPENSATION.—The members of the Interagency Committee shall serve without additional pay for such membership.

"(d) DETAIL OF FEDERAL EMPLOYEES.—Upon request by the chairperson of the Interagency Committee, the head of any Federal department or agency may detail any of the personnel of such agency to assist the Interagency Committee in carrying out its duties under this title without regard to section 3341 of title 5, United States Code.

"SEC. 404. REPORTS FROM THE INTERAGENCY COMMITTEE.

"Not later than September 30, 1995, and annually thereafter, the Interagency Committee shall transmit to the President and to the Committees on Small Business of the Senate and the House of Representatives, a report containing—

"(1) any recommendations of the Council and any comments of the Interagency Committee thereon;

"(2) a detailed description of the activities of the Interagency Committee;

"(3) the findings and conclusions of the Interagency Committee; and

"(4) the Interagency Committee's recommendations for such legislation and administrative actions as the Interagency Committee considers appropriate to promote the development of small business concerns owned and controlled by women.

"SEC. 405. ESTABLISHMENT OF THE NATIONAL WOMEN'S BUSINESS COUNCIL.

"There is established a council to be known as the National Women's Business Council, which shall serve as an independent source of advice and policy recommendations to the Interagency Committee, to the Administrator through the Assistant Administrator of the Office of Women's Business Ownership, to the Congress, and to the President.

"SEC. 406. DUTIES OF THE COUNCIL.

"(a) IN GENERAL.—The Council shall advise and consult with the Interagency Committee on matters relating to the activities, functions, and policies of the Interagency Committee, as provided in this title. The Council shall meet jointly with the Interagency Committee at the discretion of the chairperson of the Council and the chairperson of the Interagency Committee, but not less than biannually.

"(b) MEETINGS.—The Council shall meet separately at such times as the Council deems necessary. A majority of the members of the Council shall constitute a quorum for the approval of recommendations or reports issued pursuant to this section.

"(c) RECOMMENDATIONS.—The Council shall make annual recommendations for consideration by the Interagency Committee. The Council shall also provide reports and make such other recommendations as it deems appropriate to the Interagency Committee, to the President, to the Administrator, and to the Committees on Small Business of the Senate and the House of Representatives.

"(d) OTHER DUTIES.—The Council shall—

"(1) review, coordinate, and monitor plans and programs developed in the public and private sectors, which affect the ability of women-owned business enterprises to obtain capital and credit;

"(2) promote and assist in the development of a women's business census and other surveys of women-owned businesses;

"(3) monitor and promote the plans, programs, and operations of the departments and agencies of the Federal Government which may contribute to the establishment and growth of women's business enterprise;

"(4) develop and promote new initiatives, policies, programs, and plans designed to foster women's business enterprise; and

"(5) advise and consult with the Interagency Committee in the design of a comprehensive plan for a joint public-private sector effort to facilitate growth and development of women's business enterprise.

"SEC. 407. MEMBERSHIP OF THE COUNCIL.

"(a) CHAIRPERSON.—Not later than 45 days after the date of enactment of the Small Business Administration Reauthorization and Amendments Act of 1994, the President shall appoint an individual to serve as chairperson of the Council, in consultation with the Administrator. The chairperson of the Council shall be a prominent business woman who is qualified to head the Council by virtue of her education, training, and experience.

"(b) OTHER MEMBERS.—Not later than 60 days after the date of enactment of the Small Business Administration Reauthorization and Amendments Act of 1994, the Administrator shall appoint, in consultation with the Assistant Administrator of the Office of Women's Business Ownership and the chairperson of the Council appointed under subsection (a), 9 members of the Council, of whom—

"(1) 2 shall be—

"(A) owners of small businesses, as such term is defined in section 3 of the Small Business Act; and

"(B) members of the same political party as the President;

"(2) 2 shall—

"(A) be owners of small businesses, as such term is defined in section 3 of the Small Business Act; and

"(B) not be members of the same political party as the President; and

"(3) 5 shall be representatives of national women's business organizations.

"(c) DIVERSITY.—In appointing members of the Council, the Administrator shall, to the extent possible, ensure that the members appointed reflect geographic, racial, economic, and sectoral diversity.

"(d) SERVICE TERM.—The term of service of the members of the Council shall be 3 years.

"(e) OTHER FEDERAL SERVICE.—If any member of the Council subsequently becomes an officer or employee of the Federal Government or of the Congress, such individual may continue as a member of the Council for not longer than the 30-day period beginning on the date on which such individual becomes such an officer or employee.

"(f) VACANCIES.—A vacancy on the Council shall, not later than 30 days after the date on which the vacancy occurs, be filled in the same manner in which the original appointment was made.

"(g) REIMBURSEMENTS.—Members of the Council shall serve without pay for such membership, except that members shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Council, in the same manner as persons serving on advisory boards pursuant to section 8(b) of the Small Business Act.

"(h) EXECUTIVE DIRECTOR.—Not later than 60 days after the date of enactment of the Small Business Administration Reauthorization Act of 1994, the Administrator, in consultation with the chairperson of the Council, shall appoint an executive director of the Council. Upon the recommendation by the executive director, the chairperson of the Council may appoint and fix the pay of 4 additional employees of the Council, at a rate of pay not to exceed the maximum rate of pay payable for a position at GS–15 of the General Schedule. All such appointments shall be subject to the appropriation of funds.

"(i) RATES OF PAY.—The executive director and staff of the Council may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and except as provided in subsection (e), may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the executive director may not receive pay in excess of the annual rate of basic pay payable for a position at ES–3 of the Senior Executive Pay Schedule under section 5832 of title 5, United States Code.

"SEC. 408. DEFINITIONS.

"For purposes of this title—

"(1) the term 'Administration' means the Small Business Administration;

"(2) the term 'Administrator' means the Administrator of the Small Business Administration;

"(3) the term 'control' means exercising the power to make policy decisions concerning a business;

"(4) the term 'Council' means the National Women's Business Council, established under section 405;

"(5) the term 'Interagency Committee' means the Interagency Committee on Women's Business Enterprise, established under section 401;

"(6) the term 'operate' means being actively involved in the day-to-day management of a business;

"(7) the term 'women's business enterprise' means—

"(A) a business or businesses owned by a woman or a group of women; or

"(B) the establishment, maintenance, or development of a business or businesses by a woman or a group of women; and

"(8) the term 'women-owned business' means a small business which a woman or a group of women—

"(A) control and operate; and

"(B) own not less than 51 percent of the business.

"SEC. 409. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for each of fiscal years 1995 through 1997, to carry out this title, $350,000.".

SEC. 414. TRANSITION REIMBURSEMENT.

(a) IN GENERAL.—Subject to the limitation contained in subsection (b), in order to provide continuity in the development of women-owned business, the Administration may approve reasonable amounts made available to carry out title IV of the Women's Business Ownership Act of 1988 to be used to pay the salaries, if any, and expenses of the members and staff of the National Women's Business Council that are appointed on or before the date of enactment of this Act.

(b) TIME PERIOD.—No payments shall be made under subsection (a) after the expiration of the 90-day period beginning on the date of enactment of this Act.

SEC. 415. GIFT AUTHORITY.

Section 8(b)(1)(G) of the Small Business Act (15 U.S.C. 637(b)(1)(G)) is amended by striking "section 8(b)(1) of this Act" and by inserting "this Act and to carry out the activities authorized by title IV of the Women's Business Ownership Act of 1988".

SEC. 416. CONFORMING AMENDMENT.

The table of contents for the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended by striking the items relating to title IV and inserting the following:

"TITLE IV—DEVELOPMENT OF WOMEN'S BUSINESS ENTERPRISE

"Sec. 401. Establishment of the Interagency Committee.
"Sec. 402. Duties of the Interagency Committee.
"Sec. 403. Membership of the Interagency Committee.
"Sec. 404. Reports from the Interagency Committee.
"Sec. 405. Establishment of the National Women's Business Council.
"Sec. 406. Duties of the Council.
"Sec. 407. Membership of the Council.
"Sec. 408. Definitions.
"Sec. 409. Authorization of Appropriations.".

TITLE V—RELIEF FROM DEBENTURE PREPAYMENT PENALTIES

SEC. 501. SHORT TITLE.

This title may be cited as the "Small Business Prepayment Penalty Relief Act of 1994".

SEC. 502. INTENTION OF CONGRESS.

(a) IN GENERAL.—The Small Business Administration shall fully utilize the $30,000,000 appropriated in Public Law 103-317 to reduce, in accordance with this title and the amendments made by this title, prepayment penalties imposed in connection with debentures issued under—

(1) section 303 or 503 of the Small Business Investment Act of 1958, which have been purchased by the Federal Financing Bank; and

(2) Title III to companies operating under section 301(d) of such Act, which have been purchased by the Small Business Administration.

(b) EQUAL OPPORTUNITY.—In order to provide an equal opportunity to participate in the program authorized under this title, the Small Business Administration shall afford each borrower or issuer of a debenture subject to this title, not less than 45 days to elect to participate and to provide an earnest money deposit. The Administration shall subsequently allow a period of not less than 4 months, during which those borrowers or issuers that elect to participate shall be allowed to complete the prepayment process.

(c) RESTRICTIONS ON PARTICIPATION.—In no event shall the Small Business Administration—

(1) allow any borrower or issuer to participate in the program if the borrower or issuer fails to—

(A) make a timely election and provide the deposit on a timely basis; or

(B) complete the prepayment process within the required time; or

(2) allow any borrower or issuer to participate in the program at a percentage rate other than the rate finally determined to be applicable to all other borrowers or issuers with similar terms of years.

SEC. 503. PREPAYMENT OF DEVELOPMENT COMPANY DEBENTURES.

Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.), as amended by section 217, is amended by adding at the end the following new section:

"SEC. 509. PREPAYMENT OF DEVELOPMENT COMPANY DEBENTURES.

"(a) IN GENERAL.—

"(1) PREPAYMENT AUTHORIZED.—Subject to the requirements set forth in subsection (b), an issuer of a debenture purchased by the Federal Financing Bank and guaranteed by the Administration under this Act may, at the election of the borrower (in the case of a loan under section 503) or the issuer (in the case of a small business investment company) and with the approval of the Administration, prepay such debenture in accordance with the provisions of this section. A small business investment company operating under the authority of section 301(d) that has issued a debenture that was purchased by and is held by the Administration, may, under the same terms and conditions, prepay such debenture, and the penalty as provided in this section, and shall thereafter be immediately eligible to apply for additional assistance from the Administration.

"(2) PROCEDURE.—

"(A) IN GENERAL.—In making a prepayment under paragraph (1)—

"(i) the borrower (in the case of a loan under section 503) or the issuer (in the case of a small business investment company) shall pay to the Federal Financing Bank an amount that is equal to the sum of the unpaid principal balance due on the debenture as of the date of the prepayment (plus accrued interest at the coupon rate on the debenture) and the amount of the repurchase premium described in subparagraph (B); and

"(ii) the Administration shall pay to the Federal Financing Bank the difference between the repurchase premium paid by the borrower under this subsection and the repurchase premium that the Federal Financing Bank would otherwise have received.

"(B) REPURCHASE PREMIUM.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(i), the repurchase premium is the amount equal to the product of—

"(I) the unpaid principal balance due on the debenture on the date of prepayment; and

"(II) the applicable percentage rate, as determined in accordance clauses (ii) and (iii).

"(ii) APPLICABLE PERCENTAGE RATE.—For purposes of clause (i)(II), the applicable percentage rate means—

"(I) with respect to a 10-year term loan, 8.5 percent;

"(II) with respect to a 15-year term loan, 9.5 percent;

"(III) with respect to a 20-year term loan, 10.5 percent; and

"(IV) with respect to a 25-year term loan, 11.5 percent.

"(iii) ADJUSTMENTS TO APPLICABLE PERCENTAGE RATE.—The percentage rates described in clause (ii) shall be increased or decreased by the Administration by a factor not to exceed one-third, if the same factor is applied in each case and if the Administration determines that an adjustment is necessary, based on the number of borrowers having given notice of their intent to participate, in order to make the program (including the amounts appropriated for this purpose under Public Law 103-317) result in no substantial net gain or loss of revenue to the Federal Financing Bank or to the Administration. Amounts collected in excess of the amount necessary to ensure revenue neutrality shall be refunded to the borrowers.

"(b) REQUIREMENTS.—For purposes of subsection (a), the requirements of this subsection are that—

"(1) the debenture is outstanding and neither the loan that secures the debenture, if any, nor the debenture is in default on the date on which the prepayment is made;

"(2) State, local, or personal funds, or the proceeds of a refinancing in accordance with subsection (d) of this section under the programs authorized by this title, are used to prepay or roll over the debenture; and

"(3) with respect to a debenture issued under section 503, the issuer certifies that the benefits, net of fees and expenses authorized herein, associated with prepayment of the debenture are entirely passed through to the borrower.

"(c) NO PREPAYMENT FEES OR PENALTIES.—No fees or penalties other than those specified in this section may be imposed on the issuer, the borrower, the Administration, or any fund or account administered by the Administration as the result of a prepayment under this section.

"(d) REFINANCING LIMITATIONS.—

"(1) IN GENERAL.—The refinancing of a debenture under sections 504 and 505, in accordance with subsection (b)(2)—

"(A) shall not exceed the amount necessary to prepay existing debentures, including all costs associated with the refinancing and any applicable prepayment penalty or repurchase premium; and

"(B) except as provided in paragraphs (2) and (3), shall be subject to the provisions of sections 504 and 505 and the rules and regulations promulgated thereunder, including rules and regulations governing payment of authorized expenses, commissions, fees, and discounts to brokers and dealers in trust certificates issued pursuant to section 505.

"(2) JOB CREATION.—An applicant for refinancing under section 504 of a loan made pursuant to section 503 shall not be required to demonstrate that a requisite number of jobs will be created with the proceeds of a refinancing.

"(3) LOAN PROCESSING FEE.—To cover the cost of loan packaging, processing, and other administrative functions, a development company that provides refinancing under subsection (b)(2) may impose a one-time loan processing fee, not to exceed 0.5 percent of the principal amount of the loan.

"(4) NEW DEBENTURES.—Issuers of debentures under title III may issue new debentures in accordance with such title in order to prepay existing debentures as authorized in this section.

"(5) PRELIMINARY NOTICE.—

"(A) IN GENERAL.—The Administration shall use certified mail and other reasonable means to notify each eligible borrower of the prepayment program provided in this title. Each preliminary notice shall specify the range and dollar amount

of repurchase premiums which could be required of that borrower in order to participate in the program. In carrying out this program, the Administration shall provide a period of not less than 45 days following the receipt of such notice by the borrower during which the borrower must notify the Administration of the borrower's intent to participate in the program. The Administration shall require that a borrower who gives notice of its intent to participate to make an earnest money deposit of $1,000 which shall not be refundable but which shall be credited toward the final repurchase premium.

"(B) DEFINITION.—For purposes of this paragraph, the term 'borrower', in the case of a small business investment company or a specialized small business investment company, means 'issuer'.

"(6) FINAL NOTICE.—Based upon the response to the preliminary notice under paragraph (5), the Administration shall make a final computation of the necessary prepayment premiums and shall notify each qualified respondent of the results of such computation. Each qualified respondent shall be afforded not less than 4 months to complete the prepayment.

"(e) DEFINITIONS.—For purposes of this section—

"(1) the term 'issuer' means—

"(A) the qualified State or local development company that issued a debenture pursuant to section 503, which has been purchased by the Federal Financing Bank; and

"(B) a small business investment company licensed pursuant to subsection (c) or (d) of section 301; or

"(2) the term 'borrower' means a small business concern whose loan secures a debenture issued pursuant to section 503.

"(f) REGULATIONS.—Not later than 30 days after the date of enactment of this section, the Administration shall promulgate such regulations as may be necessary to carry out this section.

"(g) AUTHORIZATION.—There are authorized to be appropriated $30,000,000 to carry out the provisions of The Small Business Prepayment Penalty Relief Act of 1994.

TITLE VI—MISCELLANEOUS AMENDMENTS

SEC. 601. SBA INTEREST PAYMENTS TO TREASURY.

Section 4(c)(5)(B)(ii) of the Small Business Act (15 U.S.C. 633(c)(5)(B)(ii)) is amended to read as follows:

"(ii) Following the close of each fiscal year, the Administration shall pay into the miscellaneous receipts of the United States Treasury the actual interest that the Administration collects during that fiscal year on all financings made under this Act.".

SEC. 602. IMPOSITION OF FEES.

Section 5(b) of the Small Business Act (15 U.S.C. 634(b)) is amended—

(1) in paragraph (10), by striking "and" at the end;

(2) in paragraph (11), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(12) impose, retain, and use only those fees which are specifically authorized by law or which are in effect on September 30, 1994, and in the amounts and at the rates in effect on such date, except that the Administrator may, subject to approval in appropriations Acts, impose, retain, and utilize, additional fees—

"(A) not to exceed $100 for each loan servicing action (other than a loan assumption) requested after disbursement of the loan, including any substitution of collateral, release or substitution of a guarantor, reamortization, or similar action;

"(B) not to exceed $300 for loan assumptions;

"(C) not to exceed 1 percent of the amount of requested financings under title III of the Small Business Investment Act of 1958 for which the applicant requests a commitment from the Administration for funding during the following year; and

"(D) to recover the direct, incremental cost involved in the production and dissemination of compilations of information produced by the Administration under the authority of this Act and the Small Business Investment Act of 1958; and

"(13) collect, retain and utilize, subject to approval in appropriations Acts, any amounts collected by fiscal transfer agents and not used by such agent as payment of the cost of loan pooling or debenture servicing operations, except that amounts collected under this paragraph and paragraph (12) shall be utilized solely to facilitate the administration of the program that generated the excess amounts.".

SEC. 603. JOB CREATION AND COMMUNITY BENEFIT.

Section 7(a)(21) of the Small Business Act (15 U.S.C. 636(a)(21)) is amended by adding at the end the following new subparagraph:

"(E) JOB CREATION AND COMMUNITY BENEFIT.—In providing assistance under this paragraph, the Administration shall develop procedures to ensure, to the maximum extent practicable, that such assistance is used for projects that—

"(i) have the greatest potential for—

"(I) creating new jobs for individuals whose employment is involuntarily terminated due to reductions in Federal defense expenditures; or

"(II) preventing the loss of jobs by employees of small business concerns described in subparagraph (A)(i); and

"(ii) have substantial potential for stimulating new economic activity in communities most affected by reductions in Federal defense expenditures.".

SEC. 604. MICROLOAN PROGRAM AMENDMENTS.

Section 7(m)(9)(B) of the Small Business Act (15 U.S.C. 636(m)(9)(B)) is amended—

(1) by inserting "and loan guarantees" after "for loans"; and

(2) by inserting after "experienced microlending organizations" the following: "and national and regional nonprofit organizations that have demonstrated experience in providing training support for microenterprise development and financing.".

SEC. 605. TECHNICAL CLARIFICATION.

(a) DEFENSE CONVERSION.—Section 7(a)(21)(A) of the Small Business Act (15 U.S.C. 636(a)(21)(A)) is amended by striking "under the" and inserting "on a guaranteed basis under the".

(b) ADDITIONAL TECHNICAL CLARIFICATION.—Section 204 of Public Law 94-305 (15 U.S.C. 634d) is amended by striking "section 202" and inserting "this title".

SEC. 606. STUDY AND DATA BASE: GUARANTEED BUSINESS LOAN PROGRAM AND DEVELOPMENT COMPANY PROGRAM.

(a) STUDY AUTHORIZED.—The Administration shall conduct a study of—

(1) the Guaranteed Business Loan program under section 7(a) of the Small Business Act; and

(2) the Development Company program under sections 502, 503, and 504 of the Small Business Investment Act of 1958.

(b) EVALUATION.—For purposes of the study conducted under subsection (a), the Administration shall evaluate the performance of the programs described in paragraphs (1) and (2) of subsection (a), using data from the most recent 4-year period. Such evaluation shall focus on the following factors:

(1) The number, dollar amount, and average size of the loans or financings under each program.

(2) The number, dollar amount, and average size of the loans or financings made to woman-owned and minority-owned businesses under each program.

(3) The geographic distribution of the loans or financings under each program.

(4) The jobs created or maintained attributable to the loans or financings under each program.

(5) The number, dollar amount, and average size of the loans or financings on which borrowers defaulted under each program.

(6) The amounts recovered by the Administration after default, foreclosure, or otherwise under each program.

(7) The number of companies which are no longer in business despite receiving the loans or financings under each program.

(8) The taxes paid by businesses which received the loans or financings under each program.

(9) Such other information as the Administration determines to be appropriate for a complete evaluation of each program.

(c) CONTRACTING WITH INDEPENDENT ENTITIES.—In carrying out subsections (a) and (b), the Administration may contract with an independent entity or entities—

(1) to conduct the study pursuant to subsection (a); and

(2) to develop a database of information to enable the Administration to maintain and access, on an ongoing basis, current information relating to the factors set forth in subsection (b).

(d) DATE.—The study authorized by subsection (a) shall be completed not later than September 30, 1995.

SEC. 607. SBIR VENDORS.

Section 9(q)(2) of the Small Business Act (15 U.S.C. 638(q)(2)) is amended to read as follows:

"(2) VENDOR SELECTION.—Each agency may select a vendor to assist small business concerns to meet the goals listed in paragraph (1) for a term not to exceed 3 years. Such selection shall be competitive and shall utilize merit-based criteria.".

SEC. 608. PROGRAM EXTENSION.

Section 602(e) of the Business Opportunity Development Reform Act of 1988 (15 U.S.C. 637 note) is amended by striking "September 30, 1994", and inserting "September 30, 1997".

SEC. 609. PROHIBITION ON THE USE OF FUNDS FOR INDIVIDUALS NOT LAWFULLY WITHIN THE UNITED STATES.

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by adding at the end the following new subsection:

"(i) PROHIBITION ON THE USE OF FUNDS FOR INDIVIDUALS NOT LAWFULLY WITHIN THE UNITED STATES.—None of the funds made available pursuant to this Act may be used to provide any direct benefit or assistance to any individual in the United States if the Administrator or the official to which the funds are made available receives notification that the individual is not lawfully within the United States.".

SEC. 610. OFFICE OF ADVOCACY EMPLOYEES.

Section 204 of Public Law 94-305 (15 U.S.C. 634d) is amended—

(1) in the matter preceding paragraph (1), by striking "after consultation with and subject to the approval of the Administrator,"; and

(2) in paragraph (1), by striking "ten" and inserting "14".

SEC. 611. PROHIBITION ON THE PROVISION OF ASSISTANCE.

Section 4 of the Small Business Act (15 U.S.C. 633) is amended by adding at the end the following new subsection:

"(e) PROHIBITION ON THE PROVISION OF ASSISTANCE.—Notwithstanding any other provision of law, the Administration is prohibited from providing any financial or other assistance to any business concern or other person engaged in the production or distribution of any product or service that has been determined to be obscene by a court of competent jurisdiction.".

SEC. 612. CERTIFICATION OF COMPLIANCE WITH CHILD SUPPORT OBLIGATIONS.

Section 4 of the Small Business Act (15 U.S.C. 633), as amended by section 611, is amended by adding at the end the following new subsection:

"(f) CERTIFICATION OF COMPLIANCE WITH CHILD SUPPORT OBLIGATIONS.—

"(1) IN GENERAL.—For financial assistance approved after the promulgation of final regulations to implement this section, each recipient of financial assistance under this Act, including a recipient of a direct loan or a loan guarantee, shall certify that the recipient is not more than 60 days delinquent under the terms of any—

"(A) administrative order;

"(B) court order; or

"(C) repayment agreement entered into between the recipient and the custodial parent or State agency providing child support enforcement services,

that requires the recipient to pay child support, as such term is defined in section 462(b) of the Social Security Act.

"(2) ENFORCEMENT.—Not later than 6 months after the date of enactment of this subsection, the Administration shall promulgate such regulations as may be necessary to enforce compliance with the requirements of this subsection.".

SEC. 613. ADVOCACY STUDY OF PAPERWORK AND TAX IMPACT.

The Chief Counsel for Advocacy of the Small Business Administration shall conduct a study of the impact of all Federal regulatory, paperwork, and tax requirements upon small business, and report its findings to the Congress not later than 1 year after the date of enactment of this Act.

And the House agree to the same.

That the House recede from its amendment to the title of the bill, and agree to the same.

JOHN J. LAFALCE,
NEAL SMITH,
RON WYDEN,
JAN MEYERS,
RICHARD H. BAKER,
Managers on the part of the House.

DALE BUMPERS,
SAM NUNN,
LARRY PRESSLER,
Managers on the part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2060) to amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The conference agreement establishes authorizations of appropriations for programs of the Small Business Administration, creates several new programs and makes a number of changes in existing programs.

TITLE I: AUTHORIZATIONS

In title I, the conference agreement authorizes appropriations for SBA's several business loan programs and for certain business development programs for fiscal years 1995, 1996 and 1997. Included among the loan programs are section 7(a) loan guarantees, 7(a)(21) defense conversion loan guarantees, section 502 and 504 Development Company loans, Handicapped direct loans, Microloans, Small Business Investment Company (SBIC) debentures, Specialized SBIC preferred stock and debentures, and SBIC participating securities. Also included in the conference agreement for this title is a "such sums as may be necessary" authorization of appropriations for SBA business and homeowner disaster loans, which are direct loans made to individuals and businesses in communities which have been affected by natural disasters.

Except for disaster loan funding, the conferees' agreement as well as the House and Senate authorization levels with respect to funding for SBA's loan programs, and certain business development programs are set forth in the following chart. In general, the conferees agreed to funding levels midway between the House and Senate levels. The conferees adopted the Senate levels for defense conversion guaranteed loans, except for 1997, and reduced levels for Small Business Development Center defense conversion assistance.

The conferees agreed to the House amendment with respect to the SBIC and Specialized SBIC funding levels for the debenture programs and the preferred stock and participating securities programs. Although the conferees strongly support these venture capital programs, especially the new SBIC participating security program which has just begun and has attracted many more well-financed applications than was anticipated, the conferees were concerned about the rapid increases in funding levels of these programs. For example, the Administration's request would have almost tripled the funding for SBIC participating securities to $1.7 billion in fiscal year 1997. The Senate bill, while including lower funding levels than requested, would have more than doubled the program to over $1 billion over the same period. The conferees agreed to the House provisions which are significantly higher than appropriated levels for fiscal year 1995 and which retain existing law with respect to the participating securities program.

The conferees also agreed that, upon completion of the report on the SBIC and Specialized SBIC programs required by section 216, the House and Senate Committees on Small Business will reevaluate the funding levels for fiscal years 1996 and 1997 for all SBIC and Specialized SBIC programs.

CONFERENCE AGREEMENT—SBA REAUTHORIZATION FUNDING LEVELS

Program	Proposed FY95		Conference agreement	Proposed FY96		Conference agreement	Proposed FY97		Conference agreement
	Senate	House		Senate	House		Senate	House	
7(A) Guarantees (billions)	$9	$7.815	$9.15	$10	$10.93	$10.5	$12	$14.2	$13.1
Defense conversion (7(A)(21)) (billions)	2.0	1.5	2	2.5	0	2.5	3.5	0	3
Microloans direct (millions)	110	130	120	175	185	180	250	250	250
Microloan—TA (millions)	45	0	45	65	0	65	98	0	98
Micro guarantee pilot (millions)	15	20	20	20	30	30	20	40	40
Handicapped direct loans (millions)	0	12	10	0	13	11	0	14	12
504/502 Development Cos. (billions)	2.3	2.2	2.25	2.8	2.5	2.65	3.5	3	3.25
SBIC debentures (millions)	230	200	200	250	210	210	310	220	220
SBIC participating (millions)	500	400	400	750	650	650	1.25	900	900
MESBIC stock (SSBIC) (millions)	33	23	23	39	24	24	45	25	25
MESBIC guaranty (SSBIC) (millions)	55	44	44	70	46	46	75	48	48
Surety bond (billions)	1.8	1.8	1.8	2	1.8	1.9	2.2	1.8	2
Score (millions)	3.5	3.5	3.5	3.75	3.67	3.7	4	3.86	3.9
SBI	3	3	3	3.25	3.15	3.25	3.5	3.31	3.4
SBDCs: regular	70	70	70	77.5	77.5	77.5	85	85	85
SBDCs: defense conversion	25	0	5	25	0	10	25	0	15

TITLE II: FINANCIAL ASSISTANCE PROGRAMS

Sec. 201. Microloan financing pilot

Both the Senate bill and the House amendment contained provisions authorizing SBA to establish a guaranteed microloan pilot program. The conferees agreed to the Senate provision with an amendment deleting the language that authorized SBA to subsidize the interest rate to the intermediaries in the guaranteed program. The microloan guarantee program was requested by the Administration and will test the concept of loan guarantees in the place of direct loans to intermediaries.

Sec. 202. Eligibility of Native American Tribal Governments to be microloan intermediaries

The Senate bill contained a provision permitting Native American tribes to participate in the microloan program as intermediaries. The House amendment contained no such provision.

The conferees adopted the Senate provision.

Sec. 203. Microloan program extension

The Senate bill contained a provision which extended the Microloan direct loan program to October 1, 1998. The House amendment had no similar provision. The conferees agreed to extend the program until October 1, 1997, which is consistent with other loan program authorizations.

Sec. 204. Microloan program funding and State limitations

The Senate bill increased the number of microloan programs that SBA is authorized to fund from 110 to 150 in fiscal year 1995 and to 200 thereafter. The House amendment increased the number to 240 programs beginning in fiscal year 1995. The conferees agreed to increase the number to 200 programs beginning in fiscal 1995.

The Senate bill also raised the maximum funding per state in the microloan program from $2.5 million to $10 million. The House amendment repealed the ceiling completely. The conferees agreed to increase the ceiling by permitting each state annually to receive not more than 125 percent of its pro rata share of SBA's microloan program funding for that fiscal year. The state's share is to be calculated based on the population of the state as compared to the total population of the United States, including its territories and possessions.

The Senate bill also increased from 25 to 50 the number of microloan grant programs funded under paragraph (5)(A) of section 7(m) of the Small Business Act as well as the amount each grantee could receive from $125,000 to $150,000. The House amendment contained no such provision. The conferees agreed to the House amendment which deleted the increases.

Sec. 205. Distribution of intermediaries

The Senate bill contained a provision directing SBA to select microloan intermediaries in a manner to further the goal of making microloans available to small businesses in all industries regardless of their location in a state and especially to those located in economically distressed areas.

The House amendment contained a provision directing SBA to select microloan intermediaries in a manner to ensure that microloans are available in urban and rural areas.

The conferees adopted the House amendment and added the requirement that SBA strive to make microloans available throughout each state to small businesses in all industries. SBA should make every effort to provide appropriate availability of microloans in rural and urban areas.

Sec. 206. Microloan intermediary loan limitation

The Senate bill increased the maximum amount of leverage to an intermediary in the microloan program from $1.25 million to $2 million. The House amendment repealed the cap and based each intermediary's funding on a population-based formula.

The conferees agreed to increase the cap to $2.5 million per intermediary.

Sec. 207. Microloan technical assistance to nonborrowers

The Senate bill included a provision which would permit an intermediary to use up to 20 percent of its microloan technical assistance grant to provide marketing, management, and technical assistance to nonborrowers.

The House amendment contained no similar provision.

The conferees agreed to permit an intermediary to use up to 15 percent of its technical assistance grant to provide assistance to prospective borrowers. The conferees recognize intermediaries hold outreach seminars, perform screening analyses, and provide other assistance prior to the applicant becoming a borrower. The conferees support this practice but also are keenly aware of the increasing difficulty of securing grant appropriations. Therefore, the conferees encourage the intermediaries to use their technical assistance grants as efficiently and cost-effectively as possible. No assistance to nonborrowers should be provided, since many other management assistance and training programs are available to these individuals.

Sec. 208. Microloan technical assistance grants for intermediaries serving economically distressed areas

The Senate bill provides an extra five percent (but in no case more than 30 percent) technical assistance grant to any microloan intermediary making 25 percent of its loans to businesses owned by members of Federally recognized American Indian Tribes. This five percent would not be subject to any matching requirement. In addition, the amendment provided that intermediaries making 50 percent of their loans to businesses owned by members of Federally recognized American Indian Tribes would receive the full 30 percent maximum in technical assistance grants and none of the grant would be subject to the matching requirements. The House bill had no similar provision.

The Conferees agreed to a three-year pilot program identical in structure, but with more broadly based eligibility. The conference report provides an extra five percent (but in no case more than 30 percent) technical assistance grant to an intermediary making 25 percent of its loans to small business concerns located in or owned by one or more residents of an economically distressed area. This five percent would not be subject to any matching requirement. In addition, the conference report provides that intermediaries making 50 percent of their loans to small business concerns located in or owned by one or more residents of an economically distressed area would receive the full 30 percent maximum in technical assistance grants without any matching requirements. For purposes of this section, "economically distressed area" means a county or equivalent division of local government in the state in which the small business concern is located, in which, according to the most recent data available from the United States Bureau of the Census, 40 percent or more of individuals live at or below the poverty level.

Sec. 209 Loans to exporters

Sec. 210 Working capital international trade loans

Sec. 211 Guarantees on international trade loans

The Senate bill contained three provisions which modify SBA's export loan guarantee authority, increase to $750,000 the amount of an international trade loan SBA can make for working capital, and increase the maximum guarantee SBA may make on an international trade loan to 90 percent.

The House amendment contained identical provisions which were adopted by the conferees.

Sec. 212. Accredited lenders program

Both the Senate bill and the House amendment contained provisions establishing an Accredited Lenders program (ALP) for qualified State and local development companies. This program is modeled after the idea of the certified lender program which is a successful SBA program for delivering 7(a) guaranteed loans more efficiently. In the ALP program, well qualified certified development companies which meet certain criteria will be accredited and will receive expedited processing and serving from SBA. The Senate requires SBA to report after one year of the results of this program.

The House amendment contains almost identical provisions for the establishment of an ALP program. The House amendment, however, required an annual report on the program.

The conferees agreed to the Senate provisions with a requirement for a biennial report on the program beginning one year after the enactment of this Act.

Sec. 213. Interest rate on certified development company loans

The Senate bill contained a provision which makes permanent SBA's authority to establish a national interest rate on the SBA guaranteed portion of a 504 development company financing.

The House amendment contained no similar provision.

The House recedes to the Senate provision.

Sec. 214. Certifications of eligibility for SBIC and SSBIC financing

The Senate bill contained an eligibility certification requirement for Small Business Investment Companies and Specialized Small Business Investment Companies with respect to each of their borrowers.

The House contained no similar provision.

The House recedes to the Senate provision.

Sec. 215. Participating securities for smaller SBICs

Both the Senate bill and the House amendment contained provisions generally requiring one-half of each year's appropriation for the participating securities program to be reserved for smaller SBICs, which are defined for this purpose as those with private capital of less than $20 million.

The conferees adopted the provision and clarified that smaller SBICs were those with private capital of $20 million or less.

Sec. 216. Report on SBIC program

The House amendment contained a provision requiring SBA to conduct a comprehensive report on the SBIC and Specialized SBIC programs which was to be completed by April 15, 1995.

The Senate bill contained no similar provision.

The conference substitute adopted the House amendment but changed the due date of the study to May 15, 1995, to enable SBA to use the most current data in its program review.

Sec. 217. Premier Certified Lenders Program

Section 210 of the House amendment would authorize the Administration to establish a Premier Lenders Program for certain certified development companies which provide financing to small businesses for plant and equipment needs. Eligibility for admission to the program would be based upon the company's satisfactory prior performance under the development company program.

Companies participating in the program would receive a delegation of authority from the Small Business Administration and would be authorized to issue guarantees on behalf of the Administration. In order to participate, however, the company would be required to agree to reimburse the Agency for 5% of any loss sustained by the SBA on account of guarantees issued under the delegated authority. Also, the company would be required to establish a monetary reserve equal to 3% of the amount of the financings approved. The reserve could consist of cash, letters of credit or indemnity agreements.

The program would be repealed in 5 years.

The Senate bill contains no comparable provision.

The Conference substitute includes a Premier Certified Lenders Program as a three-year pilot program in which a maximum of 15 development companies could participate.

The contingent exposure of the development company for losses on account of financings approved under the program is set at 10 percent of the amount of the financing. The amount of the loss reserve is required to be an amount equal to 10 percent of the contingent exposure. Only cash can be used to constitute the reserve, but it can be contributed in installments over two years as follows:

One-half of one percent of the financing when each debenture is closed, one-quarter of one percent of the financing within the first year, and the final quarter of one percent of the financing within the second year.

MEASURES NOT INCLUDED IN TITLE II

1. Section 209 of the Senate bill would have permitted a microloan intermediary or a

microloan grant recipient (sometimes called "non-intermediaries") to participate in the other SBA microloan program, provided that other groups of potential microborrowers would be served.

The House amendment contained no similar provision. The House conferees raised concerns about augmenting technical assistance grants and duplication of services.

The Senate recedes to the House on this provision.

2. Section 211 of the House amendment contained a provision establishing an Investment Advisory Council for the Specialized Small Business Investment Company Program. The Advisory Council was to be composed of not less than 12 private sector individuals with expertise in providing venture capital to small business, particularly minority small business.

The Senate bill contained no similar provision.

The House recedes from its amendment, based upon receipt of a letter from Cassandra Pulley, Deputy Administrator of the Small Business Administration (SBA), which follows. The letter informed the Committees that the SBA is forming such an Advisory Council to be operational by November 30, 1994. The Council is to assess the appropriateness and ability of the SSBIOC program to meet the equity venture capital needs of socially or economically disadvantaged small business concerns, the problems affecting the program, and the effectiveness of SBA's administration of the SSBIC program.

The Conferees support the stated direction of this Council and direct the Council to submit its recommendations and report to the House and Senate Committees on Small Business no later than May 31, 1995.

U.S. SMALL BUSINESS ADMINISTRATION,
Washington, DC, September 29, 1994.

DEAR MR. CHAIRMAN: As you know, the SBA is currently in the process of reviewing all of our finance programs. As part of this process, we are forming a Specialized Small Business Investment Company (SSBIC) Advisory Council that would be similar to the Small Business Investment Companies (SBIC) Industry Advisory Council that was formed in 1992. Such a Council would suggest improvements to the SSBIC program.

The SBA is reviewing suggestions for the membership of such a Council. It would report on the debt and equity venture needs of socially or economically disadvantaged small business concerns and any needed Federal incentives to assist the private sector to meet such needs. Further, the SBA will recommend that the Council report on the history of the SSBIC program in providing assistance to such concerns and the impact of its assistance on the economy, as well as the appropriateness and ability of the program to meet these needs, problems affecting the SSBIC program, the effectiveness of the program and its administration by the SBA.

In preparation for the Council's activity, the SBA has contacted Professor Timothy Bates of Wayne State University, who is best known for his landmark book "Banking on Black Enterprise: The Potential of Emerging Firms for Revitalizing Urban Economics." We expect shortly to issue a 7(j) award to Wayne State University for Professor Bates to conduct background studies and make recommendations for consideration by the Council.

The SBA expects the Council to be named and operational within 60 days, and expects its review and suggestions to be wide-ranging. Structurally, the SBA believes the Council can best operate as an independent body, with staff support from the Agency. In this way, we expect it will best meet the objectives which prompted the House to recommend its formation.

Yours sincerely,
CASSANDRA M. PULLEY,
Deputy Administrator.

Establishment of Size Standards (Sec. 301)

The Senate bill contained a provision (Sec. 301) that clarified Section 3 of the Small Business Act regarding the establishment of size standards for determining whether a business concern is a small business concern.

The House amendment (Sec. 301) contained a similar provision.

The Senate recedes with a technical amendment.

Pilot Preferred Surety Bond Guarantee Program Extension (Sec. 302)

The Senate bill contained a provision (Sec. 302) that would extend the termination date of the pilot Preferred Surety Bond Guarantee Program from September 30, 1994 to September 30, 1995, a one year extension.

The House amendment contained a three-year extension of the Preferred Surety Bond Guarantee (SBG) Program.

The House recedes.

The Conference Agreement adopts the Senate provisions, providing only for a one-year extension of the Preferred SBG Program to provide time to review the performance of the Program in light of the matters described in the report accompanying the Senate bill (S.Rpt. 103-332).

The Conferees also note that the SBA's programs which help small business concerns to obtain access to surety bonding will need to be fully reviewed because of recent major statutory changes relating to Federal procurement policy and regulatory changes pertaining to the SBG Program. In addition to the Preferred Surety Bond Guarantee Program, SBA operates the Regular or Prior-Approval SBG Program.

First, the "Federal Acquisition Streamlining Act of 1994" (S. 1587), recently passed by Congress, increases from $25,000 to $100,000 the threshold for the application of the Miller Act, which requires the contractor to furnish a performance bond and payment bond on any Federal construction contract covered by the Act. Based on SBA data for Fiscal Year 1993, the average dollar value of a contract receiving surety bonds guaranteed through the SBA SBG Program was $136,114. The Miller Act threshold increase will make available substantial amounts of the SBG Program's resources towards larger contracts if certain statutory program changes are made. For example, the current statutory limitation on the size of a contract eligible for an SBA guaranteed bond could be substantially increased from the $1.25 million cap established in 1986. Larger contracts are becoming increasingly common as Federal procuring agencies consolidate or "bundle" requirements to reduce the number of contracts to administer. In Fiscal Year 1993, approximately 65 percent of the dollars awarded by Federal agencies for construction contracts were awarded through contracts in excess of $1 million.

Second, on June 21, 1994, the SBA increased the size standard for participation in the SBG Program from $3.5 million in average annual gross receipts to $5.0 million. This new size standard is still well below the otherwise applicable $17 million size standard for general contractors and the $7 million size standard for so-called specialty contractors (e.g., excavation, masonry, and electrical) who generally operate as subcontractors. SBA estimates that the increased size standard for SBG Program eligibility will make approximately 11,000 firms eligible for SBA assistance in obtaining access to surety bonding. These small businesses will now be able to more readily obtain the surety bonding they must have to even compete for these larger Federal contracting opportunities.

Manufacturing Contracts Through Manufacturing Application and Education Centers (Sec. 303)

The Senate bill contained a provision (Sec. 303) to promote access to Federal contracting opportunities requiring manufacturing for small business concerns participating in Manufacturing Application and Education Centers (MAECs). The Senate provision directs the SBA to work with the Department of Commerce and other Federal agencies to identify contracting opportunities for manufactured products, especially subsystems or components that are currently obtained from foreign sources. The Senate provision expires on September 30, 1994.

The House amendment (Sec. 705) contained a provision requiring the SBA to establish a Manufacturing Modernization Pilot Program to assist small business participating in MAECs by promoting the identification and award of contracting opportunities for certain manufactured products to such firms. The program was authorized through September 30, 1999.

Under the provisions of the House amendment, the SBA could certify existing MAECs as eligible to furnish assistance to small business concerns or establish additional MAECs. In establishing new centers, the House provisions directed that SBA rely on the model of existing MAECs and enumerated the types of technology assistance to be provided.

The House provision also charged SBA, working with the various Federal agencies, to identify contracting opportunities for manufactured products, particularly critical items or those being procured from foreign sources, and to urge the award of such contracts through contract competitions restricted to small business concerns pursuant to section 15(a) of the Small Business Act. In performing such a contracting opportunity at a MAEC, small business contractor would be freed of the limitations on subcontracting otherwise required by section 15(o)(1)(B).

The House provision contained an unspecified authorization of appropriations for the new pilot program.

The House recedes with an amendment.

The Conference Agreement adopts the provision of the Senate bill with the addition of the authorization for appropriations from the House amendment. The Conference Agreement does not require SBA to initiate a new program, to establish any new MAECs, or to certify any existing MAECs.

It is the intent of the conferees for the SBA to utilize the authority provided by this section, with its established programs, to support the adoption and deployment of advanced manufacturing technologies and practices by small business concerns participating in MAECs. The SBA Administrator, the Under Secretary of Commerce for Export Administration, and the heads of the procuring agencies shall jointly seek to identify contracting opportunities with an aggregate value of not more than $10 million dollars for performance by small manufacturers at each MAEC.

The Conferees recommend that the SBA work with the National Center for Manufacturing Sciences (NCMS) to conduct a set of pilot demonstrations with NCMS-affiliated MAECs operating in Oregon, Arkansas, Ohio, Missouri, New York, West Virginia, and other states.

MAECs often operate as a consortium of resource partners. One notable example is the Oregon Advanced Technology Consortium (OATC), a network of 12 community colleges which operates a teaching factory which focus on precision metal fabrication, teaching participants how to implement new manufacturing technologies.

Pilot Program for Very Small Business Concerns (Sec. 304)

The House amendment contained a provision (Sec. 304) establishing a pilot program to expand the participation of very small business (VSB) in Federal contracting opportunities. The House provision defined a very small business as a small business concern with: (a) 10 or fewer employees; or (b) average annual gross receipts of $1 million or less. The House provision, modeled after the preferential contracting authority of section 8(a) of the Small Business Act, called for SBA to identify Federal contracting opportunities suitable for award under the new program, enter into a contract with the Federal agency having the contracting opportunity, and then subcontract performance, after conducting a competition restricted to VSBs. The House provision also called for SBA to provide VSBs participating in the contracting program with: (a) business development assistance "in the same manner and to the same extent" as such assistance is provided, pursuant to section 7(j) of the Act, to small business concerns owned and controlled by socially and economically disadvantaged individuals; and (b) pre-qualification for financial assistance authorized by section 7(a) of the Act. The pilot program was authorized for a three-year period; Fiscal Year 1995 through Fiscal Year 1997.

The Senate bill contained no similar provision.

The Senate recedes with an amendment.

The Conference Agreement authorizes the establishment of a Pilot Program for Very Small Business Concerns. Under the Conference Agreement, a very small business is a small business concern with: (a) 15 or fewer employees; and (b) averages annual gross receipts of $1 million or less.

The Conference Agreement contemplates the identification of suitable contracting opportunities by SBA working with the various procuring agencies, the conduct of competitions restricted to VSBs, and contract award by the agency having the contracting opportunity. Otherwise, the Conference Agreement leaves to SBA to specify in regulations the operating details of the program.

The Conferees note that the Pilot Program does not establish a new goal for the participation of VSBs in Federal contracting. Contracts awarded to VSBs will be counted toward the appropriate goals established pursuant to section 15(g) of the Act, depending on the status of the VSB. Moreover, the Conferees expect SBA to ensure that the Pilot Procurement Program for VSBs does not detract from or conflict with existing contract assistance programs for small business concerns owned and controlled by socially and economically disadvantaged individuals, including contract awards pursuant to section 8(a) of the Act, and the various statutory authorities restricting competitions to such small business concerns (e.g., DOD's Small Disadvantaged Business Program, 10 U.S.C. 2323).

Public participation in the program formulation process is assured by providing a timetable for the issuance of proposed and final regulations. The Conferees expect that SBA will afford at least 60 days for public comment on the proposal.

Although the Conference Agreement leaves the program's operating details to SBA, the Conferees explicitly rejected the use of the three-party, prime contract-subcontract process currently used in the award of contracts pursuant to section 8(a) of the Act. The Conferees also made explicit that the status of a small business concern as a VSB would be accomplished by self-certification, subject to a size protest under existing regulations and procedures.

Finally, the Conference Agreement limits the scope of the Program to implementation in at least 5 but not more than 10 SBA districts. It does, however, extend the Program's duration until September 30, 1998 to: (a) afford SBA adequate time to formulate proposed program regulations, a 60-day public comment period, and time to fashion final regulations in response to those comments; (b) permit approximately two and one-half years of experience under the Program; and (c) afford Congress adequate time to consider the required report from SBA on the Program (which is due by April 30, 1997), hold hearings, and, if appropriate, consider legislation relating to the Program.

Handicapped Workshop Participation in Small Business Set-Aside Contracts (Sec. 305)

The House amendment (Sec. 701) contained a provision amending section 15(c) of the Small Business Act reinstating an expired five-year test program permitting public or private organizations for the handicapped (as defined in section 3(e) of the Small Business Act) to be eligible to compete for Federal contracting opportunities "set-aside" for competition among for-profit small business concerns under the authority of section 15. The House amendment would have made permanent the authority for the participation of these organizations. Under the House amendment, the aggregate dollar value of contract awards to such organization under the authority of section 15(c) would be $50 million per year.

The Senate bill contained no similar provision.

The Senate recedes with an amendment.

Under the Conference Agreement, the authority provided by section 15(c) is reinstated for Fiscal Year 1995. Aggregate awards under such authority are limited to $40 million.

The Conferees note that the authority for handicapped workshops to participate in contract opportunities restricted to small business competitions lapsed after the conclusion of the five-year test. The one-year reinstatement of the authority will permit an opportunity for further evaluation by the Congress.

TITLE III—LEGISLATIVE PROVISION NOT ADOPTED

Competitive Demonstration Project Size Standards

The House amendment contained a provision (Sec. 301) that repealed that portion of section 732 of the "Small Business Competitiveness Demonstration Program Act of 1988" (Title VII of Public Law 100-656) that prohibited the changing of size standards for the SIC (standard industrial classification) Codes pertaining to the four designated industry groups covered by the Competitiveness Demonstration Program. The designated industry groups are: construction (other than dredging); architect-engineering services; refuse systems and related services; and non-nuclear ship repair.

The Senate bill contained no similar provision.

The House recedes.

While noting that the SBA published revised size standards for essentially all other SIC Codes on April 7, 1994 (generally reflecting upward adjustments for inflation), the Conferees agreed that validity of the data collected by the participating Federal agencies (since January 1, 1989) and analyzed in annuals report to the Congress by the Office of Federal Procurement Policy would lose its comparability if the size standards for the four designated industry groups were modified during the term of the program (which expires on September 30, 1996).

TITLE IV: BUSINESS DEVELOPMENT ASSISTANCE

Subtitle A—General Provisions

Sec. 401. Sunset on cosponsored training

The Senate bill extended SBA's authority to enter into cosponsorship agreements with for-profit concerns to September 30, 1997.

The House amendment contained a similar provision.

The conference agreement retains this provision.

Sec. 402. Small business development center program level

The Senate bill provided for an increase in the minimum grant to an small business development center (SBDC) from $200,000 to $300,000 beginning in fiscal year 1996. It also provided an increase from $100,000 to $200,000, beginning in fiscal year 1996, in the additional funding increment to which SBDC is entitled annually. The Senate bill also provided that the increases would not take effect if insufficient appropriations were made available in fiscal year 1996 or any year thereafter. Finally, the Senate bill increased the authorization for the SBDC national program, which does not include the additional funding increments, to $70 million in fiscal year 1995, $77.5 million in fiscal year 1996, and $85 million in fiscal year 1997.

The House amendment contained a provision which retained the existing floor of $200,000, but increased the additional funding increment from $100,000 to $125,000 beginning in fiscal year 1995.

The House amendment also contained increased funding levels for the national program.

The conferees agreed to eliminate the minimum grant and increase the additional funding increment to $125,000 in fiscal year 1995 and to $200,000 thereafter. The conferees eliminated the provision of the Senate bill which would retain existing funding levels if insufficient appropriations were made in any fiscal year. The conference substitute also increases the national program but delays its implementation by one year to phase in the demand for increased appropriations. The conferees set the national program level at $70 million in fiscal years 1995-96, $77.5 million in fiscal year 1997 and $85 million in fiscal year 1998.

Sec. 403. Federal contracts with small business development centers

The Senate bill allowed Small Business Development Centers to enter into agreements with federal agencies other than SBA to provide services to small business concerns, provided that such agreements are approved by SBA and not inconsistent with the SBDC's mission. It further provided that federal contractual arrangements with SBDCs do not count toward an agency's small and minority business goals.

The House amendment contained a similar provision.

The conference agreement retains this provision and also clarifies that such arrangements are not subject to the usual program matching requirements.

Sec. 404. Small business development center program examination and certification

The Senate bill provided for biennial review of Small Business Development Centers by SBA in place of the current "on-site review" process, and also provided for SBA to support the Association of Small Business Development Center Directors to develop parameters for a certification program.

The House amendment contained no similar provision.

The conference agreement retains the Senate provision.

Sec. 405. Central European small business development

The House amendment provided for an extension of authority for the Central European Commission through the end of fiscal 1995.

The Senate bill contained no similar provision.

The conference agreement retains the House provision.

Sec. 406. Mobile resource center pilot program

The House amendment allows SBA to create a Mobile Resources Center pilot program to provide outreach and expanded access to SBA programs in underserved areas.

The Senate bill contained no such provision.

The conference agreement allows for a three-year pilot program using not more than four mobile resource vehicles, two of which shall be in urban areas and two in rural areas. The program is subject to appropriations.

Sec. 407. Information concerning franchising

The Senate bill contained an amendment requiring SBA to provide information on the risks and benefits of franchising to small business clients.

The House amendment contained no similar provision.

The conference agreement retains the Senate provision.

Subtitle B—Development of Women-Owned Businesses

Sec. 411. Extension of authority for demonstration projects

Both the Senate bill and the House amendment contained identical language extending the authority for women's demonstration project grants from 1995 to 1997.

The conference agreement includes the provision.

Sec. 412. Establishment of Office of Women's Business Ownership

The Senate bill and the House amendment contained almost identical provisions authorizing the establishment of an Office of Women's Business Ownership within the Small Business Administration. The Senate bill requires that the office, like other SBA offices of comparable stature, be headed by an Assistant Administrator. The House amendment requires that a director head the office.

The conference agreement adopts the House amendment with an amendment to reflect that the head of the new Office of Women's Business Ownership is to be an Assistant Administrator.

Sec. 413. Development of Women's business enterprise
Sec. 414. Transition reimbursement
Sec. 415. Gift authority
Sec. 416. Conforming amendment

Although both the Senate bill and the House amendment contained new structures for the current National Women's Business Council, the proposals differed substantially. The Senate bill created a new body comprised of 14 members from both the public and private sectors. The House amendment created both a 15-member private sector council and a 17-member Interagency Committee. The conference adopts the structure from the House amendment and incorporates additional amendments addressing the Senate's concerns about the size and scope of the new entities.

The Conference Agreement establishes an Interagency Committee on Women's Business Enterprise (Committee) and restructures the National Women's Business Council. The Conferees prefer the creation of the Committee and a revision of the Council to a mere extension of the Council because the public structure of the Committee coupled with a private sector advisory function is a more effective way to address the priority issues facing women business owners.

The Interagency Committee will include high ranking policy-making officials from the following: the Departments of Commerce, Defense, Health and Human Services, Labor, Small Business Administration, Transportation, Treasury, the General Services Administration, the Federal Reserve, and the Executive staff of the President. The Assistant Administrator of the Small Business Administration Office of Women's Business Ownership shall represent the Small Business Administration and serve as the Vice-Chairperson of the Committee. Within 45 days of enactment of this title, the President, in consultation with the Administrator of the Small Business Administration, is required to appoint the Committee Chairperson from among members of the Committee.

The Committee's duties include the promotion of women's business ownership in the public sector, women-owned businesses' access to credit and capital, and assistance with data collection on women-owned businesses. The Committee is responsible for the annual submission of a report to Congress outlining its activities and recommendations concerning women's business ownership.

The Interagency Committee on Women's Business Enterprise is authorized until September 30, 1997.

The Conference agreement also revises the National Women's Business Council to be comprised of 9 members appointed by the Administrator of the Small Business Administration, in consultation with the Assistant Administrator of the Office of Women's Business Ownership. Such appointments must be completed within 60 days of the enactment of this title. Of the 9 members four will be owners of small businesses who are representative of both political parties and five shall be representatives of national women's business organizations. In making the appointments, the Administrator shall consider suggestions as to possible candidates who meet the defined statutory criteria submitted by House and Senate majority and minority leadership, in consultation with the Small Business Committee members. In addition, within 45 days of enactment of this title, the President is required, in consultation with the Administrator of the Small Business Administration, to appoint a prominent businesswoman to be the Chairperson of the Council.

The Council's investigative and reporting duties include reviewing, promoting and coordinating women-owned businesses' access to credit and capital, and their development and growth in both the public and private sectors. The Council is also charged with assisting with data collection on women-owned businesses. The Council will meet periodically and serve as a truly independent, objective and bi-partisan source of advice and policy recommendations for the Interagency Committee, the President, and the Congress.

To facilitate the Council's duties, the Administrator of the Small Business Administration, in consultation with the Chairperson of the Council, shall appoint an Executive Director. The Chairperson, upon the recommendation of the executive director, may appoint as necessary, and as funds allow, up to four additional employees.

The National Women's Business Council is authorized until September 30, 1997. Authorization levels are $350,000 in fiscal years 1995, 1996, and 1997. It is the intent of the Conferees that authorized funds be used solely for the purpose of carrying out the responsibilities of the National Women's Business Council pursuant to sections 405–407 of the Women's Business Ownership Act of 1988. It is assumed that Interagency Committee members will use the resources of the agency from which they come to carry out the Committee's responsibilities. Due to the Conferees' recognition of limited appropriated funds, the Conferees have provided the Council with authority to receive contributions from for-profit and non-profit entities through the Small Business Administration's gift authority under Section 8(b) of the Small Business Act. The Council is responsible for expending any funds which it receives either through appropriations or by donations in the most economical manner possible.

In order to ensure a smooth transition from the former National Women's Business council, the conferees have provided the Administration the authority to approve reimbursement for transition activities by key personnel associated with the Council, namely the Chairperson, the Executive Director and key staff. All transition activities must be completed within 90 days of enactment of this title. Funds required for reimbursement shall be expended from fiscal year 1995 appropriations.

MEASURE NOT INCLUDED IN TITLE IV

The Senate bill contained an amendment requiring the Service Corps of Retired Executives (SCORE) to work with the Corporation for National and Community Service and the Points of Light Foundation.

The House amendment deletes this provision.

The Senate recedes to the House amendment.

TITLE V: RELIEF FROM DEBENTURE PREPAYMENT PENALTIES

Sec. 501. Short Title

This title may be referred to as the Small Business Prepayment Penalty Relief Act of 1994.

Sec. 502. Prepayment of development company debentures

The House amendment provided for the use of appropriated funds to reduce the interest rate on outstanding debentures issued by Certified Development Companies, Small Business Investment Companies and Specialized Small Business Investment Companies which were purchased by the Federal Financing Bank in the early to mid-1980s. These debentures carry extremely high interest rates by today's standards. Many borrowers would like to prepay or refinance their loans but have been precluded from doing so by harsh penalty clauses contained in the debentures. The House amendment would have permitted relief only for loans bearing an interest rate of 10.3% and higher.

The Senate bill established a different scheme for prepayment penalty relief using both appropriated funds and a refinancing premium paid by borrowers. Relief was limited to Certified Development Company borrowers, and a sliding scale was established governing the refinancing premium which varied from 9.5 percent to 11.5 percent depending on the original length of the loan.

The Conference agreement resolves this long-standing problem by adopting a substitute similar to the Senate plan but including both regular and Specialized Small Business Investment Companies among those eligible for relief. The conferees intend that SBICs and SSBICs be treated essentially the same as Sec. 503 borrowers. The conferees modified the refinancing premiums in the Senate bill in two ways. First, ten-year loans are pegged at an 8.5% refinancing premium rather than the Senate's 9.5%. Second, the Administration is required to raise or lower the pegged rates as needed to ensure that when the premiums collected are added to the $30 million appropriated, there is no loss to the Federal Financing Bank.

The Conferees are concerned that the plan as implemented must make relief available to all eligible borrowers. To accomplish this aim, the Administration is directed to notify borrowers of the terms and conditions of the program, including the potential range of refinancing premiums which may be required of that borrower depending on the length of the original loan. The Administration shall establish a period of not less than 45 days during which interested borrowers must register their intent to participate in the program. The Administration shall require an "earnest money" deposit of $1000 from those choosing to participate. This deposit is nonrefundable but will be credited toward the finally determined refinancing premium. The final premium will be set by the Administration based on the statute's pegged rates for differing length loans, as adjusted in order to compensate for the number of actual participatants.

The Appropriations Committee has provided $30 million to cover the cost of this program in the 1995 appropriations measure for the Departments of Commerce, Justice, State, and Judiciary and Related Agencies (Pub. L. 103-317). Amounts collected from borrowers in the form of repurchases premiums will supplement this amount as necessary in order to make the program essentially revenue neutral. If a small number of borrowers elect to participate, the repurchase premiums will be less than the peg rates, while a large number of participants will require the peg rates to be increased. The peg rates were established based on staff estimates that approximately 75% of borrowers might be expected to participate. The conference agreement makes clear that all eligible borrowers may participate if they notify SBA of their intent to do so within the time frame provided for such purpose. The Conferees also expect that all who elect to participate will be treated equitably by the Administration. Moreover, if amounts finally collected, together with the appropriated funds, exceed revenue neutrality, the excess funds should be deemed to be excess private funding and should be refunded to borrowers.

The conference agreement makes clear that borrowers under the former Sec. 503 program may refinance their loans under the Sec. 504 program and that all costs of refinancing, including the refinancing premium, may be included in the new 504 debenture. Moreover, the job creation requirement usually applicable to the 504 program is waived for Sec. 503 refinancings. Borrowers under the SBIC or SSBIC programs will be permitted to prepay under the terms set forth in this title and to roll their debentures over under the rules otherwise applicable under each program.

TITLE VI: MISCELLANEOUS AMENDMENTS

Sec. 601. SBA interest payments to Treasury

The Senate bill provided for the consolidation of several SBA accounts in the Treasury and modified the calculation of interest payments by SBA to the Treasury. Section 702 of the House bill did not provide for the consolidation of accounts but did provide for the change in interest payments. The conferees deleted the Senate provision for consolidation of accounts and adopted the joint provision concerning interest payments to allow SBA to simply pass on to the Treasury the amount of interest it collects from its borrowers.

Sec. 602. Imposition of fees

The Senate bill allowed for SBA to impose and collect user fees for loan servicing actions and for publications. Section 703 of the House amendment provided for similar fees up to a level of $100 rather than $300 in the Senate bill. The conference agreement allows for fees in connection with loan servicing actions not to exceed $100, except for loan assumption where fees may be as much as $300. Fees collected by the Administration and by fiscal and transfer agents may be retained by the Agency and used to support the operation of loan programs.

Additionally, the conferees expressly approved the collection of a fee not to exceed one percent for the issuance of "forward funding commitments" for SBIC and SSBIC financings.

Sec. 603. Job creation and community benefit

The Senate bill directed SBA to consider the job creation and retention aspects of proposals for financing under the new defense conversion loan program authorized by Sec. 7(a)(21). The House bill contained no similar provision. The conferees adopted the Senate provision.

Sec. 604. Microloan program amendments

The Senate bill expand the category of entities with whom SBA may contract in order to provide training and support for microloan intermediary organizations to include national and regional organizations with experience in providing training and support for microenterprise development and financing.

The House bill contained no similar provision.

The conferees adopted the Senate provision. The provision is intended to encourage SBA to expand its efforts to provides information, training and outreach to organizations which may be suitable for participation in the microloan pilot program. The conferees are concerned that some areas of the country remain unserved by any microloan intermediary. SBA is directed to move aggressively to establish nationwide coverage and to give priority to financially underserved areas. At the same time, it is important that SBA maintain the program's emphasis on quality business training which must be provided by intermediaries to all microloan borrowers if the program it to fulfill its intended purposes of economic opportunity for people who have little opportunity or access to credit otherwise.

Sec. 605. Technical clarifications

The Senate bill clarifies that loans made under Sec. 7(a)(21) are loan guarantees rather than direct loans, and also clarifies the scope of duties for employees of the Office of Advocacy. The House bill contained no similar provision. The conferees adopted the Senate provision.

The Senate bill also amended the due date for a report concerning the secondary market in SBA loans. Since the report has been completed, this provision was deleted by the conferees.

Sec. 606. Study and data base: guaranteed business loan program and development company program

The Senate bill required a comprehensive report on the economic impact of the Sec. 7(a) and 504 programs.

The House bill contained no similar provision.

The conferees adopted the Senate provision which is similar to language contained in the 1995 appropriations bill and report for SBA. The conferees intend that SBA follow up, to the extent practicable, on the results of the Price-Waterhouse evaluation of the 7(a) program released in 1991. Data used for that report is now several years old.

Congress, the President and the public need to know whether these programs represent sound investments of the taxpayers' dollars in terms of jobs created or retained and taxes paid by firms receiving SBA assistance. SBA is urged to complete this report in the most timely fashion possible consistent with quality and reliability of data. Outside contractors may be used as needed, as well as in-house resources of the Office of Advocacy or other government agencies.

The Conferees wish to make clear that as to factor number eight (Sec. 606(b)(8)), "taxes paid by businesses which received the loans or financings under each program", the Conferees expect, to the greatest extent practicable, that the Administration will include within the definition of "taxes paid," all applicable Federal taxes withheld by a business on behalf of its employees. In other words, the phrase "taxes paid by businesses" is to include, if such figures are easily obtainable, taxes owed by individuals employed by such businesses as the result of their employment.

Sec. 607. SBIR vendors

The Senate bill contained a provision that extended from one year to three years the maximum term for contracts under which private sector vendors provide technical assistance to recipients of awards under the Small Business Innovation Research (SBIR) Program, pursuant to section 9(q) of the Small Business Act.

The House amendment (Sec. 608) contained an identical provision.

The Conference Agreement includes this provision.

Sec. 608. Program extension

The Senate bill extended the authority of Native American tribes to enter into joint ventures with firms certified under the Sec. 8(a) program, a business development program for firms owned by socially or economically disadvantaged individuals. The House bill contained no similar provision. The conferees adopted a provision extending the current joint venture authority for three years.

Sec. 609. Prohibition on the use of funds for individuals not lawfully within the United States

Both bills and the conference agreement prohibited SBA financial assistance to individuals who are known by SBA to be illegal aliens.

Sec. 610. Office of Advocacy Employees

The Senate bill modifies the authority of the Chief Counsel for Advocacy to hire the employees provided for under 15 U.S.C. 634d by eliminating the requirement that the Chief Counsel obtain the approval of the SBA Administrator. In addition, the Senate bill provided the Chief Counsel an increase of four employees in the personnel ceiling of the Office of Advocacy. Such employees are to be compensated at a rate not in excess of GS-15, step 10.

The House amendment contained a similar provision and receded to the Senate provision.

Sec. 611. Prohibition on the provision of assistance

The Senate bill prohibits the Administration from providing assistance to businesses engaged in the production and distribution of obscene products and services. This section was written in response to the recent repeal of SBA's "opinion molder rule". With the repeal of the rule, businesses such as newspapers, movie theaters, radio stations and bookstores now are eligible for SBA assistance. This means businesses involved in the production and distribution of obscene products and services also could seek Administration support. This section makes clear that the Administration is not authorized to provide any assistance to those engaged in any class of "obscene" business as defined by the U.S. Supreme Court (and thus not entitled to First Amendment protection). The section is intended to cover the narrow range of adult theme businesses, including adult book stores, adult theaters, adult film and video producers, and adult film and video distributors. It is not meant to apply to businesses such as convenience stores carrying adult materials that do not fall within the Supreme Court's definition of obscenity.

The House bill had no similar provision.

The conferees adopted the Senate provision with a clarification that any materials in question must have been judicially determined, in either a civil or criminal action, to be legally obscene under prevailing constitutional standards in order for the ban to apply.

Sec. 612. Certification of compliance with child support obligations

Both bills contained provisions requiring SBA borrowers to certify that they are not in violation of any court order or agreement requiring the payment of child support. The conference report contains the same provision with a clarification that the prohibition refers to a substantial non-compliance with court orders, administrative orders, or agreements, specifically 60 days or more in arrears.

While intending to strengthen federal policy in support of family support obligations, the conferees recognize that economic circumstances may from time to time cause a parent to be late in such payments. It is not the intent of the conferees to subject minor lapses to the severe criminal and civil penalties contained in both the Small Business Act and the False Statements Act for false representations made to the agency in the course of a loan application or other application for assistance. Hence, the conference agreement provides for a certification that the applicant is not more than 60 days late in making any child support payment required by court order or agreement. Loan applicants should be advised of this provision at the outset of the application process, but certification pursuant to this section may be made as part of the loan closing.

Sec. 613. Advocacy study of paperwork and tax impact

The House amendment contained a provision (sec. 708) that would require the Chief Counsel for Advocacy of the Small Business Administration (SBA) to conduct a comprehensive study of the impact of all Federal regulatory, paperwork and tax requirements on small business. State and local regulations, paperwork or tax burdens are not within the scope of this study.

Under this provision, the Chief Counsel for Advocacy must report the findings of this comprehensive study to Congress within one year of the enactment of this provision. One of the primary responsibilities of the Office of Advocacy of the SBA is to interface with all Federal regulatory agencies during the rulemaking process. Another responsibility of the Office of Advocacy is to serve as an Ombudsman for the interests of small business throughout the Federal government. The study required by the provision will greatly assist the Office of Advocacy in fulfilling its mission.

The Senate bill contained no similar provision, and receded to the House amendment.

JOHN J. LAFALCE,
NEAL SMITH,
RON WYDEN,
JAN MEYERS,
RICHARD H. BAKER,
Managers on the part of the House.

DALE BUMPERS,
SAM NUNN,
LARRY PRESSLER,
Managers on the part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. TUCKER (at the request of Mr. GEPHARDT) for today and the balance of the week, on account of official business.

Mr. PASTOR (at the request of Mr. GEPHARDT) for today, on account of official business.

Mr. CALLAHAN (at the request of Mr. MICHEL) for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. HUNTER, for 5 minutes, today.

(The following Members (at the request of Mr. HUNTER) to revise and extend their remarks and include extraneous material:)

Mr. GINGRICH, for 5 minutes, today.

Mr. EHLERS, for 5 minutes, on October 8.

Mr. HORN, for 5 minutes, on October 8.

Mr. DORNAN, for 5 minutes, on October 8.

Mr. WELDON, for 5 minutes today and 5 minutes on October 4.

Mr. GOSS, for 5 minutes, on October 4, 5, 6, and 7.

Mr. MANZULLO, for 5 minutes, on October 4 and 5.

Mr. SAXTON, for 5 minutes, on October 4, 5, 6, and 7.

(The following Members (at the request of Mr. ORTON) to revise and extend their remarks and include extraneous material:)

Ms. KAPTUR, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. THOMAS of Wyoming) and to include extraneous matter:)

Mr. GEKAS.
Mr. GILMAN, in two instances.
Mr. STUMP.

(The following Members (at the request of Mr. VENTO) and to include extraneous matter:)

Mr. BONIOR.
Mr. PASTOR.
Mr. LANTOS.
Mr. ANDREWS of New Jersey.
Mr. FINGERHUT.
Mr. CLYBURN, in two instances.
Mr. LEWIS of Georgia.
Mr. REED, in three instances.
Mr. FAZIO, in two instances.
Mr. PALLONE.
Mr. RICHARDSON.
Mr. RAHALL.
Mr. SERRANO, in two instances.
Mr. WILSON.
Mrs. MALONEY, in five instances.
Mr. DEUTSCH.
Mr. DINGELL.
Ms. VELÁZQUEZ.
Mr. LANCASTER.

(The following Members (at the request of Mr. ORTON) and to include extraneous matter:)

Mr. BONILLA.
Mr. UPTON.
Mr. GILLMOR.
Mrs. MALONEY in five instances.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3694. An act to amend title 5, United States Code, to permit the garnishment of an annuity under the Civil Service Retirement System or the Federal Employees' Retirement System, if necessary to satisfy a judgement against an annuitant for physically, sexually, or emotionally abusing a child.

H.R. 4299. An act to authorize appropriations for fiscal year 1995 for intelligence and intelligence-related activities of the United States Accountant, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

H.R. 4543. An act to designate the United States courthouse to be constructed at 907 Richland Street in Columbia, South Carolina, as the "Matthew J. Perry, Jr. United States Courthouse".

BILLS PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, bills of the House of the following titles:

On September 30, 1994:

H.R. 4650. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

H.R. 4539. An act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1995, and for other purposes.

H.R. 4602, An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1995, and for other purposes.

H.R. 4230. An act to amend the American Indian Religious Freedom Act to provide for the traditional use of peyote by Indians for religious purposes, and for other purposes.

ADJOURNMENT

Mr. ORTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 12 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, October 4, 1994, at 10:30 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3890. A letter from the Deputy Assistant Secretary, Department of the Air Force, transmitting notice that the Air Force plans to conduct a cost comparison of aircraft maintenance at Altus Air Force Base, OK, pursuant to 10 U.S.C. 2304 note; to the Committee on Armed Services.

3891. A letter from the Acting Chief Executive Officer, Resolution Trust Corporation and Executive Director, Thrift Depositor Protection Oversight Board, transmitting the semiannual report of unaudited financial statements pursuant to section 21A(k)(5)(C) of the Federal Home Loan Bank Act; to the Committee on Banking, Finance and Urban Affairs.

3892. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of the President's determination (94–53 that it is in the national interest for the Export-Import Bank to extend a loan to the People's Republic of China; to the Committee on Banking, Finance and Urban Affairs.

3893. A letter from the Secretary of Health and Human Services, transmitting her recommendations on performance standards for the Job Opportunities and Basic Skills Training [JOBS] Program, pursuant to Public Law 100–485; to the Committee on Education and Labor.

3894. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of the Secretary's determination and justification to exercise the authority granted him under section 451 of the Foreign Assistance Act of 1961, as amended, authorizing the use in fiscal year 1994 funds for assistance to establish and sustain a Palestinian police force in the West Bank and Gaza Strip, pursuant to 22 U.S.C. 2261(a)(2); to the Committee on Foreign Affairs.

3895. A letter from the Assistant Secretary of Legislative Affairs, Department of State, transmitting a determination of the President the intent to exercise his authority under section 614(a)(1) and section 226(b) of the FAA regarding the Loan Guarantees to Israel Program for fiscal year 1995 and the reduction of the amount, pursuant to 22 U.S.C. 2364(c) and 22 U.S.C. 2186(b); to the Committee on Foreign Affairs.

3896. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a memorandum of justification for the President's determination to authorize issuance of loan guarantees to Israel in lieu of their statutory deduction under the Loan Guarantees for Israel Program, pursuant to 22 U.S.C. 2364(a)(2); to the Committee on Foreign Affairs.

3897. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Secretary's report on the outstanding investment disputes of U.S. persons, pursuant to Public Law 103–236, section 527(f); to the Committee on Foreign Affairs.

3898. A letter from the Acting Director, Office of Management and Budget, transmitting MOB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1999 resulting from passage of H.R. 3474, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on Government Operations.

3899. A letter from the Acting Archivist of the United States, National Archives, transmitting notification that the Archivist has requested the Attorney General to initiate an action to recover improperly alienated Federal records, the War Department records from the immediate post-Civil War era, pursuant to 44 U.S.C. 2905(a), 3106; to the Committee on Government Operations.

3900. A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to approve the location of a World War II memorial; to the Committee on Natural Resources.

3901. A letter from the Attorney General, Department of Justice, transmitting a report on the awarding of the Young American Medals for Bravery and Service for the calendar year 1992, pursuant to 42 U.S.C. 1925; to the Committee on the Judiciary.

3902. A letter from the Commissioner of Customs, U.S. Customs Service, transmitting a copy of the Customs reorganization plan report; to the Committee on Ways and Means.

3903. A letter from the Chairman, U.S. International Trade Commission, transmitting the ninth annual report on the impact of the Caribbean Basin Economic Recovery Act on U.S. industries and consumers, pursuant to 19 U.S.C. 2704; to the Committee on Ways and Means.

3904. A letter from the Chairman, United States International Trade Commission, transmitting the first annual report on the impact of the Andean Trade Preference Act on U.S. industries and consumers and on Andean drug crop production, pursuant to 19 U.S.C. 3204; to the Committee on Ways and Means.

3905. A letter from the Administrator, National Aeronautics and Space Administration, transmitting NASA's triennial report on the state of their knowledge of the Earth's upper atmosphere; jointly, to the Committee on Science, Space, and Technology and Energy and Commerce.

3906. A letter from the Secretary of Health and Human Services, transmitting the annual report on Medicare for fiscal year 1992, pursuant to 42 U.S.C. 139511(b); jointly, to the Committee on Ways and Means and Energy and Commerce.

3907. A letter from the Comptroller General, General Accounting Office, transmitting a report on issues affecting the development of an information superhighway (GAO/RCED–94–285); jointly, to the Committee on Energy and Commerce, the Judiciary, and Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the clerk for printing and reference to the proper calendar, as follows:

Mr. MINETA: Committee on Public Works and Transportation. H.R. 4495. A bill to amend the Federal Aviation Act of 1958 to prohibit smoking on all scheduled airline flight segments in air transportation or intrastate air transportation; with an amendment (Rept. 103–771). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 4781. A bill to facilitate obtaining foreign-located antitrust evidence by authorizing the Attorney general of the United States and the Federal Trade Commission to provide, in accordance with antitrust mutual assistance agreements, antitrust evidence to foreign antitrust authorities on a reciprocal basis; and for other purposes; with an amendment (Rept. 103–772). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. S. 1233. An Act to resolve the status of certain lands in Arizona that are subject to a claim as a grant of public lands for railroad purposes, and for other purposes (Rept. 103–773, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. S. 1233. An Act to resolve the status of certain lands in Arizona that are subject to a claim as a grant of public lands for railroad purposes, and for other purposes (Rept. 103–773, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 4896. A bill to grant the consent of the Congress to the Kansas and Missouri Metropolitan Culture District Compact (Rept. 103–774). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 4999. A bill to amend the United States Commission as Civil Rights Act of 1983; with an amendment (Rept. 103–775). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 546. A bill to limit State taxation of certain pension income, and for other purposes; with an amendment (Rept. 103–776). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 4608. A bill to authorize appropriations for the Patent and Trademark Office in the

Department of Commerce for fiscal year 1995, and for other purposes; with an amendment (Rept. 103–777). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 4833. A bill to reform the management of Indian trust funds, and for other purposes; with an amendment (Rept. 103–778). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 4777. A bill to make technical improvements in the United States Code by amending provisions to reflect the current names of congressional committees; with amendments (Rept. 103–779). Referred to the House Calendar.

Mr. BROOKS: Committee on the Judiciary. H.R. 2129. A bill to amend the Trademark Act of 1946 to provide for the registration and protection of trademarks used in commerce, in order to carry out provisions of certain international conventions, and for other purposes; with an amendment (Rept. 103–780). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 4180. A bill to prohibit the withdrawal of acknowledgement or recognition of an Indian tribe or Alaska Native group or of the leaders of an Indian tribe or Alaska Native group, absent an Act of Congress; with an amendment (Rept. 103–781). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 4462. A bill to provide for administrative procedures to extend Federal recognition to certain Indian groups, and for other purposes; with an amendment (Rept. 103–782). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. S. 720. An act to clean up open dumps on Indian lands, and for other purposes; with an amendment (Rept. 103–783). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 967. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act with respect to minor use pesticides; with amendments (Rept. 103–784). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLAY: Committee on Post Office and Civil Service. H.R. 2289. A bill to amend the Ethics in Government Act of 1978 to extend the authorization of appropriations for the Office of Government Ethics for 8 years, and for other purposes; with an amendment (Rept. 103–785, Pt. 1). Ordered to be printed.

Mr. BROOKS: Committee on the Judiciary H.R. 5102. A bill to amend title 18, United States Code, with respect to certain crimes relating to Congressional Medals of Honor (Rept. 103–786). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 4439. A bill to expand the scope of the Belle Fourche irrigation project, and for other purposes (Rept. 103–787). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 4083. A bill to amend the Wild and Scenic Rivers Act by designating the Lower Salmon River in Idaho as a component of the National Wild and Scenic Rivers System, and for other purposes; with an amendment (Rept. 103–788). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 3954. A bill to expand the Mni Wiconi Rural Water Supply Project, and for other purposes; with amendments (Rept. 103–789). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 4523. A bill to provide for private development of power at the Mancos Project and for other purposes; with amendments (Rept. 103–790). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 4615. A bill to make applicable the provisions of the Act commonly known as the "Warren Act" to the Central Utah Project, Utah, and for other purposes; with amendments (Rept. 103–791). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 4525. A bill to authorize the transfer of a certain loan contract to the Upper Yampa Water Conservancy Project, and for other purposes; with an amendment (Rept. 103–792). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 4533. A bill to promote entrepreneurial management of the National Park Service, and for other purposes; with an amendment (Rept. 103–793). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 5096. A bill to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for fiscal year 1995 for operating and administrative expenses and to require a plan for the orderly dissolution of the Corporation (Rept. 103–794). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 4925. A bill to extend for 1 year the authority of the Bureau of Reclamation to sell certain loans to the Redwood Valley Water District (Rept. 103–795). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 4746. A bill to provide for the exchange of lands within Gates of the Arctic National Park and Preserve, and for other purposes; with amendments (Rept. 103–796).

Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 4642. A bill to provide for the restoration of Washington Square in Philadelphia and for its inclusion within Independence National Historical Park, and for other purposes; with an amendment (Rept. 103–797). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 4665. A bill to amend the Alaska Native Claims Settlement Act, and for other purposes; with an amendment (Rept. 103–798). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 4697. A bill to modify the boundaries of Walnut Canyon National Monument in the States of Arizona; with amendments (Rept. 103–799). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. S. 1784. An act to restore the Central Council of Tlingit and Haida Indian Tribes of Alaska to the Department of the Interior list of Indian entities recognized and eligible to receive Services from the U.S. Bureau of Indian Affairs; with an amendment (Rept. 103–800). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 5050. A bill to restore Federal recognition to the Pakenta Band of Nomlaki Indians of California; with an amendment (Rept 103–801). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 5025. A bill to eliminate a maximum daily diversion restriction with respect to the pumping of certain water from Lake Powell, and for other purposes (Rept. 103–802). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 4784. A bill to modify the Mountain Park Project in Oklahoma, and for other purposes; with an amendment (Rept. 103–803). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 233. A bill to apply certain provisions of the Wild and Scenic Rivers Act to a segment of the North Fork of the Payette River in Idaho; with an amendment (Rept. 103–804). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 3612. A bill to amend the Alaska Native Claims Settlement Act, and for other purposes; with an amendment (Rept. 103–805). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 562. Resolution providing for the consideration of the bill (H.R. 5044) to establish the American Heritage Areas Partnership Program, and for other purposes (Rept. 103–806). Referred to the House Calendar.

Mr. MILLER of California: Committee on Natural Resources. H.R. 3204. A bill to transfer a parcel of land to the Taos Pueblo Indians of New Mexico; with an amendment (Rept. 103–807). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 3559. A bill to amend the Dayton Aviation Heritage Preservation Act of 1992, and for other purposes; with amendments (Rept. 103–808). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 3554. A bill to require the exchange of National Forest System lands in the Targhee National Forest in Idaho for non-Federal lands within the forest in Wyoming; with amendments (Rept. 103–809). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 1474. A bill to increase the irrigable acreage for the San Angelo Federal reclamation project, Texas, and for other purposes (Rept. 103–810). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 2614. A bill to direct the Secretary of the Interior to convey certain lands of the Shoshone Federal reclamation project, Wyoming, to the Big Horn County School District, Wyoming, and for other purposes (Rept. 103–811). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. S. 1146. An act to provide for the settlement of the water rights claims of the Yavapai-Prescott Indian Tribe in Yavapai County, AZ, and for other purposes; with an amendment (Rept. 103–812). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. S. 986. An act to provide for an interpretive center at the Civil War Battlefield of Corinth, MS, and for other purposes; with an amendment (Rept. 103–813). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 359. A bill to improve the administration of the Women's Rights National Historical Park in the State of New York, and for other purposes; with an amendment (Rept. 103–814). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. S. 316. An act to establish the Saguaro National Park in the State of Arizona, and for other purposes (Rept. 103–815). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Natural Resources. H.R. 4814. A bill to grant the consent of the Congress to amendments to the Central Midwest Interstate Low-Level Radioactive Waste Compact; with amendments (Rept. 103–816, Pt. 1). Ordered to be printed.

Mr. MILLER of California: Committee on Natural Resources. H.R. 3678. A bill to authorize the Secretary of the Interior to negotiate agreements for the use of Outer Continental Shelf, sand, gravel, and shell resources; with an amendment (Rept. 103–817, Pt. 1). Ordered to be printed.

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 1517. A bill to extend the coverage of certain Federal labor laws to foreign documented vessels, and for other purposes (Rept. 103–818). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAMILTON: Committee on Foreign Affairs. House Joint Resolution 416. Resolution providing limited authorization for the participation of United States Armed Forces in the multinational force in Haiti and providing for the prompt withdrawal of United States Armed Forces from Haiti (Rept. 103–819, Pt. 1). Ordered to be printed.

Mr. MILLER of California: Committee on Natural Resources. S. 1919. An act to improve water quality within the Rio Puerco watershed and to help restore the ecological health of the Rio Grande through the cooperative identification and implementation of best management practices which are consistent with the ecological, geological, cultural, sociological, and economic conditions in the region; with amendments (Rept. 103–820, Pt. 1). Ordered to be printed.

Mr. MILLER of California: Committee on Natural Resources. H.R. 4944. A bill to authorize the Secretary of the Interior to conduct studies regarding the desalination of water and water reuse, and for other purposes; with amendments (Rept. 103–821, Pt. 1). Ordered to be printed.

Mr. MILLER of California: Committee on Natural Resources. H.R. 3613. A bill entitled, "The Kenai Natives Association Equity Act"; with an amendments (Rept. 103–822, Pt. 1). Ordered to be printed.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 4948. A bill to designate Building No. 137 of the Tuscaloosa Veterans' Medical Center in Tuscaloosa, AL, as the "Claude Harris, Jr. Building" (Rept. 103–823). Referred to the House Calendar.

Mr. LAFALCE: Committee of Conference. Conference report on S. 2060. An act to amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes. (Rept. 103–824). Ordered to be printed.

Mr. FORD of Michigan: Committee on Education and Labor H.R. 1280. A bill to revise the Occupational Safety and Health Act of 1970; with an amendment (Rept. 103–825, Pt. 1). Ordered to be printed.

Mr. GIBBONS: Committee on Ways and Means. H.R. 5110. A bill to approve and implement the trade agreements concluded in the Uruguay round of multilateral trade negotiations (Rept. 103–826, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5110. A bill to approve and implement the trade agreements concluded in the Uruguay round of multilateral trade negotiations (Rept. 103–826, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HAMILTON (for himself and Mr. GILMAN):

H.R. 5155. A bill to authorize the transfer of naval vessels to certain foreign countries; to the Committee on Foreign Affairs.

By Mr. DE LA GARZA:

H.R. 5156. A bill technical correction to the Food Stamp Act of 1977; to the Committee on Agriculture.

By Mr. STUMP:

H.R. 5157. A bill to amend the Immigration and Nationality Act with respect to the authority of the Attorney General to parole aliens into the United States; to the Committee on the Judiciary.

By Mr. TEJEDA:

H.R. 5158. A bill to authorize the Secretary of the Army to convey certain excess real property located at Fort Sam Houston, TX; jointly, to the Committees on Armed Services and Veterans' Affairs.

By Mr. WISE (for himself, Mr. ABERCROMBIE, Ms. FURSE, Mr. HINCHEY, Mr. HUGHES, Mr. LANCASTER, Mr. LIPINSKI, Mrs. MINK of Hawaii, Mr. NADLER, Mr. POMEROY, Mr. THORTON, and Mr. TRAFICANT):

H.R. 5159. A bill to establish the Capital Budget Commission; to the Committee on Government Operations.

By Mr. WILLIAMS (for himself and Mrs. ROUKEMA):

H. Con. Res. 304. Concurrent resolution directing the Secretary of the Senate to make corrections in the enrollment of the bill S. 1312; Rules suspended, considered and agreed to.

By Ms. FURSE:

H. Con. Res. 305. Concurrent resolution expressing the sense of Congress that the total amount appropriated for fiscal year 1996 for defense programs should not exceed the amount appropriated for those programs for fiscal year 1995 reduced by 10 percent; to the Committee on Armed Services.

By Mr. OBERSTAR:

H. Res. 558. Resolution providing for the concurrence by the House with an amendment in the amendment of the Senate to H.R. 2440: Rules suspended, considered and agreed to.

By Mr. DE LA GARZA:

H. Res. 559. Resolution concurring in the Senate amendment to H.R. 4217 with an amendment; Rules suspended, considered and agreed to.

By Mr. PAYNE of New Jersey (for himself, Mr. JOHNSTON of Florida, Mr. BISHOP, Mr. BLACKWELL, Ms. BROWN of Florida, Mr. CLAY, Mrs. CLAYTON, Mr. CLYBURN, Ms. COLLINS of Michigan, Mrs. COLLINS of Illinois, Mr. CONYERS, Mr. DELLUMS, Mr. DIXON, Mr. FIELDS of Louisiana, Mr. FLAKE, Mr. FORD of Tennessee, Mr. HASTINGS, Mr. HILLIARD, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LEWIS of Georgia, Ms. MCKINNEY, Mrs. MEEK of Florida, Mr. MFUME, Ms. NORTON, Mr. OWENS, Mr. RANGEL, Mr. REYNOLDS, Mr. RUSH, Mr. SCOTT, Mr. STOKES, Mr. THOMPSON of Mississippi, Mr. TOWNS, Mr. TUCKER, Mr. WASHINGTON, Ms. WATERS, Mr. WATT, Mr. WHEAT, Mr. WYNN, Mr. OBERSTAR, Mr. ACKERMAN, Mr. ENGEL, Mr. EDWARDS of California, Mr. FALEOMAVAEGA, Mr. BROWN of Ohio, and Mr. SCHUMER):

H. Res. 560. Resolution concerning United States support for the new South Africa; to the Committee on Foreign Affairs.

By Mr. NEAL of Massachusetts (for himself and Mr. GILMAN):

H. Res. 561. Resolution expressing the sense of the House of Representatives with respect to the prospects for peace in Northern Ireland; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

495. The SPEAKER presented a memorial of the General Assembly of the State of Illinois, relative to Federal mandates to States; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. RAMSTAD introduced a bill (H.R. 5160) for the relief of Oscar Salas-Velazquez; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 702: Mr. GEKAS.

H.R. 1056: Mr. BARCA of Wisconsin and Mr. LANCASTER.

H.R. 1277: Mr. POSHARD.

H.R. 1280: Mr. COSTELLO.

H.R. 1671: Mr. ORTIZ and Mr. MARTINEZ.

H.R. 1843: Mr. CANADY.

H.R. 2145: Mr. GALLEGLY, Mr. YATES, and Ms. NORTON.

H.R. 2229: Mr. PENNY, Mr. BROWN of California, and Mr. TORRES.

H.R. 2444: Mr. MANZULLO and Mr. FAWELL.

H.R. 2586: Mr. TALENT.

H.R. 3646: Mr. SMITH of Texas and Mr. HEFNER.

H.R. 3943: Mr. SMITH of Michigan.

H.R. 3970: Mr. MCDERMOTT.

H.R. 4019: Mr. TAUZIN.

H.R. 4210: Mr. HINCHEY, Mr. KLECZKA, Mrs. MORELLA, Mr. PETRI, Mrs. KENNELLY, Mr. SAXTON, Mr. GEJDENSON, Mr. TORRES, Ms. LOWEY, Mr. FRANKS of New Jersey, and Mr. LAZIO.

H.R. 4395: Mr. BERMAN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. WILSON, and Mr. GENE GREEN of Texas.

H.R. 4456: Mr. JACOBS, Mr. PARKER, Mr. DIAZ-BALART, Mr. JOHNSON of South Dakota, Mr. HAYES, Mr. UNDERWOOD, Mr. LEWIS of Georgia, Mr. FROST, and Mr. WATT.

H.R. 4507: Ms. FURSE.

H.R. 4570: Mr. HOYER, Mr. BARRETT of Wisconsin, Mr. PARKER, and Mr. HOLDEN.

H.R. 4719: Mr. BORSKI.

H.R. 4803: Mr. LEWIS of Georgia and Mr. SWIFT.

H.R. 4841: Mr. PARKER and Mr. DEFAZIO.

H.R. 4938: Ms. WAXMAN and Mr. WILSON.

H.R. 4944: Mr. LEHMAN.

H.R. 4948: Mr. STUMP.

H.R. 5083: Mr. FLAKE and Mr. NADLER.

H.R. 5111: Mr. ESHOO, Mr. SPENCE, Mr. GILMAN, Mr. POMEROY, Mr. COSTELLO, Ms. DANNER, Mr. JOHNSON of South Dakota, and Mr. MORAN.

H.R. 5141: Mr. DEFAZIO, Mr. KOPETSKI, Mr. LEWIS of Georgia, Mrs. MEEK of Florida, Mr. MILLER of California, Mr. PAYNE of New Jersey, Mr. HOCHBRUECKNER, Mr. MATSUI, Mr. BARRETT of Wisconsin, Mr. BECERRA, Mr. TORRICELLI, Mr. BERMAN, Ms. ESHOO, Mrs. UNSOELD, Ms. NORTON, Mr. TORRES, Mr. SKAGGS, and Mr. REED.

H.J. Res. 184: Mr. BARCA of Wisconsin and Mr. MCNULTY.

H.J. Res. 385: Mr. SABO, Mr. RAMSTAD, Mrs. THURMAN, Mr. HEFNER, and Mr. NADLER.

H.J. Res. 405: Mr. LEWIS of Florida, Mr. LUCAS, Mr. EWING, Mr. EVERETT, Mr. JEFFERSON, Mr. LIVINGSTON, Mr. DELAY, and Mr. TAUZIN.

H.J. Res. 409: Ms. FURSE.

H. Con. Res. 148: Mr. UNDERWOOD, Mr. SPENCE, Mr. DERRICK, Mr. SANTORUM, and Mr. DREIER.

H. Con. Res. 201: Mr. ROYCE.

H. Con. Res. 207: Mr. CASTLE.

H. Con. Res. 254: Mr. DELLUMS and Mr. KLEIN.

H. Con. Res. 256: Mr. ZIMMER and Mr. KLUG.

H. Con. Res. 262: Mr. FROST.

H. Con. Res. 302: Mr. SCHUMER.

H. Res. 531: Mr. GOODLATTE and Mr. BEREUTER.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5044

By Mr. ALLARD:

—Page 73, strike line 19 and all that follows through line 3 on page 78.

By Mr. GRAMS:

—Page 18, after line 4, insert the following:

(3) MEMBERSHIP.—A management entity for an American Heritage Area should, to the fullest extent possible, consist of diverse governmental, business, and nonprofit groups within the geographic area of the American Heritage Area.

—Page 22, line 12, strike "No" and all that follows through line 15.

By Mr. SMITH of Oregon:

—Page 9, after line 24, insert the following:

(9) CONSENT OF PRIVATE PROPERTY OWNERS.—No privately owned property shall be included within the area unless written consent to such inclusion is submitted to the management entity for the proposed American Heritage Area by all of the persons who own the property. This paragraph shall not apply to any American Heritage Area designated under title II.

—Page 14, line 19, after the period insert the following: "No privately owned property shall be included on such list unless written consent to such inclusion is submitted to the management entity for the area by all of the persons who own the property; Provided, that this sentence shall not apply to any American Heritage Area designated under title II."

—Page 15, line 18, strike "approval" and insert "submission".

—Page 16, strike line 1 and all that follows through * * *

—Page 16, line 7, strike "or management plan".

—Page 16, line 8, strike "or".

—Page 16, line 9, strike "management plan".

—Page 16, line 10, strike "or plan".

—Page 16, line 15, strike "or management plan".

—Page 16, line 19, strike "or plan".

—Page 16, line 21, strike "or plan".

—Page 16, strike line 23 and all that follows through line 3 on page 17.

—Page 18, beginning on line 20, strike "for approval".

—Page 19, line 22, insert "and" after the semicolon.

—Page 20, line 2, strike "; and" and insert a period.

—Page 20, strike line 3 and all that follows through line 6.

—Page 20, line 22, strike "for the" and all that follows through line 23 and insert a period.

—Page 24, line 14, strike "approved" and insert "submitted".

—Page 24, line 15, strike "106(b)" and insert "107(c)(1)".

—Page 25, strike line 13 and all that follows through line 15 and insert the following:

SEC. 109. DUTIES AND AUTHORITIES OF SECRETARY.

The duties and authorities of the Secretary under this title shall include the following:

—Page 25, line 16, insert "(A)" after "GRANTS.—".

—Page 26, after line 4, insert the following:

(B) The Secretary may not, as a condition of the award of a grant under this section, require any recipient of such a grant to enact or modify land use restrictions.

—Page 29, strike line 19 and all that follows through line 14 on page 30.

—On page 9, after line 24, insert the following:

(9) CONSENT OF PRIVATE PROPERTY OWNERS.—No privately owned property shall be included within the area unless written consent to such inclusion is submitted to the management entity for the proposed American Heritage Area by all of the persons who own the property; Provided, that this paragraph shall not apply to any heritage area designated in Title II of this Act.

—On page 14, line 19, insert "No privately owned property shall be included on such list unless written consent to such inclusion is submitted to the management entity for the area by all of the persons who own the property." after the period; Provided, that this paragraph shall not apply to any heritage area designated in Title II of this Act.

—On page 15, line 18, strike "approval" and insert "submission".

—On page 16, strike line 1 and all that follows through line 2 and insert the following:

(b) APPROVAL AND DISAPPROVAL OF COMPACTS.—

—Page 16, line 7, strike "or management plan".

—Page 16, line 8, strike "or".

—Page 16, line 9, strike "management plan".

—Page 16, line 10, strike "or plan".

—Page 16, line 15, strike "or management plan".

—Page 16, line 19, strike "or plan".

—Page 16, line 21, strike "or plan".

—Page 16, strike line 23 and all that follows through line 3 on Page 17.

—Page 18, line 20, strike "for".

—Page 18, line 21, strike "approval".

—Page 19, line 22, insert "and" after the semicolon.

—Page 20, line 2, strike "; and" and insert a period.

—Page 20, strike line 3 and all that follows through line 6.

—Page 20, line 22, strike "Secretary" and all that follows through line 23 and insert a period.

—Page 24, line 14, strike "approved" and insert "submitted".

—Page 24, line 15, strike "106(b)" and insert "107(c)(1)".

—Page 25, strike line 13 and all that follows through line 15 and insert the following:

SEC. 109. DUTIES AND AUTHORITIES OF SECRETARY.

The duties and authorities of the Secretary under this title shall include the following:

—Page 25, line 16, insert "(A)" after "GRANTS.—".

—Page 26, after line 4, insert the following:

(B) The Secretary may not, as a condition of the award of a grant under this section, require any recipient of such a grant to enact or modify land use restrictions.

—Page 29, strike line 19 and all that follows through line 14 on Page 30.

—On page 31, line 20, strike "$10,000,000" and insert "$5,000,000".

—On page 31, line 24, strike "75" and insert "25".

—On page 33, line 6, strike "50" and insert "25".

—On page 33, line 15, strike "$25,000,000" and insert "12,500,000".

—On page 33, line 19, strike "50" and insert "25".

—On page 33, line 22, strike "10" and insert "5".

—On page 34, line 2, strike "$10,000,000" and insert "$5,000,000".

—On page 73, strike line 19, and all that follows through line 3 on page 78.

By: Mr. TAUZIN:

—Page 9, after line 24, insert the following:

(9) CONSENT OF PRIVATE PROPERTY OWNERS.—No privately owned property shall be included within the area unless informed written consent to such inclusion is submitted to the management entity for the proposed American Heritage Area by all of the persons who own the property.

—Page 14, line 19, after the period insert the following: "No privately owned property shall be included on such list unless informed written consent to such inclusion is submitted to the management entity for the area by all of the persons who own the property."

—Page 15, line 18, strike "approval" and insert "submission".

—Page 16, strike line 1 and all that follows through line 2 and insert the following:

(b) APPROVAL AND DISAPPROVAL OF COMPACTS.—

—Page 16, line 7, strike "or management plan".

—Page 16, line 8, strike "or".

—Page 16, line 9, strike "management plan".

—Page 16, line 10, strike "or plan".

—Page 16, line 15, strike "or management plan".

—Page 16, line 19, strike "or plan".

—Page 16, line 21, strike "or plan".

—Page 16, strike line 23 and all that follows through line 3 on page 17.

—Page 18, beginning on line 20, strike "for approval".

—Page 20, line 22, strike "for the" and all that follows through line 23 and insert a period.

—Page 19, line 22, insert "and" after the semicolon.

—Page 20, line 2, strike "; and" and insert a period.

—Page 20, strike line 3 and all that follows through line 6.

—Page 24, line 14, strike "approved" and insert "submitted".

—Page 24, line 15, strike "106(b)" and insert "107(c)(1)".

—Page 25, strike line 13 and all that follows through line 15 and insert the following:

SEC. 109. DUTIES AND AUTHORITIES OF SECRETARY.

The duties and authorities of the Secretary under this title shall include the following:

—Page 25, line 16, insert "(A)" after "GRANTS.—".

—Page 26, after line 4, insert the following:

(B) The Secretary may not, as a condition of the award of a grant under this section, require any recipient of such a grant to enact or modify land use restrictions.

—Page 29, strike line 19 and all that follows through line 14 on page 30.

—Page 5, line 2, after "generations" insert ", consistent with the protection of the rights of private property owners"

—Page 5, line 11, strike ", and to encourage" and all that follows through "trails" on line 12.

—Page 5, line 25, strike "; and" and insert a semicolon.

—Page 6, line 5, strike the period and insert "; and".

—Page 6, after line 5, insert the following:

(7) to recognize that ownership and productive use of privately owned property are essential elements of the American Heritage and is fundamental to democracy.

—Page 9, after line 24, insert the following:

(9) CONSENT OF PRIVATE PROPERTY OWNERS.—No privately owned property shall be included within the area unless informed written consent to such inclusion is submitted to the management entity for the proposed American Heritage Area by all of the persons who own the property.

—Page 14, strike lines 13 through 19.

—Page 14, line 20, strike "(B)" and insert "(A)".

—Page 15, line 5, strike "(C)" and insert "(B)".

—Page 15, line 12, strike "(D)" and insert "(C)".

—Page 15, line 15, strike "(E)" and insert "(D)".

—Page 14, line 19, after the period insert the following: "No privately owned property shall be included on such list unless informed written consent to such inclusion is submitted to the management entity for the areas by all of the persons who own the property."

—Page 15, line 18, strike "approval" and insert "submission".

—Page 16, strike line 1 and all that follows through line 2 and insert the following:

(b) APPROVAL AND DISAPPROVAL OF COMPACTS.—

—Page 16, line 7, strike "or management plan".

—Page 16, line 8, strike "or".

—Page 16, line 9, strike "management plan".

—Page 16, line 10, strike "or plan".

—Page 16, line 15, strike "or mangement plan".

—Page 16, line 19, strike "or plan".

—Page 16, line 21, strike "or plan".

—Page 16, strike line 23 and all that follows through line 3 on page 17.

—Page 18, beginning on line 20, strike "for approval".

—Page 20, line 22, strike "for the" and all that follows through line 23 and insert a period.

—Page 19, line 22, insert "and" after the semicolon.

—Page 20, line 2, strike "; and" and insert a period.

—Page 20, strike line 3, and all that follows through line 6.

—Page 23, after line 24, insert the following:

(g) PROTECTION OF PRIVATE PROPERTY.—The management entity for an American Heritage Area shall publish procedures to ensure that the rights of owners of private property are protected. Such procedures shall include an administrative process to provide compensation to the owner of private property if the use or value of all or any portion of the private property is substantially diminished as a result of the designation of the American Heritage Area or the management plan for the American Heritage Area.

—Page 24, line 14, strike "approved" and insert "submitted".

—Page 24, line 15, strike "106(b)" and insert "107(c)(1)".

—Page 25, strike line 13 and all that follows through line 15 and insert the following:

SEC. 109. DUTIES AND AUTHORITIES OF SECRETARY.

The duties and authorities of the Secretary under this title shall include the following:

—Page 25, line 16, insert "(A)" after "GRANTS.—".

—Page 26, after line 4, insert the following:

(B) The Secretary may not, as a condition of the award of a grant under this section, require any recipient of such a grant to enact or modify land use restrictions.

—Page 29, strike line 19 and all that follows through line 14 on page 30.

By Mr. VENTO:

—Page 12, after line 13, insert the following:

(E) An inventory of the amount of land in the area owned by public, private, and private nonprofit entities, respectively.

—Page 17, after line 3, insert the following:

(3) NO REQUIREMENT FOR LAND USE REGULATION AS CONDITION FOR APPROVAL.—No provision of this title shall be construed to require any change in land use regulation as a condition of approval of a compact, management plan, or revision of a compact or management plan by the Secretary.

—Page 26, line 2, insert "under this section" after "grants".

—Page 29, line 20, strike "directly affecting" and insert "within".

—Page 31, line 20, strike "$10,000,000" and insert "$8,000,000".

—Page 33, line 15, strike "$25,000,000" and insert "$14,500,000".

—Page 53, strike lines 11 through 16 and insert the following:

(d) BOUNDARIES.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (2), the Heritage Area shall be comprised of the lands generally depicted on the map entitled "Hudson river Valley National Heritage Area", numbered P50–8002, and dated August 1994. The map shall be on file and available for public inspection in the office of the director of the National Park Service.

(2) LOCAL AGREEMENT TO INCLUSION.—Each of the following counties, cities, and towns in the State of New York shall not be included within the boundaries of the Heritage Area unless the government of such county, city, or town agrees to be so included and submits notification of such agreement to the Secretary.

(A) The counties of Greene and Columbia.

(B) Any city or town within the county of Green or Columbia.

(C) The counties of Rensselear and Dutchess.

(D) Any city or town (except the town of Hyde Park) within the county of Rensselaer or Dutchess and located entirely within the 22d Congressional District of New York.

—Page 72, line 17, strike "additional".

—Page 72, line 18, strike ", which the city" and all that follow through "provision of law," on line 20.

—Page 72, line 23, after "subsection" insert the following: ", unless the city is obligated to perform the work or pay the expenses under a statute other than this Act".

By Mr. YOUNG of Alaska:

—Page 35, after line 11, insert the following:

SEC. 115. FISHING AND HUNTING SAVINGS CLAUSE.

(a) NO DIMINISHMENT OF STATE AUTHORITY.—The designation of an American Heritage Area shall not diminish the authority of the affected State or States to manage fish and wildlife, including the regulation of fishing and hunting within such Area.

(b) NO CONDITIONING OF APPROVAL AND ASSISTANCE.—Limitations on fishing, hunting, or trapping may not be made a condition for the approval of a compact or management plan, the provision of assistance for early actions pursuant to section 106(a)(4), the determination of eligibility for Federal funds, or the receipt, in connection with the American Heritage Area status of an area, of any other form of assistance from the Secretary or other Federal agencies.

EXTENSIONS OF REMARKS

HUGO PRINCZ'S FIGHT FOR JUSTICE

HON. FRANK PALLONE, JR.

NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1994

Mr. PALLONE. Mr. Speaker, I have been working to help Hugo Princz, a resident of Highland Park, NJ, and a survivor of the Holocaust, in his fight for reparations from Germany. I would like to submit for the RECORD an article which appeared in the Legal Times on September 5, 1994. This article was written by Bill Marks, an attorney for Hugo Princz, and describes Mr. Princz's plight, Germany's refusal to make amends, and the efforts of this body and of the administration to right this wrong. To date, these efforts have not brought significant progress. The article that follows reminds us why we must continue to pressure Germany to resolve this case.

THE CASE OF HUGO PRINCZ: GERMANY'S REFUSAL TO ATONE

(By William R. Marks)

Last Friday, the Library of Congress exhibit touting German resistance to the Nazis ended its run, prior to a university tour. The exhibit is reportedly part of Germany's campaign to improve what it perceives as its tattered image in America in the wake of the D-day commemorations and the stunning successes of the film "Schindler's List" and the U.S. Holocaust Memorial Museum. While controversy rages over the show's content, a more fundamental point must be made: Germany did not deserve such a prestigious federal forum in the first place, given its continued denial of reparations to the only known American survivor of the Nazi death camps, Hugo Princz.

Who is Hugo Princz? Why is he publicly supported by the president, the vice president, the secretary of state, our former ambassador in Bonn, and a unanimous Congress? Why might the Supreme Court soon take up his case? And how does Germany's treatment of him affect its efforts to portray itself as a nation that has atoned for its terrible past?

Princz was born to an American businessman in 1922 in what is now Slovakia; he was a U.S. citizen of birth. In 1942, the Princz family were arrested by the Nazi SS as Jews. Their valid U.S. citizenship papers were ignored, even though these papers should have made them part of a Red Cross civilian prisoner exchange then under way. They were instead all deported to the Maidanek concentration camp. Princz's parents and sisters were subsequently sent to the Treblinka death camp: he never heard from them again.

Princz and his brothers were transported by cattle car to Auschwitz, where they were "registered" as American Jews on their ID cards. As a slave laborer, Princz initially stacked dead bodies for incineration. His two brothers, one only 14 years old, were intentionally starved to death after suffering work-related injuries. From Auschwitz, Princz was sent to the Warsaw ghetto and then to Dachau via death march.

Princz was liberated in 1945 by U.S. armed forces, who saw the "USA" on his jersey and sent him to a U.S. military hospital for treatment. He arrived in this country in 1946.

HIS JUST CLAIMS

In 1955, Princz applied to the reparations and pension programs for Holocaust survivors that Germany had established after the war in recognition of its moral obligation to make amends for Nazi crimes. His claims were refused, however, because his status as a U.S. national when captured and rescued rendered him ineligible under these German Holocaust compensation programs.

Germany has denied Princz his pension in the decades since, even though he is the only known death-camp survivor to have been interned as an American and seeks merely the same reparations that Germany has already provided other victims who were European nationals. This point must be clear: Princz does not contend that his suffering makes him more deserving than other Holocaust victims; rather, he argues that his U.S. citizenship should not make him any less so.

By 1992, Princz had reached a diplomatic dead end, so he turned to the courts. Represented by D.C. solo practitioner Steven Perles, he sued Germany in the U.S. District Court for the District of Columbia. Germany's motion to dismiss on sovereign-immunity grounds was denied. It appealed to the U.S. Court of Appeals for the D.C. Circuit, which ruled, 2–1, in its favor on July 1, 1994.

But Judge Patricia Wald wrote a stinging dissent:

> When the Nazis tore off Princz' clothes, exchanged them for a prison uniform and a tattoo, shoved him behind . . . the barbed wire of Auschwitz and Dachau, and sold him to the German armament industry . . . Germany rescinded any claim under international law to immunity . . . . Congress did not intend to thwart . . . an American victim of the Holocaust [from having] his claims heard by the [U.S.] judicial system . . . [and I] cannot agree that the [law] requires us to slam the door in the face of Mr. Princz.

Princz will appeal the D.C. Circuit's decision to the Supreme Court.

RESISTING PLEAS

Meanwhile, Germany's longstanding failure to accept its financial responsibility to Princz simply because of his American citizenship led to unanimous Senate and House passage this past winter of resolutions—introduced by Sen. Frank Lautenberg (D–N.J) and Rep. Frank Pallone Jr. (D-N.J.)—supporting Princz's claim for compensation, and to a flurry of congressional letters to the Clinton administration urging resolution of the case.

In response, President Bill Clinton and Vice President Albert Gore Jr. have personally appealed to German Chancellor Helmut Kohl on Princz's behalf, while Secretary of State Warren Christopher, Secretary of the Treasury Lloyd Bentsen, and Richard Holbrooke, assistant secretary of state for European and Canadian affairs (and the former ambassador to Germany), have each raised the case with their German counterparts. the administration correctly asserts that Princz's claims are "legitimate and compelling," that he deserves to be "quickly compensated," and that this "tragic case" will remain "high" on the U.S.-German bilateral agenda until resolved.

Germany has consistently rebuffed these overtures and repeatedly communicated to the administration and the court its lack of interest in equitably resolving the matter. It remains unyielding even given its victory on immunity, which it had represented as a major impediment to consideration of a negotiated solution; a recent communication by the German ambassador to a senior State Department official confirms this latest rejection.

When "CBS Evening News" aired a story on Princz in February, correspondent Wyatt Andrews asked the obvious question: Why won't Germany just settle? Germany's counsel in the case, as quoted in *Legal Times* ("Survivor Can't Sue Germany," July 11, 1994, Page 6), provided some answers. Supposedly, the German government "doesn't have the money" to pay Princz anything beyond a small lump sum and stipend. "That's all [the German government] can afford," insisted Peter Heidenberger, counsel at D.C.'s Berliner, Corcoran & Rowe, while implying that Princz should be satisfied with what is "on the table" and also arguing that Germany cannot risk setting a precedent by reconciling with Princz.

Bonn's pleadings of poverty are preposterous. The concern over precedent is similarly baseless.

Fact: Germany has spent sums at least in the high six figures—and quite possibly well over seven—defending the case in court. There seems to be no shortage of funds for this purpose.

Fact: Germany has—to its credit—disbursed billions in compensation to other death-camp survivors.

Fact: Last year, as ABC News reported, Germany decided to provide military pensions to veteran Latvian SS units, among the most murderous of Adolf Hitler's minions. This suggest that the German government has more sympathy, and deeper pockets, for the SS than it has for an American death-camp survivor.

Fact: The amount allegedly "on the table" is a pittance that would not even begin until 1995 and would not be retroactive. It therefore differs, by several million dollars, from what Princz would have received by now had his pension begun when he timely applied in 1955.

Fact: There is no precedent to be set regarding comparable pension claimants because the trial court found Princz's situation to be sui generis. There can, therefore, be no flood of potential litigants claiming compensation as American victims of the Holocaust. In addition, the situation requires no admission by Germany, since Princz should have received his pension beginning in 1955. He would simply be made whole for the error.

Perhaps Germany feels free to reject American entreaties because the spate of stories

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

surrounding the July NATO summit about the close U.S.-German and Clinton-Kohl relationships convinced Germany that the Princz issue would never, for the U.S. government, brush aside traditional alliance concerns like trade and troops. Or perhaps, as with its well-documented solicitude toward Iraq and now, apparently, Iran, Germany simply has no qualms about spurning or undermining an important U.S. foreign-policy objective. But Germany would be wrong to assume that no incentive now exists to provide restitution to Princz.

First, it is precisely the intimate nature of the bilateral relationship with the United States that gives Germany a special obligation to resolve, reasonably and fairly, the claim of this single American death-camp survivor. This is particularly true at a time when Germany seeks U.S. support for a Security Council seat at the United Nations.

Second, the hardball tactics used against Princz only undercut Germany's efforts to rehabilitate its reputation in the United States. That reputation recently suffered a further blow from a German court's decision—prominently covered in this country—to suspend the sentence of a far-right leader convicted of inciting race hatred against Jews.

Third, Germany's narrow victory in the D.C. Circuit will not cause the political problem posed by this case to disappear. The overwhelming support for Princz in Congress and the administration should underscore that the continued persecution of an American citizen will not be forever tolerated. Indeed, the court ruling and German obduracy have given impetus to legislation now moving through Congress—H.R. 934 and S. 825—to change U.S. law to allow American victims of genocide, terror, and torture to bring suit in U.S. courts against the foreign perpetrators. This change would permit Princz's claim to proceed and also those of former hostages Joseph Cicippio and David Jacobson, whose suit against Iran was dismissed July 29 by the D.C. Circuit on sovereign-immunity grounds.

DUTY-BOUND

Ultimately, for Germany, it is a question of responsibility—to Princz, to the United States, to itself, and to the very purposes of its reparations programs. Instead of fully facing that duty—as it generally has done in dealing with other survivors and Holocaust matters more broadly—Germany chooses here to do little more than hide behind a legal technicality in order to exclude Princz unfairly. As Rep. Lynn Schenk (D-Calif.) so eloquently stated on the House floor, "The Holocaust . . . was not a technicality. . . . It is unconscionable that after once depriving [Princz] of his family, his home, his dignity, and his possessions, the German government is now attempting to deprive him of the small amount he unquestionably deserves."

Such compensation would never bring back Princz's parents and siblings; relieve his nightmares of Auschwitz, Dachau, and the Warsaw ghetto; or erase the debilitating impact of his 40-year fight upon his own family. But it would, finally, help correct a terrible injustice inflicted upon an American, whose citizenship should have protected him from the Nazis in 1942 but did not, and whose citizenship perversely continues to be used by Germany as a shield to shirk its responsibility today.

TRIBUTE TO BILLY ROTONDO

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1994

Mr. REED. Mr. Speaker, I rise today to salute a distinguished young man from Rhode Island who has attained the rank of Eagle Scout in the Boy Scouts of America. He is Billy Rotondo of troop 22 in Johnston, RI and he is honored this week for his noteworthy achievement.

Not every young American who joins the Boy Scouts earns the prestigious Eagle Scout Award. In fact, only 2.5 percent of all Boy Scouts do. To earn the award, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. He must earn 21 Merit Badges, 11 of which are required from areas such as citizenship in the community, citizenship in the Nation, citizenship in the world, safety, envrionmental science, and first aid.

As he progresses through the Boy Scout ranks, a Scout must demonstrate participation in increasingly more responsible service projects. He must also demonstrate leadership skills by holding one or more specific youth leadership positions in his patrol and/or troop. This young man has distinguished himself in accordance with these criteria.

For his Eagle Scout project, Billy worked along with the Rhode Island National Guard in cleaning up State-owned property around the Big River Reservoir.

Mr. Speaker, I ask you and my colleagues to join me in saluting Eagle Scout Billy Rotondo. In turn, we must duly recognize the Boy Scouts of America for establishing the Eagle Scout Award and the strenuous criteria its aspirants must meet. This program has through its 84 years honed and enhanced the leadership skills and commitment to public service of many outstanding Americans, two dozen of whom now serve in the House.

It is my sincere belief that Billy Rotondo will continue his public service and in so doing will further distinguish himself and consequently better his community. I join friends, colleagues, and family who this week salute him.

CONGRATULATIONS TO BLUE RIBBON SCHOOLS IN THE SIXTH DISTRICT

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1994

Mr. CLYBURN. Mr. Speaker, I rise today to congratulate three Sixth District Schools: Mitchell Elementary School in Charleston, SC, Greeleyville Elementary School in Greeleyville, SC, and Lake City Primary School in Lake City, SC for winning the U.S. Department of Education's prestigious Blue Ribbon School of Excellence Award.

Mitchell, Greeleyville and Lake City Primary are among 11 elementary schools in South Carolina and 260 elementary schools in the United States to receive this honor.

The Blue Ribbon Schools Program gives national recognition to a diverse group of public and private schools that are unusually effective in meeting local, State and national goals in educating all their students.

These three schools were selected for this top honor because the leadership skills exhibited by school administrators, faculty and staff; the teaching and student environment; curriculum and instruction; organizational vitality, and parent and community support.

Mr. Speaker, these schools and all the schools in South Carolina and around the Nation that were selected to receive this award, will serve as outstanding examples of what American schools can be when school administrators, teachers, parents and the community effectively combine their efforts for the education of our youth.

TRIBUTE TO ALEX TOLMAN

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1994

Mr. FAZIO. Mr. Speaker, I rise today to honor a selfless community leader and constituent, Mr. Alex Richard Tolman, who recently retired as superintendent of the Los Molinos Unified School District after 18 years of service.

Mr. Tolman embodies the spirit of the Los Molinos community. He is always available to lend a hand to a good cause. Naturally, as an educator and a parent, his biggest contribution has been to the youth.

His philosophy is that the future of the Nation, even the world, is determined to a large extent by events that transpire in the classroom. That is dedication. It is conviction.

From the time he arrived in Los Molinos, which was August 1976, Mr. Tolman had an impact on education in California. He served as a member of numerous committees and boards of professional organizers in the State. His responsibilities included preparation and presentation of proposals for review by members of the California State Legislature.

As district superintendent, Mr. Tolman's major accomplishments included the development of programs designed to: Bring computers to the classroom; articulate the K–12 curriculum; inform the public about school; reduce insurance costs; reduce energy consumption; reduce vandalism and campus turmoil; encourage participating management of the school system; involve the public in budget and policy development; provide harmony between trustees and the administration; provide harmony between faculty and the administration.

Before coming to Los Molinos, Mr. Tolman voluntarily served his church, from 1970 to 1975, in New Zealand and Fiji as an administrator at the secondary and elementary levels in the British system of education. While in New Zealand, he had total responsibility for the noncurricular activities of some 700 secondary school students. In Fiji, Mr. Tolman helped develop a secondary technical college from the initial stages of justification to the acquisition of property, preparation of architectural drawings, and development of curriculum.

He served as assistance superintendent of Joint School District No. 150 in Soda Springs, ID, the year before coming to Los Molinos.

Mr. Tolman and his wife, Norma Jeanne, have six grown children.

I join my colleagues today in honoring Mr. Tolman for his many years of service to the Los Molinos community, and I wish him much happiness and continued success in all his future endeavors.

FAREWELL TO THE HONORABLE MOU-SHIH DING

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1994

Mr. RICHARDSON. Mr. Speaker, I would like to direct my colleagues attention to the departure of our dear friend Mou-Shih Ding, Representative to the United States from Taiwan. During Director Din's tenure as head of the Coordination Council for North American Affairs, he ably guided Taiwan's continued economic, social, and political development. I believe that Director Ding's strong leadership has greatly contributed to Taiwan's place as the 14th largest trading nation in the world and he will surely be missed by his friends here in Congress. Director Ding will continue to serve his country as Secretary General to the National Security Council where he will resume working for warm relations between the United States and Taiwan.

I would also like to extend a sincere welcome to the Honorable Benjamin Lu, who will replace Director Ding as the head of Taiwan's Coordination Council. Representative Lu has had a long and distinguished career in Taiwan's foreign service. As the past director of Taiwan's Economic Affairs Division in the United States, he possesses the insight and experience critical for this most important post. I, along with my colleagues, look forward to building upon the continued good relations between the United States Congress and the people of Taiwan.

TRIBUTE TO MONROE E. TROUT, M.D., J.D.

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1994

Mr. GEKAS. Mr. Speaker, I would like the Congress to pay special tribute today to Monroe E. Trout, M.D., J.D., an outstanding American. Although he is retiring as chairman of the board, president and chief executive officer of American Healthcare Systems [AmHS], I hope that our recognition of his career will encourage his continued participation in the Nation's health affairs and will inspire young people to pursue similar interests.

I rise to this occasion not only because I am well familiar with Dr. Trout's success as an adult, but also because he and I spent our childhood in the same city of Harrisburg and in the same neighborhood of that wonderful city. We grew up together, played together, and together developed our commitment to values and achievement that have led Monroe to the status of the renowned.

Dr. Trout's history reads like an American odyssey. One of 13 children, he worked his way through school with the goal of becoming a private practitioner of medicine. An exceptional student, he received scholarships, and in 1957 graduated from the University of Pennsylvania Medical School. His career has spanned more than four decades, beginning with a medical residency at Portsmouth Naval Hospital and appointment as a regimental surgeon in the U.S. Navy. Subsequently, Dr. Trout served as chief of the EKG and medical department at Harrisburg State Hospital and as a lecturer in legal medicine at the Dickinson School of Law, where he later earned his law degree.

As a physician and an attorney, Dr. Trout has made notable contributions to the American health care system. He has been praised by the medical and business communities, the health care industry, and educational institutions on the local, regional, national, and international levels. In 1964, Dr. Trout left the private practice of medicine to work in the pharmaceutical industry, where he held leadership positions. He believed that through participation in major pharmaceutical research efforts he could contribute to the well-being of many more individuals.

In recent years, Dr. Trout has extended his scope of activity through his leadership of AmHS, one the Nation's largest multihospital system alliances which has as its central goal the increased effectiveness of hospital systems. AmHS develops outstanding services and products at the lowest cost, consistent with high quality. The result has been a contribution to affordable health care for an ever-increasing number of consumers.

As chief executive officer of AmHS, Dr. Trout has played a prominent role in health care reform, working with hospital systems and their officials in developing patients first, a comprehensive proposal to restructure the American health care delivery system. Patients first was the basis for the American Consumers' Health Care Reform Act which I introduced in 1993. Many of the ideas in patients first were also incorporated in other major health care reform bills.

Consistent with his interest in improving the Nation's health care system, Dr. Trout has spearheaded the creation of an annual award—the AmHS Cares Award—which honors innovative programs nationality that improve access to health care for the medically underserved.

An advocate of bipartisan approaches to health care reform, Dr. Trout has met with many Members of Congress, both Republicans and Democrats, to urge market-based community reform that would benefit a majority of Americans. He believes that forces in the health care marketplace can provide the best answers to control over health care costs. He served on the Health Issues Task Force in the 1988 Bush Presidential campaign and on the National Healthcare Coalition for Bush for President in 1992, as well as many other advisory bodies, in both the private and public sectors.

Philanthropy is high on Dr. Trout's agenda. He sits on numerous boards and committees, including the Youth Access to Alcohol Policy Panel. He has served as cochair of the San Diego County Commission on Health Care Reforms and is on the board of the Leon Williams Foundation, a San Diego organization formed to help youths to live constructively and contribute to the American dream of a society based on equality and justice.

Dr. Trout believes strongly in supporting the education of health care providers who will serve generations to come. Through contacts in the biomedical community, he has been instrumental in providing scholarships to worthy students. He has personally funded scholarships at two universities and endowed a chair in pharmacology at the University of California, San Diego. In addition, he is chairman of the board of trustees of the University of California Foundation, San Diego, and serves on the University's California business-higher education forum board and its Connect Steering Committee.

Mr. Speaker, on the occasion of his retirement from AmHS, Monroe Trout is deserving of special public recognition of his many accomplishments and service to American medicine and to our Nation's health care system. Today, I take great pleasure in saluting his outstanding contributions.

TRIBUTE TO MOU-SHIH DING OF THE REPUBLIC OF CHINA IN TAIWAN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1994

Mr. LANTOS. Mr. Speaker, I rise today to honor a distinguished public servant from the Republic of China in Taiwan, the Honorable Mou-Shih Ding. For the last 6 years Ambassador Ding has been the senior representative of his country here in Washington at the Coordination Council for North American Affairs, now renamed the Taipei Economic and Cultural Representative Office.

Representative Ding has had a long and illustrious career in the service of his country. Immediately prior to his posting here, he served as the Minister of Foreign Affairs, where he hosted many visiting Members of Congress who had the opportunity to witness firsthand Taiwan's startling economic, social, and political progress in recent years.

Now, Representative Ding has taken yet another step within the senior levels of his government. He has just been named Secretary General of the National Security Council. Mr. Speaker, I would like to take this opportunity to congratulate Representative Ding on his new position, and to thank him for his tireless work to improve ties between our two countries. A diplomat in every sense of the word, Mou-Shih Ding has performed masterfully in his dealings with all branches of our Government, especially the legislative branch. I know that many of my colleagues know Representative Ding personally, and have been impressed by his candid manner and hospitality.

I would like to take this chance to speak briefly on an issue that is important to all of our friends from Taiwan. Although it ranks as one of the world's leading economic powers, the Republic of China is denied a seat in the United Nations. As chairman of the Subcommittee on International Security, International Organizations, and Human Rights, I know firsthand the enormous contribution the Republic of China could make to the world community if it were a full member of the United Nations. I urge my colleagues in the Congress to support U.N. membership for Taiwan. Representative Ding has worked tirelessly to help achieve this important step for the Republic of China in Taiwan.

Mr. Speaker, as we bid farewell to Ambassador Mou-Shih Ding, I would also like to extend a warm welcome to Mr. Ding's successor, Mr. Benjamin Lu, a veteran diplomat in the Republic of China's foreign service. We look forward to working with Representative Lu to strengthen the important ties between our two countries.

TRIBUTE TO MICHAEL AIELLO, ANDY GUGLIELMO, CHRIS PETTERUTI, AND LOUIS TURCHETTA

HON. JACK REED

RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1994

Mr. REED. Mr. Speaker, I rise today to salute four distinguished young men from Rhode Island who have attained the rank of Eagle Scout in the Boy Scouts of America. They are Michael Aiello, Andy Guglielmo, Chris Petteruti, and Louis Turchetta of Troop 22 in Johnston, RI, and they are honored this week for their noteworthy achievement.

Not every young American who joins the Boy Scouts earns the prestigious Eagle Scout Award. In fact, only 2.5 percent of all Boy Scouts do. To earn the award, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. He must earn 21 Merit Badges, 11 of which are required from areas such as citizenship in the community, citizenship in the Nation, citizenship in the world, safety, environmental science, and first aid.

As he progresses through the Boy Scout ranks, a Scout must demonstrate participation in increasingly more responsible service projects. He must also demonstrate leadership skills by holding one or more specific youth leadership positions in his patrol and/or troop. These young men have distinguished themselves in accordance with these criteria.

For their Eagle Scout project, Michael, Andy, Chris, and Louis cleared brush and debris and overseeded various areas in the Johnston Memorial Park.

Mr. Speaker, I ask you and my colleagues to join me in saluting Eagle Scout Michael Aiello, Andy Guglielmo, Chris Petteruti, and Louis Turchetta. In turn, we must duly recognize the Boy Scouts of America for establishing the Eagle Scout Award and the strenuous criteria its aspirants must meet. This program has through its 84 years honed and enhanced the leadership skills, and commitment to public service of many outstanding Americans, two dozen of whom now serve in the House.

It is my sincere belief that Michael Aiello, Andy Guglielmo, Chris Petteruti, and Louis Turchetta will continue their public service and in so doing will further distinguish themselves and consequently better their community. I join friends, colleagues, and family who this week salute them.

IN MEMORY OF ROBERT LEE "JET" JOHNSON

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1994

Mr. CLYBURN. Mr. Speaker, I rise today to honor the memory of Robert Lee "Jet" Johnson, who passed away on July 13, 1994.

Mr. Johnson was born February 3, 1936, in Donaldsville, GA, to Thelma Fennell Johnson and the late Leon Franklin Johnson. At an early age, he joined Mount Zion Baptist Church in Federal Point, FL, and later joined Williams Chapel A.M.E. Church in Orangeburg, SC.

Mr. Johnson began his career as a teacher and coach at Burke High School in Charleston, SC. He later worked at a number of high schools throughout South Carolina and Florida.

Mr. Johnson began his collegiate coaching career at South Carolina State University in 1973. His football tenure extended to 1984.

In addition to football, he served as the head coach of men's and women's track and field for 18 years and amassed a combined total of 24 conference championship titles, over 20 "Coach of the Year" honors, and many other accolades. One of his proudest accomplishments came in 1982 when he guided his team to a Division II national title.

In 1989, Mr. Johnson was inducted into the Benedict College Athletic Hall of Fame on his 53d birthday, in honor of his phenomenal collegiate football career. He also received an institutional resolution from South Carolina State University in 1990 recognizing him as the winningest coach in the history of the school's track and field program.

Mr. Johnson also served as instructor in the Department of Teacher Education at South Carolina State University for the past 2 years. He was a member of the Phi Beta Sigma fraternity and several professional organizations.

Those left to cherish fond memories of Robert "Jet" Johnson are his loving and devoted wife of 32 years, Minnie Murray Johnson; two sons, Robert Lee Johnson, Jr., of Odenton, MD, and Ralph Boyd Johnson III of Mobile, AL; and a daughter, Mrs. Janice Lewis of Hartford, CT.

Also surviving are his mother, Mrs. Thelma F. Johnson of East Palatka, FL; two sisters, Mrs. Deborah Ramsey of East Palatka and Mrs. Linda Morris of Orlando, FL.

Also left to cherish Mr. Johnson's memory are his mother-in-law, Mrs. Rosetta Murray of Orangeburg; a daughter-in-law, Mrs. Sharon Johnson of Odenton; a son-in-law, Mr. Berisford Lewis of Hartford; two grandsons, Shawn and Shamel Lewis, both of Hartford, and a number of extended family members and friends.

THE INTRODUCTION OF H. RES. 561, ON NORTHERN IRELAND

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1994

Mr. GILMAN. Mr. Speaker, I am pleased today on behalf of Mr. NEAL and myself to introduce a resolution on the current peace process in Northern Ireland.

Mr. NEAL, our distinguished colleague from Massachusetts, is to be complimented for his leadership and concern for peace and justice in Northern Ireland. I am pleased to be an original cosponsor of this measure before us, that reflects those deeply held concerns.

The recent developments on possible lasting peace and justice in that long troubled region, are very encouraging. The resolution before us recognizes that new reality. It contains several excellent recommendations on what more needs. to be done to foster lasting peace.

Accordingly, I urge my colleagues to support this timely resolution when it comes to the floor before we adjourn. It is essential that the United States continue to play a role in the search for peace. The resolution lays out some important and timely contributions which we, and the administration can, and must do to help foster lasting peace.

I ask that the following text of the resolution be printed in its entirety at this point in the RECORD:

H. RES. 561

Whereas Northern Ireland has for many years been driven by violence;

Whereas this cycle of violence and death has embittered and further separated the people of both great traditions on the island of Ireland, so that reconciliation between them has been made more difficult;

Whereas the Irish and British Governments have made joint efforts pursuant to the Anglo Irish Agreement of 1985 and 3-stranded talks between and among the constitutional parties of the north and the 2 governments to find political solutions to this situation that would win the support of the majority of the people of Ireland, North and South;

Whereas the 2 governments have made further efforts in the Downing Street Declaration of 1993 to establish principles under which such a political settlement could be negotiated among all the parties in Northern Ireland that renounce the use of violence;

Whereas, after a period of internal debate and consideration, the Irish Republican Army announced on August 31, 1994, a complete cessation of military operations and declared its willingness to participate in political talks with other parties in Northern Ireland and the 2 governments;

Whereas the Irish Republican Army has kept its pledge to end military operations since that time;

Whereas other loyalist and nationalist paramilitary organizations have not declared their intention to end the use of military operations and have in fact continued attacks;

Whereas the policy of the United States has consistently supported the end of military operations and provided strong diplomatic and material support for peace and reconciliation throughout the island of Ireland, and particularly through annual appropriations to the International Fund for Ireland;

Whereas the Congress of the United States has played a role of support for this Fund and for the efforts of the 2 governments and of courageous leaders of nonviolence from both traditions in Northern Ireland such as John Hume, whose inspiration and dogged determination helped convince the Irish Republican Army to lay down its arms;

Whereas the announcement of the Irish Republican Army ceasefire and the determination of the 2 governments to offer a framework for comprehensive political dialogue between all the political parties in Northern Ireland now offer a historic climate for genuine peace and reconciliation in all of Ireland; and

Whereas the International Fund for Ireland and the Overseas Private Investment Corporation at this critical moment can play a key role in building a public-private partnership in support of the peace process in Northern Ireland, such as through an Overseas Private Investment Corporation equity fund for the Republic of Ireland and Northern Ireland: Now, therefore, be it

Resolved, That the House of Representatives—

(1) commends the British and Irish Governments for the steps they have taken and are taking to encourage and facilitate all-party talks leading to a lasting political settlement acceptable to, and ratified by, the people of Ireland, north and south;

(2) urges the 2 governments to include all parties that renounce violence into such talks as soon as possible;

(3) hails the complete and permanent cessation of Irish Republican Army military operations as an essential step to such a settlement;

(4) calls upon all other paramilitary organizations in Northern Ireland similarly to cease the employment of violence;

(5) expresses strong support for United States economic development programs such as the International Fund for Ireland and the Overseas Private Investment Corporation that can contribute to a climate of economic development in which peace, reconciliation, and justice become achievable goals for all in Northern Ireland; and

(6) urges the President to take appropriate steps to support the peace process in Northern Ireland through such programs.

TRIBUTE TO DR. JERRY M. LINENGER

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1994

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to the first astronaut from the city of Eastpointe, MI, Dr. Jerry M. Linenger. Dr. Linenger is a native of Eastpointe, formerly East Detroit, which is also where I was raised.

Astronauts have captured the imagination of Americans since the first suborbital flights in 1961. Even though shuttle flights have become almost commonplace, the commitment, know-how, and work required to launch a shuttle remains truly impressive.

There are many of us who dream about what it would be like to travel in space. For those of us who still dream in Eastpointe, MI, Jerry Linenger has become a hero. For several days prior to the launch and during the mission of the space shuttle *Discovery*, the Macomb Daily, our local paper, ran front page stories on Dr. Linenger and his family, and how proud the community of Eastpointe is of his accomplishments. The city is planning a homecoming reception and dinner for its favorite son on October 17. The reception is titled "An Out of This World Experience" and it will provide everyone in attendance the opportunity to hear about his space experience first hand. Dr. Linenger is also being honored by serving as the grand marshall for East Detroit High School's homecoming parade.

Dr. Linenger exemplifies the imagery of a hometown boy who has made good. He has worked and studied hard and been rewarded for his efforts as an adult. Only a privileged and qualified few have had the opportunity to do what he has done. Without his faith in his abilities and his commitment to education, Dr. Linenger's dreams would have never been fulfilled.

Many children walk the same streets and attend the same schools that Jerry Linenger once did. He has made his dreams come true and become a role model for children everywhere, especially in Eastpointe. We are all proud of his accomplishments and are truly excited that he is coming home to Eastpointe, MI to share his experiences. Dr. Linenger, I salute you and your crewmates on the space shuttle *Discovery*. I ask my colleagues to join me in offering heartfelt congratulations and a warm welcome back to Earth.

IN MEMORY OF MARK HENSLEY

HON. HENRY BONILLA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1994

Mr. BONILLA. Mr. Speaker, I rise today to pay tribute to a young boy who unexpectedly passed away on Monday, September 19, 1994. Mark Hensley was only 10 years old 2 weeks ago when he came to visit our Nation's Capitol with his family. Sadly, Mark was killed as he crossed the street with his father outside of a relative's home in Annandale, VA.

I know the entire family had been extremely excited about their trip to Washington. Kathy Hensley, Mark's mother has home schooled her children and had gone to great lengths to prepare them for their visit. I know she had taught them all about the statues of the American heroes that grace Statuary Hall in the Capitol Building in anticipation of their tour of the city.

I would have met with the Hensley family here in my office. They would have done the things most families do when they visit the Capital City, like touring the monuments, visiting the Smithsonian, sitting in the House and Senate galleries, and walking down the Mall, simply enjoying all that Washington has to offer.

Their loss is one that all parents, siblings, and grandparents can feel. Mark was taken from his family at much too young of an age. I ask my colleagues to join with me in expressing our condolences to his parents, Steve and Kathy Hensley; sister, Janelle Hensley; grandparents, Col. and Mrs. Harold S. Hensley, Jr., of San Antonio, and Mr. and Mrs. George Whiting, of Decatur, GA; aunt and uncle, Mr. and Mrs. Douglas Greene, of Americus, GA; great aunt and uncle, Mr. and Mrs. James S. Nash, of Annandale, VA and cousin, Carolyn Mucciaro, of Annandale, VA.

HOMAGE TO DONA FELISA RINCON DE GAUTIER

HON. NYDIA M. VELAZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1994

Ms. VELÁZQUEZ. Mr. Speaker, today I join the Puerto Rican community in both New York and Puerto Rico to pay tribute to one of the most influential persons in the history of Puerto Rican politics and politics in this hemisphere. I am referring to the late Doña Felisa Rincón de Gautier. Doña Fela, as she was affectionately know to her fellow Puerto Ricans, left behind the legacy of a woman embodying the greatness of a people. Her life was that of a leader, a fighter, and a visionary—and she will be fondly remembered by all who loved and admired her.

A trendsetter and tireless leader Doña Fela was among the first in line when women were given the right to vote, and soon became a driving force in the creation of a Puerto Rican presence within the United States' political scene. In 1932 this "Woman of the Americas" became the first of her gender in the Western Hemisphere to be elected mayor of one of the largest cities in America: San Juan, P.R. In the subsequent years, she led the way in a campaign to both aid and empower the island's indigent and impoverished communities, showing, as she did in all of her life's efforts that she truly cared for the needy of her homeland.

Throughout her 22 years as mayor of San Juan, she fought tirelessly for better educational, health, and childcare programs. In 1949, she created the first preschool child care center in San Juan, and by the time she left office, there were 20 such centers in existence. In fact, it is reported that President Kennedy's administration used this model to create the Head Start Program. Doña Fela was also instrumental in the creation of Puerto Rico's public health care system, nearly 40 years before the United States began its discussion on health care reform. In addition to this, and as evidence of her dedication and foresight, she was a strong advocate of environmental concerns many years before the U.S. Government's agenda focused on such issues.

Through her life-long commitment to public service and humanitarian causes, Doña Felisa Rincón de Gautier enhanced our Nation's historical commitment to democracy. Last week, when thousands of Puerto Ricans lined the streets of Old San Juan and paid final tribute to one of their greatest heroes, tossing flowers at the long funeral procession as it wound its way through the picturesque streets of the capital city and found Doña Fela's final resting place at the Rico Piedras Municipal Cemetery—they honored one of Borinquen's greatest daughters. Their every tear thanked Felisa Rincón de Gautier, for all her love and dedication, they thanked her for her life's work for a people and a land that will always cherish her ideals—and will never forget her.

Mr. Speaker, as a Puertorriqueña, I am honored to pay final homage to Doña Felisa Rincón de Gautier, a woman whose commitment transcended all social and economic boundaries. Puerto Rico has truly lost a political giant, one of its greatest champion has been called away, but her legacy will prevail for all future generations. And so today, it seems fitting, that from this chamber we remember Doña Fela—that we join our voice to that of the millions whose life this remarkable woman has touched, and with our hearts bid this leader and fighter a final farewell, and say: "Gracias Doña Fela—nunca te olvidaremos!"

TRIBUTE TO DAVID PEDROSO

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1994

Mr. REED. Mr. Speaker, I rise today to salute a distinguished young man from Rhode Island who has attained the rank of Eagle Scout in the Boy Scouts of America. He is David Pedroso of Troop 22 in Johnston, RI, and he is honored this week for his noteworthy achievement.

Not every young American who joins the Boy Scouts earns the prestigious Eagle Scout Award. In fact, only 2.5 percent of all Boy Scouts do. To earn the award, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. He must earn 21 merit badges, 11 of which are required from areas such as Citizenship in the Community, Citizenship in the Nation, Citizenship in the World, Safety, Environmental Science, and First Aid.

As he progresses through the Boy Scout ranks, a scout must demonstrate participation in increasingly more responsible service projects. He must also demonstrate leadership skills by holding one or more specific youth leadership positions in his patrol and/or troop. This young man has distinguished himself in accordance with these criteria.

For his Eagle Scout project, David cleared the East Greenwich Fire Department training field of debris and litter.

Mr. Speaker, I ask you and my colleagues to join me in saluting Eagle Scout David Pedroso. In turn, we must duly recognize the Boy Scouts of America for establishing the Eagle Scout Award and the strenuous criteria its aspirants must meet. This program has through its 84 years honed and enhanced the leadership skills and commitment to public service of many outstanding Americans, two dozen of whom now serve in the House.

It is my sincere belief that David Pedroso will continue his public service and in so doing will further distinguished himself and consequently better his community. I join friends, colleagues, and family who this week salute him.

PS 6 CELEBRATES 100 YEAR BIRTHDAY

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1994

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues the accomplishments of PS 6, an outstanding elementary school in my district which will be celebrating its centennial during the 1994–95 academic year. The celebration begins with an inaugural event on October 6, 1994, where a time capsule will be unearthed and a new capsule will be buried. On this day, PS 6 will unveil its plan for incorporating information and telecommunications technology into their educational process.

Founded in 1894, PS 6 was named in honor of Lillie Deveraux Blake, a noted author, lecturer, pioneer, and suffragette leader. As a magnet school, PS 6 has for years drawn students from throughout the area to bring a rich diversity of students with differing ethnic, cultural, social, and economic backgrounds. PS 6 has also served both as a model school for other public schools and as a visitor site for area teachers and administrators.

PS 6 is known for its magnificent educational accomplishments. Students consistently rank in the top 5 percent in reading and mathematics across all grades, and the school has been ranked as one of the 10 best elementary schools in New York City. With the continuing commitment and dedication of its parents and teachers, I am confident that PS 6 will continue its fine record of achievement for another 100 years.

PS 6 is on the cutting edge of technology and education. Not only will the school celebrate its past accomplishments during this centennial year, but it is also planning for the future by launching an initiative in the areas of telecommunications and computer networking. PS 6 has recognized the importance and implications for education that these technologies represent. High technologies have the potential to transform educational teaching methods by expanding access to information and by empowering students to learn at their own pace, using their own unique learning styles. By incorporating technology into all aspects of curriculum, learning and teaching will become revolutionized and will prepare students for the 21st century.

Mr. Speaker, the hope of this Nation rests in the hands of caring parents and teachers such as the ones that are involved with PS 6. That's why I hope my colleagues will join me in congratulating the school on its 100th anniversary, honoring its century of achievements, and wishing them success for the next 100 years.

NEW YORK URBAN LEAGUE "HALL OF HONOR" RECIPIENT

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1994

Mr. SERRANO. Mr. Speaker, I rise to pay tribute to Bronx Country District Attorney Robert T. Johnson and his staff, who are being honored this Thursday with the First Annual New York Urban League Hall of Honor award.

Robert Johnson was born and has spent his entire adult life in the Bronx. His first job out of New York University Law School was as a criminal defense attorney with the Legal Aid Society. He subsequently became a Bronx County Assistant District Attorney, where he served as Deputy Chief of the Major Offense Bureau and as Chief of the Narcotics Bureau.

After 8 years as a Bronx Assistant District Attorney, Mr. Johnson was appointed a Judge of the New York City Criminal Court, and was later elevated to the position of Acting Justice of the New York State Supreme Court.

Robert T. Johnson was first elected Bronx County District Attorney in November, 1988, and was reelected in 1991. During this time he and his office have brought about an increase in jail sentences for those who sell drugs near schools or illegally carry loaded handguns. At the same time, a drug abuse prevention program cosponsored by his office was designated one of President Bush's "Thousand Points of Light" in 1991.

As a member of the New York City Mayor's Task Force on Child Abuse Prevention and as a Member of the Boards of Directors of Family Support Systems Unlimited and the Bronx Urban League, Robert Johnson is making important extracurricular contributions to the social welfare of his community. And as an executive committee member and former president of the New York State District Attorney's Association, a Member of the New York State Arson Board, and a Member of the Criminal Justice Executive Committee of the New York State Bar Association, he is making important contributions to the cause of justice throughout New York State.

Mr. Speaker, I ask my colleagues to join me in thanking Bronx District Attorney Robert T. Johnson for the public spirited efforts that have earned him admittance to the New York Urban League "Hall of Honor."

HONORING EAST SIDE PEACE ACTION

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1994

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues the great achievements of the East Side, NY Peace Action Committee, an outstanding organization in my district which has worked for 36 years on world peace and nuclear disarmament issues.

The East Side Peace Action Committee originated as part of the Committee for a Sane Nuclear Policy in 1958, at a time when Americans first felt fear over the threat of nuclear war. Early on, the members of the East Side chapter recognized the dangers of stockpiling nuclear weapons of mass destruction and banded together to work on ending MAD—mutually assured destruction as a national defense strategy. Participants have included such luminaries as Eleanor Roosevelt, Dr. Benjamin Spock, Senator Wayne Morse, and many others. It was only decades later that the East Side chapter saw the fruit of their efforts, an end to the immanent threat of nuclear annihilation.

However, the one man most responsible for the success and efforts of the East Side Chapter is Mr. Alex Smith, a long time resident of the 14th congressional district. Alex Smith has headed the East Side Chapter and served our community since 1958. He is a remarkable leader and organizer and has received widespread recognition for his work on peace issues and for the eradication of nuclear weapons. His labor and struggle has truly made our world a little safer especially now that the chance of having nuclear war has greatly diminished.

The East Side Peace Action Committee is continuing its legacy by taking the lead in nuclear disarmament. With 500 local supporters, they have helped push for a worldwide comprehensive test ban treaty. This treaty would include China, the only nation actively testing nuclear devices. The committee was also helpful in finally convincing President Bill Clinton to order a moratorium on nuclear testing, and hopefully, by the 50th anniversary of the United Nations in 1995, the United States will support a world ban on all nuclear testing.

The organization is also interested in reorienting our Federal spending priorities from defense toward addressing today's difficult domestic problems. I join with the East Side Peace Action Committee in support of reinvesting in our children and our communities. The "peace dividend" that we worked so hard to obtain is desperately needed for improved education for our children, increased job training for our workers, sufficient health care for our sick, improved infrastructure for our communities, and greater protection for our environment.

Mr. Speaker, earlier this year, Air Force Gen. Charles Horner, the man responsible for defending the U.S. from nuclear attack, stated that the country should destroy its nuclear weapons. In his own words, General Horner said, "the nuclear weapon is obsolete," and "I want to get rid of them all." I hope the day will come when we do not have any more nuclear weapons, and I hope my colleagues will join me in honoring the East Side Peace Action Committee, and their noble efforts toward world peace.

AMERICAN TAXPAYERS WILL BE THE BIG LOSERS

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1994

Mr. STUMP. Mr. Speaker, on September 9, 1994, the United States entered into an agreement with Cuba that will have a devastating impact on our already distressed immigration situation.

In exchange for the Cuban Government deterring its people from setting off for Florida, the United States has agreed to accept a minimum of 20,000 Cubans per year. Under the agreement, the Attorney General will use her parole powers to loosen immigration rules, bend immigration laws and expand the definition of who is eligible to immigrate. Clearly, this is an unlawful exercise of authority under the Immigration and Nationality Act.

The accord ensures that the United States will accept at least 20,000 Cubans yearly, plus about 6,000 more from a backlog of Cubans who are waiting to receive visas that have been approved. Many of the Cubans who will be admitted under the agreement have dubious refugee status, and approximately 9,000 to 10,000 per year would benefit from the parole program even though they might not otherwise qualify under existing immigration programs.

In addition, the administration's agreement fails to adequately address the 27,000 Cubans currently held in detention at Guantanamo Bay and Panama. According to the Attorney General, they will not be paroled into the United States. They can either remain indefinitely at the refugee camps or return to Cuba. Given that hostilities have already surfaced at the camps and the operation is costing taxpayers dearly, it is just a matter of time before this situation will have to be revisited by U.S. officials.

Once again, the American taxpayers will be the big losers under the Administration's weak immigration policies. Although the agreement is being touted as a triumph in border control, it's actually sanctioning a heavy influx of poor immigrants, who will strain our hospitals, schools, judicial systems and social programs.

The agreement marks the first time the United States has ever guaranteed any nation that it would take a minimum number of immigrants in exchange for efforts to cut a flow of illegals to the United States.

In an effort to prevent the administration from setting this dangerous precedent, I am introducing the Emergency Immigration Parole Correction Act of 1994. The legislation would amend the Attorney General's parole authority to prohibit her from carrying out the agreement. Furthermore, any Cubans paroled into the country under the agreement would be barred from adjusting to permanent resident status, as provided from under the Cuban Adjustment Act.

Finally, in view of the administration's tendency to waiver on immigration policies, the bill takes steps to thwart any attempt by the Attorney General to extend the parole agreement to those Cubans now in confinement at the refugee camps.

I strongly urge my colleagues to cosponsor this much-needed legislation.

TRIBUTE HONORING LUTTERBEIN LUMBER CO. ON THE OCCASION OF THEIR 70TH ANNIVERSARY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1994

Mr. GILLMOR. Mr. Speaker, it gives me great pleasure to rise today and pay tribute to an outstanding company located in Ohio's Fifth Congressional District. During the week of October 3 thru 9, Lutterbein Lumber Co. of Edgerton, OH, will celebrate its 70th anniversary.

B.H. and Alma Lutterbein purchased what has become known as Lutterbein Lumber Co. in 1924. At that time the business consisted of manufacturing concrete blocks and burial vaults. For Mr. Lutterbein, the business seemed like a good summer and part-time job to go along with his job as superintendent of Edgerton School.

Following World War II, Lutterbein played a large part in the construction boom enveloping northwest Ohio, including building many homes in Toledo itself. Since that time, it has continued to grow. In 1968, the company build a new warehouse to better store and handle many kinds of building supplies. In 1979, a new division was added in Columbus, OH, and in 1980 a new store was constructed replacing the oldest portion of the original store on North Michigan Avenue.

The company moved into new territory in 1993 as Lutterbein undertook the construction of a home in Utsunomiya, Japan. All phases of the two-story home were completed and produced in Ohio, then shipped to Japan where a Lutterbein crew combined efforts with Japanese workmen to build the house on-site.

Mr. Speaker, milestones such as Lutterbein's 70th anniversary are an important part of recognizing our Nation's progress and growth. The dedication and commitment shown by America's family owned businesses are the cornerstone for our country's economy. I ask my colleagues to join me today in congratulating Lutterbein Lumber Co.'s staff and management on their efforts and encourage them to keep up the hard work which has earned them the reputation for quality in northwest Ohio.

VOLUNTEER LAWYERS FOR THE ARTS HONORED FOR 25 YEARS OF COMMUNITY SERVICE

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1994

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues the accomplishments of an organization in my district which has served the arts community for 25 years. I speak, of course, of the Volunteer Lawyers for the Arts (VLA) which will commemorate 25 years of providing free legal services to the New York arts community on November 7, 1994, and as such, they have proclaimed this day as "Volunteer Lawyers for the Arts Day."

The Volunteer Lawyers for the Arts has a long record of achievements in helping out the arts community. They have served low income artists and arts organizations through free arts-related guidance and representation. They have helped artists avoid legal entanglements through educational programs, publications, legal seminars and workshops. They have even provided leadership and vision for arts organizations in the push for full Federal funding of the National Endowment for the Arts.

Altogether, the Volunteer Lawyers for the Arts assists over 8000 individuals each year by drawing upon the pro bono services of more than 800 attorneys in the New York metropolitan area. Many of these artists would likely go out of business with out the VLA's contributions and assistance. The VLA also reaches many underserved populations including artists with HIV/AIDS and Latino artists through special initiatives like The Artist Legacy Project and the Hispanic Arts Legal Assistance Project.

Mr. Speaker. I cannot understate the importance of the arts to our city and our country, and that's why I believe that the Volunteer Lawyers for the Arts role is vitally important. In these days of dwindling financial contributions, I look upon the VLA with hopefulness. I hope all of my colleagues will join me in honoring the great contributions that the VLA has given us.

"REPAYMENT OF DEBT"

HON. H. MARTIN LANCASTER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1994

Mr. LANCASTER. Mr. Speaker, I would like to include in the CONGRESSIONAL RECORD, a tribute to a truly remarkable educator, religious leader, and builder: Dr. W. Burkette Raper, president for 40 years of Mount Olive College, Mount Olive, NC, upon his retirement.

"Repayment of Debt:" Notes on the 40th Anniversary of W. Burkette Raper, President of Mount Olive College

W. Burkette Raper began his end-of-the-year luncheon address to the faculty and staff of Mount Olive College in May, 1994, with telling humor. Since most members of the audience would be relieved of duty for the summer, President Raper compared himself to the teacher whose class comes last on the last day of school. He'd make this brief, he promised.

What followed represented a historic moment in the life of the college. Raper announced that he would retire from the office of president, effective with the naming of his successor by the college's board of trustees. His announcement explained the move, that it was wiser to prepare and plan for the change than to be unprepared for change later. When he finished, Raper appeared to have shaken a long-weighty burden from his shoulders. He looked relieved.

The announcement marked an end to a forty-year presidency that began with the opening of Mount Olive College in Mount Olive in 1954.

Assuming the post at age 26, Raper was the youngest college president in the state and the Nation. Currently he is America's longest-tenured active college president.

Raper accepted the presidency, he told faculty, because he deeply believed the value of Christian education to be inestimable to the individual, church and society.

"I also came because I wanted people with the vision of a good life and desire to serve humanity to have the opportunity of an education regardless of their financial circumstances."

Raper said he considered his work in building the college the repayment of "a debt I owed to my church and to humanity." The debt was for his eight years of care at the Free Will Baptist Children's Home in Middlesex and for the opportunity of an education at Duke University and Duke Divinity School.

The oldest of four children of Mr. and Mrs. William Cecil Raper, Wilson County tenant farmers, Raper was born in 1927 in an old school building converted to a farm dwelling near Black Creek. When his father died of pneumonia in 1936, Burkette, his brother James Earl and his sister Mary Lou were admitted to the Free Will Baptist Children's Home in Middlesex and the youngest child, Catherine, went to live with their grandmother, Mrs. Maggie Davis Langston of Goldsboro.

During his senior year at Middlesex High School, Raper played first base and was captain of the baseball team. He dreamed of becoming a professional baseball player, but by graduation he had answered a call to the Christian ministry.

Raper earned bachelor of arts and bachelor of divinity degrees at Duke, working in the cafeteria for his meals. He used income from preaching on weekends to buy clothes and books and to pay room rent and student fees. While at Duke, he was ordained a minister and began a pastorate at Oak Grove Free Will Baptist Church near Newton Grove.

In July 1954, Raper was the young pastor of Hull Road Free Will Baptist Church in the Greene County community of Arba. He was a smart and polished speaker, popular among the congregation and in the community. His abundant energy was contagious. The church's first full-time pastor, he was a new parsonage built and the church rolls swell by some 75 new members.

On a hot afternoon that month, Raper was visited by the Reverend David W. Hansley. Hansley was chairman of the board of trustees of the denomination's fledgling college, which had recently purchase an abandoned elementary school building with the view of beginning classes in September. The Revenered James A. Evans, former superintendent of the Free Will Baptist Children's Home where Raper had lived for eight years, had recently become the college's first full-time employee: Public relations director.

Meanwhile, the college needed a president—someone to spearhead the church's effort and, more importantly, lead the church toward emphasis on educating its people. Hansley asked Raper to take the presidency. The board has convened and discussed the offer, Hansley said. In the board's estimation, Raper possessed the desired personal qualities and educational qualifications.

Two weeks later, after much prayer, Raper accepted Hansley's offer.

"The scene my wife and I saw as we walked through the building is still vivid in my mind," Raper wrote of his impressions at the time, "fallen plaster, sagging floors, debris everywhere, cracked blackboards, broken windows, evidence of a leaking roof, the old table in the 'soup kitchen,' an empty boiler room and unkept grounds."

In those early years of struggle, Raper's job was an amalgam of chores, some less than presidential. He served as business manager, teacher, dean, registrar, assistant to the janitor, publicity director, chaplain and chief fund raiser.

In addition, he spoke to high school audiences, churches, civic groups and colleges on tours through Tennessee, Florida, Alabama, South Carolina, Virginia, and West Virginia.

"If I had fully known all the problems, difficulties and responsibilities involved in organizing and administrating a new college," he said in 1964, ten years after accepting its leadership, "I doubt that I could have accepted this work. But now that both the college and I have survived, I would not take anything for the experience.

"Except that he graduated from Duke, he was about what one might expect to head a 'Bible school,'—a young country preacher willing to take the vows of poverty and work hard for what he envisioned as a high calling," recalled Eugene Price, longtime editor of the Goldsboro New-Argus. Price wrote that when it was announced that the college would open, he was among "the silently unimpressed."

But during a tour of the dilapidated downtown campus building, Raper articulated his vision for the college to Price.

These were not wool-gathering dreams of naivete," Price recalled. "They were, in fact, more than dreams. Here was a man who had planned his work and was working his plan—and as we made our way through the drab halls and cracked-wall classrooms, I knew the plan would work."He made believers of us all," Price said.

"We had to have vision, "wrote Blanche Hargrove Jarrett, Raper's first secretary. "We had little else to go on. the salary wasn't great enough to entice anyone, and the physical plant certainly wasn't a showcase, so a vision is what we worked with."

"When you walk into an office with one file cabinet, one typewriter and furniture the Dr. Raper described as one notch above orange crates,' and someone tells you this is the beginning of a college, you work with a vision," Jarrett said.

At the end of the first year, Raper wrote in The Free Will Baptist magazine, "The work has been hard, the hours long, the problems numerous, but in the midst of it all, God has been with us. What was a dream one year ago is now a living reality in the lives of dozens of young men and women.

"I came (to the college) because I thought God wanted me here. I am now fully convinced that here is where God would have me serve Him. Every man must choose how he will spend his life, and I am thankful for God's guiding hand.

"The thing that has done a great deal to encourage us this year has been the feeling that we were fighting for the very survival of the Free Will Baptist denomination. I do not believe that we can long continue without Christian colleges.

"Now that school is out, there is still no time for relaxation. We need to make further improvements in our building. Financially, the college is broke, but our faculty left paid."

Challenges threatened to derail the college's progress, however. Covert opposition by some alumni of the Free Will Baptist Bible College in Nashville, Tennessee, became vocal and aggressive. Further, an apathy among Free Will Baptists toward education and the question of the denomination's supply of leadership and resources cast shadows on the college's future.

In March, 1956, Raper's schedule of teaching, fund raising and administrative tasks was interrupted when he suffered a heart attack. At age 28, he was incapacitated for the remainder of the academic year.

"It changed my life and my whole mode of work," Raper said. He learned "instead of doing your work through sheer physical force, you do it through leadership and long-range planning."

Steps in the college's progress became a constant struggle with a fundamentalist group that sought to steer Free Will Baptists toward becoming a narrow sect. Financial support from non-Free Will Baptist sources was questioned, as was Raper's promotion of a liberal arts, rather than a Bible-college, curriculum.

Animosity toward the college and Raper was openly manifested from 1958–62. One pastor published tracts describing "questionable "standards of Christian character" he claimed were espoused at the college. Another pastor, an alumnus of the Nashville institution, wrote to Raper, "your philosophy * * * produces what is called the thinking mind and I believe in Indoctrination which produced what is called the indoctrinated mind. I have already told my folks what I think about Christian education and I do not want any confusion among my members. I have enough confusion of other natures."

Raper answered, "As we vindicate ourselves, our critics will become fewer, but more vocal. We shall be guided by truth, not sound and fury."

He continued his own education, earning a master's degree in higher education from Florida State University. In 1960, Barton (then Atlantic Christian) College conferred upon him an honorary doctor of laws degree for his outstanding leadership in Christian high education.

Also in 1960, the college won accreditation by the Southern Association of Colleges and Schools, in December. Six months later, Gov. Terry Sanford appeared on the campus and praised Raper and college's success.

"It is a tribute to President Raper and members of the faculty," he said. Sanford noted that with accreditation the college had won "also the commendation of all of us interested in providing better education opportunities for our sons and daughters."

In 1962, the North Carolina Convention of Original Free Will Baptists, which sponsors Mount Olive College, voted to secede from the National Association of Free Will Baptists, the sponsor of the Free Will Baptist Bible College in Nashville. Severing ties to the national body, the state convention and Burkette Raper began moving their liberal arts college in a new uncharted direction.

Construction of several facilities was initiated in the 1960's and '70's on a new, 110-acre site located one mile from the original downtown campus. A classroom building was built, followed by men's and women's residence halls, a library, a chapel and a student center.

In 1975, Raper summarized his work and the college's progress in its first two decades with a quote from Oliver Wendell Holmes. "I find the great thing in this world is not so much where we stand, as in what direction we are moving. We must sail sometimes with the winds and sometimes against it, but we must sail—not drift, nor lie at anchor."

The state convention agreed, and in 1977 it instructed Raper to begin developing a four-year collegiate program. It was like beginning all over again, he said.

The task of converting Mount Olive from a junior to a senior college would require "as much time and energy as did the establishing of the college," he explained in 1984 when the first junior class was registered. "It is an awesome responsibility."

Raper led an institutional self-study and development of new degree programs. While faculty members pursued advanced degrees, additional faculty were brought to the college. Computer labs were equipped and most administrative areas of the institution became computerized. College Hall, a $3.5 million athletic and convention center, was opened in 1984 and two apartment complexes were built to accommodate upperclassmen.

In 1993, Raper presided at a dinner that marked the closing of the downtown campus building, the building that at one time housed all of Mount Oliver College—student dormitory rooms, classrooms and faculty and administration offices. The closing of the building coincided with the opening of the new Lois K. Murphy Regional Center, a spacious student center and cafeteria on the main campus.

In an editorial on Raper's retirement, Eugene Price of the Goldsboro News-Argus wrote the "the showcase campus" has, in many respects, "become the cultural center of this part of the state and a forum for discussion and ideas on the future of our area and its people.

"Of even greater significance, it has graduates throughout the world * * * whose lives have been enriched by what they experienced at Mount Olive College. That, after all, is what an institution for higher education should be about."

Today, Raper is respected as a modern pioneer whose 40 years of steadfast work and vision resulted in a burgeoning liberal arts college. When visiting the campus recently, Governor Jim Hunt noted that his admiration of Raper began more than three decades ago when his father, James B. Hunt Sr., became a college trustee.

"Burkette Raper has built an academic college whose priorities are honest and objective education with a social environment where students are taught love and caring for each other and their fellow man," Hunt said.

"When I have been in this man's presence, I have said time and time again he could have been the head of any college or university in our state. Conversely, he could have risen to the highest heights as a businessman, making several hundred thousand dollars a year."

"I rejoice that this man has come along at this time in history and been such a great force in the area that has been my home," Hunt said.

Others who have been a part of Raper's work and the college's growth call him an American original, applying the principles of the American dream to the building of a college.

"The full story of Mount Olive College could not be told without recounting the part which hundreds of persons have played as contributors, trustees, administrators, staff and students," said Dr. Michael Pelt, chairman of the college's Department of Religion from 1957 to 1994.

"But without leadership to inspire and to give a sense of direction to all that effort, the college would not have been able to serve the needs and purposes of the church which founded it, nor the region where it is located," Pelt said. "Dr. Raper has provided that kind of leadership."

"In doing so, he risked his professional standing and his health, and he faced the potential of personal and professional failure," added Jimmy Williams, longtime leader in Wayne County education and Mount Olive College vice president for development from 1984 to 1993. "He has earned the respect of the denomination, the people of the state of North Carolina and the entire community of higher education."

"Mount Olive College is a miracle which never would have happened had it not been for the unsurpassed focus and intensity of Burkette Raper," Gene Price said.

"The foundation he built, the ongoing momentum the college now enjoys—and the continuing presence of Dr. Raper as a valuable resource person for the next president—bode well for the future of this truly remarkable institution."

Raper's relationship with the college will not end with his retirement from office. At the request of the college's board of trustees, he has accepted the title of president emeritus. When his successor has been named, Raper will continue his service to the college with a focus on major gifts, special projects and building of an endowment.

Concluding his announcement to faculty and staff, Raper said that instead of making an ending, his retirement opens passage into a new frontier for the college. It has never inaugurated a president, he noted.

Raper smiled when he read a quote from the well-known "Desiderata" test: "Take kindly the counsel of the years, gracefully surrendering the things of youth."

"We pause only long enough to check our moorings," he said, "before we pick up the gauntlet and gird ourselves for the next phase of our journey."

SUPPORT FOR PAKISTAN

HON. CHARLES WILSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1994

Mr. WILSON. Mr. Speaker, a terrible conflict persists in Kashmir, a primarily Moslem State in India. The struggle in Kashmir has endured since almost 1947, between Pakistan and India. While Pakistan has been admonished for resorting to terrorist crimes, India, once thought of as a peaceful nation, is also resorting to some of these horrible acts.

I commend the following article, an editorial from the New York Times, September 6, 1994, edition. I submit this article for my colleagues.

INDIA'S DIRTY LITTLE WAR

A relentless, deadly struggle goes on and on in India's mainly Muslim state of Kashmir, where New Delhi is trying to crush forces seeking independence or union with Pakistan. The violence comes from both sides, but India's obdurate insistence on resolving a political problem by force has increasingly enmeshed it in a campaign of lawless state terrorism. The ugly results are documented in a new study by Human Rights Watch/Asia.

Regrettably, Washington, instead of raising its voice to defend human rights, has lowered it in an effort to improve commercial and diplomatic ties. The U.S. may have little power to deter India from repression. But the Clinton Administration should assert American disapproval more forthrightly.

Kashmir's political status has been disputed almost since the subcontinent was partitioned in 1947. A local Muslim uprising drew armed support from Pakistan. The Hindu maharajah then called in Indian troops who recaptured most of his lost territory. The two countries have confronted each other over tense cease-fire lines ever since. Meanwhile, on the Indian side, a promised plebiscite was never held and the state was formally incorporated into India in 1954. Separatist agitation continued on and off, flaring again into open conflict in 1989.

Some pro-Pakistani militant groups have resorted to terrorist deeds like kidnapping, assassination and extortion and even to common crime. No political grievance can justify such acts.

But Human Rights Watch/Asia reports that Indian forces, which are obliged to follow higher standards, have also resorted to reprisal killings and burning down villages. They are also said to be executing many suspects without trial; 200 in the first half of this year and 50 in one month alone, according to local human rights groups. There are also many reports of torture and "disappearances," two other common features of state terrorism.

India insists it has prosecuted some responsible for these crimes, but has offered no information about such prosecutions. The State Department, in its latest annual human rights report, said "there was little evidence that the responsible officials received appropriate punishment."

Until this year, American officials were equally candid in their public statements. But more recently, after New Delhi warned that continued human rights criticism could damage relations, the Clinton Administration has gone silent on the subject. Meanwhile, India has aggressively courted help from the likes of China and Iran to block condemnation by the U.N. Human Rights Commission.

The Administration needs to find a firm and consistent voice on human rights, whether in powerful countries like India and China or puny ones like Haiti and Cuba. Selective denunciations carry no moral authority. Criticizing the weak but not the strong is bullying, not leadership.

Meanwhile India, which captured the world's moral imagination with Gandhi's nonviolent struggle for independence, is now in the unflattering company of countries that use deadly force to keep their unhappy citizens in line.

HONORING NEW YORK CITY'S AUXILIARY EMERGENCY SERVICE UNIT

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1994

Mrs. MALONEY. Mr. Speaker, I rise today to honor the men and women who risk their lives every day as volunteers in New York City's Auxiliary Emergency Service Unit. The AESU was created in 1950 as a result of Federal mandates for the development of civil preparedness in case of natural or man-made disasters. The AESU is comprised of men and women in New York City who voluntarily offer their services in the face of enormous dangers. It has proved to be an invaluable organization in aiding and assisting New York City's Police and Fire Departments in times of crisis.

Many courageous men and women of New York City's AESU Program have sacrificed their time and risked their lives to protect others. The Auxiliary Emergency Service Unit is always on call and readily available to mobilize for emergencies such as automobile accidents, power failures, and searches for missing persons. Although the AESU is a volunteer organization, its members are by no means under-qualified or inexperienced. Many AESU members are certified emergency technicians and paramedics who are trained to perform life saving maneuvers in the event of disasters. Moreover, many of the AESU's members have served on the force of an upwards of 30 years.

Mr. Speaker, I not only rise today to offer my gratitude and appreciation for the services performed by the AESU, but to urge Congress to keep funding alive for the program. In the past 2 years, New York City has lost two AESU groups and stands to lose more if money is not appropriated to help adequately supply the remaining AESU groups. As a fellow New York City resident, I have witnessed firsthand the heroics of the AESU and its members. It is imperative in order to ensure the safety of all New York City residents that the Auxiliary Emergency Service program be maintained.

TRIBUTE TO FIFTH ANNUAL FATHER ROGER GIGLIO DINNER HONOREES

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1994

Mr. SERRANO. Mr. Speaker, I rise to pay tribute to Justice Fréd W. Eggert, Mr. Richard Heitler, Ms. Nina Laboy, Ms. Carolyn Spain, and Mr. and Mrs. Chang Hyun Woo, who will be honored this Friday October 7 at the fifth annual Father Roger Giglio Dinner held by the St. Benedict the Moor community-based AIDS and Drug rehabilitation program in the Bronx.

Justice Eggert, who retired this year, has been a lifelong resident of the Bronx. As a decorated veteran of World War II, he returned to the Bronx to attend Fordham College and Fordham Law School. Upon admission to the bar he commenced a 26-year career as a lawyer, during which time he served as an assistant district attorney and, for 9 years, as a member of the New York State assembly. He was elected a Bronx County civil court judge in 1974, and went on to serve on the supreme court for Bronx County for 18 years.

Richard Heitler is assistant commissioner for property management of the New York City Department of Housing Preservation and Development. During his 7 years in this position Mr. Heiter has gained a reputation for being one of the most caring, knowledgeable, and responsive members of the city government. Charged with the management of some 30,000 apartments taken over by the city for non-payment of taxes Mr. Heitler is effectively the landlord for some of New York's poorest, most vulnerable residents. He is highly regarded for having improved housing conditions and for having professionalized the operation of the property management office.

Carolyn Love Spain's story is one of determination and perseverance. Having married in 1960 and reared three children, she returned to school in 1979 to earn her high school equivalency diploma, which she received the following year. Her college studies were interrupted by the birth of a fourth child in 1981, but she returned to the College of New Rochelle in 1985 and received her bachelor of arts degree in May 1989. From 1984 through 1993 Carolyn Love Spain was an educational volunteer in a number of different capacities: at Milbrook Head Start, as a literacy tutor at Mott Haven Library, at an after school program at St. Peter's Church, and in the Parent Associations of Public School 40 and Intermediate School 139. In January of this year she turned professional, beginning work as a substitute teacher at Intermediate School 139.

Mr. and Mrs. Chang Hyun Woo immigrated to the South Bronx from Korea in 1987. After working together only a short time in a local fruit store, that same year they made their immigrant's dream come true by opening the OK Fruit Market. Throughout the 7 years they have lived there Mr. and Mrs. Woo have been very active members of the South Bronx community.

Last, but certainly not least, Nina Laboy has been one of New York City's most valuable community activists for more than 15 years. A founding member of the National Congress for Puerto Rican Rights, she chairs and has served as director of a Better Bronx for Youth. She is currently the director of the voter participation project of the Community Service Society, and is the driving force behind the South Bronx Clean Air Coalition, a nationally recognized environmental justice organization. From youth empowerment to community planning, and from AIDS services to homeless assistance, Nina Laboy works tirelessly to address the wide range of difficult problems faced by our disadvantaged communities.

Mr. Speaker, this year's honorees pay great tribute to the memory of Father Roger Giglio, whose own life was a shining example of community service. I ask my colleagues to join me and the St. Benedict the Moor community treatment center in saluting their past and ongoing efforts.

INTERIOR SECRETARY SHOULD WITHDRAW PUBLIC DOMAIN FROM MINING LAW OF 1872

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1994

Mr. RAHALL. Mr. Speaker, today I call upon the Secretary of the Interior to utilize his administrative authority to withdraw the public domain from the further location of mining claims under the Mining Law of 1872.

This action is necessary in light of the hardrock mining industry's blatant refusal to come to terms with any type of legislation, no matter how reasonable, to reform the Mining Law of 1872.

After months of negotiation, yesterday the House-Senate conference committee on the reform bill collapsed after it became crystal clear that the hardrock mining industry would seek to defeat in the other body even an extremely moderate version of the reform bill.

This House, by a 3-to-1 bipartisan margin, has passed a comprehensive reform bill.

In conference, we were willing to consider a severely scaled-back version of this legislation in an effort to meet the demands of certain western interests.

Yet, in the final analysis, the hardrock mining industry, guided by greed and guile, did not want a bill of any kind.

It is fortunate that the Congress has recently imposed a 1-year moratorium on the Interior Department to prevent it from processing new mining claim patent applications.

This action should be followed through by an administrative withdrawal of the public domain from the location of further mining claims. This, the Interior Secretary must do, and do so now.

Moreover, next Congress I anticipate there will be a full-court press to gain needed reforms. We will use every legislative vehicle, employ every means, and open up any number of fronts in this endeavor.

For ultimately, I remain convinced that the public interest, and not the corporate interest of a few, will be served.

RECOGNIZING THE CONTRIBUTIONS OF THE POLISH ARMED FORCES DURING WORLD WAR II

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1994

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues an important article written by a constituent of mine, Mr. Sigmund Bajak.

In a year when we celebrate the 50th anniversary of the D-day invasion that helped to end World War II, it is important for us to remember the contribution others made for the Allied cause. A retired Rear Admiral in the United States Naval Reserve, Mr. Bajak brings to light the sacrifices made by the Polish armed forces in defeating the Nazis.

I urge all of my colleagues to read this article, and remember all of those who stood fast against the Nazis so that democracy could survive.

POLISH ARMED FORCES CONTRIBUTIONS TO ALLIED VICTORY IN WORLD WAR II

[By Sigmund Bajak]

Introduction: On May 8, 1945, when United States Army General Carl Spaatz, together with his Allied military colleagues, accepted the unconditional surrender of Germany in the Berlin suburb of Karlhorst the Polish Armed Forces numbered about 600,000. Of this total, 180,000 Polish soldiers were part of the 400,000-strong Soviet Army which conquered Berlin. The remainder of the Polish Forces served throughout the western front with the Allies.

In addition to regular Polish Forces, hundreds of thousands of Poles fought in the Polish underground armies in Poland as well as in the occupied countries of Europe. In Poland itself there were four different underground armies numbering about 500,000 partisans of both sexes and all ages. They were: the Home Army, Peasant Battalions, the Peoples Army and the National Armed Forces.

Son of Poland Pope John Paul II, on the 10th anniversary of his pontificate, said, "In World War II, on every front, Poles shed their blood for independence. Polish independence cannot be measured in geopolitical terms, but only according to authentic criteria of national sovereignty in its own nation."

It is necessary to elaborate on the participation of Poles in World War II, if only in the briefest terms, to truly understand Polish contributions to Allied victory. What follows is a partial review of the efforts of Poles, in and out of uniform, as they fought from 1939 to 1945 for their independence and for the Allied cause.

POLAND—SEPTEMBER 1939

Westerplatte (Located in the Baltic Port of Gdańsk—a Free City): At 4 AM on September 1, 1939 the German battleship *Schleswig-Holstein* opened fire on the small Polish military transit depot, at Westerplatte. Major Henryk Sucharski, and his force of about 170 men held their ground for 7 days against overwhelming numbers of German ground troops before being forced to surrender. General Eberhadt, Commander of the German forces in Gdańsk, refused to accept the Major's sword because of the uncommon bravery shown by the Polish garrison. The sword was later taken away from the Major at a German prison camp.

Bzura River Counteroffensive (The Bzura River lies on a path Lęczyca-Lowicz-Sochaczew, and joins the Vistula at Wyszogrod): On the evening of September 9, 1939, General Tadeusz Kutrzeba and his Polish Army of Pozńan, located in northwest Poland, attacked the 4th, 8th and 10th German armies as they progressed eastward toward Warsaw. Kutrzeba was successful in delaying the Germans for two days before the Wermacht overwhelmed his forces. Kutrzeba's effort gave the Polish Warsaw and Lublin Armies time for reorganization after the initial German offensive.

The Hel Peninsula (Located between the Bay of Gdańsk and the Baltic Sea): Polish Admiral Józef Unrug, a Pole of German heritage, did not surrender his command, located on the Hel peninsula, until October 2, 1939 four days after Warsaw was forced to capitulate. Before doing so he gave his staff permission to attempt escape by sea to Sweden. During the surrender a German trawler was sunk by one of the Admiral's mines. It's reported that the Admiral always insisted on a translator in the German prison camp because he said he was a Pole.

Defense of Poland: The defense of Warsaw began on September 8, 1939. On the 17th of September the Red Army crossed the eastern borders of Poland and began its march toward Warsaw. Warsaw capitulated on September 28, 1939. German losses were about 45,000 killed and wounded. Poland lost 200,000 or more soldiers killed or wounded. The Germans took some 400,000 Polish soldiers prisoner and about 200,000 were taken by the Soviets. Another 85,000 soldiers were interned in Rumania, Hungary, Latvia and Lithuania. Both the victorious Germans and Soviets murdered thousands of Polish prisoners of war. Probably the best known atrocity was the murder of more than 15,000 Polish officers and men by the Soviets at Katyn forest.

ENIGMA—JULY 1939

During the period 1933–1938 three Polish mathematician-decryptologists managed to construct their version of a German Enigma code machine. These scientists, Messrs. Marian Rejewski, Henryk Zgalski and Jerzy Róžbychi, successfully broke the German code. At the end of July 1939, the Polish General Staff turned over the Polish Enigmas and decoded German ciphers to France and Great Britain. In Britain, operation "Magic" made use of the Poles' findings at the Center of Decryptology located in Bletchley. All Enigma and operation "Magic" files have not been declassified. Despite this fact, there is no disagreement among historians as to the role the Enigmas, further developed and used by the Allies, had on the outcome of the war.

POLISH ARMY IN FRANCE—1939 TO 1940

On September 20, 1939, Polish General Wtadystaw Sikorski, who would become the Commander-in-Chief of all Polish Armed Forces, was appointed commander of all Polish forces in France by the exiled Polish government in France officially recognized by the Allies on September 30, 1939. On June 5, 1940 when the Germans attacked France, Sikorski had an army of about 82,000 soldiers. In view of the military situation in France, Sikorski and Polish President Raczkiewicz flew to London and met with Winston Churchill who was moved by the Poles determination to continue their fight against the enemy. On June 21, 1939 following the French defeat only 27,000 Polish officers and men were evacuated to Britain with the President of Poland who was welcomed by King George VI.

TATRA HIGHLANDS RIFLE BRIGADE IN NARVICK, NORWAY—SPRING 1940

When the Germans attacked Norway on April 9, 1940, the Tatra Brigade was sent to Norway as part of an Allied Expeditionary Force to take back Navik from a strong German force. The attack was successful but in view of the situation in France, the Allies decided to evacuate the Expeditionary Force to Brest and the Tatra Brigade provided cover for the evacuation. Three Polish destroyers, *Lightning*, *Storm* and *Thunder* protected Polish passenger liners, *Batory*, *Sobieski* and *Chrobry*, which were used to transport the Force. *Chrobry* was sunk on May 16, 1940 in the vicinity of Bodo. The Tatra Brigade reached Brest but was disbanded after France fell. Some members of the Brigade who were able to flee French ports, with great difficulty, reached Scotland to resume the fight.

CARPATHIAN RIFLE BRIGADE IN TOBRUK, LIBYA—1941 TO 1942

In August 1941 the Brigade, 4,683 strong and under cover of darkness, landed at Tobruk and eventually took up positions at the foot of Ras al-Medauar. Behind Ras al-Medauar were amassed 380 machine guns and another 110 guns of various sizes manned by crack German troops. On December 1, 1941 the Brigade attacked the German positions and at 1000 hours the red and white flag of the Polish Republic flew atop Ras al-Medauar. After the blockade of Tobruk, the Brigade took part in the counter-offensive of the British 8th Army. On the 15th of December they broke through the German-Italian lines at El Gazala. On March 24, 1942 the Brigade returned from the front to Egypt.

POLISH ARMED FORCES ON THE WESTERN FRONT FROM 1942 TO 1945

General Maczek's Polish First Armored Division: The 1st Polish Armored Division led by General Stanislaw Maczek began organizing in England on February 25, 1942. It was made up of Poles who managed to flee from France, and Polish soldiers repatriated from the Soviets following Polish-Soviet negotiations which took place on July 30, 1941. At the end of July 1944, the Division was in France; it numbered 885 officers and about 15,000 men. Maczek and his Poles fought in the Falaise-Chambois-Mont Ormel region, breaking through the 1st SS Adolf Hitler Division and the 12th SS Hitlerjugend Division and taking almost 5,000 prisoners including one general and 150 officers.

On September 28, 1944 the Division crossed the French-Belgian border and freed Ypres. Moving northward on October 27th they freed Breda, and the village made every member of the Division an honorary citizen. For the next five months the Division guarded the port of Antwerp in Belgium where the Allies shipped war supplies for the European campaign. In April, 1945, the Division was again in combat at the Kusten Canal and on May 4, 1945, participated in the attacks on Wilhelmshaven. The following day the German forces in this area surrendered. The total losses of the First Armored Division were 1,290 dead, 3,803 wounded and 585 missing as it fought for Polish independence and Allied victory.

Polish Second Corps on the Italian Front—Monte Cassino, Ancona and Bologna: The Polish 2nd Corps was organized in 1943 from repatriated Polish soldiers who had been captured by the Soviets in 1939. The Corps was composed of 52,692 soldiers led by Polish General Wladyslaw Anders who reported to the British 8th Army Commander General Oliver Leese. General Leese ordered the Poles to take the Monte Cassino complex. The extremely bloody fighting began on May 11, 1944 and ended on May 19th when Monte Cassino was taken by the Poles. This forced the Germans to fall back from the Gustav line to the Hitler line of defense. The Polish losses included 4,290 killed, wounded and missing. British Marshal Alexander sent a signal to the Poles which said that if he had the opportunity to choose those he wanted to serve under his command, his choice would be the Poles of the 2nd Corps. The Marshal ended his signal with a salute to deep respect.

Monte Cassino was only a warmup for the Polish 2nd Corps. The following month, June 15, 1944, the Corps was transferred to the Adriatic front. From that date to the first days of September the Corps advanced, fighting brilliantly, taking Ancona and breaking the northern German defense line near Pesaro. The Poles took about 4,000 German prisoners and more than 300 weapons of all types. They buried nearly 3,000 Germans. General Leese congratulated General Anders and his soldiers for conducting a most successful campaign.

The Polish Corps moved slowly northward during the winter and early spring over difficult mountain terrain and in very bad rainy weather. By April 9th the Corps began its final thrust to Bologna. The way was mined and trapped. There were seven rivers to cross: Senio, Santerno, Sellustra, Sillaro, Giaino, Idice and Svena. On April 15, 1944 at 0600 hours the Poles entered Bologna following the American 5th Army which entered at 0800. The new British 8th Army Commander, General MacCreery, signalled General Anders: "In your march on the Via Emilia to Bologna you fought the 26th and 1st German armored divisions and four parachute divisions, some of the best in the German Army. In these operations you showed admirable fighting spirit, steadfastness and competence in battle. I send you and all your officers and men my warmest congratulations and expressions of admiration." The campaign on the Adriatic side of Italy cost the 2nd Polish Corps 2,200 killed, 8,000 wounded and 264 mission.

POLISH AIR FORCE AND THE AIR BATTLE OF BRITAIN

After the defeat of Poland, much of the Polish Air Force fled to France. During the invasion of France, Poles downed 56 German aircraft and damaged another 9. Polish losses were 26 killed which included 11 pilots. Following the capitulation of France, 986 officers and 3,217 men of the Polish Air Force managed to escape to England.

In England, the Polish Air Force was organized into two fighter divisions—the 302 and 303—and two bomber divisions, the 300 and 301. After training conducted by the Royal Air Force (RAF), the Poles contributed to Allied victory in the Battle of Britain during the period August 8, to October 31, 1940. The score for Polish pilots was 203 enemy aircraft shot down, 35 probables, and 35 damaged. This was more than 25% of all the German air losses. The Poles lost 33 pilots out of a total of 131 who took part in the battle.

POLISH NAVY 1939 TO 1945

According to an agreement between Poland and Britain signed on November 19, 1939, what remained of the Polish Navy came under the command of the British Admiralty which also leased the Poles a number of ships. With this arrangement the Polish fleet numbered two cruisers, 10 destroyers, five submarines, 30 miscellaneous craft and 47 naval personnel units. The Polish fleet engaged the enemy 665 times sinking seven warships, two submarines, 339 transports and shooting down 20 enemy aircraft. Perhaps the most memorable of these engagements took place the night of May 26–27, 1941, when the Polish destroyer *Lightning*—as part of the 4th British Destroyer Flotilla—sighted and attacked the crippled German battleship *Bismarck*. The Bismarck was sunk on the morning of May 27th by the British Fleet.

Polish Navy losses during the war were 404 killed and 191 wounded. The fleet lost 13 ships of all types, two submarines and 74,500 tons of shipping.

THE POLISH UNDERGROUND 1940 TO 1945

Home Army: The Home Army, otherwise known as the AK (an acronym for "Armia Krajowa") was by far the largest partisan organization in occupied Poland. On March 1, 1944, the AK numbered 389,129 soldiers. The Army conducted 1,175 recorded actions which included train derailments, burning of trains and the destruction of 38 bridges. In addition, the AK damaged 19,508 railroad cars, destroyed 1,167 containers of gasoline, burned 272 supply warehouses and damaged 4,326 vehicles of various types. German supply lines and communication points were constantly under attack. A number of Gestapo jails were broken into and almost 2,000 Gestapo agents were assassinated.

Peoples Army: The communist dominated Peoples Army was formed on January 1, 1944 and was joined by the Peoples Guards which created a partisan force of about 50,000 soldiers. The Army reported more than 1,550 actions which included 774 attacks on enemy transport and communications. There were 220 counterattacks against German terrorist activities and 190 sorties against the German military supply infra-structure. There were 370 battles recorded against the Wehrmacht and the German Security Forces.

Operation "Burza" (Storm): In January 1944, plan Burza was executed. The AK in an effort to reclaim Polish territories attacked retreating German forces and bands of Ukrainian Nationalists alongside the Red Army. At first there was cooperation between the Poles and the Reds. But in less than three weeks of Operation Burza AK General Okulicki was forced to disband the AK because he had no choice. The Red Army disarmed the Poles and sent some to the Polish Army in Wolyn and interned a portion in Vilno. The remainder were arrested and sent to camps in the USSR. About 200,000 members of the Home Army, including some 50,000 soldiers were deported to the east.

Warsaw Uprising on August 1, 1994: The eastern battle front had moved very close to Warsaw by the summer of 1944. This encouraged the Home Army Command (AK), in concert with the Polish government in exile, to liberate Warsaw by attacking the German occupation forces. An attack was ordered and a catastrophe ensued. Promised supplies from the west by air drop never came. In the east, Stalin's armies, which included General Zygmunt Berling's Polish army, were not allowed by Stalin to cross the Vistula to support the uprising. More than 10,000 insurgents were killed, most of them young men and women. Nearly 7,000 were wounded and 5,000 were missing. More than 188,000 civilians were killed. Hitler personally ordered that survivors vacate the city and that the Germany Army destroy all of Warsaw.

POLISH ARMY IN THE USSR AND THE EASTERN FRONT

Repatriation of Polish Army: When Hitler attacked the USSR in June 1941 Stalin found himself on the side of the Allies. This opened the door to diplomatic relations between Poland and the Soviets. On July 30, 1941, an agreement was reached between the Poles and the Soviets with the help of British. General Sikorski met Stalin in Moscow December 3rd and 4th and discussed the repatriation of Polish prisoners of war in the custody of the Soviets and the freeing of Polish civilians.

From January 13 to 25, 1942, the Polish Army was transferred from the various Soviet prison camps to southern asiatic republics in the USSR. Polish prisoners were held in far away Soviet camps under extremely difficult conditions. Thousands of Poles died in captivity. An accounting of Poles held prisoner was almost impossible and research concerning those that never returned from captivity continues to this day. Finally, by the summer of 1942 the Poles were evacuated to Persia in two groups. The final count was 115,742 persons. There were 78,470 soldiers and 32,272 civilians which included 12,733 war orphans.

The repatriated Polish officers and men evacuated to Persia under the leadership of General Anders formed the 2nd Polish Corps which fought so well on the Italian front.

Polish Army in the USSR: In April of the following year, the Poles in London and the Soviets broke off diplomatic relations. For Poles who had not managed to leave the USSR with General Anders this was another opportunity to fight the Germans. In May 1943 the 1st Polish Infantry Division was formed in Sielce under the leadership of Colonel Zygmunt Berling. By October 1943 the formation was large enough to be designated the 1st Polish Army Corps.

The baptism of battle for the 1st Polish Infantry occurred in the area of Lenino. Action against strong German forces began on October 12, 1943. The Poles showed a great will to fight and inflicted heavy losses on the enemy. More than 1,500 Germans were killed and 329 taken prisoner. The Poles lost 502 killed, 1,776 wounded and 663 missing.

The 1st Polish Army Corps by March 1944 had grown to the 1st Polish Army commanded by newly promoted, General Zygmunt Berling. At the end of April, the Poles joined Soviet armies at the White Russian (Belorussian) front.

Three Polish Armies and Warsaw: In the 1944 Soviet summer offensive the 1st Polish Army marched westward freeing Lublin on July 22, 1944. At this time, in accordance with a decree of the communist-controlled Polish National Freedom Committee in Poland, the 1st Polish Army and the underground Peoples Army were joined into one force under the command of General Michal Rola-Żymierski. Two more Polish armies were formed; The 2nd commanded by General Stanislaw Poptawski and the 3rd under General Karol Świerczewski.

The armies marched westward and on September 14, 1944 General Berling with his 1st Army entered the Praga section of Warsaw located on the east side of the Vistula River. The Warsaw insurgents were still fighting the Germans in Żoliborz and Mokotów on the west side of the Vistula in city proper. The Polish armies remained on the east side of the Vistula until January 1945 when General

Berling was relieved of the 1st Army command by General Poptawski and the 3rd Army was disbanded. This left General Świerczewski free to take command of Poplawski's 2nd Army.

From the Vistula to the Oder: On January 14, 1945 the Soviets launched their great offensive from the Vistula to the west. By March the 1st Polish Army reached the Baltic in the vicinity of Kotobrzeg and by the 29th of March the Polish flag flew over Gdańsk. The 2nd Polish Army after February operations in the Kutno-Tódź area reported to the Soviet commander of the Ukranian front, and then marched westward to take part in the Berlin operation.

Polish First and Second Armies and Berlin: At the beginning of April 1945 both Polish armies reached a strength of about 390,000 soldiers. April 16, 1945, the 1st Army fought its way across the Oder and four days later was in pursuit of retreating German foces. On May 3, 1945 its troops reached the Elbe. The next day they joined with the American 9th Army in the outskirts of Berlin. The 2nd Artillery Brigade, the 6th Motorized Battalion and the 1st Infantry Division of the 1st Polish Army took part in the conquest of Berlin which took place on May 2, 1945. The Polish flag flew alongside the flag of the USSR over Berlin.

The 2nd Polish Army spent most of it time fighting the stubborn German "Mitte" (Middle) Army which refused to surrender after the fall of Berlin. On May 7, 1945, five days after the fall of Berlin the 2nd Polish Army crossed the border into Czechoslovakia in pursuit of the Mitte Army. On the 11th, the Germans ceased fighting near Prague.

POLISH WAR LOSSES 1939–1945

The contributions of the Polish Armed Forces to Allied victory were never well known and are by now mostly forgotten. Poles contributed much as can be seen from the foregoing review. But the Polish nation also lost heavily and suffered terribly while making its contributions and while trying to survive under the oppressor.

Hitler's aim was to exterminate not only the Jews but also Poles and their entire culture. Of all the Allies who fought, Poland suffered the greatest losses. It is estimated that Poland lost 220 out of every 1000 citizens during the war. By comparison the Soviets lost 124. The number for France was 13, Great Britain 8 and the United States 1.4.

In addition to human losses. Poland suffered enormous material losses which in 1945 were estimated to be near 50 billion dollars. There was also the loss of an estimated 43% of all Polish art, national archival material and other historical and cultural treasures.

Is it appropriate to end this partial review by repeating the words of Pope John Paul II: "In World War II, on every front, Poles shed their blood for independence. Polish independence cannot be measured in geopolitical terms, but only according to authentic criteria of national sovereignty in its own nation."

About the author: Sigmund Bajak is a retired Rear Admiral in the U.S. Naval Reserve who served in World War II, Korea, Berlin Crisis and Vietnam. As a civilian, he spent 30 years as an executive for the National Broadcasting Company in New York rising to a Director's position. At present, he is a doctoral candidate in Polish military history at the University of Warsaw. He is a member of the Polish-American Congress.

PAKISTAN'S INVOLVEMENT IN NARCO-TERRORISM

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 3, 1994

Mr. PALLONE. Mr. Speaker, I rise to bring to the attention of my colleagues a report that appeared in the Washington Post of September 12, 1994, which describes a disturbing link between narcotics and terrorism. The report from Karachi, Pakistan, headlined "Heroin Plan by Top Pakistanis Alleged" quotes Pakistan's former Prime Minister Nawaz Sharif saying that "drug deals were to pay for covert operations" brings to mind other reports not so long ago of Pakistani involvement in using the Bank of Credit and Commerce International [BCCI] to launder drug money that was eventually believed to have been used in financing terrorist groups involved in the New York World Trade Center bombing.

The report cites Pakistan's army chief and head of intelligence agency proposing to then-Prime Minister Sharif "a detailed blueprint for selling heroin to pay for the country's covert military operations in early 1991." The role played by Pakistan's Inter Services Intelligence agency in exporting terror to Kashmir and Punjab in neighboring India was sufficiently well-documented for the previous administration to place the country on the watch list of states sponsoring terrorism. Its removal from that list is justified neither by its past track record nor by its present performance. The State Department's most recent report on global patterns of terrorism talks of "credible reports in 1993 of official Pakistani support to Kashmiri militants who undertook attacks of terrorism in Indian-controlled Kashmir."

Mr. Speaker, a country that produces 70 tons of heroin annually and accounts for a significant part of the heroin consumed in the United States is a matter of concern under any circumstances. That a part of the same country's intelligence establishment can conceive blueprints to use profits from smuggling these drugs to support insurgency and export terror is a fact that we ignore at our own peril.

I am inserting the Washington Post article in the RECORD, and urge Members who are concerned about drugs on our streets and international terrorism to read it very carefully.

[From the Washington Post, Sept. 12, 1994]

HEROIN PLAN BY TOP PAKISTANIS ALLEGED—FORMER PRIME MINISTER SAYS DRUG DEALS WERE TO PAY FOR COVERT MILITARY OPERATIONS

(By John Ward Anderson and Kamran Khan)

KARACHI, PAKISTAN—Pakistan's army chief and the head of its intelligence agency proposed a detailed "blueprint" for selling heroin to pay for the country's covert military operations in early 1991, according to former prime minister Nawaz Sharif.

In an interview, Sharif claimed that three months after his election as prime minister in November 1990, Gen. Aslam Beg, then army chief of staff, and Gen. Asad Durrani, then head of the military's Inter-Services Intelligence bureau (ISI), told him the armed forces needed more money for covert foreign operations and wanted to raise it through large-scale drug deals.

"General Durrani told me, 'We have a blueprint ready for your approval,'" said Sharif, who lost to Benazir Bhutto in elections last October and is now leader of the opposition in parliament.

"I was totally flabbergasted," Sharif said, adding that he called Beg a few days later to order the army officially not to launch the drug trafficking plan.

Beg, who retired in August 1991, denied Sharif's allegation, saying, 'We have never been so irresponsible at any stage. Our politicians, when they're not in office and in the opposition, they say so many things. There's just no truth to it."

Durrani, now Pakistan's ambassador to Germany, said, "This is a preposterous thing for a former prime minister to say. I know nothing about it. We never ever talked on this subject at all."

Brig. Gen. S.M.A. Iqbal, a spokesman for the armed forces, said,. "It's inconceivable and highly derogatory; such a thing could not happen."

The interview with Sharif, conducted at his home in Lahore in May, was part of a broad investigation into narcotics trafficking in Pakistan. It marked the first time a senior Pakistani official has publicly accused the country's military of having contingency plans to pay for covert operations through drug smuggling.

Officials with the U.S. State Department and the Drug Enforcement Administration said they have no evidence that Pakistan's military is or ever has been involved in drug trafficking. But U.S. and other officials have often complained about the country's weak efforts to curtail the spread of guns, money laundering, official corruption and other elements of the deep-rooted drug culture in Pakistan, which along with Afghanistan and Iran lies along the so-called Golden Crescent, one of the world's biggest drug-producing regions.

In a scathing report two years ago, a consultant hired by the CIA warned that drug corruption had permeated virtually all segments of Pakistani society and that drug king-pins were closely connected to the country's key institutions of power, including the president and military intelligence agencies.

About 70 tons of heroin is produced annually in Pakistan, a third of which is smuggled abroad, mostly to the West, according to the State Department's 1994 report on international drug trafficking. About 20 percent of all heroin consumed in the United States comes from Pakistan and its northern neighbor, Afghanistan, the second largest opium producer in the world after Burma. The United Nations says that as much as 80 percent of the heroin in Europe comes from the region.

It has been rumored for years that Pakistan's military has been involved in the drug trade. Pakistan's army, and particularly its intelligence agency—the equivalent of the CIA—is immensely powerful and is known for pursuing its own agenda. Over the years, civilian political leaders has accused the military which has run Pakistan for more than half its 47 years of independence—of developing the country's nuclear technology and arming insurgents in India and other countries without their knowledge or approval and some times in direct violation of civilian orders. Historically, the army's chief of staff has been the most powerful person in the country.

According to military sources, the intelligence agency has been pinched for funds since the war in Afghanistan ended in 1989 and foreign governments—chiefly the United States—stopped funneling money and arms through the ISI to Afghan mujaheddin guerrillas fighting the Soviet-backed Kabul government. Without the foreign funds, the sources said, it has been difficult for the agency to continue the same level of operations in other areas, including aiding militants fighting Indian troops across the border in Kashmir. Such operations are increasingly being financed through money raised by such private organizations as the Jamiat-i-Islami, a leading fundamentalist political party.

A Western diplomat who was based in Islamabad at the time of the purported meeting and who had occasional dealings with Beg and Durrani, said, "It's not inconceivable that they could come up with a plan like this."

"There were constant rumors that ISI was involved in rogue drug operations with the Afghans—not so much for ISI funding, but to help the Afghans raise money for their operations," the diplomat said.

In the interview, Sharif, claimed that the meeting between him and the generals occurred at the prime minister's official residence in Islamabad after Beg called one morning and asked to brief him personally on a sensitive matter.

"Both Beg and Durrani insisted that Pakistan's name would not be cited at any place because the whole operation would be carried out by trustworthy third parties," Sharif said. "Durrani then went on to list a series of covert military operations in desperate need of money."

Sharif, in the interview, would not discuss operational details of the proposal and refused to disclose what convert plans the intelligence agency wanted to fund with the drug money.

Sharif said he had "no sources" to verify that the ISI had obeyed his orders to abandon the plan but that he assumed the agency had complied.

"I told them categorically not to initiate any such operation, and a few days later I called Beg again to tell that I have disapproved the ISI plan to back heroin smuggling."

Embittered that his political enemies cut short his term as prime minister last year and helped engineer the return of Bhutto, Sharif has gone on an intense political offensive to destabilize her 10-month-old government. He claimed recently that Pakistan has a nuclear bomb and said he made the information public to prevent Bhutto from dismantling the program under pressure from the West. The government has denied possessing nuclear bomb but repeated previous statements that it has the ability to build one.

Calling Sharif a "loose cannon," a second Western diplomatic source said, "I'd have a hard time believing" his allegations about the military's drug trafficking proposal. The official suggested that Sharif's disclosure might be designed to keep Bhutto and Pakistan-India relations off balance. "If anything should bring these two countries together, it is their common war against the drug problem, but this seems to fly in the face of that," he said.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, October 4, 1994, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 5

9:30 a.m.

Judiciary

Business meeting, to consider pending calendar business.

SD-226

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine the second annual report by the Trade Promotion Coordinating Committee; to be followed by a business meeting to consider the nominations of Bruce A. Morrison, of Connecticut, and J. Timothy O'Neill, of Virginia, each to be a Director of the Federal Housing Finance Board, Department of Housing and Urban Development, James C. Hudson, of Oklahoma, to be a Director of the Securities Investor Protection Corporation, Mary Ellen R. Fise, of the District of Columbia, H. Terry Rasco, of Arkansas, and Christine M. Warnke, of the District of Columbia, each to be a Member of the Board of Directors of the National Institute of Building Sciences.

SD-538

Budget

To hold hearings on proposals to provide legislative line-item veto authority to the President, including expedited and enhanced rescission proposals, including S. 9, S. 224, S. 437, S. 690, S. 740, S. 2458, H.R. 1578, and H.R. 4600.

SD-608

Governmental Affairs

Business meeting, to consider pending calendar business.

SD-342

10:30 a.m.

Judiciary

To hold hearings to examine how the Violent Crime Control and Law Enforcement Act will fight drugs.

SD-226

1:00 p.m.

Finance

Energy and Agricultural Taxation Subcommittee

To hold hearings on miscellaneous farm tax issues.

SD-406

2:00 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 2280, to provide for an orderly process to ensure compensation for the termination of an easement or the taking of real property used for public utility purposes at the Manassas National Battlefield, Virginia, S. 2359, to modify the boundaries of Walnut Canyon National Monument in Arizona, S. 2434 and H.R. 3516, bills to increase the amount authorized to be appropriated for assistance for highway relocation regarding the Chickamauga and Chattanooga National Military Park in Georgia, and H.R. 3905, to provide for the establishment and management of the Opal Creek Forest Preserve in the State of Oregon.

SD-366

Judiciary

Constitution Subcommittee

To hold hearings to examine the constitutional right to international travel.

SD-628

OCTOBER 6

9:00 a.m.

Labor and Human Resources

Business meeting, to mark up S. 2467, to approve and implement the trade agreements concluded in the Uruguay Round of multilateral trade negotiations, and to consider S. Con. Res. 66, to recognize and encourage the convening of a National Silver Haired Congress, a committee resolution to authorize investigation pursuant to Committee Rule 17, and pending nominations.

SD-430

10:00 a.m.

Judiciary

To hold hearings on pending nominations.

SH-216

OCTOBER 7

9:30 a.m.

Joint Economic

To hold hearings to examine the employment-unemployment situation for September.

2359 Rayburn Building

10:00 a.m.

Foreign Relations

To hold hearings to review United States policy toward Cuba.

SD-419

Labor and Human Resources
Education, Arts and Humanities Subcommittee
To hold hearings to examine the need for parental involvement in the education of their children.

SD-430

OCTOBER 13

9:30 a.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To hold oversight hearings on the Navy's mismanagement of the sealift tanker program.

SD-342

CANCELLATIONS

OCTOBER 6

9:30 a.m.
Governmental Affairs
To hold oversight hearings on the General Accounting Office.

SD-342